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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

SENATE—*Tuesday, July 22, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Oh God, our help in ages past, our hope for years to come, be with our leaders at every level of public service to uphold, strengthen, and guide them. Be with those who in performing their duties are now hostage to another government. Come near to the lonely, the neglected, the helpless, the overworked, the underpaid to give them help and hope. Lift the vision of the young that they may grasp the banner of sacrificial service, high idealism, and patriotic devotion and with great power carry the Nation forward in the way of Thy kingdom. Guide by Thy higher wisdom the President, the Congress, and all those in the diplomatic and military services.

Unite us in Thy love that we may ever remain "one nation under God." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 22, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished majority leader.

A TRIBUTE TO ZOFIA YAMAIKO

Mr. PROXMIRE. Mr. President, 14-year-old Zofia Yamaiko brought a ray of hope and a surge of unconquerable optimism to the Warsaw ghetto and the underground movement. At her youthful age, Zofia learned the horrors of genocide. While children her age in our country were attending high school dances and football games, Zofia and thousands of others in the Warsaw ghetto fought to survive the calculated Nazi program of death by starvation.

Half a million Jews were crowded into the Warsaw ghetto. Zofia had, like many others, recognized the need to preserve a semblance of order and stability within this chaotic environment. She led a children's underground group, organized to care for the physical and spiritual needs of ghetto inhabitants. She helped set up a network of underground schools in response to a Nazi decree forbidding education. The plays and poetry readings staged by Zofia's group lifted the hearts of many.

Conditions grew worse as the ghetto became infested with lice and typhus. Over a hundred people died each day from disease and starvation. Surrounded by suffering and despair, Zofia refused to lose hope. She learned nursing skills in order to tend the weak and sick. As food grew more and more scarce, Zofia trained children to slip outside the ghetto walls to obtain food for the starving community. She and her followers risked their lives daily to provide a morsel of bread for themselves and others.

The Nazis thought the program of death by starvation was too slow. Rumors spread that the Nazis had rounded up 900 Jews to test the efficiency of the newly constructed gas chambers of Treblinka. Zofia also heard reports of a wave of massacres wiping out entire Jewish villages. Zofia realized that the time had come to take up arms.

As a member of the resistance movement, Zofia distinguished herself. Zofia helped capture a small Polish town which housed a major German installation. Telephone wires were cut to insure a successful takeover. German headquarters were destroyed and documents listing Nazi agents and collaborators were seized. Zofia also assisted in derailing German trains and combating Nazi spies. In the end, she and two others sacrificed their lives to enable a group of resistance fighters to safely retreat.

Mr. President, 14-year-old Zofia Yamaiko fought to save her people and preserve her precious Jewish heritage. Seldom has there been a more moving example of courage, hope, and persistent optimism. Mr. President, we must pay tribute to the heroic efforts of Zofia Yamaiko. We must act now to ratify the Genocide Convention.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader does not need my time, nor does Mr. HARRY F. BYRD, JR. I yield back my time.

Mr. BAKER. I thank the majority leader.

I also have no need for my time under the standing order, and have no request for it, and I yield it back.

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

THE FEDERAL DEFICIT

Mr. HARRY F. BYRD, JR. Mr. President, late yesterday Congress received President Carter's newest budget estimates. They make grim reading.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

These budget figures deal with 2 separate budget years. I shall comment first on fiscal 1980, the current fiscal year.

President Carter has now admitted that there will be a deficit in the current year of more than $60 billion. That means that in 1980, our Government will run the second highest deficit in the history of the Nation—the second highest deficit in the history of our country. This is true despite the fact that, throughout this year, the Carter administration and Congress have been telling the American people that the Government is getting spending under control.

I say, Mr. President, that the spending by the Federal Government is totally out of control.

The spending figure submitted by the President for fiscal 1980 is $579 billion. For 1979, the spending figure was $494 billion. That means that the cost of Government has gone up in this 1 year by $85 billion, or 17 percent—a 17-percent increase in this 1 year. The President and Congress call that fiscal restraint. It is the largest increase in Federal spending in history, an $85 billion increase in just 1 fiscal year.

What does that say about the budget process of the Congress of the United States? It speaks rather ill for that process. Last November, Congress adopted what is called a binding ceiling on Government expenditures for fiscal 1980.

Since then that figure has been revised twice and upward twice. Now there will be a fourth figure if Congress goes along with the President's spending proposals, and I assume it will. This will be the fourth figure for fiscal 1980, namely, the figure of $579 billion that Congress will have approved. This will take a fourth budget resolution.

Mr. President, I must say frankly, and I have said it a number of times in the Senate, that this so-called budget process that Congress has is a most elastic one. As a matter of fact, spending increases have been even greater under the new budget process than under the previous method of handling the public finances.

For fiscal year 1980, we will have a deficit of more than $60 billion, the second highest deficit in the history of our Nation.

Let us come to fiscal 1981. In January President Carter estimated outlays for the Federal Government or spending by the Federal Government for fiscal 1981 to be $616 billion. That has now been revised upward to $634 billion.

During that period of time there had been another revision in the estimates made by the President. That was in March of this year, just 4 months ago. At that time the spending figure was put at $611 billion. It is now up to $634 billion. In March of this year the President told Congress and the Nation that the Government would have a surplus in 1981 of $16.5 billion. The President now admits that there will be a deficit of $30 billion for fiscal 1981; and yet all through this year, all through this session of Congress, the Carter administration has been telling the American people, and Congress has been telling the American people, that there would be a balanced budget.

The Senator from Virginia has consistently said that this so-called balanced budget which Congress adopted just a month ago would prove to be a mirage. I predicted that there would be a deficit of $30 billion. I did not expect the administration to recognize the accuracy of my figures as quickly as it has done. Only 30 days have passed since Congress adopted a budget resolution which projected a balanced budget.

Now let us see what the Budget Committee does. Now let us see what Congress does with these new figures submitted by the President. Does Congress plan to cast overboard its own law, Public Law 95–435, which Congress enacted and the President signed mandating a balanced budget for fiscal 1981?

These new figures submitted by the President are very discouraging. They should be very discouraging to the American people. They mean more inflation. They dramatize again that the budget process is not working. These figures dramatize again the irresponsibility of the Carter administration and Congress in handling the public funds.

Mr. President, how long will this Congress and the administration go on creating more and more debt, operating on more and more deficit financing? It looks like the end is not in sight.

Mr. President, I emphasize again there is no fiscal restraint and no fiscal responsibility in Washington. There is none in Congress and there is none in the White House.

And the American people are the ones who are paying the price. This huge increase in Government spending must be paid for by the people who work. The only place the Government can get money is out of the pockets of the people who work through taxes or by inflation. And inflation is the cruelest tax of all. It hits hardest those on fixed income and those in the lower and middle economic groups.

And speaking of taxation, the present Federal spending boom, and the smashing deficits for 1980 and 1981, come at a time when the Government is taking from the American people a record high proportion of their income in taxes.

Congress and the President are prepared to continue down the road of deficit financing and high taxes and seem determined to continue this operation of our Government not on a sound basis, not on a solvent basis, but on the basis of more and more deficit spending.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table showing the receipts, the outlays, and the deficit of the Government beginning with fiscal year 1958 going through fiscal year 1981.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

UNIFIED BUDGET RECEIPTS, OUTLAYS, AND SURPLUS OR DEFICIT FOR FISCAL YEARS 1958–81, INCLUSIVE

[In billions of dollars, July 1980]

[Prepared by Senator Harry F. Byrd, Jr., of Virginia]

	Receipts	Outlays	Surplus (+) or deficit (−)
Fiscal year:			
1958	79.6	82.6	−3.0
1959	79.2	92.1	−12.9
1960	92.5	92.2	+.3
1961	94.4	97.8	−3.4
1962	99.7	106.8.	−7.1
1963	106.6	111.3	−4.7
1964	112.7	118.6	−5.9
1965	116.8	118.4	−1.6
1966	130.8	134.6	−3.8
1967	149.5	158.2	−8.7
1968	153.7	178.8	−25.1
1969	187.8	184.6	+3.2
1970	193.8	196.6	−2.8
1971	188.4	211.4	−23.0
1972	208.6	231.9	−23.3
1973	232.2	247.1	−14.8
1974	264.9	269.6	−4.7
1975	281.0	326.2	−45.2
1976	300.0	366.4	−66.4
1977	357.8	402.7	−45.0
1978	402.0	450.8	−48.8
1979	465.9	943.7	−27.7
1980[1]	517.9	578.8	−60.9
1981[1]	604.0	633.8	−29.8

[1] Estimates.

Source: Office of Management and Budget.

Mr. HARRY F. BYRD, JR. Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR MORGAN

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

THE MENTAL HEALTH BILL OF RIGHTS AND ADVOCACY TITLE

Mr. MORGAN. Mr. President, the Senate will soon be considering S. 1177, the Mental Health Systems Act, and an amendment that I will be offering relating to title III, the patients' bill of rights and advocacy section. My amendment, as my colleagues know, will encourage each State to provide needed protection and services for mental health patients, while striking all Federal mandates from the committee's proposed title III.

Mr. President, one of the things I have noticed in reading over the material being circulated about my amendment is that its supporters and opponents cannot even agree on what is being said, much less what the facts are. In my view, this disagreement does little more than prove that major legislative initiatives of this type should not be enacted without extensive hearings and public debate, neither of which has taken place, thereby further bolstering the case for my amendment's passage.

However, since I believe that I and other supporters of my amendment have gone to some trouble to speak only to the facts, and since a "Dear Colleague" letter opposing the amendment, which was circulated Monday, states that "during the past few weeks a great deal of misleading information has been circulated about * * * title III," I feel an obligation to respond to the Senate as a whole.

WHY TITLE III SHOULD NOT BE ENACTED IN PRESENT FORM

There are a number of reasons why title III, as approved by the Human Resources Committee, should not be enacted in its current form and why I believe my amendment should prevail.

First. No hearings have been held directed specifically to title III, something that should have been done considering that title III is not, by Senate standards, germane to the rest of the bill. The proponents of title III could have obtained hearings on it at any time, and the failure to do so and to allow opponents to get their views on the record has precluded the possibility of an informed public debate. The proposed bill of rights has only been before the Senate as a whole and the general public for 2 months, and this short time period has failed to give many interested individuals the time to respond.

The Senate should not allow itself to be stampeded into approving legislative proposals of this consequence and novelty in this fashion.

Second. Title III, given the documentation provided in its favor—which is almost none—is clearly an unwarranted expansion of Federal power. It would override, as the term is commonly used in this body, 35 existing State laws on the subject, laws presumably enacted after greater deliberation. It also provides a legal tool to coerce States to spend more money on mental health services, to the detriment of other important State activities and programs. Finally, as the bill applies to almost all mental health services, whether or not Federal funds are involved, it encroaches on the traditional State role in the regulation of medical care and is questionable constitutionally.

Third. The Human Resources Committee's report on the bill fails to show the ongoing abuses making this extensive Federal bill of rights necessary, arguing instead that the need for a Federal role to provide basic uniformity throughout the country, in this area, is inherently obvious. Federal laws, or any laws for that matter, should not be enacted in the absence of clear need, and I have found, during the course of my career, that few things are inherently obvious. In fact, given the current state of the art in psychiatric knowledge, it could easily be asserted that uniformity throughout the country is not desirable.

Related to this, the committee has recognized that the effectiveness of existing advocacy programs has not been demonstrated by ordering a GAO study on the subject. Additional advocacy programs should not be created until this study is completed, and, certainly, that applies to one which is novel in design, as this one is.

Fourth. Legitimate questions can be raised concerning the entire approach. The committee's title III confuses the rights and needs of the mentally ill by treating the proposed rights as if they constituted the needs. Additional rights are not required; rather, more and better services are.

Title III would work to divert funds from mental health services to court proceedings, grievance procedures, and other bureaucratic activities. It would get the mentally ill their day in court but, whether that day, coupled with poorer treatment and a deterioration of patient's mental health, can be called justice is open to question.

The private right of action that would be permitted will simply serve to encourage frivolous law suits, often paid for with Federal funds, and put the Federal courts in the business of reviewing medical decisions on a case-by-case basis. No thought has been given to the burden this proposal would place on the Federal courts. That there is a substantial backlog in the Federal courts is known, and the GAO is now conducting a study on the size of the backlog and the average length of time between the inception of a case and final judgment. This study, which will be completed this year, ought to be in hand before the Congress mandates additional duties for the Federal courts.

I ask unanimous consent that excerpts from a statement on this subject given by Chief Justice Warren Burger, which was reprinted in the Washington Post earlier this month be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

FOR THE RECORD

> It is surely plain by now that both federal and state courts share the burdens of what has been called "the litigation explosion." Some thoughtful observers tell us that this . . . is a result of the failure of the political processes to meet the people's expectations . . . which some social scientists, and others, see as beyond what our society can provide. I leave that to the political scientists and economists. . . .
>
> What I ask is whether the signs some discern mean that the federal system may be on its way to a *de facto* merger with the state court systems, with litigants free in most, if not all, cases to choose a federal court or a state court, depending on the condition of the dockets and depending upon what they perceive as to the quality of relief they may obtain.
>
> In the past decade, Congress has enacted not less than 70 new statutes enlarging the jurisdiction of federal courts. Many of these statutes expand federal jurisdiction to cover relief already available in state courts. . . . We have made an effort, but not with extraordinary success, to have Congress require its committees . . . to provide . . . an impact statement predicting, or at least making an estimate, . . . as to the possible or likely impact of new legislation on the federal courts.
>
> We know that 50 or 100 or 150 years ago there was a very marked difference between the litigation in state and federal courts. What I am pointing to is the perception of some that there are signs of a merging of the two judicial systems. We might say these are early warning signals. This perception may be wrong. . . . But [it] is not frivolous. Like symptoms of illness, we ignore them at our peril.

Mr. MORGAN. What are the facts?

Having given the basic argument concerning the problems with title III in its present form, arguments which will be fleshed out during the coming Senate debate, I would now like to discuss some of the charges and countercharges floating around the Halls of the Senate.

First. The committee report on S. 1177 states that—

> In 1975 the Congress enacted a Bill of Rights and Advocacy System for the developmentally disabled . . . The Committee . . . wished to extend similar rights to the mentally disabled.

That statement seems to imply that title III follows that law, which a quick comparison reveals not to be the case. In fact, if it did, there is a fair chance I would not be offering this amendment.

Mr. President, I ask unanimous consent that the Bill of Rights and Advocacy sections of the Developmentally Disabled Act be printed in the RECORD at this point.

There being no objection, the sections were ordered to be printed in the RECORD, as follows:

DEVELOPMENTALLY DISABLED

§ 6010. Congressional findings respecting rights of developmentally disabled

> Congress makes the following findings respecting the rights of persons with developmental disabilities:
>
> (1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.
>
> (2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.
>
> (3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—
>
> (A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or
>
> (B) does not meet the following minimum standards:
>
> (i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.
>
> (ii) Provision to such persons of appropriate and sufficient medical and dental services.
>
> (iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.
>
> (iv) Prohibition on the excessive use of chemical restraints on such persons and the

use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

§ 6011. Habilitation plans

CONDITION FOR RECEIPT OF STATE ALLOTMENT

(a) The Secretary shall require as a condition to a State's receiving an allotment under subchapter III of this chapter after September 30, 1976, that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under such part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b) of this section, and (2) provides for an annual review, in accordance with subsection (c) of this section, of each such plan.

REQUIREMENTS

(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

(1) The plan shall be in writing.

(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (C) where appropriate, such person's parents or guardian or other representative.

(3) Such plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

ANNUAL REVIEW

(c) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was establish or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and person's parents or guardian or other representative shall be given an opportunity to review such plan to participiate in its revision.

§ 6012. Protection and advocacy of individual rights; State allotments; authorization of appropriations

(a) The Secretary shall require as a condition to a State receiving an allotment under subchapter III of this chapter for a fiscal year ending before October 1, 1977, that the State provide the Secretary satisfactory assurances that not later than such date (1) the State will have in effect a system to protect and advocate the rights of persons with developmental disabilities, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (B) be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary may not make an allotment under subchapter III of this chapter to a State for a fiscal year beginning after September 30, 1977, unless the State has in effect a system described in the preceding sentence.

(b)(1) To assist States in meeting the requirements of subsection (a) of this section, the Secretary shall allot to the States the sums appropriated under paragraph (2). Such allotments shall be made in accordance with subsections (a)(1)(A) and (d) of section 6062 of this title.

(2) For allotments under paragraph (1), there are authorized to be appropriated $3,000,000 for fiscal year 1976. $3.000 000 for fiscal year 1977, and $3,000,000 for fiscal year 1978.

Mr. MORGAN. Mr. President, the major similarity that exists between the two is in the name, and the substantive differences are numerous.

The DD advocacy program provides funds to States to establish advocacy programs. Title III has advocacy grants going directly from HEW to private, nonprofit advocacy agencies, and virtually provides a license for any group that says it advocates to operate in any State with the sanction of the State government.

The mandated rights in the DD Act are much milder and clearer, and they only apply to institutions receiving public funds.

Finally, the only enforcement provision is to cut off Federal funds flowing through the DD Act, and notably, there is no private right of action. In this regard, less than 1 month ago, the Supreme Court stayed a decision by the Third Circuit Court of Appeals which asserted that such a private right of action was implicit.

Second. In a "Dear Colleague" letter, signed by five Senators and circulated yesterday, the following statement is made:

> Title III is responsive to the report of the President's Commission on Mental Health and its Task Panel on Legal and Ethical Issues, and to the testimony of several witnesses at hearings held by the Committee.

As far as "several witnesses" goes, 2 out of 20 mentioned the need for a rights section, 1 just in passing, and while several did mention advocacy, almost all of them failed to discuss this in detail. Furthermore, no opposition testimony was heard, which is not surprising since the proposed title III was not in the bill before the committee at the time the hearings were held.

How could someone anticipate that title III would have been enacted and, therefore felt the need to come in and voice his opposition?

I do not have a copy of the report of the Task Panel on Legal and Ethical Issues and so cannot discuss it in detail. But, in any case, it is the report of the parent body, the entire President's Commission, that ought to be considered controlling. While title III may be responsive to that report it deviates in most of its major features and it cannot be argued that the report is followed.

Mr. President I ask unanimous consent that the section of the report of the President's Commission on Mental Health entitled "Protecting Basic Rights" be printed in the RECORD in its entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROTECTING BASIC RIGHTS

The protection of human rights and the guarantee of freedom of choice are among the most basic principles of society. Mental health programs and services must not disregard these values. Each client or patient must have the maximum possible opportunity to choose the unique combination of services and objectives appropriate to his or her needs. This must include the option of preferring no services as well as the option of selecting particular services in preference to others.

ADVOCACY

We are keenly aware that even the best intentioned efforts to deliver services to mentally disabled persons have historically resulted in well-documented cases of exploitation and abuse. For this reason, an effective advocacy system must be created to protect the rights of all who receive services. The Developmentally Disabled Assistance and Bill of Rights Act of 1975 requires States to develop protection and advocacy systems for developmentally disabled persons as a condition of continued Federal funding for programs and services that assist this population. These systems, which now exist in all 50 States, include but are not limited to legal advocacy and function independently of service providers. Similar provisions should be made for advocacy on behalf of the mentally ill. Therefore, the Commission recommends:

The establishment of advocacy systems for the representation of mentally disabled individuals. In adversary or judicial settings we recognize the importance of counsel to represent not only the mentally disabled client (or those acting in his or her behalf) but also the State or provider against which a claim is made.

DISCRIMINATION

Laws, regulations, and practices deprive mentally disabled people of equal entitlement and choice in securing Federal benefits, housing, jobs, education, health, and other services. Certain actions at the Federal level can help to end the needless discrimination against the mentally disabled in our society. Special attention must be given to children, the elderly, minorities, the involuntarily detained, the chronically mentally disabled, and prisoners—groups which are often at great disadvantage in coping with discriminatory practices. We believe periodic reviews of Federal programs will be particularly helpful in identifying and modifying unreasonable or discriminatory practices or requirements. Moreover, existing Federal programs in such diverse areas as housing, vocational rehabilitation, and aid for veterans and the elderly can be a valuable source of assistance for mentally disabled people. In many instances, these resources can mean the difference between being in an institution and living in the community. The Commission therefore recommends that:

All Federal agencies enforce existing laws and regulations which prohibit discrimination against mentally disabled persons and seek to equalize opportunities for such individuals.

All Federal agencies review their statutes, regulations, and programs for instances of discrimination against mentally handicapped persons.

The Department of Health, Education, and Welfare vigorously implement the requirements of the Education for all Handicapped Children Act and formulate regulations to assist school districts to provide for the mental health needs of children and youth.

COMMITMENT AND GUARDIANSHIP

Civil commitment is an intrusion on personal liberty and autonomy. Therefore, we believe that high priority should continue to be given to developing and adopting statutory language that describes, precisely and unambiguously, the types of conditions and behaviors that can lead to loss of personal liberty. There must also be increased procedural protections during the process of civil commitment.

We believe that high priority should also be given to improving the guardianship system. Because guardianship can lead to a deprivation of legal rights, it is a highly restrictive method of providing supervision and assistance to mentally disabled persons. It is therefore essential that guardianship laws be carefully tailored to avoid any unnecessary restrictions on the rights of individuals. Particular attention must be paid to increased procedural protections and to limiting guardianship to those activities in which a person has demonstrated an incapacity to act competently. The Commission recommends that:

Each State review its civil commitment and guardianship laws and revise them, if necessary, to incorporate increased procedural protections.

State guardianship laws provide for a system of limited guardianship in which rights are removed, and supervision is provided, for only those activities in which a person has demonstrated an incapacity to act competently.

THE RIGHTS OF THOSE RECEIVING CARE

There are strong legal, ethical, and social policy reasons for adopting the principles of a right to receive treatment, a right to receive treatment in the least restrictive setting, and a right to refuse treatment. While the Supreme Court has not ruled on whether there is a constitutional right to treatment (for mentally ill persons) or to habilitation (for mentally retarded persons), all involuntarily confined mental patients have a "constitutional right to receive such treatment as will give them a reasonable opportunity to be cured or to improve (their) mental condition." To fulfill this right, a State must provide treatment in a humane physical and psychological environment, qualified staff in sufficient numbers, and an individualized treatment plan for each patient. Mentally handicapped residents of institutions also have a constitutional right to protection from harm, physical intrusions, and psychological oppression or acts causing mental distress.

The right to treatment in the least restrictive setting is inextricably tied to the adequacy of treatment and the specific needs of each individual. The criterion "least restrictive setting" refers to the objective of maintaining the greatest degree of freedom, self-determination, autonomy, dignity, and integrity of body, mind, and spirit for the individual while he or she participates in treatment or receives services. "Least restrictive setting" applies to both community and non-community-based programs.

The right to refuse treatment is somewhat more complex and less developed. Consensus does not exist regarding this right. Its assertion rests upon a number of principles such as the right to maintain personal autonomy, the likelihood that treatment would be more effective if accepted voluntarily, and the need for "regulation" of treatment by protecting the individual from misuse of customary procedures. The right to refuse treatment is in some instances applied to specific forms of treatment which are particularly intrusive, for example, psychosurgery. The Commission's intent in enumerating the above principles is neither to validate nor invalidate them. We are of the opinion that this is a significant area which warrants careful consideration and informed deliberation in developing appropriate policies.

The Commission recommends that:

Each State review its mental health laws and revise them, if necessary, to ensure that they provide for:

(a) a right to treatment/right to habilitation and to protection from harm for involuntarily confined mental patients and developmentally disabled individuals;

(b) a right to treatment in the least restrictive setting;

(c) a right to refuse treatment, with careful attention to the circumstances and procedures under which the right may be qualified; and

(d) a right to due process when community placement is being considered.

To articulate these and other rights, the Commission recommends that:

Each State have a "Bill of Rights" for all mentally disabled persons, wherever they reside.

CONFIDENTIALITY AND PRIVACY

Confidential information in mental health records must be safeguarded if meaningful treatment is to take place and if mentally handicapped persons receiving services are to be free from stigma, discrimination, and harm. Although confidentiality cannot be an absolute requirement, the Commission recommends that:

All recipients of Federal funds to provide mental health services be required to adhere to certain basic principles of confidentiality, and that other institutions and facilities be encouraged to follow this practice.

The gathering of research data is essential if we are to understand the variety of mental disorders and design programs of effective treatment and management. Biomedical and behavioral research frequently require access to patient and client records. Clear measures must be developed that permit the conduct of needed research while assuring the protection of individual privacy. While efforts are under way to develop these measures, we urge the Department of Health, Education, and Welfare to continue to clarify privacy and research issues. Our concerns about protecting the rights of people who become research subjects are discussed in the section entitled Expanding the Base of Knowledge under the heading Human Experimentation.

THE CRIMINAL JUSTICE SYSTEM

A high percentage of jail and prison inmates are mentally disabled. To make it possible for prisoners to receive the mental health services they need, or to continue in therapy initiated before incarceration, statutory changes should be made so that access to appropriate mental health services exists, and so that these services can be delivered on a voluntary basis with confidentiality comparable to that which exists in private care. Participation in treatment must be unrelated to release considerations if mental health services to prisoners are to be effective. The Commission therefore recommends that:

Mentally disabled persons in detention or correctional institutions should have access to appropriate mental health services on a voluntary basis and such access should not be connected with release considerations.

Mr. MORGAN. With regard to advocacy, the President's Commission concluded that "Similar provisions (to those in the DD Act) should be made for advocacy on behalf of the mentally ill." It goes on to say that "In adversary or judicial settings we recognize the importance of counsel to represent not only the mentally disabled client * * * but also the State or provider against which the claim is made."

These provisions in title III, as I noted earlier, are not similar, and there is no recognition of "the importance of counsel to represent * * * the State or provider against which the claim is made."

With regard to commitment, guardianship, and patient rights, every recommendation by the President's Commission is prefaced with the phrase "each State." Not once is the Federal Government mentioned, and there is no talk of the need for basic uniformity between States.

To quote from the aforementioned Dear Colleague letter, "a great deal of misinformation has been circulated" and I "would like to set the record straight."

Third. Both the committee report and Mondays' Dear Colleague talk about how much consultation there has been, and the committee report goes on to say that "There is broad-based agreement within the mental health field that the rights and advocacy program contained in this Title are necessary."

There cannot possibly be broad-based agreement if the various psychiatric associations, hospital associations (most of whose members provide inpatient mental health services), and the AMA are supporting my amendment. In addition, a number of the organizations supporting S. 1177 without amendment are doing so for reasons incidental to the rights and advocacy sections, something which will be discussed in greater detail when the bill reaches the floor of the Senate.

Consultation does not mean concurrence, or even that any advice has been accepted, and private meetings are no substitution for public hearings and public debate.

Fourth. Yesterday's Dear Colleague letter states that "It has been asserted that abuse and neglect of mental health patients are so rare these days that there is no need for a bill of rights. It goes on to say that—

> Widespread abuse, neglect, and violations of basic rights continue. The dozens of court suits filed in the recent past—many of which have resulted in judgements against mental hospitals and other providers of care—confirm this fact of life.

First of all, nobody I know who is working with me for my amendment to title III has made any assertion to the effect that no abuse takes place.

As anyone who worked on the Rights of the Institutionalized bill knows, substantial abuse has been documented in State institutions. Those of us who opposed that bill did not assert the absence of abuse, we opposed the proposed method for solving the problem. But, a majority of the Senate saw otherwise. The bill is now law and should be given a chance to work before even more extreme solutions are enacted.

None of this, however, leads to the conclusion that action should be taken against private providers, whom I might add, were very carefuly written out of S. 10. The court cases referred to in the above quote have, to the best of my knowledge, been against State institutions, not private institutions nor private providers.

No documentation has been provided by the committee showing abuse by private providers, nor have I seen any news reports on the subject. The chain of logic that concludes that private providers should be covered by title III is little more than a leap of faith or more accurately, a leap of lack of faith.

I could go on in this vein, but I am running out of the time set aside for this speech. However, it is important for the Members of the Senate to realize that the arguments that have been presented against title III have been presented fairly, and with full attention to the facts. There can be honest disagreement as to the wisdom of title III, differing interpretations of the impact of various provisions, and spirited debate, but charges about the circulation of "misleading evidence" should not be made without documentation.

The basic problem with title III as proposed by the committee, as I see it, is that it proposes a novel, extensive, regulatory, and litigating mechanism, intruding into a realm that has traditionally been under State control, and does so without 1 day of public hearings directed to the subject, little public debate, and no evidence as to need but rather an assertion of obviousness.

These problems are so serious that inadequate attention has been paid to the rights themselves. While some are reasonable in their present form, some conflict with each other, too many terms are undefined, and there are too many unknown ramifications. As just one example, can a patient who provides his "informed, voluntary, written consent to treatment," pursuant to section 301(a)(4), subsequently go to court charging that his consent was neither truly informed nor voluntary, but rather that he was too ill to know better and his signature was coerced out of him. It would take a genius to predict how a court would rule on that question.

Mr. President, I have a record of supporting virtually all efforts to improve mental health services throughout my public career, a career which extends back nearly 30 years in local, State, and now the Federal Government. Few things have been as painful as stirring up this controversy over the Mental Health Systems Act, and I certainly do not enjoy offering an amendment to weaken a provision which appears, on the face of it, to assist the mentally ill.

But title III, if not amended as I have suggested, is a damaging proposal which will cause serious problems for mental health providers, State governments, the Federal courts, but worst of all, for the mentally ill.

Mr. President, I ask unanimous consent that an article written about a speech given by Dr. Allen Stone, a Harvard professor of law and medicine and former president of the American Psychiatric Association, be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Stone Says Psychiatry Needs Own Advocate

The idea of having a legal advocate representing every mental patient is all right according to APA President Alan Stone—but only if the psychiatrist also has a legal representative.

Speaking on "The Myth of Advocacy" at APA's recent Institute on Hospital and Community Psychiatry, Stone explained that "the very basis of our adversarial system of justice." is the requirement that each side in the argument be represented by a zealous advocate. In fact, he said, it is part of the lawyer's canon of ethics "to proceed almost unrestrained as an advocate because there is a zealous advocate on the other side." Each side "struggles for an advantage, and out of the struggle the judge and jury pluck the just resolution."

The conflict between psychiatrists' notions of advocacy and lawyers' views is that of the medical needs of patients versus their legal rights, as exemplified in the question of best treatment setting as opposed to least restrictive alternative. The current buzzword is advocacy, said Stone, and the conflict can be understood only when "the legal model versus the medical model is examined not in terms of goals but of procedure."

Stone maintains that the crucial elements of the adversary process have been lacking in mental health litigation over the past decade; "where advocacy has really worked," he feels, "it is because, first, the group's needs and interests could be readily defined, second, the interests could be formulated as some legal right, and third, paradoxically to us but basic to the system of law, the legal adversary had a powerful opponent, an adversary who had something to lose. Without an adversarial struggle, the judge has no real ability to find a resolution which is balanced."

Legal advocates for the mentally ill have tended to work in reverse order, Stone feels. They "have not been willing to consider seriously the needs of the mentally ill and to formulate those needs as legal rights." Rather, "they have treated rights as if they constituted the needs of the mentally ill."

Nor has there been a powerful adversary for the mental health advocate to attack, as the legal system would require. "Instead," Stone told the multidisciplinary audience, "mental health advocates, with the assistance of the radical anti-psychiatrists, had to invent a powerful adversary—the psychiatric establishment. But the last decade has made it clear that psychiatrists are anything but a powerful adversary. Wherever the mental health advocate pressed, the psychiatric profession gave way."

Stone made his point by citing the hypothetical case of Mr. Jones, who becomes increasingly agitated, hears voices, is unable to sleep or go to work, and refuses to communicate with his wife and children. Mr. Jones' wife gets her husband to go, reluctantly, to the emergency room of a nearby hospital, where he is seen by a psychiatrist who makes a diagnosis of acute paranoid schizophrenia and recommends hospitalization. Mr. Jones refuses treatment; his wife begs the doctor to do something.

Stone chronicled what legal advocates believe should happen before Mr. Jones' psychiatric needs can even be considered: "First, Mr. Jones must be provided with his own lawyer, presumably paid for by the federal government, whose duty is to be advocate Mr. Jones' freedom. Second, he must have a hearing before a judge within 48 hours and, no matter how disturbed he may get, the doctors are not to begin treatment until that hearing. At that hearing, his lawyer will argue that he should not be further confined and that if confined he has a right to refuse treatment. Third, the lawyer will insist that the psychiatrist must inform Mr. Jones of his right to remain silent and his Fifth Amendment privilege against self-incrimination. Fourth, Mr. Jones and his lawyer must be given timely notice of the charges justifying his confinement so that they can prepare a defense. Fifth, he must have notice of the right to a jury trial. Sixth, he is entitled to a full hearing, a trial with the right to cross-examine Mrs. Jones and his doctors, who must testify about the details of his illness and his dangerous behavior. Seventh, it must be proved by clear and convincing evidence that Mr. Jones is mentally ill and dangerous. And, finally, there must be inquiry into whether some less restrictive alternative can be found for Mr. Jones before in patient involuntary care is ordered. 'Less restrictive' for the lawyer," said Stone, "will mean least loss of freedom and not 'best treatment setting.' "

What Stone wants to know is why any state or prosecutor would wish to go to so much trouble and expense to justify putting a patient in a hospital so the state can spend even more to treat him. "Prosecutors have all sorts of incentives for putting away criminals, but what is their incentive for putting away Mr. Jones? And what about the incentives of the psychiatrist. Experience demonstrates that psychiatrists have always disliked being involved in civil commitment; with these new procedures, that dislike has become abhorrence.

"In sum, legal advocacy is proposed to advance the interests of the patients against a powerful adversary, but it turns out that no one but Mrs. Jones really has an incentive to confine Mr. Jones. The powerful adversary of the mental patient turns out to be a paper tiger, and the psychiatrist is soft as a grape. Nor is it clear that the advocate is concerned or will care about Mr. Jones' needs in all this rhetoric of rights."

As Stone explained, the adversary system works only when there are adversaries on both sides and both sides have an incentive. "In the ordinary psychiatric case, the state and the prosecutor have no real incentive, and the psychiatrist doesn't either."

Many lawyers, commented Stone, would insist that he is drawing a caricature of legal advocacy. One distinguished lawyer, he said, "sees the lawyer's role as getting Mr. Jones into the best treatment setting with the least loss of freedom. His kind of advocacy is my kind of advocacy, but I can find it nowhere in the lawyers' canon of ethics." In fact, lawyers resist this model, not seeing themselves as being "social workers" or being responsible for their clients' non-legal problems. They simply seek their clients' freedom, "and what happens afterward is not their business."

Those advocates who agree with Stone's points usually conclude, he said, that it is up to psychiatrists to see that hospitals and the state supply representation for their side. This is right in theory, he acknowledged, "but no one has ever said that providing lawyers for alleged criminals would reduce the problem of crime in the streets or assist in the rehabilitation of criminals. . . . Similarly, no one can claim that providing individual legal advocates for psychiatric patients will reduce mental illness or assist in the treatment of mental patients. The best it can do is to see that alleged patients get justice in the courts. But it is not at all clear what justice is in this context." The distinction is one between the advocacy of rights and the advocacy of needs.

To convey this distinction, one usually ignored in congressional proposals for patient advocates, psychiatrists must hire and learn to work with lawyers. "There is no alternative," Stone advises: "We will have to do it their way. We have no tradition of advocacy of our own, and without legal advocacy we are helpless."

The task facing psychiatry and APA is "to create new law which will reverse the trend of making rights into needs. We have begun to do that in the last few years and with growing success," noted Stone in reference to an article in the *Mental Disability Law Reporter* on recent Supreme Court decisions which attributes APA's amicus curiae briefs with having a "significant impact upon the legal profession."

"Perhaps," said Stone, "the author goes too far in saying that we have made an impact on the legal profession, but we have made a significant impact on the future of our own profession and our capacity to treat our patients. With the help of our lawyers, we have taken our professional destiny into our own hands, and surely that is a good thing."

Mr. MORGAN. Mr. President, I thank the Chair, and I yield back to the majority leader the time that was yielded to me.

(The following proceedings occurred during Mr. Morgan's remarks:)

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I am informed by the distinguished minority leader that Mr. Jepsen will not need his time. I will, therefore, ask unanimous consent that the time which was to be controlled by Mr. Jepsen be divided equally between Mr. Morgan and Mr. Gravel.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. MORGAN. I thank the leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator's statement show no interruption in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

RECOGNITION OF SENATOR GRAVEL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alaska (Mr. Gravel) is recognized for not to exceed 22½ minutes.

HUNTING BANNED IN WRANGELLS

Mr. GRAVEL. Mr. President, today I rise to speak on an issue that is peripheral to the matter that we have before us as the pending business. It is a human interest story because it, in my mind, shows the great insensitivity of Government.

What I will be reading into the Record are two articles that appeared in the Valley Sun. This is a small local newspaper that has a circulation in the Matanuska Valley. The articles were written by a young lady by the name of Pat O'Hara, a very fine young reporter who has touched me with a recitation of these events.

The headline of the story is "Hunting Banned in Wrangells. Guides: An Endangered Species."

The mighty fist of the federal government landed with stunning impact on 38 registered guides in the Glennallen area July 26.

On that day, only 15 days before the August 10 opening of this year's hunting season, Frank Pease, one of those guides, received a letter from the U.S. Department of the Interior stating that no sport hunting would be allowed in the Wrangell Mountain National Monument.

"Rangers have been assigned to the national monuments and will be on patrol there to assure public safety and compliance with monument regulations," stated the letter. "They will be pleased to answer any questions and assist in any way possible to assure your understanding of the regulations concerning the monument."

Pease, a 29-year Alaskan resident, has guided in that area for the past 10 years.

Although interim regulations banning sport hunting had been in effect since Dec. 26, Pease had been assured by Fish and Game Officers, Alaskan State Troopers, and Senator Jay Kerttula that the regulations would not be enforced this year.

Senator Kerttula is a good friend of mine.

Working on that assumption, Pease accepted close to $10,000 in downpayments from his clients, some of whom had made reservations two to three years in advance, and proceeded to equip his camp for the summer.

If unable to hunt this summer, Pease will have to reimburse the hunters with his own funds. "We're not all rich," Pease commented. "Guides live from hunt to hunt. Since I've already spent the money, I'll have to borrow the $10,000 or sell some of my property. Selling property in a hurry is never easy, and the market's not very good right now."

Pease has already been told by park rangers that he would be arrested if he violated the sport hunting ban. Arrest could mean confiscation of his airplane, loss of his license, and stiff fines.

Pease does not feel he can take the chance. His hunting camp is located in the Hanagita Valley, bounded on the north and east by the Chitina River, on the west by the Copper River, and on the south by glacial ice fields. Pease had brought his horses into the camp earlier in the spring when the rivers were low, and he won't be able to get them out until the beginning of October.

"If I lost my airplane," Pease explained, "my horses would starve. They need grain every day, and you've got two rivers and 100 miles to cross on foot."

Pease had applied for a hunting permit in the St. Anne–Klutina Lakes area, but was turned down by the State Department of Public Safety Guide Board because he didn't have two contracted hunts there in the past five years.

At this moment, Pease feels as if government, not only federal, but also state, is out to destroy him.

Pease, 57, has been self-employed as a registered guide in Alaska for 20 years. "My future's gone down the drain," he said. "At my age, changing careers is going to be difficult."

Being a hunting guide was Pease's lifelong ambition since he was 14. "I studied everything I could get on hunting. When I learned about Alaska's game and its potential, I moved up here. I've achieved my goal, but now it might all be taken away."

38 unemployed guides plus their individual employees, which may amount to four times that number, will definitely hurt the local economy. In addition, the loss of income from the hunters who come into the area will drastically reduce the dollars spent locally.

"The government is saying none of us is important," stated Pease. "I believe in conservation, and I know how to harvest my area. We don't destroy the area; we've never started a forest fire, and we protect the trees and wildlife. Any Alaskan loves his country and doesn't want to see it raped and torn apart. A lot of people in the 'Lower 48' don't realize that."

Pease's only hope at the moment is a "phase-out permit" which would enable guides to hunt this year and have more time to prepare closing out their operations

Pease was told by the park rangers that he would have to obtain that permit from John Cook, Director of the Alaska Office of the U.S. Department of the Interior, who signed the letter he received.

So far, Pease has been unable to contact Cook, and Cook was unavailable for comment to the Valley Sun Monday afternoon or Tuesday morning at press time.

Mr. President, that article appeared on July 31, 1979. The next one I will read is dated August 7, 1979.

The title of this article is "Andrus Denies Permits For Big Game Guides."

Andrus Denies Permit For Big Game Guides

(By Pat O'Hara)

Secretary of Interior Cecil Andrus flatly denied a request from Alaska State Attorney General Avrum Gross to grant 38 guides a "phase-out permit" to hunt in the newly created Wrangells National Monument this summer.

Frank Pease, one of those guides, stands to lose almost $10,000 if he does not honor commitments to his clients, some of whom have made reservations two to three years in advance.

July 26, just 15 days before the opening of sheep hunting season, Pease had received a letter from the Anchorage office of the National Parks Service warning him that the interim ban on hunting in the Wrangells, imposed December 26, 1978, would be enforced.

The letter explained that park rangers would be present "to assure public safety and compliance with monument regulations."

Pease had contacted State Senator Jalmar Kerttula, R., District D, to seek help in obtaining a phase-out permit which would allow guides time to move their hunting operations over a longer period.

Kerttula in turn asked assistance from the attorney general, who, stated Kerttula, "did everything he could. He made every effort in this situation."

A top solicitor with the Department of the Interior had indicated to Gross that a phase-out program for the guides in question might be the best possible solution from a public relations standpoint, said Kerttula.

However, Gross felt that Andrus' denial was a means by which the Secretary of the Interior could apply the most pressure possible to Congress and to the Alaskan delegation to pass an Alaska lands bill this year, according to Kerttula.

All bills currently before the House contain a phase-out program or a restitution clause for individuals who suffer loss as a result of a lands resolution.

Spokesman for the National Parks Service Office in Anchorage, Bob Belous, emphasized that his office had no authority to grant a waiver for individuals like Frank Pease, and that the Park Service is obliged to enforce the law.

"This situation," he emphasized, "merely underscores the need for a legislative solution to the problem."

Belous added that his office "openly and willingly recognizes the plight of this individual."

In a previous recommendation to Secretary Andrus, the Alaskan office had advocated the implementation of a phase-out permit. The recommendation was not accepted.

Park ranger, Walt Dabney, explained that the federal law dealing with airplanes used for the transportation of illegally gained animals does permit confiscation of the plane. However, he said, a plane would not necessarily be confiscated simply because it had landed and people were hunting.

He also explained that the Park Service might not take action immediately. "And," he added, "the Park Service certainly would not let any animals starve." Pease had been concerned thta if his airplane were confiscated, he would not be able to gain access to his horses already in the hunting area.

Meanwhile Frank Pease is left with the choice of losing a sizable portion of his life savings, his airplane, and his livelihood or becoming a civil disobedient. He has chosen the second alternative.

However, Pease will be taking on the state rather than the federal government. He summed up his dilemma simply, "I've got to fight somebody if I'm going to survive in this area next winter."

Pease has decided to hunt in another area on foot.

He still anticipates a loss of income because some of his clients were planning on using horses, and he won't be able to get his horses out of the Hanagita Valley until October. However, he feels his loss will not be as great as if he forfeited all his down-payments. He hopes most of his clients will understand the situation.

By hunting on foot in another area, Pease is risking his guiding license. Jack Jordan, chief investigator for Fish and Wildlife Protection, said the Guide License and Control Board would consider the process a civil rather than a criminal matter.

"The Guide Board would be most likely to take action against Pease's license rather than prosecute him," said Jordan.

Pease, at this point, is well aware of that possibility. "I'm 57 years old and maybe this is the time for me to quit. But if I can help a few young guides coming up by being a test case, I'll do it."

Mr. President, this is what happens when you get a willful, arrogant bureaucrat, when you get an administration that thinks it is right above all else, which feels it is gifted with some messianic light.

Here is an individual who suffered when in fact the person that Secretary Andrus was trying to get at or to pressure was really myself.

I did not lose $10,000, I did not lose $5,000 as a result of what the Secretary did. I may have suffered some deep humiliation. I may have suffered some great inconvenience. I may have worked considerably harder on the issue than would have been the case in order to defend the rights of Alaska.

But do you think for a moment there was any sense of humanness, Mr. President, any sense of kindness, when it was recommended by the local Park Service in Alaska that there be a phaseout of guiding and hunting in these areas?

Heck, no. No, there was no ounce of human kindness or understanding. Persons sat in their air-conditioned offices here, in the Interior Department. Sometimes, they burn firewood in the summer while the air conditioning is on so they can add a little atmosphere.

No there was no sense of kindness and understanding, protecting the environment, protecting individuals. There was a willful decision made, willfully executed, without regard to the consequences.

I cannot think of anything that bespeaks more eloquently the arrogance, the bullying, and the unfortunate treatment that we in Alaska have suffered at the hands of the bureaucracy, in this particular case, relative to the native lands claims.

Mr. President, I am sure that there are stories that are legion of people in Alaska merely attempting to assert a lifestyle—away from the hubbub of our urban centers, a lifestyle of their own choosing where they can express their desire for independence. Can you think of a person who is closer to the American ideal than a Frank Pease, who, from childhood, wanted to go out and be an independent person, a guide, a trapper, to be pitted against nature? Think of the rewards that kind of life must offer, the peace and solitude and the feeling of individual strength. Then, to have him set upon by the bureaucracy and the Government. We have all heard that cliche, "I am from the Federal Government, I am here to help you." How hollow is that cliche to a person like Frank Pease?

So, Mr. President, I merely wanted to register this through a special order, because it is not directly part of the debate on the Alaska lands issue today. It is, however, part of the human drama that has been played out as a result of an insensitive, arrogant bureaucracy. It is the first page of this drama of the impact of this lands issue on the people of Alaska, if it is settled this year. We are not talking about just Frank Pease; we are talking about, literally, all of the citizens of Alaska, who will suffer the imposition of an insensitive bureaucracy. And it will be expensive, because the bureaucracy that we are going to see imposed by this legislation is going to cost the taxpayers of this country at least $100 million a year, and perhaps as much as $200 million a year.

I wonder if my good colleague from Nebraksa, who is presiding, if his taxpayers, who are frugal, hardworking people who are people of the soil and have suffered recent adversity because of climatic conditions, if they are so keen on putting up these tax moneys. Do they want to pay for the rangers who will be turning around and denying the livelihood of decent American citizens, who just want to be left alone to work in their chosen professions and avocations without interference? I just wonder if the people of Nebraska want to pay the tax dollars, increase the budget deficit, add inflation to what they presently suffer, and then, of course, suffer the attendant unemployment compensation burden.

I just wonder if the people from Rhode Island want to pay the taxes—people who are suffering great economic difficulties to massage the land in Alaska, to pay the salaries of the rangers so that other people cannot make a decent living hunting and trapping in customary areas.

I wonder if the people of Providence, R.I., know that the Senate is about to spend hundreds of millions of dollars to set aside land, to lock up 30 million, 40 million, 50 million, 60 million acres of sedimentary basin so that they will not be able to get the fuel, the oil and gas, from Alaska. Do these people of Providence, R.I., and Woonsocket—these fine people in Woonsocket, my racial forebearers—know they will have to pay the high cost for heating fuel?

I know they are angry over that and they should be angry. Unfortunately, we have a dependence upon foreign governments, a dependence that was engineered in this Chamber. This dependence would not exist if it were not for many of their legislators and our leadership.

I can recall being in a conference with my colleague on Alaska oil pipelines, when he and I were fighting to keep the cost of the pipeline down, the only two persons in the room who were arguing not to waste money for the excessive engineering that was planned. Subsequently, that pipeline has cost us $8 billion. It is not Alaskans who are going to pay that $8 billion. It is the people in Woonsocket; it is the people in Providence; it is the people in Omaha who are going to pay that high cost of engineering, because some here insisted on excessive regulation.

I say to my colleagues here today, it is going to be the citizens of Massachusetts, in Springfield and Worcester, in Salem and Fitchburg; it is going to be a lot of citizens in Colorado—in Aspen, Du Beque, Crescent—it is going to be those taxpayers who are going to pay for the rangers who are going to go out in the Alaska wilderness and deny the rights of individuals who merely want to earn a living from the land, individuals who care most for the land and want to protect it. It is going to be all those citizens.

Unfortunately, because of the imperfections in our communications system, the people from Rhode Island, the people from Massachusetts, the people from Colorado, the people from Oregon will not be fully aware that they are going to have to dig down deep into their pockets and pay these ridiculous taxes. They will not know that they are responsible, through their elected officials, that they are going to suffer inflation and unemployment and carry an unfair burden of taxation.

That is the problem of a democracy. It is not only the imperfections that exist within a body politic, but the great imperfections that exist in our communication systems. The average citizen does not know, just does not know, what is going on. If he did, not for 1 second would he tolerate this shabby, arrogant, dishonest, unfair treatment that has been foisted upon the Frank Peases of Alaska.

I thank the Chair and I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. LEVIN). The Senator's time has expired.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I intend to call up the first amendment. Before I do that, I would like to note that I have been reading into the RECORD, at various occasions, editorials on this issue from large and small newspapers throughout the country.

Yesterday, I read into the RECORD editorials in the Washington Post, the Washington Star, and the Milwaukee Journal. I will read two more now, and several others as the deliberations on this bill continue.

This is an editorial that appeared on July 3 in the Wichita Eagle of Wichita, Kans. It is entitled "Kassebaum Says 'Yes' to Alaska."

[From the Wichita (Kans.) Eagle, July 3, 1980]

KASSEBAUM SAYS "YES" TO ALASKA

Sen. Nancy Landon Kassebaum's statement of support for a strong Alaska national-interest lands bill is a shot in the arm for the years-long effort to save a representative chunk of wild Alaska for this and future generations. We hope Sen. Bob Dole now will join that effort, and add his influential voice to that of his Kansas colleague.

As a letter-writer from Alaska said on this page recently, Alaska belongs to Kansans, too. And as Sen. Kassebaum says in a letter to a Salina constituent, "Alaska presents a unique opportunity for balanced conservation, in that it is (almost) entirely federally owned and not in private hands."

That's why she is supporting the Tsongas-Roth substitute legislation that will be offered in place of the disastrous Senate Energy Committee bill that would eviscerate the Alaskan wildlands for the benefit of private industry. The debate gets under way on July 21, and its outcome is important to every American who wants to leave something of this country's wild heritage for his or her children and grandchildren.

Calling the Alaska national lands issue "one of the most important conservation measures Congress has faced in this decade," Sen. Kassebaum says "the Tsongas-Roth bill, rather than the Senate Energy Committee's bill. . . , carves the best balance between the need to develop our energy reserves and the need to preserve our wilderness."

The senator correctly points out that 95 percent of Alaska's land having high oil and gas potential would not be affected by the legislation, and would remain open for exploration and development, as would the majority of the state's land having high mineral potential. "The combination of these factors (with the protective legislation) will protect and strengthen the economy of the State of Alaska, as well as bolster our nation's energy reserves."

The Kassebaum statement preceded another fortunate development: the federal district court ruling in Anchorage affirming President Carter's declaration of at least some—and by implication, all—of 17 national monuments in Alaska under the 1906 Antiquities Act. When the president realized that legislative stalling, engineered by Alaska's congressional delegation, was going to subject the Alaskan wildlands to plunder when a congressionally imposed deadline expired, he used his executive powers to place almost 56 million acres in the National Park System, as monuments.

Secretary of Interior Cecil Andrus later followed that up by declaring another vital 40 million acres as national wildlife refuges and "natural resource areas." The acreages sound large, but they must be considered against the scale, and the grandeur, of "America's last frontier."

That frontier is a little more secure now, with Sen. Kassebaum's assurance of her support for saving a portion of it, in the form of the congressional authorization that still is needed. Sen. Dole now should add his shoulder to the wheel.

Mr. STEVENS. Will the Senator yield?

Mr. TSONGAS. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I state to my friend, of course, I have high regard for the distinguished Senator from Kansas (Mrs. KASSEBAUM), but it is unfortunate that she has been misled by the propaganda concerning the Senator's amendment.

Does the Senator not agree his amendment closes all refuges in Alaska to the Mineral Leasing Act?

Mr. TSONGAS. The Senator is correct.

Mr. STEVENS. Then how could possibly 95 percent of the oil and gas potential of Alaska be opened if all of the refuges are closed?

By definition, the refuges are more than 5 percent of Alaska.

Mr. TSONGAS. I state to the Senator, the issue is the moderate-to-high potential-yield areas.

Mr. STEVENS. As defined by the Senator from Massachusetts, not as defined by the State of Alaska.

Mr. TSONGAS. As defined by the USGS.

Mr. STEVENS. Well, the USGS has just had its report rewritten again by the Department of the Interior. We realize that. Later today, we will get into the Comptroller General's opinion concerning the Arctic Wildlife Range, which, incidentally, I shall never call the Douglas Arctic Wildlife Range because he had nothing to do with it.

He was a distinguished jurist. He should have some area, such as the C. & O. Canal, named after him.

But I am still incensed over the idea the President of the United States would name an area he had never been to after the former Supreme Court Justice.

But, in any event, our studies showed, by the Comptroller General, that the Department of Interior has deliberately downgraded the Arctic Wildlife Range area.

It deliberately downgraded the studies of the USGS and refuses to accept the studies of the State of Alaska and of the oil industry, which the Senator from Massachusetts refuses to accept, also.

But, again, the problem is if we close all the refuges to the Mineral Leasing Act in Alaska, when all the refuges in the south 48 are, in fact, open, under this act, why does the Senator say our State is better off than the rest of them? Why does the Senator say our oil and gas potential is available to the Nation for development?

Mr. TSONGAS. Well, if I could reclaim my time, Mr. President, we are going to argue the issue of whether or not to call it the Douglas Wildlife Range. But we will argue that when Senator NELSON raises the wilderness amendment before this body.

I simply say we have heard some of the claims about how much oil is there, which is a pertinent issue to be addressed when the so-called Nelson amendment is introduced. I ask the Senator if he could defer until that point.

I would agree that there have been a number of statements made regarding the oil potential, and if we could defer that issue until the pertinent amendment is called up, I would appreciate it.

Mr. STEVENS. Mr. President, I am happy——

Mr. TSONGAS. Mr. President, if I may reclaim my time, I would like to finish these editorials, get on to the amendment, at which point we can carry on the colloquy.

Mr. STEVENS. Mr. President, the Senator from Massachusetts does not wish to be interrupted again, is that the statement?

Mr. TSONGAS. I say to my friend from Alaska, if I may be permitted to finish the next editorial, we will call up the amendment and we can have our discussion.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. TSONGAS. I wish that in the process of reading these editorials they can be done without interruption so they would appear, at least, with some continuity in the RECORD.

The next editorial is in the Boston Globe which appeared on Thursday, July 17, 1980, entitled, "Into the Alaskan Wilderness Again."

[From the Boston Globe, July 17, 1980]

INTO THE ALASKAN WILDERNESS AGAIN

Next Monday, the Senate is scheduled to consider the Alaska Lands Act, the legislation that would provide statutory protection for America's last, vast wilderness. Proponents of a strong bill have very little to lose and much to gain by insisting on the strongest possible measure.

This is the second time that the bill has come up for full Senate consideration. In 1978 delaying tactics barred final action. But as a result, President Carter and Secretary of the Interior Andrus took strong administrative steps to protect the Alaskan wilderness. In fact, 93 million acres of federally owned wilderness land there have received one or another protective designation from the Executive branch.

A legislative commitment to such protection would, both legally and symbolically, enhance the value of that protection. But the fact that it exists gives those in the Senate pushing for a strong bill the upper hand. They need not accept half a loaf.

A strong measure has passed the House. The version reported out by the Senate Energy Committee is considerably weaker. Three million acres of proposed National Park Service land would be downgraded to a status open to mining; 37 million acres of National Wilderness Refuge would be eliminated altogether from the package; on another 29 million acres of wilderness the degree of protection is reduced by the proposal in the Senate.

The principal effort to strengthen the Senate bill will be led by Massachusetts Sen. Paul Tsongas, the only member of the Energy Committee to vote against the committee bill. His amendment would essentially substitute the House bill for that reported by the committee. In addition, five less-sweeping amendments have also been proposed. Unless either the Tsongas amendment or virtually all the others are enacted, proponents of Alaska lands protection ought to reject the bill and rely for now on the executive actions to protect the Alaskan wilderness.

While the acreage involved in a full package of protections is vast, it is not unreasonable. The federal grant of land to the state of Alaska is without precedent in American history. And unless whole ecological systems in the Alaskan wilderness are protected, conservation efforts will be less than successful. The argument most often used against sweeping protections of the Alaskan wilderness is that they will bar oil and mineral exploration. The fact is that 90 percent of the land judged to be of high natural resource value would be exempted from use restrictions. Further, of course, if resource recovery on that 10 percent is ever thought to be in the national interest, the law can be changed. Conversely, if the Alaskan wilderness is allowed to be developed, it can never be reclaimed.

Mr. President, I will continue, during the discussion of this matter, to read editorials from other newspapers around the country.

At this point, I should like to have the first amendment called up and considered, and I ask unanimous consent that Senator HART be allowed to call up the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. Did the Senator from Alaska hear my request?

Mr. STEVENS. I was speaking to the chairman. Will the Senator repeat his request?

Mr. GRAVEL. Mr. President, reserving the right to object, and I do not think I will object, all the Senator is doing is permitting Senator HART to call up his amendment, more as a courtesy.

Mr. STEVENS. What is the request?

The PRESIDING OFFICER. The request is that Senator HART be permitted to call up the amendment at this time.

Mr. STEVENS. The Senator from Colorado has no amendment to call up.

The PRESIDING OFFICER. It is the amendment of the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, under the time agreement, I was allowed 5 minutes. The first one is the wildlife refuge amendment which will be carried by the Senator from Colorado. Since he is going to do most of the work, I thought——

Mr. STEVENS. I have no objection, if this is one of the Tsongas amendments.

Mr. TSONGAS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

UP AMENDMENT NO. 1402

(Purpose: To consolidate and direct environmentally sensitive management of major fish and wildlife areas of Alaska within a system of National Wildlife Refuges)

Mr. HART. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART), for himself, Mr. TSONGAS, Mr. CHAFEE, Mr. RANDOLPH, Mr. CULVER, Mr. CHURCH, and Mr. MOYNIHAN proposes an unprinted amendment numbered 1402.

Mr. STEVENS. Mr. President, if the Senator will allow me, I ask unanimous consent that reading of the amendment be dispensed with, and I should like to make a parliamentary inquiry.

The PRESIDING OFFICER. Is there objection to the waiving of the reading of the amendment?

Mr. GRAVEL. Mr. President, I reserve the right to object, for the simple reason that I have had several changes, and I am not sure where we are with the changes. If my colleague will proceed with the point he wishes to make, we can get back to the reading.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. At what point is it proper to inquire into the germaneness of the provisions of this amendment? Is it after the time of the Senator from Massachusetts expires?

The PRESIDING OFFICER. When the time of the proponents has been used or yielded back.

Mr. STEVENS. The time of the proponents?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I thank the Chair, and I thank the Senator from Colorado.

Mr. HART. Mr. President, for the information of the senior Senator from Alaska, this is a modified amendment, modified from the original version to exclude those provisions which might have been considered nongermane, particularly including the Chilkat River provision.

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

Following up on the request of my colleague, he was talking about germaneness. What about the issue of amending the bill in various sections? That was not resolved yesterday. We attempted to resolve it and had some language prepared which I am not inclined to go along with at this time, so I should like a ruling from the Chair with respect to the propriety of an amendment that would amend the various sections.

The PRESIDING OFFICER. Under the unanimous-consent agreement and the colloquy leading up to it, the amendment is in order if it hits in more than one place, if it deals with only one subject matter.

Mr. GRAVEL. This amendment, at least the version I have, does hit in more than one place, with a different subject. I am looking at page 41 of the amendment, the printed amendment. It covers an item of Beaver Creek, an item covering Kanektok, Alaska, and an item covering Kisaralik, making these wild and scenic rivers. They are a different subject, and they hit the bill at a different place.

Mr. HART. The Senator from Alaska is referring to the printed version. The version filed at the desk is the one the Senator has before him which does not contain those provisions.

Mr. GRAVEL. I just want to correct my colleague. Perhaps that is why we should read the whole cotton-picking amendment, because what has been handed to me by the Senator's staff, or somebody's staff, is a printed document which has been cleaned up. The document we are dealing with is the one to which I have objection. The only way to resolve it is to go ahead and read it, and we will know what is in it, and it might be edifying.

I ask the clerk to read the amendment that has been sent to the desk, since we do not have a printed copy to read overnight, which would permit us to do a proper study.

If the clerk will read it, we will follow along in the text and make our corrections as we go forward. I do not mean to impose on the body, but that is the only way we can handle a complex amendment such as this.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, could we have silence in the Chamber so we may follow this?

This may be just words, but they could involve thousands of acres and entire river systems in the process, and we wish to diligently follow this, and I am sure others wish to also. So could we have as much decorum in the Chamber as possible to do this?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Mr. President, is it necessary to read the entire amendment for a question of germaneness to be raised and resolved by the Chair?

Mr. GRAVEL. Mr. President, on the point of order, it was not germaneness that I was raising.

The PRESIDING OFFICER. Could the Senator from Alaska repeat the question he has raised?

Mr. JACKSON. Mr. President, before doing that, will the Senator yield for an inquiry?

Mr. GRAVEL. I am happy to yield to my colleague.

Mr. JACKSON. Mr. President, I am wondering if we could not have a quorum call and go over the areas of difference so that we can avoid having the clerk read the entire amendment.

How many pages? May the Chair inquire? I have not seen it.

The PRESIDING OFFICER. Forty-six pages.

Mr. JACKSON. How many?

The PRESIDING OFFICER. Forty-six pages.

Mr. HART. Mr. President, may I say to the Senator from Washington that we have gone over that with the staff of the Senator from Alaska, pointing out what has been deleted from the printed amendments. So the Senator's staff is aware of those things. What the Senator is suggesting has already been done.

Mr. GRAVEL. Mr. President, we just received that amendment 2 minutes ago, and we did find one basic flaw in it that we spotted on page 41 which involved three river systems. So I think it is a little presumptuous to say, and I do not mean to impose myself on the body, but if it is within my rights to have this read, I wish to have it read.

We are prepared, and I will make this pledge to the body: I am prepared to have my amendments the night before in everyone's hands and will not be coming up with any 45-page amendments that deal with intricate river systems and intricate bodies of land for which we scurry around now trying to figure out what is done. Then representations are made by the Senator from Colorado, in all sincerity I am sure, because he has problems also piecing this all together, and he is even less familiar that we are with the areas.

The PRESIDING OFFICER. Debate on reading of the amendment is not in order.

Mr. GRAVEL. Is the reading in order?

The PRESIDING OFFICER. The reading is in order.

Mr. GRAVEL. I request it.

The PRESIDING OFFICER. The clerk will continue reading the amendment.

The assistant legislative clerk continued reading the amendment.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct.

The clerk will suspend until the Senate is in order.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to maintain order in the Senate. If the Senator is going to insist on having the amendment read, which is within his rights to do so, he is entitled to hear what is being said by the clerk, and I hope that the request for order in the Senate will not have to be made from the floor.

I thank the Chair.

The PRESIDING OFFICER. The Senator is correct.

The Senate will continue to be in order, including the gallery.

The clerk will continue.

The assistant legislative clerk continued reading the amendment.

Mr. GRAVEL. Would the clerk reread lines 11, 12, and 13 on page 9? It does not make any sense, and I am sure the sponsors would want to correct that also. Starting with line 12 you have a figure "approximately three million six hundred thousand acres of public lands generally depicted on the map entitled Koyukuk National Wildlife Refuge." Would the clerk reread starting from that section and read very slowly because it does not make sense.

The PRESIDING OFFICER. The clerk will reread that portion of the amendment.

The assistant legislative clerk read as follows:

The Koyukuk National Wildlife Refuge consists of the approximately three million and fifty six hundred thousand acres of public lands generally depicted on the map entitled Koyukuk National Wildlife Refuge, dated January 1979.

Mr. GRAVEL. Mr. President, three million fifty-six hundred thousand does not make any sense. At this point if we want to modify the amendment, I think the best and most efficient way for the movers of the amendment to modify it is as it goes along.

The PRESIDING OFFICER. The clerk wishes to read that again. He erred in the reading.

Mr. GRAVEL. I am sorry, I apologize.

The PRESIDING OFFICER. He will read it again.

The assistant legislative clerk read as follows:

The Koyukuk National Wildlife Refuge shall consist of the approximately three million six hundred fifty thousand acres of public lands generally depicted on the map entitled Koyukuk National Wildlife Refuge, dated January 1979.

Mr. GRAVEL. That is correct.

The PRESIDING OFFICER. The clerk will continue.

The assistant legislative clerk continued the reading of the amendment.

Mr. GRAVEL. Mr. President, on page 41——

The PRESIDING OFFICER (Mr. BOREN). Is there objection to suspending the reading?

Mr. GRAVEL. I just want to correct. I may have misunderstood the reading. I am not asking to suspend reading, but to be able to correct what the clerk is reading.

The PRESIDING OFFICER. That would require suspension of the reading.

Is there objection?

Without objection, it is so ordered.

The Senator from Alaska.

Mr. GRAVEL. On 40, was Kanektok, Alaska. What was 41, on page 41?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 42, line 3, was Porcupine, Alaska.

Mr. GRAVEL. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, was the reading completed?

The PRESIDING OFFICER. The reading was suspended.

Mr. GRAVEL. It was not completed. I wish it would be completed. There was something deleted. We did not spot it, and that was what we were trying to ascertain.

The PRESIDING OFFICER. The clerk will continue.

The legislative clerk continued to read the amendment.

The text of the amendment is as follows:

On page 389, line 1, strike everything through page 408, line 11, and insert in lieu thereof the following:

"TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

"DEFINITIONS

"SEC. 301. For purposes of this title—

"(1) The term 'conserve' means to protect, maintain, and manage fish and wildlife and plants, their habitats and the ecological systems of which they form a constituent element for the ecological, education, aesthetic, cultural, recreational, and scientific enrichment of mankind by such methods and procedures as are necessary to ensure, to the maximum extent practicable, that protection, maintenance, and management. Such methods and procedures may include any activity associated with modern scientific fish and wildlife management, such as research, census, monitoring, law enforcement, the acquisition, maintenance, and enhancement of habitat, information, education and extension services, hunting, fishing, trapping, and transplantation.

"(2) The term 'existing', if used in referring to any unit of the National Wildlife Refuge System in Alaska, means the unit as it existed on the day before the date of enactment of ANCSA except as specifically modified by section 12(b)(1) of Public Law 94–204 and section 1432(c) of this Act.

"(3) The term 'refuge' means—

"(A) any unit of the National Wildlife Refuge System established by section 302 or 303 of this Act;

"(B) any existing unit of the National Wildlife Refuge System in Alaska not included within any unit referred to in subparagraph (A);

"(C) any unit of the National Wildlife Refuge System established in Alaska after the date of the enactment of this Act; or

"(D) any addition to any unit described in subparagraph (A), (B), or (C) above.

"ESTABLISHMENT OF NEW REFUGES

"SEC. 302. The following are established as units of the National Wildlife Refuge System:

"(1) ALASKA PENINSULA NATIONAL WILDLIFE REFUGE.—(A) The Alaska Peninsula National

Wildlife Refuge shall consist of the approximately three million five hundred thousand acres of public lands as generally depicted on the map entitled 'Alaska Peninsula National Wildlife Refuge,' dated October 1979 and shall include the lands on the Alaska Peninsula transferred to and made part of the refuge pursuant to section 1427 of this Act.

"(B) The purposes for which the Alaska Peninsula National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, brown bears, the Alaska Peninsula caribou herd, moose, sea otters, and other marine mammals, shorebirds and other migratory birds, raptors, including bald eagles and peregrine falcons, and salmonoids and other fish;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii) above, the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams; and

"(v) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii) special values of the refuge such as the representative geological features or unique biological continua of the Alaska Peninsula including those of the Pavlof Volcanos and Cathedral Valley; Hoodoo Lake and Canoe Bay; Herendeen Bay and Port Moller; Veniaminof Volcano, Stepanof Flats and Kupreanof Peninsula; Castle Cape Fiords; Chignik, Lagoon; Cape Kumlium and Kujulik Bay; Chiginagak Volcano, Mt. Kialagvik and the adjacent coastline from Nakalilok Bay to and including Wide Bay; Black, Mother Goose and Ugashik Lakes; Meshik River and Upper Dog Salmon River, and any other archeological, cultural, ecological, paleontological, or historical values of the refuge.

"(2) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depicted on the map entitled 'Becharof National Wildlife Refuge,' dated October 1979.

"(B) The purposes for which the Becharof National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, brown bears, salmon, migratory birds, the Alaskan Peninsula caribou herd and marine birds and mammals;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to protect the free-flowing nature of rivers and streams; and

"(v) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as the bear-denning island in Becharof Lake, volcanic features, and any other archeological, culture, ecological, geological, historical, or paleontological, value of the refuge.

"(3) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately three million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled 'Innoko National Wildlife Refuge', dated October 1979.

"(B) The purposes for which the Innoko National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, peregrine falcons, other migratory birds, black bear, moose, furbearers, and other mammals and salmon;

"(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams; and

"(v) to maintain, in a manner not inconsistent with subparagraphs (i) and (ii), special values such as the integrity of this solar basin, the Innoko, Iditarod, and Kaiyuh River systems, islands in the Yukon River, the Iditarod Trail, and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge.

"(4) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and fifty thousand acres of public lands generally depicted on the map entitled 'Kanuti National Wildlife Refuge', dated April 1979.

"(B) The purposes for which the Kanuti National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, whitefronted geese and other waterfowl and migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), and furbearers;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable, water quality and quantity and to preserve the free-flowing nature of rivers and streams: and

"(v) to maintain, in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as the integrity of this solar basin, Sithylmenkat Lake and Kanuti Canyon, and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge.

"(5) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million fifty six hundred and fifty thousand acres of public lands generally depicted on the map entitled 'Koyukuk National Wildlife Refuge', dated January 1979.

"(B) The purposes for which the Koyukuk National Wildlife Refuge is established and shall be managed include—

"(i) to conserve the fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl and other migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), furbearers, and salmon;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife, and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams; and

"(v) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as the Nogahabara Dunes, Three Day Slough and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge.

"(6) NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million seven hundred and twenty thousand acres of public lands generally depicted on a map entitled 'Nowitna National Wildlife Refuge', dated April 1980.

"(B) The purposes for which the Nowitna National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural disversity including, but not limited to, trumpeter swans, white-fronted geese, canvasbacks and other waterfowl and migratory birds, moose, caribou, martens, wolverines and other furbearers, salmon, sheefish, and northern pike;

"(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams; and

"(v) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as the integrity of the solar basin, the Nowitna River, and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge.

"(7) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately two million three hundred and ninety thousand acres of public land generally depicted on the map entitled 'Selawik National Wildlife Refuge', dated April 1980. No lands conveyed to any Native Corporation shall be considered to be within the boundaries of the refuge; except that if any such corporation desires to convey any such lands, the Secretary may acquire such lands with the consent of the owner and any such acquired lands shall become public lands of the refuge.

"(B) The purposes for which the Selawik National Wildlife Refuge is established and shall be managed include—

"(i) to conserve the fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Western Arctic caribou herd (including participation in coordinated ecological studies and management of these caribou), waterfowl, shorebirds and other migratory birds, and salmon and sheefish;

"(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistance uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams; and

"(v) to maintain, in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as the Selawik River, major archeological resources, and any other cultural, ecological, geological, historical, or paleontological value of the refuge.

"(C) The Secretary shall administer the refuge in such a manner as will permit reindeer grazing uses, including the construction and maintenance of necessary facilities and equipment within the areas, which on January 1, 1976, were subject to reindeer grazing permits.

"(8) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred and seventy thousand acres of public land as generally depicted on a map entitled 'Tetlin National Wildlife Refuge', dated January 1979.

"(B) The purposes for which the Tetlin National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limtied to, waterfowl, raptors and other migratory birds, furbearers, moose, caribou (including participation in coordinated ecological studies and management of the Chisana caribou herd), salmon and Dolly Varden;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams;

"(v) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as the integrity of this solar basin and any archeological, cultural, ecological, geological, historical, or paleontological value of the refuge; and

"(vi) to provide in a manner consistent with subparagraphs (i) and (ii), opportunities for interpretation and environmental education, particularly in conjunction with any adjacent State visitor facilities.

"(9) YUKON FLATS NATIONAL WILDLIFE REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of approximately ten million six hundred and eighty thousand acres of public lands as generally depicted on the map entitled 'Yukon Flats National Wildlife Refuge', dated April 1980. The public lands in the Hodzana River Study Area not conveyed to Doyon Limited under section 1420 are made part of this refuge.

"(B) The purposes for which the Yukon Flats National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, canvasbacks and other migratory birds, Dall sheep, bears, moose, wolves, wolverines and other furbearers, caribou (including participation in coordinated ecological studies and management of the Porcupine and Fortymile caribou herds), and salmon;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and the free-flowing nature of rivers and streams; and

"(v) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as the integrity of this solar basin, the Beaver Creek, Hodzana, Porcupine, Black and Sheenjek River drainages, other river and lake systems, and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge.

"ADDITIONS TO EXISTING REFUGES

"SEC. 303. The following areas, consisting of existing refuges and the additions made thereto, are established or redesignated as units of the National Wildlife Refuge System:

"(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refugee shall consist of eleven existing refuges, including all lands (including submerged lands), waters and interests therein which were a part of such refuges and are hereby redesignated as subunits of the Alaska Maritime National Wildlife Refuge; approximately four hundred and sixty thousand acres of additional public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands in the coastal areas and adjacent seas of Alaska, and an undetermined quantity of submerge lands retained in Federal ownership at the time of statehood around Kodiak and Afognak Islands, as generally depicted on the map entitled Alaska Maritime National Wildlife Refuge,' dated October 1979, including the—

"(i) Chukchi Sea Unit—including Cape Lisburne, Cape Thompson, the existing Chamisso National Wildlife Refuge, and all other public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands in the Chukchi Sea, but excluding such other offshore public lands within the Bering Land Bridge National Preserve. That portion of the public lands on Cape Lisburne shall be named and appropriately identified as the 'Ann Stevens-Cape Lisburne' subunit of the Chukchi Sea Unit;

"(ii) Bering Sea Unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands) National Wildlife Refuges, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Punuk Islands, Egg Island, King Island, and all other public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands in the Bering Sea;

"(iii) Aleutian Islands Unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other public lands in the Aleutian Islands;

"(iv) Alaska Peninsula Unit—including the existing Simeonof and Semidi National Wildlife Refuges, the Shumagin Islands, Sutwik Island, the islands and headlands of Puale Bay, and all other public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands south of the Alaska Peninsula from Katmai National Park to False Pass including such offshore lands incorporated in this unit under section 1427; and

"(v) Gulf of Alaska Unit—including the existing Forrester Island, Hazy Islands, Saint Lazaria and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor Island, Pye and Chiswell Islands, Ragged, Natoa, Chat, Chevel, Granite and Middleton Islands, the Trinity Islands, all named and unnamed islands, islets, rocks, reefs, spires, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood surrounding Kodiak and Afognak Islands and all other such public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands within the Gulf of Alaska, but excluding such lands within existing units of the National Park System, Nuka Island and lands within the National Forest System except as provided in section 1427 of this Act.

"(B) The purposes for which the Alaska Maritime National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou, and other mammals;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources;

"(v) to maintain to the maximum extent practicable water quality and quantity; and

"(vi) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii) special values such as the Alaska maritime lifezones and archeological resources and any other cultural, ecological, geological, historical, or paleontological value of the refuge.

"(C) The Secretary shall negotiate with the applicable Native Corporations pursuant to section 1302(h) and section 1417 for the conveyance of public lands or the provision of other valuable consideration or both, to such Corporations in exchange for the selection rights or title to the birds cliffs of Saint Paul and Saint Georges Islands. If the exchange is agreed upon, the lands obtained in such exchange shall be included as public lands of the Alaska Maritime National Wildlife Refuge.

"(2) ARCTIC NATIONAL WILDLIFE.—(A) The William O. Douglas Arctic National Wildlife Refuge shall consist of the existing Arctic National Wildlife Range including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood and an addition of approximately nine million nine hundred thousand acres of public lands, as generally depicted on a map entitled 'William O. Douglas Arctic National Wildlife Refuge,' dated April 1980.

"(B) The purposes for which the William O. Douglas Arctic National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds, and Arctic char and grayling;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams; and

"(v) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii) special values such as the unspoiled Arctic physiographic regions and their biological continua, the river and lake systems, and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge.

"(3) IZEMBEK NATIONAL WILDLIFE REFUGE.—(A) The existing Izembek National Wildlife Range including the lands, waters, and interests of that unit which shall be redesignated as the Izembek National Wildlife Refuge.

"(B) The purposes for which the Izembek National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears, and salmonoids;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams; and

"(v) to maintain in a manner not inconsistent with the purposes set forth in paragraphs (i) and (ii), special values such as Izembek Lagoon and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge.

"(4) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of the existing Kenai National Moose Range, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which shall be redesignated as the Kenai National Wildlife Refuge, and an addition of approximately two hundred and eighty thousand acres of public lands as generally depicted on the map entitled 'Kenai National Wildlife Refuge,' dated January 1979.

"(B) The purposes for which the Kenai National Wildlife Refuge is established and shall be managed, include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, moose, bears, mountain goats, Dall sheep, wolves and other furbearers, salmonoids and other fish, waterfowl and other migratory and nonmigratory birds;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams;

"(iv) to provide in a manner consistent with subparagraphs (i) and (ii), opportunities for scientific research, interpretation, environmental education, and land management training;

"(v) to maintain in a manner not inconsistent with the purposes set forth in paragraphs (i) and (ii), special values such as unspoiled subarctic ecosystems and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge; and

"(vi) to provide, in a manner compatible with these purposes, opportunities for fish and wildlife-oriented recreation.

"(5) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of the existing Kodiak National Wildlife Refuge, including lands, waters, interests and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which is redesignated as the Kodiak Island Unit of the Kodiak National Wildlife Refuge, and the addition of all public lands on Afognak and Ban Islands of approximately fifty-seven thousand acres as generally depicted on the map entitled 'Kodiak National Wildlife Refuge,' dated October 1978. The described public lands on Afognak Island are those incorporated in this refuge from section 1427 of this Act.

"(B) The purposes for which the Kodiak National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations habitats in their natural diversity including, but not limited to, Kodiak brown bears, salmonoids, sea otters, sea lions and other marine mammals and migratory birds;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams; and

"(v) to maintain in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as unspoiled island ecosystems and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge.

"(6) TOGIAK NATIONAL WILDLIFE REFUGE.—(A) The Togiak National Wildlife Refuge shall consist of the existing Cape Newenham National Wildlife Refuge, including lands, waters, and interests therein, which shall be redesignated as a unit of the Togiak National Wildlife Refuge and an addition of approximately three million eight hundred and forty thousand acres of public lands, as generally depicted on the map entitled 'Togiak National Wildlife Refuge', dated April 1980.

"(B) The purposes for which the Togiak National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, salmonoids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and protect the free-flowing nature of rivers and streams; and

"(v) to maintain, in a manner not inconsistent with the purposes set forth in subparagraphs (i) and (ii), special values such as Capes Pierce and Newenham, the watershed and estuarine features of the Kanektok, Goodnews, and Togiak River systems, the archeological resources and any other cultural, ecological, geological, historical, or paleontological values of the refuge.

"(7) YUKON DELTA NATIONAL WILDLIFE REFUGE.—(A) The Yukon Delta National Wildlife Refuge shall consist of the existing Clerence Rhode National Wildlife Range, Kozen Bay National Wildlife Refuge, and Nunivak National Wildlife Refuge, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which shall be redesignated as units of the Yukon Delta National Wildlife Refuge and the addition of approximately thirteen million four hundred thousand acres of public lands, as generally depicted on the map entitled 'Yukon Delta National Wildlife Refuge', dated April 1980.

"(B) The purposes for which the Yukon Delta National Wildlife Refuge is established and shall be managed include—

"(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, shorebirds, seabirds, whistling swans, emperor, white-fronted and Canada geese, black brant and other migratory birds, salmon, muskox, and marine mammals;

"(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitats;

"(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

"(iv) to maintain to the maximum extent practicable water quality and quantity and to protect the free-flowing nature of rivers and streams;

"(v) to maintain, in a manner not inconsistent with the purposes set forth in paragraphs (i) and (ii), special values such as tundra esosystems, Cape Mendenhall, the Mount Robert Volcanics, the Ingakslugwat Hills, the Andreafsky and Kisaralik Rivers and any other archeological, cultural, ecological, geological, historical, or paleontological value of the refuge; and

"(vi) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), opportunities for land management training.

"(C) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted within areas where such use is, and in a manner which is compatible with the purposes of this refuge.

"(D) Subject to reasonable regulation, the Secretary shall administer the refuge so as to not impede the passage of navigation and access by boat on the Yukon and Kuskokwim Rivers.

"ADMINISTRATIVE PROCEDURES

"SEC. 304. (a) Each refuge shall be administered by the Secretary, subject to valid existing rights, in accordance with the laws governing the administration of units of the National Wildlife Refuge System, the laws governing the conservation and protection of fish and wildlife and plants, historic and cultural resources, wilderness and other dedicated areas, environmental quality, and this Act.

"(b) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose described in such section 4(d) unless such use or purpose is compatible with the establishing purposes of the refuge. The Secretary shall prescribe such regulations and impose such terms and conditions as may be necessary and appropriate to ensure that activities carried out under any use or easement granted under any authority are so compatible.

"(c) All public lands (including whatever submerged lands, if any, were beneath navigable waters of the United States (as that term is defined in section 1301(a) of title 43, United States Code), were retained in Federal ownership at the time of statehood) in each National Wildlife Refuge and any other National Wildlife Refuge System unit in Alaska are hereby withdrawn, subject to valid existing rights, from future selections by the State of Alaska and Native Corporations, from all forms of appropriation or disposal under the public land laws, including location, entry and patent under the mining laws and from operation of mineral leasing laws. However, the Secretary is hereby authorized to lease such lands for oil and gas exploration and development if such activities are compatible with the purposes for which the affected National Wildlife Refuge System unit was established or is managed. The Secretary may not permit oil and gas leasing in refuges where Federal law prohibits such leasing, or where such lands were expressly closed to oil and gas leasing.

"(d) The Secretary shall permit within units of the National Wildlife Refuge System designated, established, or enlarged by this Act, the exercise of valid commercial fishing rights or privileges obtained pursuant to State or Federal law and the use of Federal lands, subject to reasonable regulation, for campsites, cabins, motorized vehicles, and aircraft landings directly incident to the exercise of such rights or privileges: *Provided*, That nothing in this section shall require the Secretary to permit the exercise of rights or privileges or uses of the Federal lands directly incident to such exercise, which he determines, after conducting a public hearing in the affected locality, to be inconsistent with the purposes of a unit of the National Wildlife Refuge System as described in this section and to be a significant expansion of commercial fishing activities within such unit beyond the level of such activities during 1979.

"(e) (1) The Secretary is authorized to enter into cooperative management agreements with any Native Corporation, the State, any political subdivision of the State, or any other person owning or occupying land which is located within, or adjacent or near to, any national wildlife refuge. Each cooperative management agreement (hereinafter in this section referred to as an 'agreement') shall provide that the land subject to the agreement shall be managed by the owner or occupant in a manner compatible with the major purposes of the refuge to which such land pertains including the opportunity for continuation of subsistence uses by local rural residents.

"(2) Each agreement shall—

"(A) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (1);

"(B) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out the obligations of the Secretary under the agreement;

"(C) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

"(D) set forth those services or other consideration which the Secretary agrees to provide the owner in return for the owner entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife and the protection, maintenance and enhancement of any special values of the land subject to the agreement;

"(E) set forth such additional terms and conditions as the Secretary and the owner may agree to as being necessary and appropriate to carry out the management goals as set forth in subsection (1); and

"(F) specify the effective period of the agreement.

"(f) (1) The Secretary shall prepare, and from time to time, revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the 'plan') for each refuge.

"(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

"(A) the populations and habitats of the fish and wildlife resources of the refuge;

"(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological, scenic, or wilderness value of the refuge;

"(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1305 and 1306 of this Act;

"(D) present and potental requirements for access with respect to the refuge, as provided for in title XI; and

"(E) significant problems which may adversely affect the populations and habitats of fish and wildlife identified and described under subparagraph (A).

"(3) Each plan shall—

"(A) be based upon the identifications and the descriptions required to be made under paragraph (2)—

"(i) designate areas within the refuge according to their respective resources and values;

"(ii) specify the programs for conserving fish and wildlife and the programs relating to maintaining the values referred to in paragraph (2) (B), proposed to be implemented within each such area; and

"(iii) specify the uses within each such area which may be compatible with the major purposes of, and the opportunity for subsistence uses within, the refuge; and

"(B) set forth those opportunities which will be provided within the refuge for fish and wildlife-oriented recreation, ecological research, environmental education and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the major purposes of the refuge.

"(4) In order to insure that the terms and conditions of cooperative management agreements which may be entered into under section 304 with respect to the refuge are appropriate, the Secretary may treat, but only for purposes of preparing the plan, land that is within, or near or adjacent to, the refuge as being within the boundary of the refuge.

"(5) In preparing each plan and revisions thereto, the Secretary shall consult with the appropriate State agencies and Native corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of local villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan or revisions.

"(6) Before adopting a plan for any refuge, the Secretary shall issue public notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service and provide opportunity for public views and comment on the plan.

"(7) The Secretary shall by regulation implement each plan prepared under this subsection.

"(8) With respect to refuges established, redesignated or expanded by sections 302 or 303 the Secretary shall prepare plans for—

"(A) not less than five refuges within three years after the date of the enactment of this Act;

"(B) not less than ten refuges within five years after such date;

"(C) all refuges within seven years after such date. With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment; and

"(D) in the case of any refuge established, redesignated or expanded by this title with respect to which a wilderness review is required under this Act, at the same time the President submits his recommendation concerning such unit under such section to the Congress, the Secretary shall submit to the appropriate committees of the Congress the conservation plan for that unit.

"PRIOR AUTHORITIES

"SEC. 305. All proclamations, Executive orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with his Act or the Alaska Native Claims Settlement Act and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established or redesignated by or described in sections 302 or 303, be included within such refuge. All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

"SPECIAL STUDIES

"SEC. 306. (a) (1) The Congress finds that the barren ground caribou are a migratory species deserving of careful study and special protection, and that the Western Arctic and the Porcupine herds of such caribou are of national and international significance.

"(2) The Secretary of the Interior shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, an ecological study of the barren-ground caribou herds north of the Yukon River and the herds that have been known to migrate between the United States and Canada, including, but not limited to, a determination of the seasonal migration patterns, reproduction and mortality rates, composition and age structure, behavioral characteristics, habitats (including but not limited to calving, feeding, summering and wintering areas, and key migration routes) that are critical to their natural stability and productivity and the effects on the herds of development by man, predation and disease. In conducting this study the Secretary shall review the experience of other Arctic circumpolar countries with caribou and reindeer and is authorized to enter into such contracts as he deems necessary to carry out portions or all of this study.

"UNPERFECTED MINING CLAIMS

"SEC. 307. (a) The term ('unperfected mining claim' as used in this section, means a mining claim which is located on lands within the White Mountains Area of the Yukon Flats National Wildlife Refuge (as depicted on a map entitled 'White Mountains Area Alaska, November 1979') with respect to which a valid mineral discovery within the meaning of the mining laws of the United States was not made as of the date of the withdrawal of such area from further appropriation under the mining laws of the United States.

"(b) Any holder of an unperfected mining claim seeking to protect such claim pursuant to this section must have maintained and must continue to maintain such claim in compliance with applicable Federal and State laws, and where applicable, must have obtained and complied with any mining access permit requirements imposed by the Department of the Interior during the 1979 mining season. Prior to September 30, 1982, no unperfected mining claim which has been maintained in accordance with this subsection shall be contested by the United States for failure to have made a valid mineral discovery within the meaning of the mining laws of the United States: *Provided*, That such claim shall be diligently prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will, to the maximum extent practicable, be consistent with protection purposes of the Yukon Flats National Wildlife Refuge or other affected conservation system units established or expanded by this Act.

"(c) If the holder of an unperfected mining claim notifies the Secretary by filing an application for a patent that, as a result of mining operations in compliance with the requirements of subsection (b), he has made a valid mineral discovery on such claim within the meaning of the mining laws of the

United States, and if the Secretary determines that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States. The holder of such a patent shall also be entitled to the use of so much of the surface estate of the lands comprising the claim as may be necessary for mining purposes: *Provided*, That all mining operations conducted upon a claim after such a valid mineral discovery has been made, shall be in accordance with such reasonable regulations as may be issued by the Secretary pursuant to the authority granted in subsection (b) of this section.

"(d) If an application for a patent is filed by the holder of an unperfected mining claim pursuant to subsection (c) or if a contest proceeding is initiated by the United States after September 30, 1982, the validity of each claim shall be determined as of the date of the patent application or September 30, 1982, whichever is earlier. The holder of an unperfected mining claim not subject to a patent application filed prior to September 30, 1982, shall submit to the Secretary within one hundred and eighty days after such date all mineral data compiled during the contest proceeding moratorium which would support a valid mineral discovery within the meaning of the mining laws of the United States. Failure to submit such data within the one-hundred-and-eighty-day period shall preclude its consideration in a subsequent determination of the validity of each affected claim. Except as specifically provided for in this section, nothing shall alter the criteria applied under the general mining laws of the United States to adjudicate the validity of unperfected mining claims.

"(e) Pursuant to the provisions of this section and section 802(c) of the Act, reasonable access shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1982."

On page 408, line 12, delete everything through page 415, line 16, and renumber subsequent titles accordingly.

On page 415, line 18, delete everything through page 416, line 16, and renumber subsequent sections accordingly.

On page 417, line 19, change the period to a colon and strike the remainder of that line through line 22 and add the following: "*Provided further*, That the expertise of the United States Fish and Wildlife Service shall be utilized in development of the forest plan which includes the management of the Copper River-Bering River Area and any subsequent revisions of that plan. Such plan or its revision shall be coordinated with the United States Fish and Wildlife Service flyway and management plans and programs for the wildlife species using this area. Activities and uses shall be permitted in a manner which the Secretary deems to be compatible with the protection of fish and wildlife populations and their habitats as set forth in special regulations which shall be promulgated by the Secretary in consultation with the United States Fish and Wildlife Service.".

On page 418, lines 16 and 17, delete "the Porcupine National Forest and".

On page 446, after line 16, insert the following:

"(38) BEAVER CREEK, ALASKA.—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian, within the Yukon Flats National Wildlife Refuge; to be administered by the Secretary of the Interior.".

On page 446, line 16, renumber IVISHAK, ALASKA as "(39)" and on lines 19 and 20, delete "Arctic National Wildlife Range" and insert in lieu thereof: "William O. Douglas Arctic National Wildlife Refuge".

On page 446, after line 21, insert the following:

"(40) KANEKTOK, ALASKA.—That portion, from its source, within the boundaries of the Togiak National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(41) PORCUPINE, ALASKA.—That portion within the boundaries of the William O. Douglas Arctic and Yukon Flats National Wildlife Refuge; to be administered by the Secretary of the Interior.".

On page 446, line 22, renumber SELAWIK, ALASKA as "(42)".

On page 447, line 1, delete everything through line 3 and insert in lieu thereof the following:

"(43) SHEENJEK, ALASKA.—That portion, from its source, within the boundaries of the William O. Douglas Arctic and Yukon Flats National Wildlife Refuges; to be administered by the Secretary of the Interior."

On page 447, line 4, renumber WIND, ALASKA as "(44)" and on lines 6 and 7, delete "Arctic National Wildlife Range" and insert in lieu thereof: "William O. Douglas Arctic National Wildlife Refuge".

On page 447, line 22, delete everything through page 448, line 3, and renumber subsequent paragraphs accordingly.

On page 450, lines 10, 11, 13 and 15, delete "(79) Kanektok, Alaska; (82) Sheenjek (lower segment), Alaska; and (84) Porcupine, Alaska" and renumber remaining subparagraphs accordingly.

On page 450, line 20, delete "(85)" and insert in lieu thereof: "(81)".

On page 451, line 3, delete everything through line 8.

On page 451, line 11, delete "(41)" and insert in lieu thereof: "(46)".

On page 451, line 15, and page 452, line 25, delete "Beaver Creek".

On page 520, line 5, insert "validly" between "previously" and "selected".

On page 565, lines 13 and 14, delete "the Mineral Leasing Act of 1920" and insert in lieu thereof "the provisions of section 304 of this Act".

On page 566, after "Wilderness Act." on line 18 add the following: "For purposes of this Act, 'core and testing drilling' means the extraction by drilling of subsurface geologic samples in order to assess the metalliferous or other mineral values of geologic terrain, but shall not be construed as including exploratory drilling of oil and gas test wells.".

On page 602, line 5, delete everything through page 603, line 19.

On page 608, lines 18 and 19, delete "the National Wildlife Refuge System and".

On page 645, line 20, delete "November 15, 1978", and insert in lieu thereof "November 14, 1978.".

On page 646, after line 20, insert the following:

TETLIN LAND EXCHANGE

"SEC. 1325. (a) Within one year after the date of the enactment of this Act, the Secretary and the State shall effect an exchange of lands within the Tetlin National Wildlife Refuge. In this exchange, the State shall relinquish all claims (including land selections filed under section 6(b) of the Alaska Statehood Act) for up to forty-six thousand and eighty acres of lands selected by the State prior to November 14, 1978, within the refuge for an equivalent acreage of Federal lands north of the Alcan Highway within the Tetlin National Wildlife Refuge, which shall be conveyed to the State as though conveyed under the Statehood Act. Such lands relinquished by the State shall become part of the Tetlin National Wildlife Refuge. This exchange shall become effective upon the execution of all documents necessary to accomplish the exchange.

"YUKON FLATS NATIONAL WILDLIFE REFUGE AGRICULTURAL USE

"SEC. 1326. Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

"TERROR LAKE HYDROELECTRIC PROJECT IN KODIAK NATIONAL WILDLIFE REFUGE

"SEC. 1327. Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge.".

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. I invite the Chair's attention to page 397 of the bill as reported by the committee and page 6 of the amendment as just read.

Referring to the Innoko National Wildlife Refuge, the committee referred to a map that was dated October 1978, a copy of which is outside the Chamber. The proposed amendment refers to a map dated October 1979, which, to my knowledge, never has been shown to the Senate.

Is it proper at this point to demand the production of the map which is referred to in this amendment, so that it may be compared with the map prepared by the committee?

The PRESIDING OFFICER. It would be beyond the power of the Chair to compel the production of a map.

Mr. STEVENS. Is it proper to deal with an amendment when there is a map that has not been shown to at least the Senators from Alaska? I do not think it has been shown to the committee.

The PRESIDING OFFICER. The Chair states that there is no Senate rule to the contrary.

Mr. STEVENS. There is no way to require the production of the map upon which this amendment would be based?

The PRESIDING OFFICER. It is not within the power of the Chair.

Mr. HART. Mr. President, for the edification of the Senator from Alaska, that map is available, and it has been available to the Energy Committee. It will be produced on the floor so that Senators can look at it.

Mr. STEVENS. Mr. President, I may stand corrected, but I understand that there has been a reproduction of a small-scale map. There has been no map of any scale that would show the outline of these refuges so that they can be checked with regard to the river banks, the various private landholdings, or the State selections, so that we can compare this, as we did in connection with the 1-to-250 maps that were provided by the committee, and we all knew exactly what we were talking about, and we have referred to those maps in the committee bill.

Do we have a map that is comparable to the committee map, the ones we used for months, that will deal with each of these refuges, so that we will know what we are talking about?

Mr. HART. "Comparable" is a relative term. The map referred to in this amendment will be produced. It is in the process of being located and brought to the floor now.

Mr. STEVENS. I thank the Senator.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HART. I yield for a question.

Mr. GRAVEL. Mr. President, I thank the clerks, Bill Farmer and Scott Bates, for their reading. I can appreciate their difficulty in pronouncing some of the names.

Mr. HART. Mr. President, this amendment, which the clerk has just reported, is a substitute wildlife refuge title, replacing title III in the Energy Committee version of the bill.

The committee's title III would unacceptably weaken the House bill. The committee's proposal would designate as wildlife refuges only slightly more than half as much land as the House bill would. The amendment would restore one-third of the refuge cuts made by the committee.

I am offering this amendment on behalf of myself and five other Senators, including four other members of the Environment and Public Works Committee, which has jurisdiction over the National Wildlife Refuge System and wildlife issues. I am pleased to be joined in the sponsorship of this amendment by Senator CHAFEE, the ranking minority member of the Resource Protection Subcommittee; by Senator RANDOLPH, the chairman of the full committee; by Senator CULVER, the chairman of the Resource Protection Subcommittee and by Senator MOYNIHAN. Senator CHURCH, a member of the Energy Committee who has paid special attention to Alaska's wildlife, has also joined us in sponsoring this amendment.

I am grateful to Senator TSONGAS for his willingness to consider our amendment one of the five amendments he is entitled to offer under the agreement on consideration of the bill.

I also want to express my appreciation to the administration, especially to Secretary Cecil Andrus and other officials of the Department of the Interior; to the Alaska Coalition; and to the National Wildlife Federation, for their valuable assistance in the preparation of this amendment.

The purpose of our amendment is simple: to protect a decent share of the most outstanding areas of wildlife habitat in Alaska.

Alaska, with its vast stretches of undisturbed habitat, still teems with wildlife of an abundance and diversity no longer found in the rest of the United States.

Alaska has our only remaining stable populations of many once widespread species which have virtually disappeared as their habitat has been destroyed in the lower 48 States. While a few grizzly bears still cling to a precarious foothold in the remotest parts of the Rocky Mountains, as many as 15 thousand grizzly and brown bears thrive in Alaska. While the timber wolf is now just the subject of fading legend in most of the United States, 10 to 12,000 wolves survive in Alaska. While the bald eagle—our national symbol—is only rarely seen in the lower 48, a full 35,000 eagles flourish in Alaska.

Alaska is the home of much more than just those animals which have disappeared from the rest of the country. With its unique environment, the State offers the only home many types of animals have ever had in the United States. These animals include polar bears, Dall sheep, walruses, musk ox, and several seals.

Also, drawn by the undisturbed habitat and an abundant food supply, birds from all continents except Antarctica migrate to Alaska to breed and summer. The numbers are staggering: 100 million marine birds, 200 million shore and waterbirds, 100 million perching birds, 13 million waterfowl. In all, more than 400 million migrating birds—many of the same birds we see in the lower 48 in the rest of the year—breed in Alaska.

The most famous of Alaska's wildlife, though, is the caribou. It is fitting that this animal has become the symbol of the Alaska lands issue. Less than a decade ago, the State's caribou population was estimated at 600,000. In just a few years, this number has dropped by two-thirds, to just over 200,000. Only one remaining herd—the Porcupine herd, named after the Porcupine River—is still stable. The annual migration of the massed 120,000 members of this herd, traveling more than 200 miles to their calving grounds on the Arctic coast, is America's most stirring wildlife spectacle. It is the greatest assemblage of hoofed animals the United States has known since the destruction a century ago of the buffalo herds of the Great Plains.

It is appropriate to pause here to remember the buffalo. Much of Alaska's wildlife may not seem threatened now. But we have demonstrated before, in the lower 48, our ability to eliminate the abundant wildlife that once shared our land with us. Now, we have a chance to apply in Alaska the lessons we have learned from these past mistakes.

The best way to protect Alaska's wildlife is to preserve a representative share of the most important habitat in the National Wildlife Refuge System. By law, the overriding purpose of refuges is the protection of wildlife and its habitat. Refuges are the only Federal lands where wildlife protection is the major concern.

The amendment which the Senator from Rhode Island and I offer here proposes to designate nine new wildlife refuges in Alaska, and would enlarge six existing refuges. Overall, the amendment would designate 57 million acres of Federal land as wildlife refuges.

By comparison, the committee proposal includes 43 million acres, and the House bill 80 million acres. Our amendment, then, restores one-third of the committee's proposed cuts in the House bill's refuges.

The largest single difference between the House bill and the Energy Committee proposal involves the 22.5 million acre National Petroleum Reserve—Alaska, on the North Slope. The House bill would designate this wildlife-rich area as a new national wildlife refuge. The committee proposal leaves the area as a petroleum reserve, under the management of the Bureau of Land Management.

Our amendment agrees with the committee proposal and rejects the House position. Although the NPRA has abundant and important wildlife, it also has significant potential for oil and gas. The Department of the Interior, after studying the energy resource potential of this area, has predicted that there is a 50-percent probability that the NPRA contains 5.2 billion barrels of oil in place, and 9.4 trillion cubic feet of natural gas.

With these valuable resources, the primary use of this land should be energy development. The NPRA should remain a petroleum reserve, as it has been since 1923, and should not be a wildlife refuge.

Although the committee made the correct decision on the NPRA, the committee erred in making several other deletions which our substitute amendment would restore.

In Alaska, where so little human activity has occurred to disturb lands, when we create refuges, we have an unprecedented opportunity to designate complete ecological units—such as entire watersheds—which include particularly valuable populations of Alaska's wildlife. The administration's proposed refuges, and the refuges included in the House bill, are based on this principle.

The Energy Committee, however, followed a drastically different approach. The committee proposal would destroy the geographic integrity of many refuges, by splitting off key portions of the proposed refuges and opening them to activities which could destroy the wildlife.

The most important deletions proposed by the committee involve the Arctic and Yukon Flats National Wildlife Refuges.

The existing Arctic National Wildlife Range, which President Carter recently renamed in honor of Justice William O. Douglas, has been aptly described as the "crown jewel" of the National Wildlife Refuge System. The 8.9 million acres of the existing refuge includes the United States' greatest concentration of Arctic wildlife, including caribou, polar bears, grizzly bears, wolves, wolverines, Arctic foxes, and muskox. The refuge also supplies habitat for 1½ million migrating seabirds and shorebirds, and two million migrating waterfowl.

Since the refuge was created, it has been recognized that not enough land was included to fully protect the wide-roaming wildlife of this area. Our amendment, the amendment offered by the Senator from Rhode Island and myself like the House bill, would add 9.9 million acres to the refuge, compared to the 5.6 million acres in the committee proposal.

The full 9.9 million acre addition is essential to provide year-round protection to the Porcupine herd of caribou. This herd is our last large, healthy caribou herd, with more than half of the remaining 216,000 caribou in the United States. The Porcupine herd's annual calving migration, a virtual river of animals, is probably America's greatest wildlife spectacle. The calving grounds are within the existing refuge, but the herd's full range covers 75,000 square miles in Canada and the United States, including the area which our amendment would add to the refuge.

The Canadian Government has withdrawn from all development—including exploration for oil and gas—9 million acres to protect the entire Canadian portion of the herd's range. A comparable extension of the existing Arctic Refuge, as the House of Representatives and the administration have proposed, is the only reliable way to insure the continued survival of this last great caribou herd.

The Energy Committee proposal would not provide this protection. The committee proposal would leave out of the refuge more than 4 million acres essential to the caribou. These deletions involve some of the areas most important to the caribou, including both the very center of the caribou wintering range and the only area where the Porcupine and Western Arctic caribou herds come into contact, making possible a gene exchange essential to both herds. Instead of being included in the refuge, these areas would be turned over to the State government for mineral development, or would be included in either a BLM conservation unit or a new national forest. Neither the conservation unit nor the national forest designation would provide the same protection for the caribou as would the wildlife refuge proposal in our amendment.

The second major difference between our amendment and the committee proposal involves the Yukon Flats Refuge. Our amendment would create a new 10.7-million-acre refuge, more than 5 million acres larger than the refuge in the committee proposal.

The Yukon Flats basin is a broad, level floodplain, which contains 290 miles of the Yukon River, 25,000 miles of streams, and more than 40,000 lakes. The basin may be the most productive waterfowl breeding area in the world, each year producing more than 2 million ducks which migrate to the rest of the continent, including virtually all of the lower 48 States. The area also produces 14 million other migratory birds each year.

The entire Yukon Flats would be designated as a wildlife refuge in our amendment, as recommended by the administration and included in the House bill.

By contrast, the Energy Committee's treatment of this area is the most serious violation of the principle of managing entire ecosystems as units. The committee's proposal would designate as a refuge only the western three-fifths of the basin. The remaining portions would be available for selection by the State, or would be included in a national forest, a BLM conservation unit, or a BLM national recreation area. These areas include prime waterfowl breeding sites, containing as much as one-third of the waterfowl in the basin. Besides the deletion of these important parts of the basin, the committee proposal would make possible mining and other uses which could damage water quality throughout the entire basin.

Our amendment also:

Includes the 1.7 million acre Nowitna Refuge, which the committee proposal would downgrade to a BLM conservation unit;

Restores 2.3 million acres the committee proposal would cut from the House bill's Yukon Delta Refuge; and

Restores a total of 900,000 acres the committee proposal would cut from seven refuges in the House bill.

Besides the creation of these refuges, the amendment also includes some other important provisions relating to Alaska's wildlife and the administration of the wildlife refuges in Alaska.

These provisions include:

First, the amendment allowing the new refuges to be available for oil and gas exploration and development. Under the provisions of the National Wildlife Refuge System Administration Act, oil and gas development—as well as all other commodity development except mining—is permitted within a wildlife refuge where compatible with the refuge's primary purpose, wildlife protection. Our amendment makes it clear that this policy will apply to the new Alaska refuges.

Oil production within refuges is not just an empty, theoretical possibility. Oil is now being produced from within the existing Kenai National Moose Range in Alaska.

Keeping refuges available for oil and gas development is especially important in Alaska. We have taken great care to exclude from the refuges areas of high oil and gas potential—like the NPRA, which the House bill adds to the refuge system. However, a few areas within sedimentary basins that have particularly high wildlife values are included in the refuges. Although these areas do not appear to have high oil or natural gas potential, without exploration we cannot be absolutely certain that no significant energy resources lie under the refuges.

Other provisions would designate as wild and scenic rivers two additional rivers within the new wildlife refuges, would direct a special study of the barren ground caribou, and would provide more detailed guidance for the administration of each refuge.

The amendment we offer includes a few differences, mostly minor, from the previously printed refuge amendment. Let me explain these differences.

A new section deals with unperfected mining claims in the White Mountains area of the Yukon Flats Refuge. This section is virtually identical to a similar section in the Energy Committee proposal, and allows additional time for the perfection of existing mining claims in the area.

The revised amendment also includes more detailed provisions on the Pribilof Islands land exchange, reflecting a new agreement among the parties to this possible exchange.

The revised amendment does not include the provisions in the original amendment that are not germane to the committee proposal. These deletions remove any possible challenge to this amendment under the terms of the consent agreement governing consideration of the bill.

The revised amendment does not include the provision to replace Alaska's special refuge revenue-sharing formula with the national formula.

Another deletion removes two provisions dealing with the spectacular bald eagle concentration near Haines, where as many as 3,500 bald eagles gather each winter along a short stretch of the Chilkat River.

This eagle concentration has received increasing national attention as controversy has arisen over a contract for harvesting timber from State lands in the valley.

The Chilkat eagle provisions in the original refuge amendment would direct a Department of the Interior study of the eagles, and would authorize a voluntary land exchange to return the State-owned eagle lands to the Federal Government, for the possible creation of a national wildlife refuge.

Although the germaneness requirement of the consent agreement blocks for now consideration of these provisions, this is not the end of this issue. These provisions can be implemented without explicit legislative approval. Should congressional encouragement prove necessary, however, there will be future opportunities for legislation.

The original Chilkat provisions in the refuge amendment have been perfected through the cooperation of the administration, the State government, the governments of Haines and the Native village of Klukwan, the Audubon Society, and the Southeast Alaska Conservation Council. The representatives of the local governments have assured me that these perfected provisions are acceptable to them. For the information of my colleagues, I ask unanimous consent to include the perfected provisions in the RECORD.

There being no objection, the provisions were ordered to be printed in the RECORD, as follows:

SEC. (a) (a) Congress finds and declares that the annual gathering of approximately 3,500 bald eagles in the Chilkat River Valley is a unique national resource.

(2) Congress further recognizes the commitment of the State of Alaska, the city and borough of Haines, and the village of Klukwan to help assure conservation of these bald eagles.

(3) Within three years after the date of enactment of this Act, and after consultation with the Governor of the State, the city and borough of Haines, the village of Klukwan and interested persons, the Secretary shall study and then report to Congress on the bald eagles in the Chilkat River Valley. The study and report shall identify and assess the population, habitat and other ecological requirements, and educational, scientific and economic value of the bald eagles; and the effects of human activities on these bald eagles; and shall make recommendations on how best to conserve this bald eagle population.

(4) In conducting the study and preparing the report required by this subsection, the Secretary of the Interior shall recognize

and respect existing state and private ownership of land, and shall give full consideration to the economic, social, and cultural interests of the communities of Haines and Klukwan, and for the land uses associated with such interests.

(5) The Secretary shall seek the cooperation of the state government, local governments, other persons conducting research involving bald eagles in the region, and other interested persons; shall coordinate the study with ongoing and proposed state and private research involving bald eagles in the region; shall seek the advice and participation of the communities of Haines and Klukwan to assure that local interests are fully represented; and shall, if appropriate and consistent with his responsibilities under this section, merge the study and report required by this section with other ongoing research to produce one comprehensive study and report.

(6) If the State or any person offers to relinquish any lands or interests in lands which the State or such person owns within the area of approximately fifty-five thousand acres generally depicted on the map entitled, "Chilkat River Bald Eagle Area", dated May 1980, (which map may be altered by joint agreement of the Secretary of the Interior and the Governor of the State of Alaska) or which the State has selected within such area under the Alaska Statehood Act, the Secretary of the Interior may accept such relinquishment if such lands are of sufficient size to enable such Secretary to manage effectively the lands and bald eagles within them.

In exchange for the relinquished lands or interests in lands, the Secretary (or the Secretary of Agriculture) if and to the extent that lands or interests in lands within the jurisdiction of the Secretary of the Interior are inappropriate for exchange, shall convey to the State or such person, subject to valid existing rights, such lands or interests in lands as the appropriate Secretary and the State or such person shall agree to from among public lands not contained in conservation system units. Any such exchange of lands or interests in lands shall be on the basis of equal value, except that either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged. If, however, the parties agree to an exchange and the Secretary of the Interior determines that it is in the public interest, such exchange may be made for other than equal value.

Mr. HART. I also ask unanimous consent to include in the Record a letter from Governor Hammond that expresses the State's willingness to cooperate with a Federal study of the eagles, institutes a moratorium on development activities in the proposed exchange area, and declares a commitment to the permanent protection of the eagles' essential habitat.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Alaska,
Office of the Governor,
Washington, D.C., July 21, 1980.

Hon. Gary Hart,
U.S. Senate,
Washington, D.C.

Dear Senator Hart: At your invitation and that of three other Senators, representatives of my administration have recently met with members of the principal organizations and public agencies which have expressed concern for the future welfare of the Chilkat eagle population. In these meetings, we presented an overview of past State actions which have been taken to protect the eagles and their habitat, and outlined commitments we intend to make in this regard.

In 1972, the Alaska State Legislature established a "Critical Habitat Area" of 4,800 acres to preserve part of the lands used by the eagles in their winter congregation. In addition, the State classified protective riparian corridors for both fish and wildlife values, and designated certain lands for further study to determine their importance to both eagles and fisheries.

Last year, in keeping with recommendations of the Haines/Skagway Land Use Plan, the State cooperated with the communities of Haines and Klukwan, and the National Audubon Society in their initiation of studies of the Chilkat bald eagles. Based on first year recommendations of these studies, I am making $250,000 in legislative appropriations available for a strengthening cooperative bald eagle study. It is important to me that all parties cooperate in accomplishing one comprehensive eagle study rather than duplicating efforts through two or more such studies.

In addition to helping assure adequate support for the study of eagle ecology, some of these monies will also be committed to comprehensive investigations of related resource values, with special emphasis on hydrology, fisheries, soils, and vegetation. It will be particularly important in these study efforts to identify projected money and manpower needs, and management policies and objectives, to assist the State in providing effective protection to the Chilkat bald eagles under what I recommend should be a cooperative management regime.

An advisory committee involving representatives of the local communities of Haines and Klukwan, the National Audubon Society, and appropriate State and Federal resource agencies will be established by the Commissioner of the Alaska Department of Natural Resources. I will rely on this group to offer direction on how State funds can best be spent to obtain information vital to enlightened management and protection of bald eagles, and the habitat that sustains them.

In keeping with my concern for impacts of these studies on the local communities and on possible management options for the eagles, I am also urging that some of these monies be made available for study of the social, economic and cultural concerns of the city of Haines and the village of Klukwan. The role of the advisory committee will be especially important in this regard, and the State will be looking to that group on how to best acquire and use this essential information.

At present, there are no plans for development in areas currently thought to be of greatest importance to the eagles. To alleviate concerns about the future possibility of such actions prior to completion of the studies, I am declaring a moratorium on all major development activities within the essential bald eagle habitats as described on the attached map dated May, 1980. This is to include any planning for road and bridge construction. Customary and traditional uses important to the welfare of local residents, and which in past years have not adversely impacted the eagles, will continue to be permitted in these areas. Such uses will include, but are not necessarily limited to, hunting, fishing, trapping, subsistence, prospecting, general recreation and both motorized and non-motorized access.

I want to emphasize that the State of Alaska fully recognizes the great State, national and international values of the annual gathering of bald eagles along the Chilkat River. We are committed to cooperating with all interested parties in seeking sound scientific information necessary to effectively conserve the birds, and to place their essential habitats under permanent protection.

It is my understanding that the moratorium and study outlined above have been discussed with, and are satisfactory to, representatives of Haines and the Alaska Coalition. The study which I have alluded to will be carried out cooperatively with these groups, which will be represented on a policy advisory committee.

If you have any questions or comments regarding the arrangements which I have just described, please let me know.

Sincerely,

Jay S. Hammond,
Governor.

Mr. HART. Mr. President, the substitute title III we are offering addresses most of the important wildlife areas in Alaska, and greatly improves their protection. It is no exaggeration to call this the most important wildlife presevation measure in the Senate's history. Never before have we had a comparable opportunity to protect so much wildlife. I urge my colleagues to cast a vote for the future, and support this amendment.

I yield to my colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I appreciate so much the Senator from Colorado's yielding, and I want to commend him on a very, very fine statement.

At this time I will yield to the senior Senator from West Virginia who has an appointment and would like to make his statement at this time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I appreciate the cooperation of my able colleague, who is a valued member of the Senate Committee on Environment and Public Works. I am, of course, appreciative of the fact that I can work with Senator Hart, a member of our committee, and others in the support and sponsorship of the pending amendment.

As I begin this very brief discussion, I wish to indicate my personal knowledge of the State of Alaska. I knew Alaska before it became a State, and I worked in the creation of the Alaska highway, which was a monumental program of progress for that area of now the United States of America. Over 319 miles long, $35.4 million have been obligated for this highway to date and $187 million will be required for completion.

I call attention to what I believe to be perhaps one of the most remarkable construction programs in the history not only of this country but of the world, the building of that highway, the construction being practically done within two short seasons, a remarkable engineering and construction program.

I visited Alaska in those early days and have visited Alaska in later days, and I would simply recommend to those Americans who come from the other States of the Union that if they can have the opportunity either on business or recreation or just the desire to know more about this country, that Alaska is a land of enchantment. It is also a land of enduring challenge, and that is why I speak today in reference to the pending amendment.

I have joined at the moment with four other members of the Environment and Public Works Committee in supporting this amendment. I respect the judgment, of course, of the members who take an opposite viewpoint. I have always done that and shall continue to do it. But, as chairman of the Committee on Environment and Public Works, I take some gratification in having been associated with the establishment of many needed and important additions to the National Wildlife Refuge System.

The United States of America, our people, our Nation are, I think, fortunate in that we have had the trust and the understanding that have caused us at one time or another to create the finest system of land designated for and dedicated to the long-term preservation of fish and wildlife that can be found anywhere on God's Earth. The Alaska refuge amendment, which I cosponsored, is in keeping with that tradition.

This amendment reflects what I call a necessary, a proper, balance between providing the appropriate management for Alaska's wildlife habitat and developing that State's other important natural resources which reflect directly on the people there and the other States of the Union as well. Specifically, we do not attempt in this amendment to address the Arctic Range oil and gas provisions included in the bill reported, understandably and properly, by the Energy and Natural Resources Committee.

More generally it is important to emphasize that in these Alaska refuges, as in those in the lower 48 States, hunting, trapping, farming, logging, grazing, and oil and gas development are acceptable activities when they are compatible with the primary purpose of the refuge, namely, conservation of wildlife. I am sure that both of the able Senators from the State of Alaska, Senator Stevens and Senator Gravel, can agree that that is as it should be.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. RANDOLPH. Yes, I yield.

Mr. STEVENS. Mr. President, I would be most happy if the Senator would convince the authors of this amendment to modify it so that the statement made by the senior Senator from West Virginia (Mr. Randolph) would be correct.

I would be most happy to have all of those uses that the Senator has just delineated be permissible uses of wildlife refuges. Unfortunately, I have to tell my good friend that that is not the case under the Tsongas-Hart amendment.

Mr. TSONGAS. Will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. TSONGAS. I call the attention of my friend from Alaska (Mr. Stevens) to section 304(c), which reads:

> However, the Secretary is hereby authorized to lease such lands for oil and gas exploration and development if such activities are compatible with the purposes for which the affected National Wildlife Refuge System unit was established or is managed.

It is in the amendment.

Mr. GRAVEL. Will the Senator yield?

Mr. RANDOLPH. I yield further to Senator Gravel.

Mr. GRAVEL. Does the Senator from Massachusetts know of any instance where that has been done, either in Alaska or anywhere else? We know that these good intentions can be there, but what if they do not place? Can, also the Senator from Massachusetts tell us, in the strict sense of the word "compatible," if a drilling, a drill rig or road to a drill rig or having anything take place with respect to it is, in the strict sense of the word, compatible with the refuge being created? And if it is not compatible, then are we not opening ourselves up to litigation, even if you had a Secretary that wanted to go ahead and permit drilling and oil leasing?

Mr. TSONGAS. I would say to the Senator, as to the first point, in the Senator's State, there is the Kenai Moose Range, which I am sure the Senator is familiar with. It was opened up to oil and gas leasing by Secretary of the Interior Udall and has been producing oil since that point. So the argument that it has not been done and cannot be done is simply not correct and the Senator knows that better than I do.

On the issue of what is compatible, that is for the Secretary of Interior to determine.

I would request that the time for debate on these issues be charged to the Senator from Alaska and not be taken out of the time of our amendment.

Mr. RANDOLPH. Mr. President, I certainly want to be correct in what I say.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. I checked the matter out. I believe I am correct.

Mr. JACKSON. Will the Senator yield?

Mr. RANDOLPH. Yes, I yield.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, I was very appreciative that because of an appointment the Senator from Rhode Island had yielded to me. I do not want to cut off the time. I would simply ask him if it is agreeable if I try to take a little more time. I want to be very cooperative with him.

Mr. CHAFEE. Mr. President, I am glad to yield time, as I have to the Senator from West Virginia who had the appointment, but I am awfully nervous about our 1 hour. If we have breaks for long questions, it seems to me that the questions, quite properly, should be charged to the other side's time.

Mr. RANDOLPH. Why is it not charged to the bill? Can anyone give a suggestion? I am not trying to cut off debate on this subject and to indicate that we are not familiar with the measure and ready to answer the questions.

The PRESIDING OFFICER. The Chair would state the Senator from Rhode Island (Mr. Chafee) was yielded time from the Senator from Colorado (Mr. Hart). The time is now being charged against the time of the Senator from Colorado (Mr. Hart), the time being used by both the Senator from Rhode Island (Mr. Chafee) and the Senator from West Virginia (Mr. Randolph). It would require unanimous consent for the managers of the bill to yield time off the bill for this subject.

Mr. JACKSON. Mr. President, may I yield myself, in opposition to the amendment, 2 minutes to ask a question of the Senator from West Virginia?

The PRESIDING OFFICER. The Chair misstated that. The Chair should have stated that unless the managers of the bill request time off the bill the time would be charged to the amendment.

Mr. JACKSON. I am asking that it come out of my time on the amendment.

The PRESIDING OFFICER. The Senator is so recognized.

Mr. JACKSON. Mr. President, may I ask my good friend—and I know he follows these matters very closely—if this amendment is to help in seeking to get the oil that this country desperately needs, why is there a change in the basic law here affecting mineral leasing in a wildlife refuge? The law today, as the Senator knows, is that in the lower 48 States you can lease for oil drilling purposes and other mineral purposes, as long as it is consistent with the purpose for which the refuge is set up. You are changing the law.

Why, if this amendment is to be compatible, is to be compatible with the existing law that has worked so well, why does this amendment seek to withdraw from mineral leasing in the refuges? I just ask the question. That goes to the heart of this whole fight here on Alaska lands.

I think we have a balanced bill. I want to say, Mr. President, I have been in this Senate a while. I have presided over the largest expansion in national parks, wildlife refuges and, indeed, wilderness areas in the history of this country. I am proud of it. I have the Sierra Club award.

The argument here is, I think, over a question of balance. If the intention is to have a balanced system, why are we unbalancing it? I asked that of the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, first I want to commend, not in any cursory fashion, the leadership of the chairman of the committee that brings this bill to the floor. What he says about his service is correct, and others could say it and we have said it in many fields of leadership which he has had charge of through the years.

I have to say—and I may be incorrect, because sometimes those of us who like to say that we are experts, we could be characterized as, perhaps, those who are seldom right but never in doubt. I want to say that I am a student of the subject, rather than an expert of the subject.

I do not believe there is any change taking place. That is my feeling.

Mr. JACKSON. Will the Senator yield?

Mr. RANDOLPH. Yes.

Mr. JACKSON. There is no question that it changes the existing law as it pertains to mineral leasing in a wildlife refuge.

Mr. TSONGAS. Will the Senator yield?

Mr. RANDOLPH. We do not feel so.

Mr. JACKSON. I will give the Senator the citation. There is not any question about that. The Senator knows what the existing law is.

Mr. RANDOLPH. Yes, I do.

Mr. JACKSON. The existing law stipulates that the Secretary of Interior can lease in a wildlife refuge as long as he makes the finding that it is compatible for the purpose for which the wildlife refuge is set up under the Mineral Leasing Act. Now, that provision of existing law, which has worked very effectively, is changed, and the lands in the wildlife refuge are withdrawn from leasing. It requires, in order to bring them back, that the Secretary make a finding and that places the burden on the Secretary.

(Mr. BURDICK assumed the chair.)

Mr. GRAVEL. Will the Senator yield?

Mr. RANDOLPH. In just a moment. I have the floor. But I want to be helpful. I think that I am on sound ground in what I have said. If it is shifting sand, we will find out a little later.

Mr. TSONGAS. Will the Senator yield?

Mr. RANDOLPH. Yes, I yield.

Mr. TSONGAS. Let me try to answer my chairman. First of all, under existing law, the Secretary, as the Senator stated quite correctly, may lease if compatible.

Mr. RANDOLPH. Right.

Mr. TSONGAS. It is not an open-ended situation, as the Senator well knows. Talk about withdrawing land from oil——

Mr. RANDOLPH. Existing oil.

Mr. TSONGAS. That is right. Talk about withdrawing land from oil and gas exploration, you do it in the wilderness. This is not the wilderness amendment. Let us not confuse apples and oranges here. If you want to talk about withdrawal of oil and gas exploration, wait until we get to the wilderness amendment when we talk about the Douglas Arctic Wildlife Range and let us talk about it then.

In section 304(c), "The Secretary is hereby authorized to lease such lands for oil and gas exploration and development if such activities are compatible"—the same term used by the chairman—"with the purposes for which the affected National Wildlife Refuge System unit was established or managed," which is similar to the language used by the chairman.

Withdrawal? Yes, on wilderness, not on wildlife refuge. The statement made by the Senator from West Virginia is quite correct and the Senator is quite firmly rooted in the facts of this particular case.

Mr. JACKSON. Mr. President, just to follow up on what the Senator from Massachusetts mentioned, it is withdrawn from under the provisions of existing law, that is, the Mineral Leasing Act. In fact, the way this amendment appears, I would point out to my good friend from Massachusetts, we do not know what regulations apply. We do not know how it would be administered, because it is withdrawn from opening under the provisions of the Mineral Leasing Act, from development under the Mineral Leasing Act.

Mr. GRAVEL. Will the Senator yield for a moment. Will the Senator yield me time on the amendment?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. JACKSON. Wait a minute. I yielded myself 2 minutes.

Mr. GRAVEL. Will the Senator from Washington yield?

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Who yields time?

Mr. JACKSON. I yield to the distinquished Senator from Alaska.

Mr. GRAVEL. If the Senator will look at page 31, section (c), line 14, it says, "All public lands * * * are hereby withdrawn" and then skip to line 22, "from entry and patent under the mining laws".

Under existing law, you would have a period there, but you do not have a period there. You have, "and from operation of mineral leasing laws." So you are doing exactly what the Senator from Washington has stated. You are pulling that out of this amendment and that is not what existing law is.

Mr. TSONGAS. Why does not the Senator continue to read?

Mr. GRAVEL. "However, the Secretary is hereby authorized to lease such lands for oil and gas exploration and development if such activities are compatible." Why is the Senator playing games? Why not leave out this second sentence and put the other sentence the way the law presently is? Obviously, there must be something else afoot because the Senator wants to transfer out of law what can presently be done and put it in the hands of a willful Secretary if he does not want to do anything.

I thank my colleague from Washington for yielding me time so that I could put forth the proof to back up the very fine statement he made.

Mr. TSONGAS. Will the Senator yield so I may respond?

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. I am not going to debate this at length at the moment, but rather make a brief statement. I will appreciate the opportunity to join the Senator from Washington later in connection with the amendment.

I want to say that it is my understanding——

The PRESIDING OFFICER. Who yields time to whom?

Mr. TSONGAS. I yield time to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. For all who have yielded me time, I am grateful.

I want to say it is my understanding, and I use the word understanding, that the amendment that we offer in this instance does provide for mineral leasing under the Refuge Administration Act as it is practiced in the lower 48. Is that correct?

Mr. TSONGAS. I would say to the Senator that in terms of oil and gas leasing it is correct. In terms of the provision provided under section 304(c) in both cases, in existing law and under the amendment, we are really talking about secretarial discretion.

Mr. RANDOLPH. Yes.

Mr. President, I will conclude quickly.

While many people are aware and mindful of Alaska's potential for development, we must also meet our obligation to provide what I believe is well-reasoned protection for its spectacular wildlife resources.

I want to state this, and others may state it, that more than 12 million waterfowl and 200 million other migratory birds make their way from Alaska to our other States, the lower 48, each year. Alaska has other species, as we know, the mountain goats, called the Dall sheep, the moose, the musk ox, the caribou, the polar and grizzly bears, and the wolves. We even have wolves in West Virginia hills.

The habitat of these nationally significant resources should be within the jurisdiction of the Federal agency best able to manage them, and that is the Fish and Wildlife Service.

This amendment would accomplish that objective, which I believe is entirely worthwhile.

Most importantly, the amendment would add 5 million acres to the Yukon Flats Refuge above and beyond that which was proposed by the members of the Energy Committee, and I respect their judgment. This area is renowned, worldwide, for the millions of waterfowl that are there.

The amendment would also expand the William O. Douglas Arctic Wildlife Range by approximately 4.5 million acres more than that proposed by the committee bill, thereby providing adequate protection for that area's 120,000 Porcupine caribou herd. In addition, it would create the 1.7-million-acre Nowitna National Wildlife Refuge in an area which supports one of the highest nesting densities of waterfowl in Alaska.

These and other provisions of the amendment would restore important wildlife-rich areas in Alaska to refuge status and unify management of these areas under the Fish and Wildlife Service. The amendment has been carefully drafted with thought given to all of the interested parties in this debate and to the wildlife of these magnificent areas.

I urge its adoption by the Senate.

Mr. CHAFEE. I thank the Senator.

Mr. GRAVEL. Will the Senator yield me 1 minute?

Mr. CHAFEE. It would have to be on the Senator's time.

Perhaps the Senator can get someone on his side to yield time.

Mr. GRAVEL. Well, since I am the only one in charge, I yield myself 1 minute of my time. It is to thank the Senator from West Virginia. He has every right to be a party to this amendment. He has had a long and distinguished career in being involved in Alaska. When I was a mere child he was here as a leader on this floor and in the Congress fighting to strengthen the defense of this country by building the Alaska highway. I want to make that acknowledgement to my good friend. Although we may differ on this particular amendment that does not impair one iota the deep affection and esteem in which I hold him.

Mr. RANDOLPH. I thank the Senator. I have worked with him for many years now on issues of importance to his State. His attentiveness to those issues has been both energetic and conscientious.

Mr. CHAFEE. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The proponents have 25 minutes and 38 seconds and the opponents have 49 minutes and 28 seconds.

Mr. CHAFEE. Mr. President, I yield myself 8 minutes.

Mr. President, I rise in strong support of the refuge amendment which has been so ably advanced by Senator HART and supported by Senators RANDOLPH, CULVER, CHURCH, and myself.

Mr. President, I would call attention to a point that Senator HART made that I believe is of extreme importance, namely, that this amendment goes nowhere near as far as the House measure did. The committee provided 42.6 million acres for refuges. This amendment changes that, ups that, from 42.6 to 57 million acres. The House bill is at just about 80 million acres in refuges.

So we have not gone half that far. I think we could have gone a lot farther, but in the interest of compromise, we have not.

Mr. President, I believe this amendment corrects the mistakes that were made by the committee in the bill that it brought forth.

Mr. President, by any standard of measurement, the wildlife resources of Alaska are of extraordinary significance. Nowhere else in the United States but Alaska do we have herds of caribou numbering in the tens of thousands.

Nowhere else do we have breeding populations of emperor geese, polar bears, and gyrfalcons; nowhere else, breeding colonies, numbering in the tens of millions, of murres, puffins, and other seabirds. Nowhere else do we have such thriving populations of bald eagles and the large predators such as the grizzly bear and the wolf.

Mr. President, as mentioned, the National Wildlife Refuge amendment which my colleagues and I have proposed would add about 14.5 million acres to the 42.6 million acres contained within the refuge title as reported by the Energy Committee.

Looking at the history of wildlife management in North America, we have as a guiding principle tried to protect fish and wildlife by providing for the preservation of watersheds and ecosystems, under the direction of the Fish and Wildlife Service.

After all, it is the Fish and Wildlife Service that is designated by the Federal Government to protect species of wild animal, fish, and bird. Consequently, our amendment would protect the range of the Porcupine caribou herd, which represents 50 percent of the caribou population in the United States, within the refuge system. The prime waterfowl habitats of Yukon Flats and Nowitna River, which send over 14 million migratory birds southward each fall, would be managed in the refuge system. Key watershed acreage also would be added to many wildlife-rich units such as the Selawik and Kanuti National Wildlife Refuges.

In spite of the many improvements this refuge amendment would make to the version of H.R. 39 reported by the Energy Committee, there are many aspects of that bill which, in the spirit of compromise, we do not touch.

For example, the fish and wildlife values of the National Petroleum Reserve-Alaska (NPR–A) are as rich and important as any in Alaska. Quite justifiably, our colleagues in the House have, for 2 years running, included the NPR–A as a unit of the refuge system. The same is true for the critical waterfowl and shorebird migration resting areas on the Copper River Delta. In neither case have we the proposers of this amendment, followed our colleagues in the House by asking for the refuge designation for those areas.

Similary, the Energy Committee would establish a Baird Mountains National Conservation Area encompassing the drainage of the Squirrel River, a pristine river which drains into the Selawik National Wildlife Refuge. While this area is important in the migrations of the western Arctic caribou herd, and our colleagues in the House have very logically included it as part of the Selawik refuge, we have not done so.

Many of my colleagues might have been told that this amendment is a 100-percent return to the bill which so overwhelmingly passed the House. That is simply not the case. The House-passed bill set aside almost 80 million acres for refuges. Our amendment sets aside a little over 57 million acres, as compared with the 42.6 million acres in the Senate Energy Committee bill.

Let me also note for my colleagues that this amendment, and the law governing management of our refuge system, does allow for oil and gas leasing and other commodity use when and where such activities are compatible with the purposes for which a particular refuge unit is established. That is a point that is going to be disputed. We have just heard reading from the bill, and I quote again from page 31 of our amendment:

> However, the Secretary is hereby authorized to lease such lands for oil and gas exploration and development if such activities are compatible with the purposes for which the affected National Wildlife Refuge System unit was established or is managed.

Furthermore, Mr. President, this amendment does not consider the matter of wilderness designation in places such as the Douglas Arctic National Wildlife Range. That comes up in a subsequent amendment. While our amendment adds to this refuge substantial acreage, it does not alter the status of the existing refuge on the North Slope.

Mr. President, Alaska has been called the wildlife nursery to the world. It provides nesting and feeding areas for some 400 million—almost half a billion—migratory birds which disperse to at least six continents each fall. It is the calving and denning sites for international populations of caribou and polar bears and spawning ground for millions of salmon, and other fish and shellfish populations which feed the world. It provides prime habitat for our national symbol, the bald eagle, as well as the grizzly bear and countless other wildlife, many of which have all but vanished from the lower 48 States.

I think that everything that has been said about Alaska and its wildlife resources just cannot be exaggerated.

Much of our refuge system in the lower 48 was established to protect habitat for the hundreds of millions of birds that migrate south from Alaska each year. Without proper protection and management of Alaska's wetlands, coastal water and varied uplands, the millions of dollars and years of effort we have put into refuges in the lower 48 will have been for naught.

The national wildlife refuges designated in this amendment represent proposals that have been carefully crafted in order best to manage, maintain, and protect Alaska's magnificent wildlife resources. Never before and never again will we be able to set aside vast tracts of wildlife-rich lands—virtually untouched by man—for the enjoyment and use of future generations of Americans.

It seems to me, Mr. President—and I do not think anybody can argue with this—that reckless development and improper use of much of our natural resources has drastically reduced the once great animal, fish and bird population in the continental United States. This amendment will, in large part, prevent that from happening in Alaska.

Mr. President, I should like to say this: It seems to me that while the 400,000 people in Alaska should have a lot to say about their State, I think that the 230 million people in the United States also should have considerable say about that area because, after all, a great portion of it is Federal land. What we are doing is not aiming to prevent the development of Alaska's natural resources. This amendment strikes an even balance between the development interests and the conservation of Alaska's bountiful wildlife resources. I strongly urge my colleagues to adopt this amendment.

I reserve the remainder of my time.

Mr. STEVENS. Mr. President, I yield myself such time as I may need off the bill.

Mr. President, the preceding Senator and I have been close personal friends since 1947, from the day we first walked into law school together. I want to say that, despite the fact that he was from the East, from Rhode Island, and I was from the West, we have had a great camaraderie and I hope the Senator will take no offense at what I am going to say now, but what he said just now demonstrates the difference between the East and the West.

If Rhode Island had a corporation that owned 200,000 acres or 300,000 acres and the board of directors of that corporation tried to tell the people of Rhode Island what they could or could not do in terms of the hunting and fishing rights in Rhode Island, there would be a severe rebellion in Rhode Island. There is a severe rebellion coming in this country west of the Mississippi and the people from the East do not even understand it. But it is in this amendment. It is in this amendment because this amendment tries to set new precedents for dealing with Federal lands in the West. One of those new precedents is dealing with the oil and gas leasing on national refuges.

I assume that, through the process of education that is going on here on the floor, the sponsors of the amendment will soon modify their amendment, because if they do not, I am going to make a point of order as to germaneness. It does go beyond the scope of the pending bill. It does change existing law. Contrary to what my friend just said, it does not provide for oil and gas leasing under the Mineral Leasing Act. It provides for oil and gas leasing under some nebulous concept of the Secretary determining what the law will be: Is it competitive or noncompetitive; who has a right to file applications? Under what timeframe?

What happens to the whole history since 1920 of the Mineral Leasing Act? There is nothing in there. It just says the Secretary may lease it if he makes up his mind to do it. I say, having been Solicitor of the Interior Department, I challenge anybody to find 1 acre that has ever been leased by the Secretary in a wildlife area except under the Mineral Leasing Act. It has never been done.

This amendment purports to withdraw not just the Arctic Wildlife Range, not just the area of controversy, but every single area existing under national wildlife management in Alaska. That includes the great game ranges we created back in 1961. When we created them at the time and the orders specifically say and every act of Congress since that time has recognized that those ranges would be open to oil and gas leasing. Orders created specifically say so and those orders have been specifically referred to in past acts of Congress. This amendment is nongermane because it, in fact, changes past laws that are not before this Senate right now, in the Senate version of this bill.

Beyond that, Mr. President, let me say some other things that are wrong with this amendment. This amendment purports to take jurisdiction of all waters—and I hope every Western Senator will wake up. All waters within these wildlife refuges are put under the jurisdiction of the Federal Government by virtue of this amendment. It is not within the scope of the bill. The Senate version of the bill would never have gone that far. It is, to me, preposterous to think that we should face a total change in the water concepts of the West in connection with the refuge bill.

Take, for instance, page 14 of the amendment in connection with Tetlin. It says that the purpose of this wildlife refuge is established and shall be managed:

> (iv) to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams;

That means our State law falls whenever those rivers and streams are within a wildlife refuge, that the water rights have been claimed for mining in our State are invalid, if the concept of Federal supremacy is raised with regard to those water rights, or any other use, as far as that is concerned, any other use. We could take any municipal use, any agricultural use, whatever those uses are that have been proposed under State law, they fall now if this bill passes.

That is certainly nongermane, to bring in a whole subject of water rights in connection with Federal wildlife refuges, and have the Federal Government claim predominance, not only for quantity, but for quality.

Now, anyone from the Colorado River Basin had better wake up about that in terms of quality. That has been the argument since the day one in terms of the upper versus lower basin of the Colorado River.

But, Mr. President, I will go into other details on this. I will have to face it in terms of specific secondary amendments if the amendment is not tabled.

But let me tell westerners, they better read this amendment, because if this amendment passes and sets these standards in Alaska, you better believe, my good friend from Rhode Island or Massachusetts will be arguing the same thing on Colorado or California.

I know there are some Californians who seem to think they ought to support this, or Coloradans. The Senator from Colorado is a sponsor of it. He ought to take a look at what this is doing to water rights in the West.

This is one of the most, I think, pernicious amendments I have ever seen with regard to East versus West relationships in this country. If it passes as it is presented, it will further build the so-called sagebrush rebellion claims because there is no question that we cannot stand much more of this fraternalism coming from Washington with regard to lands in Western States solely because they are owned by the Federal Government.

The standards of conduct with regard to the owners of lands ought to be the same for the Federal Government as it is for any other landowner in this country. There is nothing in the Constitution that gives the United States as a landowner any greater rights than any other landowner.

But the Senator from Rhode Island, the Senator from Massachusetts, the Senator from Colorado, now want to assert that the U.S. Federal Government, because it owns lands and is also exercising sovereign powers, somehow or other takes on qualities as far as a landowner that far exceed the rights of any other landowner in the United States.

I say, if you look at this, I ask any Senator to just pick up this amendment and look at the same section in the Senate bill, the Senate committee bill, look at the authority that is given to each wildlife refuge manager.

Mind, we are similar with this. For instance, in my State, in the Kenai Moose Range, and I emphasize it is a range and not a refuge, a vital difference, in the Kenai Moose Range, the Kenai Moose Range manager denied the State of Alaska the right to establish an aquaculture project on the streams in that range, streams owned by the State of Alaska. We own them. They are navigable waters.

They denied us the access to establish aquaculture projects on that stream which was flowing through the moose range because it was incompatible—incompatible—with the purposes for which the range was created, to have an aquaculture project to reestablish the fish runs, because moose do not eat fish.

If the Senate thinks I am kidding, I would be glad to get the citation of that.

Now they wonder why we think we should be at all worried about this, if the Secretary finds it is compatible with the purposes for which the refuge was established, this oil and gas leasing may continue.

It is the manager of each area that determines what is compatible, not someone here in Washington.

Sometimes that would be worse, but lately it has been terrible.

In Kodiak, in the bear refuge there, we note they have kept in the amendment to take care of the lake. But let me tell you about Terror Lake.

The Federal Power Commission, now FERC, the REA, and EPA, every Federal agency that dealt with that project, clearly, it is a project to build penstocks down from a lake in the hills—they are not mountains—in the hills outside Kodiak, bring it through the mountain and have power for the city of Kodiak and the No. 1 fish landing port in the United States will be benefited by that. They currently import a vast amount of fuel oil in order to have their total operations of the fleet there.

The manager of the Kodiak Bear Refuge said, "No, you cannot do that." And we tried to find out why. He said that there used to be six bear dens in the 300 acres that would be flooded, in addition to what is flooded now. They have not been there for 7 years. The bears moved off. But he said that they might come back. He got facetious enough to tell me that bears cannot swim—which is wrong.

But the point is that they were not there. They were not going to be affected. They had moved their dens.

That was approved by EPA, but the manager—the manager—of the Kodiak Bear Range has stopped now for 2 years—2 years—a power development that is requiring Kodiak now to import oil from the south 48, refined oil, in order to run the fishing fleets and the processing plant in Kodiak.

Now, you wonder why we worry about language that says if the Secretary finds it is compatible.

It will be the refuge manager that determines that. They will decide in every sense against everything they do not control.

That is the watchword today of those who run these areas. "If I do not control them, they cannot happen."

I say that if this amendment passes, the West will be in revolt. Make no mistake about it, this is an East versus West. This is a total fight. This is a fight over whether the Federal Government as a landowner has more rights than any other owner of land. Congress is trying to assert those rights here in a way that I think is going to abrogate history, the history of water rights in the West, the history of land management in the West, as far as oil and gas leasing or wildlife areas, and the other areas I will go into.

In our Senate bill, we were very careful to protect the rights of commercial fisheries.

On page 407, section 306, protect commercial fisheries. The interesting part about it is that is within refuges. The interesting part is the way it is put into this amendment.

The way it is put into this amendment, it leaves subject to question what are the rights of sports fishermen because this amendment will delete the rest of it and only protect the commercial fisheries.

Certainly, it was not the intention of the committee to leave us in a position where we protected only commercial fishing. We intended to and we wanted to assure both the normal rights of sports fishermen in terms of wildlife refuges, and that commercial fishing, because it is so important in our State, would be protected.

But I would urge the sponsors of this amendment to take a look at it.

What happens to a sports fisherman? Is he entitled to use campsites, cabins, motorized vehicles, aircraft landings? Because if we look at it the way it has been taken out of this committee bill and inserted in the proposed amendment, it appears to protect those rights only for commercial users, which I am certain the sponsors of the amendment did not mean. But that is the way it reads.

Mr. President, if nothing else, this amendment demonstrates what happens to a bill that is so complex. It affects an area the size of California. If this bill would apply to California, it would affect every single acre of California, every river, every city, every stream, every airport, in California.

If this were just applied to California, that would be the amount of area we are talking about.

This bill is so complex. We have been through, now, 60 markup sessions in the Senate Energy Committee on this bill. We have worked, and I think there has been more time put in on this bill in the last Congress and this Congress than any bill in the history of the Senate Interior Committee, and the Senate Energy Committee, or the House Interior Committee. Having been closely associated with those committees since at least 1950, I believe that to be the case, and the chairman might wish to comment on that.

No other bill ever has taken this much time. That means to me that we have put more time in committee, because we have to have a quorum there to act. We cannot act with just four or five Senators around. We have to have a quorum. We have people who know more about land management, about the oil and gas leasing laws, about mining and about the subject of this bill than anyone else. That is one of our assigned responsibilities. We chose it.

Now, after that, we are to see a situation in which one person who voted against this bill—and the bill came out of the committee by a vote of 17 to 1—the one person who voted against this bill offers an amendment, all-encompassing, sweeping, so far as the Western rights are concerned, the rights of those who live in public land States, and he is an Easterner.

I say that with admiration for his ability, but he does not understand the West, and he does not understand the revolt that is going to come if this continues. I believe it is a symbol of what is going to happen.

Those from other States should remember that RARE II is coming—the roadless area review evaluation.

Mr. TSONGAS. Mr. President, will the Senator yield on that point?

Mr. STEVENS. My good friend did not yield to me, and I will not yield to him.

The impact is that when you get to section 603 of the Bureau of Land Management, that is going to affect all public lands of the West. Every acre of the Bureau of Land Management is going to be reviewed under section 603. Every acre owned by the Federal Government is going to be reviewed.

This bill is a precedent-setting bill, because the environmentalists of lead organizations can afford not just a 1-page ad in the morning paper but a 2-page spread in the Nation's papers. What does that cost? For those of you who do not know, dial the 800 number, a constant 800 number.

I ask the Senator from Rhode Island, whom are we protecting? Are we protecting the 80 people a year who will go to the Gates of the Arctic? Fourteen million acres of land are set aside for 80 people a year. Do you think you have had to have that protection? Our wildlife are in better condition now than they were after 100 years of management by the Federal Government. No one can dispute that.

It was Alaskans who came to Congress and asked for the Arctic Wildlife Range to be established. The caribou herd that the Senator from Rhode Island has mentioned has been protected since at least 1961, and even before that, by actions requested by the people of Alaska, not by the people of the Nation.

What do you have in terms of any evidence at all that indicates that anyone in my State has damaged the wildlife population of our State? None. What has been brought forward as evidence is that mistakes have been made in the south 48. The Senator from Rhode Island stated that we have made serious mistakes in the south 48. Certainly we have. But the difference is that we can read. We have a very high level of intelligence in Alaska. We have read about all those mistakes, and I challenge you to find one we have made like you have made.

Come in and show me any of the wildlife population of Alaska that is in trouble because of poor management or by actions of Alaskans. I challenge any Senator to come in with that proof.

We have the model wildlife protection laws in the Nation. Of the first 14 million acres we took under the Statehood Act, we put 3 million into wildlife parks to protect wildlife areas that had not had any protection under the Federal Government in the past.

Why is this still necessary? I will tell you why—so that people can sell their slick magazines: The Audubon Society, the Sierra Club, the Wilderness Society, whoever it might be. Every year, out go the invitations to join these organizations; and every year since this issue has been raised, a new area has been suggested.

We even have the suggestion with respect to the White Mountain area. It was not recommended by Secretary Morton, it was not recommended by Secretary Andrus, it was not recommended by President Nixon, it was not recommended by President Carter, and it was not recommended by the Senate committee to be a wildlife area because it is not a wildlife area. It is an area heavily populated by miners.

The White Mountain country is mining country. It is suggested that it be made a wildlife refuge here instead of a conservation unit because they want to stop mining.

This amendment would close access to 5 million acres of Alaska for mining. It would close access to 57 million acres of Alaska for oil and gas leasing under the Mineral Leasing Act, and it would lead us to some never-never land, so far as oil and gas leasing is concerned, with Federal wildlife refuges.

Mr. President, I cannot express my opposition to this amendment as vociferously as I wish I could. [Laughter.]

I have spent a lifetime, since I got out of law school, since my good friend and I parted ways in Boston, in 1950, dealing with one subject—land management. That was my legal profession; that was my avocation in terms of the State legislature. I served in the Department of the Interior during the Eisenhower administration and ended up as the chief counsel there.

There is no question in my mind that there never has been such a radical departure from the whole concept and fabric of Western public lands law presented to the Senate at one time as this amendment.

Some people say, "You should forget about that. Why don't you accept this amendment? After all, it doesn't hurt you much."

It does not hurt us much? I wonder how many States would like to see their water rights laws totally abrogated as to 57 million acres, one-seventh of our land. We all know what that means outside of that. If the streams pass through those refuges, it means that the Federal Government comes first, at least under current interpretations of the law.

What does it mean with regard to oil and gas leasing? What are the laws that pertain there? What are the rights of sports hunters and fishermen? Can they have cabin sites? Can they have modernized equipment? I think it is time to take a good look at this.

As many people know, I am criticized at home for the Senate Energy Committee bill. I believe it is a balanced bill. It is not the bill I sought. I will be glad to let anyone see the bill I introduced originally. When we consider all the problems we have, the Senate Energy Committee bill is the best we can do now. To retreat from that bill before we go to conference is to ask those of us who go to conference to go there with our hands tied behind our backs.

Just take the national forest. Secretary Morton suggested that there be 18 million acres of forest in the interior of Alaska. Some five units of the national forest would be within the interior of Alaska. This administration said, "We don't want any forest." Senator MELCHER made a compelling argument to the committee that he thought, with his background in forestry, that there should be at least one, so he chose that.

Some people say to me, "Why should it be a forest?" They apparently do not know the State at all. Adjacent to that forest is the Venetie Indian Reservation, an area chosen, by the people who live there, to reserve their title and fee under the Federal land claim laws, because of the timber values of that area. The Indian people who live there chose the land rather than take their portion of the billion-dollar settlement. They received no cash or interest in any other lands. They were solely restricted to that area, because they know the value of the land on which they live. It has timber value.

We are told that we must change that now, that we must make it a wildlife refuge. Do you know why? So it all can be blue.

Look at this map, and you will see that the Senate Energy Committee bill has the Arctic wildlife range expanded. Below it is about a billion acres owned by the State, the national forest, the conservation unit, and the national recreation area.

We use site specific classification to meet the needs of the area and to assure that the values of that public land will be available to the Nation.

They cannot have mining in a wildlife refuge under this amendment. They are wiped out. BLM wiped out all the mining potential. The BLM potential unit is wiped out. It wipes out the mining potential and agricultural potential, incidentally, and the other uses that the area could be put to.

The net result is now if we look at it that whole area becomes a fish and wildlife refuge with the exception of the 1.3 million acres around there that are owned by the State of Alaska. Why? So it can all be under the jurisdiction of one man.

Move that over on one of those States. Move it over to Illinois, for instance. Just look at it. How many men have jurisdiction over the State of Illinois? All alone, mind you, that wildlife refuge manager is going to manage an area that exceeds the area of almost any State in the Union outside of Texas and California. Why? We separated the management. We created special units to meet special demands. Why should that refuge manager have the right to determine whether we should have a management plan for the White Mountains area that will take in account the mining potential? He will not even have that authority under this amendment because he is told:

> You cannot lease it; you cannot use it for mining. You close it to mining or you are going to protect valid existing rights.

I hope some of my colleagues know some mining law and how few people they are protecting under that comment because we are not protecting anyone that is in there who has not proved yet that he has a mining claim that can produce commercial quantities of ore involved. They are not going to get any rights for roads.

Someone told me yesterday, of course we provide for roads. If we provide for roads, why is it that Borax does not have a road into the Bolium mine yet because it is the discretion of the Forest Service supervisor and they can get in there.

For some people who live in the East, I hope they will come and spend a year or so and live in our country.

One reason we know that Johnny McFee gets along with Alaskans is that he did come to live in the country and he came into the country. Read his book. He has the same attitude as my friend from Rhode Island, I think, basically, but the difference is he learned that people who live there have to have some rights. They do have to have some rights. And I do not know why we should have an amendment like this sweeping across the whole provisions of the bill dealing with mining, oil and gas leasing, with water rights, with rights of access, all contrary to what we did in the Senate committee with 60 markup sessions, and my good friend from Massachusetts will tell the Senate I did not have the votes in that committee. He won the votes, when we had contested votes.

The provisions of this bill that are in there beneficial to Alaska were won by consensus. These were agreed to in committee, and now on the floor they seek to back up from every single concession that was made to the lifestyle of Alaska bit by bit through five amendments or through a substitute.

Now somewhere there comes a time for good faith. Somewhere people who make concessions and make agreements in committee should realize that those are in our system commitents that should be kept when we get to the floor. These amendments do not keep them.

Mr. President, it is not possible to put in the RECORD photographs as far as our areas, but let me show the Senate. There is the Coronado National Forest in Arizona. That is the Porcupine National Forest proposed in Alaska. Where would you rather cut timber? Here is the Routt National Forest in Colorado. Look at it. Where would you rather cut timber? Take this San Isabel National Forest. Look at those scrawny trees, and they try to say that is a national forest for the protection of future timber production in the country.

Mr. ROBERT C. BYRD. Mr. President, I ask that the galleries be kept in order and that the Senate be kept in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STEVENS. I apologize. I am not meaning to be facetious, I say to my friend. I state and hope that there will be no laughter. They are scrawny trees. Senators do not have to look at them. I state it as a fact.

Look at this timber country. Mind you, again, it is right next to the Venetie Reservation where the people who know the area best said "Do not give us cash, do not give us someone else's lands. We are keeping our land because it is the finest timber country in interior Alaska."

I do not care where one is from, whether it be Michigan or wherever, but I wish for Senators to look at Huron National Forest and compare that to this timber up there. People do not say it is not sufficient to be a national forest. The reason it is a national forest above all things was that I argued to the committee. Look at the Venetie people. The Venetie people under the Senate committee's proposal have the National Forest Service on one side, the Fish and Wildlife Service on the other, BLM on the other through the BLM conservation unit and the State of Alaska on the west. They have the land managers of four separate Federal agencies to work with them as they try to develop the economic potential of their lands.

This amendment wipes all that out and says no, no, let them deal with one manager, the Fish and Wildlife manager. We will give him the 19—no. It is more than that—17 million acres in the Arctic Wildlife Range and 12 million acres in the Yukon Delta Range, 29 million. I was wrong. It is more than 17. It is 29 million acres of land.

Mr. President, I hope that the managers of this amendment will take another look at it. I hope that the Senate will take a deep look at it because again without meaning to be dilatory at all there are so many subjects covered in this amendment that it is going to take us a long, long time to present the amendments that are bona fide issues which must be resolved from the point of view of the people of the West vis-a-vis this amendment, if we do not dispose of it. I hope we dispose of it. I hope that will come later.

Again I thank the Senate for its patience. I do have some other comments about specific matters which I will raise by second degree amendments if necessary.

Mr. BOSCHWITZ. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I am happy to yield.

Mr. BOSCHWITZ. It is not clear to me as to the ability of the people who have claims in an area to perfect their claims and what the time span is. I understood they could if they had hard rock mineral claims to perfect them.

Also, in the same week we are registering—and the Senator knows how I feel—the young men of this country because we have some jeopardy to our national resources that we need in our national interests, we are closing the Arctic Wildlife Range from exploration for gas and oil.

Could the Senator from Alaska once again review this amendment with respect to oil and gas as it applies in this amendment to the area to the east of Prudhoe Bay and the perfection of hard rock mineral claims?

Mr. STEVENS. Mr. President, I am pleased to do this for my friend.

This amendment would close all areas of the refuge system to leasing under the Mineral Leasing Act. It provides that leasing might be made on portions of the wildlife refuge system in Alaska if the Secretary deems it is compatible with the purposes for which the area was set aside.

Further, this amendment obliterates the two BLM conservation units which were established in the mining areas.

Mr. BOSCHWITZ. The White Mountain.

Mr. STEVENS. The one area, the White Mountain area, is the subject of a specific amendment. We call it the MAPCO amendment. The sponsors of the amendment have included now to take care of perfecting mining claims.

It does not deal with the problem of access. It does not deal with the problems of a plan for development as the BLM conservation unit. It leaves those people who have those mining claims at the mercy of the manager of the refuge for the future.

This amendment also does away with the national recreation area which the Senator will see is in brown at the lower tip of that northeast section. That national recreation area is available not only for hunting but also for mining, and would be available for oil and gas exploration, but specifically available for mining.

The provisions of this amendment would close that also.

The green area is the Porcupine area, as I mentioned. It is the one single area in the interior that does have commercial possibilities for timber that is adjacent to the Venetie area.

Again one of the reasons for creating that was to provide that expertise to these people who are trying to develop the potential of the Venetie Reservation.

But the amendment does have a long-term effect on mining because it specifically says there shall be no mining in these areas that are wet refuges.

The committee also closed refuge areas to mining. But by eliminating all these other classifications, this amendment extends that prohibition to areas we did not wish to close. We classified them as "other conservation units," specifically to leave them open for mining or hunting or oil and gas or other activities, specifically without any problems in the area.

Mr. JACKSON addressed the Chair.

Mr. BOSCHWITZ. Mr. President, may I ask a similar question of the Senator from Rhode Island, as to how his amendment affects oil and gas probabilities in the North Slope, on his time? Perhaps the Senator from Massachusetts——

Mr. TSONGAS. On whose time?

The PRESIDING OFFICER. Whose time is being used now?

Who yields time?

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. First of all, how much time do I have remaining on the amendment?

The PRESIDING OFFICER. Forty-nine minutes and 22 seconds.

Mr. JACKSON. How much time did the Senator from Alaska use from the bill on this last go-around?

The PRESIDING OFFICER. Thirty-six minutes.

Mr. JACKSON. Mr. President, I ask unanimous consent that the time taken by the Senator from Alaska from the bill be applied to my allocation of time on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. And that the time, therefore, not be taken from his time on the bill, the time of the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I am going to speak very briefly. I think the main issues have been pretty well ventilated as they pertain to this amendment.

May I just restate the basic points of opposition: This amendment would add some 14.5 million acres to the wildlife refuge system in excess of the 42.6 million acres included in the committee-reported bill.

The amendment would also modify a number of policy provisions relating to the refuge administration and management contained in H.R. 39, as reported.

In my view, the refuge additions proposed by the amendment are excessive. The committee bill already includes the key habitat areas necessary to protect and perpetuate Alaska's important waterfowl and upland wildlife and fishery resources. In every instance the committee bill addresses the legitimate need to protect their wildlife resources. It sets aside adequate lands for this purpose.

The amendment also has the effect of including within refuge boundary lands which the committee felt would be best administered under other land management classifications such as national recreation areas. These areas are not the key habitat areas. They are not critical to wildlife protection. While they certainly have wildlife values these lands, in the view of the committee, also possess significant public outdoor recreation values and natural resources which should also be required.

It is the recognition of these other uses and resources and the designation of the appropriate management classifications to more reasonably accommodate them that distinguishes the committee bill from the House version.

Mr. President, the committee bill leaves refuges open to the Mineral Leasing Act, as is the case in the lower 48 States today.

Of course, leasing may be conducted only at the discretion, under existing law, of the Secretary of Interior where he determines that to do so is not incompatible with the purposes for which the refuge is established.

In this amendment, pending amendment, the refuges are withdrawn from the Mineral Leasing Act. The Secretary may permit leasing, but the amendment does not say under what authority, as the Senator from Alaska has pointed out.

In any event, the difference between the two versions is indeed significant.

Why should these refuges in Alaska be treated differently, Mr. President, from refuges in our own 49 or 48 States? Why should the burden be shifted in this manner from existing leasing systems, under the Mineral Leasing Act, to a new system?

May I ask what kind of leasing system will this be? What kind of regulations will apply? It is indeed open-ended.

I think, Mr. President, it is unfortunate for the sponsors of this amendment to tell us that 95 percent of the key oil and gas areas in Alaska will be open to leasing when the amendment specifically withdraws wildlife refuges from the Mineral Leasing Act of 1920.

Mr. President, I can only strongly urge that this amendment be rejected.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. JACKSON. Just a moment.

Mr. President, at this point I would like to place in the RECORD, and I ask unanimous consent to do so, a report on the oil and gas potential of the William O. Douglas Arctic Wildlife Refuge, prepared by the Department of Interior; and second, a General Accounting Office analysis of this report; and a letter from the Secretary of Interior regarding the downgrading of the oil and gas potential of the NPRA.

Mr. TSONGAS. Mr. President, reserving the right to object——

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. There is objection.

Mr. TSONGAS. Mr. President, I just want to clarify one point. The area which the Senator is referring to as the Douglas Wildlife Range is included in the amendment by the Senator from Wisconsin (Mr. NELSON), is that correct?

Mr. JACKSON. Yes. I ask unanimous consent that this last request appear after the vote on the pending amendment. The William O. Douglas Wildlife Refuge is not affected by this amendment.

Mr. TSONGAS. That is quite correct, and I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 17, 1980.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, Washington, D.C.

DEAR MR. CHAIRMAN: Based upon additional data provided by the exploration program, the Department has updated the petroleum resource appraisal for the National Petroleum Reserve in Alaska. Comparisons of the updated estimates with those contained in the December 1979 Final Report of the 105(b) Economic and Policy Analysis are presented in the table enclosed with this letter. The revised estimated areal distribution of oil and gas accumulations throughout the Reserve is presented in the enclosed map.

Estimates of average oil in place have declined nearly 10 percent while estimates of average gas in place have declined over 22 percent since the last resource analysis. In addition, the estimated areal distribution of oil and gas throughout the Reserve has changed since the last evaluation. The western area, bordering on the Chukchi Sea, has declined in expected resource potential, while the southeastern wedge, which includes the Umiat field, now appears more promising.

My staff would be pleased to answer any questions which you may have regarding these updated estimates and the economic implications of the changes.

Sincerely,

CECIL D. ANDRUS,
Secretary.

Enclosure.

TABLE 1.—DISTRIBUTION OF ESTIMATED NPRA OIL AND GAS RESOURCES IN PLACE AND BARREL OF OIL EQUIVALENTS

Probability that quantity is at least given value	December 1979 oil in place (billions of barrels)	July 1980 oil in place	December 1979 gas in place (trillions of cubic feet)	July 1980 gas in place	December 1979 barrel of oil equivalents (BOE) in place[1] (billions of barrels)	May 1980 BOE in place
95 percent	1.04	0.55	3.51	2.53	2.08	1.63
90 percent	1.35	1.02	4.26	3.46	2.66	2.48
75 percent	2.87	2.59	7.30	5.47	4.80	4.13
50 percent	6.03	5.21	12.52	9.39	8.57	6.76
25 percent	10.01	8.55	17.54	13.71	13.26	10.61
10 percent	13.72	12.10	28.29	20.04	17.33	14.92
5 percent	16.45	15.82	34.97	27.37	20.35	19.36
Average	7.10	6.40	14.12	10.99	9.60	8.34

[1] Barrel of oil equivalents are obtained by converting the estimated gas in place to the energy equivalent in oil and adding the resulting value to the estimated oil in place.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. How much time do I have remaining on the amendment?

The PRESIDING OFFICER. Seven minutes and 55 seconds.

Mr. HATFIELD. Mr. President, I yield myself 1 minute.

Mr. JACKSON. Out of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, the Senate Energy and Natural Resources Committee designates approximately 43 million acres for inclusion in the National Wildlife Refuge System. Even with this large increase to the refuge system, the committee bill differs from the House legislation and the proposed refuge amendment in a number of ways. Major differences include the treatment of the Nowitna area, the Copper River Delta and the 22 million acre national petroleum reserve (NPRA).

Under the committee bill, lands within the Nowitna area are protected under a BLM national conservation area designation. The Copper River Delta continues under Forest Service management expressly tailored to conserving the wildlife and other resource values. Finally, the NPRA is not included in the committee bill, but rather continues to be the subject of a separate legislative proposal.

Title III of the committee bill establishes eight of the largest units of the National Wildlife Refuge System in the United States. As examples, our proposal establishes a 5.6 million acre refuge in the Yukon Flats area and a Yukon Delta Refuge of some 11 million acres.

The committee bill does establish a smaller refuge in the Yukon Flats than proposed by the House, but generally the lands not placed in the refuge are given protection under National Forest or some other conservation land designation. The committee designates about 4 million acres of this area as part of the new Porcupine National Forest. Due to substantial resource values aside from fish and wildlife, the committee felt the National Forest classification was more appropriate for the Porcupine area. Furthermore, management of the forest will be in accordance with regulations and the language of section 501 which further protects fish and wildlife values in the forest.

In a number of other occasions during the debate on Alaska, the committee chose to establish national conservation areas in Alaska instead of refuge designations. This concept, first used by Congress in establishing the King Range NCA in California, seemed appropriate for areas in Alaska where multiple use management is desirable but where some extra protections are needed.

In general, the committee used the more inflexible and restrictive approach of establishing refuges where wildlife values were paramount. At the same time, we used compatible forest or conservation area designations where habitat conditions, wildlife numbers, or species diversity were not as important or critical. In my judgment, this approach represents a responsible balance between protection and careful, controlled use.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, there are several major flaws in this legislation. I will first deal with the most serious flaw of all, what is being done here. This is not an effort to try to increase the refuge in order to protect the game that is there. This is clearly an effort to just grab more land and to strategically hold it so that you can impair its use either through a refuge designation or by denying it access. If you wanted to get to land through the refuge it would have to be compatible with the refuge.

Let me just give you some figures, Mr. President, that show the voraciousness of the people in question. When you are talking about refuge you are talking about lowlands, you are talking about essentially areas where you have habitat or waterfowl.

That is not what these amendments are doing. In every single case this is going after uplands, dry lands, high lands. It is for a strategic purpose and not to deal with the waterfowl in question. Let me just give you a comparison.

The Federal Land Use Planning Commission study was necessary in this regard. The Interior Department also studied this.

With respect to the Federal land use planning on the Arctic Range, the area selected to protect waterfowl was 1,890,000 acres. With the Tsongas amendment, we are talking about 9,900,000 acres.

After study was made in the Togiak, the area that was delineated to protect wildlife was 240,000 acres. With the Tsongas amendment, we are talking about 3,840,000 acres.

The Koyukuk, after study, 2,530,000 acres to protect waterfowl. With the Tsongas amendment, 3,650,000 acres.

The Yukon Delta, the largest taking of all. Unbelievable. The study showed 5,670,000 acres that was necessary for waterfowl. With the Tsongas amendment, 13,400,000 acres are being taken.

The Yukon Flats. The study indicated 2,333,000 acres to protect waterfowl. With the Tsongas amendment, you are talking about 10,680,000 acres. That is just by a general nature.

I would like to correct the RECORD. The Senator from Massachusetts stated that there had been leasing in the refuge. What we were making reference to was the Bureau of Land Management under official wildlife. In leasing that moose range, which is not a refuge, it was handled by a combination of BLM and USGS and it was arranged because of prior leases before the creation of the range.

Let me now move to a section of the bill which is somewhat of an injustice. In dealing with the Selawik National Wildlife Refuge, Natives are granted what I consider fair treatment in that area. But that is the only regional corporation that is so treated. And I would hope that if the managers do not modify their bill to at least be fair to all Natives equally, I will later offer an amendment to give that treatment to all the Natives throughout the State.

Now, there is another section that is absolutely ridiculous. That is the section that deals with the Kenai Moose Refuge, on page 24, where there is an expansion of 40,000 acres.

The movers of this have submitted a map, I looked at their map and I cannot figure out where they got 40,000 acres. Maybe the movers of the bill, if I could have the attention of the Senator from Massachusetts, could provide us with a map that shows 40,000 acres. Because what I see here is not 40,000 acres. What I do see here is the impairment of a hydro project that is going forward right now and that has already been approved by Congress, authorized by Congress, funded and is going to be under construction next year. This is the Bradley Lake project.

The PRESIDING OFFICER (Mr. FORD). The Senator's time has expired.

Mr. GRAVEL. Will the Senator yield?

Mr. JACKSON. I only have 2 minutes remaining.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS. Mr. President, I yield time to myself.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. JACKSON. Mr. President, how much time will the Senator need? I could take it off the bill.

Mr. TSONGAS. Mr. President, let me address the major issue that has been raised by the opponents of the legislation. I say to my friend from Alaska, Senator Stevens, when he said that this amendment was offered by an easterner, it was offered by Senator Hart. As I remember my geography, Colorado is to the west of the Mississippi River.

The major time spent in debating the amendment has been on the issue of oil and gas leasing. The argument has been made: Why are we changing it? Our approach, in my opinion, does not provide for a change. It does say that the Secretary is authorized to lease such lands for oil and gas exploration. That has been contested.

The argument has been made that the committee language is what should be the proper language and that we are raising questions of doubt which will only lead to court action. I say that the language in the committee bill and the language in our amendment is virtually the same. I will, therefore, to accommodate the arguments made by my chairman and the Senator from Alaska, ask unanimous consent that the language of the amendment be changed and insert therein the language of the committee bill.

That should, at least, once and for all, end the debate on the issue. If I could have this referred to the clerk, I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection.

Mr. HATFIELD. Mr. President, reserving the right to object, would the Senator restate his unanimous-consent request?

Mr. TSONGAS. The amendment before us is amendment No. 1782.

The PRESIDING OFFICER. The Senator's amendment is unprinted amendment No. 1402.

Mr. TSONGAS. That is correct. I am referring to the original amendment.

On page 31, line 23, after the word "laws" we strike the word "and" and insert therein "but not". So that the amendment does not withdraw lands from the operation of mineral leasing laws. So it would be, in essence, compatible with the arguments made by the chairman. We have worked with the committee staff and I would ask the chairman, who is entering the Chamber, whether or not his analysis is the same as that of his staff.

The PRESIDING OFFICER. Is there an objection?

Mr. HATFIELD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. Mr. President, will the Senator from Massachusetts yield me a minute on his time to help him?

Mr. TSONGAS. If I might continue, here we have a case where the major argument against this is on a point which I believe is indisputable. But, in trying to accommodate the other side, I agreed to modify the language when I moved to so modify objection was raised.

Mr. GRAVEL. Will the Senator from Massachusetts permit me 1 minute to compliment him?

Mr. TSONGAS. I yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, I would like to join with the Senator from Massachusetts. He is doing the right thing. He is trying to improve the legislation to accommodate us. This whole thing may become law. I hope it does not, but if it does, let us at least try to make these improvements. I do not understand the tactics of the Senator from Oregon or why he is objecting to it. Here you have been beating him on the head that he has the wrong thing and all of a sudden now he wants to go along with you and you do not want to accept it. I do not understand the tactic. I am prepared to be a tactitian and not have this legislation. But if I lose, I at least want to get what is best for Alaska.

So I hope that the Senator from Massachusetts would make his motion again.

Mr. TSONGAS. I would be willing to restate it.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Senator from Massachusetts be permitted—in fact, are the yeas and nays already ordered on this amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered. But the Senate has entered into an agreement on the amendment as relates to time.

Mr. GRAVEL. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. GRAVEL. Because we have a time agreement, a Senator cannot modify his amendment, even though the yeas and nays are not ordered?

The PRESIDING OFFICER. It takes unanimous consent.

Mr. GRAVEL. I ask unanimous consent that the Senator from Massachusetts be permitted to modify his amendment as he so stated.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TSONGAS. I will tell you a little story, Mr. President.

When we are in the committee, the issue of the mining claims of U.S. Borax came up. At that time I had in my possession the proxies to win this issue. All I had to do was use them. Everyone knew that.

When it came to a vote, I decided to withhold those proxies because I wanted to get the best possible bill, and I thought there were some legitimate concerns raised by U.S. Borax. Rather than simply defeating them with the proxies, we worked out a compromise.

It seems to me that the only way we will get a bill that makes sense is to do what is best for everyone, over the long term, and not simply to exercise one's advantages. Senator Stevens and Senator Jackson spent most of the time raising one point, the mineral leasing provisions.

I think that what we had in the amendment is not much different. In fact, the suggestion to accede to the committee language was made by those people who believe there is no difference, so we might as well give it to them, and resolve the argument. But, what happens when we do just that. It is objected to.

I was asked to introduce as the Tsongas-Roth substitute the exact House language of H.R. 39. I did not do that. The substitute introduced contains scores of changes suggested by the Senators from Alaska because I thought that those changes were legitimate and should be addressed and conceded. Why? Because I wanted a bill. I wanted a bill that was fair.

So what do we have here? Is this doing what is best for Alaska?

This amendment, in my opinion, is going to be accepted.

I am unhappy that it has come to this, but perhaps it suggests the tactics being used on the other side.

Let me deal with a number of other issues. First, access to in-holdings. The argument has been used that the language in the amendment restricts access to in-holdings? Where do you think that language comes from? From the committee bill. Who do you think voted for the committee bill? The same person who argued against the amendment. Mr. President, I charge you cannot have it both ways.

Next, the compatability test. The argument is made that the compatibility test is very difficult. Yet it is exactly the same in the wildlife refuge as in the committee bill. Who do you think voted for it? The same person who made the argument.

Oil and gas. Well, we just disposed of that issue, did we not?

The argument has been made that a range is not the same as a refuge. Well, according to the Fish and Wildlife Service, as set forth in the Game Range Act of 1976, they are managed exactly the same.

The issue has been raised about the cost of a two-page ad in the Washington Post. This money spent pales in comparison to the millions of dollars spent by the State of Alaska. Go look at your hometown newspapers. Who do you think put ads in there? The Alaska Coalition? No. The other side. But that is never mentioned, is it?

We talked about jurisdiction of the wildlife refuge by one man. Under the committee bill, 42.6 million acres are managed by one man—42.6 million acres are national wildlife refuge. Who voted for that? The same person who made the argument. The difference is the committee bill has 42.6 million acres, and our amendment has 52.2. The difference is that we take the 5.5 national forest units and the 7.2 BLM lands and add 3.3.

I do not blame people for making the argument, but I would hope that the argument would at least be listened to on its merits.

I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the very distinguished Senator from Alaska was referring to this in terms of an East-West debate. I think it is a mistake to phrase it that way. The cosponsors of this amendment include several distinguished Senators from the West, including, of course, Senator HART and Senator CHURCH, and Senator CRANSTON of California is also a supporter of this amendment. So I do not think it should be phrased in that term of East-West.

Second, there is no question but that the committee has spent a lot of time and done a very diligent job in working on this bill. But nonetheless there are grounds for honest people to differ. When we look at the fact that the House has spent equally long on this measure with equally diligent efforts, many of the Members of the House, as the Senate, have visited Alaska and given their very best efforts; they came up with about 80 million acres in refuges compared to the committee coming up with 42.5 million acres.

So there are grounds for differences.

What we have done in this amendment is not provide about 80 million acres in refuges and not the 42.5 million acres of the committee, but a little over 57 million acres, because, in conjunction with those public interest groups that are very deeply involved with the survival of the wildlife in Alaska, we have come forward with legislation that provides for the rounding out of many of these refuges. Furthermore, we felt that they made several mistakes, principally in the Nowitna Refuge, by not designating that as a refuge, but instead having it all under the BLM. What we did was provide that about half of that go into a refuge.

Then, of course, the rich wildlife resources of the Yukon Flats has been discussed in some detail.

So, Mr. President, I think that the amendment we present is, indeed, a compromise between two views, and I would strongly urge that the Senate adopt the amendment as proposed.

Mr. President, how much time is left to this side?

The PRESIDING OFFICER. Five minutes remain.

Mr. CHAFEE. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. How much time remains, Mr. President?

The PRESIDING OFFICER. A total of 7 minutes.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time, and I will be making a motion to table the amendment at the appropriate time.

Mr. STEVENS addressed the Chair.

Mr. JACKSON. I yield to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska has 2 minutes.

Mr. STEVENS. Mr. President, I will use that time and any other time I use may be charged against my time on the bill.

Mr. President, I thank the manager of the bill for yielding me his time. I would hope that we would have an opportunity soon to explore this amendment from the point of view of germaneness because it is a fact, in my opinion, that this amendment goes far beyond the Senate committee bill. We have had little time, really, to examine the changes, although I must say many of the changes I think were made in response to comments that have been previously conveyed indicating that the matter within the bill was, in our opinion, not germane.

The impact of this now is that instead of having a format like we have in the Senate committee bill—and again I call the Senate's attention to the specifics of this amendment—there is in each instance with regard to the refuge involved an expansion of the purposes for which the refuge is created.

Let me discuss some of these matters, Mr. President, and, since the bill does not exactly track the amendment, I shall have to find the Gulf of Alaska unit. I think this is a typical example of what has occurred here.

The Gulf of Alaska unit described on page 392 on the bill is described on page 19 of this amendment. I believe that it pertains to the same land mass as far as the islands are concerned. We referred in the committee to submerged public lands and all other offshore public lands. This refers now to whatever submerged lands, if any, were retained in Federal ownership at the time of statehood. That is a different concept when we are dealing with the offshore public lands, and I question whether even the amendment that has been suggested now in the modified amendment is, in fact, a sufficient limitation on the submerged lands question to not, in fact, be an amendment to the Submerged Lands Act.

Our State is entitled to lands under the Submerged Lands Act, like any other State; that is, a coastal State. This provision, if it intends to expand on the lands that were retained in ownership, I think, will make the matter nongermane.

We have other areas, and I mentioned specifically, already, the quality and quantity of water. I call attention to the difference between the section that is on page 20 with regard to the Alaska Maritime National Wildlife Refuge and the same provisions that I read before with regard to the other wildlife refuges. Compare, for instance, lines 15 and 16 on page 20 and lines 21 to 24 on page 26. For some reason, in terms of the Alaska Maritime National Wildlife Refuge, the provision is not the same. It says "to maintain to the maximum extent practicable water quality and quantity."

On the Kodiak National Wildlife Refuge and others, as I pointed out this morning, it says, "to maintain to the maximum extent practicable water quality and quantity and to preserve the free-flowing nature of rivers and streams." From a legal point of view, the latter, of course, is much broader than the former. Both are going into matters that are not before the Senate under the Senate Energy Committee bill.

There is, of course, on page 43, a new mineral leasing authority. This is beyond the context of the bill. As we pointed out previously in our dialog, the Senate committee bill relies upon existing mineral leasing law. This amendment, if passed, would give the Secretary of the Interior the authority to write whatever regulations he wishes pertaining to oil and gas leasing on natural wildlife refuges. I do not think Congress wishes to do that. I hope it does not.

The mineral assessment amendment that is on page 43 of this amendment is new material. It is not within the concept of the committee bill, and I do not see any reason why it should be amended. It says:

> For purposes of this Act, "core and test-ing drilling" means the extraction by drilling of subsurface geologic samples in order to assess the metalliferous or other mineral values of geologic terrain, but shall not be construed as including exploratory drilling of oil and gas test wells.

That is an amendment to existing law, another act, and it is not within the provisions of the Senate bill.

On page 44, line 7, there is a change of a date. It sets a new deadline dealing with revocation of Executive withdrawal, and it would affect all public lands in Alaska. We have not had an opportunity, really, to know how extensive the impact would be of that change, which is not within the concepts of the Senate committee bill and, therefore, not germane.

On page 41, line 15, this changes what, under the committee bill, is a study river, to be studied under the Wild and Scenic Rivers Act, and makes it instantly a wild and scenic river. That means that we would include in the wild and scenic river system a river not included by the Senate Energy Committee bill. It is a second subject. It is not a refuge, it is a wild and scenic river.

This amendment, we agreed, could be generic in the sense that it touched the bill in many places, so long as it dealt with one subject. This is an instance, and there are other instances, where this amendment touches the bill in more than one place and deals with more than one subject. As such, it is clear that that is not within this concept of the Senate bill and not within the concept of the Senate rules. I do not think that this amendment is in order.

On page 42, line 11, this adds the Sheenjek River to the committee bill as a wild and scenic river. It is true that that is within the wildlife refuge, but the committee bill did not make it a wild and scenic river. Although the committee bill did deal with that area, it did not deal with that river and include it as a wild and scenic river. This, as well as the other river I mentioned, completely abrogates the law for study as required, for dealing with wild and scenic rivers, the public notices involved, the rights of people to be heard, and it is legislative, dealing with a separate subject, in an amendment that purports to deal with wildlife refuges.

Mr. President, there is a series of areas in this amendment where it affects more than one subject. I hope that the Parliamentarian will take a look at that, because it is my intention here, soon, to make the point of order that this amendment does not deal with just one subject, namely, wildlife refuges.

By amending a committee bill to deal with water quality and water quantity, it is not dealing solely with refuges. It is extending Federal law to preempt State law dealing with water rights and our rights to alter the free-flowing nature of our rivers and streams consistent with our State laws.

This proposed amendment would change that. It deals with extending to the wildlife refuge manager other purposes for managing these refuges which are not within the scope of the committee bill.

All the Chair needs to do is to compare the purpose section on page 404 with the purposes that are set forth for each refuge, and it cannot be held that the purposes for which these areas are established are within the purposes specified there in our committee bill.

They have gone far beyond, in terms of setting up the management purposes, above all when they extend the rights of the Federal Government to rivers and streams outside of the refuges.

I call attention to some of the other areas in this amendment that are borderline questions, as far as I am concerned. The Senate bill classified portions of these areas as national recreation areas, or as being conservation units, or as national forests.

Those classifications are changed by this amendment to make those all wildlife refuges. But, in the course of making the change, the amendment specifically purports to take away from even wildlife refuges one of the uses that would have been permitted under the prior designation, and would have been permitted under existing law in refuge designations, but, specifically, under this amendment, specifically, mining rights, and oil and gas rights, that are subject to exploration under existing law.

I call the Chair's attention to page 17. It deals with an undetermined quantity of submerged lands retained in Federal ownership at the time of statehood around Kodiak and the Afognak Islands on a map dated—I understand that is a mistake, it is 1978 rather than 1979.

But I was involved at the time of the statehood, in that designation of these areas, and I know of no submerged lands specifically retained at that time.

The law, that Submerged Lands Act, does give the right to the Federal Government to retain certain lands if they were, in fact, the owner that went through the lands predating statehood, and this, in fact, described lands that were submerged.

The act, under those circumstances, does operate differently on those than on other lands in the State.

But my point is that by referring to this map and purporting to have Congress legislate that those lands are designated on a map that was prepared by the Interior Department as a unilateral declaration by Congress that the Interior Department is right, its assertion that they were, in fact, retained under Federal ownership, I would hope Congress will not make that assertion when, in fact, there is litigation that is in existence between the State of Alaska and the Federal Government concerning that very subject.

Mr. President, at this time, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. As to whether it would now be timely for a point of order to be raised against this amendment on the basis of the comments I have made so far, and I will specifically state this, but is it timely now to make a point of order against the amendment, and would that point of order at all be debatable?

The PRESIDING OFFICER. The point of order is not timely at this point since the proponents have time.

Mr. STEVENS. How much times does the proponent have?

The PRESIDING OFFICER. Five minutes and five seconds.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. I yield myself 4 minutes under the bill.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GRAVEL. I will join with my colleague in the objection he has raised on both items, pages 40 and 41. I share his desire to improve this amendment, because, if it becomes law, we want to cut our losses as best we can.

But my colleague was out of the room when I tried to do the same thing. It was objected to.

The Senator from Alaska, the Senator from Washington, the Senator from Oregon, have all castigated the Senator from Massachusetts because of a section dealing with mineral leasing in the bill.

The Senator from Massachusetts was prepared to modify his amendment so that he could improve this piece of legislation, just as the Senator from Alaska is prepared to join with me, or I with him, to knock out these areas to improve this legislation.

I know the Senator from Alaska has great influence with the Senator from Oregon. So I ask that he make an appeal to the Senator from Oregon not to object, because I am going to offer another request, and I ask unanimous consent, and that will be that the Senator from Massachusets (Mr. TSONGAS) be permitted. I think it is only fair play, and I say with all caveats that I detest this legislation and to my dying breath I would oppose it, but if I am to fail, I want the least amount of pain to be suffered by the people of Alaska.

So, just as the Senator from Alaska is trying to improve the Tsongas amendment by striking out the items on pages 40, 41, and 42, and I join him in that, I also want to improve the legislation, and to permit the Senator from Massachusetts.

So I would prevail upon the senior Senator from Alaska to use his influence upon the Senator from Oregon, which I feel is considerable.

At this time, I ask unanimous consent that the Senator from Massachusetts be permitted to modify his amendment to make it more palatable to the people of Alaska in the event we must face this unfortunate disaster.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska (Mr. GRAVEL) has the floor.

Mr. GRAVEL. I would like to make an appeal to Mr. TSONGAS, now that I think I have put myself in his good favor, in the spirit of fair play. He has part of his amendment, some language that is wrong. One, the map he has presented of the Kenai Moose Range is for 280,000 acres, as in the language when the map is for 6,000 acres. So he should amend his amendment with that correction.

The second point is that in committee, I raised the issue that we were building a dam, a hydro facility on Bradley Lake, to serve the urban areas of the Kenai Peninsula. The money has been appropriated in Congress, the engineering has begun and has been paid for, and it will be under construction next year. Now, because of this language, the reservoir on that dam site is included in this refuge.

The PRESIDING OFFICER. The Senator from Alaska has used his 4 minutes.

Mr. GRAVEL. I ask unanimous consent for an additional minute.

Mr. STEVENS. I object.

The PRESIDING OFFICER. The Senator has additional time. He does not need unanimous consent.

Mr. GRAVEL. I am glad somebody does not have the opportunity to object to my using another minute.

Mr. STEVENS. If the Senator asks unanimous consent to get extra time, everyone else can do so.

The PRESIDING OFFICER. The Senator has time on the bill.

Mr. GRAVEL. I thank the Chair. I will use my time.

I ask Senator TSONGAS if he will be willing to continue the understanding we had in committee, and that was that hydro sites under construction be permitted to go forward.

I also ask the Senator from Colorado if there is anything wrong with having a solar collector. It has been approved by Congress and will be under contruction. So what the Senators are trying to do here is to stop this dam from going forward, and I ask that they modify their amendment to withdraw this.

Mr. HART. Will the Senator from Alaska be specific as to what his proposal is?

Mr. GRAVEL. I ask the Senator to include this language.

Mr. HART. At what point?

Mr. GRAVEL. On page 24, No. 4, the Kenai National Wildlife Refuge. It would have to be corrected to 246,000 acres. Take 6,000 acres more, if the Senator wishes, but just leave the reservoir alone.

The language that I ask the Senator to include is that in addition to the Kenai National Wildlife Refuge, exclude any land described in PLO 3953, March 21, 1956, and PLO 4050, July 22, 1966, withdrawing lands for the Bradley Lake hydroelectric project.

The entire project is less than 10,000 acres. I do not think it is proper to try to kill a hydro project about to begin construction, a safe undertaking providing renewable energy.

Mr. HART. Mr. President, speaking only for myself, as one sponsor of this amendment, what the Senator from Alaska proposes seems at this point somewhat academic, pending the outcome of the point of order relative to germaneness.

Mr. GRAVEL. This would not be thrown out of the bill.

Mr. HART. If the Senator's senior colleague prevails on his point of order, then what the Senator from Alaska is proposing would be academic.

Mr. GRAVEL. No. This is not in the section that it is hoped will be struck down by the Chair with respect to different sections and subject.

Mr. HART. But it is my understanding that the Senator from Alaska is going to seek to defeat the entire amendment.

Mr. GRAVEL. So am I, but that should not prevent us from doing what is right in the meantime.

Mr. HART. Why try to fix relatively minor parts of this amendment if the Chair rules the amendment is not germane?

Mr. GRAVEL. It is not a minor part. It is a dam that is going to cost $160 million, on which the Federal Government and the taxpayers of Colorado have spent money. I am trying to help out the Senator from Colorado, whether he believes it or not.

In case this abortion becomes law, I want it as painless as possible, and I do not want to see us denied a hydro project. This has nothing to do with what the senior Senator from Alaska is doing.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. TSONGAS. If we can have the staff take a look at the language while we resolve the other issue, I will be glad to do that.

Mr. GRAVEL. Why do we not suggest the absence of a quorum?

Mr. TSONGAS. I am more concerned about the equity issue. I want to know it since everything from this point will be determined by that outcome. I want to be honest about it and I want everybody to know where I stand. I have come a long way on this one and tried to be fair. This is the test. See where we go today and we will make our decisions accordingly every day that follows, all the way down the line.

Mr. GRAVEL. I say to my colleague from Massachusetts, do not lay on so many tests that he may regret it. I am going to offer something, if the senior Senator from Alaska does not, and it will hurt my amendment as much as this.

Do not feel sensitive. You have a time agreement, and you have been pushing for something for a year, and now it is like a straitjacket and hurts everybody. That is the stupidity of these time agreements, that you cannot have intelligent debates, that you are constrained.

If the Senator wants to be sensitive, this is not the issue on which to be sensitive, because the committee is not losing any faith with him on this. What is being lost faith with is that the Senator did not understand the language well enough on February 7, nor did I.

So if this prevails, and I will be pushing for it to prevail, I will have to redo all my amendments.

Do not give me that argument. It does not wash. If the Senator wants to get mad for any reason, he should get mad for other reasons, because I have an equal reason to get mad on this one.

If the Senator says he is purposefully knocking out a dam that is going to provide a better environment, and he says he is trying to improve the environment, I say that is fraudulent. This is a polluting bill, and this is one example of it.

These people are using fossil fuels. Tax dollars already have been spent to build this dam. It is going to be under construction next year, and these people will have cheaper power. Just as the people in Massachusetts want cheap power, my people in Kenai can have cheap power, also.

I do not understand why, after the Senator has agreed in committee that he would not touch this dam, he now surgically comes to the floor with this. Six thousand acres cuts the heart out—just a little bit. It does not touch the concrete structures, but it touches the reservoir.

If anybody should be mad, I tell the Senator from Massachusetts that here is a loss of faith, because in the committee, he excluded it, and now he includes it.

Mr. STEVENS. Mr. President, I yield myself such time as I may require.

I am delighted to hear the Senator from Massachusetts talk about keeping faith.

That BLM conservation unit on the southwest portion of the Arctic Wildlife Range was created by consensus in the committee. There was no vote. I argued as to the uses for the area, the reasons for it; I have articulated some of them here this morning.

The Senator from Massachusetts never told me that he intended to go back on the consensus we reached. If we want to talk about good faith, I will be happy to do so.

When the Senator from Massachusetts has the votes, he knows how to use them. He has been very much of a gentleman in dealing with us when he does have the votes, but he deals from power; and he is saying, "Hold on. We may have the votes here, and if we win this upcoming test vote, it is going to be hard on you." It is hard on us already.

If the Senator wishes to do to my State what this amendment would do to my State, he deserves what is going to come as a result of it.

This is our State, and we argued for those uses, and we got them because existing demands of the people in the State require recognition in terms of BLM conservation units and the recreation area.

We are talking in terms of the whole 57 million acres of land. We are talking in terms of these two types of classifications, about 2.5 million acres out of 57 million acres. We are talking about going back on consensus agreements that were made in committee. No votes; consensus agreements.

This was after days and days of discussions and maps and looking in the details and saying yes; yes, there are mining claims, yes, there is mining potential there, yes, there is a need for that kind of a unit there in place of the wildlife refuge or any other designation. We were site specific, and now this amendment wipes them out. It says give them all to one manager, a wildlife refuge manager.

I have great respect for my friend from Massachusetts. I understand what he is saying, and I am prepared to take the result of it. If the Senate wishes to side with him, then the Senate had better do it good. The Senate had better do it good because the people of Alaska are going to be most disturbed for a long period of time and so will the whole West because again I say to the Senate and to the people of the country this is just not an Alaska bill. This is a bill to set new precedents for land management in every category of the four federal systems. It changes the law with respect to national forests. It changes the law with respect to national wild and scenic river systems. It changes the law with regard to national parks and to wildlife refuges, and definitely changes the law with regard to wilderness. We will get to that later.

But this amendment in particular deals with wilderness. Read it. It deals with wild and scenic rivers. Again read it. It purports to deal only with refuges. It deals with at least three systems at once and it deals with areas. That one area up there now that will be joined together has more acreage in it than all of the wilderness systems in the whole United States including that in Alaska today.

And it is just one of the areas. It is about one-sixth of the total area covered by this refuge amendment.

I am prepared to listen to my friend from Massachusetts when he warns that if we make a point of order we will live to regret it. I intend to make the point of order here very soon, and I do believe this amendment is wrong. If the Senator wishes to delete these items, all of them—I objected before when my colleague wished to change it as to one—if the Senator wants to clean up the whole amendment and go back to our original concept the time we discussed it here on the night of February 7 when we talked about one generic amendment dealing with one system at a time, fine. There is no point of order that will lie against that. But it should not include new wild and scenic river systems.

I am asking, Mr. President, what does that mean? What difference does it make? One of the rivers in here is a study river. That means for the period of time under the law the Secretary of the Interior might study it and might later recommend to Congress that this river be included in the wild and scenic river system. This amendment puts it into the system now. There is no notice to the people involved. There is no right to be heard. There is a total denial of all the rights under the Wild and Scenic Rivers Act for the people of that area. That is a change in the committee bill.

I do not believe that it is being hardnosed to stand here and say, "You are not going to do that if I have any right to prevent it." I intend to use all the rights I have to prevent it.

Mr. President, beyond that when you take a look at this amendment, why did it include the State lands? It includes lands that are not under the jurisdiction of this Congress. They are lands selected by the State of Alaska and they are in the south portion of it, at least not within the jurisdiction of Congress with regard to whether or not the State gets them.

I do not understand the Senator's amendment to deny the State the right to select those lands, but it does take lands the State has selected which the committee excluded because they are on the periphery of the wildlife refuge, and there is no reason to impose Federal domination by a wildlife manager over lands that will be owned by the State that are on the exterior boundaries of that wildlife refuge and do not have any wildlife values.

That is the key. We convinced the committee there were no wildlife values.

The amendment of the Senator from Massachusetts comes in and puts the domination of the Federal Government over the lands the State selected under the Statehood Act. And why? Because they want to make it a wildlife refuge. But for what purpose? It has nothing to do with the wildlife values. And we cite for that the Federal Fish and Wildlife Survey, not our State, but the Federal Government.

It is true we are going to be hardnosed. I have seen Senators around here get hardnosed when their State was involved. I hope the day never comes that I am worried about some threat as to whether or not I get hardnosed. I am going to make a point of order if that amendment is not conformed to meet with the understanding that is in the Record of February 7, and I will be glad to read to the Senator from Massachusetts the very language that he and I agreed to with regard to the generic amendment. It did change the concept of touching the bill in more than one place. It did not change the rules with regard to more than one subject and it did not give the right to go into nongermane matters.

For instance, in the bill we have this section:

> To insure to the maximum extent practicable in a manner consistent with the purposes set forth in paragraph 1 water quality and necessary water quantity within the refuge.

In the amendment in several instances, as I pointed out before, there is this section:

> To maintain to the maximum extent practicable water quality and quantity and preserve the free-flowing nature of rivers and streams.

It does not limit it to the refuge and it extends to the concept of protecting the free-flowing nature of rivers and streams that continue out into State lands, into native lands, but this section imposes a domination of the Federal Government through the preemption of the Constitution, the Federal supremacy concept, to those rivers and those streams notwithstanding the fact they have already left the Federal reservation.

That is a difference in the bill. It is a difference as far as I am concerned of scope and germaneness. It is not germane to the Senate bill to extend the domination of the Federal Government to water outside of the refuge.

I hope that the Senator does realize that we are going to object, and I will not object if we have a complete modification of the amendment so it is consistent with the agreement of February 7 that we entered into here on the floor as it is written and put into the Daily Digest that is given to everyone, the calendar of business, and as articulated that night on the floor.

I will live up to anything we said that night. Make no mistake about it. I did not want this agreement in the form it is. I did not negotiate this agreement. I did not object to it because I think it is better than no agreement at all, and I did not want a bill of this complexity coming on the floor without a time agreement but with regard to these amendments the Senator from Massachusetts knows I did not want these five amendments to come up at all. I wanted to see us have an up-or-down vote on the substitute and go to conference.

Everything we are discussing, Mr. President, everything that is in the Tsongas amendment will be before the conference, and the way to run this Congress and make it make sense is to take a bill of this complexity as it comes out of the committee and send it to conference where it would meet the House committee bill head on.

It is one thing if he can win the substitute. That is another matter. That is a total change of direction. It would eliminate the conference. But to have these piecemeal amendments which in effect tie the hands of the conferees in the Senate before we go to conference I think is wrong.

Mr. President, I intend to yield the floor, and I do hope that we will see a request for unanimous consent to modify the amendment consistent with the time agreement and the discussion on February 7. If that happens I will not object. If it does not happen I do intend to pursue the point of order.

Mr. GRAVEL. Mr. President, I do intend to make a point of order at the proper time even if my colleague does not and, second, I ask unanimous consent that the colloquy that took place on the evening of February 7 be printed in the Record at this time so that Senators can examine what all parties to the negotiations said and what they meant.

There being no objection, the colloquy was ordered to be printed in the Record, as follows:

Time-Limitation Agreement—H.R. 39

Mr. Robert C. Byrd. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 442, the Alaska lands bill, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: That there be a total of 20 hours of debate on the bill, to be allocated as follows: 5 hours under the control of Mr. Jackson, 5 hours under the control of Mr. Gravel, 5 hours under the control of Messrs. Hatfield and Stevens, 5 hours under the control of Messrs. Durkin and Tsongas; provided further that no nongermane amendments be in order and that the following amendments are the only amendments that will be in order: 2 hours on each of five amendments which may be offered by Mr. Tsongas, 2 hours on each of three amendments which may be offered by Mr. Stevens, 2 hours on each of three amendments which may be offered by Mr. Jackson; provided further that on any amendments offered to the foregoing amendments, time be limited on such amendments to 30 minutes; provided further that a substitute amendment by Mr. Tsongas, if offered, not be in order until after all of the aforementioned amendments have been disposed of; provided further that no amendments to the substitute amendment be in order and that there be an up-or-down vote on the substitute amendment; provided further that time on the substitute amendment be limited to 4 hours if offered; provided further that the agreement be in the usual form and with the understanding that the bill not be called up before July 4.

Mr. Stevens. Reserving the right to object, I see the distinguished Senator from Massachusetts is here. It is my understanding that there was a discussion concerning amendments that might be offered to the substitute amendment and, in particular, the Wrangell Mountain areas were addressed. The substitute would not generally be subject to an amendment, but I thought that, in particular, the amendments of the Senator from New Hampshire would be considered as possible amendments to the substitute before it was brought up. Am I in error there?

Mr. Tsongas. Yes.

Mr. Durkin. That is two of us.

Mr. Tsongas. The agreement was that the substitute would be voted up or down without amendments if offered.

Mr. Stevens. Those amendments would be in order against the five amendments that might address——

Mr. Tsongas. That is correct.

Mr. Stevens. Is that right?

Mr. Tsongas. Yes.

Mr. President, reserving the right to object, if we could have some clarification on the July 4 day, Secretary Andrus has said if we do not move on this by April 1, he will exercise his authority under the Antiquities Act.

Obviously, I do not argue with him that he should withhold that until this can be resolved, but could we have some indication of when after July 4?

Mr. Robert C. Byrd. Yes.

If agreeable, I would ask that the majority leader be authorized to call this up at any time after July 4, after consultation with the distinguished acting Republican leader, or the Republican leader, whichever is appropriate at this time, and I would be willing to give the Senators the understanding that I would make that bill the first order of business after the Republican convention, with the condition that there not be some other measure which would be of an emergent nature which would have to come first in the judgement of practically everyone.

I am thinking, for example, let us say that there had to be an extension of the debt limit, which would not be the case in this instance, but something like that, or if there were a second concurrent budget resolution which was supposed to be in place by September 15, some type of bill of that which, obviously, ought to go first.

But I would do everything within my power to move this bill as soon as possible after the recess.

Mr. TSONGAS. I say to the majority leader that is adequate enough assurance for me and for the people I represent.

I would also say, as one Senator, that I do not expect to take the time allocated to me and I hope that attitude would be contagious when the time comes.

Mr. DURKIN. Mr. President, reserving the right to object, I would like to ask the Senator from Massachusetts a question.

It was my understanding, as we discussed this, that the substitute would be, it offered, the last, would not be in order until all the amendments had been offered, that there would be a provision to offer my three amendments with respect to hunting at the Barnard Glacier, Jacksina, and Malaspina, and the question of exploratory drilling on the North Slope, that there would still be a possibility to offer those amendments because the substitute amendment would be an amendment in the first degree, but only subject to those amendments.

Mr. TSONGAS. Well, that is not my understanding at all, because if we end up doing that, the Senator has two bites of the apple. The Senator can do it on the amendments and on the substitute. Double jeopardy is written into the Constitution as not allowable.

I have no problem with a decision to do one or the other, and the Senator can choose which one he wants. But do not have me subject to that situation where I have to run the same gamut twice.

The Senator has to win only once. I have to win twice.

Mr. DURKIN. I am not sure we are on the opposite sides, at least I did not think we were. But I will not let this fall apart because of the difference in understanding.

Mr. TSONGAS. Let me, if I may, reassure the Senator from New Hampshire that, in a practical sense, the substitute would only be offered by myself if everything else began to fall apart on me, in a need to have an up or down vote on the substitute.

I do not anticipate that happening. So what we are discussing now, in many senses, is really not likely to ever occur.

Mr. STEVENS. Will the Senator yield?

Mr. DURKIN. If I may reply, then I will be happy to yield.

I would hate to see the day where the Senator from Massachusetts and the Senator from New Hampshire disagreed and we found ourselves on opposite sides of the fence. But when we are faced with gaslines this year, I think we would have trouble explaining to the people that we represent that we had locked up the North Slope and prevented any exploratory drilling done under the most benign and safety-conscious environmental standards.

I would not want to find myself in a position of voting against the amendments that I did offer with respect to hunting at Barnard Glacier and Malaspina, and the Jacksina area.

I would add that, theoretically, we have no objection and we have no separate views. But I am afraid as it unfolds that we could find ourselves on the opposite side of a yea or nay vote. I am trying to avoid that.

But I have worked too hard on this bill to object to the time agreement.

Mr. STEVENS. Mr. President, reserving the right to object, it would be my hope we could have an up or down vote on the Tsongas substitute and then an up or down vote on the bill itself.

All these issues will be in conference. This is not the time to argue the bill on the merits.

I do want one understanding. It is my understanding from the Senator from Massachusetts that the five amendments are generic amendments. We are not limiting him to what the total content is, but there would be one park amendment, one wildlife refuge amendment. They are dealing with geographical areas and park systems or wildlife systems or forest systems or wild and scenic river systems.

Is the Senator from Alaska correct on that? Is the Senator from Alaska correct in his understanding that that is the Senator from Massachusetts' intentions?

Mr. TSONGAS. Without meaning to be evasive, since I have not seen the final language of the amendments, I would be hesitant to answer the Senator and to then be locked in. But I will send the amendments over to the Senator's office, and I suspect he is as familiar as I am with what they are generally about.

I do not think we will have a problem. But not having seen them, I could be very ill at ease making a commitment that I really would be ill-advised to make.

Mr. STEVENS. I want to make sure I understand. It is a very complicated bill. We had 44 mark-up sessions in the first instance, and about 16 this year.

I do think if we have five amendments, that we ought to have some understanding of what they are about.

Mr. TSONGAS. Let me, perhaps, illustrate. One will be on Southeast. One will be on the Artice Wildlife Refuge. One will be on the parks. I think those are familiar to the Senator.

Mr. STEVENS. Yes.

Mr. TSONGAS. And the amendments that will be introduced will be of no surprise, I can assure the Senator in that respect.

Mr. STEVENS. In connection with that, I want to make certain the amendments in the first degree to be offered by the Senator from Massachusetts will be subject to perfecting amendments.

We have had some substantial arguments as to whether certain State selections which are approved by other sections of the bill would be within or without, for instance, the Gates of the Arctic, if the Senator from Massachusetts sees fit to draw those lines in his amendment, so they might put those State selections back in the park.

I would like to have the opportunity to offer an amendment to take them out. Those amendments, perfecting amendments to the amendments, or the Senator's to mine, are not covered by the limit of three amendments I might offer.

It is my understanding we may offer perfecting amendments to the Senator's amendment, the Senator may offer them to ours. Is that understood?

Mr. TSONGAS. That is correct.

Mr. GRAVEL. Reserving the right to object, on one point, it is my understanding that in no case will there be an amendment that will be offered that is identical to the House bill, which would thereby preclude the necessity of a conference.

The second point, I have been given the word of the chairman of the committee and the majority leader that, since I do not serve on the committee, I would be appointed by the Senate to act as one of the conferees, recognizing the importance of this to my State. I am more than satisfied with that verbal commitment from these gentlemen.

Mr. ROBERT C. BYRD. Mr. President, first, let us take the substitute question.

Is the Senator correct that the House bill would not be offered as a substitute?

Mr. STEVENS. That is my understanding. The only substitute would be offered—if he determines to do so—by the Senator from Massachusetts, and it is currently known as amendment 626 to S. 9.

Mr. TSONGAS. Let me respond. I will give the Senator my assurance that H.R. 39 will not be the substitute. I do not want to get locked into the particular substitute, because perhaps there may be things in it that would require some adjustment to pick up support even among Senators here.

Mr. STEVENS. The Senator has a right to modify this substitute up to the time he offers it. But that is the basic framework of the Tsongas substitute.

Mr. TSONGAS. Yes.

Mr. ROBERT C. BYRD. Could we include in the order that no substitute would be offered that is identical to the House bill?

Mr. TSONGAS. That is correct.

Mr. ROBERT C. BYRD. I make that part of the request.

Mr. TSONGAS. I understand that Secretary Andrus is obviously a party to all this and is on the phone and would like to make a comment. I should like to respond to that phone call before we put this issue to bed.

Mr. ROBERT C. BYRD. Before the Senator from Massachusetts does that, however, let me clarify another matter.

I have included in the request that no nongermane amendments be in order. Is it understood that all the amendments that have been enumerated here are germane amendments? So that we will have no conflict in the statement that no nongermane amendments will be in order.

Mr. DURKIN. That is right.

Mr. GRAVEL. That is right.

Mr. STEVENS. It is my understanding that there will be no nongermane amendments.

Mr. ROBERT C. BYRD. While the Senator from Massachusetts is talking to the Secretary, I suggest that he tell him that the Secretary does not know how difficult it is to get an agreement, so he should not hold me up too long.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. It is my understanding that all the amendments that were enumerated—the three I might offer, that my colleague might offer, that the Senator from Washington might offer, and the five that the Senator from Massachusetts might offer—must be germane to the Senate-reported committee bill.

Mr. DURKIN. And they are amendments in the first degree.

Mr. STEVENS. And they are amendments in the first degree. The amendments in the second degree must be germane to the amendment to which they are offered. Can we have that agreement, also? That was our understanding, that they were to be perfecting amendments.

Mr. ROBERT C. BYRD. But the proviso of no nongermane amendments would rule those out if they were not germane.

Mr. STEVENS. That is correct.

Mr. ROBERT C. BYRD. But the amendments that have been defined here are definitely, germane amendments.

Mr. STEVENS. Yes.

Mr. DURKIN. Yes.

Mr. STEVENS. We are also trying to isolate issues, so that we would not expect to see an Arctic wildlife range amendment offered as an amendment in the second degree to an amendment pertaining to the Wrangells. We want it understood that we are dealing with issue by issue, and we are talking about perfecting amendments.

My good friend sees my problem. We do not want to get these issues confused in one amendment.

We might want to repeat that when the Senator from Massachusetts gets off the phone, but that is my understanding.

Mr. ROBERT C. BYRD. While the Senator from Massachusetts is talking on the phone—the distinguished chairman, Mr. JACKSON, has indicated that Mr. GRAVEL will be a conferee; and I believe that my colleagues who are present on the floor heard Mr. JACKSON say that, and I support that 100 percent.

Mr. STEVENS. May I add that, not having had any advance opportunity to discuss this with the Senator from Oregon—I did catch him as he was leaving and have discussed this with him briefly—I informed him of that condition; he indicated that that and the general outline of the agreement were agreeable to him.

I apologize to him. I must state for the Record that I did not have an opportunity, the way this came up, to discuss this arrangement with the Senator from Oregon; but he has told me that he would accept the conditions.

Mr. Robert C. Byrd. I do not want to include in the unanimous-consent request the proviso that Mr. Gravel be included as a conferee. I do not want to start doing that. But it is a gentleman's agreement and is understood all the way around, and it is supported specifically by the chairman, Mr. Jackson, that Mr. Gravel will be a conferee, and we all will work with that understanding.

Mr. Gravel. I am satisfied.

Mr. Stevens. Mr. President, the Parliamentarian has pointed out to me that I made the statement that we intended that the amendments to be offered must be germane to the Senate bill. He indicates that that may be contrary to the Senate precedents, since we also technically have the House bill present.

It is my understanding, and I hope that is the agreement, that the amendments to be offered must be germane to the Senate bill; that if a subject is not included in the Senate bill, no amendment other than the substitute—the substitute has been specifically cleared as being a complete substitute—could be offered.

Mr. Durkin. Mr. President, reserving the right to object, I am not sure that that does not add an element that we had not discussed. Covering 375 million acres, there could be areas that were deleted from S. 9 that were covered in H.R. 39; and that would preclude us from offering a refuge amendment covering areas that were not in S. 9 as a refuge. It could preclude us from offering a park amendment. It could preclude us from offering a wild and scenic amendment.

Mr. Stevens. Take the National Petroleum Reserve of Alaska. It is not included in S. 9. It is included in H.R. 39. I hope we do not have to face a series of amendments concerning an area that the Senate committee has deleted from the bill, which will be in conference, and we want an opportunity to discuss it in conference. We do not want amendments concerning an area that has been totally deleted by the Senate committee added by an amendment on the floor.

Mr. Durkin. Mr. President, further reserving the right to object, that would unduly restrict the scope of amendments that would be able to be offered on the Senate floor; and I am afraid that I would have to discuss that and the implications of that. Otherwise, I might have to object.

If the Senator would agree that the amendments be to S. 9 but not preclude any geographic area in Alaska, or any category of ecosystem protection, or one of the four systems, then I think maybe I could live with his understanding.

Mr. Stevens. To bring the Senator from Massachusetts up to date, we are talking about my comment that the amendments to be offered—the five amendments of the Senator from Massachusetts, the three I have reserved, those my colleague has reserved, those Senator Jackson has reserved—would be germane to the Senate bill. It was pointed out that that statement might be interpreted as being contrary to the precedents, since the House bill is technically before the Senate.

Normally, a matter that is germane to the House bill or the Senate bill would be in order. I said it was my understanding that these amendments must be germane to the Senate bill, that we could not go into areas that are not covered by the Senate bill in amendments, other than the Senator's substitute, which does contain areas that are in H.R. 39 that are not in S. 9.

Is that contrary to the understanding of the Senator from Massachusetts?

Mr. Durkin. While the Senator was off the floor, talking to Secretary Andrus, I mentioned my concern that we may be limiting geographic areas, one of the four systems, to substantial parts of the 375 million acres; that if the Senator from Alaska would agree that his suggestion did not preclude amendments to any of the 375 million acres or any of the four systems, then perhaps we could live with that.

Mr. Stevens. I say to the Senator that if he offers an amendment to increase the size of the Gates of the Arctic, that is germane; but if he offers an amendment to create a second Gates of the Arctic that is separate and apart from that proposed park in S. 9, then I do not think it would be germane.

We want to limit the issues so that we can get the matter resolved and get to conference. That was my understanding.

That is why we have specifically delineated an amendment that we are considering.

Mr. Tsongas. If I might respond, this is a bill of enormous significance, and I would hate, on the basis of a vague understanding of what may or may not be germane, to agree to something that is going to have implications or go on long after we are laid to rest, and I think that the time limit agreement gives us the certainty. I just do not want to turn around and wake up tomorrow and find out that I agreed to something that precludes the substance of the amendments that we are talking about.

The Senator knows very well what kinds of things we are discussing, and he knows that we are operating in good faith.

Mr. Stevens. We are talking about the NPRA. That is not in the Senate bill. It is in the Senator's substitute. It is my understanding. I have asked several times about the amendments to be offered, and it is my understanding there were amendments concerning specific matters in the Senate bill and decisions were made in the committee that the Senator disagrees with. If we are going to face the NPRA and all these other areas that the Senate committee deleted then I think we have a different agreement. We are talking about perfecting the Senate bill or facing the Senator's substitute which does include NPRA as alternatives.

Mr. Tsongas. That is not my agreement.

Mr. Durkin. If the Senator from Alaska will yield. I think that the thrust of our agreement as fashioned in the cloakroom was that the five amendments that Senator Tsongas and I have talked about involving parks in any area of Alaska, refuges in any area of Alaska, wild and scenic rivers, southeast Alaska, applying one of the four protective systems to any area within Alaska, were germane and would be not subject to a point of order or not fall without the four corners of the agreement.

I mean we are not going to try to make downtown Anchorage a national park or refuge or what have you. But by being tied just to S. 9, and even though I have lived with this thing a long time I do not have an instant recall of everything in S. 9, I am afraid we will be giving away a right to amend to say to make Porcupine National Forest the Yukon wildlife refuge.

Mr. Gravel. Mr. President, if the Senator will yield, I requested, and everyone is in general agreement, that in no case would we countenance an amendment that would be equal to the House bill. The purpose and the general agreement of that was, of course, that we would go to conference. So I think that that is our area of concern.

Mr. Durkin. I do not have any problem with that.

Mr. Gravel. I know that. I think we might solve this impasse if maybe the majority leader and the minority leader would put their minds to a modification that would say that the final disposition of this issue would be a product of the conference report, and that would lay that to rest once and for all.

Mr. Durkin. I do not know. I have been up that street once before last year with 47 sessions including 3 with the Senator in conference.

But what I want to make sure is that any part of our amendments on anyone of the four protective systems, applying to any of the area that is in question in either H.R. 39 or S. 9, is not precluded by virtue of this agreement.

If the Senator from Alaska would agree to that I think we should have the thrust of the agreement we fashioned in the majority leader's office.

Mr. Stevens. There must be a misunderstanding. I will say that, because in the conference in the majority leader's office it was my understanding that we were talking about amendments that would be germane to S. 9. We were not talking about amendments that would be germane to H.R. 39.

I might say to my good friend that I assume if he wanted to he could expand anyone of those parks to include the whole State under the germaneness rule if it were one contiguous park. We have specific areas that were left out of the Senate bill and under the circumstances if we are to preserve any issues for the conference those are the issues that should remain for the conference.

I thought we were talking about S. 9 and amendments to S. 9 or the Tsongas substitute. In the event the Senator from Massachusetts did not agree with the result of the individual amendments as they were voted on by the Senate, he had the option to offer that as a final amendment, and it does contain many of the items that were in H.R. 39 that were deleted by the Senate committee.

Mr. Durkin. Mr. President, if the Senator will yield, I do not think Senator Tsongas and I are arguing that we would not offer H.R. 39 as a substitute in toto and then try to do it in five installments and foreclose the Senator.

I say that I think, the Senator from Massachusetts and I can agree we will not try to chop the dog's tail off an inch at a time in five segments so the Senator is not precluded from a conference as long as he does not ask us to give up the ability to amend a certain area, any area in Alaska with respect to one of the four protective systems.

If we can lay this on the Record and agree to it I think the Senator is protected and we are protected.

I yield to the Senator from Massachusetts.

Mr. Stevens. There are a lot of other areas.

Mr. Tsongas. I might say to the Senator from Alaska that I engage in this agreement in some jeopardy. I have not consulted with the Alaska coalition and just now have informed the Secretary what I am doing.

I take that responsibility seriously, and I am quite willing to shoulder whatever that responsibility might be.

But to fall into a trap where without knowing exactly the details of an amendment that I have given something away, the outlines of which are very vague, is irresponsible and there is no way that I can do that.

I will be perfectly willing to give the Senator those amendments within a short period of time, and he can look at them. I do not think he will be surprised by them. We have discussed them before.

Mr. Stevens. Do they include the pet-4 reserve in Alaska? The Senator from Washington has left but as the Senator knows that was one of the areas that he specifically wanted left out of this bill.

Mr. Durkin. Mr. President, if the Senator will yield, they have already drilled 16 holes on 23 million acres. There was almost unanimity that we should encourage more drilling in the pet-4 reserve to take the pressure off Beaufort Sea which is going to have a blowout and wipe out God knows what the way the Interior Department is going. Do we want to preclude an amendment which encourages drilling in pet-4 and postpone drilling in the Beaufort Sea where there is no technology?

Mr. STEVENS. No; the conference committee can put NPRA back. It is in the House bill. It will be within the scope of the conference.

Mr. TSONGAS. We can discuss this all night long. I cannot agree in good conscience to anything other than what we agreed to in that room. I have five amendments which will include the Hart-Culver concerns, and I wanted to be free to do what I think is right and the people I represent think is right on those amendments and not to have agreed to something here the details of which are very vague in my mind.

I just would feel irresponsible agreeing to that, and the Senator can decide what he wants to do on the basis of that. I am not trying to be irresponsible. The Senator knows how I tried to deal with him throughout the whole process.

Mr. STEVENS. I understand that. I leave the matter to my colleague from Alaska. That was not my understanding in the majority leader's conference room. I thought we were dealing with amendments that were germane to S. 9 and I so stated before the argument started, and it was pointed out by the Parliamentarian it might be inconsistent with the precedents of the Senate.

Mr. DURKIN. We can do anything but amend the Constitution by unanimous consent.

Mr. STEVENS. I understand that, and that is what I was trying to do.

Mr. DURKIN. Could I propose a resolution of this, that we will not offer H.R. 39 as a substitute either in toto or in five installments and we will not be precluded from trying to attach any one of the four protective systems to any geographic area of Alaska, whether it is in S. 9 or H.R. 39?

I think we are protected and you are protected and it is laid on the record. We just do not want to be surprised.

You know, you heard the story, about the guy playing cards. He has an act, three, five, and seven and he wins the pot. The guy says, "Well, look at the sign 'Old Cat beats anything in the house.' "

So 3 hours later he has bet the wife, the cattle, the ranch, and he has ace, three, five, and seven and he loses to a pair of deuces. The other guy says to him, "Look at the other sign, 'Old Cat only wins once a night in this place.' "

We just do not want to get involved in such a situation.

Mr. TSONGAS. I would just point out for the record that that is a Massachusetts anecdote.

Mr. STEVENS. I find myself in the position of having argued for a time agreement for some time but not being entirely secure in the outline of this time agreement in terms of the fact that we may face entirely new areas that are not within the Senate bill.

Again, my colleague from Alaska, Senator GRAVEL—it is a good question, if he wishes to proceed and get the agreement, then I think it is an agreement and it is going to make the job much tougher because until we see those amendments we do not know what we are talking about.

Mr. GRAVEL. Let me just say that I have no motivation at all to proceed with the bill. I am the last one to come in the room, so I feel there is no question but that we are in jeopardy. If a bill is passed, I appreciate the Senator's concern.

Mr. STEVENS. I would really like to see the Senator's amendments, and I will say to my good friend from West Virginia I think I have a genuine disagreement or misunderstanding on the germaneness rule, and I started this discussion on the basis, and that is apparently where we are hung up. If we could make the agreement contingent upon our seeing those five amendments, with the opportunity to vitiate the agreement if we have basic concerns later on either side, it would be all right with me.

You have not seen mine either, but I can assure you mine are germane, and I think you know what they are. But I do not know what is going to happen in any new areas. We could be looking at a whole new configuration of these parks in areas that are not—four areas that are not—within the bill.

Mr. TSONGAS. Mr. President, if the Senator will yield, perhaps the resolution of this would be to agree subject to the parties' seeing the amendments of the other parties when we come back and have a session, but with the understanding that we would vitiate the agreement only—well, there is no point in getting to that.

Mr. ROBERT C. BYRD. Yes, I think it should be "only." I do not think we ought to open up a lot of doors by which the agreement could be vitiated. There is genuine concern about the contents of these amendments. If we could condition it on that——

Mr. TSONGAS. Yes. The concern is about the amendments being substantive not, perhaps, a nit-picking procedure, and there is, perhaps, nothing that I would offer that has not been talked about long before this session began.

Mr. ROBERT C. BYRD. Could we carefully state the condition on which the agreement might be vitiated so that we could proceed?

Mr. STEVENS. So far as I am concerned I would like to have the right to vitiate any agreement if the amendments offered by the Senator from Massachusetts go beyond the concept of dealing with the areas that are covered by the Senate bill to the extent that I think it becomes a bill that, if passed, would not go to conference. I do believe that you could end up with a bill here that the House would take and we would not get to conference at all. Those areas we deleted make the bill conferential, and it means they would be resolved in conference. That is where I want this bill to be written, in conference, if at all possible.

I am prepared to enter into an agreement. I want to work it out with the Senator, but I am sure he can see if we end up with a bill that is entirely acceptable to the Alaska Coalition and to the administration but is going to not get through conference we do not have any chance. There are some things in the House bill we would like to see in the Senate bill. They are not in there because we knew we would have those to discuss in conference.

Mr. DURKIN. Mr. President, will the Senator yield? That is why I think what I have proposed, that we will agree not to replace H.R. 39 in five installments, and you agree not to foreclose—not to apply the germaneness rule to any geographic area in any one of the four protection systems, because under what you are saying you can end up in conference, and the only issue that would be in conference would be whether it is the Yukon Wildlife Refuge or Porcupine National Forest, and nothing else would be within the scope of the conference.

Mr. STEVENS. No. I understand. I think the amendments the Senator from Massachusetts is going to offer—and we have been over it enough to know the boundaries and the boundaries of the Senate bill or the House bill and the original coalition bill, it seems to me that is what we ought to be dealing with, not whether we are going to create additional areas that go beyond the bill that is before the Senate.

Mr. DURKIN. Mr. President, will the Senator yield? What about, say, we come in with a refuge amendment and sweep in the entire North Slope in the amendment, Pet 4 all the way to the Canadian border. Under what you are asking that would be nongermane except as it related to areas already in S. 9.

Mr. STEVENS. I am sure the Parliamentarian will tell you that if you extended it to cover the whole of the Arctic it would be germane, but if you created contiguous areas, areas not within the Senate bill under my interpretation they would not be germane, the new areas not covered by the Senate bill, the individual areas, would not be germane.

Mr. TSONGAS. Is the Senator concerned about a particular amendment?

Mr. STEVENS. I am particularly concerned about all NPRA. I think the Senator from Washington would agree that if we have separate legislation, the President has recommended a course of action concerning it. We left it out intentionally and the House put it in intentionally, and I do think that is a conferential item, and the kind of item that ought to be considered between the two Houses and not foreclosed here by an amendment which makes the NPRA a part or somethink like that, of a wildlife refuge.

Mr. TSONGAS. Does the Senator have potential objection to that one issue?

Mr. STEVENS. It is primarily that issue and also the question of the interior forests and what would happen to those interior forests. I have no idea what your amendment does with that.

Mr. TSONGAS. That makes two of us.

Mr. STEVENS. I just think it would be better if we had the right to—let us enter an agreement—you have not seen my amendments either. They might send you up the wall. But I do not think they will because I think we want to get the matter in conference.

Mr. TSONGAS. I think at this point we either have to be operating on good faith and show each other our amendments and then see where we are—the disadvantage that I have is that you know Alaska much better than I do by definition, and for me to enter into an agreement with considerably less knowledge, representing an entire movement that has spent years on this, not knowing what I am talking about I just do not think is proper. That is the basis for my hesitation.

Mr. DURKIN. What about letting it go over until morning

Mr. STEVENS. Take the Susitna River. It was included in the House bill and not included in our bill, and we have a very vital interest in the Susitna River. If we do not find it in the House bill we are not going to face it as a wild and scenic river. It will be in conference, however, because it is in the House bill, and it would apparently be germane in the House bill, an amendment in the House bill, since the Senate rules pertain to germaneness over House bills. We could argue over individual issues that were settled in over 60 committee meetings during the past 3 years.

Mr. DURKIN. I think we have made a lot of progress. I think we have the framework.

Mr. STEVENS. Can we not get the time agreement subject to a conference? I do trust my friend from Massachusetts. As a matter of fact, we have never failed to reach a final amicable resolution of what is a fair balance. After you see ours and I see yours, we will sit down with the Parliamentarian and work it out on the basis of a comity as it is fair. I am not seeking to rewrite the Senate rules, either.

But I do not think we ought to face every one of those issues that we created to have conferential items with the House on a basis that wipes out our conference.

Mr. Durkin. Well, Ted——

Mr. Robert C. Byrd. Mr. President, may we observe the Senate rules? I do not want to throw a thorn in this. But could we address the Chair and address Senators in the third person?

Mr. Stevens. Yes.

The Presiding Officer. The majority leader's point is well taken.

Mr. Gravel. I think we are preciously close to an agreement. What has been propounded by the majority leader is satisfactory, that it could be vitiated if there is disagreement on the issue of germaneness to the amendments submitted by all parties, that that should be done as soon as possible in the next 30 days, and that would be the only grounds for a vitiation of the agreement. That seems adequate. No one is giving up a thing. We will see everybody's amendment. If there is a germaneness dispute, and it is only to the ground of germaneness, then we could vitiate the agreement. Does that come close?

So, if the Senator from Alaska looked at your amendment and said, "This, in my mind, is not germane," that vitiates the agreement. But at least we have made a step in the right direction. And there is no doubt to what the majority leader wanted to do and that was only to have a vitiation as a result of one particular item.

Mr. Tsongas. Will the Senator yield?

Mr. Gravel. Yes.

Mr. Tsongas. My concern is what happens if we get to a point where an amendment could be objected to on the issue of germaneness and yet be clearly within the spirit of the negotiations for the past year plus.

Mr. Gravel. Then my colleague is back to the point where there has not been a clear case of good faith, and that somebody is using a device to thwart the realization of this agreement. Other than that, we can make some progress tonight on this. And if, later on, there is acrimony, then this agreement will be vitiated.

At least we are starting out with the desire to do that. As has been stated by my colleagues, in the past these areas have been accommodated by the goodwill of the people involved.

Suppose, in my case, people are suspicious that I might want to sabotage this. I will look at your amendments and say, "To me, they are not germane." That kills the agreement.

But I am prepared to exercise an agreement, because I feel all parties will act in good faith. They may not.

Mr. Tsongas. If I could have the agreement that we could be subject to a response that says: "Yes, we expected these amendments. We have been discussing it for a year and a half. It is proper that you bring it up. We have got to get the issues resolved, but there is a germaneness problem."

Mr. Stevens. Will the Senator yield?

Mr. Tsongas. Yes.

Mr. Stevens. Could we have the agreement and the understanding with the Senator from Masachusetts that we will all submit the amendments to the Parliamentarian within 30 days and we will have his decision as to whether the amendments are germane to the House bill, are they germane to the Senate bill, and the ones that would not be germane to Senate bill but are germane to the House bill will be the subject of a conference? If they clearly violate the spirit of the conversation we have had here tonight, if that is the determination, then the majority leader or minority leader can vitiate the agreement.

Mr. Durkin. Mr. President, reserving the right to object, what sort of a framework do you contemplate? Would the ruling of the Parliamentarian be subject to appeal?

Mr. Stevens. I am just saying if the majority leader and the minority leader, based upon the advice of the Parliamentarian think these amendments would violate the agreement, they may vitiate the agreement. They may not, too. They may determine to go ahead with it. But we will leave it to their option on the basis of the comity and if they feel that either of us is seriously grieved by the procedures that have been followed——

Mr. Durkin. Reserving the right to object, you say the Susitna is not in the Senate bill?

Mr. Stevens. No, it is not. It is in the substitute of the Senator from Massachusetts.

Mr. Durkin. And if the Senator from Massachusetts or anyone else would offer an amendment to make the Susitna a wild and scenic river, is it your opinion that it would be nongermane under the agreement that is propounded?

Mr. Stevens. It would depend on the way it is done, really. Because the wild and scenic rivers are a series of rivers and the Susitna could be connected in a manner that would make it germane.

Mr. Durkin. Say the dam site, the place where you have contemplated putting the dam, and we made that a wild and scenic river of a national park with the highest degree of protection, is it your view of this unanimous-consent agreement that that would be nongermane because it is not addressed in any way?

Mr. Gravel. Wait a minute. You are pushing me on that. You are getting into the merits of the situation. The Congress has already acted to authorize this dam site and the State is expending millions of dollars on this project. The Federal Government has already expended unusual sums. And now to act to preclude the people of Alaska, in this period of an energy crisis, to not enjoy a renewable resource is really preposterous.

Mr. Durkin. Will the Senator yield? You know, we damn near got killed looking at that dam site flying in that little plane.

Mr. Robert C. Byrd. Mr. President—go ahead and finish your sentence.

Mr. Durkin. The Susitna was brought up. I am not arguing about the Susitna itself. But we are sort of like the blind man feeling the brown bear, not quite sure what we are up against. And we do not want to foreclose the ability to offer an amendment involving any one of the four prospective units or systems to any geographic area in the State of Alaska. We will agree that we will not replace. H.R. 39 in five installments.

Mr. Gravel. Will the Senator yield? With the suggestion I made, not even tying it down to the Parliamentarian, if you wanted to move to vitiate the agreement because you felt that there were things happening on the basis of germaneness of the amendments, then you could do that. There is really no diminution of any individual's preogatives in this agreement, except that if we do go forward in the spirit of comity to try to arrive at something, to accommodate the difficulty of leadership.

You could do the same thing as I could do if you want to vitiate it later on these grounds.

Mr. Durkin. Will the Senator yield? Maybe the majority leader could help me answer this question. If we do that, do we really have a unanimous-consent agreement or do we have an agreement to try to reach an agreement?

Mr. Robert C. Byrd. I think you would have an agreement that could be vitiated on certain conditions.

Mr. Stevens. Will the majority leader yield?

Mr. Robert C. Byrd. Yes.

Mr. Stevens. Does the majority leader feel uncomfortable with the suggestion I made that the final decision would be made by the leadership? I have discussed the matter with the Senator from Massachusetts. I think he and I have the same feeling; and that is if the final decision would be such that we feel that somehow or other we have been totally betrayed by the system, we want out. But it would have to be a total betrayal to get to that point. And I trust the leadership to make that judgment and he apparently would, also.

Is that agreeable with you? We have an agreement subject to being vitiated by the leadership if they feel we are so disturbed that it might affect the future operation of the Senate?

Mr. Durkin. What is your definition of "total betrayal"?

Mr. Stevens. That was the concept of my friend from Massachusetts and I felt very akin to those words.

Mr. Tsongas. If the Senator from Alaska would delete the word "total" and accept the word "betrayal," I think we have an agreement we can all live with.

Mr. Stevens. The condition is that we have gotten an agreement, subject to being vitiated by the minority leader and majority leader, if they are convinced any one of the parties involved has really been misled by this concept.

Mr. Durkin. Reserving the right to object, I do not want to have this more involved than we already have it, but I am not sure what the procedure to vitiate is, what the form is for deciding whether it can be vitiated or not, and the framework that the trier of the fact, if you will, will utilize to determine whether there has been betrayal to cause vitiation.

Mr. Tsongas. If the Senator will yield, if we ended up in a situation where I offered my five amendments, and those were no surprise to anyone, particularly in view of their being discussed for these many months, and they were presented to the Senator from Alaska who said, "No; you cannot have one of these for purely parliamentary reasons in the process," that process would so undermine this environmentalist effort that I could see that I could not proceed in good faith and I could go to the majority leader and say that the spirit of the last 13 months has been betrayed. I would ask him to honor my request to vitiate the agreement. We have been through a number of amendments and a number of controversies and have been able to work them all out. Here we are discussing a hypothetical. I hope that since we have gone this far, we can continue on.

Mr. Stevens. I am prepared to accept that. The majority and the minority leader together can authorize committees to sit in the afternoon, they can do a lot of things contrary to the rules, if they both agree. They both would have to agree to this. I do not see any reason why we cannot give that power to them.

Mr. Robert C. Byrd. Well, if it is agreeable to all parties.

Mr. Durkin. While we are waiting for Senator Gravel, can I ask another question of Senator Stevens?

Mr. Robert C. Byrd. Yes.

Mr. Durkin. Under the agreement to vitiate if somebody cries foul, what about if there is a totally different treatment of Misty Fields?

Mr. Stevens. It would not surprise me that it would be germane. Misty Fjords is in the bill. You can rename it or refigure it, or do almost anything you want with it. It would not be a new area. But if you went to some other islands in southeastern not covered by this bill, subject to existing contracts for cutting, and you said you wanted to make that into the Purple Fjords, then I would say you had violated the spirit of this agreement.

Mr. Durkin. What about if we proposed that the Admiralty Islands be a wilderness; would that be germane?

Mr. Stevens. When we talk about S. 9, we are talking about the Senate committee version, I assume we agree with that, as reported to the floor of the Senate. It is in

S. 9. It would be germane to do whatever you wished to do with the Admiralty Islands. That does not foreclose me from being as vociferous as I can about what you might propose.

Again, I am trying to avoid getting new areas in here and, in effect, making this bill a bill that covers areas we have not even prepared studies on. We have areas that have been suggested by the coalition and we have not even studied them. They are coming up with new ideas for new parks and new wildlife refuges that none of us have discussed. I think that would be unfair, if we came in with something that none of us has reviewed and we had no idea as to what was going on. Some of those are NPRA, incidentally. They have ideas of new refuges that we have not even looked at. That is all I am saying, for us to talk about existing areas, and the expansion, redefinition, reclassification. Those are entirely germane.

But I do not want to face the problems of having entirely new concepts come on the floor of the Senate that we are not prepared to meet. That is what I would say would be unfair from my point of view. I do not think the Senator from Massachusetts feels contrary to that, but I do think that there are some who do confer with my good friend who might suggest such an avenue of approach.

Mr. Robert C. Byrd. So what is the condition, if I can ask the distinguished acting minority leader? What is the condition by which the agreement could be vitiated?

Mr. Stevens. If after consultation with the Parliamentarian one of us raises the question of a departure from the understanding, and the majority and minority leader are convinced together that that is the case, the majority leader could vitiate the agreement. He might not even call it up under those circumstances.

Mr. Robert C. Byrd. One further question: When the Senator says, "all of us"——

Mr. Stevens. I am talking about those of us who are involved, the Senator from Washington, the Senator from Oregon, the Senator from Massachusetts, the Senator from New Hampshire, and the two Senators from Alaska.

Mr. Robert C. Byrd. Very well. Is that agreeable?

The Presiding Officer. Is there objection? Without objection, it is so ordered.

Mr. Robert C. Byrd. I thank the Chair and I thank all Senators.

Mr. GRAVEL. Mr. President, when will this matter of the point of order be in order? I was the one who raised it yesterday with the Parliamentarian. We had an agreement that was circulated. I examined the agreement. Everyone signed off on it. Then I changed my mind on it. I felt that even though it would injure my amendments it was more proper to seek this agreement and have some clarity. So if it is in order I will make an objection.

The PRESIDING OFFICER. It is not in order. The proponents still have time available to them. Until such time as their time has expired this point will not be in order.

Mr. GRAVEL. I thank the Chair.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS. Mr. President, I yield time from the bill to the Senator from Idaho.

Mr. CHURCH. I thank the Senator very much.

Mr. President, I rise in support of the amendment offered by the senior Senator from Colorado (Mr. Hart) and several others. I am pleased to say that I am a cosponsor of this amendment, which has as its primary purpose the addition of some 14.5 million acres of wildlife habitat to the wildlife refuges proposed in the Energy and Natural Resource Committee's bill.

In reviewing the merits of this amendment, I would suggest Senators ask themselves the following four questions:

First, should those Federal lands in Alaska with high wildlife values be managed under a single cohesive management framework by the professionals of the Fish and Wildlife Service, or should they be divided up among several jurisdictions and managed by several different Federal agencies?

Second, should wildlife refuge boundaries be established on an ecological basis, that is, should we attempt to protect whole watersheds and ecosystems, or should upland watersheds and certain wildlife habitat lands be deleted from the refuges?

Third, should the State of Alaska be allowed to select, as part of the statehood selections, federally-owned wildlife lands which are not now open to such selection?

And, finally, what percentage of revenues from mineral leases on National Wildlife Refuge land should Alaska receive? Should Alaska get 25 percent of the total as the other States do, or should they continue to receive 90 percent of the mineral leasing revenues as provided in the committee's bill and existing law?

If Senators believe, as I do, that Fish and Wildlife Service biologists and managers ought to be in charge of overseeing key wildlife habitats in Alaska; that the boundaries of the wildlife refuges created or expanded by this bill should be based on ecological criteria; that Alaska should not be able to select vital public wildlife lands that they cannot select under current law; and that Alaska should receive the same percentage of revenues from mineral leasing on Federal wildlife refuge lands as do all other States, then they should support the adoption of the amendment.

Mr. President, instead of going into further detail about the merits of this amendment, I ask unanimous consent that a summary of the amendment and the separate views on wildlife refuges, which I authored along with Senators Ford, Metzenbaum, and Tsongas, and which appeared in the Energy Committee's report on this bill, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Summary of the National Wildlife Refuge System Amendment

Sponsors: Hart, Chafee, Randolph, Culver, Church and Tsongas.

A complete substitute for Title III, this amendment restores key wetlands and watersheds to the National Wildlife Refuge System. 14.5 million acres deleted by the Energy Committee to accommodate development interests are designated as refuges by the amendment. Related issues under the jurisdiction of the Environment and Public Works Committee also are amended.

Kanuti National Wildlife Refuge; Energy Committee: 1.42 million acres; Refuge Amendment: 1.45 million acres. Kanuti is an important waterfowl area and provides habitat for portions of the Western Arctic caribou herd. The small addition protects a watershed.

Kenai National Wildlife Refuge; Energy Committee: 240,000 acres; Refuge Amendment: 280,000 acres. Additions to the Kenai Moose Range restore lowland wildlife habitat deleted by the Energy Committee.

Kodiak National Wildlife Refuge; Energy Committee: 50,000 acres; Refuge Amendment: 57,000 acres. The Refuge Amendment designates Ban Island as a refuge primarily to protect bear denning habitat.

Koyukuk National Wildlife Refuge; Energy Committee: 3.535 million acres; Refuge Amendment: 3.650 million acres. The Koyukuk Refuge provides the breeding grounds for a quarter of a million ducks that enter the continental flyways. The amendment perfects the Energy Committee's boundaries through the addition of more watershed lands.

Nowitna National Wildlife Refuge; Energy Committee: 3.07 million acres, BLM-managed Nowitna National Conservation Area; Refuge Amendment: 1.720 million acre Wildlife Refuge. This entire area was designated as a BLM conservation area by the Energy Committee to allow mining, logging and other development. The amendment establishes this extremely productive area, which hosts a quarter of a million waterfowl annually, as a National Wildlife Refuge.

Togiak National Wildlife Refuge; Energy Committee: 3.310 million acres; Refuge Amendment: 3.840 million acres. The Refuge Amendment restores watersheds of river systems having important commercial, subsistence, and sport fishing values.

Selawik National Wildlife Refuge; Energy Committee: 2.15 million acres; Tsongas-Roth: 3.30 million acres; Refuge Amendment: 2.39 million acres. In order to include more coastal wetland habitat and more watersheds in the refuge, the amendment designates 240,000 additional acres. The amendment represents a significant compromise from the Tsongas-Roth Substitute: The Squirrel River is designated as a wild river but its drainage is not added to the refuge.

The William O. Douglas Arctic National Wildlife Refuge; Energy Committee: 5.5 million acres; Refuge Amendment: 9.9 million acres. By designating about half of the proposed additions to the Range as the Porcupine National Forest and BLM-managed Chandalar Conservation Area, and by deleting land for state selection, the Energy Committee drastically reduced protection for this outstanding habitat for the Porcupine caribou herd. The Refuge Amendment restores this 4.4 million acre area.

Yukon Delta National Wildlife Refuge; Energy Committee: 11.13 million acres; Refuge Amendment: 13.40 million acres. Two hundred million birds visit the Delta each summer as they migrate through and nest in the area. The Energy Committee deleted over 2 million acres of prime habitat for raptors and anadromous fish. This acreage is restored to the refuge by the amendment.

Yukon Flats National Wildlife Refuge; Energy Committee: 5.71 million acres; Refuge Amendment: 10.68 million acres. The Energy Committee turned over about one-half of this refuge to the state, the BLM and the Forest Service for a host of incompatible uses. The Committee imposes a confused management system whereby three Federal agencies would manage the area. The Energy Committee's designation of the BLM-managed White Mountains "National Recreation Area" is designed to allow mining and related development in this upland watershed of the Flats. The Refuge Amendment restores complete protection for the Yukon flats and its surrounding watersheds.

Policy Provisions of the Refuge Amendment:

Authorizes a three year study of the bald eagles in the Chilkat River valley, which hosts the world's largest concentration of wintering eagles.

Authorizes a study of the Western Arctic and Porcupine caribou herds and directs the Secretary of the Interior to enter into treaty negotiations with Canada to protect all caribou that migrate between the two countries;

Allocates revenue from oil and gas leases on refuges in Alaska pursuant to the Refuge Receipts Act;

Makes other changes in management policy.

ADDITIONAL VIEWS OF SENATORS CHURCH, FORD, METZENBAUM, AND TSONGAS

WILDLIFE REFUGES

We believe the Committee's decision to establish extensive national forest and Bureau of Land Management (BLM) conservation areas—both intended for multiple commodity uses—instead of national wildlife refuges in portions of Alaska deals a severe blow to the goal of achieving efficient, quality wildlife protection. Although we are pleased that the Committee added refuge lands in a few areas that were deleted in last year's Committee bill, we are disappointed that the bill as it now stands still fails to adequately protect federally owned wildlife habitat in Alaska.

The Committee has taken the existing Yukon Flats National Monument and other areas from the House bill that would be managed as a single, integrated system under one agency, and divided it among three different agencies. Dividing up these wildlife-rich areas among several agencies can only result in proliferating bureaucracy and conflicting management policies and procedures. In opposing the Committee's substitution of Forest Service and BLM management for Fish and Wildlife Service management of these nationally important wildlife habitats, we do not question the general capabilities of either the Forest Service or the BLM. We simply recognize that because of broad, sometimes conflicting mandates and lack of specialization in wildlife, neither of these bureaus is the appropriate agency to manage the lands in question. The Fish and Wildlife Service's primary mission is the protection of wildlife and wildlife habitat. To the extent that economic developments are compatible with wildlife habitat protection, the Fish and Wildlife Service can and does allow such use.

The voluminous studies on the Alaska national interest lands—studies conducted by the federal government, the state government and universities among others—make it abundantly clear that the lands in question are very high in value for wildlife and very low in value for commodity uses such as timbering, farming or mining. Under previous acts of Congress, the state and Native corporations have already selected the Alaska lands most valuable for commodity development.

THE INTERNATIONAL IMPORTANCE OF ALASKA'S FISH AND WILDLIFE

A large portion of the migratory waterfowl within the continental United States originate from breeding grounds in Alaska. Birds that summer in Alaska fly to virtually every state in the union, and Alaska is a focal point for the birds of three continents—the terminus of migrations which start in Argentina, Tasmania, South China, Cape Horn, Hudson Bay, and Siberia.

Species that are threatened or endangered elsewhere still thrive in Alaska. It is the major stronghold of the American bald eagle, and it is the only place where healthy populations of peregrine falcons successfully nest. Some bird species, such as the dusky Canada goose and the emperor goose, breed nowhere else in the world.

The great wildlife spectacles of our northern frontier are not limited to migratory birds. The same land and water that supports uncounted millions of birds provides habitat for a broad spectrum of mammals and fish. Barren-ground caribou, Dall sheep, and polar bears are resident species of Alaska found nowhere else in the nation. This is the only place in America where the grizzly bear and the wolf still roam in great numbers over a vast, undisturbed landscape. Alaskan waters support a priceless fishery and many species of marine mammals.

The proposed national wildlife refuges would protect habitats for a diversity of fish, birds, and mammals rivaling the marvels of Africa's Serengeti Plains. The major federally-owned wetlands and associated uplands vital to sustaining these nationally important fish and wildlife resources are encompassed within the proposed refuges. Preservation of this habitat is essential if we are to meet our international obligations for the protection of migrating birds, polar bears, caribou, and other species, many of which are covered by treaties which the Senate has ratified.

DIFFERENCE BETWEEN MANAGEMENT OF LAND BY THE FISH AND WILDLIFE SERVICE, FOREST SERVICE, AND BLM

At the turn of the century, Theodore Roosevelt used national forest reservations as one of the main legal tools to protect public lands from rapid, short-sighted exploitation. For example, in 1907 the Chugach and Tongass National Forests in Alaska were established in large part to protect wildlife. While Roosevelt was placing vast acreages in the national forests, the national wildlife refuge system was in embryonic form.

Today the situation is vastly different. The Fish and Wildlife Service manages our national wildlife refuge system, encompassing over 40 million acres, in 338 units. Preserving scenic, recreational, and historic values—in addition to critical wildlife habitats—our refuge system attracted some 30 million visitors in 1977. Under the Refuge Administration Act of 1966, economic development of refuge units is allowed if such uses are compatible with wildlife.

The addition of the proposed Alaska refuges would place key staging and breeding areas for migratory birds under the same agency which already manages the "lower-48" resting and wintering areas for these birds. It would ensure research and management continuity for our migratory bird population. Furthermore, our refuge system is intended to protect the full range of our nation's diverse wildlife habitats, including marine and upland areas. In sum, this integrated system, together with our national park system, is the world's largest system of lands dedicated to wildlife protection.

The Forest Service, in contrast, functions under a broad, multiple-use mandate and wildlife, despite the best intentions of Forest Service managers, sometimes get short shrift. For example, of the three islands in the Tongass National Forest that Theodore Roosevelt proposed to set aside as national bear refuges (Admiralty, Baranof, and Chichagof Islands), only one has been spared extensive clear-cutting.

There is a major difference in the agencies' wildlife research programs. By regulation, Forest Service research monies are tied up almost exclusively to habitat and opportunities for habitat manipulation. The Fish and Wildlife Service, on the other hand, has the directive and expertise to consider not only habitat and habitat manipulation, but the fundamental population dynamics and ecology of wildlife species themselves. The status of wildlife populations are routinely assessed and reported on our refuge units, and the Fish and Wildlife Service is conducting long-term research programs examining the dynamics of waterfowl and other wildlife populations. This is essential in developing a management scheme which will ensure wildlife populations far into the future.

Like the Forest Service, the Bureau of Land Management operates under a broad multiple-use charter, although its organic act is much newer than the basic laws governing the Forest Service. To place proposed national wildlife refuges under the Bureau of Land Management would be inconsistent with the Senate's intent in enacting Public Law 94-223. Amendments to the National Wildlife Refuge System Administration Act. That law was intended to correct deficiencies in the Executive Orders which established four national wildlife refuge system units under the joint jurisdiction of the Fish and Wildlife Service and the BLM. Public Law 94-223 was enacted to end this costly, counter-productive joint administration and to prevent the Interior Department from placing two of the wildlife ranges under the sole authority of the BLM. The Congress decided that the Fish and Wildlife Service was the proper agency to manage these nationally important wildlife habitats. As the Committee report on this bill observed:

> Clearly, the record of the BLM's wildlife management has not been an encouraging one. The reason for this undoubtedly arises from the fact that BLM has a number of other important missions such as mining, logging, livestock grazing, and fossil fuel development which often conflict with wildlife management. In performing these conflicting missions, BLM is unable to devote sufficient attention to the needs of wildlife. In short, its mission is not wildlife protection or enhancement. In contrast to the BLM, the Fish and Wildlife Service has as its basic mission the protection and enhancement of wildlife. The agency's entire resources are directed towards this goal. (Report No. 94-593, pp. 4-5.)

REFUGES CARVED UP AMONG AGENCIES

Despite these nationally important wildlife values, the Committee chose to create an array of BLM, Forest Service, and state selection areas out of the proposed refuges.

ARCTIC NATIONAL WILDLIFE RANGE ADDITIONS

Protection of the Porcupine caribou herd, America's largest remaining herd, is one of the main reasons for expanding the Arctic National Wildlife Range. Survival of one-half of the nation's caribou depends upon protecting this vast range in an undisturbed condition. The Canadian government is now taking steps to set aside a national wilderness park for its portion of the caribou range. The Committee segmented the herd's range into a BLM conservation area, national forest, refuge, and opened part of the area to state selection. Dall sheep range in the western part of the range addition is divided among the BLM, the state and the refuge. One of Alaska's three remaining healthy peregrine falcon populations, and wintering grounds for the Porcupine herd were placed in a Porcupine National Forest.

COPPER RIVER DELTA WILDLIFE REFUGE

Currently under Forest Service jurisdiction as part of the Chugach National Forest, the delta hosts over 20 million migrating waterfowl and shorebirds. For Pacific flyway waterbirds, it is a staging area of unparalleled importance in the north.

Because of concern over Forest Service management practices and objectives, and because of the Fish and Wildlife Service's expertise in managing wetland habitats, the House established a Copper River Delta National Wildlife Refuge. The Committee, however, opted to keep it in the National Forest and adopt some vague wildlife protection guidelines for Forest Service management.

Present Forest Service management practices in the Copper River Delta illustrate the problem with their management of prime wildlife areas. The Forest Service's highly touted cooperative trumpeter swan management area in eastern delta is largely a cosmetic measure. The boundaries were drawn with little regard to swan distribution and ecology and, in fact, exclude areas which might conflict with other land uses (such as the contemplated timber sale and road construction at Redwood Bay) even though those areas are frequented by the trumpeter swan which will remain in federal hands and, as such, it is critical that its management be integrated into the nationwide swan management scheme.

In the case of the dusky Canada goose, the entire world population of which nests in the Copper River Delta, we have the chance to place all the key habitats for a single species under the management of one agency, the Fish and Wildlife Service. These geese winter on existing refuges in Oregon. From the standpoint of continuity, it is essential that both winter and breeding habitats are under the same agency. Forest Service management would complicate development of a cohesive long term research and management program.

NOWITNA NATIONAL WILDLIFE REFUGE

Riverine wetlands of this area produce a fall flight of nearly a quarter of a million waterfowl, most of which follow the central and Mississippi flyways to the lower 48 states. The Nowitna has some of the highest waterfowl nesting densities in the state. The area is a key nesting site for white-fronted geese with a breeding population of 35,000. It also supports a breeding population of 17,000 Canada geese and about 60–100 pairs of nesting trumpeter swan, the only expanding swan population in Alaska.

The Committee established no refuge in this area, placing virtually the entire unit under BLM management. Some wetland and floodplain habitat, important for waterfowl, trumpeter swans, furbearers, and moose was opened to state selection.

SELAWIK NATIONAL WILDLIFE REFUGE

Located near the avian crossroads of North America and Asia the Selawik is a seasonal home for about 109 species of migratory birds from at least six continents. The proposed refuge also hosts another great wildlife migration—the annual trek of the Western Arctic caribou herd from summer range in the north slope to breeding and wintering areas on the south slope. The traditional rutting (breeding) grounds of this herd plus a portion of its migratory route and wintering range are in the Squirrel River drainage. Other fish and wildlife include Dall sheep, moose, wolves, a large concentration of grizzly bear, and a large chum salmon run.

The Commitee dropped the Squirrel River drainage, approximately 870,000 acres, from the refuge and placed it in a BLM area. As with the Porcupine caribou herd to the east, this unnecessarily fragments important caribou range and introduces the possibility of incompatible development into the area. For reasons wildlife biologists do not yet understand, the Western Arctic herd has declined precipitously in recent years. Restoration of the herd will require the maximum degree of habitat protection. The Committee bill would lessen the level of protection.

YUKON FLATS NATIONAL WILDLIFE REFUGE

Rather than dismembering the existing Yukon Flats National Monument as the Committee bill proposes, we should be confirming its protected status. The Yukon Flats is one of the most productive waterfowl nesting areas in the world. It is considered to have the highest sustained rate of waterfowl production in North America. The area produces a fall flight of over 2 million ducks which migrate to all parts of the lower 48 states, Canada and Mexico. Fifteen to twenty percent of the total continental population of canvasbacks comes from the Flats. These population estimates represent average years. When drought occurs in the Canadian prairie, the stable habitat conditions of the Flats serve as nesting areas for birds at this time. With the continual loss of habitat in Canada and our northern prairie states, the value of the Yukon Flats can only increase with time.

Mammals found in the Yukon Flats include major populations of grizzly bear, moose, black bear, marten, beaver and other furbearers. There is an annual escapement of approximately 270,000 salmon from the area. The national value of this wildlife area was recognized when a nation-wide outpouring of concern quashed the proposed Rampart Dam which would have flooded the Yukon Flats.

The Committee took the eastern portion of the Yukon Flats, containing 25–33 percent of the area's waterfowl production and placed it in a Porcupine National Forest. In the 6.8 million acre national forest proposal, as designated by the Committee, only 19,000–360,000 acres (.3–5 percent of the area) is considered to have timber of local economic potential. Uplands on the south side of the refuge, vital for resident wildlife and maintaining the water quality of the wetlands, were carved off and placed under BLM management. Approximately 500,000 acres of land in the Eastern Flats was opened to state selection. The result is a balkanization of one of our nation's most important wildlife areas—wetlands are dissociated from their upland watersheds; waterfowl areas may be subject to incompatible development; and three agencies will administer an area that should be kept under the aegis of one agency—the Fish and Wildlife Service.

CONCLUSION

Establishing BLM and Forest Service areas on wildlife-rich national interest lands is not appropriate. Because, under previous acts of Congress, the State of Alaska and Native corporations have already selected the best lands for commodity development, Congress does not need to carve BLM or Forest Service areas out of proposed national wildlife refuges in order to meet economic needs of Alaska or the country at large.

Fragmenting the proposed and existing refuges and monuments among various agencies will only increase the cost of management and decrease the level of wildlife protection and research. Large amounts of nationally significant wildlife habitat in Alaska have already left federal ownership. The thrust of this legislation must be to give the highest level of protection to the habitat remaining in federal ownership. The most sensible and least costly way to achieve this goal is to establish units of the national wildlife refuge system.

FRANK CHURCH.
WENDELL H. FORD.
HOWARD M. METZENBAUM.
PAUL E. TSONGAS.

Mr. CHURCH. I thank the Senator.

The PRESIDING OFFICER. Who yields time? If no one yields time it will be equally charged to both sides.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Alaska.

Mr. STEVENS. I yield myself time on the bill.

Mr. President, I want to clear up one matter that developed this morning with regard to the statements made by the Senator from Rhode Island concerning the numbers in this amendment.

The Senate committee's bill does not include the National Petroleum Reserve of Alaska, the old Naval Petroleum Reserve No. 4. As a consequence, the amendment we have before us does not include that either because this amendment is limited to the scope of the committee bill. Those 23 million acres are not included, and with the exception of that land, all other lands that are included in the committee amendment are, in fact, dealt with in the committee bill. I am talking about land now but not in the same classification.

So do not be deluded into thinking that because someone says we have got 57 million acres of wildlife refuges, the committee bill does not have that many acres in wildlife refuges, that the other lands that are not wildlife refuges are also withdrawn. Every acre is withdrawn in a different category.

As I mentioned, these are in terms of the national wildlife recreation area or BLM conservation units or the very large Porcupine National Forest.

I am delighted to see my good friend from Montana here. As I mentioned this morning, Senator MELCHER, I think wisely, convinced the committee that that national forest of 5.5 million acres ought to be established.

If the Senators will look at that map, they will see there is no forest in the interior of Alaska that is so classified for management under Federal forest management. Although the interior of Alaska contains a great deal of national forest potential, and the former Secretary of the Interior, Secretary Morton, requested 18 million acres be set up as a national forest, this committee bill has only 5.5 million.

The first Tsongas amendment, the refuge amendment, would change that forest to a wildlife refuge, and I again point to this impact on wildlife chart which shows, based upon the studies of the U.S. Fish and Wildlife Service, that there is a very minimal impact of the key wildlife area there as it comes up the Porcupine River, but wildlife is a particular purpose for which the forest was created also for Federal land management.

Incidentally, that area today is under the management of the Bureau of Land Management. It will shift under our amendment to the Forest Service. Under the Tsongas amendment it will shift to the Fish and Wildlife Service.

We had a definite reason for injecting the Department of Agriculture's Forest Service in the interior of Alaska. It provides another standard of management of Federal lands, and I note, and I heard, the comments of the distinguished Senator from Idaho, but I am sure any westerner will tell you that we would rather have separate, diverse managements of our Federal lands than to have the whole area dominated by one manager.

Under the Tsongas amendment he will put an area the size of Illinois under one manager. We have in the same area five different managers from different agencies of the Federal Government, and that means there will be a diversification as far as the procedures. There will be a testing, if you will, in the interior of Alaska of the philosophies of these various agencies and let us see which one of them is right, rather than turn it all over to wildlife refuge management, particularly in an area where even their own study shows there are no wildlife values.

Take, for instance, that national recreation area down there that is in the southwest portion. We made a national recreation area because of the hunting importance and because of the importance of mining, and there is a major mineral discovery in that area. We have a star there on the chart to show it.

The impact of that is that that mineral deposit can go ahead, but it will be subject to a plan developed for the whole area. The area is withdrawn. It is not just plain public land as it is today, and that area was not sought by any Secretary of the Interior, as I pointed out before.

Under this amendment, strangely enough, the wildlife refuge is extended down how far? Just far enough to include the major mineral deposit to make certain it is within a widllife area by classification although from the point of view of their own study it is not within a wildlife area for the purpose of protecting any wildlife or any critical habitat.

Strangely enough, incidentally, if you will note they delete the area that is across the river that we put in, the committee put in, for additional planning to make sure that the whole area that is predatorial is under the same planning unit.

We took it, in effect, from BLM and put it into whom? Since it is a national recreation area adjacent to the Fish and Wildlife Service that is, in fact, a fish and wildlife area to be operated under a national conservation concept.

Mr. President, I hope we do not get into a numbers game here, but I do not want anyone to assert that the committee bill has less land withdrawn for the purpose of protecting wildlife than the Tsongas amendment. The Tsongas amendment put a great deal more acreage into the wildlife refuges, but they are not necessary to protect wildlife.

The PRESIDING OFFICER (Mr. Harry F. Byrd, Jr.). Who yields time? The Senator from Massachusetts has 5 minutes and 5 seconds remaining.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I yield myself time on the bill.

Starting yesterday I said I would, at various times, read into the Record editorials supporting the position we had taken. Yesterday, and earlier today, I read into the Record, editorials from the Washington Star, the Washington Post, the Milwaukee Journal, the Wichita, Kans., Eagle, and the Boston Globe.

I would now like to read into the Record the editorial in the Fort Wayne, Ind., Journal Gazette, which appeared on July 15 and is entitled "Saving Alaska."

The PRESIDING OFFICER. Will the Senator defer? The Senate will be in order. The Senator from Massachusetts is entitled to be heard.

Mr. TSONGAS. I thank the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. TSONGAS. I quote now from the editorial:

[From the Fort Wayne (Ind.) Journal-Gazette, July 15, 1980]

SAVING ALASKA

For years, environmentalists have been struggling to get an effective Alaskan lands conservation bill through Congress; for just as long, those who stand to profit from unrestricted development of the state's energy and mineral resources have been trying to stop them. The final battle in the long struggle may come next week, when the Senate attempts to choose between a weak bill favored by the special interests and stronger measures to ensure that significant portions of America's last frontier will retain their unspoiled beauty and continue to nurture wildlife.

The development-vs.-preservation debate was going on long before Alaska became a state in 1959; it blossomed into the rhetorical equivalent of full-scale war after oil was discovered on the North Slope a decade later. Yet huge areas have already been opened to development.

And by any measure, Alaska has prospered: This year, with their treasury swelled by oil revenues, officials decided to abolish the state income tax for most Alaskans and pass out as much as $1,050 to long-time residents. By the Interior Department's estimate, 95 percent of known oil and gas reserves are open to private leasing. Yet the oil, mineral and timber interests have argued that *all* remaining federal land should be turned over to the state for exploration and exploitation.

When Congress failed to meet its own December 1978 deadline for deciding what to do with most of the remaining U.S.-owned Alaskan wilderness, President Carter placed some 56 million acres under the protection of the National Park system. Interior Secretary Cecil Andrus withdrew an additional 54 million acres from development for the following three years. But Messrs. Carter and Andrus made it clear that they were only filling the void left by Congress' inaction—they awaited passage last year of an administration-backed measure that would permanently protect most of the same lands.

That bill passed the House but failed to get through the Senate in 1979. Worse, the bill reported out of the Senate Committee on Energy and Natural Resources last November bore little resembalance to the House-passed lands-conservation package.

Accordingly, Sens. Paul Tsongas and William Roth have drafted a substitute bill much like the strong measure passed by the House. Before environmentally minded senators go into battle for that bill, however, they may attempt to pass a package of five amendments, also drafted by Mr. Tsongas, which would essentially accomplish the same objectives.

If either the Tsongas-Roth bill or the amendment package is passed, minor differences with the House bill could be resolved quickly and the measure would be signed into law by Mr. Carter. If no bill or the energy committee's version is passed, the preservation effort would stall for another year. With the difficulty the conservation effort has encountered despite Mr. Carter's strong support, one can only speculate on how a strong wilderness bill would fare if Ronald Reagan, an outspoken friend of the oil industry, were in the White House.

Thus, it may be now or never for passage of a strong Alaska lands conservation bill. It's too late for much of the continental United States. But America has perhaps one last chance to save part of our wilderness hertiage for future generations. Let's hope the Senate rises to the challenge.

Mr. President, I now refer my colleagues to a resolution that was adopted on June 8 by the 5,500-member Indiana Izaak Walton League. I ask unanimous consent that the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

THE FEDERAL LANDS ISSUE IN ALASKA

The Alaska National Interest Lands Conservation Act—which would establish new National Parks, Wildlife Refuges, National Forest Wilderness areas, Wild and Scenic Rivers, and other desirable land classifications in Alaska—provides a unique opportunity to preserve for future generations some of the most spectacular wildlands on the Federal lands of America's last frontier.

Setting aside adequate acreages in proper protective categories in Alaska represents the greatest conservation and wildlife enhancement opportunity of this century.

The need for natural wild areas providing unspoiled wildlife habitat, pristine rivers and streams, and outdoor recreational areas constitutes a conservation issue of major concern to all citizens of the United States.

H.R. 39, as passed in the House of Representatives in May, 1979, and a similar Tsongas-Roth Substitute to be presented in the Senate, reflect both public and private interest not only in preserving Alaska's greatest natural treasures, providing recreation, protecting sites of archeological significance, offering educational and scientific research opportunities, protecting key wildlife and waterfowl habitat, and maintaining pristine Wilderness areas, but also providing adequate space and resources for Alaska's economic development.

The bill reported by the Senate Energy and Natural Resources Committee is a deficient bill that would not adequately protect Alaskan wildlife and Wilderness.

Now, therefore be it resolved, by the Indiana Division, Izaak Walton League of America, in convention assembled this 8th day of June, 1980, at Michigan City, Indiana, that it supports the action taken by the U.S. House, and as proposed in the Tsongas-Roth Substitute, as a constructive vehicle to balance requirements of outstanding unique Wilderness and wildlife lands for future conservation purposes and for economic development; and

Be it further resolved, that at a minimum, the Division supports passage of the proposed five strengthening amendments to the Energy Committee bill, though such steps are not a satisfactory alternative for the Tsongas-Roth Substitute bill which the League primarily supports.

Mr. TSONGAS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts has 5 minutes and 5 seconds remaining on the amendment.

Does the Senator yield back the remainder of his time?

Mr. TSONGAS. No.

I yield to the Senator from Delaware (Mr. Roth).

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Is the Senator yielding on the time on the amendment?

Mr. TSONGAS. Yes.

Mr. ROTH. Mr. President, I rise in

strong support of the National Wildlife Refuge amendment to the Alaska lands bill as reported by the Energy and Natural Resources Committee. I commend my colleagues, Senators HART, CHAFEE, RANDOLPH, CULVER, and CHURCH, for their effort and leadership in offering this amendment.

It is especially significant to me that these members of the Environment and Public Works Committee, including its most distinguished chairman, have sponsored this amendment. In view of the fact that the Environment Committee is the committee having jurisdiction over the National Wildlife Refuge System and wildlife management generally, I believe that in considering this legislation we should give extra weight to the views of these most knowledgeable committee members.

Mr. President, I am sure that no one here would quarrel with the notion that it is in the national interest to protect our extraordinary wildlife legacy as we find it in Alaska. I am also sure that no one would quarrel when I say that both the Energy Committee bill and refuge amendment before us now protect some significant wildlife habitats in Alaska. However, there should be no mistaking that there are substantial and serious differences between these two approaches.

I am sure that of the two versions, the amendment sponsored by my friends from the Environment and Public Works Committee will, in the long run, do a far superior job of protecting wildlife without needlessly restricting the development of Alaska's other economic resources.

With the Hart-Chafee refuge amendment, some 57 million acres would be added to the National Wildlife Refuge System. This is about 15 million acres more than the Energy Committee would place in refuge status, but it is a significant compromise compared to the 80 million acres which the House-passed bill contains. Nonetheless, the refuge amendment would restore critical wildlife habitats and upland watersheds that are left unprotected by the Energy Committee bill.

The opportunity we have in Alaska—to protect nearly complete watersheds and wilderness ecosystems that are in public ownership—is so unlike our situation in the rest of the Nation. In my State of Delaware, establishing a new Federal wildlife refuge would be prohibitively expensive as well as a near political impossibility, even if it was obvious that it needed to be done. We must seize the opportunity in Alaska, and we must seize it now. To wait until the 11th hour when a crisis is upon some critical wildlife habitat is to settle for a token remnant of a once whole and productive ecosystem.

Beyond the omission of certain key wildlife habitats, omissions which are corrected by the refuge amendment, the Energy Committee takes areas which should be managed by the Fish and Wildlife Service and divides them among different Federal agencies with different mandates and types of expertise. This fragmentation in areas such as the additions to the Douglas Arctic Wildlife Range or the Yukon Flats National Wildlife Monument is simply asking for trouble in the coming years—to the detriment of the wildlife resources.

My colleagues from the Environment and Public Works Committee have ably detailed the deficiencies of the Energy Committee's refuge title and the way in which their refuge amendment addresses those problems. I value their expert judgment highly, and I urge your support for the refuge amendment.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. The Senator has 4 minutes and 44 seconds.

Mr. TSONGAS. And the other side?

The PRESIDING OFFICER. The other side has no time remaining on the amendment.

Mr. TSONGAS. I yield myself 2 minutes from the amendment.

Mr. President, the National Wildlife Refuge amendment is the first opportunity for my colleagues to cast a vote of lasting value on public wildlands in Alaska. It is an important step in guaranteeing that these federally-owned lands will be preserved in the national interest—and in a way that serves the long-term interests of Alaskans.

The National Wildlife Refuge amendment recognizes that the wildlife of Alaska is of major national—and international—importance. Only in Alaska does the United States have polar bear, musk ox, walrus, lemming, and Dall sheep. The 130,000-member Porcupine caribou herd is one of the world's greatest remaining collections of hoofed animals. Alaska also contains our largest free-roaming populations of grizzly bear, wolves, wolverine, and trumpeter swans. The bald eagle thrives there. Millions of migratory birds and waterfowl migrate from Alaska to the lower 48 every year.

The amendment establishes wildlife refuge boundaries to protect entire watersheds and ecosystems, where possible. These refuges are to be managed by the Fish and Wildlife Service—the most appropriate agency for this task. The committee bill splintered ecological units among the refuge system, the National Forest System, and the Bureau of Land Mangement. In BLM and National Forest areas, the land can be used in ways incompatible with the goal of preserving wildlife.

Mr. President, the Senate is not in order.

The PRESIDING OFFICER (Mr. STEWART). The Senate will be in order. The Senator is entitled to be heard. The Senator has used 2 minutes. He has 2 minutes and 46 seconds remaining on the amendment.

Mr. TSONGAS. For example, the committee divided the Yukon Flats area into a refuge, a national forest, two BLM-administered areas, and an area available for State selection. The State has no legal claim to these valuable wildlife lands. According to its own resource studies, the State has no need for these lands. There is a very real chance that the State would transfer them into private ownership for potential development.

The amendment would maintain the existing Yukon Flats National Wildlife Monument and reclassify it as a National Wildlife Refuge. This is the appropriate protection for one of the Nation's most productive wildlife areas, with a fall flight of over 2 million ducks and 16,000 geese.

Another case of inadequate protection is the vast Yukon Delta. Two hundred million birds visit the Delta each summer. The committee deleted from the refuge the headwaters of clearwater salmon streams. These rise in the central Kilbuck Mountains and flow into the waterfowl nesting areas. Nesting hawks and eagles are found here. This area includes an outstanding sport fishing and rafting river with high salmon and wildlife concentrations.

The amendment recognizes these high fish and wildlife values by placing this watershed in the National Wildlife Refuge.

The committee bill makes a similar mistake in deleting half a million acres from the northern part of the Togiak National Wildlife Refuge. The headwaters of several salmon streams vital to subsistence and commercial fishers are left out.

Water from the mountains of Togiak flows into Bristol and Kuskokwim Bays, supporting over 1,700,000 salmon. Togiak has over 32 species of land mammals. The amendment protects the diversity of fish and wildlife there, by including the northern watersheds in a cohesive 3.8-million acre refuge.

The William O. Douglas Arctic Wildlife Range is the last large portion of the North Slope that has been, and can continue to be spared from extensive industrial activities. Here, America's largest remaining caribou herd—the 130,000 animals of the Porcupine herd, give birth to their young. There are also major populations of polar bear, Dall sheep, grizzly bear, wolves and wolverine, and the endangered peregrine falcon, and 141 other bird species.

As in the Yukon Flats, the committee bill balkanizes the proposed additions to this wildlife range. It creates three subunits designed to accommodate uses not compatible with wildlife such as State selection and mining. Habitat for approximately 2,100 Dall sheep would be splintered between three jurisdictions. Major portions of the caribou herd's wintering range are deleted from wildlife refuge protection. The amendment provides appropriate protection with a 9.9-million acre wildlife refuge.

The Nowitna Wildlife Refuge sends a quarter of a million waterfowl across the middle third of the United States. The fall flight from the Nowitna alone is about a quarter of a million birds—including 35,000 white-fronted geese, 17,000 Canada geese, and 60 to 100 pairs of trumpeter swans. It is important for national populations of canvas-backs. This refuge also supports major moose, wolverine, and marten populations. It is a key rearing area for salmon, northern pike, and shee fish.

The committee bill drops this entire unit from refuge designation and classifies it as a BLM national conservation area. According to the State's own resource inventories, there are no significant commodity resources in the Nowitna basin. Given the very high wildlife values and negligible commodity values, there is no reason for withholding refuge protection for this area. The amendment restores refuge designation for the Nowitna.

The Selawik Wildlife Refuge is a seasonal home for about 109 species of birds from six continents. It is located near the "avian crossroads" of North America and Asia. From 450,000–550,000 ducks, geese, and swans fly from here to the Pacific and central portions of America. The refuge provides major wintering habitat for the Western Arctic caribou herd and spawning and migration areas for the shee fish, dubbed the "freshwater tarpon."

The committee bill deletes from the Selawik's refuge protection the Lower Buckland River and estuary. These are of high value to migratory birds, marine mammals, and fish that breed upstream. Other deletions are made near the Kobuk River. The amendment restores these watersheds and habitat to the refuge. The committee report notes that the Lower Buckland deletions were made to accommodate a speculative corridor route the State may desire in the future. But, the committee's transportation process is specifically designed to address future right-of-way decisions. A deletion from the refuge for a speculative corridor is unwarranted and unnecessary.

The amendment also provides cohesive, complete refuge protection to other vital wildlife areas—the Koyukuk, the Kodiak, the Kenai, the Kanuti and the Becharof.

State land selections in National Wildlife Refuges are a recurring problem in the committee bill. The bill makes significant deletions from the Yukon Flats, Douglas-Arctic, and Selawik National Wildlife Refuges to accommodate State land development interests. The amendment retains these lands in the wildlife refuge status—not available for State selections. There are three basic reasons for this.

First. These lands are very high in fish and wildlife values. They deserve designation as wildlife refuges. The lands the State wants to select are relatively low in commodity values. But they have very high wildlife values. A loss of publicly-owned fish and wildlife habitat has already taken place in Alaska under the Statehood Act and the Alaska Native Claims Settlement Act. Therefore, it is imperative that the remaining publicly owned habitats be retained and managed for fish and wildlife protection.

Second. The State has no legal right to select these lands. These public lands are permanently withdrawn as National Wildlife Monuments, or they are withdrawn under the Federal Land Policy and Management Act (FLPMA), and prior to these current withdrawals, had been withdrawn under other provisions of law. The Statehood Act mandates that the State of Alaska may only select public lands which are "vacant, unappropriated, and unreserved at the time of selection."

Therefore, not permitting selections in refuges will not impair the State's ability to receive its total entitlement. If the State obtains these National Wildlife Refuge lands, it is very likely that they will be subdivided and developed in ways incompatible with fish and wildlife resources.

Mr. President, the National Wildlife Refuge amendment encapsulates basic issues in the Alaska debate. Clearly, the American people have the right to its reasonable provisions. Just as clearly, the comprehensive wildlife protection found only in this amendment constitutes what is right. The fragmented watersheds and ecosystems in the committee bill at present simply do not make sense. They are inadequate and unacceptable.

Mr. President, this amendment is reasonable and balanced. Its adoption will help protect the national interest in the public's Alaska lands.

Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes and 4 seconds on the amendment. Who yields time?

Mr. TSONGAS. Mr. President, I yield myself such time from the bill as I may consume.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HART. Mr. President, will the Senator from Massachusetts yield me the remaining time on the amendment?

Mr. TSONGAS. Mr. President, I yield the remaining time on the amendment to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, we are prepared to cast the first of several votes on this extremely crucial resource-related question. Its significance has been described in all sorts of extravagant language, some perhaps hyperbolic.

I think no one, regardless of point of view, would diminish, however, the overall importance of the decisions that we will make. I, as a sponsor with my colleague and friend from Rhode Island, feel extremely strongly that the modest expansion of the wildlife refuges to the Senate committee bill is a moderate approach to a difficult resource problem which goes a long way to try to balance competing interests between development and preservation.

It does not even begin to approach the magnitude of the set aside for refuges in the House bill. It restores to the Senate bill only one-third of the amount of land cut by the Senate committee.

The senior Senator from Alaska comments at the consensus that was developed in the committee. I am sure he would agree that, as important as the committee deliberations are, these are matters which the Senate must make final judgment on after following, where possible, the lead provided by the Energy Committee. Our own individual and collective judgments about how much land should, in fact, be set aside will be the deciding factor.

The record is not crystal clear and it is not black and white. Nothing here is perfect, one way or the other. But I think the amendment which is being offered to moderately and modestly expand the amount of acreage for these very, very important wildlife refuge areas for the future of the country is extremely important.

I hope all of our colleagues will agree to support this amendment, regardless of whether they agree with the other amendments, as well.

● Mr. CULVER. Mr. President, as chairman of the Resource Protection Subcommittee, I would like to urge my colleagues to support the refuge amendment which we are presently considering.

Much has been said about the significance of the bill we are debating today. Committees of both the House and Senate have spent vast numbers of days preparing this legislation, which will eventually rank among the most important in the history of conservation laws enacted in our Nation. I commend my colleagues in both Houses for their insight and persistence in dealing with this matter.

After passing the House in May 1979, H.R. 39 was referred to the Senate Committee on Energy and Natural Resources. The Committee on Environment and Public Works, which has jurisdiction over national wildlife refuges in the Senate, agreed to forego referral of the bill in order to expedite its final passage. However, other members of the Committee on Environment and Public Works and I have followed the development of the Senate bill with great interest.

I personally was able to visit Alaska twice during the summer of 1978 and was of course impressed with the grandeur and immensity of the land. I was especially struck by the wildlife resources present in that State. The amendment I support here deals specifically with those wildlife habitats, many of which I feel strongly were not adequately protected in the bill reported by the Energy Committee.

The amendment addresses the special commitments we, as a nation, have made to our future generations to protect and wisely manage our wildlife resources, and the additional commitments we have extended through various international agreements, treaties, and conventions. Such obligations represent the high ideals this country holds for the invaluable renewable fauna and flora that were a heritage passed to us by our forefathers with the expectation that we would guard it, nurture it, and be prepared to pass it along undiminished to our children for their children. Throughout the world community this Nation has been viewed as the pacesetter for such conservation ideals, and the intent of this amendment follows that tradition.

As I speak, the benefits to migratory birds of Alaskan wetlands are being demonstrated almost on our very doorstep. Canvasbacks from Nowitna and Yukon Flats are in the Chesapeake Bay; mallards, wigeon, and green-winged teal are in California; white-fronted geese are in residence along the Texas and Louisiana coasts and sandhill cranes have sent their spine-tingling calls across the skies of the Dakotas and Nebraska. It has been estimated that the fall flight of waterfowl from the Yukon Flats alone provides 400,000 days of recreation to the hunting community annually and an untold amount of pleasure to Americans everywhere to whom a skein of geese in the sky or the trumpet call of a crane is of inestimable value.

Alaska's great diversity of species also includes this Nation's only populations of muskox, Dall sheep, and polar bear. The State also boasts the 120,000 member Porcupine caribou herd, and the Nation's greatest free-roaming populations of grizzly bear, wolverine, and wolves.

The refuge amendment would set aside habitat vital to these species under the administration of the U.S. Fish and Wildlife Service—the Federal agency professionally and legislatively equipped to perpetuate this outstanding resource for all Americans. Overall, the amendment designates 55.8 million acres of Federal land as wildlife refuge, compared to 42.6 million acres in the Energy Committee bill. This includes creating nine new refuges and enlarging seven refuges. Most importantly, the amendment would address the following areas:

Yukon Flats National Wildlife Refuge: The most extensive highly productive per acre waterfowl habitat in Alaska.

William O. Douglas Arctic National Wildlife Refuge: Home of the Nation's 120,000 Porcupine caribou, this area also boasts grizzly and polar bears, muskox, wolves, and wolverines, and over 4 million migratory birds.

Nowitna National Wildlife Refuge: One of the highest nesting densities of waterfowl in the State, this area contributes nearly a quarter of a million waterfowl to the lower 48 States' flyways.

I believe the wildlife refuge amendment we are considering achieves a proper balance between protecting our Nation's wildlife resources and allowing the development of Alaska's other vast resources. As in all refuges including those in the lower 48, hunting, trapping, timber harvests, and oil and gas development that are compatible with wildlife conservation would be permissible. The Energy Committee's arctic range oil and gas provisions are not amended. Also, the 22-million-acre Naval Petroleum Reserve No. 4, with its high oil and gas potential, would remain under the jurisdiction of the Bureau of Land Management.

The balance this amendment brings to the Alaska lands proposal is fair and equitable. I urge its adoption.●

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 1403

Mr. HART. Mr. President, I send to the desk an amendment in the second degree and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 1403.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, strike lines 22 through line 2 on page 44;

On page 44, strike lines 7 and 8;

On page 41, strike lines 15 thru 17;

On page 42, strike lines 11 thru 14;

On page 31, line 23, strike the second "and" and insert "but not";

On line 24, strike "However" and all that follows through line 6 on page 32;

On page 43, delete lines 19–21;

On page 36, line 7, insert after "use" the following: "(including but not limited to any oil and gas leasing permitted under paragraph (2))";

On page 4, line 13, delete all through line 16; on page 6, line 5, strike all line 8; on page 7, line 13, strike all line 16; on page 8, line 24, strike all through line 2, page 9; on page 10, line 8, strike all through line 11; on page 11, line 18, strike all through 21; on page 13, line 8, strike all through line 11; on page 14, line 22, strike all through line 25; on page 16, line 14, strike all through line 16; on page 22, line 12, strike all through line 15; on page 23, line 17, strike all through line 20; on page 25, line 5, strike all through line 8; on page 26, line 21, strike all through line 24; on page 28, line 8, strike all through line 10; on page 29, line 23, strike all through line 25; and in each instance substitute in lieu thereof the following:

(iv) to ensure to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (1), water quality and necessary water quantity within the refuge; and

Mr. HART. Mr. President, what is the time limit on amendments in the second degree?

The PRESIDING OFFICER. Thirty minutes equally divided.

Mr. HART. Mr. President, perhaps my colleagues from Rhode Island and Massachusetts would like to comment on this amendment.

This second degree amendment addresses two of the arguments made against the wildlife amendment proposed by myself and the Senator from Rhode Island. I do not believe either of these arguments are correct, but it is important that Senators be satisfied on these important points.

Two points addressed by this perfecting amendment are that, first, the amendment changes substantive law with respect to oil and gas leasing within refuges; and, second, that the amendment undercuts State water law.

The second degree amendment, the amendment now pending, deletes the provisions of the first degree refuge amendment dealing with these two issues. Instead, we are proposing substitute language identical to the committee provisions. I hope that will be acceptable not only to the Senators from Alaska but the floor managers of the bill as well.

I yield to my colleague from Rhode Island.

Mr. CHAFEE. Mr. President, most of the debate today has been concentrated on oil and gas leasing provisions, with very strong objections to the provisions included in this bill.

We do not think that the differences are of any significance. But, nonetheless, this is an attempt to accommodate those who would object to our amendment. So, we made these changes to conform with the original committee bill. I agree with the Senator from Colorado, that I hope this amendment will be accepted to iron out any possible complaints.

Mr. HART. I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, during the long debate we have had on the bill I believe that the point was made that the committee bill was preferable. Some of us would argue that it was not a difference. However, in an attempt to accommodate that interest and to avoid any confusion, this amendment is offered. It is hoped that the managers of the bill will accept the substitute.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I spoke earlier today in terms of water quantity and quality outside of the refuges and in terms of the preservation of the Mineral Leasing Act of 1920 as it applies to leasing on refuges in Alaska. I have not seen the amendment yet but I understand it also deals with two rivers that would expand the National Wild and Scenic River System. Is that correct?

Mr. TSONGAS. The Senator is correct.

Mr. STEVENS. Under those circumstances, it is a technical amendment and deletes the items I had raised question about concerning germaneness and compliance with the agreement of February 7. On that basis I have no objection. I think it is a matter that calls for a voice vote.

Let me assure the Senate that it does not clear up objections to the substance of the amendment. It does not justify the establishment of Porcupine Forest as a wildlife refuge. Incidentally, there are other units of conservation in the State affected by this amendment.

I would note that this is sort of a landgrab. This amendment is saying that only the Fish and Wildlife Service managers of the State of Alaska should have jurisdiction over these areas in the interior.

We take exception to that. There are areas that have predominant values for minerals and areas that have values for minerals, agriculture, and hunting, the BLM conservation units. I see no reason why those classifications should be entirely eradicated in favor of the Fish and Wildlife manager.

Again, I want to be precise about this so the Senator from Colorado will not take offense, but he implies that the committee amendment does not deal with the same lands. The committee amendment deals precisely with the same lands with the exception of the national petroleum reserve. Those 23 million acres are excluded from the Senate bill. There is nothing in this amendment before us that is not within the committee bill. The difference is the classification of the areas. It is not correct to say that we deal with less land. We deal with the same amount of land but we classify that land in a different manner to meet the specific desires and needs of the people of the area and of the national programs involved.

Again I point out there is no reason for that mineral area, a significant mineral find in the White Mountain country, to be in wildlife refuge. It will lead only to a conflict of management. It should be within a national recreation area where the law is clear that that type of activity shall be permitted. I think that is important to keep in mind.

Again, I have no objection to the amendment. I think it ought to be approved on voice vote. I make my recommendation to my good friends from Washington and Oregon that we just accept the amendment.

Mr. JACKSON. Mr. President, I am prepared——

Mr. GRAVEL. Will the Senator yield for one moment?

Mr. JACKSON. I yield.

Mr. GRAVEL. Five minutes?

Mr. JACKSON. Yes, 5 minutes.

Mr. GRAVEL. The Senator has covered some objections but not all the objections we had that we felt under a point of order could be made. I would like to ask the Presiding Officer, since time has expired on the original amendment, is it now in order to make a point of order?

The PRESIDING OFFICER. Not until such time as the remaining time on the second degree amendment has been yielded back.

Mr. GRAVEL. The point of order is not being made on the second degree amendment but the point of order is being made on the primary amendment.

The PRESIDING OFFICER. The Chair understands that.

Mr. GRAVEL. I am prepared to accept this amendment, but as soon as proper I will be making a point of order that will cover the Beaver Creek area on page 41, and then on page 40 all of the page from line 11 on, and also on pages 41 and 42. I will be making the point of order in any event. I yield back the remainder of my time.

Mr. JACKSON. Mr. President, I yield such time as the Senator of Oregon may desire.

Mr. HATFIELD. Mr. President, I agree with the chairman to accept the amendment.

Mr. JACKSON. We are prepared to yield back our remaining time.

Mr. HART. Mr. President, I would like to make one further point which is important. The senior Senator from Alaska has argued that the underlying amendment having to do with the expansion of the refuge area seriously changes mining law and creates new precedents in that area as well as in water rights. This perfecting amendment, or this secondary amendment, is to address those two principal objections that were raised to the amendment. I hope it will be acceptable by a voice vote. That will relieve us, I think, of the arguments made on those two grounds. I am prepared to yield back my remaining time.

Mr. JACKSON. I yield back my remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRAVEL. Mr. President, I seek recognition.

The PRESIDING OFFICER. For what purpose does the Senator seek recognition?

Mr. GRAVEL. To suggest the absence of a quorum so we can study this four-page document which has been placed in front of us. We do not know all the ramifications of the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Debate is not in order during a quorum call.

Mr. TSONGAS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the quorum.

The assistant legislative clerk resumed the call of the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 1403, AS MODIFIED

Mr. HART. Mr. President, I send to the desk a modification of the pending amendment in the second degree and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

At the end of Hart UP amendment No. 1403, add:

On page 42, strike lines 3 through 6;

On page 43, strike lines 4 through 7.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The amendment is so modified.

The question is on the amendment.

Mr. HART. Mr. President, may I have the attention of the Senator from Alaska, the senior Senator, so he understands?

The PRESIDING OFFICER. Time on the amendment has expired.

The Senator has the right to modify the amendment.

Mr. HART. Will the Senator from Massachusetts yield me 2 minutes?

Mr. TSONGAS. Yes.

Mr. HART. Mr. President, the Senators from Alaska have raised the question of the designation of wild and scenic rivers in the refuge amendment that is pending. The principal designation which seemed to be objectionable had to do with the Porcupine River, which was so designated on page 42, lines 3 through 6.

This modification of the pending second-degree amendment takes that designation out, and the other reference on page 43, striking lines 4 through 7, conforms those two pages.

So the amendment, as it would be modified, if the second-degree amendment passes, takes the Porcupine River designation out and leaves it in study status.

My understanding is that this is both agreeable and desirable to both Senators from Alaska.

Therefore, what it would mean is that the amendment in the second degree does three things. It deletes the Porcupine River designation as a wild and scenic river, it conforms the mineral law provisions of the refuge amendment and the water provisions of the refuge amendment to the language of the Senate committee bill.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Therefore, I would hope the managers of the bill would accept the amendment in the second degree by a voice vote.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

Mr. STEVENS. Mr. President, I yield myself time on the bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am grateful, once again, for the change which does meet the question of the two subjects in an amendment, the potential point of order.

I would not like any of the changes to indicate that it makes the substance of the amendment, the basic amendment, any more acceptable from the Alaska point of view. It still does not recognize the concept of multiple management of Federal lands within the State.

It will mean, again, that this wildlife refuge manager will have jurisdiction over an area which is roughly 300 miles deep and about 200 miles wide. There is no reason for that. There is no concept that would make that area one ecological unit—one whatever you want to call it. There are all kinds of verbiage used in this bill to try to justify getting larger and larger areas, but there are no uniform wildlife values within this massive area.

Even as to the range of the caribou involved, they do not involve the same herds. They do not involve the same types of management problems.

You are going from the Arctic, in the Arctic plain, to the different area in the south, of the Brooks Range, and an entirely different area in the Porcupine and Yukon Flats.

It is like saying there is a great deal of sense in putting a wildlife refuge manager in charge of the wildlife refuge that went from somewhere around Delaware up to Maine and from New York over to about Cleveland.

You can put it on the map and see what I am saying. It makes absolutely no sense to say that one person should manage that area from the point of view of some predominant wildlife value that overlies this whole area.

I do not have any objection to the modification, but I am getting questions from other Senators: "Does this mean the proponents of the amendment have cleaned it up?"

They have not cleaned it up. They have made it conform to the agreement of February 7 that it would deal only with one subject in an amendment, even though it might hit the bill in more than one place. This amendment will do just that, but it classifies areas as wildlife refuges which have no predominant wildlife value at all.

I am not talking about little areas. I am talking about millions and millions of acres. We have not heard anything said on the floor that would justify changing from the classification of the committee to this classification of wildlife refuge.

If the amendment is not tabled, I shall have amendments to restore the classifications of the Senate committees, and we will go through the arguments made in the committee as to why they should be classified in a different manner from that suggested by this wholesale amendment to put the whole northeast portion of Alaska into a wildlife refuge.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. MELCHER. Not only does it not clean up the amendment, as the Senator has described, but, as he previously said, the amendment does eliminate a little more than 5 million acres we have set aside for national forest land, the Porcupine National Forest. It is the only national forest provided in the bill in interior Alaska. It is a worthwhile endeavor to have the presence of the Forest Service in interior Alaska.

I point out that the Forest Service, with its professionals, has had more experience in dealing with wildlife and the other types of resources that are on our public lands than have the various groups within the Department of the Interior.

I am a little disappointed even in the way the bill came from the Committee on Energy and Natural Resources, that we did not provide for more of a presence of the Forest Service within the interior of Alaska than we have.

The amendment before us would very brutally eliminate the one part of the bill that provided some opportunity for a diversified land management with the presence of the Forest Service personnel in interior Alaska. I regret very much that the amendment before us was so brutal as to eliminate the Forest Service from interior Alaska.

Mr. TSONGAS. Mr. President, I yield myself time on the bill. I shall be brief.

I do not want the statement to go unchallenged that the argument has not been waged as to why the changes were made. I point out to my colleagues that the committee bill itself contains 42.6 million acres and that, obviously, was voted upon by those who argue against the bill.

In my statement and in the statements of the Senator from Colorado, the Senator from West Virginia, and the Senator from Rhode Island, we addressed the issue of why we felt that one management unit made more sense administratively. I will not take up the time of my colleagues to go through that further, since we have been on this issue for 5 hours. But I do ask unanimous consent to have this information printed in the RECORD, so that the allegation will not receive any more credibility than it deserves.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFICIENCIES IN THE COMMITTEE BILL WHICH ARE IMPROVED BY AMENDMENT NO. 1782

There is a unique opportunity in Alaska to avoid future detrimental impacts on highly productive fish and wildlife habitats by including both crucial lowlands and their supporting watersheds in integrated ecological units managed by the Fish and Wildlife Service. The Committee did not adopt this "ecosystem management" concept but rather splintered units to meet special interest desires. This has resulted in fragmenting management of both wildlife populations and their supporting habitats between several agencies with different missions and management programs to the long-term detriment of the fish and wildlife resources.

[In millions of acres]

	Committee bill	Amendment
National wildlife refuges	42.6	58.2
New national forest units	5.5	0
BLM national conservation areas	7.2	0
Total	55.3	58.2

The amendment sets refuge boundaries along ecological lines in ten refuges and places Fish and Wildlife Service administration on the Nowitna unit which the Committee placed under BLM jurisdiction. The major boundary improvements are outlined below:

Yukon Flats.—With a fall flight of over two million ducks and 16,000 geese, the Yukon Flats is one of the nation's most productive wildlife areas. It is considered to have the highest sustained rate of waterfowl production in North America. When drought occurs in the Canadian prairies, the stable habitat conditions of the Flats serve as nesting areas for birds from the drought-stricken regions. The region also supports furbearers, moose, and a genetically unique salmon population in the lowlands and caribou, Dall sheep, and grizzly bears in the upland watersheds.

COMMITTEE

The Committee divided this area into five units (two BLM-administered areas, a refuge, one national forest and an area made available for state selection) to accommodate development interests of the State. As a result, a host of incompatible uses and fragmented management would be allowed and encouraged including the very real possibility that the State would transfer these now publicly owned lands into private ownership for potential development. The state has no legal claim, and, according to its own resource studies, no need for these valuable wildlife lands.

AMENDMENT

The amendment would maintain the existing Yukon Flats National Wildlife Monument and reclassify it as a National Wildlife Refuge. The accompanying map shows the differences between the single, cohesive refuge in the amendment and the many areas in the Committee bill. The amendment keeps in the refuge the White Mountains—a major watershed, recreation area, and Dall sheep habitat—and the Eastern flats which the Committee bill places in a National Forest—where 25–33 percent of the region's waterfowl are raised. With large amounts of wildlife habitat removed from public ownership due to Native selections, it is imperative that the remaining federal lands be retained in public ownership and protected in the refuge.

Yukon Delta.—The vast delta of the Yukon and Kuskokwim Rivers hosts as many as 200,000,000 birds including 80 percent of the whistling swans and nearly all of the white-fronted geese of the Pacific flyway; 80 percent of the world's emperor geese; 90 percent of the world's bristle-thighed curlews; and major populations of cranes, sandpipers, and loons. Fish and wildlife species in the region include muskox, moose, whales, and salmon. This wildlife-rich area is home to most of Alaska's Yupik Eskimos.

COMMITTEE

The Committee deleted from the refuge the headwaters of clearwater salmon streams which rise in the central Kilbuck Mountains and flow into the waterfowl nesting areas. Nesting hawks and eagles are found here. This area includes the Kisaralik River, an outstanding sport fishing and rafting river with high salmon and wildlife concentrations. Despite these high fish and wildlife values, the Committee bill places this unit in its Bristol Bay study area rather than the refuge.

AMENDMENT

The amendment places this watershed in the National Wildlife Refuge. Given the high fish, wildlife, and recreational values of the area, it should be placed in the refuge now rather than being further studied by the State and Federal Governments for other purposes.

Togiak.—Water from the mountains of Togiak flows into Bristol and Kuskokwim Bays supporting over 1,700,000 salmon. With over 32 species of land mammals, Togiak has one of the most diverse mammalian faunas in the State. Coastal cliffs provide prime habitat for raptors, especially bald eagles. Mountain scenery and opportunities for trophy sport fishing and river travel make this area an excellent outdoor recreation attraction.

COMMITTEE

In a similar manner to its treatment of the Yukon Delta National Wildlife Refuge, the Committee bill deletes 500,000 acres from the northern part of the Togiak National Wildlife Refuge and places this land in its Bristol Bay study area. The headwaters of several salmon streams vital to subsistence and commercial fisheries are left out of the refuge.

AMENDMENT

The amendment places these northern watersheds in the Togiak National Wildlife Refuge. The fish and wildlife values of this area are known. There is no reason for leaving these lands outside the refuge in a "study status."

Douglas-Arctic.—The Douglas-Arctic Wildlife Range contains a complete transect of Arctic life forms and landscapes from boreal forest on the south slope of the Brooks Range to the rugged crest of the Arctic Divide down to the coastal plain. Here America's largest remaining caribou herd, the 130,000 animals of the Porcupine herd, give birth to their young. Major populations of polar bear, Dall sheep, grizzly bear, wolves and wolverine, the endangered peregrine falcon, and 141 other bird species are found in the range. The Wildlife Range is the last large portion of the North Slope that has been and can continue to be spared from extensive industrial activities.

COMMITTEE

In the same way it balkanized the Yukon Flats, the Committee bill divides up the additions to the Douglas-Arctic National Wildlife Range into three subunits designed to accommodate uses not compatible with wildlife such as state selection and mining. Habitat for approximately 2100 Dall sheep would be splintered between three jurisdictions. Major portions of the Porcupine caribou herd's U.S. wintering range are deleted from wildlife refuge protection.

AMENDMENT

The amendment consolidates in the Refuge System Dall sheep habitat and the Alaska portion of the Porcupine caribou herd's migration routes and winter range. The areas which the Committee bill would classify as a BLM area or open to State selection are speculated to have some mineral potential (possibly gold, copper, lead, or zinc). But these areas serve as winter habitat for the caribou and is a region where the Porcupine and Western herds intermingle, allowing gene exchange which maintains the vitality of the herds. State selection and mining are not compatible with wildlife in this area.

Nowitna.—Sending a quarter of a million waterfowl across the middle third of the nation, the Nowitna is particularly important for national populations of canvasbacks, white-fronted geese, and trumpeter swan. This refuge also support major moose, wolverine, and martin populations and is a key rearing area for salmon, northern pike, and shee fish.

COMMITTEE

The Committee bill drops this entire unit from refuge designation and classifies it as a BLM National Conservation Area.

AMENDMENT

The amendment restores refuge designation for the Nowitna. The fall flight from the Nowitna alone is about a quarter of a million birds including 35,000 white-fronted geese, 17,000 Canada geese, and 60–100 pairs of trumpeter swans. The wetlands support some of the highest nesting concentrations of waterfowl in the State. According to the State's own resource inventories, there are no significant commodity resources in the Nowitna basin. Given the very high wildlife values and negligible commodity values, there is no reason with withholding refuge protection for this area.

Selawik.—Located near the "avian crossroads" of North America and Asia, the Selawik is a seasonal home for about 109 species of birds from six continents. From 450,000–550,000 ducks, geese, and swans fly from here to the Pacific and central portions of America. The refuge provides major wintering habitat for the Western Arctic caribou herd and spawning and migration areas for the shee fish, dubbed the "freshwater tarpon."

COMMITTEE

The Committee bill deletes from refuge protection the Lower Buckland River and estuary of high value to migratory birds, marine mammals, and anadromous fish. Other deletions are made near the Kobuk River.

AMENDMENT

The amendment restores these watersheds and habitat to the refuge. The Committee report notes that the Lower Buckland deletions were made to accommodate a speculative corridor route the state may desire in the future. But, the Commitee's transportation process is specifically designed to address future right-of-way decision. A deletion from the refuge for a speculative corridor is unwarranted and unnecessary.

Mr. JACKSON. Mr. President, can we vote now?

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment, as modified, was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I move to lay on the table the pending amendment as modified, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the first degree amendment, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri (Mr. EAGLETON) would vote "nay."

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS—33

Armstrong
Baker
Bellmon
Boren
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Domenici
Garn
Goldwater
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Helms
Humphrey
Jackson
Johnston
Laxalt
Long
Magnuson
McClure
Melcher
Morgan
Schmitt
Stennis
Stevens
Tower
Young

NAYS—64

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Exon
Ford
Glenn
Hart
Heinz
Hollings
Huddleston
Inouye
Javits
Jepsen
Kassebaum
Leahy
Levin
Lugar
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—3

Eagleton
Kennedy
McGovern

So the motion to lay on the table UP amendment No. 1402, as amended, was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

UP AMENDMENT NO. 1404

Mr. MELCHER. Mr. President, I call up the amendment I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1404 to unprinted amendment numbered 1402.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15 strike lines 14 through 20 and insert the following: "Refuge shall consist of approximately five million seven hundred and ten thousand acres of public land as generally depicted on a map entitled 'Yukon Flats National Wildlife Refuge', dated October 1978."

On page 21 strike lines 8 through 17 and insert the following:

(3) ARCTIC NATIONAL WILDLIFE RANGE.—(A) The Arctic National Wildlife Range shall consist of all lands within the existing Arctic National Wildlife Range which shall be redesignated as a unit of the expanded Arctic National Wildlife Range and of the approximately five million six hundred and fifty thousand acres of public lands generally depicted on the map entitled "Arctic National Wildlife Range" dated October 1978. Additions to the Arctic National Wildlife Range to the southwest shall extend to the former Venetie Indian Reservation lands and share a common boundary.

(B) The significant fish and wildlife resources of the refuge are the Porcupine caribou herd, wolves, wolverines, barren-ground grizzly bears, musk-oxen, polar bears, Dall sheep, eider and old squaw ducks, snow geese, peregrine falcons, and other migratory birds.

(C) Representative unspoiled arctic physiographic regions and wilderness recreation are special values of the refuge.

On page 40, strike lines 9 and 10.

On page 41, strike lines 1 and 2.

Mr. MELCHER. Mr. President, this is a very straightforward amendment to restore to the Tsongas amendment the deletion of Porcupine National Forest. The Porcupine National Forest is in the bill as presented from the committee, and I believe the Tsongas amendment would be better if it was left alone. It is the only national forest provided for in the interior of Alaska, and I believe it is prudent and wise to permit the Forest Service to have a presence in the interior of Alaska.

I want to read the provision that is in the language setting up this national forest:

> That the Secretary shall promulgate special regulations which shall insure that protection of fish and wildlife and their habitat shall be the primary purpose for the management of Federal land within the forest, and other multiple use activities shall be permitted in a manner consistent with the protection of fish and wildlife and their habitat.

That is the end of the quote of the language in the bill setting up the Porcupine National Forest.

I want to quote from the report:

> Recognizing the very high fish and wildlife values of the area, the Committee inserted a requirement that this national forest be managed under special regulations to assure that protection of fish and wildlife and their habitat shall be the primary purpose for management.

That is for the Porcupine National Forest. That is the primary purpose of this national forest.

So the question evolves down to whether or not it is wise to have the presence of the Forest Service managing a national forest in the interior of Alaska.

I have come to the conclusion for a number of years that we would be remiss in this legislation if we did not do that. Remember the Forest Service personnel are the most progressive and most experienced of all the personnel in the land management agencies of the Federal Government. We are going to set aside vast areas here that will be under the Fish and Wildlife Service, we are going to set aside vast areas that will be under the personnel of the Bureau of Land Management——

The PRESIDING OFFICER. The Senate is not in order. Will Senators please take their seats or retire to the rear of the room. The Senator is entitled to be heard. Will Senators please take their seats.

The Senator from Montana.

Mr. MELCHER. I thank the Chair.

We are going to set up vast areas to be managed by the Bureau of Land Management. All of these areas are going to take personnel to be moved up to Alaska to do what we are trying to accomplish under the terms of this bill.

The agency that is best able to use some of their personnel to immediately move in is the Forest Service. They have the trained personnel for wildlife management there. It is a part of the multiple use in our national forests, and they have done an excellent job throughout the lower 48 States, and I want to see some—and believe me this is a small portion of the land we are setting aside under special uses in Alaska—of it delegated to the National Forest Service.

The other part of the amendment not only recognizes the management of the wildlife but specifies that the rivers and water resources and the other areas comprising habitat important for fish and wildlife, including the peregrine falcon and waterfowl and caribou here and other species within, shall be further protected. I think a very progressive step could be taken in modifying or amending this amendment of the Senator from Massachusetts if this amendment can be accepted, and I hope it can be.

I reserve the remainder of my time.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What is the parliamentary situation? How much time remains on this amendment?

The PRESIDING OFFICER. The proponent of the amendment has 15 minutes and the managers of the bill have 15 minutes in opposition. The managers of the bill control the time.

Mr. HART. Will the Senator yield me 3 minutes?

Mr. HATFIELD. I yield 5 minutes to the Senator from Colorado.

Mr. HART. Mr. President, I hope Senators will understand that the proposal by the Senator from Montana is directly contrary to the vote just taken in the Senate. The proposal by the Senator from Montana to designate a new national forest apropos the committee's proposal would overlap the two principal areas of increased or expanded wildlife refuges which are contained in the Hart-Chafee amendment which was, I think, just resoundingly, about 2 to 1, supported, if I interpret the vote correctly.

Now, there is a reason why this land should be administered by the Fish and Wildlife Service. And that is because its principal value is for fish and wildlife and a very secondary or even tertiary value is the forest. Most of it is not even prime forest land.

To say that we ought to turn this into a national forest, a couple million or 3 million acres, just so we can have that Forest Service present in the middle of Alaska avoids the fundamental issue, and that is that acreage overwhelmingly is valuable as wildlife refuges. These areas encompassed by the proposed national forest are the very heart of the additional acreage which is being proposed by the Senator from Colorado and the Senator from Rhode Island.

So if we adopt Senator MELCHER's proposal, we will contradict the vote that was just taken, which was about two-thirds of the Senate in favor of expanded refuge areas. The purpose behind those areas and that vote is to have those specific areas, those prime areas, administered by the people who understand their principal value the most and the best, and those are the professionals in the Fish and Wildlife Service.

You do not hire foresters to administer wildlife refuges and vice-versa. I hope that the Senate will oppose the Melcher proposal and continue on the way of the vote that was just taken.

Mr. MELCHER. Will the Senator yield for a question?

Mr. HART. Yes.

Mr. MELCHER. Surely the Senator does not mean to imply that the professionals in the Forest Service who manage wildlife in the national forests are foresters, does he? Does he not recognize the preponderance gained by game biologists, that wildlife trained professionals in the national forests are involved in managing wildlife in the national forest?

Mr. HART. Certainly. I also understand that there are probably people in the Fish and Wildlife Service who know something about timbering. But that is not the issue. The issue is which service is best qualified to administer land. And the particular value, the overwhelming value of this land is fish and wildlife and not forestry.

I yield to my colleague from Rhode Island.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Oregon yield time?

Mr. HATFIELD. How much time does the Senator need? I yield 3 minutes.

Mr. CHAFEE. Mr. President, what we are talking about here is a matter of priorities. Under the Forest Service, the top priority is forest products. Under the Fish and Wildlife Service, the top priority of the management of this area is for the preservation and encouragement of wildlife.

The Melcher amendment goes right to the very heart of the subject we have been discussing for the past 4 hours. If the Melcher amendment were adopted, it would devastate the efforts that we have been making to increase the amount of refuge land in Alaska.

Mr. President, in connection with the matter of priorities, in this area that the Senator is discussing, only 5 percent, at maximum, have forest potential; that is, wood potential. The refuge designation would permit timbering if it were compatible and the Secretary permitted it.

Mr. President, this Porcupine area contains one-third of the waterfowl production for the Yukon Flats Basin. It also contains important habitat for the uplands species of caribou and grizzlies.

The committee acknowledges the great wildlife value of the area and established the primary purpose of this as wildlife protection. Since its primary purpose is wildlife protection, then it certainly makes sense to have the Fish and Wildlife Service in charge of the area.

The timber that is in the area, the 5 percent that I talked about before, is important to the watersheds, which is exactly the areas that need the protection.

Mr. President, I think it is extremely important that we reject the Melcher amendment and continue on with the thrust of the vote that we took previously; that is, adding to the refuge lands in Alaska.

Mr. MELCHER. Will the Senator from Rhode Island yield?

Mr. CHAFEE. I yield.

Mr. MELCHER. Mr. President, I would just ask the Senator if he is familiar with the report, on page 208, where it is describing the Porcupine National Forest that is in the committee version of the bill. The second paragraph says:

> There are 3.8 million acres of forested land providing watershed protection, wildlife habitat, and recreation values.

In other words, I think, perhaps, the 5 percent the Senator has mentioned is wrong. The 3.8 million acres is out of 5.4 million acres, which is about 60 to 70 percent of the land which is forested.

Mr. CHAFEE. What I am discussing is the environmental impact statement developed by the Forest Service, which describes 360,000 acres of commercial forests within the 5.5-million-acre area. So you can see that this is a very, very modest portion of the total. That is where I got my 5 percent from. The average stand is estimated to be 3,000 board feet per acre. There was testimony before the House commitee that you had to have 15,000 board feet per acre before you reached an economically feasible harvest. That is 15,000 feet and here the average stand was 3,000 feet.

The economic feasibility of lumbering in this area is minimal and, therefore, the emphasis should be on those for wildlife.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I appreciate the clarification the Senator from Rhode Island made, because he was referring to less than a half a million acres of commercial forest land that would be deemed to be timber or harvested. That is not the purpose of my amendment, however, and the purpose of the Porcupine National Forest.

Actually, there is a great deal more acres of national forest land that does not and will not provide any commercial timber than there are acres of national forest land that will be timbered, that will be harvested for timber.

The mandate of the national forest is different. Congress has not set aside national forests just to harvest timber. Congress has set aside national forests for recreation, for wildlife habitat, for watershed protection, as well as for wilderness. There are many purposes of our national forests.

It is on that broad basis that we recommend, the committee recommends, that the Porcupine National Forest be created in the interior of Alaska and allow the presence of the Forest Service in that part of Alaska.

I might point out that it is very practical, since the professionals in wildlife management, which this forest would be managed principally for, are present in game biology specialists in the Forest Service now and they would be in a position to put the right professionals on the job quickly, whereas the Fish and Wildlife Service would have an extremely difficult time finding the personnel to man all the posts for the special game ranges and wildlife refuges that we are setting up in Alaska in this bill.

I reserve the remainder of my time.

Mr. HART. Mr. President, will the Senator from Oregon yield me 2 minutes?

Mr. HATFIELD. Yes, I yield 2 minutes to the Senator from Colorado.

Mr. HART. Mr. President, once again I think it is important to understand what the Senator from Montana is proposing to do. As I interpret the last rollcall vote, the Senate put itself on record, by a margin of 2 to 1, in favor of a reasonable expansion of wildlife refuge areas in Alaska.

What the Senator from Montana proposes to do is to take the heart of that expanded area and make a national forest out of it, as the committee bill proposes to do. He is trying to overcome a 2-to-1 vote which just went against him.

The issue, as he rightly stated, is who is best qualified to administer the land. That issue is resolved by the principal value of the land. If the principal value of the land is for wildlife refuge, then the experts in wildlife management should have it—the Fish and Wildlife Service. There can be, as the Senator from Rhode Island points out, a secondary activity, some logging that does not interfere with the principal purpose.

What does the committee itself say on page 416 of the bill? It says in establishing this forest:

> *Provided*, That the Secretary shall promulgate special regulations which shall insure the protection of fish and wildlife and their habitat shall be the primary purpose for the management of Federal lands within the forest.

The committee itself acknowledges that the principal purpose and principal value of this land is fish and wildlife. Why not have the experts administer it? Make it a wildlife refuge. That is the issue.

Mr. MELCHER. Mr. President, I am going to keep repeating as often as necessary that the experts on wildlife management, the game biologists, are in the Forest Service personnel. They are probably more available in the Forest Service personnel than they will be readily available in the Fish and Wildlife Service.

I hope this talk about experts does not cloud the thinking of the Senators here in the Chamber. The experts are present in the Forest Service to manage wildlife. They have their game biologists, they have their wildlife managers, they are professionals. The very purpose of the Porcupine National Forest, as I read at the outset, is to provide protection for the wildlife and directs that the Secretary shall administer this national forest primarily for the protection of the wildlife.

I think it is a very prudent and wise amendment and would greatly strengthen the pending amendment before us. I reserve the remainder of my time.

Mr. TSONGAS. Will the Senator yield to me?

Mr. HATFIELD. I yield 3 minutes to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I think the Senate might benefit from a recapitulation of what took place earlier. The committee bill provided for 42.6 million acres of national wildlife refuge, 5.5 million acres of national forest units, and 7.2 million acres of national conservation areas.

The amendment proposed by the Senator from Colorado sought to eliminate the duplication of agencies. In one particular case we have five different management areas, a hodge-podge that cannot possibly be administered. I think the Senate spoke rather clearly to the need for an administrative package that makes sense.

The prime value of that land is the existing fish and wildlife natural resource. To argue that this should be managed by an agency other than the Fish and Wildlife Service, I think, suggests that the agencies downtown have been inappropriately named for a number of years. I do not believe this is the case.

The other point I would raise regards the idea that this is somehow a valuable forest area, bisected by the Arctic Circle. This is not that kind of area. It has fish and wildlife as a primary resource. It makes no sense that anybody else but the Fish and Wildlife Service, both from a substantive point of view and a management efficiency point of view, administer this area. I thank the Senator from Oregon for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I shall be very brief. I would simply like to restate the comments made by my good friend from Montana, the senior Senator.

We considered this matter very carefully in the committee. We felt that there should be a national forest in the Porcupine River area.

The distinguished senior Senator from Alaska (Mr. Stevens) previously pointed out that there is a substantial forest area involved in the proposed Porcupine National Forest. Therefore, I support the position taken by the Senator from Montana (Mr. Melcher), and I support his amendment. Can we yield back our time?

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oregon has 4 minutes 2 seconds and the Senator from Montana has 7 minutes 14 seconds.

Mr. CHAFEE. Will the Senator yield 2 minutes?

Mr. HATFIELD. I yield.

Mr. CHAFEE. I wish to call once again to the attention of the Senate the fact that the priority of this section of land, also contained in the committee bill itself, is that it shall be consistent with the protection of fish and wildlife and their habitat. The organization that is most in tune, most experienced, in carrying out such activities, is the Fish and Wildlife Service.

So, Mr. President, I think it is urgent that we continue with the vote previously taken which placed this land into a wildlife refuge. Should the Melcher amendment be agreed to, it would remove this very, very substantial portion of land which is affected by the total amendment, the Hart-Chafee amendment. It would be removed from designation as a refuge and would be designated a national forest.

So, Mr. President, I urge my colleagues to oppose the Melcher amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I simply want to state that this is the only part of the interior of Alaska which is reserved to forest area that I know of. If we leave it alone, it will be managed as is required in the language, for the primary purpose of protecting the fish and wildlife habitat and the values that are there. I hope the amendment can be agreed to. I yield back the remainder of my time.

Mr. HATFIELD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Montana. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 30, nays 66, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—30

Baker
Bellmon
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Garn
Goldwater
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Helms
Humphrey
Jackson
Johnston
Laxalt
Long
McClure
Melcher
Schmitt
Stennis
Stevens
Talmadge
Tower
Wallop
Young

NAYS—66

Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Hart
Heinz
Hollings
Huddleston
Inouye
Javits
Jepsen
Kassebaum
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—4

Armstrong
Eagleton
Kennedy
McGovern

So Mr. MELCHER's amendment (UP No. 1404) was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

UP AMENDMENT NO. 1405

Mr. JACKSON. Mr. President, in behalf of the distinguished senior Senator from Oregon (Mr. HATFIELD) and myself, I call up an unprinted amendment which is at the desk, and which is in the nature of a substitute to unprinted amendment numbered 1402.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Mr. HATFIELD, proposes unprinted amendment numbered 1405, in the nature of a substitute to unprinted amendment numbered 1402.

The amendment is as follows:

On page 1, line 1, strike everything through page 39, and insert in lieu thereof the following:

On page 389, line 1, strike everything through page 408, line 11, and insert in lieu thereof the following:

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "conserve" means to use, and the use of, such methods and procedures which are necessary to insure, to the maximum extent practicable, the protections, maintenance, and management of fish and wildlife and plants, their habitats, and the ecological systems of which they form a constituent element, for the ecological, educational, aesthetic, cultural, recreational, and scientific enrichment of mankind. Such methods and procedures may include any activity associated with modern scientific fish and wildlife management, such as research, census, monitoring, law enforcement, the acquisition, maintenance, and enhancement of habitat, information, education, and extension services, hunting, fishing, trapping, and transplantation.

(2) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it existed on the day before the date of enactment of the Alaska Native Claims Settlement Act.

(3) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 302;

(B) any existing unit of the National Wildlife Refuge System not included within any unit referred to in subparagraph (A); or

(C) any unit of the National Wildlife Refuge System established in the State after the date of the enactment of this Act.

(4) The term "range" has the same meaning as that term has in the National Wildlife Refuge System Administration Act of 1966 as amended.

ESTABLISHMENT OF REFUGEES

SEC. 302. (a) ESTABLISHMENT.—The following are established as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refuge shall consist of approximately two million nine hundred and eighty thousand acres of existing refuges specified in this paragraph, which shall be redesignated as subunits of the Alaska Maritime National Wildlife Refuge, and an addition thereto of approximately four hundred and sixty thousand acres of public lands as well as an addition of submerged public lands of unknown quantity within the former Chugach National Forest boundary around Afognak Island, to be included in the following described units consisting of islands, islets, offshore rocks, reefs, offshore spires, and designated capes, among other unnamed areas in the coastal waters and adjacent seas of Alaska as generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge", dated October 1979.

(i) Chukchi Sea Unit—including Cape Lisburne, Cape Thompson, and the existing Chamisso National Wildlife Refuge, but excluding such other offshore public lands within the Bering Land Bridge National Preserve. That portion of the refuge consisting of the public lands in Cape Lisburne shall be named and appropriately identified as the "Ann Stevens-Cape Lisburne" subunit of the Chukchi Sea Unit.

(ii) Bering Sea Unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands and Sea Lions Rocks National Wildlife Refuges, Hagemeister Island, those portions of Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Egg Island, Punuk Islands, and King Island not otherwise conveyed under the Alaska Native Claims Settlement Act, as amended, and all other public lands on islands, islets, offshore rocks, reefs, offshore spires, and designated capes;

(iii) Aleutian Islands Unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other public lands in the Aleutian Islands;

(iv) Alaska Peninsula Unit—including the existing Simeonof and Semidi National Wildlife Refuges, the Shumagin Islands, Sutwik Island, the islands and headlands of Puale Bay and all other public lands on islands, islets, offshore rocks, reefs, offshore spires, and designated capes south of Katmai National Park to False Pass; and

(v) Gulf of Alaska Unit—including the existing Forrester Island, Hazy Islands, Saint Lazaria, and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor Island, Chiswell-Islands, Pye Islands (except Ragged Island), Natoa, Chat, Chevel, Granite, and Middleton Islands, the Trinity Islands and all named and unnamed islands, islets, offshore rocks, reefs, or offshore spires and submerged public lands surrounding Kodiak and Afognak Islands and all other such offshore public lands, but excluding such lands within existing units of the National Park System, and Nuka Island and lands within the National Forest System except as provided in this Act.

(B) The significant fish and wildlife resources of the refuge are marine mammals, marine birds, and other migratory birds.

(C) Archeological resources and marine resources of offshore public lands within the refuge are special values of the refuge.

(D) The Secretary shall negotiate with the applicable Native Corporations, pursuant to section 1302(h) and section 1417, for the conveyance of public lands or the provision of other valuable consideration or both, to such Corporations in exchange for the selection rights or title to the bird cliffs of Saint Paul and Saint George Islands. If the exchange is agreed upon, the Alaska Maritime National Wildlife Refuge shall include the bird cliffs of Saint Paul and Saint George Islands.

(2) ALASKA PENINSULA NATIONAL WILDLIFE REFUGE.—(A) The Alaska Peninsula National Wildlife Refuge shall consist of the approximately three million five hundred thousand acres of public lands, including the lands on the Alaska Peninsula transferred to and made part of the refuge pursuant to Section 1427 of this Act, as generally depicted on the map entitled "Alaska Peninsula National Wildlife Refuge", dated October 1979.

(B) The significant fish and wildlife resources of the refuge are brown/grizzly bears, the Alaska Peninsula caribou herd, moose, marine mammals, waterfowl, raptors, marine and other migratory birds, salmanoids and other fish.

(C) The special values of the refuge are the representative, unique biological continua of the Alaska Peninsula including particularly the Pavlof Volcanos and Cathedral Valley; Veniaminof Volcano, Stepanof Flats and Kupreanof Peninsula. Castle Cape Fjords; Cape Kumliun; and Chiginagak Volcano and Mt. Kialagvik.

(3) ARCTIC NATIONAL WILDLIFE RANGE.—(A) The Arctic National Wildlife Range shall consist of all lands within the existing Arctic

National Wildlife Range which shall be redesignated as a unit of the expanded Arctic National Wildlife Range and of the approximately seven million six hundred and fifty thousand acres of public lands generally depicted on the map entitled "Arctic National Wildlife Range" dated July 1980. Additions to the Arctic National Wildlife Range to the southwest shall extend to the former Venetie Indian Reservation lands and share a common boundary.

(B) The significant fish and wildlife resources of the refuge are the Porcupine caribou herd, wolves, wolverines, barren-ground grizzly bears, musk-oxen, polar bears, Dall sheep, eider and old squaw ducks, snow geese, peregrine falcons, and other migratory birds.

(C) Representative unspoiled arctic physiographic regions and wilderness recreation are special values of the refuge.

(4) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge", dated October 1979. The wildlife refuge shall include all of the islands in the eastern end of Becharof Lake within the map boundary but shall not include the lake or submerged lands beneath the lake below the mean high water mark.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmon, migratory birds, the Alaska Peninsula caribou herd and marine birds and mammals.

(C) The bear-denning islands of Becharof Lake are special values of the refuge.

(5) CLARENCE RHODE NATIONAL WILDLIFE REFUGE.—(A) The Clarence Rhode National Wildlife Refuge shall consist of all lands within the existing Clarence Rhode National Wildlife Range and the Hazen Bay and Nunivak National Wildlife Refuges which shall be redesignated as units of the Clarence Rhode National Wildlife Refuge, and of the approximately eleven million one hundred and thirty thousand acres of public lands generally depicted on the map entitled "Clarence Rhode National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, marine mammals, musk-oxen, and salmonoids.

(C) The Andreafsky Hills area and the marine resources of offshore public lands and the Cape Mendenhall area and Mount Roberts Volcano of Nunivak Islands are special values of the refuge.

(D) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted in the refuge within areas where such uses are, and in a manner which is, compatible with the major purposes of the refuge set forth in section 303 (1) and (2).

(E) Subject to reasonable regulation, the Secretary shall administrate the refuge to assure the continuation of navigation and access by boat on the Yukon and Kuskokwim Rivers.

(6) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately three million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Iditarod Trail is a special feature of the refuge.

(7) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and twenty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, caribou, and furbearers.

(C) Sithylemenkat Lake and the Kanuti Canyon are special values of the refuge.

(8) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of all lands within the existing Kenai National Moose Range which shall be redesignated as the Kenai National Wildlife Refuge, and expanded by approximately two hundred and forty thousand acres of public lands generally depicted on the map entitled "Kenai National Wildlife Refuge", dated October 1978. Those public lands described in PLO 3953, dated March 15, 1966, as amended by PLO 4056, dated July 18, 1966, shall not be included within the "Kenai National Wildlife Refuge" as expanded and redesignated by this section.

(B) The significant fish and wildlife resources of the refuge are moose, bears, furbearers, Dall sheep, mountain goats, migratory birds, and salmonoids.

(C) The Swan Lake-Swanson River lake and rivers complex and the Harding Icefield are special values of the refuge.

(9) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of those public lands within the existing Kodiak National Wildlife Refuge, which shall be redesignated as the Kodiak Island Unit of the expanded Kodiak National Wildlife Refuge, and all other public lands on Afognak and Ban Islands of approximately fifty thousand acres as depicted on the map entitled "Kodiak National Wildlife Refuge", dated October 1978. The described public lands are those resulting from section 1427 of this Act.

(B) The significant fish and wildlife of the refuge are Kodiak brown bears, salmonoids, sea otter, sea lions, and other marine mammals and migratory birds.

(C) Special values of the refuge are the scenic values and habitat associations of the Red Peaks area of Afognak Island.

(D) The identification of important brown bear use areas in cooperation with the Native corporations of Afognak Island shall be accomplished in a timely fashion and reviewed periodically.

(E) The significant fish and wildlife of the refuge are Kodiak brown bears, salmon, marine mammals, and migratory birds.

(F) Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge.

(10) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million five hundred and thirty-five thousand acres of public lands generally depicted on the map entitled "Koyukuk National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Nogahabara sand dunes and Three Day Slough are special values of the refuge.

(11) NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million seven hundred and twenty thousand acres of public lands generally depicted on a map entitled "Nowitna National Wildlife Refuge", dated April 1980.

(B) The significant fish and wildlife resources of the refuge are the trumpeter swans, white-fronted geese, canvasbacks and other waterfowl and migratory birds, moose, caribou, martens, wolverines and other furbearers, salmon, sheefish and northern pike.

(12) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately two million one hundred and fifty thousand acres of public lands generally depicted on the map entitled "Selawik National Wildlife Refuge", dated October 1978. No lands conveyed to any Native Corporation shall be considered to be within the boundaries of the refuge; if any such Corporation or Corporations desire to convey any such lands, the Secretary may acquire such lands with the consent of the owner, and any such lands so acquired shall become part of the refuge.

(B) The significant fish and wildlife resources of the refuge are migratory birds, the Western Arctic caribou herd, and sheefish.

(C) Archeological resources are special values of the refuge.

(D) The Selawik River is a special value of the refuge and shall be managed as a wild river from its headwaters to the Kugarak River.

(E) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted within grazing lease units as they existed on January 1, 1976, in the refuge.

(13) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred and sixty-five thousand acres of public lands generally depicted on the map entitled "Tetlin National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, furbearers, and moose.

(C) Within one year after the date of the enactment of this Act, the Secretary and the State shall effect an exchange of lands within the Tetlin National Wildlife Refuge. In this exchange, the State shall relinquish all claims (including land selections filed under Section 6(b) of the Alaska Statehood Act) for up to forty-six thousand and eighty acres of land selected by the State prior to November 14, 1978, within the refuge for an equivalent acreage of Federal lands north of the Alcan Highway within the Tetlin National Wildlife Refuge, which shall be conveyed to the State as though conveyed under the Statehood Act. Such lands relinquished by the State shall become part of the Tetlin National Wildlife Refuge. This exchange shall become effective upon the execution of all documents necessary to accomplish the exchange.

(D) Regardless of any requirement in this Act that a wilderness review be conducted of areas within the Tetlin National Wildlife Refuge in accordance with sections 3(c) and 3(d) of the Wilderness Act, there may be authorized and granted rights-of-way for pipelines and other facilities that may be required pursuant to section 9 of the Alaska Natural Gas Transportation Act of 1976.

(14) TOGIAK NATIONAL WILDLIFE REFUGE.—(A) The Togiak National Wildlife Refuge shall consist of all lands within the existing Cape Newenham National Wildlife Refuge which shall be redesignated as a unit of the Togiak National Wildlife Refuge, and of the approximately three million, three hundred and ten thousand acres of public lands generally depicted on the map entitled "Togiak National Wildlife Refuge", dated October 1979.

(B) The significant fish and wildlife resources of the refuge are salmonoids, marine and other migratory birds and marine and other large mammals.

(C) The watershed features of the Kanektok, Goodnews and Togiak River systems are special values of the refuge.

(D) Cape Peirce is a special value of the refuge.

(15) YUKON FLATS NATIONAL WILDLIFE

REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of the approximately nine million two hundred thousand acres of public lands generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated July 1980.

(B) The significant fish and wildlife of the refuge are migratory birds, moose, wolves, wolverines, and other furbearers and salmon.

(C) The Hodzana River drainage is a special feature of the refuge.

(D) Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

(b) Other Significant Fish and Wildlife Resources.—

(1) IZEMBEK NATIONAL WILDLIFE REFUGE.—(A) The significant fish and wildlife resources of the Izembek National Wildlife Range (which is hereby redesignated as the Izembek National Wildlife Refuge), are migratory birds, brown bears, and salmonoids.

(B) Izembek Lagoon is a special feature of the refuge.

PURPOSES OF REFUGES

Sec. 303. The major purposes of each refuge are—

(1) to conserve the fish and wildlife and their habitat within the refuge which are designated in section 302 as significant fish and wildlife resources, as well as to conserve the other fish and wildlife and habitat within the refuge;

(2) fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitat;

(3) to provide, in a manner consistent with the purposes set forth in paragraphs (1) and (2) above, the opportunity for continued subsistence uses by local residents;

(4) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (1), water quality and necessary water quantity within the refuge, and

(5) to protect, maintain, or enhance, in a manner consistent with the purposes set forth in paragraphs (1) and (2) any special value of the refuge specified in section 302, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, or scenic value of the refuge.

ADMINISTRATION OF REFUGES

Sec. 304 (a) In General.—Each refuge shall be administered by the Secretary, subject to valid existing rights, to achieve the major purposes set forth in section 303 and in accordance with the laws governing the administration of units of the National Wildlife Refuge System, the laws governing the conservation and protection of fish and wildlife and plants, and this Act.

(b) Uses Permitted Within Refuges.—(1) When compatible with the primary purposes listed in section 303, the Secretary, is authorized to permit sport hunting and fishing and trapping within the Alaskan refuges established, enlarged or redesignated by this Act. Such activities shall be conducted in accordance with all applicable State and Federal laws.

(2) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose, described in such section 4(d) unless such use (including but not limited to any oil and gas leasing permitted under paragraph (2)) or purpose is compatible with the major purposes of the refuge set forth in section 303 and with section 1009. The Secretary shall prescribe such regulations, and impose such terms and conditions, as may be necessary and appropriate to ensure that activities carried out under such use or easement are so compatible.

(3) All public lands in each refuge in Alaska are hereby withdrawn, subject to valid existing rights, from future selections by the State of Alaska and Native Corporations, and from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, but not from operation of the mineral leasing laws.

MISCELLANEOUS PROVISIONS

Sec. 305. All proclamations, Executive orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act, and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established or redesignated by or described in section 302, be included within such refuge. All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

COMMERCIAL FISHING

Sec. 306. The Secretary shall permit, within units of the National Wildlife Refuge System designated, established, or enlarged by this Act, the exercise of valid commerical fishing rights or privileges obtained pursuant to State or Federal law and the use of Federal lands, subject to reasonable regulation, for campsites, cabins, motorized vehicles, and aircraft landings directly incident to the exercise of such rights or privilege: *Provided*, That nothing in this section shall require the Secretary to permit the exercise of rights or privileges or uses of the Federal lands directly incident to such exercise, which he determines, after conducting a public hearing in the affected vicinity, to be inconsistent with the purposes of a unit of the Wildlife Refuge System as described in this section, and to be a significant expansion of commercial fishing activities within such unit beyond the level of such activity during 1979.

TITLE IV—NATIONAL CONSERVATION AREAS

ESTABLISHMENT

Sec. 401. The following areas are hereby established as national conservation areas in order to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality:

(1) Baird Mountains National Conservation Area, including approximately two million two hundred thousand acres of Federal lands, as generally depicted on the map entitled "Baird Mountains National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and migration routes, the Squirrel River and vegetative and other natural and cultural values of scientific interest in the lower Noatak River Valley.

(2) Chandalar National Conservation Area, including approximately eight hundred eighty thousand acres of Federal lands, as generally depicted on the map entitled "Chandalar National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and migration routes.

Steese National Conservation Area, including approximately one million two hundred twenty thousand acres of Federal lands, as generally depicted on the map entitled "Steese National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and Birch Creek.

ADMINISTRATIVE PROVISIONS

Sec. 402. (a) The Secretary, through the Bureau of Land Management, shall administer the national conservation areas established in section 401 pursuant to the applicable provisions of the Federal Land Policy and Management Act of 1976 dealing with the management and use of land in Federal ownership, and shall, within five years of the date of enactment of this Act, develop a land use plan for each such area, and for the area established in section 403.

(b) No public lands within any such national conservation area shall be transferred out of Federal ownership except by exchange pursuant to section 206 of the Federal Land Policy and Management Act. Where consistent with the land use plans for the area, mineral development may be permitted pursuant to the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181–287) or the Materials Act of 1947, as amended (30 U.S.C. 601–603). Subject to valid existing rights, the minerals in Federal lands within national conservation areas are hereby withdrawn from location, entry, and patent under the United States mining laws (30 U.S.C. 22–54). Where consistent with the land use plan for the area, the Secretary may classify lands within national conservation areas as suitable for locatable mineral exploration and development and open such lands to entry, location, and patent under the United States mining laws (30 U.S.C. 22–54).

(c) Subject to valid existing rights, all mining claims located within any such unit shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe as aforesaid.

ESTABLISHMENT OF WHITE MOUNTAINS NATIONAL RECREATION AREA

Sec. 403. There is hereby established the White Mountains National Recreation Area containing approximately one million acres of Federal lands, as generally depicted on the map entitled "White Mountains National Recreation Area—proposed", and dated October 1978. The Secretary shall administer the area in accordance with the provisions of section 1312 and other applicable provisions of this Act, the Federal Land Policy and Management Act of 1976, and other applicable law. In planning for the recreational use and management of this area, the Secretary shall work closely with the State of Alaska.

RIGHTS OF HOLDERS OF UNPERFECTED MINING CLAIMS

Sec. 404. (a) The term "unperfected mining claim" as used in this section, means a mining claim which is located on lands within the boundaries of the White Mountains National Recreation Area or national conservation areas established pursuant to this title with respect to which a valid mineral discovery within the meaning of the mining laws of the United States, was not made as of the date of the withdrawal of such area from further appropriation under the mining laws of the United States.

(b) Moratorium on Contest Proceedings.—Any holder of an unperfected mining claim seeking to protect such claim pursuant to this section must have maintained and must continue to maintain such claim in compliance with applicable Federal and State laws, and where applicable, must have obtained and complied with any mining access permit requirements imposed by the Department of the Interior during the 1979 mining season. Prior to September 30, 1982, no unperfected mining claim which has been maintained in accordance with this subsection shall be contested by the United States for failure to have made a valid mineral discovery within the meaning of the mining laws of the United States: *Provided*, That such claim shall be diligently prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the national conservation areas or the White Mountains National Recreation Area or the affected conservation system units established or expanded by this Act.

(c) Valid Mineral Discovery.—If the holder of an unperfected mining claim notifies the Secretary by filing an application for a patent that, as a result of mining operations in compliance with the requirements of subsection (b), he has made a valid mineral discovery on such claim within the meaning of the mining laws of the United States, and if the Secretary determines that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States. The holder of such a patent shall also be entitled to the use of so much of the surface estate of the lands comprising the claim as may be necessary for mining purposes: *Provided*, That all mining operations conducted upon a claim after such a valid mineral prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the national conservation areas or the White Mountains National Recreation Area or the affected conservation system units established or expanded by this Act.

(c) Valid Mineral Discovery.—If the holder of an unperfected mining claim notifies the Secretary by filing an application for a patent that, as a result of mining operations in compliance with the requirements of subsection (b), he has made a valid mineral discovery on such claim within the meaning of the mining laws of the United States, and if the Secretary determines that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States. The holder of such a patent shall also be entitled to the use of so much of the surface estate of the lands comprising the claim as may be necessary for mining purposes: *Provided*, That all mining operations conducted upon a claim after such a valid mineral shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1982.

(f) Preference Rights.—The holder of any unperfected mining claim which was, prior to November 16, 1978, located, recorded, and maintained in accordance with applicable Federal and State laws on lands located within the boundaries of any national conservation area, or the White Mountains National Recreation Area established this title, shall be entitled during a two-year period after the date that the Secretary exercises his authority under section 402 or 1312 to open an area containing such claim to mining, (1) to a preference right to rerecord his claim under applicable law and to develop such claim under section 402 or (2) to obtain a lease to remove nonleasable minerals from the claim under section 1312.

On page 415, line 18, delete everything through page 416, line 16, and renumber subsequent sections accordingly.

On page 417, line 19, change the period to a colon and strike the remainder of that line through line 22 and add the following: "*Provided further*, That the expertise of the United States Fish and Wildlife Service shall be utilized in development of the forest plan which includes the management of the Copper River-Bering River Area and any subsequent revisions of that plan. Such plan or its revision shall be coordinated with the United States Fish and Wildlife Service flyway and management plans and programs for the wildlife species using this area. Activities and uses shall be permitted in a manner which the Secretary deems to be compatible with the protection of fish and wildlife populations and their habitats as set forth in special regulations which shall be promulgated by the Secretary in consultation with the United States Fish and Wildlife Service.".

On page 418, lines 16 and 17, delete "the Porcupine National Forest and".

On page 446, after line 16, insert the following:

"(38) Beaver Creek, Alaska.—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian, within the White River Reservation Recreation Area and the Yukon Flats National Wildlife Refuge; to be administered by the Secretary of the Interior.".

On page 446, line 16, renumber Ivishak, Alaska as "(39)" and on lines 19 and 20, delete "Arctic National Wildlife Range" and insert in lieu thereof: Arctic National Wildlife Range".

On page 446, line 22, renumber Selawik, Alaska as "(41)".

On page 447, line 4, renumber Wind, Alaska as "(44)" and on lines 6 and 7, delete "Arctic National Wildlife Range" and insert in lieu thereof: "Arctic National Wildlife Refuge".

On page 447, line 22, delete everything through page 448, line 3, and renumber subsequent paragraphs accordingly.

On page 450, line 20, delete "(85)" and insert in lieu thereof: "(83)".

On page 451, line 3, delete everything through line 8.

On page 451, line 11, delete "(41)" and insert in lieu thereof: "(46)".

On page 451, line 15, and page 452, line 25, delete "Beaver Creek".

On page 520, line 5, insert "validly" between "previously" and "selected".

On page 602, line 5 delete everything through page 603, line 19 and insert in lieu thereof the following:

WILDLIFE REFUGE OR RANGE COOPERATIVE MANAGEMENT AGREEMENTS

Sec. 1203. (a) In General.—The Secretary is directed to undertake to enter into a cooperative management agreement with any Native Corporation, the State, any political subdivision of the State, or any other person owning land which is located within, or adjacent or near to, any wildlife refuge or range. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner in a manner compatible with the major purposes of the refuge to which such land pertains and in a manner which will not diminish opportunities for subsistence uses in the refuge.

(b) Terms and Conditions.—Each agreement shall—

(1) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (a);

(2) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out the obligations of the Secretary under the agreement;

(3) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(4) set forth those services or other consideration which the Secretary agrees to provide the owner in return for the owner entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(5) set forth such additional terms and conditions as the Secretary and the owner may agree to as being necessary and appropriate to carry out the management goals as set forth in subsection (a); and

(6) specify the effective period of the agreement.

On page 608, lines 18 and 19, delete "the National Wildlife Refuge System and the National Park System" and insert in lieu thereof: "the National Park System and the National Wildlife Refuge System in Alaska."

On page 646, after line 20, insert the following:

"LAND EXCHANGES

"Sec. 1325. (a) Within one year after the date of the enactment of this Act, the Secretary and the State shall effect an exchange of lands within the Tetlin National Wildlife Refuge. In this exchange, the State shall relinquish all claims (including land selections filed under section 6(b) of the Alaska Statehood Act) for up to forty-six thousand and eighty acres of lands selected by the State prior to November 14, 1978, within the refuge for an equivalent acreage of Federal lands north of the Alcan Highway within the Tetlin National Wildlife Refuge, which shall be conveyed to the State as though conveyed under the Statehood Act. Such lands relinquished by the State shall become part of the Tetlin National Wildlife Refuge. This exchange shall become effective upon the execution of all documents necessary to accomplish the exchange.

"YUKON FLATS NATIONAL WILDLIFE REFUGE AGRICULTURAL USE

"Sec. 1326. Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

"TERROR LAKE HYDROELECTRIC PROJECT IN KODIAK NATIONAL WILDLIFE REFUGE

"Sec. 1327. Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge.".

(Mr. MITCHELL assumed the chair.)

Mr. JACKSON. Mr. President, I am offering this amendment on behalf of Mr. HATFIELD and myself as an effort to get a sensible compromise here on the question of the wildlife refuges.

This substitute amendment would make three significant changes to the bill as reported from our committee. It would delete the Porcupine National Forest, which we have just voted on, and add the western portion of that forest to the one expanded Arctic Wildlife Range.

It would add the eastern portion of the forest to the Yukon Flats National Wildlife Refuge.

The amendment also would delete the committee's Nowitna National Conservation Area and in its place designate a 1.56-million-acre Nowitna Wildlife Refuge.

In total, it would add 7.04 million acres to the National Wildlife Refuge System, as against the addition, as contained in the Hart-Tsongas proposal, of approximately 15 million acres. This would bring the total amount of land included in the National Wildlife Refuge System under the committee bill to approximately 50 million acres.

Mr. President, I believe this amendment goes more than halfway to meet the concerns of the sponsors of the amendment before the Senate. I urge very strongly that in trying to find a middle course here, as many of us on this committee have tried to do, this is a good settlement of the refuge problem.

I believe that most realize that when we are talking about the committee bill, we are talking about setting aside 103 million acres—103 million acres—out of the 375 million acres in all of Alaska, of which Natives get 44 million acres under the law that was passed back in 1971, in the Native Claims Settlement Act, and the State of Alaska is allowed to select, I believe, 104 million acres.

So, Mr. President, I believe this is a sensible settlement of the controversy as to whether it should be 60 or 50 million plus acres. I believe that it strikes a good balance, and I hope the amendment offered by Senator HATFIELD and me will be adopted.

Mr. JOHNSTON. Mr. President, will the Senator yield me 4 minutes?

Mr. JACKSON. I yield.

Mr. HATFIELD. Mr. President, will the Senator permit me to make a couple of comments on the substitute first?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. Mr. President, there are two additional points that I should like to add to what has been stated by the chairman of the committee, whom I join in offering the substitute.

I believe this is a very excellent proposal, because, actually, it adds to the refuge system more than 50 percent of what the Tsongas-Hart amendment proposes. But I believe that if one looks at the controversial areas with which we are involved, it eliminates about 90 percent of the controversy with respect to the refuge amendment.

The amendment, No. 2, would conform the Senate bill to the House treatment of wildlife refuges in two primary areas, the Nowitna and the Porcupine; and these areas represent the major differences between the House and the Senate refuge titles.

It has been described before by the chairman, but I should like to underscore the fact that because it does eliminate these major areas of controversy, it provides us with greater opportunity, I believe, of getting a bill during this session of Congress. It would eliminate the Porcupine National Forest, which is the only interior forest established by the Senate bill.

One portion of this proposal would be added to the Yukon Flats Wildlife Refuge, and the remaining area would be added to the Arctic Wildlife Range.

A second change would delete the Nowitna conservation area from the committee bill and would designate that 1,560,000 acres as a wildlife refuge.

Mr. President, in the bill, both these areas were protected for wildlife and other resource values. As a matter of fact, the Porcupine was to be managed primarily for wildlife in accordance with the language I proposed in the committee markup and which was read by the Senator from Montana earlier as a part of his effort on his amendment.

As the chairman has mentioned, the substitute would add more than 7 million acres to the wildlife system in Alaska, in addition to the 43 million acres already set aside by the commmittee bill. In other words, we have now, with this substitute proposal, 50 million acres listed in the wildlife refuge system for the State of Alaska. I believe we have to recognize the necessity of looking beyond the debate of today and of the amendments being propounded here by the Members of the Senate. We have to look to the goal of getting a bill in this session of Congress.

I should like to underscore that very strongly at this time: that, in my opinion, the substitute that is now proposed gives us a far better chance of getting a bill in this session of Congress, which I believe is the basic goal of at least the majority of us on the floor, and certainly was the intention of the members of the committee as we brought to the Senate what we thought to be a very balanced bill.

I do not want to see us become lost in the details and forget the major objectives and goals we have before us. We can amend this bill and do all kinds of things on the floor and end up with no bill at all when we end this Congress sometime this fall.

So I want to support this proposal with great fervor, because I am concerned about the basic objective of getting a bill in this session of Congress.

Mr. JACKSON. Mr. President, I yield 4 minutes to the distinguished junior Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I support this amendment.

The distinguished author of the amendment, Mr. JACKSON, has described the numbers of acres involved. However, boiled down to its simplest equation, its simplest common denominator, what we have is this: What the Jackson amendment does is to put some additional acreage into the wildlife refuge system and take some acreage out, still leaving more than the wildest dream could want of land put into the wildlife refuge system.

The land taken out of the refuge system is some of that which has the highest potential for oil and gas discovery in the entire United States. The land that is put back in is well suited for wildlife refuge.

Why do we want the land that has the highest potential for oil and gas taken out of the refuge system? Very simply because it is very difficult, if not impossible, to drill for oil and gas in any wildlife refuge system.

Mr. President, I do not believe I have to remind the Senate that oil and gas are rapidly depleting resources. Exxon and Arco, as well as the CIA, have come out with recent forecasts of the domestic oil and gas resource. What they have forecast is that between now and 1985, domestic production will decline from something on the order of 10 million barrels a day at present to something like 8 million barrels a day by 1985, a rapid depletion of our resource.

I hope they are unduly pessimistic; but if that happens, we either will have to conserve an additional 2 million barrels a day, which exceeds even the conservation we have done in the last year and a half, with more than doubling of energy prices, or we will have to import something on the order of 2 million barrels a day, or whatever that difference is.

Mr. President, to call the situation serious is to vastly understate the dimensions of our problem. Our problem is the highest priority for this Nation.

And for us to put language unnecessarily into a refuge system which will make it unavailable for oil and gas drilling is, it seems to me, unwise in the most extreme degree.

Mr. President, the Energy Committee, which is widely representative of the views of this Senate, spent not just weeks, but it spent months putting a bill together which is a balanced bill. What this amendment does is try to get back halfway toward where the Energy Committee was.

I believe that we were very, very generous to those who want to preserve Alaska and its wildlife resources in the energy bill. But the Tsongas amendment goes way beyond that.

Mr. President, I say to those who think we can solve the energy problems of this country while locking up vast areas to oil and gas drilling, while insisting on nonburning of coal and shutting down our nuclear plants and all the other energy resources, it just is not going to happen. What we have to make is a compromise, a sacrifice. I do not even think this amendment constitutes a sacrifice.

The PRESIDING OFFICER. The time yielded to the Senator from Louisiana has expired.

Mr. JACKSON. I yield 1 additional minute.

Mr. JOHNSTON. Mr. President, I hope that the Senate will look at this amendment for what it is, which is a balanced compromise, that is even more generous toward wildlife refuges and the preservation of our wildlife assets than the Energy Committee did.

I think it would be most unwise not to approve this amendment, and I hope my colleagues will do so.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. TSONGAS. Could the Senator do the body a favor and point out on the map the land areas that he is referring to and note how they coincide with the oil and gas the Senator talked about?

Mr. JOHNSTON. I cannot point out to these areas on the map. I wish to defer to my distinguished chairman, Mr. JACKSON, who I believe is better able to point these areas out on the map.

The PRESIDING OFFICER. The additional minute yielded to the Senator from Louisiana has expired.

Who yields time?

Mr. TSONGAS. Mr. President, I have time on the bill.

The PRESIDING OFFICER. The Senator may use it.

Mr. TSONGAS. Mr. President, I yield myself such time as I may consume.

What we have before us is a red herring. The red herring strategy is this: When you are in trouble on the merits of an issue, talk about oil and gas and the Senate will stampede. It did not stampede in the last vote nor the one before it. Let us talk about this one.

We are dealing with the Porcupine National Forest. Anyone who wants to take the time may come up and look at the map. Is the Porcupine National Forest in the dark proven hydrocarbon reserves? No.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield.

Mr. STEVENS. Is the Senator going to use the official map of the Bureau of Mines or the one he prepared?

Mr. TSONGAS. This is the U.S. Geological Survey.

Mr. STEVENS. I invite any Senator to come to my desk and see the one prepared by the Bureau of Mines, and the Porcupine River country is within the very important province for oil and gas.

Mr. TSONGAS. If I may continue, according to the U.S. Geological Survey, the Porcupine is not only not within the proven hydrocarbon reserves, it is not within the high hydrocarbon potential. Furthermore, it is not even within geologic conditions favorable for low hydrocarbon potential. And finally, in the last USGS category, it is not even within the geologic conditions less favorable to hydrocarbon potential. In fact, it is not included in any of the four categories.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. TSONGAS. I yield.

Mr. JOHNSTON. Is it not a fact that the reason they cannot put it in any of these categories is simply because no drilling has been permitted? And if there is a way to determine what is under a province without doing some drilling, it is news to me.

Mr. TSONGAS. I say to the Senator that argument can be used for every square inch of the world. If that argument is going to succeed, there is nothing I can say. Here you have a map. The major argument used against the wilderness amendment, the fifth amendment we will debate, is that it is in the high potential area. That is a major concern for Senators who are going to try to address that issue.

But I suggest that these areas marked on the map and referred to by the amendment do not coincide with any area of high potential or moderate potential. I think, when we talk about oil and gas, there must be some responsibility that the areas we are referring to at least to some extent coincide with potential reserves. In this particular case there is no congruent area whatsoever.

I yield to the Senator from Colorado.

Mr. HART. Will the Senator from Massachusetts address that the designation of areas as wildlife refuge does not prohibit oil and gas exploration? If someone wants to drill, they can drill; is that correct?

Mr. TSONGAS. The Senator is correct and that was exactly the second-degree amendment offered by the Senator from Colorado that everyone agreed to. It seems to me that to say there is not going to be this when that was just agreed to is one thing. But the second point is the map is very clear and we invite our colleagues to come and take a look at it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself time under Senator JACKSON's time. That is on the amendment.

How much time remains on the amendment?

The PRESIDING OFFICER. Two minutes to the proponents and time in opposition is controlled by the minority leader or his designee.

Mr. STEVENS. I yield myself time on the opposition to this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Wait a minute. I am talking about——

Mr. HART. Mr. President, reserving the right to object.

Mr. STEVENS. The proponent. His time or the bill. Either on my time on the bill or the time from the proponent.

The PRESIDING OFFICER. The Senator may select either of those.

Mr. STEVENS. All right, I will use the time on the amendment first and then go to the time on the bill that is in my control.

Let me say to my friend from Massachusetts that I would hope he had been to our State and knew the difference of what he is talking about.

For instance, page 208 of the committee report, this is talking about the porcupine country, the national forest system we are talking about:

> The Yukon and Kandik Basins are potential oil and gas reserves of national significance with speculative recoverable oil estimated at 1.7 billion barrels. Almost 2 million acres "highly favorable" for minerals occur. Uranium potential occurs on 1.2 million acres.

I do not know why we should downgrade areas of Alaska and use maps prepared by the Department of Interior now. They are not based upon the Bureau of Mines survey of the State of Alaska. Those are policy level maps prepared to prove the Senator's point. They are not factual maps about the mineral content of my State. That is all there is to it.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. STEVENS. We might as well have the argument right now. It happened on the floor of the House of Representatives and people asserted what the Senator asserted. It was seen by people of Alaska and they were appalled by the ignorance of people over there in the House of Representatives. I certainly hope the Senator is not going to tell us that is based upon Bureau of Mines studies of the Department of the Interior of my State for the oil and gas and mineral potential of the State.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield to answer that question.

Mr. TSONGAS. Is the Senator suggesting that the administration is misleading and fraudulently representing the maps of the U.S. Geological Survey?

Mr. STEVENS. It has been found to be so by the GAO, and I will be glad to get into that if the Senator wishes to do it. I am saying it was prepared by the Department of the Interior to support the Senator's argument. It is not based upon the Bureau of Mines study that was carried out with money that I made available pursuant to an amendment offered in an Interior appropriations bill to get the facts for this argument at this time. This is not a map that the Senator presented that is based upon factual studies of the mineral content of my State.

Mr. TSONGAS. If the Senator will yield further, I point out that since that map was done 3 years ago, they were remarkably capable of foreseeing the future. That map 3 years ago coincides with my amendment of today. If the administration had that kind of foresight they would not be in trouble.

Mr. STEVENS. I might say to my friend we have involved in this fight for 9 years and that money was made available 7 years ago, and the map that was prepared by the Bureau of Mines was prepared 4 years ago and the map is here. The map is available to anyone who wants it. The last one is issued by the Bureau of Mines, the Department of the Interior 1976 oil and gas provinces of Alaska. That is a map that is a policy level map prepared to win an argument on the floor of the House of Representatives and the floor of the Senate.

It is duplicitous to present it here on the basis that it represents the oil and gas provinces of my State. We ought to get some things straight here at least. To say this is not a bona fide amendment is wrong, particularly to downgrade that area, saying it is not of national significance as to oil and gas, which is definitely wrong. It is in this report before all this argument started. I did not write this report. The Senate Energy Committee, which ought to know what it is talking about, said it is of significant national proportions in terms of oil and gas in those two basins, the oil and gas potential.

While we are at it, I do not know whether the Senator from Washington put in the RECORD the report of the Comptroller General of the United States.

Mr. JACKSON. Yes, it is in the RECORD.

Mr. STEVENS. That is very clear. In order to try to keep these people honest as we dealt with this subject, and the constant attempt of the Department of Interior to downgrade oil and gas in this area, we asked the U.S. Comptroller General, the GAO, to check the one subject that was before us, and that is that resource study of the Arctic Wildlife Range Area, and clearly the policy level people of the Interior Department attempted to downgrade the factual assessment made.

It is a matter of opinion. They can state their opinion, Mr. President, if they would only be honest and say it is their opinion they are changing and not the statistics of the career level people, and that is what the GAO tells us.

If you look at the career level people's assessment it is clear that area ought to be explored. This is the same situation.

I think it is important for the Senate to take a look at what the Jackson amendment does. It really appalls me when I get to the position where I am even going to go that far—but I am going to have to support the Jackson amendment, and let me tell you why, because I really have not gotten around to discussing the Tsongas first amendment yet.

Let us just go through a listing of some of the things we found in this amendment, matters which I will attempt, without being dilatory, to go into in this amendment to try to correct.

They have changed the definition of "conserve." Why, I do not know. I will explain that at length sometime later, but it could be interpreted to change the whole Federal management pattern over lands which are now owned by the Federal Government within that refuge.

In terms of the Becharof Area, the submerged lands are owned by the State of Alaska. Yet this amendment purports to include them within the wildlife refuge. We did include the islands. But why should the State lands, which are beneath the lake, an enormous area there, why should that be included within the wildlife refuge?

The Senate committee was precise and did comply with the concept that the State owns those lands and excluded them from the wildlife refuge.

In the Innoko Area, although there is no detailed map that has been made available to me yet, I hope to be able to examine it if we do have one. We do not know yet whether the committee action in deleting the lands which are owned by the State along the Yukon River on the border of the refuge are, in fact, deleted from this amendment.

In the Kanuti Area there is a Bettles Area. It is a highly mineralized area as far as that portion of the State of Alaska—it is just south of the Gates of the Arctic Area, and we do not know yet what reason there is to include, to expand, the area in that portion. I will be happy to get into a discussion with the Senator from Massachusetts and see if he can justify why in the world that was extended. The committee did not extend it. To my knowledge, no one else has extended it. But this sweeps out and picks up a whole new area. I will get the details of that amount of land as soon as I can.

In the Koyukuk Area there are lands owned by Doyon Native Corp. at the edge of the proposal. The committee adopted a policy not to place within the confines of the refuge lands that are owned by the State or by Natives or by nongovernmental, in private ownership, including lands owned by municipalities, not to put those within the confines of a refuge when by drawing a line they could be excluded from the potential problem of having interference by Federal management.

The Tsongas amendment violates committee policy by including holdings that are on the edge of the Koyukuk Reservation. Why they did so we do not know.

On Nowitna, Senator JACKSON's amendment would change that from a conservation area to a national wildlife refuge area. Again I have no alternative, and I thank my friend for trying to work us out of this problem, but it is just a joke.

If you look at the maps we have for the wildlife areas of Alaska, there is no wildlife value to Nowitna, and no Secretary of Interior ever said there was. No one has ever recommended it before. We have had three Secretaries of Interior testify and not one of them assessed a wildlife value to Nowitna. Why should it be made a wildlife refuge? There is no reason for it, but it is an attempt by Senator TSONGAS again, in trying to draw the boundaries, he has turned the boundary in order to take in State patented lands and included them at the edge of a wildlife refuge.

Why should that happen? Why should they be included in a Federal jurisdiction when they are not subject to ownership of the Federal Government? If it happened in any of your States you would be appalled; you really would be appalled, if in connection with some Federal lands, a military reservation or something, suddenly they decided to draw the edge of the military reservation around a city.

I hope you understand why Alaskans are appalled, and wonder why in the world you would draw the peripheral edge of a wildlife refuge to include State lands rather than to exclude them, as the committee has done in every instance. But in almost every instance the Tsongas amendment includes State lands which are in the immediate vicinity which, again, have had no assessment of any wildlife values of any of those areas included, and I would be glad to go over those lands.

In the Selawik area there is another large area that no one ever recommended it to be a refuge.

The Baldwin Peninsula near Kotzebue, again the State was handed the lands. It has nothing to do with the refuge, and no one has ever told me why it ought to be added to the refuge, but the Tsongas amendment adds those lands.

In Tetlin, the whole refuge is again expanded, and we do not know why. There has been no explanation made by the Senator from Massachusetts, but it has been done.

Yukon Flats, of course, is the largest issue, and there again there are State lands involved. I hope to have an amendment to delete those, and I hope the Senate will back that up. Why should the Fish and Wildlife Service be given jurisdiction over lands that are owned and managed by the State of Alaska, not inholdings, that tie inholdings, they are not lands that are within the boundaries, except they have reached out and drawn the boundaries so that they extend to lands which would otherwise be outside the peripheral boundaries of these wildlife refuges.

In terms of the Kenai Moose Range, this adds 40,000 acres to the Kenai Moose Range. Again we do not know why. I have had absolute knowledge of what has gone on in that Kenai Moose Range from the time it really was established. I do not understnd why they want to extend those lands to submerged lands owned by the State there, too. It is just something that I would be happy to have any kind of explanation from the Senator from Colorado or the Senator from Massachusetts as to why in the world the Kenai Moose Range lands that are adjacent to submerged lands owned by the State, which came to the State under statehood, why they should possibly be extended.

Togiak refuge, another half-million acres there, which do not indicate any wildlife value, and yet the Togiak refuge has been extended. When this matter came up from the Senate committee, I was under the impression that the Senator from Massachusetts agreed with the solution we made at the time we added lands to the wildlife refuge and deleted these lands, which had no wildlife value, in order to have the State lands be separated from the wildlife refuge.

Now, having added the lands in committee to the wildlife refuge, this amendment comes along and puts the arm around the State lands.

That is the process we are going through here. Mr. President, may I direct a question to the Senator from Massachusetts as to why was the Senate committee's consensus concerning the half-million acres on Togiak modified by this amendment?

Mr. TSONGAS. Is this the same Togiak Wildlife Refuge that has Native lands within it that the Senator from Alaska voted for?

Mr. STEVENS. This does have Native lands within it. It has lands that are now designated to the State that will be included pursuant to the Tsongas amendment in a refuge, lands which were excluded by the Senate committee.

Mr. TSONGAS. The Senator from

Alaska is making the argument that inholdings somehow invalidate the process. Yet in the committee bill you have State inholdings in the Wrangells, and you have native inholdings in the Yukon Flats, Togiak, Yukon Delta, and the Senator from Alaska voted for it.

Mr. STEVENS. I never voted to include any non-Federal lands that are peripheral to any one of these refuges or designated areas within the unit. In every instance I drew the line, and the Senator from Massachusetts knows in connection with the Gates of the Arctic I insisted that the line come south in order to exclude the native lands north of the Gates of the Arctic. That is not a correct statement. I have yet to vote to include any lands owned by the State or the Federal Government in an area that was a peripheral unit. If it was, in fact, an inholding it was another matter. There was nothing we could do about it. Again I say we came to a consensus in the Energy Committee. Some people might euphemistically call it a deal, OK—we agreed that some land would be added to that Togiak refuge, and they agreed to exclude the State lands.

We did. They are still in there. They are in the committee bill as far as the land we agreed to include in the wildlife refuge.

But now comes the Tsongas amendment and takes back the lands that were part of the consensus we reached.

Now, I ask the Senator from Massachusetts on what basis do they come before the Senate and renege on that deal?

Mr. TSONGAS. If I may respond, Mr. President, I would point out that the bill voted upon by the committee, which is now the committee print, includes inholdings both in terms of native selections and in terms of State selections and the Senator voted for it.

In terms of accommodation, I would only point out that the Tsongas-Roth substitute includes something in the neighborhood of 45 changes in amendments that were agreed to by the Senator from Alaska and others. And 45 amendments are not chickenfeed by anybody's definition of success.

So what the Senator is doing is only pointing out those areas where we seek to make changes with no reference whatsoever to all the things we have agreed to, including those 45 amendments.

Mr. STEVENS. Mr. President, I have not yielded by the purpose of making other statements, but only for a response to my inquiry.

Let me say to the Senate that what the Senator from Massachusetts said is correct. In committee, we spent 60 markup sessions that averaged 2 hours apiece, at least, in dealing with this subject. There were a myriad of issues we reached consensus on.

The Senator from Massachusetts has now reached in and taken his amendments that he wants to renege on. And I say that advisedly. He is going back to the original position he argued, without regard to the consensus which we reached by virtue of our yielding in terms of some of the positions taken on behalf of the State of Alaska.

I am just putting the Senate on notice that, without an attempt to be dilatory, I intend to go back, too. I have the right now, by second degree amendments to the Tsongas amendment, and I am outlining the amendments that I intend to present to this Senate to go back and cover every area in which this reneging has taken place.

The Jackson amendment that is before you goes halfway and more to meet them in terms of acreage. But this nitpicking that has been going on as far as the periphery of these refuges that they are trying to delineate has not been disturbed by the Jackson amendment.

All of the consensus that was reached in the committee on Kodiak, on Togiak, on the Becharof, on Innoko, on Kanuti, on Selawik, on Tetlin, on the Yukon Flats, and other areas are still in the Tsongas amendment.

I would urge the Senate to support Senator Jackson's position as being a compromise. In fact, it is a compromise which gives to the proponents of this amendment the two major areas and leaves us with the small areas of adjustments that were made that primarily excluded State and native lands and primarily deal with areas of specific uses, such as the mineralized areas of the White Mountains that led to the national recreational area.

I would urge that the Senate support Senator Jackson's amendment and Senator Hatfield's amendment, because I think it will shorten this process.

Again, I am not seeking—some people are talking about filibustering by second degree amendment. I am talking about bona fide second degree amendments that relate to concessions that were made to me in the Senate Energy Committee in exchange for concessions I made to those who were purporting to represent the extreme environmental groups in their desire to overwithdraw Alaska.

These other issues must be reached by the Senate if a bona fide compromise like this is not adopted.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. A parliamentary inquiry. Who controls the time in opposition to the amendment?

The PRESIDING OFFICER. The minority leader or his designee.

Mr. HART. I do not see the minority leader in the Chamber. I see his designee.

Mr. STEVENS. I am delighted to yield time to the Senator from Colorado.

Mr. HART. Would it be appropriate for the Senator from Colorado to control that 15 minutes? We heard about a half an hour in favor of the Jackson amendment. Could the Senator from Colorado control the 15 minutes' time in opposition?

Mr. STEVENS. I think the Senator from Rhode Island wishes to control the time.

Mr. CHAFEE. How much time do we have in opposition?

Mr. STEVENS. I ask unanimous consent that control of the time in opposition be given to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator has that right.

Mr. CHAFEE. How much time do we have?

The PRESIDING OFFICER. Fifteen minutes.

Mr. CHAFEE. How much time does the Senator from Colorado desire?

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time for the parliamentary inquiry?

Mr. CHAFEE. Mr. President, I yield 1 minute.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I get the impression now that as amendments come up, the time will be controlled by individuals who, so far, have been on the same side of the issue. Will that continue throughout the Alaska lands bill?

The PRESIDING OFFICER. The usual form of time agreements will be set out and the time will be controlled pursuant to that usual form.

Mr. TSONGAS. And so there is no provision whereby time in opposition to the amendment would be controlled by some who happen to be opposed to it?

The PRESIDING OFFICER. If the manager of the bill is in favor of the amendment, the time in opposition is controlled by the minority leader or his designee.

Mr. TSONGAS. And if he is also in favor of the amendment?

The PRESIDING OFFICER. He can designate someone else.

Mr. CHAFEE. I yield 4 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, the Senator from Washington (Mr. Jackson) has proposed what he calls a compromise. The facts of the matter are these: The committee reported a bill with 42.5 million acres in wildlife refuge. The Hart-Chafee amendment increases that by about 15 million acres, just over 15 million acres.

The House bill, which, up to now, has been the standard against which we have been working, has 80 million acres of wildlife refuge. The Hart-Chafee amendment adds 13 million. If that is not a compromise—it is only one-third of the amount of acreage cut out of the House bill which the Senate Energy Committee——

Mr. STEVENS. Will the Senator yield?

Mr. HART. I do not yield the floor, Mr. President. I have been listening for a half an hour.

Mr. STEVENS. It is not true. It is not true.

Mr. HART. Well, the Senator will get his chance to speak. I do not agree with everything the Senator from Alaska has been saying, but I listened patiently.

The Senator from Colorado and the Senator from Rhode Island offered 13 million acres. That is 33 million acres short of what the House of Representatives has done.

Now, the Senate voted twice in the last 2 hours, by an overwhelming margin of better than to 2 to 1, in favor of the approach taken by the Senator from Colorado and the Senator from Rhode Island.

Now the chairman of the committee comes in and offers a compromise. Well, let us look at the compromise. The reworked committee proposal has all the problems of the original committee bill, except a couple.

The remaining problems in this so-called compromise are these: It deletes from the refuge system the most critical million and a quarter acres of the Porcupine caribou's wintering range. That is the most vital area of the preservation of the healthy herds from both the Porcupine and Arctic herds.

The committee proposal would open these critical areas: Three thousand acres for so-called selection, which is actually a transfer to the State government for mineral development; and 900,000 acres to BLM for mineral development.

The nearby Native villages have petitioned Congress for no development in the Porcupine herd range and in the Porcupine herd range over 6,000 people are dependent on the caribou herd for subsistence.

When the Arctic caribou herd in northwestern Alaska declined drastically, the effect on the dependent Natives was drastic and the Governor tried to get Federal emergency assistance for them. And here we are about to take the same step.

Now, the so-called Jackson compromise amendment would still involve unacceptable cuts of critical areas from the Yukon Flats Refuge, despite the return of about 3 million acres from the Porcupine National Forest. The entire Yukon Flats Basin is the world's most productive waterfowl breeding area. As I indicated in my opening remarks, 2 million ducks and 14 million other migratory birds.

Opening up key parts of the basin to development would destroy the water quality, in my judgment, throughout the entire basin.

Senator JACKSON's proposal would delete 2.3 million acres from the Yukon Delta Refuge. Wildlife in that refuge totals to 200 million birds, 80 percent of the world's Emperor geese flock.

The committee's deletions include headwaters of streams which flow into the heart of the refuge and, of course, activities in these deleted headwater areas would affect water quality through the entire basin. The deletion was not recommended by the administration in 1977 but is justified now by what we have learned since then. The administration supported refuge designations in this area in the Hart-Chafee amendment.

In addition, Senator JACKSON also deletes almost 1 million acres from seven other refuges.

So, Mr. President, what is being offered here as a compromise in fact flies right in the teeth. It is the other side of the Melcher amendment. The Senate has twice overwhelmingly rejected this approach. By 2-to-1 the Senate is in favor of adding some 14 million acres to the wildlife refuge, 33 million acres less than the House of Representatives. Mr. President, I hope Senators will consistently vote against the so-called compromise when, in fact, the amendment on the floor is itself a compromise, a serious compromise, over what the House of Representatives offered. I thank the Senator from Rhode Island for yielding.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I know that Senators are listening to this in their offices. I just cannot believe that I heard a Senator from the West make that statement. It is impossible for me to believe that a Member of this Senate would challenge the Energy Committee chairman and say things like that concerning this amendment. It is not true. Again, there is not one acre of land that is needed by the Porcupine herd that is not included in the Jackson amendment. There is not. I do not know who wrote that for the Senator from Colorado, and I hope he will not take umbrage at what I am saying personally, but I do not think he did the research on that. I do not think he would make that statement if he had been to the area and knew it. I happen to know it. The Senator's amendment does not do what he says. The Senator's amendment does leave State lands out of the refuges. We will get to those piece by piece if the Jackson amendment does not carry.

He mentions development. It would open the Yukon Basin to development.

What development? What development? It would be a refuge under Senator JACKSON's amendment. The whole thing will be a refuge. If you look at the map, it will be blue all the way across from west of Fort Yukon all the way up to the Arctic Ocean. I do not understand that statement of the Senator, and I hope that Senators listening to it do not misunderstand it either because, as a practical matter, Senator JACKSON is now restoring to the concept of wildlife refuge management a portion of the lands that the Senate Energy Committee classified for another purpose. There is not one acre of the State of Alaska that is dealt with by the Tsongas amendment that is not dealt with by this amendment except the National Petroleum Reserve now known as NPRA, the National Petroleum Reserve of Alaska. That is 23 million acres.

For the Senator from Colorado to say that there is some difference here and to indicate that the numbers are different is wrong. That 23-million acres has to be excluded in order to be fair. That is why I jumped up and said it was not true, and it is not true. The rules of this Senate prohibit the Senate from getting into the National Petroleum Reserve of Alaska. It is not included within the scope of this bill or within the scope of the Tsongas amendment because of the rules. It is within the House bill. It will be in conference when we get there.

This amendment seeks to restore more than half of the area that is in dispute as far as wildlife management is concerned.

There is no reason for statements to mislead Senators, to indicate that somehow or other Senator JACKSON has left lands out of refuges. He has not. He is putting more land into refuges, 7.7 million acres more, which, I might say, is 11 times the acreage in the State of Rhode Island.

Mr. CHAFEE. Mr. President, I yield 1 minute to the Senator from Colorado.

Mr. HART. Mr. President, the Senator from Alaska has again sought to make light of the statements made by the Senator from Colorado. My figures were all obtained from the U.S. Fish and Wildlife Service. No one did any research other than the Federal Government. Those are the facts I have just stated. I thank the Senator for yielding.

Mr. CHAFEE. Mr. President, I yield myself 4 minutes.

Mr. President, the compromise offered by the Senator from Washington adds, it is true, to the committee bill, but it is a long way from the original Hart-Chafee amendment which was presented on this floor and on which a tabling motion was presented and failed by a 2 to 1 vote. While it is true that the amendment of the Senator from Washington, or his compromise, would add in as wildlife refuge the Porcupine Forest area, that was offered previously by Senator MELCHER and was defeated by 2 to 1, a move to keep it as forest.

Also, the compromise of the Senator from Washington, as I understand it, would add to the Nowitna BLM management area by half to become a refuge area.

Well, those are fine, but, Mr. President, they go a long way from the Hart-Chafee amendment which we are enthusiastically urging the Senate to support.

For example, under the compromise, the Chandalar area, which is just south of the Douglas Range, and the additional area that was added to that for wildlife refuge, would not become a wildlife refuge. Instead, it would remain under the BLM. That is the area that the Senator from Colorado was speaking of as being of extreme importance to both the Porcupine caribou herd and the Arctic herd.

So, Mr. President, the compromise falls far short of the proposals we are submitting and supporting.

Mr. President, I just do not see how we can blithely ignore the fact that there are 23 million acres in the National Petroleum Reserve that the Hart-Chafee amendment does not seek to include but the House does. I have heard that we cannot include it, for some reason, because of the rules of the Senate. I am not clear on that. But it is important to remember that this amendment that we are presenting is at least 23 million acres short of the proposal that passed in the House.

Mr. President, I reserve the remainder of my time but do urge that the compromise be defeated.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. Does the Senator yield back all of his remaining time?

Mr. CHAFEE. Has the opposition yielded back the remainder of their time?

Mr. JACKSON. We used it.

Mr. CHAFEE. If no one else wishes to

speak in opposition—does the Senator from Massachusetts wish to speak?

Mr. TSONGAS. Mr. President, I would just say that I believe the facts in this matter have been laid bare by the Senator from Colorado. Here we are referring to the process. When we started this, there were five amendments that were going to be introduced. I think there is a method showing. Since the motion to table failed, we are going to get amendment after amendment after amendment after amendment and be nickeled and dimed.

However, we are not going to get into that. I would hope that the Senate as a body would understand that it cannot be, in essence, forced by this tactic to undo what the defeat of the motion to table was all about.

It is clear that those who are opposed to the Hart-Chafee amendment are going to continue this process, and I think we should be prepared to stay here tonight, tomorrow, tomorrow night, Thursday, Thursday night, Friday, Friday night, and Saturday, because that obviously is the approach they are going to take.

Speaking for myself, I would have preferred an up or down vote on our amendment. That would be fine with me. We would take our chances. If we lose, we would go to the next one. But we are in a heads I win and tails you lose situation. If we happen to win, we will simply get the other amendments and that will go on ad nauseam.

I think at some point, that process becomes an issue that the Senators should think about very carefully.

Mr. CHAFEE. Mr. President, I yield back the remainder of my time.

Mr. GRAVEL. Will the Senator from Washington yield to me?

Mr. JACKSON. I have no time. Mr. President, the Senator can take it off the bill.

Mr. GRAVEL. But time is so precious.

The PRESIDING OFFICER. The question occurs on the amendment in the second degree.

Mr. GRAVEL. Mr. President, I yield time to myself on the bill, due to the generosity of my colleague.

I want to endorse the proposal by the managers of the bill. I think it is a compromise, much more of a compromise than I want to give, but I think it is the best we can do under the circumstances, realizing what is happening in Alaska.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG) is necessarily absent.

The PRESIDING OFFICER (Mr. CANNON). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 33, nays 62, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—33

Baker
Bellmon
Boren
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Garn
Goldwater
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Helms
Humphrey
Inouye
Jackson
Johnston
Laxalt
Long
Lugar
Matsunaga
McClure
Morgan
Schmitt
Simpson
Stennis
Stevens
Tower
Wallop
Young

NAYS—62

Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Hart
Heinz
Hollings
Huddleston
Javits
Jepsen
Kassebaum
Leahy
Levin
Magnuson
Mathias
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—5

Armstrong
Eagleton
Kennedy
McGovern
Melcher

So the amendment (UP No. 1405) was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1406

(Purpose: To reduce proposed additions to the Kenai National Wildlife Refuge; to exclude lands withdrawn for the Bradley Lake power project)

Mr. GRAVEL. Mr. President, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1406.

Mr. GRAVEL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line 10 strike the word "eighty" and insert in lieu thereof: "forty".

On page 24, line 12, strike "January 1979" and insert in lieu thereof "October 1978".

Mr. GRAVEL. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. Mr. President, what this amendment does is to take out of the Tsongas amendment the language that would impair the liability of the Bradley Lake hydro project, for which Congress already has gone on record, for which Congress already has appropriated the money, and on which construction will begin next year.

I hope that the managers of the amendment, Mr. TSONGAS and my good friend from Colorado, will see the wisdom of not trying to reverse actions already taken by Congress specifically in this area.

This is a matter I was successful in winning in committee, to protect this hydro site and to protect the possibility of Terror Lake.

In fact, the possibility of a hydro development project in Kodiak has been left in the bill, so I can only believe that this was an accident and that my good friend from Massachusetts and my good friend from Colorado did not mean to do this to the people of the Kenai Peninsula.

I cannot believe that they meant to do this to us, because I know that my good friend from Colorado has been a strong advocate of solar energy, and hydro development is nothing but solar energy, a dam that pulls back the waters, a solar collector. I am sure that this is in concert with his strong views in that regard. So I hope he will accept this amendment, which just corrects what obviously was an oversight in the original amendment.

Mr. HART. Mr. President, the Senator from Alaska makes a good and sound argument. His case is persuasive and is factually correct, obviously. As a principal sponsor of the pending amendment, it is agreeable to me that the proposal by the Senator from Alaska be adopted, and I hope it will be equally satisfactory to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I agree. The amendment is acceptable.

Mr. GRAVEL. Mr. President, I thank the Senator from Rhode Island, with whom I have worked closely on other committees, and I thank my good friend from Colorado.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. GRAVEL. I rush to yield to my good friend from Massachusetts, in the hope that he may join this chorus of agreement.

Mr. TSONGAS. Mr. President, in support of the many times that I joined the Senator from Alaska during the committee deliberations, I join him in this worthwhile effort. I hope it does not come as too much of a surprise to the Senator.

Mr. GRAVEL. I do not know if I can take this kind of prosperity, after the votes we have seen today.

This is an important piece of legislation. The Bradley Lake project is something with which I have been closely associated as a result of my chairmanship of the Water Resources Subcommittee of the Committee on Environment and Public Works. It is a very good project and will provide safe, sound, and renewable energy for the Kenai Peninsula, which is a significant part of the Alaskan community and important to our economy.

The PRESIDING OFFICER. Is all time on the amendment yielded back? Who yields time?

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. GRAVEL. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. I say to the Senator from Alaska if he needs time I will read some of these editorials rather than have a quorum call.

Mr. GRAVEL. On my time or the Senator's time?

Mr. TSONGAS. I will take it out of my time.

UP AMENDMENT 1406

Mr. GRAVEL. I have found what I am looking for. If I could read it into the Record I think it would be better.

Mr. President, I ask unanimous consent that this be added to my amendment and the language would reflect this addition where appropriate—that language be included to exclude any lands described in PLO 3953 of March 21, 1966, and PLO 4050, July 22, 1966, withdrawing lands for the Bradley Lake hydroelectric project.

Mr. TSONGAS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Will he send his modification to the desk?

The modification is as follows:

> On page 24, line 12, strike the period, add a comma and the following: excluding lands described in P.L.O. 3953, Mar. 21, 1966 & P.L.O. 4050, July 22, 1966, withdrawing lands for the Bradley Lake Hydroelectric Project.

Mr. GRAVEL. Mr. President, I yield to the Senator from Massachusetts.

Mr. TSONGAS. The same language on page 398?

Mr. GRAVEL. Yes, it is my understanding that is the language. Let me check it.

The language on page 398 is:

> Those public lands described in PLO 3953, dated March 15, 1966, as amended by PLO 4056, dated July 18, 1966, . . .

Mr. TSONGAS. I have no objection.

Mr. GRAVEL [reading]:

> Shall not be included within the "Kenai National Wildlife Refuge" . . .

It is a mistake in the bill. It should be July 22 rather than July 18.

Mr. President, could I correct the bill at the same time or would that be a technical correction?

The PRESIDING OFFICER. It would take unanimous consent to amend the bill.

Mr. GRAVEL. I will not request that. There are two dates. There is confusion there. I am sure at the proper time the necessary technical amendments can be made.

Is that satisfactory to my colleague?

The PRESIDING OFFICER. Where does the Senator's modification go in the amendment?

Mr. GRAVEL. It would follow the balance of the language where it says on page 24, line 1 strike the words 80 insert in lieu thereof 40 and then put a comma and then follow on.

The PRESIDING OFFICER. And then follow that with the language in the modification.

Mr. GRAVEL. That modification language which I sent to the desk.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

Mr. GRAVEL. So that the record is abundantly clear it is not the intent of anyone in this body to hinder plans for the Bradley Lake project and that it is technical language we were working with.

I thank my colleagues very, very much for this accommodation.

The PRESIDING OFFICER. Is the time yielded back?

Mr. GRAVEL. I yield back the remainder of my time.

The PRESIDING OFFICER. Is the time in opposition yielded back?

Mr. CHAFEE. I yield back the time in opposition.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

(Putting the question.)

The amendment (UP No. 1406), as modified, was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1407

(Subsequently numbered amendment No. 1942)

Mr. STEVENS. Mr. President, I have a series of amendments at the desk and I ask that my first amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Alaska (Mr. Stevens) proposes an unprinted amendment numbered 1407 to unprinted amendment numbered 1402 of Mr. Hart.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On Page 15, strike lines 12 through page 16, line 24 and insert in lieu thereof the following:
>
> (9) Yukon flats national wildlife refuge.—(A) The Yukon Flats National Wildlife Refuge shall consist of the approximately eleven million one hundred and ninety thousand acres of public lands generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated July, 1980.
>
> (B) The significant fish and wildlife of the refuge are migratory birds, moose, wolves, wolverines and other furbearers and salmon.
>
> (C) The Hodzana River drainage is a special feature of the refuge.
>
> (D) Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.
>
> On page 40, strike line 8 and insert in lieu thereof the following: "411, line 13".

Mr. STEVENS. Mr. President, I yield myself such time as I may need on this amendment.

In view of the action of my good friend from Massachusetts in reading some editorials into the Record, I think we should start evening the balance in the Record.

For instance, here is an editorial from the Cleveland Press which says, among other things:

> Congress must enact a bill balancing the desire to conserve Alaskan habitat with the desperate U.S. need for oil during the next 20 or 30 years.
>
> The search for such a middle ground will be difficult, but a good place to start is the negotiated compromise which collapsed last year.

Mr. President, I ask unanimous consent to have printed in the Record the full text of the editorial.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Crown Jewels

President Carter has taken to calling them the "crown jewels of the world"—some 125 million acres of truly magnificent land in Alaska.

The President's customary hyperbole is not too far back off the mark. The land is full of breathtaking scenery—mountains, rivers, forests, wildlife.

But there's another reason the land is so valuable:

Oil, American oil. Perhaps 25 percent of the untapped recoverable oil left beneath American soil.

What to do with this land? That's the question Congress is again trying to answer in considering a new Alaska land bill.

The House has just passed a proposal, backed by conservationists and environmentalists, to ban private enterprise from more than 125 million acres—an area larger than the whole state of California.

This measure has the backing of the Carter administration, but it faces an uncertain fate in the Senate, where oil, timber, mineral and other commercial interests will seek to undo what the House has wrought.

The stakes are huge, but the issues are not reconcilable.

A compromise bill, preserving much of the acreage but allowing about half to be developed, was almost enacted last year. The compromise gave neither developers nor conservationists all they wanted, but it was one that a broad consensus could "live with."

That compromise was scuttled by the objections of one senator, Mike Gravel of Alaska. Sen Gravel, speaking for homestate sentiments and the commercial interests, threatened to filibuster the measure in the waning hours of the session, so the bill died.

Mr. Carter repaid stubbornness with stubbornness. By executive order, the president froze all development on the federally owned land. And he threatens to veto any bill that would allow the most promising oil regions to be explored—oil shortage or no oil shortage.

This is intolerable.

Congress must enact a bill balancing the desire to conserve Alaskan habitat with the desperate U.S. need for oil during the next 20 or 30 years.

The search for such a middle ground will be difficult, but a good place to start is the negotiated compromise which collapsed last year.

The longer this issue goes unresolved, the more likely it will be that the American people will demand that Alaskan oil at any cost—mountains or no mountains, caribou or no caribou, crown jewels or no crown jewels.

And woe, then, to anyone bent on standing in the way of the prime national interest.

Mr. STEVENS. Mr. President, here is an editorial from the editorial page of the Richmond News Leader, one sentence of which is: "The House vote in favor of the Udall bill smacks of environmental imperialism."

Mr. President, I ask unanimous consent to have printed in the Record the full text of that editorial.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Environmental Imperialism

Never underestimate Congress' tendency to reject common sense. Consider Congressman Morris Udall's Alaskan lands bill: Although the country confronts increasingly severe energy shortages, the House voted recently to restrict almost all development on 125 million acres of energy-rich Alaskan land.

For the past year Congress has been debating Alaska's future. Preservationists say Alaska's "crown jewels" represent this country's last frontier of unspoiled natural beauty. They want to close most of the state to development. For the most part the preservationists hail from the "Lower 48." Udall, for example, abhors development in Alaska, yet he had a fit when President Carter proposed cancelling a water-control project in his own state of Arizona.

Alaska residents generally support development tempered by reasonable environmental safeguards. Few Alaskans want to ravage the mountains and streams that drew most of them there. Yet they also understand the importance of providing for the state's economic future.

During House debate, Alaska Congressman Don Young said the Udall bill would throw 2,000 Alaskans out of work—residents of a state that already has one of the country's highest unemployment rates. As an alternative to Udall's overly-restrictive bill. Alaska's representatives supported bills to set aside about 53 million acres as wilderness, with ample additional acreage in other land-use categories permitting limited development.

The land locked up by the Udall bill is vital to Alaska's—and to America's—energy viability. For instance, the oil-producing potential of the Arctic National Wildlife Range could reach 14 billion barrels. But a herd of caribou uses the range for six weeks each year. The Udall bill would close the range to oil development, thereby officially favoring caribou instead of human needs.

The House vote in favor of the Udall bill smacks of environmental imperialism, Alaskans should decide what is best for Alaska. Instead of alleviating America's energy problems while sensibly securing much of Alaska's wilderness, the House collapsed before the well-oiled no-growth lobby. The Senate should kill the bill.

Mr. STEVENS. Mr. President, there is a very interesting editorial from the Memphis Press-Scimitar, which deals with a question of Alaska's land and the stubbornness of the extreme environmentalists.

Mr. President, I ask unanimous consent to have printed in the Record that editorial.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Crown Jewels

President Carter has taken to calling them the "crown jewels of the world"—some 100 million acres of truly magnificent Alaska lands.

The president's customary hyperbole is not too far off the mark. The land is full of breathtaking scenery: mountains, rivers, forests, wildlife.

But there's another reasons the land is so valuable:

Oil. American oil. Perhaps 25 percent of the untapped recoverable oil left underneath American soil.

What to do with this land? That's the question Congress is again trying to answer in considering a new Alaskan land bill.

Two proposals soon to come before the House are supported by oil, timber, mineral and other commercial interests. A third is backed by conservationists, environmentalists and the Carter administration.

The stakes, as one can imagine, are huge, but the issues are not irreconcilable. A compromise bill, preserving much of the acreage but allowing about half to be developed, was almost enacted last year. The compromise gave neither developers nor conservationists all they wanted, but it was one that a broad consensus could "live with."

That compromise was scuttled by the objections of one senator, Mike Gravel of Alaska. Gravel, speaking for home state sentiments and the commercial interests, threatened to filibuster the measure in the dying hours of the session, so the bill died.

Carter repaid stubbornness with stubbornness. The president, by executive order, froze all development on the federally owned land, and he threatens to veto a bill that would allow the most promising oil regions to be explored. Oil shortage or no oil shortage.

This is intolerable. Congress must enact a bill balancing the need to conserve Alaskan habitat with the desperate U.S. need for oil during the next 20 or 30 years. The search for such a middle ground will be difficult, but a good place to start is the negotiated compromise which collapsed last year.

The longer this issue goes unresolved, the more likely it will be that the American people will demand that oil at any cost, mountains or no mountains, caribou or no caribou, crown jewels or no crown jewels.

Mr. STEVENS. Mr. President, this amendment is designed to start the process of trying to get back some of the concessions that were made to us in the Energy Committee, concessions which I thought we had a consensus on and which I hope the Members of the Senate will support.

These amendments are designed to carry out the policy of the Senate committee. We discussed this policy at length in the committee and finally reached an agreement on the policy.

One of those things was that State lands that were on the exterior boundaries of these conservation areas would be excluded from them if they were lands that were in the other section of the committee bill to be conveyed to the State.

There is, I tell the Senate, a specific section of the basic bill before us that directs the Secretary of the Interior to convey the balance of the lands the State of Alaska has coming under the Statehood Act, lands we waited 21 years to get, and they are lands that are in fact valuable lands as far as our State is concerned.

I ask my staff to put up that Yukon Flats-Porcupine White Mountain chart.

That chart that I have just placed before the Senate will explain this amendment and let me, Mr. President, go back to a microphone in the area of the chart.

This chart shows the Energy Committee bill in the area. This does not disturb the designation of the Porcupine area as a national forest. The area we are concerned with is here, the national recreation area, and this area right here which is State lands.

The effect of this amendment is to take the State selection lands out of the wildlife refuge. The Tsongas amendment includes them in. The Energy Committee bill left them out.

The reason we left them out, as I said, there is another section of the bill that mandates the Secretary of the Interior to convey those lands to the State. Why? I ask the sponsors of the Tsongas amendment why should that little piece of land be included, that State land mandated to be conveyed to the State? Why should it be included in this refuge and why should those State lands be included that were specifically directed by this bill to be conveyed to the State?

I will tell the Senate why. The reason is these people will not give up for anything less than 1,000 percent. They were not a party to the negotiations in the Senate Energy Committee. They were unwilling to accept the rationale of the Senate Energy Committee, that the State lands should not be classified by the Federal Government.

Again ask ourselves in any other State in the Union would this happen? Could one imagine non-Federal lands being included in a wildlife refuge to the tune of over 100,000 acres? Nowhere would it happen. It does not make sense.

On this one I hope that the Members of the Senate will listen to us. We have no jurisdiction over those lands. If the other section of the bill is carried out by the Secretary of the Interior, Congress under the other section directs that these lands be conveyed to the State. Under the Tsongas amendment he comes along and includes them in this Yukon Flats wildlife refuge.

The impact of this is that it changes the clean air standards, among other things. It changes the ability of the State to use those lands for agricultural development, and I hope my good friend from Oklahoma (Mr. Bellmon) will tell the people, the Members of the Senate, about his visit to this area. He did visit the Yukon Flats area. It is an area of vast, vast agricultural potential.

Why should those lands be within a wildlife refuge? Why should this area, which is highly metalliferous area, the White Mountain area—incidentally, this is covered by another amendment, an amendment I intend to offer, which would bring about a switch, a trade, of lands—if the Senate will notice, within the area of the new wildlife refuge, if it is approved under the Tsongas amendment, are about 1.3 million acres of lands that the State of Alaska already owns. They are not lands conveyed by the bill; they are already owned by the State.

Those lands we wish to exchange for these lands down here. They are lands classified as a national recreation area, national conservation, BLM conservation, area unit.

By virtue of putting them in the wildlife refuge there is a whole different concept as far as the swap is concerned, and I hope the Senate will not reclassify those lands.

I hope the proponents of the amendment will now come forward and tell us what other wildlife values there are in either the BLM conservation unit, the national recreation area or the State lands, which means the Federal Government must assert its domination over the area from the point of view of making a wildlife refuge.

I have here the areas of the key wildlife areas on Federal lands in the State of Alaska. This is the source which is the Fish and Wildlife Service. This other chart is a chart in smaller degree of that for the Yukon Flats alone.

Again, the primary wildlife habitat is nowhere near these lands that my amendment touches. There has been no assertion whatsoever of any wildlife value in either the State lands or BLM conservation area or national recreation area. The classifications made by the Senate committee this amendment will restore.

Again I am sorry to have to do this, but this is the first of 18 areas that are so affected by the Tsongas amendment, by the broad brush, without any justification here. We argued and argued and argued, and brought forth the proof from the State, from the Fish and Wildlife Service, from every interested party in the Energy Committee, and finally—there was no vote—this was the consensus of the committee that classified these lands in the way I indicate on this chart.

Those State lands were, in fact, covered by another amendment, as I said, and there was a policy decision that they should not be included when they were at the periphery of the unit. If they were inside of the unit, so-called inholdings, true inholdings, we did not argue with the fact that they would be covered by the designation.

We tried in that other instance to take that one big block out of that one wildlife refuge, but that is another issue that I will raise in another amendment.

Mr. President, I do not know what the proponents of the Tsongas amendment are going to do, but I intend to try to get the Senate to live up to the agreement made by consensus in the Energy Committee. There were no votes. If we want to have votes here, we are going to have a vote on every single issue, on every line of this bill, that changes the agreement that was made with us, without votes, in the Energy Committee.

Mr. TSONGAS. Mr. President, will the Senator yield at that point?

Mr. STEVENS. On your time.

Mr. TSONGAS. Will the Senator indicate how many amendments he intends to bring up?

Mr. STEVENS. Mr. President, there is a typographical error in the amendment. It should be modified and I send the modification to the desk.

The PRESIDING OFFICER (Mr. CANNON). The amendment is so modified.

The amendment, as modified, is as follows:

On Page 15, strike lines 12 through page 16, line 24 and insert in lieu thereof the following:

(9) YUKON FLATS NATIONAL WILDLIFE REFUGE

(A) The Yukon Flats National Wildlife Refuge shall consist of the approximately nine million one hundred and ninety thousand acres of public lands generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated July, 1980.

(B) The significant fish and wildlife of the refuge are migratory birds, moose, wolves, wolverines and other furbearers and salmon.

(C) The Hodzana River drainage is a special feature of the refuge.

(D) Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

On page 40, strike line 8 and insert in lieu thereof the following: "411, line 13."

Mr. STEVENS. I intend to bring up as many amendments as where the consensus has been changed by the Senator from Massachusetts and others, amendments which, incidentally, would be unnecessary if the Jackson amendment were adopted because that amendment honored every consensus made in the Energy Committee. I would estimate at this time, without being dilatory, that there are 18 such amendments.

Mr. TSONGAS. Mr. President, on my time, so that the Senator intends to introduce at least 18 amendments, is that correct?

Mr. STEVENS. I have identified at least 18 areas so far where the consensus has been changed by the Tsongas amendment, and I seek a vote on those by the Senate.

We had an agreement in the Energy Committee, and I see no reason to yield the ground that was gained in the Energy Committee without a vote in the Senate.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it. Who yields time?

Mr. TSONGAS. Mr. President, I have time on the bill.

Mr. STEVENS. I designate the Senator from Rhode Island as being in charge of time in opposition.

The PRESIDING OFFICER. Will the Senator state his inquiry.

Mr. TSONGAS. How much time will be allocated for each amendment?

The PRESIDING OFFICER. A half-hour on each amendment.

Mr. TSONGAS. That would be 9 hours, plus the record vote, which would be approximately another 6 hours, so we have at least 15 hours left just on those 18 amendments.

Mr. STEVENS. That is correct, only if the Senator from Massachusetts and those who support his point of view wish to renege on every single point that was a consensus.

Mr. TSONGAS. Mr. President, if I could reclaim my time. Now I know how Israel feels—we have to win every single amendment. If we lose one, obviously we have lost, and it seems to me that at some point the Senate is going to make a decision whether we simply drag this out. Fifteen hours at least will take us through and including part of Thursday, and we would still be on the first amendment, and we have four more. If you will take a look at the letter the majority leader sent to you today, I think you will get some indication of what the implications of this approach are all about.

Mr. HART. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield 3 minutes to the Senator from Colorado.

Mr. HART. Mr. President, first of all, I am continually puzzled by the theory of the Senator from Alaska that every Member of the Senate is somehow bound by some consensus in one committee, as if we had no judgment of our own.

I do not happen to serve on the Energy Committee, and I wish I did. But I do not, and I do not know anything about any consensus, and I do not think on a major public policy issue the fact that one more than half of the members of a committee of the Senate binds the rest of the Senate. I think it is terrific that the committee got itself together and reported out a bill. I think it is wonderful. But I do not know of any other committee of the Senate that would argue that binds the Senate because that consensus was developed.

We are here to express our own views. We have got an amendment on the floor which has been voted on three times overwhelmingly 2 to 1, that Senators who voted on that are in favor of this amendment. It is as clear as day.

We can vote 18 more times and it will be 2 to 1. We may be violating some consensus, I do not know. This issue has been litigated three times, the very same issue. The Senate has rendered its judgment very clearly. It knows the facts, it understands the facts. It has not agreed with the Senator from Alaska, that is all.

I would point out——

Mr. STEVENS. Mr. President, will the Senator yield on my time?

Mr. HART. No. On the Jackson amendment 8 members of the Senate Energy Committee supported the chairman of the committee, and 10 members voted against. Something happened to that consensus between the committee room and the floor of the Senate. But it does not seem to be operating any more. So we can vote 18 more times. But I think the results are going to be the same.

I thank the Senator from Rhode Island.

Mr. President, all of the arguments which have been made against the Melcher amendment, the Jackson amendment, the tabling motion, almost all apply here. We can repeat those, but just by reference I would incorporate all those arguments into the opposition to the amendment of the Senator from Alaska.

Mr. STEVENS. Mr. President, I will be happy to put all of the State lands of Colorado in wildlife refuges. I will be happy to accommodate the Senator. If it is valid for Alaska, it is valid for Colorado; if it is valid for Alaska, it is going to be valid for Nevada, Mississippi, Wisconsin, Massachusetts. There are those lands all over the country, State lands adjacent to them, private lands adjacent to them.

Again I am asking the Senate to make a policy decision. You are right. You do not serve on the Energy Committee, and the Energy Committee, after duly deliberating it, adopted this policy, and that is peripheral non-Federal lands shall not be included within the conservation units because it is extending jurisdiction of the Federal Government over lands that are not owned by the Federal Government.

Under this circumstance I think we are legitimately asking the Senate to make a policy decision. Are privately owned lands to be subjected to the rules that pertain to wildlife refuges? This is the first of such areas. This amendment also asks for a decision as to that mineral area. It is the so-called MAPCO find. It is a highly mineralized area. Again on the basis of the evidence we produced in the Energy Committee—and you produced none to the contrary—here you are asking for the Senate to approve carte blanche millions of acres of changes in what we did in the Energy Committee with no proof whatsoever that we were wrong.

I am asking the Senate to designate that area as a conservation, recreation area unit. It would still be subject to control by the Fish and Wildlife Service, but it is a different type of conservation area. It does not affect the withdrawal at all. But the one portion of that which I deem to be of utmost significance is the sanctity of State lands, of non-Federal lands.

I ask the Senator from Colorado, Mr. President, on what basis he or the Senator from Massachusetts would classify lands that my State owned as Federal wildlife refuge lands?

What this is doing is going to lead to a series of lawsuits on behalf of my State against the Federal Government. You have no authority to do it.

The other sections of the bill confirms that they are, in fact, State lands and directs the Secretary of the Interior to give us the patent that has been withheld pending the outcome of this bill. But this is a policy decison.

In effect, I am asking all Senators to join the Energy Committee and make a policy decision. I would welcome an argument from the Senator from Colorado and the Senator from Massachusetts as to why lands owned by the State of Alaska should be classified as Federal national wildlife refuge lands.

Mr. HART. Will the Senator from Rhode Island yield me 2 minutes?

Mr. CHAFEE. Yes.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, unless the Senator from Colorado is seriously mistaken, and that might well be true, it is my understanding that the land that we are discussing here is not State land. It may be land that the State of Alaska wants and land that the State of Alaska would want to select if it were available, but it is my understanding it is neither private land nor is it presently State land.

Mr. STEVENS. Let me, Mr. President, correct the Senator. I would be happy to point out the section of the bill that confirms the State selection.

Mr. HART. The bill has not passed yet.

Mr. STEVENS. The bill contains a section which the Senator's amendment does not change that directs that these lands be conveyed to the State of Alaska pursuant to legal, valid selection.

Mr. HART. Mr. President, I asked the Senator from Alaska if these lands that he is calling State lands or private lands are today State lands or private lands. The answer is no.

Mr. STEVENS. The answer is they are lands that have been selected by the State of Alaska. They are not available for anything else. There is no dispute that they will go to the State of Alaska. Technically, title has not been conveyed to the State of Alaska. I will say that is true. That is so about 94 percent of my State. Ninety-four percent.

We are waiting for this bill to pass to get the title to the lands. No acreage has been conveyed except the 20 million acres.

Mr. HART. The Senator does not need to shout. I can hear him perfectly well.

Mr. STEVENS. I do get provoked.

The Senator is correct. Technically, we do not own it.

Mr. HART. I thank the Senator.

Mr. STEVENS. But we will, as soon as the bill passes, and the Senator's amendment does not change it.

Mr. HART. Are these lands private lands?

Mr. STEVENS. They will be State lands, not Federal lands.

Mr. HART. So the Senator asked the question: By what authority does the Federal Government take private land and make it into refuges? It is not private land. The Senator has just said so.

Mr. STEVENS. That is not true. The Federal Government has no authority over this land. The Statehood Act gives us this land when we have made the valid selection. And we have made it. This bill confirms it.

Mr. HART. The bill has not passed yet.

Mr. STEVENS. No. And I have a good idea it never is, if this keeps up.

Mr. HART. As I understand it, this land was originally part of the Ramparts land classification and was unavailable under the Statehood Act, is that correct?

Mr. STEVENS. That is correct. The State of Alaska has a right to select it. This bill confirms it.

Mr. HART. A bill does not give anyone any right. An act of Congress does.

Mr. STEVENS. No. This bill—and I might say that the Secretary of Interior agreed before our committee to these conveyances. There was no discussion about it. The conveyances were approved by the committee without one dissenting vote. Not even the Senator from Massachusetts (Mr. TSONGAS) refused to vote on that section. That was a unanimous decision that the land would be conveyed and the section is there.

To my knowledge, there is no issue concerning that validity on selection. If I am wrong, the Senator from Massachusetts may say so.

Mr. TSONGAS. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield 4 minutes to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I think it may be helpful at this point to introduce some facts into the discussion.

Let me discuss the difference between S. 9, which the Senator voted for and I did not, by the way, and the so-called Tsongas amendments as they relate to State selections and so-called wish list lands.

Let me explain those categories. Wish list lands are lands on which the State filed selections in November 1978. Selections are lands which have been selected and which have been tentatively approved. Congress cannot make a selection valid, nor can it make a selection invalid.

Now, one would get the impression listening to all of this that in S. 9 there were no State selections within the various categories and in our amendments there are.

Let me give you some facts here.

Mr. STEVENS. Will the Senator yield?

Mr. TSONGAS. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator's statement is correct. That is only one area. It is only one area where we put State lands within a conservation unit in the Wrangells. And that was done after considerable debate.

But the Senate committee only put one area within the conservation units. So with that exception, every area of the State lands that was directed under this bill to be conveyed to the State of Alaska is excluded from conservation units. I hope the Senate will abide by that policy decision.

I thank the Senator. But, again, it is only one area. There is no other State land. I might say—and I appreciate the Senator permitting me to clarify that point—except for the Wrangells, there was no State land within any conservation unit.

Mr. TSONGAS. We, apparently, have some dispute, then, because, according to the information I have—and I will go through it—under the so-called Tsongas amendments there are 12.6 million acres of State selections and so-called wish list lands within the conservation system units. That corresponds to 13.2 million under the House version. So it is some 600,000 acres less.

Under S. 9, it is 11.2 million acres. The difference is 1.4. According to my list, it goes as follows: Under the national parks' conservation units, there are 3.5 million on the wish list and 2.1 million that have been selected and tentatively approved, for a total of 5.6 million on national parks. This is in the committee bill which the Senator voted for.

Under the refuge section, there is 4.1 million and 1.5 million under the wish list, 1.5 million under the selections that we approved, for a total of 5.6 million. If you add them together, you get 11.2 million.

Mr. STEVENS. Will the Senator yield again? The Senator is incorrect. The figures that the Senator reads pertains to areas that the Senate bill did not direct the Secretary to convey to the State.

Mr. TSONGAS. My information is from BLM and the Department of Interior.

Mr. STEVENS. Well, they better look at the bill. The decision was made by the committee as to specific lands.

The PRESIDING OFFICER. The Senator's 4 minutes has expired.

Mr. STEVENS. I yield myself 4 minutes to give the Senator back the time, and I will yield to the Senator to give him a chance to answer the question.

The PRESIDING OFFICER. The Senator from Alaska has only a minute and a half remaining.

Mr. STEVENS. I yield the time off the bill, then.

The Senate committee made the finding as to which lands ought to be conveyed. That was the subject of negotiation between staff and between the various parties involved. Once that decision was made, the lands that were conveyed were excluded from the conservation units, with the exception of the Wrangells.

The others, I agree, some of the so-called wish list lands were not conveyed. There is no direction to convey them. Under those circumstances, they are not State lands. I will not try to go back on that decision.

But in this area, those are lands that are to be conveyed. There is no reason for them to be included within the wildlife refuge area.

And I do not know why—again, I will be happy to yield on my time, the 4 minutes, for the Senator to answer—why, as a policy question, let us just assume they are lands that will be owned by the State of Alaska, they are on the periphery of the conservation unit, why should those lands be included under the management of the Federal management and have the whole concept of Federal laws apply to lands owned by the State that in any other area they would be subject to State law? They would not be subject to the various water laws, the clean water laws, the Clean Air Act. All of them are changed by putting the line around the State lands rather than excluding the State lands and letting the State lands be governed by normal State law, normal conditions that would apply in any other area of the country.

This is a policy question. I ask the Senator from Colorado and the Senator from Massachusetts, tell the Senate why should Alaska lands—and let us assume there is no argument about our genuine entitlement under this bill, when the bill passes it is going to be conveyed; even the House bill does not argue with the conveyance—be included within the management of the wildlife refuge system? I will be happy to yield 4 minutes of my time for the purpose of the Senator responding.

Mr. TSONGAS. Mr. President, the State, under the Statehood Act, receives 103 million acres. In the Statehood Act, it mandates that the State of Alaska may only select public lands which are "vacant, unappropriated, and unreserved at the time of selection."

If I understand correctly, something like 92 million acres out of the 103 million acres have already been selected. So no one, obviously, can make the argument that we are precluding them from selection. The remaining areas to be selected can be taken. I have the figure here; 95.3 million acres of land out of a total entitlement of 104.5 million acres.

The pool of Federal lands available outside any conservation unit is approximately 85 million acres. The State can select its remaining entitlement of approximately 9.2 million acres from these lands.

Point No. 2: How did we arrive at these boundaries? We just did not take a pencil and scrawl them on a map. These problems are ecosystems. That is the whole rationale for what we have been doing. The fact is that some of the State selections are included within those ecosystems.

Point No. 3: The fact that a selection is within the designation does not change the selection. It becomes an in-hold. The Senator will recall that earlier this afternoon I pointed out the examples both in terms of native lands and in terms of State selections, but that has already taken place. In what? In the committee bill. I would hope that this argument would be obvious in that what we are trying to do is to come up with comprehensive, logical ecosystems. State selections remain State selections. As I said, the State has already chosen 95.3 million acres out of their designated 104.5 million acres.

Mr. STEVENS. Mr. President, I yield myself such time as I may need from the bill.

I think this is a very important policy issue. I hope my friends will answer my questions in a few moments.

The issue, again, is, should lands which are conveyed to the State be included within the conservation units?

The problem about this is that the Senator from Massachusetts says the State of Alaska is eligible for these conveyances that have been made. The Senator from Colorado says, "Well, the bill has not passed, yet." I guess he is meaning that in conference the House might change it. Let me say that if the House changes that in conference, we will be around a long time before the bill passes this year.

Mr. TSONGAS. Will the Senator yield?

Mr. STEVENS. I will yield for a question.

Mr. TSONGAS. It seems to me that we will be around for a long time anyway.

Mr. STEVENS. Mr. President, the Senator from Massachusetts takes these amendments drafted by the environmental groups. They did not understand the wild and scenic river law and they changed that. Now I am telling him he does not understand what he is doing about the State selections and he better change that, because I am serious about this one. These are our lands. We are entitled to them. They are entitled to be administered the same as State lands owned by any other State. This is a very serious proposition.

Mr. President, it occurs I do not know how many times in this bill. I would hope that perhaps we might extend this debate a little while and maybe the staffs of the Senator from Colorado and the Senator from Massachusetts would take a look at what they have done in State selections and agree to go back to the Senate committee consensus, which was they do not belong in conservation units, if they are peripheral lands. To do so would shorten the debate on this bill considerably.

Mr. TSONGAS. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. TSONGAS. The Senator has dealt with the issue for a year now and there has never been a point at which I would not be willing to sit down and compromise with the Senator from Alaska. I was prepared to try to work out an agreement on all these amendments that we could live with and take to conference to forestall the possibility that we would end up with no bill, that we would end up with withdrawals which are a solution to no one. There has never been a point, not one point, in this year when I have not been willing to sit down with the Senator from Alaska. I would tell him that that attitude on my part remains.

But if what is going to happen in this case is, "All right, here is amendment No. 1. Give it to me." Actually, it is No. 3 at this point, and then 4, and 5 and 6 and on for the next 3 days. Why is the burden on me?

Mr. STEVENS. That is a good question. Why? Why do I have to stand on this floor and fight for things that were not objected to in the committee? Consensus was reached and provisions put in the bill without objection.

Mr. TSONGAS. I voted against the bill, as the Senator has pointed out several times. What the Senator is saying is that anything less than the committee bill somehow violates an agreement. The Senator can use that argument against every single amendment and if that is the prospect, there is nothing anybody can say.

Mr. STEVENS. That is unfair, I will say to the Senator. I did not say that.

The Senator is a gentleman and he has worked with us very closely in trying to work out a consensus in committee. I am not saying that the Tsongas amendment violates the concepts he announced in the committee deliberations. I am saying that it reneges on deals which were reached in terms of consensus with no objection. At the time we reached those there was no indication to me there was any reservation on the part of the Senator from Massachusetts or any other Senator as to those understandings. There were some concepts concerning Porcupine Forest. We knew it was objected to. It was voted on. The Senator from Montana got the vote to classify that in the committee as Porcupine. We understood that the Senator from Massachusetts voted against that. But on these things, why do we go back on the State lands? Why do we go back to the classification of national recreation units? That was a consensus item. I had no idea there was any dissension about that. It was not until I realized this amendment covered it.

The Senator is right, we do have a series of amendments.

Mr. TSONGAS. The Senator has had this amendment for some time.

Mr. STEVENS. No, I have not had it for some time.

Mr. CHAFEE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHAFEE. Mr. President on whose time is this discussion?

The PRESIDING OFFICER. The Senator from Alaska yielded time on the bill for this purpose.

Mr. CHAFEE. And there is still time left in opposition to the bill?

The PRESIDING OFFICER. The Senator has 5 minutes in opposition.

Mr. CHAFEE. And none of this time is being deducted from that?

The PRESIDING OFFICER. The Senator is correct.

Mr. TSONGAS. Mr. President, at no point did the issue come up that has been raised now until the motion to table was defeated. If I may finish my thought, the Senator knew we had these agreements back in February that I would come to the floor with five amendments. The Senator knew generally what those amendments were about. They were exchanged. In fact, we had a picture out in the lobby that appeared in some newspapers showing an exchange of amendments.

So we have all known, basically, what we were dealing with.

Mr. STEVENS. The Senator is correct.

Mr. TSONGAS. We had discussions yesterday when the issue of germaneness was raised, as the Senator knows. My staff and the staff of the Senator from Alaska went down to the Parliamentarian's office and tried to work out the germaneness issue so we could get a vote on the substance of what we are doing. So there has been an attempt to accommodate.

At no point during that discussion did anybody raise the point that, somehow, this violated anything.

Mr. STEVENS. Mr. President, if I still have the time, I shall call it back, since I can use that time for my debate. That is what it was allocated to me for, and I shall be happy to yield to the Senator for questions on it.

I am happy to say the February 7 agreement specifically provided for second-degree amendments. We did not agree that these amendments were going to be accepted. We knew at the time that a test motion would be a motion to table. The motion to table, if it carried, would have carried the whole debate into the conference.

That is where it ought to be. I have said that all along. As a matter of fact, if I had my way, we would have been there last November and by this time, we would have had a balanced bill that we could all live with.

The time is running and the possibility of a bill this year is becoming more and more remote—I hope everyone realizes that—because my State cannot live under the concept of the Tsongas amendments. My State sees no reason why State lands, conveyed to the State of Alaska through the Statehood Act, should be treated differently than lands conveyed to any other State in the Union under their statehood acts.

Again, I hope the Senator from Colorado looks at his hole card on that, because his is one of the States with inholdings that are being conveyed in conservation units in his State. There are statehood lands coming in the State of Colorado, according to the information that I have. There are in Wyoming, there are in Montana, there are in California. California, above all, has some statehood lands coming.

Under the circumstances of this bill, Mr. President, I see no reason for a policy decision that imposes on my State a policy different from that which applies to any other State in the Union that has lands coming under the Statehood Act.

Mr. President, if you look at the report, in section 806—I know not too many people read the report, but if you look on page 287 of the report, talking about section 906 of the bill, "State Selections and Conveyances," it states that this section provides for certain amendments to the Alaska Statehood Act, settlement of certain possible claims under the School Land Grant Act of 1915—mind you, they are not all under the Statehood Act. Some are under school land, that other States are entitled to, all Western States—confirmation and vesting of title of prior tentatively approved lands.

Let me take a moment to explain that. In the State of Alaska, because of the long time we anticipated for surveying lands, we put in the Statehood Act a concept of tentative approval and the Congress approved that. This means lands approved for selection even though we knew the conveyance, the patent, might take years to obtain. This bill directs the Secretary of the Interior to convey them anyway. But the tentative approval—some of the lands that we are talking about, I say to the Senator from Colorado, are tentatively approved lands. There is no way Congress can take them back from us. The bill directs that they be conveyed.

Why should they be included within the boundaries of conservation units?

This section also approves the conveyance of prior selected lands, the so-called top-filing of selections on lands that were unavailable previously. They are now available because they were top-filed on Native selections.

This was not a dispute with the Federal Government. The Natives, under the Land Claims Act, were entitled to selections, the States were entitled to selections. In some instances, the Natives over-filed. The State top-filed on those so if the Natives, in the last analysis, did not take those selections, the States' claim would be valid. This invalidates that concept. It deals with a whole list of lands which are within the scope of the Statehood Act. I do not know of any reason for the Senate to go against the policy decision of the Energy Committee. I have not heard one yet, from either the Senator from Colorado or the Senator from Massachusetts.

Again, Mr. President, I hope we would hear one, some justification for including State lands that are on the periphery of the wildlife refuge or national park. This is not just a wildlife refuge issue. I would be glad to show—could we have the chart for the Gates of the Arctic or one of the other areas that shows a national park area, that shows in holdings?

Again, Mr. President, I am not being obstinate about this. This issue pervades the whole concept of Alaska lands.

That is a chart of the Gates of the Arctic. If you examine it, the Tsongas amendment, which is on the right, includes within the national park three areas of peripheral State lands, which are conveyed to the State by the bill, which will come within the scope of the national park, actually be inholdings within a national park, even though, but for this change, they would be entirely outside this area. They are not lands that are part of the national park, they will be owned by the State, and there is no reason for those on the periphery of the park to be within the park, absolutely none. One of the major purposes of the Tsongas amendment is to pick up those lands.

It also, incidentally, picks up lands in the north, opened by the Native people. It includes them within the scope of the national park, which is something I do not understand and which we shall get to later—I hope we will get to it by amendment.

Mr. President, I hope the Senator from Massachusetts and his staff and the Senator from Colorado and his staff will look at their amendment again. My intention is to give them, I hope, the time overnight to look at it, because it is obvious to me that some of the votes that I think would vote with me are not here tonight. I hope that the vote on my amendment takes place when they come back.

Mr. HART. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. HART. It is very important, at

least to the Senator from Colorado, to know if the Senator from Alaska expects no more rollcall votes tonight?

Mr. STEVENS I am not the majority leader. I shun making that statement. I will say the Senator from Alaska hopes that a vote on his amendment will not occur. I have checked the schedule. I think I have enough time, with what is available to me and the Senator from Washington, to assure that this vote will not take place until my friends return.

Mr. HART. That is the Senator's intention?

Mr. STEVENS. It is my intention. I hope we do not have to go to a vote. I hope the two Senators will look at this issue of statehood and tell us they will abide by the decision of the committee and exclude from conservation units lands that the Bureau intends to convey to the State of Alaska.

(Mr. EXON assumed the chair.)

Mr. HART. Mr. President, I point out only one thing. That is that at one point, there were 96 Senators here. The closest vote we had was, I think 66 to 33. Even if all four of those Senators vote with the Senator from Alaska, that would not carry his amendment.

Mr. STEVENS. The Senator assumes that a vote on the Tsongas amendment as a whole is a vote on the policy issue I am raising. I hope the Senator sees the difference between this amendment now, which raises the policy issue of State lands, and a vote on the Tsongas amendment. They are two different issues. I hope the Senate as a whole will listen to us on this one because of its impact on every State in the Union.

Mr. TSONGAS. If the Senator will yield, I will say to the Senator, as I have for a year now, the staff will sit down overnight—since I am not the one working, it is not a difficult commitment—let us sit down and work this out and when we get done with that, go to the next one and on to the next 19 amendments.

Mr. STEVENS. I say to the Senator if he is willing to work this one out, that eliminates a substantial one. If the Senator wants to talk to the generic issues amendment, we can talk about that one. One is the classification of BLM conservation units and the other is the classification of national recreation areas. If we deal with the statehood lands—the Senator raises three generic policy issues in terms of this reference. We are dealing with one here—two of them, really—with this amendment, because we also deal with that national recreation area. If the Senator can show me a wildlife value for those lands, a reason for including them in the wildlife refuge, that is another matter. But I see no evidence—my State says there is none—for making that White Mountains country into a wildlife refuge.

Again, I point out that Secretary of the Interior Rogers Morton did not ask for them, Secretary of the Interior Cecil Andrus did not ask for them. To my knowledge, there is no report here from the Fish and Wildlife Service or any agency of the Federal Government asking for these lands to be set aside as a wildlife refuge.

They were included in the broad sweep of that amendment that the Senator prepared.

I am talking about those lands, the Mapco lands which we classified as recreationary and conservation units.

If the Senator is prepared to discuss the wildlife values and indicate why we should change the Senate Energy Committee's classification, I might be convinced I am wrong.

But I say that the 18 amendments that I mentioned involved three separate issues, State lands, whether they should be excluded, conservation units, whether they should be changed to wildlife refuges without proof of wildlife values, and national recreationary, whether the areas should be denied without proof of predominant wildlife values.

Mr. TSONGAS. How was proof established on these last two policy issues?

Mr. STEVENS. I hope someone would come with something contrary to what we have in the record.

Mr. TSONGAS. What would the Senator consider valid on those——

Mr. STEVENS. I think, at least, a recommendation to the Secretary of the Interior it be done.

Mr. TSONGAS. The Secretary of the Interior said there were wildlife values to be protected that would be——

Mr. STEVENS. I can say that, in the past, neither Secretary of the Interior made recommendations to the Congress to include that area. That is my point. Does the Senator have some written provision different that indicates the values we want——

Mr. TSONGAS. May I ask another question?

Mr. STEVENS. Surely.

Mr. TSONGAS. In the subsequent amendments, if we every get to that, if our side should be defeated by a 2 to 1 margin, and I come to the Senator and ask for a pure accommodation, will he be willing to compromise?

Mr. STEVENS. I will. I will be happy to do that.

But on this issue, I never raised the same issue twice. I have never gone back and asked for a second vote on any area. I take the decision of the committee or of the Senate.

The one area the Senator had the vote and did not use it, we worked out Borax. That was another matter.

Mr. TSONGAS. I never doubted my colleagues capacity to proceed.

Mr. STEVENS. The Senator's amendment, now that it does not contain the problems of germaneness, has three generic issues I seek to have the Senate address itself to.

Mr. TSONGAS. I say, just for myself, that I am willing to have a session this evening. But I hope what we would deal with is not just issues being discussed now, but what this eventual bill will look like, because it seems to me that the way we are going, as the Senator says, the prospect of this being resolved or becoming clear, is remote.

Mr. STEVENS. The Senator from Massachusetts is correct. That same issue regarding what I call the sanctity of State ownership is really in the national park amendment the Senator has to present later.

Mr. TSONGAS. I simply say, my understanding of Eastern politics is that if you try to work out an accommodation, there are accommodations to both sides. I assume that is the——

Mr. STEVENS. The Senator has the votes, I think, unless I can convince the Senate I am right on the subissues.

The Senator has got the votes on the Tsongas amendment. The idea that I should not attempt to convince the Senate I am correct with regard to my State land misses me, if that is the point.

I believe the State of Alaska's lands ought to have the same rights of ownership as any other State land.

Mr. HART. Will the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. HART. Is it not true what the Senator is now calling the State of Alaska lands, which are not State of Alaska lands yet, the designation or selection has to be valid? Is that not correct, it has to be a valid selection of land?

Mr. STEVENS. I say to the Senator, that is correct, except that the Senate committee validated some of the selection because at the time—it was not a question of being invalid vis-a-vis the Federal Government. They were not valid as pertains to those lands because they were previously selected by the list in the area, and the list is lands on top of lands, not lands sought by the Federal Government. They were lands in the top five.

There may have been some other areas involved in this. I think the case——

Mr. HART. Will the Senator——

Mr. STEVENS. There was another category, and that was Egan versus Morton, the case filed by the former Governor, by the then Secretary of the Interior. There was a stipulated judgment. At the time, there were specific lands available for selection by the State. A portion of those lands were subsequently withdrawn for some of these conservation units, and those were then placed in another category by some members and deemed to be invalid because, technically, at the time they would have been conveyed, they would have been withdrawn.

But they are valid selections, and the Senate committee adheres to the stipulated judgment of Egan versus Morton.

I do not know if these are included in regard to my specific amendment on the Yukon Flats, under Egan versus Morton. But I say, no lands under my amendment, they would not be conveyed to the State by virtue of the bill, if passed.

Mr. HART. The bill says on page 519 that the United States hereby conveys to the State of Alaska, subject only to validly existing rights, et cetera, all right, title and interest, vacant, unappropriated or unreserved lands.

Mr. STEVENS. That is right.

Mr. HART. Is it not the fact that these lands were withdrawn prior to the State's selection and, therefore, not vacant, unappropriated and unreserved and, therefore, the selections are invalid?

Mr. STEVENS. I am happy the Senator asked that because if the intent of the Tsongas amendment is to take away from the State the lands that were conveyed——

Mr. HART. They are not conveyed.

Mr. STEVENS. They would be by the bill.

Mr. HART. If they were vacant, unappropriated and unreserved——

Mr. STEVENS. Until this moment, it has never dawned on anyone that the intent of the Tsongas amendment was to deny the State conveyance.

Is the Senator from Colorado saying the intent is to take away from the State of Alaska the lands there?

If that is the case, we have a different problem.

Mr. HART. Can the Senator indicate the section of the bill that conveys these lands?

Mr. STEVENS. The Senator is on it.

Mr. HART. It says vacant, unappropriated, and unreserved.

It is none of these three. They were withdrawn and not available for selection.

Mr. STEVENS. No. No. At the time they were filed, they were vacant, unappropriated, and unreserved.

Mr. HART. That is not my understanding.

Mr. STEVENS. They are. At the time they were made, prior State selections to be conveyed by Congress, dated June 24, a list on October 19, 1979, those lists were agreed to before. We will not modify those lists. They were agreed to with the Secretary of the Interior.

If it is the intent of the Senator from Colorado's amendment to deny the State the demands of those lands included on those two lists that are specifically referred to on the page the Senator cited, page 519, then we are off to trouble city. I can say that there is nothing this Senator would not do to stop this bill.

Mr. HART. Is it not the case the lands were withdrawn as part of the classification prior to selection?

Mr. STEVENS. No. No. The lands had been withdrawn, a portion of them, on Rampart. I do not think those in question are in the Rampart Dam reservoir. I can stand corrected.

But I know that list, the two lists of July 24 and October 19, which was submitted by the Senator and were on file in the Office of the Secretary, were not disputed as to the validity of the lands for conveyance, assuming that the Congress did not want to deny the State their selection.

Now, if the Senator's amendment is to deny our State the selection, we are viewing it an entirely different way.

We have viewed it previously as being an amendment solely to put the cloak of wildlife refuge protection over lands that in fact would be conveyed to the State. If this means the lands are thereby withdrawn by virtue of the Tsongas amendments and are deemed by Congress not to be available for selection and that the section is going to be changed so that the list dated July 24 and the list dated October 19 are to be changed by the Tsongas amendment, it is a different amendment.

Mr. HART. At the time the State made a preliminary selection, the lands were available—that is to say, vacant, unappropriated, and unreserved. That is the issue. It is a factual question. This amendment does not intend to do anything. It is my understanding, as a factual proposition, that the land was not available for selection because of a prior withdrawal.

Mr. STEVENS. That is not correct. It is my understanding that the lands are available to the State. I never have been told by anyone in the Interior Department or any Representative of Congress, for that matter, that anyone intended to deny to the State the lands on those two lists. If that is the case, then we do have a different problem.

Mr. CHAFEE addressed the Chair.

Mr. STEVENS. Mr. President, does the Senator from Massachusetts wish to ask me a question?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. TSONGAS. I was confused by the response of the Senator from Colorado. It is my understanding, as it is his, that the essence of what the committee bill does is to give the State rights to land they have not under the Statehood Act to select. The Senator from Alaska states that is not the case, and I think we had better straighten that out, because that is clearly my understanding. Otherwise, there would not be a problem.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Alaska yield the floor?

Mr. STEVENS. Let me clarify this point for the Senator from Massachusetts.

I am assured by the staff that the intent of the committee was that the lands on that list are to be conveyed. There is no question to be raised as to the validity of the selection. That is resolved by Congress. If they are on that list, they are to be conveyed.

Mr. TSONGAS. The point is that, absent the committee bill, the State had no right to make those selections. Is that right?

Mr. STEVENS. The State had a right to make them but for the preexisting selection by the Natives, which has been withdrawn. They were top-filed selections, and as such, they become valid when the others fall, and they fall by virtue of this bill.

That is the reason we made this adjudication. We decided that those lands would go to the State. The other lands go to the Natives by virtue of the other amendments in this bill. We have resolved the Native problems, and they have their selections.

The question I need to have answered—and I hope to have an answer tonight or tomorrow—is this: Is the intent of the Hart amendment to change the committee provision with regard to the conveyance of lands on those two lists? In other words, are we to interpret this amendment, the Hart-Tsongas amendment, to mean that the decision of the committee, that we have resolved the State selections, the Native selections, and the withdrawal problems by one bill, is to be changed?

In making that decision, we did, in fact, give up lands. Does the Senator remember the land we gave up in the Wrangells, the land along the Copper River? We gave up other lands in the area of the Gates of the Arctic. I will get a list of them, if the Senator wishes.

The State did relinquish lands along with these decisions. It also relinquished lands under Egan against Morton. The stipulated judgment was that the State specifically withdrew some applications for selection. Those applications were made, and the lands withdrawn by Egan against Morton were to be conveyed. That is what one of these lists does.

Mr. TSONGAS. The issue of withdrawal is factual. It would not take us too long to go back and look at those parcels of land to see if they were withdrawn; and if they were withdrawn, they would not be available. That would resolve the issue.

Mr. STEVENS. I am not certain that a power site designation was considered to be a withdrawal that vitiated a State selection. We adjudicated in committee, whether the Senator realized it or not, all conflicting claims to Alaska land; and S. 9 contains within its total framework the decision as to which lands would be set aside in the national interest, which lands would be made available to the State, which lands would be made available to the Natives, and then went back to the lands to be reserved to the Federal Government in the national interest and specifically classified some of those.

I have been dealing with that portion of the Senator's amendment. I never had interpreted it to mean that we should look at this amendment as taking away from the State of Alaska lands to which we were entitled to conveyance under the other section of the bill.

Mr. TSONGAS. Will the Senator agree that the right of the State of Alaska to select lands is a function of the Statehood Act?

Mr. STEVENS. A series of acts—the Statehood Act, the School Lands Act, several acts; yes.

Mr. TSONGAS. And the criteria in the Statehood Act are that the State of Alaska may only select public lands which are "vacant, unappropriated, and unreserved at the time of selection."

So the issue before us is whether the lands referred to in the Senator's amendment fit those criteria, and we can work that out overnight. My understanding is that they have been withdrawn by the Secretary and therefore are not qualified under the selection.

The argument made by the Senator, which is correct, is that, irrespective of this, if we put in this bill to give Alaska what it wanted, that is quite correct. But the criteria in the Statehood Act are clear, and our amendment allows the selections to go on as the other 95 million have, to be selected and allow the process of ratification and approval to take place.

Mr. STEVENS. Is it the intention of the Tsongas amendment to change that section of conveyance if the determination is made that at the time the applications were filed, they were technically incorrect because the lands at that time had been withdrawn for power site withdrawal?

Mr. TSONGAS. The Senator is correct.

Mr. STEVENS. Then, we have a series of issues to resolve. I am not sure the Senator realizes it.

Egan versus Morton was a stipulated judgment in which they entered into negotiations and went to court and said the State will take these lands and the State will withdraw the selections in these other lands. The lands made available to the State were made available by negotiation. Whether they were lawfully available under the Statehood Act or not, the stipulation was that these lands will be conveyed and those will not.

That one section conforms to Egan versus Morton, and I can tell my friend that under Egan versus Morton, some lands were not otherwise available for selection that the Department of the Interior wished to make available to us, rather than have us take some lands we wanted.

Mr. TSONGAS. The Senator is correct, that 95 million acres already have been selected by the State out of the 104 million.

Mr. STEVENS. This is the 95 million. The list we are looking at is the 95 million.

Mr. TSONGAS. That is right.

Mr. STEVENS. We are talking about the same lands. Those are the lands to be conveyed. There is still a balance of lands which have not been selected—school lands and other lands, which have yet to be identified; some State selections. There is a balance, because we do not know what is going to happen in the Native areas, and about 8 percent of the State selections were left. These are the 95 million acres.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island has 5 minutes remaining on the amendment.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

Mr. HATFIELD. To be charged how?

The PRESIDING OFFICER. Under the precedent the Senator from Rhode Island does not have enough time remaining to do that.

Mr. STEVENS. How much time does he have remaining?

Mr. CHAFEE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHAFEE. Mr. President, it is my understanding we are not going to proceed to vote tonight. If we do not proceed to a vote then the opponents of the measure will have no time tomorrow to set forth their views whereas the proponents seem to have a good deal of time from the bill.

So I wish to reserve the remainder of what time we have and move on to something else.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. STEVENS. I think what the Senator states is correct. We do have a desire to try and work some things out overnight and check the factual basis for assumptions here, and I hope that the managers of the bill and the majority leader will agree that we could leave it here and save the Senator his 5 minutes for tomorrow morning and we will try to see what we can work out overnight.

The PRESIDING OFFICER. The Senator from Rhode Island's time is 4 minutes and 10 seconds.

Mr. TSONGAS addressed the Chair.

Mr. CHAFEE. Mr. President, I wish to see if the distinguished Senator from Massachusetts will give me some time from the bill.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time charged be against the time of the Senator from Washington.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The documents ordered to be printed in the Record upon the request of Mr. Jackson earlier today are printed at this point in the Record.

Preliminary Petroleum Resource Appraisal of the William O. Douglas Arctic Wildlife Range, Alaska, U.S. Department of the Interior—July 1980

SUMMARY

The Department of the Interior has completed a preliminary petroleum resource appraisal of the William O. Douglas Arctic Wildlife Range as requested by the Chairman of the U.S. Senate Committee on Energy and Natural Resources. The appraisal was conducted by two teams of geologists assembled by the U.S. Geological Survey, a Geologic Assessment Committee and a Resource Appraisal Review Committee, using a methodology developed for the economic and policy analysis of the National Petroleum Reserve in Alaska (NPR-A).

The petroleum potential of the Wildlife Range is highly uncertain. With no subsurface geologic and seismic data for that area, the appraisal is based almost entirely on extrapolation from data acquired in areas adjacent to the Range. The appraisal was further complicated because the Wildlife Range may lie in a major geologic transition zone.

The results of the preliminary appraisal are a range of probabilities that certain amounts of oil and gas in place exist in the Wildlife Range. As shown in Table 1, there is a 50 percent chance that there would be at least 2.7 billion barrels of oil in place, a 5 percent chance of 17.0 billion barrels of oil in place, and a 95 percent chance of .16 billion barrels of oil in place. By way of comparison, the most recent appraisal for the National Petroleum Reserve in Alaska based on substantial geologic and seismic data, indicates a 50 percent balance that there would be 5.2 billion barrels of oil in place.

It must be emphasized that these estimates are for resources in place. The average recovery rate for conventional crude oil is about 32 percent. However, based on speculation that oil in the Wildlife Range may be heavier than conventional crude oils, only about 20 to 25 percent of this oil might actually be recovered. Furthermore, no estimates have been made of the probability that oil and gas might be discovered.

GEOLOGICAL ASSESSMENT

Methodology. A Geological Assessment Committee, a team of geologists with expertise in the geology and geophysics of northern Alasksa, reviewed all available surface geological data and magnetic anomaly data which have been compiled over the years from field studies in the Wildlife Range. The committee also examined all available geologic information on areas adjacent to the Wildlife Range, extending west of its boundaries into Prudhoe Bay area and eastward into Canada. Information relating to the geology of the petroleum-producing areas of the Mackenzie Delta and the Canadian part of the Beaufort Sea was provided by the Canadian Geological Survey and Dome Petroleum of Canada. Through representation on the Geological Assessment Committee, data were also provided by the State of Alaska. The most recent seismic data collected by the USGS in the Beaufort Sea offshore from the Wildlife Range was carefully reviewed in light of the possible continuity of the geology onshore into the Wildlife Range.

No subsurface geologic or seismic data exist for the Wildlife Range itself. Subjective extrapolations of the geology to the west, to the east, from offshore and from analogous areas had to be considered. The diversity in the interpretations of the subsurface geology, in the absence of subsurface data, and the related potentials for the probable occurrence of petroleum, account for the large range in uncertainty in the estimates.

Findings. The area of the Wildlife Range that may have petroleum lies between the Brooks Range and the Beaufort Sea and covers roughly 3,000 square miles, or less than one-third of the total Wildlife Range (see Figure 1). This area is about one-tenth the size of the National Petroleum Reserve in Alaska, much of which is believed to have petroleum potential. The potential sedimentary sections may consist of from 15,000 feet to 25,000 feet of sediments in some parts of the Wildlife Range.

The Wildlife Range is located in an area where there may be a major transition in the geology from a Mesozoic-Paleozoic rock sequences similar to the Prudhoe Bay area to that of a major Tertiary sequence similar to the geology of the Canadian Mackenzie Delta-Beaufort Sea petroleum province. This generates two different sets of geologic scenarios and great uncertainty as to which might actually exist. If the Mesozoic-Paleozoic rock sequence similar to the Prudhoe Bay area should have a major extension into the Wildlife Range, it is possible that Prudhoe Bay-type conditions may exist. On the other hand, if the major Tertiary rock sequence occurs similar to the conditions in Canada just east of the Wildlife Range and to the geology immediately offshore in the Beaufort Sea, then the conditions that provide the petroleum potential of the Canadian Mackenzie Delta-Beaufort Sea areas may occur in the Wildlife Range.

RESOURCE APPRAISAL

Methodology. The methodology used for this preliminary petroleum resource appraisal had earlier been developed by the Interior Department's Office of Minerals Policy and Research Analysis for use in the economic and policy evaluation studies of the National Petroleum Reserve in Alaska. These studies, required by Section 105(b) of the Naval Petroleum Reserves Production Act of 1976, were used in developing recommendations to the Congress on development of the Reserve.

This methodology first requires a determination of the number of possible petroleum plays[1] within the Range; subjective probability estimates are then made of various geologic parameters to determine the number of prospects that might exist in each play and which of those prospects might contain oil and gas. The Geologic Assessment Committee defined 10 plays within the Wildlife Range and compiled subjective estimates of the values of each of the geologic parameters for each of the 10 plays. These estimated geologic values were entered into a computer model to calculate the petroleum resources.

A Resource Appraisal Committee, consisting of some of the geologists from the Geological Committee and additional USGS staff knowledgeable in resource appraisal methods and procedures, then reviewed the geology and geologic assessments of the 10 possible petroleum plays. It also reviewed and further refined the estimated distributions from the computer model for each of the 10 individual plays and for the aggregated resource estimates for the Wildlife Range.

Findings. As can be seen in Table 1, the wide range of geological interpretations and the uncertainties that went into the resource appraisal process are reflected in the range of probabilities for occurrence of oil and gas. There is a 50 percent probability that at least 2.7 billion barrels of oil are in place, a 95 percent chance of .16 billion barrels and a 5 percent chance of 17.03 billion barrels. Similarly, estimates of gas in place range from a 95 percent probability of 1.4 trillion cubic feet (tcf) to a 5 percent probability of 33.9 tcf, with a 50 percent chance that 8.4 tcf of gas are in place.

No estimates were made of the probability of actually finding the resources nor were predictions made of recovery rates. The Geological Survey team of geologists, however, indicated that recovery rates may be lower than the average rate of recovery for conventional crude oil, which is normally about 32 percent. They speculate that there may be heavier crude oils in the Wildlife Range with recovery rates in the range of 20 to 25 percent.

Full documentation of the geologic data for each of 10 exploration plays for the William O. Douglas Arctic Wildlife Range and the individual resource assessments for each of the plays are being prepared by the U.S. Geological Survey and will be available upon request.

TABLE 1.—PRELIMINARY DISTRIBUTION OF ESTIMATED OIL AND NATURAL GAS RESOURCES IN PLACE IN THE WILLIAM O. DOUGLAS ARCTIC WILDLIFE RANGE (JUNE 1980)

Probability that quantity is at least given value	Oil in place (billions of barrels)	Gas in place (trillions of cubic feet)	Barrels of oil equivalent in place [1] (billions of barrels)
95 percent	0.16	1.44	0.86
75 percent	1.12	4.33	2.48
50 percent	2.71	8.41	4.74
25 percent	5.87	15.14	8.52
5 percent	17.03	33.93	20.53
Mean	4.85	11.90	6.94

[1] Barrels of oil equivalent are obtained by converting the estimated gas in place to the energy equivalent in oil and adding the resulting value to the estimated oil in place.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., July 18, 1980.

Subject: Oil and Gas Potential in the William O. Douglas Arctic Wildlife Range (EMD-80-104)

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate.

DEAR SENATOR JACKSON: As you and Senator Hatfield requested on June 10, 1980, supplemented by discussions with your office, we examined the Interior Department's study of the oil and gas potential of the William O. Douglas Arctic Wildlife Range in northeast Alaska to assure that all pertinent data is being provided to the Committee without modification or change.

We examined all data made available to us and spoke with people involved in the study. Unfortunately, our review was hampered by the Department's refusal to obtain copies of all documentation. We were allowed to examine the data but were not given copies of pertinent reports and other documents.

We satisfied ourselves, however, that the data presented in Interior's July 10, 1980, report to your Committee accurately reflects the data developed by the experts in the Geological Survey, and that the experts were given full latitude in developing the information. In addition, the Survey's team followed the approach requested by your Committee, and—given the absence of any seismic (i.e., geophysical) or any subsurface drilling data on the Wildlife Range itself—did the best they could with what they had. Interior's public report on the result, however, is highly condensed and excludes certain data that would seem highly relevant in any assessment of the Range's oil and gas potential.

More significantly, the Department of the Interior's news release characterizing what the study results mean in terms of oil and gas potential appears contrary to the data developed by the Survey and included in the Department's own report. While the report suggests strong oil and gas potential, Interior's news release states that the Wildlife Range does not warrant exploration at this time.

Overall, we feel the data developed does not support a decision to close the Range to oil and gas exploration. On the contrary, the analysis would seem to support a decision for exploration to acquire more data before reaching any decisions.

Following are our specific observations.

METHOD USED BY INTERIOR IN ASSESSING OIL AND GAS POTENTIAL

On May 1, 1980, your Committee requested that Interior assess the oil and gas potential of the Range using the same statistical approach applied to the National Petroleum Reserve in Alaska (NPRA) and prepare a report expressing this potential with a range of probabilities and resource estimates, including field size. Since no drilling has been done on the Range and there is no seismic (geophysical) data available, Interior's assessment was based on surface geology and on data from adjacent areas—the NPRA, Prudhoe Bay, northwest Canada, and the Beaufort Sea.

The initial input came from a 12-member Geologic Assessment Committee composed of 11 U.S. Geological Survey employees, and 1 member from the State of Alaska government, all reportedly experts with considerable experience in Alaskan geology. There was no industry representation, although many of the members are former industry employees. This Committee, using available data and personal expertise about the Wildlife Range and adjacent areas, formed a consensus of opinion about the geologic parameters necessary to determine the probability of the existence of oil and gas in areas felt to have some potential within the Range.

The Geologic Assessment Committee designated 10 likely stratigraphic areas or "plays," felt to have some potential for oil and gas. The Committee then assessed the probability of the various geologic factors affecting a hydrocarbon deposit—reservoir thickness, reservoir area, porosity, etc. A consensus was reached, and all of these factors run through the computer using the same program that was employed in assessing the NPRA under section 105(b) of the Naval Petroleum Reserves Production Act of 1976. Some of this data was run five or six times until the Committee felt comfortable with the output. Apparently no documentation was retained for any but the final run. There was also no documentation of each Committee member's personal input into each parameter or factor—only one overall consensus after the Committee was through deliberating. In addition, there were no minutes or other record of what transpired during the deliberations.

The computer calculated probabilities of the total oil and gas in place—as well as for each of the 10 areas—and also estimated the probabilities of pool size. The data was then provided to the Resource Appraisal Review Committee, composed of nine U.S. Geological Survey representatives, and assisted by three representatives from the Department of the Interior. There was no industry or State representation. We were told that the Interior Department members were concerned mainly with applying the computer program to the data and did not participate in the decisionmaking process. We were told the Review Committee's primary purpose was to subject the data to a rigorous review and cross-examination. The Review Committee re-ran the data twice in an attempt to further refine it.

ANALYSIS OF THE DATA

Your letter to us specifically asked whether any study data was changed as Interior's report to the Senate Energy Committee was developed. The answer is yes. Many changes were made along the way, some documented, and some not. Most Committee members felt they were aware of the changes and the rationale and were in agreement with them; however, some were not aware of the impact of the changes.

The changes did not appear to us to be a major redirection of the study (although some changes were significant); instead they were attempts by the Committees to refine the data's accuracy. For example, the main changes made by the Review Committee's rerunning of the computer program were to acknowledge the possibility of more deposits of oil and gas, but they also reflected a reduction in the size of each prospect. Following are the results of each successive run:

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[1] A play is defined as a geologic formation or stratigraphic unit consisting of one or more prospects in a common or relatively homogeneous geologic setting which can be explored for by using geological, geochemical, and geophysical techniques. A prospect is a potential hydrocarbon accumulation, or field.

CHANGES TO OIL AND GAS RESOURCE DATA

	Geologic Assessment Committee run			1st run			Resource Appraisal Review Committee (2d run)		
	Oil (billion barrels)	Billion barrels of oil equivalent	Pool size (million barrels)	Oil (billion barrels)	Billion barrels of oil equivalent	Pool size (million barrels)	Oil (billion barrels)	Billion barrels of oil equivalent	Pool size (million barrels)
Percentile:									
100	0	0	0.11	0	0	0.02	0	0	0.04
99	0	0	1.54	0	.09	1.38	0	.33	1.38
98	0	0	2.55	0	.22	2.53	.03	.49	2.50
97	0	0	3.79	0	.37	3.71	.08	.61	3.61
96	0	0	5.28	0	.47	4.96	.12	.75	4.85
95	0	.01	7.01	.01	.57	6.35	.16	.86	6.18
90	0	.16	18.43	.13	.99	14.92	.38	1.31	14.02
75	.01	1.03	130.03	.79	2.21	65.17	1.12	2.48	54.09
50	1.40	3.48	883.34	2.51	4.65	313.70	2.71	4.74	216.73
25	5.43	8.29	2,937.83	6.04	9.16	1,118.02	5.87	8.52	720.71
10	12.07	15.74	7,247.30	12.58	16.72	3,086.90	11.29	14.71	2,101.78
5	18.24	22.47	11,037.98	18.68	23.40	5,506.99	17.03	20.53	3,810.57
4	20.40	24.39	12,381.20	20.73	25.41	6,576.91	18.67	22.17	4,506.89
3	22.56	27.48	14,184.17	23.25	28.42	8,053 68	20.44	24.79	5,557.92
2	26.69	30.87	17,714.43	28.09	32.26	10,537.91	24.86	28.85	7,325.41
1	34.72	41.36	23,789.52	36.82	41.31	16,139.91	31.99	36.64	10,803.95
0	117.66	125.14	103,878.81	117.46	120.71	187,994.39	92.10	96.83	77,859.25

Source: Copied long-hand by GAO staff from computer runs examined at the U.S. Geological Survey, Anchorage, Alaska, on July 11, 1980.

The results of the Committees' efforts were a rather lengthy Geologic Assessment Committee report—about 45 pages—and a much shorter Review Committee report. These had not been finalized at the time of our review. We were allowed to look at the draft report, but were denied copies, so we are unable to provide copies to you.

Our analysis identified one factual deviation between these reports and Interior's July 1980 report released to the public. The deviation concerns the supposition included in Interior's report—as well as its news release—that only about 20 to 25 percent of any oil discovered in the Range might actually be recovered because it may be heavier than conventional crude oil. This, however, is not included in the Survey's report nor supported by the Assessment Committee experts we questioned concerning this matter.

In addition—although not a change in the data—because of the condensing of Interior's July report, there was obviously considerable information in the Committee's reports that was not made public. The two most significant omissions we identified were (1) absence of the full range of confidence levels. These should have been provided in order to show the Committees' thinking of the entire range instead of just two points on the scale and (2) absence of data on pool size which significantly influences the economics of the situation. We copied this information by hand and it is presented in table 1.

The final drafts of the Committee reports were being circulated among the members for comment during the time of our review, and most members had not yet read them. Also, Interior's July 1980 report was released just as we were completing our work, so we were not able to obtain all Committee members' views on that report either. However, of the Committee members we questioned, most were reasonably satisfied with the estimates developed—although not satisfied with the Department of the Interior's news release downplaying the oil and gas potential of the Range.

Some Committee members were uncertain about the merits of the methodology used, which deviated in several respects from that generally used by the Survey. Most of the members we spoke with, however, were comfortable with the methodology. The basic methodology was developed by the Canadian Geological Survey and modified by the U.S. Department of the Interior. The approach used is more costly and time-consuming than the Survey's traditional approaches, but is considered desirable because it provides a set of data conducive to economic analysis. We noted, however, that the report did not contain an economic analysis similar to the analysis included in the December 1979 report on the NPRA—and the Department does not plan to prepare one. Some of those with whom we spoke felt that an economic analysis would probably make the Wildlife Range look quite promising for oil and gas exploration.

The Resource Appraisal Review Committee did, incidentally, perform a traditional (Resource Assessment Group, or RAG) assessment for comparative purposes. The traditional approach projected .8 billion and 17.6 billion barrels of oil at the 95-percent and 5-percent confidence levels, respectively, versus .2 and 17.0 using the Canadian-developed methodology.

OIL AND GAS POTENTIAL OF THE WILDLIFE RANGE

As previously mentioned, there is a dearth of information with which to assess the oil and gas potential of the Wildlife Range and thus Survey's assessment was based on surface geology and on data extrapolated using personal knowledge and expertise from adjacent areas—the NPRA, Prudhoe Bay, northwest Canada, and the Beaufort Sea.

Based on the analysis, their report shows considerable potential for oil and gas. This was previously pointed out by us[1] and reflected the views of most geologists with whom we spoke. However, this potential was not reflected in the Department's recent news release.

In addition, we noted that Interior's report compares the Range's oil and gas potential with that of NPRA and that its news release suggests that NPRA has greater potential. While the Survey's study of the Wildlife Range does reflect a smaller resource potential than NPRA at high confidence levels, this may be a reflection of the lack of data rather than the lack of potential, because it shows a higher oil potential than NPRA at the lower confidence levels.

Following are the probabilities of oil in the NPRA as reported by Interior in December 1979, and for the Wildlife Range as reported by the Survey's Resource Appraisal Review Committee in June 1980—data not included in the Department's report.

TABLE 2.—COMPARISON OF OIL AND GAS POTENTIAL OF NPRA AND WILDLIFE RANGE

Probability that quantity is at least given value (percent)	NPRA		Wildlife range	
	Oil	BOE[1]	Oil	BOE[1]
100			0	0
99			0	.33
98			.03	.49
97			.08	.61
96			.12	.75
95	1.04	2.08	.16	.86
90	1.35	2.66	.38	1.31
75			1.12	2.48
50	6.03	8.57	2.71	4.74
25	10.01	13.26	5.87	8.52
10	13.72	17.33	11.29	14.71
5	16.45	20.35	17.03	20.53
4			18.67	22.17
3			20.44	24.79
2			24.86	28.85
1	24.80	30.00	31.99	36.64
0			92.10	96.83

[1] Billion barrels of oil equivalent; includes both oil and natural gas.

Source: Wildlife range data was hand copied by GAO personnel from computer data in Survey offices in Anchorage, Alaska, on July 11, 1980. NPRA data from the "Final Report of the 105(b) Economic and Policy Analysis," Department of the Interior, Dec. 15, 1979.

Thus, at the 5-percent confidence level, the Wildlife Range becomes more promising than NPRA, even though only one-tenth the size.

Another aspect of the Geologic and Resource Appraisal Review Committees' work that probably should have been included in the July 1980 report is pool size. This data was developed, but not published. It is a critical factor, especially in Alaska, since pool size has a major impact on the economic viability of a deposit—and since the Committees' assessment, shown below, indicated a higher probability for larger pools in the Wildlife Range than in NPRA.

TABLE 3.—FIELD SIZE DISTRIBUTION

[Millions of barrels in place]

	NPRA	Wildlife range
Percentile:		
100	0	0.04
99	.42	1.38
98	.78	2.50
97	1.17	3.61
96	1.54	4.85
90	4.12	14.02

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[1] See our report, "Oil and Gas Potential in the Arctic National Wildlife Range," EMD-80-56, Jan. 22, 1980.

TABLE 3.—FIELD SIZE DISTRIBUTION—Continued

[Millions of barrels in place]

	NPRA	Wildlife range
Percentile—Continued		
75	13. 33	54. 09
50	56. 46	216. 43
25	275. 47	720. 71
10	1, 007. 23	2, 101. 78
5	2, 043. 00	3, 810. 57
4	2, 501. 93	4, 506. 89
3	4, 243. 62	5, 557. 92
2	6, 581. 47	7, 325. 41
1	6, 581. 47	10, 803. 95
0	178, 845. 23	77, 859. 25

Source: NPRA data from the "Draft Report of the 105(b) Economic and Policy Analysis," Department of the Interior, July 31, 1979. Wildlife range data was hand-copied by GAO personnel at the Survey office in Anchorage, Alaska, on July 11, 1980.

Thus, the Survey's analysis of the Wildlife Range compares quite favorably with the NPRA in terms of the possibility of large, commercial-sized deposits.

Further, the Wildlife Range pool size was downgraded to the figures shown on the previous page by the Resource Appraisal Review Committee. To reflect the possibility of smaller pools, the number of drillable prospects was increased, but the size of each deposit reduced. Not all those we spoke with were aware that the pool size had been reduced with each re-run of the data. We assume that the deposit size was reduced to avoid unrealistically increasing the total resources in place. The changes in pool size with each successive run can be seen on table 1.

It was also pointed out to us by a Committee member that in addition to the potential for large deposits, the economic viability of the Wildlife Range is further strengthened by its relative nearness to transportation such as the Trans-Alaska Pipeline System.

CONCLUSIONS

The Committees convened by the U.S. Geological Survey to assess the oil and gas potential of the Wildlife Range consisted of an impressive body of expertise, and they appear to have been given full independence in performing their appraisal.

Changes were made, but they were made by the Committee members in an attempt to refine the data, and most of the Committee members we spoke with were satisfied with the estimates developed. It was also the view of most of those with whom we spoke that the Range has very high oil and gas potential—something not reflected in the Department of the Interior's news release on its study.

Given the absence of geophysical and exploratory drilling data, and after examining the full range of potential developed by Survey's Committees, closing of the range to oil and gas exploration is not in our view supportable. On the contrary, the information developed by Survey Committees appears to support a decision for exploration to acquire more data before a decision is reached.

Finally, because Interior would not furnish us the data, we are unable to provide copies of the data generated by Interior supporting the study. We are generally aware, however, of what documentation is available and we will be glad to discuss it with you should you desire.

As discussed with your office, because of the time deadline required for this effort, the Department of the Interior has not been given the opportunity to review or comment on the contents of this report. This report is being sent today to Senator Hatfield. Also, we plan no further distribution until 30 days from the date of issuance unless you publicly announce its contents earlier. After the 30-day period, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

ELMER B. STAATS,
Comptroller General,
of the United States.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

OPIC AUTHORIZATION FOR CHINA

Mr. ROBERT C. BYRD. Mr. President, on yesterday, the Senate passed a bill (S. 1916) authorizing operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

This bill, which will permit OPIC to offer guarantees or insurance against certain noncommercial risks to American businesses operating in the PRC, constitutes another important advancement in our growing relationship with China.

This legislation will help facilitate U.S. investment in and trade with China. From my recent trip to China, I know of the strong interest that the Chinese leaders have in strengthening commercial relations with the United States.

China is seeking to strengthen its economy through its four modernizations program and I am convinced that it is fully consistent with our own interests to assist and cooperate with China in this modernization effort.

Encouragement of U.S. investment in China through the OPIC program will benefit the United States by giving American businesses the opportunity to take part in investments in the PRC, thereby fostering expanded trade and economic relations between our two countries.

As the Committee on Foreign Relations pointed out in its report on this bill, the extension of the OPIC insurance and guaranty programs to U.S. investors interested in conducting business in China is a "logical next step" as we expand our economic relations.

The OPIC program should also encourage the application of U.S. business acumen and skills in the PRC, which will be beneficial to China's economic modernization.

I hope that in the weeks ahead we will be taking additional actions which will help to impel the growing cooperation between the United States and China. The OPIC legislation is an important contribution to that relationship.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

THE DOMINO THEORY

Mr. THURMOND. Mr. President, the July 3 and July 11, 1980 issues of the Aiken Standard newspaper in Aiken, S.C., contained excellent editorials calling for U.S. aid to Thailand.

These editorials pointed to the expansionistic forces of communism in Southeast Asia as represented by Vietnam, and supported by the Soviet Union.

Mr. President, I ask unanimous consent that these editorials, entitled "Just Like Dominoes," appearing July 3, 1980, and "Indochina on Communist Brink." appearing July 11, 1980, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

JUST LIKE DOMINOES

During the Vietnam War, Hanoi's apologists in this country made great sport of ridiculing the domino theory. It was, they insisted, a paranoid fiction. The United States had only to withdraw, permit North Vietnam and South Vietnam to resolve their differences and peace would reign over Indochina.

Events, of course, have made a cruel mockery of such naivete. Hanoi's troops stand now about where the domino theorists said they would if Saigon lost the war. Laos is a vassal state, occupied and controlled by 50,000 North Vietnamese regulars. Cambodia is a smoking wasteland and an unwilling host to 200,000 invading Vietnamese troops.

And, recently, the world watched as thousands of Vietnamese soldiers supported by tanks, heavy artillery and surface-to-air missiles crossed the frontier into Thailand in a series of attacks intended apparently to prevent Cambodian refugees from returning to their homeland.

Casualty reports are still being tabulated, but a fair guess is that the Vietnamese incursion into Thailand has cost hundreds of lives. Predictably, the toll among Cambodian refugees huddled in makeshift camps along the border is believed to be particularly high. The defenseless refugees were first stampeded by the Vietnamese attack and then trapped in crossfires between Thai and Vietnamese forces.

Hanoi's justification for all this is that it acted to forestall the infiltration of Cambodian guerrillas based in the border refugee camps. Although it is true that some in the camps are guerrillas or at least potential guerrillas, it is equally true that they would not be there had it not been for the Vietnamese invasion of Cambodia.

At the moment, the Thai-Cambodian border is quiet. But the Cambodian resistance movement will continue with or without its rumored support from China and Thailand. At least 10,000 Vietnamese troops are poised to strike again at any moment against the refugees and the Thai troops trying to protect them.

If might is not to make right in this situation, the United States and members of the Association of Southeast Asian Nations (ASEAN) must close ranks behind threatened Thailand. To its credit, the Carter administration has reaffirmed its commitment to Thailand under the Manila Pact of 1954. That may compel the Vietnamese to think twice before mounting anything more serious than a brief border incursion.

Meanwhile, Washington could put some teeth into its pledge of solidarity by supplying the outgunned Thai forces with tanks, aircraft and artillery the equal of weapons being sent to Hanoi by the Soviet Union.

INDOCHINA ON COMMUNIST BRINK

The "Domino theory" was first advanced by President Dwight D. Eisenhower in 1954 and cited by succeeding presidents as justification for American involvement in the war in Vietnam.

The assumption was that if any one nation of Southeast Asia were to fall to communism, the others would follow in the manner of a line of dominoes. As the conflict between North and South Vietnam dragged on, the domino theory became the target of scorn of anti-war groups.

Presidents Lyndon B. Johnson and Richard M. Nixon took most of the heat for their defense of what generally came to be accepted as an invalid assessment.

But recent events tend to vindicate the Eisenhower evaluation.

After the United States withdrew from South Vietnam and Saigon fell to the communists from the north in 1975, the North Vietnamese lost little time in taking over disorganized Cambodia.

Now communist troops are massed on the borders of Thailand, well-equipped and financed by the Soviet Union. Chinese communists, too, are determined to protect their stake in the area and have deployed their own troops along the border with Vietnam.

The United States, which saw its economy and its image damaged with its long support of South Vietnam and the subsequent collapse of the effort, has pledged to come to Thailand's aid in the event of a major attack.

An airlift of weapons was prepared to expedite shipment of artillery, mortars, machine guns, ammunition and radar equipment to help the Thais withstand attacks.

But there will be no introduction of American troops, such as that in Vietnam, without the approval of Congress—an unlikely eventuality.

The maneuvering of the several communist factions in Indochina is indicative of the continued interest in changing the political character of the entire peninsula. Eisenhower, John F. Kennedy, Johnson and Nixon would take little pleasure in finding their worst fears confirmed.

To the extent that it is able, the United States must give Thailand the help that it needs and deserves as a long-time friend.

ESSAY ON FREEDOM OF RELIGION

Mr. THURMOND. Mr. President, the freedom of religion is our most sacred right. Religious freedom has always been a cornerstone in American life and has provided us with men and women of enormous inner strength—a strength which comes from faith in God.

Should America lose the freedom to worship and its reliance on spiritual guidance, our Nation, as we know it, would cease to exist. John Adams said, 200 years ago, "Without religion this world would be something not fit to be mentioned in polite company—I mean Hell."

Each year the South Carolina Knights of Columbus sponsor a patriotic essay contest for eighth grade students of South Carolina. This contest spawns many excellent papers from the young men and women of my State.

Mr. President, in order to share this year's winning essay, by Miss Mary Anne Bolchoz, with my colleagues, I ask unanimous consent to have it printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

FREEDOM OF RELIGION

Freedom of religion! What is it? As I sat and pondered this question, I realized that freedom of religion has many facets. This freedom speaks to me in many different fashions. It tells me that this is one of the most precious rights and most enviable privileges that my American citizenship has bestowed upon me. It reminds me that my forefathers engaged in bloody battles so that this freedom to worship might be mine.

It hints to me that my citizenship would be an empty and void status without this very important right. It suggests to me that religion plays a very important role in the life of an individual and that this religion, whatever direction or form it takes, should be of my choosing, answerable only to the voice of conscience within me.

It encourages me to acknowledge the Divine Providence of God and His effect on my life. It certifies the co-existence of many forms of worship within our great nation with each citizen having the liberty to worship according to the dictates of his conscience. It points out to me that this right to worship is a guarantee and an assurance given to me by my country specifically stated in the Bill of Rights, that "Congess shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

Musing further I realized that this freedom of religion also carries with it certain responsibilities that I must not shirk. I must, by virtue of this freedom, respect the rights of others to worship in ways different from my own. I must not participate in any act or align myself with any organization which denies this right to any citizen. I must realize, also, how fortunate I am to live in a country where there is no one national religion as is the case in many other countries. In Communist-controlled areas, the people have to conform to their government's policies on religion and are not allowed to worship as they please.

What then, is this freedom of religion that I enjoy? It is many things—it is a Catholic cathedral, a Protestant church, a Jewish synagogue, a Greek temple. It has many forms—many ceremonies. It is the voice of the priest, the minister, the rabbi, the patriarch. It is fellowship; it is brotherhood; it is ecumenism; it is calling on God in whatever tongue I can most easily converse with Him. It is a prayer service; it is liturgy; it is Catholic choirs singing "Amazing Grace" and Protestant voices chanting the "Lord's Prayer." It is a refuge to youth in this age of turmoil. It is one of those rare and precious gifts that makes being an American such a special thing to me.

THE IMPERIAL PRESIDENCY

Mr. THURMOND. Mr. President, an excellent article on the powers of the Presidency appeared in the July 1980 issue of the Officer magazine, published in Washington, D.C., by the Reserve Officers Association of the United States.

Entitled "Imperial Presidency?" and authored by Maj. Gen. Milnor Roberts, executive director of the ROA, this article deserves the attention of the Senate.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

IMPERIAL PRESIDENCY?

The following statement by President Carter is reprinted from an official government document dated 5 May, 1980:

The President: "At the time the Soviets invaded Afghanistan, I worked with the Congressional leaders, Senator Byrd and others, in not withdrawing SALT II from the calendar. It is still on the calendar as a top-priority business in the ratification of treaties. I'm looking forward to an opportunity to revive the ratification of SALT II, and I have made it plain to the Soviet Union leaders that until this treaty is ratified, provided there's a reciprocal commitment by the Soviet Union honored through our own close observation of their actions, that we will also honor the provisions of SALT II even before it is ratified."

No question about it, the President intends to act as though the SALT II Treaty had been ratified by the Senate when in fact it has not been discussed on the floor. Furthermore, there is every reason to believe that this flawed treaty would not have been ratified by the Senate even if the Afghanistan invasion had not happened. The votes weren't there, and the Administration knows it.

One of the reasons our form of government has been successful since 1789 is our system of "checks and balances" between the Executive—Legislative—Judicial branches. Our Constitution was designed to prevent excesses, and the provision for Senate ratification of Treaties with foreign nations is clearly intended to inhibit rule by Presidential directive.

While there have been instances in which earlier Presidents have exceeded their constitutional authority, all have been justified under emergency or wartime exigencies. These circumstances do not prevail today, and the rationale that the Soviets will abide by an unratified SALT II Treaty is naive in view of their behavior otherwise. The USSR is currently threatening the stability of Southwestern Asia; using surrogates to establish Marxist regimes in the Caribbean and Central America; and building up bases in Vietnam for utilization in Southeastern Asia. All of this is going on while their agents are striving for expansion of Soviet client-states in Africa; their radio broadcasts to Iran promote the Hate Uncle Sam theme: and they are continuing to pour nearly 15 per cent of their Gross National Product into the most massive buildup of offensive armaments in World history.

Verification of SALT II is dubious at best, and in justifying his defiance of constitutional tenets on these grounds, the President is not promoting national security but is acting irresponsibly in an area of vital concern to the Nation.

SOUTH AFRICA

Mr. THURMOND. Mr. President, recently Phil Kent of the Augusta Chronicle newspaper in Augusta, Ga., visited South Africa.

Mr. Kent, one of the South's leading editorial writers, spent 3 weeks in South Africa and met with different groups of the business, economic, and political structure.

Beginning June 15, he authored a number of articles which appeared in the Chronicle. Three of these articles have particular interest to Members of the Senate, especially one on the importance to the United States of the minerals produced in that country.

Mr. President, I ask unanimous consent to have printed in the RECORD these three articles, entitled "South Africa's Problems Merit Understanding," "South Africa's Minerals Are Vital to United States" and "The Sasol Process—A Winning Formula."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

South Africa's Problems Merit Understanding

(By Phil Kent)

Flying over southern Africa and gazing at the arid plains with plowed fields stretching away from little patches of green where trees surround farm houses, it was hard to believe that such a seemingly tranquil land could experience so many complex problems.

Yet the Republic of South Africa, the last bastion of white rule on the dark continent, was experiencing scattered school boycotts and terrorism leading up to the fourth anniversary of the Soweto riot, which is tomorrow.

Why the tensions in this sprawling land of approximately four million whites and 18 million blacks?

They appear to be aggravated by two factors: 1) The complex problems involved in the government "homelands" policy which seeks to develop all of the republic's racial groups and 2) the lack of sympathy from many Western countries, including the United States, which undercuts the government.

Although some in the West feel that the separate development policy for different groups is not the answer, the government contends, with much justification, that this can be the only peaceful solution toward eventual self-determination of all whites and non-whites. Americans might be able to get a better understanding of the complexity of this situation when it is understood that various non-white groups speak dozens of different languages and even the two white groups, the English and Afrikaners (Dutch-German descendants) communicate in both the English and Afrikaans languages.

While still pursuing separate development, especially in the field of education, multiracial activities in sports and some other sectors are new developments.

Sports officials said a milestone was reached with implementation of the government's decision that the Department of Sport and Recreation would be responsible for the promotion of sport among all population groups. The step has been welcomed in most quarters and ensures greater efficiency in the department's efforts to promote sport and recreation to the advantage of all groups in the country.

Sports Minister Byers Hoek said that the success of the new policy was illustrated by the recent Coetze-Tate world title boxing fight in South Africa, an event attended by more than 80,000 spectators of all population groups.

The sports policy should be winning points for South Africa in the West. Nevertheless, Foreign Minister R. F. "Pik" Botha remains disappointed. He recently said he hoped the West—and particularly the United States—would give his nation credit for its internal political initiatives.

Mr. Botha defends his government's present policies as "irreversable," because "our survival depends on this." At the same time, he says, "I'm amazed at the superficiality we get, especially from the Americans, and that makes me fear for the future of the world." He notes America's government "has done potentially more unpopular things and made more unpopular statements than any other Western government I am aware of in the last three decades."

That may seem to be a sweeping statement but it is one that Americans should analyze objectively.

Mr. Botha's frustration with the U.S. should also be seen in the light of stepped up Communist terrorism, which reached its climax when the coal-to-oil conversion plant near Sasolburg was bombed on June 2, a week after I visited the massive facility. The Carter administration seemed unperturbed, even after it was established that Soviet-made mines were used by the Sasol saboteurs.

Almost everywhere I went, South Africans asked who would win the American presidential election. When I answered that I hoped it would be Ronald Reagan, although it was hard to tell, most replied they were pulling for the former California governor too.

South Africa wants to be America's friend, and it seems many South Africans—"liberals" as well as "conservatives"—feel a Reagan administration, rather than a Carter administration, can give them a fairer shake.

South Africa's Minerals Are Vital to United States

(By Phil Kent)

Do not underestimate the importance of the Republic of South Africa in the battle between communism and freedom. Not only does it control the strategic Cape of Good Hope sea lanes, it also houses the majority of raw materials, minerals, precious metals and stones required by the West.

The only other sources of these minerals and stones, according to South African mining experts, lie within the area dominated by the Soviet Union.

Indeed, a timely warning was issued earlier this year by U.S. Rep. James Santini of Nevada, chairman of the House subcommittee of mining. In a report released after his visit to the anti-communist nation, he said if South Africa's mineral riches were to fall into the hands of an "adverse power" then "the Western world could be forced to its knees in six months."

My talks with mineral and metal experts underscored what the Nevada Democrat was talking about.

Manganese is the most important material in South Africa. It has 78 percent of the free world's production while the Soviet Union has 17 percent. There is no adequate substitute for manganese in steelmaking and the United States is practically 100 percent import dependent on manganese.

Congressman Santini had manganese in mind when he said that, without the mineral, the steel producing industrial countries of the West couldn't survive beyond six months.

The U.S. is also heavily dependent on South Africa for a popular precious metal: Gold.

According to E. M. Morrisson, head of the Geology Division of the Department of Mineral and Energy Affairs in Pretoria, a whopping 40 percent of the world's gold has been mined in the country over the past 90 years.

Santini's report also emphasized the importance of gold mining to the free world. It stated the U.S. was much more vulnerable to disruption in mineral trade than the Soviet Union. Of the 37 minerals regarded as essential in modern society, America imported more than 50 percent of 23 kinds. The U.S.S.R. imported only two.

It is easy to see, therefore, why the Kremlin would love to destabilize the present white minority government and install black Marxists in power to insure that this mineral wealth is denied the West.

In an interview with spokesmen for the South African Defense Force, I was bluntly told that "the Soviet onslaught is directed at the deprival of precious metals and minerals to the west." "All that is needed," they said, "is for the Soviets to deny one or two key metals, or 'weak links,' to halt production of a U.S. jet fighter." They said the U.S. defense industry would be crippled if the Soviets ever gained control of South Africa's chrome and platinum resources, as well as several other metals used as semi-conductors in the computer industry.

Aside from its function as a bulwark against communism, South Africa's mineral industry has another role: That of enriching all of the country's different population groups.

D. A. Etherridge, president of the Chamber of Mines of South Africa, believes that "the mining industry has, in terms of black labor, been a primitive constellation for years as it draws from seven foreign countries, three independent states (formerly part of the Republic of South Africa), the self-governing states and from the Republic itself."

He says that as much as R300 million ($375 million in U.S. dollars) was transferred home by these mineworkers in 1978. "The mines," he says, "are ameliorating the unhappy features of the migrant labor system."

While there naturally are problems involved in mining, especially seeing to it that all black miners are provided with decent living quarters, the fact remains that blacks are voluntarily coming into white-ruled South Africa in droves to find work that is unavailable in "liberated" Marxist neighbors like Angola, Mozambique, Zambia and even Zimbabwe (formerly Rhodesia).

The anti-South Africa lobby in both the Western and Communist worlds, conveniently overlooks this fact in its tirades against so-called "racist" white labor policies.

The Sasol Process—A Winning Formula

(By Phil Kent)

They tried to cripple the world's first commercial coal-to-oil synthetic fuel plant in the world. But the June 2 Communist terrorist attack on the Sasol 1 complex was a failure. Production was never affected.

Only limited damage was suffered at the plant owned by the South African Coal, Oil and Gas Corp. (Sasol) 60 miles south of Johannesburg, South Africa, as well as at two other larger Sasol plant sites.

What has been woefully neglected in most of the recent news stories about the terror attack on the plants is their interesting background, and their importance to the world.

Sasol is fast becoming a key word among international energy experts.

Says J. A. Stegmann, managing director of Sasol:

"South Africa is far ahead of other Western nations in the unavoidable move away from crude oil to alternative energy sources. Less than a quarter of the republic's energy requirements, almost exclusively in the transport sector, depended on oil, compared with 49 percent in the U.S., 62 percent in France and 53 percent in West Germany. Already the republic is almost fully dependent on coal for power generation and basic heating and is entering the important second phase of replacing imported oil in the transport sector by producing oil from coal."

James Schlesinger, former U.S. energy secretary, recently said that by acquiring the Sasol technique the U.S. could speed up its own synthetic oil program by two years and more; and last August an agreement was announced for marketing the technique in America.

South Africa is in a good synthetic fuel position mainly because of its abundance of coal. Clarence Keytor, Sasol public relations officer, notes that by the end of the year South Africa will supply 40 percent of the coal needed for generation purpose to the world market.

Keytor explained how the oil is produced. In the first stage of the Sasol process, coal is gasified in an atmosphere of oxygen and steam. The gas is then purified and fed into reactors. It then circulates, meets a catalyst, and is transformed into oil. Sasol gasoline, incidentally, is indistinguishable in smell, appearance and quality from gasoline refined from petroleum.

This whole process, Keytor added, evolved from the German synthetic fuel program of 1942–1945 as well as the American Kellogg process, which was perfected by South Africa.

Don't be misled into thinking that Sasol is merely a coal-to-oil process. Although the first plant was built 25 years ago it was decided in 1966 that it would also refine crude oil. By entering this field, Sasol consolidated its major position as a producer of liquefied fuels, industrial gas and chemicals.

The main reason for Sasol 2 (on the drawing board in 1975 and in production in 1980) was to reduce the country's dependence on imported oil. Sasol 3, which was announced in 1979, is designed to more than double coal-to-oil production. Like Sasol 2, Sasol 3 will be producing large quantities of jet fuels.

The success of Sasol, it seems, lies in the commercial approach that has been adopted by the operation. Private shareholding in the Sasol organization has always been the goal and is now the reality.

What of the future of this process? And what of America?

South Africa is achieving the enviable position of becoming self-sufficient in energy. It can, in effect, tell the world to leave it alone—and no boycott could then hurt its economy.

In the recent synthetic fuel bill passed by Congress, some monies are devoted to the coal-to-oil process. The great advantage for America is that if it adopts the Sasol approach on a wide scale, it will have vast quantities of coal at its disposal.

Sasol provides a beacon to oil dependent America, and it behooves us to follow in its footsteps.

MISS UNIVERSE 1980

Mr. THURMOND. Mr. President, just 1 month ago today before this body, it was my great honor and pleasure to recognize and congratulate a beautiful young lady from South Carolina, Miss Shawn Weatherly, as Miss USA 1980.

Today, Mr. President, it is with even greater pride that I congratulate Miss Weatherly on being selected and crowned "Miss Universe 1980." She was chosen Miss Universe over 68 other international beauties in the 10-day pageant that culminated on July 8 in Seoul, Korea.

The 5-foot, 8-inch blue-eyed blonde, a junior majoring in communications at Clemson University, is a native of Sumter, S.C. On hand to see her win the title were her father, a Sumter real estate agent, and her boyfriend, Dwight Clark, a wide receiver for the San Francisco 49'ers.

Mr. President, I am sure that Miss Shawn Weatherly will represent the United States in the most capable manner while she reigns as Miss Universe 1980. Also I feel that all my colleagues in the Senate join me in extending our congratulations to her and wishing for her the very best as our Nation's good will ambassador during the coming year.

THE 50TH ANNIVERSARY OF THE VETERANS' ADMINISTRATION

Mr. THURMOND. Mr. President, I bring to the attention of my colleagues that today, July 21, marks the 50th anniversary of the Veterans' Administration, the third largest agency in the Federal Government.

The VA was authorized by Public Law 71–536 on July 21, 1930. Prior to 1930, the responsibility for veterans programs was distributed among several Federal agencies. Today, the VA has grown from 54 hospitals to 172 medical centers, 223 outpatient clinics, 91 nursing care units, 58 regional offices, and 107 national cemeteries.

The first Administrator of Veterans' Affairs was in charge of 25,000 employees; today, employment at the VA tops the 200,000 mark. The VA budget in 1930 was $785 million; today, it is over $21 billion.

Mr. President, I take this opportunity to salute the employees of the Veterans' Administration for the fine work they are doing in rendering service to our Nation's 30 million veterans. I urge my colleagues to join me in recognizing the VA on its 50th anniversary.

STANDBY GASOLINE RATIONING PLAN

Mr. PERCY. Mr. President, on June 12 President Carter sent Congress the long-awaited and much debated standby gasoline rationing plan, as required by the 1975 Energy Policy and Conservation Act, Public Law 94–163.

Much hard work, and countless hours of staff time have gone into the preparation of this gasoline rationing plan, which would essentially use a coupon system for distribution to registered vehicles on a State-by-State basis. The plan would go into effect during an energy supply interruption which the President determines is likely to cause a 20-percent shortfall for a period of at least 30 days.

Congress gave the administration a very difficult task 4½ years ago when it passed EPCA, setting the wheels in motion for the ration plan we have before us today. In that act, Congress explicitly barred the creation of any ration plan that might impose a tax on sales of motor fuels. Such a prohibition virtually forced DOE to base its rationing scheme on a coupon distribution system with all the high costs, big bureaucracies, and implementation nightmares that such an approach generally requires.

The administration may be right in saying that this is the best of all possible coupon rationing plans, but where does that leave us? This plan would require over $2 billion per year and a vast new bureaucracy to administer all the paperwork it would impose. It would create what amounts to a second currency which could cause pandemonium in the economy.

And for what? Shockingly, one of the highest-ranking officials in the Economic Regulatory Administration responsible for this ration plan, Mr. Douglas Robinson, has confessed to the Senate Energy Regulation Subcommittee that DOE expects that, if we are lucky, only about 1 out of every 10 people will not get the ration coupons in an emergency that they deserve.

Despite these problems, the administration is asking us to spend $103 million and approve the assignment of 110 personnel to "preimplement" this plan—that is, to spend the next year reducing the plan's leadtime to 3 months.

Mr. President, we would be playing fast-and-loose with the taxpayers' money if we allow this preimplementation work to proceed before we know not just whether this is the best possible rationing plan, but whether any coupon ration plan would be the Nation's best response to a severe oil shortage. In particular, we need to begin examining the merits of a contingency rebate/tax plan similar to that proposed by Senator Johnston, and by Daniel Yergin in his June 20 column in the New York Times.

Mr. President, I ask unanimous consent that Mr. Yergin's column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

Try a Gas Tax Again

(By Daniel Yergin)

Cambridge, Mass.—Congress's resounding rejection of President Carter's proposed oil-import fee has generally been taken by the public as proof that using a gasoline tax to reduce petroleum imports is politically impossible in the United States. This is a mistaken view.

The Administration could reshape its proposal, and possibly win more support, by directing that gasoline-tax revenues be rebated to consumers, or by providing assistance to low- and middle-income people to finance conservation investments, or by making possible a tax shift in order to reduce other taxes.

It would be unfortunate, even irresponsible, for the Administration to give up now. Its mistakes were in presentation. The proposal was shaped and handled in a way that alienated many potential supporters. Some Congressmen objected to the use of Presidential authority to impose an import fee as a way to get a tax. Some found the proposed plan unwieldy and confusing. Some wondered how much conservation it would bring (of course no one could know until after the fact). Many saw it as an unacceptable bid to balance the budget in a Presidential-election year—a purely political act; that was the strongest objection of all.

The rejection of the gasoline tax has sent a discouraging message both to other Western consuming nations and to the Organization of Petroleum Exporting Countries, in both cases reinforcing the stereotyped idea that America is unwilling or unable to deal with its import problem. That being the perception, the oil producers see no reason not to continue ratcheting the price up. Certainly the apparent unwillingness to vigorously take on the import issue does suggest a society bent on economic suicide.

Yet the message is not that clear. There is a strong and growing conviction on Capitol Hill that United States oil imports must be reduced quickly, and that gasoline can provide a significant part of the answer. After all, one out of nine barrels of oil used in the entire world every day is burned as gasoline on United States highways. It is a big opportunity. Moreover, closer scrutiny in recent months has persuaded many Senators and Congressmen that rationing would be far less effective than had been thought—that, indeed, if applied, it might quite quickly collapse.

It is clear that a rationing system with marketable coupons is remarkably similar to a gasoline tax with a rebate. In the first case, the Government distributes coupons worth, say, 50 cents; in the second, it distributes, say, 50 cents. As Senator Bill Bradley, New Jersey Democrat, has put it, the choice is between a white market (coupons) and a green market (rebated dollars).

Certainly there is strong reason to enact, on the correct premise that something is better than nothing, the emergency rationing program sent to Congress last week. But the whole exercise of putting together a rationing program has made clear to many that a gasoline tax could be as equitable and a good deal more manageable than rationing even in an emergency.

Admittedly, the gasoline tax is a highly emotional subject. While Western Europe has for decades used such a tax as a method to raise revenues, there is great resistance to it in the United States. Our current average gasoline tax (state and Federal) is less than 10 percent of the average gasoline-tax level of France, Italy and West Germany combined. In addition, the 10-cent-a-gallon surcharge at the pump proposed by President Carter would have only made up for the erosion in the current Federal gasoline tax, whose real value has been reduced 60 percent by inflation since it was put into effect in 1959.

Yet too much emphasis may be placed on the opposition to any tax. A recent Cambridge Reports poll found acceptance of a 10- to 15-cent gasoline tax (through an import fee) by a margin of 47 percent to 41 percent—so long as it was clearly a conservation measure.

Obviously, the most attractive of all options would be to have cheap, easily available gasoline. But those days are gone. The critical need is to reshape gasoline demand quickly in order to help stabilize oil prices and world supply, and minimize the costs over the long term to our consumers. For instance, an overall target of a 20 percent reduction in gasoline would be the equivalent of adding a new Kuwait to world supply, and that kind of "addition" would greatly strengthen the consumers' position.

We can use a domestic gasoline tax to reduce demand and rebate the revenues—and at least keep the dollars here. Or we can face additional stiff hikes by OPEC. In case no one noticed, members of OPEC have raised their prices—really, a tax on us—by several dollars a barrel in the last couple of weeks, and the OPEC producers do not rebate.

Mr. PERCY. Certainly, before we consent to give DOE $103 million now and—and maybe more later—for a plan which DOE itself says cannot be expected to work well, we must ask ourselves whether there is not a better way.

On May 8, over a month before release of President Carter's rationing proposal to Congress, I sent letters to the Secretary of Energy, the Secretary of the Treasury, the chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget, asking each of them to answer specific questions on the tax/rationing controversy. I requested responses to my questions by June 13, so that I and the rest of the Congress could really examine this plan, and alternatives, before it went into effect.

To date, I have received absolutely nothing from any of these agencies. In fact, staff-level contacts have indicated a staunch reluctance to respond in writing to my inquiries until after the ration plan is approved.

Mr. President, needless to say I look upon this ignoring of a crucial national issue with great and profound concern. The administration would have the Congress accept, without consideration of alternatives, a highly expensive and controversial proposal which DOE itself admits is flawed. And yet, even as DOE has gone on record asking for Congress to consider alternatives which might be preferable, we are being denied the chance to get an assessment from the administration itself about how its own plan compares with the rebate/tax plan that is, given many possible variations, the only realistic alternative to a coupon rationing plan.

I rise today to serve notice to DOE, Treasury, OMB, and the CEA that I am committed to see that no funds be provided to "preimplement" the administration's standby rationing plan until Congress is given some evidence from the White House that this plan is worth implementing. I am aware of the fact that DOE was unable to procure any funds during the just-completed 1980 supplemental appropriations bill to develop its rationing plan in this fiscal year. I will work to prevent any funding for next fiscal year, either, unless some genuine answers to my questions are forthcoming.

I feel as deeply committed as any of my colleagues to develop an effective contingency plan for our Nation that can deal with the crisis of a sudden, unforeseen cutoff of our energy supply. I feel we must work vigorously to develop a plan now that is quick to employ, economical, and effective.

But I also feel deeply that we must work to avoid implementing expensive, bad plans if there are better ones, and cheaper ones around. I trust that the entire Congress, and the White House share these feelings with me.

I know that the administration has spent considerable time looking into the feasibility and effectiveness of a standby gasoline tax/rebate plan. I know that sharing their insights on this issue with Congress would be an invaluable step in our appraisal of the various options we have in developing an equitable contingency plan—something that is truly in our national security interests to do as quickly as we can. I urge the White House and its agencies to submit the answers to the questions in my May 8 letters as quickly as possible.

Mr. President, I ask unanimous consent to have those questions printed in the RECORD.

There being no objection, the questions were ordered to be printed in the RECORD, as follows:

QUESTIONS POSED TO THE HONORABLE CHARLES W. DUNCAN, JR., SECRETARY OF ENERGY

1. Are you undertaking any systematic analysis of the relative costs and benefits of a tax/rebate plan versus a coupon rationing plan? If so, when can your findings be made available to the Congress? If not, why not?

2. In an emergency, what would be the advantages of having gasoline stations collect ration coupons rather than a fixed amount of money whenever gasoline is purchased? Are these advantages worth the extra costs and administrative complications of creating a second currency?

3. If all exports of crude oil from Iran were halted, creating a worldwide oil shortage and triggering a U.S. shortage pursuant to the I.E.A. agreement, how large would an emergency excise tax have to be to enable us to endure this shortage without gasoline lines? Similarly, how large would an emergency excise tax have to be to enable us to survive a complete shut-down of crude oil production in the Persian Gulf?

4. Assuming you had prepared a standby tax/rebate plan in advance, how quickly could it be implemented during a serious national emergency, and how does this compare with your projections for a coupon rationing plan?

5. In your public hearings and written comments on the coupon rationing plan and other conservation proposals, what did you learn about the willingness of the public to accept an emergency tax/rebate plan in lieu of other measures? Did you hear more concerns raised about the price of gasoline during an emergency, or about the availability of gasoline at any price?

6. What might be the long-range conservation effects of an emergency tax plan? Could a temporary gas tax lead to more permanent changes in gasoline consumption habits than a temporary ration plan might do?

QUESTIONS POSED TO THE HONORABLE G. WILLIAM MILLER, SECRETARY OF THE TREASURY

1. How long would it take to get a tax collection apparatus in place during an emergency, and how would the tax be collected?

2. How would each of the following rebate mechanisms work, and what would be their respective administrative advantages and disadvantages:

a. Income tax withholding;

b. Social security tax withholding;

c. Direct payments to individuals who do not pay income or social security taxes, as a supplement to (a) or (b) above;

d. Direct payments to all owners of registered vehicles in a manner comparable to that envisioned for the distribution of ration coupons; and

e. Any other rebate mechanism you find worthy of consideration.

3. What theft, fraud, tax evasion, or other enforcement problems would you envision for a tax/rebate plan? How would you compare these problems with the likely consequences of implementing a coupon rationing plan?

QUESTIONS POSED TO THE HONORABLE JAMES T. MCINTYRE, JR., DIRECTOR OF MANAGEMENT AND BUDGET

1. What do you see as the two or three most feasible and effective rebate mechanisms that could accompany a tax? How long would it take to implement each of these mechanisms?

2. How much confidence do you have that the government could set the tax and rebate levels at market-clearing rates? Would those levels have to be adjusted over time?

3. Could you compare the costs of a tax/rebate plan with those of a rationing plan in both their pre-implementation and implementation phases?

4. If a rationing plan would in fact cost substantially more to implement than a tax/rebate plan, is that extra cost justified by any special non-economic advantages to either approach?

5. What Constitutional authority and policy precedent are there for the Congress to grant the President standby power to implement a tax/rebate plan in a supply emergency? In what form might the President

request this authority, and how might this standby authority be triggered?

THE HONORABLE CHARLES L. SCHULTZE, CHAIRMAN, COUNCIL OF ECONOMIC ADVISERS

1. If a tax/rebate plan were implemented, what would be the economic impacts of using the following rebate mechanisms;

a. A lump-sum reduction from income tax or social security tax withholding, with direct payments to those who pay no income tax;

b. A proportionate reduction from income tax withholding (perhaps applying only to the first $30,000 of income), with direct payments to those who pay no income tax;

c. A proportionate reduction from social security tax withholding, with direct payments to those who pay no social security tax;

d. Direct, lump-sum payments to all owners of registered vehicles in a manner comparable to that envisioned for the distribution of ration coupons; and

e. Any other rebate mechanism you find worthy of consideration.

2. What would be the economic consequences of a tax that is set too high (i.e., restraining demand too much), a tax set too low, or a rebate mechanism which may not make payments until sometime after the tax is imposed?

3. What consequences would result from the distribution of too few or too many ration coupons, or a delay of several months between the start of a supply emergency and the implementation of a coupon rationing program?

4. How would you compare the effectiveness of the "white market" feature of a coupon rationing program with the ability of a tax rebate plan to ensure that business or individuals who badly need gasoline can acquire it at any price?

MESSAGES FROM THE HOUSE

At 3:15 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, without amendment:

S. 2492. An act to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships, and for other purposes;

S.J. Res. 180. Joint resolution to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 181. Joint resolution to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. BENNETT, Mr. STRATTON, Mr. ICHORD, Mr. NEDZI, Mr. CHARLES H. WILSON of California, Mr. WHITE, Mr. NICHOLS, Mr. BOB WILSON, Mr. DICKINSON, Mr. WHITEHURST, Mr. SPENCE, and Mr. BEARD of Tennessee were appointed as managers of the conference on the part of the House, and Mr. BOLAND, Mr. BURLISON, and Mr. ROBINSON, from the Permanent Select Committee on Intelligence, only when differences regarding intelligence-related activities are under consideration.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7593. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1981, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2240. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 7593. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 22, 1980, he had presented to the President of the United States the following enrolled bills:

S. 2009. An act to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes;

S. 2240. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; and

S. 2382. An act to provide for additional authorization for appropriations for the Tinicum National Environmental Center.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4237. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the custodial services activity at Brooke Army Medical Center (BAMC), Fort Sam Houston, Tex., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC–4238. A communication from the Director, Federal Emergency Management Agency, reporting, pursuant to law, on property acquisitions of emergency supplies and equipment during the quarter ending June 30, 1980; to the Committee on Armed Services.

EC–4239. A confidential communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to the United Kingdom for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4240. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, its midyear Monetary Policy Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–4241. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notice of a meeting related to the international energy program; to the Committee on Energy and Natural Resources.

EC–4242. A communication from the Director, Federal Emergency Management Agency, transmitting a draft of proposed legislation to amend section 402 of the Disaster Relief Act of 1974; to the Committee on Environment and Public Works.

EC–4243. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–220, "District of Columbia Pharmacist and Pharmacy Regulation Act of 1980," and report, adopted by the Council on July 1, 1980; to the Committee on Governmental Affairs.

EC–4244. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–219, "Animal Control Act Amendment Act of 1980," and report, adopted by the Council on July 1, 1980; to the Committee on Governmental Affairs.

EC–4245. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–218, "Second Solid Waste Regulations Amendment Act of 1980," and report, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC–4246. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–221, "District of Columbia Certificate of Need Act of 1980," and report, adopted by the Council on July 1, 1980; to the Committee on Governmental Affairs.

EC–4247. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–222, "Reprogramming Policy Act of 1980," and report, adopted by the Council on July 1, 1980; to the Committee on Governmental Affairs.

EC–4248. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–223, "Council of the District of Columbia Staff Compensation Act of 1980," and report, adopted by the Council on July 1, 1980; to the Committee on Governmental Affairs.

EC–4249. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–224, "Closing of a Public Alley in Square 568, Unemployment Compensation, Motor Vehicle Finance Charges, and Interstate Highway System Withdrawal Act of 1980," and report, adopted by the Council on June 17, 1980; to the Committee on Governmental Affairs.

EC-4250. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3-225, "Closing of a Portion of a Public Alley in Square 73 Act of 1980," and report, adopted by the Council on July 1, 1980; to the Committee on Governmental Affairs.

EC-4251. A communication from the Accountants, Sacramento Farm Credit Employee's Retirement Plan, transmitting, pursuant to law, a financial statement as of December 31, 1979; to the Committee on Governmental Affairs.

EC-4252. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, the first annual report on the Foreign Service Retirement and Disability System; to the Committee on Governmental Affairs.

EC-4253. A communication from the District of Columbia Auditor, transmitting, pursuant to law, various reports of the District of Columbia; to the Committee on Governmental Affairs.

EC-4254. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, an altered matching program notice for the reconciliation of Department of Defense and Veterans Administration (VA) records with respect to military annuities, Reserve pay, and VA disability indemnity compensation (DIC) and disability payments; to the Committee on Governmental Affairs.

EC-4255. A communication from the Counsel, Pacific Tropical Botanical Garden, transmitting, pursuant to law, a report of audit for the period from January 1, 1979, through December 31, 1979; to the Committee on the Judiciary.

EC-4256. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report of the Department of Labor for 1979; to the Committee on the Judiciary.

EC-4257. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, report on individual aliens who conditionally entered the United States, and a report of conditional entry activities for the period January 1, 1980 through March 31, 1980; to the Committee on the Judiciary.

EC-4258. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Mid-Session Review of the 1981 Budget"; to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to order of January 30, 1975.

EC-4259. A communication from the Comptroller General of the United States, reporting, pursuant to law, on the President's tenth special message for fiscal year 1980, transmitting to the Congress on June 18, 1980, pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, and the Committee on Banking, Housing, and Urban Affairs, jointly, pursuant to order of January 30, 1975.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-787. Joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"ASSEMBLY JOINT RESOLUTION No. 79

"Whereas, an integrated pest management program is a reliable procedure that, when properly conducted, optimizes crop production in an economically and ecologically sound manner; and

"Whereas, those California farmers who participate in new integrated pest management systems are subject to risks flowing from the immediate implementation of such a program; and

"Whereas, the Federal Crop Insurance Corporation and the Environmental Protection Agency are parties to an interagency agreement to support intensive marketing of federal crop insurance to cotton growers in selected counties in the southeastern United States to facilitate long-term evaluation and promotion of integrated pest management on cotton and other crops; and

"Whereas, pursuant to such agreement, the Federal Crop Insurance Corporation provides all risk insurance at a 20 percent premium reduction to specified counties having community integrated pest management projects; and

"Whereas, one result of such agreement is the collection of actuarial data evaluating the effectiveness of integrated pest management strategies in controlling manageable risks compared to traditional management practices; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the United States Congress to set up a pilot project in California wherein the Federal Crop Insurance Corporation provides all risk insurance at a 20 percent premium reduction to persons following an integrated pest management program; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Manager of the Federal Crop Insurance Corporation."

POM-788. A resolution adopted by the House of Representatives of the State of Massachusetts; to the Committee on Banking, Housing, and Urban Affairs:

"RESOLUTION

"Whereas, some Massachusetts communities have chosen to adopt rent and eviction controls; and

"Whereas, rent controls are efforts to deal with a lack of affordable and decent rental housing; and

"Whereas, the shortage of such rental housing, aggravated by a rash of condominium conversions, has increased; and

"Whereas, an attempt is being made in the Congress to punish local communities that have adopted rent control by denying them certain Federal housing funds; and

"Whereas, the Massachusetts House has a historic record in favor of home rule; and

"Whereas, the Massachusetts House of Representatives opposes any congressional attempt to punish Massachusetts communities that have adopted rent control; therefore be it

"*Resolved*, That the Massachusetts House of Representatives respectfully urges the Congress of the United States not to withhold Federal funds from Massachusetts communities because of their adoption of rent control; and be it further.

"*Resolved*, That copies of these resolutions be transmitted forthwith by the clerk of the Massachusetts House of Representatives to the President of the United States, to the presiding officer of each branch of the Congress of the United States, and to each member thereof from this commonwealth."

POM-789. A resolution adopted by the Legislature of the State of New York; to the Committee on Commerce, Science, and Transportation:

"LEGISLATIVE RESOLUTION—SENATE No. 811

"Whereas, The 1980 Winter Olympics at Lake Placid, New York were undertaken by the Lake Placid Olympic Organizing Committee with the help of the Village of Lake Placid, the Town of North Elba, the County of Essex, the State of New York and the United States of America; and

"Whereas, In a good faith attempt to aid and assist the Olympic effort, and in conjunction with the superhuman effort of organized labor, the business community of our Nation and the people of the United States, the 1980 Winter Olympics were successfully provided with goods, services and facilities at the request of the Lake Placid Olympic Organizing Committee enabled the committee to stage the games for the benefit of all the citizens of this country; and

"Whereas, The 1980 Olympic Games were a huge worldwide success bringing credit to our people and with the success of our athletes including the 1980 United States Olympic Hockey Team, our national pride, enthusiasm and patriotism were brought to their zenith for the first time since World War II; and

"Whereas, Much of this business community consists of small and independent businesses in the construction industry and numerous other service industries that are still owed substantial sums of money which, if unpaid will result in numerous bankruptcies and financial hardship, it is thus the sense of this Legislative Body that such a result is intolerable and unacceptable; and

"Whereas, The Lake Placid Olympic Organizing Committee apparently is unable to pay considerable outstanding debts to the business community and therefore additional public support is of paramount and immediate necessity; and

"Whereas, Any bankruptcy of the Lake Placid Olympic Organizing Committee would cause irreparable damage to numerous innocent parties and would significantly jeopardize the future use of all winter sports facilities in the Lake Placid area and would drastically impair this Country's stature in the world community; and

"Whereas, On June fourth, nineteen hundred eighty, Governor Hugh L. Carey indicated that this state is going to do all in its power to resolve the deficit of the Lake Placid Olympic Organizing Committee; and

"Whereas, This Legislative Body mindful of the encouragement, support and positive actions taken by Senators Jacob K. Javits and Daniel P. Moynihan, Congressmen Samuel S. Stratton and Robert C. McEwen, President Jimmy Carter and his entire staff, and the Congressional delegations from our sister states expresses heartfelt sincere appreciation to them for their unswerving support and calls upon all our people to further aid and assist the businessmen and labor force of this state, and more particularly the Lake Placid region, by addressing the present financial difficulties of the Lake Placid Olympic Organizing Committee and thus protect the investment in time, effort and money already made in this most beautiful area of the Empire State; now, therefore, be it

"*Resolved*, That this Legislative Body endorses the current effort by the State of New York, the Federal Government, the Village of Lake Placid and the Town of North Elba in jointly addressing the existing financial problems of the XIII Winter Olympic Games in the interest of assuring the solvency of numerous United States businesses and preserving the vast investment in winter sports facilities in the Lake Placid area for future use by athletes throughout the United States and the world; and be it further

"*Resolved*, That copies of this resolution suitably engrossed, be transmitted to The Honorable Jimmy Carter, President of the United States, to the President Pro Tempore of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to each member of the Congress of the United States from the State of New York."

POM–791. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION NO. 466

"*Be it resolved by the Legislature of the Territory of Guam:*

"Whereas, Article IV of the Constitution of the United States and Article IX of the Treaty of Paris of 1898 vests the primary responsibility over the territories in the United States Congress; and

"Whereas, the United States Congress, through its ratification of the United Nations Charter, did delegate some of its territorial responsibilities to the Executive Branch of the government; and

"Whereas, Chapter XI of the United Nations Charter charges the United States Government with the responsibility of promoting the development of self-government and to give due consideration to the political aspirations of the people of the territories; and

"Whereas, even before the United Nations Charter, the history of the United States Government has borne witness to the fact that the United States Government has always encouraged the political development of its territories, and been marked with a willingness to permit the people of the affected areas to determine their own preferred political status; and

"Whereas, the inhabitants of Yap, Palau, Truk, Ponape, Marshall Islands, and the Northern Marianas have exercised their right of self-determination; and

"Whereas, of all the people of Micronesia, only those on Guam have not conducted any plebiscite for the determination of their political status; and

"Whereas, a plebiscite sanctioned and authorized by the United States Government is the only way that the issue of the political aspirations and status of Guam and its people can be definitively determined; and

"Whereas, the determination of political status is an inherent right of the people of Guam; now, therefore, be it

"*Resolved*, That the Fifteenth Guam Legislature, on behalf of the people of Guam, does hereby respectfully petition the President of the United States to seek Congressional authorization for the holding of plebiscite on Guam by September 12, 1981, which plebiscite, without restriction as to the political aspirations of the people of Guam as it relates to their self-determined goverance and status; and be it further

"*Resolved*, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States of America; to the President Pro Tempore of the United States Senate; to the Speaker of the House of Representatives; to the Secretary of State; to the Secretary of Interior; to the Ambassador of the United States to the United Nations; to Guam's Washington Delegate; and to the Governor of Guam.

POM–790. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION NO. 467

"*Be it resolved by the Legislature of the Territory of Guam*:

"Whereas, Article IV of the Constitution of the United States and Article IX of the Treaty of Paris of 1898 vests the primary responsibility over the territories in the United States Congress; and

"Whereas, Chapter XI of the United Nations Charter charges the United States Government with the responsibility of promoting the development of self-government and to give due consideration to the political aspirations of the people of the territories; and

"Whereas, even before the United Nations Charter, the history of the United States Government has borne witness to the fact that the United States Government has always encouraged the political development of its territories, and been marked with a willingness to permit the people of the affected areas to determine their own preferred political status; and

"Whereas, the inhabitants of Yap, Palau, Truk, Ponape, Marshall Islands, and the Northern Marianas have exercised their right of self-determination; and

"Whereas of all the people of Micronesia, only those on Guam have not conducted any plebiscite for the determination of their political status; and

"Whereas, a plebiscite sanctioned and authorized by the United States Government and conducted by the people of Guam is the only way that the issue of the political aspirations and status of Guam and its people can be definitively determined; and

"Whereas, the determination of political status is an inherent right of the people of Guam; now, therefore, be it

"Resolved, That the Fifteenth Guam Legislature, on behalf of the people of Guam, does hereby respectfully petition the Congress of the United States to authorize the conduct of a plebiscite on Guam by September 12, 1981, which plebiscite, without restriction as to the political status, shall be used to determine the political aspirations of the people of Guam as it relates to their self-determined governance and status; and be it further

"Resolved, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the President Pro Tempore of the United States Senate; to the Speaker of the House of Representatives; to the Secretary of State; to the Secretary of Interior; to the Ambassador of the United States to the United Nations; to Guam's Washington Delegate; and to the Governor of Guam."

POM–792. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 24

"Whereas, the medical assistance program under Title XIX of the Social Security Act provides needed medical assistance for the aged, the blind, and the handicapped; and

"Whereas, a substantial number of such persons live with incomes that are below the recognized poverty level; and

"Whereas, under present regulations, persons otherwise qualified for this assistance but who have incomes exceeding two hundred twenty-eight dollars per month do not qualify; and

"Whereas, this limit serves to create a health care dilemma for the persons least able to secure health services for themselves; therefore, be it

"*Resolved by the Senate of the Legislature of Louisiana, the House of Representatives thereof concurring*, That the Congress of the United States is hereby memorialized to examine the needs of the medically needy and to consider increasing the minimum income a person may receive and yet qualify for benefits under the Title XV and XIX Medicaid Program; be it further

"*Resolved*, That copies of this Resolution be transmitted to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana congressional delegation."

POM–793. A resolution adopted by the Board of County Commissioners of St. Louis County, Minn., urging that the Regional National Park Service Office be moved to Minnesota; to the Committee on Energy and Natural Resources.

POM–794. A resolution adopted by the Common Council of the city of Poughkeepsie, N.Y., memorializing the U.S. Senate, the U.S. House of Representatives, the President, the United States Environmental Protection Agency, and the New York State Department of Environmental Conservation to do everything in their respective power to reauthorize sections of the Clean Water Act allowing for the dredging of PCBs from the Hudson River as stated in S. 2725; to the Committee on Environment and Public Works.

POM–795. A resolution adopted by the board of supervisors of the County of Los Angeles, Calif., requesting the President and the Congress to store, as soon as possible, the full appropriation to properly fund the uninterrupted acquisition of land and timely development of the Santa Monica Mountains National Recreation Area, according to the original federal authorization; to the Committee on Energy and Natural Resources.

POM–796. A resolution adopted by the National Sheriffs' Association, Washington, D.C., urging the U.S. Congress to continue to provide adequate federal funding for OJARS, LEAA, BJS, and NIJ as provided by the Law Enforcement Assistance Reform Act of 1979; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Special report entitled "Allocation of Budget Totals for Fiscal Years 1980 and 1981" (Rept. No. 96–858).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

William Courtleigh Gardner, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 2946. A bill to amend the Internal Revenue Code of 1954 to allow estates required to file estate tax returns before July 13, 1978, to elect the valuation of certain farm, and so forth, real property under section 2032A of such Code within ninety days after final regulations are adopted under such section; to the Committee on Finance.

By Mr. MAGNUSON:

S. 2947. A bill for the relief of Elias Pereira De Lima; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 2948. A bill, to amend the Internal Revenue Code of 1954 with respect to the amount which certain private foundations are required to distribute; to the Committee on Finance.

S. 2949. A bill to amend the Internal Revenue Code of 1954 with respect to the amount which certain private foundations are required to distribute; to the Committee on Finance.

By Mr. TALMADGE (by request):

S. 2950. A bill to amend the Act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions and to authorize U.S. Marshals to serve warrants under the Act; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2951. A bill to amend the Plant Quarantine Act of August 20, 1912, as amended to eliminate certain unnecessary regulatory requirements; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 2948. A bill to amend the Internal Revenue Code of 1954 with respect to the amount which certain private foundations are required to distribute; to the Committee on Finance.

S. 2949. A bill to amend the Internal Revenue Code of 1954 with respect to the amount which certain private foundations are required to distribute; to the Committee on Finance.

PRIVATE FOUNDATIONS

● Mr. MOYNIHAN. Mr. President, private foundations, like many American institutions and individuals, are having a difficult time. They have been buffeted by sustained inflation and beset by eroding values in the securities markets upon which they largely depend. They are spending more dollars but are having less of an impact, partly because they have been unable to keep pace with inflation. Even if current economic and financial trends are moderated, it seems clear that foundations will find it difficult to keep their role of stimulating humanitarianism, creativity and progress in our society from diminishing. I am proposing two bills, therefore, that would enable private foundations to continue contributing to our social and economic betterment.

Section 4942 of the Internal Revenue Code, Mr. President, requires that private foundations distribute each year to charity either all of their net income for that year or 5 percent of their total assets, whichever amount is the greater. This provision of the law, unfortunately and unwisely, compels some foundations gradually to liquidate themselves. Particularly in an inflationary era such as the one in which we find ourselves today, this "payout requirement" has the adverse effect of eroding over time the real value of foundations' resource bases, and seriously impairs their grantmaking ability. In order to allow private foundations to survive, to conduct their own special and necessary kind of charitable giving on a continuing basis, I am introducing two bills that would ameliorate this situation.

The first would modify the Internal Revenue Code to require that private foundations must distribute the greater of either 5 percent of their assets or an amount equal to their real annual income; that is, their income adjusted for inflation. The other measure, which I offer as an alternative, requires simply that private foundations distribute an amount equal to at least 5 percent of their total assets.

Either of these proposed payout requirements would constitute a reasonable compromise between two worthy, yet potentially conflicting, objectives that must be balanced in this regard. On the one hand, in return for allowing them tax-exempt status, we should require that private foundations distribute some minimum amount to charity. Before the first payout requirement was established by the Tax Reform Act of 1969, some foundations simply shielded family or corporate wealth and were not at all philanthropic, which persuades me that some sort of payout requirement is necessary and proper.

On the other hand, however, it is in everyone's interest for private foundations to remain in business, to continue their charitable activities over the long haul. I do not believe that this Congress means to let stand a statute that compels private foundations to act as the agents of their own liquidation. Under current law a foundation must distribute at least all of its annual net income by the end of the following year. When returns on investments amount to more than 5 percent of assets, all of it must be disbursed; when returns are less than 5 percent, then 5 percent must be given away. This obviously makes it extremely difficult for foundation directors to plan ongoing grant-making programs in a rational and effective way, because one can never know precisely what next year's investment returns will be, and there is no opportunity to save for distribution next year any of this year's income. Worse, in an inflationary period, the current payout requirement insures that foundations cannot even maintain the real value of their assets over time. While the law sees to it that the nominal value of foundation resources remains constant at best, inflation insures that their real value will diminish.

Mr. President, I submit for inclusion in the RECORD at this point a table outlining the adverse effect that the current law and inflation have together had on foundations generally over a recent 5-year period. Despite increases between 1972 and 1977 in the number of private American foundations, 23.7 percent, in the nominal amount of their collective assets, 2.7 percent, and in the dollar amount of total grants made, 33.2 percent, the fact is that owing to inflation, the real value of those assets declined by almost 30 percent. Most importantly, the real value of all grants made by private foundations declined by more than 8 percent during this period.

DECLINE IN THE REAL VALUE OF FOUNDATION ASSETS AND IN THE REAL VALUE OF GRANTS DISBURSED, 1972–77

	1972	1977	Percent increase (decrease)
Number of foundations	2, 533	3, 138	+23.7
Total assets (current dollars)	$31, 509, 711, 000	$32, 358, 973, 000	+2.7
Real value of assets ($1=1967)	25, 176, 259, 000	17, 829, 794, 000	(−29.2)
Total grants (current dollars)	1, 548, 193, 000	2, 061, 784, 000	+33.2
Real value of grants ($1=1967)	1, 237, 006, 000	1, 136, 043, 000	(−8.2)

(From the 7th edition of the "Foundation Directory" (1979), p. xxiii)
Refers to all foundations with assets of $1,000,000 or more or total grants of $100,000 or more.

This is a deplorable situation, but it is one that we can correct. Moreover, it is a situation that we should correct. I submit, Mr. President, in the interest of that healthy American pluralism in behalf of which I have frequently spoken in this Chamber, that we need private foundations in this country today as much as we ever did. The two-tenths of 1 percent of our gross national product that is annually distributed by foundations is a small, but vital, piece of social venture capital. Foundations provide the financial wherewithal for not-for-profit enterprises thought too risky or inappropriate for Government. Private foundations have over the years time and again pioneered the way the rest of us have soon followed, in the arts, in education, in innovative health and social welfare programs, in the protection of the environment, as well as in the independent evaluation of Government programs themselves.

Sadly, this kind of funding is in imminent danger of disappearing from the American scene, unless the payout requirement is modified along the lines I have suggested. For as long as we continue to require foundations to distribute all of their income, the purchasing power of the income they disburse will steadily decline. If, on the other hand, we require only that real income be distributed, the value of the foundations' assets can be maintained and the purchasing power of income distributed will remain constant. I would like to insert in the RECORD at this point two tables and two graphs that illustrate this fact by comparing the development of a foundation investment portfolio under current law with its development under a modified rule, such as I am proposing.

I should explain that many large private foundations depend for their continued existence on long-term investments in equity securities of some of our largest business corporations. However, because it is useful—indeed, it is necessary—in the planning of longer run grant programs to have some dependable income, foundations also invest in less lucrative fixed-income bonds. A typical foundation's portfolio consequently consists of 60 percent stocks and 40 percent bonds.

PORTFOLIO I—ALL INCOME DISTRIBUTED (CURRENT LAW)[1]

Year	Nominal value	Value in 1980 dollars	Income	Income distributed	Purchasing power of income distributed (1980 dollars)
1980	$1,000,000	$1,000,000	$88,000	$88,000	$88,000
1990	1,790,848	690,449	157,595	157,595	60,760
2000	3,207,136	476,720	282,228	282,228	42,951
2010	5,743,491	329,151	505,427	505,427	28,965

[1] The capital appreciation from the stocks of 10 percent per year is assumed to be reinvested 60 percent back into stocks and 40 percent into bonds thereby maintaining the 60–40 percent stock bond ratio.

[2] The portofolio's real return is 4.8 percent which is the total return of 14.8 percent minus 10-percent inflation. Of the total return of 14.8 percent, 4.8 percent is distributed, leaving 10 percent to be reinvested.

Note: Both tables from a report prepared by the Mott Foundation, Flint, Mich., Mar. 25, 1980.

PORTFOLIO II—REAL RETURN OF 4.8 PERCENT DISTRIBUTED, 10 PERCENT REINVESTED[2]

Year	Nominal value	Value in 1980 dollars	Income	Income distributed	Purchasing power of income distributed (1980 dollars)
1980	$1,000,000	$1,000,000	$88,000	$48,000	$48,000
1990	2,593,743	1,000,000	228,249	124,500	48,000
2000	6,727,500	1,000,000	592,020	322,920	48,000
2010	17,449,402	1,000,000	1,535,547	837,571	48,000

Assumptions: (1) Both portfolios begin with $1,000,000 invested 60 percent in stocks to return 16 percent (6-percent real return and 10-percent inflation) and 40 percent in bonds to return 13 percent (3-percent real return and 10-percent inflation). (2) The rate of inflation is 10 percent per year. (3) The dividends from stocks provide a cash income yield based on market value of 6 percent and the interest from bonds provide a cash income yield based on market value of 13 percent for an overall cash income yield of 8.8 percent (60 percent stocks—40 percent bonds). (4) It is assumed that bonds will provide a real return of 3 percent, although this is somewhat higher than hostorical returns.

Assuming the same circumstances of inflation and reinvestment, the portfolio of the foundation that is compelled to distribute all of its income (portfolio I) experiences a steady loss of purchasing power. Over 30 years the real value of the grants distributed annually falls by 67 percent. The portfolio of the foundation that distributes only its real net income, however, is able to maintain its real value, as well as the purchasing power of its grand disbursements (portfolio II).

Mr. President, I would like to stress, in conclusion, that my concern here is for those charitable organizations and hard-working individuals who are the potential recipients of grants and donations from private foundations. If the Congress enacts one of the bills I have submitted, these private foundations will flourish and there will be more funds available to clinics pioneering new health-care technologies, social and scientific researchers of every persuasion, and human welfare agencies which might otherwise have to turn to the Federal Government for assistance. It is that simple an issue and I hope my colleagues will move quickly to support these proposals.●

By Mr. TALMADGE (by request):

S. 2950. A bill to amend the act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions and to authorize U.S. Marshals to serve warrants under the act; to the Committee on Agriculture, Nutrition, and Foresty.

● Mr. TALMADGE. Mr. President, I am today introducing legislation requested by the administration.

The bill would expand the powers of the Secretary of Agriculture after he has declared an extraordinary emergency due to the existence of any dangerous communicable disease of livestock or poultry that constitutes a threat to the livestock or poultry of the United States.

According to the Secretary, the outbreak of Newcastle disease in southern California during 1971–73 demonstrated that broader authority is needed to quarantine specific localities and control intrastate movement of animals. In addition, the department experienced difficulty in issuing warrants to gain access to premises promptly during the outbreak. The bill would authorize U.S. Marshals to execute warrants.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 2, 1962 (21 U.S.C. 134a(b), 134 (d), is amended by—

(1) inserting in section 2(b) immediately before the colon in the first sentence the following: ", and he may prohibit or regulate the movement within the State or other jurisdiction involved, of animals, animal carcasses, products and articles as he deems necessary in order to prevent the dissemination of any such disease or to eradicate any such disease or to otherwise protect the livestock or poultry of the United States"; and

(2) amending the last sentence in section 5 to read as follows: "Such warrants may be executed by any authorized employee of the Department of Agriculture or any United States Marshal.".●

By Mr. TALMADGE (by request):

S. 2951. A bill to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. TALMADGE. Mr. President, I am today introducing legislation requested by the administration.

Under the act of August 20, 1912, known as the Plant Quarantine Act, the Animal and Plant Health Inspection Service of the Department of Agriculture is responsible for promulgating regulations to restrict and prohibit the importation into the United States of certain articles, thereby preventing the introduction of injurious plant, fruit or tree diseases, or insect pests. The act requires that a public hearing be held before any regulation is promulgated for these purposes.

The Department believes there are no valid reasons for retaining the additional public hearing requirements of the act because of the enactment of the Administrative Procedure Act, which contains provisions with respect to public participation in rulemaking proceedings that are considerably more comprehensive than in the act of August 20, 1912.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 20, 1912 (7 U.S.C. 159, 160, 161), is amended by—

(1) striking out in section 5 the colon and all that follows down through the end of the sentence and inserting in lieu thereof a period;

(2) striking out in the second sentence of section 7 the following: "That before the Secretary of Agriculture shall promulgate his determination that it is necessary to forbid the importation into the United States of the articles named in this section he shall, after due notice to interested parties, give a public hearing, under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further*,"; and

(3) striking out in the fourth sentence of section 8 the following: "That before the Secretary of Agriculture shall promulgate his determination that it is necessary to quarantine any State, Territory, or District of the United States, or portion thereof, under the authority given in this section, he shall, after due notice to interested parties, give a public hearing under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further*,".●

ADDITIONAL COSPONSORS

S. 1862

At the request of Mr. MCCLURE, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Kentucky (Mr. FORD), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

S. 2283

At the request of Mr. CHAFEE, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 2283, a bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of earned income of citizens or residents of the United States earned abroad.

S. 2325

At the request of Mr. HELMS, the Senator from California (Mr. HAYAKAWA) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) were added as cosponsors of S. 2325, a bill to amend the Federal Election Campaign Act with respect to contributions and expenditures by national banks, corporations, and labor organizations.

S. 2542

At the request of Mr. CHAFEE, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2542, a bill to grant a Federal charter to the Italian-American war veterans of the United States of America.

S. 2623

At the request of Mr. GOLDWATER, the Senator from Wyoming (Mr. WALLOP), the Senator from Virginia (Mr. WARNER), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 2623, a bill to incorporate the U.S. submarine veterans of World War II.

S. 2636

At the request of Mr. PRYOR, the Senator from Rhode Island (Mr. PELL) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2636, a bill to prohibit the drugging or numbing of race horses and related practices, and to amend title 18, United States Code, to prohibit certain activities conducted in interstate or foreign commerce relating to such practices.

S. 2722

At the request of Mr. WALLOP, the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2722, a bill to amend title II of the Social Security Act to provide that disability insurance benefits may not be paid to inmates of penal institutions or facilities for the criminally insane.

SENATE JOINT RESOLUTION 156

At the request of Mr. BURDICK, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of Senate Joint Resolution 156, a joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. INOUYE, the Sentor from South Carolina (Mr. THURMOND), the Senator from Maryland (Mr. MATHIAS), the Senator from Maryland (Mr. SARBANES), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of Senate Joint Resolution 176, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

SENATE JOINT RESOLUTION 182

At the request of Mr. INOUYE, the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from New York (Mr. JAVITS), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of Senate Joint Resolution 182, a joint resolution to authorize and request the President to designate November 14, of each year as "Operating Room Nurses Day."

SENATE RESOLUTION 486

At the request of Mr. MATHIAS, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was added as a cosponsor of Senate Resolution 486, a resolution to express the sense of the Senate with regard to Metropolitan Washington airports policy.

SENATE CONCURRENT RESOLUTION 108—SUBMISSION OF A CONCURRENT RESOLUTION TO DISAPPROVE THE DETERMINATION NOT TO PROVIDE IMPORT RELIEF FOR THE LEATHER WEARING APPAREL INDUSTRY

Mr. DANFORTH (for himself, Mr. HEINZ, Mr. MOYNIHAN, Mr. EAGLETON, Mr. DURKIN, and Mr. RANDOLPH submitted the following concurrent resolution, which was referred to the Committee on Finance:

S. CON. RES. 108

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress does not approve the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974 transmitted to the Congress on March 26, 1980.

AMENDMENTS SUBMITTED FOR PRINTING

CHILD NUTRITION PROGRAMS—S. 2675

AMENDMENT NO. 1939

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to S. 2675, a bill to amend and extend certain provisions of the child nutrition programs authorized by the National School Lunch Act and the Child Nutrition Act of 1966, and for other purposes.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE APPROPRIATIONS, 1981—H.R. 7584

AMENDMENT NO. 1940

(Ordered to be printed and referred to the Committee on Appropriations.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to H.R. 7584, an act making appropriations for the Departments of State, Justice, and Commerce, the judiciary and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

SOVIET GRAIN EMBARGO

● Mr. PRESSLER. Mr. President, I am today submitting an amendment to the fiscal year 1981 appropriations bill for the Departments of State, Justice, and Commerce, H.R. 7584, which would prohibit the use of funds for the enforcement or further implementation of the Soviet grain embargo.

This is a drastic measure, Mr. President, but I believe it is necessary in order to get the attention of the administration. To date, the administration has ignored petitions from Congress and the American farmers who are paying the bill for this meaningless and ill-conceived embargo. The most direct way to end the embargo is to cut off the funds for enforcing it.

The grain embargo has been a severe blow to farmers in my home State of South Dakota and elsewhere. The price of grain went down by $1.10 a bushel when the embargo started. Independent truckers with no shipments to make had difficulties in paying their bills, and some lost their trucks. The grain in storage continues to be a depressing influence on prices.

Mr. President, to underscore the tremendous financial burden that the President's embargo has imposed on American farmers, I ask unanimous consent that two charts prepared by the U.S. Commerce Department detailing this situation be inserted at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

UNITED STATES—U.S.S.R. TRADE: 1972-80

[In millions of dollars]

	1972	1973	1974	1975	1976	1977	1978	January-November 1978	January-November 1979
U.S. EXPORTS (FAS)									
Total	542	1,195	607	1,833	2,306	1,623	2,249	2,128	3,177
Food and live animals	365	842	287	1,113	1,359	876	1,442	1,403	1,993
Beverages and tobacco	1	0	1	1	1	1	3	2	2
Crude materials	71	78	25	29	141	181	286	281	517
Mineral fuels	None	0	1	3	9	17	31	22	20
Oils and fats	2	6	None	14	0	0	19	19	61
Chemicals	21	17	28	44	37	40	30	26	123
Manufactured goods	10	35	27	52	116	89	57	51	39
Machinery and transport	62	204	225	547	605	374	283	236	325
Miscellaneous manufactures	9	9	13	26	36	44	98	86	97
Other	1	4	1	2	1	1	1	1	1

UNITED STATES—U.S.S.R. TRADE: 1972-80—**Continued**

[In millions of dollars]

	1972	1973	1974	1975	1976	1977	1978	January–November 1978	January–November 1979
U.S. IMPORTS (CV)									
Total	96	220	350	254	221	234	540	509	725
Food and live animals	1	0	1	0	1	1	2	1	1
Beverages and tobacco	0	1	1	1	2	5	5	5	8
Crude materials	18	12	19	41	49	47	50	46	32
Mineral fuels	7	77	106	96	54	64	44	33	9
Oil and fats	0	0	0	0	0	0	0	0	0
Chemicals	1	2	12	6	6	6	37	34	60
Manufactured goods	64	123	204	97	85	92	103	91	139
Machinery and transport	0	0	2	5	4	3	3	2	4
Miscellaneous manufactures	3	4	4	5	16	10	9	9	30
Other	1	1	1	1	2	6	287	287	443

Note: 0 equals less than $500,000.

Sources: "Highlights of U.S. Export and Import Trade (FT-990)", U.S. Census Bureau, U.S. Department of Commerce, BEWT.

	1972	1973	1974	1975	1976	1977	1978	1979[2]	January–November 1978	January–November 1979
U.S. EXPORTS (FAS)										
Total	542	1,195	607	1,833	2,306	1,623	2,249	3,300	2,128	3,177
Agricultural[1]	430	921	300	1,133	1,487	1,037	1,687	2,600	1,647	2,512
Nonagricultural	112	274	307	700	819	586	562	700	481	665
U.S. IMPORTS (CV)										
Total	96	220	350	254	221	234	540	800	509	725
Agricultural[1]	4	5	10	7	8	11	13	15	13	14
Nonagricultural	92	215	340	247	213	223	527	785	496	711
Gold bullion[3]	None	None	None	None	None	None	287	None	286	443
United States-U.S.S.R. trade turnover	638	1,415	957	2,087	2,527	1,857	2,789	4,100	2,636	3,903

[1] U.S. Department of Agriculture, Economics, Statistics, and Cooperative Service (excludes transshipments).

[2] Projection.

[3] Gold bullion (nonmonetary gold) was not included in trade statistics until 1978.

Source: "Highlights of U.S. Exports and Import Trade" (FT-990), U.S. Census Bureau, U.S. Department of Commerce, EM 450/455 microfilm, IM 150/155 microfilm.

Prepared by: Val Zabijaka, U.S.S.R. Affairs Division, Bureau of East-West Trade.

Mr. PRESSLER. Mr. President, I also ask unanimous consent that the text of my amendment be printed in the Record. When this appropriations bill comes before the Senate, I intend to call up this amendment, or a similar version of it which may be changed slightly to conform with any committee changes in the legislation.

I would urge my colleagues to consider this approach to curtail the grain embargo and would welcome cosponsorship of this measure.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1940

On page 43, insert between lines 5 and 6, the following new section:

"Sec. 605. No part of any appropriation contained in this act shall be used for the enforcement or implementation of any restrictions heretofore imposed by the President on the export and reexport of agricultural commodities to the Union of Soviet Socialist Republics under the authority of the Export Administration Act of 1979." ●

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENT NO. 1941

(Ordered to be printed.)

Mr. HART (for himself, Mr. Tsongas, Mr. Chafee, Mr. Randolph, Mr. Culver, Mr. Church, and Mr. Moynihan) proposed an amendment to H.R. 39, an act to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

AMENDMENT NO. 1942

(Ordered to be printed.)

Mr. STEVENS proposed an amendment to amendment No. 1941 proposed to H.R. 39, supra.

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

● Mr. CHILES. Mr. President, the Special Committee on Aging will be holding another hearing in its series on "Energy Assistance for the Elderly" on July 25, at 9:30 a.m. in room 6226, Dirksen. This hearing will focus on the impact of this summer's heat wave on the elderly and the programs needed to assist the elderly in combating these long heat spells and the resulting utility bills.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Committee on Finance will hold a hearing on Tuesday, August 5, 1980, on the so-called marriage penalty tax.

The hearing will begin at 9 a.m. in room 2221 of the Dirksen Senate Office Building.

Several bills have been introduced on this subject. These bills are as follows:

S. 336—Introduced by Senator Mathias. Would permit married persons to file single returns and pay tax at the same rate as single persons.

S. 1247—Introduced by Senator Gravel. Would permit married couples a deduction of 10 percent (limited to $2,000) of the earned income of the spouse earning the lesser amount of income.

S. 1877—Introduced by Senator Sasser. Would permit married couples a deduction of 20 percent (limited to $4,000) of the earned income of the spouse earning the lesser amount of income.

Witnesses who desire to testify at the hearing must submit a written request, including a mailing address and phone number, to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on July 28, 1980.

CONSOLIDATED TESTIMONY

Committee urges all witnesses who have a common position on the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the committee. This procedure will enable the committee to receive a wider expression of views than it might otherwise obtain. The chairman urges very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

WRITTEN STATEMENTS

Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five copies to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than August 29, 1980.●

SUBCOMMITTEE ON CONSUMER AFFAIRS

● Mr. MITCHELL. Mr. President, the Consumer Affairs Subcommittee of the Banking, Housing, and Urban Affairs Committee has scheduled a hearing on July 24, 1980, to be held in the committee hearing room at 5300 Dirksen beginning at 10 a.m.

The hearing has been scheduled to review both H.R. 7340 (Cash Discount Act) and the need to establish a National Consumer Usury Study Commission. The following witnesses will testify at the hearing:

Mr. Leonard F. O'Connor, Vice President, First National Bank of Boston—Consumer Bankers Association.

Ms. Barbara Alexander, Superintendent, Bureau of Consumer Protection, State of Maine.

Mr. Robert Erwin, Director, Bureau of Consumer Protection, State of Maryland.

Mr. Frank Jesstrup, Commissioner, National Conference of Commissioners on Uniform State Laws.

Mr. Hugh Smith, Washington Representative, American Express Company.

Ms. Amy Topiel, Vice President and Counsel, Interbank Card Association.

Mr. John Malarkey, Delaware State Bank Commissioner—Vice Chairman Federal Legis. Comm., Conference of State Bank—Supervisors.

Mr. Jack Fox, Senior Vice President, United Virginia Bank Shares, Inc.—American Bankers Association, Richmond, Virginia.

Mr. Lewis Goldfard, Director, Credit Practices Division—Federal Trade Commission.

The Honorable Nancy Teeters, Governor, Federal Reserve Board.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MELCHER. Mr. President, I ask unanimous consent that the committee on foreign relations be authorized to meet during the session of the Senate today to hear administration officials on various treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. MELCHER. Mr. President, I ask unanimous consent that the Energy Research and Development Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on the Nuclear Safety Research and Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION

Mr. MELCHER. Mr. President, I ask unanimous consent that the Transportation Subcommittee of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a hearing on auto use management.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

1980 CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM

● Mr. ROTH. Mr. President, the congressional senior citizen intern program celebrated its seventh anniversary this year and the largest participation since 1973 when Congressmen Hillis, Beister and I began the program. Between May 5 and May 16, over 230 senior citizen interns from 43 States and the District of Columbia sponsored by 151 Members of Congress, came to the Hill to gain insight into the legislative process and to share with us their unique perspective on issues of special concern to our Nation's elderly. I am sure my colleagues who sponsored senior citizen interns would agree the opportunity for exchange of ideas offers as much to us as to the interns themselves.

The sharing of ideas was not limited to the Congress. The senior citizen interns also met with various leaders in the field of aging from the executive branch and had the opportunity to express their concerns on Government programs and policy directly.

Clearly, the elderly are an important political force. There are 25 million persons in our country age 65 or older. They account for one in every nine Americans. Traditionally, they have been an active constituency. In 1976, while they represented only 10 percent of the total population, they cast 16 percent of the total votes.

Throughout my career in Congress, I have maintained an interest in the needs and concerns of the elderly citizens of our country. I believe the yearly increases in participation in the senior citizen intern program reflect the growing awareness on the part of the Congress of the tremendous capabilities of older Americans. Their contribution to society and to the American Way of Life is invaluable.

It was my pleasure to have Elizabeth Henry of Wilmington, Del., and Mae Turley of Frederica, Del., serve as interns in my office.

I believe the representation of the benefits of the program is best evidenced by the statements of Mrs. Henry and Mrs. Turley themselves.

I submit the statements for the Record.

The statements follow:

Statement by Elizabeth Henry

It has been a privilege to participate in the Senior Intern Program as one of Senator Roth's interns from Delaware.

The program has given us a view of government from the inside. We have learned about matters of concern to us from those who are making our laws. We have had a chance to express our views, too. It has been a two way street.

We have exchanged ideas with interns from other parts of the country. We have not always agreed because we have varied experiences and backgrounds.

We will have a lot to share with the people back home. We are going back with new information, new ideas, new friends and new understandings. Above all, we are going home with the feeling that if we speak up, we will be heard.

I came into the world in the World War I baby boom. While my generation overflowed the elementary schools, new high schools were being built from old plans, and we overflowed them, too.

As adults, our housing needs expanded construction, and hospital nurseries bulged with our babies.

Now the time has come when we are expected to step out of the mainstream, and once more everyone is surprised to find how numerous we are. After all, they have had only sixty five years to see us coming.

Statement by Mae Turley

My memories of the May 5th 1980 Senior Intern Program are a big plus for people. My first applause is for the far-sighted Senators and Congressmen, who, realizing the potential of Senior Citizens, heartily endorsed the Senior Intern Program.

The second applause goes to the three girls who were responsible for our well-planned, well-executed two week program. Jo Anne Ross, legislative assistant to Senator William Roth, Donna Norton, staff aide to Congressman Elwood Hillis, and Chris Clary, legislative aide to Congressman Tony Coelho.

May 1980 saw the largest intern class to date. We were over 230 strangers from almost every state in the nation—relaxed—friendly—non-competitive—well informed, willing to share and eager to learn.

We were in class every day for four hours—sometimes more—listening to lectures on subjects particularly relevant to older Americans. We asked questions, voiced concern about the future of Social Security and inflation. Housing information held priority for many interns and was continued on into the second day.

The expertise of our lecturers was invaluable. We made notes which were backed up with brochures or pamphlets, which were studied conscientiously every evening and discussed.

Our program was a well planned crash course on Government for Older Americans. Interesting, fascinating, and exciting to be a part of.

My sincere thanks to Senator William Roth for this opportunity to see and hear government in action.

We were there when the budget was debated and voted upon. We knew history was being made, were awed and humbled by being chosen to see and hear. We gained an added respect for and an understanding of our Congressmen. I was reminded of this quotation from The Capitol which states, "The law of old and of today seeks to glorify the dignity of Man."

To crown the Program—one of our Interns suggested we sing "God Bless America" and proceeded to lead us in a beautiful and soul searching, thrilling hymn.●

SENIOR INTERN PROGRAM

● Mr. CHILES. Mr. President, as chairman of the Special Committee on Aging, I want to take a moment to discuss the senior intern program. It has been my experience that the program is truly of mutual benefit for both participants and sponsors.

This year, 151 Members of Congress sponsored over 230 interns from 43 States.

I have found it surprising how much the interns are able to accomplish in the 2-week period they are here. Certainly, the stamina required to withstand the average intern's schedule is a clear indication that older people have the energy, interest and dedication to continue making significant contributions to our society.

The interns I met were inspirations for us to look toward as we grow older. With their eagerness to learn and participate, they quickly put asunder any stereotypes that exist about older people.

Dr. J. B. White of Gainesville, Fla., who interned with the Special Committee on Aging, is a prime example of the kind of person who participated in the program. Dr. White has a long and distinguished background in education and was dean of the College of Education at the University of Florida from 1949 to 1964.

Today, Dr. White is vice president of his local Older American's Council, which has an annual budget of $500,000 to serve older people in the Gainesville area. He is also involved in a number of other community activities that will help—not just senior citizens, but—people of all ages throughout the Nation.

P. F. "Jack" Carroll, whom I sponsored as an intern, is a well-known spokesman for the National Retired Teachers Association/American Association of Retired Persons before the Florida Legislature in Tallahassee, Fla. He has distinguished himself by not only being elected to Florida's Silver Haired Legislature, but also by being elected the first president of its senate in 1978.

The interns I spoke with generally agreed that the program gave them the opportunity to see and understand more fully what the Federal Government is doing for older people. Most of them believe they can be instrumental in relaying the information they learned to people in their home States.

There is no doubt that the program also gave Members of Congress an excellent opportunity to hear firsthand about issues of interest to their older constituents.

I share the interns' enthusiasm for the program, and want to commend the offices of Senator ROTH, Congressman HILLIS, and Congressman COELHO, which worked so hard to make the program a reality.●

THE 1980 SENIOR CITIZEN INTERN PROGRAM

● Mr. TOWER. Mr. President, it was my pleasure again this year to have participated in the 1980 congressional senior citizen intern program. Hubert and Marion Leslie from Houston, Tex., spent May 5–16 in Washington as representatives from my office.

This was the first trip to Washington, D.C., for both Mr. and Mrs. Leslie, who came to the Nation's Capital to learn as much as possible about the legislative process and to meet people from around the country. The Leslies also wanted to become more familiar with the problems senior citizens across America are experiencing. In addition, they wanted to alert the Texas congressional delegation to the concerns of senior citizens in our State.

The Leslies boast that the senior citizen intern program and their participation in it were a "huge success" and "an outstanding program for senior citizens." I know of no better endorsement of the program than the expressed satisfaction of recent participants. Mr. and Mrs. Leslie now believe they have a better outlook on senior citizen issues.

I commend the organizers of the 1980 program for their thoroughness in planning 10 days of successful activities, and the Leslies for representing my office and the State of Texas.●

CONGRESSIONAL SENIOR CITIZENS INTERN PROGRAM

● Mr. PRYOR. Mr. President, this past May I participated for the second year in the annual congressional senior citizen intern program. I sponsored for the 2-week period this year Mr. D. "Pat" Middleton from North Little Rock, Ark. He serves as vice president of the Arkansas AARP program and as president of the Central Arkansas Area Agency on Aging.

Mr. President, for the 2 years I have been in the Senate, I have been a wholehearted supporter for the senior intern program. During this 2-week program, the interns attend a series of briefings and seminars from experts of both government and private groups on the vital issues of the day affecting senior citizens. Such issues include health care, social security, housing, transportation, and many others. The interns are exposed to the legislative issues that affect many the older Americans across the country and have an opportunity to discuss these issues and share ideas. Through participation in such a program, it is hoped that the interns will be able to return to their communities with a better understanding of the Congress and will be more effective in working with their legislators. Not only do I feel this was a rewarding experience for Mr. Middleton but also it has proved to be very beneficial to me and my staff.

Mr. Middleton's enthusiasm, views and firsthand experience brought about a clearer understanding of the current problems of the aging citizens, not only in my State of Arkansas but also throughout the country.

Too many times, Mr. President, people get caught up in their own day-to-day life and problems and let the resources, represented by the elderly, go untapped. Too often we ignore the experience, wisdom and insight that the elderly can contribute. That is why I think it is most important to have this intern program in order to better utilize this valuable resource—our senior citizens. It is important to work together, to understand each other and communicate our feelings and views. I am proud to see that the Congress is taking an active role with our senior citizens. They are an important link in the workings of the Government. I am proud to be a participant in a program that acknowledges that the elderly are a valuable resource.●

THE SENIOR CITIZEN INTERN PROGRAM

● Mr. PRESSLER. Mr. President, I rise to say a few words about the senior citizen intern program. Since first coming to Congress in 1975, I have participated in several programs which offered individuals the opportunity to work through my office as interns. These internships make it possible for interested people to learn firsthand how Congress and the Federal agencies operate. No program, however, has been nearly as successful as the congressional senior citizen intern program.

This year I was pleased to have Rose and Bob Bordeaux of St. Francis, S. Dak., serve as my senior citizen interns. Their hard work and dedication were greatly appreciated. I shall submit for the RECORD a letter I recently received from them.

As Bob and Rose expressed to me that little, if any, emphasis is placed on the special problems facing the elderly in rural areas like South Dakota. For instance, the lack of public transportation and the skyrocketing cost of fuel have caused many senior citizens living in rural areas to become stranded, miles from needed food and medical assistance. It does little good for us to educate our senior citizen interns about Federal programs which benefit them if these same elderly cannot have access to these programs because of a lack of affordable transportation. As a Senator from a rural State, I would like to see the congressional senior citizen intern program deal more with the issues confronting the rural elderly such as transportation. Not only would older Americans in less-populated areas benefit from such an emphasis, but it would also acquaint senior citizens residing in cities with the problems of the elderly in rural areas.

Mr. President, I wish to convey my thanks to those responsible for this excellent intern program. I hope, however, that in coming years special programs will be set up to acquaint the interns with the issues faced by older Americans in rural areas.

The letter follows:

JUNE 24, 1980.

DEAR LARRY: Forgive me for taking so long to write down my thoughts and feelings about my time in Washington as your intern; I believe I am still in awe of personally meeting a Senator and personally going to all of the meetings in all the ever so important places that so very few people of our country get to see, for a small town Senior Citizen like myself, it was hard to believe I was really there.

Most of the speakers were very interesting and informative, many of the programs were new to us and many were focused more on the Senior Citizens living in the big cities, very few were meant for the rural areas and Indian reservations; we do have nutrition programs, buses to take meals out and to bring the elderly down to the center, or to the hospital or just some shopping trips. For this we are grateful to the government and to you Senators and Representatives, who have worked so hard to improve and make our later years more comfortable and giving us more peace of mind, more now than ever in the lives of the ones who have gone before us, it is good to know that young people like you are so concerned.

There are so many beautiful ones in this country of ours, I was never more aware of it until we spent the two weeks with over two hundred in D.C., we became acquainted with so many very nice people, exchanged ideas and discussed the problems in our own areas. Whether we were city or small town Senior Citizens, we had a mutual understanding of each others needs, and also realized that there are good people like you keeping us in their minds and hearts. Thank you.

My husband and I were both very impressed with your staff, the first day I almost panicked when we had to go to your office but I soon found out that I had nothing to fear, or worry about, give them all our love and thank them most sincerely for being so good to us, I wish they could all come out to SD sometime, we would sure like to have them visit us, we don't have much, but our home is home to them any time they come out to SD.

My fondest memories were the few moments we spent with you in the Senate reception room and in your office, as I said in the beginning of my letter, I was very nervous about it all, but you were so gracious and concerned about us that I was soon at ease and knew that I would enjoy the two weeks of strenuous but important time in Washington.

I don't believe I can express in words my gratitude for giving me the privilege of being your intern for 1980, I hope I will not disappoint you in any way and in my humble way, if I can be of any service, please let me know.

Thanks for the pictures and letters that you sent to all of my families all over the US, I'm sure they all appreciated the personal letters from you just as I did.

My husband and I are still talking about our experiences in our two weeks in DC, we hope we can put them to some use back in good old South Dakota, right?

Gratefully and with our love and prayers.

BOB and ROSE.●

SENIOR CITIZEN INTERN PROGRAM

● Mr. COCHRAN. Mr. President, I would like to take this opportunity to comment on what I believe is one of the most worthwhile citizen participation programs sponsored by Congress.

I am speaking of the senior citizen intern program which this year brought 235 senior citizens from throughout the Nation to Washington to become better acquainted with how Congress and the Federal Government operate.

It was my pleasure and privilege to sponsor Mr. Mack Rowzee of Starkville, Miss., who represented our State in this year's senior citizen intern program. After his internship, Mr. Rowzee gave me some very valuable insight into his experiences here and his assessment of how some of the programs for older Americans are actually working.

He has now returned home and is continuing his active participation in his local community, as well as in the State, on behalf of retirees and senior citizens. Mr. Rowzee has been very active in a number of organizations in this field since he retired from a lengthy career in public service, including public school administration, and nearly three decades with the cooperative extension service at Mississippi State Universitv, as well as many years as State 4–H Club leader.

One of the most rewarding positions I have enjoyed since being elected to public office was my service in the House of Representatives on the Select Committee on Aging. This committee work gave me a special insight into the needs and problems of our senior citizens, many of whom live on fixed incomes and have special nutritional, health, housing, and transportation needs.

In 1978, under the auspices of the Select Committee on Aging, I participated in hearings in Jackson, Miss., on the economic problems of our senior citizens and the effectiveness of Federal, State, and local programs for older Americans.

Since coming to the U.S. Senate, I have continued my personal interest in our senior citizens, meeting with numerous groups of retired persons and visiting several of the nutrition sites in our State for senior citizens.

I also have been pleased to participate as a Senate sponsor of the senior citizen intern program. In addition to Mr. Mack Rowzee this year, I sponsored Mr. Ed Bishop of Corinth, Miss., as a participant in this program last year. He was also very impressed with the value of this program and strongly urged me to continue my interest and participation in it.

Mr. President, this is one of the most worthwhile internship programs that Congress has authorized. I hope we see fit to continue it in the future.●

THE 49TH CONVENTION OF ALPHA KAPPA ALPHA SORORITY

● Mr. TALMADGE. Mr. President, Alpha Kappa Alpha Sorority, the oldest black sorority in America, is now holding its 49th convention and it has chosen Atlanta as its convention site. Since its founding in 1908, at Howard University in our Nation's Capital, the sorority has grown to a membership of over 75,000 in 602 chapters throughout the United States and abroad. It has become an international movement of collegiate women united in Alpha Kappa Alpha's commitment: "Service to Mankind." In its pursuit of the improvement and enhancement of the well-being of men and women everywhere, Alpha Kappa Alpha has made its mark in the fields of public health, education, vocational guidance, civil rights and international understanding.

From its inception 72 years ago, Alpha Kappa Alpha Sorority has remained steadfast in its commitment to serving the needs of others, and the sorority's contributions in this mandate have been felt. In 1935, Alpha Kappa Alpha waged a war on diptheria and smallpox and improved nutritional and dental practices by launching the first mobile health clinic in the United States. In 1938, the sorority initiated action to assure decent living conditions, permanent jobs and a voice in determining the conditions under which blacks lived and worked by organizing the first civil rights lobby. Almost 30 years later, in 1965, the sorority mounted an attack on poverty by becoming the first predominantly black organization to acquire a contract to operate a Job Corps Center.

In 1908, Ethel Hedgeman Lyle conceived the formation of Alpha Kappa Alpha as an instrument "for enriching the social and intellectual aspects of college life by providing mental stimulation through association with friends and associates." Its objectives were then, and are now, the cultivation and encouragement of high scholastic and ethical standards, the promotion of unity and friendship among college women, the alleviation of mankind's problems. Today, under the leadership of Dr. Barbara K. Phillips, the 20th national president, the sorority is continuing its distinguished heritage of service to others. I extend my heartiest congratulations on this occasion of the 49th convention of the Alpha Kappa Alpha Sorority, and I welcome its officers and members to the hospitality of Atlanta.●

ALAN OLMSTEAD—GREAT JOURNALIST, EXTRAORDINARY HUMAN BEING

● Mr. RIBICOFF. Mr. President, Alan H. Olmstead, who died last month, was one of the most perceptive, thoughtful journalists I have even known. I commented in the Senate when I learned of his death that he was a brilliant writer and a great human being. It was a privilege and a delight to have known this extraordinary man.

Soft spoken, courteous, always a gentleman, Alan was keenly aware of the impact of the written word on people's feelings and reputations. He was known for his fairness.

In a business increasingly occupied with contentiousness in public affairs, Alan never lost sight of what mattered and did not waste his time on the trivial and inconsequential. Where he saw injustice, public neglect and arrogance in government and politics, he spoke out. But Alan Olmstead was smart enough to know what battles counted and which were contrived media events and little else. Alan had what every good journalist has, a sense of history and the ability to see public events in their proper perspective.

Alan was a brilliant writer. His columns were as graceful as they were penetrating. He not only wrote well, he listened well and he read widely. He was interested in almost everything. He would intersperse his political commentary with occasional columns on history and nature and farming.

Others have also noted the passing of Alan, among them the Bridgeport Post in an editorial of June 26, 1980. Written by Joseph A. Owens, editor of the editorial and opinion pages, the editorial concludes by saying of Alan:

> This graduate of Bridgeport Central High School was able to leave this life knowing that throughout a long and distinguished career in journalism, his ability as a wordsmith was transcended only by his dedication to fairness.

On July 5, 1980, Joe Owens wrote an even more moving tribute to Alan Olmstead. The Owens column is an accurate reflection of this extraordinary journalist's reputation. Commenting on Alan's work as associate editor and chief editorial writer of the Manchester (Conn.) Herald, Joe Owens observed:

> For more than three decades his penetrating commentaries on international, national, state and local events were viewed by colleagues with admiration. This insight and his mastery of the English language set him apart from and above the crowd.

Mr. President, I request that the editorial and the column by Joe Owens be printed in the RECORD.

The material follows:

ALAN H. OLMSTEAD

The conscience of the state Capitol, Alan H. Olmstead, has left the scene. He died a few days ago and will be buried tomorrow in Manchester, "The City of Village Charm."

For many years, Olmstead's observations about politics and state government graced the editorial page of The Telegram. Though he was editor of The Manchester Evening Herald at the time of his retirement in 1972, Olmstead always considered himself a reporter. He would spend hours on end at hearings in the General Assembly, gathering information for his incisive commentaries.

Politicians held him in high regard because Olmstead called the shots as he saw them.

He was born in Bridgeport and spent his childhood in Newtown. Every so often he would devote a column to the beauties of nature, and some readers in southwestern Connecticut could detect the fact that he was reliving an experience in the quiet hills and valleys of the community he knew and loved as a youth.

A graduate of Yale University, he entered the newspaper business as a young man, reporting on events in Bridgeport City Hall and in the Legislature. He was the first political reporter to envision Abraham Ribicoff rising from a seat in the General Assembly to a high position in federal government.

Of all the political personalities who passed before him, Olmstead seemed to take particular joy in writing about an old friend, Raymond E. Baldwin, former governor, U.S. senator and chief justice of the state Supreme Court.

In 1970 Olmstead used his column frequently to warn legislators and the public about the ills of legalized gambling. His words, unfortunately, went unheeded.

This graduate of Bridgeport Central High School was able to leave this life knowing that throughout a long and distinguished career in journalism, his ability as a wordsmith was transcended only by his dedication to fairness.

[From the Bridgeport Post, July 5, 1980]

A SPECIAL MAN PASSES

"Connecticut has lost its freest spirit.

"Alan Olmstead was the most sensitive man I knew. He was completely in tune with our state—past, present and future. He really had extra-sensory perception, knowing what men would do in events before they happened.

"He was the preeminent columnist of our state. He was a poet, a philosopher, and a tiller of the soil and above all a decent human being.

"I consider myself lucky to have been Alan Olmstead's friend. . . ."

These were the words Senator Abraham Ribicoff spoke immediately upon learning of the death of Alan H. Olmstead several days ago.

The admiration of the writer and the public official for one another was long obvious.

Early in the political career of Abe Ribicoff, Alan quickly took measure of the young man and saw in him the potential for service in high public office. Ribicoff went on to accomplish even more than Olmstead had thought he might.

A native of Bridgeport, Alan spent his childhood years in Newtown. Obviously, he was deeply impressed by the unhurried life in a small community because in later years he often wrote about the beauty and serenity of Connecticut towns with few public and commercial buildings, but many friendly people down the road.

A graduate of Yale, Alan launched his newspaper career with the old Times-Star in Bridegport, with Jim McGovern his first boss. During those days he covered both City Hall and the General Assembly. Often he would take the train from Bridgeport to Hartford, chat with lawmakers along the way and have enough material to write several stories before the iron horse pulled into the Capital City. He would then immediately head back to Bridgeport and pound away at his typewriter.

In 1941, he joined The Manchester Herald as associate editor and chief editorial writer.

For more than three decades his penetrating commentaries on international, national, state and local events were viewed by colleagues with admiration. This insight and his mastery of the English language set him apart from and above the crowd.

Not always did major happenings command his undivided attention. The arrival of the first robin in spring, a beautiful sunset in summer or the brilliance of autumn leaves were more than worthy of Alan's best effort.

Alan's ability to write about outdoors and nature, to evoke pleasures too often overlooked, is attested to by the publication of "In Praise of Seasons," by Harper & Row, Publishers, Inc. This book, published in 1977, is a collection of material he wrote for The Manchester Evening Herald and The New Yorker magazine.

Soon after retiring in 1972, Alan wrote a book, "Threshold," which recounted his first six months away from the daily routine of a newspaper office. The tall, disinguished looking gentleman expressed the fact that he confronted retirement with mixed relief and regret. Actually, though he left his editor's chair in 1972, Olmstead wrote his three weekly political columns for *The Telegram* and several other newspapers until shortly before his death.

He continued to prowl the halls of the state Capitol. Lawmakers, young and old, and the bureaucrats too, knew that Alan was a walking encyclopedia of state government. He was respected and admired.

At political conventions in the Bushnell Memorial in Hartford, before the start of sessions and during dull periods, Alan would sit on a small concrete wall outside the beautiful brick structure. One by one the politicians would make their way to him to pay their respects and perhaps even seek some advice.

Alan never considered himself anything other than a journalist earning a living, though actually he was more. Not only did he encourage Ribicoff in his pursuit of lofty goals, but his columns on John N. Dempsey, when the latter was a member of the General Assembly, played no small part in Dempsey's placement on the Democratic ballot as lieutenant governor. Subsequently, Dempsey served 10 years as governor, the longest in modern history.

Of all the public figures whom he watched, Alan seemed to gain the most personal pleasure from writing about Ray Baldwin, the former Stratford resident who served in the Legislature, as governor, as a U.S. senator and later as chief justice of the state Supreme Court.

About 18 years ago, as a group of reporters, legislators and others waited to enter the Judiciary Room in the Capitol for a public hearing, the late J. Kenneth Bradley remarked to Alan, "I enjoyed your column about Ray Baldwin."

With a twinkle in his eye, Alan responded, "Which one?"

At the newspaper in the "City of Village Charm," Alan had felt coverage of violence should be complete, but second and third day stories should not be created for the sake of keeping the tragedy in public view. Following a triple murder back in 1953, he told a young eager reporter the day following the initial story there was no need for a second-day report because "We have had our day of yellow journalism."

On another occasion when a photographer recorded on film a dramatic scene—a Catholic priest administering the last rites to a small child killed minutes earlier by a large truck—Alan praised the professionalism of the cameraman, but observed the photo should not be published. His reasoning: How would the parents feel that afternoon when the newspaper arrived at the funeral parlor?

That was the parental sensitivity of the husband of Catherine Casey Olmstead and the father of three daughters.

In print, to the end, he fought legalized gambling in the state, sincerely fearing it will remove some of the good from the state he loved. And he kept public officials on their toes, unafraid to say in print what motivated a man or woman to act the way he or she did in a particular circumstance. And there were thoughtful pieces about the marvels of weather in New England.

Throughout his 31 years in Manchester, Alan was a part-time farmer who took deep pride in his crops.

At the time of his death, he was compiling material on the late Jasper McLevy, the much-talked-about Socialist mayor of Bridgeport. During the past year, Alan recalled many events in Jasper's political rise in columns written for the "Veiwpoint" page in *The Sunday Post*.

In the newspaper business the men and women who knew Alan H. Olmstead clearly recognized that he was a special individual, a man who understood life because he had seen gifted people waste their talents and the less endowed achieve the goals through hard work and strict adherence to the rules everyone should follow.●

COALITION FOR DRUG-FREE RACING

● Mr. PRYOR. Mr. President, I recently introduced S. 2636, a bill to prohibit the drugging or numbing of horses prior to a race. I would like to take this opportunity to inform my colleagues of the creation of the Coalition for Drug-Free Racing. The coalition's efforts will focus on working to end the practices of drugging and numbing horses prior to a race and winning support of the Federal legislation which has been introduced in the Senate and House of Representatives, S. 2636 and H.R. 7254.

The announcement will be made by actor Lorne Greene, a former racehorse owner and vice chairman of the American Horse Protection Association, at a press conference to be held on Thursday, July 24, at 2 p.m., in room S–206 of the Capitol. Also expected to attend the press conference are a number of the bill's cosponsors, including Senator WILLIAM COHEN, and Representatives BRUCE VENTO, ROBERT MCCLORY, PETER KOSTMAYER, TED WEISS, and LAMAR GUDGER, the Humane Society of the United States President, John Hoyt, and American Horse Protection Association board member, actress Tammy Grimes.

Mr. President, I would also like to take this opportunity to bring an excellent series of articles which appeared in the Washington Post on the integrity of racing to the attention of my colleagues. I ask that the articles be printed in the RECORD.

The articles follow:

[From the Washington Post, June 25, 1980]

Public Trust Fading Fast: Preakness Final "Proof"

(By Bart Barnes and Clem Florio)

From the mailbag at the Maryland State Racing Commission in the weeks following the disallowed foul claim in last month's Preakness:

"Racing is on thin ice. You had better clean it sup."—Silver Spring.

"All people involved in horse racing—from the top of the ladder to the bottom rung—are sweating under the glare of a national spotlight focused on race fixing."—New York.

"There is a big enough cloud forming over thoroughbred racing as it is, with the horror story of the drugging of these unfortunate colts so they are forced to run on inflamed tendons and fractured ankles."—California.

"My wife says all professional sports are fixed, and this proves it."—Minnesota.

To racing fans across the country, the Preakness seemed to provide further evidence of bad officiating, injustice, and maybe corruption. People who watched the Preakness believed the worst because public confidence already was at its ebb. The sport is facing perhaps its greatest crisis ever.

In a massive federal investigation that has yet to run its course, charges have alleged hundreds of fixed races at tracks up and down the east coast through the midwest. Dozens have been substantiated with convictions.

Simultaneously, state racing commissions throughout the nation are wrestling to close the Pandora's Box they opened in the early 1970s when they approved controlled medication for racehorses.

What they got instead was drugging of horses on an unprecedented scale. Under pressure from a variety of fronts, commissions now are beginning to clamp down on drug use. But the pharmaceutical industry is so sophisticated that new drugs are coming on the market faster than racing chemists can develop tests for them.

And there are indications that racing, the nation's No. 1 spectator sport for more than a quarter century, may be declining in popularity.

For the record, the Preakness controversy developed when Jacinto Vasquez, jockey on runner-up Genuine Risk, claimed that Angel Cordero Jr., aboard winner Codex, interfered with his horse, forcing her to run wide on the final turn. Risk was bidding for the lead. Vasquez also said Cordero bumped his filly and hit her with his whip.

After painstakingly detailed testimony and hours upon hours of reviewing films, the Thoroughbred Board of Maryland's Racing Commission decided it was strictly a judgment call whether or not there was a foul. It affirmed the track stewards' decision disallowing the claim.

What the Thoroughbred Board could not do was dispel the deep-seated cynicism with which many fans regard racing.

It may be that the suspicion of larcency has been part of horse racing since men first learned to ride horses. In fact, The Wall Street Journal suggested recently that if a fixed race were advertised in advance, with only the name of the winner withheld, fans would flock in record numbers to the track to bet on the outcome.

What is unprecedented about the current investigation is the degree of documented race fixing.

In the last year, the Justice Department's Organized Crime Strike Force has helped convict 31 jockeys, trainers, owners, bookmakers and organized crime figures on charges relating to race fixing.

Another 12 are waiting trial, nine have been acquitted, and the number of fixed races is said to be "in the hundreds."

Never, says Paul Coffey, deputy chief of the Organized Crime Section at Justice, "has there been any series of prosecutions of this magnitude in the history of sports."

The investigations have brought hundreds of witnesses, ranging from owners to stewards to veterinarians to jockeys, before grand juries.

Moreover, prosecutors say, the industry itself has shown little inclination to clean up its own act. One official complained, "First they'll say, 'Show us proof there's anything wrong.' Then, after a conviction, they take the attitude that the problem's been solved and the guilty punished."

"Racing commissions are appointed to see that the cash flow keeps coming in to the states, not to run a clean show," says the Humane Society's Marc Paulhus.

Since the early 1970s, the drug controversy has intensified, and it appears to be peaking this year. Critics of the industry contend that horses routinely are given stimulants and depressants, many of them undetectable in laboratories. Sore and lame horses, they argue, are given pain-killers so they can run at top speed when they should be recuperating.

"Racing's drugging policy could spell doom for the sport," thundered Rep. Bruce F. Vento (D-Minn.) last month on the floor of the House of Representatives.

"The use of drugs may benefit a few, but it certainly casts a shadow over the integrity of the sport and endangers the life and well-being of both the jockey and the animal."

The author of a bill calling for federal regulation of horse medications, Vento contends drugs are eroding public confidence in racing.

As far back as 1974, he told colleagues in the House, a survey by the National Commission on the Review of the National Policy Toward Gambling reflected "the lack of faith that bettors have in the integrity of racing. In mean ratings for the survey all bettors stated their conviction that races were fixed pretty often."

The leading American spectator sport for the last 28 years, horse racing last year drew 77,679,945 fans who bet more than $6 billion at the tracks. But the figure was down by more than a million fans from 1978, and there are other ominous omens.

For one thing, the average track patron is relatively old—between 45 and 50. The industry is not attracting younger fans as it must if it is to maintain its popularity. Clearly, the furor over fixing and drugs isn't helping.

"We certainly don't enjoy the news accounts which have appeared," says Bill Christine director of the Thoroughbred Racing Association, which represents most of the nation's major tracks.

"We all want racing to have a high image."

Adds Joseph Kellman of the Illinois Racing Commission: "If you can restore credibility with the public, you might be able to bring racing back where it ought to be.

"If you polled race track goers as to what percentage of them think horse racing is legitimate, I'd be surprised if 80 to 90 percent of them did not say it was illegitimate.

"Young people who might be interested in racing read the papers and they read about drugs and fixed races. Do you think this encourages them to come out to the track? It's bad enough to lose your money legitimately. The public is just tired of being screwed."

The current round of fixing prosecutions received its major impetus from Tony Ciulla, convicted of fixing races in 1975 and sentenced to four to six years in prison. While in prison Ciulla made a deal with federal prosecutors. He testified at grand jury investigations and fixing trials in return for immunity from prosecution, relocation by the U.S. Marshal Service and a new identity as a member of the Federal Witness Program.

Ciulla admitted fixing hundreds of races at 39 tracks around the country before his involuntary retirement in 1975. Although he has been inactive since, his shadow spreads across the industry.

"You have this situation," said one prosecutor, "where Ciulla and his associates were able to fix hundreds of races with the greatest of ease between 1973 and 1975. It's naive not to assume that it's still going on."

Moreover, the investigations stemming from the Ciulla information are continuing. In testimony last month before a New York jury, jockey Jose Amy mentioned 10 of the nation's leading jockeys and former jockeys in connection with alleged race fixing schemes although he was not specific about times or places.

Among them were Vasquez (winner of the Kentucky Derby this year on Genuine Risk), Cordero and Jorge Velasquez, a top stakes-winning rider. All have denied any connection with race fixing.

Amy, who testified with a grant of immunity from prosecution, was a witness at the trial of Con Errico, a former jockey. Errico was found guilty of bribing riders in a scheme to fix nine races at Aqueduct and Saratoga in 1974 and 1975.

According to Justice Department files, the race-fixing probes include indictments handed down in Detroit, Harrisburg and Boston, in addition to New York. They charge raco fixing at 10 tracks.

The payoffs from these fixes were often enormous. Ciulla said that on Aug. 16, 1973 he made $35,000 betting on a fixed race in Detroit. A month later he won $65,000 on one race. In neither case do the amounts reflect winnings from offtrack bookmakers.

One of Ciulla's favorite schemes was to fix the favorite horses, then place exacta or trifecta bets on all remaining combinations.

"They did everything," said Coffey, citing testimony at the trials. "They paid jockeys to hold their horses. They hit their horses with drugs to make them run fast."

At least once, according to testimony, a drugging scheme backfired and a whole race had to be canceled.

In that incident, also in Detroit, four horses were drugged. One died and the other three collapsed in their stalls before post time.

For offtrack bookies reluctant to pay off on fixed races, Ciulla enlisted the aid of organized crime "enforcers" to make collections.

At the height of the operation, Ciulla's crew of intermediaries and runners was said to have been so large that he spent $6,000 a week for motel rooms, food, liquor, telephone calls and travel.

Despite Ciulla's revelations, there are still those in the industry who argue that the claims of race fixing are exaggerated and that the industry is getting a bum rap.

"Sure, the black eyes that we get now and then always hurt," says Robert Furtick, a member of the Maryland Thoroughbred Board. "But we're no worse than the auto industry. Look at all the cars they have to recall."

Harvey Furgatch of the California Horse Racing Board says: "I do not believe the horse racing industry has any more nonsense going on than most other industries, and that includes banking, business, elected officials, meat packing, oil. . . .

"I dare say there are more students cheating their way through college than there are people cheating in the horseracing business."

"Friendly" Business: Maryland's Sport, Politics Are Old Pals

(By Bart Barnes and Clem Florio)

In his first year as governor of Maryland Harry R. Hughes acted in a strange and unprecedented manner toward the state's half-billion-dollar horse racing industry.

He told his top aides and cabinet members not to accept free passes from Maryland race tracks any more.

He curbed the tracks' time-honored practice of giving members of the state racing commission gifts of 50 free track passes a year. In the future, two would have to suffice.

He caused to be introduced in the General Assembly legislation that would prohibit members of the racing commission from betting at tracks in Maryland. The measure never made it out of committee, but Hughes received from the Attorney General's office an opinion suggesting, at least, that it was improper for commission members to wager at Maryland tracks while they were there on official business.

"Appearances count if you're in a regulatory function," said Ejner J. (Johnny) Johnson, staff director in Hughes' office. "It's inappropriate for commission members to wager, and it's inappropriate for commission members to visit the paddock area.".

In Maryland, where horse racing and politics traditionally have gone hand in hand, such actions by a chief executive are virtually unprecedented.

A few highlights from Maryland's racing past:

In 1947, Gov. William Preston Lane, responding to pressure from the racing industry, ousted racing commission chairman George P. Mahoney after Mahoney-backed reforms offended powerful racing figures. Mahoney had forced Pimlico Race Course to stop diverting money from a fund intended exclusively for capital improvements; established detention barns to prevent tampering with horses before races; uncovered a conspiracy among riders to fix steeplechase races, and uncovered fraud in the laboratory where urine and saliva samples of winning horses were tested for evidence of drugging.

In 1965 racing commission Chairman R. Bruce Livie resigned under fire after it was disclosed his construction supply company was selling materials to the state's tracks.

In 1968 the choice racing dates, traditionally awarded to Pimlico, the largest money-producing track in the state, were shifted to Bowie. Bowie was represented by lawyer George White, a key figure in the election campaign of then newly elected Gov. Spiro T. Agnew.

In 1978 and 1979 the late Ann Mahoney, a maverick racing commissioner like her husband, George, claimed there had been improper bidding procedures at Maryland tracks, misallocation of funds intended for capital improvements and illegal closed-door meetings at which decisions were made to allocate money. Contrary to state law, no records were kept of these decisions, according to Mahoney.

A scandal involving the manipulation of racing dates brought down former Gov. Marvin Mandel and five codefendants on charges of political corruption. The former governor began serving a three-year sentence last month at a federal prison camp in Florida.

By long-standing tradition, a seat on the Maryland Racing Commission was reserved for the politically well connected or offered as a reward for years of service to the party in power.

The chairman of the racing commission is paid $4,000 annually by the state while each commissioner earns $3,000 a year.

"For years, the most important criteria in getting on the racing commission have been political connections," says State Sen. Melvin Steinberg (D-Baltimore County), chairman of the Senate Finance Committee. "It was always considered a very prestigious position."

It is also a long-standing Maryland tradition that the people who regulate the running of the horses at Maryland tracks, the stewards and judges are paid by the associations conducting the race meetings.

"This creates an apparent conflict-of-interest problem, for while the stewards and judges are all appointed by the racing commission, their compensation is borne by the associations," observed a Hughes-appointed Governor's Commission on Racing Reform in its first report in December.

It may be true that appearances count to top aides in the Hughes administration, but historically in the close-knit world of Maryland racing they have mattered little.

J. Fred Colwill, the chief racing steward for the state, and Dr. Davie Paice, the state veterinarian, both breed horses that run on Maryland tracks, but neither sees a conflict in that.

"I am a breeder and proud of it. It has never been a secret," said Colwill, who earns $172.50 a day for each day he puts in at the track.

When a horse that has been bred on his farm, Halcyon, not far from Baltimore's Pimlico Race Course, runs in a race that Colwill otherwise would officiate, Colwill steps out of the stewards' box, he says.

If the horse wins, he says, he always gives the breeder's share of the purse to charity.

He also boards horses for Ben Cohen, secretary-treasurer of the Maryland Jockey Club of Baltimore, operator of Pimlico Race Course.

"I do have some of Ben Cohen's mares, but I don't have anything more to do with Ben Cohen's racing stable than you do," Colwill told a reporter.

"I feel that over the years, I have been an asset to Maryland racing. As far as taking a number down (disqualifying a horse), I feel that even if they are my friends, if the number comes down, then it comes down. You can question my judgment but not my integrity."

Cohen said he sees no conflict in running his horses at Pimlico.

"My horses race in New York, New Jersey and in Maryland," he said. "What kind of conflict is it if I have nothing to do with it? I am not in the stewards' stand.

Paice, the state veterinarian who is assigned to certify all horses as fit before they run in a race, says he has raised and bred horses for 20 years on his farm near Hagerstown.

"My horses have won over $1 million in purse money," said Paice, who sells the horses as yearlings. "They have raced in California, they have raced in Florida and they have raced in Maryland.

"A man has a constitutional right to raise horses if he wants to, and to sell them."

As one of the major industries in Maryland, horse racing poured more than $20 million into state coffers during 1978 in daily license fees and taxes on pari-mutuel wagering. But that figure is only the top of the iceberg.

According to the Maryland Horse Breeders Association, the industry produces a cash flow of $261 million a year in the state including a yearly payroll of $52.2 million for 8,000 employees. Total horse racing industry investment in Maryland is estimated at $279 million.

But in recent years, racing in Maryland has fallen upon hard times. Average daily attendance fell by almost 20 percent between 1969 and 1978 while the average amount bet per day fell by 7.7 percent. While this partially was offset by an increase in the number of racing dates, the grim fact remains that in 1969 constant dollars the aggregate revenue to the state from horse racing was down by 17.3 percent between 1969 and 1978.

It was to reverse this trend that Hughes named the Commission on Racing Reform, just over a year ago, and it was the commission's first report that resulted in the Hughes-proposed bill that would have, among other things, barred racing commissioners from betting at Maryland tracks.

What that bill would have done, in effect, was overhaul the entire structure of racing in Maryland, replacing the current thoroughbred and harness boards with a single unified board. An executive director with broad regulatory powers over the racing industry would serve at the pleasure of the board. Both the executive director and members of his family, plus the racing commissioners and members of their families, would have been barred from betting, owning or training race horses in Maryland.

While the measure failed at the last legislative session, the issue is far from dead, and a similar version is expected next time the legislature convenes.

"As it stands now, we have a part-time racing commission with minimal staff in Maryland," said Hughes' staff director Johnson.

"The state's responses to the problem of racing have been relatively minor. We haven't really addressed the basic underlying causes of racing's problems. It's a big industry in Maryland and it's tough to regulate on a part-time basis. We have to put the structure in place, and it must be one that has the confidence of everybody in racing and the confidence of the legislature."

The current chairman of Maryland's Thoroughbred Board is Robert W. Banning, a Democratic member of the House of Delegates from Prince George's County from 1967 to 1971, a twice defeated candidate for the state senate and a Hyattsville auto dealer.

The other members are Frank Cuccia, a Baltimore businessman; J. Neil McCardell, a former comptroller of the city of Baltimore and U.S. collector of customs; Robert W. Furtick, a Baltimore trucking executive, and Kenneth C. Proctor, a retired judge from Baltimore County.

Proctor is Hughes' only appointee on the panel. When he was appointed a year ago, Gene Oishi, Hughes' press secretary, hailed the appointment as a harbinger of change in Maryland racing circles.

"We think there's something wrong with the whole industry. There's a feeling of lack of confidence in the board," Oishi said at the time. Proctor declined comment on Oishi's statement.

Cuccia, named to the board by Mandel in 1977, is a self-described close associate of Irvin Kovens, a Mandel confidant and a codefendant with the governor in the political corruption case. Kovens also is serving time in Florida.

"I am proud of being a close associate of Irv Kovens. We've been friends ever since I came to Baltimore," Cuccia said.

Despite the suggestions of impropriety in racing commissioners wagering at Maryland tracks, Cuccia said, "I'm like anybody else. I go out there and put $5 on a horse, but I don't call that betting. There's no law prohibiting it. There is nothing to stop a commissioner from betting or sending someone else to place his bets."

Furtick is the lone Republican on the board, named by Mandel under a provision of the statute that requires at least one member of the minority party be on the panel.

"All appointments are political in the final analysis," said Furtick, who sold 10 $100 tickets to a Mandel testimonial after being named to the racing board.

"I hardly knew the governor when I was appointed. I had been a breeder and I own a fraction of two horses that don't operate in Maryland."

Clamping down on the distribution of passes to commission members, Furtick said, "was actually a favor. It got to be a nuisance. People were calling up all the time asking for free track passes."

McCardell, who says he's been at the track every day for the last 20 years, got his appointment to the racing board through a friend.

"I served on the board of review of the Maryland Natural Resources Commission for eight years," McCardell said. "Jack Newman was the chairman of that board and he was a friend of Gov. (Blair) Lee. After serving together, Jack and I got to be pretty good friends and I mentioned to him I would like to be on the racing commission. A few days later the governor's appointments secretary called me in.

"When I go to the track on official business, I never bet. When I'm there on my own, I do," McCardell said.

As things stand, members of the governor's staff, the Commission on Racing Reform and key legislators including State Sen. Steinberg and Del. Tyras S. Athey (D–Anne Arundel), chairman of the House Ways and Means Committee, are working on legislation to revitalize the racing industry.

There seems to be virtually unanimous agreement that the sport needs it.

"Real" Horse Will Emerge With End of Drugs

(By Bart Barnes and Clem Florio)

On May 26, Bowie Race Track opened for its summer meeting under conditions that had not applied at a Maryland track in years: by orders of the state's racing commission, the horses were running without the benefit of drugs.

After two weeks, the suspicions of people who had criticized racing's "controlled medication" programs had been confirmed. The drugs Butazolidin and Lasix had been so potent that their use or nonuse could dramatically alter a horse's form. These drugs could have provided the means for some trainers to manipulate their horses' form and deceive the betting public.

Running at Bowie without drugs for the first time, odds-on favorites—based on past performances with drugs—suddenly were finishing well out of the money.

In those first two weeks of drugs-free racing at Bowie, only 10 percent of the favored horses won—compared with a national average of 33 percent.

Veteran handicappers suddenly found themselves confronted with a group of horses who, when forced to run without drugs, were different animals.

"Their form is definitely going to be different without drugs, but it will become more consistent as time goes on," said Bob Baker, a former owner and trainer turned antidrug crusader for the Humane Society.

"It will even out in the long run and you'll have a more honest game. You can manipulate the horses with drugs. If you have sore horse, you can run him without Bute (a pain-killing drug) and build up his odds. Then you hit him with Bute and he really runs."

Baker, a former St. Louis stockbroker, spent two years researching and writing a book on drugs and horse racing after he left the racing industry in disgust in 1976.

"To a considerable extent," he wrote, "the drug abuse practice will invalidate many of the factors which formerly made betting attractive to the racing fan. Such things as speed ratings, track conditions, jockeys, weight, class and the like will have little relevance to the bettor who has to pick the winner of a race on the basis of which horse has the most stimulants or depressants in his system."

It was May 20 when the Maryland Thoroughbred Racing Commission, after months of raging controversy with the state's horsemen, adopted the National Association of State Racing Commissioners' recommendations on drug use. Those rules effectively ban the use of Butazolidin within 24 to 48 hours before a race, and sharply curtail the use of Lasix, a diuretic.

Legalized by most state racing commissions in the early 1970s, the use of Bute and Lasix had developed by the end of the decade into one of the fiercest controversies in the history of the sport.

Critics argued that Bute was being administered indiscriminately to sore and lame horses, permitting them to race when they should have been rested. Lasix, a treatment for horses who bled from the nostrils during or just after a race, also was said to mask the presence of other, illegal drugs in post-race testing.

"Drugging makes the racing industry rife for a betting scandal that will drive the bettors away in search of a fairer product," argued Rep. Bruce F. Vento (D-Minn.), who introduced legislation last month to establish federal procedures for monitoring and controlling the use of drugs on racehorses.

"Trainers can use drugs to manipulate their animals' time(s) in the hopes of increasing the odds on them the next time they race . . . Unless there are substantive reforms, the future viability of racing will be in doubt."

Argues Tony Chamblin, executive director of the Horsemen's Benevolent and Protective Association: "We very much want to see the abuses corrected in areas where there are abuses. But we don't want to see the baby thrown out with the bathwater.

They're talking about two very useful medications, namely Butazolidin and Lasix, and saying they are no good and are being abused. It is our opinion that they cannot be abused if a state enforces its rules and has modern testing equipment."

An all-out ban on Bute and Lasix, contends Chamblin, simply would encourage dishonest trainers to resort to a variety of illegal drugs.

"It's great to say that hay, oats and water are all a horse needs," Chamblin said. "But unfortunately in any phase of business there are a few people who will cheat, and horse racing is no different from any other sport.

"There are literally hundreds of drugs in the market that cannot be tested for. The cheater will be getting away with using something that can do great damage to a horse. The honest horseman who wants to abide by the rules will be victimized by the small group that doesn't."

Drug use long has been a volatile issue in the horse racing industry.

One of the earliest known efforts to control medication of racehorses occurred in 1666 when England announced a ban on all "exciting agents" in horse racing. In 1881, Prussia prohibited alcohol, which was said to make cowardly horses courageous.

In the modern era, drugging resurfaced as an issue in the racing industry in the late 1920s and 1930s, and the drug heroin got its street name, "horse," from its early use at the track.

Probably the most celebrated instance of horse drugging occurred in 1968 when Dancer's Image was disqualified as winner of the Kentucky Derby after chemists found substantial amounts of Bute in his urine. (The drug subsequently was legalized in Kentucky and 22 other states.)

Over the years, numerous cases have been uncovered in which drugs were improperly administered to race horses.

In the 1970s, trainers and owners began pressing for legalization of Bute and Lasix, arguing that with the demands of year-round racing, Bute was necessary to keep the horses running. Most owners could not afford the expense of resting the horses, they claimed.

Lasix, they said, would be useful in the treatment of "bleeders" because it dilated a horse's blood vessels, reducing pressure on the walls of the vessels and reducing the chance of hemorrhage.

It quickly became apparent that the drug policies were being abused. Although no more than one in 20 horses is a bleeder, as many as 70 and 80 percent of those in a given race were being treated with Lasix.

Some horses ran all their races on Bute, while others received the drug in an off-again-on-again manner that altered their performances. For example Codex, winner of the Preakness, ran all of his races on Bute until the Belmont Stakes in New York, where the drug is illegal. There he finished a dismal seventh.

A filly named Veiled Look ran April 28 at Pimlico without Bute and finished last. On May 10, she ran at Pimlico with Bute and won by 12 lengths. A month later she ran at Bowie—a big favorite at 3 to 10—without Bute and finished out of the money.

It is a fact of life in the racing business that many trainers and owners feel they must try to deceive other horsemen about an animal's ability, and the legalized drugs offered a prime opportunity to do just that.

Most races are claiming races, run under conditions that permit other horsemen to claim any horse in the field for a predetermined amount of money until 15 minutes before the race. If a horse is good and has a chance to win, it may be in an owner's interests to have had him run poorly previously to discourage potential claimers.

Furthermore, it costs about $15,000 a year to keep a horse, while the average thoroughbred's winnings are only $8,000. Some horsemen try to make up the difference at the betting windows. Any way the odds can be manipulated for a maximum payoff is, of course, helpful.

In addition to Maryland's ban on drugs, racing commissions in Pennsylvania, Illinois, California, Florida, Ohio, Kentucky and Colorado either have banned or have taken steps toward banning Bute and Lasix, according to the National Association of State Racing Commissioners.

Vento, however, says a state-by-state approach won't do.

"The interstate nature of racing makes a state-by-state approach impossible," he claimed. "Only a federal program can successfully control the abuses associated with drugging."

Vento's bill—which contends that drugging corrupts horse racing's integrity, misleads the betting public and creates an unreasonable risk of injury or death to horse and rider—would provide for prerace testing of all horses in a race.

Most tracks now test only the first two finishers or, in the case of a trifecta, the first three. That practice has been described as inadequate by critics of the industry.

"If you're going to fix a race, it's easier to drug a horse to lose, because they only test the winners," said Marc Paulhus, an investigator into drugs and horse racing for the Humane Society.

Additionally, Paulhus argued, "There are more drugs that they can't find than there are that they can find. There are at least 30,000 different compounds that can be used on a horse. Not only is it harmful to the animal, it's a consumer ripoff and it's dangerous to the jockey."

Moreover, Paulhus contended, drugs abuse interferes with breeding.

"We're breeding a drug-dependent horse, an inferior horse," he said.

In the meantime, at the close of each day's racing at Bowie, a courier picks up blood and urine samples from the winning horses. Sealed in pint-sized mason jars, the samples are driven to a laboratory in a basement at Laurel Race Course, where Maryland's racing chemist, Thomas F. Lomangino, analyzes them for drugs or foreign substances.

In recent years, Lomangino said, the scope and sophistication of his operation have increased significantly and the state has spent thousands of dollars on new equipment.

But he added, "If a guy down the street is putting a new drug on the market, how do you expect us to find it?" ●

GERALDINE STUTZ: THE WOMAN WHO BOUGHT THE STORE

● Mr. RIBICOFF. Mr. President, Geraldine Stutz is an American success story. As a young woman out of Chicago, her varied and early successful career brought her to Henri Bendel 23 years ago. Through sheer hard work, ability, and personality Bendel's became one of the world's most outstanding fashion specialty stores. Her recent purchase of this store has placed her in the unique position of being the first woman to own such an enterprise.

Geraldine Stutz is a close personal friend of Mrs. Ribicoff and myself and is a neighbor of ours in Connecticut. We join all of her friends and associates in saying, "Congratulations and best wishes." We know she will continue her successful career as Bendel prospers.

I ask that an article about Ms. Stutz which appeared in the New York Times on July 21, 1980, be printed in the RECORD.

The article follows:

[From the New York Times, July 21, 1980]

Geraldine Stutz: The Woman Who Bought the Store

(By Enid Nemy)

Henri Bendel ends its fiscal year next week, and it will show a pretax profit of $1,400,000 on sales of $15 million. The woman who made it possible—as sleek, chic, trendy and sophisticated as the business itself—bought the store this weekend.

Geraldine Stutz was 'Gerry Who?' when she took over as president of Bendel 23 years ago. She was, in her own words, "very young, very inexperienced, and a woman, three things never before associated with a store president." She is now, with the possible exception of family firms, the first woman to own a major fashion specialty store. The sale was announced Friday night by Genesco, the Nashville-based apparel manufacturing and retailing conglomerate.

Within months, the 55-year-old Miss Stutz and her backers, a Swiss-based international group of private investors that she said includes no American or Middle Eastern money, will begin plans for expansion. The main floor at Bendel, the innovative Street of Shops, will be translated into free-standing, single-story stores in a dozen major cities.

"To the world in general, the most characteristic thing about Bendel is the Street of Shops," Miss Stutz said. "There are now lots of versions of it, but since it originated with us, and it is a formula we truly understand, we hope it will work in all the sophisticated cities of the country."

SMALL INDIVIDUAL SHOPS

Designed by H. McKim Glazebrook, a young display director, the Street of Shops opened two years after Miss Stutz had taken over Bendel's. It was literally her debut before the retailing fraternity. Small individual shops, featuring accessories in fashion, beauty and housewares, were built on either side of a tiled central aisle or "street."

"I was so proud of it, I had a party," she said. "It was the first squeak I made." The squeak was not an unqualified success.

"One retailer, on the way out, looked at me and said, 'well, you've got guts,'" she recalled. "And for a couple of years after, it was known either as 'The Street of Flops,' or 'Gerry's Folly.' But women understood it."

The main floor concept would be translated to other cities, she said, because it was more broadly based than Bendel clothes.

The satellite shops, which will include Scentiments, the Leg Shop, the Gilded Cage (cosmetics), paper, linens, housewares, handbags and shoes, will, according to present plans, be opened in Los Angeles, San Francisco, Houston, Dallas, Chicago, Atlanta, Washington, several cities in Florida, and one or two other areas. Miss Stutz said she would tour the country soon to scout locations.

The New York store will remain unchanged, she said, "except as it has always changed, keeping up with what goes on in the world within the framework of our character."

"Our character" is Geraldine Stutz. Henri Bendel is a reflection of her taste, her wants, her needs and even her dreams. Its success—it started making a profit after the first five years and for the last five years, according to Miss Stutz, has been building profits "very rapidly"—is a tribute to her acknowledged taste, self-confidence and determination.

The determination and self-confidence were evident early. The elder of two sisters, she was born in Chicago of Irish-German parentage. Her father, Alex Stutz, was a contractor.

Although she received an acting scholarship to Mundelein College and graduated with a bachelor's degree, she soon became aware that she would never be more than a second-string actress, and switched to journalism.

During her college years, Miss Stutz did some modeling and publicity, and, at 21, she arrived in New York as fashion editor for a group of movie magazines.

WENT TO THE TOP

One of her initial assignments was to photograph the costumes and star of a new Samuel Goldwyn production. She later found that the assignment had been given to her as a joke, because no one thought she could accomplish it. She telephoned the production company, and, not without a struggle, went to the top, Sam Goldwyn.

Mr. Goldwyn was apparently stunned, but the request was granted, and Miss Stutz told her editor that everything was arranged.

"You're out of your mind, nobody speaks to Sam Goldwyn," said the editor, positive that neither the star nor the clothes would show up. But she did, and they did, and the photographs and a reputation were made.

The next career step was at Glamour magazine, where over a period of seven years, she edited the shoe and other departments. But it was the shoe experience that led to Henri Bendel. Miss Stutz was selected by the late W. Maxey Jarman, then chief executive of Genesco, to do advertising and promotion, and then to head the I. Miller retail operations.

In 1957, after she had successfully turned I. Miller around, Mr. Jarman asked her to take over Bendel, which was losing $1 million a year on a volume of $3.5 million, catering to the carriage trade in a jet age. She was given five years, and barely made it on the fifth year, with a profit of $8,000 on a $5 million volume.

From the beginning, Geraldine Stutz knew what she wanted of the store, and the group of people to whom she wished to appeal.

"I decide on the end first; the means take care of themselves," she said. "I wanted to build a store of style and cachet, something much more inventive than merely fashion."

Because she believed that big is bland, and she did not want a store that "offered something for everybody," the limited space, 30,000 square feet, was an advantage. Bendel was to cater to women like Geraldine Stutz and, perhaps even more importantly, the thousands who wanted to look and live like the kind of woman she exemplified.

Miss Stutz, whose 5-foot-4-inch frame fit perfectly into a size 6 dress, aimed for the small-boned, lean-lined, chic woman, an objective that has never altered. Women too amply proportioned for a size 10 may buy scented candles, panty hose, handbags and shoes at Bendel, but they won't find clothes.

The smaller volume and specialized customer also forced the store's buyers, and its president, to either find or create their own designers. The big-volume names were not interested in exclusivity at a small store, no matter how chic. As a result, such American designers as Mary McFadden and John Kloss were first featured at Bendel and even more young European designers—Chloé, Cacharel, Sonia Rykiel and Jean Muir among them—were first introduced on West 57th Street.

The limited funds available, particularly in the early years, accounted for the development of other talents, in promotion, advertising and display, many of whom are now considered major innovators in their fields.

"When you can't afford to hire the best, you hire the young, who are going to be the best," Miss Stutz said.

Although the store has always had leased departments, in recent years it has expanded leases to include Bailey Huebner housewares, Eli Zabar's EAT, Frank McIntosh table toppings and Peter Barton's men's shop.

"They are all doing something just the way I would do it, if I knew how," Miss Stutz said.

Miss Stutz, whose 10-year marriage to David Gibbs, an English artist, ended several years ago, has been elected to the Best-Dressed Hall of Fame, and is a member of the National Council on the Arts. She lives in half of an East Side town house, and a country house in Roxbury, Conn.

Somewhat typically, she spent the day after announcement of the sale shopping for plants for her garden. It was the first step of a 10-year plan.●

FEC ABUSES

● Mr. DOMENICI. Mr. President, as author of S. 2905, a bill to amend the Federal Election Campaign Act of 1971 to include the value of services provided by professional entertainers within the definition of "contribution," the following Washington Post article seemed to me, a perfect example of the loophole needing to be closed. I ask the article entitled "The Artful Dodge" by T. R. Reid be printed in the RECORD.

The article follows:

The Artful Dodge: Kennedy Fund-Raising Twist Lets Givers Turn a Profit

(By T. R. Reid)

In a magical twist of the political money game, Democratic presidential candidate Sen. Edward M. Kennedy (D-Mass.) has found a way to let his contributors make a profit on donations to his campaign.

Under a fund-raising effort called "Artists for Kennedy," the underdog challenger is offering signed and numbered prints by three dozen prominent artists in return for campaign contributions.

Each work of art has been assigned a "suggested" contribution value, ranging from $225 for a silk screen by David Prentice to $1,500 for a "deluxe edition" of an Andy Warhol portrait of Kennedy.

In most cases, though, the market value of the art is greater than the contribution called for. Thus Kennedy contributors will receive not only the satisfaction of supporting the candidate of their choice—and a federal tax credit for doing so—but also an investment property worth more than they gave the candidate.

The campaign makes a healthy "profit" on each contribution-for-print transaction, because the artists have all donated their work for no fee. Kennedy's managers estimate that the program will bring in about $4 million from about 10,000 contributors.

Warhol has given Kennedy prints worth $300,000—50 "deluxe" prints of his Kennedy portrait, valued at $1,500 each, and another

300 "standard" prints of the work worth $750 apiece. Jamie Wyeth donated an edition of 300 lithograph prints of a colorful campaign poster. Each print is appraised at $800, for a total value of $240,000.

This is legal, because the Federal Election Act has a provision that effectively exempts artists from the normal contribution limits.

Under the law, individuals are prohibited from giving more than $1,000 in cash, goods or services to any candidate. But the law assigns no value to the time, effort and talent an artist devotes to creating a print, only his materials count. Thus Warhol, Wyeth and the other "Artists for Kennedy" can stay well below the limit in the statute.

"As far as the law is concerned, an artist producing a print in his studio is just like somebody stuffing envelopes in headquarters," said Arthur Chotin, Kennedy's national finance director. "As a legal matter, they're both volunteers, and a volunteer's time is not counted as a contribution."

Only the artist, however, can take advantage of the legal provision. If a third party, such as an art dealer, were to buy the artist's prints and give them to a campaign, the prints would then be considered legal "contributions" equal to their full market value. Thus the dealer could donate only $1,000 worth of art.

The artists' "volunteer" clause has been used occasionally in past campaigns, but the Kennedy drive this year has developed it into a major fund-raising program.

"Artists for Kennedy" began on a small scale last spring, with individual artists donating works to the campaign. For the most part, these works were used as "door prizes" to attract people to Kennedy fund-raising parties.

At one such affair, for example, 100 Kennedy backers put up $500 each for admission to a reception at the candidate's home. The door prize was an original Andrew Wyeth watercolor, "Two Bush Light," with an appraised value greater than $30,000. The winner was a "syndicate" of three Capitol Hill secretaries who put up $170 each and got a huge return on their money.

But then Miles Rubin, a wealthy Kennedy backer with close ties to the artistic communities on both coasts, and William Oldaker, a former Federal Election Commission lawyer who works on Kennedy's campaign finance team, worked out a more systematic approach.

Through Rubin's contacts 35 well-known American artists were asked to contribute originals to the Kennedy campaign. Prints, both silk screen and lithograph, were perfect for this purpose because in an "edition" of several hundred prints of the same picture, each print is considered an "original" in art investment markets.

The artists were recruited, for the most part, through a New York organization called Artists Rights Today, which lobbies for artists' interests in such areas as tax law.

Rubin Gorewitz, who heads the group, said he had no trouble finding artists to take part because most prominent artists tend to share Kennedy's liberal views, and because Kennedy has been an outstpoken advocate of federal tax and other aid for artists.

Among the more prominent artists who have contributed original works to the Artists for Kennedy project are Robert Rauschenberg, Leon Polk Smith, Jack Youngerman, Ilya Bolotowsky and Lowell Nesbitt.

The artists' response to the Kennedy campaign's request was exemplified by Harry Koursaros, a 48-year-old New Yorker who produces paintings and prints in bright, intricate basketweave patterns.

"I got a call from Artists Rights Today sometime at the end of May," Koursaros recalled.

"And of course I was delighted, because, you know, I would stand on my head to get Kennedy elected. So what can I do to help? I can do art—this is what I do. So I went right to work and in about a week had the maquette (the original design) ready for the printer."

Koursaros' work was produced in the New York studios of printer John Campione. The Kennedy campaign paid for the paper, ink and printing—a total cost of $3,500. The edition of 300 Koursaros prints, valued at $375 apiece, is expected to bring in contributions totaling $112,500.

After Koursaros and the other artists finished their work, each print was examined by Paul Zerler, a New York expert who appraises works of art for banks and insurance companies. Zerler established the "suggested" contribution for each work of art.

"On the Kennedy thing, I tried to be . . . on the low side," Zerler explained. "So the people who make a contribution can get a good buy—they get a little plus, financially from helping the senator.

Alex Rosenberg, a New York gallery owner has seen all the Kennedy prints, agrees that the suggested contributions are "generally bargain prices. "That's a fantastic price for the Warhols," Rosenberg said "And the Rauschenberg, at $1,200, that's below market." But he said some other works were appraised "right about market value."

The artists aiding Kennedy recognize that their political contributions receive exceptional treatment under the federal election laws, but they consider this a fitting result because of the way artist's charitable contributions are treated under federal tax laws.

"When we give original works to charity," said Richard Anuszkiewicz, a leading colorist who has donated two works to the Kennedy drive, "the government doesn't let us take any tax deduction. Anybody else who gives to a charity gets a tax deduction. So now, on politics, they have to be consistent, and we've sort of got them trapped in their own rule."●

COMMEMORATION OF THE 15TH ANNIVERSARY OF VISTA

● Mr. CRANSTON. Mr. President, 15 years after its creation VISTA continues to demonstrate that the spirit of altruism—the commitment to serve others first—is still very much a part of the American character.

VISTA volunteers belie the social criticism of the 1970's as the "me-first" era. They have quitely and continuously worked with the people and problems of poverty in America—to improve living conditions, be it in the areas of health, education, housing, economic development, legal services, or nutrition—and to bring a spirit of hope for a better tomorrow to the less privileged among us. VISTA volunteers reflect the capacity of Americans for compassion, caring, and generosity.

VISTA's 15-year anniversary provides us with the opportunity to refocus our attention on the continuing reality of deep poverty in America and the need to continue and strengthen our efforts to work for solutions to the problems it encompasses. I am proud that, as chairman of the Senate subcommittee responsible for legislative oversight of the VISTA program for the past 8 years, I have been able to take an active role in furthering the growth and stability of this fine program.

My pledge to VISTA on the occasion of its 15-year anniversary celebration is to work to increase opportunities for volunteer services so that many more Americans, young and old, will have the opportunity to build on the foundation forged by VISTA in tackling the tremendous human and social needs that continue to challenge the conscience and resources of our people.●

FELIX ROHATYN—A TRUTH SAYER

● Mr. RIBICOFF. Mr. President, Felix Rohatyn is outstanding and perceptive. He is a truth sayer. His thoughts and ideas are worthy of being pondered by the entire Nation. With the deep economic problems facing our country, all of us in positions of responsibility should be giving careful attention to his ideas.

I ask that excerpts from a speech by Felix G. Rohatyn before the National Conference of State Legislatures in New York which appeared in the Washington Post on July 20, 1980, be printed in the RECORD.

The excerpts follow:

THE STATE OF THE NATION'S INDUSTRY—ALL TALK AND NO ACTION

(By Felix Rohatyn)

As we come up to a presidential election which seems to follow the last one by no more than five minutes, we are flooded with different but predictable themes about the state of the nation.

The administration tells us that things are bad, that the root cause of our problems lies beyond our control, that things would be worse with their opponents at the helm and that, in any case, things will get better next year.

The Republicans, naturally enough, tell us things are terrible and will get worse unless we put them in office—at which point they will get better: Government will be smaller, taxes will be reduced and we will have a stronger defense posture as well as a balanced budget.

This is sufficiently normal election-year rhetoric so that one should not get too upset about it. However, the fact is that we really are in a mess and unless we look reality in the face and do something about it, the mess will get worse.

What we need is not rhetoric or election-year posturing. We need a functioning economy with private sector jobs and stable growth. In a democracy, a nongrowing economy is a prescription for disaster, since population growth continues, it requires continuously allocating less to various constituencies. It cannot be done. Growth and participation by all elements of society are required for this country to be viable . . .

We keep trying to find simple answers to excruciatingly complicated problems—preferably simple and painless answers. In our obsessive search for these instant cures, we leap at fashionable slogans which, for a while, become the wisdom of the day and disappear to be replaced by the next . . .

A new concept is entering the area: re-industrialization. Tied to the supply-side tax cut, to the operation of the free market, to "backing the winners instead of backing the losers," it also holds out the promise of the grand solution without pain or sacrifice. But so far it is all talk and no action and, until we stop talking and start doing, it will all be a sham.

Truth, as in "Rashomon," is many-faceted, and all the notions here have some element of value. However, none of this makes any sense or holds out hope for anything more than another ride on the inflation-recession roller coaster until there is a fundamental, dispassionate examination of our economic and social structures, followed by a set of interrelated, long-term economic strategies. . . .

The United States, today, in its basic industries needs a second industrial revolution. The notion of "backing the winners instead of the losers" is as facile as it is shallow.

The losers today are automotive, steel, glass, rubber and other basic industries. The thought that this nation can function while writing off its basic industries to foreign competition is nonsense. Nothing is more inhuman than unemployment, nothing is more inflationary than unemployment coupled with trade-adjustment payments on top of benefits on top of welfare.

What we have to do is turn the losers into winners, restructure our basic industries to make them competitive, and use whatever U.S. government involvement is necessary to accomplish this goal.

There is a national security necessity since we should not have to depend on foreign steel any more than we should have to depend on foreign oil. It is an economic necessity since the notion of the postindustrial service society is a myth: Who will service whom if no one makes anything? It is a social necessity since millions of people in the urban ghettos have yet to make it into the blue-collar class, much less aspire to be the white-coated electronic technicians lionized by the "back the winners" school of economics.

We must also, however, be realistic about how badly our basic industries have slipped when judgments are made about such issues as protectionism, government regulations, tax relief . . .

With the automotive industry, our government shares a large part of the guilt but not necessarily because of mileage or emission regulations. Our government shares guilt because by keeping gasoline prices at artificially low levels, it discouraged the creation of a real market for fuel-efficient cars until it was too late for American companies to make the changeover. If decontrol had been effected years ago, if a stiff gasoline tax had been imposed after the embargo of 1973, the market would have demanded from U.S. manufacturers those cars now produced by the Japanese, (West) Germans and French where the price of gasoline was double what it is here. Management and labor must bear their share of blame . . .

A similar indictment can undoubtedly be made in the steel industry, the rubber industry and others. Inbred management and short-sighted unions combined to price themselves out of the market. A weakened work ethic and an "I'm all right, Jack" attitude resulted in our making junk while overseas they were making quality.

This is not, as yet, true in our high technology industries. In computers, semiconductors and microprocessors, we still hold the lead. But the Japanese are coming fast. In looking at the next decades to the year 2000, we must have an industrial policy that restructures our basic industries while encouraging our growth industries, if that restructuring is to be effective, it will be painful.

The largest and most expensive bandaid in industrial history was just applied to the Chrysler Corporation. However, the basic disease was left untouched. The capital structure was further burdened with high-cost debt; the union gave up very little while negotiating a three-year, 35 percent wage settlement; the management structure remained untouched. It is obvious to everybody that the inevitable was simply postponed because reality was too hard to face.

And the fact of the matter is that some protection for our basic industries is inevitable. The steel industry cannot be allowed to operate for long at 50 percent of capacity; the domestic auto industry cannot much longer operate at a level of 5 million cars annually.

The recession will be long and hard and people will have to be put back to work. For economic, social and security reasons, our basic industries will have to be given temporary shelter. Hopefully through voluntary negotiations with our main trading partners, alternatively on a mandatory basis.

Any protections, however afforded to our older industries should be temporary in nature and should be conditioned on their fundamental restructure. The managements and the unions are going to have to do things differently; costs are going to have to come down; work rules are going to have to change; innovation will have to be rewarded; attitudes will have to be different; quality will be required; major infusions of equity capital will be required for retooling and re-equipment. The motto cannot be "back the losers" but rather "turn the losers into winners."

We should by now have learned that we do not, on a long-term basis, cure inflation with unemployment. The only way to cure inflation is with greater employment, greater productivity and stable growth. The "no growth," "zero sum" society scenario is a prescription for disaster.

The need for capital will be immense. Of the many shortages and bottlenecks that have been identified in recent times, the shortage of capital has been least recognized and may turn out to be one of the most troublesome.

If we are to seriously pursue a doubling in coal production during this decade, as promised by the president in Venice, and build the railroads and harbors to go with it; if we are going to rebuild the auto and steel industries, finance synthetic fuel plants and rebuild our older cities, we will have to do two things: Create the capital and get government bureaucracy out of the way to let it go to work.

There is enough to build and to make in the United States over the next two decades to keep everyone who wants to work permanently and productively busy.

Tax cuts are desirable, without question. But, by themselves they will not be sufficient and will not carry with them the muscle to restructure old and ailing structures into viable, competitive industries.

To begin with, our industries in greatest need of help pay little or no domestic taxes. Tax benefits will be of relatively little help to the ones in greatest need.

For that purpose, as well as for accelerating certain large and needed programs like coal production and related support industries, I have argued for the creation of a 1980 version of the Reconstruction Finance Corporation of the 1930s. Only an independent organization, free from political pressures, will be able to negotiate the difficult long-term changes that are absolutely necessary to bring some of our biggest industries into the last part of the 20th century.

These concessions—from union, lenders, management and suppliers—must be obtained in exchange for large amounts of permanent, equity financing sufficient for these industries to modernize and retool. If temporary protection has to be part of the package to buy turnaround time, so be it. But only as part of a plan to cure, not as a permanent form of industrial welfare.

Management, unions, investors, the executive and legislatures must understand that basic restructuring, improved quality and real productivity are matters of national survival.

Where is the capital coming from?

First, part of it will have to come from a shift from consumption to production. A nationwide gasoline tax has to be a key part of such a program.

Over the long run it will be impossible to lower interest rates meaningfully at home and simultaneously protect the dollar abroad without reducing oil imports. The choice is between a large gasoline tax or rationing. The gas tax is preferable since its revenues can be recycled into the economy. . . .

We need to achieve greater productivity, improved international security and greater use of manpower to reduce social costs. This requires noninflationary growth and some shift from consumption to investment. The proceeds of the gas tax, a minimum of $50 billion per annum initially, could be the key part of such a program. Part of the proceeds would fund additional military programs, part would fund investment-oriented tax credits and part would reduce social security taxes for lower income groups. A stronger dollar would permit the lowering of interest rates and other taxes required to produce noninflationary stimulus.

Secondly, some of the capital must come from the Organization of Petroleum Exporting Countries.

In 1980 our payments to OPEC will approach $100 billion, nearly 10 times what they were 5 years ago. The value of all companies listed on the NYSE is about $900 billion. The notion that, over the next 5 years, we will mortgage to OPEC half of our productive capacity, built up over 200 years, to pay for a product we burn every day, is obviously unsustainable.

Negotiations with OPEC or some of its members will have to be engaged for the purpose of bringing part of this capital back on a long-term basis. Payment for oil in the form of long-term bonds, participation in the capital of structures like the Reconstruction Finance Corporation and many other variants will have to be explored.

But the final result will have to be long-term reinvestment of OPEC funds for new production and jobs, and not simply as interest-bearing bank deposits.

Lastly, readjustment in national shifts of wealth will have to be explored seriously. From 1980 to 1990 oil-producing states like Alaska, Texas, California and Louisiana will collect increased tax revenues amounting to $115 billion as a result of the oil price decontrol.

Like a domestic version of OPEC, these states can use their vast revenues to lower other taxes, increase service, attract industry by almost unlimited means; their economies as well as the economics of surrounding states will get significant boosts.

And—like a domestic version of the Third World—the Northeast and Midwest, importers of fuel, already in financial difficulties and needy for additional federal assistance, will bear the burden, creating greater risk of further social and economic distress.

The reconstruction of our older cities will have to take place alongside the restructuring of our basic industries. Like Siamese twins, the disease of one inevitably infects the other.

As the industrial effort needed over the next two decades begins to take hold a deliberate effort will have to be made to funnel private activity into the urban areas. A genuine partnership between business, labor and government must create the industrial parks where private business will find it economical to produce (initially on a government-subsidized basis), where the labor unions will commit themselves to encouraging minority entry and training, where the community leadership will involve itself and the local school system to become part of a process.

It is critical today that we face these realities. We do not have a recession in the United States today—half this country is in a depression while the other half is prosperous . . .

Whoever the next president may be, he will have to face these realities. He should have an agenda for his first 100 days that is both comprehensive and bipartisan . . .

I have argued for the immediate creation of a Temporary National Economic Commission which would be bipartisan and draw its members from business, labor, academia and government. It could by Inauguration Day, recommend an economic strategy for the United States for the next two decades.

We have a mixed and complicated economic, political and social structure and we are now at a turning point. It has been coming for a long time and it will take a long time to adjust to the new realities. There is a clear danger that continued deadlock over many of these issues, as a result of the scattering of political decision-making power, may create social and political upheavals of unforeseeable dimensions . . .

This is no time for narrow ideology. From 1945 to 1960 the United States was the unquestioned leader of the world—industrially, militarily, economically and, most important, spiritually. I know of no dominant power which so rapidly and relentlessly dissipated its dominance, across the board, as our country has done over the last 20 years. It cannot be permitted to continue.●

ARLINGTON, S. DAK., CELEBRATES 100 YEARS AGAINST THE ODDS

● Mr. PRESSLER. Mr. President, the Washington Post recently printed an article featuring Arlington, S. Dak., entitled "Celebrating 100 Years Against the Odds." The title of this article sums up the spirit of the towns in my home State of South Dakota, many of which are celebrating their centennial this year.

The strong pioneer spirit and tenacity to endure against adverse conditions are still evident in South Dakota. These communities are a prime example of the results of the hard work, determination, and courage that have made this a great Nation. As long as this country preserves these values, it will remain strong.

I urge my colleagues to join me in congratulating Arlington, S. Dak., on its 100th birthday, and I ask that the Post article be placed in the RECORD.

The article follows:

CELEBRATING 100 YEARS AGAINST THE ODDS

A century ago, the railroads chewed their way across the Dakota prairie in a hellbent race to reach the Missouri River, flecking the plains with scores of tiny homesteader settlements that live on today—even as grass grows over mile after mile of track.

Through years of blizzards, droughts, grasshoppers and farm foreclosures, many of the sons and daughters of the Dakota pioneers moved on. But enough stayed behind to build small, sturdy communities that are now celebrating 100 years of survival against the odds.

Those who left during the Depression and the years that followed are flocking back by the hundreds—probably thousands in all—to attend the centennial parties that are being staged in annual waves across the prairie, dutifully following the East-to-West march of the railroads a hundred years earlier.

Among the dozens of eastern South Dakota towns that will be celebrating this year are three that sprouted along the Chicago and Northwestern tracks through Kingsbury County (the fourth having jumped the gun last year by honoring a settler who beat the railroad by one year).

Last weekend it was the town of Arlington's moment to puff up its chest with a two-mile, 150-unit parade that was considerably longer than the town itself and a crowd of 6,000 that multiplied Arlington's population more than sixfold for the weekend. There were aunts, uncles, cousins and old school chums from as far away as California, New York and Texas who were returning for the first time in 40 or 50 years.

From these returning outlanders, the townsfolk heard that Arlington was better than ever, even if—or perhaps because—the trees had grown faster than the population (953, compared with 954 in 1970).

The pride was so intense that a visitor from Washington, offering Arlingtonians a chance to sound off about politics and government, was told to forget about all that unpleasantness, grab a plate of barbecue and simply enjoy Arlington.

Not that Washington politicians and bureaucrats don't come in for some heavy criticism from the folks in Arlington, which old-timers say was named for Robert E. Lee's home across the Potomac from Washington, although no one claims to know exactly why. (As earlier name of Nordland was rejected as too Norwegian, and the postal authorities vetoed Denver, the second choice, as too confusing.)

Arlington people complain about farm prices (too low), fuel costs (too high), interest rates (ditto), rules and regulations (everywhere) and railroad boxcars (nowhere when you need them).

But they also put Washington in a humbler perspective than it often creates for itself from its own corridors of power—something on the order of Disneyland East.

"People can be quite ordinary and sensible until they cross the Potomac River," said M. D. Corey, a telephone technician who gave Washington short shrift while talking proudly of Arlington during the Sunday centennial picnic at the town park. "Just let 'em cross the river, and there's some chemical that addles the brain."

Arlington's mayor, G. A. Redman, put it somewhat differently, pointing across the park at what he regarded as visible evidence of Washington folly; a handsome new set of restrooms.

"Would have cost only half as much if we'd built 'em our way," he said. Well, maybe, it wasn't just Washington's rules and red tape that made the little cinderblock building so costly, he conceded. "People blame the government for everything," he explained. "We have to blame someone, and the government's just so easy to blame."

A recurrent theme of conversations at the park was that Arlington may be "50 miles from nowhere," as one resident proudly put it, but it may well be closer to the American mainstream than Washington is.

"The problem is that, back in Washington and New York, they look out over the country and see Chicago and maybe St. Louis and then San Francisco and Los Angeles," said Corey, the telephone man. "They forget that there's anything else out here."

But if they push the farmer hard enough he'll rebel, Corey continued. and "if you think the oil problem is tough, wait till you hear from the farmers."

Maybe, but not all the farmers agree. "We gripe like hell," said a wheat farmer from just west of Arlington, "but we don't do much about it."

Take, for instance, the embargo on grain shipments to the Soviet Union, which some farm state Senators are seeking to have lifted. Farmers are divided, according to Jerry Sturgis, publisher of the Arlington Sun. "Some say it would help with [grain] prices; others say to hell with Russia."

Maybe it was the euphoria of the centennial celebration—or the fact that rain had just washed away the latest drought threat but the outlook here on a balmy Sunday afternoon appeared a shade more optimistic than most national surveys indicate.

"It could stand some improvement, but it's still a great country to live in," said Arnold Selken, who was tending a stall at a flea market just off the main street, not far from a large cardboard box from which a family was dispensing free puppies to all comers.

Mayor Redman agreed that things are looking pretty good for Arlington despite the endless griping about the weather and farm prices. "But come back in 10 days," he added cheerfully, "and if we haven't had any more rain, you'll find yourself a lot of pessimists in Arlington."●

NORTHEAST ON THE MOVE

● Mr. MOYNIHAN. Mr. President, the Northeast region, many commentators tell us, has entered a cycle of irreversible decline. The States of New England, the Middle Atlantic, and the Upper Midwest supplied the energy, capital, muscles, and brains that industralized this country. But now, so this characterization goes, our factories are too old, our workers are too unproductive, our labor unions too demanding, and our landscape too crowded to compete with the burgeoning economic power of the South and West. Perhaps we should be content to retire into a weak and impoverished old age, sustained by the grudging charity of our successors.

But the facts are otherwise, and we must be grateful to William D. Hassett, Jr., the New York State commissioner of commerce, for demonstrating that the "decline of the Northeast" thesis has neither truth nor merit. Indeed, as Mr. Hassett has pointed out forcefully in the June 17, 1980, edition of the New York Times, the same characteristics that are called liabilities by some will in fact turn out to be assets in the postindustrial economy. The labor force of the Northeast remains skilled, disciplined, and productive. We enjoy a particular advantage in the service sector, the most rapidly growing area of the economy. Our compactness is in fact a significant advantage for a period when energy will be costly and in short supply. The Northeast is a closely knit and affluent market, ideally situated to supply the needs of Europe and the Western Hemisphere. Far from having passed its prime, New York City today can be justifiably called the capital of the world.

The Northeast, as Mr. Hassett so eloquently testifies, is leading the United States into the postindustrial age.

I ask that Mr. Hassett's article be printed in the RECORD.

The article follows:

NORTHEAST ON THE MOVE

(By William D. Hassett, Jr.)

The energetic Northeastern states that 150 years ago led our nation into the industrial age are now leading it into the post-industrial age. Despite a clouded recent economic past, and less than cheerful short-term national and international projections, many factors that contributed to our temporary regional eclipse behind the Sun Belt are emerging as our greatest strengths. How have these onetime liabilities suddenly become assets?

The Northeast (New York, New Jersey, Pennsylvania, the six New England States) was considered even recently too crowded to be of any further economic value—at best, a questionable judgment. These form the core of the largest, most-affluent consumer market in the hemisphere, if not the world. Put the point of a compass at Syracuse, which is not far from our region's center, and draw an arc 750 miles in radius—that is, 24 hours by road, a relatively short distance by interstate trucking standards. In this area are 54 percent of the population of the United States and Canada and 54 percent of the countries' personal income; 65 percent of the total United States-Canadian manufacturing output in dollar value, 55 percent of all United States wholesale sales.

This market, which goes as far West as Chicago-Milwaukee, as far South as Charlotte, N.C., reveals another former "liability" turned asset: our labor force. The conventional wisdom is that most of our skilled workers have moved away; those who were left are labeled as unproductive, expensive, selfish, lazy. The truth is that New York, New Jersey and Massachusetts are among the five top industrial states (California and Texas are the other two) in terms of added wage-dollar value, and Pennsylvania is not far behind. As for the myth of selfish unions, the five industrial states with the least time lost through work stoppages in recent years included New York, New Jersey, Massachusetts.

To give an idea of our strength: If New York State's output of goods and services alone were considered to be that of a separate country, New York would rank among the world's 10 top economic powers.

Northeastern towns that lay idle a few decades ago are humming again; new factories and industries are springing up or expanding.

The economic future to a great extent lies with regions such as ours that not only have a closely knit, rich, diverse market, but also a labor force that is skilled or easily trained, and is mature and responsible.

We led America into industrial and commercial greatness because of a tradition of craftsmanship and cooperation; that tradition is even more valuable now because tomorrow's technically demanding industries will require it even more.

Furthermore, the Northeast is roomy enough to grow, yet compact enough so that we don't go broke or dry getting from one part of the region to the other. In urban centers—Philadelphia, New York, Buffalo, Hartford, Providence, Boston—are amassed the service skills to nurture our economic growth. Our regional energy costs are in many cases competitive with our rivals', and that "many" will soon be "most." We have easy access to the American and Canadian hinterlands and to markets and suppliers abroad. This does not add up to a moribund "mature economy"—that neat euphemism for high costs, low profits and falling-down factories predicted for us. The spiritual descendants of the people who got this region started, grew with it and made it prosper are doing it again. I can't imagine a more exciting future.●

JOHN "JUMBO" REILLY

● Mr. DURKIN. Mr. President, sports fans in my home town of Manchester, N.H., have followed the prodigious career of John "Jumbo" Reilly for many years, and what a remarkable career it has been. Easily one of the most successful coaches in the State, John Reilly has led his Sweeney American Legion Post team to 10 State titles in his 25 years as head coach and sent more than 400 young men into professional baseball, including such greats as Baltimore's Cy Young Award winner Mike Flanagan.

More important than any statistical accomplishments he could claim credit for (but characteristically never does) is that intangible sense of pride and personal character that he has instilled in the thousands of young men he has coached. Whether they go on to professional sports or some other profession, those under the tutelage of John Reilly always reflect fondly on their days of playing baseball for the Sweeney Post team.

Though he recently passed his silver anniversary with the team, there is no indication that the 55-year-old Manchester native is slowing down. Indeed I would like to wish John Reilly the best of luck as he continues to develop winning teams, major league baseball players and well-rounded young men.

I ask unanimous consent for the following article, which appeared recently in the Boston Globe, to be inserted into the RECORD.

The article follows:

REILLY ROLLS ALONG WITH SWEENEY POST

(By Bob Reiness)

MANCHESTER, N.H.—In 25 years of coaching American Legion baseball, he has won some and lost some. But John "Jumbo" Reilly's philosophy of "leaving the game in the park" has brought him to this, his silver anniversary with Sweeney Post.

Despite his insistence that "statistics are misleading," they had considerable documentation in his career. During Reilly's tenure Sweeney has won 10 of a possible 24 state Legion titles and a pair of New England regional championships.

It is, however, much more a numbers game. The list of truly outstanding players produced by Reilly-coached teams is impressive. On the marque are Baltimore's Cy Young Award recipient Mike Flanagan, who backboned the 1970 Sweeney Post team to the national tournament, and Steve Balboni, a New York Yankee minor-league home-run prodigy.

There are others: Slick first baseman Ron Beaurtrage spent some time in the Oakland A's organization, and Scott Thompson starred in the minors for Detroit. Other recent Sweeney alumni and current college stars such as Gary Nutter, Paul Lemire and Mike Lavalliere may be on the threshold.

Although Reilly admits it "makes me feel super" to see his proteges climb toward the top, the self-effecting 55-year-old Manchester native is reluctant to assume much credit.

"I don't know how much we've really helped. You can't teach people how to run and throw."

Maybe so. But it still stands as a major accomplishment that some of the more than 400 youngsters he has coached have reached the professional level. The short season and lack of playing experience are formidable roadblocks to overcome. Reilly's own reasoning is that the Flanagans and Balbonis are "dedicated people. They're always out there working."

Prominent among Reilly's memories is one involving a game between Sweeney and Concord Post 21. Yankee phenom Joe Lefebrvre was pitching for Concord and was staked to an early 2-0 lead. Reilly recalls thinking "it was going to be a long night." Balboni later turned the tide with a three-run blast that led to another Sweeney victory.

Reilly, who says "fathers are critical" has coached two of his sons, Peter, a catcher, recently graduated from Brown University, where he was baseball captain. Mike is a pitcher-outfielder with the current Sweeney team, which Reilly terms "young, but experienced."

Riding the crest of three consecutive state titles, Reilly seizes every opportunity to discount his own role in the Sweeney successes. Although he favors and has been blessed with power on his teams, he says, "the guys govern the type of game you play." He adds that "you learn something from every game you play. It's more objective when you lose than when you win."

Reilly credits the local Babe Ruth program with being a solid feeder. Denying that he handles today's players any differently from those in the past, he does concede that "if anything, I've mellowed."

His wife, Josephine, an ardent fan in her own right, is "always ready to go to a game." Only when Reilly is ready to bow out will the two think about traveling and making up for lost time.

Sweeney, athletic director George Smith talks of Reilly's value in no uncertain terms. "Our program is known throughout New England mainly because of Jumbo." As to Reilly's ability to work with his players. Smith says, "He commands respect."

Reilly will continue to lean on the dugout steps for "as long as I feel good." Last Tuesday night, Sweeney opened its season with a 3-2 win over Londonberry. "Jumbo" can't be feeling too badly.●

THE INTERNATIONAL COMMITTEE OF WOMEN FOR HUMAN RIGHTS

● Mr. MOYNIHAN. Mr. President, the World Conference of the U.N. Decade for Women is now underway in Copenhagen, bringing together delegations from all over the world to review progress made in the first 5 years of this important U.N. effort. Unfortunately we had only small reason to hope that this purpose would be realized. The conference is a saddening—though not entirely surprising—event for friends of the United Nations and for those most concerned with the stated and very urgent purposes of the women's decade.

Among many other organizations—including this body, in our resolution of June 26, 1980 (S. Res. 473)—the International Committee of Women for Human Rights has deplored the politicization of the women's conference. It has issued a declaration asking for heroism, the heroism that is needed to resist those who see in such an international convocation only an opportunity to advance their own dangerous aims.

The committee has an international leadership of great distinction; it is chaired by Dr. Erika Padan Freeman, with Liv Ullman as cochair and Bess Myerson as vice chair. Helen Gahagan Douglas, who cared so much about this cause, is vice chair in memoriam. I ask that their declaration be printed in the RECORD.

Mr. President, it is perhaps too early to judge whether the Copenhagen Conference can have any success. But it is not too early (let us hope that it is not too late) to say what success will depend on. Although the debates of the conference committees are at an early stage, we know something of the resolutions that will come before them. Today the second committee of the conference will hear, among others, a proposal to channel all aid to Palestinian women through the Palestine Liberation Organization. Here the vigorous leadership and protest of the American delegation are needed to make clear what is at stake. Let our delegates and our friends make clear that it is the PLO, that it is Cuba, that it is in fact the Soviet Union who are objectively the opponents of progress for women at this conference. It may yet be possible to turn back these efforts, but only if women from both developed and underdeveloped countries defend their common stake in the work of this conference.

The declaration follows:

THE INTERNATIONAL COMMITTEE OF WOMEN FOR HUMAN RIGHTS

Because we care deeply about the human rights and welfare of people everywhere, we are issuing a special call to delegates at the World Conference of the United Nations Decade for Women convening in Copenhagen. We urge the delegates to resist cynical, political pressure and to demonstrate their fairness, independence and courage so that urgently needed progress may be achieved for women in all lands.

We urge the delegates to work exclusively for the stated purposes of the World Conference—development, peace and equality for women—by seeking improved health, education, employment and other benefits and to resist all devices and destructive, extraneous issues foisted upon the conference by political and self-serving interests.

We protest the inadequate allocation of conference days to the plight of all women refugees throughout the entire world by scheduling only one day in one single committee. We also protest the blatant use of Palestinian women as a tool for introducing conference documents that deny the rights of legitimate existence of the State of Israel, a bona fide member of the United Nations; documents referring to post-1948 Israel land as "occupied territory." We urge the delegates to repudiate such language in all their final plenary resolutions so that the crucial goals of Copenhagen will not be overshadowed, as was the 1975 Mexico City conference, by false issues irrelevant to the needs of women.

For too many centuries, women have suffered disproportionately from poverty, discrimination, oppressive restraints, and lack of opportunity. These painful problems must be aggressively addresesd in 1980 and in the years ahead.

We implore the United Nations Conference not to make a mockery of women's needs one more time through resolutions and language that diminish and obscure the urgent priorities of women everywhere in the world.

Further, we call upon the delegation of the United States, as well as just and fair-minded African and Western delegations, to take a vigorous lead in preventing the legitimate goals of the conference from being dissipated and discredited in the eyes of the world.

If the delegates reject the politicizing statements of those who have little sympathy for the real problems of Twentieth Century women, and reject the inclusion into resolutions of phrases harmful to the existence of a member state, the heroism and leadership of the delegates at Copenhagen will be remembered forever.

Seldom has heroism been more necessary than in July 1980 in Copenhagen.

THE INTERNATIONAL COMMITTEE OF WOMEN FOR HUMAN RIGHTS

Dr. Erika Padan Freeman, Chair.
Liv Ullman, Co-Chair.
Helen Gahagan Douglas, Vice-Chair (in memoriam).
Bess Myerson, Vice-Chair.
Ruth Kluger Aliav, Co-Chair, Middle East (in memoriam).
Myrna Greenfield, Executive Coordinator.
Viveca Lindfors, International Coordinator. Scandinavia.●

AFGHANISTAN RELIEF WEEK

● Mr. PRESSLER. Mr. President, this week of July 21–27, South Dakotans and other Americans will recognize the hundreds of thousands of refugees who have fled their homes in Afghanistan in recent months. All Americans should contribute in some way to the relief of these victims of brutal Soviet Communist imperialism.

The people of the United States of America have led all nations in responding to the needs of refugees from oppression and disaster. Our Government continues to provide by far the largest amounts for refugee resettlement and assistance. Our national immigration policies are the most generous and open. Private voluntary contributions in massive amounts are donated by millions of Americans. Vietnamese, Cambodians, Cubans, and Eastern Europeans—all refugees from the inhumanities of Communist governments—have flocked to America's shores.

Their flight from brutality is both a signal of the inevitable failure of communism as a way of life and of the continuing fundamental human desire for liberty and human dignity. Now as many as 1 million people have become refugees in central Asia. They are refugees in their own homeland of Afghanistan and in Pakistan. Once again, Americans are called upon to help and there is no doubt that they should help and will help the Afghanistanis who are being shot, bombed, poison-gassed, and starved into submission by the invasion forces of the Soviet Union.

Funds are needed to provide medical treatment, food, housing, and clothing for these fellow human beings. Contributions may be sent to the Afghanistan Relief Committee, Inc., at Suite 4100, 345 Park Avenue, New York, N.Y. 01054. This organization, which includes several distinguished Senate colleagues as cochairmen—Senators PELL, JAVITS, PERCY, ZORINSKY, and EXON—has also established other centers throughout the Nation. This week, and in the months ahead, a major effort will be made to obtain voluntary contributions and to raise funds through dinners, benefit fairs, and other events that will push the committee toward its $10 million goal. Americans who contribute will strike a blow for liberty and human decency.

I submit for the RECORD a letter from the Afghanistan Relief Committee and an executive proclamation from the Governor of South Dakota.

The material follows:

AFGHANISTAN RELIEF COMMITTEE,
New York, N.Y., June 10, 1980.

Hon. LARRY PRESSLER,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR PRESSLER: Governor Janklow has proclaimed the week of July 21–27, 1980 as Afghanistan Relief Week in your state. During that week, the Committee intends to sponsor benefits, exhibits, sports festivals and as many other events as possible to publicize the plight of the already more than 900,000 men, women and children who have sought refuge in Pakistan from the Soviet invasion of Afghanistan and to raise the funds to purchase needed medicines, food, clothing and shelter for these refugees.

We hope that we will have your support of our efforts, especially during Afghanistan Relief Week, and that you will encourage the clubs and other organizations in your state or district to help us in our efforts.

If you would like additional information on the Committee and its work, you can reach me directly at my office, 53 Wall Street, New York, New York 10005 or by calling (212) 483-1000. You can also call William McCulloch, chairman of the Committee's Washington chapter, at (202) 362-8797.

Very truly yours,

JENIK RADON.

EXECUTIVE PROCLAMATION, STATE OF SOUTH DAKOTA, OFFICE OF THE GOVERNOR

Whereas, Throughout its history, the United States has often provided hope and relief to the needy throughout the world. The spirit embodied by the Statue of Liberty is still with us today. In the short post-war period alone, Americans have continued to show their generosity by helping millions of people of other nations by providing them with food, clothing, shelter and medicine; and,

Whereas, In December, 1979, the nation of Afghanistan had to endure the invasion of tens of thousands of Soviet forces, forcing the Afghan people to flee their country. Only a disaster of the most extraordinary magnitude could have succeeded in driving them out; and,

Whereas, Their homes bombed and shattered, their crops and flocks destroyed, facing starvation, attacked with rockets and napalm and shelterless against the bitter cold of the mountain winter, more than 750,000 men, women and children have already trudged across the high passes to seek shelter in Pakistan. Children and the old often die on the way. More than ten thousand continue to arrive in Pakistan each week. The Afghans already constitute the largest concentration of refugees in the world today; and,

Whereas, They have been able to bring with them nothing but that proud, resilient spirit of independence which so characteristically marks them as Afghans, and which is so cherished by Americans; and,

Whereas, They need everything: shelter against the bitter winter cold and the blistering summer heat to come; warm clothing; blankets and fuel as well as urgent medical care, especially for the women and children:

Now, therefore, I, William J. Janklow, Governor of the State of South Dakota, do hereby proclaim the week of July 21–27, 1980, as Afghanistan Relief Week in South Dakota and urge my fellow citizens to join with the Afghanistan Relief Committee in assistaing and helping the Afghan refugees in their struggle for survival.

SENIOR INTERN PROGRAM

● Mr. GLENN. Mr. President, it was a privilege for me to sponsor Miss Zoe Dunphy and Miss Lillian Paquette of Toledo, Ohio, as participants in the 1980 congressional senior citizen intern program, which was held from May 5 to May 16.

The congressional senior citizen intern program was created 8 years ago to establish and strengthen lines of communication between the elderly and the Federal Government. Each year older Americans from throughout the country come together in Washington, D.C., not only to learn more about the Federal Government, but more importantly to share their ideas and concerns. Participants in the program experience firsthand the inner workings of our Government, and gain a better understanding of the legislative process and the complexity of our system of government.

Throughout the 2 weeks, my senior interns, along with the over 200 other participants, attended informative seminars, sat in on congressional hearings, met with representatives of Federal agencies and organizations, and were able to pursue personal interest in the Nation's Capital.

In a recent letter from Zoe Dunphy and Lillian Paquette, they assured me that without exaggeration the congressional intern program was one of the high points of their lives. Since returning home, they have shared their experiences with others, thus greatly increasing the effects of the program. At this point I would like to share an article about the senior intern program that Zoe Dunphy wrote for her parish newsletter.

SENIOR CITIZEN UPDATE

(By Zoe Dunphy)

From May 4th to May 17th I served as a Senior Intern in Washington for Senator John Glenn. There were 225 Senior Interns invited by 141 Congressmen to come to Washington and learn about the way our National Government functions, and why.

I attended many meetings and garnered considerable information about what is happening and what is being planned nationally. Like all legislation it moves slowly through many committees before reaching the floor for a final vote.

My greatest experience was attending the hearings on the Special Committee on Aging, and having the opportunity of visiting informally with that staff. The Committee does not legislate. Its time is devoted to holding hearings in Washington and in many areas in our nation. The time, place, and topic of the hearings are repeatedly posted in newspapers of the area about a month prior to the date of the hearing. This gives proponents and opponents of the topic to be discussed sufficient time to prepare their testimony. The material is then organized and given to the proper committees of Congress for legislative action. The Committees on Aging try to give emphasis to the problems confronting our people and then permit every segment interested or against the situation an opportunity to be heard and put on the record for congressional committees.

Here are a few national facts of interest to all of you:

1. Social Security recipients will receive their "cost of living" increase of 14.3% this July. Anticipation in Washington is that "stagnation" and inflation will continue for an extended period.

2. In case of elective surgery Medicare officials strongly advise patients to get a second opinion before having surgery. Medicare is prepared to pay its share of the cost for a second opinion.

3. The country has just begun to move into a deep recession period. It is feared many more people face extended lay-offs. This will result in lowered tax income for National, State, and local governments. The cost of Food Stamps, Unemployment Insurance, and Medicare will increase rapidly. With decreasing tax revenues, countered by inflationary prices, adjustments must be made in our standard of living.

4. There is definitely a shortage of gasoline and oil. It is not, as we want to believe, a myth or a rip-off by the oil companies. The problem is of great concern in Washington because the feeling is strong that not enough research is being done to find and develop new sources of energy. Despite the fears and objections of many, nuclear energy must be developed to supply power for our homes and industries.

I came home with the firm conviction that we must arouse in everyone a spirit of patriotism and a willingness to sacrifice for each other and for our country if we truly appreciate the freedom we possess.

I regret painting such a discouraging picture, but I feel it is better to "tell it as it is," and disturb you, than to give you false encouragement. Congress is working hard on new legislation to improve the situation as quickly as possible. Once we are over the hump (I believe about the mid-80's) conditions will be improved for everyone.

Mr. GLENN. The intern program was not only rewarding for the senior interns but was a valuable experience for all of us who participated. I, personally, as well as my staff, gained tremendously from our interns. Zoe and Lillian were a refreshing addition to my staff, bringing us up to date on the concerns, problems, and needs of older Americans. They shared with me grassroot reactions to programs for the aged and offered ideas and plans for the future.

As a member of the Senate Special Committee on Aging, I am working with my colleagues to plan ahead for the many challenges facing us as our senior population increases as people live longer. However, the best solutions for remedying the problems of the elderly can come from the elderly themselves. Our senior interns have shown us that the elderly segment of our society has much to offer. We can all benefit from their experiences and insightful wisdom. The elderly are a valuable contributing force in our society, and their continued active participation should be encouraged.

Mr. President, the congressional senior citizen intern program is a unique experience. The relationship which was established between me, my staff, and our senior interns will be a continuing one. I commend Senator ROTH, Congressman HILLIS, Congressman COELHO, and Jo Anne Ross, Donna Norton, and Christine Clary of their staffs for their efforts to make this program so successful. I encourage all legislators to participate in the future, and I eagerly anticipate next year's program.●

SENIOR INTERNSHIP PROGRAM

● Mr. CHAFEE. Mr. President, I would like to join in expressing my enthusiastic support for the senior citizen intern program, and my appreciation to Senator ROTH for making this program possible.

This is the first year that my office has participated in the program, which brings senior citizens to Washington for 2 weeks to participate in the day-to-day activities of congressional offices and to study programs and issues of concern to senior citizens. I had the privilege of sponsoring Mr. Arthur Prevost, of Tiverton, R.I., as my intern. As a former businessman and State legislator, Mr. Prevost brought to my office a wealth of experience which was extremely valuable to me and my staff. Now an effective and impressive advocate for the elderly, his work here during this intense 2-week period contributed immensely to my understanding and awareness of the problems and concerns of our elderly citizens.

The intern program gave him an opportunity to participate directly in the legislative process, and to gain a greater understanding of the broad national issues which affect the daily lives of senior citizens. He had a firsthand look at how the Government operates and how our laws are developed, an experience which he can share with other senior citizens in my State to help them participate more fully in their Government. It also gave me the opportunity to learn more about the direct effect of Government programs on the elderly—their successes and failures, and the need for improvements. The ideas and suggestions he shared with me will be invaluable in my work on important issues such as social security, medicare, transportation, housign, nutrition programs, and many others.

This program provides the kind of direct citizen involvement which has made our democracy strong, and keeps the lines of communication open between Government and its people. I am grateful for the hard work of Senator ROTH and his staff in making this opportunity possible, and I look forward enthusiastically to participating in this program in the future.●

GERALD ROBERT

Mr. DURKIN. Mr. President, I would like to take this opportunity to commend one of the outstanding leaders of the Franco-American community from Manchester, N.H., Gerald Robert.

Mr. Robert has served as president general of the Association Canado-Americaine since 1965, and has been a moving force within the organization all his life. This month he is stepping down as head of the ACA, and it is expected that he will be named president emeritus after his retirement.

The ACA, a fraternal life insurance benefit society founded in 1896, is known throughout the North American Continent for its famous archives and genealogical records and its dedication to Franco-American cultural and educational activities.

Though the ACA will miss its competent and enthusiastic president general by no means has it lost a dedicated, lifetime member, Gerald Robert.

I ask to have printed in the RECORD an article, which appeared recently in the Manchester Union Leader.

The article follows:

GERALD ROBERT, ACA HEAD, ANNOUNCES HIS RETIREMENT

Gerald Robert, prominent citizen, of this city and one of the leaders of the Franco-American ethnic groups of Manchester and New England, will retire as president general of the Association Canado-Americaine early in July.

Affiliated with the ACA most of his life, secretary general of the organization from 1956 to June 1965, president general since. Robert will not be a candidate to succeed himself at the quadrennial convention to be held at the Concord Street Home Office and the Hilton at Merrimack, only July 4, 5 and 6.

Active in ACA affairs since an early age, Robert, also member of the Board of Directors of St. Mary's Bank, was a successor as president of the ACA to other prominent Franco-American personalities of Manchester such as Adolphe Robert, Judge Emile Lemelin, Attorney Ernest R. D'Amours.

Also to retire at the July ACA convention will be Judge Edward J. Lampron of Nashua, Rene Lemelin of Quebec city, both vice-presidents, and Dr. Louis Philippe Gagnon of Manchester, medical examiner.

The July convention will group at the Manchester Home Office, and will include 75 officers and delegates from the New England States and the province of Quebec.

The Association Canado-Americaine, a fraternal life insurance benefit society, was founded in Manchester in 1896. Incorporated in the State of New Hampshire, it is licensed to operate in all New England Sates, except Vermont. It also operates in the province of Quebec since 1907. Besides the Manchester Home Office, the ACA maintains sub offices in Central Falls, R.I. and Trois-Rivieres, Quebec.

Over and above its life insurance market, it is noted throughout North America for its famous library with an exceptional archive and genealogical section and its participation in Franco-American cultural and educational activities.

It is expected that Robert will be named President Emeritus of the Association Canado-Americaine after his retirement and Judge Lampron, Lemelin and Dr. Gagnon, Honorary Vice Presidents.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I anticipate there will be no rollcall votes on tomorrow before 10 a.m.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the order for the recognition of a Senator, Mr. BAYH, on tomorrow, I be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. GRAVEL be recognized for not to exceed 15 minutes also tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF H.R. 39 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognitions of Senators, the Senate then resume consideration of the pending business. This request is not necessary because it would be automatic, but I make the request so that Senators will know that the Senate will resume action on this measure at around 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 909 and 922.

Mr. BAKER. Mr. President, reserving the right to object—and I will not—the purpose of the reservation is to advise the majority leader that the two calendar items identified by him are cleared on this side and we have no objection to their consideration and passage.

BUDGET ACT WAIVER

The resolution (S. Res. 459) waiving section 402(a) of the Congressional Budget Act with respect to the consideration of H.R. 826, was considered and agreed to, as follows:

> *Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 826. Such waiver is necessary because, while the other funding provisions of H.R. 826 become effective in fiscal year 1981 or thereafter, section 2, which extends the Occupational Safety and Health Administration's jurisdiction over the United States Postal Service, becomes effective on the date of enactment of this Act. This section, in effect, provides authority for the Occupational Safety and Health Administration to ask for additional funding to accomplish its new responsibilities. While the committee recognizes that the impact on the fiscal year 1980 budget would be small, it intends to offer a technical amendment postponing the effective date of section 2 of H.R. 826 until fiscal year 1981 in order to comply with section 402(a) of the Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 468) waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 1280, was considered and agreed to, as follows:

> *Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1280. Such waiver is necessary because S. 1280, the Energy Management Partnership Act, provides an authorization for the Department of Energy for the fiscal year ending September 30, 1981, of such sums as may be provided for the purposes of S. 1280 in Appropriations Acts within the authorization ceiling in S. 2332 (a bill to authorize appropriations to the Department of Energy and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980) for the appropriations account entitled "Energy Conservation."
>
> Compliance with the deadlines of the Congressional Budget Act of 1974 was not possible by May 15, 1980, since the administration's proposed amendment in the nature of a substitute to S. 1280 was not transmitted to the committee until April 15, 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

THE FOREIGN RELATIONS COMMITTEE SHOULD HOLD HEARINGS ON THE BILLY CARTER CASE

Mr. HELMS. Mr. President, today I sent a letter to the distinguished chairman and to the distinguished ranking member of the Foreign Relations Committee requesting that the committee hold hearings immediately on the Billy Carter matter.

The preamble of the Foreign Agents Registration Act is as follows:

> It is hereby declared to be the policy and purpose of this Act to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the government and the people of the United States may be informed of the identity of such persons and may appraise their statements and activities in light of their associations and activities.

On July 14, Mr. Billy Carter, nearly 3 months after receiving a payment of $220,000 from the Libyan Government, and 6 months after receiving a payment of $20,000 from the Libyan Government, signed a consent decree with the Justice Department registering as a foreign agent of Libya. Mr. Carter has termed these payments as a "loan," although no loan agreements have been signed.

In late December, Mr. Carter made a 13-day trip to Libya at the invitation and expense of the Libyan Government, and in March he made a similar 3-week trip.

According to a July 15 press conference in Nicosia, reported in this morning's Washington Post, Libyan Foreign Minister Ali Turyaki said that his Government established relations with the President's brother to maintain contact with the American people and to tell the United States that its Middle East policies are "erroneous."

Turyaki is quoted as saying that:

> We are trying to inform the American people of the erroneous politics of their government towards the Middle East, and the contact with Billy Carter enters into this context.

He added that Libya "maintains contact with a good many Americans to inform the American people of the real situation in the Middle East."

Now the Senator from North Carolina welcomes any discussion of Middle East problems, including any input that comes from the Government of Libya. The great tradition of a free press and free debate in the United States ought to include the hearing of all sides, particularly the side of principals in any important action. Whether we like it or not, any permanent solution to the Middle East question will have to take into consideration the views of all parties to the disputes of that area.

But that having been said, it is the policy of this Nation that any input from foreign government, or from agents of foreign government, must be labeled as to its origin, so that its origin can be taken into consideration in evaluating its validity.

That is the clear intent of the Foreign Agents Registration Act.

But in addition, the Carter case raises further issues, because of Billy Carter's relationship with the President. So it is not simply a case of a foreign agent, but a foreign agent who is in a particular relationship with the makers of U.S. foreign policy. Is it unfair to ask whether this is the audience which the Libyan Foreign Minister had in mind when he spoke of informing "the American people" of their "erroneous" policies?

Indeed, there are a great many questions:

First. Did Billy Carter ever communicate with the President on matters of Middle East policy? If so, when, and how often?

Second. Were the payments received by Mr. Carter a bona fide "loan," and if so, what were the repayment terms?

Third. Did Mr. Carter solicit the payments?

Fourth. Did Mr. Carter promise to take any action on behalf of Libya, either in anticipation of, or in return for the payments?

Fifth. Did Mr. Carter have access to high Government officials that was not available to the ordinary citizen?

Sixth. Did Mr. Carter ever discuss or seek information on Middle East policy from any high Government officials?

Seventh. Did Mr. Carter receive any other promises or representations from the Libyan Government that would amount to special favors or concessions?

Eighth. Did Mr. Carter arrange any meetings between Libyan officials and U.S. officials?

Ninth. Did Mr. Carter take any steps to disseminate information about Libya to the news media or to policy forums?

Tenth. Did the Libyans approach other Americans, as intimated by Foreign Minister Turyaki, about similar roles? Were any of these others associated with U.S. Government policymaking circles?

In short, Mr. President, there are really two issues here: the role of Mr. Carter as a foreign agent, and the role of Mr. Carter, if any, as a conduit of influence in U.S. policymaking.

Both of these issues are of particular concern to the Foreign Relations Committee, since the committee has primary jurisdiction over that act—and indeed, was the creator of the act under Chairman Fulbright. The Senator from North Carolina believes that other committees may have an interest in portions of the case, particularly over issues of criminal liability which may or may not be present. But the foreign policy issues are paramount, along with oversight on the functioning of the act itself.

Therefore, I have requested the distinguished chairman, Mr. CHURCH, and the distinguished ranking minority member, Mr. JAVITS, to schedule immediate hearings on the matter. President Carter deserves to have idle speculation settled by the facts, whatever the facts might be.

Mr. President, I ask unanimous consent that my letter to the chairman and the ranking minority member be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 22, 1980.

Hon. FRANK CHURCH,
Chairman.
Hon. JACOB JAVITS,
Ranking Member,
Senate Foreign Relations Committee,
Washington, D.C.

DEAR SENATORS: The consent decree signed by Mr. Billy Carter with regard to his representation of the Socialist People's Republic of Libya helps to put on record his transactions with that foreign government. But as many questions are raised by that filing as are answered by it—in particular whether the Libyan Government sought to influence the formulation of United States foreign policy in an improper manner.

The Foreign Relations Committee has primary jurisdiction over the Foreign Agents Registration Act, including oversight and any proposed legislative changes. Because of Mr. Billy Carter's relationship with top policymaking officials of the United States government, it is the proper business of the Committee to establish the facts of the case in order to establish whether the law is working properly or not.

I believe that ultimately a Select Committee may have to be established to go into the details of whether or not criminal statutes were violated. But the foreign relations aspects of the case are of paramount importance. President Carter deserves to have the current speculation now arising put to rest by a public accounting of the facts, wherever they may lie. I urge you to schedule hearings before the Foreign Relations Committee on the matter as soon as possible so that the truth may be known, and so that public opinion may be based on fact.

Sincerely,

JESSE HELMS.

Mr. HELMS. I thank the Chair and I yield the floor.

ORDER HOLDING H.R. 7511 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when it arrives in the Senate, H.R. 7511 be held at the desk pending further disposition.

Mr. BAKER. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will meet tomorrow at 9 a.m. After the orders for the recognition of Senators, the termination of which will be at around 10 a.m., the Senate will resume consideration of the Alaska lands bill.

I anticipate rollcall votes early and throughout the day. I would suggest to Senators that they be prepared for a late session as there is much work yet to do on this bill.

Again I anticipate that rollcall votes may occur at any time after 10 a.m. tomorrow.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 6:47 p.m., the Senate recessed until Wednesday, July 23, 1980, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, July 22, 1980*

The House met at 12 o'clock noon.

The Reverend John D. Pennington, Jr., South Campbellsville Baptist Church, Campbellsville, Ky., offered the following prayer:

Dear God, as we bow humbly before Your majesty, help us to realize that there is nothing good that dwells within our fallen nature. That all the evils of primitive man are still crouching, alive and ugly as ever, in the dark recesses of our modern hearts.

Help us to understand that faith in God our Redeemer is the only thing that holds such evil in check.

Help these, our leaders of our Nation, to see that the ills of our day cannot be cured in the political arena by human wisdom and strength.

Help them to call upon the name of the Lord, to seek divine wisdom and guidance from the One who is the Creator of heaven and Earth and who holds the destiny of mankind and the world in the palm of His hand.

Help them to realize they must humble themselves as leaders and see themselves as servants who have been elected to serve the people.

Help them to make, "In God we trust," not a slogan and byword, but rather a way of life. In Jesus' name. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **MYERS** of Indiana. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **MYERS** of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 364, nays 15, answered "present" 3, not voting 51, as follows:

[Roll No. 407]

YEAS—364

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Devine
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Loeffler
Long, La.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quillen
Rahall
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Santini
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—15

Breaux
Derwinski
Edgar
Forsythe
Gingrich
Goodling
Harkin
Jacobs
Jones, Okla.
Lloyd
Mitchell, Md.
Quayle
Sabo
Schroeder
Wilson, Bob

ANSWERED "PRESENT"—3

Lundine
Neal
Ottinger

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Ambro
Anderson, Ill.
Applegate
Ashley
Bethune
Blanchard
Boggs
Chisholm
Clay
Cotter
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Dellums
Dickinson
Dougherty
Duncan, Oreg.
Edwards, Okla.
Ford, Mich.
Frost
Gray
Harsha
Heftel
Holtzman
Ichord
Jones, Tenn.
Leach, La.
Livingston
Long, Md.
Lott
McEwen
Mathis
Mavroules
Nolan
Oakar
Obey
Pepper
Pursell
Railsback
Rangel
Rhodes
Roybal
Runnels
Satterfield
Simon
Spellman
St Germain
Stockman
Stokes
Udall
Vander Jagt
Waxman
Wilson, C. H.

□ 1210

Mr. **HARKIN** changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

□ 1220

THE REVEREND JOHN PENNINGTON

(Mr. **CARTER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **CARTER**. Mr. Speaker, the Reverend John Pennington, pastor of the South Campbellsville Baptist Church who gave our prayer this morning, has done great work in the area he serves.

By his efforts and the word of the Lord he has helped in the conversion of many, among whom is one of my closest and most trusted friends.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Jesus admonished us: "If any man will come after me, let him deny himself, and take up his cross daily, and follow me."

This Brother Pennington has done.

I welcome him here.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5580. An act to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 341. An act to authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes;

S. 1916. An act to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China; and

S. 2936. An act to transfer certain employees of the Architect of the Capitol to the Sergeant at Arms of the Senate.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON TOMORROW AND THURSDAY OF THIS WEEK

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday and Thursday, July 23 and 24, 1980.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from California (Mr. EDWARDS) tell us what is so important that we have to do this during the markup of other bills on the floor?

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, the permission requested is to allow the committee to mark up H.R. 7084, the Pretrial Services Act of 1980, and H.R. 7273, the Immigration and Nationality Act Amendments of 1980, and to complete the work on S. 685, the Bankruptcy Reform Act.

Mr. ROUSSELOT. So, Mr. Speaker, further reserving the right to object, the committee has three bills for consideration; is that correct?

Mr. EDWARDS of California. The gentleman is correct.

Mr. ROUSSELOT. Can the gentleman tell us, are we coming in early tomorrow?

Mr. EDWARDS of California. I understand that the House is coming in early tomorrow, yes.

Mr. ROUSSELOT. At 10 o'clock?

Mr. EDWARDS of California. That is what I understand.

Mr. ROUSSELOT. And the gentleman's committee has not been able to get its work done on all this important legislation this week, even though we have been coming in at noon?

Mr. EDWARDS of California. Mr. Speaker, we met all morning today on one of the bills.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I have been informed that probably the committee could only get to the consideration of one or two of those bills. Is the gentleman willing to reduce the request for consideration of the bills the committee will take up?

Mr. EDWARDS of California. Mr. Speaker, I believe that will be up to the committee chairman, the gentleman from New Jersey (Mr. RODINO), but he feels very urgently that we should be able to address these bills tomorrow.

Mr. ROUSSELOT. Mr. Speaker, I have been informed by some of the members of the committee that it will be very difficult to consider all those bills. Can the gentleman reduce the request?

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. Mr. Speaker, would the gentleman yield to the gentleman from Illinois (Mr. McCLORY) for a further discussion?

Mr. ROUSSELOT. Yes. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I appreciate the gentleman's willingness to yield to me.

I might say, Mr. Speaker, that we are working currently on the technical amendments to the Bankruptcy Act which we would like to complete and expect to complete. But then we would like to take up amendments to the Immigration and Nationality Act of 1980 in order to try to resolve some of the extremely difficult problems that are impending on the whole subject of the refugees at the present time. We have not even considered general debate on that subject at the present time.

Those two bills, it seems to me, would be bills that we would want to work on possibly during the 5-minute rule.

Mr. ROUSSELOT. Then, Mr. Speaker, the gentleman is telling us there are only two bills the committee would probably really have an opportunity to consider?

Mr. McCLORY. Mr. Speaker, if the gentleman will yield, I am not certain about the pretrial services bill, but I do not think that has the same urgency.

Mr. ROUSSELOT. It does not have the same urgency?

Mr. McCLORY. Well, Mr. Speaker, I would refer to the gentleman from California (Mr. EDWARDS) on that.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman from California (Mr. EDWARDS) reduce his request to just two bills?

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield further to me?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, we have but a few more minutes on the bankruptcy bill. We worked hard on that all morning, and there are just two short amendments remaining.

Mr. ROUSSELOT. Then the committee could do that in the morning tomorrow?

Mr. EDWARDS of California. Yes, we intend to do that, but we need to work on the other bills, too.

Mr. ROUSSELOT. So, Mr. Speaker, could the gentleman reduce his request to the two bills?

Mr. EDWARDS of California. Mr. Speaker, I do not know if I have the authority to reduce the request, since the gentleman from New Jersey (Mr. RODINO) is our committee chairman.

Mr. ROUSSELOT. Mr. Speaker, perhaps if the gentleman does not have the authority to reduce the request, he should not ask for it.

Mr. McCLORY. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I would say that it would be appropriate if we could get unanimous consent on those two bills at the present time, and if it seems essential to request that we proceed on the third bill, we could renew our request for unanimous consent.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, will the gentleman from California (Mr. EDWARDS) reduce his request to the two bills named?

Mr. EDWARDS of California. Yes, Mr. Speaker, I will do that.

Mr. ROUSSELOT. What are those bill numbers?

Mr. EDWARDS of California. I most assuredly will do that.

Mr. ROUSSELOT. What are those bills?

Mr. EDWARDS of California. The bankruptcy bill and the Immigration and Nationality Act.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON MEDICAL FACILITIES AND BENEFITS OF COMMITTEE ON VETERANS' AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Subcommittee on Medical Facilities and Benefits of the Committee on Veterans' Affairs be permitted to sit, for hearings only, today, July 22, 1980, while the House is proceeding under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that this request is for hearings only?

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, the request is for hearings only.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO MEET DURING 5-MINUTE RULE ON TOMORROW AND THURSDAY OF THIS WEEK.

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be allowed to meet on tomorrow and possibly Thursday while the House is under the 5-minute rule.

We have only two bills to consider, for openers.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, "for openers," what are the two bills?

Mr. VAN DEERLIN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. VAN DEERLIN. Mr. Speaker, I meant by "for openers" that I am willing to settle, for openers, on what we have already allowed the Committee on the Judiciary to do as a point of negotiation and hard bargaining.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, as the gentleman well knows, my only point is that Members always tend to come to those of us who pay a little more attention to what is happening on the floor and say that we object to constantly being shuffled back and forth between committee meetings and what appears to be crucial legislation on the floor.

I do not have to remind the gentleman that we have railroad legislation scheduled. There are all kinds of things that many Members consider critical remaining for consideration during the rest of the week. I am sure the gentleman does not wish to absent himself from that critical legislation.

Mr. VAN DEERLIN. Mr. Speaker, I assure the gentleman that while the rail legislation is on the floor the Committee on Interstate and Foreign Commerce, which has that legislation under its jurisdiction, will not be sitting on anything else.

Mr. ROUSSELOT. So it might not even be necessary for the committee to meet if that rail legislation does come up.

The gentleman can assure us that the other members of the committee will not be required to be present in committee if the rail legislation does come up?

Mr. VAN DEERLIN. Mr. Speaker, I cannot conceive of the committee's sitting while the rail legislation is on the floor, because that is major legislation reported out of our committee.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1230

PERMISSION FOR SUBCOMMITTEE ON WATER AND POWER RESOURCES OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT THIS AFTERNOON DURING 5-MINUTE RULE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs be permitted to sit this afternoon during the 5-minute rule.

This is for the purpose of marking up the Northwest power bill upon which the committee is supposed to vote before 4 o'clock this afternoon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I only do so to point out that I hope we have two Members left, after all of these committees formally meet. I never knew we had so many crucial things occurring. Now we are going to have some other committee requests to meet, Mr. Speaker, before long and at this rate there will be no need for the House to meet. We will just all be in committee hearings. And that may be all right with me, because we are spending too much money anyway.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I will say to the distinguished gentleman from California that this is the subcommittee and not the full committee.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments. So maybe there might not be quite as many Members absent; is that what the gentleman is telling us?

Mr. KAZEN. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection in the name of progress, because the gentleman has defined it so absolutely perfectly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT THIS AFTERNOON

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries be allowed to meet this afternoon for the purpose of markup. It is a continuation of a markup which was started before the other party's recess. We were not able to finish because of the convention. We are trying to finish the markup this afternoon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I yield to my colleague, the gentleman from California.

Mr. McCLOSKEY. Mr. Speaker, this is the first time in 13 years that I have objected to a committee proceeding in this manner, but I would like to ask the distinguished chairman of the subcommittee a couple of questions.

Is it not true, I will ask the gentleman from Louisiana, in this markup, which the chairman held on two occasions just before the recess, is it not true that the administration now objects to the further consideration of this bill on the basis of the Mount St. Helens eruption which has materially changed the salmon enhancement situation?

Mr. BREAUX. Mr. Speaker, will the gentleman from California yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, I am not sure whether the administration likes the bill or not. I do not think they have a position on whether we should consider it this afternoon or have the subcommittee markup. I think they would not have any problems with that. We really have not checked with them on whether we should meet or not.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Speaker, because of the importance of this issue, which addresses a whole series of court decisions in which the Supreme Court and district courts have asked the Congress to address the issue, but now the administration—I talked to Assistant

Secretary Herbst a few minutes ago—has apparently sent a letter to Chairman MURPHY, or former Chairman MURPHY, asking that the committee not consider the bill at this time because they want to assess the Mount St. Helens eruption and the damage that it has done to the salmon fisheries.

I thought the gentleman was aware of this. With the administration opposing it for those reasons, it seems to me that we should not try to mark up the bill in haste at this time.

Mr. McCORMACK. Mr. Chairman, will the gentleman from California yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I would like to respond to the question raised by the gentleman from California. The fact is that the Mount St. Helens eruption has had a very small effect on the salmon fisheries in the Northwest. In the Toutle River and the Cowlitz River there has been extensive damage to the fisheries. But this is a very, very small percentage of the fisheries in the Northwest. I doubt that it amounts to 1 percent of the Northwest salmon fishery. There is no other measurable damage anyplace else in the entire Northwest as far as the fishery is concerned. So I think that there is no validity in the argument that we should delay because of the Mount St. Helens eruption.

Mr. McCLOSKEY. If the gentleman will yield, the gentleman does concede that the administration has asked the committee not to proceed until this damage has been assessed and included in the bill?

Mr. McCORMACK. I would say to the gentleman that I would suspect that the administration has some other motivation for its letter rather than the actual damage that has been caused to the fisheries by Mount St. Helens.

Mr. BREAUX. Mr. Speaker, will the gentleman from California yield?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I yield to my colleague, the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, I think the key issue here are perhaps matters that should be debated in the course of a markup, as to whether we should report out a bill. The question before the House now is whether we should have permission merely to meet and discuss these items in a subcommittee at a subcommittee level; and, of course, that is what my unanimous-consent request is.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Reserving the right to object, I yield to my colleague, the gentleman from California.

Mr. McCLOSKEY. Mr. Speaker, as I understand it, the gentleman has a full committee markup scheduled for Thursday.

I will withdraw my objection at this time.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

STATUS OF THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1980

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, the House Budget Committee today is notifying the Speaker of the House on the status of the 1980 budget. This report compares current levels of congressional action on the budget to the spending ceilings and revenue floors established by the revised second budget resolution for fiscal year 1980. In order to keep Congress advised of the effect of its spending and revenue actions compared to the overall totals set in the most recently adopted budget resolution, periodic reports are required by section 308(b) of the Budget Act. Under the Budget Act a point of order lies against any measure that would cause the spending ceiling or the revenue floor established by a concurrent resolution to be breached.

Current spending levels are based on the 1980 economic forecast and spending and revenue reestimates for fiscal year 1980, as incorporated in the 1980 budget resolution that was approved by Congress on June 12, 1980.

Essentially, today's report reflects changes resulting from enactment of Public Law 96–304, the 1980 supplemental appropriations and rescission bill.

The current level aggregates, as compared to the revised second budget resolution, are:

First. Budget authority: $658,445 million; $405 million below the resolution ceiling;

Second. Outlays: $572,611 million; $39 million below resolution ceiling; and

Third. Revenues: $525,790 million; $90 million over the revenue floor.

A copy of my letter to the Speaker, as well as a copy of the committee's report, are attached.

COMMITTEE ON THE BUDGET,
Washington, D.C., July 21, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1979, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 307, the Revised Second Budget Resolution for Fiscal Year 1980. This report reflects the resolution of June 12, 1980, and estimates of budget authority, outlays, and revenues based on all completed action on spending and revenue measures as of the close of legislative business July 2, 1980.

Sincerely yours,

ROBERT N. GIAIMO.
Chairman.

REPORT TO THE SPEAKER OF THE HOUSE FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1960 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 307

REFLECTING COMPLETED ACTION AS OF JULY 2, 1980

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	658, 850	572, 650	525, 700
Current level	658, 445	572, 611	525, 790
Amount over resolution			90
Amount under resolution	405	39	

BUDGET AUTHORITY

Any measure providing budget or entitlement authority for fiscal year 1980 of more than $405 million, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 307 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays for fiscal year 1980 of more than $39 million, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 307 to be exceeded.

REVENUES

Any measure that would result in a revenue loss for fiscal year 1980 of more than $90 million, if adopted and enacted, would cause to be less than the appropriate level for that year as set forth in H. Con. Res. 307.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C. July 18, 1980.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the revised second concurrent resolution on the budget for 1980. This report is tabulated as of close of business July 2, 1980 and reflects completed Congressional action on the 1980 Supplemental Appropriation and Rescission Bill (P.L. 96–304).

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	658, 445	572, 611	552, 790
2. Entitlement authority and other mandatory items requiring further appropriation action			
3. Continuing resolution and other authority			
4. Conference agreements ratified by both Houses			
Current level	658, 445	572, 611	525, 790
Second Concurrent Resolution as revised by H. Con. Res. 307	658, 850	572, 650	525, 700
Current level is:			
Over resolution by			90
Under resolution by	405	39	

Sincerely,

ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT—SUPPORTING DETAIL, FISCAL YEAR 1980 AS OF CLOSE OF BUSINESS JULY 2, 1980

[In millions of dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	342, 177	295, 050
Previously enacted	376, 016	337, 850
Offsetting receipts	−78, 347	−78, 347
Enacted this session:		
Aviation and Noise Abatement Act (Public Law 96–193)	57	
Interest forgiveness on loan repayments from Guam (Public Law 96–205)	2	2
Increase participation in farmer held reserve program (Public Law 96–234)		−42
Federal Trade Commission financing:		
Public Law 96–219:		
Transfer from International Communications Agency	−12	−10
Transfer to FTC	12	10
Public Law 96–240:		
Transfer from State Department	−8	−6
Transfer to FTC	8	6
Public Law 96–261: Federal Trade Commission Appropriation, 1980	50	42
Food stamp supplemental appropriation (Public Law 96–243)	2, 556	2, 556
Disability insurance amendments (Public Law 96–265)		−7
Adoption Assistance and Child Welfare Act (Public Law 96–272)		−10
Transfer for the Selective Service System (Public Law 96–282)		−2
1980 supplemental appropriation and rescission bill (Public Law 96–304)	15, 935	15, 520
Total, enacted	658, 445	572, 611
II. Entitlement authority and other mandatory items requiring further appropriation action		
III. Continuing resolution [1]		
IV. Conference agreements ratified by both Houses		
Total current level as of July 2, 1980	658, 445	572, 611
Second Budget Resolution as revised by H. Con. Res. 307	658, 850	572, 650
Amount remaining:		
Over ceiling		
Under ceiling	405	39

[1] Foreign assistance appropriations and the appropriations for certain ongoing Labor-HEW programs are funded under continuing resolution authority (Public Law 96–123) for the full fiscal year and, therefore, are included in the enacted category of this report.

Note: Detail may not add due to rounding.

NO COMPROMISING EQUAL RIGHTS

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, I rise today to reaffirm my strong support for ratification of the equal rights amendment to the U.S. Constitution.

The mandate for an explicit declaration of equal rights for women is clear and unavoidable. American women have suffered too long under the burdens of presumed inferiority, and they have contributed greatly to the strength and the wealth of our Nation. It is time to insure that women enjoy all the rights, privileges, and responsibilities of full citizenship, a guarantee which can be offered only through ratification of the equal rights amendment by the States.

We have heard—for many years now—all of the alleged risks and dangers posed by the equal rights amendment. Yet this amendment will not radically alter the nature of society and will not unravel our traditions or way of life. It will simply place in the Constitution a basic principle of equality which already lies at the foundation of our system of government, thereby reaffirming and preserving the rights of women to be full participants in our society.

Mr. Speaker, it is in this context that I was deeply disturbed to watch our Republican leaders waiver and ultimately reverse their traditional support of the equal rights amendment. We can ill afford to turn our backs on fully one-half of our own people. I shall never waiver in my support for the equal rights amendment, and I continue to urge my fellow Members of Congress to remain firm in defending the principles of equality which we hold so dear.

LEGAL SERVICES CORPORATION SLEEPER IN STATE-JUSTICE APPROPRIATION BILL

(Mr. HUCKABY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUCKABY. Mr. Speaker, on the schedule this afternoon is the State and Justice appropriation bill. In this bill we are appropriating funds for the Legal Services Corporation, which has not been authorized for 1981. Basically, I support the concept of a Legal Services Corporation, but many of the Members are probably not aware of the organizational structure of this Corporation. It is totally independent. No one can touch it. It is independent of the executive branch, it is independent of Congress. They literally have the ability to do whatever they want to do as far as expansions, the type of expansions, the areas that they cover, the type of services that they offer, completely ignoring the public.

In my own congressional district hearings were held. Everyone there in the countries, or parishes, as we say in Louisiana, testified to have one type of service. Yet the Corporation did just the opposite.

□ 1240

Mr. Speaker, the House is scheduled to address this authorization in the following week. I urge my colleagues to consider at that point in time making some changes in the basic structure of this authorization.

ACHIEVING ENERGY INDEPENDENCE

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOLDWATER. Mr. Speaker, it gives me a great deal of pleasure to announce a milestone in our country's efforts to find and develop a substitute for gasoline.

Today, two Ford pickups arrived, setting a record nonstop trip from San Francisco to Washington, D.C., in 74 hours, using 200 gallons of methanol. These two Ford pickups are sitting in the Southeast Driveway of the Capitol. I invite every Member of Congress to go out and take a look at what free enterprise can do. These vehicles were converted by "Future Fuels of America" from Sacramento, Calif. They were provided by Galpin Ford owned and operated by Burt Boeckmann of Los Angeles. With private capital the trucks were converted to burn methane in order to demonstrate that we can achieve independence away from fossil fuels.

Again, I would urge my colleagues to view these vehicles, which are parked in the Southeast Driveway of the Capitol, and again would congratulate all those involved with this demonstration of American ingenuity and capitalism.

SPECIAL PROSECUTOR SHOULD BE APPOINTED TO INVESTIGATE INFLUENCE PEDDLING

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I call upon the Carter Justice Department to immediately appoint an independent special prosecutor to investigate the widespread allegations of influence peddling by President Carter's brother and the complicity of the Carter White House and Justice Department. This is a President who says "trust me," and then we are told:

First. His brother suddenly admits being a foreign agent only days after the Justice Department finds out;

Second. The National Security Adviser to the President meets with this unique foreign agent;

Third. The President's legal counsel advises this unique foreign agent;

Fourth. The Carter Justice Department did not pursue charges that Billy Carter was involved in a bribery plot to influence the White House; and

Fifth. That the fugitive Robert Vesco received money to get the Carter White House to free up planes for Libya.

This is a rotten influence peddling

scandal that lays right at the White House doorstep of Jimmy Carter—and only an independent special prosecutor can get to the bottom of it. This is not a vicuna coat scandal, this is a vicuna blanket covering the Carter White House and possibly reaching all the way to the Justice Department.

THE NO. 1 PRIORITY FOR CONGRESS—CUT FEDERAL SPENDING AND TAXES

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, President Carter's admission in his midsession budget review that there will be a $61 billion Federal deficit this year, and a $30 billion deficit in 1981, comes as no surprise.

The President and the Democratic majority in Congress have increased Federal spending for 1981 by $247.4 billion over the last budget of the previous Ford administration.

Nondefense Federal spending this year will be $67 billion higher than 1979, and $33.4 billion higher again in 1981, according to the President's latest figures.

Federal Tax collections to finance this ever higher spending will be increased $85 billion next year.

Personal income and social security taxes will go up $55 billion, and corporate taxes will increase $30 billion, including $18 billion from the so-called windfall profit tax on oil.

The top priority of Congress for the rest of this year should be to eliminate the projected 1981 deficit of $30 billion through reductions in nondefense spending, and to cut the unconscionable $85 billion tax increase that the Carter administration wants to impose on the American people.

REPUBLICAN POLICIES AND PROGRAMS BETTER FOR AMERICAN PEOPLE

(Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HAGEDORN. Mr. Speaker, the differences between the Republicans and the Democrats were illustrated in stark terms last week when the Republicans met in Detroit for their national convention. There it became clear that the Republicans are the party of fiscal integrity, a strong national defense, and jobs for the unemployed.

I not only believe that the Republican solutions are superior to those offered by the Democrats, but the facts show that in the past the Republicans have done a better job of handling our Nation's problems. One need only look at the record of the last 80 years to find support for that assertion.

Briefly, Mr. Speaker, a chart that I would like to enter into the RECORD shows that we have had a balanced budget in 21 of the 40 years since 1900 when Republicans have been in the White House. By comparison, the Democrats balanced their budget a paltry six times. Moreover, the cumulative deficit of the Democratic sponsored budgets was $475.8 billion, while they increased personal income taxes 16 times.

A review of this chart shows that the Republicans' policies and programs have been better for the American people than those of the Democrats and I believe that a Republican administration headed by Ronald Reagan and George Bush will be better for Americans than 4 more years of Jimmy Carter.

1900 THROUGH 1980

Presidents	Republicans	Democrats
In office	40 yr	40 yr.
Balanced budget	21 out of 40	6 out of 40.
Deficits	19 out of 40	34 out of 40.
Cumulative deficits	$199.7 billion	$496.9 billion.[1]
Personal income tax reductions.	10 times	5 times.
Personal income tax increases.	4 times	16 times.
Wars	0	4.

[1] Includes 1980 budget estimate of $60.9 billion.

ADMINISTRATION HAS LOW OPINION OF CONGRESS

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, it has not hit the wires yet, but I thought the Members might appreciate if I spread upon the RECORD the minimum high regard which this administration has for this Congress.

The Committee on Ways and Means is currently holding hearings on the need for a tax cut, or to be more accurate, for a reduction of the $70 billion scheduled tax increases.

Treasury Secretary William Miller was asked by our colleague, the gentleman from Ohio (Mr. GRADISON), to explain, if this administration does indeed think some tax cuts are needed to stimulate business, why it will not present to us its version of the kind of tax cut and the degree of tax cut that it would support?

His answer: "Why that would be like throwing red meat before a pack of hungry dogs."

Hungry dogs? I thought the Members might appreciate knowing what this administration feels about this Congress while we contemplate what we are to think about this administration.

INVESTIGATION OF INFLUENCE PEDDLING SHOULD BE SWIFTLY UNDERTAKEN

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, 4 years ago now, candidate Jimmy Carter had answers and solutions to all of our problems. He was particularly outspoken about how he would have handled Watergate, or if such a thing should happen in his administration that he would act swiftly.

Yesterday it was revealed that brother Billy Carter had an agreement with a Florida-based oil company where he would receive up to 55 cents a barrel for any oil that he might be able to influence Libya to sell to the oil company.

Now, Billy Carter has been in the petroleum business, we recognize, but he has been running a service station. Hardly able to deliver enough crude oil from that business to make it worthwhile to the company and Libya. It is obvious the only relationship he would have with petroleum is through the White House.

Back in 1974, this Congress acted swiftly to examine and investigate the charges of what happened in the White House. I am sure this leadership of this Congress will want to examine very closely, just as it did in 1974, these serious allegations of influence peddling. The country will be watching very closely just how quickly this leadership of this Congress acts to investigate possible wrongdoing in its White House.

□ 1250

SALUTE TO DETROIT

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, after the statements just given, this might seem anticlimatic; but as one California delegate to the Republican National Convention pledged to the next President of the United States, Ronald Reagan, I must say that we should salute the city of Detroit for the very, very fine job they did in hosting that convention. Frankly, most of us in the California and other delegations that I spoke with, had not really given a thought to going to Detroit in the summertime for a vacation; but I must say that the hospitality which we received, the good spirit which we received, finding that police officers would stop you on the street and ask you whether you were enjoying the city, having waiters stop you and ask you whether you were enjoying Detroit and hoping that you were having a good time, made for a great, great convention.

I, for one, would like to salute the people of the city of Detroit who had any responsibility for that great reception and say that you certainly changed a number of minds and hearts about your fair city.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION BILL WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. PRICE. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. PRICE moves, pursuant to rule XXVIII 6(a) of the House rules that the conference **committee meetings between the House and** the Senate on H.R. 6974 be closed to the public at such times as classified national security information is under consideration, *Provided, however*, That any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

On this motion, under rule XXVIII, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 396, nays 0, answered "present" 2, not voting 35, as follows:

[Roll No. 408]

YEAS—396

Abdnor
Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—2

Mitchell, Md.
Van Deerlin

NOT VOTING—35

Akaka
Baldus
Bethune
Blanchard
Bonker
Cotter
Daschle
Dickinson
Dixon
Dougherty
Glickman
Gonzalez
Gray
Harsha
Heftel
Holtzman
Ichord
Leach, La.
Lott
McEwen
Mathis
Mavroules
Myers, Pa.
Oakar
Pritchard
Rangel
Rhodes
Runnels
Satterfield
St Germain
Stockman
Stokes
Udall
Wilson, C. H.
Wright

□ 1300

Messrs. PATTEN, HANCE, and HANSEN change their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR REAPPOINTMENT OF WILLIAM A. M. BURDEN AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from the further consideration of the Senate joint resolution (S.J. Res. 180) to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 180

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of William A. M. Burden of New York on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR REAPPOINTMENT OF MURRAY GELL-MANN AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from the further consideration of the Senate joint resolution (S.J. Res. 181) to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 181

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Murray Gell-Mann of California on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1310

TO ENCOURAGE PRODUCTION OF OIL FROM TAR SAND

Mr. SANTINI. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 7242, to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits, as amended.

The Clerk read as follows:

H.R. 7242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) section 1 (30 U.S.C. 181), sections 21(a) and (c) (30 U.S.C. 241(a) and (c)), and section 34 (30 U.S.C. 182) of the Mineral Lands

Leasing Act of 1920, as amended, are amended by deleting "native asphalt, solid and semisolid bitumen, and butiminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)" and by inserting in lieu thereof "gilsonite (including all vein-type solid hydrocarbons),", except that in the first sentence of section 21(a) the word "and" should be inserted before "gilsonite" and the comma after the parenthesis should be eliminated in section 21.

(2) Section 27(k) of such Act (30 U.S.C. 184(k)) is amended by deleting "native asphalt, solid and semisolid bitumen, bituminous rock," and by inserting in lieu thereof "gilsonite (including all vein-type solid hydrocarbons),".

(3) Section 39 of such Act (30 U.S.C. 209) is amended by inserting "gilsonite (including all vein-type solid hydrocarbons)," after "oil shale".

(b) Section 1 of such Act (30 U.S.C. 181) is further amended by adding after the first paragraph the following new paragraph:

"The term 'oil' shall embrace all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons).".

(c) Section 27(d)(1) of such Act (30 U.S.C. 184(d)(1)) is amended by inserting before the period at the end of the first sentence the following: ": *Provided, however*, That if the Secretary determines that it is in the public interest, he may establish a lower aggregate acreage limitation for leases in areas designated by the Secretary as containing some deposits of tar sand".

(d)(1) Section 17(b) of such Act (30 U.S.C. 226(b)) is amended by inserting after "gas field," "or are within areas designated by the Secretary as containing some deposits of tar sand," and by inserting after "six hundred and forty acres," "except, in areas designated by the Secretary as containing some deposits of tar sand, lands may be leased in units of not more than five thousand one hundred and twenty acres," and by inserting after "sold from the lease." "Prior to making a finding that the lands to be leased contain some deposits of tar sand, the Secretary shall consult with the Governor or with the State agency designated by the Governor of the State in which such lands are located. The Secretary shall expeditiously review geologic data and make initial findings and designations without delay, and not later than one year from the date of enactment of the Act.".

(2) Section 17(c) of such Act (30 U.S.C. 226(c)) is amended by deleting "within any known geological structure of a producing oil or gas field," and inserting in lieu thereof "subject to leasing under subsection (b),".

(e) Section 17(e) of such Act (30 U.S.C. 226(e)) is amended by inserting before the period at the end of the paragraph the following: ": *Provided, however*, That the Secretary shall extend a lease for not less than five years beyond its primary term in areas designated by the Secretary as containing some deposits of tar sand where the lessee or his assignee submits, before the end of the primary term, an acceptable plan of operations leading toward commercial recovery of hydrocarbon resources at depths of less than three thousand feet or by use of enhanced (tertiary) recovery methods and where the Secretary finds that the lessee is diligently pursuing the commercial recovery of the hydrocarbon resource. Diligent pursuit of commercial recovery includes but is not limited to: on site exploration or development, off site research and development activities, as well as other related undertakings".

(f) Section 39 of such Act (30 U.S.C. 209) is amended by designating the existing section "(a)" and by adding the following new subsections:

"(b) In order to promote development and the maximum production from lease areas, at the request of the lessee, the Secretary shall review, prior to commencement to commercial recovery, the royalty rates established in each combined hydrocarbon lease issued in those areas designated by the Secretary as containing some deposits of tar sand. If he determines that such rates, as established in the lease, discourage development or production or is likely to result in reduced recovery rates of the resource from the lease area, he is authorized to waive, suspend, or reduce any royalty schedule, including the establishment of sliding scale royalties with scheduled rates below the minimum royalty during the years in which a royalty is due and payable. Such adjustments shall be designed to achieve the dual objectives of production of this hydrocarbon and a fair return to the public for the development of this resource.

"(c) In order to further the objectives set forth in section 209(c) assuring that Federal royalties will not be an impediment to development or production of this resource, not later than five years after the date of enactment of this act and after significant field testing of technologies used for producing oil from tar sand resources the Secretary shall—

"(1) conduct a technological and economic analysis on development alternatives and costs for producing oil from tar sands; and

"(2) submit this report to the Congress along with recommendations for changes, if any, in royalty systems, rates, or schedules for leases producing or capable of producing oil from tar sand resources. Such recommendations may include minimum royalties of less than 12½ per centum, multitier royalties for different classes of technology and any other system which increases the lessees ability to develop or produce oil and yet assures the public a fair return for such development.".

Sec. 2. (a) Section 2 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351) is amended by adding at the end thereof: "The term 'oil' shall embrace all nongaseous hydrocarbon substances other than those leasable as coal, oil shale or gilsonite (including all vein-type solid hydrocarbons).".

(b) Section 3 of such Act (30 U.S.C. 352) is amended by inserting "gilsonite (including all vein-type solid hydrocarbons)," after "oil shale".

Sec. 3. Except as provided in this section and subject to all valid existing rights, nothing in this Act shall be construed to diminish or increase the rights of any lessee under any oil or gas lease issued under section 17 of the Mineral Lands Leasing Act of 1920 or section 3 of the Mineral Leasing Act for Acquired Lands. Any person having a valid claim to such hydrocarbon minerals under existing laws on January 1, 1919, shall upon relinquishment of such claim, be entitled to a combined hydrocarbon lease under the provisions of this section. The owner of an oil and gas lease issued before the date of enactment of this Act may apply to the Secretary to convert the lease to a new combined hydrocarbon lease. Such conversion shall take place upon receipt by the Secretary of an acceptable plan of operations submitted by the lessee or his assignee, which assures reclamation and diligent development of those resources requiring enhanced recovery methods of development or surface or underground mining and at such royalties as shall be specified in the lease. Such royalties shall not be limited by the rates provided for in the existing oil and gas lease.

Sec. 4. Nothing in this Act shall affect the taxable status of production from the sand under the Crude Oil Windfall Profit Tax Act of 1980 (Public Law 96–223), to reduce the depletion allowance for production from tar sand, or otherwise affect the tax status applicable to tar sand lessees under the Mineral Lands Leasing Act of 1920 immediately prior to the effective date of this Act.

Sec. 5. No provision of this Act shall apply to national parks, national monuments, or other lands where mineral leasing is prohibited by law. The Secretary of the Interior shall apply the provisions of this Act to the Glen Canyon National Recreation Area (established by Public Law 92–593), and to any other units of the national park system where mineral leasing is permitted in accordance with an approved minerals management plan for each such area, if the Secretary finds that there will be no significant adverse impacts on the administration of said provisions on such area, or on other adjacent units of the national park system as a result of the application of said provisions to each such area.

The SPEAKER pro tempore. Is a second demanded?

Mr. MARRIOTT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Nevada (Mr. Santini) will be recognized for 20 minutes, and the gentleman from Utah (Mr. Marriott) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. Santini).

Mr. SANTINI. I thank the Chair.

Mr. Speaker, to appear before this body and dwell at any length upon this country's need for greater self-sufficiency in energy is not only unnecessary, but merely repetitious of what has been said on this floor many times in the past 2 to 3 years. We have found that energy independence is not only an economic but also a political and national defense issue. The events of the past few months have all too clearly and emphatically highlighted these issues by way of soaring inflation and reduced flexibility in meeting some of the challenges raised by other nations. In short, we have found that energy, and in particular oil, is a powerful weapon that can and has reduced our options in successfully meeting world events.

I am pleased to bring before you today a bill—H.R. 7242—that can, and should, be of substantial assistance in this country again gaining a greater degree of energy self-sufficiency. It is not by any means a total solution to our energy problem, but it, together with other actions that this body has taken, should substantially improve our energy situation.

Tar sand is an oil impregnated sand and constitutes the largest known nonfluid petroleum resources in the United States. It is estimated that tar sand reserves may range from 15 to 30 billion barrels of oil in place. While over 90 percent of the known tar sands occur in the State of Utah, substantial deposits also occur in Alabama, California, Kentucky, Texas, and New Mexico. Outside the United States, the Athabaska tar sands in northern Alberta are the best known and most extensive deposits. Here, it is estimated there may be upwards of a trillion barrels of oil in place.

Notwithstanding these figures of extensive reserves, the recovery of oil from tar sands has not been commercially feasible in the United States, and only recently has commercial recovery been successful in Alberta. Recovery of the oil involves an expensive and technically complicated process of recovery involving heat, hot water, steam and/or solvents. This recovery may take place either above ground or below ground; that is, in situ.

For many years, the Department of the Interior has imposed a virtual moratorium on the issuance of tar sand leases, and consequently, except for a few leases issued in the early 1960's, none have been issued recently. The Department has consistently maintained that there was no clear statutory distinction between the two chief classes of hydrocarbons; that is, oil and gas leases issued under section 17 of the Mineral Leasing Act and tar sand leases issued under section 21. As such leases are mutually exclusive, the rights under an oil and gas lease, for example, carries no right to utilize the tar sand. While a legislative attempt was made to clarify this on the basis of initial recovery methods; that is, recovery after the deposit was mined or quarried, such a distinction could not be applied in advance of lease issuance. Therefore, a tar sands lessee could begin exploratory drilling for tar sand and discover oil, to which he would have no right.

The solution to this dilemma was to issue a combined hydrocarbon lease. This is the approach taken in H.R. 7242. Under such a combined hydrocarbon lease, the distinction between oil and gas and tar sands has been eliminated and one lease covering both will now be issued. Coal, gilsonite, and oil shale will not be included in a combined lease. These minerals are easily distinguishable and will remain under section 2 and section 21, respectively. However, as there are certain differences in the mode of occurrence, such things as royalty rates and acreage limitations had to be adjusted to suit the new combined lease.

Very briefly, H.R. 7242 does the following:

First. In the case of tar sands, the acreage for competitive lease may be increased from 640 to 5,120 acres.

Second. A competitive lease involving tar sands shall, upon application of the lessee, be extended for not less than 5 years beyond its primary term of 5 years.

Third. As an additional incentive to stimulate tar sands development, the Secretary is authorized, under a liberalized version of section 39 of the Mineral Leasing Act, to waive, suspend or reduce any royalty schedule, in order to achieve the objective of production.

Fourth. As a further production incentive and to insure that royalty payments will not be an impediment, to tar sand development, the Secretary, no later than 5 years after enactment, is required to review the state of tar sands technology and economics and to report to Congress on any recommended changes in royalty schedules.

Fifth. Upon proper application, an existing oil and gas lessee may apply to the Secretary for a converted lease to include tar sands.

Sixth. A disclaimer as to the tax consequences and the taxable status of production of tar sands versus oil is included. The conference agreement applicable to the Crude Oil Windfall Profit Tax Act of 1980 specifically stated that taxable crude oil, for windfall profit tax purposes, does not include hydrocarbon production from tar sands. The purpose of section 4 of this act is to assure that nothing in the act will affect the present tax treatment of tar sands production on Federal or fee lands, under the Federal income tax or the windfall profit tax.

Seventh. Mineral leasing under the provisions of this act are prohibited within the National Park System, except as authorized by law and pursuant to management plans of the Park Service.

In conclusion, Mr. Speaker, I want to emphasize that in H.R. 7242 we are dealing with a resource that is in the early stages of experimental development. Therefore, we provided for development incentives by giving the Secretary of the Interior flexibility to adjust the terms and conditions of a lease in order to encourage production, but at the same time to assure that the Federal Government receives a fair return.

I also want to emphasize that H.R. 7242 is in very substantial agreement with the Department of the Interior and this administration's recommendation. Extensive consultation and numerous amendments were adopted in order to reach this accommodation.

Mr. Speaker, I fully support H.R. 7242. I think it is a good piece of legislation.

Its enactment should help this Nation begin to realize the value of its vast untapped energy resources. If implemented fairly and equitably, it could be a milepost in our drive to greater energy self-sufficiency. We have the resources and we have the technology. I hope we also have the dedication and the commitment to develop these resources in a manner that will free us from energy strangulation that has been so detrimental to our economy and world leadership in recent years.

Mr. SANTINI. Mr. Speaker, I will be happy to yield such time as he may consume to my colleague, friend, and enthusiastic supporter of tar sands, the gentleman from Utah (Mr. McKAY).

Mr. McKAY. Mr. Speaker, today the House considers under suspension of the rules, H.R. 7242, to provide for the leasing of tar sands on the public domain. For my colleagues who may be unfamiliar with what a tar sand is, it is an oil impregnated or bituminous sand.

The U.S. Geologic Survey estimates that America's tar sands contain something above 30 billion barrels of oil. While this resource is found in 22 States, 90 percent of this Nation's tar sands are located within my congressional district. We have been paving driveways and roads with tar sands for years in Utah.

Unfortunately, that is all the Federal Government has allowed us to do with it.

You see, as one follows an outcropping of tar sand deeper into the earth, it becomes increasingly more difficult to determine where the tar sand ends and the heavy crude oil begins.

Because of this difficulty and the fear of disputes between developers of heavy oil and developers of tar sand, the Interior Department has simply refused for the past 15 years to issue a single lease for tar sands.

During that time, many of these areas known to contain deposits of tar sand, have been leased to individuals and companies under the conventional oil and gas leasing system. Some of the unsuspecting oil and gas leases have spent many dollars acquiring and attempting to develop these tar sands, then to learn that their leases do not contain the right to this resource.

Most of these leases are not in known geologic structures (Kgs) of oil and gas. In fact, of 793 oil and gas leases in these tar sand areas in Utah only six were leased competitively within a Kgs. The remaining 787 were issued on a noncompetitive basis with 10-year primary terms for exploration and development. These outstanding leases now encumber 70 percent of Utah's tar sand resource.

Unfortunately, these lessees are excluded from developing the tar sands and the Interior Department will not lease them to someone who can. Meanwhile, the Nation is becoming more dependent on foreign oil.

Utah has resolved this heavy oil versus tar sand ownership problem by uniting these resources into a combined hydrocarbon lease (CHL). Our State tar sand properties are mixed in checkerboard fashion with Federal tracts and, therefore, cannot be economically developed without a Federal leasing system.

Several years ago, Congress had before it the combined hydrocarbon leasing system for tar sands only to find administration opposition.

To its credit, this administration has given its support to the enactment of H.R. 7242, establishing a combined hydrocarbon leasing system for all hydrocarbons except coal, oil shale, and gilsonite.

There is another question that has come up in some minds that because of this bill we would upset or change the existing tax structure under the windfall profit tax. That has been resolved and does not exist. On page 8 of the report and section 4 of the bill it explains what exists and does not exist as far as that is concerned. In discussing this matter with the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN) has assured me—he had to be off the floor at this time—that he fully concurs with what is here and would like to have me reassure the House that there is nothing in here that changes the tax structure as it presently exists in any way, shape, or form. Therefore, we hope that we can move ahead with dispatch to start getting these oils available for our needs in this country, both economic and security.

Time is short however, if we are going to enact this bill into law this session. We must act in resolute manner on this bill which is 15 years overdue.

☐ 1320

I would like to thank the gentleman from Nevada (Mr. SANTINI), chairman of the Subcommittee on Mining for the time that he has invested in this bill to get these resources available and to deal with the problem before us. The gentleman's untiring efforts and those of his staff are to be commended.

Also, the gentleman from Utah (Mr. MARRIOTT), the ranking member, one of the ranking members of the Committee on Interior and Insular Affairs whose yeoman work has brought this bill to its present position and we hope it will be accepted with dispatch.

Mr. MARRIOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 7242 which I cosponsored along with my colleague, the gentleman from Utah (Mr. MCKAY), the gentleman from Arizona (Mr. UDALL), and the gentleman from Nevada (Mr. SANTINI).

Mr. Speaker, this bill will facilitate the development of oil shale and the development of oil from tar sands in this country. The bill is extremely necessary and important to the security of this country.

Tar sands and oil shale provide rich resources for America to become energy independent. Eighty percent of the truly recoverable valuable tar sand is on Federal land in the State of Utah.

Saudi Arabia and other oil producing countries will only continue to supply us with their resources as long as they feel we are not squandering ours and that we are doing everything in our power to develop them.

Recently I met with King Khalid and Energy Minister Yamini of Saudi Arabia. They were explicit in encouraging us to conserve energy, develop alternatives, and cut down on the demand for oil from their country.

Mr. Speaker, this bill is not the entire solution to the tar sand problem but it does unshackle industry and allow them to develop and recover the oil from tar sands without additional delays. I might indicate, Mr. Speaker, that 2 percent of the world's tar sand supplies are in the State of Utah and they are virtually undeveloped.

Since most oil and gas leases are on land that contains deposits of tar sands, it is only prudent and expedient that we allow companies to recover oil from both.

H.R. 7242 amends the Mineral Leasing Act of 1920 by removing the distinctions among the various types of hydrocarbons, so it will no longer be necessary for the Interior Department to indicate whether the lease which is to be issued is to recover only oil or tar sands.

H.R. 7242 does just that. This bill provides a new vehicle called the combined hydrocarbon lease that would allow companies to recover both tar sands and oil.

Mr. Speaker, I support this bill basically for three reasons. First, it is absolutely essential that we begin to move now in the tar sand and oil shale areas. I have a bill, hopefully coming out of the committee later this month, to address some of the oil shale problems, but this bill begins to help us resolve the problems of tar sand production. Second, America needs new sources of oil. It is ridiculous to hold up production of tar sands over simple technicalities. This bill cuts through the legal and administration quagmire that keeps the Department of the Interior from issuing necessary leases despite the 1960 amendment to the act. Third, by moving ahead and by unlocking tar sands, we can develop better technology, better recovery processes, and better methods of making tar sands economically attractive.

Tar sands is a relatively new area. The only substantial development of tar sands on a commercial production basis is at the Athabasca tar sands operation in northern Alberta, Canada.

Utah and other parts of America also have rich tar sand deposits. If we are serious, Mr. Speaker, about energy independence, we will do something about it and we will unlock the potentials of tar sand. This bill does that and for that reason I urge my colleagues to support the bill.

Mr. Speaker, as a representative of the Republican membership of the Mines and Mining Subcommittee as well as the Interior and Insular Affairs Committee, and as a Representative of the State of Utah I wish to indicate my full and complete support of the legislation before us today regarding the promotion and development of America's tar sands deposits. I was pleased to have been an original cosponsor of tar sands legislation introduced earlier this year and as a member of the Interior and Insular Affairs Committee I have been privileged to participate fully in the development of this important legislation.

It may come as a surprise to those who have followed in a peripheral manner the issue of energy and energy dependence and independence that world tar sands deposits hold fuel resources equal to 65 percent of all of the crude oil known and produced since the discovery of petroleum. That is a disturbing and shocking revelation, that we have available to us in the world such a huge source which remains, with the exception of some Canadian tar sands, undeveloped. It must, of course, be admitted that when one takes the world view, America has relatively little tar sands compared with South America's 59 percent of the world's resources, with Canada's 38 percent of world resources, the United States has but 1.7 percent. Yet that 2 percent remains totally undeveloped.

Tar sands is, as the phrase implies, bituminous (oil impregnated) sand and despite the comparatively small amount of tar sands in the United States in the light of world resources, it constitutes the largest known, nonfluid petroleum resource in the United States.

According to the Department of Energy, domestic tar sands resources range from 24 to 30 billion barrels of oil. Ninety-seven percent of this sand occurs in Utah with 65 percent of it occurring on Federal land. At least one estimate has indicated that 80 percent of the truly valuable tar sands is found on Federal land. Notwithstanding the size and the value of this resource, there is currently no commercial scale production from tar sands deposits in the United States. It is the opinion of the Department of Energy that commercial development of this vast resource will first require the leasing of Federal tracts large enough to support profitable operation. Despite the amendment in 1960 of the Mineral Leasing Act of 1920 to specifically provide for the leasing of such resources as tar sands, only five such leases were ever issued, none of which subsequent to 1965.

Unfortunately, the Department of the Interior in interpreting the 1960 amendments quickly positioned itself deep in a legal and administrative quagmire which effectively prevented issuance of tar sands leases. It is ironic but nonetheless illustrative of what we have come to know as the modus operandi of the Department of the Interior that statute enacted to facilitate a paricular undertaking has been reinterpreted by the Department to prevent the attainment of that objective. Thus we come to the floor this afternoon to remedy that deficiency and to facilitate and assure the development of the tar sands resources.

Mr. Speaker, I believe that the Mines and Mining Subcommittee and the Interior and Insular Affairs Committee in action taken regarding H.R. 7242 has achieved these objectives. The chairman of the Mines and Mining Subcommittee has already enumerated the important aspects of this legislation. I believe that it is good legislation, that it accomplishes the goal of facilitating the issuance of tar sands leases through the vehicle of combined hydrocarbon leases and that it is not encumbered with the excessive administrative baggage that has too often been the hallmark of energy legislation adopted by Congress. It is simple, it is clean, it is straightforward. It takes a statutory deficiency and fashions a legislative solution. It does not add substantial new legal or administrative hurdles which will only delay and frustrate the development of this resource. For that reason, the chairman of the Mines and Mining Subcommittee deserves credit and congratulations. Mr. Speaker, I urge the adoption of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SANTINI. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I rise in an effort to try to clarify the timing and conditions under which leases may be granted by this bill. In this regard, it may be of interest to my colleagues that I have recently been to the Department of Energy, and they inform me that they have run experiments in which two probes are placed in the ground, then electric current is run between the two probes, and this releases the oil from the tar sands. The researchers are very optimistic about what can be accomplished with this process. They tell me that they expect to conduct field experiments in November and December which they hope will prove the viability of this process, and which they expect will show we can produce oil from tar sands at under $20 per barrel. Certainly I agree we should do everything we can to solve our energy problem, and we should do it with domestic sources wherever we can.

The only concern I have is that we may grant these leases prior to proving the great advantage of the processes rather than at a time when we actually know the value of them so that we can protect the American taxpayer's interests.

Mr. SANTINI. Will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Nevada.

Mr. SANTINI. I believe we are setting up a mechanism whereby the Department of the Interior can exercise the kind of economic and national interest judgment about which the gentleman is here concerned.

Since the 1960's under the legal limitations as perceived by the Department of the Interior, no leases have been issued. Essentially they did not know whether it was to be treated as a mineral, treated as oil and gas, so they just threw up their hands and said, "Legislative Branch, solve the problem for us." Now we are providing to them the option to issue the lease.

I, like the gentleman, am much enthused with some of the existing and prospective technical developments in understanding the extractive processes of tar sands and employing them with the highest and best technology we have. I think ultimately the answer to the gentleman's question must be provided by the Department of the Interior who will, we would presume, issue these leases in response to both the economic realities and the scientific advancements that the gentleman has recognized here.

Mr. BEDELL. Mr. Speaker, as I understand it this experimental work is being done through the Department of Energy. I am concerned about the input Department of Energy is going to have with the Department of Interior. It would seem to me that a problem exists if the Department of Energy discovers there is tremendous opportunity for recovery of oil from tar sands at a low price, but the leases for exploitation of the tar sands are granted through another department, one not fully informed and therefore not sufficiently careful in its actions with respect to granting these leases.

Mr. McKAY. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I will be happy to yield to the gentleman from Utah.

Mr. McKAY. For the information of the gentleman, Mr. Speaker, the extraction and probability of extraction from both oil shale and tar sands has been in the developmental process since 1919. There are and there will be new processes which will come on line just as was the case during World War II when we had synthetic tires. The first effort had some cumberancy to it. We will find that now. The known processes now are, a solvency process, another is a water extraction process and another is an in situ to which the gentleman refers, involving electrical probes or other fire probes which may induce the heat that causes the same effect. All three of those are presently being dealt with by some company who would like to get a lease to begin the process of extraction. In the economic process it is possible that we may, even with those known processes, not just electrical probes—to get between $20 and $30 per barrel extraction cost. We are working with the Department of Energy. We have had Secretary Duncan out in the field within the last month dealing with this and talking about how we can expedite this in the best fashion not only environmentally but also dollarwise so that the public reaps the benefit. He too agrees that we need to expedite the development as fast as possible.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SANTINI. I yield 3 additional minutes to the gentleman from Iowa (Mr. BEDELL).

□ 1330

Mr. BEDELL. Is there any requirement in this legislation or in the regulations that would say that these leases, if granted, would reqiure the people who obtain the leases to use those leases within a given period of time? My concern is, are we opening this up in such a manner that the leases could be granted in a way that will prove to be beneficial to those who hold the leases, but not to our country?

Mr. SANTINI. There is the specific diligence requirement in this legislation now to require that the lessee would not be able to simply acquire the lease, sit on it until technology had advanced to such a stage that he would reap, or the company would reap, some kind of economic windfall as a result of that emerging technology.

Mr. BEDELL. Specifically, what does that say? Could the gentleman inform me?

Mr. SANTINI. The gentleman took my copy of the bill.

Mr. McKAY. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I will be glad to yield.

Mr. McKAY. They are required to submit a plan of development in connection with their lease request so that the due diligence clause does exist. I do not have the specific reference.

Mr. BEDELL. It is really left up to the Department of the Interior then?

Mr. McKAY. The Department of the Interior, yes. It gives them the authority to require these things. It also gives the Department the authority to assess additional payments if necessary off the royalties, or forgive certain amounts for incentives.

Mr. BEDELL. I hope the gentleman understands that we need to exploit these resources. I have some concern on timing.

Mr. McKAY. On page 10 of the bill, line 10, it says:

> Such conversion shall take place upon receipt by the Secretary of an acceptable plan of operations submitted by the lessee or his assignee, which assures reclamation and diligent development of those resources requiring enhanced recovery methods of development or surface or underground mining and at such royalties as shall be specified in the lease. Such royalties shall not be limited by the rates provided for in the existing oil and gas lease.

Mr. BEDELL. So, it is the intent of the legislation that the Department of the Interior would not be permitted to grant these leases without a requirement that they be exploited, or turned back.

Mr. McKAY. If the gentleman will yield further, there has been for some time, both in the Appropriations Committee and in the Interior Committee, a move to get the Interior Department to change its whole leasing process. For 2 or 3 years they have been working on that not only for tar sands, but for coal and others, so that no one could buy up a resource and sit on it to the detriment of the total need of our country.

Mr. BEDELL. I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman from Iowa has again expired.

Mr. SANTINI. Mr. Speaker, I yield 3 additional minutes to the gentleman from Iowa.

Mr. Speaker, will the gentleman yield further?

Mr. BEDELL. I yield to the gentleman.

Mr. SANTINI. I think the 5-year lease provision itself is inherently self-enforcing, because it would take at a minimum that time period to bring on to line any kind of recovery process under the tar sand development, as I understand it. The option exists for an extension of 5 additional years, or a maximum of 10 years under the lease provisions of this bill and Department of the Interior cannot grant the extension if there has not been due diligence or manifest good faith in developing the resource in the first 5 years.

I think there is sufficient protection in the legislation now. I would also observe to the gentleman's earlier question that the Department of the Interior is toady working with the Department of Energy in the sense that the Department of Energy sets the goals and expectations on tar sands development.

The Department of the Interior issues the leases. To date, this is one of those rare instances where two governmental entities are working cooperatively together toward a common goal. I am encouraged by the past practice. I think the gentleman's question is well taken, but I think the past practice suggests that we are reasonably secure in knowing that they will be working together in the future as well.

Mr. BEDELL. Is it the intent of the Congress that the Department of the Interior work with the Department of Energy, and give due consideration to any developments that take place in regard to technological improvements?

Mr. SANTINI. If the gentleman will yield further, my unqualified response is, yes.

Mr. BEDELL. I thank the gentleman.

Mr. MARRIOTT. Mr. Speaker, I yield 4 minutes to my good colleague from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of H.R. 7242, a bill to promote the production of oil from tar sands and hydrocarbon deposit and wish to commend the gentleman from Nevada (Mr. Santini) and the gentleman from Utah (Mr. Marriott) for bringing this measure to the floor.

Mr. Speaker, the problems flowing from increasing quantities of imported oil are so significant that they deserve some reiteration. There is the obvious risk of supply interruption because of Middle Eastern politics. The United States can protect itself by having an adequate amount of oil storage capacity, by an expanding refining capacity, and most important, by reducing the amount of imported oil from hostile countries by: First, promoting strong conservation measures; and second, producing more domestic energy.

The bill we are primarily considering goes a long way towards making our Nation energy independent. It would facilitate the production of oil from tar sands. Tar sands are located within 22 States of the United States and hold fuel resources equal to 65 percent of all crude oil known and produced since the discovery of petroleum. Of those resources, South America contains 59.6 percent and Canada 38.5 percent. The best defined deposit in the world, and the only one where substantial development work and commercial production has been achieved, is in Canada.

The legislation we are presently considering will make it substantially easier for American industry to have access to those areas in the United States containing the tar sands. It does so by amending the Mineral Leasing Act of 1920, to abolish any distinction among the various types of hydrocarbons, so that it will no longer be necessary for companies to either look towards importing tar sands, or being burdened with all the complex licensing procedures presently necessary to recover only oil or only tar sands. H.R. 7242 creates a "combined hydrocarbon lease" which will permit the recovery of both oil and tar sands. This procedure will expedite the timespan from which a company applies for a lease to the time where it can actually begin recovering the oil and tar sands.

Considering the energy crisis presently causing both political and economic turmoil throughout the world, it should be quite obvious to all of us that time is a crucial factor and must be given due consideration in any energy project. One way, of course, is to cut down all of the redtape entangling something as simple as the execution of a recovery lease.

Accordingly, I urge my colleagues to support this measure in order to further assist our Nation in becoming energy independent within a much more suitable timeframe than would be the case if we continue to permit the Department of the Interior to distinguish between deposits of oil and deposits of tar sands.

Mr. SANTINI. Mr. Speaker, I yield back the balance of my time.

Mr. MARRIOTT. Mr. Speaker, I yield 1 minute to the gentleman from Idaho (Mr. Symms).

Mr. SYMMS. Mr. Speaker, I want to compliment Chairman Santini and the gentleman from Utah (Mr. Marriott) and all Members who worked on this legislation. In my opinion, this bill is a signal that we are trying to produce some domestic energy in the United States. I think that is what we need.

It is the committee's intent with regard to any diligence requirements that the department take into consideration any research and development work done on tar sands. Thus, if research and development is being done by a lessee offsite, that will be diligent development, particularly in the face of economic market considerations.

I think that is important because it is important that this operation, the entire tar sands operation, move forward in this country. We want to encourage people to produce oil out of tar sands, not discourage them.

Mr. MARRIOTT. Mr. Speaker, I would just conclude by again paying tribute to my colleague from Utah (Mr. McKay) who introduced this bill and brought it to our attention; to Mr. Santini's work in helping to expedite it through the committee.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. Santini) that the House suspend the rules and pass the bill, H.R. 7242, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SANTINI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to insert their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

PERMISSION TO INCLUDE EXTRANEOUS MATERIAL DURING DEBATE ON H.R. 7584, STATE-JUSTICE APPROPRIATIONS

Mr. WOLFF. Mr. Speaker, I ask unanimous consent that during debate on H.R. 7584, State-Justice appropriations for fiscal year 1981, extraneous matter may be inserted in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1340

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 7584, the bill which we are about to consider further.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. Smith).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7584, with Mr. Brown of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 1, 1980, the Clerk had read through line 18 on page 17 of the bill.

The Clerk will now continue to read.

The Clerk read as follows:

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $54,600,000.

Mr. WOLFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had intended to offer an amendment today to correct an anomaly in U.S. diplomatic operations in Israel which have serious implications for the formation of U.S. policy toward Israel.

Israel is the only country in the world in which a U.S. consulate does not report to Washington through the U.S. Embassy. This strange situation of a bifurcated U.S. delegation developed for historical reasons, but need not remain that way.

The United States has had a consulate in Jerusalem since the mid-1800's, before the establishment of the modern state of Israel. The U.S. Embassy was set up in Tel Aviv in 1948, when Israel was established as a nation.

This amendment does not ask that the United States change its policy toward Jerusalem. The amendment simply demands that our diplomatic delegation in Israel speaks with one voice in Israel—and has one ultimately responsible officer, the Ambassador.

A few weeks ago I was in Israel and was horrified at the implications of this historical anomaly of separate reporting. What we have created is an institutionalized conflict within our diplomatic delegation in Israel. During the course of several meetings at the Consulate in West Jerusalem, it became evident that consular and Embassy officials have differences of opinion, not only on what they think U.S. policy should be, but as to what that policy actually is. It seems clear that the U.S. official position should be the same no matter if it is articulated in Tel Aviv or Jerusalem.

Not only is there a difference of opinion on policy matters, but there was a division of responsibility to exacerbate those differences. For example, on the sensitive issue of Israeli settlements on the West Bank and the Gaza, the Embassy reports on Israeli settlers and the consulate reports on the Palestinian residents. Therefore the curious situation develops where U.S. representatives become advocates of the groups concerning which they are to report to Washington. Two sets of reports go back to Washington, often representing very different interpretations of what the "facts" are. The State Department in Washington is then faced with the task, thousands of miles away from those who did the firsthand reporting, with sorting out those differing "facts," and deciding which to accept. Then our State Department is expected to make recommendations to the President as to what United States policy should be on a myriad of sensitive issues, based on a disjointed set of reports. What does this mean for U.S. policy towards Israel? Has the State Department, in exercising its collective judgment been able to sift through discordant reports to come up with policy based on an objective view? I cannot answer that question.

I would not want to stifle dissent and discussion in the State Department.

However, the United States must have one policy position on each issue, and should have a synthesized analysis on which to base that policy decision.

It seems obvious that our Ambassador, as is the case in every other country, should be ultimately responsible for the synthesis and integration of the various reports and pieces of information which political officers collect. The Ambassador must put together these reports for coherent information to be used in Washington. If the U.S. diplomatic delegation within a country cannot make sense of all the information collected firsthand, how can Washington be expected to decide what the real situation is from afar?

I had intended to offer this amendment today simply as a means to make our diplomatic representation in Israel have the same organization that is standard State Department practice in every other country in which we are represented in the world.

However, I was in contact with the State Department's regarding this situation, and discussed it in depth with Assistant Secretary Harold Saunders. Mr. Saunders shared my concerns for a proper relationship between the Embassy and the consulate. He investigated the situation, and consulted with both Ambassador Sam Lewis and Consul General Brandon Grove. Mr. Saunders then wrote me a detailed letter outlining what steps would be taken to enhance the cooperation of the Embassy and consulate, and what would be done to insure that our policy is uniformly expressed. I would like to insert Mr. Saunders' letter into the RECORD at this point:

DEPARTMENT OF STATE,
Washington, D.C., July 3, 1980.

Hon. LESTER L. WOLFF,
Chairman, Subcommittee on Asian and Pacific Affairs, Committee on Foreign Affairs, House of Representatives

DEAR MR. CHAIRMAN: I want to thank you for the opportunity to talk with you on July 2 about the question of coordination of the work of Consulate General Jerusalem and Embassy Tel Aviv. I'm grateful for the time you gave me and respect your analysis of the situation in the Congress.

I appreciated your hearing out my concerns about the foreign policy implications that the amendment you are considering would have, particularly for the Camp David process. As I said, I believe that an act of Congress requiring the Consulate General in Jerusalem to report through the Embassy in Tel Aviv would be seen by the parties to the negotiations, and by others concerned, as much more than a simple change in management procedures. It would be viewed as a unilateral action by the United States prejudging the results of negotiations which have yet to be held and undercutting our long-standing position that the future of the city can be decided only through negotiations.

Let me make clear that on the specific matter of policy coordination between the Consulate General in Jerusalem and the Embassy in Tel Aviv I am in full agreement with the concerns you expressed. While these two posts work with different parties and thus report the differing views of those parties—and it is vitally important for us to have those views reported candidly—they speak from the same set of instructions and with one voice as far as United States policy is concerned. Ambassador Lewis and Consul General Grove, like their predecessors in those functions, have worked closely and harmoniously together.

There are serious operational problems that would arise for the United States Government world-wide from legislation which, as we understand it, would require all our Consulates to report exclusively through the Embassies in the countries in which they are located. I have discussed this with Ben Read. He shares my concern that to require such a procedure would cause a serious loss of flexibility and could undermine the operational effectiveness of many if not all of our Consular posts. Many Consulates report directly to the Department of State on political developments in their districts and send directly their comments and recommendations for action. Almost all report directly to the Department on Consular matters, on visa and passport problems and on the welfare and whereabouts of American citizens and other related problems. To require the Consulates to send their messages to the Embassies for review before forwarding to Washington would cause a loss of time that could be critical in many instances and entail a great increase in the communications burden on our Embassies.

I have discussed your concerns about Consulate General Jerusalem with Ambassador Lewis and Consul General Grove. Both agree that while coordination of their operations has been one of their foremost preoccupations there is need for further effort. As a result of our consultations, I have Sam's and Brandon's agreement to the following:

The Ambassador and the Consul General will continue to work closely together and to meet frequently. It is clearly understood between them that U.S. policy toward Israel is enunciated by Ambassador Lewis, under the direction of the President and the Secretary of State.

Sam and Brandon will make arrangements for their staffs to consult more frequently and to meet together at least twice monthly. We hope that this increased interchange will insure a better mutual understanding of the problems each faces.

All cables from Consulate General Jerusalem of a political reporting or policy nature will be sent concurrently to the Embassy in Tel Aviv and to the Department of State so that the Embassy will have the opportunity to comment promptly.

Oversight here in Washington of the work of both Embassy Tel Aviv and Consulate General Jerusalem will remain vested in the Office of Israel and Arab-Israeli Affairs. I have instructed the Director of that office, David Korn, who accompanied me to the meeting with you on July 2, to give the highest priority attention to assuring that the work of the Consulate General and all its personnel is fully coordinated with that of the Department of State and the Embassy.

Finally, I want to assure you that I will follow this matter closely and will give personal attention to assuring that the arrangement that we have between the Consulate General and the Embassy works smoothly and successfully.

Some of these procedures are already in operation; where that is called for they will be tightened up and adhered to more strictly. Taken together I believe they can meet more than adequately the concern that you and others have expressed, and which we in the Department of State fully share, about the operations of the two posts, without need for legislation that could have unfortunate policy implications for our peace effort and put added burdens on the Consulates and Embassies around the globe.

Sincerely,

HAROLD H. SAUNDERS.

Mr. Chairman, it is important to note that this letter expressly affirms that our Ambassador has the responsibility for enunciating U.S. policy toward Israel. Another important point is that the Embassy will have an opportunity to comment promptly on cables from the consulate.

I feel that these are important and constructive steps to correct the problems I found when I visited Israel. I will continue to monitor this situation closely in order to assess whether or not such an amendment is indeed necessary.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. Mr. Chairman, I thank my distinguished colleague for yielding.

Mr. Chairman, I want to salute the gentleman for taking what I think is a major step forward in improving the input to our State Department from our consulate and embassy in Israel. That was one of the ingredients of the concerns the gentleman from New York (Mr. WOLFF) and I have had, as well as many of my other colleagues here in this body, over this kind of unorthodox arrangement that we have had there.

Mr. WOLFF. Mr. Chairman, I want to thank the gentleman from Illinois (Mr. PHILIP M. CRANE) for the outstanding work he did in order to achieve this breakthrough.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I, too,

want to join my colleague, the gentleman from Illinois (Mr. Philip M. Crane), in commending the gentleman from New York (Mr. Wolff) for continuing to focus attention on the need for an improved administration policy with regard to our dual embassies in the State of Israel.

Several weeks ago, the gentleman from Illinois first focused our attention on this problem and helped to call to the attention of the Administration the need for a one embassy policy in Israel.

The CHAIRMAN. The time of the gentleman from New York (Mr. Wolff) has expired.

(On request of Mr. Gilman, and by unanimous consent, Mr. Wolff was allowed to proceed for 3 additional minutes.)

Mr. GILMAN. Mr. Chairman, will the gentleman yield further?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I believe it is extremely important that in this volatile area we have one policy and one embassy, and that our embassy be located in Jerusalem.

While I understand and agree with the reasons the gentleman from New York has chosen not to offer his proposed amendment, to deny funds to the consulate in Jerusalem unless it reported through the U.S. Embassy in Israel. I wish to state that I would have wholeheartedly supported him in that effort.

As we pointed out to this body last month during the debate on the amendment to move our Nation's Embassy from Tel Aviv to Jerusalem, offered by the gentleman from Illinois, (Mr. Philip M. Crane) the current double standard should not be continued. In an area of the world where our interests are so clear and the climate so volatile, we must speak with one voice and one policy. The consulate in Jerusalem is not an independent outpost. It must be absolutely clear that Ambassador Lewis, as the chief officer of our embassy in Tel Aviv, represents U.S. interests in Israel—and that includes all of Israel.

The administration's comments, in the State Department's recent letter to Mr. Wolff, recognizing the need to halt dual reporting and the mixed signals that the current situation encourages are a welcome revision of policy. I only wish that the administration would more fully correct the problem by bringing the consulate under the direct and full control of our U.S. Ambassador.

A better solution to this problem, however, would be to fully support a policy that recognizes Jerusalem as the capital of Israel, by moving our entire Embassy personnel there. It makes no sense to continue this double standard that can only produce a confused and weakened policy.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I, too, would like to join the gentleman from Illinois (Mr. Philip M. Crane) and my colleague, the gentleman from New York (Mr. Gilman), in commending the gentleman from New York (Mr. Wolff) for continuing to pursue this issue.

While I think we would all agree that the step that has been taken is no substitute for moving the embassy from Tel Aviv to Jerusalem, at least the regularization of relationships between the consulate and the embassy means that we shall in the future be speaking in Israel with one voice, and I think that is very important.

Mr. WOLFF. Mr. Chairman, I thank the gentleman from New York (Mr. Green) for his contribution.

Originally the amendment I had intended to offer read as follows:

> No funds appropriated under this Act shall be made available for any consulate which reports directly to the Secretary of State, instead of through the Chief of Mission.

That language is not necessary at the present time. However, if this policy is not pursued, I intend to offer the amendment at a later date.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $112,000,000.

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards; the National Technical Information Service; the Office of Environmental Affairs; and productivity, technology, and innovation programs; $113,100,000, to remain available until expended. Of the foregoing amount, not to exceed $47,409,000 is for Measurement, Research and Standards (including not to exceed $245,000 for the "Environmental Measurements Program" and not to exceed $500,000 for "Measurement Standards for the Handicapped"); not to exceed $20,516,000 is for Engineering Measurements and Standards (including not to exceed $425,000 for "Earthquake Hazards Engineering" and not to exceed $500,000 for "Measurement Standards for the Handicapped"); not to exceed $11,603,000 is for Computer Science and Technology; not to exceed $5,800,000 is for the Core Research Program for Innovation and Productivity; not to exceed $6,176,000 is for the Technical Competence Fund; not to exceed $1,253,000 is for the Fire Research Center; not to exceed $9,676,000 is for Central Technical Support; not to exceed $4,340,000 is for the National Technical Information Service; not to exceed $1,127,000 is for the Office of Environmental Affairs; not to exceed $5,200,000 is for cooperative generic technology centers under productivity, technology, and innovation programs; not to exceed $6,123,000 may be transferred to the "Working Capital Fund"; and not to exceed $200,000 may be used for construction and installation of improvements to existing National Bureau of Standards buildings. None of the funds herein appropriated shall be available for an "Automated Manufacturing Research Facility".

☐ 1350

AMENDMENT OFFERED BY MR. HOLLENBECK

Mr. HOLLENBECK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hollenbeck: On page 22, line 13, delete the figure "$47,409,000" and insert the figure "$46,809,000".

On page 22, line 22, delete the figure "$5,800,000" and insert the figure "$7,800,000".

On page 23, line 1, delete the figure $9,676,000" and insert the figure "$8,276,000".

On page 23, lines 10–12, delete the sentence "None of the funds herein appropriated shall be available for an 'Automated Manufacturing Research Facility'."

Mr. HOLLENBECK. Mr. Chairman, I offer an amendment to title III of H.R. 7584 pertaining to funding for programs of the National Bureau of Standards. The amendment restores by transfer a $2-million priority item as established by the authorizing committee to the core research program for innovation and productivity in order to acquire and begin operation of the Automated Manufacturing Research Facility.

A major reason for the tight budget constraints faced by the Federal Government today is our faltering economy tripped up in large part by our failure to match intense international economic competition with corresponding industrial and technological innovation. In recognition of this situation, the Science Committee has reported legislation to authorize $12.8 million for a core research program for innovation and productivity.

The Appropriations Committee is here recommending to cut this proposal by $7 million or 55 percent from the recommended authorization. While I recognize the need for careful allocation of funds and fiscal restraint, I believe it is penny-wise and pound foolish to cut back so severely the very programs which could help us out of our present economic straits. In short, while I understand the Appropriations Committee's desire to restrain expenditure, its report nowhere explains why this program was singled out for a cut from the authorization which was three times the size of that proposed for any other program.

Specifically, Mr. Chairman, without giving any reason, the Appropriations Committee directs that no funds shall be available for the Automated Manufacturing Research Facility although that was an initiative highly recommended to members of the Science, Research and Technology Subcommittee in discussions with representatives of the Bureau. As a result, the Science Committee explicitly recommended funding for this facility in its bill, H.R. 7113, which passed this House yesterday under suspension. In our report, the Science Committee stated:

> The Committee believes that an Automated Manufacturing Research Facility is essential if the United States is to continue its leading industrial role. Research into improved manufacturing quality and processing control systems needs to be undertaken. . . . It (the Facility) is to be used for analyzing network strategies developing improved sensors and evaluating standards and procedures for integrating elements into an entirely automated production facility.

I should note that the United States has an urgent need to develop and apply improved techniques for manufacturing process and quality control. The Japanese, for example, are ahead of us in the development of automated industrial robots and I read last month that the failure rate of U.S. integrated circuits used in computer memories is three time that of Japanese because they employ superior techniques of manufacturing quality control. If we do not reverse this situation, we could lose much of the world market in this high-technology area which we now dominate.

In order to keep overall spending at the same level as that recommended by the Appropriations Committee and the President, the amendment I offer also reduces funding for measurement research and standards by $600,000 and reduces funding for central technical support by $1.4 million. The reductions are proposed on the basis of informal negotiations with representatives of the Department of Commerce and the Bureau of Standards.

Mr. Chairman, while the measurement research and standards program has been excellent, when cuts must be made I believe that every program should give a little in order that no one program is decimated. The reduction I propose would reduce this basic research program by only 1.5 percent while making possible a very substantial initiative in innovation and productivity research. Indeed, the Appropriations Committee itself recommended a substantial cut in engineering measurements and standards—a program which is very similar to the measurement research and standards program.

The line item for central technical support which would be cut by $1.4 million, includes funds for the purchase of scientific equipment, for central planning, for computing, and for the research associate program. I understand from the Department of Commerce that the effect of reducing funds for central technical support would simply delay some purchases of scientific equipment in favor of the new equipment and facilities for the Automated Manufacturing Research Facility.

As a result of testimony by the Director of the Bureau, Dr. Ambler, which indicated that his "first priority" for new initiatives would be "automation," and given the great importance which we on the Science Committee attach to stimulating economic innovation and productivity, purchases of new equipment and facilities by the Bureau should substantially contribute to this objective in the committee's view. I believe that the President's $1.4 million requested increase for central technical support can and should be deleted in order to make possible the purchase of the new Automated Manufacturing Research Facility within the core research program for innovation and productivity.

I should add, Mr. Chairman, that my amendment does not single out scientific equipment as the precise line item through which to achieve this reduction, but gives the Director flexibility to find funds as he best sees fit from all programs within central technical support. I hope he will exercise this discretion so that no one item or program will be crippled.

Mr. Chairman, when debating the McClory amendment, the Appropriations Committee objected that the sponsor did not specify where reprogramed funds would be obtained. I believe my amendment satisfies that concern of the committee by specifying specific reductions. It is all too easy to call for cuts while leaving the hard choices to others; I accept that responsibility while proposing this amendment.

In conclusion, I want to commend the chairman of our subcommittee, the gentleman from California (Mr. BROWN), who has strongly supported the Automated Manufacturing Research Facility. His leadership in this area of industrial innovation is an example to us all.

Mr. Chairman, I thank you and I urge the House to approve the amendment which I offer here.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, as I explained before to some of the members of the committee the gentleman serves on, the reason we put in the language that prohibited the use of funds for this purpose is that the authorizing legislation required that not less than $2,500,000 be used for this purpose.

We do not mind them having some flexibility and being permitted to use funds for this purpose, but we felt the authorizing legislation in effect amounted to an appropriation and was really not proper.

As I understand it, members of the authorizing committee who are now in conference, or soon will be, are agreeable to taking out of the authorizing legislation the provision that would make it mandatory that funds be used for this purpose.

Mr. HOLLENBECK. That is my understanding as well.

Mr. SMITH of Iowa. And based on that and the fact that we will be going to conference on this bill and we can still handle the problem if it is not corrected on the authorizing bill, I would not object to the amendment with the understanding that the authorizing legislation is going to be changed so that funds will not be required to be spent.

Mr. HOLLENBECK. The gentleman has such understanding on my part.

Mr. SMITH of Iowa. Good.

Mr. HOLLENBECK. I thank the gentleman.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, the amendment is acceptable under those conditions.

Mr. ERTEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment.

Although the amendment is being offered by the ranking minority member of the Subcommittee on Science, Research, and Technology, that is because the distinguished chairman of that subcommittee, the gentleman from California, is currently in the Speaker's chair. The amendment has the support from both sides of the aisle in our committee, and I am glad to add my own support at this time.

I want to compliment the gentleman from New Jersey for his steadfast support of the committee's work in the area of innovation and productivity and for his initiative in offering the amendment before us today.

Chairman BROWN has been one of the leaders in this House in focusing the spotlight of attention on the national problem of productivity and industrial innovation. He has worked long and hard in a number of areas to insure that something concrete is done to make progress in solving this problem.

One specific area is the Automated Manufacturing Research Facility which is the subject of this amendment.

Such a manufacturing research facility has been in the minds of the scientists and engineers at the National Bureau of Standards for well over a year. In fact, it was proposed in their early budget plans for fiscal year 1981, but it did not survive the later steps in the budget process.

Our committee, the Committee on Science and Technology, has no doubt whatever the National Bureau of Standards has the talent to make a unique contribution to the raising of productivity in American industry. But we realized that the Bureau of Standards has other, equally important responsibilities which in many ways contribute in a less direct way to the improvement of productivity.

As a result, the most important single new initiative included in the authorization bill is the funding for the Automated Manufacturing Research Facility. We believe that it is so important that our bill would place a minimum spending level on this activity. We are disturbed that the appropriations bill would deny any and all funds for this activity, and the Hollenbeck amendment would serve to bring the appropriations bill and the authorization bill into agreement in this area.

We fully realize that the Committee on Appropriations frequently must struggle with the great demand for funds to support important activities. We note that other high priority projects in the authorization bill have been funded at somewhat reduced levels by the committee, and we reluctantly accept these reduced levels. The complete elimination of the one activity directly related to the advancement of America's manufacturing productivity would, however, in our view, be a serious mistake.

This amendment would restore $2 million for this project while at the same time make offsetting reductions in two other line items, thus maintaining the overall level of the funds available to the National Bureau of Standards.

I strongly urge the adoption of this small but significant amendment.

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment.

The Appropriations Committee, and

the acting chairman of the subcommittee, the gentleman from Iowa, have done a very good job on this bill. I especially want to commend the committee for bringing the bill to the House in a form that allows us to review and discuss the priorities for the small but important activities of the National Bureau of Standards.

Mr. Chairman, last month one of the TV networks presented a program called "If Japan Can * * * Why Can't We?" According to the announcements, Japanese productivity is growing at an annual rate of 10 percent. The corresponding figure in this country is below 3 percent.

In our extensive hearings before the Science and Technology Committee we reviewed with a good deal of care what role the National Bureau of Standards could and should play in this field. As one of the outstanding science and technology laboratories of the Federal Government we thought that their capabilities could be put to good use in helping solve the country's productivity and innovation problems.

Our expectation was confirmed by the senior management of the Bureau. Their highest priority is in this field. In fact, the Bureau's Director felt that research in automated manufacturing, the very activity which is the subject of this amendment, must be given the highest priority. As a result, the authorization bill, as my friend from New Jersey has noted, places specific emphasis on this area, and his amendment would do the same for the appropriations bill.

Mr. Chairman, this amendment would not increase the overall appropriation for the National Bureau of Standards. It would permit the Bureau to move forward in the area of automated manufacturing, an area which we can ill afford to ignore. I join with my colleagues in urging its adoption.

● Mr. FUQUA. Mr. Chairman, I rise in support of the amendment offered by my colleague, the ranking minority member of the Subcommittee of Science, Research and Technology.

I think that it is unfortunate that the bill before us would eliminate one of the significant and imaginative new steps within the National Bureau of Standards aimed at industrial productivity improvement. The Automated Manufacturing Research Facility will permit the Bureau to initiate research on one of the most important fields of automation: the field of computer control of the manufacturing process.

This is an area where our Japanese competitors are rapidly moving forward. After extensive hearings in the subcommittee, chaired by our distinguished colleague, George Brown of California, our subcommittee concluded that high priority should be given to the initiation of this research. As a result, the authorization bill, which will soon be considered by this body, provides a special floor under this expenditure by the NBS. The bill before us today would, if not amended, specifically eliminate all funds for the Manufacturing Research Test Facility.

Mr. Hollenbeck's amendment would restore this small $2 million program without exceeding the total amount to be appropriated to the NBS. It is an amendment which would make a significant contribution to the solution of one of our long-term national problems: The problem of manufacturing productivity. I urge every Member to support it.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Hollenbeck).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk concluded reading title III.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that title IV be considered as read and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order against title IV?

Are there any amendments to title IV? If not, the Clerk will read.

The Clerk read as follows:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $1,500 for official reception and representation expenses; $71,000,000.

Mr. LAGOMARSINO. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1410

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Clerk will read.

The Clerk read as follows:

INTERNATIONAL COMMUNICATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the International Communication Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to the civil service and classification laws, of persons on a temporary basis (not to exceed $20,000); expenses authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1159), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921–5925; and entertainment, including official receptions, within the United States not to exceed $8,000; $419,000,000, of which not to exceed $3,746,000 of the amounts allocated by the International Communication Agency to carry out section 102 (a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided*, That not to exceed $460,000 may be used for representation abroad.

AMENDMENT OFFERED BY MR. EVANS OF DELAWARE

Mr. EVANS of Delaware. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Evans of Delaware: Page 36, line 17, strike out "$419,000,000" and insert "$421,100,000".

Mr. EVANS of Delaware. Mr. Chairman, my amendment adds $2.1 million to the International Communication Agency appropriations for increased VOA programing in the Moslem world. I do not have to point out the significance of this region to anyone in this body. The invasion of Afghanistan and the turmoil in Iran highlight the strategic and economic importance of this area, not only to us but to the Soviet Union as well.

Incredibly, however, the Voice of America is critically short of funds needed to recruit people who can speak the various complex languages of this region. As a result, we are not reaching millions of individuals who inhabit these countries. Specifically, the funds in my amendment will provide an additional six hours of daily broadcast time in seven key Islamic languages in the Middle and Far East and Northern Africa.

They are: Arabic, Dari, Bengali, Hausa, Hindi, Swahili, and Indonesian. These broadcasts will reach one-half billion Islamic people in over 20 nations, including Afghanistan, Pakistan, Iran, and northern India. This amendment will nearly double existing plans to increase broadcasts in this part of the world.

Mr. Chairman, the projected plans by the Voice of America are good ones, yet they still leave us far short of what is needed in that critical area of the world. Soviet broadcasts are still over double our efforts. The Soviets also broadcast in many languages in which we are not broadcasting at all. For instance, in Dari, the crucial Afghan language, Soviets are broadcasting 5½ hours daily, while we are only now recruiting personnel to begin one-half hour of Voice of America broadcasting a day in the Dari dialect of this Persian language.

Mr. Chairman, I came across an article in the Wall Street Journal yesterday that was written by Prof. Zalmay Khalilzad, an American of Afghan origin who is presently serving as an assistant professor of political science at Columbia University.

I would ask that the entire article, entitled "Helping the Afghan People" be included in the Record. I would like to repeat one paragraph from that article, "Helping the Afghan People," where Professor Khalilzad states:

> First, six months after the invasion the Voice of America still has no program in any of the native major languages of the country to inform Afghans about Western reactions to the invasion, the activities of the foreign-

based Afghan resistance movement, and the American efforts on behalf of their country.

Mr. Chairman, the entire article is as follows:

[From the Wall Street Journal, July 21, 1980]

Helping the Afghan People

(By Zalmay Khalilzad)

More than six months after its invasion of Afghanistan, the Soviet Union's strategy for control of the country is a failure. The strategy had two components. At the symbolic level, the emphasis on Islam was supposed to calm the natives through such measures as adding a bit of palliative Islamic green to the flag and having Soviet-installed President Babrak Karmal punctuate his speeches with cries of "God is great!" On the military level, the use of some 85,000 troops against the variety of ideological, regional, and tribal Afghan opposition has not ensured a Soviet ground victory so far, any more than the first measures have made inroads on the pervasive anti-Soviet sentiments of the population.

The situation is likely to change after the participants in the Moscow Olympics have departed early next month. With world attention no longer focused on the hosts of the festival of peaceful sporting values, the Soviets are likely to launch a greater military effort to crush Afghan resistance.

U.S. neglect of Afghanistan—resulting from miscalculation of that country's strategic value and from other errors in policy toward the region and persisting even in the face of warnings of an aggressive Soviet move—did much to make the present situation possible. Belatedly, the U.S. attempted to devise a set of responses after the invasion. It initiated the Olympic boycott, started redressing the military balance in the Persian Gulf and imposed a partial embargo on the Soviet Union. These steps were important and some of them long overdue. However, U.S. and allied response in terms of moral and material support for the Afghan fighters has consisted of the very least that they could do. The continued negligence is reflected at several levels.

First, six months after the invasion the Voice of America still has no program in any of the native major languages of the country to inform Afghans about Western reactions to the invasion, the activities of the foreign-based Afghan resistance movement, and the American efforts on behalf of their country. VOA's English programs reporting on Afghanistan come from New Delhi, the capital of a country not distinguished by its support of the Afghans nor by its hostility to the Soviets.

POORLY ARMED

Second, the Afghan fighters continue to be poorly armed. The U.S. and its allies have been reluctant to provide Afghans with large numbers of portable American anti-tank and anti-aircraft weapons.

Third, the Afghans have received little economic assistance. As a result, Afghan opponents and the population as a whole face serious economic problems, including shortages of food, a demoralizing and incapacitating condition that works to the advantage of Soviet occupation. The Soviet invasion has forced hundreds of thousands of Afghans to flee to Pakistan and Iran. The war inside Afghanistan has destroyed the agriculture in areas of greatest resistance to the Russians. Apparently, part of the Soviet strategy is to starve the population in areas of greatest resistance through the use of defoliants.

Why has the West been reluctant to provide more than very modest aid to the resistance? Two reasons are commonly cited; first, that the opposition is factionalized. Given the heterogeneous nature of Afghan society and the political fragmentation throughout the region, complete unity among Moscow's Afghan opponents is unlikely in the immediate future. The question is whether such unity, for the purpose of effectively combating the Soviets, is essential. It was the same fragmented guerrilla movement that scored major victories against the previous Marxist regimes, even though they commanded over 100,000 troops and modern Soviet equipment.

The Afghan resistance has grown in effectiveness throughout the period of the occupation, facing the Soviets with more difficulties now than they had six months ago and the form of this resistance—decentralized, sporadic, unpredictable—even possesses advantages over a more coordinated proceeding.

Second, it is argued that substantial aid to the resistance might provoke Moscow into retaliatory expansion into Pakistan and Iran. Certainly, providing major backing carries some risks for neighboring countries, especially Pakistan, but the risks for them will be greater if the Afghans are defeated. With a pacified Afghanistan, Soviet capability in the region will increase substantially. Even without believing in a Soviet master plan for control of the area, the signals and the persistent direction of Soviet efforts present a warning that should be heeded. Soviet control—direct or indirect—over the Persian Gulf would represent a massive threat on the economic, energy, diplomatic and military levels. Such control would provide the Soviets with a lever to weaken and divide the Western alliance, a persistent Soviet goal.

The reluctance of the U.S. and its allies fully to acknowledge this threat and take appropriate measures is puzzling. To date, neither the preventive nor the responsive policies of the U.S. regarding Soviet expansionism in the area have been nearly adequate. It is important to avoid the same retrospective and inadequate response in the future, and this should begin by preparing to counter the post-Olympic Soviet strategy in Afghanistan. The continuation of Soviet entanglement through effective resistance could, by involving the Soviets in a protracted war, reduce their capabilities elsewhere. This would also serve to give the U.S. and its allies the time they need to redress the military imbalance in the Gulf, and it would, by drawing continued attention to the aggressive Soviet policy toward a Third World country, increase the ideological costs of that policy by pointing out the *realpolitik* calculations behind the emancipatory Soviet rhetoric regarding developing countries.

This latter demonstration may be particularly instructive for Moslem countries, where increased hostility to Moscow could even bring about possible domestic consequences. In a state where criticism of foreign policy is not permitted to articulate itself in demonstrations or movements, the only domestic pressure could come from an area that might—in their own terminology—be called their "internal colony": the Islamic populations of Soviet Central Asia. If the Soviets continue to make war on their ethnic and religious counterparts across the border, protest may arise there. The sum of these costs may even persuade Moscow to accept a compromise solution for the Afghan conflict.

NEED U.S. SUPPORT

An important component determining the ability of the rebels to continue their opposition will be support from the U.S. and its allies in the moral, economic, and military dimension. At the moral level the U.S. can initiate VOA programs for Afghanistan and the Moslem regions of the Soviet Union and can broadcast reports of Afghanistan from a sympathetic capital, such as Islamabad. Moral assistance should be accompanied by the provision of compact and nonperishable food to the Afghans, both refugees and populations in areas of resistance. The capacity to offer prolonged and effective resistance will have to be supported through the provision of military materials, including portable anti-aircraft and anti-tank weapons.

The media and governments of the West back the resistance in principle. In effect, the backing has been half-hearted. Documentaries about Afghanistan are shown on European television, but only in a censored version, with such parts as burning villages cut out to avoid "fueling Cold War sentiments." At the same time, there is a diffuse realization that more is at stake than the political rights of a distant population; it is unlikely that the Soviets have somehow chosen Afghanistan alone for their military and political attentions.

A population willing to face starvation and massive sanctions to resist an occupying army deserves the support of democratic powers in any case, but in this instance the moral imperative is also backed by intelligent self-interest. Resting content to counter Soviet aggression to "the last Afghan" is a stand not only incommensurate with Western political values, but also dangerous to the security of the U.S. and its allies.

Mr. Chairman, the amendment I am offering is a modest one, but it will do much to strengthen our efforts. It shows what I hope is just the beginning of our continuing intent to strengthen this vital aspect of our national security program.

International broadcasting is an essential element of our national security. These broadcasts are an important part of our national defense program. They are nonmilitary and employable now. They give us something other than just a military option. Rather than reacting to a crisis, we can help prevent that crisis from ever occurring. I have always believed that an ounce of prevention is worth a pound of cure. For slightly more than the price of 1 new XM tank, we can extend our contact with over 500 million people.

One of the problems we have, I believe, in our dealings with other nations is that we are often misunderstood by their populations. If we are ever going to pierce that veil of distrust that unfortunately does exist among nations, we must communicate in order to bring about a better understanding among nations. The citizens of those countries where freedom of the press is denied by their governments rely on information from outside to gain knowledge of world events.

The CHAIRMAN. The time of the gentleman from Delaware has expired.

(By unanimous consent, Mr. Evans of Delaware was allowed to proceed for 3 additional minutes.)

□ 1420

Mr. EVANS of Delaware. When this information is not available it makes it much easier for anti-American propaganda to be disseminated and accepted as the truth. We need only to look at the Soviet Union's activities in this area to see the importance of international broadcasts in the world community.

Radio Moscow and other Soviet radio operations broadcasts in 63 languages for more than 2,000 hours per week. In comparison, the Voice of America broadcasts in 38 languages for a worldwide total of 836 hours weekly. The Soviet figures do not include clandestine radio broadcast programs which appear to come from inside of neighboring countries. For instance, the Soviet Union has been beaming clandestine broadcasts in Iran since 1959.

Total Soviet broadcast time has nearly doubled since the Shah's decline, and these broadcasts no doubt contribute to the turmoil and the anti-American hysteria in that nation and were surely one of the factors in the invasion of our Embassy and the holding of our citizens hostage.

Mr. Chairman, the importance of our efforts in this field cannot be underestimated. For millions of people, our international broadcasts are their only source of truthful information about actions by their governments.

A recent UPI story from Moscow illustrates the power of our international broadcasts. "For Andrei Sakharov" stated this story, "Exile means sitting long hours at a bare wooden table listening to the Voice of America," often, according to his wife, "learning for the first time the details of his banishment."

Mr. Chairman, there is a force which we have that is more powerful than arms. It is the force that the Ayatollah Khomeinis and the Communists of the world fear the most. It is the truth. It is the weapon of ideas. As Lenin, the father of Russian communism, once said, "Ideas are more fatal than guns."

We do not have to improve on the truth because our ideas and accomplishments speak for themselves. This is, I believe, our greatest advantage. We need not color the truth, but merely relay it to the world in a strong and a clear voice.

I am remindful of the inscription on Thomas Jefferson's Memorial here in Washington, D.C., which states,

> Here, we are not afraid to follow truth wherever it may lead, nor to tolerate any error so long as reason is left free to combat it.

Mr. Jefferson was referring to the University of Virginia which he founded, but the same principle applies to our Nation.

The CHAIRMAN. The time of the gentleman from Delaware has again expired.

(By unanimous consent Mr. Evans of Delaware was allowed to proceed for 1 additional minute.)

Mr. EVANS of Delaware. He believed, as I do, that the truth will always win out over lies. But the truth must get through.

My amendment directs vitally needed broadcast funds to the most critical part of today's world. The East-West confrontation is taking place now in the Moslem world, and our side of the story must be heard. My proposal is a small investment when measured against what is at stake. I urge my colleagues to support it.

The CHAIRMAN. The time of the gentleman from Delaware has again expired.

(At the request of Mr. Broomfield and by unanimous consent, Mr. Evans of Delaware was allowed to proceed for 3 additional minutes.)

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman, the ranking minority member on the Foreign Affairs Committee, Mr. Broomfield.

Mr. BROOMFIELD. Mr. Chairman, I wish to compliment our distinguished colleague from Delaware for this amendment. I think it is an extremely important one.

As the gentleman pointed out earlier, Andrei Sakharov's message from exile that he receives his world news from Western broadcasts on a transistor radio he carries with him is a reminder of one of our country's most valuable resources in our continuing conflict with the Kremlin—the International Communication Agency and its valuable component, the Voice of America.

The Voice of America is an important national security tool—a weapon in our arsenal which can help to combat communism, communicate the message of freedom, and insure victory in the struggle of truth over falsehood. It is a vital arm of American foreign policy and an essential element in our national security. However, it must be strengthened.

The Soviet Union broadcasts in over twice the number of languages as the Voice and is on the air nearly three times as much. Moreover, many of these Soviet broadcasts, which are stridently anti-American, are aimed at the Persian Gulf and Asia where we have important national security interests.

If the Voice of America is to adequately tell its story to the people of the Persian Gulf and other areas, certain broadcasting additions are required. Given the disturbing events in Iran and Afghanistan, we must move now to strengthen the Voice of America.

In short, I strongly believe that the symbolic significance as well as the national security implications of this amendment, are far more important than the money involved. I therefore urge my colleagues to support the gentleman's amendment.

Mr. EVANS of Delaware. If the gentleman will yield back, I would just like to thank the gentleman for his contribution and say that the original concept of this amendment came from the gentleman from Michigan (Mr. Broomfield). It was the gentleman from Michigan who first suggested this approach a number of months ago in a letter to the Appropriations Committee that was cosigned by some of his colleagues on the Foreign Affairs Committee, including the distinguished chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. Zablocki). I thank the gentleman for his tremendous contribution.

Mr. BROOMFIELD. I thank the gentleman.

The CHAIRMAN. Time of the gentleman from Delaware has again expired.

(At the request of Mr. Lagomarsino and by unanimous consent, Mr. Evans of Delaware was allowed to proceed for 3 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Delaware. I yield to my distinguished friend from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the amendment.

I have long advocated additional funding for a Voice of America, because I believe it serves as a most effective means for bringing the principles of freedom directly to the peoples of the world. Without Government censorship, and in most circumstances without jamming, the Voice of America's message provides an immediate, accurate view of the events shaping our world.

For many listeners to VOA, there is no other credible source for a straightforward presentation of the facts of the news events of the day or for analysis and commentary of what those events might mean.

In my travels around the world in my capacity as member of the Foreign Affairs Committee, I am constantly reminded of the influence of the Voice of America in other societies. Invariably, I will meet people overseas—either in formal settings or who simply come up to me on the street—who tell me they always listen to VOA.

The amendment of the gentleman from Delaware seems to me particularly appropriate at this time. The Moslem world is undergoing a period of change that is having repercussions on the entire world. Certainly, the influence of the Islamic oil-producing nations on the world economy has produced changes in the last 6 years that are unprecedented in previous history. The Iran and Afghan crises have shaken the world with uncertainty and confusion, leaving the major powers without a sense of direction or method for dealing with those events. And all the while, we get reports that the citizens of those countries receive distorted and inaccurate news of what the real situation is like in their own countries.

In that kind of environment, the Voice of America is playing a role to bring clarity and understanding to the Middle East region. I support that role and believe it should be expanded at this critical time in our history.

I urge my colleagues to support the amendment of the gentleman from Delaware to increase funding for the Voice of America.

Mr. EVANS of Delaware. I thank my friend from California.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from Indiana, a distinguished member of the Foreign Affairs Committee.

Mr. QUAYLE. Mr. Chairman. I rise in support of the gentleman's amendment. As all of you may be aware, the Voice of America has recently proposed a modest expansion of its broadcast programing. The Voice is extending itself to reach critically important Islamic audiences in Central Asia, including the southern reaches of the Soviet Union, the outlying provinces in Iran and most especially, the recently subjugated nation of Afghanistan. This moderate, but significant expansion of VOA activities would increase the agency's broadcast time by just 6 hours a day and add seven key Islamic dialects to Voice of America programing. The cost of these additional modest increments would be $2.1 million for fiscal year 1981.

Through its Government-funded radio broadcasts, the United States can actively work against Soviet expansionism, shaking loose the Soviet stranglehold on the free thinking of native populations. The Voice of America is a cost-effective and relatively inexpensive component of our Nation's security arsenal. It acts in a positive manner, counterbalancing the damaging falsehoods emanating from the Kremlin. The dissemination of accurate, objective news reports by the Voice of America can only offset, in glaring contrast, the lies and lack of information found in Soviet news reporting.

The Soviets currently broadcast to the world in 83 languages with over 2,000 hours of air time per week. Radio Moscow alone has an estimated annual budget of $800 million a year. In contrast, the United States, through Voice of America, Radio Free Europe and Radio Liberty makes use of less than 60 languages and has a combined total of about 1,800 broadcast hours each week; and Voice of America, the leading arm of our Government-funded radio programing, operates on an annual budget of just $85.5 million.

To strengthen this vital element in our defense capabilities and bolster the American position in southwest Asia, I urge my colleagues to respond favorably to the gentleman's amendment and increase funding for the worthwhile programing of the Voice of America.

Mr. EVANS of Delaware. I thank the gentleman for his contribution.

☐ 1430

Mr. HIGHTOWER. Mr. Chairman, I rise in opposition to the pending amendment.

Mr. Chairman, I could not agree more with what my colleague, the gentleman from Delaware (Mr. Evans), has had to say. This is a very important issue, and it is important to expand our coverage to the Islamic countries. But it is an issue that the subcommittee was in complete agreement on, and we very carefully heard the testimony by the International Communication Agency. We are very anxious to provide an adequate amount of funding to really do this job. The subcommittee bill is a $23 million increase over 1980 appropriations. It includes $419 million for this appropriation. This amount is sufficient to increase broadcasts to selected Islamic populations by more than 150 percent. So you can see that the subcommittee is serious about addressing the problem. These broadcasts include Persian, Urdu, Uzbek, Bengali, Turkish, and Azeri. During the current fiscal year, ICA has been broadcasting a total of 28 hours per week in these languages. The amount now included in the bill will enable them to broadcast a total of 59.5 hours per week in these languages.

Mr. Chairman, it is not an easy matter or a matter that can be handled very quickly to gear up for this kind of a budget increase, to get the right kind of people to do the proper job, and we want to do a good job to reach these people in the Islamic areas. If it is deemed appropriate to increase broadcast time to the Islamic world even more, ICA can propose to reprogram funds from programs with lower priority.

Mr. Chairman, we have provided virtually the full amount requested for ICA, and we feel that amount is adequate to carry out the ICA programs to meet this very real need.

I agree with my colleagues on the other side of the aisle. The subcommittee was in agreement as to the need to increase the broadcasting in this area. I urge the Members to vote against this amendment.

Mr. O'BRIEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. I think the gentleman from Texas makes the case for the committee very clear. It has nothing to do with the sympathies of the committee to espouse the cause that the gentleman from Delaware (Mr. Evans) speaks so eloquently about. But the fact is that there has been very substantial support for this program within the committee. If memory serves, I think the committee reduced the revised estimate from the administration by only $350,000, leaving the balance at $419 million, a sum that most of us believe would be adequate to do the job today.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am one of those who consider all the radios—the Voice of America, Radio Free Europe, and Radio Liberty, each with its own valuable mission—as elements of our national security. The truth is a weapon in the hands of people who would be free against those who attempt to enslave or destroy them. It is a nonlethal weapon, to be sure, which should broaden its appeal.

The truth of what is happening in Afghanistan should not be denied to the people of that tortured country and to their ethnic and religious counterparts in the "internal colony" in the Soviet Union. The reasons are obvious to all. Intelligent self-interest dictates this investment in disseminating the truth to a crucial area of the world.

Mr. Chairman, may I point out that the gentleman from Texas and the gentleman from Illinois are very effectively and properly defending their subcommittee's markup, and I commend them for the integrity of their views. However, I would like to point out this amendment is really long overdue, and I, for one, feel we should have adopted an amendment like this some years ago. The fact is in the area of international broadcasting we have been pennywise and pound foolish. If we are to win the propaganda war—which is really what we are speaking about—this is a major investment in our national security interests. I would think that at this time, when the world situation is overdramatized by the developments in Afghanistan, the realization that we have been underbroadcasting to the Moslem world is not to be denied. We are making an overdue correction. We have been negligent in telling our side of the story, whereas the Soviets, the Peking Chinese Government, and the other radical governments of the world have been much, much more aggressive.

I commend the gentleman from Delaware (Mr. Evans) and point out to the Members of the House that his amendment is a strong effort to upgrade our broadcasting services.

The issue here is quite clear. Do we make this necessary investment in our ability to tell the truth to the world? Let me give you one example. Right at this moment the Soviets are staging what is left of the Olympics. It is a phony show, a propaganda show. Yet yesterday if you perused the sports section, you found that an athlete listed from the U.S.S.R. was one of the winners in weightlifting. He had a clearly identifiable Armenian name. If we had all the capabilities that are theoretically possible in our broadcasting program, we could identify that to draw the line between the Russian overlords and the captive people, which includes the Armenians, and to broadcast in the Armenian language more intensely than we do. I could go on and on and give you other examples.

My point is that not just this year, but in years past and, hopefully, in years to come, we have to be more generous and more practical in supporting the Voice of America, Radio Free Europe, and Radio Liberty. We have got to tell our story in an affirmative, effective, aggressive fashion. I consider that a wise investment. I consider it as much of an investment as if we were to produce an additional F-16 fighter plane. So it is in that context, recognizing that the battle for the minds of men is as important as any battle we face. I urgently urge your support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware (Mr. Evans).

The question was taken; and on a division (demanded by Mr. Derwinski) there were—ayes 14, noes 9.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,300,000: *Provided*, That no part of this appropriation shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any State Legislature: *Provided further*, That none of the funds appropriated in this title may be used to carry out any activities for or on behalf of any individual who is known to be an alien in the United States in violation of the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens: *Provided further*, That none of the funds contained in this paragraph shall be used to increase funds allocated to programs serving those areas of the country already funded at the minimum access level or to activities directly administered by the Corporation unless minimum access to civil legal assistance is available or provided in all parts of the country.

AMENDMENT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONABLE: Page 38, line 22, strike out "$321,300,000" and insert in lieu thereof "$312,700,000."

Mr. CONABLE. Mr. Chairman, I am trying to save a little money at this point in what I think generally is a fine measure. I am urging my colleagues to strike from the $321,300,000 earmarked for the Legal Services Corporation $8,600,000. That sum is not specifically identified in the amendment, but it is the equivalent of the sum spent on the Legal Services for the migrants program, which is a formula expenditure based on the total amount appropriated and the number of migrants served.

I have generally supported the Legal Services Corporation, Mr. Chairman, and it is with great reluctance that I have concluded that only in this way can I call attention to what I believe to be a rather serious abuse of the Legal Services Corporation in its handling of the migrant program. In my area we have a modest amount of migrant labor. It is, of course, made up largely of poor people, although some probably would not qualify as such. Most of the year they live at different places in the United States and are subject to the benefits of the Legal Services Corporation in their home States.

□ 1440

When they are concentrated in one location for the purpose of performing farm labor, a great concentration of Federal services are provided them. Federal and State services, if I may say so. While they are in that neighborhood, they are also eligible for the benefits of local law such as the local welfare system.

In my area we have found from bitter experience that the Legal Services Corporation members have tended to focus their attention on the migrant group in such a way that their performance has been quite disruptive. As a matter of fact in one of my counties this past year, as a result of long experience of contention between the Legal Services Corporation, growers and local agencies as well as the other Federal agencies, I secured from the Law Enforcement Assistance Act a grant which was to establish a mediation services among these various contending agencies, all seeking to press their services upon the migrants during the limited period of time they were there for the potato harvest.

Cooperation was outstanding among all the agencies except the Legal Services Corporation which took a position with respect to these migrants that since they were their clients they could in no way compromise their rights by participating in a mediation service designed to make those rights flow smoothly, coordinate with the services provided by other Federal agencies.

The effect of this has been one of contention, disruption, and a harvest of very serious ill will for all the Federal agencies striving to provide services to the migrant population during the limited period of time they are in my area. Consultation with some of my colleagues has led me to believe this is true almost all over the country. In the lower Hudson Valley a similar experience has occurred. In New Jersey. In Texas.

Mr. Chairman, I have come to the reluctant conclusion that this aspect of the Legal Service Corporation is almost destined by the short timeframe within which the services have to be provided, to be provided in an atmosphere of conflict and contention quite detrimental, not just to the people who depend on migrant labor for the harvest of their crops, but to the migrant laborers themselves as they have their coattails plucked by importunate servants seeking to press their services upon them whether or not they are desired.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from New York (Mr. CONABLE), to strike $8.6 million from the budget of the Legal Services Corporation, with the intent that those funds be dropped from the migrant farmworkers program.

I have been a consistent supporter of the legal services concept, and have supported the theory and intent of the migrant worker program. However, I regret to say that my constituents have found the differences between theory and practice and between intent and facts to be widely divergent. The President of the Legal Services Corporation recently informed me that, while the various migrant farmworker programs constitute only a small percentage of his budget, they take up a very large percentage of his time.

In fact, constituents of mine who have in one way or the other worked on the inner city programs of our local legal services organization have expressed to me a fear that the migrant worker program is giving their other legal services programs a "black eye" and may well jeopardize the entire organization.

In my congressional district, Mid-Hudson Legal Services Inc. has a migrant farmworkers program which has aggressively litigated for farmworkers in our region. For several years, I have heard complaints and have received documentation that the pursuit of their goals may be too aggressive and that in fact it has caused vexation and consternation.

Farmers in my region are disturbed about legal actions being brought in Federal courts, bypassing the local and State court systems and thus necessitating the expense and time of traveling 50 to 100 miles to the courts.

Our growers are disturbed too, that in many cases, no attempt to reach a settlement is made prior to commencing litigation. Several growers have related incidents where they knew no grievance existed until they were served with papers. In one case, a grower was sued and spent many hours in Federal court over a disputed $7.50—which he would gladly have rectified if it had been called to his attention.

The growers are also disturbed that legal fees are recovered by the attorneys for legal services, even though such fees have been funded by the Federal Government;

The growers are concerned that the enforcement of "penalty provisions" are being carried out by Legal Services, when this function should be more properly performed by Federal enforcement officials of the Department of Labor;

The growers are disturbed about spurious litigation being filed;

So too there is concern that Legal Services represents nonclient interests;

The growers are disturbed that Legal Services has allegedly participated in several labor strikes; and

The growers in my region are disturbed that Legal Services are representing clients with incomes above the economic threshold.

And I can assure our colleagues that it is not only our constituents who are disturbed by these activities, but similar reports have been received from other agricultural sections of this Nation.

In numerous meetings with my constituents, with my colleagues, and with representatives of the Legal Services Corporation, it has become obvious that the Legal Services Corporation simply has insufficient control over the activities of its grantees and cannot prevail upon them to desist from continuing these various questionable practices. As questionable as these activities may seem, they are all apparently within the letter of the existing law.

Thus, the amendment offered by my distinguished colleague (Mr. CONABLE) is a significant way of helping to resolve this situation. I can assure my colleagues that I would like to see Legal Services succeed. But if some reasonable safeguards are not adopted, we may see serious efforts in the near future to do away with the program altogether. If we do not reform this program now, we may lose it entirely tomorrow.

Action is needed now to keep the individual programs within the bounds of commonsense as well as within the bounds of the law. Accordingly, I urge support of the gentleman's proposal to send a message to the Legal Services Corporation, to encourage them to use whatever authority they do have to insure compliance with good sense and good policy.

Mr. CONABLE. I thank the gentleman for his contribution. It is true there is considerable decentralization in the program. The result has been the loss of control in some areas. The result has been in fact in my view detrimental to the migrants themselves.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HYDE and by unanimous consent, Mr. CONABLE was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Will the gentleman yield to me?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. HYDE. It seems to me the distinguished gentleman from New York, with whom I almost never disagree, is trying to get the attention of the Legal Services Corporation. It seems to me that the problems that the gentleman and my friend, the gentleman from New York (Mr. GILMAN) have recounted are problems of administration and problems that could well be handled by the local judiciary. After all, there are penalties for malicious abuse of process, for unlawyer-like conduct, but it just seems to me that a migrant who is entitled to health care ought to be just as entitled to legal care and the fact that he is a migrant from another community ought not to work to his detriment and ought not to deny him or her access to legal advice.

Mr. CONABLE. Mr. Chairman, let me reclaim my time at that point. I will say the effect of the Legal Services intrusion on the scene in my particular area has been to cause growers to have to travel many miles to Federal courts because local courts have not had the exclusive jurisdiction and the Legal Services representatives have tended through a process of harassment to try to take them sometimes many hundreds of miles to Federal court rather than deal with them through the local courts that are available for them.

Mr. Chairman, I must say that it is perfectly true that poor people should have access to legal assistance.

The type of legal assistance of which I am complaining is one of harassment which the gentleman from Illinois as a lawyer knows is available to those who do not exercise their powers with the good will that is normally expected of the bar.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. HYDE. I sympathize, Mr. Chairman, with the complaints the gentleman is making. It just seems to me that the cure ought to be a Bar Association hearing on that sort of thing.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HYDE and by unanimous consent, Mr. CONABLE was allowed to proceed for 1 additional minute.)

Mr. HYDE. Will the gentleman continue to yield.

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, it would seem to me the local judiciary could put a stop to harassment, which is improper conduct, but the cure the gentleman is suggesting it seems to me is decapitation to cure dandruff. You are going to deny a lot of people who need the help, access to the help. Is there not another way to get at this?

Mr. CONABLE. I wish there were another way. May I say that Dan Bradley, the head of the Legal Services Corporation nationally, has tried to be helpful on this but has found it very difficult, because of the decentralized structure of the Legal Services Corporation, directly to bring influence to bear on the particular people involved in this.

Mr. HYDE. Let us restructure the agency.

Mr. CONABLE. Perhaps we should restructure the agency. In the meantime, if the gentleman does not mind, I would like to attract the attention of the agency to what I believe to be a very serious abuse, one that is a matter of concern to my constituents and one which works very much to the detriment of the Legal Services Corporation nationally and to the reputation of the Federal Government which provides many services to migrant workers and to poor people everywhere.

Mr. HUCKABY. Mr. Chairman, I move to strike the requisite number of words.

I would like to inquire of the gentleman from New York, is it the intent of the gentleman that this reduction must solely apply in the migrant worker area?

Mr. CONABLE. I have made a legislative record by my comments that I would like to see equivalent appropriations struck out. I have cut out the equivalent of the cost of the migrant program from the $321,300,000 that is appropriated for legal services generally. This does not have legislative effect. In other words, my purpose is not decapitation but strong suggestion to those responsible for the Legal Services Corporation program.

□ 1450

AMENDMENT OFFERED BY MR. HUCKABY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CONABLE

Mr. HUCKABY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUCKABY as a substitute for the amendment offered by Mr. CONABLE: On page 38, line 22, strike out "$321,300,000." and insert in lieu thereof "$300,000,000:".

Mr. HUCKABY. Mr. Chairman, like the gentleman from New York, I too have encountered serious problems with the Legal Services Corporation. In my own particular district, and I suspect in many congressional districts throughout the United States the Legal Services Corporation is now the largest law firm within those congressional districts. I find the Legal Services Corporation within my district spending much time and much effort in preparing testimony before public service commissions; engaged in lawsuits against various State, county, and city governments.

Just last week, I had a young attorney come into my office asking my help to acquire a small business loan. I asked him what he was doing now. He said, "Well, I work for Legal Services Corporation."

I asked him, "Why are you leaving?" He said, "I spend almost all of my time out on the road trying to drum up business."

Now, to me an organization that is doing that has got some fat in it. What I am proposing here, which would certainly encompass what Mr. CONABLE is wanting to do also, is to reduce this appropriation from $321,300,000 to $300 million. Certainly, when many, many other agencies throughout the country and the Federal Government are tightening their belts, I think Legal Services Corporation should tighten its belt a little bit.

I know the argument will be made that this is the absolute minimum floor level that must be appropriated in order to provide services. I would suggest that is not true. As the gentleman from New York suggested, I think it is time that we reorganized Legal Services Corporation.

That authorization is scheduled to be on the floor of the House next week. It is only a 3-year extension, but at that point in time I think we should make some changes so that the program is responsible to someone. It is not a part of the executive branch; the Members of the House certainly have no say in it. They virtually do their own thing. I think it is time we get this organization accountable to the people it is supposed to represent.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I will be happy to yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Chairman, I would like to join in support of the gentleman's amendment. I can only say that in the First District of Texas, we have certain regional grievance committees established by the State bar association, and for the past year I have been told upon excellent authority that the grievance committee is receiving complaints filed within the First District, complaining that the Legal Services people are out soliciting business.

Legal Service representatives have written some of the school districts, in the First District of Texas, requesting that the school send to the Legal Services attorneys copies of their school records, the manner in which they employ people to teach. I asked one of these members why these requests were made, and the answer was that the Corporation wanted to have their files complete in order to properly advise people when they sought information with reference to matters of that nature.

Frankly, I think that it would be the best move in the world if we abolished the Agency. I think it is an expenditure of money that could certainly be used in a much more worthwhile way, and I certainly join in support of the gentleman's amendment.

Mr. HUCKABY. I thank the gentleman.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I want to compliment the gentleman from Louisiana for broadening the scope of the Conable amendment and bringing to the attention of this committee all the other reasons why there may be more money appropriated for this agency than ought to be, and certainly some of the things he suggested they are doing beyond the normal scope of legal aid societies.

Mr. Chairman, I rise in support of the pending amendment to reduce fiscal year 1981 funding for the Legal Service Corporation. Let me continue by saying that this kind of an effort, certainly a part of our oversight responsibilities in making sure that public funds are wisely spent, is long overdue.

The Legal Services Corporation is not, in my humble opinion, fulfilling its mandate to provide legal representation and assistance to poor and indigent persons who might require the help of a lawyer. Rather, the record pretty clearly establishes that the millions of dollars that LSC receives are going to fund thousands of activist lawyers to enable them to pursue their own visionary notions of how our society should be structured.

I am not opposed to helping poor people and indigent persons so that their legal and constitutional rights may be protected. However, I strongly object to the Federal Government financing social engineers and activist attorneys bent on bringing about income and wealth redistribution and otherwise disrupting the way in which the business of the Nation is conducted.

The following incidents, in part, account for my interest in this matter.

Over the years I have been the recipient of numerous letters and communications, prepared by LSC employees and attorneys, urging that I take certain actions with respect to the food stamp program. These communications were prepared on LSC stationery and many times contained the signatures of persons who stated that they were clients of the Corporation. It was readily transparent to me that the notion of contacting me to lobby with respect to the food stamp program did not originate with the clients. Rather, they were being used by LSC personnel and these comments were part and parcel of an orchestrated effort to influence legislation pending in the Congress.

Earlier this year, I was contacted by a gentleman from my home State who advised the LSC personnel were in the process of organizing a welfare rights organization in a medium-sized city in Iowa. My staff telephoned the offending LSC office and was told that this was the case and that one of their activities was going to be the monitoring and publicizing of congressional votes on matters of importance to individuals receiving public assistance. Reference was made to the preparation of voting records and pointed comments were made toward my voting record. I have repeatedly sought to have this incident investigated and have, in fact, received a report prepared by certain LSC personnel investigating the activities of other LSC personnel and employees. As you would expect, the Corporation has not diligently pursued this matter and their efforts amount to little more than a whitewash.

Later this spring it came to my attention that LSC personnel from another office, in another town back in Iowa, were attempting to force their attentions on an elderly gentleman who resides in a nursing home. This was taking place in spite of the fact that the gentleman in question was far from impoverished and, in fact, a conservator had been appointed to protect and administer his financial assets. Further, this recruitment of clients was taking place over the objections of his family. I objected to this kind of activity and only recently learned that the LSC of Iowa was not so much interested in him as a person but rather they wanted to use him, and others similarly situated, as part of a scurrilous broad attack against the nursing homes of Iowa. This is another example of social engineering.

Legal Services Corporation excesses are not limited to the State of Iowa. It has come to my attention that LSC attorneys in Ohio have undertaken litigation directed against certain manufacturing concerns that would, if successful, dramatically reshape the way in which business and industry function in the United States. This particular action is being taken in furtherance of what can only be described as a collectivists dream.

Meanwhile, the legitimate needs of poor people for adequate legal help are being ignored. Their small problems must pale in the eyes of LSC attorneys compared to their desire to bring low corporate America.

Finally, yesterday afternoon I was looking through the May–June issue of the Corporation's newsletter. I noticed an article describing how LSC attorneys in Cook County, Ill., had sued the Community Services Administration for the way in which that agency had administered the 1979 crisis intervention program. Crisis intervention was supposed to assist low-income and elderly persons in meeting heating bills.

LSC and CSA settled the suit by agreeing that some $18 million that was not spent and remained available for obligation should be apportioned for certain projects. This was money that was supposed to, pursuant to congressional action, be used to assist poor people. Instead, approximately $6.5 million will be funneled to professional public interest activists, advocates and, of course, attorneys. Approximately $200,000 will be to the Citizen/Labor Energy Coalition Foundation headquartered—you guessed it—here in Washington, D.C.

In other words, LSC funds have gone to take money from poor people and divert those funds to the social engineers and self-appointed public interest advocates that, apparently, are unable to raise sufficient funds to finance their activist causes on their own.

Mr. Chairman, it is my intention to have this apparent abuse and misuse of public moneys fully investigated. But meanwhile, we can, by adopting this amendment, begin to restore some accountability and responsibility to the Legal Services Corporation.

There have been other instances where the LSC has strayed far afield. The Farm Bureau has highlighted objections that it has to legal services moneys that are channeled to attorneys allegedly representing migrant farmworkers. Indeed, the American Farm Bureau has suggested that the LSC be replaced with a voucher system.

In these times where the need for restraint in spending tax dollars for dubious purposes has never been more apparent. I would suggest that my colleagues take a long, hard look at the Legal Services Corporation. We can do the country some good by adopting the pending amendment.

Mr. HUCKABY. I thank the gentleman. I feel that if we could get Legal Services Corporation operating only in the areas where it is the intent of the Congress, $300 million would be more than ample funds for it.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, here is a program where we have heard all these years about States rights and local control. Here is a program where we have local control. Now, what we hear is that the program ought to be controlled from Washington.

We have advising committees for the program from local bar associations. We authorized local control over the program. We said, "You can't have some guy in Washington running everything down to the local level."

If the local bar advisory committee is not working, the membership ought to be changed. I understand the frustrations that the individuals involved have, but I do not think that the remedy offered by this amendment is the right remedy. Now, if we take some money out of the $321 million, here is what happens: We do not have minimum service.

We have, over a 4-year period, held this agency to where they could not provide any increase in services in any area until the whole country had minimum services. Now, the $321 million provides minimum services only if we hold that agency's personnel to a 5-percent increase in salaries. Nobody else is being held to that except Members of Congress.

They needed $353 million; we have held them to $321 million, which means that they will only have minimum services.

What does minimum service mean? That means two attorneys for 10,000 eligible poor persons. Now, we cannot have 1.9 attorneys. If we cut it out, we do not have minimum services for some area of the country.

What are these people doing, primarily? Well, I tell you that 38 percent of their time is spent on such things as helping individual elderly people get social security that they are entitled to, that they have not been able to get from the Government. I know each of us in our offices help some individuals, but there are hundreds and hundreds, or thousands out there, who do not contact an office to get the help they are entitled to. These people are spending 38 percent of their time helping individuals get some kind of service that they are entitled to, and a large share of that is related to social security.

So, I think that the result of the amendment would not be what even the gentleman from New York wants. I understand he is sending them a message.

He has told them that he does not like this. He is telling the local bar associations that he would like for them to ride herd on the operation of the program in their communities a little bit better, but the solution he has proposed will not accomplish what he wants, what we really need to do, which is to amend the authorization legislation with some limitations. We already have a number of limitations; for example, all political activities are prohibited.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I want to assure the gentleman that I will do what I can in the authorizing legislation also. However, I did not want to let this opportunity slip by without expressing my concern.

As for local control, one of the problems is that this is a regional board. Most of the services provided by the regional board go to the poor in the cities. We are dealing with a migrant program, however, which is peculiarly rural in nature. I have tried to get grants for local bar associations to take over the particular rural aspects of this program, and have been unsuccessful in doing it. In fact, if we are going to have local control, have local control all the way, and people have to have some acquaintance with the problems of the particular clients they are trying to benefit.

Mr. SMITH of Iowa. I understand the gentleman. He has made his message clear. He has prepared for the authorizing legislation with the appropriate amendment, and I hope he will not pursue that amendment at this time.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Louisiana

□ 1500

Mr. HUCKABY. Mr. Chairman, did the gentleman mean to imply that the local bar has authority to tell the Legal Services Corporation what to do?

Mr. SMITH of Iowa. They have a local advisory committee.

Mr. HUCKABY. Yes, but it is advisory. In my experience, the Legal Services Corporation ignores the recommendations that are made.

Mr. SMITH of Iowa. They have some veto authority, more than Federal officials in Washington have, I can tell the gentleman that.

Mr. HUCKABY. I have not yet been able to figure out in the legislation how to accomplish that.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, one problem is that most of the classic cases that are causing problems in my area are in courts, and the local advisory board says it would be inappropriate for them to comment on anything going on in court or to interfere in any way. In the first place, the Legal Services Corporation has been quite diligent in getting matters to court almost immediately and without the mediation that would be appropriate in normal legal services matters.

Mr. SMITH of Iowa. Mr. Chairman, I hope that the House will not approve this amendment.

● Mr. MAZZOLI. Mr. Chairman, I rise in opposition to the amendment to cut legal services funding.

The Legal Services Corporation originally requested $353 million for fiscal year 1981, but budgetary considerations led to a reduction of that request to the $321.3 million figure recommended by the administration, the House Budget Committee, the House Judiciary Committee, and by the Appropriations Committee.

The $321.3 million is a modest enough figure. Now, it is sought to reduce this to $300 million.

This will not only not provide sufficient funds to preserve a minimum access plan—a plan to provide a minimum level of legal assistance to low-income persons in all parts of the United States—but it will signal the beginning of the end of the legal services program.

We are all painfully aware of the need to make difficult choices on where to cut spending and balance the Federal budget. But, the Legal Services Corporation should not be sacrificed in our efforts to balance the budget.

A laudable congressional goal is to eliminate wasteful and inefficient Government spending programs. The Legal Services Corporation, far from being wasteful and inefficient, is a virtual model of administrative efficiency.

Less than 2 percent of its budget is devoted to administrative costs. The fullest allocation of funds is, therefore, committed to the delivery of legal services to the poor.

Now, more than ever, because of national fiscal and economic hardship, legal rights of the poor must be protected. This amendment serves only to hurt the poor, not protect them.

Finally, let me commend to the attention of my colleagues a June 10 editorial by James J. Kilpatrick who characterizes the $321.3 million for the Legal Services Corporation as a "substantial sum" but a "seriously needed" sum. Jack Kilpatrick is not one to be for a Federal spending program unless it spends its money in a pretty frugal and careful fashion.

I strongly urge the defeat of this amendment.

OF JUSTICE FOR ALL

(By James J. Kilpatrick)

If there is one concept that our nation cherishes more than any other, it is the commitment that is carved in stone at the Supreme Court. The legend reads, "Equal Justice Under Law." Year by year we creep a little closer toward that distant goal.

That cheerful observation is prompted by a report from the Legal Services Corporation, marking its first five years of operation. The corporation has come a long way from those angry days in 1973 and 1974 when many of us on the conservative side fought like bobcats against its very creation.

These days the Legal Services Corporation keeps a low profile. That was not the image projected by its predecessor outfit, the legal services arm of the now defunct Office of Economic Opportunity. Many "poverty lawyers" identified with the OEO program were hot-eyed social activists, little interested in the humdrum legal problems of the poor. Conservatives in both House and Senate had good reason to oppose the expenditure of tax funds on firebrand causes.

As a consequence, the bill to transfer the legal services program from OEO to a new corporation ran into a filibuster in the Senate and a bitter floor fight in the House. In order to avoid a presidential veto, sponsors accepted a host of restrictive amendments intended to dispel these lingering apprehensions.

Lawyers attached to the corporation are positively forbidden to engage in public demonstrations, picketing, boycotts, strikes, lobbying, partisan politics, voter registration drives and the like. The act prohibited the establishment of "backup centers" that were seen by many of us as mere seedbeds for hothouse revolution.

By a margin of only seven votes in the House, the legal services bill survived a motion to recommit. The corporation wobbled into existence on rubbery legs. Now, six years later, it stands on its own two feet. Pending bills to extend the program's life for two years (in the Senate version) or three years (in the House) may set off brief thunder on the floor, but no typhoons are in sight.

As one of those who hollered the loudest six years ago, perhaps I may be permitted a round of applause today. Here and there abuses continue. A sneaking suspicion will not go away that the corporation has neatly evaded the law's prohibition against backup centers by creating backup centers and calling them something else, e.g., the National Clearinghouse on Legal Services.

Let it go. As it moves into its sixth year, the corporation is funding 335 independent programs staffed by more than 5,000 attorneys and 2,500 paralegals. In 1979 local offices dealt with more than a million legal problems of the poor. What kind of problems? Child custody. Food stamps. Eviction. Disputed bills. Contested eligibility for welfare benefits. None of this is the stuff from which landmarks are made, but it is the very heart and soul of a legal services program.

The corporation's clients are 57 percent white, 30 percent black, 10 percent Hispanic. Only a fifth of them are employed; most are living on welfare or Social Security. More than a third of the legal problems involve family matters. Another 13 percent concern landlord-tenant relationships. Half the cases are settled within a month. The corporation proudly notes that only 2 percent of its budget goes to administration; 95 percent of last year's $270 million appropriation went directly to legal services.

The pending Senate bill would authorize $321.3 million for the corporation in fiscal 1981. It is obviously a substantial sum, but it is a seriously needed sum. In the nature of things, poor families can accept the realities of being poor, they are not going to have the the food, clothing, housing, higher education and material amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the millwheels of the law.

We never will achieve the ideal of truly equal justice. Outside the antiseptic realms of mathematics, literal equality does not exist and ought not to exist. But at law, we must keep trying. The preamble to the Constitution pledges a national purpose "to establish justice." Let us get on with the job.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. HUCKABY) as a substitute for the amendment offered by the gentleman from New York (Mr. CONABLE).

The question was taken; and on a division (demanded by Mr. HUCKABY) there were—ayes 24, noes 10.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. CONABLE), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SMITH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. SMITH of Iowa. Mr. Chairman, I make the point of order that a quorum is not present.

Mr. HUCKABY. Regular order, Mr. Chairman.

The CHAIRMAN. The Chair has already announced that an insufficient number of Members arose to order a recorded vote.

Does the gentleman from Iowa (Mr. SMITH) still insist on his point of order?

Mr. SMITH of Iowa. Yes, Mr. Chairman, I still insist on my point of order.

The CHAIRMAN. The gentleman insists on his point of order.

Evidently a quorum is not present.

Mr. SMITH of Iowa. Mr. Chairman, I ask for a division, too, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. A quorum call is ordered.

Mr. HUCKABY. Regular order, Mr. Chairman.

The CHAIRMAN. The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1510

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence. Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 409]

Adbnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Richmond
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1530

The CHAIRMAN. Three hundred and fifty-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

When the point of no quorum was made the Chair had announced the result of the voice vote on the amendment offered by the gentleman from New York (Mr. CONABLE), as amended by the substitute offered by the gentleman from Louisiana (Mr. HUCKABY), and had stated that the ayes prevailed.

For what purpose does the gentleman from Iowa rise?

Mr. SMITH of Iowa. Mr. Chairman, on that I demand a division.

PARLIAMENTARY INQUIRY

Mr. HUCKABY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUCKABY. Mr. Chairman, pending the outcome of the division, will it be possible at that time to request a recorded vote?

The CHAIRMAN. The request for a recorded vote has already been made and rejected for lack of a sufficient number standing. It cannot be repeated.

Mr. HUCKABY. Does not the request for a recorded vote in the hierarchy precede a division and, hence, the Chairman is reverting back to a division, since the Chairman has already denied a request for a recorded vote and the Chair has ruled upon that?

The CHAIRMAN. Regardless of the type of vote requested, a request for a recorded vote cannot be repeated. It has already been rejected. However, a division may now be requested.

Mr. HUCKABY. Would a request for a teller vote be in order?

The CHAIRMAN. A request for a teller vote would be in order.

On a division (demanded by Mr. SMITH of Iowa) there were—ayes 107, noes 110.

☐ 1540

PARLIAMENTARY INQUIRY

Mr. HUCKABY. Mr. Chairman, would the Chair please repeat the numbers?

The CHAIRMAN. The ayes were 107 and the noes were 110.

Mr. HUCKABY. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. The gentleman makes a point that a quorum is not present and objects to the vote. That is not in order in the Committee of the Whole.

TELLER VOTE

Mr. HUCKABY. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. SMITH of Iowa and Mr. CONABLE.

The Committee again divided, and the tellers reported that there were—ayes 134, noes 116.

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. M'DONALD

Mr. McDONALD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McDONALD: Page 38, line 25, after the colon insert the following: "*Provided further*, That no part of this appropriation shall be used by the Legal Services Corporation to provide legal assistance in promoting, defending or protecting homosexuality.".

☐ 1550

POINT OF ORDER

Mr. SMITH of Iowa. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman from Iowa makes a point of order against the amendment. The gentleman will state his point of order.

Mr. SMITH of Iowa. It requires additional duties not prescribed by the authorizing legislation in order to make determinations. It just would not be in order for that reason.

The CHAIRMAN. Does the gentleman from Georgia (Mr. McDonald) desire to be heard on the point of order?

Mr. McDONALD. Mr. Chairman, I feel that very clearly it requires no additional duties. The cases that would be involved would be obvious by their very nature.

The CHAIRMAN (Mr. Brown of California). The Chair is prepared to rule.

The Chair rules that the amendment provides only a negative restriction with regard to the expenditure of funds in the bill and is in order.

The Chair overrules the point of order.

Mr. McDONALD. Mr. Chairman, I think this really requires no statement or clarification. Very simply and quite succinctly, it is my feeling that the Congress of the United States should not spend a penny of the taxpayers' dollars to support, defend, protect, or legitimize the practice or acts of homosexuality or a homosexual "gay" lifestyle.

An individual's personal life may well be at times solely a matter of his own concern. This is not to say, however, that the Congress of the United States should venerate certain conduct by spending money to defend wholly unacceptable behavior. It is, therefore, my proposal that no part of this appropriation be used by the Legal Services Corporation to provide legal assistance to support, defend, or protect the practices or acts of homosexuality or a homosexual "gay" lifestyle.

Mr. JOHN L. BURTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the distinguished gentleman from Georgia (Mr. McDonald) said that we should not be spending taxpayers' money. I do not know of any law on the books of this country that says that people who happen to have different sexual preferences than heterosexual receive waivers from paying taxes. The citizens in my district who happen to be gay are business people. They pay as much taxes as many of us here. They are taxpayers of the United States, and you are saying that the tax dollars that they pay cannot be spent on legal cases where someone would discriminate against them solely on the basis of their sexual preferences. I think this is one of the most outrageous amendments that ever has been proposed on the floor of this House. At least, this time, the gentleman from Georgia (Mr. McDonald) proposed it, and we are able to debate it. The last time it came after all debate was closed, and it was merely an up or down vote. We are talking about people who are citizens of this country, who pay taxes in this country. They are not going to get a forgiveness of the tax dollars that go into legal services because they cannot be used to defend them against some type of oppression, to protect them against harassment or discrimination based upon their own private sexual preference. I think this outrageous amendment ought to be voted down overwhelmingly by this House.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New York.

Mr. GREEN. I thank the gentleman for yielding.

I just want to commend the gentleman from California for his statement. It seems to me shocking that, in a bill designed to provide legal services for those Americans who cannot afford them, we should seek to discriminate against any class of citizens. That is entirely contrary to the spirit of the whole legislation which is designed to insure that all Americans have their rights protected in the courts. I again commend the gentleman from California for his statement.

Mr. JOHN L. BURTON. Again I would say that the millions of Americans who are gay, who are taxpayers, are being told that we are going to take their money but we are not going to use it for some cause that may affect their personal lives or the lives of some others similarly situated. I do think it is outrageous, and I urge a "no" vote.

● Mr. WEISS. Mr. Speaker, I rise in opposition to the amendment offered by Mr. McDonald to the State-Justice appropriation for fiscal year 1981 (H.R. 7584). This amendment would prohibit the Legal Services Corporation (LSC) from providing legal representation in any case involving the rights of homosexuals, and possibly any case involving a person of that sexual orientation or preference.

The amendment unfairly singles out one group of potential LSC clients. By so doing, it violates both statutory requirements that govern LSC's operation and constitutional guarantees to due process and equal justice under law.

The statute which established the Legal Services Corporation, 42 U.S.C. 2996, clearly states that the Corporation should provide "equal access" to legal assistance. This amendment, in contrast, denies such access and discriminates against gay men and lesbian women. Who might be excluded next? Will the Corporation later be prohibited from representing members of certain religions, or those with certain shading to their skin color?

The people of this Nation long ago agreed on the principles that make Mr. McDonald's amendment repugnant. Those principles are embodied in two amendments to the U.S. Constitution, the 5th and 14th amendments, which guarantee, respectively, due process under law and equal protection under law to all individuals. The Civil Rights Act of 1964 is but one example of occasions when we have acknowledged the importance of these principles. Passage of Mr. McDonald's amendment would begin an abandonment of these precepts and endanger the rights we all hold dear.

The very fact that substantial support exists for this amendment makes it ever more clear that we must pass legislation outlawing discrimination based on sexual orientation. As a sponsor of such legislation, I hope this episode will help my colleagues see that discrimination on the basis of sexual orientation or preference is no more justifiable than any other form of arbitrary discrimination, and must be outlawed.

The language of Mr. McDonald's amendment, I must note, is so imprecise to be subject to widely varied interpretation. It states that none of LSC's funds under H.R. 7584 may be used to provide legal assistance in promoting, defending or protecting homosexuality. Can this be interpreted to mean that LSC cannot defend an individual in a case completely unrelated to that person's sexual preference—such as a consumer dispute—simply because that person is a homosexual? How would LSC be expected to learn whether a person is homosexual? Indeed, those homosexual individuals who did reveal their sexual preference might be discriminated against while those who kept silent received legal services. Will police power someday be needed to enforce the McDonald amendment?

The Legal Services Corporation is a worthy example of Government service that serves to uphold the spirit of the 14th amendment. Syndicated columnist James J. Kilpatrick, a well-known critic of the LSC, recently applauded its work for that reason. "The legend reads, 'Equal Justice Under Law.' " Mr. Kilpatrick wrote in a column about the Corporation's activities during the past 6 years. "Year by year we creep all the closer to that distant goal," he commented. With Mr. McDonald's amendment, we take several steps backward.

In 1977, an amendment similar to this measure was included in the LSC authorization (H.R. 6666). Fortunately it was deleted in the conference committee. If passed here today, I hope this amendment will meet the same fate.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. McDonald).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McDONALD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 290, noes 113, not voting 30, as follows:

[Roll No. 410]

AYES—290

Abdnor
Akaka
Albosta
Alexander
Ambro
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio

Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dicks
Dingell
Dornan
Dougherty
Duncan, Tenn.
Early
Eckhardt
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Heckler

Hefner
Heftel
Hightower
Hillis
Holland
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Panetta
Pashayan

Patterson
Paul
Pease
Perkins
Petri
Pickle
Preyer
Price
Quayle
Quillen
Rahall
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stratton
Stump
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Ullman
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—113

Addabbo
Anderson, Ill.
Ashley
AuCoin
Barnes
Beilenson
Biaggi
Bingham
Boggs
Bolling
Bonior
Brademas
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr

Cavanaugh
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Danielson
Dellums
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Edgar
Edwards, Ala.
Edwards, Calif.

Erlenborn
Fascell
Fazio
Ferraro
Findley
Fish
Ford, Mich.
Ford, Tenn.
Forsythe
Garcia
Gilman
Goldwater
Green
Guarini
Hall, Ohio
Harris
Hawkins

Hollenbeck
Howard
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kildee
Kostmayer
Leach, Iowa
Lehman
Leland
Lloyd
Long. Md.
Lowry
McCloskey
McHugh
McKinney
Maguire
Markey
Matsui
Mikulski
Miller, Calif.

Mineta
Mitchell, Md.
Moffett
Moorhead, Pa.
Murphy, N.Y.
Nedzi
Nolan
Ottinger
Patten
Pepper
Peyser
Porter
Pritchard
Pursell
Railsback
Reuss
Richmond
Rosenthal
Roybal
Sabo
Scheuer

Schroeder
Seiberling
Shannon
Solarz
Spellman
Stark
Stewart
Studds
Swift
Thompson
Van Deerlin
Vento
Waxman
Weaver
Weiss
Williams, Mont.
Wilson, Bob
Wirth
Wolpe
Yates

NOT VOTING—30

Anderson, Calif.
Andrews, N.C.
Chisholm
Cotter
Davis, Mich.
Derrick
Dickinson
Dodd
Fowler
Gray

Hinson
Holtzman
Horton
LaFalce
Lott
McEwen
Mathis
Mavroules
Oakar
Rangel
Ratchford

Rhodes
Rodino
Runnels
St Germain
Stockman
Stokes
Udall
Wampler
Wilson, C. H.

☐ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Derrick for, with Mr. Rodino against.

Mr. Runnels for, with Mr. Rangel against.

Mr. LELAND changed his vote from "aye" to "no."

Mr. HARKIN, Mrs. FENWICK, and Mr. ULLMAN changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. GOLDWATER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Legal Services Corporation section of this bill contains a prohibition against lobbying. Specifically, it reads:

> Provided that no part of this appropriation shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any State Legislature.

It is my understanding that this is the same prohibition that was contained in the last appropriation to this agency. I would, therefore, assume that lobbying efforts by the Corporation are illegal at this time.

Well, Mr. Chairman, I do not think the Legal Services Corporation or the agencies it supports understands that this is the law.

I received this letter dated May 5 of this year from the San Francisco Neighborhood Legal Assistance Foundation. It regards an amendment to the Legal Services authorization bill. Attached to the letter was a memorandum addressed to "all persons concerned with legal representation for indigent immigrants." The memo was sent out by the National Center for Immigrants' Rights which is a program sponsored by the Legal Aid Foundation of Los Angeles. All of the above named legal services agencies are funded with Federal dollars—Federal dollars which are supposedly prohibited from being used for outright lobbying. The memo blatantly urges lobbying on the part of the legal defense personnel. I quote:

> It is extremely urgent that: (1) Members of Congress or their local staff be visited to discuss the ramifications of an amendment restricting access to legal services based on alienage; and
>
> (2) That letters be sent to your Congressman or Congresswoman explaining your position on this issue. Copies of your letters should be sent to Thomas P. O'Neill, President Jimmy Carter and Congressman Peter Rodino.

Mr. Chairman, it appears to me that this is a blatant propaganda effort to defeat a piece of legislation and in direct violation of the law.

I understand the original author of this amendment is the gentleman from California (Mr. MOORHEAD). I wonder if the gentleman would answer a couple of questions concerning exactly what he meant to accomplish by his amendment since there seems to be a misunderstanding concerning intent. Did the gentleman intend that this type of material—this type of propaganda be prohibited?

I yield to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Yes.

Mr. GOLDWATER. Well, when my office called Legal Services here in Washington, they were told that this prohibition had to be considered in conjunction with what is contained in the enabling act for the Corporation. The enabling act authorizes lobbying in three instances—an invitation from a legislator or legislative committee; on behalf of an eligible client; and when the legislation is of direct interest to the Corporation. Does not the enabling act prohibit lobbying in all other instances?

I yield to the gentleman from California.

Mr. MOORHEAD of California. Yes.

Mr. GOLDWATER. Does not this prohibition in the appropriations bill supersede the enabling legislation? If it does not supersede it, then why bother with it in the first place? It seems redundant to me.

I yield to the gentleman from California.

Mr. MOORHEAD of California. The gentleman is correct that the appropriations prohibitions are restrictions added in addition to any lobbying restrictions contained in authorizing legislation. The appropriations language clearly prohibits the type of lobbying the gentleman from California has described. The appropriations prohibition on legal services lobbying is much broader in scope than the authorization language. The appropriations language virtually wipes out legal services lobbying altogether. Only in certain narrow instances—for example, limited contact with Congress about a private bill—are contacts with the legislative branch permissable. It is very unfortunate that the Legal Services Corporation, although full of lawyers, has failed to comprehend the full impact of the law as far as the appropriations legislation is concerned. I have talked with the president of Legal Services about this unfortunate situation and I hope we will see some effective remedial action. If not, we will be forced to add a strong enforcement mechanism of some sort to avoid a flagrant disregard of the law.

Mr. GOLDWATER. I think somebody ought to get the message to the Legal Services Corporation. If the law says you cannot spend the money to do something, then you better not be spending it for that purpose. That is the obvious assumption on every other prohibiting amendment to every other appropriation bill we pass. Legal Services does not understand the obvious and they are certainly not passing the word to the agencies they are supporting with the dollars we are now appropriating.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster loan fund", the "Business loan and investment fund", the "Lease guarantees revolving fund", the "Pollution control equipment contract guarantees revolving fund" and the "Surety bond guarantees revolving fund".

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take this opportunity to express my concern over the funding level for the Worldwide Information and Trade System as provided under title III of this bill. The committee has provided $3,000,000 of the $4,000,000 requested for the second year of developmental costs of the WIT System. I am concerned that this action might reflect a lack of resolve to bolster our economy through a dedicated pursuit of increased exports.

The WITS program is administered by the International Trade Administration in the Department of Commerce. This program was initiated 2 years ago in response to President Carter's directive to strengthen our economy through the promotion of exports. At the present time, the WITS program is operating as a pilot program in five U.S. cities: Chicago, Los Angeles, Boston, Dallas, and Seattle. And in five foreign cities: London, Paris, Mexico City, Hong Kong, and Singapore. Next year, the final design for the program is scheduled to be completed, and the WITS program will be providing export assistance to our Nation's small business community in 27 Commerce Department District Offices and in 20 foreign cities. By 1983, the program will be fully operational in 65 U.S. cities and in 47 nations. Even in its current primative stage, the WITS program is in high demand by our small business exporters who realize the importance of exports to our economy and the potential of exports for their businesses.

The importance of small business exports can not be overstated. Once the major creditor to the world, the United States today has foreign liabilities larger than those of all other countries combined. Last year our trade deficit was nearly $30 billion. This deficit has serious implications for our economy in terms of higher unemployment, a falling dollar, and growing inflation. While most press accounts and academic analyses usually stress the admittedly large role of increasingly costly oil imports in this deficit, it is often overlooked that the decline in our manufactured goods trade balance is more significant than oil in accounting for the larger deficit. Indeed, our trade position in manufactured goods, which represents two-thirds of all U.S. exports, generally has been declining in absolute terms, as well as relative to our major trading competitors. The simple fact is that the United States has lost its once unchallenged position in world commerce to countries such as Germany and Japan.

What does all of this mean to our economy? When you consider the fact that every $1 billion in exports creates 40,000 American jobs, the answer becomes obvious.

We have one of the best answers to our economic problems in the palm of our hand. The Department of Commerce estimates that there are as many as 20,000–30,000 small companies in this country that could potentially export but have not done so, hampered by inexperience or unawareness of available opportunities. The WITS program was designed to do something about this situation. WITS introduces our small business exporters to potential foreign customers via a computer system which links our Commerce Department district offices to foreign capitals around the world. The WIT System is working now as a pilot program, and will be a valuable tool when fully operational. Without adequate funding, however, the realization of this goal may be indefinitely postponed. I do not think that we can afford to wait given our present economic frailties.

At this time, I would like a clarification of the committee's intent in holding the funding level for the WITS program to $3,000,000, and I would also like some indication of the committee's commitment to supporting a policy of export promotion to help strengthen our economy.

☐ 1620

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I would be glad to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I very much appreciate the great concern that the gentleman from Missouri (Mr. SKELTON) has had in this area. The gentleman is a member of a subcommittee of the Committee on Small Business. He has not only worked here in Washington, but has gone all over the country and has discovered firsthand that there are large numbers of small businesses in this country which have products that could be exported if those businesses understood how to export and knew where the export opportunities happen to be. A great deal needs to be done, and our subcommittee for 3 or 4 years has been working on this matter. We have decided that the first thing that needs to be done is to find export opportunities. This, the Department of Commerce needs to do in foreign countries.

After they have discovered those export opportunities, they should send the information back to the United States and we should have here a roster of those kinds of businesses that could fill those kinds of orders. Then they should be notified and helped, if necessary, to try to overcome any financing problems or whatever other problems they may have.

We are determined to do that. Our commitment is now total. We have put in $1 million for SBA in each of the last 3 years, for example, so they can help to get this list that is needed of small businesses who could fill export orders. We are trying to get the Department of Commerce to do a better job overseas of finding these opportunities. So our commitment to this is total.

The $3 million that we have in the bill for the WITS system, I think, is all the Commerce Department can use at the present time. We do also have $1 million in the bill for SBA to develop the list. We are requiring that they use these funds for their purposes and that Commerce and SBA coordinate all their efforts together. In addition to that, to the extent there is information available from the private sector at the same cost, we are requiring they obtain that such information be obtained from a private organization. So, Mr. Chairman, we are totally committed to the same purpose the gentleman is interested in.

Mr. SKELTON. Mr. Chairman, then my question is this: Would the fact that we have provided $3 million instead of $4 million under title III of this program affect the situation negatively? Does it affect negatively the overall commitment to our export of manufactured goods?

Mr. SMITH of Iowa. No, it does not. I think when we consider this together with the extra million dollars that we put in SBA, with the $4 million that is spent they would get more out of that than they would if we put all $4 million in one agency.

Mr. SKELTON. Mr. Chairman, I thank the gentleman from Iowa for the clarification.

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, on June 23 a record-breaking heat wave begain to engulf the Central and Southern Plains and has continued unabated until yesterday. For over 21 consecutive days the temperature in the State of Arkansas exceeded 100 degrees, and this relentless heat, coupled with the mounting humidity, struck first at the poultry industry. By July 10 the loss of poultry hens and broilers numbered in the millions.

By July 17 the Small Business Administration had declared Arkansas a disaster area. Crop losses in Arkansas, Texas, Oklahoma, Louisiana, Missouri, and Kansas passed the $2 billion mark on or about July 19 of this year. The losses in Arkansas alone exceed $500 million.

Livestock producers, rapidly running out of feed because of pasturage having been destroyed, began selling off their beef and hogs. The hot weather caused inordinate livestock losses even in cases where feed was abundant. As the area experienced day-after-day heat of 100-plus degree weather, highway surface blow-outs became commonplace, foundations of buildings cracked in the heat and dryness, and roof shingles became tinderboxes.

Most tragically, in the region hit by the heat wave more than 1,200 persons, most of them elderly or disadvantaged, have died from the extreme heat.

The economic impact of the heat wave has yet to be fully determined. It seems certain that farmers will sustain huge losses at a time when they already face a severe cash-credit squeeze. Bank loan repayments are certain to be adversely affected. National food prices for meat and damaged crops will soar in the months ahead. Surplus commodities, usually marked for export, will not be available for sale overseas, adding to our balance-of-payments problem. Retail sales are likey to be down commensurate with the levels of lost income.

Mr. Chairman, this is but a very brief and admittedly cursory report on the impact of the heat wave. But it raises some serious questions about the adequacy of Federal disaster assistance programs. A heat wave does not descend like a tornado or a flash flood in a burst of destructiveness altering conditions in a way that paints a sharp before-and-after contrast. Rather, it saps the strength of plant and animal life and day by day, the weak fallout. In those disasters such as the eruption of Mount St. Helens or the crashing of Hurricane Camille into the gulf coast, the disastrous results were patently clear and aid and assistance were forthcoming almost immediately.

But it may be months before the full extent of this heat wave disaster is known. The economic ripple effects of lost crops and lost livestock in States like my own which heavily depend upon agriculture as the core of economic activity, can be not only devastating but persistent.

Arkansas is relatively lightly populated; yet, our losses are staggering. Because the State is heavily agricultural, nearly every facet of our economy will be adversely impacted by the farm losses. Since retail/wholesale sales are particularly sensitive to the ups and downs of the agricultural sector, the projected $500 million loss in agricultural income portends a substantial dislocation in the commerce of the entire State. For example, automobile dealers, already hurt by foreign competition and general economic conditions, will be further damaged by the temporary loss of a large segment of their market—the farmer. The remainder of the retail sales sector will be similarly affected as consumers divert disposable income to the payment of utility bills, increased an average of 125 percent—statewide. It should be pointed out that retail sales in Arkansas comprise about $7.5 billion. This is a significant percentage of the State's gross product.

Some illustrative impacts on economic sectors affected by the heat wave and drought:

Despite the fact that the press has reported poultry industry losses as only about $15 million, the true picture is substantially more grim; contract growers in Arkansas—the producers who provide fertilized eggs and live birds to the integrated broiler companies—have had their flocks cut in half. This means that the growers income will be halved until their flocks can be replenished. It takes 49 weeks from hatching to maturity for a layer. Arkansas' 6,500 contract growers normally derive about $60 million per year in income. Thus, the projected loss of income over the next 25 weeks for just the contract growers will be about $30 million. That figure presumes no further losses. If the fertility rate has been severely affected, the losses could be much higher. We just will not know for another 90 days.

The integrated operations have already sustained more than $20 million in dead birds alone. Because egg production will be down at least 23 percent, future production will be down by at least that amount. The integrated companies in 1979 processed 690 million birds and sold them at an average of $2.12 per broiler. A 23-percent loss in gross sales would mean a loss of $335 million.

Soy meal, the principal feed for the poultry industry, is up nearly 25 percent as a result of anticipated soybean crop losses. The integrators usually require about a pound and a half of feed for every pound of meat produced. With the heat, about 2 pounds of feed are required for each pound of meat. What this means is that even though the flocks have diminished in size, there will be no commensurate reduction in production costs, especially since energy bills have doubled.

A conservative 6-month projection for losses in Arkansas poultry industry alone is on the order of $400 million. That figure makes a huge assumption—that the worse is over. According to the National Oceanographic and Atmospheric Administration, the climatic conditions that fostered the heat wave will be around for about another month.

The tourist industry usually adds about $250 million to personal income in the State. The heat wave has hurt gasoline dealers, hotels and motels and the State's two major theme parks. Arkansas automobile dealers have been similarly affected. Before the heat wave, sales were already down. But some dealers in small rural communities are almost totally dependent upon sales to farmers. There are more than 100 such dealers in the State.

Retail sales have suffered also. The recessionary pressures which existed prior to the onset of the heat wave had already resulted in a 15-percent decrease in sales. But with the heat wave, the number of shoppers diminished and disposable income has dwindled, leading to a projected downturn in sales volume for July of more than 25 percent.

Overall, I am advised by researchers at the Arkansas Industrial Research and Extension Center that personal income across the State will be down about 4 percent in 1972 dollars.

Mr. Chairman, I am advised that over the last 3½ years, the Small Business Administration has indeed run out of funds for disaster relief on six occasions and has in fact depended upon supplemental appropriations for the purpose of meeting the disaster needs of this country.

Since early 1977 the Small Business Administration has exhausted its disaster loan funds six times.

The Congress has provided supplemental loan funds for SBA disaster assistance in the following years and amounts: $200 million, August 1977; $1.4 billion, March 1978; $758 million, May 1978; $378 million, September 1978; $1.018 billion, July 1979; and $1.5 billion, July 1980.

Now, inasmuch as Congress is expected to be adjourned by December, and further, inasmuch as we expect that the appropriations that are contained in this bill will be inadequate to meet the yet-to-be-determined needs, I would like to enter into a colloquy with the acting chairman of the committee in order to determine what provisions have been made in order to meet the contingencies which lie ahead.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, these disasters have reached record-breaking proportions, and at the same time that we have been considering supplemental appropriations bills and ways to handle financing these disasters we have had a change in the authorizing legislation. Indeed that was only signed into law 2 weeks ago.

The gentleman from Arkanas (Mr. ALEXANDER) is quite correct. He has been on top of this all the time, trying to make sure that the money will be available at the time that it is needed, which is almost as important as whether or not it is available at all in many cases.

Under this legislation we have provided some new authority to borrow from the Treasury. The disaster assistance is split to some extent between SBA and the Farmers Home Administration. We are providing in the new law that if applicants can go to the Farmers Home Administration and get the same type of treatment they could get at SBA, they are to go to Farmers Home. If they do not get the same treatment there, they can come right back to SBA. This will assure us that the Farmers Home Administration will keep the program for what it is designed for, for small business.

Right now we are at the stage that the law has been signed and they are in the process of developing the rules and regulations. It may be as much as 90 days before those are promulgated, and at that time we will know whether it is the Farmers Home Administration that will have to borrow a given amount of money to cover these disasters or whether it will be the SBA. But in either case I assure the gentleman that while we are in conference and while we are working this out—and the gentleman will be there—we are going to make sure that the financing is available so that the people in the States where droughts have occurred can have some relief immediately.

Mr. ALEXANDER. Mr. Chairman, I appreciate the gentleman's response.

Assuming that the funds do run out from SBA and assuming further that additional funds are acquired by the Government through a borrowing process, I would anticipate, through the Federal Financing Bank, and assuming further that there is a deficiency in the funds as a result of either nonpayment or as a result of subsidization of interest payments, would the gentleman proceed to appropriate those deficiency funds?

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has expired.

(On request of Mr. SMITH of Iowa, and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 3 additional minutes.)

Mr. ALEXANDER. Mr. Chairman, if I may proceed, would the gentleman perceive that additional funds would be appropriated under the auspices of State-Justice-Commerce Subcommittee or under the Treasury Subcommittee?

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, that is something we have not been able to determine now, due to the fact that we do not have the regulations. It might even be an appropriation under the Agriculture Subcommittee of the Committee on Appropriations. There might be a decision made to enter into another plan to borrow money, and we do not know how much and from which place.

I might also say that there is now appropriated in the supplemental appropriation bill for fiscal year 1980 enough money to carry them beyond this 90-day period we are talking about, at which time we will know where we are to get the additional funds that might be required.

Mr. ALEXANDER. But, Mr. Chairman, did the gentleman not say a minute ago that there is sufficient authority now for the administration to borrow the funds through the Federal Financing Bank?

Mr. SMITH of Iowa. They have the authority to borrow, but we have put limitations on how much they can borrow.

Mr. ALEXANDER. Do those limitations preclude the extension of enough funds to cover the impending disasters?

In the State of Arkansas we have estimated, though it is inconclusive at this time, that the disaster payment needs in the State of Arkansas are $450,556,000 which exceeds the amount which is appropriated in the existing bill.

☐ 1630

Now, it is true that this authority is shared by the Farmers Home Administration and the Small Business Administration, but it is obvious to me that there will be an inadequacy of funds in December following the adjournment of the Congress earlier in the year.

Mr. SMITH of Iowa. I think by December there might be a shortage of funds. But in the meantime, let me point out that we put over $1 billion of new cash in the supplemental. Every week new money is going back into the revolving fund from repayments of previous loans that are being made; so we anticipate that there is enough money there to carry them beyond 90 days. I am not saying it will carry them into December, but before this bill comes back from conference, probably, and before the appropriations bill for the Department of Agriculture comes back from conference, we will know exactly where we are and will have to provide some more authority.

Mr. ALEXANDER. Is the gentleman suggesting that the amendment to the appropriations process will occur in the other body?

Mr. SMITH of Iowa. I think it will be necessary to do that.

Mr. ALEXANDER. Should not we in order to fulfill our responsibility attempt to amend the appropriations bill in this body to the level of the authority as authorized by the budget process?

Mr. SMITH of Iowa. I would not argue against that if we knew exactly what to do. We just do not know today exactly what to do or how much is needed in which bill.

Mr. ALEXANDER. Well, we could begin a step in that direction by appropriating an amount which is equal to the budget authorization, which is $100 million.

Would the gentleman support such an appropriation?

Mr. SMITH of Iowa. Let me put it this way: I will support it at the appropriate time. I do not really think now is the right time. I am not saying I oppose it. This is a good program. I have been a principal supporter of it.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has expired.

(On request of Mr. SMITH of Iowa and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 3 additional minutes.)

Mr. SMITH of Iowa. The point is that this is a program for the taxpayer, not somebody who never paid taxes. There ought to be some program in this country a taxpayer can benefit from. Well, this is one of them. Whenever a person who has been in business and who has paid taxes all his life finds that, lo and behold, he has a terrible disaster on his hands that would not occur once in a thousand years, he can borrow. He does not get a grant—he does not get something for nothing—he can go down and borrow some money to help finance him out of his problem. It may be just a short-term problem. Perhaps he can pay it back in 2 years. For others, it might take 15 years, but, anyway, he can use this program. It costs us less than a dollar per person in the United States per year on a net basis. So I am all for this program. I just think, actually, as of today we do not really know how much to put in or at what point.

Mr. ALEXANDER. I do not feel that I am exercising my responsibility as a Representative from the State of Arkansas by avoiding a decision on this particular question when we can look ahead and see that the funds that we now will be appropriating will be inadequate to cover the needs just in the State of Arkansas.

Mr. SMITH of Iowa. Let me go back to that, too. Also, the need in the State of Arkansas will not all occur before December. These applications are approved as they come in. They have 6 months in which to make application. Some of them make them immediately. In some cases it takes 2 weeks to process the papers; in some cases, 3 months. So we will not need anywhere near that kind of money by December. However, some money will be needed, and that is what the $1 billion we appropriated in the supplemental will be used for, plus about 2 more billion dollars, I think, is going to come into the fund in the coming months.

Mr. ALEXANDER. I will be conferring with the staff over the next several minutes, before we conclude the deliberations on this bill, in order to see if we can fashion an amendment that meets the satisfaction of the chair in order to supply these impending needs.

Mr. SMITH of Iowa. I assure the gentleman that we are going to do whatever we need to do. The gentleman is on top of it, he is going to be on the conference. There will be nothing lost if we do not do it here today.

Mr. ANDREWS of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in colloquy with my friend, the gentleman from Iowa, the temporary chairman of our subcommittee.

The point has been brought up by our friend, the gentleman from Arkansas, of course, that this disaster area has covered a large part of our country. My State has losses already estimated, before the last 3 weeks of hot weather, at $1,200,000,000 to the agricultural sector. Now, that is $2,000 for every man, woman, and child in our State on or off the farm. So the gentleman's assurances of adequate funding, of course, are important. But even more important, I would like to develop just a little bit further, because my good friend, the gentleman from Iowa, has a unique capability, in not only sitting on the Appropriations Committee with my colleague the gentleman from Arkansas, and myself, but also being the chairman of the Small Business Committee which authorizes this. As my friend realizes, a year ago we had problems with the Small Business Administration when disaster designations were given. They discriminated against the farm sector. If a beer truck fell into a hole that was washed out by a flood on a road, he would get a low-interest SBA loan, but if it was a farm truck loaded with grain, they would not qualify.

I think the people out in the rural areas are very much interested in the statement that the gentleman made just a moment ago that the authorization has been changed so that if the farmer goes to the SBA window and is referred to the Farmers Home window, if he cannot get the same break, the same interest rate, the same terms at the Farmers Home window, he can go back to the SBA window and get it. That is a significant step forward, and our rural people ought to be assured of that beyond any shadow of a doubt.

Mr. SMITH of Iowa. There is no question of that. That is one of the things that we have argued with the administration about for 2 or 3 years. We have got it settled now once and for all, I hope, that farmers are small businessmen and ought not be discriminated against in any way. They will not be discriminated against, in my opinion, if they are told that if funds for disaster assistance are available at Farmers Home, they can be processed over there. They do not even have to go to Farmers Home if it is known in advance that they will not get such funds from that agency. We have provided in the SBA legislation that if they could not get disaster assistance at Farmers Home, that SBA would take care of them. In that way we also know that the SBA will not be changing their rules and making them ineligible, as they did before.

Mr. ANDREWS of North Dakota. That is right. It was frustrating and terribly unfair to the farm families of our Nation, and I want to make crystal clear on the floor of the House today that that has been remedied, and I certainly join my colleague and friend, the gentleman from Arkansas, in my concern about money availability. But I think our friend, the acting chairman, has reassured us that either in this bill or as it is amended when it goes before the conference, at which all 3 of us will be conferees, or at a point in an additional supplemental bill, we will have adequate funds provided to take care of the needs of those people in these disaster areas.

Mr. SMITH of Iowa. That is right. So far as I am concerned, a disaster loan is an entitlement for people who qualify, and we are going to in one way or another get the funds.

Mr. ANDREWS of North Dakota. That is good news, of course, in these areas that have suffered so much from these droughts that have been going on for too long.

Mr. EARLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, with your permission I would like to raise a question regarding the highly successful section 502 program which, as you know, provides low-interest, long-term financing to small businesses.

In fiscal year 1980, the House Appropriation Committee earmarked $45 million for the 502 program. This year we chose not to earmark funds. I would like to make it clear, Mr. Chairman, that the lack of earmarking is to be no way construed as a lack of support for the 502 program. I make this point, Mr. Chairman, because as a low-interest loan program, section 502 addresses the cost of capital, as opposed to the new 503 loan guarantee program which addresses the issue of capital availability. These programs cannot be confused. They do different things.

The success of the 502 program can be seen throughout the country. In region I, which includes Massachusetts, the program issued loans or over $23 million in 1979. This $23 million has leveraged another $70 million in private investment. Businesses in region VII received 502 loans totaling $18 million in 1979; region IX, $21 million; and region II, $19 million. In fact, only one region of the country, region X, received less than $1 million in 502 loans in 1979.

I would ask the chairman if he shares my view that this program is important for small business and that it must be maintained.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. EARLY. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I appreciate my colleague's comments, and I share his view that the 502 program has been of great assistance to small business. The lack of earmarking of funds for section 502 by the committee is merely intended to give SBA greater flexibility in the use of available capital. It should in no way be construed as a vote of no confidence in the 502 program. In fact, we have every expectation that the program will continue to be run in the successful manner which has characterized its past.

Mr. EARLY. Thank you, Mr. Chairman.

● Mr. MAZZOLI. Mr. Chairman, as we consider the appropriations for the Small Business Administration, I wish to demonstrate my support for the section 502 direct loan program, which has been of great benefit to the Third District of Kentucky.

Many State and local governments—including my own—have established nonprofit economic development corporations to aid small businesses and spur economic growth. These corporations now may participate in the section 502 direct loan program.

Since the Louisville Economic Development Corp. (LEDCO) was formed over a year ago, seven SBA section 502 loans have been approved for businesses located in the downtown Louisville area.

Not only have these businesses increased employment opportunities for residents of the city of Louisville, but these businesses have increased the tax base of the city.

In the fiscal year 1981 SBA appropriations before us today, no specific amount of funding is earmarked for the section 502 direct loan program. I understand that the committee's intent in not setting aside a certain amount for the section 502 direct loan program was to give more discretion to the SBA in allocating its funds in the form of direct loans.

Certainly SBA needs flexibility in the programing of its funds. There are so many worthy applicants to the SBA for financial help—for so many worthy business ventures—that SBA should not have its hands tied, so to speak, in how it distributes its funds among the applicants.

However, it is important that the section 502 direct loan program of the SBA not be allowed to dry up and fall into disuse. I fear this could be the unintended result unless earmarking of funds for section 502 continues in fiscal year 1981.

It would indeed be an unfortunate and regrettable situation if development corporations, like LEDCO, could not continue the good work they have started. A strong foundation has been laid by the section 502 loans in recent years. But, I genuinely believe we could witness the crumbling of this foundation unless the bricks and mortar of a strong section 502 program are provided in fiscal year 1981, and the years to come.●

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DISASTER LOAN FUND

For additional capital for the "Disaster loan fund", authorized by the Small Business Act, as amended, $180,000,000, to remain available without fiscal year limitation. *Provided*, That none of the funds provided herein shall be used for any purpose other than disaster loans.

AMENDMENT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOAKLEY: Page 41, line 17, strike out "$180,000,000" and insert in lieu thereof "$187,000,000".

Page 41, line 19, after "loans", insert the following: "*Provided, further*, That not more than $7,000,000 of such amount shall be made available for the sole purpose of providing disaster loans under section 7(b)(9) of the Small Business Act to any small business which suffered substantial economic injury due to the cancellation of United States participation in the 1980 summer Olympic games which shall be deemed an economic dislocation.".

Mr. MOAKLEY. Mr. Chairman, the amendment I am offering will do two things. First, it will add not more than $7 million to the appropriation in this bill for the disaster loan fund of the Small Business Administration. Second, it will clarify that small businesses that suffered substantial economic injury as a result of the U.S. boycott of the Moscow Summer Olympics will be eligible to apply for the loans.

The administration's decision to boycott the games was a policy decision that was made for a variety of important and justifiable reasons. Unfortunately, it had serious side effects for a number of American small businesses who may have initiated or changed entire lines of products only to find, through no fault of their own, that it is unpatriotic for anyone to purchase those products in light of the boycott decision. The Department of Commerce has estimated that the out-of-pocket losses alone for domestic businesses is over $7 million—and that approximately 85 percent of those affected are small businesses, some of them literally on the brink of bankruptcy.

Initially, however, it did not appear that there would be any serious problem in providing assistance to the affected businesses. The administration indicated that they would propose separate legislation to authorize relief for these various enterprises. And, even after the administration announced in May that new authorization would not in fact be sought, it appeared that small businesses that had experienced substantial losses would be able to qualify for the Small Business Administration's current disaster loan fund.

The small business disaster loan fund, Mr. Chairman, provides assistance to help small businesses back on their feet after they suffer from any of a great variety of economic injuries—from tornadoes and volcanic eruptions to abrupt, adverse changes in Federal laws and regulations.

The particular section of the loan assistance program that this amendment addresses, for instance, makes disaster loans available to small businesses that experience two specific kinds of economic dislocation. The first requirement is that a particular region or industry must have suffered from some event that is "extraordinary, severe and temporary." The second stipulation is that the economic disruption of the affected small businesses must be of such magnitude that, without the benefit of loans, a number of them would become insolvent or be unable to return quickly to their former level of operation.

In the past, Mr. Chairman, disaster loans under this section of the small business law have been provided in a number of widely divergent circumstances. Recently, for instance, companies in 11 States who either operate ski resorts or sell snowblowers and who were injured by the winter's light snowfall were granted loans. Businesses in four western States were made eligible for loans because, even though there may not have been any real fuel shortage in those States, public perceptions of fuel shortages caused tourism to decline.

Similarly, in Florida, the water level in a particular river began to rise and the press reported increased chances of cholera as a result. Although there never was any cholera, people were afraid to eat fish from the river—and businesses who consequently lost their markets were eligible for loans. The SBA has also approved loans for businesses financially harmed by the Three Mile Island accident in Pennsylvania, by an oil well blowout in Texas, and by the land-title dispute with the Indians in Maine.

Mr. Chairman, the hardships caused by the Olympic boycott are exactly the same, and are precisely the kinds of dislocations that the small business disaster loan fund is designed to help alleviate. Unfortunately, it is difficult when a law is framed to anticipate all the possible situations that might arise in the future.

And in this case, although it seems clear that the fundamental requirements of the disaster loan program are met by the circumstances of the boycott, when it comes to the details of eligibility, the Small Business Administration has recently indicated that it is doubtful whether small businesses affected by the boycott are eligible for disaster loans.

This amendment is necessary, therefore, partly to clarify the existing law to make it clear that injury experienced due to the boycott shall be deemed an economic dislocation for the purposes of disaster loan eligibility. I should point out, Mr. Chairman, that it seems particularly appropriate in this instance to provide assistance to the affected businesses since their economic injury—unlike most of the others mentioned here—was not the result of unavoidable or uncontrollable circumstances, but was the result instead of a deliberate, planned Presidential decision.

In addition to the clarification of existing law, Mr. Chairman, this amendment adds to the disaster loan fund. As I indicated earlier, the amount is based on the Department of Commerce estimate of what might be necessary. I should emphasize, Mr. Chairman, that small businesses only will be eligible—the amendment will not go to relieve the Coca-Colas or the Levi Strausses, which have the resources necessary to absorb their losses.

Also, the money will be available for out-of-pocket expenses only, not for the value of any unrealized profits, which are estimated to run into the tens of millions of dollars. And finally, the funds will be loans—not grants—and the amount will be limited to no more than $100,000 per business.

These loans will not be enough to cover the losses of the firms involved, Mr. Chairman, but they are at least a modest step toward providing the funds necessary for small businesses to keep their workers employed and rebuild their financial stability.

I urge all my colleagues to join in support of this amendment, Mr. Chairman. There has indeed been a temporary but extraordinary and severe description, and these loans are vitally important to help the affected businesses bridge the gap.

□ 1640

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I want to point out that what is involved here is a matter of making some loans available, 96 percent of which will be repaid. There will probably be very little loss involved. Indeed, the SBA has been criticized for requiring heavy channeling in order to make a loan, so they are going to get plenty of assurance that it will be repaid.

We do have this provision in the law that says that they can make loans under these circumstances, provided the cause of the loan is of such magnitude that, without the benefit of the loans, a sufficient number of otherwise financially sound small businesses in the impacted regions or business sectors would go under. Thus, it was a matter of judgment of the number involved.

Now obviously, if a larger number had been eligible, SBA would have administratively ruled that those applicants are eligible, so I do not really see that we are doing any violence to the act or to the intent of the act. In this case it is an extremely unusual thing, and just the fact that there were not a large number in the same area that were involved really should not necessarily control.

I do think we have to keep this language in to prevent having just wholesale applications for every little situation that comes up, but I do think this is a very unusual situation.

While I am not necessarily endorsing the amendment or was not anxious to see it, I am not going to oppose the amendment.

Mr. MOAKLEY. I thank the gentleman.

Mr. DONNELLY. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Massachusetts.

Mr. DONNELLY. Mr. Chairman, earlier this year, in response to the Soviet invasion of Afghanistan, this body overwhelmingly voiced its support for this country's boycott of the Olympic games in Moscow.

Undoubtedly, this was the proper course to follow. Having taken such action, however, I believe we must also be willing to accept responsibility for its consequences. Nearly 40 small businesses face substantial losses or financial ruin as a result of the boycott. These firms were licensed by the U.S. Olympic Committee to sell Olympic-related products to help finance our Olympic effort. An unprecedented and totally unforeseeable Government action is the cause of their hardship. It is not right that the Government leave them to shoulder a burden which it created.

Today, we have an opportunity to provide redress to severely affected firms. My colleague, Mr. MOAKLEY, has offered an amendment to the State-Justice appropriations bill to provide $7.1 million for relief in the form of disaster loans issued through the Small Business Administration. The loans would have a limit of $100,000. While this will not be enough for some firms—several have already gone out of business and others have lost considerably more, it is something. It is also an indication that this country, and especially we in this body are ready to stand by our actions and make certain that our citizens are not forced to unfairly bear their cost.

This amendment is a good one, and I urge that it be agreed to.

The CHAIRMAN. The question is on the amendment of the gentleman from Massachusetts (Mr. MOAKLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ALEXANDER

Mr. ALEXANDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ALEXANDER: On Page 41 between lines 19 and 20 insert the following:
>
> For the purposes of making loans through the "Disaster loan fund", authorized by the Small Business Act, the Small Business Administration may borrow from the Secretary of the Treasury up to $100,000,000 as authorized by section 4(c)(5)(A) of the Small Business Act.

Mr. ALEXANDER. Mr. Chairman, a few minutes ago I engaged in a colloquy with the gentleman from Iowa, the acting chairman of the committee, which was followed by a colloquy which was instituted by the gentleman from North Dakota (Mr. ANDREWS), during which we expressed concern that the Small Business Administration would run out of money and that it would not have ample funds to provide for the impending disaster coverage that is anticipated.

While we do not have a definitive estimate at this time as to the amount of money needed nor the scope of the disaster, it occurs to me that the least that this committee should do is to provide the borrowing authority of the Small Business Administration up to a level which would not do violence to any budget act, which has taken place by the House or by the Appropriations Committee as of this time.

On inquiry, I am advised that we can achieve that objective by this amendment which authorizes the Small Business Administration to borrow up to $100 million more without any additional initiative on the part of the administration or without any additional amendment or change of rules or change of action on the part of the Budget Committee.

Accordingly, I have filed the amendment. It has been submitted. I think there is general agreement that there is need for more than we have taken place today.

Mr. ANDREWS of North Dakota. Mr Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I think the amendment we have is an excellent one. It provides the money, if needed. If the disaster claims do not show that we have the need for that much obviously it will not be expended. So it provides the assurance to those individual farmers, small businesses, and others who have been struck by this natural disaster through this drought, the assurance that when they go in, the money will be available, and they will not have to wait 1 month or 2 months or 3 months, which might mean the difference between continuing the operation of their farm or their business or having to terminate that operation.

We join in support of the amendment and think it is excellent and a timely one and I appreciate the gentleman's leadership in offering it.

Mr. ALEXANDER. I thank the gentleman for his contribution.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. ALEXANDER).

The amendment was agreed to.

☐ 1650

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

UNITED STATES METRIC BOARD

SALARIES AND EXPENSES

> For expenses necessary to carry out the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205), $2,800,000.

AMENDMENT OFFERED BY MR. RUDD

Mr. RUDD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. RUDD: On page 42, line 10, strike out the period and insert in lieu thereof the following: "; *Provided*, That none of the funds provided herein shall be used to promote conversion to the metric system.".

Mr. RUDD. Mr. Chairman, this amendment is self-explanatory. It would prohibit the U.S. Metric Board from using the resources and power of the Federal Government to promote conversion to the metric system.

The intent of the amendment is to require the Board to resume its limited mandate of coordinating, planning and voluntary metric conversion only when such conversion is initiated by elements in the private sector and when citizens or businesses want such assistance and ask for it.

This neutrality of the Metric Board in refraining from a pro or con position on the issue of metric conversion, which my amendment would require, is consistent with the intent of Public Law 94–168, the Metric Board Organic Act, passed by Congress in 1975.

It is also consistent with repeated instructions to the Metric Board from Congress that it cease being a metric advocacy agency, both in reports accompanying the Board's 1980 appropriations this year and last year; however, as I have noted in views that I provided in testimony before the subcommittee, the board has ignored these instructions from Congress. A good example of this is the Board's active support and endorsement of metric gas pump conversion, sale of gasoline by the liter instead of by the gallon, which would impose enormous additional costs, cause confusion and unnecessary hardship and inconvenience to American motorists across the Nation.

Another example is the Board's creation of the Inter-Agency Committee on Metric Policy, a committee of Federal agency representatives which would operate with board support, but outside the Board's jurisdiction. The Inter-Agency Committee on Metric Policy has issued regulations in the Federal Register instructing all Federal agencies to adopt and promote the use of Metric Board measurements into their own activities in Federal procurement, contracting, and so forth, totally outside the authority granted to the Federal Government under Public Law 94–168.

This, in effect, is a mandatory imposition of metric on the public through these agencies and is outside the purview of the enabling legislation.

There are many other specific ways in which the metric board has violated the spirit and letter of its Organic Act in order to impose metric conversion upon the American people.

I believe that now is the time for the Congress to check the defiance of congressional intent by requiring that none of the funds appropriated in this bill be used to promote metric conversion.

I urge adoption of the amendment.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Chairman, I gather from the statements in the Appropriations Committee report accompanying the bill and from the amendment, that it is not national policy to convert to the metric system, but that the Metric Board itself has assumed this role for itself beyond the limited mandate of the enabling statute; is that correct?

Mr. RUDD. The gentleman is exactly right. The language of the law itself, the Metric Board's enabling act, which was passed by Congress, is clear on this and it states, and I want to quote this in section 3:

> It is, therefore, declared that the policy of the United States shall be to coordinate and plan for the increasing use of the metric system in the United States and to establish the United States Metric Board to coordinate the voluntary conversion to the metric system.

Of course, the key words here are "coordinate" and "voluntary."

It is not the policy of the United States to create a time program or policy of conversion, as earlier proposed legislation, which was never adopted by Congress, would have provided.

It was assumed in 1975 when Congress passed this law, Public Law 94–168, that there was a possibility that more people and businesses would be using metric measurement and there was, therefore, a need to establish this sort of legislation by the Federal Government to help coordinate an increased use of metric usage.

Mr. DEVINE. Mr. Chairman, if the gentleman would yield further, then the bottom line is that this role has been assumed by the Metric Board, rather than under the enabling act.

Mr. RUDD. That is correct. The metric usage has never materialized to the extent it was intended and anticipated.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, as I understand it, the gentleman is not intending by this amendment to prohibit the Board from doing anything now that it is now permitted to do by law?

Mr. RUDD. That is exactly correct, only to obey the law as it stands.

Mr. SMITH of Iowa. Now, I want to point out that the Board did ask for $891,000 that the committee cut from the request.

Mr. RUDD. I am not hearing the gentleman very well.

Mr. SMITH of Iowa. I want to point out that the Board requested $891,000 for 12 positions for additional travel to additional monthly meetings, and for additional programs contracts. We denied that, thinking that that might be used for the purpose of promoting conversion to the metric system.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(At the request of Mr. SMITH of Iowa, and by unanimous consent, Mr. RUDD was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield further, as long as the gentleman assures us that nothing in his amendment would prohibit the Board from doing anything they are now permitted to do under the authorizing legislation, I do not really see any great objection to the amendment.

Mr. RUDD. I think the amendment spells out the law and it is not voidable within the law.

Mr. Chairman, I yield back the balance of my time and urge adoption of the amendment.

Mr. McCLORY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I note in the committee report that the committee has indicated sharp limitations on what it regards as the authority of the U.S. Metric Conversion Board. As one who has lived with this subject for quite a while, I can certainly attest to the fact that the Board, which took a long time in being established, has operated in a very modest and a very helpful and very cooperative way, in my view entirely consistent with the intent of the Congress.

In order that there be no misunderstanding about the voluntary programs which the Board is authorized to coordinate where segments of our society have need for the Board's cooperation in converting to the metric system of weights and measurements, the committee has delineated what it regards as the limitations of the Board's authority.

I think this amendment would have a further chilling effect on what the Congress intended to be the very important and helpful role of the Metric Conversion Board. To question that conversion to the metric system is taking place is to ignore the realities of the day. I think to ignore the utility or the benefits that can flow from this voluntary general conversion is also to ignore what the realities are insofar as the benefits are concerned. To suggest, as this amendment would do, that when a segment of our society, such as a particular industry or educational group, is undertaking to promote a voluntary conversion to the metric system of weights and measures, to say that they cannot coordinate or cannot participate in that kind of promotion of conversion, is to deny to them the authority which the Congress has already reposed in them.

So it seems to me that this would be a mischievous amendment. It would have a chilling effect. It would have an adverse effect on what the Metric Conversion Board's job is as we have assigned it to them.

Let me just emphasize that while it is the perception of some that here is a group (the Metric Conversion Board) that is trying to impose some foreign system of weights and measures that perception is mistaken. There is a broad cross section of personalities represented on this Metric Conversion Board, including some who are opposed to various types of metric conversion. Insofar as that is concerned, I am opposed to various types of metric conversion. I do not want us to convert land measurements, for instance, to metric terms. I think very few people do, and the Metric Conversion Board would not undertake any such kind of activity at all.

But to suggest that with regard to automobiles, with regard to photographic equipment, with regard to beverages and with regard to many other items, including mileage signs on highways and things like that, that the Board cannot participate in promoting conversion to the metric system, it seems to me is to deny to the Board the authority, the useful authority that we have reposed in them. I hope we would not move backward.

□ 1700

I know there is a small minority that detests the metric system and they would like to throw roadblocks in the way of its work and deny funds to it, as may come from another amendment offered. But we should not be doing that because it is not consistent with what the realities of the day are. I hope this amendment will be defeated.

This amendment would, in an indirect way, seek to color the way the U.S. Metric Board is to interpret its legislative mandate. This is a subject which has been discussed extensively within the U.S. Metric Board itself; which has been reviewed by the General Accounting Office; and which has been reviewed with a good deal of care last fall in oversight hearings by the legislative committee, the Committee on Science and Technology.

The Metric Board now has a clear mandate to coordinate the increasing use of the metric system of weights and measures in this country. The Metric Act provides that the Board shall have no compulsory powers, and thus participation by industrial firms, school systems, trade associations, and others is entirely voluntary.

The long-term objective of this coordination function is to reduce the cost and inconvenience in all sectors of our society. Without the coordination and public education functions of the Metric Board, the confusion, the duplication, and the time required to make the changeover in individual fields would surely be much higher.

In performing these functions, the Board necessarily must explain to potential metric users what advantages are associated with the use of the metric system. If you provide such information, are you "advocating" the metric system? I think not. But those who have strong reservations about metric would undoubtedly interpret the language of this amendment in the narrowest sense. It could thus serve to unnecessarily tie the hands of the Metric Board.

The safeguard against any unnecessary or uneconomic adoption of the metric system by any segment of our society lies in the voluntary nature of participation in the metric conversion. Given the long history of review and interpretation given to the Board's mandate, this amendment would place unnecessary restraints on what is already a very limited mandate, and I urge its defeat.

Mr. McCORMACK. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment. I want to point out that this is the kind of amendment that this House has had before it every year now for several years and which we have voted down overwhelmingly every time.

Just because this is set in such a mild context I hope it will not mislead anyone into thinking that it is really just a harmless amendment. It is not just a harmless amendment. It is extremely mischievous and would do great damage.

It is important to recognize that this Nation, in accepting the Metric Act, and this Congress, in accepting the Metric Act, committed itself to conversion to the metric system on a voluntary basis as it became convenient and economic to do so. The purpose of the Metric Board, as it was created, is to be as inoffensive as possible to those few people in our society who seem to think that the metric system is some sort of a diabolic, foreign plot to do us in. The act was worded in such a way that the Board would work to coordinate and inform the public and to coordinate the conversion. That is the job of the Board.

The amendment provides that none of the funds should be used to promote conversion. What does it mean? Does it mean that if they give out information to schoolchildren on the metric system that is promoting conversion? Certainly those people who oppose the metric system and believe it is some sort of foreign plot would believe that providing schoolchildren with information on the metric system constitutes promotion of the metric system.

To the extent that it gives any individual citizen of average intelligence information about the metric system and the English system, and the opportunity to judge for himself which is superior, I suppose it is promotion. Under those conditions such activities as simply telling what the metric system is could be construed by some as constituting promotion. Probably no court would find that. One might, but I suspect probably not.

But there probably are judges some place who could be prevailed upon to grant injunctions against the activities of the Board based upon this amendment, if it were made law.

So I think it is important for us to recognize that the significance, the thrust, the real purpose of this amendment is to destroy this Nation's conversion to the metric system over the balance of this century.

What I want to remind Members of Congress of is that only the United States and, I think, three or four other tiny nations in the world are not on the metric system or rapidly converting to it. There are those who believe we should continue with this system from the Middle Ages which we have today that makes no sense at all, that we should pretend that because it is American it is holy, or patriotic, and that we should reject the attempts to step into the 20th century, to say nothing of the 21st century.

I suggest that those persons who oppose the metric system are missing the boat completely. This Nation must move forward, and the world is an entity. Our production today is sliding in comparison with the world, and our position in the international industrial competition is sliding.

I hope all Members will recognize this fact. I hope they will all recognize that this is a mischievous amendment. Remember that this Congress has committed itself and committed this Nation to a conversion to the metric system and we have reaffirmed our position every year when this sort of an amendment has come to the floor. I hope my colleagues will join me in overwhelmingly voting no on this amendment.

Mr. PHILIP M. CRANE. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, first of all I would like to praise my distinguished colleague from Arizona for the considerable amount of work and research that has gone into the preparation of this amendment. I think some of the remarks that this body has heard, Mr. Chairman, do not seem to understand the precise language. It says, "Provided that none of the funds provided herein shall be used to promote conversion to the metric system."

It was never the intent of this body, if we go back to the original language that created this Metric Board, it was never the intent of this body to promote, at least as defined in the dictionary. In the dictionary to promote is to present for public acceptance through advertising and publicity, to contribute to the growth and enlargement. That is an aggressive, positive act. My understanding is that what the gentleman is endeavoring to do, and I would be happy to yield to him to get a clarification of that point, is simply to get the Metric Board to conform to the original language that created that body. In short, to conform to the intent of Congress.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. PHILIP M. CRANE. I am happy to yield to the gentleman.

Mr. RUDD. I thank the gentleman for yielding.

Let me say at the outset that absolutely, under no circumstances, was any mischief intended with this amendment. This amendment was only designed to get the Metric Board to conform to the enabling statute itself. They have not done this in the last 5 years or the years it has been in operation. Actually it has been a lot less than that, but since the statute has been in operation we have actively criss-crossed the Nation in an effort to impose the metric system on the American people.

I have no criticism of the metric system itself. My only desire is to see that this is not imposed upon the people of this country against their will.

I would say also that it is not a small minority that is aware of this and is interested in the metric system not being imposed upon the people. I think it is really a wide majority. This does not tell anyone in our country or in the world that they should not use the metric system. It does not deter nuclear physicists or scientists from using the metric system wherever it is needed. It does not take away or promote our economic system in any way by going to the metric system. We have made more strides than any other nation in the history of the world with the use of the American system of measurements, I might add.

Also with regard to other countries that may have tried to use this system, England and Canada, two great countries have attempted to impose this system on their people without success. Now they are withdrawing from this because they know they cannot do it in that way and in that fashion.

What is good for a scientist and what is good for progress in the scientific field may not be good for the housewife, for example. I do not oppose the metric system at all. I only wish they would conform to what the enabling statute said, and I hope that we will get an aye vote on this amendment to assure that this is done.

If we wish to impose the metric system on the people of this country then we should design legislation that will do that and say that, and abide by that legislation rather than attempting to avoid it. The Board has not acted within the guidelines of the statute since it has been in operation. Therefore we need to tell the Board once again and in unequivocal terms that it should do just that.

□ 1710

It does not pay attention to the language that appears in the reports that come out of committee when this legislation is brought to the floor. So all this does is just tell them in a nice way that we wish you would conform.

Mr. PHILIP M. CRANE. I thank the gentleman for that remark. I would only add in response there was one other point raised that suggested that somehow this would hurt our trade. That is not consistent with the finding of the National Bureau of Standards, which indicates that the notion that we are losing exports to metric countries because our products are not designed and manufactured in metric units is ill-founded. They found out that U.S. exports to metric countries more than doubled the exports to nonmetric countries. The Comptroller General reached the same conclusion. We have had voluntary conversion going on since 1866. In fact, 60 percent of the Fortune 500 companies before the creation of the Metric Board had already begun their conversion because it was in their interests to do so.

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I know that the gentleman from Arizona (Mr. RUDD), who has offered the amendment—and we have discussed this on numerous occasions—has been sincerely concerned about the Metric Board being an advocate of or a promoter of conversion to the metric system. As has been pointed out by the gentleman from Illinois, when the Metric Conversion Act was created by the Congress and signed into law, it was the clear intent of the Congress that the Metric Board not be an advocate and that it try to coordinate and assist various industries, groups, educational institutions, and others, in converting to the metric system, should that be their decision.

I am afraid that the language that the gentleman proposes, using the word "promote," could be interpreted in the narrowest sense, to hamstring the efforts of the Metric Board in trying to be of assistance to those who choose to change to the metric system. I can envision, as we have had happen, many of our service stations throughout this country, because of the increase in gasoline prices, choosing to convert to the metric system. I am sure that many of those have probably asked someone what may be the advantages of converting rather than keeping the old gallon system that we presently have. I would not want to tie the hands of the Metric Board in trying to explain to someone what the advantages may be of converting. Would that be, not necessarily advocating, but trying to explain the advantages? We have many other industries in the country, as well as educational institutions and others, who may decide for their own reasons that they should convert. I realize that this House—and it was my position at that time as one of the cosponsors of the bill—feels that it should be something that the people decided individually and that it be on a strictly voluntary basis. That is the way it should be. This Board has no compulsory powers whatsoever. All they can do is serve in an advisory and a coordinating and an educational capacity.

But I think if someone comes to this Board and says, we have been on the other system. We would like to find out what some of the advantages of the metric system are they should be able to explain those to him, and whatever decision this group may make is certainly up to it.

I think that by adopting this amendment, we could, in the narrowest sense, be tying the hands of the Board, and I do not think that would be the intent of this body. They do have to walk a careful line today. They cannot compel anyone to change or adopt any system, and they should not have that power. But I think this would tie their hands too narrowly. I do not think it would be in the best interests of the Board of the country. I urge defeat of the amendment.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I would be happy to yield to my friend, the gentleman from Arizona.

Mr. RUDD. I thank the distinguished chairman of the Committee on Science and Technology for yielding. I have the greatest respect for the chairman. I would only point out that there have been numerous instances that have come to my attention from the business sector who actually believe that this is a mandatory piece of legislation. They feel they have no choice, that they have to convert to the metric system as soon as they possibly can, and they are absolutely startled to find out that that is not so and that it is a voluntary thing. I would say only that there is no change in the amount of funds that they get. All this would do would prohibit them from, for example, traveling around the country and having meetings that would actively promote the metric system, to have a public relations group and a public relations person that they would have on their staff who does that in an affirmative way. This would prevent that from happening. It only tells them that they should abide by the enabling legislation, and if they want to change it to another way, they can go the other way.

Mr. FUQUA. Let me say to my good friend that certainly this Board, as I have said, has no compulsory powers whatsoever, and I think the gentleman will agree with that. I hope they have not been prevailing on someone to believe that they can compel them to convert to the metric system, and I do not think that has been the case.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. I would not want to preclude them from answering someone who asks, what is the difference between a gallon and a liter. They should be able to have some chart that can provide comparisons. When changing from inches to millimeters, or from miles to kilometers they could show the difference between the two and the advantages of each. I do not necessarily consider that promoting. They are prohibited from advocating. They cannot advocate one measurement over the other. For example, when the gentleman was talking about promoting, maybe that gets to a point where a citizen calls on the telephone and they cannot even explain to him what the advantages may be.

Mr. RUDD. If the gentleman will yield further, I see no way that could prevent them from helping people to convert if they want to convert, if they come to them. That is what their job is or there would be no need for their existence.

But I would point out, for example, that they created this agency on metric policy. This is an entity out here, and they have a right under the legislation to establish lines of communication with other agencies, and this is what they have done here. But that agency that they created to do this, to establish the lines of communication, has been actively promoting and indicating to other agencies in the Government that they should promote metric, that they should go to metric and should utilize metric. Of course, they have no legal status at all except to be the line of communication with the Board itself. The Board has no control over them once it is established, and yet they are acting under the auspices and the authority of the Board itself, and that is not within the purview of the legislation. That should be stopped. I think what has happened in the way of testimony before the committee and the subcommittee would be most helpful in that I think it is pretty well settled that they would have to do this. It has been brought to their attention, but they have not done it in the past. All this would do is to say that we are providing these funds to serve the people, but we do not provide you with these funds to be used in any way which would impose metric on the people of this country, outside of the guidelines of this piece of legislation. I thank the gentleman very much for yielding to me to make that point.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding. There have been set up voluntary agencies and committees of various segments of industry—big businesses and small businesses and medium sized—and these different segments of the industrial community keep in intimate contact with the Metric Conversion Board.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. McCLORY, and by unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Will the gentleman yield further?

Mr. FUQUA. I will be glad to yield.

Mr. McCLORY. I thank the gentleman. The Metric Conversion Board then has the authority and prerogative to assist these different groups and companies that have voluntarily formed themselves into units to effect a conversion in an orderly, timely, and uniform conversion. So it seems to me that this is the function which the Metric Conversion Board performs in most instances. While it might be regarded as promoting conversion, it is providing the coordinating influence——

Mr. FUQUA. And informational services.

Mr. McCLORY (continuing). Of persons who voluntarily are promoting their own conversion to the metric system and assisting. It seems to me that they have fulfilled their role precisely in accordance with the intent of the Congress, and this would at least have a chilling effect on what they might do.

I thank the gentleman for yielding.

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Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I will be happy to yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. I thank my distinguished colleague for yielding.

On May 9 of this year the Metric Board provided an informational meeting for congressional staff members here on the Hill. Two teachers, speaking in behalf of the Metric Board, spent an hour in advocacy of conversion to metrics. I think it is just the sort of thing that my good friend and colleague from Arizona (Mr. RUDD) is concerned about.

Mr. Chairman, I do not know whether the gentleman from Arizona would be more comfortable with the word "advocate" versus the word "promote" because I think that both words address the same point and I understand the concern of the gentleman in the well. The fact is there have been these instances of advocacy and when you combine that violation of the intent of this body with the lack of understanding that many persons have in believing that they are supposed to be undergoing some involuntary conversion, we have got a clear violation of the intent of what the Members of this body chose to do.

Mr. FUQUA. Let me say to the gentleman, sometimes representatives of the Board have been invited to appear before groups from an educational standpoint to discuss, What is metric all about?

I do not think they can go there and remain silent or say that they are under the Hatch Act and can take no position either way.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for 1 additional minute.)

Mr. FUQUA. They, therefore, must try to explain what is the Board trying to do, how you are doing this and in the process they do say something about why they think it is advantageous. However, they cannot compel anyone to convert. That is something that industry, Government and all others can do on their own. As a matter of fact many have already done it, as the gentleman is well aware, voluntary, particularly in the armed services. Nobody knows how many feet it is, it is how many meters from point A to point B.

I think in trying to carry out their responsibilities on many occasions they are asked by the group that invited them to tell them what they are trying to do and what the advantages of metric are.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, this amendment does not go to an attempt to wipe out the Board, the metric system or anything else. This amendment is a simple amendment. All it does is say let us stay within the guidelines of the legislation. That is all it does.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. RUDD).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. RUDD. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No 411]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers

Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

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The CHAIRMAN. Three hundred and eighty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Arizona (Mr. RUDD) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Members are reminded that in accordance with the previous announcement of the Chair, the time for this vote will be reduced to 5 minutes.

The vote was taken by electronic device, and there were—ayes 141, noes 260, not voting 32, as follows:

[Roll No. 412]

AYES—141

Abdnor
Albosta
Ambro
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Barnard
Bauman
Bedell
Benjamin
Bennett
Bethune
Breaux
Brinkley
Broomfield
Broyhill
Byron
Campbell
Chappell
Clausen
Cleveland
Clinger
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Deckard
Derwinski
Devine
Dougherty
Duncan, Tenn.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fithian
Fountain
Fowler
Gaydos
Gingrich
Ginn
Goodling
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammer-schmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hopkins
Hubbard
Huckaby
Hutchinson
Hutto
Ireland
Jeffries
Jenkins
Kelly
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lujan
Lungren
McDonald
McKay
Madigan
Marlenee
Marriott
Mica
Michel
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nelson
Nichols
Pashayan
Paul
Quayle
Rahall
Roberts
Robinson
Roth
Rousselot
Rudd
Santini
Satterfield
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Staggers
Stangeland
Stenholm
Stump
Symms
Taylor
Trible
Vander Jagt
Volkmer
Walgren
Walker
Watkins
Weaver
Williams, Ohio
Wilson, Bob
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.

NOES—260

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Badham
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cavanaugh
Cheney
Clay
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Courter
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gradison
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hillis
Hinson
Holland
Hollenbeck
Holt
Horton
Howard
Hughes
Hyde
Ichord
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mazzoli
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Regula
Reuss
Richmond
Rinaldo
Ritter
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Stanton
Stark
Stewart
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Van Deerlin
Vanik
Vento
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—32

Anderson, Ill.
Bowen
Burgener
Butler
Chisholm
Cotter
Dickinson
Dodd
Goldwater
Gray
Holtzman
Jacobs
Lott
McEwen
Mathis
Mavroules
Moffett
Oakar
Rangel
Ratchford
Rhodes
Rodino
Runnels
St Germain
Steed
Stockman
Stokes
Udall
Ullman
Wampler
Waxman
Wilson, C. H.

☐ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Rodino against.

Messrs. LEVITAS, BREAUX, and YOUNG of Alaska changed their votes from "no" to "aye."

Mr. MURPHY of Pennsylvania changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PHILIP M. CRANE

Mr. PHILIP M. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. PHILIP M. CRANE: On page 42, strike lines 6 through 10.

Mr. PHILIP M. CRANE. Mr. Chairman, reduced to the basics, my amendment will save 2,800,000 taxpayer dollars by eliminating all funds allocated to the unnecessary U.S. Metric Board.

The U.S. Metric Board was authorized by the Metric Conversion Act of 1975. The title of this 1975 bill was most unfortunate. It misled many into believing that the United States had made a national commitment to convert to metrics and that a Federal agency would carry out the switch. In fact, the law specifically stated otherwise. The operative language in section 3 of that act clarifies that—

> The policy of the United States shall be . . . to coordinate the *voluntary* conversion to the metric system. (15 U.S.C. 208, emphasis added.)

Conversion, as it takes place at all, is to be totally voluntary. Each American is free to decide for himself whether or when his business would benefit from a switch to metric measurement. Each American is free to decide whether or when to learn all the conversion tables and gain a working knowledge of the metric system. Each American is free to decide what he wants and when he wants it with regard to systems of measurement.

Leaving all decisions regarding measurement systems to the individual is a tremendous act of commonsense. After all, an individual knows his needs far better than some bureaucrat who sits in an air-conditioned office in Washington, D.C. Of course, if Congress had been truly wise, it would not have tampered with this question at all. By going to the effort of telling Americans they are free to convert or not convert to metrics, an agency somehow got formed in the process. Congress cannot even tell Americans they are free to choose without creating a Federal agency. Moreover, by stating the obvious, that Americans are free to decide, we also got the unfortunate title of the 1975 act that caused many to believe the exact opposite; that is, that their Government was deciding for them again. Congress often cannot even state the obvious without creating a Federal agency and causing confusion.

In any event, that brings us to the subject of my amendment. Since Congress was profoundly sensible enough to make conversion totally voluntary, surely it is wise enough to understand that we do not need to spend $2,800,000 for a Federal agency to influence that choice. Americans do not need to pay a Federal agency to tell them what to decide.

Unfortunately, the U.S. Metric Board is, in fact, ignoring the language of its own organic act. The Board is trying to tell Americans what they must voluntarily decide. The Appropriations Committee is aware of this overstepping. In its report accompanying fiscal year 1980 appropriations, the committee stated:

> The Comptroller General has recommended that the Metric Board initiate a program to inform the American people that conversion to the metric system is strictly voluntary and that the national policy as mandated by the Congress does not favor the metric system over the customary system or vice versa. The committee is concerned that the Board, in its policies and actions, is becoming an advocate of the metric system and is giving the impression that our official national policy is to convert to the metric system albeit voluntarily.

Despite this undeniable directive from the committee, the Metric Board has not stopped advocating and working within the Federal Government to further a switch to metrics. My colleague on that committee, Congressman ELDON RUDD, has amassed an impressive record of instances in which the Metric Board has gone beyond its mandate to "coordinate * * * voluntary conversion." Congressman RUDD, who deserves our highest praise for his efforts to keep the Metric Board within the parameters laid down by Congress, found 10 instances of abuse:

First. A majority of the Board, collectively and individually, advocate conversion to the metric system, project it as being "a better system than the American customary measurement system," and point to the "inevitability" of metric conversion in their meetings and activities as a way to convince business and citizens to plan conversion as quickly as possible in order to minimize conversion costs.

Second. The Metric Board witnesses before the committee this year acknowledged in response to questioning that the Board is operating on a 10-year timetable for metric conversion in the United States, which was specifically rejected by Congress before passage of Public Law 94–168.

Third. The Board does not present a balanced picture of the disadvantages and high costs of metric conversion along with its prometric views.

Fourth. The Board has made no efforts to determine or eliminate the many inconsistencies and inaccuracies in metric usage in the United States, resulting from Federal Government under an 1866 law, and another metric system that does not recognize gravity, with different units and standards under the 1975 law.

Fifth. The Board members and staff are not properly versed in the international system of units (SI), the metric system specified Public Law 94–168 as the system to be used in the United States, in order to "assist the public through information and education programs to become familiar with the meaning and applicability of metric measures in daily life," as required by the law.

Sixth. The Metric Board has refused in response to public request to publish a guideline for metric (SI) usage.

Seventh. When contacted by citizens and businesses for information and assistance concerning metric usage, the Board staff advocates affiliation with and purchase of materials from the American National Metric Council and the American National Standards Institute, two private prometric conversion advocacy organizations.

Eighth. The Board has failed to coordinate metric conversion activities involving private industry and the Federal Government (that is "p-metric" tire and metric highway sign conversions) in order to carry out mandates of Congress and recommendations of the Comptroller General which the Board and other Federal agencies were instructed by Congress to implement.

Ninth. The Board did not conduct a proper or thorough cost-benefit analysis as required by Public Law 94–168 before it publicly supported and advocated conversion of gasoline sales to sale by the liter instead of the gallon—an action itself contrary to the law.

Tenth. The Board has established an Interagency Committee on Metric Policy (ICMP), composed of Federal agency representatives, which operates outside the jurisdiction of the Metric Board, but with Metric Board sanction has issued a mandatory policy and guideline (Federal Register, January 8, 1980) for Federal Government-wide implementation of metric conversion not subject to coordination of planning by the Board according to private sector conversion initiatives as required by Public Law 94–168.

Congressman RUDD could have added one more to his list of violations. On May 9, 1980, the Metric Board sponsored an informational meeting for congressional staff members. Two teachers spent over an hour advocating the metric system of measurement. An attorney from the Board, who also sat through the entire presentation, took 2 minutes at the outset of the meeting to state simply that Congress had expressed no preference in enacting the Metric Conversion Act of 1975. It had only, he added, recognized that metrication was "on the climb." During the course of the presentation, the Board teachers gave each of the 12 staff members present a packet of materials. It contained two metric thermometers, some metric building blocks, a metric yardstick—or would that be called a meterstick?—a metric ruler, eight pamphlets in favor of metrics, and a pile of letters. Refreshments were served after the briefing. I have no idea how much this briefing for 12 congressional staff members cost. In order to make that calculation, I would have to know the salaries of an attorney and two teachers, not to mention the cost of the packet and refreshments. What did the American taxpayer get out of this expenditure of several hundred dollars? Well, my staff assistant now knows that he is somewhere around 174 centimeters tall with his shoes on. This is a real tragedy. What right have we in Congress to take money from a struggling young farmer in Iowa to inform my staff aide that he is 174 centimeters tall.

The Appropriations Committee must already have some questions about the dire necessity of allocating $2,800,000 to the U.S. Metric Board because it cut back the budget request by $891,000. Even with this cut, however, the Board will still get $326,000 more this year than last. In other words, the U.S. Metric Board will receive about a 15-percent pay increase in a year. With inflation, the income of most Americans is declining. Yet we will take more of their declining income to raise the pay to a Government agency without a valid purpose that cannot even obey its orders from Congress.

The 1979 Appropriations Committee report mentioned the GAO study; let us look at that next. The Comptroller General's October 20, 1978, study confirms that conversion is to be voluntary:

> The 1975 Act and its legislative history show the national policy is not to prefer one system over the other but to provide for either to be predominant on the basis of the voluntary actions of those affected . . . Despite opinions and statements to the contrary, it is not the United States' policy to convert to the metric system.

This should not be news. Voluntary conversion has been U.S. policy since 1866 when the metric system was authorized. In 1975, Congress only echoed what Americans had understood for over a hundred years.

Once again we come to the undeniable conclusion that Americans do not need to spend $2,800,000 to have a Federal agency make their decision for them. They are perfectly capable of weighing the alternatives and reaching their own conclusion.

Because my amendment is based on commonsense, I anticipate objections from some Members of the House. Therefore, I would like to address those objections before they are even made.

The first objection will be "we have already decided by a conclusive vote of Congress to create this agency and cannot just eliminate the funds to sustain its existence." In the first place, the 300-to-63 margin of passage for this agency is more evidence of a mistake than of merit. When Congress makes mistakes, it usually does so by a conclusive margin. In any event, we should not allow a mistake to continue simply because we do not want to admit that we made it. This House has not hestitated in the past to reverse an authorization decision by eliminating its funding. Let me cite a few examples: In 1977, for example, the legislative appropriations bill eliminated funding for an authorized pay raise for Congressmen. The President's ill-fated amnesty program for draft evaders was authorized but denied funds. The Trexler Lake public works project was underway in Pennsylvania when the House cut its funding. Five additional B-1 bombers were authorized for construction when the House reversed itself and weakened our defense by cutting the appropriations. The House does not need to feel squeamish about correcting in this instance a past mistake by eliminating the funds for the unnecessary U.S. Metric Board.

Another objection we will hear is that "if we abolish the Metric Board, our trade with metric nations will be damaged." This objection misses the point completely. Americans have their freedom to choose. If it is profitable and beneficial to convert to metrics for international trade, you had better believe that our enterprising American businessmen will effect the change tomorrow. But if it is not profitable, no Federal agency has or should have the power to force a change. If conversion is to take place at all, it should come naturally, as demanded by the marketplace, not in response to pressure from a Federal bureaucracy. Moreover, Congress should not decide for everyone when or if to convert, individuals and businesses can decide for themselves. America's businesses can decide to convert if they feel their trade is being harmed.

Before we pass this last objection, however, a glance at what our studies say on this topic of trade damage would be helpful. Under Public Law 90-472, the National Bureau of Standards conducted a $1.3 million study into the need for metrication. They checked this trade question closely and concluded:

> The notion that the U.S. is losing exports to metric countries because its products are not designed and manufactured in metric units and standards appears to be ill-founded. U.S. exports of MSS products to metric countries are more than double the exports to non-metric countries. For example, shipments to both Japan and EEC markets grew faster than total exports of MSS products. In the period 1965-69, exports of MSS products to metric countries grew 48.3 percent compared with a 44.6 percent growth to nonmetric countries.
>
> U.S. exporters and importers rank the measurement factor very low, indicating it affects U.S. trade only slightly. Exporters indicate that the top three factors promoting sales abroad of MSS products were reliability and reputation, superior technology and high quality of product. These three factors account for over 60 percent of total rankings. As to promoting exports, the measurement system used to design and manufacture U.S. products (either U.S. customary or metric—received only 1.6 percent of the total rankings. The measurement system received only 3.3 percent of the total ranking of export deterrent factors.
>
> The only instance where the measurement factor was cited as having an important effect on trade was in the importation of wood and lumber products and primary metal products. Importers in these product categories stated that because these products are generally designed and manufactured in U.S. customary units and engineering standards, their sales in the domestic market were greatly enhanced.

The Comptroller General reached the same conclusion just recently:

> The effects of metrication in promoting or deterring trade appear to be relatively insignificant and companies in the forefront of metrication appear to be pursuing conversion for reason other than a favorable impact on trade.

The trade loss objection lacks a sound foundation.

Others will object that "without the Metric Board, conversion to the metric system will be disruptive, disjointed, and uncoordinated." At this objection, I must chuckle a little. Since when has the Federal Government been noted for smooth and efficient management? Can a Government which claims the speed of the Postal Service, the fairness of the Internal Revenue Service, and the efficiency of Amtrak really presume to prevent disruption? Nonetheless, someone is sure to stand up as soon as I am seated and swear that we need a Federal agency to "coordinate" the nationwide conversion process. By the way, I hasten to add that there is no national commitment to metrication. We do not need a Federal agency to coordinate a national commitment we have not made.

Let me add one more point while we are discussing whether the Federal Government is needed to participate in conversion to metrics. One of our major industries, the automobile industry, had substantially converted to metrics long before we even had a Metric Board. That voluntary conversion occurred without major disruptions. Moreover, 60 percent of the Fortune 500 companies had made some commitment to metrics voluntarily without a metric agency. Freedom of choice works. If the Metric Board does for conversion what the Department of Energy has done for oil production, maybe the opponents of any conversion should oppose my amendment in the hope that the Government will get involved and nothing will ever happen.

In conclusion, let me just invoke for you the visions of an expanding Federal Government. Every new agency and bureau wants to do something to help Americans. Instead, they are making the decisions Americans want to make for themselves. After all, our constituents know their own needs better than some law graduate sitting in Washington, D.C. Let me also invoke the picture of a budget in the red. With senseless spending projects like this, it will stay in the red.

Finally, let me invoke for you the picture of an Iowa farmer going to the feed store to buy fertilizer for so many kilograms per hectare. If you can convince that farmer that a Federal agency is needed to help him choose to voluntarily convert to metrics and that his Congress should appropriate $2,800,000 for that purpose, let me know. I would like to visit that gentleman.

□ 1800

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. PHILIP M. CRANE. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I rise in support of the amendment and commend the gentleman from Illinois for his good statement and incisive statement with regard to this amendment, and I urge adoption of the amendment.

Mr. PHILIP M. CRANE. I thank my good friend from Arizona.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we reduced the request for the Metric Board by 25 percent, leaving it at approximately last year's program level.

Now, what this amendment would do would be to eliminate all of the funding for the Metric Board. I think that we have got to recognize the fact that metrification is going to happen. We are going to have metrics whether we like the system or not. We can no more stop metrics in a world economy than we can stop the earth from turning. It is just a matter of preparing people for it and coordinating the efforts of those who want to convert. There is no question that some of our manufacturers could do a lot better in exports than they do now if we were using the metric system and they did not have to use both measuring systems. In fact, some of them at considerable expense are using both systems of measurement on their manufactured products so they can sell in other countries as well as in the United States, although they lose some opportunity for volume at lower price.

I think that most of the Members of the House are opposed to this amendment. It was just illustrated a little while ago by a vote of 2 to 1 that the House is not even in favor of putting limitations on the Board. Certainly the House then would not be for eliminating the Board completely.

Based on that, I hope we would not have an extended debate. I just urge that we vote down the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PHILIP M. CRANE).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PHILIP M. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 113, nays 265, not voting 55, as follows:

[Roll No. 413]

AYES—113

Abdnor
Albosta
Ambro
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Bethune
Brinkley
Burgener
Byron
Campbell
Chappell
Clausen
Cleveland
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Deckard
Derwinski
Dougherty
Edwards, Okla.
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fithian
Fowler
Gingrich
Goodling
Gramm
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hopkins
Hubbard
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Jones, N.C.
Kelly
Kramer
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lujan
McDonald
McKay
Madigan
Marlenee
Mica
Michel
Mollohan
Mottl
Murtha
Myers, Ind.
Neal
Pashayan
Paul
Quayle
Rahall
Robinson
Roth
Rousselot
Rudd
Santini
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Staggers
Stangeland
Stenholm
Stump
Symms
Taylor
Trible
Vander Jagt
Volkmer
Walker
Watkins
Weaver
Wyatt
Yatron
Young, Fla.
Young, Mo.

NAYS—265

Addabbo
Akaka
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bouquard
Brademas
Breaux
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Courter
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Green
Guarini
Hamilton
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Holt
Horton
Howard
Huckaby
Hughes
Hutchinson
Hyde
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lehman
Levitas
Lloyd
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McKinney
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mazzoli
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Myers, Pa.
Natcher
Nelson
Nolan
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Simon
Skelton
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Stanton
Stewart
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wydler
Wylie
Yates
Zablocki
Zeferetti

NOT VOTING—55

Alexander
Anderson, Ill.
Bolling
Bonior
Bonker
Bowen
Brodhead
Butler
Cotter
Devine
Dickinson
Dodd
Gaydos
Goldwater
Gray
Hall, Ohio
Hanley
Holland
Holtzman
Ichord
Leland
Long, La.
Lott
McEwen
McHugh
Mathis
Mavroules
Moffett
Murphy, N.Y.
Musto
Nedzi
Nichols
Nowak
Oakar
Rangel
Ratchford
Rhodes
Rodino
Runnels
Satterfield
Schulze
St Germain
Stark
Steed
Stockman
Stokes
Tauzin
Traxler
Udall
Ullman
Wampler
Wilson, Bob
Wilson, C. H.
Wright
Young, Alaska

☐ 1820

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Rodino against.

Mr. BUCHANAN changed his vote from "aye" to "no."

Mr. MICA changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. WAXMAN. Mr. Chairman, I am very disturbed by both the content of this amendment and the manner in which it has been presented to the House. I tried for several days to learn from the gentleman from Georgia whether, indeed, an amendment affecting homosexuals and their treatment by the Legal Services Corporation would be offered on the floor. His staff refused to give us a definitive answer to that question. I would have liked to have had the opportunity to study the amendment and, more importantly, to be able to engage in a colloquy with the author of the amendment which would have clarified some confusing aspects of this proposal. Would homosexuals be denied ordinary legal services? Would the Legal Services Corporation be precluded from representing clients to enforce local civil rights laws? We do not know the answers and the Members were denied the opportunity for clarification. I am opposed to such tactics which offend my sense of fairness.

Mr. Chairman, this amendment should not even be offered to this bill. I doubt this amendment will have any effect whatsoever on the activities of the Legal Services Corporation. Nevertheless, it is clearly a challenge to the growing strength of the gay rights movement across the Nation—a movement which simply seeks to insure that homosexuals can fully enjoy the equal protections of the law which are afforded every other citizen.

This amendment has nothing to do with that important issue. It is unnecessary and should be defeated.

The simple question in this legislation is funding the activities of the Legal Services Corporation. Its mandate has nothing to do with homosexuality or gay rights as a political matter. Its purpose is to provide access to legal assistance for those who cannot otherwise afford it. In 1979, local LSC offices dealt with more than a million legal problems of the poor.

The Legal Services Corporation does not litigate grand issues of social policy, but basic legal problems faced by so many: eviction, child custody, personal debt, eligibility for welfare and social service benefits. The LSC, in other words, tries to solve the day-to-day legal hassles which confront America's poor people.

No one can contend that a landlord-tenant dispute, or eligibility for unemployment compensation, or any other such problem is generically a controversy affecting the issue of homosexuality or gay rights. These are problems faced by everyone, no matter what their color, race, religion, sex, income level, or sexual orientation. As far as the Legal Services Corporation is concerned, these are simply matters of obtaining justice for citizens who have no other access to legal resources. There is no rational or legal basis for making a distinction between homosexuals and any other citizens in terms of utilizing the Legal Services Corporation to help solve such legal problems. This amendment will blur that distinction and raise the prospect that a poor person, because he or she is gay, will be denied legal services.

There is no compelling need for this amendment. The Legal Services Corporation, to the best of my knowledge, is not involved in any way in litigating broad gay-rights questions. Again, cases handled by the LSC involve questions of the needs of all people.

We should also consider that this amendment could be contrary to the great number of State and local ordinances that protect the rights of homosexuals. I cannot recall any instance in modern times when Congress would, by Federal restriction, seek to overturn State or local efforts designed to extend greater protections to the basic civil rights of our citizens. It would be shameful to begin to do so today.

Mr. Chairman, a bill to fund the Legal Services Corporation is hardly the place to attempt to decide the great issue of civil rights for America's 20 million homosexuals. This amendment makes no contribution to that debate. I doubt it will have any impact on the Corporation's activities. It is unnecessary and will prove ineffective. I urge its defeat.●

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 604. None of the funds appropriated or otherwise made available by this Act shall be available for the Advisory Committee on the Bureau of the Census or for any other advisory committee to the Department of Commerce which would perform similar duties and responsibilities, other than a committee which has, before July 1, 1978, filed a charter in accordance with section 9 of the Federal Advisory Committee Act.

AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. ANDREWS of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS of North Dakota: On page 43, after line 5, insert the following new section:

"SEC. 605. None of the funds appropriated by this Act may be used to carry out or enforce any restriction on the export of any agricultural commodity."

Mr. ANDREWS of North Dakota. Mr. Chairman, this amendment approach is not a new one to this subcommittee. This committee has adopted in the past this type of amendment on walnut logs, it has done this type of amendment on cattle hides. I think it is time it puts this type of restriction on grain export controls in general to all countries for a number of reasons.

One, we have found out that export embargoes simply do not work.

Mr. Chairman, I realize it is late in the evening, but this is an important amendment not only from the standpoint of the agricultural sector of our economy but it is extremely important for the balance of our economy. I would like to explain for a moment why.

Grain exports for our Nation go a long way toward paying the cost of oil imports. By exporting a renewable resource, food energy, we then gain the dollars or the exchange that we need to import a nonrenewable resource, fuel energy. It is a good bargain, not just for the farm families, but for our economy as a whole.

I think we recognize that when we stopped the exports of grain in January our balance-of-payments problems were magnified, our inflation went up, our interest rates continued to stay far higher than they should and gradually, because our grain exports have continued to be hindered, we have had a situation where unemployment has begun to rise more and more in this country. Estimates from the Department of Commerce are that there are 50,000 new jobs provided for each $1 billion worth of farm exports. That is 50,000 new jobs off the farm for each $1 billion worth of grain this Nation exports.

So it is important to our entire economy, not just to the farmers of this Nation.

But one other thing that is probably even more important than what it does to our economy is what it does to America's position in a troubled world.

□ 1830

Mr. Chairman, I was privileged some time ago to be a Member representing this House, in Rome with 141 nations, most of them have-not nations at the FAO conference. The question of food was one of the key determinants as to which way these underdeveloped, Third World countries would go. When we as a nation look at our agricultural abundance and take it for granted, we miss the most promising weapon for peace we have in a troubled world today.

The underdeveloped countries simply do not have enough food to feed their people and to maintain an adequate diet, and this worries them. When our Nation shorts the export of grain, that basic food necessity, to the Russians or to any other country in this world, we short even more the supply available to those Third World countries that simply do not have the resources that the big eastern power has. Russia is going to get its grain someplace. It has been doing quite a good job of it. But the Third World nations are the ones that are suffering, supply problem probably more than any other nation.

So the Third World countries, where the hungry people of this world are and where the question of peace or war may ultimately be decided, suffer from export embargoes on grain, and our farming economy, our entire economy, suffers because of this misguided action.

I think it is long past time when the Congress should say firmly that we are solidly against export embargoes on agricultural products to any country at any time, so that customers, potential and otherwise, whether it be Russia or Japan or a Third World country, can count on us as dependable suppliers. That is why I urge adoption of this amendment.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to my colleague from New York.

Mr. WOLFF. I thank the gentleman for yielding.

I am a little bit concerned by this amendment. The gentleman says that this will affect the Third World countries. Is the gentleman inferring that the Soviet Union is helping the Third World countries by giving them grain, or by attempting to reduce the price to the Third World countries of grain?

Mr. ANDREWS of North Dakota. None whatsoever, but when we short the world supply of grain by denying the shipment to the Soviet Union of 18 million tons of grain, it has to create a ripple effect that causes a shortage of grain all over, as the Soviets scramble, as they have and quite successfully, to cover their needs for grain in the rest of the world. They have done that, and it has created a shortfall.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 2 additional minutes.)

Mr. ANDREWS of North Dakota. It has created a shortfall for these Third World powers.

Mr. WOLFF. Will the gentleman yield?

Mr. ANDREWS of North Dakota. I will be glad to yield.

Mr. WOLFF. Does that not create a greater market then for our grain to be sold in these Third World countries?

Mr. ANDREWS of North Dakota. Not necessarily, because many of these people are located in areas where it is difficult for transportation to move our grain. When the Russians cannot be supplied by us they compete for the supply in these Third World areas. Plus, it has increased the price of grain to these people, as the gentleman knows.

Mr. WOLFF. I am really surprised the gentleman offers an amendment that has very severe political implications. The embargo was placed upon grain shipments to the Soviet Union because of the fact that the Soviet Union invaded another country. It gave courage to the Soviet Union to engage in other acts of aggression throughout the world, and here we are saying that we will forget that because of economic reasons on our part and, therefore, have to spend greater funds in the area of defense and other areas where the Soviets have come into conflict with us throughout the world.

Mr. ANDREWS of North Dakota. But if the gentleman will think for just a moment on the impact, true, that was the reason that the export embargo was put into place. It was said. But at the time we put an export embargo on the shipment of grain to the Soviet Union, we did not embargo the shipment of Caterpillar tractors so they could farm their land better. We did not embargo fertilizers so their own grain could grow better. The embargo has not worked. We have had time to see it has not worked. I think it is time to move on, to move ahead, and to move toward other means of putting pressure on the Soviet Union. An across-the-board embargo is one thing—and might have worked—but an embargo largely confined to grain does not work.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

I would like to second the comments of the gentleman from North Dakota and stress this point on this political issue that is so important, that when a large country like the Soviet Union cannot feed itself and cannot buy grain from the United States, its only alternative is to be aggressive in other parts of the world.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 2 additional minutes.)

Mr. LEACH of Iowa. If the gentleman will yield further, the wonderful thing about trade is it implies mutual self-interest. If we break down the concept of trade, we are making a world in which aggression becomes more likely, not less likely. Beyond that, it is also sufficiently clear to those of us who live in the Middle West that the President of the United States has devised a program that has cut off our own nose to spite our face.

This country has suffered far more than the Soviet Union has suffered. Beyond that, I would simply like to make one additional comment. I strongly support the gentleman from North Dakota. This Congress had in its authority under the Export Administration Act of 1979 the authority to have acted within 30 days last January, and such a bill was produced to do it, and failed to act. In so doing, this Congress takes responsibility in complicity with the administration on this action.

In my judgment, now is the time to act. It would have been better earlier, but it is a Democratic Congress, a Democratic administration that must take responsibility for a policy that has injured severely the Midwest, a policy that has failed in our relation with the Soviet Union, and a policy that has increased rather than decreased the possibility of conflict in other parts of the world.

Mr. ANDREWS of North Dakota. I appreciate the contribution of the gentleman.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to my colleague from Indiana.

Mr. MYERS of Indiana. I thank my colleague for yielding and thank him for introducing this amendment. He has long been recognized on the Committee on Appropriations as a leader and as a spokesman for American agriculture, and in this act he certainly is helping agriculture.

We all agree that we would like to punish the Soviets in some fashion for their aggression in Afghanistan, but, as has been said by the gentleman from Iowa (Mr. LEACH), we are not punishing the Soviets at this time because there is evidence that they are transshipping our grain, buying from other countries who are readily available to sell their grain. But the real impact, the reason the amendment is so important, is there is evidence now that other nations who are potential buyers of agricultural goods may be hesitant to enter into contracts because they are afraid they may lose favor with us. We may become disenchanted with them for some reason and not sell to them, so they are hesitant to enter into contracts.

This amendment, which says it shall not be used for embargo, only embraces and assures what the Secretary of Agriculture, Mr. Bergland, assured our committee several times, that this administration would never use this for embargo except for our national security. The President in campaigning made this promise to farmers, that this administration would not use the embargo. Suddenly this happened in Afghanistan, and we use the farmers as a scapegoat, to be used as a teaching vehicle to teach Russia that aggression does not pay. So this amendment is badly needed, not only for farmers but for world trade and for us to be able to expand our markets to potential customer countries around the world.

AMENDMENT OFFERED BY MR. HARKIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. HARKIN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN as a substitute for the amendment offered by Mr. ANDREWS of North Dakota: Page 43, after line 5, insert the following new section:

SEC. 605. None of the funds appropriated by this Act may be used to carry out or enforce any licensing requirement for the export of any agricultural commodity or product which, as determined by the Secretary of Agriculture, was imposed because of the reduction in the sales of agricultural commodities and products to the Soviet Union announced by a Presidential memorandum to the Secretary of Commerce, dated January 7, 1980.

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BAUMAN. I make a point of order on two grounds. First of all, it is not germane to this bill because it makes the determination of the matter the province of the Secretary of Agriculture, which is not covered in this legislation. This is not for the Department of Agriculture.

Second, it goes beyond the usual amendment limitation on an appropriation bill, requiring determinations to be made and duties to be performed that may not be authorized at this time in law. For both reasons I think the amendment is out of order.

The CHAIRMAN. Does the gentleman from Iowa (Mr. HARKIN) desire to be heard on the point of order?

Mr. HARKIN. Mr. Chairman, I believe the gentleman from Maryland (Mr. BAUMAN) misreads the amendment. The determination was already made by the Secretary of Agriculture in the Federal Register, volume 45, No. 6, dated January 9, 1980. There is a Presidential memorandum to the Secretary of Commerce in which the President has directed the Secretary of Commerce, in consultation with the Secretary of Agriculture and other appropriate officials, to take immediate action under the Export Administration Act to terminate shipments of agricultural commodities and products, including wheat and corn, to the Soviet Union.

□ 1840

Therefore, the determination by the Secretary of Agriculture has already been made; it is not to be made in the future.

I believe the gentleman from Maryland is reading my amendment as a future limitation to be determined by the Secretary of Agriculture when, in fact, if he rereads it, it points out that it is as determined by the Secretary of Agriculture in the past, so that determination has already been made, Mr. Chairman, and, therefore, does not require any further determination to be made by either the Secretary of Agriculture or any other official.

The CHAIRMAN. Does the gentleman from Maryland wish to be heard further?

Mr. BAUMAN. Mr. Chairman, I will simply point out if that is the intention of the gentleman, his drafting is imperfect because it says that none of the funds appropriated under this act, which will take effect for fiscal year 1981, beginning October 1, may be used for any licensing requirement. That definitely encompasses future determinations and does not simply go to past determinations. That, I think, is well beyond any limitation that is appropriate to an appropriations bill.

The CHAIRMAN. Does the gentleman from Iowa wish to be heard further?

Mr. HARKIN. Yes, Mr. Chairman.

Of course this does not take effect until October 1. However, the amendment does say that none of the funds will be used to carry out or enforce any licensing requirement imposed because of reduction in the sale of agricultural commodities and products to the Soviet Union, announced by the President in a memorandum dated January 7, 1980, and that determination, as I already said, was already made by the Secretary of Agriculture, so it is not in the future. It was a determination made in the past which would continue on into the next fiscal year were it not for this amendment.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Maryland makes a point of order against the substitute amendment for the amendment offered by the gentleman from North Dakota (Mr. ANDREWS) on the grounds, first, that it is not germane to the original amendment of the bill; second, that it imposes additional duties and hence it is not in accordance with the rules.

It is the opinion of the Chair the amendment does appear to impose upon the Secretary of Agriculture the responsibility not only of consulting with the Secretary of Commerce but evaluating whether licensing requirements for export of agricultural commodities were imposed for certain reasons. This is a duty not demonstrably imposed upon the Secretary of Agriculture by existing law and hence in the opinion of the Chair does constitute an additional duty.

The Chair does find, however, that the substitute is germane, but on the basis of the second objection, upholds the point of order and rules that the amendment is out of order.

AMENDMENT OFFERED BY MR. HARKIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. HARKIN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN as a substitute for the amendment offered by Mr. ANDREWS of North Dakota. Page 43, after line 5, insert the following new section:

SEC. 605. None of the funds appropriated by this Act may be used to carry out or enforce any restriction on the export of any agricultural commodity to the Soviet Union.

Mr. HARKIN. Mr. Chairman, I offer this amendment as a substitute for the amendment offered by the gentleman from North Dakota (Mr. ANDREWS). The amendment offered by the gentleman from North Dakota would in fact do undue harm to this country.

The amendment of the gentleman from North Dakota imposes a restriction on the imposition of any export on any agricultural commodity at any time for any purpose. That means, for example, that if this October or November, in between time we had a serious shortfall in wheat, corn, rice, or soybeans; if in fact the people in New York City, San Francisco, or Chicago were without food, that means that other countries could come in and raid our coffers.

Mr. Chairman, there may be legitimate times when this country might want to impose an embargo on grain or other foodstuff or other agricultural commodities. Our first responsibility is to make sure that our people have enough food with which to feed themselves. Beyond that, we ought not to impose any embargo and that is why I have offered this amendment as a substitute because the grain embargo of the Soviet Union has not worked. It leaks like a sieve. Besides that, Mr. Chairman, we have one of the largest carryovers of grain that we have ever had in our history: 1.7 billion bushels of corn, about 600 million bushels of wheat; 380 million bushels of soybeans. The largest carryover of stocks we have had since the days of the Benson bends.

For this reason, it is economic suicide, political suicide and diplomatic suicide for us to continue on with this embargo of grain to the Soviet Union. The embargo has been a total failure. Even using the data of the Department of Agriculture, the grain deficit in the Soviet Union is estimated to be only 2 percent. About 3.5 to 7 million metric tons out of a total of 228 million metric tons used by the Soviets. That is less than half of the crop grown in my congressional district. In no way has this brought the Soviet Union to its knees nor has it enticed them out of Afghanistan nor will this amount of grain being withheld ever force them to change their policy in Afghanistan.

Now the rude facts are that the grain we have tried to withhold from the Soviet Union has made it there anyway. It has enriched many people around the world at our expense and at the expense of our farmers. For example, the export grain prices per metric ton:

In December 1979 the export price of corn from the United States was $120 per metric ton.

In Argentina it was $120 per metric ton.

However, by the end of April, the United States export grain price for corn had fallen to $112 per metric ton and in Argentina had risen to $160 per metric ton.

Case after case of grain leaving this country, going to other countries and then being sold to the Soviet Union at the expense of our farmers and at the expense of our taxpayers.

Now, Mr. Chairman, the people from the urban areas may ask, of what consequence is this to us. OK, so the farmers are being hurt. So what.

The cost of the embargo to the taxpayers of this country, using the figures of the USDA, has been at least $2.2 billion. Using Congressional Research Service figures, that figure is closer to $3 billion.

Mr. Chairman, using even the amount of money that USDA comes up with and using their figures on how much grain we withheld from the Soviet Union, it turns out that the cost to the taxpayers of this country is anywhere from $8 to $16 per bushel of corn that we are withholding from the Soviet Union. That is using their figures. If you use Congressional Research Service figures you come out around $21 a bushel it is costing the taxpayers of this country.

At the same time, Mr. Chairman, that grain is not being withheld from the Soviet Union. There are numerous newspaper articles starting back in March and February. "Large Illicit Sale to Russia of U.S. Grain Expected by Experts in Rotterdam." "USDA Find the Grain Firms Selling to U.S.S.R." "U.S. Says Soviet Fills Most of its Grain Needs Despite Cuts by Carter."

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 4 additional minutes.)

Time magazine, April 14: "Boycott Bust. Embargo Fails to Bite."

Here is the Christian Science Monitor: "Argentine Bonanza in Sale of Wheat to Hungry Soviets." "Soviets Circumvent Embargo by Buying U.S. Meal in Europe." "Grain Imports of Soviets Rise."

Now, here is an interesting one: "Australia To Limit Soviet Grain Sales."

Now, it looks as though Australians are going to be our big friends and limit grain sales. Right? Take another look at it. The Australians said they are not going to sell anymore grain to the Soviet Union than what they sold last year.

□ 1850

What did they sell last year? Australian sales of wheat to the U.S. increased eleven-fold last year. Last year they sold 11 times more grain to the Soviet Union than they ever have in the past. Now, they are telling us that they are not going to sell any more than they did last year. Big friends that we have in the Australians.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I know that the gentleman has been waiting. I just wanted to finish my argument, and I will be delighted to yield to him.

The embargo has catalyzed the depression in the farm economy. As I said, the cost to the Soviet Union, what has it been? Well, a lot of people will tell you that at least they are paying more money for it; at least they have to pay the Argentinians more money. That is true. However, the Soviet Union pays for its grain in gold.

Last August, the price of gold in Zurich was $325 to $350 per ounce. By January, when we had imposed the embargo, the price of gold rose to $685 an ounce. Today, it is $606 per ounce. So, the Soviet Union, using the same amount of gold they did before, can afford to pay twice as much for grain. Sure, they are paying more money to Argentina for the grain, but that is going to Argentina, not to this country, not to our farmers.

What is happening in our farm economy? The largest decline in farm income this year since 1921, a 40-percent drop in net farm income this year. It is the largest single drop since the crash of 1921.

I think it is time to admit that the embargo does not work, and the one thing we ought to have learned from the two embargoes put on by Richard Nixon, the two embargoes put on by President Ford, and the embargo put on by President Carter, is that embargoes do not work.

Now, as opposed to the gentleman from North Dakota, there may come a time when we have to put on an embargo—if our people are starving, if we have a shortfall, you bet, let us feed our people first. But with the huge carryovers that we have in our stock it is economic suicide, not to mention political and diplomatic suicide, to continue this embargo of grain against the Soviet Union, which I have pointed out, which other writers have pointed out, which economists have pointed out, which almost everybody is pointing out, is not working and is leaking like a sieve.

Finally, I would make one last argument to my friends in this body. The Inter-Religious Task Force on U.S. Food Policy, the Friends Committee on National Legislation, and Bread for the World, all support this, and all oppose the embargo on the grounds that food should never be used as a weapon in any way, shape, or form. So, whether we look at it from a humanitarian standpoint, whether we look at it from economic standpoints or from political or diplomatic standpoints, it is absolute suicide for us to continue on with this embargo.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding. I am really surprised at the debate that is taking place here today, and many of the champions of the causes that I had hoped would rise against this amendment and the gentleman's amendment as well do not seem to be here.

I have heard this gentleman speak about the cause of human rights, and I have supported his amendments on human rights every time that he has come before this body. Now, what about the human rights of the Afghan people? What about the question of what is going on within the Soviet Union? Are you willing to trade that off for the gold you spoke about before?

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

(By unanimous consent Mr. HARKIN was allowed to proceed for 4 additional minutes.)

Mr. HARKIN. I will answer that. You show me some way to get into the Soviet Union, to really hurt them more than it hurts us to get them out of Afghan, you bet. Will I support aid to the Afghan rebels? You bet I will. Will I support food aid and other aid to the Afghan rebels? You bet I will. I will do anything to hurt the Soviet Union, to get them out of Afghan, but this is not doing it, and that is the sheer fact of it.

Mr. WOLFF. The fact is, however, if the gentleman will yield further, the figures you quote here are contrary to the stories we have seen in the newspapers as well. There has been a great effect upon the Soviet economy. There have been shortages within the Soviet Union on grain. The 2 percent figure you talk about here is not reflected in the amount of grain that is not being fed to animals today, where there are shortages of meat within the Soviet Union. I just do not understand those of my colleagues who have been so strong in their opposition to the Soviet Union sitting idly by during this debate.

The fact is that we are willing to buy the friendship of the Soviet Union or something else like that, but when it comes to where it hurts our pocketbooks, we are not willing to stand up to the Soviet Union when its comes to aggression in a place in the world where the poor people cannot respond.

Mr. HARKIN. Would the gentleman be in favor of cutting off, embargoing everything we sell to the Soviet Union?

Mr. WOLFF. Yes, I would.

Mr. HARKIN. Let the gentleman offer his amendment then at the appropriate time.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would just like to take the short time of the House to commend the gentleman in the well for being an outstanding spokesman for the American farmer and the American people on this issue. I think the gentleman has been a leader in supporting the American farmer in this House, and I commend him for it.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I think the chairman of the Subcommittee on Appropriations is about to move that the Committee rise; but I just want to take a minute, if I may, to express my concern about both the amendment and the substitute.

Nobody has opposed the embargo, I think, more consistently than I have. This embargo and others over the years, I think are inherently ineffective and in most cases difficult to monitor or enforce. I cannot agree, however, that this embargo has been a complete failure.

I think that we owe it to ourselves and the Nation to consider a couple of points before we vote, and I hope that we will have a chance for an extended debate tomorrow. The problem the gentleman from Iowa has stated regarding Mr. ANDREWS' amendment is correct. It prevents any kind of limitation for any reason, including food shortages, to any country at any time during the fiscal year. Although I am opposed to embargoes, I wonder if this House wants to completely eliminate that possibility, no matter what the circumstances.

The gentleman from Iowa, by contrast, has proposed a substitute amendment that not only protects the Soviet Union from the impact of an embargo, but provides the Soviet Union the most favorable most-favored-nation treatment accorded any country in the world by allowing it to be the only nation that is exempt from the possibility of restrictions on agricultural exports. Now, whether we favor the embargo or not, I doubt that many people want to reward the Soviet Union by saying that of all the countries with which the United States deals or has dealt, including Japan, the Common Market countries, and all of our trading partners such as Canada, South America, the one country that is exempt from restrictions, under all conditions is the Soviet Union. So, I think we have, unfortunately, two bad choices here—a bad amendment and a bad substitute.

Another fact I would like to present to this body is that, as much as I oppose the embargo, the only way we can really eliminate it is by either legislation or Presidential action. The embargo cannot actually be ended through a back-door, backhanded, ineffective limitation on appropriations, which is a clumsy way of legislating in the first place.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

(At the request of Mr. FOLEY and by unanimous consent, Mr. HARKIN was allowed to proceed for 3 additional minutes.)

Mr. FOLEY. There is a further problem with the gentleman's substitute in that these regulations are already in place. This means that to export, an export license is required. I personally doubt that, knowing this, any American exporting firm would be willing to sell to the Soviets and thereby run the risk of being liable for charges of criminal violations in selling without a license after a period of perhaps 1 year's grace.

For it must be remembered, that there is a 3-year statute of limitations on these criminal penalties, and any company that undertook to sell would have to be sure that the limitations on appropriations not only dealt with the Commerce Department, but with the constitutional power of the President to enforce the laws through the criminal process.

So, I think the whole approach here is ineffective. It is ineffective not only because it cannot breach the embargo, but because it cannot lead to any more grain being sold if the President does not change the regulation, or the Congress does not legislate. It is a fraud on the farmers of this country to suggest by this act of limitation on the use of appropriations we are accomplishing something tangible for them. If the Andrews amendment, or this substitute is sustained, in the appropriation act, not 1 more bushel of corn, beans, or wheat will move to the Soviets.

I oppose the embargo, but let us play straight and fair with the American farmers. Let us not give them a political year exercise which might give Members headlines at home but farmers nothing in terms of more sales.

Finally, what is suggested here is in violation of the Soviet-United States grain agreement, which our Nation signed. This agreement requires consultation between the two countries on any exports in excess of the 8 million metric tons which has already has been obligated under the agreement.

□ 1900

That agreement extends for another year but is due for renegotiation next year, and the department has already indicated it will undertake those negotiations.

If we are going to negotiate with the Soviet Union to drop the embargo, then let us do so in a way in which we get some understanding out of that negotiation and some benefit.

I appeal to my friends on both sides of the aisle who are in favor of tough treatment for the Soviet Union that it does not make very much sense to give away the store, before we have some agreement with the Soviets, to say to them, in effect, "You can buy all the wheat you want from the United States and all the corn and all the soybeans. You don't have to do anything; you don't have to agree to buy any amount or meet any other conditions."

In considering this amendment and this substitute, in a one-sided negotiation that is ridiculous on its face and would be laughed off the floor of this House if it were in any other field.

I sympathize with the gentleman from Iowa (Mr. HARKIN) and the gentleman from North Dakota (Mr. ANDREWS). They are both great friends of agriculture, and I hope they are great friends of mine, but we have before us both a badly advised amendment and a badly and worse advised substitute. Neither one will accomplish the purpose it is intended to.

If some Member wants to introduce a sense of the Congress resolution stating that the time has come to consider ending the embargo, then perhaps we could get some consensus on supporting it, but let us not do it through the back door in a way that not only does nothing but perpetrate a fraud on the American farmer. This would just hand a medal to the Soviets, not an Olympic medal, but a medal of victory, at the very time they are carrying on one of the most brutal and dehumanizing invasions that has been seen anywhere in the world.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, as usual, my distinguished committee chairman and friend, the gentleman from Washington (Mr. FOLEY), makes a very strong and forceful argument, but it is fallacious.

The fact is that he is right, that this amendment may not accomplish what it is intended to do. After this amendment passes, certainly the President, after the beginning of next year, can come right back and slap another embargo on. There is no way we can prevent that.

As for the most-favored-nation-status argument, that is also fallacious. All this does is put the Soviet Union in the same free market status as every other purchaser in the world. If we want to compete with Japan, Europe, or Argentina, we should let them compete in the free market on these purchases.

If we really want to hurt the Soviet Union, rather than embargoing the grain, let us devise a method of our buying the grain at twice as much as the price they are paying for it. That would hurt them.

The arguments of the gentleman from Washington (Mr. FOLEY) are, of course, fallacious, but the fact is that he is right, because, as I say again, we cannot stop the President if he wants to again put the embargo on.

But I view this amendment as a means of expressing in the strongest possible terms to the President of the United States the fact that the embargo ought to be lifted, and that he would have the support of the American people and the American farmers if he would openly admit that the embargo was a mistake and would agree to lift the darned thing. That is what this amendment is intended to do, and I believe that intention would be served by this body by adopting this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had come to no resolution thereon.

THE WATER UTILITIES BANK BILL

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, yesterday, I introduced a bill to create a joint private/Government-owned Water Utilities Bank. Adequate supplies of safe drinking water are essential to human life. The proposed Water Utilities Bank would provide the capital and financial services needed to help sustain the capital-starved water utilities that supply water to more than 195 million Americans. The bank, which would eventually become entirely privately owned, would provide loans and loan guarantees for the construction, maintenance, and improvement of water utility systems. To create an efficient secondary market for private loans to water utilities, the bank could buy and package private loans to water utilities for resale to private investors.

Water utilities are the Nation's most capital-intensive industry. Capital expenses consume more than 20 percent of total water industry revenue versus only about 10 percent of the revenues of electric utilities. The provision of safe and adequate supplies of drinking water requires enormous investments of capital.

My bill would set up a joint Government/private Water Utilities Bank modeled after the farm credit banks, the Rural Telephone Bank, and the National Consumer Cooperative Bank, to supply capital to water utilities at reasonable rates while minimizing cost and risk to the Government.

For instance, in my congressional district, I have over one-third of the communities in Oklahoma that have critical water shortages. Many of these communities and rural water districts have inadequate water distribution systems and facilities. We have the necessary water, but it is impossible to provide distribution systems for industrial and community development without the available investment capital.

On a broader basis, my own State of Oklahoma provides a good example of the capital needs of water utilities. Oklahoma has 1,103 water suppliers; 545 draw their water from surface sources while 558 use underground sources. Most of these systems are small, serving rural areas. These small systems needed at least $40 million in capital last year, but the Farmers Home Administration was able to advance only $20 million. Approximately 50 Oklahoma systems are in violation of EPA drinking water standards. Engineers estimate that bringing these systems into compliance will entail at least $10 million in capital costs.

This demand for capital is increasing to the point where it cannot be met. Over the next 20 years, it is estimated that between $75 billion and $110 billion in capital investments will be needed to maintain adequate water service. Even a doubling of water rates would leave utilities billions of dollars short of meeting demands of that magnitude.

An EPA-commissioned financial profile of the water industry has concluded that drinking water regulations hit smaller systems particularly hard. Over two-thirds of the Nation's 58,000 community water systems serve less than 1,000 people. These systems generate less than $100,000 in annual revenue. Long-term loans that would correspond to long-term facilities are not commonly available for such small systems.

These skyrocketing capital needs stem from the expense of replacing and refurbishing old systems, the costs of compliance with new EPA regulations under the Safe Drinking Water Act, and the expense of adding to systems to accommodate growth and population shifts.

Many systems, which were built in the late 19th and early 20th centuries, need extensive refurbishing or replacement. Because the plants were built so long ago, replacement costs may be over 25 times the cost of the original plant. In many instances, pipes installed in unpaved streets must now be replaced by breaking up and repaving busy streets.

The costs of compliance with regulations promulgated under the Safe Drinking Water Act can be substantial. EPA's own estimates of the costs of compliance with its interim regulations is $1.34 billion for the years 1979–81 alone. Additionally, the capital cost of the trihalomethane regulation promulgated on November 29, 1979, is projected by EPA to be more than $85 million. The granular activated carbon requirement proposed by EPA would cost nearly $1 billion according to EPA, and between $2 billion and $5 billion according to the industry. Moreover, 20 standards of undetermined cost will be issued as revised regulations in 1981.

Usually, no help in meeting these demands is available from State or Federal governments. The Farmers Home Administration does provide some financing for small publicly owned or nonprofit systems in rural areas. In 1979, FmHA made $569 million in loans and $214 million in grants available to these small water systems. Publicly owned systems are also eligible, under the Safe Drinking Water Act, to receive a limited amount of grants for demonstration projects and construction, to alleviate emergency situations, and to train management personnel. To avoid duplication of these efforts, the proposed Water Utilities Bank would make loans available first to utilities to which financial aid from Federal, State, and local assistance programs is unavailable.

For the most part then, water utilities must compete with other industries for needed capital in highly competitive capital markets where interest rates are higher than ever before in U.S. history. Many of the competitors with water utilities for capital enjoy substantial direct or indirect Federal subsidies unavailable to water utilities. For instance, rural telephone utilities have long had access to low-interest loans through the Rural Telephone Bank. Small electric utilities have received subsidies from the Rural Electrification Administration.

The sewage treatment industry receives about $4 billion per year in direct grants.

The Bank would initially be capitalized jointly by Government and private sources. Stock would be issued to the Government, to utilities that are bank customers, and to water utilities eligible to become bank customers. Government financial participation would be eliminated beginning in 1990 or earlier if practical. As the Government stock was gradually redeemed, the bank would, like the banks in the Farm Credit System, become an entirely private entity. The bank could obtain debt financing in private capital markets or, with the consent of Congress—through the appropriations process—and the Secretary of the Treasury, from the Government at the average yield at which the Government is selling securities of comparable maturity.

Past programs have been criticized because they circumvent the appropriation process. All Government loans to the Water Utilities Bank and all Government purchases of stock in the bank would, however, come entirely within the appropriation process. The Treasury should actually make a reasonable profit from the Water Utilities Bank. While the Government is entitled to a 2-percent return on its investment in the Rural Telephone Bank, the return on Government Water Utilities Bank stock is to be determined by the Secretary of Treasury taking into account the average market yield of U.S. Government securities of comparable maturity.

To minimize any risk to the Government, this bill contains several provisions that carefully protect its investment from loss. As long as the Government retained any equity, it would have substantial rights to participate in the management and control of the bank. In fact, all directors would initially be governmentally appointed and gradually replaced by shareholder-elected directors as the Government's share of equity decreased. The Government's stock would be preferred, and entitled to a cumulative dividend and interest on unpaid dividends. The bank's debt-to-equity ratio could not exceed 20 to 1. Finally, as long as the Government retained an equity interest, the Bank would be subject to an annual audit and required to make an annual report to Congress.

Areas experiencing or preparing for growth must bear the cost of expanding existing systems or installing new systems to provide safe drinking water and water for economic development. Water system expansion to provide for a growing population is absolutely essential for existence—not a luxury. Please join with me in supporting this tested and workable means of meeting the escalating capital demands of our water supply system.

LIBYAGATE AND BILLYSCAM

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Well Mr. Speaker here we go again. I heard them for the first time coming to work this morning, the words: Libyagate—Billyscam. In bygone days we all learned that a brother named Donald Nixon was loaned money by the brilliant but eccentric Howard Hughes, an American by the way, and that Donald's relationship to the White House undoubtedly nailed down that loan. Well, folks, this "Billyloan" is far, far, far, far worse an abuse of relationship to the Presidency. For openers, Qadhafi's assassination squads are murdering Libyans all over Europe just because the victims are opposed to the mad Qadhafi's regime.

Over a year ago Newsweek magazine reported Libya had given a submarine to the PLO fittingly named "Al Fatah." Their being no Palestinian nation, the sub is still based out of the port of Tripoli. Is not that a comforting thought due to the fact Libya has been described over and over as the most dangerous nation in all of the Middle East.

I believe a special prosecutor is absolutely in order with the developments of today. The Washington Star says Billy Carter stood to make millions.

A personal note: Back in the fall of 1978, Billy was invited by liberal Hollywood-types to come to my district and help my young opponent campaign against me, with other luminaries of the Democratic Party such as Vice President MONDALE. Billy's mother, Miss Lillian, made it out twice. Billy's nephew, young Chip, made it out to the 27th district. But guess where Billy was in the fall of 1978? He was not in Santa Monica, or Torrance or Rancho Palos Verdes, or Hermosa Beach. * * * No, Billy was in Libya, reviewing the troops—Qadhafi's troops.

When I watched CBS' "60 Minutes" a week ago, with an impressive parade of Russian-made military equipment grinding along a Libyan boulevard with Migs roaring by overhead, guess who I beheld lounging in the reviewing stand, close to the handsome but quite unstable Qadhafi. Correct, the only brother of the President of these United States.

Woodward and Bernstein, I do not know where you are, but wherever you are we need you and we need you now.

Help us, O watchdogs of media to seek answers to the following questions that I ask of our leader:

Mr. President, in replying to questions about your brother Billy's relationship with the vicious anti-American Government of Libya, you told us that "Billy leads a life of his own."

Before you so cavalierly dismiss this issue, I respectfully ask for answers to the following questions:

First. Why did brother Billy have such ready access to Zbigniew Brzezinski?

Second. Why did brother Billy receive free legal advice from White House counsel Lloyd Cutler?

Third. Why did brother Billy's lawyers, recommended by White House Counsel Cutler, continue to keep Cutler informed of case's progress?

Fourth. Why did brother Billy continue to receive services from the White House even while he was being investigated by the Justice Department?

Fifth. Why was brother Billy the subject of diplomatic cables which crossed the desk of President Jimmy Carter's personal secretary?

Sixth. Why did brother Billy receive guidance from the National Security Council?

Seventh. Why were the FBI agents assigned to brother Billy's case told to work only "part-time" on it?

And there are other questions, Mr. President, to which the Congress and the American people are entitled to explanations, not cavalier dismissals:

Eighth. Why did not the Justice Department begin its investigation of brother Billy in the fall of 1978, after Billy's expense-paid trips to Libya instead of waiting until January 12, 1979?

Ninth. Why did it take Federal agents until January 1980, 1 full year, to get around to interviewing brother Billy?

Tenth. Why did brother Billy deny talking with his President brother, after our President said he talked with Billy "a few days ago."

Eleventh. Why did this investigation of brother Billy, the facts in which are fairly straightforward, take 1½ years to complete?

The Congress and the American people deserve answers to these questions and many more, Mr. President, before you can expect us to believe that your brother really "leads a life of his own."

What is good reporting in the seventies; that is, "The Donald connection," is fair reporting in the eighties; that is, "Billyscam."

AMENDMENT TO BE OFFERED BY MR. McCLORY ON H.R. 7631, HUD AND INDEPENDENT AGENCIES APPROPRIATIONS

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, I ask unanimous consent to have printed in today's CONGRESSIONAL RECORD the text of an amendment I will offer tomorrow during consideration of H.R. 7631, making appropriations for HUD and independent agencies, including the Environmental Protection Agency. The amendment reads as follows:

Page 15, line 14, strike out "$529,838,000" and insert in lieu thereof "$531,338,000".

The purpose of the amendment is to add an amount of $1.5 million to the abatement section of the EPA funds in the hope of moving forward on a program to clean up Waukegan Harbor, which has been found to have the highest level of PCB's in the United States.

In brief, the facts as I know them at this point are as follows: PCB's are among the most toxic substances ever manufactured. There is no evidence to indicate that any level, however minute, is a safe level of PCB's in the human body.

Second, PCB's are not easily disposed of. They tend not to break down. They attach themselves to matter quickly absorbed in the food chain.

Third, the level of PCB's in the Waukegan Harbor, according to studies conducted by the EPA, is the highest found in any body of water in the United States to date and possibly in the world.

Fourth, the city of Waukegan has a backup water supply into Waukegan Harbor, so there is the unarguable possibility of an imminent health hazard to people in the immediate area.

Fifth, as traffic stirs up the harbor, PCB's move into Lake Michigan and into the fish and food chain of that very large body of water touching several States. It will be vastly more difficult to remove PCB's from the lake than from the harbor.

Sixth, the Environmental Protection Agency has filed suit against an alleged polluter, and a gag order has been placed on the dozen or more studies done by the EPA, making it difficult to obtain hard data on what is involved in the cleanup process. Our information is that 4 to 6 years may go by before we have a court decision.

In the meantime, both residents in the immediate vicinity of Waukegan Harbor and residents of the larger Lake Michigan area have due cause to be alarmed about the lack of progress on cleaning up the harbor.

Mr. Speaker, my amendment simply adds a very modest sum of $1.5 million to EPA funds so that steps can be set in motion to begin the cleanup. I want to make it clear that my effort is not to be misconstrued as relieving any ultimate responsibility for the cost of the cleanup. Should the courts assign liability, I would expect the Federal Government to be reimbursed for its part in the cleanup process. In the meantime, we have made a beginning on removing a very serious health threat to the people of the area. By analogy, we do not leave an accident victim in the middle of a busy intersection for the length of time it takes the court to decide who is to blame for the hit. Similarly, I do not propose to leave the people of Waukegan and adjacent areas in an anxious and possibly dangerous state while litigation is slowly moving through the courts. Let us begin the cleanup immediately and deal with other issues down the road.

CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. HILLIS) is recognized for 60 minutes.

● Mr. HILLIS. Mr. Speaker, for the past 8 years senior citizens from all across the Nation have come to Washington to serve in the congressional senior citizen intern program. During the 2-week program in May, they acquire a fundamental view of the Federal Government and the way in which specific areas apply to the elderly.

At the onset of this program only four Members of the House and one Senator participated in sponsoring a senior citizen intern. Presently, however, the senior citizen intern program initiated by myself and former Congressman Pete Biester of Pennsylvania in 1973, has expanded to include more than 160 House and Senate offices and over 230 interns. The senior citizen intern program benefits the elderly as well as the Congressmen who participate. The opinions, problems, and needs of older Americans can be presented through a senior citizen intern who realizes the specific concerns of those in his or her age group. Channels of communication for delivering these concerns are greatly enhanced by the presence of the intern in the sponsoring congressional office. The senior citizen intern learns how the governing process can benefit them and shares this knowledge with the elderly in his or her district.

Those who participate in the intern program earn the title that they receive. Their excellent work can be evidenced in sponsoring offices not only by the various jobs they perform but also by the valuable information they provide on a fast growing sector of Americans.

While in Washington, the interns attend special briefings and lectures on areas of specific interest to them. Information absorbed at these briefings is used to increase the intern's expertise in the area of aging. Speakers from various congressional committees, Government agencies, and private organizations provide extensive information for the intern to take back home and put into use in their community. The program also enables discussion of opinions and ideas with other interns from across the country. This interaction among the interns establishes a sense of unity that is important to the participants. The 1980 agenda for senior citizen interns was as follows:

1980 CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM, MAY 5-16, 1980

Monday, May 5: Registration.

11:00 a.m. until 12:45 p.m.: 2212 Rayburn House Office Building.

1:00 p.m. until 3:00 p.m.: Opening session, Orientation, 2168 Rayburn House Office Building.

Welcome: Congresman Elwood H. Hillis, Senator William V. Roth, Jr., and Congressman Tony Coelho. (Principal Congressional Sponsors)

Briefing: Donna K. Norton, Program Director, Office of Congressman Hillis.

4:00 p.m. until 6:00 p.m.: Welcome reception, The Capitol Hill Club, 300 First Street, SE, Washington, D.C.

Hosts: American Association of Retired Persons, National Retired Teachers Association, National Council on the Aging, and Pfizer.

Tuesday, May 6: An aging overview.

10:00 a.m.: 345 Cannon House Office Building.

Congress: Senator Lawton Chiles, Chairman, Senate Special Committee on Aging; Congressman Charles Grassley, Ranking Minority Member, House Select Committee on Aging.

Administration: Willis Atwell, Associate Commissioner, Administration on Aging.

Private: David Crowley, Executive Vice President, American Association of Homes for the Aging.

2:00 p.m.: The congressional scene, a look at legislation affecting the elderly, 345 Cannon House Office Building.

Senate: Bentley Lipscomb, Majority Staff Director, Senate Special Committee on Aging; Dave Rust, Minority Staff Director, Senate Special Committee on Aging.

House: Charles Edwards, Chief of Staff, House Select Committee on Aging; Walter Guntharp, Minority Staff Director, House Select Committee on Aging.

Wednesday, May 7, 9:00 a.m.: Class photograph. Assemble as a group on the steps of the House side of the Capitol (East Front).

10:00 a.m.: The Legislative process, how a bill becomes a law, 318 Russell Senate Office Building, John Elwood, Special Assistant to the Director, Congressional Budget Office.

2:00 p.m.: The Federal scene—a look at the Administration on Aging, 318 Russell Senate Office Building, Lucile Hertz, Public Inquiry Specialist, Administration on Aging; James Kolb, Director, Division of Program Development, Administration on Aging; Morris Cohen, Program Specialist, Office of Aging Services, Administration on Aging.

Thursday, May 8, 8:00 a.m.: A visit to the White House.

Thursday, May 8, following White House visit, free afternoon.

Friday, May 9, 10:00 a.m.: Consumer Problems and the Elderly, 345 Cannon House Office Building. Lea Thompson, Consumer Reporter, WRC-TV, Channel 4, Washignton, D.C.

2:00 p.m.: Transportation for the Elderly, 345 Cannon House Office Building, Ron Hartman, Senior Transportation Planner, American Public Transit Association; Larry Bruno, Transportation Demonstration Specialist, Office of Service Methods, Urban Mass Transportation Administration; Kay Ragan, Programs Specialist, Office of Capitol Assistance, Urban Mass Transportation Administration.

Monday, May 12, 10:00 a.m.: Housing for the Elderly, 318 Russell Senate Office Building. Helen Holt, Departmental Advisor for Consumer Affairs and the Elderly, Department of Housing and Urban Development; Robert Wilden, Director, Program Development for Multi-Family Housing, Department of Housing and Urban Development.

2:00 p.m.: Organizations Working for You, 318 Russell Senate Office Building. Ed Howard, General Counsel, National Council on the Aging; Peter Hughes, Legislative Counsel, Jim Hacking, Assistant Legislative Counsel, American Association of Retired Persons/National Retired Teachers Association; Rudy Danstedt, Assistant to the President, National Council of Senior Citizens; Steve Scardon, Legislative Representative, National Association of Retired Federal Employees.

Tuesday, May 13, 10:00 a.m.: Nursing Homes/Long Term Care, 345 Cannon House Office Building. Senator Bob Packwood; Larry Lane, Director of Public Policy, American Association of Homes for the Aging; Leah Brock, Assistant Director, Office of Public Affairs, National League of Nursing.

Tuesday, May 13, 2:00 p.m.: Social Security, 345 Cannon House Office Building. William J. Driver, Commissioner, Social Security Administration.

3:30 p.m.: Medicare—Your Federal Health Insurance, 345 Cannon House Office Building. Mary Nell Lehnhard, Professional Staff, House Ways and Means Committee; Barbara Hoffman, Special Assistant, Office of Public Affairs, Health Care Financing Administration.

Wednesday, May 14, 10:00 a.m.: Action—A Look at Programs for the Elderly, 345 Cannon House Office Building.

Moderator: Delores Handy, Anchorperson, WTTG-TV, Channel 5, Washington, D.C.; Helen Kelley, Director, Older Americans Volunteer Programs, ACTION; Jack Kenyon, Chief, Operations Branch, Older Americans Volunteer Programs, ACTION; Margaret Bell, Retired Senior Volunteer Program (RSVP);

Nancy M. Rucker, Foster Grandparents; Revella Hairston, Senior Companion Program; Ralph Pryor, VISTA; Prabhu Sondhi, Peace Corps.

2:00 p.m.: Physical Fitness, 345 Cannon House Office Building. Dr. Frances Cronin, Associate Director, Dietary Guidance & Nutrition Information Staff, Department of Agriculture; Dr. Matt Guidry, Director, Community and Special Projects. President's Council on Physical Fitness.

Thursday, May 15, 8:00 a.m.: Breakfast honoring interns, B–239. Rayburn House Office Building.

Speakers: Dr. Robert Ringler, Deputy Director, National Institute on Aging; Congressman Claude Pepper, Chairman, House Select Committee on Aging; Senator Pete Domenici, Ranking Minority Member, Senate Special Committee on Aging.

Free afternoon.

Friday, May 16, 9:00 a.m.: Using Senior Power in Politics.

Democrats, 345 Cannon House Office Building. Dr Andrew Valuchek, Director, Senior Citizens Division, Democratic National Committee.

Republicans, 2318 Rayburn House Office Building. Mr. Philip A. Guarino, Director, Senior Citizens Division, Republican National Committee.

11:00 a.m.: Closing session, Where Do We Go From Here? 345 Cannon House Office Building. Jerry Waldie, Executive Director, 1981 White House Conference on Aging.

12:00 noon: Adjournment.

Continuation of this program is important to the senior citizens involved as well as their respective Member of Congress. Participation in ever-increasing numbers has accelerated the need for the planning coordination which my office directs with the able assistance of Congressman Tony Coelho and our colleague in the other body, Senator William V. Roth, Jr. The formation of an official and permanent senior citizen intern program in the House and Senate should be acted upon as soon as possible. Such action would enable the entire Congress to keep a positive commitment to the elderly of the Nation.

I thank my colleagues in the House and those in the Senate for their continuing endeavors in sustaining this program on a limited basis. The presence of this unified effort creates a program which proves to be a successful and productive one. I am pleased to include the names of offices who participated in the 1980 program:

Participating Offices: 1980 Congressional Senior Citizen Intern Program

HOUSE OF REPRESENTATIVES

Arizona: John J. Rhodes.

Arkansas: Bill Alexander.

California: Don H. Clausen, Norman D. Shumway, Tony Coelho, Leon E. Panetta, Charles Pashayan, Jr., Barry M. Goldwater, Jr., James C. Corman, Augustus F. Hawkins, Wayne Grisham.

Colorado: Patricia Schroeder, James P. (Jim) Johnson.

Connecticut: William Cotter.

Florida: Don Fuqua, L. A. (Skip) Bafalis, Dan Mica, William Lehman.

Georgia: Dawson Mathis, Elliott H. Levitas, Wyche Fowler, Jr.

Hawaii: Cecil (Cec) Heftel, Daniel K. Akaka.

Illinois: Edward J. Derwinski, Tom Corcoran, George M. O'Brien, Tom Railsback, Edward R. Madigan, Paul Simon, John Porter.

Indiana: Dan Quayle, Elwood Hillis, David W. Evans, John T. Myers, Philip B. Sharp.

Iowa: Jim Leach, Thomas J. Tauke, Charles E. Grassley, Tom Harkin, Berkley Bedell.

Kansas: Larry Winn, Jr., Robert (Bob) Whittaker.

Kentucky: Romano L. Mazzoli, Gene Snyder, Larry J. Hopkins.

Louisiana: Claude (Buddy) Leach, Jerry Huckaby.

Maine: David F. Emery.

Maryland: Barbara A. Mikulski, Gladys Noon Spellman, Michael D. Barnes.

Massachusetts: Robert F. Drinan, Nicholas Mavroules, Thomas P. O'Neill, Jr., Joe Moakley, Brian J. Donnelly.

Michigan: Harold S. Sawyer, Robert W. Davis.

Minnesota: Arlen Erdahl, Bruce F. Vento, Martin Olav Sabo, James Oberstar.

Missouri: E. Thomas Coleman, Gene Taylor.

New Hampshire: James C. Cleveland.

New Jersey: William J. Hughes, Millicent Fenwick, Andrew Maguire, Robert A. Roe, Matthew J. Rinaldo, Frank J. Guarini, Harold C. Hollenbeck.

New York: William Carney, John W. Wydler, Geraldine A. Ferraro, Mario Biaggi, S. William Green, Ted Weiss, Peter A. Peyser, Richard L. Ottinger, Hamilton Fish, Jr., Frank Horton, Stanley N. Lundine, Matthew McHugh.

North Carolina: James T. Broyhill, Lamar Gudger.

Ohio: Tony P. Hall, Thomas N. Kindness, Clarence E. Miller, Ralph S. Regula, Mary Rose Oakar, Ronald M. Mottl.

Oklahoma: James R. Jones, Wes Watkins.

Pennsylvania: Charles F. Dougherty, Richard T. Schulze, Peter H. Kostmayer, Lawrence Coughlin, Allen E. Ertel, William F. Goodling, Don Bailey, William F. Clinger, Jr., Eugene V. Atkinson.

South Dakota: Thomas A. Daschle.

Texas: Charles Wilson.

Utah: Dan Marriott.

Virginia: M. Caldwell Butler, J. Kenneth Robinson.

Washington: Joel Pritchard, Mike McCormack.

Wisconsin: Robert W. Kastenmeier, Alvin Baldus, Toby Roth.

District of Columbia: Walter E. Fauntroy.

SENATE

Alabama: Donald Stewart, Howell Heflin.

Alaska: Ted Stevens.

Arizona: Dennis DeConcini.

Arkansas: David Pryor.

California: Alan Cranston, S. I. (Sam) Hayakawa.

Delaware: William V. Roth, Jr.

Florida: Lawton Chiles, Richard (Dick) Stone.

Georgia: Herman E. Talmadge.

Idaho: James McClure.

Iowa: Roger Jepsen.

Kansas: Robert Dole, Nancy Landon Kassebaum.

Kentucky: Walter D. Huddleston, Wendell H. Ford.

Louisiana: J. Bennett Johnston.

Maryland: Charles McC. Mathias, Jr.

Minnesota: Rudy E. Boschwitz.

Mississippi: Thad Cochran.

New Jersey: Harrison A. Williams, Jr.

New Mexico: Pete V. Domenici.

New York: Jacob K. Javits.

Ohio: John Glenn.

Oklahoma: David Boren.

Oregon: Bob Packwood.

Rhode Island: John Chafee.

South Carolina: Ernest Hollings.

South Dakota: Larry Pressler.

Texas: John Tower, Lloyd Bentsen.

Utah: Orrin G. Hatch, Jake Garn.

Wyoming: Malcolm Wallop, Alan Simpson.

My own intern, Mrs. Mae Newsom of Anderson, Ind., has now involved herself in several projects in her hometown. She is pursuing funding for a local RSVP program and has speaking engagements with a number of senior citizen organizations. She is attempting to organize seniors who feel that helping others is the key to life. A special interest is working with other local senior citizen activists to enable older persons who want to stay in their own homes.

Today some of us who sponsored senior citizen interns during the 1980 program pay tribute to the more than 230 older Americans who served during the 2-week program this spring. Their contribution to our understanding of the problems facing older Americans as we begin the decade of the eighties can never be repaid.●

● Mr. TAUKE. Mr. Speaker, I would like to commend the gentleman from Indiana, Mr. Hillis, for his work with the congressional senior citizen intern program. This program was an immensely valuable and satisfying experience, both for the interns and for the participating offices. In my own particular case, I found that having two senior citizen interns in my office resulted in an exciting exchange of thoughts and the genesis of new ideas for both the interns and for me and my staff.

Iva and Robert Hess, of Marion, Iowa, my senior citizen interns, first worked in my Cedar Rapids district office and then came to Washington for the 2-week session. They are now back in the Cedar Rapids office, where they continue to serve as advisers for me on senior citizen legislation. Mr. and Mrs. Hess are also involved, concerned citizens in their home community. They are currently organizing a cooperative house for senior citizens who wish to choose that alternative to institutionalization.

The senior citizens of America are proud, and rightfully so. Many of them wish to remain self-sufficient. Mr. and Mrs. Hess found that the senior citizen intern program reinforced that wish for independence, as well as encouraging it. They went back to Iowa with the desire to share this with others. In their own words—

> * * * (the program) sent us home with enthusiasm to become active voters, to get involved in community affairs, and most of all, to do something for someone else. It was a once-in-a-lifetime experience—enlightening, throught-provoking and challenging.

I believe that those words of Mr. and Hess underline the true strength of the senior citizen intern program. It is not just an exciting 2 weeks in the Nation's Capital for the participants. The program is a forum for the exchange and development of new ideas, a forum from which the participants garner information to share with others in their home districts.

These senior citizens who have served America so well in their lifetime should not be forgotten merely because they have passed the age of 65, nor should anyone ever make the mistake of believing that a person's usefulness ends at age 65. We, in Congress, are in the position to aid the senior citizen, and we must do so. Yesterday's overwhelming vote on House Concurrent Resolution 351 to reaffirm the tax-exempt status of social security benefits is an excellent example of positive action on our part. The congressional senior citizen intern program provides a different kind of positive action. Not only do the senior citizens participating benefit, but the sponsoring offices benefit. Our senior citizens have life experiences, knowledge, and a view of life that others of us would be wise to utilize. The congressional senior citizen intern program afforded me an invaluable opportunity to do just that.●

● Mr. CONABLE. Mr. Speaker, one of the most successful intern programs on the Hill is the congressional senior citizens intern program, thanks largely to the efforts of Congressman Bud Hillis, and our colleagues Congressman Tony Coelho and Senator Roth. First under the auspices of Congressman Hillis and subsequently with the support of Congressman Coehlo and Senator Roth, the CSCIP has enjoyed increasing support in the Congress. Since its inception in 1973, the program, has grown to the point where approximately 150 offices and 240 interns participated in the program this past spring. Through my appointee, Joseph Coco, I quickly came to realize the value of the program.

Joe is a former supervisor of Marion, N.Y. He approached me several months ago about the possibility of becoming a senior citizen intern in my office. Joe told me how helpful this program could be to him and his fellow senior citizens. As vice chairman of the New York Joint State Legislative Committee of the National Teachers Association/American Association of Retired Persons (Albany N.Y.), Joe was more than qualified to evaluate the potential of a progam like CSCIP and serve as an intern in my office. I should also point out that Joe is vice president of the Wayne County Sounding Board—an ad hoc group that meets regularly to discuss national, local and State issues and to hear from speakers on a variey of subjects. With his past experience and current activities on behalf of senior citizens, I felt Joe would be an excellent intern.

In a report to me summarizing his 2-week experience on Capitol Hill, Joe said,

> I feel it (the intern program) is a very worthwhile program to aid elderly persons in understanding the functions and role of the Federal Government in supporting and promoting legislation benefiting the approximate 25 million elderly people in this great democracy of ours.
>
> It is extremely beneficial to the Intern, the elderly constituency back home, and to the Congressman himself in that the rapport and communications between everyone concerned is made more efficient and rewarding. In my particular case the rewards of the program will be manifested in the 34th Congressional District for this summer in which I plan to talk about the intern program and of the many ways in which the Congressmen and the Congress are working on their behalf to improve their way of life.

In my opinion, this is one program I hope will continue in the years ahead. I am hopeful that the House Administration Committee will soon approve legislation (pending before it) establishing this program as one officially authorized by the House. Its value to the host offices and the participating interns and their peers at home far outweighs the cost.●

● Mr. JONES of Oklahoma. Mr. Speaker, I am happy to join with my colleagues in the House to pay tribute, not only to the senior citizen interns who served in my office, but to the program as a whole. This outstanding bipartisan effort serves to educate members of this group, who then return to their respective communities and communicate their enthusiasm and respect for our Government. They are also able to better articulate the problems that our Government faces especially regarding the special needs of our elderly population.

I was most fortunate, Mr. Speaker, to have in my office two outstanding interns during the summer. Carl Fishback and Frank Lane performed excellent service for their fellow constituents in the First District of Oklahoma. I believe Frank and Carl received a good education during their work in our office. They will be able to break through the cloud that for many people hides the hows and whys of the operation of the Congress. I hope they will also be able to dispel the feeling that one individual cannot have an effect on the way things work. They have seen the power of the possibility for change, and are taking that message back to Oklahoma.

Carl Fishback and Frank Lane brought enthusiasm for their work, intelligence and commonsense gleaned from their years of experience, and senses of humor that helped them to keep the necessary sense of perspective about the Government that is all too often missing these days. They endeared themselves to my entire staff through their hard work and friendliness. They serve as two of the best examples of the validity of the senior citizen intern program, and their work and experiences speak volumes about the need to maintain this fine program.●

● Mr. CLAUSEN. Mr. Speaker, too often, many of us fail to make an adequate effort to properly recognize the great contributions our senior citizens can make to all areas of our society. We should recognize that they are, in fact, in their "golden years." Their years of experience in all phases of life enable them to be able to offer us even more today than when they were younger. Clearly, we need to make a better effort directed toward utilizing this vast reservoir of talent.

Martha Roscoe of Eureka, Calif., represents the type of dedicated and productive citizen that so many of our seniors are. Martha has long played an active leadership role in civic affairs in the Eureka-Humboldt County. She took an important part in the drafting of the Eureka city charter and helped to plan and establish that city's recreation program. Her broad experience has given her unique insight into the concerns of the people in her community and enhanced her contribution to my office.

After her period of service on my staff, Martha wrote a brief account of her activities in Washington and made some important recommendations concerning the role of seniors in our society. I was particularly impressed with her observation that the overall problems of our Nation—inflation, energy and getting along with our neighbors—are also the major concerns of seniors. Martha's comment shows how much a part of our society our senior citizens are.

Mr. Speaker, because Martha Roscoe's remarks are such an excellent reflection of the views of our seniors and since she makes some suggestions that we all can benefit from, I would like to insert her comments in the Record at this point:

Random Thoughts of a Senior Citizen

(By Martha Roscoe)

The Senior Intern Program for 1980 was an unforgettable experience. It gave us all a broader view of the various programs and monumental problems, both public and private, which concern our older citizens.

A first hand almost-inside-look into what makes America tick was truly a revelation. Even my brief, but enjoyable, stints in the office of my Congressman gave me a better understanding of the complexity of his job, and of the immense amount of detail which can be and is capably handled by an efficient staff.

Medical care, housing, exercise, diet, recreation, transportation, to name only a few, were the topics covered in our two weeks' session. All of the problems cannot be addressed in this brief report. I can only give you the "Random thoughts of a senior citizen" on some of the other subjects considered.

(1) On the whole, we received instant intelligent replies to our many queries, which, understandably, were not always instant answers. When our particular need cannot wait, we need to be patient, but we need to keep plugging.

(2) The elderly should continue to be useful citizens, taking an active part in the affairs of their homes and of their communities so long as they are physically and mentally able to do so.

(3) Institutional care of oldsters should be postponed as long as possible. The nationwide Home Health Program should be expedited.

(4) We need to study the problem of how to prevent the exploitation of the elderly. For example, Ombudsmen are needed to help oldsters read, and understand, the fine print of their insurance policy.

(5) We need only to help oldsters to help themselves. When oldsters are no longer able to help themselves, then adequate and compassionate care should be provided.

(6) The overall problems of our nation are equally, and often more specifically, the problems of the elderly. To name only a few: Inflation, energy, getting along with our neighbors, and with other nations.

I cannot speak too highly of the dedication and ability of the legislators and office staffs who were responsible for the planning and success of the Senior Intern Study Program. It was a great special privilege for me to sit in on Mr. Jerome Waldie's briefing of the plans for the coming White House Conference on the Aging. I can only hope that at least some of the problems aired may be solved before December of 1981.●

● Mr. DERWINSKI. Mr. Speaker, it is a special pleasure for me to join with my colleagues in expressing enthusiastic support for the congressional senior citizen internship program, and to commend the leadership and commitment of our colleagues, Bud Hillis and Tony Coelho and their staffs for their tireless efforts that have made the program so successful.

Because of the affirmative response that the senior citizen intern program received in the Fourth Congressional District of Illinois for the past 6 years, this year I was pleased to welcome Mrs. Betty Stahl of Matteson, Ill., and Mr. Sherril Hayden of Park Forest, Ill., who are active members of senior citizen clubs of Rich Township. Mr. Hayden, a former history and government teacher, was impressed with the vast difference between the textbook concept of Government and actual Government operations. While Mrs. Stahl found that the program's action-packed agenda provided detailed information about legislation affecting our senior citizens, she was most impressed with the discussion and briefings on programs that involve consumer problems and programs affecting the elderly, which provided the participants with a better insight into our Government.

During their 2-week stay in Washington, Mrs. Stahl and Mr. Hayden and the other senior citizen interns were given a well-rounded view of the operation of the Federal Government with special emphasis on programs that affect those who are over the age of 65. Question and answer sessions enabled all the participants to make a direct input into an instructive exchange.

My staff and I had an opportunity to benefit from their experiences as they observed the operation of a congressional office in handling constituent inquiries and opinions. This provided them with an inside view of a congressional office in action. When they returned home to Illinois, Mrs. Stahl and Mr. Hayden were able to share their experiences with their fellow members of senior citizen clubs, from the unique perspective of personal involvement in the workings of the Government.

I regard the senior citizen program as an excellent method by which our senior citizens develop a better understanding of the role and responsibilities of the Federal Government. I believe that every Congressman who participates in this program comes away with a better insight into the concerns of our older Americans, who are one of the Nation's most valuable assets. In addition, this program gives us an accurate feedback to become more responsive to the specific needs of our senior citizens.

During my discussions with Mrs. Stahl and Mr. Hayden, I was pleased to learn that they considered the program very informative and beneficial in providing them with an opportunity to learn how our Government administers programs of special interest to them and their fellow senior citizens. They found that it was not only a practical learning process but also an opportunity to share what they have learned and apply the knowledge to their own community activities.

My senior interns and I agree that this year's program was a tremendous success. We take this opportunity to thank those who did such a fine job in coordinating the seminars and other activities and whose dedicated efforts made it a successful program. This program deserves our continued and enthusiastic support.●

● Mr. COELHO. Mr. Speaker, the large number of participants in the eighth annual congressional senior citizen intern program in May attests to the growing interest and value of the program. Thanks to Congressman Bud Hillis, who originated the program 8 years ago, and to other congressional Members who participated in the program, it continues to provide senior citizens an excellent opportunity to learn firsthand about the Federal policymaking process.

The interns themselves are not the only ones to benefit, as these active community leaders share information learned here with their communities, and as such, are better equipped to serve the needs of their localities. Equally important is the opportunity the program provides us to learn what these citizens expect from us as Representatives. We can listen to ideas they have about remedying not only the problems of senior citizens, but other current day problems as well. Further evidence attesting to the value of close communication with these citizens lies in the substantial number and impact of Federal programs that serve them.

The vitality and energy my own intern, Mrs. Edith V. Waters, portrayed during her stay, and the variety and substantiveness of the many resumes submitted by perspective participants demonstrate their contributions and exemplify the important resource senior citizens are in our complex and aging society.

The value of the program cannot be overestimated and should be continually recognized. While thanking those of you who participated and understanding that in some cases the resources enabling an intern to come were not available, I encourage congressional members to participate in this intern program. As I have cited, the program contains benefits not only for those who are directly involved but also for those with whom the interns share their learning experience.

The 1980 program was quite successful. I look forward to an expanded and equally successful program in 1981.●

● Mr. REGULA. Mr. Speaker, once again I had the privilege of participating in the congressional senior citizens intern program, and once again I was delighted and enlightened by the experience.

I found Mr. Gordon and Mrs. Lois Lehman, our senior interns, both bright and enthusiastic during their stay in Washington, D.C. They were intelligent, and well able to provide me with insight about the particular problems and concerns that affect our Nation's senior citizens. The meetings and seminars which they attended while in Washington assisted them in this task. Donna Norton is to be complimented for her efforts and expertise in setting up and conducting the senior citizens intern program. Both my staff and I increased our awareness of the concerns which face senior citizens as a result of the Lehmans' visit.

The avenue of information was a two way street, however, as Mr. and Mrs. Lehman concluded in their followup report:

> We learned that our government is concerned about older Americans, as reflected by the fact that 25 percent of the federal budget is used for their benefit; for example, Social Security retirement and disability payments, Medicare, SSI benefits, etc. We were told there are 130 different programs to aid the elderly.

The Lehmans became more familiar with how these programs operate and are administered.

The senior intern program is unquestionably a great bridge between the senior citizens of our Nation and their elected representatives. As an exchange of learning and source of information and goodwill, this year's program was invaluable.●

● Mr. LEHMAN. Mr. Speaker, our office was once again privileged to participate in the senior citizens intern program during the month of May.

Mr. Arthur V. Miller, a constituent from Point East in Miami, Fla., was our senior intern for 1980. Since Mr. Miller's return to Miami, he has visited and participated in many senior citizen discussion groups—spelling out the results of his 2 weeks attendance at seminars with Federal agency heads, top administrators within those agencies, and Congressmen and Senators.

The favorable feedback from the senior citizens in Florida's 13th Congressional District has been overwhelming. As a result of the senior citizens intern program, they have acquired an increased understanding and new insight into the branches of government that can be tapped to meet their special needs.

The real strength of this program lies in its ability to communicate an enormous quality and quantity of information which otherwise might not have reached such a large portion of our populace.

My colleague, Congressman Elwood Hillis and his staff aide, Ms. Donna Norton, have kept this program alive for the past 8 years. On its merits, in 1978. I strongly supported a resolution to establish the congressional senior citizens intern program. The resolution was initially introduced in 1973 by Congressman Hillis, and has been reintroduced in every successive Congress. It is presently pending before the Subcommittee on Accounts of the House Administration Committee.

I join my colleagues in urging that action be taken on House Resolution 675, rightfully establishing this program as our recognition of the concerns of older Americans, and by this effort, working to help meet those concerns.●

● Mr. DRINAN. Mr. Speaker, this year, Older Americans Month officially marked the beginning of activities for the 1981 White House Conference on Aging. All across the country, community forums provided senior citizens with the opportunity to discuss issues of concern to all older Americans. In Washington, senior citizens converged on the Capitol for 2 weeks in May as part of the 1980 congressional senior intern program. It was a unique opportunity for both senior citizens and their representatives in Congress to work together on the problems facing the elderly of this country.

I was privileged this year to sponsor Col. Paul J. Leahy from my district in Massachusetts. Since his retirement, Colonel Leahy has been actively involved in local activities on behalf of senior citizens. He has served as chairman of the council on aging in the town of Sudbury since its inception 7 years ago and also serves as a member of the board of directors of Baypath Homecare Corp. In addition, Colonel Leahy was largely responsible for the implementation of local and regionwide bus service for the area's elderly. Through the senior intern program, Colonel Leahy was able to bring to Washington his wealth of practical knowledge on the problems of the elderly and to share that knowledge with myself and my staff.

During his internship in Washington, Colonel Leahy attended a series of briefings on elderly concerns, met with various Government officials, and attended hearings by the House Select Committee on Aging. The 1980 program, as in previous years, was a tremendous success. I commend my colleague Congressman HILLIS for his sponsorship of this program, and I wish to especially thank Ms. Donna Norton of his staff for the splendid job she did in organizing and coordinating the schedule of events. I would also like to commend Congressman COELHO, Senator ROTH, and their dedicated staff for the assistance they gave in planning this excellent program.

It is my hope that congressional interest in the senior intern program will continue to grow. Some 170 congressional offices participated in this year's program. Next year, senior interns from participating offices will also be delegates to the White House Conference on Aging. With the additional experience of having been exposed firsthand to the workings of the Federal Government, delegates to the conference will be that much more sensitive to elderly issues as perceived by legislators and by administrators of programs affecting older Americans. Our senior interns will then be able to take to the conference what they have learned in Congress and put it to practical use as delegates.

In the past, our interns have always been leaders in their local communities. As senior citizens, they know better than anyone what are the problems facing the elderly. With their added familiarity with the workings of the executive and legislative branches of Government, they will be better able to make constructive suggestions and recommendations for future public policy that is designed to most effectively meet the needs of the elderly.●

● Mr. SHARP. Mr. Speaker, I am pleased to have the opportunity to express my continuing support for the congressional senior citizen intern program. As a 6-year participant in this program, I have found it to be extremely valuable for myself and my staff, as well as for the interns. My distinguished colleague, Mr. HILLIS, and his very able assistant, Donna Norton, deserve to be commended for their fine leadership and excellent planning.

This year's interns were Rev. Sylvan Nussbaum of Berne, Ind., and Mr. Frank Pumerville of Richmond, Ind. Both have been very active in their local communities. Reverend Nussbaum is the president of the Adams County Council of Aging and also serves on the board of directors of the Northeast Area III Council of Aging. Mr. Pumerville is a board member of the Wayne County Council of Aging, the Area 9 Agency for the Aged, the retired seniors volunteer program, and also serves as vice president and legislative action chairman of the Richmond Chapter of the American Association of Retired People.

In a report submitted to me following his internship, Mr. Pumerville stated,

> * * * talking with other interns from many sections of the country, I found great similarity in thinking throughout the nation. While a few are mainly interested in their own well-being, the great majority are concerned with the nation they will leave for their grandchildren. While none wish to be ignored or written off, the majority are willing to make sacrifices for the good of the nation.

Reverend Nussbaum, in comments made following his internship said,

> The Senior Citizen Intern Program is valuable because it will allow older residents to become more informed and advise their representative and senators of their wishes on how they vote.

Both Reverend Nussbaum and Mr. Pumerville made reference to areas of special concern to senior citizens, some of which are inflation, defense, social security, taxes, and insurance.

Since their return home, our interns have been actively engaged in sharing the experiences they have had here in Washington with organizations in their communities. It is this kind of communication that breeds trust and understanding between government and those it seeks to serve.●

● Mr. SCHULZE. Mr. Speaker, I am pleased to join my colleagues in enthusiastic support for the senior citizen internship program.

This is the sixth consecutive year in which my office has participated in this program. My 1980 interns, William Mower of Pottstown and Samella Burton of West Chester, became an integral part of my staff during their 2-week stay in Washington. I value the unique perspectives they offered concerning the problems facing senior citizens in my district.

Mr. Mower was an educator in Pennsylvania public schools for 42 years, retiring as assistant superintendent of schools in Pottstown. He remains active in the Pottstown schools as a member of the school board and honorary member of the PTA. Bill also serves on the board of directors of the Pottstown Area Senior Center. Mrs. Burton is an accomplished seamstress who is currently working as an editor for the Bureau of the Census. She is president of the Northeast Federation of Women's Clubs, and a member of the Pennsylvania State Federation of Negro Women's Clubs. Sam was previously a board member of the YWCA of Greater West Chester.

The caliber of the interns representing the Fifth District of Pennsylvania is a tribute to the enormous interest the program has generated. This year, my Senior Citizen Internship Board, composed of senior citizens who have participated in the program during the last 5 years, interviewed 61 candidates before making its selections, almost twice as many as last year. All who applied were briefed by Bill and Sam on the weeks' events at a breakfast held following their return to Pennsylvania.

Mr. Speaker, the internship program encourages and facilitates interaction between agencies and legislators who deal with senior programs and the people their decisions affect. I am certain that I speak for my interns as well as myself in expressing appreciation to BUD HILLIS and his staff for making this exchange possible.●

● Mr. BROYHILL. Mr. Speaker, for the past several years, it has been my pleasure to participate in the congressional senior citizen intern program. Today I want to pay tribute to this program and the benefits which have resulted from it. Our colleague, the much-respected BUD HILLIS, is to be thanked for his insight in beginning this program and in expanding it over the years.

Each year, I have been fortunate to see some very outstanding constituents from the 10th District of North Carolina come to Washington to participate in this program. The benefits have been numerous. My staff has enjoyed the opportunity to get to talk face-to-face with people from North Carolina's 10th District. I have been most impressed with the participants from my district. Not only have they come to Washington to work and to learn, but they have prepared themselves for the trip, and the follow-up when they went home has been tremendous.

My intern this year was Mrs. Margaret Kirk, a very young "senior citizen" from Kings Mountain, N.C. She brought many good ideas and questions with her which she had collected from her friends and from her years of experience in various activities. Having Mrs. Kirk in my office for 2 weeks was of great help to me and to my staff.

I would like to share with my colleagues the story which appeared in many newspapers in my district after Mrs. Kirk returned home:

> "I just can't believe it," Mrs. Margaret Kirk of Kings Mountain, North Carolina said. "I just can't believe that I was lucky enough to have this chance."
>
> The "chance" was the opportunity of participating in the 1980 Senior Citizen Intern Program held in Washington, May 5–16. Selected by Congressman James T. Broyhill (R-N.C.) back in January, Mrs. Kirk was thrilled of her selection.
>
> "I was grateful to have someone so keen and truly interested in the program as Mrs. Kirk. She worked tirelessly to get as much as she could from each session," Congressman Broyhill remarked of Mrs. Kirk.
>
> Joining more than two hundred other senior citizens from around the United States, the Kings Mountain native arrived in Washington eager to check her schedule of events for the next two weeks. Along with her activities surrounding the intern program, Mrs. Kirk was also looking forward to meeting and working with her representative in Washington, Congressman Broyhill.
>
> "One of my sons worked in Washington one year for a congressman, and I visited him while he was up here. So, I am somewhat familiar with the goings-on in a congressional office," Kirk said. With hotel accommodations close to Capitol Hill, the White House, and other popular attractions, she easily adapted to her new surroundings and the long walks that she soon discovered were inevitable.
>
> She also adapted to the rigorous schedule that the program had set up for her. With

an opening day reception for the participants and their sponsoring congressmen on the first day, Mrs. Kirk was off and running for the next two weeks.

With the next morning seminar on "Legislation Affecting the Elderly," and "A Congressional Overview of Aging" being presented early the second day, Mrs. Kirk marched into Congressman Broyhill's office very early, ready for any work that she might have time to do before her day's activities.

After her day's program was completed, the youth grandmother of four, was back in the office for more work while several of her colleagues went back to their hotels for rest and some for a sight-seeing trip around the city.

"I was so impressed by the amount of work that is done by the people up here," referring to the congressional members and their staffs. Every one is busy working, no one has time to just sit around. I can't believe the amount of mail that comes into the office each day," Mrs. Kirk noted of Congressman Broyhill's office.

And she was no exception to the workhorse-style day while in Congressman Broyhill's office. "There really is always something to do," the "adopted" staff member laughed as she recalled how the work kept her busy too. With each staff member lobbying for her precious spare time and generosity, Mrs. Kirk soon learned that she got just what she asked for—work!

"Her work here in the office was immeasurable. She was a full-time worker; always pitching in to help," the Republican Congressman commented. "Of course, I would like to have her around all the time, but I do not think that she would go for that," Broyhill jokingly added.

Among the more relaxing moments included a trip to the White House, breakfasts and luncheons honoring the senior interns, a tour of the Washington Cathedral, and a special night at the Kennedy Center to hear the National Symphony.

"But most important," the spirited intern went on to say, "was the significance of the program. I had some thoughts that there might be some boring meetings that would go on forever, but there was honestly not a boring seminar the entire time. Each one was very interesting and helpful."

Congressman Broyhill added, "This program is so valuable for everyone, the young and the old. These people can take their information and sources back home where others can benefit from it. Needless to say, the legislators benefit from their suggestions and ideas they discuss in their meetings."

The program provided information for Mrs. Kirk on almost every topic imaginable. "The people back home gave me a list of things to find out while I was up here. I have their information and a lot more. It gets so confusing when you talk about Social Security, social services, Medicare, and other programs for the elderly. But now I have the names and numbers of people who can help explain how to get answers.

Returning to Kings Mountain, Mrs. Kirk noted that she will definitely become active in helping the elderly in any way she can. The information that she gathered about nursing homes, care and transportation for the elderly and legislation affecting senior citizens will be put to use whenever possible.

Summing up her two-week stay in Washington, Mrs. Kirk said, "This program is so worthwhile. It is a once in a lifetime experience. I am very glad that I was able to be here." And although the spunk of the intern born in Grover, North Carolina was evidently a little slower on her last day, it was definitely not slow enough to call her a "senior" citizen. Anyone that could keep the pace and walk as many miles as she must have during her two weeks in Washington could run the Boston Marathon.

The native Tarheel attended the University of North Carolina, but left the state for 35 years following her marriage. In 1975 she returned to North Carolina after the death of her husband.

Active in various civic projects, Mrs. Kirk is involved with the PTA, Scouts, church work, and the American Association of University of Women. She is the mother of two sons and has four grandchildren.●

● Mr. MAZZOLI. Mr. Speaker, I have participated for a number of years in the congressional senior citizen intern program. The program seems to get better each year.

I am continually impressed with the enthusiasm and experience that the senior citizens interns lend to my office. This year's intern, Mrs. Helen Weaver, is certainly no exception. As will be demonstrated by the style of her written report, Helen is a bright, involved, and interested senior citizen.

Her activities in Louisville range from serving as an officer in the Louisville/Jefferson County Retired Teachers Association to heading the legislative committee of the highlands outreach program for older persons.

And, Helen has jumped right in and made quick use of her Capitol Hill experience. This past weekend I was the guest speaker at a senior citizens forum that Helen helped organize to discuss the issues facing older Americans.

I would like to add a word of thanks to all those who helped organize this year's program. From all indications, the program ran smoothly and effectively, making it a worthwhile experience for all those involved.●

● Mr. SHUMWAY. Mr. Speaker, I am delighted to have this opportunity to comment on the extremely worthwhile aspects of the congressional senior citizen intern program, and I commend our colleague, the gentleman from Indiana for arranging for this time today.

My first opportunity to participate in the senior intern program was 1980. I have been extremely impressed with this project from start to finish: It is flawlessly organized, expertly executed, and remarkably thorough in its scope and scheduling. Two of my constituents, Mr. and Mrs. Frank Bodin, were able to take part in the 2-week internship this year, and the knowledge they have gained is already proving to be of benefit to senior citizens across my sprawling congressional district. The Bodins have found themselves in demand as speakers at senior groups' meetings, and they are apparently delighted to share their new wealth of information.

I could probably fill several pages commenting on the many benefits of this program, but I believe it will be far more effective to let the individual who actually participated in the program do the talking for me. Therefore, I am including the text of an evaluation report prepared by Mr. Bodin concerning his Washington experience. I ask that my colleagues join me in reviewing Frank Bodin's comments, and in thanking him for his excellent appraisal. I would also like to thank Representatives Hillis and Coelho, Senator Roth, and their appropriate staff members for the diligent effort and helpful courtesy which made the 1980 program such an unqualified success.

The text of Mr. Bodin's report follows:

CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM

(By Frank M. Bodin)

The Senior Intern Program has grown from 9 interns eight years ago to 230 interns from 45 states in 1980. Thirty-five Senators and One Hundred and Six congressmen participated in this year's program. It was a sharing experience for the interns with each other, their Congressmen and Department Executives. There was a common interest amongst the interns as they were all involved in community service. The interns were all leaders in their home area and what they learned in this training was to be shared at the home base and to heal any breach between Washington and home.

To me the acknowledgment of the difference between fact and fantasy was of great value. The opportunity to serve in Congressman Shumway's office made me realize the constant hard work and long hours that both Congressman and staff expend in serving their constituents. It was recognizable that our Congressmen welcome and appreciate reliable older Americans' leadership and advocacy.

Senator Roth stated that this internship is so important to enable Congressmen to do a better job for Seniors where needed and they want to know the successful programs.

The 1981 White House Conference on Aging was discussed and this conference should develop assistance to Congress by reliable involved older Americans. It appears to be developing from the local area through the State Conferences to the National Conference in a meaningful procedure. I am on the executive committee for the State of California Conference and the local committee as Chairman of Delegate selection. We at the local level are very aware of the contents of Public Law 95–478 of October 18, 1978 and with its basic list of 9 concerns for older Americans. At the local level we are busy getting imput from Seniors for factual resolutions.

Some concerns I have developed during this internship are:

1. Develop more opportunities for self-help amongst older Americans as for example more employment opportunities including finding new ways for employment also replacement of food stamp program with greater use of surplus commodities.
2. Linking of services together and eliminating duplication of various services.
3. Strengthening the Ombudsman program with uniform regulations.
4. Expanded opportunities in Energy assistance.
5. Cooperative effort to assist older Americans in event of a natural disaster.
6. Establish a solid base for Social Security and prohibit taxation of Social Security.
7. Closer monitoring of programs to assure that there is no waste of government monies.
8. Removal of earning limitations. It is absurd to penalize older Americans on employment.
9. Government loans for housing of Seniors.
10. Expansion of Day care centers to enable older Americans to continue to live in their community. The monies spent would be saved in Medicare.
11. Encourage programs of Information and Referral.
12. Increase mental health care.
13. Assist older Americans to get into business.
14. Government grants to assist older Americans to prevent crime.
15. Mass transportation for Seniors.

16. Congress change the basis of 44 percent, finance on the poverty elderly.

In summary I would say that the internship was quite successful. It was obvious that the majority of our younger congressmen are conscientious and hard working. They are anxious to get the most efficiency and service for the money they have to work with. They are concerned for the Older Americans' welfare. I feel I was extremely fortunate to have the opportunity to serve as Senior Intern for Congressman Shumway.

The Senior Intern committee is to be complimented on the preparation and programming. I would like to see that some finances be allocated to the committee to perform the tasks required.

● Mr. CLINGER. Mr. Speaker, I would like to speak on the important benefits provided to the Congress and to the citizens of our Nation by the congressional senior citizen internship program.

This eighth year of the internship program brought more than 225 of our citizens to Washington, D.C., a most impressive gathering. I would like to compliment the gentleman from Indiana, my colleague Mr. HILLIS, on the outstanding job that he and his staff did in organizing and seeing this year's program through to its very successful conclusion.

Over the past 8 years, the congressional senior citizen internship program has not only grown in participation but also, and more importantly, in its sophistication and ability to send those participating citizens back to their homes across the land with a new sense of the ways of Government, particularly as these ways affect the elderly.

This knowledge and awareness of governmental activity affecting senior citizens is of benefit to their fellow citizens and to their communities. It also makes our job here in Washington both easier and more effective, as we communicate with a better informed and interested and aware elderly constituency. In view of the benefits afforded the participants, their communities, and the Congress, I can only urge that we endeavor to continue this valuable program and encourage still wider participation in the years to come.

My own office was most fortunate this year in having with us Mr. Ernest K. Gackenbach of State College, Pa., together with his wife, Jane. Mr. Gackenbach is very active in senior citizen activities in State College, and his knowledge of the interests and concerns of his fellow senior citizens was most helpful to me and to my staff as we studied legislation that could affect them. Mr. Gackenbach, after participating very actively in the full program provided here, has returned home to what appears to be an equally active schedule in his community. Among many other activities, he has served as a convenor in the Centre County Community Forum for the 1981 White House Conference on Aging. It is extremely gratifying for me to see Government and community working so well together in furtherance of our Nation's most important goals.

Mr. Gackenbach has graciously consented to submit for the RECORD a statement on the value of the 1980 congressional senior citizen internship program to him and his community. I would like to have his comments included with my own on the merits of this excellent program:

STATEMENT BY ERNEST K. GACKENBACH

Subject: 1980 Congressional Senior Citizen Internship Program.
To: Congressman William F. Clinger Jr.
From: Intern Ernest K. Gackenbach.

The Congressional Senior Citizen Internship Program gives one a different insight into the operation of the Federal Government in the area of aging. It is an experience to learn how much the government does to assist the elderly. I learned of the many programs and services that are available to the elderly and of the part of the Administration on Aging to carry them out.

It has been a worth-while experience to learn how willing the staff of the offices of our Congressmen are to provide help to their constituents. An insight into the many problems encountered by our Congressmen in their duties of office has helped me to appreciate the services they give. The liaison with one's sponsoring Congressman is one of the most important aspects of the Intern Program.

The Intern Program has given me the inspiration to continue in my services to the problems of the Senior Citizens and to try to improve and do a better job than I have done in the past. The contacts and information made available through the Intern Program is making this possible.

Sessions in which exchange of information by the Interns was very helpful. I would suggest smaller groups for discussion periods to enable involvement of every Intern. To learn of the methods used by other Interns in the solving of their problems was most enlightening. It was a meaningful experience to be able to meet with the administrators, committeemen, and others working in the programs of aging on the Federal level and listen to their description of their services and their plans.

The Intern can do a lot to spread a good image of the Federal Government in the grass roots level of our country. A program like the Congressional Senior Citizen Internship can do this. Contacts made daily by the Intern with friends and the community bring out questions about the internship. My response has always been, "It is a great program and very worth-while to one who is interested in giving service to the elderly."●

● Mr. WYDLER. Mr. Speaker, it has been my pleasure to sponsor two very fine people for this year's senior citizen intern program—Mrs. Lotte Werner of Rockville Center and Mr. August Sagan of North Valley Stream.

During their 2 weeks here, Mrs. Werner and Mr. Sagan participated in every aspect of the program with enthusiasm and a real thirst for new information and knowledge. As a result, they were able to offer me their perceptions of how our Government responds to the aged, and I was able to show them the legislative channels available to citizens everywhere.

Following a brief background on each intern, I have provided the excellent reports Mrs. Werner and Mr. Sagan submitted to me for your consideration. They show a real interest on the part of each intern, and I am delighted that our fifth district was so well represented; we are indeed proud of them.

Mr. Sagan, a former school teacher, is no stranger to the legislative process. He is currently a member of the Advisory Council on Legislation for the Nassau County Department of Senior Citizen Affairs. An active member of the American Association for Retired Persons, Mr. Sagan also organized a legislative committee at the Franklin Square Senior Citizens Center.

Mrs. Werner is a former owner and manager of a secretarial service, having been an executive secretary herself for 23 years. A member of Rockville Centre Senior Center, Mrs. Werner has served on numerous committees—including the legislative committee as chairperson. She is also active in the National Council of Jewish Women, the American Association for Retired Persons and the Guild of the Massapequas, and volunteers her time for the benefit of both Good Samaritan and South Nassau Communities hospitals.

The reports follow:

MR. SAGAN'S REPORT

To me, the 1980 Congressional Senior Citizen Intern Program was a unique opportunity to have a first-hand view of the Federal Government and how it operates, particularly as it relates to the elderly.

We had interesting and exciting sessions from 10 a.m. to Noon and then from 2 to 4 p.m., at which time we heard various senators and congressmen, as well as directors and staff members from the following groups and agencies: the Senate Special Committee on Aging, the House Select Committee on Aging, the Congressional Budget Office, the Urban Mass Transportation Administration, the Department of Housing and Urban Development, the Social Security Administration and the Health Care and Financing Administration.

We also had a session with Lea Thompson, consumer reporter on Channel 4 in Washington and a session with Delores Handy, anchorperson on Channel 5, also in Washington. Ms. Handy was moderator of a panel of representatives from Older Americans Volunteer Program, ACTION, Retired Senior Volunteer Program (RSVP), Foster Grandparents, Senior Companion Program, VISTA and the Peace Corps. Each of these programs was followed by a question and answer session, and were very stimulating and informative.

I found that one of the fears that many of the seniors expressed was the possibility that the recommendation to tax half of Social Security income might become a reality. However, we were assured that Congress in no way would allow this legislation to pass this year. Of course, no assurance was given as to the future of this bill. Therefore, eternal vigilance is a must so that this does not happen.

Another problem many of the seniors present were duly concerned about was the possibility of cuts in programs for the elderly if the budget is balanced this year. We were assured that no cuts will take place, but were told that we can expect the rate of growth of these programs to be smaller than in the past—when growth was quite extensive.

We were informed of the hopeful forecast for less emphasis on institutionalization of health care and more on home care. Bill H.R. 3990 should be of special interest in this respect. Another topic we discussed was the need for an adequate Medigap insurance policy.

We were told that the Congressional Senior Citizen Intern Program started in 1973 with nine people and has grown each year. This year, it had the largest group ever—233 people. It is encouraging to know that each year more congressmen and senators are sponsoring the program, and it is expected that in the near future the group will be so large that it will have to be divided into two sections—one in the Spring and one in the Fall.

Besides finding the program extremely interesting and enlightening, I also had the opportunity to meet wonderful people from different parts of the United States, as far away as Alaska and Hawaii. It was most gratifying to find the devotion and dedication of the young people in each of the agencies for the elderly. As for the interns—who were in their sixties, seventies and eighties—they showed an amazing amount of vigor, enthusiasm, devotion and vitality from beginning to end. If the senior citizens back home in every community displayed half their enthusiasm and vitality, the seniors would have no fears as to the response of the government. Working together, the 24 million persons now over 65 years of age could make anything happen.

The Florida delegation informed us of a most interesting program in their state called the Silver Hair Legislature. In this program, a group—elected by senior citizens—serves in the state capital when the regular legislature is out of session. This special group of legislators does similar work as the regular body—passing on their legislation to the Florida legislature for review and possibly even passage at some point. This is a program I would like to see adopted in the State of New York.

The New York delegation met one evening and agreed that the Congressional Senior Citizens Intern Program is so important and beneficial that they would like to see a similar program inaugurated in Albany for the State of New York.

In conclusion, I want to thank Congressman John W. Wydler for the honor and privilege of making it possible for me to participate in this magnificent program and for the hospitality shown to me. Also, I would like to extend my thanks to his dedicated staff—who were so kind and cooperative—and especially to Ms. Pershing, for her gracious hospitality and immaculate arrangements for our trip to and from Washington, where she took care of our daily needs during the entire program.

Mrs. Werner's Report

My two-week stay in Washington as a Senior Citizen Legislative Intern from Long Island's "Fabulous Fifth", the Congressional District of my sponsor and mentor, Congressman John W. Wydler, was an incredibly beautiful experience. If I were asked to rate this appointment to work and to learn I would have to say that it ranks second only to my coming to America and becoming an American citizen—in both cases a whole new life opened up to me. My copious, almost verbatim notes of the seminars I was privileged to attend may, in months to come, become the subject of another writing. For the moment, my heart is full to bursting with wonderment, gratitude, love, amazement and confusion and I feel driven, at 5 AM of my first day back home, to sit at my desk putting down my thoughts about this wonderful adventure.

230 older Americans from every state of the Union, of which 16 were in the New York delegation, spent arduous days filled with morning and afternoon sessions learning about the complicated and intertwined processes of governmental agencies and becoming aware of the enormity of running this biggest of all "corporations". The top echelon of every department, every agency and every bureau lectured on the problems confronting the aging; legislators from both sides of the aisle spoke to us about their interest in particular bills affecting the elderly and gave us some insight on the step by step processing of a bill, the amendments tacked on by either side and the often wearisome procedure up to the final vote. Interest and curiosity of the interns were constantly aroused and kept at their peak.

About midway through our seminars, our New York delegation held a caucus for the purpose of establishing priorities on which we could and would like to work together after returning to our respective communities in the State of New York. We came to the following result without limiting ourselves for future collaboration:

1. Long term care—Home care; Respite—Title IIIB; removal of requirement of at least one day hospitalization prior to granting home care; government incentive payment for an annual vacation for children who have elderly parents living in their homes and who take care of them throughout the year (cheaper and less dehumanizing than nursing homes).

2. Urban problems—Housing; rents; co-ops.

3. Transportation for elderly and handicapped.

4. Continuing education to stimulate mental activity through learning, leading to renewed pleasure in living.

5. Removal of Social Security earnings limitation; Although for the moment the threat of Social Security taxation is over, this measure may be reintroduced at any time, especially after election. This should be monitored constantly; cost of living increases should continue.

A suggestion to have our State Legislators sponsor legislative senior citizen internships in the Sate of New York at Albany, was enthusiastically approved by all.

Another subject discussed in our seminars after the meeting of the New York delegation, is the elimination of *all* taxes on *all* pensions and updating of such pensions to reflect the present and future devaluation of pension incomes through inflation. Many older Americans who contributed throughout their working years to a pension fund set up by employers in the belief that their "golden years" would be financially secure, now find themselves on the edge of poverty because of the inflation.

There was enormous feedback from the floor after each of our seminars which led to lively questions and suggestions on many topics, such as the joy of aging through proper nutrition, physical fitness, continued part- or full-time employment, companionship, music, the conscious preservation of good health, Medicare, Medigap, energy, financial management and many other important subjects.

We came away from these sessions somewhat wiser, somewhat better informed, and with great gusto to learn more in order to be more helpful and effective in our respective volunteer jobs. Through the intern program you have given us, the older Americans, the chance to demonstrate:

That we have experience, numerous talents, and intelligence;

That we have understanding, willingness to learn and much compassion;

That you have opened for us dark closets letting in the light and fresh air of knowledge;

That with your guidance we have returned home with renewed enthusiasm and belief in our form of government;

That we are better equipped to help those of our peers who need our help, and to recruit those among us still able to do so to join our ranks in contributing their efforts and know-how for the betterment of all.

My sincerest thanks go to Congressman Wydler and to his kind and ever helpful staff for making my 2-week internship possible and rewarding. This entire concept could be made into reality only in America;

With sadness I realize that we are about to lose Mr. Wydler's wisdom and advice because he is not seeking reelection. Whatever he may choose to do in the future, his constituents are rooting for him and wish him and his family health and happiness for many years to come.●

● Mr. QUAYLE. Mr. Speaker, I am pleased to join in this discussion regarding the congressional senior citizen intern program, and I especially commend my colleague from Indiana (Mr. Hillis) for his leadership in developing and directing this program.

In its eighth year, the congressional senior citizen intern program convened once again on Capitol Hill, bringing together some of America's most active and involved seniors, who through their energetic community participation and leadership know well the needs of their contemporaries.

Freedom from hunger and illness is essential, but so is the freedom to work, to learn and to contribute. The senior citizen intern program reflected this philosophy throughout.

It was my pleasure to have Doc Holycross of Columbia City, Ind., as my 1980 senior citizen intern from the Fourth Congressional District of Indiana. A former Government teacher, Mr. Holycross now devotes his time to senior citizens and their programs.

An outstanding program with exceptional opportunities for all participants, the senior intern program serves both the senior citizens and the Members of Congress who participate. It is a program of high caliber which uniquely permits Members to learn first hand the special needs and concerns of the elderly. I have enjoyed participating in the past and look forward to participating in the future.●

● Mr. GUDGER. Mr. Speaker, in days to come when I recall the highlights of the 96th Congress, I will assuredly have to note a very special 2 weeks when my staff was enriched by the presence of two excellent senior citizen interns.

Mrs. Lucille Burnette of Madison County and Mr. Ellsworth Rathburn of Polk County are the first senior citizen interns sponsored by our 11th Congressional District. Through them, I gained respect and admiration for this very excellent program and I am not sure who learned more from the program—them or me. Both are now back in the mountains of North Carolina, sharing their Capitol Hill experiences with many others who were not able to be here.

I want to say a special thanks to those of my colleagues—and their hard-working staffs—who pioneered this program and who made my joining in it this year so much easier by sharing their past experiences. Between that and my own education since joining the Select Committee on Aging, I have found that older Americans are nowhere near ready for just settin' and rockin' in their sunset years.

Both my senior interns have written me since returning home. Mrs. Burnette calls her 2 weeks here outstanding and Mr. Rathburn concurs, noting that his experience will give him more confidence in approaching any Government office for advice and assistance.

Mr. Rathburn also makes two suggestions which I feel merit the attention of planners on future senior citizen intern programs.

First, he thinks special interest groups might be provided in certain areas without taking up the time of all the participants. Second, he feels that, as more and more Congressmen become interested it might well be that the program would operate better in two sessions so that it does not become too large and impersonal.

Again, I want to express my special thanks to those who set up and coordinated this program and my deepest appreciation to all the senior citizen interns, particularly Lucille Burnette and Ellsworth Rathburn.●

● Mr. SAWYER. Mr. Speaker, I am grateful for this opportunity to make a brief statement on behalf of the 1980 congressional senior intern program. This was the second year I have participated in the program and I was again impressed by the success and results which were realized. I have asked both of the interns who participated in my office this year to reflect on their impressions, and I include their comments in this special order. I believe their statements adequately express the worth and necessity of continuing to provide this valuable opportunity for our seniors to interact with their Federal Government.

In an era where we feel particularly isolated by the extreme size of our Government, it is important to realize that the resources are at our disposal, although there may be difficulties in actually attaining them. So often, I find residents of my district have simply given up on expecting "responsive" Government. It simply does not have to be that way, if we are willing to make the effort to bring about change. Involvement is a very integral part of that effort, and involvement is what the senior citizen intern program is all about.

Report on Senior Intern Program 1980

(By Lloyd W. Moseley)

Since childhood when in school we pledged allegiance to the flag each morning I get "goose bumps" each time I see a flag, sing our National Anthem or "America". The same thrill is mine now, when I fly into Washington and see the Capitol building, the George Washington monument, the Lincoln Memorial and Arlington Cemetery. I experience the same emotions when I see the Capitol dome up close, and realize what it symbolizes to much of the world. Even though it has weaknesses, I agree with the man who says that "Our government is the worst government in the world . . . except all the others". This is reemphasized for me each time I return from spending several months in some other country. This background explains in part why I was so pleased to be selected as a senior intern this year.

The program gave me an opportunity to see, up close, a congressman and his staff as well as the Congress of the United States, at work. Although I knew something about how a bill is introduced and how it finally becomes law, seeing it first hand was an experience that I shall not soon forget. It made it clear to me why a Congressman needs a sizable staff of competent people to handle the voluminous details necessary to be successful. His ability to select his staff will count toward his success equal in measure to his technical ability as a legislator. I now understand better why legislation cannot be hurriedly pressed through Congress. There is great protection for the public in the system of committees and sub-committees; in public and private hearings to research the effects of a piece of proposed legislation before it is made law.

As for the program that was put together and run by Donna K. Norton of Congressman Hillis' office, many good things could be said. I learned much from it and enjoyed it. I was surprised and a bit disappointed, however, to see the number of substitutions made for speakers who were scheduled but could not appear. The staff members who did speak for the most part were well versed in the subject. Some were poor speakers, but generally they were quite good.

Even though we were given passes to both houses and some free time to visit the galleries, I thought that the planners might have provided some of our time specifically to hear both houses in session. Such a plan would have required some flexibility in order to permit us to hear some discussions in which we were especially interested, but I think that it could have been managed.

Many of the ideas that I got from being there came from private conversations with other interns. They were very interested in talking about programs that they have in their state. One such program is "The silver-haired legislature". I understand that it is effective in several states. (Missouri, Florida and New York are examples.)

One danger that I see in our format is overemphasis on what seniors can get. Time was spent in talking about how one could create a plan and get it funded. It seemed to me that we should have spent more time on what contribution we older Americans can make. I thought that too much time was spent on how to spend tax money, and not enough about the cost of the programs and how they would be paid for. There seems to be a feeling that any problem can be solved by hurling huge sums of money at it. Our age group might be a good place to start educating the public on the economics of the welfare system already started. Too often we look at Government as the only alternative. We have to learn sometime that there is a limit to what Government can do for us. Alexis de Tocqueville is reported to have said "The American Republic will endure until the politicians find that they can bribe the people with their own money." To that I would have to add "or borrow and charge the debt to our children and grandchildren". This criticism is not of the program, but it is a criticism of us as individuals in this year's class. I am reasonably sure that it would hold true for any class. On the whole, I think that the program was a great success. I was fortunate indeed to have been able to participate in it and I thank you for that opportunity.

Our visit to the White House was a waste of time. The President didn't do his cause any good by it. I know that we couldn't expect him to come down to greet us, but I know that someone on his staff surely could have. We were 229 politically active people from forty-five states, brought to him in a package. So he blew it. I have told him so.

On my way into one of the sessions, I picked up a piece of literature which asked in bold letters on the cover, "Who's Going to Love You When You Are Old and Gray?" It was put out by "The National Council of Senior Citizens". On that session were four men representing four agencies, all purporting to love us. There are so many agencies trying to do the same thing that they seem to fall all over each other trying to do something. They have to have an association of those agencies. Someone said that there are eleven such agencies, and someone else said that there were thirty. I am aware that competition causes creativity. Perhaps as these agencies struggle for significance some of them may find a solution to cure some of our problems. Some of the needs are: First, elimination of the requirement for a hospital stay to qualify for medicare; Second, find a substitute for the unloving care in nursing homes; Third, a more economic method for billing by hospitals; Fourth, the present earnings limitation for people receiving Social Security; Fifth, or even explanations that are understandable on medicare forms, and a host of others.

In their defense, I should say of my classmates that in my judgment they may not be so greedy as always to want "more". They may not all be selfish. It very well may have been fear. Many, if not most of us, are just one major illness away from disaster.

I do hope that I can be of some help to you in the forthcoming campaign. I am at your disposal, not because you gave me this great opportunity, but because I believe in you and trust you to do the right thing.

Respectfully submitted,

Lloyd W. Moseley.

May 30, 1980.

Hon. Harold S. Sawyer,
Cannon Building,
Washington, D.C.

Dear Hal: The two weeks on Capitol Hill for the Congressional Senior Citizen Intern Program, 5/5/80 to 5/16/80 were most worth while for me and I believe will be beneficial to the Seniors in the 5th District. Please accept my expression of gratitude to you for caring and becoming involved. You were the only legislator in Lower Michigan who contributed to this very worthwhile program, and notwithstanding I was the intern selected, you and your staff were wise in selecting someone who has been and is currently involved in the concerns of oldsters in this district.

The boards of Senior Neighbors and the Coalition on Aging and a special meeting at the request of Mr. Larry Murray, Director of the Area on Aging Agency have already provided me opportunity to describe the program and the great amount of valuable information given us. One service club concerned with problems of aging has already had me to report on the Capitol experience and I expect several others to extend me similar invitations. I am already scheduled to speak at each of seven Senior Neighbor Centers and will be alert to (and) fill any other such opportunities in the near future.

Be assured that in these several presentations I have made since returning home two weeks ago people are informed of your concern for Seniors and that you are indeed commended for having participated.

Great value was found in the many presentations by legislators and their staff assistants as well as officials from offices in the administrative branch of government, representatives of national Senior organizations and by interns who told of their innovative programs in far-flung areas of our land. Of the great many vital and diverse matters so carefully and thoughtfully programmed and ably presented and enthusiastically discussed, probably the following struck me as needs of outstanding and immediate importance.

1. greatly extended foster grandparents program.

2. greatly extend counseling services for tax, insurance, housing, legal, and consumer problems.

3. greatly extend home health care, and measures to insure proper and satisfying nursing-home care.

4. provide increased and innovative lobbying for oldsters.

I will be pursuing these and other needs and ideas as I continue to go about my participating in work of Senior Neighbors, Coalition on Aging, Mayor's Housing Task Force, Community Housing Resources Board and Kiwanis Club.

I would be happy to talk with you and/or your staff further about these and other matters as you may desire.

Among oldsters I have observed some dislike for the term Senior Citizens. Perhaps Congressman Hillis and his staff and others concerned with the subject program might be interested in exploring a name better to the liking of everyone. I offer "Congressional Sixty-Plus Seminar" for consideration as possible new name for the program. Webster defines seminar as "a meeting for giving and discussing information".

Again, Mr. Congressman, thank you for making this fine opportunity available to me for the benefit of your "sixty-plus" constituents. My gratitude, too, to your super staff. They were all most helpful and a pleasure to have as "colleagues" for a couple of weeks.

Sincerely,

Fred A. Baughman,
Senior Congressional Intern, 1980.●

● Mr. GREEN. Mr. Speaker, for the second year, my office was fortunate to be able to participate in the senior citizen intern program, and my staff and I were privileged to have with us this past May, Mrs. Clara Blumenthal. Clara, a mother and grandmother, was a guidance counselor in a South Bronx elementary school, and since her retirement has been active in the Institute for Retired Professionals at the new school in New York. She currently serves as chairperson of this organization.

Clara was a joy to have with us, as well as being a real asset to me and to my staff. She is a forceful, articulate advocate for the elderly, as well as being an energetic worker. In 2 weeks time, Clara became an integral part of our office. We all benefited from her presence and were truly sorry to see her go.

I would like to share with my colleagues, particularly those of you who have yet to participate in this most worthwhile program, a statement which Clara prepared prior to leaving Washington concerning the experience and insight she gained from her 2 weeks in Washington.

Clara Blumenthal, Senior Intern

Whenever something goes wrong in our country, "my fellow Americans" have easy panaceas and they announce to anyone who will listen, "Why doesn't Congress?" After serving as a Senior Citizen intern to Congressman S. William Green, I have learned the answer to that question.

First let me describe my experience and then I think the reader will discover the answer to that universal question. My overall reaction to my service in Washington was that it was one of the most exciting, challenging and stimulating experiences I have had. The interns represented our entire country. I met representatives from every section of our land and discovered that we had more in common than we had differences.

We shared similar problems and anxieties about housing, consequences of inflation on fixed incomes, health hazards, fear of nursing homes and other terrors that loom with longevity. We shared similar joys of the Golden years. We found a common love for life and its glorious incentives, love for learning, appreciation of the arts and nature, and the great joy of helping and sharing with the less fortunate.

Our differences never became a problem as we avoided discussions that veered towards "politicking" and fanatic religious discussions. So we exchanged ideas on programs we had tried in our respective areas—and became friends for a common cause—helping our peers and our country.

The seminars in which we participated enabled us to learn the answers to many of our questions. We also became aware of why problems were not solved quickly. Frequently problems must be resolved in the area in which they occur—and are not handled on a national level. Bureaucracy blocked many issues, and presenting bills, voting in both houses delayed what seemed like obvious solutions. We were given a battery of resources to consult if we needed special help—e.g. social security, health, human resources etc. We were given pamphlets and booklets on related subjects. At the close of each seminar session we were permitted to ask questions of our speakers. Our interns were very articulate and carried scores of questions with which they had come in advance. With charm and dexterity Donna Norton limited the length, nature and number of questions. She organized the programs and she and her team deserve paeans of praise.

The office of Congressman S. William Green is a beehive of activity and dedication. It reflects our legislator who is gungho all the way. He is eager to help and serve his constituents and our country—and the staff has caught the spirit. Every member of the staff has made me feel at home—and useful. They have explained their work and have taught me how to help. I have been aware of the research and follow-up every problem receives. In opening the mail and organizing it according to topic and request, I have learned about the topics that are of paramount importance to our letter-writing public. I became aware, too, of the petty requests of fellow citizens. The constant phone calls and the patience of every member of the office won my constant admiration.

I lunched or breakfasted with most of the staff members and in getting to know them I learned to love them more and more. Thanks to the staff's tireless planning I attended a mark-up and heard a committee meeting on urban planning. I witnessed voting of Congress, attended a meeting of Planned Parenthood in private session with Congressman Green. To round out my experience and education the staff guided me in choosing museums to visit in my free time and places to eat near my favorite museums.

Congressman Green worked constantly and attended every roll call during the time I was interning. "Why doesn't Congress"? The miracle is—that "it does." ●

● Mr. CORCORAN. Mr. Speaker, I am pleased to join my colleagues in expressing appreciation to the gentleman from Indiana, Bud Hillis, whose office has once again coordinated the excellent and creative program for senior interns.

Although this is only my second year of participation in the program, I can assure you that it has provided me with many valuable opportunities for communication with the seniors in my district through seminars and other meetings. In addition, it has been most helpful to the seniors themselves. Both my 1979 intern, Ernest Hanson of DeKalb, Ill. and my 1980 intern, Alvin Roffman of Streator, Ill., have spoken before many senior citizen groups about their experiences in Washington, D.C. In fact, Al Roffman has booked his summer with speaking engagements about his informative internship. The need for a formal program exists, and I urge my colleagues to support House Concurrent Resolution 15 to create a federally sponsored congressional senior intern program.

I think the most persuasive evidence comes directly from the intern himself, and at this point, I would like to share with my colleagues Al Roffman's comments on his experience during the 1980 congressional senior intern program:

Comments by Al Roffman

It is with a deep sense of pride and honor that I wish to thank Congressman Tom Corcoran for selecting me as his 1980 Senior Citizen Intern from the 15th Congressional district.

There were 235 Interns, representing 45 states including Alaska and Hawaii. Illinois had eight Interns represented. This was the largest group since its inception nine years ago. Congressman Hillis along with the other Congressional co-sponsors are to be commended for the promotion of this program.

There is no doubt that the 1981 group of Senior Citizen Interns will be even larger. It would be in the interest of the program to have two sessions: one in the Spring and the other in the Fall.

The Congressional Senior Citizen Intern program was a tremendous learning experience for me. The interest taken by the members of Congress whom I met, and the sincere interest they have in the problems of the Senior Citizens.

There is a growing number of people who think that the elected members of Congress are do-nothings, but I can tell them differently. I found them to be hard-working and dedicated people, working long hours trying to solve the problems of the Senior Citizens, as well as the problems of the country.

The 1980 Senior Citizen Intern Program gave me a broad insight into the Federal programs benefitting the elderly.

Our panel of experts came from Congressional committees, Governmental agencies and private organizations, namely the Senate Special Committee on Aging, House Select Committee on Aging, Social Security, Medicare, Department of Consumer Affairs, Department of Housing and Urban Development, Urban and Mass Transportation, American Association of Retired Persons, National Council of Senior Citizens, National Retired Teachers' Association.

The presentation and discussions in all of our sessions were aimed primarily on the programs, problems and legislation affecting the elderly.

The two weeks spent in Washington as a Senior Citizen Intern gave me an insight as to how legislation is originated, how it is followed through, and the importance and necessity of letting your Representative in Washington know how you feel about certain matters.

I thoroughly enjoyed working with Congressman Tom Corcoran and his dedicated staff. On returning to my district I have had the opportunity to speak before a number of Senior Citizen groups. Among those included The Illinois Association of Senior Citizens at their 10th Annual Membership meeting. As a result of this I was told that Congressman Michel of the 18th Congressional District of Illinois, intends to sponsor a Senior Citizen Intern in 1981.

Other groups which I was invited to speak were the Streator Chapter of the American Association of Retired Persons, as well as the Tonica, Illinois Chapter, the Ottawa chapter and several Senior Citizen Hi-Rises. These speaking engagements gave me an opportunity to share with the Senior Citizen in my district, my experiences and knowledge I acquired while in Washington.●

● Mr. DOUGHERTY. Mr. Speaker, Mr. Charles Eigenbauer of my district served as my 1980 senior citizen intern. He and his wife Margaret joined with the 225 other older Americans from across the

Nation to participate in the 2-week program and have returned to Philadelphia to share their experiences with their contemporaries.

Mr. Eigenbauer has written a letter to the 75 senior citizens organizations in Northeast Philadelphia which I would like to share with my colleagues:

> DEAR FELLOW SENIOR CITIZEN: I have just returned from Washington, D.C., where I participated in the 1980 Congressional Senior Citizen Intern Program. During my two week stay many topics were discussed which affect senior citizens in particular areas.
>
> The session I attended related to the functions of the various committees on aging, consumer problems of the elderly, transportation, homes for the elderly, home health care, nursing homes, Social Security, Medicare, Medicaid, employment opportunities for the elderly, housing rehabilitation, congregate sites for meals, the legislative process, multifamily housing, long term care, and many other areas of concern relating to senior citizens. I am enclosing a copy of the two-week program so that you can see the wide range of topics we discussed. . . .
>
> The Senior Citizen Interns were advised that the elderly should become more involved in community affairs, particularly in legislative procedures, government departmental functions, and budget procedures at the local, state and federal levels. We should also voice our opinions concerning proposed legislation by contacting our elected officials.
>
> It is my desire to pass on to you the information I obtained in attendance at the various sessions. Literature was distributed at many of the meetings which describes the functions and workings of the various groups, and I will make every effort to procure copies for you on the topics which interest you. If you desire information or if you would like for me to attend one of your meetings, please call Congressman Dougherty's Rising Sun Office, leave your name and telephone number, and I will contact you as soon as possible.
>
> Our participation in the Congressional Senior Citizen Intern Program was a valuable and satisfying experience for Mrs. Eigenbauer and me. We look forward to sharing what we learned with our fellow senior citizens in the Fourth District.
>
> Sincerely,
>
> CHARLES L. EIGENBAUER,
> *Senior Citizen Intern for Congressman Charles F. Dougherty.*

Mr. Speaker, I want to extend my appreciation to the Committee on Aging and to all those who participated in the planning and implementation of this year's senior citizen intern program. The wide range of topics on the agenda provided real understanding of the needs of the elderly and covered a broad spectrum of concerns that will provide continuing insight into the need for legislation to address the needs of our older citizens.

I especially want to offer my gratitude to the two senior citizens who came from my district to Washington to participate in the program. Charles and Margaret Eigenbauer became involved in the intense activities with enthusiasm, thus demonstrating their genuine concern for people, which is an integral part of making our Government responsive to our citizens. They showed a very real understanding of the needs of older Americans, thus providing valuable insights for those of us who must make the decisions which will shape future national policy for our senior citizens. By their participation in the congressional intern program and their involvement with senior citizens activities they continue to make a valuable contribution to their fellow senior citizens in Pennsylvania's Fourth District and to our Nation.●

● Mr. COTTER. Mr. Speaker, my office participated in the 1980 senior citizen intern program for the first time this year, and I am happy to say that we found it to be a most rewarding experience.

My intern, Mrs. Madeline Spiers Croke, was the only participant in the program from Connecticut. She serves on numerous boards and councils affecting the elderly in Hartford, and consequently, is well versed on the many Federal programs available to aid senior citizens. Still, she found the program to be generally informative, and was especially pleased with the first-hand knowledge she gained of the legislative process during her 2 weeks in Washington.

I believe her familiarization with the congressional process has enhanced her abilities to address the many problems facing the elderly. Certainly, as a result of this program, my office has become more aware of these problems, and we have established a liaison with the elderly community in my district through Mrs. Croke. In the future, as specific problems arise, we will be able to work together to address them, both at the local level and here in Washington.

The senior citizen intern program benefits both the Congress and the community by establishing such working relationships, and I am hopeful that this fine program will continue to attract sponsors in the coming years.●

● Mr. BALDUS. Mr. Speaker, I am pleased to be participating in this special order today, because I feel that special recognition should be given to the senior citizen intern program as a valuable tool for helping us, in Congress, to become better acquainted with the problems of the elderly in our districts, our States, and throughout the Nation, and for helping us to evaluate what we might be doing to address those problems.

Older Americans, living on fixed retirement incomes, are the hardest hit by today's economic inflation. Many older Americans are finding it increasingly difficult to find jobs, get access to good health care, put a decent meal on the table, and to heat their homes.

The congressional senior citizen intern program is unique, in that it is not a program intended to provide all the answers for solutions to the special problems of the elderly, but it is meant to provide a forum for senior citizens, from all areas of the country and from all walks of life, to discuss what they feel to be the major problems of the elderly, with their legislators, with staff from the various Federal agencies passing regulations that affect them, and amongst themselves. It is an opportunity for these older Americans who are mostly community leaders, to become more aware of ways in which they, along with their peers, can work with Government to make their legislators in Washington more aware of their concerns, and also, as to ways in which they can work amongst themselves to help themselves.

The congressional senior citizen intern program provides a unique opportunity for Members of Congress and their staffs to experience the specific concerns of the elderly in our districts, firsthand, and to open up channels of communication and understanding between our district's older citizens and our congressional offices that will be mutually beneficial.

This year, 1980, was the first year that my office has participated in the program. Today, I thought it would be appropriate to share some of the reflections of our intern, Mr. Wilfred Heiting, with you.

Mr. Heiting spent 41 years of his professional career in the field of education. Twenty-one of those years he spent as a high school principal in the Third District of Wisconsin which I represent. Now at 71 years of age, he is a strong advocate of senior citizen programs and concerns, serving since his retirement on countless forums, panels, and boards, and as the organizer and often, the director, of various groups, organizations, and committees aimed at helping senior citizens to voice their concerns to their congressional representatives.

Bill was recommended to us as being "an advocate for those he represents and a motivating force in the development of community programs. He is keenly aware of the legislative and political process in the achievement of community goals," but I did not realize what an inspiration he would turn out to be for me, and also for my staff.

Bill Heiting enlightened both me and the members of my staff as to what is possible when an individual is dedicated, motivated, and concerned, and he gave us new insight into the tolerance, wisdom, and compassion that is gained by the experience of age. Bill Heiting taught us that the young have no monopoly on the solutions to today's problems.

Upon his return to Hudson, Bill had these words to say about his intern experience:

> Words can not express the thanks I owe for having been selected as a senior citizen intern for 1980. Attending the program in Washington, D.C. under the sponsorship of Alvin Baldus was one of the most educational and informative programs I have ever attended. Besides participating in the planned groups, each participant had the opportunity to discuss aging problems with other interns from various areas of the United States. Attending the congressional senior intern program were 226 persons from 46 different States. The program components were extremly interesting and well chosen. The program covered topics of interest to senior citizens who are willing to exert themselves towards understanding the plight of so many of the elderly who need assistance, and who are also willing to work towards the goal of a decent quality of life (for senior citizens). The topics covered included: an aging overview, information on the legislative process, consumer problems of the elderly, special problems of the elderly in the areas of housing, transportation, social security, medicare, and medicaid, physical fitness, health, nursing and long term care among others. We also discussed using "senior power" in poli-

> tics. Each topic was well discussed with an opportunity to ask questions concerning each.
>
> I think that participating in the senior citizen intern program is one of the most wonderful experiences a person could have . . . I learned so much the two weeks I was in Washington, D.C. as to what we might do for senior citizens at the Federal level. It is now my promise to be a better advocate to aid senior citizens to understand the legislaitve process as it affects the elderly, and as to changes we may expect in future years, with the changing economic condition of the country, and to help the elderly towards a better quality of life.

As a Member of Congress, I am pleased to have participated in the 1980 congressional senior citizen intern program, and I applaud it as a program that helps us to remember what a valuable asset our senior citizen community is to this country, and also, as a program that allows senior citizens to develop, and come together as a political force so that they can serve themselves and those of us in Congress, through this special forum.

Thank you.●

● Mr. WATKINS. Mr. Speaker, I would like to take this opportunity to express my strong belief in the value of the senior citizen intern program that has existed in the U.S. House of Representatives for the last 8 years. Since joining this august body I have had the privilege of participating in this program three times. Each year I have gained more knowledge and insight into the concerns affecting this part of our population and I feel they have gained, also, from their experiences in observing different aspects of our Government in action.

These ladies and gentlemen have been able to take back with them to their own neighbors and friends a firsthand account of the many national concerns we deal with and how they will affect them. They grow from this experience, as well as we do, just from the experience of listening to and working with these people who have given much and still have strong beliefs in this country. The relationship is a two-way street, with both of us learning and acquiring knowledge from each other.

I sincerely hope this program continues, as I strongly support the purpose and goals of this experiment in learning.●

● Mr. HEFTEL. Mr. Speaker, the senior citizen intern program has proven to be a very successful annual endeavor that brings together the Nation's outstanding senior leaders for 2 weeks of learning, dialog, and interaction. I have been extremely impressed with the consistently professional manner in which the program coordinators have planned and carried out the program activities. The program has equipped the participants with knowledge and experience that increases our potential of maximizing the impact of human service programs upon the security and well-being of our seniors.

Celia Moss Hailperin, a former professor of social work at the University of Pittsburgh, was selected from a very impressive group of candidates to be my senior citizen intern for 1980–81. Celia will also represent me at the December 1981 White House Conference on Aging.

Celia has been an active member of the strongest senior citizen advocacy group in the State of Hawaii; namely, the kokua (work together) council for senior citizens. She is also the chairperson of the long-term care task force of the Health and Community Services Council of Hawaii, the major health and human service coordinating organization in the home care program of Honolulu's St. Francis Hospital and a new gerontology program of the research and education foundation of the Honolulu medical group.

As I expected, Celia was one of the more active participants in the 2 weeks of seminars and workshops of the senior citizen intern program held from May 5 through May 16 in Washington, D.C. When she was not involved in conference activities, she was engaged in spirited interaction with my staff. The more I asked her to slow down, the more she sought to do. She was a whirlwind of activity, energizing all of my staff members. Frequently, I thought of calling the program coordinators of the intern program to allow more time during the day for additional group discussions so that participants like Celia could contribute as well as absorb more.

Celia has since returned to Hawaii to continue to make changes in a system that appears to have less and less in resources to devote to the eldest of our society. She is coordinating a major questionnaire project designed to measure the degree of concern that senior citizens in Hawaii have for the major issues that affect their lives. She is visiting with the major senior citizen organizations to develop their potential to bring about change through unified efforts. She is bringing back to the people the message from Washington that there is, indeed, strong leadership in the Nation's Capital that has the intention of taking control of our national potential and helping provide for its people. All of this energy and movement is producing results; seniors are beginning to take notice that there is a new momentum to provide for and preserve each person's dignity and to recognize our seniors for their past contributions and their current value.

I take this opportunity to recognize Celia Moss Hailperin whose drive and determination will help generate a revival of social kokua (work together).

Let us keep this program going.●

● Mr. VENTO. Mr. Speaker, the congressional senior intern program has been of immense help to me in my work in the House of Representatives and in my district of St. Paul, Minn. For the last 3 years, I have been fortunate to have senior interns whose avid interest in the legislative process and the major issues was transformed into enthusiastic and meaningful contributions to my office.

I feel, based on my experience, that the congressional intern program has been highly successful. This year 150 House and Senate offices participated. More than 200 senior citizens came to Washington for the program. And they represented all parts of the country.

The feedback I have received indicates that the program has been as beneficial to the interns as it has to the Representatives and Senators. My senior interns have praised the unique opportunity to spend two weeks in Washington learning about the Federal Government and how it operates, especially on matters dealing with aging. As important, they have taken the information and insights back home to share with their friends and associates. We all benefit from this kind of two-step communication system. It provides the best means I know to strengthen our understanding of senior citizens' problems and to reinforce their acceptance and support for the role the Federal Government is playing in the lives of the elderly.●

● Mr. TAYLOR. Mr. Speaker, I would like to add my voice to those of my colleagues in praise of the senior citizen intern program.

This is the third year that I have been privileged to participate in the program and I find it to be an effective means of giving our senior Americans an opportunity to study first hand the workings of their Government.

This year's Missouri Seventh District senior interns were Mr. and Mrs. Harold J. Dennis of Mansfield, Mo. Correspondence received from the couple since their Washington visit has been filled with praise for the program with special thanks to the coordinator, Donna Norton who has been involved with the seniors since the program's inception. We are grateful to our colleague from Indiana, "BUD" HILLIS, for the leadership he has shown by permitting Donna to give so much time to planning and carrying out of the endeavor. We are also cognizant of the efforts of Christine Clary from Congressman COELHO's office and Jo Anne Ross from Senator ROTH's office.

I look forward to participating again next year.●

● Mr. ATKINSON. Mr. Speaker, I'm delighted to participate in this special order pertaining to the senior citizen intern program. I have had the pleasure of sponsoring an intern during each of the past two sessions of Congress and this congressional program has earned my highest admiration.

In 1973, our colleague, Congressman ELWOOD H. (BUD) HILLIS, along with then-Congressman Edward Biester began the congressional senior citizen intern program. From the original four congressional sponsors and nine interns, the program has grown to its present size—230 interns during the 1980 session, sponsored by 150 House and Senate offices.

This entire program, including the cooperating Members and all the staffing has been done on a voluntary basis. A great share of the credit for the administrative and programmatic work should go to Ms. Donna Norton of Congressman HILLIS' fine staff. Donna has seen the program through its remarkable growth and has recruited the assistance of other Hill staffers. We are grateful to them all and especially to Congressman HILLIS for his willingness to do everything possible to encourage the participation of more Members of Congress and Senators in this fine program.

The high quality persons who serve as interns each year bring a new dimension to Capitol Hill and take back home with them a different, more refined view of how legislation and debate shape our common national destiny. Senior Americans are energetic, creative, innovative and wise contributors to our communities. The infusion of their ideas and thoughts is a tremendous boost to all of us in the Congress.

When congressional senior citizen interns arrive home, they can more actively participate among other senior groups and bring important information about new programs, laws and regulations to the local level. Mr. John R. (Cy) Hopkins of New Brighton, Pa. and Mrs. Mildred A. O'Brien of New Wilmington, Pa. have served in my office as senior interns. I am very proud of their work and their contributions to our office and the 25th Congressional District community. Our office has received many favorable comments from community leaders about the program and I am very grateful to this year's sponsors including our distinguished colleagues Congressman Hillis and Tony Coelho of California as well as Senator William Roth on the Senate side.

It is my fervent hope that this program will continue to grow. It will certainly have my support in the future.●

● Mr. MADIGAN. Mr. Speaker, this is the second year that I have participated in the senior citizen intern program. Its benefits to me, to my office staff, and to seniors in the 21st Congressional District have won my support for and continued participation in this worthwhile experience.

The two interns that have participated wtih me in this program. Stella Bennett in 1979 and this year's intern, Lotus Troyer, were both active in issues and local programs affecting older Americans before coming to Washington as interns. Both have returned to Illinois with a better understanding of the legislative and executive branches of Government. Both have shared their experience with their peers at home and have encouraged their correspondence with me and their increased participation in the governing process.

I have gained useful insight and a new perspective into the concerns of senior citizens from the opportunity to have Stella and Lotus in my office. Correspondence by mail cannot replace the benefits of face to face discussion with these constituents.

One-fourth of the Federal budget is now allocated to the 134 Federal programs associated with aging. If we continue our present policies, the demographic increase in the number of senior Americans will require us to triple our current expenditures and to commit 40 percent of the budget to senior citizen programs. The number of seniors and the size of our commitment to them are sure to be among our greatest concerns in the next century. The senior citizen intern program can and should be an excellent forum to shape our national policies toward the aging in the years to come.●

● Ms. FERRARO. Mr. Speaker, I am pleased to join my colleagues, first in saluting the efforts of the gentleman from Indiana (Mr. Hillis) and his staff who, once again, made the senior intern program a successful and worthwhile experience for the interns and representatives alike. This was the second year of my participation in the program, and once again I found it to be well organized and effective.

I would also like to take this time to commend the two senior interns who came to my office from the Ninth Congressional District in New York. My interns this year were Joseph A. Boza of Woodhaven, and Alice M. Egan of Richmond Hill. Their enthusiasm and dedication to the program made the event a memorable one for me and my staff. Here were two concerned and interested citizens giving careful attention to matters affecting their peers.

In the Ninth District, a program like this one is practically a necessity. Over 70,000 senior citizens reside in this section of Queens, and in order to represent them effectively, direct communication is imperative. Our interns had the opportunity to see, first hand, how issues affecting senior citizens are handled by the Congress.They had the chance to express their views with regard to these matters to the people who make the policy decisions which affect them. Even more important, they were able to report to the Ninth Congressional District senior citizen advisory council on their impressions and experience. This council, which I have formed in the district, includes representatives from each of the neighborhoods in the ninth, as well as representatives from each senior center. Mrs. Egan and Mr. Boza will continue to act as liaisons between me and their neighbors and friends.

The personal interest of Mr. Boza and Ms. Egan combined with the careful planning of the coordinators of the program, made this year's senior intern program a success. I am confident that my interns left Washington knowing and understanding more about our system of Government and how the elderly community figures in this system, and I look forward to next year when I can again enjoy the insights and views of the senior interns.●

● Mr. PEYSER. Mr. Speaker, it is my pleasure to rise today, with so many of my colleagues, to pay tribute to the congressional senior intern program. Saul and Edith Parker of Irvington, N.Y., served in my office and contributed greatly. Not only did they assist my staff in everyday office work, but they also made me especially aware of the problems facing senior citizens. I commend the many staff people who organized and administered this program, and I look forward to participating in the years to come.●

● Mr. EMERY. Mr. Speaker, typically, when we think of congressional interns, the image of bright, intelligent college students comes to mind. But, as we all learned in May of this year, that definition of an intern is much too narrow. The 1980 congressional senior citizen intern program brought into our midst over 200 bright, intelligent interns who, while their college days were just dim memories, proved to be every bit as hard working as (and perhaps a bit more worldly wise than) the college students who converge on the Hill during the summer months.

My office was privileged to have as our senior citizen intern Mrs. Maple Young, a former school teacher and tireless civic volunteer from Portland, Maine. Mrs. Young enthusiastically embarked upon the schedule of activities included in the senior citizen intern program, and impressed us with her understanding and analysis of some of the complex issues facing senior citizens in this country today. As she told us in a letter after her internship: "I know that we, as senior citizens, should keep better informed and involved with the issues of government," and she carried that message home to Portland, where she held briefings on her experiences and observations for "seniors" in the Portland area.

Maple's schedule of activities in Washington included seminars on aging and legislation affecting the elderly; a view of the legislative process and how a bill becomes law; a visit to the White House; seminars on consumer problems and housing; a look at senior citizen organizations; explanations of the inner workings of social security, ACTION and medicare; a lecture on physical fitness, and an informative seminar on senior power in politics. There were countless facts to assimilate and concepts to master, some of which prove baffling even to experienced Members of Congress. Even so, we were not surprised when Maple wrote:

> Though I arrived home exhausted, I am awed, excited and stimulated by the depth and range of Capitol Hill experiences with which we seniors became involved. I am very excited and happy to have had the wonderful Senior Citizen Internship assignment. Thank you for this educational opportunity.

On the contrary, Maple, the pleasure was all ours. On behalf of myself and my staff, I would like to thank Maple Young of Portland for coming to Washington and working with us for those 2 weeks in May, and I would like to commend Congressman Hillis from Indiana, Congressman Coelho of California, and Senator Roth of Delaware, as well as the countless staff members, who made the senior citizen internship program of 1980 possible. It is, without a doubt, an idea whose time has come.●

● Mr. CORMAN. Mr. Speaker, I take this opportunity to voice my support for the congressional senior citizens intern program. It is rare that we are able to participate in such a mutually beneficial program. Not only do our offices gain capabilities that have been tempered and polished by experience, but we provide a group of outstanding individuals the opportunity to take part in a process of direct concern to them.

Senior citizens are probably affected

by more legislation than any other single group. Clearly, we should provide this group a nuts and bolts understanding of the machine that produces this legislation. And the extra office help is always a welcome addition to any staff.

Our senior intern this spring, Lois Hamer, was both a delightful and diligent worker. Not only was she valuable in handling routine office work, she provided my staff and me a valuable perspective on the concerns of senior citizens and how Congress can be more responsive to their needs. During her stay Lois met with a number of Government officials including Jerome Waldie, chairman of the White House Conference on Aging. These agency contacts and the information she obtained will be useful in her position as project manager for the senior adult program at Los Angeles Valley College.

The congressional senior citizens intern program is, and has been, a system in which all parties benefit. I urge its continuation and hope that Congress and our senior citizens will continue to aid each other for many years to come.●

● Mr. BEDELL. Mr. Speaker, I would like to join my colleagues in expressing enthusiastic support for the congressional senior citizen intern program, and in commending my distinguished colleague (Mr. Hillis) for creating this program back in 1973.

For the second year in a row, our office has been extremely fortunate in having a very talented and knowledgeable Iowan with us for the 2-week period. Mrs. Vennetta M. Fiedler, from Spencer, has long been a leader in the Spence area in developing and promoting important services and programs for senior citizens, particularly in the area of health. As a former medical-social consultant at the Spencer Municipal Hospital, Vennetta worked with attending physicians and families of senior citizens to insure that the seniors received needed services, such as Meal on Wheels, homemaker health, and nurses visitation. She is chairperson for the Meals on Wheels program in the Spencer area and is currently working on her master's degree in health management. Further, she has served two terms on the older Iowans legislature, where she was chairman of the human resources committee.

Vennetta was a great addition to our staff for the 2-week period. There was a constant exchange of information during the periods that she worked in the office, centering on the needs of senior citizens throughout northwest Iowa and congressional efforts that might help serve those needs.

The program "gave me as a person from a small, rural community a very broad view of what the Government is trying to do in the area of aging," she said. "My overridiing impression is that people in Washington really do care. They are really trying to funnel money into programs that will be of most benefit to senior citizens."

I am looking forward to working with Vennetta throughout the year to enhance the lines of communication between Government officials and older Americans in northwest Iowa. Early next month, Vennetta and I will tour senior citizen sites throughout northwest Iowa in order to exchange information, ideas and concerns with older Iowans. I believe this will be a valuable opportunity for me to learn more about important community activities being undertaken by and for the elderly in Iowa, and to personally discuss with senior citizens throughout the Sixth District their concerns and views on various Federal matters that affect them. I look forward to receiving reports from Vennetta after I am back in Washington as she continues this exchange.

The congressional senior citizen intern program has been a terrific experience for our office, as I know it has for the growing number of other congressional offices who now participate. I have joined with Congressman Hillis to cosponsor legislation to make the program an official internship program of the House, similar to the LBJ internship program for students. I am hopeful that the Congress will see fit to give this program the official recognition it so richly deserves.●

● Mr. GUARINI. Mr. Speaker, it was a great pleasure for me to welcome Mrs. Helen Clancy of Jersey City, N.J., as a member of my Washington staff during her 2-week senior citizen internship on Capitol Hill.

A veteran of 27 years of public service, including 11 years with the Hudson County Office on Aging, this lively great grandmother brought to us a wealth of fresh ideas and insights into the special needs of older people.

As an information and referral specialist at the office on aging, Helen knows firsthand the kinds of problems older people in northern New Jersey face and how we can effectively reach out to help them resolve those problems.

A woman of remarkable wit, compassion, and determination, Helen works extremely well with people, not only during her office hours, but in much of her spare time as well.

She is an active member of the American Association of Retired Persons, as well as a number of other social and volunteer groups for senior citizens in Hudson County, N.J. Having mastered sign language for the deaf, she also works with handicapped citizens, at the Veterans' Administration hospital in East Orange and in activities at St. Aloysius Church in Jersey City, where she is a member.

Thanks to the dedicated efforts of the gentleman from Indiana (Mr. Hillis), his assistant, Donna Norton, and a host of others who contributed to the success of this year's senior intern activities, Helen returned to Jersey City with a keener understanding of how our Government works and how we can help to make it more responsive to the special needs of older Americans.

Recently, Helen sent me a thorough and very thoughtfully written, day-by-day account of her experiences in the senior citizen intern program. It is my pleasure to share with you her summary of this highly informative and valuable report.

Hudson County Office on Aging,
Jersey City, N.J.

Interns came from all parts of the United States, and they were Black and White, rich and poor, educated and uneducated. Competition to be an Intern was in large numbers, and I felt honored to be chosen and sponsored.

Some special notes of interest to us were that some of our meetings were held in the Caucus Room of the Russell Office Building, the scene of the Watergate Hearings. Also of special interest was the fact that we were able to attend sessions of the House of Representatives and the Senate from the galleries, immediately following a presentation by Jim Everdier, Assistant Director for Tax Analysis, Congressional Budget Officer on "How a Bill Becomes Law".

Senator Lawton Chiles, Florida, is Chairman of the Senate Special Committee on Aging. His appearance before the Interns was interrupted by a call from President Carter on the Cuban immigrants coming to Florida. The next morning, Mr. Carter announced that a State of Emergency existed in Florida and appropriated Federal Funds to them. Senator Chiles met with us later in the day when the White House Conference was concluded.

One of the most interesting speakers I have ever heard was Mary Nell Lehnhard, Professional Staff, House and Ways Committee. She said we have jurisdiction over Medicare. There are two (2) bills on Medicare in Legislation now. If enacted, they will improve medical programs. She said that the bills are expected to come to the floor. National Health Insurance is good, very exciting, uses what we already have in the private systems. Health Care planning, Medicare & Medicaid are the largest single buyers of Health Care. They have helped a great deal. Many things are wrong with Medicare & Medicaid. In 1966, Hospital stay cost was $40.00—but in 1980 the cost is $180.00.

Part B does not meet the needs in 1980—Many doctors will not take the assignments. Medicare would like to make it one fee so that doctors and patients will know what it costs. Medicare is paid by a carrier (Insurance Co.) Prudential Insurance Company is a carrier. All carriers set up toll free telephone numbers so that you can call the carrier. If you have an error, call the carrier. If you are concerned about the quality of health care you are receiving, get a second opinion. Medicare and Medicaid will pay. If you have a medical insurance policy, it will pay what Medicare & Medicaid does not cover.

Peer Counseling—There are Senior Volunteers who will counsel beneficiaries about Medicaid and Medicare. These volunteers work at Senior Centers and Nutrition Sites.

There is some activity in revising the printed literature to make it more understandable (in simple words). This step is only a part of the many efforts Medicare & Medicaid are extending to make it easier for the Senior Citizen to understand and use their services.

There were many, many more speakers at this Seminar whom I could write about who were most informative and helpful.

Sincerely,

Helen D. Clancy,
Referral/Information Specialist.●

● Mr. HAWKINS. Mr. Speaker, I am pleased to join my colleagues today in this special order in honor of the senior citizen interns who participated in the 1980 congressional senior citizen internship program. This was the first year my office participated in this unique and beneficial program, and I must say, we thoroughly enjoyed our involvement with the interns and we are quite satisfied with the improved involvement and communication that has resulted between the Federal Government and our district's senior citizen community.

Our office was honored to have two creative and energetic people represent the 29th Congressional District of California: Mrs. Lucile Barnett of Los Angeles, and Mrs. Margherita Relph of Huntington Park.

Our two interns were selected by the communities they represent, through a process devised by the senior citizen organizations in our district. I recommend this kind of selection process to my colleagues, as it certainly resulted in our receiving excellent, representative individuals who were genuinely active in their own communities and who had a keen interest in coming to Washington to learn how the Federal Government impacts their communities and how they could foster closer relationships between all levels of government and community groups.

Mrs. Barnett and Mrs. Relph visited the senior citizen groups within their respective communities before coming to Washington to learn of the major concerns to the senior citizens in their neighborhoods. They came to Washington full of questions and suggestions, and through attendance at the well-coordinated workshops of the intern program, were able to return to the 29th District with answers to their questions and suggestions for future activities.

Upon returning to their homes after the 2-week Washington program, Mrs. Barnett and Mrs. Relph revisited the groups in the community to share their experiences and their knowledge with their fellow senior citizens.

Of major concern to the senior citizens in the 29th district were issues such as:

The viability of the social security system; assurances of the continuation of cost-of-living increases for senior citizens and others who receive social security; safety on the streets when senior citizens must go to the bank to cash social security checks; better and more equitable and adequate hospital and medical care; improved transportation services for senior citizens, both regular public transportation services, as well as special transportation to accommodate the needs of senior citizens and the handicapped; and crime and its prevention, especially as it affects a disproportionate number of our senior citizens.

These issues are only a partial list of the main concerns Mrs. Barnett and Mrs. Relph brought to Washington and sought to seek remedies to. In their own individual activities back in the district they are continuing their efforts to solve these and the other critical issues facing our senior citizens and working to better the quality of life for all people in our communities.

I encourage other Members to consider participating in the next senior citizen internship program if they have not already done so, as it provides an important link between the people in our communities and their Government.●

● Mr. ERDAHL. Mr. Speaker, the congressional senior citizen intern program is an effective, two-way learning experience that increases both the Members' office and the senior citizens' awareness of the issues affecting them.

The interns in my office were an enlightening influence as well as aids to my staff and to me. We learned what their concerns were by being in direct contact with them. From their firsthand exposure to the operations of Government and through the lectures and discussions, the interns returned to their communities more informed on issues such as housing, social security, transportation, and physical fitness—all of special concern to them. The communities profit from this exchange of information. These active, energetic, and civic-minded interns become valuable liaisons between the Federal Government and the senior citizens from over 200 different communities in the United States.●

● Mr. DASCHLE. Mr. Speaker, I wish to join with my colleagues today as we salute the congressional senior citizen intern program. This was my first opportunity to participate in the program and not only did my senior interns, Elsie and Oscar Oksol of Sioux Falls, S.D., benefit greatly from their experience in Washington, but I did as well. I made two very special new friends who have since enabled me to reach out and better understand the needs and concerns of a very important segment of our population—a group of whose existence I was well aware, but whose needs, concerns, opinions and attitudes I had yet to fully explore. The senior citizen intern program helped me better serve the senior citizens of my district and now, better than before, I realize that "retirement" by no means indicates "retirement" from living.

I am grateful for the opportunity to provide an experience for the seniors of my district through the congressional senior citizen intern program and I encourage all Members to consider this program as a vehicle to better understanding the issues confronting our senior citizens today.

Certainly the office of Congressmen HILLIS and COELHO and Senator ROTH deserve a great deal of credit and commendation for their fine efforts in coordinating a well-rounded and smoothly run porgram. They have done an excellent job in making this experience both richly rewarding and profitable for all who participate.

I intend to continue my participation and I highly recommend my colleagues to do the same.

Thank you.●

● Mr. ROE. Mr. Speaker, I take great pleasure today in joining the congressional salute to the senior citizen intern program, which I consider to be one of the most important programs of its type in Congress.

It was indeed a privilege to have two senior-citizen interns from the Eighth Congressional District of New Jersey serve in my Washington office for 2 weeks this year.

Both May Heck of Passaic and Eugene Zoppo of Paterson proved that vitality and intelligence do not necessarily have to diminish with age. Their dedication and hard work proved to be an inspiration for both myself and my entire staff.

Mr. Speaker, it is a sad fact that far too often, simply because of chronological age, senior citizens are often relegated to the backburners of our society.

The senior citizen internship program serves to prove that the elderly can not only take an active part in our society but that they can provide the leadership to insure better and more productive lives for their counterparts around the Nation.

This is not simply a program where the senior citizens come to Washington for a pat on the back and a soft comfortable chair in the office. They come to Washington to work, plan and learn what can be done to better the lives of all senior citizens.

From early in the morning to late in the day they attend meetings, lectures and planning sessions on such varied topics as consumer problems, medicare/medicaid, nursing homes, social security, housing, physical gtness and transportation.

A highlight of their 2-week stay in Washington is a meeting at the White House with President Carter as well as sessions with representatives from both the Senate and House Aging Committees and several key organizations representing the interests of the elderly.

Mr. Speaker, it only makes sense that the people who should determine the needs of senior citizens are the elderly themselves. They have a lifetime of experience to offer this Nation.

The reports I have received on various topics affecting the elderly from both Mary Heck and Eugene Zoppo indicate to me that they are right on target in their recommendations for the future.

They have made it clear to me that the senior intern program does not end with the 2-week session in Washington. The residents of the Eighth Congressional District of New Jersey will reap the benefits of the knowledge Mary Heck and Eugene Zoppo obtained here as to what can be done at the local level to make senior citizen programs there more effective.

It is my further hope that projects like the senior citizen internship program will open new channels of communication between the elderly and the Federal programs that were created to help them.

Mr. Speaker, it was indeed a pleasure to participate with the distinguished gentleman from Indiana, our colleague, the Honorable ELWOOD HILLIS, a key sponsor of the internship program, and the other Members of Congress who took part in this highly worthwhile endeavor.

I would recommend that the House of Representatives adopt a formal resolution that the senior citizen internship program be included as an integral part of each congressional office.

I would also like to take this opportunity to thank Mary Heck and Eugene Zoppo for their leadership efforts in making this year's program the most successful in its 8-year history.

I certainly plan to participate in the senior citizen intern program next year and every year and I sincerely urge my colleagues to take part in this richly rewarding experience.●

● Mr. HALL of Ohio. Mr. Speaker, on May 5, I had the pleasure of welcoming Daytonians Mr. Edward J. Bochenek and Ms. Harriet S. Hazinski as "temporary" members of my Washington staff. Filled with enthusiasm at the work awaiting them, Ed and Harriet began their participation in the 1980 senior citizen internship program.

The 2-week internship program was designed to jointly acquaint members of the American senior citizen community, on a firsthand basis, with the general operation of the Federal Government and to provide their Representatives in Congress with a better insight as to the concerns of our elderly. I must note that the intent of this program is one which merits acclaim. It is my feeling that knowledge of the cornerstone functions of government enables our constituents to understand the establishment of various laws and regulations—in fact, the same laws and regulations which govern their lives. In the same light, it is vital that we, the voices representing the people, maintain a deep awareness of the interests and concerns of our constituents. Through this internship program, I believe that these intended goals were well achieved.

Although the congressional senior citizen internship program has been operating on an informal basis for the past 8 years, 1980 marked the premier experience for participation by Third District Ohioans. Interest generated by my announcement to take part in this activity prompted more than 150 senior citizens to make application for participation. The selection process was extremely difficult; my only regret rested in the fact that I could not sponsor all 150 applicants.

One of the most important factors used in making the final participant determination lied in my belief that the rewards of taking part in the program should be extended to the entire senior citizen population. Thus, paramount in the final selection was each intern's involvement in the community and proposed plan for using his or her learning experience here in Washington to benefit other third district senior residents.

I applaud Ed and Harriet for their efforts thus far in making my belief in the object of the program a reality. I am pleased that their experiences as program participants have not been kept private but are, through their community activities and initiatives, reaching out to touch others.

I have received from both Ed and Harriet general thoughts reflecting their concept of the 1980 congressional senior citizen internship program and I would like to share a few of these thoughts, in their words, with you:

> A great learning factor for me was experienced in the legislative process, how a bill is passed, why it takes so long for a bill to be enacted into law. Perhaps the greatest learning in this area came from actual attendance at hearings, committee meetings and Congressional and Senate sessions. Also, the experience of seeing the work that takes place in a Congressional office was most impressive. The pressures, the tensions, the timing, the small amount of space for doing the job . . . My respect for how the job gets gone has increased, particularly for Tony Hall's office.—Harriet Hazinski, Chairperson, Retired Senior Volunteer Program.
>
> The two weeks as an intern in Washington listening to about fifty speakers, senators, representatives and administrators of programs was a learning experience I will not forget. This is the first time Senior Interns from the Third District were selected. Congressman Tony Hall has shown his great interest in senior needs by having seniors attend this program.—Edward S. Bochenek, Sr., Northeast Priority Board.

After reflecting on these comments I can honestly say that programs like the congressional senior citizen internship program confirm for our constituents that their priorities are our priorities. I look forward to a continued association with this effort.●

● Mr. HOPKINS. Mr. Speaker, I am pleased to have this opportunity to share with my colleagues my great enthusiasm for the congressional senior citizen intern program, and particularly for one very active, articulate, and engaging individual, Mrs. Dorothy Masi, of Lexington, Ky. Mrs. Masi was chosen to represent the senior citizens of the Sixth Congressional District during the 1980 congressional senior citizen internship program here in Washington. Working in my office, and attending briefings set up for the participants in the program, Mrs. Masi displayed her talent, humor, lively interest in every aspect of our Government's workings, and true dedication to her work on behalf of senior citizens. In my opinion, she epitomized the very qualities the internship program is designed to foster. Since returning to Lexington, Mrs. Masi has shared her Washington experiences with various groups and organizations and has kept up her busy schedule of community service activities.

Mrs. Masi's coming to Washington was the result of an outstanding program which recognizes individuals who are leaders and advocates on behalf of the elderly. It provides them an opportunity to come to Washington and meet first hand national policymakers in the executive and legislative branches of our Government.

It is well known that ours is an aging population. One in nine people in America today is over the age of 65, and the proportion of old people to young people in our country is growing. The problem in America is not that we are dying too soon, but that we are living too long. I say this because current attitudes and policies aren't designed for a steadily aging population. The question is what are we doing about our older citizens? At the height of their knowledge and their experience we force them to retire. We force them out of the mainstream of life and we force them onto the sidelines of life. I believe this is wrong; wrong for Americans and wrong for America.

Things are beginning to change and the 1980 congressional senior citizen interns reflect that change. Instead of retiring to the sidelines and looking back on the good old days, these active, well-informed older Americans are looking forward to the good new days. They are devoting their energy, time, and talent to creating a better future for themselves and for all of us who will form the next generation of "older Americans."

I was pleased and proud that my office could take part in the 1980 congressional senior citizen intern program, and to have Mrs. Dorothy Masi as a member of my staff. She, and all of the interns who came to Washington this spring, demonstrated what caring and commitment are all about.●

● Mr. OBERSTAR. Mr. Speaker, I am pleased to participate in this special order in tribute to the senior citizen internship program because I really cannot say enough good things about this program and about the people it has brought to Washington.

It has been my good fortune to have participated in the program since 1976. During the past 4 years, six eighth-district residents have served as interns. Each has brought a deep involvement in senior citizen activities and a heartfelt interest in their fellow seniors.

Each year, about 100 eighth-district seniors applied for the internship. The choice of only one has always been difficult.

This year, Mae Dale, an extraordinary woman, is serving as the eighth district's intern. For her, the internship did not end when she left Washington following the 2-week program in May. She continues to serve: Traveling throughout the district, meeting with other citizens to inform them of Federal programs for seniors and to find out exactly where those programs are inadequate.

I would like to include for the RECORD two recent newspaper articles on Mae Dale which appeared in the Minneapolis Star and in the ABC Newspapers in Anoka County.

I want to thank the gentleman from Indiana (Mr. HILLIS) for his continuing leadership in coordinating this important program. He deserves much of the credit for what the senior citizen intern program has become today.

[From the Minneapolis Star, May 29, 1980]

MAE DALE, 72, IS STILL TAKING ON THE SYSTEM

(By Dave Hage)

Item: When Anoka County welfare workers picketed the courthouse last summer during a long, tense strike, 72-year-old Mae Dale was right out there toting a picket sign.

"Here was little Dale out on the picket line, waving 'Hi' to all the commissioners," she recalls with a gleam in her eye. "I'm now quite a substantial member of the community, but I wasn't going to forget 50 years in labor. Labor unions put a lot of butter on our bread over the years."

Item: When it was proposed last year that her old one-room schoolhouse in Faribault County be converted to a granary, Dale hired an investigator to prove the structure's historical significance.

"I think I have the evidence that that school is the oldest one in the county. All my relatives went there; my father taught in that school, and I'm going to save it. I've got 80 acres. I'll damn well move it up here [in Anoka] if I have to."

Item: When some "young Turk" congressional staff workers were disparaging the Carter administration earlier this month, Dale, in Washington on a senior citizen internship, took them on, too.

"At least Carter is projecting the image of decency and honesty, I told them. When he makes mistakes, people feel they're honest mistakes. And who else are you going to vote for? Ronald Reagan?

At 73, Anoka's senior dynamo is still taking charge.

Dale is just back from the Washington internship, a two-week series of briefings and meetings sponsored by Minnesota's 8th District Rep. James Oberstar, and brimming with anectdotes.

"You're talking at this moment to an extremely busy woman. When I was down in Washington, I wrote down all the things I'd been doing, and I couldn't believe I'd actually done all that," she said, trying to organize some documents from the trip and serve up coffeecake for her visitor.

This woman, who hasn't stopped hustling in 60 years, traces her spunk to her family and the era in which she grew up.

"My grandfather, Silas Allen, was a founder of the farmer's union. He came to south Blue Earth County from the East in the late 1800s. I was trained in public speaking as a youngster. One of the favorite sports of the Allens was family debates. My father died when I was 12, but I can still remember him saying, 'Now, Halie [her given name is Mahala], you've made a statement, tell me the source of it.' "

She also has an explanation for the occasional mild oath that sneaks into her language.

"You see, I grew up in the Roaring '20s, and my vocabulary reflects it.

"We were wearing our skirts short, and there was a speakeasy in every small town. When I was just out in Washington, a girl asked me if I had boyfriends. I said, 'What do you think!' "

Her politics took a turn to the left in the '20s, when she met James Dale in Chicago, where she and her mother had moved to look for work after her father died.

"I was doing counter work, waitressing, at Walgreen's, and he was my boss. He was very active in Democratic politics and the union movement. But he never told me how to vote. Later, when we were living with another couple in New York City the two of us brides kept food on the table while our husbands played gin rummy. This was during the Depression, you see, and I told people, 'Listen, when you're buying your husband his cigarettes, he doesn't tell you how to vote.'

"What happened in the Depression was one of the most drastic changes in American family life. Up until then, the man was always the head of the household. The men suddenly became financially impotent—suddenly the woman became the tower of strength and often the breadwinner."

Back in Minneapolis in the 1950s, Dale worked at a work-clothing factory and joined the Garment Workers' Union. Although she now lives on Social Security and some rental and investment income, she retains a strong union loyalty and defends unions against today's heavy criticism.

"Of course some are corrupt, but nobody's proposed anything better for workers. When somebody asks what good is the union, I say, 'You should have worked without it.' "

In the last couple of decades, Dale also has worked through the establishment. In 1978, she was appointed to the Metropolitan Transit Committee on the Elderly and Handicapped, and a list of her other memberships runs into the dozens.

"The young people I work with, they say, Mrs. Dale is nice but she's tough.' That's true. I'm not very tactful myself, but God help me, I know how to find people who are."

Tactful or not, if Mae Dale ever gets back to Washington for another two weeks, God help the establishment.

[From the ABC Newspapers, June 6, 1980]

MAE DALE BRINGS SENIOR CONCERNS TO WASHINGTON, D.C.

(By Gloria Olson)

"Washington will never be the same again!"

That remark was made by Mae Dale, who with a twinkle in her eye and a toss of her head summed up her reaction to Washington, D.C. and Washington's reaction to her.

A long-time resident of Anoka, Mrs. Dale was recently a senior citizen intern to Eighth District Congressman James Oberstar in Washington, D.C.

Few people in their early 20's would appear to have as much energy and drive as this tiny bundle of 70 plus years. She has been involved with "causes" for well over 50 years in the Democratic Party, union, 4-H, scouts and dozens of other organizations. In her untiring way she continues to seek out projects that need doing and with total concentration and commitment sees those projects through to the end.

Many of these are not small projects. She was, in part, responsible for the building of the railroad underpass on 7th Avenue in Anoka. She began her crusade following the untimely death of her husband in a car-train accident at the crossing and the death of a friend at the same crossing 18 months later.

She gives much of the credit to Anoka County Commissioner Ed Fields for the underpass project (for which it is named), and added, "if it hadn't been for (then) Eighth District Congressman John Blatnik and his successor Jim Oberstar carrying through, we would never have had that underpass and we would still be driving over those tracks. It took 10 years and $3 million but we did it."

Mrs. Dale has worked in many areas on senior citizens issues and now to add to her many accomplishments she joined 250 senior citizen interns in Washington, D.C. where for two weeks they focused their attention on senior citizen problems throughout the United States. The seniors chosen have each made an outstanding contribution to seniors in their respective communities.

They attended sessions where they were extensively briefed by department heads that administer senior citizen programs. These sessions allowed time for the seniors to be heard and to give their side or bring up issues and concerns, Mrs. Dale said.

"There are four major concerns that senior citizens throughout the United States have in common," she said, "housing, health, energy and social security."

"The senior citizen intern group was made up of a cross section of life in all states," she added, "from the very rich to the very poor, from the well educated to the very simple educated and each shared the same concerns. It offered marvelous training to be of greater service to seniors."

Now on her return from the internship, Mrs. Dale has been given the task by Congressman Oberstar to contact senior citizens groups in the Eighth Congressional District and have them complete a questionnaire that will provide input on senior citizen needs and problems. (There are 150,000 organized seniors in the state).

Mrs. Dale prepared the questionnaire that seeks answers to questions on health services and availability, housing, utility and fuel bill problems, public transportation and concerns about the social security system.

"Housing is the number one concern throughout the United States," Mrs. Dale said. "Inflation is pricing people right out of their homes and apartments. There isn't one single place that provides senior citizen housing that the waiting list is not at least one year. We don't expect a handout, we do expect to live in decency. We don't like having to put on a bandaid where we need a major operation."

Transportation is the number one problem in Anoka County, she said, the need for public transportation and alternatives for transportation for the elderly and the handicapped are a big concern.

Mrs. Dale serves on the MTC transportation advisory board (now the 504 committee) and received her appointment from Ruth Franklin. The committee deals with transportation problems of the elderly and handicapped.

Anoka County is way out in front on the Home Health Care services, she said. The service allows for help in the home for older persons who may just need custodial care, such as persons with chronic illnesses. The plan provides housekeeping services with a registered nurse stopping in periodically to check on the elderly as part of that service.

"Nursing homes are very important," Mrs. Dale said, "but Home Health Care is preventive medicine and allows many elderly people to remain in their homes."

Only two states have a Home Health Care service on a state wide basis, she said, and credits Anoka County Commissioner Ed Fields for initiating the program in Anoka County.

While describing some of the highlights of the trip to Washington, Mrs. Dale told of what happened when Congress discovered "senior power".

"There was a plan to tax social security," she said, "but the Congressmen received so many letters protesting they said they would never think of taxing social security as the agony would not be worth the small amount of money received." No event in recent times has so impressed Washington as the power of the seniors and their concerns on the social security tax proposal."

Along with the meetings and conferences Mrs. Dale was able to do some sightseeing and had a special tour of the White House.

"Oberstar's staff treated me like visiting royalty," Mrs. Dale said, "I felt like a very special person."

One of her proudest moments was the reading of a "Tribute to Mae Dale, Senior Citizen Intern," into the Congressional Record by Congressman James Oberstar May 19.

The tribute read: "It has been my great privilege during the past 2 weeks to have Mrs. Mae Dale as a member of my staff under the senior citizen intern program.

"Mrs. Dale is an extraordinary woman. For over 50 years, she has been active in public service—in community affairs, consumer groups, labor organizations, 4-H clubs, and in senior ciitzen activities. The mother of two sons, the grandmother of seven, and a great-grandmother, Mrs. Dale has worked her entire adult life.

"I am fortunate to be able to benefit from the wisdom, comments, experience, and advice of a constituent like Mae Dale.

"I know that Mae Dale will return to Minnesota anxious to communicate to her fellow seniors, and to the entire community, her experiences as a congressional senior citizen intern." ●

● **Mr. PANETTA.** Mr. Speaker, I am pleased to join with my colleagues in expressing my appreciation for the hard work which has gone into the congressional senior intern program, both on the part of its organizers, and on the part of the seniors who participated themselves. I had the pleasure this year, for the third year in a row, of participating in this important program.

As in past years, the interns from the 16th District of California were lively, intelligent, dedicated and experienced in the area of senior citizen affairs. It was a great pleasure to have Mr. Stephen Grant, of Carmel, Calif., and Mr. Sid Shleffar of Santa Cruz, Calif., working out of my office. Until his retirement last fall, Mr. Grant served the Monterey County Area as director of the Monterey Area Alliance on Aging. Under his leadership, the agency became active in such areas as senior nutrition, paralegal and tax assistance for the elderly, as well as a strong program of visitation and referral services. Mr. Shleffar is the assistant director of Project SCOUT in Santa Cruz County. In that capacity, he has directed senior job placement services and has been active in many other vital programs for the elderly.

Both Mr. Grant and Mr. Shleffar were a delightful addition to my office. I had the opportunity to discuss both local and national issues impacting upon senior citizens at some length with the interns, and in turn was able to express some of my own priorities in this area. I remain in contact with both Mr. Grant and Mr. Shleffar and find the relationship both mutually informative and helpful. Both have returned to the district with great enthusiasm and are sharing and applying the knowledge they gained through the program with their fellow seniors. I look forward to next year's program, and enthusiastically urge my colleagues to give their continued support to the senior citizen intern program.●

● Mr. FUQUA. Mr. Speaker, I would like to add a few words about the value of the senior citizen intern program based on the personal experience resulting from my office's participation this year.

Working in my office from May 12 through May 16 this year was Mrs. Dwight "Joan" Hunter, a 70-year-old dynamo of a retired teacher.

Retired, somehow, seems an inappropriate word to describe Mrs. Hunter, though it does properly reflect her status in the work force. Retired, certainly, but in no way retiring.

Mrs. Hunter, in addition to tirelessly maintaining a torrid pace of activities as a senior intern, also blessed my office with a fresh and perky perspective on congressional and other subjects.

With such firsthand experience of the mutual benefits of the senior citizen intern program, I would like to commend everyone involved in developing this program and offer a well earned "well done" to them and the interns.●

● Mr. GRISHAM. Mr. Speaker, I would like to take this opportunity to commend the gentleman from Indiana (Mr. Hillis), the gentleman from California (Mr. Coelho), and our colleague from the other body, Senator Roth, for their sponsorship of the 1980 congressional senior intern program. I would particularly like to congratulate my colleague from Indiana (Mr. Hillis), who has worked on the senior intern program for 8 years. Under his able leadership, the program has made tremendous progress. In 1973, four congressional offices sponsored nine interns. This year, some 160 Members of Congress sponsored nearly 250 interns. That is an impressive record.

Mr. Speaker, the congressional senior citizen intern program is designed to provide participants with an understanding of the workings of the Federal Government. Emphasis is placed on those areas that impact on the elderly community in America. Hopefully, when the 2-week internship is completed, each intern has enjoyed an experience that they are anxious to take back to their communities, where the benefits of their participation can be put to work in a positive, productive way.

This year, 1980, was the first time I participated as a sponsor, and I had the pleasure of bringing George Mosler of Whittier, Calif., to Washington as my intern. When George arrived with his wife Ann at the beginning of the program, he already had impressive credentials as a leader in the search for solutions to the problems confronted by senior citizens.

When the Moslers left Washington 2 weeks later, George had only good things to say about the program, believing that he had benefited significantly from his experience. He was eager to share what he had gained, both from the program itself, as well as from other interns.

When he had some free time, George worked with my staff and me on a couple of projects. One of his assignments was to write my newspaper column during his final week in Washington. What he had to say about the program was, I believe, significant. George wrote:

> It is all too easy for an individual or a local group to feel overwhelmed and/or intimidated by the immensity and complexity of our governmental and political systems. And therein lies a great value of this program * * * it does help one to understand and cope.

Mr. Speaker, because of the success this program has achieved under the leadership of our colleague from Indiana (Mr. Hillis), hundreds of older Americans have benefited from a valuable and unique experience, and thousands more will have a similar opportunity in the future. I intend to continue to take part in this most worthwhile program.●

● Mr. FISH. Mr. Speaker, I enthusiastically join my fellow colleagues in expressing my support for the congressional senior citizen intern program, in which I am pleased to participate.

I continue to be impressed by the rich experiences, practical knowledge, and expertise gained through the senior citizen interns whom I have had the opportunity to sponsor over the past 6 years. This year, Mr. and Mrs. James Hawkins of Patterson, N.Y., participated in this program held in Washington May 5–16.

I am convinced that the senior citizen intern program is an excellent vehicle to allow senior citizens—from around the country—to participate actively in the legislative process. I believe that Mr. and Mrs. Hawkins had a rewarding experience that will help them to better understand the relationship between the Federal Government and senior citizens and their mutual effort to establish viable programs and benefits for the elderly.

I take this opportunity to share with my colleagues a letter received by Catherine and James Hawkins reflecting upon their Washington experience:

> DEAR CONGRESSMAN HAMILTON FISH, JR.: We wish to express our sincere appreciation for the opportunity afforded both Kay and I in participating in the May 5–16, 1980 Senior Citizen Intern Program, made possible by your resources to this worthy program. A special thanks to you and your staff for all the courtesies shown to us in making our visit most enjoyable.
>
> It was an informative two-week stay in our Nation's Capital. Many areas of legislation were discussed during our two weeks, and we recognize that some legislation now in effect serves our Senior Citizens very well.
>
> We recognize the amount of time and work required of you and your staff in studying and evaluating the overwhelming volume of legislation being presented for consideration each day. Knowingly, we now more fully appreciate your efforts of long hours of work on behalf of your constituents.
>
> The knowledge we gained in our internship is being shared with our senior citizen associates, and your understanding of the need of having legislation passed in their behalf is commendable.
>
> Sincerely,
>
> CATHERINE AND JAMES HAWKINS.●

● Mr. MARRIOTT. Mr. Speaker, it has again been my pleasure to participate in the congressional senior citizen intern program. This year's intern, Melody Ryder of Salt Lake City, served 2 weeks in my Washington office, becoming familiar with Federal programs affecting senior citizens. Mrs. Ryder assisted me as I worked on the problems of inflation, which especially hurts the elderly.

Mrs. Ryder's contributions allowed me to develop a more meaningful insight into the problems of our ever-increasing senior population. She and other interns in this program provide participating Members of Congress with a perspective on legislative problems that cannot be fully obtained from any source other than the senior citizens themselves.

According to Mrs. Ryder, the seminars and activities planned helped her "better understand the financial resources available for senior citizens." She also learned how a bill becomes law and the budgetary process necessary to implement legislation. In her final report Mrs. Ryder summed up the value of her internship by writing:

> I preface this report by expressing my appreciation for the opportunity afforded me in attending this Senior Citizen Intern Program. It has been very enlightening and I am sure will prove of increasing value in the days ahead.

Since this program not only helps our constituents back home but also assists our congressional offices in Washington, I urge my colleagues to support House Concurrent Resolution 15 (S. Con. Res. 15), which will allow the continuance of this tremendous program.●

GENERAL LEAVE

Mr. ERDAHL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Indiana (Mr. HILLIS).

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AFGHANISTAN

The SPEAKER. Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 60 minutes.

Mr. BEREUTER. Mr. Speaker, the subject is Afghanistan. As we speak today, far away a nearly forgotten war rages. It is not a war against hidden terrorists. It is not a war against a guerrilla movement. It is not a war pitting brother against brother. It is a war of classical dimensions—invasion, conquest, and occupation. It is the Soviet war against Afghanistan.

This war being waged in the mountain recesses of a landlocked nation pits an awesome superpower against the peasant fighters of a near feudal society. Snipers face regiments and divisions. Obsolescent rifles face tanks and helicopter gunships.

It is a brutal and lethal war. It is also happening half way around the world. After the first flush of outrage, Americans are letting Afghanistan fade from view. Even as the war grows hotter in Afghanistan, our attention fades, our consciousness dims, and consciences are eased. The war recedes from view.

It has now been almost 7 months since the Soviet Union began its massive military intervention in Afghanistan. But there is a danger that the tragedy of Afghanistan will recede in the public consciousness, both here and abroad. There is also the risk that pressure may build to begin relaxing our expressed outrage with Soviet aggression.

References to events in Afghanistan in the press are not frequent and they have turned matter-of-fact in tone. Because the Soviets keep the world press out of Afghanistan, they are, to some extent, able to control the news. Thus, the announcement of a Soviet withdrawal of nonessential troops from Afghanistan last month made headlines while the outrages perpetrated every day by Soviet troops in Afghanistan are often hidden from the world. It is, therefore, entirely appropriate that we keep before the American public and the world the facts of Soviet aggression against a sovereign and independent member of the community of nations.

Mr. Speaker, it is my hope that our discussion today will, at least in small part, counteract the media accounts of the 1980 summer Olympic games which have begun in Moscow. This past weekend as I drove across the heartland of this country on the way back to Washington from my congressional district, I was disappointed to hear account after account of the details of the Olympic competition on the car radio. Yesterday's Washington Post reported in detail the awarding of the first gold medal of the Moscow Olympics to a Red Army marksman in pistol shooting. The articles are replete with photographs. In fact, the three major television networks are scurrying to get footage of the Olympic games for their newscasts.

Mr. Speaker, I supported the boycott of the Olympic games. Now, more than ever, I believe that we should be placing emphasis on the very reason why our athletes are not in Moscow participating in the games. Athletes throughout the Nation have dedicated their lives to participating in these Olympics. It is their sacrifice which is lending weight to our response to the Soviet invasion.

Afghanistan has long played the role of a buffer between Russia and the Indian subcontinent. Its geopolitical importance in the 19th century was its role as a major overland trade route. Today its geopolitical importance is due to the fact that it stands between the Soviet Union and the Persian Gulf. Throughout the post-WWII period, Afghanistan has sought to maintain a nonalined status consistent with its role as a buffer state. As a small, less developed country bordered by a superpower, Afghanistan prudently sought to maintain good relations with the Soviet Union. The overthrow of the monarchy in 1973 led to the creation of the Afghan Republic under President Daoud (Dá ood). Since that time, successive Afghan governments—the Taraki (Ta Rá key) regime which came to power in 1978, and the Amin regime that came to power in 1979, and now the Karmal (Car Mál) regime—have grown increasingly dependent on the Soviet Union for arms, economic aid, and diplomatic support.

The Soviets apparently felt compelled to intervene directly in Afghanistan because they could no longer rely on the government in Kabul to retain control. The leftist policies of successive Afghan regimes have deeply offended Afghanistan's devoutly Moslem population. Armed resistance to the government in Kabul grew, and the government was losing its control over the countryside. The Soviet Union apparently intervened militarily to protect its considerable commitments toward influencing the Kabul government.

But why should we be concerned about Afghanistan? First, it is clearly in the interest of the United States that Afghanistan be freed of its occupation by an expansionary foreign power and restored to the governance of the Afghan people. The United States has throughout its history championed the sovereignty and independence of all nations, particularly the freedom of small nations from forcible domination by larger ones. In sum, the founding and continuing principles of our American society and foreign policy require strong support for Afghan independence.

Second, it is clearly in our national interest, more narrowly defined, that all nations, but particularly the nations of the Third World, have visible demonstration of our support for the cause of national self-determination and liberation. The situation in Afghanistan is thus a critical opportunity for the United States to back its words by championing the rights of citizens to form and sustain a free and independent national government.

Third, as has been said time and again, the United States has a vital strategic interest in deterring Soviet encroachment into the Persian Gulf and into the territories of independent nations generally.

Finally, there is a fourth U.S. interest served by focusing our attention on Afghanistan. It is our interest in defining common ground in the security concerns of the United States and our friends in the Persian Gulf—most notably Saudi Arabia.

This Member believes that America's opposition to the Soviet intervention in Afghanistan is consistent with both our long-term and short-term policy goals. The United States should support efforts that will lead to the restoration of Afghanistan's nonalined status.

The signs are clear, however, that the Soviets are prepared for a long-term military presence, after the Olympics, with another buildup in Soviet forces which are better tailored to meet the Afghanistan resistance and by their construction of more military facilities. The installation of Soviet "advisers" at virtually every decisionmaking position in the Afghan Government is already an accomplished fact. When the Olympic games are over we can expect a sharp acceleration of Soviet military operations in Afghanistan.

In fact, Radio Kabul recently reported a sweeping shakeup of the Afghan Government centralizing control under President Karmal. The Soviet controlled Radio Kabul said Karmal initiated the wide-ranging changes and set up a "general presidency for guidances" to supervise and organize the administrative work of provinces, municipalities, districts, and other areas of the country.

Despite the odds against them, driven by their Islamic hatred for atheistic communism, the people of Afghanistan have lost none of their will to resist. Indeed, in recent weeks popular opposition to the Soviets has increased. In the cities and towns, anti-Soviet and anti-government strikes by merchants and demonstrations by students have involved thousands of people, including elementary school children. Much of the countryside is under the control of the resistance fighters.

In the towns, there have been large demonstrations against the Soviet occupation and the Karmal government. In April and May of this year, high school and college students in Kabul held a series of anti-Soviet and anti-regime rallies. These demonstrations were savagely repressed with many young people killed and others arrested. Devout Afghans were shocked that a number of those killed by the Soviets and the Karmal government were girls. A second round of protests in Kabul occurred in late May. These demonstrations were led by grammer school children, some as young as 8 years old. As many as 50 children were killed in these demonstrations and hundreds were arrested. It is an outrage that Soviet troops and soldiers of the Karmal regime should be shooting any citizens, especially children.

As a result of Afghan resistance, Soviet jets, helicopter gunships and amored vehicles have in an apparent change of tactics reduced 50 to 60 Afghan villages to rubble during the past several weeks to retaliate for rebel ambushes. The raids have caused thousands of additional casualties and sent streams of refugees toward the Afghan capital and across the nation's borders.

In desperation, the Soviets are reported to be using nerve gas, napalm, and biological weapons. There are also reports of injuries said to have been caused by booby-trapped toys and other objects dropped by Soviet troops in Afghanistan. Apparently the items are dropped in bundles through aircraft or helicopters and have timing devices that prevent their premature explosion.

It is my feeling that the reports of the incarceration of political prisoners, of the executions, of the destruction of Afghan villages, of the use of gases, has not received the attention it merits. Certainly the plight of the more than 1 million Afghan refugees who have already fled their homeland has gone largely unnoticed.

In short, a major conflict is raging in Afghanistan. The human suffering inflicted by the Soviets on the people of Afghanistan—the dead, the wounded, the jailed, the displaced—is enormous. It is appropriate that we focus on the problem of the invasion of Afghanistan because a brave and spirited people, virtually unarmed and with virtually no help, are waging a fierce resistance to Soviet domination. They are suffering and dying in untold numbers because they refuse to submit, and we must not forget them. Their suffering and their deaths must not go unnoticed. The world must be constantly reminded of the barbarism and the naked aggression being pursued by the Soviet Union.

□ 1910

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

□ 1920

Mr. LAGOMARSINO. Mr. Speaker, I want to commend the gentleman from Nebraska (Mr. BEREUTER) for his special order on Afghanistan during this week of activities to mark the special efforts for Afghanistan relief and to associate myself with his remarks.

With the summer Olympics being held in Moscow, it is an appropriate time to repeat the importance of the boycott of the games and the value of the sacrifice made by the hundreds of American athletes not competing this year in the Olympics.

The Soviet Union is the first Communist country to ever host the games; the head of the Moscow Olympic Organizing Committee is a high Soviet official. For anyone to say that the Soviets do not attach political importance to these games is to ignore what the Soviets have said and done in preparation for this event.

The Soviets have said that the decision to have the games in Moscow is "testimony to the general recognition of the * * * correctness of the foreign political course of our country, of the enormous service of the Soviet Union in the struggle for peace." Accepting that premise is the same as accepting the Soviet invasion of Afghanistan as a peaceful gesture.

Some months ago I read an excerpt from a letter written by Annette Roush, an employee of the American Embassy in Moscow. I want to read to you again that excerpt to emphasize the importance the Soviets have attached to holding these Olympics in their country:

> Every Soviet citizen has been reminded time and again during the past four years about this forthcoming event. Sacrifices have been made. Factories that formerly produced much needed consumer goods are turning out souvenirs of every conceivable kind, the food industry has been mobilized and directed to provide the very best for Moscow and the other Olympic cities, university programs have been curtailed, third world students have been given long leaves-of-absence and are being sent home, major emphasis has been put on tourist trade and transportation, construction funds have been channeled to build Olympic facilities and large tourist hotels, rumors from reliable sources maintain that all older children will be sent out of Moscow to Komsomol camps during that period to avoid contact with westerners, for two years television prime time has frequently been devoted to Olympic programming ranging from sports competition to fashion shows featuring Olympic uniforms. It is a well known fact that numerous dissidents, both religious and political have experienced a "pre-Olympics crackdown"—resulting in harassment, searches of apartments, and arrests.
>
> This is probably the most important single event in national Soviet life since World War II. I believe that there would be no more effective expression of world concern than instituting such a boycott. It would deprive them of a large scale propaganda tool, it would inflict a serious economic blow, and it would, most importantly, cause the average Soviet citizen to recognize the serious view the world has taken of his government's activities. It is the one way the government cannot hide the truth from its people, the one way the government will have to answer to the people what it has done.

Our American athletes by staying home are also making a positive political statement in their own right, and for their sacrifice, we should commend their dedication to those higher principles of the Olympic movement dedicated to the brotherhood of man and freedom for all peoples.

The Afghan people are locked in a bitter fight to resist domination of their country by the invading Soviet forces. Against overwhelming odds, Moslem insurgents have inflicted significant losses on the Soviet military. The rebels in turn have suffered greatly, while many of their countrymen have fled to seek refuge in the neighboring countries of Pakistan and Iran.

Efforts to provide relief for these refugees will help make their burden lighter, but without a coordinated approach by all the Western allies, there is little hope that the Afghanistan crisis can be settled in a way that will bring peace and freedom to the Afghan people.

And further, without a united front of opposition to this Soviet adventure, we cannot expect to be spared other Soviet attacks on free nations throughout the world. We may well find that by having accepted a Soviet presence in Angola, Ethiopia, South Yemen, and a Soviet brigade in Cuba that we will have to accept even greater Soviet advances in the future. We must not let that happen. We must learn from the lesson of Afghanistan and resolve to reestablish American leadership in the free world. We must regain the respect and cooperation of our allies by providing a consistency in our foreign policy that we have lacked the last 3 years. Only then can we hope to avoid future Afghanistans.

Once again, I commend the gentleman from Nebraska for his leadership in calling to the attention of our colleagues the plight of the Afghan refugees and the need to help them.

I urge my colleagues to heed what is being said here today.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I, too, would like to associate myself with his remarks. I think the world should have learned some lessons in this century. This is Afghan Relief Week; and games are starting in that far away Communist capital of Moscow. The people of Afghanistan in their mountains, huddling in their villages, the children throwing stones when they are brave enough and they are brave. But certainly the least we can do, we who are free and able to do so, must at least speak on behalf of these people.

We watched in this century, and the world said almost nothing when the terrible holocaust was going forward in Germany. And surely, we should have learned that you cannot really do that, that those who are free to speak must speak on behalf of those who are being tortured and are suffering so bitterly. I think that is the real lesson of this Afghanistan, that we are again required as human beings on this planet to rise in some kind of solidarity, expressing, although we cannot send troops to rescue them, that we know what they are suffering and it shall not be forgotten here.

I do not know what else one can do, but surely that much; and that you should have chosen my colleague, to have made this effort on behalf of those people, and there are not so many people in the hall now, and I do not know how far the gentleman's voice is going to carry, but this surely is something that this Congress ought to do. It ought to stand for a world of peace, a decent and orderly world in which people are not going to be invaded just because they are poor and feudal and have few weapons. It ought to stand for some long-term hope of mankind that this kind of thing cannot continue to happen in one part of the world after another.

I think what my colleague has done is a step in the direction of that kind of justice and peace that we hope to see. I commend the gentleman for it.

Mr. BEREUTER. I thank the gentlewoman for her remarks and for her moving comments.

They enunciate well what must be found in our consciences in this Nation and they are of course entirely consistent with the kind of remarks and concerns that the gentlewoman has often expressed on this floor.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Iowa.

Mr. TAUKE. I wish to commend the gentleman from Nebraska (Mr. BEREUTER) for taking this special order to discuss the situation in Afghanistan. I think this indicates that the gentleman from Nebraska recognizes the great power of world opinion. It also indicates his recognition of the responsibility of all people, especially free people and especially the leaders of the free world, to speak out against aggression of any kind, especially this aggression in the area of Afghanistan. I think it is this kind of activity that has earned the gentleman a reputation as one of the most insightful, dedicated, and thoughtful Members of this body.

I wish to associate myself with the remarks of the gentleman because I believe that it is imperative that we continue to tell the world about the Soviet atrocities in Afghanistan. At the same time, it is mandatory that we pursue initiatives that would result in the withdrawal of Soviet troops from that nation.

The last thing that we want to occur is to have the Soviet presence accepted or tacitly condoned by the rest of the world.

The most dangerous thing that this Nation or the world can do is to adjust to the Soviet aggression in Afghanistan. That kind of adjustment would simply invite additional aggression.

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Let us look at recent events. The Soviets have turned to terror tactics in their efforts to subjugate the Afghan villagers who have resisted their domination. In effect, they have adopted "scorched earth tactics" policies that have reduced Afghan countryside to rubble.

Moreover, the Soviet troops have used Afghanistan as a test site for new weapons. In addition to their widespread use of Napalm, the Soviets have experimented with dum-dum bullets and cluster bombs. Most significantly, they have allegedly experimented with poison gas.

The Soviet raids on Afghanistan villages have caused thousands of casualties and have precipitated a steady stream of civilian refugees to the capitol of Kabul and to neighboring Pakistan.

Despite the Soviet onslaught, the Afghan people continue to resist. They have not submitted to Soviet pacification efforts. In fact, it is estimated that not one of the 28 provinces of the country has been, in the Soviet term, pacified. The Afghan resistance movement must be outmanned, it must be outgunned, it certainly is unorganized, but the will of the Afghan people has not been broken.

The Soviet invasion and occupation of Afghanistan is an issue that should be kept in the forefront of the news. Its initiative should be kept in the forefront of the minds of the American people. In many respects, the Soviets are paying the price of their own aggression. Let us not let the world or our Nation or our Nation's leaders forget that.

Again, I commend and thank the gentleman from Nebraska for taking this time to allow us to speak to this very important issue.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for his comments. I appreciate the additional information that he has brought to the attention of the body concerning the atrocities that are being committed and the bravery of the Afghans that are resisting the Soviet aggression in their nation.

I would like also at this time to pay tribute to the gentleman from New York (Mr. WOLFF). The gentleman from New York (Mr. WOLFF) and I were cosponsors of an effort to declare that this week, July 21 to 27, be set aside and proclaimed as Afghan Relief Week by President Carter, not coincidentally coinciding with the start of the Olympic Games in Moscow.

The gentleman from New York (Mr. WOLFF) has been responsible for the organization of a number of fundraising events that have been held throughout the Nation or that will be held throughout the Nation in ensuing days.

● Mr. WOLFF. Mr. Speaker, today I am pleased to join with my colleague from Nebraska (Mr. BEREUTER) in a bipartisan call for aid and assistance to the 1 million refugees from Afghanistan.

These men, women, and children have fled 2 years of civil war, followed by the brutal Soviet invasion which even now is devastating their proud land.

In order to call public and world attention to the situation in Afghanistan, I was pleased to join as an honorary cochairman the Afghanistan Relief Committee, Inc., several months ago.

This week, July 21–27, has, at our request, been proclaimed "Afghanistan Relief Week" by President Carter, and a number of fund-raising events are being held throughout the Nation in the ensuing days.

In New York City, there will be a dinner-dance at the Rockefeller Center Hilton, Wednesday, 7:30 p.m. In Washington, there will be an auction of Afghan crafts and art objects Saturday and Sunday, 3 to 8 p.m., at McLean Gardens.

I am sure that we all join in wishing the organizers of these, and similar events across the Nation, success in their activities on behalf of the Afghan refugees.

Today's papers are full of stories about the opening of the Olympic Games in Moscow, as scheduled, but without the teams of many freedom-loving nations, including our own athletes. Appropriately, perhaps, the first gold-medal of these tarnished games was won by a Soviet pistol shooter.

I make this point because in a real sense, "Afghan Relief Week" is both a plea for help, and a celebration of the fight for freedom, a fight being waged throughout the world, and in many forms. At the moment, our young athletes are bearing the burden of the U.S. determination not to acquiesce in the Soviet invasion of Afghanistan. Our farmers, in a year they can hardly afford setbacks, have been bearing a heavy burden for some time now.

Thus, I think it would be appropriate that we, in our activities this week and in the future, bear in mind the sacrifices being made by ordinary Americans every day in their lives and livelihoods to support the cause of freedom in Afghanistan, and elsewhere.

I had the privilege of visiting a major Afghan refugee camp, at Chitral, in Pakistan's northwest frontier province last August. The delegation from the Subcommittee on Asian and Pacific Affairs, which I have the honor to chair, met with several thousand refugees, and heard their spokesman talk about why they had fled their homeland, and what were their hopes for the future.

At that time, with the Soviet invasion still in the future, the refugees said they fled their homeland because of religious persecution by the Communist puppet government.

I think this is an important point, one which we have sometimes overlooked in our "East versus West" view of the controversy between the United States and the Soviet Union.

The invasion of a small, defenseless Muslim nation by one of the world's two major superpowers should tell the Third World, and not just the Muslim world, where are their true interests.

As has often been noted, one of the prime U.S. concerns in Afghanistan is protecting continued Western access to the vital Persian Gulf oil region. Surely, despite the setback we are still enduring in Iran, the Soviet tanks and helicopter gunships now devastating Afghanistan should show the peoples of the Middle East who are their real friends.

For the immediate future, we must be on guard against the so-called peace offensive from Moscow, which will seek to lull the West into quiet acceptance of their horrendous actions in Afghanistan.

That is why, despite the hoopla over the Olympics which Moscow hopes to use as a smokescreen for its actions, we must not lose sight of the suffering of the 1 million Afghan refugees now in camps in Pakistan and Iran.

We must do all we can to aid the Government of Pakistan, the United Nations High Commissioner on Refugees, and Afghanistan Relief Committee, Inc., and all persons and organizations of good will seeking to alleviate the plight of the innocent victims of Soviet aggression.

I call today on this House to congratulate the Afghanistan Relief Committee, Inc., and thanks to all those hard at work in our own country on behalf of the people of Afghanistan, particularly our farmers and our Olympic athletes.

Thank you, Mr. Speaker. I would now like to present for the RECORD an article in Monday's Wall Street Journal by Zalmay Khalilzad, an American whose forebearers came from Afghanistan, and who now is a professor at Columbia University. I would particularly call attention to Professor Khalizad's suggestions regarding the need for VOA broadcasts in Islamic regions which address the real issues involved in Afghanistan.

HELPING THE AFGHAN PEOPLE

(By Zalmay Khalilzad)

More than six months after its invasion of Afghanistan, the Soviet Union's strategy for control of the country is a failure. The strategy had two components. At the symbolic level, the emphasis on Islam was supposed to calm the natives through such measures as adding a bit of palliative Islamic green to the flag and having Soviet-installed President Babrak Karmal punctuate his speeches with cries of "God is great!" On the military level, the use of some 85,00 troops against the variety of ideological, regional, and tribal Afghan opposition has not ensured a Soviet ground victory so far, any more than the first measures have made inroads on the pervasive anti-Soviet sentiments of the population.

The situation is likely to change after the participants in the Moscow Olympics have departed early next month. With world attention no longer focused on the hosts of the festival of peaceful sporting values, the Soviets are likely to launch a greater military effort to crush Afghan resistance.

U.S. neglect of Afghanistan—resulting from miscalculation of that country's strategic value and from other errors in policy toward the region and persisting even in the face of warnings of an aggressive Soviet move—did much to make the present situation possible. Belatedly, the U.S. attempted to devise a set of responses after the invasion. It initiated the Olympics boycott, started redressing the military balance in the Persian Gulf and imposed a partial embargo on the Soviet Union. These steps were important and some of them long overdue. However, U.S. and allied response in terms of moral and material support for the Afghan fighters has consisted of the very least that they could do. The continued negligence is reflected at several levels.

First, six months after the invasion the Voice of America still has no program in any of the native major languages of the country to inform Afghans about Western reactions to the invasion, the activities of the foreign-based Afghan resistance movement, and the American efforts on behalf of their country. VOA's English programs reporting on Afghanistan come from New Delhi, the capital of a country not distinguished by its support of the Afghans nor by its hostility to the Soviets.

POORLY ARMED

Second, the Afghan fighters continue to be poorly armed. The U.S. and its allies have been reluctant to provide Afghans with large numbers of portable American anti-tank and anti-aircraft weapons.

Third, the Afghans have received little economic assistance. As a result, Afghan opponents and the population as a whole face serious economic problems, including shortages of food, a demoralizing and incapacitating condition that works to the advantage of Soviet occupation. The Soviet invasion has forced hundreds of thousands of Afghans to flee to Pakistan and Iran. The war inside Afghanistan has destroyed the agriculture in areas of greatest resistance to the Russians. Apparently, part of the Soviet strategy is to starve the population in areas of greatest resistance through the use of defoliants.

Why has the West been reluctant to provide more than very modest aid to the resistance? Two reasons are commonly cited: first, that the opposition is factionalized. Given the heterogeneous nature of Afghan society and the political fragmentation throughout the region, complete unity among Moscow's Afghan opponents is unlikely in the immediate future. The question is whether such unity, for the purpose of effectively combating the Soviets, is essential. It was the same fragmented guerrilla movement that scored major victories against the previous Marxist regimes, even though they commanded over 100,000 troops and modern Soviet equipment.

The Afghan resistance has grown in effectiveness throughout the period of the occupation, facing the Soviets with more difficulties now than they had six months ago, and the form of this resistance—decentralized, sporadic, unpredictable—even possesses advantages over a more coordinated proceeding.

Second, it is argued that substantial aid to the resistance might provoke Moscow into retaliatory expansion into Pakistan and Iran. Certainly, providing major backing carries some risks for neighboring countries, especially Pakistan, but the risks for them will be greater if the Afghans are defeated. With a pacified Afghanistan, Soviet capability in the region will increase substantially. Even without believing in a Soviet master plan for control of the area, the signals and the persistent direction of Soviet efforts present a warning that should be heeded. Soviet control—direct or indirect—over the Persian Gulf would represent a massive threat on the economic, energy, diplomatic and military levels. Such control would provide the Soviets with a lever to weaken and divide the Western alliance, a persistent Soviet goal.

The reluctance of the U.S. and its allies fully to acknowledge this threat and take appropriate measures is puzzling. To date, neither the preventive nor the responsive policies of the U.S. regarding Soviet expansionism in the area have been nearly adequate. It is important to avoid the same retrospective and inadequate responses in the future, and this should begin by preparing to counter the post-Olympic Soviet strategy in Afghanistan. The continuation of Soviet entanglement through effective resistance could, by involving the Soviets in a protracted war, reduce their capabilities elsewhere. This would also serve to give the U.S. and its allies the time they need to redress the military imbalance in the Gulf, and it would, by drawing continued attention to the aggressive Soviet policy toward a Third World country, increase the ideological costs of that policy by pointing out the *realpolitik* calculations behind the emancipatory Soviet rhetoric regarding developing countries.

This latter demonstration may be particularly instructive for Moslem countries, where increased hostility to Moscow could even bring about possible domestic consequences. In a state where criticism of foreign policy is not permitted to articulate itself in demonstrations or movements, the only domestic pressure could come from an area that might—in their own terminology—be called their "internal colony": the Islamic populations of Soviet Central Asia. If the Soviets continue to make war on their ethnic and religious counterparts across the border, protest may arise there. The sum of these costs may even persuade Moscow to accept a compromise solution for the Afghan conflict.

NEED U.S. SUPPORT

An important component determining the ability of the rebels to continue their opposition will be support from the U.S. and its allies in the moral, economic, and military dimension. At the moral level the U.S. can initiate VOA programs for Afghanistan and the Moslem regions of the Soviet Union and can broadcast reports of Afghanistan from a sympathetic capital, such as Islamabad. Moral assistance should be accompanied by the provision of compact and nonperishable food to the Afghans, both refugees and populations in areas of resistance. The capacity to offer prolonged and effective resistance will have to be supported through the provision of military materials, including portable anti-aircraft and anti-tank weapons.

The media and governments of the West back the resistance in principle. In effect, the backing has been half-hearted. Documentaries about Afghanistan are shown on European television, but only in a censored version, with such parts as burning villages cut out to avoid "fueling Cold War sentiments." At the same time, there is a diffuse realization that more is at stake than the political rights of a distant population; it is unlikely that the Soviets have somehow chosen Afghanistan alone for their military and political attentions.

A population willing to face starvation and massive sanctions to resist an occupying army deserves the support of democratic powers in any case, but in this instance the moral imperative is also backed by intelligent self-interest. Resting content to counter Soviet aggression to "the last Afghan" is a stand not only incommensurate with Western political values, but also dangerous to the security of the U.S. and its allies.●

● Mr. SHUMWAY. Mr. Speaker, I would like to commend the gentleman from Nebraska (Mr. Bereuter) for requesting this special order so that, at a time when the summer Olympics are taking place in Moscow, we may remind ourselves and our constituents that the tragic situation in Afghanistan persists. In fact, Mr. Speaker, Afghanistan's tragedy not only persists, it grows greater with every passing day.

To those of us who cherish our democratic way of life, the denial of freedom is the harshest penalty that can ever be imposed. It is instructive to note that, although the Soviet Union has attempted to make this year's Olympics the most lavishly orchestrated in history, the most telling impression of those who are now reporting back from Moscow is the rigid control by Soviet authorities not only of visitors and participating athletes, but of their own citizens as well. For the fiercely independent peoples of Afghanistan, the Soviet attempt to impose such an authoritarian system is particularly painful because of the alien nature of their would-be masters.

Afghanistan has a long and proud history of freedom and independence. For thousands of years, dating back to the time of Alexander the Great, Afghan tribesmen have turned back successive waves of foreign invaders. Not even the British Empire, at the height of its power, was ever able to establish a permanent foothold.

Yet today, Mr. Speaker, the Soviet Union is not only attempting to dominate Afghanistan, but is apparently seeking to transform the very makeup of the nation in order to create a mirror-image of its own totalitarian society. No amount of propaganda or creative analysis can obscure this fundamental fact.

The prospects for an expeditious withdrawal of Soviet invasion forces and a subsequent restoration of Afghan independence are unfortunately bleak. Yet the Afghan people have confronted bleak circumstances in the past—and have always prevailed in the end. It is clear, the overwhelming military superiority of the Soviet Union notwithstanding, that the Afghans have not given up hope. While the Soviets control the cities, Afghan freedom fighters remain active in the countryside. No matter what the odds, the Afghans can be expected to fight for their freedom, independence, and way of life to the last man.

This struggle, however, is one against great odds. The scattered Afghan freedom fighters must rely on 19th-century British Enfield rifles—against Soviet tanks, MIG fighters, and helicopter gunships. And, Mr. Speaker, for all our official professions of concern, we in the United States have frankly done little to assist in the struggle against Soviet imperialism.

Although I am supportive of the Olympic boycott, I am not aware that it has contributed in any way to the removal of Soviet troops from Afghanistan. The vaunted grain embargo has similarly had no effect on Soviet military policy, while at the same time causing significant hardship for American farmers. The revival of draft registration is widely recognized, even by its proponents, as being little more than symbolic. What I am saying, Mr. Speaker, is that the United States has thus far not been able to contribute to the restoration of Afghanistan's independence, nor—perhaps more importantly—have we exhibited the kind of resolve and credibility necessary to deter future Soviet adventures.

This is the fundamental lesson of the Afghansitan situation. The United States no longer seems capable of leading the struggle against the forces of totalitarianism throughout the world; without this vital resolve and sense of purpose, our own freedoms too are endangered.●

● Mr. DERWINSKI. Mr. Speaker, the impact of the Soviet's invasion of Afghanistan has had wide-reaching effects on U.S. foreign policy. It is especially being felt this week by our boycott of the summer Olympic games in Moscow. Reassessment of Soviet motives and of the U.S. role in the world are of utmost importance in shaping our policy decisions for the future. It is important to consider whether we should continue the quest for détente with the Soviet Union in areas of arms control, trade, and scientific relations. In addition, we need to take into consideration U.S. security interests in the Persian Gulf region, and to what role the United States should play in supporting opposition Afghan forces.

The Soviet Union's historic interest in Afghanistan, Iran and other states to its south was stated by V. M. Molotov in negotiations with the Nazis, prior to Hitler's invasion of Russia. The infamous treaty of nonaggression with Nazi Germany, the Molotov-Ribbentrop Pact of 1939, states that "provided the area south of Batum and Baku in the general direction of the Persian Gulf is recognized as the focal point of the aspirations of the Soviet Union."

Much has changed in 40 years, but Kremlin leaders are still trying to maintain what used to be called "spheres of influence" on their borders. In December of 1979, Moscow dispatched more than 6,000 combat troops to Kabul, moved five divisions to the Afghan border, apparently plotted and carried out the swift coup and execution of Afghan's ruthless pro-Soviet President, replacing him with a more subservient Kremlin President.

This mountainous, landlocked nation has become the newest captive nation. Sensitive to the disorder in neighboring Iran, where Moscow has intervened in the past, and troubled by the inability of their Afghan supporters to quell a Moslem uprising, the Russians decided that further instability in Afghanistan could damage their political interests. Moscow had been concerned by the increasing Islamic militancy, and with Iran, bordering both Afghanistan and sections of the Soviet Union, also swept by Moslem fundamentalism, and its ethnic minorities agitating for autonomy, Moscow had to be worried about the impact on the large Moslem populations on the Soviet side of the frontier.

In Kabul, the Russians were aware that if the Soviet-backed leadership were toppled, there would be strong tendencies toward anarchy; anti-Communist Islam probably would be predominant. Therefore, one of the important considerations in the Soviet decision to invade Afghanistan was to prevent the formation of such bloc and thus, protect against an Islamic and nationalistic resurgence among Russia's Moslems.

The Soviet action marks the first direct Soviet military intervention abroad since the invasion of Czechoslovakia in 1968; the first large-scale fighting by Soviet troops abroad since the fighting with Chinese forces on the Ussuri River in 1969; and the first direct Soviet military intervention in a country outside of the Soviet bloc since the end of World War II.

The arguments for offensive or opportunistic interpretations stress that the Soviet Union found itself facing unique opportunities in a region that has been the target of traditional Soviet ambitions. At a time of unprecedented Soviet military strength and confidence, an exploitable situation of chaos and turmoil reigned in Iran, heightening the vulnerability of the Persian Gulf and Pakistan. It was obvious to the Soviets that the United States would not be in a position to challenge the Soviet move into Afghanistan.

Since almost 50 percent of the Soviet population is non-Russian, the Soviet leadership is keenly sensitive to the danger of unrest among its national minorities.

The Soviet invasion of Afghanistan had an immediate chilling effect on United States-Soviet relations. It brought on sharp rhetoric between the superpowers and led to U.S. decisions affecting SALT, trade, and cultural relations with the Soviet Union. The administration has announced that it is considering other counteractions in response to Soviet moves in Afghanistan. Whether the deterioration in United States-Soviet relations is merely a short-term phenomenon, we must remember that history of Soviet imperialism with the most recent reminder being that of the invasion of Czechoslovakia in 1968. Major U.S. decisions must be weighed on the Soviet actions in Afghanistan. We must insist on unified action by the Western powers to show the Russians that we consider the Afghanistan takeover a serious threat to world peace. The free world is looking to us for leadership, and we must direct our foreign policy in that regard.●

GENERAL LEAVE

Mr. BEREUTER. Mr. Speaker, at this time I ask unanimous consent that the remarks of the gentleman from New York (Mr. Wolff) and the gentleman from California (Mr. Shumway) be inserted in the Record, and further, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a longstanding commitment I was necessarily absent from the House on Wednesday, July 2, 1980, during consideration of the conference report on H.R. 7542, the supplemental appropriations bill for fiscal year 1980. Had I been present, I would have voted as follows: "yea" on rollcall No. 396, the Long of Maryland motion to recede from disagreement with the Senate in amendment No. 95, providing increased appropriations for foreign assistance in fiscal year 1980; "yea" on rollcall No. 397, the Long of Maryland motion to concur with the Senate in amendment No. 95; "yea" on rollcall No. 398, the Yates motion to table the Heckler motion to reconsider the vote by which the House concurred with the Senate in amendment No. 95; "nay" on rollcall No. 399, the Heckler motion for reconsideration; "yea" on rollcall No. 400, the Bolling motion to table the Bauman motion to appeal a ruling of the chair; and "yea" on rollcall No. 401, the O'Neill motion to concur in Senate amendment No. 95 with an amendment providing limited additional appropriations for foreign assistance in fiscal year 1980.●

CONGRESSMAN MURTHA SPEAKS ON ECONOMIC POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MURTHA) is recognized for 15 minutes.

● Mr. MURTHA. Mr. Speaker, I wanted to include in the CONGRESSIONAL RECORD some comments I prepared for delivery recently to the Johnstown Lions Club which outlines many of my views on the present economic situation facing our country:

REMARKS BY CONGRESSMAN JOHN P. MURTHA

Back in April during the last congressional recess, I spoke to the Cambria County township supervisors about the economy. It shows how quickly the situation can change, when I realize that just three months ago in preparing my speech I faced a very different set of economic conditions: Inflation was out of control; unemployment nationally was still below 6 percent; the key economic issue in Washington was the balanced budget. Now, the economic debate has altered radically. National unemployment is rising radically; inflation is declining; the recession is strong. Today I want to outline the present Washington thinking for you and how it is likely to affect our area. There are three keys to economy over the next few months—the energy picture, the budget, and jobs.

The one consistent factor between the April speech and today is energy. In fact, it must be made clear that the energy situation will be with us for the entire decade of the eighties. As long as we continue to import 42 percent of our oil from OPEC nations (actually up from 36 percent during the 1973 Arab oil embargo), then we run the risk at any time of the plug being pulled on our economy by some shiek or government head. We run the risk of our foreign policy being dictated to us as the oil noose tightens around our neck.

Let me give you just a quick idea of the foreign oil impact on the U.S. Most of us probably couldn't even find Nigeria on a map. But we import —— barrels of oil per day from there. If they cut off that oil totally and it was not replaced, across the country 800,000 Americans would be put out of work, economic growth would decline by 2.2 percent, and inflation would increase by 1 percent. That's just one country. If in today's economy, we had another cut-off like 1973, the impact would be a 3.2 percent increase in unemployment (and that would jump it to one out of every ten Americans out of work), a 9.8 percent reduction in economic growth, and a 4.3 percent increase in inflation.

Now, the obvious question is what can we do on energy to lessen this increase. One thing we can all do is continue to conserve. For the first 4 months of 1980 total demand for petroleum products was down 9.1% from a year ago. That's good, but we have to do even more to keep the trend downward. Second, Congress has passed two key bills this year to help. The first is the "windfall profits" tax taking oil company revenue that came to them through no efforts of their own and using it over the next 10 years for energy research and energy projects. The second—just signed a few days ago by the President—is the energy mobilization board, a special procedure for cutting through red tape and bureaucratic delay on priority energy projects.

Of course, in our area we know what the third key is—coal. In the long-run, we've made progress. The synthetic fuels bill passed by Congress and signed by the President will signal a major effort to convert coal into oil which by the end of the decade will be making great use of our coal supplies. You know I'm strongly supporting the Westinghouse proposal for our area which could be using as much as 18,000 tons a day of western Pennsylvania coal by the end of the decade. It would produce 1,500 jobs during construction, and some 5,000 miners to work when coal production increases for the plant.

Our frustration has been in the shortrun. The two top priorities I'm working on are: (1) Increasing our exports of coal—there are several European and Asian countries relying on coal but running out of easily accessible supplies; and (2) the second is coal conversion legislation—incentives and requirements to switch 70–100 public utility boilers from oil to coal.

The second key economic indicator is the budget. I voted for a balanced budget in the overall spending plan approved a few weeks ago by Congress. Quite frankly, though, I don't think we'll be able to maintain our goal through the whole fiscal year which begins in October. The problem is the sagging economy and rising unemployment. That combination means the Treasury takes in less tax money because fewer Americans are working and business is selling less. Meanwhile, there is a greater demand on Government programs such as unemployment compensation and trade adjustment relief because so many workers are unemployed. The estimate is that for every percentage point of unemployment above 4 percent, the Treasury loses $20 billion. So, just in the last two months with the jump of over 1 percent in the national unemployment rate, we've lost $20 billion in revenues we thought we could count on.

Of course, we know all about unemployment in our area. While the rest of the Nation has had double-digit inflation for many months, our area has coupled that with double-digit unemployment. Throughout the 12th Congressional District, the unemployment rate for the first half of 1980 has run almost double the national average.

We should not forget what our community has done positively over the last few years. We should not forget the attraction of metropolitan life, the Federal black lung office, and ABEX. We should not forget the community spirit that helped keep Bethlehem Steel at a high level of operation following the Johnstown Flood in 1977. We should not forget the over $300 million in Federal Aid used to help rebuild our city.

But neither can we ignore the stark facts of recent months. Almost 2,400 people have been laid off in our area in the last five months. Our young people recently graduated from high school and college into a depressed job market. Some of you in this room probably saw your sons and daughters leave the area to look for job opportunities elsewhere.

And with rising unemployment, I believe we must continue to use the Federal budget to create jobs. We may well have to forget the balanced budget for a year or two in our efforts to get people back to work. I certainly cannot in good conscience vote for any cut-backs in CETA, trade adjustment, or other job programs that could help our citizens. Moreover—outside of Federal jobs, that is not counting government employees—government spending directly creates over 1 million jobs. Without the spending the national unemployment rate would now be over 8 percent, approaching depression levels like we have in our area already.

There is another thing I believe Congress must do in the fall, and that is approve a tax cut. Again, it will take us further away from a balanced budget, but I think it must be done to create jobs. I think the elements of the tax cut should be:

First, a business tax cut based on the Jones-Conable bill which I have cosponsored. This will provide additional money to large and small business to invest, expand, and raise productivity. Once that expansion begins it will create jobs, it will encourage business to locate new plants in areas such as ours, it will help many businesses to retain their present employment levels rather than cutting back.

Second, I favor a move that would prevent the increase scheduled for January in the amount individuals pay into Social Security. At that time, the rate you pay on your wages into Social Security is scheduled to rise from 6.13 percent of your salary to 6.65 percent. I think we can use other revenues to raise that money. Thus, we will keep Social Security sound—which is a must for our older citizens—while at the same time prevent taking more money out of weekly paychecks, and not add to the inflation we finally seem to be bringing under control.

Third, I am studying the proposal I have co-sponsored to provide a $1,500 tax break toward the purchase of a new American car. There are two goals in this proposal. One, it would require the trade-in of a pre-1976 model. This would help to get the gas guzzlers and polluters off the road, and increase overall mileage to help save oil. Of course, the second key is it would restimulate the auto industry at a time when over 230,000 autoworkers are laid off. That, in turn, would have a definite impact on our area since 40–45 percent of the rolling mill product at the Bethlehem Steel Plant goes to Detroit for automaking.

In these last few minutes, gentlemen, I've talked about two of the three issues that are going to dominate the nineteen eighties: energy; the economy; and the third will be defense. In the final report on how well we handle these three issues will be told by the success of our nation, and our area, and just how strong America is and will continue to be through the remainder of the 20th century.●

WASHINGTON STAR PRAISES CONGRESS, ADMINISTRATION ON LAW OF THE SEA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

● Mr. BINGHAM. Mr. Speaker, next week the Law of the Sea Conference resumes its ninth session in Geneva. Hopes are high that an agreement may finally be in sight after several years of arduous negotiations, disappointments, and setbacks. As the attached editorial from the Washington Star says:

> Should the delegates from 163 nations reach final agreement on a treaty text, it would represent an awesome achievement—the codification of the principle that the vast resources of the world's oceans constitute "the common heritage of mankind."

Should this "awesome achievement" come to pass, as I fervently hope it will, we in Congress can take no small measure of satisfaction from that result. To quote again from the editorial:

> Congress and the administration have been criticized, often deservedly, for a lack of cohesion and thoughtfulness in foreign policy. That has not been the case with the Law of the Sea. It has been handled deftly by Congress and the State Department, particularly under Ambassador Richardson.

I am sure all my colleagues join me in wishing our departing delegation to the Law of the Sea negotiations the best of success.

The Star editorial follows:

[From the Washington Star, July 2, 1980]

A Cresting Law of the Sea

Late this month, what could be the concluding session of the U.N. Law of the Sea conference opens in Geneva. Should the delegates from 163 nations reach final agreement on a treaty text, it would represent an awesome achievement—the codification of the principle that the vast resources of the world's oceans constitute "the common heritage of mankind."

Two previous U.N. conferences, in 1958 and 1960, failed to embody the principle in a global compact. The current negotiations have been going on for six years, an undertaking so delicate and so volatile that the continuity itself is impressive. U.S. Ambassador Elliot Richardson has called the Law of the Sea conference "the most ambitious agenda ever attempted by a multilateral law-making forum."

The rhetoric of an international "new economic order" that has adhered to the treaty talks, with its implicit (indeed, often explicit) objectives of trimming the sails of the industrialized nations, cannot be dismissed merely as Third World growling. The ideological currents have been insistent and, not infrequently, antagonistic to perceptions of national interests, not least those of the U.S. But a notable aspect of these negotiations has been an unusually sensitive attempt to meld the visionary and the pragmatic, to incorporate reciprocal self-interests in a mechanism for global cooperation.

Remarkable progress has been made, from agreement on extremely touchy and complex navigational rights to protection of the oceanic environment. But the session opening July 28 in Geneva must resolve issues as touchy and complex.

The U.S. delegation's report on last spring's Law of the Sea session was qualifiedly optimistic. The revised negotiating text, it said, provides "a substantially improved prospect of consensus." Among the remaining matters is an explosive clause that would require parties to a ratified treaty to share seabed resources with "peoples who have not attained full independence or other self-governing status." The language's mischievous potential hardly needs elaboration.

But even that ideological fuse may not be as threatening to agreement as working out decision-making arrangements for deep-sea mining.

A significant portion of the oceanic mineral wealth is represented by baseball-size nodules that cover most of the deep seabeds. The nodules are an amalgam of manganese, copper, nickel and cobalt. For nearly a century after their discovery in 1872, the nodules were regarded as curiosities. But as scientists discovered their vast extent and richness, curiosity was transformed into practical energy.

Retrieving the nodules from depths below three miles, however, presents intimidating challenges. The U.S. has been a leader in developing the technology and American firms are prominent partners in four of the major multinational consortia preparing to mine. An obvious national interest is involved. Manganese is essential in steel-making and the U.S. has none. We are largely dependent on foreign cobalt, vital for metallurgical manufacturing. Roughly three quarters of the nickel America uses comes from abroad.

Developing the sophisticated engineering to mine the nodules requires tremendous, and tremendously risky, private investment. The prospect of a controlling international authority—structured analogously to the United Nations—has created intense concern, of course, about the balance of any Law of the Sea treaty: A balance that recognizes both mankind's "common heritage" and the investments by U.S. firms and those of other developed countries.

The industrialized nations have agreed to assigning broad powers to Law of the Sea governing institutions—involving shared technology, revenues and world price regulation of minerals. What remains unresolved, and critical, is the process by which operating decisions would be made within the governing bodies. The sheer weight of numbers of undeveloped and/or Third World nations—and the so-called "geographically disadvantaged" or landlocked countries—could easily overwhelm the industrialized nations: An acceptable formula for equitable representation is the crucial chore for the Geneva conferees.

Congress has provided an incentive for them to address this question with full concentration. Ever since the Third Conference on the Law of the Sea began, there has been movement toward U.S. legislation to permit American companies to proceed with exploration and eventually deep-sea mining on their own—outside treaty regulations, if it comes to that. The administration asked Congress several years ago to put a "hold" on such legislation, pending Law of the Sea negotiating results.

After the end of the spring session the administration and Ambassador Richardson asked Congress to proceed. The House acted in early June, the Senate approved a bill at month's end, and the proposal is awaiting President Carter's signature.

The bill is carefully drawn. It does not assert sovereignty or ownership of any area of the deep seabed; it is "interim" legislation, to protect U.S. interests until a Law of the Sea treaty may be finally ratified. The legislation requires licensing of U.S. firms and provides, in deference to the concerns of other nations, that no commercial recovery of minerals will begin before 1988. Of greatest importance to U.S. firms is a provision that within a year further legislation be enacted to protect private investments while the treaty is being implemented. Once mining begins, 3.5 percent of the value of recovered minerals would be "banked" for contributions required by the international treaty.

The measure will be an unmistakable, and appropriate, signal to the Geneva conferees that overloading the treaty's decision-making process against the industrialized nations could forfeit American support and, by so doing, jeopardize the benefits of deep-sea mining to underdeveloped nations.

It would be awful if ideological posturing or short-sightedness at Geneva were to doom the long years of work on a Law of the Sea treaty. If that happened, international navigational rights, as one conspicuous instance, could be severely complicated. But we think there is a reasonable probability that a treaty will come to fruition, with the U.S. legislation contributing to final agreement.

A Law of the Sea treaty is, as we said earlier, an extraordinary venture with awesome possibilities for global cooperation or global strife. Congress and the administration have been criticized, often deservedly, for a lack of cohesion and thoughtfulness in foreign policy. That has not been the case with the Law of the Sea. It has been handled deftly by Congress and the State Department, particularly under Ambassador Richardson.

The issue undoubtely will be politicized more than it has been so far—indeed, it is astonishing how small a ripple the Law of the Sea apparently has made on the public pond—when a treaty comes up for ratification. The care that has been taken in formulating the U.S. position, however, should lend itself to informed and reasonable discussion.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, due to personal family business, I was unable to be in Washington yesterday. If I had been here, I would have voted as follows on the five rollcalls that occurred.

Rollcall No. 402: To suspend the rules and pass H.R. 7511, a bill to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans. "Yea."

Rollcall No. 403: To suspend the rules and pass H.R. 7394, to revise the veteran's vocational rehabilitation program, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, and to revise and expand veterans' employment and training programs. "Yea."

Rollcall No. 404: To suspend the rules and pass House Concurrent Resolution 351, expressing the sense of the Congress that social security benefits shall remain exempt from taxation. "Yea."

Mr. Speaker, this is an issue about which I feel especially strong. As a member of the Select Committee on Aging and the representative of over 70,000 elderly citizens I am quite concerned about any action which might be damaging to the elderly living on fixed incomes.

The proposal of the Advisory Committee on Social Security that certain social security benefits should be subject to income taxes would constitute a severe blow to a large percentage of senior citizens. My concern over this issue has caused me to cosponsor H.R. 6012, legislation which prevents the taxation of social security income. While I believe passage of that legislation is desirable to establish firmly in the law the exemption of social security benefits from Federal taxation, I strongly support the action of the House in passing House Concurrent Resolution 351 by the overwhelming vote of 384 to 1.

Rollcall No. 405: To suspend the rules and pass H.R. 5499, a bill to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by the Executive order which led to the internment of Japanese-Americans during World War II. "Yea."

Rollcall No. 406: On adoption of an amendment to H.R. 7593, the legislative branch appropriations bill. The amendment struck $210,000 from the bill that was to be used for Members of Congress to travel to Washington from their home districts at the beginning of the new Congress and from Washington to their home districts at the end of the session of Congress. "No."●

YSLETA STUDENTS FAVOR REGISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, as chairman of the Personnel Subcommittee of the House Armed Services Committee, I have strongly supported reinstitution of a formal military service registration program. Now that such a program is underway, I want to report to my colleagues in the Congress on the reactions of some of the young people in my district in west Texas.

I recently received a package of 72 letters from a social studies class at Ysleta High School in El Paso. A cover letter accompanying the package from Mr. Jerome C. Milam, chairman of social studies at the school, explained to me that these were all graduating seniors, many of whom quite obviously would be affected by a universal registration program. Mr. Milam indicated that he had devoted several days of class discussion to draft registration covering such aspects as history of the draft, past abuses, practices in other nations, and the advantages and disadvantages of a system of military conscription. He then required each of the students to write a letter to me on the subject telling them to feel free to express their honest feelings.

I am proud to report that in general they reflect an overwhelming support for registration, and the draft if need be, and the writers mainly portrayed an attitude that if they were called they would consider their service an opportunity to repay the Nation for the advantages of American citizenship.

All of us, I am confident, share a conviction that the preponderance of today's youth stand ready to support our Nation in any possible manner, and I am most pleased to be able to reinforce that conviction with this outline of the message to me from the seniors at Ysleta High School in El Paso.

In particular, I would like publicly to thank Mr. Milam for his dedication to teaching an obviously excellent dimension of citizenship and responsibility not necessarily found in text books.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ST GERMAIN (at the request of Mr. WRIGHT), from July 21 through 25, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. ERDAHL) to revise and extend his remarks and include extraneous material:)

Mr. TAUKE, for 5 minutes, today.

(The following Members (at the request of Mr. WALGREN) to revise and extend their remarks and include extraneous material:)

Mr. DRINAN, for 5 minutes, today.
Mr. MURTHA, for 15 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. BINGHAM, for 10 minutes, today.
Ms. FERRARO, for 5 minutes, today.
Mr. WHITE, for 5 minutes, today.
Mr. CONYERS, for 60 minutes, July 25, 1980.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ERDAHL) and to include extraneous matter:)

Mr. MOORHEAD of California.
Mr. YOUNG of Florida.
Mr. WAMPLER.
Mr. DERWINSKI in two instances.
Mr. DANIEL B. CRANE in two instances.
Mr. BROOMFIELD.
Mr. MARKS in three instances.
Mr. SYMMS.
Mr. HOLLENBECK.
Mr. GUYER.
Mr. MCCLORY.
Mr. DORNAN.
Mr. FINDLEY.
Mr. COLLINS of Texas in two instances.
Mr. CARTER.

(The following Members (at the request of Mr. WALGREN) and to include extraneous matter:)

Mr. PHILLIP BURTON.
Mr. MCHUGH.
Mr. RODINO.
Mr. SHARP in two instances.
Mr. MAZZOLI in five instances.
Ms. MIKULSKI.
Mr. BOLLING.
Mr. HUBBARD.
Mr. CLAY.
Mr. NOWAK.
Mr. DRINAN in two instances.
Mrs. SCHROEDER.
Mr. MURPHY of New York.
Mr. JONES of Oklahoma.
Mr. MOORHEAD of Pennsylvania.
Mr. CORRADA.
Mr. MITCHELL of Maryland in two instances.
Mr. WEISS.
Mr. RANGEL.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 341. An act to authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on Interior and Insular Affairs; and

S. 2936. An act to transfer certain employees of the Architect of the Capitol to the Sergeant at Arms of the Senate; to the Committee on House Administration.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1466. An act to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes; and

S. 2508. An act to provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commission and the U.S. Court of Claims, and for other purposes.

ADJOURNMENT

Mr. WALGREN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 34 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 23, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4853. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting the supplemental summary of the budget for fiscal year 1981, pursuant to section 201 of the Budget and Accounting Act of 1921, as amended (H. Doc. No. 96-344); to the Committee on Appropriations and ordered to be printed.

4854. A letter from the Administrator, U.S. International Development Cooperation

Agency, transmitting notice of the President's intention to exercise his authority under sections 109 and 610(a) of the Foreign Assistance Act of 1961, as amended, to transfer funds to the appropriation for operating expenses of the Agency for International Development, together with the justification therefor, pursuant to section 652 of the act; to the Committee on Appropriations.

4855. A letter from the Director, Federal Emergency Management Agency, transmitting a report that the Agency acquired no real or personal property during the quarter ended June 30, 1980, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

4856. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3-219, to amend the Animal Control Act of 1979 to require the Mayor to issue rules for disposing of impounded animals; to require neutering of an adopted male animal when it becomes ten (10) months of age; to include knowledge as an element of the crime of falsely denying animal ownership; to prohibit the sale of baby chickens, ducklings, other fowl, and rabbits that have had their natural color changed; to make a dogowner liable to damages caused by the dog while at large regardless of the owner's lack of knowledge of the dog's vicious propensity; and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4857. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3-220, to establish a Board of Pharmacy and to regulate pharmacies; the practice of pharmacy in the District of Columbia, and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4858. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act No. 3-221, to establish a District of Columbia certificate of need program, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4859. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3-222 to establish reprograming policies for the District of Columbia government, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4860. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act No. 3-223, to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish the maximum rate of compensation for the staff of the Council of the District of Columbia, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4861. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3-224, to order the closing of an east-west public alley abutting on Lots 42, 853, and 854 in Square 568, bounded by Third Street NW., Center Leg Inner Loop, and E Street NW. (SO. 79-259) (Ward 2); to amend the District of Columbia Unemployment Compensation Act; to amend the law regulating finance charges for retail installment sales of motor vehicles in the District of Columbia; to approve, with modifications and conditions, the proposed withdrawal of certain route sections from the Interstate Highway System in the District of Columbia and the substitution of other transportation projects in lieu thereof; and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4862. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3-225, to order the closing of the north-south public alley abutting Lots 37, 846, 852, 844 and 43 in Square 73, bounded by 21st Street NW., L Street NW., and K Street NW. (S.O. 79-181) (Ward 2), pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4863. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Hume A. Horan, Ambassador-designate to Cameroon, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

4864. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the first annual report on the Foreign Service retirement and disability system, pursuant to section 121 of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

4865. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed change in existing records systems, pursuant to 5 U.S.C. section 552a(o); to the Committee on Government Operations.

4866. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during June 1980, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

4867. A letter from the accountants for the Sacramento Farm Credit employees' retirement plan, transmitting the annual report of the retirement plan as of December 31, 1979, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541); to the Committee on Government Operations.

4868. A letter from the Chief, Forest Service, U.S. Department of Agriculture, transmitting the management and development plan, legal description, and may for the North Fork American River, Calif., pursuant to section 3(b) of Public Law 90-542, as amended; to the Committee on Interior and Insular Affairs.

4869. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to render a final decision within the specified 7-month period in No. 37304, *Public Service Co. of Indiana, Inc. (Coal)* v. *Consolidated Rail Corporation,* pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

4870. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of April 1980, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

4871. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a report on the facts in each application for conditional entry of aliens into the United States under section 203(a)(7) of the Immigration and Nationality Act for the quarter ended March 31, 1980, pursuant to section 203(f) of the act; to the Committee on the Judiciary.

4872. A letter from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting the ninth annual report of the Committee, pursuant to section 4 of Public Law 95-63; to the Committee on Merchant Marine and Fisheries.

4873. A letter from the Attorney General, transmitting notice of the Justice Department's decision not to appeal or seek a stay of the district court decision in *Greenberg* v. *Bolger*, which held that title II of Public Law 96-74 is unconstitutional because it provides a subsidized bulk mail rate for the State and National committees of the two major political parties, pursuant to section 21 of Public Law 96-132; to the Committee on Post Office and Civil Service.

4874. A letter from the former and the Acting Special Counsel, Merit Systems Protection Board, transmitting the first annual report of their office, pursuant to 5 U.S.C. 1206(m); to the Committee on Post Office and Civil Service.

4875. A letter from the Director, Federal Emergency Management Agency, transmitting a draft of proposed legislation to amend section 402 of the Disaster Relief Act of 1974; to the Committee on Public Works and Transportation.

4876. A letter from the Chairman, National Commission on Unemployment Compensation, transmitting a statement adopted by the Commission; to the Committee on Ways and Means.

4877. A letter from the Secretary of Labor, transmitting the annual report for calendar year 1978 on the administration of the Employee Retirement Income Security Act of 1974, pursuant to section 513(b) of the act; jointly, to the Committees on Education and Labor and Ways and Means.

4878. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the semiannual report on the status of domestic and international evaluations of nuclear fuel cycle systems, pursuant to section 9 of Public Law 95-601; jointly, to the Committees on Foreign Affairs, Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology.

4879. A letter from the Acting Comptroller General of the United States, transmitting a report on improvements needed in the productivity statistics published by the Department of Labor's Bureau of Labor Statistics (FGMSD-80-45, July 8, 1980); jointly, to the Committee on Government Operations, Banking, Finance and Urban Affairs, and Education and Labor.

4880. A letter from the President of the United States, transmitting proposed amendments to the request for appropriations for fiscal year 1981 (H. Doc. No. 96-345); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4370. A bill providing certain authorities for the Secretary of the Interior to permit rights-of-way for purposes of certain pipeline transportation systems; with amendment (Rept. No. 96-692, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5961. A bill amending the Currency and Foreign Transactions Reporting Act to (1) provide for more efficient enforcement of its provisions by making it illegal to attempt to export or import large amounts of currency without filing the required reports; (2) allow U.S. Customs officials to search for currency in the course of their presently authorized search for contraband articles; and (3) allow for the payment of compensation to informers; with amendment (Rept. No. 96–829, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4231. A bill designating the "John D. Larkins, Jr., Federal Building." (Rept. No. 96–1168). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 5732. A bill designating the Federal Building located at 33 West Twohig, San Angelo, Tex., as the "O. C. Fisher Building"; with amendments (Rept. No. 96–1169). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 6531. A bill naming a certain Federal building in Indianapolis, Ind., the "Minton-Capehart Federal Building." (Rept. No. 96–1170). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7130. A bill designating the building known as U.S. Court House and Federal Building in Syracuse, N.Y., as the "James M. Hanley Federal Building" (Rept. No. 96–1171). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7309. A bill designating the Federal building in Portland, Oreg., the "Edith Green Federal Building". (Rept. No. 96–1172). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7414. A bill designating the building known as the Federal Building and U.S. Courthouse in Amarillo, Tex., as the "J. Marvin Jones Federal Building". (Rept. No. 96–1173). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7450. A bill designating the U.S. Court House and the U.S. Post Office Federal Building in Waterbury, Conn., as the "John S. Monagan Federal Building". (Rept. No. 96–1174). Referred to the House Calendar.

Mr. FUQUA: Committee on Science and Technology. H.R. 7449. A bill authorizing appropriations to the Department of Energy for civilian research and development programs for fiscal year 1981; with amendments (Rept. No. 96–1179). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7478. A bill facilitating the management of the public debt by increasing the ceiling on the investment yield on U.S. savings bonds to 8½ percent and by increasing the amount of the bonds paying interest in excess of 4¼ percent which may be outstanding; with amendments (Rept. No. 96–1180). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7054. A bill amending the Tariff Schedules of the United States in order to make the duty on plastic netting approximately equal to the duty now charged on the raw plastic from which the netting is made (10 percent plus 1.5 cents per pound); with amendments (Rept. No. 96–1181). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7139. A bill suspending for 1 year the duties on wrapper tobacco; with amendments (Rept. No. 96–1182). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6089. A bill prohibiting until January 1, 1982, the conversion of the rates of duty on certain unwrought lead to ad valorem equivalents; with amendments (Rept. No. 96–1183). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HUGHES: Committee on the Judiciary. H.R. 7214. A bill for the relief of the Washington Post, the Washington Star, and the Dispatch (Lexington, N.C.) (Rept. No. 96–1175.) Referred to the Committee of the Whole House.

Mr. HUGHES: Committee on the Judiciary. H.R. 6000. A bill for the relief of Campanella Construction Co., Inc.; with amendment (Rept. No. 96–1176). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 6836. A bill for the relief of James A. Schultz (Rept. No. 96–1177). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 2864. A bill for the relief of the Black Hills Area Council of the Boy Scouts of America; with amendment (Rept. No. 96–1178). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 5687. A bill for the relief of Michael G. MacDonald; with amendment (Rept. No. 96–1184). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO (for himself and Mr. McClory):

H.R. 7786. A bill to amend Public Law 90–331 to increase the period during which personal protection is provided to spouses of major Presidential and Vice-Presidential nominees; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 7787. A bill to amend the act of November 27, 1979, to provide that awards to applicants under the energy crisis assistance program funded in such act may be made through September 30, 1980; to the Committee on Appropriations.

By Mr. GAYDOS:

H.R. 7788. A bill to amend the Internal Revenue Code of 1954 to allow certain married individuals who file separate returns to be taxed as unmarried individuals; to the Committee on Ways and Means.

By Mr. LUKEN:

H.R.. 7789. A bill to provide for the compensation, from those blocked assets of the Iranian Government, of those Americans taken hostage in Tehran in November 1979; to the Committee on Foreign Affairs.

By Mr. ROBERTS (by request):

H.R. 7790. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress or egress; to the Committee on Veterans' Affairs.

By Mr. SCHEUER (for himself and Mr. Rinaldo):

H.R. 7791. A bill to amend the Securities Exchange Act of 1934 to provide that a person who is a citizen of or is incorporated in a foreign country may acquire certain amounts of U.S. securities only to the extent that the laws of such foreign country are no more restrictive with respect to the acquisition of comparable amounts of foreign securities by a person who is a citizen of or is incorporated in the United States; to the Committee on Interstate and Foreign Commerce.

By Mrs. SPELLMAN:

H.R. 7792. A bill to amend title 5, United States Code, to provide for access to a certified nurse-midwife without prior referral in the Federal employee health benefits program; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself, Mr. Florio, and Mr. Madigan):

H.R. 7793. A bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living increases; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. STANGELAND:

H.R. 7794. A bill to authorize the Secretary of Agriculture to provide disaster payments to producers of the 1980 crops of flaxseed, soybeans, sugarbeets, sunflower, potatoes, and pinto beans for crop losses caused by natural disasters; to the Committee on Agriculture.

By Mr. WHITEHURST:

H.R. 7795. A bill to amend title 38, United States Code, to provide a new program of educational assistance for persons who serve in the Armed Forces; to the Committee on Veterans' Affairs.

By Mr. WHITTEN:

H.R. 7796. A bill to provide soybean producers with the same protection from natural disasters as producers of wheat and feed grains: to the Committee on Agriculture.

By Mr. LONG of Maryland (for himself, Mr. Obey, Mr. Yates, Mr. McHugh, Mr. Lehman, Mr. Charles Wilson of Texas, Mr. Dixon, Mr. Conte, Mr. Young of Florida, and Mrs. Smith of Nebraska):

H.J. Res. 587. Joint resolution providing additional program authority for the Export-Import Bank; to the Committee on Appropriations.

By Mr. LONG of Maryland:

H. Con. Res. 384. Concurrent resolution stating the intent of the Congress that social security benefits payable to prison inmates be surrendered to defray the current costs to the taxpayer of supporting prisoners in penal institutions as well as supporting their dependents on public assistance; to the Committee on Ways and Means.

By Mr. BAUMAN (for himself, Mr. Walker, Mr. Green, Mr. Conable, Mr. Goldwater, Mrs. Fenwick, Mr. Railsback, Mr. Grassley, Mr. Gilman, Mr. Pashayan, Mr. Andrews of North Dakota, Mr. Porter, Mr. Livingston, Mr. Badham, Mr. Moorhead of California, Mrs. Smith of Nebraska, Mr. McDonald, Mr. Young of Florida, Mr. Johnson of Colorado, Mr. Coughlin, Mr. Lee, Mr. Bereuter, Mr. Abdnor, Mr. Lent, Mr. Williams of Ohio, Mr. Miller of Ohio, Mr. Marriott, Mr. Mitchell of New York, Mr. Ashbrook, Mr. Solomon, Mr. Sensenbrenner, Mr. Loeffler, Mr. Philip M. Crane, Mr. Hammerschmidt, Mr. Schulze, Mr. Hillis, Mr. Broyhill, Mr. Sebelius, Mr. Lagomarsino, Mr. Thomas, Mr. Winn, Mr. Robinson, Mr. Royer, Mr. Goodling, Mr. O'Brien, Mr. Myers of Indiana, Mr. Gradison, Mr. Jeffries, Mr. Corcoran, Mr. Duncan of Tennessee, Mr. Tauke, Mr. Stangeland, Mr. Moore, Mr. Dannemeyer, Mr. Leach of Iowa, Mr. Devine, Mr. Forsythe, Mr. Shumway, Mr. Daniel B. Crane, Mr. Kramer, Mr. Edwards of Oklahoma, Mrs. Holt, Mr. Cheney, Mr. Rudd, Mr. Ritter, Mrs. Snowe, Mr. Courter, Mr. Dougherty, Mr. Symms, Mr. Robert W. Daniel, Jr., Mr. Roth, Mr. Hinson, Mr. Carney, Mr. Whittaker, Mr. Davis of Michigan, Mr. Deckard, Mr. Rousselot, Mr. Burgener, and Mr. Cleveland):

H. Res. 745. Resolution of inquiry in the matter of Billy Carter; jointly, to the Committees on Foreign Affairs and the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

507. By the SPEAKER: Memorial of the Legislature of the State of California, relative to elementary school guidance and counseling programs; to the Committee on Education and Labor.

508. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to relations with Nigeria; to the Committee on Foreign Affairs.

509. Also, memorial of the Legislature of the Territory of Guam, relative to authorization of a plebiscite to determine the political aspirations of the people of Guam; to the Committee on Interior and Insular Affairs.

510. Also, memorial of the Legislature of the State of New York, relative to the financial problems encountered by the Lake Placid Olympic Organizing Committee; to the Committee on Interstate and Foreign Commerce.

511. Also, memorial of the Legislature of the State of Louisiana, relative to income restrictions for recipients of medicaid benefits; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. DUNCAN of Tennessee presented a bill (H.R. 7797) for the relief of Clyde E. Petree, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 190: Mr. Hutto.

H.R. 212: Mr. Kindness.

H.R. 213: Mr. Kindness.

H.R. 540: Mr. Burgener, Mr. Stanton, Mr. Duncan of Tennessee, Mr. Kindness, Mr. Charles Wilson of Texas, Mr. Price, Mr. Simon, Mr. Wampler, Mr. Cavanaugh, and Mr. Dornan.

H.R. 1539: Mr. Dougherty.

H.R. 1603: Mr. Ullman.

H.R. 2158: Mr. Cheney.

H.R. 2342: Mr. Dornan.

H.R. 2441: Ms. Mikulski.

H.R. 5225: Mr. Tauke, Mr. Yatron, Mr. McKay, Mr. Wampler, Mr. Luken, Mr. Tauzin, Mr. Natcher, and Mr. Trible.

H.R. 5477: Mr. Mattox.

H.R. 5936: Mr. Cheney and Mr. Dornan.

H.R. 6073: Mr. Kindness.

H.R. 6286: Mr. Conable.

H.R. 6637: Mr. Winn.

H.R. 7170: Mr. Bowen.

H.R. 7192: Mr. Wampler, Mr. Clinger, Mr. Rahall, Mr. Kogovsek, Mr. Whittaker, Mr. Edwards of Oklahoma, Mr. Barnard, Mr. Frenzel, Mr. Yatron, and Mr. Anthony.

H.R. 7310: Mrs. Chisholm.

H.R. 7337: Mr. Carney and Mr. Petri.

H.R. 7512: Mr. Mineta and Mr. Beilenson.

H.R. 7520: Mr. Young of Alaska, Mr. Watkins, and Mr. Loeffler.

H.R. 7532: Mr. Nedzi, Mr. Duncan of Tennessee, Mr. Musto, Mr. Murphy of Illinois, Mr. Roe, Mr. Mottl, Mr. Benjamin, Mr. Devine, Mr. Hollenbeck, Mr. Bauman, Mr. Murphy of Pennsylvania, Mr. Frost, Mr. Dougherty, and Ms. Mikulski.

H.R. 7632: Mr. Stockman, Mr. Corcoran, Mr. Frenzel, Mr. Tauke, and Mr. Brown of Ohio.

H.R. 7654: Mr. Lagomarsino, Mr. Murphy of Pennsylvania, Mr. McDonald, Mr. Cleveland, Mr. Lungren, and Mr. McDade.

H.R. 7663: Mr. Obey.

H.J. Res. 473: Mr. Mazzoli, Mr. Badham, and Mr. Kindness.

H.J. Res. 537: Mr. Hyde.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

383. By the SPEAKER: Petition of the Executive Committee, Federal Bar Association, Washington, D.C., relative to legal services by uniformed attorneys; to the Committee on Armed Services.

384. Also, petition of the 1980 Convention of the Central Conference of American Rabbis, Pittsburgh, Pa., relative to conscientious objection; to the Committee on Armed Services.

385. Also, petition of the 192d General Assembly of the United Presbyterian Church in the U.S.A., Detroit, Mich., relative to the defense budget for 1981; to the Committee on Armed Services.

386. Also, petition of the Southern Baptist Convention, St. Louis, Mo., relative to permissiveness and family planning; to the Committee on Education and Labor.

387. Also, petition of the 12th Annual Convention, Massachusetts Federation of Teachers, AFT, AFL–CIO, Lynn, Mass., relative to foreign languages and international studies; to the Committee on Education and Labor.

388. Also, petition of the 192d General Assembly of the United Presbyterian Church in the U.S.A. Detroit, Mich., relative to Korea and Nicaragua; to the Committee on Foreign Affairs.

389. Also, petition of the National Association of Attorneys General, Washington, D.C., relative to the holding of hostages by the Iranian Government; to the Committee on Foreign Affairs.

390. Also, petition of the Executive Committee, Federal Bar Association, Washington, D.C., relative to timely determination of agency authorizations; to the Committee on Government Operations.

391. Also, petition of the American Newspaper Publishers Association, Reston, Va., relative to the Telecommunications Act of 1980; to the Committee on Interstate and Foreign Commerce.

392. Also, petition of the Annual Conference, National Sheriffs' Association, Hollywood, Fla., relative to funding for law enforcement assistance programs; to the Committee on the Judiciary.

393. Also, petition of the City Council, Philadelphia, Pa.; relative to voting representation in Congress for the District of Columbia; to the Committee on the Judiciary.

394. Also, petition of the Common Council, Poughkeepsie, N.Y., relative to the dredging of PCB's from the Hudson River; to the Committee on Public Works and Transportation.

395. Also, petition of the American Benevolent Society Inc., St. Petersburg, Fla., relative to taxes; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7235

By Mr. SEBELIUS:

—On page 112, after line 11, insert the following new subsection and redesignate succeeding subsections accordingly:

"(b) Notwithstanding any other provision of this title, any rail carrier entering into a contract with one or more purchasers of rail services to provide specified services pursuant to this section shall, with respect to specified rates and conditions in such contracts, be subject to the antitrust laws of the United States. As used in this subsection, the term 'antitrust laws of the United States' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1980, the Federal Trade Commission Act, approved September 26, 1914, and the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, and all amendments to such Acts and any other Acts in pari materia."

H.R. 7631

By Mr. GLICKMAN:

—On page 32, line 25, strike "$376,343,000" and insert in lieu thereof "$383,143,000".

By Mr. McCLORY:

—Page 15, line 14, strike out "$529,838,000" and insert in lieu thereof "$531,338,000".

H.R. 7724

By Mr. GLICKMAN:

—On page 57, strike out all after line 14 through line 21.

H.R. 7765

By Mr. GRAMM:

—Amend the item in the table of contents of chapter 1 of title VIII relating to section 803 to read as follows:

Sec. 803. Report on coverage of medicare beneficiaries outside the United States.

Amend section 803 to read as follows:

REPORT ON COVERAGE OF MEDICARE BENEFICIARIES OUTSIDE THE UNITED STATES

Sec. 803. (a) The Secretary of Health and Human Services shall provide for a study of—

(1) the number of individuals, entitled to benefits under title XVIII of the Social Security Act, who, because medical services were furnished to them while they were residing or traveling outside the United States, have been unable under such title to have payments made with respect to such services, and the approximate amount of such payments not provided, and

(2) the desirability and feasibility of the different alternatives, including reciprocal agreements between the United States and foreign nations, to provide for such benefits or comparable benefits for services furnished outside the United States.

(b) The Secretary shall report to the Congress, not later than one year after the date of the enactment of this Act, on such study and shall include in such report such recommendations for legislative changes as may be appropriate.

—Strike out section 824. and the corresponding item in the table of contents of chapter 1 of title VIII.

EXTENSIONS OF REMARKS

CYPRUS TRAGEDY CONTINUES AFTER 6 YEARS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. BIAGGI. Mr. Speaker, on July 20, 1974, the Government of Turkey unleashed an illegal invasion and subsequent occupation of the sovereign nation of Cyprus. This past Sunday, on the sixth year observance of this tragic date in history, we bemoan the fact that so little progress has been made in restoring freedom and territorial integrity to Cyprus.

Six years after the invasion, Turkey still controls 40 percent of the land in Cyprus and an even greater percentage of the economy. The majority of the citizens of Cyprus continue to endure the hardship of dislocation, confiscation of their land and property, and denial of human and civil rights. Concurrent with these problems is the fact that there still remain 2,000 Greek Cypriots who are missing and unaccounted for by the Turkish Government as a result of the 1974 invasion.

In response to the invasion, Congress with my total support, voted to impose an arms embargo against Turkey since their invasion violated the terms of the Foreign Assistance Act. That was a position which was right then and still is today even though Congress did vote to lift the embargo in 1978.

The United Nations in November 1979 passed a resolution which reaffirms the strong support of the United Nations for troop withdrawal from Cyprus and underscores the need for respect for human rights there.

Greater advocacy by the United Nations and our own Government should be made evident in the year ahead to improve the status quo on Cyprus.

I would like to insert into the RECORD for the benefit of my colleagues the U.N. resolution, as well as an editorial from the Chicago Sun-Times on this issue.

Following is the text of Resolution 34/30 on Cyprus adopted by the U.N. General Assembly on November 20, 1979:

"The General Assembly

Having considered the question of Cyprus,

Recalling its Resolution 3212 (XXIX) of 1 November, 1974 and its subsequent Resolutions,

Mindful of the principle of the inadmissibility of acquisition of territories by force,

Recalling the idea of holding an International Conference on Cyprus,

Greatly concerned over the prolongation of the Cyprus crisis, which poses a serious threat to international peace and security,

Deeply regretting that the resolutions of the United Nations on Cyprus have not yet been implemented,

Welcoming the 10 point Agreement of 19 May 1979,

Expressing deep concern over the lack of progress in the intercommunal talks,

Deploring the continued presence of the foreign armed forces and foreign military personnel on the territory of the Republic of Cyprus and the fact that part of its territory is still occupied by foreign forces,

Deploring also all unilateral actions that changes the demographic structure of Cyprus,

Mindful of the need to settle the question of Cyprus without further delay by peaceful means in accordance with the provisions of the Charter of the United Nations and the relevant United Nations Resolutions,

1. Reiterates its full support for the sovereignty, independence, territorial integrity, unity and non-alignment of the Republic of Cyprus and calls once again for the cessation of all foreign interference in its affairs.

2. Expresses its support for the 10 point Agreement of 19 May, 1979, under the auspices of the Secretary-General of the United Nations.

3. Affirms the right of the Republic of Cyprus and its people to full and effective sovereignty and control over the entire territory of Cyprus and its natural and other resources and calls upon all states to support and help the Government of Cyprus to exercise the above mentioned rights.

4. Demands the immediate and effective implementation of Resolution 3212 (XXIX), unanimously adopted by the General Assembly and endorsed by the Security Council in its Resolution 365 (1974) of 13 December, 1974, and of the subsequent Resolutions of the Assembly and the Council on Cyprus, which provide the valid basis for the solution of the problem of Cyprus.

.5. Demands the immediate withdrawal of all foreign armed forces and foreign military presence from the Republic of Cyprus.

6. Requests the Secretary-General to continue to provide his good offices for the negotiations between the representatives of the two communities.

7. Calls for respect of human rights of all Cypriots and the instituting of urgent measures for the voluntary return of the refugees to their homes in safety.

8. Calls for the urgent resumption in a meaningful, result-oriented and constructive manner of the negotiations under the auspices of the Secretary-General between the representatives of the two communities to be conducted freely on an equal footing on the basis of the 19th May 1979 Agreement with a view to reaching, as early as possible, a mutually acceptable Agreement based on their fundamental and legitimate rights.

9. Calls upon the parties concerned to refrain from any unilateral action which might adversely affect the prospects of a just and lasting solution of the problem of Cyprus by peaceful means and to co-operate fully with the Secretary-General in the performance of his task under the relevant resolutions of the General Assembly and the Security Council as well as with the United Nations peace-keeping force in Cyprus.

10. Welcomes the proposal for the total demilitarisation of Cyprus.

11. Reiterates its recommendation that the Security Council should examine the question of the implementation, within a specified time frame of its relevant resolutions and consider and adopt thereafter, if necessary, all appropriate and practical measures under the Charter of the United Nations for ensuring the speedy and effective implementation of the Resolutions of the United Nations on Cyprus.

12. Requests the Secretary-General to report to the General Assembly by 31 March, 1980 on the progress achieved in the negotiations between the two communities on the basis of the Agreement of 19.5.1979.

13. Authorizes the President of the 34th Session of the General Assembly, in the event that the Secretary-General reports lack of progress in the above mentioned negotiations, to appoint an ad hoc Committee composed of no more than seven members.

14. Requests the ad hoc Committee to maintain contact with the Secretary-General in his task of facilitating the successful conclusion of the negotiations between the two Communities.

15. Further requests the ad hoc Committee, in consultation with the Secretary-General, to recommend steps for the promotion of the implementation of all the relevant resolutions of the General Assembly on Cyprus.

16. Decides to include the item entitled "Question of Cyprus" in the provisional agenda of its thirty fifth Session and requests the Secretary-General to follow up the implementation of the present resolution and to report on all its aspects to the General Assembly at that Session.

TURKEY MUST GIVE ON CYPRUS

Six years ago this week, Turkish forces invaded Cyprus to smother a Greek-led coup manifestly aimed at uniting the Mediterranean island with Greece.

The Greek offense was committed under a military dictatorship that is now history. The Turks long since have proved the point that they are powerful enough militarily to prevent Greek hegemonism on the island.

Still they keep 30,000 troops on the island, occupying 37 percent of it for the benefit of its ethnic Turks—18 percent of the population—isolating 180,000 ethnic Greeks from their homes in the north.

They continue to stonewall negotiations toward a democratic federation that might bring social justice and economic viability to Cypriots of both communities. Just last month, they scuttled a conference called under UN auspices to probe for a settlement. The fear now is that the Turkish Cypriots, under Turkey's direction, will make the inequitable division of the island permanent.

Cyprus is a running sore of centuries-old Greco-Turkish animosity that poisons far more than the lives of Cypriots and relations between the two countries. Both are members of the NATO alliance. At the time of the Turkish invasion, they were the West's uncertain anchor on a quiet Soviet flank. Now they are the blunted point of Western influence on turbulent Southwest Asia—Iran, Afghanistan and all the bloody rest of it.

Turkey owes itself and the Western alliance an equitable accommodation in Cyprus. Since it invaded the island, Greece has pulled its forces out from under NATO's authority and threatened U.S. basing privi-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

leges in Greece, which subtract from the security interests of Greece, Turkey and the whole democratic West. The industrial West now is pouring billions of dollars into Turkey to restore its shattered economy.

Surely even Turkish supernationalists can be made to see the futility of spending millions in scarce resources on a Cyprus army of occupation under these doleful circumstances.

An extortionate effort by Congress failed to budget the Turks: the U.S. arms embargo it imposed, now lifted, only further weakened NATO militarily. Quiet diplomacy by Washington and the UN has failed.

We don't know what might influence the intransigent Turks, but forceful pressure by the individual members of NATO is in order. Concerted effort by the alliance, perhaps, through the appointment of a referee of the international stature of West Germany's former Chancellor Willy Brandt.

The Turks must be persuaded to move on the Cyprus question out of a self-interest that draws the curtain on ancient national feuds.●

SOCIAL SECURITY BENEFITS

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MARKS. Mr. Speaker, as a result of a commitment I made more than 6 months ago, I was in my district yesterday and unable to cast my vote for House Concurrent Resolution 351. Had I been here, I would certainly have voted in favor of this bill.

I was a cosponsor of this legislation, which expresses the sense of the Congress that social security benefits should remain not subject to taxation. When I first heard the recommendation of the President's Advisory Council on Social Security that one-half of all social security benefits be subject to income tax, I began to make clear my very strong feelings on this subject.

I do not think that social security benefits should be taxed. My district also feels strongly about this; in a recent survey answered by 23,000 of my constituents, 93 percent declared that social security benefits should not be taxed. I am glad that this bill was passed, so that the House of Representatives could go on record in opposition to this proposal.●

LOSS OF BLUE-COLLAR JOBS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, many of my colleagues are painfully aware of the persistent erosion of America's industrial base. However, many do not realize that this erosion, while devastating to all members of our society, impacts hardest upon blacks. Department of Labor statistics indicate that in recent years, the jobless gap between blacks and whites continues to widen. In 1978, for example, the black jobless rate was 2.3 times greater than the white jobless rate—the widest disparity that has ever existed.

A recent article in the Baltimore Sun newspaper addresses the problem of the loss of blue-collar opportunities in the economy. The article follows:

The Loss of Blue Collar Jobs Hits Hardest Among Blacks

(By Martin Brown)

After decades of struggle toward social and economic well-being, real progress for a large proportion of black Americans has been halted, or even reversed. The setbacks stem not only from personal and institutional racism, but are deeply imbedded in profound structural changes that are reshaping the national economy of the 1980s.

Chief among those changes is the rapid dismantling of the American manufacturing sector, which for decades served as a vital pathway for black to the American promise of a well-paid job and economic security.

If few people understand the economic changes, the black urban poor of Miami and other cities do understand the results: The yawning gap between poverty and affluence is increasingly difficult to bridge. Where once—even recently—there was hope and aspiration, today there is increasing frustration and a sense of betrayal.

The reversal of recent gains for blacks follows a time when the old barriers to full social and economic integration were being battered down and the future looked encouraging. The ratio of black to white family income improved steadily for blacks during the 1960s, according to the Census Bureau. But by the mid-1970s the ratio had peaked and gone into decline.

Similarly, the ratio of black to white unemployment improved during the 1960s, but by 1978, black unemployment was again more than twice as severe as white unemployment. And while black employment in blue collar industrial work improved dramatically between 1940 and 1977 (from 38 percent of the black working force to 58 percent), it was precisely those kinds of jobs which were slated to disappear with the decline and exodus of the manufacturing sector.

Indeed, the manufacturing sector, which provided blacks with their major employment and income gains during the mid-century, is still vanishing at an alarming pace. Thirty years ago half of all workers were employed in manufacturing, mining, construction, transportation and utilities. By 1978, only about one-third of all workers were employed in this sector. According to the United Auto Workers union, some 15 million blue collar jobs have been lost in the last eight years.

This massive decline has left behind what many economists call a two-tiered economy—one tier featuring high-level, high-paid professional/technical workers and the other offering low paid jobs in the booming service sector, with little or no opportunity for advancement.

The best jobs continue to be held primarily by white Americans whose geographic mobility, educational credentials and network of personal contacts provide their entry into the upper tier of the economy. Fully 40 percent of all white working men are employed in professional, managerial or administrative positions. Only about 12 percent of the black male labor force is employed in such jobs.

The low-level jobs of the growing service sector—clerks, dishwasher, waiters, hotel workers—are eagerly grabbed up by the burgeoning new immigrant populations that will accept substandard wages and working conditions. Second- and third-generation urban blacks are naturally disinclined to compete with immigrants for the kinds of poor jobs which their grandparents held. History and a generation of economic progress is not easily reversed.

Thus, with relatively few blacks in the upper tier of the job market, and with surging numbers of immigrants taking the jobs in the lower tier, a huge proportion of urban blacks have been left dangling in the middle—in the vacuum created in large part by the precipitous decline of the manufacturing sector.

These trends have been produced by the structural transformation of the American economy. The progress that blacks attained up until 1970 was largely dependent upon institutional channels of increased job opportunities. In the early years of the century, immigrant black workers from the rural South were actively recruited by large Northern industrial corporations because they were willing to work for lower wages and were almost totally immune to union organization.

In the 1930s and 1940s many of these same black industrial workers obtained equal pay for equal work and other kinds of equal treatment as they became a crucial component of the New Deal and the new industrial unionism. In the 1950s and 1960s, blacks began to obtain equal access to education, housing and jobs, largely as a product of the civil rights struggle and the resulting legislation.

But in the 1970s, these sources of progress were severely undermined. Traditional unionized industry left the industrial cities for the suburbs, the Sun Belt, Europe, Japan and the Third World, leaving rising unemployment and degrading welfare dependency in the urban black communities.

At the same time, another major path of upward mobility for blacks was also shrinking. Government employment, which in the 1960s and 1970s rose dramatically, included large numbers of blacks through aggressive affirmative action campaigns. But with the economy in decline, and with a middle-class tax revolt against government spending, these jobs peaked and are now being cut.

In today's economy, the key to getting good jobs is no longer the unions or the affirmative action programs of government. It is increasingly personal resources that make the difference, particularly education, personal connections and geographic mobility.

But blacks, still burdened by a legacy of past educational discrimination, are at a distinct disadvantage on every count. They lack the resources to obtain the ever-higher educational degrees needed for the best jobs. And, because so few blacks have a place in the upper economic tier, they lack the network of family and friends who could give them a hand up.

They also are relatively rooted in urban communities—unlike new immigrants—by a combination of home ownership, family ties and responsibilities and dependence on local social services.

Thus, urban blacks in the '80s find themselves trapped in an economic no-man's-land, the rising aspirations of a generation betrayed by irreversible forces over which they have no control.

This is the reality for the blacks of Miami—and of New York and San Francisco and Detroit and a dozen other American cities. It is a kind of institutional racism far more profound and cruel than that which motivated the civil rights movement of an earlier time. The fact that it stems from largely impersonal market forces rather than personal racist malice does not lessen its emotional impact, as Miami aptly demonstrated. Indeed, the emotional eruption in Miami spread as dark a pall across America as the volcanic ash that blotted out the sun.●

HUDDLED MASSES YEARNING TO BE FREE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. DERWINSKI. Mr. Speaker, Rev. Donald M. Parker, editor of the outstanding Christian publication of Lansing, Ill., the Christian Citizen, follows the events on the national scene with a great deal of perception. In his editorial, which appeared in the May 23 edition of the Christian Citizen, Reverend Parker discusses the Cuban refugee problems and the fact that too often we forget the humanitarian needs of those who suffer harsh restraints that are unwillingly imposed upon them. His dramatic editorial follows:

HUDDLED MASSES YEARNING TO BE FREE

A distinguished, world-famous "lady" stands in New York Harbor. She holds in her 42-foot long arm a torch, the tip of which towers some 300 feet above sea level.

The Statue of Liberty portrays just that—Liberty, in the figure of a woman who has just won her freedom. In her left arm she clutches a book of law inscribed *July 4, 1776.* Broken shackles lie at her feet as she steps forward to enlighten the world.

Millions have gazed upon this green-copper statue with tears of joy and thankfulness. Next to life itself, freedom is one of the most precious possessions enjoyed by mankind.

By some of mankind, that is.

Thousands have fled Cuba. Tens of thousands—perhaps hundreds of thousands of others—are waiting to flee the Communist-dominated country of Fidel Castro. The socialistic "dream" has been a nightmare for too many for too long.

Our hearts—and our hands—have to go out to those who want to be free; who want to be reunited with loved ones. Yes, there are the reported undesirables that Castro is intermingling with the aged and infirm, but they must be left to the immigration authorities to screen in Key West, Florida.

Many Americans today seem to have temporary amnesia as respects their ancestry and national origin. They are saying, "Make the Cubans stay in Cuba . . . send them back. Our economy is bad enough as it is. We don't have sufficient jobs for our own citizens who want and need work to support their families."

While our nation *does* have economic woes these days, and whereas our standard of living is on a temporary (?) decline, we have no other choice than to offer a friendly shore and helpful resettlement.

This is simply to be Christian. The Cuban is our neighbor. Families have been torn apart by the "Agrarian Reformer," Fidel Castro, that this nation once helped to power.

Turn the boat loads of refugees back to Castro's Cuba? How soon we forget the horror and outrage we felt when we heard of the Indochinese "Boat People" being shoved back to sea by countries not wanting their filthy, impoverished, disease-ridden bodies. Shocking were the stories of ships "passing by on the other side" while little vessels with swarming hoards of hurting, crying humanity were either swamped or totally disregarded.

Cuba's Castro has been quoted as admitting, "We are sailing in a sea of difficulties. . . The shore is far away."

The Cuban economy is a disaster. National mismanagement has caused chronic shortages of basic food supplies, even with the $3.5 billion in annual aid being pumped into Cuba from the USSR. Communism is but a way of death. If not supported by free nations, it cannot long survive.

But the flotillas streaming to the U.S. from Cuba do need acceptance and assistance. Their perilous passage to these shores does not bring them past the lady Liberty, yet her pedestal inscription in bronze, written by Emma Lazarus, speaks to and of Cubans as well as European Anglo Saxons and any other nation of the world:

Give me your tired, your poor,
Your huddled masses yearning to be free,
The wretched refuse of your teeming shore,
Send these the homeless, tempest-tost to me:
I lift my lamp beside the golden door!●

HONORING 50 YEARS OF SERVICE TO OUR NATION'S VETERANS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. YOUNG of Florida. Mr. Speaker, 50 years ago President Herbert Hoover signed into law an act that consolidated and coordinated the Veterans' Administration which today serves 30 million veterans and dependents.

Frank Thomas Hines was the Administration's first Director and was in charge of 24,700 employees, who served the Nation's 4.7 million veterans. Today Max Cleland heads the Administration and its 230,000 employees. The VA, which celebrated its golden anniversary yesterday, is the second largest Federal agency in terms of employment and the third largest in terms of budget.

Despite the size of the agency, its employees still treat the veterans with an individual and personal attitude that is befitting of those who served their country so well. More than 1 million Americans have died for this great country. Thirty-eight million others served and returned home, but some returned wounded or needing help. Through the Veterans' Administration the grateful American people have supplied the help to those Americans who risked their lives to maintain a free democracy.●

FOREIGN AID NEEDS HELP

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. McHUGH. Mr. Speaker, a recent editorial in the New York Times correctly points out that the United States may well be the biggest loser if Congress continues to indiscriminately reduce funding for our foreign assistance programs. I hope that our colleagues will keep this point in mind when the fiscal year 1981 foreign aid bill finally reaches the floor of the House.

For the benefit of those of our colleagues who may not have seen this editorial, I am inserting a copy into the RECORD at this point.

[From the New York Times, July 15, 1978]

FOREIGN AID NEEDS HELP, BY ANY NAME

To the departing Secretary of State, Cyrus Vance, the decline in United States aid to the developing countries was "disgraceful." To his successor, Edmund Muskie, there is also a practical reason for alarm. He points out that Congressional cuts are depriving the nation of a weapon of influence to block Soviet and Marxist advances in the third world.

This return to cold-war rhetoric should not be shocking in the wake of the invasion of Afghanistan. Even leaders who have no taste for simplistic sloganeering are desperate for ways to arouse the public to a major issue of national security.

The American record is devastating. As a percentage of the gross national product, development aid dropped from better than .5 percent in the Eisenhower-Kennedy years of 1960-63 to less than .25 percent in the Nixon-Ford-Carter period of 1973-78. Last year, the proportion fell to a low of .19 percent. Among the 17 aid-giving industrial democracies, only Italy ranked lower.

We and others have always believed in the old saying that "foreign aid has no constituency." But the Agency for International Development disagrees, citing an opinion survey which shows that there are two unorganized but potentially influential constituencies for aid: a "constituency of conviction," favoring an enlightened foreign policy and an overlapping "constituency of interest" that depends on third-world trade. If so, well and good. But what seems more important than the ineffectiveness of the aid constituencies is the skill and persistence of the opponents of aid.

One reason may be that in recent years the argument for aid has been cast not as anti-Communist but as pro-American: meeting "basic human needs" in the poorest countries would also advance the American interest in political stability and an open, growing world economy. The argument is sound, but doesn't sell well.

The opponents of aid, meanwhile, have exploited the Communist bogey. They have endangered the World Bank and regional development institutions by enacting unworkable prohibitions on help to Communist Vietnam and other regimes of a more ambiguous stripe. The year-long Congressional hold-up of bilateral aid to Nicaragua to hinder what they call a "Marxist Sandinista" regime has instead strengthened those who prefer to get help from the Communist world and has weakened the allies of private business and democracy. American aid for an important land reform in El Salvador, for example, will be impossible unless Congress removes Senator Helms' prohibition, which the Senate accepted last month without debate.

As Mr. Muskie noted, declining American aid and influence "help the Soviet exploit internal instability in Nicaragua, in El Salvador and in many other places." Mr. Muskie knows Congress. With the 1980 aid bill still stalled in a political season, he is meeting the opposition on its own ground. It is regrettable that the appeal for aid has to be based on fear and negative reasons, but the need for it, on any ground, is obvious and urgent.●

OPENING OF THE OLYMPICS PROMPTS SOVIET REFUSENIKS TO PETITION SOVIET LEADER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. DRINAN. Mr. Speaker, the opening ceremonies of the 1980 summer Olympics in Moscow last Saturday provided an opportunity for many long-term refuseniks to reflect on their predicament. For months now, Soviet citizens who wish to emigrate have been urged to leave Moscow, and other Olympic sites, so that they will not be as easily accessible to Western visitors during the games. The effect of this Soviet strategy has been to decrease the contacts between Western tourists and Soviet citizens, and thus reduce the extent to which tourists are able to view Soviet life.

The Washington Committee for Soviet Jewry received a copy of a statement to Soviet President Leonid Brezhnev just prior to the opening of the games, signed by 16 Soviet Jews. I bring this letter to the attention of my colleagues because it points to the pressing problems faced by a growing number of Soviet citizens.

The letter follows:

JULY 18, 1980.

To President LEONID BREZHNEV:

Emigration policy is one of the important criteria in measuring the humanity of the Soviet Union. The subject of liberalizing emigration policy has been brought to the attention of the Soviet leaders many times, as well as to social and religious activists in other nations. Now, just before the Moscow Olympics it is extremely important to eliminate circumstances which can cause a cooling of the international climate.

Therefore, we think that showing humanity and good will to those who are in prisons and in exile who were trying to emigrate and also to those waiting many years to join their families in Israel will better the atmosphere in international affairs and will help to avoid concerns for the participants in the Moscow Olympics.

At this unstable time we demand:

Release those imprisoned and exiled for applying to emigrate from the Soviet Union.

Grant exit visas to families who are waiting to join their relatives in Israel for more than 5 years.

Maximum waiting time for exit visas not to exceed 5 years.

There is no doubt that when these demands are realized, they will contribute to a better climate during the Moscow Olympics. This improvement will be received enthusiastically in all Western countries and will help the process of detente in which you played such an important role in the seventies.

These are the names of Jews who are waiting for permission to leave the Soviet Union:

Eitan Finkelstein, 10 years; Alexander Lerner, 9 years; Lev Ovsisher, 9 years; Gregory and Isai Goldstein, 9 years; Mark Nashpitz, 9 years; Kim Fridman, 8 years; Vladimir Kislik, 7 years.

Isaac Tsitverblit, 7 years; Lev Blitshtein, 6 years; Lev Roitburd, 6 years; Arkady Mai, 5 years; Elena Seidel, 5 years; Hanna Elinson, 5 years; Yakov Alpert, 5 years; Abe Stolar, 5 years.●

HARLEM RENAISSANCE COMES TO OAKLAND

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. STARK. Mr. Speaker, I should like to take this time to call to the attention of my colleagues an outstanding photographer of people—James Van Der Zee, who, at the age of 94 is still performing magic with his camera.

Mr. Van Der Zee's magnificent works are currently on exhibit at the Oakland Museum, and will be highlighted at a reception for him on Sunday, July 27, 1980—hosted by the Oakland Museum and the Cultural and Ethnic Affairs Guild.

James Van Der Zee was born on June 29, 1886, in Lenox, Mass. His parents had formerly worked for Gen. Ulysses S. Grant. Mr. Van Der Zee is the oldest and one of the best-known black photographers today.

He is self-taught, having become interested in photography in 1900. He opened his studio in Harlem in 1916, and his photographs document black life in the 1920's and 1930's, principally life in Harlem during this era. His images had been seen in the general press for many years, but he was never nationally recognized until 1969, after he had been taking pictures for almost 70 years. A major exhibit was put together in 1969 at the Metropolitan Museum of Art * * * "Harlem On My Mind". * * * James Van Der Zee was the principal exhibitor.

Van Der Zee, who continues to lecture on photography, was the subject of a segment of the television show, "Black Journal," and, in 1979, received the Living Legacy Award from President Carter. There are 125 of his photographs currently on exhibit at the Oakland Museum, depicting black life in every major U.S. city during the period of 1926 to 1940. All of the photographs are black and white.

Mr. Van Der Zee has brought Harlem renaissance to Oakland to share the history and culture of blacks through his photographs, and I am extremely proud and pleased.●

STANDBY GAS RATIONING PLAN

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Ms. MIKULSKI. Mr. Speaker, the House will soon be voting on a motion to discharge House Joint Resolution 575, a resolution which disapproves the standby gasoline rationing plan. I support the resolution. The standby gasoline rationing plan will go into effect unless both Houses disapprove it by July 30.

As a Member of Congress who served on the original ad hoc energy committee throughout 1977, and as a member of the Commerce Committee, I am deeply concerned with the effects on American society of the present energy situation. I totally understand the need to reduce our dependence on imported oil, and I realize that a standby gas rationing plan is important to such a goal.

However, the Department of Energy has given us nothing more than a warmed-over version of its original plan, allocating gasoline to registered vehicles, which was soundly defeated in the Congress because it was inequitable.

This proposal would wreak havoc on working class families and elderly citizens. It penalizes low-income households where many people use the same car in favor of the well-to-do multicar household. It rewards people who have been using more than their share of gasoline, and punishes people who have tried to conserve. It is unfair, inequitable, and will ultimately be counterproductive.

The American people are willing to make sacrifices—if they believe that sacrifice is equally shared. They are willing to conserve on gasoline—in fact they are already using less gasoline—so long as they believe that the entire country is faced with a real emergency. But this plan makes a mockery of such efforts. It carries the message that people with more cars—and more money—do not have to live up to the same rules as everyone else. At the same time it will mean terrible hardship for lower income working families who must use the same vehicle for all their transportation needs including traveling to work, shopping, and necessary medical care.

In July testimony before the Commerce Subcommittee on Energy and Power, the Urban Environment Conference, a coalition of 26 national consumer, labor, and environmental organizations, testified against this plan. They point out that "rationing gasoline based on the number of cars a person owns is like rationing food based on how many refrigerators a person owns." The conference said:

This plan discriminates against carless and one-car, often low-income households, in favor of more affluent multicar households, and will create an enormous incentive to hold on to old gas guzzlers merely for the valuable gasoline allocation they represent.

I urge my colleagues to vote for the discharge petition and bring House Joint Resolution 575 to the House floor for a vote. The plan is unfair and unworkable. I invite my colleagues' careful consideration of the following Baltimore Sun article which points out the problems with this proposal.

The article follows:

Study Puts Holes in Gas-Ration Plan

(By Kenneth T. Berents)

Gas rationing may be around the corner or well down the road. But, it is not too early for researchers to punch a hole in rationing's gas tank.

A Johns Hopkins University professor, Allen C. Goodman, has studied the government's gas rationing plan and his research indicates there are problems with the proposal to allocate gasoline for each registered vehicle.

The Department of Energy's gas allocation of 40 gallons a month to each registered vehicle would cut the average local travel in half, according to the findings of Mr. Goodman, an assistant professor of political economy at the Hopkins Center for Metropolitan Planning and Research.

The energy department has settled on a per-vehicle allocation instead of a rationing system using licensed drivers. A spokesman for the department, Bill Webb, said both systems were studied but officials believe the per-vehicle system is "more equitable."

Mr. Goodman found that "the poor persons would do better on a per-person plan than a per-vehicle.

"If the ration plan alloted 20.7 gallons per person per month, low-income households would have a surplus of 26 gallons per month," he stated in his report based on Baltimore-area driving patterns.

By comparison, under the vehicle plan, a low-income family, defined as one earning less than $5,000 a year, would just about break even on the ration plan, with no unused coupons to sell, is indicated.

Low-income, inner city families would get fewer coupons than middle class, suburban families which own more cars and the poor also would not have the extra money to buy them. This plan also would cause nearly everyone to run short.

With the per-driver system, however, he said, "If coupons sold on the 'white market' for $1 or $1.50, the poor households could receive as much as $40 per month in extra income.

"At the other extreme, households with incomes above $25,000 would have to spend an additional $160 per month for 108 gallons to maintain their prerationing driving patterns."

Conversely, under the per-vehicle system, families with incomes above $25,000 would find themselves only 73 gallons short a month to maintain old driving patterns, he explained.

The government's rationing system would permit the selling of unused monthly coupons on an open market basis. However, the government predicts that in the open market, a coupon would sell for $2 to $5.

"That would provide a windfall gain to people who don't drive much," said Mr. Webb, and is a main reason why the energy department opposes the per-driver plan.

Mr. Goodman, who used a survey of 956 Baltimore-area households, said possible long-term effects from rationing would be more carpooling, the creation of a four-day workweek and changes in economic development.

People would begin to live closer to where they work, he said.

"In Baltimore, you might see as much movement toward the Beltway as to the inner city," he said.●

SOUTHERN CALIFORNIA BROADCASTING CO.

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MOORHEAD of California. Mr. Speaker, KIEV radio 870 will be celebrating its golden anniversary of broadcasting in southern California on July 25. The Glendale enterprise began operation in 1930 as a 100-watt, clear-channel frequency.

As time passed, its power and reach increased, where today Southern California Broadcasting Co. operates at 5,000 watts during daytime hours, reaching thousands of southern Californians every day.

KIEV operates studios and has executive offices in Glendale and a beautiful new studio in the Arco Plaza in downtown Los Angeles. Its programing is educational, informative, and entertaining. Its talk show format involves listeners with fashion, politics, dining out, health, law, travel, religion, and many other current topics of interest and community concern.

Mr. Speaker, I would like to take this opportunity to congratulate KIEV, its owners—William, Fred, and Ron Beaton—and all the employees who have contributed to the success of KIEV, which for 50 years has been a beacon of information and enlightment for the residents of southern California.●

PUERTO RICAN DAY PARADE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. RODINO. Mr. Speaker, I am honored that once again the New Jersey Statewide Puerto Rican Day Parade will be held in my home city of Newark on July 27. This year's parade promises to be one of the most ambitious because of the active participation of so many members of the Newark community.

Mr. Johnny Cossio is president of the executive committee of the 1980 Puerto Rican Statewide Parade. Walter Mercado, the television personality, will be the grand marshal. This year's queen, Everly Aponte, is an appropriate representative of Puerto Rico, the jardin de flores.

There are many men and women who have worked hard to make this parade a success, and while there are too many of them to name here, I want to note just a few of those who have been responsible for the central organization.

My friend Marie Gonzalez, who is a member of the Newark Human Rights Commission, is again serving as liaison and coordinator for the parade and the Puerto Rican community. Pablo Rivera is the parade's general coordinator, and Casto Maldonado, Tony Perez, and Roberto Rivera are advisers to the executive committee. Ernesto Cabrera is assistant coordinator; Johnny Velez is first vice president; Jimmy Marrero is second vice president; and Ramon Noguet is third vice president of the parade. The executive secretary is Bertha Mellowes; the recording secretary is Gloria Torres Texidor; the treasurer is Antonia Ortiz; the subtreasurer is Frank Melendez and the sergeant at arms is Cipriano Suarez.

Honorary members of the parade's executive committee include the Governor of Puerto Rico, Carlos Romero Barcelo; New Jersey Gov. Brendan Byrne; Newark Mayor Kenneth Gibson; and Dr. Jose Rosario, who is the founder and executive director of FOCUS, Inc., in Newark.

Mr. Speaker, this is the 18th year of the Puerto Rican Day Parade in Newark. The tremendous effort by so many concerned persons combines to make the week of July 21-27 one of the most festive of the year. During this week, all American citizens can rightly take pride in the Constitution of the Commonwealth of Puerto Rico and the beautiful Puerto Rican traditions that enrich our country. In Newark and throughout New Jersey the Puerto Rican community is proud of the contributions of their heritage to American society.

Governor Byrne and Mayor Gibson have recognized the importance of this celebration and they will declare the day of July 27 as Puerto Rican Day in the city and the State. As this week continues there will be much celebration of the cultural contributions of Puerto Rican Americans. On Friday, July 25, the Newark Museum will host a cultural program featuring dances of Puerto Rico. On Saturday, Jose Rosario will host a banquet for the Puerto Rican community, and on Sunday, Mayor Gibson will hold a breakfast prior to the parade. Miguel Rodriguez, who has been closely involved with the parade for many years, is working hard to coordinate the activities prior to the parade.

When the parade begins on Sunday afternoon, the efforts of all those people will come together to signify the ambition and creativity of the Puerto Rican people. I believe the parade will heighten our appreciation for Puerto Rican culture, and I look forward to more Puerto Rican Americans taking over positions of leadership in society. I know that the Puerto Ricans in my home community are working toward this goal. For example, they are vitally concerned with providing opportunities for young people. All of the proceeds of the parade will go toward a college scholarship fund for needy Puerto Rican students.

Mr. Speaker, America is fortunate to include the Puerto Rican heritage as part of our culture and I am especially proud to be a part of one of the most vibrant Puerto Rican communities on mainland U.S.A.●

THOSE OIL COMPANY PROFITS—NOT WHAT THEY SEEM

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, one of the most misunderstood subjects of our time is the topic of corporate profits. Recently, the profits of oil companies have been almost universally condemned. The implication is that oil companies are robbing the American people because the profits of the companies are numerically high.

There are several fallacies to this kind of thinking; but, of course it is far easier to throw slogans around than it is to examine the facts.

Recently a constituent of mine, Mr. Claude Spencer, of Danville, Ill., wrote to the Danville Commercial-News on the subject of corporate profits. I hope that every one of my colleagues will take a moment to seriously consider Mr. Spencer's letter. His letter follows:

• OIL COMPANY PROFIT DEFENDED

To the EDITOR:

When are profits of a corporation a "rip-off" of the consumers? Is the risk involved a basis of justifying a higher profit? Should a company that drills a hole in which there may or may not be oil taking a larger risk than an institution that loans money on first mortgages? Who knows?

Profit, a percent of sales or the number of pennies a company makes in profit out of each dollar of sales, has been the best measure of a company's operation.

Consider if you will the report from Fortune Magazine in which the sales and profit of the top five hundred companies are listed. Eight oil companies are listed and the top company earned eight cents per dollar of sales. That company was Standard of Indiana. The following oil companies all earned less than eight cents per dollar of sales: Exxon, Mobil, Texaco, Standard of California, Gulf, Atlantic Richfield, Shell and Conoco.

If eight cents or less is too much profit, then what about eight cents by the Phillip Morris Company, nine cents by the Los Angeles Times, 12 cents by Eastman Kodak and 12 cents by Gannett, owner of the Commercial-News?

Our government (and the liberals) want to socialize through taxes the oil industry. What about the tobacco, the news, the insurance, the banks, the building and loans, the food and all the other industries of our country?

Should we put on the windfall profits tax? Perhaps we should. Then we can have food rationing, loan rationing, insurance rationing, news rationing, etc.

I just wonder how long it will be until the government rations, by one means or another, our having children? Give the liberals a chance and they will figure some way.

For a real rip-off, all we need do is look at our president, our congress and our supreme court, where you and I are ripped off every day.

CLAUDE E. SPENCER.●

THE CONTINUING STALEMATE ON CYPRUS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence I had recently with the Department of State on the Cyprus issue and the conduct of United States-Cypriot relations.

The continued stalemate on the Cyprus dispute and the inability of the United Nations, United States, and others to be able to help start meaningful negotiations is a deeply frustrating matter for many Americans.

On a somewhat related issue, concern has been expressed in recent months that the United States is apparently not receiving much credit among Cypriots for the more than $100 million in economic assistance which we have provided since 1974 to the Cypriot people. It is in our national interest to provide economic and humanitarian assistance to the Cypriot people but in the process we should seek to build new and better American bridges to them.

The correspondence with the Department of State follows:

CONGRESS OF THE UNITED STATES,
COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 17, 1980.

Hon. EDMUND MUSKIE,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I write concerning the implementation of United States policies toward Cyprus.

As you know, there is likely to be elections on Cyprus in 1981 in both communities. I guess, given the recent track record, there are only limited possibilities for progress in negotiations that exist in the intervening year or so.

The question remains concerning what we should do in the next year. Recently, there have been several Cypriot visitors who have urged that the United States abandon its low profile on the island and speak up and out on the issues of concern to Cypriots and on what we can try to do to help. These visitors indicated that few Cypriots are aware of the large amounts of assistance we have provided; they say that the profile of East Europeans and other socialist diplomats is much more visible than that of our own; and they feel that the United States should make efforts to improve its contacts and to demonstrate its desire to help promote a settlement because key elements in both communities are becoming more upset over the lack of progress and over the seemingly sterile approaches to peace talks which are being currently explored.

I would be interested in the State Department's reactions to these types of comments. I want to be helpful in trying to move toward the goal we all seek—a just and lasting federal solution on the problems of Cyprus.

I look forward to hearing from you.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

OFFICE OF THE SECRETARY OF STATE,
Washington, July 14, 1980.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: Thank you for your letter of June 17 concerning the implementation of United States policy toward Cyprus.

In spite of the difficulties involved in the Cyprus negotiations, we believe that progress is possible and we will continue to explore every avenue which might facilitate the achievement of some measure of progress toward settlement of the Cyprus dispute.

The State Department has carefully considered the questions you raise in your letter. The profile of the East Europeans in Cyprus is at times high, due in part to the frequency of high-level visits by Eastern bloc officials to the island. These visits by Eastern bloc leaders have been low in concrete results but high in propaganda value.

Our Embassy in Nicosia recognizes the importance of conveying an accurate impression of the United States in Cyprus and is undertaking a cultural exchange program.

Regarding aid to Cyprus, the U.S. has indeed contributed a great deal of money—$117 million since 1974. This money is channeled through the U.N. High Commissioner for Refugees who administers and disburses the funds. Our Ambassador in Nicosia is encouraging both the Government of Cyprus and the Turkish-Cypriot administration to more fully acknowledge this major economic contribution made by the United States.

The Department of State continually reviews U.S. Cyprus policy. You will recall that in November of 1978, the United States, along with the United Kingdom and Canada, put forth a series of suggestions upon which a mutually acceptable settlement might be based. These suggestions were not accepted by the Government of Cyprus. The Cypriot Communist Party, one of the most important parties on the island, stated at the time that no solution proposed by the United States could be acceptable. More recently, the suggestion that the Cyprus dispute might be solved through a Camp David-style meeting was rejected by the Cypriot Government. In rejecting the suggestion, the Government of Cyprus said that "the Cyprus problem should remain within the framework of the U.N. and that any initiative must be made within this framework." In fact, at the present time it would appear that the U.N. Secretary General is the only third party acceptable as an intermediary to both sides in the Cyprus dispute.

These factors notwithstanding, I can assure you that the U.S. Government remains very much interested and involved in the settlement of the Cyprus problem. I have just returned from the NATO Ministerial meeting in Ankara where I had the opportunity to meet privately with Turkish Prime Minister Demirel and Greek Foreign Minister Mitsotakis. Cyprus was one subject raised in both meetings. Under Secretary Nimetz also had useful discussions with Cyprus Foreign Minister Rolandis in Athens.

At present, it appears that the United Nations effort has the best chance of bringing the two sides back to the negotiating table. The United States will continue to actively support the Secretary General and his good-offices effort.

I appreciate receiving your thoughts on Cyprus. We will continue to consult with the parties to the dispute, our allies, and all who are legitimately interested in bringing peace to this troubled island.

With best wishes, I am

Sincerely,

EDMUND S. MUSKIE.●

PERSONAL EXPLANATION

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MARKS. Mr. Speaker, yesterday the House approved several bills, including two which provide for increases in educational benefits and general compensation for military veterans. I regret not being able to be on the House floor when those votes were taken. In fact, I was making the keynote speech at the 50th anniversary program of the Veterans' Administration which was sponsored by the Veterans Hospital of Erie, Pa., in my district. Had I been present yesterday, my vote would certainly have been in favor of both of these bills, which will benefit more than 30 million living veterans who constitute two-thirds of all Americans who ever served in uniform in wartime during our 203-year history. The sacrifices made by these veterans and their families is more than ample reason to support these bills which reflect the appreciation of a grateful Nation. I was delighted that H.R. 7511, the Veterans Compensation Act, and H.R. 7394, the Veterans Education Act, were both passed overwhelmingly.●

NAMES OF AGENTS LEGISLATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MAZZOLI. Mr. Speaker, on Wednesday, July 23, 1980, the House permanent Select Committee on Intelligence, on which I serve, will begin marking up H.R. 5615, the Intelligence Identities Protection Act.

This legislation will make the unauthorized disclosure of the names of undercover intelligence agents stationed abroad a Federal crime.

Recent news accounts that the home of a staff member of the U.S. Embassy in Jamaica was machine gunned after his name and others were disclosed by a Washington-based group as alleged CIA agents posted in the Caribbean country underscore the urgency with which Congress must treat this legislation.

Whatever the motives of people like those who singled out the Embassy staffers in Kingston, Jamaica, as alleged intelligence agents, this action is despicable, inexcusable, and outrageous.

The unauthorized disclosure of the identities of undercover agents renders our intelligence agents and officers ineffective, hinders our country's ability to defend itself, and—as illustrated in this case—places the lives of loyal Americans and their families in jeopardy.

It is only appropriate—and long overdue—that such actions be made a Federal crime and the offenders be subject to severe penalties for unauthorized disclosures.

I realize that there are some who view H.R. 5615 with concern on civil liberties grounds. But, our intelligence officers must be able to gather the information necessary to protect our national security—expecially in these volatile times—without the risk of being exposed by irresponsible and morally bankrupt persons.

The passage of H.R. 5615 into law will do much to strengthen our Nation's intelligence capabilities and protect the national security.●

REASSURANCE ON SOCIAL SECURITY

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. FISHER. Mr. Speaker, yesterday the House passed two bills reassuring retired persons and others that the social security system will continue to pay benefits that they have been expecting and that those benefits will remain tax free. In troubled economic times it is important for older, retired people to have a sense of security and stability in their income. Passage of the bills shows the commitment of Congress to the purposes of the social security program.

Because of the high inflation in the last year, the trust fund that pays the old-age and survivor benefits, the benefits that most people consider social security, will be paying out more money for benefits than it will be taking in from the payroll tax. The other two trust funds, for disability insurance and health insurance, will not be experiencing the same difficulty in the short term. The revenue for the social security system as a whole is expected to be adequate for the next year or so, but the allocation of the revenue among the programs will be inadequate for the old age fund. For the short term the best solution to this problem is to change the allocation among the funds.

The bill H.R. 7670 reallocates social security taxes between the old-age and survivors insurance fund and the disability insurance fund. Retroactive to January 1, 1980, more tax funds will be allocated to the old age fund and less to disability. The reallocation will extend through the end of 1981. The effect of this change will not be noticed by taxpayers. The tax increase scheduled for January 1, 1981, will go into effect as planned. Beneficiaries will continue to receive their checks as they have expected, without the fear that there will not be enough money to pay them.

The fact that the reallocation is only for 2 years will keep the pressure on Congress, and specifically on the Ways and Means Committee, to reexamine the financing of the system to see what permanent changes are needed to insulate it better against the economic fluctuations to which the system is now too vulnerable.

Also before the House today is a resolution stating that it is the sense of the Congress that social security benefits should remain exempt from Federal income taxation. Since the first social security benefits were paid 40 years ago, the Internal Revenue Service has ruled that they should not be taxed. Recently this tax-free status came into question when the Social Security Advisory Council recommended that half the benefits should be subject to tax. Although no legislation has been proposed to effect this change, it is important to reassure beneficiaries that Congress does not intend to subject their benefits to taxation. Such taxing would amount to a reduction in benefits for some people and is not fair or appropriate.

I believe that the social security system is vital to the well-being of the senior adults in this country and that nothing should be allowed to happen to undermine the system. The two pieces of legislation approved by the House reaffirm Congress support for social security.●

CONGRATULATIONS TO JAMES FUCILE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. DORNAN. Mr. Speaker, James Vincent Fucile of Manhattan Beach, Calif., will be honored tomorrow, July 24, by the Hermosa Beach Chamber of Commerce upon his completion of 2 years as president. I will be unable to attend this event, so I would like to take this opportunity to honor Mr. Fucile before this distinguished body.

Naturalized citizens of our great Nation, James and Irene Fucile moved their family to Manhattan Beach from Canada in 1953, almost immediately becoming involved in their new community. A father of eight and grandfather of five, James had devoted himself to his children through his involvement in both the Boy Scouts and Little League baseball.

A leading merchant in his community, James Fucile's involvement in civic and charitable affairs has increased over the years. He has been a member of the Knights of Columbus for 33 years and currently serves on its board of directors. As president of the Hermosa Beach Kiwanis as well as the chamber of commerce, James Fucile has also been extensively involved in the Hermosa Beach sister city program.

James and Irene Fucile, along with their children, personify the American dream come true. I am confident that the recognition which James will receive tomorrow will inspire him to continue his efforts on behalf of the community.

James and Irene, congratulations, and thank you.●

THE NEW COLONIALISM

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. SYMMS. Mr. Speaker, this body recently passed the conference report on S. 2009, the central Idaho wilderness bill, indicating that it is the intention of Congress that Idaho again contribute to the national wilderness preservation system. This decision was made despite the objections of three-fourths of Idaho's congressional delegation, its State legislature, its land board, its resource-dependent industries, its farmers, ranchers, and a majority of its citizens.

This is not the last time Congress will address wilderness in Idaho or other Western States, but I hope that Congress will more fully balance the economic effects of these future wilderness enactments with its seeming hunger for land and resource withdrawals. Westerners are quickly tiring of losing jobs and resources, without serious consultation, when wise management of the public lands would result in cautious resource development coupled with the conservation of our wildlands.

Today, I submit to the Members' attention, an article by Heritage Foundation environmental policy analyst, Lou Cordia, who compares the current lockup mood of Congress, against local wills, to a new colonialism. I commend its reading to my colleagues as an accurate assessment of the current mood of the West. The article reads as follows:

WASHINGTON, D.C.—ABSENTEE LANDLORD

(By Louis J. Cordia)

Despite vigorous objections from the Idaho State Legislature, the U.S. Congress is expected to restrict use of over two million acres of Idaho land to people traveling on foot, on horseback or in canoes. This tract would become the largest wilderness area in the contiguous United States.

U.S. Government control over distant western lands parallels the British Empire. Like the British rule over 13 colonies, the federal government, in effect, controls 13 western states—because it owns them. It owns 64 percent of Idaho (that's about 35 million acres), 86 percent of Nevada (60 million acres), 66 percent of Utah (35 million acres), 52 percent of Oregon (30 million acres), and an astounding 96 percent of Alaska (over 350 million acres). All told, the U.S. has a total land area of two billion acres and of the one-third (760 million acres) that are federally-held, almost 95 percent are concentrated in 13 western states.

Understandably, this policy is not very popular in the West and has prompted the aptly named "sagebrush rebellion" which aims to have most federal lands transferred to state ownership. According to Nevada state Senator Norman Glaser, a leader of the revolt, "we're tired of being pistol-whipped by the bureaucrats and dry-gulched by federal regulations." In other words, they want the federal government to stop dictating land-use policy to them.

What the western states want are the same rights, sovereignty and jurisdiction of their lands as the eastern states enjoy. In sharp contrast to the West, only two states in the East have 10 percent or more of their land owned by the federal government; Florida has 10 percent in federal possession while New Hampshire has 12 percent under federal control. Interestingly, one might think that Maine and the Carolinas, eastern states with some of the highest percentages of pristine forest lands, would have such designations made for them by federal authorities. Not so. Maine is one of only three states with less than one percent of federally-held land, while the Carolinas control all but 6 percent of their land. Thus, they have been able to make prudent land-use decisions for themselves.

So why not allow the western states to exercise the same freedom?

The origins of this inequity between East and West lie in government policy dating back to the 1800's. For the western territories, one of the conditions for statehood imposed by federal authorities was renunciation of future claims on federal lands designated within their borders. Even Alaska, admitted into the Union only 20 years ago, reluctantly agreed to the irrevocable stipulation. One hundred, or even twenty years ago, it may have seemed appropriate public policy. But the time has certainly come to question the wisdom of vast federal holdings, especially in minerally-rich, sparsely-populated Alaska, where the state has not even been given title to most of the 100 million acres it had been promised for joining the Union.

The bitter debate continues. Typical of those who are up in arms is Joe Volger, a gold miner and Alaska resident for over 30 years. "There'll be a hell of a fracas if the federal government tries to throw me out. If the marshal comes, I'll give him walking papers; and if he doesn't obey, I'll stand trial for murder," he says. If Washington's present plans for the state are carried out, Volger and other miners would not be allowed to stake new claims. Furthermore, to continue mining, each would have to post a $200,000 bond.

Other reactions in the West are just as emotional, but venture to be a bit more orderly. Last year, Nevada became the first state to rise up in a self-proclaimed "sagebrush rebellion." The state legislature passed a law asserting state jurisdiction over 50 million acres. Passage of such a proposal was important because it could lead to the arrest of federal trespassers, thereby forcing the federal government into court. Until now, federally-invoked "sovereign immunity" power has prevented any such law suit. Nevada wants the Supreme Court to decide the constitutionality of being forced to renounce all claims on public lands as a condition for admission into the Union. The question has come up before. In 1845, an Alabama case before the Supreme Court held that the state had to be admitted "on equal footing with the original states in all respects whatsoever." Perhaps aided by the current anti-regulatory, anti-federal interference mood in the country, Nevada could get a decision calling for parity with the eastern states.

On a related legal front, a recent court decision in California opens to question the status of 47 million acres of federally held land. Although the decision concerned itself with only California land, it could affect all non-wilderness areas in the federal government's RARE II (Roadless Area Review and Evaluation) process. At stake is whether RARE II lands will be considered single-use *de facto* wilderness areas or whether they will be designated for multiple-use—which provides for recreation, timber, water, grazing, minerals, roads, fishing, wildlife, etc. In the absence of state options, the final decision should rest with Congress, which is better equipped than the courts to strike balances and make trade-offs for society. Hopefully, a decision will come soon; millions of acres of RARE I and II lands have been tied up now for 10 years.

It should be obvious to all that present public lands policies are not only unfair, but that they are having a damaging economic and social impact on western communities. Eastern armchair environmentalists in Congress and those who influence them must come to realize that if western states had control of their lands, they would be sensitive to the natural resources, and would not unwisely desecrate them. The West merely wants a voice in its future and that of America, not an absentee landlord in Washington.●

CONGRESSMAN RODINO ASSESSES CIVIL RIGHTS GAINS IN THE CHRISTIAN SCIENCE MONITOR

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. DRINAN. Mr. Speaker, there are few Members of this House who have accomplished more in the struggle for equal opportunity than our distinguished colleague from New Jersey, Congressman PETER RODINO, the esteemed chairman of the House Judiciary Committee. With his able leadership and unswerving commitment to social justice, he has brought before this House the vital legislative tools for the advancement and achievement of equal rights. Most recently, he played a significant role in House passage of the Fair Housing Act Amendments of 1980, an effort in which he was involved since 1966 when he managed the first civil rights bill in this area.

During the recent debate on that legislation he told us "The promise of America is the promise of a nation dedicated to equality and opposition to discrimination. That is the promise we must keep." In the July 17, 1980, issue of the Christian Science Monitor, Congressman RODINO beseeches us not to forget that promise, not to rest on what has been done, not to turn our attention from the continuing need to end the scourge of racial discrimination.

It is important for us to hear his message and I commend to my colleagues his perceptive column.

A CONGRESSMAN'S CRY FOR RACIAL JUSTICE

One of the many tragic messages of the Miami riots in May was that it took such extreme rage and violence to draw major national attention again to the issue of race relations.

For most of the past ten years, that issue has almost faded into a non-issue, publicly. Compared with the 1960s, the past decade could be described as "the sedentary seventies."

It was a decade of slowdown of progress. It was a decade of delusion by many Americans who thought no more action was necessary to secure justice for all. And it was a decade of despair for many Americans still denied opportunity because of their race or ancestry.

The avoidance of this issue by many segments of the government, the press, and the public contributed indirectly to the racial upheaval in Miami and to the tensions which exist in many other communities.

Earlier this year, on the 20th anniversary of the Greensboro, N.C., lunch counter sit-in, I began to take stock of developments since the beginning of the civil rights movement.

There were milestone achievements: the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Fair Housing Act of 1968. Individuals of talent and will broke through previously impregnable color barriers. In many areas, blacks and Hispanics have made gains in political influence and professional advancement.

But despite the successes and gains, millions remain mired in misery. By some economic measurements, the circumstances are worse now for some groups of our citizens than during the civil rights movement.

Twenty percent more black families are living in poverty now than in 1970.

Approximately 7.5 million of the nation's 25 million blacks—three of ten—live in poverty. One of ten whites lives in poverty.

The income of black families is still only half that of white families.

The unemployment rate for blacks and Hispanics is twice the rate for white workers.

In 1960, 51 percent of young whites and 44 percent of young blacks were employed, a difference of 7 percentage points. Today, the gap is more than 25 percentage points.

Many details of the most recent annual report of the United States Commission on Civil Rights are discouraging. Among its conclusions:

"Decent housing for older persons, minorities, and female-headed households remains undelivered. . . .

"Minority and women's unemployment levels have remained intolerably high. . . .

"Past efforts have not brought minority businesses into the nation's economic mainstream. . . .

"Tensions between groups have increased."

The doldrums of the seventies have diminished the hope born in the 1960s movement. Martin Luther King's dream is still beautiful, but it is blurred now.

My concern is that the remaining hope and the enduring dream might vanish within another few years of national indifference.

The immediate danger is the probable impact of confused national economic policies and the likely consequences of a severe recession.

Millions of Americans—an unfair share of them blacks and Hispanics—would be pushed more deeply into the despairing world of poverty. And the unrelenting challenge of race relations could be pushed so far down the list of public priorities that only radical action could retrieve it.

The quick fading of national attention to the Miami riots suggests some tough questions:

Is the nation's capacity to act on continuing challenges now limited by an amoral attention span, in which even the most drastic social upheavals disappear from the news after a few days?

Is there some undefined but lowered quota of crises which the nation is now able to face, such as one international threat and one domestic economic threat, with no energy left for the struggle for racial justice?

Has political America demoted the noble principle of justice to an elastic notion—important one year but not the next, allowing the ragged rationalization that a group of Americans used to be fifth-class citizens and today they are second-class citizens so now we can relax?

To those anxious questions, I must answer "No"—with a qualification.

I remain hopeful that this nation can maintain racial peace and can achieve the goal of full justice and equal opportunity for all. That hope was bolstered by recent action by the House of Representatives to strengthen the nation's fair housing laws.

But for the future—and at the very least—we have to face the ugly reality that poverty and discrimination still stalks the ghettos and barrios of America.

With such a realistic view, we have a chance, perhaps, to regain some of the powerful spirit of cooperation and commitment of the 1960s.●

NATIONAL DRIVE TO OBTAIN RETURN OF AMERICAN REMAINS IN VIETNAM

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. GUYER. Mr. Speaker, I rise to speak on behalf of an action which began on Friday, July 18, 1980, National POW/MIA Recognition Day. On that day, the National League of Families of American Prisoners and Missing in Southeast Asia, in cooperation with 16 major American veterans' organizations, and with the assistance of both the Asian and Pacific subcommittee and the POW/MIA task force, began a 3-month drive to obtain millions of signatures on petitions asking Hanoi to return our missing men.

This action was prompted by the report of a former Hanoi mortician, which we believe has been verified, that the Vietnamese are warehousing over 400 sets of remains of American soldiers.

Five years have passed since the fall of Saigon, and over 7 years since "Operation Homecoming." Yet, there are still over 2,500 Americans who never came back from Indochina, and whose fate remains unresolved. Well over half of these were men who were prisoners of the Vietnamese or Laotians. A full third or more were either confirmed, 138, or reasonably believed, 750, to be prisoners in Vietnam. Without even addressing the prospect of live Americans still held in Vietnam or Laos, we want to impress on the Vietnamese the extent of American public concern about their failure to return the remains of deceased American prisoners. If the SRV will not even return remains, they will not repatriate prisoners.

Today a "Dear Colleague" went to every office explaining our efforts. I hope each one of us will take the opportunity to pursue this approach. We can modify Hanoi's behavior if we make them realize that they have underestimated American concern on this subject. Let me explain a bit why this is important.

Since 1977 the Subcommittee on Asian and Pacific Affairs has had jurisdiction over this issue. It succeeded the Select Committee on Missing in Action, which ceased to exist in December 1976. Since 1979 there has been a bipartisan foreign affairs task force on POW/MIA's. I served on the select committee, am ranking minority member on the subcommittee, and thanks to LESTER WOLFF, serve as chairman of the task force. We have pursued an accounting for years now. We have had a hearing or briefing approximately once every 2 months since 1977. Members and staff have interviewed refugees and been in touch with officials of up to a dozen countries in pursuing this issue. There have been two trips to Hanoi in the last year. We have gone the extra mile, and taken the extra step to learn the fate of, and to get any possible additional information about our missing Americans.

We have obtained good response from the executive branch. We now need to carry this to the one place which holds the key—the capital of Communist Vietnam, Hanoi. These petitions will accomplish this purpose, and I strongly urge my colleagues, once again, to work with the veterans' groups in their districts, and to bring this issue squarely home to the Vietnamese. There is no other honorable course we can take, lest we break faith with those who served their country honorably and well, only to have their story end in the saddest way of all—a question mark. Let us honor them by bringing them home to rest in the heroes' graves they so richly deserve or if any others are alive, let them be returned to their courageous families, and a hero's reception from a grateful Nation. Let us send Hanoi a message they cannot mistake—petitions signed by millions of Americans. Thank you, Mr. Speaker.●

HYDE AMENDMENT CONSTITUTIONAL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MAZZOLI. Mr. Speaker, on June 30, the Supreme Court ruled that the so-called Hyde restrictions on Federal funding of abortion are constitutional. I am pleased and encouraged by the Court's action.

Abortion is wrong. It is killing. The American people do not want their tax dollars spent to perpetuate this injustice against the unborn.

Congress, by adopting the Hyde amendment, severely limited the use of Federal funds for abortions—prohibiting Federal funds from being used for abortions except in cases of rape or incest or to save the life of the mother.

Further, if the Court had not ruled in favor of the Hyde restrictions, it would have seriously challenged the congressional power of the purse. This authority—to set national policies and priorities by limiting the expenditure of tax dollars—is a power granted to the Congress by the Constitution. This authority must not be questioned or weakened.

Restricting the use of Federal funds for abortion is a positive step in our efforts to protect the lives of the unborn. But, the only way to provide full protection is to overturn the Supreme Court's disastrous 1973 decision legalizing abortion by passing a human life constitutional amendment.

Until that time, I and my fellow pro-life colleagues will continue offering amendments to appropriations bills to restrict the use of Federal tax dollars for abortion. And, with the Supreme Court's decision, the constitutionality of these actions need not be questioned again.●

THE SOCIAL SECURITY SYSTEM

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. HUBBARD. Mr. Speaker, time and again we hear about the recurring crises facing the social security system. It is pitiful that this system continues to be an example of a potentially viable program which is constantly in the limelight due to incongruous decisions regarding its function and operation. In the following editorial from the Kentucky New Era, a daily newspaper in Hopkinsville, Ky., the crises and causes of them are analyzed and criticized. I would like at this time to share with my colleagues in Congress this excellent editorial sent to me by Dr. George Beard of Hopkinsville:

> The newest cries of alarm about the state of the Social Security program likely will stir Congress to do another patching job rather than an overhaul.
>
> Trustees of the system warned recently that yet another financial crisis is looming for Social Security, largely because of inflation-stimulated benefit increases and a decrease in revenue because of recession and unemployment.
>
> And the trustees aren't talking about something expected to happen in the distant future. They say, if something isn't done now, there will not be enough money for pensions next year or in early 1982.
>
> Apparently one of the major problems is that benefits aren't based on what the system can afford to pay, but are tied by law to the consumer price index.
>
> Benefits keep rising with the index, but the wages being taxed to replenish the trust fund are not rising at the same rate.
>
> Congress can take an easy way out, like authorizing the retirement fund to "borrow" from separate funds used to pay disability and Medicare benefits that currently show a surplus.
>
> But this doesn't address the broader question of why Social Security seems to move from one crisis to another, defying efforts to keep income and payouts in balance.
>
> A small part of the reason, as we noted several days ago, is that millions of dollars in Social Security disability benefits are being paid to people whose disability causes them no immediate financial problems. They already are being supported by the government as inmates of prisons and jails.
>
> There are complaints that such payments are creating problems for wardens because the checks are contributing to drug traffic, prostitution and gambling behind the prison walls.
>
> That's a problem for wardens. The problem for the taxpayers is that government is blind as it passes out money under various entitlement programs.
>
> Common sense says working taxpayers should not have to pay taxes twice—once for—supporting the prison system and again through Social Security taxes to support convicted felons who happen to be disabled.
>
> Even so, some expert observers believe it may be unconstitutional to deny benefits to a prisoner who is otherwise entitled to them.
>
> The estimated $60 million going to prison inmates is a drop in the bucket when compared to the $140 billion Social Security will pay during the coming year, but the prisoner double-dipping demonstrates the mandated entitlements that keep getting the system into trouble.
>
> Stiff tax increases enacted in 1977 were supposed to keep Social Security running smoothly for the rest of this century. This year, workers can pay as much as $1,587 into the system. The maximum goes to $1,975 next year, and to $3,000 in 1987.
>
> With this kind of tax load, people deserve something besides recurring headlines about the imminent bankruptcy of a system they are relying on as their insurance for the future.●

SAVINGS WITHHOLDING A SCAM

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, the President's proposal for a 15-percent withholding tax on dividends and savings interest has drawn a lot of mail from my constituents. The letters, without exception, oppose such a plan, as I do.

The Paris, Ill., area is fortunate to have a newspaper whose editor, Ed Jenison, is very well schooled in the ways of Washington. As a former Member of Congress, State legislator, and delegate to Illinois Constitutional Convention, Mr. Jenison knows a scam when he sees one, and he sees one in this proposal.

The May 24 editorial follows:

SQUEEZE PLAY

> The Carter administration wants to squeeze another $3.4 billion out of taxpayers by having banks, savings and loans and corporations withhold 15 percent of the interest paid on savings accounts and dividends. The Internal Revenue Service believes $3.4 billion in income tax is now going uncollected because the IRS fails to catch up with all the people who fail to report interest and dividend payments on their tax returns.
>
> Extending the tax-withholding concept to interest and dividends is being offered to Congress as a way to avoid $3.4 billion in spending cuts that might otherwise be necessary to balance the 1981 budget. Thus it reflects the philosophy that if balancing the budget requires sacrifice, it is better to inflict the pain on those who pay into the federal treasury than on those taking money out.
>
> The withholding proposal has come up periodically in Congress for 30 years, and was most recently voted down in 1976. The arguments raised against it then are as valid as now. Banking institutions and corporations are saddled with enough accounting and paperwork demanded by the government without taking on this tax-collecting chore.
>
> Moreover, many senior citizens rely heavily on interest or dividend income for their support and are in low-income brackets where they wind up owing little or no tax at the end of the year. The 15 percent withholding would amount to their making an interest free loan to the government until their money is refunded after the filing of their annual return.
>
> But zeroing in on interest and dividends as a tax target is a mistake, above all, as economic policy. Congress has just taken note of the need to stimulate savings and investment as a strategy against inflation. It voted in March to increase from $100 to $200 the amount of interest and dividend income that can be excluded from taxes, and it can be argued that the exclusion should be even higher or that interest and dividends should be exempt from taxes altogether.
>
> As it is, a passbook savings account paying relatively low interest is hardly a paying proposition when savings are subjected to both the loss from inflation and a tax on the interest. The National Savings and Loan League estimates that an immediate effect of withholding tax from savings interest would be a shift of $4 billion out of savings accounts into investments not covered by withholding.
>
> Where dividends are concerned, many economists have long argued that it is unfair and unsound to tax corporate earnings twice—one when the corporation pays taxes on its profits, and again when shareholders pay personal income tax on the same profits received as dividends.
>
> Congress should put this withholding scheme on the shelf and give some attention to the structural deficiencies of a tax system that creates disincentives for savings and investment. If the IRS isn't collecting all the

taxes that it should, that's something for the IRS to worry about.●

PERSONAL EXPLANATION

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MARKS. Mr. Speaker, official business prevented me from voting on the final passage of the legislative branch appropriations bill, H.R. 7593. I had committed myself more than 6 months ago to attend an official function in my district. I want to state for the record how I would have voted if I had been here.

Mr. Speaker, had I been present, I would have reluctantly supported this bill. I say reluctantly, because I think it calls for spending too much money for nonessential items. I think the legislative branch should be willing to set an example in these times of fiscal austerity. I think we should be prepared to sacrifice and give up some of our enjoyable but less than critical expense items. I do not think that it is right that, as other worthwhile projects are being eliminated, there should be an increase in congressional operations of $20 million.

Nonetheless, I was willing to support this bill, because it contains a significant provision, a provision which I commend the committee for including in the bill. H.R. 7593 would freeze the pay of Members of Congress and the top officials of the legislative, executive, and judicial branches of Government at the 1980 levels. This provision will prevent all of us from getting a pay raise in October, which otherwise we would receive automatically. I applaud this wholeheartedly. Last year, the majority of Members felt that a pay raise—the first in 2 years—was justifiable as a cost-of-living increase. This year, with the economy in a shambles, with a $47 billion deficit for fiscal year 1980, and the theoretically balanced budget for fiscal year 1981 jeopardized by the recession, with interest rates so high that normal people cannot afford to buy homes, and so many people are being thrown out of work that unemployment is expected to reach 8½ percent by the end of the year, a pay increase for Members of Congress and top Government officials is totally unacceptable. It should be vigorously opposed by all of us. As a result of my strong feelings on this matter, I was willing to support the legislative appropriations bill. I deeply regret that official functions prevented me from being able to cast my vote.●

COMMENCEMENT ADDRESS BY JOAN HARDY TWOMEY

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, a very dear friend of mine, Joan Hardy Twomey, has recently been honored by being chosen to deliver the commencement address at the San Francisco Community College.

Her address speaks for itself. I am placing it in the RECORD at this time to honor Joan but to also honor the great many women in our society who, like her, reenter the academic or business world to take up once again education or careers which they have interrupted.

Joan Hardy Twomey speaks with pride in herself and her achievement and pride and love of her city.

It is a pleasure to share her thoughtful remarks with my colleagues.

COMMENCEMENT ADDRESS, JUNE 14, 1980

Some say Pride goes before a fall—However, Pride is the main reason I'm speaking to you today.

Pride, that a native San Franciscan was selected commencement speaker. Pride, that I can represent a re-entry student's point of view. Pride, that I have the opportunity to thank the instructors and department heads of City College for helping me achieve.

This city, born in the Gold Rush, has always had a pioneer spirit. As a fifth generation San Franciscan I am proud of my city's friendliness and openness to new ideas—The product of that pioneer ethic.

Only in a geographic sense is San Francisco 49 square miles small.

A pioneer spirit opened-wide the city's doors to accept anyone who wished to join its forward movement. Those who have come—loved what they found and stayed on.

The city is home to anyone who chooses to live within its boundaries.

There are many who say this city is parochial. Lord, that irks me! Webster's dictionary defines parochial as: Narrow of scope and limited. A narrow, limited city would not tolerate change. Narrow and limited citizens would not tolerate outsiders to lead their government—or head their institutions. San Franciscans have.

Many on this platform and in the graduating class are transplants from other states or countries. Sal Rosselli, my co-commencement speaker, is from Albany, New York. He is also a candidate for an elective city office. Sal and all of you born elsewhere, have been welcomed. You have merged into the political and living processes that take place here.

There may be San Franciscans who long for the "Good old Days". We, who were born here and continued to live here, believe these are the good days.

We have the fortune to live in a cosmopolitan city with liberal thinking and varied interests. It is a splendid experience and only part of the pulsating heart that makes this city unique.

I love my city and everything about it. Good and bad—it's my turf—my home—and I'm proud of it.

As a re-entry student, I'm proud of this college. It was here for me when I chose to try again.

Because I am a mother of three teenagers, my educational needs were far down on the list of budget priorities.

It took 28 years for me to complete college—I'm proud I did it. I know every other re-entry graduate in this assembly is equally proud. I'm sure most of you feel, as I, that ours is a special cause and a special success.

Whatever the reason that we didn't attend or finish college the first time around—We finally chose to come back. We entered that long, endless line at registration and waded back into the swim.

I'm proud of the changes made in higher education. In the 1940's and 1950's colleges and universities had an air of elitism. In those days, the haves were separated from the have-nots in a subtle manner.

The system firmly believed that a woman's place was in the home—and almost every job—with the exception of nursing and teaching—was reserved FOR MEN ONLY.

In my first college-go-round: Rigid rules, rigid instructors; and rigid beliefs stopped every effort made. When authority was questioned the automatic response was: "You're not too bright," or unkindest of all, "Perhaps college isn't for you."

My funniest memory is of the instructor who told me that I would never be accepted into a journalism class. Today, I am the graduating managing-editor of The Guardsman, our school paper.

The 50's were dead-silent days. It was the era of Joe McCarthy and his infamous "Communist list."

At that time, to have strong principles, as I did, and to speak out for them, meant you too were a potential communist. In that first round—elitism and Joe McCarthy won. Like too many others, I quit college and vowed never to return.

I'm proud of the changes brought about by the dissenters of the 60's. Many of today's guests and graduates were among them. Their actions accomplished something important for the 1980's. Though drastic measures may have been taken—what they did paved the way for the 1940's and 1950's dropouts to form a new elite—The re-entry students graduating today and in the years to come. What a fine legacy they've left us.

Two short years ago, with great apprehension, I entered a class room for the first time in 28 years. The fear and panic were erased by the easy-going, friendly members of this college community. Psychologists who stress the importance of "role models" in today's society would find that City College has the best instructors and department heads who make every effort to help their students. It is they who prod, encourage and move each of us toward that ultimate end—Achievement.

I am proud to be a member of this miniature United Nations. Here students represent the diversity of lifestyle that is San Francisco. On campus, all races and segments of society peacefully strive toward one goal—A better way of life!

Gays, blacks, hispanics, orientals, whites, young and old blend into an entity—City College students.

I'll always be grateful to this College for giving me the chance to rebuild my life—Free!

In an editorial written in The Guardsman to celebrate the campuses 45th anniversary, I compared the College to the Statue of Liberty. In San Francisco, City College's presence gives encouragement to all.

Through its revolving doors pass old and young, newcomers to the city and native sons and daughters: To learn, To achieve, and To succeed.

Today, I am extremely proud to represent all of them.●

A TRIBUTE TO ROBERT ALEXANDER CLOGHER

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. HOLLENBECK. Mr. Speaker, it is with pleasure that I take this opportunity to inform my colleagues of the long correspondence I have conducted with a constituent, Robert Alexander Clogher of Englewood, N.J. He has consistently provided me with unique letters concerning everything from the fact that it was on July 2, 1776, and not July 4, 1776, that the Continental Congress approved the Declaration of Independence to the depersonalization caused by modern technology. While Mr. Clogher has long provided a service to me with the free sharing of his views, I believe that it is now time to give Mr. Clogher the recognition which he so rightly deserves. A column by Jack Kisling which appeared in the Denver Post expresses a tribute to Mr. Clogher and his philosophy. I believe it is worthy of the attention of my colleagues:

HE'S ROBERT ALEXANDER CLOGHER, NOT R.A. OR ROBERT A. CLOGHER

Hurrah for Robert Alexander Clogher, who brooks no impertinence.

Who? Robert Alexander Clogher of 275 Engle Street, Suite T-4, Englewood, New Jersey that's who.

Robert Alexander Clogher who lays down the law to the Smithsonian Magazine people who operate out of Post Office Box 2886 in Boulder.

Robert Alexander Clogher who doesn't care a fig for their modern mailing methods, and who says so in rich, resounding terms.

Robert Alexander Clogher who grew so annoyed at the Smithsonian sending its magazine his way addressed: "R. A. Clogher" that he wrote the folks in Boulder and asked that they address him by name. Which, he insists is Robert Alexander Clogher..

Robert Alexander Clogher who got a reply saying: "As requested, your name has been changed as shown on this card: Robert A. Clogher."

To which he replied: "To borrow from the late John Llewlyn Lewis, you lie in your teeth and you lie in your beard when you write 'as requested'. Never in his threescore and three years has this Clogher ever requested any person, whether legal or mortal, to address him as Robert A. Clogher. By contrast, hundreds, perhaps thousands, are the times this Clogher has requested of various and sundry that they address him by name, that is, rather than by some foreshortened version thereof to suit someone's convenience."

As indicated above, the name is Robert Alexander Clogher, who goes on thus:

"So, one more time, let it be typewritten that if the magazine cannot be addressed properly, this Clogher would rather not receive it at all. You will not receive a check imprinted and signed 'Robert Alexander Clogher' unless the magazine comes to him so addressed.

"Granted that out there in Boulder, Colorado (not CO, but Colorado), abbreviation is esteemed to have great huge gobs of redeeming social value." But, this Clogher goes on, while he would defend anyone's right to abbreviate, when someone "abbreviates his name, then HIS rights become involved. Right? Which he is more inclined to defend far more fervently, for fairly obvious cause, right?

"Patience, as a poet once wrote, is a vulture. This Clogher is inclined to set a deadline for you to send one of your postcards, properly addressed, saying, in effect, that the magazine will come properly addressed. How about a month from today, Wednesday, July 2, 1980? That's the 204th anniversary of the day the Continental Congress declared the United Colonies free and independent states, to borrow most of the headline from the Pennsylvania Gazette for Wednesday, July 3, 1776.

"Without such word from you by then, this Clogher will declare himself free and independent of the Smithsonian in perpetuity, as an idiosyncratic celebration of America's birthday."

He mailed that letter on June 2. On Saturday, June 7, he got his Smithsonian Magazine, not from Boulder, but directly from Smithsonian headquarters in Washington. It was addressed to Robert Alexander Clogher.

Which, he told me by phone Monday, prompted him to keep his word and send in his subscription check, signed "Robert Alexander Clogher."

Here, thank God, is a man who understands that if A. A. Milne had wanted James James Morrison Morrison Weatherby George Dupree to be J.J.M.M.W.G. Dupree, he would have written it that way.

Long live Robert Alexander Clogher.●

MACLER SHEPARD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. CLAY. Mr. Speaker, I would like to take this opportunity to commend a distinguished St. Louisan, Mr. Macler Shepard, on his outstanding service to our community.

Macler Shepard is the president of Jeff-Vander-Lou Inc., a black independent neighborhood group. Mr. Shepard's contributions to our community have earned him the prestigious Rockefeller Public Service Award. Throughout his career, Macler Shepard has consistently demonstrated a sincere dedication to improving the quality of life in the St. Louis area. He has worked unselfishly to restore health and vitality to our near northside neighborhoods. Macler Shepard is a resourceful and perservering leader who has helped reverse the urban decay that has plagued our aging inner city neighborhoods and aided in the successful implementation of new employment opportunity programs.

The citizens of St. Louis are indeed privileged and fortunate to have the benefit of Mr. Shepard's contributions. I would like to take this time to share with my colleagues in the U.S. House of Representatives, the following article about Mr. Shepard which cites those reasons he was selected to receive the Rockefeller Public Service Award:

MACLER SHEPARD, PRESIDENT OF JEFF-VANDER-LOU INC., ST. LOUIS

Shepard's resourceful and perservering leadership of Jeff-Vander-Lou, a black, independent neighborhood group, reversed the trend of decay in St. Louis's most deteriorated section, restoring abandoned blocks with rebuilt and new housing, unemployment with jobs, and despair with community pride, ownership, and self-reliance. His efforts resulted in an infusion of more than $22-million in private investments in the area, including a new Brown Shoe factory, the addition of 639 units of rehabilitated and new housing, and hundreds of jobs for neighborhood residents. Through his initiative, programs to service the residents have been developed including a senior citizens' center, two child care centers, a communications resource center, and a housing management team. Because of his dedication to the building of a total community, many local businesses and industries have remained and new ones were attracted to the area. The inspirational quality of Shepard's leadership and his demonstrated belief that "the people can do it themselves" have been influential in changing the way the federal government responds to inner-city neighborhood needs.●

THE VOICE OF AMERICA—COUNTERING SOVIET PROPAGANDA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. BROOMFIELD. Mr. Speaker, on July 12, the Washington Post reported that the Soviet-installed Afghan Government is airing reports on Kabul radio portraying the new Government as the defender of the Islamic faith against anti-Moslem rebels. This report is an excellent example of how the Communist world employs radio as a medium for influencing public opinion, a practice that is employed extensively and efficaciously by Moscow and its client states.

At present, the USICA's meager budget severely limits the ability of the Voice of America to counter the Communist radio propaganda campaign, particularly in the Moslem world. I strongly urge my colleagues in the Congress to allocate additional funds to the Voice of America program, thus enabling it to more adequately perform its intended function. I submit the Washington Post article for the RECORD:

AFGHAN GOVERNMENT SEEKS TO IDENTIFY ITSELF WITH ISLAM

(By Stuart Auerbach)

NEW DELHI.—The Soviet installed Afghan government is trying to portray itself as the defender of the Islamic faith against rebelling tribesmen, accusing them of destroying mosques and killing Moslem clergy.

The campaign, repeated almost daily on Kabul radio, is an attempt to turn the tables on the rebels, who have been fighting the government under the banner of Islam for the past 21 months.

The rebellion began in response to the policies of the Marxist government of the late Nur Mohammad Taraki soon after he took power in a bloody coup in April 1978. His programs were seen by the rebels as an intrusion of "godless communism" into the Islamic traditions of Afghanistan.

In its most serious charge, the Afghan government has accused the rebels of trying to blow up the most sacred mosque in Afghanistan—the Tomb of Ali, the fourth imam of Islam. The tomb is located in Mazar i-Sharif in northern Afghanistan. This charge was repeated twice on Kabul radio during the past week and echoed Monday in the Soviet Communist Party newspaper Pravda.

"It is inconceivable that an Afghan Moslem would dare attempt such an act," said an Afghan refugee source here. He said any attempt to dynamite a mosque would more likely be carried out by members of the ruling Marxist party "who have no regard for religious sanctity."

The government, however, is persisting in its campaign to make the rebels appear to be anti-Islamic.

In a speech last week to religious leaders in Kabul, Afghan President Babrak Karmal accused the rebels of "creating war conditions in the country by killing innocent children and people, destroying schools and mosques.

"They are criminals," Babrak continued, "and should be dealt with in accordance with the basic principles of Islamic law."

He said religious leaders "should always be respected so that you can carry out the sacred mission of Islam . . . The government of Afghanistan will help the religious leaders to successfully achieve that religious mission."

Babrak, whose government was installed after Soviet troops invaded Afghanistan in late December, said the country should live according to Islamic principles "so Islam would be spread from Afghanistan to other regions of the world."

Kabul radio reported that the religious leaders "prayed for the success of the Democratic Republic of Afghanistan under the leadership of Babrak Karmal."

For his part, Babrak vowed that the revolution will succeed "with the help of the almighty God and the sacred religion of Islam."

In reporting on the attempted dynamiting of the mosque, on Monday, the radio called the rebels "the agents and servants of imperialism" who are "trying to create an atmosphere of terror in the country."

According to last week's report on the attempt, a police officer uncovered the plot to blow up the mosque with more than four pounds of dynamite.

Diplomats here discounted the radio's claim that rebels had attempted to blow up a mosque. "The rebels may occasionally shoot a few progovernment mullahs, but I cannot see them blowing up the mosques. It just does not fit," one diplomat said here.

"The Babrak government is hammering away on the theme that they are the real defenders of Islam. If you do anything long enough in a country like Afghanistan it will begin to be believed," the diplomat said.

Meanwhile, Kabul radio has intensified its attacks on one of the most popular rebel leaders, Gulbuddin Hekmatyar. His pictures are pasted on walls in Kabul, indicating the growing strength of his organization, Hezbi Islami.

Sources here report that Hekmatyar and Burhanuddin Rabbani, another rebel leader gaining strength in Kabul, have begun issuing party cards to residents of the city.

The Babrak government is issuing its own identity cards, and reportedly is trying to restrict access to Kabul. It is also using radio to heavily advertise new libraries set up by the Soviets that distribute magazines and information on Soviet aid to Afghanistan.

Seven members of Afghanistan's Olympic wrestling team fled to Pakistan to avoid participating in the Moscow Games, according to reports reaching here. But four well-known Afghan wrestlers did go to Moscow despite alleged threats on their lives by the rebel fighters.

Members of the Afghan volleyball and soccer teams also have fled the country to avoid taking part in the Moscow Games, according to Afghan sources.

According to Western diplomatic reports from Kabul, 27 persons were killed on the night of June 29, 1980, by the insurgents or as part of the feud between the two wings of the ruling People's Democratic Party in Afghanistan.●

A STORY OF LABOR AND LOVE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MAZZOLI. Mr. Speaker, I would like to commend to your attention a gentleman who has overcome the adversity of a physical handicap to make a place for himself as an independent businessman in my hometown of Louisville, Ky.

James Burrice has cerebral palsy. But that does not keep him from operating his own Christmas card company and from activities as an independent distributor for home products.

Since he has been a child, Jim has always excelled in each chosen endeavor despite his physical limitations. He is a graduate of Louisville St. Xavier High School and Bellarmine College. Never has he let his disability reduce his love for life and his joy in helping others.

Jim Burrice's life has been an inspiration to me and to many thousands of his fellow Louisvillians. It is a story of one who has a deep and abiding faith in God and a deep and encompassing love for his fellow man and woman. Jim makes us see how insignificant a handicap can be to one who truly loves life.

I include in my remarks the text of a pamphlet written by Mr. Burrice setting forth his philosophy of life entitled "A Story of Labor and Love":

A Story of Labor and Love

(By James N. Burrice)

Solving a simple child's puzzle one summer evening in 1959 opened the door for me to a business that has grown steadily and has become an important part of my yearly activities.

That night as I was looking through a Scout magazine, I came across a child's puzzle with a coupon beneath it. The accompanying and enthusiastically invited me to correctly solve the puzzle and win a memo pad and ball point pen, which I wanted for my small desk. With a little help from my mother, I worked the puzzle, filled out the entry blank, and sent them off, keeping my fingers crossed.

A couple of weeks later when my family and I returned from vacation, a box awaited me on our front porch. Excitedly I opened it, and there was my memo pad and pen! (At the time I didn't realize that everyone who sent in the coupon was probably a winner).

Anyway, along with the pad and pen there were two portfolios of Christmas card samples and a box of assorted cards. Literature in the box encouraged: "Make All The Extra Money You Want Selling These Beautiful Name-Imprinted Christmas Cards In Your Spare Time!" I'd been selling All Occasion greeting cards for some time and had been successful at it, so I decided to try my hand at Christmas cards. I didn't know at the time what an important enterprise I was starting and how much it would mean to me in the future.

In 1959 I went into the Christmas card business on a very small scale, selling cards to relatives and a few close friends. In subsequent years, as I added new names to my list of prospective customers, my business grew. My Christmas card business developed into a thriving enterprise to which I devoted approximately six months out of the year.

I am proud of the way I've organized my business into the successful enterprise that it is today. Being physically handicapped with cerebral palsy, I am unable to get out on my own and make personal calls. Therefor, I make most of my initial contacts by mail and by phone.

Around the first of September I mail out "Announcement Letters" to my clientele telling them that I have my Christmas card samples ready for their perusal. From then until early November, my customers call me and make appointments to see the cards. Since people like to select their Christmas cards in a leisurely atmosphere, most of my customers borrow the samples for a day or two.

In my Christmas card business I use a Summary Sheet, which is particularly helpful in my end-of-the-year accounting. On this Summary Sheet I list the number of individual customer orders on each big order that I send my supplier; the total retail price of the combined orders; the amount of each payment that I send the supplier; my gross profit; expenses; and net profit. The Summary Sheet facilitates my computing totals when I close my books on a given Christmas card season.

In addition to my Christmas card business, in January 1977 I became an Independent Distributor for Amway Corporation. The main advantage of my Amway Distributorship is that I can operate it year-round, whereas the Christmas card business is seasonal.

I run my office just like any business organization is operated. I maintain files on all my customers and have a record of everything that I have ever sold. I also have files on the various activities and projects in which I am involved.

Ever since I was 10 years old I have used an electric typewriter, which enables me to correspond easily with friends as well as people I do not know. Due to the physical difficulty I have of writing in longhand, I type all of my work on my IBM Selectric typewriter. This increased ability to communicate effectively with others has not only developed my interest in business, but has also encouraged and created within me an eagerness to explore and attempt other challenges.

I take my work seriously, and the business activities and other projects in which I am involved benefit me in many ways. They give me practical administrative experience that will always be of great value to me in whatever kind of work I am doing. Furthermore, as the number and scope of my activities and responsibilities increase, the necessity of my using the telephone also increases. Talking on the phone improves my speech; it helps my breath control and gets me accustomed to talking with people I have never met before.

Born June 10, 1948, I began my formal education at the Cerebral Palsy School in 1954 at the age of six. With the assistance and encouragement of the faculty and staff at the C.P. School, I pursued and successfully completed my elementary education.

When in September 1963, I was ready to start my high school studies, I was accepted as a student at Saint Xavier High School, where I began a special five-year study program under the guidance and direction of the Xaverian Brothers. Not being in a position to attend regular classes at St. X. because of my physical limitations, I was tutored by upperclassmen from St. X. and from neighboring Bellarmine College who volunteered their time to come to the Cerebral Palsy School periodically to teach me standard high school subjects. After completing the necessary courses and earning the required number of credits, I received my high school diploma from St. X. in June 1968.

In the Fall of 1968 I enrolled as a freshman at Bellarmine College, beginning an eight-year college career. Again, due to my physical limitations, I took only two or three courses per semester. Unlike my high school experience, however, I was very fortunate in being able to attend my college classes on campus, where fellow students and college administrators willingly and graciously gave me the physical assistance that I required. After a most enjoyable and rewarding college career, I graduated from Bellarmine on May 9, 1976, at which time I received my Bachelor of Arts degree in Business Administration.

With each passing day I realize more profoundly and more vividly what a beautiful life this is—and how beautiful the people are who give life its beauty. With each passing day my gratitude for being a part of this life—for being a part of God's Divine Plan—becomes more profound. Each day I resolve to carry out my responsibilities—whatever they might be—with Faith, Courage, and Dignity.

The greatest joy and privilege I have is that of helping others. When I have a concrete plan or intention to do something for another person, I begin my day much more excited and eager to get to work than when I have no such plan or intention in mind. Helping others is a responsibility that I accept gladly, gratefully, and seriously.

There's nothing of which I am prouder than my office, which I have in my home. Three walls of my office are paneled, while the wall that you face as you enter is covered by a large, double mural. My executive desk and typewriter desk are L-shaped, so that I can work at my desk and type from the same chair. I use two-drawer filing cabinets so that all of my files are within easy reach and I can work in them without assistance. I enjoy working in my office each day, which not only gives me an important sense of accomplishment, but also keeps me in the habit of following a regular routine.

While it is true that I have reached my present level of achievement by the grace of God and largely through my own efforts and perseverence, I would be remiss if I did not acknowledge with deepest gratitude my wonderful, loving, and loyal family for having done so much throughout my lifetime to help me reach my goals and realize my aspirations. Also, I want to say a very warm and sincere "Thank You" to my many cherished friends for sharing in my life and giving me the privilege of sharing in theirs. Without my family and friends, I would not be where I am today.

I thank God for blessing me with the strength and enthusiasm to carry on my daily activities. I love and enjoy life because, as I work in my office each day, I can think warmly and gratefully of my friends—friends whom I love and care about and who love and care about me. It is with profound truth and sincerity that I say that my family and friends are the most beautiful and most sacred part of my life, for it is they who give me the strength and encouragement to face each day. With all the blessings that God has bestowed upon me, I am truly one of the most fortunate people in the world.●

PUBLIC PHILOSOPHERS

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. BOLLING. Mr. Speaker, quite often I see or hear something which makes me say to myself: "I wish I'd said that." Dick Dabney's article, "Columnist—Truth v. Reality," which appeared in the Washington Post of July 22, 1980, says something I wish I had said. The article follows:

COLUMNIST—TRUTH V. REALITY

This morning I was reading Jean Paul Sartre on how people show bad faith by turning themselves into things. For instance, the girl in the theater who does not know her date has taken hold of her hand, because she regards it as a thing, or the waiter who pretends to be his role, dropping all other characteristics and disappearing entirely into waiterhood. It was awkward writing, like much of Sartre. But it was as refreshing as being squirted by a cold hose, because I knew that he would not lie to me, and was not secretly pimping for some cause, nor saying what some constituency expected him to say. Moreover, he was talking about what he thought was important rather than letting that be decided for him by everybody else.

It was wonderful because it was so rare, in our town, to read or hear anything where the author's hand was not on your knee, and where he was not giving footnotes on what others thought, but was telling you what he thought about what it meant to be human and live in this world. And it was exciting to read Sartre whether you agreed with him or not. For he had been a public philosopher; one trained in philosophy but with the whole world as his oyster; and his debates with other public philosophers in France (most notably Albert Camus) had attracted about as much public interest as the World Series would over here.

It had seemed to me for a long time that France had better, or at least more conspicuous, philosophers than we did. And this raised the question of why, in a nation of 230 million people, that already had snails in its kitchens, to say nothing of mistresses in its bedrooms, we have yet to develop one public philosopher, let alone a dozen or so, who, debating back and forth, might give some Tabasco to what is otherwise a very dull stew.

The closest we have come to any such thing was a few years back when Eric Hoffer, the longshoreman, was writing what was really covert propaganda for the Republican Party, and the closest thing before that had been when John Dewey was giving free advice on how to shoehorn oneself into lifelong industrial harness while destroying Western civilization at the same time. But those two had been public philosophers only in that the media had taught the public to regard them as such, and they had not spoken to the vital experiences of human life.

What philosophers we do have tend to be furtive academicians who long ago gave up on wisdom, and who occupy themselves by writing abstruse monologues on subjects that have nothing to do with anything. Public discourse is carried out by newspaper columnists and television commentators. And what the media ask us to believe is that a "wide spectrum" of these (on a stiflingly narrow range of issues) will give us all the public philosophy we could possibly want—presumably in about the same sense that near-beer, if we drank enough of it, would give us Scotch.

This is not to knock columnists, who are, by and large, quick, intelligent people who know how to sling the words and how never to be too awkward. Moreover, they tend to be well connected with politicians—no small consideration in a media-subjugated country, where dominant thought has it that any worthwhile public philosophy will lay off such subjects as why people turn themselves into things, and concentrate on worthier stuff, like what Ronald Reagan really said to Gerald Ford in discussing the vice presidential nomination.

In any case, the important questions—that have to do with things under our control, and not with gross public events to which we're only passive spectators—do not get raised, let alone debated. And because of this the media, when they haul off to tell us what things mean, are a big snore. And the lords of media would tell you, if you asked, that Americans are too pragmatic, ill educated and anti-intellectual to go in for much reality, and too fond of glibness to tolerate the awkwardness that might result.

Even so, I would not be surprised if there weren't a few million fools out here who, if they're to be condemned to hear 10,000 riffs on what it all really means when Jerry talked to Ronnie, would also like to hear some discussion of whether it is possible to live a full human life as an employee (a pertinent question, it seems to me, in a city where not all waiters are in restaurants); and whether there are strategies by which an individual self-sentenced to employeehood can maintain self-possession and self-respect; and whether it is really possible to talk to human beings any more, or whether each of us must drown alone in the national sea of mindlessness; and whether there really are such things as Zombies and whether they might not be in control; and whether the government is not edging over the line from being burdensome to being the enemy; and whether it is necessary for sanity's sake to lie to oneself about the true answer to that; and whether a changed Constitution might not do some good.

American reality, after all, is not two syndicated columnists arguing with each other about the GNP, but the camerman being paid to focus on them, who is thinking, "I don't give a damn," and who has not had a good conversation since 1967, nor a good time since 1959. Or it is the woman standing in front of the television set, watching with the volume turned all the way down, who is tortured by an obsessive conviction that people are not there when they talk to each other, and who, as she reaches for a hooker of tequila, is thinking, "Either they're crazy, or I am."●

TECHNOLOGY TRANSFER, PART I: "THE BUCEY REPORT IS STILL RIGHT"

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. FINDLEY. Mr. Speaker, the seminal work on the transfer of high technology is the analysis commonly called the "Bucey report." J. Fred Bucey, Jr., executive vice president of Texas Instruments, Inc., chaired the Defense Science Task Force on Export of U.S. Technology, which reported its findings to the Department of Defense in February 1976. The report is officially entitled "An Analysis of Export Control of U.S. Technology—A DOD Perspective." The members of the panel had a wide variety of experience in both industry and government.

The central conclusion of the Bucey report was that "The control of design and manufacturing know-how is absolutely vital to the maintenance of U.S. technological superiority. All other considerations are of secondary importance."

Those transfer mechanisms which the Bucey report rates as highly effective transfer mechanisms (as opposed to effective, moderately effective or low effectiveness) are: Turn key factories, licenses with extensive teaching effort, joint ventures, technical exchange with on-going contact, training in high-technology areas, and processing equipment (with know-how).

The Bucey report stresses the need for improved security controls for one key technology transfer mechanism: the training of Communist nations' citizens at the advanced technological institutes and laboratories in the United States and government-to-government scientific exchanges.

I share the concerns of the Bucey report regarding the great potential for transferring high technology via scientific exchanges and scientific and technical training in the United States.●

OIL IMPORT FEE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. WEISS. Mr. Speaker, I support House Joint Resolution 531 because I believe that the proposed oil import fee is an illusory step toward energy conservation which poses an unnecessary burden on the American people.

Proponents of the fee argue that the fee will help reduce our consumption of foreign oil by decreasing domestic oil consumption. This point seems somewhat dubious, since domestic gasoline prices have risen much more than 10 cents over the past year without significantly reducing our consumption levels.

The real effect of this fee is to burden consumers with additional inflation. This fee will cost consumers a total of $10.5 billion, causing an estimated four-fifths of a point rise in inflation. The impact of the fee will not be limited to the price of gasoline. Consumers will be further disadvantaged by the increased costs of heating fuel, and fuel used in freight transportation.

Mr. Speaker, I ask you to consider who will be hit the hardest by this inflationary tax. Low-income people, who cannot afford to reduce their gasoline consumption; people on fixed incomes, whose weekly checks do not rise with their utility bills: These are the people who will be the true victims of this fee.

Energy conservation measures need not be inflationary. There are many options for a comprehensive energy conservation plan that do not unduly disadvantage consumers. Various automobile efficiency measures could save significantly more oil than the 100,000 barrels a day promised by the President's import fee. It has been estimated that a program of mandatory automobile tuneups every 6 months could save 140,000 barrels of oil per day. Encouraging carpooling, to increase the average number of passengers per car from 1.3 to 2.3 could save 780,000 barrels of oil per day. Public information programs on proper driving patterns could save 70,000 to 200,000 barrels a day. Enforcing speed limits could save 30,000 to 400,000 barrels a day.

There are still other conservation measures that the President could pursue in other areas. Restoring funds to the conservation bank to encourage home insulation and weatherization would be a significant step in this direction. An estimated 2.5 million barrels of oil per day could be saved by making U.S. homes more energy efficient. Improving energy efficiency in commercial buildings by 10 percent could save 400,000 barrels a day. The list of viable conservation measures is endless. There is no reason to impose this inflationary fee.

Mr. Speaker, this country needs a well-considered, comprehensive policy for reducing our dependence on foreign oil and developing safe, renewable, domestic sources. Let us stop wasting our time with dubious stopgaps and get to the real business of establishing that policy.●

ILLEGAL CAMPAIGN CONTRIBUTION TOLERATED BY FEC GENERAL COUNSEL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. DORNAN. Mr. Speaker, this coming Wednesday, the House is scheduled to consider the appropriations bill which contains moneys for the operation of Congress own "Watergate fallout" creation—the Federal Election Commission.

Out of the $9,283,000, an amount over $1,500,000 will be allocated to the Office of General Counsel, currently headed by Charles N. Steele.

It is the Office of General Counsel which, at the operational level, performs the actual investigations of possible violations of the FEC Act.

On July 9, 1980, I received a hand-delivered letter from the General Counsel of the Federal Election Commission totally nonresponsive on the biggest scandal the FEC has had in its 5 years. In so many words, Mr. Steele is willing to let a Member of the other body receive $1,150 in corporate money. Now of course, this violates the FEC Act at 2 U.S.C. 441b(a).

I myself talked to that Senator and he expressed a willingness to return the illegal corporate money if asked to. But he said that he had not heard from the FEC's Office of General Counsel.

Therefore, I do not think that bureaucrats who are supposed to enforce the law should receive full funding for their activities when they fail to perform.

I am submitting for the Record my correspondence with the FEC counsel.

Believe me, my colleagues, as you read these letters, be advised that this is only a very small part of a very large problem at FEC.

The irony of this one item of contention is fascinating because all I have done is inspect the public documents available at the Federal Election Commission.

Because I may offer an amendment this week deleting certain FEC funds from the Office of General Counsel, please read my May 16 letter to Mr. Steele, his July 9, 1980, obfuscating legalese to me, and my July 10, 1980, response to him.

The letters follow:

Congress of the United States,
House of Representatives,
Washington, D.C., May 16, 1980.

Charles H. Steele,
General Counsel, Federal Election Commission, Washington, D.C.

Dear Mr. Steele: Since the F.E.C. has recently filed a civil action No. 80-1086 against James H. Dennis, Sr., I am calling the following to your attention:

The Conciliation agreement, MUR 970 (79), signed on September 6, 1979 by Mr. Dennis and your former General Counsel, William Clyde Oldaker states in part:

"III. That pertinent facts in this matter are as follows:

A. Respondent made contributions totalling $23,150 to the 1978 Stewart senatorial campaign committee, Friends of Donald Stewart, of which $22,000 was made in the names of others. . .

B. Respondent was refunded $22,000 from the Friends of Donald Stewart on May 11, 1979.

C. Respondent made contributions totalling $13,000 to the Peck congressional campaign committee. Carey Peck for Congress Committee of which $12,000 was made in the name of others. . .

D. Respondent utilized corporate funds from Dennis Mining Supply and Equipment

Co., Inc. to make all contributions to the 1978 federal campaigns of Senator Stewart and Carey Peck."

As the available public record indicates (see F.E.C. MUR 970 file) the F.E.C. only asked that Mr. Stewart's campaign committee return $22,000 to Mr. Dennis. And yet, the F.E.C. conciliation agreement indicated that all of the Dennis money to Mr. Stewart was from corporate funding (see Sec. III (D) Conciliation Agreement). Therefore, it appears on the surface that the F.E.C. has let Mr. Dennis make a corporate campaign contribution of $1,150.00 in direct violation of 2 U.S.C. Sec. 441b.

I also note that your civil action No. 80-1086 fails to state that Mr. Dennis had violated Sec. 2 U.S.C. sec. 441b, i.e. corporate funding.

I would like to know why the F.E.C. did not cash the $2,000 received on October 16, 1979, and which was offered in partial payment of the $18,000 fine, especially in light of the F.E.C.'s action in reducing the fine from the original F.E.C. proposal of $36,000.

In addition, may I inquire about the veracity of a statement made to me by James H. Dennis while I visited him in the Teladega Federal Correctional Center on 30 April 1980, that he arbitrarily reduced his fine from $36,000 to $18,000 and sent the "Agreement" back to Mr. Oldaker in a "take it or leave it" fashion. It appears from your records that Mr. Oldaker suggested to the Commission that the reduction be accepted.

I await your timely reply.

Sincerely,

ROBERT K. DORNAN,
Member of Congress.

FEDERAL ELECTION COMMISSION,
Washington, D.C., July 9, 1980.

Hon. ROBERT K. DORNAN,
U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN DORNAN: This is in response to your letter of May 16 in which you make several inquiries regarding MUR 970 (79) and the Commission's pending suit against James H. Dennis, Sr. [Civil Action No. 80-1886 (D.D.C.)].

You ask why, when respondent Dennis made contributions totalling $23,150 to the 1978 Stewart senatorial campaign committee, $22,000 of which was made in the names of others, did the Commission request return of only $22,000 from the Stewart Committee to Mr. Dennis. More specifically you have indicated that you are troubled by the Commission's conciliation agreement stating that the respondent utilized corporate funds "to make all contributions to the 1978 Federal campaigns of Senator Stewart and Carey Peck" and what you believe to be Commission error in failing to find an additional $1,150 corporate contribution made in violation of 2 U.S.C. § 441b.

Reading the conciliation agreement as a whole demonstrates that Paragraph D, upon which you have focused, refers specifically to the corporate contributions which are identified by the names in which they were made by Mr. Dennis and which are set out in preceding Paragraphs A and C. You will note that Mr. James H. Dennis, Sr. is not among those listed as contributors in the conciliation agreement Paragraphs A and C. The most serious aspect of the case was Mr. Dennis' use of corporate funds to make contributions in the name of other persons. Our investigation, therefore, was concentrated in this area. Thus the Stewart Committee was asked to refund the full $22,000 of corporate contributions which were made by Mr. Dennis in the names of other persons.

We appreciate your noting the absence of background language regarding Mr. Dennis' violation of 2 U.S.C. § 441b in the Commission's complaint. The suit filed with the U.S. District Court for the District of Columbia seeks enforcement of the Commission's conciliation agreement, specifically the payment of the agreed upon civil penalty. This suit does not involve proof of the substantive violations, including that of § 441b which Mr. Dennis already admitted he violated. However, despite the fact the language regarding Mr. Dennis' substantive violations of the Act was informational in nature and in no way affects the merits of the Commission's claims, this typographical error is now being remedied by amendment to the pleadings.

You also inquire as to why the Commission did not cash the $2,000 check received from Mr. Dennis in partial payment of the $18,000 civil penalty agreed to in the conciliation agreement. As the public file indicates, shortly after the conciliation agreement was approved by the Commission in early September 1979, the Commission was given assurances by both Mr. Dennis and his attorney that full payment would be forthcoming. The $2,000 check which was submitted to the Commission by Mr. Dennis was drawn upon his attorney's account and was submitted along with a request for an extension of time within which to submit full payment of the $18,000 civil penalty. The Commission granted the respondent a 30 day extension of time on November 1, 1979. When full payment was not received, by letter dated December 14, 1979, the Commission notified the respondent's attorney that payment should be made by December 19, 1979, or the Commission would institute a civil suit. On December 20, 1979, Mr. Dennis' counsel informed the Commission that he was no longer representing Mr. Dennis and that he had stopped payment on the $2,000 check drawn upon his firm's account.

We do not believe the Commission was in error in handling this situation as it did. As you know, the Act strongly favors informal, out-of-court settlements of violations of the federal election laws. Moreover, until the time of this final communication from Mr. Dennis' attorney, the Commission had no reason to question the assertions of the respondent and his attorney who in the course of their dealings with the Commission had been both cooperative and forthcoming. The purpose of the suit now pending in the U.S. District Court for the District of Columbia against Mr. Dennis, of course, is to secure full payment of the civil penalty owed.

As I have indicated to you, if you have any information of violations of the Act, you should submit that to the Commission pursuant to 2 U.S.C. § 437g, which, inter alia, prohibits the Commission from proceeding on the basis of evidence not presented to it in a sworn and notarized complaint.

I hope this adequately answers whatever questions you might have had with respect to these matters.

Sincerely,

CHARLES N. STEELE,
General Counsel.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 10, 1980.

Mr. CHARLES N. STEELE,
General Counsel, Federal Election Commission, Washington, D.C.

DEAR MR. STEELE: Your hand delivered non-response of July 9, 1980 to my letter of May 16, 1980 regarding the $23,150 in corporate money given by Mr. James H. Dennis to the 1978 Stewart Senatorial campaign evades all the points I raised in my letter to you.

Nowhere in your non-communication do you deny that Senator Stewart received $23,150 in corporate money from James H. Dennis. Instead, you state "the most serious aspect of the case was Mr. Dennis' use of corporate funds to make contributions in the names of other persons." Your FEC MUR 970 file is replete with statements both by the F.E.C. Office of General Counsel and James H. Dennis that the total amount of corporate funds received by Senator Stewart was $23,150, and not just $22,000.

Elsewhere your non-answer states: "Reading the conciliation agreement as a whole demonstrates that Paragraph D, upon which you have focused, refers specifically to the corporate contributions which are identified by the names in which they were made by Mr. Dennis and which are set out in preceding Paragraphs A and C. You will note that Mr. James H. Dennis, Sr. is not among those listed as contributors in the conciliation agreement Paragraphs A and C."

Mr. Steele, please read paragraphs D, A, and C, with my comments, which follow: "D. Respondent utilized corporate funds from Dennis Mining Supply and Equipment Co., Inc. to make all contributions to the 1978 federal campaigns of Senator Stewart and Carey Peck."

Now, it is correct to state as you have that paragraph D specifically refers to paragraphs A and C where the corporate contributions given by James Dennis in the names of others are cited. The A and C paragraphs do not refer exclusively to the Dennis contributions made in the names of others. Please read:

"A. Respondent made contributions totalling $23,150 to the 1978 Stewart senatorial campaign committee, Friends of Donald Stewart, of which $22,000 was made in the names of others. . ."

"C. Respondent made contributions totalling $13,000 to the 1978 Peck congressional campaign committee, Carey Peck for Congress Committee of which $12,000 was made in the names of others. . ."

The lines in paragraphs A and C which I have underlined for you, refer to paragraph D which states: "D. Respondent (i.e. James Dennis) utilized corporate funds from Dennis Mining Supply and Equipment Co., Inc. to make all contributions to the 1978 federal campaigns of Senator Stewart and Carey Peck."

Please read that paragraph again. It states all contributions, not some, were corporate.

Furthermore, you state: "Thus the Stewart Committee was asked to refund the full $22,000 of corporate contributions which were made by Mr. Dennis in the names of other persons."

Please check your MUR 970 files. You will find there that the Stewart campaign claimed on paper that they had already returned the money on May 11, 1979 (now denied by James Dennis before a federal grand jury on June 12, 1980). The Office of General Counsel did not ask for the return of the contributions to Dennis. Additionally, your office, according to the public record contained in FEC MUR 970 does not even have a front and back copy of the check that went from the Stewart campaign to Dennis, or for that matter, the check from Peck.

Mr. Steele, please, you are not an ignorant man, nor unfamiliar with this case. And you know what authority you have under the

F.E.C. Act. Why are you proceeding in this fashion? I was under the impression that "stonewalling" had gone out with Watergate! Your obstinate refusal to come to grips with the whole Dennis/Stewart/Peck, Sr./Peck, Jr. scandal, can only redound to the detriment of yourself and others who persist in this policy.

I support more disclosure of campaign contributions! Nevertheless, the psuedo investigation conducted by the F.E.C. Office of General Counsel under William Oldaker, and now yourself, show a definite lack of interest in providing the public with the truth, the whole truth, and nothing but the truth.

On page three of your whitewash, you insinuate that I am somehow withholding information from you or the Commission. You state: "As I have indicated to you, if you have any information of violations of the Act, you should submit that to the Commission pursuant to 2 U.S.C. § 437g, which, inter alia, prohibits the Commission from proceeding on the basis of evidence not presented to it in a sworn and notarized complaint.

In light of my openness with you and other F.E.C. officials, I find your allusion most unfortunate and out of place. All of the matters I have discussed with F.E.C. officials are contained in your own file, MUR 970. You now have and always have had more information available to you than I have had available to me. Therefore, I find it offensive that you should hint that I am not forthcoming with the facts.

Additionally, I find that your misreading of the F.E.C. Act, in light of your position as the Commission's General Counsel, to be rather shocking. In your myopic and selective reading of the law, you omit the following from the very same section of the Act, 2 U.S.C. § 437g (a)(2) which you cited to me:

> (2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act, or chapter 95 or chapter 96 of title 26, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

My staff aid, in a witnessed conversation, was informed on June 27, 1980, by Ken Gross and Mr. Noble, while my aid was at your office that the matter of the $1,150 had to go before the Commission for a vote. Am I to understand now that Mr. Noble and Mr. Gross are misinformed? Now, I would like to know, before the F.E.C. Appropriations bill goes before the House, are you going to initiate action to collect the additional $1,150 in corporate money given by James Dennis to Senator Stewart's 1978 campaign which for some reason, your office has so far ignored? Yes or no?

Sincerely,

Robert K. Dornan,
Member of Congress. ●

VIETNAM VETERANS' SUICIDE RATE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. CARTER. Mr. Speaker, years ago we became involved in Vietnam. The future of our country was not threatened. It was such a sad mistake to ask our sons to give their lives in this misadventure. I have received a letter from a physician friend of mine who happens to be the coroner of Jefferson County, Ky., and one of the finest men I have ever known. It is a record of the suicides in Jefferson County from 1975 to 1980, showing the total number and the number of Vietnam veterans who took their lives.

The fact that such a large percentage of these suicides were by Vietnam veterans indicates that we in the Congress—and I regret to say this—have not shown the Vietnam veterans the appreciation we should have; nor have we given the benefits to them that we have given veterans of previous wars. Of those committing suicide in Jefferson County from 1975 to 1980, 28.7 percent were Vietnam veterans. It fills my heart with sadness to think of their poor mental state. I urge the Congress to give more attention and show more appreciation for those who fought in Vietnam. Further, I submit that their benefits should equal those of veterans of any other war.

I enclose for the Record a copy of the letter from Richard F. Greathouse, M.D., coroner of Jefferson County, Ky.:

Office of the Coroner,
Jefferson County,
Louisville, Ky., July 11, 1980.

Hon. Tim Carter,
Rayburn House Office Building,
Washington, D.C.

Dear Tim: I thought you'd be interested in the results of a project that Tony Carter has been doing for the Coroner's Office this summer. It pertains to the number of veterans of the Vietnam War who have committed suicide in Jefferson County during the years from 1975 to 1980. The reason for the study is in cooperating with Louisville Tonight of WHAS T.V. on a program concerning delayed stress syndrome as it has affected Vietnam combat veterans. Tony has done a lot of work on this with the Coroner's Office records and I thought you'd be interested in the results which I show below:

25 to 40 years old:	
Vietnam veterans	34
Nonveterans	64
Undetermined	22
Total	120
30 to 40 years old:	
Vietnam veterans	24
Nonveterans	36
Undetermined	13
Total	73
25 to 30 years old:	
Vietnam veterans	11
Nonveterans	29
Undetermined	7
Total	47

My very best wishes to you and if there is ever anything we can do to help you, please let us know.

Sincerely,

Richard F. Greathouse, M.D.,
Coroner. ●

TRIBUTE TO RICHARD HILLMAN

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, on July 8, 1980, one of Pittsburgh's most distinguished citizens, Mr. Richard McL. Hillman, passed away. The great city of Pittsburgh has indeed lost a dedicated and civic-minded leader, and a true friend. The following article from the Pittsburgh Post-Gazette describes in part the many ways in which he was involved in the Pittsburgh community. The Moorhead family, all of whom have been longtime friends of the Hillman family, wish to extend their condolences on this sad occasion.

Richard Hillman, Executive in Steel Firm, Civic Leader

Richard McLeod Hillman, 65, a director and former chief financial officer of Wheeling-Pittsburgh Steel Corp., died Tuesday (July 8) in the Pittsburgh Skilled Nursing Center.

Mr. Hillman, who resided at 1427 Squirrel Hill Ave., Squirrel Hill was the son of the late Ernest Hillman, a leader in the Republican Party and an Allegheny County commissioner more than 25 years ago.

Mr. Hillman was the brother of the late Ernest Hillman Jr. of Fairfield, Conn., and a cousin of Pittsburgh financier Henry Hillman.

He retired in 1975 as executive vice president of Wheeling-Pittsburgh, ending a career in the steel industry that spanned more than 35 years. He continued to serve as a director of the corporation, maintaining an office in the company's headquarters in Four Gateway Center.

Mr. Hillman was active in civic and business affairs. He was a participant in WQED-TV's "Great TV Auction" since its inception several years ago.

He served on the board of directors of the Port Authority as vice chairman from 1964 until 1975, resigning out of frustration that his dream of a modern rapid transit system for Pittsburgh "was not likely to become a reality in the foreseeable future."

During an era of turmoil for the Port Authority, brought on by warring factions for and against the now-defunct Skybus proposal, Mr. Hillman's coolness and logic enabled him to earn respect from both sides, even though he maintained a frank pro-Skybus stance.

Despite his family's wealth, Mr. Hillman always preferred to maintain what his friends called "a low community profile," avoiding a lot of public recognition and attention which could have easily been his.

"Everybody who knew Dick Hillman really liked the guy," said a former Wheeling-Pittsburgh employee. "He was the most human millionaire I have ever known."

Mr. Hillman was a director of PBI Industries Inc. and Schaefer Equipment Co. In other areas of community service, he served on the boards of Chatham College, Shady Side Academy, Shadyside Hospital and Dollar Savings Bank.

A native of Pittsburgh, he attended Shady Side Academy and earned his degree in liberal arts from Williams College in 1937.

Upon his graduation, he joined the former Pittsburgh Steel Co. as a sales trainee and was assigned to the company's Monessen and Allenport plants for the next two years. He was then assigned to the firm's Pittsburgh sales office.

In 1941, he was commissioned an ensign in the U.S. Navy. Following five years of active duty, he was discharged from service holding the rank of lieutenant commander.

Mr. Hillman returned to Pittsburgh Steel Co, in 1946 and was assigned duties in the treasury department. He was elected assistant treasurer two years later and was named treasurer in 1952.

He was elected vice president and treasurer in 1956 and became vice president-secretary-treasurer two years later.

With the merger of Pittsburgh Steel into Wheeling Steel Corp. in 1968, he was elected to the position from which he retired in 1975.

He was a member of the American Iron and Steel Institute; the Duquesne Club; Fox Chapel Golf Club; Rolling Rock Club; Laurel Valley Country Club and Pittsburgh Golf Club.

He is survived by his wife, Joan Walthen Hillman; a daughter, Madeline H. Thompson; two sons, Richard Gregg and David McLeod; and three grandchildren.

Friends will be received from 4:30 to 7:30 p.m. today in the family residence. Services will be held at 11 a.m. tomorrow in the Third Presbyterian Church.●

REMARKS OF HON. CARLOS ROMERO-BARCELÓ, GOVERNOR OF PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. CORRADA. Mr. Speaker, this past July 4, 1980, our Nation celebrated its 204th birthday. All around the United States people observed this day with pride and joy. The people of Puerto Rico joined their fellow American citizens in this celebration, and we were honored to have with us for the occasion Mrs. Lillian Carter, the beloved mother of our President Jimmy Carter.

Mrs. Carter stated that "few communities anywhere observe the birthday of our Nation with the enthusiasm shown by the people of Puerto Rico." She noted that Puerto Ricans have been American citizens for the past 63 years, and that we have contributed significantly to the betterment of our Nation as a whole.

After these remarks, the Honorable Carlos Romero-Barceló, Governor of Puerto Rico, delivered a message to the people of Puerto Rico that encompassed the feelings of the majority of the American citizens in Puerto Rico. I would like to share those feelings with you here today.

ADDRESS BY HON. CARLOS ROMERO-BARCELÓ, GOVERNOR OF PUERTO RICO

The setting is new, but the occasion is not. Eighty-two times, 64 of them as American citizens, the people of Puerto Rico have celebrated, as we are celebrating now, the Independence Day of the United States of America.

Another year has passed, and our individual liberties remain intact. The world remains a deeply troubled place, however. For eight long months, 53 of our fellow citizens have been held prisoner in Iran; but we can be thankful that our nation is not at war, and that we ourselves continue to retain the right to forge our own destiny, free of tyranny, free of oppression, free of hunger.

And yet there is a certain irony in observing the Fourth of July in Puerto Rico. There is a certain irony because of what this day represents in the history of mankind. Two hundred four years ago today in Philadelphia, a group of British subjects proclaimed the creation of a new nation in the New World. Throughout the Western Hemisphere, their example would be followed by other peoples in North and South America, in Central America and the Caribbean. Indeed, to this very day, even tiny islands here in the Antilles are becoming sovereign republics, leaving behind centuries of colonialism.

Unlike the vast majority of the world's peoples, we in Puerto Rico have been blessed with relative prosperity and with a broad range of rights and personal freedoms. For this we are duly grateful. But even though we enjoy a level of prosperity and a standard of living which surpass those of the overwhelming majority of the world's peoples, including all the countries of Latin America, we nevertheless find ourselves still enduring vestiges of colonialism in our relationship with the rest of the nation.

Thus, while we can sincerely rejoice in what the Fourth of July means to us in terms of security, mobility, personal rights and freedoms, and our standard of living, there nonetheless remains a void, a hollowness, in terms of what true equality and civic dignity symbolize to a people as profoundly democratic as are the people of Puerto Rico.

During this century, of all the territories or political jurisdictions under the American flag which possessed substantial land area or a significantly large population, every one, with the sole exception of Puerto Rico, has sought equality of political rights or the right to political freedom through separation from the nation. The Philippines sought political separation; Hawaii and Alaska opted for equality through admission to the Union of States; and even the District of Columbia, the Nation's Capital, whose population is approaching one million persons, has successfully petitioned for the right to vote for President and Vice President, and is now seeking the right to send voting Representatives and Senators to the Congress. Puerto Rico is the only sizable or heavily populated territory under the American flag which still has not requested political equality.

And it is this fact which diminishes to some degree the significance of our observance of the Fourth of July.

This is a day which symbolizes the reaffirmation of dignity, human rights, self-determination, democracy, equality, liberty and justice.

Yet on this island, where we are blessed with the citizenship of the nation which came into being on July 4, 1776, we have yet to claim the political rights and the equality to which our citizenship entitles us. Thus, rather than serving as an occasion for celebration, the Fourth of July ought rather to serve as an occasion on which to ponder who we are, what we want to be, and what course we shall steer once we have resolved no more to live under conditions of inferiority, doubt, submission, and political vacillation.

Nearly three decades ago, at the urging of a great and inspiring leader, most of us were persuaded to accept, create, and set in motion a free associated state which would protect and preserve both our American citizenship and our Puerto Rican way of life.

In the process, Puerto Rico gained a flag and an anthem, and we were told that our Constitution had been adopted in the form of an agreement or compact between Puerto Rico and the people of the United States of America.

But as the years have passed, we have become aware that no such agreement, no such compact, was necessary in order to obtain a flag and anthem, nor to preserve our way of life as a people. On the contrary, we have come to realize that the same U.S. Constitution which safeguards our American citizenship also guarantees us, whether as a territory or as a state, the right to have our own flag, our own anthem, our own language, our own culture, and all of the other traditional qualities and aspirations which define each and every one of us as Puerto Ricans. No compact was needed. No free associated state was needed. And indeed, neither the so-called compact nor the Estado Libre Asociado ("Commonwealth" in English) has changed the fundamental political condition of Puerto Rico.

We remain, under the Commonwealth, exactly what we always were under the Jones Act: a territory, and second class American citizens.

That fact was reconfirmed as recently as May of this year, when the U.S. Supreme Court rejected a lower court ruling and established once again that Puerto Rico is a territory under the territorial clause of the U.S. Constitution, just as it was before 1952. The Court ruled that, as a territory, Puerto Rico is subject to laws passed by the Congress which can treat the island differently from the way the fifty states of the Union are treated. In other words, the American citizens who reside in Puerto Rico can be subjected to discrimination in the distribution of public welfare programs, including programs as fundamental as that which grants aid to needy families with dependent children.

The United States Supreme Court held that, since Puerto Ricans with sufficiently high incomes and economic well-being to be able to afford to pay Federal taxes do not pay such taxes, the Congress is therefore not obligated to provide poor people in Puerto Rico with the same welfare benefits that poor people in the fifty states of the Union receive.

This condition of political inequality, the fact that in this day and age Puerto Rico still remains a territory and that the Puerto Rican people are still second class citizens, cannot satisfy the aspirations nor fail to offend the dignity of any Puerto Rican man or woman.

Those who advocate independence as the solution to Puerto Rico's status dilemma are very obviously not satisfied with the present situation. We who advocate statehood as the solution to Puerto Rico's status dilemma are certainly not satisfied with the present situation. And a person who advocates autonomy, but in permanent union with the United States and with pride in his or her American citizenship, cannot in any way accept having that citizenship be inferior in Puerto Rico to what it is elsewhere in the nation. If they do, then they are surrendering their dignity as human beings in exchange for a few supposed advantages.

For my own part, I cannot imagine wanting to continue to be a citizen of a democratic nation and at the same time wanting to deny myself the right to participate in the democratic process of the nation of which I am a citizen, and to deny also to my children now and in the future their right to participation in the democratic process of that nation. I do not want to be a second class citizen. I am confident that no Puerto Rican can feel content with second class citizenship. I am proud of my American citizenship because I believe in democracy, and I believe in the equality of rights which a democratic system of government guarantees to all its citizens. That is why I want to achieve political equality.

A people which possesses a sense of dignity and self-respect cannot accept an arrangement under which it has fewer rights than others who form part of the same political system. Such a people must aspire to equality of rights. We must reach that point. While we move in that direction, we must continue strengthening Puerto Rico; strengthening our development, promoting the development of our human resources and our natural resources, encouraging the creation of local capital, fortifying our sense of identity as a people, our language and our culture. To fortify our sense of identity as a people, our language and our culture does not conflict with our desire and our legitimate aspiration to be first class citizens. I am not afraid to take a stand on personal identity. No people must ever be afraid to take a stand on its identity. We Puerto Ricans must face the future with faith and with confidence.

We have many reasons to look to the future with faith and with confidence. If we look around us in Latin America, we find lands with far smaller population densities than our own, with almost inexhaustible mineral resources, and with huge expanses of territory, and we find in these lands a standard of living much lower than our own. Indeed, as I have already noted, Puerto Rico has the highest standard of living anywhere in Latin America. Why? Well, in the first place, we have raised our standard of living due to our drive and determination as a people. We have accomplished it because of that characteristic Puerto Rican trait of always striving to improve ourselves through our children. Through the boundless devotion we feel toward our children and our constant effort to ensure that they receive a better education that we did, and that they likewise shall have the economic and social opportunities that we did not.

In many other lands, parents look forward eagerly to the day when their sons will be old enough to help out in the shop or the warehouse, or to till the soil; and to the day when their daughters will have reached an age when they can be married off, or otherwise placed in the keeping of others. In Puerto Rico, by contrast, parents concern themselves with giving their children education and opportunity. That is our greatest strength as a people. Our drive to educate our children so they can take up a profession or obtain a position which will enable them earn a better living and attain a higher standard of well-being. This is the common goal of all Puerto Rican parents.

But even this dedication and this fierce commitment to advancement would not have sufficed by itself, because we have always lacked the mineral resources needed for abundant economic development. We have, however, been able to compensate for this shortage of resources, through the funds provided by Federal programs that have permitted us to construct homes for our needy families; to build roads and expressways so the farmer can get his product to market, and so that rapid and efficient transportation and communication can be effected throughout the island; to create harbor facilities and airports; to put up schools, hospitals, water lines and sewers, sewage treatment plants and dams and the countless other facilities which have made it possible for us to achieve the standard of living we enjoy today.

But according to the U.S. Supreme Court, all the money for Federal programs that has come into Puerto Rico has been sent here because the Congress so decreed; because the Congress chose to be generous. Well, we do not want to go on forever receiving those benefits on the basis of the generosity of the U.S. Congress. We do not want to go on being a welfare territory, and we do not want to go on being a welfare Commonwealth.

We want to receive our share of Federal funds as a matter of right. We do not want to go before Congress as supplicants; we want to be able to claim what we have coming to us by rights.

Those of us who have the wherewithal desire to contribute our share so that all Puerto Ricans can enjoy all the rights to which our citizenship entitles us; so that we may all have the right to participate in shaping the future of our nation; so that we can have both voice and vote in arriving at the decisions which affect our lives; and so we can deal with our fellow citizens on equal terms and with dignity.

We want to contribute our share so that, when we go to the Congress to seek funds for a Federal program which will aid needy Puerto Ricans, we can do so with firmness, claiming the benefits of that program for Puerto Rico because we are entitled to them by right, and not as a benevolent gesture of kindness on the part of the Congress.

We want to represent our people with dignity and with pride; that is how I want to raise my children, looking to the future with self-assurance and self-esteem. We must as Puerto Ricans go forward with faith and with confidence, not with timidity and trepidation. We have been fearful for too long.

The time has come for the Puerto Rican people to rise up and decide who we are, what we want to be, and what our future course is to be.

I am proud of my American citizenship, but I am prouder still of being Puerto Rican, and no person or institution, no tax or degree of participation, no right to vote, is going to make me change who I am, nor the language I speak, nor my tastes in the music I listen to, nor decide for me what poetry I shall read, nor whether or not we shall have patron saint festivals, nor whether or not we shall celebrate Three Kings Day. These things cannot be changed by anyone against the will of a people.

The acquisition of political rights does not make a people alter its way of being if that people does not desire to change it themselves. What we want as Puerto Ricans is political dignity; equality. We want to be first class citizens.

That is all there is to it and that is where we are headed.●

WOMEN AND PENSIONS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mrs. SCHROEDER. Mr. Speaker, I would like to share the following information on a proposed IRS rule which would give favorable treatment to women in small pension plans with my colleagues. There will be a vote tomorrow on an amendment offered by Representatives JOHN ASHBROOK and BILL FRENZEL to prohibit the IRS from implementing this rule. I urge my colleagues to read the following information before their vote:

IRS PROPOSES TAX CHANGE GIVING FAVORABLE TREATMENT TO WOMEN IN SMALL PENSION PLANS

The Internal Revenue Service (IRS) has proposed a change in regulations applicable to private pension plans which could have a tremendous positive impact for an estimated half-million women.

Women most likely to be affected are those who are employed as secretaries, nurses, and similar workers in professional corporations with retirement plans promising to pay pension benefits.

Many women never collect benefits because they leave their jobs before they are "vested." Being vested means an employee has been part of the plan long enough to earn the right to collect some level of benefits at retirement age even if he or she leaves that job before retirement age.

ERISA RULES

The Employee Retirement Income Security Act of 1974 (ERISA) requires that private pension plans meet certain standards—administered by the IRS—relating to vesting and discrimination. The vesting requirement offers three choices—one calling for 100% vesting after 10 years of service. Significant numbers of women fail to receive benefits under such plans because they leave their jobs before completing 10 years of service.

The discrimination requirement states that a pension plan may not qualify for favorable IRS tax treatment if it discriminates in favor of employees who are highly compensated, officers, or shareholders.

VESTING DISCRIMINATION

Under its separate tax authority, the IRS has ruled that even pension plans which meet the ERISA vesting standards may be discriminatory with respect to vesting.

A plan would be considered discriminatory if it results in much more frequent vesting of employees who are officers, shareholders or highly compensated workers, than of low-paid employees who tend to change jobs more frequently.

Under present rules, the IRS grants preliminary tax qualification to a plan's vesting rules if they provide vesting under a "4/40" schedule—that is, 40% after four years, graduating to 100% after 11 years.

NEW PROPOSAL

The new IRS proposal, calls for looking at the discrimination in operation of any plan even if it meets the "4/40" standard.

It is believed that few plans of professional corporations would be able to prove that their vesting rules do not discriminate in practice.

To do so, they would have to prove that officers, shareholders or highly paid employees do not vest more often than secretaries, nurses, and other lower-paid workers. The latter are much more likely to leave before vesting than are the professionals or other executives—thus most of these plans would have to change their vesting standard if the proposed regulation is adopted.●

COMMENT ON THE ASHBROOK AMENDMENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. RANGEL. Mr. Speaker, some time this week we are scheduled to debate the fiscal year 1981 Treasury appropriations. As part of that debate, Representative ASHBROOK will propose an amendment which would prohibit IRS from promulgating new rules on the tax-exempt status of private schools which discriminate against minorities.

I view this as an unwise and regrettable restriction on the Internal Revenue Service's ability to effectively carry out the IRS Code. This is especially so because the Ashbrook amendment is a case in which the Congress would be prohibiting action by IRS through the denial of funds rather than by changing the law. Such actions in appropriation bills rather than through changes in the applicable law, usurp the inherent jurisdictions of the legislative committees involved and encourage the Congress to deal with issues in a circumspect manner.

An article in the June 1980 Yale Law Journal by Archie Parnell addresses itself to the recent general tendency of the Congress to address IRS issues in a circuitous fashion rather than changing the IRS Code itself. One of the major examples that Mr. Parnell uses is the Ashbrook rider on the 1980 Treasury appropriations. The applicable portions of Mr. Parnell's article follow. One should especially note the constitutional questions that amendments such as the Ashbrook amendment raise:

> Congressional restrictions on the IRS also may violate the separation of powers doctrine when they clash with prior judicial commands that the IRS execute the law in a certain manner. Because it is the province of the courts, not Congress, to interpret what an existing law means, Congress may not oppose such a judicial interpretation or deny the IRS the funds necessary to execute the law in accordance with judicial interpretation unless Congress explicitly alters the law itself. Otherwise, the same law may have as many different meanings as there are sessions of Congress.
>
> One example of such a clash is Congress's interference with IRS efforts to provide nationwide guidance with respect to the revocation of the tax-exempt status of racially discriminatory private schools. In 1971, the Supreme Court affirmed an injunction against the IRS in *Green v. Connally* ordering that tax-exempt status not be given to such schools, that tax-exempt status previously accorded to such schools be revoked, and that tax deductions for contributions to such schools be disallowed. The Court's decision was based on a statutory interpretation of the Code. In these circumstances, as Professor Laurence Tribe noted in testimony before the House Ways and Means Oversight Subcommittee, "to intrude the legislative branch into the Federal district court proceedings would raise the most profound questions of the separation of power in our Constitution." Nevertheless, the Ashbrook Amendment to the fiscal year 1980 appropriations act provided that none of the funds made available for the IRS could be used to implement rules to cause the revocation of tax-exempt status for such schools.
>
> Similarly, the Dornan Amendment to the fiscal year 1980 appropriations act prohibited the IRS from using any of its funds to enforce Revenue Ruling 79-99. As discussed above, this ruling provided that taxpayers are not entitled to charitable contribution deductions for payments to a private tax-exempt religious school unless the contributions exceed the fair market value of the education provided to the taxpayer's child. The ruling was no radical interpretation of the Code, it should be noted, but simply a restatement of firmly established principles concerning the deductibility of charitable contributions. Indeed, the ruling was based on the facts and holding of *Oppewal v. Commissioner*, and it is not clear why the IRS thought a revenue ruling was necessary at all. In any event, like the Ashbrook Amendment, the Dornan Amendment denies the IRS the funds to carry out the interpretation of a section of the Code in a way that a federal court has held is required under that section. Commissioner Kurtz has acknowledged the awkward position in which the IRS is now placed, stating that the IRS is at a loss as to "how not to administer a revenue ruling that simply restates a court decision."
>
> In analyzing the separation of powers concerns here, the first question must be whether the Ashbrook and Dornan amendments defy the Courts by prohibiting the IRS from carrying out their instructions and interpretations, or whether the spending limitations implicitly amend the underlying statutes on which the courts' interpretations rest. The latter would not violate the separation of powers doctrine, because Congress clearly has the power to change the law. There are serious objections to such an interpretation, however. First, it is a violation of Congress's own rules to enact substantive legislation in an appropriations act. Second, the constitutionality of such amendments by implication is itself subject to doubt on grounds of vagueness. Nothing in the code itself now repeals *Oppewal* or *Green* or the sections on which they rest. The Dornan Amendment of the appropriations act obviates a revenue ruling that merely restates a standard interpretation of the Code without explicitly amending that section. Congress could amend the relevant sections explicitly without violating the separation of powers doctrine, but the prohibition of funds for executive enforcement of certain sections of the Code implies only that a particular Congress disagrees with the way in which courts have interpreted such sections. Congress should not be allowed to effect implicit amendments of the Code by prohibiting funds for enforcement when the result clashes with judicial interpretation of what those sections require. Such congressional prohibitions raise separation of powers issues that, although not easily answered, should not be lightly dismissed.
>
> It seems likely, however, that the IRS must conclude that the Dornan and Ashbrook amendments do amend the Code, if only by implication, and that such amendments by implication are probably valid. The next question then must be whether the amendments clash with interpretations in *Oppewal* and *Green* that are based on the Constitution. If so, the Ashbrook and Dornan amendments would apparently violate the separation of powers doctrine by contravening a judicial interpretation of the Constitution. Although the *Green* court focused on statutory interpretation, its clear and uncompromising language as to the probable unconstitutionality of a contrary statutory interpretation makes it reasonable to conclude that the court's decision was based in part on constitutional grounds. *Oppewal* makes no mention of the Constitution at all, but a contrary statutory interpretation in that case might raise constitutional problems that are discussed below. No clearer violation of the separation of powers doctrine can be imagined than a situation in which Congress ignores the constitutional interpretations of the federal judiciary.
>
> *2. Other constitutional violations*
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> Congressional prohibitions on the IRS that effectively stop the administration of the tax law may be unconstitutional for reasons aside from the violation of the separation of powers doctrine. The Dornan and Ashbrook amendments in particular may be unconstitutional violations of the establishment clause or the equal protection component of the due process clause of the Fifth Amendment.
>
> The first question here is whether the tax-exempt status accorded private schools by virtue of section 501(c)(3) or the deductibility of contributions to such schools permitted by section 170(c)(2) so involve the federal government as to constitute federal action. If so, the IRS is constitutionally obligated to revoke the tax-exempt status of racially discriminatory private schools and to deny the deductibility of contributions to religious schools in cases that violate the establishment clause. If the IRS is thus obligated, then Congress violates the Constitution in passing legislation that prohibits the IRS from using any of its funds to comply with constitutional mandates.
>
> Although no court has determined whether section 501(c)(3) and section 170(c)(2) involve the government to such an extent as to constitute federal action, that would appear to be the case. A three-judge court in *McGlotten* v. *Connally* determined that the federal government's allowance of charitable contribution deductions under section 170(c)(4) and the allowance of tax-exempt status under section 501(c)(8) to fraternal orders that excluded nonwhites from membership did constitute "federal action." Such tax benefits amount to tax subsidies, the court said, and when granted to racially discriminatory fraternal orders those subsidies violate both the due process clause of the Fifth Amendment and the Civil Rights Act of 1964. By virtue of such tax treatment, "the Government has become sufficiently entwined with private parties to call forth a duty to ensure compliance with the Fifth Amendment."
>
> This reasoning applies with equal force to the allowance of charitable contributions deductions under section 170(c)(2) to private schools that practice racial discrimination and to the tax-exempt status granted to such schools under section 501(c)(3). The IRS is constitutionally obligated to forbid deduction of contributions to racially discriminatory schools and to deny such schools a tax-exempt status. The guidelines in effect prior to August 22, 1978, are simply not sufficient to satisfy the constitutional duty placed on the IRS, and the Ashbrook Amendment thus effectively prohibits the IRS from carrying out its constitutional duty. This places the constitutionality of the Ashbrook Amendment in grave doubt; appropriations acts have been held just as unconstitutional as substantive legislation. If the Ashbrook Amendment is held unconstitutional under the Fifth Amendment, that defect should be cured by Congress allowing an adequate appropriation to sup-

port the IRS's compliance with the Constitution.

Similarly, a special provision to make educational fees for attending private religious schools deductible might violate the establishment clause of the First Amendment. By restricting the IRS's enforcement of section 170(c)(2) in a way that advantages private religious schools, the Dornan Amendment might be held to be an unconstitutional form of aid to such schools.

Finally, it is at least arguable that congressional prohibitions that inevitably lead to the unequal treatment of similarly situated taxpayers also violate the equal protection component of the Fifth Amendment. By preventing the IRS from formulating nationwide guidelines for the treatment of fringe benefits, but leaving the IRS free to enforce section 61 as it affects fringe benefits on a case-by-case basis, Congress has virtually guaranteed there will be different treatment of similarly situated taxpayers. When Congress thus interferes with the administration of the tax laws, it may violate the equal protection component of the Fifth Amendment even if it does not also violate the separation of powers doctrine.●

A TRIBUTE TO MSGR. JOHN PAUL HAVERTY

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. MURPHY of New York. Mr. Speaker, on Sunday July 20, one day short of his 70th birthday, Staten Island and New York City lost one of their most loved and respected citizens, Msgr. John Paul Haverty.

Monsignor Haverty had been pastor of Blessed Sacrament Church in West Brighton, Staten Island, since January 1966 when he retired as secretary of education for the archdiocese of New York. The monsignor achieved this post after devoting virtually his entire career in the church to education. Ordained in St. Patrick's Cathedral on June 6, 1936, the monsignor put to good use his training in the field of education, which included a masters degree from Fordham University, and quickly became a valuable asset to the schools within the archdiocese. He was appointed assistant supervisor of the archdiocese's schools in 1941, superintendent in 1953, and secretary of education in 1964.

His understanding of the problems and goals of an educational system were shared with the Nation in a review of Catholic education entitled "These Young Lives" which Monsignor Haverty coedited in 1950.

His impact on the education of tens of thousands of young people who were trained in the schools of the archdiocese will remain with those he taught as well as on the system itself. His impact on the members of his parish and the community in general will be fondly remembered by all those who had the great honor and privilege to know him for 1 day or 70 years. His intellect, understanding, compassion, and achievements transcended the confines of the church to make him a valuable, loved, and respected resource for the entire community.

Monsignor Haverty dedicated his life to the service of his fellow man, especially the young men and women for whose future he had such great hope. His passing will require all of us to redouble our efforts in the community to attempt to fill the void that has been left.

My personal sense of loss is tempered only by the fact that through my years of association with the monsignor, having him as a friend and an adviser, I know that he lived a full, active, and happy life. He will be greatly missed and long remembered.●

CAPTIVE NATIONS WEEK

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1980

● Mr. NOWAK. Mr. Speaker, in recent months, Americans have been witness to two poignant reminders of the uniqueness of our liberties and basic human rights. This year, as we observe the 22d annual Captive Nations Week, the freedoms we enjoy in this country are underscored by contrast with Cuba, and her hordes of asylum-seeking refugees; and by Afghanistan, the most recent country to be engulfed by Soviet imperialism.

Both events dramatize the severity of repressive regimes and underline our own freedom and quality of life. They also remind us of our need to remain strong so that we may both guarantee our own national integrity and continue as the leader in the global struggle for human rights.

Our observance of Captive Nations Week also makes us mindful of those behind the Iron Curtain, particularly in Eastern Europe, who carry the torch that burns so freely in this country. They represent the spirit upon which this country was founded and to which we pay tribute this week. The persistence of their struggle strikes a blow for the dignity of all mankind.

By commemorating Captive Nations Week each year, we make clear to the world our continuing commitment to this Nation's tradition of freedom and we renew our own kinship with those nations and peoples who share our ideals.

It is with pride in our own society and hope for the future of others that we reflect on the meaning of this occasion.●

SENATE—*Wednesday, July 23, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DONALD STEWART, a Senator from the State of Alabama.

PRAYER

The Reverend Dr. Alfred W. Wishart, Jr., executive director, the Howard Heinz Endowment, Pittsburgh, Pa., offered the following prayer:

Hear the words of the Psalmists:

I will hear what God the Lord will speak; for He will speak peace unto His people. Surely His salvation is nigh them that fear Him; that glory may dwell in our land.—Psalms 85: 8, 9.

Let us pray.

Heavenly Father, in the busy rush of our lives, we urgently need times of renewal, of quiet meditation, and of spiritual rebuilding. Come into our lives we pray, with the strength and insight we need, that we may reformulate the images by which we live, reexamine the goals we seek, and redefine the purposes we serve. We find it too easy to trust wholly in our own resources, to blame our troubles on someone else, to think that all the world is out of step but us, and to live unconcerned about the frustrations and hardships of those whom we do not see.

But we acknowledge O Father, that You have called us to walk and work with You. So give us courage to think clearly about the meaning of life. Give us vision to accept the responsibilities that relate to the problems of people and nations. Help us to match this day's demands with abilities made strong by our opportunities. Deepen our concern for all people everywhere. Grant us the determination to do all within our abilities to bring about a united, peaceful, and transformed world.

And may the grace of our Lord Jesus Christ, the love of God, and the fellowship of His Holy Spirit be with you all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 23, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD STEWART, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. STEWART thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORT OF TRIP TO THE PEOPLE'S REPUBLIC OF CHINA, JULY 1980

Mr. ROBERT C. BYRD. Mr. President, I visited the People's Republic of China from July 6 to 14, at the invitation of the National People's Congress.

During my visit I had lengthy discussions with Premier Hua Guofeng, Vice-Premier Zhao Ziyang, leaders of the National People's Congress, and other top Chinese officials. In addition to my meetings in Beijing, I had the opportunity to visit a number of points of special interest.

This was my second trip to the People's Republic, my earlier visit having been in August 1975. Therefore, I had a chance to observe the changes that have occurred within the People's Republic of China during the past 5 years, and to contrast the current situation with that of 1975. I was accompanied on the trip by Richard Holbrooke, Assistant Secretary of State for East Asian and Pacific Affairs.

OVERVIEW

The primary impression that emerges from my trip is a sense of a more pragmatic, more realistic approach on the part of the Chinese in dealing with the formidable problems they face in their modernization efforts. I was strongly impressed by the determination of the Chinese to succeed in this monumental undertaking.

The four modernizations program is the centerpiece of an ambitious effort the Chinese have charted for the next 20 years. It is designed to strengthen China in four major areas: agriculture, industry, science and technology, and defense. The current and emerging leadership has a strong commitment to this program and an obvious stake in its success.

I found the Chinese leadership to be forward-thinking, willing to acknowledge areas of weakness, but eager and energetic in their efforts to overcome them. At this point, the Chinese readily and candidly point to the "backwards" status of their agricultural, industrial, and technological capabilities, and they look to the United States, the West, and Japan for important assistance in these and other areas. But this is a sensitive matter and the Chinese, with their centuries of history and tradition—as well as their pride in more recent accomplishments—do not want to be looked upon as an unequal and lesser partner in a joint venture.

There is clearly a convergence of strategic interests between the United States and China, and a commonality in our view of significant aspects of current world affairs. That is not to suggest that our interests will always coincide, or that our view of world affairs will be similar and consistent. But I believe that China, representing one-fourth of the world's peoples, has an increasingly important role to play in international affairs, and, along with Japan, has a particularly significant role in the Asian-Pacific region.

I emphasized to the Chinese leaders my conviction that there will be continuity in U.S. policy toward China. I expressed my judgment that the American people strongly favor a growing relationship with China, and that the U.S. Senate will continue to be steadfast in its support of a steady, gradual growth in Sino-American relations. I pointed out that such an approach represents a continuum in U.S. policy—having been carried out under two Republican administrations and one Democratic administration, with support from the legislative branch. I also stressed to the Chinese leaders the important role that Congress, as an independent but coequal branch of Government, is playing and expects to continue to play in foreign policy matters.

As a result of my trip, I am more convinced than ever that the United States has a real stake in the success of China's modernization effort, because a strong, secure, peaceful, and modernizing China is vital to stability in the Asian-Pacific region. In my view, it is increasingly apparent that the normalization of relations and strengthening U.S. cooperation with China represents one of the most significant developments in recent history. Our growing relationship with China should be a fundamental element of U.S. foreign policy. To alter the status of that relationship, to take any backward steps at this time, would be a blunder of monumental proportions and

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

would seriously undermine U.S. interests in the world, as well as those of Taiwan and our friends and allies in the Asian and Pacific area.

During my travels through China, I observed some remarkable and significant changes in China since my visit 5 years ago. There is a much more practical approach to problem solving. The introductions of incentives into the economy—on a very limited basis—is a new development, as is the interest in modern management techniques, and the granting of increased autonomy to the local and provincial levels and to various enterprises. Five years ago, I saw nothing similar to the bustling village markets I saw on this trip to Yunnan Province, where residents of the area were selling their produce and wares. And on a visit to a commune near Beijing, I found the emphasis to be on practical incentives to increase production, rather than the former emphasis on ideological rhetoric. And I found, as part of this determined effort to increase production, a willingness and desire to learn from the experience and knowledge of others.

My visit to China was the first congressional visit at the invitation of the National People's Congress. Although there are obvious and basic differences in the American and Chinese systems of government, the NPC is China's legislative body. It is composed of 3,497 delegates, selected from China's 29 provinces and the military forces. The Standing Committee of the NPC, made up of 200 senior members, meets more frequently and carries on the business of the NPC in between plenary sessions. After consultation with Chairman CHURCH of the Senate Committee on Foreign Relations, and because of my strong conviction about the importance of increased cooperation and understanding between our two countries, I extended an invitation to the NPC to send a delegation to the United States, probably in early 1981.

I hope to see rapid progress in a number of areas of potential cooperation. In this regard, I hope to see early completion of negotiations on consular relations, which would enable additional consular offices in each country; civil aviation, maritime, and textile agreements; a possible bilateral business practices, tax and investment agreement; and completion of congressional action on Overseas Private Investment Corporation (OPIC) guarantees and Eximbank budgetary authorization.

Further steps should be taken to facilitate commerce between the United States and China. For example, I think it is important to assist the Chinese in better understanding U.S. business laws and regulations. American professors could provide special courses on these subjects in Chinese universities. It is also important to provide training in management practices, which could be of great value to China. And there are various other efforts which could be undertaken to help improve understanding and communication between the two countries.

I think it is essential that we proceed with educational, scientific, and technological exchange and cooperation. English-language training in China is important and some programs are underway, but more are needed. Likewise, we must educate more Americans to speak Chinese.

MEETING WITH PREMIER HUA GUOFENG

My first meeting in Beijing was with Premier Hua Guofeng on July 7 in the Great Hall of the People. The 1-hour, 30-minute discussion occurred shortly before Premier Hua was to depart for Tokyo and the funeral of the late Japanese Prime Minister Ohira, after which Premier Hua would meet with President Carter. I indicated that President Carter had asked me to convey his greetings and that he had told me he was looking forward to meeting the Premier in Tokyo. Premier Hua said he was very glad to have the opportunity to meet with the President.

Premier Hua devoted most of his remarks to Chinese foreign policy and the Chinese view of world affairs. He said that relations between the United States and China "have developed quite well, by and large," but said "we still have much to do."

He noted that from a strategic perspective the world in the 1980's "has become increasingly tense and turbulent."

The Premier stressed Chinese concerns over, and opposition to, actions by the Soviet Union, particularly in Afghanistan, and in supplying military support to Vietnam's invasion of Kampuchea. He said that when the Soviet Union had invaded Czechoslovakia in 1968, the Soviets had used two pretexts to cover their actions: first, by asserting the doctrine of "limited sovereignty of the family of socialist nations;" second, on the grounds of a friendship treaty between the Soviet Union and Czechoslovakia.

Hua noted that this presumes that any country which enters into a treaty with the Soviet Union offers grounds for the Soviets to commit aggression against that country. In the case of Afghanistan, Hua said that the Soviets claimed they were invited to send troops by the Afghanistan Government. He said everyone knows that the Government of Afghanistan at that time was led by Amin, whereas Babrak Karmal went into Afghanistan along with Soviet troops. "It is not conceivable that Amin should have invited Soviet troops to intervene and to kill him and all his family," said Hua.

The Chinese Government concludes that the Soviet claims are entirely baseless and without validity, Hua said, pointing out that Afghanistan had been an independent, nonalined Islamic country.

Hua emphasized that the Soviet intervention in Afghanistan should not be considered a local action:

> Once they have firmly established themselves in Afghanistan, they will expand toward the Indian Ocean, toward Pakistan and Iran, and toward the Middle East and Gulf regions.

He commented that the Soviets fully appreciate the significance and strategic importance of the gulf region. He expressed the view that even if Soviet oil production does not decline, as has been predicted—

> * * * the Soviets will, nonetheless, seek to take control of the oil-producing region.

He said this would be an "outflanking action" directed against Western Europe and would have catastrophic consequences for Japan and other oil-dependent countries.

The Chinese Premier said that the Soviet Union is also stepping up military activities in the Pacific area and that Vietnam is seeking "regional hegemony." He said:

> The Soviet Union is taking advantage of Vietnamese ambitions to turn them into the Cubans of the Orient.

He said that if Vietnam is successful in its expansionist efforts in Indochina, the Vietnamese will expand further toward Thailand and other ASEAN—Association of Southeast Asian Nations—countries. Hua stated:

> If the Malacca straits fall under Soviet control, they can link up their military presence from the Indian Ocean to the Middle East.

Hua summarized the Chinese view of Soviet strategy:

> If they are successful in their moves in the Middle East, Gulf region, and Indochina, it can be said that they, by and large, will have completed their strategic plan.

This, he said, could plunge the world into a third world war.

Hua commended U.S. assistance to Thailand and said that both Thailand and Kampuchea need assistance in order to resist the Vietnamese. He noted the recent condemnation of Vietnamese action by the ASEAN foreign ministers and said that China had issued a strong statement "condemning Vietnamese aggression against Thailand."

"We also lodged a strong protest against the provocations of Vietnam along the Sino-Vietnamese border," Hua said. He said that China had launched "small-scale counterattacks into areas where the provocations were the greatest."

The Premier said that the main forces of Vietnam are concentrated on the Sino-Vietnamese border, with Vietnam maintaining 29 infantry divisions in that region, plus frontier guards, security forces, and air force personnel.

The Chinese calculate that 60 percent of Vietnam's strongest and best forces are in the area of the Sino-Vietnamese border. Hua commented:

> The Soviet aggression in Afghanistan and the Vietnamese aggression in Kampuchea represent two heavy burdens on their backs.

On the question of the U.S. hostages in Iran, Hua said that the Chinese view is that the Iranians are wrong to hold the hostages. But he commented that the domestic situation in Iran is very chaotic, and that patience is needed in dealing with this matter. He said that various channels should be explored to seek a resolution of the problem. Hua said his understanding is that the President and Foreign Minister of Iran want to see the issue resolved, but that they are not very authoritative at present.

Premier Hua said that when he attended the funeral of President Tito in Yugoslavia, Iranian Foreign Minister Ghotbzadeh asked to see him. In their meeting, Hua said that the Iranian official expressed concern about Soviet expansionism and aggression and indicated that Iran would offer firm resistance to the Soviets. Ghotbzadeh told him that Iran had advised the Soviets to pull out of Afghanistan and that if this did not happen, Iran would lend support to the struggle against the Russians. Hua noted that there has been a tradition of opposition to Soviet aggression among the Iranian people.

The Chinese leader said that China believes the Soviet Union is very isolated in the world, and he commended the position taken by the seven nations at the Venice summit in opposition to the Soviet actions in Afghanistan. Hua said that on the one hand the Soviets are trying to intensify and consolidate their occupation of Afghanistan and Kampuchea. On the other hand, he said, they have launched a "peace offensive" in an attempt to split the ranks of the Western countries. The Chinese view, Hua said, is that the only way to resolve the Afghanistan and Kampuchea questions is for the Soviet Union and Vietnam to pull their troops out of those countries, and let the Afghan and Kampuchean peoples settle their own affairs.

Premier Hua said that the United States and China should proceed, each from its own position, to counter Soviet expansion. Hua said:

> We in China do not wish to see war. We want very much an international environment of peace in which to carry out economic development. But to realize our wish for a peaceful international environment, it is necessary to fight against hegemonistic expansion and aggression.

In responding to Premier Hua, I noted that I agreed with much of the geopolitical analysis he had given. I stated that the Soviet action in Afghanistan had constituted a real turning point in U.S. attitudes.

I referred to the resolution on Afghanistan which I had introduced in the Senate and which was approved by a 96 to 0 vote on June 14. That resolution strongly condemned the Soviet invasion of Afghanistan and called for the withdrawal of all Soviet military forces from Afghanistan.

Premier Hua had expressed appreciation for the Senate's action earlier this year in approving the United States-China trade agreement and most-favored-nation (MFN) trade status for China. I told the Premier that the Senate is playing an increasing role in foreign policy and, in my view, will continue to play an equal but independent role.

In my comments, I cited five points which I believe the American people and the Congress will support:

First. Continued progress in developing positive relations with the People's Republic of China.

Second. A stronger U.S. national defense, including a stronger Navy, Air Force, and Army, and a rapid deployment force to deal with contingencies that may arise in strategic areas of the world.

Third. A stronger North Atlantic alliance. I cited President Carter's leadership in getting a commitment from NATO countries to increase defense spending and said that the Senate and the American people stand behind this and intend to keep that commitment.

Fourth. Successful achievement of the four modernizations program by China, a goal the United States wants to help China achieve.

Fifth. Resolution of our own energy problems. This is a matter vital to U.S. security interests and to our ability to be effective internationally.

I expressed my view that, regardless of the outcome of this year's Presidential election, there will be no turning back the clock in United States-People's Republic of China relations, which have now moved beyond the initial period of normalization and offer possibilities for increased cooperation in many areas. Relations between the United States and the People's Republic of China are extremely important in the current critical period of international affairs. We will continue to work to help China to achieve its modernization program, and to increase trade between our countries, realizing that this will contribute to greater international stability and is in our mutual security interests.

In his concluding remarks, Premier Hua said:

> We also attach great importance to relations between China and the U.S. We do not view this relationship as a momentary thing, but from the perspective of our long-range strategic interests.

Hua said that in terms of size, China is vast, with 970 million people, but in terms of agricultural and industrial production, China is still relatively low. Therefore, China is committed to building up the country, but has no intention of seeking hegemony over other countries.

He said that the United States, Western Europe, and Japan cannot separate themselves from each other and that all these forces "must close ranks to deal with hegemony." This he said, "is the only way we can hope for world peace."

MEETING WITH VICE-CHAIRMAN ULANFU OF THE NPC STANDING COMMITTEE

Following my meeting with Premier Hua, I met with Vice-Chairman Ulanfu of the National People's Congress (NPC) Standing Committee. During the meeting I extended an invitation to the NPC to send a delegation to the United States early next year. I told him that I had discussed this with Chairman CHURCH of the Committee on Foreign Relations and would confirm the invitation in a letter after further discussions with the chairman and ranking minority member (Mr. JAVITS). Ulanfu accepted the invitation, commenting that the tentative time frame of early 1981 would be appropriate.

Ulanfu said the Chinese hope to have more such exchanges and visits in the future because this will help our two peoples to know each other better and strengthen our friendship. He said that China wants to strengthen friendly relations in concurrence with its efforts to strengthen its economic development:

> We must introduce advanced science and technology from foreign countries and, by so doing, further develop our relations.

Ulanfu emphasized, as had Premier Hua, that China, as it became stronger, would never seek hegemony or be harmful to other countries.

I commented on how I had been impressed with the progress in China since my previous visit, and by the attitudes and vision of the Chinese leaders and people. By learning to recognize their own weaknesses, the Chinese were taking the first step toward strengthening their weak links and overcoming their problems. I reiterated U.S. willingness to work with China in this effort and my view that this would be in our mutual interests.

In his remarks at a dinner given in my honor by the NPC, Ulanfu said that the Chinese Government sees strengthening relations between our two countries as not only in the interest of China and the United States, but also in the long-term interest of world peace and stability.

Ulanfu said:

> Hence, for us in China, to promote and deepen Sino-U.S. relations is not an expedient, but a strategic policy decision of long duration. We think highly of the fact that Mr. Byrd has, for a number of years, been supportive of the development of Sino-U.S. relations and influential in promoting normalization and strengthening our bilateral relations.

He expressed the hope that discussions during my visit would deepen mutual understanding and develop extensive possibilities for amicable cooperation between our two countries in all fields, including that between our legislative bodies.

In my statement at the dinner I referred to the remarkable progress that has been made in United States-China relations and said:

> I am proud that the Congress has been centrally involved in fostering stronger economic, political, and cultural ties with China.

I said:

> My visit here symbolizes the breadth and continuity underlying the growth of close U.S.-China ties. The United States has an interest in a strong, secure, peaceful, and modernizing China. The legislative branch of our Government has demonstrated on several occasions its support for normalization and for greater cooperation with China in many fields.

I expressed my hope that my visit would enable me to explore various means to strengthen further our cooperation, to gain a better appreciation of Chinese concerns and priorities, and to understand better how Congress can best contribute to the building of a strong and lasting friendship between the United States and China.

MEETING WITH VICE PREMIER ZHAO ZIYANG

On July 8, I met with Vice Premier Zhao Ziyang, widely regarded as about to assume top Chinese leadership responsibilities. Other than U.S. Ambassador Leonard Woodcock, I was the first American official to meet with him. Mr. Zhao in his introductory remarks noted that I had discussed international relations and Chinese foreign policy with Premier Hua the previous day, and said that his remarks would concentrate on China's domestic and economic policies. The meeting lasted more than 2 hours.

Vice Premier Zhao said that it had been 1 year since China had put forward the policy of consolidating, restructuring, and readjusting its economy. The new transformation could be summarized as emancipation of the mind and more lively economic policies. The transformation is still in the initial stages and China's leaders will continue it. The goal is to unify the socialist system with the commodity economy and to integrate planning with the use of markets.

There are three principles: That the means of production be publicly owned, thus showing the superiority of the socialist system; secondly, from each according to his ability, to each according to his work, rather than "to each according to his need," as formerly; and third, that the economy be guided by state planning, but with flexibility in planning.

With these premises, Mr. Zhao said that China could adopt Western methods of organizing production. Some of China's friends were concerned about China's ability to carry out these principles and some believed there were forces opposing the transformation, but this is not the case. Because the transformation was new, China would develop it through experimentation, constant study, and research. The point is to solve China's problems. There have been great changes in the past year and a half. If some doubted the transformation at the start, there were fewer and fewer of them now.

Vice Premier Zhao described China's goal of achieving modernization by the year 2000. He noted that Assistant Secretary of State Richard Holbrooke—who was present during this meeting—had said in a recent speech that by the year 2000 China would reach the level of the United States in the late 1970's. But China's goal is not so great. China's estimation is that by the beginning of the next century it might reach the level of the United States in the early 1970's, or close to the early 1970's.

But based on the experiences of the past 30 years, China's leaders know that, with a large population and weak economic base, it would be very difficult to solve the problem of consumption and accumulation. China could not concentrate too much effort and try to speed up development too much by accumulation. Longing for high-speed development without giving thought to improving the livelihood of the people would not bring about good results but would rather bring disproportion into the economy.

China hopes for sustained, stable development—even if the growth rate is only at a "medium" level. The growth rate might be just a little lower than the 7 or 8 percent per year mentioned by Mr. Holbrooke in his speech.

Mr. Zhao addressed the problem of bureaucracy, which has also been a matter of concern to many of China's friends. China does have both overlap and low efficiency in its enterprises, and some of them have moved very slowly. But this can be changed; it is not inherent.

It is not the result of the workers' attitude, but rather of the economic structure. There has been too much concentration of power. China had attached too much importance to administrative measures rather than economic measures. In the past there was a policy of direct interference in enterprises, and they were left with no power of their own. The enterprises were unable to solve their production problems in an independent manner.

China has a vast area with poor communications and transportation. Only through transformation in the management structure and in economic policy can there be a change to give more authority to enterprises as the basic units, and to allow the market to play a greater role. In the future, China's economic planning should be flexible and should reflect only the main lines of policy. It should be macro instead of micro, and it should not be drawn up in a detailed and minute way.

AGRICULTURE

The Vice Premier offered a number of descriptions of China's recent economic development. On the whole, efforts to consolidate, restructure, and readjust the economy over the past year and a half had been "fine," and "good results" had been achieved. Agricultural production had taken a turn for the better. Supplies of daily necessities had made remarkable progress.

Over the past 30 years, pig breeding had been the indicator showing the development of agricultural production, and a good performance here meant that things were going well. If a household can raise three pigs, it means that great changes have taken place, and the income from pig breeding will equal the income from farming. At present, there are too many pigs on the market. Agricultural products are in good supply in village marketplaces.

In managing agriculture, China had recently raised the official purchase prices for agricultural products by a large margin and had increased the decisionmaking power of production teams in the countryside. The new methods conferred greater responsibility to the local level, and, in some cases, one plot of land is the responsibility of a small production group under the production team. There are more private plots and village marketplaces. The individual has room for greater initiative, and this has brought the enthusiasm of farmers into full play, with very good results.

INDUSTRY

In industry, Vice Premier Zhao said, enterprises also enjoy more autonomy. The main point is to recognize that each enterprise has its own interests. The Government has to look after those interests and, accordingly, enterprises have certain rights in determining production quotas, in planning and in marketing. In the past China's industry was based on the Russian style—the style of the Stalinist era. Formerly, an enterprise, even a large one, was totally under the control of the state administration, with all income going to the state. The state had also been responsible for purchasing and for product marketing. So, the enterprise was always in a passive position.

Since introducing the transformation last year, workers have increased their enthusiasm for production and also for management. There is still great potential for further growth in this regard. Provinces have been given more authority to determine production and management, and this means that the state will share profits with the provinces. Of course, each province has its own conditions, and, therefore, the profit sharing will be in varying proportions.

Mr. Zhao said that China had introduced an economy regulated more by the market and not so much by state planning, in that an enterprise can now sell part of its production to the state and part to the market. In the past, enterprises sold all products to the state. It was thought that the means of production were not commodities and thus could not be sold in markets, but things have changed in this area as well. For example, steel and other raw materials can now be sold in markets, and enterprises may, in certain circumstances, engage in price bargaining.

Vice Premier Zhao noted that light industry has also made significant progress during the past 2 years. The production growth rate of light industry has surpassed that of heavy industry, which, compared with the past, was very rare.

ENERGY

In describing China's energy situation, Vice Premier Zhao said that China had rich resources but tight supplies. There is an energy crisis in terms of supply, but there are large coal and hydroelectric power resources. Geological surveys have estimated coal resources at 600 billion tons. Hydroelectric potential is estimated at 600 million kilowatts.

So far, China has exploited approximately 3 percent of its hydroelectric resources. The northwest and southwest—

for example, south of the Changjiang (Yangtze) River—are regions of significant potential which could generate hundreds of kilowatts very easily. There are prospects for cooperation in exploiting China's hydroelectric potential. The United States has sent a delegation to do survey work on hydro resources. China is short on infrastructure such as communications and electricity for developing industry and the rest of the modernization program.

To speed up modernization, China has to strengthen its infrastructure, particularly electricity, transportation, and ports. China could enter into cooperation in these fields. The country has two great advantages: rich manpower and natural resources. The main difficulties are lack of capital and modern technology and a bureaucracy determined by the economic structure.

THE EFFECTS OF TRANSFORMATION

Mr. Zhao expressed his view that good results had been achieved thus far in the economic transformation. Both workers and peasants have increased their income: last year, each worker received a bonus equal to roughly 2 months salary; and farmers' income has risen by 11 percent. In urban areas, the "problem of employment has been solved" for nearly 9 million people.

China has never before built so many apartments for city dwellers. Energy production has increased by only 3 percent in the past year, but industrial development has been up by 8 percent. There is an estimate of a 1.1 percent increase in energy at the end of 1980 and about a 7 to 8 percent increase in industry. There has normally been a greater growth in energy than in industry, but "we changed that," and the rectification marked an important success. It also shows that there used to be great waste in energy consumption.

UNITED STATES-CHINESE COOPERATION

Vice Premier Zhao informed me that he believed that, in Sino-American cooperation, each side should try to make up for the other side's deficiencies. In problems existing in trade and technological cooperation, we should deal with them with a long-term perspective. Our cooperation should be seen from the strategic perspective. Our two countries share the common interests of "undermining hegemonist aggression in international affairs." We also share a common interest in economic affairs.

The United States and China should cooperate with each other on a long-term basis in the economic field as well. The labor power, resources, and markets of China are of great significance to the U.S. economy. Certainly China needs capital and technology from the United States.

As China permits the Chinese market and the economy to develop gradually, then Chinese markets can absorb more American commodities. Some American friends were doubtful about Sino-American economic cooperation because our trade volume is not that great and cooperation between the two sides in certain fields is not as smooth as it might be. This is only a temporary phenomenon. We should look ahead and see the prospects for further expansion in our economic relations. If China is to introduce American technology and American capital, China must consider its ability to pay. China must pay with its own commodities.

At the same time, China's American friends should help China sell its commodities so as to enable China to introduce more U.S. capital and technology. China has set its policy to enter international markets and to strengthen economic relations with foreign countries. It will continue to carry out this policy; there will be no change.

PARTY-STATE RELATIONS

I asked the Vice Premier what the interplay would be between both the National People's Congress and the recreated Party Secretariat and the State Council in formulating and carrying out economic plans. Mr. Zhao said that the Party Secretariat is the frontline working organization directly under the leadership of the Politburo of the Central Committee of the Chinese Communist Party. By setting up the Secretariat, China would be able to allow the older members of the Politburo to put more emphasis on important work.

The Secretariat is in charge of the day-to-day business of the Party Politburo. The relationship between the Secretariat and the Politburo is the relationship between the first frontline and the second line. The relationship between the Secretariat and the State Council is similar to the relationship between the Central Committee and the State Council.

In the State Council, discussions will be carried out on matters concerning the economy and administration. But regarding the basic plans and directives, the State Council always works under the leadership of the Central Committee as well as the Party Secretariat. The relationship between the Secretariat and the State Council is the relationship between the party and the government. The relationship between the National People's Congress and the State Council is that between the Executive and the organ of supreme state power.

ARMS SALES TO TAIWAN

Vice Premier Zhao told me that normalization of relations between China and the United States has developed satisfactorily on the whole. But China disagrees with the continued American arms sales to Taiwan. The Chinese people feel strongly about these arms sales. Last year, the United States temporarily suspended new sales of weapons to Taiwan.

But starting in January 1980, the United States announced plans for new sales. He noted that the U.S. Government also approved the sale of $280 million worth of arms to Taiwan. He expressed great concern about the possibility that the United States would sell the advanced FX medium-range fighter plane to Taiwan. This, he said, absolutely runs counter to the principle of the communique normalizing relations between China and the United States. Such a sale would only add more difficulties to the reunification of Taiwan and China. It would also be detrimental to the stability of Asia and the Pacific region.

Zhao said that this would also be against all aspirations of the Chinese people and was not in conformity with the strategic interests of the United States. China, therefore, could not help but make a public reaction. The Chinese leadership has repeatedly stated that the Taiwan problem should be viewed in strategic and long-term perspective, Mr. Zhao said. It should be viewed in terms of the "strategic interests of both countries in opposing the Soviet hegemonists."

If the United States should continue to put up obstacles to "the returning of Taiwan to its motherland," no one can say what will happen in Taiwan in the future. The Soviet Union has its own calculation. China has stated on several occasions that in handling the problem of Taiwan, the U.S. Congress should not do anything which is "inimical to the development of Sino-U.S. relations or inimical to the return of Taiwan to the motherland."

In response to Vice Premier Zhao's statement regarding Taiwan, I told him that the United States has not approved the sale of the FX plane to Taiwan. Moreover, there is no certainty that the FX will be manufactured. Any future prospective sales of the FX would be carefully studied by the Congress. I said that I was sure that the administration had not determined whether it would even propose such a sale to the Congress, which has the opportunity and the duty under the law to study such sales, and, if it so decides, to reject them. I stated that I would convey to President Carter the concern Mr. Zhao expressed about the proposed sale of the FX to Taiwan.

ADDITIONAL MEETINGS AND VISITS

During my stay, I met and talked with a number of other Chinese officials in Beijing and elsewhere. I had an extended discussion with Foreign Minister Huang Hua at a dinner in the Great Hall of the People on July 9. The Foreign Minister expressed great concern about developments in the Middle East, and emphasized the importance that China attaches to a stable Middle East.

I also talked with Vice Foreign Minister Chang Wenjin, and Han Xu, Director of the Department of North American and Oceanian Affairs of the Foreign Ministry. The Chinese Ambassador to the United States, Chai Zemin, was also present for several of the meetings. Jo Chaozho, Deputy Director of the Department of North American and Oceanian Affairs, and Li Ruihan, member of the Standing Committee of the NPC, accompanied me throughout my stay in China.

Vice Premier Deng Xiaoping, with whom I met in Beijing in 1975 and in

Washington in 1979, was away from Beijing but sent his greetings.

EVERGREEN COMMUNE

Among the most interesting and telling experiences of my trip was a visit to the Evergreen People's Commune, near Beijing. I was able to make a comparison between this visit and another commune I had visited in 1975, and I found a considerable contrast.

The commune is composed of more than 1,000 households, with a population of 4,300. The commune concentrates on growing vegetables and fruits, and raising ducks and pigs. Most of the land is irrigated, and the level of mechanized labor has increased considerably, although there is still a large amount of hand work.

Leaders of the commune told me that they have been able to improve considerably the livelihood of the commune residents in recent years. Last year's per capita income was about $368, or $730 per worker.

A new and significant development was the fact that each household is allowed a private plot for its own use. The residents of the household can use what they produce in these plots as they please—for their own use or for sale.

The commune leaders said that compared with the United States, they are lagging far behind in agricultural technology, but they are determined to improve production and want to learn from the United States.

This represented a remarkable change from the attitudes I encountered in 1975, when there was a heavy emphasis on ideological rhetoric and a very narrow approach to managing the commune. I was greatly impressed with the realistic and practical efforts being undertaken by the commune members.

HOSPITALS AND MEDICAL CARE

I visted two hospitals in Beijing, the Capital Hospital and the Xuanwu Hospital, and talked with the medical staffs of these two facilities.

A highlight of these visits was the opportunity to observe from within the operating rooms, three patients undergo brain surgery—for removal of tumors—with the aid of acupuncture. The acupuncture was used rather than an anesthesia, and the patients remained conscious during the operations. One of the patients shook hands with me while the operation was underway.

SATELLITE-LAUNCHING FACILITY

I traveled to a (rocket) satellite-launching facility in northwest China in the Gansu-Inner Mongolia area, and was the first foreign official to visit this site, located on a large military reservation in a sparsely-populated desert region.

I went by Chinese Air Force plane to a point near Jiuquan and then by train and car to the launching area. The acting base commander and other officials briefed me on the capabilities of the facility.

I was given a tour of the launching site, the underground control room, the ground telemetry station, and was shown the computer and mobile telemetry station facilities. We discussed military and technological application of the facilities. The Chinese expressed considerable interest in developing cooperation with the United States in the scientific and technological areas related to space and aeronautics.

OTHER AREAS OF CHINA

I also traveled to the Chinese cities of Hangzhou, Kunming, and Guangzhou (Canton) for brief visits. During these stops I had the opportunity to meet with local and regional officials.

Of particular interest was my visit to Kunming, where I was received by Chairman An Pinshen of the Yunnan Provincial People's Congress. As I had done 5 years earlier, I traveled south of Kunming and was able to observe activities in the rural areas and villages. This is a heavily agricultural region, with intensive rice production. The industriousness and energy that were so evident among the Chinese leaders was equally evident among those working in the fields.

It was on this trip through Yunnan Province that I visited several bustling village markets, where large numbers of residents of the area were selling their produce and wares. The surrounding roads were jammed with people traveling to and from the market. This typifies a significant new trend in China and was unlike anything I had seen during my 1975 visit.

SUMMARY

The positive evolution of United States-China relations in recent years is a highly encouraging development at a troubled time on the international scene. It would be short-sighted and irresponsible—clearly contrary to U.S. interests—to attempt to turn back the clock in our relations with the People's Republic of China, as some have suggested. To alter the relationship between the United States and China would undermine the remarkable progress we have made and would be a highly consequential blunder, jeopardizing the interests of the United States, China, Taiwan, and the entire Asian and Pacific region.

China is making significant changes in direction in its economic planning and policies. It looks increasingly to the West and to Japan for assistance and as models for development, and is moving further and further away from the old Soviet model.

The Chinese leaders I met expressed no interest in building a military alliance with the United States. However, they believe, as I do, that there are a number of areas where United States and Chinese foreign policy interests coincide.

The Chinese are eager to increase commerce with the United States, other Western nations, and Japan, and I strongly favor the growing economic relations between our nations, and believe this can provide a solid basis for a long-term cooperative relationship between the United States and China. U.S. businesses should be encouraged to develop trade and cooperation with China, and China should be encouraged to develop exports which would not be harmful to Western economies, but which would help China earn hard currency.

I believe that the United States has a real stake in helping China to strengthen its economy and in the success of China's four modernizations program. A strong, secure, peaceful, and modernizing China is vital to stability in the Asian-Pacific area. China's leaders recognize the essential importance of developing a sound economic base.

I am strongly convinced that the United States should continue the course of steady, gradual growth in our relations with China—a course that has been charted by two Republican administrations and one Democratic administration, with strong congressional backing. This carefully constructed, growing relationship with China should be a cornerstone of American foreign policy in the years ahead.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from President Carter dated July 23, 1980.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., July 23, 1980.

To Senator ROBERT BYRD: I have read your excellent report about China, and consider your visit there to have been beneficial to our nation.

The comments of Premier Hua were completely compatible with those made to me in Tokyo and represent a reasonably similar analysis of the Soviet threat to that of our own government. Your reassurances concerning the continuity of U.S.-PRC relationships were, I am sure, very meaningul to him. Mr. Reagan's recent statements re Taiwan were a matter of concern to the Chinese. It is my hope that you will speak forcefully on this issue, because our decision to normalize relations with China was historically one of the most significant and progressive actions of the decade or of our generation.

I was interested in your personal visits to the provinces and communities, and pleased at the prospects of a further exchange with the National People's Congress.

As China continues to see the value in moving more forward free enterprise and as our trade and other relationships are strengthened we will benefit greatly. There is no doubt that your visit has contributed measurably to this good prospect.

JIMMY CARTER.

FTC SUBPENAS

Mr. ROBERT C. BYRD. Mr. President, on March 27, 1980, the Senate agreed to Senate Resolution 396, directing the Senate legal counsel to defend the privileges of the Congress with respect to a subpena to the Director of the Congressional Research Service issued by an administrative law judge of the Federal Trade Commission. On June 30, 1980, the Federal Trade Commission ruled in two cases, one involving the subpena to the Congressional Research Service and another concerning a subpena to the Joint Economic Committee, that it lacked authority to subpena congressional records.

These cases may be the first in which administrative subpenas were issued to the Congress. In one, "In the Matter of the Grand Union Co.," FTC Docket No. 9121, the Federal Trade Commission brought an adjudicative proceeding challenging the acquisition by the Grand Union Co. of Colonial Stores, Inc., on the theory that the acquisition was anticompetitive. As part of its defense, Grand Union sought to obtain confidential data collected by the Joint Economic Committee in the mid-1970's, when, pursuant to Senate Concurrent Resolution 93, 93d Congress, 2d session, the committee conducted a study of the price performance of food chain stores. As part of its inquiry the committee subpenaed data from 17 food chains, promising that the data would be kept confidential under a committee rule which limits disclosure of information provided to the committee in confidence. Nevertheless, Grand Union sought to compel production of the data by having the Federal Trade Commission subpena it.

The other case was "In the Matter of Exxon Corp.," FTC Docket No. 8934, the Commission's case concerning the major oil companies. The oil company respondents sought to obtain a broad array of information from 13 executive agencies, the General Accounting Office, and the Congressional Research Service. The subpena to CRS was a sweeping demand for reports from the Congressional Research Service to members and committees of Congress, and was issued in the face of CRS's long-standing, strictly kept policy of maintaining the confidentiality of these communications. In both cases, the Commission issued orders staying the return date of the subpenas, and in the Exxon case invited CRS to file a brief on the issues raised by the subpena to it.

When the Congressional Research Service brought the case to the attention of the members of the committees with oversight responsibility with respect to CRS, it was recognized that the Congressional Research Service, like the Joint Economic Committee, is not an instrumentality of the Senate alone; each acts for, and serves, both Houses of Congress. Moreover, while the Senate has a statutory mechanism—title VII of the Ethics in Government Act of 1978, 2 U.S.C. section 288—for putting forth its position in legal cases, the House has no such statutory mechanism.

Fortunately, there was broad support in both Houses, and on both sides of the aisle, for protecting Congress constitutional privileges. It was evident that if a major breach were made in the confidentiality of congressional papers, Congress ability to engage in legislative and investigative activity could be seriously affected. Accordngly, a mechanism was sought for stating a joint congressional position in the matter. The route chosen was to adopt a Senate resolution setting forth the Senate's determination in the matter, and then to have the Office of Senate Legal Counsel, in cooperation with House counsel, prepare a joint congressional memorandum on the issues raised. In so proceeding, we employed a mechanism foreshadowed by the draftsmen of the Ethics in Government Act of 1978, for when that act established the Office of Senate Legal Counsel, it envisioned that the Office would be a vehicle for cooperation on matters of concern to both Houses. The Counsel was instructed by that act to "defend vigorously when placed in issue * * * constitutional powers and responsibilities of the Senate or of Congress," 2 U.S.C. section 288h(6). As the conference committee on the act stated, "The managers agree that the Senate Legal Counsel should, whenever appropriate, cooperate and consult with the House in litigation matters of interest to both Houses." House Report No. 1756, 95th Congress, 2d session, 80 (1978).

I therefore introduced, together with the distinguished minority leader, Senate Resolution 396, which stated that "the communications between the Congressional Research Service and the Members and committees of the Congress are an integral part of the legislative process and privileged under the Speech or Debate Clause of the Constitution." It resolved that "it is the determination of the Senate that the communications of the Congressional Research Service to the Members and committees of the Congress are under the custody and control of the Congress and may be released only by the Congress, its Houses, committees, and Members, in accordance with the rules and privileges of each House." Senate Resolution 396 directed the Senate Legal Counsel to represent the Secretary of the Senate, whom the Senate may deem its agent in matters concerning papers in the custody or control of the Senate, and the Director of the Congressional Research Service, the named respondent for the subpena in the Exxon case.

In order that a joint congressional memorandum could be issued, agreement to the principles set forth in Senate Resolution 396 was secured, after consultation, from the leadership of the House—the Speaker, the majority leader, and the minority leader, together with the chairman of the House Administration Committee, which has oversight jurisdiction of the Congressional Research Service. A legal brief setting forth the reasoning behind congressional rules and privilege was prepared by the Senate Legal Counsel, in cooperation with the General Counsel to the Clerk of the House of Representatives, who customarily represents the House in matters of this kind, and with scholarly assistance from the Congressional Research Service.

Although the brief was filed in Exxon, it served the additional purpose of informing the Commission about the pendency of related issues in the Grand Union case involving the Joint Economic Committee. The arguments in the brief ultimately formed the basis of the Commission's decision in both matters.

On June 30, 1980, the Commission ruled that it lacked the authority to issue subpenas for congressional documents. I ask unanimous consent to have printed in the RECORD Senate Resolution 396 and the rulings of the Federal Trade Commission in the Grand Union and Exxon cases.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 396

Whereas, on February 15, 1980, an Administrative Law Judge of the Federal Trade Commission, at the instance of the respondents in In re Exxon Corporation, et al., FTC Docket No. 8934, issued a subpoena to a number of executive departments, the General Accounting Office, and the Director of the Congressional Reserch Service, directing each to produce various documents;

Whereas, documents which answer to the specifications of the subpoena include confidential memoranda prepared by the Congressional Research Service for committees and Members of Congress;

Whereas, on February 28, 1980, the Federal Trade Commission stayed the return on these subpoenas, pending review by the Commission, and invited the Congressional Research Service, along with other subpoenaed parties, to brief several issues, including:

(1) whether the Commission has the jurisdiction and the authority to issue the subpoena to the parties in question;

(2) whether the subpoenaed parties may have custody and control over the subpoenaed documents;

(3) whether other parties may have custody and control over identical or similar materials;

Whereas, the Director of the Congressional Research Service has requested the Senate to assist the Congressional Research Service in protecting the confidentiality of its communications to the Members and committees of Congress;

Whereas, the communications between the Congressional Research Service and the Members and committees of the Congress are an integral part of the legislative process and privileged under the Speech or Debate Clause of the Constitution;

Whereas, memoranda of the Congressional Research Service are in the custody and under the control of the Members and committees for whom they have been prepared, and the Congressional Research Service has no authority to release them to anyone outside the Congress;

Whereas, pursuant to section 708(c) of the Ethics in Government Act of 1978, 2 U.S.C.A § 288g(c) (Supp. 1979), the Senate Legal Counsel shall perform such duties consistent with the purposes and limitations of title VII of that Act as the Senate may direct: Now, therefore, be it

Resolved, That it is the determination of the Senate that the communications of the Congressional Research Service to the Members and committees of the Congress are under the custody and control of the Congress and may be released only by the Congress, its Houses, committees, and Members, in accordance with the rules and privileges of each House.

SEC. 2. That the Secretary of the Senate shall transmit a copy of this resolution to the Secretary of the Federal Trade Commission.

SEC. 3. That the Senate Legal Counsel is directed to represent the Secretary of the Senate and the Director of the Congressional Research Service in this matter.

[United States of America before Federal Trade Commission, Docket No. 9121]

IN THE MATTER OF THE GRAND UNION COMPANY, ET AL.

INTERLOCUTORY ORDER

(Quashing subpoena issued to the Joint Economic Committee of Congress)

On January 20, 1980, Chief Administrative Law Judge Ernest G. Barnes acting on respondent's request issued a subpoena *duces tecum* to Dr. John Albertine, staff director of the Joint Economic Committee of Congress. The subpoena sought data in the Committee's possession that had been used by its consultant, Dr. Bruce Marion, in writing his report for the Committee entitled The Profit and Price Performance of Leading Food Chains, 1970–1974. Respondents sought the data for the purpose of cross-examining Dr. Marion, who has been designated by complaint counsel as one of its trial witnesses in the field of economics. On January 22, 1980, the Commission, acting pursuant to its Rule of Practice 3.23, stayed the subpoena to consider whether the Commission has jurisdiction to subpoena a congressional committee.

In section 9 of the FTC Act, Congress granted the Commission broad subpoena power to compel testimony of witnesses and production of documents. We do not believe, however, that in drafting that section Congress intended to make its own documents subject to Commission process.

The "Commission is an administrative body created by Congress to carry into effect legislative policies embodied in the statute in accordance with the legislative standard therein prescribed * * *." *Humphrey's Executor* v. *United States,* 295 U.S. 602, 628 (1935). It would be anomalous indeed if Congress were to compromise its independence under the constitutional separation of powers by subjecting itself, its committees or its staff to any form of compulsion by the agency it created to carry out its will or by the courts in enforcement of agency process. We will not infer such an intention absent a clear, affirmative indication in § 9's language or legislative history that Congress extended the Commission's subpoena authority to its own legislative activities. We find no such indication.

The absence of such an indication is hardly surprising. For in conferring subpoena power on the Commission, Congress legislated in light of the immunities assured it by the speech or debate clause in Article I, § 6, Clause 1 of the Constitution.[1] "In our system, 'the clause serves the additional function of reinforcing the separation of powers so deliberately established by the founders.'" *Eastland* v. *United States Serviceman's Fund,* 421 U.S. 491, 502 (1975).

The clause has been held to protect various facets of the legislative process including a report issued by a congressional subcommittee, *Doe* v. *McMillan,* 412 U.S. 306 (1973), and issuance of an investigatory subpoena by a subcommittee, *Eastland* v. *United States Serviceman's Fund, supra.* The Supreme Court has also held that it prevents Grand Jury questioning of a Senator's aide (or the Senator himself) concerning legislative acts of the Senator's subcommittee, *Gravel* v. *United States,* 408 U.S. 606 (1972).

These precedents also indicate that a Commission subpoena to Congress would be unenforceable by a court. See, *e.g., Eastland supra* at 502 ("the purpose of the [speech or debate] clause is to insure that the legislative function the Constitution allocates to Congress may be performed independently."); *Gravel, supra* at 617 ("central role" of the speech or debate clause is the prevention of "intimidation of legislators by the Executive and accountability before a possibly hostile judiciary").

The congressional immunity defined by these precedents applies to the documents sought by Grand Union, materials in preparation of a committee report and obtained by legislative subpoena. The Joint Economic Committee's investigation was patently a proper subject of congressional interest, and the report itself is therefore an integral part of the legislative process. It is in any event beyond the scope of our authority under Section 9.[2]

Accordingly, it is ordered that the subpoena issued by Judge Barnes to the Joint Economic Committee of Congress on January 20, 1980, is hereby quashed.

By the Commission.

CAROL M. THOMAS,
Secretary.

Issued: June 30, 1980.

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[1] The Senators and Representatives . . . shall . . . be privileged from arrest during their attendance at the session of their respective Houses . . .; and for any speech or debate in either House, they shall not be questioned in any other place.

[2] In deciding the reach of our subpoena authority under Section 9, we are not authorized to determine whether the information sought relates to a legitimate legislative function. Our point is rather that Congress never intended to authorize us to make such an inquiry because it legislated on the assumption that the doctrine of separation of powers and the speech or debate clause foreclose the issuance of Commission subpoenas to the Congress.

[United States of America before Federal Trade Commission, Docket No. 8934]

IN THE MATTER OF EXXON CORP. ET AL.

INTERLOCUTORY ORDER

(Regarding subpoenas to Congressional Research Service and to thirteen executive branch agencies and the General Accounting Office)

Respondents in this matter, seeking discovery of documents relating to the oil production industry in the possession of thirteen Executive Branch agencies,[1] the Congressional Research Service of the Library of Congress, and the General Accounting Office, petitioned Administrative Law Judge James P. Timony for issuance of subpoenas to the above-named entities. Between February 15 and 21, 1980, Judge Timony issued the requested subpoenas pursuant to Commission Rule of Practice 3.36. We stayed the return date on the subpoenas on February 28, 1980, to consider whether the Commission has the authority to issue them.

Both respondents and complaint counsel contend that § 9 of the FTC Act authorizes the subpoenas issued by Judge Timony. The Department of Justice, except the Federal Energy Regulatory Commission, the Department of the Treasury, and the Congressional Research Service, disagrees and asserts that § 8 of the Act is the sole authority for the Commission to obtain information from Executive Branch agencies, and that § 9 may not be exercised for that purpose. The Congressional Research Service takes yet another view, and argues that its documents are not subject to Commission process because they are privileged under the congressional immunity for speech or debate.

In brief, we have determined that a request under Section 8 must be made before a subpoena to an Executive Branch agency may be issued, though we hold that the Commission has the authority to issue such a subpoena pursuant to Section 9 if necessary and appropriate, and if a prior request for the material under Section 8 has proved unavailing. We further hold that the documents sought from the Congressional Research Service are beyond the Commission's subpoena authority.

Footnotes at end of article.

I

The Justice Department's argument rests upon its belief that § 8 of the FTC Act[2] is the exclusive grant of authority by which the Commission may obtain access to records of executive Branch agencies. It finds support for its conclusion in the legislative history of the FTC Act. In pointing out that § 8 was added to enable the Commission to obtain materials possessed by agencies, the Justice Department cites House of Representatives debates on that section of the bill:

"It appears that in time past there have been jealousies in various departments and bureaus, and at times it was difficult to obtain information from one department of great value to another in work of investigation." 51 Cong. Rec. 8859 (1914) (remarks of Rep. Knowland).

During further debate in the House, concern was expressed that confidential tax returns and census data submitted by companies would be made public under this section. In response, Representative Covington (a member of the committee that drafted the bill) conceded that this was true, but added that presidential control would provide an adequate protection against inappropriate disclosure of the information. He stated that the first draft of the section did not contain the phrase, "when directed by the President," but that the committee had reconsidered:

"We then determined, however, that by limiting the authority to turn over such information by direction of the President, all the safeguards that ought to surround any class of information would be in the possession of the government." 51 Cong. Rec. 9045 (1914).

It appears that Congress intended that the Commission have access to information it needed to carry out its mission, but that the President should serve as a "mediator" of interagency disputes and as a decision-maker regarding the Commission's need for the information. Based on its belief that this represents Congress' intent, the Justice Department argues that § 8 is an exclusive grant of authority and, therefore, that § 9 cannot be used as an alternative means of obtaining government documents because § 9 contains no similar provision for presidential discretion. It sets up instead a system of judicial enforcement of Commission subpoenas. Thus, if the Commission were able to compel production of documents pursuant to § 9, the safeguard established by Executive review could be avoided by the Commission, and Congress' intent frustrated.

This analysis has much force, and we agree that the grant of authority in Section 9 may not be exercised so as to make the Presidential prerogative in Section 8 a nullity. However, the Justice Department's conclusion—that Section 8 is therefore the *exclusive* means by which the Commission may obtain information from Executive Branch agencies—does not necessarily follow. Indeed, such a conclusion would be inconsistent with Congress intention in granting the Commission quasi-judicial authority and with the rights of respondents in an adjudication.

The Supreme Court long ago established that:

"The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies embodied in the statute in accordance with the legislative policies embodied in the statute in accordance with the legislative standard therein prescribed, and to perform other specified duties as a legislative or as a judicial aid. Such a body cannot in any proper sense be characterized as an arm or an eye of the Executive. Its duties are performed without Executive leave and, in the contemplation of the statute, must be free from Executive control." *Humphrey's Executor* v. *U.S.,* 295 U.S. 602, 628 (1935).

Foremost among the Commission's "quasi-judicial" powers is the conduct of adjudications under Section 5(b) of the FTC Act. These proceedings are, of course, conducted strictly in accordance with the framework for adjudicatory decisionmaking later prescribed by Congress in the Administrative Procedure Act. The FTC Act and APA alike ensure that all decisions in an adjudication are made by an administrative law judge, the Commission itself, or a Federal court in an enforcement or review action. Presidential involvement in any aspect of adjudicatory decisionmaking would be fundamentally inconsistent with this statutory scheme. Yet if the Justice Department's position were adopted, a President's decision to deny access to information necessary to a proceeding would amount to just such involvement.

Such Presidential involvement in an adjudication is the more problematic because it may infringe upon the rights of private parties. The Commission's discovery rules reinforce and amplify a respondent's right under the APA to exercise the agency's subpoena authority in aid of its defense. See 5 U.S.C. § 555(d). If, however, Section 8 were the exclusive means for access to Executive Branch information, a respondent would be able to obtain potentially exculpatory information only by grace of an exercise of Presidential discretion, the refusal of which would evidently be a discretionary act beyond judicial review. Cf. *Chicago & Southern Air Lines* v. *Waterman S.S. Corp.*, 333 U.S. 102 (1948).

In these circumstances, we think that a proper reading of the interrelationship between Sections 8 and 9 must harmonize the competing considerations, so that Congress' intent be fully preserved, that is with Presidential prerogative and adjudicatory independence alike maintained This end may be achieved, we believe, if Section 8 is understood as a prerequisite to the potential use of Section 9. In this way, the President will be afforded the opportunity initially to determine the extent to which requested documents will be made available. Should he decline to direct the furnishing of certain information or decline to involve himself in deciding one way or the other whether the requested material should be furnished, the Commission may thereafter determine, in its adjudicatory capacity, whether to issue a subpoena to the particular agency to obtain the information.

We emphasize that such a subpoena will be issued only in the most compelling circumstances. The applicable rule requires that a subpoena to another governmental agency not be issued unless the motion for issuance of the subpoena makes not only the showing required for any use of discovery but also "a specific showing that the information or material sought cannot reasonably be obtained by other means." Rules of Practice § 3.36(b). If a party requests information of another government agency, the administrative law judge shall carefully consider the relevance of the requested information and its availability through other means. If, after consideration of these and other factors properly within his discretion, see Rules of Practice § 3.31(c), the law judge believes that the request should be sent pursuant to Section 8, he shall certify the matter to the Commission. In the event that material requested by the Commission under Section 8 is not made available, and if a party thereupon moves for issuance of a subpoena, the law judge may issue such subpoena if the requirements of the rule are met.

We next consider whether § 9 can be read to authorize subpoenas to the agencies served in this matter. With the exception of the Congressional Research Service, we decide that it can. Section 9 authorizes the Commission to issue subpoenas to "persons, partnerships or corporations." Thus, service on an agency head brings such subpoenas within the scope of the Statute. See *e.g.*, *Machin* v. *Zuckert*, 316 F. 2d 336 (D.C. Cir.), *cert. denied*, 375 U.S. 896 (1963) (Secretary of the Air Force served with subpoena under Federal Rule of Civil Procedure 45) and *Boeing Airplane Co.* v. *Coggeshall*, 280 F. 2d 654 (D.C. Cir. 1960) (Chairman of the Renegotiation Board served).

Although agencies are not, and could never be, proper subjects of FTC investigations, it is settled that that is not a prerequisite to issuance of a subpoena. See *FTC* v. *Cockrell*, 431 F. Supp. 561 (D.D.C. 1977). Further, we can see no reason why a distinction should be drawn between agencies and any other third party holding relevant evidence for purposes of subpoenas.[3] Accordingly, we agree with complaint counsel and respondents that § 9 authorizes the subpoenas issued here, with the exception of the subpoena to the Congressional Research Service (CRS).

III

Our interlocutory order in the Matter of Grand Union, Docket No. 9121, issued today, sets out our conclusion that the subpoena issued to a congressional committee must be quashed. The reasoning provided there applies equally to the subpoena issued to the CRS, a dependent branch or arm of Congress. In transforming the Legislative Reference Service into the CRS in 1970, Congress specified that CRS' duties were primarily to assist Congress and its committees in the "analysis, appraisal, and evaluation of leigslative proposals." 2 U.S.C. § 166(d). The legislative history of the statute further reflects the view that Congress envisioned a close relationship between itself and CRS, in which CRS would play a supporting role for Congress' legislative function. The House Report states: "These analyses and appraisals [supplied by CRS] will be directed toward assisting committees in determining the advisability of enacting legislative proposals, of estimating the probable results of such proposals and alternatives thereto, and of evaluating alternative methods for accomplishing the results sought." H.R. Rep. No. 91–1215, 91st Cong., 2d Sess. (1970), reprinted in 1970 U.S. Code Cong. & Ad. News 4417, 4434.

The Fourth Circuit has noted that CRS performs a legislative function, even though the Library of Congress, of which CRS is a separate department, may have other nonlegislative functions. *Eltra* v. *Ringer*, 579 F.2d 294, 301 (4th Cir. 1978). See also *Kissinger* v. *Reporter's Committee for Freedom of the Press*, 48 U.S.L.W. 4223, 4225 (March 3, 1978) (Lower court holding that Library of Congress not an "agency" for purposes of the Freedom of Information Act not disturbed by Supreme Court).

Because of its essentially legislative function, documents requested by the Commission's subpoena would most likely be those produced by CRS on request of Congress and in aid of its legislative role. There can be little argument that documents produced to aid Congress in making decisions regarding proposed or anticipated legislation are an integral part of Congress' lawmaking function, or that they would reveal motives behind individual legislators' votes. Therefore, we agree with CRS and decide that these documents are privileged under the doctrine of separation of powers and the speech or debate clause, and unobtainable by Commission subpoena.[4]

Accordingly, it is ordered that the subpoena issued to the Congressional Research Service is hereby quashed.

It is further ordered that the subpoenas issued to the thirteen Executive Branch agencies and to the General Accounting Office are hereby quashed. The matter is remanded to the law judge with instructions to treat the parties' requests for subpoenas as motions that the information be requested pursuant to Section 8. The law judge shall consider these motions in accordance with this order. This consideration shall take into account the arguments raised by the thirteen Executive Branch agencies and the General Accounting Office in their papers filed with the Commission, particularly as they concern the burden of compliance, the relevance of the documents sought, and claims of privilege such as national security privilege. The law judge may order additional briefing if he deems it necessary. Should the law judge conclude that certain information ought to be requested under Section 8, he shall certify his recommendation in that regard to the Commission.

Finally, we note that respondent oil companies have again taken the opportunity to urge that this matter be withdrawn from adjudication to permit the Commission to reassess the merits of the current complaint.[5] Complaint counsel observe in reply that the administrative law judge, in ordering respondents to make discovery in this matter, has also established an October 31, 1980 deadline by which complaint counsel are to reassess and narrow the issues in the adjudication, based upon the results of their discovery. It would appear that any reassessment of this matter by the Commission, whether it take the form of withdrawal from adjudication or modification of the complaint upon motion by a party, would be best undertaken shortly after complaint counsel's review of respondents' documents and October filing of the Statement of Issues required by paragraph 2(a) of Judge Timony's Order Re Pretrial Procedures, dated March 12, 1980. Therefore, the motions to withdraw from adjudication are denied.

By the Commission.

CAROL M. THOMAS,
Secretary.

Issued: June 30, 1980.

FOOTNOTES

[1] The thirteen agencies are the Departments of Defense, Energy, Commerce, Interior, Justice, Transportation, State and Treasury, the Interstate Commerce Commission, Environmental Protection Agency, General Services Administration, Central Intelligence Agency, and the Executive Office of the President. We assume that the brief filed by the Department of Justice embodies the position of the President in the matter.

[2] Section 8 of the FTC Act states: "The several departments and bureaus of the Government when directed by the President shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the Commission as he may direct."

[3] We think that the principle stated by the Supreme Court in *United States* v. *Nixon*, 418 U.S. 638, 709 (1974), where it held that the President was subject to a third party judicial subpoena, is as pertinent in this context as well:

> "The need to develop all relevant facts in the adversary system is both fundamental and comprehensive. The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts, within the framework of the Rules of Evidence. To ensure that justice is done, it is imperative to the function of courts that compulsory process be available for the production of evidence needed either by the prosecution or by the defense."

[4] The General Accounting Office also holds a position in the government different from that of the other subpoena recipients. It performs its duties of *inter alia*, auditing all executive branch agencies and reporting specially to Congress as an "agency of the Congress." 31 U.S.C. § 65.

In spite of this apparent role as a supporting arm of Congress and with a duty to inform legislators concerning government expenditures, GAO, unlike CRS, has not asserted any form of congressional immunity. Instead, it has aligned itself with the Executive Branch agencies in submitting a joint brief opposing the subpoenas on § 8 grounds only.

For purposes of the subpoena issued here, then, we conclude that GAO should be categorized with the Executive agencies that received subpoenas.

[5] Certain respondents have also moved for placement on the public record of "all written and oral communications received or generated by the Commission which relate to the Commission's February 28 Order." We have, simultaneously with issuance of this order, as a matter of discretion, placed on the public record, memoranda from personnel in the Commission's Office of General Counsel that recite conversations—none in any respect violative of the Commission's Rules of Practice or otherwise improper—in connection with this matter. Internal communications between the Commission and its advisory personnel are, of course, not a proper subject for disclosure to either side in an adjudication.

ORDER OF PROCEDURE

(The following proceedings occurred prior to and during the remarks of Mr. ROBERT C. BYRD:)

Mr. BAKER. Mr. President, will the majority leader permit me to interrupt him at the very beginning of his remarks? Will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield my time under the standing order, excepting 30 seconds, to the distinguished majority leader this morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that I may yield at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield now to the distinguished assistant Republican leader.

Mr. STEVENS. Mr. President, I thank both leaders for their courtesy.

Mr. President, I ask unanimous consent that Dennis Fradley, my assistant, be granted access to the floor during all debate and rollcalls on the Alaska lands legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. BAYH does not want to utilize the time under his order. I ask that it may be transferred to my control.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator from Wisconsin, (Mr. PROXMIRE).

CHILDREN OF THE SURVIVORS: THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, 75,000 persons survived the ugliness of the Nazi concentration camps. By the end of 1947, many of these people had started to have children. These new parents, often the only remaining members of their families, frequently met in displaced persons camps and shared the need and desire to insure the continuance of their heritage by creating a new generation.

One might hope that the 34 years that have elapsed since the liberation of the survivors would have dissolved some of the pain and horror they suffered, and that these experiences would not be transmitted to their offspring. But, recent studies indicate that the survivors are still physically and psychologically scarred and, sadly, their wounds have been etched into the souls of their children.

The research of men such as Rakoff, Trossman, Krystal, and Sigal is reported in Helen Epstein's book, "Children of the Holocaust." They found in general that:

First. The parents are overprotective and the children have become either phobic or locked in combat with their parents in an attempt to throw off the smothering shield.

Second. The children are fulltime witnesses to a relentless recounting of their parents' terrifying memories, often prompting the child to feel guilty about his better fortune.

Third. The expectations on the child are enormous. The parental attitude, spoken or unspoken, is clear: the child must provide meaning for the parents' empty lives.

The research done on children of survivors is just beginning. More data is needed if we are to ever know the extent to which this group is handicapped by the atrocities their parents experienced. However, no further research is necessary to understand the importance of preventing a recurrence of the Nazi's wholesale slaughter. It is our duty to guarantee to our future generations, the freedom to live free from fear of annihilation. Therefore, we must ratify the Genocide Convention.

I thank my good friend the majority leader.

(Conclusion of earlier proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

RECOGNITION OF SENATOR GRAVEL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alaska (Mr. GRAVEL) is recognized for not to exceed 15 minutes.

THE ALASKA LANDS BILL

Mr. GRAVEL. Mr. President, I rise today to again speak on a subject relating to the pending business, dealing with personal history or certainly actions that would have meaning to people.

In the course of my travels last year I went to a village called Shishmaref. Shishmaref is a village on the Seward Peninsula, in the northwestern part of the peninsula. This area around Shishmaref has been declared a monument because of possible archeological sites, so when the President on the first of December 1978 wanted to punish Alaska, he created a monument.

With respect to the creation of the monument there are certain key areas that should be protected from an archeological point of view, and I would be the first to admit that, but in so doing they stretched the situation. They took a large parcel of land to the northeast where there were some archeological sites. They tied that into a parcel of land to the southeast, and then took another parcel of land to the west of the village.

The northwestern part of the village is on the ocean, so they took a very narrow strip of land and tied in the parcel of land that was in the northwest to the northeast and southeast. It is a narrow parcel of land; there is nothing there that is characteristic, and there is no real tie.

This little parcel of land is about 6 miles wide and approximately 25 miles long, so it ties in the three areas. The impact is to surround the village of Shishmaref.

Now, under the 1906 law, the Antiquities Act, the law is very clear that you should try to pick parcels that are as small as possible yet sufficient to protect the artifacts and the archeological sites.

In this particular case this was easy to do. But if there was a certain maliciousness or meanness involved here was an unusual opportunity to express it, and that is exactly what happened.

You need only look at the map—and we will have a larger map in the Chamber in the course of the debate and people can see the Shishmaref encirclement—let us call it that, the Shishmaref encirclement.

Let me just talk a little about Shishmaref. Let me just read a little description of Shishmaref so that we can have some idea of what this colossus, this Federal Government, one of the largest bureaucracies on Earth, is dealing with in this little village of Shishmaref.

The population of the village in 1978 was 309 people. The services provided or not provided are as follows: There is no sewage system in Shishmaref; there is no local police department; there is no courthouse; there are no mental health facilities.

There is no library, there are no paved roads, everything is dirt. In fact, there is no road to Shishmaref. The transportation system consists of only two scheduled flights a week, and if emergency services are needed, a charter aircraft is called in.

As I stated, there are no roads in and, of course, there are no roads out. There are no dock facilities at Shishmaref. The only means of obtaining services are by airplane. The airfield is not all that long. What you can get to Shishmaref, by and large, is in a cube of a 185, or maybe something slightly larger, with a couple of foreign airplanes that have now been designed for these short dirt-field runways.

Shishmaref is an attractive little village. The average family of four in the lower 48 requires $18,622 for a moderate standard of living. The same family living in Shishmaref, because of the cost-of-living differential, would require $43,389 to enjoy the same standard of living as that modern family in the lower 48.

This comes from paying costs like 40 cents a kilowatt hour while people here in Washington, D.C., only pay 2 or 3 cents a kilowatt hour.

These people are not the ones who are making tens of thousands of dollars. With that kind of cost of living we are talking about an average annual income in Shishmaref of somewhere between $3,000 and $4,000 per year.

Now, these 309 souls have been surrounded by this colossus of Government through the recommendations of the Secretary of the Interior to the President of the United States.

Let us look at what this great Government of ours has done to these fine people. When they created the monument they had to have regulations for it. As a result, we have the Federal Register of June 23, 1979, which I have in my hand, from page 37,732 to page 37,751. These are all the Federal regulations that these people now have to live under.

Let us look at a few choice quotes here from these regulations. Obviously, with people as poor as they are, we now have to get into the major problem of subsistence. Of course, everything else is regulated, but let us talk about the regulations that deal with the very things they have to worry about.

Subsistence: You have the purpose and policy. They talk about family, they talk about local rural residents. I will quote just one paragraph:

> Any person who has his or her permanent home within the resident zone as defined by this section, and whenever absent from this permanent home has the intention of returning to it—

That is the definition.

> factors demonstrating the location of a person's permanent home may include but are not limited to one's location of registration to vote, one's permanent address indicated on licenses issued by the State of Alaska, Department of Fish and Game; drivers' licenses—

There are probably not five automobiles in the whole town.

Probably 80 percent of the people do not even make enough money to file income taxes. This is the kind of regulation these people have to put up with.

Then you have subsistence permits for persons who permanently reside outside of resident zones. "Any person who permanently resides" and on and on and on.

Here is (b) and these are the State regulations of subsistence users:

> The Alaska area director shall monitor the State's regulations—

That is the Federal director who will now monitor the State Government—

> regulations of the taking of fish and wildlife by local residents for subsistence uses. If the Alaska area director determines that the State of Alaska has failed to establish regulatory programs which meet the requirements of paragraph (a) of this section, then the Alaska area director shall notify the State, and after consultation with the appropriate State authorities and informed public hearings in the affected vicinity, indicate those changes necessary to bring the State's regulatory program into compliance with the requirements of paragraph (a) of this section.

My God, can you begin to get a feel for what is happening in poor little old Shishmaref with 300 people, and these regulations they then have to deal with?

Now, here we come to something very important that the Federal Government of the most important Nation on Earth has got to be concerned about with these 300 souls.

We come to "Use of snowmobiles and motorboats for subsistence activities:"

> Notwithstanding any other provision of this chapter, the use of snowmobiles and motorboats by local rural residents for subsistence hunting, fishing, and gathering activities is permitted within the Alaska National Monuments except at those times and in those areas restricted or closed by the superintendent.

Who is this new god that we just sent into Shishmaref, this new person who holds the power of life and death over these individuals who only make $3,000 or $4,000? That is the white man from Washington who comes in there with all this power, this new superintendent, god incarnate, who stands there a lord of all he surveys in Shishmaref, because this poor little village has been surrounded by a capricious, arrogant bureaucrat in Washington.

I could go on and on and on. "Closure to subsistence uses." Imagine that. We even have a section there that you could literally starve somebody out of existence. This smacks of Wounded Knee. This smacks of what used to be done after the Civil War during the Indian wars. This is the kind of power that we have laid out there in the benign paternalistic approach that a government can take.

Mr. President, I ask unanimous consent to have printed in the RECORD every single page of this Federal Register that lays upon these poor people this albatross.

There being no objection, the Federal Register was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR: NATIONAL PARK SERVICE

[36 CFR Part 13]

ALASKA NATIONAL MONUMENTS; GENERAL MANAGEMENT REGULATIONS

Agency: National Park Service.

Action: Proposed Rule.

Summary: On December 1, 1978, President Carter signed proclamations establishing fifteen new and enlarging two existing national monuments in Alaska. The National Park Service currently administers thirteen of these new monument areas under interim regulations promulgated on December 26, 1978, which relax or otherwise modify, for the special requirements of the new Alaska National Monuments, various provisions of the "general regulations" otherwise applicable to areas within the National Park System.

A Notice of Intent to Propose Rulemaking was published on February 28, 1979. This notice requested views and comments on the permanent regulations for the new Alaska National Monuments. The National Park Service has reviewed the comments and has drafted these proposed rules.

Date: Comments must be received on or before September 26, 1979.

Address: Send written comments to: Alaska Area Director, 540 West 5th Avenue, Anchorage, Alaska 99501.

For further information contact: Mr. John E. Cook, Alaska Area Director, 540 West 5th Avenue, Anchorage, Alaska 99501, Telephone: (907) 271-4196.

SUPPLEMENTARY INFORMATION

Background

On December 1, 1978, President Carter signed public proclamation (43 FR 57009) establishing fifteen new national monuments and an addition to each of two existing monuments in Alaska. The new national monuments were established pursuant to section 2 of the Antiquities Act of 1906 (34 Stat. 225; 16 U.S.C. 431). The proclamations state that fifteen of these new national monuments are to be administered by the Secretary of the Interior through the issuance of appropriate regulations. The Secretary delegated to the Director of the National Park Service administrative and regulatory authority over thirteen of these new national monument areas, namely, Aniakchak National Monument, Bering Land Bridge National Monument, Cape Krusenstern National Monument, Denali National Monument, Gates of the Arctic National Monument, 1978 Enlargement of Glacier Bay National Monument, 1978 Enlargement of Katmai National Monument, Kenai Fjords National Monument, Kobuk Valley National Monument, Lake Clark National Monument, Noatak National Monument, Wrangell-St. Elias National Monument and Yukon-Charley National Monument. This delegation added these thirteen new national monument areas to the National Park System. Previously the Alaska National Monument lands had been managed by the Department of the Interior through the Bureau of Land Management.

Lands administered by the National Park Service are subject to the relevant provisions of Title 16 of the United States Code and Title 36 of the Code of Federal Regulations. The regulations contained in Chapter One of Title 36 of the Code of Federal Regulations prescribe conditions for the proper use, management, and protection of the National Park System. The "general regulations" contained in Parts 1 through 6 and 8 through 10 of Chapter One apply to the federally owned or controlled lands within the Alaska National Monuments by virtue of their becoming part of the National Park System. Certain of these general regulations are inconsistent with the requirements of the Presidential proclamations concerning subsistence activities by local rural residents such as hunting, trapping, fishing, and wood gathering. In addition, certain general regulations appear inappropriate for the special transportation needs of persons using or traversing monument lands. Therefore, to provide express permission for subsistence uses and general guidance for other acceptable uses, the National Park Service promulgated Interim regulations on December 26, 1978 (43 FR 60252) to relax or otherwise modify the application of the general regulations to the Alaska National Monuments.

Public participation

The National Park Service published an Advanced Notice of Proposed Rulemaking on February 28, 1979 (44 FR 11242). This notice identified the subject matter of the anticipated rulemaking and posed questions for public consideration. The public comment period on the Notice of Intent began February 28, 1979 and closed on April 6, 1979, after it was extended one week due to difficulties encountered in transmtting copies of the Notice of Intent to Alaska.

The National Park Service received a total of 1,979 letters of which 1,731 were form letters sponsored by the Alaska Outdoor Association.

Organized groups or associations submitted 27 letters. The following represents a partial list of the types of groups and organizations that responded:

Alaska Alpine Club.
Alaska Center for the Environment.
Alaskans Unite.
Chugach Native Association.
Friends of the Earth.
Fur Takers of America.
Interior Alaska Trapper Association.
International Snowmobile Industry Association.
National Rifle Association.
The Wilderness Society.
Vermont Trappers Association.

The list is not intended to be exhaustive; rather it illustrates a cross section of the interest shown by organizations.

State and local government, including the Governor's office for the State of Alaska, Bristol Bay Borough, the Alaska Department of Public Safety and the Wyoming Department of Game and Fish submitted 5 comments. Private individuals submitted a total of 203 letters. Native Corporations submitted 5 letters. A total of 48 letters were not relevant to the rulemaking process or contained no substantive comments.

In the Notice of Intent, the National Park Service requested comments on the subject matter and scope of the permanent regulations. All letters were received and several suggestions have been incorporated in the proposed regulations. Significant or noteworthy comments will be addressed in the "Analysis of Comments" or "Section by Section Analysis."

Analysis of comments

The majority of the public comments received either indicated a preference for a particular type of use on monument lands or recommended that public activities existing within the monuments prior to establishment should be allowed to continue. Generally, these comments were limited to a general statement of support or opposition for a particular land management issue. A few of the public comments, however, were more detailed and provided either recommended regulatory language or a substantive analysis of the factors supporting a preferred approach. The following is a brief overview of some of the comments received by the National Park Service. The issues are discussed in the order in which they were presented in the Notice of Intent.

1. *Aircraft:* Most of the comments concerning the use of aircraft recommended that it be allowed to continue within the Alaska National Monuments. These comments stressed the lack of transportation alternatives in rural Alaska and the limited impacts that traditional airplane use has had on the environment of the new monuments. Representative of these comments, the Wilderness Society noted that airplanes are a primary and traditional means of access in Alaska. While recommending that such use and access be allowed to continue within the Alaska National Monuments, the Society nevertheless urged the National Park Service to retain discretionary authority to regulate, and in some stiuations prohibit, airplane use when necessary to protect the values for which the monuments were established. Five commentors recommended that aircraft use be permitted only in designated areas or generally prohibited. The Service believes the recommendations of the Wilderness Society and those received from many private individuals strike a reasonable balance between continued airplane use and resource protection. Therefore, the Service is proposing to leave the Alaska National Monuments open to airplane use, except for areas specifically closed or otherwise restricted for reasons of resource protection or other management considerations as set forth in Section 13.11.

As a part of this rulemaking process the National Park Service invites suggestions as to specific areas that should be permanently closed to aircraft use.

2. *Unattended and Abandoned Property:* The National Park Service received numerous comments concerning unattended property. Most of the comments stressed the fact that food and equipment caches were necessary to support both recreational and subsistence uses. Three comments stated that food and equipment caches should not be permitted on monument lands or recommended that existing food and equipment caches be removed. Several comments expressed concern that the indiscriminate location of personal property or food caches might result in junk piles. Representatives of this concern is the following comment from a citizens group in Kotzebue:

"In bear country, food and equipment transported into a monument should be hauled out . . . Visual or aesthetic values would be adversely affected if existing regulations are relaxed. Undoubtedly, preferred cache sites would be close to major travel or user zones."

The National Park Service is equally concerned that food and equipment caches and other unattended personal property not be located or maintained in such a manner as to constitute a nuisance, attract animals or impair the esthetic values of the monument. However, in view of the size and remote nature of the Alaska National Monuments, the Service is proposing regulations that would accommodate subsistence and recreational users who find it necessary to leave personal property unattended for reasonable periods of time. Therefore, in order to provide for reasonable use of monument lands while at the same time providing protection of monument values, the Service is proposing that personal property may be left unattended for up to nine months unless relaxed or restricted as set forth in Section 13.21.

The National Park Service received numerous comments suggesting that the removal of downed aircraft not be required. However, many other comments received recommended that owners be required to remove downed aircraft. A third group suggested that the Federal government should remove all downed aircraft. Most comments indicated that the majority of owners and insurance companies would prefer to salvage downed aircraft when economically and logistically feasible. The National Park Service believes that downed aircraft should be subject to the same regulations that currently prohibit the abandonment of any other property (36 CFR 2.1) and is proposing regulations that would require the removal of downed aircraft by the owners in accordance with a permit issued by the superintendent. Any less stringent requirements would result in the long-term and predictable degradation of monument values. While the removal of downed aircraft is believed to be in the best interest of the public, the Service recognizes that, in some instances, the removal of downed aircraft might present an unacceptable risk to human life or is otherwise impracticable or impossible. Under these conditions, the Superintendent would be authorized to waive the requirement for removal.

This issue was presented in the Notice of Intent in the abandoned property section. In the interest of simplicity, the proposed regulations governing the removal of downed aircraft are located in Section 13.11 which governs other aspects of aircraft operation.

3. *Firearms, traps and nets:* Almost all of the respondents advocated the carrying of firearms for reasons of personal safety. The specific concern expressed in most of the comments was the need for protection against bears. The National Park Service recognizes that this hazard exists in certain locations and that firearms have been traditionally carried in rural areas of Alaska for personal protection. The Service is, therefore, proposing that firearms may be carried for personal protection except at those times and in those areas where the superintendent closes or restricts the carrying of firearms for reasons of public safety, resource protection or other management considerations as set forth in Section 13.15.

Several comments advocated the carrying of traps and nets. Since sport hunting and trapping will not be permitted in the Alaska National Monuments, the carrying of nets and traps would not be permitted. However, in order to provide transient relief for persons crossing monument lands, the possession of nets, traps and weapon would be permitted within or upon a device used for transportation provided that such implements were cased or otherwise packed so as to prevent their ready use while in the monument area.

The regulations governing weapons, traps and nets will be discussed in the "Section by Section Analysis." However, it should be noted that the proposed regulations are intended to control the carrying of weapons, traps and nets by recreational users. Local rural residents authorized to engage in subsistence activities and persons authorized by permit to engage in commercial fishing operations are appropriately exempted.

As a part of this rulemaking process the National Park Service invites suggestions as to specific areas or times that should be closed to the carrying of firearms by recreational users.

4. *Illegal Cabins:* The majority of the public comments concerning illegal cabins recommended that the National Park Service provide for their temporary or limited occupancy. Several commentors advocated the removal of illegal cabins. The latter stated that persons in trespass, who violated the law, are being rewarded while the vast majority of Alaskans are being penalized for complying with the public land orders.

There appears to be some misunderstanding as to the status of cabins on Federal lands. The builders or occupants of cabins or other structures located on unpatented Federal lands have no legal status to occupy or maintain these structures. Most lands within the new Alaska National Monuments were withdrawn from public entry by September 19, 1972. These withdrawals were well publicized and the Bureau of Land Management notified many cabin occupants of their trespass status. On March 25, 1974, all of the lands currently within the Alaska National Monuments were withdrawn from public entry.

The public comments suggested a broad range of remedies, from that of immediate eviction to phasing out, leasing or allowing the occupants to remain under certain conditions. The National Park Service believes that prior to 1974 the public land orders, withdrawing various Federal lands from entry or settlement, were not clearly understood by the general public. Many people assumed that various tracts of Federal land were still available for entry and settlement. In view of the confusion that existed during the period 1968 to 1974 concerning the status of public land, the Service believes that a phase-out procedure provides the most equitable solution.

The Service proposes to establish a permit system for the use and occupancy of cabins or other structures located on Federal lands. This permit system would establish two different categories of occupants. The first category consists of those persons who built or occupied cabins or other structures on Federal lands prior to March 25, 1974. The second category consists of those persons who built or occupied cabins or other structures between March 25, 1974 and December 1, 1978. These two categories of occupants would be entitled to different terms and conditions of use as provided in § 13.12. The builders or occupants of cabins or other structures, the construction or occupancy of which started after December 1, 1978, the date of the Presidential proclamations, would not be afforded any use and occupancy privileges.

5. *Firewood:* All of the public comments received advocated the use of dead wood by local rural residents. Many of the respondents indicated that dead wood on the ground in Alaska is not always suitable for use as fuel. An important distinction should be made between the use of dead wood within the monument for recreational purposes and the cutting and transporting of firewood for use outside of the Alaska National Monuments. The National Park Service is proposing that dead trees, standing or downed, be available for use as firewood while within the monuments. The cutting and transporting of firewood for use outside of the Alaska National Monuments would be prohibited, except that local rural residents who are authorized to engage in subsistence uses would be authorized to cut and transport firewood and other plant materials in accordance with § 13.49 of this Part.

6. *Pets:* The majority of the comments concerning pets stressed the importance of dog sled teams as a traditional means of transportation in rural Alaska. The National Park Service recognizes the value of dog teams in Alaska and encourages their use. Current regulations require that pets be under physical control at all times. The Service believes that dog teams in harness meet this requirement. Existing pet regulations also provide that the Superintendent may designate areas in which pets are not permitted. This restriction could be implemented if the Superintendent detrmined that it was necessary to provide for environmental or resource protection, research activities, protection of historic or scientific interests, the protection of endangered or threatened species and their habitat or public health and safety. The Service believes the existing regulation provides sufficient latitude to protect monument values and at the same time accommodate the traditional use of sled dogs. Therefore, no modification of the existing general regulation is proposed.

7. *Subsistence:* The issue of subsistence was perhaps the most divisive of all the issues submitted for comment. The Service received 1,731 form letters, sponsored by the Alaska Outdoor Association, which opposed any subsistence program that does not allow all Alaskans to share equally in the fish and game resources of the State. Most individual comments from urban areas in Alaska favored a subsistence program under State control; on the other hand, most individual comments from rural Alaska favored Federal control. Comments from the State of Alaska and an Alaskan trappers association urged the Service not to develop a separate Federal program but rather to leave the responsibility to the State. In general, the environmental organizations recommended a hybrid State/Federal program, most commonly on the model of the current legislative proposals. Such a hybrid program would authorize the State to regulate subsistence activities in accordance with certain Federal guidelines and subject to Federal monitoring. If the State were unable to develop or maintain an adequate program, however, the Service would have to implement a Federal program which accorded local rural residents in the new monument areas the highest priority consumptive use of the wild, renewable resources in the monuments.

The Alaska Federation of Natives ("AFN") supported a similar program. Briefly, the AFN recommended that the Department make its proposed regulatory program consistent with its "d-2" legislative position on subsistence. The AFN urged effective Federal oversight of any State subsistence program and extensive local participation in the administration of any subsistence program. The AFN submitted draft regulatory language based upon a selectively edited version of the current legislative proposals.

With respect to the use of aircraft by local rural residents, the public was at a disadvantage in commenting on this issue raised by the Notice of Intent because the Service had not, at that time, proposed a definition of "local rural resident." As has already been discussed, most commentors recommended that the general, so-called "traditional," use of aircraft continue in monument areas. The AFN suggested that, if the Service decided to continue the prohibition of aircraft use for subsistence purposes mandated by the interim regulations, special use permits should be available on a case-by-case basis. Most comments from urban Alaska and occasional comments from rural Alaska supported use of aircraft for "traditional" purposes. Several comments from rural Alaska, however, opposed it, as in the following:

> [W]e support the closure of any type of aircraft hunting within the Monuments. Each Fall when the [various] hunting seasons open, the upper Noatak River areas are a circus. There are airplanes on every landable sand bar, lake, and dry stream bed * * * For the subsistence hunter, it is hard times. The airplanes move the moose, bear, and caribou into the back country, leaving very little on the River for the subsistence hunter to hunt * * * If one can afford the cost of an airplane and pay for its use, then subsistence hunting would surely not apply to his lifestyle.

With respect to subsistence trapping, most commentors supported its inclusion in the definition of subsistence uses. Again, the public was at some disadvantage in not knowing the proposed definition of the "local rural residents" who would be the only persons allowed to engage in subsistence trapping in the new monuments. The AFN recommended that the Service regulate trapping by village residents in accordance with a permit system based on local residency and not on income. An individual from the "bush" explained the need to allow subsistence trapping as follows:

> As presently defined "subsistence" trapping does not permit the sale of fur. This is not realistic. Sale of approximately $3,000 worth of fur annually is our only cash income. We need this money to buy food (wheat, honey, powdered milk, etc.), gasoline (100 gallons a year for the outboard; we do not use a chainsaw), kerosene (25 gallons a year for lamps), clothing, and a host of small things from canning lids to gun powder. Nowhere in the Alaska bush today does anyone live without some items purchased from the "outside," and trapping is often the only way to earn necessary cash.

The subsistence regulations which the Service is proposing today create a hybrid State/Federal structure as suggested by the comments from the major environmental organizations, the AFN, and several other commentors. The program is based upon provisions in various legislative proposals. The legislative proposals concerning subsistence have varied over time. In the last two years, many modifications have been made in the subsistence titles of competing "d-2" bills, though no one bill contained language on subsistence that satisfied every concern of the Administration.

Thus, while the subsistence title of the Dingell-Breaux bill reported out of the Merchant Marine and Fisheries Committee contained many provisions that were deemed desirable, the overall thrust of the remainder of the bill was unacceptable to the Department and was not supported by the Administration. Conversely, while the version of H.R. 39 adopted by the House was preferred by the Administration, its subsistence title nevertheless contained various provisions which needed improvement or modification. As a result, while using the various legislative proposals as the foundation of its regulatory proposal, the Service has not adopted the entire subsistence provision of any one of the legislative proposals. Rather, the Service has selected and combined the features of various "d-2" bills which it believes best accommodate the management needs of the new Alaska National Monuments. The Service nevertheless believes that its regulatory proposal is within the spirit of the legislative negotiations on the subsistence issue.

The regulations proposed today are limited in scope to the thirteen new monument areas. Consequently, while acknowledging the value of a unified subsistence program for all public lands in Alaska, the Service must limit its proposal in this rulemaking to the new monument areas.

As will be explained in the Section by Section Analysis, sport hunting is prohibited in the new Alaska National Monuments. As a result, the Service is proposing subsistence regulations that identify "local rural residents" and thus distinguish them from sport hunters. As proposed, local rural residents either live in a designated "resident zone" or hold a "subsistence permit." As most comments suggested, the Service is proposing a definition of "subsistence uses" that allows for customary subsistence trapping (without permit), i.e., limited involvement in the cash economy through the exchange of furs. The Service is also proposing to extend the interim regulations' general ban on aircraft for subsistence purposes, leaving a limited opportunity for exception. As suggested by several comments and explained in the Section by Section Analysis, the Service has determined that most local rural residents who are truly dependent on the resources do not, and could not afford to, use aircraft for subsistence purposes. The aircraft ban, therefore, does not hurt the true subsistence person but does help the Service in enforcing the prohibition on sport hunting.

8. *Hunting and Trapping:* Although the issues of hunting and trapping were not presented in the Notice of Intent, numerous comments concerning these activities were received. Most of these comments advocated hunting and trapping within the Alaska National Monuments. Hunting and trapping are prohibited within units of the National Park System except as provided by law. Under existing law, the Service has no authority to allow sport hunting or commercial trapping within the new Alaska National Monuments. The Presidential proclamations establishing the new Alaska National Monuments recognize subsistence hunting and trapping as a value to be protected. Sport hunting and trapping were not accorded the same status.

9. *Mining:* The issue of mining was presented to solicit comments on the unique problems encountered in Alaska by the mining industry. Most of the comments stated an opinion as to whether or not performance bonds should be required, but presented neither alternatives nor substantive analyses of the issue. Many of the comments favored modification of the regulations in order to insure that the interests of the small mining operations are protected. The National Park Service is not proposing modification of the existing mining regulations at this time. The service has published two amendments to the Mining Regulations in view of the unique circumstances in Alaska. *See* 44 FR 20426 Mining claims, unpatented: recordation; 44 FR 11068 (Alaska national monuments; mining operation plan; submittal of supplemental information). Any modifications proposed

by the Service would be the subject of a separate notice of rulemaking.

10. *Other issues:* Many of the respondents to the Notice of Intent advocated the continuation of traditional methods and means of access to or across monument lands. These concerns for access were generally associated with particular needs such as subsistence, mining or access to private or State owned lands. Access and the various means of transportation are discussed separately in the Section by Section Anaylsis of the proposed regulations.

Section by section analysis

The proposed regulations set forth herein would apply to all persons using, entering or visiting within the boundaries of the Alaska National Monuments. These proposed regulations would supplement the "general regulations" of Parts 1 through 6 and 8 through 11 of Title 36 of the Code of Federal Regulations. These "general regulations" are applicable except as would be modified by these proposed regulations.

The regulations are divided into three parts. Subpart A, Public Use and Recreation, contains the proposed regulations that would govern activities such as the use of aircraft, snowmobiles, and motorboats, carrying of weapons, camping, cabin occupancy and other activities related to access or general public use and recreation. These regulations would apply to all of the Alaska National Monuments and would relax or make more stringent the provisions of the general regulations found in 36 CFR, Parts 1 through 6.

Subpart B contains proposed regulations that would govern subsistence activities within the Alaska National Monuments. These regulations would apply to all the Alaska National Monuments, except Kenai Fjords National Monument, and would relax or make more stringent the provisions of the general regulations found in 36 CFR, Parts 1 through 6 or Subpart A of this Part.

Subpart C contains proposed regulations for individual national monuments. These regulations would apply to a specific national monument and may relax or make more stringent the provisions of the general regulations found in 36 CFR, Parts 1 through 6 or Subpart A or B of this Part.

The National Park Service has long recognized the existence of certain common problems arising from unregulated visitor use of park areas. The regulations necessary to address these problems have been incorporated in Title 36 of the Code of Federal Regulations. Although there are, indeed, certain common problems within the National Park System that require uniform policies and regulations, there are a significant number of park areas that, because of their individual characteristics, public use patterns or legislative mandates require individual policy considerations and special regulations. Subparts A and B of these proposed regulations are designed to provide a uniform and consistent approach to the management and use of the Alaska National Monuments wherever feasible and practical. However, in recognition of the different characteristics and use patterns that exist among the new national monuments the National Park Service has provided, in Subpart C, the means by which an individual monument could be administered under regulations and policies specific to the requirements of that monument.

Public use and recreation

Access: Reasonable routes and methods of access across monument lands would be granted to any person who has a valid property or occupancy interest in lands within or effectively surrounded by monument lands. Routes and methods of access would be limited to those traditionally used by the applicant unless the Superintendent determines that reasonable alternative routes or methods of access exist which would be less damaging to the environmental values of the monument. It is the intent of this section to provide reasonable access in a manner that imposes the minimum administrative burden upon the applicant. However, it is not intended to that this section be used to authorize a new or modified route or method of access that would require the construction of permanent improvements such as roads, graded runways, structures of bridges, the construction of which requires cement or steel abutments or is designed to accommodate vehicles in excess of 10 tons. Permanent improvements requiring substantial construction or resulting in significant impact upon monument lands would be permitted only in accordance with the provisions of 43 CFR, Part 2800.

Access for purposes of mining or the extraction of oil or gas is governed by Part 9 of this Chapter.

Aircraft: Fixed wing aircraft may be landed and operated on lands and waters within the Alaska National Monuments except at those times or in those locations where such use is temporarily or permanently prohibited. The provision permitting the Superintendent to otherwise restrict the use of aircraft is intended to provide the broad authority necessary to ensure the protection of monument values without having to resort to a temporary or permanent closure. Such restrictions may relate to the times of use, type or size of aircraft, or other restrictions necessary or appropriate. In other words, the National Park Service would prefer to ensure the protection of monument values with the least restrictive approach. For example, if a given resource management problem could be solved by restricting take-offs and landings to a certain time of day, then this restriction, rather than a total prohibition of aircraft use, would be the preferred approach. This does not mean that the National Park Service would not temporarily or permanently close areas of the Alaska National Monuments where such closures are deemed necessary.

Closures of monument lands to the use of aircraft could take either of two forms. Temporary closures would be instituted by the Superintendent upon the determination that a situation requiring immediate action exists. This close authority would not require public comment and would not exceed one year. Temporary closures are designed to provide immediate relief from the adverse effects of aircraft. For example, a temporary closure could be imposed in appropriate areas during the Caribou calving season. Permanent closures would be subject to the full rulemaking process, including public participation. A permanent closure would only be initiated if the Superintendent determines that aircraft use is adversely impacting one of the factors listed in Section 13.11(b). The National Park Service recognizes that other values must be protected in the administration of the Alaska National Monuments. Among these are the preservation of areas where material alteration or the disturbance of environmental characteristics or the introduction of artificiality into a natural environment are minimized.

As a part of this rulemaking process, the National Park Service invites suggestions as to specific areas that should be permanently closed to the use of aircraft.

Cabins and Other Structures: Over the years, cabins and other structures have been built on unpatented Federal lands. The builders or occupants of these cabins have no legal right to continue the occupancy of the land of which the cabins are located. Extended long-term use is not in the best interest of the general public. However, the long, customary use of such property, the uncertain status of land during the late 1960's and early 1970's and the substantial investment that many people have made in the structures suggest the need for an equitable and orderly termination of use. The National Park Service proposes to grant use and occupancy privileges to individuals occupying cabins or other structures pursuant to a nontransferable permit. The degree of privilege afforded an occupant would be determined by the status of the Federal land at the time of original occupancy by the individual. Land status would be determined by the public land orders that were in effect at the time of occupancy.

The permit system would recognize two categories of occupants. The first category is comprised of those persons who built or occupied cabins or other structures on unpatented Federal lands prior to March 25, 1974. These occupants may apply for a five (5) year nontransferable, renewable permit. The permit would be revocable for violations of the conditions of the permit or at the discretion of the Alaska Area Director upon 180 days written notice. The renewability of these permits will be governed by the provisions of 43 CFR Part 21. The second category consists of those persons who built or occupied cabins or other structures between March 25, 1974 and December 1, 1978. These occupants may apply for a nontransferable, nonrenewable permit. The permit would be issued for a maximum term of one year and revocable for violations of the conditions of the permit or at the discretion of the Alaska Area Director upon 30 days written notice.

Those persons who occupied cabins or other structures on Federal lands after December 1, 1978, the date of the Presidential proclamations, shall not be afforded use and occupancy privileges and shall be subject to the provisions of 36 CFR 5.15, prohibiting residency on Federal lands.

The National Park Service would provide long-term occupancy to those persons who occupied Federal lands prior to March 25, 1974. On March 25, 1974, Public Land Order 5418 closed to settlement all remaining public lands in Alaska. Prior to this date, Public Land Order 4582, dated January 17, 1969 "froze" public lands from all disposition pending settlement of the Native land claims. On September 19, 1972, lands currently within the Alaska National Monuments were withdrawn from entry or occupancy. The National Park Service recognizes that during this period there was some confusion as to the status of land. Therefore, the March 25, 1974, date represents the most equitable cutoff point.

The Service would not afford the same privileges to those persons who built or occupied cabins or other structures on Federal lands after March 25, 1974. The land withdrawals were well-known and established at this time. Therefore, the Service believes that a one year phase-out period in which to relocate is reasonable.

Camping: Camping within the new Alaska National Monuments is permitted except at those times or locations temporarily or permanently closed or otherwise restricted by the Superintendent. The National Park Service would close an area to camping when the Superintendent determines that use of the area has resulted in resource damage or that other management considerations require closure as set forth in Section 13.13 of this Part.

Commercial Fishing: Commercial fishing operations that were operating on lands or waters within the Alaska National Monuments at the time of the Presidential proclamations could continue in accordance with a permit issued by the Alaska Area Director. The permit would govern such activities as access, temporary camps, use of other monument resources in support of commercial fishing operations, sanitation and other conditions necessary to ensure that commercial fishing operations are compatible with the purpose for which the monuments were established.

Firearms, Traps and Weapons: Firearms could be carried within the Alaska National Monuments for reason of personal protection, except at those times or in those areas temporarily or permanently closed or otherwise restricted by the Superintendent. The Superintendent would retain the authority to prohibit or restrict the carrying of firearms in those areas and at those times when the potential for injury or loss of life inflicted by dangerous animals is negligible or where necessary to insure public safety. For example, restrictions may include the carrying of unloaded firearms in areas of concentrated public use or the closing of certain areas of the monuments to the carrying of firearms.

The proposed regulations distinguish between the carrying of firearms for purposes of personal protection and the carrying of other weapons. Only firearms could be carried by recreational users on monument lands. The carrying of nets, traps and other weapons such as spear guns, slingshots and other implements designed to discharge missiles would be prohibited. However, local rural residents authorized to engage in subsistence uses would be permitted to use, possess and carry weapons, traps and nets in accordance with applicable State and Federal law.

In order to provide transient relief for persons crossing monument lands, the possession of weapons, traps and nets within or upon, a device used for transportation would be permitted provided such implements are unloaded and cased or otherwise packed in such a way as to prevent their ready use while in an Alaska National Monument.

Motorboats: Motorboats would be permitted to be operated on all waters within the Alaska National Monuments except where such use is temporarily or permanently prohibited or otherwise restricted by the Superintendent. The National Park Service is proposing to implement this regulation in a manner that will provide for access and accommodate recreational uses while at the same time closing some bodies of water to motorboat use so that material alteration or the disturbance of environmental characteristics or the introduction of artificiality into a natural environment is minimized.

As set forth in Subpart C, the Service is proposing to close the following lakes in Lake Clark National Monument to use of motorboats: Telaquana Lake, Turquoise Lake, Twin Lakes, Lackbuna Lake, Portage Lake, Kijik Lake, Kontrashibuna Lake. These Lakes would be closed to motorboat use by both recreational and subsistence users. The Service is proposing this action to preserve the ecological integrity of lakes where little or no known motorboat uses occur and minimize the degree of environmental disturbance.

As part of this rulemaking process, the National Park Service invites suggestions as to the specific areas or times that should be permanently closed to the use of motorboats.

Off-Road Vehicles: The National Park Service proposes to restrict the use of motor vehicles to established roads and parking areas. The Superintendent would be authorized to designate routes for off-road travel in accordance with the criteria listed in Section 13.17(b)(1). This regulation is designed to prevent the resource damage and habitat degradation that can occur from the uncontrolled use of off-road vehicles. This section is intended to mitigate the impact that all terrain, tracked vehicles or four-wheel drive vehicles have upon monument resources. The Superintendent would retain authority in Section 13.17(b)(4) to restrict the use of or temporarily close any designated route.

The procedures for route closures described in subparagraph (b)(5) are relatively new. They are a result of provisions added to Executive Order 11644 on May 24, 1977, by Executive Order 11989 (42 FR 26959). Section 9(a) of this latter order, entitled *Special Protection of the Public Lands,* reads as follows:

(a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

Under existing regulations, superintendents of park areas now have authority, on a discretionary basis, to close areas or routes to the use of vehicles whenever necessary for protection of park values. These proposed regulations merely make such closures mandatory in situations where use "will cause or is causing considerable adverse effects."

Such closures would be considered temporary in nature, an emergency measure taken to protect natural or cultural resources. Once such a closure had been made, the area or route affected would be reevaluated as to its suitability for off-road vehicle use. A determination would be made whether the closure should become permanent or if mitigating factors or changed conditions would permit reopening. Consistent with existing regulations, prior to making a final decision to reopen a route for off-road travel or to permanently close a previously designated route, notices of proposed and final rule-making would be published in the "Federal Register" and the public would be provided a period of at least 60 days to comment on the proposal.

Picnicking: The current regulations applicable to units of the National Park System prohibit picnicking in national monuments except in those areas designated by the posting of appropriate signs. This registration was designed to protect the natural scene and reduce damage in highly visited park areas with automobile access. The National Park Service has concluded that because of the type and pattern of visitation in the new Alaska National Monuments, existing restrictions on picnicking are unnecessary. The Superintendent would retain the authority to close areas to picnicking for reasons of public health and safety or other management considerations.

Preservation of Natural Features: Existing regulations governing public use and recreation in units of the National Park System prohibit the cutting of standing dead trees. The National Park Service has determined that the use of dead trees, either standing or downed, as fuel for recreational campfires in the Alaska National Monuments would not result in significant adverse impact. Therefore, the Service is proposing to provide relief from the general regulations governing the use of park resources and plant materials and to provide guidelines for the consumption and use of certain renewable resources.

Snowmobiles: The National Park Service recognizes the value of snowmobiles as a traditional, and sometimes sole, means of access to monument lands. Therefore, the use of snowmobiles would be permitted in areas or on routes designated by the Superintendent in accordance with the criteria listed in 13.20(b)(1). This proposal represents an attempt by the Service to accommodate traditional and necessary means of access while at the same time preserving parts of the Alaska "bush" in a relatively wild state where the influence of man is not overly apparent as a result of the use of mechanized transport. In implementing this section the Superintendent would designate routes or areas of access to serve major portions of a park area. However, the Service anticipates that other areas would not be designated as open for snowmobile use. This philosophy of general access, through designated routes and areas combined with areas not open to snowmobile use, is designed to address the criteria expressed in Section 4 of Executive Order 11644, which provides:

Areas and trails shall not be located in officially designated wilderness areas or primitive areas. Areas and trails shall be located in areas of the National Park System, Natural Areas, or National Wildlife Refuge and Game Ranges only if the respective agency head determines that off-road vehicles use in such locations will not adversely affect their natural, aesthetic or scenic values.

The National Park Service interprets this requirement to mean that trails and areas would only be opened to snowmobile use when a positive determination has been made that such use will not adversely affect the scenic, aesthetic or natural values. Therefore, the Service proposes to open areas for snowmobile use only after the Superintendent has determined that the use of snowmobiles will not adversely affect the natural, esthetic or scenic values of the monument.

Section 3 of Executive Order 11644 requires that areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses. The National Park Service recognizes that other values must be protected in the administration of the Alaska National Monuments. Among these are the preservation of areas where material alteration or the disturbance of environmental characteristics or the introduction of artificiality into a natural environment are minimized. Therefore, the Service proposes that some areas within the Alaska National Monuments would not be open to the recreational use of snowmobiles.

As a part of this proposed rulemaking the National Park Service invites suggestions as to specific areas or times that should be closed to the use of recreational snowmobiles.

The use of snowmobiles for subsistence purposes is governed by § 13.46 of this Part.

Unattended and Abandoned Property: The purpose of this section is to modify the relevant "general regulations" which prohibit leaving personal property unattended longer than 24 hours without the prior permission of the Superintendent. The National Park Service has determined that this regulation is too restrictive to adequately accommodate subsistence and recreational uses within the Alaska National Monuments. The Service proposes to allow personal property to be left unattended to up to nine months before it would be deemed abandoned and subject to the impoundment. In effect, this accords personal property within an Alaska National Monument a nine-month presumption that it is only temporarily unattended. Personal property may be left unattended for periods of time in excess of nine months with the prior permission of the Superintendent.

The National Park Service is concerned that personal property not be located or maintained in such a manner as to constitute a threat to public safety or impair the aesthetics of the monument. In addition, this section is intended to allow the Superintendent to specify the conditions under which personal property is unattended to insure, for example, that food and equipment caches or other attended personal property does not attract or is not accessible to animals.

The section provides that the Superintendent may establish limits on the amount and type of personal property that may be left unattended. In addition, the Superintendent is authorized to designate locations where personal property may be left unattended for periods of time to be designated by the posting of appropriate signs or by designating on a map which shall be available for public inspection at the office of the Superintendent.

Subsistence

Background. Following a description of the outstanding historic and scientific values of the particular area involved, each proclamation establishing a new Alaska National Monument, except the proclamation for Kenai Fjords, recognizes that the area preserved is a national monument for the protection of the enumerated historic and scientific features.

> Supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the national objects protected . . . because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monuments.

For this reason, the proclamations direct the Secretary to

> promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents.

The regulations governing subsistence, which the Service is today proposing as Subpart B of Part 13, are in furtherance of the above-quoted language from the proclamations. It is the purpose of these proposed regulations to provide and regulate the opportunity of local rural residents to engage in a subsistence lifestyle in the new Alaska National Monuments. The proposed regulations establish subsistence uses of the wild, renewable resources of the new monuments (hereinafter "monument resources") as the highest priority consumptive uses in the new monument areas. Nevertheless, they regulate the opportunity to engage in subsistence uses in certain respects for two independent reasons:

(1) The regulations for the new national monuments must afford protection to the many values which support the monument designations. According to the proclamations, the protection of the subsistence lifestyle must "enhance," not detract from, the other historic and scientific values of the monuments.

(2) The new national monuments are units of the National Park System and subject to the provisions of the National Park Service Organic Act, 16 U.S.C. §§ 1, *et seq.* According to the Organic Act, the "fundamental purpose" of units of the Park System, including national monuments, "is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S.C. § 1.

Subject to the constraints imposed by the language of the proclamations and the provisions of the Organic Act, the Service has developed a proposed subsistence program which borrows liberally from points of general agreement reached in the legislative activity on the Alaska National Interest Lands and as much as possible from the regulatory program developed by the State of Alaska Boards of Game and Fisheries.

State regulation. Most public comments from the urban areas of Alaska favored subsistence regulations under State control. Most public comments from rural areas, including Native corporations, favored subsistence regulations under Federal control. The proposed regulations, like the subsistence program proposed in the legislation on the Alaska National Interest Lands, create a careful balance between State and Federal authority (Section 13.44). They set forth certain criteria that any subsistence program, State or Federal, must meet:

(1) The subsistence regulations must adequately implement the "subsistence preference" (Section 13.40(b)(1)). The purpose of the "subsistence preference" is to ensure that the local rural residents who are most dependent on the resources, have the least access to alternative resources, and reside in areas where the subsistence lifestyle prevails, have priority consumptive use of monument resources.

(2) The subsistence program must not allow a "significant expansion" of subsistence use of the monument resources beyond the level occurring during the ten-year period before January 1, 1979 (Section 13.40(b)(2)). The magnitudes of resource use which constitute significant expansions over past use will be determined within two years of final publication of these regulations after consultation with the State, local rural residents and other interested parties.

If the State develops and implements subsistence regulations that meet these two criteria and are otherwise consistent with Federal law, the State regulations may take the place of the relevant Federal provisions. Accordingly, once the State satisfactorily identifies the local rural residents entitled to engage in subsistence uses on monument lands, the State regulations on this subject shall supersede the relevant Federal regulations (for example, the definition of "local rural resident").

The Service looks forward to the incorporation of adequate State subsistence regulations into the Federal regulatory program for the monuments. The Department of the Interior has consistently recognized the advantages offered by a single, unified regulatory framework designed and supported by both the State and Federal Governments. Although the State has made significant progress toward developing a comprehensive subsistence program, its efforts thus far have unfortunately fallen short of the existing needs in the new monument areas managed by the Service. The State has not yet resolved the problem of identifying the subsistence hunters. Because sport hunting is prohibited but subsistence hunting is allowed in these new monument areas, the Service is already confronted with the problem of distinguishing sport from subsistence hunters. The Service, therefore, has had to develop the proposed identification methods which are capable of practical implementation and enforcement and which protect local rural residents from competition with sport hunters.

Once the State develops and the Service incorporates an adequate State subsistence program, the Alaska Area Director will monitor the program to assure its compliance with the requirements set forth in Subpart B (Section 13.44). Should the State program fail to comply with these requirements, the Alaska Area Director would consult with the State and suggest necessary modifications. If the State is not able to make the necessary modifications, the Alaska Area Director shall modify the program so as to bring it into compliance with the Subpart B requirements. The State may appeal the Alaska Area Director's actions to the Director of the National Park Service.

Whether or not the Service incorporates subsistence regulations developed by the State, the Superintendent of each monument retains the authority to close or restrict any part or all of the monument to subsistence uses for reasons of public safety, administration, or to ensure the natural stability and continued viability of resource populations (Sections 13.44(e), 13.50).

Finally, whether or not the Service incorporates State subsistence regulations, certain other aspects of State regulation which have been part of the interim regulations will continue as part of the permanent regulations for the new Alaska National Monuments. For example, State regulations which govern fishing, snowmobiling, boating, and the taking of wildlife (to the extent such uses are permitted in the new monuments) are incorporated in the Service's regulations and may be enforced by State or Service personnel in the new monuments (Sections 13.46, 13.47, 13.48).

Application and scope. The proclamations establishing the new Alaska National Monuments direct the Secretary of the Interior to provide the opportunity for local residents to engage in a subsistence lifestyle in all the monuments except Kenai Fjords National Monument; consequently, the regulations contained in Subpart B apply to all the new monuments except Kenai Fjords (Sections 13.2, 13.40(a)). These generally applicable regulations of Subpart B, in turn, may be amended, relaxed, or made more stringent by the specific regulations for each national monument area contained in Subpart C. For example, a general regulation contained in Subpart B prohibits the use of aircraft for access to monument areas for purposes of subsistence hunting and fishing; a specific regulation contained in Subpart C for the Gates of the Arctic National Monument, however, relaxes this prohibition in extraordinary cases where no reasonable alternative exists for local rural residents who live in the village of Anaktuvuk.

Policy. The policy objective of the proposed subsistence regulations contained in Subpart B is to accommodate and protect the unique subsistence relationship to certain local rural people in Alaska with their natural environment. These local rural residents are economically dependent on, and have historically taken, the renewable resources which are now within the boundaries of the new Alaska National Monuments. The resources meet both the physical needs of these local rural residents for food, fuel, and clothing and their social needs for cultural identity kept intact by skills, lore, and traditions. It is the intent of the Subpart B regulations, to the extent consistent with other policy objectives for units of the Park System in general and these new monuments in particular, to provide the opportunity for local rural residents who are dependent on the resources now within monument areas to continue their existing subsistence lifestyles should they choose to do so. Toward this end, the Subpart B regulations make nonwasteful subsistence use of monument resources the highest priority consumptive use of the resources (Section 13.40(b)). Two other policy objectives, the "subsistence preference" and the "prevention of significant expansion of subsistence use," may nevertheless affect the scope of the opportunity afforded local rural residents to engage in a subsistence lifestyle within monument boundaries, as follows.

(1) *The Subsistence Preference.* According to the law applicable to the new Alaska National Monuments, the only hunting that may occur within the monument boundaries is hunting by local residents for subsistence purposes. The regulations contained in Subpart B propose a program for identifying the local residents who may engage in subsistence hunting. The data available at this time has enabled the Service to identify concentrations of people, residing throughout the monument areas and in certain additional areas just outside the monument boundaries ("resident zones"), who are economically dependent on, and have historically used, the renewable resources of the monument. The proposed program also allows any person who does not live in the identified areas to demonstrate similar economic dependence on, and historical use of, monument resources in order to obtain a "subsistence permit." Under the proposed program, therefore, all local rural residents allowed to engage in subsistence uses within

the monuments must either live in the identified "resident zones" or hold a "subsistence permit" (Section 13.41(b)). At some future time, the Service (or the State, if its regulations have been incorporated into the Service's regulatory program) may have to impose more stringent tests based on the three criteria of the "subsistence preference" (dependence on the resources, availability of alternative resources, local residency) to determine who may engage in subsistence uses of monument resources for either of two reasons:

(a) Development of a prudent and equitable subsistence program has been a difficult task. Indeed, the State of Alaska has delayed undertaking certain aspects of its pending receipt of more data. In the monument areas, however, the Service does not have the luxury of delay. The Service firmly believes that the program proposed today is fair and reasonable based on the available data. Nevertheless, in certain respects this initial system may suffer from both over- and under-inclusiveness. For example, everyone who lives within a resident zone, despite the individual's degree of dependence on the monument's resources, is granted the privilege of taking the renewable resources in the monument. Anyone who lives outside the resident zone, however, must demonstrate his or her economic dependence on, and historical use of, the resources before being granted the privilege (Section 13.43). Like the State Boards of Game and Fisheries, the Service does not now have sufficient data to give a more precise regulatory definition to the three criteria of the subsistence preference. When data becomes available which more specifically analyzes the subsistence lifestyle, the Service intends to refine the program proposed today in order to implement the criteria of the subsistence preference more precisely. In other words, as the data becomes available the Service will consider ways to give preference to those individuals who are most dependent on monument resources, who do not have alternative resources readily available, and who live in places where a genuine subsistence lifestyle predominates.

(b) Whenever a monument's subsistence resources are not sufficiently plentiful for taking by all local rural residents, the Superintendent will have to allocate the resources among the local rural residents in accordance with the criteria of the subsistence preference. For example, if subsistence uses must be restricted to protect the continued viability of the resource populations, to prevent the significant expansion of subsistence uses beyond the ten-year harvest level preceding January 1, 1979, or simply to assure local rural residents the continued opportunity to engage in subsistence uses, the Superintendent would have to limit the privilege of engaging in subsistence uses within the monument boundaries to only those local rural residents who have the most customary and direct dependence upon the resources as the mainstay of their livelihood, or who have the least access to alternative resources, or who live in places where the subsistence lifestyle predominates. The allocation scheme would, of course, use the available data on the three criteria of the subsistence preference to allocate the available supply of the resources. To the fullest extent possible, moreover, the Service would seek public participation in the affected vicinity for assistance in developing the allocation scheme.

(2) *Prevention of Significant Expansion of Subsistence Use.* Preventing the subsistence use of monument resources from expanding significantly beyond the ten-year historical level is essential to proper management of all the values preserved and protected by the monument designations (Section 13.40(b)(2)). While the Service clearly recognizes subsistence uses as "the highest priority of all consumptive uses" in the new monuments, the Service will not allow such subsistence uses to expand at the expense of other park system unit objectives set by law and policy, including objectives of conservation and public use and enjoyment. It is the Service's intent that traditional subsistence uses be permitted to continue, if possible, at traditional levels. It is specifically not the Service's intent to allow subsistence harvests to expand, for example, to the level of maximum sustained yield. Many of the monument areas currently have healthy populations of fish and wildlife whose levels should be maintained if possible. Indeed, the Service management policy strive(s) to maintain the abundance, behavior, diversity, and ecological integrity of native animals in natural portions of parks as part of the park ecosystem. . . . Natural processes shall be relied upon to regulate populations of native species to the greatest extent possible.

The Service is using the ten-year period of reference, as the legislative sponsors have, because the levels of harvest fluctuate with the natural rise and fall of resource populations. In fact, such resource populations vary from year to year, and subsistence uses change according to resource availability. Management must be flexible to accommodate these variations. In the case of some species for particular years, the data on populations and level of subsistence use is sketchy. All in all, however, the existing data on past levels of use set forth in several research documents including the 1974 Environmental Impact Statement on the Section 17(d)(2) withdrawals, the State of Alaska's November Task Force Report on subsistence, and research studies of subsistence communities prepared under contract with the Service, establish a reasonable basis for monitoring and, if necessary, restricting the expansion of subsistence uses. In order to provide an opportunity for interested parties, and notably the State and the subsistence users themselves, to participate in determining the level of harvest that constitutes a significant expansion, the Service is proposing to phase this policy into practice within the two years after final promulgation of the Subpart B regulations.

(3) *Closure.* The implementation of the subsistence preference and the prevention of the significant expansion of subsistence use are essential policy elements of any subsistence program for the new Alaska National Monuments, whether under Federal or State control. In fact, any regulatory program which the State develops must adequately provide for these elements in order to supersede the relevant provisions of the Federal program (Section 13.44). Whether or not the Service has incorporated State subsistence regulations into Subpart B, however, the Superintendent of each national monument retains the power to close or restrict any part or all of a monument to subsistence uses "if necessary," in the words of the proclamations, "for reasons of public safety, administration, or to ensure the natural stability or continued viability" of the resource populations (Sections 13.44(e), 13.50).

These closure standards allow the Superintendent to act in situations which threaten public health and welfare, to protect all the values and uses intended for the new monuments by the Presidential proclamations and the Park Service Organic Act, to maintain monument resource populations upon which local rural residents rely at levels adequately above the threatened level, and to otherwise manage the new monument areas prudently. The "subsistence preference" allows the Superintendent to restrict the taking of monument resources by other types of consumptive users (e.g., sport fishers, recreational berry-pickers) before considering the necessity of restricting subsistence taking. Absent an emergency situation, the Superintendent will not close all or part of a monument to subsistence uses without prior consultation with the State and informal public hearing in the affected vicinity. In an emergency situation requiring immediate action (e.g., disease among a wildlife population, hazardous pollution of a heavily-fished body of water, migration of a herd of caribou into a popular public use area), the Superintendent will order the closure of the area or other appropriate measures for a period of not more than sixty days. The Superintendent will extend such an emergency closure, moreover, only if he determines, after informal public hearing in the affected vicinity, that the extension is necessary to protect the public safety, to administer the areas properly for protection of all their values, or to maintain the resource at healthy population levels.

Inasmuch as a closure to subsistence uses may, in some circumstances affect customary patterns of the subsistance lifestyle, the Superintendent will not take such a step lightly. Whenever possible, the Superintendent will seek prior State and public consultation. To assure adequate notice of the public hearing and any resultant action, the Superintendent will publish the necessary information in newspapers of general and local circulation, submit it for broadcast on local radio stations, and post it prominently at his or her office.

Definitions. The Subpart B regulations propose to adopt the consensus definitions of "subsistence uses" and "family" which appear in the various legislative proposals on the Alaska National Interest Lands. The term "subsistence uses" is defined as the customary and traditional use by local residents of rural Alaska of fish, wildlife, and plants for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making or selling of handicraft articles out of the nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade of furs for cash.

These definitions contain several provisions worthy of further explanation. The definition of "subsistence uses" limits the term's scope to activities carried out by "local rural residents"; in so doing, it excludes former rural residents who now live in one of Alaska's urban centers. Furthermore, as explained by the definition of "local rural residents," in order to qualify as a subsistence user within a new monument (absent a "subsistence permit"), a person must have his or her *permanent* home within the designated resident zone and, whenever absent from this permanent home, have the intention of returning to it. A permanent home is where one intends to remain. In most circumstances, it is where one votes, and it is the home address which one indicates on hunting and fishing licenses, income tax returns, and driver's licenses.

The definition of "subsistence uses" includes the making and selling of handicraft articles from the nonedible byproducts only of fish and wildlife resources taken for personal or family consumption. Accordingly, the definition covers such commercial activities only if the edible portions of the resource have been used for personal or family consumption. The definition of "barter" recognizes that a genuine subsistence lifestyle includes certain foodstuffs and other items which may only be available through a noncash exchange. Consequently, barter of subsistence resources of a noncommercial nature falls within the meaning of subsistence uses. The definition of "customary trade" recognizes that a genuine subsistence lifestyle may also include limited involvement in the cash economy through the exchange of furs. For example, local rural residents may engage in trapping to obtain the cash required for store-bought supplies such as gasoline and ammunition.

Finally, the definition of "family" recognizes extended family patterns common in the subsistence culture of Alaska. It also includes within its coverage any person living in a household on a permanent basis, as well as all local rural residents living outside the household who are related by blood, marriage, or adoption (legal or equitable).

Qualification as local rural resident. The proposed Subpart B regulations grant the privilege of engaging in subsistence uses of monument resources to "local rural residents." As presently defined, these local rural residents are persons who either live in designated "resident zones" (Section 13.42) or hold a "subsistence permit" (Section 13.43). "Resident zones" are designated, and "subsistence permits" will be issued, on the basis of geographical, economic, and historical criteria, *i.e.*, residency in or near the monument, dependence on the monument resources as the mainstay of livelihood, and history of use of monument lands. In the case of "resident zones," the service applies these criteria to "concentrations" of people based on available research; in the case of "subsistence permits" for people who live outside resident zones, the Superintendent will apply these criteria to individual applicants.

The so-called economic criterion states that local rural residents are "dependent, as the mainstay of [their] livelihood[s], upon the subsistence uses of wild, renewable resources taken within the monument." In applying this criterion, the Service seeks to identify communities and individuals who primarily depend on, or whose economies are predominated by, subsistence uses of the wild renewable resources of the new monuments.

The so-called historical criterion states that local rural residents have, or are members of families which have, "established patterns of subsistence hunting, fishing, or gathering activities within the monument, or a history of subsistence activities within the monument as demonstrated by use of fish camps, trapline cabins, hunting camps, cache sites, and other identifiable locations of subsistence use." By means of this criterion, the Service intends to focus on the subsistence tie of the community or individual to the particular monument area. Genuine subsistence users in an area know its features thoroughly: its resource concentrations and dynamics, harvest patterns, navigational factors, trail systems, and the like. They, their families, and often their ancestors have hunted, fished, gathered, and trapped the area; in so doing, they have established camps and locations of subsistence use. They are tied to the area by custom and tradition.

(a) Resident Zones. By definition, the "resident zone" for each new monument encompasses the area and communities within the monument boundaries as well as certain areas and communities just outside the boundaries where a genuine subsistence lifestyle predominates (Section 13.41(c)). The proposed "extraboundary" areas and communities for each new monument, listed in Subpart C of the regulations, are as follows:

(a) Aniachak National Monument: Chignik, Chignik Lagoon (Section 13.70(a)(1));

(b) Bering Land Bridge National Monument: Buckland, Deering, Shishmaref, Whales (Section 13.71(a)(1));

(c) Cape Krusenstern National Monument: Kivalina, Kotzebue, Noatak (Section 13.72(a)(1));

(d) Denali National Monument: Minchumina, Telida (Section 13.73(a)(1));

(e) Gates of the Arctic National Monument: Alatna, Allakaket, Ambler, Anaktuvuk, Bettles, Kobuk, Shungnak (Section 13.74(a)(1));

(f) 1978 Enlargement of Glacier Bay National Monument: none (Section 13.75);

(g) 1978 Enlargement of Katmai National Monument: Egigik, Igiugig, Kakhonak, Levelook (Section 13.76(a)(1));

(h) Kenai Fjords National Monument: subsistence uses prohibited (Section 13.77(a));

(i) Kobuk Valley National Monument: Ambler, Kiana, Kobuk, Noorvik, Shungnak (Section 13.78(a)(1));

(j) Lake Clark National Monument: Nondalton, Port Alsworth (Section 13.79(a)(1));

(k) Noatak National Monument: Kivalina, Kotzebue, Noatak (Section 13.80(a)(1));

(l) Wrangell-St. Elias National Monument; Chistochina, Chitina, Copper Center, Gakona, Gulkana, McCarthy, Mentasta Lake, Nabesna, Slana, Yakutat (Section 13.81(a)(1));

(m) Yukon Charley National Monument: Circle, Eagle, Eagle Village (Section 13.82(a)(1)).

Under the proposed regulations, anyone who permanently resides within the monument boundaries or in one of the communities listed above may engage in subsistence uses in the appropriate monument. In other words, persons who live in the resident zone for Lake Clark National Monument may engage in subsistence uses only in that monument (unless such person's community is also listed in the resident zone for another national monument).

In determining the proposed list of "extraboundary" communities for each monument, the Service reviewed several documents, including the studies of subsistence communities prepared for the Park Service, the 1974 Environmental Impact Statement on the Alaska National Interest Lands, and the 1978 Environmental Supplement on Alternative Administrative Actions. The Service also reviewed information from several of its employees who have studied the subsistence lifestyle throughout the State and, in some cases, have lived "in the bush" for years. The resultant list is meant to include communities where most, and in some instances all, of the inhabitants qualify under the economic and historical criteria which describe local rural residents.

The Service recognizes that certain communities outside the designated resident zones contain persons who can qualify as local rural residents. Such communities include King Salmon, Naknek, and South Naknek for Katmai National Monument; Glenallen for Wrangell-St. Elias National Monument; and Yakutat for the 1978 Enlargement of Glacier Bay National Monument (Yakutat is within the resident zone for Wrangell-St. Elias National Monument). The Service encourages the people in these communities and others who depend on, and have historically used, monument resources to apply for a "subsistence permit."

(2) *Subsistence Permits.* Any person who permanently resides outside a resident zone must obtain a "subsistence permit" in order to engage in subsistence uses of monument resources. The Service has taken efforts to eliminate all unnecessary burdens from the application process while still providing sufficient procedural protections to assure fair and reasonable decisionmaking on the permit applications.

The application process at the Superintendent's level is simple. The applicant must demonstrate to the Superintendent, preferably on a written form but otherwise by oral presentation, either of the following:

(1) He or she meets the economic and historical criteria set forth in the regulations (Section 13.43(a)(1)), or

(2) He or she qualifies as a "local rural resident" who may engage in subsistence uses in another national monument, and his or her subsistence lifestyle (as supported by available research) involves a pattern of subsistence uses between the other monument and the monument for which the applicant now seeks a permit (Section 13.43(a)(2)).

The Service believes that the Superintendent will be able to issue subsistence permits quickly and routinely in cases of genuine subsistence users.

Should the Superintendent deny the permit, the applicant who wishes to have his or her application reconsidered must so inform the Alaska Area Director by letter, telephone, or any other means of communication within 60 days of the Superintendent's issuing the denial. Within a time to be determined thereafter, the permit applicant shall present the Alaska Area Director with (1) any additional information demonstrating that the applicant meets the economic and historical criteria, (2) the basis for the applicant's disagreement with the Superintendent's decision, and (3) any request for an informal hearing accompanied by a description of the new information to be presented and of any persons to be questioned at the hearing. The Alaska Area Director shall grant a hearing if it would significally enhance the decisionmaking process.

To accommodate the permit applicants who would be inconvenienced by travelling to Anchorage for a hearing, the Alaska Area Director will periodically "ride circuit," scheduling hearings throughout the State. The Alaska Area Director shall promptly notify the applicant of the decision on reconsideration. This decision shall constitute final action by the Department of the Interior. In accordance with applicable law, the permit applicant may, of course, seek judicial review of a denial on reconsideration.

Prohibition of aircraft use. The proposed Subpart B regulations generally prohibit the use of aircraft by local rural residents for access to monument areas for purposes of subsistence hunting and fishing. It is the Service's determination, supported by numerous comments from, *inter alia*, certain native organizations and by available research on the subsistence lifestyle, that rural residents who are primarily dependent on, and have historically taken, monument resources do not, in most cases, use aircraft for access for subsistence activities.

What cash these local rural residents acquire is used to purchase necessities not otherwise supplied by subsistence uses. Certainly, as a general rule, the expense of aircraft use greatly exceeds the ability of the local rural resident to pay for it. On the other hand, aircraft is commonly used by sport hunters who are now prohibited from hunting in monument areas. In this respect, the prohibition of aircraft use for subsistence activities reinforces the ban on sport hunting in monument areas and assists the Service in distinguishing sport from subsistence hunters.

The proposed Subpart C regulations for individual monuments, however, afford the Service flexibility to make exceptions to the general prohibition. For any monument, the Service may designate communities whose local rural residents may apply for a permit to use aircraft for subsistence purposes. The Superintendent will grant the permit only in extraordinary cases where, in the Superintendent's determination, no reasonable alterative to aircraft use exists. At this time, the Service has found and is proposing for designation only one community, Anaktuvuk in Gates of the Arctic National Monument, whose local rural residents presently rely on aircraft for access to their customary and traditional areas of harvest in the monument. The people of Anaktuvuk, isolated, remote, surrounded by difficult terrain, are far removed from the wildlife populations whose harvest sustains them: moreover, they do not have adequate and available alternative resource populations for sustenance.

Use of snowmobiles and motorboats for

subsistence activities. The Subpart B regulations relax the Subpart A regulations on use of snowmobiles and motorboats in the case of local rural residents who are engaged in hunting, fishing and gathering activities within the new monuments. All routes and areas are open to subsistence snowmobile and motorboat use except as specifically restricted or closed. The Superintendent will implement such closures or restrictions on the basis of criteria which are stricter than the criteria for closure to general recreational use. These minimum citeria are largely mandated by Executive Order 11644, as amended. The Superintendent will arrange notice and public participation concerning the closure proposals in order to involve those affected to the fullest extent possible in the decision-making.

Any person operating a motorboat or snowmobile must comply with applicable State and Federal laws governing such operation and must avoid causing injury to any part of value of the monument. In addition, consistent with State law, he or she may not use a motorized vehicle so as to herd, harass, haze, or drive wildlife for hunting or other purposes.

The use of snowmobiles or motorboats by local rural residents for "recreational" and "access" purposes, not subsistence activities, is governed by the appropriate Subpart A regulation (Sections 13.20, 13.16, and 13.10).

Subsistence hunting, trapping, fishing, and gathering. As has already been explained, only local rural residents may engage in hunting and trapping in the new Alaska National Monuments. These local rural residents must comply with applicable State law governing hunting and trapping, e.g., bag limits, safety requirements, seasons and hours (Section 13.48). They must also comply with applicable Federal law, e.g., closures and other restrictions. For example, the Service is proposing to prohibit the taking of dall sheep in Lake Clark National Monument (Section 13.79(a)(2)) because the Service has determined that the subsistence users of the area do not, by custom or tradition, take dall sheep. With respect to trapline cabins, the Service has provided for their use, occupancy, and maintenance where necessary to accommodate local rural residents (Section 13.12(f)).

Local rural residents may, of course, engage in fishing in the new monuments in compliance with applicable State and Federal law. The Service has relaxed its "general regulations" in the case of local rural residents to allow the customary and traditional use of nets, seines, traps, or spears where permitted by State law (Section 13.48).

The Subpart B regulations also allow local rural residents to obtain a permit to cut standing live timber for subsistence needs such as shelter or fuel. (Section 13.49). Before issuing a permit, the Superintendent must determine that the proposed cutting is compatible with the purposes for which the monument was established. In addition, the Superintendent will include in the permit any stipulations deemed necessary to protect the resources of the monument. Under the Subpart B regulations, local rural residents do not need a permit to gather plant materials or dead or downed timber for subsistence uses.

Public comments and hearings

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. The comments received in response to the Notice of Intent were very helpful in the preparation of this proposed rulemaking and the National Park Service encourages the public to submit comments on the text of these draft regulations. All such written comments should be sent to the address noted at the beginning of this rulemaking. The National Park Service also intends to hold public hearings in Anchorage and Fairbanks on this proposed rulemaking at the beginning of August. Specific details concerning the date, time and location of those hearings will be published in a separate subsequent notice in the Federal Register.

Drafting information

The primary authors of this Notice are Molly N. Ross, Office of the Solicitor, Department of the Interior and Michael V. Finley, Division of Ranger Activities and Protection, National Park Service, Washington, D.C.

Impact analysis

The Department of the Interior has made a determination that the proposed regulations contained in this rulemaking are not significant, as that term is defined under Executive Order No. 12044 and 43 C.F.R. Part 14, nor do they require the preparation of a regulatory analysis pursuant to the provisions of those authorities. In addition, the Department has determined that the proposed regulations do not represent a major Federal action significantly affecting the quality of the human environment. A twenty-eight volume environmental impact statement was prepared in 1974 concerning the establishment and management of Alaska National Interest Lands conservation system units in Alaska, including the areas now designated as the new Alaska National Monuments. The 1974 EIS was supplemented in November of 1978 with an analysis of the actions designed to conserve the Alaska National Interest Lands. In addition to those environmental documents, and the numerous studies included within their bibliographies upon which they were based, a wealth of other materials and analysis have been generated on the management of the Alaska National Interest Lands as a result of Congressional action on the so-called "d–2" legislation. As of the date of this proposed rulemaking, four separate committee reports have been published in the House of Representatives and one lengthy committee report has been published in the Senate on the issue of the establishment and management of new conservation system units in Alaska. This is in addition to over twenty-five formal Congressional committee hearings conducted on this matter. The Service also notes that consultation was conducted on this proposed rulemaking under section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1536, and that it was concluded that this proposal was not likely to jeopardize the continued existence of endangered or threatened species or result in the adverse modification or destruction of critical habitat.

Dated this 22nd day of June, 1979.

ROBERT L. HERBST,
Assistant Secretary for
Fish and Wildlife and Parks.

In consideration of the foregoing it is proposed that title 36 of the Code of Federal Regulations be amended by the establishment of a new Part 13 as follows:

Part 13—Alaska National Monuments

Sec.
13.1 Definitions.
13.2 Applicability and Scope.

Subpart A—Public Use and Recreation

13.10 Access.
13.11 Aircraft.
13.12 Cabins and Other Structures.
13.13 Camping.
13.14 Commercial Fishing.
13.15 Firearms, Traps and Weapons.
13.16 Motorboats.
13.17 Off-Road Vehicles.
13.18 Picnicking.
13.19 Preservation of Natural Features.
13.20 Snowmobiles.
13.21 Unattended or Abandoned Property.

Subpart B—Subsistence

13.40 Purpose and Policy.
13.41 Definitions.
13.42 Determination of Resident Zones.
13.43 Subsistence Permits for Persons Who Permanently Reside Outside a Resident Zone.
13.44 State Regulation of Subsistence Uses.
13.45 Prohibition of Aircraft Use.
13.46 Use of Snowmobiles and Motorboats for Subsistence Activities.
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Subpart C—Special Regulations—
Specific National Monuments in Alaska

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13.82 Yukon Charley National Monument.

Authority: Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); Sections 1, 1c, 9a, 432 and 462 of Title 16 of the United States Code; 245 DM–1 (42 FR 12931); and the Presidential Proclamations establishing each national monument (43 FR 57009–57132).

§ 13.1 Definitions.

The following definitions shall apply to all regulations contained in this part:

(a) The term "aircraft" means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including but not limited to airplanes, helicopters and gliders.

(b) The term "Alaska National Monuments" shall include the following national monuments:

Aniakchak National Monument; Bering Land Bridge National Monument; Cape Krusenstern National Monument; Denali National Monument; Gates of the Arctic National Monument; 1978 Enlargement of Katmai National Monument; 1978 Enlargement of Glacier Bay National Monument; Kenai Fjords National Monument; Kobuk Valley National Monument; Lake Clark National Monument; Noatak National Monument; Wrangell-St. Elias National Monument; Yukon Charley National Monument.

(c) The term "carry" means to wear, bear or carry on or about the person.

(d) The term "downed aircraft" means an aircraft that as a result of mechanical failure or accident cannot take off.

(e) The term "firearm" means any loaded or unloaded pistol; revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases.

(f) The term "net" means a snare, weir, net, fish trap, or other implement designed to entrap fish, except a landing net.

(g) The term "off-road vehicle" means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain, except snowmobiles and vessels as defined in this chapter.

(h) The term "possession" means exercising dominion or control, with or without ownership, over weapons, traps, nets or other property.

(i) The term "snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 lbs. (450 kg), driven by a track or tracks in contact with the snow and steered by a ski in contact with the snow.

(j) The term "superintendent" means any National Park Service official in charge of a monument area, the Alaska Area Director of the National Park Service or an authorized representative of either.

(k) The term "temporary" means a period of time not to exceed 12 months.

(l) The term "trap" means a snare, trap, mesh, or other implement designed to entrap animals other than fish.

(m) The term "unloaded" means there is no unexpended shell or cartridge in the chamber or magazine of a firearm; bows, crossbows and spearguns are unstrung; muzzle-loading weapons do not contain a powder charge; and any other implement capable of discharging a missile in the air or under the water does not contain a missile or similar device within the loading or discharging mechanism.

(n) The term "weapon" means a firearm (including an air, spring, or gas powered pistol or rifle), bow and arrow, crossbow, blow gun, speargun, hand-thrown spear, slingshot, irritant gas device, explosive device, or any other implement designed to discharge missiles in the air or under the water.

§ 13.2 Applicability and scope.

(a) The regulations contained in Part 13 of this chapter are prescribed for the proper use and management of the Alaska National Monuments and supplement the general regulations of Parts 1 through 6 of this chapter. The regulations contained in Parts 1 through 6 of this chapter are applicable except as modified by Part 13.

(b) Subpart A of Part 13 contains regulations applicable to all the Alaska National Monuments. Such regulations may amend, modify, relax or make more stringent the general regulations contained in Parts 2 through 6 of this chapter.

(c) Subpart B of Part 13 contains regulations applicable to subsistence activities. Such regulations apply to all the Alaska National Monuments, except Kenai Fjords National Monument.

(d) Subpart C of Part 13 contains special regulations for special national monuments in Alaska. Such regulations may amend, relax or make more stringent the regulations contained in Parts 2 through 6 of this chapter and Subparts A and B of Part 13.

(e) The regulations contained in Part 13 of this chapter are not applicable on privately owned land (including Indian lands owned either individually or tribally) within the boundaries of any monument area.

Subpart A—Public Use and Recreation

§ 13.10 Access.

(a) Notwithstanding any other provision of this Part, the superintendent shall, upon application, specify in a permit reasonable routes and methods of access across monument lands and waters for any person who has a valid property or occupancy interest in lands which are located within or effectively surrounded by monument lands. These routes and methods of access shall be limited to those traditionally used by the applicant unless the superintendent determines that reasonable alternative routes or methods exist which would be less damaging to the environmental values of the monument. Where routes of access have not been established previously, the superintendent shall establish such reasonable routes and methods of access as are least damaging to the environmental value of the monument. All specified routes and methods of access shall be recorded on a map which shall be available for public inspection at the office of the superintendent.

(b) Any establishment or modification of a route or method of access which requires the construction of permanent improvements or structures such as roads is prohibited unless authorized pursuant to the provisions of 43 CFR Part 2800.

(c) The provisions of this section shall not apply to access governed by Part 9 of this chapter or to any other rights-of-way governed by 43 CFR Part 2800.

§ 13.11 **Aircraft.**

(a) **Fixed wing aircraft may be landed and** operated on lands and waters within the Alaska National Monuments, except where such use is temporarily or permanently prohibited or otherwise restricted by the superintendent. Helicopters may be landed only where authorized by a written permit. The use of aircraft for subsistence purposes is prohibited as set forth in § 13.45.

(b) In determining whether to restrict the use of aircraft or to temporarily or permanently close an area to aircraft use the superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic or scientific values, esthetics, endangered and threatened species conservation and other management considerations necessary to ensure that aircraft use is compatible with the purposes for which the monument was established.

(c) *Temporary closures or restrictions* shall be published as "Notices to Airmen" issued by the Department of Transportation, published in at least one newspaper of general circulation within the State and designated on a map of the area which shall be available for public inspection at the office of the superintendent. Following temporary closure or restriction, any area so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section, prior to a final decision on whether to reopen or permanently close the area.

(d) *Permanent closures* shall be published as proposed and final rulemaking in the Federal Register with a minimum of 60 days for public comment, published as a regulatory notice in the United States Government Flight Information Service "Supplement Alaska," published in at least one newspaper of general circulation within the State and designated on a map of the area which shall be available for public inspection at the office of the superintendent.

(e) The owners of any aircraft downed after December 1, 1978, shall remove the aircraft and all component parts thereof in accordance with procedures established by the superintendent. In establishing a removal procedure, the superintendent is authorized to:

(1) Establish a reasonable date by which aircraft removal operations must be complete; and

(2) Determine times and means of access to and from the downed aircraft.

(f) The superintendent may waive the requirements of § 13.11(e) when he determines that:

(1) The removal of a downed aircraft would constitute an unacceptable risk to human life; or

(2) The removal of a downed aircraft would result in extensive resource damage; or

(3) The removal of a downed aircraft is otherwise impracticable or is impossible.

(g) Salvaging, removing, possessing, or attempting to salvage, remove or possess any downed aircraft or component parts thereof is prohibited, except in accordance with a permit issued by the superintendent.

§ 13.12 Cabins and other structures.

(a) On lands not owned by the claimant, cabins or other structures existing prior to March 25, 1974, may be occupied and used by the claimant to these structures pursuant to a nontransferable renewable permit. This use and occupancy shall be for terms of five years, *provided*, however, that the claimant to the structure by application:

(1) Reasonably demonstrates by affidavit, bill of sale or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(2) Submits a sketch and photograph of the cabin or structure and a map showing its geographic location;

(3) Agrees to vacate and remove all personal property from the cabin or structure upon expiration of the permit; and

(4) Acknowledges in the permit that he/she has no interest in the real property on which the cabin or structure is located.

(b) On lands not owned by the claimant, cabins or other structure on Federal lands construction of which began between March 25, 1974, and December 1, 1978, may be used and occupied by the claimant to these structures pursuant to a nontransferable, nonrenewable permit. This use and occupancy shall be for a maximum term of 1 year, *provided, however*, that the claimant, by application:

(1) Reasonably demonstrates by affidavit, bill of sale or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(2) Submits a sketch and photograph of the cabin or structure and a map showing its geographic location;

(3) Agrees to vacate and remove all personal property from the cabin or structure upon expiration of the permit; and

(4) Acknowledges in the permit that he/she has no interest in the real property.

(c) On lands not owned by the claimant, cabins or other structures, construction of which start after December 1, 1978, shall not be available for use and occupancy as provided for in §§ 13.12 (a) and (b).

(d) Cabins or other structures which are razed or destroyed by fire or storm, or other casualty, or which deteriorate structurally to the point of being unsafe or uninhabitable, shall not be rebuilt and the permit for use and occupancy shall be cancelled.

(e) Cabins or other structures, not under permit, shall be used only for official government business, *provided, however*, that during emergencies involving the safety of human life or where designated for public use by the superintendent these cabins may be used by the general public.

(f) The superintendent may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, and maintenance of cabins or other structures when he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.

(g) The use or occupancy of cabins or other structures, except as provided for in this section is prohibited.

§ 13.13 Camping.

(a) Camping is permitted in the Alaska National Monuments except where such use is temporarily or permanently prohibited or otherwise restricted by the superintendent.

(b) In determining whether to restrict camping, to temporarily or permanently close an area or to open a previously closed area to camping the superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic and scientific values, esthetics, endangered or threatened species conservation and other management considerations necessary to ensure that camping is compatible with the purpose for which the monument was established.

(c) Temporary closures or restrictions shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) designated by the posting of appropriate signs or (3) both. Following temporary closure or restriction, any area so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section prior to a final decision on whether to reopen or permanently close the area.

(d) Permanent closures or restrictions shall be published as proposed and final rulemaking in the "Federal Register" with a minimum of 60 days for public comment and designated (1) on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) by the posting of appropriate signs or (3) both.

§ 13.14 Commercial fishing operations.

Commercial fishing operations in existence within the Alaska National Monuments at the time of their establishment may continue such operations in accordance with a permit issued by the Alaska Area Director. All such commercial fishing operations shall be conducted in accordance with applicable State and Federal law.

§ 13.15 Firearms, traps, and weapons.

(a) Firearms may be carried in the Alaska National Monuments except where such carrying is temporarily or permanently prohibited or otherwise restricted by the superintendent.

(b) In determining whether to restrict the carrying of firearms, to temporarily or permanently close an area to the carrying of firearms or to reopen a previously closed area, the superintendent shall be guided by factors such as other visitor uses, public health and safety, environmental and resource protection, research activities, protection of cultural resources, esthetics, endangered or threatened species conservation and other management considerations necessary to ensure that the carrying of firearms is compatible with the purposes for which the monument was established.

(c) *Temporary closures or restrictions* shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) designated by the posting of appropriate signs or (3) both. Following temporary closure or restriction, any area so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section prior to a final decision on whether to reopen or permanently close the area.

(d) *Permanent closures or restrictions* shall be published as proposed and final rulemaking in the Federal Register with a minimum of 60 days for public comment and designated (1) on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) by the posting of appropriate signs or (3) both.

(e) The possession of weapons, traps and nets within or upon a device used for transportation is permitted, *provided,* such weapons, traps or nets are unloaded and cased or otherwise packed in such a way as to prevent their ready use while in an Alaska National Monument.

(f) Notwithstanding the provisions of this section, subsistence users who are authorized to take animals pursuant to § 13.48 of this Part may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal law.

(g) Notwithstanding the provisions of this section, persons authorized to engage in commercial fishing operations pursuant to Section 13.14 of this Part may use, possess or carry nets in accordance with applicable State and Federal law.

(h) Except as provided for in this section, the carrying and possession of weapons, traps or nets is prohibited.

§ 13.16 Motorboats.

(a) Motorboats may be operated on all waters within the Alaska National Monuments except where such use is temporarily or permanently prohibited or otherwise restricted by the superintendent or as provided for in § 13.46.

(b) In determining whether to restrict the use of motorboats or to temporarily or permanently close a route or area to motorboat use, the superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic and scientific values, esthetics, endangered or threatened species conservation and other management considerations necessary to ensure that motorboat use is compatible with the purposes for which the monument was established.

(c) *Temporary closures or restrictions* shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) designated by the posting of appropriate signs or (3) both. Following temporary closure or restriction, any route or area so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section, prior to a final decision on whether to reopen or permanently close the area or route.

(d) *Permanent closures or restrictions* shall be published as proposed and final rulemaking in the Federal Register with a minimum of 60 days for public comment and designated (1) on a map which shall be available for public inspection at the office of the superintendent and other places convenient to the public or (2) by the posting of appropriate signs or (3) both.

(e) If the superintendent determines, at any time, that the use of motorboats on any area or route will cause or is causing considerable adverse effects on soil, vegetation, fish or wildlife, fish or wildlife habitat, historic or scientific values or any adverse effect upon endangered or threatened species or their habitats, that area or route shall be immediately closed to the type of use causing the adverse effects. Following closure, any area or route so closed shall be evaluated in accordance with the criteria stated in paragraph (b) of this section, prior to a final decision on whether to reopen or permanently close the area or route. No area or route shall be reopened until the superintendent determines that adverse effects have been eliminated and that measures have been implemented to prevent further recurrence.

§ 13.17 Off-road vehicles.

(a) The use of off-road vehicles in locations other than established roads and parking areas is prohibited, except on routes designated by the superintendent. Such designations shall be made in accordance with the procedures in this section.

(b)(1) In determining whether to designate a route for off-road travel the superintendent shall be guided by the criteria contained in Section 3 of E.O. 11644, as amended (37 FR 2877) and shall consider such factors as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic or scientific values, esthetics, endangered or threatened species conservation and other management considerations necessary to ensure that off-road vehicle use is compatible with the purposes for which the monument was established.

(2) Prior to making a final decision to designate a route for off-road travel or to permanently close a previously designated route, a notice of proposed and final rulemaking shall be published in the Federal Register and the public shall be provided a period of at least 60 days to comment on the proposal.

(3) Routes on which off-road travel is permitted shall be (1) designated by the posting of appropriate signs, or (2) by marking on a map which shall be available for public inspection at the office of the superintendent, or (3) both.

(4) The superintendent may restrict the use of, or temporarily close, any route designated for off-road travel by the posting of appropriate signs, or by marking on a map which shall be available for public inspection at the office of the superintendent, or both. Restrictions imposed may relate to numbers or types of vehicles, purposes of travel, times of travel, or other such restrictions as are necessary for public health and safely, environmental or resources protection, research activities, protection of historic or scientific values or to reduce conflicts between different land uses.

(5) If the superintendent determines, at any time, that off-road travel on any route will cause or is causing considerable adverse effects on soil, vegetation, fish or wildlife, fish or wildlife habitat, historic or scientific values, or any adverse effect upon endangered or threatened species or their habitats, that route shall be immediately closed to the type of use causing the adverse effects. Following closure, any route so closed shall be evaluated in accordance with the criteria and public comment procedure stated in paragraphs (b)(1) and (b)(2) of this section prior to a final decision on whether to reopen or permanently close the route. No route shall be reopened until the superintendent determines that adverse effects have been eliminated and that measures have been implemented to prevent further recurrence.

§ 13.18 Picnicking.

(a) Picnicking is permitted in the Alaska National Monuments except where such activity is prohibited by the posting of appropriate signs.

§ 13.19 Preservation of natural features.

(a) The use of dead or downed timber as fuel for campfires within the Alaska National Monuments is permitted except where such use is prohibited by the superintendent. Such restrictions shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection at the office of the superintendent, or (2) by the posting of appropriate signs, or (3) both.

(b) The superintendent may permit the gathering or collecting, by hand and for personal use only, of the following:

(1) Natural plant food items, including fruits, berries, and mushrooms;

(2) Driftwood and uninhabited seashells;

(3) Pebbles and small rocks;

(4) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans.

Provided, however, that under conditions where it is found that significant adverse impact on park resources, wildlife populations or visitor enjoyment of resources will result, the superintendent shall prohibit the gathering, or otherwise restrict the collecting of these items. Portions of a park area in which restrictions apply shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection in the office of the superintendent, or (2) designated by the posting of appropriate signs, or (3) both.

§ 13.20 Snowmobiles.

(a) The use of snowmobiles is permitted on routes and areas designated by the superintendent or as provided for in § 13.46. Such designations shall be made in accordance with the procedures in this section.

(b)(1) In determining whether to designate a route or area for snowmobile use the superintendent shall be guided by the criteria contained in Section 3 of E.O. 11644, as amended, (37 FR 2877) and shall consider such factors as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic and scientific values, esthetics, endangered, or threatened species conservation and other management considerations necessary to ensure that snowmobile use is compatible with the purposes for which the monument was established.

(2) Prior to making a final decision to designate an area or route for snowmobile use or to permanently close a previously opened area or route, a notice of proposed and final rulemaking shall be published in the Federal Register and the public will be provided a period of at least 60 days to comment on the proposal.

(3) Routes and areas on which snowmobile use is permitted will be (1) designated by the posting of appropriate signs, or (2) by marking on a map which shall be available for public inspection at the office of the superintendent, or (3) both.

(4) The superintendent may restrict the use of, or temporarily close, any route or area designated for snowmobile use by the posting of appropriate signs, or by marking on a map which shall be available for public inspection at the office of the superintendent, or both. Restrictions imposed may relate to numbers of types of vehicles, purposes of travel, times of travel, or other such restrictions as are necessary for public health and safety, environmental or resource protection, research activities, protection of historic or scientific values or to reduce conflicts between different land uses.

(5) If the superintendent determines, at any time, that snowmobile use on any route or area will cause or is causing considerable adverse effects on soil, vegetation, fish or wildlife, fish or wildlife habitat, or historic or scientific values or causes any adverse effect on endangered or threatened species or their habitats, that route or area shall be immediately closed to the type of use causing the adverse effects. Following closure, any route or area so closed shall be evaluated in accordance with the criteria and public comment procedures stated in paragraphs (b)(1) and (b)(2) of this section prior to a final decision on whether to reopen or permanently close the area or route. No route or area shall be reopened until the superintendent determines that adverse effects have been eliminated and that measures have been implemented to prevent further recurrence.

(c) The operation or use of snowmobiles, except as provided for in this section, is prohibited.

§ 13.21 Unattended or abandoned property.

(a) Leaving any snowmobile, vessel, off-road vehicle or other personal property unattended for longer than 9 months, without prior permission of the superintendent is prohibited and any property so left may be impounded by the superintendent.

(b) The superintendent may (1) designate areas where personal property may not be left unattended, (2) establish limits on the amount, type of personal property that may be left unattended, (3) prescribe the manner in which personal property that may be left unattended, or (4) designate areas in which unattended personal property may be left for periods of time to be determined by the superintendent.

Such designations and restrictions shall be published in the Federal Register and designated on a map which shall be available for public inspection at the office of the superintendent or by the posting of appropriate signs or both.

(c) In the event unattended property interferes with the safe and orderly management of the monument area or is causing damage to monument resources, it may be impounded by the superintendent at any time.

Subpart B—Subsistence

§ 13.40 Purpose and policy.

(a) The purpose of this subpart is to provide for the opportunity to engage in a subsistence lifestyle in the Alaska National Monuments, except Kenai Fjords National Monument, by local rural residents who comply with applicable State and Federal law.

(b) It is the policy of the National Park service that nonwasteful subsistence use of fish, wildlife, and plant resources by local rural residents shall be the first priority consumptive use of such resources over any other consumptive uses permitted within an Alaska National Monument, subject to the following limitations:

(1) Whenever it is necessary to restrict the taking of fish, wildlife, or plant resources within an Alaska National Monument for subsistence uses, such resources shall be allocated in accordance with a preference system based on the following criteria:

(a) Local residency;

(b) Customary and direct dependence upon the resources as the mainstay of one's livelihood; and

(c) Availability of alternative resources.

(2) The subsistence use of populations of fish, wildlife, or plants shall be appropriately regulated so as to prevent a significant expansion of such use beyond the level occurring during the ten-year period before January 1, 1979, as determined by available research on subsistence uses in the area. In each case, the level of harvest constituting such a significant expansion of the subsistence use of populations of fish, wildlife or plants will be determined within two years after final publication of these regulations. These determinations will be based on criteria to be developed after consultation with interested parties, including the State of Alaska and local rural residents.

(3) The superintendent of an Alaska National Monument may restrict or prohibit the subsistence use of a particular population of fish, wildlife, or plants for reasons of public safety, administration, or to ensure the natural stability and continued viability of the particular population.

§ 13.41. Definitions.

(a) Family: As used in this part, the term "family" shall mean all local rural residents related by blood, marriage, or adoption, or any person living within another person's household on a permanent basis.

(b) Local rural resident: (1) As used in this part, the term "local rural resident" shall mean either of the following:

(i) Any person who has his/her permanent home within the resident zone as defined by this section, and, whenever absent from this permanent home, has the intention of returning to it. Factors demonstrating the location of a person's permanent home may include, but are not limited to, one's location of registration to vote and one's permanent address indicated on licenses issued by the State of Alaska Department of Fish and Game, driver's license, and income tax returns.

(ii) Any person authorized to engage in subsistence uses in an Alaska National Monument pursuant to a subsistence permit.

(c) Resident zone: As used in this part, the term "resident zone" shall mean the area within, and the communities and areas near, an Alaska National Monument in which persons who have customarily and traditionally engaged in subsistence uses within the monument as the mainstay of their livelihoods permanently reside. The communities and areas near a monument included as part of its resident zone shall be determined pursuant to § 13.42 of this part and listed for each monument in Subpart C of this part.

(d) Subsistence uses: As used in this part, the term "subsistence uses" shall mean the customary and traditional uses by local rural residents of wild, renewable resources for personal or family use or consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of the nonedible byproducts of fish and wildlife resources taken for personal or family use or consumption; for barter or sharing for personal or family use or consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) "Barter" shall mean the exchange of fish or wildlife or their parts—

(i) for other fish or wildlife or their parts; or

(ii) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(2) "Customary trade" shall be limited to the exchange of furs for cash.

§ 13.42. Determination of resident zones.

As determined by available research on subsistence uses in the area, a resident zone shall include the area within an Alaska National Monument and the communities and areas near the monument which contain concentrations of local rural residents who

(a) Are dependent, as the mainstay of their livelihoods, upon the subsistence use of wild, renewable resources taken within an Alaska National Monument; and

(b) Have established patterns of subsistence hunting, fishing, or gathering activities within an Alaska National Monument, or have a history of subsistence activities within an Alaska National Monument as demonstrated by use of fish camps, trapline cabins, hunting camps, cache sites, and other identifiable locations of subsistence use.

§ 13.43. Subsistence permits for persons who permanently reside outside a resident zone.

(a) Any person who permanently resides outside the boundaries of a resident zone of an Alaska National Monument may apply for a subsistence permit from the appropriate superintendent authorizing the permit applicant to engage in subsistence uses within the monument. The superintendent shall not grant the permit unless the permit applicant demonstrates that

(1)(i) He/she is dependent, as the mainstay of his/her livelihood, upon the subsistence uses of wild, renewable resources taken within the monument, and

(ii) He/she has, or is a member of a family which has, established patterns of subsistence hunting, fishing, or gathering activities within the monument, or a history of subsistence activities within the monument as demonstrated by use of fish camps, trapline cabins, hunting camps, cache sites, and other identifiable locations of subsistence use; or

(2) He/she is a local rural resident within a resident zone for another national monument, or meets the requirements of paragraphs (1)(i) and (ii) of this section for another national monument, and available research shows a pattern of subsistence uses between the monument previously utilized by the permit applicant and the monument for which the permit applicant seeks a subsistence permit.

(b) The application required by paragraph (a) of this section shall be filed with the superintendent of the appropriate monument. If the permit applicant is unable or does not wish to file the application in written form, the superintendent shall provide the applicant an opportunity to present the application orally. Each application must include (1) a statement which acknowledges that providing false information in support of the permit application is a violation of Section 1001 of Title 18 of the United States Criminal Code, and (2) additional statements or documentation which demonstrates that the applicant satisfies the criteria set forth in paragraph (a) of this section. Should the superintendent deny the permit, the superintendent shall include in the decision a statement of the reasons for the denial.

(c) A permit applicant whose application has been denied by the superintendent has the right to have his/her application reconsidered by the Alaska Area Director by contacting the Alaska Area Director within 60 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(1) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the permit applicant satisfies the criteria set forth in paragraph (a) of this section;

(2) The basis for the permit applicant's disagreement with the superintendent's findings and conclusions; and

(3) Whether or not the permit applicant requests an informal hearing before the Alaska Area Director, and if the permit applicant does request a hearing.

(i) A description of any information, in addition to that included in the initial application and any written materials presented to the Alaska Area Director, which the permit applicant intends to present at the hearing.

(ii) The names, addresses, and brief description of the proposed presentation of any person which the permit applicant intends to present at the hearing on his/her behalf, and the names and addresses of any persons he/she would like to question at the hearing.

(d) The Alaska Area Director shall grant the permit applicant's request for a hearing if the Alaska Area Director determines that such a hearing would provide significant information that could not otherwise be obtained by written materials alone. After consideration of the written materials and oral hearing, if granted, the Alaska Area Director shall affirm, reverse, or modify the permit denial of the superintendent and shall state the basis for the decision. The Alaska Area Director shall promptly notify the permit applicant of the decision, which shall constitute final agency action.

§ 13.44 State regulation of subsistence uses.

(a) The State of Alaska may regulate, in a manner consistent with the purposes for which the monument was created, the provisions of § 13.40(b) (1) and (2) of this part, and other applicable Federal law, the taking of fish and wildlife within an Alaska National Monument by local rural residents for subsistence uses. At such time as the Alaska Area Director determines that the State of Alaska has enacted and implemented laws which are consistent with the requirements of this paragraph, such State laws, unless and until repealed, shall supersede the provisions of this subpart which authorize the taking of fish and wildlife within the Alaska National Monuments for subsistence uses and shall be incorporated by reference as a part of these regulations.

(b) The Alaska Area Director shall monitor the State's regulation of the taking of fish and wildlife by local rural residents for subsistence uses. If the Alaska Area Director determines that the State has failed to establish a regulatory program which meets the requirements of paragraph (a) of this section, then the Alaska Area Director shall notify the State and, after consultation with the appropriate State authority and informal public hearing in the affected vicinity, indicate those changes necessary to bring the State's regulatory program into compliance with the requirements of paragraph (a) of this section.

(c) If, after a reasonable opportunity, the State fails to make the changes indicated by the Alaska Area Director pursuant to paragraph (b) of this section, the Alaska Area Director shall impose such restrictions as he/she deems necessary to bring the State's regulatory program into compliance with the requirements of paragraph (a) of this section. Such restrictions may include regulations governing methods and means of take, access, season lengths, bag limits, and harvest quotas, and may, in situations involving the taking of fish, also include the closure of all or part of the affected monument to all consumptive uses of a particular species except subsistence uses by local rural residents.

(d) The Director of the National Park Service shall afford the State an opportunity to appeal such restrictions or closures imposed pursuant to the provisions of paragraph (c) of this section. Within thirty days after receipt of notice of such appeal, the Director shall afford the State an informal public hearing, and within thirty days after such hearing shall make the final decision on such appeal. Unless the Director determines that the State is not in compliance with the requirements of paragraph (a) of this section, the Director shall revoke the restrictions or closures imposed by the Alaska Area Director. If the Director determines that the State is not in compliance with the requirements of paragraph (a) of this section, the restrictions imposed by the Alaska Area Director shall continue until such time as the State takes appropriate and timely action or the Alaska Area Director determines, after notice and informal public hearing in the affected vicinity, that the need for the restrictions has otherwise been ameliorated.

(e) Nothing in this section shall be deemed to affect the superintendent's closure authority set forth in § 13.50 of this part.

§ 13.45 Prohibition of aircraft use.

Notwithstanding the provisions of § 13.11 of this part, the use of aircraft for access to lands and waters within an Alaska National Monument for purposes of subsistence hunting and fishing within the monument is prohibited, except as specifically permitted, in extraordinary cases where the Superintendent determines that no reasonable alternative exists, by local rural residents who permanently reside in designated communities as set forth in Subpart C of this part.

§ 13.46 Use of snowmobiles and motorboats for subsistence activities:

(a) Notwithstanding any other provision of this chapter, the use of snowmobiles and motorboats by local rural residents for subsistence hunting, fishing, and gathering activities is permitted within the Alaska National Monuments except at those times and in those area restricted or closed by the superintendent. In determining whether to restrict the use of snowmobiles or motorboats for subsistence activities or to temporarily or permanently close a route or area to snowmobile or motorboat use for subsistence activities, the superintendent shall be guided by the criteria contained in Section 3 of Executive Order No. 11644 (37 Fed. Reg. 2877) and shall consider factors such as effects on public health and safety, soil, vegetation, fish or wildlife, fish or wildlife habitat, endangered or threatened species or their habitats, historic or scientific values, and other management considerations necessary to ensure that snowmobile or motorboat use is compatible with the purposes for which the monument was established. Except in emergency situations, no restrictions or closures shall be imposed without a prior informal public hearing in the affected vicinity. In the case of emergency situations, restrictions or closures shall be effective when made, shall be for a period not to exceed sixty days and shall not be extended unless the superintendent establishes after notice and an informal public hearing, that such extension is jusified according to the criteria and factors set forth in this paragraph. Notice of the proposed or emergency restrictions or closures shall be published in at least one newspaper of general circulation within the State, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions or closures shall be designated on a map which shall be available for public inspection at the office of the superintendent of the affected monument, the post office or postal authority of every affected community within or near the monument, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(b) Motorboats and snowmobiles permitted for subsistence uses in accordance with this section shall be operated in compliance with applicable State and Federal law and in such a manner as to prevent waste or damage to the Alaska National Monuments or any parts or values thereof. They shall not be operated in any manner that will result in the herding, harassment, hazing, or driving of wildlife for hunting or other purposes.

(c) Recreational snowmobile use by local rural residents may be permitted in accordance with § 13.20 of this chapter, and recreational motorboat use by local rural residents may be permitted in accordance with § 13.16 of this chapter.

§ 13.47 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in compliance with applicable State law as well as applicable Federal law, including the provisions of § 2.13 of this chapter; provided, however, that local rural residents in the Alaska National Monuments may fish with a net, seine, trap, or spear where permitted by State law.

§ 13.48 Subsistence hunting and trapping.

Local rural residents may continue to hunt and trap wildlife for subsistence uses in compliance with applicable State and Federal law. To the extent consistent with the other provisions of this chapter, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 13.49 Subsistence use of timber and plant material.

Notwithstanding any other provision of this part, the noncommercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in accordance with the specifications of a permit issued by the superintendent of the affected Alaska National Monument if such cutting is determined to be compatible with the purposes for which the monument was established. The noncommercial gathering of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit.

§ 13.50 Closure to subsistence uses.

Notwithstanding any other provision of this part, the superintendent, after consultation with the State and adequate notice and informal public hearing, may close all or any portion of an Alaska National Monument to subsistence uses or take such other measures as may be necessary to provide for the public safety, administration, or to ensure the natural stability and continued viability of one or more populations of fish, wildlife, or plants. If the superintendent determines that an emergency situation exists and that extraordinary measures must be taken to provide for the public safety, or to ensure the natural stability and continued viability of one or more fish, wildlife, or plant population, the superintendent may immediately close all or any portion of an Alaska National Monument to the subsistence uses of the particular resource population, or take such other measures as may be necessary. Such emergency closure or measures shall be effective when made, shall be for a period not to exceed sixty days, and shall not be extended unless the superintendent establishes, after notice and informal public hearing, that such extension is necessary for reasons justifying any type of closure pursuant to this section. Notice of administrative actions and the reasons justifying such actions taken pursuant to this section shall be published in at least one newspaper of general circulation within the State, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity.

Subpart C—Special Regulations—Specific National Monuments in Alaska

§ 13.70 Aniakchak National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Aniakchak National Monument:

Chignik.
Chignik Lagoon.

§ 13.71 Bering Land Bridge National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Bering Land Bridge National Monument.

Buckland.
Deering.
Shishmaref.
Whales.

(2) *Off-Road Vehicles.* The use of off-road vehicles for purposes of reindeer grazing may be permitted in accordance with permit a issued by the superintendent.

§ 13.72 Cape Krusenstern National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Cape Krusenstern National Monument.

Kivalina.
Kotzebue.
Noatak.

§ 13.73 Denali National Monument.

Minchumina.
Telida.

§ 13.74 Gates of the Arctic National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Gates of the Arctic National Monument.

Alatna.
Allakaket.
Ambler.
Ankatuvuk.
Bettles.
Kobuk.
Shungnak.

(2) *Aircraft Use.* In extraordinary cases where no reasonable alternative exists, local rural residents who permanently reside in the following location(s) may use aircraft for access to lands and waters within the monument for subsistence purposes in accordance with a permit issued by the superintendent:

Anaktuvuk.

§ 13.75 1978 Enlargement of Glacier Bay National Monument.

§ 13.76 1978 Enlargement of Katmai National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included in the resident zone for the 1978 Enlargement of Katmai National Monument:

Egigik.
Igiugig.
Kakhonak.
Levelook.

§ 13.77 Kenai Fjords National Monument.

(a) *Subsistence.* Subsistence uses are prohibited in, and provisions of Subpart B of this part shall not apply to, Kenai Fjords National Monument.

§ 13.78 Kobuk Valley National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Kobuk Valley National Monument:

Ambler.
Kiana.
Kobuk.
Noorvik.
Shungnak.

§ 13.79 Lake Clark National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Lake Clark National Monument:

Nondalton.
Port Alsworth.

(2) *Subsistence Hunting and Trapping.* The taking of Dall Sheep is prohibited.

(b) Motorboats. (1) The operation of motorboats on the following lakes is prohibited: Telaquana Lake, Turquoise Lake, Twin Lakes, Lackbuna Lake, Portage Lake, Kijik Lake, Kontrashibuna Lake.

§ 13.80 Noatak National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Noatak National Monument:

Kivalina.
Kotzebue.
Noatak.

§ 13.81 Wrangell-St. Elias National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Wrangell-St. Elias National Monument:

Chistochina.
Chitina.
Copper Center.
Gakona.
Gulkana.
McCarthy.
Mentasta Lake.
Nabesna.
Slana.
Yakutat.

§ 13.82 Yukon Charley National Monument.

(a) Subsistence. (1) *Resident Zone.* In addition to the lands within the monument, the following communities and areas are included within the resident zone for Yukon Charley National Monument:

Circle.
Eagle.
Eagle Village.

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Mr. GRAVEL. Mr. President, when I was there in Shishmaref last year and the people came to me with these draft regulations, I was horrified. But I was so proud of them that they had labored as best they could to try and respond and make comments on these regulations.

One gentleman had written his comments and submitted it to the Government and then he gave me a copy of it. As I read the last paragraph of that, I want to tell you it moved me to tears. I have never heard a more eloquent statement of the problem that is being faced by putting these refuges in, by locking up Alaska.

I would just like to just share his statement with the Senate.

This is a statement of a Mr. George Olanna, Sr., a resident of Shishmaref, a person of moderate education, and a person who, by my observation, meets any criteria of a typical resident of Shishmaref.

This was his statement in conclusion of his comments on the Federal Register regulations. I quote Mr. George Olanna, Sr.:

> We cannot be limited and restricted into one small world of the past, where hunting was done with spears and total demand of obtaining food and shelter was from the land. We are in modern world where modern equipment is needed to survive. We cannot be pushed into a living museum which the western culture has created in order to satisfy its ego. It would be like living in an imaginary western movie.

That is the end of the quote of Mr. George Olanna, Sr.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

(The following proceedings occurred during the remarks of Mr. GRAVEL:)

The ACTING PRESIDENT pro tempore. The Senator will suspend. The Senator's 15 minutes have expired.

Mr. GRAVEL. Mr. President, I wonder if I might have 2 additional minutes.

Mr. ROBERT C. BYRD. Mr. President, I make the suggestion that the Senate resume consideration of the bill and Mr. GRAVEL be recognized and, on behalf of Mr. JACKSON, I will yield him 5 minutes.

Mr. GRAVEL. I thank the majority leader for his generosity.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The ACTING PRESIDENT pro tempore. The Senator will suspend while the clerk reports the bill.

The assistant legislative clerk read as follows:

> A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

The Senate resumed consideration of the bill.

(Thereupon, Mr. Gravel completed his remarks which are printed earlier in the Record.)

Mr. ROBERT C. BYRD. Mr. President, I understand that only 4 minutes remain on the amendment.

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. ROBERT C. BYRD. Then a vote would occur on the amendment. I note that most of the principals are not on the floor at this time. I would like, therefore, in order to protect all the principals, to suggest the absence of a quorum. I ask unanimous consent that the time for the quorum call be charged equally among the four principals.

The ACTING PRESIDENT pro tempore. Without objection.

Mr. HATFIELD. Mr. President, reserving the right to object, I think to protect and to be equitable in protecting our colleagues, the 4 minutes remain on the opponents' side to the amendment offered by the Senator from Alaska, Mr. Stevens. I would like to ask the majority leader if, perhaps, he might be willing to have the time charged against the time on the bill so that it is controlled by Senator Jackson and myself as the managers of the bill, in order to protect the 4 minutes that is remaining on the side of the opponents.

Mr. ROBERT C. BYRD. That is what I intended.

Mr. GRAVEL. Reserving the right to object, and I shall not object, I just wanted to thank the majority leader and the Senator from Oregon (Mr. Hatfield) for the suggestion, which is eminently fair. I think they appreciate that time is precious to some of us from Alaska and we have gone to great pains. The majority leader has been very generous with the time. Certainly coming in at 9 o'clock is nothing very severe, and we have left at a reasonable time. There have been long days, but they have been fair long days. They have not been tightening the screws which could be done if the distinguished majority leader wanted to do that. But I wanted to personally express my gratitude.

I also want to add, for a little humor, that in my getting in this morning on time I had an automobile accident. I left my name card, and I left my staff to follow up on the details of the accident in order to be here on time. So I just want to tell the majority leader that I am trying to hold up my end as best I can, and I do appreciate his courtesy.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, under those considerations, I suggest the absence of a quorum.

Mr. BAKER. Mr. President, will the Senator withhold on that request?

Mr. ROBERT C. BYRD. Mr. President, I withhold the request.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Mr. President, I will just speak and charge it against Senator Jackson. It is my understanding we have his approval.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my suggestion.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Massachusetts has, I think legitimately, taken umbrage at a statement I made yesterday. I want to clarify the Record at this time to make certain that we understand.

Through the process of the consideration of this bill, we have made arrangements—deals, if you want to call them, whatever you want to call them—that were checked out, it is my understanding, with the environmental community. One of those involves this land—and I am having the maps brought down to the Senate so everyone concerned can see it in more detail concerning the Yukon Flats Area.

Yesterday I said that, "You", and at the time it appeared that I was talking about the Senator from Massachusetts directly, "are reneging on this deal."

The commitment that was made with regard to the Yukon Flats was not made by the Senator from Massachusetts. It was made, as a matter of fact, in 1978, in connection with the negotiations that we called the ad hoc conference. The arrangement was made and subsequently carried through, as far as this Senate bill was concerned, in 1979.

But I do not want the Record to reflect that I am indicating that the Senator from Massachusetts is reneging on any commitment that he personally made to me. He has not done that in connection with this bill. He has set forth the position of the environmental community, and that community is reneging on the deal. There is no question about that. I am bringing in the maps so that they can be seen here and so that people can understand what we talk about.

We are talking about the principles of the State selections in this area.

When we made this arrangement, the State had selected lands—and when the map gets here we will show them in detail—in the so-called Hodzana area of the Yukon Flats area. In the Circle Hot Springs area, we had sought lands but we had, in the original understanding, agreed not to select those lands for the State. We got into negotiations in 1978 at the request of those who were concerned with the wildlife aspects of the Yukon Flats, and the State agreed to yield the Hodzana area, or I agreed on behalf of the State to yield the Hodzana area, in exchange for the Circle Hot Springs area. It is the Circle Hot Springs area that is covered by the amendment that I have pending.

That was a unique transaction because the State, Mr. President, gave up lands that it was entitled to under validity filed applications, which there was no dispute about. At the time, there was no problem whatsoever about those lands going to the State. But we exchanged those for the Circle Hot Springs lands.

The effect of the amendment of the Senator from Colorado is that although the lands that the State gave up are already in the refuge, the amendment of the Senator from Colorado now reneges on the arrangements for the Circle Hot Springs lands that we traded for those lands in the Hodzana area. This impact is to take away from the State lands that it agreed to take in exchange for lands that had higher wildlife values.

I find it hard to believe that the environmental community wishes to be known by that standard of ethics, frankly. Again, the Senator from Colorado was not in on that transaction at all. But the impact of his amendment is to do away with the trade and to end up so that the Federal Government gets not only the lands which the State was entitled to in the first place, but the lands that the State took in exchange for the Hodzana area.

Yesterday the Senator from Colorado and I were discussing the State land selection problem. I expressed surprise, and I am still surprised, at the position he articulated.

Two years ago, when we were involved in that conference, an informal conference, with the House, and this bill was defeated, in effect, by the objection of my colleague from Alaska, I warned that the time would come when we would face a claim on behalf of the environmentalists which would deny the State our State-selected lands.

The assertion is made here that the State wants everything. That is not true. The so-called wish list lands had some 7.5 million acres of lands that were available to the State for selection under the provisions of section 17(d)(2) of the Alaska Native Lands Claim Act but made unavailable by actions of the Secretary of Interior in withdrawing lands.

We had negotiated over the period of 3 years, and as a result of those negotiations the Senate committee bill would convey to the State 2.5 million of the 7.5 million acres of land. We, in effect, have yielded two-thirds of our original request to the Federal Government which, at the time it was requested, was lawful. It is not being a question of lawful, as there was a valid application, but by the time the State was able to process that application the lands were no longer available.

The difficulty that we have is that now the Hart amendment would take away from the State virtually all of the 2.5 million acres, and this is the first of those areas. I would hope to use this area to try and do what we did in the committee. That is to educate some people involved in this, since we must apparently deal with every aspect of the bill on the floor, to educate the Senate as to what led to that concession.

I have now received the map, Mr. President. I will move back and discuss it. I hope that my friend from Colorado will look at it. I might again state to the Senator from Colorado, although I have not said, and I did not mean to imply, that he had reneged on anything that he was a party to, that this, in effect, is reneging on the transaction which was made at the request of the environmental community.

We originally had the section of the Yukon Flats area to which I am pointing. The Hodzana section was, in fact, a valid

State selection. We yielded that and drew the line as it appears in the committee bill in order that this section to which I am now pointing, the Yukon Flats area, would be excluded. Again, it was not my idea, although I will say for the purpose of the people in the area this land is much more useful than the other land, the Circle Hot Springs area is much more useful so far as Alaskans are concerned, than Hodzana. Circle Hot Springs is in the Yukon, with a road coming from Fairbanks. It is highly agricultural in nature and has a series of hot springs there. It has a vast economic potential to the people of the interior because of the combination of the hot springs, the water from the river, and the quality of the land there.

I hope the Senator from Oklahoma will speak to this because he personally, at my request, went to that area to compare it to the agricultural lands that he is familiar with in the south 48. I consider Senator BELLMON to be one of the experts of the Nation in terms of agricultural potential. I asked him to go there. I think he will later, during the consideration of this bill, give a statement to the Senate concerning it.

But there is no question that this land now which the Senator from Colorado seeks to include within the confines of this refuge are lands that the State was entitled to by virtue of this exchange.

I hope the Senator from Colorado will address this question. We had a discussion yesterday as to whether, by including this land within the refuge, he was denying the State the conveyance of the land. In this instance, it would. There are two lists, and this is on the second list. One list was delivered to the Secretary after the bill failed in 1979. It was, in fact, to confirm the understandings that were made at that time. If the Senator will notice the provisions of the bill, they refer not only to the first list, which is 1978, but the second list, which is 1979. This is on the 1979 list. To take it away from the State now, after already having taken in the Hodzana Area, is reneging on the exchange that was made.

(Mr. STEVENSON assumed the chair.)

Mr. STEVENS. I would say to the Senator that it appears to me that unless it is part of some other trade that is to the advantage of the State, it would be something we would have to vigorously oppose, not only now but so long as we had the power to do so, because it is wrong for us to yield that land without obtaining something in exchange as far as the State is concerned. It is my hope that we will see that happen.

In just a few moments I intend to withdraw that amendment that I have which raises two issues. The amendment I have in raises the issue not only as to the Circle Hot Springs land but as to the White Mountain-Steese Area. I want the Senate to address the question of the Circle Hot Springs alone. I want to know whether the Senate wants to take away from the State lands that it was entitled to by virtue of an exchange that was made, albeit an informal exchange, one that was approved by the Department of the Interior in 1978, and approved by the House of Representatives negotiators in 1978. It was approved by the Senate committee in 1978. It was approved by the Senate committee in 1979. No one, until the Hart amendment, has raised the question.

I would really like to know whether we are going to face the proposition—I know that the Senator from Colorado and all Senators are a little touchy about some comments that I make at times, but I would like to know, Mr. President, whether the State of Alaska is going to lose land that it is entitled to by virtue of an amendment offered by another Western Senator. I think there is an East-versus-West conflict coming. It is a very acute one. This is not part of the conflict yet, because we did not know until yesterday that we were to be denied those lands.

The East-versus-West conflict really extends to the question of how much should the Federal Government own in terms of land in any Western State and what is it going to do with that land that it does own? We have taken the position that lands that are not needed specifically for Federal purposes ought to be either put into private ownership or transferred to the States; that the Federal Government, in the exercise of its sovereign power, needs no land ownership per se except to fulfill Federal responsibility. That is what we are talking about here.

There is no Federal responsibility that that Circle Hot Springs land is needed for. As a matter of fact, it was at the request of the Interior Department that it was traded. It had no wildlife value in 1978. No one ever assessed a wildlife value to it. It is being assessed here for one reason. The Circle Hot springs area does have some potential for development for tourism. It is used around Fairbanks for snow machining, for all kinds of recreation, including off-road vehicles. It is accessible by existing roads. Therefore, it does raise an interesting question—why now does the environmental community want land it was willing to give up in 1978? The only thing I can say is that it apparently is the classic conflict of growth versus no growth. Because that will be an area of growth for tourists, particularly for Alaskan tourists, who want to visit a part of their State that is very, very useful for the purpose of recreation.

It is also usable, as I said, for agricultural purposes and everything that goes along with the development of an agricultural community. As a matter of fact, that has been suggested for the site of an experiment station for the Department of Agriculture. I hope that we shall pursue that later, but it is an area that has great potential.

Mr. President, I do not know what the Senator from Colorado intends to do with regard to that, but just so there is no question that we are raising specifically the question of State selection, I withdraw my amendment and send another amendment to the desk.

The amendment (No. 1942) was withdrawn.

UP AMENDMENT NO. 1408

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1408:

At page 15, line 14 strike "six" and insert "two".

At page 15, strike "eighty" and insert "thirty".

Mr. STEVENS. Mr. President, I designate again the Senator from Rhode Island to manage the time in opposition. Let me again point out that the only difference between this and the amendment I had before is that the other amendment dealt with both the White Mountain-Steese Area and State lands. This deals solely with State lands.

Mr. President, I reserve the remainder of my time. I yield control of that time to the Senator from Colorado, in fairness. I designate him for the minority leader.

Mr. HART. Mr. President, how much time is there on the amendment?

The PRESIDING OFFICER. One-half hour.

Mr. STEVENS. Mr. President, a parliamentary inquiry as to the 4 minutes the Senator from Rhode Island is entitled to: Was that vitiated by withdrawing the amendment?

The PRESIDING OFFICER. It was.

Mr. STEVENS. I ask unanimous consent that it be restored.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HART. Mr. President, let me respond in several ways before getting to the merits of the argument by the Senator from Alaska. First of all, the Senator from Colorado takes his responsibilities as a Western Senator as seriously as anyone. I think I am as concerned and, perhaps, as knowledgeable of the difficulties of Federal land management of Western resources as any Senator from our region of the country. I am not prepared at the present time to concede to the Senator from Alaska the fact that this is a West-versus-East issue.

Second, the Senator talks about the environmental community. The Senator from Colorado is not here as a spokesman for the environmental community, but for a point of view that I think is shared by people of different kinds of persuasions, ideologies, commitments, interests, and concerns. I have no brief for the environmental community, however one might define that community, and do not, frankly, particularly see this amendment in that light.

I wonder if I might have the attention of the Senator. I am trying to respond to his comments.

Mr. STEVENS. Mr. President, if the Senator will yield, I apologize. I was talking about some negotiations going on.

Mr. HART. Third, if I may say so once again, I think it is important for the record to reflect the fact that there are a certain number of members of the Energy Committee—I do not know, frankly, how many—14, 16, 18, however many. The committee works hard, works diligently, and attempts to develop public policy in the resource and energy areas. But like any other committee of the Congress, it cannot bind nonmembers of the committee. There is an old doctrine of the law that says those not party to a negotiation are not bound by the details of those negotiations. The Senator from Colorado had no spokesman or representative inside the committee, never has been or felt bound as a Member of the Senate by any deliberations of the committee. I respect the sincerity of its members, but these are important policy issues respecting the rights of citizens of the United States. Whatever consensus was formed by the committee is for the committee's own purposes. We are here to discuss what the will of the U.S. Senate is, not the consensus that may or may not have developed inside the Energy Committee itself.

Finally, in any case, if I may address the issue that the Senator from Alaska raises, that this is, somehow, a new issue, I think the Senator from Alaska has been aware for a number of months that the issue, the question of where the refuge boundaries would be drawn, would be the subject of a floor amendment. He has been on notice that this would be an issue. Last night and, to a certain degree, this morning, he suggested that this has come before many as a recent issue to be discussed. I think he has been aware for a long time that this was going to be a subject of a great deal of discussion.

Under the committee provisions that he has supported, section 906(g), the boundary decision also automatically determines whether the area is given to the State. So I think the Senator from Alaska should have realized long ago that whether the State would be granted these lands in which the State now has no legal right was an issue that was going to be resolved on the floor of the Senate.

Let me just try to lay out the history of this land selection question.

Yesterday, the senior Senator from Alaska came up with an interesting argument in favor of his proposed boundaries for the Yukon Flats refuge, exactly the same boundaries the Senate rejected yesterday by a vote of 62 to 33.

I think all Senators should be aware of the fact that this issue is exactly the same issue we voted on yesterday afternoon.

The Senator from Alaska claims the refuge boundaries proposed by the pending Hart-Chafee amendment include what he refers to as State land, which is not included in his proposed boundaries.

When I questioned him, the Senator from Alaska conceded that, in fact, this land is not now State land, but the Senator claimed the bill would convey this land to the State.

I think this is an important point, for two reasons.

First, I agree with the Senator from Alaska, and I expect many of my colleagues would also agree, that it does not make sense to simultaneously convey Federal lands to the State government and at the same time designate it as a wildlife refuge.

Second, the Senator from Alaska indicated he will raise this issue in support of a number of other amendments he will offer to the pending amendment.

I think it makes sense for the Senate to pay close attention to this issue now because the Senator from Alaska indicated he will be raising it time and time again later this week.

To understand this issue of conveyance, it is necessary to first understand the basic framework of the Alaska statehood land grants authorized by the Statehood Act. Under that act, the State government was given title to 104.5 million acres of Federal land. The State was authorized to select this land from any vacant, unappropriated, and unreserved Federal land.

I think we are all aware that this is the most generous statehood land grant in our history. Of all lands Congress has given to States, this land grant covers one-third of those lands.

However, the State government of Alaska was not satisfied with this grant because it was restricted to vacant, unappropriated, and unreserved lands. The State government developed what has been commonly been called a "wish list" of lands unavailable for selection, lands that it wished it could have, but did not fit in the category of vacant, unappropriated, and unreserved.

The State government of Alaska filed for these wish list lands, even though the State government knew the selections would not be valid.

The committee bill, however, includes several provisions dealing with the wish list lands and other State selection issues. These provisions are in section 906 of the bill.

The part of that section which deals with the lands we are now discussing is subsection 906(g). That provision begins on page 523 of the bill.

Subsection 906(g) is a straightforward conveyance to the State government of some lands included on a list referred to in the subsection. This conveyance is made without regard to any restrictions under the Statehood Act, which I have just described.

However—and this is the critical point—not all lands on that list are conveyed. Although the lands we are now discussing are on that list, the provisions of 906(g) do not necessarily convey the lands.

Let me quote from line 21 of page 523:

> The lands conveyed are those lands contained on the specified list which are "vacant, unappropriated, and unreserved lands, including lands subject to subsection (E) . . . outside the boundaries of conservation system units."

Let us examine this language as it applies to the land we are now discussing.

First, these lands are not "vacant, unappropriated, and unreserved lands."

The State "selected" these lands on November 14, 1978.

The lands were reserved under these three Federal actions predating the State's "selection."

Mr. STEVENS. Will the Senator yield to keep the record straight?

Mr. HART. I yield.

Mr. STEVENS. On my time.

Again, I hope the Senator would work into that statement the fact that the lands selected in the early 1970's were given up.

That is why I say it will be a unique case by case in dealing with these.

Everything the Senator says is true. I do not dispute it. The difference is that at the request of the Department there were yielded lands that would be on the first list, to take these lands on the second list which was filed after the bill was killed in November 1978.

I agree with that. At the time they were filed they were not technically available for selection.

But the understanding was that they were to be selected because of the action that took place in the ad hoc conference of 1978.

Mr. HART. I will address the ad hoc conference briefly in the next few minutes. But I wanted to make the historic record very clear.

I do not know that the U.S. Senate was a party to any ad hoc conference. But we will come to that.

Mr. STEVENS. The U.S. Senate is part. If the Senator does this, then I will offer an amendment to take back Hodzana because we validly selected that. We gave it up to get the Hot Spring.

The Senator may not be part, but I hope the Senate of the United States is honorable in the sense of a deal, a trade is a trade.

We gave up lands we had a bona fide, valid, right to, in order to get these lands.

I hope the Senator will keep that in mind.

I do not argue with the record as presented. The list was given in 1978. It was given in response to an arrangement. The Senator was not party to that conference.

But it was, as far as I am concerned, a legitimate transaction.

I do not ever expect to go home from the Senate and have to tell Alaskans we made a transaction in 1978, but the Senate took both ends of the deal in 1980.

Mr. HART. Mr. President, let me repeat the point I was making.

The lands in question here were reserved under at least three Federal actions predating the State's selection.

First, a power site withdrawal for the Ramport Dam; this withdrawal predates the statehood of Alaska;

Second, a section 17(d)(2) withdrawal from State selection, because of the national interest in these lands as a potential national wildlife refuge; and

Third, a section 17(d)(1) withdrawal from State selection, intended to give the Secretary of the Interior an opportunity to classify which lands were to be made available for State selection.

Since the date of the State's "selection" of November 14, 1978, these lands have become subject to two additional reservations:

First, the Secretary of the Interior withdrew these lands under section 204 (e) of the Federal Land Management and Policy Act, on November 16, 1978; and

Second, the lands are within the Yukon Flats National Monument created by President Carter on December 1, 1978.

So these lands are far from "vacant, unappropriated, and unreserved." They are subject to five separate reservations.

However, the committee apparently intended to convey a second category of lands from the list, in addition to those lands which are "vacant, unappropriated, and unreserved." Although the committee's provision is not entirely clear, the committee may have intended to convey an additional category of lands: Those "subject to subsection (E) outside the boundaries of conservation system units."

The lands "subject to subsection (E)" are the State's selections of lands which were unavailable for selection—the so-called wish list lands. Those lands include the lands we are now discussing.

However, the provisions of subsection (D) make it very clear that the only wish list lands—if any—to be conveyed are those "outside the boundaries of conservation system units." This is the committee's provision, which Senator STEVENS has asked the Senate to agree to.

Under the terms of my first degree amendment, the lands we are now discussing—the lands near Circle—would be within the boundaries of the Yukon Flats refuge, a conservation system unit. Under the committee's provision, which Senator STEVENS supports, if the lands are included within those boundaries, it may be that they are not conveyed to the State government.

It seems to me that this is a rational approach to the "wish list" lands issue. Those which are not included in conservation system units would be conveyed to the State government. But those which the Senate decides to include within the conservation system units would remain in Federal ownership.

The critical question then becomes where the boundaries are drawn for the Yukon Flats refuge. I think that the Senate has already answered that question. Yesterday, by a vote of almost two to one, the Senate rejected precisely the same boundaries Senator STEVENS now proposes, accepting instead the boundaries proposed in the Hart-Chafee amendment.

Mr. President, I hope, given that background and attempt to sort out what is obviously a very complicated issue, that we now can proceed, if necessary, to relitigate this issue once again.

I point out that the Senate has discussed and considered at great length the question of the disposition of these lands and the boundaries of the refuge. If the Senator from Alaska wishes, we can vote on that again, but I think the facts and the RECORD are clear as to the position of the vast majority of the Members of the Senate.

Mr. STEVENS. I yield myself such time as I may require on the amendment.

Mr. President, I am appalled. I am appalled that a Senator from the Western coalition would make that statement. What he is saying is that the provisions of the bill which were designed to carry out the consensus which was reached in the committee—and it is true that we reached it on the basis of saying that we will draw the lines and, with the lines as they are drawn, the lands outside of those lines the State may select, and the lands inside those lines the State may not select, and conveyance will not be made.

Now he is saying he has every intention, as I warned the other Senator from Alaska—and I hope he comes here and defends his position now—that the lands that the State was entitled to in 1978, without any question, will not be conveyed to the State because this Senator from Colorado was not a party to the transaction. Because this Senator from Colorado did not participate in drawing the lines, he has the right to come in, as he does, and tell the Senate, and the Senate has already drawn the line differently. The Senate did not know at the time it voted on the motion to table these issues, but the Senate is going to know tomorrow and the next day and the next day and the next day, and on and on, until we get the decision made as to whether the honor of the Senate is going to be maintained. Mr. President, that is what it is, so far as I am concerned.

They are not going to enter into a transaction with me that ends up with the lands that were validly selected lands not to be conveyed to the State of Alaska because they are not within the refuge, but that the Circle Hot Springs lands, which were not a valid application, are also going to be denied, because now Senator HART's amendment would draw the line in a different fashion. It is unconscionable; and if the Senate knows me, it knows that it will be here a long time before that is finally resolved.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield on the time of the Senator from Colorado happily.

Mr. HART. I continue to be puzzled as to how offering an amendment to expand refuge lands is unconscionable.

Mr. STEVENS. Mr. President, the Senate knew the trade was made. You did not. The people who wrote that statement for the Senator——

Mr. HART. The Senator's staff cooperated with the Senator.

Mr. STEVENS. Mr. President, I cannot address the Senator directly, but I can address the Chair.

Whoever prepared the statement just read by the Senator from Colorado had to know the Hodzana exchange.

If the Senate is going to tell me that lands my State was validly entitled to, without regard to this bill, are not going to be in that area and be a refuge, the lands I agreed to exchange, as a representative of the State of Alaska—I agreed to that exchange. The effect of what the Senator's amendment does is to take both areas.

Mr. HART. Any U.S. Senator has the right to stand on this floor and offer any amendment, and that is not unconscionable. I was not party to any discussion.

Mr. STEVENS. The Senator is on his own time.

Mr. HART. I am absolutely entitled to offer this amendment.

Mr. STEVENS. Mr. President, I have documented the exchange, and the statement made is about the amendment. It is not about the Senator personally, or a reflection of the Senators motives in offering the amendment.

If I said the Senator, himself, was unconscionable or the Senator personally was involved, it would be another matter. The amendment is unconscionable, and I stand by that.

If the Chair wishes to correct the Senator from Alaska and say that he cannot say that an amendment is unconscionable, then I will apologize to the Chair.

The point I am making right now is that it is documented. It is documented right there. It is documented in the minds of the staff people who are here, who will tell you that everything I have said is correct. It is documented in the minds of everyone who was part of it.

We gave up lands to which we were validly entitled; and, in part of a spirit of compromise, even carried out that compromise after the bill was defeated. But because of the actions of my colleague in 1978, the Governor delivered to the Department of the Interior the amendment to the lists to validate the actions I had taken, to show that I was acting on behalf of the State of Alaska in making that exchange; and the Senate committee referred to those lists in connection with the bill before us now.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, the Senator from Colorado reads the Constitution to say that only Congress can grant title to Federal land, land owned by the people of the United States. It can do so directly by act of Congress, or it can grant Executive authority to the President. To my knowledge, it has not granted authority to the President, in terms of Executive authority, to dispose of these lands.

So, until the Congress of the United States—both Houses of Congress—act on this issue, this land belongs to the people of the United States. I do not know about any backroom deal, and I have not been so advised. But I am as much a Member of the Senate of the United States, and entitled to propose my ideas about how to dispose of the lands belonging to the people of the United States, as anyone else.

Mr. STEVENS. Mr. President, how much time do I have remaining on this amendment?

The PRESIDING OFFICER. Seven minutes and twenty-six seconds remain.

Mr. STEVENS. Mr. President, I want the Senate to know that there is not one thing in this bill that means as much to me as State lands. That was what we got into this argument about—to convey to the State the lands to which it was entitled.

I was able to go home in 1978 and say, "We have gotten the lands we are entitled to. We had to make trades, but we got the lands."

When we got the bill out of committee this year, I was able to say that it is a fair committee bill because we have gotten our lands; this bill conveys our lands.

It was not until yesterday that the Senator from Colorado articulated a brandnew theory. Whether he knows it is brand new, or not, I do not know, but he restated it today. He is saying that under his interpretation as a Member of the Senate, the State of Alaska is not entitled to select lands that, at the time of conveyance, are not vacant, unappropriated, and unreserved. That is not the law, as I understand it.

It could be so interpreted by a court, and I have been warning Alaskans for years that this might be asserted sometime by a representative of the environmental community. It has been stated yesterday and again today at the time these applications were filed in every instance they were filed for lands that were vacant, unappropriated, and unreserved, with the exception of the second list.

The second list was prepared by the Governor's office at my request to validate the concessions we had made and in negotiations with the Senate and with the House of Representatives leading up to the bill in 1978, and to put the State on record as saying yes, it did want these lands and it did in fact give up the other lands. In this bill before the Senate that came from the Energy Committee the Energy Committee has in fact validated and has stated that the Hodzana area will be within the Yukon Flats National Wildlife Refuge, that Circle Hot Springs lands will in fact be conveyed to the State because these are outside the boundaries of the refuge under the bill as reported by the Senate Energy Committee.

If this amendment of mine does not pass and the Senator from Colorado again asserts the position that he has taken that the boundary should be drawn so it includes the Yukon Flats area, then the lands will not be conveyed to the States. I will then bring another amendment to delete the Hodzana area and we will see whether the Senate wants to abide by a situation where a representative of the State legitimately gives up a position of his State, one that was not subjected to challenge in any court because they were lands that were validly applied for under the Statehood Act by the State of Alaska.

The Senator from Colorado could not, if we had not made that transaction, expand its area to include the Hodzana area because it is land that was validly selected by the State.

But under this circumstance we are going to have to do it in two amendments. If the Senator from Colorado wins this one we will let the Senate decide whether the Hodzana area goes back to the State as was the original case before this transaction.

Again, I mean no umbrage to the Senator personally, but the amendments violate my concept of justice.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, I just wish to reiterate two points.

One, I do not know what deals have been made, and I certainly do not know what deals have been made with whom.

Second, the outraged sense of justice of the Senator from Alaska has arisen only in the last few hours. We have been debating this issue for 2 days now, and it is the same issue and it has only been at the end of yesterday's discussion and this morning that somehow the Senate has dishonored itself and those of us who offered this amendment have dishonored the Senate and the Government by breaking some commitment that someone who yet remains unidentified has made.

And if I understood who made these commitments and why I was supposed to be bound by them, perhaps I might share the sense of outrage and injustice of the Senator from Alaska, but since I do not know who it was who committed the Senate to this, I fail to share the Senator's sense of outrage and injustice.

Mr. STEVENS. Mr. President, I am going to try and articulate once more my sense of outrage.

How much time do I have remaining?

The PRESIDING OFFICER. Three minutes and 34 seconds.

Mr. STEVENS. The Senate then is going to have a chance soon to decide whether it will support a position which violates what I consider to be the whole concept of honorable dealing with a Member of the Senate.

Acting for my State in 1978 I stated to representatives of the Senate and the House of Representatives that we would yield the Hodzana area, which is in the southwest section of the Yukon Delta Flats, as requested by the Department of the Interior, not in some back room. We were with the Secretary of the Interior, with the chairman and ranking minority member of the House Interior Committee, with the chairman and ranking minority member of the Senate Energy Committee. We had an untold number of people outside, including the representatives of the environmental community. We traded, and I traded on behalf of the State the Hodzana area for the Circle Hot Springs area. The Governor later confirmed that. The Senate later confirmed it in a bill that was passed out of the Senate Energy Committee, and the Hodzana area applications are not listed on what we call the first list, which is the list of lands to be conveyed in any event to the State of Alaska.

They are on the second list which was a list filed in November 1978 at my request to confirm those transactions, those arrangements that were made in deciding which lands the State would select and which lands would go into conservation units.

This is the first of the series of those issues. As a matter of fact, there are more than 18 such issues if we approach them one by one. But this is the first of those issues and as Senators can see there are two parts to this issue.

If the Senate now wishes to listen to the Senator from Colorado and say that wildlife values to the Circle Hot Springs area—although to date I have heard no argument assessing any wildlife values to this area; the wildlife values were assessed to the Hodzana area—now if the Senate wants to put that area. the Circle Hot Springs area, into wildlife refuge, then I am compelled to offer the amendment to exclude the Hodzana area. And it is a difficult thing for me to do to deal with this area. I will tell the Senate this: If there is going to be a spirit of compromise around here, people meeting overtime to work out compromises, this is the area to start with because it is an area that I exchanged in good faith on behalf of the State and now that trade is going to be obliterated. The Senator from Colorado is taking offense, but I cannot accept that.

How can I go home and tell my people that I made a transaction, I made an exchange, valid at the time, and everyone concerned agreed——

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield on the Senator's time.

Mr. HART. I wish to know who committed me and came to me and told me to withdraw this amendment. I do not know who it is who committed me or anyone else to this deal. I still do not know who that was. Was it the Secretary of the Interior, the President of the United States, the majority leader of the Senate? I do not know who it was. Was it Senator JACKSON? Who was it?

Mr. STEVENS. Mr. President, I hope the Senator is committed in good faith.

Mr. HART. I am, but I do not know who it was that committed me to it. Who were these people?

The PRESIDING OFFICER. All of the time of the Senator from Alaska has expired.

Mr. HART. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Colorado has 3 minutes and 15 seconds remaining.

Mr. HART. I yield 2 minutes to the Senator from Alaska to respond because I genuinely wish to know what agreement I am violating—that is all—and who the players were.

Mr. STEVENS. Mr. President, the players were everyone who was involved in that issue that is involved again this year, all of the environmental community, the Secretary of the Interior, the chairman and ranking minority member of the House Interior Committee, the chairman and the ranking minority member of the Senate Energy Committee. Everyone who was in authority to deal with the issue in 1978 agreed. In 1979 the Senate Energy Committee confirmed that. My Governor confirmed it. And to put me in the position of saying "Please do not do to me what you are doing" is to me unconscionable. I cannot understand. The Senator says he is not bound. That is right. I do not disagree. The Senator has a right to offer the amendment. I do not disagree. But is the Senate going to say to a Senator who yielded a valid position for a State, "Too bad, Buddy. We have another Congress and another year. We were not there." Is that not what the Senator from Colorado is saying?

"Do not try to bind me with any arrangements that were made in the past because you were stupid." He, in effect, is saying, "Go ahead, Senator, argue all you want, you are not going to win because we have got the votes. We will take any of your State we want."

It will be a long time before you do that.

Mr. HART. The House of Representatives apparently were not part of this deal because this land is in the House bill.

Mr. STEVENS. The House bill was not passed. Had it been passed, we would not be here today. I will so stipulate.

Mr. President, I suggest the absence of a quorum and ask that it be charged to Senator JACKSON's time.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Mr. President, will the Senator yield time for me to ask a question?

The PRESIDING OFFICER. The Senator has 15 seconds remaining.

Mr. GRAVEL. There is not that much time to ask a question. Is there any further time on the amendment at all?

The PRESIDING OFFICER. No.

Mr. GRAVEL. I yield myself 1 minute on the bill to ask a question, if I can get the attention of the Senator from Colorado.

As you understand it, would the State be entitled to make its selection in the Hodzana area, which was the situation, as I understand it, prior to what Senator STEVENS negotiated? I had not myself been invited to any of these meetings, so I do not know what was negotiated. What was negotiated from the State's point of view seems reasonable, though. I can particularly understand the Senator from Colorado, since he was not in the room either where anything was negotiated. You are a free agent, everybody is a free agent, on the floor and can come in and do what they want to do. The better deal, however, was struck in committee. You may not agree with that, but the better deal, as I see it from Alaska's point of view and the Nation's point of view, was struck in committee by Senator STEVENS.

But assuming that deal is not adhered to—and certainly you have no responsibility with respect to it because you were not a party to it nor was I—I do have a responsibility to try to seek the best position for Alaska.

So what I would like to start with is this question: Do you think the State would be able to go in and select its land in the Hodzana area?

The PRESIDING OFFICER. All time on the amendment has expired, and the 1 minute of the Senator has expired.

Mr. GRAVEL. I yield myself an additional minute.

Would the State, in your mind, be able to go in now and realize its selections in the Hodzana area? Would the prior valid selections, as you understand it, be legal?

Mr. HART. Well, I would say to the Senator from Alaska that I do not know the answer to that question because I am trying to get that information myself.

Part of the disadvantage of the Senator from Colorado here is due to the fact that I do not know what all these discussions have been, and I frankly do not like the suggestion that everybody in the world who was elected to serve in Congress was somehow bound by this and that to go against these discussions in any way is a violation of some good faith, conscience, or anything else. I am troubled by it, and I am dismayed by it, because I was not a party to it.

I do not know anything about it, and I do not know the answer to the Senator's question, unfortunately. I will try to get an answer.

Mr. GRAVEL. I wonder if we could not perhaps call for a recess without the time being charged to try to secure an answer to that question. I do share the Senator's views on that. The Senator is not on the Energy Committee. He is not bound by what the Energy Committee does. He is a U.S. Senator, and he can come here to the floor and do what he wants, so that if deals are cut in the backroom, and I had no knowledge of this, I am only being advised——

The PRESIDING OFFICER (Mr. BOREN). All time on the amendment has expired.

Mr. GRAVEL. I yield myself an additional minute. I have been called to the floor and I am asked to render service. My colleague, I think, cut the best deal when it was in committee. What he is trying to do is retain the language in what he was able to secure, what was in the committee language, what was to the best advantage of the State and the Nation. We are talking about the gaining of uplands and releasing of lowlands, which is what the refuge is supposed to be all about.

So Senator STEVENS and whomever he worked it out with in the Energy Committee did the right thing. But that does not bind you, Senator, and I do not think you should feel bound. You are totally within your prerogatives to feel as you do. I do wish we could get this thing answered, though, because it is a legal point. If it is not answered I want to underscore one thing, that it is just the beginning of years and years of litigation that will ensue as a result of this horrendous and unfortunate piece of legislation.

I do not want to know how to do it but I do not want to waste my time any further on this subject since I was not the general who worked this out. I do not serve on the committee and was not privy to it.

Maybe Senator TSONGAS can help shed some light on it. Maybe he was part of the negotiations or maybe the Senator from Oregon was part of these negotiations that set it up. But the end product that Senator STEVENS pursued was good for the State. I would back it up and would support his amendment wholeheartedly. That does not necessarily bind anybody else, however. I yield the floor at this time.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum, the time to be charged against the bill that is under the controlled time of the Senator from Washington (Mr. JACKSON) and myself.

The PRESIDING OFFICER. Without objection, it is so ordered. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 11:32 a.m., recessed until 12.02 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BOREN).

ONE-HOUR RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 12:02 p.m., recessed until 1:02 p.m.; whereupon, the Senate reassembled, when called to order by the Presiding Officer (Mr. RIEGLE).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE RECONCILIATION ACT OF 1980

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Alaska lands bill be temporarily laid aside for the rest of the afternoon or until action on Calendar Order No. 929 is completed, whichever is the earlier, and that the Senate proceed now to the consideration of Calendar Order No. 929, S. 2939, revenue reconciliation.

Mr. BAKER. Mr. President, reserving the right to object, and I do not plan to object, I understand now that the majority leader is asking that we lay aside Alaska lands. I might say parenthetically, I understand as well that that is so that parties in controversy on that measure may pursue negotiations which are presently underway to see if some accommodation and compromise can be reached.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. And that we proceed then to the consideration of the reconciliation bill.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. And that we continue on the reconciliation bill this afternoon until it is completed, or until the Senate recesses or adjourns on today, or until we resume consideration of the Alaska lands.

Mr. ROBERT C. BYRD. That is not quite as I intended the request to be understood.

The Alaska lands measure would be

laid aside for the rest of the afternoon, or until action is completed on the revenue reconciliation bill, whichever is the earlier.

Mr. BAKER. Would we return then to Alaska lands after we complete consideration of the reconciliation measure?

Mr. ROBERT C. BYRD. Yes; we would, unless the minority and I can find some other measure for the Senate to act on, provided the Senate completes the action on revenue reconciliation this afternoon, which I would anticipate it would, so that the principals who are engaged in the Alaska lands matter may have as much time as they need to work out their problems.

Mr. BAKER. Mr. President, I thank the majority leader. I might say that on our side our calendar only shows notations for the Budget Committee, on which Senator BELLMON is the ranking member, who has agreed to this arrangement; the Finance Committee, on which Senator DOLE is the ranking member, who is present, and who has agreed to this, and certain other notifications we have undertaken.

With that understanding, then, Mr. President, and under these circumstances, I advise the majority leader that we have no objection to his request.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 2:30 p.m. and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PIONEER DAY 1980: PIONEERING ACHIEVEMENTS OF MORMONS ARE PRAISED

Mr. CHURCH. Mr. President, I would like to bring to the attention of the Senate an important event for Idaho and the Rocky Mountain west—the anniversary of the Mormon pioneers' westward trek.

On July 24 those pioneers are officially honored and their accomplishments celebrated. One hundred and thirty three years ago tomorrow a group of weary travelers struggled to the summit of a mountain overlooking what is now called the Great Salt Lake Valley. Fourteen hundred miles of blazing deserts, snowfilled mountain passes, hunger, and aching hearts preceded this historic moment. It was here that the Mormon leader Brigham Young declared: "It is enough. This is the right place." With these words the westward exodus ended and the western settlement began.

Several thousand other saints soon followed that beginning band of pioneers across the plains. Their exodus was precipitated by severe religious persecution. Intolerant mobs drove the growing group of believers from New York to Ohio to Missouri to Illinois, and finally to Utah.

The industrious settlers soon made the desert sands "blossom like a rose" with abundant crops, comfortable homes, meeting halls, and an expanding school system.

From the Salt Lake Valley in Utah the Mormon pioneers spread to build nearly 600 settlements in the mountain west. In my own State of Idaho they founded the first permanent settlement, Franklin, and played key roles in establishing many other communities.

While church members commemorate the 133d year of the arrival of the pioneers in the Salt Lake valley, they also simultaneously celebrate the sesquicentennial year of the organization of the Church of Jesus Christ of Latter-day Saints. Just as the pioneers began under humble circumstances, the church itself emerged in like manner. The meeting to officially organize was held April 6, 1830, in an inauspicious log cabin in Fayette, N.Y. Only six official members and a few well-wishers were there. But from that nucleus of six, 4.5 million men, women, and children of the LDS faith now live in every State of the Union and in 90 different countries throughout the world.

What enabled this people to withstand the raging mobs and blazing deserts, and then the subsequent challenges that accompany 150 years of growth? Perhaps the answer can partly be found in a statement given by their first leader, Joseph Smith:

> We believe in being honest, true, chaste, benevolent, virtuous and in doing good to all men. . . . If there is anything virtuous, lovely, or of good report, or praiseworthy, we seek after these things.

Family solidarity is often mentioned as one of the characteristics of the Mormon religion. Interestingly enough, this solidarity is not limited to one's immediate family, but extends to one's ancestors. Still pioneering, the Mormon Church has developed an extensive genealogical research program to aid family members in researching their past.

As part of this effort, the church stores over 1 million microfilm rolls containing genealogical records in a granite cavern above Salt Lake City. Over 85 microfilm camera operators travel to all parts of the world helping nations preserve their records by photographing a wide variety of old, original records.

This August an historic World Conference on Records will be held in Salt Lake City. Some 10,000 people will be in attendance, coming from all parts of the United States and many countries around the world. Renowned genealogists such as Alex Haley, Lord Tevoit, a member of the British House of Lords, and Milton Rubincam will be there to instruct researchers. The purpose of the conference is to aid those researching and writing their personal and family histories.

The Mormons believe that learning about one's heritage through genealogical research is an important aspect of creating family unity and strength—drawing upon the past to better live the present and build for the future.

Just as their ancestors before them were pioneers in the Rocky Mountain west, today it is clear that the Mormons have distinguished themselves as pioneers in the world of genealogical research.

I am personally grateful for this genealogical program. A year ago last December Spencer W. Kimball, president of the LDS Church, presented me with a two-volume genealogical study containing information on my ancestors. President Kimball said then:

> Genealogy is very important to us. Your genealogy in these volumes will contain all of your known relatives and give you an appreciation for them.

In studying this magnificent gift of family history, Bethine and I find our appreciation for our ancestors has indeed increased. We keep these cherished family records on permanent display in my Washington office.

I am honored, Mr. President, to pay tribute today to the Mormon pioneers of the past and present. The pioneers of 1847 leave us with a legacy to be cherished. Their descendants continue to honor them by their own achievements today. It is this people and this history that I am pleased to commemorate. As we prepare to celebrate, on July 24, another Pioneer Day.

U.S. MADE MISTAKE ON OLYMPICS

Mr. HEFLIN. Mr. President, the 1980 summer Olympic games are underway in Moscow—complete with Soviet-manipulated pomp and propaganda—despite the American-organized boycott by 60 or so nations.

While the Soviet Union is reaping substantial propaganda benefits as a result of this well-staged athletic farce, it is becoming more and more apparent that the United States made a serious mistake in failing to follow through in organizing an alternative, competing international Olympics.

Back in January, immediately after the Soviet Union's brutal and unprovoked invasion of neutral Afghanistan, I called upon the U.S. Senate to urge the U.S. Olympic Committee to take the initiative in organizing a competing "World Peace Olympiad."

This type of alternative international competition to the propaganda-filled Moscow spectacle would have allowed athletes from peace-loving, nonaggressive nations to compete with one another in a true atmosphere of peace and sportsmanship in the spirit of the historic Olympic movement.

I made this suggestion to the head of the U.S. Olympic Committee and introduced a resolution in the Senate urging prompt, decisive action to organize a world peace Olympics. Even though I was joined by the distinguished majority leader, Senator ROBERT C. BYRD, who cosponsored my resolution, no action was taken on this very important matter.

Now, as a result of this inaction, American athletes and world-class athletes from the 60 other nations who joined the United States in staying away from Moscow are forced to sit at home instead of fulfilling their Olympic dreams.

I am not at all suggesting that boycotting the Moscow games was not the proper cause of action—it was—and I strongly supported the President's call to stay away from Moscow. However, I believe it was a serious mistake for the United States not to have actively organized a competing, international Olympics as an alternative to the Moscow games.

The success of the boycott is in serious doubt. Yes, it is true that we have been joined by 60 or so nations in staying away from Moscow, including such athletic powers as Canada, West Germany, China, and Japan. However, another 81 nations have ignored our boycott and are participating in the Moscow games.

We have succeeded in making a symbolic protest of the Soviet invasion of Afghanistan, but we have failed in taking away the Soviet Union's ability to use the Olympics for their own propaganda purposes.

By enforcing strict censorship and by manipulating news coverage of the events surrounding the Olympics, the Soviets have succeeded in painting a false picture to the rest of the world about life inside the Soviet Union.

A major objective of our boycott was to penetrate Russia's strict news censorship and let the Russian people know the truth about the invasion of Afghanistan. I am afraid that our efforts toward this end have failed and the Soviet population is still in the dark concerning the world's condemnation of their government's blatant violation of international law and world peace.

There is no question in my mind that the boycott would have been larger and much more effective had the United States offered an alternative to the Soviet-controlled Moscow Olympics.

Several governments, Great Britain and Australia for example, initially answered our call for the boycott, only to have their athletes decide to participate in the games.

Looking backward, it does seem unfair for the U.S. Government to ask American athletes and other world-class athletes from around the globe to give up their Olympic dreams without providing some sort of alternative international athletic competition.

Thousands of athletes in the United States and around the world have trained for many, many years for the 1980 Olympics and the sacrifice of their efforts was not desirable nor necessary.

Had an alternative world peace Olympiad been held simultaneous to the Moscow Olympics, the historical purpose of the Olympic games would have been fulfilled and the nations of the world would have firmly and effectively condemned the Soviets for invading a peace-loving, neutral nation.

CHANGE OF VOTE

Mr. MOYNIHAN. Mr. President, on June 27, the Senate voted on an amendment by my distinguished colleague Senator Bumpers to H.R. 7542, the supplemental appropriations bill. His amendment No. 1336, which would have restored $65 million to the energy conservation program for schools and hospitals, was tabled by a vote of 57 yeas to 23 nays. On that vote I was inadvertently counted as voting in the affirmative, whereas I should have been recorded as voting in the negative.

The schools and hospitals energy conservation grant program is an important one to my State—and to the Nation—and the additional funds are vital to meet the conservation needs of these institutions. I, therefore, ask unanimous consent that in the permanent Record my vote be changed to indicate my opposition to tabling the Bumpers amendment No. 1336.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA NATIONAL INTEREST LANDS

Mr. CHURCH. Mr. President, I rise today to note the historic importance of the pending bill. As one who has been intimately involved in shaping many of the conservation initiatives which have come through this Chamber in the past two decades, I want to point out the unprecedented significance of the Alaska National Interest Lands legislation we will be considering this week.

It was my privilege to be the floor manager for the original Wilderness Act, first in 1961 and again upon its final Senate passage in 1963. I am proud of my association with that legislation, and likewise proud of the Wild and Scenic Rivers Act which was developed by the Public Lands Subcommittee during my tenure as its chairman.

Over the years, the Senate has taken the lead in developing many other land, water, and wildlife conservation proposals. I have been closest, of course, to our work to protect the best parts of Idaho, such as the Hells Canyon and Sawtooth National Recreation Areas, and most recently, the River of No Return Wilderness, which the President will soon sign into law.

Conservation decisions are, in my opinion, some of the most important Congress is called upon to make. They require great foresight and careful legislative craftsmanship. Like the conservation decisions we have made for important natural areas in Idaho, the lands covered by the pending measure possess stupendous natural values. The chief difference, I suppose, is that in Alaska we are dealing with incredibly vast expanses—literally hundreds of millions of acres of land—which are still wild.

For the Federal lands in Alaska, we have the unique opportunity to do the conservation job right from the beginning. This legislation is not aimed at salvaging a few prime pieces of public real estate as examples of what Alaska was. Instead, this bill is a means of preserving intact whole ecosystems and watersheds, thereby assuring that the natural values of wildlife, scenery, solitude, and the preservation of nature's own balance, are fully protected for the future.

As I said, this opportunity is totally unprecedented. Therefore, it is important that we see these land allocation decisions in their broader context.

Over the period of my service in the Senate, the Congress has done a great deal for the 49th State. In 1958 we extended statehood to Alaska; in 1971, the complex Alaska native claims issue was resolved; and in 1973 we acted upon legislation providing for the construction of the trans-Alaska oil pipeline.

Through the land selections made pursuant to the provisions of its Statehood Act, Alaska obtained full title to the oil rich lands in Prudhoe Bay. Alaska and citizens have gained a great measure of economic stability—in fact, a substantial budget surplus—as a result of that State land selection. So, we come to the pending bill with the knowledge that Alaska has obtained selection rights to an unprecedented 105-million acre statehood land grant. Indeed, the bill now before us expedites the conveyance of the balance of Alaska's selections in order to complete its statehood grant.

Likewise, we come to this bill knowing that we have set in motion the process of securing to the native peoples of Alaska, some 44 million acres of land grants in settlement of their aboriginal land claims. Again, the bill before us expedites the final conveyance of full title of those lands to the appropriate Native corporations.

Finally, we come to this bill knowing that Congress has acted decisively on the question of the trans-Alaska pipeline which is now in place and operating, and on the question of the prompt construction of an Alaska gas transportation system.

The bill before us today, then, is here because it is time for Congress to respond positively to the strong national enthusiasm for a "land grant" to all American citizens, a land grant of splendid new national parks; vast, rich wildlife habitat protected and managed as national wildlife refuges; wilderness lands as part of the mix of multiple uses on the national forests of southeast Alaska; and the best whitewater of this final frontier, protected as new wild and scenic rivers.

When I think about the wild places in Alaska, I am reminded of a statement on the true meaning of wilderness which was made some 20 years ago by our late colleague from New Mexico, Senator Clinton Anderson. Clint was not only the chairman of the Interior Committee and a former Secretary of Agriculture, but a hard-headed businessman to boot. In the American Forests article titled, "This We Hold Dear", he said:

> Wilderness is an anchor to windward. Knowing it is there, we can also know that we are still a rich nation, tending to our resources as we should—not a people in despair scratching every last nook and cranny for a board of lumber, a barrel of oil, a blade of grass, or a tank of water.

Clinton Anderson and our other departed colleagues who were brave champions of conservation, such as Hubert Humphrey and Lee Metcalf, would want us to approach this bill from just such a perspective. That is my recommendation as well.

The conservation opportunity we face this week is indeed unique. If we allow it to slip away, it may never come again.

REGENERATION IN THE CENTRAL NERVOUS SYSTEM

Mr. STEWART. Mr. President, last December I introduced legislation to accelerate research directed toward finding a cure for spinal cord injury. My bill calls for the expenditure of $16 million by the National Institute for Neurological Communicative Disorders and Stroke in fiscal 1981 for research into spinal cord regeneration as a cure for spinal cord injury. I believe that we owe an obligation to the quarter of a million Americans who are paralyzed as a result of spinal cord injury to pursue this possible cure for spinal cord injury related paralysis.

A recent article from Science magazine has strengthened my belief that spinal cord regeneration can be a viable and effective cure for spinal cord injury. While this possible cure offers more hope to the acutely injured spinal cord victim, further research in this area may show that through regeneration of spinal cord tissues we may be able to provide a cure for both the acute and the chronic victims of spinal cord injury.

I am pleased that on July 21 the House Committee on Interstate and Foreign Commerce will hold hearings on legislation identical to mine which has been introduced in the House by Congressman DOUG WALGREN, of Pennsylvania. I am hopeful that these hearings will provide the Congress with the data to show that nerve regeneration is a viable cure for spinal cord injury. I am also hopeful that the Senate Labor and Human Resources will schedule hearings on spinal cord injury regeneration research in the very near future.

I commend the article from Science magazine to the attention of my colleagues and ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REGENERATION IN THE CENTRAL NERVOUS SYSTEM

Injury to the brain and spinal cord is one of the most intractable of all medical problems. In the United States alone, more than 200,000 persons, many of them young and in what ought to be the prime of life, are paralyzed as a result of spinal cord damage. Loss of the ability to walk is only one of their problems. Spinal cord damage can also produce sexual impotence and inability to control the bladder and bowel.

Once damaged, the nerves of the mammalian central nervous system do not repair themselves. And currently there are no effective therapies for restoring abilities lost as a result of the damage. Clinical attempts to reestablish missing neural connections have generally met with failure and frustration.

For many years, this pessimistic outlook extended from the clinic to the basic neurobiology laboratory. As recently as 1970, says Lloyd Guth of the University of Maryland School of Medicine. "We agreed that there was no need for a conference on spinal cord regeneration because so little was known about it."

Thanks to the persistent urging of Alan Reich, who was then president of the National Paraplegia Foundation and who, among other things, raised the necessary funds, a conference was held anyway. The participants came away pleasantly surprised by the news that the potential for regeneration of neurons of the mammalian central nervous system is greater than they had thought. In the 10 years since the conference was held, several lines of evidence have shown that both brain and spinal cord neurons are often intrinsically capable of growing back, even though they normally do not, at least not in a productive way.

The emphasis now is on finding out why the neurons do not regenerate and on attempting to devise ways to circumvent the impediments to central nerve regrowth. The answers are clearly not in yet. But investigators are more optimistic than they have been in the past, because for the first time they have a number of tantalizing clues and promising avenues to explore.

Nerve cells in the spinal cord, like nerve cells in general, consist of a cell body, which contains the genetic material and synthesizes the proteins and other substances needed by the neuron, and at least one long projection called an axon. The axons lead out of the cord, often extending for long distances—1 meter or more in the case of nerves leading to the toe, for example—to their target cells.

What generally happens when the spinal cord is damaged is that the segments of the axon above the injury, which are still connected to the cell body, produce new sprouts, whereas the segments below the injury degenerate and die. The sprouting is short-lived, however, lasting only a week or two and failing to produce links to the neurons' original targets.

The damaged spinal cord, it seems, is a very hostile environment for nerve regrowth. Part of the hostility derives from the nature of the nonneuronal cells, principally glial cells, present in the cord. Albert Aguayo of McGill University Medical School says, "We need to consider very seriously the contribution of the glial cells to the failure of mammalian central neurons to regenerate."

The glial cells proliferate in the damaged region of the cord, forming a dense tangle that physically blocks the attempts of neurons to regenerate their axons. In contrast, the nonneuronal Schwann cells that are present in peripheral nerves, which do regenerate, serve to direct axon regrowth and may even foster it.

In experiments on laboratory animals, investigators have attempted to overcome the physical blockade to spinal nerve regeneration by removing the damaged portion of the cord and replacing it with a graft of peripheral nerve tissue. They hoped that the Schwann cells of the peripheral grafts would help to guide the regenerating spinal axons just as they do the peripheral nerves—and this is apparently what happens.

For example, a few months after Aguayo grafted pieces of peripheral sciatic nerve, which innervates the muscles of the leg, into the spinal cords of rats, he could detect many axons growing into the grafts. Some of these axons turned out to be from peripheral nerves that send projections into the cord, but others were spinal neurons that had crossed the junction between the end of the cut cord and the graft and traveled distances up to about 10 millimeters, the approximate length of the grafts. Aguayo says, however, that he was unable to tell whether the spinal axons reentered the cord on the other side of the graft and made new connections. He does know that none of the animals with the grafts showed any functional improvements.

In another series of experiments, Aguayo grafted pieces of the optic nerve, which is part of the central nervous system, into the sciatic nerve. Although sciatic nerve axons normally regenerate very well, in this case they grew a millimeter or two into the optic nerve grafts and then stopped. Aguayo explains, "the axons just had trouble getting into that dense jungle of astrocytic processes. (Astrocytes are one kind of glial cell.) Aguayo's findings confirm the importance of the nonneuronal cells, showing that the axons of damaged central neurons can regrow provided they are in an appropriate cellular environment.

In some animals the timing of the transplant may be important, according to Carl Kao of Georgetown University School of Medicine and the Washington Veterans Administration (VA) Medical Center. When Kao, who did much of his earlier work at the Madison (Wisconsin) VA Hospital, transplanted sciatic nerve tissue into the spinal cords of dogs immediately after injuring the cords, he failed to detect any significant growth of spinal neurons into the grafts. He found that over about a week, cystlike cavities developed at both cut ends of the cord, and they constituted still another block to axon regrowth.

Now Kao waits about a week after the injury and then cleans out both the damaged portion of the cord and the cysts before he inserts the transplants. If this is done without reinjuring the nerve ends, he says, the cysts do not reform and spinal nerves grow into the graft.

Kao's results differ from Aguayo's in an important aspect, however. The rats studied by Aguayo never recovered from their paralysis, even though their spinal neurons did show some regeneration. But, according to Kao, some of his treated dogs—about 10 percent—regained the ability to walk.

This claim is highly controversial. Some neuronbiologists have suggested that the apparent ability of Kao's treated animals to walk may be explained by a simple spinal reflex, originating in the cord below the injury. True voluntary walking requires transmission of nerve impulses down the cord from the brain. As evidence against this possibility, Kao notes that the walking stops when the animals' spinal cords are injured a second time, above the original site. The second injury ought not to interfere with a spinal reflex, but would block the transmission of nerve signals from the brain.

Another criticism of Kao's work is that he did not demonstrate that regenerating spinal axons actually crossed the damaged region of the spinal cord, entered the lower cord, and formed new connections. This is a common omission in all the research on spinal regeneration done so far. Says Ray Lasek of Case Western Reserve School of Medicine, "The literature is filled with examples of partial functional recovery, which have not been subsequently documented." Within the past few years, however, methods for tracing the origins of axons have been developed and these may help to clarify the question of spinal regeneration.

A somewhat different transplant approach for repairing central nervous system damage has been tried by Richard Wyatt and his colleagues at the National Institute of Mental Health (NIMH). They first chemically destroyed a group of neurons, which are important for the control of movement, in the brains of adult rats. The degeneration of comparable neurons in humans causes Parkinson's disease, a severe neurological disorder marked by tremors and difficulty in initiating voluntary movements.

The NIMH workers then transplanted into the damaged rat brains grafts of the same neurons taken from fetal rats. The grafts survived, presumably because their location deep within the brain protected them from attack by the immune system, and sent out axons that made appropriate connections. As a result, says Wyatt, the abnormal movements seen in the rats were reduced.

Nonsurgical therapies have also been tried to diminish scar formation and encourage spinal nerve regrowth. For example, in the 1950's, William Windle of Denison University found that treatment with steroid hormones or a fever-producing bacterial product called Piromen resulted in less dense glial scarring and enabled sprouting spinal axons to grow for months or even years instead of a week or two. Even so, Windle observed no improvement in the condition of the paralyzed animals.

Use of enzymes such as trypsin and elastase to dissolve glial scars is another method that has been tested for improving spinal regeneration. In fact, the method is currently being used for human patients in the Soviet Union.

In 1973, L. A. Matinian and A. S. Andreasian of the American Academy of Science reported that injection of the enzymes into the severed spinal cords of rats produced complete recovery from paralysis in 30 to 50 percent of the animals. This result, if true, would represent an unprecedented degree of recovery and a major breakthrough. But, says Guth, there were several "disquieting" aspects of the report, including Matinian and Andreasian's finding that Piromen, which Windle had studied for many years and always found to be ineffective in restoring movement, produced recovery in 25 percent of the rats.

Since then, an attempt to reproduce the Armenians' experiment has been made by investigators in this country, who found no recovery attributable to the enzyme therapy. Where recovery did appear to occur, it could be explained by incomplete severing of the cord in the first place, which may happen unless special precautions are taken to prevent it. Animals whose cords have not been completely cut often recover spontaneously, and this is what Guth thinks happened in the Armenian experiments.

Although some nerves, such as peripheral nerves, may regenerate well, they still do not necessarily make the appropriate connections. In a recent experiment, Thomas Brushart and M.-Marsel Mesulam of Beth Israel Hospital in Boston severed the sciatic nerves of rats and then attempted to repair them by stitching the ends together. The sciatic nerve consists of bundles of axons, each of which is encased in a connective tissue sheath. Brushart and Mesulam attempted to align the appropriate sheaths above and below the cut, in the hope that this would help to guide the regenerating axons to their appropriate targets. Nevertheless, the regenerating nerves did not form completely normal connections to the leg muscles. The connections were reduced in number and some were directed to the wrong muscles. The investigators suggest that the inaccurate regeneration may have resulted from improper alignment of the axon sheaths. They also suggest that, through microsurgery done at higher magnifications, it may be possible to line up the sheaths more accurately.

Even this may not be enough to ensure that regenerating neurons contact the right target cells, however. As important as the mechanical influences of nonneuronal cells are in fostering or hindering nerve regeneration, they are not the only factors affecting it. Chemical factors, acting to stimulate axon outgrowth or to help direct it to the appropriate targets, are also involved. In the 1950's, for example, Roger Sperry of the California Institute of Technology suggested that the regenerating axons of the optic nerve of lower vertebrates, including frogs and fish, found their way to the appropriate regions of the brain by recognizing specific chemicals located on the target cells. Says Bernice Grafstein of Cornell University Medical College, "Sperry's ideas are still as good as any we have today." The problem has come in trying to identify the chemicals, none of which have yet been found.

One current candidate is nerve growth factor (NGF), a protein originally discovered by Rita Levi-Montalcini, of the Laboratory of Cell Biology in Rome and Washington University School of Medicine, and Viktor Hamburger, who is also at Washington University. This protein is needed for the development and maintenance of certain kinds of neurons, and may also be involved in guiding those neurons to their targets.

Because not all nerves are affected by NGF, most investigators view the agent as a prototype of what is probably a class of agents that enhance or direct neuronal growth. Silvio Varon and Ruben Adler of the University of California at San Diego are investigating several factors that act on neurons from the ciliary ganglion, a collection of nerve cells that do not respond to NGF. They found, among other things, that heart cells, which are normally innervated by neurons from the ciliary ganglion, produce at least two factors, one of which is required for neuronal survival while the other promotes the formation of axonlike projections by the cells. The latter factor apparently acts by making it possible for the elongating projections to adhere to the substratum of the culture where they are growing. (Nerve projections must adhere to their surroundings in order to grow.) Varon proposes that directional axon growth in the living animal may be aided by the production of one or another of these factors. Analogous agents for other types of neurons are expected to turn up as investigators begin looking for them.

While some investigators have been concentrating on the external factors, such as glial cells and chemical agents that might affect nerve regeneration, others have focused on the intrinsic neural activities on which axon regrowth depends. Because most—if not all—axon constituents are made in the cell body, which may be some distance from the growing axon tip, transport of materials from the cell body down the axon is one of these essential activities. In particular, investigators are looking at the transport of the proteins comprising the cell skeleton, a framework of tubules and filaments described by John Griffin of Johns Hopkins University Medical School as "the scaffold on which the axon hangs as it grows out."

Axonal transport occurs at different rates, being as fast as 400 millimeters per day for some proteins and as slow at 0.2 millimeter per day for others. The building blocks of the cell skeleton are transported exclusively in the slower components.

Almost 40 years ago, the noted neurobiologist Paul Weiss suggested that the axon contents move as a continuous column from the cell body to the axon terminal. Although the discovery of different transport rates for different components required a modification of Weiss's ideas, their general thrust remains correct. The various transport components move continuously, whether or not the axons are elongating. "In a sense," says Lasek, "nerve axons are regenerating all the time."

When an axon is cut, the cell body undergoes a number of biochemical changes, among them a step-up in the rate of synthesis of cytoskeletal proteins. But Lasek points out that axonal regrowth begins well before the wave of newly synthesized proteins, which move just as leisurely in regenerating axons as they do in nongrowing ones, reach the elongating ends. Apparently, the normal rates of cytoskeleton synthesis and transport are sufficient to support regeneration, even though the synthesis may be augmented in order to enhance regrowth after an injury.

Because the cytoskeleton is constantly being made and sent down to the axon, there must be some means of disassembling it at the ends of axons that are not growing. Lasek has proposed that protein-digesting enzymes (proteases), which are activated only in the nongrowing tips of axons, might accomplish this goal. One possible protease activator is calcium ions, which move into the axon terminals when the nerves fire.

According to Lasek, the transport of one component of the cytoskeleton, the microfilament network found mainly in the growing ends of the axon, may be rate-limiting for regeneration. The rate of transport of the microfilaments, which is 4 millimeters per day, is about the same as the rate of axon growth. Moreover, when the rate of this slow transport is decreased, as in the aging animal, the rate of regeneration is also decreased.

Other investigators have also observed that nerve regeneration is diminished with age. For example, Carl Cotman of the University of California at Irvine reports that, when neurons in certain areas of the brain are injured, undamaged neurons may respond by sending out new sprouts to replace those that were lost. This response is less pronounced in aging animals than in younger ones.

According to Cotman, glucocorticoids, steroid hormones secreted by the adrenal cortex, slow down the sprouting in younger animals. Other investigators have found that glucocorticoid production is higher in older animals than in younger ones, and Cotman suggests that this might be one factor contributing to the slowing down of regeneration with advancing age. How the hormones might work—whether by affecting axonal transport or some other factor regulating axon growth—is unknown.

Cotman's observation may be significant for the therapy of central nervous system injuries, because glucocorticoids are often administered to prevent swelling of the brain or spinal cord. If the hormones also inhibit sprouting, they may actually be retarding recovery from an injury. Cotman emphasizes, however, that this is by no means certain. Sprouting is not necessarily beneficial and may be harmful if it interferes with reestablishment of the correct neural connections. Wrong connections may leave the injured animal—or human patient—worse off than with no reformed connections at all.

Whereas glucocorticoids may slow down nerve regeneration, other treatments may speed it up. Grafstein, with Irvine McQuarrie, also of Cornell University Medical College, found that if a nerve is injured a second time, about 2 weeks after the first injury, it regrows faster than it originally did. Cotman observed a similar effect in the brain.

According to McQuarrie, who is currently on sabbatical at Case Western Reserve, the faster regrowth may reflect the availability of an increased supply of cytoskeletal and other structural axonal proteins. Because of the slow rate of transport of these proteins, they would not arrive at the growing axon tip until a week or two after the first injury, where they would be immediately available for growth if the axon were to be reinjured.

Research on nerve regeneration is proceeding in several directions, with some investigators emphasizing the external factors involved and others the internal factors. All concede, however, that both types of factors probably participate, although perhaps not equally. "In certain situations," says Lasek, "local environmental factors may dominate; in others, intrinsic neuronal factors may be more important. The question now is, can we identify individual factors that are so influential that their modification is sufficient to permit regeneration in the central nervous system?"—Jean L. Marx.

POLITICAL APATHY: A LUXURY WE CANNOT AFFORD

Mr. BAYH. Mr. President, at the beginning of the year, I had the good fortune of sponsoring an essay contest in which some 200 students throughout Indiana participated in addressing themselves to the subject matter of the "Challenge of the 80's."

The winner of that contest is an exceptionally bright young man, a student from the Broad Ripple High School in Indiana by the name of Eric Roth, whose title was "Political Apathy: A Luxury We Can't Afford."

Eric graduated from Broad Ripple High School in Indianapolis and will attend Wabash College this fall where he received a 4-year scholarship. While attending Broad Ripple, Eric worked on the school newspaper, was editor of the yearbook and took courses on the side at Indianapolis University. He is the son of Mrs. Toni Hammer of Indianapolis.

There were also three runners-up in this contest, Lee Ann Dale, daughter of Mr. and Mrs. Charles Dale of Indianapolis, is a senior at Emmerich Manual High School. Carolyn Doyle, also from Indianapolis, is the daughter of Edward and Mary Frances Doyle, and a recipient of the I.U. Journalism Award. Carolyn will be entering Indianapolis University this fall. Mark Scherer, son of Paul and Darlene Scherer of South Bend, is a junior at the John Adams High School and is avidly involved in music activities.

Mr. President, I ask unanimous consent that Mr. Roth's essay along with the essays of the runners-up be printed in the Record.

There being no objection, the essays were ordered to be printed in the Record, as follows:

Political Apathy: A Luxury We Can't Afford

(By Erich Roth, Broad Ripple High School, Indianapolis, Ind.)

"The only thing necessary for the triumph of evil is for good men to do nothing," according to the British statesman Edmund Burke almost two hundred years ago, but the statement is as true today as then. Every election seems to see fewer voters at the polls and, even worse, fewer citizens caring who wins at the polls. I'm confident no evil demagogue can win a majority of Americans' votes, but that is no longer necessary. Today, an energetic demagogue might need only 20 percent of the eligible vote to get into office. Democracy might easily die "not with a bang, but with a whimper," unless the 1980's see a drastic change in the public's attitude toward government and the men and women who work in it.

Something is wrong with our country when people are no longer liberal or conservative, Republican or Democrat, union member or businessman, but just apolitical non-voting residents. Something is tragic when it is more socially acceptable to be that apathetic, apolitical, non-voting cynic. What ever happened to American optimism? Why is it wrong to be idealistic about the purposes of government? What would happen if there were an election and nobody voted?

Americans will face several great challenges in the 1980's: the economy has to be revived; a practical, clean, and abundant source of energy must be found; and nuclear wars must be averted. None of these problems has a simple answer; there are no panaceas available. But challenges don't disappear if they are ignored; they get larger and more difficult. America not only needs strong leadership in the 1980's, America needs an alert and active citizenry too!

Our economy is not doing well now, and many leading economists believe that the decisions our government makes in the 1980's will have long term effects for several decades. Whether the government bails out Chrysler, reduces unemployment, or raises the interest rates does matter to every citizen. The question is not whether the government will or will not act as a major economic force in the future, the issue is who will the government work for.

Often in campaigns the common man is spoken about, but whether or not the common man is really taken care of depends upon who votes. If the only people who vote are millionaires and stockbrokers, it is a good bet that public officials will not be too concerned with poverty in the cities or the local union's point of view. Nobody was ever elected by appealing to constituents who didn't vote.

If the Congress does become a hostage of special interest groups representing a few people or powerful lobbies backed by rich corporations it will be because Americans must not allow the "government of the people, by the people, and for the people," to degenerate into a government of a few people, by a few people, and for a few people.

Before America can have a vitalized economy or strong defense, it must have a majority of Americans unified enough and believing enough to make national goals become local accomplishments. Franklin Delano Roosevelt could not have gotten America back on its feet if people had not cared. John F. Kennedy could not have faced down the Russians in the Cuban missile crisis if people had not cared. Lyndon Johnson would not have been able to declare war on poverty if people had not cared. Richard Nixon could have survived Watergate if people had not cared. America has had its challenges, and with national unity we have overcome these problems in the past. But the question facing America today is: do enough people care to listen, to research issues, develop opinions, and vote for those opinions.

I hope Americans will again debate public issues in parks and discuss current events at the dinner tables. I hope Americans will again raise children to believe politics is not only a legitimate occupation but an honorable occupation. I think President Dwight D. Eisenhower said it best: "Politics should be and vote for those opinions?

I believe there are several steps that would help bring back public interest in government. First, the direct election of Presidents; the idea that a majority of the voters may not matter increases cynicism in government and accomplishes nothing. Congressional elections might be publicly financed like the Presidential elections, hopefully reducing the power of lobbyists to control or influence congressional actions. Most Americans agree with Senator Russell Long: "There is little difference between a campaign contribution and a bribe." Perhaps every citizen should have the option of voting for "none of the above" in elections. If that bottom slate won a majority of the votes, a new election would be held. This would allow Americans to express disapproval of the candidates and still participate in the election process.

However, none of these proposals by itself will eliminate public apathy. I don't know what will, but how to get Americans again interested and participating in our political system is the greatest challenge of the 1980's. Unless this challenge is met, I'm afraid there is little hope of slowing down inflation, solving the energy crisis, or stopping foreign wars. Political apathy is one luxury Americans cannot afford.

Challenge of the 80's

(By Mark Scherer)

The 80's will be a decade of many complex problems with no simple solutions. Many of the problems will not be completely resolved, and the compromise solutions will not appeal to all interest groups. But the compromises will be made, and our new generation will have the responsibility of solving many seen and unforeseen problems of the new decade. The best compromise will only be made possible if the many forces and special interest groups unify to form a cohesive front.

If the world is going to maintain its advanced technologically and industrially based standard of living, a complete energy plan will have to be used. This plan would have three main parts: conservation, development of new energy sources, and population control.

Conservation is the easiest and cheapest source of energy. Our country cannot keep its outdated attitudes toward energy that it acquired when energy was artificially cheap. Conservation will have to be heavily encouraged. Instruction in new attitudes and efficient practices should be given throughout the nation. The public should become vitally interested in acquiring new habits of conservation.

Fusion and solar power research should be heavily funded, as a major breakthrough will be needed in one or both of these fields if we are to continue to have a plentiful source in the twenty-first century. Fusion power, if new technology makes it feasible, would be the ultimate resource. Its fuel, Deuterium, can be found in endless supply. It would be safer than present nuclear fission plants, with no long-lived wastes, and would eliminate the pollution resulting from present coal and oil generators. Solar power, if it can be efficiently turned to electricity, would also be an enormous unlimited supply of energy that could partially fill our needs.

The population explosion will have to be stemmed to give a longer time to solve the energy problem, and will ease the problem itself. A growing population will eat up more and more energy, while a declining one will use less. People will need to learn that birth control is necessary to balance the death control that technology brings. Parents of the future will have to be advised to limit their children for the betterment of all of humanity.

Pollution and the rapid use of valuable resources presented a major problem in the 70's that will increase in the 80's. An energy plan will have to take into account its effects on the environment. The movement already made to eliminate land, air, and water pollution should be continued, while thermal, sound, and other new pollutions are studied for adverse effects. Environmental standards should be more strictly enforced, but they should also be rational, and slightly flexible. A decrease in population would also help the environment. A smaller population would require less industry, agriculture, and urban area. This would reduce pollution and allow more land to become wild, helping other life to survive. Finally the move to preserve the environment should be worldwide and unified, representing not one group, but the best compromise between efficiency and cost.

Our foreign policy must change in the 80's as drastically as our relationships with other nations have recently. We cannot just "send in the marines," for they might provoke a more serious confrontation; or, as in the case with Iran, they might get hostages killed. At the same time we cannot afford to take the post-Vietnam stance of non-interference, allowing the Soviets and other nations to walk all over our interests. We must develop a stronger diplomacy and use other means than brute strength or a weak protest to press our views. One expedient would be to work for cooperation and uniformity of position among ourselves and our allies. Our position is seriously endangered when our non-military efforts are not backed by the words and actions of our allies. And, finally, we need to revitalize our secret intelligence agencies so that we will receive advance warning of threatening international situations.

A major challenge of the 80's is space exploration. The space shuttle will provide an expanded space program with reasonable costs. Perhaps in this decade the first non-astronauts will be able to visit this new frontier. It is up to the legislators of the 80's to provide funding for the space programs. They are not useless. Sometimes the technological spinoffs pay back the original investment. In addition, space should be explored for the sake of gaining knowledge and giving humans a new frontier where they can be uninhibited by the limitations imposed by the rapidly shrinking planet.

The 80's could offer the possibility of nuclear war or of a civilization breaking under the burden of problems it cannot bear. This decade could also be the beginning of a great new experience, of expansion, and of productivity. It will most likely be somewhere in between these two extremes. Unity and acceptance of compromise will be needed to obtain the best possible future. The trend toward special interest groups concerned with only one side of an issue must be curbed. The challenge of the 80's will be to create a unified front with an awareness of upcoming problems and the desire to reach the best solutions for the future of our nation.

The Challenge of the 80's

(By Lee Ann Dale)

At the dawn of the new decade, people not only look back at what was accomplished in the 70's, but also look ahead to the 80's and what they still hope to accomplish. It is evident that the 70's did not solve all of the problems of the world. I also do not see them all being solved in this present decade. I do, though, hope that many of them can be solved and others decreased in severity. Since energy is what makes "the world turn," I feel that its shortage is our main problem. It is a problem that affects all kinds of people in many different ways. The energy crisis can only be eliminated if all people work to do so. If it is not resolved, our way of life will be greatly altered; our economy may well be ruined as our dollars flow out of the country to buy foreign oil and as our dollars, then, are constantly devaluated; and our very position of leadership in the world will be threatened.

Only a few centuries ago, people's energy supply was made up almost entirely of wood and water. Wood was burned to heat homes and to cook food. Water was used to turn grinding stones. People had not yet discovered the vast underground reserves of petroleum. They had not discovered electricity. There were no air conditioners or refrigerators, no automobiles or airplanes, no plastics or nylon. Today our energy supply consists mostly of coal, petroleum, and natural gas. These, in turn, produce electricity, which runs machines, heats and cools buildings, and does many other jobs for us. We are rapidly using up these fuels. Petroleum is being used up so fast that some experts predict we may run out of it early in the 21st century. Because of this, many questions need to be answered. What will take the place of the diminishing sources of energy? What will produce the energy needed in today's world? What about tomorrow's world?

Because our major energy sources are running out, the influence in the 80's needs to be on alternate energy sources. Some sources of energy either are not being used at present or are used only in a limited way. How useful they may be still must be proved. This takes knowledge, time, and often that which is hardest to come by—money. If more money can be provided for research, it will put us one step ahead in beating the energy crisis.

Solar energy, energy radiated by the sun, is free, nonpolluting, and limitless. The problem is to collect and store this energy efficiently and economically. Despite these obstacles, solar energy still shows a growing promise as a major source of energy for the future.

Windmills have been used for hundreds of years to grind and pump water. More recently, they have powered small electrical generators. Researchers are developing and testing large windmills that could produce electric power on a large scale. Windmills could be used in places that have fairly strong and constant wind. This still does not help those areas with little wind. At the present, the cost to run them is high. What we need to do in the 80's is encourage more testing and development of this type of energy. As said before, this requires money which, in turn, requires a commitment from the American people.

Nuclear fission, the breakdown of uranium atoms, supplies about 2 percent of the world's and 4 percent of the United States' energy requirements. Early supporters of nuclear power believed that it would provide much energy at low cost. But many problems have developed. The cost of building nuclear power plants has soared. Now there is great public concern about the possibility of a spread of radiation following an accident in a nuclear plant. As yet there is also no sure, safe way to dispose of the burned-out fuel, which is radioactive. The supply of uranium on the earth is limited like the supply of fossil fuels. This example demonstrates the difficulty of finding an alternate source of energy that does not cause complications.

Even the trash and garbage that we throw out needs to be seriously considered during the 80's as an alternate energy source. It can be processed to make gas and oil. It can also be burned to heat buildings or to make steam for generating electricity. European cities have been turning wastes into electricity for many years. This technology has particular appeal for big cities that produce large amounts of wastes. Such cities are running out of places to put their garbage. Thus, this would help with the energy crisis and with the disposal of wastes.

Everyone can help conserve energy. Some actions may not come easily. They will demand new habits and attitudes from government, industry, and every individual whether young or old. Set home thermostats to 65°F for heating and to 77°F for cooling. Be sure all windows and doors are closed when heating or cooling a room or house. In regions where winter temperatures are low, install storm doors and windows, as well as attic and wall insulation. Use washing machines, clothes dryers, and dishwashers only with full loads.

An almost empty machine uses nearly as much energy as a full one. Turn off lights and appliances in empty rooms or when they are not needed. Install fluorescent lights. Keep in mind that a bus or train uses less energy per person than does a car. A carpool is a more efficient use of energy than driving alone. Small cars are better energy savers than large ones. Just think how much energy we can save by riding bicycles every once in a while.

We all need to be more energy conscious. Make it a part of your "New Decade Resolution." Everyone must work hard to meet this challenge. Everyone needs to ask: What am I doing to conserve energy? What more can I do starting today?

The Challenge of the 80's

(By Carolyn Doyle)

If you ask someone on the street what quality is most needed in the nation's leaders, the answer is likely to be, "Common sense." A booklet with this title, written in the 1700's, was responsible for the revolution which spawned our present system of government. However, it is important to point out that, as a new decade begins, simple "horse sense" may create more problems than it solves.

In these times—in any times—we need leaders with uncommon sense. The men and women who will guide the United States in a straight course in the '80's might have more than a practical bent of mind. It is critical that our leaders be able to foresee the long-range consequences of the policies that they create, and to act accordingly.

The energy dilemma faced by the U.S. is an important example of the crises which result when largely "common" and temporary actions are taken by our government representatives. Too few decision-makers in Washington took "the long view" in regards to this country's energy consumption as the '70's began. They failed to fully research the future pros and cons of solar energy, nuclear power, fossil fuel use . . . or the possibility of an energy shortage. If more uncommon sense, more future-thinking, had gone into energy legislation ten years ago, action might have been taken which would have prevented some of the energy problems we have all faced.

International disagreements between the U.S. and other countries are likely to increase in both number and importance over this decade. Our country must not "lose face" in the eyes of our world neighbors, either by appearing weak, or acting rashly and starting a war. As members of a powerful democratic nation, our leaders have a great responsibility; the U.S. must be both an example of a peaceful, freedom-loving country, and of a nation that will not tolerate grave acts of violence against its allies. The answer to this problem lies only partially in spending tax dollars on adequate defense for our country; the answer also lies in our elections. The people must elect the best possible representatives to office, and with their help and skill, the U.S. should never have to use its weapons.

The public is already starting to become aware of the fact that a pretty face does not a politician make. We have experienced some bad leaders, and the people do not want to repeat past mistakes. I predict a trend away from voters who simply read the newspaper the day before an election, or watch the candidates' advertisements on television before voting.

This means that politicians will place more importance in how they work, and their results as effective political leaders. If I can give one message to all elected officials, it is this; don't be so concerned with how you look to the public that you forget the solemn duties inherent in your office. America's great founders, the men who signed the Declaration of Independence, were criticized in their own time for doing the right thing. They risked, not only their reputations, but their lives to create this country. In the upcoming years, I think the voters will become much more concerned with how much their Congressmen care about them, and attach less importance to how attractive they may be, or how popular they are.

The '80's will doubtless see a re-kindling of the individualism and self-sufficience which were so prevalent in this country's early years. It is my hope that government will be responsive to the people's wishes.

One tax policy that is likely to be altered in the coming years is that of charging those with larger incomes larger percentages in taxes. This practice destroys two qualities greatly needed in America's people; incentive, and the desire to make good. It seems futile to work hard to make more money, only to have control over how less of it is spent. If some of government's responsibilities could once again become the people's, government spending would decrease, taxes would lessen, and citizens could directly support their country. The average American does not begrudge his taxes, but would simply like to be sure they are not used wastefully. Tax breaks could be given to those involved in activities which help to strengthen America, such as jury duty and neighborhood maintenance groups. Americans could directly support the charities of their choice if government was to require that a certain percentage of each person's taxes be contributed to worthwhile organizations, but left the choice largely up to the individual. Arrangements such as these would leave government free to concentrate on matters which are more definitely in its domain, such as judging the constitutionality of laws, and keeping our country safe and at peace.

The American people as a whole need to develop an attitude of "planning for tomorrow" in the 1980's. All phases of business and government will benefit from making their decisions with "one foot in the future." By planning for the future today, we live today so as to shape tomorrow closer to our ideal. This is what "the American dream" is all about.

THE REVENUE RECONCILIATION ACT OF 1980

Mr. BUMPERS. Mr. President, I rise to express my support for the Revenue Reconciliation Act of 1980. In particular, I want to address three major portions of the bill, the tax credit for royalty owners, the tax imposed upon the sales of real property held by foreign interests, and the imposition of an additional import fee of 40 cents per gallon on ethyl alcohol.

First, I am especially pleased to support the credit for royalty owners, whose royalty checks have been reduced by the windfall profit tax. I was a strong proponent of that tax, because it was a means of recovering a portion of the money extracted from the American public as the price of decontrolling the price of oil. That action was tantamount to a trillion dollar tax upon Americans to be collected and kept by the oil companies. The windfall profit tax was merely a device to make sure that at least some of the revenues resulting from decontrol were used for the common good. This tax, however, also was imposed upon royalty owners without regard to the size of their holding or the source of their oil.

For instance, the tax is imposed upon people earning royalties from stripper wells, which have long been decontrolled in recognition of the fact that their higher production costs would force their operators to cease production entirely if they did not get the higher decontrolled price. Thus, the decontrol of stripper production is in complete contrast to the subsequent decontrol of nonstripper production, which allowed all domestic production to receive the world price, as set by the OPEC cartel, not by the free market. That means that the nonstripper production would receive a price dictated neither by the cost of production or by a fair market value. Since the decontrol of stripper wells differs from the decontrol of nonstripper wells, the tax treatment of the proceeds should also differ, a fact which the Senate version of the windfall profit tax bill reflected.

Similarly, it would be just to distinguish between taxpayers on the basis of the amounts which they realize from the decision to decontrol nonstripper oil. Although royalty owners, as a class, benefit from decontrol, there are still many of them whose interests are so small that their benefit from decontrol is completely outweighed by the burdens which we all feel. They should not be classed with the oil companies who experience no added burden at all and whose benefits are beyond all comprehension.

Unfortunately, there is not sufficient time for the Senate to consider all these problems adequately and to devise a complete solution. The $1,000 credit for royalty owners is an important first step which provides immediate relief for the small royalty owners. It is just as important, of course, to recognize that it is only interim relief and that we must proceed to develop relief better designed to address the sort of distinctions which I have mentioned.

Second, Mr. President, I want to speak briefly in support of the tax imposed upon sales of real estate located in the United States and held by foreigners. Under the current law, nonresident foreigners are not required to pay taxes on such sales, which gives them a decided advantage in dealing in real estate and stimulates them to buy up American real estate. It is the sort of inequity which skews ordinary economics and causes our resources to be used in an uneconomic fashion. More important, of course, is the simple fact that American taxpayers are put at a disadvantage in bidding for land.

I introduced legislation at the beginning of this Congress which was intended to deal with this problem, and I am pleased to support the Finance Committee's version of the bill. Although I would have preferred a bill which taxes the gains from sales of all property, not just real property, I am aware of the difficulties attending such a broad approach, and thus it may await a later day. It is good to note that the bill before us imposes a flat rate of 28 percent which would be the maximum capital gains rate. This is important because it recognizes that many nonresident foreigners have no U.S. income aside from sales of real estate, so that they would pay a very low tax in the absence of this flat tax rate.

Finally, Mr. President, I mention my support for the 40-cent-per-gallon duty on imported ethyl alcohol. This duty effectively offsets the tax credit available to alcohol mixed with gasoline to form gasohol. Without the duty, foreign-made alcohol would receive the credit which was intended to encourage our domestic production of alcohol for the use of gasohol. It makes little sense to exchange a balance-of-trade deficit arising from oil imports for a deficit in alcohol imports plus extending a subsidy to foreign producers of that alcohol.

Mr. President, I ask unanimous consent that an article entitled "Windfall Tax on Little Oil" from the Wall Street Journal on July 7, 1980, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Windfall Tax on Little Oil

(By Brenton R. Schlender)

Kilgore, Tex.—John A. Douglass used to spend his afternoons in a rocking chair in his front yard here, leisurely teetering in unison with the grimy orange oil well pumper that see-saws in his back yard.

Now, thanks to a recently enacted tax, the wispy, 75-year-old retired railroad track foreman spends many of his afternoons pushing a lawn mower for a few dollars a day, trying to recoup part of the $169 in "windfall profits" that the government deducted from the $486 March–April royalty check he received for his back yard well.

That $169 may not sound like much, but to Mr. Douglass and thousands of widows, retirees and others on fixed incomes, the so-called windfall profit tax often means the difference between subsistence and hard times. Only now are they realizing that, like the big oil companies, they are targets of the stiff tax, and they're getting plenty mad.

Hardship cases like Mr. Douglass abound among the estimated two million royalty owners who received proceeds from a tiny fraction of the oil found beneath their property in exchange for drilling and production rights. President Carter's windfall tax was touted to leech $227 billion in "excess" revenues from Exxon, Mobil and the other oil behemoths as price controls are gradually lifted. But it has ended up fleecing small royalty owners as well, taking as much as a third of the lease money they expected to collect from the oil companies.

"We're talking about people who have trouble scraping up $12 for medicine," asserts James L. Stafford, founder of the one-week-old, 1,500-member National Association of Royalty Owners. "You can find someone who absolutely depends on royalty payments in every nursing home in Oklahoma."

OWNERS' TAX

Royalty owners are taxed as if they were big oil producers because they're paid royalties based on how much of the oil beneath their land is produced, usually one-eighth of the well's total production. This kind of agreement was developed years ago as a way to match the lease rate with the value and quantity of oil produced by a given well. Prior to the windfall tax, the only federal assessment against royalty income was the royalty owner's personal income tax.

Now royalty owners and oil companies alike are taxed at a rate of 30% to 70% of the difference between the market value of their oil (up to $41 a barrel for some types) and the base price of crude oil as determined by the government (about $15 to $16 a barrel). The tax rate depends on a maze of considerations, including age and productivity of a well.

Even before the tax, most royalty owners received less than $600 a year in payments mainly because over the years mineral rights for most of the country's 530,000 oil wells have been divided among several heirs to an estate. Hence the typical one-eighth royalty interest in a given well usually is divided into tinier fractions. Mr. Douglass, for example, shares the one-eighth stake in his well's production with two relatives.

Furthermore, since more than two-thirds of the wells in the country are classified as "stripper" wells that produce less than 10 barrels of oil each day, the average monthly royalty payment rarely exceeds $300 even for those who hold all the royalty interest in a particular well.

What turns many royalty owners livid is the fact that the tax in effect reinstates the controls on the price of stripper-well oil that were lifted in 1976, allowing prices to float with world prices. Those prices had bloated to about $40 a barrel by last March.

When the new tax began flexing its jaws that first month, it champed about $15 a barrel off world price. That means stripper well royalty owners received about $25 a barrel for oil in March that would have fetched about $40 a month earlier.

Consequently, a multitude of royalty owners who use their modest oil-lease income to meet everyday expenses are irked at being treated as if they were big oil companies.

"We aren't rich, we never were rich and we'll never be rich, especially not now," complains 62-year-old Doyle Caldwell, a royalty owner from Thomas, a farming community in western Oklahoma. He and his wife retired two years ago from running a custom wheat harvesting company and returned to their home town to dabble in farming and to raise a few horses.

The Caldwells were counting on $1,000 a month royalty checks for the two wells on their property to supplement their meager $900 annual farm income. Indeed, the royalty payments were used as collateral on a bank loan to rent pasture and crop land and to buy vehicles, equipment and seed. But when the Caldwells found their March royalty check cut by one-third, they had to return to the bank and "borrow to pay off notes we'd already borrowed once before."

"All we heard was that the big oil companies were the ones being taxed, and a lot of small royalty owners just assumed they wouldn't be," explains Jack Dickey, president of the First National Bank in Thomas, and the Caldwells' banker. He concedes "we obviously went to sleep" when the tax was passed.

Now that owners have awakened to discover that their royalty checks contain the hefty new line labeled "windfall profit tax," they're in an uproar, scrambling to organize lobbying groups and pestering lawmakers.

Mr. Stafford's fledgling National Association of Royalty Owners uttered its first squawk at an organizational meeting and rally in Oklahoma City June 21 that drew more than 600 royalty owners from several states. Two days earlier, the West Texas Royalty Owners Association was born at a barbecue in Snyder, Texas, that attracted 2,000. And in late May, hearings hosted in Great Bend, Kans., and in Oklahoma City by Republican Sen. Robert Dole of Kansas and Sen. David Boren, an Oklahoma Democrat, lured a total of 4,000 angry royalty owners.

INDIVIDUAL INTERESTS

"If we'd had this kind of unity in the first place, we might not be in this predicament," says Mr. Stafford, a management consultant and former public information officer of the Department of Transportation, who resides in Ada, Okla. "When the original bill was being debated, the big oil companies looked after their interests and the independent producers looked after theirs, but nobody looked after ours."

Mr. Stafford's organization is the strapping stepchild of a smaller, Dallas-based group called "Widows on the Warpath." Mrs. Gwynne Gazzaway, the 53-year-old widow who founded the group last year, led pilgrimages of widows to Washington and mounted advertising campaigns against the original tax bill, "but nobody paid much attention until they got their royalty checks in March," she says.

Now Mr. Stafford and his wife work as late as 4 a.m., sifting through mail from seething royalty owners. He's rounding up support for an amendment to the tax law, sponsored by Sens. Dole and Boren, that would exempt royalty owners whose wells fall into the stripper category.

And they seem to be making some headway. On June 25, the Senate Finance Committee approved a measure that would grant royalty owners a tax credit of up to $1,000 for windfall taxes paid during 1980. If it passes Congress, however, the "stopgap amendment," as Mr. Stafford calls it, won't do much to relieve those owners who don't even make enough money to pay income taxes. "Sure, it's a ray of hope," he says, "but all it really amounts to is tossing us leftovers to silence our dogs. We won't call off our dogs until we get some constructive relief."

Not everyone sympathizes with the fired-up royalty owners. "The way crude oil prices have tripled since 1978, I'm sure the little old lady on Social Security is getting at least as much money as she got a year ago, even after the tax," asserts John D. Emerson, vice president of Chase Manhattan Bank's petroleum division.

And Larry Baskir, an aide to Democratic Sen. Bill Bradley of New Jersey, the legislator who helped nurse the original windfall tax bill through the Senate, says there's no way the Senate would reopen debate on the tax "even for widows and orphans," unless the amendment would result in more oil production.

All Mr. Douglass wants is to be able to repaint the peeling, five-room bungalow he's called home for 52 years. "I wonder how many of the big oil companies have to mow lawns to make ends meet?" he asks. "All Exxon has to do to make more money is raise the price of gasoline, but at my age there ain't much I can do."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? There being no further morning business, morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE RECONCILIATION ACT OF 1980

Mr. HOLLINGS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The reconciliation bill has not yet been laid before the Senate. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2939) to provide for revenue reconciliation as provided by section 310 of the Congressional Budget Act of 1974.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the law, there is a 20-hour time limitation on this matter.

Who yields time?

Mr. HOLLINGS. The time is under the control of the distinguished Senator from Louisiana.

Mr. LONG. I yield to the Senator from South Carolina such time as he requires.

Mr. HOLLINGS. Mr. President, on July 2, the Senate Finance Committee reported the revenue reconciliation bill for 1980 required by the budget resolution Congress adopted on June 12, 1980.

On the same day, I inserted in the RECORD for the benefit of all Members an extensive explanation by the Finance Committee of that bill. It appears at pages 18531 to 18547 of the CONGRESSIONAL RECORD for July 2. In addition, the Finance Committee print explaining this revenue reconciliation bill is on each Senator's desk.

This bill is a companion to the reconciliation savings bill the Senate passed on June 30. With the passage of this bill, the Senate will have taken legislative action on both the spending and tax sides to reduce the potential 1981 budget deficit by $10.6 billion—$6.4 billion on the spending side and $4.2 billion on the revenue side.

Under the revenue reconciliation bill, the Federal Government would receive another $4.2 billion in revenues during fiscal year 1981, principally by the continuation of certain taxes otherwise scheduled to expire, and by the acceleration of tax payments which are due under existing law. Individual and corporate income tax rates would not be amended.

The bill also makes a number of miscellaneous changes in revenue legislation, none of which affect the rates paid by the average taxpayer.

Consistent with our practice on the spending reconciliation bill, the major responsibility for the floor management of this revenue reconciliation bill will be undertaken by the Committee on Finance.

I want to take this opportunity to commend the members of the Committee on Finance, and particularly its distinguished chairman, Senator LONG, who have shown outstanding fiscal responsibility in their work on these reconciliation measures.

No man has done more this year to help hold down deficit spending and to eliminate waste in Government than Senator LONG in his work on these bills and on legislation the Senate has previously passed dealing with reforms in unemployment compensation and disability insurance. The country owes a debt of gratitude to Senator LONG, on which these words of praise are just one installment.

Mr. President, I am glad to yield to the distinguished chairman of the Committee on Finance.

Mr. LONG. Mr. President, I thank the distinguished chairman of the Budget Committee for those kind words, and I hope very much that I can merit them during the remainder of this Congress.

As the Senator from South Carolina has pointed out, we have before us a measure reported by the Committee on Finance by instruction of the Budget Committee. This is a part of the budget process. It is not necessarily a tax measure that the committee would generate on its own motion. This is a part of the compliance and the cooperation that the committees owe the Budget Committee in their effort to balance the budget, or, if they cannot balance the budget, at least to exercise fiscal restraint and fiscal responsibility with regard to the Nation's finances.

The budget resolution includes a requirement that the Finance Committee report legislation increasing fiscal year 1981 revenues by $4.2 billion. This bill embodies the committee's recommendation.

Many Senators on the Finance Committee doubt that it is appropriate to have a tax increase in 1981. In fact, I think that a majority of the committee would support a tax cut for 1981, and this morning the committee began hearings on that subject. However, despite this feeling, the committee did feel an obligation to support the budget process, including reconciliation. The tax increases included in this bill are designed to have as small an adverse economic effect as is possible, while increasing revenue by more than $4 billion. I think that the committee's recommendations are successful in achieving this goal.

The revenue increasing provisions in the bill are the following:

First. A tax on gains from U.S. real estate realized by foreign investors.

Second. Imposition of social security and unemployment taxes on the employee social security tax paid by employers.

Third. A 1-year delay in the phaseout of the telephone excise tax.

Fourth. Extension of estimated tax requirements for individuals and corporations to the minimum tax.

Fifth. An increase in the proportion of the corporate income tax to be covered by estimated tax payments from 80 percent to 85 percent.

Sixth. A requirement that large corporations cover at least 50 percent of their current year's tax liability with estimated tax payments if they elect the exception to the general estimated tax rules allowing them to base their estimates on the prior year's tax liability.

Seventh. A 4-cent increase in the tariff on alcohol imported for use as fuel.

The bill also contains a very important provision correcting a mistake we made in drafting the windfall profit tax. Under that tax small royalty owners are taxed just like major oil companies, even though many of these people are heavily dependent on small royalty checks to make ends meet. Therefore, to relieve the burden of the tax on small royalty owners, the bill contains a $1,000 tax credit for royalty owners against their 1980 windfall profit tax liability. Most of the modest revenue loss from this provision is offset by a temporary reduction in the inflation adjustment under the tax.

I ask unanimous consent to have printed in the RECORD a summary of the provisions in the bill.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF REVENUE RECONCILIATION BILL

TAX TREATMENT OF GAIN ON SALE OF U.S. REAL PROPERTY BY FOREIGN INVESTORS

Under present law, capital gains realized by foreign investors on the sale of U.S. property are generally not subject to U.S. tax unless the property is held in connection with a U.S. trade or business.

The committee recommendation would subject foreign investors to tax on gains on the sale or other disposition of U.S. real property. Foreign investors also would be taxed on gains realized from the sale or exchange of an interest in a corporation, trust, or parnership formed or availed of to hold U.S. real property interests. Reporting requirements would be established to identify when taxable transactions had occurred. The tax would be collected through withholding requirements and related enforcement provisions.

The provision would be effective for sales or other dispositions of U.S. real property interests occurring on or after January 1, 1980. However, to the extent that a provision conflicts with a U.S. treaty obligation, the provision would not take effect until after 1984. Also, the provision would not apply to sales made pursuant to written contracts which were binding at all times after December 6, 1979.

INCLUSION IN WAGES OF SOCIAL SECURITY TAXES PAID BY EMPLOYERS

The bill provides that an employer payment of an employee's social security tax liability (except with respect to agricultural labor and domestic service) is to be includible in wages for purposes of the social security tax, the unemployment tax and social security benefits. Except in cases of employment by certain State and local governmental units, the provision applies with respect to remuneration paid after December 31, 1980. The provision applies with respect to payments by certain State or local governmental units after December 31, 1983.

TELEPHONE EXCISE TAX

Under present law, the excise tax on communications services is scheduled to phase down from 2 percent in 1980 to 1 percent in 1981 and to expire in 1982. The bill delays the phaseout by one year, so that the tax rate will be 2 percent in 1981 and 1 percent in 1982 and the tax will expire on January 1, 1983.

ESTIMATED INCOME TAX PAYMENTS

Under present law, corporations are generally expected to pay 80 percent of their current year's tax liability in quarterly estimated tax payments during the taxable year. However, they are exempt from the penalty tax for underpayment of estimated tax if their estimated tax payments equal 100 percent of the prior year's tax liability.

The bill raises the amount of the current year's corporate income tax which must be covered by estimated tax payments from 80 percent to 85 percent. Also, corporations whose taxable income in any of the 3 preceding taxable years exceeds $1 million are required to make estimated tax payments of at least 50 percent of the current year's tax liability regardless of their prior year's tax liability.

For both individuals and corporations, the minimum tax is not subject to estimated tax requirements. The bill subjects both the add-on minimum tax for corporations and individuals and the alternative minimum tax for individuals to the same estimated tax requirements as the regular income tax.

INCREASED DUTIES ON ALCOHOL

There is an exemption under present law from the 4-percent-per gallon Federal excise taxes on gasoline, diesel fuel, or other motor fuels for fuel which is at least 10 percent alcohol (other than alcohol derived from petroleum, natural gas, or coal). This exemption applies through December 31, 1992. When fuel is not subject to the excise tax, or to the extent that fuel contains more than 10 percent alcohol, a tax credit equal to 40 cents per gallon of alcohol is available. Both the credit and the exemption apply without regard to where the alcohol was produced.

The bill increases the duty on imported ethyl alcohol (not used as a beverage) by 40 cents per gallon. This duty increase would offset what amounts to a 40 cents per gallon subsidy now available to imported alcohol as a result of the excise tax exemption and the 40-cent tax credit. This provision would encourage U.S. alcohol production for fuel, aiding U.S. national security.

WINDFALL PROFIT TAX CHANGES

The bill provides for a credit or refund for royalty owners (other than most corporations and trusts) equal to the first $1,000 of windfall profit tax on royalty oil removed during calendar year 1980. The credit may be claimed during the first part of 1981. In the case of a family, the $1,000 limit on the credit applies to a husband, wife and their minor children as if they were one taxpayer. A corporation treated as a qualified family farm corporation for purposes of the credit may claim the $1,000 credit; however, the shareholders of the qualified family farm corporation will have to reduce their personal credit in proportion to their interest in the corporation.

In calculating the amount of any deduction of the windfall profit tax for income tax purposes, the royalty owner must reduce the amount of the otherwise available income tax deduction by the amount of the credit allowable against the windfall profit tax for which the deduction would otherwise be claimed. The $1,000 credit will not affect withholding or other tax payment requirements imposed by the Crude Oil Windfall Profit Tax Act of 1980.

The revenue loss in fiscal year 1981 attributable to the credit is offset by the proposed increase in the duty on imported alcohol and by a reduction of the otherwise applicable adjusted base price for each barrel of oil removed during fiscal year 1981. This reduction will be made by subtracting from the otherwise applicable base price an amount equal to 0.8 percent of that price, which is equivalent to a reduction in the inflation adjustment by 0.8 percent.

TABLE 1.—ESTIMATED REVENUE EFFECTS FROM PROVISIONS FOR REVENUE RECONCILIATION RECOMMENDED BY SENATE FINANCE COMMITTEE

[In millions of dollars]

Provision	Fiscal year				
	1981	1982	1983	1984	1985
1 Tax gains from sale of U.S. real estate by foreigners	182	119	130	143	157
2 Tax employer payment of employee social security tax	45	77	119	217	328
3 Changes in excise tax on communications services (2 percent in 1981 and 1 percent in 1982)	358	570	193		
4. Require estimated payments on minimum tax	500	35	38	40	45
5 Increase proportion of corporate income taxes to be covered by estimated payments from 80 percent to 85 percent	901	139	135	116	119
6. Require large corporations to be at least 50 percent current with estimated payments	2,239	348	334	288	294
7. 40-cent-per-gallon tariff on imported alcohol	63	23	4	1	
8. Windfall profit tax credit for royalty owners	−190				
9. Modification of windfall profit tax inflation adjustment	124	−15			
Total	4,222	1,296	953	805	943

Mr. LONG. Mr. President, at this moment I do not see another speaker; therefore, I ask unanimous consent that I might suggest the absence of a quorum and that it be charged equally against both sides.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that temporarily?

Mr. LONG. Yes.

Mr. ROBERT C. BYRD. Mr. President, I believe under the law the majority and minority leaders have the time, or their designees. So I designate Mr. Long to control the time on this side.

I assume Mr. Baker will designate someone to control the time on his side.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I understand under the arrangement at hand that I control time in opposition. I yield control of that time to the Senator from Kansas (Mr. Dole).

Mr. LONG. Mr. President, I ask unanimous consent that there be a quorum call to be charged equally against both sides. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the reconciliation process was initiated to balance the Federal budget for fiscal year 1981. The Finance Committee reluctantly agreed to raise $4.2 billion in additional taxes to achieve this objective, even though many members of the committee were already alarmed by the $100 billion in additional Federal taxes already proposed by the administration. I ask unanimous consent to have printed in the Record a table showing inflation and other tax increases for fiscal year 1981.

There being no objection, the table was ordered to be printed in the Record, as follows:

Tax increases for fiscal year 1981 under the President's revised budget

NEW TAXES

[In billions]

Taxflation (inflation moving people into higher brackets)	$18.0
Social security tax increases (of this amount, $16 billion is due to changes in law enacted in 1977)	25.4
Windfall profit tax (administration estimate: Joint Committee estimates $18 billion)	14.4
Cash management initiatives	4.3
Independent contractors	0.6
Foreign tax credit	0.7
Tax exempt mortgage bonds	1.1
Airport trust fund taxes	0.9
Railroad retirement tax	0.3
Oil & hazardous substance cleanup	0.2
Withholding on interest	3.4
Oil import fee	12.6
Subtotal	81.9
EFFECTS OF REAL GROWTH AND INFLATION	
Other excise taxes	*6.7
Estate and gift taxes	*0.2
Customs duties	*0.5
Miscellaneous receipts	**14.0
Total	104.9

* There are no new tax proposals in these areas. These increases in estimated receipts from F.Y. 80 to F.Y. 81 are caused by a combination of inflation and real economic growth.

** This includes general growth in tax revenues from an expanding tax base (economic growth and from inflation). The apparent but illusory "growth" in the economy as inflation raises prices and wages and also increases nominal tax revenues even at the same rates. This is distinct from taxflation, which results from people moving into higher brackets and being taxed at higher rates.

For purposes of the above list, it is assumed that:

(1) Administration receipts proposal (e.g., cash management, import fee) would not take effect before F.Y. 1981; and

(2) Windfall profit tax is measured as though it first took effect in F.Y. 1981.

These assumptions are made to dramatize the real tax increases the administration advocates: otherwise tax increases in F.Y. 1980 would tend to understate the growth in the tax burden caused by Carter administration initiatives. For example, the import fee (and gasoline tax) was projected to collect $3.5 billion in F.Y. 1980 and $12.6 billion in F.Y. 1981. It would understate the tax increase effect of this proposal to say the increase is only $9.1 billion in F.Y. 1981.

Total Federal receipts first reached $100 billion in 1963. This year they will increase by more than that amount.

Mr. DOLE. Also, many Members felt that in the midst of a severe recession would be the wrong time to impose greater tax burdens to further drag down the economy.

Monday President Carter sent the Congress his midsession review of the economy. The data contained in the report were worse than expected in every respect. The extent to which we are in the midst of a severe recession becomes quite clear. The budget deficit for fiscal year 1980, which we estimated last March at $36 billion, has grown to $61 billion. It is possible that by the time this fiscal year is over, we will have the biggest deficit in our history. The 1981 budget, which we were told was balanced just a few weeks ago, is now estimated to be $30 billion in deficit. Some have suggested that by this time next year that $30 billion figure may have grown to over $50 billion.

In view of the fact that the budget will be woefully out of balance and that we are experiencing a major economic trauma, serious questions are raised as to the advisability of enacting this measure.

This measure, however, has several positive provisions. For example it would provide some modest relief to small royalty owners. Under the windfall profit tax bill royalty owners have been slapped with the same heavy tax rates as were imposed on major companies. This has caused an extreme hardship among the approximate 2 million small royalty owners across the United States. Most of these royalty owners are farmers, small land owners and retired persons—hardly oil profiteers. The modest $1,000 tax credit included in this bill will relieve some of the hardship but will not significantly reduce the total collections of windfall profit tax.

Mr. HATCH. Mr. President, I urge my colleagues to oppose this revenue-raising reconciliation bill. I did not think that this reconciliation provision was appropriate even under the assumptions of the first budget resolution. Because the Budget Committee could not exercise enough spending restraint to bring the fiscal year 1981 budget into balance, it decided that taxes would have to be raised to achieve the desired balance. But even as we were debating the first budget resolution, most of us knew that the budget balance was a paper charade. We knew even then that the budget would be out of balance by tens of billions of dollars.

This week the official figures have been released from both the administration and the CBO. They show that the budget will be at least $30 billion in deficit for fiscal year 1981, even without a tax cut, and many private economists expect the deficit to be worse. Mike Evans of Evans Economics predicted yesterday before the Budget Committee that the deficit would be at least $45 billion even without a tax cut. We no longer need to play this tax raising game to participate in a balanced budget charade.

In addition, the economy is in one of its most severe recessions since the Great Depression. This is no time to impose more damage on the private economy by increasing taxes. The most pernicious provisions of the reconciliation bill are those referred to as the cash management provisions, which require businesses and individuals to accelerate tax payments to the Treasury. This is in effect an increase in their tax rate, since money previously available for use by the businesses during the year will instead be available for the Government's use, so that the Government can earn the yield from that money instead of the company. These cash management provisions raise more than $3.6 of the $4.2 billion required to be raised by this reconciliation bill.

In all of our recent discussions of the economy, everyone has been talking about the need for various kinds of corporate tax cuts to stimulate productivity and investment. Yet while all the rhetoric is about some uncertain business tax cut in the future, we are indirectly raising taxes on business in this bill.

In recent months we have seen the largest 2-month increase in history in the unemployment rate, the lowest level of auto sales in 20 years, the lowest level of sales of single family homes in 17 years, the lowest level of housing starts in 5 years, the lowest level of steel production in 5 years, and the lowest level of average weekly earnings in 19 years. This is no time to be imposing new taxes on the American people and on the productive sector of the economy, no matter how cleverly concealed as merely "cash management" proposals. We must stop basing our economic policy on how much revenue it produces for the Federal Government instead of what is good for the private economy. We should start now by rejecting this bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT

Mr. LONG. Mr. President, I believe this has now been cleared on both sides of the aisle. Therefore, I ask unanimous consent that further debate on the pending resolution be limited to 10 hours, to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Unless someone wishes to make an address at this point, Mr. President, and knowing that there are some who want to offer amendments and make speeches, I ask unanimous consent that I may suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Burdick). Without objection——

Mr. HART. Mr. President, reserving the right to object, I promised the distinguished chairman of the Committee on Finance that I would protect his rights to the floor.

The PRESIDING OFFICER. The Senator cannot reserve the right to object. He either has to object or not object to a quorum call.

Mr. HART. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that my remarks be considered as given in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. Heflin's remarks are printed under Routine Morning Business.)

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I ask the distinguished chairman of the committee whether we are waiting for anyone at this time.

Mr. LONG. The Senator from New Jersey may proceed.

REVENUE RECONCILIATION ACT OF 1980

The Senate continued with the consideration of the bill (S. 2939).

UP AMENDMENT NO. 1409

(Purpose: To provide an adjusted gross income limitation on the credit against the windfall profit tax)

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. Bradley), for himself, Mr. Moynihan, and Mr. Ribicoff, proposes an unprinted amendment numbered 1409.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, beginning with line 20, strike out all through page 33, line 23, and insert in lieu thereof the following:

"(c) Limitations on Credit or Refund.—

"(1) In general.—The aggregate amount which may be credited or refunded under subsection (a) with respect to any qualified royalty owner shall not exceed an amount equal to the excess (if any) of—

"(A) $1,000, over

"(B) an amount equal to the amount which bears the same ratio to $1,000 as the adjusted gross income of the qualified royalty owner in excess of $30,000 bears to $10,000.

"(2) Allocation among taxpayers.—

"(A) Allocation within a family.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)), the amount determined under paragraph (1) shall be reduced for each such individual by allocating such amount among all such individuals in proportion to their respective qualified royalty production.

"(B) Allocation between corporations and individuals.—In the case of an individual who owns any stock in a qualified family farm corporation, the amount determined under paragraph (1) shall be reduced by the amount which bears the same ratio to the amount of the credit or refund allowable to the corporation under this section as the percentage of shares owned by such individual bears to all shares of the corporation.

"(C) Allocations between corporations.—If at any time after June 24, 1980, any individual owns stock in 2 or more qualified family farm corporations, the amount determined under paragraph (1) shall be reduced for each such corporation by allocating such amount among all such corporations in proportion to their respective qualified royalty production.

"(3) Adjusted gross income defined.—

"(A) In general.—For purposes of this subsection, the term 'adjusted gross income' means the adjusted gross income (determined without regard to sections 85, 105(d), and 280D) of the qualified royalty owner for his first taxable year ending after February 29, 1980.

"(B) Special rules for families.—In the case of an individual who is a member of a family (within the meaning of section 4992(e)(3)(C)), the adjusted gross income of such individual shall be equal to the sum of the adjusted gross incomes of all members of such family.

"(C) Special rule for corporations.—In the case of a qualified family farm corporation, this subsection shall be applied by substituting the term 'taxable income' for the term 'adjusted gross income' each place it appears.

Mr. BRADLEY. Mr. President, this amendment is offered on behalf of myself, Senator Moynihan, and Senator Ribicoff. The amendment would phase out the credit for royalty owners provided in the Finance Committee bill for taxpayers with adjusted gross income above $30,000. The phaseout would be accomplished by reducing the $1,000 credit provided in the law at this time by $1 for each $10 by which a qualified royalty owner's adjusted gross income exceeds $30,000.

Thus, the entire credit would be phased out when the royalty owner's adjusted gross income reaches $40,000.

The amendment would do nothing to the way qualified family farm corporations are treated under the bill presently.

The amendment would work as follows: A qualified royalty owner with $30,000 of adjusted gross income and a thousand dollars of windfall profit tax paid on quality royalty production would be entitled to a credit equal to the entire amount of the windfall profit tax paid. However, as the individual's adjusted gross income increases above $30,000, the credit would be reduced.

Thus, an individual with $35,000 of adjusted gross income, computed by the rules of this amendment, and $1,000 windfall profit tax paid on qualified royalty production would be entitled to a credit of $500.

Such an individual, in addition, would be entitled to an income tax deduction for the $500 of windfall profit tax for which no credit was allowed.

Even in the case of a family, the credit phaseout could be computed relatively easily. For example, if a family had a combined adjusted gross income of $36,000 and the production of qualified royalty oil is owned 50 percent by the husband, 40 percent by the wife, and 10 percent by a minor child, the phaseout of the credit would operate as follows: The family's credit would be limited to $400. That is the $1,000 credit minus the $600 reduction. This $400 amount would be allocated to each family member in proportion to their share of production.

Thus, the husband's credit limit would be $200, the wife's $160, and the child's $40.

Mr. President, this is a reasonable amendment. In the Finance Committee, we debated this briefly; and it was conveyed to the members of the committee that this is a bill to protect the very small income royalty owners, such as widows and low-income people who happen to get that royalty check in the mail and will be denied significant amounts of money because of the windfall profit tax.

All we are saying in this amendment is, "Indeed, let's give that tax credit only to those people who make under $30,000 in income and phase it out gradually between $30,000 and $40,000 in income."

Mr. President, 34 percent of all tax returns that were filed with royalty income were over $30,000, and 66 percent of all royalty income came from incomes in general over $30,000.

Let us make no mistake that recipients of royalty income are worse off today than they were a year ago, even with the windfall profit tax. We have seen an increase in the world price of oil of 110 percent in less than a year. The windfall profit tax is a tax only on the difference between what the standard price was a year ago, adjusted by inflation, and what the world price is today. For example, $17 oil would be at a world price today of $30, $35. The 60 percent windfall profit tax is only on that difference.

So, Mr. President, this is a reasonable amendment. It would generate 84 million more dollars for the Senate in this budget reconciliation bill. We would be that much ahead of the game.

Mr. President, I hope that my colleagues in the Senate will recognize that what we really have arrived at here is a reasonable compromise position. It was not the intention of those of us who were strong advocates of the windfall profit tax to hurt those individuals who did not have much income and who depended on royalty income for their livelihoods. This amendment simply says that we want to be consistent with that purpose and rectify perhaps, in my judgment, the unintended outcome of the action of the Finance Committee earlier this month when we provided the $1,000 income tax credit for royalty income for all royalty owners and all types of oil.

Mr. President, I am pleased to be joined in this amendment by my colleague from New York. We worked extremely hard during the entire windfall profit tax matter. We passed it last April 2. We went through 11 weeks of Finance Committee markup. We had Senate debate for 4½ weeks. We had two filbusters. We had a conference of 11 weeks. He was a very strong member of that conference. We took more than 40 votes in committee and 58 votes in the Senate before this bill was passed.

So I hope that before we turn the pages back to prewindfall profit tax for all income earners, we will pause and say that the benefit of this income tax credit should go only to those individuals who truly are needy and not to individuals who make more than $40,000 in income and do not need this income tax credit.

I am pleased to yield to my colleague from New York, Senator MOYNIHAN, for his comments about this amendment.

Mr. MOYNIHAN. Mr. President, I thank my distinguished friend and colleague and neighbor, the Senator from New Jersey, whom I join in this matter.

At the outset, I express my disappointment that we are again debating the windfall profit tax and the whole subject of energy, which consumed 3 years of the attention of this body in one form or another. The votes in the Finance Committee have been described by the Senator from New Jersey. There were votes on the floor and a prolonged and difficult negotiation with the House of Representatives in the conference committee, which lasted all last winter, or so it seemed to those of us who were members of that committee. And in the end we resolved this matter in a way which won the support of both bodies.

We agreed that we would take the very difficult transition to the world price of energy. In the course of doing this there would be very heavy burdens on low-income individuals in this country, on regions without oil resources, or energy resources generally. And we agreed that we would regain some of the windfall profit, some part, and devote it to specific purposes of tax reduction, aid to families with dependent children, and aid to low-income persons for their heating costs.

This was a large enactment, seen as such and understood as such. At long last an issue was resolved. So with what surprise, concern, and a measure of dismay did we find the matter reopened suddenly as part of the reconciliation process imposed upon the Finance Committee by the Budget Committee which had as its purpose the necessary raising of another $4.2 billion in revenues.

Mr. President, I call the attention of the Members of the Senate to the committee print with which we are dealing here. It has as its title "Revenue Increases." "Revenue Increases" is what it says. It says "Recommendations of the Committee on Finance required by the reconciliation process," a painful and necessary matter in which we go down through eight increases in taxes in one form or another.

One, for example, is in effect an increase of the telephone tax which was to be phased out and will not phase out, a tax every American pays. The increase would come to $358 million this year. Every American who uses the telephone pays it. The increase will be $570 million next year. And there are other taxes of this kind. There are eight tax increases, not the happiest exercise of any committee, not at a time when we are in fact actively concerning ourselves with tax reductions.

We had a long hearing this morning with Secretary Miller in that regard, and the Senate Democratic majority has resolved to come up with a tax cut for the country generally by the end of the year.

But here we are in tax increases. And what do we find in the middle of this tax increase but a tax cut, a tax cut for the most surprisingly narrowly-defined population and one to which the U.S. Government has already legislated benefits of an exceptional kind.

There is one basic fact, one number which we would ask the body to understand, and that is that in the lower tier oil which we are dealing with here, there was a ceiling of $5.91 a barrel in May of 1979, and as a result of oil decontrol, the price will move 15 months from now to $36 or more per barrel. That is an increase in price in the neighborhood of between 600 and 700 percent, a sixfold to sevenfold increase in a 3-year period. All of that profit will go, in the first instance, to the owners of these properties and then a portion of it will be taxed, just a portion of it, not the whole of it in the least.

In the history of happy circumstances for investors, there cannot have been such an increase in the value of property brought about by an international monopoly, an international cartel, if I may correct the record, an international cartel which the U.S. Government has been powerless to oppose or to break, to which in the end we have, in effect, submitted, letting the prices of our own resources go to that same cartel level. It is a cartel. Were it to exist as an arrangement between American firms it would be illegal. It would not be tolerated. The laws of this country for a century would strike it down forthwith. American oil producers would not have been able to do it. We have, in effect, submitted to the exactions of OPEC upon this economy. But we have also asked those Americans who have benefited as individuals from the loss of the Nation to share a little bit of the windfall profits, and we thought that matter was resolved.

Then to our very great surprise we found it was not and suddenly, in a measure designed to increase revenues, there is a special provision No. 8, the windfall profit tax credit for royalty owners.

Mr. President, we are going to hear that a very great many of these royalty owners are, in fact, very small holders and that their income is not large. It will be much larger than it was going to be before this legislation was enacted, before decontrol took effect, but it will be alleged, it will be contended, it will be pointed out, that many of these oil well owners are not large or are persons who own a small interest in an oil well, and it will be accurately pointed out.

It is the nature of the development of the oil fields of the Southwest, I think in the main, that a great many small farmers found that there were wells that could be profitably produced on their properties but that they did not, in fact, produce large amounts of oil, or in the normal breaking up and fragmentation of property, many persons ended up with small interests. Those interests are much more valuable today than they were 3 years ago, but, nonetheless, even so, they are small.

So the Senators from New Jersey and from Connecticut, and I, wishing to compromise, proposed that the benefits under this special credit start phasing out when income has reached $30,000 and disappear at $40,000, well up into the upper 20 percent of the American income distribution.

If there is any claim here at all it is the claim that these persons, although they benefit just as much as anybody else, can use the extra money. There are few families that could not find uses for extra income, but certainly if there is an issue of social equity here it has to do with low-income families. Not many families earning $35,000 a year would be regarded as low-income families. Not many families with property interests in oil wells would be regarded as low-income families, whatever their income.

But as a measure of the population

with which we are dealing I would note that almost half the annual cost of this legislation would benefit persons with incomes above $30,000. We will hear a good deal about the deprived condition of the owners of oil wells. I do not in any way question it, but the circumstantial evidence, if I may say, is such—there is a line from Thoreau—I see the chairman is on the floor—and Thoreau once said that "Some circumstantial evidence is very strong as when you find a trout in the milk."

It seems to me that when it turns out that half the benefits go to people with incomes over $30,000, the circumstantial evidence suggests this is not a singularly deprived population with whom we are dealing.

So, Mr. President, we have made this very moderate proposal which we hope our distinguished and beloved chairman can accept.

I know the Senators from Texas, Oklahoma, Kansas, and Louisiana will feel quite strongly about the persons involved, and we can say we understand their concern for the low-income person who is fortunate enough to have some of this property and whose property has been enhanced in value. We do not affect the refund for those low-income persons at all. The Senators were well placed, they were quick to move. They found an opportunity that nobody could imagine could come, and they have benefited those people, and they can go back to their States and say that they have done so. The Senator from New York will go with them if need be. But certainly this windfall profit tax need not become a ripoff, and it bids fair to embarrass this body and to effect an honorable and difficult achievement if we do not make the adjustment which the Senators from New Jersey and Connecticut and I have offered.

I hope in the spirit of compromise this can be agreed to. Knowing that there will be eloquent and vigorous responses, I am happy to yield to my colleague from New Jersey.

Mr. BRADLEY. Mr. President, I am pleased to allow my colleague from Oklahoma or the distinguished chairman—and I see my colleague from Texas on the floor—to make their side of the issue and, perhaps, we might have a discussion or at least be enlightened, and I am sure we will be.

The PRESIDING OFFICER (Mr. BAUCUS). Who yields time?

Mr. LONG. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I find some appeal to the suggestion that was made by the Senator from New Jersey and the Senator from New York until we recognized the fact that insofar as some of these royalty owners who may be receiving high income from other sources are paying in a high tax bracket anyway.

For example, let us assume a royalty owner is in a 70-percent tax bracket. Then this $1,000 additional income he would receive would be taxable to him, so he would only get $300 out of it. Furthermore, Mr. President, if this royalty owner has substantial royalty income, he is paying more taxes because of the counterweight provision in the bill which has the effect of taxing the rich for the benefit of the low-income people.

In relative terms it does that because it says that really the royalty owners and producers receive about 10 cents a barrel less in order to offset the cost of providing this relief to these small royalty owners. The break-even point would be $400,000. If a person had $400,000 of mineral income from oil the additional tax he would pay would completely offset whatever the savings might be of the $1,000 tax credit, so that there would be no net gain.

What we have done here, Mr. President, is to propose to take care of what we believe was a very bad oversight, and we propose to do it by letting those who are better able to pay, pay more money. We said, "All right, let those who are doing so well indeed pay more tax. Let the corporations pay more tax, and we will take the additional money we raise from them and we will use that to offset the cost of taking care of the small royalty owners."

I am happy, Mr. President, that we really do not have a debate about the merits of the provisions as far as the overwhelming majority of royalty owners are concerned. It really distresses the Senator from Louisiana to find so many little people, so many old people, so many widows, so many people of modest income, very limited means, many of them living on social security checks, with no other income except what they get, a small royalty check, who have been adversely affected by the windfall profit tax bill.

What a lot of people fail to realize, and I think the Senate itself, all of us, was guilty of an oversight, is that these producers of the small stripper wells, and especially these royalty owners who own land on which these small stripper wells are located, had already been decontrolled. In the wisdom of Congress they should not have been controlled to begin with. Those are marginal wells producing anywhere from 1 to 10 barrels a day. It was the judgment of Congress, as evidenced by a successful amendment to the Alaska pipeline bill, that these people should be decontrolled.

So when we were talking about the windfall profit tax bill last year for the other producers, those other producers were having their income increased by decontrol and they would have additional income out of which to pay the tax. But those involved with the stripper wells were not going to have their income increased. Their income was to be reduced because they had already been decontrolled, because those were marginal wells and, in the judgment of Congress, they should not have been controlled.

Mr. President, I think many of us—I know I am one of them—would like to go to people who were taxed by this bill and who had their income reduced, and say, "Well, we voted to give you some relief. We gave you $1,000 relief."

If we agree with the Senator's amendment, when you talk to people like that you do not know whether you gave them relief or not. You have to know—when you meet the average citizen, you do not know whether you are meeting with a man making $30,000 or $20,000 or whether he is making $40,000, when you meet most ordinary everyday citizens who are able to dress reasonably well. You do not know what their income level is.

So if you go and say to one of them, "My friend, I am glad we managed to work something out, we gave some relief to you, we gave you $1,000 in tax credit," you would not know whether you did him any good or not because it would all depend on what his tax bracket might be.

If the person is making a lot of money, has a lot of income from oil, as I have indicated, this would mean practically nothing to him anyway. But it makes one wonder why do we want to make things so complicated so that you do not know whether you have benefited him or whether you did not benefit him when you voted to give him some relief. You would have to see his tax return to know whether you had helped that taxpayer or not, and you would spend a great deal of time trying to explain.

"Well, you gave the Arabs the $40 a barrel. Why did you leave me out? Why do they get the $40 a barrel and why don't I? Why do I pay the windfall tax and they do not?"

When you try to explain that to somebody you say, "Well, you see, you are making over $30,000 a year and, therefore, you should not get any benefit." They say, "Well, did you ask the same question of that Arab, where he was making more than $30,000 a year." And the answer would have to be, "No."

And so we concluded in the committee that rather than vote for a provision to say that some people get the tax credit and some people do not, it would be better just to say that they all get the tax credit. Then we would say that those who are doing very well, indeed, the corporations and the large royalty owners, they pay more taxes. Because the corporations pay more taxes, those who have royalty under stripper wells would get a break to the tune of a $1,000 tax credit.

Keep in mind, Mr. President, if that is a dear old man and dear old woman out there on a farm and the property is community property—they both equally own it, two people they bought the land together—they only get the $1,000 one time. They do not get $2,000. They only get the $1,000. It works out, in that case, to $500 apiece tax credit.

It seems to me that that is small enough, Mr. President. Keep in mind, any benefit that is here for these small royalty owners, no matter what their tax bracket might be, any benefit they might receive is paid for by taxing those who are better able to pay.

So I would think, Mr. President, we have gone far enough pursuing the populist theory that we will tax in accordance with the ability to pay. Just as you do the personal exemption, you do not say that you get a personal exemption unless you are rich. You say you get a personal exemption period. We follow that principle here.

I yield to the Senator from West Virginia (Mr. Randolph).

Mr. RANDOLPH. Mr. President, I am grateful to the Senator from Louisiana (Mr. Long), who is so very knowledgeable in this area of productivity. As he knows, often it is nonproductivity. I recall those early days when, in 1922, I was the secretary-treasurer of the Randolph Oil and Gas Co., my father, Ernest Randolph, being the president. I still have shares of stock in which I invested and kept them in a locked drawer. They are valueless, but the memories are very sweet, although, at the time, they were very bitter. But, throughout West Virginia, there are hundreds and hundreds and hundreds of stripper wells dotted over our hills and through our valleys.

I only rise to indicate that those who have royalties in these wells that are still producing—not in heavy volume of petroleum, maybe 8 or 10 barrels—are generally people of very small income. Many are farmers who have stopped farming; who have retired. Their sons and daughters have left the homestead and gone to the cities and there they remain, a father and a mother or, even, only one member of the family.

I have these people writing to me: "Senator, why do you want to tax us on this small amount of money that comes through a royalty? Why don't you realize that we should not be taxed?" Such letters have come to me in substantial volume.

A woman from Mahone, W. Va., wrote:

> Many senior citizens have worked and acquired land with mineral rights or own mineral rights separately and they depend on this extra income to supplement their fixed income and allow them to have a few extras.
>
> I hope you can see that your supporters in West Virginia are being very unfairly treated by this tax, and I urge you to do anything possible to relieve this situation, and to relieve this unfair taxation of the citizens of your state.

A man from St. Marys asked this question:

> We wonder if your windfall profits tax was intended to penalize individuals who are retired (plant) workers, on social security, receiving an eighth royalty from a small oil well on a farm here in West Virginia, or like individuals elsewhere in this country?

And a man from Cairo stated:

> I am a retired, independent oil producer and I want my protest heard. I get an oil check similar to the attached quarterly—sometimes a little more, sometimes a little less. My other income is Social Security. A big percentage of independents are like me. We have worked hard, long, and for little pay most of our lives. We have sometimes bought older wells and put lots of money in them for financial help in our old age. Now what happens! The government is taking almost 50% off the top of profits.

These are just three examples of the comments flowing into my office.

Now, as I understand the effective and able Senator from Louisiana (Mr. Long), persons such as those who have written me will be receiving some consideration with regard to tax payments.

Mr. LONG. I say to the Senator that here is how it would work out if you take what the committee has recommended. Here is the dear old couple out there and they are getting a check for $300 a month for the wells.

Mr. RANDOLPH. Many do not get that much.

Mr. LONG. Well, let us assume it is $300, because I have a reason for naming a figure.

Let us assume they are getting a check for $300 from their well. As it stands now, they would be paying about $100 a month tax on their $300, windfall tax, plus the income tax on what is left.

So what we do here is say, "Well, all right, now for this dear old couple, we are going to give them a credit of $1,000 against the windfall tax. They pay the income tax on every nickle they get, including the credit, but we will give them a credit against the windfall tax."

It works out to about $100 a month against that $300. Of course, if they are getting $600 a month, then, of course, they only get the credit for about $100, but at least it cuts the tax in half.

If we do this, I think the Senator could tell those dear old people, "I took care of you." But no matter how small their check might be, even if their check were only $5 a month, the Senator is going to say, "My friend, I want you to know that the Senator from West Virginia, Jennings Randolph, took care of you. I found out about your problem and I took care of you. It didn't seem right to put that tax on your little $5 check."

Well, you find out that this little old couple has a $40,000 income, so they do not get the $1.50, because they have a $40,000 income.

As the Senator knows, $40,000 between two old people is not all that much income nowadays. The cost of living has gone up.

Mr. MOYNIHAN. The chairman having raised my name in the discussions, could I ask a question of him? He was blessing me a minute ago.

Mr. LONG. Did I mention the name of the Senator from New York?

Mr. MOYNIHAN. "Bless Pat," the Senator said.

Mr. LONG. I did not have the Senator in mind, but I did mention the Senator's name, so I yield for that purpose.

Mr. MOYNIHAN. Would our distinguished and incomparable chairman wish to make it clear—I have the opportunity to speak to two men I admire so much, who lead both of the committees on which I serve. Surely the chairman from West Virginia would want to be assured by the Senator from Louisiana, the chairman, that this amendment we are proposing would only affect families with incomes over $30,000.

Mr. LONG. That is right. But let me just go one step further. Let us assume the Senator from West Virginia—here are a lot of nice people in an area where they have a few little stripper wells. And a lot of nice people meet in the schoolhouses.

Mr. RANDOLPH. They are the very best people; the very best.

Mr. LONG. So all of the dear old people come to hear the Senator from West Virginia explain about the windfall profit tax. The Senator explains how he voted to give some relief to these dear old people. In the course of it, somebody gets up and says, "Well, look, I get a $5 check. Let me ask you, that thing you voted for, did that help me or did it not help me?"

The Senator would have to say, "Well, it might and then again, it might not. If you bring me your income tax return, I think I can then tell you whether I was your friend and benefactor or whether I was one that just made you pay a little bit more."

Mr. MOYNIHAN. Will my friend yield for one comment?

Mr. LONG. Yes.

Mr. MOYNIHAN. I do not know the ways of many States, but I have had an opportunity to visit in West Virginia with the chairman, our distinguished and beloved chairman. I have a feeling that in West Virginia the senior Senator can tell the difference between someone who is earning $50,000 a year and someone who is earning $15,000 a year. He knows almost everybody from West Virginia by name.

And I bet that Jennings Randolph can tell the difference between people who own an oil well that produces 10 barrels a day and those who make do with a barrel a month.

Mr. LONG. I think the Senator will find that Jennings Randolph is not a snitch. He is not a sneak. He does not try to go around and try to find out about people's personal business unless they want him to know about their personal business. He respects the privacy of citizens. The last thing on Earth the Senator from West Virginia would do is to try to sneak around and inquire into someone's personal affairs, unless that person came to him and asked him and he needed the information in order to advise him properly.

I am sure that the Senator would not be in a position to know whether a person had an income of $20,000 a year or $30,000 a year, unless that person had sought his advice about some matter and explained to him what his financial situation was in seeking to obtain such advice.

No; I would say that the Senator would have the problem I would have. In talking to a lot of nice, very thoughtful, kind people, some of whom you meet in their work clothes and some of whom you meet in their Sunday-go-to-meeting clothes, you would not know whether you helped them or hurt them when you voted on this thing, if you had the Bradley amendment in there. You would have to know what their income level is in order to know whether you benefited that taxpayer or whether you hurt that taxpayer.

Mr. RANDOLPH. Since Senator Bradley's name has been mentioned, I want to ask him a question. I am grateful to the Senator from New York. He speaks with such logic, I am sure, when he argues for an amendment.

I want to ask the Senator from New Jersey the question I asked the Senator from Louisiana. I am not just rising to inject myself into debate to localize the problem to West Virginia, but I am saying to the Senator that these letters I receive are from people of very small income. They are asking me why should they be taxed in the windfall profit program. I would like the Senator to help me.

Mr. BRADLEY. Let me say that although I do not serve on the Senator's committee, I do not think Senator Moynihan holds the Senator from West Virginia in greater esteem than I do.

Let me say that this is an amendment to make sure that the people who are writing letters, saying that they are worried about this tax being withheld, are not going to suffer from having it withheld, because we are going to have a tax credit for them up to $1,000, if they earn under $30,000. No; not even if they earn under $30,000. If they earn under $40,000, they will not have to pay the full windfall profit tax. They will have the tax credit to offset it.

Let me also say, because I am sure that the Senator from West Virginia, as are other Senators, is concerned about elections, about votes, about our constituents, our Democratic constituents, our low-income constituents. We want to make sure that we serve their interests as well.

In 1978, if you analyze the Federal income tax returns for royalty income, there were only 640,000 returns filed in this country for people who had royalty income, and that includes not just oil but composers, minerals, authors. We have in the Senate some distinguished authors.

Let me assure the Senator that in the matter of votes this does not involve a great number of people, and this amendment indeed attempts to take care, and successfully does take care, of those low-income people who have written letters to the Senator.

I might also say, however, if I did not like the windfall profit tax, one of the first things I might do is withhold more in that first income check than I need to. I might withhold more and put it on that bill, "withholding, windfall profit tax," figuring that we might get some movement in the Congress soon enough before the next withholding tax checks arrived that would be less than the first.

That is not anything I can swear to. I do not have proof of that. But I am suggesting that that might be an action that an oil company might take if it was interested in getting this situation changed.

Mr. RANDOLPH. I am very appreciative of this colloquy with Senators. I look upon those who are discussing this issue as experts in this field. I am not an expert, except that I have drilled, with others, many dry holes. Senators know what I am talking about. We expected to get gas. We expected to get oil. We walked home from the rig. There was nothing of the kind we expected to be gushing out. I remember those years.

But West Virginia has been a great producer of oil and gas. I know that my good friends, Senator Long, Senator Bentsen, and Senator Boren would acknowledge that people from the oil and gas industry in our mountain State, experienced in drilling, have contributed substantially through their expertise to the development of the oil and gas industry in all areas of the country.

I am very serious as I bring the concerns of West Virginia into the context of the debate. I appreciate the courtesy and cooperation of the Senators who lead this discussion.

Mr. LONG. How much time does the Senator wish?

Mr. BOREN. Ten minutes.

Mr. LONG. I yield 10 minutes to the Senator.

Mr. BOREN. I thank the distinguished Senator. I am happy to have an opportunity to talk about this amendment and about the original need for it.

I am quite sure that my distinguished colleagues from New York and New Jersey, if they fully understood the subject matter we are dealing with, would not have offered this amendment. I hope that after we discuss it a little further, perhaps when the facts are known and a full understanding is had, they will decide to withdraw it. I think they truly do not understand the subject matter with which they are dealing. I say that with all due respect to them.

Of my distinguished colleague from New York, we are always proud in Oklahoma to point out that he was born in that State. I only wish my colleague could have spent a little more time there so that he might have learned about the economic aspects of the energy business we are now dealing with.

Let us go back and talk for a minute about the facts as they are.

First of all, when the windfall profit tax was up for discussion on the floor, Senators will recall that the Senate went on record, by a very substantial majority, in favor of an amendment offered by the Senator from Texas, which would have provided an exemption of 1,000 barrels per day for independent producers, and a complete exemption for those royalty owners under independent properties.

The Senate went on record in favor of that exemption.

When the bill got to the conference committee, changes were made in it and the royalty owners were brought under the windfall profit tax, all of the royalty owners, for the first time.

First of all, I would point out that there is not even a composite list of royalty owners. A figure has been used here of 640,000 in the country, but I think that greatly underestimates the number of royalty owners there are. I presume that has been taken from income tax figures or other figures. Many royalty owners are exceptionally small and have probably never even bothered to claim depletion or other types of deductions. Many interests are split in so many ways I think it would be very difficult to get an accurate figure.

I have heard that figure and I have heard figures as high as perhaps 2 million different royalty owners. Some of the properties are in estates and otherwise, which will eventually be divided even further.

(Mr. METZENBAUM assumed the chair.)

Mr. BOREN. What happened in the conference committee? After all the discussion on the floor of the Senate and the floor of the House about the need for the windfall profit tax because of the great increase in profits which were being made by the major international oil companies, the independents were given some consideration. In certain areas they were taxed at a lower rate than were the major oil companies. The major oil companies were certainly not taxed on all of their production because many of these are international companies and a substantial portion of their profits is made overseas.

So who was it, of all the people covered by the windfall profit tax, who was taxed at the very highest rate of all? The royalty owners, because the royalty owners, whether they are under major producers or independent companies, are all taxed at the rate charged the major international oil companies. They are all taxed at the major international oil company rate. So you have many of them taxed, for example, on tier 1 oil, above the base price, at the 70-percent rate.

We have run studies as to who most of these royalty owners are.

We held hearings in Kansas, in Oklahoma City, in Austin, Tex. By the way, they have been among the best attended hearings ever held by the Finance Committee.

In those three hearings, there were well over 7,000 people who appeared. They came to explain the problems that they were experiencing themselves. Many of them, as has already been said, are lower income people. I understand that the amendment is not trying to knock out the help that we are providing for them. I am at least grateful to my two colleagues that they are not trying to do that, because we have heard of many—I mean this sincerely—very, very sad situations, where people are trying to get along, many of them on $200 or $300 or $400 per month, faced with a 70-percent tax put on the tier 1 oil. Many of them have had their income cut by over one-third and they are having a hard time.

Let us look at this as a matter of equity. My colleague from New Jersey said a moment ago, "If you are interested in taking care of those who vote Democratic, our amendment does it. If you are interested in taking care of the low-income people, our amendment does it." I want to say, Mr. President, that I am very concerned about that. I am very concerned about those who are most in need.

I am also concerned about the overall question of equity, fairness, and justice for every citizen without regard to their political affiliation.

We are talking here not only about problems of low-income people. We are talking about certain aspects of a problem.

In the State of Oklahoma, and I am most familiar with figures in my own State, approximately 90 percent of the wells in production are stripper wells—approximately 90 percent of the wells in production are stripper wells that produce 10 barrels of oil per day or less. As is known by all the Members of this body, by action of the Congress itself, several years ago, stripper oil production was decontrolled. It has been at the world price for some time. It has been very beneficial to the country. It has reduced the abandonment rate by 500 percent of these wells and kept them in production—badly needed production.

I think that many people, when the tax was placed on royalty owners, said, "Look, every royalty owner's check is going to get larger anyway; every check is going to go up. So if they pay a proportion of that increase back in taxes, they are still going to be better off this Christmas than they were last Christmas."

But that simply is not the fact for this 12-month period. I remind my colleagues that this $1,000 refund deals only with a 1-year, one-time refund for this 12-month period. So we are dealing, in my State, at least, with a majority of the royalty owners, big and small, who are going to have their net royalty checks cut back. They did not reap the windfall; they are gathering production from stripper wells, but their checks are cut back and they are hit as a result of the 70-percent tax rate.

All we are saying, Mr. President, in this amendment is that there shall be a maximum of $1,000, which is certainly no huge bonanza to anyone, in a refund this year—only this year; we can study this matter, and only does it apply to this year—to all royalty owners on what they pay on the windfall profit tax. When we get down to fairness and equity, I think that is fair.

I ask my colleagues from New York and New Jersey if they know of another area, for example, where Congress has levied this year a 70-percent tax. For example, have we added on an additional 70-percent tax on the dividends of those who hold stocks and bonds, who happen to live in New York and New Jersey, for example? Their dividends did not go up this year. They did not go up at all. Yet, do we levy a 70-percent tax on any of them? No.

That is exactly it. I think it is probably because people do not understand what royalty interests are. People very often buy royalty interests in our part of the country as they would buy stock. I am looking ahead to retirement. Instead of going out and buying 10 shares of stock of IBM Corp., for example, I decide I am going to buy some mineral interests. It is producing. Let us say I buy a stripper oil interest. Then, all of a sudden, without any increase in my income—in fact, it is held constant—I get a 70-percent tax put upon my base and it goes back to about 30 percent. I do not think it is unfair at all to say that this year, we should try to minimize that effect, and I think we should try to do it in an uncomplicated way.

As our distinguished chairman has pointed out, already, most of the people——

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. BOREN. I ask for another couple of minutes.

Mr. BENTSEN. Mr. President, I yield 2 minutes to the Senator.

Mr. BOREN. I thank the distinguished Senator.

Mr. President, the people that my colleagues are trying to reach under this amendment are contributing more because of the slight adjustment on the inflation index on the price of oil to help pay for this amendment; they are already paying more. The bulk of that will be paid for by the larger producers, many of whom are also the larger royalty owners.

In addition to that, since they would be getting the $1,000 refund, they would not be able to deduct that portion of the payment from their windfall profit tax. If they are in the 70-percent bracket, they are already reducing the amount they would get from $1,000 down to $300.

What my colleagues are asking is this: For the sake of getting back $300 from people who are already going to be paying—at least the higher income groups—probably more than $300, they want to complicate the system and make it more difficult to administer on a program that is just a 1-year, $1,000 refund.

Again, I go back to ask how in the world can we say that it is just to tax the property of these people—and, by the way, it has been said that this is unearned income. I wish that they could have heard the hearings, the testimony given to my colleague from Texas and myself when we heard people who came in and told how they worked and saved. One woman worked at the school cafeteria so she could buy mineral interests. Then she turned around with that money she had worked hard to get and bought mineral interests just as she would buy an acre of land. Then, we come along and put a 70-percent tax on it.

I do not think that is fair. I think we are complicating the system unduly for a very small amount of revenue, a very large impact on individuals. If we are talking about $84 million in total, I suggest that that is $84 million that these people are already paying for the most part, anyway, in the inflation adjustment index on a barrel of oil.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. MOYNIHAN. Will the Senator yield?

Mr. BRADLEY. Yes.

Mr. MOYNIHAN. Mr. President, we have had a good debate, a very open and candid one. I would like to say that, no matter what the outcome of this debate, the Senators from Texas, Oklahoma, and Louisiana have looked after people in whose case equity will be met. They are the majority of the people involved here.

I would like to say that the symbols that are brought into the discussion of oil and gas are as abstract as in most debates, as I have learned about them. It seems to me a certain amount of demystification is certainly in order.

In the course of the windfall profit tax conference, we were hearing a great deal about the independent oil producer. In one case, I had occasion to ask the Assistant Secretary of the Treasury that if Abu Dhabi, by some happy circumstance, were to reappear in the panhandle of Oklahoma or the south fork of Long Island, would Abu Dhabi qualify as an independent producer? The answer from the Treasury Department was, yes, it would. So the association of small marginal enterprises is not necessarily so.

Equally, the idea of the owners of stripper wells as low-income persons is not necessarily so, either. Some are, some are not. Most of the revenue goes to those who are not. The amendment which we offer would keep this relief for those who need it, who make a claim of being at a level of income where they seriously need the extra money.

The Senators from Texas and Oklahoma have done their constituents a respectable service no matter how this debate eventuates.

Mr. BRADLEY. Will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. BRADLEY. I feel that the Senators from Texas, Oklahoma, and Louisiana have also corrected, perhaps, one unintended outcome from the windfall profit tax.

Mr. MOYNIHAN. That is right.

Mr. BRADLEY. There was no intention by any of the proponents of the windfall profit tax to take from the table the bread that only this income could buy for poor people in Texas, Louisiana, or Oklahoma.

I think it is with that sensitivity in mind we have discussed this amendment, and I compliment my colleagues.

Mr. BENTSEN. Will the Senator yield?

Mr. MOYNIHAN. If I may make one comment, the Senator from Oklahoma says that this income has been described as unearned income. I think it was not so described by any sponsor of this amendment.

This is income from savings earned, paid for, investments paid for, and savings acquired by work. Nothing in the least bit, no possible cloud cast upon the nature of this income. The question is what is fair to pay.

Mr. BELLMON. Will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. BELLMON. The Senator from New Jersey just stated it was not the intent of those in support of the windfall profit tax to work a hardship on any low-income people and that this amendment is intended to correct that. There is, I think, another unintended result, and that is——

The PRESIDING OFFICER. Who yields time to the Senator from Oklahoma?

Mr. BELLMON. Two minutes?

Mr. BENTSEN. Delighted.

Mr. BELLMON. That is the premature closing down of stripper wells that are not able to be produced and pay the tax and still dispose of salt water, and all the rest of it.

I will have an amendment later to deal with this problem of the stripper wells. I hope the sponsor might look at it.

Mr. President, if it is in order, I would like to ask unanimous consent that it be in order to call up my amendment when this is over, and I am willing to accept a 1-hour time agreement, if it is agreeable.

Mr. BRADLEY. Mr. President, I reserve the right to object until I have a chance to discuss the parliamentary situation as to whether it would be in order for the Senator from Oklahoma to bring up his amendment.

I probably will have no objection, but I would like to reserve the right to object.

The PRESIDING OFFICER. Does the Senator from New Jersey object, or does the Senator from Oklahoma wish to withdraw his request?

Mr. BELLMON. I am happy to withhold the request until I have discussed my request with the Senator from New Jersey.

Mr. BENTSEN. Mr. President, I yield myself 5 minutes.

Mr. President, when the windfall profit tax was first proposed, it was really proposed to try to keep oil companies from having excessive profits as we decontrolled oil. But it has gone far beyond that.

It was never intended, really, to go after the royalty owners. But that is what has been the net result.

In the State of Texas, we have 650,000 royalty owners. Obviously, it is a matter of very deep concern to me what has happened to them. Some of them have had an absolute rollback in prices.

The Senator from Oklahoma was describing a moment ago what had been done on stripper wells. On the floor of this Senate we decontrolled stripper wells, 10 barrels a day, and we had an immediate effect on the output of stripper wells. We had a net increase. A lot of wells that were going out of business, or just closing down, were not economic to produce any more, were kept on because they could afford the additional cost of separating the water out of the wells, or the cost of administration, and taking care of the well that was producing such a small quantity of oil.

So it worked. But, now, we decided to take a step backward and put on a windfall profit tax that resulted in a rollback for the royalty owner.

The statement was made earlier about Abu Dhabi and the fact that it would qualify as an independent.

Actually, when that discussion was going on, we were talking about 1,000 barrels a day.

How much effect do we think that would have on that country, with all of its great wealth and the mass of oil it is producing?

So it really was not a truly relevant situation.

But, here we have the same thing leveled on the royalty owner.

We held a hearing for the royalty owners in Texas last week. I thought we might get 400 or 500 people there. We had, by actual count, over 3.500 people who showed up for that hearing.

I had never been to a congressional hearing where we had 3.500 people come from across the State to attend a hearing of a subcommittee. But that is what we had.

Irate? Mad? You bet they were, because the oil companies had been sending them bills with their checks telling them this amount of it goes to the windfall profit tax.

So what did we do as we crafted this amendment, trying to take care of the royalty owner? We said, "We are going to take it from people we think can afford to pay it more."

So we put about $63 million on a tariff for the importation of alcohol. Who will end up paying some of that? Frankly, Brazil will.

We turned around and said, "Now, we will take something away from the oil companies because we are going to adjust the inflation factor and adjust that .8 of 1 percent."

So we found it, and did not violate the budget resolution.

We believe this is an attempt to provide some relief for the royalty owners in this country.

My friend from New Jersey said that we knew a little bit more about royalty owners than probably he did. I hope that is right.

I know that when it came to the Trade Readjustment Act in the Finance Committee I decided he knew more about that than I did. I voted with him because they have some real problems in New Jersey and New York and they are losing some of their industry. They have some long unemployment lines and I think they ought to be helped.

But here, we are talking about the folks I represent. There are 650,000 royalty owners in Texas. We said, "Gentlemen, we will pay for this. We will find a way to pay for it. We will do it out of the inflation adjustment, take .8 of 1 percent, some $120 million, and we will also increase the tariff on alcohol and the Brazilians will pay most of that and take $63 million."

That is the kind of adjustment we used in trying to work out this problem.

Now, the Senator from New Jersey wants to add something else. He wants to say that we should phase out the credit for the royalty owner, and that we should do this starting at $30,000.

Are we going to use gross income, just on the husband's income, or the wife's income, or the children's income? No. I think we are going to use adjusted gross income.

How many can really define "adjusted gross income" for me, tell me just what goes into it and what a simple matter it is to arrive at adjusted gross income?

Well, it takes a CPA, really, to get into the full details of that one. But that is where they say they will put it. They are going to have to do it in a phaseout——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BENTSEN. I give myself an additional 5 minutes.

So we will have that much more complication and incur more accountants' fees, and that is not going to help the temper level of these people I try to represent.

They start phasing out the tax credit at $30.000 and totally eliminate the credit at $40.000. Well, who were most of the people at the hearings? Most were farmers and ranchers, because it was their land that was leased.

It was their land with the deep ruts of the trucks going across it, across their cornfields, across their pastures. They are the people to whom they have given the key to the lock on the gate so they can traverse their properties day after day, when they are not sure whether they have trespassers or someone from the oil company. But they do it, hoping they will find some oil and hoping they will get some income from it.

What has happened in my State? We have the worst drought we have had in 30 years. We have farmers and ranchers in trouble. Do they make $40,000 a year? Yes; lots of them do. What do they do with it? Well, they have bought some new tractors. Have you priced a new tractor lately? In addition, some have tried to add on a bit of land because they are having a tough time making it on what they have.

Some of the folks want to leave the farm and go into town. There they hope to have a steady income. They do not want to gamble on the farm any more.

So now what do you say? You say, "We want to add the windfall profit tax to them, and we don't want to give them a thousand-dollar tax credit, and they are not going to be able to utilize that to try and make the principal payments on that tractor or on that truck or the mortgage on the ranch or the farm."

We think we have brought about equity. We think we did what was right by taking it from those who could afford to pay, then giving it to those who we felt had in many instances suffered a rollback in income. This is particularly true of the stripper wells.

I know that my friends from New Jersey and New York have the very best of intentions in what they are trying to do here. It sounds like a good populist amendment, until you begin to see how it directly affects farmers and ranchers in these States. Many of them right now, through this heat wave, are having a tough time of it. At the same time, they are trying to keep up with the mortgage payments on their equipment and on their farms and ranches.

So I urge my colleagues in the Senate, as well-intentioned as this amendment is—and I have a great deal of respect for my friends on the committee who are sponsoring this—to vote down this amendment, which does not achieve its objectives. We in the committee funded this proposal by taxing those who could more afford to pay it and trying to see that we did not impose a harsh new tax to the full extent it was originally proposed on these royalty owners.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield 5 minutes to the Senator from Kansas.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the Senator from Oklahoma for a unanimous-consent request.

Mr. BELLMON. Mr. President, earlier today, I made a unanimous-consent request, which I later withdrew, to bring up an amendment relating to a stripper well exemption. I have discussed the matter with the Senator from New Jersey, and I believe he may be agreeable to the request.

Mr. BRADLEY. Mr. President, a parliamentary inquiry.

Is a unanimous-consent request needed for the Senator from Oklahoma to bring up his amendment?

Mr. BELLMON. Mr. President, the reason for making the request is that the Senator from Oklahoma is not going to be on the floor, and I want to make sure that my amendment is considered before the bill is disposed of.

Mr. BRADLEY. I have no objection to the Senator from Oklahoma bringing up his amendment. I assure the Senator that I will be on the floor protecting it for him, so that he may have the opportunity to bring up his amendment. But I think a unanimous-consent agreement would void my option at the conclusion of the debate. That is the only reason I would object.

I am informed by the Parliamentarian that the unanimous-consent agreement is not necessary for the Senator from Oklahoma to raise his amendment, which I believe he has every right to do.

The PRESIDING OFFICER. Was the Senator from Oklahoma seeking unanimous consent to be recognized at a certain point?

Mr. BELLMON. That is right. Following the disposition of the present amendment.

Mr. BRADLEY. Mr. President, I have no objection to the unanimous-consent request that the Senator from Oklahoma be recognized at the conclusion of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Senator from Kansas was unable to be present, but I assume that many of the arguments I would make have been made already. I was privileged to hear the distinguished Senator from Texas (Mr. BENTSEN) state the case very well.

I do not quarrel with the intentions of the Senator from New Jersey. I simply do not agree with him. When he is right, I agree with him; and when he is wrong, I disagree.

In this case, we offered a phaseout in the committee. It was rejected. This is not what is really needed. This little credit we are talking about does not really do that much for any royalty owner. They never should have been included in the first place. There should have been some exemption in the original windfall profit tax bill.

The Senator from Oklahoma (Mr. BOREN), the Senator from Texas (Mr. BENTSEN), and this Senator from Kansas have participated in field hearings. In the hearings in my State, in Great Bend, Kans., we asked those who were landowners and who had an interest in this legislation, or who were paying the windfall profit tax, to stand; and about 80 percent of the 1,600 to 2,000—some estimated 4,000—people stood. We then asked all those who were retired to stand, and, almost without exception, the same people were standing.

I say that to indicate that we are not talking about some big oil group or big oil lobby or some fat cat oil operator. What we are discussing at this point are landowners, retired people. I am certain that the Senator from Texas has given the percentage of how many have incomes in excess of $200,000. Not very many.

The royalty owners are subject to the same windfall profit tax as major oil companies: 70 percent on upper and lower tier oil, 60 percent on stripper oil, and 30 percent on newly discovered oil.

As I suggested this morning to Secretary Miller in the hearings in the Finance Committee, he may be able to discuss all these things, about how high the price of oil is and how they are getting a better deal than they got last year or the year before or the year before that, but that is not an accurate statement.

We are not keeping faith today with the late Senator Dewey Bartlett of Oklahoma, who stood on this floor and argued successfuly that we exempt stripper production, 10 barrels or less. He was successful in that debate, and that was adopted, and controls do not apply to those small oil wells. I believe the Senator from West Virginia was a cosponsor of that amendment.

What we are seeking to do now—what we have done—is to roll back the price that those producers and royalty owners would receive.

We can make all the arguments and they are all going to be made about everyone getting rich in the oil business and all the landowners getting rich because the price of oil is going up. I just suggest that is not an accurate statement.

It is not a very expensive proposition and we have provided for it. It would reduce the revenues by $190 million.

The PRESIDING OFFICER. The time has expired.

Mr. BENTSEN. Mr. President, I yield the Senator 3 additional minutes.

Mr. DOLE. That loss is offset by taxes on imported oil, alcohol fuel, the windfall profit tax, base price, and inflation adjustment.

I do not know of any farmer in my State who is going to make any profit this year. I am certain some will. We had the same problem, not as critical as has been in Texas, parts of Oklahoma, and the Dakotas. We have had a severe drought. I guess this phaseout would not affect their oil income this year. But next year if they happen to have a good year, which is very rare in the farm belt because of weather and other factors that I will not go into, that farmer, that landowner, that farm family, whatever, would be excluded from any benefits under this provision if we adopt the amendment of the distinguished Senators from New Jersey, New York, and Connecticut.

I do not quarrel with the motives of those who suggest the amendment. I just suggest they do not fully understand the problem. New York has some oil production. I know the Senator from New York understands better than the Senator from Kansas the problems of New York City. He persuaded me, along with the distinguished senior Senator from New York, that we should support New York City, and the Senator from Kansas stood up and voted for that proposal. I am proud of it. I suggest that some in my State thought I had made a horrible mistake.

I just suggest that we are not standing on the Senate floor trying to con our colleagues into some big deal that is going to help a lot of rich people in Kansas, Texas, the Dakotas, West Virginia, Louisiana, or any other State where they have little oil wells being produced.

I hope that this amendment will be defeated. I really cannot believe that those who sponsor this amendment are that serious about it. We did need something to do this afternoon. I praise them for bringing up an amendment like this, and I am prepared to vote on the amendment.

It seems to me that a good case has been made to defeat the amendment. It should be defeated as rapidly as possible and with as many votes as possible.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BRADLEY. Mr. President, before we vote on the amendment, I simply wish to reemphasize for my colleagues in the Senate that this $1,000 tax credit under our amendment is available to all royalty owners who make under $40,000 in income. It phases out between the income levels of $30,000 and $40,000. It is available in full amount for those individuals who have little income and depend on royalty income for their livelihood.

I am prepared to vote and prepared to yield back the remainder of my time if the opposite side is.

Does my colleague from New York desire any further time?

Mr. MOYNIHAN. No.

Mr. BENTSEN. Mr. President, do I have any further request for time on our side?

If not, I am prepared to vote.

Mr. HEFLIN. Mr. President, I rise to say a few words in support of the recommendation of the Committee on Finance and the Budget Committee which would provide a $1,000 per year tax credit for the first $1,000 of windfall profit tax paid by royalty owners beginning during calendar year 1980.

Mr. President, I voted against the windfall profit tax for a number of reasons. One of the most important reasons I voted against this measure was that I felt that it was extremely unfair to royalty owners in that it imposed a hardship on many low- and middle-income taxpayers who are not the recipients of large oil company profits, which, of course, was the theoretical underpinning of the windfall profit tax to begin with.

Many of the royalty owners from my home State of Alabama are retired persons and other persons on fixed incomes or persons who have only a small income in addition to their oil royalties. The credit provided in this measure will give significant relief to these royalty owners.

It will not have a significant revenue impact and will not have a major impact on the larger producers who are the primary target of the windfall profit tax.

Mr. President, it is my understanding that the bill as written provides that royalty owners will get a credit of up to $1,000 against windfall profit tax imposed during the year 1980. The credit is available only to individuals, estates, and family farm corporations and not to other corporations or trusts. In my judgment, this provision should have been in the original windfall profit tax measure, but I think that its adoption at this time is reasonable and appropriate.

Mr. President, I have heard from numerous royalty owners in my State, and their unanimous view is that the tax is extremely unfair to persons in their financial situation. I am glad to join my colleagues in supporting this change, and I hope that a large majority of the Senate will show their support for our small- and middle-income royalty owners by approving this measure without amendment.

Mr. BRADLEY. Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Zorinsky). All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

The PRESIDING OFFICER (Mr. Leahy). Are there any other Senators in the Chamber wishing to vote? The Chair hears none.

The result was announced—yeas 24, nays 73, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—24

Biden
Bradley
Chafee
Cohen
Culver
Durkin
Jackson
Javits
Levin
Magnuson
Mathias
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Proxmire
Ribicoff
Riegle
Sarbanes
Stevenson
Stone
Tsongas
Williams

NAYS—73

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Matsunaga
McClure
McGovern
Melcher
Morgan
Nunn
Pell
Percy
Pressler
Pryor
Randolph
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—3

Church
Kennedy
Talmadge

So Mr. Bradley's amendment (UP No. 1409) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order——

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. There is a previous order. If the Senate will be in order, we will proceed with it.

Under the previous order, the Senator from Oklahoma (Mr. Bellmon) is recognized to offer an amendment.

The Senator from Oklahoma.

Again, the Chair will ask Senators to clear the well and the aisle. The Chair would not want to miss a word of the proceedings, of course, and it is almost impossible to hear. I suspect it is the same for others.

The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank the Chair for restoring order.

UP AMENDMENT NO. 1410

(Purpose: To provide a 2 barrel-per-day exemption from the windfall profit tax and to decrease the adjusted base price for determining that tax by 10.1 percent for fiscal year 1981)

Mr. BELLMON. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) for himself, Mr. Hart, Mr. Boren, Mr. Randolph, Mr. Dole, and Mr. Young, proposes an unprinted amendment numbered 1410.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, strike out line 10, and insert in lieu thereof the following:

"(2) 0.101.".

(d) Two Barrel-Per-Day Exemption.—

(1) Subsection (a) of section 4991 (relating to taxable crude oil) is amended—

(A) by striking out "and" at the end of paragraph (3),

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma and the word "and", and

(C) by adding at the end thereof the following new paragraph:

"(5) any 2 barrel-per-day exempt oil.".

(2) Section 4994 (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(f) 2 Barrel-Per-Day Exempt Oil.—

"(1) In general.—For purposes of section 4991(a)(4), the term '2 barrel-per-day exempt oil' means, for any quarter, 2 barrels per well, multiplied by the number of days in the quarter.

"(2) Allocation where production exceeds amount.—If a person's qualified production for any quarter exceeds such person's 2 barrel-per-day amount for that quarter, the 2 barrel-per-day amount shall be allocated in the same manner as an independent producer amount would be allocated under section 4992(c)(2).".

Mr. BELLMON. Mr. President, this amendment is offered on behalf of myself, Senators Randolph, Hart, Boren, Dole, and Young, and has been discussed with Members of the Senate.

Before I explain the amendment, let me discuss the problem. The problem is that under the windfall profit tax bill——

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order. The Senator from Oklahoma is entitled to be heard.

The Senate will please be in order. Senators and staff please continue their discussions someplace other than on the Senate floor.

The Senator from Oklahoma.

Mr. BELLMON. Mr. President, under the terms of the windfall profit tax, we placed the tax sometimes as high as 70 percent above the base price on stripper wells. Stripper wells, up until that time, had been exempted from price controls for the reason that stripper wells are traditionally expensive to operate because equipment is old and there is generally scattered water to be disposed of at considerable costs. The exemption was put in place, the Bartlett amendment was approved, because Congress felt that it was in the national interest to keep those wells in production as long as possible.

When we passed the windfall profit tax bill, we took away that exemption, so now these old stripper wells are paying the same tax as the more productive wells. The result of it is that the operators are finding it uneconomic to operate stripper wells and, therefore, they are being salvaged out, in many cases, when there is still a considerable amount of oil left in the ground.

What this amendment would do is exempt the first two barrels per day for these stripper wells. It applies only to stripper wells and it would recover the lost revenue by slowing down the adjustment in the base price of oil.

In effect, what we are doing is causing those who have the good wells to get a little less for their oil so that those who have the stripper wells will be able to receive a higher price for the stripper oil and, in this way, keep those wells in production that much longer.

Mr. President, the Nation desperately needs all the oil we can get. What we are doing under the present terms of the windfall tax is to tax wells out of existence. Once those wells are plugged, they will never be redrilled, because it is not economical to drill a new well in an old field where it is already virtually depleted.

The purpose of this amendment will not cost any revenue. The purpose is to help us keep old wells in production. I believe that it is very much in the national interest that this amendment be approved.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, time runs equally against both sides.

Mr. BELLMON. Mr. President, I send a technical correction to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment and the amendment is so modified.

The amendment, as modified, is as follows:

On page 36, strike out line 10, and insert in lieu thereof the following:

"(2) 0.101.".

(d) Two Barrel-Per-Day Exemption.—

(1) Subsection (a) of section 4991 (relating to taxable crude oil) is amended—

(A) by striking out "and" at the end of paragraph (3),

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma and the word "and", and

(C) by adding at the end thereof the following new paragraph:

"(5) any 2 barrel-per-day exempt oil.".

(2) Section 4994 (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

(f) 2 Barrel-Per-Day Exempt Oil.—

"(1) In general.—For purposes of section 4991(a)(4), the term '2 barrel-per-day exempt oil' means, for any quarter, 2 barrels per stripper well within the meaning of the June 1979 energy regulations, multiplied by the number of days in the quarter.

"(2) Allocation where production exceeds amount.—If a person's qualified production for any quarter exceeds such person's 2 barrel-per-day amount for that quarter, the 2 barrel-per-day amount shall be allocated in the same manner as an independent producer amount would be allocated under section 4992(c)(2).".

The PRESIDING OFFICER. Who yields time? If no one yields time, time runs equally against both sides.

Who yields time?

Mr. BENTSEN. Mr. President, I will yield to the Senator from New York. How much time does the Senator desire?

Mr. MOYNIHAN. Three minutes will be sufficient.

Mr. BENTSEN. Mr. President, I yield 3 minutes.

Mr. MOYNIHAN. Mr. President, I rise simply to state that, without wishing to interrupt the debate which the Senator from Oklahoma wants to conduct, at the appropriate time it is my intention to raise the question of germaneness of the amendment, it being my understanding that it is not germane. I do not wish to interrupt the debate. Of course, the Chair has not ruled yet.

Is it the desire of the Senator from Oklahoma to proceed?

Mr. BELLMON. Mr. President, I have made my explanation of the amendment. I have no objection to the Senator raising his question of germaneness at this point.

Mr. MOYNIHAN. That is characteristic of the Senator.

In that case, Mr. President, has time been yielded back?

The PRESIDING OFFICER. Is all time yielded back?

Mr. LONG. Mr. President, just in order to settle this matter, I ask unanimous consent that the Senator might raise the question of germaneness and that the Chair might rule on it, without prejudice to Senators for or against the amendment on its merits at this time.

Mr. MOYNIHAN. Mr. President, if we have order in the Chamber, we can hear one another.

The PRESIDING OFFICER. Will the Senator from Louisiana restate his request?

Mr. LONG. Mr. President, to save the time of the Senate, I ask unanimous consent that the Senator might raise the question of germaneness and that the Chair might rule on it without prejudice to the Senators for or against the amendment on its merits at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I raise the question of germaneness of the amendment of the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I move, in accordance with section 904 of the Budget Control Act, to waive, with respect to the pending amendment, the provisions of title III of that act requiring the germaneness of amendments.

The PRESIDING OFFICER. Under the law, there is 1 hour on the motion equally divided. Who yields time?

Mr. BELLMON. Mr. President, I have no desire to debate the matter.

Mr. MOYNIHAN. Mr. President, I have no desire either.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BENTSEN. Mr. President, all time is yielded back if the Senator from New York does not desire his time.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma (putting the question).

The ayes appear to have it. The Chair rules the ayes have it. The motion of the Senator from Oklahoma is agreed to.

Who yields time?

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. Mr. President, the voice vote on the question of waiving the germaneness rule has not been reconsidered or tabled. Appropriately, I ask, if that is not the case, whether in that sense a motion to reconsider is in order.

The PRESIDING OFFICER. A motion to reconsider made by a person qualified to make a motion to reconsider would be in order.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. Did the Senator vote with the prevailing side?

Mr. MOYNIHAN. I was afraid the Chair might ask. There was one voice——

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Did the Senator vote to agree to the motion, not to agree to the motion, or did the Senator not vote at all?

Mr. BIDEN. The Senator did not vote.

The PRESIDING OFFICER. The Senator is eligible to make such a motion.

The question is on the motion to reconsider the vote by which the motion was agreed to.

Mr. BELLMON. Mr. President, I move to table the motion to reconsider the vote, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion of the Senator from Oklahoma was agreed to. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—55

Armstrong
Baker
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Chafee
Cochran
Cranston
Dole
Domenici
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Mathias
McClure
Melcher
Percy
Pressler
Pryor
Randolph
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—42

Baucus
Biden
Bradley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cohen
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Exon
Gravel
Hollings
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Matsunaga
McGovern
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Proxmire
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stevenson
Tsongas
Williams

NOT VOTING—3

Church
Kennedy
Talmadge

So the motion to lay on the table the motion to reconsider was agreed to.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. BELLMON. Mr. President, if I may have the attention of the Senator from New York and the Senator from New Jersey, the Senator from Oklahoma would like to ask unanimous consent to vitiate the vote on the motion which was just now approved on condition we still go ahead and vote on my amendment.

Mr. MOYNIHAN. If I may ask, what would be the Senator's purpose in that regard?

Mr. BELLMON. The problem is that the Senator from Oklahoma is now convinced this is a bad precedent which we have just set.

Mr. MOYNIHAN. The Senator from New York agrees.

Mr. BELLMON. But it has now been done.

Mr. MOYNIHAN. But it was not the Senator from New York's initiative. The Senator from New York sought to prevent the precedent.

Mr. BELLMON. The Senator raised the germaneness question.

Mr. MOYNIHAN. That is not an abnormal procedure. That is precedent.

Mr. BELLMON. Then I will not make the request.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I believe that the Senator in his amendment intended to raise sufficient revenue, at least for the first budget year, to pay the cost of the relief he would give to the stripper wells insofar as the Treasury is concerned. But after he sent his amendment to the desk, he modified it.

I would think what he had in mind was something, at least as far as fiscal 1981 is concerned, that would be a wash, that one would offset the other.

I ask the Senator if that is correct.

Mr. BELLMON. Mr. President, I say to the Senator from Louisiana that the Senator from Oklahoma did intend to wash. We intended to gain back the revenues that this amendment will lose.

Those figures we are using were prepared by the Joint Committee on Taxation. So, if there is an erroneous figure, we would be glad to have it corrected.

Mr. LONG. It is my understanding, and this is the best advice I can get from the chief of staff of the Joint Committee, that, yes, the tax increase would pay only the cost of this in fiscal 1981.

Mr. BELLMON. That is right.

Mr. LONG. What the Senator started out with would have applied to all wells, that it would have exempted the first two barrels for all producing wells. After the Senator prepared his amendment, he decided he wanted to limit it only to stripper wells.

Mr. BELLMON. That was our original intent.

Mr. LONG. Yes.

The point is that, apparently, the estimate that caused the Senator to put a 10-percent reduction in base price was based on a preliminary estimate of what it would take to exempt the first two barrels of all wells from a property.

Therefore, I am trying to get the estimate to see how much revenue it would take to cover the cost of relief the Senator would provide for stripper wells only. When I have that information I think I should offer that amendment and I hope the Senator could agree to it, because I believe that carries out the Senator's original intent.

I think he is seeking to raise enough revenue for fiscal year 1981 to pay the cost of the relief to stripper wells by putting a tax on the other wells, and we would try to adjust the figures so they would do what he had in mind before he modified his amendment. I believe that will have to be done by way of amendment.

Mr. BRADLEY. Is it the chairman's intention to retain the two-barrel-a-day exemption permanently, or is it his intention simply to find a way to pay for this reduction in base price for 1981?

Mr. LONG. All I would seek to do is what the Senator had in mind to begin with—in other words, to do what he had in mind before he modified his amendment. Before he modified his amendment, he was seeking to provide enough revenue for fiscal year 1981 to pay for the relief he was providing for 1981.

It seems to me that most Senators who voted against germaneness for his amendment voted for it thinking that that is what he is doing.

Mr. MOYNIHAN. The Senator from New Jersey asks whether the Senator from Louisiana wishes to see this two-barrel exemption made permanent, or does he not wish to make it permanent? there is an answer yes or no.

Mr. LONG. The answer is, "Yes." So far as I am concerned, I will vote for the amendment.

Mr. MOYNIHAN. The answer is, "yes," that the chairman does not wish to see it permanent?

Mr. LONG. I would be prepared to vote to exempt the two barrels, period. But I am also willing to vote, for fiscal 1981, to raise enough offsetting revenue to pay for it. That is what I believe the Senator had in mind, and I think an amendment should be offered to do that.

Mr. BELLMON. The Senator is correct. We were intending to raise only enough revenue to make up for the reduction this amendment would lose. We are apparently getting different signals, because our information is that our estimates are accurate.

Mr. BRADLEY. Mr. President, is it the Senator's intention that he is able to make the adjustment by raising the tax on all other forms of oil other than stripper to pay for the stripper exemption for 1981? Is it the Senator's intention to continue that exemption in 1982, 1983, and 1984?

Mr. BELLMON. The way our amendment is drawn, we intend to make the exemption permanent.

Mr. BRADLEY. What would be the revenue loss from that without the compensating increase in taxes on all other categories of oil in 1982, 1983, and 1984?

Mr. BELLMON. The intent of the amendment is not to have a revenue loss, to have a revenue wash.

Mr. BRADLEY. How do you get the revenue wash in 1982, 1983, and 1984 if you do not keep the higher taxes on all other forms of oil but stripper in those years?

Mr. BELLMON. The intent of the author of the amendment is to keep the revenue wash in place in future years.

Mr. BRADLEY. I do not think that is what the amendment does. That is what I am saying. I do not think there is a wash in future years.

Mr. MOYNIHAN. Mr. President, will the Senator from Oklahoma yield for a comment?

Mr. BELLMON. I yield.

Mr. MOYNIHAN. Mr. President, I hope the Senate will know what we are doing here.

May we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator is correct. The Senate is not in order. Senators and staff members are conversing in the aisles and throughout the Chamber.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I say to the Members of the Senate that we are involved here in a reconciliation process designed to increase revenues by $4.2 billion, in conformity with the budget resolution. We have suddenly found ourselves on the verge of passing a huge billion-dollar tax reduction for the oil industry. I do not believe that is the intention of the Senator from Oklahoma, but we understand it clearly to be the impact of his amendment.

How did we get into reducing billions of dollars of the taxes on the oil industry in the course of a reconciliation measure designed to raise revenues to conform with the budget resolution?

I see that the distinguished chairman of the Budget Committee is in the Chamber, and I hope he will address himself to this anomaly. It certainly suggests that the reconciliation process is going to attract more attention in the years ahead than it has in the past.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield the Senator 5 minutes.

Mr. HOLLINGS. Mr. President, if we are going to maintain the discipline of the reconciliation process, we cannot waive the Budget Act for any amendment, even the most desirable amendment. We are at the end of the road for the revenue side of reconciliation, about to complete and pass it, at the $4.2 billion level. If we start waiving the Budget Act for attractive amendments, we open it up to tax cuts and anything else that comes along. We will set the worst of precedents, and we will have fallen into the trap and dilemma that constantly nags all financial legislation—all the bills of the Committee on Finance turning into Christmas trees.

So I hope that this afternoon, in the process of reconciliation, we will not waive the Budget Act, irrespective of the desirability of the amendment, one way or the other. It would be the worst precedent we could possibly set.

I do not know of any particular amendment at this time, whether it is two barrels, three barrels, a little amendment or not, that is important enough to start waiving the Budget Act.

We have done our best to maintain the balanced budget. We are in a recession, and the recession has been deeper, the unemployment higher than we expected, and we have lost about $8 billion in revenues. In addition, we have accelerated the spending rate for unemployment compensation, for the price support programs, for disaster loans, and everything else.

So, after being off for 2 weeks, we are dismayed to learn that we are out $16 billion more on the 1980 budget; and with the change of 1 percent relative to unemployment, we have lost another $25 billion to $30 billion on the 1981 budget, irrespective of tax cuts or anything else.

The Committee on Finance has responded to the charge of the Senate with respect to the $4.2 billion. No amendment is important enough to waive the Budget Act at this point and set the worst of all precedents.

Mr. MOYNIHAN. Mr. President, will the Senator yield 2 minutes?

Mr. LONG. I yield.

Mr. MOYNIHAN. Mr. President. I hope we have heard the distinguished chairman of the Budget Committee.

We are involved in a reconciliation process, not an energy bill. The most unexpected of events was a large cut in taxes to be associated with the reconciliation measure designed to increase revenue.

If we wish the reconciliation measure to be the occasion once each year on which we wreck the budget process and the budget and rewrite the Tax Code, and Heaven knows what else, here is the moment to do it.

The majority vote in favor of this amendment was taken by the party of fiscal responsibility, from which we have been hearing the most extraordinary pleas to balance, cut, hold back; and suddenly here we are unbalancing again, giving away again.

We know what the votes are. At this moment, as the Senator from New Jersey suggested, we would be doing the utmost harm to a procedure we have painfully put in place.

Mr. BRADLEY. In 1 year, not only on the balancing of the revenues but also on the exemption of two barrels per day stripper oil.

Mr. LONG. Mr. President, I have discussed this matter informally with the principal sponsor of the amendment, Mr. BELLMON, and I suggested that the amendment should be a 1-year amendment in all respects.

Mr. MOYNIHAN. In all respects—two barrels.

Mr. LONG. Yes—with regard to the two barrels as well as with regard to the offsetting revenue.

The Senator indicated he would be willing to go along with a modification along those lines.

I am asking the staff to prepare the amendment and as soon as the amendment can be prepared I will seek to offer the amendment to modify those particular provisions.

Mr. METZENBAUM. Mr. President, will the Senator yield 5 minutes?

Mr. LONG. Mr. President, I yield to the Senator 5 minutes.

Mr. METZENBAUM. Mr. President, I commend the Senator from New Jersey, the Senator from New York, and the Senator from South Carolina about raising the budgetary aspects of this proposal.

But I wish to raise the question as to really the why of this amendment, because as I see it when the legislation, the windfall profit tax bill, was passed there was provided therein the two barrel per day exemption. Now, as I understand this amendment——

Mr. BELLMON. Mr. President, if the Senator will yield, I believe the Senator is incorrect. There was no exemption in the windfall profit tax.

Mr. METZENBAUM. I am sorry.

Mr. BELLMON. I believe the Senator is incorrect. There was no exemption for stripper wells in the windfall profit tax. That is the reason for the amendment.

Mr. METZENBAUM. Then let me ask the Senator from Oklahoma this question:

The concern that the Senator from Ohio has has to do with the fact that we are talking about two barrels per stripper well per day. Let us assume for the moment that we have a very small operator provided with exemption for the two barrels per day. But let us assume, on the other hand, that we have some very major operators who have a whole field of stripper wells. Is it really right and proper that there should be an exemption for each of those stripper wells, and is that not totally contrary to the intent of the legislation in the first instance?

I understand the concern about a small operator, the family operator who has one or two small stripper wells. But let us assume there are 300 stripper wells. Is that fair as far as others are concerned in the industry, and is that the intent of the Senator from Oklahoma? Or is the Senator from Ohio not understanding the thrust of this amendment.

Mr. BELLMON. Mr. President, let me respond by saying that the intent of the amendment is to make it economically possible to continue the operation of these small wells which generally are expensive to operate because the equipment tends to be older and break down frequently and also because in most cases those wells make fairly large quantities of salt water that have to be disposed of at considerable expense.

The amendment does not go into the question of whether the operator is a large operator or small operator. But, as a matter of fact, in most cases the small cases are operated not by the large companies because they do not like to fool around with these little tiny wells. They prefer, when the wells get down to the point where they are not making much oil, to dispose of the wells. In most cases the operators are these smaller independents.

That may not always be the case, but that is the general trend for the industry.

So the purpose, then, is to keep these small wells in operation so that the last barrels of oil can be brought out of the ground and utilized.

Mr. METZENBAUM. The Senator from Oklahoma is far more knowledgeable about stripper wells than the Senator from Ohio, and I do not have any reservations about making that statement.

My question is: Would the Senator from Oklahoma be at all receptive to some limitation as to the number of stripper wells that any one owner might have as far as he taking advantage of the provisions of this amendment, in other words, some limitation of 2 or 5 or 10 of one owner rather than have one owner? I would guess some of the large oil companies do have fields of stripper wells.

My question is: Would the Senator be receptive to accept an amendment that would limit the number of stripper wells that would be exempt owned by any single individual or corporation to 5 or 10, or something of the kind?

Mr. BELLMON. Mr. President, it seems to me to be in the national interest to keep these wells in operation regardless of whether they are operated by someone with 10 wells, 20 wells, or 50 wells, or whatever. I think the result of the suggestion of the Senator from Ohio would simply be that operators who may have more than 10 wells, or whatever number he has in mind, would simply dispose of those surplus wells and instead we would have a large number of operators getting more wells, and I do not know that it would accomplish any real purpose. I do not know that I particularly oppose the amendment. I do not think it accomplishes a great deal, and I think it would tend to sort of confuse the question.

The purpose of this amendment is to keep the wells in operation. It is not to try to ration the number of wells among operators.

Mr. METZENBAUM. I thank the Senator from Oklahoma.

Mr. BRADLEY. Mr. President, will the Senator yield for a comment?

Mr. BELLMON. If I have time, I am glad to yield.

The PRESIDING OFFICER (Mr. MITCHELL). Who yields time?

Mr. BELLMON. How much time does the Senator desire?

Mr. BRADLEY. Three minutes.

Mr. BELLMON. Mr. President, I yield 3 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, if we are able to draft an amendment that will indeed fulfill the intent of the Senator from Oklahoma and make it simply a 1-year measure and 1 year alone, no exemption of stripper wells, two or three barrels, or whatever, for longer than 1 year, and no shift in tax revenues, I think that that might not be an unacceptable proposal.

However, I hope that all Members of the body will recognize that the effect of such a measure is to raise the tax on oil companies, major oil companies, to raise the tax on all the independents except strippers, to raise the tax on all producers of oil except strippers for that 1 year.

In the State of New Jersey, as I have remarked enumerable times in the past year and a half during debate on the windfall profit tax, we do not have any oil wells, strippers, major producers dependents, and I think that point should be made very clear to the body.

The second point that I make is I recall a few weeks ago during the deliberation on our spending reconciliation where the question was made to waive the budget process. It was offered I think at that time by Senator WEICKER, strongly opposed by most individuals. I wish to stay within the budget process. However, events of today give me pause and give me reason to believe that maybe there are occasions when a high member of the Budget Committee might waive the Budget Act and that we should not eliminate that possibility in the future. I have argued that we should not eliminate that possibility.

I chose not to waive the Budget Act during the spending portion of the bill. I would at least hope that in the deliberations on reconciliation of the revenue-raising measures we give it very careful consideration in the future before we move as we did today on a voice vote to waive the Budget Act.

Mr. BELLMON. Mr. President, I yield myself 1 minute to respond.

This amendment has not budgetary impact. It is a revenue wash. It takes, as the Senator said, funds from highly productive wells and makes oil from the stripper wells worth a little more. There is no budgetary impact from this.

Mr. LONG. Mr. President, I wish to send to the desk an amendment to the amendment. That being the case, I believe we will have to yield back time, will we not?

The PRESIDING OFFICER. Either that or obtain unanimous consent.

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HOLLINGS. Mr. President, I am having it computed now by the joint committee, I say to the Senator from Oklahoma, and I do not have the numbers yet, but the amendment does have a budgetary impact in the outyears. It falls in the outyears, I can tell him that. We should not be misled. This amendment does have a budget impact.

Mr. LONG. Mr. President, if the Senator will yield to me a second, I wish to offer an amendment so it will not have a budgetary problem. That is what I am trying to do.

I ask unanimous consent that I might offer this amendment without prejudice to the time on the other first amendment.

The PRESIDING OFFICER. Do Senators yield back their time first?

Mr. LONG. Mr. President, I ask unanimous consent that I may offer the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1411

(Purpose: To provide a 2-barrel-per-day stripper oil exemption for FY 1981 from the windfall profit tax and to decrease the adjusted base price for determining that tax by 10.1 percent for fiscal year 1981)

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1411 in lieu of the unprinted amendment numbered 1410 of Mr. BELLMON:

In lieu of language proposed to be inserted: insert the following:

"(2) 0.109.".

(d) TWO BARREL-PER-DAY EXEMPTION.—

(1) Subsection (a) of section 4991 (relating to taxable crude oil) is amended—

(A) by striking out "and" at the end of paragraph (3),

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma and the word "and", and

(C) by adding at the end thereof the following new paragraph:

"(5) any 2 barrel-per-day exempt oil produced after September 30, 1980 and before October 1, 1981.".

(2) Section 4994 (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(f) 2 BARREL-PER-DAY EXEMPT OIL.—

"(1) IN GENERAL.—For purposes of section 4991(a)(4), the term '2-barrel-per-day exempt oil' means for any quarter, 2 barrels per stripper well within the meaning of the June 1979 energy regulations, multiplied by the number of days in the quarter.

"(2) Allocation where production exceeds amount. If a person's qualified production for any quarter exceeds such person's 2 barrel-per-day amount for that quarter, the 2 barrel-per-day amount shall be allocated in the same manner as an independent producer amount would be allocated under section 4992(c)(2).".

Mr. LONG. Mr. President, let me explain for the benefit——

Mr. METZENBAUM. Can the amendment be read? Is it not a short one?

Mr. LONG. Mr. President, let me explain to Senators—and I particularly want the chairman of the Budget Committee (Mr. HOLLINGS) to hear this—that what I am proposing here is a modification of the amendment so that it will not prejudice the budget even in the outyears.

What this would say is that this amendment would be applicable for 1 year, and that the revenue that would be raised by taxing the wells that are not stripper wells would pay for the relief that would go to the stripper wells.

I want to further explain that, in my judgment, the Bellmon amendment has problems that do not meet the eye at this moment. That is what happens when you legislate on the floor. Someone offers an amendment and the Senator does the best he can with the technical advice available to him, but the windfall profit tax is a very difficult, technical piece of legislation, so we will undoubtedly have to negotiate in conference and look at all the different ramifications, some of which have been raised. But others will undoubtedly come up and we will try to work them out in conference to look at the problems of all people.

I am sure, for example, that those who have very good wells will be somewhat dismayed to find that the Senator has drastically reduced the income they received from their good wells. But that can all be considered in conference, and we would not have any budget problem in the outyears. There would be no revenue loss in the outyears, and the money that would be raised would pay for the relief that would go to the stripper wells. That being the case, Mr. President, I think that is about the best we can do.

If we want to agree to the amendment, that is about the best we can do legislating here on the floor. So I would want to make it a 1-year amendment where it would pay for itself by taxing the better wells to help the stripper wells which could be agreed to, and then we can see what we can work out in the conference.

Mr. BELLMON. Mr. President, I am agreeable to accepting the modification of the Senator from Louisiana. I believe the Senate wants to provide some relief for stripper oil, and getting started this way to me is a step in the right direction. So I have no objection to this modification.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. LONG. If there is no request for time, I yield back my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. MOYNIHAN. Mr. President, we will ask for the yeas and nays on the amendment itself, as amended.

Mr. LONG. That is all right, that is fine. After the amendment——

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana to the amendment of the Senator from Oklahoma.

Mr. HOLLINGS. Mr. President, before we have the rollcall vote I wonder if the Senator from Oklahoma would renew his request for vitiating the yeas and nays?

Mr. BELLMON. Mr. President, if it is in order, I renew that request.

Mr. MOYNIHAN. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. MOYNIHAN. Mr. President, is this the amendment to the amendment?

The PRESIDING OFFICER. That is correct.

(Putting the question.)

The amendment (UP No. 1411) was agreed to.

Mr. DOLE. Mr. President, The Senator from Kansas rises in support of the amendment presented by the Senator from Oklahoma, Mr. BELLMON, which the Senator from Kansas is proud to cosponsor. This amendment would exempt from the windfall profit tax the first two barrels per day of stripper oil production. This step is vital to our Nation's energy supply.

Given the tenuous domestic petroleum supply situation, it is important to preserve and produce every barrel of oil possible.

Mr. President, stripper wells—those that produce less than 10 barrels—must be maintained.

There is nothing glamorous about these small wells. Many stripper wells are marginally economic, even at today's price. Taken all together, stripper wells represent an extremely important part of our energy resources.

Mr. President, nearly three-fourths of all the producing oil wells in the United States are stripper wells. The U.S. Department of Energy says there were 516,752 oil wells in this country at the end of 1978. A new report by the Interstate Oil Compact Commission and the National Stripper Well Association shows that, of the total, 374,635 wells were in the stripper category.

The individual output of these wells is extremely small. In 1978, each well averaged only 2.86 barrels per day. But, pumping away day by day in 28 States, that production added up to more than a million barrels a day. For the entire year, stripper production provided more than 391 million barrels of crude oil to meet our country's energy needs.

A few examples may make it easier to comprehend the importance of stripper oil wells in our economy.

Last year, the stripper wells of the United States:

Accounted for more than 12 percent of all U.S. oil production;

Produced about twice as much oil as we imported from either Iran or Indonesia;

Supplied more oil than all the jet airplanes in this country used during 1978; and

Provided the equivalent of more than 20 days of supply for the entire Nation.

Furthermore, the 1978 output from U.S. stripper wells was greater than that of all the oil wells in California. It was more than the total combined production of Wyoming, New Mexico, Kansas, Florida and Mississippi, which rank 6 through 10 among U.S. oil-producing States.

Stripper wells account for more than half of the oil produced in Oklahoma. The percentages run much higher in some other States—for example, 70 percent in Ohio, more than 78 percent in Kansas, 90 percent in Illinois, and virtually 100 percent in some States.

Even in Texas, stripper wells are an important factor. There are more than 96,000 of them, and they produce nearly 13 percent of that State's oil.

Mr. President, a few years ago, Congress wisely exempted stripper wells from Government price controls.

As a result of that exemption, literally thousands of small wells have been kept alive longer than they otherwise could have been. The proved reserves in stripper well fields have increased. The number of stripper wells that have to be plugged and abandoned has dropped. From a yearly average of 14,880 in the period 1969 through 1975, the number of stripper wells closed down dropped to 8,380 in 1978.

I submit, Mr. President, that the wise action of Congress in exempting stripper wells from price controls has made hundreds of millions of barrels of domestically produced oil available to America's consumers. Without that exemption, thousands of small wells would not have been able to pay their own way. Their operators would have been caught between rising production costs and declining revenues and would have had to close down more wells permanently.

The oil in stripper well properties is oil that has already been found; we do not have to go out and search for it. Every barrel of oil we can produce in this country is a barrel of oil we do not have to buy from other countries. Producing 391 million barrels of stripper oil in this country last year meant that we did not have to compete in world markets for that amount of petroleum, thus forcing prices up even more.

Considering the unstable situation in certain oil-producing nations and the total lack of restraint shown by some of those countries in pricing their oil, I do not see how any American can support a new tax that would discourage U.S. oil production.

For these reasons, I believe it is essential to approve the amendment which Senator BELLMON and I are offering. This Senator has already heard too many reports of wells being plugged and drilling plans being abandoned to ignore this problem.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment, as amended?

Mr. LONG. If there is no further request for time I am prepared to yield back my time.

Mr. BELLMON. If I have any time I yield it back.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma, as amended. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 72, nays 23, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—72

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Long
Lugar
McClure
McGovern
Melcher
Metzenbaum
Morgan
Nunn
Percy
Pryor
Randolph
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—23

Biden
Bradley
Byrd,
  Harry F., Jr.
Chiles
Culver
Durenberger
Durkin
Gravel
Hollings
Javits
Leahy
Magnuson
Matsunaga
Mitchell
Moynihan
Nelson
Packwood
Pell
Proxmire
Ribicoff
Riegle
Tsongas
Williams

NOT VOTING—5

Church
Kennedy
Mathias
Pressler
Talmadge

So Mr. BELLMON's amendment (UP No. 1410) as modified, was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. YOUNG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I will just take one moment, if I may. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, there may be a rollcall on final passage of this measure. I cannot say. But I would suggest that the Senators stay around and not leave the Senate until the measure is finally agreed to. Once this measure is agreed to, there will not be any more rollcall votes tonight.

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Mr. President, several Senators asked me and I said I was not going to insist on a rollcall vote on final passage. I fear that some Senators may have left the Chamber and headed home under the impression we would not have a rollcall vote. I would suggest that if some one wants a rollcall vote on final passage, that we vote on it tomorrow.

Mr. BAKER. If the Senator will yield, I do not know of any request for the yeas and nays on this side.

Mr. SCHMITT. Mr. President, I will ask for the yeas and nays at the appropriate time, but I would be happy to ask for the vote to be on tomorrow.

Mr. ROBERT C. BYRD. If the Senator is going to ask for the yeas and nays, I suggest that he do that now.

Mr. SCHMITT. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I would hope that the cloakrooms will undertake to try to notify Senators that there will be a rollcall vote on final passage.

Mr. PERCY. That will be this evening?

Mr. LONG. Yes.

Mr. ROBERT C. BYRD. Mr. President, the Senate comes in at 9 o'clock tomorrow morning. Are there any orders for the recognition of Senators?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. The vote will occur at 9:30 tomorrow morning, then.

Mr. BAKER. Mr. President, I spoke too soon. I have a Member on this side who cannot be here. I will have to object to it.

Mr. THURMOND. I cannot be here either at that time. Ten o'clock would be fine.

Mr. ROBERT C. BYRD. All right.

Mr. COHEN. I would object.

Mr. ROBERT C. BYRD. There we are. We have objections on setting a time tomorrow. Every Senator knew that we were going to finish this measure today, and every Senator knows that even though the manager does not intend to ask for a yea-and-nay vote, any Senator can do it. The leadership has not indicated that there would not be any rollcall votes. I suggest we go ahead and have the rollcall vote tonight.

The PRESIDING OFFICER. The Senator from South Carolina.

UP AMENDMENT NO. 1412

(Purpose: To change the "grandfather clause" date from June 17 to July 26, 1980 by which a local government must have in effect an "employer pays all" FICA tax plan)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1412:

On page 25, line 25, strike the language "June 17" and insert in lieu thereof "July 26".

Mr. STENNIS. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until the Senate is in order.

Mr. THURMOND. Mr. President, this amendment makes a very minor, technical change in the bill that should not have any substantial effect on the revenues raised by the bill.

The Finance Committee has recommended that the existing option under which any employer may elect to pay both employer and employee shares of the social security (FICA) tax be effectively removed at the end of this calendar year, for most employers. As I had requested of the Finance Committee and, in particular, the distinguished chairman, Senator LONG, and the distinguished ranking member, Senator DOLE, the committee has granted an agricultural labor exemption on a permanent basis, and it has provided State and local governments until the end of 1983 to convert back to the traditional employer-employee equal share method of paying FICA tax. In the latter case, however, the only governmental units which have this extended adjustment period are those which had an "employer pays" plan in effect on June 17, 1980—the date of the Finance Committee action.

My amendment, Mr. President, would change this June 17 date to July 26, 1980. My purpose is to take note of the fact that several city and county employers in my State of South Carolina, and perhaps in other States, were caught completely unaware of the committee action on this matter and were in the process of computer reprograming in order to convert to the alternative "employer pays" system. If the limited, "grandfather clause" date in the bill is not advanced as proposed in this amendment, these governmental employers will be faced with an almost immediate expensive task of converting back to the traditional payment system.

Hopefully, by adopting this alternative date, all governmental employers will be on notice of the probable change in the law. Those contemplating a conversion to the alternative FICA system will be aware that there is no longer any cost savings advantage to such an approach, and those who are already under the alternative arrangement will have until the end of 1983 to convert back to the traditional payment system.

Mr. President, I wish to emphasize that I am not convinced of the wisdom or necessity of depriving any employer of the option of paying both shares of the FICA tax from their own funds. However, in view of the Finance Committee determination to change the law on this matter, I believe the change should be as fair as possible.

Mr. President, I ask unanimous consent that a copy of a letter I sent to Senator LONG and other members of the Finance Committee outlining my views on this subject, along with a letter from the executive director of the National Association of Counties, be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., June 19, 1980.

Hon. RUSSELL LONG,
Chairman, Senate Finance Committee, Russell Office Building, Washington, D.C.

DEAR RUSSELL: I understand that among the various revenue-raising measures the Finance Committee is considering to meet the $4.2 billion mandate of the Budget Resolution is a proposal to treat as taxable compensation, for social security tax purposes, any portion of the employee FICA tax paid by an employer. As you will recall, when this issue was before the Senate earlier this year, my amendment to exempt small businesses, non-profit entities, and state and local governments from this proposed change was adopted by the Senate by a vote of 60 to 27.

I continue to believe that any employer should have the option to choose the method of FICA tax payments most acceptable to him and his employees, without being subjected to what amounts to a tax penalty if the choice is for the employer to pay both shares of the FICA tax. However, I realize that there is strong sentiment by the Chairman and some of the other members of the Finance Committee on the other side of the issue, and I understand the difficult tasks facing the Committee in meeting the requirements of the Budget Resolution and in maintaining the solvency of the social security trust funds.

If the Committee feels that it must again recommend changing the law on this matter, I urge that it at least recognize the need for: (1) a "phase-out" period of two or three years for employers who have adopted the alternative FICA tax payment method, and (2) an "exemption" for smaller employers, especially farmers, who have historically used an "employer pays all" approach to FICA taxes, primarily for reasons of mutual convenience to themselves and their employees, rather than for any cost savings that may result. The Committee previously recognized the need for special treatment of employers of domestics in private homes; it ought to also recognize that there are other employer-employee relationships in which it is neither fair nor necessary to force a change in the practice of FICA tax payment. This is particularly true in the agricultural sector where wages are often paid on a cash basis, where income tax withholding from employees is not required, and where it has traditionally been the practice for employers to handle the entire responsibility for FICA taxes.

Again, I hope the Committee will decide to make no change in current law regarding this issue, but if it is the Committee's will to recommend modifications, I urge accommodation of the important needs mentioned above.

Thank you for your careful consideration of these points, and with kindest personal regards and best wishes.

Sincerely,

STROM THURMOND.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., June 24, 1980.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: Regarding the reconciliation instructions, we understand that the Senate Finance Committee is considering effectively eliminating the present option for public employers to pay the employee's share of FICA taxes. As you are aware, NACo opposes this action because it is a further disincentive for county governments to remain in the social security system. We believe that any savings which would result would be more than offset by the increased likelihood that public employers would opt out of social security. Further, it is our position that any changes to social security should be part of an overall, comprehensive reform of the systems which increase their financial stability and make the total system better coordinated and more attractive to state and local governments.

In any case, should Congress decide to eliminate the option, a minimum of three years should be provided for public employers to change their present system to conform to the new requirement. As you know, these provisions are often provided through collective bargaining agreements and other binding contracts with employees and their representatives.

Thank you for your consideration of our position on this issue. We look forward to working with you on comprehensive reform of the social security system.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

Mr. LONG. Mr. President, if the Senator will yield, I think I can explain even quicker.

Mr. President, what the Senator is seeking to do is move forward by approximately 1 month the transitional date. I have discussed it with Mr. DOLE. I am willing to accept it and so is he. I think we can take it by voice vote.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1412) was agreed to.

Mr. THURMOND. I move to reconsider the vote. Mr. President.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill

is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. STEWART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, before we vote on the bill, and I shall not detain Members but a minute, I should like it noted that there is a very serious deficiency in the windfall profit tax bill, which has developed recently because of the definition of poverty which we adopted in that bill and which deals with the type of person to whom we give aid.

May I have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

Mr. JAVITS. The end point is that 100,000 to 200,000 single elderly persons in a few States—and we shall get the exact figures—will be excluded from fuel aid for the poor because of the definition that we adopted. There is no doubt about the fact on any ground—humanitarian or legal or the fact that we did not contemplate this situation, and I had a good deal to do with it, as did Senator LONG, Senator MOYNIHAN, and other Senators—that the act should be amended. We have suspended rules and amended the windfall profit tax in this bill to benefit people who certainly are not as needy as these. I shall not argue about what descriptions have been made about them on the floor because of my respect for the budget process and because I had no idea that we would go into the windfall profit tax in this way. So I just would like to serve notice within the context of this same situation that, at the earliest time—I hope with the cooperation of the managers of the bill—I may raise this question and produce the necessary proof and seek the necessary correction.

Mr. DURKIN. Will the Senator yield?

Mr. JAVITS. Yes, I yield.

Mr. DURKIN. I commend the Senator from New York. This is a very serious problem in our area of the country and in all of New England. It impacts on social security recipients, may eliminate social security recipients from fuel aid assistance. There are a number of other problems. I commend him and would like to join with him at our first opportunity to correct this problem.

Mr. JAVITS. I certainly agree with the Senator, and I thank him.

Mr. LONG. Mr. President, I do not understand all the details; the Senator has explained to me briefly what this is all about. I am sure it is something that deserves the attention of the Senate and I shall be glad to cooperate with the Senator in seeing that the proper answer is arrived at.

Mr. JAVITS. I thank my colleagues very much.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LONG. I yield back my time, Mr. President.

The PRESIDING OFFICER. All time having been yielded back and the bill having been read the third time, the question is, Shall it pass?

The bill, as amended, was passed.

Mr. LONG. I move to reconsider the vote by which the bill was passed.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that S. 2939 as passed by the Senate be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with Public Law 86-42, appoints the following Senators to the Canada-United States Interparliamentary Group. The Senator from Montana (Mr. MELCHER), the Senator from Oklahoma (Mr. BELLMON), and the Senator from South Dakota (Mr. PRESSLER).

RECORD SPENDING INCREASE CONFIRMED

Mr. HARRY F. BYRD, JR. Mr. President, at a hearing today before the Committee on Finance concerning possible tax reductions, Secretary of the Treasury G. William Miller confirmed that in the current fiscal year, 1980, Federal spending will rise by the largest amount in history—$85 billion—over the preceding year.

This demonstrates that the administration and the Congress are misleading the public in asserting that Government spending is being restrained.

The fact is that Federal spending is totally out of control.

Under questioning by me, Secretary Miller not only confirmed that we are now experiencing the largest single-year spending increase in history, but that the Carter administration has completely abandoned efforts to balance the budget in the forthcoming year, fiscal 1981.

The budget for next year—which in the President's estimates of March 31, and in the subsequent congressional budget resolution, was claimed to be in balance—is now officially estimated to be $30 billion in deficit.

Frankly, the Senator from Virginia has not given credence to the claim that a balanced budget was in prospect for 1981.

After the President submitted his budget figures on March 31, I publicly stated that the Government would run a deficit of at least $30 billion. And sure enough, the President now admits that the deficit next year will be $30 billion. The only surprise to me is that the administration has acknowledged the fact so soon.

I want to point out one important aspect of the projected deficit for next year: namely, that it will violate the law.

Under the provisions of Public Law 95-435, specifically an amendment which I sponsored in the Senate and which was approved by the conferees and included in the legislation as signed into law by President Carter on October 10, 1978, no deficit in the Government's budget for 1981—or any subsequent year—is legal.

Let me quote the provision in question. It is only 18 words long. It states:

> Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

Now that the administration—as confirmed by Secretary Miller—has given up on a balanced budget, what will be done about this provision? Will it be amended? Will it be repealed? Or will the President and the Congress just defy the law?

It will be interesting to see.

Let us return for a moment to the budget for the current year, 1980. I have noted—and Secretary Miller has now confirmed—that it represents the largest spending increase in the history of the United States. It also will produce the second largest deficit in our history—over $60 billion.

I think what we have been witnessing in recent months, with regard to the Federal budget, is a gigantic shell game. More and more spending has been loaded into the fiscal year 1980 budget, while the public's attention has been focused on the 1981 budget. Thus a staggering deficit, and the largest spending increase in American history, have been virtually ignored, while officials have been pointing with pride to what has proved to be an illusory balance in the budget for the year ahead.

Obviously, the more spending that is carried out in 1980, the less the apparent increase in spending from 1980 to 1981.

Now, however, the shell game has been exposed. What we have is a gigantic spending increase for 1980, along with a smashing deficit, and a budget for 1981 that is nowhere near in balance.

One figure is particularly revealing, and that is the 2-year increase in spending from 1979 to 1981. It is an astonishing $140 billion, from $494 billion to $634 billion. That is the highest 2-year increase in history—thus smashing another spending record.

The new figures submitted by the President are very discouraging. They should be very discouraging to the American people. They mean more inflation. They dramatize again that the budget process is not working. These figures dramatize again the irresponsibility of the Carter administration and Congress in handling the public funds.

Mr. President, I emphasize again there is no fiscal restraint and no fiscal responsibility in Washington. There is none in Congress and there is none in the White House.

And the American people are the ones who are paying the price. This huge increase in Government spending must be paid for by the people who work. The only place the Government can get money is out of the pockets of the people who work through taxes or by inflation. And inflation is the cruelest tax of all. It hits hardest those on fixed income and those in the lower and middle economic groups.

And speaking of taxation, the present Federal spending boom, and the smashing deficits for 1980 and 1981, come at a time when the Government is taking from the American people a record high proportion of their income in taxes.

Congress and the President are prepared to continue down the road of deficit financing and high taxes and seem determined to continue this operation of our Government not on a sound basis, not on a solvent basis, but on the basis of more and more deficit spending.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table showing the receipts, the outlays, and the deficit of the Government beginning with fiscal year 1958 going through fiscal year 1981.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

UNIFIED BUDGET RECEIPTS, OUTLAYS, AND SURPLUS OR DEFICIT FOR FISCAL YEARS 1958–81, INCLUSIVE

[In billions of dollars, July 1980]

[Prepared by Senator Harry F. Byrd, Jr., of Virginia]

	Receipts	Outlays	Surplus (+) or deficit (−)
Fiscal year:			
1958	79.6	82.6	−3.0
1959	79.2	92.1	−12.9
1960	92.5	92.2	+.3
1961	94.4	97.8	−3.4
1962	99.7	106.8	−7.1
1963	106.6	111.3	−4.7
1964	112.7	118.6	−5.9
1965	116.8	118.4	−1.6
1966	130.8	134.6	−3.8
1967	149.5	158.2	−8.7
1968	153.7	178.8	−25.1
1969	187.8	184.6	+3.2
1970	193.8	196.6	−2.8
1971	188.4	211.4	−23.0
1972	208.6	231.9	−23.3
1973	232.2	247.1	−14.8
1974	264.9	269.6	−4.7
1975	281.0	326.2	−45.2
1976	300.0	366.4	−66.4
1977	357.8	402.7	−45.0
1978	402.0	450.8	−48.8
1979	465.9	493.7	−27.7
1980[1]	517.9	578.8	−60.9
1981[1]	604.0	633.8	−29.8

[1] Estimates.

Source: Office of Management and Budget.

QUORUM CALL

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Mr. President, the time is now for return to the Alaska lands bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, will the clerk state the bill by title?

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

The Senate resumed the consideration of the bill (H.R. 39).

UP AMENDMENT NO. 1408

The PRESIDING OFFICER. The question is on the unprinted amendment No. 1408.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Mr. President, if I withdraw that amendment now and later submit it, it would be submitted with the situation that there would be no time for further debate on the amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I do not need unanimous consent to withdraw it at this time; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. STEVENS. Mr. President, I shall ask that a quorum call be ordered and ask unanimous consent that the time not be charged to any party.

The PRESIDING OFFICER. The Senator has a right to ask for a quorum call without the time being charged at this point.

Mr. STEVENS. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

UP AMENDMENT NO. 1413

(Subsequently numbered amendment No. 1947)

(Purpose: To delete certain lands from the proposed Nowitna National Wildlife Refuge in order to allow State of Alaska land selection, that were approved in the Energy and National Resources lands bill)

Mr. STEVENS. Mr. President, I have an amendment at the desk entitled "Nowitna."

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1413:

On page 10, lines 20 and 21, strike "one million seven hundred and twenty thousand" and insert ("one million four hundred and fifty thousands."

On page 10, line 23, strike "April, 1980" and insert "July, 1980."

Mr. STEVENS. Mr. President, I reserve the time on the amendment and I yield to the Senator from Maryland such time on the bill as he may require to be charged against the time allocated to Senator HATFIELD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, the parks and preserve amendment which the Senator from Massachusetts, Mr. TSONGAS and I are offering to this Alaska lands bill is intended to resolve some serious land use and land management conflicts in key areas of Alaska and also to protect critical wildlife habitat through additional parks or preserve designation in a few areas.

The acreage changes involved in this amendment are relatively minor. However, the clarification of traditional park uses and the wildlife habitat made secure are important.

The effect of this amendment would be to bring the national park areas in this bill closer to the proposal of the administration and that of the House, which passed the Alaska lands bill by the overwhelming margin of 360 to 65 last year.

I might also note that this is the second Congress in which the House has acted on this legislation and the Senate has failed to act so far. The issue of Federal lands and their use in Alaska has been debated since the Statehood Act of 1959. Since the 1971 Alaska Native Claims Settlement Act, more and louder voices have joined the debate which has become increasingly detailed. The Congress missed its own legislatively-imposed deadline for reaching a decision on national interest lands in Alaska when it failed to act in the last Congress.

The debate has dragged on and the House-passed bill is the result of further refinement by the diverse interest groups affected by this legislation. The bill before the Senate today presents us with an opportunity to refine the committee's work and take decisive action.

For those of us who do not serve on the Committee on Energy and Natural Resources, it is an opportunity to express our views on this historic legislation.

And I believe it was the intent of the Senate Energy and Natural Resources Committee that the full Senate should have such an opportunity to refine the bill here on the floor, rather than give legislation of such scope and complexity a perfunctory imprimatur.

I, for one, believe this issue must be decided this year. It will lay down the basic parameters of Federal intentions over that one-third of the State of Alaska in which all Americans share a stake. It will permit many other decisions to be made—by the State of Alaska, by the Natives, and by private companies and individuals—as to how and where their interests can best be served in our Nation's 49th State.

So I am committed to seeing the Senate take action on this bill, move it to conference, and take final legislative action before the end of this 96th session.

The debate on Alaska could rage on for years into the future. It has been raging before the Congress since 1973 when the late Secretary of the Interior, Rogers C. B. Morton, first proposed locations and uses to be made of Alaska national interest lands.

But I believe the issue now has been explored sufficiently for us to come to a decision and lay to rest many of the questions and doubts in the minds of all Americans about Federal intentions in Alaska. The committees of the House and Senate have had extensive hearings on this subject. The committee members have devoted untold hours, days, weeks, and months to this subject.

My good friend and colleague from Alaska, Senator STEVENS, has invested enormous personal time and effort in this issue as a member of the committee. And I know he shares with me a commitment to seeing this issue resolved this year.

Dr. Harvey Cox, the noted Harvard theologian, has said, "Not to decide, is to decide." The Congress has invested too much time and effort and would shirk its national policy responsibility were it "not to decide" the Alaska national interest lands this year.

I would like to share some of my perspectives on this huge storehouse of America's riches as they relate to the parks and preserve amendment now before us.

Alaska is a vast treasure chest of oil, minerals, and timber. The Prudhoe Bay oil discovery and development have proved this beyond a doubt.

The 375 million acres of the northernmost State contain an incredible variety of terrain, wildlife, vegetation, and people. Its 450,000 people include 70,000 natives of Aleut, Indian, and Eskimo heritage who have aboriginal ties to the land and their unique lifestyle.

The population centers in Alaska are concentrated in the south central area in Fairbanks and Anchorage, and in southeast Alaska in Juneau. It is southeast Alaska, the scenic appendage on the coast dotted with islands, forests, fiords, and glaciers which most Americans, who are fortunate enough to visit Alaska, see on guided cruises.

Yet those visitors, who numbered approximately 500,000 last year and contributed an estimated $200 million to the Alaskan economy, rarely get even a glimpse of the great interior of the State with its vast tundra, Arctic plain, muskegs, lofty mountain peaks, volcanoes, rivers, forests, and even sand dunes on the Arctic Circle. A glacial massif can be viewed from a roadside in Alaska's interior. Lonely beaches face the mist-shrouded coastline of Siberia, where ancient man and wildlife made their way across the Bering Land Bridge to the North American continent.

Ground transportation in Alaska, with the exception of major cities and links between them in the south, is primitive. The Alaskan-Canadian highway, is a 1,400 mile stretch of gravel and dirt built during World War II by the Army. The Alaskan Railroad connects Fairbanks, Denali-Mount McKinley National Park, and Anchorage. It is the all-purpose train in Alaska, carrying products, people, and animals.

And the last major ground link to the interior is the Pipeline Haul Road, which is open to traffic as far north as the Yukon River. Traveling off the beaten path, a bush plane able to put down on either water or frozen tundra is your best bet.

The cost of living is high in Alaska due to its remote location and the high cost of transportation. A resident of the town of Nuiqsut describes the dilemma for Alaskans this way:

> I ordered an 18 foot boat from Penney's. Paid $795 for it, but then I found out it was going to cost them $1,400 to ship it so I canceled the order.

Nowhere else on this continent can a person view free roaming herds of caribou, moose, and Dall sheep. The famed bears of Alaska are a unique species which must forage for vast distances in order to survive. The adult male grizzly, for example, has home ranges as large as 900 square miles. Females range from 80 to 180 square miles.

The caribou, a staple of the Native diet, consist of two principal herds. The Western Arctic caribou roam 140,000 square miles from the Arctic Sea and the Chukchi Sea, through the Brooks Mountain Range on the Arctic Circle, and onto the North Slope coastal plain. The herd numbers about 50,000 according to a 1976 count. This is a significant decline in the herd since 1970 when scientists estimated it at 240,000.

The Porcupine caribou herd of the eastern Arctic area numbers about 110,000 animals and roams a 78,000 square mile area, summering on the Arctic Coast on the Beaufort Sea and moving south and east into Canada each fall and winter.

The Arctic's barren-ground caribou are an impressive, but vulnerable breed. Their migration patterns are determined by such subtle natural forces as snow texture or the length of daylight. Their timely arrival on traditional calving grounds is essential to survival. Vast herds have already been reduced through ill-planned developments in Siberia, Canada, and Scandinavia.

In Alaska, the Steese-Fortymile herd once numbered over 500,000, but now can hardly be found. Part of this decline is due to roadbuilding in the herd's forage areas and the well-known sport hunting of the animals from the Steese Highway. We must not let the decline of this caribou herd become acceptable or set the standard for what remains of Alaska's wildlife treasures.

Lesser size fur-bearing mammals include red and Arctic foxes, wolves, wolverines, minks, weasels, otters, lynx, beavers, muskrats, showshoe and tundra hares, hoary marmots, and Arctic ground squirrels.

Alaska's rivers are bountiful. Fish of a size only dreamed of in the lower 48 are commonplace. The most productive pink, silver, red, king, sockeye, and coho salmon spawning rivers in the world are in Alaska. Steelhead and rainbow trout, grayling, northern pike, whitefish, chum, Arctic char, smelt, sheefish, Dolly Varden, burbot, halibut, herring, and the famed king crab are among the delicacies spawned by Alaska's rivers. Some of these fish species, notably salmon, halibut, and herring, are an important industry for Alaskans and others.

The coast of Alaska harbors such sea mammals as walrus, beluga whales, porpoises, sea otters, ringed, bearded, harbor, and fur seals.

And our 49th State can be viewed as a giant nesting and breeding ground for millions of birds which follow every North American flyway south to Canada, Mexico, and as far south as New Zealand—as well as each of our 50 States. The Yukon Flats basin alone is the winter home of over 2 million ducks and over 16,000 geese.

As one who has a deep appreciation for our Nation's largest estuary, the Chesapeake Bay and its native wildfowl, I feel an inextricable link to Alaska through the migration patterns of the canvasback duck, white-fronted geese, mallards, Canada geese, snow geese, and whistling swans.

Scientists do not know exactly how migratory birds find their way over long distances, but they are discovering that birds tune into an amazing variety of sensory cues for navigation. Some birds may use rivers, coastlines, and mountain ranges for guidance, while others may be guided by the Sun, star patterns, and even the Earth's magnetic field. It is fascinating to see how these resilient shorebirds wing their way distances of thousands of miles at altitudes of up to 20,000 feet.

All of this variety of wildlife requires vast areas of ground to forage on the thin and fragile tundra, muskeg, plains, and forests of the North. It was this basic need for foraging space and the opportunity to protect entire ecosystems which set the parameters of the national interest lands boundary and use designations as proposed by three administrations beginning with President Nixon.

Those boundaries and uses, in turn, were adjusted over the years to take into account competing use demands by Alaska's Native people, the State of Alaska, and other energy and strategic mineral interests.

Six of the ten proposed national parks proposed by the Senate Energy and Nattural Resources Committee fragment both habitat and scenic values for park visitors by introducing incongruous and incompatible uses. Indeed, two land use classifications—national recreation areas and BLM conservation areas—were not even contemplated by the Native Claims Settlement Act which generated the bill before us today. Nor were these two land use classifications ever proposed by the Secretaries of the Interior down through the years. Nor were they considered by the House in either of its two final considerations of this legislation.

The parks and preserve amendment would eliminate from the lexicon in Alaska national interest lands one of those two new and inappropriate land use designations—the national recreation area. The parks and preserve amendment would redesignate approximately 3 million acres of national recreation areas back into traditional park use and management.

National recreation areas were first designated by the Congress at Lake Mead, Nev., a heavily visited resort area. Subsequently, two other areas were designated: Gateway National Recreation Area in the metropolitan New York area and Golden Gate National Recreation Area in San Francisco.

The existing recreation areas in the lower 48 are all water-oriented recreation areas in heavily populated vacation areas. They can be managed by either the National Park Service or the U.S. Forest Service and may include such uses as sport hunting and mining.

This is clearly an incongruous land use for the remote, yet priceless, scenic landscapes and wildlife of the three affected proposed parks—Gates of the Arctic; the Noatak River basin; and Wrangell-St. Elias.

The committee has established the Seward Recreation Area near the city of Anchorage on the Chugach National Forest. This area clearly makes sense because of its proximity to and accessibility to Alaska's major population center—Anchorage.

The most serious breach of compatible and harmonious uses permitted in national recreation area is new hardrock mineral entry, exploration and development by permit. In conjunction with such construction, drilling, and Earth moving comes, of course, roads—either for heavy duty trucks or railroads. Such roads would be subject to a permit by the Secretary of the Interior in order to be constructed.

Imagine the scar on a landscape of a heavy-duty truck road, probably of dirt and gravel, and the billows of dust as those truck caravans rumble along extracting from the Earth its mineral wealth.

Roads can do great violence to wildlife. The decline of the caribou herds along the Steese Highway—certainly one of the saddest chapters in Alaska's wildlife management history—testifies to this.

Or imagine a pastoral scene in any other of our great national parks and think of a freight train roaring through scattering and scaring wildlife and visitors alike. This simply is not what a national park is all about. It is clearly a use which must be carefully contained and supervised in our national parks.

Such new mineral entry would only compound the threats to park wildlife which should be seen, enjoyed, and studied in its natural habitat. In the case of the Wrangell-St. Elias Park and Preserve, mining would be brought to the doorstep of an area recently placed on the World Heritage list by the United Nations as was the adjacent Kluane National Park in Canada.

I should point out that valid existing mining claims within the 10 proposed national parks are protected from foreclosure. They may be permitted to develop and have road access. But most of the few existing mineral claims in the proposed parks and preserves have remained just that—claims—for many years with little or no further exploration or testing.

So the probability of a mining claim being developed in one of these parks is remote. The patent holders know when they have got a potential "gold mine" of minerals below the surface. And they have also shrewdly calculated the costs of transporting such potential minerals to market. The costs and return on investment simply do not balance.

The park and preserve boundaries of this amendment carefully avoid mineral claims with the greatest promise and serious interest in development, thus carefully balancing park values and mineral interests.

The second thing the parks and preserves amendment would do is redesignate certain "national preserve" areas into "national park" status, and certain "national recreation areas" into "national preserves." The net acreage change overall for national preserves is an insignificant 70,000 acres—a net gain in preserve areas.

The effect of this change is to relocate permitted sport hunting to areas compatible with this use which have significant wildlife populations sought by hunters. It removes permitted sport hunting from two critical national park areas in order that nonhunting park visitors may have easy access to watch and observe park wildlife in an undisturbed native habitat. In order to protect both visitors and wildlife and insure that both can come relatively close together in a natural setting, sport hunting clearly should not be permitted.

One area, Wrangell-St. Elias, proposed as premier parks with spectacular scenery would have a small reduction in sport hunting and one would be a complete unified wilderness national park—Gates of the Arctic.

Three areas would have increased national preserves. The lower Noatak River basin in the northwest end of the Brooks Range, where the Western Arctic caribou herd forages, moose roam, and a large population of migratory birds, including old world birds, are found.

As the Senate committee report noted:

> The lower Noatak River is part of a larger Biosphere Reserve designated by UNESCO in its Man and the Biosphere program. . . . (it) is also part of the Cape Krusenstern National Archeological District and on the National Register of Historic Places. Scores of archeological sites can be found throughout the area. The recognition in the planning and management of the area's scientific and cultural importance is paramount.

Mr. President, I would also note that the Native Village Corporation of Northwest Alaskan Natives' Association (NANA) supports this amendment because it would reduce sport hunting competition with the natives on the same ground.

Mr. President, in Denali National Park and Preserve, renamed from Mt. McKinley National Park to its original Athabascan Indian name, meaning "the Great One"—the mountain is 20,320 feet high—190,000 acres of preserve are added by the amendment to take in important grizzly bear habitat in the Toklat River Valley where the bears feed on salmon.

In Wrangell-St. Elias National Park and Preserve, 1.15 million acres of preserve are added by the parks and preserves amendment. This will permit sport hunting on the north side of the Wrangells, but foreclose it to new mineral leasing and associated road construction, an incompatible use which would surely rout its world famous Dall sheep population from this region of the mountains. It would also remove the threat of mining and roads from the Chisana caribou head. Protection of the herd is currently being considered as part of United States-Canadian treaty negotiations.

In Katmai National Park and Preserve, the amendment adjusts the park boundary by adding 200,000 acres from the adjoining preserve. The purpose here is to protect Alaska's brown bear along its key denning and feeding area in this region.

Katmai, established in 1918, is located on the Alaskan Peninsula, and represents the only major population of brown bear—the world's largest carnivore—which exists in a protected environment. This region is the finest area in terms of fish and wildlife productivity and species diversity. The Alaskan Peninsula supports the largest brown bear population in America—more than 3000 animals.

The bears migrate from the National Park Area across what, in the committee bill would be a preserve, down to a waterfall in the State's McNeil River Bear Sanctuary to feed on the abundant salmon there. In the process, however, under the committee bill, the bears would have to cross an area open to sport hunting to go from the McNeil Sanctuary to protected denning and feeding areas in Katmai and vice versa. They would not even have a sporting chance following this natural migration route if this key area became a preserve open to sport hunting.

To return to the parks classification of this amendment, some 350,000 acres in Wrangell-St. Elias are redesignated from national preserve to national park. The Wrangell Mountains feature the greatest concentration on our continent of peaks over 15,000 feet. The region is dominated by massive glaciers and valleys deeper than Yosemite. Large rivers, fed by glacier meltwaters meander through the area. One glacier, the Nabesna, is four times the length of Manhattan Island.

Great U-shaped valleys provide access to the high country and unlimited wilderness hiking and climbing in spectacular mountains. The only restraint is endurance.

Vapors and hot springs of Mount Wrangell and Mount Drum belie the power of these volcanoes now locked in a silent mantle of ice and rock.

The Chitina River offers float trips of exceptional quality and a silent approach for viewing bear, moose, river otter, and other animals of the valley bottom. Other animals include the famed Dall sheep, mountain goat, grizzly and black bear, and wolf.

Also lurking in the timber are abandoned gold camps where panners once hoped in vain for nuggets.

And looming over it all are the crags and massifs of the Wrangell-St. Elias high country.

The late Senator Ernest Gruening, a world traveler, had this to say of the area in a memo to the Secretary of the Interior in November 1938:

> The region is superlative in its scenic beauty and attractiveness and measures up fully and beyond the requirements for its establishment as a National Monument and later as a National Park. It is my personal view that from the standpoint of scenic beauty, it is the finest region in Alaska. I will go further and state my belief that nowhere on the North American continent is such striking scenery to be seen. It is in my judgement greatly superior to McKinley National Park. . . .
>
> Quite independently of the fate of railroad and the region, this area on its own merits is preeminently worthy of establishment as a National Monument. I have travelled through Switzerland extensively, have flown over the Andes, and am familiar with the Valley of Mexico and with other parts of Alaska. It is my unqualified view that this is the finest scenery that I have ever been privileged to see.

The Wrangell's Park complex and the Canadian Kluane Park richly deserve to be a world Heritage area, an honor best bestowed by the U.N. on only the finest natural regions of the world. This amendment is consistent with Canada's park and game classifications at Kluane and would protect this international treasure and its wildlife from encroachment.

Mr. President, I read from a July 17, 1974 letter from the Director General of Parks Canada to the Chairman of the Alaska Planning group for this region within the Naitonal Park Service:

> 1. Provision for Hunting in Wrangell-St. Elias National Park.
>
> Parks Canada is concerned to see plans for hunting in a National Park. Such a proposal if implemented could, in Parks Canada's view, lead to the erosion of the longstanding principle of banning hunting in National Parks and may well influence other countries to follow suit.
>
> It is understood that the lands involved in your proposal may presently represent the hunting grounds of both resident Alaskans and hunting outfitters and that, to ease the impact of the establishment of the proposed Park, it would seem appropriate to let them continue on a controlled basis. In reviewing the kill statistics as provided in your draft proposal, it would seem that (a) subsistence hunting would not seriously be affected if the Park area were to be withdrawn from hunting, and (b) only sport hunting for sheep would be affected significantly. If sport hunting in the proposed Park is of such economic significance that undue hardships would be suffered by outfitters if cut off immediately, Parks Canada could understand a proposal to phase this activity out over time. However, to provide for its continuation with no mention of an eventual phase-out can only be viewed as harmful to an otherwise impressive Park proposal.
>
> In your Wrangell-St. Elias proposal re sport hunting for Dall sheep, I note that kill areas extend right up to the International Boundary, immediately adjacent to Kluane National Park and Kluane Game Sanctuary. As you may be aware, there have been past violations by hunters and outfitters working out of Alaska in the Kluane area, necessitating costly patrols by our Warden Service on the Canadian side of the Boundary. Continuation of sport hunting on the Alaskan side will necessitate the continuation of these expensive patrols rather than diverting the funds into a more constructive Park program. Temptation to hunt the presently unhunted Kluane sheep will likely grow as the number of trophy heads diminish on the Alaskan side, and the risks involved in crossing the boundary will, in the eyes of many, be worth the financial rewards to be gained. Obviously, if such becomes the case, patrols will have to be stepped up, with a consequent decrease in available Park funds for other necessary Park programs and developments.
>
> In summary then, it should be clear that Parks Canada could not endorse your proposal to permit continued hunting in the proposed Wrangell-St. Elias National Park.
>
> 4. Co-operative Efforts in Park Surveillance.
>
> Although not discussed to any extent in the proposal, Parks Canada would anticipate co-operative arrangements to be developed between the two Parks with respect to law enforcement (wildlife management and protection in particular), search and rescue operations, and back-country user controls. Such arrangements might also have to include methods for controlling air access to the Parks.
>
> SUMMARY
>
> With the exception of the suggestion to permit controlled hunting, Parks Canada strongly endorses the proposal to establish a Wrangell-St. Elias National Park. The basic proposal plus any of the boundary additions would be quite acceptable in our view, and it is our sincere hope that such a Park will soon come to fruition.
>
> Informal contacts and working relationships have already been established between your officials in Alaska and Parks Canada staff at Kluane National Park and at our Regional Office in Winnipeg, Manitoba. I fully support the strengthening of these ties and will ensure Parks Canada's full co-operation in this regard.
>
> Thank you for providing Parks Canada with the opportunity to comment on this proposal.
>
> Yours sincerely,
>
> JOHN I. NICOL,
> *Director General,*
> *Parks Canada.*

This letter clearly shows the concern of the Canadian Government for possible sport hunting in an area bounding the Canadian Kluane National Park, where no sport hunting is permitted.

The amendment will insure that the estimated 130,000 park visitors will have easy access from one of the park's principal roadways to view and photograph park wildlife undisturbed.

The second region where significant park designation is made by the parks and preserves amendment is in the spectacularly beautiful Gates of the Arctic.

Gates of the Arctic is located in the Central Brooks Range north of the Arctic Circle. It was named by the noted American conservationist, scientist, and forester Robert Marshall in the 1930's. From his main camp at Wiseman, Marshall traveled up the North Fork of the Koyukuk River and discovered two opposing mountains near the river's source. He named one Frigid Crags, the other Boreal. He called the two collectively the Gates of the Arctic.

Marshall later recommended that the entire Brooks Range, from the Yukon River north to the Arctic Sea be designated a wilderness area. Today, more than a generation later, Gates of the Arctic National Park has the potential to become a reality.

A description of this area appeared in Alaska Geographic in 1977:

> Broad rivers seem lost in, and vast caribou herds swallowed by, the sweeping immensity of arctic landscape. Amid such overpowering perspective, the visitor is drawn to the elemental beauties of the far north; the carpet of tundra plant life that clings to a thin veneer of soil; the flourish of summer while winter lurks just over the hills.
>
> Lichen-encrusted bones tell of the slim economies on which arctic creatures depend. These and the solitude of unpeopled valleys and man-dwarfing distances, confer a peace and reverence that is the spell of the Alaskan Arctic.

The parks and preserve amendment redesignates the two proposed national recreation areas and the proposed national preserve which cuts through the central valley of those very "Gates" into one national park unit.

This unified national park has been studied and gestating now for about 30 years and has been intensively planned since 1972. The redesignation of "preserve" to "park" of the very heart of the Gates would insure a wilderness experience for both man and animal alike. That central valley includes the native village of Anaktuvuk which means "Place of Caribou Droppings." The people of this village depend on hunting the caribou for their subsistence, along with fishing, berry gathering, and wood gathering. Subsistence hunting is permitted in all proposed national parks under both this amendment, the committee bill, and the House-passed bill. A clear conflict would be created if a preserve designation were to be instituted for this region thereby permitting sport hunting.

It would place sport hunters in competition with Natives for animals upon which the Natives depend for food, clothing, and shelter.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the Secretary of the Interior dated May 9, 1979, by Mr. Harry K. Hugo, President of the Nunamiut Corporation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NUNAMIUT CORPORATION, ALASKA,
May 9, 1979.

Hon. CECIL D. ANDRUS,
Secretary of Interior,
Department of the Interior,
Interior Building,
Washington, D.C.

DEAR MR. SECRETARY:

For several years we have been interested in the establishment of a national park in the Central Brooks Range that would include within its boundaries the Village of Anaktuvuk Pass. As you know, we are most concerned with being able to continue the hunting, fishing and trapping that are the core of our subsistence way of life. We also have been concerned for some time about the impacts on our people that would occur following the creation of a national park. We have opposed sport hunting in the Anaktuvuk area and believe a national park in our area with adequate provisions for the continued maintenance of subsistence activities is the best way to preserve our traditional culture and lifestyle.

We have had an opportunity to review the proposed "Statement of Principles" between Arctic Slope Regional Corporation and the Secretary of the Interior. Of particular interest in the proposed agreement are the provisions concerning a proposed land exchange in the vicinity of our village that would consolidate the holdings of ASRC so that the combined pattern of ownership between ASRC and Nunamiut Corporation would form a cohesive and connected block of land.

We have been, and remain willing to, consider the use of public easements of access (instead of fixed trail easements) as a means of controlling visitor access to the park that would use Anaktuvuk Pass as the point of departure. We remain interested in entering into some kind of cooperative arrangement that would serve to limit the adverse impacts we fear will happen when our area receives increasing use from park visitors.

While we are not a direct party to the proposed agreement between ASRC and the Interior Department, we support in principle its terms as they pertain to the Anaktuvuk people. We look forward to a long and cooperative relationship with the National Park Service and we are anxious to renew the discussions concerning matters of mutual interest.

Sincerely,

HARRY K. HUGO,
President, Nunamiut Corporation.

Mr. President, designation of the heart of the Gates of the Arctic as national preserve, as proposed by the Senate committee, introduced a conflict between the region's visitors who are primarily wilderness hikers, river floaters, campers, and mountaineers, and trophy hunters during the critical month of August when the area is most heavily used by those parties.

The National Park Service foresees this area as the Nation's premier wilderness park in its present primitive condition.

The goal of the National Park Service at Gates of the Arctic has been described as:

To retain the park features and ecosystems in the present primitive condition. While other proposed parks in Alaska and existing parks in the lower 48 states offer a wider range of modern recreational opportunities, Gates of the Arctic would be available for the experiences that only wild, untouched country can provide.

From this fundamental objective, several broad approaches to management have emerged. First, no developments are planned within the park, except for a few ranger stations and patrol cabins. These cabins would be designed to have the least possible impact on the environment. The park headquarters would be in Fairbanks while a field headquarters would be established at Bettles Field and a field station in Anaktuvuk Pass.

No campgrounds are planned for the park, except perhaps on Native lands in cooperation with the natives of Anaktuvuk Pass. Rather than modify the wilderness environment with facilities where people congregate, visitors would be encouraged to disperse themselves in the vast landscapes of the North. They would roam as freely as the terrain, waterways and vegetation naturally allow. There are no plans for trails; they would tend to confine travel into constant, wearing routes.

Although the park could be entered on foot from fringe areas, most visitors would probably come to it by air but the landscape would not be modified by airstrips. Instead, certain lakes would be utilized as landing sites with snow or gravel bar landings also designated. Airplane mooring facilities would be provided on a few of the larger lakes. Private airplane owners could fly into the park.

For those unable to see the park on the ground, air tours would be available.

Local residents, following a subsistence way of life and depending upon the wildlife, fish and plant material of the region, could continue to utilize the park area for subsistence purposes.

Despite the seeming abundance of fish in Arctic waters, productivity is very low. Because the park waters cannot sustain heavy sport fishing, sport fishermen would be required to use single, barbless hooks and all fish caught would be consumed within the park or returned to the water.

The Alaska Native Claims Settlement Act of 1971, which authorized studies and recommendations for new national parks like Gates of the Arctic, provided first of all for Native land selections throughout the state. More than 600,000 acres within the park's proposed boundaries have been selected by Native corporations and probably will remain in private ownership. These Native lands center at Anaktuvuk Pass but include several major river and creek valleys and at least two large lakes, Chandler and Shainin. The Park Service plans to seek cooperative management agreements with the Natives of Anaktuvuk Pass and the Arctic Slope as a basis for partnership in managing the park's vast resources. Cooperation will help insure that uses of the Native-owned lands are as consonant as possible with the purposes of the park.

Once established as a national park, the area would be further studied so that its ecosystems and capacity to withstand use could be better understood. A "carrying capacity" could then be determined.

Interior Alaska is a lightning-fire region today and probably has been for centuries. In the region of the park, particularly on the southern slopes of the Brooks Range, an average of 20 fires a year for the last 5 years is attributable to lightning. Most of the area has been burned at one time or another in recent history. Wildfire in northern Alaska is now believed to play an essential role in the ecology of this environment. Until research has established the precise nature of this role, Park Service management would treat fire as a natural occurrence, and fires in most circumstances would be allowed to burn. Man-caused fires would, of course, be controlled.

The two national recreation areas designated in the committee bill are redesignated national park under the parks and preserve amendment for the reasons I previously discussed of incompatible new mining and road construction. Two areas of the Gates are very popular for river floating on the Kobuk River and the north fork of the Koyukuk River as well as a good hiking region. Without this redesignation, unsuspecting float trips would silently pass from an animal protection area to a free fire zone where sport hunting would be permitted. The effect would be traumatic for both the float party and the wildlife which would be scared off from this region, at least during hunting season.

Again I would point out that national recreation area designation is something new this year from the Senate Energy and Natural Resources Committee. Neither the House nor Senate bills in the 95th Congress proposed any "recreation area".

Lastly, the parks and preserve amendment deletes a committee mandated transportation corridor across a part of this proposed park. The committee mandated corridor flies in the face of title IX of the committee's own bill which provides any expedited process for locating transportation corridors throughout Alaska. No one has ever proposed such a route. In short, it makes no sense to specifically locate such a transportation route in this or any other national interest land.

The changes in park and preserve designations which I have described are integral to the successful use and management of Alaska national interest lands. This amendment would provide a national park system of Alaskan breadth, character, and diversity.

It presents us with an opportunity to insure that future generations of America will be able to visit and experience our last frontier essentially in the condition in which explorer Bob Marshall found it and as it has been for thousands of years.

Only in a State the size of Alaska could one have 44 million acres of unsurpassed scenic grandeur, cultural history, and representative sampling of Alaska's unique terrain amount to only 11 percent of the land. Only in Alaska can a carefully designed system of parks help to perpetuate the very richness and national wonders that gave rise to its native cultures and inspired the very first frontiersmen.

Thus, I urge my colleagues to support the parks and preserve amendment to correct deficiencies in the bill before us. Specifically, the committee bill violates ecosystem boundaries which have been carefully defined over the years by experts in the field. The committee bill would place lands of supreme habitat and scenic geographic value in the hands of agencies not mandated to give priority to such values. The committee bill would create redundant bureaucracies in charge of managing unified ecosystems. The committee bill will confuse the public, which must deal with regulations that change each time they cross artificial boundaries.

As the Secretary of the Interior has said:

> I am personally familiar with the mixed management patterns (of federal land in our western states), and frankly, they are an administrative nightmare. The public has enough problems dealing with the federal government already without complicating things further by intentionally splintering management.

Great buffalo herds have long since disappeared from the American landscape, but caribou still roam free across Alaska.

We can learn much from the Alaskan Natives and their sensitivity to the land and its abundant wildlife upon which they depend. In "Men of the Tundra," Marvin "Muktuk" Marston made the following observation:

> The Eskimos of the Arctic are the most self-reliant and resourceful individuals I have ever met. The climatic conditions under which they have survived for generations would prove insurmountable to 99 percent of the white race. Yet Eskimos have not only survived . . . they have devised means of providing themselves with the three essentials of life—food, clothing and shelter. Could we do that alone in a barren, treeless waste, without materials or implements of any kind, when nine months of the year the earth is enveloped in snow and ice and temperatures that are below zero?
>
> I would not for a moment belittle the brains and accomplishments which have given the people of the Western world a high standard of living. But . . . are we better men than they because we have developed gadgets of comfort, while they still rely on their wits and ingenuity because they have no gadgets?

It seems to me there is a philosophy underlying the Natives' approach to life which other Americans might carefully ponder. I quote from the stockholders report of the Koniag Regional Corp.:

> Our corporations, both village and regional, are required by law to make a profit from lands and monies the United States government has pledged to us. This we will do, and do well.
>
> But law or no law, the land and the sea will always mean more to us than dollars and cents. We shall continue to treat them with respect, and we ask all of those with whom we do business to do likewise.

Mr. President, we have in Alaska the opportunity to do the right thing for the long term—for the 21st century and beyond. We can and have learned from our mistakes. In the lower 48, we have found ourselves going back to several of our national parks to recover overlooked pieces. Purchasing those overlooked pieces of our natural heritage is extremely expensive, as we found recently in Redwood National Park. But we were willing to pay the price.

In Alaska, we have the opportunity to avoid those kinds of oversights, and to insure that our grandchildren do not have to come back and purchase at enormous cost certain Alaskan lands which we had the opportunity to set aside, but failed to do so.

Since becoming a Nation 204 years ago, we have chosen time and again to support and protect our frontier traditions and our national heritage. In 1872, at Yellowstone, our young Nation established the world's first national park. We believed then, as we do now, that some places, some events, some things are special.

It may be lofty Redwoods or giant Sequoia trees. Or it may be the pastoral farmlands where Union and Confederate soldiers did bloody battle.

The Nation's grandest canyon is a special place. So too is the highest mountain on the North American continent. Our Nation's parks have helped to preserve the imprint of history on generations of Americans who continually search for their roots and for a sense of national identity. Our national parks are part of the way we measure ourselves. They are above price and beyond the marketplace.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1466. An act to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27–A and 241, 289, and 27–B and 338, and for other purposes; and

S. 2508. An act to provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236–A, 236–B, and 236–E before the Indian Claims Commission and the United States Court of Claims, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. STEWART).

At 11:45 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1647. An act to establish a commission to review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive Order on American citizens and permanent resident aliens, to review directives of United States military forces requiring internment of Aleut civilians, and to recommend appropriate remedies, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7689. An act to amend the Presidential Science and Technology Advisory Organization Act of 1976 and to amend the National Science Foundation Act of 1950 to provide additional information to the Congress for the purpose of providing a basis for implementing multiyear research and development authorizations.

At 3:37 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 2320. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards, including certain special statutory programs, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing extensions of duties, and for other purposes;

H.R. 5800. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Bryan Lewis Allen;

H.R. 6571. An act to amend the Tariff Act of 1930 to continue temporarily the duty-free status of the cost of certain fish net and netting purchases and repairs;

H.R. 6975. An act to eliminate the duties on wood veneers;

H.R. 7242. An act to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits;

H.R. 7394. An act to amend title 38, United States Code, to revise the veteran's vocational rehabilitation program, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, to provide certain cost-saving administrative provisions, and for other purposes;

H.R. 7511. An act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes;

H.R. 7664. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such Acts, and for other purposes;

H.R. 7670. An act to amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund;

H. Con. Res. 351. A concurrent resolution with respect to taxing social security benefits.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 6:32 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 2492. An act to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes;

S.J. Res. 180. A joint resolution to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 181. A joint resolution to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing extensions of duties, and for other purposes; to the Committee on Finance.

H.R. 5800. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Bryan Lewis Allen; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 6571. An act to amend the Tariff Act of 1930 to continue temporarily the duty-free status of the cost of certain fish net and netting purchases and repairs; to the Committee on Finance.

H.R. 6975. An act to eliminate the duties on wood veneers; to the Committee on Finance.

H.R. 7242. An act to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits; to the Committee on Energy and Natural Resources.

H.R. 7670. An act to amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund; to the Committee on Finance.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 351. Concurrent resolution with respect to taxing social security benefits; to the Committee on Finance.

HOUSE BILLS PLACED ON THE CALENDAR

The following bills were read by their titles and placed on the calendar:

H.R. 7394. An act to amend title 38, United States Code, to revise the veterans' vocational rehabilitation program, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employments and training programs, to provide certain cost-saving administrative provisions, and for other purposes; and

H.R. 7664. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such Acts, and for other purposes.

HOUSE BILL HELD AT THE DESK

The following bill was read by title and held at the desk, pursuant to order of July 22, 1980:

H.R. 7511. An act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes.

HOUSE BILL JOINTLY REFERRED—H.R. 7689

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill, H.R. 7689, the Research and Development Authorization Estimates Act, which was received from the House earlier today, be jointly referred to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 23, 1980, he had presented to the President of the United States the following enrolled bills:

S. 1466. An act to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes; and

S. 2508. An act to provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commission and the United States Court of Claims, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-797. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION NO. 45

"Whereas, Agriculture is the number one industry in California, accounting for approximately $10 billion annually in gross production and a total impact on the state economy of at least $30 billion, and providing 10 percent of our nation's agricultural exports; and

"Whereas, It is in the public interest to maintain, foster, and promote efficient family farm agricultural production on the 3½ million acres of reclamation lands in California and the 11 million acres in the 17 western states; and

"Whereas, The 160-acre limitation on water deliveries from federal reclamation projects was adopted in 1902, and the scale of farm economy has changed substantially in the past 75 years; and

"Whereas, Increasing amounts of American farmland are being acquired by foreign interests; and

"Whereas, the Secretary of the Interior has taken a court order calling for public rulemaking procedures on excess land sales and expanded it to revise all reclamation laws administratively; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California memorializes the Congress of the United States and the Secretary of the Interior to revise and clarify reclamation laws to promote a viable agriculture by modernizing the limitation on the acreage in individual ownerships eligible to receive water from federal projects and by updating residency requirements; and be it further

"*Resolved,* That the Legislature of the State of California urges reforming federal reclamation laws to allow farmers the opportunity to pay the full cost of water and thereby be relieved of acreage limitations and other restrictions; and be it further

"*Resolved,* That the Legislature of the State of California urges that foreign owners or operators receiving federal reclamation water be required to pay the full costs of such water; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-798. A resolution adopted by the Legislature of the State of New York; to the Committee on Commerce, Science, and Transportation:

"RESOLUTION 811

"Whereas, The 1980 Winter Olympics at Lake Placid, New York were undertaken by the Lake Placid Olympic Organizing Committee with the help of the Village of Lake Placid, the Town of North Elba, the County of Essex, the State of New York and the United States of America; and

"Whereas, In a good faith attempt to aid and assist the Olympic effort, and in conjunction with the superhuman effort of organized labor, the business community of our Nation and the people of the United States, the 1980 Winter Olympics were successfully provided with goods, services and facilities at the request of the Lake Placid Olympic Organizing Committee enabled the committee to stage the games for the benefit of all the citizens of this country; and

"Whereas, The 1980 Olympic Games were a huge worldwide success bringing credit to our people and with the success of our athletes including the 1980 United States Olympic Hockey Team, our national pride, enthusiasm and patriotism were brought to their zenith for the first time since World War II; and

"Whereas, much of this business community consists of small and independent businesses in the construction industry and numerous other service industries that are still owed substantial sums of money which, if unpaid, will result in numerous bankruptcies and financial hardship, it is thus the sense of this Legislative Body that such a result is intolerable and unacceptable; and

"Whereas, The Lake Placid Olympic Organizing Committee apparently is unable to pay considerable outstanding debts to the business community and therefore additional public support is of paramount and immediate necessity; and

"Whereas, Any bankruptcy of the Lake Placid Olympic Organizing Committee would cause irreparable damage to numerous innocent parties and would significantly jeopardize the future use of all winter sports facilities in the Lake Placid area and would drastically impair this Country's stature in the world community; and

"Whereas, On June fourth, nineteen hundred eighty, Governor Hugh L. Carey indicated that this state is going to do all in its power to resolve the deficit of the Lake Placid Olympic Organizing Committee; and

"Whereas, This Legislative Body mindful of the encouragement, support and positive actions taken by Senators Jacob K. Javits and Daniel P. Moynihan, Congressman Samuel S. Stratton and Robert C. McEwen, President Jimmy Carter and his entire staff, and the Congressional delegations from our sister states expresses heartfelt sincere appreciation to them for their unswerving support and calls upon all our people to further aid and assist the businessmen and labor force of this state, and more particularly the Lake Placid region, by addressing the present financial difficulties of the Lake Placid Olympic Organizing Committee and thus protect the investment in time, effort and money already made in this most beautiful area of the Empire State; now, therefore, be it

"Resolved, That this Legislative Body endorses the current effort by the State of New York, the Federal Government, the Village of Lake Placid and the Town of North Elba in jointly addressing the existing financial problems of the XIII Winter Olympic Games in the interest of assuring the solvency of numerous United States businesses and preserving the vast investment in winter sports facilities in the Lake Placid area for future use by athletes throughout the United States and the world; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to The Honorable Jimmy Carter, President of the United States, to the President Pro Tempore of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to each member of the Congress of the United States from the State of New York."

POM-799. A resolution adopted by the Senate of the State of New York; to the Committee on Environment and Public Works:

"RESOLUTION 56

"Whereas, A foreign embassy is a place where representatives of one country work to encourage the peaceful cooperation and friendly assistance to the host country; and

"Whereas, The employees of a foreign embassy are subject to the protection of international law and treaties; and

"Whereas, The government of Iran has sanctioned the seizure of the American foreign embassy in Tehran, Iran in blatant violation of articles of international law and has allowed Americans to be held hostage in gross violation of both international treaty and human rights; now, therefore, be it

"Resolved, That the Governor of the State of New York, the Honorable Hugh L. Carey, is memorialized to provide for the twenty-four hour display of the flag of the United States of America, according to all of the proper regulations of the Constitution of the United States, on all State buildings in New York State for the purpose of displaying the solidarity and concern of the residents of the Empire State for the safe release and return of all of the hostages being held illegally in Tehran; and be it further

"Resolved, That the Congress of the United States be and hereby is respectfully requested to provide for the twenty-four hour display of the flag of the United States of America, according to all of the proper regulations of the Constitution of the United States, on all Federal buildings in the United States for the purpose of displaying the solidarity and concern of the residents of New York and the United States for the safe release and return of all of the hostages being held illegally in Tehran; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the Governor of the State of New York, the Speaker of the House of Representatives, the President Pro Tempore of the United States Senate and to each member of the Congress of the United States from the State of New York."

POM-800. A resolution adopted by the Senate of the State of New York; to the Committee on Finance:

"RESOLUTION 11

"Whereas, In these trying economic times, spiraling interest rates and inflation have had an especially devastating impact on retired employees who must live on limited pensions as their only source of income; and

"Whereas, It is imperative that our elected representatives in Congress take immediate and decisive action to minimize, as far as practicable, the deleterious effects of our floundering economy on all public and private retirees; and

"Whereas, For individuals who have in most cases given many dedicated years of service to the business community or the local, state and federal government, immediate relief from the obligations of paying personal income tax on some portion of their retirement allowance is only just and proper and would secure for them a more stable and consistent lifestyle; now, therefore, be it

"Resolved, That the Congress of the United States be and hereby is respectfully memorialized by this Legislative Body to enact legislation which would exempt the first five thousand dollars of public and private employee pensions from federal income tax levy; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the President of the Senate of the United States, the Speaker of the House of Representatives and to each member of the Congress of the United States from the State of New York."

POM-801. A resolution adopted by the Senate of the State of New York; to the Committee on Finance:

"RESOLUTION 479

"Whereas, It is the long-standing position of the State of New York and the United States of America, based on the devotion of the American people to the cause of human rights for all people, to condemn the existence and use of forced labor in prison camps in the Union of Soviet Socialist Republics; and

"Whereas, The flagrant disregard for the principles of international law and the rights of sovereign nations by the U.S.S.R. in its aggression against the independent nation of Afghanistan has caused the President of the United States to call for a boycott of the 1980 Olympic Games scheduled to be held at Moscow, capitol of the U.S.S.R.; and

"Whereas, Souvenirs of the Olympic Games and replicas of its mascot "Misha" are offered for sale in the United States and other nations on behalf of the U.S.S.R.; and

"Whereas, Testimony by former inmates of Soviet labor camps and by expert observers of conditions in the U.S.S.R., delivered at the Third Annual Sakharov Hearings, held in Washington, D.C., on September twenty-sixth, nineteen hundred seventy-nine, and sponsored by the AFL–CIO, revealed that medallions and souvenirs bearing the likeness of the terry-bear symbol "Misha" are being manufactured by slave labor in Soviet prison camps; and

"Whereas, The importation of such products into New York State and the United States represents the exploitation of the labor of political and religious dissidents in violation of all the principles of human rights and justice upon which our society is founded; now, therefore, be it

"*Resolved*, That this Legislative Body condemns the sale of such products in New York State and the United States of America and memorializes the President of the United States and the Congress of the United States to immediately take such appropriate action as will prevent the importation and sale of any Olympic souvenirs and materials produced in forced labor camps and to express to the Government of the U.S.S.R. in the strongest possible terms the outrage and condemnation of the United States of America; and be it further

"*Resolved*, That copies of this resolution, suitable engrossed, be transmitted to the President of the United States, the President Pro-tem of the United States Senate, the Speaker of the House of Representatives and the President of the AFL–CIO."

POM-802. A resolution adopted by the House of Representatives of the State of Pennsylvania; to the Committee on Foreign Relations:

"RESOLUTION

"Whereas, The United States of America and the Federal Republic of Nigeria have over a period of time developed a common bond based on economic ties which today involve mainly oil exports from Nigeria; and

"Whereas, During 1977–1978, the constitutional Assembly of Nigeria drafted a new Constitution which provides for a federated system of government similar to that existing in the United States of America; and

"Whereas, Nigeria is presently the fourth largest democracy in the world; and

"Whereas, The House of Representatives of the Commonwealth of Pennsylvania is presently hosting a group of delegates from the Cross River State House of Assembly which is composed of: Honorable Chief Ndaeyo UTTAH, Deputy Speaker; Honorable Cyril M. EKIKO, Minority Leader; Honorable Brendan UKATA, Majority Whip; Honorable Basil U. ESSIEN, Member; Honorable George INYANG-ETTE, Member; Honorable Peter NYA, Member; and Mr. Michale MONN, Senior Deputy Clerk; therefore be it

"Resolved, That the House of Representatives urge the President of the United States and the Congress of the United States to develop stronger bonds connecting the United States of America with the Federal Republic of Nigeria based on meeting the economic and political needs of each Nation; and be it further

"Resolved, That the Chief Clerk of the House of Representatives transmit copies of this resolution to the Congress in care of the President pro tempore of the Senate and the Speaker of the House of Representatives and to the President of the United States of America.

"Sponsored by Representatives K. Leroy Irvis and H. Jack Seltzer at the request of Chief Ndaeyo UTTAH, Cyril M. EKIKO, Brendan UKATA, Basil U. ESSIEN, George INYANG-ETTE, Peter NYA, and Michale MONN."

POM-803. A resolution adopted by the Senate of the State of New York; to the Committee on Foreign Relations:

"RESOLUTION 99

"Whereas, There have been many contributions made by men and women of Irish ancestry to the State of New York, to the building of our Nation and to the Cause of Freedom everywhere since the earliest times; and

"Whereas, The fact that Ireland is artificially partitioned against the wishes of the overwhelming majority of the Irish people; and

"Whereas, The Irish people in the six-county area of Ireland known as "Northern Ireland" are denied basic civil and human rights and are unable to obtain either adequate protection or equal justice under law; and

"Whereas, The explosive situation in "Northern Ireland" presents an imminent and realistic threat to the peace and is, therefore, the legitimate concern of all men; and

"Whereas, It is the best interests of the United States that there be a just and equitable solution to this problem in order that peace, order, justice and well-being be restored to that part of the world; and

"Whereas, For humanitarian reasons, as well as out of respect for the principles of freedom, liberty, natural law, justice and history, we hereby take notice of the dangerous and deplorable state of affairs in Ireland; now, therefore, be it

"Resolved, That this Legislative Body respectfully, yet firmly, urges, memorializes and petitions the President and Congress of the United States to manifest our country's traditional position as guardian of freedom and republican-democracy, the dignity of all mankind, freedom of conscience and mankind's universal natural rights, by taking such affirmative action as will tend to persuade all concerned parties and the world commonwealth of nations, to seek a speedy, just and equitable solution to the dangerous situation in the "North" of Ireland and to formally express the moral opinion that:

"'The Irish people ought to be permitted to exercise the Right of National Self-Determination, thus returning the disputed six counties of northeast Ireland to the Irish Republic, unless a clear majority of all the people of Ireland, in a free and open plebiscite, determine to the contrary'; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the Honorable Jimmy Carter, President of the United States, to the Honorable Cyrus R. Vance, Secretary of State of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to each member of Congress of the United States from the State of New York."

POM-804. A resolution adopted by the Senate of the State of New York; to the Committee on Foreign Relations:

"RESOLUTION 224

"Whereas, when our forefathers put themselves to the task of devising a fundamental law for the brand new nation they were creating, they displayed unity of purpose and large breadth of vision; and

"Whereas, The words freedom and liberty signified for them and mankind one of the most precious and desirable commodities; and

"Whereas, Freedom and liberty always refer to interhuman relations and a man is free as far as he can live, create and get on without being at the mercy of an arbitrary government; and

"Whereas, The President of the United States has espoused the concepts of our founding fathers and has expressed his deep concern/commitment to human rights in the world and has successfully recently negotiated the release of five political prisoners from the Soviet Union; and

"Whereas, Yuriy Shukhevych who has been incarcerated in Soviet prisons for almost thirty years and is a clear example of a prisoner of conscience; and

"Whereas, Yuriy Shukhevych, who as a fifteen year old lad stood steadfast in his resolve not to denounce his heroic father who, as commander-in-chief of the Ukrainian Insurgent Army, fought the occupation of Ukraine and has not buckled under severe pressure to renounce his Ukraine nationality; and

"Whereas, The alleged 'crimes' of Yuriy uals such as Yuriy Skuhevych, once again reaffirms that the system of repression exists in the Soviet Union and this fact greatly concerns the people of the State of New York; and

Whereas, The alleged "crimes" of Yuriy Shukhevych cannot be considered as crimes in civilized society and free people must call upon world opinion to halt these flagrant abuses against political dissidents; and

"Whereas, Experience teaches that cooperative action is more efficient and productive than isolated actions and free people must unite against Russian aggressive forces now attempting to encircle the globe reaching for the jugular vein of the free world; now, therefore, be it

"Resolved, That this Legislative Body respectfully memorializes President Jimmy Carter to open immediately negotiations with the Soviet Union to seek release of Yuriy Shukhevych from imprisonment by requesting that an exit visa for him and his family be granted and to extend to them political asylum in the United States; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and the New York State Congressional Delegation."

POM-805. A resolution adopted by the Senate of the State of Illinois; to the Committee on the Judiciary:

"SENATE RESOLUTION No. 365

"Whereas, The Illinois Senate believes that the United States Constitution permits a voluntary moment of silent prayer or reflection in the classrooms of the public shools of this nation; and

"Whereas, A moment of silent prayer or reflection is a positive act which adds to the growth of an individual; and

"Whereas, We believe that a moment of silent prayer is denominationally neutral and is not the manifestation of an official religion or an interference with the free exercise of any person's religion or system of belief; and

"Whereas, The majority of Americans have historically sought God's protection and guidance, both in their personal lives and for the good of this nation; and

"Whereas, Supreme Court decisions during the early 1960's have had the effect of severely restricting the practice of any manner of public prayer, although these decisions simply addressed prescribed or compulsory prayer; therefore, be it

"Resolved, by the Senate of the Eighty-First General Assembly of the State of Illinois, that we urge the Congress of the United States to assume responsibility for removing the impediments to voluntary prayer in public schools; that we encourage the passage of legislation designed to promote the concept of school prayer; and be it further

"Resolved, That copies of this resolution be forwarded to the U.S. Senators of the State of Illinois, the U.S. Representatives of the State of Illinois, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, the Chairman of both the Senate and House Judiciary Committees, and the President of the United States."

POM-806. Joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 13

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature respectfully memorializes the Congress of the United States to require the deportation of all foreign nationals who riot or demonstrate in any manner contrary to law and inconsistent with permissible behavior of guests in the United States; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-807. A resolution adopted by the Senate of the State of New York; to the Committee on Labor and Human Resources:

"RESOLUTION 345

"Whereas, The United States Court has upheld the rights of states to eliminate Medicaid funding of abortions in most instances wherein such abortions are sought; and

"Whereas, A single federal judge had ordered the reinstitution of federal funding of abortions in almost all instance previously denied; and

"Whereas, This order has resulted in a directive to local governments from the federal Department of Health, Education and Welfare; and

"Whereas, The directive has facilitated the destruction of human life beyond a level previously contemplated; and

"Whereas, The directive makes destruction of human life a mere convenience for thousands of American women; and

"Whereas, The single federal district judge's ruling is on appeal and pending before the United States Supreme Court; and

"Whereas, The Congress of the United States, representing the people of the United States, has repeatedly through its laws, made known its intentions of restricting the destruction of human life through abortion; and

"Whereas, The New York State Senate has similary made known, through its actions involving the state budget the past two years, its intentions of limiting public funding of abortions; and

"Whereas, The decision of a single federal judge does violence to the wishes of representatives of the people; and

"Whereas, The decision precludes any 1980 budgetary action limiting public funding of abortions; now, therefore, be it

"*Resolved*, That the Senate of the State of New York declares its objections to a judicial usurpation of a legislative prerogative; and be it further

"*Resolved*, That the Senate of the State of New York petition and urge the Congress of the United States to act immediately to restrict the Department of Health, Education, and Welfare from interpreting a district court decision too loosely as to permit wanton and unnecessary destruction of human life; and be it further

"*Resolved*, That copies of this resolution be sent to the Majority and Minority Leaders of the United States Senate, and to the Speaker and Majority and Minority Leaders of the United States House of Representatives, and to every member of the New York State Congressional District."

POM-808. Joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"SENATE JOINT RESOLUTION No. 30

"Whereas, The elementary school of today has become a setting where early symptoms of society's problems and concerns are displayed; and

"Whereas, Elementary school children become increasingly vulnerable to these external pressures as they attempt to acquire personal, social, and academic skills; and

"Whereas, Early symptoms of these pressures are underachievement, school disinterest, classroom disruption, and truancy, which result in acute societal and economic burdens; and

"Whereas, Without early and appropriate intervention these pressures are manifested as juvenile delinquency, drug abuse, school vandalism, failure, and the loss to society of fully functioning and complete adults; and

"Whereas, In the elementary school setting children absorb and adopt views related to human and societal values, attitudes toward self and work, and toward individuals from other cultures and ethnic origins, and in no other setting is the establishment of a foundation for self-discipline and positive mental health more critical; and

"Whereas, Positive learning environments for children require a comprehensive, coordinated effort of the school, the home, and the community; and

"Whereas, The elementary school counselor is a professional uniquely qualified to facilitate such cooperative efforts within an established guidance and counseling program; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact federal legislation which would assure the accessibility of developmental guidance and counseling to all children of elementary school age by providing for comprehensive elementary school guidance and counseling programs; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-809. A joint resolution adopted by the Legislature of the State of California; to the Select Committee on Small Business:

"Assembly Joint Resolution 73

"Whereas, The American Dream is to be an owner of one's own business and almost everyone has had the dream and millions of Americans have lived it; and

"Whereas, The American Dream is the cornerstone of our 200 year old American Heritage and also is the reason for our country's position as the most economically powerful nation in the world today; and

"Whereas, We could not have achieved this status as a nation if we had not been presented with opportunity unencumbered by government regulation nor could we have achieved this nation's status if entrepreneurs had not had the fortitude and shown the initiative to take advantage of opportunity when it presented itself; and

"Whereas, America was founded on the principle of each individual's fundamental rights, such as freedom of speech, freedom of religion, freedom of the press, freedom of assembly, freedom to bear arms, and fundamentally, the right to life, liberty, and the pursuit of happiness; and

"Whereas, The pursuit of happiness can and does take the form of one going into business for oneself, the fulfillment of the American Dream; and

"Whereas, The small business community is represented by some 14 million small and independent businesses; and

"Whereas, These 14 million businesses represent 100 million people and 58 percent of all private sector jobs in America; and

"Whereas, Of all newly created jobs in the past seven years, 97 percent have been created among these 14 million small and independent businesses representing 48 percent of America's gross business product; and

"Whereas, Of all new inventions, innovations, and patents, 50 percent are developed in the small and independent sector of American business; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the California State Legislature hereby respectfully memorializes the President and Vice President of the United States and the Congress of the United States to recognize the following as the Small and Independent Business Bill of Rights:

"(1) The right to start, own, and manage a business *without* government interference.

"(2) The right to compete fairly for capital with assurance that capital will be available for private use.

"(3) The right to reward for the risk, effort, and genius necessary to make an independent business work.

"(4) The right to determine price just as the buyer has the right to buy or not at that price.

"(5) The right to be governed by reasonable and understandable laws set forth by elected representatives, not by bureaucratic dictate.

"(6) The right to be innocent until proven guilty by a jury of our peers; not by administrative edict.

"(7) The right to equal representation with big business, big labor, and government on matters relating to America's economic policies; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-810. A resolution adopted by the Senate of the State of New York; to the Committee on Veterans' Affairs:

"Resolution 267

"Whereas, The families and friends of veterans of World War I have expressed their deep concern over the lack of a comprehensive program for providing pensions for World War I veterans; and

"Whereas, Veterans of World War I are not covered under the G. I. Bill of Rights of 1944, and are not eligible for home and farm loans which are available to veterans of more recent wars; and

Whereas, Many veterans of World War I are over eighty-four years old and are unable to support themselves solely on Social Security benefits; and

"Whereas Veterans of World War I heroically risked their lives protecting the rights and freedoms of their fellow Americans, yet have not been justly compensated; now, therefore, be it

"Resolved, That the Legislature of the State of New York hereby memorializes the Congress of the United States to enact H.R. 2057 and H.R. 1918 which would provide pensions for these neglected veterans who served so honorably during World War I; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the Speaker of the House of Representatives of the United States, to the President Pro Tempore of the United States Senate, to each member of Congress of the United States from the State of New York, and to the Honorable Jimmy Carter, President of the United States."

POM-811. A resolution adopted by the Council of the City of Philadelphia, Pa., calling for the enactment of legislation to provide full voting rights for the residents of the District of Columbia; ordered to lie on the table.

POM-812. Resolution adopted by the Milwaukee County Human Rights Commission, urging a determination as to whether a wrong was committed against those American citizens and permanent legal resident aliens relocated and/or interned as a result of Executive Order 9066; to the Committee on the Judiciary.

POM-813. A resolution adopted by the Town Commission of Highland Beach, Fla., urging the President and the Congress of the United States to act quickly and effectively to ensure that the educational and humanitarian costs of resettling and educating newly arrived Cuban and Haitian citizens are shared, as they should be, equally by all States through the Federal Government; to the Committee on the Judiciary.

POM-814. A resolution adopted by the City Council of Breckenridge, Minn., expressing concern regarding increasing costs of natural gas; to the Committee on Energy and Natural Resources.

POM-815. A resolution adopted by the Home Builders Association of Indiana, Inc., Indianapolis, Ind., relating to Federal spending and taxation; to the Committee on Governmental Affairs.

POM-816. A resolution adopted by the Executive Committee of the Federal Bar Association, Washington, D.C., urging the Congress in its future actions to make timely determinations as to the continuation or termination of all agencies and, in every case, to provide funds for proper winding up of affairs of terminated agencies with adequate notice of termination to their personnel; to the Committee on Governmental Affairs.

POM-817. A resolution adopted by the Executive Committee of the Federal Bar Association, Wahington, D.C., urging that Congress act immediately to pass the pending bills thereby establishing a statutory basis for military legal assistance; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 1763. A bill to amend the Immigration and Nationality Act to improve the efficiency of the Immigration and Naturalization Service, and to establish a different numerical limitation for immigrants born in foreign contiguous territories, and for other purposes (together with minorities views) (Rept. No. 96-859).

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 308. A bill for the relief of Rosita N. Pacto (Rept. No. 96-860).

S. 2041. A bill for the relief of Michael Whitlock (Rept. No. 96-861).

By Mr. KENNEDY, from the Committee on the Judiciary, with amendments:

S. 273. A bill for the relief of Maxine Ann Fricioni (Rept. No. 96-862).

By Mr. LONG, from the Committee on Finance, without amendment:

S. Con. Res. 92. A concurrent resolution declaring that the Congress does not favor the withholding of income tax on interest and dividend payments (Rept. No. 96-863).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 467. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 2189, a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, civilian activities, and for other purposes.

S. Res. 479. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2675.

S. Res. 480. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2675.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time bv unanimous consent, and referred as indicated:

By Mr. BELLMON:

S. 2952. A bill to provide for the use and distribution of Seminole judgment funds in dockets 73 and 151 before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. TALMADGE:

S. 2953. A bill to amend the Internal Revenue Code of 1954 to facilitate the acquisition and ownership of all, or substantially all, of the stock of an employer by employees through an employee stock ownership plan, and for other purposes; to the Committee on Finance.

By Mr. STEWART (for himself, Mr. Nelson, Mr. Baucus, Mr. Morgan, Mr. Thurmond, Mr. Heflin, and Mr. Ford):

S. 2954. A bill to amend title V of th

Rural Development Act of 1972 to authorize funds for fiscal years 1981 through 1983 to carry out the small farm extension programs provided for under such title, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TALMADGE (by request):

S. 2955. A bill to provide grants to States for the purpose of assisting the colleges eligible to receive funds under the act of August 30, 1890, including Tuskegee Institute, in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity for food and agricultural research; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2956. A bill to authorize civil penalties for violations of various laws for preventing the introduction and dissemination of livestock and poultry diseases, plant diseases, and plant pests; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2957. A bill to regulate the production, sale, and shipment of animal biological products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PERCY (for himself and Mr. Proxmire):

S. 2958. A bill to insure the development and implementation of policies and procedures to encourage the Veterans' Administration and the Department of Defense to cooperate in the efficient and effective use of Federal medical resources, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BELLMON:

S. 2952. A bill to provide for the use and distribution of Seminole judgment funds in dockets 73 and 151 before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

● Mr. BELLMON. Mr. President, the bill I am introducing today would bring about a long-overdue settlement to the dispute over how a Federal settlement of $16 million is to be divided among the Seminole Nation.

The Indian Claims Commission entered a final award in consolidated dockets 73 and 151, in the amount of $16,000,000 on behalf "of the Seminole Nation as it existed in Florida on September 18, 1823." Funds to cover this award were appropriated by the act of June 1, 1976 (90 Stat. 597).

Mr. President, I sincerely request that the Senate of the United States act expeditiously to pass this legislation that will allow for the use and distribution of these funds.●

By Mr. STEWART (for himself, Mr. Nelson, Mr. Baucus, Mr. Morgan, Mr. Thurmond, Mr. Heflin, and Mr. Ford):

S. 2954. A bill to amend title V of the Rural Development Act of 1972 to authorize funds for fiscal years 1981 through 1983 to carry out the small farm extension programs provided for under such title, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SMALL FARM EXTENSION ASSISTANCE ACT

Mr. STEWART. Mr. President, today I am introducing the Small Farm Extension Assistance Act. The bill is designed to provide State extension services with the resources they need to help the 70 percent of the farmers in this country defined as small. The bill follows extensive hearings held by the Agriculture Committee, Subcommittee on Research, Extension, and General Legislation, hearings which I had the privilege of chairing. At the hearings, very persuasive evidence was presented that small farms assistance programs work extremely well, but that only a handful of States have the resources necessary to fund these programs.

The bill would authorize $30 million in 1982 and $15 million for each of the 2 succeeding years, to be distributed to State extension agencies for use in creating small farms extension programs. Of these amounts, not less than 60 percent must be used to employ county paraprofessional personnel. In addition, the bill authorizes $5 million for 1982, and $2 million in each of the 2 succeeding years, to be distributed on a competitive basis by the USDA to small farms programs not affiliated with extension services, including programs run by State agriculture departments and private, nonprofit organizations.

Mr. President, this program has been recommended by the Extension Committee on Policy, having been developed in close coordination with that group. We in Congress have done a lot of talking about the need to help family farmers in America. This bill would do just that.

In the United States today, approximately 2.8 million or 70 percent of all farms have annual farm incomes under $20,000 per year. Between 1960 and 1973, about 600,000 of all farms in this category grew into a higher category. Approximately 1.2 million, however, simply went out of business. Some would argue that this trend is just a healthy winnowing out of inefficient units, or that for the farmers, farming is just a hobby. I think such statements show a callous disregard for the problems being experienced on small farms in this country.

According to the extension committee, however:

> Although the number of smaller farms has declined and many of those remaining are operated by part-time or semi-retired farmers, many small farms are operated by farm families in their productive years who depend primarily on farm income for their livelihood. Available information indicates that many of these families may be subsisting on incomes near or below the poverty level. While farm families may receive income from nonfarm jobs and businesses, professional practices, retirement plans, or investments, a special bureau of the census survey showed that in 1970 about 19% of the farm households with gross annual farm sales under $20,000, excluding those in which the head of the household was classified as part-time or semi-retired, did not have any off-farm income and an additional 33% did not earn any salaries and wages from off-farm sources. The report concludes that approximately 660,000 farmers in 1969 were under 65, worked less than 100 days a year off the farm, and had annual sales under $20,000.

What we are talking about, Mr. President, is not numbers or statistics, but people, people who depend upon farming for their livelihood. We can gear our research and extension policy so that it focuses entirely on how much corn or how much wheat or bushels of soybeans we produce, regardless of what may happen to farmers themselves in the process. Certainly, there is no question that we need to improve our farm productivity as much as we can: We need to maximize our production of agricultural commodities capable of being traded in the world market and made available at a reasonable cost to our own consumers.

We must not have such a narrow vision, however, that we forget that the main reason we established the land-grant colleges and the extension service in the first place was to help the small farmer—to help the farmer who needs special assistance. We must not callously overlook the needs of millions of people who want to be farmers, who can be farmers, and who are really not interested in moving into already crowded cities to try something else. Many of these people are very poor, and we can either spend a small amount of money showing these people how to make a better income themselves, or we can spend a great deal of money providing the income to them.

Around the country, there are a few small farms programs already in place. The most ambitious is at the University of Missouri. In their program, paraprofessional agents are trained to work on a one-on-one basis with small, low-income farmers. Over the last 3 years, 7,000 to 8,000 small farmers have been approached, and only 1 percent have turned down the assistance. In a study of 2,000 of these farmers, the university found that average income increased by a total of $2,000,000. The cost of reaching these farmers was about $600,000, so the benefit-to-cost ratio was 3.5 to 1. According to the university, this makes it one of the university's most successful programs.

In Alabama a small farms program has been in place for many years, although limited funds have prevented the program from reaching as many people as would be possible. Nonetheless, in a study of 118 farms who participated in the program between 1969 and 1978, net worth increased from $21,000 to $52,000 and net income from farming from $1,000 to $3,100.

Although 31 States altogether have programs, very few are more than highly limited experiments. As Michael Sprott, from the Alabama Extension Service pointed out, even to fund a very modest program requires a university to "scratch and claw to find money." Extension program appropriations have not kept pace with inflation in recent years. As a result, new programs, such as a small farms program, are simply beyond the means of most States.

This is an unfortunate situation, however, for these programs show that a very modest expenditure can have a very significant impact on people's lives. In fact, the additional economic activity generated by these programs will, in turn, generate enough new taxable income to pay for the costs of the program. More importantly, it can make farming a more realistic alternative for hundreds of thousands of people.

Helping small farmers is exactly what the Extension Service was created to do. Elihu Root, floor manager for the Smith-Lever Act, which created the extension program, stated on the floor of the Senate that the purpose of the law was to help small farmers:

> The people whom we should most desire to help are the small landholders. It is the small farmer who needs instruction and encouragement.

Senator Lever, after whom the act is named, said that—

> The man we desire to reach is the small farmer, the man who does not read the bulletins, the man who has no confidence in book farming, the man who does not take an agricultural paper. We want to reach the little fellow out on the farm who needs the help.

Unfortunately, in recent years, concern with the small farmer has evaporated. The General Accounting Office, in 1975, reported that—

> Although the USDA and the land-grant colleges have made some limited efforts to extend training and technical assistance to small-farm operators and have done some research applicable to the problems of the small farm operators, such efforts could be greatly intensified with the objective of creating a better life for many small farm operators and increasing the productivity of the land under their management.

The Senate Agriculture Committee, in 1977, agreed with this view:

> Research on problems and technologies specific to small farmers has been virtually unfunded . . . the well-being of these people and their ability to stay on the land are, to a large degree, dependent on appropriate research and extension efforts.

Secretary Bergland has emphasized that the policy of the USDA is "to encourage, preserve, and strengthen the small farm as a continuing component of American agriculture."

I believe that the USDA is sincere about this commitment, and I believe that the State extension services are sincere about their commitment to small farms. Commitment without resources, however, does not do much for the small farmer. This bill would provide the resources necessary to establish programs similar to Missouri's program in every State in the country.

At the same time, this bill would provide very modest funding for nonextension efforts. At the hearings, the committee heard from a number of organizations working with small farms. The agricultural marketing project, for instance, has assisted small farmers in Tennessee, Alabama, and Mississippi to establish direct markets for their produce. The results have been very encouraging—farmers are improving their incomes significantly and consumers are gaining access to reasonably priced, farm-fresh produce. The State of West Virginia has an aggressive campaign to help small farmers store, grade, and market their produce cooperatively. There too, farm incomes have gone up significantly. In Nebraska, the center for rural affairs has been very successful in helping farmers find ways to cut their energy costs. These and similar groups, however, are also severely strapped for funds, and this bill would at least provide some seed money to help them out.

I want to stress that this is a very modest program. I wish that our current economic situation allowed me to introduce a much more ambitious proposal, but I am mindful of the need to control spending. I am convinced, however, that this program will increase Federal revenues and decrease the burden on many rural welfare programs. Most importantly this is a program that we know will help farmers improve their farm operations. It is not an experiment—we already know it works, and it works in the way our programs should work—it helps people to help thmselves.

I ask unanimous consent that the text of the bill be printed in the RECORD, as well.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 503 of the Rural Development Act of 1972 (7 U.S.C. 2663) is amended by adding at the end thereof the following new subsection:

"(h)(1) There is authorized to be appropriated to carry out the purposes of subsection (d) of section 502 an amount not to exceed $30,000,000 for the fiscal year beginning October 1, 1982, and $15,000,000 for each of the two succeeding fiscal years.

"(2) Funds appropriated pursuant to paragraph (1) of this subsection shall be apportioned among the States as follows: Each State shall be eligible to receive in any fiscal year an amount of funds that bears the same ratio to the total amount of funds to be apportioned among all the States in such fiscal year as the number of persons in such State engaged in farming who have a total annual income less than $20,000 (in 1980 dollars adjusted for inflation) bears to the total number of persons engaged in farming in all the States who have an annual income of less than $20,000 (in 1980 dollars adjusted for inflation).

"(3) Funds apportioned under this subsection to any State in any fiscal year shall be made available by the Secretary to the State extension services of such State for use as follows:

"(A) not less than 60 percent of the funds shall be used to employ county paraprofessional personnel;

"(B) not less than 20 percent of the funds shall be used to employ county extension personnel; and

"(C) not less than 5 percent of the funds shall be used to employ State specialists personnel.

"(4) The small farm extension programs carried out in any State with funds provided under this subsection shall be developed by such State in such manner as the State may deem appropriate, except that such programs shall be designed for the exclusive benefit of farm units within the State whose annual gross sales of agricultural commodities are less than $20,000.

"(5) There is authorized to be appropriated $5,000,000 for the fiscal year beginning October 1, 1982, and $2,000,000 for each of the two succeeding fiscal years for the purpose of making grants on a competitive basis for small farm assistance programs, to be administered by state departments of agriculture, or private non-profit organizations, not affiliated with state land grant colleges and universities. These funds are to be distributed by the Secretary of Agriculture in the form of grants not to exceed 50 percent of the proposed program costs, and in the case to exceed $500,000 to any one applicant.

By Mr. TALMADGE (by request):

S. 2955. A bill to provide grants to States for the purpose of assisting the colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee Institute, in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity for food and agricultural research; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. TALMADGE. Mr. President, I am today introducing legislation requested by the administration.

The bill would authorize grants to the States for funding of food and agricultural research facilities for the 1890 land grant institutions and Tuskegee Institute. It would be a 5-year authorization for no-year-end moneys and the States would be required to match the Federal funds awarded with an equivalent amount of non-Federal funds.

The bill would authorize appropriations for fiscal years 1981 through 1985 in the amount of $5 million per year. Four percent of the funds would be used by the Department of Agriculture for administration.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. It is hereby declared to be the intent of Congress to assist, on a matching basis, the States having institutions eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419; 7 U.S.C. 321–326, 328), including Tuskegee Institute, in providing for the acquisition and improvement of research facilities and equipment for these institutions so that they may participate fully with the State agricultural experiment stations in a balanced attack on the research needs of the people of their States.

SEC. 2. As used in this Act—

(a) the term "eligible institution" means institutions eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419; 7 U.S.C. 321–326, 328), including Tuskegee Institute, commonly known as 1890 land grant colleges; and

(b) the term "States" means those States in which eligible institutions are located.

SEC. 3. There are hereby authorized to be appropriated to the Secretary of Agriculture for the purpose of carrying out the provisions of this Act $5,000,000 for each of the fiscal years 1981 through 1985, such sums to remain available until expended.

SEC. 4. Four percent of the sums appropriated pursuant to this Act shall be available to the Secretary of Agriculture for administration of this grant program. The remaining funds shall be available for grants to the States for the purpose of assisting eligible institutions in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen the capacity of the institutions to conduct food and agricultural research.

SEC. 5. Grants awarded pursuant to this Act shall be made in such amounts and under such terms and conditions as the Secretary of Agriculture shall determine necessary for carrying out the purposes of this Act: *Provided*, That each grant awarded under this Act shall require that the Federal contribution be matched by an equivalent amount of State funds for purposes of carrying out the grant agreement.

Sec. 6. Federal funds provided for under this Act may not be used for the payment of any overhead costs of the eligible institutions.

Sec. 7. It shall be the duty and responsibility of the Secretary of Agriculture to administer the provisions of this Act under such rules and regulations as he may prescribe.●

By Mr. TALMADGE (by request):

S. 2956. A bill to authorize civil penalties for violations of various laws for preventing the introduction and dissemination of livestock and poultry diseases, plant diseases, and plant pests; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. TALMADGE. Mr. President, I am today introducing legislation requested by the administration.

The bill would expand the scope of sanctions for violations of certain so-called Animal Quarantine and Plant Quarantine Acts intended to prevent the introduction into the United States and the dissemination within the United States of livestock and poultry diseases and plant diseases and pests.

The bill would also authorize the Secretary of Agriculture to impose, administratively, civil money penalties for violations whenever he believes that such penalties are appropriate to effectuate the purposes of the act involved.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person (as defined in section 1 of title 1 of the United States Code) who does any act prohibited by any provision of section 6 or 8 of the Act of August 30, 1890, (26 Stat. 416, as amended; 21 U.S.C. 103, 104); section 6 of the Act of May 29, 1884 (23 Stat. 32, as amended; 21 U.S.C. 115); section 2 or 4 of the Act of March 3, 1905 (33 Stat. 1264, as amended; 21 U.S.C. 124, 126, 128); section 306 of the Act of June 17, 1930 (46 Stat. 689, as amended; 19 U.S.C. 1306); section 103 of the Act of May 23, 1957 (71 Stat. 32; 7 U.S.C. 150bb); the Act of August 20, 1912 (37 Stat. 315, as amended; 7 U.S.C. 151–164, 167); or any regulation promulgated under any provision of those Acts or of the Act of February 2, 1903 (32 Stat. 791, as amended; 21 U.S.C. 111–113, 120, 121), the Act of July 2, 1962 (76 Stat. 129; 21 U.S.C. 134–134h), or the Act of January 31, 1942 (56 Stat. 40, as amended; 7 U.S.C. 149), or who does any act penalized by section 2 of the Act of May 6, 1970 (84 Stat. 202; 21 U.S.C. 135a), or section 108 of the Act of May 23, 1957 (71 Stat. 34; 7 U.S.C. 150gg), may be assessed a civil penalty by the Secretary of Agriculture of not more than $1,000 for each violation. Each violation shall be a separate offense. The Secretary's determination shall be made on the record after notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals. Such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order, and the provisions of 28 U.S.C. 2341, 2343 through 2350 shall be applicable to such appeals and orders. Judicial review of the order shall be upon the record upon which the findings and order are based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence. Where the court upholds the Secretary's order, it shall enter judgment in favor of the United States in the amount of the penalty, which judgment may be registered in any district court of the United States in accordance with the provisions of, and have the effect provided in, section 1963 of title 28 of the United States Code. Upon any failure to pay the penalty assessed by a final order under this section and not reduced to judgment, the Secretary shall request the Attorney General to institute a civil action in any appropriate district court of the United States to collect the penalty. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

Sec. 2. (a) Section 6 of the Act of August 30, 1890 (26 Stat. 416, as amended; 21 U.S.C. 104), is amended by striking out the last sentence and inserting in lieu thereof the following: "Any person who shall knowingly violate the foregoing provision shall be guilty of a misdemeanor and shall, on conviction, be punished by a fine not exceeding $5,000, or imprisonment not exceeding one year, or both.".

(b) Section 8 of the Act of August 30, 1890 (26 Stat. 416; 21 U.S.C. 103), is amended by adding before the period at the end of the first sentence the following: ", and any person who knowingly violates such prohibition shall be deemed guilty of a misdemeanor and shall, on conviction, be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.".

Sec. 3. Section 3 of the Act of February 2, 1903 (32 Stat. 792, as amended; 21 U.S.C. 122), section 6 of the Act of March 3, 1905 (33 Stat. 1265, as amended; 21 U.S.C. 127), and section 6 of the Act of July 2, 1962 (76 Stat. 131; 21 U.S.C. 134e) are hereby amended by striking out "$1,000" and inserting in lieu thereof "$5,000".

Sec. 4. Section 103 of the Federal Plant Pest Act (71 Stat. 32; 7 U.S.C. 150bb) is amended by striking out "knowingly" wherever it appears.

Sec. 5. Section 108 of the Federal Plant Pest Act (71 Stat. 34; 7 U.S.C. 150gg) is amended to read as follows:

"Sec. 108. Any person who knowingly violates section 103 of this Act, or any regulation promulgated under this Act, or who forges or counterfeits, or who knowingly, without authority from the Secretary, uses, alters, or defaces any permit or other document provided for by this Act or the regulations thereunder, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or both.".

Sec. 6. Section 10 of the Plant Quarantine Act of August 20, 1912, is amended to read as follows:

"Sec. 10. That any person who knowingly shall violate any of the provisions of this Act, or who shall forge or counterfeit, or who knowingly, without authority from the Secretary, shall use, alter, deface, or destroy any certificate provided for in this Act or in the regulations of the Secretary of Agriculture, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or both.".

Sec. 7. The Act of January 31, 1942 (56 Stat. 40, as amended; 7 U.S.C. 149) is amended by inserting at the end thereof the following: "Any person who knowingly violates any such regulation shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or both.".●

By Mr. TALMADGE (by request):

S. 2957. A bill to regulate the production, sale, and shipment of animal biological products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ANIMAL BIOLOGICAL PRODUCTS ACT

● Mr. TALMADGE. Mr. President, I am today introducing the Animal Biological Products Act, legislation that has been requested by the administration.

The legislation would strengthen regulatory measures relating to the production, distribution, and sale of animal biological products used in the prevention, diagnosis, and treatment of animal diseases. The bill would, in addition to clarifying and extending the provisions of the present law, strengthen and expand enforcement procedures by including provisions for certain administrative proceedings. It would expand the Secretary's investigatory powers, and provide stricter penalties for violation of the act.

Approximately one-third of the States have no laws to regulate the production and sale of biological products for animals for the most part. The other States require only the registering of animal biological products and quality control is virtually nonexistent. The Secretary of Agriculture believes that it is essential for the public's safety that all animal biological products be brought under Federal regulation to assure the public products that are pure, safe, potent, and efficacious.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Animal Biological Products Act".

LEGISLATIVE FINDING

Sec. 2. (a) Animals are a vital source of the Nation's food supply as well as a highly valuable resource to the agricultural economy of the Nation. Animal biological products are used throughout the Nation, and a large portion of them move in interstate or foreign commerce. The production, distribution, sale, and use of safe and efficacious animal biological products are fundamental to the maintenance and growth of health and disease-free animals. The consumers, the farmers and ranchers, and the handlers and processors of animals, including the meat, fur, fiber, and other products from animals, directly benefit from a healthy and disease-free animal population. Reliable animal biological products are also necessary for the protection of pet animals, which play an important role in the lives of their owners, as well as the public that comes in contact with such animals.

(b) It is essential to the public interest that the animal resources of the United States be protected by assuring that all animal biological products used in the diagnosis, mitigation, prevention, treatment, or cure of diseases of animals are safe and efficacious. Animal biological products are used throughout the United States and move in larger part in interstate and foreign commerce, and biological products that do not move in such commerce have a substantial affect on interstate and foreign commerce. Few States have laws to regulate the production and sale of animal biological products intrastate, and quality controls are few or nonexistent, with the result that worthless, dangerous, contaminated, or harmful biological products are free to enter the marketplace and unfairly compete with regulated products and can, and do, find their way into interstate and foreign commerce. The existence of such products in the marketplace impairs the effective regulation of animal biological products in interstate and foreign commerce and results in injury to the public interest and destruction of markets for regulated products, as well as losses to animal resources and related industries.

(c) Congress therefore finds that all biological products produced in, exported from, or imported into the United States are either in interstate or foreign commerce or substantially affect such commerce, and that regulation by the Secretary of Agriculture as contemplated by this Act is appropriate to prevent or eliminate burdens upon such commerce, to effectively regulate such commerce, to enhance the agricultural economy, and to protect the health and welfare of consumers.

DEFINITIONS

SEC. 3. When used in this Act—

(a) The term "Secretary" means the Secretary of Agriculture of the United States or his delegate.

(b) The term "person" means any individual, firm, partnership, corporation, company, association, educational institution, State or other governmental agency, or any legal entity.

(c) The terms "animal biological product" or "biological product" means any product, including, but not limited to, a vaccine, bacterin, antiserum, antitoxin, toxoid, allergen, or diagnostic antigen, which is prepared from, derived from, or prepared with microorganisms, or the growth products of microorganisms, or animal tissues, or animal fluids, or other substances of natural or synthetic origin, and which is intended for use in the prevention, diagnosis, treatment, or cure of diseases of animals through a specific immune process: *Provided*, That substances commonly referred to as antibiotics or hormones shall not be considered animal biological products. The following shall apply:

(1) The term "vaccine" means a product containing microorganisms, such as, but not limited to, viruses, bacteria, rickettsiae, fungi, or parasites.

(2) The term "bacterin" means a product containing a suspension of killed bacteria.

(3) The term "antiserum" means a product containing antibodies in the fluid portion of blood that has been prepared by removing the clot or clot components and the blood cells.

(4) The term "antitoxin" means a product containing a substance in serum or other body fluid of an immunized animal that specifically neutralizes a toxin against which the animal is immune.

(5) The term "toxoid" means a product containing an antigenic filtrate resulting from the growth of toxin-producing microorganisms that has been rendered nontoxic.

(6) The term "allergen" means a product prepared with a substance which when injected into an animal may determine sensitivity to that substance or may desensitize the animal to that substance.

(7) The term "diagnostic antigen" means a product prepared with microorganisms for use in the diagnosis of a disease of animals caused by microorganisms.

(d) The term "animals" means all members of the animal kingdom other than man.

(e) The term "establishment license" means a license issued to a person by the Secretary, pursuant to regulations promulgated under this Act, authorizing the person to use designated facilities in the United States for the production of biological products specified in a valid product license.

(f) The term "licensed establishment" means all facilities designated in a valid establishment license.

(g) The term "product license" means a valid biological product license issued to a person by the Secretary, pursuant to regulations promulgated under this Act, authorizing production of a specified biological product in a licensed establishment.

(h) The term "permit" means a valid biological product permit issued to a person by the Secretary, pursuant to regulations promulgated under this Act, authorizing the importation into the United States, by that person, of a specified biological product subject to the conditions specified in the regulations and the permit.

(i) The term "valid" when applied to an establishment license, a product license, or a permit means an establishment license, product license, or permit, which has been issued pursuant to regulations promulgated under this Act, and which is neither suspended, revoked, nor expired.

(j) The term "State" means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(k) The term "territory" means Guam, the Virgin Islands of the United States, American Samoa, and any other territories or possessions of the United States; including the Trust Territory of the Pacific Islands.

(l) The term "United States" means the States and the territories of the United States.

(m) The term "produce" or "production" means all steps and procedures used in the manufacture and preparation of biological products and includes, but is not limited to, the processing, testing, packaging, labeling, and storage of such products.

(n) The term "sell" or "sale" means the barter, exchange, distribution, sale, shipment, transportation, or other transfer of any biological product, whether or not for compensation.

(o) The term "pure" or "purity" means to be free, within reasonable tolerances prescribed by the Secretary, from extraneous living or dead microorganisms and extraneous organic or inorganic material, whether or not harmful to the recipient or deleterious to the product.

(p) The term "safe" or "safety" means to be free, within reasonable tolerances prescribed by the Secretary, from properties which can:

(1) cause a harmful local or systemic reaction; or

(2) cause an unwholesome condition in any food derived from a living animal or in any edible portion of an animal slaughtered for food.

(q) The term "potent" or "potency" means the strength of a biological product, as determined by standard requirements.

(r) The term "efficacy" or "efficacious" means the specific ability of a biological product, as determined by standard requirements, to effect a given result in the diagnosis, mitigation, prevention, treatment, or cure of diseases of animals, when used as recommended or directed in its labeling or proposed labeling.

(s) The term "standard requirements" refers to tests, methods, and procedures approved or prescribed by the Secretary for evaluating biological products for purity, safety, potency, or efficacy.

(t) The term "label" means all written, graphic, or printed matter:

(1) upon or attached to a final container of a biological product;

(2) appearing upon any carton or box used to package the final container; and

(3) appearing on any enclosures on which information or directions for the use of the biological product shall be found and which relates to such biological product.

(u) The term "labeling" means all labels and other written, printed, or graphic matter relating to a biological product.

(v) The term "misrepresented" shall apply to a biological product under one or more of the following circumstances:

(1) if its labeling is false or misleading;

(2) if claims as to the purity, safety, potency, or efficacy of a biological product are made in labeling which have not been approved by the Secretary;

(3) if the biological product is released for distribution or sale or both and is not packaged or labeled pursuant to regulations promulgated in accordance with requirements under this Act; and

(4) if the label of any final container or other packaging has been altered, mutilated, destroyed, obliterated, or removed while such product is held for sale (whether or not the first sale), unless a change in the label is authorized by the Secretary.

(w) The term "unsatisfactory" shall apply to a biological product under one or more of the following circumstances:

(1) if it is not pure, safe, potent, or efficacious;

(2) if the methods used in its production do not comply with regulations promulgated by the Secretary under this Act; and

(3) if it has been manufactured or stored under insanitary or other conditions whereby the biological product may have been rendered not pure, not safe, not potent, not efficacious, or not in compliance.

PROHIBITED ACTS

SEC. 4. No person may, except as authorized under section 12 of this Act, produce, sell, ship, transport, or deliver for shipment, or transportation in the United States, or cause to be produced, sold, shipped, transported or delivered for shipment or transportation in the United States any biological product:

(a) that is misrepresented or unsatisfactory; or

(b) that is produced in the United States unless it is produced (1) at a licensed establishment; (2) under a valid product license issued by the Secretary; and (3) in compliance with the provisions of this Act and regulations promulgated by the Secretary thereunder.

SEC. 5. No person may import or cause to be imported into the United States any biological product that is not accompanied by a valid permit for the importation of such product, and no person shall receive any such imported product that is not accompanied by the valid permit for the product. The importation of a biological product that is misrepresented or unsatisfactory is prohibited, except as authorized under section 12 of this Act.

ESTABLISHMENT LICENSE: DENIAL

SEC. 6. (a) The Secretary shall issue an establishment license to a person operating an establishment in the United States that has been approved by the Secretary for the production of animal biological products, upon application therefor by the person in such form and manner and subject to such conditions as the Secretary by regulation shall prescribe. No such establishment license may be issued unless the Secretary determines that:

(1) The applicant has demonstrated his fitness to produce biological products in compliance with this Act and regulations promulgated by the Secretary thereunder;

(2) the establishment and its facilities (A) adequately meet the physical requirements established by the Secretary, (B) will be under the supervision of personnel qualified by education and experience to produce satisfactory biological products, and (C) will be operated in compliance with this Act and

regulations promulgated by the Secretary; and

(3) a product license has been approved for issuance to the applicant.

(b) Any person who is denied an establishment license by the Secretary shall have an opportunity for a hearing with respect to such denial in accordance with rules and regulations promulgated by the Secretary.

PRODUCT LICENSE: DENIAL

Sec. 7. (a) The Secretary shall issue a product license to a person for each biological product to be prepared in a licensed establishment, upon application therefor by the person in such form and manner and subject to such conditions as the Secretary by regulation shall prescribe. No such product license may be issued unless:

(1) an establishment license has been issued to the applicant or the establishment in which the biological product is to be prepared;

(2) the applicant has submitted to the Secretary as part of the application the samples of the product, specimens of labels, including claims as to purity, safety, potency, and efficacy to be made for the product, and any other data or relevant material deemed necessary by the Secretary to determine whether the product may be licensed;

(3) the applicant has demonstrated that (A) the biological product will be pure, safe, potent, and efficacious, and production methods and procedures will be in compliance with the provisions of this Act and regulations promulgated by the Secretary thereunder; (B) the proposed labeling for the biological product contains adequate directions for use, and will not be false or misleading in any particular; (C) the use of the biological product will not interfere with animal disease control or eradication measures within the United States or introduce a disease of man or animal into the United States; and (D) the biological product will not otherwise adversely affect the health, diagnosis, treatment, or prevention of diseases of man or animal in the United States.

(b) Any person who is denied a product license by the Secretary shall have an opportunity for a hearing with respect to the denial in accordance with rules and regulations promulgated by the Secretary hereunder.

PERMIT: DENIAL

Sec. 8. (a) The Secretary shall issue a permit for each biological product offered for importation into the United States upon application therefor by a person in such form and manner and subject to such conditions as the Secretary by regulations shall prescribe. No such permit may be issued unless the Secretary determines that:

(1) the foreign establishment producing the biological product and its facilities, as well as the fitness of the person or persons having the responsibility for supervising the production or producing the product, meet requirements which are at least equal to the requirements under this Act that are applicable to licensed establishments, and operators thereof, producing biological products in the United States; and

(2) the applicant meets the same requirements as provided in sections 7(a)(2) and (3) of this Act for licensing biological products produced in the United States.

(b) The imported biological product, upon lawful entry into the United States, shall be considered and treated as a domestic biological product subject to the applicable provisions of this Act, except as may otherwise be authorized under section 12 of this Act.

(c) Any person who is denied a permit by the Secretary shall have an opportunity for a hearing with respect to the denial in accordance with rules and regulations promulgated by the Secretary. The Secretary of State shall be notified in each case that the permit is denied.

SUSPENSION AND REVOCATION OF LICENSES AND PERMITS

Sec. 9. (a) Any establishment license, product license, or permit issued under the authority of this Act may be suspended, for the period or indefinitely as the Secretary deems necessary to effectuate the purposes of this Act, or revoked, when the Secretary finds one or more of the following:

(1) that the license or permit is being used to facilitate or effect the production, or the sale or transportation, in the United States, or the importation into the United States, of any biological product that is misrepresented or unsatisfactory, or otherwise does not comply with the provisions of this Act or regulations promulgated thereunder;

(2) that the methods used by the licensee in, or the establishment, facilities, or controls used by the licensee for, the production of a biological product are inadequate to assure that the product is not misrepresented or unsatisfactory;

(3) that, upon the basis of new information before him with respect to a biological product produced by a licensee or imported by a permittee, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the biological product is pure, safe, potent, or efficacious;

(4) that the application for the license or permit contains any untrue statement of a material fact;

(5) that the licensee or permittee has failed or refused to maintain books and records, or to make reports required by the Secretary, or to allow the Secretary access to copy or verify the books, records, or reports;

(6) that the labeling or packaging of the licensed biological product is false or misleading in any particular, or fails to bear the information required under this Act or the regulations promulgated thereunder;

(7) that advertisements or promotions concerning the licensed biological product are false or misleading in any respect;

(8) that the licensee or permittee is unfit to engage in activities requiring a license or permit under this Act, because the licensee or permittee or anyone responsibly connected with him, (A) has been convicted, in any Federal or State court, of any felony, (B) has been convicted in a Federal or State court of more than one violation of any law, other than a felony, based upon the production, acquisition, or distribution of biological products or drugs, or (C) has been found by the Secretary, on more than one occasion, to be in violation of any provision of this Act or any regulation issued thereunder in an administrative proceeding instituted pursuant to section 16(a) of this Act. A person shall be deemed to be responsibly connected with a person holding a license or a permit if he is a partner, officer, director, holder, or owner of 10 percent or more of the voting stock in the business of the licensee or permittee, or if he is an employee of the licensee or permittee in a managerial or executive capacity; or

(9) that the licensee or permittee has violated or failed to comply with any provision of this Act or any regulation promulgated thereunder.

(b) The Secretary shall not suspend or revoke an establishment license, product license or permit until after due notice and opportunity for hearing is given to the licensee or permittee in accordance with the rules and regulations promulgated by the Secretary hereunder: *Provided*, That if the Secretary determines that failure to comply with this Act or the regulations promulgated thereunder creates an imminent hazard to animals, or that the public health, interest, or safety so requires, the Secretary may summarily suspend such license or permit pending final determination in the matter.

(c) The Secretary of State shall be notified in each case that a permit is suspended or revoked.

JUDICIAL REVIEW OF SECRETARY'S ORDER DENYING, WITHDRAWING, OR SUSPENDING A LICENSE OR PERMIT

Sec. 10. Any person aggrieved by a final order of the Secretary issued pursuant to the Secretary's authority under this Act denying, withdrawing, or suspending a license or a permit may request judicial review of the order in the court of appeals of the United States for the circuit where the person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit by filing an application for judicial review in such court within thirty days from the date of the order and by simultaneously sending a copy of the notice by certified mail to the Secretary. The Secretary shall promptly file in the court a certified copy of the record upon which his final determination was made, as provided in section 2112 of title 28 of the United States Code. Judicial review of any such order shall be upon the record upon which the determination and order are based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

OBTAINING PRODUCTS FOR TESTING AND EXAMINATION

Sec. 11. (a) The Secretary is authorized to obtain, without charge, from a licensee, permittee, or applicant prerelease samples of biological products produced in, or imported into, the United States, in the quantity and manner as the Secretary may prescribe, and to cause the samples to be examined and tested to determine if the biological products are pure, safe, potent, and efficacious, and whether they otherwise comply with this Act and regulations issued thereunder.

(b) All information regarding biological products furnished to or acquired by the Secretary pursuant to this Act shall not be disclosed by any officers or employees of the Department of Agriculture to anyone outside the Department: *Provided*, That the information as the Secretary deems relevant may be disclosed by them in a suit or administrative hearing in which the person who supplied the information is a party, or in an action to enforce or defend this Act, the regulations and standards issued pursuant to this Act, or the administration thereof by the Secretary. Nothing in this section shall be deemed to prohibit (A) press releases or other disclosure of information regarding the issuance, the revocation, or suspension of licenses or permits, stop sale or detention orders, or the seizure and condemnation of biological products, or (B) press releases or other disclosure of information regarding violations of this Act or the regulations and standards, together with a statement of the nature of such violations. Any officer or employee who willfully violates the provisions of this section shall upon conviction be subject to a fine of not more than $2,000 or to imprisonment for not more than one year, or both.

RULES AND REGULATIONS

Sec. 12. (a) The Secretary is authorized to make such rules and regulations, with the force and effect of law, as may be necessary to carry out the purposes of this Act.

(b) The Secretary is authorized to establish rules and regulations with respect to the production, importation, and distribution of biological products for research and developmental use and evaluation, and may, by regulation, exempt from specific provisions of this Act educational institutions, research organizations, governmental agencies, and such other persons who produce or import biological products for their own use in research and development, or teaching and not for sale when, in the judgment of the Secretary, the exemption does not vitiate the purposes of this Act.

(c) The Secretary is further authorized to exempt, by regulation, from specific provisions of this Act, practitioners of veterinary medicine licensed by law, who manufacture, prepare, propagate, compound or process animal biological products solely for use in the course of their professional practice.

STOP SALE AND DETENTION ORDERS

SEC. 13. Whenever the Secretary has reason to believe on the basis of an inspection or tests, or other investigation, that a biological product or a quantity of a biological product located in the United States is misrepresented or unsatisfactory, or otherwise does not comply with the provisions of this Act or the regulations promulgated thereunder, the Secretary may, without hearing, issue a "Stop Sale, Transport, or Use" order to the licensee, permittee, or any person who owns, controls, or has custody of any portion of the biological product, and detain the biological product, for a period not to exceed thirty days pending action under section 14 of this Act or other disposition of the biological product as the Secretary may authorize, during which time no person shall sell, transport, offer for sale or transportation, receive for sale or transportation, or use the biological product described in the order and detained, except in accordance with the provisions of the order.

SEIZURE AND CONDEMNATION

SEC. 14. (a) A biological product shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in a proceeding instituted by the Attorney General at the request of the Secretary in any United States district court or other proper court as provided in section 18 of this Act, within the jurisdiction where the biological product is found, if:

(1) the biological product has not been produced or imported in compliance with the provisions of this Act or the regulations promulgated thereunder, or

(2) the biological product is misrepresented or unsatisfactory or otherwise does not comply with the provisions of this Act or regulations promulgated thereunder.

(b) If a biological product is condemned by the court it shall, after entry of the decree, be disposed of by destruction as the court may direct: *Provided*, That the owner of the biological product has appeared as claimant and paid the court costs, fees, storage, and other proper expenses, and executed and delivered a good and sufficient bond conditioned that the biological product shall not be sold or otherwise disposed of contrary to the provisions of this Act, or the laws of any State or territory of the United States in which sold or disposed of, the court may direct that the biological product be delivered to the owner to be destroyed or brought into compliance with the provisions of this Act, under the supervision of an officer or employee duly designated by the Secretary, and the expense of supervision shall be paid by such owner.

(c) The proceedings in cases under this section shall conform, as nearly as may be practicable, to the proceedings in admiralty, and the proceedings shall be at the suit of and in the name of the United States.

RECORDKEEPING REQUIREMENTS; ACCESS TO PLACES OF BUSINESS, EXAMINATION OF RECORDS, FACILITIES AND INVENTORIES; COPIES; SAMPLES OF PRODUCT

SEC. 15. (a) Every person who is engaged in the business of producing, importing, exporting, buying or selling (as broker, wholesaler or otherwise) or transporting or otherwise distributing in the United States any biological product subject to the provisions of this Act, shall keep such records as the Secretary by regulation may prescribe; and the person shall, at all reasonable times, afford any duly authorized representative of the Secretary access to his place of business, and opportunity to examine the facilities, inventory, and records thereof, to copy the records, and to take reasonable samples of the inventory upon payment of the fair market value therefor.

(b) All licenses and permits issued under authority of this Act shall be issued on the condition that the licensee or permittee shall allow the entries and inspections authorized under this section to be made.

(c) Any record required to be maintained pursuant to this section shall be maintained for the period of time as the Secretary may by regulation prescribe.

PENALTIES

SEC. 16. (a) Any person who violates sections 4, 5, 13, or 15 of this Act or any regulation promulgated thereunder shall be liable to the United States for a civil penalty of not more than $5,000 for each such violation. No penalty shall be assessed unless the person is given notice and opportunity for a hearing before the Secretary with respect to the violation. In the hearing, all matters shall be determined on the record pursuant to section 554 of title 5 of the United States Code. The amount of the civil penalty shall be assessed by the Secretary by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses, and may be reviewed only as provided in subsection (a)(1) of this section.

(1) Any person against whom a violation is found and a civil penalty assessed under this section may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in the court within thirty days from the date of the order and by simultaneously sending a copy of the notice by certified mail to the Secretary. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found and the penalty assessed by written order, as provided in section 2112 of title 28 of the United States Code. Judicial reviews of any order shall be upon the record upon which the findings and order are based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(2) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(3) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

(4) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(b) Any person who knowingly violates sections 4, 5, 13, or 15 of this Act or any regulation promulgated thereunder, shall, upon conviction, be punished by a fine not exceeding $10,000, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court; and upon conviction for each subsequent violation of this Act, the person shall be subject to imprisonment for not more than three years, or a fine of not more than $25,000, or both such imprisonment and fine.

(c) Notwithstanding subsection (b) of this section, in the case of a violation of section 4, 5, 13, or 15 of this Act or any regulation promulgated thereunder, with the intent to defraud or mislead, the penalty shall be a fine of not more than $25,000, or imprisonment for not more than three years, or both.

(d) Nothing in this Act shall be construed as requiring the Secretary to report for prosecution, or the institution of condemnation or injunction proceedings, minor violations of this Act whenever he believes that the public interest will be adequately served by the issuance of a suitable written notice of warning.

MISCELLANEOUS PROVISIONS

SEC. 17. For the efficient administration and enforcement of this Act, the provisions (including penalties, of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" approved September 26, 1914 (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) and (h) of section 6 of the last paragraph of section 9), and the provisions of Title II of the "Organized Crime Control Act of 1970", are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by sections 9 and 10 of the Act of September 26, 1914, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 18 of this Act.

SEC. 18. The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in sections 10 and 16(a) of this Act. Such actions shall be instituted or defended by the Attorney General.

SEC. 19. Enactment of this Act shall not affect duties that matured, penalties that were incurred, and proceedings that have begun before its effective date.

SEC. 20. Requirements relating to the biological products within the scope of this Act that are in addition to, or different from, those made under this Act may not be imposed by any State or Territory.

SEC. 21. Any department, agency, or instrumentality of the United States shall comply with the provisions of this Act and the rules and regulations issued thereunder.

SEC. 22. If any provision of this Act is declared unconstitutional or the applicability thereof to any person, circumstance, or biological product is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons, circumstances, or biological products shall not be affected.

SEC. 23. When construing and enforcing the provisions of this Act and the regulations promulgated thereunder, the Act, omission, or failure of any officer, agent, or other person acting for or employed by any person subject to this Act shall also be deemed to be the act, omission, or failure of the person as well as that of the person employed.

SEC. 24. In any proceeding brought under this Act, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.

SEC. 25. There is hereby authorized to be appropriated such funds as are necessary to carry out the provisions of this Act.

SEC. 26. This Act shall take effect one year after the date of its enactment.

SEC. 27. The paragraph beginning "That from and after July first, nineteen hundred and thirteen" of the Act of March 4, 1913, is hereby repealed.●

ADDITIONAL COSPONSORS

S. 964

At the request of Mr. PACKWOOD, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 964, a bill to provide for a series of regional Presidential primary elections.

S. 1465

At the request of Mr. TALMADGE, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 1465, A bill to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers' and for other purposes.

S. 2049

At the request of Mr. NELSON, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 2049, A bill to increase the Small Business Administration loan guarantee limits.

S. 2082

At the request of Mr. ZORINSKY, the Senator from Indiana (Mr. BAYH), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2082, A bill to amend title 17 of the United States Code to exempt nonprofit veterans' organizations and nonprofit fraternal organizations from the requirement that certain performance royalties be paid to copyright holders.

S. 2226

At the request of Mr. PACKWOOD, the Senator from Rhode Island (Mr. CHAFEE), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2226, A bill to amend the Internal Revenue Code of 1954 to increase the zero bracket amount for heads of households the same level as that for married individuals filing a joint return.

S. 2239

At the request of Mr. PACKWOOD, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2239, A bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of incentive stock options.

S. 2512

At the request of Mr. MATHIAS, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 2512, a bill to amend the Internal Revenue Code of 1954 to provide for a deduction for certain amounts paid into a reserve for service liability losses and expenses of design professionals, to provide a deduction for certain amounts paid to captive insurers, and for other purposes.

S. 2732

At the request of Mr. PACKWOOD, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 2732, a bill to direct that a clinical investigation of the safety and efficacy of dimethyl sulfoxide as a drug to be used by persons with arthritis be conducted through the National Institute of Arthritis, Metabolism and Digestive Diseases.

S. 2789

At the request of Mr. JAVITS, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2789, a bill to amend the Farm Labor Contractor Registration Act of 1963.

S. 2818

At the request of Mr. TALMADGE, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2818, a bill to amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative electric and telephone companies.

S. 2881

At the request of Mr. BENTSEN, the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Connecticut (Mr. WEICKER), the Senator from Hawaii (Mr. INOUYE), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 2881, a bill to amend the Internal Revenue Code of 1954 to extend the historic preservation tax incentives.

S. 2904

At the request of Mr. TALMADGE, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2904, a bill to amend the Internal Revenue Code of 1954 to adjust the excise tax on tires, and for other purposes.

S. 2910

At the request of Mr. NELSON, the Senator from Delaware (Mr. ROTH), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 2910, a bill to provide for the payment of interest by the Federal Government on any amount due for more than 30 days to any person under the terms of a contract entered into by the Federal Government and such person.

S. 2922

At the request of Mr. STONE, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2922, a bill to amend the Congressional Budget Act of 1974 to limit the level of total budget outlays in any fiscal year and to require compensation for additional costs imposed on State and local governments, and for other purposes.

SENATE JOINT RESOLUTION 56

At the request of Mr. STONE, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Senate Joint Resolution 56, a joint resolution proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government.

SENATE JOINT RESOLUTION 172

At the request of Mr. MATHIAS, the Senator from New Mexico (Mr. SCHMITT), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of Senate Joint Resolution 172, a joint resolution to authorize and request the President to designate September 13, 1980, as "Commodore John Barry Day."

SENATE RESOLUTION 460

At the request of Mr. DOMENICI, the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. STONE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Resolution 460, a resolution to express the sense of the Senate that the Secretary of Energy should take all necessary actions to promote energy efficient cooling.

SENATE RESOLUTION 486

At the request of Mr. MATHIAS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of Senate Resolution 486, a resolution to express the sense of the Senate with regard to Metropolitan Washington airports policy.

SENATE RESOLUTION 489—SUBMISSION OF A RESOLUTION WITH RESPECT TO REDUCING EXPENDITURES FOR TRAVEL AND EMPLOYMENT OF CONSULTANTS, AND IMPROVING PROCEDURES TO COLLECT DELINQUENT DEBTS

Mr. SASSER (for himself, Mr. PRYOR, Mr. MAGNUSON, Mr. PROXMIRE, Mr. STEWART, Mr. BOREN, Mr. FORD, Mr. DECONCINI, Mr. HUDDLESTON, Mr. DURKIN, Mr. METZENBAUM, Mr. BUMPERS, Mr. HARRY F. BYRD, JR., Mr. LEAHY, and Mr. BAUCUS) submitted the following resolution, which was referred to the Committee on Governmental Affairs:

S. RES. 489

Whereas, economic considerations mandate that only such sums as are absolutely necessary be expended for travel or for the employment of consultants; and

Whereas, the Comptroller General of the United States has made recommendations to improve the collection of delinquent debts owed to the Government and to reduce the amount of delinquent debts that are written off as uncollectible: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) (A) during the fiscal year ending September 30, 1981, the total amount which may be obligated to travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government should not exceed an amount which is $500,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921; (B) the Director of the Office of Management and Budget should allocate the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch and should report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate; and (C) in allocating the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch no reduction should be made in funds for debt collection or supervision of loans, nor should any department, agency, or instrumentality be reduced by more than 15 per centum of the amount proposed for each such department, agency, or instrumentality in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921; and

(2) (A) during the fiscal year ending on September 30, 1981, the total amount which may be obligated to the use of experts or consultants by appointment or contract in the executive branch of the Government should not exceed an amount which is $500,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921; and (B) the Director of the Office of Management and Budget should allocate the reduction in such proposed total

amount among the departments, agencies, and instrumentalities of the executive branch and should report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate.

Sec. 2. It is further the sense of the Senate that—

(1) the agencies of the Government should establish procedures to identify the causes of overpayments and delinquencies and the corrective actions needed, should establish better control over receivables, should actively utilize the services of credit bureaus and commercial collection agencies, and should take more aggressive collection action;

(2) the Department of the Treasury should revise its fiscal requirements manual to require interest charges on delinquent accounts and to provide for more complete reporting of data on delinquent accounts;

(3) the Office of Management and Budget should place increased emphasis on accounting system approval and emphasize collection efforts as part of the budget process;

(4) the Internal Revenue Service should institute a debt collection system under which a delinquent debt owed by any person to the United States will be collected by retaining, out of any tax refunds otherwise payable to such person, such sums as are necessary to cover such debt; and such debt collection system should be conducted in accordance with procedures effectively designed to assure that no debtor will be denied due process of law thereunder and that the confidentiality of data held by the Internal Revenue Service pertaining to such person will be duty protected; and

(5) the Congress, through the appropriation process, should monitor each agency's efforts to collect delinquent debts, including amounts written off as uncollectible, and should consider the extent to which requested new budget authority may be reduced both as the result of collection of such debts and as an incentive to promote increased collection of such debts.

Sec. 3. The Secretary of the Senate shall transmit copies of this resolution to the Secretary of the Treasury, the head of each other department and agency in the executive branch, and the Director of the Office of Management and Budget.

PROPOSED BUDGET CUTTING

● Mr. SASSER. Mr. President, as my colleagues may recall, on March 18, 1980, the able and distinguished junior Senator from Arkansas (Mr. Pryor) and I discussed here in the Chamber a sense of the Senate resolution that we planned to introduce in the very near future. Today we are introducing that resolution.

$500 MILLION TRAVEL CUT

The 1981 budget request includes $8.9 billion for travel and transportation. The resolution would express the sense of the Senate that travel and transportation costs should be limited to an amount $500 million below the budget. The resolution is similar to the $500 million travel cutback currently in place for fiscal year 1980.

The resolution would put the Senate on the record as expressing support for those who are trying to root out abuse, waste, and error in the area of Government travel. The resolution recommends a $500 million or 6 percent cutback, which would still allow a 6 percent increase in travel and transportation Government wide. This seems like a modest and achievable reduction in view of a General Accounting Office report that stated that 15 percent of the trips it reviewed did not meet Office of Management and Budget criteria and another GAO report that revealed that the Defense Department held 60 conferences in Hawaii in a recent year. I am convinced that there can be a 6-percent overall reduction without adversely affecting essential travel and transportation activities or diminishing in any way the combat effectiveness or readiness of the American Armed Forces.

$500 MILLION CONSULTANT CUT

The 1981 budget request includes a conservative estimate of well over $2 billion—some say several times that—for consultants.

The resolution would express the sense of the Senate that consultant costs should be limited to an amount $500 million below the amounts included in the 1981 budget. The distinguished junior Senator from Arkansas explained this section of the resolution at some length on March 18.

DEBT COLLECTION INITIATIVE

The Comptroller General of the United States has published numerous investigative reports indicating that the Federal Government is doing a poor job of collecting debts owed to the Government—just debts owed to the Government by citizens and businesses.

Debt collection is not keeping pace with the increasing number of debts. U.S. citizens and organizations owed over $115 billion at the start of fiscal year 1980. Estimates from some Federal agencies show that at least $3.9 billion will eventually be written off as uncollectable and as bad debts. GAO reports, however, that losses will probably be greater because not all agencies have accurately reported such data. Almost $1.3 billion was actually written off in fiscal year 1979. It just disappeared from everyone's books without a trace. I submit, Mr. President, it is a fact that no one in the Federal Government really knows how much has been written off as uncollectable in the last 10 years. This is a sad commentary on just how poorly the Federal Government pursues its just debts, and a just debt owed to the Federal Government is a just debt owed to the American people.

OMB EXAMPLES OF POOR DEBT COLLECTION

Mr. President, I want to emphasize just how neglected is this area of debt collection. The staff at the Office of Management and Budget, in a recent review of the situation, have found that a Federal manager's success is usually determined primarily on the extension of credit and only secondarily on collection of the related debts. Consequently, debt collection has received the lowest resource priority.

Let me cite a couple of examples.

The Department of State has only one full-time employee to service over 3,000 accounts to almost $100 million for loans to independent and international organizations and for accounts receivable due from individuals, contractors, grantees, and international organizations.

In the Law Enforcement Assistance Administration, only four part-time and two full-time employees have been assigned to service 210,000 student loan accounts amounting to more than $150 million.

I am advised that in the private sector at least 30 people would be assigned to a debt collection effort of such a magnitude. An additional person would be employed to follow up on every 200 to 300 problem or delinquent accounts—and, reportedly the LEAA program has a goodly number of delinquent accounts.

GAO REPORTS ON DEBT COLLECTION

GAO reports show that Federal collection efforts are expensive, slow and ineffectual. For example, well over $200 million is being lost annually because interest is not being charged on overdue accounts. Others, both individuals and firms, just do not bother to pay their debts. Our resolution urges Federal agencies to adopt the FAO recommendations and utilize up-to-date commercial practices to collect debts, while at the same time protecting the privacy and the rights of due process of individuals—all U.S. citizens.

One provision of our resolution urges that debts owed the Federal Government be offset by withholding tax refunds along the lines of the State program in Oregon which has been operating successfully since 1971. On July 17, 1980, the Comptroller General of the United States submitted a report to me indicating that Oregon's offset program for collecting delinquent debts has been highly effective. The Comptroller General concludes that "the evidence favoring a test of a Federal offset program is overwhelming." This is a short report so I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

All of these provisions should generate more than $1 billion in income by collecting uncontested debts owed the Federal Government from firms and individuals who are well able to pay their just debts.

SUMMARY

The resolution urges collection of $1 billion on the revenue side and cutting off $1 billion on the expenditure side.

Mr. President, Senators Magnuson, Proxmire, Stewart, Boren, Ford, DeConcini, Huddleston, Durkin, Metzenbaum, Bumpers, Harry F. Byrd, Jr., Leahy, and Baucus have joined us as original cosponsors of this resolution.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Comptroller General,
of the United States,
Washington, D.C., July 17, 1980.

Subject: Oregon's Offset Program for Collecting Delinquent Debts Has Been Highly Effective. (FGMSD–80–68).

Hon. Jim Sasser,
Chairman, Subcommittee on the Legislative Branch, Committee on Appropriations, U.S. Senate.

Dear Mr. Chairman: Your letter of October 24, 1979, asked us to evaluate Oregon's program for collecting uncontested delinquent debts by keeping State tax refunds as offsets. You were interested in knowing the success of this program and its applicability to the Federal Government.

Oregon's offset program has been very successful in collecting delinquent debts. In 1979 alone, over $2.4 million in delinquent debts that most likely would have been lost to the State were collected by offset. The State spent only about $200,000 to collect this amount.

Oregon has collected significant amounts of money that would otherwise be uncollected while at the same time protecting the rights of the debtors. Only acknowledged debts of an undisputed amount are subject to offset. Strict controls have been implemented to ensure that (1) the debtor has every opportunity to establish that the debt is invalid and (2) tax refunds are not arbitrarily offset.

The Oregon program is similar to a Federal offset program we recommended in our March 9, 1979, report "The Government Can Collect Many Delinquent Debts By Keeping Federal Tax Refunds As Offsets" (FGMSD–79–19). In that report we proposed that, on a test basis, agencies refer to the Internal Revenue Service for offset those debts which the agencies have been unable to collect through normal collection procedures. The test program would include provisions to ensure that only undisputed debts were offset and to fully protect the debtor's right to due process. The Internal Revenue Service was unable to test the offset program because the Congress did not appropriate funds for the test.

We believe that a Federal offset program would repeat Oregon's success and result in significantly increased collections at relatively little additional cost. A discussion of Oregon's collection program and of how the State protects the rights of debtors follows.

OREGON COLLECTS DELINQUENT DEBTS BY OFFSET

In 1971 Oregon's Department of Revenue established a collection unit to collect delinquent amounts owed State agencies and State-supported hospitals, colleges, and universities. Among the debts collected are welfare overpayments, hospital bills, and student loan payments, including payments on National Direct Student Loans and Health Professions Student Loans. The unit collects only debts that are not in dispute—that is, the debtor has not denied owing the debt. The collection unit uses a variety of collection methods, including offset against State income tax refunds and refunds due debtors under a homeowners and renters relief program. In 1979, the collection unit collected $2.6 million—$2.4 million through offset—at a total cost of about $200,000.

Oregon's State agencies have primary responsibility for debt collection. However, if a debt becomes delinquent and the agency is unable to collect from the debtor, the agency may submit the debt to the collection unit for either restricted or unrestricted collection, as discussed below.

Restricted program uses offset exclusively

Under the restricted program, known as Setoff of Individual Liability, the only collection procedure used is offset. Twice a year agencies submit the names and social security numbers of delinquent debtors to the collection unit. The agency referring a debt continues its collection efforts even though it has referred the debt to the collection unit.

The collection unit prepares a computer tape and computer cards with the names and social security numbers that were provided by the individual agencies. Before an income tax or homeowner and renters relief refund is issued, the computer tape of delinquent debtors is compared to the computer tape of refunds. If there is a match, the refund is put into a suspense account and the dollar amount of the refund is manually recorded on the computer card. This card is sent to the submitting agency which enters the dollar amount that is delinquent and returns the card to the collection unit. The returned card is the collection unit's authority to make the offset.

Once the agency gives the collection unit this authority, the amount of the debt offset against the refund, less a collection fee, is sent to the agency. The agency is responsible for properly recording the full amount of the offset to the debtor's account. The collection fee is an administrative expense not chargeable to the debtor's account. In 1978, 10,195 accounts—totaling $1.2 million—were offset through the restricted program. During 1979, 16,526 accounts totaling $1.7 million were offset.

Unrestricted program uses offset and other methods to collect delinquent debts

Under the unrestricted program, agencies provide the collection unit with all available information on the debt and debtor, such as name, address, phone number, and name of relatives. Once the agency provides this information, it stops trying to collect and the collection unit takes all responsibility for collecting from the debtor.

The collection unit sends a letter notifying the debtor that the account has been assigned to the Oregon Department of Revenue for collection. The balance of the account is shown and the debtor is asked to contact the collection unit to discuss the debt. If the debtor does not respond to the letter, collection unit personnel telephone the debtor. If the debtor cannot be reached by telephone, collection unit personnel check the division of motor vehicles, credit bureaus, utility companies, and local merchants for the debtor's current address. In addition, if the debtor is due an income tax or homeowner and renters relief program refund, the refund will be applied against the debt.

All collections, including offsets, are provided to the creditor agency, less a collection fee. The agency is responsible for ensuring that the full amount collected is credited to the debtor's account.

During 1979, $924,000 was collected using the unrestricted program; $744,000 was by offset. As of February 1, 1980, the collection unit was responsible under the unrestricted program for collecting on 13,603 accounts totaling $7 million.

DEBTORS' RIGHTS ARE PROTECTED

Oregon's Department of Revenue has established strict controls to ensure that debtors' right to due process are protected and that tax refunds are not arbitrarily offset. State agencies submit only uncontested debts to the collection unit for offset. These are debts which the debtor acknowledges are owed and there is no question as to the amount owed. The submitting agency must document that the debt is not in dispute before submitting it to the collection unit.

Before the collection unit offsets a refund it informs the debtor in writing that the refund is being held to be applied against a delinquent debt. The debtor is told that the offset will become final unless, within 30 days, the debtor requests a hearing with the creditor agency. Since the debts are not in dispute, few hearings are requested—only about 350 in 1978. Although the Department of Revenue does not keep data on the disposition of the hearings, officials stated that most hearings are resolved in the State's favor and seldom is the debtor relieved of responsibility for the debt.

Debtors who request hearings usually question the legality of the offset program, not the debt's validity. The legality of the program was affirmed in a June 1978 decision by the Oregon Court of Appeals. The court stated that the State has the right to offset funds in its possession against debts owed by its citizens and that debtors are not denied due process since each debtor has an opportunity to discuss with the appropriate creditor the validity and amount of the debt in question.

The procedures which are operating effectively in Oregon to protect debtors' rights are similar to procedures we proposed for the Internal Revenue Service test of a Federal offset program. In a July 31, 1979, letter to you, we stated that to protect the debtor's right to due process the agency referring a debt for offset must—

Establish the debt's validity by giving the debtor ample opportunity to dispute the Government's claim,

Notify the debtor that the receivable was being transferred to the Internal Revenue Service for collection,

Give the debtor an opportunity to request a hearing on the offset, and

Notify the debtor when the debt was collected by offset.

As clearly demonstrated in Oregon, these procedures would fully protect the individual debtor's rights.

OFFSET WILL SUPPLEMENT AGENCY COLLECTION SYSTEMS

As discussed in our March 9, 1979, report, although offset is a needed and useful tool for collecting delinquent debts, Federal agencies will still be primarily responsible for collecting debts resulting from their operations. This responsibility will not be shifted to the Internal Revenue Service by a tax refund offset program. The offset program will supplement, not replace, effective agency collection systems.

We strongly support and encourage the efforts agencies have made to collect all the money they are owed and to aggressively pursue delinquent debtors. However, as discussed in our January 15, 1980, report entitled "Unresolved Issues Impede Federal Debt Collection Efforts—A Status Report," (CD–80–1), a number of our reviews have disclosed that Government collection efforts are generally weak, particularly when debts are delinquent. We have recommended that agencies adopt more aggressive collection procedures, including such practices used by commercial firms as—

Reporting delinquent debtors to credit bureaus,

Using locator services to locate delinquent debtors,

Making greater use of automation in the collection process, and

Improving demand for payment letters.

If agencies adopt and effectively implement these common commercial practices, collections would increase. However, some debts would remain uncollected simply because the debtor, while acknowledging the debt was valid, refused to pay. In many cases these debts are small and it is uneconomical for the Government to obtain a judgment against the debtor. These are the types of debts that could be economically collected by a tax refund offset. The offset would be made only when all other agency collection efforts fail.

Oregon officials told us that officials from other States have contacted them about establishing offset programs. In addition, the Council of State Governments recently completed a review of Oregon's offset program and will disseminate the information to all States. The Council expects more States to establish offset programs as a result.

CONCLUSIONS

We continue to believe that an income tax refund offset program is a logical, simple, and economical method of collecting debts that are uncollectible by any other means. An effective offset program would substantially reduce the over $1 billion the Federal Government loses annually by writing off uncollectible debts.

The evidence favoring a test of a Federal offset program is overwhelming. Our March 9, 1979, report recommending such a test and the success of Oregon's offset program document the feasibility of collecting otherwise uncollectible debts by offsetting Federal income tax refunds. Also, collection by offset is warranted by equity concerns. It is patently unfair to citizens who pay their debts to allow other just debts owed the Government to go uncollected. This inequity is especially acute when the individual owing the debt does not dispute the debt or its amount and can pay but does not.

RECOMMENDATION

We continue to strongly support a Federal income tax refund offset program for collecting otherwise uncollectible debts and reiterate our earlier recommendation that the Congress provide funding for the Internal Revenue Service to test and adopt an offset program.

At the request of your office, we did not obtain comments on matters discussed in this letter from the Internal Revenue Service. We discussed the part of the report covering Oregon's offset program with officials of the State's Department of Revenue. They said the information presented was accurate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this letter until 30 days from its date. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.●

AMENDMENTS SUBMITTED FOR PRINTING

CHEROKEE NATION OF OKLAHOMA CLAIM JURISDICTION—S. 2072

AMENDMENT NO. 1943

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. BELLMON submitted an amendment intended to be proposed by him to S. 2072, a bill conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENTS NOS. 1944 THROUGH 1946

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted three amendments intended to be proposed by him to amendment No. 1941 proposed to H.R. 39, an act to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

AMENDMENT NO. 1947

(Ordered to be printed.)

Mr. STEVENS proposed an amendment to amendment No. 1941 proposed to H.R. 39, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

● Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of two public hearings before the Subcommittee on Energy Research and Development of the Senate Committee on Energy and Natural Resources.

The hearings are scheduled for July 28 and August 5, 1980. Both hearings will be held in room 3110, Dirksen Senate Office Building, and both will begin at 10 a.m. Testimony will be received regarding S. 2926, a bill to provide for an accelerated research, development, and demonstration program to achieve confirmation of the engineering feasibility of magnetic confinement fusion, and for other purposes.

For further information regarding these hearings you may wish to contact Dr. Will Smith of the subcommittee staff on extension 224-4431.●

AUTHORITY FOR COMMITTEES TO MEET

Mr. BENTSEN. Mr. President, on behalf of the majority leader, I make the following requests for committee meetings, and I understand that they have been cleared with the minority.

SUBCOMMITTEE ON CRIMINAL JUSTICE

Mr. President, I ask unanimous consent that the Criminal Justice Subcommittee of the Committee on the Judiciary be authorized to meet during the session of the Senate today to hold an oversight hearing on forfeiture of profits of drug traffickers.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate tomorrow, July 24, 1980, to hear an administration official on the Nonproliferation Treaty Review Conference and to vote on pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERMANENT INVESTIGATIONS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Permanent Investigations Subcommittee of the Committee on Governmental Affairs be authorized to meet during the sessions of the Senate on Thursday, July 24, 1980, and Friday, July 25, 1980, to hold hearings on the Department of Energy gasoline allocation program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NO POLITICAL PRISONERS IN DOMINICAN REPUBLIC

● Mr. KENNEDY. Mr. President, I wish to bring to the attention of my colleagues a letter received from the Ambassador of the Dominican Republic, who protests the assertion in POM-763, a concurrent resolution adopted by the legislature of the State of Delaware that Haitians are being sold as slaves in his country. I welcome the Ambassador's statement that "the various freedoms to which every man is entitled are being defended and upheld" in the Dominican Republic, and I believe that our two countries should continue to work closely to further human rights, democracy, and social and economic progress throughout the hemisphere. I request the full text of Ambassador Del Rosario's letter be printed in the RECORD.

The letter follows:

THE AMBASSADOR OF
THE DOMINICAN REPUBLIC,
Washington, D.C., June 24, 1980.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary, Senate of the United States of America, Washington, D.C.

DEAR SENATOR KENNEDY: I noted with appreciation, in your statement of June 17 addressed to the Platform Committee of the Democratic National Convention, the mention made of the Dominican Republic with regard to our record on the observance of human rights. My Government is proud to be able to declare that there are no political prisoners in the Dominican Republic and that the various freedoms to which every man is entitled are being defended and upheld. Our respect for the rights of all citizens is the basis for our policies of social and economic development.

It is with this in mind that I believe we must object to the statement contained in POM-763, House Concurrent Resolution No. 131, as adopted by the Legislature of the State of Delaware and laid before the Senate and the Committee on the Judiciary, and published in the Congressional Record of June 11, 1980, p. 14125. We understand and share the concern of those who seek to relieve the plight of the Haitian immigrants, but we must protest and affirm that there is no truth whatsoever to the assertion that "Haitians are being sold for $15 and $20 as slaves to work in sugar cane fields in the Dominican Republic."

Furthermore, we would request that a correction to this effect be entered in the Congressional Record, since errors and falsehoods are of no service to the cause of the Haitian immigrants, and are in this case a definite disservice to the Dominican Republic.

With my sincere personal regards, I remain,
Very Truly Yours,
ENRIQUILLO A. DEL ROSARIO C.,
AMBASSADOR.●

DEFENSE REPORTS ON CURRENT MILITARY PROBLEMS

● Mr. GOLDWATER. Mr. President, from time to time the Association of the United States Army sheds some truly important light on our current military problems with defense reports to its members. In two recent reports the AUSA has devoted its expertise to the problem of what all is required in the effort to modernize our Army, and what military people think about their leaders' attitudes on the subject of adequate pay for service personnel. I ask that these defense reports be printed in the RECORD.

The reports follow:

IT'S TIME TO MODERNIZE THE ARMY—AND THERE IS MORE TO IT THAN JUST BUYING EQUIPMENT

When the U.S. Army became directly involved in Vietnam it was completing the transition from a family of weapons and equipment that was essentially of Korean War vintage to a new generation of helicopters, tanks, radios and wheeled vehicles. The years of war in Vietnam used that new family very hard and, although the equipment in the hands of our forces there was gathered up and returned to the United States almost down to the last rifle, much of it required major overhaul before it could be used again. This period was followed by a shift to an all-volunteer force which drove the personnel-related defense costs to almost 60 percent of the defense budget, leaving little in the till for procurement of new weapons or the proper maintenance of the old ones.

While the U.S. Army was in this state of materiel stagnation its most likely adversary, the Soviet Army, was blossoming with new equipment. Since 1960, the Red Army has introduced 60 new major systems. While the Soviets designed, tested and produced large numbers of three successively better tanks we have been able to field just one (the M60) and it will be several years before its successor, the XM1 "Abrams" will be in the field in numbers. Since 1960, also, the Soviets have equipped their forces with six new air defense systems and have augmented a chemical warfare capability far exceeding that possessed by the United States and its allies.

Our Army is now ready to move into its next generation of equipment in a large way, with 400 systems—40 of them considered "major"—ready for procurement or in the final stages of development. Some production has begun on the Abrams tank and the UH-60A "Blackhawk" helicopter that will eventually replace the worn "Hueys" of the Vietnam era. Major expenditures are planned for new fighting vehicles to replace the current personnel carriers that have been in use for more than 20 years and for air defense systems to provide more effective protection against the increasing threat of Soviet tactical airpower. The cost of all this, over the next five years, will amount to billions of dollars.

We should realize, though, that the cost in dollars for procurement is not the only price we must pay to bring our Army up to date and to improve its future effectiveness. Each new system, whether it involves weaponry, transportation or communication, will take advantage of state-of-the-art improvements in technology. New doctrine will be created to make full use of new capabilities. New force structure may be required as well as revised plans for maintenance and supply. The people who use them may have to be retrained. Some of the new systems require bigger crews than the old ones, so the size of the Army may have to be increased.

If we are to have a truly modern Army we must be prepared to pay the full price.

Military People Are Puzzled—Do Their Leaders Want to Help Them or Hurt Them?

Every element of our society has been hurt by the rising tide of inflation; some worse than others. Our people in uniform comprise one of the hardest hit segments. Because of repeated "caps" on cost-of-living adjustments to military pay and because military allowances for housing have not kept pace with the true cost of renting a place to live, the buying power of military pay has fallen somewhere between ten and 15 percent behind comparable civilian compensation. The President is aware of this predicament, but his reaction to it opens substantial questions in the minds of military people who look to their constitutionally designated leader for understanding and support.

At a time when inflation is running at an annual rate of more than 18 percent, the President has proposed a military cost-of-living adjustment to base pay of just 7.4 percent. Military families in all but the southeast corner of the United States are paying rents substantially greater than their housing allowance (many exceed it by as much as 65 percent). The Administration says it supports an increase in the housing allowance, but it has not said how the increase will be funded. One of the ways it could be done would be to take part of that 7.4 percent base pay adjustment and put it into an increase in the housing allowance—a bookkeeping exercise that simply takes some money from one of the service person's pockets and puts it in another.

This exercise is called "reallocation" and the present law permits the President to take as much as 25 percent of a base pay adjustment and shift it into one or more of the allowances for housing or food. It has been reported that the Administration is planning to ask for permission to increase the reallocation limit to 50 percent. Whatever level of reallocation is used, however, the result is the same: Military families wind up with more money to pay the rent and less to spend on other necessities. Those who occupy government housing and forfeit their allowance simply get a paycheck that reflects less than the approved cost-of-living adjustment.

There are other ramifications of the reallocation process that are seldom noted. Every time the adjustment to base pay is pared down it does several other things automatically: It reduces the base upon which the service member's retired pay will eventually be computed; it means that reservists, who get no allowances but whose pay is determined by the base pay of active-duty people, also get less than a full cost-of-living adjustment: And it also means that every type of incentive pay or retention bonus that has base pay as its foundation falls short of its proper adjustment.

No doubt these bureaucratic maneuvers save money in the defense budget, but the saving is at the expense of the defense establishment's most valuable commodity—its people. That is the last place we can afford to cut corners.●

PRAISE FOR VA HOSPITAL IN LA JOLLA, CALIF.

● Mr. HAYAKAWA. Mr. President, I have received from a constituent, a copy of a letter that she wrote to the staff of the VA hospital in La Jolla, Calif.

In this day and age, when so much cynicism is expressed about our Government and society, it is refreshing to receive a letter such as Marguerite Irwin's. Ms. Irwin, a retired Army major, has taken time to express her gratitude to those persons who made her stay in the La Jolla Veterans Hospital a pleasant one.

I would like to submit Ms. Irwin's letter in the Record as a reminder of the many good things that Americans do for each other.

The letter follows:

San Diego, Calif., *July 11, 1980.*

John W. Ditzler, M.D.,
Medical Center Director,
Veterans Hospital, La Jolla, Calif.

Dear Dr. Ditzler: I am writing you to express my gratitude and deep appreciation to the Staff of the Veterans Administration Hospital, La Jolla.

On June 15, 1980, a Sunday afternoon, I was taken to your hospital as an emergency. The illness terminated in surgery. From my first contact in the emergency room through pre and post surgery, I could not have asked for better or more efficient care. I had begun to feel that such courtesy and personal interest found in your hospital was a lost art. I feel somewhat qualified to judge as my nursing experience both in the Army and in civilian hospitals span more years that I care to admit.

To personally thank all members of the Medical and Nursing staff who contributed to my comfort and recovery is not possible. I particularly feel that Dr. Bardin, the Vascular surgeon, Dr. Falcon, the Neurologist and their staffs are responsible for my being able to write this thank you letter today.

I feel that exemplary service such as this should be brought to the attention of the public. For that reason I am forwarding a copy of this letter to Senator Hayakawa in Washington, D.C.

Sincerely,

Marguerite M. Irwin.

UKRAINIAN COMMUNITY OF TUCSON OBSERVES CAPTIVE NATIONS WEEK

● Mr. GOLDWATER. Mr. President, last week the Ukrainian community of Tucson observed Captive Nations Week in remembrance of those who died on the battlefield and those who are imprisoned behind the Iron Curtain. This was an observance to mark that time in 1959 when the Congress, through joint resolution, authorized President Eisenhower to issue the first Captive Nations Week proclamation. The articles of proclamation stated that many nations throughout the world have been made captive by the aggressive policies of Soviet communism, but the people of Soviet dominated nations have been deprived of national independence and individualism. It is appropriate and proper to manifest to the people of the captive nations the support of the Government and the people of the United States for their aspirations for freedom and independence. I congratulate the Ukrainian community of Tucson for their observance.●

ADDRESS BY SENATOR HART ON U.S. DEFENSE STRATEGY

● Mr. KENNEDY. Mr. President, on June 10, 1980, our distinguished colleague from Colorado (Mr. Hart) delivered a thoughtful and thought-provoking address to the National War College in which he analyzed U.S. defense strategy in the coming years. Senator Hart suggested three main courses of action to guarantee our national security and international interests:

That in many cases we should "seek to use the growing power and nationalism of third world nations to counter Soviet expansion," instead of relying solely upon our own military might;

That a large and powerful navy "would give us the broadest possible flexibility to encourage local resistance to Soviet hegemonism;"

That reliance on a strategy of maneuver warfare may be more effective in isolating and exploiting Soviet weaknesses than a strategy which merely seeks to best the Soviets in "a mutual casualty inflicting/absorbing contest, where the goal is a favorable exchange rate."

Regarding defense planning, I strongly agree with Senator Hart that we must "budget much more for operation and maintenance." Readiness and reliability of our Armed Forces are vital to our national security. I believe Senator Hart's proposed strategy of "resisting hegemony while not seeking hegemony" and of insuring ready, well-maintained conventional and strategic forces should be carefully considered, and I request that the full text be printed in the RECORD.

The address follows:

ADDRESS TO NATIONAL WAR COLLEGE

(By Senator GARY HART)

As we seek to provide for our defense in the 1980's, we find ourselves challenged abroad by two different kinds of military power. One is familiar: the military power of the Soviet Union.

You may have heard the probably apocryphal story from the Yalta conference. Stalin, Churchill and Roosevelt were sitting around after dinner enjoying some of the excellent Georgian brandy Stalin liberally supplied. Roosevelt pulled out his cigarette case and passed it around. As the others took a cigarette, they could not help notice the engraving on the sterling silver case: "To my good friend Franklin," signed "Woodrow." After they finished their cigarettes, Churchill offered around his solid gold cigar case, with the inscription prominently displayed: "To my good friend and a great servant of the British Empire, Winston Churchill," signed, "George VI." After they had finished their huge Churchillian cigars, Stalin snapped his fingers for another round of brandy and pulled out of his pocket the most elaborate snuff box the other two had ever seen. It was gold, encrusted with gems, and bore an enormous diamond in the center of the lid. As Churchill opened it to take a pinch, his eye fell on the inscription: "To Count Esterhazy from the Vienna Jockey Club."

The Soviet love for other peoples' property is long standing, and seems likely to continue.

Another kind of military power is less familiar. It is the growing military capability of third world nations. The power of third world countries has risen relative to that of both superpowers.

In the late 1940's, there were only two types of nations: superpowers and nonpowers. Since then, modern war-making capability has spread into all regions of the world. Nations with natural or industrial resources—with wealth—can and do equip themselves with modern tanks, warplanes and missiles. Nations without wealth, but with strategic position—the Yemens are good examples—are equipped with advanced weapons gratis by major powers.

This proliferation of military power has been energized by the end of colonialism and the spread of nationalism and militant religiosity—as the Afghans seem to be showing the Soviets.

Our difficulties in dealing with both the Soviet Union and third world nations in the 1980's are compounded by internal problems we inherited from the 1970's and before.

For years we have suffered from a vacuum in national security policy. This vacuum has been filled with a variety of unsatisfactory substitutes for consistent policy. It has been filled partly with the remnant reflexes of Vietnam, which still deprive some Americans of the ability to discriminate between threats and opportunities.

These people remind me of Mark Twain's cat. Twain had a cat who once got burned on a hot stove. The cat never touched a hot stove again, Twain said—but then it never touched a cold one either.

Most conspicuously the vacuum has been filled with invalid arguments about defense issues. For years our defense debates have centered on the size of our defense budget.

This is a gravely inadequate debate. More funds will provide a better defense only if the money is spent for the right things.

History suggests it is possible to spend great sums and actually weaken one's defense. Britain spent 60 million pounds on the pre-war defenses in Singapore, but the defenses all faced the sea, and the attack which took Singapore came from the land.

Indiscriminate calls for more defense spending make no more sense than indiscriminate efforts to cut military budgets. We must stop debating whether more is better or less is better. On the battlefield, only better is better.

Our real task is to find a basis for determining just what "better" really is. We need a basis for establishing some priorities in defense. We need some means of concentrating our defense efforts where they will do the most good.

Of course, this is a very difficult task—one of the most awesome challenges of the 1980's.

Still, as a modest beginning, let me suggest three ideas which I believe hold some promise in filling this national security vacuum.

The first relates to grand strategy. Our traditional grand strategy has focused on containing Soviet expansionism, and has generally taken a "direct approach." We have sought to counter Soviet moves with direct action by the United States. This direct approach evolved in the late 1940's and, at that time, it was the only counter to Soviet expansionism.

Of course, we can and must still be able to deter the Soviets with our own military might, because there will still be important times when we must directly oppose Soviet expansionism.

But in many cases, we may be more effective in protecting our national interests if we use an indirect approach: if we seek to use the growing power and nationalism of third world nations to counter Soviet expansionism. Such a policy would be well described by the term used by the Chinese for their foreign policy: resisting hegemony while not seeking hegemony.

Our job should not be to convince other nations to align themselves strictly with us rather than the Soviet Union at the cost of their own national independence. Rather, we should be willing and able to help them reject Soviet expansionism successfully when they independently choose to do so.

The time is ripe for such a policy. We have felt the limitations of a U.S.-centered policy, with the frustrations in Vietnam. We have also seen the emergence of independent local resistance to Soviet expansionism. The resistance in Afghanistan is clearly based in the deep national and religious convictions of the local people, not in artificial stimulation by outside powers.

A national security policy of resisting hegemony without seeking hegemony suggests a new military strategy. Specifically, it suggests an increased maritime strategy: a second idea which might move us from the policy void of recent years and which might help redefine our defense debates.

Two years ago, Senator Robert Taft and I jointly issued a White Paper on Defense in which we defined such a strategy and proposed in detail the kind of force structure and weapons systems we should build to implement it.

The logic behind a maritime strategy is compelling. By geography, we are an island. Our economy is dependent on seaborne trade and, particularly, on seaborne importation of raw materials. Our principal alliances only have meaning if we control the sea.

Unquestionable control of the seas would give us the broadest possible flexibility to encourage local resistance to Soviet hegemonism. If the United States were to have obvious and undisputable Naval superiority, Soviet military and diplomatic options in dealing with third world nations would be limited. The Soviets' ability to project force afar generally depends on their operating freely at sea.

So, a maritime strategy complements a grand strategy of resisting hegemony without seeking hegemony.

My third suggestion fits with the other two. We should re-think our doctrine of warfare.

There are two basic styles of warfare: firepower/attrition and maneuver. Firepower/attrition is warfare on the model of Verdun: a mutual casualty inflicting/absorbing contest, where the goal is a favorable exchange rate. The conflict is more physical than mental. Defenses tend to be fixed, attacks frontal, battles set-piece, and movement preplanned and slow.

In contrast, maneuver war is warfare on the model of Genghis Khan, the German Blitzkrieg, Patton, and most Israeli campaigns. The goal is disruption of the enemy's vital cohesion. The objective is the mind of the enemy commander, not the bodies of his troops. The principal tool is moving forces into unexpected places at surprisingly high speeds. Firepower is a servant of maneuver, used to create openings in enemy defenses and, when necessary, to annihilate the remnants of his forces after their cohesion has been shattered. The conflict is as much psychological as physical.

Traditionally we overwhelmed opponents with masses of manpower and, especially, materiel. With some notable exceptions, such as the island-hopping strategy in the Pacific in World War II, we've not out-thought our opponents so much as rolled over them with ships, planes, and tanks in vast numbers. We could fight this way because there was enough time in earlier wars to convert our extraordinary economic strength to wartime production.

In the 1980s, this traditional American reliance on firepower may not serve as well.

How can we be sure of success in a firepower/attrition contest with the Soviet Union? Her GNP is smaller than ours, but her allocation of resources to heavy industry and related technology, rather than consumer goods, gives her ample capacity to produce war materiel quickly. Her population—her deployed forces in most categories—her reserves of military equipment—are larger than ours.

Our highly technical and specialized peacetime economy is not as easily and quickly converted to war production as it was in World War II. A Soviet invasion of Western Europe might prevail before we could surge to meet it—if it is fought in the traditional firepower/attrition manner.

Maneuver warfare, on the other hand, could attack important Soviet weaknesses. Their command structure is highly centralized and cumbersome. Little discretion is permitted to unit commanders. The stresses in their ranks due to the fusion of divergent nationalities, the language barriers which often exist between a Russian officer corps and enlisted men of other nationalities, and the uncertain reliability of Warsaw Pact Units—all suggest a vulnerability to a maneuver warfared designed to disable through disorientation.

These three suggestions—maneuver warfare, an increased maritime strategy, and a foreign policy encouraging other nations independently to counter Soviet adventurism—will not totally fill the policy vacuum. But they are steps to that end.

They can help us redefine the terms of the defense debate. They can give our defense planning coherence. They offer one logically integrated conception of what is "better" in defense.

Specifically, they put priorities on certain qualities which we should seek to incorporate in our forces. Let me describe a few of these.

First our weapons should be designed to implement our military concepts and doctrine, not vice versa.

A good example of a weapon that does so is the Harrier, the Marine Corps' tactical airplane. The Harrier is able to use short runways because of its advanced VSTOL (vertical or short takeoff and landing) technology. It is, therefore, ideal for flexible use in areas such as the Persian Gulf/Indian Ocean in which runways are scarce. It could be called a "rapid deployment aircraft."

The Harrier is also well suited to maneuver warfare. Its ability to operate from austere forward bases helps it to do what tactical aircraft need to do in maneuver war: integrate their operations with the ground commander's scheme of maneuver. The Marines, who are becoming the service most committed to maneuver warfare, have in this case adapted their equipment purchases to the reality of the probable battlefield of the 1980s.

The policies I have outlined suggest a second quality of special importance to our forces—combat readiness. A slow-paced firepower/attrition approach to war can afford a somewhat lower standard of reliability and maintainability of equipment. But maneuver warfare depends on high initial combat readiness. Combat units must depend much more surely on the equipment in their possession and be able to maintain it in the field, without a massive—and vulnerable—logistics train.

For a number of years, we have been buying new planes, missiles, and ships which are technologically more complex than those they replace. At the same time, we've kept operations and maintenance funds roughly constant. Thus, we're trying to maintain more complex equipment at the same readiness level as simpler equipment, with the same funding. What has to give? Readiness.

The current Five Year Plan illustrates this situation starkly. Navy/Marine Corps investment funding—buying new, more complex systems—is to rise 7 percent in the next five years, in real dollars. Over the same period, O&M funding is to go up by only 1 percent! What are we budgeting for? Continually decreasing readiness!

Given the importance of readiness, what can we do?

We're going to have to budget much more for operation and maintenance, beginning immediately. We've bought the complex—perhaps overly complex—systems. We can't trade them in tomorrow morning for less complex ones, so we are going to have to pay what it costs to maintain them.

We are also going to have to rethink our fascination with technological complexity. Belief in new technology is different from belief in technological complexity.

Technology can be used to buy higher levels of performance, at the cost of greater complexity. This is what we do now. Or it can be used to buy adequate performance with greater simplicity, and therefore greater reliability and maintainability. We should take the latter course.

A third defense priority is numbers. This is particularly clear in the Navy. Ships must be the right kinds; they must have the right qualities. But we must also have enough of the right kinds. Numbers count. We need a larger Navy.

We've been wrestling with a dilemma for some years as we have sought a larger Navy. The cost of our capital ships, large nuclear aircraft carriers and attack submarines, has been so high that we find it impossible to buy sufficient quantities—even if we commit ourselves to very large defense increases.

If we are to enlarge our Navy, we have to control the cost of each individual ship.

There is a fourth quality: we need to exploit one of our major national advantages—new technology—to force the Soviets to respond to the technology changes we introduce in our military. Just as a tactical unit can disorient its enemy through maneuvers, so we can outflank Soviet technology in some important cases.

We not only want to adjust to change, we want to foster it, to drive it. The faster we can change our weapons, strengths and weaknesses, the harder for our opponent to remain effective. If he cannot match our pace of change, he will become obsolete, not us. His investments in ships and aircraft—massive investments—will become liabilities, his power and other's perceptions of his power will decline.

These qualities, among others, will in each case cost money—to get the right kinds of weapons in sufficient numbers, to maintain them so they are ready for combat, to incorporate new technology. But we will be spending for effectiveness. And, by setting logical priorities, we will be able to reduce funding in some areas while increasing it in others.

These steps, taken together or in any combination, will not be sufficient if we are unable to take one additional, even more fundamental step: We must reunite our nation.

We must reconstitute our national will. Whatever the number and effectiveness of weapons we amass, it will not secure our Republic unless we have the national will to defend our values, our interests, our homeland and our fellow Americans.

Re-thinking our strategy, force structure, and military doctrine is a necessary step toward unity. We cannot expect the old factionalism to disappear unless we have new ideas around which people can unite. We should not anticipate, or desire, a consensus built around obsolete concepts, concepts likely to fail the acid test of conflict.

To achieve this new consensus will require us all to seek common ground. The consensus will be composed of an unfamiliar mix of views which will run against political reflexes and habits of mind.

To find this common ground will require leadership from the President, from the Congress, from both parties, from you and me. It will require a joining of those who have differed in the past. It will stretch us all—toward each other.

This is the fundamental challenge of the 1980's—to reunite ourselves around fresh, viable, logical ideas about defense. In this way, we have an opportunity, the first since Vietnam, to rebuild the necessary consensus.

We can, and I believe we will.●

REGISTRATION OF WOMEN FOR DRAFT FAVORED BY ARIZONA SOPHOMORE

● Mr. GOLDWATER. Mr. President, in recent weeks we have heard a great deal of discussion about registration for a possible draft. Congress eliminated any requirement that women should be included in this action, and I believe the consensus was that most women felt this justified. However, I should hasten to point out that this does not apply to all women. A very stirring letter recently came to my attention. It was written by Denise Smith, a sophomore at Kingman, Ariz., High School to the Kingman Daily Miner and later republished in the Arizona Legionnaire Newspaper. In it she called on all American youth, both male and female, to prepare to make a stand for their rights, freedom, and honor. I ask that this inspiring letter be printed in the Record.

The letter follows:

LET'S KEEP OUR FREEDOM!

EDITOR, THE MINER: I am writing in response to the article in the paper, "Should women be required to register for the draft?". My personal opinion is women should be drafted along with the men.

My reason for writing is of a different nature. From what I understood in those few paragraphs mentioning the 42 peace, civil rights, religious and student groups, the nation's youth is not prepared to make a stand for our rights, freedom and most of all honor.

During the Vietnam War, very few people wanted to fight because they felt it wasn't our fight. These "Conscientious Objectors" felt so strongly they left the country. They were later granted amnesty. Now, the minute the word "draft" is mentioned, they start protesting, marching and speaking out against the draft, and refuse to fight in the event of a war. This time there is no excuse for them to hide behind. If there is a war it will be mostly ours and ours alone.

• • • • •

The youth of this country should at least take some of the responsibility for the future If the young, strong and capable of this country won't fight or stand up for this country, who's left? Our parents? They've already been through a couple of wars, so it's not likely. If no one fights or is even willing to prepare for a fight, there's a chance we could lose our freedom.

What are those student groups going to say when suddenly the US is no longer a free democracy? By then it will be too late to matter what they say.

We can't always leave things for others to do.

• • • • •

This country has its problems, serious ones at that, but we are still able to pick and choose our own lives, make our own decisions and what we do and say in our own homes is still our own business.

What those anti-draft groups don't realize is that they are taking advantage of one of our rights given in the United States Constitution, the freedom of speech.

If they can make use of our democratic rights and not be thrown in jail or shot for treason, why shouldn't they fight to help keep the rights they are using so freely?

• • • • •

I, personally, am proud of the freedom our forefathers established for us, and I will do anything I possibly can to see that our country remains free from the socialist/communist rule, or die trying.

Those who decide that the United States isn't good enough to fight for should try living under socialist/communist rule for a year. Maybe, if they survive, they will change their minds. The US may lack a lot of things, but we still have our Constitutional rights. Does Russia?

Let's see that we keep those rights.

DENISE SMITH,
Sophomore, Kingman High.●

MIDSESSION BUDGET REVIEW HIGHLIGHTS NEED TO CONTROL GROWTH OF FEDERAL SPENDING

● Mr. HEINZ. Mr. President, I was dismayed—although not terribly surprised—to read the midsession review of the 1981 budget which the President has just transmitted to us. The bottom line of those 80 pages and 37 tables is this: All efforts to balance the budget notwithstanding, the fiscal year 1981 budget will in fact show a deficit of about $30 billion, even without a tax cut.

The prospect of yet another massive Federal deficit during the coming fiscal year makes all the more imperative the need to bring Federal Government spending under control. Only by consistently controlling spending can we ever hope to restrain Federal taxing, borrowing, and growth, relative to our more productive private sector and other units of government. Attempting to control spending only once out of every 4 years does not and will never work. We need fiscal responsibility every year, not just when a President is running for reelection.

For this reason, I have introduced, along with my distinguished colleague from Florida (Mr. STONE), S. 2922, limiting the growth in Federal spending to the growth in our Nation's productive capacity, as measured by GNP. This measure is a statutory version of a constitutional amendment we introduced last year (S.J. Res. 56) drafted with the asistance of Dr. Milton Friedman and the National Tax Limitation Committee.

Because we intend to press for Senate action on this measure in the near future, yesterday we circulated a letter to our distinguished colleagues asking their support and cosponsorship of this measure. I ask that there be printed in the RECORD the text of this letter.

The letter follows:

U.S. SENATE,
Washington, D.C., July 21, 1980.

DEAR COLLEAGUE: Today, in transmitting to Congress his mid-session review of the fiscal year 1981 budget, the President made official what many of us have suspected for several weeks: the "balanced budget" which we so proudly wrote to our constituents about a couple months ago in fact will show a deficit of at least $30 billion.

While we are dismayed by the prospect of yet another massive Federal deficit, we believe this makes even more imperative the need to bring Federal government spending under control. Only by controlling spending can we ever hope to restrain Federal taxing, borrowing, and growth, relative to our more productive private sector and other units of government.

For this reason, we ask your support and cosponsorship of legislation we have introduced, S. 2922, limiting the growth in Federal spending to the growth in our nation's productive capacity, as measured by GNP. This measure is a statutory version of a constitutional amendment we introduced last year, S.J. Res. 56, drafted with the assistance of Dr. Milton Friedman and the National Tax Limitation Committee.

Although we still are convinced that only via a constitutional amendment can fiscal discipline be realized, we see a statutory approach such as that embodied in S. 2922 as an important first step toward a longer term, constitutional limit on the growth of Federal spending. Enactment of S. 2922 would recognize the need for additional fiscal discipline during the interm period it will take to perfect and ratify a constitutional amendment.

The provisions of both S. 2922 and S.J. Res. 56 are as follows:

First, Congress would be prohibited from increasing outlays—both on and off budget—in any fiscal year by a rate greater than the increase in nominal GNP in the calendar year ending before the start of that fiscal year.

Second, during times of high inflation, government spending would be reduced even more. Whenever the inflation rate exceeded three percent, the percentage increase in outlays which would otherwise be permitted would be reduced.

Third, the Federal government would be prevented from forcing the States to expand their services by simply replacing Federal grants-in-aid with Federal mandates. The growth of Federal spending would be reduced even further when Federal grants to the States declined over a set period.

Fourth, spending above the overall limit would be authorized on an emergency basis, subject to a declaration by the President and a two-thirds vote of both Houses of Congress.

These provisions are set forth in greater detail in the legislation itself and in the remarks we made in introducing this measure, copies of which are enclosed.

Should you have any questions about the bill, or wish to cosponsor, please do not hesitate to call upon us, or have your staff contact Mike Lockerby (Telephone: 224-6324) or Bill Pursley (Telephone: 224-1546).

We plan to press for swift action on this measure and hope that you will support us in this effort.

Sincerely,

JOHN HEINZ,
DICK STONE.

Mr. HEINZ. Mr. President, I ask that Executive Communication 4258, the Mid-Session Review of the 1981 Budget, be printed in the RECORD.

The material follows:

MID-SESSION REVIEW OF THE 1981 BUDGET

INTRODUCTION

This Mid-Session Review provides revised estimates of the 1981 budget as required by Section 201 of the Budget and Accounting Act. These estimates take into account completed congressional action, including the Supplemental Appropriations and Rescission Act that was signed by the President on July 8, 1980, recent experience on the rate of spending for Federal programs, and revised economic assumptions. The Review also provides estimates and projections for the 1982–1985 period and other information required by law.

At the beginning of the calendar year, the economic situation was characterized by rapidly rising inflation and interest rates. Although inflation continues to be unacceptably high, it has slowed dramatically from the first quarter, and should drop further in the months ahead. The unemployment rate, which reached 7¾ percent in June, is now expected to rise to 8.5 percent by the last quarter of the year.

In response to the sharp rise in inflation, inflationary expectations, and interest rates early in the year, the President submitted budget revisions to the Congress in March that reduced outlays for 1981 by $17.2 billion. These reductions were the product of lengthy consultations between the President, his senior advisers, and the leadership of the Congress. The policy of budget stringency that was agreed to then is being continued in this Mid-Session Review to help restrain inflation. The Review proposes no new spending initiatives. The changes shown in this Review, which are substantial, result from:

The revised economic outlook;

Unanticipated events such as the eruptions of Mount Saint Helens, and the recent heavy influx of Cuban/Haitian entrants;

Changes in the spendout of major procurement and construction programs, notably defense; and

Other minor revisions.

Congressional responses to the President's proposals for budget restraint have been constructive. Although the Administration does not agree in detail with all of the actions taken by the Congress, congressional action to date on the 1981 budget is consistent with the President's policy of fiscal stringency. This year the Congress has modified its own budget action to include a reconciliation bill as part of the first concurrent resolution. The Senate has already acted on this measure, reducing 1981 budget authority by $4.0 billion and outlays by $5.2 billion. The Administration looks forward to prompt, similar action on the part of the House of Representatives. Enactment of such a reconciliation bill will be a significant milestone in the continuing efforts by the Congress and the Administration to maintain appropriate budgetary discipline.

This review provides revisions of the Administration's budget estimates as required by law. It does not propose policy changes. Policy measures to increase investment, productivity, and economic growth—with beneficial effects on unemployment and inflation in 1981 and later years—will be developed carefully in close consultation with the Congress and others in the months ahead.

It is quite likely that a tax cut will be desirable in 1981. But it is not appropriate to propose one now. The Administration believes strongly that the last months of a congressional session, in an election year, are not the best time to make the judicious decisions needed for a skillfully designed tax program to improve economic performance.

PART 1—THE CURRENT BUDGET OUTLOOK, 1980–1981

Budget totals

The revised 1980 and 1981 estimates in this review reflect:

Policy changes enacted by the Congress since the January budget and March revisions were issued;

Reestimates of receipts and outlays in light of revised economic assumptions and more recent data; and

Technical changes in many estimates.

The current estimates supersede the revised budget estimates published in March. Table 1 compares the current estimates with the Administration's January and March figures.

TABLE 1.—BUDGET TOTALS

[In billions of dollars]

	1979 actual	1980 Estimate			1981 Estimate		
		Jan.	March	July	Jan.	March	July
Receipts	465.9	523.8	532.4	517.9	600.0	628.0	604.0
Outlays	493.7	563.6	568.9	578.8	615.8	611.5	633.8
Deficit, current estimate	−27.7	−39.8	−36.5	−60.9	−15.8	16.5	−29.8
Budget authority	556.7	654.0	655.8	653.7	696.1	691.3	707.2

The 1980 deficit is now estimated to be $61 billion, $24 billion above the March estimate. The current estimate for 1981 is for a deficit of $30 billion, rather than the $16.5 billion surplus estimated in March. Both the increase in the 1980 defiit and the shift from surplus to deficit in 1981 are the result of the following factors:

Estimated receipts have declined by $15 billion in 1980 and $22 billion in 1981. These reductions are caused largely by lower incomes resulting from the recession and by congressional repeal of the President's gasoline conservation fee.

Estimated outlays have increased by $10 billion in 1980 and $22 billion in 1981. These increases are largely attributable to higher costs for unemployment benefits and other programs due to the recession; higher costs of the defense program; and unavoidable increases in a number of programs resulting from natural disasters, the recent heavy influx of Cuban/Haitian entrants, and other events.

Short-range economic forecast

The economy is experiencing a deeper recession than expected earlier this year. The rate of unemployment, which has reached 7¾ percent in the last two months, is likely to rise somewhat further during the final half of this year, reaching 8.5 percent for the final quarter. Economic recovery is expected to begin around the end of the year, but to proceed slowly during 1981 with unemployment remaining at about 8½ percent in the absence of policy changes. We consider this an unacceptably high rate, and the Administration will therefore be working with the Congress to develop a program that will assist the economic recovery at the same time that it helps to achieve long-term economic goals.

Inflation as measured by the CPI is projected to moderate substantially from the high rates experienced during the first half of this year. Measured fourth quarter over fourth quarter, the CPI is projected to increase by 12 percent during 1980 and slightly less than 10 percent during 1981. About one-half percentage point of the 1981 CPI increase results from the motor fuels tax, which is proposed to become effective next spring. This tax remains necessary as a means of helping to reduce our Nation's energy consumption and dependence on foreign oil.

TABLE 2.—SHORT-RANGE ECONOMIC FORECAST

[Calendar years; dollar amounts in billions]

	1979 actual	Forecast	
		1980	1981
Major Economic Indicators			
Gross national product (percent change, 4th quarter over 4th quarter):			
Current dollars	9.9	6.7	12.6
Constant (1972) dollars	1.0	−3.1	2.6
GNP deflator (percent change, 4th quarter over 4th quarter)	8.9	10.1	9.7
Consumer Price Index (percent change, 4th quarter over 4th quarter)	12.8	12.0	9.8
Unemployment rate (percent, 4th quarter)	5.9	8.5	8.5
Annual Economic Assumptions			
Gross national product:			
Current dollars:			
Amount	2,369	2,557	2,821
Percent change, year over year	11.3	7.9	10.3
Constant (1972) dollars:			
Amount	1,432	1,412	1,416
Percent change, year over year	2.3	−1.4	0.3
Incomes:			
Personal income	1,924	2,108	2,327
Wages and salaries	1,228	1,327	1,458
Corporate profits	237	220	217
Price level:			
GNP deflator:			
Level (1972=100), annual average	165.5	181.1	199.2
Percent change, year over year	8.8	9.4	10.0
Consumer Price Index:[1]			
Level (1967=100), annual average	217.7	246.8	270.8
Percent change, year over year	11.4	13.4	9.7
Unemployment rates:			
Total, annual average	5.8	7.6	8.5
Insured, annual average[2]	3.0	4.4	5.0
Federal pay raise, October (percent)[3]	7.0	[4] 7.8	9.0
Interest rate, 91-day Treasury bills (percent)[5]	10.0	9.2	9.0

[1] CPI for urban wage earners and clerical workers. 2 versions of the CPI are now published: 1 for urban wage earners and clerical workers and 1 for all urban consumers. The index shown here is required by law to be used in calculating automatic cost-of-living increases for indexed Federal programs.

[2] This indicator measures unemployment under State regular unemployment insurance as a percentage of covered employment under that program. It does not include recipients of extended benefits under that program.

[3] Pay raises become effective in October of each year—the first month of the new fiscal year. Thus, the October 1980 pay raise will set new pay scales that will be in effect during fiscal year 1981.

[4] This is the projected pay increase for white collar workers and wage board employees. The pay raise for military personnel is estimated to be 9.1 percent.

[5] Average rate on new issues within period. These projections assume, by convention, that interest rates are linked to the rate of inflation. They do not represent a forecast of interest rates.

The effect of recessions on the budget

Economic recessions have major effects on the budget, but the magnitude of these effects is not widely understood. During recessions receipts grow substantially more slowly as a result of lower income and payroll tax receipts that accompany lower GNP growth. At the same time, outlays for unemployment benefits and certain other programs grow more rapidly because of higher unemployment rates. These automatic responses of the budget to a recession combine to produce a substantial impact on the budget surplus or deficit. Furthermore, the dollar value of this effect tends to increase over time with normal growth in the size of the economy and the budget. For this reason, the effect of recessions on the budget is best understood in relation to the size of GNP.

The following table shows changes in the budget surplus or deficit during four previous postwar recessions. Growth rates of receipts and outlays in these years are also shown. During some recessions part of the lower growth in receipts was due to tax cuts, but the automatic effects referred to above were the major cause of changes in the deficit during all the recessions.

Viewed in this historical perspective, the rise in the budget deficit from $28 billion or 1.2 percent of GNP in 1979, to $61 billion or 2.4 percent of GNP in 1980 is consistent with the normal change in the budget deficit during recessions.

TABLE 3.—BUDGET TOTALS IN RECESSIONS

[Dollar amounts in billions]

	Percent increase in—		Deficit	
	Receipts	Outlays	Level	Percent of GNP
1957	$7.3	$8.9	$3.2	0.8
1959	−.5	11.5	−12.9	−2.7
Change			−16.1	−3.5
1960	16.7	.1	.3	.1
1961	2.1	6.0	−3.4	−.7
Change			−3.7	−.8
1969	22.2	3.2	3.2	.4
1971	−2.8	7.5	−23.0	−2.3
Change			−26.3	−2.6
1974	14.1	9.1	−4.7	−.3
1976	6.8	12.3	−66.4	−4.1
Change			−61.7	−3.8

Budget receipts

The current estimate of 1980 receipts is $517.9 billion, which is $14.5 billion below the March estimate and $5.9 billion below the estimate in the January budget. Receipts in 1981 are now estimated at $604.0 billion, which is $24.0 billion below the March estimate and $4.0 billion above the budget.

As shown in Table 4, policy changes and congressional action since March have reduced receipts by $4.3 billion in 1980 and $8.4 billion in 1981. These changes include:

Congressional repeal of a temporary fee of $4.62 per barrel on imported crude oil. This fee was to have been shifted entirely to the production of gasoline.

A delay in the effective date of the proposed gasoline and diesel fuels tax, from October 1, 1980 to June 1, 1981. This tax is expected to produce $3.5 billion in receipts in fiscal year 1981.

A delay in the assumed enactment date of the proposed foreign tax credit on oil and gas extraction.

In comparison to the March estimates, the revised estimates of individual and corporation incomes reduce receipts by $10.7 billion in 1980 and $18.4 billion in 1981. These reductions are partially offset by technical reestimates of income taxes and deposits of earnings by the Federal Reserve, which increase receipts by $0.6 billion in 1980 and $2.8 billion in 1981.

TABLE 4.—CHANGE IN BUDGET RECEIPTS, 1980 AND 1981

[In billions of dollars]

	1980	1981
January budget estimate	523.8	600.0
Policy changes:		
Energy legislation as adopted by the Congress	−1.2	.7
Withholding of taxes on interest and dividend income		3.4
Gasoline conservation fee/motor fuels tax	3.4	12.6
Other	−.1	−.3
Subtotal, policy changes	2.1	16.4
Revised estimates of incomes	6.5	11.6
March estimate	532.4	628.0
Policy changes:		
Congressional repeal of gasoline conservation fee	−3.4	−2.4
Delay in effective date of proposed motor fuels tax		−6.8
Delay in assumed enactement date of proposed foreign tax credit on oil and gas extraction	−.9	.7
Other	(1)	(1)
Subtotal, policy changes	−4.3	−8.4
Revised estimates of income	−10.7	−18.4
Technical reestimates	.6	2.8
Receipts, current estimate	517.9	604.0

[1] $50,000,000 or less.

Budget outlays

The current outlay estimate for 1980 is $578.8 billion, which is $9.8 billion above the March estimate and $15.2 billion above the estimate in the January budget. Outlays for 1981 are now estimated at $633.8 billion, $22.2 billion above the March estimate and $18.0 billion above the January budget.

The increases in outlays from March to the current estimates are primarily the result of three factors: the revised economic forecast; higher costs and spending rates for the defense program; and unavoidable increases because of natural disasters, the recent influx of Cuban/Haitian entrants, and other events. These changes in outlays are summarized in Table 5.

Increases in unemployment compensation of $3.3 billion in 1980 and $9.0 billion in 1981 reflect higher unemployment than anticipated in March. The recent downturn in the economy increases outlays for other income security programs by $0.5 billion in 1980 and $1.0 billion in 1981. Loans to ailing financial institutions by the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation increase estimated outlays by an additional $1.4 billion in 1980 and $0.1 billion in 1981. A $0.5 billion increase in outlays for GNMA (Government National Mortgage Association) mortgage purchase activities in 1980 reflects slower asset sales, resulting from high interest rates and general financial conditions.

Estimated outlays for defense have increased by $1.6 billion in 1980 and $6.9 billion in 1981. These increases are in large part due to higher costs of fuel and other purchases; faster than anticipated spending under contracts previously let; higher projected Federal pay raises for military and civilian personnel; and other improvements to military pay, allowances, and benefits.

Outlay increases for disaster relief, assistance to Cuban/Haitian entrants, and other unavoidable events are estimated at $1.2 billion in 1980 and $4.1 billion in 1981. Loans to farmers to offset the impact of the Russian grain suspension increase estimated outlays in 1980 by $0.8 billion. Increases in outlays for Small Business Administration disaster loans of $0.3 billion in 1980 and $0.5 billion in 1981, reflect an increase in the demand for such loans as a consequence of the eruptions of Mount Saint Helens, civil disorders in Miami, tornadoes in Nebraska, mudslides in California, and Hurricane Frederick in Puerto Rico, Alabama, and Mississippi. Outlays for other disaster-related programs are estimated to increase by $0.3 billion in 1980 and $0.4 billion in 1981. Outlays for assistance to Cuban/Haitian entrants including the activities of the Federal Emergency Management Agency (FEMA) are estimated to rise by $0.3 billion in 1980 and $0.2 billion in 1981. Congressional inaction on proposed hospital cost containment legislation increases estimated outlays in 1981 by $0.6 billion. Other changes reduce expected outlays by $0.4 billion in 1980 and increase outlays by $2.4 billion in 1981.

The 1980 and 1981 outlay changes since March are discussed further in Part 2.

TABLE 5.—CHANGE IN BUDGET OUTLAYS, 1980 AND 1981

[In billions of dollars]

	1980	1981
January budget estimate	563.6	615.8
Changes:		
Reestimates	8.0	13.0
Planned reductions	−2.6	−17.2
March estimate	568.9	611.5
Changes:		
Changed economic conditions:		
Unemployment compensation	3.3	9.0
Other income security programs	.5	1.0
Federal Savings and Loan Insurance Corporation (FSLIC)	1.1	.1
Federal Deposit Insurance Corporation	.4	-------
Mortgage purchase activities (GNMA)	.5	-------
Other	1.3	1.1
Subtotal	7.0	11.1
Defense—Military	1.6	6.9
Other necessary changes:		
Price support and related programs	.8	-------
SBA disaster loans	.3	.5
Other disaster-related	.3	.4
Federal Emergency Management Agency (assistance to Cuban/Haitian entrants)	.3	.2
Other assistance to Cuban/Haitian entrants	(¹)	.1
Congressional inaction on hospital cost containment		.6
Other	−.4	2.4
Subtotal	1.2	4.1
Total, changes	9.8	22.2
Current estimate	578.8	633.8

¹ $50,000,000 or less.

Budget authority

Budget authority in 1980 is now estimated to be $653.7 billion, $2.1 billion below the March estimate and $0.3 billion below the January budget. The current estimate of 1981 budget authority is $707.2 billion, $15.9 billion above the March estimate and $11.2 billion above the budget.

The reduction in 1980 budget authority since March is primarily the result of a congressional rescission of budget authority for the strategic petroluem reserve; enactment of the Energy Security Act, which reduces budget authority for synthetic fuels promotion; and reductions in social security and medicare trust fund receipts because of lower than expected tax collections reflecting the revised economic forecast.

Increases in unemployment compensation, the higher costs of the defense program, and a change in the accounting of the U.S. payments to the International Monetary Fund to conform to the congressional accounting method account for much of the increase in 1981 budget authority since March.

TABLE 6.—CHANGE IN BUDGET AUTHORITY, 1980 AND 1981

[In billions of dollars]

	1980	1981
January budget estimate	654.0	696.1
Changes:		
Reestimates	7.0	13.5
Planned reductions	−5.2	−18.2
March estimate	655.8	691.3
Changes:		
Changed economic conditions:		
Unemployment compensation	.4	4.4
Social security	−1.2	−3.3
Other income security	−.1	1.8
Medicare	−.3	−.9
Other	1.0	.5
Subtotal	−.2	2.5
Defense—Military	−.1	6.9
Other necessary changes:		
International Monetary Fund		5.5
Synthetic fuels promotion	−1.0	(¹)
Strategic petroleum reserve	−2.0	-------
SBA disaster loans	.8	-------
Other disaster related	.6	(¹)
Federal Emergency Management Agency (assistance to Cuban/Haitian entrants)	.6	-------
Other assistance to Cuban/Haitian entrants	.1	.2
Other	−1.0	.8
Subtotal	−1.9	6.6
Total, changes	−2.1	15.9
Current estimate	653.7	707.2

¹ $50,000,000 or less.

The credit budget

In the 1981 budget, a system was proposed to restrain the growth of Federal credit activities. The system provides, where appropriate, for specific annual appropriation bill limitations on new obligations for direct loans and new commitments for loan guarantees.

TABLE 7.—CHANGE IN THE CREDIT BUDGET TOTALS, 1980 AND 1981

[In billions of dollars]

	1980	1981
January budget total	134.9	142.1
Changes:		
New direct loan obligations	.3	.6
New loan guarantee commitments	−.8	−4.1
March total	134.4	138.6
Changes:		
New direct loan obligations	4.5	5.0
New loan guarantee commitments	−2.0	−2.4
Current total	136.9	141.2

In comparison to the March totals, new direct loan obligations are expected to be higher by $4.5 billion in 1980 and $5.0 billion in 1981. The major increases are in the following areas:

A $1.5 billion increase in 1980 and a $1.9 billion increase in 1981 for economic emergency loans in the Farmers Home Administration;

A $1.0 billion increase in lending by the Federal Savings and Loan Insurance Corporation in 1980 to assist thrift institutions whose financial soundness has been threatened by the current recession; and

An increase of $1.0 billion for Small Business Administration disaster loans in 1980 to assist businesses damaged by the Mount Saint Helens eruptions, California mudslides, and Miami civil disorders.

The July estimates for FFB direct loan obligations are higher than the March estimates by $1.0 billion in 1980 and $3.0 billion in 1981. This results primarily from higher sales of certificates of beneficial ownership by the Farmers Home Administration arising from increases in economic emergency loans in seven States of $1.0 billion in 1980 and $1.6 billion in 1981. FFB loan guarantee originations are higher due to increases in foreign military credit sales for Egyptian military procurement of $0.4 billion in both 1980 and 1981, and a $1.0 billion increase in 1981 is due to acquisition of public housing bonds by the FFB.

New loan guarantee commitments are expected to be below the March totals by $2.0 billion in 1980 and $2.4 billion in 1981. Increases of $1.0 billion in 1980 and $1.5 billion in 1981, due primarily to economic emergency loans by the Farmers Home Administration, are offset by decreases in the Veterans Administration. The decreases result from downward reestimates of the Veterans Administration loan guarantee revolving fund caused by the recession in the housing market. Other changes are due to higher demand for student loans and a decrease of $0.5 billion in low-rent public housing resulting from sales of public housing bonds to the FFB.

TABLE 8.—CHANGE IN THE CREDIT BUDGET TOTALS SINCE MARCH

[In billions of dollars]

	1980	1981
March total	134.4	138.6
New direct loan obligations:		
Farmers Home Administration	1.5	1.9
Federal Savings and Loan Insurance Corporation	1.0	.2
Small Business Administration disaster loans	1.0	-------
Federal Financing Bank	1.0	3.0
HUD: Government National Mortgage Association	.2	-------
Export-Import Bank	−.4	-------
Other	.1	−.1
Subtotal, direct loan changes	4.5	5.0
New loan guarantee commitments:		
Farmers Home Administration	1.0	1.5
Veterans' Administration	−2.5	−.6
Education: Student loans	.5	-------
HUD: Low-rent public housing		−.5
Interior: Office of Territorial Affairs		.1
Loan guarantees held as direct loans	−1.0	−3.0
Subtotal, loan guarantee changes	−2.0	−2.4
Current total	136.9	141.2

Off-budget Federal entities

The 1980 estimate of outlays for off-budget Federal entities is $16.1 billion, which is $1.0 billion above the March estimate and $0.7 billion below the estimate in the January budget. Outlays for 1981 are above the January and March estimates by $3.6 billion and $3.0 billion, respectively.

TABLE 9.—CHANGE IN OUTLAYS OF OFF-BUDGET FEDERAL ENTITIES, 1980 AND 1981

[In billions of dollars]

	1980	1981
January estimate	16.8	18.1
Changes: Federal Financing Bank	−1.7	.6
March estimate	15.0	18.7
Changes:		
Federal Financing Bank	1.3	3.0
Other	−.3	
Current estimate	16.1	21.7

Since March, estimated outlays of the Federal Financing Bank (FFB) have increased by $1.3 billion in 1980 and $3.0 billion in 1981. Higher sales of certificates of beneficial ownership by the Farmers Home Administration, arising from increases in economic emergency loans in seven States, and increases in foreign military credit sales for Egyptian military procurement are primarily responsible for the increases in each year.

Comparison of administration and budget resolution totals

As the following table shows, the current Administration estimates differ from the totals in both the third budget resolution for 1980 and the first budget resolution for 1981. Virtually all of the differences in the 1980 totals and a large part of the differences for 1981 reflect differing assumptions about the economy, spending trends in existing programs, and other technical differences. The basic assumptions in the resolution were developed in the early spring, when the economic outlook was somewhat different from the current projections. As a result, the Administration is now estimating lower receipts and higher outlays for several programs, notably unemployment benefits, than was assumed in the 1980 and 1981 resolutions.

TABLE 10.—ADMINISTRATION AND BUDGET RESOLUTION TOTALS

[In billions of dollars]

	1980		1981	
	Third Resolution	Mid-session review	First Resolution	Mid-session review
Receipts	525.7	517.9	613.8	604.0
Outlays	572.65	578.8	613.6	633.8
Deficit (−) or surplus (+)	−46.95	−60.9	.2	−29.8
Budget authority	658.85	653.7	697.2	707.2

For 1980, the current Administration estimate of receipts is $7.8 billion below the resolution, and the Administration estimate of outlays is $6.1 billion higher. Higher outlays for unemployment benefits ($2.2 billion) and mortgage credit insurance ($1.8 billion) account for much of the difference. The current Administration budget authority total is $5.1 billion below the resolution, largely because the Administration projects lower receipts for social insurance trust funds and because of an accounting difference relating to loan guarantees for the Chrysler Corporation.

For 1981, the current Administration estimate of receipts is $9 billion below the first resolution. The Administration's current estimate of receipts under existing law is $17 billion below the resolution due to revised economic assumptions and other estimating differences. However, the legislative proposals in the Mid-Session Review increase receipts by $11.5 billion, which is $7.3 billion above the resolution total for proposed legislation.

The Administration's estimate of 1981 outlays is $20 billion above the resolution, and budget authority is $10 billion higher.

There are a large number of estimating differences between the resolution and Administration estimates. For example, the Mid-Session Review estimate of outlays for unemployment benefits is $8½ billion above the resolution, and the Mid-Session Review estimate of net interest is $3.8 billion below the resolution. The resolution includes many of the legislative savings proposed by the Administration. It also assumes some policy reductions below the budget. For example, the resolution does not include $500 million in budget authority and outlays that the Administration has requested for local government transitional aid, and assumes reductions in a variety of other programs.

The major differences between the current Administration estimates and the first budget resolution for 1981 are in the following functions:

National defense.—The resolution is below the current Administration estimate total for this function by $1.0 billion in budget authority and by $3.8 billion in outlays. The Administration estimates have been revised upward to reflect increased costs for fuel and military pay and allowances, and because of increased operations in the Persian Gulf/Indian Ocean area. Much of the difference in outlays reflects differing assumptions about spend-out rates.

International affairs.—The resolution is above the current Administration estimate of budget authority by $0.1 billion and below the current estimate of outlays by $0.8 billion. Adjusting for estimating differences, the resolution appears to imply policy cuts of over $1 billion in budget authority and at least $0.2 billion in outlays.

Energy.—The resolution is $0.5 billion in budget authority and $0.4 billion in outlays below the Administration estimates for this function. Most of the reduction would appear to be for the strategic petroleum reserve.

Natural resources and environment.—The resolution is below the Administration's current estimates by $0.9 billion in budget authority and $1.0 billion in outlays. The resolution assumes lower amounts for pollution control and other programs.

Commerce and housing credit.—The resolution is below the current Administration estimates by $0.5 billion in budget authority and $0.7 billion in outlays. The resolution assumes Postal Service savings of $500 million, compared to $250 million in the Mid-Session Review. Adjusting for reestimates, the resolution also appears to imply policy reductions in other programs of about $0.4 billion in budget authority and outlays.

Transportation.—The resolution is below the Administration's current estimate by $1.3 billion in budget authority and $0.5 billion in outlays. While the resolution assumes cuts in many areas, the biggest differences appear to be in highways and mass transit programs.

Education, training, employment and social services.—The resolution is below the current estimates by $1.3 billion in budget authority and $1.4 billion in outlays, and appears to assume smaller amounts than the Administration for the President's youth initiative and for public service jobs.

Health.—The resolution is above the current estimate of health budget authority by $0.7 billion, mainly due to differing assumptions about the level of medicare trust fund receipts. For outlays, the resolution is $1.7 billion below the Administration estimate. Most of the difference is in the estimates for medicare and medicaid, where the current Administration estimates reflect upward revisions in benefits under existing law and downward revisions in savings under proposed legislation.

Income security.—The resolution budget authority and outlay totals for this function are $5.2 billion and $10.8 billion, respectively, below the current Administration totals. The current Administration estimates reflect substantial upward revisions in programs sensitive to unemployment rates. The Mid-Session Review outlay estimate of unemployment compensation is $8½ billion above the resolution, and the estimate of food stamps is $1½ billion higher. There are also a variety of other, largely offsetting, differences in the estimates of other benefit payments. The resolution does assume a policy cut of $2.0 billion in budget authority for housing assistance, and a $0.4 billion cut in budget authority and outlays for low-income energy assistance.

Veterans benefits and services.—The resolution totals for this function are $1.1 billion and $0.6 billion below the Administration budget authority and outlay estimates. About half of these differences appear to reflect reestimates, and the remainder are policy reductions.

General purpose fiscal assistance.—The resolution totals for this function do not include local government transitional aid, and are therefore $0.5 billion below the Administration estimates of budget authority and outlays.

Net interest.—The resolution estimates of net interest cost are $3.8 billion above Administration projections because of differing economic assumptions and technical differences in making the projections.

Other.—The resolution also assumes reductions in the general government and community and regional development functions. The resolution totals for science and space, agriculture, and justice are within $0.1 billion of the Administration totals. The resolution includes no allowances function. The Mid-Session Review estimates include $2.0 billion in budget authority and $1.5 billion in outlays for contingencies and pay.

TABLE 11.—BUDGET RECEIPTS BY MAJOR SOURCE, 1979-81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
Individual income taxes	217.8	238.7	241.5	240.7	274.4	283.3	278.2
Corporation income taxes	65.7	72.3	74.2	65.5	71.0	74.1	66.4
Social insurance taxes and contributions	141.6	162.2	163.5	160.5	187.4	188.9	184.5
Excise taxes	18.7	26.3	25.2	25.4	40.2	52.4	48.7
Estate and gift taxes	5.4	5.8	5.8	6.1	5.9	6.0	6.3
Customs duties	7.4	7.6	7.3	7.0	8.4	7.8	7.5
Miscellaneous receipts	9.2	10.9	14.9	12.7	12.1	15.5	12.5
Total budget receipts	465.9	523.8	532.4	517.9	600.0	628.0	604.0

TABLE 12.—BUDGET OUTLAYS BY FUNCTION, 1979-81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
National defense[1]	117.7	130.4	134.0	135.6	146.2	150.5	157.5
International affairs	6.1	10.4	11.1	10.9	9.6	10.1	10.3
General science, space, and technology	5.0	5.9	5.9	5.7	6.4	6.2	6.2
Energy	6.9	7.8	6.8	6.5	8.1	6.9	7.2
Natural resources and environment	12.1	12.8	12.8	13.7	12.8	12.5	13.1
Agriculture	6.2	4.6	5.1	5.8	2.8	2.0	2.2
Commerce and housing credit	2.6	5.5	6.2	8.3	.7	.4	.7
Transportation	17.5	19.6	20.5	20.8	20.2	19.0	19.2
Community and regional development	9.5	8.5	9.0	9.5	8.8	8.5	9.3
Education, training, employment, and social services	29.7	30.7	30.1	29.9	32.0	30.6	30.9
Health	49.6	56.6	56.5	56.9	62.4	61.9	63.4
Income security	160.2	190.9	190.0	193.5	220.0	220.1	230.4
(Social security)	(102.6)	(117.9)	(117.9)	(117.8)	(136.9)	(138.3)	(137.8)
(Other)	(57.6)	(73.0)	(72.1)	(75.7)	(83.1)	(81.8)	(92.6)
Veterans benefits and services	19.9	20.8	20.7	20.9	21.7	21.4	21.8
Administration of justice	4.2	4.5	4.6	4.6	4.7	4.6	4.6
General government	4.2	4.9	4.8	5.0	4.9	4.8	4.7
General purpose fiscal assistance	8.4	8.7	8.8	8.6	9.6	7.4	7.3
Interest	52.6	63.3	64.3	64.3	67.2	68.4	67.6
Allowances[2]		0.1		[3]	2.6	1.4	1.4
Undistributed offsetting receipts	−18.5	−22.3	−22.2	−21.9	−25.1	−24.9	−24.0
(Employer share, employee retirement)	(−5.3)	(−5.9)	(−5.9)	(−5.9)	(−6.2)	(−6.2)	(−6.3)
(Interest received by trust funds)	(−9.9)	(−11.5)	(−11.7)	(−11.4)	(−13.0)	(−13.2)	(−12.5)
(Rents and royalties on the Outer Continental Shelf)	(−3.3)	(−4.8)	(−4.6)	(−4.6)	(−6.0)	(−5.5)	(−5.2)
Total budget outlays	493.7	563.6	568.9	578.8	615.8	611.5	633.8

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[1] The 1981 estimates include allowances for civilian and military pay raises for the Department of Defense.

[2] The 1981 estimates include allowances for civilian agency pay raises. The current 1980 and 1981 estimates include an allowance for the governmentwide rescission of furniture purchases as provided in the 1980 Supplemental Appropriations and Rescission Act. The current 1981 estimate also includes an allowance for the care, maintenance, and resettlement of recent Cubau/Haitian entrants.

[3] $50,000,000 or less.

TABLE 13.—BUDGET OUTLAYS BY AGENCY, 1979-81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Curren
Legislative branch	1.1	1.3	1.3	1.3	1.3	1.3	1.3
The Judiciary	.5	.6	.6	.6	.6	.6	.6
Executive Office of the President	.1	.1	.1	.1	.1	.1	.1
Funds appropriated to the President	2.6	9.5	9.1	7.6	9.3	8.0	6.0
Agriculture	20.6	23.6	24.0	25.7	20.1	18.7	20.6
Commerce	4.1	3.6	3.5	3.8	3.4	3.1	2.9
Defense—Military[1]	115.0	127.4	131.0	132.6	142.7	147.0	153.9
Defensive—Civil	2.9	3.2	3.2	3.5	3.1	2.9	3.1
Education	10.9	12.9	12.9	12.5	13.5	13.1	13.3
Energy	7.9	7.7	6.9	6.5	8.7	7.9	8.4
Health and Human Services	170.3	193.7	193.4	194.1	219.3	220.3	224.1
Housing and Urban Development	9.2	11.6	12.0	12.6	11.8	11.8	11.9
Interior	4.1	4.2	4.1	4.0	4.2	3.9	4.0
Justice	2.5	2.6	2.6	2.7	2.7	2.6	2.6
Labor	22.6	27.5	26.2	29.6	31.8	30.4	39.4
State	1.5	2.0	2.0	1.9	2.2	2.2	2.2
Transportation	15.6	17.3	18.3	18.6	17.9	17.2	17.7
Treasury	65.0	75.8	76.9	76.5	80.3	79.2	78.3
Environmental Protection Agency	4.8	5.0	5.3	5.7	5.2	5.4	5.5
National Aeronautics and Space Administration	4.2	5.0	5.0	4.9	5.4	5.2	5.2
Veterans Administration	19.9	20.7	20.6	20.8	21.7	21.4	21.7
Office of Personnel Management	12.7	14.9	14.9	14.9	17.4	17.1	17.0
Other independent agencies	14.1	15.4	17.0	20.3	15.6	15.8	16.5
Allowances[2]		.1		[3]	2.6	1.4	1.4
Undistributed offsetting receipts	−18.5	−22.3	−22.2	−21.9	−25.1	−24.9	−24.0
Total budget outlays	493.7	563.6	568.9	578.8	615.8	611.5	633.8

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[1] The 1981 estimates include allowances for civilian and military pay raises for the Department of Defense.

[2] The 1981 estimates include allowances for civilian agency pay raises. The current 1980 and 1981 estimates include an allowance for the governmentwide rescission of furniture purchases as provided in the 1980 Supplemental Appropriations and Rescission Act. The current 1981 estimate also includes an allowance for the care, maintenance, and resettlement of recent Cuban/Haitian entrants.

[3] $50,000,000 or less.

TABLE 14.—BUDGET AUTHORITY BY FUNCTION, 1979-1981

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
National defense [1]	127.9	141.6	144.0	143.9	161.8	164.5	171.5
International affairs	8.7	13.1	13.4	13.4	16.9	18.2	23.5
General science, space, and technology	5.4	6.2	6.2	6.1	6.9	6.6	6.6
Energy	7.4	41.5	40.7	37.5	7.4	6.9	7.2
Natural resources and environment	13.2	12.7	12.2	13.3	13.3	12.5	12.6
Agriculture	9.3	5.0	5.0	5.1	5.5	5.4	5.4
Commerce and housing credit	5.9	10.2	10.2	10.4	5.9	5.6	5.6
Transportation	19.2	21.0	20.4	20.3	23.6	23.4	23.4
Community and regional development	10.0	8.9	8.6	9.8	9.8	9.0	9.1
Education, training, employment, and social services	32.6	31.2	30.7	30.7	34.8	33.0	33.0
Health	53.9	60.0	59.9	59.6	71.5	71.1	70.5
Income security	191.9	222.1	223.3	222.2	251.5	251.6	254.7
(Social security)	(100.6)	(115.5)	(116.7)	(115.5)	(131.1)	(132.5)	(129.2)
(Other)	(91.3)	(106.7)	(106.6)	(106.7)	(120.3)	(11.1)	(125.5)
Veterans benefits and services	20.5	21.2	21.2	21.2	22.7	22.5	22.8
Administration of justice	4.2	4.4	4.4	4.4	4.7	4.3	4.3
General government	4.4	4.9	4.9	5.1	4.9	4.9	4.8
General purpose fiscal assistance	8.3	8.7	8.8	8.6	9.6	6.8	6.7
Interest	52.6	63.3	64.3	64.3	67.2	68.4	67.6
Allowances [2]		.2		−.2	3.1	1.7	2.0
Undistributed offsetting receipts	−18.5	−22.3	−22.2	−21.9	−25.1	−24.9	−24.0
(Employer share, employee retirement)	(−5.3)	(−5.9)	(−5.9)	(−5.9)	(−6.2)	(−6.2)	(−6.3)
(Interest received by trust funds)	(−9.9)	(−11.5)	(−11.7)	(−11.4)	(−13.0)	(−13.2)	(−12.5)
(Rents and royalties on the (Outer Continental Shelf)	(−3.3)	(−4.8)	(−4.6)	(−4.6)	(−6.0)	(−5.5)	(−5.2)
Total budget authority	556.7	654.0	655.8	653.7	696.1	691.3	707.2

[1] The 1981 estimates include allowances for civilian and military pay raises for the Department of Defense.

[2] The 1981 estimates include allowances for civilian agency pay raises. The current 1980 estimate includes an allowance for the governmentwide rescission of furniture purchases, as provided in the 1980 Supplemental Appropriations and Rescission Act. The current 1981 estimate includes an allowance for the care, maintenance, and resettlement of recent Cuban/Haitian entrants.

TABLE 15.—BUDGET AUTHORITY BY AGENCY, 1979-81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
Legislative branch	1.1	1.3	1.3	1.3	1.3	1.3	1.3
The Judiciary	.5	.6	.6	.6	.7	.7	.7
Executive Office of the President	.1	.1	.1	.1	.1	.1	.1
Funds appropriated to the President	5.9	13.0	12.4	11.0	11.4	12.0	14.0
Agriculture	24.5	24.7	24.6	25.3	24.6	23.9	25.4
Commerce	2.6	3.7	3.2	3.1	3.4	2.9	2.9
Defense—Military [1]	125.0	138.6	140.9	140.8	158.2	160.9	167.8
Defense—Civil	2.8	2.9	2.9	3.3	3.0	2.9	2.9
Education	12.6	13.9	13.6	13.4	15.5	15.1	15.1
Energy	10.3	10.5	9.9	11.0	10.2	10.1	10.6
Health and Human Services	172.8	195.4	196.4	195.3	222.9	224.0	222.9
Housing and Urban Development	31.1	35.7	35.5	35.6	40.4	40.3	40.3
Interior	4.7	4.6	4.3	4.6	4.7	4.1	4.1
Justice	2.5	2.5	2.4	2.5	2.7	2.2	2.2
Labor	28.6	28.1	27.8	28.3	33.0	31.3	35.7
State	1.7	2.1	2.1	2.1	2.3	2.3	2.4
Transportation	17.2	17.8	17.8	18.4	20.5	20.3	21.9
Treasury	64.7	94.1	95.1	90.3	80.9	79.2	78.2
Environmental Protection Agency	5.4	4.7	4.7	4.7	5.3	5.3	5.3
National Aeronautics and Space Administration	4.5	5.3	5.3	5.2	5.7	5.5	5.5
Veterans Administration	20.5	21.2	21.2	21.2	22.7	22.4	22.8
Office of Personnel Management	21.0	24.5	24.5	24.5	26.7	26.3	26.6
Other independent agencies	14.9	30.8	31.3	33.3	21.9	21.2	20.6
Allowances [2]		.2		−.2	3.1	1.7	2.2
Undistributed offsetting receipts	−18.5	−22.3	−22.2	−21.9	−25.1	−24.9	−24.0
Total budget authority	556.7	654.0	655.8	653.7	696.1	691.3	707.2

[1] The 1981 estimates include allowances for civilian and military pay raises for the Department of Defense.

[2] The 1981 estimates include allowances for civilian agency pay raises. The current 1980 estimate includes an allowance for the governmentwide rescission of furniture purchases, as provided in the 1980 Supplemental Appropriations and Rescission Act. The current 1981 estimate includes an allowance for the care, maintenance and resettlement of recent Cuban/Haitian entrants.

TABLE 16.—BUDGET SURPLUS OR DEFICIT (−) BY FUND GROUP AND TYPE OF TRANSACTION, 1979-81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
Federal funds:							
Transactions with the public	−14.8	−24.0	−14.7	−33.0	−6.5	42.1	9.0
Transactions with trust funds	−31.2	−33.9	−35.4	−36.1	−40.0	−39.8	−43.4
Total	−46.1	−57.8	−50.1	−69.0	−46.5	2.4	−34.4
Trust funds:							
Transactions with the public	−12.9	−15.8	−21.8	−27.9	−9.3	−25.6	−38.8
Transactions with Federal funds	31.2	33.9	35.4	36.1	40.0	39.8	43.4
Total	18.3	18.1	13.6	8.2	30.8	14.1	4.6
Budget totals:							
Federal funds	−46.1	−57.8	−50.1	−69.0	−46.5	2.4	−34.4
Trust funds	18.3	18.1	13.6	8.2	30.8	14.1	4.6
Total	−27.7	−39.8	−36.5	−60.9	−15.8	16.5	−29.8

TABLE 17.—BUDGET RECEIPTS AND OUTLAYS BY FUND GROUP, 1979–81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
Receipts:							
Federal funds	316.4	347.8	361.3	348.7	383.2	430.5	410.2
Trust funds	189.6	222.2	216.0	212.8	265.1	243.6	242.3
Interfund transactions	−40.1	−46.2	−44.9	−43.7	−48.3	−46.1	−48.5
Total	465.9	523.8	532.4	517.9	600.0	628.0	604.0
Outlays:							
Federal funds	362.4	405.7	411.4	417.8	429.7	428.1	444.6
Trust funds	171.3	204.1	202.4	204.7	234.3	229.5	237.6
Interfund transactions	−40.1	−46.2	−44.9	−43.7	−48.3	−46.1	−48.5
Total	493.7	563.6	568.9	578.8	615.8	611.5	633.8
Surplus or deficit (−):							
Federal funds	−46.1	−57.8	−50.1	−69.0	−46.5	2.4	−34.4
Trust funds	18.3	18.1	13.6	8.2	30.8	14.1	4.6
Total	−27.7	−39.8	−36.5	−60.9	−15.8	16.5	−29.8

TABLE 18.—DEBT SUBJECT TO LIMIT, 1979–81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
Unified budget deficit or surplus (−)	27.7	39.8	36.5	60.9	15.8	−16.5	29.8
Portion of budget deficit attributable to trust funds surplus or deficit (−)[1]	18.3	18.1	13.6	8.2	30.8	14.1	4.6
Federal funds deficit or surplus (−)	46.1	57.8	50.1	69.0	46.5	−2.4	34.4
Deficit of off-budget Federal entities	12.4	16.8	15.0	16.1	18.1	18.7	21.7
Total to be financed	58.5	74.6	65.1	85.1	64.6	16.3	56.1
Means of financing other than borrowing, and other adjustments[1]	−3.6	−15.0	−11.8	−11.8	−17.6	−.2	−.2
Change in debt subject to limit	54.9	59.6	53.4	73.3	47.1	16.1	56.0
Debt subject to limit, beginning of year[2]	772.7	827.6	827.6	827.6	887.2	881.0	900.9
Anticipated debt subject to limit, end of year[2]	827.6	887.2	881.0	900.9	934.2	897.1	956.9

[1] The changes from the January to March estimates are largely due to the reclassification of the energy security program from a trust fund to Federal funds, in accordance with the legislation adopted by the Congress on the energy program. This directly reduces the trust fund surplus and raises the Federal fund surplus by an equal amount. Since the budget assumed that the trust fund balances for this program would not be invested in Federal securities, a change in the adjustment for the means of financing other than borrowing also reflects this reclassification. Thus, the reclassification had no effect on the change in debt subject to limit.

[2] The statutory debt limit is permanently established at $400 billion. Public Law 96–286 temporarily increased the statutory debt limit to $925 billion through Feb. 28, 1981.

TABLE 19.—THE CREDIT BUDGET TOTALS, 1979–81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
New direct loan obligations:							
Onbudget	33.9	36.4	37.2	40.6	35.4	35.4	37.4
Offbudget	17.5	23.3	22.8	23.9	25.3	25.8	28.8
Total, new direct loan obligations	51.4	59.7	60.0	64.5	60.7	61.2	66.2
New loan guarantee commitments[1]	74.7	75.2	74.4	72.4	81.4	77.4	75.0
Total	126.1	134.9	134.4	136.9	142.1	138.6	141.2

[1] To avoid double counting, excludes commitments for guarantee of loans previously guaranteed and for guarantee by one Government account of direct loans made by another Government account.

TABLE 20.—NEW DIRECT LOAN OBLIGATIONS BY AGENCY, 1979–81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
Onbudget agencies:							
Funds appropriated to the President	1.3	1.7	1.7	1.7	2.0	2.0	2.0
Agriculture	21.3	20.8	21.2	22.7	18.2	18.4	20.3
Commerce	.1	.3	.1	.1	.5	.4	.4
Defense	(1)						
Education	.7	.7	.6	.7	1.3	1.3	1.3
Energy		(1)	(1)	(1)	(1)	(1)	(1)
Health and Human Services	.1	.1	.1	.1	.2	.2	.2
Housing and Urban Development	3.6	3.8	3.7	3.9	3.4	3.4	3.4
Interior	(1)	(1)	(1)	(1)	.1	.1	.1
Justice	(1)						
State	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Transportation	.1	.2	.2	.2	.3	.3	.3
Treasury	(1)						
Veterans Administration	.6	.7	.7	.6	.8	.7	.6
Other independent agencies:							
Export-Import Bank	4.1	4.5	4.5	4.1	4.8	4.8	4.8
Federal Savings and Loan Insurance Corporation	(1)	.1	.7	1.7	(1)	(1)	.2
National Credit Union Administration	(1)	1.8	1.8	1.8	2.2	2.2	2.2
Small Business Administration	1.8	1.4	1.6	2.6	1.4	1.4	1.4
All other independent agencies	.2	.3	.3	.4	.4	.3	.3
Subtotal, onbudget agencies	33.9	36.4	37.2	40.6	35.4	35.4	37.4
Offbudget entities:							
Rural Electrification Administration	1.4	1.3	1.3	1.3	1.3	1.3	1.3
Federal Financing Bank	16.0	22.0	21.5	22.5	23.9	24.5	27.5
All other offbudget entities	.1	(1)	(1)	(1)	(1)	(1)	(1)
Subtotal, offbudget entities	17.5	23.3	22.8	23.9	25.3	25.8	28.8
Total	51.4	59.7	60.0	64.5	60.7	61.2	66.2

[1] $50,000,000 or less.

TABLE 21.—NEW LOAN GUARANTEE COMMITMENTS BY AGENCY, 1979–81

[In billions of dollars]

	1979 actual	1980 estimate			1981 estimate		
		January	March	Current	January	March	Current
Funds appropriated to the President	5.4	2.2	2.1	1.9	2.7	2.8	7 2.5
Agriculture[1]	17.8	19.1	19.1	20.1	21.4	21.0	22.1
Commerce	1.7	2.0	1.5	1.5	3.2	2.1	2.
Defense		(3)	(3)	(3)	(3)	(3)	(3)
Education	3.3	4.6	4.9	5.4	2.2	2.2	2.2
Energy	(3)	1.9	1.9	2.1	.2	.2	.4
Health and Human Services	(3)	.2	.2	.2	.3	.2	.2
Housing and Urban Development	88.8	90.3	90.3	90.3	102.1	102.1	101.5
Interior	(3)				(3)	(3)	.1
Transportation	.2	1.0	1.0	1.0	.8	.8	.8
Treasury	.5	1.8	1.8	1.8	.3	.3	.3
National Aeronautics and Space Administration	.2						
Veterans Administration	8.1	10.3	10.3	7.8	10.4	10.4	9.8
Other independent agencies:							
Energy Security Corporation[2]		.8	.8	.8	2.0	2.0	2.0
Export-Import Bank	5.0	7.8	6.8	6.8	8.9	7.6	7.6
Small Business Administration	4.2	5.3	5.4	5.4	5.8	5.3	5.3
All other independent agencies	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Less: Secondary guarantees of loans that are already guaranteed	−42.4	−48.0	48.0	−48.0	−53.1	−53.1	−53.1
Less: Guaranteed loans held as direct loans	−18.1	−24.1	−23.6	−24.6	−25.8	−26.3	−29.3
Total	74.7	75.2	74.4	72.4	81.4	77.4	75.0

[1] Includes Rural Electrification Administration offbudget activities as follows: 1979, $6.0 billion; 1980, $5.9 billion in the January estimate and $5.9 billion in the March and current estimates; and 1981, $6.0 billion in the January estimate and $6.0 billion in the March and current estimates.

[2] This is an offbudget Federal entity.

[3] $50 million or less.

PART 2—CHANGES IN BUDGET AUTHORITY AND OUTLAYS BY FUNCTION, 1980–81

050: NATIONAL DEFENSE

[In billions of dollars]

	Actual	Estimate	
	1979	1980	1981
BUDGET AUTHORITY			
March estimate	127.8	144.0	164.5
Changes:			
DOD—Military		−.1	6.9
Other		(1)	.1
Current estimate	127.8	143.9	171.5
OUTLAYS			
March estimate	117.7	134.0	150.5
Changes:			
DOD—Military		1.6	6.9
Other		(1)	.1
Current estimate	117.7	135.6	157.5

[1] $50,000,000 or less.

Estimated 1980 outlays for the national defense function have increased by $1.6 billion since the March revisions, to $135.6 billion. Outlays estimated for 1981 have increased by $7.0 billion, to $157.5 billion. Budget authority for 1980 has decreased by $0.1 billion, while that for 1981 has increased by $7.0 billion.

Most of the changes have occurred in the Department of Defense military functions. These changes reflect the results of congressional actions since March together with increased operations in the Persian Gulf/Indian Ocean area; higher costs of fuel and other purchases; higher projected Federal pay raises for military and civilian personnel; and other improvements to military pay, allowances and benefits. The projected October 1981 pay raise under comprehensive legislative proposed by the Administration is now 9.1 percent for military personnel and 7.8 percent for civilian personnel (see discussion under function 920, allowances). In addition, outlay estimates have been revised upward to reflect higher than anticipated spending in recent months under contracts previously made.

The Administration's commitment to real growth in defense is maintained in this Review by a budget amendment proposed for 1981 that will cover the increased costs of fuel and other purchases in 1980 and 1981.

150: INTERNATIONAL AFFAIRS

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	8.7	13.4	18.2
Changes:			
Payments to the International Monetary Fund			5.5
Military sales trust fund		.8	-------
Export-Import Bank		−.2	−.6
Multilateral development banks		−.3	.1
Public Law 480—Food aid		−.1	-------
Other foreign aid		−.2	.1
Other		(1)	.1
Current estimate	8.7	13.4	23.5
OUTLAYS			
March estimate	6.1	11.1	10.1
Changes:			
Military sales trust fund		−.2	-------
Export-Import Bank		.1	(1)
Exchange stabilization fund		(1)	.2
Public Law 480—Food aid		−.1	-------
Other		(1)	.1
Current estimate	6.1	10.9	10.3

[1] $50,000,000 or less.

The current estimate for 1980 budget authority for this function is only slightly above the March estimate in total. This change reflects an upward reestimate of $0.8 billion in budget authority for the military sales trust fund, which is largely offset by decreases in the Export-Import Bank, multilateral development banks, P.L. 480 food aid, and other foreign aid programs resulting from congressional action on the 1980 Foreign Assistance Bill. The current 1981 budget authority estimate is $5.2 billion higher than the March estimate. Because of a change in the accounting of the U.S. payments to the International Monetary Fund to conform to the congressional accounting method, estimated budget authority in 1981 increases by $5.5 billion. This change does not affect outlays. A $0.6 billion decrease in 1981 budget authority for the Export-Import Bank reflects congressional action on the 1980 supplemental ($−0.3 billion) and the correction of a technical error in the March estimates of redemption of debt ($−0.3 billion).

For outlays, offsetting changes leave the current 1980 estimate $0.2 billion below the March estimate. Decreases of $0.2 billion for reestimates in the military sales trust fund and $0.1 billion in P.L. 480 food aid resulting from congressional action on the 1980 Foreign Aid Bill are largely offset by increases for the Export-Import Bank and other programs. The 1981 estimate of outlays for this function is $0.2 billion above the March estimate because of revised assumptions about interest rates on U.S. securities held by the exchange stabilization fund and due to changes in the fund's balance of U.S. securities arising from changes in the composition of exchange stabilization fund currency balances.

250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	5.4	6.2	6.6
Changes:			
Space			
Science		(1)	-------
Current estimate	5.4	6.1	6.6
OUTLAYS			
March estimate	5.0	5.9	6.2
Changes:			
Space		−.1	-------
Science		(1)	-------
Current estimate	5.0	5.7	6.2

[1] $50,000,000 or less.

In response to the need to reduce Federal outlays, NASA has taken administrative actions to improve their cash flow. By more careful management of accounts receivable, 1980 outlays for space construction and research and development programs have been reduced by $0.1 billion.

270: ENERGY

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	7.4	40.7	6.9
Changes:			
Synthetic fuels promotion		−1.0	-------
Petroleum reserve receipts		.2	.1
Other energy supply		−.2	.1
Strategic petroleum reserve		−2.0	-------
Other energy		−.1	.1
Current estimate	7.4	37.5	7.2
OUTLAYS			
March estimate	6.9	6.8	6.9
Changes:			
Synthetic fuels promotion		−.1	.1
Petroleum reserve receipts		.2	.1
Other energy supply		−.4	.2
Strategic petroleum reserve		−.1	.1
Other		(1)	(1)
Current estimate	6.9	6.5	7.2

[1] $50,000,000 or less.

The current estimates of budget authority and outlays for the energy function are below the March estimates in 1980 and above the March estimates in 1981. Receipts from Federal petroleum reserve sales are reduced by $0.2 billion in 1980 and by $0.1 billion in 1981 because of changed production and price assumptions. Since these sales are counted as an offsetting receipt, these reductions have the effect of increasing budget authority and outlays for the function.

The enactment of the Energy Security Act reduces budget authority by $1.0 billion and outlays by $0.1 billion in 1980, while 1981 outlays are increased by $0.1 billion.

Delays in construction of uranium enrichment facilities and increases in fossil energy research and development programs are primarily responsible for the $0.2 billion decrease in budget authority in 1980 and the $0.1 billion rise in budget authority for other energy supply in 1981. Budget authority is reduced by $0.1 billion in 1980 and increased by the same amount in 1981 because of congressional inaction on the Administration's proposed supplemental for a national gasoline rationing plan.

Budget authority for the strategic petroleum reserve is reduced by $2.0 billion in 1980 as a result of a congressional rescission of that amount. Estimated outlays for the strategic petroleum reserve are decreased by $0.1 billion in 1980 because of delays in construction and increased by $0.1 billion in 1981 because of increased construction and revised price assumptions. These estimates assume the same rate of oil acquisitions that was assumed in the March update, and may be revised further on the basis of experience with the provisions of the recently-passed Energy Security Act that apply to the strategic petroleum reserve.

300: NATURAL RESOURCES AND ENVIRONMENT

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	13.2	12.2	12.5
Changes:			
Offsetting receipts		.4	.1
Corps of Engineers		.4	-------
Land and water conservation fund		.3	(1)
Other		.1	(1)
Current estimate	13.2	13.3	12.6
OUTLAYS			
March estimate	12.1	12.8	12.5
Changes:			
Corps of Engineers		.2	.2
EPA sewage plant construction grants		.2	(1)
Land and water conservation fund		.1	.1
Regulatory and research programs		.1	.1
Water and Power Resources Service		−.1	(1)
Offsetting receipts		.4	.1
Other		−.1	.1
Current estimate	12.1	13.7	13.1

[1] $50,000,000 or less.

The current outlay and budget authority estimates for this function are above the March estimates, in large part due to reestimates based on actual experience to date.

A $0.4 billion increase in estimated budget authority for the Corps of Engineers in 1980 reflects the cost of repairing flood control and navigation works following the Mount Saint Helens eruptions. Outlays for the Corps of Engineers are estimated to increase by $0.2 billion in 1980 and in 1981.

A smaller than previously anticipated timber harvest reduces estimated Forest Service offsetting receipts in 1980 and 1981. These reductions in offsetting receipts increase estimated outlays and budget authority by $0.4 billion in 1980 and $0.1 billion in 1981.

Changes in budget authority and outlay estimates for sewage treatment construction grants, the land and water conservation fund, regulatory and research programs, and the Water and Power Resources Service reflect reestimates based on actual experience to date.

350: AGRICULTURE

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	9.3	5.0	5.4
Changes:			
Agricultural credit insurance fund		.1	
Other		(1)	(1)
Current estimate	9.3	5.1	5.4
OUTLAYS			
March estimate	6.2	5.1	2.0
Changes:			
Price support and related programs		.8	(1)
Agricultural credit insurance fund		(1)	.1
Research programs		(1)	.1
Other		(1)	(1)
Current estimate	6.2	5.8	2.2

[1] $50,000,000 or less.

The current estimates of budget authority for the agriculture function are very close to the March estimates. Estimated outlays are $0.8 billion higher in 1980, and $0.2 billion higher in 1981.

The largest change in outlays is a $C.8 billion increase in 1980 for price support programs. This is due primarily to expenditures resulting from increases in corn and wheat loans, which were made to offset the impact on farmers of the Russian grain suspension. Because of current weather and market conditions, estimates for price support outlays are very uncertain. In addition to the normal variation expected from world weather patterns and commodity market conditions, major uncertainties are caused by the current adverse weather conditions in the Western and Southern United States and Canada. Spring-planted crops are subject to significant variation in damage depending on the timing, severity, and persistence of current growing conditions.

370: COMMERCE AND HOUSING CREDIT

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	5.9	10.2	5.6
Changes:			
Mortgage purchase activities (GNMA)		.2	
Rural housing programs		(1)	
Other		(1)	(1)
Current estimate	5.9	10.4	5.6
OUTLAYS			
March estimate	2.6	6.2	.4
Changes:			
Mortgage purchase activities (GNMA)		.5	
Rural housing programs		(1)	.2
Federal Deposit Insurance Corporation		.4	
Federal Home Loan Bank Board		1.1	.1
Other		.2	.1
Current estimate	2.6	8.3	.7

[1] $50,000,000 or less.

Estimated budget authority for the commerce and housing credit function is virtually unchanged since March for both 1980 and 1981. Estimated outlays have increased substantially in 1980 and only slightly in 1981.

A. $0.5 billion increase in outlays and a $0.2 billion increase in budget authority for GNMA (Government National Mortgage Association) mortgage purchase activities in 1980 is due to slower asset sales than anticipated since March. This results from high interest rates and general financial conditions. A direct loan by the Federal Deposit Insurance Corporation to the First Pennsylvania Bank to cover losses from investments adds $0.4 billion to estimated outlays in 1980. The $1.1 billion increase in estimated outlays for the Federal Home Loan Bank Board in 1980 results from increased aid to support savings and loans for losses caused by prolonged high interest rates, low-yielding portfolios, and problems arising from speculation by thrift institutions.

400: TRANSPORTATION

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	19.2	20.4	23.4
Changes:			
Highways		.2	(1)
Mass transit		-.3	(1)
Other (net)		(1)	(1)
Current estimate	19.2	20.3	23.4
OUTLAYS			
March estimate	17.5	20.5	19.0
Changes:			
Highways		.1	.2
Mass transit		.4	(1)
Aids to railroads		-.2	
Other		(1)	(1)
Current estimate	17.5	20.8	19.2

[1] $50,000,000 or less.

The current estimates of budget authority for this function are below the March estimates by $0.1 billion in 1980 and above them by $0.1 billion in 1981. Estimated outlays are above the March estimates by $0.3 billion in 1980 and by $0.2 billion in 1981.

An increase in Federal aid to highways to cover the cost of repairing roads and bridges damaged by such disasters as the Mount Saint Helens eruptions and the Tampa Bay bridge collapse is primarily responsible for the increase in estimated budget authority in each year. Estimated outlays for Federal aid to highways have increased by $0.1 billion in 1980 and 1981, as a result of these disasters. The 1981 outlay estimate of Federal aid to highways has been increased an additional $0.1 billion due to congressional action on the 1980 supplemental appropriation, which raised the highways obligation limitation.

Estimated outlays for the Urban Mass Transportation Administration have increased by $0.4 billion in 1980 because prior-year obligations are spending out faster than was anticipated in March. This increase is partially offset by decreases in estimated outlays for the Northeast Corridor improvement program and other railroad financing programs.

COMMUNITY AND REGIONAL DEVELOPMENT

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	10.0	8.6	9.0
Changes:			
SBA disaster loans		.8	
Federal emergency management activities		.6	
Indian affairs		.3	.1
Economic development		.2	
Rural development and business assistance		.1	
Other		.2	(1)
Current estimate	10.0	9.8	9.1
OUTLAYS			
March estimate	9.5	9.0	8.5
Changes:			
SBA disaster loans		.3	.5
Federal emergency management activities		.3	.2
Indian affairs		.3	.1
Economic development		.1	-.1
Rural development and business assistance		(1)	.1
Other		.1	(1)
Current estimate	9.5	9.5	9.3

[1] $50,000,000 or less.

Increases in budget authority and outlays for Small Business Administration (SBA) disaster loans and the Federal Emergency Management Agency (FEMA) are primarily responsible for the changes in this function since March.

Budget authority requested for SBA disaster loans has increased by $0.8 billion in 1980 primarily because of the following disasters, which have greatly increased the demand for such loans: the eruptions of Mount Saint Helens, civil disorders in Miami, tornadoes in Nebraska, and Hurricane Frederick in Puerto Rico, Alabama, and Mississippi. The increases in budget authority and outlays for emergency management activities are in large part due to the assistance provided recent Cuban/Haitian entrants.

Advanced deposits to the Alaskan Natives claims trust fund by the State of Alaska reduce estimated outlays in 1980 by $0.3 billion. Increased payments to Alaskan Natives from the fund, which directly offset these deposits, are shown in the general government function.

Changes in estimated budget authority and outlays for economic development assistance and rural development programs are due largely to reestimates.

500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

[In billions of dollars]

	Actual 1979	Estimate	
		1980	1981
BUDGET AUTHORITY			
March estimate	32.6	30.7	33.0
Changes:			
Higher education assistance		-.1	
Other education		.1	(1)
Employment and training		(1)	(1)
Social services		(1)	(1)
Current estimate	32.6	30.7	33.0

500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES—Continued

[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
OUTLAYS			
March estimate	29.7	30.1	30.6
Changes:			
Higher education assistance		−.3	.1
Other education		(1)	.1
Employment and training		.1	
Social services		(1)	(1)
Current estimate	29.7	29.9	30.9

(1) $50,000,000 or less.

Budget authority for this function is virtually unchanged from the March estimates, while outlays are decreased slightly in 1980 and increased slightly in 1981. Because the Federal Government provides an interest subsidy for guaranteed student loans, the decline in interest rates since March reduces estimated outlays for higher education assistance by $0.3 billion in 1980. Outlays for this program are estimated to increase by $0.1 billion in 1981 because of increased demand for loans. A number of relatively small changes in other education programs, including increases for disaster relief and assistance for Cuban/Haitian entrants, increase 1980 budget authority and 1981 outlays by an additional $0.1 billion. Revised estimates, based on more recent experience, increase 1980 outlays for employment and training by $0.1 billion.

The following information is provided in fulfillment of the requirement of Section 602 of the Comprehensive Employment and Training Act, and revises information supplied in the *Budget Appendix for 1981* in the temporary employment assistance account and in the March update.

The unemployment rate for fiscal year 1981 is now estimated to be 8.5 percent.

The number of unemployed in excess of 4 percent of the labor force is estimated to be 4.82 million.

The average cost per year of a public service employment opportunity is estimated to be $10,194.

The amount that would be needed to be appropriated to provide public service jobs for 25 percent of the number of unemployed in excess of 4 percent, taking into account anticipated budget resources at the beginning of the year, is $13,118 million.

550: HEALTH
[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
BUDGET AUTHORITY			
March estimate	53.9	59.9	71.1
Changes:			
Medicare:			
Existing law		−.3	−.9
Proposed legislation			(1)
Medicaid:			
Existing law		−.2	.3
Proposed legislation			(1)
Other		.2	
Current estimate	53.9	59.6	70.5
OUTLAYS			
March estimate	49.6	56.5	61.9
Changes:			
Medicare:			
Existing law		.7	.8
Proposed legislation			.3
Medicaid:			
Existing law		−.3	.3
Proposed legislation			(1)
Other		(1)	.1
Current estimate	49.6	56.9	63.4

(1) $50,000,000 or less.

The Administration estimate of 1980 outlays for the health function has increased by $0.5 billion since March. This increase reflects a higher estimate of medicare outlays under existing law that is partly offset by a downward reestimate of outlays for medicaid. For 1981, the current outlay estimate is $1.5 billion higher than the March estimate, primarily due to higher inflation in health care costs, which has increased medicaid program costs and hospital reimbursement per day under medicare.

Congressional inaction on hospital cost containment legislation in 1980 and reestimates have reduced estimated outlay savings under proposed legislation by $0.3 billion. The Administration continues to support passage of this legislation, effective January 1, 1981, which would save $0.4 billion in 1981 and $1.8 billion in 1982.

The Administration estimates of budget authority for the health function are below the March estimates by $0.3 billion in 1980 and $0.6 billion in 1981. The current estimates of medicare budget authority are lower than the March estimates by $0.3 billion for 1980 and by $0.9 billion for 1981 because of the effect of the revised economic forecast on medicare trust fund receipts. For medicaid, the current estimate of 1980 budget authority reflects a downward reestimate of $0.2 billion, while the current estimate of 1981 budget authority is $0.3 billion above the March estimate due to inflation in health care costs.

600: INCOME SECURITY

[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
BUDGET AUTHORITY			
March estimate	191.9	223.3	251.6
Changes:			
Social security and railroad retirement		−1.3	−3.3
Disabled coal miners benefits		−.1	(1)
Federal employee retirement and disability		(1)	.3
Unemployment compensation		.4	4.4
Food stamps		.3	1.4
Other nutrition programs		.2	(1)
Earned income tax credit		−.4	−.4
AFDC and other		.3	.4
Supplemental security income		(1)	.2
Other		(1)	(1)
Current estimate	191.9	222.2	254.7
OUTLAYS			
March estimate	160.2	190.0	220.1
Changes:			
Social security and railroad retirement		−.1	−.5
Disabled coal miners benefits		−.1	(1)
Federal employee retirement and disability		(1)	−.1
Unemployment compensation		3.3	9.0
Food stamps		.4	1.4
Other nutrition programs		.2	(1)
Earned income tax credit		−.4	−.4
AFDC and other		.2	.4
Supplemental security income		(1)	.2
Other		(1)	.1
Current estimate	160.2	193.5	230.4

(1) $50,000,000 or less.

The current outlay estimates for income security are $3.6 billion above the March estimate for 1980 and $10.3 billion above the March estimate for 1981. These increases are largely due to higher unemployment now forecast for these years.

Compared with the March estimates, major changes in the estimates have been made in the following areas:

Budget authority estimates for social security and railroad retirement have decreased by $1.3 billion in 1980 and $3.3 billion in 1981 because of lower than expected tax collections reflecting the revised economic forecast. Reduced revenues will worsen the cash flow problems of the social security trust funds. Outlay estimates have decreased by $0.1 billion in 1980 and $0.5 billion in 1981 largely because of the revised economic forecast, and actual experience to date.

Outlay estimates for unemployment compensation have increased by $3.3 billion in 1980 and $9.0 billion in 1981 because of the higher unemployment now expected, and increased trade adjustment assistance payments, primarily for unemployed workers in the automobile industry.

Estimated food stamp outlays have increased by $0.4 billion in 1980 and $1.4 billion in 1981 primarily because of an increase in participation rates. Higher food prices also account for a portion of the increase. In addition, outlay estimates for the school lunch program increase by $0.2 billion in 1980 due to a change in the way funds are accounted.

The decrease of $0.4 billion in estimated budget authority and outlays in 1980 and 1981 for the earned income tax credit reflects a downward reestimate due to actual experience to date.

The increase in estimated outlays of $0.2 billion in 1980 and $0.6 billion in 1961 for aid to families with dependent children (AFDC) and the supplemental security income program is due to the effect of the changed economic forecast, expected higher unemployment, and reestimates based on actual experience to date. The estimates include $0.1 billion in outlays in 1980 and 1981 to reflect the impact of completed congressional action on disability insurance reform and the Adoption Assistance and Child Welfare Act of 1980.

700: VETERANS BENEFITS AND SERVICES

[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
BUDGET AUTHORITY			
March estimate	20.5	21.2	22.5
Changes:			
Service-connected compensation			.1
Education, training, and rehabilitation		(1)	.1
Medical care		(1)	.2
Other		(1)	(1)
Current estimate	20.5	21.2	22.8
OUTLAYS			
March estimate	19.9	20.7	21.4
Changes:			
Service-connected compensation			.1
Education, training, and rehabilitation		(1)	.1
Medical care		(1)	.2
Housing		.2	(1)
Other		(1)	(1)
Current estimate	19.9	20.9	21.8

(1) $50,000,000 or less.

Budget authority for veterans benefits and services is about the same as estimated in March for 1980 and is above the March estimate by $0.3 billion for 1981. Estimated outlays have increased by $0.2 billion for 1980 and $0.4 billion for 1981.

The increase in estimated outlays for 1980 is in large part due to a reduction in sales of VA-held housing assets (VA mortgages) of $0.2 billion.

An increase in budget authority and outlays for service-connected compensation of $0.1 billion in 1981 reflects higher estimates of the average cost per beneficiary than anticipated in March. An increase in budget authority and outlays for veterans education, training, and rehabilitation of $0.1 billion in 1981 is in large part due to higher estimates of the number of trainees.

Budget authority and outlays for medical care have been revised upward by $0.2 billion in 1981, reflecting a delay in the effective date of proposed legislation requiring health insurers to reimburse the VA for treatment of insured veterans non-service-connected disabilities.

750: ADMINISTRATION OF JUSTICE

[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
BUDGET AUTHORITY			
March estimate	4.2	4.4	4.3
Changes		(1)	
Current estimate	4.2	4.4	4.3
OUTLAYS			
March estimate	4.2	4.6	4.6
Changes		(1)	(1)
Current estimate	4.2	4.6	4.6

[1] $50,000,000 or less.

There have been no major changes in this function since March.

800: GENERAL GOVERNMENT

[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
BUDGET AUTHORITY			
March estimate	4.4	4.9	4.9
Changes:			
Indian affairs		.3	−.1
Other		(1)	(1)
Current estimate	4.4	5.1	4.8
OUTLAYS			
March estimate	4.2	4.8	4.8
Changes:			
Indian affairs		.3	−.1
Other		−.1	(1)
Current estimate	4.2	5.0	4.7

[1] $50,000,000 or less.

The current estimates of budget authority and outlays for programs in the general government function are $0.2 billion above the March estimates for 1980 and $0.1 billion below the March estimates for 1981. Estimated 1980 payments to Alaskan Natives from the Alaskan Natives claims trust fund have increased by $0.3 billion since March. Advanced deposits to this fund by the State of Alaska, which directly offset these payments, are shown in the community and regional development function.

850: GENERAL PURPOSE FISCAL ASSISTANCE

[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
BUDGET AUTHORITY			
March estimate	8.3	8.8	6.8
Changes:			
Countercyclical and targeted fiscal assistance		−.2	
Payments to States from Forest Service receipts			(1)
Payments and loans to the District of Columbia		(1)	−.1
Other		(1)	
Current estimate	8.3	8.6	6.7
OUTLAYS			
March estimate	8.4	8.8	7.4
Changes:			
Countercyclical and targeted fiscal assistance		−.2	
Payments to States from Forest Service receipts			(1)
Payments and loans to the District of Columbia		(1)	−.1
Other		(1)	
Current estimate	8.4	8.6	7.3

[1] $50,000,000 or less.

The current estimates of outlays and budget authority for this function are below the March estimates in 1980 and in 1981. The $0.2 billion decrease in budget authority and outlays in 1980 for the proposed countercyclical and targeted fiscal assistance program is due to congressional inaction. The $0.1 billion decrease in estimated budget authority and outlays in 1981 for payments to the District of Columbia reflects a reestimate based on actual experience to date. Payments to States from Forest Service receipts are estimated to decline in 1981, reflecting decreased payments as a result of a smaller timber harvest than anticipated in March.

900: INTEREST

[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
BUDGET AUTHORITY AND OUTLAYS			
March estimate	52.6	64.3	68.4
Changes:			
Interest on the public debt		.1	−.6
Interest on loans to the Federal Financing Bank		.2	.1
Interest on refunds of tax collections		−.2	
Other		−.1	−.2
Current estimate	52.6	64.3	67.6

Budget authority and outlay estimates for the interest function are about the same as estimated in March for 1980 due to offsetting changes. Higher borrowing requirements and a reduction in interest on loans to the Federal Financing Bank increase estimated budget authority and outlays in 1980 by $0.1 billion and $0.2 billion, respectively. A reestimate of interest on refunds of tax collections, based on collection experience to date, reduces 1980 budget authority and outlays by $0.2 billion.

The 1981 estimates of budget authority and outlays are $0.7 billion lower than the March estimates. This downward reestimate reflects lower interest rates than assumed in March, partially offset by higher borrowing requirements.

The current estimates of interest on the public debt are $74.8 billion in 1980 and $80.4 billion in 1981. These estimates compare to $59.8 billion in 1979.

920: ALLOWANCES

[In billions of dollars]

	Estimate 1980	Estimate 1981
BUDGET AUTHORITY		
March estimate		1.7
Changes:		
Civilian agency pay raises		.2
Furniture rescission	−0.2	
Assistance to recent alien arrivals		.1
Current estimate	−.2	2.0
OUTLAYS		
March estimate		1.4
Changes:		
Civilian agency pay raises		.2
Furniture rescission	(1)	−.2
Assistance to recent alien arrivals		(1)
Current estimate	(1)	1.4

[1] $50,000,000 or less.

The allowance function includes amounts for Federal civilian agency pay raises future initiatives, and unforeseen requirements. Budget authority and outlays for this function are below the March estimates in 1980 and above the March estimates in 1981.

The Administration has proposed comprehensive legislation to reform and improve Federal pay-setting procedures for both military and civilian personnel. For civilian employees, the legislative proposal would broaden the principle of comparability and make certain structural changes to bring Federal compensation rates and practices more closely in line with those of the private and non-Federal governmental sectors. Both pay and benefits—rather than just pay—would be used to determine comparability. This proposal would require a one-time adjustment in the overall pay raise for white collar and blue collar employees. The January estimate of the overall pay raise was 6.2 percent. Consistent with this proposal, the current estimate is 7.8 percent. This reestimate increases 1981 budget authority and outlays for civilian agency pay raises by $226 million and $225 million, respectively. A final decision on the level of the October 1980 pay increase will be made in the late summer after Presidential review of the recommendations of the President's compensation agent, the Federal Employees Compensation Council and the Advisory Committee on Federal Compensation, and after a review of economic conditions at that time.

The 1980 Supplemental Appropriations and Rescission Act provides for a government-wide rescission of furniture purchases, which reduces budget authority by $220 million in 1980 and reduces outlays by $22 million in 1980 and $198 million in 1981. The reduction is shown in the contingency allowance pending determination of an allocation to various agencies as required by the Act. An increase in the 1981 contingency allowance for other requirements of $109 million in budget authority is for the care, maintenance, and resettlement of recent Cuban/Haitian entrants.

950: UNDISTRIBUTED OFFSETTING RECEIPTS

[In billions of dollars]

	Actual 1979	Estimate 1980	Estimate 1981
BUDGET AUTHORITY AND OUTLAYS			
March estimate	−18.5	−22.2	−24.9
Changes:			
Offshore oil receipts			.3
Interest received by trust funds		.3	.7
Employer share, employee retirement		(1)	−.1
Current estimate	−18.5	−21.9	−24.0

[1] $50,000,000 or less.

The current estimates of undistributed offsetting receipts are below the March estimates for both 1980 and 1981. These changes increase budget authority and outlays in each year. Current estimates of receipts from offshore oil leases are $4.6 billion in 1980 and $5.2 billion in 1981. The $0.3 billion decrease in the 1981 estimate since March is due to reestimates of acreage size and to the new 5-year leasing schedule proposed by the Secretary of the Interior and made final in June 1980. Lower trust fund balances and lower interest rates than were assumed in March are reflected in lower estimates of interest received by trust funds. Current estimates for interest received by trust funds are $11.4 billion for 1980 and $12.5 billion for 1981.

PART 3—LONG-RANGE BUDGET OUTLOOK

This section presents the long-range budget outlook. As required by law, it also contains projected outlays for open-ended programs and fixed costs, and spending from balances of budget authority for non-mandatory programs.

Long-range economic assumptions and the budget outlook

Long-Range Economic Goals.—The long-range economic assumptions differ in nature from the short-range economic forecast presented earlier. These assumptions are not forecasts of economic events, but projections that assume progress in moving toward the goals of a more fully employed economy and greater price level stability.

Two sets of longer-range economic assumptions, and budget projections corresponding to each, are presented in this review. Both sets use the same projected rates of inflation but different rates of real GNP growth and unemployment for the 1982–1985 period. One set assumes achievement in 1985 of the 4 percent unemployment rate goal specified in the "Full Employment and Balanced Growth Act of 1978" (the Humphrey-Hawkins Act). This goal is highly ambitious, requiring real GNP growth of 5½ percent per year during 1982–1985. The alternative set of economic assumptions is less ambitious, projecting real GNP growth of 4¼ percent per year during 1982–1985 and an unemployment rate of 5¾ by the end of 1985.

TABLE 22.—COMPARISON OF LONG-RANGE ECONOMIC ASSUMPTIONS, 1982-85

[Calendar years; dollar amounts in billions]

	1982	1983	1984	1985
HUMPHREY-HAWKINS GOALS				
Gross national product:				
Current dollars	3,210	3,651	4,119	4,610
Constant (1972) dollars:				
Amount	1,481	1,562	1,648	1,739
Percent change, 4th quarter over 4th quarter	5.5	5.5	5.5	5.5
Consumer Price Index (percent change, 4th quarter over 4th quarter)	8.4	7.5	6.6	5.8
Unemployment rate (percent, 4th quarter)	7.3	6.2	5.1	4.0
ALTERNATIVE ECONOMIC ASSUMPTIONS				
Gross national product:				
Current dollars	3,185	3,580	3,991	4,414
Constant (1972) dollars:				
Amount	1,470	1,532	1,597	1,665
Percent change, 4th quarter over 4th quarter	4.3	4.2	4.3	4.3
Consumer Price Index (percent change, 4th quarter over 4th quarter)	8.4	7.5	6.6	5.8
Unemployment rate (percent, 4th quarter)	7.8	7.1	6.4	5.7

Basic Assumptions.—The long-range receipts projections presented in this section are consistent with the economic projections and with continuation of current tax laws as modified by the Administration's proposals. The budget authority and outlay estimates are not precise forecasts of future budget levels; nor are they intended as detailed, final recommendations. Instead, they indicate the degree to which resources would be committed by the continuation during 1982–1985 of existing and currently proposed programs at the program levels recommended for 1980 and 1981, and planned for 1982 and 1983.

Budget Projections Under Humphrey-Hawkins Goals.— As shown in Table 23, outlays consistent with the Humphrey-Hawkins goals are projected to rise $303.4 billion, from $633.8 billion in 1981 to $937.2 billion in 1985. Receipts under these economic goals are projected to increase more rapidly, from $604.0 billion in 1981 to $1,113.6 billion in 1985.

TABLE 23.—BUDGET OUTLOOK UNDER HUMPHREY-HAWKINS GOALS, 1981-85

[in billions of dollars]

	1981	1982	1983	1984	1985
Receipts	604.0	715.3	835.3	965.6	1,113.6
Outlays	633.8	702.9	788.7	870.0	937.2
Surplus or deficit (−)	−29.8	12.4	46.7	95.5	176.4

Thus, under these assumptions, the budget is projected to move into surplus in 1982, with larger surpluses (or budget margins) in subsequent years. It should be strongly emphasized, however, that the budget margins projected after 1981 do not imply that budget surpluses of such magnitude will in fact occur in those years. It is quite likely that a tax cut will be desirable in 1981. But it is not appropriate to propose one now.

Projections of receipts by source and the composition of budget outlays under the Humphrey-Hawkins goals are shown in Table 24.

TABLE 24.—BUDGET RECEIPTS AND OUTLAYS UNDER HUMPHREY-HAWKINS GOALS, 1981-85

[In billions of dollars]

	1981	1982	1983	1984	1985
Budget receipts by source:					
Individual income taxes	278.2	327.4	395.1	472.8	558.8
Corporation income taxes	66.4	74.6	90.2	107.7	126.5
Social insurance taxes and contributions	184.5	214.2	241.5	268.0	305.6
Excise taxes	48.7	70.5	75.8	80.3	83.6
Other	26.3	28.7	32.8	36.7	39.1
Total budget receipts	604.0	715.3	835.3	965.6	1,113.6

	1981	1982	1983	1984	1985
Composition of budget outlays:					
National defense	157.5	176.9	199.5	223.4	248.0
Nondefense:					
Payments for individuals	313.8	344.4	388.3	436.0	473.0
Net interest	55.1	58.2	59.2	58.0	59.4
All other	107.4	123.4	141.6	152.6	156.9
Subtotal, Nondefense	476.3	526.0	589.1	646.6	689.2
Total budget outlays	633.8	702.9	788.7	870.0	937.2

Budget Projections Under Alternative Economic Assumptions.—The Administration continues to support the goals of the Full Employment and Balanced Growth Act. Indeed, the Administration's youth initiative, strong support of programs for the poor and disadvantaged, commitment to programs that increase productivity, and anti-inflation efforts will further the objectives of this Act. However, current economic conditions indicate that the unemployment goals will be difficult to attain and are an optimistic assumption about future economic performance. We will, of course, strive to achieve the Humphrey-Hawkins goals. However, prudent multi-year budget planning requires that longer-range budget projections include consideration of alternate economic assumptions. As noted above, these assumptions reflect lower real growth and higher unemployment in 1982–85 than under the Humphrey-Hawkins goals.

Budget estimates and projections based on the alternative economic assumptions are shown in the following table. Receipts are projected to increase by an average of 15 percent per year from 1981 to 1985, rising from $604.0 billion to $1,052.7 billion. Over the same period, outlays are projected to rise by an average of 10.5 percent per year, from $633.8 billion to $945.9 billion. These projections show a deficit of $29.8 billion in 1981, but surpluses thereafter.

TABLE 25.—BUDGET OUTLOOK UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS, 1981-85

	1981	1982	1983	1984	1985
Receipts	604.0	711.4	818.3	930.4	1,052.7
Outlays	633.8	705.5	792.3	876.1	945.9
Surplus or deficit (−)	−29.8	5.9	26.0	54.3	106.8

In comparison with the estimates and projections under the Humphrey-Hawkins goals, smaller surpluses result under the alternative economic assumptions. These differences are shown in Table 26.

TABLE 26.—DIFFERENCES IN BUDGET PROJECTIONS UNDER HUMPHREY-HAWKINS AND ALTERNATIVE ECONOMIC ASSUMPTIONS, 1981–85

[In billions of dollars]

	1981	1982	1983	1984	1985
Receipts:					
Receipts under Humphrey-Hawkins goals	604.0	715.3	835.3	965.6	1,113.6
Effect of alternative economic assumptions		−3.9	−17.1	−35.2	−60.9
Receipts under alternative economic assumptions	604.0	711.4	818.3	930.4	1,052.7

	1981	1982	1983	1984	1985
Outlays:					
Outlays under Humphrey-Hawkins goals	633.8	702.9	788.7	870.0	937.2
Effect of alternative economic assumptions		2.6	3.6	6.1	8.7
Outlays under alternative economic assumptions	633.8	705.5	792.3	876.1	945.9

Additional information on projected receipts, budget authority and outlays under the alternative economic assumptions is provided in the summary tables.

Projections of Outlays for Open-Ended Programs and Fixed Costs.—Outlay projections for open-ended programs and fixed costs are shown in Table 36, as required by Section 221(b) of the Legislative Reorganization Act of 1970.

These projections indicate that, under existing legislation and the alternative economic assumptions, payments for individuals are estimated to grow by roughly 8.5 percent a year from 1981 to 1985. Outlays for net interest are projected to increase through 1983, to decline in 1984, and to increase in 1985. Outlays for other open-ended programs and fixed costs are projected to increase somewhat during the 1981–1985 period. Total open-ended programs and fixed costs are projected to comprise 56 percent of total budget outlays in 1985, a decrease from the 1981 share of 60 percent.

Spending From Balances of Budget Authority Available at the End of Fiscal Year 1981: Non-Mandatory Programs.—Section 221(b) of the Legislative Reorganization Act of 1970 amended the Budget and Accounting Act of 1921 to require that the President transmit to the Congress "summaries of estimated expenditures, in fiscal years following such ensuing fiscal year [1981, this year], of balances carried over from such ensuing fiscal year." Table 37 presents these estimates.

The current estimate of the balances at the end of fiscal year 1981 for programs that have controllable outlays is $325.4 billion. About $20.9 billion of this total is in guarantee and insurance program balances, very little of which is expected ever to be spent. The spending pattern from the balances in other programs, which amount to $304.5 billion, is fairly consistent among the programs. The bulk of the spending from balances takes place in 1982, and declines rapidly thereafter. About 43 percent is expected to be spent in 1982 and approximately 20 percent in 1983. About 20 percent ($61.1 billion) is expected to remain unexpended at the end of fiscal year 1985. An estimated $4.6 billion of the 1981 end-of-year balances is expected to expire (without being spent) during fiscal years 1982 through 1985.

TABLE 27.—LONG-RANGE ECONOMIC ASSUMPTIONS UNDER HUMPHREY-HAWKINS GOALS, 1982–85

[Calendar years; dollar amounts in billions]

	1982	1983	1984	1985
MAJOR ECONOMIC INDICATORS				
Gross national product (percent change, 4th quarter over 4th quarter):				
Current dollars	14.3	13.4	12.5	11.6
Constant (1972) dollars	5.5	5.5	5.5	5.5
GNP deflator (percent change, 4th quarter over 4th quarter)	8.4	7.5	6.6	5.8
Consumer Price Index (percent change, 4th quarter over 4th quarter	8.4	7.5	6.6	5.8
Unemployment rate (percent, 4th quarter)	7.3	6.2	5.1	4.0
ANNUAL ECONOMIC ASSUMPTIONS				
Gross national product:				
Current dollars:				
Amount	3,210	3,651	4,119	4,610
Percent change, year over year	13.8	13.8	12.8	11.9
Constant (1972) dollars:				
Amount	1,481	1,562	1,648	1,739
Percent change, year over year	4.5	5.5	5.5	5.5
Incomes:				
Personal income	2,628	2,969	3,322	3,688
Wages and salaries	1,645	1,857	2,085	2,327
Corporate profits	270	325	386	450
Price level:				
GNP deflator:				
Level (1972=100), annual average	216.8	233.7	249.9	265.1
Percent change, year over year	8.8	7.8	6.9	6.1
Consumer Price Index:[1]				
Level (1967=100), annual average	295.0	318.1	340.2	360.9
Percent change, year over year	8.9	7.8	6.9	6.1
Unemployment rates:				
Total, annual average	7.7	6.6	5.5	4.4
Insured, annual average[2]	4.2	3.4	2.6	1.9
Federal pay raise, October (percent)[3]	8.5	8.0	7.5	7.0
Interest rate, 91-day Treasury bills (percent)[4]	9.2	8.5	7.6	6.8

[1] The index shown is the CPI for urban wage earners and clerical workers. There are now two versions of the CPI published. One estimates the cost of living for wage earners and clerical workers in urban areas; the other, more recently developed, is more comprehensive, covering all urban dwellers. The index shown here is that currently used, as required by law, in calculating automatic cost-of-living increases for indexed Federal programs.

[2] This indicator measures unemployment under State regular unemployment insurance as a percentage of covered employment under that program. It does not include recipients of extended benefits under that program.

[3] Pay raises become effective in October of each year—the first month of the new fiscal year. Thus, the October 1980 pay raise will set new pay scales that will be in effect during fiscal year 1981.

[4] Average rate on new issues within period. These projections assume, by convention, that interest rates are linked to the rate of inflation. They do not represent a forecast of interest rates.

TABLE 28.—ALTERNATIVE LONG-RANGE ECONOMIC ASSUMPTIONS, 1982–85

[Calendar years; dollar amounts in billions]

	1982	1983	1984	1985
MAJOR ECONOMIC INDICATORS				
Gross national product, (percent change, 4th quarter over 4th quarter):				
Current dollars	13.0	12.1	11.1	10.3
Constant (1972) dollars	4.3	4.2	4.3	4.3
GNP deflator (percent change, 4th quarter over 4th quarter)	8.4	7.5	6.6	5.8
Consumer Price Index (percent change, 4th quarter over 4th quarter	8.4	7.5	6.6	5.8
Unemployment rate (percent, 4th quarter)	7.8	7.1	6.4	5.7
ANNUAL ECONOMIC ASSUMPTIONS				
Gross national product:				
Current dollars:				
Amount	3,185	3,580	3,991	4,414
Percent change, year over year	12.9	12.4	11.5	10.6
Constant (1972) dollars:				
Amount	1,470	1,532	1,597	1,665
Percent change, year over year	3.8	4.2	4.3	4.3
Incomes:				
Personal income	2,614	2,928	3,241	3.562
Wages and salaries	1,635	1,822	2,020	2,225
Corporate profits	260	303	349	395
Price level:				
GNP deflator:				
Level (1972=100), annual average	216.8	233.7	249.9	265.1
Percent change, year over year	8.8	7.8	6.9	6.1
Consumer Price Index:[1]				
Level (1967=100), annual average	295.0	318.1	340.2	360.9
Percent change, year over year	8.9	7.8	6.9	6.1
Unemployment rates:				
Total, annual average	8.0	7.3	6.6	6.0
Insured, annual average[2]	4.6	4.0	3.4	2.9
Federal pay raise, October (percent)[3]	8.5	8.0	7.5	7.0
Interest rate, 91-day Treasury bills (percent)[4]	9.2	8.5	7.6	6.8

[1] The index shown is the CPI for urban wage earners and clerical workers. There are now two versions of the CPI published. One estimates the cost of living for wage earners and clerical workers in urban areas; the other, more recently developed, is more comprehensive, covering all urban dwellers. The index shown here is that currently used, as required by law, in calculating automatic cost-of-living increases for indexed Federal programs.

[2] This indicator measures unemployment under State regular unemployment insurance as a percentage of covered employment under that program. It does not include recipients of extended benefits under that program.

[3] Pay raises become effective in October of each year—the first month of the new fiscal year. Thus, the October 1980 pay raise will set new pay scales that will be in effect during fiscal year 1981.

[4] Average rates on new issues within period. These projections assume, by convention, that interest rates are linked to the rate of inflation. They do not represent a forecast of interest rates.

TABLE 29.—BUDGET RECEIPTS BY MAJOR SOURCE, 1979–85 (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)

[In billions of dollars]

	1979 actual	Current estimate				Projection	
		1980	1981	1982	1983	1984	1985
Individual income taxes	217.8	240.7	278.2	325.6	386.3	543.4	523.1
Corporation income taxes	65.7	65.5	66.4	73.2	85.4	98.2	111.5
Social insurance taxes and contributions	141.6	160.5	184.5	213.5	238.5	262.7	297.2
Excise taxes	18.7	25.4	48.7	70.5	75.6	80.1	83.1
Estato and gift taxes	5.4	6.1	6.3	6.8	7.7	8.6	9.5
Customs duties	7.4	7.0	7.5	7.9	8.3	8.8	9.2
Miscellaneous receipts	9.2	12.7	12.5	13.9	16.4	18.5	19.0
Total budget receipts	465.9	517.9	604.0	711.4	818.3	930.4	1,052.7

TABLE 30.—ESTIMATED EFFECT OF ADMINISTRATIVE ACTIONS AND PROPOSED LEGISLATION ON RECEIPTS, 1980–85 (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)

[In billions of dollars]

	Current estimate				Projection	
	1980	1981	1982	1983	1984	1985
Receipts under current law	517.9	591.6	687.3	791.0	898.1	1,011.2
Extension of airport and airway trust fund taxes		.8	1.0	1.1	1.2	1.4
Extension of highway trust fund taxes						4.1
Receipts on a current services basis	517.9	592.5	688.3	792.2	899.3	1,016.6
Proposed legislation and administrative actions other than extensions:						
Excise tax on gasoline and diesel fuels		3.5	13.1	15.0	16.8	18.0
Withholding of taxes on interest and dividend income		3.4	2.5	2.8	3.1	3.5
Cash management initiatives		1.2	3.2	1.4	.8	.7
Railroad retirement tax increase		.3	.3	.3	.3	.3
Tax-exempt mortgage bonds		.6	2.1	4.4	7.6	13.3
Oil and hazardous substance cleanup		.2	.3	.4	.4	(1)
Tax treatment of independent contractors		.6	.6	.7	.9	1.1
Foreign tax credit		1.4	.5	.6	.6	.6
Other		.4	.5	.5	.5	.6
Total, proposed legislation and administrative actions other than extensions		11.5	23.1	26.1	31.1	36.2
Total, budget receipts	517.9	604.0	711.4	818.3	930.4	1,052.7

(1) $50,000,000 or less.

TABLE 31.—COMPOSITION OF BUDGET OUTLAYS, 1979–85 (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)

[Dollar amounts in billions]

	1979 actual	Current estimate				Projection	
		1980	1981	1982	1983	1984	1985
National defense:							
Direct Federal payments for individuals	$10.3	$11.8	$13.5	$15.9	$17.7	$19.5	$21.2
Grants to States and localities	.1	.1	.1	.1	.1	.1	.1
Other	107.3	123.7	143.9	161.0	181.8	203.9	226.7
Subtotal, national defense	117.7	135.6	157.5	176.9	199.5	223.4	248.0
Nondefense:							
Direct Federal payments for individuals	198.7	235.5	276.1	304.8	345.6	391.3	426.1
Payments for individuals through States and localities	28.8	34.2	37.7	42.2	46.4	50.8	55.6
All other grants to States and localities	54.0	56.8	54.4	58.3	62.4	64.7	66.7
Net interest	42.6	52.9	55.1	58.2	59.2	58.0	59.4
Other	51.9	63.8	53.0	65.1	79.1	87.8	90.2
Subtotal, nondefense	376.0	443.2	476.3	528.6	592.7	652.7	697.9
Total	493.7	578.8	633.8	705.5	792.3	876.1	945.9
Percent of total outlays:							
National defense:							
Direct Federal payments for individuals	2.1	2.0	2.1	2.2	2.2	2.2	2.2
Grants to States and localities	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Other	21.7	21.4	22.7	22.8	22.9	23.3	24.0
Subtotal, national defense	23.8	23.4	24.9	25.1	25.2	25.5	26.2
Nondefense:							
Direct Federal payments for individuals	40.3	40.7	43.6	43.2	43.6	44.7	45.0
Payments for individuals through States and localities	5.8	5.9	6.0	6.0	5.9	5.8	5.9
All other grants to States and localities	10.9	9.8	8.6	8.3	7.9	7.4	7.1
Net interest	8.6	9.1	8.7	8.3	7.5	6.6	6.3
Other	10.5	11.0	8.4	9.2	10.0	10.0	9.5
Subtotal, nondefense	76.2	76.6	75.1	74.9	74.8	74.5	73.8
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0

(1) 0.05 percent or less.

TABLE 32.—BUDGET OUTLAYS BY FUNCTION, 1979–85 (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)

[In billions of dollars]

		Current estimate				Projection	
	1979 actual	1980	1981	1982	1983	1984	1985
National defense	117.7	135.6	157.5	176.9	199.5	223.4	248.0
International affairs	6.1	10.9	10.3	10.7	11.3	12.3	13.3
General science, space and technology	5.0	5.7	6.2	7.0	7.3	7.2	7.1
Energy	6.9	6.5	7.2	10.4	15.2	15.6	12.7
Natural resources and environment	12.1	13.7	13.1	13.7	14.2	14.4	14.7
Agriculture	6.2	5.8	2.2	4.3	4.3	4.9	6.0
Commerce and housing credit	2.6	8.3	.7	2.4	2.7	2.9	2.5
Transportation	17.5	20.8	19.2	21.6	23.9	24.9	25.9
Community and regional development	9.5	9.5	9.3	9.2	9.4	9.8	10.0
Education, training, employment, and social services	29.7	29.9	30.9	34.0	36.6	38.5	40.0
Health	49.6	56.9	63.4	71.7	80.6	90.1	100.2
Income security	160.2	193.5	230.4	253.7	274.7	296.3	320.1
Social security	(102.6)	(117.8)	(137.8)	(156.2)	(175.0)	(193.4)	(211.9)
Other	(57.6)	(75.7)	(92.6)	(97.5)	(99.7)	(102.9)	(108.2)
Veterans benefits and services	19.9	20.9	21.8	23.1	24.6	26.1	27.3
Administration of justice	4.2	4.6	4.6	4.6	4.6	4.7	4.8
General government	4.2	5.0	4.7	5.0	5.0	5.3	5.2
General purpose fiscal assistance	8.4	8.6	7.3	6.8	6.4	6.5	6.6
Interest	52.6	64.3	67.6	71.5	72.9	71.8	73.7
Allowances		(1)	1.4	5.8	26.3	49.0	56.3
Undistributed offsetting receipts	−18.5	−21.9	−24.0	−27.0	−27.5	−27.8	−28.5
Total, budget outlays	493.7	578.8	633.8	705.5	792.3	876.1	945.9
Memorandum: Outlays of off-budget Federal entities	12.4	16.1	21.7	16.2	13.7	11.7	15.7

[1] $50,000,000 or less.

TABLE 33.—BUDGET OUTLAYS BY AGENCY, 1979–85 (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)

[In billions of dollars]

		Current estimate				Projection	
	1979 actual	1980	1981	1982	1983	1984	1985
Legislative branch	1.1	1.3	1.3	1.4	1.4	1.4	1.4
The Judiciary	.5	.6	.6	.7	.7	.7	.8
Executive Office of the President	.1	.1	.1	.1	.1	.1	.1
Funds appropriated to the President	2.6	7.6	6.0	5.9	6.2	6.7	7.2
Agriculture	20.6	25.7	20.8	26.7	28.1	30.0	31.9
Commerce	4.1	3.8	2.9	3.1	3.3	3.5	3.7
Defense—Military	115.0	132.6	153.9	173.0	195.3	218.8	243.1
Defense—Civil	2.9	3.5	3.1	3.5	3.6	3.5	3.6
Education	10.9	12.5	13.3	15.3	16.4	17.3	18.4
Energy	7.9	6.5	8.4	11.7	16.8	17.7	14.9
Health and Human Services	170.3	194.1	224.1	252.2	281.5	309.2	339.3
Housing and Urban Development	9.2	12.6	11.9	13.9	15.9	17.6	19 4
Interior	4.1	4.0	4.0	4.3	4.6	4.9	5.2
Justice	2.5	2.7	2.6	2.5	2.5	2.4	2.5
Labor	22.6	29.6	39.4	37.7	33.8	32.9	31.9
State	1.5	1.9	2.2	2.4	2.5	2.6	2.8
Transportation	15.5	18.6	17.7	20.1	22.4	23.3	24.1
Treasury	65.0	76.5	78.3	81.8	82.5	81.7	83.5
Environmental Protection Agency	4.8	5.7	5.5	5.7	5.9	6.1	6.3
National Aeronautics and Space Administration	4.2	4.9	5.2	6.0	6.1	5.9	5.7
Veterans Administration	19.9	20.8	21.7	23.0	24.5	26.1	27.3
Office of Personnel Management	12.7	14.9	17.0	19.5	21.9	24.3	26.6
Other independent agencies	14.1	20.3	16.5	16.2	16.6	17.1	17.7
Allowances		(1)	1.4	6.0	27.1	49.8	57.1
Undistributed offsetting receipts	−18.5	−21.9	−24.0	−27.0	−27.5	−27.8	−28.5
Total, budget outlays	493.7	578.8	633.8	705.5	792.3	876.1	945.9

[1] $50,000,000 or less.

TABLE 34.—BUDGET AUTHORITY BY FUNCTION, 1979–85 (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)

[In billions of dollars]

		Current estimate				Projection	
	1979 actual	1980	1981	1982	1983	1984	1985
National defense	127.8	143.8	171.5	194.0	218.0	243.2	270.2
International affairs	8.7	13.4	23.5	15.0	15.3	17.2	18.5
General science, space and technology	5.4	6.1	6.6	7.1	7.3	7.0	6.9
Energy	7.4	37.5	7.2	18.6	11.0	11.6	8.7
Natural resources and environment	13.2	13.3	12.6	14.4	15.2	15.5	15.5
Agriculture	9.3	5.1	5.4	5.0	5.1	5.5	5.2
Commerce and housing credit	5.9	10.4	5.6	6.1	6.5	6.9	6.8
Transportation	19.2	20.3	23.4	23.5	25.9	26.6	27.6
Community and regional development	10.0	9.8	9.1	9.7	10.1	10.5	10.6
Education, training, employment, and social services	32.6	30.7	33.0	35.0	38.1	40.1	41.5
Health	53.9	59.6	70.5	82.2	93.2	104.8	118.6
Income security	191.9	222.2	254.7	287.2	307.3	327.8	359.7
Social security	(100.6)	(115.5)	(129.2)	(147.8)	(164.3	(181.4)	(208.0)
Other	(91.3)	(106.7)	(125.5)	(139.4)	(143.0)	(146.4)	(151.8)
Veterans benefits and services	20.5	21.2	22.8	23.8	25.1	26.4	27.7
Administration of justice	4.2	4.4	4.3	4.4	4.6	4.7	4.8
General government	4.4	5.1	4.8	5.1	5.0	5.2	5.3
General purpose fiscal assistance	8.3	8.6	6.7	6.8	6.4	6.5	6.6
Interest	52.6	64.3	67.6	71.5	72.9	71.8	73.7
Allowances		−.2	2.0	6.9	27.8	50.7	58.0
Undistributed offsetting receipts	−18.5	−21.9	−24.0	−27.0	−27.5	−27.8	−28.5
Total, budget authority	556.7	653.7	707.2	790.4	867.3	954.2	1,037.4
Memorandum: Budget authority of off-budget Federal entities	16.3	22.8	27.7	27.0	28.8	19.1	37.7

TABLE 35.—BUDGET AUTHORITY BY AGENCY, 1979–85 (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)

[In billions of dollars]

	1979 actual	Current estimate				Projection	
		1980	1981	1982	1983	1984	1985
Legislative branch	1.1	1.3	1.3	1.5	1.3	1.4	1.4
The Judiciary	.5	.6	.7	.7	.7	.8	.8
Executive Office of the President	.1	.1	.1	.1	.1	.1	.1
Funds appropriated to the President	5.9	11.0	14.0	7.0	7.4	8.4	8.8
Agriculture	24.5	25.3	25.4	28.2	29.7	31.3	31.9
Commerce	2.6	3.1	2.9	3.3	3.7	3.8	3.9
Defense—Military	125.0	140.8	167.8	190.0	213.7	238.5	265.3
Defense—Civil	2.8	3.3	2.9	4.0	4.0	3.9	4.0
Education	12.6	13.4	15.1	16.1	17.4	18.4	19.5
Energy	10.3	11.0	10.6	22.0	14.5	15.1	12.5
Health and Human Services	172.8	195.3	222.9	254.3	283.5	311.8	353.7
Housing and Urban Development	31.1	35.6	40.3	44.5	46.2	48.7	50.9
Interior	4.7	4.6	4.1	4.4	4.8	5.1	5.6
Justice	2.5	2.5	2.2	2.3	2.4	2.4	2.5
Labor	28.6	28.3	35.7	41.7	40.3	39.8	39.2
State	1.7	2.1	2.4	2.5	2.6	2.7	2.8
Transportation	17.2	18.4	21.9	21.9	24.3	24.9	25.8
Treasury	64.7	90.3	78.2	82.2	82.9	82.0	83.8
Environmental Protection Agency	5.4	4.7	5.3	5.8	6.4	6.7	6.5
National Aeronautics and Space Administration	4.5	5.2	5.5	5.9	6.1	5.7	5.5
Veterans Administration	20.5	21.2	22.8	23.8	25.0	26.4	27.6
Office of Personnel Management	21.0	24.5	26.6	28.4	30.0	31.5	32.9
Other independent agencies	14.9	33.3	20.6	18.9	19.4	21.0	22.3
Allowances		−.2	2.0	7.7	28.6	51.5	58.8
Undistributed offsetting receipts	−18.5	−21.9	−24.0	−27.0	−27.5	−27.8	−28.5
Total, budget authority	556.7	653.7	707.2	790.4	867.3	954.2	1,037.4

TABLE 36.—PROJECTIONS OF OUTLAYS FOR OPEN-ENDED PROGRAMS AND FIXED COSTS, 1981–85 (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)[1]

[In billions of dollars]

	Estimate			Projection	
	1981	1982	1983	1984	1985
OPEN-ENDED PROGRAMS AND FIXED COSTS					
Payments for individuals:					
Social security and railroad retirement	143.1	161.8	181.1	199.8	218.6
Federal employees retirement and insurance	39.5	43.6	48.0	52.2	56.3
Unemployment assistance	27.2	25.3	20.8	19.3	18.0
Medical care	55.1	63.9	73.6	84.4	96.4
Assistance to students	2.0	1.6	1.3	1.1	1.0
Housing payments	6.4	7.6	9.0	10.5	12.2
Food and nutrition assistance	14.3	16.3	17.4	18.2	18.9
Public assistance and related programs	20.9	21.9	23.5	23.1	24.8
All other uncontrollable payments for individuals	2.5	2.6	2.7	2.8	2.8
Subtotal, payments for individuals	311.0	344.7	377.5	411.9	449.7
Net interest	55.7	58.9	60.2	59.4	61.3
General revenue sharing	5.1	4.6	4.6	4.6	4.6
Other open-ended programs and fixed costs	9.6	9.5	9.9	10.9	11.5
Total, open-ended programs and fixed costs	381.4	417.7	452.2	486.8	527.1

[1] This table is supplied pursuant to the requirements of Sec 221(b) of the Legislative Reorganization Act of 1970 (Public Law 91–510).

TABLE 37.—ESTIMATED SPENDING FROM END OF FISCAL YEAR 1981 BALANCES OF BUDGET AUTHORITY: NONMANDATORY PROGRAMS (UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS)

[In billions of dollars]

	Federal guarantee and insurance programs.[1]	Other unexpended balances, Sept 30, 1981	Total
Total balances, end of 1981 (current estimate)	20.9	304.5	325.4
Spending from balances in:			
1982	.4	131.5	132.0
1983	.3	60.9	51.2
1984	.1	29.5	29.6
1985	.1	16.9	17.0
Expiring balances, 1982 through 1985		4.6	4.6
Unexpended balances as of the end of 1985	19.9	61.1	80.9

[1] Reserves for losses and standby and backup authority.

ENTERPRISE ZONES

● Mr. **ARMSTRONG**. Mr. President, some wags suggest the controversial MX missile should be based not in Nevada or Utah, but in the South Bronx. The theory is that the Soviets, upon reviewing satellite photographs, would assume they would already hit the place, and overlook the missiles stationed there.

The South Bronx does bear an eerie resemblance to a deserted battlefield. Burnt-out hulks of buildings line semi-deserted, trash-filled streets. Roving gangs of thugs strip abandoned apartment houses and stores of anything that can be pawned or sold. There is little of the hustle and bustle of urban commerce during the day, and none but the brave or foolhardy venture out at night. Something very like a desert has been created in the heart of the Nation's most populous city.

The South Bronx and similar squalid zones in Philadelphia, Baltimore, Detroit, Chicago, and many other cities in the Northeast and the Midwest are in a sense battlefields—battlefields where the war on poverty is being lost.

The war is not being lost for lack of resources. On the contrary, Washington has sent in its big battalions. Program after program—urban renewal, Model Cities, section 8 housing, youth employment, CETA—has been directed at inner city decay. All to no good result.

Social welfare spending has skyrocketed since the war on poverty began—about 25 percent of nondefense spending was spent in the central cities last year—but inner city poverty remains intractable. Generous welfare benefits keep the poor from starving, but no progress has been made in attacking the root causes of their poverty.

Some in Washington throw up their hands and say the problem is insoluble. Others say the only solution is to pour billions more into the programs that have produced such dismal results.

As Pogo said, "we have met the enemy,

and he is us." Inner city poverty has been growing worse because of what Government has been doing, not in spite of it.

Generous welfare benefits, combined with high tax rates, have all but killed the incentive to work. The most heavily taxed person in America is the person who gives up $8,000 a year in welfare benefits to take a $10,000 a year job. The effective tax rate on the additional income earned by working is often more than 90 percent.

Job training programs prepare people for jobs that do not exist, because high tax rates and regulatory costs make it all but impossible for small businesses to make a profit in the inner city. Skilled workers and experienced businessmen leave the inner city for the suburbs where tax rates are lower and the redtape is thinner.

Representative Jack Kemp, Republican of New York, has proposed an imaginative bill, the Urban Jobs and Enterprise Zone Act, which is designed to break the cycle of poverty by attacking its root causes. It calls for establishment of enterprise jobs zones in depressed areas. Local governments would apply for the designation by agreeing to reduce property tax rates 20 percent over 4 years.

Enterprise zones would be eligible for specific tax reductions aimed at jobs creation through investment in small businesses. Social security payroll taxes in enterprise zones would be reduced 90 percent for workers under 21, and 50 percent for all other workers. Capital gains taxes would be reduced 50 percent, and businesses located in and employing at least half their workers from enterprise zones would receive a 15-percent cut in income taxes.

I have joined the Senators Rudy Boschwitz, Republican of Minnesota, and John Chafee, Republican of Rhode Island, in sponsoring the Kemp bill in the Senate. Governor Reagan has made it a part of his economic policy. It is an idea whose time is coming. Perhaps very soon we will have a poverty program designed to cure poverty, rather than to win votes from special interest groups at election time, or to expand the power of the Federal bureaucracy.●

MARY HOLMES GILMORE

● Mr. METZENBAUM. Mr. President, this month a pioneer in the field of mental health will retire after more than 40 years of public service. Mary Holmes Gilmore was way ahead of her times.

In 1942, Mary Holmes Gilmore was a top-rated flier in a class of 110 men and women. In 1946, she embarked on a career in human services beginning with distinguished service in social work. She has a doctorate in education from Temple University and taught for several years at Western Reserve University's School of Applied Social Sciences.

In 1969 she became the first and only executive director of the Geauga County Board of Mental Health and Mental Retardation. She has been listed in "Who's Who in the Midwest" and in "Who's Who of American Women."

All this at a time when most women were just beginning to exercise their equal rights as productive and working members of our society. This highlights even more the accomplishments of Mary Holmes Gilmore.

Mary Gilmore has done so much for mental health services in Geauga County in addition to just drawing attention to mental health problems. I want to wish her health and happiness in her retirement from public service. We, in Ohio, owe her thanks for her unselfish and undaunted service.

Mr. President, I ask that an article about Ms. Gilmore, from the Cleveland Plain Dealer on June 30, 1980, be printed in the Record.

The article follows:

MENTAL HEALTH CHIEF IN GEAUGA TO RETIRE

(By Lou Mio)

Mary Holmes Gilmore was an avid flier, top-rated in a Civil Air Patrol training class of 110 men and women at Endicott Field near Binghamton, N.Y.

It was 1942, several months after Pearl Harbor and America's entry into World War II.

"I received a telegram from the government saying I should report in three days to Ft. Ord, Calif., for transfer to Honolulu," she recalled. "I was going into the WAFS (Women's Auxiliary Ferrying Squardon) to transport planes from Honolulu, to Newfoundland, to England."

She sent the government a telegram of her own. I wired back that I was six months pregnant," she said. "I never went into the WAFS. My husband went into the Navy and I went home to Syracuse where my parents lived."

So much for her career in the WAFS. But that was only one career.

"I span four careers, all interwoven," said Gilmore, 65, a widow since 1946. "They are human services, aviation, wife, mother and grandmother, and antiques."

And now Mary Gilmore, a teacher, a social planner listed in "Who's Who in the Midwest" and "Who's Who of American Women," a woman with a doctorate in education from Temple University, a pilot's license (expired) and antique dealer's license (active), is switching careers again.

She will retire tomorrow, after 11 years as the only executive director of the Geauga County Board of Mental Health and Mental Retardation. She will be replaced by Katherine Kazol, associate director since last November.

"Right now I'm sitting around trying not to rack up any overtime," Gilmore said. After she gets done doing that, Gilmore plans to sell antiques and write about them. It should come as no surprise that she is ready to roll.

"I've been planning this for 10 years," she said. "There have been 12 generations of the Holmes family in this country and I've been collecting antiques for 45 years. I've had a dealer's license for 10 years and have done one or two shows a year. I'm not a social planner for nothing."

Indeed. She plans to sell antiques by appointment from her home, 8259 Summit Dr., Bainbridge Township. The location, naturally, was carefully planned—21 years ago.

It's about 25 miles east of Terrace Rd. in East Cleveland, where she was hired in 1959 as executive director of the A.M. McGregor Home for the Aged.

"Twenty-five miles is enough time to plan your day while driving to work and enough time to reflect on it while driving home," she said. "And I always live on the side east of a big city. That way you don't have to face the sun coming or going to work."

See. It's all in the planning.

But there is one thing she is *not* planning to do—slow down. "I'll be going full time, selling at home plus the antique shows," she said.

That's about the same rate of speed Gilmore has been traveling since 1937, when, a year after graduation from Smith College, she became a welfare department investigator in Syracuse. That was followed by social work jobs in Buffalo, Syracuse, Clamont, Del.; Harrisburg, Pa.; Philadelphia and Pittsburgh before she wound up in East Cleveland.

She taught at Western Reserve University's School of Applied Social Sciences from 1961 until she took the job in Geauga County in September 1969, when the county set up its mental health board.

Why that job? "To find out if I could practice what I preach," Gilmore replied.

For the first four months, the board operated out of her home. "I never had a secretary and I'm no typist," she said. "The following year I got my first part-time secretary. Those were the pioneer days."

She figures the mental health board has come a long way in the last decade, from operating out of her home to an office in Chardon, from a budget of $90,000 in 1969 to about $2.5 million, including federal and state aid, in 1980.

Mary Gilmore is proud of increased services and being able to account for every dime spent to pay for them. But there are a few things she is not proud of.

"I started asking the county commissioners for a mental health operating levy in 1970," she said. "They haven't seen fit to put one on the ballot. Why? I wouldn't second-guess them.

"We (the county) have a mental retardation levy," she noted. "There is a child welfare levy. But we don't have a levy for mental health. And we need one.

"We have come a long way, money-wise and in increased services," she added. "But we're a developing county and we're not there yet. We have a dire need for transportation for our mental health agencies, to be able to move people from one place to another. It's the last thing I'm working on."

She just might make it by tomorrow. Then Mary Holmes Gilmore can get on with selling antiques and forget one bureaucratic pain.

"Since I began in 1969, the paper work, that red tape, bureaucratic garbage has increased 2,000%," she said. "I haven't had a student working with me for two years because they want to do creative things. They don't want to fill out those forms."

CHRISSELLENE PETROPOULOS

● Mr. MATHIAS. Mr. President, William Shakespeare's unique genius must have included prescience when he wrote in Othello, "Oh, she will sing the savageness out of a bear." That clearly describes the gift that Chrissellene Petropoulos has brought to the opera stage here in the United States, and which will soon grace the stage at the Vienna State Opera, where she has won a coveted contract as a soprano solo singer.

All of Maryland should be proud of this accomplishment because such recognition so early in an operatic career is rare and pays eloquent tribute to her talent. Indeed, one of those who heard Miss Petropoulos sing in Vienna told her later, "What you have cannot be learned or taught."

In an article in the Washington Post on July 20, Paul Hume traced the remarkable story of this talented artist from Winston Churchill High School and the University of Maryland to the Vienna State Opera. It is a heartening story of the pursuit of excellence and I submit it now so that it may be printed in the RECORD at this point.

THE SURPRISE SOPRANO

(By Paul Hume)

When Chrissellene Petropoulos was 9 years old, her fourth grade teacher gave the class an assignment to write the stories of their lives. She wrote, in a thin paper book, which her mother still has, "When I was 5, I loved to sing opera! I loved opera! I love opera!"

In two weeks Petropoulos will be 27. Four weeks after that she will fly to Vienna to take up a new life with the Vienna State Opera. The little girl who grew up in Potomac, Md., went to Winston Churchill High School and the University of Maryland—and who became a singer by chance—has landed a contract with one of the most prestigious opera companies in the world.

Moreover, in addition to studying in the State Opera's Studio, she also will sing in 30 performances during the coming season, with the title of "Solo Singer," and with the accompanying higher pay.

All summer Petropoulos has been taking daily German lessons, getting ready for Vienna and the big house where German is the bread-and-butter language. "Going to live in Vienna and to work in that opera company is the biggest honor of my life," she says. "I don't know just where I am going to live, but it will be within walking distance of the Staatsoper so that I can go to the opera every night."

Asked how she got such a contract, she says, "When I was little, I played basketball, football, soccer," as if those were the paths to operatic stardom. But, of course, there was music: "I began to study piano when I was 4. With Miksa Merson. When my mother took me to him, he said, 'I don't teach children!' But while they were in the next room, I sat down at the piano and began playing 'Chopsticks.' He asked who was playing like that, and then he said he would teach me."

As if the piano were not enough, Petropoulos says that one day, "when I was 5, I saw an orchestra with all those violin bows going up and down, and I said, 'I want to do that.' So when I was 5 or 6, I started on the violin too," with Neva Greenwood.

All this music study did not persuade Petropoulos that she should be a professional musician. Her father is a physician, and although she says, "I could never be a surgeon," she was "interested in people and in psychology. I should have been a psychiatrist with a couch."

By the time she entered the University of Maryland, she had decided to major in some field of music *and* psychology. One day her father suggested that music therapy was the ideal combination of the two. In the process of meeting the requirements for the music side of that degree, Petropoulos found out she had a voice.

As a junior in 1975, she had decided that she did not want a perfoming major (that is, either as a violinist or a pianist). So the committee that was holding auditions for admissions told her to "sing something." When she said she had no music with her but could sing, "My Country 'Tis of Thee," they gave her a score of Handel's "Messiah" and said, more or less, "Go upstairs and work on that for a while and come back and sing it." Protesting that she did not know beans about singing, the future member of the Vienna State Opera—who to this day has sung exactly *one* leading role in opera—and who calls herself a "Soprano Brand X"—did exactly as she was told and was admitted.

Four months after she became a voice student of Leon Fleming, Petropoulos came up to her first faculty audition as a singer. "That's when the surprises began," she says today. "I had thought, 'Okay, I can carry a tune; I'll get a degree in voice.' But after four months with Mr. Fleming, people began to talk about my becoming a singer."

Small wonder that she gives Fleming great thanks and credit for giving her a solid foundation and for pointing her in the direction she has followed ever since. She says, "He made me learn songs, repertoire. He got me ready for a senior recital, said it would be good for me to do it even though it was not a requirement for my degree. Before long he began talking about where I should go to graduate school. He thought the Curtis Institute in Philadelphia would be the best place, and so a year before I graduated from Maryland, I went up to Curtis to audition.

"The whole voice faculty was there to hear each of us. When I was through, Margaret Harshaw spoke up and said, 'I want you.' When I told them that I still had another year to go to finish my degree, they said that was okay, to go ahead and get it and then, when I was ready for Curtis, to come back—I would not have to do any more auditioning."

The same summer of 1975, Petropoulos created something of a sensation with her singing of "Piangero" at the convention of the National Association of Teachers of Singing on the Maryland campus. The following year, with her B.A. safely tucked away, she moved up to Philadelphia and began her work at Curtis.

In her first year there, she was told to prepare the title role in Massenet's "Manon." "But I don't want to sing 'Manon!'" she told a startled Sol Schoenbach who had proposed it to her. "I can't sing a major scale and you want me to sing a major role!" Schoenbach said it was the first time he could remember any singer who was offered a major role turning it down in order to sing a minor part. But he had not met a Chrissellene Petropoulos before. She was following the advice of some trusted friends who had urged her to take things slowly. At Curtis, she sang minor roles—a nun in Puccini's "Suor Angelica" and the child Yniold in Debussy's "Pelleas et Melisande"—before taking on her only major role thus far, Mozart's Despina in "Cosi fan tutte."

In the summers Petropoulos followed Harshaw out to the University of Indiana at Bloomington—where Harshaw also teaches—to spend long, concentrated hours. Harshaw told her, "Instinct is not enough. We have to build a solid technique. How do you breathe?" When Petropoulos admitted that she "just breathed," Harshaw explained the inadequacies of so simple a system and intensified their work on technique. One day Harshaw asked her pupil, "Can you trill?" Petropoulos answered, "Yes, if it's like it is on the piano, I can do it," and did. She had a natural trill—some do, some don't.

Back at Curtis for her second and final year, she sang her first full recital with Sokoloff as her pianist, sang for the first time with orchestra and finally sang the Despina. When she was assigned that role, she says "They told me 'You *are* a Despina.' So I walked around for days and weeks asking myself, 'How would Despina walk? What would Despina do? How would Despina go into a store and up to the candy counter?' I *thought* Despina until I made myself become Despina."

After two years, Harshaw told Petropoulos she thought she should go to work with someone else. Coming back to Washington, she was urged to study with Todd Duncan. Petropoulos today speaks of him in language usually reserved for descriptions of the ancient deities.

"I think Todd Duncan got me into the Vienna State Opera," she says, with love in her face. "He became a god for me. He talked about deep breathing, about how it was never deep enough. And his loving handling of the voice. He made me work twice as hard. And he has such a desire to give his students the very best he has. His knowledge of technique is incredible. He was everything I needed." And so he seemed to be, because it was while she was working with Duncan that Petropoulos sang in some major auditions.

One day last February Luciano Pavarotti was hearing a dozen young singers in Carnegie Hall. One of them was Petropoulos. After all 12 had sung, the great Italian tenor said, "I want to hear Petropoulos again," and began some brief, intensive coaching. "Sing me 'Caro nome.'" After she finished the aria he asked, "Can you sing this phrase *this* way?"—to which she gave her accustomed reply, "Well, I can always try." And out it came the way Pavarotti had suggested. "Now can you do it *this* way?" he wanted to know, demonstrating a different kind of phrasing. And again she sang what he asked for.

Another time Petropoulos was singing in a master class given by the late Walter Legge and his wife, soprano Elizabeth Schwarzkopf. When she sang a Greek folk song, Legge—the mentor of Callas, Schwarzkopf and others of the world's great singers—told her, "Young lady, do you know that you can have a career on just that song!" That was not the last time that "To Layoarni" was to make its mark on Petropoulos' hearers.

A few weeks ago the great Brazilian star, Bidu Sayao, was conducting a master class at the Peabody Conservatory in Baltimore. Petropoulos was the last to sing for her, held back by those in charge of the class. For her final song, she told Sayao she wanted to dedicate a song to her, and sang "To Layoarni." When she had finished, Sayao, with tears in her eyes, told Petropoulos, "*That* is singing. When you have your German, your French and your Italian where your Greek is, you are in."

Sayao then asked Petropoulos to sing "Ah non credea mirati," from Bellini's "La Sonnambula." Saying that she had never sung it before, Petropoulos sang it for the exquisite star of more than 200 Metropolitan performances. When it was over, Sayao said, "You say you have never sung it before? But there is nothing for me to tell you!"

One day last October, when the Vienna State Opera was in its famous visit at the Kennedy Center, there was an audition. Conductor Karl Boehm was there and so was the noted soprano Leonie Rysanek and her husband, Elu Gausmann, a musicologist and opera authority. They were listening to the promising young soprano from Potomac.

When the audition was over, Petropoulos' mother began to tell Boehm, "Now, if you say she is not good enough, that's all right. She can teach school." Boehm simply said, "If I say she is good, she is good. And if I say she is good. She has a lovely voice—and everything to learn."

It was settled. Petropoulos was to report to the Vienna State Opera Studio for coaching in all phases of opera. In March she flew to Vienna and went to work. In June she and the other students were required to sing for the full committee of the State Opera on the stage of the famous house on the Opera Ring. As she had always done, Chrissellene wore a long dress. When she finished singing, someone on the committee—which again included Rysanek as well as Hilde Gueden, one of the unforgettable greats of Vienna, Emmy Loose, and others—said, "Let us see your legs."

"My legs?" asked Petropoulos.

"Yes, your legs. We have to see how they look on the stage."

Well, there is nothing wrong with the Petropoulos legs, and it is now unlikely that they will be seen with increasing frequency on some of the world's major opera stages before long. Because that contract arrived a couple of weeks ago with its unexpected clause about "30 performances during the season," in addition to the studies, and that title "Solo Singer."

Loose, one of the most polished and admired artists of the post-war era in Vienna, said after the audition, "This is a voice I can do something with."

And Petropoulos said, after one lesson, "I knew she was for me."

Somewhere in the back of Petropoulos' head there must be echoing the comment made to her by one of the Viennese singers after her final audition: "What you have cannot be learned or taught." What *can* be taught, Petropoulos is setting out to learn. It seems likely that the public will be hearing more of her before long.●

HARD WORK ON COMPLEX MATTERS BY THE COMMITTEE ON ARMED SERVICES

● Mr. STENNIS. Mr. President, I want to call special attention to the consistent hard work that the members of the Armed Services Committee are performing in connection with their consideration of the many complex matters relating to our national defense. I am proud of the many committee members who are making outstanding contributions in highly important areas but whose work in those areas often does not come to the attention of the public.

With this in mind, I want to point out again the effort that went into consideration of just this year's military authorization bill alone. A total of 45 hearings were held by both the full committee and the subcommittees; over 1,300 line items—225 in procurement, 708 in research and development, and 342 in various personnel accounts—were reviewed; and 12 markup sessions were held. The committee is now preparing for conference on this massive bill where 292 differences between the Senate and House versions will be discussed and resolved. In addition to the annual military authorization, it is the responsibility of the committee to monitor, review and make recommendations in all areas of defense manpower policy—both military and civilian; nuclear weapons; military construction; strategic stockpiles, as well as in weaponry.

Mr. R. James Woolsey, until recently Undersecretary of the Navy, wrote an article, which appeared in the Washington Post, on some aspects of the fine work of just one of our committee members—Senator HART. Not only as a result of his experience with the Navy, but also because of his 3-years work as Armed Services Committee General Counsel, Mr. Woolsey is able to provide a keen insight into the demands of the highly important work of our committee. By commenting on Senator HART's work, this article is one illustration of the outstanding contributions being made by Senator HART and by many of our committee members in the various areas of national defense.

Mr. President, I ask that the Washington Post article I just referred to, be printed in the RECORD.

The article follows:

[From the Washington Post, June 18, 1980]

THE KIND OF CRITIC THE MILITARY NEEDS

One of the most interesting public figures in America today in the field of defense policy is Sen. Gary Hart of Colorado. Like many Democratic officeholders of his generation, he is a product of the protest against the Vietnam War. He first came into public view in 1972 as the presidential campaign director for George McGovern. Two years later, at the age of 36, he was elected to the Senate in the post-Watergate landslide with important help from the remnants of the anti-war movement. If anyone seemed destined to wear deeper the well-beaten path of reflexive opposition to defense programs that many liberals follow today, it was Hart. And his first two or three years in the Senate were often in that tradition.

More recently, he has begun to confound such expectations. His distinction has been in combining efforts to force the military to innovate with—increasingly in recent months—support for an adequately funded defense establishment. You can find a lot of people who support one or the other of those aims, but few, especially liberal politicians, who work for both. Some of the military's political supporters are far less critical of hidebound approaches than military officers are themselves. On the other side of the political spectrum, talk is cheap about the need for military innovation. Many of those who urge it verbally are willing to play a shell game with the money it will cost—to pretend that innovation can make possible fat defense savings immediately and negate the need for painful budget increases.

Hart has been more honest. He was recently one of only three Democrats in the Budget Committee to vote for the Hollins Amendment to increase the defense budget this year—a somewhat reduced version of which President Carter still opposed as being too generous to Defense. Hart has recognized that constant pressure for innovation is a vital part of having a successful military establishment.

At the same time, he has admitted that it costs money and takes patience and hard work. He has not merely given the military uncritical support for more resources, but neither has he taken the cheap and hypocritical shot of preaching at them to do everything immediately simpler, cheaper and better. No friend of big aircraft carriers, for example, he has been willing to build one to maintain the Navy of today's technology, but only as part of a package of programs moving the Navy toward the small carriers and Vertical/Short-Take-off-and-Landing (V/STOL) aircraft that he prefers.

Of course, he is from a relatively conservative state and so has had a political incentive to support adequate defense budgets. But the important thing is that he has done so as part of a careful evolution over a period of time, protecting necessary current military programs such as readiness and shipbuilding, but at the same time promoting new technologies and tactics. He has not always succeeded, and he is not out in front on the two toughest national security issues—U.S.-Soviet relations and military manpower—as are, for example, two of his Democratic colleagues on the Senate Armed Services Committee, Sens. Jackson and Nunn.

But he has begun to try to establish a union of thoughtful supporters and friendly critics of the military. Such complex political undertakings are hard to bring off. You can zigzag so much in order to appeal to the different constituencies that you end up, as did Clevinger in "Catch 22," of whom Yossarian said that all his left-wing friends thought he was a facist and his right-wing friends thought he was a communist—in short, he was a dope.

But Hart has avoided the Clevinger trap. Many of the most innovative military officers have become quite friendly with him and his staff. And his liberal supporters are occasionally a trifle sullen, but not openly rebellious.

Hart's efforts are vitally important for both the country and the Democratic Party. Many liberals in this country were co-opted early into support for the Vietnam War, and their abiding feelings of guilt have greatly hindered their ability to look dispassionately at this country's military needs. And the United States cannot long withstand a challenge of the sort the Soviet Union is mounting today with either of its two major political parties debilitated in this way. Young, skeptical, liberal voters will listen to a political figure like Hart say things about the need for a strong defense that they will not take from one known to be a lifelong supporter of the military.

If he proves in November that he can hold both liberal and conservative voters with his approach in a state such as Colorado, and if some of his liberal colleagues less supportive of defense are defeated, it will be a message that may finally get through—even to those on the left wing of his party who haven't had a new substantive or political thought about military issues since they watched the Tet offensive on the evening news over a dozen years ago.●

THE SVERDLOVSK INCIDENT

● Mr. ARMSTRONG. Mr. President, a ghastly accident at a Soviet munitions plant casts serious doubt on the willingness of the Soviet Union to abide by international arms control agreements.

The Sverdlovsk incident also raises disturbing questions about the extent to which the Carter administration is willing to go to cover up for Soviet transgressions in order to preserve an illusion of détente.

Sverdlovsk is an industrial city some 900 miles northeast of Moscow. It is closed to visitors from the West because of the concentration of arms industries there.

In April of last year, there was a loud explosion in the laboratory of one of these factories, in Soviet Military Compound 19. Four days later, hospitals in the Sverdlovsk region were filled with victims who exhibited symptoms of high fever, blue ears and lips, and difficult breathing. All died within 7 or 8 hours.

About a week later, the doctors who tried in vain to treat the nearly 1,000 victims were brought together by Soviet military authorities and told that an epidemic of anthrax caused by an illegally slaughtered contaminated cow had broken out.

The explanation would not wash. Autopsies showed clearly the deaths were caused by pulmonary anthrax, not by the gastric or skin varieties associated with tainted meat.

Pulmonary anthrax, transmitted through spores in the air, does not occur naturally. It has to be manufactured in biological weapons laboratories.

The manufacture and storage of biological agents such as pulmonary anthrax is explicitly prohibited by the Biological Weapons Convention, signed by both the United States and the Soviet Union, which went into effect in March 1975.

There can be no doubt that what happened at Sverdlovsk constitutes an alarming violation of that convention. Clearly, the Soviet Union is continuing to manufacture and store deadly biological weapons against which the United States, which has complied with the convention, has no defense.

This is ominous enough in itself. But even more alarming are the implications for Soviet compliance with other arms control agreements, such as SALT I and SALT II. If the Soviet Union has been systematically violating the Biological Weapons Convention, has it also been ignoring the nuclear arms limits in SALT I? Do the Soviets have any serious intention of complying with the terms of SALT II?

These are not idle questions. Technical limitations on our intelligence-gathering capability require us to trust the good intentions of the Soviet Union on compliance with many crucial particulars of arms control agreements. Misplaced trust could give an aggressive Red Army a decisive advantage.

Even more disturbing than the evidence of Soviet bad faith at Sverdlovsk has been the Carter administration's reaction—or, rather, lack of reaction—to it. Well over a year has passed since the Sverdlovsk tragedy, but the Carter administration has yet to demand of the Soviets a full explanation, or to inform the American people of what is at stake.

This could be the most critical of the many failures of Carter administration foreign policy. All of us want peace, and arms control agreements that genuinely limit arms, and which are adhered to by all parties, can be a significant step toward peace. But if the President is ignoring—or, worse, suppressing—evidence that the Soviet Union has no more intention of abiding by the arms control agreements it signs than Hitler did of the agreements he signed, then the West is in mortal danger.●

SKI HAT KNITTER OVERPROTECTED BY DEPARTMENT OF LABOR

● Mr. ARMSTRONG. Mr. President, Mrs. Cecile Duffany, a 58-year-old invalid with acute arthritis in her hips, spends her days sitting and knitting in her Vermont home, gently rocking in her favorite chair looking out at the rolling hills of her home State.

She put her knitting to work a few years ago and now knits 36 ski hats a week for a Bennington, Vt., company, earning $48.60 a week.

The Department of Labor thinks what Mrs. Duffany is doing is wrong, a violation of the law. They want her to stop it.

There is a law on the books, passed in 1938, that says people who make knitted outerwear must work in factories. The logic of that legislation was that workers in factories could have their environment regulated and their pay and working conditions "protected." There was some need for this type of enforcement when during post-Depression years New York garment firms would pay large numbers of illegal immigrants a pittance to sew their fingers to the bone in crowded tenements, day after day, month after month.

But only the current Department of Labor, under the direction of the current administration, would interpret such a law to mean that Mrs. Duffany and hundreds of other women like her need protection from the working condition they enjoy and treasure so dearly: a job at home.

"It's our experience," says Herbert Cohen of the department's wage and hour division, "that it doesn't work to let the workers decide if they need protecting."

So Mrs. Duffany and the other women who knit the ski hats may well be protected right out of their homes. And if they cannot work at home—where they can take care of the kids and keep the house tidy and take a break whenever they want—they probably will not have a job at all.

These women do not need protection from the Department of Labor. They are enjoying their own little piece of the free enterprise system, a system that proclaims the right of any person to make a living in the way he or she sees fit.

It must be noted that these women probably do not make as much money as they would if they worked in a factory. But they do not have to worry about driving to work, parking, a babysitter, or how their kids might be treated in a day-care center.

All this might be a little easier to take if this were the first time the Department of Labor had ever pulled such a boner, or if this was the dumbest thing it had ever done. Unfortunately, neither is true.

If the Department of Labor wins this one, we all lose.

And America loses a few more souls who once believed the Government would not stray from its original duty: protecting individual freedom of choice.●

COST-OF-LIVING ADJUSTMENT FOR CIVIL SERVICE RETIREES

○ Mr. STONE. Mr. President, I remain very concerned about the possibility of Federal civil service retirees losing their twice-yearly cost-of-living retirement adjustments. I do not have to remind my colleagues that Congress made a commitment in 1976 to the twice-yearly payment plan when it eliminate the so-called 1 percent kicker adjustment—at a considerable savings of $0.2 billion in that year alone.

I recently met with a group of Federal retirees in my State, and I can assure my colleagues that they want Federal spending reduced as much as we do. Spiraling inflation fed by runaway Government spending hurts retirees living on fixed incomes as much or more than any other single group in this country.

However, Federal retirees believe they have done their part in the fight to rein in Federal spending. They point to the benefits they have sacrified the last few years, including the 1976 pension adjustment change. In a word, they believe they have been targeted as scapegoats.

I am committed to cutting Federal spending but not at the cost of breaking promises. To do so dangerously undermines this institution's credibility. And I am convinced that we can reduce Federal spending without doing that. Conveniently overlooking past commitments only brings into question our overriding commitment at this time which is to cut Federal spending.●

WHITE HOUSE CONFERENCE ON FAMILIES

● Mr. HUMPHREY. Mr. President, on May 9, 1980, as part of a detailed presentation relating to the White House Conference on Families, I inserted into the Record an article by Jo Ann Gaspar from her fine newsletter "The Right Woman." Although my remarks did credit the article to Mrs. Gaspar, the citation appeared in the Record two pages before the article was printed. It was therefore possible for readers of the Record to miss the attribution of Mrs. Gaspar's useful article relating to the selection of delegates at the State conferences of the White House Conference on Families.

As I said in my remarks May 9, Mrs. Gaspar is an excellent source of data. Her analyses of issues which affect American women have proved useful to me and, I am sure, many of my colleagues.●

OAS CONDEMNS EMBASSY TAKEOVERS

● Mr. ZORINSKY. Mr. President, embassy takeovers by extremist groups are becoming modern day phenomena, which not only violate human rights but also the standards which govern international relations. In late November last year, former Secretary of State Vance expressed strongest appreciation for the action taken by the OAS in condemning the takeover of the U.S. Embassy in Tehran and the taking of members of its staff as hostages. Last February, in a letter to Secretary General Orfila, President Jimmy Carter observed that:

> The steadfast stand of the OAS against violations of the inviolability of diplomatic staffs and premises, first in regard to the Tehran case and later in regard to the Spanish Embassy in Guatemala, is a fine example of the concern that must be expressed if relations among states are to be conducted peacefully.

The President expressed his concern, that the seizure of embassies by armed groups will spread "unless the international community speaks out forcefully and with one voice through institutions like the OAS and through leaders like yourself."

With the subsequent seizure of hostages in the Dominican Republic Embassy in Bogota in late February, Secretary General Orfila called the newest incident a dangerous trend toward violation of the principles of international law. Condemning this deplorable act, he said that:

> There is no justification whatsoever for acts that endanger innocent lives and which violate the juridical principles on which harmonious relations among nations are based.

The successful outcome of the hostage crisis in Bogota, Colombia, with the safe release of the hostages, including U.S. Ambassador Diego Asencio, was the result of patient and skillful negotiations of the host government, along with the cooperation of other governments, organizations, and individuals. The role of the Organization of American States was variously acknowledged and commended, including by President Turbay of Colombia, by Foreign Minister Saraiva of Brazil, and by the then Acting Secretary of State Christopher who wrote Secretary General Orfila noting the important role played by the Inter-American Commission on Human Rights in the safe resolution of the Bogota hostage situation. Mr. Christopher observed that the work of the OAS was a major factor in securing the release of Ambassador Asencio and the other hostages.

The lead editorial in the Washington Post on May 7 noted:

> A special word needs to be said about the Inter-American Human Rights Commission. At a crucial moment it became the agent of a solution that otherwise might have failed. The Commission has established its good faith and its competence in investigations in Nicaragua, Argentina and elsewhere. Here, once again it demonstrated its value.

These violent acts of terrorism call for constant condemnation and repeated reminders that they are inimical to the concepts of international law and can no longer be tolerated. I would like to share with my colleagues the statement of OAS Secretary General Orfila containing his observations on the Bogota incident in which he first paid tribute to the courage, good judgment, and extreme patience of the Government of Colombia:

> This has been a long-drawn-out and trying ordeal for the victims themselves and for their families. They have borne their painful situation with great dignity and calm assurance and they are to be commended for the impressive manner in which they faced these grave circumstances which affected peace and tranquility in Colombia and throughout the Americas.
>
> Social evils of every kind abound in our region and throughout the world. We must work so as to overcome them in a democratic and open manner.
>
> However, both history and experience attest that constant resort to violence ends only in further spiralling violence. Societies must be reformed, but by democratic and popular means rather than through destruction of human life.
>
> The taking of innocent hostages must be condemned. It undermines the tradition of civility which has made the American region an area dedicated to peace and friendship among nations and peoples. Strong efforts must be mounted by OAS member states to condemn and eliminate hostage-taking as gross and grave violation of our regional ideals of freedom and justice.
>
> The OAS is pleased that its Inter-American Commission on Human Rights was invited to play an instrumental role in ending this prolonged tragic situation. As an autonomous agency within the system the Commission is a central institution supporting the peoples of the Americas in their endeavours to preserve and defend essential human rights and to define the narrow line that at times separates them from human wrongs.●

THE ALL-VOLUNTEER FORCE HAS NOT FAILED US

● Mr. ARMSTRONG. Mr. President H. L. Mencken said once that "there is always an easy solution to every human problem—neat, plausible, and wrong."

I cannot help but think of the sage of Baltimore whenever I hear this politician or that pundit advocate restoration of the peacetime draft as a solution to military manpower problems.

Critics of the All-Volunteer Force properly regard present severe and worsening manpower shortages as the greatest threat to America's security. All the sophisticated military hardware in the world is icing on a hot cake without the right numbers of the right kind of men and women to operate it.

Conditions are even worse than many supporters of the draft suspect.

The congressionally authorized strengths of our Armed Forces are at the lowest levels since 1950, yet all the services were unable to meet those end strengths last year.

Along with experiencing increasing difficulty in attracting new recruits, the Armed Forces are discovering that a steadily increasing percentage of those they do recruit are unsuitable for military service, and must be discharged before their term of enlistment expires.

In addition to the decline in the number of volunteers, there has been an even more disturbing decline in aptitude. The number of high school graduate recruits has declined precipitously since the early years of the All-Volunteer Force, and an increasing proportion of the high school graduates have come from the bottom half of their classes. Army manuals have been rewritten downward to eighth, and even seventh grade levels, and still commanders report many soldiers have difficulty comprehending them.

Personnel shortages have become so severe it is doubtful our Armed Forces could respond effectively to a major crisis. All Army divisions in the continental United States, except the 82d Airborne, are substantially understrength. The Navy recently had to tie up a frontline ship for lack of skilled sailors to man it, and more are on their way to the beach. Many frontline Air Force fighters are grounded because maintenance crews lack the experience to keep them in flying condition.

Worse, the Army's recently inaugurated skill qualification tests (SQT's) seem to indicate that a very large proportion of the soldiers who are in the field are unable to do their jobs properly. Of artillery crewmen tested, 86 percent failed. The failure rate for tracked vehicle mechanics was 89 percent; for nuclear weapons maintenance specialists, 90 percent; for tank turret and artillery repairmen, 98 percent.

The solution, critics of the All-Volunteer Force say, is to restore peacetime conscription. In addition to solving the manpower shortage, bringing back the draft would raise the aptitude level of the Armed Forces; make them more representative of society as a whole; reinstill patriotism and a sense of national purpose in America's youth; reassure our allies, and fire a warning shot across the Soviet bow.

There you have it: an easy solution that is neat, plausible, and wrong.

Present manpower shortages stem from our inability to keep in the service men and women who already have enlisted; not from an inability to obtain new recruits.

The recruiting shortfall in all the Armed Forces combined last year was about 30,000. But the shortage of noncommissioned officers in the Army alone was 46,000. The Navy is short a total of 10,000 officers and men. But the shortage of petty officers alone is twice that.

A draft can prevent a shortage of privates, and the existence of a draft can prevent a shortage of second lieutenants. But a draft can do nothing to prevent a shortage of corporals and sergeants, captains and majors. And it is the corporals and the sergeants, the captains and the majors, that we lack. The Armed Forces as a whole were actually overstrength last year in the draftable and the draft-influenced pay grades.

The cause of the sharp decline in retention is no secret, and it has nothing whatever to do with whether or not a soldier or sailor enters the Armed Forces as a volunteer, or as a draftee. An E4 plane handler on an aircraft carrier works 100 hours a week, but earns less than a cashier at a fast food restaurant on a 40-hour week. A cook or a boiler technician on a ship in the Indian Ocean earns half as much as his civilian counterpart who goes home to his wife and kids each night. A sergeant E-5 with a wife and two children to support qualifies for food stamps at most posts in the United States. A chief petty officer with 17 years of service earns no more than a janitor.

Regular military compensation—base pay plus allowances for housing and food—has fallen more than 18 percent relative to the cost of living since the All-Volunteer Force was created. The average salary for enlisted personnel—including base pay, all allowances, miscellaneous payments and moving expenses—is $9,900. The Bureau of Labor Statistics estimates an income of $11,546 is required for a family of four to maintain a "lower-level" standard of living.

The grim truth is that retention rates have sunk to red alert levels because Congress and the Carter administration have permitted military pay and benefits to sink so low that patriotic, motivated, dedicated men and women literally can no longer afford to serve their country.

The servicemen I have talked to who are getting out after 7, 10, even 15 years of service do not want to take off their uniforms. They are proud of their country and proud of their role in defending her. But patriotism does not put food on the table or buy shoes for children. A serviceman today knows his family is going to have to do without the amenities civilians take for granted. He is forced to choose between what he sees as his duty to his country, and his duty to his family. Given the circumstances, the wonder is not that so many are leaving. The wonder is that so many are staying.

There can be no solution to the military manpower that does not address the problem of retention. The draft cannot help here. Only a substantial increase in military compensation can.

The draft is unable to solve the retention problem, and unneeded to prevent a shortage of recruits if the retention problem is solved. But, surely, the draft would raise the aptitude level of recruits, and make them more representative of society as a whole?

Yes, but far less effectively, and at much greater expense, than this could be accomplished by voluntary means.

Even if no effort is made to solve the retention problem, the number of draftees required to bring the Armed Forces up to present authorized strengths is relatively trivial. Fifty thousand draftees a year would put an end to present shortages, and permit the Armed Forces to replace 20,000 volunteers in the lowest mental category with draftees of greater aptitude.

But before any could be drafted, all would have to be registered, classified, and examined. This is not cheap. It would cost upward of half a billion dollars a year, even before the first draftee reported for basic training.

The only way in which the enormous start-up costs involved in a draft could be recouped is if a very large number of young men were to be drafted. But this would put the Armed Forces in the ludicrous position of having to turn away volunteers of comparable aptitude in order to fill the ranks with draftees.

Since draftees would represent a cross-section of society, they would tend to raise the overall aptitude level of the Armed Forces, which is currently below the national mean. But if we are only going to be injecting 50,000 average recruits a year into a military establishment of 2.1 million persons, and we are going to turn that 50,000 over every 2 years, then it could take well into the next century before any significant improvement is seen in force quality.

There is a faster and cheaper way.

The All-Volunteer Force concept is no more to blame for the decline in recruit aptitude than it is for the problem of retention. The big drop in the number of recruits scoring high on the Armed Forces mental test did not take place after the draft ended in 1973; it happened after Congress terminated eligibility for GI bill education benefits in December 1976.

The Army had warned Congress what would happen.

In September of 1974, the Army conducted a survey of 11,336 recruits at Armed Forces entrance examining stations (AFEES) throughout the United States. Twenty-four percent said flatly they would not have enlisted if there had been no GI bill. An additional 36 percent said they were not sure they would have enlisted or not if they had not been made eligible for education benefits.

After factoring out the indifferents, the Army conluded termination of the GI bill could depress the pool of potential recruits by as much as 36.7 percent—all right off the top.

That was not all. In its report to the Secretary of Defense, the Army said terminating the GI bill would require a 17-percent increase in annual accessions just to offset the increased losses in attrition—servicemen discharged before their term of enlistment expires—the Army could expect as a result of drawing a disproportionate number of recruits from the lower mental categories.

This grim Army prognosis seems rosy in hindsight. The number of those in the highest mental category enlisting in the Army has dropped by two-thirds since termination of the GI bill, and the number of volunteers in the second highest mental category has been cut in half. The attrition rate has climbed to nearly 40 percent, rather than the 18 percent the Army predicted Congress would find unacceptable.

The best way to undo the damage done by cancellation of the GI bill is to reinstate the GI bill, not the draft.

Properly tailored educational incentives almost certainly will bring into the Armed Forces at least 50,000 high quality recruits, enough to resolve present recruiting shortfalls, and to replace 15,000–20,000 enlistees from the lowest mental category with volunteers from the highest categories.

An injection of 50,000 high quality recruits each year would raise aptitude levels in the Armed Forces far faster than would the draft, which would bring in only an average cross-section of the youth population. And a GI bill would bring them in at far less cost, since there would be no need for registration or classification, and only those volunteering would require medical exams.

A peacetime draft cannot do much good. But it can do much harm.

Supporters of the peacetime draft have used the All-Volunteer Force as a scapegoat for our military manpower problems. It is a bum rap. The real culprit is a Congress which pays career servicemen so little they have to obtain food stamps to feed their families; which terminated the GI bills, and which continually cuts funds for training.

The All-Volunteer Force has not failed us. We have failed the All-Volunteer Force.●

SENIOR CITIZEN INTERN PROGRAM

⊙ Mr. STONE. Mr. President, I am delighted to have the opportunity to commend the fine work of the senior citizen intern program. I am an ardent supporter of the program because it has given me many valuable insights into the needs and problems facing senior citizens in our country.

All too often, we in the Congress make decisions and cast votes without being totally aware of the impact our actions have on the lives of our constituents. The senior citizen intern program serves to bridge this gap because the participants are able to tell us which programs work and which do not. I am certain that my colleagues will agree that we have to continue working toward the goal of adequate health care, food and housing for the elderly.

In addition, the interns are able to learn about the legislative process through firsthand observation of Congress. They are able to more fully appreciate the complex and difficult issues facing the Nation that sometimes seem to defy solution. The senior citizen intern program gives those of us in Congress an incentive to redouble our efforts to seek those solutions.

The statistics bear out the urgent needs of senior citizens. Census Bureau estimates reveal that persons over 65 constitute almost 23 percent of the population in America with an income under $4,999, although they represent only 10.7 percent of the overall population. They are expected to survive on meager social security benefits, medicaid, and medicare—which pays only 43 percent of an average older person's health bill.

In our attempts to reduce the Federal budget, the senior citizen intern program stands as a reminder to Congress of our obligation to the elderly in America to insure that they can live in dignity and maintain a decent standard of living.●

THE COAST GUARD RESERVE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 6666 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 6666) to revise the laws relating to the Coast Guard Reserve.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARMED FORCES PERSONNEL MANAGEMENT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STENNIS I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5168.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 5168) entitled "An Act to extend certain expiring provisions of law relating to personnel management of the Armed Forces", with the following amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert:

That Public Law 93–397 (10 U.S.C. 8202 note) is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1982".

SEC. 2. Subsection (a) and (b) of section 2 of Public Law 95–377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

SEC. 3. (a) (1) Section 1201(3) of title 10, United States Code, is amended—

(A) by striking out "or" at the end of subclause (B) (ii),

(B) by striking out the period at the end of subclause (B) (iii) and inserting in lieu thereof "; or"; and

(C) by adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4) (A) of such title is amended—

(A) by striking out "or" at the end of item (i);

(B) by striking out the semicolon at the end of item (ii) and inserting in lieu thereof ", or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4) (C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

(b) Section 5703(a) (1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above, except that before October 1, 1982, such a board may consist of nine officers serving in the grade of major general or above.".

(c) Sections 5787c(b) (2) and 5787d(g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

Resolved, That the House agree to the amendment of the Senate to the title of the bill with the following amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert: "An Act to extend certain provisions of law relating to personnel management of the Armed Forces, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STENNIS I move that the Senate insist upon its amendments and agree to the request of the House of Representatives for a conference, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. STENNIS, Mr. NUNN, Mr. HARRY F. BYRD, JR., Mr. CULVER, Mr. EXON, Mr. TOWER, Mr. JEPSEN, Mr. WARNER, and Mr. COHEN conferees on the part of the Senate.

NATIONAL TOURISM POLICY ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1097.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That, the bill from the Senate (S. 1097) entitled "An Act to establish a national tourism policy, a Cabinet level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Tourism Policy Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Board" means the United States Tourism Planning and Implementation Board established under title III of this Act;

(2) "Council" means the National Tourism Policy Council established under title II of this Act; and

(3) "State" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TITLE I—NATIONAL TOURISM POLICY

FINDINGS AND PURPOSE

SEC. 101. (a) FINDINGS.—The Congress finds that—

(1) it is in the national interest to encourage the orderly growth and development of tourism to and within the United States;

(2) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

(3) the tourism and recreational industries have become increasingly important to the economic growth of the United States and generate revenues which are important in reducing the balance-of-payments deficit;

(4) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to a shorter workyear and to a national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism and support development of outdoor recreation cultural attractions, and heritage conservation;

(5) incomes and leisure time continue to increase and as our economic and political systems create more complex global relationships, tourism and recreation become ever more important aspects of our daily lives and our growing leisure time;

(6) the existing extensive Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to respond effectively to the national interests in tourism and recreation and, where appropriate, to meet the needs of State and local governments and the private sector;

(7) orderly growth and development of tourism is an important concern for regional, State, local, and private entities;

(8) orderly growth and development of tourism depends on the efforts of the public and private sectors of that industry to assure that the objectives of the national tourism policy are implemented to the maximum extent consistent with other public policy objectives;

(9) in view of the importance of travel and tourism to the economy of the United States and the pervasive Federal policy and program involvement in tourism, it is necessary and appropriate for the Federal Government to complement, assist, and support mechanisms that will most effectively assure policy;

(10) it is necessary to assure that the extensive Federal policy and program involvement in tourism is responsive to the national interests; and

(11) it is in the best interest of the Nation and the tourism and recreation industries to proceed in an orderly fashion toward the development of a promotional program for advancing and enhancing tourism in and to the United States.

(b) PURPOSE.—It is the purpose of this title to establish the framework for a cooperative effort between the Federal Government, States, regions, and local governments and other concerned public and private organizations, to use all practicable means, including financial and technical assistance, to implement a national tourism policy that will—

(1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the United States;

(2) enhance the promotional aspects of tourism through an improved, cooperative effort between the Federal Government and the tourism industry, maximizing the private sector involvement to the greatest extent possible;

(3) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

(4) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and in the United States, in order to facilitate planning in the public and private sector;

(5) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, regions, local governments, and the private and public sectors of the tourism and recreation industry, and give leadership to all organizations and individuals concerned with tourism, recreation, and national heritage conservation in the United States;

(6) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

(7) preserve the historical and cultural foundations of the Nation as a living part of community life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

(8) contribute a personal growth, health, education, and intercultural appreciation of the geography, history, and ethnicity of the United States;

(9) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and insure that present and future generations are afforded adequate tourism and recreation resources;

(10) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

(11) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and goodwill, consistent with the immigration laws, the laws protecting the public health, and the laws governing the importation of goods into the United States; and

(12) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry.

TITLE II—NATIONAL TOURISM POLICY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a) ESTABLISHMENT.—There is hereby established, as an independent entity in the executive branch of the Federal Government, a National Tourism Policy Council. The Council shall be the principal coordinating body for policies, programs, and issues relating to tourism, recreation, or national heritage conservation involving Federal departments, agencies, or instrumentalities.

(b) MEMBERSHIP.—The Council shall consist of—

(1) one person designated by the President from the Executive Office of the President, who shall serve as Chairman of the Council;

(2) the Secretary of Commerce, or the person designated by such Secretary from the Industry and Trade Administration of the Department of Commerce;

(3) the Secretary of Energy, or the person designated by such Secretary from the Department of Energy;

(4) the Secretary of State, or the person designated by such Secretary from the Department of State;

(5) the Secretary of the Interior, or the person designated by such Secretary from the National Park Service or the Heritage Conservation and Recreation Service of the Department of the Interior;

(6) the Secretary of Labor, or the person designated by such Secretary from the Department of Labor;

(7) the Secretary of Transportation, or the person designated by such Secretary from the Department of Transportation; and

(8) the Chairman of the Board established under title III of this Act.

(c) CHAIRMAN AND VICE-CHAIRMAN.—(1) The Chairman of the Council shall serve in that capacity until such time as a new Chairman is appointed by the President. Each successive Chairman shall be appointed from the Executive Office of the President.

(2) Each member of the Council (other than the Chairman) shall serve a one-year term as Vice-Chairman. The position of Vice-Chairman shall rotate in the order set forth in subsection (b)(2)–(7) of this section.

(d) ALTERNATES.—(1) Each member of the Council, other than the Chairman and the Vice-Chairman, may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend a meeting of the Council or any committee of the Council. Any member designating an alternate shall, to the maximum extent practicable, designate the same individual to serve as alternate on each occasion such member is unable to be in attendance.

(2) Any person designated as an alternate under this subsection shall be selected from those individuals who exercise significant decisionmaking authority in the Federal department involved and shall be authorized to make decisions on behalf of the member.

(e) REPRESENTATIVE FROM THE BOARD.—The Chairman of the Board created under title III of this Act shall participate in all meetings of the Council, and shall serve as liaison to the Council as a nonvoting member.

(f) MEETINGS.—(1) The Council shall conduct its first meeting not later than ninety days after the date of enactment of this Act. Thereafter, the Council shall meet not less than once every ninety days, but may meet more frequently, at the call of the Chairman, in any case of any emergency.

(2) All meetings of the Council, including any committee of the Council, shall be open to the public.

(3) A majority of the voting members of the Council shall constitute a quorum for purposes of transacting any business of the Council.

(g) EXPENSES.—Members of the Council shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Council.

EXECUTIVE DIRECTOR OF THE COUNCIL

SEC. 202. (a) APPOINTMENT.—The Chairman, with the approval of the Council, shall appoint an Executive Director who shall serve in a full-time capacity as the chief executive officer of the Council. The Executive Director—

(1) shall be an individual who, by virtue of training, experience, and attainments, is well-qualified to appraise programs and activities of the Federal Government in light of the policies set forth in title I of this Act and to formulate recommendations for the improvement of such programs and activities;

(2) shall be appointed without regard to title 5 of the United States Code governing appointments in the competitive service;

(3) shall be compensated at the rate of pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5 of the United States Code; and

(4) shall not concurrently hold any other office or position of employment with the Federal Government.

(b) AUTHORITY.—The Executive Director with the approval of the Council, may utilize such secretarial, clerical, and other assistance from the Department of Commerce as the Executive Director considers necessary to carry out the functions of the Council under this title. The Secretary of Commerce shall, upon the request of the Executive Director, make such assistance available to the Council.

(c) FEDERAL DEPARTMENT AND AGENCY ASSISTANCE.—(1) Each Federal department or agency shall furnish the Council with such information, services, and facilities as the Executive Director may request, to the extent permitted by law and within the limits of available funds.

(2) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council such personnel as the Executive Director may request for carrying out the functions of the Council. Any such detail shall be without loss of seniority, pay, or other employee status.

FUNCTIONS OF THE COUNCIL

SEC. 203. The Council shall be the principal coordinating body for policies, programs, and issues relating to tourism, recreation, or national heritage conservation involving Federal departments, agencies, or instrumentalities. Among other things, the Council shall—

(1) monitor the policies and programs of Federal departments, agencies, and instrumentalities that have a significant effect on tourism, recreation, or national heritage conservation;

(2) develop methods for resolving interagency policy conflicts that relate to tourism, recreation, or national heritage conservation;

(3) organize forums for purposes of coordinating interagency programs and discussing major policy decisions that significantly affect tourism;

(4) prepare and submit comments to Federal departments, agencies, and instrumentalities regarding policies and programs in that department, agency, or instrumentality which significantly affect tourism;

(5) seek and receive concerns and views of State and local governments and the private sector with respect to Federal programs and policies deemed to conflict with the orderly growth and development of tourism; and

(6) direct Council staff activities, including but not limited to the study of appropriate issues and the preparation of reports.

COORDINATION WITH FEDERAL DEPARTMENTS, AGENCIES, AND INSTRUMENTALITIES

SEC. 204. (a) COUNCIL CONSIDERATIONS.—Whenever the Council considers any matter that significantly affects the interests of a Federal department, agency, or instrumentality that is not represented on the Council, the Chairman may invite the head of such department, agency, or instrumentality (or a designated representative of such person) to participate in the deliberations of the Council.

(b) NOTIFICATION.—Whenever any Federal department, agency, or instrumentality is engaged or is about to engage in any activity significantly affecting travel, tourism, recreation, or national heritage conservation, it shall so notify the Council.

(c) AGENCY ACTIVITIES.—Whenever the Council determines that any Federal department, agency, or instrumentality is engaged or is about to engage in any activity significantly affecting tourism, recreation, or national heritage conservation in the United

States, the Council shall request the head of such department, agency, or instrumentality to afford the Council a reasonable period of time (except in cases of emergency) to provide comments and recommendations with respect to such activity.

(d) Review and Consideration.—Each Federal department, agency, and instrumentality engaged in developing policies and programs (including the promulgation of rules and regulations) that significantly affect tourism shall review and consider the comments and recommendations of the Council made pursuant to this title.

POLICY COMMITTEES

Sec. 205. (a) Establishment.—The Council shall establish such policy committees as it considers necessary and appropriate, each of which shall be comprised of any or all of the members of the Council and representatives from Federal departments, agencies, and instrumentalities not represented on the Council. Each such policy committee shall be designed—

(1) to monitor a specific area of Federal Government activity, such as transportation, energy and natural resources, economic development, or other such activities related to tourism; and

(2) to review and evaluate the relation of the policies and activities of the Federal Government in that specific area to tourism, recreation, and national heritage conservation in the United States.

(b) Responsibilities.—Each policy committee established under subsection (a) of this section shall review and comment on Federal agency program and planning documents that will have a substantial effect on tourism, recreation, and national heritage conservation and that are appropriate to such committee's functional responsibilities and agency representation. Each policy committee may also initiate its own agenda and discuss tourism, recreation, and national heritage conservation related issues, and problems referred to it by the tourism and recreation industry through the Council.

ADMINISTRATIVE PROVISIONS

Sec. 206. (a) Procedures.—In order to carry out the provisions of this title, the Council may establish such procedures as it considers necessary and appropriate to govern its activities under this title.

(b) GSA Services.—The General Services Administration shall provide administrative services for the Council on a reimbursable basis.

ANNUAL REPORTS

Sec. 207. Beginning with the first complete fiscal year following the date of enactment of this Act, the Council shall, no later than December 31 of each year, submit an annual report for the preceding fiscal year to the President and to the Congress. Each such report shall include—

(1) a comprehensive and detailed report of the activities and accomplishments of the Council and its policy committees;

(2) the results of Council efforts to (A) coordinate the policies and programs of Federal departments, agencies, and instrumentalities that have a significant effect on tourism, recreation, and heritage conservation, and (B) resolve interagency conflicts;

(3) an analysis of problems referred to the Council by State and local governments, the Board created under title III of this Act (or its successor), the tourism industry, or any of the Council's policy committees, together with a detailed statement of any actions taken or anticipated to be taken to resolve such problems; and

(4) recommendations for such legislative or administrative action as the Council considers appropriate.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 208. There is hereby authorized to be appropriated to carry out the provisions of this title $250,000 for the fiscal year ending September 30, 1981.

TITLE III—THE UNITED STATES TOURISM PLANNING AND IMPLEMENTATION BOARD

ESTABLISHMENT OF THE BOARD

Sec. 301. (a) Establishment.—(1) There is established, as an independent entity in the executive branch of the Federal Government, the United States Tourism Planning and Implementation Board (hereinafter in this title referred to as the "Board"). The Board shall consist of—

(A) seventeen voting members appointed in accordance with this section by the President, by and with the advice and consent of the Senate; and

(B) one nonvoting member, who shall be the Chairman of the National Tourism Policy Council established under title II of this Act.

(2) Not more than nine of the voting members of the Board may be members of the same political party.

(3) The initial voting members of the Board shall be appointed by the President within sixty days after the date of enactment of this Act.

(b) Membership.—(1) The voting members of the Board shall be appointed as follows:

(A) The members shall be selected for appointment so as to provide as nearly as practicable a broad representation of different geographical regions within the United States and of the diverse and varied segments of the tourism industry.

(B) Fourteen of the members shall be appointed from among citizens of the United States who are senior executive officers of organizations engaged in the travel and tourism industry and who are not regular full-time employees of the United States. Of such members—

(i) at least one shall be a senior representative from a labor organization representing employees of the tourism industry; and

(ii) at least one shall be a representative of the States who is knowledgeable of tourism promotion.

(C) Of the remaining three members of the Board—

(i) one member shall be a consumer advocate or ombudsman from the organized public interest community;

(ii) one member shall be an economist, statistician, or accountant; and

(iii) one member shall be an individual from the academic community who is knowledgeable in tourism, recreation, or national heritage conservation.

(c) Expenses.—Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Board.

(d) Staff.—The Board may appoint and fix the pay of such staff personnel as it considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

PURPOSE OF THE BOARD

Sec. 302. (a) Plan.—The Board shall develop a comprehensive and detailed marketing and implementation plan to stimulate and promote tourism to the United States by residents of foreign countries.

(b) Development.—(1) In developing the plan required under subsection (a), the Board shall evaluate alternative means to stimulate and promote tourism to the United States by residents of foreign countries.

(2) The Board shall consider the creation of a private corporation, federally chartered corporation, or other entity for the promotion of tourism and shall consider the appropriateness of authorizing such an entity to exercise the following powers:

(A) The establishment of branch offices in foreign countries and offices to facilitate services at United States ports-of-entry.

(B) Consultation with foreign countries on travel and tourism matters and, in accordance with applicable law, representing United States travel and tourism interests in international meetings, conferences, and expositions.

(C) Participation as a party in interest in proceedings before Federal agencies when such participation is necessary to implement or further the national tourism policy set forth in title I of this Act.

(D) Monitoring the existing and proposed policies and programs of Federal departments and agencies that significantly affect tourism—

(i) for purposes of ascertaining whether, insofar as consistent with other public policy objectives, such policies and programs are in furtherance of the objectives of the national tourism policy, and

(ii) for purposes of ascertaining instances of interagency and intraagency duplication or contradiction; and

reporting the results of its monitoring activities semiannually (or more frequently if necessary) to the appropriate departments and agencies and the Congress.

(E) Developing and administering a comprehensive program relating to consumer information, protection, and education; and

(F) Encouraging, to the maximum extent feasible, travel to and from the United States on United States carriers.

(3) The Board shall consider the development of new or expanded Federal programs for the promotion of tourism.

(c) Plan Requirements.—The plan required to be developed by the Board shall include recommendations for the following:

(1) A promotional program for enhancing and improving travel for tourism purposes to the United States by foreign visitors.

(2) The funding levels required to effectively implement such a program.

(3) If the plan recommends the creation of a private corporation, federally chartered corporation, or other entity—

(A) recommendations for the most fair and practical means of providing funding from private as well as public sources for purposes of financing the activities of the entity;

(B) a statement of the administrative cost and budget projections for the first five-year period of operation of the entity; and

(C) recommendations for personnel for the entity;

In formulating the recommendations under paragraph (3) respecting funding such an entity, the Board shall consider alternative means of funding the entity, including the feasibility of funding by means of an industry assessment, based on a percentage of gross revenues, on private business organizations engaged in the tourism and recreation industry. In formulating the recommendations respecting personnel of the entity, the Board shall consider the appropriateness of transferring present employees of the United States Travel Service to the entity. The Board shall also consider the various laws which would apply to the entity and its activities, including tax and travel laws.

(d) Report and Congressional Approval.—(1) No later than October 1, 1981, the Board shall submit the plan required by subsection (a) to both Houses of the Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2)(A) Recommendations for legislation contained in the plan submitted under paragraph (1) of this subsection shall not be approved unless within sixty days of continuous session after the date of such submission, both Houses of the Congress adopt a concurrent resolution stating in substance that they approve such recommendations (in whole or in part) and stating an intent to consider legislation to implement such recommendations.

(B) For purposes of subparagraph (A)—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the sixty-day period.

(C) The procedures set forth in section 552 of the Energy Policy and Conservation Act (42 U.S.C. 6422) shall apply to any concurrent resolution of approval of a plan submitted to the Congress under this legislation.

(3) If recommendations contained in a plan submitted to Congress are not approved in accordance with this subsection, the Board shall revise and resubmit another plan to the Congress not later than the expiration of six months after the date the recommendations in the previous plan were not approved.

ADMINISTRATIVE POWERS AND MISCELLANEOUS PROVISIONS

SEC. 303. (a) IN GENERAL.—Any federally chartered entity created pursuant to a plan of the Board approved under section 302 shall be subject to the requirements of this section.

(b) GENERAL POWERS.—The federally chartered entity shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, to the extent that such powers are not inconsistent with this title. In addition, the federally chartered entity is authorized to—

(1) enter into such contracts, agreements, or other transactions as the entity considers appropriate, relying on competitive bidding to the maximum extent practicable;

(2) accept in the name of the entity, and employ or dispose of in furtherance of the purposes of this title, any money, or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(3) appoint such officers and employees as the entity considers necessary, and fix their compensation without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, except that no officer or employee of the federally chartered entity may be compensated in excess of the rate of pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5 of the United States Code;

(4) obtain the services of experts and consultants without regard to section 3109 of title 5 of the United States Code, except that no such expert or consultant may be compensated at a rate of pay which exceeds the daily equivalent of rates in effect from time to time for positions in grade GS–18 of the General Schedule under section 5332 of title 5 of the United States Code;

(5) accept voluntary and uncompensated services of attorneys, consultants, and experts, notwithstanding any other provision of law;

(6) appoint, without compensation, such advisory committees as the entity considers appropriate; and

(7) accept and use with their consent, with or without reimbursement, such personnel, services, equipment, and facilities of departments and agencies of the Federal Government, State governments, or local political subdivisions thereof, as are necessary to conduct the activities of the entity efficiently.

(c) FEDERAL DEPARTMENT AND AGENCY ASSISTANCE.—Upon request of the chief executive officer of the federally chartered entity, each Federal department and agency shall—

(1) make its services, personnel, and facilities available, to the maximum extent practicable, to assist the federally chartered entity in the performance of its functions; and

(2) furnish the entity, subject to the provisions of applicable law, such information, suggestions, estimates, and statistics as the chief executive officer of the entity may request.

(d) PROHIBITED ACTIVITIES.—The federally chartered entity may not—

(1) provide or arrange for transportation or accommodations for persons traveling between other countries and the United States, or between points within the United States, in competition with businesses engaged in providing or arranging for such transportation or accommodations;

(2) operate industry trade shows or related activities within the United States or provide personnel or financial assistance for such trade shows or activities;

(3) engage in any activity in competition with any State or local government or any private entity;

(4) lend money to employees; or

(5) own stock in another corporation.

(e) STOCK.—The entity shall have no power to issue any shares of stock or to declare or pay any dividends.

(f) INCOME AND ASSETS.—The income and assets of the federally chartered entity shall not be used for any purpose other than carrying out the purposes of the entity, and no part of such income or assets shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(g) POLITICAL CONTRIBUTIONS.—The federally chartered entity may not contribute to or otherwise support any political party or candidate for elective public office.

(h) REPORT.—The federally chartered entity shall, no later than ninety days after the end of each fiscal year, submit an annual report for that fiscal year to the President and to the Congress. Each such report shall include a comprehensive and detailed report of the entity's operations, activities, financial condition, and accomplishments, and may include recommendations for such legislative and administrative action as the entity considers appropriate.

RECORDS AND AUDIT

SEC. 304. (a) IN GENERAL.—Any entity created pursuant to a plan of the Board approved under section 302 shall be subject to the requirements of this section.

(b) AUDITS.—The accounts of the entity shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State. The audits shall be conducted at the place or places where accounts of the entity are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the entity and necessary to facilitate the audits shall be made available to the person conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person.

(c) REPORTS.—The report of each such independent audit shall set forth the scope of the audit and shall include such statements as are necessary to present fairly the entity's assets and liabilities and surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of sources and application of funds, together with the independent auditor's opinion of those statements.

(d) GAO AUDIT.—(1) The financial transactions of the entity for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as the Comptroller General may prescribe. Any such audit shall be conducted at the place or places where accounts of the entity are normally kept. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the entity pertaining to its financial transactions and necessary to facilitate the audit, and shall be afforded full facilities for verifying transactions with the balances of securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the entity shall remain in the possession and custody of the entity.

(2) A report of each audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General considers necessary to inform the Congress of the financial operations and condition of the entity, together with such recommendations with respect thereto as he considers appropriate. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President and to the entity at the time it is submitted to the Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC. 305. (a) AUTHORIZATION.—There is authorized to be appropriated for the expenses of the Board under this title $450,000 for the fiscal year ending September 30, 1981.

(b) LIMITATION.—Nothing contained in this title shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Board which exceeds amounts provided in advance in appropriation Acts.

TITLE IV—AMENDMENTS TO THE INTERNATIONAL TRAVEL ACT

REPORTING REQUIREMENTS

SEC. 401. The first sentence of section 4 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by inserting "on all matters concerning tourism and shall report to the Under Secretary for International Trade on those matters which involve both tourism and trade" immediately before the period.

AUTHORIZATION OF APPROPRIATIONS

SEC. 402. The first sentence of section 6 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended—

(1) by striking out "and" immediately before "(8)"; and

(2) by inserting immediately before the period at the end thereof the following: "; and (9) $8,600,000 for the fiscal year ending September 30, 1981, of which not more than $100,000 shall be available to carry out section 5A of this Act".

FEDERAL ASSISTANCE FOR REGIONAL PROMOTION OF TOURISM

SEC. 403. The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by inserting after section 5 the following new section:

"SEC. 5A. (a) The Secretary is authorized to provide financial assistance to a region of not less than two States or portions of two States to assist in the implementation of a regional tourism promotional and marketing program. Such assistance shall include, but need not be limited to (1) technical assistance for advancing the promotion of travel to such region by foreign visitors, (2) expert consultants, and (3) marketing and promotional assistance.

"(b) Any program carried out under this section shall serve as a demonstration project for future program development for regional tourism promotion.

"(c) An applicant for financial assistance under this section for a particular region must demonstrate to the Secretary that—

"(1) such region has in the past been an area that has attracted foreign visitors, but such visits have significantly decreased;

"(2) facilities are being developed or improved to reattract such foreign visitors;

"(3) a joint venture in such region will increase the travel to such region by foreign visitors;

"(4) such regional program will contribute to the economic well-being of the region;

"(5) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions within such region; and

"(6) a correlation exists between increased tourism to such region and the lowering of the unemployment rate in such region.".

TIME PERIOD FOR PERSONNEL REDUCTION

SEC. 404. Section 9 of the International Travel Act of 1961 (22 U.S.C. 2128) is amended by striking out "as of September 1, 1979, and thereafter," and inserting in lieu thereof "during the period beginning October 1, 1980, and ending September 30, 1981,".

Amend the title so as to read: "An Act to establish a national tourism policy, a Cabinet-level coordinating council, and a board to develop and formulate a marketing and implementing plan to carry out the national tourism policy and a promotional program to further enhance travel to the United States by foreign visitors.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move that the Senate disagree to the House amendments, and request a conference with the House of Representatives and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. CANNON, Mr. INOUYE, Mr. MAGNUSON, Mr. LONG, Mr. HOLLINGS, Mr. PACKWOOD, Mr. WARNER, Mr. SCHMITT, and Mr. GOLDWATER conferees on the part of the Senate.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order—and with the approval of the distinguished minority leader I ask that the time of the two leaders be reduced to 5 minutes—that the following Senators each be recognized for not to exceed 15 minutes: Mr. JEPSEN, Mr. SCHMITT, and Mr. CHAFEE.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROCEDURE ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the principals who are involved in the Alaska lands debate need some additional time in order to attempt to work out some problems in relation thereto and, therefore, it would be wise for the Senate to proceed to take up another measure in the morning.

Hopefully, those parties will be able to resolve those problems and, in so doing, expedite action on the Alaska lands bill.

It will, therefore, be my intention in the morning to take up S. 1177, a bill to improve the provision of mental health services.

I have discussed this matter with the distinguished minority leader. It is his hope that he can have this matter cleared on his side of the aisle in the morning, and that the Senate could proceed with that measure immediately upon the completion of the orders for the recognition of Senators.

Mr. BAKER. Mr. President, will the majority leader yield to me briefly?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, it is true, as the majority leader represented, that we were not able to clear the mental health bill for action tonight. We had thought at one time it might be possible to lay down that measure this evening and it would be the pending business, of course, then, on tomorrow.

But I am hopeful, and I am reasonably sure, that we can clear that matter for the unanimous consent in the morning. We are on notice now, I believe, and the majority leader has indicated he wishes to proceed to the consideration of that measure, in any event. So all Members on this side should be on notice, then, that there is a good possibility that the mental health bill will be the pending business when the Senate convenes in the morning.

I will continue to try to obtain clearance to grant unanimous consent to accomplish that purpose.

Mr. President, I thank the majority leader for yielding.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

In that event, there will be rollcall votes, and they could begin early, on the mental health bill.

Upon the disposition of that measure, it is hoped that the Senate would be prepared to return to the consideration of the Alaska lands bill. But, in the event the parties who are working on that bill need a little additional time, in the meantime, I hope that the minority leader would be able to clear some other legislation so that the Senate could proceed without any loss of time while awaiting further action on the Alaska lands bill.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour previously agreed upon, namely, 9 o'clock tomorrow morning.

The motion was agreed to; and, at 7:28 p.m., the Senate recessed until Thursday, July 24, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 23, 1980:

DEPARTMENT OF STATE

William Jennings Dyess, of Alabama, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

Diego C. Asencio, of Florida, a Foreign Service officer of class 1, to be Assistant Secretary of State for Consular Affairs.

Peter Jon de Vos, of Florida, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of lieutenant (junior grade):

Charles E. McMahon
Johnny L. Hollowell
Christopher T. Boegel
George A. Cognet
James W. Kelly
Daniel A. Neptun
Earl W. Fairchild, Jr.
Gary J. Fox
Robert P. Rutledge
Lawrence V. Williams
John C. Gifford
Robert E. Carson
David B. Hill
Douglas J. Wisniewski
Kevin P. Mizak
Robert W. Nutting
Bradley M. Jacobs
Chet A. Hartley
Gregory A. Kmiecik
Leland L. Jones
Jeffrey O. Stull
Allen Lotz
Franz P. Schiffmann
George G. Arbutina
Kurt W. Nancarrow
James I. Crowley
David B. Mcleish
Francis J. Sturm
David C. Spillman
Mark Boe
Walter F. Pawul, Jr.
Jeffrey W. Mehr
Christopher A. Abel
Norris E. Merkle
Robert C. Parker
William D. Wiedenhoeft
Frank E. Mullen
Keith C. Gross
Steven L. Hein
James S. Gozzo
Joel F. Sasscer
Jon D. Allen
William H. Jones
Dan S. Takasugi
Christopher J. Conklin
Carl K. Anderson
Kevin S. Cook
Kevin A. Buford
Dane S. Egli
Frank H. Leidy
Thomas K. Ehni
Douglas B. Lane
Robert G. Stephens
Jeffrey D. Steib
Wayne S. Harral
Charles N. Dickerson
William J. Belmondo
George D. Walker, Jr.
Mark B. Case
Eric M. Amberg
Donald R. Seers
Bruce E. Viekman
Patrick T. Kelly
Kenneth L. King, Jr.
Jeffrey R. Pettitt
Curtis L. Dubay
Bruce M. Ross
Michael L. Blair
Charles S. Johnson, Jr.
John M. Avallone
Richard L. Boy, Jr.
Timothy R. Girton
Donald R. Wright
Paul K. Larson
Robert C. Ayer
Ronald A. Gan
Neil E. Vandevoorde
Daniel D. Cronin
David P. Mcdede
David C. Aurand
Michael J. Burgard
Glen A. Robbins
Mark J. Fiebrandt
William R. Grawe
Robert F. Corbin
Stephen L. Sielbeck
Jon M. Watson
Michael S. Swegles
Douglas G. Becker
David L. Chilton
Dana E. Ware
Richard J. Preston, Jr.
Francis A. Dutch
Daniel K. Oliver
Kevin A. Redig
Kevin E. Lodeen
John D. McCann, Jr.
Kenneth L. Savoie
Neal J. Armstrong
Emil Sikorsky III
Kelvin E. Gates
Stephen J. Darmody

Peter J. Boynton
Herbert A. Black III
Richard W. Hatton
Kenneth Carvalho
Steven L. Holcomb
John H. Russell
Donald A. Moore, Jr.
Donald L. Sturdivant, Jr.
David A. Medina
Neil O. Buschman
David H. Sump
Michael B. Amonson
Edward G. Andersen
Joseph T. Ahern
David R. King
Alexander O. Simonka, Jr.
Michael J. Scanlon, Jr.
Jay P. Blinkinsop
David G. Holman
Michael J. Hejduk
Paul H. Crissy
Anthony H. Rose
Thomas L. Koontz
Philip T. Daniels
William G. Boehm
Vincent B. Mitchell III
Daniel R. May
William J. Semrau
Eric M. Jewess
David M. Sinnott
Edward E. Baker
Michael J. Sigmon
James K. Louttit
Steven V. Bain
Mark A. Kowalski
Edward R. Saleeby
Roy A. Nash
Jeffrey R. Clayton
John E. Long
Bruce D. Branham
Richard R. Schaefer
Marvin P. Shook, Jr.
Patrick J. Nemeth
John E. Frost
Keith D. Lepage
Mark E. Hesse
Jeffrey D. Holmgren
John G. Hansen
Terrence W. Walsh
Douglas S. Daeffler
Timothy J. Leahy
Norbert D. Rudek
Kurt J. Heinz
Carlton J. Ditto
William A. Dyson
James W. Wright
Phillip J. Johnson
John H. Sweeney
Robert S. Spears, Jr.
Jeffrey S. Gorden
Larry J. Ryan
Rodney D. Raines III
George H. Self, Jr.
Rodrick M. Ansley
Scott H. Evans
Eric R. Longfellow
John D. Wolch
Steve T. Carter
Richard J. Digiovanna
Mark P. Blace
John J. Andrezejewski
Steven W. Ellis
Vincent M. Campos
Kevin L. Maehler
David D. Skewes
Charles D. Pratt
David A. Masiero
Gerald R. Girard
Robert E. McKew, Jr.
John H. Korn
Edwin H. Daniels, Jr.
Dennis M. Holland
James B. Stricker III
John T. Costello, Jr.
P. Christopher Kelly
Larry E. Duerr
Davin R. Cilley
Gilbert W. Fonger
Dan Larson
David F. Quick
Shane C. Ishiki
Kevin D. Krumdieck
Bennett T. Bonomi
Randell B. Sharpe
Steven P. Rudolph
Timothy V. Skuby
Charles W. Jenkins
Everett F. Rollins III
John S. Howard
Stephen J. Danscuk
Patrick H. Stadt
Kenneth B. Parris
Mark P. Watson
Glenn G. Miller
Scott D. Genovese
Francis J. Arland
Marc C. Cruder
Richard M. O'Rourke
Robert E. Mobley
Scot T. Tripp
George A. Gianopoulos III
Patrick J. Dietrich
Mark A. Feldman
Charles Rice
Michael M. Millar
Rafael L. Quinquilla
Donald A. Hermanson
Gilbert Flores, Jr.
Michael A. Jett
Wallace T. Williamson
Robert S. Disbrow
William M. Slabonik
James L. Durrett
Andrew J. Kot, Jr.
Garry C. Garner

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Jason Alfred Aisner, [redacted].
Brig. Gen. Robert Melvin Carter, [redacted].
Brig. Gen. Jack Howard King, [redacted].
Brig. Gen. Joseph Melvin Lojek, [redacted].
Brig. Gen. Charles Dunford Palmer, [redacted].
Brig. Gen. Emory Conrad Parrish, [redacted].
Brig. Gen. Herbert Joseph Riley, [redacted].
Brig. Gen. Will Hill Tankersley, [redacted].

To be brigadier general

Col. Max Baratz, [redacted].
Col. Richard Ogden Christiansen, [redacted].
Col. Ralph William Coan, Jr., [redacted].
Col. Craig Crawford Esary, [redacted].
Col. William Holman Gibbes, [redacted].
Col. Everett Hughes Holle, [redacted].
Col. William Stanton Hollis, [redacted].
Col. Robert Stratton Holmes, [redacted].
Col. Talmadge Jefferies Jacobs, [redacted].
Col. Oral Dean Nelson, [redacted].
Col. Donald Adrian Pearson, [redacted].
Col. Kenneth Joseph Printen, [redacted].
Col. William Arthur Richter, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code sections 593(a) and 3385:

To be major general

Brig. Gen. John Joseph Dillon, [redacted].
Brig. Gen. Joseph Patrick Hegarty, [redacted].
Brig. Gen. Harold Joseph Lavell, [redacted].
Brig. Gen. Anthony Louis Palumbo, [redacted].

To be brigadier general

Col. James Thomas Dennis, [redacted].
Col. Kenneth William Dermann, [redacted].
Col. Robert Frank Ensslin, Jr., [redacted].
Col. John Luke Franklin, [redacted].
Col. Luis Ernesto Gonzales-Vales, [redacted].
Col. James Floyd Ingram, [redacted].
Col. Vernon Elwood James, [redacted].
Col. William John Jefferds, [redacted].
Col. Lawrence Allen Keller, [redacted].
Col. Robert Lee Lott, III, [redacted].
Col. Robert Lester Merchant, [redacted].
Col. Alan Craig Roland, [redacted].
Col. Duane Ronald Smith, [redacted].
Col. Clinton Elton Wallace, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Frank Jose Schober, Jr., [redacted].

To be brigadier general

Col. Robert Wayne Cundiff, [redacted].
Col. Calvin George Franklin, [redacted].
Col. Gray Williamson Harrison, Jr., [redacted].
Col. Francis Edward Jones, Jr., [redacted].
Col. Jerome Martin Shinaver, Jr., [redacted].

IN THE NAVY

Vice Adm. David F. Emerson, U.S. Navy, (age 53) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. J. William Cox, Medical Corps, U.S. Navy, for appointment as Chief of the Bureau of Medicine and Surgery in the Department of the Navy for a term of 4 years with the grade of vice admiral in accordance with title 10, United States Code, section 5137(a).

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

First lieutenant to captain

Abbott, Gerald W., [redacted].
Abbruscato, James L., [redacted].
Aboe, Errol S., [redacted].
Achramowicz, Stephen W., [redacted].
Acone, Gregory L., [redacted].
Acree, Richard A., [redacted].
Adair, Gerald G., [redacted].
Adams, James A., [redacted].
Adams, John W., [redacted].
Adams, Paul J., [redacted].
Adams, Richard A., [redacted].
Adams, William D., Jr., [redacted].
Aguirre, Ralph G., [redacted].
Ahrens, Glenn D., [redacted].
Ain, Robert A., Jr., [redacted].
Akeo, Alvin L. K., [redacted].
Akins, Billy R., [redacted].
Alanis, Arnulfo S., [redacted].
Albaugh, Gary L., [redacted].
Albert, David L., [redacted].
Albright, Mark D., [redacted].
Albright, Randolph A., [redacted].
Alcorn, Richard L., [redacted].
Alderman, Ronald G., [redacted].
Aldrich, Gary L., [redacted].
Alex, Steven V., [redacted].
Alfano, Salvatore, [redacted].
Alford, Edgbert, [redacted].
Allard, Gary S., [redacted].
Allen, David R., [redacted].
Allen, Gordon V., [redacted].
Allen, Mark R., [redacted].
Allen, Michael D., [redacted].
Allen, Robert W., [redacted].
Allen, Stephen J., [redacted].
Allen, Tim M., [redacted].
Allenback, Albert A., Jr., [redacted].
Alley, Bruce E., [redacted].
Alley, Richard L., [redacted].
Alston, Warner L., [redacted].
Altendorf, Dennis A., [redacted].
Alvarez, Daniel A., [redacted].
Alvarez, Hector R., [redacted].
Alvstad, Martin C., [redacted].
Alwell, Robert J., [redacted].
Amadio, Louis, [redacted].
Amburn, Elton P., [redacted].
Amidon, Phillip B., [redacted].
Ammon, Stephen K., [redacted].
Anders, Melvin D., [redacted].
Andersen, Allen E., [redacted].
Andersen, Stephen J., [redacted].
Anderson, Albert L., [redacted].
Anderson, Bruce R., [redacted].
Anderson, Carolyn N., [redacted].
Anderson, Charles W., Jr., [redacted].
Anderson, Dale R., [redacted].
Anderson, Daniel P., [redacted].
Anderson, Darrell E., [redacted].
Anderson, Dennis W., [redacted].
Anderson, Donald L., [redacted].
Anderson, Gerald, [redacted].
Anderson, Jerry D., [redacted].
Anderson, Kenneth V., [redacted].
Anderson, Lloyd L., Jr., [redacted].
Anderson, Mark W., [redacted].
Anderson, Robert O., [redacted].
Anderson, Steven D., [redacted].
Anderson, Steven T., [redacted].
Anderson, William G., Jr., [redacted].
Andert, Michael J., [redacted].
Andrews, Mark W., [redacted].
Angle, Thomas E., [redacted].
Angus, Gary M., [redacted].
Apel, Larry P., [redacted].
Aponte, Carmen R., [redacted].
Aponte, Ricardo, [redacted].
Appelhans, Louis J., [redacted].
Archambault, Gary J., [redacted].
Arendsee, Douglas W., [redacted].
Arlington, Christopher A., [redacted].
Armie, Steven E., [redacted].
Armistead, Gary A., [redacted].
Armstrong, Alan D., [redacted].
Armstrong, William C., [redacted].
Arnold, Christopher D., [redacted].
Arnold, Don G., [redacted].
Arnold, Stanley W., Jr., [redacted].
Aronson, Fred D., [redacted].
Arrieta, Natividad, Jr., [redacted].
Arrington, Curtis H., III, [redacted].
Arseneau, Gary J., [redacted].

Artery, Duane R., [redacted].
Artz, Phyllis E., [redacted].
Ashton, Mark S., [redacted].
Aslin, James E., [redacted].
Aten, William G., III, [redacted].
Atkins, George B., [redacted].
Atkins, Robert L., Jr., [redacted].
Attarian, Howard W., [redacted].
Atzmiller, Paul E., [redacted].
Augustine, Charles D., [redacted].
Augustyn, Michael J., [redacted].
Aultman, Ronnie W., [redacted].
Auschwitz, Freddie G., [redacted].
Austin, Judith P., [redacted].
Austin, Marion, [redacted].
Austin, Steven J., [redacted].
Austin, Terry W., [redacted].
Avalos, Mario T., [redacted].
Aydelotte, Roy R. L., Jr., [redacted].
Baarsch, Thomas E., [redacted].
Babineaux, Preston J., Jr., [redacted].
Baca, Michael, [redacted].
Baccarella, Peter C., Jr., [redacted].
Bachran, Lance W., [redacted].
Bacon, Catherine T., [redacted].
Badger, Brian R., [redacted].
Bagnell, Everett J., Jr., [redacted].
Bahnij, Robert B., [redacted].
Bailey, Timothy C., [redacted].
Bain, Thomas L., [redacted].
Baker, Joel M., [redacted].
Baker, John G., [redacted].
Baker, Larry W., [redacted].
Baker Owen B., Jr., [redacted].
Baker, Thomas E., [redacted].
Bakun, Walter S., [redacted].
Balale, Michael E., [redacted].
Baldwin, Clark J., [redacted].
Baldwin, David A., [redacted].
Baldwin, Gary A., [redacted].
Baldwin, Margaret K., [redacted].
Baldy, Thomas F., [redacted].
Balent, Bruce F., [redacted].
Ball, Murray, J., [redacted].
Ball, Robert L., [redacted].
Ballinger, Franklin F., [redacted].
Balogh, Michael J., [redacted].
Banghart, David A., [redacted].
Barber, William D., Jr., [redacted].
Barclay, Richard C., [redacted].
Barker, Alan G., [redacted].
Barker, David V., [redacted].
Barker, Randy D., [redacted].
Barlow, Samuel R., III, [redacted].
Barnes, Michael T., [redacted].
Barnes, Robert M., [redacted].
Barnes, Roger W., [redacted].
Barnett, Dennis L., [redacted].
Barninger, David R., [redacted].
Barr, George E., III, [redacted].
Barr, Henry L. E , [redacted].
Barr, Jay R., [redacted].
Barry, Bruce N., [redacted].
Barthold, Bruce R., [redacted].
Bartlett, Michael W., [redacted].
Barton, Charles K., [redacted].
Barton, Sallie H., [redacted].
Barton, Terry L., [redacted].
Barwick, Sidney K., [redacted].
Baryza, Francis X., [redacted].
Barzellone, Stephen F., [redacted].
Basili, Carl A., [redacted].
Bass, Cary A., [redacted].
Bassi, Joseph P., [redacted].
Bateman, Charles S., [redacted].
Bates, Dan R., [redacted].
Bates, Hobart C., [redacted].
Bates, Richard H., Jr., [redacted].
Batson, William L., [redacted].
Battagliola, John W., [redacted].
Batten, Foster T., [redacted].
Batten, Reginald W., [redacted].
Bauer, Robert L., [redacted].
Baugh, Thomas, [redacted].
Baughman, Richard E. [redacted].
Bauknight, Lavoy D., Jr., [redacted].
Baum, Christopher, [redacted].
Baumann, Martin, J., [redacted].
Baumert, William J., [redacted].
Baumgartner, Daniel M., [redacted].
Bauries, Brian W., [redacted].
Baxter, Tim D., [redacted].
Bayles, George W., [redacted].
Bayliss, Thomas E., [redacted].
Bayne, Robert A., [redacted].
Beam, James M., [redacted].
Beam, Thomas R., [redacted].
Bean, David M., [redacted].
Bean, Donald W., [redacted].
Beard, Nelson L., [redacted].
Bearden, David K., [redacted].
Beauchemin, Raymond J., Jr., [redacted].
Beaver, John W., Jr., [redacted].
Bechtel, Peter A., [redacted].
Beck, Richard A., [redacted].
Beckham, Garry M., [redacted].
Beckwith, Douglas C., [redacted].
Bedford, John C., [redacted].
Bednarz, Eugene J., [redacted].
Beem, Ronald D., [redacted].
Beers, Robert A., [redacted].
Behr, Stephen E., [redacted].
Beidel, David S., [redacted].
Beil, David L., [redacted].
Beisel, James, [redacted].
Beisser, Frederick G., [redacted].
Beitel, Richard J., [redacted].
Beitel, Thedodore C., [redacted].
Belkowski, Robert A., Jr., [redacted].
Bell, Dana H., [redacted].
Bell, Frederick J., [redacted].
Bell, Larry L., [redacted].
Bell, Mark R., [redacted].
Bell, Steve W., [redacted].
Bellomy, Robert S., [redacted].
Belt, Robert B., [redacted].
Belyeu, Troy E., [redacted].
Benda, Mark F., [redacted].
Bender, Thomas M., [redacted].
Benjamin, Ronald G., [redacted].
Bennett, Arthur L., Jr., [redacted].
Bennett, Raul C., [redacted].
Bennett, Timothy W., [redacted].
Benninger, Roger H., [redacted].
Benningfield, Steven A., [redacted].
Beno, Mikael S., [redacted].
Benson, William R., [redacted].
Bent, James E., III, [redacted].
Bentley, Roy M., [redacted].
Bereuter, Tim E., [redacted].
Berg, Robert L., [redacted].
Bergeron, Steven J., [redacted].
Berggren, Stephen R., [redacted].
Bergjans, Steven B., [redacted].
Bergmann, Patrick S., [redacted].
Berry, George T., [redacted].
Berryman, Donald E., [redacted].
Bettesworth, William P., [redacted].
Betzold, Robert W., [redacted].
Beveridge, William B., [redacted].
Beverley, Donald B., [redacted].
Beyer, Merrill L., III, [redacted].
Bidgood, James K., Jr., [redacted].
Bielanski, Gordon, [redacted].
Bierbaum, Neal R., [redacted].
Bierig, Barry N., [redacted].
Bietry, Alan S., [redacted].
Bigos Adam W., [redacted].
Bingham, Michael W., [redacted].
Binkley, Robert G., [redacted].
Biondo, Samuel A., Jr., [redacted].
Bircher, Jeffrey R., [redacted].
Bird, Christopher O., [redacted].
Bird, Steven K., [redacted].
Birdsall, Ian A., [redacted].
Birt, Harold E., Jr., [redacted].
Bishop, Robert D., [redacted].
Bitler, Richard L., [redacted].
Bivona, Anthony C., [redacted].
Bjurstrom, David R., [redacted].
Blackhurst, Jack L., [redacted].
Blackman, James F., [redacted].
Blair, George R., Jr., [redacted].
Blakeley, Carl K., [redacted].
Blakely, John E., [redacted].
Blanchet, Richard J., [redacted].
Blanchette, Stephen M., [redacted].
Blaszkowski, Bronislavs R., [redacted].
Blazey, James D., [redacted].
Bloomdahl, Richard L., [redacted].
Bloomer, Daniel L., [redacted].
Blouin, George K., [redacted].
Bluhm, Raymond M., [redacted].
Blunden, Robert J., Jr., [redacted].
Bodenhamer, Charles D., [redacted].
Bodenheimer, Michael W., [redacted].
Boesch, Brian P., [redacted].
Bogert, Jean, [redacted].
Boggs, Dwight R., [redacted].
Boggs, John A., [redacted].
Boggs, Paul R., [redacted].
Bognar, Vance J., [redacted].
Bohon, James L., [redacted].
Bohon, Thomas G., [redacted].
Boles, Gordon D., [redacted].
Bolli, John H., Jr., [redacted].
Bollo, Timothy R., [redacted].
Boltjes, Michael B., [redacted].
Bond, Kyle C., [redacted].
Bond, Michael E., [redacted].
Bondzeleske, Edward A., [redacted].
Bongarts, Monty D., [redacted].
Bonillavaldez, Jesus M., [redacted].
Bonsi, David J., [redacted].
Bontadelli, James A., Jr., [redacted].
Booker, Grover L., [redacted].
Boone, Harold L., [redacted].
Boorn, James D., [redacted].
Booth, Robert W., [redacted].
Booth, Thomas E., [redacted].
Booth, William H., [redacted].
Boothe, Thomas N., Jr., [redacted].
Borah, Jack A., [redacted].
Bordas, William J., [redacted].
Borgersen, Karl N., [redacted].
Borgiasz, William S., [redacted].
Borochoff, Steve E., [redacted].
Borton, Teresa A., [redacted].
Bortz, James R., [redacted].
Bosserman, David N., [redacted].
Bottemiller, Kenneth W., [redacted].
Bottenfield, Mark T., [redacted].
Bouchard, Christopher D., [redacted].
Bower, Martha H., [redacted].
Bowlby, Randall B., [redacted].
Bowling, John D., [redacted].
Bowman, Richard E., [redacted].
Boyce, Joseph W., Jr., [redacted].
Boyce, Steven C., [redacted].
Boyd, Donald E., [redacted].
Boyd, Lowell R., Jr., [redacted].
Boyer, John C., III, [redacted].
Boyless, James A., [redacted].
Boyt, Raymond E., [redacted].
Bozarth, Stephen E., [redacted].
Bozek, Blair L., [redacted].
Bradbury, Frank C., [redacted].
Bradbury, Raymond C., [redacted].
Bradley, Charles T., [redacted].
Bradshaw, Richard C., [redacted].
Bragg, Robert C., [redacted].
Bramlitt, Larry T., [redacted].
Brandau, Richard A., [redacted].
Brandeberry, Frank A., [redacted].
Brashear, Michael D., [redacted].
Braswell, James C., Jr., [redacted].
Bratina, Tuiren A., [redacted].
Bratlien, Michael D., [redacted].
Braun, Werner W. F., [redacted].
Braydich, Michael D., [redacted].
Brede, Herbert C., III, [redacted].
Breeze, Richard C., [redacted].
Brejwo, Joseph S., [redacted].
Brendel, Lance C., [redacted].
Brennan, Joseph A., [redacted].
Brewen, Cheney C., III, [redacted].
Brewer, Frank H., [redacted].
Brewer, Roy E., [redacted].
Brezovic, Joseph L., Jr., [redacted].
Brickell, James L., [redacted].
Brickman, Jerry M., [redacted].
Briggs, Edward F., [redacted].
Bright, Daniel W., [redacted].
Brigman, Stephen C., [redacted].
Bringman, Marc A., [redacted].
Brisco, Worthey O., Jr., [redacted].
Briscoe, Norman R., [redacted].
Britto, John D., [redacted].
Brock, Stephen F., [redacted].
Brockman, John C., [redacted].

Brooke, Robert H., [redacted].
Brooks, Charles P., Jr., [redacted].
Brooks, Greg, [redacted].
Brooks, Michael E., [redacted].
Brooks, Terry L., [redacted].
Broome, William H., [redacted].
Brosky, Vernon J., Jr., [redacted].
Brotchie, Craig F., [redacted].
Brough, Rulon L., [redacted].
Brown, Bruce A., [redacted].
Brown, David L., [redacted].
Brown, Donald F., [redacted].
Brown, George T., [redacted].
Brown, Kirk L., [redacted].
Brown, Merritt J., [redacted].
Brown, Paul D., Jr., [redacted].
Brown, Paul R., [redacted].
Brown, Robert J., [redacted].
Brown, Ronald D., [redacted].
Brown, Stephen D., [redacted].
Brown, Steven C., [redacted].
Brown, Tully W., [redacted].
Brown, Walter J., Jr., [redacted].
Browning, Robert W., [redacted].
Brozena, Anthony G., Jr., [redacted].
Bruington, Michael L., [redacted].
Brumfield, Milford, Jr., [redacted].
Brust, Richard A., [redacted].
Bryan, Reginald B., [redacted].
Bryant, Charles E., [redacted].
Bryant, Frederic B., Jr., [redacted].
Bryant, Ronald G., [redacted].
Bryant, Seth C., Jr., [redacted].
Bryce, Edward G., [redacted].
Brychcy, Richard, [redacted].
Bryden, John R., [redacted].
Buck, Robert S., [redacted].
Buckner, Louis W., [redacted].
Buckwalter, Joseph M., [redacted].
Buendel, Gerald A., [redacted].
Bugbee, Richard L., Jr., [redacted].
Buis, Gary L., [redacted].
Bulfinch, Eric W., [redacted].
Bullard, Ronald E., [redacted].
Bunker, David C., [redacted].
Buntyn, John R., Jr., [redacted].
Burchby, Dale D., [redacted].
Burckle, Edwynn L., [redacted].
Burdette, James W., [redacted].
Bures, Gary L., [redacted].
Burge, Andrew L., [redacted].
Burge, Edwin P., [redacted].
Burge, James L., [redacted].
Burger, James E., [redacted].
Burgess, Edward P., Jr., [redacted].
Burke, Kenneth J., [redacted].
Burkhart, Joseph R., [redacted].
Burlin, Jack W., [redacted].
Burmeister, William H., [redacted].
Burnett, Louis R., [redacted].
Burns, Joseph E., [redacted].
Burns, Patrick A., [redacted].
Burnside, Robert M., [redacted].
Burt, Michael A., [redacted].
Busby, Thomas L., [redacted].
Busby, William S., III, [redacted].
Bush, George W., [redacted].
Bush, Robert A., [redacted].
Bushko, John A., [redacted].
Butler, Bradley L., [redacted].
Butler, Larry W., [redacted].
Butts, Dennis D., [redacted].
Buzzell, William A., [redacted].
Byers, Richard E., [redacted].
Bynum, David J., [redacted].
Bynum, Stanley D., [redacted].
Byrd, John L., [redacted].
Byrd, Robert W., [redacted].
Byrne, Carolyn E., [redacted].
Byrne, John M., [redacted].
Byron, Michael W., [redacted].
Byzewski, Robert H., [redacted].
Caballero, Jaime C., Jr., [redacted].
Cain, Douglas N., [redacted].
Caissie, Paul A., [redacted].
Caldwell, George A., [redacted].
Caldwell, Mark S., [redacted].
Caldwell, Richmond H., Jr., [redacted].
Calkins, John W., [redacted].
Callahan, Joseph R., Jr., [redacted].
Callaway, Bruce E., [redacted].
Callender, Marion E., Jr., [redacted].
Campbell, Christopher M., [redacted].
Campbell, Clarence L., Jr., [redacted].
Campbell, Howard, [redacted].
Campbell, James L., [redacted].
Campbell, Patrick G., [redacted].
Campbell, Robert E., [redacted].
Campbell, William E., [redacted].
Canitz, James A., [redacted].
Canny, Regis, [redacted].
Capozzi, Rocky P., [redacted].
Capp, Thomas W., [redacted].
Capp, William A., [redacted].
Capples, Charles J., [redacted].
Capps, Lawrence D., [redacted].
Caraway, Michael R., [redacted].
Carel, Dennis C., [redacted].
Cargile, Terry M., [redacted].
Carignan, Edquard A. J., [redacted].
Carlton, Gaylord K., [redacted].
Carlton, Patrick L., [redacted].
Carmichael, Bruce W., [redacted].
Carmon, Gregory N., [redacted].
Carpenter, Ben A., Jr., [redacted].
Carpenter, Ronald L., [redacted].
Carr, Jeffrey C., [redacted].
Carr, Ralph R., [redacted].
Carrieres, Daniel J., [redacted].
Carrington, George W., Jr., [redacted].
Carroll, David D., [redacted].
Carroll, Dean L., [redacted].
Carroll, Edward J., [redacted].
Carroll, Jerry L., [redacted].
Carron, Norman R., [redacted].
Carson, Jack S., [redacted].
Carter, Christopher W., [redacted].
Carter, Dorothky K., [redacted].
Carter, Edward M., [redacted].
Carter, Glen, [redacted].
Carter, Hugo, [redacted].
Casaday, Patrick R., [redacted].
Casement, William J., [redacted].
Casey, Kevin C., [redacted].
Casey, Richard J., [redacted].
Casey, Rodney N., [redacted].
Cason, Milton C., Sr., [redacted].
Castelli, Garry L., [redacted].
Catts, Erwin C., III, [redacted].
Caulder, Leland M., Jr., [redacted].
Cavanagh, James B., [redacted].
Cavit, Dennis D., [redacted].
Cawl, George A., [redacted].
Cecil, Douglas M., [redacted].
Cernik, Glen R., [redacted].
Cervone, Daniel J., [redacted].
Chadwick, John S., [redacted].
Chag, Gary S., [redacted].
Chandler, Carrol H., [redacted].
Chandler, Clifford H., Jr., [redacted].
Chandler, Kathleen D., [redacted].
Chandler, Roy G., [redacted].
Chaney, James H., [redacted].
Chapman, Conrad O., [redacted].
Chapman, Raymond C., Jr., [redacted].
Charek, Dennis J., [redacted].
Charles, James P., [redacted].
Charles, Jeffery R., [redacted].
Charters, Patrick S., [redacted].
Chase, Michael L., [redacted].
Chatham, Michael C., [redacted].
Chatraw, Darrell E., [redacted].
Chauret, Keith N., [redacted].
Chealander, Steven R., [redacted].
Cheatham, Robert T. III, [redacted].
Cheek, Kevin E., [redacted].
Cherry, Dennis L., [redacted].
Chesser, David R., [redacted].
Chestler, Harry C., [redacted].
Childress, Creed T., Jr., [redacted].
Childs, Henry, [redacted].
Chin, Marvin L., [redacted].
Chiniara, Anthony J., [redacted].
Chinn, Glen W., [redacted].
Chmar, Mark S., [redacted].
Choate, Timothy J., [redacted].
Chrisinger, Lance E., [redacted].
Christensen, Boyd W., [redacted].
Christopher, Charles H. II, [redacted].
Cisler, Douglas G., [redacted].
Clancy, James J., Jr., [redacted].
Clark, Daniel C., [redacted].
Clark, David F., [redacted].
Clark, Fred P., [redacted].
Clark, James G., [redacted].
Clark, Trudy H., [redacted].
Clark, Turner R., Jr., [redacted].
Clarke, Marvin C., [redacted].
Clarkson, Thomas P., Jr., [redacted].
Claude, Robert A., [redacted].
Clavin, Maria A., [redacted].
Clawson, Frank W., [redacted].
Clayson, Rickie L., [redacted].
Cleaveland, Richard H., [redacted].
Clemens, Terry L., [redacted].
Clemens, William A., [redacted].
Clements, Gary A., [redacted].
Clemons, Eugene, Jr., [redacted].
Clifford, James A., [redacted].
Clifton, Danny K., [redacted].
Cline, Richard L., [redacted].
Cloyd, John D., [redacted].
Cluck, Stewart C., [redacted].
Coats, Robert L., [redacted].
Codella, John L., Jr., [redacted].
Coffee, William R., [redacted].
Coker, Oliver D. III, [redacted].
Cole, Garry W., [redacted].
Cole, Jerry D., [redacted].
Colegrove, Charles M., [redacted].
Coleman, Allen D., [redacted].
Coleman, Donald C., [redacted].
Coleman, Stephen R., [redacted].
Coley, David Leslie, [redacted].
Collene, Dennis M., [redacted].
Collette, Randolph P., [redacted].
Colliander, Richard J., [redacted].
Collier, Charles E., [redacted].
Collier, George A., [redacted].
Colligan, James P., [redacted].
Collins, Dennis F., [redacted].
Collins, James W., Jr., [redacted].
Collins, Mark R., [redacted].
Coln, Barry K., [redacted].
Colotta, James E., [redacted].
Coltharp, Douglas C., [redacted].
Colton, Thomas H., [redacted].
Columbo, Ronald, [redacted].
Colvin, Robert W., II, [redacted].
Combs, Terry L., [redacted].
Comins, Donald J., [redacted].
Comley, Richard W., [redacted].
Compton, Jeppie R. L., [redacted].
Conaway, Richard L., [redacted].
Condit, Roger B., III, [redacted].
Conklin, Kurt S., [redacted].
Conklin, William G., II, [redacted].
Conley, Adrian C., [redacted].
Conley, Clare L., [redacted].
Conley, Raymond E., [redacted].
Connelly, Norris L., [redacted].
Connors, Bruce A., [redacted].
Conrad, William H., Jr., [redacted].
Conrardy, Richard R., [redacted].
Conrey, William M., Jr., [redacted].
Conroy, Daniel P., [redacted].
Converse, Curtis D., [redacted].
Cook, Edward M., [redacted].
Cook, Joseph J., [redacted].
Cook, Michael J., [redacted].
Cook, Murline V., [redacted].
Cooner, Walter J., Jr., [redacted].
Cooper, John D., [redacted].
Cooper, Ralph E., [redacted].
Cooper, Robert E., [redacted].
Cooper, Virgil L., [redacted].
Coppock, Kelvin R., [redacted].
Copsey, Gary L., [redacted].
Corbett, Dwight G., [redacted].
Corey, Michael T., [redacted].
Corfman, James C., [redacted].
Corley, Denver G., [redacted].
Cornelius, Russell K., [redacted].
Cornell, Thomas T., III, [redacted].
Corrigan, Patrick J., [redacted].
Corsaro, John A., Jr., [redacted].
Costello, Michael E., [redacted].
Cote, Jeffrey A., [redacted].
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Counts, Richard W., [redacted].
Court, Kevin, [redacted].
Cox, Billy J., [redacted].
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Crabtree, Eric W., [redacted].
Craft, Billy R., [redacted].
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Crane, John R., [redacted].
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Crean, Patrick H., [redacted].
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Crook, Jimmy C., [redacted].
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Crouch, David R., [redacted].
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Curione, Robert G., [redacted].
Curran, Stephen M., [redacted].
Curry, Sherman L., Jr. [redacted].
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Curtiss, Glenn D., [redacted].
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Dang, Garon G., [redacted].
Daniel, Jean C., [redacted].
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Ford, Jimmy L., [redacted].
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Gella, Sarah, [redacted].
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Gentry, Gailon L., [redacted].
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Rowley, Douglas S., [redacted]
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Stuart, Archie E., [redacted].
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Surman, Richard D., [redacted].
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Wiggin, Gary C., [redacted].
Wiggins, Tony L., [redacted].
Wilbanks, Harry W., [redacted].
Wilcox, Brent K., [redacted].
Wilde, Linn E., III, [redacted].
Wilder, Lawrence E., [redacted].
Wiley, Danny W., [redacted].
Wilkes, Lillie F., [redacted].
Wilkinson, James E., [redacted].
Willeford, Hugh B., [redacted].
Willemsen, Larry J., [redacted].
Williams, Alan P., [redacted].
Williams, Ben C., [redacted].
Williams, Billy G., [redacted].
Williams, Charles P., [redacted].
Williams, Henry B., [redacted].
Williams, James C., [redacted].
Williams, John H., [redacted].
Williams, Keith L., [redacted].
Williams, Lewis H., [redacted].
Williams, Richard, [redacted].
Williams, Robert L., [redacted].
Williams, Robert L., [redacted].
Williams, Walter G., [redacted].
Williamson, Brian D., [redacted].
Williamson, Keith E., [redacted].
Williamson, William R., Jr., [redacted].
Willis, David W., [redacted].
Willis, Ward T., [redacted].
Willis, William J., [redacted].
Willke, Ronald S., [redacted].
Wills, Augustus O., [redacted].
Wilson, Barry S., [redacted].
Wilson, Benjamin W., [redacted].
Wilson, Danny L., [redacted].
Wilson, David S., [redacted].
Wilson, James F., [redacted].
Wilson, John D., [redacted].
Wilson, Robert D., [redacted].
Wilson, Sharon C., [redacted].
Wilson, Thomas G., [redacted].
Wilz, Stephen G., [redacted].
Winbauer, Carl J., [redacted].
Winczner, Francis A., Jr., [redacted].
Windsor, Carl D., [redacted].
Winget, Brent E., [redacted].
Wingfield, Clifton R., [redacted].
Winkler, Horst P., [redacted].
Winstead, Charles L., Jr., [redacted].
Winthrop, Michael F., [redacted].
Wippel, Clifford M., [redacted].
Wise, William M., [redacted].
Witbracht, Ivan L., Jr., [redacted].
Witkowski, David F., [redacted].
Witt, Elsley K., Jr., [redacted].
Wittmeyer, John R., [redacted].
Witzel, John C., [redacted].
Wohlman, Richard A., [redacted].
Woida, Susan L., [redacted].
Wojcik, Michael P., [redacted].
Wolf, Paul M., [redacted].
Wolfe, Floyd J., [redacted].
Wolfert, Michael L., [redacted].
Wood, James K., [redacted].
Woodward, James E., Jr., [redacted].
Woodman, Russell T., [redacted].
Woodruff, Alan H., [redacted].
Wooten, Marc A., [redacted].
Worley, Robert E., [redacted].
Worth, Brian D., [redacted].
Wortman, Robert S., [redacted].
Wray, Jack L., [redacted].
Wright, Michael A., [redacted].
Wright, Michael E., [redacted].
Wright, Richard H., [redacted].
Wright, Robert C., [redacted].
Wroten, Larry D., [redacted].
Wyatt, Donovan E., [redacted].
Wyatt, Ivan S., [redacted].
Wycoff, Wayne T., Jr., [redacted].
Wyman, Richard A., [redacted].
Wysocki, Daniel R., [redacted].
Wysong, Robert D., [redacted].
Yaap, Henry R., [redacted].
Yamasaki, Westley N., [redacted].
Yankee, Marlon W., [redacted].
Yanner, Michael L., [redacted].
Yarbrough, Thomas S., [redacted].
Yarger, John M., [redacted].
Yates, Harold G., [redacted].
Yates, James P., [redacted].
Yeilding, Raymond E., [redacted].
Yeoman, Paul D., [redacted].
Yerly, Alan K., [redacted].
Yost, Thomas L., [redacted].
Young, Alan H., [redacted].
Young, James M., [redacted].
Young, Karl B., [redacted].
Young, Levonne, [redacted].
Young, Philip C., [redacted].
Young, Stephen O., [redacted].
Youngblood, Elenda S., [redacted].
Yucuis, William A., [redacted].
Zahorsky, Frank J., Jr., [redacted].
Zander, Joseph J., [redacted].
Zdanuk, Anthony F., Jr., [redacted].
Zelasco, Joseph J., Jr., [redacted].
Zeman, Joseph C., [redacted].
Zemke, Linda H., [redacted].
Zenner, Pamela J., [redacted].
Zevenbergen, Glen J., [redacted].
Ziegler, David J., [redacted].
Ziehm, Robert D., [redacted].
Zimmerman, John A., [redacted].
Zimmerman, John C., [redacted].
Zimmerman, Richard M., [redacted].
Zmora, Joseph P., [redacted].
Zukerberg, Jane R., [redacted].

CHAPLAIN CORPS

Bernard, Andre M., [redacted].
Klein, Alan M., [redacted].
Long, Lewis C., II, [redacted].
Lundin, John O., [redacted].

DENTAL CORPS

Bashor, Ronald L., [redacted].
Blosser, Fred M., [redacted].
Bolger, Walton L., [redacted].
Bousquet, Robert, [redacted].
Davis, Richard D., [redacted].
Earlin, David L., [redacted].
Faulkner, Victor M., [redacted].
Felt, McLane H., [redacted].
Flaggert, James J., III, [redacted].
Greenley, Barry P., [redacted].
Herbert, John R., [redacted].
Lipsinic, Francis E., [redacted].
Murata, Steven M., [redacted].
Plamondon, Thomas J., [redacted].
Rabbio, Maria A., [redacted].

Raper, Rex T., [redacted].
Rogerson, John N., [redacted].
Seek, Brian J., [redacted].
Shannon, Michael D., [redacted].
Shannon, Rayanne F., [redacted].
Shoff, Carl C., [redacted].

JUDGE ADVOCATE

Anderson, Robert C., [redacted].
Boone, James B., [redacted].
Chappell, Benjamin R., [redacted].
Greiner, Jeffrey H., [redacted].
Haley, Johnnie M., [redacted].
Haluck, John R., [redacted].
McLauthlin, Scott B., [redacted].
Orck, Charles E., [redacted].
Pratt, Andrew C., [redacted].
Stephenson, David P., [redacted].
Sullivan, John V., [redacted].
Taylor, Charles E., [redacted].
Taylor, Theresa D., [redacted].

MEDICAL CORPS

Bagnall, James W., [redacted].
Baskaran, Thanesseri S., [redacted].
Carrizales, Arthur, [redacted].
Clement, Donald J., [redacted].
Eastmead, Donald J., [redacted].
Gibbs, Robert H., [redacted].
Gleason, Stephen D., [redacted].
Herndon, Charles M., [redacted].
Kelley, Joseph E., [redacted].
Kuskie, Michael R., [redacted].
Lambert, Harry M., [redacted].
Lattin, Daniel E., [redacted].
Lee, Bradford H., [redacted].
Lucca, Michael J., [redacted].
Macey, Theodore I., [redacted].
Nehring, Kevin J., [redacted].
Sarno, Ronald A., [redacted].
Sayers, Robert E., [redacted].
Spiegel, Robert S., [redacted].
Stottlemyer, Keith D., [redacted].
Tice, Andrew W., Jr., [redacted].
Vanhal, Marvin E., [redacted].
Whiteley, Andre B., [redacted].

NURSE CORPS

Allen, Susan D., [redacted].
Bennington, Karen R., [redacted].
Bjerke, Nancy B., [redacted].
Boland, Patricia A., [redacted].
Brauchler, Robert J., [redacted].
Bruce, Glennda L., [redacted].
Campbell, Minnie L., [redacted].
Clothier, Christine M., [redacted].
Darrah, Larry R., [redacted].
Dominik, Carolyn F., [redacted].
Feigles, Candace L., [redacted].
Fuller, Brenda K., [redacted].
Hardy, Glendann, [redacted].
Helm, Susan J., [redacted].
Holubik, Peggy A., [redacted].
Kanter, Daryl F., [redacted].
Maynard, John D., [redacted].
McCain, Robert E., [redacted].
Minton, Ralph E., [redacted].
Morel, Charles W., [redacted].
Morgan, Royce A., [redacted].
Oslick, Margaret B., [redacted].
Patscott, Myra L., [redacted].
Pearson, Judith A., [redacted].
Pettit, Gretchen L., [redacted].
Poskey, William H., [redacted].
Proudfoot, Richard J., [redacted].
Reinhardt, Belinda R., [redacted].
Renick, Rae E., [redacted].
Stann, James H., [redacted].
Stoddard, Peggy A., [redacted].
Stout, Jack A., Jr., [redacted].
Vanbrunt, Heidi, [redacted].
White, Pamela J., [redacted].
Wiggin, Sandra D., [redacted].

MEDICAL SERVICE CORPS

Alcock, Stephen L., [redacted].
Black, Michael E., [redacted].
Budinger, Kris M., [redacted].
Cressy, Ronald L., [redacted].
Diamond, Larry D., [redacted].
Ferree, Raymond G., [redacted].
Harper, Martin L., [redacted].
Jacobs, John A., [redacted].
Jensen, Joseph P., [redacted].
Kennedy, John W., [redacted].
Maddox, Richard D., [redacted].
McCusker, Larry D., [redacted].
McGraw, Joseph L., [redacted].
McMahon, Teresa F., [redacted].
Murray, Oliver B., II, [redacted].
Noble, Stephen H., [redacted].
Pinkstaff, Gary J., [redacted].
Robson, Robert J., [redacted].
Shields, Donald W., [redacted].
Smith, Donald B., [redacted].
Smith, Jackie W., [redacted].
Taylor, Steven W., [redacted].
Vivian, Talbot N., [redacted].
Walker, Douglas A., [redacted].
Watson, William J., [redacted].
Weiskittel, Daniel L., [redacted].
Westergaard, Jon R., [redacted].
Whitaker, Kenneth L., [redacted].
Woodward, Bruce E., [redacted].

BIOMEDICAL SCIENCES CORPS

Anderson, Robert C., [redacted].
Beeler, David B., [redacted].
Binion, Michael L., [redacted].
Brier, Kenneth L., [redacted].
Brown, Christopher C., [redacted].
Brown, Denise M., [redacted].
Burgoon, Charles C., [redacted].
Cayton, Tommie G., [redacted].
Childers, Louis, [redacted].
Davidson, Jerry M., [redacted].
Davis, Freddy C., [redacted].
Doane, Thomas R., [redacted].
Fuselier, Gary D., [redacted].
Galarowicz, Dennis C., [redacted].
Garrett, James L., [redacted].
Glenney, George R., [redacted].
Goldfeder, Eric J., [redacted].
Hergenrader, Ronald E., [redacted].
Kelleher, William J., [redacted].
Klein, Daniel B., [redacted].
Layton, Louis J., [redacted].
Lurker, Peter A., [redacted].
Maher, Edward F., [redacted].
Marlowe, Britton L., [redacted].
Mortimer, Vincent D., Jr., [redacted].
New, George R., [redacted].
Panyik, Robert J., [redacted].
Parker, James L., [redacted].
Parker, Stuart J., [redacted].
Pendergrast, Thomas L., [redacted].
Seignious, George W., IV, [redacted].
Shaw, Catherine G., [redacted].
Shwed, John A., [redacted].
Stephenson, Mark R., [redacted].
Sugden, Brian W., [redacted].
Sumlin, Otis, Jr., [redacted].
Sweat, Lewin A., [redacted].
Varca, Philip F., [redacted].
Young, Dale A., [redacted].

In the Navy

The following-named ensigns of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line, pursuant to title 10, United States Code, sections 5784 and 5791, subject to qualification therefor as provided by law:

LINE

Aalbue, Frederick
Abasolo, Kenneth F.
Abbott, Michael J.
Abel, Edward G.
Abordo, Emilio D.
Abrego, Rene L.
Acevedo, Andrew W.
Acker, Jamie M.
Ackley, James M.
Adams, George R.
Adams, James M.
Adams, William R.
Adamshick, Andrew A.
Adamski, Robert A.
Adamson, Danny R.
Adan, Godwin L. M.
Adcock, Jerry K.
Aguilar, Raymundo
Aiu, Eugene K.
Akers, Mahlon E.
Akiyama, Donald G.
Albers, Kurt A.
Albiso, John R.
Albrecht, Donald K.
Albright, Kevin C.
Albright, James R.
Alderman, Lance R.
Alfonso, Michael J.
Algire, Theodore P.
Allardyce, John T.
Allen, Charles J., IV
Allen, Michael R.
Allen "N" "L"
Allen, Thomas G.
Ambrose, Steven P.
Amirault, Thomas C.
Amos, Kenneth J.
Andersen, John M.
Andersen, Timothy M.
Anderson, Peter C.
Anderson, Ronald D.
Andreasen, Jon J.
Andrews, David S.
Andring, William L.
Andrus, Leslie E.
Ankrom, David C.
Anzalotta, Orlando, Jr.
Arcand, Edward L.
Archambault, David G.
Archer, Lawrence E.
Argerake, George
Armitage, Christopher J.
Armor, Lawrence L.
Armstrong, Timothy A.
Arnold, Jessie D.
Arnold, Jurgen J.
Arthur, Carey A.
Ashby, Jeffrey M.
Ashton, Alfred J., Jr.
Aten, Larry R.
Atkins, David W.
Atkinson, Gary D.
Aumont, Donald R.
Austin, William C.
Aut, Brian E.
Auyong, Douglas G. K.
Avery, Kenneth R.
Axline, Michael D.
Baciocco, David A.
Backstrom, Marc E.
Bacon, Jeffrey L.
Baden, Edward C.
Badget, Kenneth M.
Bahr, Calvin J.
Bailey, David T.
Bailey, William G.
Baione, Albert P.
Baird, John C.
Baka, Gregory V.
Baker, George H., Jr.
Baker, Jeffrey T.
Baker, Robert W.
Baldwin, Kirk D.
Baldwin, Stanford K.
Baldwin, Craig W.
Balestrieri, Carl G.
Ballard, Robert J.
Ballard, Walter W., III
Balzer, Gregg A.
Baranek, David
Barbour, Robert G., Jr
Barnard, Donald W., Jr.
Barnes, James E., III
Barnes, Kenneth W.
Barnes, Robert E.
Barnes, Robert W.
Barnes, Stuart M.
Barnett, Tedd L.
Barre, Kevin R.
Barrett, Jeffrey G.
Barrett, Samuel R.
Barton, Albert R.
Bartro, Thomas W.
Bascianelli, Anthony C.
Basile, James F.
Bata, Joseph A.
Bateman, Craig A.
Bauer, James W.
Bauman, Mark E.
Baun, Lawrence R.
Bautista, Antonio M.
Baxley, Michael S.
Baxter, John W., Jr.
Baxter, Kevin H.
Bayless, Jon W., Jr.
Bayless, Howard H.
Bazer, Steven H.
Beam, David A.
Beattie, Robert L.
Beck, James M.
Becker, Bradley R.
Becker, Kevin J.
Beeby, Jeffrey S.
Beeler, Donald B.
Begley, Philip A.
Bell, David K.
Bellant, Raymond E., Jr.
Belles, Randall J.
Belton, David A.
Benigni, Stephen G.
Bennett, Brian E.
Bennett, Robert M.
Bentley, Christopher D.
Berard, John D.
Berardi, Richard H.
Berko, Edward M., Jr.
Berry, David J.
Berry, David R.
Bevins, Michael J.
Beyer, Kenneth R.
Beyer, Louis J., Jr.
Bilskis, Richard A.
Bingham, Darwin B.
Bird, James J.
Bishop, Donald E.
Bishop, Lloyd D., Jr.
Biskaduros, John L.
Bisking, Robert D., Jr.
Bitler, Charles W., Jr.
Bitter, Kenneth C.
Bixby, Roy K.
Bladuell, Mario R.
Blair, William S., III
Blake, Al I.
Blakely, Dennis R.
Blazin, Gary R.
Bloom, Jeffrey A.
Bluntschly, George P.
Boerger, Ronald E.
Boggess, Russell L.
Boh, Charles M.
Bohanon, Dave C.
Bolin, Richard A.
Boling, Michael J.
Bond, Michael J.
Bond, Robert E. L.
Bonem, Peter B.
Bontrager, Jeffrey L.
Bodcock, Simon D.
Boone, Timothy R.
Booth, Gregory A.
Booth, Silas C., Jr.
Borer, Chris J.
Borger, William H., III
Borik, Francis C.
Borkowski, Richard M.
Borowski, Robert J.
Bosco, Paul
Bosco, Richard R.
Bosma, William J.
Botek, John T.
Botonis, David M.
Bougan, Thomas E.
Bouknight, Howard J.
Bourne, Charles P.
Bowen, John D.
Bowles, Dennis L.
Bowman, David B.
Bowser, Gary C.
Boyd, Richard K.
Boyer, Phillip O.
Boyle, John M.
Bracken, Matthew J.
Bradford, Steven C.
Bradford, Arthur C.
Bradford, William D.
Brady, Michael E.
Branch, Ted N.
Brandon, Blaine D.
Brannan, Charles E.
Brannan, Joe D.
Brantley, Larry G.
Branum, Paul W.
Brau, Harvey J., II
Braunig, Richard E.
Brazier, Dean A.
Breaux, Benjamin F.
Breeding, Scott M.
Behany, Christopher J
Brennan, Michael J.
Brewer, Allen K.

Brigante, John P.
Briggs, Paul A.
Brissette, Michael J.
Brittain, Bruce B.
Brocato, Barry J.
Brooks, John E., Jr.
Brooks, Steven E.
Brower, Andrew T.
Brower, Matthew G.
Brown, Daniel G.
Brown, Danny R.
Brown, David W.
Brown, David L.
Brown, David L.
Brown, Jeffrey A.
Brown, John A., Jr.
Brown, Kevin D.
Brown, Matthew D.
Brown, Michael R.
Brown, Michael S.
Brown, Paul R.
Brown, Peter A.
Brown, Patrick N.
Brown, Randal E.
Brown, Stephen B.
Brown, William G.
Brown, Willie, Jr.
Browne, Bruce C.
Browning, Mark D.
Bruce, Scott A.
Bruner, Michael C.
Bruno, Jack A.
Bryant, Harry D.
Bryant, Rodney E.
Buchan, James D.
Buchanan, Arland D.
Buchert, Terrence S.
Buckles, David S.
Buckley, Robert L.
Buell, James K.
Buis, Roland R., Jr.
Bumgarner, Gary W.
Bung, Wayne L.
Burell, Robert L.
Burgart, Gary L.
Burgess, Roger L.
Burgunder, Mark G.
Burke, Francis J.
Burke, Mathew M., II
Burke, William C., Jr.
Burket, Lester C., Jr.
Burkholder, Stanley
Burnell, David A.
Burnfield, Daniel L.
Burns, George H., III
Burns, Henry F.
Burns, James W.
Burns, Robert A.
Burrell, Anthony K.
Burrows, Charles W.
Burrows, Jeffrey M.
Bursch, Daniel W.
Burtner, Keith E.
Busch, Mark J.
Bush, Kevin M.
Buss, Michael D.
Butler, Carey R.
Butler, John A.
Butler, Michael P.
Butler, William T.
Butrym, Kenneth P.
Butsch, John S.
Butterworth, William H., Jr.
Buttrick, Robert E., Jr.
Byrd, Jimmy A.
Byrd, Kendall W.
Byrnes, John I.
Cable, Christopher W.
Cadiz, Christopher F.
Cagle, Ronald D.
Cain, James C., Jr.
Calkins, William J., Jr.
Callas, Peter T.
Callender, Carl T.
Camacho, Hipolito L.
Camerino, Nester H., Jr.
Campbell, Gary R.
Cantin, Roland L.
Capati, Norman M.
Capkovic, Gary A.
Cardenas, Jose A.
Cardinale, James R.
Carella, Victor L.
Carmichael, Russell A.
Carozzo, Fred D., Jr.
Carr, Nevin P., Jr.
Carrier, Peter L.
Carroll, Colin J.
Carson, Dale E.
Carter, David E.
Carthey, Daniel R.
Casey, Joseph M.
Casler, John T.
Casto, Wallace R.
Cate, Sean T.
Cath, Ian S.
Catherman, David D.
Cavin, James F., Jr.
Cavin, Wylie D., III
Ceci, David M.
Cecil, David B.
Cerezo, Gary
Cerwonka, Robert J.
Chadeayne, Donald J.
Chambers, Stephen P.
Chang, Daniel W.
Channell, James A.
Chapa, Roger A.
Chapman, Kenneth J., Jr.
Chaput, Donald L.
Chase, Michael A.
Chasse, Philip C., Jr.
Cheeks, Lee A.
Chertavian, Vahan
Childers, David O., Jr.
Childs, Robert D.
Chimiak, James M.
Chismark, Michael J.
Chitwood, Anthony J.
Christensen, Erik N.
Christensen, Paul L.
Christian, John A., Jr.
Church, Kenneth E.
Church, Martin E.
Cianciolo, Thomas J.
Clark, James L.
Clark, Mark A.
Clark, Stanley D., Jr.
Clark, Stephen F.
Clark, Thomas F.
Claudio, Michael A.
Clay, Ronald D.
Clemente, Mark N.
Clendening, Michael R.
Cleveland, Jerome L., Jr.
Clinkscales, Perry G.
Clock, Dale R.
Cloutier, Joseph R.
Cloyd, James D.
Clyman, Robert N.
Coburn, Kenneth D.
Cochran, William
Cohen, Robert S.
Coisson, David J.
Cole, Charles A.
Coleman, Matt A.
Coleman, King J.
Colenda, Herbert S.
Coles, David L.
Coless, Thomas M.
Colgary, James J.
Collier, Clenton E.
Compton, Randel D.
Concannon, Thomas J.
Connie, Benny D.
Conlan, Tim K.
Conner, Paul B.
Conyers, Joseph B.
Cook, Arthur R.
Cook, Sherwood E.
Cooke, Richard W.
Cooney, David M., Jr.
Coons, Phillip H.
Cooper, Benedict I.
Cooper, Larry R.
Copes, John A.
Corkill, Patrick W.
Corritore, Daniel C.
Cortes, Edgar J.
Cosper, Gary W.
Coss, Michael
Costello, Gregory S.
Costello, John P., Jr.
Counts, John T.
Cowles, Robert H.
Cox, Daniel L.
Cox, Jeffrey J.
Cox, Ronald R.
Craig, Harold E.
Crawshaw, James S.
Creech, Steven A.
Cress, Clifford W.
Crimmins, Lloyd E., Jr.
Cripps, Roy L.
Crisler, Robert B.
Cronan, John J.
Cronin, Donald R.
Crowley, Terrance L.
Crownover, William B.
Crutchfield, Harry A.
Crutchfield, Jeffrey J.
Cruz, Francisco A.
Cruzata, Nicanor F.
Culbertson, Paul M.
Cullom, Philip H.
Cully, David W.
Cummings, Stuart L.
Cummins, Timothy J.
Cunningham, Charles W.
Current, John A.
Curry, Merl P.
Curtis, Christopher L.
Curtis, Gregory S.
Dabose, Michael W.
Daigre, Rivet J.
Dailey, John M.
Dalrymple, Jack F., Jr.
Dalton, Garrett H., Jr.
Dameron, Edgar L., II
Dancer, Mark F.
Daniel, John T.
Daniel, Joseph C.
Daniel, Stephen J.
Danley, Mark S.
Darcy, Thomas P., Jr.
Darin, Kenneth R.
Darinzo, Wayne A.
Darling, Steven B.
Darnell, David F.
Darnell, James D.
Darring, Paul L.
Darroca, Gregorio
Davidson, Jerry S.
Davidson, Daniel S.
Davidson, Michael L.
Davis, Craig M.
Davis, Keith L.
Davis, Michael D.
Davis, Michael A.
Dawley, James F., Jr.
Dawson, Peter W.
Daye, William L.
Deakyne, David J.
Deam, Thomas M.
Dean, Michael A.
Deas, John E.
Decastro, Ernesto M.
Decker, Mark W.
Deconto, Gerald F.
Decuir, Louis N., III
Deeds, Dewey F.
Deets, Edward H., III
Deger, Joseph T.
Degeus, Stanley V.
Deihs, William R.
Deitz, Roy J., Jr.
Delaney, Kevin J.
Delaney, James P.
Delre, Joseph A.
Delsignore, Mario J.
Deluca, Michael C.
Dennis, David M.
Derbin, Kevin H.
Deroos, Bradley G.
Derrick, Jay
Desipio, Philip J.
Deyoung, John, Jr.
Diamond, Robert
Diaz, Clarence L.
Dicer, Harold F., II
Dick, Michael D.
Dickinson, John D.
Diehl, George E.
Diers, Valor N.
Dillich, Jack C.
Dilling, Terrance A.
Dillon, Veon R.
Dinsmore, Jonathan B.
Dipaola, Patrick S.
Dirito, Paul J.
Disbrow, Daniel C.
Ditullio, Steven J.
Divinnie, Michael D.
Dixon, Charles B.
Dixon, James E.
Doodridge, Norval E. J.
Dombrowski, Francis J.
Dominick, James S.
Domzalski, Michael V.
Doney, Robert L.
Donohue, John J.
Donzella, John R.
Dorrance, John C., Jr.
Doty, Charles V.
Dowd, Christopher J.
Dowe, Roger A.
Downey, James W.
Downing, Roland O., Jr.
Downing, Jan S.
Downs, Lawrence G., Jr.
Doyle, Joseph A., Jr.
Doyle, Michael P.
Dozier, Lafe A.
Drake, Christopher J.
Drake, Fred P., Jr.
Drake, William R.
Drance, Christopher P.
Dreon, John W., Jr.
Dreswick, John A.
Dreyer, Douglas J.
Driscoll, Ernest
Druffel, Terry M.
Duck, Gregory B.
Dudley, Steven A.
Dugan, James H., Jr.
Duke, James M., Jr.
Dumbauld, Timothy
Dunbar, Donald G.
Duncan, Armando V.
Duncovich, Mark R.
Dunklin, Peter
Dunn, Edward P.
Durham, Brian J.
Durham, Richard W.
Duxury, William H.
Dykes,, James G.
Dzielski, Anthony J.
Dzupiinka, Frank J., Jr.
Eadie, Robert W.
East, Danny G.
Eaton, Bobby R.
Eaton, James H., Jr.
Ebbinghouse, Timothy P.
Ebbink, Theodorus J.
Eberhardt, Charles E.
Edmonds, Edward D.
Edmondson, James W.
Edwards, Mark
Edwards, Jeffrey S.
Egan, Matthew E.
Eger, Henry F.
Eggleston, John B.
Ehrhardt, Robert
Ekvall, Richard W.
Elder, James C.
Elkins, Gerald W.
Ellefson, Stephen E.
Elliott, John S.
Elliott, John M.
Ellis, Kenneth D.
Ellis, Mark S.
Ellis, Robert M.
Elmer, Wayne A.
Emanuel, David M.
Emerling, David J.
Emmons, Randall G.
Engel, Robert J.
Enloe, Daniel T.
Ennis, Harry E., Jr.
Ensor, Adreon M.
Epstein, David M.
Ericson, John R.
Eriksen, Michael C.
Estrada, James D.
Evans, Thomas W.
Ewing, Paul A.
Ewing, William A., Jr.
Ezzell, Richard L.
Faasse, David W.
Facer, Thomas J., Jr.
Fagerquist, Stephan A.
Fallone, Joseph M.
Farnsworth, Dale C.
Farrell, Charles A.
Farsaci, Steven J.
Fasnacht, Charles D., III
Fegurgur, Benny, A.
Fehrenbacher, Daniel P.
Feidt, Michael J.
Feliciano, Mario A.
Fell, Bert H., Jr.
Feller, Karl M.
Fergus, David W.
Ferguson, Marcus J.
Ferguson, Michael L.
Ferguson, Michael P.
Ferguson, Isaac L.
Fernald, Brent A.
Fernbaugh, Micki L.
Ferrara, Joseph, III
Ferrell, Douglas M., Jr.
Fey, Robert C.
Fillipow, Steven A.
Fineran, Paul W.
Finley, Michael S.
Fischbein, Michael S.
Fischer, Thomas F.
Fish, Jonathan D.
Fisher, Paul S.
Fitzgerald, Dennis G.
Fitzmaurice, P. J.
Fitzpatrick, Richard D.
Flagg, David K.
Fleenor, David E.
Fleshman, Gary S.
Fleury, Jesse J., III
Flood, James J., III
Fludd, Dennis A.
Flynn, Timothy V., III
Foote, Mark C.
Foran, John J., Jr.
Ford, David W.
Ford, Dale A.
Ford, John A.
Ford, Stephen G.
Foreman, Douglas S.
Foreman, Michael J.
Forsythe, Thomas M.
Fortier, Douglas G.
Foster, Don H.
Foster, Robert L., Jr.
Fothergill, James R.
Fox, Dennis R.
Fox, Francis M.
Fraczak, Larry F.
Frainier, Dennis A.
Francis, Edward J.
Franck, Steven G.
Franklin, Jeffrey W.
Franzone, Stephen M.
Fraser, James H.
Fraser, John T.
Freitag, R. Lee
Fremd, Karl G.
Fremont, Douglas E.
French, Michael S.
French, William D.
Fresquez, Gary J.
Frey, David A.
Fridley, Richard E.
Fronczek, Daniel J.
Frost, David J.
Frost, Jeffrey E.
Fry, Harvey L.
Fryauf, Mark T.
Fusco, Daniel
Fuss, Theodore L., II
Gabriele, Stephen G.
Gadaleta, Anthony M.
Gadzala, Jack
Gaffney, John T.
Gahagan, Daniel R.
Gahan, Jon
Gainok, Michael W.
Gale, Bradley W.
Gallagher, Michael E.
Gallagher, Rick M.
Gallagher, Stephen P.
Gallagher, James D., Jr.
Gallant, Michael E.
Galway, Jeffrey S.
Gamble, James S.
Gamble, Max E., Jr.
Gangwer, David E.
Gannon, David A.
Gannon, Kevin P.
Gant, James M.
Garcia, Frank W., Jr.
Garcia, Raul R.
Gardiner, Eddie J., Jr.
Gault, Michael J.
Gause, John R., Jr.
Gaynor, Edwin S.
Gebel, Matthew A.
Geddes, Bradley C.
Gedney, George III.
Geer, David C.
Gelsomino, Joseph A.
Gemmell, John R.
Gennette, Michael R.
Genovese, Michael D.
George, Gregory L.
George, Stephen L.
Georgi, Charles M.
Geren, Brian M.
Gerheiser, Frederick K.
Gernand, John C.
Gherrity, Patrick W.
Ghizzoni, Jeffrey A.
Giardina, Timothy M.
Gibson, Michael A.
Gibson, Thomas J., Jr.
Giedlin, Christopher J.
Gigliotti, James P.
Gilbert, Mark A.
Ginsberg, Robert J.
Gladding, Allen M.
Glass, Ronald L., Jr.
Gleason, Austin W., Jr.
Glover, Lanny B.
Gmitter, Joseph J.
Godley, James I.
Goldstein, Alan P.
Gomes, Vincent C.
Gomrick, Daniel A.
Gonthier, Gregory E.
Gonyier, Dennis K.
Goodbred, Timothy E.
Goode, Gregory L.
Goodman, Edward R.
Goodway, Steven G.
Goodwin, James F.
Gordon, David R.
Gorham, Jeffrey A.
Gorie, Dominic L.
Gould, William S.
Grabe, James R.
Gradisher, Joseph F.

Gradwell, Edward J., Jr.
Graham, Robert G.
Granger, William
Grant, Robert T.
Grant, Steven D.
Grasmeder, John M., Jr.
Graveen, John W.
Graves, Richard T.
Gray, Gary F.
Gray, Lon E.
Gray, Walter S., IV
Gray, William K.
Green, David G.
Green, John L.
Green, Nathaniel
Green, Peter D.
Greer, Robert D.
Gregorie, Henry B., III
Grenci, Anthony
Gribble, Laurence L.
Grider, William H., Jr.
Griffin, Randy L.
Griffith, Frederick S.
Griffith, Raymond J.
Griffith, Theodore P.
Griggs, Roderick J.
Grimland, David B.
Grisell, Stephen J.
Grisewood, Jeffery N.
Grochow, Ronald L.
Groel, Thomas R.
Grosse, Richard
Grothaus, Kim W.
Grubbs, Paul E.
Grunstra, Ronald H.
Grytebust, Leif G.
Guivens, Norman R., Jr.
Gurvin, Kenneth G.
Gutshall, Redgie L.
Guzy, James P.
Haas, Eric M.
Hackmann, Paul F.
Haeffner, Elbert A.
Hagelin, John A., Jr.
Hall, Kendall R.
Hall, Richard T.
Hall, Walter I.
Haller, Ludwig C.
Hallock, David D.
Hamill, Ronald V.
Hamilton, James E.
Hamilton, Charles R.
Hammill, Daniel L.
Hampton, William B.
Hampton, Robert L.
Hancher, Douglas G.
Hancock, Timothy J.
Hand, James V.
Hanley, James R., III
Hannah, Harold W., Jr.
Hannan, Michael D.
Hanold, Gregg T.
Hanrahan, Paul T.
Hansen, Lance A.
Hansen, Neil E.
Hanson, Steven W.
Harbison, William F. Jr.
Harbuck, Charles C.
Harding, William E.
Harer, Frank L.
Harkins, Roy H.
Harley, Craig R.
Harner, I. W.
Harrington, John H., III
Harris, Basil N., Jr.
Harris, Brian K.
Harris, Carl A.
Harris, John E.
Harris, Lemual R.
Harris, William T.
Harrison, Lawrence W.
Harriss, Joseph C.
Hartigan, Joseph P.
Hartley, Verle L.
Hartzog, John R.
Hase, Christopher A.
Hase, Douglas W.
Hashas, Kevork A.
Hashberger, Jeffrey R.
Hass, Terrell L.
Hassell, Daniel A.
Hatch, Paul M.
Haungs, Michael J.
Havens, William E.
Havlick, Ronald G.
Havrilla, David D.
Haw, James D.
Hawkins, Randall E.
Hawkins, James K.
Hawkins, Stanley R. L.
Hawn, Brian E.
Hayden, Kenneth G.
Hayes, Christopher J.
Hayes, Richard A.
Hayes, William R.
Hayford, Thomas C.
Headrick, Jeff D.
Hecker, Michael A.
Hedden, Jerry D.
Hedrick, Steven D.
Hedrick, Roger L.
Heerwagen, Tyler D.
Hegeberg, Mark A.
Heida, Steven G.
Heimer, Antony D.
Hellemn, William M.
Hellner, Joseph H.
Helms, Richard C.
Henderson, Brian J.
Hendricks, Thomas L.
Hennessy, Thomas J.
Herman, Richard W.
Hernandez, Felix, Jr.
Herrmann, Thomas J.
Hersh, Mark A.
Herterich, Thomas E.
Hertig, Thomas G.
Herzog, Stephen P.
Houghton, Robert C.
Hibbard, Rustie L.
Hicks, Calvin C.
Hicks, James M.
Hicks, Samuel T.
Hicks, Thomas E.
Higgins, Raymond F., III
Higgins, James R.
Higgins, Richard L., Jr.
Hill, Robert A.
Hillan, James B.
Hilton, James T.
Hilvers, Shawn E.
Hinojosa, Jesse
Hinton, Dana E.
Hirt, Tod E.
Hlinka, Gregory
Hodges, Stanley M., Jr.
Hogg, Robert L., Jr.
Hogge, Steven D.
Hohl, Thomas K.
Hoker, William P.
Holder, Kenneth A.
Holley, Earl T.
Hollis, Howell C.
Holly, Karl F.
Holmes, Lee B., Jr.
Holmes, Rodney W.
Holmes, William W.
Holoubek, Michael J.
Holt, Jack W.
Holtz, Gary L.
Homan, Lewis N.
Hooper, Daniel P.
Hooven, Rudolph C.
Hope, Timothy A.
Hopkins, Steven W.
Hoppenstand, Gregory S.
Horne, Ricky L.
Horsman, Douglas E.
Horton, Starr W.
Hoselton, Bruce A.
Hostbjor, Kevin L.
Houck, Kenneth T.
Houseman, Douglas A.
Howard, Jack D.
Howard, Joseph C., III
Howard, Lloyd J.
Howe, John F.
Howell, Arthur T., III
Howell, Lester D.
Howell, Robert D., Jr.
Hubbard, Donald C., Jr.
Huddleston, Robert
Hudik, Frank E.
Hudson, Stanley P.
Huff, James R.
Huffer, Stephen L.
Huffman, Robert J.
Hughen, William G.
Hughes, David J.
Hunsaker, Christopher J.
Hunt, Dennis J.
Hunt, Earl R.
Hunt, John H., Jr.
Hunter, Charles W., Jr.
Hurley, Robert C.
Hurst, Carl P.
Husta, Peter A.
Hutsebaut, John E.
Huyer, Edward R.
Hyde, Jerry L., Jr.
Hyman, Stephen G.
Hyytinen, Michael R.
Ikeler, Alfred E., Jr.
Ikstrums, Ivars V.
Ingram, John D., Jr.
Inman, David K.
Inman, John E.
Insardi, David A.
Inscoe, Frank S.
Irwin, Charles P.
Irwin, Kent P.
Isacson, Robert D.
Ische, Steven M.
Iseke, Warren J.
Isom, James A.
Jackson, David M.
Jackson, Kevin B.
Jackson, Kevin L.
Jackson, Ray H.
Jackson, George L.
Jacobs, Clifton D.
Jacobs, Richard B.
Jacobsen, Thomas S.
Jaques, Jonathan G.
Jarabak, Ronald F.
Jarnberg, Donald S.
Jaskot, Roger D.
Jaszkowski, Mark T.
Jefferis, Neal B.
Jenkins, Randall K.
Jenkins, Stephen G.
Jenkins, David L.
Jenkins, Ronnie B.
Jenkins, Spike R.
Jensen, Dale A.
Jensen, Mark D.
Jerabek, David J.
Jerome, Jeffrey B.
Joachim, Steven C.
Johannes, Joseph E., Jr.
Johnson, Arthur J. Jr.
Johnson, Bennett H.
Johnson, Edward A., Jr.
Johnson, James T.
Johnson, Michael D.
Johnson, Scot L.
Johnson, Stephen J.
Johnson, Steven J.
Johnson, Gregory A.
Johnson, Frank J.
Johnson, James C.
Johnson, Richard G.
Johnson, Daniel P.
Johnson, Patrick D.
Johnston, David T.
Johnston, William R., Jr.
Johnstone, Peter A. S.
Jolliffe, John E.
Jolly, Philip C.
Jones, Channing R.
Jones, George S.
Jones, Glenn R.
Jones, Henry
Jones, Jerry C.
Jones, Larry R.
Jones, Lloyd L.
Jones, Rick M.
Jones, Sandy A.
Jones, Steven C.
Jones, Scott L.
Jordan, Claude J.
Jordan, Michael G.
Jordan, Steve M.
Joyce, John J., III
Joyce, Thomas M.
Kahrl, Michael A.
Kain, Craig S.
Kaiser, John P.
Kaker, Kyle F.
Kalbach, Kenneth R.
Kaldenberg, Keith L.
Kalota, Carl
Kaltenborn, Mark A.
Kamensky, Robert J.
Karol, George J., III
Karp, David J.
Karr, Kenneth E.
Kasberg, Kevin H.
Kasiski, John W.
Kastelein, Chris A.
Kauffman, William F.
Kaye, Douglas H.
Keefer, Craig M.
Kegley, Michael E.
Keiller, Douglas W.
Keillers, Charles H., Jr.
Kelch, David W.
Keller, Larry P.
Keller, Michael A.
Keller, Russell C.
Kelley, John F.
Kelly, John S.
Kelly, Kevin M.
Kemp, Guy S.
Kennedy, Craig M.
Kenndy, John C., III
Kennedy, Michael E.
Kennedy, Michael J., Jr.
Kennedy, Michael A.
Kerr, William D.
Kershner, Mark F.
Kervin, Pat R.
Kiefer, George F., Jr.
Kiehne, Gerald J.
Killins, Paul T.
Kim, Ronald H. Y.
Kimbro, Phillip G.
King, John M.
King, William D.
Kinneman, Gregory D.
Kinney, Frederick H.
Kirchberg, Mark J.
Kirchoffer, Peter J.
Kirk, William L., Jr.
Kirkley, Donald, Jr.
Kirtley, Timothy W.
Kirtley, Robert B.
Kiser, David L.
Kiyohara, Dean M.
Klein, Francis V.
Klein, William T.
Kline, Jeffrey E.
Klocek, Robert A.
Knab, David K.
Knapp, Michael G.
Knecht, Albert L.
Knecht, Judson L.
Knight, Daniel L.
Knox, David B.
Knuth, Lindsey B.
Koch, David E.
Kocher, Dean D., II
Koelbel, John G.
Kolk, David S.
Konecny, Anthony D.
Korcal, James H.
Krause, Stephen R., Jr
Krause, Thomas H.
Krebsbach, Michael J.
Kremer, Steven R.
Kreyenhagen Michael E.
Kritikos, Daniel G.
Kronberg, Curt W.
Kropkowski, Kenneth J.
Kropp, Rocky D.
Krug, Peter J.
Kryst, James P.
Kuffel, Leo F.
Kuharik, Mark A.
Kuhn, Daniel H.
Kuhn, Scott G.
Kuldau, Parker C., II
Kunert, John A.
Kuong, Allan P.
Kurzenhauser, Peter
Kuzma, Charles A.
Kwiatkowski, Thomas A.
Labian, William E.
Labuda, Gary L.
Lacey, Richard G.
LaFleur, Paul A.
Lakis, Robert A.
Lamont, Dwight E.
Lancaster, Frederick S
Landon, John M., II
Landry, Henry G., Jr.
Lane, Cory R.
Lang, Albert G., Jr.
Lange, Mark A.
Lanigan, Edward J.
Lannign, Richard D., Jr.
Larmon, Danny A.
Larragoite, Louis
Larsen, Richard A.
Larys, Robert P., Jr.
Laser, Robert L.
Latiolais, Thomas, Jr.
Lauder, Joel A.
Laufenberg, Robert S.
Lawrence, Daniel A.
Layne, Howard G.
Lazar, Drahomir
Leader, Lyle G.
Leddy, William C.
Lee, Jerry D.
Lee, Mark D.
Lee, Raymond C.
Leeker, Richard E., Jr.
Legare, Arthur E., Jr.
Lehman, Lawrence L.
Leininger, Daniel A.
Leiter, Lawrence D.
Leiman, Daniel J.
Lemmons, Jeffrey A.
Leonard, Jay A., Jr.
Leroi, Donald J.
Lesser, Mark S.
Lesser, Todd H.
Leszcynski, Robert M.
Leugers, Jerry W.
Levin, Jan M.
Levoci, Peter A.
Lewandowski, James J
Leware, Bentley C.
Lewis, David H.
Lewis, Leviticus A.
Lewis, Thomas B.
Lewis, Timothy W.
Lewis, Warren D.
Lill, Harborough I., III
Linde, Brian B.
Lindsey, Thomas D.
Linver, Mark L.
Lister, Charles M.
Litchfield, Bruce J.
Little, Randall P., II
Long, Michael L.
Longest, Jerry M.
Loonam, Barry M.
Lopez, Richard E.
Lorenzen, Bradley S.
Loth, Richard W.
Lotshaw, John E.
Lovell, Edward M., Jr.
Lowen, Daniel J.
Lowry, Donald C.
Luchs, James K., Jr.
Ludwig, Keith W.
Lueck, Dale K.
Luhring, Paul C.
Luke, Ramon E.
Luna, Henry B.
Lunn, William K.
Luti, Robert J.
Luzand, Simeon V.
Lynch, Richard N.
Lyon, Harvey C.
Lyon, Michael A.
Lyon, Paul S.
Lyons, John J., III
Lyons, Philip A., Jr.
Macdougall, David R.
Macdowell, Kenneth D.
Macek, Robert W.
Macht, William A.
Mackay, Brian H.
Mackay, Thomas J.
Madden, John L.
Magnio, Joseph C.
Maguire, Brian F.
Mahon, Michael K.
Maier, Curt M.
Maier, Robert E.
Mairs, Todd P.
Majkowski, Craig L.
Malanowski, Thomas G.
Malone, Dennis E.
Manning, Steve A.
Manor, Jeffrey S.
Many, Michael W.
March, Craig W.
Marciano, Michael P.
Mariano, Angel J., Jr.
Marino, John J.
Mark, Charles J.
Marley, Paul C., II
Marriott, William P., II
Marshall, David K.
Marshall, Edwin W., Jr.
Marshall, Ronald W.
Marshall, James O.
Martello, Charles P.
Martin, James R.
Martin, John L.
Martin, Roland T. V.
Martin, Timothy V.
Martin, William B.
Martin, William C.
Martinez, Dana C.
Martinez, Carlos, III
Marvin, Bradford
Marvin Richard D., Jr.
Marzette, Jesse, Jr.
Mason, Ralph A., III
Mason, Stephen L.
Massey, Donald W.
Massie, William R., Jr.
Mathison, Kevin B.
Matricia, Edward P.
Matthews, John B.
Matthews, Samuel A.
Mau, Roger G.
Mayer, George F.
Mayer, James E., II
Mayhew, Ronald F.
Maynard, James S.
McAnaney, Edward G.
McArthur, Robert H.
McCabe, William D.
McCarthy, James F., Jr.
McCarthy, Michael R.
McCarthy, Thomas R.
McCarthy, William F.
McCarthy, Patrick M.
McCartney, Michael C.

McClellan, Thomas K.
McCloskey, John M.
McConkey, Philip J.
McCool, Thomas R.
McCormick, James F.
McCoy, Leslie J.
McCoy, William T.
McCrave, Michael G.
McCready, Daniel H.
McCrimmon, Kirk R.
McCulley, Thomas K.
McCullough, David K.
McCullough, William F., Jr.
McDonald, David M.
McDonald, Thomas L.
McDonell, Jeffrey B.
McDowell, Monty A.
McElhatten, Gordon J.
McElveen, George G., Jr.
McFadden, Jeffrey E.
McFadden, Michael W.
McFather, Geoffrey S.
McGinn, Edward F., Jr.
McGowan, Gerald K.
McGrath, Patrick E.
McIntyre, Glenn R.
McKeever, Brian G.
McKenzie, Stephen S.
McKinney, William P., III
McKinster, Stephen W.
McLain, William E.
McLaren, James D.
McLarney, Patrick M.
McLean, James J.
McLees, Timothy A.
McLernon, Thomas A.
McLoskey, Gary W.
McMahon, Michael E.
McManus, Thomas M.
McManus, Stephen M.
McMaster, Michael T.
McNamara, John J.
McNeely, Robert J., Jr
McNees, Kevin K.
McNichols, William M.
McPheeters, Neil K.
McRae, David G.
McShane, David W.
McWithey, Jerry L.
Meader, William H.
Meador, Richard J.
Meadows, Coy O.
Medders, Gerald D.
Megorden, Corby J.
Meierotto, Vernon C.
Meldrum, Andrew G.
Melton, Andrew W.
Melvin, Michael E.
Mercer, Gary A.
Meredith, Mark S.
Meree, Edward T.
Merrill, Stephen R.
Merritt, Ervin A., Jr.
Messenger, James W.
Messerschmidt, John G.
Metcalf, Sherman
Mette, James A., Jr.
Michealson, Kirk A.
Mickey, John C.
Miller, Alvin B.
Miller, Charles T., II.
Miller, Eugene A., Jr.
Miller, Guy K.
Miller, James D.
Miller, John W.
Miller, Joseph R.
Miller, Jerry J.
Miller, Michael W.

HOUSE OF REPRESENTATIVES—*Wednesday, July 23, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O give thanks to the Lord, for He is good, for His steadfast love endures for ever.—Psalms 136: 1.

O gracious Lord, we thank You that You have protected us as a people and allowed us the freedom to worship and to pray and to seek Your truth according as Your spirit leads. We recall in this our prayer the people of those nations that do not share the liberties we have known and who are denied the right of conscience to speak according to their beliefs. Comfort them that are oppressed, give aid to them that are captive, and give hope to all who yearn for Your peace. May we each day remember our blessings as we praise You, the divine author of our faith. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1795. An act to authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes;

S. 1796. An act to authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes;

S. 2185. An act to authorize the acceptance and use of bequests and gifts for disaster relief;

S. 2387. An act to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute;

S. 2767. An act to provide that per capita payments to Indians may be made by tribal governments, and for other purposes; and

S. 2801. An act to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility."

REMOVAL OF GRAIN EMBARGO IS SELLOUT OF FOREIGN POLICY

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, yesterday on the floor of the House an amendment was offered toward the end of the session that would lift the embargo being placed on grain to the Soviet Union. I have already, Mr. Speaker, received a number of calls from constituents of mine wondering if the United States is about to sell out its foreign policy for a few dollars that may be made in increased profits by certain segments of our country.

Mr. Speaker, I am convinced that the House today will not just defeat this amendment, but will overwhelmingly defeat it. I was amazed to find out that there are people and Members of this Congress who are willing somehow to forget the outrageous invasion by the Soviet Union of the Afghanistan country and the people of Afghanistan and be willing now to compromise and somehow say, "Well, it is really all right. As long as we can make our money, we are not going to care what happens."

Well, Mr. Speaker, this Congress, I am convinced, will not stand for this, and I hope today we will see it is overwhelmingly defeated.

FOREIGN AGENT LOBBYING AGAINST AMERICAN FISHERIES PROMOTION ACT REINFORCED BENEFITS

(Mr. BREAUX asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BREAUX. Mr. Speaker, I am thinking of instituting an award for lobbyists, and I think I will call it "The Height of Hypocrisy Award," or perhaps "That's Incredible Award" for lobbyists. What I am referring to is an organization that is a lobbying firm out of New York called Tele-Press Associates. They have distributed to all of the Members a nonfactual so-called factsheet about the American Fisheries Promotion Act. They do not like it.

But if my colleagues will look on their first page of their material they will find that Tele-Press Associates is a registered foreign agent lobbying for the Japanese Fisheries Association. While I am disappointed that the Japanese do not like the American Fisheries Promotion Act, after all, it is called the American Fisheries Promotion Act, not the Japanese.

I encourage this group to continue their fine efforts, because when they make the Members aware of the fact that the Japanese fisheries do not like the American Fisheries Promotion Act, Americans are going to see that it is a good bill and one that everyone can support. So I would encourage them to keep up their efforts, reminding us that the Japanese do not like this legislation. thereby pointing out how helpful it can and will be to the American fishing industry which, after all, is our responsibility.

FACT SHEET—H.R. 7039, AMERICAN FISHERIES PROMOTION ACT

SUMMARY

H.R. 7039, the American Fisheries Promotion Act, was reported out of the House Merchant Marine & Fisheries Committee on June 12, 1980.

If enacted, the bill will:

a. Institutionalize wastage of 1.8 billion pounds of harvestable fish each year;

b. Contravene United States obligations under existing law, United States Law of the Sea principles, and bi-lateral fisheries agreements. All obligate the United States to promote optimum utilization of fish resources which are surplus to conservation needs and unutilized by American fishermen;

c. Generate ill will and distrust of the United States among such friends and allies as Italy, Spain, West Germany, Poland, the Republic of Korea and Japan;

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THIS YEAR DEMOCRATS WILL PAY IN PRESIDENTIAL ELECTION FOR PAST ERRORS

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, 4 years ago the Democrats wrote an interesting platform. They said: "Credit must be generally available at reasonable interest rates." They blamed Republicans for high rates of interest that stifled the housing industry.

Mr. Speaker, the conditions of 4 years ago are mild compared to the economic disaster created by the nuclear engineer in the White House and his supporters in Congress.

When Mr. Carter took office the prime rate was 6.8 percent. Home mortgages were 8.9 percent. This year the prime rate has soared to nearly 20 percent and home mortgages climbed to 14 percent in May. New housing starts fell 47 percent in the first months of 1980.

This year the public will not permit

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Democrats to escape responsibility for their errors.

☐ 1010

ADMINISTRATION URGED TO APPOINT SPECIAL PROSECUTOR IMMEDIATELY TO PURSUE VIOLATIONS OF FOREIGN AGENTS REGISTRATION ACT

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, we now know that Billy Carter committed a felony by not filing a registration statement with the Attorney General as an agent of Libya. But it was only recently that I discovered that Billy Carter violated another provision of the Foreign Agents Registration Act, which states in part:

> It shall be unlawful for any person who is an agent of a foreign principal to request from any official any information or advice with respect to any matter pertaining to the policies or relations of a foreign country, or pertaining to the foreign or domestic policies of the United States, unless the request is prefaced or accompanied by a true and accurate statement to the effect that such person is a registered agent.

Despite this provision of law, Billy Carter received intensive briefings from high-level officials of both the Department of State and the National Security Council before his trip to Libya, a trip which the Department of Justice has concluded was part of his duties as an agent.

Mr. Speaker, I again urge this rather self-righteous administration we have downtown to step forward and appoint a special prosecutor to immediately pursue these violations. Let us see how willing they are to let an independent special prosecutor take a look at just what exactly is going on in this sordid mess.

AMENDMENT TO PRESERVE ANTIDISCRIMINATION RULES IN RAIL ACT

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, as soon as the House takes up the Rail Act today, a rollcall vote on my pending amendment to section 208 will be the first order of business. My amendment strikes subsection (f) under section 208 of the committee bill. Subsection (f) repeals the basic antidiscrimination standards in the Interstate Commerce Act with respect to several matters. The antidiscrimination standards prohibit railroads from subjecting ports, other persons and places, and types of traffic to unreasonable discrimination. Voting for my amendment preserves these antidiscrimination rules in their present form so that they will continue to apply to surcharges, contract rates, and rates on traffic over parallel routes between the same endpoints.

My amendment does not amend the surcharges or the contracts section of the bill. My amendment does, however, require that neither the surcharges nor the contracts unreasonably discriminate.

The surcharges provision has tremendous potential for very severe and very mischievous impact on railroad lines carrying less than 3 million gross ton miles of traffic per mile annually. When taken together with an obscure provision in title V of the bill, it would permit the ICC to abandon automatically more than 50,000 miles of rail lines in this Nation, including virtually every rail line serving a port area today. As a minimum, this kind of severe provision should be subject to the antidiscrimination rules in section 10741 of title 49.

Finally, my amendment will not prevent railroad contract ratemaking—only that contract ratemaking which unreasonably discriminates against ports, other persons, places, and types of traffic. Without the repeal of the antidiscrimination standards, the Interstate Commerce Commission has already approved and is actively promoting railroad contract ratemaking. In fact, the ICC has established a railroad shipper contract advisory service without the repeal of the existing antidiscrimination provisions. I would gladly show any Member a list of railroad shipper contracts which the ICC has provided me detailing these innovative rail transportation contracts.

With the aid of the gentleman from Texas, I was able to obtain a map from the DOT showing only the major rail lines subject to abandonment by surcharge. I would be pleased to show it to any Member, as well. Mr. Speaker, I urge a vote in favor of my amendment.

PRESIDENT'S STATEMENT ON COMBAT DEAD INCORRECT

(Mr. CARNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNEY. Mr. Speaker, over the past 2 years I have been a frequent critic of President Carter's defense policy and foreign affairs programs. His term of office as President has coincided with a decrease in U.S. military strength and loss of prestige for America abroad. The President's lack of leadership at the recent NATO conference is symptomatic of his degeneration of our role, even within the Western alliance.

On July 21, President Carter claimed that not a single American had died in combat during his term in office. Yesterday he amended that statement. The Washington Star quoted him as saying that we had not lost any Americans in combat "with the exception of eight brave Americans who gave their lives in an accident in Iran. * * *"

I would remind the President that a brave young American, from the First Congressional District of New York, Cpl. Steven J. Crowley, USMC, was killed in action while defending the American Embassy in Islamabad, Pakistan, on November 21, 1979. Army WO Bryan Ellis was killed in the same action.

The focal point of criticism of Mr. Carter's policy should not be whether he is a man of peace—America has always been a nation of peace and none of our leaders have wanted war. The true measure of any President's defense and foreign policies must be how well he constructs a framework for avoiding war and aggression. By my standards, the prospect for armed conflict is greater as the result of Mr. Carter's policies over the past 4 years.

PEOPLE JUST CANNOT BE SURPRISED ANY MORE

(Mr. GUYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUYER. Mr. Speaker, if Bob Ripley, Gilbert and Sullivan, Paul Bunyan, and Aesop were living today, they would have a riot under the Carter administration.

Ripley would have more "Believe it or Nots" than he could draw or put to cartoon.

Gilbert and Sullivan would have a field day putting to music the antics and curious behavior of the Carter Mouseketeers.

Aesop would give the championship "Fable Belt" to the man from Georgia.

And Paul Bunyan would take his blue ox "Babe" back into the woods and never brag again.

One thing Jimmy Carter did for America: He took away the exclamation point from our vocabulary. People just cannot be surprised any more.

Like the little kid, after hearing the story from his mother of Little Red Riding Hood, who was asked, "What is the moral?" it was, "Never trust your grandmother."

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7584 which we are about to consider further.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7584, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. O'BRIEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 5, answered "present" 1, not voting 53, as follows:

[Roll No. 414]

YEAS—374

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Lundine
Lungren
McClory
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stratton
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—5

Conable
Lewis
Lloyd
Mitchell, Md.
Wilson, Bob

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—53

Anderson, Ill.
Ashley
AuCoin
Beilenson
Bingham
Bolling
Brooks
Chisholm
Cotter
Crane, Philip
Davis, S.C.
Deckard
Dellums
Dingell
Dixon
Eckhardt
Edgar
Evans, Ga.
Ford, Mich.
Ford, Tenn.
Garcia
Gray
Hall, Ohio
Heckler
Jacobs
Kelly
Lott
Luken
McCloskey
McCormack
McEwen
Mathis
Mavroules
Murphy, Ill.
Murphy, N.Y.
Nolan
Oakar
Panetta
Pepper
Pritchard
Rangel
Rhodes
Rodino
Rosenthal
Runnels
St Germain
Stockman
Stokes
Studds
Udall
Vander Jagt
Williams, Mont.
Wydler

☐ 1030

Mr. DAN DANIEL and Mr. GUARINI changed their votes from "present" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7584, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

☐ 1040

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 22, 1980, the Clerk had read through line 5 on page 43, and pending was an amendment offered by the gentleman from North Dakota (Mr. ANDREWS) and a substitute for that amendment offered by the gentleman from Iowa (Mr. HARKIN).

Mr. BURLISON. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. BURLISON was allowed to proceed for an additional 3 minutes.)

The CHAIRMAN. The gentleman from Missouri (Mr. BURLISON) is recognized for 8 minutes.

Mr. BURLISON. Mr. Chairman, I can commend to the House both of the pending amendments. I am not at this point going to make a choice between the two. The important thing, Mr. Chairman, is that one of these two amendments be adopted.

Mr. Chairman, I think it appropriate to look at some of the history of embargoes in recent years, and, of course, we have to go no further than the midseventies.

Most of my colleagues will remember that I was one of the more vocal opponents of the soybean embargo in 1973 and the feed grains and wheat embargoes of 1974 and 1975.

Mr. Chairman, many of the things that we feared in those years have come to pass. The greatest fear was the setting up or the establishment of a new competitor in the soybean production field. As a result of our termination of soybean contracts with the Japanese in 1973, the Japanese, with their capital, went into South America, specifically Brazil, and set up an enormous soybean production industry. Now we find Brazil our No. 1 competitor in soybean production, at a tremendous loss to American farmers. It is conceivable now that the Russians will go into Argintina with their resources and beef up wheat and feed grains production, in direct competition with American farmers.

So it is no surprise, Mr. Chairman, that early in this year, on January 4, when the President invoked the grain embargo against Russia, I took an adamant position in opposition to that embargo. When President Carter invoked the embargo, a number of farm organizations and farm leaders and public officials and politicians across the land came in with strong support for this embargo.

I think it appropriate to note, Mr. Chairman, that in recent weeks and recent days many of these farm organizations and farm leaders and political leaders have fallen off from that support. The reason, as I will detail later, Mr. Chairman, is that the embargo is not working, as some of us had earlier predicted.

Mr. Chairman, let us take a look at a part of the record that has been made before and since January 4. I want to take just a few moments of the time of the House to look at some of the testimony of the Secretary of Agriculture before the Subcommittee on Agricultural Appropriations on which I am privileged to serve as ranking member. This is the testimony of March 1, 1977. In my statement to the Secretary of Agriculture, I said this:

> Mr. Secretary, let me just touch on one other issue: The question of the trade embargo. This has been something that, of course, both of us have been vitally concerned about over the years. Each year I have talked with the Secretary of Agriculture at these

> hearings and his assistants with respect to the issue. I recall very well we had quite an extensive discussion back in 1973 and there just seemed to be no evidence at all, no indication at all that we could have a grain or soybean embargo, but all of a sudden we had one.

Mr. Chairman, let me say parenthetically that, of course, I was referring to my conversation before our subcommittee in 1973 with Secretary Butz.

Continuing the quotation, I said:

> Then, after that embargo, at our hearings the following year, we reviewed that in great detail and we were told a mistake was made and we didn't think we would repeat that mistake, but, lo and behold, when 1974 came along we had a wheat embargo, and then . . . I have been going through this same ritual for years, only to come up with an embargo later in the year.
>
> Secretary BERGLAND. I submit we don't need to use embargoes, never will need to use them unless national security is at stake.
>
> Mr. BURLISON. Looking back to 1973, 1974, and 1975, would you agree our Government was a bit trigger happy in levying those embargoes?
>
> Secretary BERGLAND. I surely would agree. The policy at the time was nonintervention and that was fine as long as it worked, but then people became panicky and we had frantic intervention in the form of embargoes. In some cases they were totally unnecessary. The embargo of wheat in October of 1974, as applied to Poland, for example, was obviously not because we were in short supply. We had plenty of wheat to go around. There was some other political reason for it and I don't know what those reasons were, but it is an unsettling thing which we do not propose to continue.

Then, Mr. Chairman, let me go to our hearings of February 20, 1980. Again we have the Secretary of Agriculture appearing before my Subcommittee on Agriculture Appropriations, and this is what transpired:

> Mr. BURLISON. Mr. Secretary, I did not sleep well last night. I kept waking up hearing you say that the effect is different if we have an embargo because of the situation that persisted in 1973. You explained that to me yesterday, but it just did not sink in. I do not see how the effect on the market is any different whether we have an embargo because of shortage of domestic supply, which was the excuse in 1973, or whether it is to carry out the foreign policy of this country. The effect is the same.
>
> The effect of 1973 was the loss of markets in Japan and the European common market, and to Brazil. We saw a new industry established in Brazil as a result of the embargo in 1973 and 1974.
>
> I have the fear that a very similar situation will evolve from this embargo.
>
> I raised the question of whether our embargo would work and whether the other countries would cooperate with us. You felt that they would, and that they are, and that it would be effective. I raised issues with that. Every indication I see is that we get a lot of rhetoric from our allies on this issue, but that the grain is going to get through.
>
> I think we did not speak specifically to the country of Argentina.

That was yesterday I was referring to. Continuing with the quote, I said:

> I do not think you meant to imply that Argentina has agreed to cooperate with us on the embargo.

Mr. Chairman, this was Secretary Bergland's response:

> As far as Argentina is concerned, as you know, they have a government process that works a little differently than ours. We have been getting mixed signals from Argentina. The President sent General Goodpastor to Argentina to find out what is happening. He came back and reported. The Argentinians have decided as a government they are not going to fill in the shortfall. I just served notice on the Argentinians that if they decide to give up their trading relationships with Italy, Spain, China, and Japan, and sell grain to the Russian, they can have the Russian business and we will get their customers and keep them. That gave them some heartburn because they would rather deal with the Japanese than the Russians.

□ 1050

The CHAIRMAN. The time of the gentleman from Missouri (Mr. BURLISON) has expired.

(By unanimous consent, Mr. BURLISON was allowed to proceed for 3 additional minutes.)

Mr. BURLISON. Further quoting, Mr. Chairman:

> Mr. BURLISON. I am sure I will be bringing to your attention our conversation here in the record next year.
>
> Secretary BERGLAND. I hope so.
>
> Mr. BURLISON. I am confident that the words of these nations is not going to translate into action.
>
> Secretary BERGLAND. Let's make that a date.

Now, Mr. Chairman, we know, of course, that Secretary Bergland was wrong in his response to my allegation that we would not get any help from Argentina. And the same thing can be said about Australia and Canada and a number of other of our allies who produce grain in great quantities. They have, in fact, funneled grain into the U.S.S.R.

Mr. Chairman, this embargo is replete with inequities. We have given American exporters the opportunity to ship foreign grain to Russia. This administration has approved of that. We have failed to place an embargo, Mr. Chairman, on many other commodities and on many other products that flow into the Soviet Union. If we are going to have a grain embargo, it ought to be across the board on everything, every item that leaves this country going to Soviet Russia.

Mr. Chairman, the lesson is clear. The embargoes of 1973, 1974, 1975, and now 1980 were ineffective, they were destructive of the interests not only of the farmers of this country but the long-term interests of the Nation as well.

So, Mr. Chairman, I would hope that my colleagues would look with favor upon an amendment to terminate this embargo. Let us serve notice on this President and on the Presidents of the future that we will not tolerate embargoes, these enigmas that impede the production and income of American farmers, and are counter to the long-term best interest of the country.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BURLISON. I yield to my friend, the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I want to associate myself completely with the gentleman's remarks. I think they are very timely. One of the things that ought to be pointed out is that my colleague from Missouri, and myself, represent two parties. I objected very publicly when it was a Republican President imposing an export embargo. I object now. My colleague objected when a Republican did it and now when a Democrat did it. It does not do a service to the country.

Yesterday the chairman of the Committee on Agriculture made an excellent statement on the floor, but then he added that this is not the place to take this action.

I am reminded of the old song, you know, if you are not with the gal you love, you love the girl you are with.

We have not had the opportunity in the legislative committees of bringing out a bill to take this kind of action. It has not come to the floor. I think it is time that the Congress stands up against these export embargoes on food, and I would hope that the Harkin substitute be looked at quite closely, because as my colleague points out, the tragic imposition of an export embargo on soybeans in 1973 hurt the Japanese and they have gone elsewhere on a permanent basis for their needed supplies. And if this amendment carries, saying we will not embargo agricultural commodities to Russia but will to Japan, to England, to Germany, that is not, I think, what the House wants.

So I would hope that the substitute would be voted down and we move either to stop embargoes on any agricultural commodities or we move to simply overturn what the President has done this time as a strong signal to him.

I appreciate so much the contribution of my colleague and good friend, the gentleman from Missouri.

Mr. BURLISON. I thank my colleague for his contribution, and I want to commend him for the great work that he does as the ranking Republican member on our Subcommittee on Agriculture Appropriations.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Dakota (Mr. ANDREWS).

Mr. Chairman, it is long past time to end this travesty in which the American farmers have suffered such an unfair share of the impact with so little damage done to the Russians.

Agriculture Secretary Bob Bergland told the Agriculture Committee that the embargo should remain in place. But most Nebraska grain producers, like farmers all over this Nation, long ago decided the administration is not going to really make up for losses inflicted by the grain embargo.

The Soviet grain embargo is now replete with inequities and loopholes that serve to give the Soviets almost all the grain they need, while depriving the U.S. farmer of the world's largest grain importer, and putting an unnecessary burden on our Nation's taxpayers.

Recently, the Department of Agriculture gave U.S. grain exporting firms the go-ahead to sell foreign grain to the Soviet Union. This means that the Soviets are free to receive grain through U.S. exporters from even the closest of U.S. allies, while U.S. farmers remain strapped to the terms of the embargo. Even more, it means that the embargo is falling apart in reality, leaving the U.S. farmer to bear the brunt of its continuing cost. The unfairness to our Nation's farmers extends to our Nation's taxpayers, who are committing some $3 billion to the embargo effort.

The Department of Agriculture's own best estimates conclude that the Soviets will have only 5 percent less grain to feed livestock as a result of the suspension. But U.S. farmers continue to experience a drop in net income of over 30 percent.

The Soviet grain embargo adds to an already depressed farm economy and contributes to our skyrocketing inflation rate. It is jeopardizing the U.S. ability to market its grain in countries all over the world.

The cost of the embargo is simply too high to justify continuing it any longer.

I urge my colleagues to join in the adoption of this amendment.

Mr. GRASSLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I want to compliment the gentlewoman for her statement and I also rise in support of the amendment offered by the gentleman from North Dakota. But I want to add something to what the gentleman from Missouri (Mr. BURLISON) brought out in regard to Russia buying grain from Argentina.

I think we established in the latest hearings we had in the Agriculture Committee when Mr. Bergland was before us that we are in fact losing Russian grain sales to Argentina. Argentine farmers are reaping a profit from their sale of grain, whereas midwestern and American farmers are suffering as a result of it. I think such a fiasco that would enrich foreign farmers to the detriment of American farmers ought to be called to a halt in the Congress of the United States. Because of the ineptitude of this administration, Congress is the only agency of our American Government that can do that, and I am glad that we are trying to so do.

Mr. Chairman, back in April I noticed a cartoon that had appeared in a major newspaper. It showed several people around a table, with some charts in the background. One of the people was saying this:

> Experts are predicting that the grain boycott will soon be as painful to the Soviets as it is to our farmers.

I doubt if many U.S. farmers found that cartoon very amusing. There is too much truth in it. The fact is that the grain boycott has proved much more painful to us than to the Soviets. It was a mistake. It has not been effective. It has not prevented the Soviets from obtaining the grain they need on the world markets. It has not resulted in large-scale slaughter of meat animals in the U.S.S.R. because of lack of feed. The recent disturbances reported in the Soviet Union evidently had some relationship to meat shortages, among other things. There would be no meat shortages if large numbers of animals were being slaughtered.

There was need to respond to the situation in Afghanistan. Whatever our response was going to be, it was important that it have a noticeable effect on the Soviets. Punishment is not punishment if it does not hurt. The grain embargo at most has been an inconvenience—an irritation to the U.S.S.R.—not a punishment. We simply do not have control over the flow of grain in world markets, even our own grain after it has left this country. According to press reports, the Soviets are obtaining U.S. produced soybean meal from Europe for use as animal feed.

Major farm and commodity organizations have now called for an end to the embargo. They have watched it closely from its inception, and have seen that it has done great damage to us without achieving its objectives. It would be best, of course, if the administration could bring itself to this same conclusion and admit that the embargo action has been an ineffective foreign policy tool. So far there is no indication that they will do this, however, and that is why we are debating the proposals that have been presented here in the House today. I am certain that many of my colleagues share my desire to see the Carter administration take positive action to undo the mistake it has made. In the absence of such action, though, I believe we have no choice but to move legislatively to do this.

Mr. Chairman, the economic distress of U.S. farmers is going to become even more visible later in the year as returns from harvested crops fall short of the payments producers have to make on their accumulating debts. Many farmers had to face that financial crisis this spring. More will face it this fall. Net form income may drop by as much as 40 percent this year—an incredible reduction if it comes to pass. The embargo has had a major effect on this loss of farm income. So has the administration's unwillingness to provide the price protections promised by President Carter when he imposed the embargo. Ending the embargo will not provide an instant solution to this dismal situation. It is, however, one step that should be taken now.

Mr. WAMPLER. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, the embargo of U.S. grain shipments to the Soviet Union is not working and it should be rescinded.

On the basis of the evidence now in, the Soviets are not only obtaining grain elsewhere, they are obtaining U.S. grain through transshipments from third-party countries. If the purpose of the embargo is to punish the Soviet Union for its invasion of Afghanistan, we are wasting our time and efforts and money—and doing the American farmer and the American taxpayer a great disservice in the process.

Despite the announced intention of the Carter administration to protect farm prices and markets, the embargo is having a markedly adverse effect on farmers. The weakening of grain prices has hit farmers hard and subsequent CCC purchases designed to remove extra supplies from the market have been woefully inadequate. The House Committee on Appropriations, in a report on the agricultural appropriations bill, called USDA efforts to bolster sagging farm prices "too little and too slow."

Summed up the Appropriations Committee report states:

> The commitee is firmly of the opinion that the American farmer must not be expected to bear more than his fair share of any sacrifices that may be necessary due to the Soviet embargo.

Mr. Chairman, the American farmer is not only bearing more than his fair share of the burden of the Carter administration's misdirected attempt to punish the Soviet Union—so is the American taxpayer. The House Appropriations Committee estimates that the cost of the embargo to the U.S. taxpayer at between $2.5 and $3 billion during the fiscal years 1980 and 1981. A big part of this cost comes initially from the removal of wheat and corn from the market. The final cost will come when these commodities are moved into the market, loans are repaid and sales proceeds are firmed up.

As far as permanent damage to U.S. markets abroad is concerned, there is no real measure of the embargo's effects. But thanks to President Carter, this country has now taken on the reputation in world markets as an undependable supplier and an unreliable trading partner.

When the United States a few years ago embargoed soybean exports to prevent what seemed to be a developing domestic shortage—a shortage which never materialized, I might note—the Japanese were sent into a state of panic since they depend upon soybeans for so much of their protein and cooking. They reacted by helping Brazil become the second major soybean grower and exporter in the world within a matter of just a few years. As a result, U.S. soybean growers this year may face their first serious surplus ever.

As for the U.S. grain embargo, we have sent the Russians scurrying around the globe to keep their shopping carts filled—most of which they paid for simply by selling off some of their gold holdings at between $600 and $850 an ounce. At those prices, they did not have to sell much gold to pay for their imports.

The result of these Russian efforts are already being seen. Argentina and other grain growing nations are being encouraged by the U.S.S.R. to expand their acreage—much as the Japanese stimulated Brazilian soybean production. Markets which were once the province of

U.S. agriculture may now be lost forever to this country.

Mr. Chairman, the American farmer is up against the wall—primarily as a result of ill-conceived policies of the Carter administration. The farm parity index is at the lowest point since the Great Depression, farm income is at near-disaster levels, unchecked inflation has driven farmers' costs out of sight and record interest rates have curtailed farmers' borrowing power. All of this, coupled with the ill-advised grain embargo—an embargo which has hampered the Russians little but hurt the U.S. farm economy drastically—means American agriculture is in serious trouble—and so, Mr. Chairman, is the American economy.

Although I would have preferred to see the President act to right this problem before it is too late, it is becoming more and more obvious he has no intention at this time to do so. Therefore, as a small attempt to offset a big mistake, I urge my colleagues to join in this effort to rescind the embargo on grain sales to the Soviet Union. By itself, this action will not save the American farmer—but it may help to revive some of his markets abroad which are being wiped out by this unnecessary and unwise policy of the Carter administration.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I noticed the remarks of my colleague, the gentleman from Missouri (Mr. BURLISON), a moment ago were right on target, as he is usually very informed about matters that affect the American farmer. It is true, as he said, that American grain farmers are mad at the President over the grain embargo because they alone are paying the price for using food as a tool of foreign policy with the Soviet Union. They alone are paying the expense of this policy, which is devised, according to our administration, for the benefit of all the American people.

I suggest that if food is to be used as a weapon in behalf of the American people, that all people should pay equally the cost of that policy. And I certainly understand the emotional appeal of the amendments that have been offered by the gentleman from North Dakota (Mr. ANDREWS) and the gentleman from Iowa (Mr. HARKIN). But I would point out one error which I have observed in the debate on the question of whether or not this embargo has been effective, and I have obtained some information which has been declassified from the National Security Council which I would like to share with my colleagues today.

The 1979 Soviet grain harvest of 179 million metric tons was the smallest since 1975, 48 million metric tons below plan and 58 million metric tons below the record 1978 crop.

We originally estimated that the Soviets would import 36 million metric tons during the period October 1979–September 1980, the fourth year of the United States-Soviet long-term agreement. Of that 36 million metric tons, the Soviets planned to buy 25 million metric tons from the United States. The President's decision to limit exports to the 8 million metric ton ceiling established in the agreement denied the Soviet Union 17 million metric tons of grain.

□ 1100

Now, since January, the Soviet Union has been able to replace only 6.2 million metric tons of grain. Of the 17 million metric tons that it had planned for during its agreement with the United States, we have estimated that the Soviets will be able to replace no more than 8 million metric tons by September 30 of this year, leaving them with a shortfall of 9 million metric tons.

Now, what has been the impact of this shortfall on Soviet meat production? According to the information that has been gathered by the National Security Council and has been declassified for use in this debate, we now expect a drop in Soviet meat production of from 300,000 to 500,000 tons or 2 to 3 percent below the 1979 level as a result of the grain suspension, last year's poor harvest and the prospects only for an average crop of 210 to 220 million metric tons in 1980.

Published statistics in the Soviet Union show that since February, meat production has steadily declined in comparison to 1979. In May the total meat output was 5.6 percent below May 1979. The situation worsened in June. Production was down by 10.7 percent from the previous year, and the total Soviet meat production has not reached the 1965 goal.

By January 1981, livestock inventories may be down by 2 to 3 percent. Official Soviet data indicate that in June the number of swine on state and collective farms was 2 percent below 1979. Cattle and hog slaughter weights are declining due to the tight feed situation.

During the 1979–80 crop year, the Soviets were forced to draw down their strategic grain reserves at record levels. Based on current crop prospects, plus estimated grain import availabilities in 1980–81, we see little, if any, chance of rebuilding those reserves without a further cut in meat production in 1980.

Impact on Soviet meat consumption. The 1979 crop failure and the partial grain embargo have caused a serious setback in Soviet plans to improve the availability of meat and other animal products to the Soviet consumer. Per capita meat consumption will remain at the 1975 level of 125 pounds compared with 156 to 159 pounds in Hungary and Poland and 244 pounds in the United States. With meat production falling over the short term, it seems highly unlikely that the Soviets will be able to meet planned production and consumption goals for some time.

Food shortages. There are numerous—and growing—reports about food shortages in the U.S.S.R. We believe that these shortages are partly due to our grain suspension. Below is a sampling of such reports:

Now, there is evidence of reports from throughout the Soviet Union that there is discontent among the Soviet people, among the Russian people as a result of this grain embargo.

Our U.S. Embassy, the American Embassy in Moscow, reports poor meat supplies in Moscow during July before the Olympics. Embassy contacts claim that the shortages of meat and dairy products are, "The worst in many years." The situation is worse outside the capital with a complete absence of beef in some major tourist hotels. Shortages have driven meat prices up at collective farm markets to such an extent the local authorities are imposing ceilings.

Officials from our Consulate General office in Leningrad visited a collective farm market just last week.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has expired.

(By unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. ALEXANDER. Our Embassy officials visited a collective farm market at Novgorod on July 9 and found no milk products for sale. Only one vendor had any meat, and that was the nearly spoiled pork fat, selling at an equivalent of $4.90 per pound.

There were also reports in one of the local newspapers—I believe the Washington Post—of this situation last week, and I will try to obtain that report this week to share it with my colleagues.

Recent reports from emigres coming out of the Soviet Union claim that shortages have worsened. Letters to relatives in the West indicate a complete absence of meat in provincial state stores and a heavy reliance on private plots or the collective farm market. According to Western news reports, strikes in May at Togliatti and Gorkiy automobile and truck plants there are attributed to food shortages. Some analysts believe that the discontent is equivalent to the strikes in Poland several years ago that led to some changes in that government. First Party Secretary Masherov said during a speech that grain production had fallen 40-percent short of needs and threatened to create, "An almost complete lack of livestock products for sale to the public" in the Soviet Union. He also expressed alarm at the continuing decline in the number of privately owned cows and he admitted "interruptions" in the supply of milk.

How can our colleagues say that this grain embargo has not been effective? It has been effective. The problem we have here is that it is unfair to the American farmer, because the American farmer is bearing the cost alone of this foreign policy.

I hesitate to stand here today and oppose these amendments, because I know of the emotional appeal to the American farmer, but I must do so.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has again expired.

(At the request of Mr. HARKIN and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 3 additional minutes.)

Mr. ALEXANDER. The simple fact is

that this embargo is unfair, but the amendments that are offered will compound the problem of trade policy not only with the Soviet Union, but with other nations. They will further complicate the worsening relationship with the Soviet Union, and they will confuse the farmers who are trying to sell their products in order to earn a legitimate and honest profit for the capital, labor, and sweat that they have put into the production of grain which they offer to sell on the foreign markets.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I know that the gentleman is one of the staunchest supporters of agriculture in the House, as I know he is in his home State of Arkansas. I think this is just another example of where reasonable men can differ on a subject.

I would just point out to the gentleman that in a recent article in Newsweek magazine, dated July 7, they talked about the shortage of food in the Soviet Union and pointed out that food shortages are not a new phenomenon in the Soviet Union. They talked about the Olympics. They talked about the embargo, but they said that it is more than that. "The root causes are the general inefficiency of the Soviet agriculture and an erratic food distribution system. A disastrous harvest in the Soviet Union in 1975 was accompanied by another poor grain yield last year, while the urban population growth was three times the population growth rate over the last decade. The system simply cannot keep pace." It is not so much the embargo has caused them problems, because as the USDA itself points out, we have only prevented about 2 percent of their total grain needs from going to the Soviet Union. This is the USDA's own figures. I would just submit to the gentleman that that 2 percent has not caused all these problems. Their problems are caused inherently by their inefficiency.

Mr. ALEXANDER. I agree with the gentleman that the Soviet system is inefficient and that it cannot operate efficiently to furnish the food that is needed by the Russian people, but the facts have been established that this embargo has denied to the Russian people 17 million metric tons of grain that they anticipated in order to improve the production of meat and poultry which they had hoped would improve the efficiency of Soviet agriculture.

Mr. HARKIN. If the gentleman would yield further, the 17 million tons was what was envisioned in the initial embargo put on by the President on January 7. The Department of Agriculture is now saying about 2 percent—2 percent—out of about 200 to 228 million metric tons come down to about 4 million tons, not 17 million tons. That is what we embargoed. They have been able to fill that other 12 to 15 million metric tons from other sources around the world.

I am just giving the gentleman the USDA's own figures.

Mr. ALEXANDER. I will share with the gentleman the information which I have obtained from the National Security Council.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has again expired.

(At the request of Mr. ENGLISH and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. ALEXANDER. I will be pleased to share with the gentleman the information which I have from the National Security Council, which I have no reason to dispute. I think we must rely upon these facts in order to reach conclusions, which will guide us in our responses to this very difficult problem. I will agree with the gentleman from Iowa that while we disagree on the impact of the embargo on Soviet food supplies, that the embargo is in itself, patently unfair to the American farmer. The costs of a foreign policy of using food embargoes if they are to be used at all, should be borne equally by the American people.

☐ 1110

I would join with the gentleman in legislation which I have offered before—and I suspect the gentleman from Iowa has offered before—to soften the market impact of food embargoes, so that when prices go down for the American farmer as a result of using food as a tool of diplomacy, that the farmer is compensated for the differential in the decline of the costs.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would simply like to state that I think we all recognize that these amendments are not to lift the embargo. That is a fact; so what we are doing is we are trying to express on the record our feelings about the embargo.

I would also like to point out that the farmers went along with the embargo in January. They supported the embargo in many cases; but what has happened is that this is not a total embargo. We find that it only applies to certain items and many of the farmers from my district have asked me if the situation is really serious enough for an embargo, why are not all items embargoed?

So I think there is a feeling here that there either should be a total embargo against all items going to the Soviet Union, recognizing what the repercussions would be, and if it is really that serious, if we really feel that strongly about it, that is what we should do, or there should be no embargo at all.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

(At the request of Mr. SMITH of Iowa, and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield.

Mr. SMITH of Iowa. Mr. Chairman, I do not intend to make an extensive statement at this time; but the gentleman brought up the National Security Council, and I only want to try to keep the facts straight here. As the gentleman knows, this was the embargo of the National Security Council. This is a Brzezinski embargo. Naturally, they are going to try to protect themselves by not giving all the facts. The facts they left out were that ordinarily the Soviet Union buys for eastern Europe, especially Poland and some of those countries. They did not buy for them this year because the embargo does not affect them, so they bought separately the amount they need. Overall, when we consider the Soviet Union and those for whom they buy, they are getting the grain that they want, so I think we have got to look with some reservations on the National Security Council's representations in this matter.

Mr. ALEXANDER. Mr. Chairman, I would disagree with the gentleman from Iowa. I think the gentleman is reading the facts as he would like to read them.

This is an appealing amendment for me as well. I represent a farm State. The emotional appeal of this amendment to the American farmer is very, very persuasive.

I want to compliment the gentleman from North Dakota and the gentleman from Iowa for raising this issue and bringing it to the attention of the American people.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

(At the request of Mr. ANDREWS of North Dakota, and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. ALEXANDER. Mr. Chairman, if the gentleman will just allow me to complete my statement, I want to thank the gentleman from North Dakota (Mr. ANDREWS) and the gentleman from Iowa (Mr. HARKIN) for raising this issue, not because I am in support of their amendments, but because I think it is the wrong time and the wrong place and that the amendments are counterproductive to the intent that the gentlemen have and that I have; but the gentlemen have raised an issue which will focus attention on a very patently unfair policy and, hopefully, the impetus from this discussion today and the debate will lead us into the formulation of a policy that will correct the inequities that now impose an unfair burden on the American farmer.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, as our colleague, the gentleman from Iowa, pointed out, the figures from the National Security Council are a little bit biased. I think we ought to have some facts in this debate.

I am a farmer. I am not a National Security Council member, but no matter what they write on paper, you cannot change the gestation period of a cow. It is 9 months, and if they were being shorted on feed in the Soviet Union, they would be bringing those cattle to slaughter and there would be more meat in the butcher shops today than there was 6 months ago.

The fact that there is not indicates that they are still keeping those cattle back on the farm and that this export embargo on feed grains is not having the effect that it was touted to have, and that is why every farm organization today opposes it, when they went along previously with it on the idea that it was going to help punish them for moving into Afghanistan, we would take our lumps, but it simply is not working.

Mr. ALEXANDER. People hear what they want to hear and see what they want to see and believe what they want to believe, but these are hard facts that we can rely upon.

Mr. ANDREWS of North Dakota. Mr. Chairman, if the gentleman will yield further, let me assure my colleague that if there was a shortage of feed in the Soviet Union for those cattle, the cattle would be going to slaughter and there would be more meat in the butcher shops today. That is why the CIA report is hokum.

Mr. ALEXANDER. Well, the gentleman has not been in the Soviet Union since 1978 when I was with the gentleman. I do not think the gentleman has seen evidence of this other than what we can rely upon from the National Security Council.

Mr. ANDREWS of North Dakota. But that does not change the gestation period of a cow.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, reluctantly I oppose the amendment offered by the gentleman from Iowa and support the amendment wholeheartedly by the gentleman from North Dakota.

That does not mean that I favor the embargo that we have had now against Soviet Russia. If there is any nation in the world, besides Iran, that we should be embargoing it would be Soviet Russia. We could argue all day about the effectiveness of this embargo. Probably no one knows for sure just how effective this embargo has been against the Soviet; but we do know with overwhelming evidence what it has done to the American farmer, and what it has the potential of doing in the future. This is what concerns me.

I agree with the gentleman from Iowa in the thrust of his amendment that it was a mistake to embargo because of what has happened, embargo a sale that had already been contracted to the Soviets, as desirable as it is and as much as we would like to punish the Soviets. Probably it has not done much damage, but the overwhelming evidence, as has been displayed here this morning and talked about, is what impact that embargo is going to have with other nations around the world. If anything, the gentleman from Iowa favors the Russians with his amendment. He says, "Yes, we will sell to you, but tomorrow some other nation who is a good buyer of agricultural products could lose favor, or this administration could lose favor with that country, and we would embargo that country."

So I say that I believe that the amendment offered by the gentleman from North Dakota does not tie the President's hands. I do not think we should. It does somewhat limit his reach. This is what we should do. How often we have heard Members of this body speak about giving the President too much authority.

The amendment by the gentleman from North Dakota does not prohibit the President from saying to the Congress, "I wish to place an embargo against a particular country because of a certain act." Even after we adopt the amendment by the gentleman from North Dakota, Congress still has that right to join the President and embargo another country; but it brings us into the act and I think that is very important.

I think we should adopt the amendment by the gentleman from North Dakota. It limits, does not absolutely prohibit the President from acting in concert with the Congress.

Now I yield to the gentleman from Iowa, the author of the amendment.

Mr. HARKIN. Mr. Chairman, I would just point out that obviously in no way do I want to favor the Soviet Union.

I would just point out to the gentleman from Indiana that in the Republican platform, that it specifies in there that they are not opposed to all embargoes forever, but they only specify that the embargo imposed by President Carter ought to be lifted and that embargo only goes to the Soviet Union. That is exactly what my amendment does.

Mr. MYERS of Indiana. As I say, I agree with the thrust of the gentleman's amendment, but I think we should bind the next President of the United States, and the gentleman from Iowa and I disagree who that President may be, it would be limiting the next President who may be a Republican President, probably so; but even so, I still think we should limit that President.

I agreed when a Republican President used the embargo it was a mistake. We all agree.

I will say this. If this were a Republican President that placed this embargo against the Soviets, I think we would have no trouble whatsoever in passing the amendment of the gentleman from Iowa or the amendment of the gentleman from North Dakota.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I will yield one more time.

Mr. HARKIN. Mr. Chairman, does the gentleman then say that if, for example, circumstances were such that we have a serious shortfall in food in this country that the gentleman would allow other countries to come in and raid our coffers and take food away from our own people?

Mr. MYERS of Indiana. I repeat, the amendment by the gentleman from North Dakota does not prevent the President from recommending to Congress, but it keeps the authority here in the Congress to help in making those decisions. I think that is where it should be. I do not think it should be a decision by President alone to abrogate a contract.

The amendment by the gentleman from Iowa or the amendment by the gentleman from North Dakota can be overridden by this Congress. That is what we are doing now; but I think that reservation should be kept with the Congress.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding.

Much to my displeasure the Government of Iran seems to be going along at almost the same pace as they were before we put the sanctions upon them. Does the gentleman feel that we should lift that embargo upon all of our activities with Iran, because they seem to be able to get their supplies from other countries of the world?

Mr. MYERS of Indiana. No, I would not lift them from Iran. I think Iran is an entirely different situation than Soviet Russia. Iran is holding 52 of our people. Russia is not. The Iranian embargo is complete. It is my understanding that the embargo now against Iran prohibits shipment to Iran of any product except medical materials.

□ 1120

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(At the request of Mr. WOLFF and by unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. I yield to the gentleman.

Mr. WOLFF. Does the fact that the 52 Americans that are involved, give the gentleman cause and reason to say we should continue our embargo upon Iran, which I agreed to? However, the fact is that the Soviet moves into Afghanistan, which are a threat to the international communiy and international security, do not seem to interface with the ideas the gentleman has of lifting the embargo upon the Soviet Union.

Mr. MYERS of Indiana. Two things entered into this. I do not agree with the incursion of the Soviet troops into Afghanistan. I do not think any Member of Congress does. But it was not a direct move against the United States.

Mr. WOLFF. If the gentleman will yield, it was a blatant act of aggression and a move against the United States and against the entire international community.

Mr. MYERS of Indiana. The gentleman from New York and I disagree about the severity of that move and its impact upon the security of this country.

Second, these are binding contracts we had with importers from Soviet Russia. We do not have, to my knowledge, any such contracts in Iran, similar contracts, but we have abrogated those contracts with Russia by this embargo. That is where the security with the other countries has been. How minor can an infraction by other countries be before we abrogate a contract?

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I thank the gentleman for yielding. Certainly I think most of the American people find that this embargo is a symbolic and almost empty gesture when compared with the Soviet moves when the Soviet Union moved into Afghanistan.

Let us set the record straight. When was this additional 17 million tons approved? It was after President Carter went on national TV about the first of October and said the unacceptable was acceptable, and that was that the Russian troops that were present on Cuban soil were no threat to national security. Then 2 days later, after he spoke to the Nation and discounted that kind of a threat, he then approved this additional sale of 17 million tons of feed grain to the Soviet Union.

So obviously there should have been ample indication to take some move if he was going to. But, instead, he decided to approve this.

Then, in January, he put this embargo on and unfortunately failed to follow through with the commitments he made to the American farmers to isolate that grain out of the marketplace and mitigate the impending collapse of grain markets.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(At the request of Mr. HAGEDORN and by unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. I yield to the gentleman.

Mr. HAGEDORN. This administration has not followed through with the commitments it made to the American farmers. In the House Committee on Agriculture we tried to pass some legislation that would put a higher release price of 90 percent of parity on this embargoed grain to protect the farmers, to give the market an opportunity to function under a system as if the Soviet Union had actually taken that grain. That was rejected almost by a completely partisan line vote. Consequently, today, we have the American farmers paying the price for this decision.

In Argentina today corn is $30 a ton higher than it is in the U.S.A. That was not the case on January 7, and that is the problem with this embargo. It has not deterred the Soviet Union from aggression. Our intelligence indications suggest that after the Olympics there will probably be a massive incursion of Soviet troops into Afghanistan. These policies are ineffective. We need a military posture and position in this world, and not symbolic, empty gestures.

Mr. MYERS of Indiana. I agree with the gentleman. I think what the gentleman is saying is possibly we should not have entered into the contract for the sale of the grain in the first place with the Soviet Union but once that we did enter into that contract then we have to have more substantial reason than we have today to abrogate those contracts.

Mr. HAGEDORN. The gentleman is exactly right.

Mr. MYERS of Indiana. Otherwise it frightens other potential buyers from other nations. The problem with the amendment of the gentleman from Iowa (Mr. HARKIN) is that it singles out Russia with favoritism by saying that yes, we will sell to you, we will forgive you for your incursion, but other countries will have to beware because we may break contracts with you.

Mr. HAGEDORN. I think the amendment of the gentleman from North Dakota is the amendment that the committee ought to adopt. It is broad based and it would not allow an embargo against any one country, and certainly that ought to be our position.

Mr. MYERS of Indiana. The amendment that I am going to vote for does not prevent the Congress and the President from working together and placing an embargo. If our security is in question or there is a shortage to our own consumers.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, I would like to add, if I may, to rest the minds on the other side of the aisle, if the gentleman's amendment is adopted please remember that it is on an appropriation bill for 1 year, and we have today one of the largest carry-overs in our grain bins and reserves are full with another big crop coming on. I do not think we have to worry about the people in this country going hungry.

President Carter's January 4 suspension of the sale of 17 million tons of wheat, corn, and soybeans to the Soviet Union has proven to be a dismal failure. Instead of punishing the Soviets, the President's action has served only to add to the economic woes of an already depressed farm economy. Net farm income in this country is suffering a decline of over 40 percent this year.

While our Nation's farmers are suffering daily from the embargo, the Soviet Union has successfully avoided any measurable adverse effects by reducing exports of grain to its satellites, increasing imports from other producers (including our allies), and implementing other programs to reduce the intended impact of the embargo. The result has been a rise in international grain prices and a decline in the price U.S. farmers receive for their grain.

There appears to be significant interest on the part of many to bring a speedy end to the embargo, and for good reason. The time has come to recognize that, while the Soviets must know the United States will not tolerate military aggression in the free world, the United States must not saddle its citizens with the cost of ineffective and even counterproductive foreign policy decisions. The Soviet grain embargo is replete with inequities and loopholes that serve to give the Soviets almost all the grain they need, while depriving the U.S. farmer of the world's largest grain importer, and putting an unnecessary burden on our Nation's taxpayers.

The Department of Agriculture has given U.S. grain exporting firms the go-ahead to sell foreign grain to the Soviet Union. This means that the Soviets are free to receive grain through U.S. exporters from even the closest of U.S. allies, while U.S. farmers remain strapped to the terms of the embargo.

Even more, it means that the embargo is falling apart in reality, leaving the U.S. farmer to bear the brunt of its continuing cost. This unfairness to our Nation's farmers extends to our Nation's taxpayers, who are committing some $3 billion to the embargo effort. It would be less than responsible for Congress to perpetuate this unfairness any longer, especially in light of the ineffectiveness of the embargo.

The Department of Agriculture's own best estimates conclude that the Soviets will have only 2 percent less grain to feed livestock as a result of the suspension; this figure was released before the Department's decision to allow U.S. grain companies to ship foreign grain to the Soviet Union. Further, the Commodity Credit Corporation, which originally assumed all contract obligations for wheat to be shipped to the Soviet Union, and pledged to use the wheat only for foreign food assistance programs, has now completed the sale of all contract rights to that wheat.

The Soviet Union is not paying for its military aggression, the United States is. Besides the depressing effect the embargo has had on the U.S. Farm economy, and its cost to U.S. taxpayers, there are important foreign policy effects at stake. The United States is risking permanent loss of other world markets as the result of international distrust of our ability to honor our commitments to them.

Major U.S. allies, who did not commit themselves to the embargo effort, have been alienated from their close ties with the United States.

I urge my colleague's support for the Andrew's amendment, which complements my bill H.R. 7632, to rescind the embargo. There is considerable support for this legislation in the House, and for identical legislation in the Senate. The gentleman from North Dakota has given us the opportunity to bring a more speedy and effective end to this foreign policy disaster.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(At the request of Mr. HYDE and by unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 3 additional minutes.)

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Illinois.

Mr. HYDE. I thank my friend for yielding. I am trying to figure out on the Harkin amendment why we are showing a preference to the Soviet Union.

Mr. MYERS of Indiana. It is favoritism.

Mr. HYDE. Why this preference to the

U.S.S.R.? Perhaps it is because of the incident in Sverdlovsk where biological warfare explosions occurred and a lot of people are suffering from pulmonary anthrax. Perhaps it is because of the 3,000 Soviet combat troops in Cuba. Perhaps it is because of the East German and Cuban advisers in South Yemen and Ethiopia. Perhaps it is because the Russians are building a naval base at Cam Ranh Bay. Perhaps it is because of their brutal invasion of Afghanistan.

Can the gentleman explain why this amendment prefers the Soviet Union over all of the rest of the world?

Mr. MYERS of Indiana. I have posed the same questions, though not nearly as articulately as the gentleman. I completely agree. There is not a thing that the amendment offered by the gentleman from North Dakota (Mr. Andrews) would do except that it covers all countries. The amendment of the gentleman from Iowa (Mr. Harkin) is very limited.

Mr. HYDE. The chief sponsor of this amendment has been linked, forcefully linked with the concept of human rights. Has the gentleman figured out why he would want to exempt the greatest source of tyranny in recorded history from an embargo?

Mr. MYERS of Indiana. Next to Iran, I guess Soviet Russia is the most guilty today of suppression of human rights. Again, I do not understand how we can single out Russia for favoritism and run the risk of all of our friends around the world wondering if the President might decide that we do not want to sell to them and then we can cut them off.

Mr. HYDE. I share my friend's bewilderment.

Mr. MYERS of Indiana. I thank the gentleman for his comments.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the chairman of the Agriculture Commission.

Mr. FOLEY. Mr. Chairman, I can understand the concerns of the gentleman from Illinois (Mr. Hyde) that we would single out the Soviet Union, by the means of the Harkin amendment, for special trading privileges above and beyond those of any other country in the world. But I am also surprised, much as I oppose embargoes in principle, that my friend from North Dakota would suggest that under no circumstances should the President of the United States be able to impose any embargo on any country at any time, even when a national emergency is declared.

Mr. MYERS of Indiana. I will have to say to the gentleman that the amendment offered by the gentleman from North Dakota does not preclude the President recommending to the Congress, but the absolute power would be reserved by the Congress. Can the gentleman fault that?

Mr. FOLEY. The gentleman, on September 28 last year, voted for the Export Administration Act.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(At the request of Mr. Foley and by unanimous consent, Mr. Myers of Indiana was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. I yield to the gentleman.

Mr. FOLEY. The gentleman from Indiana voted for that and the gentleman from North Dakota voted for that. Every gentleman on this floor that I see debating voted for the Export Administration Act; and it contains controls that allow restrictions on U.S. agricultural exports under very special conditions. Those of us from agricultural areas have been careful to insure that only the tightest and most justifiable circumstances should be allowed to exist before those export embargoes are imposed. The gentleman and I share an opposition to them, but the problem today is that under the amendment offered by the gentleman from North Dakota (Mr. Andrews), any country, Lybia, Iran, the gentleman can make his own list, even those nations with which we might have the most serious confrontations, would have a direct right, to purchase in our markets unlimited amounts of agricultural commodities. No President for the next fiscal year, whether he be President Carter or President Reagan, I tell my friends on the other side, would have any legal authority without an act of Congress to change that.

Those who voted for the Export Administration Act might explain to us why, if they now favor gutting its provisions entirely, they voted for it last year.

Mr. MYERS of Indiana. I have no objections to trusting the Congress. Maybe the gentleman does.

Mr. FOLEY. I have no problems trusting the President of the United States, at least in the initial circumstances.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(At the request of Mr. Andrews of North Dakota and by unanimous consent, Mr. Myers of Indiana was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. I would like to finish one thought.

Mr. FOLEY. I do not happen to agree with the President, but I trust him.

Mr. MYERS of Indiana. I know we do not agree on many things, but if a Republican President were in the White House, I do not think this thing would have been argued near as long.

□ 1130

We would limit that President. There is likely to be a Republican President come January. Then I think there would be no question that those of us on our side are probably in a majority going to vote for the Andrews amendment. I still trust that the Congress can work with the President, and vice versa, and I would rather reserve that for important issues such as an embargo to protect the American public.

I do not think farmers who are already having a most difficult time in surviving should have the added burden of being caught in the middle of a foreign policy action.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to my friend, the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding. I want to reiterate to my friend, the gentleman from Washington (Mr. Foley), yes, this does preclude putting export embargoes on foodstuffs to Iran, to Algeria, to Libya—you name them. I am sick and tired of people saying if you hold back the shipment of food, you are going to punish the irresponsible leaders of other countries. These leaders are always going to get what they need to eat. They never suffer. It is the poor people in that country, who are subjected to all the oppressive actions of their rulers, who get the shortfall when we put an export embargo on food.

We have tried an export embargo on food under Republican administrations; we have tried an export embargo under Democratic administrations. It has not worked. It does not work in the case of Russia. It does not work in the case of Iran. I think it is about time the Congress points up the fact that we are not going to impose food embargoes in the future. We have tried it too many times, and it does not work.

Mr. MYERS of Indiana. Remember back in 1973 and 1974 when embargoes were placed the cries that came from both sides of the aisle, but much more from the Democrat side. Secretary Bergland this year before our committee testified about how he defended this embargo this year. We asked him about those embargoes back in 1973 and 1974. He called them frivolous. Those embargoes, wrong as they were, were placed to protect the American consumer.

Mr. ANDREWS of North Dakota. If the intent is to punish, then let us not just embargo food. Let's embargo exports across the board.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Certainly we could pass, under emergency procedures, legislation which would impose grain embargoes if our immediate national security was threatened, even considering this body's track record of delay and inaction.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to both amendments so far, and there will be others, to prohibit the use of funds to enforce the grain embargo against the Soviet Union.

First of all, let me say that I am really surprised at the gentleman from Iowa (Mr. Harkin) for his amendment. I sat here for 22 years on the Foreign Aid Committee, and no one has offered more amendments on human rights when we have brought our bill to the floor than the gentleman from Iowa (Mr. Harkin), and I really thought after awhile, conferring with him and debating with him on the floor of the House, that he was really concerned about the violation of human rights throughout the world. When he offers this amendment here to sell grain to a nation who is the No. 1—

the No. 1—violator of human rights, I must say, and I must use the adjective, I am shocked.

Mr. Chairman, we talk a lot about how great a human rights violator the U.S.S.R. is, how it subjugates its citizens and restricts their fundamental freedoms. We talk a lot about the terrible Russian invasion of Afghanistan, how the Soviet Union has ruthlessly interfered with the self-government of an independent country.

A few months ago in a "weak moment," we stopped talking and started doing something. Now the gentleman from Iowa (Mr. Harkin) wants us to start talking again, not because the grain embargo has not worked. I think it has. He wants us to fight the Soviet Union's actions with words and with symbols—the Olympic boycott, which I voted against. What is next? We will stop our chess game with the Soviet Union and see how they react to that. The Russians have their own symbol, too, this same Olympics which their propaganda mill is turning into a festival of world unity and brotherhood, of Soviet sportsmanship and fair play.

I ask my colleagues, when a country cannot give bread to its people and feed to its livestock, what does that say to the citizens of that country about their government? How long must this country subsidize the Soviet Union, protecting the Russian Government from its own people? Is it not about time that we laid bare the failures of that totalitarian State to is own people and the rest of the world?

It is argued by some that it is inhumane for the United States not to share its bread with the starving people of the world. I agree. I agree, but there is no starvation in the Soviet Union, only shortages and lines. Perhaps the Russian people's hunger for bread will engender in them a hunger for democracy and let them turn against their government.

The wheat of this country has proven the most effective weapon that the administration has used. It is probably the most effective weapon that it will use. Let us not throw that weapon away by these silly amendments.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

I have been seeking the opportunity to offer an amendment to the Harkin amendment. Frankly, I do not think the Harkin amendment as now pending has a chance in the world of being approved, and I believe the gentleman from Iowa (Mr. Harkin) would agree. I think also that it is most unlikely that the amendment offered by the gentleman from North Dakota (Mr. Andrews) will be approved, because, as the chairman of the House Committee on Agriculture pointed out, as recently as last fall this body went on record in favor of flexibility in the hands of the President to impose food embargoes. I do not agree with that position but the majority of this body did.

What I think we need to do today is to face squarely whether the one and only troublesome food embargo that is now in effect, namely, the one ordered last January 7, is terminated. The embargo has not altered Soviet behavior, and when I get the opportunity, if I do, I will offer an amendment to the Harkin amendment which would cause it to apply only to the embargo ordered last January 7. It would leave with the President the flexibility to review events in coming days and act as he sees fit and as he deems wise.

Mr. CONTE. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Bauman, and by unanimous consent, Mr. Conte was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I want to join the gentleman in opposition to the Harkin amendment.

As has been previously referred to here in debate, the gentleman from Iowa (Mr. Harkin) has been said to be one of the most forceful spokesmen in behalf of human rights, and his amendments have been attached to every foreign aid and other appropriation bill. Those human rights amendments have forced the Department of State to give us an annual catalog with an estimate of the human rights situation in all countries that receive our aid, and in many instances that aid has been denied or curtailed because of those reports.

The gentleman from Illinois (Mr. Hyde) made an excellent indictment of the human rights situation in the Soviet Union, and I do not understand how the gentleman from Iowa (Mr. Harkin) can single out the Soviet Union for this special trade treatment when he stands on this floor repeatedly calling for the cutoff of aid and assistance to Argentina, to Chile, to Nicaragua under Somoza, all of which he described as limiting the human rights of individuals who live in those countries. But now he shows no concern for the greatest denial of human rights in the entire world which occurs in the Soviet Union. It seems to me that is totally inconsistent. Apparently there is a price to be placed on human rights and that I think is more than unfortunate. I think human rights ought to be supported everywhere. I voted for every one of these human rights amendments against the advice of many of my colleagues of the conservative persuasion who said that is the wrong way to approach the matter.

If you are going to be against all agriculture embargoes, fine, and I am, but do not single out and hand a special trading status to the most brutal oppressors in the world, the Soviets, who have made clear their intention to destroy the United States—and might I say the same defeat should be accorded to any other amendments that seek to grant the Soviets a special status they do not deserve.

Mr. CONTE. I want to thank the gentleman from Maryland. He is absolutely right. How many of us have taken the floor here and deplored to our colleagues the suppression of the Jewish people in the Soviet Union? What are we going to do—just come up here and give speeches on this floor of the House? We have got to take action. The President has taken action, and I agree with him.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to both the Harkin amendment and the Andrews amendment. I think a responsible Congress must oppose any effort to tie the hands of the President of the United States in a matter this grievous.

The question here is not whether we sell more grain or less grain to the Soviet Union. The question here in whether the President of the United States, charged by the Constitution of the United States to carry out the foreign policy of this country, shall be permitted to do so.

The question is whether the Congress will pull the rug from under that President.

I think there are those of you on the Republican side who have been here long enough to remember there were many occasions when we had a Republican President and I rose to speak out in behalf of that President's right to conduct the foreign policy of this country. You will recall my opposition to efforts, some of which originated on my side of the aisle, to strip that President of the right, the power, the tools and weapons with which he could conduct the foreign policy of the United States and speak abroad in the councils of the world for a nation united, standing together.

I believed in that when we had a Republican President named Eisenhower; I believed that when we had a Republican President named Nixon. I believed that when we had a Republican President named Ford, and I believe it when we have a Democratic President named Carter. I do not think partisanship should make any difference.

It is not a question of partisanship. It is a question for us to decide whether we as a nation express ourselves in any emphatic way in disapproval of the naked, lawless, marauding aggression that Russia has committed across the border on its innocent neighbors of Afghanistan.

Are we willing to stand up and say in this simple way that we disapprove of that? Or shall we cower and run in craven fear that a few dollars may be lost by not selling extra grain to Russia?

Just a few weeks ago, this Congress took away from the President his power to impose an import fee on foreign oil. Utterly stripped him of the power. We did not content ourselves just to say he could not apply the fee to gasoline at the pump. No; in our haste to gain a bubble popularity, we stripped the Presidency of the United States of its power to impose an import fee on foreign oil.

Now today, shall we rush to strip the Presidency of the United States of its power to assert in this simple way that we disapprove of naked aggression? How short is our memory?

How did World War II with all of its anguish and all its agony begin? It began because we were too weak, too indecisive to take any stand at all in opposition to the aggressors while a stand could have stopped that aggression before it spread like a prairie fire contagion and swept the whole world in its wake.

World War II actually began September 18, 1931. That was the day the first ragged seeds of what was to become the Imperial Japanese Army marched lawlessly into Manchuria, setting up the chain of events which had their logical climax 10 years and 2 months later at Pearl Harbor. Because we did nothing, because we said nothing, because we stood idly by while the Japanese militarists tore up the Kellogg-Briand Pact and ignored it, because we would not take any action at all to express our disapproval of that lawless aggression, they grew and were emboldened.

In 1935, we could have taken some kind of action to show that we disapproved of the lawless marauding expansion of Mussolini into pitiful little Ethiopia, but we did not. We did not. The League of Nations piously pronounced some expression of disapproval, but we were not even a member of the League of Nations and we did not even participate in that.

World War II could have been stopped in 1936 when Adolph Hitler, in violation of the Treaty of Locarno, sent his troops goose-stepping into the Saar Land. That was a probing operation to see if the peaceful nations of the world would put up with it—and we did. We put up with it. We did not say anything. We did not do anything.

And, so emboldened, Hitler sent his juggernaut of terror and oppression into the little countries—into the Sudetenland, and we did not do anything about it. He sent his armies into Czechoslovakia and we did nothing about it. Into Austria and we did nothing about it. Finally into Poland, and the world erupted into World War II.

So, now, for once, trying to learn from history, the President of the United States has made an expression in behalf of the people of the United States. He did not send any troops but he did do two or three things. One of those things was a grain embargo. Now, we understand it has had an effect, that there is dissatisfaction on the part of the Soviet people because their meat allotments have been reduced by about 13 percent. Instead of getting 126 pounds of meat a year—compared, perhaps with 300 pounds for the average American—the citizens of the Soviet Union have been reduced to only about 112 pounds per capita of meat annually, and so there is dissatisfaction.

Is that not what we sought to create? Dissatisfaction with a regime which believes you can aggress and expand by the use of raw military strength? The lesson of history is clear: aggression unresisted is aggression encouraged. If we do not take this modest action, if we destroy the right of the President of the United States to speak for a united America in opposing this lawless aggression, then we will deserve what comes to us, God forbid, and whatever opprobrium should come upon our heads.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I would like to make it clear, Mr. Chairman, I am opposed to all the pending amendments: the Andrews amendment, the Harkin amendment, and the soon to be offered Findley amendment. I do, however, wish to compliment the gentleman from Illinois (Mr. FINDLEY) for returning to his area of expertise.

Mr. Chairman, I would like to emphasize if I might some of the points which are key to this debate. First of all, I regret that part of the debate has turned toward personalities. I see no reason why anyone should criticize the gentleman from Iowa (Mr. HARKIN) on certain inconsistencies. The gentleman is not the first nor will he be the last Member of the House to at various times be on both sides of an issue.

Yesterday the gentleman from Iowa (Mr. HARKIN) told us he was in favor of shipping arms to the Afghanistan rebels but 5 years ago he was opposed to our covert action in Angola. That is a classic but nevertheless not surprising inconsistency. I also appreciate the fact the gentleman told us yesterday he was against using food as a weapon. But he had voted for amendments to cut off Public Law 480 for South Korea. But I am not making that point. Too many others have used the gentleman unfairly as a target.

Mr. Chairman, I would also point out that at issue here is the President's policy. Let me remind you of what happened.

Early in January the President called for an Olympic boycott, a restriction on sales of certain high level technology items to the Soviet Union, a draft registration, this grain embargo which is the issue before us, he advocated aid to Pakistan, a special package, and then he promised to increase the defense budget.

Let us summarize the President's position. On issues of defense, the House and Senate were going to increase the defense budget anyway so the President was logically following us.

Aid to Pakistan I think would have had approval of this body. There were diplomatic problems that prevented a package from being sent up.

The draft registration is for males only, I think we have made our record clear on that.

The embargo against certain technology is, as far as I am concerned, good, and should be maintained.

The Olympic boycott has turned out to be an excellent policy. We have downgraded the Olympics to a second-rate athletic contest with the Soviets hamhandling the public relations end of it. I think the President turned out to be perfectly correct in sticking to his guns and maintaining our boycott of the Olympics.

Let us be frank about it; and I am saying this not as a partisan Republican: We have a President who has been prone to error. Yet in this case, the handling of the Soviet invasion of Afghanistan, he has been firm, he stuck to his guns, and he deserves support. This is no time to take away a major bargaining tool from the President.

The Soviets are hurting. Their economy is hurting. They are hurting in the diplomatic field. They are hurting in the military field in Afghanistan. But we do not have the military force to drive them out. I do not know a Member in this Chamber who would advocate that we drive the Soviets out of Afghanistan. We do not have the forces. Let us, therefore, use every other weapon at our disposal. This grain embargo is one of the most effective and practical weapons. This is no time to deny this President or any President a key tool in what I think will turn out to be a very effective application of foreign policy against Soviet aggression in Afghanistan.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I do yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding, and I join the gentleman in opposition to the Harkin substitute. It is true, as has been pointed out, that farmers and athletes have borne a disproportionate part of the burden of the cost of our belated reaction to the Russian blatant interference in and then later brutal and bloodthirsty invasion of Afghanistan. For example, I think a thorough examination of something the gentleman in the well just mentioned—restrictions on critical technology—would reveal that the restrictions and the exceptions thereto that have been proposed do not really make that much of a change in the situation with regard to manufacturers who do export such goods to the Soviet Union.

□ 1150

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 3 additional minutes.)

Mr. LAGOMARSINO. So, I do not think there will be much loss of trade in that area. There is also the question of the recent administration action to allow U.S. grain traders to buy foreign grain and then sell it to the Soviet Union.

I think that is grossly unfair to the American farmer.

It is also true that the restrictions on grain have not been really as effective as they could have been. I think that is largely as a result of the Carter administration's lack of consistency, competence, and credibility in foreign policy.

One case in point—and this has been mentioned earlier—is Argentina. I have been advised that Argentina was not even advised in advance of the American grain embargo. They were told after the fact.

It is no wonder that, considering the

way this country has treated Argentina, Argentina took the action it did. But, the fact does remain that the Harkin amendment in particular would, in effect, reward the Russians for their invasion of Afghanistan. It would be another form of something we have talked about often on this floor, unilateral disarmament, giving something for nothing, a reward for continued action, and they would certainly treat it that way.

Last August, I was a member of a mission headed by Congressman WOLFF which visited, among other places, the Soviet Union. We spent 2 days in talking to members of the presidium of the Supreme Soviet in the Kremlin. When it was my turn to speak I asked, "How are you going to reciprocate for President Carter's canceling of the B-1 bomber, the MX missile, the neutron bomb, and so forth?"

Do you know what they said? They said, "We do not believe in unilateral disarmament."

I submit that the Harkin amendment, in effect, is another form of unilateral disarmament, a reward for improper conduct, and I think we should defeat it, especially during this time of the Olympics and draft registration.

Mr. DERWINSKI. I hope the gentleman would join me against all amendments, not just the Harkin amendment alone.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my beleaguered friend from Iowa.

Mr. HARKIN. I feel under siege. I thank the gentleman for yielding.

While the gentleman is correct that perhaps there may be some inconsistencies on the floor, I am reminded of the old saying that inconsistency is the hobgoblin of small minds. I do not wish to be put in that category.

I do wish to correct the record in two instances. No. 1, will the gentleman inform the gentleman from Iowa when I voted against Public Law 480, food for Korea?

Mr. DERWINSKI. It was in June 1978, an amendment to the agriculture appropriation bill.

Mr. HARKIN. In June 1978; and when did I vote against aid for Angola?

Mr. DERWINSKI. That was December 1975.

Mr. HARKIN. I will look them up and respond in kind as soon as I read what the amendment was.

Mr. DERWINSKI. But even if I turn out to be slightly incorrect, the gentleman's amendment still is not worthy of support.

Mr. HARKIN. The gentleman agrees that he may be a little bit incorrect in that.

Mr. DERWINSKI. To sum up, Mr. Chairman, I urge support of the administration position. I urge a vote against all amendments, substitutes—amendments and substitutes thereto. I commend to all the Members the statement made yesterday by the chairman of the Agriculture Committee. I suggest they read it in the RECORD. It is most constructive. I urge again rejection of all amendments.

AMENDMENT OFFERED BY MR. DASCHLE TO THE AMENDMENT OFFERED BY MR. HARKIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. DASCHLE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DASCHLE to the amendment offered by Mr. HARKIN as a substitute for the amendment offered by Mr. ANDREWS of North Dakota: Following "any restriction" in the Harkin substitute, add the following words: "imposed by the President on January 7, 1980.".

Mr. DASCHLE. Mr. Chairman, I think the discussion this morning has led us to the conclusion that the amendments before us now are too broad. They each do more than what I believe the Congress intends them to do.

We should not be talking here about future embargoes. That should not be our intention here.

Nor should we be proposing that, as the distinguished chairman of the House Agriculture Committee has indicated, that we provide most-favored-nation status.

And we should not compound the implementation of foreign policy. That is not our intent. When we discuss the tools we have available to us in foreign policy, however, we must recognize the fact that the use of the embargo is a poor one.

To those who point to human rights, I would ask, just how much are we showing our outrage at the violation of human rights when out of 228 million metric tons needed in the Soviet Union, we deny them 4?

Not only has this embargo cost the American farmer an estimated $10 billion in lost revenue—a cost which will never be retrieved. Not only has it caused a deep undercurrent of uncertainty which has been added to an already uncertain economy in 1980. The current grain embargo represents the most short-sighted approach to foreign policy. That approach is a time tested failure. It is an approach which has failed in the past and one which has failed just as miserably this year.

There are those in the Department of Agriculture who argue that the embargo has had no effect on price. They tell you that prices are once again, "normal." The amazing part of this sordid issue is that they can do it with a straight face. Since when is "normal" defined as the lowest percent of parity since 1933? Since when is "normal" used to describe the fact that farmers have lost 40 percent of their purchasing power since 1973? And if prices are now normal, what do we make of the Secretary's own predictions that real farm income will decrease an additional 20 percent this year?

Can we put the entire blame for these miserable statistics on the embargo? Probably not. The problems confronting the American farmer go far deeper than those caused by the Soviet grain embargo. But there can be little doubt. That embargo has caused obstruction, paranoia and instability that has contributed significantly to the problems now being experienced throughout the farm economy.

That effect has not only been confined to the prices at the local grain elevator. How, if things are back to normal, does the Department explain away the fact that the December corn export price was $120 per metric ton in both the United States and Argentina? By April, the effect of the embargo pushed down that price to $112. And while our price was plummeting, the Argentina export price increased to a whopping $160 a ton.

And after we have suffered through all of this, we now are told that the Soviet grain deficit this year will be a mere 3.5 to 7 million tons short of their total goal of 228.

Mr. Chairman, analyzing this embargo gives ample cause to wonder how much farther ahead we would have been if we had only decided to add a $5 a bushel surtax on each bushel of grain exported, rather than to deny them the minor amount of grain they failed to receive. OPEC has done that now for nearly 10 years, I strongly believe that the United States should learn that lesson too.

Perhaps we have learned from this episode. But I rather suspect that we have learned little. If I were a betting man, I would lay money that we have not seen the last one. We will see more embargoes.

But by our action today, I hope that we have seen the last of this embargo. There is simply no reason to carry on any more. It has failed. It has lost support throughout the Nation. It is an embarrassment both at home and abroad.

The action we are attempting this morning may not be the best one. It would be far better to pass legislation outside an appropriations bill to accomplish our goal. But the fact of the matter is that such an action will never happen. We will never have the opportunity to vote on the embargo unless we do it in this manner. That is unfortunate, but it is also true.

By terminating funds for continued implementation, we are coming as close as we can with the designated responsibilities of the Congress, to balance out the powers of the Presidency in setting agriculture policy. To shirk from that responsibility is to fail in maintaining that balance. But it is more than that. It is also to fail in recognizing the desperate state of our American agricultural economy. It is not healthy. It is projected to get worse.

It will get worse unless we take action today to eliminate one of the reasons why.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

(By unanimous consent, Mr. DASCHLE was allowed to proceed for 3 additional minutes.)

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I think the gentleman offers a constructive amendment. I would have to say that this issue has troubled me probably more than any other I have faced on the floor. I think the gentleman from

Illinois (Mr. DERWINSKI) made an extraordinarily good point regarding limitation on Presidential authority generally.

At the same time, I recognize the method the embargo in January, the way it was enacted, the way it was implemented, showed a great deal of shortsightedness in the administration and a lack of their knowledge regarding the operations of the agricultural economy. Both the amendments by the gentleman from North Dakota (Mr. ANDREWS) and the gentleman from Iowa (Mr. HARKIN) that have been offered are defective except as perfected by the gentleman from South Dakota, because without the limitations provided by Mr. DASCHLE, we will be prohibited from limiting exports of agricultural products next year to even hostile countries.

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The gentleman from North Dakota said that none of the funds appropriated may be used to carry out any restriction on the export of any agricultural commodity next year.

We cannot do that. What if we engaged in warfare with some nations in this world? We do not want to directly feed our enemies necessarily.

At the same time the gentleman from Iowa says that next year none of the funds may be used to carry out or enforce any licensing requirement for the export of any agricultural commodity to the Soviet Union.

I do not know what they are going to do next year. They should not be giving preferential treatment. My point is that, as the gentleman has stated, this Daschle amendment is targeted only to the specific grain embargo announced on January 7.

I would like to say a couple of other things because I see my friend, the gentleman from Washington (Mr. FOLEY), smiling, and I assume he is going to have some carefully worded response to what I have to say. I have two things in mind. No. 1, the American farmer needs to know that this amendment, even if adopted, is not going to stop the grain embargo. Even if the amendment is passed, the embargo could be reimposed next year. This amendment, if adopted, relating to the January 7 date, is a sense-of-Congress amendment stating that we do not like the way the grain embargo was handled in the first place and the way it was implemented. We are saying we do not like all those aspects relating to it, and it is very troublesome.

But as far as I am concerned, because I first supported the embargo and then turned around on the issue because I found the large grain companies were selling foreign-owned grain to the Soviet Union, we must target this amendment to the specific embargo that has already been put in place. We say we want that ended; but would be unwise to go much further; otherwise I think we are forever binding the foreign policy of the United States.

Mr. DASCHLE. Mr. Chairman, I thank the gentleman from Kansas (Mr. GLICKMAN) for his contribution, and I fully associate myself with his remarks.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I want to say first of all, as its chairman, that there is no finer member of the Agriculture Committee than the gentleman from South Dakota (Mr. DASCHLE), who, along with his colleagues here, has contributed enormously to the welfare of the American farmer. On the other side of the aisle, the gentleman from North Dakota (Mr. ANDREWS), whose amendment I oppose, has been one of the best friends of American agriculture throughout all the years I have served here. I could obviously mention the support and contributions of other Members also.

Our disagreement today is not as to whether American farmers need help. They do. The question is not whether they need help against embargoes, good or bad; and, as a general principle, I think all of us agree they tend to be bad.

Instead it centers on the mechanism under consideration on this floor as a result of these various proposed amendments.

The question is, Will they work? I ask that because the worst fraud that we could permit ourselves to perpetrate on the American farmer today would be to adopt any one of these amendments with the idea that it is going to stop one single effort to embargo grain. There is nothing in any of these amendments that requires the President or the Secretary of Commerce to issue an export license. We cannot by an appropriations limitation require an affirmative act.

The CHAIRMAN. The time of the gentleman from South Dakota (Mr. DASCHLE) has expired.

(On request of Mr. FOLEY, and by unanimous consent, Mr. DASCHLE was allowed to proceed for 3 additional minutes.)

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, since every single bushel of grain that goes under the Export Administration Act to the Soviet Union has to go under an export license which would not be issued under these amendments, as a lawyer I find it extremely doubtful that any exporting company's attorneys would suggest that they export grain in the absence of a license when they would face civil and criminal penalties for doing so.

Even if we include the Justice Department appropriation in our prohibition—there is a constitutional question as to whether we can stop U.S. attorneys from prosecuting people. I would not like to be the attorney to advise a grain company president to risk shipping grain to the Soviets on the grounds that "maybe they can't prosecute you this year." Given the 3-year statute of limitations on the prosecution of criminal violations, they could come back and prosecute later.

This is not going to accomplish anything. The amendment offered by the gentleman from South Dakota (Mr. DASCHLE), at least as described by the gentleman from Kansas (Mr. GLICKMAN), is not effective either, because, first, it cannot force the President to issue licenses, and second, the President, if it were to have some effect, could simply issue a new embargo tomorrow. It would not be the embargo of January 7, 1980; it would be some other embargo.

The appropriations process cannot limit the embargo. Only legislation or Presidential action can accomplish that.

So, the first thing I would suggest—and I hope to get my own time on this later—is that those of us who are against the embargo should put out of our minds the notion that any action taken today can effectively put an end to it.

I say to the Members, please, for the sake of the American farmers, who deserve better from those who represent rural areas, do not give them the illusion that they are going to be helped or that we have accomplished anything by these amendments, because not one bushel of grain more than has already been authorized is going to move as a result of action taken on an appropriation bill.

There are other very devastating consequences of these amendments that I would like to address myself to. Although I respect the gentleman from South Dakota (Mr. DASCHLE), there is nothing that his amendment to the substitute will accomplish except perhaps, as the gentleman from Kansas (Mr. GLICKMAN) said, serving as some kind of a sense-of-Congress statement. That, however, risks confusing the American farmer, who has enough troubles without Congress creating more.

Mr. DASCHLE. Mr. Chairman, if I may reclaim my time for a minute, I want to respond to the gentleman from Washington (Mr. FOLEY).

It is my understanding that we are going to fulfill the last year of our 5-year commitment to the Soviet Union, and that the 8 million metric tons will be shipped.

If we are going to ship those 8 million metric tons, it is obvious to me the export licenses would have to be issued. If the export licenses are issued, it seems to me the extension of the license for the additional grain would be in order. So I am not sure that we have not already provided them with the export licenses that are required.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, that is exactly the problem, because if we interfere with administrative authority, by forcing them to discriminate between licenses issued and licenses denied, what we do is force them to issue all licenses or none. Under the circumstances the adoption of any of these amendments may well prevent the shipment of even the 8 million metric tons currently authorized by the United States-Soviet Union agreement as part of our policy of trade with the Soviet Union.

The CHAIRMAN. The time of the gentleman from South Dakota (Mr. DASCHLE) has again expired.

(By unanimous consent, Mr. DASCHLE was allowed to proceed for 3 additional minutes.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I thank the gentleman from South Dakota (Mr. DASCHLE) for yielding.

I certainly have the greatest respect in the world for the chairman of our committee, and I admire him for his stand. I think he is right in many of the statements he makes, but I hope we would face up to the fact that the embargo simply has been a mistake.

The majority leader said that all we have to do is stand strong. I think we would all agree that we have to stand strong, but let us look at exactly what has happened. What has happened, if we can believe what has been said here on the floor, is that the Soviet Union is furnishing less meat to its people than it did before the embargo.

As the gentleman from North Dakota (Mr. ANDREWS) clearly pointed out, this is proof above all else that they are adequately feeding their cattle and not slaughtering them to reduce their herds. Clearly, that points up the problem with the Soviet system. So what have we done? We have given them an excuse to blame us for their problems.

Second, it has been clearly pointed out that the reduction in feed grains has been less than 3 percent. Clearly, this is not a disastrous situation for them.

It would appear to me that the thing we should ask ourselves is whether or not we have made a mistake. Then we should admit the mistake and try to do something to correct it.

In January of this year, just after the President announced imposition of the embargo in response to the Soviet invasion of Afghanistan, I stated that although I felt the President's decision was "regrettable," I was willing to support the embargo for two reasons. First, I felt that once the embargo had been declared by our President we should remain committed to its implementation because any reversal would, I believed, severely damage the credibility of our foreign policy pronouncements in the view of other nations. Second, I assumed—quite wrongly—that the administration would make good on its pledge that farmers would not be made to assume more than their share of the cost of the embargo.

In several meetings that I held with 518 farmers in my district in the days following the embargo, 407 felt the grain embargo decision, once made, should not be rescinded. However, many of these individuals expressed their strong feeling, which I shared, that the embargo on the Soviets should have been extended to all products, and not just certain agricultural commodities or advanced computer hardware. These farmers were particularly outraged to learn several weeks after imposition of the grain embargo that we were continuing to sell expensive phosphate fertilizer to the Russians—a folly that allowed the Soviets to increase their own crop yields and undermine our grain embargo.

Unfortunately, this was only the first in a long series of oversights and misjudgments that were to characterize the administration's implementation of the embargo. In the hours immediately following the embargo, the administration responded to the cries of the major grain trading companies who said they would be ruined by the trade suspension by pledging to relieve these companies of all the outstanding contracts which they had with the Soviets on the day the embargo was announced. Having thus relieved the major grain traders of all risk associated with the suspension, the Department of Agriculture, in subsequent weeks, then began reselling these contracts—sometimes to the same company from which they were purchased—at a price of up to $1 bushel less than the Government had paid for the contracts. Thus, while our farmers bore the brunt of the cost of the embargo as market prices softened during the months after its imposition, and while taxpayers in general picked up the tab for the loss on the resold contracts, grain companies were quickly rescued from any loss that they stood to realize as a result of the embargo.

Numerous reports began to surface that certain countries were not going to cooperate with the U.S. embargo by limiting their sales to the Soviets to levels agreed upon before the Afghan invasion. Some countries, in other words, declared that they were ready to profit from the actions of the participating countries—and profit they did. In Argentina, the country which most blatantly and aggressively moved to take advantage of the embargo, the price of corn went up a full 30 percent as it significantly increased its sales to the Soviets. In the United States during this period, the price of corn went down 5 percent from its pre-embargo level, and was probably down considerably more from where it would have been had the embargo not been declared.

The action which USDA took to help the farmer directly proved much too little, too late. At first, USDA directed its aid efforts only to those farmers who had participated in the 1979 farm program—about 20 percent of the corn farmers nationally. The other farmers, our Secretary of Agriculture declared, had refused to participate in the farm program and thus had agreed to accept the risk of a market downturn, including one brought on by an embargo. It is an outrage, in my opinion, that a different standard was invoked when aid was rushed to the major grain trading companies just after the embargo. Why should the Government assure that the grain companies, and not the farmers, can operate in a risk-free market?

Eventually the Department of Agriculture realized that more direct efforts were necessary and began a direct purchase program for wheat and corn. In order to sell wheat and corn to USDA under the program, farmers had to submit bids to the Commodity Credit Corporation for acceptance. This program, I strongly believe, was unnecessarily expensive and administered in a haphazard fashion, and did not serve in the best interests of agriculture.

When USDA first announced that it intended to undertake this purchase program, I told USDA officials that I felt it would be clearly preferable to increase the loan rate on wheat and corn significantly rather than purchase these commodities directly. As we all know, increasing the loan rate on commodities increases the market floor price for these grains, provides ready cash to credit squeezed farmers and, importantly, leaves the commodity in the hands of the farmers rather than contributing to a buildup of Government-held reserves that serve as an overhang on the market and depress prices. Moreover, a loan is eventually paid back to the Government, while CCC incurs tremendous transportation, interest and storage costs in holding the grain.

Also, we found that there existed an unwarranted discrepancy in the bid levels accepted from one neighboring county to the next. In one case, in my district, CCC was paying $0.10 more per bushel for corn in one county than for corn purchased in a neighboring county that was better served by rail transportation and had a significantly higher cash price.

Farmer's disappointment in the administration's agricultural policy turned to genuine anger with the clarification by the administration a few weeks ago that the subsidiaries of U.S. multinational grain trading firms would be allowed, and in fact has always been allowed, to continue to sell grain purchased outside the U.S. to the Soviet Union. It was this pronouncement that gave rise to the gentleman's attempt here today to offer an amendment rescinding the embargo.

Mr. Chairman, I think that it is clear that the American farmer, the entire agricultural industry, and the U.S. economy can no longer afford an embargo that is hurting us more than it is hurting the country it was directed at. Further, it is time that we stop adding insult to the injury of the American farmer who feels that he, and not the major grain trading companies, must be constrained by the restrictions placed by the embargo. Farmers are asking why it is "business as usual" for the grain companies when they themselves are required to suffer the consequences of export restrictions to the Soviets.

Mr. Chairman, I think that it should be made clear that support of this effort to rescind the embargo is not a signal that our country is not prepared to take meaningful and effective steps to meet Soviet aggression abroad. Rather, support of this effort merely makes clear that our actions to counter Soviet activity should indeed be effective and thorough, rather than half-hearted, mismanaged and of greater injury to the United States than its adversaries.

It appears to me the addition of the amendment offered by the gentleman from South Dakota (Mr. DASCHLE) clears up the substitute offered by the gentleman from Iowa (Mr. HARKIN). It appears to me that we are really coming as close as we can in this country to doing what has been recommended, and that is giving a sense-of-Congress statement to the President that we want this changed. The amendment applies only to this particular embargo.

Mr. Chairman, I strongly support the amendment offered by the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, I thank the gentleman from Iowa (Mr. BEDELL).

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I think the gentleman from South Dakota (Mr. DASCHLE) has made an immense improvement in the Harkin substitute.

Actually, in response to my good friend, the gentleman from Washington (Mr. FOLEY), the chairman of the committee, we are on the same side. We are for agriculture.

I am totally aware that this is not the perfect place to bring this type of action, and it might not have the solid, nailed-down impact that we would like to have. But I think we are long past the time when we have got to send them a message.

I have in my hand off the ticker in the Speaker's Lobby a story from the United Press stating that the gentleman from Washington (Mr. FOLEY) and Mr. TALMADGE, the chairman of the two Agriculture Committees in this Congress, met with the President this morning, and they told him that the farm economy is in the worst shape it has been in since the thirties.

I agree with that, and the solution to that problem is largely in markets. While my good friend, the gentleman from Washington, says that this is not the way to do it, like I said before, it is the only vehicle we have at this point in time to send a message to our customers around the world that we are not going to keep reimposing this type of export embargoes. We need those customers, we need to retain them, and what my colleague, the gentleman from South Dakota (Mr. DASCHLE) suggests is a vast improvement on what my colleague, the gentleman from Iowa (Mr. HARKIN), suggests. I certainly would have no objection to it.

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The CHAIRMAN. The time of the gentleman from South Dakota (Mr. DASCHLE) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. DASCHLE was allowed to proceed for 4 additional minutes.)

Mr. ANDREWS of North Dakota. It is not as broad as my original amendment, but it would certainly send the message, without singling out the Soviet Union for favorable treatment.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, the gentleman has mentioned my name, and I would just like to say that it is true that I was at the White House this morning and did discuss with the President, Senator TALMADGE and Secretary Bergland, what I think are the serious problems facing American agriculture. I do not disagree with that.

The gentleman from Minnesota (Mr. HAGEDORN) I am sure misspoke himself when he said that the Committee on Agriculture initiated action to try and help American farmers, but reject it by a partisan vote. The fact of the matter is that a bipartisan vote of the Committee on Agriculture has supported just about every bill that we brought up, to try to compensate for the impact on American farmers. We have reported many bills out.

Mr. ANDREWS of North Dakota. If the genteman will yield, if the Congress had passed the bills my colleague, the gentleman from Washington, brought out of that committee, American agriculture would have been a whale of a lot better off.

Mr. FOLEY. We have been colleagues and friends on this for a long time, and we will continue to be.

Mr. ANDREWS of North Dakota. That is right.

Mr. FOLEY. As much as we need markets and as much as we need a better deal for American agriculture, which is suffering seriously, my concern is that this is simply an empty vehicle which will do nothing to improve the trade of the United States, nothing to extend more sales to the Soviet Union or anybody else. It cannot operate because as a mere limitation on the use of appropriations, it cannot require the issuing of licenses, yet the presence of a license remains necessary for export under the act. The Customs Department can seize the shipments. Moreover, there is no possible way that anybody shipping can avoid criminal prosecution if somebody wants to prosecute them. It is all an empty exercise in sending messages.

Mr. ANDREWS of North Dakota. Can my colleague tell me a better way?

Mr. FOLEY. If the gentleman will yield, a better way is not to cajole the American farmers into believing that the Congress has lifted the embargo, because everybody who knows the basic mechanisms of this embargo should also know that nothing we do in an appropriation bill can lift the embargo. Already the news reports accounts going out here are identifying these amendments as efforts to lift the American embargo. This is not true and the American farmer does not need to be fooled, however inadvertently or innocently.

Mr. DASCHLE. If I could reclaim my time, I would have to say that I disagree with the chairman. I am not so sure that we cannot terminate this embargo this year. What are they going to do without appropriate funding? I think that is a debatable matter. I do not think it is a matter of fact, as the chairman is so stating, as much as I respect his opinion. So I think that is the whole purpose. If I did not believe it would not terminate the embargo as initiated in January, I do not think I would be down in the well offering my amendment. I believe it will, and I think many members in the committee do believe that it will.

Mr. FOLEY. I think the gentleman is very sincere, and I believe if he were not sincere he would not be offering the amendment. However, I think that on factual, legal grounds he is mistaken; and unfortunately the effect of the adoption of this amendment will convey that mistake to the American public.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, I think that every Member should recognize that the amendment offered by the gentleman from South Dakota to the amendment offered by the gentleman from Iowa—we should speak directly on that right now—is very important, and it is very necessary, I think, to make it so that the Congress does act specifically in regard to this embargo and, therefore, it is necessary that we adopt that amendment.

I would like to respond a little bit to what the gentleman from Washington has said, in that the news media may be reporting what we are doing here. I think it is necessary that the Congress express its views, even if it does not ultimately have the effect. And I believe that the media is responsible enough to be able to respond and say that the House is taking preliminary action, because it is not a total law at this time. It is only the House expressing right now its opinion that the embargoes should be lifted, that they have not worked, that the American farmers are being hurt by the embargo while the grain companies are making excessive profits out of it. I think that can be expressed to the American farmers. They will know then that the House feels that way. That is basically what we are doing here today.

The CHAIRMAN. The time of the gentleman from South Dakota (Mr. DASCHLE) has again expired.

Mr. BEREUTER. Mr. Chairman, I ask unanimous consent that the gentleman be allowed to proceed for 4 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

Mr. PEYSER. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from New York (Mr. PEYSER) reserves the right to object.

Mr. PEYSER. Mr. Chairman, I would just like to raise a point at this time. I am concerned that this debate has been going on today for a couple of hours, and yesterday, and I am getting concerned that some Member is going to start moving to end this debate. There are many Members who will wish to speak on this, and we have had speakers that are talking for 15 to 20 minutes.

I will not object at this time, but it seems to me that, out of consideration for other Members, we ought to stop this continual 4- and 4- and 4-minute extension on a 5-minute rule.

Mr. Chairman, I withdraw my reservation of objection at this time.

Mr. DASCHLE. I think the gentleman's point is well taken.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The CHAIRMAN. The gentleman from South Dakota (Mr. DASCHLE) is recognized for 4 additional minutes.)

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, in light of the comments of the gentleman from New York, I simply want to commend the distinguished gentleman from South Dakota for his amendment. I support it. And, alternatively, I would support the amendment of the gentleman from North Dakota.

Mr. Chairman, I am joining many of my midwestern colleagues today in calling for an end to the devasting embargo that was imposed by the President last January. I can only reiterate what many of my colleagues have expressed today to this body. When the embargo was imposed, many of my farming constituents grudgingly supported the President, if, and only if, the embargo applied to all products, if we have similar actions by our allies, and if it was across the board. It is apparent that this is not what has happened. The American farmer has borne nearly all of the burden.

Perhaps if the embargo had been applied across the board, it would have worked; however, to continue to export tools and materials necessary to grow the commodities we had embargoed, seems ridiculous. The farmers of America are paying the full price for the President's action, and it's time to call a halt to it. I believe that the farmers of Nebraska and the Nation have suffered far more than the Russians. It is time to concentrate on being reliable trading partners rather than partners that are not reliable in their commitments. For this reason I support the Gentleman from North Dakota in his action.

Mr. DASCHLE. I thank the gentleman.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

Mr. Chairman, the distinguished chairman of the Committee on Agriculture took exception to one of my comments earlier about the fact that we have failed to deal with this embargoed grain that was supposed to go to the Soviet Union. I in fact did have an amendment before the committee which would have raised the release price of that embargoed grain specifically to 90 percent of parity, and that is what I was alluding to.

As I recall there were 18 Democrats against this proposal and 13 Republicans in support which is the only real solution ever proposed which would not have us in this position today.

Also, my proposal to provide loans to farmers of up to $100,000 against their grain held at the time of the embargo was defeated on almost a party line vote in subcommittee which ultimately forced thousands of farmers to dump their grain at less than cost of production. These are the actions that I think should have been taken which would have alleviated the worst cost price squeeze since the Great Depression on American farmers.

I would say that, overall, the other actions that have taken place in the Committee on Agriculture have been on a bipartisan basis. But I regret to report that the 4 or 5 bills that we did pass out of the Committee on Agriculture on a strong bipartisan basis have been roadblocked by the Committee on Rules. And then I would have to ask: Where is the action that should have taken place before today? And it is this kind of frustration that has brought the Members to the floor today and the statements earlier today attributed to the chairmen of both the House and Senate Committees on Agriculture that the farmers are facing the worst crisis since the Great Depression. That is why we are grasping at any straw to do something to demonstrate what has gone wrong and how we can turn it around. That is why we are here. I submit that we need to get rid of these embargoes because they are ineffective. They only hurt our own people and, consequently, in the future we should not put them on anybody.

Mr. DASCHLE. I thank the gentleman for his comments.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Chairman, I, too, want to support the gentleman's amendment. I think it is a vast improvement over the amendment that I earlier offered. I think it really gets to the heart of what we are trying to do, and I want to congratulate the gentleman for offering it and assure him that it has my full support. I think it is a much better amendment now than it was before. In fact, with this addition the amendment is nearly like the amendment which I first offered, but was ruled out of order. I have discussed this amendment with the gentleman from South Dakota, and hope that his amendment prevails.

Mr. DASCHLE. I thank the gentleman.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

Mr. Chairman, I, too, want to commend the gentleman from South Dakota on the leadership that he has exercised on his amendment. I intend to support the amendment. As one who originally gave my support to the embargo and then saw the extraordinarily inequitable and ineffective manner in which the embargo has been implemented by the administration, it seems to me that we have no alternative at this point but to move in the direction of the gentleman's amendment.

Mr. DASCHLE. I thank the gentleman for his comments.

Mr. HIGHTOWER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the Congress, in reaction to the Ford wheat embargoes thought that we wrote into the law a restriction on embargoes that would keep this sort of thing from happening. But the possibility of strategic importance and security for an embargo had to be left in the bill, and that is what we are faced with.

I can understand why it is necessary for the President to have the power under certain circumstances to restrict trade in other parts of the world. But the reaction in the grain-producing area was: Why us? We went ahead and were told that, it was not just the producers of wheat and grain that were restricted by the embargo; that if other strategic items were included. But that just did not sell at home. I think that the farmers, certainly have in my part of the world, are willing to take their lumps in the national interest. If it is in the national interest that we restrict the sale of grain, then they are certainly willing to comply. They do not see that in the present embargo. They do not see it because they see other businesses, other interests, selling and continuing to do business with the Soviet Union. If we had had a genuine embargo, if we had told the Soviets, "Look, you cannot trade with us for anything, peanuts, grain, iron, cars, tractors, anything we produce," then the farmers would not have objected. It is because the farmers have felt that they were singled out by the way the embargo was imposed that their objections have been so loud and have continued.

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They question whether it really is working. We have heard all kinds of arguments that, yes, it is having an effect. I do not know how much of an effect it is going to have, but I really believe that a general embargo would have been a much stronger and effective message. For that reason, I support Congress doing what we can do. Maybe it is going to be an empty gesture. Maybe it is not going to be fully effective. I am not going to convey any message to the farmers that is not true, but at least I want to say that we did what we can do.

I support the Harkin amendment with the Daschle amendment.

I yield back the balance of my time.

Mr. SEBELIUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will try to be brief, because I think we have pretty well plowed this field, and we have worked the clods in, and maybe what we need is a little rain.

Anyhow, I am troubled and I am frustrated, but I do have to rise in support of the Andrews amendment. Ordinarily, I would rely upon the judgment of the President in the matter of foreign policy and national security. I acknowledge the very persuasive remarks of the gentleman from Illinois (Mr. DERWINSKI), the majority leader, and many others that have been made here, and my chairman of the Committee of Agriculture.

But you know, this issue really hits farmers right in the breadbasket, so to speak, when administration officials come on saying it is working, and everything is just fine and everything is just dandy.

I would hope that we could see the futility of trying to use food as a weapon for the future. Mixing farm policy with foreign policy is a mistake. What has happened this time with the Carter embargo is a mistake, but it is history. There may not be much we can do about it. I have to agree with the chairman of the Committee on Agriculture that perhaps this is a symbolic gesture, but the Carter embargo itself was a "symbolic" gesture. Congress has to get the President's attention. I guess it is sort of like hitting the old mule up side the head. We have got to get the administration's attention.

I am deeply concerned with the reports I see informing me the Soviets are purchasing grain from our trading partners. I am equally disturbed on the intent and hope that the administration is going to sell the 8 million metric tons in 1980–81 just as was done in 1980. But do not count on it, many countries may go to our competitors in the future.

Kansas has just had a bumper wheat crop. There are over 600 more million bushels of wheat available in CCC stocks, the 9-month conventional loan program and the farmer-held reserve. Private carryover stocks are in millions of tons. We do not want to have this grain get further involved in foreign policy. We would like to have U.S. grain be able to compete in world markets but it cannot do so with the Carter embargo in existence. The administration spokesmen I confronted said we should not complain about the embargo. They maintain it is working. I say poppycock. It is not working. The American farmer is carrying the unfair burden of a selective ineffective embargo.

It has been a selective embargo. The American farmers had to carry it. I think notice should be served to the President to quit telling us it is working. It is not working. The American farmer has been willing to sacrifice, and he wants to help; but he is sick and tired of being the fall guy.

Mr. Chairman, I say we should do the right thing in the right way when it comes to embargoes. I say we should have consulted with our trading partners prior to the embargo announcement and sought an agreement to meet the Soviet threat head-on. As far as I can tell, we did not do this. As a result, farmers in other nations profited at the expense of farmers here. If the Soviet invasion were a problem, we should have stopped all trade. We did not do this. It was a selective embargo.

Farmers across the country went along with the embargo out of a spirit of patriotism. They felt a sense of relief when the administration informed them that, due to the selective nature of the embargo—not to mention the near collapse of the grain markets, they would not be asked to carry an unfair burden. Now they feel betrayed. They are tired of the charade. They want substance, not symbolism, in our foreign policy. I have to agree with them.

Meanwhile, our NATO Allies tell us that the embargo is not having the effect on the U.S.S.R. forecast by the Carter administration. The U.S.S.R. has obtained most of the grain from other countries denied by the U.S. embargo. The most that our NATO allies will admit is that Soviet Russia is cutting down on dairy rations, and milk may become less plentiful. But the U.S.S.R. can obtain dairy supplies from Europe.

It is with reluctance that I find myself in the position of supporting an amendment overturning the foreign policy initiatives of a President of the United States. But President Carter's policy is bad policy which he refuses to acknowledge as the error it is. As we have learned in the past, it is human to make a mistake. But when the administration refuses to admit its mistakes—perhaps Congress should give it a "nudge." If the President considers it is in the national interest to continue the embargo, then he can veto this bill or if the need is there come back to Congress and request authority to continue it.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the three pending amendments, the amendment offered by the gentleman from Iowa, and the amendment to the substitute offered by the gentleman from South Dakota.

I rise in opposition, because I firmly believe that this is the worst possible time for consideration of these amendments. They are very untimely. We are discussing backing away from one aspect of a foreign policy position in which has been effective in demonstrating to the Soviet Union that aggression will not be permitted to go unanswered by the United States. We boycotted the Olympics, and the Olympics are taking place without the participation of the United States and many other countries, which diminishes the prestige that the Soviets hoped to gain by holding the Olympics in Moscow.

Another element of this get tough policy is the grain embargo.

A third element is the embargo on high technology items.

Mr. Chairman, I submit that the boycott on materials that the Soviet Union wants and desires has hurt and has been the most effective aspect of our policy.

High technology is what they most want to import, and that denial is hurting them. We also cut back on the fishing rights along our coastal shores, and that hurts the Soviet Union. Certainly the grain embargo is hurting them. These actions leave no doubt that aggression on Afghanistan is not going unanswered.

The majority leader gave a very thoughtful, persuasive speech on what must be done to stop aggression to prevent further confrontation and war. He related very accurately events prior to World War II. I think the United States would have been remiss as a world leader if the President had not taken the leadership in expressing our opposition to the Soviet invasion in Afghanistan. He did; and we ought to stand fast behind the President in this policy position. If we are going to be a world leader, let us lead. Let us not back down.

I believe, Mr. Chairman, that the evidence suggests that the policy that the President initiated when he said the Soviet Union must be punished for this breach of international law is hurting the Soviet Union. Therefore, now is not the time to withdraw the pressure. Instead it is the time to keep the pressure on the Soviet Union.

Let me assure this body, while I realize that there is legitimate concern among farming communities over any embargo on the export of U.S. agricultural commodities, I must say that the impact of this embargo on American farmers has been offset by other developments. While listening to the debate as to why there should not be an embargo, Mr. Chairman, I have discussed with the chairman of the Committee on Agriculture the possibility of joint hearings by that committee and the Foreign Affairs Committee to study the matter further in an effort to determine how such embargoes can be undertaken responsibly in the future.

I do not think it would be proper for us at this time to adopt these amendments because some segment of our economy believes it is being singled out to bear the brunt of the pressure that we must bring upon the Soviet Union as a result of the aggression in Afghanistan.

Again, I say the two committees intend to hold hearings, but I sincerely hope that for the moment we will soundly defeat all of the amendments that are pending.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I would be happy to yield to the ranking minority member of the Committee on Foreign Affairs.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the positions which have been so ably expressed by the distinguished chairmen of the Foreign Affairs and Agriculture Committees and by other colleagues on both sides of the aisle.

The pending amendments should be defeated so that no one in the Kremlin gets the wrong signal.

While our foreign policy generally is in disarray, this is no time to undercut the President in his attempt to show this country's disdain for the Soviet's naked aggression in Afghanistan and, especially, at the very moment the Olympics are in progress in Moscow.

Let no one underestimate our resolve against the Soviet occupation of Afghanistan.

The grain embargo itself is but one aspect of our response to this Russian aggression; and I will be frank to say that I personally do not favor this type of economic embargo. Embargoes have a long history of failure. If we want to achieve a political goal abroad, we should not try it by distorting our free enterprise system.

But the fact is that our President has included the grain export curtailment as one of the weapons in his arsenal of responses to Afghanistan.

The embargo stands there along with our defense buildup, our restrictions on technological exports, and our boycott of the Olympics, which I also support.

We must give the President strong, bipartisan backing in this matter.

To repeal the grain embargo now would be to send the wrong signal, to the wrong people, at the wrong time.

It would only create further confusion and consternation among our allies and friends who have made a good faith effort to support our weakening foreign policy.

I hope the embargo will in due course be lifted—after the Soviets have pulled out of Afghanistan, or after some concessions have been won in the current negotiations with the Soviets.

I also welcome the joint hearings on this matter which have been proposed by the Chairman of the Foreign Affairs and Agriculture Committees.

In the meantime, let us stand strong and tall and steadfast behind our Nation's responses to the Soviet aggression, and show our resolve today by clear defeat of these amendments.

Mr. ZABLOCKI. I thank the gentleman for his excellent contribution.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(At the request of Mr. GOODLING and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 3 additional minutes.)

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Pennsylvania.

□ 1230

Mr. GOODLING. Mr. Chairman, as the chairman remembers, I was the only person in the committee who voted against the Olympic boycott, not against the Olympic boycott, but against the Congress getting involved, because I said I knew the result would be that we would stiffen the backs of all the Olympic committees and we would defeat exactly what we were trying to do.

I also said in committee that if we are going to have the grain embargo, we want to make sure that all countries are going to participate.

I was right in both instances, I believe; nevertheless, this is our foreign policy, as finally stated after 3 years of waiting for a foreign policy from the President of the United States, criticizing him for saying one thing one day and doing nothing the next, he finally has made a decision. We have to support that decision, because finally all over the world they are saying, "Gee, he really does mean business this time. He is finally going to stick to his guns."

I think it would be totally incorrect to interfere at this particular time.

I would agree with what the gentleman from Illinois said. I would agree with most of what the majority leader said. I would correct the gentleman on one thing. As my colleague said, "The Congress of the United States did not take away the right of the President to tax. He never had that right in the first place," so that is one mistake he probably made in his remarks, but we must stand behind the President until Russia shows some good faith effort. If they do that, then we can take it from there.

I would say furthermore, let us do something for the future if we have this concern about embargoes.

Let us make sure we have legislation, to have it come to us before the President can, in fact, put it in place.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for his contribution.

In closing, Mr. Chairman, I must point out that the adoption of any of the amendments could only signal to the Soviet Union and to the world that our protestations over the Soviet seizure of Afghanistan have been empty rhetoric and hot air and that we do not have the backbone to confront Soviet aggression. If the House wants to send a message of a weak-kneed America that is not willing to make even a minimal sacrifice for what it believes or what its heritage stands for, then pass the amendments, any of the amendments; but I doubt seriously that that is the attitude or desire of the American people.

I therefore strongly urge rejection of the pending amendment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the chairman for yielding. I would like to associate myself with his remarks and strongly support his suggestion for procedure.

One point I would like to add is that it is not true that only one group has been singled out for discomfiture here. The international athletes have suffered, manufacturers of high technology goods have suffered.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that the gentleman from Wisconsin be permitted to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. PEYSER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Iowa (Mr. HARKIN), as a substitute for the amendment offered by the gentleman from North Dakota. (Mr. ANDREWS) and I oppose the Andrews amendment and the amendment to the substitute by the gentleman from South Dakota (Mr. DASCHLE).

Mr. Chairman, there is no question that the grain embargo against the Soviet Union is not working effectively. There is no doubt that we have not had the kind of cooperation from our allies that we desire and that the burden of this embargo has fallen substantially on one segment of our economy.

Our colleague, the gentleman from North Dakota (Mr. ANDREWS) has quite appropriately pointed out to us that we should have engaged in a more sweeping action, including agricultural equipment and materials, such as tractors and fertilizers, as a part of an across-the-board approach. However, despite the shortcomings in the implementation of our economic sanctions, we must consider today the importance of our Nation, as the leader of the free world, in sending a strong signal to the Soviets protesting their aggression and invasion of Afghanistan. That invasion is no minor matter. The President and our military leaders have labeled the invasion of Afghanistan as the most serious threat to world peace since World War II.

If we agree that the invasion of Afghanistan is so significant, then let us act to demonstrate our outrage at the invasion of a peaceful nation and the adventurism of the Soviets in using military force to attain their goals.

There is no question that our agricultural sector has had to make a significant sacrifice, but so, too, there have been impacts on certain segments of our industrial sector, as the gentleman from New York (Mr. BINGHAM) just pointed out, and on our scientific and cultural community and on our Olympic athletes; and let us not overlook the impact on our young people who, this very day, are registering for service in our Armed Forces as a symbolic act of our Nation's military readiness.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I would be pleased to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I think, in effect, if we were to vote for any of these amendments, we would be saying that we have just entered the Olympics and we have lost.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for his remarks.

Let us not, by these embargo termination amendments, render useless the efforts that have already been made at great cost to our Nation. If we rush headlong into ending this embargo today, without seeking to negotiate any accommodations by the Soviets, we will be retreating in an ignominious manner.

As pointed out by the distinguished chairman of the Agriculture Committee, the gentleman from Washington (Mr. FOLEY), the current Soviet-United States grain agreement, which has not been affected by this embargo, is due for renegotiation next year. It would make much more sense to utilize those negotiations as a vehicle to reach a new understanding with the Soviet in a manner that will provide us with some leverage. Unilateral action on our part in ending the embargo will only render ineffective and useless whatever good we may have achieved to date.

Moreover, the unilateral action we are considering today will result in no accommodation by the Soviets. Such a retreat only weakens our leadership role and damages our relations with our allies, many of whom we have invited and urged to join us in this noble sacrifice.

I certainly do not agree with those who have characterized the embargo as a mistake, but I do believe it would be a serious mistake to terminate our embargo in this manner.

Accordingly, Mr. Chairman, I urge my colleagues to reject all of the amendments before us and to stand firm and to support our Nation's efforts to resolve this issue through a united foreign policy in opposition to all Soviet aggression.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I would be pleased to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman has made an excellent statement. I commend him for it.

Mr. Chairman, the Soviet invasion of Afghanistan is a very serious matter—one of the major events of the postwar era. It is the first time in more than 30 years that the Soviets have sent the Red Army beyond the boundaries of the Communist world. As we read daily in the papers, Soviet forces are stopping at nothing in their attempts to pacify the people of Afghanistan, who nevertheless continue to struggle against their invaders.

When confronted with this Soviet challenge to the independence of Afghanistan and to world stability, what should we have done? We had three options. First, we could have done nothing. We could have said to the Soviets, "We don't care what you are doing." Second, we could have gone to war. Third, we could have done what we in fact did: Engage in a series of limited steps to deal with a situation over which we had little control. These steps are designed to express the seriousness with which we take the invasion, and to force the Soviets to pay whatever price we can reasonably manage to extract.

Now let us review what we have done. We have boycotted the Olympics. Did this stop the invasion? Of course not. Did we get every bit of cooperation we had hoped for from our allies? Everyone knows we did not, although we did achieve some significant successes. Did we manage to hurt the Soviets without paying any costs ourselves? Again, no; just ask our athletes who have had their sights set on these games for 4 years. But can there be any doubt that we have given the Soviets an enormous black eye before the world? Because of our efforts, the world knows that these Olympics are a sham, and the world knows that it is the Soviet invasion that has caused this.

We have partially embargoed technology sales. Again, this has not stopped the flow of technology to the Soviets. And our companies have had to pay a price. But we have managed to make it much more difficult for the Soviets to achieve some of their industrial goals which had relied on their access to American technology.

And we have partially embargoed grain sales. We have attempted to deny the Soviets 17 million metric tons of grain they were counting on from us. This measure is no more perfect than any other, but we have had considerable success. We have succeeded in persuading every other grain supplier except Argentina not to help the Soviets make up the shortfall. Even without Argentine cooperation, the Soviets will be left with a shortfall of 9 million metric tons. Soviet meat production and livestock inventories will fall. These Soviets will be forced to draw on their strategic grain reserves, and their plans to increase meat consumption will be set back. And, while these achievements have not been cost free for us, it should be pointed out that our grain export levels, and domestic prices, are about as high or higher now as they were when the embargo was imposed, and in some cases higher. I share the frustration of the gentleman from Iowa that the embargo has not worked perfectly, and that our farmers are losing an opportunity to supply Soviet demand. But if the embargo has not worked perfectly, it has not been a failure, either.

How foolish we will look in the eyes of the world if we now force our President to stop an embargo to which he is solemnly committed and in which he has secured the cooperation of Canada, the EEC, and Australia. What will our friends think of us when we abandon this effort just because one country is refusing to help? More important, what will our enemies think if Congress pulls the rug out from under the President and says we are not willing to pay any price to oppose their invasion of Afghanistan? Can anyone imagine a worse disaster for our foreign policy? How can we even contemplate such an action at a time when the United States is so often criticized for inconsistency in its foreign policy?

Mr. Chairman, I have been a leader of this House in promoting exports. I have insisted over the years that we should not impose export controls casually, that we should do so only for compelling reasons, and only after fully considering the costs to ourselves. I had the honor of being the principal author of the Export Administration Act of 1979, which embodies these principles. This act is the authority for the grain embargo, and I must say that the administration has made every reasonable effort under that act to think these controls through before imposing them, to consider the costs, and to consult with us. I am persuaded that, as part of a package of limited economic, diplomatic, and military measures designed to impress upon the Soviets the seriousness of their actions, the grain embargo makes sense. Most of all, I am convinced it would be a disaster to undercut the President at this time.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to associate myself with the eloquent remarks which were uttered this morning by the majority leader, and the powerful and persuasive remarks last evening and again today by the distinguished chairman of the House Agricultural Committee, Mr. FOLEY.

I also want to associate myself with the distinguished chairman of the Committee on Foreign Affairs, Mr. ZABLOCKI, and others on that committee who have associated themselves with him, and with the gentleman from Maryland (Mr. BAUMAN) who spoke earlier today.

I think it would be devastating if we at this time were to pass any of these amendments. This is a time for us to show strength and not weakness. As a matter of fact, we have sent a message to Russia and so have the allies, and members of the common market all with the exception of Argentina. What are we going to do now? What kind of a message are we sending to our allies? Are we saying that we did not mean it when we called upon them to give assistance by joining in an embargo against Russia.

I simply cannot conceive of pulling the rug out from under the President on the grain embargo, thereby sending a message to the Soviet Union that we do not really condemn their invasion of neighboring Afghanistan and the brutal slaughter of the citizens of that remote and undeveloped nation.

How can we possibly reverse national policy at this point and send a message to Moscow that, despite our boycott of the Olympics, we do not really mean to say that we are seriously concerned about Afghanistan.

If we pass the Harkin amendment or any other amendments on the subject, are not we, in effect, saying to the Communist rulers in the Kremlin that it is OK to conquer a neighbor that we have changed our minds. We will complain about it on a high level, but will meekly acquiesce on a lower level, less visible level.

Mr. Chairman, I believe the American farmer is willing to share the burden with all other Americans, if there is a burden to share, to keep this grain embargo in place and let Russia know that we support our President.

The embargo is hurting the Soviet Union, regardless of what has been said here today.

Communist Russia cannot be allowed to escape unscathed with its invasion.

Just because we do not see the war in Afghanistan on our television screens every night is no reason to gloss it over and pretend that it does not exist. Again, how will we explain such action to all our foreign friends, who have been concerned about America leadership.

Frankly, I think such action as we are being called upon to take, if taken could well be construed by the Soviet Union as such a show of weakness that they might well move into Pakistan or even further into the Persian Gulf area.

Now, this amendment is being proposed to help the American farmer who is truly hard pressed today, caught in a vicious cost-price squeeze caused by the energy crisis/inflation/recession now laying seige to the whole American economy.

But, Mr. Chairman, I would like to point out that our farmers are not now being seriously hurt by the grain embargo, if prices are any guide.

On July 16, prices were 60 cents higher for corn than on January 4, and $1.40 higher for soybeans. It is true that wheat was 20 cents lower, but wheat prices are rising.

In addition, our grain exports are still in good shape, despite the embargo. Wheat is at about the same level through July 10 as it was a year ago. Corn exports are up from 38.7 million metric tons last year at this time to 48.6 metric tons this year. Sorghum is also up from 4 million tons last year to 5.7 million this year.

Also, may I note that the USDA projections of exports are not down, but are generally the same as last year or better.

Keep these facts in mind and add to them the fact that Communist Russia has already been denied the equivalent of about 10 percent of its requirements of grain for feed this year before it could harvest any of its own inadequate feed grain crops.

Remember, too, that local news reports in Russia tell of unusually severe shortages of feedstuffs.

Clearly, we are bringing the message home to the average citizens of Russia that their country's invasion of Afghanistan is something the whole world is concerned about.

The message is not just coming from our country, but also from Canada, Australia, and Europe's Common Market. Of all the grain-producing countires, only Argentina is not supporting our lead.

If this amendment passes, we will be saying to our allies: We did not really mean it when we set out to punish Russia for its naked aggression.

One point about the salutary effect of the embargo is having upon the Soviet Union: meat and milk production have fallen off precipitously in the past several months there.

Soviet beef production was down 16 percent in June and pork production was off 10 percent. Milk was off 4 percent.

Looks like the Russians are getting our message every time they sit down at the table because they are not finding as much hamburger there, or pork chops, or even bottles of milk.

Mr. Chairman, my feeling is that we might well have embargoed everything to Russia after their invasion of Afghanistan, not just grain. But now that the President has acted, supported by our allies, the future security of the Middle East, and possibly America, could be endangered, if we in any way now reverse the President's decision.

It is therefore inconceivable to me that we could even contemplate backing down on the grain embargo, certainly not now.

Mr. Chairman, I urge the defeat of all the amendments proposed in the interest of peace and the security of the free world.

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. FOUNTAIN. Yes, I would be glad to.

Mr. WYDLER. Mr. Chairman, when I first saw this amendment offered and started to read it, it was called the Harkin amendment. Frankly, of course, I looked at it and I thought it could also be called maybe more appropriately the Reagan amendment, because we know that Governor Reagan has proposed an end to the embargo; but the fact of the matter is that at this moment in history Governor Reagan is not the President of the United States. The President of the United States is Jimmy Carter.

I think we have a certain responsibility toward the Presidency, as he has toward the Members of Congress, to try to strengthen his position in dealing in international affairs. As President, he has made this a matter of national policy that we as a country in trying to deal with the action of the Soviet Union are trying to show them that we have some resentment toward those actions and we want to do something to discourage actions of this kind in the future. It seems to me that if the Congress is just going to undercut the man who is President of the United States by taking away that small power, it is a clear message to the world that we do not mean anything we say.

Now, I agree with the general concepts possibly of some of those that are proposing an end to the embargo. I can agree with the concept of Governor Reagan, if he was President, in calling on the Congress to do this, I would support him wholeheartedly.

□ 1240

But the fact of the matter is that is not the situation that exists. We are simply and directly, if we do this, undermining the President of the United States in trying to deal with vital interests of our country in the international arena. I think that would be almost on the verge of irresponsibility, no matter what the political dividends might be at the moment.

So I would urge the Members to adopt the position of the gentleman from North Carolina (Mr. FOUNTAIN), and certainly vote down these amendments.

Mr. FOUNTAIN. I thank the gentleman for his contribution.

Mr. WOLFF. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose all of the pending amendments.

Mr. Chairman, food is a weapon as oil is a weapon. To lift the Soviet grain embargo at this time would be a tradegy for American foreign policy and further appeasement to the Soviet Union for several reasons, both psychological and substantive. It will put an imprimatur of legitimacy upon Soviet takeover of Afghanistan, Communist takeover, and deny us one of the most potent weapons in our arsenal.

First, the grain embargo is working, despite the claims of those who cite revised and lower estimates of its effectiveness. I will present facts on this statement in a moment.

Second, if we were to end the embargo, I think we would be hard put to find a worse time to take such a step—at the height of the Moscow Olympics.

To end the embargo now, with the "games" celebrating the death of Afghanistan at their high point, would present a victory to the Kremlin of incalculable proportions.

Third, the fact that it is American farmers who must pay the brunt of the price of the grain embargo cannot be used to argue against this important strategic weapon now being deployed with success by the United States.

There will always be some one group which bears the burden in any struggle for freedom. Sometimes it is the brave young people who must risk their lives on the battlefield. The American people all pay a heavy price in the defense burden we all must bear to meet Soviet aggression.

The struggle for Afghanistan's freedom is being fought on many battlefields, and the fact that the fields of our farmers must be the site of at least a portion of this fight surely is a burden which all Americans must help our farmers bear.

So you will get no argument from me against the claim that our farmers merit greater assistance at this time because of the Soviet grain embargo. But surely the greater national interest requires that embargo to be continued. But what is the total cost of our defense against the aggression of the Soviet Union—those who vote for these amendments must be considered soft on the Soviets, soft on international communism.

Let me tell you why we must do this—in short, because the embargo is working. Here are the facts:

The embargo has produced a USDA estimate of a 7 million metric ton shortfall in the feedgrains which the Soviets are trying to import to save their irreplaceable livestock. And they have had to pay through the belly.

The Soviets are being forced to purchase 31.5 million metric tons on an inflated world market, and are being soaked for a $40 per ton "embargo surcharge" which is rapidly draining their limited foreign reserve funds. Talk about your Arab oil price hikes.

Although the Soviet Union has been able to find alternative sources to replace most of the embargoed U.S. grain, it has had to pay more for its imports. To illustrate, Argentina's corn export prices increased from $162 per ton in December 1979 to $202 in February.

To try to save their threatened livestock herds, the Soviets have dipped into their limited reserves for 17 million tons to ward off disaster.

Despite raiding their strategic grain reserves, the Soviets are being forced to engage in "distress slaughter" of livestock in order to get at least some meat to the Soviet consumer. As a result, meat production in June was down 11 percent from June of a year ago.

Why is this important? Because Soviet Party Secretary Brezhnev personally initiated the 5-year plan which put meat production as the keystone for success—yet despite this personal priority by the Kremlin leadership we can show them that the price they must pay for Afghanistan includes a decline in 1980 meat production instead of even a modest, face-saving increase.

In sharply curtailing U.S. grain exports to the Soviet Union the administration seeks to impose a cost on the U.S S.R. for its Afghan venture, a cost felt by the people and embarrassing to the leadership. The administration hopes that the grain embargo will frustrate Soviet leaders' efforts to expand livestock production and meat consumption. Meat has been used by the Soviets as an incentive for increased labor productivity in the industrial sector. Reduced meat supplies will frustrate this effort. Earlier projections forecast a drop in Soviet meat consumption from 126 to 117 pounds per person. President Carter was emphatic in stating that the reduction in U.S. grain sales to the Soviets will not starve Soviet citizens but is designed to lessen the quality of Soviet diets and convey the seriousness with which the United States regards Soviet military action in Afghanistan.

The grain embargo is producing bottlenecks in deliveries of products and cutbacks in production of milk and butter, in addition to the distress slaughter.

Mr. Chairman, these are just a few of the hard facts which say the grain embargo against the Soviet Union is a success and will be a success. We must continue the embargo. The people of Afghanistan and, I think, the American people, and the freedom-loving people of the world, expect and deserve that the United States will continue to oppose aggression and will continue to stand by its word.

If you vote for this amendment, can you go back to your districts and honestly say to them you have done everything to stop the Soviet Union in their aggressive acts?

Mr. COLEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are here debating an embargo probably because of past mistakes that we made here on the floor of the House in passing legislation at least 4 years ago in the farm bill of 1977 when we caved in to the other body and did not back up and stand with the House language which would have put into place loan rate payments to farmers of 100 percent of parity if there was an embargo of commodities. Yet we backed away from that position. The present law states that nothing happens to help the farmers if we have an embargo, and that is why the farmers are concerned and that is why they are distraught.

We may have made a mistake in passing the Export Administration Act of 1979 where we allowed the President to curtail exports not just for national security purposes but also if it is detrimental to our so-called foreign policy whatever that may be.

I stand in support of the Daschle amendment which I think is an improvement over the Andrews amendment for several reasons which I will enumerate.

The chairman of our Committee on Agriculture, for whom I have a great deal of respect, has said that whatever we do here today will have absolutely no bearing on the embargo, that we are misleading the American farmer. Frankly, I think the Daschle amendment will do several things.

No. 1, October 1 the President of the United States, facing reelection, will have to reimpose and redeclare an embargo on the Soviet Union. He has stated repeatedly, and I have heard him myself in the White House say that he put the embargo in place and that he would do it again even if he did not receive one vote of one farmer in this country. If we vote this through today he will have that opportunity to go to the farmers and explain his position.

The fact of the matter is I think we can accomplish something here today because I do not think he would do it on October 1. The Daschle amendment is superior to the Andrews amendment because it does not tie the hands of the President in those obviously needed areas of national security. If the Andrews amendment were to pass, we would be in the position of perhaps sending grain to an enemy in a declared war. We might want to cut off grain and food supplies to Iran if that situation does not clarify or straighten out.

There are a lot of reasons why under certain circumstances dealing with terrorist nations we may want to do this someday. So I do not think we want the inflexibility of the Andrews amendment. The Daschle amendment, however, accomplishes these things without binding the hands of the President.

I suggest that we can accomplish something here today, and it may not be through the legislation, but through the political process where the President would have to go forward within a month of his reelection efforts and redeclare an embargo and tell every farmer in the United States that he is going to reimpose this embargo notwithstanding farm prices are down and that they are having the worst year financially that they have had for 40 or 50 years.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding. While I agree with much of what the gentleman said, especially regarding the Andrews amendment, well intentioned as it is, and the Harkin substitute, well intentioned as it is, I do have a problem with his suggestion that the Daschle amendment would accomplish something more than the others in ending the embargo.

□ 1250

I would just like to recall for the gentleman that all exports to the Soviet Union, including the 8 million tons that are authorized under the suspension, have to move with licenses and that the issuance of a license is required by the regulations. No appropriation limitation can force the issuance of the license, and no grain company, in my judgment, is going to ship without a license because there are criminal penalties attached for those who do, with a 3-year statute of limitations applying to those actions.

I have one other comment, if I may. Customs can, under the law and unaffected by this amendment, seize the shipments. So there is no way that any of these amendments is going to accomplish any more sales to the Soviet Union unless legislation is passed.

Mr. COLEMAN. As I am suggesting, we may be accomplishing indirectly what we cannot accomplish on the floor, and that is the political objective of not having the embargo redeclared on October 1, the beginning of the fiscal year.

I have a question for the gentleman. As I understand it, he was at the White House this morning with the Chairman of the Senate Committee on Agriculture, Senator TALMADGE, talking to the President. I assume one of the topics of discussion was these amendments and this embargo. Does the gentleman have any guarantee from the President that the embargo will be lifted at any time in the foreseeable future?

Mr. FOLEY. I am sorry to disappoint the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. FOLEY, and by unanimous consent, Mr. COLEMAN was allowed to proceed for 1 additional minute.)

Mr. FOLEY. If the gentleman will continue to yield, the discussion at the White House today did not concern the embargo except for a random comment or two about the debate yesterday that did not come from the President.

The subject of this morning's discussion with the President was possible legislative and administrative actions to improve te economic situation for agriculture, irrespective of the embargo issue.

Mr. COLEMAN. Secretary Bergland was before our Committee on Agriculture not too long ago, and he very frankly said there will not be an end to it in the foreseeable future. That is the official position of the administration. The Daschle amendment will give us an opportunity on a date certain to know whether the embargo will be stopped. That is why I am supporting it.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will stay within my 5 minutes.

Mr. Chairman, I think the chairman of the Committee on Agriculture has very plainly stated the reasons for the defeat of all of these amendments. I would like to really appeal to the Members of the agriculture community, those who represent the wheat farmers and the corn farmers, to think for a moment on what is really at stake here.

Just a few months ago we voted—in fact, just last month we had the final vote—to register young men in this country, 18-, 19-, and 20-year-olds, for the draft. Their possible sacrifice that they may have to make because of this act is certainly far greater than a sacrifice that any of the American farmers are being asked to make today to enforce this embargo.

I cannot believe that we are willing to equate the sale of wheat and corn to the Soviet Union to the potential lives of young Americans, including the sons of farmers as well as everybody else in this country. There has been much said about sending messages. The only message that these three amendments send to the Soviet Union is that the United States is chicken, that we do not have the guts to stand up and stay with an issue even though it is difficult. I just cannot believe that this is what the farmers of the United States want. I do not believe that these brave men and hard-working men and women who feed this country are willing to say to the Soviet Union, "OK, we will give you the wheat because we really want to make a little more money." I do not believe it. I believe it is essential that not only these amendments be defeated but they be defeated by a genuine margin that shows the clear majority of this House of Representatives is willing to stand up to the Soviet Union and say, "The hell with you! We are not going to sell out for a few dollars. We support the President of the United States who was acting within his constitutional authority in imposing this embargo."

What hypocrisy this must seem to young people today, who are supposed to be registering for a draft, to have this Congress even consider saying, "Well, you fellows get ready to serve but we are going to do business as usual with the Soviet Union."

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

The gentleman made much of farmers wanting more money or more profit. Does the gentleman realize that it takes $2.50 to produce a bushel of corn, and then corn fell after the embargo down to about the $2 level and also that farmers would not have objected had it been placed on every item that went to the Soviet Union?

What we really need is an agriculture policy in this country so that when an embargo, for instance, would be placed on some commodities for whatever reason, that the Government should have a floor under this agriculture commodities just as we have a ceiling now on agriculture commodities. If the gentleman would yield further, the reasoning being that farmers are asked by the Federal Government to plant fence row to fence row and to produce all that they can produce, then they themselves end up with their granaries full and no place for this to go. It would seem to me that it is time that those Congressmen from the urban areas realize that they to have some responsibility in bringing about a new agriculture policy in this country.

Mr. PEYSER. I will say to my friend I am going to take back my time because I am going to stay within the 5 minutes. That is not the issue today. The issue is not whether it is $1.50 or $2 or $4. The issue is what this country stands for and whether we are willing to back it up. We cannot walk away from this issue.

Someone said the Republicans are going to vote overwhelmingly for these amendments. I do not believe that for a minute. The Republicans are just as concerned over what the United States looks like to the rest of the world as the Democrats, and these amendments, all of the amendments, ought to be defeated. Let us show our country and the people of the world that we are going to take a stand and to stay with it.

Mr. Chairman, I yield back the remainder of my time.

Mr. FOLEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1310

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have responded. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as I have said on previous occasions, I do not support embargoes, and I counseled against this particular embargo to the extent that I was consulted before its imposition. I have said consistently that I do not feel agricultural embargoes are either easy to enforce or effective. However, the issue is in the context of this Appropriations Committee bill is whether any of these amendments can actually accomplish what they claim, which is to end the embargo.

Now, the proponents themselves have argued about the validity of each one of the amendments. Mr. HARKIN has said that Mr. ANDREWS' amendment was deficient in that it would cut off all authority for the purpose of even dealing with food shortages in the United States in the unlikely event that that should occur; that it would deny the ability to embargo grain for even countries with which we have the most difficult or nondiplomatic relations, countries that might even be in a state of open hostility with the United States.

Others including myself have suggested, that Mr. HARKIN's amendment would give the Soviet Union the exclusive right to purchase without limit our agricultural commodities, and be an affront to all of our other trading partners. And now, we have Mr. DASCHLE'S amendment, which would seek to identify this particular action of the President of January 7.

The problem with Mr. DASCHLE'S amendment as with Mr. HARKIN'S substitute and Mr. ANDREWS' amendment is that not one of them will do a single thing to end this embargo. Every single bushel of grain that moves to the Soviet Union must move under an export license. It is against the regulations and the law to ship without a license, and nothing in an appropriation limitation can require the issuance of those licenses. Indeed, the Soviet Union has not even requested, since the embargo or suspension was announced, any grain shipments over the 8 million tons. It has already been announced that on October 1st, when these amendments would allegedly come into force the United States would agree to sell 8 million metric tons to the Soviet Union as it has in this current year; there has not been any request—any request—from the Soviet Union for more grain.

Even if these amendments could be effective, there is not a scintilla of evidence that the Soviet Union is going to buy another bushel of grain from us. But, the sad fact of the matter is that while adoption of any of these amendments may give the message to American farmers that somehow the embargo has been lifted, that is not true and cannot be true because we cannot legislate on an appropriation bill. The shipments of any grain without a license is a criminal as well as civil violation of the law, and no grain company or no grain company attorney is going to recommend that those shipments be made illegally.

The Customs Department is not affected by this appropriation bill. Seizure of grain shipments can be made if they are in violation of export licensing provisions. There are three or four ways that this embargo, or suspension will be and can be enforced despite these amendments.

The worst offense that we commit, if we vote for these amendments, is to give the American farmer the false notion that we have accomplished something for him by ending the embargo, and I compliment some of the Members of Congress here who despite their support for these efforts, recognize that they are only empty gestures, and will not accomplish any legal effect of any kind. Yet, I am desperately afraid that that will not be apparent to everyone if we pass any of these amendments.

Another arises from the fact that since the Department of Commerce has to issue licenses before grain can move, it is just possible that a limitation of appropriations could interfere with the discretion to issue or not issue those licenses. If that were the case, it might have the effect, totally counter-productive to the intention of the proponents, of stopping the shipment of even the 8 million metric tons; of interfering with that portion of the United States-Soviet grain agreement which is not affected by the suspension. In other words, there is a real possibility for the most desperate kind of mischief to occur, resulting in a total reversal of the intention of the amendment by interrupting the very sales that we intend to carry forward.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. Foley was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. Now, Mr. Zablocki has indicated, after discussions with me, that if these amendments—Mr. Harkin's amendment in the nature of a substitute, Mr. Daschle's amendment to the Harkin amendment, and Mr. Andrews' original amendment are rejected, we will, as chairman of the Foreign Affairs and chairman of the Agriculture Committee, undertake to hold hearings where all who wish to come and testify concerning the embargo—its utility, its failure, whatever anyone thinks about it—can present those statements for the record.

But, I hope that no one will be persuaded today to vote for any of these amendments. None of them is effective. Each one of them is potentially dangerous, and each one of them, in my judgment, will create an expectation that simply will not be realized. As a consequence, farmers would quickly come to realize that they were nothing but empty gestures on the part of the Congress.

Let me just end by saying again, I have opposed, I think, every embargo that has ever been announced by a President. I wish to call the attention of the House, however, to the fact that last year we passed the Export Administration Act virtually unanimously, and in doing so, we gave to all presidents power under emergent circumstances to exercise some restrictions on export sales of all kinds. Virtually every Member of the House on both sides of the aisle voted for it. There was not even a rollcall demand, and I think Members know what that means.

The Andrews' amendment would strip away under any circumstance, including even the far-fetched and unlikely food shortage situation and national security confrontations with other countries; the authority of any President, be he Carter or Reagan to impose restrictions of any kind. Mr. Harkin's amendment would accord the Soviet Union a particular and special privilege not enjoyed by any other of our trading partners.

Mr. Daschle's amendment would not require reimposition of the embargo. It would simply be totally ineffective in ending the action taken on January 7. Since they are all ineffective; since they are all dangerously deceptive and, I believe, dangerous in other ways as well, I hope that my colleagues will reject all of them by a very strong vote.

□ 1320

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the tragic thing here is that we are debating the wrong issue. We are debating in a vacuum, because we do not have in this Nation an agricultural export policy.

Is it any wonder that farmers are hostile and bewildered by the jigs and jags of Government actions? We have no cohesive policy. We have no policy and really no law.

Food is the fundamental element of human survival. Certainly food is the fundamental issue of a nation's survival, and, therefore, it is a powerful, powerful issue.

I want to commend the gentleman from Iowa (Mr. Harkin) and the gentleman from South Dakota (Mr. Daschle) because these two Members, by their courage in standing up for these amendments, have exposed the harm being done our farmers by the fact that we have no farm export policy, and when we do make a jig or a jag in Government action, it hurts, it devastates the farmer. The farmers themselves are the ones who are held hostage, and the gentleman from South Dakota (Mr. Daschle) and the gentleman from Iowa (Mr. Harkin) are exposing that and doing a great service to their constituents.

But the gentleman from Washington (Mr. Foley), the committee chairman, is correct when he says legislation is needed. The gentleman from Washington (Mr. Foley) said earlier today—and I want the Members to listen to this and realize how serious it is—that any country could now come in and buy out virtually our entire grain stocks.

The Russians did that in 1972. An enemy of this Nation could come in and clean out our food—the most powerful weapon in the world—whether we like it or not.

As a matter of fact, let me ask, who handles our food sales? Agents of foreign countries. Russian agents now sell our grain in this country. No, they are not spies, but they are certainly not handling the sales for our farmers. The farmers do not know who is buying their grain. The farmers do not know what price they are getting for their grain or where it is going. These multinational grain companies are acting as agents for the Soviet Union when they come in and buy the grain.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield to me?

Mr. WEAVER. Mr. Chairman, I really do not have enough time. I am sorry.

Is it right to allow this?

Members have said that Brazil now grows soybeans and, therefore, is undermining our market. Nonsense. We export 85 percent of the soybeans in the world market today. We can control the markets for soybeans and grain.

The wheat growers in Australia have written us and said, "My God, when are the Americans going to wake up? Their grain is a drug on the world market, dragging our grain down in price and destroying our farm base."

When are we going to wake up and know that we can get two and three times what we are getting in the world markets? We can in effect get more from the Soviet Union. The Soviet Union is laughing at us. They buy, as the gentleman from Iowa (Mr. Harkin) said, our grain with their gold, but their gold has quadrupled in price and, therefore, they are buying our grain for almost nothing. They are buying 8 million tons of grain for virtually pennies.

When are we going to wake up? When are we going to have an agricultural export policy that makes sense? Are we frozen, paralyzed, unable to act? When are we going to say that our grain is too precious to let foreign nations dominate its trade?

Our grain is first needed for the American people, and what we have left over we sell. But we are paid less than it costs us to produce. My God, we sell grain to the Soviet Union for less than it costs us to produce. We are selling grain to the Arabs for less than it costs us to buy back their oil to grow it with.

When are we going to wake up? When are we going to get a farm policy for export of our grain that gets the money to our farmers, to the taxpayers, and to our balance of payments, and preserves and protects our precious grain supply?

Mr. PEASE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, let me say at the outset that I am sympathetic to the farmers. I have a number of grain growers in my district, and I do agree that they have had to bear too much of the burden of this particular policy. But I rise to speak against all of the amendments, and I would like to try to focus the discussion on the actual question before us today.

If I ask, "Are embargoes a good idea in general," you will probably say "No," and I would agree with you. But that is not the question today.

If I ask, "Should President Carter have imposed the embargo in the first place?" Well, you might answer, "Yes" or you might answer, "No." But that is not the question today.

The question is: Should the embargo which has been enacted now be terminated in midstream by the Congress? I believe the answer to that question, which is the question we face today, should be "No."

Who are we dealing with in relation to this embargo? A friend? Not a friend. It is the Soviet Union, with which we are engaged in a mortal, long-term combat for influence in the world.

Why was the embargo imposed? It was imposed, let us remember, because of naked, brutal aggression against Afghanistan by the Soviet Union.

And what did we say at the time that the package of sanctions was worked up by the President? We said that the invasion of Afghanistan was an extremely serious act on the part of the Soviet Union and a threat to world peace, the greatest threat to world peace since World War II. We said the Soviet Union must be punished, that we must show the Soviet Union that it pays a very, very high price for such aggression. We said there should be no wrist-slapping; there should be a tough penalty to deter further aggression against Pakistan, Iran, and Turkey—and who knows what other nations?—by the Soviet Union.

Lifting the embargo now sends the wrong message to the Soviets. It tells the Soviets that we have no staying power, that we will back off in the face of any kind of economic dislocation, that we are going to slap their wrists after all, and that we are going to go back to business as usual.

In other words, we are saying to the Soviet Union, "Aggression is OK. You can get away with it. You can expect a short-term response from us but no staying power."

Is that the message that we want here on the floor of the House of Representativs to send to the Soviet Union today? No, it is not the message. We do not want to send that message at all.

This morning, Mr. Chairman, I met in my office with four 4-H members from my district. Here in Washington this week there are some 600 4-H members from around the country attending a program called "Citizenship—Washington Focus."

At the time last night when we were starting to debate the issue on this embargo, the 4-H members were also debating it in a meeting of theirs at the 4-H Center out on Connecticut Avenue. They came to the conclusion, after a couple of hours of discussion among themselves, overwhelmingly that the embargo should not be lifted, that it should be maintained.

Mr. Chairman, I say to my colleagues on the floor of the House today that if teenagers from America's farm families have enough sense not to tell the Soviets that we in the United States are soft on their aggression, I hope the House will have equally as much good sense and will reject all of these amendments.

Mr. Chairman, I yield back the balance of my time.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

□ 1330

Mr. Chairman, I rise in support of the amendment offered by the gentleman from South Dakota (Mr. DASCHLE) to the amendment of the gentleman from Iowa (Mr. HARKIN), and I hope that this Committee will see fit to adopt that amendment and thereafter adopt the Harkin amendment as amended.

There has been much said here and a great deal of time has been used for debate on the effect of the amendments of either the gentleman from Iowa or the gentleman from North Dakota. However, we must realize that whatever that effect is—and some of us would differ as to the legal effect on the export of grain to Russia and removal of the embargo—one thing is for sure: It will give a signal to the American people and to the farmers of the House feeling on the issue. I think that is very important. Many times here we have seen legislation, even resolutions, brought forth from committees for a sense of the Congress to honor somebody or to set a policy of international relations, or what have you. So what is so different here? Why can we not tell our American farmers how we feel about a misbegotten and misdirected grain embargo, one that many of us supported initially? I for one supported it strongly.

My farmers supported it overwhelmingly in my discussions with them back in January and February. Yes, they said, they are willing to make some sacrifices to stop Russian aggression, naked aggression in Afghanistan and everywhere else in the world, but, too, they said that they did not feel they should be the sole ones to make that sacrifice. And so many of us took up the gauntlet for them, because we saw that they were going to be, along with the Olympic athletes, the ones to make the sacrifices. And so we had meetings and letters and correspondence with the Secretary of Agriculture and with the President in trying to get legislation through and trying to get policies so that the prices did not continue to drop so that they would not lose money.

But lo and behold, nothing really came. And they lost money, a lot of money, But the price for them to continue to operate—their seeds, their fertilizer, their tractors, their equipment—continued to go up. Nothing was done. And then came an infamous day about 4 weeks from this coming Friday, and I say that that was the straw that broke the camel's back, when the Agriculture Department, the USDA, said to the grain companies, "You can go to third countries, you can buy their grain as long as you comply with their requirements as to where it is to go, and if they permit sales to Russia, you, U.S. grain companies, can buy that grain and send it to Russia, and you can make that extra profit." And that is all right. "But you, American farmers, you do not get to share in that. Your grain stays right here. You keep your grain right here. You get less than it costs you to produce it while the farmers of those other nations make the money and the grain companies, because Russia does pay a premium, you make extra dollars and put it in your pockets."

That, to me, is the straw that broke the camel's back. To me, that ended any semblance for having a worthwhile embargo. We no longer have a worthwhile embargo. I am ashamed to say that. Yes, I did support that embargo, and today I would stand before you and still support that embargo if it really meant anything and if it was really doing anything. But it is not, except hurting your own American farmers. That is what it is doing. And I think we need to tell the President, the Secretary of Agriculture, the American people, the story that our American farmers are willing to stand behind an embargo if it is really so. They are willing to stand behind an embargo of everything to Russia. And why do we not have such an embargo? Why do we not just cut it all out, tell them that they can keep their stuff and we will keep ours, and let us forget it? Let us do that.

So all I ask is that the Members join with me to let our people know in this country that we stand behind our farmers in this day when they need it.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, in response to a letter from a constituent one time questioning his changing of a position, Abraham Lincoln said:

> Holding it a sound maxim that it is far better to be sometimes right than at all times wrong, so soon as I find I am in error I shall be ready to correct my position.

Now, I felt that my amendment that I offered in the beginning was a good amendment. But a point of order was raised, and that point of order was sustained. The second amendment that I offered, for the reasons expounded by the distinguished chairman of our committee, by others on both sides of the aisle, had a certain problem with it in terms of what it would do in the future. I believe that the amendment offered by the gentleman from South Dakota perfects that amendment and really gets to the heart of what we are trying to do here, and that is to end the present grain embargo on the Soviet Union without talking about what might happen in the future under who knows what kind of circumstances. I will support the Daschle amendment. I hope it passes, in fact, if it does not, I would heed Lincoln's advice and vote against my amendment.

I would also point out to my friends on the Republican side of the aisle that the amendment as perfected by the gentleman from South Dakota is in fact in essence the same type of language that is in the Republican platform just recently adopted.

Now, most of the Members who have come to the floor to talk against this amendment talk about it in terms of the Soviet invasion of Afghanistan and how we are going to respond and our need to stand behind the President and not to back down. Our present situation with regard to the Soviet Union's invasion of Afghanistan, that is, putting the embargo on our grain, is much like watching a bank robber go out of the bank with the loot and then standing there and shooting ourselves in the foot. Now people argue that we ought to keep shooting ourselves in the foot lest the bank robber get away. Well, I think it is time to stop shooting ourselves in the foot. If we really want to have an effective policy on the Soviet Union with regard to their invasion of Afghanistan, this is not the way to do it.

Now, the people talk about our duty to support the President. Yes, I have a duty to support the President. I believe I have a higher duty and a deeper responsibility, and that is to represent not only the people of my district but the people of this country when I think those policies are wrong. I believe that policy of a grain embargo on the Soviet Union has been a terrible mistake.

I just want to read one little sentence from a report that reportedly came out of the Treasury Department. It is an internal Treasury memo predicting that this embargo would cost us over $10 billion and that it was a mistake.

And so what is our responsibility here when faced with a mistake?

An editorial in the Des Moines Register recently said:

> Congress should decide whether to continue the embargo in any form.

That is our responsibility to make that kind of a decision.

The distinguished chairman of the committee has said that he will have hearings with the chairman of the Foreign Affairs Committee. We have had hearings and hearings and hearings and hearings. The farmers of this country now want some action.

The question is: What kind of action? This is the only vehicle that we have to express to the President of the United States our dissatisfaction with that grain embargo. Almost everyone agrees, with a few exceptions, that our grain embargo has been a symbol, a symbol of toughness, a symbol of effectiveness. But the question is: How much are we going to pay for that symbol? How much are we going to pay? A 40-percent decline in farm income this year, the largest single drop since 1921, a cost to our taxpayers of $3 to $10 billion, lost future markets.

Again, a headline in the July 9 Journal of Commerce:

> Soviet mission in Argentina to sign grain export pact for another 3 years.

Lost markets that would have been ours in the future.

Finally, some Members ask: What will our allies think, what will the Soviet Union think if we pass this amendment?

I will tell you what they think. They will think we finally have come to our senses, they will recognize that we are moving beyond symbols and we are going to take some effective action with our allies to hold the Soviet Union accountable for their invasion of Afghanistan, not with meaningless symbols, but with real strength and purpose.

Mr. ALBOSTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, rise in strong support of my colleague from South Dakota's substitute amendment before us now on the grain embargo. I believe this amendment will send a message to the President on the effects of the grain embargo. As the distinguished chairman of the Agriculture Committee said earlier, American agriculture is in the worst shape in many years. Part of this is due to the embargo which struck at one of the worst times possible, just when prices were starting to climb back to reasonable levels.

American agriculture cannot continue to bear the brunt of our foreign policy decisions or our domestic economic decisions as has been the case over the last 3 years. We cannot expect farmers to continue to produce at these low prices and, therefore, I believe we clearly need to signal the President that the embargo has had a devastating effect on American farmers, whether in my own State of Michigan or in other parts of this country. I urge adoption of the Daschle substitute.

□ 1340

Mr. O'BRIEN. Mr. Chairman, I move to strike the last word.

Like most of my colleagues, I have listened to this debate for 4 hours. I am not a farmer, so I do not speak with that type of authority. But I have come to a few conclusions that satisfy me and will dictate my vote. I would like to offer them for the consideration of the Members.

What we are dealing with, first of all, is the Andrews amendment, which would prohibit the use of these funds to implement all embargoes of agricultural products, period; not a bad notion. The Harkin amendment would prohibit such funds as they relate to embargoes to the Soviets only. I think that is somewhat flawed. Finally, what will be done by the Daschle and Findley amendment (I might add, the gentleman from Illinois (Mr. FINDLEY) had the same amendment as the gentleman from South Dakota (Mr. DASCHLE), but simply was not recognized in time)? The Daschle-Findley amendment would say, in effect, "lift the January 7 embargo." I subscribe to that.

I think that embargo is an extraordinary remedy, and it ought to be targeted to the specific wrong which we wish to right.

Now, as opposed to tying the hands of the President, I hear heated debate by eloquent speakers that all this is a unless gesture, much of the argument having been advanced by my friend from Washington. We have spent an awful lot of time in heated argument on a useless gesture if what he says is true.

With respect to tying the hands of the President, I agree that is generally an action to be deplored, but this is an extraordinary situation. It requires an extraordinary remedy. I think it is a tribute to the checks and balances of the system that we can go out by an oblique method and perhaps effect a change in conditions resulting from a bad Executive decision.

Now, it seems to me, embargoes are an all-or-nothing proposition. A limited embargo, to me, does not mean anything. If you are really going to send a message, you had better embargo the whole shebang. Selective embargoes, I think, are damaging and ineffective, just as this one is.

When we use those rolling phrases such as, "we, as a Nation disapprove * * *" does it not disturb one's sense of fairness to suffer the burden of our pious outrage over the sacrifice and loss of human rights worldwide, merely to be carried by our athletes and our farmers. It is great to talk about making heroes out of them, but do not send them to the poorhouse in the meantime.

I think, if we are forced by circumstances to influence foreign policy through the awkward means of an appropriation bill, let us not employ such unwieldy means beyond what is absolutely necessary to solve the problem we face, namely, the embargo of January 7. I subscribe, therefore, to Daschle-Findley.

Finally, let me just wind up with the Republican platform referred to by a previous speaker, and this is it: "We believe that agricultural embargoes are only symbolic and are ineffectual tools of foreign policies. We oppose singling out the American farmer to bear the brunt of Carter's ill-conceived, ineffective and improperly implemented grain embargo. The Carter grain embargo should be terminated immediately."

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I am happy to yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I would only like to make one comment. That is, as much as I support the reasoning of the gentleman, it should be clear that what this action does is largely symbolic. In essence this amendment represents an expression of the sense of Congress. This action alone does not terminate the embargo. The only way the embargo will be terminated is by the election of a new President of the United States.

Finally, I would like to say, and this Congress should understand, that under the 1979 Export Administration Act, we had in our power last January, for a 30-day period, the authority to overturn the embargo. Congress refused to act. Therefore, this Congress is complicitous with this administration in the establishment and maintenance of the embargo. This action that we are contemplating today, as much as it should be passed, is only a reflection of symbolism, not of substance. We must move forward in other ways to effectively remove the embargo.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Washington.

Mr. FOLEY. I think the gentleman indicated correctly that nothing can be done today which will have any substance. I congratulate him for that statement, because it is honest and straightforward. We are not going to lift any embargoes by adopting any of these amendments. They are all useless from that standpoint.

The gentleman mentioned further that Congress had 30 days after the imposition of the embargo. I think we ought to remember, that for at least 30 days after its imposition, every farm organization in the United States supported the President's action. This includes such organizations as the American Farm Bureau Federation, the National Farmers Union, the National Farmers Organization of Wheat Growers. There was not any passion on this floor or in the agriculture community to oppose the embargo.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. O'Brien) has expired.

(At the request of Mr. Foley and by unanimous consent, Mr. O'Brien was allowed to proceed for 1 additional minute.)

Mr. FOLEY. If the gentleman will continue to yield, the point is, as many of us feel, that great effort should have been undertaken to insulate the farmers from the consequences of the embargo. I hope there is still time in this Congress to do that. But let us address the needs of the farmers, not fence around with an empty gesture that will do nothing to end the embargo and when the real problem is not the embargo but the general depression of American agriculture.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. As far as passion is concerned, it should be clear for the record that this side of the aisle did produce a piece of legislation to overturn the embargo last January. A substantive effort was made. It was not well received.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Washington.

Mr. FOLEY. The gentleman will agree that all of the farm organizations in the country did support it.

Mr. LEACH of Iowa. I would agree.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. The reason those organizations did endorse and not disagree with the embargo was the fact they thought it was going to be a complete embargo of all goods and services to Russia. Most of them have rescinded that since then.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, hopefully, we are winding up this debate after 4 hours. It has taken a long time, but this has been the first opportunity Congress has had to express itself on the embargo since January 7, although it is a national problem and a national issue.

Now, we will have three votes. The first will be on the Daschle amendment to the Harkin substitute. If that carries, then there will be a vote on the Harkin substitute to the Andrews amendment. If that carries, then there will be an up or down vote on the Andrews amendment as amended by the Harkin and Daschle amendments.

I have been authorized by both the gentleman from Iowa (Mr. Harkin) and the gentleman from North Dakota (Mr. Andrews) to say they would be very happy if we would vote for the Daschle amendment to the Harkin substitute and for the Harkin substitute to the Andrews amendment so that quickly we can get to one vote and have one record vote and have it over with.

Now, the issue here is the grain embargo. I am like any subcommittee chairman. I do not like to have amendments to my bill, but I am in a peculiar situation. I happened to have been the one who put three of these kinds of amendments on appropriation bills in previous years. The first embargo was on walnut logs. That was under the Kennedy administration. That was the Hodges embargo. It embargoed walnut logs, and by the time we got this amendment on the appropriation bill and got it killed, they ruined for all practical purposes the encouragement that people had to plant more walnut trees. At that time we had a good export market, especially to Italy. We were planting lowlands in walnut trees. Our markets switched to various kinds of substitutes instead, and we ruined the walnut market.

The next embargo was on hides. That was in 1966. We put an amendment on the appropriation bill that killed the hide embargo.

Let me tell my colleagues that you are voting on something. Do not buy this idea you are not voting on anything. You are voting on something.

President Johnson was furious, and any of my colleagues who knew President Johnson knows that when he was furious, he was going to do something if he could. The Justice Department researched the amendment thoroughly and decided there was nothing they could do about it.

We had a good market in the Balkans for second-grade and third-grade hides. They went to substitutes after the embargo killed the hide market. Again, we got hurt more than they did.

The third time an embargo was put on was with the next President, President Nixon. Every President has one of these. By the time his administration got through with that soybean embargo, they had embargoed 41 different products, trying to reach grape seed, soybean meal, and manufactured feed. It did not work either.

☐ 1350

Then, of course, President Ford had to try an embargo. That was the Kissinger embargo. Now we have the Brzezinski embargo. Every President has to try it once.

Well, the fact of the matter is, none of them have been effective. What they did is hurt the United States worse than the countries the embargoes were aimed against.

This has not been effective. They admit it at the Department of Agriculture, that the Soviet Union has imported up to within 9 million tons of the amount they wanted to import, but they have not had to import as they usually do for Eastern European countries because they imported directly; so the fact of the matter is that the embargo has not worked at all. It has hurt us the worst.

Now, the majority leader is always an eloquent speaker. I would not dare to get up immediately after he has had the audience; but I will tell you this. When he talks about this being something against the President, it just simply is not right. This was not the only thing that could have been done and anyway, it was not effective.

The majority leader said we have to do something. That is the first thing we hear all the time. We have got to do something. The fact of the matter is that if the President wanted to get international attention, he could have ordered every corporal in the armed services to shoot himself in the foot. It would have gotten international attention and it would have shown how disgruntled we are with what was going on and would have done us less damage than what this embargo did.

What the majority leader says is just irrelevant and immaterial. It was a great speech, but it is irrelevant and immaterial. It did not do anything to cure the problem that we have; so what we have here is an embargo issue which I wish were not on the bill, but it is on the bill.

I hope that we can have a clean-cut up and down vote on the issue of that embargo and not have to be voting on whether or not we are imposing impositions or prohibiting embargoes next summer or some other time. In order to get this over with, let us vote by a voice vote on the Daschle amendment to the Harkin substitute, then by a voice vote, vote up the Harkin substitute to the Andrews amendment, and then we will have a record vote on the Andrews amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. Daschle) to the amendment offered by the gentleman from Iowa (Mr. Harkin) as a substitute for the amendment offered by the gentleman from North Dakota (Mr. Andrews).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and four Members are present; a quorum.

Mr. FOLEY. Mr. Chairman, on that I demand a division.

On a division (demanded by Mr. Foley) there were—ayes 34, noes 45.

RECORDED VOTE

Mr. DASCHLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 279, not voting 19, as follows:

[Roll No. 415]

AYES—135

Abdnor
Albosta
Andrews, N.Dak.
Anthony
Archer
Ashbrook
AuCoin
Badham
Bauman
Bedell
Bereuter
Bethune
Breaux
Brown, Calif.
Brown, Ohio
Burgener
Burlison
Burton, John
Campbell
Carter
Cheney
Coleman
Collins, Tex.
Conable
Conyers
Corcoran
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Edwards, Okla.
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Findley
Fithian
Frenzel
Gingrich
Glickman
Gradison
Grassley
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Hightower
Hillis
Hubbard
Huckaby
Jeffries
Jenrette
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kazen
Kemp
Kindness
Kogovsek
Kramer
Latta
Leach, Iowa
Leath, Tex.
Lee
Leland
Lewis
Loeffler
Long, La.
McClory
McDade
Madigan
Marlenee
Michel
Miller, Ohio
Moore
Myers, Ind.
Natcher
Nolan
O'Brien
Oberstar
Pashayan
Paul
Pease
Quayle
Railsback
Roberts
Robinson
Rose
Royer
Sabo
Sawyer
Sebelius
Sharp
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Spence
Stangeland
Stark
Steed
Stockman
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Ullman
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wolpe
Young, Alaska
Young, Mo.

NOES—279

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burton, Phillip
Butler
Byron
Carney
Carr
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Davis, S.C.
de la Garza
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gramm
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hanley
Harris
Hawkins
Heckler
Hefner
Heftel
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kelly
Kildee
Kostmayer
LaFalce
Lagomarsino
Leach, La.
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd
Long, Md.
Lowry
Lujan
Lundine
Lungren
McCloskey
McCormack
McDonald
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Neal
Nedzi
Nelson
Nichols
Nowak
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Russo
Santini
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Shelby
Snowe
Snyder
Solarz
Solomon
Spellman
Stack
Staggers
Stanton
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Thompson
Trible
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wilson, Tex.
Wirth
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

NOT VOTING—19

Anderson, Ill.
Beard, R.I.
Edgar
Ford, Mich.
Gray
Lott
Luken
McEwen
Mathis
Mavroules
Oakar
Rangel
Rhodes
Rodino
Runnels
St Germain
Stokes
Udall
Wilson, C. H.

□ 1410

Mr. ROSTENKOWSKI changed his vote from "aye" to "no."

Mr. KELLY changed his vote from "no" to "aye."

Mr. KELLY changed his vote from "aye" to "no."

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN) as a substitute for the amendment offered by the gentleman from North Dakota (Mr. ANDREWS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 1, noes 414, answered "present" 1, not voting 17, as follows:

[Roll No. 416]

AYES—1

Nolan

NOES—414

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini

Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—17

Anderson, Ill.
Edgar
Gray
Lott
Luken
McEwen
Mathis
Mavroules
Oakar
Rangel
Rhodes
Rodino
Runnels
St Germain
Stokes
Udall
Wilson, C. H.

☐ 1430

Mr. BUTLER and Mr. CORCORAN changed their votes from "aye" to "no."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COLEMAN TO THE AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. COLEMAN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN to the amendment offered by Mr. ANDREWS of North Dakota: After the word "commodity" in the last line insert: "unless on or subsequent to October 1, 1980, the President imposes a restriction on the export of any such commodity solely on the basis that such export would prove detrimental to the foreign policy or national security of the United States".

POINT OF ORDER

Mr. CONTE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CONTE. Mr. Chairman, I make a point of order against the amendment in that it exceeds the limitation and imposes additional duties upon the President of the United States.

The CHAIRMAN. Does the gentleman from Missouri desire to be heard on the point of order?

Mr. COLEMAN. I do, Mr. Chairman.

Mr. Chairman, the point of order is not well taken because my amendment does not establish any new additional duties. It simply says that if the President of the United States subsequent to October 1, 1980, imposes an embargo, then none of these funds shall be used to fund that embargo. It imposes absolutely no new duties. It simply states that if the President on his own takes some action, that none of these funds shall be used to support that action.

The CHAIRMAN. Does the gentleman from Massachusetts desire to be heard further?

Mr. CONTE. Mr. Chairman, I may add only that I have not seen the amendment, but from the reading of the amendment, this is legislation on an appropriation bill.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Massachusetts (Mr. CONTE) makes a point of order against the amendment of the gentleman from Missouri (Mr. COLEMAN) on the grounds that it imposes an additional duty, and constitutes legislation on an appropriation bill. Ordinarily, such Presidential determination language on an appropriation bill would constitute legislation, but the amendment only repeats verbatim the determination authority contained in the section of existing law (section 4(c) of the Export Administration Act of 1979) which has been called to the Chair's attention.

Therefore, the amendment does not constitute new legislation in any way discernible to the Chair.

The gentleman from Missouri (Mr. COLEMAN) is recognized for 5 minutes in support of his amendment.

Mr. COLEMAN. Mr. Chairman, I think we have a bit of confusion on the floor this afternoon about which amendment and which avenue we are going to take. Let me tell the Members very briefly what I am attempting to do.

First of all, I think the Andrews amendment goes too far; that we completely tie the hands of the President so that he cannot react to any international emergency or any shortages that might occur in this country. In fact, we would tie the hands of the President so that he could not embargo grain to a country that we could even be in armed conflict with, under the Andrews amendment. We in fact would not be able to embargo any grain or food to Iran if they were doing something to our hostages under the Andrews amendment.

What my amendment does is take the language which is present law in the Export Administration Act of 1979, and says that under these limited circumstances, when we have detriment to our foreign policy or our national security, only then could the President impose an embargo. But, the President will have to reestablish and reimpose this present embargo against the Soviet Union. In other words, there is a time for decision. It is a date certain, the beginning of fiscal year 1980, and if on October 1 the President of the United States wants to come forward and reestablish the embargo that he has placed in force against the Soviet Union, he can then do so.

Frankly, I do not think that he will do so on October 1, 1980, 1 month before the election, when he is going to American farmers trying to get their support. That means that this amendment is indeed an amendment which can accomplish something. It can accomplish the political feat of what all of us would like to see; that is, a curtailment of the present embargo being used by this country as a foreign policy tool.

We had the Daschle amendment, which was voted down, and obviously the Harkin amendment, but there has got to be a middle ground somewhere between completely tying the President's hands and allowing him to have continuous embargoes going on that we have seen are nonproductive and hurt the American farmers, hurt Americans more than they have hurt the Soviets, and allow this to continue. That is why I offer the amendment.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I thank my friend from Missouri for yielding. I would just like to ask a couple of quick questions.

It seems to me that your amendment does not interfere at all with the President's inherent right to conduct the foreign policy of the United States.

Mr. COLEMAN. Not at all.

Mr. EVANS of Delaware. But it does, it seems to me, give us a middle ground here between the gentleman from North Dakota (Mr. ANDREWS) and the gentleman from Iowa (Mr. HARKIN).

Mr. COLEMAN. Absolutely.

Mr. EVANS of Delaware. I think that is a reasonable and rational approach. I think the President should have to find that it is in our national security interest or important in the conduct of our foreign policy before reimposing the grain embargo. This is especially true since it is highly questionable whether the embargo is hurting anyone but the American farmer and our own balance of trade.

Mr. COLEMAN. Absolutely right.

Mr. EVANS of Delaware. I think that is important.

Mr. COLEMAN. The President could, on October 1, declare the embargo a total success and lift it.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding for a short question. Does the amendment mean that between now and October 1 any grain could be sold, without restriction?

Mr. COLEMAN. No. This bill would only take effect at the beginning of the fiscal year, which is October 1. Not unless the President wants to announce between now and October 1 that he wants to lift the embargo. That is up to him; always has been.

Mrs. FENWICK. I thank the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I certainly have no objection to the thrust of the gentleman's amendment, because what we are doing here, as has been said so many times, is sending a message to the President telling him that this Congress does not approve of export embargoes on agricultural goods, and certainly not of that specific embargo. So, certainly there should be no objection to what the gentleman is trying to do.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I commend the gentleman in the well for this amendment. I think it is a positive contribution to the debate that is taking place today, and it just would simply have the President redeclare the continuance of the embargo if he chooses not to allow an additional sale over the 8 million metric tons he has already approved.

Mr. COLEMAN. We will hear arguments after I am seated saying that what I am trying to do will be nothing more than anybody else and will have no effect, but that is not the case because October 1 is the date certain that the President will have to reimpose the embargo under this amendment.

☐ 1440

That is a political act that he will have to face up to, and that is how we are going to get this thing off dead center. Instead of saying that we are going to tie the hands of the President or we are going to do nothing, we would do this to accomplish the goal of getting the farmers back in the fields to produce for this country and for the world.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. Coleman) has expired.

(On the request of Mr. Foley, and by unanimous consent, Mr. Coleman was allowed to proceed for 4 additional minutes.)

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the distinguished chairman of the Committee on Agriculture.

Mr. FOLEY. Mr. Chairman, I would like to ask one or two questions of the gentleman from Missouri (Mr. Coleman).

I am not sure that the gentleman is correct when he suggests that the President would have to reimpose the so-called suspension which was imposed on January 7, because, as I said many times in the well, the present regulations require an export license. That export license cannot be eliminated by a limitation on appropriations, and there are criminal and civil penalties for those who ship grain.

So I am not sure that the gentleman is correct in saying that it would require an additional act by the President after October 1.

On the other hand, I also wonder whether the gentleman intends by adding this amendment to the amendment offered by the gentleman from North Dakota (Mr. Andrews) to cut across the existing provisions of law that authorize some restrictions on the export of food in the case of short domestic supply.

The gentleman's amendment would seem to eliminate the possibility of any restrictions on exports, even if the Secretary of Agriculture and the Secretary of Commerce found that domestic supplies were insufficient for the American people.

Mr. Chairman, is that the gentleman's intention?

Mr. COLEMAN. Mr. Chairman, if I might respond, of course not, because I used the language which the gentleman was so ardently agreeing to a while ago that comes out of the Export Administration Act of last year. As the gentleman said in the well a few minutes ago, that bill did not even have a rollcall vote; it was unanimously passed by this body just last year. That language is "would prove detrimental to the foreign policy or to the national security."

If our foodstocks in this country drop, that would be to me a situation involving national security.

Mr. FOLEY. Mr. Chairman, will the gentleman yield further?

Mr. COLEMAN. Mr. Chairman, if the gentleman is interested in my response, that is my response, that in fact national security is involved with the shortfall.

Mr. Chairman, I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I think it is fair to the Members of the House who have not had an opportunity to be on the floor that we explore the meaning of the gentleman's amendment.

The gentleman's amendment is an amendment to the amendment offered by the gentleman from North Dakota (Mr. Andrews). The Andrews amendment says that "None of the funds appropriated by this Act may be used to carry out or enforce any restriction on the export of any agricultural commodity."

And then the gentleman from Missouri (Mr. Coleman) adds this: "unless on or subsequent to October 1, 1980, the President imposes a restriction on the export of any such commodity solely * * *"—and that word does not exist in the act, by the way.

Mr. COLEMAN. Mr. Chairman, I do not use the word "solely." It is not in the amendment.

Mr. FOLEY. It is in the amendment that I have.

Mr. Chairman, I wonder if the Clerk could be asked to re-report the amendment. I wonder if the gentlemen would permit the Clerk to re-report the amendment.

Mr. COLEMAN. That is fine with me because "solely" is not in the amendment.

The CHAIRMAN. Does the gentleman from Washington ask unanimous consent that the amendment be re-reported?

Mr. FOLEY. Mr. Chairman, I ask unanimous consent that the amendment to the amendment be re-reported by the Clerk.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Coleman to the amendment offered by Mr. Andrews of North Dakota: After the word "commodity" in the last line insert: "unless on or subsequent to October 1, 1980, the President imposes a restriction on the export of any such commodity solely on the basis that such export would prove detrimental to the foreign policy or national security of the United States".

Mr. FOLEY. Mr. Chairman, if the gentleman will yield to me, the word "solely" does appear in the amendment.

Mr. COLEMAN. Mr. Chairman, that language does appear. I was anticipating that the gentleman was reading language out of the Export Administration Act which says, "would prove detrimental to the foreign policy or to the national security of the United States."

Yes; the word "solely" does appear up front.

Mr. FOLEY. Mr. Chairman, what that means, if the gentleman will yield, is that any provisions of the law to the contrary that deal with the authority of the President to eliminate exports for reasons other than foreign policy or national security cannot be implemented by the appropriations act, and I ask the gentleman if he intended by this amendment to exclude the possibility of restrictions on exports of food supplies to be found in the United States, other provisions of the law to the contrary?

Mr. COLEMAN. No. Mr. Chairman, if I may reclaim my time, I would interpret "national security" to include a shortfall of food supplies. That is an issue of national security, and that would apply under my amendment and would allow the President to stop sales abroad. That is the usual reading of the words "national security," and a shortfall of food in this country does affect our national security. So I agree with the gentleman.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I want to commend the gentleman from Missouri (Mr. Coleman), because I think this is as good a compromise as we will find today. I think there are enough Members in this Congress today who are willing to put some limitations on the way in which we propose our future embargoes. That is all this does, and it does it with a reasonable approach. It does it in an approach that is not contrary to what the concerns are of so many people who came before us.

This amendment does not put the Soviet Union in a most-favored-nation status, but it does deal with many of the other problems that the committee chairman pointed out concerning my amendment and the Harkin amendment. This amendment deals with those problems in an effective way.

Mr. Chairman, I commend the gentleman from Missouri (Mr. Coleman), and I urge the House to adopt the amendment.

Mr. COLEMAN. Mr. Chairman, I thank the gentleman from South Dakota (Mr. Daschle) for his contribution.

As I understand it, the sponsor of the amendment to which this amendment is offered has accepted it, and I thank the gentleman from North Dakota (Mr. Andrews) for that.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to pursue the point that the chairman of the Committee on Agriculture was seeking to make, and I do so as the principal sponsor of the Export Administration Act of 1979.

What this amendment would do in effect, in a few lines, would be to very substantially revise and virtually repeal the short supply control section, section 7 of the act.

I would call the attention of the author of the amendment to the fact that if agricultural commodities are indeed in short supply, then export controls may be imposed without action by the President in any respect. All that is required in that case is that the Secretary of Agriculture concur that the commodities are indeed in short supply.

The language that the gentleman is referring to occurs later on in the section where the President may impose controls on agricultural exports even though they may not be in short supply, if they will have adverse consequences to the national security or to the foreign policy of the United States.

So I would reiterate the point that the chairman of the Committee on Agriculture was making, that in its present form the amendment in effect prevents the administration from imposing export controls on commodities that are in short supply where the national security policy is not involved or where foreign policy is not involved, and that is limiting the power of the administration in a way that I do not think we want.

Those provisions with respect to short supply controls have been in the Export Administration Act for many years now. As far as I can recall, the revision of the Export Administration Act of 1979 did not change those provisions substantially.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I am glad to yield to the Acting Chairman of the Appropriations subcommittee.

Mr. SMITH of Iowa. Mr. Chairman, I would ask, is it not true that the question we have before us is really moot?

As a matter of fact, I was the author of the original provision that was in the bill before it came to the committee, and that was back when this matter was under the Banking and Currency Committee. The provision does not apply unless the total production and supply of that commodity is less than we use in our country.

We ship over 50 percent of our soybeans out of the country and about 40 percent of our corn out of the country, so there is no possibility that this short supply provision can come into operation. That is the reason the President last year had to use the national security as the basis.

□ 1450

Mr. BINGHAM. The chairman is quite correct so far as the shipment to the Soviet Union is concerned, but what I am pointing out is that this amendment in its present form would repeal an authority which has been in existence for years to impose short supply controls in situations having nothing to do with foreign policy or national security.

Mr. SMITH of Iowa. What I am saying is that it would prohibit doing in the new fiscal year what there is no possibility of doing anyway.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I take this time to ask the author of this amendment: Is it the gentleman's objective to cut off the embargo and accede to the Soviet Union's takeover of Afghanistan? Is that the objective?

Mr. COLEMAN. If the gentleman will yield, of course it is not, because what I am doing is simply saying to the President, "Here is an opportunity, October 1, to reestablish your embargo that you support."

Mr. WOLFF. But the gentleman says the embargo should cease at this point; is that not correct?

Mr. COLEMAN. I cannot hear the gentleman.

Mr. WOLFF. Does the gentleman say that the embargo, with his amendment, will cease at this point?

Mr. COLEMAN. No funds could be used unless the President reimposed the embargo.

Mr. WOLFF. In other words, the embargo shall cease?

Mr. COLEMAN. That would be our hope, yes.

Mr. WOLFF. The effect of the gentleman's amendment would be to cut off the embargo?

Mr. COLEMAN. Of course.

Mr. WOLFF. I thank the gentleman.

Mr. REGULA. Mr. Chairman, will the gentleman in the well yield for a question?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. REGULA. The gentleman used the words "repeal the present existing law on exports."

Mr. BINGHAM. On short-supply exports.

Mr. REGULA. That is right.

Now, since this is an appropriation bill, with a 1-year life beginning on October 1, 1980, and since it limits the use of funds rather than directed at substantive law, is the gentleman confident that in fact this would repeal, or would it simply put a hold on the impact of that law for a period of 1 year?

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(On request of Mr. REGULA and by unanimous consent, Mr. BINGHAM was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. I would simply say to the gentleman that I think the amendment has a consequence the author of it did not intend, and that is to eliminate for that 1 year the power of the President to impose control in short-supply situations where there really is short supply. In such a case, the Soviet Union has nothing to do with it, our foreign policy has nothing to do with it; it is just that a particular agricultural commodity happens to be in short supply.

The Congress and the Presidents in the past have thought it wise to permit the President to impose controls in those situations, and the gentleman's amendment would eliminate that power for the fiscal year 1981.

Mr. REGULA. I thank the gentleman.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Missouri.

After listening to the discussion that has ensued between the distinguished chairman of the Committee on Agriculture and the gentleman from Missouri (Mr. COLEMAN), I am wondering if this body would permit a unanimous consent request to amend the Coleman amendment to make it read as follows:

> Unless on or subsequent to October 1, 1980, the President imposes a restriction on any commodity solely on the basis that such export would prove detrimental to national supply requirements, the foreign policy or the national security of the United States.

That would clarify what was clearly the intent of the gentleman from Missouri to permit the authority the President now has under the Export Administration Act to be retained by the President at any point subsequent to October 1.

I will ask the gentleman from Missouri if the unanimous-consent request to effect such an amendment would be approved by him.

Mr. COLEMAN. If the gentleman will yield, I hate to do this in public.

Mr. FINDLEY. How else can we do it?

Mr. COLEMAN. Let me say this: It is my intent, of course, not to change the Export Administration Act and section 7 that the gentleman from New York referred to. I believe we can establish enough legislative history this afternoon to declare that. That is my intent, and I so stated it, and if you vote for it, I think that is pretty clear, because a shortfall of commodities in this country, of food, is a national emergency and a national security problem. But notwithstanding that, I do not know that we are going to have in 1 year—and that is how long this amendment would last—any shortfall of any grain, since the storage facilities are bursting at the seams out there with grain that has been stored up from past years. Even if we have a tremendous drought this summer, I still think we will have plenty of food supplies for this country.

Mr. FINDLEY. If the gentleman would permit me, I would just like to observe that if Chairman FOLEY and Chairman BINGHAM put up a fight against the gentleman's amendment, it does not have much chance of being approved. But I do not believe there is that much difference between what they seek to be clarified and what the gentleman intends by this amendment. With the additional words that I read, that is, the national supply requirements, would entirely clarify this.

I wonder if the gentleman from Washington would like to comment on this situation.

Mr. FOLEY. I appreciate the opportunity to comment. I cannot agree with the gentleman from Missouri that national security, in terms of the Export Administration Act, includes the national supply situation. They are treated in two separate sections of the bill. If unanimous consent is obtained to clarify the amendment in the way that the gentleman suggests and if the gentleman from Missouri then says that the purpose of his amendment is merely to restate the limitations imposed on the President and the authorities given to the President by the Export Administration Act in all respects dealng with embargoes, I think that would clarify the situation. But as it stands, I cannot accept the proposed legislative history because I do not think it will carry in the courts to the extent that the gentleman from Missouri wants it to.

Mr. FINDLEY. Would the gentleman find the amendment acceptable if the Coleman amendment were amended by adding the words "in accordance with the Export Administration Act of 1979"?

Mr. FOLEY. I think that would clarify the issue substantially, and I personally will not raise any objection to the unanimous-consent request.

Mr. FINDLEY. Mr. Chairman, I ask unanimous consent that the amendment now pending offered by the gentleman from Missouri (Mr. COLEMAN) be amended by adding the words "in accordance with the Export Administration Act of 1979."

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WOLFF. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I take this time because not only do I oppose the amendment offered by the gentleman from Missouri but I also want to urge the House to oppose the amendment that is being offered that we will be voting on of the gentleman from North Dakota (Mr. ANDREWS).

I spoke this morning in the House and spoke on the impact that this would have on the young men who this Congress has voted to register for a draft because of the Soviet threat only to find out that we are now about to try to open up a lucrative trade again with the Soviet Union. When I was in the hall a few minutes ago, two young men, who evidently were listening to the debate, came over to me and said, "You know, we have both registered yesterday, and we want to know if you people are kidding with what you are talking about doing on the floor?"

And I said, "No, unfortunately, we were not kidding, but I was very hopeful that the Congress and the House of Representatives would reject out of hand all of these amendments."

Can the Members imagine the impact on young men who have been asked to register for a draft because of the threat posed by the Soviet Union in their invasion of Afghanistan and with the action taken by the President of the United States imposing an embargo, stopping technical equipment, removing fishing rights, boycotting the Moscow Olympics, and cutting off the grain, to have this Congress say a few months later, "Well, listen, things are getting pretty tough on the farm and we need a little more money and, therefore, we are going to waive the biggest weapon we have, which is the grain embargo."

I believe the young people in this country would rightfully be furious. Where do we get off asking them to potentially lay their lives on the line and then say to the Soviet Union, "We are going to do business as usual"?

I think it is outrageous, and I am delighted at the first two votes. I want to be sure that the vote on this amendment and the vote on the Andrews amendment equally goes down that way.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from California.

Mr. PASHAYAN. Is it not true that at the time he imposed the grain embargo the President of the United States, Jimmy Carter, assured the American people and, in particular, assured the farmers, that the embargo would be applied and managed in such a way that it would not affect the price of grain? Was not that part of what he told the American people?

Mr. PEYSER. The thrust of the President's real effort here was not to placate either the farmers or to make some group happy; it was to strike a blow at the Soviet Union. I think the blow has been struck. I am not willing to change on that.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Washington.

Mr. FOLEY. I think the House might be interested in knowing that under the Export Administration Act the current President or any President imposing restrictions on exports for national security reasons is required to review that action once every year; further if the restriction is made on foreign policy grounds, it must be renewed every year.

□ 1500

Now the President's suspension of grain sales to the Soviet Union was in fact based on both national security and foreign policy reasons. Thus within a very short span of time, the President will have to both review and renew to meet the existing requirements of the Export Administration Act. Given this, much of what the gentleman from Missouri (Mr. COLEMAN) seeks through his amendment is already contained in the basic legislative mandate of the Export Administration.

Mr. PEYSER. I thank the gentleman for his comments.

I would simply, in closing, like to say that the broader influences of any act such as this would be felt by all our NATO allies. I had the opportunity of being in Luxembourg at the North Atlantic Alliance just a few months ago, where all of our NATO allies joined again in definitely striking at the Soviet Union, condemning their action in Afghanistan, and applauding the action of the U.S. Government on this issue. I would say for us to go back on our word at this time would be outrageous.

Mr. STANGELAND. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment of the gentleman from Missouri (Mr. COLEMAN). I take a good deal of exception to the remarks this morning and to the 1-minute speech later on the floor today of the gentleman from New York (Mr. PEYSER). Initially I supported this embargo and the President's right to use every tool possible to peacefully convince Russia of the error of her ways. However, I did so upon conditions: First, that the Secretary would raise the support prices of corn and wheat to the preembargo levels; second, that he would implement a paid diversion to help our farmers control production in order to protect the free market and the law of supply and demand; and third, that the embargoed commodities be isolated from the market and not be released until the free market prices of those commodities reached 90 percent of parity.

Mr. Chairman, it is grossly unfair to expect the American farmer to bear the economic brunt of a misguided foreign policy. If farm grains are to be used as a bargaining tool in international diplomacy, the citizens of Mr. PEYSER's district and every other urban district should share the economic burden of that kind of policy. There is no doubt in my mind or the minds of my farmers that they have suffered economically because of the embargo. The price of wheat and corn were increasing at the time of the embargo to approach potential profit levels. At the time of the embargo they immediately dropped and since have recovered to near preembargo levels. However, without the embargo they undoubtedly would have gone higher to the point where farmers could expect a profit in the marketplace.

It is also quite apparent that the embargo has not had any effect on the Russians' actions or, for that matter, the Russian economy. There comes a time after ramming a stone wall with your head that you might as well admit the error and take steps to protect yourself. This embargo has not only impacted the U.S. economy but that of our friendly neighbor to the north who was not consulted on the embargo but has supported our efforts and has suffered as well.

Mr. Chairman, our farmers are loyal Americans. Our farmers are willing to sacrifice for their country, but it is blatantly unfair to ask our farm population and the business suppliers, the automobile dealers, the farm implement dealers, and the man on the street in rural America to suffer economic hardship while the bulk of the rest of the economy does not share in that suffering brought about by an inept foreign policy.

Russia has and is receiving the grain she needs. Other countries, such as Argentina, have profited by becoming prime suppliers, and we have paid the price. I say, support the Coleman amendment and the Andrews amendment and get on with the business of shoring up a very depressed agricultural economy.

Mr. BAUMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I applaud the gentleman from Missouri (Mr. Coleman) for his attempt to compromise after 6 hours of debate on what has been a very difficult proposition before the House. I do not think any of us oppose taking appropriate action to try and thwart communism wherever it advances, including in the nation of Afghanistan. Many of us had a great deal of concern at the time in supporting the President when he imposed this embargo, but he assured us that it would be even-handedly applied to all sectors of the American economy.

The fact is, as this debate has repeatedly demonstrated, there are substantial questions in the minds of many of us as to whether or not the embargo has been effective. Certainly it has not removed one Soviet troop or one Soviet tank from Afghanistan and its burden has now fallen evenly on every sector of our economy.

Now, a President who could embrace and kiss a Leonid Brezhnev, a President who could tell us that Soviet troops who had been quartered on the island of Cuba constituted a threat and 3 weeks later, no threat, and who could speak at Notre Dame University some months ago and say Americans had an inordinate preoccupation with the threat of communism, a President who said that he would withdraw SALT II temporarily but hoped that it could be ratified as soon as possible, has to be looked at closely when he imposes an embargo against the Soviet Union as in this case.

I applaud those on that side, such as the gentleman from New York (Mr. Peyser), who has twice today supported the President in his recent opposition to the advance of communism. I do not think many of us here need to apologize for our opposition to that kind of advance. But the American farm community has suffered far more than any other group as a result of this embargo.

What about Wall Street? What about all those businesses we were told would be denied the export of technological systems and all sorts of sophisticated equipment to the Soviet Union? They have not been denied exports despite the fact the Commerce Department announced a supposed ban on this type of transfer at the same time or shortly after the grain embargo. The next day came a whole list of exceptions that constituted a carte blanche export of most of that kind of equipment and technology.

The farmers of America have been made to bear the brunt of the Carter embargo at a time when agricultural prices are the lowest in 40 years.

Now all we are asking in this amendment is one simple thing, that if this embargo is so good, that if it is going to drive the Communists out of Afghanistan, on October 1, James Earl Carter, as President of the United States, must address the question of whether the embargo has been effective. The amendment allows the President to reimpose that embargo by the stroke of his pen. We want to get the Communists out of Afghanistan, but we are also asking as prudent legislators representing our people to have the President reconsider on an appropriate date whether this embargo is good or it is bad.

Sure, we are asking people to go and register for a draft. Sure, we are going to ask people to make sacrifices because of more defense spending, but we want to do all that prudently. We did not impose a draft, only a registration. So why impose an embargo that does not work, and why not reconsider whether it is working? That is what you are voting on. Do not let the pride of the President or Presidential politics intrude in your decision on this. This is not a matter of whether we endorse President Carter or his policies. It is only a reconsideration of a policy which was imposed at a time that we all supported him and needs to be reconsidered.

You can vote for the Coleman amendment as will shortly be perfected by a Findley amendment that will bring in the entire Export Act and its conditions. It simply says to the President, look twice at this embargo and think about the American farmers and their best interest as well as that of the American people at large. That is what is embodied in this amendment.

I would hope the majority party would not blindly oppose this. The issue is far different than the other issues we voted on earlier.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Montana.

Mr. MARLENEE. I would like to associate myself with the gentleman's remarks.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Chairman, I would like to applaud the gentleman for his remarks. I would like to say shortly after we resolve the Andrews amendment, we will be offering an amendment that will address itself to this across-the-board issue.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. PASHAYAN. I share the view that the President has mismanaged the embargo and it had a harsh effect on the farmers. Does the gentleman agree that at the time he announced the embargo the President promised in particular that the application of the embargo would not render hardship on the farmers?

Mr. BAUMAN. The President made that point very clearly, and has reneged on it. The farmers have suffered greatly. You have to recall that this was also the President who clearly stated, and I quote:

> No more embargoes under my administration.

AMENDMENT OFFERED BY MR. FINDLEY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. FINDLEY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Findley as a substitute for the amendment offered by Mr. Andrews of North Dakota: Strike all of the language of the amendment and insert the following:
>
> "Sec. 605. None of the funds appropriated by this Act may be used to carry out or enforce any restriction on the export of any agricultural commodity unless on or subsequent to October 1, 1980, the President imposes a restriction on the export of any such commodity under the terms of Public Law 96-72, the Export Administration Act."

Mr. FINDLEY. Mr. Chairman, the effect of this amendment is to embody in the Coleman amendment to the Andrews amendment the language which I sought to include by unanimous consent. It makes it very clear that this restrictive amendment in no way takes away from the President the flexibility that is conveyed to him under the Export Administration Act of 1979.

I would inquire of the gentleman from Missouri if this has his support.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Missouri.

Mr. COLEMAN. It certainly does. It clarifies what we discussed with the gentleman from Washington (Mr. Foley) on the floor here as far as taking away anything that is presently in the law with regard to shortfalls or shortages of domestic production. This would clarify it, because the Export Administration Act is clear on that, and we will not have to depend upon any interpretation of the debate on this to determine that.

Mr. FINDLEY. I pose the same question to my friend from North Dakota (Mr. Andrews).

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. It is totally satisfactory, because what we are trying to do today is send as strong a message as possible to the President. I think it is about time the general public and the farmers as well realize back home that this embargo can be ended by the stroke of a pen by the President of the United States. It does not take this kind of legislation to do it. It does not even take legislation out of a legislative committee, so all we are trying to do is put the force of Congress by our votes behind the President, changing an ill-thought-through decision on his part. So, yes, I support that.

□ 1510

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I want to compliment the gentleman for his usual sensible and very compromising approach to the issue.

I would like to make one other point. Last year when we passed the Export Administration Act, we added for the first time language which indicates that it shall be the policy of the United States to minimize restrictions on exports of agricultural commodities. Since that specific language is in that act, I assume that it has been incorporated by reference in the gentleman's substitute.

Mr. FINDLEY. Mr. Chairman, I thank the gentleman.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. Of course.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, would this not require the President then to make a determination in the future?

Mr. FINDLEY. It would subsequently if he sought to impose a restriction on exports, he would have to make a new decision, that is correct.

POINT OF ORDER

Mr. WOLFF. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. WOLFF. Mr. Chairman, I make a point of order against the amendment, since it does impose, according to the gentleman in the well, additional duties that were not encompassed in this bill.

The CHAIRMAN. The Chair will state that the point of order comes too late, since debate has begun on the amendment.

Mr. FINDLEY. Mr. Chairman, I make just one brief observation. I listened intently to what my good friend, the chairman of the Committee on Agriculture said last night and again today. It struck me that the gentleman's attitude toward the Soviet grain embargo may be somewhat like my attitude toward heaven. I believe in heaven. I want to get there some day, but not now.

It appears that the chairman, the gentleman from Washington (Mr. FOLEY) thinks the Russian grain embargo was a mistake. He believes it was a mistake. He believes it ought to be terminated, but not now.

This amendment gives an opportunity to us who are so minded to make it very plain that we believe it should be terminated at the earliest possible date.

● Mr. FRENZEL. Mr. Chairman, 6 hours of debate ought to prove at least that the subject of embargoes is controversial. So far, it is apparent that passage of any of these antiembargo amendments are not going to stop the embargo. But it has also become apparent that many Americans do not believe the embargo has hurt anyone, except America.

Most Members, even those who do not approve of the embargo, will oppose all these amendments because they do not want to embarrass the President. I do not want to do that either, but I think he has done that to himself already.

The President should be informed that at least some of the people know that he has shot us in the foot. To help carry that message, and to express my belief that the embargo has not worked, and never could have done so, I will vote to lift the embargo.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. COLEMAN) to the amendment offered by the gentleman from North Dakota (Mr. ANDREWS).

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY) as a substitute for the amendment offered by the gentleman from North Dakota (Mr. ANDREWS).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FINDLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 267, not voting 17, as follows:

[Roll No. 417]

AYES—149

Abdnor
Albosta
Andrews, N.Dak.
Anthony
Archer
Ashbrook
AuCoin
Badham
Bauman
Beard, Tenn.
Bedell
Bereuter
Bethune
Breaux
Brown, Ohio
Burgener
Burlison
Burton, John
Campbell
Carter
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derrick
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fithian
Frenzel
Gingrich
Glickman
Goodling
Gradison
Grassley
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Hawkins
Hightower
Hillis
Holt
Hopkins
Horton
Huckaby
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Kazen
Kemp
Kindness
Kogovsek
Kramer
Latta
Leach, Iowa
Leath, Tex.
Lee
Lewis
Loeffler
McClory
McDade
McKinney
Madigan
Marlenee
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Myers, Ind.
Natcher
Nolan
O'Brien
Pashayan
Paul
Perkins
Quayle
Quillen
Railsback
Regula
Roberts
Robinson
Rousselot
Royer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Stockman
Symms
Tauke
Tauzin
Taylor
Thomas
Traxler
Ullman
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Whitehurst
Whittaker
Williams, Ohio
Wilson, C. H.
Winn
Wolpe
Wydler
Wylie
Young, Alaska

NOES—267

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burton, Phillip
Butler
Byron
Carney
Carr
Cavanaugh
Chappell
Clay
Cleveland
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Davis, S.C.
de la Garza
Dellums
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Emery
Erlenborn
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gore
Gramm
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hanley
Harris
Heckler
Hefner
Heftel
Hinson
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kildee
Kostmayer
LaFalce
Lagomarsino
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCloskey
McCormack
McDonald
McHugh
McKay
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Neal
Nedzi
Nelson
Nichols
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Seiberling
Shannon
Shelby
Snowe
Solarz
Solomon
Spellman
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Synar
Thompson
Trible
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wyatt
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—17

Anderson, Ill.
Chisholm
Edgar
Fish
Gray
Luken
McEwen
Mathis
Mavroules
Oakar
Rangel
Rhodes
Rodino
Runnels
St Germain
Stokes
Udall

□ 1530

Messrs. SYNAR, BOLLING, and DOUGHERTY, and Mrs. BOUQUARD changed their votes from "aye" to "no."

Mr. BURLISON changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota (Mr. ANDREWS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. M'DONALD

Mr. McDONALD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McDONALD: On page 43, after line 5, insert the following new section:

"SEC. 605. None of the funds contained in this act can be used to administer or promote any trade between the United States and the Soviet Union."

Mr. McDONALD. Mr. Chairman, we have just had a number of hours reviewing the matter of embargo on agricultural products. Many Members of this body have felt that the burden fell unevenly upon the farm community, and many of them have felt that this should have been and was to have been shared equally across the entire length and breadth of this Nation. The purpose of this amendment is simply an equitable distribution regarding the trade restrictions upon the Soviet Union.

Approximately 3 hours ago we heard a very eloquent and impassioned speech by the majority leader which stressed the need for the free nations to stand up when it is easy to do so to prevent a worldwide conflagration, citing that the original fires of World War II began in 1931 when the Japanese moved into Manchuria. In this case we are dealing with a world power, the Soviet Union, that has by force taken over Latvia, Estonia, and Lithuania, that rules today throughout Eastern and central Europe, that has supplied 30,000 to 40,000 Cuban troops in the Middle East and Africa, and is involved in naked aggression in Afghanistan. To me this particular amendment is merely addressing this whole matter of aid and trade to those who are promoting terrorism and aggression throughout the world.

If we are to apply the principles of our indignation and sanctions against the Soviet Union for these acts, it appears that this amendment is the proper route to do so.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. McDONALD. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Early in the debate on the amendment dealing with agricultural exports to the Soviet Union, we heard protests from some Members about hypocrisy, comments about those who wish to try to ameliorate the situation of our agricultural community affected by the grain embargo. Now the gentleman from Georgia has presented the Committee of the Whole with an amendment that will discover whether sincerity extends in the House. If we wish to protest the Soviet invasion of Afghanistan and do it by cutting off agricultural trade, there is no logical distinction why we should not end shipments of computers, sophisticated machinery, technological systems that lead to the building of such things as trucks. For example, trucks built in the Soviet Kama River plant were used to transport Soviet troops into Afghanistan, and it was a Ford Motor product with American technology that produced them.

Here is the issue: If you are sincere, if you want American farmers to suffer, let Wall Street suffer, too, let big business suffer, let everyone suffer. For what? To show communism that we are sincere. But if you are not sincere, vote against the gentleman's amendment. Here is your test. Here is an amendment that really counts as to whether or not you mean what you say when you are concerned about aggression in Afghanistan. You may have no farmers in your district, but you have plenty of businesses that may want to trade with the Soviet Union. The Soviet Union and communism is not a market to be sold to. It is a system of government out to destroy the freedom of your children and your grandchildren and the United States of America—and the invasion of Afghanistan is one step toward that goal. If you are sincere you will vote for the McDonald amendment.

I applaud the gentleman's offering it.

Mr. McDONALD. I thank the gentleman.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have argued against the various amendments that have been offered today with regard to agricultural embargoes or suspensions principally on the grounds that they would not be effective and that they could lead to confusion of the existing trade that we have with the Soviet Union, including the 8 million metric tons of wheat and feed grains. What the President's action of January 4 did was to suspend any sales above 8 million metric tons of wheat and feed grains with the Soviet Union, honoring in the last 2 years the terms of the United States-Soviet grain agreement which was signed 4 years ago.

What the gentleman from Georgia attempts to do is to go much beyond any other amendment we have considered today and deny funds to the administration for promotion of any trade between the Soviet Union and the United States. This might well be an effective amendment in severely limiting trade, not only in the grains and agricultural commodities covered by the so-called suspension or embargo but also those it permits. Indeed, it not only reaches all items we export to the Soviets but what we import from them. I would just like to remind the Members of the benefit to our own agricultural community from the importation of anhydrous ammonia from the Soviet Union. Our aircraft industry uses titanium in the building of high-performance fighters, a substance that we would not sell the Soviet Union in return, in my judgment, because it is a strategic material, but which they sell to us. We also import chromium from the Soviet Union and cobalt, which are important in a variety of industrial manufacturing areas. An effort to blanket the trade and cut it off entirely is not going to be exclusively to the detriment of the Soviet Union as the gentleman from Georgia seems to imply, but will have an impact on both countries.

My own view is one that supports trade with the Soviet Union on those items that are not strategic and those items that do not add to the Soviet potential in a military sense. I have supported grain sales and opposed embargoes to the Soviet Union.

I remember Hubert Humphrey once said he was in favor of selling anything to the Soviet Union that they could not shoot back, and perhaps that is a pretty good rough analogy of where our trade should be.

This amendment in my judgment is so far reaching, so total that it will impact on the United States rather than the Soviet Union. It will affect the trade coming to the United States as well as what limited trade now goes back.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I think one point should be made quite clearly: The amendment clearly does not prevent trade with the Soviet Union—between the United States and the Soviet Union. It does prevent the agencies who are receiving appropriations under this bill—the Department of State, the Department of Commerce, and so on—from administering or promoting the trade. It still would allow the various commercial contacts on a strictly one-to-one basis but it would take us out of the business of promoting trade or administering it with that great aggressor in Afghanistan, the Soviet Union.

Mr. FOLEY. I am sorry the gentleman from Maryland is of that opinion. The gentleman's speech a few minutes ago seemed to indicate that this amendment was going to deny the Soviet Union the benefits of material trade. Now, the gentleman suggests all it does is deny the Soviet Union the benefit of——

Mr. BAUMAN. Will the gentleman yield further?

Mr. FOLEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. It will, because much of the trade with the Soviet Union comes as a result of assistance given by the U.S. Government, credits and so on. Yes, it will have a definite impact. Arm and Hammer will have to get his own money instead of going to the Export-Import Bank.

Mr. FOLEY. I respect the opinion of the gentleman and while I would not argue with the intentions of anybody here, I think that on matters of foreign policy which affect trade with the Soviet Union it might be better if we did not attempt to legislate on the floor in the form of amendments placing limitations on appropriation bills and at least let the responsible committees of the Congress, in this case the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on Interstate and Foreign Commerce, to have an opportunity to consult and decide these issues in an appropriate way. This kind of hip-shooting on the floor during consideration of an appropriations bill serves the interest of no one, not the interest of wise foreign policy, good trade policy, or sensible legislation. It should not be encouraged and we should vote this amendment down.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Frenzel and by unanimous consent, Mr. Foley was allowed to proceed for 2 additional minutes.)

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Chairman, I appreciate the remarks of the gentleman from Washington. However, I think we would have to agree the majority of the world's chrome supply is found in South Africa and in Zimbabwe-Rhodesia.

With regard to cobalt, vast supplies of cobalt are available in Zaire. This was very aptly demonstrated to the free world when the Soviet Union brought up large supplies of cobalt from that service, from that area, shortly before the hostilities that broke out in Zaire.

Mr. FOLEY. I am not suggesting to the gentleman that the Soviet Union is the exclusive supplier of these commodities, merely that it is a sensitive subject that deserves better exploration and amendment than evidence in a quick discussion on the floor.

Mr. FRENZEL. Will the gentleman yield, Mr. Chairman?

Mr. FOLEY. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

Did not the gentleman tell us a few minutes ago that to export anything to the Soviet Union, we have to have licenses which are granted by the Department of Commerce through an elaborate interagency mechanism, all of which would be financed under this appropriation bill? Would not in fact this amendment, then, cause all trade to cease?

Mr. FOLEY. I am afraid that that may be the effect of it, as I said, because of the export licensing.

Mr. FRENZEL. I thought I heard the gentlemen saying they wanted to equalize the suffering that the agricultural community was enduring, but would this not impose a much heavier load on the agricultural community because we would likely not be able to ship the contract amount which we are still shipping with respect to corn, wheat, and so on?

Mr. FOLEY. It would raise questions as to where we could ship the 8 million metric tons we have agreed to ship. It would raise questions about obtaining agricultural imports such as anhydrous ammonia from the Soviet Union. It would raise questions about the whole trade relationship between the two countries; and I think those are matters serious enough to justify appropriate review by the Committee on Ways and Means, the Committee on Interstate and Foreign Commerce, and the Committee on Foreign Affairs.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Frenzel and by unanimous consent, Mr. Foley was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Will the gentleman yield?

Mr. FOLEY. I yield.

Mr. FRENZEL. I think the way the gentleman describes it, this amendment would put us in real trouble. I happened to have opposed the original embargo, myself. I think President Carter shot us in the foot. I think, however, this amendment is going to shoot us in the other foot and I certainly hope it is defeated.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. McDONALD. In the matter of the definition of trade, since the Soviet Union and Eastern Europe owes the United States banking interests and various international banking interests between $60 billion and $80 billion, is this, indeed, really trade or are we not all too often financing the various purchases they are making.

Mr. FOLEY. I believe it is trade and I think the word trade encompasses both imports and exports under the normal definition of the word.

I hope the amendment will be defeated.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this amendment goes even further than has presently been discussed. It says that none of the funds contained in the act can be used to administer or promote any trade. That means the Department of Commerce could not even administer the prohibition against shipping strategic materials. If some people wanted to ship strategic materials the Government could do nothing about it. We could not prohibit it.

Mr. Chairman, this amendment goes far too far. I just hope we quickly reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. McDonald).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McDONALD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 124, noes 284, not voting 25, as follows:

[Roll No. 418]

AYES—124

Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Bouquard
Brinkley
Broyhill
Buchanan
Burgener
Campbell
Carney
Carter
Chappell
Clausen
Cleveland
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Evans, Ga.
Flippo
Frost
Fuqua
Gilman
Ginn
Goodling
Gramm
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Ichord
Ireland
Jeffries
Jenkins
Jenrette
Kelly
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
McDonald
Mattox
Mica
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Natcher
Nichols
Paul
Quayle
Quillen
Regula
Ritter
Robinson
Roth
Rousselot
Rudd
Santini
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Snyder
Solomon
Spence
Stenholm
Stump
Symms
Taylor
Thomas
Volkmer
Walker
White
Whittaker
Wilson, Bob
Wilson, Tex.
Wolff
Wyatt
Wylie
Yatron
Young, Fla.

NOES—284

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Cheney
Chisholm
Clay
Clinger
Coelho
Coleman
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hutchinson
Hyde
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mazzoli
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Musto
Myers, Pa.
Neal
Nedzi
Nelson
Nolan
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Ratchford
Reuss
Richmond
Rinaldo
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Sebelius
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stratton
Studds

Swift
Synar
Tauke
Tauzin
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolpe
Wright
Yates
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—25

Anderson, Ill.
Collins, Ill.
Deckard
Edgar
Fish
Gray
Luken
McEwen
Mathis
Mavroules
Nowak
Oakar
Pepper
Rangel
Rhodes
Roberts
Rodino
Runnels
Satterfield
St Germain
Stokes
Udall
Waxman
Wilson, C. H.
Wydler

☐ 1600

Messrs. **RAILSBACK**, **ECKHARDT**, **DAVIS** of Michigan, and **KOGOVSEK** changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Regula: On page 43, after line 5, add a new section as follows:

Sec. 605. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Mr. REGULA. Mr. Chairman, this amendment is a first step toward resolving problems involved in the use of consulting services by Government agencies. I believe the best interests of the American public are served by more disclosure of these contracting practices. As long as Congress does not require an accounting of contract procedures, we can expect to continue hearing rumors of abuse and waste such as those exposed recently in the Washington Post.

Many private consulting firms are as anxious as we in Congress are to deal with the problems of this industry. The Committee on Federal Contracting Practices has been formed by more than 100 companies to provide an industry perspective on the problems involved in the contracting process. This committee has recognized the need for more disclosure of contracting practices as a means of correcting abuses in the industry. The committee has endorsed this amendment as a means of resolving our concerns about the Government's use of consulting services.

OMB's estimates of money spent on research contracts alone in fiscal year 1979 was $13.4 billion while the Washington Post found a total of $9.3 billion by consulting the Commerce Business Daily.

Nobody knows exactly how many consultants work for the Government or just what they cost. According to Washington Monthly, May 1980, President Carter sent OMB a handwritten order when he took office to produce an accounting of consultants. OMB first said there were 2,000, then said it really meant 6,000, then said 34,000 and now says 19,000.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, on this side of the aisle we think this is an improving amendment, and we are prepared to accept it.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the Freedom of Information Act clearly provides public access to records of expenditures. It should not be necessary to have this amendment, but in the interest of time I have no objection to the amendment.

Mr. REGULA. Mr. Chairman, I thank the gentleman from Iowa (Mr. Smith).

Mr. GILMAN. Mr. Chairman, I rise in support of the substitute amendment offered by my colleague, the gentleman from Ohio (Mr. Regula).

This amendment limits expenditure of any appropriation under this act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, to those contracts where such expenditures are a matter of public record and available for public inspection. In effect, this amendment brings into the sunshine a largely invisible network of consultants retained by the Federal Government.

The Subcommittee on Human Resources of the Committee on Post Office and Civil Service, of which I am a member, has been conducting a series of hearings on consultant contracts. The business done behind closed doors concealed from public and congressional view has been shown to be characterized by conflict of interest and consultant manipulation of Government policy and programs.

This amendment together with one to be offered by the gentleman from Virginia, the distinguished chairman of the Human Resources Subcommittee (Mr. Harris) which will limit executive branch spending in the last 2 months of the fiscal year, thereby pulling in the reins on year-end spending sprees, are an appropriate beginning to end the fiscal abuses associated with Federal contracting.

Accordingly, I urge my colleagues to support this amendment.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from Ohio (Mr. Regula).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harris: Page 43, after line 5, insert the following:

Sec. 606. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract in excess of $10,000, prior to the date that such executive agency enters the completed Federal Procurement Data System Individual Procurement Action Report (indicating that the contract is a consultant contract or a commercial and industrial type activity contract) with respect to such obligation into the Federal Procurement Data System, pursuant to regulations promulgated under the Office of Federal Procurement Policy Act.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Virginia?

There was no objection.

POINT OF ORDER

Mr. SMITH of Iowa. Mr. Chairman, I make a point of order against the amendment.

The **CHAIRMAN.** The gentleman will state his point of order.

Mr. SMITH of Iowa. Mr. Chairman, I have been waiting for 2 days to make this point of order.

Mr. HARRIS. So have I.

Mr. SMITH of Iowa. Mr. Chairman, this amendment provides legislation on an appropriations bill. The provisions of the Office of Federal Procurement Policy Act gives broad authority to the administrator to establish policies, regulations, and procedures to carry out the act, and pursuant to this authority, the administrator established reporting regulations for Federal agencies with respect to such service contracts over $10,000.

Section (H) of volume I of that manual states that such reports are required on a quarterly basis and are to be submitted within 45 days after the end of each quarter.

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The gentleman's amendment would supersede this regulation promulgated pursuant to law by requiring that reports be made prior to the expenditure of any funds under a consultant or commercial or industrial contract. This obviously changes the application of existing law and would be in violation of the House rules.

It is not in order on a general appropriation bill to affirmatively take away a discretionary authority conferred by law. Therefore, I believe the amendment changes the application of existing law and is in violation of clause 2, rule XXI. I urge that the amendment be declared out of order.

The **CHAIRMAN.** Does the gentleman from Virginia (Mr. Harris) desire to be heard on the point of order?

Mr. HARRIS. I do, Mr. Chairman.

The **CHAIRMAN.** The Chair recognizes the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, under the precedents of the House, the amendment I believe is clearly in order. This is strictly a limitation amendment which restricts appropriations in a manner which would cut down as far as the amount of appropriations that are expended.

While the statute referred to by the chairman does in fact put certain limitations and requirements on the contracting officers and those doing the obligation, the statute in no way delegates broad discretion to them, nor does it foreclose Congress from placing additional restrictions as to how they do obligate and expend their funds.

I believe the amendment is clearly in order and is the type of limitation amendment on which there is a multitude of precedents in the House that would cause the Chairman to overrule the point of order.

The CHAIRMAN (Mr. Brown of California). The Chair is prepared to rule.

The amendment offered by the gentleman from Virginia (Mr. Harris) requires agency officials to take certain actions prior to expenditure of any funds, whereas regulations promulgated pursuant to the law cited by the gentleman from Iowa only require submission of such reports on a quarterly basis and within 45 days after the end of each quarter.

Thus, the amendment offered by the gentleman from Virginia (Mr. Harris) does impose new duties to be performed in advance of the time required by existing law and regulation, and in accordance with the reasons cited by the gentleman from Iowa it is, therefore, subject to a point of order as legislation.

The Chair upholds the point of order.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Harris: Page 43, after line 5, insert the following:
>
> Sec. 605. No more than an amount equal to 20 percent of the total funds appropriated under this Act for any agency for any fiscal year and apportioned to such agency pursuant to section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) may be obligated during the last two months of such fiscal year.

Mr. HARRIS. Mr. Chairman, I rise to offer an amendment to H.R. 7584, the State, Justice, Commerce fiscal year 1981 appropriations bills. My amendment would establish firm controls over wasteful year-end spending sprees by limiting agency spending to 20 percent during the last 2 months of the fiscal year.

My Subcommittee on Human Resources has conducted an intensive investigation and received testimony from a wide variety of groups, individuals, and Government agencies concerning the problem of year-end spending. The subcommittee's probe has revealed that funds appropriated for specific programs are not being rationally obligated to achieve the congressionally intended objective. Rather, much of the funds are being pushed out in the final weeks of the fiscal year on questionable contracts, grants, and other spending.

GAO investigations, done at my request, are documenting the fact that funds are being diverted from the purpose laid out by Congress, causing millions, perhaps billions, of dollars, to be wasted on unnecessary projects and purchases during the last 2 months of the fiscal year. Federal agencies operate under a "use it or lose it" policy which reflects a fear that their budget will be cut the following year unless all funds are expended. Former Treasury Secretary Blumenthal has stated that year-end spending amounts to agencies "literally pushing money out the door with a wheelbarrow."

The administration has expressed concern about this wasteful year-end spending and has repeatedly issued directives to agencies in an effort to curb the abuses. Each summer since 1977, President Carter and OMB Director James McIntyre have urged agencies to avoid year-end spending sprees. Despite these directives, the year-end spending remains a major abuse. In fiscal year 1979, seven major Federal agencies spent more than 20 percent of their single year appropriations in the last 2 months of the fiscal year—47.2 percent at HUD, $16 billion; 41.7 percent at EPA, $2.2 billion; 22.9 percent at HEW, $14.3 billion; 30.3 percent at Commerce, $907 million; 23.1 percent at Interior, $1.3 billion; 22.1 percent at Postal Service, $3.2 billion; and 22.8 percent at DOT, $1.4 billion. If these seven agencies had limited spending to 20 percent in the last 2 months of the fiscal year, they could have saved $13 billion. I am convinced that a substantial portion of this amount could have been returned to the Treasury with minimal adverse effect on congressionally mandated programs.

In addition, I recently received a GAO study which I requested because of my concern that in-house capability was not being considered prior to contracts being let for consulting services. While the report showed the in-house capability was indeed not considered in many instances, it also noted that 54 percent of the consulting contracts examined were awarded during the final quarter of the fiscal year. In fact, 35 percent of those actions were initiated during the final 90 days. Senator Pryor and I have been working closely on the widespread problem with consultant services and we hope to introduce legislation in this area later this month.

I have also requested a major GAO study specifically on year-end spending which is due to be completed in June. An interim report which I received from the GAO on May 1, documented further evidence of the serious problem of year-end spending at HUD. According to GAO, HUD has been overstating its legal commitments at the end of a fiscal year and then canceling them later. The HUD procedure reflects the "use it or lose it" attitude of Federal agencies to commit any remaining funds at year-end so that Congress will not trim their budget the following year. It has also allowed HUD to create a multibillion-dollar surplus of funding authority at a time when Congress is struggling to trim Federal expenditures and balance the budget.

Quite simply, the flurry of obligations at the end of the fiscal year is a very poor practice. Increased year-end obligational activity places Government negotiators in a very poor bargaining position and results in contracts and grants being let and goods being purchased without adequate consideration. This "rush" to award contracts and grants seriously impairs the objectiveness as well as the thoroughness of the proposal evaluation process. In addition, I am particularly concerned that a large number of the contracts being let at the end of the year are sole source to big firms ostensibly based on "unique qualifications" and "time exigency." This type of year-end giveaway effectively bars firms without the "connections" and is "wired" against small businesses, which do not have the "inside track."

Direct congressional action to halt the year-end spending sprees must be taken. The waste clearly has not been eliminated administratively. As a matter of fact, it appears that while OMB has been monitoring outlays, it has been ignoring obligation rates. It makes no sense to me for OMB to check funds already "spent" while ignoring the even more important task of monitoring funds which could be saved. As a result, the practice of obligating "use it or lose it" funds at the end of the fiscal year, has continued unabated.

Congressional support to limit year-end spending has been widespread. The House and Senate Budget Committees have included language in the fiscal year 1980 second concurrent resolution stating:

> The conferees are very concerned about wasteful government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at the year end . . . the conferees urge the appropriate committees to consider the need for language in FY 81 spending bills to control the obligation rates for federal programs or consider alternative legislative remedies for this program.

The conferees for the second budget resolution clearly felt Congress must take action to eliminate year-end spending abuses in all Federal agencies. In the report on the budget for fiscal year 1981, the House Budget Committee reaffirmed its concern about year-end spending and recognized that it is an area where savings can be made.

In addition, the Department of Defense has had a year-end spending limitation on its annual appropiation bill since 1953. And the Department of Health, Education, and Welfare had a year-end spending limitation in its fiscal year 1980 appropriation bill. Finally, my legislation—H.R. 4717 and H.R. 7287—to control year-end spending has bipartisan support from over 75 Members.

A year-end spending limitation has also been endorsed by the General Accounting Office in recent testimony before the Government Operations Committee:

> We support the temporary use of a limitation on year-end spending as a means of conveying Congress' concern—not only with year-end spending itself—but with the need to strengthen the budget execution procurement process.

At a time when Congress is struggling to trim Federal expenditures and balance the budget, we cannot ignore this uncontrolled area of Federal spending. The abuse in year-end spending is widely recognized—let us not let it continue in fiscal year 1981. I strongly urge your support of my amendment to H.R. 7584, the State, Justice, and Commerce fiscal year 1981 appropriations bill.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to my colleague,

the gentleman from New York (Mr. GILMAN), a member of my subcommittee.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment to institute controls over year-end spending sprees offered by the gentleman from Virginia, the distinguished chairman of the Subcommittee on Human Resources (Mr. HARRIS), of which I am a member.

During hearings which our subcommittee has held over the past 2 years, we have discovered what amounts to full-scale, wanton misuse of Federal funds by executive branch agencies and departments during the tailend of the fiscal year.

These year-end spending sprees, contrary to the claims of the Office of Management and Budget, are not few and far between. Indeed, our subcommittee uncovered numerous instances where tax dollars are spent in a year-end frenzy, so that agencies would not appear to be caught with surpluses and become the target of subsequent year budget cuts. This occurs even as OMB issues directives to curb this practice.

The 20 percent, year-end spending limitation proposed by the gentleman has drawn widespread support and is an appropriate means to begin to put a stop to this fiscal abuse.

Accordingly, I urge my colleagues to support this amendment.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield to my colleague, the gentleman from California, also a member of the subcommittee.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, it is my privilege to serve on the subcommittee with the gentleman from Virginia, and I can relate to the members of the committee that this is a very needed amendment in order to conserve money, taxpayers' money, that is now being rushed up for expenditure at the close of the fiscal year. It is a modest step, but it is a constructive step. I believe it is going to result in a decrease in spending by many of the agencies. I am in full support of the amendment.

Mr. HARRIS. I appreciate my colleague's comment.

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to my colleague, the gentlewoman from Maryland.

Mrs. SPELLMAN. I thank the chairman of the subcommittee, of which I, too, am a member, for the work that he has done to disclose the shameful waste of funds.

At a time when we are scraping the barrel, trying to find a million dollars here, a million dollars there and a billion dollars here, we are seeing many, many, many billions of dollars just being totally misused.

At the end of the year, contractors come racing in, saying "You have got money." They offer to do studies, they offer to perform services.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. HARRIS) has expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 1 additional minute.)

Mrs. SPELLMAN. Mr. Chairman, the subcommittee found that the various agencies and the various departments do not even know how many contracts they have out. They do not even know whom they are contracting with. They are not even able to get their hands on the contracts. Many of these studies that have been done are lying there in envelopes that have been unopened.

If we really want to save billions of dollars, we will support this amendment.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to my colleague, the gentleman from Ohio.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. HARRIS) has again expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 2 additional minutes.)

Mr. REGULA. Mr. Chairman, I want to commend the gentleman for this amendment and say that I think it fits well with the one that we just previously adopted, because the combination of contracting out and pushing expenditures into the last month somewhat goes hand in hand.

Many times studies are contracted for simply for the purpose of getting rid of money so they can come back to the Appropriations Committee for the next fiscal year. I think this is a very important amendment to correlate with the one we have just adopted.

Mr. HARRIS. My colleague is absolutely correct. The two fit hand in glove. We have determined that it is not just the bad part of end-of-the-year spending; that is when the sole-source business is done, that is where reports are asked for just to spend money for reports which are never used. This is where the real waste occurs. If we have ever used a scalpel to cut out waste, it is through this type of amendment that we achieve that very important result.

I appreciate the work that my colleague is doing on consultants, and may I say that as we move toward legislation on the consultant problem which we have introduced, we can continue that very important endeavor.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is an example of finding a problem, a real problem, and, in an institution as large as the U.S. Government or Exxon or General Motors, it is easy to find some waste, but it is not as easy to find an appropriate remedy.

What the gentleman is proposing to do in his amendment is to say that in the last 2 months of the year, instead of spending 16⅔ percent of the annual budget, you can spend not more than 20 percent. In many, many agencies that may sound good. But there are a number of reasons why in other agencies that would be just bad business. For example, one of the reasons that some agencies have these end-of-the-year heavy expenditures is that we enact a big supplemental, like this year, toward the end of the year. For example, some agencies may have a huge amount of money appropriated in a supplemental far in excess of the difference between 16⅔ percent and 20 percent of total funds available for the last 2 months of the fiscal year.

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In addition to that, there are some agencies who have good reason to have heavier expenditures at the end of the year. For example, for the Maritime Administration, the bill provides $135 million for ship construction. Well, they obligate this money when a contract for ship construction is signed. It is not a matter of finding a way to get rid of money. The funds have to be obligated when a contract is signed and that can come at any time during the fiscal year. Why should an applicant who happens to make an application in August be told he has to wait until some time in October because the obligation under the contract would exceed the 20-percent limitation. They should be able to get the money when they apply. If an applicant wants to wait until August to make his application or fulfill his responsibilities under his application, that is up to him.

The budget request for EDA is $769 million. A number of applications for EDA grants will be pending for a considerable length of time during the fiscal year before they are perfected and approved. EDA may, in the last 2 months of the year, have a considerable number of applications that are approved and if that is the case the grants should be made at that time.

SBA disaster loans are another example. Why should somebody who has a disaster be told that because his disaster occurred before he could get his application submitted in July, he has got to wait until October to get a loan? We have no control over when these disasters occur, and so we should not say, "You cannot make more than 20 percent of these loans in the last 2 months of the year."

The State Department salaries and expenses appropriation is another example. As a normal occurrence, most of their Foreign Service officers who are moved, are moved in the summertime. Therefore, State has, under their salaries and expenses account, a heavy expenditure in the last 2 months of the fiscal year.

The Justice Department is just one more example where they have no control over when law enforcement problems occur. They may occur at the end of the fiscal year or the beginning of the fiscal year.

We have a number of these examples where it just would not be good business sense to try to limit the obligations of the agency to 20 percent of the appropriation in the last 2 months of the year. In order to correct some of the abuses that have been revealed, this amendment would do a lot of damage to some agencies.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

My colleague uses the Justice Department as an example of a department that would find it very difficult under such an amendment. Yet the Justice Department is not one of the agencies that exceeded the 20-percent limitation this last fiscal year.

We have the State Department exceeding it by an extraordinary amount for no apparent reason other than they wanted to get the money spent.

I might indicate to my colleague there is no way that we can explain why EPA spent 42 years of its budget in the last 2 months other than the notion that they have it and they have got to get it spent. I would point out to my colleague that the Taxpayers Union has said get this amendment passed, that the Department of Defense appropriations bill has contained a similar amendment, that the other body has indicated they are going to insist on having such an amendment on this year's appropriations bills. I think it is absolutely foolish for this House not to put this kind of a limitation in and to achieve this kind of reform.

Mr. SMITH of Iowa. EPA is not in this bill. I would just say this amendment is just as wrong as it is simplistic as a remedy to the problem.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Would it be true that the effect of the amendment would shift year-end obligations back to the 10th month rather than the 12th month and result in no savings at all?

Mr. SMITH of Iowa. That is right. That is a good point. Also, I would say those who want to abuse it would just abuse it in the 10th month instead of the 12th month.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. SMITH) has expired.

(At the request of Mr. McCORMACK and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Washington.

Mr. McCORMACK. I am deeply concerned with this problem of negotiating large and complicated contracts for major pieces of equipment. I noticed that the National Oceanic and Atmospheric Administration is included in this amendment. I do not really know what the experience has been in this case, but I do know that it is involved in large research projects, and this involves in many cases large installations which are arranged through contracts which have to be negotiated and which various engineering has to be done over many months. I am curious to know, if the chairman would comment, on how this would impact such a situation. Let us suppose, for instance, that it took 10 months to work out a contract that was authorized for a fiscal year and appropriated for a fiscal year. Would this mean then there could be no action on that contract no matter how legitimate it would be until the following fiscal year?

Mr. SMITH of Iowa. Yes. In addition, many agencies do not have the authority to carry over funds, so if an agency does not make the contract in the 10th month, then it may deny someone approval of a contract that we all would be for. The amendment is just too inflexible. There is no easy answer to this problem.

Mr. McCORMACK. I thank the gentleman. I sympathize with the intent of the amendment. Certainly all of us want to avoid waste. I would like to figure out some way to prevent agencies from wasting money and throwing it away at the end of the fiscal year. I think we all want to do that. I am inclined to question the mechanism that has been designed by this amendment to do that. I am inclined to suggest it might do as much harm as good, and we should look very carefully whether or not we want to go at it this way or devise some other way to accomplish that end.

Mr. SMITH of Iowa. I urge rejection of the amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

I certainly shall not take the 5 minutes. I merely wanted to put a question to the maker of the amendment.

Recently I had a chance to look at the operations of the Small Business Administration. They say that they are able to process a loan in 90 days. That is the theory. In practice, what has happened is that a person makes an application, let us say in March. By the time it moves through the district office and the regional office, let us assume it has taken about 6 months, not 90 days, but twice as long. Then it comes to Washington for final approval. Very often that final approval will take 6 weeks. So it means that the guy who filed early on is really ready to receive his loan application in the waning part of the fiscal year.

If the gentleman's amendment would go through, then that application would be denied, would it not?

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Virginia.

Mr. HARRIS. In almost all cases that would not be the case. What we have here is a constant flowing of loan applications. Oftentimes, we are dealing with no-year loan funds in those cases. This, if I may say to my colleague, only applies to the annual appropriation bill. It does not even apply to the supplemental appropriation bill. It simply is saying to them ahead of time, as we appropriate, take these funds and schedule them out over the year. Just because a lot of money is left at the end of the year do not go ahead and spend it. It does not, I believe, in any way impinge against the proper processing of the loan application.

The gentleman's question really is an important one. Is there some reason why that application should be granted in September and not on October 10? And in almost 100 percent of the cases, there is no reason at all, if the proper flow of appropriations occurs or even when it does not, under a continuing resolution.

Mr. MITCHELL of Maryland. The gentleman has raised really what is the central part of the problem for me.

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The gentleman says if the normal flow takes place, but it does not. It does not take place in SBA or DOE or DOD or any other agency. That is the problem.

There is nothing in the gentleman's amendment that is going to insure that the normal flow is going to take place. I do not want my little guy who has been waiting around 9 months to get his application to be sloughed off by SBA or by any other agency saying, "Look, we can't do anything in the last 3 months."

Mr. HARRIS. Well, will my colleague yield further?

Mr. MITCHELL of Maryland. Yes, I would be delighted to yield.

Mr. HARRIS. The 20-percent limitation only applies to the last 2 months. It is 20 percent of the total appropriation that still can be spent in those last 2 months. It is only if it would cause more than 20 percent to be spent that this would apply in any way. I think if, in fact, an agency has the type of responsibility to schedule its program correctly, we ought to tell them to do it. The type of waste that is going on in agency after agency in this sort of an operation is not the type that my colleague wants to see happen, because that waste, if I may say to my colleague, that kind of waste is causing the programs not to get the benefits to the people that the gentleman and I want to serve.

Mr. MITCHELL of Maryland. Mr. Chairman, if I may reclaim my time, I do not like waste. either; but I am looking at the bona fide legitimate cases. If we multiply my little man who filed in March by a thousand others and by the slow processing that is done in almost all the agencies, we still end up with maybe as much as 20 percent of that money still not being made available to those thousands of people.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I agree with the gentleman from Maryland. There are some activities of these agencies that may be seasonal, and we have not had an analysis to tell us whether or not they are. For instance the SBA provides agricultural loans. Applications for such loans may accumulate at the end of the year simply because they originated at a certain time controlled by the season or time of harvest. We do not have information on this question. This is an important matter.

Mr. MITCHELL of Maryland. I think the better approach is to make the agencies perform. It is no great secret that I have filed a suit in district court against the General Services Administration for violating the law.

I think the better approach would be to make the agencies schedule their work and do it properly throughout the entire 12 months. That would prevent any one little innocent victim or ten little innocent victims or a thousand little innocent victims of loan applications from being denied.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(By unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 1 additional minute.)

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I do want to respond to my colleague, the gentleman from Washington, because he indicated, and there is no reason why he should not indicate, that this area has not been studied. This area has been studied rather completely over the past year and a half.

I would present to the gentleman a report from the General Accounting Office that indicates that the seasonal answer is just plain coverup.

This amendment does not apply to individual programs. It applies to the departments as a whole; so it would not mean that each individual program would have to adhere to this 20-percent limitation. It just requires that the department averages out.

Let me give an example. The Department of Interior, the first thing they do is come running in here and say, "You just do not realize how much insecticide we have to buy in August and September. It is a seasonal thing."

But they forget to tell us how much snow they have to move in December.

I think it is absolutely ludicrous to think that the Department of Agriculture does not have as much flow in the winter months as it does in the summer months. We are talking here about obligations. We are not talking about expenditures. If, in fact, we expect them to do this in a businesslike way, we had better tell them to do it that way.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take the time, not to prolong the debate on this amendment, but I know of no particular area that I have personally seen abuses of this kind, but it is prevalent throughout my district that I hear of an occasion here and there where this is done, not necessarily by the agency, but by areas where they receive grants, not entitlement programs, like farmers home loans, where there are loans, or the SBA, but in areas of grants to either specific agencies, as local programs, and some agencies send out the word, "Look, we've got to get this money off our hands."

Now, I know this is an awkward way to strike at this issue, but I wanted to ask the gentleman if perhaps the legislative history is such in the gentleman's estimation that the intent is that money not otherwise programed in entitlement programs, but just money that happens to be sitting there, is that what the gentleman is aiming at?

Mr. HARRIS. If the gentleman will yield further, of course, this is what we are aiming at. There is no question about it. There may be extreme conditions that various waiver provisions should be instituted. I do not know of any other way to get to it at this time and this place on this bill than to use the club over the head to get their attention. That is what this amendment does. This is not, of course, the end of the legislative process. It is the beginning of it.

I think if we are interested in the type of "use it or lose it" philosophy that the gentleman and I see out there in the Federal agencies all the time, I think we have got to adopt this kind of amendment.

Mr. DE LA GARZA. I think I basically agree with the gentleman. I sympathize with the interest of the chairman of the subcommittee and the possible harm that conceivably it could do in some rare instances; but I think the word needs to get out to the agencies of this Government that all those thousands of dollars that have not been programed, that for some reason or other have not been allocated, then they feel that in order to protect their interest for the next year they have to get rid of those funds at the end of the year.

I would think that whatever damage could be done here or there, the word going out that we are going to look at this situation and that this is in effect a warning and, hopefully, the gentleman's subcommittee could come up later with legislation directly involving this issue.

Is the gentleman working toward this end?

Mr. HARRIS. Such legislation, I might say to my colleague, is pending. I look forward to the support of my colleague as we move it through the legislative process.

Mr. DE LA GARZA. Mr. Chairman, I appreciate that and I yield back the balance of my time.

● Mr. DERWINSKI. Mr. Chairman, the amendment of the gentleman from Virginia is illusionary in its effect and for the very practical reason that it would simply compress into the 10th month rather than the 12th month the spending sprees that he describes is reason enough to reject this haphazard attempt to deal with a very complicated issue.

None of us want waste in the Federal Government, but this simplistic approach to solve a problem that has not fully been identified can easily result in economic damage. The amendment, in brief, is pennywise and pound foolish. We are deceiving the American public into believing we have met the issue of Government extravagance. I urge the House to reject this amendment and permit the appropriate committees of jurisdiction to develop a long-range sound fiscal policy to correct and eliminate waste where it exists.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 27, noes 8.

RECORDED VOTE

Mr. SMITH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 351, noes 52, not voting 30, as follows:

[Roll No. 419]

AYES—351

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Devine
Dicks
Dingell
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Forsythe
Fountain
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Lujan
Lungren
McCloskey
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oberstar
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose

Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—52

Addabbo
Alexander
Anthony
Ashley
Beilenson
Bingham
Boland
Bolling
Brown, Calif.
Burgener
Burton, Phillip
Butler
Collins, Ill.
Conable
Conyers
Cotter
Derwinski
Donnelly
Early
Erlenborn
Foley
Ford, Tenn.
Frenzel
Garcia
Gonzalez
Green
Hillis
Johnson, Calif.
Kastenmeier
LaFalce
Lehman
Leland
Long, La.
Lundine
McClory
McCormack
Maguire
Marriott
Michel
Mitchell, Md.
Myers, Ind.
Nedzi
O'Brien
Obey
Patten
Pritchard
Sabo
Scheuer
Smith, Iowa
Solarz
Whitten
Yates

NOT VOTING—30

Anderson, Ill.
Coelho
Corman
Davis, S.C.
Dickinson
Dixon
Duncan, Oreg.
Findley
Fish
Fowler
Gray
Lewis
Luken
McEwen
Mathis
Mavroules
Murphy, N.Y.
Oakar
Rangel
Rhodes
Rodino
Runnels
St Germain
Stokes
Symms
Udall
Wilson, Bob
Wilson, C. H.
Wydler
Young, Alaska

☐ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Rangel against.

Mr. Davis of South Carolina for, with Mr. Gray against.

Messrs. BUTLER, KASTENMEIER, LEHMAN, and YATES changed their votes from "ayes" to "no."

Mr. LIVINGSTON changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COELHO. Mr. Chairman, I was necessarily absent on rollcall No. 419. However, I wish to commend the gentleman from Virginia (Mr. HARRIS) for his fine amendment. Had I been here I would have voted for the amendment as I am a strong believer that the gentleman's amendment would indeed reduce unnecessary expenditures.

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Chairman, because I was involved in a major hearing, I missed rollcall No. 418. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: Page 43, after line 5, add the following new section:

SEC. 605. No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Mr. COLLINS of Texas. Mr. Chairman, this amendment is to expedite the return of the school system of America to the neighborhood school concept.

Back in 1954 we had the famous Brown decision in which the Supreme Court said that every youngster in America not only had the right but that they were going to see to it that youngsters will go to the school in their neighborhood. That was the basic concern. They wanted to stop any type of forced busing. They wanted every child to go to the neighborhood school.

Well, it took about 10 years before the district courts of the land started ruling individually all over the country and beginning in 1964 the school decision did a 180 degree turn. Judges completely reversed the neighborhood school concept of Brown and courts required busing children and busing children and forced busing children until today, one-third of the youngsters, one-third of the youngsters in the country are being subjected to forced busing.

I want to tell you what forced busing has done for America. I went back to check America's student achievement tests to see what has happened to the student achievement tests between 1964 and 1978. These are the grades. This is the test that seniors take when they graduate from high school to see how much they know. Grade totals have dropped from 973 to 894. Every year student achievement drops, drops, drops, drops, drops and that is in spite of the fact that we are spending more for education.

I do not know about your school system but I checked in Dallas to see what we are spending and I found out that in Dallas we used to spend $361 per pupil and now we are spending $1,746 per pupil. It is not because we are not spending money but I will remind you that academic achievement is going down, down, down.

What is happening is this. In our particular community buses are traveling 5 million miles a year to haul kids clear across town. Youngsters are not being hauled on their own volition.

Let me give you some points because if you have not experienced this busing, you will understand what it is. No. 1, if a child is 2 minutes late, if an 8-year-old girl sits on the street corner but she arrives there 2 minutes late and that bus has left, she has to go back home and sit all day. She does not have an opportunity to walk to her school.

If a youngster gets sick at 10:30 in the morning, that youngster cannot go home right then but must wait until 4 o'clock in the afternoon when the bus leaves.

These youngsters who want to be in school activities or in school plays or go out for athletics, they cannot participate in these. They have to get on that school bus at 4 o'clock and begin that long forced haul across town.

Teachers have found that the interest of parents is tremendously important in school. However, if parents want to attend a PTA meeting, they have got to travel clear across town. You can add it up any way you want to but there are no advantages to this forced busing.

The thing that keeps coming up is, What is forced busing doing for the children? Well, I want to tell you one thing that has been happening. I checked with the FBI records and got their statistics on what has been happening to juveniles as far as crime is concerned. In the years from 1965 to 1978, there was a 54-percent increase in arrests, a 59-percent increase in indexed crime, and a 60-percent increase in larceny.

☐ 1700

I am not saying that juvenile crime is up because of forced busing, but I want to tell Members that young people in America have been going downhill from the time we started this. Forced busing does not do anything except empty the schoolhouses. Let me tell the Members what it did in our community. I took 25 different schools to see what has happened.

Out here at Adams School we had capacity for 800; we now have 314. The rest of the students are getting hauled off on buses. Cabell School had 1,300; they now have 196. Dealey School had 800; they now have 111. Kiest School had 1,300; they now have 271.

We have these excellent school buildings sitting there, excellent buildings, and they do not use them because they must take these children and carry them way across town. I have been on this busing issue for over 10 years, and I have never heard of a single school in America—not one single school—where the quality of education has gone up. All we see is declining, declining, declining standards of education.

What has happened in my city that is especially disturbing is that we wanted to start getting a better balance of students in the schools. We wanted to have minorities mixing with whites, browns, blacks—all of them mixing. I will tell the Members what happened. Here are the figures. From 1968 to 1979, we moved from 38 percent of the students in our schools who were minorities. Today, our schools contain 67 percent minority. What we have done through busing is to achieve exactly the opposite of what these court judges have tried to establish. We have had reverse results.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 2 additional minutes.)

Mr. COLLINS of Texas. These decisions, which have primarily been based on advice of sociologists and not on any strong, practical experience, should have taken into account more basic facts. Dr. Coleman, one of the great authorities, and he still is in this country, has said that with the best of intentions what they started to do on this project just simply has not worked out, and he is a fair-minded man. He now says forced busing is not the answer for education.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Chairman, I appreciate the gentleman yielding and appreciate his offering this amendment at this time.

I think that as the Federal Government has become more involved with education, the achievement has gone down in all areas of the country, not just in the gentleman's area, but all across the country. I appreciate the amendment, and appreciate the gentleman's giving us a chance to vote on it at this time.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I would like to ask some clarifying questions regarding the amendment. As I understand this amendment, no part of any appropriation could be used by the Department of Justice to bring any sort of action to require, directly or indirectly, the transportation of any student.

The question I would like to ask the author of the amendment is, does this in any way prohibit the Justice Department from bringing an action where there is a claim of discrimination in a school district?

Mr. COLLINS of Texas. This amendment does not get into the question of discrimination. I could not say about that question. We always have had discrimination—in schools, in business, and in society. What it does do, it says that Justice cannot use busing as the remedy. In other words, courts can have all of the other alternatives; they can have magnet schools, all kinds of concepts, but the Justice Department will not be involved if busing is the remedy. Transportation must be to the nearest neighborhood school.

Mr. PANETTA. If the gentleman would yield further, I take it that the answer to my first question, then, is that this does not prohibit the Department of Justice from bringing an action where there is a claim of discrimination in a school district. The gentleman's concern is relating to the remedy of busing, whether that is applied or not.

Mr. COLLINS of Texas. Of course, discrimination is something we constantly worry and are concerned about in America in so many ways. I am concerned with discrimination as it is presented to a court, and if the judge rules that busing is the answer. There are many other discrimination cases. It does not limit discrimination except where courts try to get into establishing racial-balance situations, and the answer is to start forced busing across town.

Mr. PANETTA. I understand what the gentleman is saying, but I want to make clear that in instances where a violation of constitutional rights is alleged, this does not prohibit the Department of Justice action in those instances.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. Panetta and by unanimous consent, Mr. Collins of Texas was allowed to proceed for 2 additional minutes.)

Mr. COLLINS of Texas. I know the gentleman is an authority, and he has worked on discrimination many times, and I know his dedicated feeling about discrimination, but there are so many fields of discrimination——

Mr. PANETTA. I would think the gentleman shares my concern where there is a violation of constitutional rights, we do not in any way prohibit the Department of Justice from moving in those instances.

Mr. COLLINS of Texas. That is right.

Mr. PANETTA. Second, I take it that this amendment would not in any way prohibit a court from ordering busing as a remedy where the court finds discrimination.

Mr. COLLINS of Texas. It would prohibit Justice from involvement. The court has the right to rule in any way it chooses.

Mr. PANETTA. This amendment does not go to the problem of the court.

Mr. COLLINS of Texas. Yes, this is Justice Department.

Mr. PANETTA. The court could very well find that remedy.

Mr. COLLINS of Texas. The gentleman is exactly right; the gentleman is right. It reminds me of what Andrew Jackson as President said one time: "You made the ruling, now you find the way to carry it out."

The court can find any remedy it wants. This is going to take the Justice Department off the hook on carrying forward or involvement where courts have forced children to leave their neighborhood school. Justice Department will abide by the spirit of the basic Brown decision.

Mr. PANETTA. I thank the gentleman.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Chairman, I have somewhat the same problem as that suggested by the gentleman from the other side of the aisle. A suit is brought alleging discrimination, and really, the trial is bifurcated. We have element (a), is there discrimination established? Then, (b), assuming it finds discrimination, then they go into the remedy phase. At that point the Department of Justice probably does not control the course of events. The court controls the course of events, and the court may order the submittal of several different plans.

I have been in one of these things, so I know how they work. How would this be effective on the Department of Justice? That I do not see. I am not necessarily opposed to the gentleman's amendment, but I just do not understand how it would work.

Mr. COLLINS of Texas. The gentleman is a distinguished lawyer and has been familiar with this particular busing situation. Let me say first, that we all know the Congress by our actions has the right to determine specific rules and regulations for the lower courts.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. Sawyer and by unanimous consent, Mr. Collins of Texas was allowed to proceed for 2 additional minutes.)

Mr. COLLINS of Texas. We are stating with this amendment that the courts can rule any way they want. We are not particularly defining their limits, but what we are saying is that, with crime increasing in the United States, that Justice should concentrate its efforts in the field of juvenile crime and not go into the field of education. There are a lot of alternatives they can have. Magnet schools is one of them.

Mr. SAWYER. The problem is, Justice would make the determination, in their wisdom or lack of it, that there was discrimination, and file a suit to stop the discrimination. If the court ends up agreeing with them, then the court orders the end of the litigation phase and orders the submittal by both sides of a multiplicity of plans from which the court takes the choice. Now, I do not see how this limitation on funds would affect the result of forced busing, with which I do not happen to agree. I do not see how it is effective.

Mr. COLLINS of Texas. Justice is starting so many of these particular court suits, and what we really intend to stop is to stop Justice from going into this jurisdiction. If they go in for another ground——

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think, in answer to the question of the gentleman from Michigan, I might cite as an example the Cleveland desegregation case. The Justice Department came in and filed a brief as amicus curiae, friend of the court, and suggested certain remedies to the court. I think this amendment—and the gentleman is to be commended for offering this amendment which I think is extremely important that it be adopted—this would prevent the Justice Department from interfering in local desegregation cases, initiating or filing briefs as amicus curiae or in any other fashion.

I think the gentleman pointed out so eloquently that court-ordered busing has been a plague upon our society since its inception. It may have been a noble experiment when it started, but look at the results.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. MOTTL and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 3 additional minutes.)

Mr. MOTTL. The Cleveland school system was one of the finest big city educational systems in the country until court-ordered busing came into effect in the last year. Now, it is one of the worst educational school systems in America as a result of court-ordered busing.

The noted sociologist, the prime architect of court-ordered busing, the great scholar from the University of Chicago, James Coleman, who was the prime architect of court-ordered busing as a remedy to desegregate our large school systems, after reexamining 100 desegregation cases from Boston to Los Angeles, came up with the conclusion that the minority student has not gotten a better education as a result of court-ordered busing. But, what has been the result?

☐ 1710

But what have been the results? There has been a tremendous amount of white flight from the central city, and those cities that were to become desegregated have become segregated. The vast amount of money that was spent for the purchases of schoolbuses, for the employment of drivers, and for gasoline could have been better spent to build new schools, pay higher teachers' salaries, and buy better textbooks. It was also pointed out that 155,000 gallons of gasoline were wasted each schoolday in court-ordered busing throughout the United States, at a time when we are supposed to have an energy shortage in this country.

For these reasons, Mr. Chairman, I implore my colleagues in the House of Representatives to vote in favor of the Collins amendment.

Mr. COLLINS of Texas. Mr. Chairman, I want to thank the gentleman from Ohio (Mr. MOTTL) who has been an outstanding leader in the field of quality education.

This all gets back to the point that America's student achievement tests are down 79 points. It is true in Cleveland, it is true everywhere. It is true in Los Angeles, and it will be true next year in Chicago when they plan to start busing in Chicago.

Every year busing has been going on it has been stifling the initiative of our children and killing the development of quality education. Neighborhood schools provide the best way for us to again see educational achievement move forward.

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Pennsylvania.

Mr. MARKS. Mr. Chairman, I may be wrong, but as I read the gentleman's amendment, it has absolutely nothing to do with court-ordered busing. The gentleman has been talking here about court-ordered busing, but all this is doing is taking away funds, as I understand it, from the Justice Department to be able to involve itself in determining whether or not there is discrimination and then, if in fact there is discrimination, it must stand idly by and do nothing.

If the gentleman is trying to tell us that this amendment is going to end court-ordered busing, I say there is nothing in it that says it will. I do not think the gentleman means to say that.

The gentleman was asked that question a moment ago by the gentleman from Michigan, and I think he misinterpreted the question. I will assume that the gentleman misinterpreted the question because he again talked about court-ordered busing.

Mr. Chairman, I believe the author of the amendment could perhaps tell us best the answer to my question, but I suggest the amendment has nothing to do with court-ordered busing.

Mr. COLLINS of Texas. Mr. Chairman, here is what the amendment says. It says that the Department of Justice shall not use any money "to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home * * *."

The CHAIRMAN. The time of the gentleman from Texas (Mr. COLLINS) has expired.

(On request of Mr. MARKS, and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 2 additional minutes.)

Mr. COLLINS of Texas. Mr. Chairman, I will tell the gentleman that we passed this same amendment in this same House before, but the Senate eliminated it in conference.

Mr. MARKS. Mr. Chairman, if the gentleman will yield further, the only question I have of the gentleman from Texas (Mr. COLLINS) is whether or not his amendment has anything to do with court-ordered busing, and I am suggesting that as was read the amendment, it appears that it does not. Is that not correct?

Mr. COLLINS of Texas. Mr. Chairman, let me tell the gentleman what it would do. There will not be any court-ordered busing because the Justice Department will not be going into court to ask for it. That is what creates court-ordered busing. Somebody has to initiate the action, and this stops Justice from initiating this type of action.

Mr. MARKS. Mr. Chairman, if the gentleman will yield further, it is not only the Justice Department that can bring matters before the court, but other groups and individuals can go to court.

Mr. COLLINS of Texas. That is true.

Mr. MARKS. Mr. Chairman, the point I am trying to make with the gentleman is that I do not think he means to tell us that he is going to stop court-ordered busing because of this amendment, because it does not. It does not do that, does it?

Mr. COLLINS of Texas. Mr. Chairman, the gentleman is right there. There are a lot of ways the courts could have this matter introduced.

It just so happens, though, that the Justice Department has been the prime avenue. They are the ones who went to Florida, they are the ones who went to Houston, and they are the ones who have been going out and instigating these suits. Justice are the ones who are responsible for lowering the quality of education, and I want to take forced busing out of the picture.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Chairman, I think, in order to clarify the point of the previous speaker, I should point out that those of us opposed to forced busing are inhibited by the actions of the Federal court justices. Therefore, we must attack the problem on a variety of levels.

Certainly the amendment the gentleman is offering today does not totally eliminate court-ordered, forced busing, but it is a step to take the Justice Department out of those involvements which could result in court-ordered, forced busing. Obviously anyone who is opposed to forced busing, anyone who has been involved in the battle against forced busing recognizes the need to attack it at different levels whenever the opportunity is presented, until such time as we can get the Federal judges to realize that forced busing is a stupid, obsolete, excessively costly, inefficient experiment which has totally and completely destroyed public education in urban America.

The CHAIRMAN. The time of the gentleman from Texas (Mr. COLLINS) has again expired.

(On request of Mr. DOUGHERTY, and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 2 additional minutes.)

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield further?

Mr. COLLINS of Texas. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Chairman, if the Members do not believe what I said, they should visit the public school system in urban America. They can visit urban America public school systems and see where public education is going to be in 10 years from now, because in many school districts in urban America that are under the threat of forced busing, the people whose children go to public schools, if they can afford it, move out of the cities across the lines to suburbia. This destroys the economic base of the city, this destroys the educational quality of the schools, and I think it is an obscenity in this day and age that we still have to deal with the question of forced busing by inefficient and totally unenlightened Federal judges.

Mr. COLLINS of Texas. Mr. Chairman, the gentleman from Pennsylvania (Mr. DOUGHERTY) sums it up very, very well. Urban schools have suffered and you see the picture so vividly.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support the Collins amendment. I would like to make reference to a case which arose in my own district in Columbus, the capital city of Ohio. This is a case in which the proponents of forced busing prevailed on the Federal judges to rule in favor of segregation and forced busing. The matter went clear up to the Supreme Court, and the Justice Department gratuitously entered into the suit. Certain elements went in and argued the case on behalf of the proponents, resulting in a finding that, yes, notwithstanding the overwhelming majority in our community who favored the neighborhood school concept, they have had it shoved down their throats because of the intercession by the Justice Department.

Mr. Chairman, that is, I believe, the purpose of the gentleman's amendment, to prevent that from happening. Is that right?

Mr. COLLINS of Texas. Mr. Chairman, that is exactly right. The Justice Department has intervened when they are not needed and not wanted, and thereby they provide no service to the public education systems of America.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Chairman, I think the gentleman ought to recognize, though, that the great bulk of these forced busing suits are brought by other groups such as the NAACP, as opposed to the Justice Department. That includes Cleveland. That was not a Justice Department suit.

While it may have an impact on their amicus curiae ability to file a participating brief to intervene, I think there is a serious limitation, and when they do start their action for discrimination, they do not ask for cross busing; they just ask for such relief as may appear just and equitable or something of that type.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Collins) has again expired.

(On request of Mr. Sawyer, and by unanimous consent, Mr. Collins of Texas was allowed to proceed for 2 additional minutes.)

Mr. SAWYER. Mr. Chairman, if I may continue and if the gentleman will yield further, then if the court, after listening to that phase of the evidence, decides that there is discrimination, the Justice Department then has a bear by the tail. All they have done is they have gone in for a discrimination finding, and the court then asks for a submittal of plans. The court may even stipulate what variety of plans it wants submitted, one of them being a busing plan. And where does Justice go then?

This is what disturbs me, that this amendment accomplishes something else as opposed to curbing forced busing, which I am not in favor of either. As a matter of fact, I defended the only successfully defended suit in the United States, a suit which went all the way up to and through and including the Supreme Court. That was an NAACP suit.

But the purpose which I can see, directly or indirectly, is that it might result in this: it would appear to me it might stop a legitimate Justice Department action to prevent discrimination, because that might indirectly result in court-ordered busing, although Justice may not have asked for it.

Mr. COLLINS of Texas. Mr. Chairman, there are other judicial alternatives, and the court can rule on those other alternatives. What this amendment does, it is going to straighten the Justice Department out about using forced busing as the alternative.

Mr. SAWYER. Mr. Chairman, the point I am trying to make is that Justice, by bringing the discrimination suit, is not necessarily asking for cross busing. But then when the discrimination is determined, the court takes over and Justice is merely one of the parties submitting the plans, and the court can reject the plans and ask for other plans.

So if they cannot indirectly bring an action which results in cross busing, the gentleman is saying they are prohibited from bringing any action for discrimination.

Now, I can go with the cross busing or forced busing, but I cannot go with preventing them from bringing actions to stop discrimination. They do not control the forced busing. That is the point I am trying to make.

Mr. COLLINS of Texas. Mr. Chairman, I just want to answer that point and boil it down. Every time Justice has been coming into these suits, they have been coming in and saying busing is their answer. But forced busing has been a proved failure over and over again from coast to coast.

This amendment is just going to take Justice out of forced busing as being an answer to the problem. What American youngsters need is the strength and stability of walking and attending their own neighborhood school.

□ 1720

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we had a similar amendment to this one last year. It passed the House by a narrow margin. We went to conference. We argued for I do not know how long with the Senate. We will probably have the same Members of the Senate on the conference this year as we had last year. In conference the House receded, we came back without it, and finally voted without it in the bill. I would hope that a few Members would be able to change their votes this year so we do not have to go to conference with the amendment.

The gentleman from Michigan is exactly right insofar as he answered some questions. The fact of the matter is that it is unconstitutional to discriminate on the basis of race in the public schools, and nothing that we do—it may surprise some Members to learn this—even a limitation on an appropriation bill, can override the Constitution of the United States. Maybe a limitation can override a few of the laws that we pass around here, but not the Constitution. So we cannot override the prohibition against discrimination.

Judge Sirica held in Brown against Califano that the Congress cannot prohibit the Justice Department from pursuing or litigating issues of discrimination. That cannot be done either.

We had a few years ago, and still carry in the HEW bill, the Whitten amendment, which I voted for. The Whitten amendment says the Department of Education cannot dictate to local school boards which of several remedies they must use in order to overcome discrimination. I think that is appropriate. It is in the law now. That is as far as you can go. It has been litigated. That is as far as you can go. And trying to prohibit the Justice Department from bringing an action which may directly or indirectly require transporting students is where you get into trouble.

If it is interpreted that it indirectly require transporting students, and would result in the local board not being able to change district lines, or whatever they want to do, then it is unconstitutional.

What we have got here is a situation where some people do not like busing. They propose this kind of an answer on our bill each year. It just complicates the bill. We go over to the Senate and this amendment takes a lot of time in conference. I would hope that you would not think that you are voting for a remedy when you vote for this.

I think we have argued about this enough. We really know pretty well what we are voting on. We have done it two or three or four times. But I would hope that there would be a few Members this year who would see fit to change their votes so we do not have to carry this amendment as extra baggage to the conference which I am pretty sure we cannot come out with.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. EDWARDS of California. I appreciate the gentleman's yielding.

Mr. Chairman, the gentleman from Iowa, the chairman of the subcommittee, is exactly right. This amendment has nothing to do with whether busing can be ordered in a particular district through judicial means. Court-ordered busing is not ordered by the Department of Justice. The Department must present relevant facts to a Federal district court and, in some instances, to suggest appropriate remedies. Then the court makes a decision. The court decides what remedy is appropriate. And you have to have some mechanism through which the Federal Government can assure that Federal funds will not be used to continue segregation in our schools. We know that. And this amendment does raise serious constitutional problems. It is going to raise serious problems in the conference. I would sincerely hope that the wise advice of the gentleman from Iowa is taken by the Members and that this amendment is voted down.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, I think the two basic points are these: Where constitutional rights are involved, there is no way that this kind of an amendment can prohibit the Justice Department from moving in those instances. I do not think there is anybody in this Chamber who is prepared to take the position that the Justice Department ought not to move where there is a violation of constitutional rights. So clearly that is not going to happen here.

The Justice Department, where there is a violation of constitutional rights, will bring an action. Where there is a violation of rights and it is determined by the court to be the case, there has to be a remedy. You do not have a right unless you have a remedy. The court then has to apply some kind of a remedy in a situation. It is the court which determines what that remedy will be. It is not the Justice Department, it is not the lawyers. It is the court which in effect orders what the remedy will be.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. SMITH) has expired.

(On request of Mr. PANETTA and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. It is, therefore, the court that makes the final decision. This amendment does not go to the court. It cannot go to the court. It goes simply to the Justice Department so that in effect it does nothing so far as court-ordered busing is concerned. In the end, I would suggest this: We are all concerned about abuses when it comes to busing. There is no question that there have been abuses. But you do not approach those abuses by somehow pretending to deal with violations of constitutional rights. You do not approach that problem by somehow prohibiting any kind of a remedy. The only way you approach it is by providing other options that will try to improve the education of children. That is something that ought to be done in legislative committee.

Mr. SMITH of Iowa. Mr. Chairman, I understand the political problems that people have in voting on amendments like this. I know some are going to have to vote for the amendment and some would be better off voting against it. But I hope that at least 10 Members who voted for the amendment last year are willing to stand up and vote on the merits and change their votes this year so we will not have to carry this extra baggage to conference.

Mr. DOUGHERTY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will be brief. I just find it very difficult to be told, "Do not vote on the amendment because you are giving us excess baggage to take to the conference committee," or "You have a political problem, so vote whatever way you have to vote politically on this, but if politically you do not have to vote for it, vote against it."

I am somewhat outraged, Mr. Chairman. Forced busing is destroying public education in urban America. All you have to do is visit the city of Philadelphia that I represent to see that that is happening. It is destroying the city economically, educationally, and culturally.

The point of the gentleman about the idea that the court is ordering the busing, that may be true; but the Department of Justice can be required or can on its own submit a plan for desegregation as a part of a court case.

So if we achieve nothing else with this amendment, we are saying in effect, "Yes, you can prosecute for discrimination, but you are not going to be a party to submitting a plan to a Federal court that says, 'You, the Department of Justice, are recommending as a solution to that discrimination that we forcibly bus youngsters here and there and everywhere, across city lines and city limits and across county lines and everything else.' "

Justice can prosecute discrimination, and they should. This amendment will not stop Justice from prosecuting. But it will stop Justice from submitting a plan to the Federal court that includes forced busing. It will say to Justice, "Submit a plan on certain kinds of schools, and whatever you want to do, but you are not going to use busing as a part of the plan." So we can achieve something, a little bit. We are not going to stop the Federal courts from ordering busing, but we are going to say to Justice, "You are not going to submit to the Federal courts as a plan against discrimination forced busing."

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Ohio.

Mr. MOTTL. I thank the gentleman for yielding, and I want to commend the gentleman from Pennsylvania for his eloquent answer to the gentleman from Iowa and also to the gentleman from California.

I think that it is about time that we here in the House of Representatives assert ourselves and declare public policy, and not the Department of Justice. If we would have had guts on the constitutional amendment, we would have asserted public policy instead of letting the courts do it in this country. I certainly entreat the Members of the House of Representatives to vote for the Collins of Texas amendment because we will assert the public policy that Justice is not to supply a remedy to the court, and that remedy being court-ordered busing. Allow the children to attend their neighborhood schools, or come up with some other decent remedy.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we are not, obviously, as the debate shows, going to stop busing. I do not think there is a mother, black or white, who really likes busing. That is true. And I have spoken to a great many mothers, black and white. And we are not going to stop it by this amendment. But I will tell you something that we are going to do. We are going to move back from an effort we have made in this country to repair great damage that we have done to some of our fellow citizens. We are going to create great bitterness and sorrow. That is what we are going to do. We are going to achieve it as sure as shooting. We are not going to do what this amendment thinks it is going to do, but we are going to cause a lot of heavy hearts and a lot of sense that we are turning away from a dream that we have had to make this country right for all of our people. That is what we are going to do, and I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 43, after line 5, insert the following:

SEC. 608. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Mr. LEVITAS. Mr. Chairman, the amendment I am offering would prevent the use of any funds by the departments and agencies funded by this bill for the implementation of any regulations or actions which have been vetoed by Congress using the specific veto procedures provided by applicable law.

The activities of the Federal Trade Commission are funded by this bill, and that agency has recently had a legislative veto attached to its regulatory proposals. In addition, however, there are other legislative vetoes applicable to the activities funded by this appropriation. For instance, the Attorney General is subject to a legislative veto for decisions relating to the deportation of aliens, and the State Department must submit decisions about foreign assistance fund transfers and foreign arms sales to Congress for review and possible veto.

The basic issue, here, however, transcends the question of legislative veto. Even the few members who still do not support legislative vetoes, surely must support the doctrine of following the law when legislative vetoes are enacted and then duly exercised.

I have offered this amendment because the administration has stated its intention not to obey the law. This approach has been the position of the administration concerning legislative vetoes. But, this unfortunate circumstance became concrete after Congress recently vetoed four sets of regulations proposed by the Department of Education. In response, the administration, through Attorney General Civiletti and Secretary Hufstedler, announced a decision to ignore those vetoes. In short, the administration has said it will not obey the law, providing for legislative veto of these regulations, as it was duly enacted by Congress and signed by the President.

☐ 1730

The law in this case is very simple. It is very explicit. It says that where both Houses of the Congress have adopted a congressional veto, the regulations become null and void.

However, the problem is not just with the Department of Education. It is the general policy of the administration. If they are willing to disregard the law in one case, they will do so in others, according to their own statements. Hence, in the case of the FTC and other agencies covered by this bill where legislative vetoes exist, we must be sure the law is followed.

The administration's action makes the issue one of whether or not we in Congress are going to allow the law to be ignored. I do not believe any Member of Congress can stand by and allow our mandates to be treated in such a cavalier fashion. The Constitution of the United States requires the President of the United States to faithfully execute the laws. He is not given the authority to pick and choose those laws he wants to implement and those that he does not want to implement.

It is not for the executive branch to decide what laws will be enforced. There is a very important case that illustrates that point, Kendall against United States, decided by the Supreme Court in 1838. In that instance, the President of the United States directed the Postmaster General not to pay a certain sum required to be paid by Congress to a contractor with the Post Office, and in issuing the writ of mandamus, the Court said:

> To contend that the obligation imposed on the President to see the laws faithfully executed implies a power to forbid their execution is a novel construction of the Constitution and entirely inadmissible.

No, the President of the United States does not have the power or the right or the prerogative not to enforce the laws. Where such disputes exist the proper forum for resolving them lies within the court system and ultimately within the jurisdiction of the Supreme Court. The administration's questions about this provision of the law should be resolved in that arena, not by noncompliance.

It is important to note a recent letter to the editor in the Washington Post written by Arthur S. Miller, professor emeritus of constitutional law at the George Washington University, which I insert at this point.

> AN ATTACK ON CONGRESSIONAL AUTHORITY
>
> Attorney General Benjamin Civiletti's opinion that a congressional veto of four Department of Education regulations could be ignored is the most open attack in recent memory on the authority of Congress.
>
> The law on the question, simply because there is no definitive judicial decision, is unclear at worst. But some matters should be kept in mind. First, every executive-branch agency, including the departments of Justice and Education, are creations of Congress; second, Congress can condition its grants of power unless there is a specific constitutional clause violated (none is present here); third, the president, and through him all members of the executive department, have a constitutional obligation "to take care that the laws are faithfully executed"; fourth, this does not give the president any leeway (he cannot pick and choose among the laws); fifth, the attorney general's statutory duty is to represent the United States. As such, he should not be a mere legal *apparatchik*.
>
> Homer Cummings, a predecessor to Mr. Civiletti, knew this. He said in 1937, when refusing a request from the president for an opinion on the constitutionality of Federal Home Loan Banks, that the president had 10 days to question the validity of a measure passed by Congress; once that time passed, that interest of the president terminated; and finally, Cummings said that he could not set himself up as "judge of the Acts of the Congress and of the President."
>
> Mr. Civiletti should read what Cummings had to say, and also what Judge Edward Tamm had to say when Ramsey Clark challenged a congressional veto and the Department of Justice refused to defend the statute.
>
> Mr. Civiletti's legal opinion should be read for what it is. It is not an objective rendering of the law; it is a political document, designed to serve political purposes. It is the work of *apparatchiks*—they who can take orders and prod subordinates. If President Carter gets away with this, it will mean an exponential jump in actual power in the executive over Congress.

Mr. Chairman, this is a simple proposition. Once a legislative veto has been exercised, it is a disobedience of the law by those charged with the responsibility of executing the law to disregard it, and I do not think we ought to give them money to disobey the law. The only way we can effectively enforce these provisions of the law is to provide a limitation for funding so that no funds can be used for purposes of implementing disapproved or vetoed actions.

That is the reason I have offered this amendment, Mr. Chairman. We are facing a significant challenge to our constitutional powers, and we must rise to meet it. My amendment will do so in a simple, direct fashion. I urge every member of this body to support its passage.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. The amendment the gentleman proposes should not be necessary. The Chairman of FTC has already said that the FTC would abide by any congressional restriction in its activities. Rather than take the time on the amendment, although I think it is unnecessary, I would just as soon accept the amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, the minority has no objection.

Mr. LEVITAS. I thank the gentleman. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

I hope we have finally concluded this bill.

I only want to announce to the Members when we go into the House, that I intend to ask for a separate vote on one amendment. We have not had a record vote on it. It is the Conable amendment, as amended by the Huckaby substitute. This amendment reduced from $321 million down to $300 million the amount for the Legal Services Administration.

I want to briefly recap what is involved. We have, over a period of 4 years, finally gotten the Legal Services Corporation to where they have minimum legal services available for all areas of the United States. Some States like Georgia, for example, as much as 4 years ago had such services statewide. Other States did not have them. So the $321 million is what is necessary for minimum legal services. If we cut $21 million out, that means some areas cannot have minimum legal services.

The Constitution requires us to provide not just minimum services for criminals. We have got to provide competent service for criminals. For good law-abiding citizens who have worked all their lives and need a little help on getting some social security or a little representation in some way, this is the only way we can provide such legal services for those citizens.

I will ask the House when we go back into the House to have a separate vote on this amendment. I hope we will vote down that amendment which passed by a teller vote in the Committee of the Whole.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Massachusetts.

Mr. CONTE. I want to associate myself with the gentleman from Iowa (Mr. SMITH), and I understand the gentleman from Illinois, who had to leave the floor temporarily, also agrees that this $21 million should be restored.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. DANIELSON. I thank the gentleman for yielding.

I also associate myself with the remarks of the gentleman from Iowa. This is an absolute minimal figure, just barely enough to eke out, and we certainly ought to support it. Even some of the most conservative columnists in America say every nickel of this money is needed. I hope we will go along with the chairman, the gentleman from Iowa.

● Mr. DASCHLE. Mr. Chairman, I rise in opposition to the amendment which seeks to reduce funding for the Legal Services Corporation.

In addition to providing much needed legal assistance to the poor and minorities, the Legal Services Corporation has provided assistance to organizations seeking to provide legal help to veterans as well. I might add that one such program to help veterans by the National Veterans Law Center has been highly successful in assisting Vietnam veterans.

Congress originally developed this program with the intention of expanding its role and funding beyond the authorizations provided for in fiscal year 1981. The Judiciary Committee has already taken into account budgetary contraints in the next fiscal year by only authorizing a 7-percent increase in funding for the corporation.

Although I would much prefer providing funds to equal the inflation rate over the past year, I feel that the funds authorized by the Judiciary Committee are sufficient to allow the continuation of these valuable services and should be supported at this level. Any reduction in funding could jeopardize the continued progress and success the Legal Services Corporation has made in providing legal services to the needy and other disadvantaged members of our society.●

● Ms. HOLTZMAN. Mr. Chairman, while I support many provisions in the State-Justice-Commerce-Judiciary appropriations bill—especially those making major increases in the amounts available for inspectors for the Immigration and Naturalization Service and for the border patrol—I am voting against the bill in order to protest the McDonald amendment which was added to the bill yesterday. I regret that I was unable to be present to speak against it then.

The McDonald amendment denies necessary legal services to poor people merely because of their sexual preference. Under this amendment, Legal Services lawyers will not be able to represent someone who has been dismissed solely because of homosexuality, or someone who has not been promoted solely because of homosexuality, or someone who has been denied housing or someone who has been denied rights under Federal programs solely on the grounds of homosexuality. This is not only unfair; it is a disgrace.●

● Mrs. COLLINS of Illinois. Mr. Chairman, I plan to vote "present" on H.R. 7584, State-Justice appropriations, fiscal year 1981 as it presently stands containing the antibusing language.

When this measure reaches conference committee, I hope the antibusing language will be reconsidered.●

● Mr. MAGUIRE. Mr. Chairman, yesterday an amendment was offered by the respected Member from New York, Mr. CONABLE, to cut the appropriation for Legal Services Corporation. Mr. CONABLE argued that the activities being carried out by migrant legal services programs were only serving to harass growers and that legal services workers in his area were drumming up business during the migrant season so that they could justify their existence during the remainder of the year. He said that they had stirred up migrant workers and refused to negotiate. He asserted that they have not carried out their activities according to the rules of professional conduct.

However, as the gentleman from Illinois, (Mr. HYDE) pointed out, there have been no grievances filed with the New York State Bar Association against any migrant legal services program in Mr. CONABLE's State.

On the contrary, all of the allegations which Mr. CONABLE made were carefully investigated by a review team convened at the request of the director of the Legal Services Corporation's New York regional office, Salvador, Tio.

That review team consisted of four attorneys drawn from the private and public sector, including a private firm in New York City, one in Buffalo, and the Department of Justice itself. After conducting an extensive field investigation and further independent investigations the review team concluded that there was no substance to complaints by growers against New York's migrant legal services programs. They specifically found no evidence of any actual violations of the LSC Act, the regulations or the code of professional responsibility.

They found that the major complaints of the growers resulted from the program's successful and aggressive advocacy on their clients' behalf. It was also found that a policy requiring prelitigation negotiation in all instances would impose unprofessional standards. They did recommend, and the programs are heeding the suggestion, that they examine the question of when a policy of prior notice might be appropriate.

With regard to specific charges that one program failed to pursue mediation efforts on the access issue, the review team found the charge lacked factual support. Their conclusion states that the growers offered only their opening bargaining position which provided western New York rural legal services with fewer rights than those already recognized in the jurisdiction. The subsequent agreement negotiated by the mediation service went unsigned by both the Growers Association and legal services and the Growers Association thereafter dropped out of mediation while western New York reached an informal agreement with the two individual growers.

This body must recognize that the Legal Services Corporation has a mandate to provide equal justice to all including those groups for whom assertion of their Federal rights will cause them to clash with interests of more permanent, established groups such as the growers in Mr. CONABLE's State, in my State of New Jersey, or any State. Migrant farmworkers have too long been denied meaningful access to the justice system to allow this unwarranted cut to the budget to the Legal Services Corporation.●

The CHAIRMAN. The Clerk will complete the reading of the bill.

The Clerk concluded the reading of the bill.

Mr. BAUMAN. Mr. Chairman, I move to strike the very last word.

I was just listening to the remarks made by the gentleman from Iowa and the gentleman from Massachusetts. As I recall, the debate on the legal services amendment, which was adopted by a majority of this House, extended over some period of time. It is one of the few cuts we made in the appropriation, a modest $21 million. I know that it certainly is within the rights of both gentlemen to request a vote on it, but I would urge that, considering all the problems this agency of Government has created in many of our districts and the real question of whether there should be such an agency, the least we should do is uphold the previous decision of the committee and vote for the amendment that was adopted and offered by the gentleman from New York (Mr. CONABLE) and the gentleman from Louisiana (Mr. HUCKABY).

I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. SMITH of Iowa. Mr. Speaker, I demand a separate vote on the so-called Conable amendment as amended by the Huckaby substitute.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 38, line 22, strike out "$321,300,000:" and insert in lieu thereof "$300,000,000:".

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 197, nays 215, not voting 21, as follows:

[Roll No. 420]

YEAS—197

Abdnor
Albosta
Ambro
Andrews, N.Dak.
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derrick
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Levitas
Livingston
Loeffler
Lott
Lujan
Lungren
McDade
McDonald
Madigan
Marlenee
Marriott
Martin
Mattox
Mica
Michel
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Nelson
Nichols
Pashayan
Paul
Petri
Pickle
Porter
Quayle
Quillen
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stanton
Steed
Stenholm
Stockman
Stump
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NAYS—215

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gephardt
Gibbons
Glickman
Gonzalez
Gore
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Howard
Hughes
Hutchinson
Jeffords
Jenrette
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lent
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Solarz
Spellman
Stack
Staggers
Stangeland
Stark
Stewart
Stratton
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—21

Anderson, Ill.
Biaggi
Bonker
Giaimo
Gray
Lewis
Luken
McEwen
McKay
Mathis
Mavroules
Oakar
Pursell
Rangel
Rhodes
Rodino
Runnels
St Germain
Stokes
Symms
Udall

☐ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Lewis for, with Mr. Rodino against.
Mr. Rhodes for, with Mr. Rangel against.
Mr. Symms for, with Mr. Gray against.
Mr. Runnels for, with Mr. Pursell against.

Until further notice:

Mr. Biaggi with Ms. Oakar.
Mr. St Germain with Mr. McKay.
Mr. Stokes with Mr. McEwen.
Mr. Udall with Mr. Mathis.
Mr. Mavroules with Mr. Luken.
Mr. Giaimo with Mr. Bonker.

Messrs. COURTER, D'AMOURS, and WRIGHT changed their votes from "yea" to "nay."

Mr. DAVIS of Michigan changed his vote from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. M'DADE

Mr. McDADE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. McDADE. In its current form I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. McDade moves to recommit the bill, H.R. 7584, to the Committee on Appropriations with instructions to report it back forthwith with the following amendment: On page 43, line 6 add the following new section.
>
> "Sec. 609. No funds appropriated under this Act may be used for any action by the Attorney General or by the Secretary of State which is not in compliance with the provisions of the Refugee Act of 1980."

Mr. McDADE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania (Mr. McDade).

Mr. McDADE. Mr. Speaker, this motion to recommit with instructions is designed to do just one thing. All of us know that the country is inundated, or at least filled, with refugees from Cuba, from Haiti, and from other parts of the world. Currently the administration is taking a line that says that each State which has these refugees must pick up 25 percent of the cost of housing those refugees. We believe that to be a breach of faith.

In my own State of Pennsylvania we have willingly and gladly accepted many tens of thousands of Cubans at Indiantown Gap. We did so under assurances by the administration—and my colleague, the gentleman from Pennsylvania (Mr. Walker) has worked long and hard with the administration to get assurances—that this would be 100 percent federally funded, as, indeed, it ought to be. Unhappily, the administration has now changed its views and has told us that 25 percent of the cost of housing those refugees in my State, and in any other State that sees fit to welcome them within their borders, we will be required to pick up.

I have an editorial from the Washington Post which sums it up thoroughly and says: "This is a national responsibility." I would hope that the House could on a voice vote instruct the administration that this is, indeed, a national responsibility, and concur with my friend, the gentleman from Pennsylvania, and say it is a 100 percent responsibility.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I want to thank the gentleman for offering the motion to recommit with this language because I think it is extremely important that we recognize that this is a national responsibility. These people are here primarily as a result of our foreign policy efforts, and it unfair to States and localities to say to them that they have to pick up 25 percent of the costs that accrue from these refugees. All this language would do is assure compliance with the Refugee Act of 1980 in the 100-percent reimbursement.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding.

I want to commend the gentleman for his motion. I want to strongly support it because, as he knows, we have been severely impacted in Arkansas at Fort Chaffee. It is a national burden and it should be borne by all the taxpayers.

Mr. McDADE. I thank my colleague from Arkansas.

☐ 1800

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, like most Democrats, I seldom support motions to recommit, but in all honesty and all fairness, this should be in this act. It is very unfair. This is a national problem. It is not just a Florida problem or a Pennsylvania problem and this is something that all the taxpayers in the United States have to bear the burden of, not just a few people.

Mr. McDADE. I would say to my friend from Florida, the only reason this is in the motion to recommit is because we have just been able to determine that the Department of State will have to administer this, and not HEW. Therefore, we have to do it this way.

Mr. GIBBONS. Mr. Speaker, I understand it. I hope we can get a voice vote and agree that this is a national responsibility.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, can the gentleman tell us approximately how much additional money this will cost the Federal Government?

Mr. McDADE. We can take the number of refugees which are in the country—maybe the gentleman happens to know, I do not—and it will cost 25 percent of that.

Mr. ROUSSELOT. Only the President knows for sure.

Mr. MARKS. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Pennsylvania.

Mr. MARKS. I would like to join in supporting the motion. We have a very serious problem in Pennsylvania. We believe it to be a national problem. I am glad this motion to recommit with instructions is being presented at this time.

Mr. SMITH of Iowa. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this is an attempt to settle in this bill something that cannot be settled here. It is an attempt to require that 100 percent of the cost of medical and social services for the Cuban and Haitian entrants be borne by the Federal Government.

Mr. Speaker, in the supplemental bill we did provide $100 million for this purpose but that was through HEW. There is no money in this bill for that purpose. The Cubans are not refugees under the terms of the Refugee Act of 1980 and are not eligible for assistance under the terms of that act.

There is no money in the bill for this purpose and so the amendment either does nothing or tries to settle legislatively a serious question that ought to be settled in a legislative manner. For that reason I would hope the gentleman from Pennsylvania (Mr. McDade) would not pursue the amendment.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and on a division—demanded by Mr. McDade—there were—ayes 137; noes 123.

Mr. KAZEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion to recommit was agreed to.

Mr. SMITH of Iowa. Mr. Speaker, pursuant to the instructions of the House on the motion to recommit, I report the bill, H.R. 7584, back to the House with an amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment: Page 43, line 6, add the following new section:

Sec. 609. No funds appropriated under this Act may be used for any action by the Attorney General or by the Secretary of State which is not in compliance with the provisions of the Refugee Act of 1980.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 252, nays 158, answered "present" 1, not voting 22, as follows:

[Roll No. 421]

YEAS—252

Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Bingham
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, Phillip
Carter
Chisholm
Clinger
Coelho
Conte
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Deckard
Dellums
Derrick
Dickinson
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Ertel
Fary
Fazio
Findley
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hutchinson
Hutto
Hyde
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kildee
Kindness
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Marriott
Matsui
Mazzoli
Mica
Michel
Mikulski
Mineta
Minish
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Sabo
Santini
Scheuer
Sebelius
Seiberling
Shannon
Simon
Skelton
Smith, Iowa
Snowe
Snyder
Solarz
Spellman
Stack
Staggers
Stanton
Steed
Stratton
Synar
Tauzin
Thompson
Traxler
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—158

Abdnor
Anderson, Calif.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Blanchard
Bouquard
Brodhead
Broyhill
Burton, John
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Coleman
Collins, Tex.
Conable
Conyers
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Derwinski
Devine
Dicks
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Ferraro
Fithian
Forsythe
Fountain
Fowler
Frenzel
Gephardt
Gingrich
Goldwater
Goodling
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Holt
Holtzman
Hubbard
Huckaby
Hughes
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Jones, Okla.
Kazen
Kelly
Kemp
Kogovsek
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Levitas
Loeffler
Lujan
McDonald
Madigan
Marlenee
Martin
Mattox
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Nelson
Nichols
Panetta
Pashayan
Paul
Petri
Quayle
Quillen
Ritter
Robinson
Roth
Rousselot
Rudd
Russo
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.

Solomon
Spence
Stangeland
Stark
Stenholm
Stewart
Stockman
Studds
Stump
Swift
Tauke
Taylor
Thomas
Trible
Waxman
Weaver
Weiss
White
Whitehurst
Wilson, Tex.
Wirth
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Collins, Ill.

NOT VOTING—22

Anderson, Ill.
Biaggi
Boggs
Fascell
Giaimo
Gray
Lewis
Luken
McEwen
McKay
Mathis
Mavroules
Oakar
Pursell
Rangel
Rhodes
Rodino
Runnels
St Germain
Stokes
Symms
Udall

□ 1820

The Clerk announced the following pairs:

On this vote:

Mr. Rhodes for, with Mr. Lewis against.
Mr. Pursell for, with Mr. Symms against.

Until further notice:

Mr. Fascell with Mr. McEwen.
Mrs. Boggs with Mr. Luken.
Mr. Rodino with Mr. Giaimo.
Mr. St Germain with Mr. Mathis.
Mr. Stokes with Mr. McKay.
Mr. Mavroules with Ms. Oakar.
Mr. Rangel with Mr. Runnels.
Mr. Gray with Mr. Udall.

Mr. ATKINSON and Ms. HOLTZMAN changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to House Resolution 743, agreed to on July 21, 1980, he did on July 23, 1980, make certification to the U.S. attorney for the District of Columbia as required by House resolution 743, of the failure of O. Robert Fordiani to appear before the Committee on Standards of Official Conduct of the House of Representatives.

ELECTION OF HON. JIM WRIGHT AS SPEAKER PRO TEMPORE DURING ABSENCE OF THE SPEAKER

Mr. ROBERTS. Mr. Speaker, I send to the desk a privileged resolution (H. Res. 746) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 746

Resolved, That Hon. JIM WRIGHT, a Representative from the State of Texas, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. JIM WRIGHT as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SWEARING IN OF HON. JIM WRIGHT AS SPEAKER PRO TEMPORE DURING ABSENCE OF THE SPEAKER

The SPEAKER. The Chair will now administer the oath of office to the gentleman from Texas (Mr. WRIGHT) as Speaker Pro Tempore.

Mr. WRIGHT assumed the chair and took the oath of office administered to him by the Speaker, the gentleman from Massachusetts (Mr. O'NEILL).

NORTH AMERICAN TRADE CAUCUS

(Mr. STANGELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, as regional economic blocks assume more prevalence in our world economy, the importance of fully exploring potential new trading relationships with our allies, particularly our North American neighbors, has never been greater. Appreciating the reality that philosophies of isolationism and protectionism are ill-advised in light of the increasingly interdependent nature of modern world markets, I would like to commend both Senators BAUCUS and DOMENICI on their initiative to establish a Senate Caucus on North American Trade.

Similarly, due to the requisite need for complete consideration of this concept, my colleague from Louisiana, Congressman JOHN BREAUX, and I have joined together to organize a bipartisan House Caucus on North American Trade to work in conjunction with our Senate counterparts on cultivating this idea. The primary purposes of this caucus are to provide the private sector a focal point when dealing with current and future trade issues among North American countries and to provide specific input from the private sector to Congress on trading issues of common concern to North America. It is hoped that the resulting liaison between the private and governmental sectors will enable a more complete examination of possibilities of mutually beneficial trading agreements.

Interest displayed for this concept covers a broad spectrum. The National Governors' Association, Chamber of Commerce, and the National Association of Manufacturers are just a few of the many organizations expressing interest in the betterment of North American trading relationships. Strong endorsements have also been received from many private corporations and companies.

While impediments will continue to exist due to our Nation's historical, cultural, and societal differences, new opportunities for enhancing hemispheric relations can be realized by laying the foundation now with this initial step. Despite the heterogeneous aspects of our societies, we share many common bonds. Couple this with the favorable geographical approximation of our countries and it becomes apparent that improved trading relationships can open the door in addressing more complex issues confronting our hemisphere.

I wish to insert a copy of the letter announcing the formation of the North American Trade Caucus. The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C. July 22, 1980.

DEAR COLLEAGUE: As regional economic trading blocks assume greater dominance in world trade markets, it becomes increasingly more important for the United States to investigate more fully potential benefits that may accrue from improved trading relationships with our North American neighbors. This interest is not unique to the United States. Rather, though greater U.S. dominance is a major concern to countries such as Canada and Mexico, the economic realities of modern world trade markets dictate a fuller exploration in bettering trading opportunities among our North American countries.

It is with these thoughts in mind that we are joining to announce the formation of a bipartisan North American Trade Caucus to study the prospects for greater integration of trade on this continent. This caucus, modelled after a similar caucus formed by Senators Baucus and Domenici in the other body, is designed to provide a focal point within Congress to discuss this issue of improved continental trading relationships. It is our goal to work closely with our Senate counterparts on this matter in order to realize the full potential of this caucus.

We are well aware of the proliferation of caucuses in Congress during recent years. Nevertheless, it is our opinion that a caucus such as we propose is an essential first step in greater North American trade integration. Furthermore, a great deal of interest has been voiced for this concept by major business firms, the National Governors' Association, U.S. Chamber of Commerce, and the National Association of Manufacturers.

As previously mentioned, the primary goal of this caucus is to explore the possibilities of greater North American trade integration. Private sector participation will be solicited in order to delineate pertinent areas of interest. Additonally, we will request the private sector to seek input from their counterparts in Mexico and Canada. Proper approaches to basic trading issues will also be subject to study.

We strongly urge you to become part of this effort. If you would like to join the caucus, or have any additional questions, please call Ed Babbitte of Congressman Stangeland's office (5–2168) or Darrell Hunt of Congressman Breaux's staff (5–2031).

Sincerely,

JOHN BREAUX,
ARLAN STANGELAND,
Members of Congress.

IRANIAN TERRORISM REACHES AMERICA

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDONALD. Mr. Speaker, yesterday an assassin murdered Ali Akbar Tabatabai, a leading Iranian opponent of the Khomeini dictatorship, at his suburban Washington, D.C., home.

Ali Tabatabai had been subjected to repeated death threats from the backers of Khomeini since January 1979. Despite the harassment, despite the threats, Ali Tabatabai went ahead acting on his beliefs and sought to develop support in the Iranian community in the United States for a moderate democratic alternative to the savage repressive regime of Khomeini in Iran. He was the leader of the Iran Freedom Foundation which was preparing a rally in Washington this Sunday in support of freedom for the 52 American hostages held by Khomeini's forces in Teheran.

For speaking out and acting on his beliefs, Ali Tabatabai, whom I was privileged to know as a friend, has been murdered by Khomeini's assassins. The record of Khomeini and his aide Sadeq Khalkhali, known as "Judge Blood," in ordering the murders of their political opponents living in exile is notorious. We all remember their statements calling for the murder of the Shah at his hospital and their open acceptance of responsibility for murders including that of the Shah's nephew in Paris on December 7, 1979.

Khomeini has taken advantage of the international terrorist services offered by Yasir Arafat and his Palestine Liberation Organization. Last Friday an apparent mixed team of PLO and Iranian terrorists killed two people in Paris while attempting to assassinate former Prime Minister Bakhtiar. And so it is not surprising that a non-Iranian killer was used in the attack on Ali Tabatabai.

Ali Tabatabai and the Iran Freedom Foundation had remained in contact with my office since the Khomeini takeover. He had told us about the efforts of Khomeini agents in the United States to intimidate the Iranian community and about the efforts on Khomeini's behalf of Bahram Nahidian, a resident of McLean, Va., whom he described as Khomeini's chief agent since the break in relations. In addition, Ali Tabatabai was preparing evidentiary material on the illegal activities, including preparations for possible terrorist actions, on the part of the Iranian Students Association in the United States, and its many factions and fronts.

I ask other Members of this House to join with me in asking the Justice Department to investigate the assassination of Ali Tabatabai with all the resources at their disposal, and to initiate investigations into the activities of Bahram Nahidian, and his associates in relation to this assasination, to their activities in attempting to coerce the leadership of the Islamic Center and use that religious institution to cloak their activities on behalf of Khomeini; and the attempts of Nahidian to recruit followers amongst Moslem and other prisoners in Lorton Reformatory.

Terrorism must not be allowed to go unpunished in the United States.

COMBATING TERRORISM

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, yesterday, the Nation and the world were shocked by the murder, in the Nation's Capital, of Ali Akbar Tabatabai, an Iranian working with former Iranian Premier Shapur Bakhtiar for the establishment of a democratic regime in Iran.

This act of international terrorism demonstrates once again that we are not immune from the wave of political violence now sweeping the world.

This brutal murder underscores the importance of the passage of strong antiterrorism legislation by the Congress.

The cruel punishment inflicted on Mr. Tabatabai for his political beliefs and nonviolent actions mirrors the situation in Iran today, where our hostages are imprisoned in subhuman conditions merely because they happen to be the diplomats of a country that Iran's leader feels wronged them. Iran is a country where political offenders and nonviolent criminals are subject to the death penalty.

In addition to the outrageous imprisonment of our hostages in Iran, our diplomats and other Americans have been victimized by international terrorism throughout the world. In the Sudan, in Afghanistan, Guatemala, Lebanon, and on Cyprus, our Ambassadors have been shot at and killed. Americans have been victimized by air piracy, and American tourists and businessmen abroad have been the innocent targets of Palestinian terrorists, the Japanese Red Army, and the Baader-Meinhof gang.

Terrorism has been increasingly manifesting itself in this country. In recent years, we have experienced the murder, on Embassy Row, of Orlando Letelier, a former Chilean leader, by Chilean agents, the attempt by the Libyan Government to suppress dissent by Libyans studying here, and attempts by the previous Iranian regime to suppress anti-Shah sentiment and manifestations by Iranians in the United States. We have suffered, too, from the more-or-less homegrown terror of the Puerto Rican nationalist group, the FALN, and other similar lawless organizations.

We must resolve to stamp out terrorism and violence wherever they exist, especially here in our own backyard. Let us extend to the FBI the necessary tools, consistent with our concept of civil liberties, to crack down on terrorism as soon as it rears its ugly head in America.

REQUEST FOR COSPONSORS OF RESOLUTION OF INQUIRY INTO BILLY CARTER MATTER

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BAUMAN. Mr. Speaker, yesterday the President of the United States released a statement from the White House in which he said, and I quote:

> I do not believe it is appropriate for a close relative of the President to undertake any assignment on behalf of a foreign government. Facts relating to the existence of any such relationship should be fully and publicly disclosed.

I applaud the President's belated statement on this matter.

I would like to invite Members of the House from both parties to join a group of 80 Members of the House who yesterday introduced House Resolution 745, a resolution of inquiry addressed to the President and asking specific questions regarding his involvement in the Billy Carter matter, and what influence those activities of his brother had on policies of the United States. A resolution of inquiry can be called up 7 legislative days from the date of introduction. I invite all Members to show appropriate concern and cosponsor this resolution, Members from both parties, as they have in recent matters pertaining to the improprieties on the part of other Presidents of the United States. I invite them to contact me for cosponsorship.

The text follows:

H. Res. 745

Resolved, That the President, to the extent possible, is directed to furnish to the House of Representatives, not later than seven days following the adoption of this resolution, full and complete information on the following:

(1) any record and date of all conversations and actions of the President with Billy Carter relating to the latter's role as an official or unofficial agent of the Government of Libya:

(2) whether the President and/or White House officials intervened in the investigation conducted by the Justice Department in regard to Billy Carter's role as an agent of the Government of Libya;

(3) any record or memorandum containing the President's instructions to Zbigniew Brzezinski, Lloyd N. Cutler, Phillip J. Wise, Junior, and Susan Clough in regard to the policy to be followed in dealing with Billy Carter's activities for and relationship to the Government of Libya;

(4) whether the President and/or White House officials knew or assisted Billy Carter in his relationship with Charter Oil Company including any commissions and monetary advantages which he would receive therefrom;

(5) the exact date on which the President learned of the Justice Department's proposed prosecution of Billy Carter, and the exact date on which the President learned of the $220,000 payment to Billy Carter by the Government of Libya;

(6) any record or memorandum containing the President's or White House official's instructions to State Department officers and employees in regard to Billy Carter's involvement with and relationship to the Government of Libya;

(7) any documents containing the State Department's findings and recommendations in regard to the foreign policy implications of Billy Carter's two visits to Libya, contained in the files of said Department or transferred to the White House;

(8) any documents relating to the Justice Department's findings and recommendations in regard to the investigations conducted by the Department into Billy Carter's activities as an unregistered agent of the Government of Libya, contained in the files of said Department;

(9) the authority under which the Justice Department accepted a "consent order" as opposed to pursuing civil or criminal proceedings against Billy Carter resulting from his role as an unregistered agent of the Government of Libya.

The information requested in this resolution shall be made available to each Member of the House of Representatives in accordance with the applicable rules of the House.

☐ 1830

THE 22D OBSERVANCE OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 60 minutes.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of my special order on today, the 22d observance of Captive Nations Week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Speaker, I rise today to commemorate the 22d annual House observance of Captive Nations' Week. The national observance of Captive Nations' Week, as we are aware, took place during the second week of our recess, July 13–19, pursuant to Public Law 86–90. But our remarks on the floor today are no less meaningful for being a few days late.

It has been 60 years since the Soviet Union began its continuing practice of subjugating non-Russian nations. In those 60 years many, many independent countries, filled with the spirit of freedom, have been crushed by the force of Russian arms. Generally, the targets of Communist domination have been small states, incapable of resisting the Red Army. Nonetheless, the victims of aggression have fought back, hoping to regain their freedom. In few instances, though, have they been successful. But still, few have given up without a fight, and few have stopped fighting for freedom, even when overwhelmed.

The list is a long one indeed, not only in Eastern Europe, but also in Asia and Africa: the Ukraine, one of the very first; the Baltic countries of Estonia, Latvia, and Lithuania; Poland, Hungary, Romania, Bulgaria, Czechoslovakia, Vietnam, Cambodia, North Korea, Angola, and Ethiopia.

Now Afghanistan has been added to that sorry list, and although the ayatollahs do not seem to realize what is happening, Iran may be the next country to be taken captive.

One need look no further than today's headlines to see a vigorous reaction to Russian imperialism being made by a relatively weak nation. The so-called rebels in Afghanistan, fueled by popular support for independence, continue to wage an effective and amazing guerrilla war against the Red Army. The Russians have resorted to bombing the suburbs of Kabul in their attempts to subjugate an unwilling people. They are determined to add Afghanistan to the list of captive nations. Yet the Afghans, having had an opportunity to witness the effect of communism on bordering regions, are fighting back for all they are worth. Freedom is still alive there, and we are glad to see it.

I had the opportunity to speak with these Afghan rebels at the Peshawar refugee camps in Pakistan during our Armed Services Committee trip to the Indian Ocean and Persian Gulf in April. The message from Peshawar was that the Afghans have absolutely no intention of giving up. They will fight on alone if need be, but we have a great opportunity to help them retain their freedom. They ask us only for the arms necessary to take back their homeland. And I hope to Heaven we are helping them. These freedom fighters are waiting in the famous Khyber Pass, ready to rush back into Afghanistan to take on the forces of the Red Army. They look to us for help in their time of need. We must give them arms to defend their homeland. To refuse to do so would be a disgrace.

As we observe Captive Nations Week this year, Mr. Speaker, let us consider the price we pay for sitting back as the web of communism spreads around the world. We Americans tend to forget the circumstances under which our own Nation gained, and held, its independence two centuries ago. To win the war of independence was not enough. The list of captive nations is a grim reminder that freedom, once attained, must be vigorously defended on all fronts and at all times.

There is no reason why this country, or any other free nation, should be timid in the defense of its beliefs. After all, the Russians are hardly invincible. In fact, there is every indication that Moscow, despite the greatest efforts at eradicating opposition, has only the most tenuous hold on many of its own satellites. Free peoples do not easily accept the strictures of authoritarian rule. The spirit of freedom lives on the peoples of captive nations the world over, strong evidence that Soviet imperialism can indeed be stopped.

In this country, our cities and towns are full of people who know at first hand the terror of Communist oppression. Refugees from captive nations have helped to make this country of ours stronger by renewing the spirit of freedom which is the foundation of our Republic. From Europe, Asia, and now from the Caribbean, people have come to this country looking for a new life, one free of the strictures of totalitarian rule. There is a lesson in this for us all. As this country commemorates Captive Nations Week, it would be worth remembering that our heritage is one of freedom, that this country has always been a haven for freedom-loving peoples, and that our strength is based on the devotion of our population to certain basic principles that were inscribed in the Declaration of Independence in 1776. Today, as much as at any time in our history, we Americans must have the courage of our convictions. No one is asking us to fight alone, but rather to contribute as best we can to advance the cause of freedom in the world. We are not being asked to fight in Afghanistan but only to help those who live there to fight for what is theirs.

There are many options open to a democracy such as ours to respond to totalitarian imperialism. Whichever options we choose, though, must be carried out with conviction. The half-hearted responses to Soviet aggression that we have made of late, the repeated excuses for inexcusable acts, do far more damage than good. We, along with our allies, must meet attacks on the free world with a unified response in support of the independence of fellow nation states. The failure of the League of Nations to protect the sovereignty of the countries of Eastern Europe in the twenties and thirties was a boon to Soviet and Nazi expansion. The failure of the United Nations to defend its members in recent years has allowed the Soviets to continue their pattern of occupation and subjugation.

Mr. Speaker, freedom is a great incentive. People fight for it and people work for it. Refugees from the captive nations have contributed to the growth of this country because this country's strength represents the best hope for the spread and defense of freedom around the world. Defending the cause of freedom is in the American interest. There is far more at stake here than humanitarian ideals, although these too are clearly in jeopardy. Oppressed people the world over look to this country as a pillar of liberty.

It is up to us to continue to keep alive the torch of freedom, to continue to keep alive in the peoples of these captive nations the hope and the conviction that once again they too shall live in freedom. After all, if America is not to hold that hope aloft, who else can do the job of standing up to tyranny? We look forward, Mr. Speaker, with hope to the day when all these nations shall be free again.

Mr. Speaker, I include at this point the proclamation of the President of the United States, Hon. Jimmy Carter, on Captive Nations' Week, 1980; the text of the original law, from the 86th Congress, when the distinguished gentleman from Illinois (Mr. DERWINSKI) and I were freshman Members of this body; also a letter and a message from Dr. Lev E. Dobriansky; a proclamation by our former colleague, now the distinguished Governor of the Great Empire State of New York, the Honorable Hugh L. Carey, proclaiming Captive Nations' Week in the Empire State of New York; a proclamation of the Honorable Marion Barry, Jr., Mayor of the District of Columbia, making the proclamation for the District of Columbia; a proclamation from the Honorable Tom Bradley, mayor of the city of Los Angeles, on Captive Nations' Week, 1980; and, finally, a program of the Captive Nations' Week celebrated by the Captive Nations' Week Committee of the Metropolitan District of Detroit on the 13th of July.

The documents are as follows:

CAPTIVE NATIONS WEEK, 1980

(A proclamation by the President of the United States of America)

Twenty-one years ago, by a joint resolution approved July 17, 1959 (73 Stat. 212), the Eighty-Sixth Congress authorized and requested the President to proclaim the third week in July as Captive Nations Week.

Throughout our history we Americans have held the deep conviction that liberty and independence are among mankind's inalienable rights. Our ideal has remained that of our founding fathers: governments derive their legitimacy from the consent of the peoples they govern. Soviet aggression against Afghanistan is the latest stark reminder that this ideal is not universally respected.

Mindful of our heritage and our principles, let us take this week to salute the men and women everywhere who are devoted to the cause of liberty and the pursuit of human rights in their native lands.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate the week beginning on July 13, 1980, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to reaffirm their dedication to the ideals that unite us and inspire others.

In witness whereof, I have hereunto set my hand this nineteenth day of May, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.

Captive Nations Week—Public Law 86–90; 73 Stat. 212

[S.J. Res. 111]

Joint Resolution providing for the designation of the third week of July as "Captive Nations Week"

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Viet-Nam, and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That: The President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

Approved July 17, 1959, by President Dwight D. Eisenhower.

Message by National Captive Nations Committee Chairman to All Legislators on 22d Week

In technical accordance with Public Law 86–90, Americans across the country and friends abroad are commemorating the 22nd Observance of Captive Nations Week in this period of July 13–19. Afghanistan, the newest of the captive nations, is the main theme. The recess of Congress until the 21st has prevented the usual, Congressional observance of the Week. However, in full, background reinforcement to the proclaimed "Afghanistan Relief Week" and with the opening of the Moscow Olympics, it has been arranged to observe the 22nd Captive Nations Week in Congress during July 21–27.

Unless we're given to fragmentistic thinking, the complete meaning of both the "Afghanistan Relief Week" and the Moscow Olympics cannot be perceived outside the framework of captive nations analysis. What is happening in Afghanistan occurred manifold among the non-Russian nations now in the USSR sixty years ago. A legitimate question is "How many lessons must our rising generations learn as to the nature of the beast?" As to the Moscow Olympics, with or without our participation, do you believe there is such an entrant as "a Soviet athlete"? No such being exists, and this was well proven in 1972, when through guidelines in our Voice of America was officially insisted on the national identities of the so-called USSR participants. In reality and objectivity, there are no such beings as "Soviet man", "Soviet people", or "the Soviets." When we sponsor these terms, we help Moscow, not ourselves.

Your office has received our Congressional reprint "Now Afghanistan—And also a Solzhenitsyn." I hope you'll have occasion to read it. It elaborates much of the above. In our popular media Time magazine ("Inside the U.S.S.R.", special issue, June 23, 1980) accurately defines the USSR as "an empire". This is a near "first". Without this fundamental concept we cannot hope to rival the Soviet Russians in the type of warfare they have been engaged in since 1917. Though necessary because of our lag, more money for arms will not meet the psycho-political challenge of Moscow. The approach has to be nation-to-nation, especially those in the USSR. If we were in direct confrontation with Moscow, what would it be? Let's prevent one by intelligently developing this uncultivated dimension now, with over 40 million Moslems in the USSR.

Your participation in the "22nd" and "Afghan Relief Week" will be impactive. In the House, Representatives Edward J. Derwinski and Samuel S. Stratton will lead it on July 23. Join them and others in both chambers. We shall be deeply grateful.

Sincerely,

LEV. E. DOBRIANSKY,
Georgetown University.

State of New York Executive Chamber

Since 1959, when the Captive Nations Week Law was passed by the United States Congress and signed into law, Captive Nations Week has been observed throughout the nation.

The commemoration of Captive Nations Week is dedicated to the spirit and hope of enslaved peoples in their continuing quest for freedom and self-determination in their beloved native lands.

The freedom-loving peoples in captive lands look to the United States as a citadel of freedom and to the American people as a source of guidance and inspiration.

The Captive Nations Committee of New York will hold appropriate activities throughout the week to commemorate this annual observance and to address the issue of human rights and justice on behalf of the oppressed peoples in captive nations.

Now, therefore, I, Hugh L. Carey, Governor of the State of New York, do hereby proclaim July 13–20, 1980, as "Captive Nations Week" in New York State.

By the Mayor of the District of Columbia, A Proclamation

Whereas, by a joint resolution approved July 17, 1959, the Congress authorized and requested the President of the United States of America to issue a proclamation designating the third week in July as "Captive Nations Week," and to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all captive nations of the world; and

Whereas, there is a strong belief that the observance of "Captive Nations Week" throughout our country and our community will serve the cause of America and the entire free world; that the keeping alive of the spirit of liberation is the free world's most effective instrument; and

Whereas, it is deemed appropriate and proper for the people of our community to extend to the peoples of the captive nations our support and sympathy for their just aspirations for freedom and national independence:

Now, therefore, I, the Mayor of the District of Columbia, do hereby proclaim the week of July 13–19, 1980 as "Captive Nations Week" and invite the people of the Nation's Capital to participate in the observance of this period by offering prayers in their churches and synagogues for the peaceful liberation of the peoples throughout the world who are denied their fundamental rights.

City of Los Angeles Captive Nations Week

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Afghanistan, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States, as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with the support for the just aspirations of captive peoples:

Now, therefore, I, Tom Bradley, Mayor of the City of Los Angeles, on behalf of its citizens, do hereby proclaim July 13–19, 1980, as "Captive Nations Week" in Los Angeles and call upon the citizens of our City to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all ovcr the world.

Captive Nations Week, July 13–19, 1980—Commemorative Program

RALLY FOR FREEDOM, MARCH FOR FREEDOM

Captive Nations Week Committee. Co-sponsored by: Captive Nations Committee of Metropolitan Detroit American Friends of Anti-Bolshevik Bloc of Nations.

The President . . . to issue a . . . proclamation each year until such time as freedom and independence shall have been achieved for all captive nations.—(Public Law No. 86–90).

Commemorative Program—Captive Nations Week 1980 in Detroit

Sunday, July 13, 1980

Opening Remarks—Sigurds Rudzitis, Co-Chairman, Captive Nations Week Committee.

National Anthem.

Invocation—Archbishop Mikolai, Byelorussian Orthodox Church.

Remarks—Frank Stella, Co-Chairman, Captive Nations Liberty Week; Anna Chenault, Chairman, National Republican Heritage Groups (Nationalities) Council; Lev Dobriansky, Chairman, National Captive Nations Committee, Inc.; Ronald Reagan, Candidate for Presidency of the United States; William G. Milliken, Governor, State of Michigan; and Edward J. Derwinski, Member of Congress, U.S. House of Representatives.

Proclamations—Nestor Scherbey, General Secretary, American Friends of Anti-Bolshevik Bloc of Nations.

Resolutions—Bohdan Fedorak, Co-Chairman, Captive Nations Week Committee.

Benediction—Reverend Fr. Anthony Cuvalo, Croatian Catholic Church.

Freedom March.

Master of Ceremonies—Judge John H. Hausner.

Coordinator—Steve Postupack, Captive Nations-Freedom Week.

Sunday, July 20, 1980

Opening Remarks—Sigurds Rudzitis, Co-Chairman, Captive Nations Week Committee.

National Anthem.

Invocation.

Introductions and Proclamations.

Main Address—Honorable Roman Pucinski, Elderman, Chicago Roll Call of the Dead—Katyn Massacre.

Benediction.

Master of Ceremonies—Grzegorz Rej.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I will be glad to yield to my distinguished friend, the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding, and I want to recall with him that he and I both traveled to Pakistan and met with the representatives of the Afghan refugees, many of whom and members of their families were involved in attempting to resist the Soviet aggression in Afghanistan. I want to join with the gentleman in paying tribute to those valiant fighters who have been on the front lines against the aggression that the Soviet Union has inflicted on that country and on those brave people. I share with the gentleman the feeling that we ought to be doing anything we can to assist those Afghan patriots.

I thank the gentleman for taking this special order and for saluting Captive Nations Week.

Mr. STRATTON. Mr. Speaker, I appreciate the contribution of the gentleman from New Jersey, and I certainly agree with him that they need help and we ought to be giving it to them.

THE 21ST ANNUAL OBSERVANCE OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 60 minutes.

Mr. DERWINSKI. Mr. Speaker, last week marked the 21st observance of Captive Nations Week, which was commemorated across the country by parades, proclamations, and religious events. Today, I am pleased to join with my colleague from New York (Mr. STRATTON) in bringing this observance to the floor of the House.

Since the third week in July was first established as Captive Nations Week in 1959, by Public Law 86–90, the battle for freedom against the tyranny of communism has had its ups and downs.

I believe that this observation is even more pertinent today than it was in July 1959. With the opening of the summer Olympic games in Moscow, we are reminded of the recent Soviet actions in Afghanistan, which has now been designated the newest captive nation. We must not lose sight of this invasion of a small, defenseless Muslim nation and of the suffering of the 1 million Afghan refugees now in camps in Pakistan and Iran. This is just one instance of the ruthless policies of the Kremlin leaders.

At this point in my remarks, I wish to insert the original listing of the captive nations as they appeared in July 1959, and a list of those nations added since that time. The following was reprinted from "Captive Nations in the 1980's," published by the Ukrainian Congress Committee of America:

ROSTER OF CAPTIVE NATIONS

The "Captive Nations Week Resolution" of July 17, 1959, enumerated 22 original captive nations in the following order:

Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, and North Vietnam.

However, several other nations have been added to the original roster. These nations are: North Caucasia (the remnants of the Chechen-Ingush, Karachias, Balkars, Meskhetians and others); Mongolia (Mongolian People's Republic under the tutelage of Moscow), and the Far Eastern Republic (inhabited by Russians, Ukrainians and others), which has no autonomous status but is one of the many oblasts of the Russian SFSR; Cuba in the Western Hemisphere, Yugoslavia in the Balkans, and Cambodia, South Vietnam, Laos and Afghanistan in Asia.

AFGHANISTAN IS ADDED TO THE CAPTIVE NATIONS LIST

The National Captive Nations Committee has released a statement declaring Afghanistan a captive nation. The Committee's Chairman, Dr. Lev. E. Dobriansky of Georgetown University, said, "Taking all strategic factors into consideration, it is plainly evident that Soviet Russian imperio-colonialism has triumphed again, with Afghanistan joining the long list of captive nations commencing back in 1920."

The National Captive Nations Committee is headquartered in Washington, D.C. and maintains the Captive Nations List (see box). The Committee was formed in 1959 on the basis of Public Law 86–90. Its honorary Chairman for almost twenty years was former AFL–CIO president, George Meany. The National Captive Nations Committee leads the annual nationwide observance of Captive Nations Week in the third week of July.

In the statement, Dr. Dobriansky emphasized, "We have always been overly conservative and scholarly with the Captive Nations List and still rule out so-called Marxist states in Africa and elsewhere. Under the Captive Nation List's sub-caption "Who's Next?" we had anticipated for several years the Afghanistan outcome and, as Brezhnev had put it, the completion of Moscow's work in that Moslem country will be followed by a Potemkin show of armed withdrawal. What he omitted to say is that Afghanistan will also become another captive nation under Moscow's domination."

"The fragmentation of Iran places that country high on the list of Who's Next?" said Dr. Dobriansky, who is known for his authorship of the Captive Nations Week Resolution. "Fundamentally, and in time," he continued, "the Captive Nations List will grow and the dangers to world peace will increase so long as we fail to integrate the captive nations ideology in our national security policy, with programmatic emphasis on the majority of captive non-Russian nations within the Soviet Union itself. The time has come for such integration and a broad reassessment of our losing policies. Otherwise, to our national detriment and that of the non-totalitarian world, this Captive Nations List will grow and grow." (Latvian Information Bulletin, April, 1980, Washington, D.C.)

CAPTIVE NATIONS LIST

Country, people and year of Communist domination

Armenia, 1920; Azerbaijan, 1920; Byelorussia, 1920; Cossackia, 1920; Georgia, 1920; Idel-Ural, 1920; North Caucasia, 1920; Ukraine, 1920; Far Eastern Republic, 1922; Turkestan, 1922; Mongolia, 1924; Estonia, 1940; Latvia, 1940; Lithuania, 1940; Albania, 1946; Bulgaria, 1946; Yugoslavia (Serbs, Croats, Slovenians, etc.), 1946; Poland, 1947; Rumania, 1947; Czechoslovakia, 1948; North Korea, 1948; Hungary, 1949; East Germany, 1949; Mainland China, 1949; Tibet, 1951; North Vietnam, 1954; Cuba, 1960; Cambodia, 1975; South Vietnam, 1975; Laos, 1975; and, Afghanistan, 1980.

Mr. Speaker, for too long in too many nations, strong and proud peoples have been subjugated—peoples whose contributions to the future of the world would be tremendously enhanced by their freedom. There is no independence in these nations except in the hearts and minds of the people who seek to be free.

There is no independence from the tyranny of Moscow which seeks to eradicate the cultural heritage of proud peoples. Nor is there independence from a government in Moscow which has used its force to stifle religious expression.

As almost 50 percent of the Soviet population is non-Russian, the Soviet leadership is keenly sensitive to the danger of unrest among its national minorities. When we think of the captive nations, we cannot only consider those people of other than Russian ancestry. There are many Russians who are held captive within their own nation. Minorities and dissidents are treated as undesirables and denied the civil liberties which we view as God-given rights. I wish to insert an article which appeared in the newspaper, the Truth, published by Citizen Forum of Marlboro, Mass. The article, reprinted from the July edition, follows:

Soviet Russia Comprised of 14 Captive Nations

There are 50 nationality groups within the Soviet Union with populations of 100,000 or more, and 22 have more than a million each. The Soviet Union is called the Union of Soviet Socialist Republics (USSR). This is a "paper fiction." They are in actuality colonies. Ronald Reagan recently wrote . . . "The central authorities try, sometimes cruelly, sometimes subtly, to replace the national languages and traditions with common Soviet traditions and the Russian language."

There are 14 "republics" within the USSR. All of these are former countries which attempted to establish their independence of Russia after the revolution in 1918. The so-called Baltic states, Lithuania, Latvia, and Estonia, were immediately successful, and were able to remain independent until 1939 when they were occupied by the Russians on a pretext. The balance lost their freedom between 1918 and 1924. All these countries had established their independence and their efforts were cruelly and ruthlessly crushed by Lenin as soon as he consolidated his power.

UKRAINE

Perhaps most cruelly persecuted was Ukraine, the largest Slavic nation within the USSR, which contains 50 million people, comprised 77% of nationalistic, patriotic Ukrainians. The balance are Jews, Poles, Germans, Greeks, and Albanians. After some 200 years of Russian domination, Ukraine proclaimed its full independence on January 22, 1918, and for more than three years it fought for its preservation, but succumbed to the superior force of the Communists in 1920. One eye witness recounts concerning those grim days: "Twelve Ukrainian doctors were shot in the streets, even though they were wearing armbands . . . Also 400 pupils of the Ukrainian high school, aged about 14, were shot at the time merely for wearing insignia of the state school in their lapels. At least 5,000 people were executed within a period of three days."

Although Ukraine had suffered from famine after the revolution, it was nothing when compared to the famine of 1932 and 1933, which was artificially induced by the Russian government. Food products were forcibly taken away not only from those farmers who refused to participate in the collective system, but also from the collectives and their members. It was reported, "any item which could possibly be eaten or was of commercial significance was seized from the hungering peasants." Millions of Ukrainians, including tiny children, suffered and died because of this famine. For the past half century Ukraine has suffered untold oppression, famine, and religious persecution. However, the struggle goes on, as attested to by mass arrests of Ukrainian intellectuals.

UKRAINIAN LOVE AFFAIR

The Ukrainian youth have maintained a very strong national consciousness. This is reflected in the writing of young authors like the poet Vasyl Symonenko, who died in 1963 at the age of 29. He wrote of his love affair with Ukraine as follows:

When I speak with you Ukraine!
Ukraine, you are my prayer,
My eternal desperation
For your holy name, I am ready
To pour forth my last drop of blood!

Ukrainian youth have organized and serve as a rallying point for the populace; the Ukrainian people are still singing the national anthem. The workers have also made known their opposition thorugh sabotage, strikes, and protests. They also fight for religious freedom. A flag was recently raised on the church tower of a village in the Skole district which read, "Christ is risen. Ukraine will arise. Death to Moscow and its lackeys."

BYELORUSSIA

This is the largest Slavic nation in the USSR, after Russia and Ukraine, and has a population of 12 million. Enslaved by czarist Russia, Byelorussia shook off its foreign yoke and proclaimed its independence on March 26, 1918, which was eventually destroyed by Russia in 1920. Nominally "sovereign and independent," the Byelorussian SSR is a colonial appendage of Moscow with rampant persecution of the people, their culture, language and religion.

ARMENIA

Armenia is one of the oldest countries in Europe, with a population of 2.5 million. After a long period of independence, the country was divided into "Russian Armenia" and "Turkish Armenia," where large numbers of Armenians were massacred by the Turks. Armenia declared its independence on May 28, 1918, but after three years of fighting, it was again divided between Turkey and Russia.

AZERBAIJAN

This country has 5.1 million people and occupies the eastern part of Transcaucasia. The Azerbaijans are Azeri Turks and of Islamic faith. The land was occupied by the Russians early in the 18th century. It declared its independence on May 28, 1918, together with Armenia and Georgia, but was defeated and absorbed into the USSR.

GEORGIA

There are nearly 5 million people here, mostly Christians. Georgia was initially liquidated by Russia in 1811. It proclaimed its independence in 1918 and lost it in 1921.

TURKESTAN

This land is inhabited by nearly 33 million people, and arranged into five "Republics", including Kazakhstan (13 million), Uzbekistan (12 million), Kirghizia (2,933,000), Tadzhikistan (3 million) and Turkmenistan (2 million). Soviet rule over these Turkish peoples consists of political domination, cultural assimilation bordering on ethnocide, and religious suppression.

NEARLY HALF OF RUSSIAN PEOPLE—"CAPTIVES"

Total population of the USSR is some 250 million of which 113 million is comprised of captive peoples in the so-called "republics," which were subdued and occupied by Moscow between 1918 and 1924, in addition to the Baltic nations which were annexed in 1940. The three Baltic states have a combined population of 6.768 million and are included in the total captive nations population figure.

THE BIG SECRET

Congressman Derwinski of Illinois recently asked on the floor of the House, "How many indeed realize that the Russians dominate an empire in which 45 percent of the people are not Russians (and this does not include the Eastern European slave states?)" He asks, "Why is the existence of this empire in Russia such a closely guarded secret? I can't figure out why the Russians get a free ride on their colonial empire, the last great imperialist regime in the world."

Moscow has attempted to "Russify" the empire ever since the early days of the Soviet Union. It has been pointed out by Andrei Amairik, a dissident who left the Soviet Union to teach and study at Harvard, that "Russification is due less to the strength of the Russian central authorities than to their own internal weakness." Valentyn Moroz, another intellectual dissident from the Ukraine, who spent 14 years in Soviet jails, had defied "Russification" of Ukraine by presenting the facts about how the Russians were trying to smother its nationality.

MOROZ—VOICE FOR FREEDOM

In a recent essay, Ronald Reagan noted, "Valentyn Moroz, one brave voice, clearly rubbed the Russian authorities the wrong way, for he demanded cultural freedom for the Ukraine. Indirectly, he was speaking for such other distinct nationalities within the Soviet Empire as the Georgians, the Byleorussians, the Estonians, Latvians, Lithuanians and Armenians, not to mention the satellite communist states of central and eastern Europe. Soviet policies designed to wipe out national consciousness from among their subjects range from mass deportations from ancestral homelands, all the way to murder, according to Moroz."

Mr. Speaker, those peoples held captive by the Communist dictators continue their resistance against Russification. They have preserved their nationalistic integrity as weapons in their determination to combat the ideology of communism. By maintaining their culture, religious ideals and identity, these brave people strive to overcome the massive persecution and suppression of their human rights.

It is important that we continue to focus world attention on these constant transgressions, and continue to be firm in our objections to Soviet violations of human rights in all of the captive nations. This anniversary serves as a poignant reminder that these peoples do not have the opportunity to determine their own policies. We must not be afraid to take steps to promote the basic rights of the captive nations in their attempts to maintain their national identities.

Mr. Speaker, I am especially pleased that the distinguished Governor of Illinois, James R. Thompson, and the Mayor of Chicago, Jane M. Byrne, issued very timely proclamations for Captive Nations Week. I wish to insert them as part of my remarks:

State of Illinois Proclamation

Americans enjoy the freedoms that peoples in captive nations do not know. The rights we take for granted are fought for every day by those who do not rule themselves.

Each year, the third week in July is set aside for commemoration of captive nations. Here in Illinois, the Captive Nations Observance in Chicago is July 19th, highlighted by a Freedom Race Olympic Rally.

In the hope that all peoples throughout the world may find their freedom, I, James R. Thompson, Governor of the State of Illinois, proclaim July 13–19, 1980, Captive Nations Week in Illinois.

City of Chicago Proclamation

Whereas, the observance of Captive Nations Day is held each year in accordance with Public Law 86–90; and

Whereas, under auspices of the Captive Nations Friends Committee, headed by Viktors Viksnins, the Chicago observance will be held on July 19 in the Richard J. Daley Plaza; and

Whereas, at this time there will also be presented a Freedom Race Olympic Rally; and

Whereas, our city is the home of innumerable friends of the captive nations and of many who have suffered under the repressions of Communist aggression:

Now, therefore, I, Jane M. Byrne, Mayor of the City of Chicago, do hereby proclaim

Saturday, July 19, 1980, to be CAPTIVE NATIONS DAY IN CHICAGO and urge all citizens to take notice of the special events arranged for this time.

Dated this 16th day of June, 1980.

Mr. Speaker, in addition, I wish to insert remarks from the Most Reverend Basil H. Losten, of the Ukrainian Catholic Diocese of Stanford, on the observance of Captive Nations Week:

OBSERVANCE OF "CAPTIVE NATIONS WEEK"

Sunday, July 13, 1980, commences the 22nd annual observance of Captive Nations Week. After a number of wars one would hardly believe that nations would be faced with brutal suppression of people behind Iron Curtains in Europe, Asia, Africa, Latin America and Caribbean. It seems that the just have died in vain. Godless oppressors have put many nations—among them, the Ukrainians—into bondage. Wake up, Free World, and guard our basic freedoms! Learn what Communism is all about and how the Communists operate.

Appearing before the U.N. General Assembly on September 25, 1961 in New York City, the late President John F. Kennedy, in discussing the problem of colonialism in the world, stated:

". . . My Nation was once a colony, and we know what colonialism means; the exploitation and subjugation of the weak by the powerful, of the many by the few, of the governed who have given no consent to be governed, whatever their continent, their class, or their color.

"And that is why there is no ignoring the fact that the tide of self-determination has not reached the Communist empire where a population far larger than that officially termed 'dependent' lives under governments installed by foreign troops instead of free elections—under a system which knows only one party and one belief—which suppresses free debate, and free newspaper, and free books and free trade unions—and which builds a wall to keep truth a stranger and its own citizens prisoners. Let us debate colonialism in full—and apply the principle of free choice and the practice of free plebiscite in every corner of the globe . . ."

Captive Nations Week will be observed across our Nation and abroad in the period of July 13–19, 1980. Public Law 86–90, passed by Congress and signed by President Eisenhower in July 1957, is really more applicable today than it was 22 years ago. The week has become a national institution, and who detests it vehemently are the Red regimes across Euro-Asia and in the Caribbean. The basic reasons for this have been known for a generation by those who understood Public Law 86–90 and the analysis behind it.

Millions of our enslaved brothers and sisters await our help, but most of all our prayers for their perseverance in holy faith, for constancy and fidelity in religion and national ideals.

Let us commemorate Captive Nations Week with humble and sincere prayers to the Lord for a better fortune for all enslaved people. On Sunday, July 13th, after each liturgy, pray for our persecuted Church and suffering brethren; that God have mercy, enlighten the free, and give strength and guidance to those in cruel bondage.

Mr. Speaker, the United States must continue to support the aspirations for freedom, independence, and national self-determination of all captive peoples. To this end, we remain committed and we must not waiver from our responsibility.

Mr. CARNEY. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York, a man who is young in years but a strong, dynamic Member of the House of Representatives, who is especially versatile in the field of foreign affairs.

Mr. CARNEY. Mr. Speaker, it seems to me altogether fitting and proper that we in this body should be taking time out to reflect, to ponder, to consider, to commemorate what has come to pass among our fellow humans who exist—I say exist, because "living" under such circumstances begs the issue—beneath the heel of a system called communism.

There are those who would say that "true" communism could work well, and be a Shangri-la if permitted to do so. Such people merely delude themselves, and others. Since 1848, when Marx and Engels first propagated this warped philosophy of class struggle, eternal conflict under the dialectic, and the dictatorship of the proletariat, communism has been tried and found wanting on all counts. It has not worked; it cannot work; it will not work. As for so-called true communism, the world has already become familiar with it. We already have had our fill of true communism, and it leaves a sickening feeling within us.

There should be no question that communism and its equally repugnant sister philosophy, socialism, are the greatest challenges to the existence of prosperity or freedom in the world today. Many indeed are the wise fools who would have us believe that our system, our way of life, and our heritage are dead. A revolution is needed, they say. Death to capitalism, death to America—indeed, death is the only answer for those who oppose them. A systematic empire of death and misery is the legacy of communism, and it is an inheritance that I hope and pray will never succeed in this, the land of the free and home of the brave.

In other lands, the lands we remember today as the captive nations, it was said, "It can't happen here." Yet the Baltic States of Estonia, Latvia, and Lithuania found out, in 1940, that it could happen there. They said it could not happen in Czechoslovakia, or in Poland, when a few Communists were permitted into coalition governments in the interest of unity, harmony, and fairness. Yet barely had the guns of World War II fallen silent when these formerly free nations became vassals of the Soviet empire to be exploited and brutalized by the fevered doctrines of Marx, the vicious theories of Lenin, and the terrifying grip of Stalin.

In country after country—Hungary, Romania, Albania, Yugoslavia, Bulgaria, the Ukraine, Germany, Korea, Vietnam, Finland, China, Cuba, Ethiopia, Mongolia, Tibet, and others—most recently, Afghanistan—the march of communism has continued almost unabated. A lucky handful, such as Greece and Austria, escaped the iron grasp of Communist oppression. Yet, as long as one nation remains yoked under communism, no nation is safe.

Mr. Speaker, some of our more liberal friends from time to time would have us believe that the Kremlin and its puppets can be reasoned with, can be accepted, can mellow, can be trusted. I submit, on the other hand, that the record speaks for itself. You can indeed trust Communists in the same manner that you can a cobra. You can reason with Communists in the same way you can reason with murderers. You can expect Communists to mellow in the same way that a mad dog can be expected to remain calm. When it comes to communism, you can, in short, expect nothing of Communists except that they will continue to be Communists, dedicated to the elimination of all that is not Communist, either by force of arms or by ostensibly "peaceful" means.

The unquenchable thirst for liberty has driven millions away from the "workers' paradises" of communism to the bastions of freedom here in the Western World. From Europe, Asia, Latin America, from Africa and the Far East; in fact, from every corner of the globe where communism's ugly specter has been raised, they have come. From behind the Iron Curtain, in Europe, millions of East Europeans have found new homes in America, yet they have never given up hope that one day their native countries may again be free.

From Vietnam and Cambodia, those tortured lands, hundreds of thousands more have fled, in a trail of tears, blood and fear, but always with the faith and hope which comes through the God-given natural right to be free. From the pestilence of Castro's island prison, thousands more have made the perilous leap to freedom. Tonight, as I speak, the full weight of the Soviet war machine, complete with germ warfare, is being brought to bear on Afghan tribesmen who, though backward by our standards, have a fire for freedom burning in their hearts which I hope we in America can prove worthy of.

I strongly believe that our best interests, and those of our allies, lie in making no accommodations to communism. The free nations of the world failed to learn the lessons of Hitler, Mussolini, and Imperial Japan until it was too late. We failed to understand Stalin, Khrushchev, and now Brezhnev, as well as Mao, Ho Chi Minh, and Castro. I hope again it is not too late.

Our policy should be, I think, one of a strong national defense, a defense second to none, so that we need never fear the power of any adversary and may always be prepared to stand forthrightly in the defense of freedom. We need a security and intelligence service which is able to stand the test of round-the-clock challenges of Communist intrigue worldwide. The fact that the Soviets still have a combat brigade in Cuba was, and remains, unacceptable. The fact that our intelligence services could not detect it is inexcusable. How then can we reasonably expect to trust ourselves, let alone the Kremlin, in a major agreement such as SALT II?

Further, our policy should be one of heeding the counsel, based on experience, of those who continue to warn us of the Communist threat. I speak now of the leaders in exile of the captive nations.

I have the honor, Mr. Speaker, to serve in a capacity where the opportunity exists to back up words with action. I recently became chairman of the "Alliance for Freedom," a special nonpartisan project of the widely respected American Conservative Union. The AFF has as its chief goal the unification of Americans of East European descent into a political force determined to achieve certain common goals, particularly the ones I have just noted. It is a fact that while there are more than 15 million Americans of East European descent, for the most part they do not enjoy the impact on public policy that other minority segments of our society enjoy. Their entreaties for a vigorous, forthright anti-Communist policy go largely unheeded by the Congress and other leaders. With the "Alliance for Freedom" concept, all of this can be changed, as we bring together a coalition of individuals and organizations which represent millions of East Europeans which will at least command the attention and respect of policymakers in America.

I make no mistake by believing that there are no differences of view and approach among the anti-Communist ethnic community. To be sure, many such differences are ages old, transcending Communist tyranny which oppresses them all. Yet on certain issues there is near unanimity, and on these we wish to advance with no hesitation, for if it should come to pass that the United States has lost its resolve and no longer can be depended upon to uphold liberty, then there would be no point in remembering the captive nations, because that could mean that we ourselves would be numbered among them.

They said in other nations, "it can't happen here." We too believe that "it can't happen here." It will not happen here if—and it is a mighty big if—we meet the military, economic, and social challenges of socialism and communism. To that end, the "Alliance for Freedom" is dedicated, and to which I hope all my colleagues will also pledge themselves, so that one day communism may be purged from among the plagues of mankind, never again to be recalled except as a terrible lesson in the precious price of freedom.

Mr. DOUGHERTY. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Pennsylvania (Mr. DOUGHERTY), who represents a district which is heavily impacted by Americans of Eastern European origin and, thus, he knows full well their concern of the continued Communist oppression.

Mr. DOUGHERTY. Mr. Speaker, our observance of Captive Nations Week is a time not only to express our deep concern for the long list of nations whose sovereignty has been violated in the past by the Soviet Union, but also to express our indignation toward an ongoing tragedy as Soviet troops continue to march, unchecked, into other independent nations today.

The small nation of Afghanistan is the latest victim of Soviet aggression and I believe it is especially fitting that this year's observance of Captive Nations Week comes at the same time that the United States is actively showing our disapproval for Soviet expansionism by boycotting the 1980 summer Olympic games. Through our refusal to participate in the Olympics in Moscow and through the observance of Captive Nations Week, the United States is informing the world that Soviet imperialism is not acceptable to the United States. Let us hope that our message is heard by the Soviet Union.

Thankfully, the Soviet takeover in Afghanistan is not yet complete and, although the U.S.S.R. has every intention of adding Afghanistan to their long list of captive nations, it is not too late for the free world to insist on the withdrawal of those Soviet troops from Afghanistan. The United States has the obligation, as leader of the free world, to lead in an expression of outrage at this latest adventure of the Soviet Union, which has brought about a profound change in America's perception of our own national security.

Mr. Speaker, if we are to survive as a nation, if we are to protect our own security and our own precious freedom, it is imperative that we say to the Soviets that they have gone too far in their brutal pattern of aggression and that America cannot and will not tolerate this continuing threat to small independent nations. The Soviet threat to Afghanistan and other small nations is also a threat to the security of our own Nation.

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Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the great statesman from California.

Mr. ROUSSELOT. I appreciate the fact that the gentleman from Illinois (Mr. DERWINSKI) and the gentleman from New York (Mr. STRATTON) have taken this time once again before our House of Representatives to make it clear that this Congress and this House has not forgotten nor will we forget in the near future that there are millions of people living under the yoke of the Communist dictatorship around the world and that these captive nations that have at one time experienced various forms of freedom do wish to eventually again become free and that we make it clear to the world that by this time we take today that we do not intend to stand by and forever allow this to remain so.

There are many people in this country who are citizens of our fine country who have lived in these various areas of the world who are now under the yoke of the Communist dictatorship and have experienced the lash of Communist aggression and fled to this country because it was one of the few remaining places where they could remain free. And they know better than anybody else as we celebrate this Captive Nations Day to give voice to the fact that we wish these nations eventually to be free. They know better than anyone else that we will not rest until those millions of people are free, that they are not forgotten.

We regret that Afghanistan obviously is now entering the classification of a captive nation, even though there are still those struggling there and fighting almost with their bare hands to remain free, that possibly Nicaragua is now entering the classification as a captive nation, since Mr. Castro just went there last week to celebrate the takeover of the Sandinistas, which many of us believe places the eventual yoke of a dictatorship upon that nation also, and that these two gentlemen, the gentleman from Illinois (Mr. DERWINSKI) and the gentleman from New York (Mr. STRATTON), are to be complimented for making sure that we not only do not forget, but that we issue these declarations today, that we will not rest until these millions of people do become free once again. We thank the gentleman for doing this.

Mr. DERWINSKI. I thank the gentleman from California.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I want to compliment the gentleman from Illinois, who over the years has kept this torch burning for the captive nations. It is not a very fashionable thing in many circles in government, particularly in this administration, to call to the Nation's attention the evil which is communism.

The Captive Nations Week is a special time to remember the destruction of the freedoms of so many people who at one time knew liberty and have had that liberty destroyed by communism. I hope that this commemoration in future months and years under perhaps other administrations will grow until it is in fact the official policy of the U.S. Government to oppose communism whenever and wherever it rears its head.

As the national chairman of the American Conservative Union, I would like to note that we have a special group called the Alliance for Freedom which brings together many ethnic groups from these captive nations seeking a return of the day when they will again be free. The gentleman from New York (Mr. CARNEY) serves very ably as the chairman of that Alliance for Freedom.

I salute the gentleman from Illinois for the role that he plays today, as he has in the past, and more importantly, would like to join him in reaffirming our faith that communism can be defeated and that people can be free around the world once again.

Mr. DERWINSKI. I thank the gentleman for his comments.

I would be remiss, Mr. Speaker, if I did not state my special appreciation to the gentleman from New York (Mr. STRATTON) for his leadership in this year's observance and point out he has consistently been one of the strong spokesmen for a strong national defense, that it is the strength of the United States, the strength of our defense forces, that ultimately is the strength of the free world.

I again commend the gentleman for his stalwart leadership.

● Mr. RUSSO. Mr. Speaker, I believe Captive Nations Week provides a great opportunity for the United States to voice its condemnation of the illegal Soviet occupation of the eastern European nations. In the past months since the invasion of Afghanistan, we have seen an increased sense of resolve in the free world to resist Soviet attempts to conquer and dominate free and independent nations. We renew our aspirations to a world like the vision of President Woodrow Wilson where all nations have a right to self-determination and sovereignty.

All the captive nations have proud national histories. The Baltic regions were once dominated by the Teutonic Knights and evolved into the great nation of Lithuania, which along with Poland and Hungary were once huge and powerful nations that controlled the destiny of eastern Europe. Czechoslovakia was an early center of medieval learning and was a full democracy between the world wars.

After World War I, all these countries were on the road to development as free, ethnically proud nations. But the Soviet Union exploited the chaos and destruction of World War II to absorb these countries as Soviet provinces. In this ruthless campaign of oppression, the Soviet Union has attempted to stifle the ethnic, religious, and cultural identities of these peoples. The visit of Pope John Paul II to Poland shows that no tyrant can crush the religious faith and hope of mankind. We respect the independent paths followed by Yugoslavia and Romania and we hope that other eastern European nations will begin to reassert their identity as well.

The United States is the most powerful voice for freedom in the world. We must restate our commitment to freedom for all nations and respect for human rights throughout the world which the Soviet Union promised to respect in the Helsinki accords. We must continue to support the striving of oppressed people for the religious, political, and cultural freedom we take for granted. In recent months, the United States has become more forceful in telling the Soviet Union they cannot expect to do business as usual with democratic nations as their aggression against the Afghan people and military presence in Ethiopia endangers the peace and freedom of the Islamic world. President Carter's call for an Olympic boycott and a grain embargo against the Soviet Union are important steps in this direction. The American people must continue to observe Captive Nations Week until the eastern European peoples have the freedom to which they are naturally entitled.●

● Mr. CLINGER. Mr. Speaker, this week marks the 21st anniversary of Captive Nations Week, a time when we should reflect on the freedom we as Americans enjoy as well as the oppression felt by millions in foreign lands. The United States is faced wth the dilemma of increasing Russian aggression and the need to focus our energies on preserving the basic human rights of "life, liberty, and the pursuit of happiness" so we can continue to be a beacon of freedom and hope to oppressed peoples all over the world. It is essential that we uphold these cherished ideals if we are to remain a country dedicated to spreading our democratic principles to all corners of the world.

The concerns on the violation of human rights which prompted Congress to establish Captive Nations Week 21 years ago have increased over the years rather than abated. In 1959, Cuba fell to Communist rule and since then we have witnessed other countries such as Albania, Vietnam, and most recently Afghanistan yield to Communist domination. Given the nature of our society, we cannot forcefully stop this belligerence but we can promote policies to assist the defenseless victims in these countries. Economic sanctions have been taken in hopes that peaceful tactics will foil Communist aggression in lieu of brute force. We must continue these and other actions in attempts to bring relief to those in search of solace from totalitarian regimes.

The time has come to recommit ourselves as a nation dedicated to democratic principles of providing assistance, encouragement, and support to the victims of repressed governments. The Soviet Union continues to victimize alarming numbers of innocent people in Afghanistan and this trend must be ended. As a nation which champions the principles of liberty and freedom, it is our duty to stop these segemonistic policies and the countless injustices these policies impose upon theis subjects. It is my hope that the U.S. protest actions against Russia will demonstrate that we will not condone tyrannical aggression under any circumstances.

At a time when Soviet aggression is unquestionably blatant, I feel it fitting to reflect on the true meaning of Captive Nations Week. We must lend our guidance and support to the helpless victims of captive nations in the world and be determined in our resolve to protect and defend our own freedoms as well as those of others.●

● Mr. RHODES. Mr. Speaker, it is particularly significant that we in Congress observe Capitive Nations Week this year. Although the exact dates transpired during our recess, it is an event which we should all realize is a reminder that world communism has not abandoned its goals of global conquest.

It is tragic, and a grim confirmation of the territorial ambitions of communism that we add the name of Afghanistan to those countries who have felt the tread of tyranny. For all practical purposes, our neighbors in Cuba are, in effect, economic vassals of the Soviet Union, agents who are working to install communism in our hemisphere among the countries of Central and South America. The brave people of Afghanistan are resisting fiercely the subjugation of their homeland, but are facing a massive armed force equipped with technology and great fire power.

As we observe this sad anniversary of the loss of freedom by many countries in Europe, we must be aware that it is crucial that we keep our own forces strong, as the bulwark of freedom in the world.

For those who grieve that their once autonomous homelands are occupied and tyrannized, Captive Nations Week is a small flame of hope, recognition that these nations once free have not been forgotten.

It is a time for us to firmly resolve that our Nation will exert every effort to help those who wish to remain free, so that the roster of captive countries will not grow, and so that millions of people may know the blessings of freedom.

At a time when there are many who advocate weaker defenses, Captive Nations Week is a reminder that weakness invites aggression, and that communism will use any complacency and lack of resolve on our part to expand further its goal of controlling the entire world.●

● Mr. HARRIS. Mr. Speaker, I am gratified to participate in the 22d observance of Captive Nations Week. We, as a nation, have so much to be thankful for and it is fitting that we give pause again this year to remind ourselves and all Americans how fortunate we are. Just as we remember our many Bicentennial activities—the fireworks and tall ships in Washington, New York, and Boston—we are reminded that many people in captive lands do not even have the freedom to move about their own country, without the sobering fear of being stopped and searched for identification papers. As we enjoy the pleasures of July picnics with our families, we remember that many in these countries constantly fear shortages of bread and the other staples of life as a result of an overplanned, overcentralized economy which does not work, except on paper. We know that many folks in these captive lands cannot count on a predictable and safe national life.

Last winter, the Soviet invasion of Afghanistan again reminded us that the Russians are constant in their threat to expand their boundaries. As I learned of the terror, atrocities, deaths, and loss of freedom in this newest captive nation, I agreed all the more with Thomas Jefferson, that great Virginian, that life and liberty are not the gifts of nations to be taken away at whim, but rather the birthright of every human being to be guaranteed.●

● Mr. RODINO. Mr. Speaker, I am pleased to join in commemorating the 22d observance of Captive Nations Week.

Since the writing of the Declaration of Independence, America has always recognized the virtues of national self-determination. We need not go further than the Bill of Rights to discover the message of our forefathers regarding the value of basic freedoms and liberty for all people. As Americans, we inherit the responsibility to carry on the noble traditions of our forefathers.

That is what Captive Nations Week is all about. The men and women of the captive nations, who are living under outside domination, look with envy on the freedoms we enjoy in America. Their resilience and capacity to endure persecution and suppression of freedoms does not conceal their deprivation. They yearn for national freedom and individual liberties.

Captive Nations Week justly reaffirms America's concern for the plight of those in the global community who are denied basic human rights. As I proudly join my colleagues in commemorating Captive Nations Week I pledge to speak out for liberty and human rights around the world. The United States must stand united in pursuit of human rights, and committed to their advancement.

Mr. Speaker, this week we bring to the attention of the American people and the world community the condition under which millions of people suffer, and we honor their courage and determination in fighting for freedom.

Captive Nations Week will continue to serve this purpose until all these persons have achieved independence and freedom from domination.●

● Mr. PATTEN. Mr. Speaker, as our great country enters into the decade of the eighties we still carry the cross of 30 nations. These nations of eastern and central Europe were forced to relinquish their independence to Soviet rule.

These peoples of Albania, Bulgaria, Poland, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, and Romania are denied basic human freedoms—they are forced to endure persecution, imprisonment, murder, deportation, and the loss of cultural and national identification. Yet despite these lamentable conditions these countries and their inhabitants continue to strive for their emancipation—let us not forsake their cause.

The United States must never recognize this forceful annexation of Baltic States into the Soviet Union. The vulnerability of Afghanistan looms as a present day example of the need for our continued opposition to aggression. Thus as we pay homage to the brave people of the captive nations we renew our support for the restoration of independence to these small freedom loving states.●

● Mr. ADDABBO. Mr. Speaker, it has been 204 days since the Russian Red Army, ruthlessly and without provocation, invaded the country of Afghanistan.

To many, the invasion came as a complete surprise. Yet to others, historians and statesmen alike who have studied previous tides of Russian imperialism, it was to be another example of the Soviet Union's disregard for the territoriality and right to self-determination of a sovereign country that has been indicative of Moscow since 1920. As Congress observes the 22d anniversary of Captive Nations' Week we must come to grips with the realization that as long as there are countries in this world living in the clutches of Soviet imperialism, and as long as there are peoples of once sovereign countries living in a police state, America and the free nations of the world must continue in their goal of securing and preserving the fundamental human rights of all individuals.

I am aware it is difficult for Americans to have any idea of what it would mean for a neighboring country to suddenly impose its will on our Nation. We live secure in the knowledge that our neighbors to the north and south respect our borders. For many Americans living in the freedom and security that go hand in hand with being a U.S. citizen, the blatant violation of international law in regards to the borders of Afghanistan by the Soviet Union, is impossible to imagine. It's impossible to imagine suddenly being held captive by a foreign power, suddenly being denied all vestiges of freedom. But then again, how impossible is it, on this, this, the 263d day of captivity for the brave American hostages in Iran. In many respects, when the invasion of the American embassy took place, in a violation of a principle of diplomatic immunity that even the most radical and hostile governments have long professed to respect, a little bit of every one of us found ourselves in the grasp of a foreign power. Like the peoples in the Afghanistans and Polands of the world, the American hostages cannot raise their voices in opposition, nor flee their captors. For months they have valiantly survived in a world void of human dignity and rights. Their fate, like the nations in the Soviet sphere of control, unknown.

As we observe this important week, I am reminded of a statement made by the late U.S. Supreme Court Justice, William O. Douglas, who said:

> The great reservoir of freedom that we have is, after all, the most outstanding thing that distinguishes us from the Communist world. The Communist world, as I have seen it, would be a terrible place to live because there is no place for the spirit of man, for his soul—no place for his conscience, no place for individual utterances of dissident views.

In recognizing the captive nations of the world and by reaffirming our dedication to liberty and self-determination of all people, the United States can continue to give hope to the millions of people living in the above-noted conditions. It is a responsibility that we must never shy away from.●

● Mr. DODD. Mr. Speaker, the week of July 13–19 marked the 22d annual House observance of Captive Nations Week. Our Nation's observance of Captive Nations Week has a special importance this year in light of the Soviet Union's unlawful invasion of Afghanistan. Repression in Soviet-occupied nations is an ever-present reality in today's world—politically, religiously, and culturally.

The hegemonistic policies of the Soviet Union have led to the subjugation of the people of Poland, Hungary, Lithuania, Ukrainia, Czechoslovakia, Latvia, Estonia, Romania, Bulgaria, Armenia, Albania, and Afghanistan. Soviet dominance and influence is not only evident in the Baltic and East European areas. The Russian occupation of Afghanistan has demonstrated to the world the Soviet Union's determination to tyrannize and oppress sovereign nations.

The United States must continue to espouse our Constitution's democratic principles of national independence and human liberty to both the free and captive nations of the world. By observing Captive Nations Week, our Nation reasserts its commitment to the just hopes of all people for human rights and freedom. By acknowledging the plight of captive nations, we also serve to emphasize the vehement and unswerving opposition of the United States and its citizens to Soviet aggression in nations like Afghanistan.

As long as there remain captive nations in the world, the United States will denounce their oppressors through Captive Nations Week and rededicate U.S. efforts to assure their future independence.●

● Mr. ZABLOCKI. Mr. Speaker, I welcome this opportunity to join my colleagues in the 22d observance of Captive Nations Week. Speaking both as chairman of the Committee on Foreign Affairs and as a participant in this anniversary since its inception, I feel it is important to maintain a balanced, historical perspective as we take this opportunity to review the current state of East-West relations.

I would like to emphasize, in particular, that Captive Nations Week, 1980, is by no means a hasty initiative or direct reaction to the Soviet invasion of Afghanistan. Nor is it specifically designed to counter what appears to be a more aggressive posture on the part of the Soviet leadership in pursuing its foreign policy objectives. These are clearly factors to be reckoned with at this stage in United States-Soviet relations, but our concern for human rights has been a continuing one—during periods of "détente" as well as relative "confrontation"—and I believe it is essential that we demonstrate a high level of consistency on this fundamental issue.

Approximately 1 year ago, I was privileged to act as principal sponsor of House Joint Resolution 373, recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II. This resolution, which predated the tragic events in Iran and Afghanistan, served as an equally poignant reminder of what the concept of liberty means to those who have been denied it over a period of many decades.

Mr. Speaker, I support this observance as one who has not sought in the past, and does not presently seek, confrontation with the Soviet Union, but as one who has long supported efforts both by this administration and previous administrations, to negotiate meaningful agreements with other nations, including our potential adversaries, on a variety of issues affecting our national security. At the same time, I speak as one Member who has never condoned, in periods of rising or diminishing tensions alike, repressive actions by the Soviet Government over its own citizens or the long-suffering citizens of other countries in Eastern Europe.

Mr. Speaker, this observance of Captive Nations Week is neither "new and different," nor a so-called cold war reaction to renewed Soviet aggression. Instead, it serves as a continuing reminder to all Americans of our own goals and principles as a nation, as well as the basic human aspirations of all peoples who are forced to live and survive under various forms of oppression. It reminds us also that the cause of freedom requires patience, firmness, and consistency—in equal measure with "eternal vigilance."●

● Mr. YATRON. Mr. Speaker, this week, as the Congress observes the 22d annual Captive Nations Week, we sadly bear witness to another example of the Soviet Union's imperialism—Afghanistan. The brutal seizure of this once free country underlines how precious our independence truly is and the need for our country to remain strong so that we cannot only safeguard our own freedom, but continue in our role as the leader in the global struggle for self-determination and human dignity.

The Afghan people are fighting to retain their autonomy and we cannot sit idly by while the Soviet Union continues their expansionist policy. We have boycotted the Olympic games, imposed trade restrictions, called on our allies and the nations of the world to join with us in denouncing the Soviet invasion, but the foreign troops still remain in Afghanistan. Let us pledge our continued efforts to support the Afghan resistance to domination and to support those nations behind the Iron Curtain, whose persistent struggle for liberty is a shining example of the quality which is most noble in man, his desire to be free.

Let this recognition of Captive Nations Week serve as a forum to proclaim our steadfast commitment to our tradition of freedom in our own country and throughout the world.●

● Mr. BRODHEAD. Mr. Speaker, I am pleased to join many of my colleagues in commemoration of Captive Nations Week. Once again, it is with hope and sadness that we think of the countries around the world which no longer retain their political freedom.

Our commemoration of Captive Nations Week this year is of particular significance, since we have recently been so vividly reminded that Soviet expansion is continuing. Earlier this year, Afghanistan joined Armenia, Lithuania, Latvia, Estonia, Czechoslovakia, and the many other freedom-loving countries that comprise the captive nations list. A review of the list evokes our sorrow that the people of these nations have been subjected to outrageous, inhumane domination. It also forces us to recognize that the United States is among the ever-smaller number of the world's nations that have resisted external domination and remain in a position to oppose it actively, while advocating freedom for those countries which have already fallen.

As we speak today, we hold out the hope that our own citizens and people throughout the world will pay increased attention to abuses of human and political rights, and that they will strengthen their commitment to oppose these abuses. Nations and peoples should have the freedom to choose their own forms of government and ways of life. This is the principle upon which the United States was founded and it is the principle we should continue to expound.

I pledge my efforts in working to see that our country's policies reflect our commitment to the protection of liberty in all the vigor with which we express that commitment here today.

● Mr. GOLDWATER. Mr. Speaker, the observance of Captive Nations Week has never been a happy occasion because it marks another year gone by without freedom for the 1.5 billion people living under Communist tyranny. But this, the 22d observance of the week, is especially tragic because a new nation, Afghanistan, must now be numbered among the captive states which have fallen to Russian imperialism.

I believe it is high time we see the U.S.S.R. for what it truly is, not a Union of "Republics," but a Russian empire composed of a number of captive nations. Only when we see this reality will we be able to comprehend Russia's actions in the world. And, more importantly, only when we understand Russia as an empire bent on expansion will we be able to take effective action to combat this expansion and to aid those oppressed people living under Moscow's domination.

Unfortunately, this view does not have much currency in today's press. I have seen many an article describing the invasion of Afghanistan as "unprecedented," as the first time the Kremlin has committed its own combat troops to such an action instead of using the troops of its usual proxies: Cuba and Vietnam.

My response is: Where did these writers learn their history? Between 1918 and 1920, while Europe and America were recovering from the First World War, Russian troops forcibly annexed to the Soviet Union a number of independent countries including Armenia, Georgia, and the Ukraine. In 1939, a banner year for Russian imperialism, the Red Army seized the three Baltic States of Latvia, Lithuania, and Estonia and treacherously invaded Poland to divide that country with the Nazis. More recently, while the rest of the world was preoccupied with the Suez crisis in 1956 and the Vietnam war in 1968, Moscow sent its troops into Hungary and Czechoslovakia to reestablish its control over these peoples who were on the verge of finally throwing off the Russian yoke.

In the light of the last 60 years of Russian empire building, Afghanistan is not a fluke, Afghanistan is not an unprecedented Russian adventure. No, the invasion is simply another page in the Kremlin's continuing history of expansion and oppression. True to form, Moscow again has taken advantage of an international crisis, this time in Iran, to send its troops to subjugate a proud and freedom loving people who were about to overthrow Russia's puppet regime.

With this latest example of Russia's nature and design fresh in our minds, we must vow to not let another nation slip under the darkness of Communist oppression and to give whatever encouragement we can to those restless people living without true freedom under Russian domination.

It is said that the price of liberty is eternal vigilance. We must let the Russians know that we are prepared to pay this price, not only for our own freedom, but for the freedom of the world.●

● Mr. LENT. Mr. Speaker, it is with grave concern that I join Americans across the country, friends abroad, and my distinguished colleagues in commemorating the 22d observance of Captive Nations Week, July 21–27. Afghanistan, the newest of the captive nations becomes the focus of this year's "Captive Nations Week."

With the opening of the Olympic games in Moscow, we are once again reminded of the ruthless Soviet invasion of Afghanistan and the long history of Soviet invasion and subversion that has continued over 40 years.

It is heartening to find that our efforts to protest the Soviet takeover in Afghanistan by boycotting the Moscow Olympics have not been in vain. The games could not escape the bitter impact of world outrage over the Afghanistan invasion. Only 81 nations joined in the traditional parade of athletes at the opening of the games, the smallest number since the 1956 Melbourne games, and 16 of these nations refused to carry flags in protest of the Soviet invasion. But, an Olympic boycott is not a strong enough stance against Soviet domination.

Mr. Speaker, the question that persistently comes to mind, when reflecting human rights and as Soviet expanison and oppression continues unabated, is: How many times must we face the destruction of Soviet aggression before we learn our lesson? Mr. Speaker, we must not ignore the Soviet expansionist policy which, in recent years has seen little challenge.

Mr. Speaker, as we commemorate the 22d observance of Captive Nations Week and "Afghanistan Relief Week," I ask that we recommit ourselves to strengthening the fight against Soviet domination. Let us clearly understand that aggression against free people cannot be tolerated, and must be challenged.●

● Mr. FINDLEY. Mr. Speaker, this July, as we commemorate the 22d observance of Captive Nations Week, we take special note of the Soviet Union's subjugation of another nation. The Soviet invasion of Afghanistan is one more brutal example of Soviet aggression. This terrible event has made this observance and our own rededication to freedom ever more important.

There are widespread, credible reports of a horrifying Soviet use of chemical warfare against the Afghan people as well as mass murder and detention. Moscow is engaged in a severe and ruthless suppression of the dissent and struggle of those who would be free of foreign domination. We have seen all this before but one does not—indeed—one cannot become inured to such methods and objectives.

The tragedy is that a U.S. foreign policy based on a stronger defense, a greater awareness of Afghanistan, and a recognition of Soviet intentions could have deterred the Soviet invasion. The United States, however, regarded Afghanistan as a country peripheral to U.S. concerns and in effect, added Afghanistan to the Soviet "sphere of influence."

But Afghanistan is important to the United States: Soviet access to Afghan bases places Soviet MIG's within flying range of the Straits of Hormuz through which passes 60 percent of the Western World's oil. The Soviet presence in Afghanistan places great pressure on Pakistan and Iran. And although some may find solace in the fact that the brutal Soviet measures in Afghanistan will arouse concern and opposition in many nations, the Third World is also witnessing a Soviet Union that is strong and that is determined to use its strength to achieve its goals. As much as we find Soviet methods and actions in

Afghanistan abhorrent, in others they generate fear and respect.

If some previously found it to be difficult to recognize the Soviet Union for what it is, I hope, at least, that they will not permit themselves to be further blinded by two current myths. The Soviet Union will never, in contrast with wishful thinking, voluntarily withdraw its military forces from Afghanistan. The many examples of the past 35 years should make this fact obvious to all. And the Soviet move into Afghanistan was not a defensive measure taken out of anxiety that Moslem groups within Soviet borders would participate in the resurgence of Islam occurring in Afghanistan.

If the Soviet Union were concerned about internal dissidence and the loyalty of Moslem groups to the U.S.S.R., it would not have dared send soldiers from these very minorities into Afghanistan to suppress their fellow Moslems. Soviet concern about the internal Moslem dissidence is but a mask for the truth. The Soviet invasion of Afghanistan was a clear-cut act of aggression for which no excuses can be made.

Today's commemoration is to remind us not only of all those people who have lost their freedom but of our very grave responsibility in maintaining freedom, liberty, and independence here and abroad. When we fail, the results are tragic.●

● Mr. CONABLE. Mr. Speaker, this week we observe the 21st anniversary of Captive Nations Week, a time in which we Americans take occasion to state again our belief that people should be free to shape their own society and institutions without interference from outside countries.

Since 1918 the Soviet Union has continued to maintain an empire through their illegal, direct control of other nations. Many of these nations have been under Soviet control for 62 years. The current military presence of the Soviet Union in Afghanistan should make us even more aware of our responsibility to continue to support these people who look to us to bring back into their lives the independence and freedom they once knew. This military occupation has taken the lives of thousands of innocent people as the Soviet Union adopts increasingly aggressive approaches to its global strategy. Acts of aggression of this nature are blatant violations of the principles of national self-determination and independence which the United States has a history of supporting. This week we take the initiative not only to restate our support for the captive nations of the world, but also to demonstrate this support through our boycott of the summer Olympic games in Moscow.

In our pursuit of world peace and self-determination for all people, we will continue to use our influence in support of those struggling to obtain personal liberties. Our continuing efforts to promote détente in an interdependent world must be directed toward ending personal oppression and extending human rights. I join with my colleagues today in expressing to the world our determination to encourage and support the aspirations for freedom of the captive nations people.●

● Mr. MINISH. Mr. Speaker, it was our sad duty last week to mark the 21st annual observance of Captive Nations Week, an occasion to pause to ponder the unhappy fate of millions behind the Iron Curtain who are not so fortunate as we are in their personal and national freedoms.

Churchill's phrase "Iron Curtain" has gone out of fashion these days, but the boundaries of totalitarian societies are as formidable as ever. People who have the same inalienable rights as you or I are daily denied them by arbitrary regimes imposed upon them without their consent. In the Baltic States and the Ukraine particularly, not just political liberty but national cultural identities are subjected to brutal systematic campaigns of extermination. Like the Christians of Eastern Europe and the Jews of Russia, the Moslems of the Soviet republics find their religious practices curtailed: a situation likely now to confront the Islamic people of Afghanistan. Dissenters in all these places often face only a mock trial, or confinement to a mental institution with no trial at all. Whether we name it or not, the Iron Curtain is just as much a prison as it was in 1946, when Churchill coined the phrase, or in 1958, when the Captive Nations Week was first formally observed.

Mr. Speaker, let us all look forward to the time when there will no longer be a need to recall captive nations because all nations are free.●

● Mr. McHUGH. Mr. Speaker, in 1959 Congress authorized the President of the United States to proclaim the third week in July of each year as Captive Nations' Week. Today I am pleased to be able to join with my colleagues in the House as we commemorate the 22d annual observance of this tradition.

Consistent with the principles upon which this Nation was founded, we are taking the time today to reiterate our belief that freedom is among the basic human rights to which all men and women are entitled. We do not seek to impose this belief on others, but we should not hide our sympathy for those who, like us, cherish liberty and self-determination.

Unfortunately, our observance of Captive Nations' Week has taken on a special meaning this year for we are mindful that Soviet troops are attempting to impose a Communist government in Afghanistan upon a people who until recently lived in peace and freedom. Yet, even as we are saddened by this effort, we can also take heart from the fact that the commitment to freedom is not easily extinguished. Even as we speak today, Mr. Speaker, the people of Afghanistan continue to carry on their fight against Soviet occupation. We wish them every success.

We also know that the commitment to freedom remains strong in the hearts and minds of those who have been forced to live under Soviet domination for much longer periods of time. In the Soviet Union itself, dissidents have been rounded up and herded out of Moscow because the rulers of that land fear that their regime will be embarrassed by public demonstrations against their rule during the celebration of the Olympic games. But we know they are there. In recent weeks we have not seen or heard from hundreds of thousands of people in Cuba who still desire to leave that island prison. But we know they are there. In Estonia, Latvia, and Lithuania, we know there are people who continue to cherish freedom. Indeed, wherever Soviet troops occupy a nation, we know that they have failed to satisfy this fundamental human right.

Today we reiterate our commitment to the cause for which those people are striving, and we speak out for them because their voices have been silenced. At the same time, their struggle should remind us of the value of a foreign policy that encourages and supports basic human rights. For the very essence of this week is that we believe that people should live under governments of their own choosing, and, as long as we support this principle in our own conduct as a nation, I do not fear that we can go wrong.●

● Mr. PEPPER. Mr. Speaker, distinguished colleagues, today marks the commemoration of the 22d observance of Captive Nation Week and it is Afghanistan Relief Week. As you are aware, Afghanistan is the latest of the captive nations, and the Soviet occupation of Afghanistan has caused a great disturbance in our diplomatic relations with the U.S.S.R.

At the opening of the XXII Olympic games no one could overlook the situation in Afghanistan. Not only was the United States noticeably absent, but we were joined by about 30 other nations in our boycott of the games, which makes the number of nations there the smallest since 1956.

Mr. Speaker, I am a strong supporter of human rights—which are now being denied to Afghanistan. The Afghans are rigidly censored. Their cities are armed camps. School children and women are being shot. Gun battles in the streets of besieged cities are common. Soviet armed forces in the cities number over 85,000 men, with as many as 40,000 more troops just across the border. This Soviet force is supplemented by approximately 15,000 remaining Afghan troops. Afghanistan is truly a captive nation.

In the face of this type of represssion of people, let us lend our support to Afghanistan and its right to exist as a sovereign nation. The Afghanistan invasion foreshadows graver events yet to come. It throws the balance of the entire region into chaos. It sets a dangerous precedent, which we cannot and will not be able to condone or ignore.

Join with me in supporting captive nations and people everywhere—in commemoration of Afghanistan Relief Week.●

● Mr. VENTO. Mr. Speaker, it is only proper that we take this time to pause and reflect on the many freedoms we enjoy, freedoms that are denied to millions throughout the world.

This past week we observed Captive Nations Week, a time for us to commemorate and pledge our support to the oppressed people of east-central Europe in their struggle for freedom. It is important that our Nation observe this week. This time serves as a reminder, a signal to captive nations that we have not forgotten them and that one day their right to self-determination will be restored.

It has been almost 5 years since the signing of the Helsinki Accords, an agreement that in part said all the signatures pledged to respect such fundamental human rights as freedom of thought, conscience, religion and belief. It remains today though, that the Soviet Union, a participant in the accords continues to make a mockery of them by holding captive such nations as Latvia, Poland, and Czechoslovakia through either outright control or the manipulation of puppet government.

Today more than ever we should reaffirm our support for captive nations. The recent events in Afghanistan only prove the fact that left unchecked, the Soviet Union will only allow the list of captive nations to grow. The sacrifices of the brave people of these nations should serve as an inspiration to us all, not only today but each day of the year. Let us continue in our support for the freedom struggles throughout the world, in hope that all people may one day share in the inalienable rights of self-determination and national sovereignty.●

● Mr. LUNGREN. Mr. Speaker, no better observance of the 22d anniversary of Captive Nations Week could be afforded us than the events which are taking place at the Olympic games in Moscow.

There, the real story is not who is winning what gold medals, but who wants to defect and which reporters are being harassed, assaulted and intimidated by Soviet authorities and police.

In almost Marx Brothers-like fashion, the story of the defection of Afghan athletes—whose country is the latest to be swallowed up in a Soviet invasion—are unfolding before us. The 24-member Afghan Olympic Team sought help from Western reporters in Moscow to defect, then were apparently forced into a staged press conference to deny these reports. Previous, seven Afghan wrestlers have defected, the entire Afghan basketball team, and most of that nation's soccer team have defected to the United States, Western Europe, and neighboring countries. They are leaving as fast as they can.

These people are the fortunate ones. They have the opportunity to defect because of their contact with foreigners and their foreign travel. But what about the others—the ones who are not this fortunate?

The list of those seeking to leave the Soviet Union and its captive satellites seems endless—from ballet dancers, to athletes, to musicians, to scientists, to those of religious beliefs—anyone who does not fit into the Soviet mold.

Their voices cry out to us from the prison camps of Siberia, from the mental institutions where they are brainwashed and lobotomized for the good of the state, from the basement of the U.S. Embassy in Moscow where seven Soviet Pentecostalists are hiding out, and from the censored letters and reports of Soviet Jews beaten and deprived of work because of their religion—and from all the rest who are waiting—waiting for their chance to flee.

We hear about some of these people because of the great personal risk they take to make their activities known. We hear about others from the Western press, which must endure equal perils to get their story out of the Soviet Union.

More members of the Western press are finding out just what dangers they are in for by covering the Olympics in Moscow.

Reporters are harassed endlessly by Soviet authorities who have only one refrain: "You are here to cover sports, not politics."

Those who disobey do so at their own peril. For example, a CBS reporter and cameraman filming Soviet President Leonid Brezhnev leaving the Olympic Stadium were struck from behind as they worked. ABC News Bureau Chief Ann Garrels was detained by Soviet police for taking pictures outside the Moscow Olympic Stadium. Reporters from several countries filming a one-man protest in Red Square were struck, forcibly removed, and one was put into a holding cell by Soviet authorities for covering the story. The Soviets also confiscated all their film of the event.

At the same time these events are unfolding before us, our own borders in the United States are being deluged with unprecedented numbers of refugees from Indochina, Cuba, Haiti, Africa, and the Middle East. They all want the same thing—the freedom we have to work where you want, to live where you choose, to believe what you want, to express yourself freely, and to generally go about your life without harassment and terror from the state.

Do we need any more confirmation of the inherent worth and value of our system of government than these events?

Captive Nations Week started out to remind us of the captivity of three countries by the Soviet Union—Latvia, Lithuania, and Estonia. Today, that unfortunate list has multiplied to include a whole range of countries where people have lost their freedom: Armenia, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia, Albania, Bulgaria, Yugoslavia, Poland, Romania, Czechoslovakia, North Korea, Hungary, East Germany, mainland China, Tibet, North Vietnam, South Vietnam, Cuba, Cambodia, Laos, and Afghanistan.

Let us remember all of these captive nations this week and use this occasion also to renew our confidence in ourselves and our values.●

● Mr. BROOMFIELD. Mr. Speaker, the observance of Captive Nations Week in 1980 provides our Nation with the opportunity to address a situation that is as deplorable today as it was 21 years ago when the 86th Congress was moved to establish Captive Nations Week in 1959. I refer, of course, to the plight of more than 30 captive nations that have been the victims of Communist imperialism by the People's Republic of China or by the Soviet Union.

These two "captive empires" have systematically increased their domain and influence by subjugating smaller nation states. The Soviet Union, in particular, continues to employ this belligerent practice up to the present. The latest victim in their long list of captive nations is Afghanistan, a country which was brutally invaded by Soviet troops in December of last year. Among others, Nicaragua and Ethiopia lie on the horizon as nations in serious danger of being the next victims of Soviet imperialism.

This practice cannot be allowed to continue. The United States must regain the leadership of all free nations and forcefully demonstrate to Moscow that it will not accept the continued Soviet domination of previously free and independent states, and, furthermore, that it will not condone any additional adventurism in this regard.

Captive Nations Week also provides the American people with the opportunity to reflect on the liberty which we are privileged to enjoy, and to send out our hearts to the millions of people who no longer possess that privilege. Many of these people deserve our profound admiration.

Although long entrapped under the yoke of Communist oppression, they have resisted constant pressures from their captors to conform to the Communist ideology and continue to maintain their national identity, their culture and their self-respect. They are an example to us all.●

● Mr. PICKLE. Mr. Speaker, I rise in the observation of Captive Nations Week. All of us join in mourning the addition of Afghanistan to that list. Again, an outside force has stampeded across an innocent land, bringing people into the shackles of repression against their will. We admire the strength and courage of the Afghan people who struggle to shake off those involuntary bonds.

Mr. Speaker, it is easy to think that dictatorships and the use of force to overtake a nation went out of style with flappers and zoot suits, in the deep, dark past. We want to teach our children that men and laws no longer recognize such behavior. Our children learn that the Holocaust occurred back in the 1940's, that countries like Hungary were taken over, possibly before they were born.

But the unpleasant truth, especially for those of us who have lived through these circumstances, is that despite progress we have made in our lives and international relations, we still witness the foreign domination of helpless peoples and nations. Despite our progress and despite cooperative economic and social actions, whole communities of people are gobbled up physically or ideologically by other nations.

Today we witness the domination by extreme leftist powers and rightist powers. Regardless of what they sell, they are depriving millions of people basic human rights and dignities. This repression, in the form of coldblooded murder, has even hit close to home, as a former member of a foreign government is assassinated on his front doorstep in a quiet suburban Washington neighborhood.

So what power do we have in the international arena to prevent such future violations of rights?

Perhaps there is no set doctrine or behavior we can carry out. But despite our own domestic problems, our Nation is still a beacon of hope in this troubled world. Millions of people around the world would immigrate to our shores if they had the means.

The United States can remain that symbol of strength and hope. If there is any silver lining in the clouds of the Afghanistan invasion, it is that our citizens are rededicating ourselves to the need of a strong national defense. We must work with other nations, with international organizations to transmit far and wide the examples of freedom and liberty and opportunity that our country offers.

We can and we must do it from a position of strength in military readiness—and from a position of compassion in our resolve to help prevent famine and support governments who will transmit the principles of freedom upon which our Nation was founded.

Today, we lament the sorry condition of civil liberties and basic freedoms in many areas of the world. But we should also renew our pledge to continue to foster these freedoms wherever we can.●

● Mr. PORTER. Mr. Speaker, in August 1975 representatives of 35 nations signed the Helsinki Accord which was designed to bring greater security and cooperation to Europe and to confirm and extend the concepts of human rights and personal freedom to all European peoples. Section 3 of the accord provided in part:

> The participating states recognize and respect the liberty of the individual to profess and practice on his own, or in common with others, the religion or creed, acting according to the dictates of his own conscience . . . (They) will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all, without distinction as to race, sex, language or religion . . . They will promote and encourage the effective exercise of civil, political, economic, social, cultural, and other rights and freedoms, all of which derive from the inherent dignity of the human person . . .

The U.S. signature to the accord merely formalized a commitment we have long held to human rights throughout the world.

Though the Soviet Union was a signatory to the Helsinki accord, human rights remain denied to its people. But perhaps even more importantly they are still being denied to those nations of Eastern Europe under the control of the Soviet Union, nations behind the Iron Curtain whose people, unlike the Soviets, enjoyed a heritage of personal freedom and self-determination prior to being swallowed up by the Russian Bear.

Mr. Speaker, during the past week dedicated to captive nations, we remembered these nations behind the Iron Curtain and paid tribute to those who lost their basic human rights and personal freedoms and have endured ongoing oppression by tyrannical Communist regimes.

America remains the hope of the peoples of these countries. They must never be forgotten and our commitment to their regaining their precious heritage of freedom must never falter.●

● Mrs. FENWICK. Mr. Speaker, we are currently observing Captive Nations Week and commemorating the brave struggles of those oppressed peoples striving to free themselves. It is time once again to affirm our commitment to basic human rights for citizens of all countries.

This year Captive Nations Week falls at an especially important time. In Moscow the Olympics have just opened, while Soviet soldiers are still in Afghanistan fighting the local population in an effort to gain complete control over yet another neighboring country. At the same time, the severe repression of Soviet citizens testifies to continuing violations of the human rights principles the Soviet Union signed as part of the Helsinki Accords. The recent harassment and incarceration of Andre Sakharov clearly illustrates the persecution suffered by thousands of dissidents in the Soviet Union. Moreover, many of these individuals are unknown within the international community, and as such, defenseless.

We must continue to offer our support to these courageous men and women both in our observance of this week and in our willingness to monitor and protest abuses in these nations. The conference scheduled in Madrid this year will provide the opportunity to review the degree of compliance to the Helsinki Accords by the signatory nations. We must not forget the captive nations, nor the efforts of the Soviet Union to add Afghanistan to th captive nations list.●

● Mr. McCLORY. Mr. Speaker, an old Estonian folk song, sung in a bittersweet minor key, goes as follows:

> When I was but a small young laddie,
> Games I would play, and always ready,
> Everything I saw with pleasure,
> Filled my mind with untold treasure.
> I was happy, free and jolly,
> Like the birds on every tree.

Today we mark the 22d annual House observance of Captive Nations Week, and my thoughts turn not only to the tragedy of the loss of personal freedoms suffered by the peoples of the captive nations but to the tragedy of the loss of national identities.

Nowhere is the loss of national identity more painfully evident than in the arts, those glories of civilization manifested in masterpieces of music, literature, painting, sculpture, and dance. Mr. Speaker, masterpieces do not simply fall out of the clear, blue sky. Masterpieces are carefully and skillfully constructed out of elements of a nation's heritage. It is in the repository of folk art that we find the motifs and strains that are developed into finished poems, symphonies, and other works of art appreciated by all the world.

When a small nation is devoured by a large, greedy, totalitarian state, we suffer loss on three levels: On the level of the individual and his freedom to pursue a life of choice and dignity; on the level of the well-being and pride of a social group that has, sometimes over many centuries, evolved into a community of shared interests; and on a world level, in the loss of those elements drawn from a national identity that become transformed into ideas and works of art that truly move the world.

Mr. Speaker, it is a good thing we do to annually observe the triple tragedy of captive nations and to raise our voices in protest at the loss of those ideas and energies that produce the difference between a civilized world and a planet of regimented robots.●

● Mr. ANNUNZIO. Mr. Speaker, Captive Nations Week was commemorated this year from July 13 to 20, and I am honored to join my colleagues here in the House of Representatives in extending our encouragement to the millions of people in the captive nations who yearn for the freedom we take for granted.

This year, our message carries more urgency than ever—from Afghanistan we are receiving reports of mass murder, the same reports we received when the Red Army invaded the other captive nations and crushed freedom by any brutal means. We are also getting reports that poison gas is being used, and reports from the Soviet empire itself that germ warfare techniques are being tested.

In Chicago on Saturday, July 19, the opening day of the so-called world Olympics in Moscow, thousands of Americans gathered in the downtown Richard J. Daley Plaza at noon for a rally in observance of Captive Nations Week, and I was proud to join them in warning our fellow citizens of the danger of Soviet intentions to subvert freedom all over the world.

It was last January that Congress passed overwhelmingly a bill I cosponsored to urge our athetes not to attend the Moscow Olympics because the invasion of Afghanistan is a serious violation of international law, endangers access to a major source of the world's oil supplies, and is a serious threat to world peace.

The House recently passed my bill to award each member of the U.S. Olympic team a gold-plated medal in recognition of their outstanding athletic achievement and for their determination in the pursuit of excellence. The purpose of these medals is to recognize the long, hard work and thousands of hours of training that these athletes put in to attain world-class excellence, and honor the dedication, sacrifice and achievement of these athletes who work to reach the pinnacle of athletic ability.

Mr. Speaker, the Captive Nations Week Observance Committee, under the most able direction of chairman Viktors Viksnins, has issued a resolution in observance of Captive Nations Week 1980, and that resolution follows:

RESOLUTION

Whereas Moscow each year continues expansion of its colonial empire, subjugating nations in various continents,

Whereas the captive nations are brutally deprived of political, religious and basic human rights and are exploited by the Soviet Union,

Whereas in disregard of international law Moscow for purposes of colonial aggression is mobilizing men in its occupied countries and many of them are being returned in coffins as victims of Soviet imperialism,

Whereas in the ancestoral lands of many

Americans political prisoners are being tortured not only in jails, concentration camps but in psychiatric wards also,

Now therefore, be it resolved by the U.S. citizens from the captive nations assembled in Chicago, Illinois, to demonstrate in protest against Soviet oppression,

That the United States of America through the United Nations, through diplomatic channels and by use of all means of information, exert all possible pressure to end Soviet colonialism,

That the possibility to use the right of self-determination be granted to the subjugated nations,

That occupational forces be withdrawn from the captive nations and that the people be given freedom to enjoy complete liberty and independence, freedom of speech, press, assembly, as well as political and religious freedom.

Be it further resolved,

That the United States at the Madrid conference, firmly declare itself on behalf of human rights and the rights of nations to live free, independent lives as was solemnly expressed in the principles of the Atlantic Charter, the United Nations Declaration of Human Rights and in the principles of the Helsinki Agreement.

Be it resolved,

That the United States exert pressure on the government of the U.S.S.R. and other communist dominated countries to obtain the release of all national, political and religious prisoners, to abolish slave labor camps, to release psychiatric prisoners, to end persecution for national, political, social and religious beliefs, and to end Russian colonialism and brutality against subjugated nations. The Soviet occupational forces should be withdrawn together with Soviet terror apparatus.

The United States of America is the hope of all subjugated and freedom-loving countries. The United States should be militarily strong, diplomatically active, equal to the destiny of the times and forceful to lead the nations from new colonialism into complete freedom and independence.

Vincent Samaskas, Lithuanian American Counsul;

Nick Zvznieuski, Bielarusian Co-ordinating Committee of Chicago;

Ulana Celewych, Ukranian, Chairlady, Ukranian Congress Counsul of Chicago;

Alex Koepp, United Estonian Organization in Illinois;

Wilfried Kermbach, Friends of Germany;

Dr. Mikulas Ferjencik, Pres. Czechoslovak National Council of America;

Julian Witkowski, Polish American Congress Representative;

Dr. George M. Radoyevich, Serbian National Committee;

Ilmars Bergmanis, Chairman, United Latvian Association of Chicago.

Mr. Speaker, the Communists impoverish their own people to promote and support several wars in Asia, military operations all over Africa, guerilla attacks in South and Central America, and terrorism all over the world. Soviet naval forces cruise the Caribbean off our own shores, threatening our Nation's vital oil shipment routes, and Soviet operations in several countries in the Middle East are steadily tightening the noose around those oil sources which are absolutely essential to the survival of our allies.

The Congress recently voted to increase spending for our Nation's defense forces, the largest annual increase in military spending during peacetime, and I strongly supported the bill because our country must be second to none in opposition to Communist aggression.

I am proud to join my constituents in the 11th District of Illinois which I am honored to represent, and all Americans in offering our prayers that the Almighty will continue to keep us the strongest democracy on the face of the Earth and give us the intestinal fortitude and strength to combat Communist totalitarianism wherever it appears on the face of the globe.

Copies of the Captive Nations Week proclamations by the President of the United States, Hon. Jimmy Carter; the Mayor of Chicago; Hon. Jane M. Byrne; and the Governor of Illinois, Hon. James R. Thompson, follow:

CAPTIVE NATIONS WEEK, 1980

(A proclamation by the President of the United States of America)

Twenty-one years ago, by a joint resolution approved July 17, 1959 (73 Stat. 212), the Eighty-Sixth Congress authorized and requested the President to proclaim the third week in July as Captive Nations Week.

Throughout our history we Americans have held the deep conviction that liberty and independence are among mankind's inalienable rights. Our ideal has remained that of our founding fathers: governments derive their legitimacy from the consent of the peoples they govern. Soviet aggression against Afghanistan is the latest stark reminder that this ideal is not universally respected.

Mindful of our heritage and our principles, let us take this week to salute the men and women everywhere who are devoted to the cause of liberty and the pursuit of human rights in their native lands.

Now therefore, I, Jimmy Carter, President of the United States of America, do hereby designate the week beginning on July 13, 1980, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to reaffirm their dedication to the ideals that unite us and inspire others.

In witness whereof, I have hereunto set my hand this nineteenth day of May, in the year of our Lord nineteen hundred and eighty and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.

PROCLAMATION FROM OFFICE OF THE MAYOR, CITY OF CHICAGO

Whereas, the observance of Captive Nations Day is held each year in accordance with Public Law 86–90; and

Whereas, under auspices of the Captive Nations Friends Committee, headed by Viktors Viksnins, the Chicago observance will be held on July 19 in the Richard J. Daley Plaza; and

Whereas, at this time there will also be presented a Freedom Race Olympic Rally; and

Whereas, our city is the home of innumerable friends of the captive nations and of many who have suffered under the repressions of Communist aggression:

Now, therefore, I, Jane M. Byrne, Mayor of the City of Chicago, do hereby proclaim Saturday, July 19, 1980, to be Captive Nations Day in Chicago and urge all citizens to take notice of the special events arranged for this time.

PROCLAMATION FROM THE STATE OF ILLINOIS

Americans enjoy the freedoms that peoples in captive nations do not know. The rights we take for granted are fought for every day by those who do not rule themselves.

Each year, the third week in July is set aside for commemoration of captive nations. Here in Illinois, the Captive Nations Observance in Chicago is July 19th, highlighted by a Freedom Race Olympic Rally.

In the hope that all peoples throughout the world may find their freedom, I, James R. Thompson, Governor of the State of Illinois, proclaim July 13-19, 1980, Captive Nations Week in Illinois.●

● Mr. HOLLENBECK. Mr. Speaker, I would like to take this opportunity to join my distinguished colleagues in recognizing the 21st anniversary of Captive Nations Week. This week serves as a grim reminder to all of us that there are people throughout the world who do not possess even the most basic of human rights. With the recent invasion of Afghanistan, we have even more reason to reaffirm our commitment to remember the people of the world who do not enjoy the privileges and freedoms we, as Americans, cherish.

We speak today on behalf of those who cannot speak for themselves, for those millions of people who are forced to live without freedom and the right of self-determination. Therefore, as a nation whose highest laws guarantee liberty, we have a solemn obligation to raise our collective voices in opposition to all forms of tyranny. While we know that the Soviets have systematically sought to deprive their minority nationalities of social, cultural, and religious characteristics, we also know that despite these Soviet efforts, the freedom-loving people of occupied lands have not lost their penchant for liberty.

Needless to say, we must continue to persevere as we hope and pray that those subjected to the rigors of Soviet occupation are able to persevere. By recognizing the 21st anniversary of Captive Nations Week, we remind the Soviets once again of our continued displeasure over their expansionist policies.●

● Mr. PEYSER. Mr. Speaker, the commemoration of the 22d observance of Captive Nations Week has special significance in light of the ruthless Soviet invasion of Afghanistan and the opening of the Moscow Olympics. The Soviet Union's merciless invasion serves as a fresh reminder of that superpower's relentless and systematic drive for political and physical domination of nations both within and without its borders. The opening of the Olympics in Moscow is a blatant attempt to legitimatize these actions, both past and present. Both must be resisted and exposed by all free people of the world and Captive Nations Week serves as a means of exposing and denouncing these Soviet schemes.

To those who have experienced its aggression and its dominance, the Soviet invasion of Afghanistan is only one of many actions taken to advance Russian influence over free nations everywhere.

We are all familiar with the armed intervention of Hungary and Czechoslovakia in the 1950's and 1960's. Less well publicized is Russian's illegal occupation and annexation of the Baltic States, Latvia, Lithuania, and Estonia in 1940. The United States refuses to recognize this illegal act and still maintains diplomatic relations with representatives of the last free governments of the three Baltic states.

Beyond these recent examples, what is happening in Afghanistan occurred many times over the past 60 years to non-Russian nations within the U.S.S.R. The most prominent example is the subjugation of the Ukrainian nation of 50 million people in 1918, when the newly established Ukranian National Republic was crushed by the Red Army in the first wave of Soviet aggression. Other nations which suffered under this first wave include the Georgian, Azerbajani, and Turkestani peoples as well as the Byelorussians. These millions within Soviet borders have not only suffered the humiliation and agony of armed aggression, but they now suffer the systematic attempts to "Russify" these nationalities and to deprive them of their social, cultural and religious identities.

Despite this gloomy picture, the citizens of the Soviet bloc countries and those within its borders remain strong and defiant; always ready to demonstrate their desire for freedom. This is shown not only in the resistance of the Moslem Afghan rebels but also in such acts as the outpouring of the Polish citizens to see their beloved Pope despite years of official oppression of the Catholic Church. Consider also the activities of such human rights activists as Andrei Sakharov, Igor Guberman, Josef Mendelevich, and Michael Kukabaka who have suffered the horrors of psychiatric hospitals, official harassment and imprisonment for merely seeking to obtain basic human rights for themselves and their countrymen.

Today we honor these nations and peoples for their courage and determination. Today's commemoration also serves to highlight and condemn the Soviet masterplan and to register our solidarity and support for the captive nations of the world.●

● Mr. CONTE. Mr. Speaker, my special thanks to the gentleman from Illinois, Mr. DERWINSKI, and the gentleman from New York, Mr. STRATTON, my good friends and colleagues, for cosponsoring the special order commemorating the captive nations of our world community. To our brothers and sisters behind the iron curtain, I send my deepest regards and hopes for their speedy redemption. In my 22 years as a Congressman from western Massachusetts, I have watched with increasing dismay the shadows of both right- and left-wing repression grow around the world. Coming as I do from the very cradle of American liberty, I feel quite keenly for those denied the freedoms which all of humanity ought to enjoy.

At this time, our own Nation is being held captive by a misguided people who through vengeance and zeal remain blind to the greater menace which threatens their borders and seeks to enslave them. Again, I send a message of greeting to my brothers who are being held hostage in Iran. They have not been forgotten. Their courage has been precious inspiration for all who remain vigilant against the resurgence of repression. We hope for their immediate release so that they may walk among us as free men once again.

For the past 63 years, an elitist minority has sought to retain its dominance of the Russian people through machination and deceit. It was not long after the collapse of a corrupt and decrepit monarchy that the illusion of "socialist unity" was advanced under the red banner of the hammer and sickle. Since then, it has come to imprison the minds and souls of free men and women in different parts of the world.

First and foremost among the captive nations, then, is the Soviet Union itself, whose own people—Christian, Jew, and Muslim—have been denied freedom and grow increasingly restless. We are especially aware of the plight of the intellectual dissidents and are constantly reminded of refuseniks such as the Paritsky family.

Soon after the promising revolution of 1917, a litany of other nations held captive under the fossil empires of Russia, the Ottomans, and Austria-Hungary, again became subject to a foreign power following the overthrow of democracy by the Bolsheviks. More than 20 nations which had experimented with fleeting freedom were again forced into darkness. I join my colleagues in this great Hall of the American people to offer tribute to those brave men and women. Let our Nation's ears ring with the muffled cry of people everywhere who struggle to be free. Reports of repression and daring escapes from lands behind the Iron Curtain reach the outside world daily. Our own land has experienced the despair of such people and of others. Witness the arrival of Cuban and Haitian exiles. The agony of all oppressed people reminds us that freedom is a fragile treasure indeed. See then the trial of liberty in one of her most ancient strongholds, the land of Afghanistan. There, the mountains hide a proud and fierce people who are determined to be free. We also remember their brave struggle this week.

Let not our denunciation of oppression in other lands, however, keep us from heralding freedom in our own hemisphere, in our own land. We should always remember that the rights of the individual must never be compromised in the name of State security—whatever the ideology of that State may be. We who are free must face them with tenacity, those powers which seek to make us captive. We must take up the challenge and remain an inspiration to those who struggle to pull down walls thrown up by dictatorships. Our Nation which was founded upon the legacy of liberty and which inscribed it in law, must lead the unyielding fight for the rights of individuals and nations. They must be allowed to determine their own destinies to better serve humanity. By virtue of that humanity, people everywhere hold the birthright of freedom.

Let us then be exemplary and force back the shadows of tyranny with the bright torch of freedom. Still, we must strive to avoid the debilitating effects of war—actions which serve only to cripple the progression of mankind toward a happier future. Let the battle be fought with trade agreements, treaties, cultural exchanges, and the like by which people are enlightened. Better than any cache of arms, the pen and cries of free men and women have reached the hearts of captives in every land. One day, may we all enjoy the benefits offered by true freedom—the right to be responsible, the duty to serve rather than dominate so that all may work together and build a better world.●

Mr. DERWINSKI. I yield back the balance of my time.

LEGISLATION AMENDING FAIR LABOR STANDARDS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, I am pleased to introduce legislation today to amend the Fair Labor Standards Act to remove the restriction on the employment in hazardous occupations of individuals below the age of 18 who are high school graduates and who have received appropriate vocational education in such occupations.

This legislation was initiated at the suggestion of Donald Kaufman, Grundy Area Vocational Center director, concerned about his graduating students who were not employable in hazardous occupations because of age. These students receive rigorous training from the vocational center for these occupations classified as hazardous by the Department of Labor, but, due to child labor requirements, businesses are prohibited from hiring them until they reach 18.

As you can probably imagine, Mr. Speaker, many of these students are anxious to begin making money and become self-supporting citizens. Unfortunately, because they are barred from jobs within their field of training, they must settle for other jobs requiring little skill even though there may be vacancies in their specialized areas. Mr. Kaufman has noticed that, as is human nature, when his students become 18, they tend to stay in these less skilled but secure jobs, instead of searching for a job in their field of training. Besides wasting the excellent training from the vocational center, these graduates are frustrated at their inability to get a skilled job—not because they lack qualifications, but because they are simply not old enough.

My bill would allow those students who receive accredited vocational education in hazardous occupations—meeting certain requirements set by the Department of Labor—and who have not yet reached the age of 18, to be eligible for jobs in hazardous occupations upon graduation from high school. I invite my colleagues in the House to check with the vocational education directors and teachers in your districts, and I am sure they will agree about the need for such legislation. I urge your prompt consideration of this bill.●

THE PBS CAMEL'S NOSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 10 minutes.

● Mr. ASHBROOK. Mr. Speaker, it is a truism that whenever the Federal Government gets its nose under a particular tent, like a camel it soon begins to take up more space. The most recent, glaring example of this phenomenon involves the Corporation for Public Broadcasting and its affiliate, the Public Broadcasting System, which were originally conceived as publicly financed and tax-supported information and entertainment operations for television and radio.

Now we learn, through a high-powered and well-financed advertising campaign, that public TV, which has distinguished itself in recent times as. among other things, a vehicle for biased, heavy-handed docudrama propaganda, plans to launch into a new venture in the area of print media—namely, a slick monthly magazine called Dial.

Mr. Speaker, when Congress originally enacted legislation to put the Federal Government into the broadcast media, it was neither intended nor imagined that what was being formed was a new media empire, to be subsidized by taxpayers' dollars. Certainly, even the most ardent advocates of public TV would not have argued that the Federal Government ought to be launching a media operation which in time would compete directly with private enterprise operations in competition for advertising revenue.

Yet that is exactly what the public broadcasting moguls who are launching the magazine Dial have in mind. Thus, while magazines like Harper's are going under because of lack of advertising revenue, here we see the Federal Government subsidizing a venture in the print media that will compete for advertising dollars with other privately operated publications struggling to stay in business.

To say this is an unconscionable venture for any Government-spawned and subsidized agency—and that is exactly what the CPB and PBS are—is only to point out half the danger posed by this public television power move. We have seen in the past how public broadcasting has been used to serve the narrow ideological and political purposes of those who operate it, and now we see these very same people, having gotten their nose under the tent, trying to expand their operations into the print field.

Mr. Speaker, the Federal Government has no business subsidizing any media, electronic or print, that operates in direct competition with privately owned enterprise. The Corporation for Public Broadcasting and the Public Broadcasting System were created by Congress, and it remains for us to limit their expansion into an area of media operations neither contemplated nor authorized in their original charter. Criticism of this attempt to set up a public broadcasting and print media empire through creation of a monthly magazine has come from writers and commentators from all parts of the political spectrum. Two of the most incisive articles on this subject are those of columnists William Safire and Nicholas von Hoffman. I believe all Members of Congress, whatever their political ideology should be apprised of this matter, and commend for their reading, as well as for the reading of the general public, the Safire and von Hoffman columns. I insert these columns as part of the RECORD:

[From the Chicago Tribune, June 7, 1980]

PUBLIC TV CASTS EYES GREEDILY ON ADVERTISERS

(By Nicholas von Hoffman)

WASHINGTON.—The contradiction that currently is noncommercial public broadcasting was best illustrated the other day when one of its major commercial sponsors, the Mobil (oil) Corp., denied it had used its money leverage to stop "Death of a Princess" from being shown.

"Princess," you may recall, was that camel of a program which the Saudi Arabians were unhappy about because it purported to depict the story of the execution of an adulterous princess and her lover. The Saudis weren't nearly as unhappy as the viewers who tuned in to learn that the program had been badly overhyped, that the princess and her boyfriend seldom got on camera, and that most of this non-docu-non-drama concerned the mumblings of a journalist tripping about the Middle East like a cockroach after a shot of D-Con.

The point to seize on was that the Public Broadcasting System had exploited a rapidly weak program with the same zest that ABC promotes "Three's Company." It is part of a series of things that makes one wonder if perchance Public Broadcasting may have outlived our need for it.

We have, for instance, the effort by PBS's executives to talk its affiliates into accepting liquor and cigarette advertising. That these overpaid persons would even think of such a thing betrays their waning commitment to any sort of noncommercial, public-service ideal. Here are the two most widely sold, widely consumed substances that constitute a public health peril, and these SOBs want to promote them on tax-supported, listener-supported TV when the government has forbidden their advertisement on commercial TV.

The public broadcasting bureaucracy defends itself by saying it must merchandise poison because Congress doesn't give it enough money.

"Enough" is a hard adjective to define when the general judgment in Washington is that no government organization has a worse reputation for overstaffing, nepotism, and expense-account living. The only difference between a public broadcasting executive and a private network executive is who has access to the corporate jet.

Another move in the direction of tax-supported advertising is the PBS attempt to get permission to put corporate logos and trademarks on the air. These would replace the plain-text announcements of who has put up the money for the program. Soon, turning on a PBS station will be like driving down a highway lined with billboards, and in both instances, it's your tax money that makes it possible.

The best is yet to come. A few quotes from a hugely expensive, 18-page (yes, that's right—18-page) ad in a recent issue of Advertising Age for "The Dial, the New Magazine of Public Broadcasting." These noncommercial-broadcasters explain yet another way to evade the spirit, intent, and purpose of public broadcasting under the headline, "If you could advertise on public TV, would you?"

The ad continues: "With half the TV homes in America watching public TV every week? You bet you would. With that half being the better half—better educated, higher income, more influential? And with 2 million of those homes caring so passionately about what they're watching that they regularly write $25 checks, $50 checks, even $100 checks to make sure that what they're watching keeps coming? You bet you would. You can't, of course. But you can reach these smart, rich, and rabid public TV fans through a powerful new advertising medium, The Dial."

Quite a racket they got going, these public broadcasting servants. They get on the air and suck donations out of us because they don't take advertising. Then they set up this magazine gimmick to get around the law and solicit advertising on the basis that we're such devoted chumps we give money so we'll be able to see their ads.

Just to make sure we dopes and dolts are properly represented to Young & Rubicam and J. Walter Thompson, the ad continues, ". . . If you were to conclude . . . that the Dial's readers are anti-advertising, you'd be wrong. These are hardly communists. They're bringing home large amounts of capitalist money, intending to do lots of capitalist things with it and relying on advertising to help them choose."

Such betrayal of the idea of having one—just one—lousy communication network outside the cash nexus suggests that PBS may have outlived its usefulness. In the cable age, those 2 million families could doubtless be happy to pay $50 or $100 a year to buy advertising-free programs like McNeill-Lehrer and Masterpiece Theater. That makes better sense than donating our dollars to people who reciprocate by trying to teach our kids how to smoke.

UNCLE SAM, PUBLISHER

(By William Safire)

WASHINGTON.—What's the fundamental difference between commercial television and taxpayer-assisted, "public" television? The answer: advertising.

Not any more. Noncommercial television, which had its reason for being in the freedom from sponsor pressure for high ratings, has figured out a way to sell advertising on a grand scale—subverting Congressional intent and making the Federal Government a direct competitor to free-market magazines across the country.

"If you could advertise on public TV, would you?" asks an ad directed to advertisers in Advertising Age. "You can't, of course. But you can reach these smart, rich and rabid public TV fans through a powerful new advertising medium, the Dial. . . . It'll be a national metropolitan public TV guide. Our initial 650,000 circulation guarantee is concentrated in four monster markets. . . ."

These monster market stations—the public television outlets in New York, Washington, Chicago and Los Angeles—have set up a separate corporation free from Congressional restraints on advertising. That wholly-owned subsidiary will publish an elegant, four-color magazine that will wrap around the local program listings in each monster market, with ad rates of $14,610 per color page.

"The broadcasting rules do not extend to the print medium," explains Jay Iselin, of New York's WNET. "This is an extension of the not-for-profit sector." Ward Chamberlin, of Washington's monster market, adds: "This is a great thing for public broadcasting—we hope other stations will join with us."

Their argument is that all funds channeled into public television through the back door of print advertising will enhance their programming at no cost to the taxpayer. In their enthusiasm to do more good, they ignore the noncommercial principle they are violating: worse, they do not see the danger of the entry of Uncle Sam into the field of print journalism.

The Dial is a publication with an edge over such nongovernmental publications as Harper's, The Atlantic and the Saturday Review. Its seed money—$1.5 million—comes from the tax-exempt Snow foundation. Its subscribers can deduct a portion of the $30-a-year payment (which brings them the magazine) from income taxes as a charitable contribution.

Moreover, the "surplus"—that's what profit is called in a not-for-profit publication—is turned over to the owning stations for their general revenues. Mr. Chamberlin insists that it is not his intention to use those particular profits to seek Federal matching funds, but it all goes into the same pot and will make it easier to raise more money to be doubled by the taxpayer.

Everyone connected with this privileged enterprise—catering to what its ad salesmen describe as the smart, the rich and the rabid—denies that the Dial will be a Government-beholden publication. Talented reporters and artists will cover the issues raised on public television under the same First Amendment that protects publications not funded by tax-free foundations, not benefited by partial tax deductions to subscriber-members and with no possibility of ultimate doubling of profits to its television-station stockholders by the Federal Treasury.

Perhaps this invader of the monster markets is once or twice removed from Government, but it is indisputably a child of Government. Its success will invite other Government-sponsored cousins into the playground, forcing out the "little magazines" and neighborhood newspapers that compete for the same advertising.

Those who delight in the "extension of the not-for-profit sector" point with pride to Smithsonian magazine, and the new Harvard Magazine—beautiful publications spawned by foundation money. And they argue that nobody ever complained before about advertising in program guides.

Ah, but the "not-for-profit sector" has rarely been as audacious as this. Publisher Morton Bailey expects ad revenues of $500,000 in the first issue; maybe that will wake up the "private" media to the principles involved.

The first principle: the separation of press and state is as important to political freedom as the separation of church and state is to religious freedom. Publishers should keep their hands out of Uncle Sam's pocket, and Uncle Sam should keep his long finger out of the publishing business. The wall between publishing and publicking should be strengthened, not further weakened.

The second principle: Tax-assisted broadcasting must be free of advertising. Lavish thanks to corporate sponsors, perhaps soon to be accompanied by diplay of logos, is advertising. Setting up subsidiaries to sell space in program guides is advertising.

Maybe public televiion cannot get along without the income from advertising. Maybe we should change the law and allow them to openly broadcast commercials. In that case, we could stop contributing taxpayer dollars, stop calling it "public television," and start letting the stations compete in the monster markets with the rest of commercial television.

[From the Washington Post, July 5, 1980]

FCC Asked To Ban Magazine Ads on WETA

(By Martha M. Hamilton)

The Washington Magazine has asked the Federal Communications Commission to bar public television station WETA from on-the-air promotion of the Dial, a monthly magazine scheduled to appear in September.

The petition was filed Thursday as the opening salvo in a major campaign against the magazine, a glossy monthly of approximately 100 pages including a program guide published by the nation's four largest public televisions stations, WETA in Washington, WNET in New York, KCET in Los Angeles and WTTW in Chicago.

Arrayed against the magazine, which has been soliciting national advertising in hard-sell ads of its own in publications such as Advertising Age, is a coalition of publishers of city and general interest magazines and bankrolled to the tune of more than $3 million.

The Washingtonian is the "point magazine" for the group, according to Washingtonian publisher Philip Merrill.

"There is no question, according to batteries of highly paid attorneys that this is an illegal venture," said Merrill. An attorney representing Merrill wrote WETA president Ward B. Chamberlain Jr. on June 26, charging that the Arlington public television station's ownership interest in the Dial violated the station's charter and by-laws as well as FCC policies.

Among other things, Merrill said that the ability to promote the magazine on public television and the advantages accruing to the nonprofit corporation formed to publish the magazine give the Dial an unfair and illegal competitive advantage over other magazines competing for the same advertising dollar.

Neither Chamberlain nor any spokesman for WETA or the Dial could be reached on the holiday. Chamberlain has not responded to the letter, Merrill said.

"If you could advertise on public TV, would you?" asked promotions soliciting advertising for the Dial. The magazine is to be sent to contributors to the four public television stations and is expected to reach an initial audience of about 650,000.

"Dial's promotional literature leaves no doubt that it seeks to be a profit making commercial activity," according to the petition filed with the FCC.

Even if all the profits are used to support noncommercial public television, Merrill said, "the outside venture would nonetheless be a commercial one and any announcement promoting the Dial would be a commercial."

Promoting the magazine while soliciting contributions "would promote the sale of a product no less than would be the case if a noncommercial station sought to raise operating funds by owning a chain of retail stores and by seeking to promote patronage of the stores through on-the-air announcements," he said.

To allow that would enable the Dial to avoid the cost of direct-mail solicitation, such as Time and Newsweek use to increase circulation, he said.

In addition, "when they mail the magazine, they mail at nonprofit rates—about a third the cost of our mailing," he said. "They say they're going to have a circulation of 2.2 million—roughly the circulation of Time or Newsweek, but they'll have no solicitation costs, they'll mail at a third the rates and solicit advertising from the same sources," he said.

"That's unfair competition. It's not only unfair but also illegal," said Merrill who called the venture "morally inappropriate and legally outrageous."

Merrill said that publishers of other city magazines, including in cities the Dial will not reach initially, had joined the coalition to oppose the Dial, along with publishers of general interest magazines. Attorney Wilber H. Sirota, who is representing Merrill, said he was not at liberty to name the members of the coalition.

Merrill said that in addition to questions about how the commercial venture fits the role of public television and concerns about the magazine's potential as a competitor, there is the larger issue of a tax-subsidized national press.

"What you've got when you're through with this is the power to set the public agenda, to decide what we're going to talk about. That's a very very dangerous power to put into the hands of the government," he said.

Merrill said that columnists William Satire and Nicholas Von Hoffman, who generally come from opposite ends of the political spectrum, had both written about that concern and "were both equally horrified and so are many members of Congress."

He also warned that the magazine might imperil federal funding for public broadcasting.

"What WETA is doing is directly, plainly, simply, clearly illegal," he said. He said that in addition to the FCC petition, a complaint will be registered with the Internal Revenue Service about the publishing company's tax-exempt status and with the Postal Service over its mail rates. He also plans to sue the magazine's publishers, he said.

According to attorney Sirota, the coalition hopes to make sure "that someone really has taken the time to contemplate whether we want the public broadcasting system to be in this business." ●

GENERAL LEAVE

Mr. COELHO. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Minnesota (Mr. Nolan).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATION TO ESTABLISH JOINT SELECT COMMITTEE ON MONETARY AND COMMODITY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Nolan) is recognized for 5 minutes.

● Mr. NOLAN. Mr. Speaker, many of the so-called economic experts in government, business, finance and education are demonstrating their intellectual bankruptcy by attempting to restore economic stability through monetary manipulation which puts people through the wringer in order to rescue mismanaged financial institutions. The Carter administration is pursuing such a policy and it is having a devastating effect on wage-earners and farmers.

The President's policy represents the classic Hooverian approach, attempting to salvage financial institutions by squeezing the already beleaguered citizens of the United States. President Carter's economic policy has failed and the befuddlement evident in the White House, on the Federal Reserve Board, and among the Nation's major banks indicates that we must undertake a more rigorous assessment of our economic problems and the solutions required.

I am, therefore introducing a House concurrent resolution to establish a Joint Select Committee on Monetary and Commodity Policy. Congressman Jim Weaver has joined me in introducing the resolution. The joint committee will study the causes of rising public and private debt, monetary inflation and trade deficits, and, after completing its investigation, will report a bill proposing the necessary changes in our monetary and commodity policies in order to restore a prosperous economy.

Membership on the joint committee includes 25 Members of Congress and 12 Senators drawn from their respective House and Senate committees which share responsibility for legislation regarding monetary and commodity policies. Recognizing the gravity of the economic emergency before us, the joint committee is designed to speed up the legislative process in a manner which incorporates the viewpoints and membership of several existing committees in one special ad hoc committee with bill-reporting authority. The joint committee thus combines the strength of existing committees in order to meet the economic emergency in a timely fashion.

In analyzing the economic condition of the United States prior to drafting legislation, the joint committee has the authority to investigate the following:

The operations of the Federal Reserve Board;

The influence which money market operations have on the economy;

Bank liquidity and its impact on the availability of credit;

The impact of mandating the Federal Reserve System to set a low discount rate, not to exceed 0.5 percent, to provide Federal Reserve credit exclusively for member banks to make available for the purpose of encouraging gains in productivity in agriculture and industry;

An assessment of the gains and losses from devaluation of the dollar and from liquidation of the national debt;

The impact which the influx of foreign currency has on bank liquidity, monetary policy, and investment;

The impact which imports have on domestic production and processing;

The impact which agricultural commodity prices have had on the volume and value of agricultural exports, on the trade deficit, and on the value of currency;

The profitability of assets in industry and agriculture and its relationship to investment and ability to repay debt;

The multiplier effect of income derived from the production and mining of raw materials;

Agricultural commodity price levels and their relationship to inflation and bank illiquidity;

The role of capital turnover in the economy; and

Such other matters as may be relevant to the study.

Any assessment of a nation's monetary policy would be seriously deficient without also considering the impact which the valuation of raw commodities has in an economic system. Unfortunately, most economic observers ignore commodity valuation and, indeed, the congressional committee system divides the responsibility for commodity and monetary policy between separate committees. The joint committee will provide the integrated analysis we need and will report a bill to reconstruct our economic system.

President Carter's approach—destroying the purchasing power and livelihoods of people in order to save the big financial institutions and investors—will not work any better for him than it did for Herbert Hoover. I urge your support for the joint committee in order to get to the bottom of our economic problems and to prescribe the proper solutions.●

● Mr. WEAVER. Mr. Speaker, I am pleased to join my colleague from Minnesota in calling for the establishment of a joint select committee with the mission of making a comprehensive analysis of the monetary and commodity policies of the United States.

I doubt if there has ever been a time when the need for such a thorough policy review was clearer. Our Nation is in the midst of one of the most turbulent and confusing economic cycles ever experienced by the American people—and it is painfully obvious that our current monetary and commodity policies are not only powerless to stop these economic gyrations—but that they have added to the problems, exacerbated the damage caused by inflation, and contributed to the accelerating unemployment which is now gripping the American work force.

The recent misguided efforts of the Federal Reserve Board are a particularly good example of what these unexamined policies can do. Their only solution to the inflation that has weakened the buying power of American workers is a monetary policy that throws those same workers out of work. This policy devastated the housing industry, caused a regional depression in the Northwest that closed mills and raised unemployment in the wood products industry to its highest level since 1974.

It is time for Congress to create a framework in which we, as a body, can take coordinated action to turn these policies right side up. That is why I lend my full support to the proposal of my friend and colleague, Mr. **Nolan**.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. **Downey**) is recognized for 5 minutes.

● Mr. DOWNEY. Mr. Speaker, I was unavoidably absent on Monday, July 21. Had I been present I would have voted as follows:

Rollcall No. 402: To suspend the rules and pass H.R. 7511, the Veterans' Disability Compensation and Survivors Benefits Amendments of 1980. "Aye."

Rollcall No. 403: To suspend the rules and pass H.R. 7394, the Veterans Rehabilitation and Education Amendments of 1980. "Aye."

Rollcall No. 404: To suspend the rules and pass House Concurrent Resolution 351 regarding the tax-free status of social security benefits. "Aye."

Rollcall No. 405: To suspend the rules and pass H.R. 5499, the Commission on Wartime Relocation and Internment of Civilians Act. "Aye."

Rollcall No. 406: The Miller amendment to reduce legislative branch appropriations by $210,000. "Aye."●

COTTER PENSION PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. **Cotter**) is recognized for 5 minutes.

● Mr. COTTER. Mr. Speaker, for the benefit of my colleagues, I want to describe a new legislative proposal that is currently being drafted at my request by the Joint Committee on Taxation. This proposal is designed to encourage workers to save for their retirement by making it easier for them to begin an individual retirement account.

In essence, the Cotter plan is an IRA for all working men and women. The plan allows an individual worker to open an IRA even if that person already has a private or government pension plan. Almost every working person and their spouse would be able to open an IRA, even if the spouse had no earned income.

Eligible individuals would be able to exclude up to $500 from taxable income on their Federal tax return each year, and up to $1,000 each year on a joint return. The money placed in a Cotter plan would not be taxed until it is withdrawn after retirement, usually at a lower tax rate.

In addition, the bill raises the present IRA limits for those who have no other pension plan to $2,000 or $2,500 for a spousal account. This maintains the present equity relationship between the various pension systems.

This tax incentive is designed to encourage people to take greater responsibility for their retirement by saving now to supplement other retirement income. It is also designed to encourage long-term savings in order to help provide for the long-term capital needs required by our economy.

A more detailed description of the Cotter plan is printed below. However, there are several points I would like to make. First, each year a person would be able to exclude not only $500 for their own account, but an additional $500 can be excluded from taxable income for a spouse, even if the spouse has no earned income.

In order to insure that these funds are available for retirement, there would be a 10-percent penalty tax for withdrawal from the account before retirement.

For people who have no qualified pension plans, the Cotter plan would raise the present IRA limits to the lesser of $2,000 or 100 percent of gross income for an individual, or $2,500 or 100 percent of gross income for an individual and spouse.

Projections by the Joint Committee on Taxation indicate that this proposal will cost the Treasury $1.2 billion by 1984, but I am convinced the long-term benefits of this proposal far outweigh this cost.

One final point, my bill requires that institutions providing the Cotter plan clearly provide on an annual basis the rate of return to the holder of the account. This will enable each holder of a Cotter plan to "shop around" for the best interest rate available. Complete freedom is given the holder to rollover from one type of account to another, or to switch institutions holding their Cotter plan if they do not feel they are receiving a fair return on their investment.

In conclusion, I believe the Cotter plan offers a distinct opportunity for Congress to act to encourage savings. It is increasingly becoming apparent that our aging population will have to prepare itself more carefully to secure a decent standard of living during retirement. Latest statistics indicate that the ratio of covered workers to social security retirees will decline from 3 to 1 to about 2 to 1 by the early 21st century. Given budgetary pressures that will continue on both the Federal Government and the social security system, it is not likely that the Federal Government will be able to assume responsibility for lessening all of the burdens of our aging population. The establishment of the Cotter plan will be a constructive step in meeting this future social need.

I include the following:

GENERAL EXPLANATION

Present law.—Under present law, certain individuals are allowed a deduction from gross income for contributions to an IRA (an individual retirement account, individual retirement annuity, or a retirement bond). Generally, the deduction for a taxable year is limited to the lesser of $1,500 or 15 percent of compensation includible in gross income. Amounts held in an IRA are generally not subject to income tax until distributed and may qualify for an estate tax or gift tax exclusion.

The IRA provisions were adopted because the Congress believed that "there is a need on equity grounds to grant individuals who are not covered by any kind of qualified pension plan some of the tax advantages associated with such plans by providing them with a limited tax deduction for their retirement savings" (Committee on Ways and Means, H. Rept. No. 93–807, 93rd Cong., 2d Sess. 32 (1974). Accordingly, no deduction for an IRA contribution is allowed under present law to an individual who is an active participant in a tax-qualified pension, profit-sharing, stock bonus, or bond purchase plan, a government retirement plan, or a tax-sheltered annuity program.

Problem.—An individual may be denied an IRA deduction because of active participation in a plan even though no benefits or insignificant benefits are provided for the individual under the plan. For example, no IRA deduction is allowed to an individual who is an active plan participant even though the individual never obtains any vested right to plan benefits.

Explanation of provision.—The Cotter Plan would establish a floor for IRA deductions. Under the Cotter Plan, the limit on an individual's deductions for IRA contributions for a year would never fall below $500 or 100 percent of compensation includible in the individual's gross income, whichever is less. In the case of an individual who is employed, the amount of the contribution is determined by the individual but could be contributed to a Cotter Plan by the employer.

The Cotter Plan would generally be available without regard to an individual's participation in a qualified pension, etc., plan, a government plan, or a tax-sheltered annuity program. Under the bill, however, the deduction floor would not apply to a self-employed individual who is an active participant in a qualified plan (an H.R. 10 plan) because present law already provides a contribution floor for such plans.

For married individuals, an IRA contribution would never fall below $1.000 or 100 percent of compensation includible in the couple's gross income, whichever is less, without regard to whether or not both spouses have separate gross incomes.

The penalty for early withdrawal from a present IRA also applies to early withdrawal from a Cotter Plan.

This bill also increases the allowable deduction from gross income for contributions to an IRA to the lesser of $2.000 or 100 percent of gross income for an individual, and $2.500 or 100 percent of gross income for a married couple.

The bill would make conforming amendments to the rules limiting benefits and contributions under qualified plans so that those rules would not be violated merely because of an IRA contribution which did not exceed the IRA deduction floor.

Effective Date.—The bill would apply for taxable years beginning after December 31, 1980.

Revenue Effect.—It is estimated that the provision will reduce budget receipts by $280 million in fiscal year 1981, $750 million in fiscal year 1982, $980 million in fiscal year 1983, $1,180 million in fiscal year 1984, and $1,340 million in fiscal year 1985.●

NATIONAL COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FAZIO) is recognized for 5 minutes.

● Mr. FAZIO. Mr. Speaker, Monday during the debate on H.R. 5499, creating a National Commission on Wartime Relocation and Internment of Citizens, I was unavoidably absent from the floor. I am greatly pleased that this bill, which I cosponsored, was overwhelmingly passed, and I would like to take this opportunity to address a comparison made here on the floor during debate regarding anti-German and anti-Italian feelings during World War II as well as that against Japanese-Americans. One Member urged opposition to the bill on the basis that all these axis countries were equally unpopular here and their forebearers suffered equally.

While the United States was at war with Germany and Italy, as well as Japan, only Japanese-Americans were subject to the infamous Executive Order 966. Only the Japanese-Americans were subject to a hysteria, paranoia and resulting hatred that resulted in the loss of their constitutional liberties and freedoms and their private property through forced internment. Only the Japanese-Americans were subject to the racial hatred and discrimination that produced a special featured article in Time magazine on the method of identifying a Japanese-American from a Chinese-American. Time magazine never did an article on how to distinguish a German from a Norwegian or an Italian from a Spaniard, nor an article describing our American citizens of Italian or German extraction as "evil-looking—devilish or sly," which is how the Time magazine article on Japanese-Americans described them. Neither was there any fear of putting German- and Italian-American soldiers into the European theater of operations as there was of putting Japanese-American soldiers into the Pacific theater.

Simply stated, the only basis for the different treatment was racial. And the individual slights and discrimination faced by German and Italian Americans do not begin to compare to the organized government policy against the Japanese. The two experiences cannot and should not be equated.

Of course, these incidents against our Japanese-American citizens during World War II can never be eased or fully compensated for. But that is no reason to ignore the past or to fail to try in the only way we can to redress the wrongs perpetrated on Japanese-Americans during this period.

Far more importantly though, we must search out our past and delve deeper to find the circumstances and causes that will aid us in future crisis situations to avoid the mistakes of those who came before us. If we fail, history might, as it often does, repeat itself—maybe not against the same group of people, but against another equally innocent—but temporarily unpopular—elements of our citizenry.

That is why the American people must be educated to fully comprehend and evaluate this historic tragedy. And there is no better tool for this endeavor than a Federal commission, an objective body which will search out, evaluate and disseminate fundamental information on the Japanese internment of 1942. Perhaps at this late date, it is the only precedent that we can set to right the wrongs of the past. But is well worth the effort and the support of this body.●

HANDGUN VIOLENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

● Mr. BINGHAM. Mr. Speaker, handgun violence continues to escalate, claiming the lives of thousands of our citizens annually. The epidemic refuses to be stemmed. Injuries caused by handguns are so commonplace that eyebrows are barely lifted when another grisly report reaches our ears. So many of our friends and neighbors have been terrorized by gun-wielding thieves and muggers that we can all relate numerous stories about their adventures. It is hard to imagine that the legendary wild, wild west was as wild as our society has become.

Today, most of my colleagues are being visited by victims of handgun violence. They have been encouraged by Handgun Control, Inc., to come to Washington and visit their elected Representatives to urge action on the Kennedy-Rodino Handgun Control Act, S. 1936 and H.R. 5823. This legislation would stem the tide of illegal handguns available to the criminal and the ordinary citizen, and would also place some restrictions on legal handgun ownership. I urge you to listen to these victims' experiences and act upon your constituency's outrage by cosponsoring this legislation and urging its prompt consideration. Remember that these victims are voicing the opinions of the silent majority of the electorate. Remember that these victims are the lucky ones, because although they have been terrorized, they have lived to tell about it. Remember that a member of your family or a close friend could easily become the next victim of handgun violence. I urge you to support S. 1936 and H.R. 5823 and help stop the rise of handgun crime.●

EIGHTH ANNUAL CORPORATE TAX STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, my Eighth Annual Corporate Tax Study for tax year 1978 (CONGRESSIONAL RECORD, June 27, 1980. 17398–17403) contained several errors in the total columns of three of the corporate catergories. These errors do not affect the conclusions of the study as presented in tables I–IV.

The modifications in the column totals are as follows:

a. Under the category "Industrial corporations":

1. "U.S. income before tax" should be $22,830,349, not $22,845,239.

2. "Foreign income before tax" should be $20,037,456, not $20,037,526.

3. "Worldwide income before tax" should be $74,573,309, not $74,504,109.

4. "Current U.S. tax expense" should be $14,328,033, not $901,556.

5. "Current foreign tax expense" should be $16,730,382, not $23,109,418.

6. "Current worldwide tax expense" should be $31,672,333, not $30,789,137.

b. Under the category "Utility corporations":

1. "Current U.S. tax expense" should be $1,708,790, not $121,357.

2. "Current worldwide tax expense" should be $1,747,435, not $1,695,155.

c. Under the category "Commercial banking corporations":

1. "U.S. income before tax" should be $818,401, not $29,248,563.

2. "Foreign income before tax" should be $651,133, not $926,460.

3. "Worldwide income before tax" should be $3,288,304, not $19,906,333.

4. "Current U.S. tax expense" should be $229,361, not $1,386,577.

5. "Current foreign tax expense" should be $629,831, not $741,965.

6. "Current worldwide tax expense," should be $859,192, not $3,663,695.●

A TRIBUTE TO ASA G. HILLIARD III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Phillip Burton) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, I would like to take this opportunity to recognize one of my constituents who, as a professional educator, has recently been distinguished by his appointment as the Fuller E. Calloway Professor of Urban Education at Georgia State University in Atlanta, Ga.

Asa G. Hilliard III, is currently dean of the School of Education at San Francisco State University. He received the following degrees from the University of Denver:

B.A. in psychology in 1955;

M.A. in counseling and guidance in 1961; and

Ed. D. in educational psychology in 1963.

Prior to receiving his doctorate, Dr. Hilliard taught as a public school teacher in junior and senior high schools, teaching social studies, mathematics, psychology, and history.

Dr. Hilliard has made contributions to his profession as project director on several research projects, and as an author of numerous articles and monographs. As a lecturer and public speaker, he has been regularly invited to give presentations and keynote addresses across the country to major conferences, groups and audiences such as National Head Start, National Association for the Advancement of Colored People (convention), University of Arkansas (commencement), Black Child Development Institute, National Institute of Education, and American Educational Research Association.

The topics and content of these presentations have included a wide range including linguistic and cultural biases in standardized testing, cultural pluralism in education, strengths and weaknesses of cognitive tests for young children, black child development, black language and black educational instruction.

He has continued to teach and to specialize in the impact of culture on testing and evaluation, cultural pluralism in teaching and learning, African and African-American history and culture. Based on his high level of technical skill and competence in education and psychology, Dr. Hilliard has provided expert testimony in several major legal cases in the areas of intelligence testing (Larry P. V. Riles), minimum high school competency examination (Tampa, Fla.) and school desegregation (Tucson) and has appeared before numerous legislative committees and bodies in the California State Assembly and the U.S. Congress.

Dr. Hilliard has received many awards. Among them are Columbia University's Alice Miel Milestone Award, Who's Who Among Black Americans and Who's Who in the West.

His family includes his wife Pat, a member of the South San Francisco School Board; Asa IV, a junior at the University of Massachusetts/Amherst; Robi Nsenga, a junior at the University of Washington/Seattle; Patricia, a senior at South San Francisco High School; and Hakim, a Westborough Junior High eighth grader.

As one can tell. Dr. Hilliard has made significant contributions to the field of education and to our society in general. While, my home city of San Francisco will miss this fine scholar, I do not doubt his fine work will continue

"JUNK" AUTOMOBILES PRODUCED IN DETROIT IS CAUSE OF DETROIT WOES TODAY

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the President made a trip to Detroit as a "preconvention activity" a few days before the Republican Convention, met with the key leaders of the automobile industry, and deplored the unemployment in the motor city, as well as the problems of our domestic automobile industry.

Much talk apparently transpired, Mr. Speaker, relative to Japanese imports, however, little was said about the pride of workmanship and the quality of products which may have had something to do with the decline in domestic purchases and the increase in sales of Japanese imports.

Relating to this overall subject, I received a letter from Steven K. Yoder, a central Ohio constituent, with some pertinent remarks on this problem. I am happy to share his letter with my colleagues (with the written permission of Mr. Yoder). His June 25 letter follows:

Yoder Co., LPA,
Columbus, Ohio, June 25, 1980.

Hon. Samuel L. Devine,
Congress of the United States,
House of Representatives,
Washington, D.C.

Dear Mr. Devine: I was very disturbed to hear your voice on WTVN News the other day talking about the current situation with the slump in domestic auto sales. You have apparently climbed upon the bandwagon that everyone else is joining to attack the foreign auto makers and blame them for a problem that was created and presently exists in our own back yard. I thought you were intelligent enough to see that the problem with the domestic auto market is a classic, textbook causal relationship situation, i.e., the problem: decreased domestic auto sales; the cause: poor workmanship, poor mileage, and basically "junk" being produced by Detroit at premium prices; the effect: more people searching out high mileage, high quality, and overall economical automobiles. Because of this, the American people are buying the best product at the best price. At the present time, this happens to be the foreign automobile, primarily Japanese.

For you and all of the other politicians to state that the problem is the Japanese auto maker is totally preposterous. The problem is the American auto maker in general and, more particularly, the American auto worker whose unions have created a situation whereby the worker no longer has to produce a quality product in order to be paid a healthy salary. If the auto worker suffers from the lack of sales of his product, there is no one to blame but the auto makers themselves which includes the workers and the unions. To penalize the American public and protect the American worker from foreign competition will only promote mediocrity and result in the government subsidizing another inefficient segment of our economy.

You and your colleagues must allow the free enterprise system to work because if the American auto makers produce the best product, the American people will buy it. The problems of inefficiency, lack of quality, and related problems will only disappear from the American auto workers output if they are forced to build a better car by taking more personal pride in their jobs. Maybe if they stand in the unemployment line for a few months this point will be driven home.

As long as you continue to support the taxing of imports you are only supporting mediocrity in the auto industry. By the way, there are plenty of American families making money on the foreign imports and, as you well know, many of those imports are assembled right here in America by American workers. If you succeed in your high import tax, you will be taxing some of these Americans out of work.

Very truly yours,
Stephen K. Yoder.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Runnels (at the request of Mr. Wright), for an indefinite period, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dougherty) to revise and extend their remarks and include extraneous material:)

Mr. Corcoran, for 5 minutes, today.

Mr. Ashbrook, for 10 minutes, today.

Mr. Goldwater, for 10 minutes. today.

(The following Members (at the request of Mr. Coelho) to revise and extend their remarks and include extraneous material:)

Mr. Nolan, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Beard of Rhode Island, for 5 minutes, today.

Mr. Pepper, for 5 minutes, today.

Mr. Downey, for 5 minutes, today.

Mr. Cotter, for 5 minutes, today.

Mr. Fazio, for 5 minutes, today.

Mr. Bingham, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Phillip Burton, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gilman, immediately prior to adoption of the Regula amendment to H.R. 7584 in the Committee of the Whole today.

Mr. Derwinski, prior to vote on Harris amendment to H.R. 7584 in the Committee of the Whole today.

(The following Members (at the request of Mr. Dougherty) and to include extraneous matter:)

Mr. Findley in three instances.
Mr. Lewis in two instances.
Mr. Quayle.
Mr. Kemp in three instances.
Mr. Gradison.
Mr. Solomon in two instances.
Mr. Walker.
Mr. Wampler in two instances.
Mr. Derwinski in four instances.
Mr. Grisham in two instances.
Mr. Hopkins.
Mr. Snyder.
Mr. Broomfield.
Mr. Archer.
Mr. Green.
Mr. Paul.
Mr. Clinger.
Mr. Lagomarsino.
Mr. Ashbrook in three instances.
Mr. Carter.
Mrs. Fenwick.

(The following Members (at the request of Mr. Coelho) and to include extraneous matter:)

Mr. Simon in two instances.
Mr. Nolan.
Mr. Pease in two instances.
Mr. Waxman in two instances.
Mr. Hamilton in two instances.
Mr. Addabbo.
Mr. Stump.
Mr. Dan Daniel.
Mr. Beard of Rhode Island.
Mr. Davis of South Carolina.
Mr. Ashley in two instances.
Mr. Yatron.
Mr. Hance.
Mr. Won Pat.
Mr. Murphy of New York.
Mr. Edwards of California.
Mr. Moorhead of Pennsylvania in two instances.
Mr. Pepper.
Mr. Ambro.
Mr. McDonald in three instances.
Mr. Rose.
Mr. Sharp.
Mr. Rodino.
Mr. Mazzoli in two instances.
Mr. Maguire.
Mr. Moakley.
Mr. AuCoin in three instances.
Mr. Bingham in five instances.
Mr. Baldus.
Mr. Hubbard.
Mr. Stark in two instances.
Ms. Mikulski.
Mr. Harris.
Mr. Chappell.
Mrs. Collins of Illinois.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1795. An act to authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1796. An act to authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2185. An act to authorize the acceptance and use of bequests and gifts for disaster relief; to the Committee on Public Works and Transportation.

S. 2387. An act to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute; to the Committee on the Judiciary.

S. 2767. An act to provide that per capita payments to Indians may be made by tribal governments, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2801. An act to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility"; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 2492. An act to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes;

S.J. Res. 180. Joint resolution to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 181. Joint resolution to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT

Mr. STRATTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 47 minutes p.m.) the House adjourned until tomorrow, Thursday, July 24, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4881. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a study has been conducted of the hospital linen control function at the Air Force Academy, Colorado, and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4882. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to Australia (Transmittal No. 80–78), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Armed Services.

4883. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Jordan (Transmittal No. 80–82), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Armed Services.

4884. A letter from the Chairman, Commission on the Review of the Federal Impact Aid Program, transmitting a special report of the Commission; to the Committee on Education and Labor.

4885. A letter from the President of the United States, transmitting a report on progress toward the conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 96–346); to the Committee on Foreign Affairs and ordered to be printed.

4886. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to Australia (Transmittal No. 80–78), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4887. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Jordan (Transmittal No. 80–82), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4888. A letter from the Clerk, U.S. Court of Claims, transmitting a certified copy of the court's judgment order No. 184, *The Fort Peck Indians of the Fort Peck Reservation* v. *The United States*; to the Committee on Interior and Insular Affairs.

4889. A letter from the Secretary of Housing and Urban Development, transmitting the final report on the residential energy efficiency standards study, pursuant to section 253 of Public Law 95–619; to the Committee on Interstate and Foreign Commerce.

4890. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of May 1980, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

4891. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Board's midyear monetary policy report, pursuant to section 2A of the Federal Reserve Act, as amended (92 Stat. 1897); jointly, to the Committees on Banking, Finance and Urban Affairs and Education and Labor.

4892. A letter from the Comptroller General of the United States, transmitting a report on administering the steel trigger price mechanism (ID-80-15, July 23, 1980); jointly, to the Committees on Government Operations and Ways and Means.

4893. A letter from the Commissioners, U.S. Commission on Civil Rights, transmitting a report on the constitutional issues involved in extending equal employment opportunity laws to legislative branch employees, pursuant to section 104(c) of Public Law 85-315, as amended; jointly, to the Committees on the Judiciary and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANLEY: Committee on Post Office and Civil Service. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96-1185). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANLEY: Committee on Post Office and Civil Service. H.R. 6768. A bill to reform the process for the selection and oversight of administrative law judges, and for other purposes; with amendment (Rept. No. 96-1186). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY (for himself, Mr. Breaux, and Mr. Forsythe) (by request):

H.R. 7798. A bill to amend the Fishery Conservation and Management Act of 1976 to provide for representation of the Northern Mariana Islands, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 7799. A bill to give effect to the Protocol Amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington on March 29, 1979; to the Committee on Merchant Marine and Fisheries.

By Mr. CORCORAN:

H.R. 7800. A bill to amend the Fair Labor Standards Act of 1938 to remove the restriction on the employment in certain occupations of individuals below the age of 18 who are high school graduates and who have received appropriate vocational education in such occupations; to the Committee on Education and Labor.

By Mr. DORNAN (for himself, Mr. Bennett, Mr. Paul, and Mr. Bafalis):

H.R. 7801. A bill to reduce the salaries of Members of Congress and top-level officials in the executive branch by 5 percent, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DOWNEY (for himself, Mr. Hollenbeck, Mr. Hughes, Mr. Bonior of Michigan, Mr. Guarini, Mr. Green, and Mr. Andrews of North Carolina):

H.R. 7802. A bill to amend the Tariff Schedules of the United States with respect to the rates of duty on ephedrine, racephedrine, and their salts; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 7803. A bill to impose quotas on the importation of automobiles, trucks, and certain engines for a 5-year period; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 7804. A bill relating to tax treatment of qualified dividend reinvestment plans; to the Committee on Ways and Means.

By Mr. NEDZI (for himself, Mr. Thompson, and Mr. Brademas):

H.R. 7805. A bill to authorize appropriations for the American Folklife Center for fiscal years 1982, 1983, and 1984; to the Committee on House Administration.

By Mr. NOLAN:

H.R. 7806. A bill to provide for monetary and commodity stabilization, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Banking, Finance and Urban Affairs, Rules, Government Operations, and Foreign Affairs.

By Mr. WON PAT:

H.R. 7807. A bill to provide for the adjustment of status of certain Vietnam evacuees residing in Guam; to the Committee on the Judiciary.

By Mr. McDONALD:

H.J. Res. 588. Joint resolution directing the President to use the resources of the Armed Forces to halt the illegal importation of drugs into the United States; to the Committee on Armed Services.

By Mr. HUGHES (for himself, Mr. Whitehurst, Mr. Kildee, and Mr. Russo):

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress with respect to Cyprus; to the Committee on Foreign Affairs.

By Mr. NOLAN (for himself and Mr. Weaver):

H. Con. Res. 386. Concurrent resolution to establish a Joint Select Committee on Monetary and Commodity Policy; to the Committee on Rules.

By Mr. YATRON (for himself, Mr. Ireland, Mr. Guyer, Mr. Gilman, and Mr. Lagomarsino):

H. Con. Res. 387. Concurrent resolution with respect to the independence and integrity of the people and Government of Jamaica; to the Committee on Foreign Affairs.

By Mr. APPLEGATE:

H. Res. 747. Resolution to express the sense of the House of Representatives that the Congress shall formulate and the executive branch shall implement a comprehensive and intensive rehabilitation industrial program designed to correct current economic adversities in the basic steel industry, and for other purposes; jointly, to the Committees on Government Operations and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. EARLY presented a bill (H.R. 7808) for the relief of Claire Hontz, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 34: Mr. Cheney.

H.R. 35: Mr. Cheney.

H.R. 1180: Mr. Wylie.

H.R. 1918: Mr. AuCoin.

H.R. 5225: Mr. Andrews of North Dakota, Mr. Nichols, Mr. Santini, Mr. Edwards of Alabama, Mr. Brinkley, Mr. Jenkins, Mr. Spence, Mr. Burlison, Mr. Breaux, Mr. Fish, and Mr. Bonker.

H.R. 5382: Mr. Hyde, Mr. Kildee, Mr. Lederer, Ms. Oakar, Mr. Tauke, and Mr. Walgren.

H.R. 5475: Mr. Symms.

H.R. 5610: Mr. Clausen, Mr. Hammerschmidt, and Mr. Ritter.

H.R. 6358: Mr. Collins of Texas.

H.R. 6640: Mr. Young of Florida.

H.R. 6690: Mr. Applegate.

H.R. 6722: Mr. Gilman, Mr. Howard, and Mr. Kostmayer.

H.R. 7023: Mr. Gore, Mr. Stack, Mr. Gingrich, Mr. Brinkley, and Mr. Corcoran.

H.R. 7245: Mr. McDonald, Mr. Hubbard, Mr. Whitehurst, and Mr. Stenholm.

H.R. 7290: Mr. Rahall, Mr. Duncan of Tennessee, Mr. Applegate, Mr. Dougherty, Mr. Wampler, Mr. Mollohan, Mr. Bailey, Mr. Hubbard, and Mr. Mr. Gray.

H.R. 7332: Mr. Blanchard.

H.R. 7334: Mr. Hinson, Mr. Lent, Mr. Duncan of Tennessee, Mr. Sebelius, Mr. Simon, Mr. Mineta, Mr. Rinaldo, Mrs. Holt, Mrs. Fenwick, and Mr. Dannemeyer.

H.R. 7548: Mr. Evans of Georgia, Mr. Ireland, Mr. Mitchell of New York, Mr. Richmond, and Mr. Hopkins.

H.R. 7568: Mrs. Schroeder, and Mr. Leach of Iowa.

H.R. 7594. Mr. Lagomarsino and Mr. Derwinski.

H.R. 7624: Mr. Yatron.

H.R. 7773: Mr. Collins of Texas and Mr. Loeffler.

H.J. Res. 300: Mr. Fithian.

H.J. Res. 338: Mr. Grassley.

H.J. Res. 492: Mr. Collins of Texas.

H.J. Res. 580: Mr. Benjamin, Mr. Forsythe, Mr. Bonior of Michigan, Mr. Davis of Michigan, and Mr. Hughes.

H. Con. Res. 354: Mr. Murphy of Pennsylvania, Mr. Charles Wilson of Texas, and Mr. Fithian.

H. Res. 525: Mr. Beard of Tennessee, Mr. Edwards of Alabama, Mr. Emery, Mr. Flippo, Mr. Goodling, Mr. Hillis, Mrs. Holt, Mr. Hughes, Mr. Marks, Mr. McDade, Mr. McKinney, Mr. Moore, Mr. Rinaldo, Mr. Shuster, Mr. Tauzin, Mr. Vander Jagt, and Mr. Wyatt.

PETITIONS, ETC.

Under clause 1 of rule XXII,

396. The SPEAKER presented a petition of the City Commission, Belle Glade, Fla., relative to Cuban and Haitian refugees, which was jointly referred to the Committees on Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7631

By Mr. COUGHLIN:

—On page 8, line 19, strike "$675,000,000" and insert in lieu thereof "$500,000,000".

By Mr. FLORIO:

—Page 15, line 14, strike out "$529,838,000" and substitute "$539,838,000".

Page 15, line 18, before the period insert: "and not to exceed $10,000,000 shall be available for purposes of assistance under section 4008(a)(2) of the Solid Waste Disposal Act (42 U.S.C. 6948(a)(2))".

By Mr. MILLER of Ohio:

—Page 46, line 1, add:

Sec. 411. Of the total budget authority provided in this Act, for payments not required by law, 2 percentum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

EXTENSIONS OF REMARKS

INTERSTATE MINING COMPACT COMMISSION REPORT

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. HANCE. Mr. Speaker, I wish to call to the attention of the Members the report of the Interstate Mining Compact issued during its annual meeting May 19-22, 1980, in Tulsa, Okla.

The report contains many very interesting points made by its member States. The following is a portion of that report featuring statements by some of the States represented.

The report follows:

INTERSTATE MINING COMPACT COMMISSION REPORT

PREAMBLE

Believing it has a responsibility to express its position on important energy matters affecting not only the member states but the nation as a whole, the Interstate Mining Compact Commission makes the following declaration:

Foreign dependence on crude oil supplies has reached dangerously high levels in the United States over the last few years.

If coal is to become one of this nation's primary keys that can be used to unlock the door to America's vast future energy supplies, then obstacles to all-out production must be removed at an accelerated rate.

The Interstate Mining Compact Commission views the bulk of existing national energy regulations as over-burdensome and counter-productive.

This Compact compares the nation's critical energy position to that of a sinking lifeboat, in which some are trying to "bail water and plug up the holes" while others are busily "polishing the deck and hanging up curtains."

Many states are experiencing a severely depressed coal market.

Some producing states must both import and export coal because of certain environmental restraints.

Some mining companies have waited as long as a year for approval to mine.

More than 20,000 coal miners are now out of work. The small independent operator is giving up and going into bankruptcy.

Climatic and geological conditions in our various states differ—this is a diverse nation. But inflexible federal regulations often do not permit nor attempt to recognize those differences.

States simply must be permitted to mine their coal and trade it in an open, free market—with an absolute minimum of interference from federal rulemakers.

Against this background, the individual compact members by state express the following concerns:

OHIO

Recognizing the gravity of the energy dependence, our nation faces as a result of federal laws, regulations and policies and the critical social, economic and national security problems which will put the future independence of the United States in jeopardy;

Recognizing the short term solution to the U.S. energy dilemma is doubling coal production forthwith;

Recognizing that Ohio is primarily dependent on our most abundant and cheapest energy form, coal, for our economic well-being;

The State of Ohio, through its membership in the IMCC respectfully requests the following energy policies be adopted by President Carter and the Congress:

1. Pass emergency legislation to prioritize and mandate conversion to coal with sufficient economic incentives to accomplish the goals;
2. Reassessment of Air Quality Laws and Regulations to enable Ohio to burn Ohio coal; and
3. Reduce federal control and interference with coal production by passing Senate Bill 1403, currently pending before Congress, and writing regulations as mandated by PL 95-87 to take into consideration local geologic-climatic and economic variables.

KENTUCKY

As one of the nation's leading coal producing states, we make the following statements as a result of our true concern over this nation's energy situation:

1. Due to this nation's dangerous dependence on foreign oil we must again stress the need for renewed commitments for increased use of coal.
2. In order to stimulate a sound coal industry and a willingness for private industry to utilize coal, our commitment must be backed at all levels of government. A thorough commitment must be demonstrated.
3. A reasonable approach to environmental concerns must be taken. It is our belief that mining coal and protecting the environment are not incompatible goals.
4. The Office of Surface Mining must seek, along with states, the most reasonable approach. Flexibility in regulations and recognition of states' individual problems must be accepted as "reasonable" by OSM.

Kentucky's economy is greatly dependent on coal. The health and welfare on Kentucky's citizens greatly depend on a sound, environment. We must work with both the industry and with environmental concerns to meet a "reasonable approach."

TEXAS

Prior to the passage of the federal "Surface Mining Control and Reclamation Act of 1977," the surface mining regulatory program in Texas had been praised as being one of the most thorough in the country. In June of 1977 a report prepared for Senator Henry Jackson's Committee on Energy and Natural Resources stated: "In comparison to other state laws on surface mining and reclamation the law enacted in Texas would have to be considered to be one of the most comprehensive and most stringent."

Yet in spite of this finding the surface mining regulatory program in Texas had to be completely revamped in order to accommodate the national level program. Refusal to do so would have resulted in the creation of a second regulatory program with duplicate bureaucratic responsibilities in Texas.

A new law was passed by the Texas Legislature and new regulations were adopted. More than a year and hundreds of man-hours were spent in recreating a regulatory program. The cost to this country's taxpayers to disrupt an established program without the addition of significant environmental protection has been immeasurable. The recreation of a regulatory program in a state simply to comply with a national program (1) contributes to inflation, (2) adds to uncertainty, and (3) impedes the intelligent development of this country's energy resources.

Coal currently accounts for more than 30 percent of this country's fossil fuel reserves, but supplies only 18 percent of the country's energy needs. At a time when the President is calling for the reinstitution of draft registration in order to provide for this country's national security, and at a time when the President is calling for a national commitment to convert to coal in order to reduce our vulnerability to the whims of the oil exporting countries, the State of Texas has been forced to aesthetically remodel its regulatory program. Our efforts could have been better expended by developing the production of our coal reserves and encouraging conversion to coal.

Concurrently the State of Montana has chosen a myopic approach to its best interests and the nation by imposing an exorbitant severance tax on coal production within that state. The effect of the tax is to discourage its production within the state and to impede coal conversion in other states.

The leaders of this country must recognize that this country's national security can be protected by encouraging the development of the vast energy resource found here at home. They must also recognize that unnecessarily burdensome regulations and shortsighted policies that develop exorbitant severance taxes are counter-productive to this objective. The State of Texas strongly supports Senate Bill 1403 and House Resolutions 6625 and 6654. The House resolutions would place a 12.5 percent ceiling on state imposed severance taxes on coal.

PENNSYLVANIA

The coal industry in Pennsylvania is very depressed as it is in many coal-rich states. At a time when the nation is experiencing an energy crisis, coal production in Pennsylvania is at one of its lowest points. This situation can be attributed to a lack of markets because of high sulfur coal, inadequate transportation facilities, coke imports, and the overall effects of a spiraling inflation rate and a recession.

In order to reduce our national dependence on foreign oil and to increase the utilization of domestic energy resources, there must be affirmative and dramatic national energy policies. Oil-burning boilers must be converted to coal utilization and export markets must be developed. In the face of rising OPEC prices, the technology for utilizing coal and transporting coal to markets must be developed now. Pennsylvania and the other coal-rich states can make the U.S. the "Saudi" for the coal buyers of the world.

The Nation's commitment to coal must be made quickly and concentrated effort on a national level is needed to insure a plentiful supply of our domestic energy resources.

The federal government must increase its activities to enable an expansion of produc-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tion and use of coal reserves. The search for syn-fuels and other energy alternatives is commendable; however, some of the basic industry problems also must be solved. Instead of searching for alternatives alone, federal dollars must be provided to improve rail-haul facilities, to improve harbor facilities, and to develop other transportation modes. Low interest loans and tax incentives must be provided for the installation of air pollution control equipment on utility and industrial boilers. Federally funded research is needed and must be accelerated to develop sulfur-removing coal cleaning processes and to develop technology for the clean burning of coal.

There are not any overnight solutions to these problems, but coal can be king if the commitment is made for coal now.

OKLAHOMA

We in Oklahoma believe that this nation needs a comprehensive and cohesive energy policy utilizing all varied sources of energy to make us independent of foreign oil. The federal government has adopted a seemingly contradictory policy of increased coal production, but at the same time the regulatory constraints are becoming more and more stringent. At present, almost all of Oklahoma's coal is shipped out of state where it can be burned for power generation—and Oklahoma has to import coal from Western States. This situation has created a soft market which has resulted in excess supplies and high unemployment in our state. It is affecting the small operators, who comprise two-thirds of Oklahoma's operators. Unless federal help is provided, these small and marginally profitable operations will be wiped out.

We take a strong position that:

1. Sulfur dioxide emission standards should be relaxed, at least in Oklahoma, to permit the utilization of Oklahoma's coal in Oklahoma. We believe our air quality has enough absorbing capacity to allow burning of Oklahoma's coal for power generation and still maintain safe and hazard-free air quality within the state.

2. S.B. 1403 should be enacted, which will allow Oklahoma and other states to implement their own rules and regulations in compliance with PL 95-87.

3. In order to alleviate the current excess supplies of coal and strengthen the market in the future, we encourage the federal and state governments to actively promote coal as an export product.

4. There is a need to unhinge bureaucratic constraints from the utilization of the "Small Operator Assistance Program" in order to generate technical data and make it available to the small operator at no cost.

MARYLAND

A. Congress should expedite the initiative to (1) convert oil and gas burning utilities to coal and (2) accelerate the production of coal based synthetic oil and gas.

B. Congress should exercise its oversight powers to (1) examine and modify the policies, regulations, and programs related to the transportation of coal—such as Interstate Commerce Commission rate structures and port development facilities to insure that transportation facilities are not a constraint to the export of coal, (2) examine and modify the laws and regulations administered by the Office of Surface Mining and the Environmental Protection Agency which constitute an impediment to increased production and utilization of coal without resulting in social, economic or environmental benefits—including those procedural requirements which create barriers to entry/re-entry into the coal industry.

C. State public utility commissions should examine and modify policies—such as fuel adjustment clauses that represent economic deterrents to conversion from oil and gas to coal.

INDIANA

Consideration of the distinct differences between the coal producing states by the United States Congress is apparent by the prominent language in the preamble to the federal "Surface Mining Control and Reclamation Act of 1977." The Office of Surface Mining has relegated their charge to assist the states in incorporating these differences within a state's program to an obscure provision called the "state window."

The OSM mandates by regulations that differences be justified by inflexible conditions regardless of the prudence of such a change. With all of OSM's technical expertise, the states must bear the burden of proof, often when the variation rationally needs no justification.

TENNESSEE

The State of Tennessee is concerned that a balanced approach to mining and reclamation be pursued and maintained. Federal reclamation regulations should allow for some flexibility in development of state procedure and regulations. Federal reclamation personnel should promote and assist states in development of state programs designed to meet those individual state concerns as well as general uniformity to minimum national standards. Federal grants to the states are being issued or withheld to require total and complete conformity to federal positions and approaches. Issues under discussion become terms to be met or the federal grant monies are withheld.

ARKANSAS

Poor market conditions, stricter regulations, and imported coal and coke are some of the contributing factors to the depressed coal industry in Arkansas. It is incredible that this nation is facing the most serious energy shortage in its history and is not making use of an obvious immediately available, alternate source of energy—COAL.

Although Arkansas is not considered a large producer of coal, it can produce much more if some constraints are eased and the proper stimulus applied. One way to stimulate production in Arkansas and many other Central and Eastern States is to make our coal competitive with foreign coal in the domestic marketplace. With spiraling inflation and regulatory constraints adversely affecting domestic coal production, it is extremely unfair to allow foreign subsidized coal to undercut domestic coal producers.

It is highly contradictory for the federal government to tell the coal industry to increase coal production by 80 to 90 percent, and at the same time impose so many costly regulations on the coal industry that it becomes not only difficult to produce, but difficult to sell or compete with other energy sources.

VIRGINIA

Virginia's coal fields are unique in that 95 percent of the coal is situated on slopes greater than 20 degrees. The current inflexible federal laws and regulations do not recognize our different geologic and topographic conditions. The Commonwealth believes the passage of S.B. 1403 will correct many inefficiencies of the federal "Surface Mining Control and Reclamation Act of 1977" and the regulations promulgated thereunder.

Virginia must have the latitude to mine coal in such a manner to enhance production and protect the environment.

Virginia fully supports the National objective to be energy independent. For example, Governor John N. Dalton has directed that all new state facilities must burn coal. Virginia encourages its sister states and the federal government to follow its lead in the utilization of coal as the primary energy source.

SOUTH CAROLINA

South Carolina is concerned about the future of our nation. We seem to rock back and forth from prosperity to depression; from war to temporary peace without any plan and very little sign of stability. Now we are having extreme hardships partly because of the Governmental rules and regulations including unreasonable environmental protection requirements and no workable plan to solve our energy needs. We must take immediate steps to become independent from other nations for sources of energy.

The energy problem, including price is everybody's and one everyone should be involved in finding solutions.

WEST VIRGINIA

Coal is the most plentiful and available fossil fuel resource in America.

The domestic coal industry possesses the capability to immediately expand production capacity to meet any increased needs.

If the United States is to once again regain its status as an independent and secure world power, it is imperative that utilities and industries presently burning oil be immediately converted to use domestically produced coal.

With President Jimmy Carter emphasizing the need for America to replace imported oil with coal as a primary boiler fuel, the average American would think that steps would be underway to streamline the federal government bureaucracy to encourage this important conversion to coal.

To date, however, such steps have not been taken by an elected or appointed federal official. The conversion of utilities and industrial boilers to coal is more difficult and onerous today than ever before.

Therefore, to facilitate the increased use of coal, the harness of federal government regulation pertaining to the production, transportation, and use of coal in this country must be made more practical, reasonable and consistent. In order to accomplish this goal the State of West Virginia, being one of the leading coal producing, as well as consuming, states in the nation, feels the following actions must be immediately undertaken by Congress and the Administration and their accomplishment is critical to the well-being of America.

1. To bring reason and practicality to the implementation of PL 95-87 by the Department of Interior's Office of Surface Mining, the United States House of Representatives must immediately approve S.B. 1403, as it was passed by the United States Senate. West Virginia heartily endorses this bill as a vehicle to encourage the states to maintain their enforcement programs meeting the needs of PL 95-87 as well as the diverse and local needs of their particular jurisdictions.

2. The Congress and the Administration must immediately undertake action to consolidate federal governmental activities which are consistent and supportive of the important conversion from oil to coal. For instance, the U.S. Environmental Protection Agency's allegation that increased fossil fuel burning will accelerate the acid rain problem is totally without factual substantiation and data support. The State of West Virginia calls for the immediate investigation of the causes of acid rainfall by the Environmental Protection Agency. And further we call for the Environmental Protec-

tion Agency to take no new actions or implement additional requirements on fossil fuel users as a result of these unsupported allegations.

3. The United States Environmental Protection Agency be mandated to establish reasonable, practical, and definitive guidelines for the air quality control of utilities and industries desiring to convert to coal. The persuasive nature of their regulations and programs must be rectified so as to encourage investment and financial commitment toward the conversion to coal.

4. The entire federal government and Congress must consolidate efforts to insure consistency in providing meaningful incentives to encourage utilities and industries to convert to coal. This must include repeal and amendment of the numerous regulatory hurdles of the Environmental Protection Agency's existing programs.

5. The State of West Virginia calls for immediate efforts to expand this nation's ocean port facilities which are necessary for the exporting of American coal. Incentives must also be provided to the major transportation companies in this nation so that inland freight rates can be made more reasonable, inland freight efficiency be increased, and rail car availability be more dependable.

6. That Congress undertake immediate amendments to the Clean Water Act of 1977 so as to set specific time limitations on the United States Environmental Protection Agency which would mandate a decision regarding a coal mining operation's application for a New Source NPDES permit within sixty days.

That such amendments prohibit United States Environmental Protection Agency from exercising any punitive action against the coal mining operation which has satisfied all application requirements but which has not received a New Source NPDES permit because of the United States Environmental Protection Agency's inaction.

LOUISIANA

Louisiana, in addition to being a major energy producing state, is a leading consumer of energy. As the State looks toward meeting a growing portion of its future energy needs with alternative energy resources, including coal from local sources and other states, we are vitally interested in assuring that the legal and regulatory policies of the federal government favor the development and utilization of these domestic energy supplies. The growing web of federal regulatory authority that affects both the production and utilization of coal and other mineral resources is a grave concern to the state. Many of the regulatory procedures are burdensome, unnecessary and wasteful in terms of compliance efforts and cost of enforcement. In addition, federal laws tend to ignore significant differences in the physical characteristics of the various states resulting in serious problems in applying federal regulations.

The State of Louisiana strongly urges a significant change in national policy toward greater autonomy for the states in regulating resource production and utilization. A continuation of present trends in contradictory and unmanageable federal regulatory policies will further cripple the nation's ability to use our dependable domestic resources. Unless this change occurs soon, the Nation will not have resource options available at the time they are needed.●

INTRODUCTION OF LEGISLATION TO PROVIDE FOR ADJUSTMENT OF STATUS OF CERTAIN VIETNAMESE EVACUEES RESIDING IN GUAM

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. WON PAT. Mr. Speaker, I am introducing a bill today to allow adjustment of status for certain third country nationals who have been residing in Guam since their evacuation from Vietnam by American forces in 1975.

In the 5 years since these individuals came to Guam with the direct assistance of the United States, they have become productive members of the territorial community. While a few of the original group achieved status and adjustment through various legal means, such as marriage to American citizens, the majority—approximately 123,000—have remained on Guam in indefinite parole status under section 212(d)(5) of the Immigration and Nationality Act. They were ineligible for inclusion under the Indochinese Refugee Act of 1975 (Public Law 94-145) because they were from countries other than Vietnam—primarily from Korea, but also India, Taiwan, and the Philippines. The United States could not repatriate them to their home countries because our current law, which I believe is soon to be amended, requires return of aliens to the countries from which they came directly to the United States, not to their countries of origin.

The third country nationals carry alien registration cards marked to allow them to work and travel freely within the United States. Most of them were involved in business activities connected with the American presence in Vietnam. They include carpenters, painters, electricians, mechanics, heavy equipment operators, accountants, and several in other categories of occupations. In leaving Vietnam, they lost their worldly goods and immediate means of support. While many required some public assistance early in their Guam residence, only a very few are still on the public rolls. The great majority have found employment and established useful lives on the island. A couple even operate their own businesses which provide employment for local citizens.

Now that these third country nationals have established themselves on Guam and begun to achieve some economic self-sufficiency, it would be a hardship for them to uproot themselves once more and begin all over in their native countries. It is my understanding that the Immigration and Naturalization Service would like to resolve this status question and thereby be able to terminate the indefinite parole status. I therefore hope and ask for the Congress quick and favorable action on my status adjustment legislation.

Thank you.●

CONGRESS CONSIDERS A TAX CUT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, July 23, 1980, into the CONGRESSIONAL RECORD:

CONGRESS CONSIDERS A TAX CUT

A tax cut has become all but inevitable. Jimmy Carter, Ronald Reagan, and leaders in the Senate in both parties have all expressed their interest in and support of a tax cut. Most economists believe it may be needed if only to help offset the increases in taxes, energy prices, and inflation over the past two years. These increases constitute a massive drag on the economy that could dampen recovery from the recession. Also, virtually everyone agrees that businesses must have more incentive to invest.

There are differences among the various proposals, as one might expect, but a consensus in support of some form of tax relief has developed very rapidly both in Washington and in the nation at large in recent weeks. The real questions under discussion have to do with the size, timing, and distribution of the tax cut. The main concern is how to enact it in a way that does not make the problem of inflation worse.

At the moment there is no clear agreement on who should get the benefits of the tax cut. Should we follow the usual practice of giving individuals two-thirds of the benefits, with the remaining one-third going to business, or would a "fifty-fifty" split be better? Just which businesses should benefit from the tax cut? Timing is another important factor. A tax bill passed now would have no effect on the economy until next year. At this point in time it could not lessen the severity of the recession, but could only affect the course of the recovery that follows. The number of legislative days before the scheduled adjournment of Congress on October 4 leaves little time in which to draft a complex tax measure. Moreover, many economists fear that if Congress takes up a tax bill now, the "psychology of inflation" would be revived, financial markets would be unsettled, and interest rates would soar as they did earlier this year.

We must take great care with interest rates. Tax rates and interest rates seem to be on a see-saw these days: when one goes down the other goes up, and vice versa. Holding interest rates down is probably more important than cutting taxes. Lower interest rates would be very beneficial in promoting economic growth and achieving higher levels of employment. Farmers, small businessmen, people who build and buy houses, and all those engaged in the automobile industry would be helped.

The central problem of a tax cut is its potential effect on inflation. A tax cut should also be skillfully drawn so that it will work over the long run. A crash program to push the economy out of recession is probably not necessary because the basic conditions for recovery from the recession already exist. Ideally, a tax cut should serve several purposes: it should boost investment and productivity in the business sector; it should reward restraint in wages and prices; it should offset both the inflation-induced increase in income taxes and the legislated increase in social security taxes scheduled for 1981; it should prevent the recession from worsening.

There is much argument as to whether a tax cut would be inflationary. Some contend that a tax cut would drive wages and prices up sharply because it would pump enormous amounts of money into the economy, giving consumers and businesses more cash to spend. Others claim that the inflationary impact of a tax cut would be blunted if the federal government trimmed spending, dollar for dollar, in an effort to avoid any unintended stimulation of the economy. Most economists agree that in the short run, at least, a one-time tax cut of any kind most likely would not cause inflation. Indeed, a moderate reduction would barely make up for the tax increases that result from inflation.

Not everyone thinks that Congress should be talking about a tax cut. There are respected voices, such as that of former Federal Reserve Board Chairman Arthur Burns, who say that any legislation to cut taxes is premature. Mr. Burns is flatly opposed to the writing of a tax bill during an election campaign. Furthermore, many legislators are asking themselves whether Americans really want a tax cut at the present time. Politicians and pollsters alike sense just the opposite feeling among large groups of voters. These voters are convinced that a tax cut in the near future would simply fuel inflation. In my own poll of Ninth District residents, I asked whether they thought the federal government should-cut taxes in 1980 to stimulate the economy even if that action would enlarge the budget deficit. About 52 percent said there should not be a tax cut. Only 32 percent said we should have one.

What a tax cut finally does will depend in large measure on how people evaluate its effect on inflation. If they think that inflation has been cured by the recession, the tax cut will be seen as a positive step. If they think that the tax cut signals an abandonment of the fight against inflation, it will be seen as a blow to the already unstable economy.

There is no way to determine how people will interpret Congress' tax-cutting mood. The more thoroughly the tax cut is debated, the more people will understand its purposes. The more its long-term, supply-increasing aspects are emphasized, the more people will regard it as anti-inflationary.●

HONORING ITALIAN AMERICAN HERITAGE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. MURPHY of New York. Mr. Speaker, on June 28, 1980, I attended a ceremony given by the Associazione Nazionale Marinai D'Italia, Gruppo Amerigo Vespucci, which commemorated 35 years of Italian Armed Forces resistance for the liberation of Italy.

On that day we gathered to honor 50 Italian Army officers who, while here in the United States between 1943 and 1945, helped plan the Allied effort for the liberation of Italy. But, theirs is only one page in the story of Italian liberation. Behind those 50 stood countless thousands of Italian Armed Forces personnel and Italian citizens who fought and died serving the resistance. Rarely do a people unite in such a worthwhile cause. That cause demanded the ultimate sacrifice and their response was immediate, unflinching, and fervently patriotic. If it had not been for that response millions of Italians might not be alive today.

The pride and courage exemplified by these Italian resisters burns brightly in the hearts of every Italian American. We in the 17th District are fortunate enough to call many of these Americans our friends. Recently, in tribute to two of the greatest of their ancestors, a site within our district was named to the National Register of Historic Places. The site, located at 420 Tompkins Avenue in the Rosebank section of Staten Island, is known as the Garibaldi Memorial and was the home of Giuseppe Garibaldi, famous Italian freedom fighter of the 1800's, and Antonio Meucci, pioneer in the field of telecommunications. Both Garibaldi and Meucci lived in the Gothic-styled home during the latter half of the 19th century. The memorial contains priceless artifacts reminiscent of the unification period in Italian history. The house is now owned by the Sons of Italy of America and is operated as a museum.

In a world that too often forgets its past it is fitting that we hold fast to important reminders. The Garibaldi Memorial reminds us of a spirit that drove men to sacrifice their lives so that others might be free. That spirit awakens the past, enriches the present and gives hope to the future.

It is that spirit that makes me proud to represent such an accomplished and committed people. The recent distinction given the Garibaldi Memorial helps us to remember all Italians and the contributions they have made to this country and the world. For us in the 17th District it is a chance to remember and cherish those we love.

I am confident that Italian Americans in our community and throughout our country will continue to build on their rich heritage. It is heartening for us to know that we now have recognition of that heritage.●

GOVERNMENT AS LAWBREAKER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. EDWARDS of California. Mr. Speaker, I bring to the attention of my colleagues an editorial that recently appeared in the San Jose Mercury on the Supreme Court's recent opinion in United States against Payner. The Court's decision, along with several other recent opinions, significantly narrows the exclusionary rule. This rule has been one of the primary tools for curbing Government abuse of citizens' constitutional rights and maintaining the integrity of our judicial system.

The editorial reflects the views of those who are concerned about the preservation of civil liberties and constitutionally guaranteed rights in this country, and as such I commend it to the attention of my colleagues:

GOVERNMENT AS LAWBREAKER

In three separate cases last month, the U.S. Supreme Court broadened considerably a 'prosecutor's ability to nail a defendant with illegally obtained evidence.

We find the trend disturbing because it suggests the highest court in the land is edging close to an anything-goes approach to law and order. We fear where that can lead.

In a pair of 7-2 decisions, the court came down hard on the so-called "exclusionary rule," which provides generally that a person can't be convicted on evidence the police or the prosecutor broke the law to get. Taken together, these decisions narrow a criminal defendant's ability to challenge the evidence against him.

The justices said, in effect, that police don't need a search warrant to seek and find incriminating evidence not on a suspect's person or under his control. The cases involved drugs found in a suspect's girlfriend's purse and stolen checks in a suspect's mother's home. Now, apparently, the evidence is admissible in court wherever and under whatever circumstances the cops happen to find it.

That seems to strain the Fourth Amendment's prohibition against unreasonable search and seizure a bit, but it is nothing compared to what the court did in a third decision, United States v. Payner.

In that case, decided 6-3 on June 23, the Supreme Court said, in effect, prosecutors can bring tainted evidence into court so long as the defendant's rights aren't directly trampled in the process. The circumstances of Payner are truly outrageous. Briefly, this is the case:

The Internal Revenue Service suspected an Ohio businessman named Jack Payner of keeping unreported income in a Bahamian bank and hired a private investigator to get the facts. The investigator with the full knowledge and cooperation of the IRS, stole a briefcase belonging to an officer of the bank. Documents in that briefcase led the IRS to still another bank and, ultimately, to a loan guarantee agreement that was the chief evidence against Payner in his trial for falsifying a federal tax return.

A federal district court found Payner guilty on the basis of all the evidence but suppressed the government's clincher, the loan guarantee agreement, because it had been obtained by a flagrantly illegal search of the banker's briefcase. The judge then set aside the conviction because without the agreement the government couldn't prove Payner knowingly falsified his tax return.

The government appealed and the Sixth Circuit Court of Appeals upheld the trial judge. Last month, the Supreme Court reversed, on the ground that Payner's Fourth Amendment rights weren't violated because it wasn't his briefcase the government stole and rifled.

"No court," wrote Justice Lewis Powell for the majority, "should condone the unconstitutional and possibly criminal behavior of those who planned and executed this 'briefcase caper' (but) the interest in deterring illegal searches does not justify the exclusion of tainted evidence at the instance of a party who was not the victim of the challenged practices . . ."

Chief Justice Warren Burger, in a separate concurring opinion, conceded the government walked all over the banker's constitutional rights and cautioned the IRS against making third-party burglary a preferred way of getting at tax cheats. As Burger put it:

". . . the exclusionary rule is inapplicable to a case of this kind but that should not be read as condoning the conduct of the IRS 'private investigators' as disclosed by this record, or as approval of their evidence-gathering methods."

It shouldn't be so read, but the danger is that it will be read just that way. Certainly the court provides ample incentive for reading it that way when it refuses to suppress evidence gathered in precisely this manner.

That's only half the problem, though, as Justice Thurgood Marshall observed in his 15-page dissent. "The rationale for . . . suppression of evidence," Marshall wrote, "is two-fold: to deter illegal conduct by government officials and to protect the integrity of the federal courts . . . The Court has particularly stressed the need to use supervisory powers to prevent the federal courts from becoming accomplices to such misconduct . . ."

Then, Justice Marshall cited perhaps the most eloquent and succinct expression of this principle ever enunciated by a Supreme Court justice.

In 1928, in his famous dissent in Olmstead v. United States, Justice Louis D. Brandeis wrote:

"Decency, security and liberty alike demand that government officials shall be subjected to the same rule of conduct that are commands to the citizen. In a government of laws, existence of government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face."

That was true in 1928; it's still true in 1980.●

ECONOMIC SITUATION OF AMERICAN FARMER

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. QUAYLE. Mr. Speaker, the President's grain embargo has unquestionably worked a grave hardship on the most productive segment of our economy—the American farmer.

At a time when there had been a bumper crop—indeed a record crop in some areas—the Government stepped in and pulled the rug out from under our farmers.

Shortly after the grain embargo was announced, and prices took a nosedive, the farmer was faced with yet another problem caused directly by an action of the Carter administration: Interest rates went through the ceiling.

In the midst of the embargo and 20-percent interest rates; rail strikes and rail bankruptcies were adding to the problems of many Midwest farmers.

Hog and cattle prices fell sharply, and predictably, many farmers decided that it was no longer possible to continue so they sold out, causing a drop in the value of land and equipment.

All of these ingredients have combined to make for a disasterous situation in farming today.

Even without considering the weather, which—although I would also like to blame on the administration—would be granting it more power than I believe it deserves, most farmers agree that it has been the capricious actions of the President and his advisers which have led the entire agricultural community into the serious economic situation in which it finds itself.

The initial reaction of farmers to the embargo announcement was one of patriotism: If that's what the President thinks is best for the country, then we'll do our part.

However, it quickly became clear that agriculture was being expected to not only do its part, but the part of all other segments of the economy as well.

Aside from the athletes who were not permitted to compete in the Olympics, no group has been so severely affected by administration responses to the Soviet invasion of Afghanistan as agriculture.

Several weeks ago the President issued an Executive order which allowed the large grain companies to reopen trade with the Soviet Union so long as they did not sell American grain.

It is a fair question to ask: Who is being hurt by this order and who is being helped?

Clearly, the Soviet Union is not being hurt. The Russians, if they have ever felt any effect from the embargo, will now feel less.

The grain companies are free to go into the world market and buy grain from Canada, South America, France, and Australia and sell it to the Russians.

The administration can tell the American people that it is still following a tough policy with respect to the Russians.

The only group left out of the deal is the American farmer—the farmer who has planted fencerow-to-fencerow at the urging of this same administration.

The farmer who has been hit by high interest rates, by low prices, and by world events, none of which is under his or her control.

The farmer who had been forced to substitute credit for cash flow, only to see the credit markets dry up.

The farmer who is in the untenable position of having to buy his land, equipment, supplies, fertilizer, seed, and manpower at retail, while being forced to sell the fruits of his labor and his land at wholesale.

It is the feeling of many farmers that President Carter's grain embargo will cast a shadow over the fields of America for a decade.

We should never have permitted the American farmer to become a tool of the State Department or of the National Security Council.

The embargo should be lifted, and pending that, this Congress should withhold funds used in its administration.●

STAYING OUT OF SOMALIA

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. SIMON. Mr. Speaker, our colleague, Representative STEPHEN J. SOLARZ of New York, who has provided exceptionally fine leadership for the House and the Nation on the Foreign Affairs Committee and particularly in regard to Africa, which is the jurisdiction of the subcommittee which he chairs, had an article which appeared in the New York Times recently which I am inserting in the RECORD.

He suggests some very practical reasons for not having a military base in Somalia.

In addition to the reasons which he provides, I think there is an even greater overriding reason for not having a base in Somalia or at any other place in Africa. In January I had the opportunity to visit in Libya. I do not need to tell my colleagues in the House that our relations with Libya are not the finest. I hope that our relationship with that country can improve.

But one of the reasons for the present difficulty is that the United States did have a military base in Libya and the government then in power was accused of being a lackey and puppet of the United States. I believe that that charge almost inevitably will be made in any country in Africa today.

The result not only hastened the demise of a government that was basically friendly, but pushed succeeding leaders in a direction of having to prove to their own people that they were not subservient to the United States.

The role of the United States in Africa should be to be helpful, to foster stability, to reduce tensions, and to do all of it in a low-key way. In this same connection, I am not pleased to read about the multistory U.S. Embassy that is planned in Cairo, Egypt. My guess is that we will rue the day that we made a decision for that kind of an ostentatious presence in that great and good country.

I urge my colleagues in the House and Senate who have not read the Somalia statement of STEVE SOLARZ to do so.

STAYING OUT OF SOMALIA

(By Stephen J. Solarz)

WASHINGTON—The Administration's recent moves to expand United States military facilities on the Indian Ocean island of Diego Garcia, and to obtain new ones in Oman and Kenya, make a good deal of sense.

The United States clearly needs these facilities if it is to offset the military advantage that the Soviet Union, following its occupation of Afghanistan, now possesses because of its even closer proximity to the Persian Gulf. Without the capability to respond rapidly and effectively to any Soviet military action in this region, the United States simply cannot ensure that it will be able to maintain the flow of vitally needed oil through the Gulf in a future conflict.

Yet the main threat to United States interests in the Persian Gulf is an internal rather than an external one. It would be a serious mistake if, in shoring up our military capabilities in the region, we overlooked the potential political problems that threaten the legitimacy of existing regimes in the area, as the situation in Iran has painfully illustrated.

Not without trepidation, the Carter Administration has also attempted to improve our strategic position in the region by seeking military facilities in the turbulent Horn of Africa. The current negotiations for the acquisition of facilities for the United States in Somalia show, however, how a preoccupation with small but concrete military assets can threaten to divert policy makers' attention from the larger, if less tangible, political, economic and strategic interest at stake.

The proposed facilities at Berbera in Somalia would undoubtedly be useful for naval reconnaissance and refueling, pre-positioning of supplies, and logistical support for possible United States naval and air operations in the Gulf of Aden and the Red Sea. But the weight of the evidence is that while Berbera would provide desirable backup strength, economy and efficiency for our armed forces, its contribution would be neither unique nor essential to the achievement of United States military objectives. If necessary, we could make do with current or planned facilities in Oman, Kenya and Diego Garcia as well as those in Egypt, Israel and other countries.

Most important, the acquisition of facilities at Berbera could enmesh us in the momentous political ramifications of an Ethiopia-Somalia war that, under existing circumstances, is much more likely than a Soviet lunge toward the Persian Gulf.

In this respect, the situation in Somalia is very different from those in Oman, Kenya and Diego Garcia. Regular Somali troops are evidently engaged in the current fighting in Ogaden, Ethiopia's southeastern province, where ethnic Somali guerrillas are waging a secessionist war. In turn, Ethiopia has threatened to carry the battle over the Ogaden into Somalia. According to knowledgeable military experts, the Ethiopians, with logistical support from their Soviet and Cuban allies, could very easily occupy important areas of northern Somalia and mount destructive attacks on Berbera itself.

Ethiopia's position on the Ogaden is strongly supported by the vast majority of African states, which view Somalia as the aggressor. They regard Somalia's claim to the Ogaden as a clear violation of one of the most fundamental principles of the Organization of African Unity: that colonial boundaries, however arbitrary, should not be altered by force.

If we established a military facility in Somalia, and the regional conflict escalated, we would then be faced with an extremely uncomfortable political dilemma. Either we would rush to Somalia's assistance, at great cost to our relations with economically and politically important African states, and with the danger of being drawn into a major military involvement in a peripheral area where the regional balance of powers would be weighed against us, or we would refuse to help Somalia, raising new doubts about our international credibility and jeopardizing our relationship with Somalia itself. Clearly it is in our interest to avoid such a Hobson's choice.

Acquiring military facilities in Somalia would, therefore, be unwise even if Somalia were prepared to accept the modest military assistance we have offered it in exchange. But the Government of Somalia has thus far rejected our proffered aid and countered with an exorbitant request for the complete equipping of its army (estimated to cost up to $2 billion over five years) and an American commitment to the security of Somalia notwithstanding its involvement in the Ogaden.

On balance, it would appear to be the better part of wisdom to forgo the acquisition of a marginally useful military facility in Somalia that would pose great risks for our African diplomacy, our overall international credibility, and our relationship with the Somalis themselves.●

CINCINNATI ACTION FOR FOSTER CHILDREN, PARENTS, AND WORKERS

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● **Mr. GRADISON.** Mr. Speaker, Cincinnati Action for Foster Children and Parents is being held August 22 through 29 by proclamation of Mayor Kenneth Blackwell, to increase public awareness of the foster care program, to commend foster parents and workers, to increase public awareness of the foster care program, and to recruit new foster parents.

The Cincinnati Foster Care Benefit Committee is a group of foster parents, foster workers, and interested people in all walks of life who are taking the responsibility for community children. They are committed to the well-being of these children, and their emotional and physical nourishment, so they may reach their maximum potential.

Under the leadership of agency director Seth P. Staples, of the Hamilton County Welfare Department, the foster care workers have given generously of their time, effort, and concern to improve the life of children in the community.

For those children who have been abused, for those who are homeless, for those who are handicapped or hard to place, foster care is a stop and respite on the way to permanent placement.

Mr. Speaker, it is indeed an honor for me to congratulate all of those involved in securing a better future for Cincinnati's children.●

DAYTON, OREG., CELEBRATES 100TH YEAR OF FOUNDING

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● **Mr. AuCOIN.** Mr. Speaker, I want to take a few moments to call to the attention of my colleagues the 100th birthday of Dayton, Oreg., and to extend an invitation to travelers and vacationers to join the citizens of Dayton in its centennial celebration on Saturday and Sunday, July 26 and 27.

Dayton was settled in the winter of 1848-49, 10 years before Oregon became the Nation's 23d State, by Joel Palmer and Andrew Smith. The pioneer settlement in the Willamette Valley was named for Dayton, Ohio, Andrew Smith's former home.

What was the attraction of the Oregon country that persuaded the pioneers to embark on a 4- to 6-month trek over the 2,000-mile-long Oregon Trail? From the chronicles of the early explorers and from the descriptions of missionaries, the East learned of the hospitable climate, the generous rainfall, the fertile soil, and the potential for commerce in Oregon.

In the East there had been a great depression from 1837 to 1848. There was an opportunity for a better life in Oregon. And so the settlers came, beginning in 1841 with the great wagon trains. Soon the broad Willamette Valley was dotted with settlements. In 1848, a great gold rush in California created a ready market for crops and lumber, and the Oregon settlements prospered.

The Dayton Post Office was established in June 1851 with Christopher Taylor as postmaster. Today in Dayton, a monument to the pioneer days stands in the city park and is Dayton's principal landmark. It is the Grande Ronde blockhouse, built by Willamette Valley settlers on Fort Hill in the Grande Ronde Valley. There Federal troops established Fort Yamhill in 1856. Fort Yamhill was abandoned as a military post in the 1860's, and the blockhouse was moved to the Grande Ronde agency. Later the agency, too, was abandoned by the Government and the blockhouse fell into disrepair.

Fearing the building would disappear, John G. Lewis, a patriotic citizen of Dayton, obtained permission in 1911 to move the logs to Dayton. There the blockhouse was rebuilt and dedicated to Joel Palmer, cofounder of Dayton and donor of the city park.

Mr. Speaker, over the past century floods, fires, and hurricanes have tried to destroy this plucky town, but each time her citizens have rallied and rebuilt their community.

The Dayton Centennial Commission is winding up a full year of preparation for the celebration. As befits the occasion, it will be an old-fashioned affair, with a parade, a town picnic, a band concert, a street dance, and a softball tournament.

The citizens of Dayton extend an invitation to everyone to join them in celebrating this milestone in Oregon history.●

THE CITY OF MIAMI OBSERVES CAPTIVE NATIONS WEEK

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. PEPPER. Mr. Speaker, I would like to call to the attention of the House and our colleagues today the attached proclamation by Mayor Maurice Ferre of the city of Miami, Fla., urging all Miamians to join in "recognizing the valiant efforts and burning desires of many peoples of the world to know the joy of freedom."

Let us especially hope and pray that Afghanistan, a poor, but proudly independent nation in spirit, will find surcease from its present suffering under the cruel reality of Soviet occupation, fighting and killings, or worse, which are now being carried on in an effort to make that country more closely dependent upon the overwhelming might of the Soviet Union, which borders on Afghanistan. So far the Afghans have resisted the invaders, who bring modern machines and gases to bear upon the poor mountain fighters, who use rifles and pistols against tanks. Let their spirit and determination give them courage to overcome the cowardly attack upon their sovereignty by the overwhelming Soviet weapons.

I commend to you the following text of Miami's proclamation, in sympathy with all the captive nations subjugated under Communist tyranny, until now, and longing to be free and unshackled from the chains of their unscrupulous foe—the U.S.S.R. Government and its tyrannical ruling committees:

> Whereas the world and all its people are not "free" as long as any country and its people are subjugated and enslaved by oppressive governments and other nations, such as Afghanistan, much of Central Europe and others under communist domination; and
>
> Whereas recent history has shown the desire for liberty and independence is worldwide and that the United States is still regarded by much of the world's population as the citadel of human freedom; and
>
> Whereas a strong dedication to freedom and public expression of support can emphasize to national and world leaders the commitment of the people of the United States to the concept of human rights; and
>
> Whereas this is an appropriate opportunity for the people of Miami, whether native American or refugee from oppression, to join in ceremony and prayer in marking Captive Nations Week: Now, therefore,
>
> I, Maurice A. Ferre, Mayor of the City of Miami, Florida, do hereby proclaim the Week of July 13 through 19, 1980, as Captive Nations Week.
>
> In observance thereof I urge all residents of Miami to join with me in recognizing the valiant efforts and burning desires of many peoples of the world to know the joy of freedom with which Americans are blessed and dedicate ourselves to speaking out for liberty and independence everywhere in the world.
>
> In witness whereof I hereunto set my hand and cause the seal of the City of Miami to be affixed.
>
> Done in the office of the Mayor of the City of Miami, Florida.●

THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Ms. MIKULSKI. Mr. Speaker, on Thursday, July 17, 1980, a truly historic event took place in Copenhagen, Denmark, when the United States joined more than 50 nations in signing the Convention on the Elimination of All Forms of Discrimination Against Women.

Ratification of the Convention is now up to the President, of course, with the advice and consent of the Senate. Meanwhile, all of us can be proud that our country was among the initial signers of a statement that speaks to the condition of women all over the world.

Two women in particular should be recognized on this occasion: Koryne Horbal, U.S. delegate to the United Nations Commission on Women for the past 3 years, who worked so hard to develop this document and to win the approval of the General Assembly last December; and Sarah Weddington, Special Assistant to President Carter and Cochair of the U.S. delegation to the U.N. Mid-Decade Conference for Women, who actually signed the Convention for the United States.

The text of Ms. Weddington's remarks at the signing ceremony follows:

> For the United States, signing the Convention on the Elimination of All Forms of Discrimination against Women is a most meaningful experience. As you recall, the adoption of the Convention by the UN General Assembly on December 18, 1979, was the culmination of a lengthy and difficult negotiating process, during which the United States actively supported this international instrument designed to achieve the elimination of discrimination against women.
>
> The United States is a party to certain earlier human rights treaties relating to the rights of women, such as the Convention on the Political Rights of Women, but none of these earlier treaties attempted to deal with women's rights as comprehensively as this Convention. As the most recent of the human rights instruments, the wide scope of this Convention is particularly noteworthy and commendable in that it calls upon States Parties to take "all appropriate measures" to eliminate discrimination against women in such diverse fields of human endeavor as politics, law, employment, education, health care, commercial transactions, and domestic relations. Moreover, the Convention establishes a Committee on the Elimination of Discrimination against Women to review periodically the progress being made by States Parties. These reviews can provide the catalyst for continued progress.
>
> As might be expected in the case of a document which is essentially the product of a consensus among more than 130 sovereign States, the Convention as written contains certain language with which the United States is not fully satisfied. The tenth and eleventh preambular paragraphs, for example, are objectionable to many nations, including the United States, because they contain political rhetoric which such nations consider inappropriate for an international convention intended to impose binding legal obligations upon States Parties. For that reason the United States, together with 25 other nations, refused to approve these preambular paragraphs during the General Assembly proceedings last December. In addition, although most of the Convention's substantive provisions are fully consistent with the letter and spirit of our Constitution and domestic laws, many of the subjects covered by the Convention are matters which are reserved to the several States under the American Constitutional system, and any ratification of the Convention by the United States Government should presumably be accompanied by an appropriate reservation preserving the prerogatives of our State Governments. Prior to the transmission of the Convention to the United States Senate for its advice and consent, there will be consultations among interested government agencies, members of Congress, the human rights community, and others for the purpose of seeking a domestic consensus as to how best to achieve (through reservations, implementing legislation, or otherwise) the necessary accommodation between the Convention and our laws.
>
> Despite these concerns, the Convention is a significant and very welcome accomplishment of the United Nations system. The underlying principles of the Convention are fully consistent with the policies of the United States and the personal commitment of President Carter to make progress in bringing about the equality of men and women in our country. We hope that signature of this Convention by the United States and by so many of the other States assembled here will bring results.
>
> And may I add a word. For many women who have struggled with the United States Constitution, to add the equal rights for women amendment, this is a proud moment for us. Women were not in Philadelphia when our Constitution was drawn. It has taken us 200 years to fill the gap. The lone voice of Abigail Adams urged her husband John "to remember the ladies" but alas he dismissed her language as "saucy" and irrelevant.
>
> It is historic that there are foremothers in Copenhagen who are not saucy but serious. We cannot be dismissed. And as I sign this world document for the women of the United States, let us all be cognizant that something quite significant is in progress.
>
> One of the pens I sign with will be given to the President.

FULL POWER

> I invest Ambassador Donald F. McHenry, United States Permanent Representative to the United Nations, or Sarah R. Weddington, Assistant to the President, with full power and authority for and in the name of the Government of the United States of America to sign the Convention on the Elimination of All Forms of Discrimination against Women, the said Convention to be transmitted to the President of the United

States of America for his ratification by and with the advice and consent of the Senate of the United States of America.

In testimony whereof, I have hereunto set my hand and caused the seal of the Department of State to be affixed at the city of Washington, in the District of Columbia, this eleventh day of July, 1980.

WARREN CHRISTOPHER.●

WORLD CONFERENCE OF UNITED NATIONS DECADE FOR WOMEN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. PICKLE. Mr. Speaker, I want to thank Congresswoman MIKULSKI for putting into the RECORD the remarks Sarah Weddington made at the World Conference of United Nations Decade for Women. These remarks were made as she signed the Convention on the Elimination of All Forms of Discrimination Against Women in Copenhagen, Denmark.

In my view this marks the growing recognition not only of our fight to end all discrimination, but also of Sarah Weddington as a world figure in the battle for human rights.

Starting in Austin, in the congressional district I represent, Sarah was first a leader on the city level, then for the State of Texas, then for all of the United States, and now she is taking her place in the worldwide efforts for women rights. Frankly, the movement will be stronger for her prominence.

And, even more telling for the U.S. role in the international community right now, Sarah Weddington will bring honor and respect for the American people in her role as the "U.S. Ambassador to the World for Women Rights."

Again, I thank Representative MIKULSKI for bringing this material to the House.●

SOVIET DENTIST STILL NOT FREE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. AMBRO. Mr. Speaker, on a number of occasions I have brought to the attention of my colleagues the plight of Dr. Mark Nashpitz, a former Soviet prisoner of conscience, who has been trying to secure an exit visa in order to rejoin his family in Israel. I have now been informed of the birth of his first child, a baby boy. I am sure all of the Members of the House of Representatives join me in sending Dr. Nashpitz our best wishes not only on the health and happiness of his new son, but also in the fervent hope that he and his family will soon be allowed to emigrate to Israel so that the entire Nashpitz family may be reunited in accordance with the Helsinki agreement.

As I have mentioned on previous occasions, Dr. Nashpitz has had to contend with considerable persecution from the Soviet Government. The Government is especially adamant in its constant refusal of permission for Dr. Nashpitz to emigrate because his father defected from the Soviet Union in 1956. "The son of a defector," say the Soviet officials, "will never be rewarded." After serving an excessively long prison term, he was denied resident status for many months, without which it is impossible to obtain a visa. Even when granted residency, it was not in his home of Moscow with his wife, but in the secret city of Vladimir Oblast, the site of a secret munitions factory which offers still another excuse for the denial of an exit visa.

Mr. Speaker, as Representatives of the greatest democratic legislature in the world, we must not remain silent in the face of cases such as that of Mark Nashpitz and we must strive to see that all people are allowed to enjoy the most elemental freedoms to which every human being is entitled.●

HANDGUN CONTROL

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mrs. FENWICK. Mr. Speaker, I think it is time to talk about gun regulations, remembering the constitutional amendment that speaks to it: "A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed." We have not in this required that all who would own guns should be enrolled in the militia, or national guard, as the amendment might suggest to some strict interpreters. We have learned, however, that some regulation is wise. New Jersey, I am happy to say, has good and workable laws on the subject. I support them. I would like to see them adopted nationwide. The terrible increase in death and wounding by handguns demands action on our part.

I ask unanimous consent to include this outline of New Jersey law in the RECORD.

NEW JERSEY

DEFINITION

Firearms: any pistol, revolver, rifle, shotgun, or any other instrument in the nature of a weapon from which may be fired or ejected any solid projectile, ball, slug, pellet, missile or bullet, or any gas, vapor, or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosives substances.

Pistol or revolver: any firearm with an overall length less than twenty-six inches, or a shotgun having a barrel length less than eighteen inches, or a rifle having a barrel length less than sixteen inches.

DEALER REQUIREMENTS

Manufacturers and wholesale dealers registration: Each manufacturer and wholesale dealer of firearms must register with the superintendent of police. Each application for registration will cost $150. Each person actively engaged in the purchase or sale of firearms will be registered as a wholesaler agent at a cost of $5 per person.

Ledger: Each manufacturer and wholesale dealer must keep a detailed record of each firearm sold. Records will include the name and address of the purchaser, and a description of each firearm sold, including the serial number.

Retail dealers: License, ledger, and licenses for employees.

OWNER REQUIREMENTS

A firearms identification card for rifles and shotguns, a license to carry handguns openly or concealed.

PURCHASE REQUIREMENTS

Permit to purchase.

WAITING PERIOD

Seven days.

REGISTRATION

Partial.

RESTRICTIONS

None.

PURCHASE PROCEDURE

Anyone wishing to buy a pistol or revolver must first obtain a permit to purchase which will be issued to anyone of good character, of good repute in the community, and not prohibited by federal law from owning a firearm. When beginning a transaction to buy a handgun, a prospective purchaser must show a valid permit to purchase, proof of his or her identity, and evidence that he or she has obeyed the seven-day waiting period. In the ledger, the dealer must list the time and date of sale; the name, age, date of birth, complexion, occupation, residence, and physical description of the applicant; the name and home address of the seller; the place of transaction and the make, model, manufacturer's number, caliber, and other marks of identification on the handgun. A copy of this information will be sent to the chief of police.

Those wishing to purchase rifles and shotguns must show the dealer a firearm purchase identification card and a certificate signed by the applicant which contains the name, permanent home address, and firearms purchaser identification card number.

All persons wishing a license to carry must fill out an application form which sets forth the name, date of birth, sex, residence, occupation, place of business or employment, and physical description of the applicant. The application must be signed under oath and endorsed by three reputable persons who have known the applicant for three years and who will verify that the applicant is a person of good moral character and behavior. A set of fingerprints is required. Fingerprints will be checked with all records kept, including those of the state bureau of investigation and the FBI.

No application will be approved unless the applicant is thoroughly familiar with the safe handling and use of handguns and shows a justifiable need to carry a handgun.

MANDATORY MINIMUM SENTENCE

Any person who commits or attempts to commit a violent crime and is in possession of a firearm, whether capable of being discharged or not, shall be punished, in addition to the punishment of the crime, for the first conviction one to ten years; for the second conviction three to fifteen years; and for the third conviction ten years to life.

SATURDAY NIGHT SPECIALS

No provision.

AGREEMENTS WITH OTHER STATES

None.

STATE PREEMPTION CLAUSE

None.

MISCELLANEOUS

Pawnbrokers are not allowed to transfer firearms.

Persons may buy as many handguns as they wish; however, a permit must be filled out for each.

If a person unlawfully possesses a firearm and wishes to surrender it, he or she will not be charged with illegal possession.

New Jersey Statutes Annotated 2A:151-1 *et seq.*●

WEST POINT MADE SURE WOMEN WOULD SUCCEED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● **Mr. McDONALD.** Mr. Speaker, we all remember, during the debate on whether women should enter the military academies, of the assurances we heard that women cadets would do everything the men would do and there would be no exceptions. Such fairy tales now repose in the trash bin of history. Brig. Gen. Andrew J. Gatsis, USA (retired), who has a very distinguished combat record, wrote a very fine letter to the editor of the Army Times on this subject which sums up the situation very nicely. It appeared in the July 28 issue of the Army Times. Anyone for sexual integration of the Washington Redskins? The letter follows:

WEST POINT MADE SURE WOMEN WOULD SUCCEED

To the EDITOR:

ROCKY MOUNT, N.C.—The July 7 editorial "Soldiers Now" stated that the 61 women graduates of the U.S. Military Academy survived four of the toughest years endured by any group of cadets in the history of the Long Gray Line.

It does not surprise me to hear this same jargon that the news media and public relations syndrome have consistently been pushing since the beginning of the women's movement. This is an extravagant statement to make when the stark reality of it all is that the academy curriculum was softened from the start in order to accommodate women. Nothing has been said about lowered standards—for women cadets and in some cases for all—so that the majority of the female contingent could graduate.

Very seldom does one read that women are incapable at performing a task. It is always that they excel. How often does the public hear or read that women cadets at West Point are not required to participate in contact sports, boxing, or wrestling and that running groups are broken down in three categories which allow for less demanding standards to accommodate most of the women cadets? When does one hear about women carrying the lighter M-16 rifle rather than the heavier M-14 and that the rifle bolt spring pressure has been reduced so that the girls can execute inspection arms? It is hard to believe that cadet attitudes have changed to acceptance when the female is excused from hundreds of requirements. One such example is the Flex Arm Hang, required of women rather than the pull-ups demanded of the male cadets. This exercise calls only for hanging from the bar for a specified period of time.

The physical arena is not the only sector in which standards have deteriorated for the sake of this social experiment. Just to mention a few requirements that have been reduced to lessen stress on the female contingent: a hot breakfast is served to all on the recondo course in which one of the main training objectives is to survive and live off the land; more free time is given to all cadets, and rooms need not remain in inspection order after early morning hours. The plebe system has been relaxed and it is rumored that a proposal is under consideration for eliminating the fourth class system entirely.

The comment that "the academy made it plain to new women cadets that tolerance was not to be confused with acceptance" is rather ludicrous when the superintendent, General Andrew Goodpaster, made the following statement to his staff and faculty: "Any member who has a negative attitude toward women at the academy will be personally escorted to the door by me and given a handshake." One can imagine what impact this statement had on the members of the faculty with respect to allowing no tolerance. The fact is that the real name of the game is tolerance for the female cadet.

This should come as no surprise when the superintendent with a strong liberal background was hand-picked out of retirement by the President, an ardent feminist himself, to integrate sexually the academy regardless of the damaging effect it would have on the system. Backed up by a Pentagon which is saturated with women's libbers who give priority to the women's movement and ERA over national security, there never could be any doubt that women would graduate if those in charge at the academy wanted to keep their jobs.

And for the comment, "the ordered social experiment that many said was unworkable could indeed work." My reply to that is anything can be put together and forced to work, but the question is how well will it work? The Dallas Cowboys could be integrated sexually, but how many games do you think they would win against all-male professional teams?

The author of this editorial certainly has the right to express his opinion, for that is the essence of editorializing, but let's get the facts straight first.

ANDREW J. GATSIS,
Brigadier General, USA.●

SIXTH ANNIVERSARY OF THE INVASION AND OCCUPATION OF CYPRUS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● **Mr. DERWINSKI.** Mr. Speaker, this past Sunday, July 20, marked the sixth anniversary of the military invasion and occupation of Cyprus by Turkish forces. After 6 years, that island remains partitioned.

There was hope that President Carter would provide a diplomatic impasse to end this situation. However, the President's latest report of May 20, on what little progress has been made toward the conclusion of a negotiated solution of the Cyprus problem, revealed that there have been no breakthroughs whatsoever. This shows 4 years of neglect.

The administration's efforts to help solve this vexing problem are truly disappointing. There are no direct administration initiatives forthcoming. This is especially disturbing and not consistent with the President's 1976 campaign statement that "we would be negligent of the moral issues and courting longer range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issues."

To sum it up, the administration's handling of the Cyprus question is another sorry example of a foreign policy that is recognized throughout the world as a period of debacle for the United States.

Turkey continues to occupy and colonize 40 percent of Cyprus, in violation of the United Nations Charter, international law, existing treaties, United Nations resolutions, and the explicit provisions of the NATO Charter. Political unrest, assassinations, and economic chaos are widespread in Turkey. The administration tends to ignore these problems as well.

To add to the complications, the Turkish occupation of Cyprus is draining the treasury of the Turkish Government. In contrast, the Greek part of the island is experiencing an economic boom.

The government of Cyprus has made many offers to end the political impasse and reintegrate the area occupied by the Turkish military into the Cypriot economy. This would bring economic benefits to Turkish Cypriots.

I will continue to speak out on this issue until a solution has been achieved.●

QUESTIONNAIRE RESULTS

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● **Mr. SHARP.** Mr. Speaker, once again several thousand residents of my district in Indiana have assisted me in my legislative duties by responding to my annual questionnaire. So that my colleagues in Congress may also be aware of the views expressed, I ask that the questions and my constituents' responses be printed in the CONGRESSIONAL RECORD.

The questions and responses follow:

THE QUESTIONS AND ANSWERS IN PERCENTAGE

THE ECONOMY

1. In recent months the Federal Reserve Board has tightened the supply of credit and raised interest rates in an effort to fight inflation. Do you believe this is a correct policy? Yes, 41; No, 59.

2. If efforts to persuade Japanese auto manufacturers to build cars in the U.S. fail, would you support quotas or trade barriers to reduce the number of foreign cars sold in the U.S.? Yes, 69; No, 31.

3. Several changes which may directly affect you and your neighbors are being considered as part of the effort to cut federal spending and balance the budget. Do you favor:

a. Cutting the federal subsidy for the school lunch program, causing non-needy parents to pay 5¢ to 15¢ more for their children's meals ($160 million spending cut)? Yes, 70; No, 30.

b. Eliminating Saturday mail delivery ($588 million spending cut)? Yes, 66; No, 34.

c. Ending revenue sharing grants to State government ($2.4 billion spending cut)? Yes, 56; No, 44.

4. Given the continuing need to fight inflation, which, if any, of the following proposals do you favor to reduce unemployment:

a. Reducing interest rates? Yes, 76; No, 24.

b. Cutting personal income taxes to increase purchasing power? Yes, 73; No, 27.

c. Cutting business taxes to provide incentives for investment? Yes, 60; No, 40.

d. Increasing spending for public service jobs? Yes, 23; No, 77.

e. Increasing tax breaks for individual saving? Yes, 82; No, 12.

f. Doing nothing, letting higher unemployment help stop inflation? Yes, 12; No, 88.

5. Do you believe it is possible to increase defense spending, balance the budget, provide a tax cut this year? Yes, 34; No, 66.

6. Do you favor higher support prices or similar measures to help offset the decline in prices received by farmers since the Soviet grain embargo? Yes, 45; No, 55.

7. Should we relax protections against air pollution and acid rain to encourage utilities and industries to convert their plants from oil to coal? Yes, 62; No, 38.

8. Controls on domestic oil prices are being gradually removed, and the price of oil produced in the U.S. will rise to the world price set by OPEC countries. This will bring U.S. oil companies an estimated $1 trillion in additional revenues over the next 10 years. Do you favor the "windfall profits" tax recently passed by Congress to capture an additional 23 percent of this money for emergency fuel assistance to low-income people, for energy and transportation programs, and for future general income tax cuts? Yes, 71; No, 29.

9. The President has proposd an import fee on imported oil which he claims will discourage such imports. The fee is expected to increase the cost of a gallon of gasoline by 10 cents. Do you support such a fee? Yes, 23; No, 77.

10. In 1975 Congress passed an amendment I proposed requiring Detroit to raise the average gas mileage of new cars to 27.5 miles per gallon by 1985. Suggestions are now being made to increase this requirement to 40 miles per gallon or more by 1995. Do you favor this approach to saving energy and making U.S. cars more competitive with foreign imports? Yes, 81; No, 19.

FOREIGN POLICY AND DEFENSE

11. As part of the U.S. response to the Soviet Union's aggression in Afghanistan, President Carter decided to prevent the export of additional American grain and high technology, and to boycott the summer Olympic games in Moscow. Do you support:

a. the grain and technology embargo? Yes, 89; No, 11.

b. the Olympic boycott? Yes, 82; No, 18.

12. Do you support the President's proposal to increase defense spending by 3 percent above the rate of inflation during each of the next five years? Yes, 81; No, 19.

13. Do you favor a naval blockade of Iran's ports and oil fields or other military action against Iran at this time? Yes, 60; No, 40.

14. Do you believe the United States should accept large numbers of refugees from Cuba? Yes, 17; No, 83.

15. Do you believe our allies in Western Europe and Japan are bearing their fair share of our mutual defense efforts? Yes, 6; No, 94.●

LCDC

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. MOAKLEY. Mr. Speaker, I am privileged today to call to the attention of my colleagues the 15th anniversary of the Language and Cognitive Development Center, Inc., of Jamaica Plain, Mass. This unique organization, devoted to the overall, individual development of children who are emotionally disordered or brain-injured, many of whom are considered hopeless by the rest of society, was begun in 1965 by Dr. Arnold Miller and his wife, Eileen Eller-Miller. I would like to express my sincere congratulations and thanks to the Millers for their 15 years of tireless and dedicated service to these special children. I would also like to share with my colleagues, the following article from the Jamaica Plain Citizen honoring the anniversary of the Language and Cognitive Development Center and telling of their excellent program and its many accomplishments:

[From the Jamaica Plain Citizen, July 3, 1980]

GREAT THINGS ARE HAPPENING AT LCDC

The Language and Cognitive Development Center, Inc. (LCDC) located at 11 Wyman street in Hyde Square's old Wyman School, is celebrating its 15th anniversary this year. The occasion has been recognized by Governor Edward J. King, who proclaimed the period February 25-March 2, 1980 as "LCDC Week" throughout the Commonwealth of Massachusetts.

The non-profit organization headed by Dr. Arnold Miller, a psychologist, and his wife, Eileen Eller-Miller, a speech pathologist, was established in 1965 to help the development of children who are emotionally disordered or brain-injured. Some were once considered hopeless.

Last year, the U.S. Bureau of Education for the Handicapped singled out the organization by giving them a three year, $223,918 grant, which provided funds to demonstrate and disseminate the center's cognitive-developmental approach with children. LCDC's methods are considered an alternative to traditional approaches for identifying and intervening with low incidence disordered children. The grant also furthered LCDC's use of new video-based methods to develop rapid evaluation and intervention with the children.

The impetus in 1965 for the one-room operation which the Millers opened up as the Language Development Center on Beacon Street, Boston, was not a pleasant one. For years, as Dr. Miller describes it, he and his wife had been frustrated by traditional methods of treating children.

"Many times," he wrote, "we had seen severely disordered children with their intense faces, endless ritual-bounding on trampolines, prayerlike rocking and alert but empty glances.

"Often, we had walked through the children's sleeping quarters and seen boys and girls silently bounding from wall to wall, running back and forth across highly waxed floors in rooms empty but for bureaus and beds. And we had repeatedly confronted the resistance and custodial stance of those directing institutions until gradually we decided to build our own program and center. In this setting, we resolved to enhance children's chances of becoming functioning human beings," Dr. Miller said.

Central to operations is LCDC's school program geared for children ages two through eight who have not developed the ability to communicate but who can see, hear, walk, climb and carry objects. The school curriculum is designed to help them progress from understanding simple requests to expressive use of sign and spoken language and, finally, to reading, writing and arithmetic, as well as awareness of space, time and the conditions required for their own survival and self-maintenance.

The school, which currently enrolls 30 children features:

—Parents as indispensable allies in all work with their children. LCDC's outreach program also regularly extends the school's day program into a child's home and neighborhood.

—Upset and disordered behavior is dealt with non-punitively in the classroom, said Dr. Miller.

—Treatment evaluation and program adjustments occur for each child bimonthly—not as a static "annual review"—due to the newly developed video feedback system, says Dr. Miller. This closed circuit TV system allows tracking and video-taping of a child's behavior at the center. The equipment permits the center to advance beyond current methods of assessing and intervening with disordered children.

—A sign and spoken language program is used with nonverbal children in developing their speech and language.

—A "symbol accentuation program" establishes reading and writing for previously unteachable children, says Dr. Miller.

—The elevated board system developed at LCDC teaches the children body awareness and a sense of their own capabilities.

—LCDC also operates a clinic between the hours of 8:30 a.m. to 5:00 p.m. which has occasional vacancies. The school has a waiting list.

The clinic program, licensed under the Massachusetts Department of Public Health, combines therapeutic with educational approaches to meet the special needs of each child, said Dr. Miller. An emotionally disordered child does not have to go to one therapist for emotional problems and to another for language or reading problems.

"The same staff worker is trained to deal with both areas in the same session. The result is often more rapid educational and emotional gain for the child at substantially greater cost-effectiveness," said Dr. Miller.

Mothers and fathers meet weekly in individual or group sessions with a staff member to discuss common problems and methods of coping with and helping their child.

The clinic also employs a bilingual Spanish-speaking staff. Children may be referred to the clinic by hospitals, other clinics, pediatricians, teachers, parents and others.

Recognition of LCDC's work has been forthcoming from such organizations as the American Psychological Foundation (which commended the center's 27 minute film, "Edge of Awareness") and the Mental Health Association of the U.S.

The center's school program has been approved by the Boston School Committee. LCDC has also been approved as an accredited school eligible for funding under Public Law 766 and it is licensed as a freestanding clinic under the Massachusetts Department of Public Health. It has established its own Medicaid contract with the Massachusetts Department of Public Welfare. The center is also an approved facility for third party funding.

To carry out in part the demonstration purposes of the three year grant from the Federal Government, the Center, in 1979 created a Speakers Bureau which offers professional lectures from LCDC and an opportunity to view *Edge of Awareness*—both to in-house training groups and to the general public. Organizations interested in such a program may contact Seddon Wylde at the Center for further information, 522-5434.

In summarizing the situation at LCDC today, the Millers stated that: "At this stage we find that almost all our children benefit significantly from the combined efforts of our staff and parents—some more than others. Many children who would have previously been institutionalized can now stay with their families. Some who were mute can now use signs to indicate their needs. Some who had only gestures can now communicate through spoken language. And, for the first time, this year we have five of our 30 school children scheduled for normal school programs which they will enter while functioning at or beyond the grade norms.

"We fully expect LCDC to continue its innovative path and accomplishments in the future, thanks to a dedicated staff, as well as the understanding and help of advisers and many friends."●

TRIBUTE TO HARRY POOLE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. WAXMAN. Mr. Speaker, on August 16, 1980, the western region, American Associates of Ben Gurion University of the Negev, will honor Harry Poole, executive vice president of the United Food & Commercial Workers Union (UFCW) in Los Angeles. The dinner will celebrate the naming of a chair in Harry Poole's honor at the Hubert H. Humphrey Center for Social Ecology of Ben Gurion University in Israel. This is a center where future Israeli leaders participate in a special training program in the fields of education and public administration.

Harry Poole was born in Bridgeville, Del., January 5, 1915. He grew up in Philadelphia where he was graduated from Olney High School in 1933. Immediately upon graduation he enrolled in night courses in merchandising at the Charles Morris Price School while working during the day. This also marked the beginning of his long and varied association with the labor movement.

Harry Poole was one of the first two officials of the Amalgamated Meat Cutters chosen to study at the Harvard University trade union program of the graduate school of business administration. He has served in almost every capacity in union affairs since he began as a shop steward in local 195 in Philadelphia. Working through the ranks as committeeman, business representative, delegate, organizer, negotiator, he became international vice president of the Amalgamated Meat Cutters Union in 1944. Since the 1979 merger of this union with the Retail Clerks Union he has served as the executive vice president of the newly created United Food & Commercial Workers (UFCW)—the largest single union in the AFL-CIO. He has been a member of the executive council of the AFL-CIO since December 1977. The scope of his labor and labor-management activities has brought him national and international recognition. Among his many assignments he has served as a delegate on an international level at Geneva-based union conferences of the International Union of Food & Allied Workers' Associations, as a member of the Industry-Labor Council of the White House Conference on Handicapped Individuals, member, Labor Sector Advisory Committee for Multilateral Trade Negotiations, to mention only a few.

It is appropriate that Harry Poole's name be linked with the legacy of Hubert H. Humphrey—since both represent lifelong commitment to bringing dignity and security to the lives of working men and women. Harry Poole's career exemplifies the accomplishments and goals which the Humphrey Center of the Ben Gurion University hopes its graduates will attain. The Center seeks to find solutions to such basic human needs as helping people of different backgrounds and beliefs live and work together in productive and peaceful existence, and improving educational standards in underdeveloped countries. The success of this research will benefit not only Israel but the world community.

I ask the Members to join with me in congratulating Harry Poole on his years of accomplishment and to wish him continued health and success in the future.●

NICARAGUA CONTINUES TO MARCH LEFTWARD—FREE SPEECH IS VANISHING

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. McDONALD. Mr. Speaker, recent statements and protestations by administration spokesmen notwithstanding, the evidence of Nicaragua's leftward march under the Sandanistas continues. The most recent evidence of this is the confiscation of television channel 2, a privately owned television network in Nicaragua. Channel 2, incidentally was the only independent channel in Nicaragua. The only other station—channel 6—was operated by the Somoza family. What follows is the letter I received from the president of channel 2 explaining his situation, as well as a copy of a letter to the Association of Television Companies of Central America and Panama:

KEY BISCAYNE, FLA.,
July 14, 1980.

HON. LARRY MCDONALD,
Cannon House Office Building,
Room 504, Washington, D.C.

DEAR REPRESENTATIVE MCDONALD: On June 18, 1980, Atelcap (Association of Television Companies of Centro America and Panama) debated and passed the enclosed resolution. This resolution denounces the Sandinista regime of Nicaragua for their unlawful and anti-capitalistic actions. Specifically, the resolution addressed the confiscation of Channel 2, a privately-owned television network in Nicaragua, without due process or redress. The confiscation of Channel 2 by the Sandinistas is without legal, lawful or moral justification and is a direct threat to the basic human right of freedom of speech throughout Central and South America.

Channel 2 was founded in 1964 by the family of the undersigned, and the undersigned has been its Chief Operating Officer since 1964 and its President since 1970. During the entire history of the operation of Channel 2, it was a free and democratically operated television network, whose only commercial competition was Channel 6, the television station owned by the Somoza Family. Channel 2 at no time actively participated in the Somoza Government or in any way gave aid or comfort to the Somoza regime.

Despite the foregoing, the Sandinistas on July 19, 1979, upon taking over the Nicaraguan Government, also took control of Channel 2 without reason or explanation. To this day, the owners of Channel 2 have never been advised of what legal basis the Sandinista Government is relying on for their actions, nor has any attempt been made to compensate the owners of Channel 2 for the confiscation of their property.

This matter is brought to your attention because of the critical nature of the relationship between the United States Government and Nicaragua, and the substantial aid package that is being offered to the Nicaraguan Government. The aid package is based on a Congressional finding that such aid is merited. Congressman Jim Wright, who toured Nicaragua, reported that the Nicaraguan Government is a free and democratic country. That report flies in the face of all reality as evidenced by the attached resolution and the contents of this letter.

The actions of the Sandinista regime in this instance is in direct contravention of the United States Government's human rights policy. The clear pattern being followed by the Sandinistas is that of the Castro regime where massive confiscation of private industry and violation of human rights occurred without compensation or due process of law.

I would be happy to personally discuss this situation with you and to present any documentation you feel necessary regarding this matter. Your immediate attention is appreciated.

Very truly yours,

OCTAVIO A. SACASA,
President, Channel 2.

Enclosure

JULY 18, 1980.

DEAR SIRS: I hereby respectfully call to your attention the following agreement reached during the last meeting of the Association of Television Stations of Central America and Panama, regarding Televicentro Channel 2 in Nicaragua.

We have been advised, and it has been confirmed that since that very day the new Government of Nicaragua was installed on July 19, 1979, it took possession by force of Channel 2 Televicentro in Nicaragua, and of Radio Station A.B.C., which operated inside the same building, private enterprise companies of independent character and separate from the Somoza Government.

It is our duty to raise our protest before all Nations, as a warning voice, since this abuse of authority signifies an open violation of the freedom to broadcast free thought, aside from the appropriation of private property. We have no doubt that in moments of national emergency the authority of a State can take under its control any means of communication for reasons of security; but this is a measure, as well as Martial Law or the suspension of constitutional guarantees, that by its very nature must be temporary. It is a fact that in the case of Channel 2 Televicentro in Nicaragua and in Radio Station A.B.C., this appropriation has been prolonged for more than ten months, without any explanation of its legal motivation, and that the Government of Nicaragua is not only directing and managing these companies entirely, including their subsidiaries, with a value of over thirty million cordobas, in all its extension and complexity, but it has also fired previous employees, even taking control of the accounting books and of the corporation books containing the stock certificates, which it has been enjoying, and collecting the corresponding payments. The Companies and subsidiaries affected have not received a single cent pursuant to this appropriation, nor even a written explanation about this measure, and they have not been advised by the Government about appropriation or expropriation. All appearances and public statements by the authorities, give the appearance that these companies have arbitrarily been placed under the power and dominion of the State.

Although it is true that at the moment the Revolution succeeded a Law of National Emergency was published on July 22, 1979 which in its Article 8 stated that "the means of collective communication could be put pursuant to a State of Emergency, to the service of the ends pursued by the State", this disposition of Article 8 was expressly voided by Decree of the National Board of Government number 51 of August 21, 1979, by which all radio stations of Nicaragua not appropriated were returned to their owners, with the sole special exception of Channel 2 Televicentro and Radio Station A.B.C. After rescinding the Decree of National Emergency regarding the means of communication the Government of Nicaragua has no right to illegally retain and continue to occupy that television station and that radio station. And as to the means of public communications, the law in Nicaragua in its Articles 6 and 8 guarantees the "full standing of all Human Rights of the Universal Statement, of the Interamerican Statement, etc.," and Article 8 of that Fundamental Statute specially stresses the unrestricted liberty of thought, both oral and in writing, regulated by the special law. And afterwards, by Decree No. 383 of the 29th of April, 1980, the Law of National Emergency was totally voided, which makes this illegal appropriation of the only means of private television that there was in Nicaragua more unlawful.

We believe that this appropriation is a flagrant and serious violation of one of the basic liberties of democracy, which is the liberty to broadcast free thought, and it affects the republican constitutional system. Our Federative Institution, which contains all the Television Companies of Central America and Panama, specifically states its formal and strong protest for this outrageous violation of the law, and of the legal system. The occurrence of this appropriation in Nicaragua is a harmful example that can be repeated in any other nation, and damage our own interests, as it has occurred in the case of Nicaragua.

We specially address the authorities of the Government of Nicaragua who openly proclaimed, at the triumph of the Revolution, that they would uphold, as a fundamental principle, the liberty to broadcast free thought and the security of private enterprise which was not contaminated with the Somoza regime. They have not only failed to fulfill their promise to the Nicaraguan people and the other nations, specially in this Continent in this particular case, but they have betrayed the rights of those companies and of all of their stockholders, executives and employees.

Very truly yours,

JOSE J. ORTIZ PACHECO,
President, A.T.E.L.C.A.P.●

WHAT IS RIGHT WITH THE U.S. MILITARY

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. ROSE. Mr. Speaker, there has been mounting concern over the reported shortcomings of our military in maintaining equipment, retaining skilled personnel, and in other areas. There is cause for remedial action, including an immediate increase in pay for our soldiers.

But while we consider the rash of reports of military problems, we are losing sight of what is right with our armed services. I refer to the detailed account in Time magazine, issue of July 28, of the excellence of the XVIII Airborne Corps and the 1st Brigade of the 82d Airborne Division in conducting the largest U.S. mass parachute jump in history.

Time magazine commented that "injuries had been expected to run as high as 1 percent—2,640 paratroopers jumped—but the rate was less than half of that, only 11 in all; the most serious was a shoulder separation. All but 5 percent of the force landed on target and began moving out."

The report observed that "if war or the threat of war were to come in the Persian Gulf area, these paratroopers likely would be the U.S. spearhead."

Participating paratroopers are stationed in Fort Bragg, N.C., in the district that I represent. I have had the opportunity to meet with officers and men of the XVIII Airborne Corps and the 82d Airborne Division. America can be proud of their devotion to duty, exemplary courage, and highly developed skill. We must demonstrate our pride by constant review of their needs—above all, their pay.

Following is the article from Time magazine.

IN FLORIDA: JUMPING WITH THE 82D

(By Don Sider)

He feels the giddiness deep in his gut: an amalgam of excitement, anticipation and, he admits only to himself, a touch of fear. His unit has just been alerted for a mass jump. With each ritualistic step from now until he is back on the ground, the giddiness will return. That is part of all this, a part the Paratrooper likes best.

The largest U.S. parachute drop in peacetime wafted down onto the sandy scrubland of Florida's panhandle early one morning this month: 2,640 soldiers leaping from 20 huge C-141 jets, along with three more planeloads of Jeeps and other heavy equipment. They came from the XVIII Airborne Corps and the First Brigade of the 82nd Airborne Division at Fort Bragg, N.C. If war or the threat of war were to come in the Persian Gulf area, these paratroopers likely would be the U.S. spearhead.

He feels the inner electricity again during the intense hours of refresher training that precede every jump. The sessions are like a football team's pregame warmup, insurance that the jumpers are sharp and ready, that in an inherently risky venture, risk will be held to a minimum. They trigger his adrenalin.

The scenario for this exercise has a small friendly nation, "Granna," under attack by forces from two of its neighbors, "Holguin" and "Kupa." Granna requests assistance. The President sends U.S. troops.

Late in the afternoon, the Paratrooper is trucked with the others to barracks alongside the airfield at Fort Bragg. Here they will spend the night. But first their jumpmasters must check them in and assign them positions for the drop. It is a long, dull procedure, and the Paratrooper smiles when he thinks how much like a flock of sheep or a herd of cows they all are—passive, oblivious to the time and space they occupy, psychically removed. In their minds many of them are, like himself, already in the plane or stepping out of it. As one of the guys says: "When you see yourself going through the door, all the hassles disappear."

The paratroopers are to seize an airstrip 10 km from the jump site so that, in a real war, thousands more could fly in aboard transport planes. On the way, they will engage two companies of "Aggressors," played by other units from the 82nd Airborne and the Air Force.

The men are finally dismissed at 7:30 p.m. By 8 most are in bed; the day ahead will start at 4 a.m. The Paratrooper lies there thinking of what his brigade commander, Colonel Charles Ferguson, said that afternoon: "It's exciting. You get up for it. You have to do everything right. If you jump from 1,000 ft. and your parachute doesn't open, you hit ground in eight seconds." The Paratrooper does not sleep well, and he suspects most of the others do not either.

If this had been the real thing, the First Brigade would have been in the air within 18 hours of the signal to go. The 82nd, two other Army divisions and one Marine division are the ground combat element of the Rapid Deployment Force. Because paratroopers are able to land anywhere with maximum speed and surprise, the 82nd is always at the ready.

At 6 a.m., the Paratrooper draws his chutes—the main, worn on the back, and the small reserve, which will ride on his chest. "Put 'em on," orders the jumpmaster, and the Paratrooper and a buddy help each other, threading the straps, snapping the hooks, fitting each item by the book. An officer pokes and tugs and checks every item, again by the book, then slaps the Paratrooper on the rump and says, "O.K." It is light now, and the Paratrooper stares with amusement at the troopers around him. Their faces, like his, are smeared with camouflage grease paint, blending with their mottled uniforms and helmet covers, as in some military minstrel show. The order to board the plane snaps him from his reverie. "The only way down now will be to jump," he says to himself, just as he has said to himself with every takeoff before every jump.

Lieut. General Thomas Tackaberry, commander of the XVIII Airborne Corps, was the first man out of the first C-141. Standing in the drop zone, he said the mass assault had a dual purpose. It tested how well the Army and Air Force could carry off such a huge troop movement (very well with a brigade, but a whole division is so much larger that there may be barely enough planes to deliver it across the sea). The exercise did something for the individual paratroopers as well. Said Tackaberry: "Psychologically, it helps a man to know he's part of a big unit." Every jump is a revalidation, a reassurance that the paratroopers are special.

Aboard the C-141, the Paratrooper, jammed among his equipment-laden buddies, drifts into and out of sleep. Twenty minutes from the drop zone, the final commands begin. Then he is out the door and into the clear sky, counting aloud, "One thousand, two thousand, three thousand, four thousand." His chute is snatched open by the rushing air, and he drifts toward the ground.

One V formation after another of C-141s lumbered 1,000 ft. overhead at 125 m.p.h., spewing parachutists from both sides, as escort planes darted above them. It was an explosion, an inundation, a blizzard of men from the sky, lasting less than five minutes.

The Paratrooper hits the ground and rolls into a proper landing fall. It is a good jump, a good landing. He looks up at the dense cloud of green parachutes, and he explodes with joy. "You are bea-u-ti-ful!" he screams. "Bea-u-ti-ful!"

Injuries had been expected to run as high as 1 percent, but the rate was less than half of that, only eleven in all; the most serious was a shoulder separation. All but 5 percent of the force landed on target and began moving out.

In the 92° Florida sun, the Paratrooper shoulders his 60-lb. rucksack and his M-16 rifle and joins his squad. The jump is a mere memory. Here on the ground, there is soldiering to do.●

A CHAPTER IN YUGOSLAV HISTORY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. DERWINSKI. Mr. Speaker, the highly respected publication, the American Bulletin, is well known for its commentary on the situations that exist in Czechoslovakia, and in a more general manner, all of Eastern Europe. In its June edition, the Bulletin comments on the situation in post-Tito Yugoslavia and gives an objective review of the record of Marshal Tito. I wish to insert it at this point:

A CHAPTER IN YUGOSLAV HISTORY

On his European tour, President Carter will visit Yugoslavia. Some may think it a belated visit. Voices of criticism were raised when the President of the United States was not among the dignitaries paying homage at Tito's bier. Now that time has elapsed and tempers have cooled down, other voices are being heard. In an editorial on May 20, The Province of Vancouver, B.C., raises the question whether it was a "blunder" on the part of the President not to attend Tito's funeral. There was a time when "the crowned heads of Europe considered it important to attend the funerals of departed monarchs as some expression of policy—the solidarity of natural rulers, the brotherhood of allies, the guarantee of continued alliance." However, Soviet President Brezhnev's presence does not secure Yugoslavia from Kremlin pressure. "But if Mr. Carter were pictured alongside the Soviet leader at this time, his diplomatic offensive over Afghanistan might be seen by smaller nonaligned countries as a sort of charade not unlike the 19th century funerals of crowned heads. The Russian people might miss the message of the Olympic boycott if pictures of the two leaders together in Yugoslavia were carried in their newspapers. These are at least factors the White House had to consider. To dismiss the decision based on them as a blunder is to take a rather unsophisticated view of world politics at the moment" (reprinted in the Christian Science Monitor, May 9, 1980).

At the time of his death Tito was revered by many at home and much honored abroad. The world recognized him as a remarkable leader who had defied Stalin in 1948, took his country out of the Moscow dominated Soviet bloc and gradually welded the nation together. Tito's biographer, however, would have to record Tito's personal ruthlessnesss in his rise to power in wiping out any opposition. One cannot forget the execution of General Draja Mihailovich, in whose memory Hon. Morris K. Udall of the House of Representatives has sponsored bill H.R. 262, which would authorize the private construction of a monument in Washington to this resistance fighter "who saved the lives of 520 American airmen during World War II" CONGRESSIONAL RECORD, May 28, 1980).

These airmen formed themselves into an organization, the National Council of American Airmen Saved by General Mihailovich. The General had organized rescue efforts to keep ditched bomber pilots out of the hands of the German forces "(Yugoslav War Hero" by Tom Tiele, CONGRESSIONAL RECORD, May 28, 1980).

For decades, the American airmen have been trying to get government sanction to acquire a piece of property in Washington, D.C. for a small monument. The U.S. administration opposes the plan, although the senate has twice voted its approval. The monument would be inappropriate, says the administration, as the United States has supported Tito and Tito did not want any honors for Mihailovich. To Tito Mihailovich was not a war hero but an enemy, tried for treason after the war and executed as a traitor.

The Truman administration had awarded Mihailovich the Legion of Merit for his wartime help, but in deference to Tito it was decided not to make it public.

The case for General Draja Mihailovich was presented in "Patriot or Traitor," a Hoover Archival Documentary published by the Hoover Institution, Stanford, Cal., with an introductory essay by David Martin and followed by Senator Frank J. Lausche. When Yugoslavia collapsed in the Nazi biltzkrieg, an unknown colonel of the Yugoslav army by the name of Draja Mihailovich gathered together a group of officers and men and proclaimed the continuation of the war against the Nazis until the end.

It was not until in June 22, 1941, when Hitler attacked the Soviet Union, that the Communist Party in Yugoslavia responded to Stalin's appeal for immediate assistance. The Communists then launched their own guerrilla movement. (The same was true of all Communist Parties in the world. They would have nothing to do with the war effort until the Soviet Union was under attack; then it became a holy war. And even then, the Communists fought not only the Nazis on the battlefield but also another enemy on the home front, the non-Communists. In the worst days of the war, they were already planning for the future, organizing an underground which was to take over the day the Nazis were defeated. This was done with ruthless determination in Poland, Czechoslovakia and elsewhere.)

The Mihailovich forces and Tito forces collaborated briefly but soon began to fight each other in a merciless civil war. The war ended with Tito's victory. When Mihailovich was arrested by the Tito government after the war and put on trial as a traitor, American airmen asked to testify on the general's behalf to prove that Mihailovich had fought the Germans, that he was a patriot, not a traitor. A Committee for a Free Trial of Mihailovich was set up in New York and a commission of inquiry was headed by the famous jurist Arthur Garfield Hays.

The commission found no trace of treason. However, the voluminous transcript of the commission was never put to use until finally in 1978, it appeared in book form. The introductory essay to "Patriot or Traitor" is by David Martin, executive secretary of the Committee for a Fair Trial, and includes also British archival documents.●

REPRESENTATIVE TENNYSON GUYER, OUR AMBASSARDOR OF GOOD WILL

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. BROOMFIELD. Mr. Speaker, last Sunday the Washington Post magazine paid tribute to one of our most beloved colleagues and my good friend, TENNY GUYER.

The article points out that TENNY quietly enjoys the universal affection of his constitutents in the Fourth Congressional District of Ohio who have urged him to seek a fifth consecutive term in Congress.

As a fellow member of the House Foreign Affairs Committee, who has had the priviledge of working closely with TENNY for most of his years in Washington, I know that the affection of his constitutents is shared by everyone in Congress who knows him.

TENNY estimates that over the years he has delivered more than 10,000 speeches in all 50 States and 24 other countries. He has probably made more commencement addresses than any other living American.

The Governor of his State has commissioned him: "Ohio's Ambassador of Good Will." I think we should consider bestowing a similar title on behalf of Congress.

Wherever he speaks across the country, TENNY's good humor, sincerity, and uplifting message cannot help but add luster to all of us who have the privilege of serving with him.

Mr. Speaker, I think everyone who knows TENNY will enjoy Rudy Maxa's article which follows:

CHAMPION TALKER GUYER GUSHES—BUT NOT ON HILL

Rep. Tennyson Guyer (R-Ohio) is Mr. Main Street America, "born, bred and buttered," notes one of his press releases, in Findlay, Ohio. That's where (as Guyer likes to point out) Norman Vincent Peale worked his first newspaper job, where Zane Grey played on the local baseball team, where the man who wrote the song "Down by the Old Mill Stream" lived.

Guyer makes no waves in Congress, where he quietly enjoys the affection of his constituents; he says he recently asked 115 of them if he should stand for reelection, and not one person in 11 counties said they could imagine a House of Representatives without him.

But if his presence goes unnoticed on Capitol Hill, put the 66-year-old Guyer on the lecture circuit and he's an unabashed "King of Corn," as the Dayton Journal Herald once called him, a one-man traveling show of one-liners and inspirational speeches that wows Rotarians, Lions Clubs, high school and college audiences. In fact, Guyer is the King of Commencement Speakers; he says Lowell Thomas once told him that with more than 1,000 commencement speeches to his credit, Guyer held the record among living Americans.

"When I first came to Congress," says Guyer, "I was told, 'Look, they don't want show-offs or jokes.' It's made me, well, not intimidated, but I almost resolved not to talk."

Which is something like Niagara Falls deciding to dry up. So Guyer keeps quiet in Washington ("I don't like to give political speeches") but gushes forth on the lecture circuit, delivering more than 100 speeches (most for free, some for as much as $1,000) each year with lines like these:

"My wife ought to be on a parole board—she never lets anyone finish a sentence."

"I have nothing against lawyers, but I can't understand how a guy can write a 10,000-word document and call it a 'brief.'"

"You know, it isn't often I get such a nice introduction. For example, the other night a fellow says, 'We now bring you the latest dope from Washington . . . Mr. Guyer.'"

Guyer estimates he's delivered more than 10,000 speeches in all 50 states and 24 other countries. He's cut four records of his talks—the liner notes on the album with the speech titled "The Miracle Called America" observes that Guyer's "real-as-meals sincerity" helped earn him the nickname of "Ohio's Ambassador of Good Will." One woman died while he delivered a speech. Once a falling tree limb injured a mother holding her baby in the audience; at a high school commencement address 18 years later, a young woman identifed herself as that baby.

You might think years of applause might make a Buckeye's head turn, but Guyer allows as how he's just in "the people business." He likes to impart an uplifting message in his talks. For profanity, "golly!" will have to do. And he and a Peony Queen runner-up, Mae Guyer, have been married 36 years. She has a small desk near his in his House office, and a couple of times a year she prints (at the Guyers' expense) a newsletter for some folks back home. It's called "Mae's Wash. Line," and it features news from the Big City with an illustration of some wash on the line. Now that's just about as real as measles.●

STRONG SUPPORT FOR OTEC TECHNOLOGY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1980

● Ms. MIKULSKI. Mr. Speaker, as a cosponsor of the Ocean Thermal Energy Conversion Act of 1980, I want to join with my colleagues in strong support of this legislation. OTEC can supply a significant portion of our country's energy needs by the year 2000. As other supporters of OTEC technology have noted, the process is nonpolluting and does not raise the environmental problems connected with other technologies, such as nuclear and coal.

But in addition to these environmental and energy benefits that accompany OTEC development, I want to emphasize the creation of jobs in the shipbuilding industry that will occur.

Many thousands of jobs for Americans will be developed as a result of this program. Last October, Mr. Edward Hood of the Shipbuilders Council of America stated that:

> 60,000 workers in U.S. shipyards presently face the prospect of unemployment, much of which will apply to minority workers in areas of chronic unemployment. With the usual multiplier, nearly 200,000 workers in equally important supporting industries will be affected.

At a time when significant sectors of our economy have fallen behind other countries in technology innovation with resultant severe loss of employment for American workers, I am proud that Congress has passed the OTEC bill, which is an outstanding bill on environmental, energy and job-creation grounds.●

RON PAUL'S WILLINGNESS TO TAKE THE HARD STANDS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. ARCHER. Mr. Speaker, our colleague Dr. Ron Paul is often in the minority because of his willingness to take the hard stands—but frequently that is exactly what it takes to get something accomplished.

A case in point has been the attention Ron has been devoting recently to H.R. 5961, a bill on which he is an acknowledged expert. I would like to share with my colleagues in the House excerpts from a recent Barron's article recognizing the impact of his efforts on this issue:

Opposition Mounts to Pending Amendment

(By Shirley Hobbs Scheibla)

Washington.—In a highly unusual about-face, Rep. John J. Cavanaugh (D., Neb.) now is opposing a bill he originally sponsored. It's an amendment to the Bank Secrecy Act the Administration is promoting, ostensibly as a means of curbing traffic in drugs. "I figured we should do anything we could to curtail this," says Cavanaugh. "I later learned that we were making necessary and legitimate conduct illegal which in 99 percent of the cases would have nothing to do with drug trafficking. . . ."

The bill appeared likely to sail quietly through the House until Rep. Ron Paul (R., Texas), a member of the Banking Committee, began a one-man fight against it. An obstetrician and gynecologist, he gave up the private practice of medicine in 1976 to enter Congress because he was "convinced that the size, power and cost of the federal government had to be cut for our free society to survive."

Paul believes that the measure violates the Fourth Amendment of the Constitution, which says: "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause." Many influential persons agree with him.

H.R. 5961 would break new ground by allowing the Customs Service to conduct exit searches, according to Paul, who says this is characteristic of totalitarian states, not free societies. He contends it is solely a money control bill, doesn't even mention drugs and would set the stage for federal control of international capital flows.

When Paul offered an amendment in the Banking Committee to restrict the bill to drug traffic, it was defeated. He says he will try to get it back in when the bill reaches the House floor.

His remarks in the House, before the three committees considering the bill, and in other public statements are bearing fruit. As noted, Rep. Cavanaugh has changed his position. Like Paul, he now believes that the bill is unconstitutional.

When the House Banking Committee held two days of hearings in November and in January, it heard only witnesses in favor of H.R. 5961. But by the time the Ways and Means Committee got around to weighing it, Paul had stirred up enough interest so that some opponents were heard. Besides himself, they included Reps. Lawrence P. McDonald (D., Ga.), Fortney H. Stark (D., Ga.) and Steven D. Symms (R., Idaho).

Despite the lack of publicity about the bill, Congress is getting mail against it [generated by Ron Paul]. Dr. John W. Codling, a surgeon from Welfair, Wash., wrote Rep. Charles A. Vanik (D., Ohio), chairman of the Trade Subcommittee of the Ways and Means Committee, that it is "dishonesty personified" to claim that the bill will help stop drug trafficking when it fails even to mention drugs.

A letter to Vanik from the chairman of an Ohio company said, "At a time when our country is facing serious balance of payments problems, we need to increase U.S. exports of manufactured goods to compensate for present losses of market shares to Japan and West Germany. . . . Because of its far-reaching and restrictive effect on trade, urge you to defeat H.R. 5961."

A Charlotte manufacturer wrote Rep. Henry Reuss, chairman of the House Banking Committee, that he has started to make a foreign-designed product. "Since most of our parts come from Europe, we regularly transfer large sums of money to pay for our purchases. Under the authority granted by H.R. 5961, our business can be destroyed by preventing transfer of moneys to Europe." He fears that, at the least, long delays and government regulation "will be imposed on movement of these funds."

The head of an Oregon company wrote Paul that the bill would hinder the placement of difficult insurance accounts. He added: "When Eurodollar holders realize that they will be further restricted in free commerce, they will effectively remove U.S. dollars from their holding."

A letter from Tacoma to Rep. Norman Dicks (D., Wash.) put it more dramatically: "The U.S. Treasury is playing a dangerous game. If the holders of billions of Eurodollars get the idea that they will be blocked . . . an avalanche of dollars could descend on the currency markets of the world sending the dollar into an unprecedented tailspin. Coincidentally, a very large proportion would be siphoned off into the gold market, creating an upward spiral to match the dollar's downward tailspin."

Whether Members of the House agree or disagree with RON PAUL's position on this particular issue, it is clear that he and his national constituency have had an impact on this legislation.●

THE AMERICAN BALD EAGLE

HON. WILLIAM S. GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. GREEN. Mr. Speaker, I would like to draw attention to a noteworthy project undertaken by the General Wine and Spirits Co., which is headquartered in my district and which markets a product called Eagle Rare Bourbon. In light of the brand name, the company decided to embark on a project to preserve and protect the American bald eagle, the symbol of our Nation and democracy.

One important result of its efforts was a brochure produced on the American bald eagle, with the assistance of the U.S. Wildlife Service, that alerts our citizens to the precarious plight of the bird. The brochure contains information about the bald eagle, one of only two eagle species native to the United States. It tells how their numbers have dropped across the country, how reproduction is affected by contaminants in our waterways, and what people should and should not do if they encounter injured bald eagles. More than 100,000 of these booklets have been distributed without charge to schools and interested citizens.

The project is both informational and educational. Its goal is to elevate public awareness of the plight of the bird so that it may be saved for future generations. General Wine and Spirits has also sent a variety of public service stories about the bald eagle to magazines and newspapers nationwide pointing out the possibility of extinction unless we all begin to care about the bird. It is frightening to realize that nearly 200 years ago, when the bald eagle was chosen as our symbol, there were approximately 25,000 soaring through our country and today that number has dropped to about 1,100 breeding pairs and 1,300 subadult birds. The eagle has few, if any natural enemies; only man stands as its threat.

By bringing this message across to our people, the Eagle Rare Bourbon program has made an important step toward guaranteeing the future of the bald eagle. It is my hope, and that of General Wine and Spirits, that more businesses and industries adopt this attitude of making contributions toward the public good.●

TRIBUTE TO MR. MICHAEL DUNN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. STARK. Mr. Speaker, I welcome this opportunity to pay tribute to Michael H. Dunn, who serves the Oakland community with vigor as a dedicated pastor and community leader. I deeply regret that at age 34 Michael Dunn has suffered a heart attack. Unexpected misfortunes like this make people pause to recognize the contributions of valued community members.

Michael Dunn's many accomplishments reflect his persistent energy and dedication. As pastor of the Elmhurst Presbyterian Church of Oakland, Mr. Dunn has opened his church to the entire community. His church has become a place for senior groups, and for educational activities such as health seminars. He has made his church a place where the children can come to play, by putting basketball courts in back of the church.

Michael Dunn's achievements, however, extend far beyond his own church. Mr. Dunn is president of the United East Oakland Clergy, an organization devoted to improving all aspects of community life. Under his leadership, this clergy group continues to expand its strong, thoughtful voice in all community programs. Mr. Dunn is also president of the East Oakland Community Corp. This corporation aids the community through training local people for jobs, and designing and redeveloping housing.

Through his devoted leadership in these groups, the church, and numerous other groups, Mr. Dunn assists and advises city and local government, the Oakland Public Schools, and local community groups in implementing vital community programs.

I am privileged to honor Michael Dunn, and to emphasize not only how much this man's tireless efforts contribute to the Oakland community, but also how much this community appreciates him. I know that my colleagues will join with me in wishing Mike a speedy and full recovery. We need him.●

LOW INCOME ENERGY ASSISTANCE MUST BE EXTENDED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. BIAGGI. Mr. Speaker, over 1,100 Americans have lost their lives this summer as a result of the killer heat wave of 1980. Tragically, many of these victims were low income and elderly persons who would still be alive today if they had only been able to afford the use of a fan or air conditioner.

Yesterday, I introduced emergency legislation to help correct this critical problem. Simply stated, my bill, H.R. 7787, would extend the low income energy assistance program beyond its arbitrary June 30, 1980, cutoff date. The immediate effect would be to permit some 22 States to spend approximately $21 million in unobligated Community Services Administration low income energy assistance funds to help those who cannot otherwise afford essential home energy costs—the expressed intent of the program.

Funds for this program administered by the Department of Health and Human Services would also be eligible for expenditure under H.R. 7787. The exact amount of these funds is unclear. However, it would appear to be significantly higher than the $21 million CSA figure, since HHS received a much greater portion of the program funds to begin with.

Just last year, this Congress approved a $1.35 billion supplemental appropriation for the low income energy assistance program. The intent of this action was to insure that our poor and elderly could survive the winter. The program was successful and our efforts helped to avoid a major catastrophe.

However, the program had one major flaw—it did not take into account the possibility of one of the most severe heat waves in our Nation's history. Instead, it was assumed that the energy crisis would have been well behind us by now and a June 30 cutoff date for the program was established. Unfortunately, energy prices remain high and, as we have seen all too clearly, the summer heat can be just as hazardous as the cold of winter.

H.R. 7787 provides a very simple solution to this costly miscalculation. To address these unforeseen circumstances, this important measure extends an already existing program that still has millions of dollars in unobligated funds at its disposal. No new funds would be required under this legislation—only the spending authority would be changed from June 30 until September 30, 1980.

As an original member of the House Select Committee on Aging, I have heard many tragic reports of elderly Americans dying during the heat wave because they could not afford to use fans and air conditioners. Perhaps the severity of this tragedy is best expressed by reports of an elderly woman who was found dead during the heat wave in front of her open refrigerator, the only cooling equipment in her home.

Mr. Speaker, just as these elderly Americans cannot afford essential cooling equipment, we cannot afford to sit idly by and watch thousands die while Federal aid is available—but not being used—to help save lives.

This Congress acted in a prompt and most responsible fashion when we ap-

proved legislation last year insuring that our poor and elderly could meet soaring energy costs. A similar commitment is needed to cope with the crisis posed by this summer's heat.

As we are being stared in the face by, traditionally, the hottest month of the year, I strongly urge that H.R. 7787 be given prompt and favorable consideration. I ask that my colleagues join me in this life or death cause.

Mr. Speaker, at this time, I insert the text of H.R. 7787:

H.R. 7787

A bill to amend the Act of November 27, 1979, to provide that awards to applicants under the energy crisis assistance program funded in such Act may be made through September 30, 1980.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That that portion of title II of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes", approved November 27, 1979 (Public Law 96-126) which appears under the heading "COMMUNITY SERVICES PROGRAM", and under the general heading "COMMUNITY SERVICES ADMINISTRATION", is amended by striking out "June 30, 1980" and inserting in lieu thereof "September 30, 1980".●

ETHNIC PRIDE IN PITTSBURGH

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the city of Pittsburgh is filled with ethnic pride as marked by the efforts of a great Polish American, Joseph A. Borkowski of the Central Council of Polish Organizations in Pittsburgh. I submit to this House the following documented story from Joe Borkowski concerning the American and Canadian pilots and the veterans of the 13th Division of the Polish Army who took part in the Polish-Bolsheviki War in 1919-20:

THE AMERICAN AIR FORCE VETERANS IN THE POLISH-RUSSIAN WAR, 1919-20

(By Joseph A. Borkowski)

The year 1980 marks the 60th Anniversary of the Battle of Warsaw between the Polish Army of the young emerging Republic of Poland and the rising tide of Bolshevism which threatened to envelop Europe. It was Leon Trotsky who promised to extend liberty (Communism) to all of Europe.

The Bolsheviki's enthusiasm became all the more exuberant when their armies were successful in driving the Polish forces to the very gates of Warsaw. General Mikhail N. Tukhachevsky started a well organized offensive in the northern section of Poland and had every reason to believe that the city of Warsaw would eventually fall. In the meantime, Semeon M. Budenny, a vaunted and successful Cossack cavalry leader was having a field day against the Polish forces on the Kiev-Lwow (Lemberg) front, outflanking the Polish lines and at different times threatened with disaster and annihilation. If Budenny continued his successes, the entire Warsaw-Modlin front would collapse and the cities of Warsaw and Lwow would fall.

In order to determine Budenny's movements and troop concentrations the Poles were in need of an air reconnaissance system. To meet this need, Captain Marion C. Cooper of the United States Air Force, who was in Poland on social service duty and was aware of the needs of the Polish army, went to Paris where he approached the American pilot veterans of World War I. The first to enlist were: Captain Marion C. Cooper, Major Cedric Fauntleroy, Lieutenant George C. Crawford, Lieutenant Kenneth Shrewsbury, Captain Edward C. Corsi, and Lieutenant Carl H. Clark. Among the first recruited was Major Cedric Fauntleroy who made more than 4,000 flights for the A.E.F. and during the war served with the famed Rickenbacker's "Hat In The Ring" squadron. He subsequently became the commander of the American-composed outfit which became known as the Kusciuszko Squadron.

Upon enlistment, all the recruits became an integral part of the Polish Army and were given the same rank which they held in the U.S.A.F. However, they were paid the same salary as the Polish Officers, $6.00 per month.

A typical member of the Kusciuszko Squadron was Captain Harmon Rorison of Wilmington, North Carolina, who actually travelled 6,000 miles to fight for the Poles. He performed distinguished services under trying conditions, and while on reconnaissance caused consternation and havoc among the Bolsheviks with his deadly machine gun accuracy.

Another outstanding fighter was Lt. George M. Crawford who fought with reckless abandon in attacking the enemy forces and disrupting the river traffic which was used by the Reds in flanking movements.

The Kusciuszko Squadron proved to be a decisive and effective force in stemming Budenny's concentrated and flanking attacks and keeping his forces from aiding the Bolsheviks at Warsaw. The New York Times correspondent under dateline, 8-28-1920, had this to say: "The Kusciuszko Aerial squadron is playing an important part in the defense of Lwow (Lemberg). The smaller machines are being used repeatedly for attacking the cavalry under General Budenny, the Bolshevist commander. The pilots are making four to six flights some days and have been cited twice by the general staff within a week. Prisoners report that the morale of the troops under Budenny is being shattered by the effective work of the aviators under Major Fauntleroy". It was hard work. All the more it was all outdoors in the land where winters are hard and long.

On Sunday September 21, 1980, The Central Council of Polish Organizations of Pittsburgh and its Historical Committee will unveil and dedicate a commemorative plaque (described below) honoring American and Canadian Pilots and the veterans of the 13th Division of the Polish Army who took part in the Polish-Bolsheviki War of 1919-1920. The Services will be held in the Soldiers and Sailors Memorial Hall on 5th Avenue in Pittsburgh at 2:30 p.m. The ceremonies will also mark the 60th anniversary of the Battle of Warsaw in which the 13th Division and the American and Canadian Pilots took part.

In Memory of the American and Canadian pilots of the Kosciuszko Squadron and the veterans of the 13th Division of the Polish Blue Army composed of Poles from America who aided in defeating the Bolsheviks on the Polish eastern front, September 1920, and thus directly contributed to preserving the freedom of a newly formed Republic of Poland. Members of the Kosciuszko Squadron were:

Colonel Cedric E. Fauntleroy
Lt. Colonel Merian C. Cooper
Major George M. Crawford
Captain Carl H. Clark
Captain Edward C. Corsi
*Lieutenant Edmund P. Graves
*Captain Arthur H. Kelly
*Captain T. V. McCallum (Canada)
Captain Harmon C. Rorison
Lieutenant Elliott W. Chess
Lieutenant Earl F. Evans
Lieutenant Thomas H. Garlick
Lieutenant John I. Maitland
Lieutenant Kenneth M. Murray
Lieutenant Edwin L. Noble
Lieutenant Kenneth O. Shrewsbury
Lieutenant John C. Speaks, Jr.

*Killed In Service.

Erected by Central Council of Polish Organizations of Pittsburgh, Pa., on the 60th Anniversary of Battle of Warsaw, Poland.●

IRS AND 12 INTEREST GROUPS ON THE ASHBROOK AMENDMENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. RANGEL. Mr. Speaker, on June 18, the House considered the Ashbrook amendment, which would prohibit IRS from promulgating new rules on the tax-exempt status of private schools which discriminate against minorities. That amendment was a rider to the fiscal year 1980 supplemental Treasury appropriations. During the debate several questions were raised which left me as I am sure many of my colleagues unsatisfied. In order to clear up some of the confusion which I believe this House was left with as a result of that debate, I had inquiries made of the Internal Revenue Service on their understanding of the issues involved. The text of that response follows along with the type of regulations IRS would like to promulgate. You will note from the new proposal that the tenants of the *Green II* case are adhered to and that schools which were formed for religious purposes and not in an effort to evade desegregation would not be the subject of IRS investigations.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., June 24, 1980.

Hon. CHARLES B. RANGEL,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN RANGEL: This is in response to a request made by your staff to Jim Fuller of our Chief Counsel's Office. You requested our comments on certain aspects of proposed amendments to the Treasury's 1981 Appropriations Bill which would continue the current prohibition on the Service in developing or issuing any new rules designed to prevent racially discriminatory private schools from qualifying for tax exemption under section 501(c)(3) of the Internal Revenue Code.

The problem, as we have pointed out on many occasions, is that current IRS rules are ineffective in identifying schools which, while professing an open enrollment policy, in actual operation discriminate against minority students. The effect of current IRS rules has been that the tax exemption of a private school which has a nondiscriminatory policy in its governing instruments will likely remain undisturbed unless some overt act of discrimination comes to the attention of the Service. The clearest illustration of the problem is the fact that a number of private schools continue to hold tax exemption even though they have been held by Federal courts to be racially discriminatory.

In our proposed revenue procedure on private schools, we sought to bring our rules into line with those followed by Federal courts in focusing on a school's actual operation, not simply its asserted policy. But, of course, we are stopped from implementing any such new rules under the 1980 Appropriations Act. In the absence of any new rules in this area, we do not believe we can enforce the nondiscrimination requirements in an evenhanded and effective manner.

Our proposed revenue procedure on private schools, as revised in February, 1979, was designed to focus on the particular facts and circumstances of schools, including any church-related schools. The proposal had special provisions for church-related schools, and we do not believe it would have affected the exemption of any nondiscriminatory church-related schools. Before a school would have been classified for special review under the proposal, we would have been required to make a determination whether the school's formation or substantial expansion was related in fact to public school desegregation in the community. If a school's formation or substantial expansion did not coincide with the date of public school desegregation, or if the school was formed or expanded for religious reasons, and not because of such desegregation, then the school's tax exemption would not be challenged. In addition, the proposal would have taken into account any special circumstances limiting a school's ability to attract minority students, such as emphasis on special programs or curricula which are of interest only to identifiable groups without a significant number of minority students.

Finally, you asked about the current relationship between the *Wright* and *Green* cases.

The *Wright* case, challenging IRS administration of this area on a nationwide basis, was dismissed by the District Court for the District of Columbia last November primarily on procedural grounds. The court held that the plaintiffs in the case lacked standing to challenge IRS rules in this area. The case is now on appeal to the U.S. Court of Appeals for the D.C. Circuit.

The *Green* case, on the other hand, was a continuation of an earlier case in which standing had previously been upheld. Nonetheless, the government did move to dismiss the case on procedural grounds, but the court denied the motion and did reach the merits of the case. In its May 5 order the court required the Service to take immediate action to revoke the tax exemptions of discriminatory private schools in Mississippi. The court concluded that the current rules were ineffective in insuring that private schools in Mississippi, the schools subject to this particular litigation, were in fact racially nondiscriminatory. The procedures the court ordered the Service to implement with regard to Mississippi schools are very similar to those procedures which the 1980 Appropriations Act prohibited. Thus the Service must administer one set of rules for private schools located in Mississippi, but, because of the Appropriations Act, a different set of rules for schools elsewhere in the country.

The amendments to our 1980 Appropriations Act have placed the Internal Revenue Service in a very difficult position in administering the law in this area. On the one hand, the Service is under a continuing Federal court injunction to deny tax exemption to private schools which are racially discriminatory, and we have concluded that more effective rules are needed to enforce this nondiscrimination requirement. On the other hand, we are prohibited from issuing any new guidance to our agents and field personnel which they could utilize and rely on to administer the nondiscrimination requirement in an effective and uniform way.

We recognize that this is a very sensitive and difficult issue, and that many have objected to our proposals in this area. If legislation in this area is deemed appropriate, we would hope that the Congressional Committees with tax writing authority would address substantive legislation for the area. In the meantime, however, the Service must make an administrative decision one way or the other. We are concerned that a continuation of these restrictions in the 1981 Appropriations Bill will further exacerbate the problems, and prevent the Service from administering this area in a fair, effective, and evenhanded manner.

For your further information we have attached a copy of Commissioner Kurtz's opening statement before the Subcommittee on Oversight of the House Committee on Ways and Means on February 20, 1979, regarding the proposed revenue procedure. His testimony underscored the need for more effective rules that would adopt the standards used by the Federal Courts in identifying schools which in actual operation discriminate against minority students even though they may profess an open enrollment policy.

Sincerely,

S. ALLEN WINBORNE.

Enclosure.

CHIEF COUNSEL,
INTERNAL REVENUE SERVICE,
Washington, D.C., July 21, 1980.

Hon. CHARLES B. RANGEL,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN RANGEL: Pursuant to the request of Mr. Signer of your staff, enclosed is a draft of possible new rules concerning tax exempt private secondary and elementary schools. This proposal might either be issued by the IRS as a revenue ruling or revenue procedure, or might be used as a basis for legislation in this area. I am also enclosing a revised version of the Ashbrook amendment, which would continue the general prohibition, but allow the Service to promulgate reasonable and uniform rules in this area.

The absence of more specific guidelines in this area, coupled with the recent judicial action, is creating serious administrative problems in administering the nondiscrimination requirement in a uniform and effective manner, and we appreciate your assistance in seeking resolution of this problem.

Sincerely yours,

N. JEROLD COHEN,
Chief Counsel, IRS.

Enclosures.

PROPOSED RULES GOVERNING TAX EXEMPT PRIVATE SCHOOLS AND RACIAL DISCRIMINATION—MAY BE ISSUED AS IRS RULES OR USED AS A BASIS FOR LEGISLATION

A school must have a racially nondiscriminatory admissions policy in order to qualify for exemption from federal income tax. Rev. Rul. 71-447, 1971-2 C.B. 230. This requirement also applies to church related and church-operated schools. Rev. Rul. 75-231, 1975-1 C.B. 158.

Tax exempt private schools are required to adopt such a policy formally and to publicize the policy annually to the community. Rev. Rul. 75-50, 1975-2 C.B. 587.

In addition, all private schools shall actually operate in conformity with their asserted nondiscriminatory policy. In making this determination, the particular facts and circumstances of each school will be considered under the following rules prescribed by United States Federal Courts.

Pursuant to such rules the tax exempt status will be denied to any private schools:

(1) which have in the past been determined in adversary or administrative proceedings to be racially discriminatory; or which were established or expanded at or about the time the public schools districts in which they are located or which they serve were desegregating, and which cannot demonstrate that they do not racially discriminate in admissions, employment, scholarships, loan programs, athletics, and extracurricula programs.

(2) The existence of conditions set forth in Paragraph (1) herein raises an inference of present discrimination against blacks. Such inference may be overcome by evidence which clearly and convincingly reveals objective acts and declarations establishing that such is not proximately canceled by such school's policies and practices. Such evidence might include, but is not limited to, proof of active and vigorous recruitment programs to secure black students or teachers, including students' grants in aid; or proof of continued, meaningful public advertisements stressing the school's open admissions policy; or proof of meaningful communication between the schools and black groups and black leaders within the community concerning the school's nondiscrimination policies, and any other similar evidence calculated to show that the doors of the private school and all facilities and programs therein are indeed open to students or teachers of both the black and white races upon the same standard of admission or employment.*

In addition, a private school will not be considered racially discriminating under these rules, or subject to any inference of discrimination, if its formation or expansion is not related in fact to public school desegregation, taking into account all pertinent facts and circumstances. In this connection, if a school were formed or expanded for religious purposes, and not for the purpose of excluding minorities, the formation or expansion of the school will not be considered to be related to public school desegregation. Moreover, consideration will be afforded the fact that certain schools, because of their special religious orientation or other special curricula, may not be able to attract a significant number of minorities.

Nothing in these rules should be interpreted as requiring religious schools to accept students who do not subscribe to the school's religious tenets and beliefs or to proselytize for adherents to their religious faith in order to obtain minority students. Recognition of these religious or other special circumstances will not be given if the school is operated with the intent to exclude minorities.●

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*Order of May 5, 1980, as amended by order of June 2, in *Green* v. *Miller*, C.A. No. 69-1355 (D. D.C., 1980).

MARRIAGE TAX

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

• Mr. HUBBARD. Mr. Speaker, I would like to insert the text of a letter from attorney Russell L. Croley, Jr. of the firm Shewmaker & Croley, Central City, Ky., regarding the inequity of the so-called marriage tax, which causes married couples to have a higher tax liability than two single persons at the same income level:

I am sure that you receive innumerable letters from constituents complaining about Federal income taxes, but I trust you will not consider my particular objection just another "belly ache" about one of the only two inevitable things in life. I want to point out a most inequitable situation that Congress has created—perhaps unintentionally—which imposes an undue tax burden on millions of Americans.

I was married in June, 1979. Both my new bride and I have income, and therefore, of course, must pay income tax. However, our tax liability for 1979 was increased approximately $1,000.00, according to my CPA, simply because of the marriage. That is, if Julie and I had remained single, our combined tax liability—with the same amount of income—would have been about $1,000.00 less. Try as I may, I can see no valid policy reason for this situation; on the contrary, it is quite evident that this quirk in the Internal Revenue Code encourages cohabitation without the benefit of matrimony. I do not feel, as I know you do not, that this is the type of behavior Congress should encourage.

Furthermore, this state of our law has precipitated numerous "tax divorces" between two working spouses. I am sure you are aware of the case now in the Court in the Washington area in which the IRS is challenging the validity of a dissolution of marriage where the couple continued to live together after the divorce, but filed income tax returns under single status. These types of behavior—sometimes mandated by economic considerations—are disgraceful, and the disgrace falls squarely on the Internal Revenue Code.

I might add that my personal interest in this situation will be considerably diminished in the future when my wife resigns from her employment. However, there are many millions of other Americans who are being wrongfully taxed, and the situation should be corrected.

Trusting that you will give this matter your attention and consideration, I remain,

Yours truly,

RUSSELL L. CROLEY, JR.•

KEY VOTES

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

• Mr. PEASE. Mr. Speaker, it has become my practice to periodically list in the CONGRESSIONAL RECORD the key votes I have cast in the U.S. House of Representatives.

This list of my key votes is arranged as follows: Each item begins with the rollcall number of the vote, followed by the number of the bill or resolution, and a description of the question on which the vote was taken. This is followed by my own vote on the issue, either Y (for yes), N (for no), or NV (for not voting). Finally, the vote of the entire House of Representatives is indicated by passed or failed followed by the yea-nay vote totals.

The list printed here includes key votes taken between January 22, 1980, and June 5, 1980:

LIST OF KEY VOTES OF CONGRESSMAN DON J. PEASE, 96TH CONGRESS, 2D SESSION

(5) H. Con. Res. 249. Resolution urging that the 1980 Moscow Summer games be moved, cancelled or boycotted as protest of Soviet invasion of Afghanistan. Yes. Passed, 386-12.

(7) H. Con. Res. 204. Resolution for a trade agreement providing products from People's Republic of China most-favored-nation status and thus remove higher tariffs on Chinese goods imported to the U.S. Yes. Passed, 294-88.

(11) H.R. 4788. Amendment deleting authorization for eight water projects, totaling $161 million, for which no complete feasibility reports exist from U.S. Army Corps of Engineers. Yes. Failed, 117-263.

(20) H.R. 5980. Amendment providing for allocated assistance authorization under the targeted Fiscal Assistance Section of the bill according to general revenue sharing formula. No. Failed, 185-221.

(22) H.R. 5980. Amendment to provide that no state could receive more than 12.5 percent of the targeted fiscal assistance during any one quarter. No. Passed, 216-188.

(23) H.R. 5980. Amendment to strike language which requires payment of prevailing wage rates under the Davis-Bacon Act on activities funded with assistance authorized in the bill. No. Failed, 130-266.

(24) H.R. 5980. Motion to recommit the bill with instruction to reduce the authorization for countercyclical assistance from $1 billion in fiscal year 1980 to $525 million. Yes. Failed, 178-215.

(25) H.R. 5980. Bill providing $1 billion in fiscal year 1980 for fiscal assistance payments to state and local governments that experience declines in real wages and salaries. Funds would be triggered by a consecutive quarterly decline in the GNP and would be allocated to the most severely affected governments. Bill also contains provision for a one-time fiscal assistance payment of $200 million in fiscal year 1980 allocated among local governments only according to their distress. No. Passed, 214-179.

(29) H.R. 4788. Bill authorizing $4.3 billion for fiscal year 1981 for construction of new water development projects for navigation, flood control, power and other purposes and to provide one step process of authorization procedure for all water projects along with establishing one-House veto of water projects regulations issued by Corps of Engineers. No. Passed, 283-127.

(44) H.R. 4774. Bill providing any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization will not have to do so. A two-thirds majority vote required for passage due to suspension of the rules. Yes. Passed, 349-15.

(60) H.R. 3919. Motion to instruct conferees on windfall profits tax bill to accept Senate provisions which would make available $25.7 billion in residential and business energy tax credits for conservation and alternative energy investments. Yes. Failed, 195-207.

(79) H.R. 6081. Amendment instructing President to encourage the government of Nicaragua to hold free elections within a reasonable time and take into consideration Nicaragua's progress toward holding free elections in giving any additional aid. Yes. Passed, 400-0.

(84) H. Res. 571. Motion to kill resolution to direct the Attorney General to furnish to the House all evidence compiled by the Justice Department and the F.B.I. against members of Congress in connection with the ABSCAM investigation which would have put grand jury proceedings in jeopardy. Yes. Passed, 404-4.

(85) H.R. 3919. Motion on Windfall Profit Tax bill to kill a motion instructing the House conferees not to accept any Senate provision that would reduce revenues going to the highway trust fund. The Senate version of the bill extended the current expiration date for the exemption of gasohol from federal gasoline taxes, which go into highway trust fund from 1984-1930. Yes. Passed, 294-118.

(88) H.R. 6081. Bill authorizing $75 million for Nicaragua and $5 million for Honduras. Yes. Passed, 202-197.

(115) S. 643. Conference report on Refugee Act of 1980. Revising the limit on admissions each year for next three years, establishing more uniform provisions for resettlement, and granting the President authority to raise the 50,000 person limit each year after consultation with Congress. The report authorizes $200 million annually for FY 1980, FY 1981 and FY 1982 for refugee services. Yes. Passed, 207-192.

(121) H.R. 3829. Amendment to cut the authorization for the U.S. contribution to the Inter-American Development Bank (IDB) by $1.2 billion and to reduce the amount for the "soft loan" window from $700 million to $600 million and the amount for callable capital (loan guarantees) from $2.7 billion to $1.6 billion. No. Passed, 219-170.

(122) H.R. 3829. Amendment to cut the authorization for the U.S. contribution to the Asian Development Bank (ADV) by $265 million from $445 million to $180 million. No. Passed, 210-189.

(143) H.R. 3919. Conference report on Crude Oil Windfall Tax Profit Bill. It imposes an excise tax on various categories of domestic oil production, projected to raise $227.7 billion by 1990. The legislation includes a package of energy tax credits for business and homeowners, provisions which repeal the carryover basis for taxing inherited assets, and exemption from individual income taxes of up to $200 in bank interest and stock dividend income. Yes. Passed, 302-107.

(166) H. Res. 608. Resolution directing the Standards of Official Conduct Committee to conduct a full and complete inquiry and investigation of alleged improper conduct that had been the subject of recent investigation (known as ABSCAM) by the Department of Justice and F.B.I. to determine whether any member or House employee had violated the code of Official Conduct or any law, rule, regulation or other applicable standard of conduct. Yes. Passed, 382-1.

(186) S. 662. Motion instructing conferees to restore House-passed amendments cutting overall U.S. contributions to the International Development banks from $4 billion to $2.5 billion. The bill contains the U.S. contribution for 1979 through 1982 to the Asian Development Bank, Inter-American Development Bank, and the African Development Fund. No. Passed 211-180.

(189) H.J. Res. 521. Amendment to increase appropriations to $500 million to allow for pre-mobilization draft registration

and for examination and classification of the registrants. No. Failed, 45-363.

(190) H.J. Res. 521. Amendment to increase the appropriation from $4.7 million to $13.3 million to provide for a peacetime registration for the draft instead of just the machinery for a post-mobilization draft. No. Passed 218-188.

(192) H.J. Res. 521. Bill to authorize the transfer of $13.3 million already authorized in FY 1980 funds for resumption of draft registration of 18-20 year old males. No. Passed, 219-180.

(206) H. Con. Res. 307. Amendment to first FY 1981 Budget Resolution which would reduce the defense function by $5.8 billion in budget authority and $3.1 billion in outlays and would increase the functions of the budget containing domestic social programs by $9.4 billion in budget authority and $5.4 billion in outlays. No. Failed, 74-313.

(207) H. Con. Res. 307. Amendment which would increase budget authority by $5.5 billion and outlay by $5.3 billion to restore funding of many domestic social programs. The amendment also would increase the revenue target by $5.3 billion to reflect the enactment of various tax reforms. No. Failed, 65-352.

(208) H. Con. Res. 307. Amendment to increase budget authority by $1.1 billion, outlays by $740 million, revenues by $800 million, and the surplus by $60 million. The increases in budget authority and outlays consist of increases in domestic social programs of $1.6 billion in budget authority and $1.2 billion in outlays offset against reductions of $425 million in budget authority and outlays for consultants, printing and film procurement. The $800 million increase in revenues reflected foreign oil tax credits reform. Yes. Rejected, 201-213.

(212) H. Con. Res. 307. Amendment to increase defense outlays in FY 81 budget by $5.1 billion and to cut $5.1 billion from CETA public service jobs, from child nutrition and food stamp programs, from foreign and multilateral aid and from budgets of 17 regulatory agencies. No. Failed, 164-246.

(216) H. Con. Res. 307. Amendment to reduce budget authority by $5.6 billion, outlays by $10.4 billion and revenues by $10.3 billion through tax cuts totaling $30.3 billion and through repeal of the oil import fee. No. Failed, 191-218.

(219) H. Con. Res. 307. Resolution providing for a balanced budget in FY 81 and containing budget aggregates for FY 81 providing budget authority of $694.6 billion, outlays of $611.8 billion, revenues of $613.8 billion and surplus of $2 billion. Yes. Passed, 225-193.

(222) S. 1309. Amendment to reinstate the purchase requirement for food stamps. No. Failed, 112-289.

(228) S. 1309. Bill to increase the FY 79 authorization for appropriations for the food stamp program. Yes. Passed, 320-56.

(234) H.R. 6974. Amendment to delete the $1.55 billion research and development authorization for the MX missile program and basing system. No. Failed, 82-319

(237) H.R. 6974. Amendment to delete $500 million for research and development for the MX missile basing system and to specify that the remaining $66 million in authorized funding be used to study alternative modes for the MX missile system. Yes. Failed, 152-250.

(249) H.R. 6974. Amendment to provide that public or private land not be withdrawn for the MX/MPS system until the Secretary of Defense provides an impact statement with proposals to address impacts and a study of split basing. Yes. Failed, 135-268.

(250) H.R. 6974. Bill to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles and torpedoes and to evaluate the personnel strength of the Armed Forces and the Reserves and for civilian personnel of the Department of Defense, for military training, student loans, and civil defense. Yes. Passed, 338-62.

(261) H.R. 6942. Amendment to strike language reducing the number of committees notified about CIA covert operations to the Intelligence Committees prior to initiation. No. Failed, 50-325.

(273) H. Con. Res. 307. Motion to instruct conferees on budget for fiscal year 1981 to agree to national security figure of $153.1 billion in outlays and $171.3 billion in budget authority. Yes. Failed, 123-165.

(280) H.J. Res. 554. Joint resolution to make an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980. Yes. Passed, 236-106.

(288) H.J. Res. 531. Joint resolution to disapprove of the imposition by the President of fees on the importation of crude oil and gas. Yes. Passed, 376-30.

(290) H.R. 7428. Bill to extend the present public debt limit through June 30, 1980. Yes. Passed 208-198.

(299) H.R. 6942. Amendment to reduce by 10 percent the overall authorization of appropriations for fiscal year 1981 for international security and development assistance excluding assistance for Israel and Egypt, UNICEF, peacekeeping operations, American schools and hospitals abroad, international narcotics control and migration and refugee assistance. No. Passed, 243-131.

(300) H.R. 6942. A bill to authorize appropriations for fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes. Yes. Passed, 221-147.●

YALE UNIVERSITY PRESIDENT ATTACKS INTRUSIVE FEDERAL REGULATIONS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. ASHBROOK. Mr. Speaker, there has been a good deal of commentary recently on the disillusionment of blue-collar workers with their traditional allegiance to big government liberalism. Less observed has been the steady realinement of another traditional liberal constituency: higher education.

Never in our country's history has the Federal Government paid more attention to our colleges and universities, both public and private, than within the last 15 years. But never has the morale of the professoriate been lower than it is right now. The dream of massive Federal aid for research and tuition has brought with it a nightmare of stifling, inflexible, unimaginative Federal regulations.

The larger the Federal apparatus grows, the more self-serving and dimwitted it becomes—transforming everything it touches into its own image of earnest mediocrity. Fortunately, more and more academics are coming to see that the Federal regulatory process—distant, anonymous, fragmented, and addicted to spasms of sanctimonious crusading—is inherently inimical to personal and institutional creativity.

As Yale University President A. Bartlett Giamatti observed in his commencement address last month:

> I know there is a new Department of Education in Washington. Its creation in no way speaks to a concern for the quality of education in this country. And no politician has been so graceless as to pretend that it does.

President Giamatti devoted most of his address to a thoughtful and eloquent discussion of the perils of Federal regulation. He explicitly recognized that his analysis was applicable to Federal encroachments on other private activities, not only education. Anyone who cares about academic excellence, but who supported the new Department of Education anyway, should reflect on these remarks.

Here is an abridged text of President Giamatti's address:

PRIVATE CHARACTER, PUBLIC RESPONSIBILITY—THE BACCALAUREATE ADDRESS

(By A. Bartlett Giamatti)

In a private university, we hear constantly from well-wishers and others that the private character of a private university will be lost if we do not beware the federal government and its regulatory tentacles. The private universities and their faculties need little warning. They know that something irreplaceable is lost in relying only on a centralized bureaucracy and its various arms for sustenance or guidance. They know traditions of self-reliance and of self-government, in institutions as in individuals, must be safeguarded. And I assume everyone knows that federal regulation can often be disruptive, or diversionary of resources and energy, or at times blatantly intrusive into the heart of the academic enterprise.

Beginning about a century ago, with the railroads, the federal regulatory process intended to bring equity of treatment into the commercial world. Since then, the intention of regulation by the government has been to overcome obstacles set up by those intent on monopolizing the marketplace or on ignoring the legitimate claims to social goods of the citizenry at large. The intention of regulation, to promote access and equity, cannot be quarreled with. But the effects of much regulation over the last hundred years cannot be regarded with anything but skepticism by those concerned with the Republic. Intent on promoting deeply desirable ends, the regulatory system has often effectively prevented that which it was meant to insure. The process has often become an instance of what it was intended to overcome. The regulatory solvent meant to unblock impediments to the free flow of social goods and commercial efforts has sometimes become not a solvent at all, but a spreading mucilage, self-creating, self-fulfilling, and at worst self-defeating—promoting a potential but unrealized social or commercial benefit often without any discernible regard for the costs or for the potential social injury that may, from another point of view, result; often expressing benign and desirable intent with no awareness at all of the complex, grainy, recalcitrant reality that makes up daily life. The regulatory process distrusts the imagination; the result is that federal regulations represent a threat to the imaginative capacities of the American people second only to daytime television.

The authors of regulations are hard to find. Regulations are created by committees; few are willing to take responsibility for a given spool of federal piety. Legislative histories in the Congress are often unclear, offering only the broad mandate to eradicate all harm. It is usually left to some agency or department to specify the will of the people, an act carried out under the miasma generated by the hot breath of remorseless lobbyists, who have been instructed to disagree or co-opt. I have heard congressmen, who were instrumental in passing a given federal bill, debate how best to subvert its effects now that the agency charged by Congress had begun to work. The agency had begun to encroach upon constituencies dear to the congressmen. I have heard top officers of a Department plot how best to force Congress to take responsibility for what Congress supposedly wanted because pressure "out there" was too intense for the Department to handle. Excluded from this circuit of non-responsibility and evasion is the general citizenry in whose name all this is being done. The regulatory process, often binding lawmaker and bureaucrat in strategies of mutual incomprehension, leaves the absent citizenry cynical and dispirited. If someone tells me that this is how it works and one must take a "mature" or "pragmatic" view of it all, I can only reply that it is in fact not working in the best interests of the public; and that the public distrust of public servants, elected or appointed, has roots deeper than Watergate and many consequences no "insider" ought lightly to dismiss. The regulatory process, viscous, dense and often dangerously intrusive, is its own worst enemy. No government, regardless of how well motivated it is, can paste up again the Garden of Eden.

It is also clear that this process is not always as mindless or closed as I have made it sound. The underlying intentions are laudable and desirable, and the defenders of the process, when confronted with the effects of their good intentions, should ask, pointedly: Where self-regulation is so notably lacking, in the social and commercial world, what is the government to do? Is the government to be irresponsible, feckless, uninterested, withdrawn? Regulation, after all, is the only appropriate and serious response to a situation where any form of self-regulation, self-government, self-imposed sense of responsibility, is lacking. We may object to federal regulation but the government of the United States does promote important social goals, especially when certain segments of society have no strong interest in promoting them or when other deserving or disadvantaged segments of society lack the strength to promote them. After all, federal power and federal regulation were, and are, essential to the promotion of racial justice and the battle against discrimination in this country. Here federal regulation made, and makes, real the public interest. We may well speak of initiative and incentives and imagination and of how a free market or a free people need them, but if imagination and initiative and incentives are only devoted to private purposes, then no responsible government can sit idly by if self-interest is not and will never be coincident with the public interest.

To preach of the public interest and to serve only one's private concerns, in a way that ignores the public interest, is to ask for regulation or for revolution, and a rational people would rather conduct its struggles through the political and judicial systems than in the streets. And yet, if we want a polity less split by competing pressures, less fragmented by interest groups adept in moralistic rhetoric and absolutistic posturing, then all parts of the private sector must become less suspicious of each other and more disposed to mutual cooperation and self-governance. Self-regulation for the public good within the private sector is the only way to convince the citizenry that it need not cry, or allow, for federal regulation. In all sectors, public and private, we desperately need in this country a greater concern for the public interest, and more sensitive understanding of the civic responsibilities of power. We all need to think better of ourselves and to act on the best of our common belief.

If such is the case against federal regulation and if such is the legitimate claim for federal regulation, then the challenge to the private, independent university and college is real and insistent. It is a fact that we depend upon federal help and are subjected to sullen waves of federal control. There is no denying that the federal government is in private university education. Basic research in the physical, medical and many of the social sciences cannot go forward without federal help. Millions of young Americans cannot go to college or university, anywhere, for whatever purpose, without federal assistance. We must recognize that, and recognize that there is no question whatsoever that we must be accountable, in ways appropriate to the work we do, for the public's money. But we must also recognize that more than accountability has been agreed to. There is no point in simply lamenting that this is so, and that a bygone day, before the Second World War, is not with us now. The government's role in financing education is a fact and it cannot change. Nor should we assume that only evil flows from that fact, that all is lost and that our children will only own the ruins of a once-noble private or independent edifice. A healthy, mutually beneficial relationship with government is within the private university's grasp.

It will not be easy to achieve such a relationship. To work toward one in the interests of the nation entails real risks, particularly if collaboration is pursued in an opportunistic fashion on either side, or is pursued by either party only for venal ends. To understand what is at risk and what must never be lost—indeed, what must be, for the nation's good, sustained—let us now turn to the private character of a private university.

The essence of that private character is in the university's independence. That independence, the most precious asset of any private university or college, is what we maintain for ourselves on behalf of America. In our independence, our self-interest as an institution serves and meets the nation's public interest. Assuming, therefore, our need to appreciate and yet responsibly resist the role of the federal government, the central question to pause on here is: In what does the independent character of a private university consist and how does that independent character contribute to America's needs?

In my view, the independent character of the private university is defined by the following features, the first of which obviously does not separate public from private universities but is common to them:

(I) The institution has, and must assert, as its central mission teaching, scholarship, and the dissemination of knowledge;

(II) The institution has, and must retain, the right to act as a fiduciary for itself;

(III) The institution has, and must defend, the right to define free inquiry for the truth for itself;

(IV) The institution has, and must maintain, the right to set standards for admission, for appointments and for the assessment of excellence, consistent with its human and intellectual values, for itself;

(V) The institution has, and must sustain, the right to govern itself according to those traditions and values it has learned to cherish and defend and disseminate;

(VI) The institution has, and must promote, its civic role in supporting and strengthening the country's fundamental values through constructive criticism, open debate and freedom, within and without, from coercion of any kind.

Those are the features of the independent character of a private university. When federal intrusion (or anyone else's) threatens that independent character, that intrusion must be resisted.•

EXECUTIVE COMMUNICATION NO 4726

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

• Mr. ASHLEY. Mr. Speaker, following is a copy of Executive Communication No. 4726 from the Department of Commerce in explanation of the draft bill which was introduced in the form of H.R. 7798, to amend the Fishery Conservation and Management Act of 1976 to provide for representation of the Northern Mariana Islands, and for other purposes.

THE SECRETARY OF COMMERCE,
Washington, D.C., June 26, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed for consideration by the Congress are six copies of a draft bill to amend the Fishery Conservation and Management Act of 1976 to provide for representation of the Northern Mariana Islands, and for other purposes, together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

PHILIP M. KLUTZNICK,
Secretary of Commerce.

Enclosure.

STATEMENT OF PURPOSE AND NEED

SECTION 1. AMENDMENTS TO PROVIDE FOR REPRESENTATION OF NORTHERN MARIANAS

The Fishery Conservation and Management Act of 1976 (FCMA), as amended, (16 U.S.C. 1801 et seq.), among other things, created Regional Fishery Management Councils which are responsible for the preparation of fishery management plans as well as for certain fishing activities conducted in their respective geographical areas of authority. The Fishery Management Councils are comprised of the States located in their areas of authority. The term "State" is defined in Section 3(21) to mean not only the several States but other entities including any Commonwealth, territory, or possession of the United States. At the time of the FCMA's enactment, the Trust Territory of the Pacific Islands was intentionally excluded from its coverage. As a result, the Western Pacific Council presently is comprised of the States of Hawaii, American Samoa, and Guam. By Presidential Proclamation of October 24, 1977, the FCMA was made applicable to the Northern Mariana Islands. This Proclamation carried out the provisions of Public Law 94-241, The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. As a result of the foregoing the FCMA should be amended to include formally the Northern Mariana Islands in the Western Pacific Council. In this connection it is necessary to add two new members to the Council, which now had eleven (11) members, so as to give the Northern Mariana Islands representation and to keep an odd number of members as is the case in all Councils.

The Western Pacific Council does not have under its area of authority the islands of Wake, Howland, Baker, Jarvis, Johnston, Palmyra, Midway, and Kingman Reef, although under the FCMA, they are considered States to which the FCMA applies. Therefore, Section 302(a)(8) of the FCMA should be further amended to give the Western Pacific Council general jurisdiction over this area.

SECTION 2. AMENDMENTS PERTAINING TO FOREIGN RECREATIONAL FISHING

Participation by foreign vessels in U.S. recreational fishing tournaments has been greatly restricted by the FCMA. Since the Act in general refers only to "foreign fishing" without distinguishing commercial from recreational, a nation whose vessels wish to fish recreationally in our zone must negotiate governing international fishery agreements (GIFA's), receive allocations, and obtain permits. Where the foreign nation seeks commercial access to the fishery conservation zone (FCZ), the existing process could presumably be used to permit recreational access also with suitable annotations in the GIFA, the permit applications, and the permits. However, the existing process seems unduly cumbersome for recreational activities, and has been a deterrent to foreign participation. If the United States does not ease the requirements for foreign recreational fishermen, there is the likelihood that other countries may impose equally restrictive requirements for U.S. recreational fishermen. In addition, if recreational access only is desired, then the FCMA process looks even more cumbersome. On the other hand, the possibility exists that a broad exemption could allow abuse or, in the aggregate, a significant leak in catch statistics.

The bill would provide a limited exemption for foreign nationals to be granted permits by the Secretary of Commerce for recreational fishing vessels to fish in recreational fishing tournaments conducted in the fishery conservation zone. Any fish caught by permitted foreign recreational vessels in a tournament would not count against the TALFF, or allocation, (if any) to the flag nation. A new Section 204(d) has been drafted to establish the exemption.

SECTION 3. AMENDMENTS TO TITLE III

Annual reports

Section 305(f) requires the Secretary of Commerce to submit a report to Congress and the President on March 1, covering certain Council and other activities undertaken in the previous calendar year. Since Section 302(h)(4) does not require the Councils to submit a comparable report to the Secretary until February 1, a March 1 date is unrealistic. In addition, the report required by the FCMA is largely duplicated by the National Marine Fisheries Service Annual Report required by the Fish and Wildlife Act of 1956, as amended. Therefore, these reports should be consolidated. To accomplish this, Section 305(f) would be amended to change March 1 to July 1 and Section 302(h)(4) would be amended from February 1 to May 1. This will allow the Councils and the Secretary sufficient time to prepare comprehensive reports.

Submission of data

The FCMA provides specifically that, where there is an approved fishery management plan, fisheries data is to be submitted to the Secretary with respect to the fisheries managed by that plan. Sec. 303(a)(5). However, the Act does not specifically provide for collection of similar data with regard to fisheries in possible need of management but as to which approved fishery management plan has not yet been prepared. The same types of data as are required under Section 303(a)(5) are also needed by the Councils and the Secretary to prepare the initial fishery management plan for a fishery not yet under management. Regional councils are experiencing difficulties in preparing these initial plans because of lack of data. Sections 3 (c) and (d) are sought to clarify the authority of the Secretary to require the submission of fisheries data concerning fisheries as to which there is no existing plan and to establish that such data will be treated with the same confidentiality as fisheries data collected in connection with an existing plan.

Publication of management plans

Section 305(a) presently requires the Secretary to publish in the Federal Register an entire fishery management plan or any amendment thereto prepared and approved under the provisions of the Act. Printing the entire plan or amendment in the Federal Register is far more costly than merely publishing a Notice of Availability and separately printing copies of the document. Roughly speaking, publishing an entire plan in the Federal Register costs about $21,000, whereas publishing a Notice of Availability and printing 500 copies of the plan separately costs approximately $1,600 per plan. If the Notice of Availability contains a detailed summary of the plan or amendment the interested public will be able to respond to the proposal and will not be deprived of any rights to participate in the rulemaking.

Emergency regulations extension

Section 305(e) provides that emergency regulations to implement a fishing management plan may remain in effect for not more than two 45-day periods. Past experience reveals that the 45-day period is too short. Section 305(a) requires a 45-day public comment period on proposed final regulations. Executive Order 12044 extends that period to 60 days for significant regulations. The result is that there is inadequate time to analyze public comments, and take other related action in emergency situations. If the number of days emergency regulations could remain in force and effect were increased from 45 days to 90 days the possibility of having an unregulated interval of time between the termination of the emergency regulations and the adoption of final regulations would be diminished. The amendment to Section 305 would so provide.

Criminal penalties

Section 309 of the FCMA provides for criminal penalties, including imprisonment, for certain violations of the provisions of the FCMA, as well as for offenses such as assault, resisting arrest, or other interference with enforcement officers. Under the FCMA, imprisonment is an available federal penalty against foreign fishermen who fish in the FCZ without a permit or who fish in the territorial sea. Upon consideration, it seems that imprisonment is not an appropriate penalty under federal law for violations of a pure fisheries nature, that is, those violations which do not involve assault, resisting arrest, or interference with enforcement officers. Domestic fishermen are already not subject to such a penalty. The bill would result in foreign fishermen being similarly treated, by removing imprisonment as a type of punishment available under subsection 309(b).

With respect to violations in the FCZ, imprisonment is not in accord with customary international law or the practice of most foreign countries and is prejudicial to our own fishermen fishing in areas in which foreign countries exercise fisheries jurisdiction. In several instances, moreover, U.S. fishermen have been incarcerated in foreign prisons for fishing violations. If imprisonment were eliminated as a penalty for fisheries violations in the FCZ, the United States would be in a much better position to attempt to call upon other countries to avoid imposition of such penalties. With respect to fisheries violations within the territorial sea, the United States clearly has authority under international law to imprison violators. However, the logic which leads to the conclusion that imprisonment is not an appropriate penalty for violations of a pure fisheries nature applies equally to offenses committed in the territorial sea or the FCZ.

Under the FCMA, a state is free to establish its fisheries regime within the territorial sea. As part of that regime, a state could establish criminal penalties, including imprisonment, for all persons who fish in the territorial sea in violation of state-established rules. Section 309, either as originally enacted, or as proposed to be changed by this amendment, does not alter existing state jurisdiction or authority.

Coast Guard report

Section 311(a) requires the Secretary of the Department in which the Coast Guard is operating and the Secretary of Commerce to submit semiannual reports, regarding the degree and extent of known and estimated compliance with the provisions of the Act, to the Committee on Merchant Marine and Fisheries of the House of Representatives, the Committee on Commerce and Foreign Relations of the Senate, and the various Fishery Management Councils. The Department of Commerce believes that this semiannual report provision should be replaced with a requirement for an annual report due not later than a specific date. Such a change would ensure adequate time for data collection and assessment, as well as report preparation and distribution. An appropriate date to specify would be June 30.

Sale of seized fish

Section 310(d)(2) authorizes the sale of seized fish "subject to the approval and direction of the appropriate court . . ." While court-ordered sale is an appropriate disposition procedure when the fishing vessel has been seized together with its cargo of fish, or when the amount of fish seized is small enough to be stored by the Government, the Departments of Commerce and Justice have found the procedure too time-consuming to be useful in cases where large amounts of perishable fish are involved. In such situations, the time required to prepare the necessary court papers, present them to an available judicial official, and return to the docks with the court order, is sufficiently great to insure that the fish by then have little or no value to a processor. The amendments follow the approach of other laws that anticipate seizures of perishable fish, including the Tuna Convention Act of 1950, 16 U.S.C. 959(e), and the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971f(a)(4).

SECTION 4. THE AMENDMENTS TO DOCUMENT THE VESSEL M/V OLWOL

The M/V OLWOL is a vessel which was acquired from Japan for Trust Territory war reparation under the terms of the April 18, 1969, Agreement between the U.S. Government and the Government of Japan for the settlement of Micronesian War Claims. Under the terms of the Agreement, the Government of Japan made available 1.8 billion Yen to be used for the purchase of Japanese goods and services for the Trust Territory. The M/V OLWOL was one of the items purchased with these funds. The vessel is owned by the Government of the Trust Territory, which has given custodial responsibility to the Government of the Northern Mariana Islands.

Under the FCMA, vessels engaged in fishing in the waters around the Northern Mariana Islands must be documented as United States vessels or must have a foreign fishing permit. United States vessel documentation laws, however, prohibit foreign-built vessels over five net tons from fishing in the territorial sea and the fishery conservation zone established by the FCMA. Thus, the M/V OLWOL, owned by the Trust Territory and in the custody of the Government of the Northern Mariana Islands, is prohibited from fishing in the waters around the Islands as a vessel of the United States. This situation is an undesirable and inequitable one, which is corrected by provisions in Section 4 of the bill that would authorize and direct the Secretary of the department in which the Coast Guard is operating to cause the M/V OLWOL to be documented as a vessel of the United States, upon compliance with the usual requirements, with the privilege of engaging in the coastwise trade and the fisheries.●

THE MONETARY RECONSTRUCTION AND MORTGAGE RELIEF ACT OF 1980

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. NOLAN. Mr. Speaker, the failure of the Carter administration's economic policies requires that Congress move quickly with its own comprehensive program for economic recovery. I am, therefore, introducing the Monetary Reconstruction and Mortgage Relief Act of 1980.

The bill is a comprehensive economic package designed to reduce U.S. dependence on imported oil, to halt inflation by establishing wage and price controls and by placing a ceiling of 3 percent on interest rates, to establish closer supervision of the Federal Reserve System by authorizing a congressional veto of Federal Reserve Board decisions, to raise to parity levels the prices of U.S. grain sold for export, to achieve a balanced Federal budget, and to provide emergency mortgage assistance to homeowners and farmers who find it difficult to continue making their mortgage payments because of the recession and its accompanying adverse economic conditions.

Most of the provisions of my bill have been introduced separately by other Members of Congress and Senators. I have introduced the measures as one bill designed to get our economy back on the road to recovery without resorting to high interest, high unemployment, or bankrupting agriculture.

None of the bill's titles, except the one providing mortgage relief, will require additional budget outlays. The emergency mortgage assistance provision is an interim measure, the need for which will pass when economic stability is restored. In any case, outlays for emergency mortgage assistance will be offset by savings to the economy which will accrue from a reduction in the U.S. trade deficit—accomplished by restricting oil imports and by increasing the prices paid for U.S. grain exports—and from halting inflation by establishing wage and price controls, and by putting a 3-percent ceiling on interest rates.

The comprehensive economic bill also includes a balanced budget provision. The budget cannot be balanced in the absence of other actions to halt inflation and generate economic activity. But, in the context of my bill for monetary reconstruction, achieving a balanced budget becomes less rhetorical and more feasible.

I urge your support for the Monetary Reconstruction and Mortgage Relief Act of 1980. Achieving energy independence and restoring individual purchasing power in industry and agriculture, as the bill provides, will halt inflation and will balance both the economy and the Federal budget.

A summary of the bill follows:

THE MONETARY RECONSTRUCTION AND MORTGAGE RELIEF ACT OF 1980—SUMMARY OF TITLES

TITLE I—ENERGY CONSERVATION AND RATIONING

Originally introduced by Congressman Stephen L. Neal, this title requires a 20 percent cutback in foreign oil imports within one year. The planned cutback will trigger the Standby Gasoline Rationing Plan and will reduce our foreign oil bill by almost $18 billion, thus reducing the trade deficit by that amount and strengthening the value of the dollar.

TITLE II—EMERGENCY WAGE PRICE CONTROL ACT OF 1980

Introduced by Senator Edward Kennedy in April 1980, Title II requires the President to impose a freeze, and then to control, prices, wages, rents, dividends, profits and interest rates. The wage and price control measure is a temporary initial step to stop inflation immediately while more fundamental structural economic reforms are put into place. Title II differs from Senator Kennedy's bill largely in that employee stock ownership plans are exempt.

TITLE III—INTEREST RATES

Places a ceiling of 3 percent on interest rates and provides for civil penalties for violators. The interest ceiling will prevent the Federal Reserve System and monetary theorists from ever again causing inflation to surge by allowing interest rates to climb to usurious levels.

TITLE IV—DISAPPROVAL OF ACTIONS REGARDING MONETARY POLICY

Authorizes a congressional veto (both Houses concurring) of actions taken by the Federal Reserve Board or the Federal Open Market Committee, thus making the Federal Reserve System accountable to the people of the United States through their elected representatives.

TITLE V—EXPORT SALES OF GRAIN

Similar to a bill originally introduced by Rep. James Weaver, Title V prohibits the sale or exchange for export of U.S. grain at prices less than parity, thus reducing the trade deficit by increasing exchange earnings from our agricultural exports.

TITLE VI—BUDGET ACT AMENDMENTS

Originally introduced by Senator Max Baucus, Title VI stipulates that three-fifths of both Houses of Congress must vote in favor of a budget deficit before the Federal Government could spend more than it collects, and, in the budget process, requires a separate vote on any tax increase.

TITLE VII—EMERGENCY HOMEOWNERS RELIEF ACT AMENDMENTS OF 1980

Amends the Emergency Homeowners' Act of 1975 by expanding coverage to include mortgagors who operate a farm on their mortgaged property. To compensate for inflation since 1975, the mortgage assistance for qualifying homeowners is raised to $400 per month while qualifying farm owner-operators receive $800 per month. Owners of homes and farms thus will be eligible for emergency mortgage assistance if economic circumstances beyond their control (recession and adverse economic conditions) threaten to cause widespread foreclosures and distress sales of homes and farms.●

EDITORIALS FAVOR DRAFT REGISTRATION FOR NATIONAL SECURITY PURPOSES

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. CHAPPELL. Mr. Speaker, on Friday July 18, 1980, a special three judge district court in Philadelphia invalidated the registration provision of the Military Selective Service Act recently passed by this Congress and signed by the President.

As you know, subsequently the Federal Government filed an application requesting the U.S. Supreme Court to grant a stay on the lower court's action. In an in-chamber opinion, Supreme Court Justice William J. Brennan granted the stay which allows the Government to begin the registration process until the matter is reviewed by the entire Court.

The actions by the judiciary have once again brought this issue into public focus. It is, therefore, timely to call my colleagues' attention to two recent and excellent editorials on this most vital subject. One appeared in the Clay Today, June 12, 1980, issue and the other in the June 19, 1980, Daytona Beach Morning Journal. Their message is well worth keeping in mind: world turmoil could threaten the security of these United States. Certainly the world we live in has not been less dangerous in the past month.

The text of the editorials follows:

REINSTATE DRAFT REGISTRATION

Congressional action on renewal of peacetime draft registration appears headed for conclusion today as senators prepare for a final vote on the matter.

The Senate in recent days saw a futile but prolonged filibuster effort to delay the program. But supporters of the plan have apparently succeeded in mustering enough backers to approve it.

The House-passed program would require an estimated 4 million young men to register this summer.

The registration plan calls for spending $13.3 million to sign up 19- and 20-year-old men at local post offices, probably in mid-July. Two weeks would be set aside for registration—one for persons born in 1960 and one for persons born in 1961. Failure to register would be a felony that would carry a maximum penalty of five years in prison and a $10,000 fine.

Legislative experts are predicting the Senate could stay in session until noon Saturday before a vote could be forced on the issue.

We find it amazing that our senators must argue and debate among themselves at a time when world turmoil could threaten the very security of these United States.

Coupled with reports that our military effectiveness continues declining while the Soviet Union and other communist countries build theirs, it is certainly time someone sounds a very loud alarm.

Our senators' wrangling over a much needed emphasis on our armed forces sounds very similar to the story of Nero playing his fiddle while Rome burned to the ground.

Draft registration is not required military conscription, such as is the case in several European countries. There, efforts are no doubt prompted by grim memories of invading armies that sought world domination 40 years ago.

America, through a geographical blessing, has not faced major invasions from neighboring countries.

In the years following the Vietnam War, we "turned off" to a military buildup. This nation's enemies have not.

In the event of a major conventional war in which armies must face each other, will the United States be prepared? We think not.

Reinstatement of draft registration would prepare this country in the event a major conventional conflict should occur. Without an available list of ready men and women who could serve, we would be that much further behind.

We do not suggest turning our nation into an armed camp. But we must be ready.

Military analysts predict it would take many costly weeks for the U.S. to mobilize an effective combat force. Others say it would take months.

Could our All-Volunteer armed forces meet this demand? It's not likely.

Today's military personnel ranks are not what they should be despite massive campaigns conducted by Madison Avenue advertising firms. They pretentiously convey military service more as a romantic adventure or vacation than the rigorous, disciplined and oftentimes tedious environment that it is.

We hear talk concerning the outrageous amount of funds spent on the military. New York advertising firms do not come cheap. Bonus money to induce men to join combat units does not grow on trees. Taxpayers must foot the bill for massive amounts of pamphlets, billboards and slick campaigns aimed at telling how nice it would be to put on a uniform.

We feel these efforts are misdirected.

Reinstate the draft. Divert enlistment campaign dollars to build and update military equipment and pay our military personnel what they're worth to the safety and well-being of our nation.

There are two directions the nations of this world can go in when they cannot settle by peaceful means conflicts that continually arise. The choice between conventional and nuclear war is a grim one indeed.

The future of this nation rests in facing the possibility that it may be forced into armed conflict in the future.

With reinstatement of draft registration, we would be one step closer to preparedness.

Readiness the Key to Nation's Defense

Congress is on the verge of passing a draft registration bill, and a record peacetime defense budget also is nearing final approval.

Both moves should help the nation maintain and improve its military defenses. But whether they will really help the military overcome its main problem remains to be seen.

While the U.S. has the best and most sophisticated military hardware in the World, and while raw manpower isn't really a problem there's an emerging consensus that the nation's ability to defend itself is being seriously undermined by a lack of essential, highly trained personnel.

Evidence of the lack of skilled servicemen is abundant in all branches of our armed forces.

Though our sophisticated fighter jets are unmatched in performance capability by those of any other nation, roughly 50 percent of the military's jet fleet is grounded at any one time because the services lack the highly trained personnel needed to fly and maintain modern war planes. Though sophisticated new Navy ships are being built, there are serious questions whether there will be crews able to man them. Earlier this year, the Navy had to take one ship out of service temporarily because of a lack of trained crewmen. All branches of the armed forces report such problems.

Absence of trained manpower insidiously undermines the nation's military might. We can have the best, most technologically sophisticated military hardware in the World, but it will be of little use when we really need it if we don't have men trained to run and maintain it.

Reasons for the lack of trained military manpower are many, but the primary one has to be compensation. Most new recruits would be better off financially working in fast food restaurants. Sadly, more and more service families are qualifying for food stamps and welfare.

Air Force maintenance crews work for less than a quarter of the hourly pay earned by their civilian counterparts. A military computer programmer typically can increase his pay $10,000 a year by leaving the service and going to work for a civilian employer.

More and more servicemen in skilled positions are quitting, and doing so at an unexpectedly high rate. This creates burdens for those who keep serving. They face longer and longer tours of duty, and greater and greater strains on their family life. Some of them feel forced to quit. It becomes a vicious circle.

Another problem, a legacy of the Vietnam war, is the lack of prestige afforded men in the armed services. Instead of enjoying the respect they deserve for their patriotism and personal sacrifice, many servicemen, particularly younger ones, are scorned by their peers.

The military's lack of trained manpower is a growing and potentially critical problem that requires the attention of Congress and leading military officials and planners. Registration, if it leads to a draft, could help.

But the key to meeting the problem probably will be to start paying more competitive salaries to highly trained servicemen. They might be a better investment for defense than some of our expensive military hardware.

It also would help if servicemen once again start getting the respect they deserve for their sacrifices that enable the rest of us to enjoy freedom and security.●

THE CANCER OF COMMUNISM

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. DAN DANIEL. Mr. Speaker, the July 1980 issue of the periodical, the Retired Officer, contains an editorial by Col. Minter L. Wilson, Jr., U.S. Army, retired, which should be read by all Members, particularly those who believe that Communists can be "good guys." The editorial points out that basically there are no variants of communism—it is all bad. The article follows:

The Cancer of Communism

"Anyone not hopelessly blinded by his own illusions must recognize that the West today finds itself in a crisis, perhaps even in mortal danger."

—Aleksandr Solzhenitsyn

The statement above is the lead sentence in another remarkable article ("Misconceptions About Russia Are A Threat to America," *Foreign Affairs*, Spring 1980), by the Russian expatriate and winner of the Nobel Prize for Literature (1970), now living in Vermont. He says the ultimate cause is our blindness—60 years of it—to the true nature of communism.

In this month when we traditionally celebrate the freedom which is so precious to Americans, when we see refugees swarming ashore from communist tyranny in Cuba, boat people still escaping Vietnam, starving Cambodians crossing into Thailand, the communist yoke firmly tightening onto the necks of the Afghanis and all of Eastern Europe still under the Soviet heel, perhaps it is time to stop, listen and reflect on Solzhenitsyn's message.

Solzhenitsyn, who spent the entire 55 years of his Soviet life in the remoter areas of the U.S.S.R., draws a clear distinction between the territory—Russia—where the disease of communism first seized control and the Russians who live there. He says the word "Russia," for present-day purposes, can only be used to designate an oppressed people or else to point to a future nation liberated from communism. To emphasize that view, he points to Brezhnev and his ilk as those who have connived at the ruin of their own people in the interests of foreign adventures, who have destroyed the national way of life and kept the people in hunger and poverty for the last 60 years. Communist leaders are alien to their people and indifferent to their suffering, he says.

There are those who to this day cherish, glorify and defend communism. Those who have seen it in operation, "personal and up close," know its evil menace to the world and grasp its implacable nature. Others fail to understand the "radical hostility of communism to mankind" and that no "better" or "kinder" variants exist. The ideology cannot survive without using terror. "Consequently, to coexist with communism on the same planet is impossible. Either it will spread, cancer-like, to destroy mankind, or else mankind will have to rid itself of communism."

Scholars of Russian history and the present-day Soviet Union come in for scathing denunciation from Solzhenitsyn for their unwitting adoption of Soviet historiography, under the illusion of conducting independent research, when, in reality, much remains hidden and hushed up. So, the sins of communism are ingeniously ascribed to an age-old Russian mentality. Think how advantageous it is to those who espouse communist ideology, and who seek power through it, to blame its crimes and vices on the traditions of old Russia. But one doesn't have to look far today to discover that, as in the U.S.S.R., the "ideals of the revolution" manifest themselves from the very first in suppression and murder of the people. Through the most arbitrary selection of facts and events, whether it be in the Soviet Union, the People's Republic of China or Vietnam, the "liberals and radicals" who lent so much of their fervor and assistance to these bloody regimes are relieved of a burden on their consciences.

HIGH-MINDED VIEW

Maintaining that the Russians, and others, can only liberate themselves, Solzhenitsyn makes one request:

> Please do not force us into the grip of dictatorship, do not betray millions of our countrymen . . . and do not use your technological resources to further strengthen our oppressors.

And offers this advice:

> Take care lest your headlong retreat lead you into a pit from which there is no climbing out.

His is a voice, strong in character, made so from suffering and adversity, telling us that crushing burdens can give birth to a contrary process—a process of spiritual ascent. But the process needs nurturing. It is time for sacrifices lest "today's illusory profits return as tomorrow's devastation." We must replace the "sleek god of affluence" with the high-minded view of the world which was ours at the founding.

The cancer of communism is with us. It can only be halted by force from outside or disintegration from within, according to Solzhenitsyn. He says the West faces a greater danger today than in 1939. His hope is that on the eve of the global battle between world humanity and communism, the West will recognize the Russian people as friends of humanity and allies against communism.

"So much has been ceded, surrendered and traded away that today even a fully united Western world can no longer prevail except by allying itself with the captive peoples of the communist world."●

WHAT NOT TO DO ABOUT AMERICA'S CRISES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. ASHBROOK. Mr. Speaker, we are all familiar with the first admonition doctors give us about finding accident victims: "Don't move the patient unless you have to". This is important advice, and it is hard to follow. When we see a fellow human being in pain, our natural reaction is to try to do something, even if it is wrong.

Unfortunately, in dealing with America's domestic emergencies, such as massive unemployment, Congress too often follows the natural desire to do something, anything, and at once. The results have often been the same for the Nation that they would have been for an accident victim: We end up by doing something stupid and harmful, out of the best of intentions. For the victim, the intentions don't help. In the case of unemployment, for example, we start up a public jobs program, which increases the national debt, which results in Government draining capital from the free market, in turn reducing job-creating capital and makes unemployment yet higher.

In these situations, it is conservatives who look especially bad. They are like a crowd of people at an accident who are following medical advice. Someone is lying there in pain, and people just stand around, doing nothing and waiting for the ambulance to come. These people certainly look pretty unheroic, and someone who runs to the victim, picks him up, puts him in a car and rushes him to the hospital looks a lot more humanitarian. The results of his bumbling efforts may be permanent crippling or even death for the victim, but he looks good. The crippled state of our economy is at least partly due to this sort of showy good will on the part of politicians who, above all, want to look good.

Our present crushing tax burden, the entrenched bureaucracy, and our regulatory mess are largely a result of showy bungling. Congress throws together a massive program for the latest emergency, the energy crisis, jobs for minorities, air pollution, inflation, unemployment, and a hundred other things, and it looks as if they were doing the job. As my colleague Bob Bauman has pointed out, we seem to be passing more and more legislation on a continuing emergency basis. Those of us who want to stop and take a look at where we are going and what we are trying to do are made to look uncaring and almost inhuman.

Twenty years of quick fixes have been enough to do enormous damage even to an economy as strong as ours once was. Even those of us who were most worried 20 years ago could not have believed that we could have been reduced to our present state. Our productivity has fallen below that of many of the countries which, in 1960, hardly dreamed of overtaking us. For the first time in American history our children will have a lower standard of living than their parents. Our machinery, once the envy of the world, is now often vastly inferior to that of other industrialized nations. Our factories routinely use old, outdated equipment that would long since have been sent to the junkyard in Japan or Germany. Why can we not afford new machinery? Because, since 1960, over one-half a trillion dollars worth of new public debt has had to be financed by the American capital market. Money which goes to pay for Government debt cannot be used to buy new machinery or new buildings, and Government has chosen programs instead of job-producing capital.

This is not to say that the Congress ever actually voted to stop investment. Like the fellow who drove the accident victim to the hospital, the Congress has blindly reacted to immediate problems, giving little thought to the long-run results of its quick fixes. Year after year, emergency after emergency, they have looked good, but the cost to the victim, the American economy, has been crippling.

For 22 years, the quick-fixers have looked so good they have controlled both Houses of Congress. The voters have been impressed by their good intentions, as they have rushed to throw together one program after another to solve our national problems. It is hard for Americans to believe that the fellow grabbing the victim and tossing him in his car could be the worst enemy possible for the person he is trying to help.

In a political emergency, the same rule we use in a physical emergency has a lot to be said for it. We must start waiting to act until someone who knows what they are doing arrives on the scene. It is impossible to look at our present situation and believe that the congressional leadership knows how to deal with our national problems. But they want to act, to do something, right now, as they have been doing for 20 years. As a result, they are the worst enemies our victimized economy has.

Government by emergency has put this country into the emergency room. If we are to survive at all, we will have to do more hard thinking and less blind reacting. If America is pushed over the brink of ruin, it will do no good to insist that it was all done with the best of intentions.●

TRAINING THE SOVIETS TO FILL IN THE GAPS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. FINDLEY. Mr. Speaker, the United States relies on its technological superiority to maintain a strategic advantage over the Soviet Union. With the fearsome increase in the quantity and delivery capability of Soviet military forces, this U.S. technological edge could make the difference between deterrence or war, between survival or defeat.

Yet, the United States has been far too lax in controlling the transfer of high technology to the Soviet Union. Some examples are now well-publicized: U.S. technology built the Soviet Kama River plant which produced many of the trucks that rolled into Afghanistan this winter. U.S. precision miniature ball-bearing grinding machines helped the Soviets develop MIRV guidance systems to give their huge intercontinental ballistic missiles pinpoint accuracy. Having enabled the

Soviets to make their ICBM's more deadly, the United States must now pay a second price—a multimillion-dollar MX system to undo the damage our technology transfer policy created.

In the aftermath of the Soviet invasion of Afghanistan, President Carter imposed new, though no doubt temporary, restrictions on high technology exports to the U.S.S.R. This followed congressional action on legislation in 1979 to tighten controls on technology transfer to Communist States.

But the type of technology transfer to the Soviet Union which should arouse the greatest concern for our national security—the training of Soviet scientists and engineers in American universities and research institutions—continues unabated and unfettered. Via federally funded U.S.-U.S.S.R. academic exchange programs, the United States is enabling Soviet citizens to come to this country to acquire critical technological know-how and understanding of vital scientific processes. Much of what these Soviet scientists and engineers study here has a dual-use potential, that is, it has military as well as peaceful applications.

The U.S. intelligence community has actually discovered that some of the Soviet students are assigned to work on defense programs when they return to the U.S.S.R. But this is no doubt just the tip of the iceberg. Given the closed nature of Soviet society and our complete lack of control over the end use of the knowledge we have imparted, we have no way to monitor the whereabouts or the nature of the work of the Soviet students when they go home.

In spite of these facts, no new restrictions have been imposed on United States-Soviet academic exchanges—a program where few restraints have existed in the past. United States-Soviet academic exchanges began in 1958; they have occurred at their current level since the mid-1970's. Approximately 70 Soviets annually come to the United States to study at academic and research institutions while about that same number of Americans go to the Soviet Union. Fifteen to twenty on each side are involved in a Soviet Academy of Sciences exchange program which, despite its name, focuses primarily on economies and the social sciences. About 10 more Soviets and 10 Americans each year are senior research scholars. The remaining 40 from each country participate in the U.S.-U.S.S.R. graduate student/young faculty exchange. This last program offers a 10-month stay in a university or research institutions of the other nation.

There is a disturbing disparity in the research topics pursued by each side in both the senior research and the graduate student/young faculty exchange programs. In 1978-79, for example, all 10 of the U.S. senior scholars researched liberal arts or social science topics while 8 of the 9 Soviet senior scholars specialized in the natural sciences. Again, the 43 American graduate students participating in 1978-79 studied history, literature, music or another liberal arts topic in the Soviet Union while 36 of the 43 Soviet graduate students and young faculty members who came here, on the other hand, studied science, most notably physics and chemistry.

One American thus spent her 10 months in Moscow looking into "The Heroine in the Russian Fairy Tale." Another examined "The Political Attitudes Behind the Assassination of Tsar Paul I" while still another focused on "Performance Practices in Russian Choral Music of the Late 19th and Early 20th Centuries."

The contrast of these topics with those of the Soviet students is startling. One Moscow State University student was in the United States for 10 months researching laser physics, nonlinear optics, and spectroscopy as well as tunable lasers. Another was also interested in lasers—two level atoms in one-mode laser fields. The list goes on. In case these technical topics are initially as inscrutable to you as they were to me, tunable lasers and two-level atoms in one-mode laser fields both relate to separating out parts of complex atoms. This field is still in its infancy though we are already certain of its implications for chemical warfare.

Many of the Soviet graduate students and young faculty members, in fact, spend their time here working on advanced state-of-the-art U.S. technology and on research in areas in the forefront of American scientific discovery. Aircraft engine design, ship hydrodynamics, and optical signal processing are among the many topics recently pursued with obvious interest for the Soviet Armed Forces. And the Soviets are now surpassing their past record by pushing for greater access to U.S. computer technology through these exchanges.

Part of the reason for the disparity between American and Russian topics is that young American scientists prefer to work in the superior U.S. labs rather than undergo a restrictive and half-productive year in a Soviet institution. Applying for such an exchange scholarship is, of course, a matter of individual choice for Americans. No one forces them to go.

Not so for the Soviet students who are carefully selected by their Government according to the scientific requirements of the U.S.S.R. Furthermore, the Soviet "students" are far older than their American counterparts. Usually, they are at least 35 and already extremely experienced in their field. The Soviet Government carefully analyzes what gaps exist in Soviet scientific knowledge and works to place students in research programs designed to help them fill those gaps. The Soviets insist on placing their students in the very best American universities and science programs: MIT, Cal Tech, Berkeley, and Syracuse are high on the Soviet list.

At one time it may have been easier to restrict Soviet access to high technology of military significance by keeping them out of government labs. However, today each of the armed services awards contracts to U.S. universities for an increasing amount of scientific research with potential military uses. The university research may continue for years before the Government assumes direct responsibility for its further development. Therefore, it is dangerous to give Soviet scientists a free rein for 10 months in U.S. university laboratories. There has, indeed, been more than one case where the Pentagon discovered that a research assistant working on a defense contract in a university lab was actually a Soviet exchange student.

Ironically, Soviets working in American labs have access to equipment which the United States will not agree to sell to the Soviet Union on the grounds that it would damage our national security to do so. In their own labs in the U.S.S.R., they would have to work around the lack of this equipment. Their hands-on experience with this equipment gained during their stint in the United States, of course, undermines the effectiveness of any export embargo. In addition, Soviet familiarity with the state of U.S. technology, its priorities, successes, and failures, provides the Soviets with the insights they need to develop effective countermeasures to our scientific advances.

The threat these exchanges pose to U.S. national security interests is very real. The United States should, therefore, immediately take steps to restrict this critical outflow of U.S. technology to the Soviet Union:

First, we should insist on mutuality in these exchanges. The United States should not be training Soviet "students" in physics and chemistry while Americans are researching 18th century Russian history. The United States must put an end to this one-way flow—an outflow—of U.S. technology.

Second, at the present time, the national security risks of each proposed Soviet student and topic are reviewed by an intergovernmental committee. The committee makes a recommendation on whether or not each Soviet exchange program applicant should be allowed to come to this country for study, based on his proposed program of study and its implications for U.S. security. But the recommendation is not binding. It is merely an advisory opinion which the State Department may then overrule.

The committee recommendations should be binding. And the final decision on whether or not to admit a Soviet student should rest not with the Department of State but with the Department of Defense. The State Department lacks the technical expertise to assess the national security risks of the potential technology transfer involved. The Defense Department does have this expertise. Also, the foremost consideration for the State Department is international goodwill and good relations; unfortunately, it too often stresses these objectives to the exclusion of all others. But it is U.S. national security interests which must prevail and it is Defense which is most qualified to assure these interests.

Third, the same Defense Department office which would review and make the final decision on these exchanges should, in conjunction with the U.S. intelligence community, develop better information on Soviet technological and scientific priorities and gaps. Proposed topics of study should be checked against these lists to increase awareness in the United States about Soviet scientific objectives. This country should not help Moscow overcome its technological and scientific disadvantages and further undermine the U.S.-U.S.S.R. strategic balance.

The result of these proposed restraints may well be that these academic exchange programs with the Soviet Union will come to an end. Or, future Soviet students in the United States will spend 10 months researching topics such as "The Importance of the American Comic Strip as an Indicator of Social Change in the United States." So be it. There may be a place for United States-Soviet exchange programs to improve understanding between our two nations but it should focus on humanitarian programs, perhaps medicine or cultural affairs. It should not be a one-way drain of U.S. high technology and science which threatens U.S. national security. U.S. security is far more important than the goodwill these programs may produce. And, in the aftermath of the Soviet invasion of Afghanistan, we should clearly recognize the need for a strong U.S. national defense rather than Soviet goodwill.●

THE SANDINISTA TAKEOVER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I wish to bring to the attention of my colleagues further news of the confiscation of an independent Nicaraguan television network—channel 2—at the time of the Sandinista takeover last year.

During the entire history of the operation of channel 2, it was a free and democratically operated television network. Channel 2 at no time actively participated in the Somoza government or in any way gave aid or comfort to the Somoza regime, according to that network's president, Mr. Octavio Sacasa.

In a recent letter to me, Mr. Sacasa described the confiscation of the television network. I call to the attention of my colleagues this correspondence and urge them to heed the words of Mr. Sacasa, who questions the validity of the arguments that Nicaragua is a free and democratic country.

Following the correspondence from Mr. Sacasa is a quotation from Sandinista junta member Humberto Ortega speaking in response to a question about elections in Nicaragua.

Letters from Sacasa and Ortiz Pacheco and quotation from Humberto Ortega follow:

OCTAVIO SACASA,
Key Biscayne, Fla., July 14, 1980.

Hon. ROBERT J. LAGOMARSINO,
Longworth House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE LAGOMARSINO: On June 18, 1980 Atelcap (Association of Television Companies of Centro America and Panama) debated and passed the enclosed resolution. This resolution denounces the Sandinista regime of Nicaragua for their unlawful and anti-capitalistic actions. Specifically, the resolution addressed the confiscation of Channel 2, a privately-owned television network in Nicaragua, without due process or redress. The confiscation of Channel 2 by the Sandinistas is without legal, lawful or moral justification and is a direct threat to the basic human right of freedom of speech throughout Central and South America.

Channel 2 was founded in 1964 by the family of the undersigned, and the undersigned has been its Chief Operating Officer since 1964 and its President since 1970. During the entire history of the operation of Channel 2, it was a free and democratically operated television network, whose only commercial competition was Channel 6, the television station owned by the Somoza Family. Channel 2 at no time actively participated in the Somoza Government or in any way gave aid or comfort to the Somoza regime.

Despite the foregoing, the Sandinistas on July 19, 1979, upon taking over the Nicaraguan Government, also took control of Channel 2 without reason or explanation. To this day, the owners of Channel 2 have never been advised of what legal basis the Sandinista Government is relying on for their actions, nor has any attempt been made to compensate the owners of Channel 2 for the confiscation of their property.

This matter is brought to your attention because of the critical nature of the relationship between the United States Government and Nicaragua, and the substantial aid package that is being offered to the Nicaraguan Government. The aid package is based on a Congressional finding that such aid is merited. Congressman Jim Wright, who toured Nicaragua, reported that the Nicaraguan Government is a free and democratic country. That report flies in the face of all reality as evidenced by the attached resolution and the contents of this letter.

The actions of the Sandinista regime in this instance is in direct contravention of the United States Government's human rights policy. The clear pattern being followed by the Sandinistas is that of the Castro regime where massive confiscation of private industry and violation of human rights occurred without compensation or due process of law.

I would be happy to personally discuss this situation with you and to present any documentation you feel necessary regarding this matter. Your immediate attention is appreciated.

Very truly yours,
OCTAVIO A. SACASA,
President, Channel 2.

JULY 18, 1980.

DEAR SIRS: I hereby respectfully call to your attention the following agreement reached during the last meeting of the Association of Television Stations of Central America and Panama, regarding Televicentro Channel 2 in Nicaragua.

We have been advised, and it has been confirmed that since that very day the new Government of Nicaragua was installed on July 19, 1979, it took possession by force of Channel 2 Televicentro in Nicaragua, and of Radio Station A.B.C., which operated inside the same building, private enterprise companies of independent character and separate from the Somoza Government.

It is our duty to raise our protest before all Nations, as a warning voice, since this abuse of authority signifies an open violation of the freedom to broadcast free thought, aside from the appropriation of private property. We have no doubt that in moments of national emergency the authority of a State can take under its control any means of communication for reasons of security; but this is a measure, as well as Martial Law or the suspension of constitutional guarantees, that by its very nature must be temporary. It is a fact that in the case of Channel 2 Televicentro in Nicaragua and in Radio Station A.B.C., this appropriation has been prolonged for more than ten months, without any explanation of its legal motivation, and that the Government of Nicaragua is not only directing and managing these companies entirely, including their subsidiaries, with a value of over thirty million cordobas, in all its extension and complexity, but it has also fired previous employees, even taking control of the accounting books and of the corporation books containing the stock certificates, which it has been enjoying, and collecting the corresponding payments. The Companies and subsidiaries affected have not received a single cent pursuant to this appropriation, nor even a written explanation about this measure, and they have not been advised by the Government about appropriation or expropriation. All appearances and public statements by the authorities, give the appearance that these companies have arbitrarily been placed under the power and dominion of the State.

Although it is true that at the moment the Revolution successed a Law of National Emergency was published on July 22, 1979, which in its Article 8 stated that "the means of collective communication could be put pursuant to a State of Emergency, to the service of the ends pursued by the State", this disposition of Article 8 was expressly voided by Decree of the National Board of Government number 51 of August 21, 1979, by which all radio stations of Nicaragua not appropriated were returned to their owners, with the sole special exception of Channel 2 Televicentro and Radio Station A.B.C. After rescinding the Decree of National Emergency regarding the means of communication the Government of Nicaragua has no right to illegally retain and continue to occupy that television station and that radio station. And as to the means of public communications, the law in Nicaragua in its Articles 6 and 8 guarantees the "full standing of all Human Rights of the Universal Statement, of the Interamerican Statement, etc.," and Article 8 of that Fundamental Statute specially stresses the unrestricted liberty of thought, both oral and in writing, regulated by the special law. And afterwards, by Decree No. 383 of the 29th of April, 1980, the Law of National Emergency was totally voided, which makes this illegal appropriation of the only means of private television that there was in Nicaragua more unlawful.

We believe that this appropriation is a flagrant and serious violation of one of the basic liberties of democracy, which is the liberty to broadcast free thought, and it affects the republican constitutional system. Our Federative Institution, which contains all the Television Companies of Central America and Panama, specifically states its formal and strong protest for this outrageous violation of the law, and of the legal system. The occurrence of this appropriation in Nicaragua is a harmful example that can be repeated in any other nation, and damage our own interests, as it has occurred in the case of Nicaragua.

We specially address the authorities of the Government of Nicaragua who openly proclaimed, at the triumph of the Revolution, that they would uphold, as a fundamental principle, the liberty to broadcast free thought and the security of private enterprise which was not contaminated with the Somoza regime. They have not only failed to fulfill their promise to the Nicaraguan people and the other nations, specially in this Continent in this particular case, but they have betrayed the rights of those companies and of all of their stockholders, executives and employees.

Very truly yours,

JOSE J. ORTIZ PACHECO,
President, A.T.E.L.C.A.P.

SANDINISTA JUNTA MEMBER HUMBERTO ORTEGA ANSWERS QUESTION ABOUT ELECTIONS IN NICARAGUA

[Answer] I wish to point out to Companero David Aragon that on 19 July 1979, our people, with weapons in their hands and the memory of the sacrifice of 50,000 Nicaraguan patriots, decided who they wanted to run the country. On that occasion the people decided that they were the ones who were going to rule themselves when they supported Sandinism. When we talk about elections, we are not referring to a raffle to see who is going to seize power. When we talk about elections, we are not talking about the type of elections the counterrevolutionaries, the betraying bourgeoisie, think we are going to have here. We are not going to have elections as if people did not know who was in power. In other countries elections are held to choose a government; in Nicaragua the people have already chosen their government. The Sandinist people have already seized power. Therefore, when we talk about elections, we are referring to the mechanisms and systems that our revolution is going to implement so that the working people will elect the representatives of their established government in the best and fairest manner. In the future, elections will be held to improve on the representatives of a people who are already in power and who have chosen their revolutionary destiny.●

EXECUTIVE COMMUNICATION NO. 4507

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. ASHLEY. Mr. Speaker, following is a copy of Executive Communication No. 4507 from the Department of State in explanation of the draft bill which was introduced in the form of H.R. 7799 to give effect to the Protocol Amending the Convention for the Preservation of Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington on March 29, 1979:

DEPARTMENT OF STATE,
Washington, D.C. June 2, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit for the consideration of the House a draft bill to implement obligations of the United States under the Protocol Amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea. The Senate gave its advice and consent to ratification of this Protocol on March 20, 1980.

A section-by-section analysis of the bill follows.

SECTION 2

This section defines certain key terms.

SECTION 3

This section provides for the United States to be represented on the International Pacific Halibut Commission (the Commission) established by the Convention as amended by the Protocol (hereinafter the Convention) by three commissioners to be appointed by the President. One commissioner would be an official of the National Oceanic and Atmospheric Administration; at least one would be a voting member of the North Pacific Management Council who is also a resident of Alaska knowledgeable or experienced concerning the North Pacific halibut fishery. In addition, this section provides for the appointment of alternate commissioners by the Secretary of State, with the concurrence of the Secretary of Commerce.

SECTION 4

This section provides that the Secretary of State, with the concurrence of the Secretary of Commerce, may accept on behalf of the United States recommendations made by the Commission under Article III of the Convention and paragraphs 14 and 15 of the Annex to the Convention.

SECTION 5

This section gives the Secretary of Commerce general responsibility to carry out the terms of the Convention and the Act. It authorizes the Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating, to promulgate regulations necessary to carry out the purposes and objectives of the Convention and the Act. It also authorizes the Secretary to cooperate with the duly authorized officials of the Government of Canada. Finally, it grants the Secretary, with the concurrence of the Regional Fishery Management Council having authority for the geographic area concerned, authority to promulgate regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with, regulations adopted by the Commission. Such regulations may not discriminate between residents of different states. If halibut fishing privileges must be allocated between various United States fishermen, such allocation is to be fair and equitable to all such fishermen, reasonably calculated to promote conservation, and carried out so that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges. Subject to the provisions of the Convention, any allocation shall be made in accordance with rights and obligations under existing federal laws and treaties, including fishing rights, if any, of native Americans.

SECTION 6

This section authorizes any agency of the Federal Government to cooperate at the request of the Commission in the programs of the Commission.

SECTION 7

This section makes it unlawful for any person subject to the jurisdiction of the United States to violate any provision of the Convention, the Act, or any regulation adopted under the Act; to resist or interfere with law enforcement of the Convention and the Act; or to trade in fish taken and retained in violation of the Convention, the Act, or any regulation adopted under the Act. This section also prohibits any foreign fishing vessel, and the owner or operator of any foreign fishing vessel, from engaging in fishing for halibut in the United States fishery conservation zone, unless such fishing is authorized by, and conducted in accordance with a valid and applicable permit issued under Section 12.

SECTION 8

This section provides for the imposition by the Secretary of Commerce of a civil penalty for commission of an act prohibited by Section 7. The amount of the penalty is not to exceed $25,000 for each violation.

SECTION 9

This section makes it a criminal offense to commit certain of the acts prohibited by Section 7—those involving resistance to or interference with law enforcement of the Convention and the Act and fishing by a foreign fishing vessel which is not in accordance with a valid and applicable permit issued under Section 12.

SECTION 10

This section provides for forfeiture to the United States of any fishing vessel used, and any fish taken or retained in connection with or as a result of the commission of any act prohibited by Section 7.

SECTION 11

This section provides for enforcement of the Act by the Secretary of Commerce and the Secretary of the Department in which the Coast Guard is operating. It provides specified enforcement authority to enforcement officers authorized to enforce the Act. In addition, it permits such enforcement officers, in accordance with regulations issued by the two Secretaries, to issue citations to the owner or operator of a vessel which is operating or has been operated in the commission of an act prohibited by Section 7, in lieu of seizing the vessel and fish. The provisions covering warrentless searches and seizures are intended to conform the language of this Act to the Fisheries Conservation and Management Act of 1976. The District Court for the District of Alaska has recently affirmed the legality of such warrentless searches and seizures for fishing violations.

SECTION 12

This section prohibits any fishing vessel of Canada from fishing for halibut in the United States fishery conservation zone unless it has on board a valid and applicable registration permit. It also provides for the Secretary of State, after taking into consideration the views of the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating, to approve and issue registration permits to fishing vessels of Canada that wish to fish for halibut in the United States fishery conservation zone.

SECTION 13

This section authorizes the appropriation of such sums as may be necessary to carry out the Convention and the Act, including necessary travel expenses of the United States Commissioners or Alternate Commissioners and the United States share of the joint expenses of the Commission.

SECTION 14

This section authorizes the Secretary of State to provide facilities for office and any other necessary space for the Commission. Such facilities are to be located on or near the campus of the University of Washington.

SECTION 15

This section authorizes the Secretary of Commerce, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating to administer the Act consistent with the terms of the Convention, including the Protocol, on a provisional basis pending the exchange of instruments of ratification in accordance with Article II of the Protocol.

SECTION 16

This section repeals the Northern Pacific Halibut Act of 1937, as amended, as of the ninetieth day after the date of enactment of the Act.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal for the consideration of the Congress and its enactment would be in accordance with the President's program.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.●

BAD YEAR FOR FARMERS BUT STILL HOPE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. FINDLEY. Mr. Speaker, Clayton Yeutter, president of the Chicago Mercantile Exchange, recently made a speech to the Nebraska Bankers Association which gave a good perspective of the farm catastrophe of 1980 and the potential for 1990.

As we move toward the time that we will be rewriting the Federal farm program, we should keep in mind some of Mr. Yeutter's observations as reported by Midlands Business Journal. Here are excerpts of that article:

> American farmers will suffer a "catastrophic" year in 1980 and possibly 1981 but agricultural exports potentially could triple by 1990, said the president of the world's second-largest futures market.
>
> "In the short run, it's hard to be optimistic about anything on the agricultural scene," said Clayton Yeutter, president of the Chicago Mercantile Exchange. "The farmers are just going to have to hang in there."
>
> Most damaging this year is the Russian grain embargo, Yeutter said. "We've sent no real message to the Soviets and the farmers are paying the price."
>
> Even more critical is the long-term damage, he said. "We've handed substantial world markets over to our competitors. The Soviets and others are signing long term contracts with other grain suppliers, which puts us out of competition. It's a devastating error that never should have been made."
>
> Yeutter said President Carter is "doing nothing to win support from the agricultural community. It looks as if he is writing off the farm vote as a factor in the election."
>
> By imposing the grain embargo, Carter hurt future trade relations with the Soviet Union, Yeutter said. "I have heard estimates that Russia could have been a 100 million ton customer of United States agriculture products by 1990," he explained. "It will be a long time before that happens now."
>
> After imposing the embargo, Carter should have enacted a set-aside program to offset its effects, Yeutter said. "That should have been done this spring, but it's too late now. Next year we'll just need a greater one that will be more expensive and more disruptive."
>
> Yeutter also criticized Carter's decision to let Russia buy eight million tons of grain next year. "We're not even sure that they will want to," he said.
>
> The U.S. could move more grain into the world market by utilizing such programs as PL 480 (food for peace), or CCC (Commercial Credit Corporation) exports, said Yeutter.
>
> Farmers will need time to "dig out" from 1980's adverse effects, but "the long-term market potential for U.S. agricultural products is phenomenal," Yeutter said. "Ag exports are now about $30 billion per year. I think it's possible to triple that to $100 billion a year by 1990.●

SOME GOOD ADVICE FROM THE PEOPLE OF THE FOURTH CONGRESSIONAL DISTRICT OF KENTUCKY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. SNYDER. Mr. Speaker, together with our colleagues in the Senate, we manage to fill thousands of pages in the CONGRESSIONAL RECORD with sage comments every year, but I have always contended that does not make us the real experts. Our counterparts in the executive branch generally outdo us, pouring their combined wisdom into tens of thousands of pages in the Federal Register, but that certainly does not make them the real experts either.

The real experts, as far as I am concerned, are the people back home who have to live with the laws, the regulations, and the policy decisions we dish out. They know our laws from daily experience and they know our regulations on a firsthand basis. Congress talks a lot about taxes, but they know taxes, because they are the ones who pay them. Congress talks about inflation, but they meet it at the grocery store every day. Congress talks about energy problems, but they know our energy problems because they sat in gas lines last summer and have to reach deeper into their pockets each time the tank is filled this year. Congress talks about unemployment, but they are the ones looking for work.

This year, as in the past, I asked the experts—the people of the Fourth District of Kentucky—to share their opinions with their Congressman through a questionnaire. As always, the response of the levelheaded people of the Fourth District evidences that they care and are concerned about the direction of their Government. Twelve thousand of them filled out and returned the questionnaires and many of them added their own personal comments and suggestions on a wide range of topics. Their thoughtful remarks have reconfirmed my belief that we would have more answers, fewer problems, and be in much better shape if more of us took the time to listen to the people we represent.

Since the questionnaire dealt with issues which are national in scope, my colleagues should find the results interesting. It is even quite likely that the opinions of the people in Kentucky's Fourth District might reflect the views of a good many of their own constituents. Questionnaire results follow:

QUESTIONNAIRE

Please answer the following questions Yes or No (except No. 3 which requires "a" or "b" response).

1. Do you believe that the proposed military registration is a step toward implementing the draft and precipitating a war? Yes, 33.4 percent; no, 65.2 percent; undecided, 1.4 percent.

2. Do you feel that there is an effort by the Administration to psychologically prepare the American people for military action in the Mid-East? Yes, 57.2 percent; no, 40.8 percent; undecided, 2 percent.

3. Assuming a military deficiency—(a) Do you perceive this as a manpower shortage? or (b) Do you perceive this as a deficiency in weapons, i.e. B-1 Bomber, Trident, MX, Neutron Bomb? (a) 22.9 percent; (b) 51.7 percent; both, 22.9 percent; neither, 0.8 percent; undecided, 1.7 percent.

4. Do you believe that the overthrow of the Shah of Iran was precipitated by this country's insistence on leniency toward dissidents in the cause of human rights? Yes, 47.1 percent; no, 47.1 percent; undecided, 5.8 percent.

5. Do you support major new government incentives to encourage the development of alcohol fuels, gasohol, etc? Yes, 89.4 percent; no, 9 percent; undecided, 1.6 percent.

6. Would you support legislation to encourage savings by exempting the first $100 or $200 of interest income from taxes? Yes, 90.5 percent; no, 8.5 percent; undecided, 1 percent.

7. Do you believe gasoline rationing should be imposed to conserve energy? Yes, 31.1 percent; no, 66.8 percent; undecided, 2.1 percent.

8. Would you support temporary easing of Environmental restrictions if it would speed the increased use of coal? Yes, 84.0 percent; no, 14.8 percent; undecided, 1.2 percent.

9. The Value Added Tax—a form of a national sales tax—has been proposed as a substitute for portions of Income and Social Security taxes. Do you support it? Yes, 25.8 percent; no, 66.0 percent; undecided, 8.2 percent.●

COMMENCEMENT ADDRESS BY KATHLEEN MARY O'BRIEN

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. SOLOMON. Mr. Speaker, it is perhaps an overworked phrase that the future of our Nation depends on our youth. In attending numerous commencement exercises in my district this spring, I had the opportunity to learn what our youth are thinking, and I am now more convinced than ever that our future is in good hands.

What is most encouraging is a clear turnaround in what our young people are thinking, compared to years past. Despite the problems our Nation has experienced in recent years, our potential leaders have a positive view of the future, rather than a negative and unforgiving view of the past.

This trend was clearly evidenced in the valedictory delivered at Minerva High School by Kathleen Mary O'Brien. Coincidentally, Kathleen is the granddaughter of a former House Member, Leo W. O'Brien. I commend her remarks to my colleagues:

COMMENCEMENT ADDRESS BY KATHLEEN MARY O'BRIEN

This is a time for happiness tinged with regret.

Happiness because we've reached a long-sought goal. Regret because we're leaving behind our daily contact with faculty and friends.

But our sadness is eased by knowing that the friendships and the knowledge acquired will endure for a long, long time.

I realize that a valedictory address by a 17-year-old girl at a small Adirondack High School commencement is hardly an Earth-shaking event.

But the occasion is important to me because I'm one of thousands of young people—at the high school and college level—who are expressing their hopes and fears for a new decade—the 1980's.

Certain decades of this century were given nicknames such as the Roaring Twenties and the Fabulous Fifties. Unfortunately, we also have had what some regarded as the *Sick Sixties, and Seventies.*

We graduates are not too young to remember valedictories of recent years, valedictories spoken from platforms like this. They spoke of violence and distrust * * * of anarchy and arson * * * of rejection of patriotism and of destruction of what they called "The Establishment."

Tragically, what they called for came true in great measure. Violence exploded in the academic world. Many of us were led to believe the American System had failed * * * that we were incapable of governing ourselves * * * that brave men and women were weak and cowards were strong * * * that the negative should replace the positive.

Now a new decade has dawned. I hope it will be the great 80's not the hate 80's. I hope that we will dwell more on success than on failure. I hope that we look at our nation—with all its human faults and failures—as one which in the last 20 years has cut the numbers of people living in poverty in half; has created 25 million new jobs; has added more than 10 years to life expectancy and is constantly striving for world peace.

We take the valuable things in this country for granted. We are quick to criticize any infringements upon us but fail to offer any solutions to solve them.

We must change this attitude and learn to deal with problems that affect us personally and nationally.

Let's have done with the silly idea that all men except *me* are fools * * * that all public servants are thieves or drones * * * that government must rule every part of our lives * * * and that technology is a threat to mankind.

I wonder how the false prophets of gloom and doom in our public media would treat Abraham Lincoln if he were President today.

I suspect we would hear more of his warts and his poor bewildered wife than of the Emancipation Proclamation or the Gettysburg Address.

Ladies and gentlemen, my slogan for the 1980's is "Accentuate the Positive, and the Good."

If this be treason to the sloganeers of doom and gloom I say to them—So be it.●

THE TOBACCO PRICE SUPPORT PROGRAM: BLUE CHIP INVESTMENT FOR U.S. TAXPAYERS

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. HOPKINS. Mr. Speaker, a little learning is still a dangerous thing, even though Alexander Pope's original observation is more than 250 years old. As a case in point, consider the 1981 Federal budget, which will include an allocation of about $200 million for the tobacco price support program conducted by the U.S. Department of Agriculture. While Congress struggles to balance the budget, some lawmakers who do not know the facts, spurred on by numerous tobacco critics who do not care about the facts, will once again cry for the elimination of that program.

The tobacco price support program is, quite simply, the most successful of all agricultural commodity support programs. It is successful because it meets effectively its goal of assistance to the farmer at a relatively minimal cost which is dwarfed by such positive economic consequences as additional tax revenues nationally, and expanded employment opportunities in a dozen Southern and border States.

Price support programs for agricultural commodities, including tobacco, began during the depression of the 1930's. Congress enacted the tobacco program because it found that tobacco farmers were subject to "uncontrollable natural causes," typically precarious financial positions, and a chronic inability to match supply and demand—circumstances which inhibited the orderly marketing of their commodity. These problems were, and remain today, commonplace among many different types of farmers; thus, it is not surprising to find that the tobacco program is just one among many similar commodity price support programs.

To participate in the tobacco program, a farmer must agree to limit his production as specified by the USDA, which then sets a minimum price for the marketing of tobacco leaf. Because American farmers have long produced tobacco leaf of outstanding quality, most domestic tobacco is sold for prices substantially in excess of the legal minimum. If, however, a farmer's tobacco is not sold at the minimum price, it is taken into the Government pool and the grower receives a loan—not a gift—for the minimum price. The Government later sells tobacco from the pool—when the price has risen—and the grower's outstanding loans, together with interest, are repaid from the proceeds of the sale.

Because virtually all of the loans are eventually repaid, the USDA budget allocation for tobacco price support loans is not an expense in the usual sense of the word. The sole cost of the loan operations to the taxpayer is the amount of any losses on the loans. From the beginning of the program in 1933 through fiscal year 1978, cumulative losses on all tobacco price support loans, including interest, amounted only to $51 million.

In my own district, the Burley Growers Cooperative in Lexington, Ky., announced recently that it would pay bonuses totaling $390,000 on the 1974 burley crop to more than 5,000 individual growers. The bonuses are the result of tobacco sales from the co-op's pool at prices higher than the support price at which the co-op took in the tobacco. In addition, the co-op expects to pay grower bonuses on the 1975 and 1976 crops amounting to $7 million or more. Particularly noteworthy is the Lexington-based organization's perfect record of more than four decades during which it has never failed to repay the principal on loans used to operate its tobacco price support operations.

To put this figure in perspective, compare the results of the tobacco price support program to related Government transactions. One useful benchmark is other agricultural commodity loan programs. In only 1 year, 1978 for example, losses on loans for all agricultural commodity loan inventory operations amounted to $18 billion.

In fact, sales from the tobacco pool during recent years have been vigorous and the U.S. Treasury has made a profit on the loan operations. For example, in fiscal year 1978 there was a net gain of $827,000.

Standing in even more striking contrast is tobacco's direct economic contribution to the American taxpayer over a 46 year span. From 1933 through 1978, Federal and State excises on tobacco products returned about $120 billion to the taxpayer. Federal excise collections on tobacco products during the period amounted to more than $70 billion and the States received about $50 billion.

Senator **Fritz Hollings** of South Carolina, chairman of the Senate Budget Committee, has argued with respect to this program that tobacco does more to support the Federal Government than the Federal Government does to support tobacco. Indeed, if the taxpayers could count on a rate of return for all other outlays, similar to that for this blue chip investment, balancing the budget would soon join winged flight on the list of once-staggering challenges now taken for granted.

A study by the University of Pennsylvania's Wharton Applied Research Center showed that in 1977 sales of tobacco products contributed $48.6 billion to the U.S. gross national product. In that year alone, Federal, State, and local governments received $19.3 billion in tax revenue generated by the tobacco industry and its ripple effects in the economy. In 1978, exports of tobacco made a net positive contribution of $1.7 billion to our oil-soaked balance of payments.

If, in the aggregate, the Nation's taxpayers are the principal financial beneficiaries of the program, then so be it; but policymakers in Washington would do well to remember that the program exists primarily to assist the individual tobacco farmer. Tobacco is a labor-intensive crop which can generate a higher income from a smaller plot of land than any other commonly grown agricultural commodity. Thus, required investment in land and machinery is relatively low, when compared to other crops. It is just these characteristics, however, which would make conversion from tobacco to other crops impractical if not impossible.

For these reasons, the tobacco support program is vitally important to the continued operation of many traditional family farms which provide economic security, and in many cases the very means of survival, to approximately 400,000 American farmers and their families.

To be sure, as Congress moves through the appropriations process and attempts to repair the damage done by decades of deficit spending, we must look clearly at every line item, including such programs as tobacco price supports. Regrettably, however, there will continue to be critics with little understanding of the delicate economic balances characteristic of our agricultural system. Clearly, the tobacco price support program has stood the test of time and preserved orderly marketing conditions which have enabled generations of growers to earn a decent living on their farms—helping in the process to slow the demise of the family farm as an American way of life, both economically and agriculturally.●

THE COST OF INFLUENCE PEDDLING

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. WALKER. Mr. Speaker, I commend to my colleagues yesterday's lead editorial in the Washington Star—in fact—I suggest they may want to read it twice. Notwithstanding certain loud protestations emerging from the White House, a new "circling of the wagons" has begun and the editorial speaks to the point and raises numerous questions that demand answers.

The article follows:

[From the Washington Star, July 22, 1980]

THE COST OF INFLUENCE PEDDLING

It's no use pretending that anyone's White House would be likely to handle a president's kid brother like a stranger who wandered in off the street—or that, when high executive officials roll out the red carpet (as they seem to have done in the matter of Billy Carter and his lucrative footsie game with the Libyans) they necessarily do so out of corruption rather than courtesy.

Still, the continuing revelations about the Billy Carter affair suggest an unusual solicitude on the part of exalted personages in the West Wing of the White House. And however motivated, they suggest grievous lapses of judgment.

The basic problem, now irrefutably established, is that Billy Carter was acting over an undetermined period of time—and at least since sometime in 1978—as an unregistered "agent of influence" for the despicable regime of Muammar Kadafi—and that the Department of Justice and, later, the FBI were on his trail. Federal law carries serious penalties—not ultimately sought in Billy Carter's case—for citizens who act as unacknowledged agents for foreign governments.

What the emerging record tends to show, moreover, is that far from taking immediate and vigorous steps to distance the White House from Mr. Carter's influence-peddling activities, the president's official family treated him in a fashion quite likely to reinforce the assumption of his Libyan paymasters that he was a good buy and might do good things for them in Washington and elsewhere.

The record shows, for instance, that Mr. Carter enjoyed ready access to both National Security Adviser Zbigniew Brzezinski (a self-described "family friend") and later, through him, to White House counsel Lloyd Cutler. Before one jaunt to Tripoli, high-level briefings by National Security Council officials were arranged. Much later, when the heat from the Justice Department was being turned from simmer to low, Dr. Brzezinski referred the president's brother to Mr. Cutler. Mr. Cutler arranged Washington counsel for him. That counsel, in turn, negotiated with the Justice Department for a consent decree putting a legal end (without penalty) to Mr. Carter's irregular and unlawful status.

The question naturally arises: Was Justice Department enthusiasm for a more vigorous, possibly criminal, approach to the case cooled by the knowledge that Billy Carter was enjoying high-level courtesies in the West Wing? That question is unanswerable on the basis of available information. Our working assumption is that the solicitude of Mssrs. Brzenzinski and Cutler was more ill-considered than otherwise.

Nonetheless, there are more problematic possibilities and the issue of kid-glove treatment needs careful exploration. The reality and appearance of the most basic governmental proprieties are involved.

Still to be cleared up, furthermore, is the question we posed here last week: What did President Carter know of his brother's influence-peddling activities, and when did he know it? As a reader of the newspapers, he could hardly have been unaware that Billy Carter was in cahoots with the Kadafi crowd; and one doubts that the arrangement met with his approval. The president said the other day that he had recently advised his brother to get the matter cleared up with the Justice Department; Billy Carter claims, in clear contradiction, that he had not discussed the matter with the president before he settled with the Justice Department. Where does the truth lie?

In itself, the Billy Carter case could be merely another of those messy situations that arise when ambitious (and impecunious) friends or relatives of the powerful trade on a presumptive personal relationship, real or pretended, usually without sanction. Even so, it would be an unsavory business, to be dealt with sternly and uncompromisingly.

Certainly it will not do to give foreign governments—all the less those of the unsavory character of Libya's—the impression that they can buy influence, through presidential siblings, at the highest levels of government. And that seems just what the Libyans assumed they were buying when they took Billy Carter into their "friendship" and pay.

If the president and his official family have difficulty grasping the serious implications of this shoddy episode, a congressional investigation would certainly impress it upon them—and, along the way, fill in some of the missing pieces of the story. Those pieces could, of course, be far uglier than anyone now thinks.●

AGRICULTURAL SCIENCE: THE CHALLENGE OF CHANGE

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. WAMPLER. Mr. Speaker, Congressman **George E. Brown, Jr.**, a distinguished member of the House Committee on Agriculture and chairman of the Subcommittee on Science, Research, and Technology of the House Committee on Science and Technology, made a most thought-provoking speech last week, July 15, 1980, before a joint meeting of the National Agricultural Research and Extension Users Advisory Board and the Joint Council of Food and Agricultural Science at Rosslyn, Va. Mr. **Brown's** speech had as its theme the need for our country to reverse the erosion of support for agricultural research that has occurred over the last few years.

The next Congress must address this problem head on, inasmuch as the major statute governing the future course of research, extension, and teaching in the fields of food and agricultural sciences, title XIV, Public Law 95-113, commonly referred to as the

1977 farm bill, expires next year. Our colleague's speech is most timely therefore, and should be made available to all who have an interest in the future of our Nation's food, fiber, and forest product supply.

I insert herewith Congressman BROWN'S speech:

AGRICULTURAL SCIENCE: THE CHALLENGE OF CHANGE

I appreciate the opportunity to address you this evening. I hope that Dr. Bertrand, in inviting me to speak, realizes the potential danger in allowing a politician in an election year to practice his oratory skills on a captive audience. But the subject of government research policy, and agricultural research in particular, has been a longstanding interest of mine so you needn't fear an inordinate amount of political bromides due to election year cycles.

I made the focus of my speech sufficiently broad so as to be able to roam over a number of topics in hopes of stimulating the discussion during your annual joint meeting. The National Agricultural Research and Extension Users Advisory Board and the Joint Council on Food and Agricultural Sciences are in a unique position. Being advisory bodies, you have the enviable advantage of taking a detached view of agricultural research that cuts across the Department of Agriculture's research functions and one that has a longer planning horizon than the focus forced upon the Department by political realities. You should use this lack of petty political accountability forced upon other policymakers to free your thinking about the challenges facing agriculture in this country and around the world.

Being advisory bodies you also are in a position to offer the opening comments in discussions that you feel need some attention. This, I think, is one of your key functions. Congress is a reactive entity and usually responds to issues rather than creating them. In times of extreme change, such as we are in now, Congress becomes a reactionary entity, returning to past solutions in apparent disregard of the fact that the nature of the problem has changed. It is up to people outside of Congress, outside of the daily responsibilities of USDA, to catalyze the discussion and offer guidance on what are the major problems facing agriculture and where the solutions may lie.

We are entering challenging times. As a mature, developed society, we see a great threat in change. In the area of agriculture, the last thirty years have been good to this country. Thanks to the fine work done by our agricultural research and extension network. But the post-World War II boom, the chemical and mechanical revolution in agriculture, is based on the idea that we have limitless resources—energy, water, soil—and now with limits to these resources upon us, it is time to alter the direction and structure of agriculture. That is the challenge now facing us and it is your charge to anticipate the changes needed and help set the research and extension goals required to accomplish the change.

Perhaps at this point I should roam over some of those topics promised a moment ago, in order to point out some areas that need priority attention.

It is impossible to go to any sector of our complex agricultural production, processing, marketing, and transportation system and not see the effects of increasing energy prices. What will be the effect of increasing fossil fuel prices over the next decade? Will prices of agricultural products continue to rise and be paid by consumers, or will alternatives emerge that will change the structure of agriculture?

In the production area, increasing prices for fossil fuels and petrochemical products will cause great changes, Integrated pest management and closer monitoring of pest populations to reduce pesticide applications are being driven by increased pesticide prices. Fertilizer sales are down slightly this year due to increased cost and if this trend continues, we may see an effect on yields, unless alternative systems are developed and instituted. Highly mechanized, centralized farming systems may find increased competition from smaller operations closer to the eventual markets. High prices may discourage consumers of many products and cause shifts in purchasing patterns.

The impact of energy prices on the rest of our present complex food marketing and transportation system needs attention as well. What happens when energy prices cause packaging and transportation costs to equal the cost of production for a food item? What happens, for instance, when the cost of transporting a California tomato to New Jersey equals the cost of raising the tomato in the first place? Will we see a resurgence of the New Jersey truck farms that were driven out of business by the mechanized, energy intensive California industry? Will agricultural production closer to cities, on smaller operations, reappear and require increased services from the extension and marketing operations in USDA?

I have no answers to these questions nor the scores of others that arise when one begins to ponder the possible effects of energy costs on agriculture. Perhaps there will be no great trauma and the system will slowly adapt to change. But it scares me to see so few people even asking these questions.

In our system of agriculture, as in any developed system, there is inertia that will preserve the status quo beyond the point where a rational, detached observer would notice problems developing and institute changes in the system. The myopic, incremental view of change that we so-called policy makers are forced to take frequently prevents us from seeing where we are going until we run into a wall. Advisory bodies such as yours must serve as guides, taking the longer view, doing the research planning and priority setting that will keep us one car length away from the wall. This assumes a certain level of skill on the part of those behind the wheel, of course, an assumption that is at times called into doubt.

In the area of energy production from agricultural and silvicultural products, much work is needed. We are on the verge of solving some of our energy supply problems by turning to renewable biomass sources such as alcohol fuels and waste wood utilization. Careful study needs to be made of the long-term effects of the developing energy agriculture industry.

Will alcohol feedstocks require increased production acreage? Will we stick with corn or begin to include underutilized crops such as the Jerusalem artichoke milkweed, or some of the Southwestern hydrocarbon plants? What is the effect on soil quality of removing timber waste or crop stubble for fuel purposes? Again, the list goes on and again it is up to groups such as yours to ask the questions, find the most pressing needs, and suggest research priorities. Most of us know how long it takes between identifying a need, directing research at the topic to obtain results, and achieving final application. That lag must always be kept in mind in planning.

Water resources are another cause for concern over the next twenty years. In my part of the country we view with alarm the problems of water supply and quality in the Colorado River Basin that we will see in the near future. Water mining is becoming a major problem in northern Texas and the supply problems caused by increased use of irrigated farming practices throughout the Ogallala aquifer needs greater attention. Rural water supplies have become contaminated in many areas by agricultural chemicals—I have a number of DBCP contaminated wells in my district. Soil salinity threatens large areas of the Southwest, due to past and present wasteful irrigation practices.

In many respects, water problems in the Western United States parallel the energy problems being experienced in agriculture throughout the country. We proceeded for years as if water were a limitless resource, much as we did with oil, and focused on the supply of water, drilling new wells and building more dams and canals, when expanded operations demanded more water. Now with water, as with energy, we find that much greater efficiency is needed, and we must shift to a conservation strategy.

This will be an expensive program, requiring careful planning to insure the proper use of limited funding. Application of new irrigation systems will be needed. Inventories of areas affected by soil salinity will be needed. Major work on conserving water loss in reservoirs, canals, and laterals is required. Since we can no longer "buy" new water through major reclamation projects, we should look at shifting the emphasis of these public works programs to "buy" additional water through conservation. An evaluation of the effectiveness of existing cost-sharing programs is needed since they will have a major role to play.

We need to look at different strategies to be used in dry areas of our country, such as the development of drought and saline resistant plant strains. If water supply and quality continues to decline, many crops currently raised in irrigated acreage may no longer be commercially viable crops. Replacement crops such as guayule, jojoba, and a number of other plants indigenous to these areas should be explored further.

Soil erosion is a major threat to the continued health of our agricultural system. The changing nature of agriculture to larger, centralized operations has eliminated many of our soil conservation strategies developed during the Dust Bowl days. Windrows and terraces are incompatible with center pivot irrigation systems and other modern farming equipment. Crop rotation patterns, fallow acreage, strip cropping, and other cultural soil conservation techniques have fallen victim to cropping decisions made from an economic viewpoint rather than a conservation viewpoint. The great challenge facing us now is to adapt soil conservation strategies and programs to accommodate the current realities. We cannot afford to let current rates of soil erosion continue.

Changing patterns of farmland ownership may also affect the implementation of soil conservation programs. With much land owned by off-farm interests, cropping and reinvestment decisions are frequently made in cities distant from the farming operation. Even with the presence of skilled farm managers, decisions made affecting resource conservation may reflect market forces rather than a need to maintain the soil base. Perhaps instead of concentrating so much on the amount of foreign investment in U.S. farmland, we should look more carefully at trends in ownership patterns.

At the same time as soil quality is declining, much productive land is disappearing under asphalt and being diverted to non-agricultural uses. How do we control the pressures bringing about this conversion of some of our most fertile land? How do we balance the forces competing for this land?

Well, I could stand here for hours and continue to outline other major areas of interest to research and extension policymakers. Perhaps it is best to fall back on the definition of an effective speaker as one who communicates as much by what has been left unsaid as by what is said. I trust that you will have no difficulties finding areas needing USDA's attention outside of those that I have briefly mentioned.

But having identified a list of emerging problems, your task as advisory groups has just begun. You must determine which are the highest need areas, what approaches should be explored, how much of USDA's resources should be devoted to these issues. You must engage in the kinds of debates that we in Congress and USDA must have in setting our shorter term priorities. This is the task which you were charged to perform in the 1977 Farm Bill. With the 1981 Farm Bill fast approaching, your work over the last four years becomes more critical as we decide what direction we want our agricultural research and extension activities to take for the following four years. This is also time to reflect upon the performance of your two groups.

With the changes that we will be faced with in the rest of this century, our planning must be done better than it has in the past. This country abounds with examples of sectors of our economy that have failed the test of change—the auto industry, the steel industry, the shoe industry, and so on down the front page of the Wall Street Journal. You must prevent the agriculture industry from joining this list. But first you must avoid the usual defensive attitude of an established system and view change as an opportunity rather than a threat.

Every year I see agricultural research and extension funds suffer relative to other government research functions. I have seen the competition that takes place for this supposed fixed pot of funds as if there were some adversary role between Hatch Act funds and competitive grant funds and Smith-Lever Act funds. The plain truth is that the agriculture sector is failing to make its case with OMB and Congress.

Those concerned about agriculture's future in this country must reverse the erosion of support for agricultural research that has occurred over the last few years. You must bridge the gap between producer and consumer that has resulted from our complex food marketing and distribution system and from the urbanization of large areas of our country. You must build a new constituency in urban areas to replace the loss of a thousand farms a week and the support that those farm families once provided for agricultural issues. Consumers and urban residents have a vital stake in agriculture research and extension operations and need to be made more aware of this.

Look around for parallel sources of funding. In FY '77 the National Science Foundation funded $206 million in plant sciences research, $3 million of which was on biological nitrogen fixation. This money and elements of funding in other government agencies have not traditionally been included in discussions on agricultural research. Use the competitive grants program to bridge that research into the existing agricultural research system and to tap other research funding outside of the traditional AR and CR funding.

Focus existing federal research funding on the fringes of existing knowledge and spin off some of the ongoing research to private industry. Federal research dollars are high risk funds that do not require the direct economic return of private research and development investments and should look at such issues as: Biological nitrogen fixation, nutrition monitoring and research, new crop research, long-term plant breeding research, and the like. Government funds should focus on areas left untouched by commercial interest, the so called public good issues, such as: the needs of small and medium sized family farms, pest management strategies, alternative energy systems, rural quality of life issues, germplasm storage, preservation and collection, and many others. One vital area that has been left untouched is monitoring chronic crop yield losses under ten percent caused by nutrient deficiency, air pollution, and other stresses that occur without visible evidence. The amount of ongoing funding directed at monitoring this area is pitifully sparse in spite of the value of this research in giving us warning signs of potential problems.

Use the boom in information and communications technology to expand extension functions. The Green Thumb ag-weather system that is being looked at by USDA can cheaply transmit a variety of information from the monthly county extension letter and market information to pest management strategies and availability of crop storage space. A system such as this could become an electronic extension network, speeding services and freeing extension staff for other non-routine work.

This technology could also be of use to the Department in solving the dilemma of the need for centralized planning contrasted with a decentralized research and extension system. Coordination of research, system management functions, bookkeeping functions, communications needs and other applications would greatly benefit USDA's operations and help cut costs.

Use foreign agricultural development funds in USDA and other agencies to explore alternative farming systems. Nations that are twenty years behind the United States in per capita energy use may be seen as well to be twenty years ahead of this country if predictions about the needed domestic reductions in energy consumption are to be met. In developing and applying suitable systems of agriculture in less developed countries, systems that recognize limited fossil fuel availability in many of those countries, we perfect systems of agriculture and agricultural technologies that may have application in this country.

Advanced irrigation technology designed to aid drought-stricken areas in other countries may be useful for large areas of the southwestern United States that will be facing increased pumping costs, water shortages, and increasing soil salinity. Integrated pest management systems aimed at reducing the use of expensive pesticides in less developed countries have value in this country given the fact that nearly all of our major crops and many of our insect and plant pests are imported from other countries. Developing technologies that decrease the need for petrochemical fertilizers will help both farmers in developing countries and in the U.S. decrease their production costs.

In essence, what I am telling you this evening is that meeting the challenge of change will require a corresponding level of effort on the part of groups such as yours. I have tried to give you examples of areas where I feel there are present and emerging problems. You can do a better job I am sure. I have tried to list a few examples of new ways to cope with limited resources available for agriculture research and extension activities. Innovative thinking on your part will undoubtedly come up with many more. Better planning and more innovation are what we need now and your help is essential. Do a good job. Thank you.●

TECHNOLOGY TRANSFER, PART II: SOVIET THIRST FOR SCIENTIFIC KNOWLEDGE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. FINDLEY. Mr. Speaker, the Soviet Union is making a tremendous effort to overcome the shortcomings in its scientific knowledge and research. To that end, it is placing great emphasis on scientific education and training. It recognizes the importance of scientific know-how to achieve its many military and economic objectives.

I would like to call to the attention of my colleagues the following article by Daniel S. Greenberg on Soviet scientific education today. It appeared in the May 13, 1980, issue of the Washington Post.

THE INTELLECT GAP

(By Daniel S. Greenberg)

Americans who monitor Soviet education are reporting extraordinary accomplishments there from a decade-long drive to provide all high school students with extensive, super-enriched training in mathematics and science. It's so successful, they're saying, that the American high school system has been rendered primitive by comparison.

Though there can be a lot of slack in the linkage between national power and scientific literacy, interest is compelled by the Soviet commitment to make virtually all its young people go through mathematical and scientific training of a duration and intensity that relatively few Americans experience. For example, while calculus has almost disappeared from the American high school curriculum—only about 100,000 students a year take it—all Soviet high school students get two years of calculus, and about 97 percent of Soviet youngsters now finish high school.

According to one of the leading American observers of Soviet education, Izaak Wirszup, professor of mathematics at the University of Chicago, the new Soviet science education represents a break with the old lock-step, imagination-dulling methods that have been widely blamed for Soviet science's relatively poor standing in world-class research. "These changes," Wirszup says in an unpublished report to the National Science Foundation, "are tantamount to an educational mobilization of the entire population." Of particular importance, he notes, is that the reformed scientific training is characterized "by an unexpected turn toward the individual and the development of his ability to do independent, creative work."

If that's so, and if it eventually takes hold in the actual conduct of scientific research, then the Soviet scientific community may be on its way to shaking off a well-earned reputation as a sluggish giant. The Soviets are aware of the relatively low productivity of their scientific enterprise and, as Wirszup points out, have given a high priority to expansion and reform of a school system that has been identified as a major bottleneck in the modernization of the Soviet economy.

The Soviets, he states, gave a great deal of authority for curriculum reform to their leading mathematicians and educational researchers. The result, he continues, "is a program for mathematics instruction that is modern in content, innovative in approach, well integrated and highly sophisticated. It gives strong emphasis to theoretical foundations and logical rigor as well as to applications. . . . Moreover, the extraordinary Soviet research in psychology and methods of learning and teaching mathematics has been applied to the new curriculum, which now surpasses in quality, scope and range of implementation that of any other country."

Wirszup, who is an internationally recognized authority on Soviet computer technology and mathematics education in the Eastern bloc, added in his report that the Soviet effort amounts to "a concerted drive to produce mass education of unmatched quality."

For those many Americans who take a peculiar pride in acknowledging scientific ignorance, the differences that Wirszup tabulated in standard Soviet and American high school programs are likely to be quite startling. He reports, for example, that a Soviet high school student is required to complete five years of physics, four years of chemistry, one year of astronomy, five and one-half years of biology, and so on down a list that would empty America's high schools via the dropout route. Wirszup concludes: "The disparity between the level of training in science and mathematics of an average Soviet skilled worker or military recruit and that of a non-college-bound American high school graduate, an average worker in one of our major industries, or an average member of our all-volunteer army is so great that comparisons are meaningless."

Finally, he observes that while the remaking of the Soviet education system has hit some snags and stirred up pedagogical controversies, the Soviets feel they're on the right track and continue to invest vast resources in what they themselves describe as an "educational revolution." As for the students, they are lured on, Wirszup states, by the realization that "educational achievement . . . is practically the only safe avenue to a more comfortable standard of living under Soviet conditions."

Wirszup's findings, along with continuing reports of slumping standards and student achievements in American high school science and math programs, contributed to a White House request in February for the Department of Education and the National Science Foundation to collaborate on a report, due next month, on science and engineering education in the United States.

Of the many shortages now confronting the United States, it may be that the intellect shortage is the most dangerous.●

CALIFORNIA'S PROPOSITION 13 SHOWS WHY TAX RATE REDUCTION IS NEEDED

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980.

● Mr. GINGRICH. Mr. Speaker, I am today submitting as an extension a paper done by one of my summer interns. Her name is Audrey Powe. She is 22 and will soon complete college in Alabama. Audrey researched the results of California's famous proposition 13, which is now over 2 years old and able to be judged objectively.

The facts dug up by Audrey show that proposition 13 did not wipe out the State surplus, did not gut State services, and did not hurt the poor and minorities. In fact, 13 contributed to a lower inflation and unemployment rate in California relative to the national averages. It also forced the State government to manage and spend tax dollars more efficiently.

Proposition 13 was an across-the-board reduction in property tax rates. In concept it is similar to H.R. 7566, a bill backed by Ronald Reagan and nearly all House and Senate Republicans and which will cut Federal income tax rates by 10 percent. No two sets of economic circumstances are ever identical, but I believe the positive results of California's proposition 13 offer convincing evidence that passage of H.R. 7566 will reap similar benefits for the whole Nation.

Miss Powe's paper follows:

THE 2 YEARS OF PROPOSITION 13

(By Audrey Powe)

Proposition 13, an amendment to the constitution of California passed by referendum on June 6, 1978, cut property tax rates by one-third and made it more difficult to increase other state and local taxes. It is the purpose of this paper to examine the effects Proposition 13 had on the California economy.

In a release exactly one month after voters endorsed the amendment, the Congressional Budget Office estimated that the revenues the state government could expect in fiscal year 1978-79 would drop by $7,044,000 as a result of Proposition 13. Another estimate said that, assuming no impact on the state's economy because of the lowered tax rates, the cuts would mean a revenue loss of $6.4 billion.[1]

Others were more optimistic. Professor Art Laffer of the University of Southern California asserted that lowering tax rates would result in a rise in total tax revenues for state and local government. Because lower tax rates would increase productivity and work incentives, economic activity would be stimulated. More consumer spending and an expanded tax base would prevent California's budget from going into the red. Laffer said that the 50 percent cut in property tax rates would mean a $110 billion increase in the personal income of Californians.[2]

Proposition 13 did stimulate California's economy, to the point where personal income rose by 14 percent within the first year.[3] With property tax rates lower, businesses expanded, thus creating new jobs, encouraging more investment, and higher real wages. Lower effective costs of homes (the property tax being a home "cost" borne by consumers) encouraged more construction and enlarged the property tax base. Since the California legislature moved to offset the anticipated revenue losses by imposing fees for services that had been free, a prominent result of Proposition 13 has been a shift in costs from property owners to property users.

State officials claim that Proposition 13 has not meant any significant cutbacks in welfare payments or the rate of pay hikes for govenment employees.[4] Prior to the passage of 13, economist Jude Wanniski warned that layoffs of regular public employees would reduce essential state services at the local level, such as fire, police, and sanitation.[5] But these services were maintained, because the state used available funds to help schools and local governments adjust to Proposition 13.[6] These available funds included user fees, federal aid, county revenues, and money from the $5 billion state surplus California has on hand when Proposition 13 was passed.

That budget surplus, in large part the result of the impact of high inflation on the state's progressive income tax code, kept California from feeling the initial revenue shortfalls caused by Proposition 13. Surplus funds totalling $4.2 billion were allocated to local governments to help them adjust. With that help and by using their own reserves, schools, cities, counties, and other taxing elements spent as much money under Proposition 13 as they did the previous year.[7]

Writing in the Los Angeles Times in October of 1979, Ellen Hume pointed out that "California's local governments actually spent 7 percent more under Proposition 13 in the fiscal year ending Sept. 30 then they did in fiscal 1978 before the property tax cut went into effect."

According to the GAO study by Hume, "Local as well as state treasury surpluses, the booming California economy and increased federal aid throughout the state helped California's local governments make up for the estimated $6 billion lost because of Proposition 13." The GAO report said 13 "had had only a minimal impact on local California government operations and federal grant outlays." On the county level, an average of $222 million more—a 10 percent increase—was made available to most counties in fiscal 78-79.[8] School districts enjoyed an increase in state aid of $2.267 billion in fiscal 78-79.[9]

The effects of Proposition 13 on the government itself were mixed. During the first fiscal year following passage, $54 million was saved by the imposition of a hiring freeze. This meant reduced opportunities for promotion and smaller pay raises for some public employees. Low morale among county employees has been a problem and the rate of turnover doubled in 1979.[10] There's been a steady exodus of people with marketable skills from government service, as physicians and other professionals went into business for themselves. Overall, 100,000 government jobs—8 percent of the bureaucracy—were eliminated after the passage of 13. Only 20,000 of these workers were actually laid off; the rest disappeared through attrition.[11]

In the area of education, there has been change, but not disaster or chaos. Average class size has remained at 35, and teachers have retired early as enrollment declined. Four elementary schools in Santa Barabara were closed in 1979, but this was partially due to a decline in enrollment (to 4,000 students from 6,200 in 1967).[12] Some libraries, in certain elementary schools, have been adversely affected by Proposition 13.

Fire and police protection have been virtually unaffected by 13, because these areas have received top priority when state aid was allocated. According to a report in the New York Times, students at the police academy in Oakland received dismissal notices 30 minutes after they graduated. However, all the new police officers were rehired within a few weeks.[13] This was a recurring pattern in California during the summer of 1978: Because the initial revenue shortfall seemed drastic, it provoked drastic action by some state officials. Yet most of these actions could be rescinded when the true fiscal picture became clearer.

Hospitals were affected slightly by Proposition 13. For example, the Santa Barbara County Hospital was closed to inpatients, yet indigent patients were treated at a private hospital with the county paying the bill. Most county health officials assert that there was no decline in services. In general, government officials since the passage of 13 have put their emphasis on greater productivity with utilization of fewer resources.

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[1] Footnotes at end of article.

Liberal fears that layoffs of over 500,000 public employees would come as a result of the budget cuts caused by Proposition 13 have not been borne out. Massive dislocation, either in the state government or in California's economy as a whole, has not occurred.[14] Sen. George McGovern (D.-S.D.) described the acceptance of Proposition 13 as "degrading hedonism," which was "motivated by racism" and would impose heavy burdens on the poor.[15] Economist John Kenneth Galbraith called Proposition 13 "a disguised attack on the poor." [16] But California has proven that it could cut tax rates by a large percentage and still deliver adequate services to those that depend on them.

In fact, the case can be made that the major beneficiaries of Proposition 13 have been minorities and others traditionally hard hit by unemployment. In the year following the passage of 13, California's unemployment rate declined by 1 percent and the rate of increase in the state consumer price index went down 1 percent relative to the national averages.[17] During the first five months of 1978, unemployment in California averaged 7.5 percent. As of March, 1980, it was at 5.8 percent.[18] This two-year downward trend in joblessness in California was sharper than was the national decline. For the first time in years, California's unemployment level was lower than that of the nation as a whole. The rise in employment and increased economic activity in general increased personal income 22 from the first quarter of 1978 to the first quarter of 1979.[19] Californians were earning $200 more per man, woman and child during 1979.

We can't credit Proposition 13 with every improvment in California's economic picture, but it did spawn similar measures aimed at controlling government growth and shifting resources back to the people. Governor Brown cut state income taxes $1 billion in 1979, and Californians approved Proposition 4 last November, which clamped limits on state spending. So California served as something of a laboratory for tax reduction and spending limitation measures, mostly emanating from the people to the politicians, rather than the reverse. The results—higher growth, employment, productivity, and living standards—have not disappointed Professor Laffer or most of California's citizens.

FOOTNOTES

[1] Congressional Budget Office, "Proposition 13: Its Impact on the Nation's Economy, Federal Revenues, and Federal Expenditures" (July 6, 1978, p. ix).

[2] Los Angeles Herald, March 3, 1980.

[3] "Proposition 13: One Year Later." *Swiss Economic Viewpoint*, Oct. 1979.

[4] Robert Lindsey, "California Finding Prop. 13 Less Potent Than Was Predicted," (New York Times: June 5, 1979, section A, p. 9).

[5] Jude Wanniski, "The California Tax Revolt" (The Wall Street Journal: May 24, 1978).

[6] Elizabeth Coleman, Release from the Governor of California's Office, June 14, 1978, p. 1.

[7] Ellen Hume, "California Spends More Despite Proposition 13," (Los Angeles Times: Oct. 3, 1979).

[8] Ibid.

[9] Congressional Budget Office, p. 6.

[10] Robert Lindsey, "Dire Predictions on Proposition 13 Have Not Materialized," (New York Times: March 7, 1979, section A, p. 14).

[11] Warren Brookes, "The California Boom and Proposition 13," (Boston Herald American: June 26, 1979, p. 9).

[12] Lindsey, "Dire Predictions."

[13] Swiss Economic Viewpoint.

[14] Brookes, p. 9.

[15] Los Angeles Times, July 2, 1978.

[16] Los Angeles Times, July 9, 1978.

[17] Unpublished paper by John Mueller.

[18] Los Angeles Herald, March 3, 1980.

[19] Brookes, p. 9.●

A TRIBUTE TO FATHER MICHAEL J. McGIVNEY

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. BEARD of Rhode Island. Mr. Speaker, I rise today to pay tribute to Father Michael J. McGivney, the founder of the Knights of Columbus. While a 29-year-old curate at St. Mary's Church in New Haven, Conn., Father McGivney conceived of such a fraternal society. He died at the age of 38, leaving a reputation as a holy, caring man who expressed his love for God through his work with young people, the forgotten, and the voiceless.

Father McGivney's compassion, benevolence, and understanding has left a legacy that is magnified each passing year by the good works of the more than 1,330,000-member organization. To illustrate the extent of their achievements, last year the Knights of Columbus contributed over $24 million and nearly 9 million hours to humanitarian causes.

Mr. Speaker, people like Father McGivney who make a unique contribution to our society deserve special tribute and recognition. This is the purpose of H.R. 7653, which was cosponsored by 42 Members of Congress. This bill seeks to render the appropriate distinction due such an outstanding American by providing for the issuance of a commemorative postage stamp to be released for the 100th anniversary of the Knights of Columbus in 1982. This bill will be reintroduced later to provide the opportunity for additional cosponsors to become a part of this tribute.●

U.S. POLICY TOWARD MOROCCO AND THE WESTERN SAHARA ISSUE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. HAMILTON. Mr. Speaker, I would like to bring to my colleagues attention a recent exchange of letters I had with the State Department regarding U.S. policy on the Western Sahara issue and how we conduct our relations with the Moroccan Government.

It had been my understanding that in recent months two of the principles in our dealings with the Western Sahara issue involved, first, working toward an understanding with the Moroccans over the relationship between our supply of arms and their willingness to enter into negotiations for a peaceful settlement of the Western Sahara issue; and, second, starting a dialog with the Polisario. It is not clear from recent developments the extent to which we continue to hold firm to these two features behind our policies in this area.

My correspondence with the State Department follows:

SUBCOMMITTEE ON EUROPE
AND THE MIDDLE EAST,
June 18, 1980.

Hon. EDMUND S. MUSKIE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I realize that there are many pressing international crises with which you have to grapple, but I would like you, as soon as possible, to review carefully the situation in the Western Sahara and our policies in that part of Africa. From where I sit, I see a Department of State divided on policies in this area but I do not always see the divisions within the Department reflected in a carefully balanced and implemented series of policies.

There are two specific matters which I would like to raise at this time. In my view, out of the discussions with the Congress on the Western Sahara issue over the last two years came distinct understandings that the United States would be working toward some type of linkage between the provision of military equipment to Morocco and the willingness on the part of the Moroccan Government to pursue a negotiated peaceful settlement of the conflict. I have the impression today that, whatever type of direct, indirect, public, private, positive or negative linkage we were trying to work towards no success has occurred and none seems likely. I do not know if we are still pursuing any linkage in earnest.

Second, I had the strong impression from our discussions that official contacts between Americans and members of the Polisario would be permitted and would occur. It is my impression that such contacts are not taking place at this time even if clearance for them is requested.

Morocco is an important friend of the United States and we want and need to continue that friendship. But at the same time we must acknowledge that Morocco is pursuing policies in the Western Sahara which will likely fail. Even our allies see trouble on the horizon. I would argue that the risks to our friendship with Morocco are greater the longer we allow or permit the Western Sahara conflict to linger outside negotiations.

I hope that you will have the opportunity to review our policies in this area and I would be happy to talk with you about it if you so desire.

I appreciate your consideration of this matter.

With best regards.
Sincerely yours,
LEE H. HAMILTON,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., July 8, 1980.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives

DEAR MR. CHAIRMAN: On behalf of Secretary Muskie, I would like to reply to your letter of June 18 in which you raised two specific matters: the linkage between the provision of military equipment to Morocco and Moroccan willingness to pursue a negotiated peaceful settlement; and our policy of official contacts between American representatives and the Polisario.

Our position on this "linkage" is identical to that described to the Congress when we consulted about the special arms package early this year. Ambassador Duke has reported that King Hassan of Morocco is aware of the linkage and knows that we want to see our supply of arms proceed in parallel with movement towards a peaceful solution of the western Sahara dispute. Ambassador Duke has briefed you, we understand, on his discussions with the King. He is convinced that the King wants negotiations with Algeria and has done enough to move towards negotiations to justify the decisions we have taken so far with regards to the provision of arms.

To be specific, we are encouraged by continuing statements from both sides that they desire a peaceful solution of the western Sahara dispute, and by their interest in the activities of potential intermediaries. Although Morocco is still pressing for negotiations with Algeria alone, it insists that all aspects of the dispute will be open for discussion once negotiations start, even by implication participation of the Polisario in the negotiations. Saudi Arabian leaders are the most recent of several potential intermediaries who have visited Algeria and Morocco this year, and the Moroccans believe the possibilities for a Morocco-Algeria meeting have improved. Delivery to Morocco of equipment in our arms package will not begin until late this year.

As for contact with the Polisario, we decided—and communicated to the Congress—that we would take a more relaxed position on contacts between members of the Executive Branch and the Polisario; we also relaxed our prohibition on trips by U.S. officials by the Moroccan-controlled western Sahara. Any such contacts or trips are of course subject to policy review and control before they take place. Department of State representatives met with a Polisario representative in Washington in March of this year. There have also been visits to the Moroccan-controlled western Sahara by three groups of U.S. officials.

We told the Polisario representative at the March meeting that further contact with the Polisario would be difficult because Polisario forces from their Algerian sanctuary had been conducting extraordinarily heavy attacks in Morocco proper. We simply did not see how we could do something that could be interpreted by the Moroccans and others as de facto or tacit encouragement of Polisario attacks deep in Moroccan territory. This is wholly consistent with our basic position, since we have repeatedly made the point to the Algerian Government that it should strongly discourage the Polisario from launching attacks into Morocco proper. Such attacks narrow the potential basis for Morocco's negotiating flexibility. We will keep under review the possibility of renewing these contacts.

We believe we have remained faithful to the understandings we reached with the Congress during our consultations this year and note only that the carrying out of these understandings must take into account the nuances of an evolving situation and the sensitivities and positions of the key actors. I can assure you that Secretary Muskie will take into account your views as he considers the next steps we take on this issue.

In the meantime, we would be ready to discuss these issues further whenever you wish.

Sincerely,

J. Brian Atwood,
Assistant Secretary
for Congressional Relations.●

DOES THE FATE OF CARTHAGE AWAIT U.S.?

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. STUMP. Mr. Speaker, history; we are quite often reminded that history repeats itself. It is made and easily forgotten, yet it can be studied to use as a guide for the future.

We face some very serious decisions in the history of our country, decisions which can be a turning point in our future. One of the most important of those decisions deals with our national security and defense.

Do we learn from the past, or, as Mr. Thomas C. Horne of Phoenix, Ariz., suggests, do we become the Carthage of the 20th century?

[From the Phoenix Gazette, July 10, 1980]

DOES FATE OF CARTHAGE AWAIT U.S.?

America has twice the gross national product of the Soviet Union. But America now spends only 4.9 percent of its GNP on defense, one-third less than the percentage when John Kennedy was president. Russia spends 13 percent. Consequently, Russia, though much poorer, spends 50 percent more than the United States on defense in absolute expenditures.

Comparisons are chilling. Russia has 50,000 tanks to our 10,500 (that statistic alone is worth pondering), 40,700 tactical warplanes to our 18,000, 534 major warships to our 260, and they are currently producing at a much higher rate than we are.

History has quite a lot to say about rich, prosperous countries that permit themselves to be significantly outspent on defense by much poorer ones. Henry V conquered France when France had twice the population and wealth of England. Many people think of the fall of Rome in this context. But probably the best analogy—and most instructive to us—is the major power destroyed by Rome during Rome's rise: Carthage.

Carthage, like the United States, began as a colony and soon surpassed the mother country in wealth and power. Phoenicians, from what is now Lebanon, began trading with mineral rich Spain in the 12th century B.C. In the 9th century B.C., they established Carthage, the name derived from the Phoenician word for New Town, as an intermediate trading post on the North African shore.

Carthage was strategically located across the narrow waist of the Mediterranean from Sicily. By the third century B.C., Carthage was the richest and most powerful country in the Mediterranean world, with colonies along much of the North African coast, in Malta, Sardinia, Corsica, Sicily and Spain.

The Carthaginians totally dominated the Western Mediterranean. Roman ships were forbidden there under a 6th century B.C. treaty. The Carthaginians drowned any foreign sailors they found west of Sardinia.

Carthage's similarities to the U.S. are numerous. Before the wars with Rome, Carthage was the world's technological leader, in such fields as engineering and naval power.

Carthage also had military geniuses, chief of whom was Hannibal. Hannibal led his troops from Spain to Italy (128 B.C.) and very nearly destroyed Rome. The Roman dictator, Fabius, concluded that it was an error to fight a major military engagement with a consummate military genius such as Hannibal. Rather, Fabius fought a delaying war. He cut off the enemy supplies by devastating the surrounding countryside, and hoped to wear the Carthaginians out from lack of supplies.

Hannibal requested soldiers and money from Carthage. With such help he probably could have destroyed Rome. Carthage was ruled by an oligarchy of wealth. It responded that a victorious general should be sending money home to his own people, rather than requesting it from them. It refused his request. This event should be remembered, in reading the remainder of what occurred.

Hannibal made the best of a bad situation. At Cannae, though greatly outnumbered, he won a major victory.

Rome, now in mortal danger, showed that Stoic strength which would enable it to rule the world for half a millennium. Taxes were raised beyond tolerance, citizens volunteered their savings, and every able man became a soldier without pay. Rome slowly turned the tide against the unreinforced and under-supplied Carthaginians.

After 10 years of additional fighting in Italy, the Romans attacked Carthage, and won a limited victory.

In the half century of peace which followed, Carthage rapidly recovered from the effects of war, and its renewed wealth prompted Rome to again declare war.

Carthage had experience in buying peace with concessions. In 238 B.C. Rome had declared war, and Carthage had bought peace by ceding Sardinia. Now, again, in 150 B.C. Carthage felt inadequately prepared for war, and sent an embassy to Rome with authority to meet all demands.

The Roman Senate agreed to preserve the freedom and autonomy of Carthage if 300 of the noblest Carthaginian children were given as hostages, and the instructions of the Roman consuls in Sicily were carried out.

The Carthaginians agreed. The Romans lawyer and historian, Appian, describes the scene at Carthage:

"So, hastily anticipating the appointed time, they sent their children into Sicily, amid the tears of the parents, the kindred, and especially the mothers, who clung to their ones with frantic cries and seized hold of the ships and of the officers who were taking them away, even holding the anchors and tearing the ropes, and throwing their arms around the sailors in order to prevent the ships from moving; some of them even swam out far into the sea beside the ships, shedding tears and gazing at their children. Others on the shore tore out their hair and smote their breasts as though they were mourning the dead."

The Roman consuls in Sicily sent the hostages to Rome. They then crossed to Utica, adjacent to Carthage on the North African coast, to give further instructions to the Carthaginians. The consuls had received their orders secretly from the Senate.

At Utica, the consuls praised the Carthaginians for their promptness in sending the hostages. Then they inquired, if the Carthaginians truly desired peace, why they needed any arms? They ordered the Carthaginians to hand over all their arms.

The Carthaginians returned with a vast number of loaded wagons, piled high with armor for 200,000 men, javelins and darts, and 2,000 catapults.

The consuls again praised the Carthaginians. They exhorted them now to bear bravely the remaining command of the Senate. The population of Carthage was to march out of their city, so that the Romans could raze it. Appian describes the reaction:

"While he was yet speaking, the Carthaginians lifted their hands toward heaver with loud cries, and called on the gods as avengers of violated faith. Repeatedly and virulently they cursed the Romans, either because they wished to die, or because they were out of their minds, or because they were determined to provoke the Romans to sacrilegious violence to ambassadors. They flung themselves on the ground and beat it with their hands and heads. Some of them even tore their clothes and lacerated their flesh as though they were absolutely bereft of their senses. When at last the frenzy was past they lay there, crushed and silent, like dead men."

The consuls cut short further argument. They were powerless to alter the orders of the Senate.

The Carthaginians attempted a belated defense, forging an astonishing quantity of arms and ships out of what was at hand. But it was too late. After three years, the Romans broke through, and slaughtered the inhabitants.

Out of a population of 500,000, 50,000 survived to be sold into slavery. Carthage, which had flourished for 700 years, and had once been the richest, most prosperous, and most technologically advanced of countries, was destroyed. It had loved money too much, and defense too little.●

SANDINISTAS ONCE AGAIN MAKE CLEAR THEIR GOVERNING POLICIES

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. BAUMAN. Mr. Speaker, over and over again our State Department and the Carter administration has asked us to wait for positive developments in Nicaragua before declaring the country lost to communism. They said that, sure, there were Marxist elements in the new government, but that the private sector still had an active role to play. They also told us, as the Sandinistas themselves told Nicaragua's business community, that by the first anniversary of the revolution a date would be set for national elections.

Well, July 19, the first anniversary of the Sandinista victory, came and went, and no elections were announced. Now Nicaragua's apologists are squirming, and rationalizing this latest nondevelopment, while fear spreads through Nicaragua's people. But no one should be surprised by this turn of events, for barely 1 week before the revolutionary celebration, a Sandinista leader laid out for all to see once again what the revolution is really made of. He did this in a call-in show on Radio Sandino, and I include here for my colleagues portions of the responses given by Humberto Ortega, commander of the revolution and head of the Sandinista National Police.

The material follows:

ORTEGA ANSWERS QUESTIONS ON "DIRECT LINE" PROGRAM

(Managua Radio Sandino, July 11, 1980)

["Direct Line" program with Commander of the Revolution Humberto Ortega, commander of the Sandinist National Police, and program announcer Freddy Rostran Arauz—live]

[Excerpts] [Question by William Trujillo] The authorities have said repeatedly that our government is eminently Sandinist and have always denied they are Marxist-Leninist. Commander Ortega: Can you explain the differences and similarities between Sandinism and Marxism-Leninism?

[Answer] In the first place, I would like to tell Mr. Trujillo that we have never denied that we are Marxist-Leninists. We have always declared that we are Sandinists, but we have never denied that we are Marxist-Leninists. Sandinism is the political, ideological and revolutionary force that has moved this process, reflected our history, our struggle, and our liberation process from the beginning. The exploiters and the oppressors deserve a reply from the people who, although they have been oppressed and exploited, have never resigned themselves to being so and have struggled against being so. That is why we arrived at 19 July.

Therefore, Sandinism, which was born of the struggle against the U.S. expansionism of the last century, which was born of the struggle against imperialism during this century, Sandinism, which was born of the struggle against exploitation and oppression, reflects not only the contribution of our own historical process, but also the contribution of all of humanity, which struggles against the forms of exploitation and oppression that imperialism imposes. In this sense, Sandinism is not only nurtured by our own historical and national wealth, but also from that wealth of the entire humanity, to which we also belong. And the name of Marxist-Leninism plays a vanguard role in the struggle against exploitation and oppression. In this sense, we are (?friends).

[Question by David Aragon] According to rumors, we will soon have elections in Nicaragua. Are we going to allow the participation of those sectors that for centuries exploited and robbed the people?

[Answer] I wish to point out to Companero David Aragon that on 19 July 1979, our people, with weapons in their hands and the memory of the sacrifice of 50,000 Nicaraguan patriots, decided who they wanted to run the country. On that occasion the people decided that they were the ones who were going to rule themselves when they supported Sandinism. When we talk about elections, we are not referring to a raffle to see who is going to seize power. When we talk about elections, we are not talking about the type of elections the counterrevolutionaries, the betraying bourgeoisie, think we are going to have here. We are not going to have elections as if people did not know who was in power. In other countries elections are held to choose a government; in Nicaragua the people have already chosen their government. The Sandinist people have already seized power. Therefore, when we talk about elections, we are referring to the mechanisms and systems that our revolution is going to implement so that the working people will elect the representatives of their established government in the best and fairest manner. In the future, elections will be held to improve on the representatives of a people who are already in power and who have chosen their revolutionary destiny.

These elections are not going to be an orgy. They will not be the same, for example, as the elections in which Fernando Augero Rocha deceived a sector of our population which was being massacred. This is what Somozism and the most reactionary sectors of imperialism did in 1967. This is not the type of election we are going to hold in the future. They will be the elections of a process which is already defined by those who conquered it.●

NCOA LEGISLATIVE GOALS FOR 1980-81

HON. MENDEL J. DAVIS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. DAVIS of South Carolina. Mr. Speaker, recently I had the privilege and the honor to spend a few days with more than 800 members of the Non Commissioned Officers Association of the United States (NCOA).

NCOA was conducting its 19th annual international convention at the Dunes Hotel and Country Club, Las Vegas, Nev. The assembly met for 3 days of business and passed a number of timely resolutions, including the association's legislative goals for 1980-81.

In attendance were NCOA members from around the world. They came from as far away as Europe, Hawaii, Alaska, and Panama. Nearly one-half of the delegation was active-duty members of the Army, Navy, Marine Corps, Air Force, and Coast Guard. In fact, the Navy was well represented with a group of fleet and force master chiefs who attended almost every function in summer service uniform.

On Friday there were two forums, one on veterans' services and the second on legislative affairs. Taking part in the veterans' forum were J. C. Peckarski, Director of Compensation and Pension, Veterans' Administration; Timothy L. Craig, Special Assistant to the VA General Counsel for Congressional Relations; and Joseph C. Juarez, Executive Assistant to Deputy Assistant Secretary for Veterans' Employment Service, Department of Labor. Their moderator was C. R. "Chuck" Jackson, former force master chief of the Navy's Recruiting Command, now retired, and the association's national veterans' services director.

Participating in the legislative forum were Senator WILLIAM S. COHEN of Maine; Dr. Bernard Rostker, Director of Selective Service; our former colleague, the Honorable Ted Risenhoover, now Special Assistant to the Assistant Secretary of the Army (Manpower, Reserve Affairs and Logistics); Ms. Karen Heath, administrative assistant to the Honorable BOB WILSON of California; representatives of the military's community relations offices, and me. Moderating was the NCOA vice president for government affairs, C. A. "Mack" McKinney, a retired Marine sergeant major.

Saturday's schedule brought on another forum. This one consisted of the top enlisted chiefs of the Armed Forces; Sergeant Major of the Army William A. Connelly, Sergeant Major of the Marine Corps Leland D. Crawford, Chief Master Sergeant of the Air Force James M. McCoy, Master Chief Petty Officer of the Coast Guard Hollis B. Stephens, and representing the Navy's master chief was Atlantic Fleet Master Chief Franklin A. Lister.

These splendid representatives of our Nation's senior enlisted corps handled themselves with dignity and pride. Their professional approach to the questions posed by their audience was most commendable. The answers they gave were indicative of their devotion of duty, their pride of service, and love of country. I was extremely proud to have been a small part of a most informative session.

On Saturday evening I was honored by the NCOA members, as was Senator COHEN. NCOA president, Normand M. Gonsauls, a retired chief master sergeant, USAF, and senior vice president, Leon Van Autreve, a former sergeant major of the Army, presented the Senator with a special Vanguard Award for his interest in the men and women of the military services. They gave me their prestigious annual "L. Mendel Rivers Award for Legislative Action."

On Sunday, June 22, the assembly elected three new members to its board of directors. The board, in turn, elected the association officers for 1980-81. I was particularly pleased to note that my friend of long standing and NCOA's senior spokesman on Capitol Hill, "MACK" MCKINNEY, was elected senior vice president and chairman of the board.

The assembly also adopted the association's legislative goals for 1980-81. They reflect the dedication of the NCOA membership to carry on the tradition of service to God, country, and the noncommissioned and petty officer corps. I urge my colleagues to review these goals and do all they can to support the NCOA in its pursuit of an adequate defense posture for the United States.

The NCOA legislative goals are printed herewith:

Legislative Goals—1980

There is no failure except in no longer trying. There is no defeat except from within, no really insurmountable barrier save our own weakness of purpose.—KIN HUBBARD.

PREAMBLE

The members of the Non Commissioned Officers Association of the U.S.A. have joined their efforts and strength to work together for the well-being of the individual, the group, and for the greatest benefit of our beloved Nation. It is our purpose. It is our resolve.

This year the men and women of NCOA join in observance of a new decade of pride, progress and dedication to the Nation. At the same time, we honor the passing of two decades of service to God, country and the noncommissioned officers corps.

We shall not commiserate our failures, but they are not failures for we will keep trying. We will mourn our defeats though we will know our weaknesses.

We will rededicate ourselves to our purpose. We will continue to serve with honor.

NATIONAL DEFENSE

The United States, once a most powerful entity, has slipped to a subordinate position. In the most simplistic terms, our power was once based on the indisputable and overwhelming ability to conquer an enemy while sustaining a minimal number of American casualties. We maintained this superiority in conventional and strategic weapons through the 1960's.

By 1970 our stocks of arms and supplies were depleted by our involvement in Vietnam. Moreover, a change in the national mood diminished our efforts to replenish. The United States turned its attention and resources toward social reform and environmental protection.

As a result, less was spent to equip the Armed Forces. Less was appropriated to maintain people and their equipment. Ships were retired. Supplies and stocks continued to deteriorate. Weapons became outdated and outmoded. Although new technology was discovered, research and development of new weapons systems were almost negligible.

The 1970's introduced a period of "détente" with our Soviet adversary. For the first time in 25 years the United States and U.S.S.R. communicated freely and somewhat openly. The United States began trading with the Soviets. We sold them our technology. The technology they used to build the engines for their trucks and tanks that invaded Afghanistan was of U.S. origin. The technology used to improve the accuracy and production of their missiles was of American design. They advanced their economic and industrial productivity and, while the Soviets moved forward, the United States rapidly negated its position as the world's largest producer of defense material.

It is now doubtful that the United States can win a confrontation with the Soviet Union. At best, it might be able to hold the Russians at bay.

Currently, they outnumber us in weapons, ships, tanks, aircraft, personnel and strategic missiles. They continue to build their armed forces larger and stronger. In another decade they will enjoy an unquestionable superiority over the United States.

They also seriously consider the advantages of good civil defense. Their citizens participate in mass drills. New buildings are erected and designed to withstand normal destructive powers of warfare, and new industrial locations are diversified to reduce the possibility of first-strike destruction.

At present, a conventional attack by the Soviets would bring about the probability of use of nuclear weapons. The United States has no other choice. It will have none until it rebuilds its armed forces to a relative position of parity.

Therefore, be it resolved, that the principle legislative effort of the Non Commissioned Officers Association shall be to pursue an adequate defense for the United States. Furthermore, the Association shall actively support the research, development, production and procurement of such weapons and weapons systems and adequate personnel necessary to arm the United States against any probable aggressor.

MILITARY PERSONNEL—COMPENSATION

For more than 200 years noncommissioned and petty officers have served honorably in the Nation's Armed Forces. In return for this service they have received the necessities of life: a minimum wage, food, clothing, housing and medical care.

The benefits afforded military enlisted personnel and their dependents have never been generous. At best, they have been adequate to meet immediate need. At worst, as current benefits and pay go, military personnel and their families have been forced onto the Nation's welfare and foodstamp rolls.

By the most conservative account military pay has diminished more than 18 percent since 1972. Entry level pay which was 130 percent then is now less than 90 percent of minimum wage. Today, service members must be in pay grades E-3 or E-4 to earn the federal minimum wage, assuming they work but a 40-hour week.

This is, however, an invalid assumption. For example: former Secretary of Defense Melvin R. Laird recently pointed out that a plane handler on the aircraft carrier *Nimitz* works an average of 100 hours per week, is directly responsible for the safe operation of $7 million aircraft on a $2 billion ship, has been away from home for 6 months, and makes less than the check-out girl at McDonald's.

At home, if his family is fortunate, they live in base housing. But less than 20 percent are that fortunate. Usually, the family will live on the economy where rent is 180 percent or more of quarters allowance and home ownership is an improbable dream. The average spouse will spend more than 200 percent of monthly subsistence allowance even though shopping in the commissary.

Fewer than half will receive medical care directly from the military. Few will receive dental care. Some will be partially reimbursed for medical expenses by CHAMPUS, but many more will receive only a bureaucratic shuffle.

Nevertheless, Defense insists on measuring military pay under the R.M.C. (Regular Military Compensation) system. Rather than building on military pay and evaluating its adequacy the Defense Department adds a speculative cash value to benefits. DoD will take a $7,000 base pay and increase it on paper to $11,000 by adding a hypothetical dollar benefit from medical care, commissary shopping, base housing, tax savings and other emoluments. However, they do not deduct the cost of nonreimbursable travel and moving expenses, uniform cleaning and maintenance that exceeds the monthly allowance, health care expenses and other costs.

Therefore, be it resolved, that the Non Commissioned Officers Association shall direct a major effort toward increasing military pay and benefits and NCOA shall further direct its efforts toward improving the method of measuring the adequacy of military pay.

MILITARY PERSONNEL—POLICY

In the area of personnel policy, NCOA has been a leader in identifying and challenging inequities of service in the armed forces. For example: it has challenged a pay system that pays a 2nd Lieutenant higher parachute jump pay than the enlisted sergeant jump master who has many more jumps and years of experience.

NCOA successfully challenged recent orders that called for the immediate discharge of overweight officers while at the same time ordering disciplinary action before discharge of overweight enlisted troops.

NCOA successfully challenged recent regulations which would have authorized lower grade civilians to evaluate the performance of military enlisted personnel.

These are representative of only a few of the minor inequities in military personnel policy that discriminates against enlisted personnel.

Therefore, be it resolved, that the Non Commissioned Officers Association will continue to devote its priorities to amending those portions of military personnel policy that unfairly discriminate between commissioned officers, federal civilian employees and enlisted personnel.

MILITARY PERSONNEL—FORCE SIZE AND INCENTIVES

It will do little good to commiserate here over the personnel shortage in our Armed Forces. However, we think it important to make the following observations:

The All Volunteer Force was created in 1973 when military pay was at its highest level.

Military pay has been reduced by the ravages of inflation, the inattentiveness of congress and the incompetence of the incumbent Administration by more than 20 percent since 1972.

The G.I. Education Bill was terminated in 1976.

Servicemembers on active duty today have until only 1989 to use their G.I. Bill benefits.

Cumulative leave payments in excess of 60 days were eliminated in 1979.

No fewer than 12 hearings have been held and no fewer than 12 legislative proposals have been offered in an attempt to reduce military commissary subsidies.

Military commissaries now accept more than $13 million each year in food stamps.

Incarcerated veterans receive a more generous federal education benefit than in-service (active duty) veterans.

A civilian may receive more generous education benefits than veterans.

Post service employment benefits for military personnel have been severely curtailed.

Retirement benefits for military personnel have been roundly criticized, eroded and subject to further change.

Unemployment compensation has been reduced for ex-servicemen and military retirees.

The reserve forces have been reduced by 300,000 because of enlistment shortfalls.

The regular forces are short more than 100,000 because of recruiting shortfalls.

Not one service achieved its recruiting goal in 1979.

The Marine Corps accepted a voluntary cut of 10,000 people in order to maintain quality.

The number of high school graduates in the Army dropped below 38 percent.

No fewer than 10 in-service education programs have been terminated.

Military personnel must now pay for parking at certain military installations.

The list is finite but it is much too long to recount here. Suffice to say that poor decision making and sheer folly have led the United States into a critical situation.

Current proposals to improve this situation range from across-the-board pay increases to improved bonus payments to creation of variable housing allowances and other new programs. Taken together they may be successful. Separately or exclusively they will not work.

Therefore, be it resolved, that the Non Commissioned Officers Association will work to restore or create the following programs:

1. To propose and/or support programs to re-enforce Reserve forces suffering acute personnel shortfalls to include a conscription lottery program as a method of universal military training.

2. Free parking on military installations and other places of duty for military personnel.

3. Protection of military retirement benefits.

4. Creation of new in-service and post-service education program.

MILITARY RETIREMENT AND RETIREES

The promises are old and dusty. "After you have completed twenty years of service, you will be eligible to retire. You will receive one-half of your monthly pay for life and you will continue to enjoy many of the privileges and benefits of active duty, including medical care, use of clubs and recreational activities and etc."

In 1955 this may have been true. However, in the twenty-five years hence, base closures, hospital closures, doctor shortages, and increased costs of military retirement have combined to jeopardize these post-service benefits.

No simple remedy exists to the problem of dealing with military retirees. The United States has made promises it cannot or is unwilling to keep. The retiree enjoys no legal protection to these benefits since they are implied and not contractual. In 1955 the law granted many benefits "if facilities are available." While they might have been available in 1955, they are not now. Additionally, since we are dealing in public law and not contractual commitment, Congress can and may change the law at its pleasure.

NCOA must work to codify these promises of benefits and services. This will include their mention on enlistment agreements. This will assist those who enter or reenlist in the services in the future. But for now, we must work toward the preservation or reenstatement of those benefits promised to service members who are now retired.

Therefore, be it resolved, that the Non Commissioned Officers Association will work to provide and preserve medical care and other benefits traditionally provided to military retirees and their dependents. Be it further resolved that NCOA will seek legislation to preserve and improve post-service employment and unemployment rights for military retirees, continued biannual cost-of-living adjustments and preserve the method of computation to retired pay, and protect and defend other rights and privileges associated with honorable service in the U.S. Armed Forces.

VETERANS BENEFITS

Every member of NCOA is a veteran. He or she may be retired or may even be on active duty. The law defines a veteran as any person who has served on active duty in the armed forces for more than 180 days. Therefore, every member of NCOA is a veteran in the eyes of the law.

Regrettably, not all are recognized in this manner when applying for veterans benefits. If the in-service veteran wants to attend college, he receives a smaller education assistance payment than is paid to his discharged counterpart. If a military retired veteran seeks medical care at a Veterans Administration (VA) facility, he must wait in line behind his non-retired counterpart. And, only a military retiree must forfeit part of his pay to receive disability compensation from the VA.

Nevertheless, veterans benefits play an important part in the life of the military retiree, the in-service veteran, the veteran with a short period of military service and the dependents of all veterans.

As NCOA enters a new decade, we accept an expanded role toward our nation's veterans. A few months ago, NCOA accepted recognition from the Administrator of Veterans Affairs at a National Veterans Service Organization. Now and in the future we will assist veterans in their attempt to receive equitable treatment from the VA.

We must now rededicate ourselves to protecting the benefits and services available to members and former members of the armed forces. At the same time we must dedicate ourselves to serving their survivors. We must look toward the future to ensure that those who serve after us will enjoy the veterans benefits which they, too, have earned.

Therefore, be it resolved, that the Non Commissioned Officers Association will:

1. Continue to pursue an extension to the current delimiting date to the current G.I. Education Bill,

2. Support improvements in the Dependency and Indemnity Compensation program that will provide an equal and reasonable benefit to the survivors of all qualified veterans,

3. Support improvements in the veterans home loan program,

4. Support improvements in the veterans disability compensation program,

5. Oppose the transfer of any VA function to another agency of government, particularly health care and education programs,

6. Support improvements and expansion of cemetery and burial benefits,

7. Define more carefully the length and character of service necessary to become eligible for veterans benefits,

8. Preserve and support improvements of veterans' employment programs, particularly for Vietnam veterans, and to include dissolution of the 48-month limitation on entitlement to veteran employment services.

GENERAL

The membership assembled commits the Association to continue its efforts in behalf of previous conventions' legislative goals and resolutions that are active and necessary for the well-being of the membership, the Non Commissioned and Petty Officers of the U.S. Armed Forces, the enlisted men and women of the U.S. Armed Forces, and the military and veterans' communities.

Further, the Association shall have the mandate of this assembly to actively support or oppose any legislation, when convenient and necessary, but not in competition with priority commitments, that is or is not in the best interest of the Association, its membership and/or the military and veterans' communities.●

DEBATE ON H.R. 7591

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980.

● Mr. WAXMAN. Mr. Speaker, Mr. STAGGERS, chairman of the Commerce Committee; Mr. DINGELL, its ranking member; and I would like to address several matters contained in the agriculture appropriations bill for fiscal year 1981 which concern us as members of the Commerce Committee.

This bill includes appropriations for the USDA and several related agencies, including the Food and Drug Administration (FDA). As you know, food and drug regulation is an important part of the Commerce Committee's jurisdiction.

Our primary concern is that the Appropriations Committee is using its report to restrict the authority Congress has given to the FDA. In the areas of patient package inserts for prescription drugs and antibiotics in animal feeds, the Appropriations Committee report would prohibit FDA from taking actions which are within its current authority. The Commerce Committee was neither advised of nor consulted on any actions the Appropriations Committee intended to take with respect to FDA. We would hope that, in the future, we might work more in concert on issues which concern us both.

In the report language on the use of antibiotics in animal feeds, the committee has stated the FDA should take no action on the proposed rule restricting the uses of penicillin and tetracycline in animal feeds. The Subcommittee on Health and the Environment has held 2 days of hearings on this subject, including testimony from the drug industry, written testimony from the livestock producers, the National Academy of Sciences (NAS), Office of Technology Assessment (OTA), and U.S. Department of Agriculture (USDA), among others.

On pages 105 to 106, the committee report (H. Rept. 96-1095) states that the National Academy of Sciences specified the need for additional studies on the dangers to humans of subtherapeutic uses of antibiotics in animal feeds. What the National Academy of Sciences Committee actually said was that, although additional studies might provide useful information, they would not provide any answers to the regulatory question. NAS went so far as to state that the regulation of subtherapeutic uses of human antibiotics was a policy question—not a factual one—and would always be based on some speculation. In testimony before our subcommittee, Dr. Reuel Stallones, Chairman of the NAS Committee actually said that if he were advising someone, based on public health and safety considerations, he would have to say human antibiotics should not be used subtherapeutically in animal feeds.

However, this policy question has not been resolved as yet. Our concern of the moment is with the attempt to restrict FDA's authority without benefit of a decision by the committee with primary jurisdiction. We are making no judgment as to what regulatory action, if any, should be taken; however, FDA does currently have the authority to restrict subtherapeutic uses of antibiotics in animal feeds. We simply believe that it is entirely inappropriate and legally ineffective for the Appropriations Committee to take this action at this time, and we object, Mr. Speaker, to this intrusion into the jurisdiction of the Interstate and Foreign Commerce Committee.●

THE NEED FOR OVERHAULING OSHA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. HANSEN. Mr. Speaker, I submit for the RECORD and for the benefit of my colleagues the recent statement of Mr. Robert Witt, legislative aide for Liberty Lobby, concerning proposed legislation to reform the Occupational Safety and Health Administration. Exhaustive research has been done on OSHA for the past decade and I believe that Mr. Witt's testimony before the Senate Labor and Human Resources Committee offers one of the best synopsis of the agency's past performance. The Liberty Lobby statement offers some very enlightening information regarding the effectiveness of the hapless safety agency since its inception in 1970 and I highly commend it to my colleagues attention:

Mr. Chairman and Members of the Committee: I am Robert Witt, Legislative Aide of Liberty Lobby. I appreciate this opportunity to submit for the record the views of Liberty Lobby's 25,000-member Board of Policy as well as the concern of approximately 700,000 readers of our weekly newspaper, The Spotlight.

One of the oldest and most enduring issues in government is the constant fight against bureaucratic growth and waste, and the abuse of power and citizens' rights. It is this overkill in size and use of authority which leaves the individual with a helpless feeling and creates the impression of government being a master over, rather than a servant of, the people.

The Occupational Safety and Health Administration (OSHA) is a prime example of these abuses and the need for regulatory reform.

Not long ago this nation celebrated its 200th anniversary of our forefathers' fight for liberty from oppression, entry without notice, fines without consultation, and many other "Tory" tactics. However, two centuries later many of the same ugly things are again happening to many small businessmen across the nation at this very moment—OSHA's practices and tactics.

OSHA at best has been a major disappointment, at worst an abysmal failure. The only good job OSHA has done in the last three years is in public relations. Government statistics show that since OSHA's inception in 1971, the rate and severity of serious injuries have risen sharply.

Significantly, before OSHA began, when industry handled safety on its own, serious injuries had been declining. Thus, despite compliance costs to American businessmen of more than $25 billion, plus more than $1 billion to American taxpayers, OSHA has failed to achieve a significant, positive impact on employee injury and illness rates.

After eight years of major investment in OSHA, Americans can only wonder where the return is on that investment. Has OSHA protected workers by significantly decreasing workplace deaths and injuries?

The unfortunate answer: OSHA has not been effective in protecting the American work force despite massive regulatory efforts.

Nevertheless, OSHA advocates continue to insist that the agency has had a positive impact and that without OSHA, worker injuries and fatalities would be even higher. Their argument is that what is needed is not less OSHA, but more; more inspectors, more standards, more dollars.

The Metal Trades Department of the AFL-CIO claims that 70 percent of this nation's workers would be deprived of the protections of the OSHA law.

OSHA inspectors would no longer be able to make wall-to-wall inspections in response to worker complaints because the bill would prohibit inspection of problem areas lying outside those listed in the complaint. This would outlaw the present OSHA practice of inspecting an entire construction site in response to a worker complaint against an employer (AFO-CIO News, Feb. 23, 1980).

The United Auto Workers say that S. 2153 would gut the "worker law" and call on all unions to wage a "holy war" to save "their" law. UAW is even leading the fight to save the safety agency from any budget cuts, claiming that OSHA's money grants to labor unions are highly popular.

They claim S. 2153 would do these things:

Companies with "good safety records" would be totally exempt from OSHA inspections. A "good safety record" would be based on data from state workers' compensation reports. Such reports are notoriously dishonest and can be easily fudged by the boss.

Companies with fewer than 20 reported accidents per 1,000 workers and no fatalities in the last year would also not be inspected. This is the most powerful incentive ever devised for not reporting accidents, and gives employers a license to maim and kill.

Fines would be reduced for companies with advisory safety committees.

OSHA would still be allowed to make inspections after workers are killed or seriously injured. That's when it's too late (NAW Washington Report, Mar. 7, 1980).

The Oil, Chemical and Atomic Workers Union states that defeat of the Schweiker OSHA Improvements Act of 1980 is a No. 1 legislative priority for 1980 and ordains the battle to be a holy one. They claim that "* * * the Schweiker bill would gut OSHA and roll back the hard-won gains labor has made over the past decade in workplace, health and safety" (Oil, Chemical and Atomic Union News, April, 1980).

AFL-CIO President Lane Kirkland claims that "no new legislation is needed on the nation's basic federal job safety and health law. What needs to be done can be handled administratively" (AFL-CIO News, Apr. 5, 1980).

Even labor's chief spokesman admits the need for OSHA reform. The only disagreement is how to accomplish it.

The "holy war" has even progressed to the stage that the National Wildlife Federation, a labor-backed organization that could not possibly have any interest in OSHA is urgently extolling its wildlife enthusiasts to oppose S. 2153 "and any other gut-OSHA bills * * * before they kill us" (National Wildlife Federation's Conservation Report, Mar. 7, 1980).

OSHA itself is waging a continuing confrontation with American industry. These statements especially indicate the lengths that union bosses will go to in order to misrepresent the true aims of S. 2153. Labor is waging a knee-jerk emotional war rather than its acclaimed "holy war."

It is currently common practice for OSHA to seek limited warrants in employee complaint cases where the employer has demanded a warrant be obtained. This action is due to numerous court losses that OSHA has been subjected to across the nation and not the threat of the legislation we speak about today.

OSHA has taken a more adversarial posture than ever. It is increasing criminal sanctions and prosecutions, inciting worker unrest with inflammatory newsletters and conferences and expanding its powers into labor-management and equal employment areas. Escalated regulatory activities by OSHA in the area of worker health have taken on an uncompromising attitude.

OSHA's media seminar in Chicago last September epitomizes the agency's intensely anti-business posture.

Unsubstantiated and irresponsible agency claims that "at least 100,000 American lives are lost to occupational diseases each year" were also levied against the business community.

While 32 journalists were wooed by rhetoric and roast beef at a declared cost to taxpayers of almost $24,000, panelists repeated declarations that businessmen are "Neanderthals" and "industry always lies."

It seems clear that OSHA has assumed a combative posture toward American business, to the disservice of the concept of worker protection. Particularly sensitive to criticism at this time, OSHA has become an even more aggressive adversary to business. In an attempt to reassert both its clout and the legitimacy of its purpose, the agency has taken a narrow scientific approach to health issues.

During its first five or six years, OSHA was one of the most criticized of all federal agencies. It has since made some forward progress under administrator Eula Bingham, but many of its recent actions appear to be designed primarily to bolster its sagging image in the eyes of Congress, the press and most importantly the American public.

Almost three years have passed, and industry complaints are again increasing, along with the gradual recognition that OSHA hasn't really "changed its spots." Nevertheless, OSHA advocates continue to claim that under Bingham, the agency is taking great strides forward.

However, the records of industry and OSHA itself strongly refute this contention. A good barometer of industry's performance is a comparison of the worker injury/illness rates prior to OSHA's inception with those later.

Since 1971, when OSHA began, the number of serious injuries and their severity has significantly increased, with a more recent upswing in worker fatalities. Conversely, National Safety Council (NSC) statistics for the 8-year period prior to 1971, when industry was handling safety and health concerns itself, show a steady decline in these categories.

FIGURES FOR THE EIGHT MOST RECENT PRE-OSHA YEARS

	1964	1971
Fatalities per 100,000 workers	21	17
Average workdays lost per temporary total disability	27	23
Fatal injury rates	.07	.05
Permanent partial disability rates	.35	.33

[1] Based on Z16.1 standard per million man hours of exposure.

NSC statistics show a steady post-World War II 25-year decreasing injury and fatality rate trend for industry, which began increasing only in the 1970's during OSHA's years of regulation enforcement.

As the American work force has increased, injuries and fatalities have also increased, but the rate of these accidents' frequency did not increase proportionately until they came under OSHA's counterproductive regulatory system.

The disappointing performance of this regulatory nightmare doesn't warrant providing increased responsibility, but rather mandates re-evaluation and reform. OSHA's poor performance clearly demonstrates that voluntary safety and health preservation programs through employers' incentives are more certain to protect workers than costly government regulations geared to rigidity rather than results.

Without OSHA's arbitrary and bureaucratic barriers, its inflexible, nitpicking regulations, exorbitant paperwork and administrative burdens on business, industry would be able to effect even greater protection for workers through its own efforts. Government encouragement, incentive and consultation can aid industry, but the ultimate protection of worker safety and health must be through the employers themselves with good employee cooperation.

Not only has OSHA failed to produce demonstrable benefits in workers' safety, it has created extraordinary public controversy. Nine years ago the proposed act slipped through the House and passed the Senate 83-3. Soon OSHA, created to administer the law, became the most despised and ridiculed U.S. agency. In recent years, the erosion of public and political support is seen in several congressional votes in favor of blanket exemptions for broad classes of employers. In a free society, it has often been proved that no law can be effective if its administration and enforcement are widely viewed as illegitimate and nonproductive.

Nine years ago Congress cast the government in a policeman's role, establishing a system of crime and punishment for more than 4 million workplaces in the U.S. Although there may be a valid policeman's role in a limited number of apparent cases of criminal negligence, the vast majority of workplaces should not be subjected to such militant enforcement conditions because they are not hazardous, or at least not criminally so. In short, the federal government can participate more meaningfully in improving the occupational safety and health of America's workers.

The better way is for the government to redirect its policeman's role to functions where it is really needed to deter and correct grave occupational hazards, to provide useful research information, and to stimulate employer and employee cooperation and initiatives to improve workplace safety and health.

It is increasingly apparent that drastic reform of OSHA is overdue. I seriously doubt that any members of Congress who voted for the original safety law in 1970 could claim that the Act brought about the results they hoped for then.

I remind you of the contempt in which OSHA holds Congress. The agency is clearly unresponsive to congressional mandates, which further underscores the need for meaningful reform legislation. The original OSHA Act almost 10 years ago ordered the agency to make a written report to Congress on the status of the enactment of the law, as well as any needed amendments. This report, due more than seven years ago, has still not been made.

However, we now have a chance to curb regulatory overkill and work for real OSHA reform. S. 2153 has broad bipartisan sponsorship which truly indicates the acknowledged need for reform.

This legislation would provide performance-based exemptions to employers who achieve good safety records. "Safe" employers with responsible programs could receive an exemption from routine safety inspections and a waiver of penalties for serious and non-serious citations. OSHA's ability to maintain its punitive enforcement attitudes would be curtailed, and the agency's limited resources would be targeted to the truly hazardous industries where OSHA is most needed and can be most effective. Under a performance-based concept of control, employers would be given incentives and rewards for proved, responsible and successful safety programs.

This legislation is also in line with the recommendations made by the Senate Government Affairs Committee's December 1978 report on Government Regulation.

The federal government must get back to an "incentive" system toward American business rather than the present "punitive" one. Stationing a federal policeman on everyone's doorstep just hasn't worked and certainly isn't the American way.

We strongly urge this committee to act expeditiously and favorably on S. 2153 and report it to the Senate for action.

Thank you again for this opportunity to submit our statement for the record.●

SACRED COWS AND DOUBLE STANDARDS

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980.

● Mr. WAMPLER. Mr. Speaker, on July 11, 1980, the Wall Street Journal had an excellent editorial concerning scientific reports and cries of conflict of interest when independent entities such as the National Academy of Sciences assign as authors of reports those who may have employment or consulting connections with private industry. The editorial indicates that there are sacred cows and a double standard in instances where the Federal bureaucracy is concerned.

The article points to an interagency study to rationalize Federal policy toward toxic substances, with the study being conducted by a group composed exclusively of all the bureaucracies involved.

I commend the article to my colleagues in the House:

SACRED COWS

The routine is becoming familiar now. A group of experts issues a report on some hot aspect of science policy—nutrition, say, or environment, or toxic chemicals. The report doesn't say all the things some officials and interested citizens would like to say, so they begin the attack: Who was on this so-called expert panel? What were their biases? Were any of them paid for one way or another by private industry?

Not all science reports, though, seem to be subject to this minute post-Watergate examination of their possible conflicts of interest. For instance, there's the recent government report "Toxic Chemicals and Public Protection."

The report comes from an interagency task force called the Toxic Substances Strategy Committee. The committee is a child of President Carter, who near the beginning of his administration directed his Council on Environmental Quality to rationalize federal policy toward toxic chemicals. The TSSC set about its task, of course, by convening a group composed exclusively of all the bureaucracies involved. The whole gang was there, some 20 agencies, everyone from NIOSH to the State Department. And you know what they came up with? A report that calls for a truly massive increase in federal regulation. On the heels of the report, the Environmental Protection Agency proposed a new set of rules that will require up to 600,000 businesses to keep records for five to 30 years on any complaint they receive that a chemical has caused harm or a "significant adverse reaction" to people or the environment.

The problem begins, the report says, with the vastly increased production and use of chemicals since World War II. By now, the control problem is "staggering." The increase of cancer, in particular, is a leading cause of concern. And occupational exposure to carcinogens, the report says, will cause— "at least in part"— 20 percent of cancer deaths in the years ahead.

The solution is more government: "Public health and the environment will be adequately protected from chemical hazards only with direct government action to regulate releases and exposures." We need the "superfund" to clean up spills, we need more public and government access to trade secrets, and we need more government control over the cosmetics industry. We also need public education of the citizenry to overcome people's surly reluctance to believe that laboratory rat tests are a sufficient guide to public cancer policy.

As an argument about public health policy all this is, to say the least, problematic. In fact the latest cancer incidence data do not enable us to make an unqualified statement that cancer is increasing. Still less, since the one truly dramatic increase is in lung cancer associated with smoking, can we say that the big danger is occupational exposure. With the data so shaky, why doesn't this report raise all the same suspicions that other recent science reports have? Is anyone yelling "conflict of interest"?

No one has, and one wonders why. After all, the authors of the report are bureaucrats, whose livelihood and prospects for advancement depend on the government expansion they so strenuously call for. They are also, come to think of it, precisely the kind of people who have been so willing to mouth conflict-of-interest charges impugning the motives of private-sector scientists. At least they ought to think a bit about how long they can go on with such assaults before getting the same in return.●

PROPOSED FIREARMS REFORM LAW CRITICIZED

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● **Mr. McCLORY.** Mr. Speaker, certain interest has been expressed recently in support of an extremely mischievous measure introduced in this body as H.R. 5225, the Federal Firearms Law Reform Act of 1979.

The effect of this legislation is to substantially nullify the very limited Federal firearms laws and to do serious damage to the Gun Control Act of 1968, which I regard as a very modest start toward controlling the illegal and damaging trafficking in handguns.

Mr. Speaker, two distinguished attorneys who are with the Washington-based law firm of Wilmer & Pickering have prepared a critical analysis of the pending bill.

Their analysis, set forth in a letter to Nelson T. Shields III, chairman of the board of Handgun Control, Inc., points out the damage which would result if this proposal were to be enacted into law.

Mr. Speaker, I am pleased to attach hereto a copy of the first section of that letter, containing a summary of the first two sections of H.R. 5225, for the edification of all of my colleagues—to the end that the pending measure may have the scrutiny which is required and to the end that the broad public interest may be appropriately served.

WILMER & PICKERING,
Washington, D.C., March 28, 1980.
MR. NELSON T. SHIELDS III,
Chairman of the Board, Handgun Control, Inc., Washington, D.C.

DEAR MR. SHIELDS: This letter responds to your request for an analysis of the major features of H.R. 5225 and S. 1862 (the Federal Firearms Law Reform Act of 1979). Our analysis focuses on the extent to which the proposed legislation would alter existing law, and the consequences of, and any problems presented by, those suggested changes. It is not intended as a comprehensive, line-by-line survey of every aspect of the bill, but rather is meant to highlight its most important sections. We show that the bill would change the current law in a number of significant respects and that, for the most part, those changes would substantially reduce the efficacy of existing federal controls over firearm crime and illegal trafficking in firearms.

We identify the four broad problem areas summarized below.

I. THE BILL WOULD SUBSTANTIALLY WEAKEN EXISTING CONTROLS ON THE ILLEGAL TRANSFER OF FIREARMS

Foremost among the changes are the provisions that would allow any person that meets minimum federal eligibility requirements to purchase, receive or transport a firearm in interstate commerce and would allow persons other than federally licensed manufacturers, importers, dealers, and collectors to make the transfer, as long as it did not violate the state and local law at the place of residence of the transferee. These provisions would eviscerate the current system of federal controls on illegal trafficking in firearms, would increase the likelihood that criminals and other ineligible persons could own firearms, and would hamper the effective operation of state and local gun control laws.

II. THE BILL WOULD IMPROPERLY REDUCE THE CATEGORY OF PERSONS INELIGIBLE TO OBTAIN FIREARMS

The bill would significantly reduce the category of persons subject to the various federal prohibitions on firearm ownership, by excluding persons convicted of a number of serious felonies and persons under indictment for a felony These revisions are not required as a matter of constitutional law, are unworkable and are contrary to the public interest.

III. THE BILL WOULD UNNECESSARILY PREEMPT STATE LAWS GOVERNING THE TRANSPORTATION OF FIREARMS WITHIN STATE BORDERS

The bill would establish a new mandatory federal standard governing the transportation of handguns that would require states to allow the transportation of firearms within their borders under conditions much laxer than their own gun control laws. This federal standard represents an intrusion into the rights of states to control illegal and dangerous gun traffic.

IV. THE BILL WOULD UNDULY RESTRICT THE EFFECTIVENESS OF FEDERAL FIREARM CONTROLS

The bill contains a number of provisions aimed at controlling, either directly or indirectly, the ability of the Bureau of Alcohol, Tobacco and Firearms (BATF) to implement and enforce the federal firearms laws. These provisions would greatly hamper the effective operation of that agency.

For example, the bill would effectively prevent the BATF from employing one of its most effective enforcement tools—the routine inspections necessary to determine whether federal licensees are complying with the law. In addition, the bill would cripple the BATF's regulatory effectiveness by imposing a minimum one-half year delay in the rulemaking process. The bill also establishes a narrow definition of "engaged in business" for federal licensees that is unnecessary and inappropriate on its merits. Finally, a number of provisions contain asserted "protections" for persons accused of violating the gun control laws. These proposals would restrict the BATF's ability to seize the guns, or bring successful actions to revoke the federal licenses, of dangerous persons.

All of these provisions are discussed in detail below. It is important to recognize, however, that perhaps even more serious than the problems posed by each of these various provisions taken alone is the compounded effect of the package taken as a whole. Thus, for example, not only would the bill weaken the law governing firearms transfers, but it would also restrict the ability of the BATF to enforce the remaining standards and limit the opportunities for states to step in and ensure that tougher standards apply within their own borders and to their own citizens. Similarly, not only would the bill limit the class of persons barred from obtaining a firearm, but it would also reduce the likelihood that even those remaining in the prohibited category are effectively excluded from access.

I. THE BILL WOULD SUBSTANTIALLY WEAKEN EXISTING CONTROLS ON THE ILLEGAL TRANSFER OF FIREARMS

A. Interstate transfers by persons other than Federal licensees

The centerpiece of the current system to control illicit trafficking in firearms is the general prohibition on the interstate purchase, receipt and transport of firearms by persons other than federally licensed manufacturers, importers, dealers and collectors. This prohibition, which is subject only to certain narrowly limited exceptions, seeks to ensure that persons transporting firearms in interstate commerce have undergone a federal eligibility check through the licensing process and are subject to continuing federal oversight. At the same time, persons that meet minimum federal standards are allowed to purchase guns intrastate as long as such purchase is consistent with state and local law.

The bill, assertedly in furtherance of the goal of administrative simplicity, would dismantle this system. It would permit any person to purchase, receive or transport a firearm in interstate commerce, as long as such transfer would not violate the state and local law at the person's place of residence. And it would permit any person to transfer a firearm to any other person as long as the transferor did not know or have reasonable grounds to believe it would violate the transferee's state or local law. These provisions would eliminate a significant measure of federal control over illegal interstate commerce in firearms and would greatly increase the likelihood that ineligible persons could purchase guns. They would also undermine the ability of law enforcement authorities to trace crime guns because there would be no record of interstate transfers between non-licensees.

The bill would substitute for the existing structure a system that is essentially unworkable. If a transferee wishes to circumvent his own state law, it is unlikely he will be stopped. It is unrealistic to expect a transferor in California, particularly a non-licensed individual with no prior exposure to the gun control laws, to be able to determine whether a transfer to a Delaware resident violates the transferee's state and local law. As a result, the provision is unlikely to be enforced effectively, thereby subverting minimum federal requirements as well as the application of the relevant state laws.

Moreover, the interstate purchase provision completely negates the already scant protections contained in Section 102(h) of the bill, which prohibits sellers from selling to persons they know or have reasonable cause to believe do not meet the minimum federal eligibility requirements (*i.e.*, persons convicted of disabling crimes, illegal aliens, etc.). Under current law, where federally licensed dealers, importers, manufacturers and collectors are subject to that standard with respect to sales to persons within their state, there is at least some possibility that the federal licensee may know or have reasonable cause to believe that the person is ineligible. *See* 18 U.S.C. § 922(d). Under the new proposal, where the potential customer can be from any state and the transferor can be a person without any federal responsibilities, the deterrent effect of this prohibition is virtually eliminated.

B. Lawful versus lawful sporting purpose

As noted above, current law makes it generally illegal for any federal licensee or any non-licensed person to provide a firearm to someone understood to reside in another state. One exception to this prohibition is that a gun may be loaned or rented for temporary use for "lawful sporting" purposes. 18 U.S.C. §§ 992(a)(5)(B), (b)(3)(B). This limited exception applies to permit a sportsman to make temporary use of a gun in another state, a type of "transfer" that does not interfere with the purposes of the general prohibition against the interstate transfer of firearms to non-licensees.

As shown above, the bill permits non-licensed persons to provide a firearm to another person, subject to the requirement that the transferor does not know or have reasonable grounds to believe that the transferee would violate a law in his home state by acquiring the gun. The bill creates an exception to this provision for the loan or rental of a firearm for temporary use of "lawful" purposes. § 102(d).

In this context, the exception bears no rational relationship to the prohibition. The implication of this provision is that a Maryland resident may provide a gun to a Virginia resident or even another Maryland resident, even if the transferor knows the recipient is prohibited from such receipt, as long as it is intended to be a temporary loan. Obviously, if someone is prohibited by state or local law from receiving a gun, there is no basis for the federal law to step in to permit such receipt, even as a temporary loan.

An additional loophole is created by changing the criterion to "lawful" purpose rather than "lawful sporting" purpose. Congress wisely limited the exceptions in §§ 922 (a)(5), (b)(3) when it passed the original statute in 1968, fearful of the potential abuses that broader exceptions might engender. In contrast to these narrower exceptions, the "lawful purpose" formulation could be stretched to read many ways; it could permit virtually free transfers between persons in the form of "loans" for the avowed purpose of self-defense, regardless of whether such transfers are consistent with state law. There is no legitimate federal interest in allowing an otherwise unlawful loan of a gun to a vigilante in New York City who intends to roam the streets carrying the gun with the "lawful purpose" of "protecting" himself and his fellow citizens.

II. THE BILL WOULD IMPROPERLY REDUCE THE CATEGORY OF PERSONS INELIGIBLE TO OBTAIN FIREARMS

A. Definition of "Disabling Crime"

Current law prohibits felons from receiving or transporting firearms in interstate commerce. 18 U.S.C. § 922(g)-(h). It also prohibits licensed manufacturers, importers, dealers or collectors from transferring firearms to such persons. 18 U.S.C. § 922(d)(1). The bill proposes to amend these provisions by limiting the restrictions to persons convicted of a "disabling crime." A "disabling crime" is defined in Section 101(e): "The term 'disabling crime' shall mean a violation of Chapters 5, 7, 12, 35, 37, 39, 42, 49, 51, 55, 68, 77, 81, 84, 95, 96, 99, 102, 103, 105, 113, 115, and 117 of title 18, attempts at violations of the aforementioned chapters, or any similar crime punishable in a court, except a State offense classified by the law of a State as a misdemeanor and punishable by a term of imprisonment of two years or less."

The proposed restriction to "disabling crimes" is presumably intended to define a subclass of felonies (or equivalent state crimes) that involve violent tendencies sufficient that the perpetrator should be prohibited from owning a firearm.[1] From a policy standpoint, however, it should be remembered that an individual who has committed a crime punishable by a year or more imprisonment has demonstrated a serious disrespect for the law and a willingness to invade the rights and interests of other members of society. That fact alone raises substantial doubts about the eligibility of such a person to handle, in a manner consistent with the safety and welfare of others, such a dangerous and potentially lethal instrumentality as a firearm.

More importantly, as a practical matter, it is exceedingly difficult to make a meaningful categorization of felonies according to whether they do or do not demonstrate a propensity for violence. Certainly, the proposed limitation fails to achieve that purpose. The definition of "disabling crime" would permit persons convicted of a broad range of violent crimes to own a firearm. Thus, the bill would remove prohibitions on the receipt of firearms by persons convicted of violations of 18 U.S.C. § 351, dealing with the assassination, kidnapping or assault of a Member of Congress; 18 U.S.C. § 1792, dealing with mutiny or riots at a federal prison, or the transportation into such institutions of firearms or other lethal weapons; 18 U.S.C. § 32, dealing with the willful destruction of an aircraft or aircraft facilities or the willful incapacitation of an aircraft crew member; 18 U.S.C. § 33, dealing with the willful destruction of a motor vehicle or motor vehicle facilities, or the incapacitation of a driver; 18 U.S.C. § 871, dealing with threats to take the life of or inflict bodily harm on the President or successors to the presidency; and 18 U.S.C. § 1364, dealing with interference with foreign commerce by violence, through the use of fire or explosives.[2] In addition, under the proposed definition, even violations of Chapters 40 and 44, dealing with unlawful use of explosives and firearms, would not render a person ineligible to own a firearm.

Even if the bill were revised to include a more comprehensive list of obviously violent crimes in the definition of "disabling crime," the classification would still raise problems in terms of long-term legislative practicality. Under this proposed structure, any time a new crime is defined or an existing crime is recodified, the Congress would be required to make the determination whether the crime indicated sufficient violent propensities that it should or should not be included in the list of disabling crimes, and would then have to amend the definition. Aside from the sheer burden this procedure would impose, there would be a significant risk of inaccuracy and oversight, as is revealed with the current definition, which includes violations of Chapter 68, formerly the chapter covering narcotics violations, but now repealed.

The bill employs the "disabling crime" concept in the penalty section as well. Current law imposes additional penalties for transporting or receiving a firearm in interstate commerce with the intent to commit a felony. 18 U.S.C. § 924(b). Section 104(b) of the bill would modify this provision to impose the extra penalty only if the firearm were transported in connection with a "disabling crime." This approach is clearly inappropriate and is not even consistent with the purported justification for the "disabling crime" limitation. Even if it were determined that prior commission of certain felonies should not make a person ineligible to transport or receive a firearm, it does not follow that the transportation of a firearm with intent to commit such crimes should be decriminalized.

B. Persons under indictment for a felony

Current law imposes prohibitions on persons indicted for felonies, as well as those convicted of such violations. The bill would impose such prohibitions only on persons actually convicted. The asserted justification for this change is that a person should be considered innocent until convicted and should not suffer a "penalty" prior to that time. But the extension of such prohibitions to persons under indictment for a felony has been part of the federal firearms laws since 1938, and courts have consistently upheld it as constitutional.[3] *See United States* v. *Craven*, 478 F.2d 1329, 1338–40 (6th Cir.), *cert. denied*, 414 U.S. 866 (1973); *United States* v. *Friday*, 404 F. Supp. 1343 (E.D. Mich. 1975); *United States* v. *Quiroz*, 449 F.2d 583 (9th Cir. 1971). As the court concluded in *Craven*, it is "eminently reasonable" to base the indictment classification on the conclusion that "the indictment of an individual for a crime punishable by imprisonment for a term exceeding one year is so often indicative of a propensity for violence . . . ." 478 F.2d at 1339.

As the courts have recognized, the state of being indicted is always temporary and, given the likely dangerous propensities of such persons, it is permissible therefore to require indicted persons to tolerate a temporary limitation on their ability to use firearms. *Id., citing, United States* v. *Thoresen,* 428 F.2d 654, 662 (9th Cir. 1970). The asserted public interest in protecting the ability of an indicted felon to own or transport a firearm during the period between his indictment and conviction (or acquittal) is outweighed by the greater public interest in keeping firearms out of the hands of dangerous persons who are likely to misuse them. The unfortunate and frequent instance of persons indicted for a violent rape or armed robbery committing another equally violent offense while out of jail pending trial leaves no doubt as to the wisdom of the current prohibition.●

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[1] This proposed limitation on the class of persons prohibited from receiving or transporting a firearm is not required as a matter of law; the current prohibition based on a classification of all felons has been upheld as constitutional. *See Cody* v. *United States*, 460 F.2d 34 (8th Cir.), *cert. denied*, 409 U.S. 1010 (1972); *United States* v. *Synnes*, 438 F.2d 764, 771–72 (8th Cir. 1971), *vacated on other grounds*, 404 U.S. 1009 (1972).

Furthermore, the limitation is not necessary to protect the ability of allegedly nonviolent felons to obtain access to firearms. Current law already contains a provision that a person convicted of a felony may obtain relief from the disabilities imposed by these prohibitions, upon a determination by the Secretary: "that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest." 18 U.S.C. § 925(c).

[2] *See also* 18 U.S.C. §§ 875–877 (various felonies involving threatening communications and extortion, many punishable by 20 years imprisonment); 18 U.S.C. § 372 (conspiracy to injure or impede an officer); 18 U.S.C. § 1501 (assault on process server).

[3] The application of legal disabilities to persons under indictment arises in other contexts as well. For example, under the Bail Reform Act of 1966, 18 U.S.C. § 3146(a) (1), (2), (5), an indicted person is subject to a number of restrictions, including limits on his rights to travel, to associate with others, to receive visitors, or to leave his home at night.

OSHA'S UNHAPPY VITAL STATISTICS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. HANSEN. Mr. Speaker, the House will be considering the annual appropriations legislation for the Occupational Safety and Health Administration in the near future. Because complicated amendments will be offered to this legislation, I would like to make available statistics from reliable sources regarding the scandalous failure of the agency which my colleagues should have for their information in devising a more effective and less restrictive safety program for American workers. The statistics follow.

The cost to the taxpayer:

OSHA BUDGETS

	Budget	Approved work force ceiling
Year:		
1971 [1]	$15,189,000	970
1972	35,884,000	1,696
1973	69,373,000	1,699
1974	70,408,000	1,830
1975	102,006,000	2,471
1976 [2]	117,181,000	2,804
1977	130,333,000	2,717
1978	139,070,000	2,817
1979	[3] 173,034,000	3,086
Actual 8 plus year total	852,478,000	
Projected 1980	[4] 181,520,000	[5] 2,944
Projected 9 plus year total	1,033,998,000	

[1] Partial year—The Occupational Safety and Health Act of 1970 was signed into law April 28, 1971 by President Nixon.

[2] Transitional year—the workforce would be 2,494 if it reflected 310 positions transferred to "departmental management;" the budget would be $109,189,000 if it reflected the transfer in expenditures.

[3] Includes $1,810,000 in pay supplements additional to the approved 1979 budget of $171,224,000.

[4] The requested 1980 budget was $179,520,000. The House has approved an additional $2 million over the request to $181,520,000. The Senate has not yet voted on the 1980 OSHA budget, but the Senate Subcommittee on Appropriations has recommended an additional $5,289,000 be approved above the requested figure, for a total budget of $184,809,000.

[5] The requested workforce ceiling is 2,944. Although the House added no additional positions, the Senate Subcommittee on Appropriations has recommended an additional 142 positions be added to maintain the 3,086 figure.

The cost to the businessman:

MCGRAW-HILL ANNUAL SURVEYS OF EMPLOYEE SAFETY AND HEALTH EXPENDITURES BY AMERICAN INDUSTRY

[Last Issued: May, 1979, in billions]

	Expenditure
Year:	
1972 [1]	$2.509
1973	$2.569
1974	3.074
1975	2.714
1976	2.376
1977	2.884
1978	4.287
Actual 7 year total	20.413
Projected 1979	4.851
Estimated 8 year total	25.264

[1] OSHA's first full year of operation.

The benefit (?) to the worker:

WORKER OCCUPATIONAL INJURY AND ILLNESS INCIDENCE RATES [1]

[Number of recordable injuries and illnesses per 200,000 hours of exposure] [2]

	Total injury and illness rate	Lost workday cases	Non-fatal cases w/o lost workdays	Lost workdays
Year:				
1972	10.9	3.3	7.6	47.7
1973	11.0	3.4	7.5	53.3
1974	10.4	3.5	6.9	54.6
1975	9.1	3.3	5.8	56.1
1976	9.2	3.5	5.7	60.5
1977 [3]	9.3	3.8	5.5	61.6
6-year change (percent)	−14.7	+15.2	−27.6	+29.1

[1] Bureau of Labor Statistics Summary, Report No. 561.

[2] The 200,000 hours of exposure is theoretically equated to "per 100 employees." However, a more realistic approximation is "per 112 employees" since these BLS figures are based on a 2,000 manhour work year for employees (50 work weeks at 40 hours per week) and the average full time American worker only works 1,790 hours per year.

[3] Computing this for the total American workforce for 1977, the last year for which figures are available, these incidence rates translate into: 1977 total injury and illness cases 5,460,300, 1977 lost workday cases 2,203,600, 1977 average lost workdays per lost workday case 16.

WORKPLACE FATALITIES [1]

	All industries	Companies with 11 or more employees
Year:		
1973 [2]	5,700	5,340
1974	5,850	4,970
1975	5,160	4,570
1976	4,480	3,940
1977	[3] 5,560	4,760
5-year change (percent)	−2.46	−10.86
1976–77 change (percent)	+24.11	+20.81

[1] Worker deaths due to occupational injuries and illnesses; statistics compiled by the Office of Occupational Safety and Health Statistics of the Department of Labor.

[2] Fatality statistics were first recorded in 1973, unlike other OSHA statistics which generally go back for an additional year to 1972.

[3] Approximation supplied by Bill Meade, Division Chief of the Division of Periodic Surveys, Office of Occupational Safety and Health Statistics. Due to OMB budget cuts, surveys among companies of 10 employees or less were officially discontinued after the 1976 compilations. However, Meade based his estimate on the average fatalities among 10 or fewer employee companies in relation to all companies in prior surveys to show that small company employee fatalities would account for an additional 800 worker deaths beyond the large (11 or more employees) company figures.●

FOR PEACE IN CAMBODIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. DERWINSKI. Mr. Speaker, I wish to direct the Members' attention to a recent statement approved by the executive board of the Illinois and Greater Chicago Chapter of the United Nations Association. I must point out that newspaper headlines are concentrating on other issues, while the tragedy in Cambodia may be forgotten. This resolution follows:

For Peace in Cambodia

The Cambodian people are still suffering famine within the country and dislocation in refugee camps despite several years of relief efforts channelled through the Thai border and through Phnom Penh. Refugee populations near the Thai border suffer from the domination and military confrontations of rival anti-Vietnam organizations, while the occupying authorities in Phnom Penh divert large amounts of aid to their own military forces.

It is obvious that crops cannot be planted and effectively harvested until peace is restored and this necessarily involves an overall political settlement. The most promising basis for such a settlement, in view of Cambodia's history and traditions, is a status of complete independence and neutrality.

Therefore, we urge President Carter to call upon the United Nations to organize a Conference of the powers and interests involved, with the objective of establishing a Commission for the restoration of Cambodian independence and neutrality. Reporting to this Commission should be a temporary UN force to replace Vietnamese occupying troops, and to maintain order and halt guerrilla action. Other agencies of the Commission should repatriate refugees and prepare for popular elections on the basis of an independent and neutral Cambodia.●

MANAGEMENT, LABOR UNITE IN "OPPORTUNITY TRAILER" PROGRAM

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. HUGHES. Mr. Speaker, I would like to call your attention today to a successful program which is operating in south Jersey, one which exemplifies the dramatic accomplishments which may be made when labor and management combine their efforts and work together toward a common goal.

The "Opportunity Trailer" project was first launched in June of this year, and is sponsored jointly by the Building Contractors Association of Atlantic City, the Atlantic City area mechanical contractors, and the Labor Trades Council, in conjunction with the Atlantic County Division of Manpower. Its aim is to aid developers in complying with the New Jersey Casino Control Commission mandate that a "good faith" effort be made to hire 20 percent minorities and 6.9 percent women at the construction sites for future casinos.

The "Opportunity Trailer" is presently undertaking a countywide search for qualified building trade mechanics who are unemployed due to social barriers. The program is not looking for apprentices, but rather is seeking out skilled mechanics who have worked at their particular trade for years, and feel that their experiences now qualify them for positions in the casino construction field.

By the time the "Opportunity Trailer" completes its run in mid-August, it will have visited throughout the county, stopping in Buena, Hammonton, Egg Harbor City, Egg Harbor Township, and Pleasantville. Even at this early date, the project is already a big success—more than 250 people turned out for interviews in just the first 2 weeks, when the "Opportunity Trailer" was parked in Atlantic City.

The "Opportunity Trailer" is serving a dual function for the Atlantic County community, aiding developers to obtain the skilled manpower needed to complete construction of casino sites, and offering qualified minorities and women an extra chance to secure employment in their fields of expertise.

Working hand-in-hand, labor and management have joined forces in an effort to eliminate discrimination in the labor force, and all have benefited from this productive endeavor. I join today with the residents of south Jersey in saluting the people who made the "Opportunity Trailer" project possible. This meaningful program is truly a step in the right direction.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 24, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 25

9:30 a.m.
Labor and Human Resources
Aging Subcommittee
To hold joint hearings with the Special Committee on Aging on energy assistance to the elderly.
6226 Dirksen Building

Special on Aging
To hold joint hearings with the Labor and Human Resources Subcommittee on Aging, on energy assistance to the elderly.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the substance of S. 2718, authorizing funds for each of fiscal years 1981 through 1985 for the Economic Development Administration and the Small Business Administration to facilitate the formation of U.S. export trading companies to expand export participation by smaller U.S. companies (pending on Senate calendar).
5302 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold oversight hearings on the construction of the Tennessee/Tombigbee Rivers waterways project for the purpose of facilitating barge traffic on the inland waterway system.
4200 Dirksen Building

Finance
To continue hearings on miscellaneous tax reduction proposals.
2221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue oversight hearings on the implementation of the Department of Energy's gasoline allocation program.
3302 Dirksen Building

10:30 a.m.
Appropriations
Business meeting, to consider proposed subcommittee budget ceiling allocations for fiscal year 1981, and Senate Resolution 464, disapproving deferral of budget authority relating to the Cumberland Gap tunnel.
S-128, Capitol.

JULY 28

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2926, proposed Magnetic Fusion Energy Engineering Act.
3110 Dirksen Building.

Environmental and Public Works
Water Resources Subcommittee
To hold hearings to evaluate the ability of the national transportation system to handle anticipated increases in coal production.
4200 Dirksen Building

Finance
To resume hearings on miscellaneous tax reduction proposals.
2221 Dirksen Building

2:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on U.S./International trade strategy.
2221 Dirksen Building

JULY 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Environment, Soil Conservation, and Forestry Subcommittee
To hold hearings on S. 1942, proposed Resource Conservation and Development Act.
457 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).
235 Russell Building

Governmental Affairs
Oversight of Government Management Subcommittee
To hold joint hearings with the Select Committee on Small Business to encourage regulatory negotiation by the Federal Government.
424 Russell Building

Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).
4232 Dirksen Building

Select on Small Business
To hold joint hearings with the Governmental Affairs' Subcommittee on Oversight of Government Management to encourage regulatory negotiation by the Federal Government.
424 Russell Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees
To hold joint hearings on S. 2569, to provide for certain State agencies to perform official inspections with respect to grain marketing, and S. 2886, to provide for additional means for transporting grain to export elevators.
324 Russell Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2774, proposed Underground Coal Gasification and Unconventional Gas Research, Development, and Demonstration Act.
318 Russell Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on the substance of H.R. 2743, to provide for a national policy for materials research and development capability and performance of the United States.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold oversight hearings on the environmental effects of the Harry S. Truman Dam in Missouri.
4200 Dirksen Building

Finance
To continue hearings on miscellaneous tax reduction proposals.
2221 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.
6226 Dirksen Building

3:00 p.m.
Conferees
On S. 1159, authorizing funds for fiscal years 1980-82, for programs under the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act.
S-146, Capitol

*Office of Technology Assessment
The Board to hold a meeting on pending business items.
EF-100, Capitol

JULY 30

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee

To continue joint hearings with the Select Committee on Small Business to encourage regulatory negotiation by the Federal Government.

•424 Russell Building.

Veterans' Affairs

Business meeting, to consider S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors, and amendment No. 1888, to provide for limited specially adapted housing benefits for certain severely disabled veterans to S. 2649, aforementioned.

412 Russell Building

Select on Small Business

To continue joint hearings with the Governmental Affairs' Subcommittee on Oversight of Government Management to encourage Federal regulatory negotiation by the Federal Government.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to mark up S. 2236, to provide Federal law enforcement agencies full authority to investigate certain criminal activities, relating to the illegal movement of currency; S. 2002, to restrict the use of the "Rule of 78," a lending practice use in the computation of rebates of unearned interest in long-term consumer loans; H.R. 7340, to encourage payment in cash by providing certain discounts; H.R. 2255, S. 380, and S. 39, bills limiting bank holding companies in selling insurance as principals, agents, and brokers; and S. 1940, to provide an exemption for qualified small business venture capital companies to reduce the paperwork and regulatory burdens of small businesses which sell their securities to institutional investors and to encourage large investors to make a portion of their capital resources available to small business.

5302 Dirksen Building

Commerce, Science, and Transportation

To resume hearings on S. 1789, to improve the ability of products' manufacturers and sellers to obtain product liability insurance coverage at reduced rates, focusing on a revised draft version of the bill.

235 Russell Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on an Internal Revenue Service policy of stepped-up seizures of small businesses because of tax delinquency.

1318 Dirksen Building

Judiciary

To hold hearings on the nominations of George Howard, Jr., to be U.S. District Judge for Eastern and Western Districts of Arkansas; Susan C. Getzendanner and Charles P. Kocoras, each to be a U.S. District Judge for the Northern District of Illinois; and John E. Sprizzo, to be U.S. District Judge for the Southern District of New York.

2228 Dirksen Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).

5110 Dirksen Building

Select on Small Business

Taxation, Financing, and Investment Subcommittee

To hold hearings on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to continue markup of S. 2236, to provide Federal law enforcement agencies full authority to investigate certain criminal activities, relating to the illegal movement of currency; S. 2002, to restrict the use of the "Rule of 78," a lending practice use in the computation of rebates of unearned interest in long-term consumer loans; H.R. 7340, to encourage payment in cash by providing certain discounts; H.R. 2255, S. 380, and S. 39, bills limiting bank holding companies in selling insurance as principals, agents, and brokers; and S. 1940, to provide an exemption for qualified small business venture capital companies to reduce the paperwork and regulatory burdens of small businesses which sell their securities to institutional investors and to encourage large investors to make a portion of their capital resources available to small business.

5302 Dirksen Building

Energy and Natural Resources

Energy research and Development Subcommittee

To resume hearings on S. 2774, proposed Underground Coal Gasification and Unconventional Gas Research, Development, and Demonstration Act.

Room to be announced

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To resume hearings on the substance of H.R. 2743, to provide for a national policy for materials research and development capability and performance of the United States.

3110 Dirksen Building

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources

To resume hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade, focusing on the role of U.S. foreign policy in assuring adequate supply of oil for the United States at a reasonable price.

318 Russell Building

AUGUST 1

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to continue markup of S. 2236, to provide Federal law enforcement agencies full authority to investigate certain criminal activities, relating to the illegal movement of currency; S. 2002, to restrict the use of the "Rule of 78," a lending practice used in the computation of rebates of unearned interest in long-term consumer loans; H.R. 7340, to encourage payment in cash by providing certain discounts; H.R. 2255, S. 380, and S. 39, bills limiting bank holding companies in selling insurance as principals, agents, and brokers; and S. 1940, to provide an exemption for qualified small business venture capital companies to reduce the paperwork and regulatory burdens of small businesses which sell their securities to institutional investors and to encourage large investors to make a portion of their capital resources available to small business.

5302 Dirksen Building

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 2734, to provide for the transfer of certain land and facilities used by the Bureau of Mines located at Carnegie-Mellon University in Pittsburgh, Pennsylvania.

3110 Dirksen Building

AUGUST 4

10:00 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on S. 2926, proposed Magnetic Fusion Energy Engineering Act.

3110 Dirksen Building

AUGUST 5

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 336, 1247, and 1877, bills providing special tax treatment for married couples and single persons.

2221 Dirksen Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Environment, Soil Conservation, and Forestry Subcommittee

To hold hearings on S. 2861, designating certain lands in the State of North Carolina for inclusion in the National Wilderness Preservation System.

324 Russell Building

AUGUST 6

10:00 a.m.

•Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 19

10:00 a.m.

Select on Indian Affairs

To hold oversight hearings on the implementation of Indian housing programs.

5110 Dirksen Building

AUGUST 26

10:00 a.m.

*Veterans' Affairs

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

CANCELLATIONS

AUGUST 1

9:30 a.m.

*Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, July 24, 1980*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

The Reverend Donal Squires, department chaplain, American Legion, Fairmont, W. Va., offered the following prayer:

Almighty God, our Heavenly Father, be with the Members of the House of Representatives and guide them with Thy wisdom. Assist them in the discharge of their duties and bless them in the administration of their obligations. Under their leadership, may we preserve our Nation's integrity, guard against all enemies, remain a bulwark of freedom, and be a beacon of love and the hope for a world of peace and understanding. For we ask it in Thy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6666. An act to revise the laws relating to the Coast Guard Reserve.

The message also announced that the Senate disagrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 5168) entitled "An act to extend certain expiring provisions of law relating to personnel management of the Armed Forces," and agrees to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. NUNN, Mr. HARRY F. BYRD, JR., Mr. CULVER, Mr. EXON, Mr. TOWER, Mr. JEPSEN, Mr. WARNER, and Mr. COHEN, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1097) entitled "An act to establish a national tourism policy, a Cabinet-level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. INOUYE, Mr. MAGNUSON, Mr. LONG, Mr. HOLLINGS, Mr. PACKWOOD, Mr. WARNER, Mr. SCHMITT, and Mr. GOLDWATER to be the conferees on the part of the Senate.

The message also announced that the Vice President, pursuant to Public Law 86-42, appointed Mr. MELCHER, Mr. BELLMON, and Mr. PRESSLER to be members of the Canada-United States Interparliamentary Group.

THE REVEREND DONAL "JACK" SQUIRES

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOLLOHAN. Mr. Speaker, it is indeed a privilege to tell you about the man who just opened our session with prayer.

The Reverend Donal "Jack" Squires is a man who has devoted his full and productive life serving the Lord, his Nation, his State, and his community.

He is a native of my hometown, Fairmont, W. Va., where he graduated from high school and college. He left the friendly city during World War II, and after serving his country in the military, he returned to school at Duke University where he received his divinity degree.

He served as pastor of a church in St. Albans, W. Va., before returning to the Air Force in 1954 as chaplain. His tour of duty took him from Texas to Alaska and from Vietnam to the Azores. His final post prior to retirement in 1972 was Air Force chaplain at Arlington National Cemetery.

Since his retirement, Reverend Squires has been active in almost every aspect of community life in Fairmont. And for the past 3 years, he has held the post of State department chaplain for the American Legion of West Virginia.

His contributions have been many and each of them has been filled with profound faith, human understanding and compassion, along with deep Christian love.

We are grateful for his being with us this morning.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that in view of the need to complete the legislative schedule, which has been long delayed, the Chair will recognize Members at this time only for unanimous-consent requests to revise and extend their remarks and not for 1-minute speeches.

Members will be recognized for 1-minute speeches at the conclusion of the legislative business today.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, it has, of course, been traditional in the House to allow 1-minute speeches at the discretion of the Chair, as the Chair has just indicated.

Is this denial of 1-minute speeches to be the policy for the remainder of the session, or is it just for today?

The SPEAKER pro tempore. The Chair cannot and would not attempt to set a policy for the remainder of the session. For the remainder of this week, today and tomorrow, the Chair desires to complete the legislative program that is scheduled for this week and to allow Members to leave at 3 o'clock tomorrow. Under those circumstances, the Chair believes that the legislative business will be expedited by conducting it first and reserving the 1-minute speeches until after that has been done. Members' rights will be protected, and any Member desiring to make a 1-minute speech will be recognized for that purpose at the conclusion of the legislative business today.

Mr. BAUMAN. Mr. Speaker, a further parliamentary inquiry, this then is only a policy for today and tomorrow, as I understand it?

The SPEAKER pro tempore. The Chair is announcing no further policy at this time. The Chair believes under the circumstances, considering the importance of the legislation pending and the necessity to complete action upon the actual business of the House, that this is warranted, at least for today and tomorrow.

Mr. BAUMAN. Mr. Speaker, I thank the Chair.

PARLIAMENTARY INQUIRY

Mr. SHUSTER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SHUSTER. Mr. Speaker, I notice there are only four Members seeking recognition, which would be 4 minutes. Is it the intent of the Chair to make his decision based on how many Members there are, or based on simply not permitting at least 4 minutes?

The SPEAKER pro tempore. Well, the Chair has also observed that there is an amoeba-like reproductive process set in motion on occasion by the 1-minute speeches. One will trigger another and that will trigger yet another.

Mr. SHUSTER. Mr. Speaker, if the Speaker will permit, if the minority is going to be gagged, I can assure the Chair that many more than 4 minutes are going to be expended in this House, because we will be heard.

The SPEAKER pro tempore. If the gentleman desires to obstruct the business of the House, the gentleman knows the rules of the House and the gentleman's rights will be protected; but the Chair would advise the gentleman that the American public, in the opinion of the Chair, desires for the business of the House to be attended to first.

Mr. SHUSTER. Well, if I might be heard, Mr. Speaker, I think the American public also wants to hear about the sordid scandal taking place downtown and the minority will not be gagged.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The SPEAKER pro tempore. The Chair has no intention of gagging a minority or anyone else and the Chair believes that the gentleman from Pennsylvania is fully aware of that fact.

The Chair has announced his intention to recognize any Member, majority or minority, for a 1-minute speech at the conclusion of the legislative business today.

Mr. SHUSTER. When nobody is here.

The SPEAKER pro tempore. Only a few Members are here now, the Chair would observe. Most Members, presumably, are in their offices and the press gallery is here. It is the beginning of the day.

Mr. SHUSTER. Mr. Speaker, the speeches we make in the morning are much better communicated across America than the points that we make at the end of the day.

The SPEAKER pro tempore. The Chair appreciates the gentleman's feelings and takes judicial notice thereof. The Chair once again reassures the gentleman from Pennsylvania that his rights, along with those of every other Member, will be protected; but the Chair, as long as this Member occupies the chair, intends to fulfill his responsibilities, and has decided that today he will recognize Members for 1-minute speeches at the conclusion of the legislative business.

Mr. SHUSTER. I thank my friend.

The SPEAKER pro tempore. Do other Members desire to be recognized for unanimous-consent requests?

The Chair recognizes the gentleman from North Carolina (Mr. GUDGER).

REQUEST FOR COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. GUDGER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit today while the House is reading for amendment under the 5-minute rule. I have discussed this with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman could tell us what the purpose of the request is.

Mr. GUDGER. The purpose of the request is to mark up the bill to increase the period during which personal protection is provided to spouses of national Presidential and Vice Presidential nominees, that is H.R. 7786; and also the Pretrial Services Act of 1980, H.R. 7084.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the gentleman has just heard the Chair state that we have such important legislative matters here that Members are not even permitted to make 1-minute speeches at the beginning of the day.

How possibly can the gentleman from North Carolina, in view of the American people's desire to have the business of the House conducted, as the gentleman in the chair just mentioned, want to take himself away from this important business on the floor, and not be here to discuss it? Would it not be better to put aside the protection of Presidential spouses until the end of the day and take care of the American people's business?

Mr. GUDGER. Mr. Speaker, I think the gentleman from Maryland is quite aware that the expeditious dispatch of the business of this House requires committee action when committee action is necessary to get essential bills to the floor of the House.

One of these bills is a bill comparable to bills which have been passed each 4 years for some time to afford protection, which I think is reasonably required for the wives of nominees for President and Vice President.

I am not here to debate the merits of these bills, obviously; but I do have work to do in the committee relative to these bills and I feel that work is important for the expeditious dispatch of the business of this body.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, does the gentleman have any information about the gentleman's committee's action on the resolution of inquiry in the matter of Billy Carter, which I introduced and which was referred to the Judiciary Committee 2 days ago?

□ 1010

Mr. GUDGER. I have no information concerning this particular bill.

Mr. BAUMAN. Is that resolution not more important than the bill the gentleman is asking about?

Mr. GUDGER. I doubt very much that it is, particularly in view of the fact that this particular concern is receiving attention by the other body perhaps as well as this body. But I am not the chairman of the Judiciary Committee and I am not able to address the question.

Mr. BAUMAN. Further reserving the right to object to the gentleman's request, I would just observe that this gentleman's opinion is that the matter of Billy Carter and the President's involvement in that particular activity, if indeed there is any, is of far greater importance than the legislation the gentleman mentions. The Foreign Affairs Committee has already considered the resolution of inquiry and set it down for hearing at 9:30 on Tuesday morning. It seems to me that the Judiciary Committee, composed of the majority party members who were so ready and, in many cases, more than willing to impeach Richard Nixon as President, might have the same degree of concern about the activities of a President's gasoline station-running brother and his activities in relation to Lybia, one of the most heinous terrorist nations in the world. If the Judiciary Committee cannot face the issue, it seems to me the Judiciary Committee should not come to the House and ask the privilege to sit during our sessions, which is against the rules, unless allowed by the consent of the House.

Mr. GUDGER. I assure the gentleman that it is not the purpose of the request which I am making to this body to get into any other matters than the two bills which I have referred to in my response to the gentleman.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I would observe that I have already taken more time than four 1-minute speeches would have taken so the suppression of free speech has saved very little time.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SHUSTER. Mr. Speaker, reserving the right to object, would the gentleman please restate what the two bills are which he wants his committee to consider?

Mr. GUDGER. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman.

Mr. GUDGER. The two bills are H.R. 7786, a bill to provide personal protection to spouses of national Presidential and Vice Presidential nominees; and H.R. 7084, the Pretrial Services Act of 1980.

Mr. SHUSTER. Does the gentleman have any intention for his committee to consider the Billy Carter scandal?

Mr. GUDGER. I have no knowledge of any bill or resolution on that particular matter. I have not introduced anything relative to it. I am not chairman of the committee. I do not know to what subcommittee any such bill or resolution, if there be one, is being referred.

Mr. SHUSTER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Chair will state that it requires 10 Members to object.

POINT OF ORDER

Mr. ASHBROOK. Mr. Speaker, pending that request, I make a point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair does not entertain that point of order at this time. Business is being transacted.

(Messrs. ASHBROOK, GREEN, BEREUTER, GINGRICH, WALKER, BAUMAN, DEVINE, ROTH, and MADIGAN also objected.)

The SPEAKER pro tempore. A sufficient number has objected.

Objection is heard.

RAIL ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 369, nays 10, answered "present" 1, not voting 53, as follows:

[Roll No. 422]

YEAS—369

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Lent
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—10

Bereuter
Bethune
Broomfield
Dornan
Gingrich
Jones, Okla.
Lloyd
Myers, Ind.
Walker
Wilson, Bob

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—53

Ambro
Anderson, Ill.
Applegate
Badham
Baldus
Beard, Tenn.
Bingham
Bolling
Byron
Clay
Collins, Ill.
Davis, S.C.
Deckard
Derrick
Dingell
Dodd
Edwards, Okla.
Ford, Mich.
Ford, Tenn.
Garcia
Giaimo
Gibbons
Gilman
Goldwater
Harris
Holtzman
Leath, Tex.
Leland
Lewis
McCormack
McEwen
McKay
Mathis
Mavroules
Mitchell, Md.
Moffett
Murphy, Ill.
Nolan
O'Brien
Oakar
Pepper
Pursell
Rhodes
Rosenthal
Runnels
Spellman
St Germain
Swift
Symms
Udall
Vander Jagt
Williams, Mont.
Wydler

□ 1030

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7235, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, July 2, title II was open for amendment at any point. Pending was an amendment offered by the gentleman from New Jersey (Mr. FLORIO), a substitute offered by the gentleman from Illinois (Mr. MADIGAN), and an amendment to the substitute offered by the gentleman from California (Mr. ANDERSON) on which a recorded vote had been requested.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Would it be in order to ask unanimous consent that 5 minutes be allotted to each side to discuss the pending amendment prior to the vote? Quite frankly, a number of representations have been made to me about the substance of the amendment and it has been weeks since we considered the bill.

The CHAIRMAN. The Chair will respond it would be permissible to make such requests.

Mr. FLORIO. Mr. Chairman, I have no objection to such a request.

Mr. BAUMAN. Mr. Chairman, I ask unanimous consent that 5 minutes be allotted to each side to speak to the pending amendment prior to the vote.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent that 5 minutes debate be accorded each side on the pending amendment prior to the disposition of the demand for a recorded vote.

Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. The author of the amendment, the gentleman from California (Mr. ANDERSON), is recognized for 5 minutes.

Mr. ANDERSON of California. Mr. Chairman, my amendment is very simple. The need for it was originally suggested by the California Association of Port Authorities, and it has been endorsed by practically every port organization in the country. All it does is strike 208(f) and maintains the existing antidiscrimination provision in the law.

Mr. Chairman, there has been a lot of confusion about this amendment. I am presently looking at a "Dear Colleague" letter that was put out about it this morning. It says, 'Pending is an amendment by Mr. ANDERSON which, if adopted, would result in the decimation of the contract and the surcharge provisions."

This is absolutely incorrect, Mr. Chairman. My amendment would not prevent railroad contract ratemaking, only that contract ratemaking which unreasonably discriminates against ports, other persons, places, and types of traffic. Without the repeal of the antidiscrimination standards, the Interstate Commerce Commission has already approved and is actively promoting railroad contract ratemaking. I have a letter here signed by a Deputy Director of the Interstate Commerce Commission telling about current railroad contract ratemaking provisions, which anyone can come and see.

Also in the Dear Colleague letter this morning there is the following statement:

"The Anderson amendment purports to protect the interest of the ports."

Well, this amendment in fact is supported by the ports. The Dear Colleague letter says that the Mikulski amendment is the answer.

The Mikulski amendment would prohibit unreasonable discrimination only on foreign commerce and only for surcharges. The Mikulski amendment does not do any good for those of us on the West Coast where we have traffic with Alaska, Hawaii, and the island territories; it would not do any good for much of the river shipping, and such shipping as coal from Norfolk to New England and other shipping between U.S. ports. It does nothing for the Jones Act traffic.

The third thing that is in the Dear Colleague letter that went out this morning, Mr. Chairman, is a discussion about my use of a map yesterday. To address this I want to read from the bill. I hope the Members have copies of the bill (H.R. 7235) before them, because what they say in the Dear Colleague questions the judgment of my amendment.

The Dear Colleague says:

> Finally, a map of light density lines has been exhibited by the proponents of the Anderson amendment as evidence of lines that the bill will cause to be abandoned.

I ask the Members to turn first to page 129 of H.R. 7235. At the bottom of that page it says:

> A rail carrier may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 3,000,000 gross ton-miles of traffic per mile.

I was curious to find out which lines carried 3,000,000 gross ton-miles of traffic per mile and I asked the Department of Transportation to provide me with such a map. I have the map outside.

Now, let us look further in the bill. I refer the Members to page 165:

> (5) Whenever a rail carrier applies a surcharge under section 10705a(b) of this title—

That is the one I just quoted—

> the Commission may find that there has been a de facto abandonment and require such carrier to be subject to the provisions of this subsection.

I asked the Department of Transportation for the map to find out what this is all about and it is that map that I have been showing outside. If anyone can read anything different into those two paragraphs than what I have indicated, let them do so. But I just want the Members to see what we are voting on here. Of course, my amendment does not correct all of these things, but my amendment at least would maintain the present law and say if you are going to have contracts, if you are going to have surcharges, then you cannot discriminate.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Texas.

Mr. ECKHARDT. I wish to say I support the amendment of the gentleman from California. All the amendment does is prevent the railroads from exercising their new monopoly power which would be granted up to about 200 percent of variable cost, from discriminating. That is all the amendment does and it is a very desirable amendment.

□ 1040

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I will be happy to yield.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding. My understanding is that the gentleman's major concern and that of the ports is that undue surcharges could be imposed unless the gentleman's amendment is passed. Is that correct?

Mr. ANDERSON of California. Yes. That is one of my major concerns.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ROUSSELOT. Mr. Chairman, I ask unanimous consent that each side be given 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. RUSSO. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Does the gentleman from New Jersey seek recognition in opposition to the amendment?

Mr. FLORIO. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, members of the Committee, the gentleman's amendment does two things. One is, it purports to provide protection for ports against the discriminatory application of contracts, surcharges, and other things. I would make the representation—and I will yield in a minute to Ms. MIKULSKI—that that aspect of the bill has already been changed by virtue of the adoption of Ms. MIKULSKI's amendment.

As a matter of fact, there is a particular port area, the port of Philadelphia, which was concerned about this issue and has since reviewed Ms. MIKULSKI's amendment, the Anderson of California proposed amendment, and sent telegrams to the Congressmen in the area saying that their concerns are relieved. Therefore, the ports' concerns are no longer relevant and will not be addressed by Mr. ANDERSON's amendment.

The more significant aspect of the amendment is to inhibit the brand new initiative that this bill contains providing for the greater use of contracts. The amendment does not only limit contracts to ports. The amendment will limit the use of contracts for anyone. We put in this bill, for the first time, the legal authority of shippers, as well as anyone else, to contract with railroads. This hopefully will provide substantial benefits to those shippers. The effect of the amendment offered by Mr. ANDERSON is to say that whenever any of the terms of the contract vary—and, of course, we hope that they will vary because that will result in different terms in different contracts—that is inherently discriminatory and the ICC should become involved in contract ratemaking.

That will effectively mean that the contract provision we have included for the benefit of shippers will not be used.

I would be happy, in the brief period of time I have, to yield to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, I would like to thank the gentleman for yielding, and in the brief time allotted to us, just simply say that the Anderson amendment is opposed by the Department of Agriculture, opposed by the Department of Transportation, opposed by the Republican Policy Committee, by the gentleman from New Jersey, and by myself.

With regard to the map that was alluded to, I should like to quote from a letter from the General Counsel of the Department of Transportation. This letter is under date of July 23, yesterday. I quote from the letter from the General Counsel of the Department of Transportation:

> My understanding is that the map produced by the Department is being misused by some to describe these lines as lines which will be abandoned if the Rail Act is enacted. Those who are making representations about the map should know that the map has nothing to do with abandonments. In fact, the Rail Act of 1980 will help to ensure that those very lines are not abandoned.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from California.

Mr. ROUSSELOT. The gentleman heard my colleague from California refer to the problem of potential surcharges. Can the gentleman assure us in any way that if this amendment does not pass there would be protection against the unwarranted use of surcharges?

Mr. MADIGAN. As I have earlier said to the gentleman and as was mentioned here, Ms. MIKULSKI has already offered one amendment on port surcharges and equalization. There will be a future amendment to perfect that to insure that the ports in California, in Baltimore, and anywhere else are not in any way injured by the provisions of this bill.

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. Mr. Chairman, the complaint has been that in this legislation railroads will unfairly discriminate against ports. I offered an amendment to the Madigan substitute, and will offer a further perfecting amendment later on to title III that will deal with this issue. Both my amendment to the Madigan substitute to title II and my future amendment will guarantee that there can be no discrimination against ports. The position under ports will remain unchanged and protected. I represent a port, and I am sympathetic to the fears of ports about discrimination. The Mikulski amendments to title II and title III will guarantee that ports will have the ability to insure that discrimination does not occur. It will give them standing before the ICC, access to the necessary information they need so that they in no way can be charged without justification.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, representations have been made that this amendment will protect short lines from the imposition of surcharges in instances where the surcharges passed along over the entire route would make those short lines unprofitable to continue to operate, and therefore possibly be abandoned. Could the gentleman from New Jersey address this charge?

Mr. FLORIO. I am not familiar with that representation.

Mr. BAUMAN. That is the charge.

Mr. FLORIO. I am making the representation to you that Mr. LEE, the gentleman from New York, has an amendment to title III that will provide the protection the short lines need.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended, as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO), on which a recorded vote was demanded.

RECORDED VOTE

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 255, answered "present" 2, not voting 31, as follows:

[Roll No. 423]

AYES—145

Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.Dak.
Anthony
Ashbrook
AuCoin
Bauman
Benjamin
Bennett
Bethune
Blanchard
Boggs
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Burgener
Burton, John
Burton, Phillip
Carney
Carr
Chappell
Chisholm
Clausen
Clay
Coelho
Conte
Corman
Danielson
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Dicks
Dingell
Dixon
Donnelly
Eckhardt
Edwards, Calif.
Ferraro
Fithian
Frost
Fuqua
Garcia
Goldwater
Gonzalez
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harris
Hawkins
Heckler
Hightower
Hinson
Holland
Hutchinson
Hutto
Ireland
Jeffries
Johnson, Calif.
Jones, N.C.
Kazen
Kildee
LaFalce
Lagomarsino
Latta
Leach, La.
Lent
Livingston
Lloyd
Long, La.
Lott
Lowry
McHugh
Marriott
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Moakley
Montgomery
Moorhead, Calif.
Murphy, N.Y.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Rahall
Rangel
Richmond
Roberts
Roe
Rose
Rosenthal
Roth
Roybal
Scheuer
Sebelius
Seiberling
Shumway
Smith, Nebr.
Solarz
Solomon
Spence
Stangeland
Stanton
Stark
Steed
Stokes
Stratton
Tauzin
Traxler
Trible
Vander Jagt
Vento
Watkins
Waxman
Weiss
White
Whitten
Williams, Ohio
Wilson, Bob
Wolff
Wolpe
Wright
Wyatt
Wydler
Young, Mo.
Zeferetti

NOES—255

Abdnor
Akaka
Alexander
Andrews, N.C.
Annunzio
Applegate
Archer
Ashley
Aspin
Atkinson
Bailey
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Bevill
Biaggi
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Butler
Byron
Campbell
Carter
Cavanaugh
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Derwinski
Devine
Dickinson
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hanley
Hansen
Harkin
Harsha
Hefner
Heftel
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
Leach, Iowa
Lederer
Lee
Lehman
Levitas
Loeffler
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Minish
Mitchell, N.Y.
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Neal
Nelson
Nichols
O'Brien
Obey
Ottinger
Paul
Pepper
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Railsback
Ratchford
Regula
Reuss
Rinaldo
Ritter
Robinson
Rodino
Rostenkowski
Rousselot
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Smith, Iowa
Snowe
Snyder
Spellman
Staggers
Stenholm
Stewart
Stockman
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Ullman
Van Deerlin
Vanik
Volkmer
Walgren
Walker
Wampler
Weaver
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

ANSWERED "PRESENT"—2

Bafalis
Hillis

NOT VOTING—31

Anderson, Ill.
Badham
Baldus
Beard, Tenn.
Bingham
Collins, Ill.
Derrick
Ford, Mich.
Ford, Tenn.
Giaimo
Gilman
Holtzman
Jenrette
Leath, Tex.
Leland
Lewis
Long, Md.
McCormack
McEwen
McKay
Mathis
Mavroules
Oakar
Pursell
Rhodes
Runnels
St Germain
Stack
Symms
Udall
Wilson, C. H.

☐ 1100

The Clerk announced the following pairs:

On this vote:

Mr. McCormack for, with Mr. St Germain against.

Mr. Bingham for, with Mr. Lewis against.

Mr. Ford of Tennessee for, with Mr. Symms against.

Messrs. HINSON, STOKES, GUYER, BLANCHARD, WOLPE, LIVINGSTON, DICKS, LAFALCE, and PASHAYAN changed their votes from "no" to "aye."

Mr. HUCKABY changed his vote from "aye" to "no."

So the amendment to the amendment, as amended, offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JENRETTE. Mr. Chairman, on rollcall No. 423, the vote on the Anderson of California amendment, I voted but was not recorded. Had I been recorded as voting, I would have voted "aye."

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, while we are at work on the railroad deregulation bill, I would like to call for deregulation of the Democratic Convention. We were not allowed a 1-minute speech this morning, so I take this time to say that I have endorsed no candidate for the Democratic nomination, but now I believe the time has come for President Carter to release his delegates——

Mr. BAUMAN. Mr. Chairman, I reluctantly demand the regular order.

Mr. WEAVER. Mr. Chairman, I am going to speak.

The CHAIRMAN. Regular order is demanded.

The gentleman must confine his remarks to the business of the bill at hand and the amendments thereto.

Mr. WEAVER. I am going to discuss the deregulation of the rails and the Democratic platform of the Democratic National Convention, and I believe that the deregulation of the railroads——

The CHAIRMAN. The Chair will insist that the gentleman confine his remarks to the bill pending before the Committee and any amendments thereto.

Mr. WEAVER. I am discussing the deregulation of the railroads as it appears the Democratic Convention will be railroaded, and I hope that the Democratic Convention is free to choose the best candidate and the best platform.

The CHAIRMAN. Regular order has been demanded.

Mr. WEAVER. Mr. Chairman, I conclude by saying that we cannot tolerate courthouse politics in the White House.

AMENDMENT OFFERED BY MR. TRAXLER TO THE AMENDMENT OFFERED BY MR. MADIGAN, AS AMENDED, AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Mr. TRAXLER. Mr. Chairman, I offer an amendment to the amendment, as amended, offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAXLER to the amendment offered by Mr. MADIGAN, as amended, as a substitute for the amendment offered by Mr. FLORIO: On page 6, line 19, following "charge", insert "and the supply of necessary transport equipment."

On page 7, line 5, following "agree.", insert "In the event that the carrier and shipper are unable to come to an agreement on a penalty clause for the contract, such penalty clause shall be specified by the Commission."

Mr. TRAXLER. Mr. Chairman, I want to initially congratulate the gentleman from Indiana for offering his amendment. I think it materially improves the bill in an area in which I have a particular concern, and I know he is supported, of course, by the gentleman from New Jersey in his efforts, and I commend him for his efforts to assist in strengthening those portions of this bill which deal with the agricultural shippers. That is precisely what my amendment would do. It provides that where the shipper and the railroads cannot come to an agreement on the penalty clause in the contract dealing with the inability to provide cars, and the penalty therefor that the Commission shall specify by rule these monetary damages.

Mr. FLORIO. Mr. Chairman, will the gentleman yield for a question?

Mr. TRAXLER. I yield to the gentleman from New Jersey.

Mr. FLORIO. Is it not the case that

the effect of the gentleman's amendment is to put the ICC into the negotiating process between agricultural shippers and railroads, which is the direct opposite of what it is that we are trying to achieve, that is to let private parties negotiate their agreements? And if that is the case, which I believe it is, I would reluctantly have to oppose the amendment because I do not think it is desirable to have private negotiations taking place with the ICC as a participant in those negotiations.

Mr. TRAXLER. To respond to the gentleman's inquiry, the answer is that I would not want the ICC to be a direct participant in the negotiations. What I would prefer them to do is simply by rule specify these penalty clauses.

The gentleman will recall that there was some effort to write into the act a penalty clause and stipulate what the damages or the dollars would be in this instance.

What we are looking at here is the small elevators, the small shippers, who are at an extreme disadvantage in negotiating these contracts with penalty clauses with the railroads. We are simply saying, "Look, where you got two unequals coming to the bargaining table, let us just say that there can be an umpire in this one instance dealing with the question of the inability or the refusal on the part of the carrier to provide the cars at the specified times."

Mr. FLORIO. I would think that the language of the gentleman's amendment does not do what the gentleman intends to have done, because it does state that if the agreement is not able to be arrived at between the parties relative to the clause, that clause shall be specified by the Commission. I think there is not any question about the fact that the Commission then becomes a party to the negotiations, and I do not think that that is desirable. I reluctantly have to oppose the gentleman's amendment.

☐ 1110

Mr. TRAXLER. It is my intention in the amendment, and I am sorry he disagrees with my interpretation of it, but it is my interpretation of it that the Commission would, by rule, specify just broad kinds of penalties for the nonavailability of the cars, the failure on the part of the carrier to provide the cars pursuant to these contracts. That is all I seek to do. You are talking about two unequal contractors at the bargaining table. You are talking about large railroads and some small elevators, small shippers and it simply will not work, in my opinion, and you need in this instance a mechanism by which you can equalize the strengths that these two parties bring to the contract negotiations. That is the purpose of the amendment.

I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have already stated my point of opposition.

I would be happy to yield to the gentleman from Illinois, who has been very concerned about the impact of this whole bill upon small grain operators. The amendment would be to his substitute, which I believe has adequately addressed those concerns.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. I am not at all confident that I understand what the role the Commission would have to play as a result of the Traxler amendment. It is my understanding that our bill as we have it prepared would require that if a contract is made between a railroad and a shipper, that same contract has to be offered to all other shippers who fit above the threshold that we describe in the bill within a 75-mile radius of the shipper who has the initial contract and that that option for that contract must remain available to all other shippers for a period of a year.

It would seem to me that the normal contract would include penalty terms and therefore would be what would be offered to other shippers. I do not see how we can have a provision which permits contracts between the parties and then encourages Commission adjudication or arbitration of each contract. I do not see how it will work. There is going to be a contract that is going to include the penalty term. People may either take it or reject it.

I am sorry to oppose the gentleman's amendment because I believe he is very sincere. I just do not think the amendment is workable.

I thank the gentleman for yielding.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

I might say this amendment, it seems to me, would take care of small coal operators, which I happen to have quite an interest in. Is that correct?

Mr. FLORIO. The answer is: This amendment is specifically designed to deal with agricultural shippers and will not have any relevance to coal shippers.

Mr. CARTER. I am sure that in this case it would, but in other cases similar to this, would small coal operators be offered the same advantages as large unit train operators?

Mr. FLORIO. Perhaps the gentleman from Illinois (Mr. MADIGAN) would respond to the gentleman's question.

Mr. MADIGAN. Will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding.

We are dealing with that section of the bill that concerns contract rates which says that a shipper and a railroad may enter into a contract. We are proposing to amend that provision to say that any other shipper within a 75-mile radius of that first shipper who has the contract, who ships at least 20,000 tons a year, may opt for up to a 12-month period to take from the railroad the same contract that the railroad has given to the first shipper with the exact same provisions except that the railroad may add any incidental costs that are involved in serving the second shipper.

For example, if the siding for one shipper is such that it accommodates a 100-car train and the labor involved is only the setting out of one 100-car train and the other shipper has the smaller siding that requires four setouts of 25-car trains, then the railroad may charge the other shipper the additional fuel and crew costs involved in those four movements. That would be the only kind of distinction that would exist between a big shipper who opted for the same contract that had been given to the big shipper, and that would be the variable costs involved in serving the small shipper.

Mr. CARTER. I thank the distinguished gentleman for his remarks, and really I feel that this is an equitable solution.

Mr. MADIGAN. I thank the gentleman.

Mr. FLORIO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. TRAXLER) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended, as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment was rejected.

The CHAIRMAN. Are there other amendments to the Madigan substitute?

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK TO THE AMENDMENT OFFERED BY MR. MADIGAN, AS AMENDED, AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLORIO

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment to the amendment, as amended, offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York to the amendment offered by Mr. MADIGAN, as amended, as a substitute for the amendment offered by Mr. FLORIO:

Page 117, line 21, insert "(a)" immediately after "SEC. 208.".

Page 118, beginning on line 5, strike out "(1) surcharges under section 10705a of this title," and redesignate the following clauses in subsection (f) accordingly.

Page 118, after line 11, insert the following new subsection:

(b) Section 10711 of title 49, United States Code, is amended—

(1) by inserting "(a)" immediately before "Section"; and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, the Commission shall have the duty, on its own initiative or on complaint of an interested party, to ensure that equal rail rates shall be maintained, without unreasonable discrimination, between ports in the same range, and to all points served by rail within the same port.".

Mr. MADIGAN. Mr. Chairman, I reserve a point of order on the amendment.

Mr. MURPHY of New York. Mr. Chairman, the basic goal of the Rail Act of 1980 is commendable. It is intended to reform the economic regulation of railroads and help revitalize America's rail industry, however, those who support the important work of America's ports and harbors cannot support this bill.

The amendment I am offering preserves the prohibition against discriminatory rail rates and surcharges for America's ports.

In the last Congress, we had this issue out. Unfortunately, in the closing hours, on a point of order, it was deemed by the Parliamentarian as not germane to that particular piece of legislation which was adding funding for Conrail.

Basically, what we see in this legislation is a Conrail funding act. The basic act is going to permit Conrail, which interlines with other major roads, from dividing increased revenues that they themselves can devise and not permit short-line railroads, ports and communities to participate in those increases.

The ICC has long had a statutory mandate to provide for rail rate equalization among the various ports. The purpose of that mandate is to make sure that our country's longstanding policy of providing reasonably equal treatment among our Nation's ports is preserved.

Section 9 of article I of the U.S. Constitution provides:

> No preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another:

The ICC authority to provide for rail rate equalization between or within ports is consistent with the spirit of that constitutional provision.

□ 1120

It is a practice which was affirmed by Congress in the 4-R Act of 1976, and I offered those amendments at the time. The House adopted them and, of course, they became law.

The concept of rail rate equalization has actually been part of ICC governing law since as early as 1887. At that time Congress wanted to make sure that the then very powerful railroads, which often owned their own port facilities, were prevented from engaging in unfair anticompetitive practices. Not only could big railroads put competing port facilities out of business, but they could also do the same for small railroads which served ports.

This bill, as now drafted, would drastically change that historic policy. Section 208 of the bill would specifically limit the prohibition against discriminatory rail rates which would include certain specific charges for ports, including surcharges.

Section 301 of the bill specifically allows for surcharges on joint rates and cancellation of joint rates on through routes, even though the result of such surcharges may be discriminatory and cause major disruptions.

While the apparent objective of the bill seems to be to remove what some perceive to be burdensome regulations and to allow railroads to recover actual costs for performing all their services, our concern is that this dramatic change may be brought about too quickly and thereby cause substantial economic dislocation among ports and small railroads throughout the country.

It is important to remember that the Public Works and Transportation Committee has led the way in deregulating important systems of transportation; first, airlines, now trucks. In both cases, this committee has thoughtfully recognized that a radical change would be counterproductive, would actually cause great economic harm. That, I am afraid, is precisely what would be caused to many sectors of our country which depend so heavily on our Nation's ports.

It is for that reason that I urge support for this amendment, which would preserve the status quo regarding rail equalization.

In the meantime, the Assistant Secretary of Commerce for Maritime Affairs has been directed to do a study on the rail rate equalization policy for me as the chairman of the Merchant Marine and for the Public Works Committee. I have been informed it will take several months for this department, which is intimately involved in the affairs of water carrier transportation, to report back to Congress. The study seems eminently sound and reasonable, since only a couple of port authority officials and no one else knowledgeable about the problem of ports served as witnesses before the Commerce Committee in considering this bill.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. Murphy of New York was allowed to proceed for 3 additional minutes.)

Mr. MURPHY of New York. The amendment is necessary in order to maintain the careful balance of traffic now being handled by our ports and to prevent economic harm to those ports in the important economic sectors of our country which are so dependent upon them.

I might say, it is not only ports, but peninsulas, particularly the whole east coast of Florida, which are involved; Michigan, Wisconsin, and Minnesota, the Delmarva Peninsula, and Long Island particularly.

We look at who supports this amendment. We even go out to Illinois and we find the Grain and Feed Association of Illinois supporting this amendment; the California Association of Port Authorities, the American Association of Port Authorities, the International Longshoremen's Association, the Joint Maritime Congress, the Los Angeles County Federation of Labor, the Marine Engineers Beneficial Association, the Massachusetts Port Authority.

We have authorities across this country who realize that the historic equalization of rail rates to the different port ranges, and we are not just talking about the Northeast range, we are talking about the west coast, the gulf, and the Southeast range.

Fortunately, rail rates have not been tampered with to those ranges. They have been tampered with in the Northeast range.

Look at the ocean rates between Norfolk and Boston. The ocean rates across the North Atlantic range are equalized. On ocean freight you pay the same rate from Norfolk, from Baltimore, from Camden and Philadelphia, from New York, and from Boston that you do to Rotterdam.

Inland ports, such as Baltimore, were supposed to have equalized rail rates because they enjoyed a shorter distance to the rail shipping centers in the Midwest, and the purpose of rail equalization was to match the corresponding equalization of ocean rates. We are only talking about foreign waterborne commerce here.

Today the Port of Baltimore enjoys about a $110 per container advantage over the other ports in this range. Equalization does not raise rates to the New York level. What equalization does is it brings rates in the Northeast range, in the Pacific range and the gulf range, to a proper and equitable level for the whole range. It will mean lowering of rates for some ports. It may mean a raising of rates, but what we will have will be equity on ocean rates, as well as inborne rail rates.

I would think the committee in its wisdom would reaffirm the amendments that it agreed to in the 4-R Act and the 3-R Act to equalize these rates.

The CHAIRMAN. The Chair would ask the gentleman from Illinois (Mr. Madigan) if he continues to reserve a point of order.

Mr. MADIGAN. No, Mr. Chairman. We have had an opportunity to see the amendment.

Mr. Chairman, I withdraw my reservation of a point of order.

Mr. FLORIO. Mr. Chairman, I rise in opposition to what is effectively a port equalization amendment. This is an amendment that the gentleman from New York is very committed to and has offered on a number of occasions in the subcommittee and in the committee. It has uniformly been rejected for what I believe are very substantial reasons.

The gentleman takes an approach as to what constitutes port equalization that is at variance with the interpretation of the ICC and most other individuals. In essence, the argument on behalf of the amendment of the gentleman from New York (Mr. Murphy) is that there should be absolute equality between ports with regard to rates, notwithstanding variance of other conditions; for example, things as basic as mileage. To make it as direct as possible, the gentleman would say that the rate between Chicago and New York should be the same as the rate between Chicago and Philadelphia, the same as the rate between Chicago and Baltimore, notwithstanding the fact that there are absolute differences in mileages and other conditions; the gentleman is choosing to interpret equalization in absolute terms.

This whole approach again is in opposition to the approach of this bill, which is to say that the market conditions should determine what the rates are. Certainly, some of the variables in determining what the rates are that the market certainly recognizes is the difference in distance, the difference in the types of services that are going to be provided; so that the concept of rate equalization that was provided for in the 4-R Act is being implemented by the ICC under its interpretation, which I believe is appropriate. But equalization does not dictate that there be absolute equality in rates; rather, that all conditions be equally evaluated, so that it is permissible to have different rates between different ports if there are different mileages and if there are other market differences.

It is for those reasons that our committee and our subcommittee has uniformly rejected the gentleman's very strong arguments in favor of changing the law.

I would think that in this bill it is particularly inappropriate to now say that this legislature or that the ICC should start to dictate what rates should be between ports when, in fact, the whole new thrust of this legislation is that market conditions should determine what those rates should be.

Mr. MURPHY of New York. Mr. Chairman, would the gentleman yield?

Mr. FLORIO. I would be happy to yield.

Mr. MURPHY of New York. Mr. Chairman, the Supreme Court in upholding the Constitution, and I cited article I, section 9 of the Constitution, in the rate case on rate equalization in the North Atlantic range stated specifically—in order to not have discrimination on the North Atlantic range, the Supreme Court stated that there would be equalization, so there would not be discrimination between these ports.

I am reading from the present law, an amendment in 1976 which the Congress adopted, and it is section 10711, which states specifically that "Effective certain sections on rail rates and practices"—

> Will not affect the law in existence on February 5, 1976, or the authority of the Interstate Commerce Commission related to rate relationships between ports.

☐ 1130

This says that the ICC must conform with the law, the law that 10 years ago the Supreme Court stated would have equalized rates between those ports and foreign commerce. This is limited to foreign commerce. But, the ICC has permitted the old bankrupt Penn Central to file rates, its successor, Conrail, to file rates in excess of the rates from the Midwest to the east coast range.

Mr. FLORIO. Reclaiming my time, I understand what the gentleman is talking about. I will be happy to yield to him again in just a minute, but I would like to put into the RECORD the language from the case that I assume the gentleman is talking about, which in terms of discussing the constitutional points he raises, the Court concluded then that the constitutional provision "does not forbid such discrimination as between ports. Congress, acting under the commerce clause, causes many things to be done that greatly benefit particular ports and which, incidentally, result in the disadvantage of other ports in the same or neighboring States."

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(At the request of Mr. MURPHY of New York and by unanimous consent, Mr. FLORIO was allowed to proceed for 3 additional minutes.)

Mr. FLORIO. I am happy to yield to the gentleman for a brief period of time.

Mr. MURPHY of New York. To go back to the original problem as it exists today, the Supreme Court ruled there would be equalization. Now the ICC, in its craft or wisdom, then permitted mileage rates on flatcars and on containers to be filed. In other words, it kept equalization on boxcar traffic, but then said transportation has now changed. About 80 percent of the transportation between the Midwest and the ports are containers, in containers or flatcars. The ICC is not properly implementing the law. It is permitting Conrail, it is permitting the roads in and out of Baltimore, and other ports on the North Atlantic range, to discriminate illegally against those ports.

Subsequently I will ask for support of the amendment to bring back one thing: existing law.

Mr. FLORIO. Reclaiming my time, the point I think I have made is that the ICC is interpreting the law correctly, that there is a legitimate reason for variance in rates between ports that are determined by legitimate marketplace differences and, therefore, there is no discrimination that is not permissible under either the Constitution or under the 4–R Act.

I yield back the balance of my time.

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman, I rise in opposition to the amendment to equalize rail rates between ports. I have argued against this amendment on each occasion that it has been offered in committee and it has been defeated in committee. This amendment has been soundly defeated because the committee recognizes that it is economically inefficient to legislate that railroad rates to competing ports should be equalized.

What equalization means is that the rates would be identical or the same regardless of cost. That is economic folly to think that we can establish railroad rates without taking mileage into consideration as an essential variable.

If it is cheaper for a railroad to serve a port that is closer to market, it makes economic sense for the rail rate to be lower than, not equal to, the rate to more distant ports. The current rail rate to my area, the Port of Baltimore, is cheaper than the rail rate for containers into the Port of New York because geographically Baltimore is closer to many markets than New York, and our railroads are in better shape. It is cheaper for railroads to serve Baltimore because they do not have to travel the greater distances.

The ultimate losers in this amendment are the shippers and the consumers that end up paying the higher rates. The concept of port equalization of railroads stems from an era when railroads were virtually the only practical form of inland transportation available. The rail industry no longer enjoys this monopolistic position. Today's railroads must compete with trucks and barges with rates that are not subject to port equalization.

The railroad industry is seriously damaged by port equalization because of the severe limitations it places on their ability to offer innovative marketing strategies. This amendment will hurt the small business person in the Midwest because it will raise the container rate to over $150 per container. It will rob many more of these ports, including the ones in Philadelphia, Baltimore, and Wilmington of the business which they need for their survival. It will increase our unemployment rate because it will divert jobs to Canada. Halifax and Canadian ports are dying for us to equalize because they have a more flexible rate strategy and many jobs will be diverted to Canada. It creates costly red tape and increases a great deal more regulation.

New York, by its own admission in an article in the New York Times, states:

> Modern piggyback trains make the 30-hour run to Chicago at least five times a day, carrying garments, chemicals and other goods produced by New York City factories to the heartland of the country and on to the West Coast.
>
> But the trains must leave from New Jersey. They cannot come into the city, except for Staten Island, because the rail freight lines and terminals in Manhattan and the other boroughs are either too dilapidated or too small to accommodate the modern cars.
>
> The result has been to undermine the ability of manufacturers in the city and Long Island to compete with businesses elsewhere. The first short leg of the trip to Chicago—across the river by truck—adds 20 percent to 45 percent to the transportation bill.

The gentleman from New York represents a great city and a great port, but by New York's own admission, one which has not remained competitive in terms of rail rates, and has not made the necessary capital investment for even minimally adequate rail facilities.

I understand from reviewing the economic development strategy of New York that it intends to make that investment, and we welcome this type of investment and this type of competition. I say to the gentleman from New York (Mr. MURPHY) let us compete in the marketplace when the gentleman's city makes that kind of capital investment. Let us not try to give the gentleman's port business artificially, which by his city's own admission has not made the capital investment to seek that business.

This amendment for equalization flies in the face of the bill to deregulate railroads. No. 1, it hurts the consumer. It hurts the shipper, and ultimately it will hurt railroads because they will turn to other forms of transportation, not to other ports.

Mr. MURPHY of New York. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I am happy to yield to the gentleman from New York.

Mr. MURPHY of New York. Baltimore enjoys about a 130-mile advantage by rail to the line from Pittsburgh south and then shipping points west of that line. New York enjoys about a 300-mile advantage over Baltimore to the north European ports. Would the gentlewoman support an amendment that would take away the equalization of the ocean rates and then reset those ocean rates on a sliding scale based on the mileage from the North Atlantic range ports to northern Europe?

Ms. MIKULSKI. First of all, I would like to bring to the attention of my colleagues the ocean rates the gentleman from New York is talking about were established voluntarily. I happen to believe in this atmosphere and thrust toward deregulation that if we wanted to change that on a voluntary basis, that would be fine with me, rather than going to the ICC.

The CHAIRMAN. The time of the gentlewoman from Maryland has expired.

(By unanimous consent Ms. MIKULSKI was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. Of course, it is not a function of the ICC to regulate ocean liners.

Ms. MIKULSKI. Second, I would also like to bring to the gentleman's attention in this rail legislation. Distance is not only the criteria, it is also the cost of doing business that we are talking about in equalization. As I have indicated in quoting from the New York Times, the gentleman does not have the appropriate rail facilities in the boroughs of New York to deal with the new piggyback carrier type of activity. When that investment is made, then we can compete. To give that argument about ocean liner distance I think really distorts the picture.

Mr. MURPHY of New York. Would the gentlewoman support a scale of ocean freight rate differences that are based on the mileages of those ports to the European ports?

Ms. MIKULSKI. No, because mileage is never the sole criteria of determining costs, and using the criteria of both in terms of accessibility and of adequate rail service and mileage in New York is defective.

Mr. MURPHY of New York. But the gentlewoman does know the law, as we passed it, the 3-R Act, specifically stated that we mandated in that law each port would have a competitive rail system. The gentlewoman's port enjoys three rails coming from the Midwest into that port. New York has one. That in itself is a violation of the law, and this committee has not addressed that.

□ 1140

As I understand, Conrail has established a lighterage fee between New York and New Jersey or between parts of New York and Staten Island that should have helped him address those very serious problems that he has.

We also established this accompanying equalization of rates within a port and the ICC permits surcharges, which they should not, and that is precisely what we are trying to straighten out. We are trying to get a proper definition of the law here on the floor because we cannot do it in a regulatory body whose philosophy changes month by month.

Ms. MIKULSKI. That is why I say I would like to defeat the Murphy amendment and move to deregulation and not additional reregulation.

Mr. LEDERER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the port equalization amendment offered by the gentleman from New York (Mr. MURPHY).

As many of my colleagues know, I have the distinguished honor of representing the Third Congressional District of Pennsylvania. Within the borders of my district is much of the Port of Philadelphia. The amendment offered by the gentleman from New York will hurt the Port of Philadelphia. This amendment will adversely affect the future competitiveness of the port and the thousands of Philadelphians whose livelihood depends on business entering the port.

The industrial base of the whole Delaware Valley region depends on waterborne commerce. From this base stems the activities that support the region's economy. How successful the port and consequently how viable the region's economy, depends on the competitiveness of the port with other east coast ports. At the present time, I am pleased to say the port is very competitive. Our Delaware River ports, Camden, Philadelphia and Wilmington, identified collectively as the Ports of Philadelphia, rank first among the Nation's ports in international waterborne commerce. But this distinction was not easily won. And it is a distinction that would be lost with the adoption of this equalization amendment. More importantly, it is the Port of Philadelphia's continued and future viability that would be injured with the adoption of this amendment.

The Port of Philadelphia is not the only port that would be injured by the adoption of this amendment. The viability of the Port of Baltimore and other east coast ports would also be undermined by an attempt to equalize shipping rates. In fact, no port can benefit from port equalization except at another port's expense. No additional export or import traffic is generated by this regulatory practice, and any business gained by one port represents business that is diverted at other ports' expense. Redistributing traffic, among ports through equalization insures that those ports that are naturally more costly to serve, remain competitive with ports that are less costly to serve.

Port equalization has other undesirable consequences as well. For example, it inhibits railroads from making efficient market adjustments, based upon costs and competitive conditions. Carrier costs and market forces should determine rate relationships, between common origins and competing ports, rather than relying on a policy of rate equalization—a policy which is void of either legal justification or economic merit.

In fact, many others would be adversely affected, including the very railroads and railway workers whom we are helping with this deregulation legislation today. As Mr. FLORIO, Mr. MADIGAN, and the other members of the Transportation and Commerce Subcommittee have already pointed out to this committee, the regulatory system is in large part responsible for the poor financial condition of the railroad industry today. To deregulate on the one hand, and then impose a rail rate regulation on the other is, to me, to cast doubts as to the seriousness with which we consider this bill today. In fact, to take the type of action contemplated in this amendment is not to protect some shippers or carriers, but to impose an unfair and unequitable burden on ports, carriers, and shippers to the benefit of a single port, the Port of New York.

I ask my colleagues to take a moment to consider seriously the implications of this amendment. This amendment would raise existing rail rates to the highest prevailing rate, thus forcing some shippers to use less expensive trucklines. Is this the intent of this rail deregulation legislation? Is not our purpose today to make the rail industry more competitive with other transportation alternatives? Is not our purpose to provide railroads the flexibility with which to set shipping rates that are competitive with trucklines?

The amendment would also force businesses to pay millions of dollars more in transporting their goods should they choose to ship by rail to the east coast. For those of my colleagues who are concerned by the impact of this deregulation legislation on "captive shippers," is this any way to remedy their troubles? This amendment would add fuel to the fires of inflation by forcing consumers to pick up the cost of higher rail transportation. Is this how the House will fight inflation?

And the gentleman's amendment will increase unemployment in those cities and ports where competitiveness is undermined by this attempt to equalize rail rates between same-coast seaports and any inland city or point. As you know, Mr. Chairman, the success of any port is derived from its competitiveness. Rate equalization would deprive the Port of Philadelphia and other ports like those of Baltimore and Wilmington of the position from which they could compete with all other east coast ports, including the Port of New York.

Again, let me draw an example from the Port of Philadelphia, and ask you to consider the adverse effects this amendment would have on my constituents. Last year, it was estimated that the Port of Philadelphia handled more than 78 million tons of international cargo carried by more than 4,000 merchant ships. This commerce produced over $1 billion in revenue into the economy of the Tri-State Delaware Valley region. The port is responsible for over 100,000 jobs, either directly on the waterfront or in industries producing goods for export or processing imported commodities. In addition, last year the port produced more than $368.6 million to the Federal Government in the form of customs' collections.

But the success of the Port of Philadelphia, as measured by these figures, is only recently won. When one compares the figures from 1978 for the Port of New York with the Port of Philadelphia, it is clear the amount of hard work the Port of Philadelphia has done in the last year to surpass New York.

In 1978, the Port of New York handled more than 66 million tons of cargo valued at $35,797 billion. In sharp contrast, the Port of Philadelphia handled only 36 million tons valued at a little more than $6 billion.

In a year's time, under free market competition, the Port of Philadelphia has increased by two the amount of cargo it handled. The success of the Port of Philadelphia in only a year's time is the result of its ability to have lower rail rates than the Port of New York and attract new business to the Delaware River.

For example, at the present time the rail rate for shipping two containers weighing 4,000 pounds each from—

Port destination	Rate	Difference from New York rate
Chicago to:		
Baltimore	$1,208	−$154
Philadelphia	1,249	−113
New York	1,362	
Cleveland to:		
Baltimore	803	−115
Philadelphia	857	−61
New York	918	
Columbus, Ohio to:		
Baltimore	857	−102
Philadelphia	905	−64
New York	969	

The effect of this amendment would be to substitute the higher New York Port rate for the competitive rates now offered by Philadelphia and Baltimore. I ask my colleagues not to rob Philadelphia and Baltimore of the business they need for their port survival. How many port jobs will be lost to business going to New York? Philadelphia's unemployment rate is more than 12 percent, Baltimore's is more than 13 percent. I ask my colleagues not to add more families to the ranks of the unemployed. I ask my colleagues to allow Philadelphia, Wilmington, and Baltimore to compete freely with the ports of New York, Boston, Savannah and Charleston. More jobs, more port business should be encouraged, not discouraged, with this legislation.

Lastly, I ask my colleagues to consider how many jobs will be lost by companies choosing truck transportation instead of railroads should this rate equalization amendment be adopted. In the latter instance, not only will the Ports of Philadelphia and Baltimore lose, but so will the Port of New York. And, need I remind you, the very objective of this rail deregulation legislation would be jeopardized should the House impose a regulated rate on an industry whose very survival we are discussing on the floor today.

I again ask my colleagues to look very closely and carefully at the full implications of the amendment offered by the gentleman from New York and I urge them to reject it.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. LEDERER. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. I thank my colleague for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Pennsylvania. I also oppose the Murphy amendment. I represent part of the Port of Philadelphia and I am a former longshoreman and I know a little bit about the damage this would do Philadelphia and to Baltimore.

Mr. Chairman, the Port of Philadelphia strongly opposed the Murphy amendment on rate equalization for many reasons. One of their greatest fears if this amendment were to pass would be that the ocean carriers would only call on the Port of New York and discharge all of their cargoes there, including those destined for other ports. Then, because of rail rate equalization the cargoes of other ports, such as Baltimore and Philadelphia, would be sent to their port destination by rail for further delivery. This would create a great loss of cargo, both export and import, to the Port of Philadelphia. Conversely, rail rate equalization would generate a great amount of additional cargo for the Port of New York. It is difficult enough as it is to compete with New York because of its location and because of its status as the financial capital of the world where many of the steamship lines have corporate offices. This amendment would only serve to reduce competition among ports.

The real losers would be the shippers and consumers. For example, if a commodity destined for export was manufactured 10 miles from the Port of Philadelphia, currently, it is cheaper to ship these goods the 10 miles to Philadelphia for export. Under the Murphy amendment if the rates were equal by rail to New York, although it may be 90 miles to the north, the manufacturer would more than likely be told to ship out of New York. In turn, ocean carriers would be able to pick up all of their cargoes in the Port of New York and would no longer call on Philadelphia.

This amendment seems to me like a windfall for the Port of New York and a grave loss for other ports in the Atlantic. I would urge my colleagues to vote to reject the Murphy rail rate equalization amendment.

Thank you.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LEDERER. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the gentleman just stated the rail rates from Chicago to Baltimore, Philadelphia, and New York. Under this amendment, Philadelphia would benefit because that Baltimore rate would probably come up to the Philadelphia rate; the shippers in the Midwest would benefit because the New York rate would come down to about the Philadelphia rate. Under equalization, the ports of Boston, New York, and Norfolk would all be competing on equal terms with the Port of Baltimore. I do not understand the logic of Philadelphia taking a position such as this.

Mr. LEDERER. Mr. Chairman, Philadelphia feels secure that we can compete with the ports of Baltimore and New York and I would ask my colleague to oppose the Murphy amendment.

I yield back the balance of my time.

Mr. BAUMAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. MURPHY).

Mr. Chairman, I am sorry to oppose my good friend from New York with whom I have worked on a great many legislative matters in the last 7 or 8 years. But this really boils down to a simple matter of what the good Lord has given us to live with in this existence. Some of us have limited talents and have tried all our lives to improve what we started with and maybe some have not succeeded to well. Areas of the country and port cities are much like people in that sense.

The gentleman from New York and the gentleman from Maryland cannot help it if Baltimore is 130 miles closer to the Midwest than is New York City. That is just the way the land lies and the gentleman by this amendment is trying to repeal nature. I do not blame the gentleman for trying to help the Big Apple. It has certainly needed a lot of help in recent years, having been on the verge of bankruptcy, and with all the other problems that it has.

☐ 1150

It has a lot of great advantages—Broadway, Wall Street, great intellectual and financial centers that pretend to lead this country; and great families like the Rockefellers and the Murphys. And so, New York has a great many things to commend it. But, it is still 130 miles further away than Baltimore is from the Midwest, and this amendment tries to undo what the Lord gave, that small advantage to Baltimore. Now, we do have the Orioles and the Colts and the best crab cakes made anywhere which come from the waters of our Chesapeake Bay, but we also have a slight advantage on the shipping of containerized materials through our port from the Midwest.

This is a deregulation bill, and the Murphy amendment reregulates. It seeks, under the appealing term of "equalization," to unequalize the advantages that Philadelphia, Wilmington, Del., Camden, N.J., and Baltimore have.

We are not averse to New York. Some of us have been rather stringent in our opposition to some of the bills that have passed, but you cannot undo the existing situation. But let me just give the Members a few facts here, and why those, particularly from the Midwest, ought to oppose this amendment. If this amendment goes through, it has been estimated that Midwest shippers in Ohio, Indiana, western Pennsylvania, areas all across the Midwest, will probably pay at least—at least—$20 million more annually in higher rail rates to achieve the intent of the Murphy amendment.

It is not as though this matter has not been considered by Congress and the Executive. There have been hearings before the Rail Services Planning Office of the Interstate Commerce Commission last year, which fully examined the question and concluded that this was nothing but an artificial device that would not serve the true needs of the ports or the shippers or the railroads. I think the ICC has generally adopted that view.

New York handles many, many more times, for instance, the container units than Baltimore does. In 1978, the figures I have show that New York shipped 1,600,000 containers and Baltimore only

512,000. So, they do have a large part of the business.

So, while we are concerned about New York and its problems, I think we also have to look at this matter in the broader context. The amendment ought to be defeated on its merits with no disrespect to the problems of New York or the author of the amendment. He has tried before. He was ruled out on a point of order and defeated overwhelmingly in committee. I give him credit for trying to help Staten Island and the rest of his district but this is not the best way.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to simply associate myself with the remarks of the gentleman from Maryland in opposition to the Murphy amendment.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I thank my friend from Maryland for yielding. I am sure it comes as no surprise to anyone in this body that the Port of Wilmington should be represented here, not just the Port of Baltimore, the Port of Camden, the Port of Philadelphia, and the Port of New York. So, I do rise in strong opposition to the amendment and do associate myself with the remarks of the gentleman from Maryland.

It is nothing more than an attempt to have the consumers of America pay subsidies in the form of higher prices to big ports such as New York City. At a time when prices of just about everything are going up and up and up, it makes no sense whatsoever to me to add to the inflationary burden by passing this amendment.

The purpose of the bill before us, as I understand it, and I think everyone in this body does, is to reduce excessive regulations in the railroad industry. This amendment moves in the opposite direction. Instead of allowing railroads, working together with the ports and shippers, to establish fair and competitive rates, we are requiring Federal bureaucrats to set rates which may have no basis in reality.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(At the request of Mr. EVANS of Delaware and by unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. EVANS of Delaware. We are in fact trying by this amendment to change the natural advantage one port might have over another because of its location. As the gentleman from Maryland, a distinguished colleague of ours, said most succinctly, you cannot repeal the law of nature. It is almost like trying to rearrange the coastline of the United States to fit some political rationale. It just cannot be done.

Mr. BAUMAN. If I may just interject, the Senator from Arizona (Mr. GOLDWATER) was accused of trying to do that in the 1964 campaign. It did not serve him very well either, as I remember.

Mr. EVANS of Delaware. I think that was the gentleman from Texas who was President at the time, Mr. Johnson, who had an ad on television. I can remember it. It was cutting off the northeastern part of the United States, but they really did not have a good knowledge of geography. It went down, I think, as far as Charleston, and some of those people in Charleston were a little concerned.

Mr. Chairman, this amendment, if adopted, would be a giant step backward in our deregulation effort. Once again, a special interest is coming to the Congress and saying, "I'm all for deregulation, as long as you don't hurt me."

The consumers of this country cannot afford to get stuck with higher costs.

The CHAIRMAN. The Committee will rise informally in order that the House may receive messages.

MESSAGES FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. GLICKMAN) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On July 2, 1980:

H.R. 5751. An act to more adequately protect archeological resources in southwestern Colorado.

On July 3, 1980:

H.R. 2148. An act for the relief of Col. (Dr.) Paul A. Kelly; and

H.R. 5997. An act to provide for the display of the Code of Ethics for Government Service.

On July 8, 1980:

H.R. 7482. An act to authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the U.S. Summer Olympic Team of 1980; and

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

On July 17, 1980:

H.R. 7474. An act to provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes; and

H.R. 7573. An act to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.

The SPEAKER pro tempore. The Committee will resume its sitting.

RAIL ACT OF 1980

The Committee resumed its sitting.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have been told that this amendment should be defeated because God placed Baltimore nearer to much of the Midwest than He did New York. What the gentleman from Maryland failed to mention was that God also placed New York nearer to the European ports than He did Baltimore. The problem we are facing is not where God put the two ports. The problem we are facing is the interface between two transportation systems. One of those transportation systems, the ocean system, regardless of what we do today about rail deregulation, is going to continue to operate under a regulatory system where the transatlantic shipping costs are equalized regardless of the fact that shippers have to go further from the European ports to Baltimore than they do from the European ports to New York and New England.

That is the issue we are addressing here today, and we are saying that we cannot look at transportation between the east coast and the Midwest in isolation from transportation between the east coast and Europe. We should not run those two systems under two different methodologies; to do so is, in fact, discriminatory.

Now, if the day arrives when we change the rules relating to maritime transport so that we have deregulation in terms of having competitive rates on the North Atlantic reflecting the difference in cost based on the different distances traversed, then I would say to the Members that the efforts to make the rail system work the same way would be ideal, but that day has not arrived. We do have a system on the transatlantic routes where that is not occurring.

All we are saying is that, in fairness, the rail system ought to reflect the problems created for different ports on the Atlantic coast by reason of the maritime system under which we are operating. I think the amendment of the gentleman from New York (Mr. MURPHY) addresses that problem in a very fair way, and I would urge the committee to support that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended, as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and on a division (demanded by Mr. MURPHY of New York) there were—ayes 7; noes 19.

So the amendment to the amendment, as amended, offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended, as a substitute for the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment, as amended, offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO), as amended.

The amendment, as amended, was agreed to.

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AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 123, line 23, strike the word, "may", and insert in lieu thereof "shall"; and on page 124, after the period on line 8, insert the following new sentences: "The Secretary may include in his notification to the Commission that, for purposes of reviewing rate increases over which the Commission has jurisdiction, a rail carrier has excessively deferred its maintenance without good cause. For the purposes of this subsection, inspection of track shall be conducted at least once each year.".

Mr. GLICKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, the facts clearly point to the need for strengthened rail safety programs in the private sector and improved oversight over the vital aspect of our rail industry. Let me cite just a few statistics which I feel sure my colleagues here will find startling, almost unbelievable:

According to the Federal Railroad Administration's own statistics, train derailments increased nearly 50 percent from 1968 to 1977 with those derailments due to defects having more than doubled.

Recorded rail defects increased over 300 percent in just 6 years, from 1974 to 1980.

More than half of the track in this country is hazardous at speeds in excess of 10 miles per hour.

During the decade of the seventies, rail accidents due to bad tracks and railbeds cost over $500 million, and it has been estimated that derailments and collisions took place last year at a rate of about one every hour.

The increasing number of accident reports in recent years has spurred my interest in this serious rail problem, and, in fact, it has been one of my priority concerns during this Congress. Months ago, I met with Transportation Secretary Goldschmidt about this problem, and when I did, he encouraged me to pursue my investigation of the problem and urged me to support the legislation we are debating today. The Secretary's rationale was that this legislation would result in increased revenues for the railroads and that would allow those railroads to make the desperately needed improvement. When he first made that argument, it made considerable sense in that it was certainly logical.

However, I did some checking into the financial condition of our railroads and how that relates to their maintenance activities and safety records. Unfortunately, past practices of the industry failed to convince me that we could count on increasing revenues resulting in improved safety records. In fact, some of the railroads with the highest profit ratings in the industry have among the worst accident rates, and a number of railroads which have suffered losses have had among the best accident rates. As the Federal Railroad Administration report concluded, profit rates and safety relationships "cannot be considered very strong."

From my work in this area, it has become abundantly evident that the railroads need additional revenues if they are going to be able to get their backlog of maintenance taken care of. Industry estimates indicate that those repairs will cost in the range of $4 billion. Other estimates run as high as $10 billion or even higher. Clearly, that will take more money.

Since the bill will obviously help with the revenue situation, I am planning to give it my support; however, before I can do so in good conscience, I do hope that we can adopt this amendment. Quite simply, it would do three things. First, it would change the Secretary of Transportation's discretionary authority to report violations of safety standards to the ICC to make those reports mandatory. If we do not make this change, we run the risk of inaction by the Federal Government as tracks continue to deteriorate. Second, the amendment would require that inspections on which those reports are based occur at least once each year. This, I feel, is most important when you consider the fact the FRA's own officials indicate that its officials inspect mainline track only once every 2 to 3 years and that inspections of secondary and branch lines even once every 3 to 5 years are "still just a dream." My amendment will force that FRA to take its inspection responsibility seriously and to see that inspections occur with the kind of regularity that is vitally necessary if they are going to be meaningful and effective.

Finally, my amendment makes clear that the reports from the Department of Transportation to the ICC in this regard could include information with regard to "excessive deferred maintenance without good cause." In that the railroads have such a mixed record on putting their revenues into track maintenance and upgrading, the ICC certainly needs to have that information in looking at the whole range of its authorities with regard to rates and routes. Otherwise, rates could go up to fund nonrail-related activities by these firms and routes could shift into the hands of lines which are not even keeping the lines they have in good shape.

By requiring reports of track safety violations and by making sure that those reports are based on inspections at least once each year, we will be making a big step toward improving the role the Federal Government plays in assuring the safety of this increasingly important mode of transportation. I strongly urge my colleagues' support.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, this amendment is a helpful amendment, and the majority is prepared to accept it.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 119, after line 22, insert the following new subsection:

"(f) The Commission may exercise its authority under this section to exempt transportation that is provided by a rail carrier as a part of a continuous intermodal movement.

Page 119, line 23, strike out "(f)" and insert in lieu thereof "(g)".

Mr. ERTEL. Mr. Chairman, my amendment permits the ICC to exempt the rail portion of an intermodal freight movement.

Both the Motor Carrier Act of 1980 and the Rail Act emphasize the need for improved intermodal coordination in our national transportation system. This emphasis is well-placed, because the benefits of intermodalism are substantial.

Freight transportation accounts for 6 percent of the Nation's demand for energy. Intermodalism can have a dramatic impact in reducing fuel consumption and softening the effects of ever-increasing energy prices. A Department of Transportation study suggests that piggyback service can be as much as 2 to 4 times more fuel efficient and 25 percent less costly than all truck service. In addition, intermodalism can help reduce our highway maintenance costs at a time when the interstate highway system is deteriorating faster than we can repair it.

Other benefits from intermodalism are less quantifiable but no less real. More intermodalism means a greater range of transportation options for shippers and more intense competition on a crossmodal basis. For the shipper this typically means more dedicated, less costly service. Finally, intermodalism will be good for the railroads themselves by reducing the amount of empty car mileage. A reduction of just 10 percent of empty car mileage reduces total rail operating costs by 4 percent. There is no question that we as a nation must increase productivity if we are to retain our position in the world economy. Intermodalism can make a contribution here and we cannot afford to pass it up.

Despite these obvious benefits, intermodalism is woefully underutilized. TOFC (trailer on a flat car) the most familiar intermodal movement, represents only 7.9 percent of all freight car loadings. By tonnage, actual TOFC movements account for only 10 percent of the established potential TOFC market. Certainly, not all of this unused potential is attributable to regulation. Our transportation modes, and the railroads in particular, have not been aggressive enough in "selling" intermodalism. As a result, too few shippers know about existing intermodal possibilities. Still, the regulatory structure has inhibited intermodal growth by isolating modes from one another. Railroads, trucking companies, airlines, and barge companies wishing to cooperate with one another are often faced with a new set of regulations. In many cases, the cost of compliance is simply too high. By explicitly giving the ICC the authority to eliminate some of this redtape, my amendment is a first step toward a coherent natural transportation system.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the gentleman's amendment clarifies the intent of the bill and, therefore, is helpful. The majority is prepared to accept it.

Mr. ERTEL. Mr. Chairman, I thank the gentleman from New Jersey (Mr. FLORIO).

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

We have had an opportunity to review the amendment, and we concur with the interpretation of the gentleman from New Jersey (Mr. FLORIO) and support the amendment.

Mr. ERTEL. Mr. Chairman, I thank the gentleman for his support, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 103, strike out line 6 and all that follows through line 11 on page 125 and insert in lieu thereof the following:

TITLE II—RAILROAD RATES, PROFITS, AND REINVESTMENT REGULATION OF RAILROAD RATES IN THE ABSENCE OF EFFECTIVE COMPETITION

SEC. 201. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

"§ 10701a. Standards for rates for rail carriers

"(a) Except as provided in subsection (b) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier.

"(b)(1) If the Commission determines, under section 10709 of this title, that there is no effective competition with respect to a particular transportation service provided by a rail carrier, the rate established by such carrier for such transportation must be reasonable.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, in any proceeding to determine the reasonableness of a rate described in paragraph (1) of this subsection, the shipper challenging such rate shall have the burden of proving that such rate is not reasonable.

"(B) The rail carrier establishing a challenged rate shall have the burden of proving that such rate is reasonable if—

"(i) such rail carrier does not have a cost accounting system that has received final certification by the Commission under section 11164(b) of this title; or

"(ii) the Commission finds that such rail carrier has revenues greater than those established as adequate by the Commission under section 10704(a)(2) of this title.

"(3) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Commission shall recognize the policy of this title that efficient rail carriers shall earn adequate revenues, as established by the Commission under section 10704(a)(2) of this title, and the impact of the proposed rate on the attainment of national energy goals.".

(b)(1) The first sentence of section 10701(a) of title 49, United States Code, is amended by inserting "(other than a rail rate)" immediately after "A rate".

(2) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately below the item relating to section 10701 the following new item:

"10701a. Standards for rates for rail carriers.".

DETERMINATION OF THE ABSENCE OF EFFECTIVE COMPETITION

SEC. 202. (a) Section 10709 of title 49, United States Code, is amended to read as follows:

"§ 10709. Determination of the absence of effective competition in rail carrier rate proceedings

"(a) In this section—

"(1) 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt.

"(2) 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

"(3) 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

"(4) 'market dominance' means the absence of effective competition from other carriers or modes of transportation for the transportation to which a rate applies.

"(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is challenged as being not reasonable, the Commission shall, within 90 days after the commencement of a proceeding under section 10707 of this title, determine under this section whether there is effective competition with respect to the transportation to which the rate applies.

"(c) Whenever a shipper or other interested party challenges the lawfulness of a rate on grounds described in subsection (b) of this section, the rail carrier establishing such rate shall have the burden of proving that there is effective competition with respect to the transportation to which such rate applies. In order to satisfy such burden of proof, such rail carrier must demonstrate—

"(1) that such carrier does not have market dominance over the transportation to which such rate applies; or

"(2)(A) for the first three years after the effective date of the Harley O. Staggers Rail Act of 1980, that the rate charged results in a revenue-variable cost percentage for such transportation that is equal to or less than 160 percent; and

"(B) for periods subsequent to the first three years after the effective date of such Act, that the rate charged results in a revenue-variable cost percentage equal to or less than the cost recovery percentage determined under subsection (e) of this section.

"(d)(1) If the Commission finds that there is no effective competition with respect to the transportation to which the challenged rate applies, the Commission shall, in accordance with section 10701a of this title, have jurisdiction to determine whether such rate is reasonable.

"(2) If the Commission fails to make the finding described in paragraph (1) of this subsection, the Commission shall dismiss the proceeding.

"(e)(1) Within 180 days after the effective date of the Harley O. Staggers Rail Act of 1980 and on an annual basis thereafter, the Commission shall determine, on the record after an opportunity for a hearing, the cost recovery percentage of the transportation of all traffic received by rail carrier for transportation. The Commission shall make such determination after considering each individual revenue-variable cost percentage resulting from the revenues and costs of a valid and reliable statistical sample of all movements of commodities transported by class I rail carriers during the most recent calendar year for which such information is available.

"(2) If, on the basis of calculations under paragraph (1) of this subsection, the Commission determines that revenues earned by all class I rail carriers during the previous calendar year do not exceed the fixed and variable costs of such carriers, then the cost recovery percentage for purposes of this section shall be deemed to be equal to the cost recovery percentage last determined by the Commission.

"(3) The Commission shall submit a report each year to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives detailing the cost recovery percentage determined under paragraph (1) of this subsection. Such report shall be filed within 30 days after the conclusion of the hearing conducted under such paragraph (1).

"(4)(A) The Commission shall, no later than January 1, 1983, determine whether the goals set forth in section 10101a of this title would best be served by establishing the cost recovery percentage for periods subsequent to the first three years after such effective date—

"(i) at the level described in subsection (c)(2)(A) of this section; or

"(ii) at the level determined on an annual basis under paragraph (1) of this subsection:

"(B) The Commission shall, within 30 days after making its determination under this paragraph, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives setting forth its determination and the reasons therefor.".

(b) The item relating to section 10709 in the section analysis of chapter 107 of title 49, United States Code, is amended to read as follows:

"10709. Determination of the absence of effective competition in rail carrier rate proceedings.".

INVESTIGATION AND SUSPENSION OF RATES

SEC. 203. (a) Section 10707(b)(1) of title 49, United States Code, is amended to read as follows:

"(b) (1) The Commission must complete a proceeding under this section and make its final decision by the end of the 4th month after the rate, classification, rule, or practice was to become effective, except that if the Commission reports to the Congress by the end of such 4th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision.".

(b) Section 10707(c) of title 49, United States Code, is amended to read as follows:

"(c) (1) The Commission may not suspend a proposed rate, classification, rule, or practice during the course of a Commission proceeding under this section unless it appears from the specific facts shown by the verified statement of a person that—

"(A) it is substantially likely that the protestant will prevail on the merits;

"(B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

"(C) because of the peculiar economic circumstances of the protestant, the provisions of subsection (d) of this section do not protect the protestant.

"(2) The burden shall be on the protestant to prove the matters described in paragraph (1) (A), (B), and (C) of this subsection.".

(c) Section 10707(d) of title 49, United States Code, is amended to read as follows:

"(d) (1) If the Commission does not suspend a proposed rate increase under subsection (c) of this section, the Commission shall require the rail carrier to account for all amounts received under the increase until the Commission completes its proceedings under subsection (b) of this section. The accounting shall specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days.

"(2) If a rate is suspended under subsection (c) of this section and later found to be reasonable under this title, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the suspended rate for any services performed during the period of suspension, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days, except that this paragraph shall not apply to general rate increases under section 10706 of this title.

"(3) If any portion of a proposed rate decrease is suspended under subsection (c) of this section and later found to be reasonable under this title, the rail carrier may refund any part of the portion of the decrease found to comply with this title if the carrier makes the refund available to each shipper who participated in the rate, in accordance with the relative amount of such shipper's traffic transported at such rate.".

(d) Section 10707(e) of title 49, United States Code, is repealed.

CONTRACTS

SEC. 204. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10712. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

"(b) Each contract entered into under this section shall be filed with the Commission, together with a summary of the contract containing such nonconfidential information as the Commission prescribes. The Commission shall immediately make a summary of each such contract available to interested persons.

"(c) A contract filed under this section shall be approved by the Commission unless the Commission determines, in a proceeding under subsection (d) of this section, that such contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations under section 11101 of this title.

"(d) (1) No later than 30 days after the date of filing of a contract under this section, the Commission may begin a proceeding to review such contract on its own initiative or on complaint.

"(2) A complaint may be filed by a shipper or other complainant only on the basis of allegations that such complainant individually will be harmed because the proposed contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations under section 11101 of this title.

"(3) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time after such date as the Commission may establish, the Commission shall determine whether the contract that is the subject of such proceeding is in violation of this section. If the Commission does not act within such 30-day period or within the shorter established period, the contract shall be approved.

"(e) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under this section, except to the extent necessary to comply with section 11128 of this title.

"(f) (1) Any rail carrier which enters into a contract with a shipper to transport by railroad more than 5,000 tons per year of agricultural or other bulk commodities from one origin to one destination must, in addition to the filing requirements of subsection (b) of this section, file such contract (together with a summary thereof) with any appropriate rate bureau having jurisdiction over the publication of rates from origins served by the contracting carrier within a 50-mile radius of the contracting shipper's origin point and the point of destination. Each such rate bureau shall provide notice of the terms and conditions of such contract to each shipper of agricultural or other bulk commodities that is served by such contracting carrier and located within a 50-mile radius of the contracting shipper's origin point.

"(2) (A) If, within 12 months after the effective date of a contract between a carrier and a shipper to transport by railroad more than 5,000 tons per year of agricultural or other bulk commodities from one origin to one destination (but in no event later than the termination date of such contract), any shipper that is served by the contracting carrier and located within a 50-mile radius of the contracting shipper's origin point offers to enter into a contract with the contracting carrier to transport more than 5,000 tons per year of agricultural or other bulk commodities to the same destination upon the same terms and conditions as the original contract, the contracting carrier must, within 60 days, accept such offer if—

"(i) the contracting carrier is capable of supplying the necessary equipment and locomotives to carry out the subsequent contract; and

"(ii) the subsequent contract will not unduly impair the ability of the contracting carrier to meet its common carrier obligations under section 11101 of this title.

"(B) In the case of any subsequent contract required under this paragraph, the contracting carrier may require compensation exceeding the compensation applicable under the terms of the original contract, but only to the extent necessary to meet the additional costs of providing service under such subsequent contract.

"(C) A shipper may require a contracting carrier to enter into a subsequent contract pursuant to this paragraph only for the duration of the original contract.

"(3) The Commission shall promulgate such rules as may be necessary to define the terms 'agricultural or other bulk commodities' and 'notice' for purposes of this subsection.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10711 the following new item:

"10712. Contracts.".

DEMAND SENSITIVE RATES

SEC. 205. Section 10727 of title 49, United States Code, is amended to read as follows:

"§ 10727. Demand-sensitive rates

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates (except those rates involving the movement of grains, including soybeans and rice, or cotton) may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Interstate Commerce Commission shall facilitate the establishment of such demand-sensitive rates.".

PHASEOUT OF CAPITAL INCENTIVE RATES

SEC. 206. (a) Section 10729 of title 49, United States Code, and the item relating to such section in the section analysis of chapter 107 of such title are repealed.

(b) Notwithstanding any other provision of law, any rate established by a rail carrier under section 10729 of title 49, United States Code, prior to the date of enactment of this Act shall remain in effect in accordance with its terms, but for no longer than 5 years after the date it became effective, unless the parties otherwise agree. However, the Interstate Commerce Commission may, during the period such a rate is in effect, order such rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the rail carrier.

PERMISSIVE LIMITED LIABILITY RATES

SEC. 207. Section 10730 of title 49, United States Code, is amended—

(1) by inserting "(a)" immediately before "The";

(2) by inserting "(other than a rail carrier)" immediately after "carrier" the first place it appears; and

(3) by adding at the end thereof the following new subsection:

"(b) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish rates for transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in such written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of such property.".

RATE DISCRIMINATION

SEC. 208. Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Differences between rates, classifications, rules, and practices of rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title do not constitute a violation of this section if such differences result from different services provided by rail carriers.".

"(f) This section shall not apply to (1) surcharges under section 10705a of this title, (2) rates and conditions set forth in contracts approved under section 10712 of this title, (3) separate rates for distinct rail services under section 10728 of this title, (4) rail rates applicable to different routes between the same end points, or (5) expenses authorized under section 10751 of this title.".

EXEMPTION

Sec. 209. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle—

"(1) is not necessary to carry out the transportation policy of section 10101a of this title; and

"(2) either the transportation or service is of limited scope, or the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power.

"(b) The Commission may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party.

"(c) The Commission may specify the period of time during which an exemption granted under this section is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11707 of this title. Nothing in this subsection shall prevent rail carriers from offering alternative terms nor give the Commission the authority to require any specific level of rates or services based upon the provisions fo section 11707 of this title.

"(f) The Commission may not exercise its authority under this section (1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle.".

TRANSITION RATE ADJUSTMENTS AND INFLATION-BASED RATE INCREASES

Sec. 210. (a) Subchapter I of chapter 107 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new section:

"§ 10713. Transition rate adjustments and inflation-based rate increases

"(a)(1) Except as provided in paragraph (2) of this subsection, during the period beginning on the effective date of the Rail Act of 1980 and ending December 31, 1982, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not increase any rate by more than 10 percent, in addition to inflation, in any year.

"(2) The provisions of this subsection shall not apply to (A) surcharges under section 10705a of this title, (B) any rate over which the Commission has jurisdiction under section 10709 of this title, or (C) any rate increase which results in a revenue-variable cost percentage of less than 150 percent.

"(b)(1) On a semiannual basis beginning in calendar year 1983, the Commission may, consistent with the rail transportation policy set forth in section 10101a of this title, prescribe a percentage rate increase or index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate increase or index may be applicable on an industry-wide or on a carrier-by-carrier basis.

"(2) Within 60 days after the date the Commission prescribes a percentage rate increase or index under paragraph (1) of this subsection, each rail carrier or group of rail carriers shall notify the Commission of any rate or group of rates which such carrier or carriers intend to be excluded from the application of such percentage rate increase or index. If more than one rail carrier participates in a particular route, all carriers participating in such route must agree to be excluded from the application of such percentage increase or index.

"(3) For purposes of this subsection, a percentage rate index may include percentage increases within a specified range to allow carriers to recover a total percentage increase specified by the Commission as necessary to compensate for inflationary cost increases.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10712, as added by this Act, the following new item:

"10713. Transition rate adjustments and inflation-based rate increases.".

CUSTOM SOLICITATION EXPENSES

Sec. 211. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Customer solicitation expenses

"(a) Any business solicitation or entertainment expense incurred by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to the jurisdiction of the Commission.

"(b) Any business solicitation or entertainment expense authorized under this section that is paid or incurred by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the effective date of the Rail Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business solicitation and entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this title, including competing unregulated surface transportation carriers.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Customer solicitation expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

SAFE RAILROAD REINVESTMENT REQUIREMENTS

Sec. 212. (a) The Secretary of Transportation may, on the basis of inspections of the track, physical facilities, and operations of a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, notify the Commission that such carrier (1) does not meet the safety requirements of applicable Federal statutes, and (2) is not maintained and operated in a manner which protects the public health and safety and the health and safety of railroad employees.

(b)(1) Upon receipt of the Secretary's notification under subsection (b) of this section with respect to a rail carrier, the Interstate Commerce Commission may, to the extent of its authority under chapter 113 of title 49, United States Code, review the financial arrangements of such carrier and prohibit any financial transactions which would unreasonably impair the ability of such carrier to (A) meet the safety requirements of applicable Federal statutes, and (B) operate in a manner which protects the public health and safety and the health and safety of railroad employees.

(2) The Commission may exercise its authority under this subsection with respect to a rail carrier until such time as the Commission determines that the safety deficiencies of such carrier which were the basis of the Secretary's notification have been remedied. In exercising such authority, the Commission shall take all steps necessary to avoid impairing the ability of such carrier to obtain financing.

(c) The Interstate Commerce Commission shall submit an annual report to the Congress setting forth its findings with respect to whether rail carriers that are subsidiaries of other companies are involved in financial transactions with the parent company which (1) result in the transfer of funds or assets, directly or indirectly, from the rail carrier to its parent company, and (2) impair the ability of the rail carrier to (A) meet the safety requirements of applicable Federal statutes, and (B) operate in a manner which protects the public health and safety and the health and safety of railroad employees.

Beginning on page 97, strike out the items in the table of contents relating to title II and insert in lieu thereof the following:

TITLE II—RAILROAD RATES, PROFITS, AND REINVESTMENT

Sec. 201. Regulation of railroad rates in the absence of effective competition.
Sec. 202. Determination of the absence of effective competition.
Sec. 203. Investigation and suspension of rates.
Sec. 204. Contracts.
Sec. 205. Demand sensitive rates.
Sec. 206. Phaseout of capital incentive rates.
Sec. 207. Permissive limited liability rates.
Sec. 208. Rate discrimination.
Sec. 209. Exemption.
Sec. 210. Transition rate adjustments and inflation-based rate increases.
Sec. 211. Customer solicitation expenses.
Sec. 212. Safe railroad reinvestment requirements.

(By unanimous consent, Mr. Eckhardt was allowed to proceed for an additional 5 minutes.)

The CHAIRMAN. The gentleman from Texas (Mr. Eckhardt) is recognized for 10 minutes.

Mr. ECKHARDT. Mr. Chairman, I would first like to explain what this amendment does, and I particularly want to explain what the amendment does not do because I think it has been somewhat misrepresented by those who oppose it.

First off, I think it should be understood that the question of deregulating railroad rates was addressed in 1976. In the 4R Act passed at that time all railroad rates except those affecting what are called dominant carriers were removed from regulation.

Now, of course, the railroads have a great number of situations in which dominant carriers are hauling goods, to a much greater extent than exists, for instance, in air travel or in truck travel, because the railroads are very much like utilities in many areas of the country. Only one railroad frequently serves a community, and railroads must, in order to serve a community, build tracks, which are very expensive, and obtain a right-of-way, which is very hard to get these days.

Mr. Chairman, I have prepared a map here that indicates the areas in which we have found support on the House floor for the amendment that I am offering. If the Members will notice the shading of the map, it is marked in this way: No. 1 represents those who favor the amendment; No. 5, those who are against it; No. 2, in our calculation, those who are leaning toward it; No. 4, those who are leaning against it; and No. 3, those who are absolutely neutral.

The green areas of the map indicate the States in which the average is between 1 and 2. In other words, the strong support for the amendment lies in the green areas. This explains exactly what the amendment does, I believe, and to whom the amendment probably appeals.

I think that I can point out by this map that the amendment is not an amendment which is merely regional. The North Central area, which is green, is largely the area where coal is produced.

The area in the Southwest, which is green, is largely the area out of which natural gas is now flowing, due to the Natural Gas and Fuel Use Acts that we passed in 1978. That gas is largely going in this direction on the map. That gas is used today and will be used in the future largely for heating homes, because that is the highest and best use of gas next perhaps to using gas as a chemical building block.

Therefore, in order to continue to operate the electric utility facilities in the southwest and also to create the steam and the energy that is necessary to operate the industrial complex in that area, it is necessary to bring in coal.

□ 1210

That is the reason why the green areas are shown in that manner.

Also, the yellow areas are those who lean toward support of the bill. Florida and the entire South will also need natural gas and will also be needing coal to generate electricity in these areas.

Now, I must confess that the blue areas contain a large amount of population of the United States. The areas colored blue are those which are neutral with respect to the bill or lean somewhat toward opposition to it. They are the ones who average between 3 and 4 on the scale. They do include New York, with a very large population, Illinois, with a very large population, and California, with a very large population. All of these areas, however, badly need natural gas. And in so needing natural gas, they should be, and I think they will be, sensitive to the proposition that if natural gas is to be released it must be supplanted by other energy sources, like coal, at a reasonable cost.

The areas which are colored black are the areas in which the average support is between 4 and 5. That means that they are against the amendment which the gentleman from West Virginia (Mr. RAHALL) and I are offering here today. They include substantially the New England area and parts of the Northern Atlantic seaboard.

I have not colored New Hampshire because there are only two Representatives from there. One is against and one seems undecided. I felt that I could not legitimately indicate how that State stood.

But I think the Members can see where the support is. The Members can see that it is not regional.

Now, I would like to pass another point. It has been said that this amendment is a coal amendment. The amendment is not a coal amendment. It does not deal with coal alone. It deals with any commodity which is subject to railroad monopoly treatment. I think the map also illustrates that. The Members will notice that Iowa is for the amendment. Members of the House from Iowa are generally for the amendment. The area around Wisconsin and on up through that corn and grain belt in the central northern part of the United States is for the amendment because, of course, people in this area have to move grain, they have to move from that area and also from the Nebraska and Kansas area things like Hard Winter wheat. A lot of that Hard Winter wheat, as a matter of fact, most of it, goes out of the Port of Houston. And, of course, you are not going to be able to move grain shipments by truck and still obtain reasonable costs for transportation. When those grain shipments move, say from Nebraska or Kansas down to the Port of Houston, they will typically move by the Santa Fe Railroad, and in many areas nothing but the Santa Fe goes into the areas where the wheat is produced, and it is then sent down to the gulf coast ports.

You also have things like, for instance, alumina, which is produced in what is called beneficiation plants of the aluminum industry, in places like say, Hurricane Creek, and Bauxite, Ark. Bauxite comes into that plant, is purified into the raw material for aluminum, alumina, and then this fans out to aluminum reduction plants say in the Tennessee River Valley. Bulk cargoes of that type must be hauled by rail. As far as I know, Hurricane Creek and Bauxite, Ark., are primarily served by the Missouri Pacific.

Now, to get back, a moment, to coal. Only the Burlington Northern goes into the Powder River Basin in Wyoming. Therefore, if one is to buy coal in Houston or San Antonio, that coal must be hauled by the Burlington Northern Railroad. No other railroad goes into the Powder River Basin. The haulage is by the Burlington Northern to Fort Worth where the cars are picked up by the Southern Pacific or the Santa Fe and carried to San Antonio or to Smithers Lake near Houston.

So the problem is a national problem, not a regional one. It also relates to things like, for instance, heavy farm equipment coming out of Michigan and going into the farm areas of the United States, automobiles on large rail cars that move all over the United States. And that is why the State of Michigan is colored green. The State of Michigan has all of its Representatives, except one, I think, in support of the amendment.

Florida is a good way off from coal in the West, but it may well need it.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 5 additional minutes.)

Mr. ECKHARDT. Florida also needs both coal and the released gas from the Southwest. And that is the reason why all of the Members from Florida except three, have written the President in favor of an amelioration of this bill. They want the Eckhardt-Rahall amendment. The same, of course, is true of Louisiana. Every member of that delegation has written the President asking for the Eckhardt-Rahall amelioration to the bill. The same is true of the State of Alabama, the State of Oklahoma, the State of Arkansas.

This is not a regional question. It is an important national question.

Now, let me explain what the amendment does. The amendment does exactly what the proponents of the rail bill say they want to do. I have a letter from the Department of Transportation that says:

> What we intend to accomplish is to provide that a railroad may recover the cost of its haulage plus a reasonable return on its investment without having to go to the ICC.

After it recovers those returns and a reasonable profit on its investment and it wants a higher rate, for instance, for the purpose of, say, subsidizing some of its other operations or making it stronger financially, it must then go to the ICC to get a higher rate. That is precisely what my amendment does. If there is competition existing you never go to the ICC at all. The rate is established totally competitively. But, No. 2, even if there is the situation of a dominant carrier—and, of course, a concomitant captive shipper—the shipper may not protest the rate to the ICC and the ICC may not enter the picture at all unless the rate is more than 160 percent of variable cost.

Now, what is variable cost? Variable cost is that cost which the railroad must bear additionally for adding that haulage to its present haulage. The determinations of the ICC with respect to loadings in bulk cargoes of this nature over the United States indicate that when the rate of around 160 percent of variable cost is in effect, with respect to that particular haulage the return on equity after taxes is as I recall, about 22 percent. That is a very good earning on that particular haulage.

If you move the figure up, as the bill before us does, to the formula used in title II, the amount that a railroad could charge before a shipper could even protest to the ICC is 200 percent of variable cost. Under ICC's calculations, that would return on equity after taxes approximately 45 percent. That is a pretty neat return on equity for any corporation.

I do not mean to say there, however, that that means a railroad would suddenly jump to that earning. But it would exact from those who are captive shippers somewhere in the neighborhood of three times as much rate cost and as much opportunity for profiting as ordinary corporations do in their total business.

☐ 1220

I am not against this bill. I am for it. I want to see it pass. I want to see it framed in a way that will permit the areas where railroads have an advantage to recover an additional cost over their actual earnings elsewhere, but not at the rate of about 45 percent on equity.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. So I have used the figure just slightly below the figure that Chairman O'Neal of the ICC, speaking before the Senate committee, said was sufficient to obtain for the western railroads on the average, such earnings as will pay for their costs, plus reasonable profits.

I want to point one thing out, and that is that my amendment in no way puts a lid on the rate which may be permitted, I recognize that in the East a number of railroads are in trouble. Their haulages are for short distances. There is much more competition in the East among railroads themselves and between railroads and water carriers than in the West. I recognize that the ICC may in many instances, after it enters into a case at the 160-percent threshold, permit a rate which may run to 220 percent of variable cost. The ICC should in many instances do that. In many instances that situation is both fair and equitable, and the rate should be high. But the rate should not be at those ranges in the West when you have profitable railroads such as the biggest in the country, Burlington Northern. When you have railroads earning a good return on investment generally like the Union Pacific, railroads like the Santa Fe that has always been a strong railroad, and railroads like Southern Pacific, which intends to merge with the Santa Fe. If you permit the ripoff of persons who are captive shippers all over the country to pay exorbitant amounts to railroads that are in good shape, you are not helping the railroads in the East. You are not helping Conrail. We do not have one fungible railroad system over the entire United States, so that, if great profits are made in the West, they may be transferred to the East.

All I am asking for is that you set the base at which ICC goes into the case at a point where it is meaningful for the captive shippers in most of the country to have access to the ICC instead of setting it so high that they can get no relief and that you are designing a bill solely for Conrail and solely for a rather peculiar case that exists within those States and in that area where you see the black shaded areas of the support of the opposition to my amendment.

In addition to that, the amendment provides several other things that I think I should explain here.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. It strikes the section of the bill that would deprive States of their jurisdiction over intrastate rates, but it still permits the ICC very properly to say to the States: "Your intrastate rates interfere with interstate commerce." It leaves with the ICC ultimate authority where interstate commerce is affected to remove authority of the intrastate commissions.

I think it is wrong to take away all of the authority from intrastate railroad commissions.

Second, it lowers from 20,000 tons to 5,000 tons the level at which shipments of agricultural or other bulk commodities become subject to demand for equal treatment in contract terms within a 50-mile radius of another contracting carrier.

In addition, with respect to demand-sensitive rates, it exempts grain, including soybeans and rice, from demand-sensitive rate provisions. The reason for this is that grain and cotton futures markets are based on not only the price of the goods, but on the transportation costs, and unless you have advance knowledge of what that cost will be, you very seriously affect the grain and cotton futures markets.

That essentially is what the amendment does. If the amendment should pass, I should enthusiastically support the bill. If the amendment does not pass, we would have, in place of the 4R Act, the Railroad Revitalization and Recovery Act; the 5R Act, which would be the Railroad Revitalization Recovery, and Ripoff Act, and I shall, in those circumstances have to oppose it.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in reluctant but vigorous opposition to this amendment, reluctant because of the high regard that I have for the proponent of the amendment and the hard work he has put into attempting to perfect this amendment and also because I am sensitive to the local or the regional problem that has prompted his concern at the outset.

I am hopeful that when this amendment is disposed of we will be in a position to address that regional concern in a very effective way, but I rise in vigorous opposition to the amendment because, in effect, it will undo about a year and a half's worth of work that our committee has put into the effort to come up with a statute that will address he problems of the railroad industry and all those who use the railroad industry.

I am concerned that this amendment, if it is adopted, will upset the balance that has been put together in this legislation and that there will be no legislation. I think it is clear that what we have is a balance, that certainly the railroads are very much in favor of increased flexibility to allow them to make marketing decisions free from governmental restraints or freer from governmental restraints, but, on the other hand, there are portions of this bill that work to the interest of the shipping communities, to the utilities, to the farmers, to the communities, that are absolutely imperative that they be enacted, and they will be enacted as part of the total package. It is important to note those sections. Those sections deal with the elimination of the general rate increase provision which will work to the benefit of shippers. Those provisions go to the limiting of collective rate setting which now allows railroads to come together and effectively and legally set prices which certainly is anticompetitive.

These provisions that we have enacted in the bill provide for the opportunity for contracts to be entered into by shippers with railroads. We also have a provision in the bill that will standardize accounting systems so that shippers will know what it is that the rates are based upon.

We have a provision in the bill that will provide for a limit on rate increases of 10 percent per year from now until 1983. So if anyone is concerned about astronomical increases, under the terms of our bill, that is just not going to happen. We are talking about a maximum limit of 10 percent on a rate increase on a particular movement.

I am concerned about the adoption of this amendment upsetting that balance and seeing the whole legislative scheme go under because of that balance being upset. This amendment, to make no mistake about it, is the most important thing that we will discuss and debate today. In essence, what we are debating in debating this amendment is whether we shall have the status quo or whether we shall have some retreat from our overreliance upon regulation in the railroad industry.

An argument can be made, and I will make it at a later point, that there is a legitimate position that can be taken to say that the adoption of the gentleman's amendment will result in more regulation than we even have under the law right now.

This bill requires that all rates be reasonable. The burden in terms of developing that requirement is on the railroad.

☐ 1230

The railroad is required to prove, the burden is on the railroad that the rate is reasonable. What the amendment of the gentleman will do will be to upset the way that this legislation is designed to prove reasonableness.

There are really two major points to the gentleman's amendment that deal with price flexibility. The first standard that the bill provides as to determining whether there shall not be regulation required is the concept of a reasonable transportation alternative. We are seeing, very simply, that if there are two ways that you can get your product from point A to point B and from point C to B and they are comparable and will have the delivered price the same at the point of delivery, that if one of those modes of transportation, let us assume it is a railroad, increases its price and you can still get your product delivered from the other source at the price that was the original price, that if the one source increases its price, that is not going to be unreasonable, because you have the option of getting the product to point B at the same price you had before.

To take an opposite position, that even if you can get a product delivered from one point to another and if someone increases their price, it should automatically go to the ICC, is to argue that regulation is desirable for the sake of regulation. We do not happen to believe that is the case.

What the amendment of the gentleman will do is to scrap this concept of this reasonable transportation alternative.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(At the request of Mr. Eckhardt, and by unanimous consent, Mr. Florio was allowed to proceed for 5 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I will be happy to yield to the gentleman. I would like to develop the logical progression that I am attempting to develop and then would be happy to yield to the gentleman. I appreciate the gentleman yielding me the 5 minutes.

Mr. Chairman, what I am saying, the gentleman is scrapping the concept of reasonable transportation alternatives and is substituting in its place, in a sense is superimposing the concept of market domination that was put into the 4-R Act. This body at the time of the adoption of the 4-R Act said, yes, we should have more market flexibility for railroads. That is the adopted policy of this Congress; but then there was superimposed on that flexibility a requirement that that not apply where a railroad dominated in a particular market.

The ICC then attempted to implement that whole concept by a series of regulations. I think it is fair to say that everyone, including the ICC, acknowledges the fact that that system has not worked and it effectively has been scrapped. The ICC is now working on new regulations to implement that concept and the expectation is that they will not be workable either.

So what I am saying is that to this point, this whole concept of market dominance has not worked, and I do not expect it to work under the gentleman's approach, either.

The second major problem relative to pricing flexibility that the amendment of the gentleman poses goes to the heart of what we are trying to do in this bill, dealing with rate flexibility. The bill adopts the concept, the objective concept of a cost recovery percentage. In essence, what that means is that we establish a threshold below which rates can be set by the railroad, above which the ICC has jurisdiction to review for reasonableness upon application. The threshold is the percentage of revenues to variable costs which yield to the railroad the ability to meet its costs, not profits, just costs, variable and fixed costs. That does not seem to be unreasonable to most of us; but certainly the railroads if they are not even meeting their costs should have the ability to lift those rates to the point of that cost. If they go beyond costs, they trigger over on to the threshold and the ICC has jurisdiction to come in and review them.

Some have said, well, we are concerned about a railroad that has been losing so much money that it will have the ability to go to the threshold and that will be a rather large increase. To take into account those situations, we have, as I previously indicated, imposed a 10-percent annual limit on the amount of a rate increase that is authorized in this bill. I think that is sufficient protection for those who are concerned about that one particular type of problem.

As I have indicated before, the Eckhardt amendment does away with the objective cost recovery threshold concept and picks a number and the number, as the gentleman has stated, is 160 percent of revenues to variable costs. I think the number was based upon the projection as to what the market dominance guidelines were that I have indicated have been repudiated. The new market dominance regulations that are being published by the ICC, in fact, have been costed out to yield a threshold of 180 percent of revenues to variable costs with an unchallengeable 7-percent floating zone; so in effect what we are saying is that the existing law, pursuant to these regulations, will create a threshold of about 187 percent before you can get to the ICC.

Now, what I am stating is that on the basis of this, it is a fair comment, it seems to me, to say that the gentleman's regulations will, in fact, provide for more regulations than even the existing law.

In conclusion, I think we come down to the point as to whether we want to go forward to let the market determine what rates should be, or whether we want to preserve virtually the existing system that has yielded us a railroad industry that has a 2-percent return on investment, a railroad industry which has resulted in two bankruptcies this year, a railroad industry that has resulted in the loss of 10,000 miles of trackage opportunities for shippers, farmers and utilities; a railroad industry which projects that there will be a $15-billion shortfall in the capital needs of that industry and a railroad industry which has come to this Congress in the last 5 years and has asked for and has received $11 billion in railroad subsidies. If that is what we want, then we should vote for this amendment. If we do not want that, we have to have a new approach, and the bill provides that approach.

I thank the gentleman.

Mr. MADIGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, at the outset, I would like to congratulate the gentleman from New Jersey (Mr. Florio) for the extraordinarily concise presentation that he has just made with regard not only to the bill that is before us, but also to the provisions of the Eckhardt amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas (Mr. Eckhardt), because the amendment represents continuing efforts on the part of those who do not want any deregulation of the railroad system. Apparently those individuals are satisfied with the existing system which produces both poor rail service and financially weak railroads. I would hope that most of my colleagues would join with the committee in supporting a strong bill, which offers both hope and opportunity for a strong railroad system in the future.

I want to acknowledge that there are some good provisions in the Eckhardt amendment; but those provisions have already been adopted by amendments offered either by the gentleman from New Jersey (Mr. Florio), myself, the gentlewoman from Maryland (Ms. Mikulski), the gentleman from North Carolina (Mr. Broyhill), the gentleman from Texas (Mr. Loeffler), or someone else.

It is the remaining provisions in the Eckhardt amendment to which I would like to address the attention of the committee, the most damaging of which is the level at which the Commission would have to review the reasonableness of railroad rates.

The Eckhardt amendment would fix that level for a period of 3 years, without taking into account the revenue needs of railroads or the presence of effective competition.

The Eckhardt amendment is simply more of the same type of regulation that has bankrupted most of the railroad system in the United States. It is, as the gentleman from New Jersey has explained, an effort to cause more, rather than less, regulation of railroad rates.

The committee bill represents a careful balance between rate freedom and production against abuse of rate freedom. The committee bill is based upon the premise that there should be regulation of rates where there is an absence of effective competition. The cost recovery percentage is one index of the presence of effective competition. In the committee bill, the cost recovery percentage is set at that level at which the railroad industry recovers its costs of doing business.

☐ 1240

As the railroad industry earns more revenue, the cost recovery percentage is lowered, thereby creating Commission review of more rates.

The other test in the bill involves a reasonable transportation alternative. Simply stated, if a shipper can ship the same commodity on a barge or truck for not more than 125 percent of what it costs to ship it by rail, then the presumption in the committee bill is that there is in fact competition. Likewise, if a consignee can receive exactly the same commodity in the same quantity at a competitive price, the committee bill presumes the presence of effective competition. Where there is that competition, the marketplace, rather than the Congress, should be used to determine the price level.

If Government price controls had been a great success in creating a strong economy in the United States, I might have more sympathy with the Eckhardt amendment. With thousands of people unemployed in the railroad industry, inflation running rampant in the country, I fail to see how anyone in good conscience can suggest that more government regulation is going to cure the problems in the railroad industry. The time has come when we need to get this country moving again, and we need more capital investment rather than less. We are going to rebuild America's railroads. But adoption of the Eckhardt amendment would assure the continued deterioration of this Nation's rail system.

In his effort to gather all of the dissenters under one roof, the Eckhardt amendment exempts a number of commodities from the contracts provisions of the bill. This not only shortchanges the transportation industry but deprives shippers of valuable alternatives in getting their shipment to market.

I urge my colleagues to vote against the Eckhardt amendment so that, in fact we can begin the process of rebuilding our railroads into a system which can provide good service to shippers throughout the country.

Ms. **MIKULSKI**. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the Eckhardt amendment. Railroad regulatory reform legislation is essential to the achievement of national energy independence. The railroad industry, in its present financial condition, cannot be relied upon to provide the necessary capacity and services to meet the growing demand for domestic coal.

It is estimated that by 1985 the United States will produce 25 percent more coal than it does today. Railroads will continue to be the principal haulers of coal. If the industry is to meet the increasing demand for coal, it must be permitted to earn adequate revenues necessary to maintain their facilities. By 1985 the railroads will have to invest approximately $5 billion in coal-related facilities such as heavier track, coal piers, and unit train cars to handle the projected growth of coal traffic. They have to have the money to be able to do that.

I find it ironic that the greatest opposition to this bill has come from utilities. Contrary to their objections, the bill will be to their ultimate advantage. The utilities, and every shipper in this country that uses rail, needs a healthy railroad industry that is able to provide efficient and dependable service.

I represent an area which depends heavily on coal traffic moving through a port. To get the coal to that port requires a sound rail transportation system. We will not have such a system if we do not do something to allow more freedom in the regulatory structure than exists under present law. Instead we will see increased deferred maintenance and deterioration of our rail system and ultimately no railroads at all.

So when we raise the issue of captive shippers we need to ask what is the alternative. Is is barge, is it truck? In many instances the answer is no in terms of coal. But if we do not allow the railroads the opportunity to recover both capital and then cost, their capital investment and costs, we could end up with no railroads at all.

My area and all other parts of this country depend on a sound rail transportation system. I believe this bill provides an essential step in allowing the railroads to compete for revenues which will allow them to rehabilitate the deteriorated system so that coal and other traffic will continue to move.

I urge my colleagues to join me in opposing the Eckhardt amendment and in insuring that we have a sound rail transportation system in this country and that these decisions continue to be made in the marketplace.

Mr. **RAHALL**. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Eckhardt-Rahall amendment to the Rail Act of 1980, H.R. 7325. Regulatory reform, as most speakers this afternoon have agreed, is really needed to improve the conditions and services of our Nation's railroad system. The financial health of many railroads and the upgrading of railroad transportation services available to shippers and the public is, indeed, a needed service in this country.

Recognizing that railroads are an important and essential component of a surface transportation system throughout our country, which is also important in order to move large tonnages of heavy bulk commodities long distances, this legislation becomes vital. Railroads are vital to the movement of such commodities as chemicals, coal, fertilizers, grain, steel, limestone, and similar commodities.

However, I would draw to the attention of my colleagues that while I favor the general thrust of this railroad deregulation bill in removing many of the existing regulatory barriers which impede the ability of railroads to furnish these critical transportation services, the bill currently before the House must be amended to deal adequately with the balancing needs of railroads for sufficient revenues and of captive shippers who have no alternative to railroad transportation for protection against potentially excessive railroad rates.

In many places, as in my home State of West Virginia as well as in other States across the United States, shippers of railroad freight have no surface transportation competition available from which to choose to move their goods. There is no alternate mode of transportation available and it is very difficult, indeed it is impossible in many of these cases to move the coal from the mine to where transportation facilities are available. It simply cannot be done. You cannot move a coal mine around too easily.

Such shippers cannot rely on the normal market forces to assure that transportation rates are reasonable for services provided. Captive shippers, therefore, must have timely recourse to the Interstate Commerce Commission for relief from excessive railroad transportation rates.

As the gentleman from Texas, the main sponsor of this amendment, has pointed out, rates that are above the threshold level set in the Eckhardt-Rahall amendment will trigger protection for these captive shippers by providing timely recourse to the Interstate Commerce Commission.

We are not necessarily saying rates cannot exceed this level. We leave it up to the Interstate Commerce Commission to review the rates, to review the reasonableness of those rates and to either approve or disapprove.

Coal shippers in particular are most in need of this maximum rate protection amendment. Coal, for example, an important domestic energy resource, and a heavy bulk commodity, is an exceptionally well suited commodity to movement by the railroads. It often has no viable alternative to railroad transportation.

I am speaking, Mr. Chairman, of the small coal producers as well as the large coal producers. The small coal producers are individuals who are unable to enter into long-term, huge contracts with our Nation's railroads.

According to studies performed by the National Coal Association, 65 percent of the coal produced annually is carried by railroads, and 85 percent of that railroad coal traffic has no practical alternative available. Yes, it is good to increase competition. That is our overall aim in this bill. However, where it is impossible to increase competition, protection is needed.

☐ 1250

This year railroads are expected to carry about 520 million tons of coal which represents about 30 percent of total railroad freight tonnage. Railroad coal transportation rates already produce railroad revenues which average about 150 percent of variable costs for providing transportation service. This compares with about only 127 percent of all railroad freight handled. Nonetheless, if this bill is adopted as presently written, railroad coal transportation rates could be expected to increase by about 35 percent above their levels in 1979. This is an unreasonably high increase to be placed on coal traffic which already, as my colleagues from coal-producing States are well aware, have encountered exceptionally large increases in railroad rates for coal traffic in the past 2 years.

For instance, in 1979, railroad coal transportation rates for coal traffic originated by the L. & N. Railroad were raised 38 percent. Another "leap" of about 35 percent for this coal traffic as well as for coal movements by railroad in other locations, would present major obstacles to greater coal use in several regions of the United States.

The **CHAIRMAN**. The time of the gentleman from West Virginia has expired.

(By unanimous consent, Mr. RAHALL was allowed to proceed for 5 additional minutes.)

Mr. **RAHALL**. Mr. Chairman, I remind my colleagues that this comes at a time when this Nation is being called upon to reduce its heavy reliance upon expensive foreign imported oil and to turn more to domestic coal, via coal conversion and via synthetic fuels legislation.

The railroad ratemaking amendments to H.R. 7235 which I am cosponsoring would permit reasonable increases in coal tariffs but only about one-third of the rate increase amounts now accommodated in the bill.

The financial health of the railroads, as I have mentioned, is important, but it is also important that we consider it in accurate perspective. Railroads are vital to moving coal and as previous speakers have pointed out the financial health of railroads is vital if we are to assure that transportation modes in the future are available to move the increased production of coal of which we speak. That is exactly why, Mr. Chairman, this amendment is so needed.

It is because the financial health of the railroads is important. It is also because the financial health of the Nation's captive coal mine, across the coal fields, is just as important. If the captive coal mines are to pay exorbitant rate increases they have no alternative but to close down their operations, which increases the already high unemployment in our Nation's coal fields and prevents increases in the production authorization of coal that is available to reduce our reliance on imported oil.

Yes, the financial health of the railroads is important. The financial health of these captive coal mines, both small and large producers, is also important, and let us not close down more of our Nation's coal mines.

Mr. Chairman, I consider myself a strong supporter of our railroads. To place the financial condition of the railroads in proper perspective I would like to cite some Association of American Railroads' data that was filed before the ICC in regard to railroads' average return on equity after taxes for December 31, 1979.

Excluding Conrail, railroads in the East show an 11.07 percent return on equity; excluding Illinois Central Gulf, railroads in the South show an 11.44 percent return on equity; and excluding Milwaukee Road and Rock Island Lines, railroads in the West show an 8.83 percent return on equity and I remind my colleagues these figures are after taxes. The U.S. average return on equity after taxes for all railroads excluding those financially troubled railroads mentioned earlier was 9.93 percent last year. These figures are neither indicators of doom, nor are they indicators that show that suitable financial strength of all of our railroads exists. Improvements can be made and are desirable without ignoring the importance of keeping railroad revenues from becoming so large that serious inflationary consequences would result and huge passthroughs of increased transportation rates would result in higher prices to our consumers and the price they pay for energy.

The rate threshold for determining ICC jurisdiction over maximum reasonableness of railroad rates in relationship to the variable costs for the services provided should be less than now provided by the bill.

The ICC has determined that for railroads to show an adequate rate of return, railroad traffic should move at an average rate that would produce revenue at about 150 percent of variable costs for providing the transportation services; at present the percentage is about 127 percent. The average return on equity after taxes that would be associated with the 150-percent rate threshold would be about 16 percent. If the rate threshold is increased to 160 percent, as the Eckhardt-Rahall amendment generously allows, the return on equity after taxes would rise to about 22 percent—more than double the 1979 average return on equity after taxes. Thus, the 160-percent rate threshold would be a rational level for allowing railroad rates to increase without becoming excessive. It would significantly improve the financial health of the railroads and still furnish a necessary degree of maximum rate protection for shippers who are captive to the railroads for essential transportation services. On the other hand, if the rate threshold were set at 180 percent of variable costs, the average return on equity after taxes would likely be about 34 percent; and, if it rises to a level of 200 percent, as the bill now allows, the return would probably escalate to about 45 percent—a level that is certainly far in excess of requirement for becoming financially healthy, and one that carries enormous inflationary implications.

If the 200-percent threshold were in effect, coal would face a yearly increase of more than $380 million, a figure which would constitute an unreasonably high addition to the delivered price of this critical energy resource and would represent a clear impediment to the goal of greater domestic coal use to reduce the Nation's dependence upon foreign oil imports.

Mr. Chairman, with the need to create a balanced bill, these provisions affecting railroad ratemaking as it impacts both rail carriers and captive shippers, is most important. It would not deny railroads warranted revenues. It would simply permit timely recourse of captive shippers, small captive shippers to the ICC for review of about 30 percent of the railroad traffic moving at higher rate threshold levels instead of the complete elimination of ICC jurisdiction over 85 percent of the railroad traffic that the present bill calls for.

It has been suggested this is perhaps a regional amendment, an amendment aimed particularly to solve the problems in one State. It is not, Mr. Chairman. It is certainly a national problem. If we are going to increase our reliance upon coal, if we are going to decrease our reliance upon expensive imported foreign oil, this amendment is vital. It is not increased regulation. As the gentleman from Texas has pointed out it would only allow the ICC to review any rate request above the 160-percent threshold level and still the ICC could very well allow these rates to be implemented. This improvement in the bill as presently written would relate to all railroad freight, not merely to a single commodity. This is not merely a one State problem. I ask my colleagues to bear this in mind inasmuch as many commodities—chemicals, coal, fertilizers, limestone, grain, steel, and several others which rely especially on railroad transportation—are affected by the ratemaking provisions in this legislation.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

(At the request of Mr. FLORIO and by unanimous consent, Mr. RAHALL was allowed to proceed for 1 additional minute.)

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding. I would like to ask a question, really by way of clarification. I thought I heard the gentleman say something about his apprehension about large increases, something on the order of 35 percent. The gentleman having reviewed the bill I am sure is aware of the fact there is a statutory limit imposed upon rate increases, the 10 percent annual increase between now and 1983. I just wanted to make that clear that there is a protection built into the bill to avoid the concern the gentleman has as to inappropriate rate increases.

Mr. RAHALL. I appreciate the gentleman's pointing that out. I am aware of that limitation in the language. I would point out, however, that 1983 for many of these captive coal mine shippers of which we speak, these captive coal producers, that, as I mentioned, are unable to enter into long-term contracts and huge rate contracts with the railroads, 1983 is too late. They would have had to have closed down their operations, thereby putting more coal miners out of work and decreased coal production by that time.

Mr. FLORIO. If the gentleman will yield, there is very little difference between the two approaches. In 1983 there would be triggered in, in both approaches, the cost recovery percentage so that we have the protection to the point where both versions are similar. I think the gentleman's concern may not be appropriate.

I thank the gentleman for yielding.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Texas in starting his colloquy on this amendment pointed out the relationship in the United States of energy and energy-related fuels and stated that railroads in effect might have to be considered as utilities. Then, as we look at the merger situation as it is taking place in America today, we may be down to five or six major railroads throughout America. We see the Southern Pacific merging with the Santa Fe and that proposal is going forward. The Burlington Northern and the St. Louis roads merging, and, of course, we see the Union Pacific and the Western Pacific also in the merger mood. Therefore, perhaps we might very carefully examine the Department of Transportation memorandum as it affected the proposed Eckhardt-Rahall amendment that we are now considering.

The Department of Transportation document stated:

> H.R. 7235 permits rate freedom up to the level at which the rail industry covers its cost. When the rate is above this level and the shippers captive—that is, unable to obtain desired service elsewhere at comparable prices—H.R. 7235 authorizes the ICC to determine whether or not the rate is reasonable.

Mr. Chairman, that is exactly what Eckhardt-Rahall does.

Chairman O'Neal of the ICC when he testified before the Senate committee on September 24 of 1979 estimated fully allocated costs, that the current cost of capital in western coal cases as 165 percent of variable costs. Thus such costs range from about 160 to 170, of variable costs in those cases. Variable costs for coal means the added cost burden on the railroads for transporting over its lines a particular coal delivery.

Fully allocated costs for such coal adds a reasonable burden which should properly be attributed to the particular haulage for all costs, including fixed costs and costs of acquiring capital.

One hundred sixty percent in the Eckhardt-Rahall amendment is the bottom of threshold figure. When rates go above this figure the ICC may enter and exercise reasonable rate control.

☐ 1300

Thus, when a railroad, due to its monopoly rate control tries to exact from the shipper a higher rate than is necessary to cover the railroad's costs plus reasonable profits, the shipper may appeal to the ICC. We tried in every way to compromise with the administration, and this amendment offers to start at 165 percent of variable cost as well as suggesting other areas of flexibility. It is astounding that the administration will not put in this bill exactly what it says the bill does in its present form.

So then, does the so-called railroad regulation bill answer the question? Perhaps that is the question before us at this point. First of all, railroads were deregulated in 1976 except where they exercise a "dominant carrier" position. That is, they are in a monopoly or have a monopoly position.

This bill would also deregulate the railroads when they exercise a monopoly, as does Burlington Northern in hauling coal out of the Powder River Valley to San Antonio, as Mr. ECKHARDT pointed out to us, and as does the Sante Fe in hauling much Hard Winter wheat from Kansas and Nebraska to the port of Houston.

Under title II of the bill as it is now written, railroads in such monopoly positions can charge rates necessary to recover fully allocated costs by about 40 percentage points. Put another way, they can exact rates of about 200 percent of variable costs rather than 160 percent. The Eckhardt-Rahall amendment would simply permit the ICC to review rates which are above the threshold of 160 percent of variable costs. That is, they could review rates which are at about the level of fully allocated costs or which exceed that figure.

The DOT is not correct in their handout which they sent to every Member of this body when they state:

> The Eckhardt amendment would eliminate this rate freedom from the bill and set an arbitrary, low rate for at least three years, with the possibility of continuing indefinitely.

What this amendment attempts to do is to permit sufficient flexibility for the ICC so that poorer railroads, with short hauls, can recover rates in the neighborhood of 200 percent of variable costs or more, and richer railroads, in a monopoly poistion, can be forced to deal fairly with captive shippers to recover its costs.

In the next title we will get to the situation once again, and I will have an amendment that will try to go to the language adopted by the Senate, but at this juncture I think it would be wise to support the Eckhardt-Rahall amendment.

Mr. MURPHY of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, I rise to speak on behalf of the coalition rail ratemaking amendment to H.R. 7235. One of our greatest concerns in considering both this legislation and the amendment carefully drawn up by my colleagues is the protection of the public interest. One of the greatest problems that we face today is the constantly escalating cost of energy. If H.R. 7235 is passed without this coalition amendment we will see the continued rise of energy costs to individual citizens as they seek to light and heat their homes because the failure to protect the captive shippers of coal will face even more exorbitant rates than they now do.

At a time when we are just beginning to see coal emerge as our Nation's greatest hope for developing a stable and secure domestic energy source, an energy source that we can use to replace the devastating effects of a dependence on foreign oil, it is imperative that we provide that coal with protection from excessive freight rates. There are places throughout the country where coal is being charged such high transportation rates that it has driven potential buyers into negotiations with foreign coal producers. It would be counter to the hard efforts of this Congress to gain energy independence from foreign oil only to see an increase in the importation of foreign coal along with foreign oil.

Just a few days ago I personally investigated the Capitol Power Plant which uses coal to heat and cool the very building in which we deliberate. I learned that shipping charges alone constitute almost 40 percent of the delivered price to a Federal coal burning facility here in Washington, D.C. There are other examples in the country where I have been informed that shipping costs may constitute as much as 75 percent of the delivered price of coal.

If coal shippers do not receive the protection of the amendment before us they will either be forced to curtail production or raise their prices. If that happens, utilities and industries dependent on coal as a source of energy will either turn to foreign coal or raise the price of power to the consumer. Without this amendment to protect captive commodities we are faced with either escalating energy costs and unacceptable inflation rates or we are faced with placing our fledgling national energy strategy in severe jeopardy.

I do not deny the fact that many of the railroads of this country are in desperate need of major infusions of capital if they are to regain viability as a strategically important part of our national transportation system. This we all favor. However, the burden cannot be borne alone by the captive shipper at the expense of our energy stability. The burden must be shared by more efficient management within the transportation industry and a more realistic appraisal of the railroad's interest in preserving the economic health of those shippers upon whom they depend for their very survival.

I urge you to join us in support of this amendment. It will provide increased revenues to the railroads but keep some reasonable control on the costs of shipping captive goods.

As my good friend from West Virginia mentioned, coal is where you find it, and it must be mined there. For example, a mine may be located 20, or 30, or 40 miles from the nearest river, highway, or any other method of transportation. A single rail line is driven to that mine, it then becomes a captive shipper. Without the type of protection this amendment offers our consumers will continue to be driven to higher costs for their energy needs. I again urge the Members to join us in support of this most important amendment.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Eckhardt amendment, and I know that once again, as in the case of the other bill, in the frenzy for so-called deregulation and this obsession that has come over the majority of the Members, willy-nilly—vitiating the time-honored congressional delegated authority for regulation; for good reason through the years the Congress has regulated those entities that have monopolistic or total control of their economic activities in our country, I fully realize in view of that that this too is a case of greased rails. The choo-choo train is in, and I do not know what force can resist it.

The administration is a joinder in this frenetic frenzy. I marvel at the oratory, particularly by the very distinguished chairman of the subcommittee handling this bill; his "silken words precise, three-plied hyperbole." But, unfortunately, they either deliberately or perhaps innocently and ignorantly take no cognizance of the terrible dilemma that is posed in the enactment of this bill without taking consideration of this dilemma that has not captive railroads, but captive cities whose only guilt is trying to carry out the national energy policy of switching from gas use—expensive gas use—to coal use which this Congress mandated as a national policy.

☐ 1310

So we have captive cities like the city I have the honor of representing, San

Antonio, at the unrestrained mercy of a monopolistic freight carrier such as the Burlington Northern and Southern Pacific, whose legislation is now again being adopted intact by the legislators as handed out by the lobbyists, as it was in the case of the 4-R's, or 3-R's, or 10-R's case a few years ago. That legislation could have been written, not in the Congress; it might as well have been written by the railroad lobby. I think it is just absolutely an abomination that this Congress should go on record not once but more than three times in less than 3 months in totally abdicating its responsibility to the protection of the public interest.

Despite all the high-flown oratory and the 3-plied hyperbole, the fact remains that there is a continuing and desperate need for regulation in this particular case of coal transportation.

The Congress refuses to allow competition. This Congress last year overwhelmingly refused to give even sober consideration to the coal slurry pipeline system, which would be the only competition that the railroads have now.

But what is it that, even under so-called regulation, which the gentleman advocating this bill with no amendments so urgently presses, is saying? That this is the whole objective of this legislation, to remove regulation. At the same time he admits the contradiction that there is a continuing need for the protection of the public interest, but he deprives the Congress of having any means of so doing by the very thing he is asking and pressing for—the adoption of this legislation, without amendment, and certainly without the Eckhardt amendment.

Specifically, the high-flown oratory has failed to address itself to the thrust of the Eckhardt amendment, which does no such thing as vitiate the main thrust of this bill. That is an unfounded exaggeration. The Eckhardt amendment, by far and by large, continues in the spirit of deregulation but recognizes the desperate need for public interest protection and particularly for safeguarding the carrying out of the national energy policy.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Gonzalez) has expired.

(On request of Mr. Seiberling, and by unanimous consent, Mr. Gonzalez was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I would be delighted to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I notice on the map that Ohio is in the blue category. However, Ohio, Pennsylvania, Illinois, and other Eastern States as well as Middle Western States, get a lot of their coal from Appalachia. If their mines are served by only one railroad carrier—and that is true of a great many of them, including those in the area of the gentleman from West Virginia (Mr. Rahall)—then the cost of coal to Ohio and other States, affecting the cost of steel produced in those States and affecting the cost of electricity generated in those States, is going to go up, and consumers, industries, and jobs in those areas are going to be affected.

So even though the gentleman from Texas (Mr. Gonzalez) is speaking from the point of view of Texas, it seems to me the Eckhardt amendment has a great deal of bearing on the States in the East as well as the Middle West, because in many cases we are supplied by coal that is run over captive carriers.

Mr. GONZALEZ. Mr. Chairman, the gentleman is precisely correct, and that is what I was trying to say. I was not trying to limit the single purpose of the Eckhardt amendment to the Texas situation.

The Eckhardt amendment, in short, is the last vestige of an attempt to stop an unrestrained mulcting of the American transporting public. This is a rip-off; this is not a deregulation. It is a massive rip-off. That is just what it is.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I believe I am about as close as one can get to an antitrust lawyer in the House. I have spent a lot of time practicing antitrust law.

I believe in the competitive system as the principal regulator in the marketplace. When it functions, it is the best regulator. But as I understand it, the Eckhardt amendment is merely aimed at those areas where there is not a competitive situation and where there is not a marketplace in rail transportation. Is that not correct?

Mr. GONZALEZ. Mr. Chairman, the gentleman is correct. That is my interpretation.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Gonzalez) has again expired.

(On request of Mr. Rahall, and by unanimous consent, Mr. Gonzalez was allowed to proceed for 1 additional minute.)

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding.

I merely want to shore up the excellent point that was made by the gentleman from Ohio (Mr. Seiberling) in regard to the coal that does come from the Appalachian States, West Virginia, of course, being in the center of that coal-producing region.

In the State of West Virginia, during the year 1979, there were 112.3 million tons of coal mined. Seventy-two million tons, or 65 percent of that figure, were moved initially by railroad transportation from the mine mouth, and of this 72 million tons 95 percent of it had only one available line of transportation available, only one means of transportation.

As I said earlier, we cannot move the mines to other means of transportation. Other means of transportation are not available because of geographical location or for other reasons.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield further?

Mr. GONZALEZ. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, some 20 years ago, after a long battle with the railroads, a coal slurry pipeline was created running from the Ohio River to Lake Erie.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Gonzalez) has again expired.

(On request of Mr. Seiberling, and by unanimous consent, Mr. Gonzalez was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, that coal slurry pipeline has never moved 1 ton of coal, and the reason is because the minute that pipeline was completed the railroads dropped their rates for shipping coal from the Ohio River area to the Great Lakes area in Ohio. That shows the dramatic effect of competition on railroad freight rates and, in particular, coal freight rates. That pipeline, even though it has never moved a ton of coal, has served a great purpose to the industries of Ohio by forcing the railroads through competition to keep their rates at competitive levels.

Mr. Chairman, it does seem to me that should be the watchword, and that where there is not competition, then the only alternative is regulation.

Mr. GONZALEZ. Mr. Chairman, I certainly agree with the gentleman from Ohio (Mr. Seiberling). I thank the gentleman profoundly for his contribution because he has made a vital point here that has been heedlessly disregarded by full committees, by subcommittees, and now by the House.

I would like to add that the present experience, amply demonstrated statistically, shows that in the case of Burlington, for instance, they have been able to get 28 percent profitability on their overall line operations just by what they make on the monopoly in coal freight coverage.

So, Mr. Chairman, I think that is revealing in itself.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding.

I understood the gentleman to make reference to the Burlington Northern Railroad.

Mr. GONZALEZ. The gentleman is correct.

Mr. MADIGAN. Mr. Chairman, I thought the gentleman might like for us to insert at this point in in the Record the fact that the Burlington Northern Railroad is on record as opposing the committee bill offered by the gentleman from New Jersey (Mr. Florio) and myself.

Mr. GONZALEZ. I can see why. I was aware of it, because they are getting away with the same thing that apparently is the objective of this legislation.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Gonzalez) has once again expired.

(On request of Mr. Madigan, and by unanimous consent, Mr. Gonzalez was allowed to proceed for 2 additional minutes.)

Mr. MADIGAN. As a matter of fact, Mr. Chairman, if the gentleman will yield further, the gentleman is defending the status quo, which is the situation that the railroad with which he would like to take issue actually prefers.

Mr. GONZALEZ. No.

Mr. MADIGAN. Mr. Chairman, I would like to say one other thing to the gentleman if he would yield further.

I think perhaps in his statement the gentleman went a little bit further than he intended, because if I understood his remarks correctly, he accused the gentleman from New Jersey and the gentleman from Illinois of bringing to the floor of this House a bill that had been written by the railroad lobbyists. If it was the gentleman's intention to say that, then I would have the gentleman know that I am deeply offended by that statement.

Mr. GONZALEZ. Mr. Chairman, I meant no offense, and I am sorry that that is the interpretation. I did not mean it that way, at least not in this case. The gentleman knows my high esteem of him. I certainly did mean it in the case of the 4-R bills a few years ago, though.

There is no question that the history shows that the suggested legislation, as presented by the then railroad lobbyists was practically identical.

□ 1320

In this case, I think that the record will show of the hearings and the presentation by the railroad lobbyists that it coincided pretty much with the drafting version. Now, that does not mean that the committee took it from the railroad lobbyists, but I am saying that it coincides with the overall general interest of the overwhelmingly preponderant sector of the railroad industry.

Now, the Burlington is the exception of who complains when given cake to eat free.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding, and I do not wish to take offense at what the gentleman said, but perhaps he overstated his feelings on this. I know that this is of intense interest to the gentleman. I think it has to be stated, however, that this committee, and particularly myself and the gentleman from Illinois (Mr. MADIGAN), have not been insensitive to the local ramifications of this particular bill.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GONZALEZ) has again expired.

(On request of Mr. FLORIO and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. FLORIO. If the gentleman will yield further, we have spent a tremendous amount of time meeting with various Members of the Texas delegation to try to accommodate their particular concern. Our concern is that we not have a national piece of legislation drawn to deal with particular concerns. I can represent to the gentleman that it is my understanding—that an amendment will be offered at a later point that will provide for opportunities for competition from the Powder River Basin, applications being expedited, and things of that sort and I am prepared to support it.

So I would just like to make it 100 percent clear that we are aware of the gentleman's concerns, we have done everything possible to try to adjust to those concerns, and we think that, notwithstanding the defeat of this amendment, the gentleman's concerns will be appropriately addressed.

Mr. GONZALEZ. I thank the distinguished chairman for that assurance. I must insist, however, that the Eckhardt amendment does not vitiate the main thrust of this legislation as the gentleman has contended and that it is the only thing we have offered to take care of this situation.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Eckhardt amendment.

(By unanimous consent, Mr. DINGELL was allowed to proceed for an additional 5 minutes.)

Mr. DINGELL. Mr. Chairman, it has been said that the Eckhardt-Rahall amendment is one which deals with a particular commodity and/or a particular area in the country. Neither of those statements is true.

The Eckhardt-Rahall amendment deals with all heavy bulk commodities. It does not just deal with a Texas problem; it deals with a problem wherever these commodities are shipped and wherever purchasers for those commodities and for shipping services of those commodities exist.

As the gentleman from Texas has indicated, this is a map showing which congressional delegations are in favor of the Eckhardt-Rahall amendment. The green on the map shows where not only the Texas delegation but other delegations feel strongly and are overwhelmingly in support of the Eckhardt amendment.

Now, what are the commodities which are involved here? The commodities are any heavy, large, high-bulk commodities: coal, iron ore, steel, autos, limestone, fertilizer, corn, grain, agricultural commodities. They also are your different kinds of ores, ferrous and nonferrous. They also are a number of heavy industrial products which can only be moved by rail. They also are explosive and hazardous substances which by State and/or Federal law must be moved by rail.

It is said now by my good friends who sponsor the legislation that the Eckhardt-Rahall amendment would cut back on existing law. That is not true. The fact of the matter is that the Eckhardt-Rahall amendment gives a reasonable amount of freedom to the railroads in terms of fixing rates. It does not give them the right to total freedom where they have exclusive carriage and where no competition exists.

Now, my colleagues should know that what is at stake here with the Eckhardt-Rahall amendment is to continue rate flexibility of a modest and modified sort where the railroads have exclusive carriage, where there is no competition.

Many here have forgotten that essentially the 3-R Act deregulated rail carriage except where the railroads have no competition. This bill, without the Eckhardt-Rahall amendment, would deregulate the carriage of bulk commodities where there is no competition. The Eckhardt-Rahall amendment would see to it that there is a reasonable measure of control where access would be provided to shippers in cases where a rail carrier charged a rate which exceeded 160 percent of variable costs. My colleagues should know that if you have industries in your area which originate or which receive heavy commodities like coal, steel, iron ore, limestone, grain, fertilizers, railroad lines on which there is no effective competition, the only way that you can protect either those who would originate that kind of commodity or those who would be the recipients of it at the other end of the line is to support the Eckhardt-Rahall amendment.

I want to make it very plain here to my colleagues that if you are concerned about energy costs, if you are concerned about shifting to coal, if you are concerned about the electrical utility rates that your constituents are paying—and electrical utility rates are going up like a skyrocket right now you should support the Eckhardt-Rahall amendment.

If you vote against the Eckhardt-Rahall amendment, you will be voting to see to it that we will be unable to shift this economy so rapidly to coal to reduce our dependence on imported oil, and we are going to import $90 billion worth of that oil. That is probably double any kind of tax cut that is foreseeable on the horizon. If you vote down the Eckhardt-Rahall amendment you are also going to see to it that it is more difficult to move other heavy industrial commodities, such as ore, grain, fertilizers. And if you want to permit the railroads to return to the unfortunate and, happily, now long gone days of the long-haul/short-haul discrimination, and that sort of practice, then vote against the Eckhardt-Rahall amendment and you will take a long stride in that direction.

I think there are a couple of other things that my colleagues should know, but I want to yield to my good friend, the gentleman from New Jersey, who is the able chairman of the subcommittee.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, I am always impressed with the force with which the gentleman puts forth his argument, notwithstanding the appropriateness of the argument.

Mr. DINGELL. I plead that the arguments are entirely appropriate.

Mr. FLORIO. I just want to make the point that I thought I heard the gentleman say that without the Eckhardt-Rahall amendment the railroad rates would be deregulated and the railroads could lift the rates to any level they want, and that, of course, is not the case.

Mr. DINGELL. That is not what I said and that is not what I am saying. The difference between the Eckhardt-Rahall amendment and what is contained in the legislation before us is that the Eckhardt-Rahall amendment affords a captive shipper of bulk commodities an opportunity to get before the ICC when an imposed rate needs 160 percent of the variable costs of shipping, as opposed to the much higher figure of approximately 200 percent of variable costs and a much more difficult way of getting before the ICC.

Mr. FLORIO. I thank the gentleman for that clarification. It is a matter of the threshold and a matter of the opportunity to go before the ICC.

Mr. DINGELL. What I am saying to the gentleman is that his proposal hardly permits anybody to get before the ICC to deal with these questions and that the committee bill, as drawn, regrettably, is going to cause electrical utility rates to rise.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, I have a very interesting communication from the Distribution and Planning Analysis head of the International Paper Co., who says:

> But for the exposure of the rate-making threshold at 200 percent of variable costs . . . but the exposure represents $74 million in our paper and packaging business. We estimate that the railroads will be able to increase revenues by $8 billion under H.R. 7235. In effect, the $8 billion economic benefit, which Congress provided in passing the Motor Carrier Act of 1980, in June will be entirely absorbed by the rising cost of rail distribution in July.

Mr. DINGELL. I thank the gentleman.

Mr. ECKHARDT. I think that it points out the point that the gentleman is making, in effect a 200 percent of variable costs threshold prevents the ICC from getting into any practical situation that exists today, with the possible exception of Conrail. But under my amendment, the amount that may be granted can be any level. My bill only provides a threshold and leaves to the ICC authority to do what the gentleman from New Jersey said the ICC wants to do in some cases, increase the rate or permit a rate at 180 percent of variable costs. My amendment does not affect that.

□ 1330

It merely lets the ICC look at a monopoly situation.

Mr. DINGELL. The gentleman is correct. The Eckhardt-Rahall amendment deals with protecting shippers who really have no alternative mode of transportation to ship bulk commodities. I stress again it is not only coal but any heavy, high-bulk commodity. I commend the gentleman.

Let me go on to say something else. I have been meeting, and it has not only been Texas Members who have been meeting, with the administration to deal with the question of the next amendment that is supposedly lying in the wings which would propose a compromise to solve only the Texas problem. First of all, the amendment to which I refer does not really solve the Texas problem. Second of all, the construction of a rail line in the Powder River Basin is not going to solve the problems with regard to shipment of Eastern coal, nor is it going to solve the problems with regard to shipment of coal into other parts of the country. Nor will it solve the problems with regard to shipment of other kinds of heavy, high-bulk commodities in other parts of the country which will not receive that particular subsidy. I think it should be pointed out also that to grandfather shippers who have litigated questions of previous rate discrimination, as the amendment would do, fails to protect the very large number of shippers and electric-generating companies and others who would ship commodities on these kinds of monopoly lines, and my colleagues should keep that well before them. I would urge them not to buy a pig in a poke. Buy the Eckhardt-Rahall amendment, which does resolve the problem.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a lot has been said on the floor this afternoon and during the debate a couple of weeks ago about the San Antonio situation, and that the Eckhardt amendment is a regional or sectional amendment. Of course this body has heard the opposite. This body has seen the map which shows that it is not a sectional amendment.

Let me tell this body why we of the Texas delegation have been very vitally interested in the provisions of this bill.

The San Antonio situation, in order that this body may understand what we are talking about, as my colleague from San Antonio, the gentleman from Texas (Mr. GONZALEZ), a while ago said, comes from a desire to comply with national policy.

The national policy, as has been set out by the Congress, has been to quit using natural gas. The State of Texas is the largest producer of natural gas in the entire United States. It has been the cheapest form of energy, not only for us in Texas, but for the entire United States. But it is a finite source, and it will give out.

Therefore, we have mandated, and it has become the national policy, that we not fire any more boilers. We switch from natural gas to coal, since we are told we have a 300-year supply of coal in this country. As this map shows, the coal happens to be in an area there in the Western United States and another in the Eastern United States. We must get that coal to Texas, and the city of San Antonio was one of the first to comply with that national policy. The city public service board went to Wyoming to have coal supplied to San Antonio and south Texas. They made a deal at approximately $7 a ton at the mine head, but then they have to get it down there. There is only one railroad available, one railroad, Burlington Northern. They made a deal with Burlington Northern, provided that the city of San Antonio buy the hopper cars, because Burlington says, "We cannot do it. We do not have the cars."

So, the city of San Antonio plunked down about $25 million for cars, plus a shed, shops, and the necessary equipment to maintain those hopper cars, and they go to Burlington and say, "Here you are. The city of San Antonio has supplied you with these cars. Now, will you haul for us?" And they said, "Yes, we will haul for you, at $10.93 a ton." This was fine. San Antonio converted to coal.

In less than 3 years, Burlington Northern has had its rates increased from $10.93 a ton to almost $23 a ton.

Now, San Antonio is a captive shipper, but let me tell this body, when the distinguished gentleman from New Jersey first began to debate, he said that this bill would help the railroads. We have got to keep them healthy, and I agree. It would help the shippers. It would help everybody else. I asked him the question; I said "I will be listening to the debate, and I hope that somebody shows this Member that this bill is going to benefit the consumers of this country."

To this date, to this very moment, I have not seen any evidence that the consumers of bulk goods, be it grain, be it automobiles, be it any other things that we must ship in this country, will be benefited when they are supplied by a monopolistic line. And that is not in this bill, and this is what the Eckhardt amendment strikes at.

Let me give you some figures.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 4 additional minutes.)

Mr. KAZEN. Let me show this body what we mean by monopolistic railroads. Sure, the industry as a whole may need shoring up, but in one quarter of last year, the profits of Burlington Northern were $36.7 million a year compared to $14.7 million in profits the same quarter the previous year.

In the first 6 months of last year, their revenues rose $165 million to a total of $1.2 billion. Profits for the same 6 months rose from $58.3 million to $68.6 million or over $10 million.

The Burlington president told his stockholders that the biggest factor in the increased earnings was a 21-percent increase in revenue from coal shipments. And still they come in and get some additional rate increases on coal.

Now, who is going to pay for it? That consumer who has to heat his home, that industry that has to use coal-fired utilities. And I ask my colleagues, will the formula that the gentleman from New Jersey put forth here, will that help us when there is no Commission and when we cannot get to that pinpoint through two sources? No. But the Eckhardt amendment will.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Texas.

Mr. ROBERTS. Would the gentleman explain how much this municipally owned powerplant in San Antonio had to raise its rate just because of what the Burlington Northern has done despite the agreement they had with the city?

□ 1340

Mr. KAZEN. Let me tell the gentleman, utility customers are paying utility bills more than twice now what they had been paying before. They had to raise them.

My friends, let me tell you this, 20 percent of the people in my district have incomes below $3,000 a year, and I am talking about conditions in the United States of America. A $10 bill looms mighty large in a family budget of $50 or $60 a week.

Mr. DINGELL. Mr. Chairman, would the gentleman from Texas yield?

Mr. KAZEN. Yes, I would be delighted to yield.

Mr. DINGELL. Mr. Chairman, I thank the gentleman.

I have here a letter, signed by Allen Berman, executive director of the Consumer Energy Council of America. People like Alex Raden, of the American Public Power Association; John Gunther, executive director of the U.S. Conference of Mayors, are officers of this organization. Let me read just one paragraph of this. This tells why the Eckhardt-Rahall amendment is so important. It says as follows:

> As drafted, H.R. 7235 provides consumers no protection against exorbitant price increases and discriminatory rate-making practices by railroads which have virtual monopoly power over some of the nation's most vital commodities, such as coal and grain, and some of the nation's most important ports. The Eckhardt-Rahall amendment, on the other hand, provides criteria for price increases and rate-making decisions by the ICC without undermining the ability of railroads to make very healthy profits, offers at least some minimum protection for the consumer.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield now?

Mr. KAZEN. Yes, certainly, I would be delighted to yield.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding. The gentleman in the well has very adequately expressed his concern for the consumer.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has again expired.

(At the request of Mr. MADIGAN, and by unanimous consent, Mr. KAZEN was allowed to proceed for 3 additional minutes.)

Mr. MADIGAN. Mr. Chairman, I would ask the gentleman again if he would yield.

Mr. KAZEN. Certainly, I would be delighted to yield.

Mr. MADIGAN. I thank the gentleman. The gentleman has expressed concern for the electric utility consumers in San Antonio. I understood that an amendment had been successfully offered by the gentleman's colleague from San Antonio, the gentleman from Texas (Mr. LOEFFLER), which had the effect of providing that for the term of the contract between the railroad and the San Antonio utility, that the railroad could not raise the rate for the transportation of coal to that utility.

I understood further that the term of that contract continues for the next 14 years and that that provision now is already in the bill that is before us, having been adopted here as an amendment of the gentleman from Texas (Mr. LOEFFLER).

Now, I further understand that that provision for the San Antonio electric consumer that I have just described is knocked out of the bill by the amendment being offered by the gentleman from Texas (Mr. ECKHARDT).

I am confused as to why the gentleman in the well would be arguing against the best interests of the San Antonio electric utility consumer. I wonder if the gentleman could explain that to me.

Mr. KAZEN. I would be delighted to try to explain it to the gentleman.

I, of course, applaud the provisions of the Loeffler amendment. It would take care of the present contract.

The Eckhardt amendment would lower the rates down from approximately whatever it is in the bill to 160 percent of variable costs, which will be a much better break for the citizens of San Antonio.

Now, if this amendment for some reason or another should not carry, then certainly I would be very, very happy to have had the Loeffler amendment in the bill. But this will be, of course, an improvement for the benefit of the consumers and this is what I am standing for here today.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes, certainly.

Mr. MADIGAN. I would like to make two points to the gentleman.

Mr. KAZEN. Yes, sir.

Mr. MADIGAN. The Eckhardt amendment would not lower the transportation rates.

Mr. KAZEN. No, but it would carry to all contracts from now on and not to this single contract.

Mr. MADIGAN. In 3 years, the provisions would be the same as those contained in the bill and the contract of the gentleman's community of San Antonio runs for the next 14 years, so we would be 11 years beyond the provisions of the Eckhardt amendment before San Antonio would be impacted by this bill by virtue of the Loeffler amendment, which the gentleman's colleague from Texas (Mr. ECKHARDT) would now strike out of the bill.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes, I would be delighted to yield.

Mr. ECKHARDT. Mr. Chairman, I think the gentleman in the well has made a good point.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has again expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield further, I think the gentleman in the well has made a good point; that is, that the Eckhardt-Rahall amendment deals not only with San Antonio, but with all the contracts which San Antonio may have to make in the future for coal, all the contracts which may have to be made in every part of the country. That is the reason, I presume, that the distinguished former majority leader on the Republican side, the gentleman from Arizona, Mr. JOHN RHODES, is paired in favor of the Eckhardt amendment, because Arizona has been affected just as Texas has been affected.

I applaud the gentleman in the well for pointing out that this is a national amendment. It is concerned with all utilities, with all foreign haulers and so forth.

I particularly want to say that the gentleman's pointing out the inflationary effect of the bill without the Eckhardt amendment is very good. The estimate that has been made of the additional costs by industry if we should permit these monopoly rates to go into effect would be, coal: $383 million.

Steel: $233 million per year.

Automobiles: $225 million increase.

Lumber: $196 million, and so on and so forth.

This is all in addition to the galloping inflation that has been going on in this country.

Mr. KAZEN. Mr. Chairman, I thank the gentleman for his contribution. I assure the gentleman of my support for his amendment.

● Mr. PICKLE. Mr. Chairman, I am pleased to join my colleague, BOB ECKHARDT, and other members of the Texas delegation, as well as some 20 other States, to express my support for changes to H.R. 7235, the Railroad Act of 1980. The unity of the Texas delegation is significant. That same unity is growing in other States.

I am not opposed to significant deregulation of railroads. The time is right, and the trend is clearly evident. But we should not rush pellmell into accepting H.R. 7235 without some changes.

As Mr. ECKHARDT has stated, the bill in present form would enable a monopolistic railroad to continue raising freight rates on coal. Our Texas utilities have complied with national energy policy by converting to coal. The ICC has granted several rate hikes and passthroughs to Burlington Northern and we all have seen statistics indicating how much faster freight rates have risen over the rate of inflation.

Earlier this year, I introduced a bill to make railroads have the burden of proof in hearings before the ICC and would not allow a railroad to subsidize other company operations from charges paid by unit-train coal shipments. Under the 1974 act, railroads are presumed to have a reasonable request when they seek rate hikes. Their coal rates can include the costs of other, less profitable shipments.

This approach was suggested by the Texas attorney general's office, but also I support Mr. ECKHARDT's approach, to direct the ICC to consider more rate cases than provided for in H.R. 7235. The bottom line is that consumers will have more protection.

Another concern is section 301 of the bill, which would enable major railroads to unilaterally impose surcharges on routes. This section could seriously hurt, if not destroy, many of the Nation's 250 short-line railroads. The bill would let major railroads tack on a surcharge to all segments of a route, including the short-line railroad which serves as a connecting train. Many of these short-lines, feeling the heat of competition, may not want to pass on additional costs on their share of the route. The shipper who does not want to pay the surcharge could simply take his business elsewhere. The same major railroad may get the business on another route, but the small railroad is left out in the cold.

Deregulation should not be synonymous with monopolization. If the bill passes in current form, many short-line railroads might go under and be gobbled up by dominant railroads. I will support a change to call on the ICC to resolve disputes on surcharges among carriers which share routes.

My third concern is with section 210, which gives the ICC exclusive authority over intrastate rates for transportation provided by a rail carrier subject to the commission's jursidiction. This section does not sound like deregulation, but "reregulation," since it calls for ICC participation in what is now handled by State agencies. The Texas Railroad Commission has the staff and expertise to continue this regulation, so the ICC should not get involved. This section should be struck from the bill.

Again, I support the general concepts embodied in this bill, but we need some modification. I am glad that many members of the Rules Committee expressed concern with these points yesterday. The word is getting around, and I will work with the Texas delegation to convince our colleagues that some changes in the bill are in the Nation s best interest.●

Mr. SEBELIUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would be remiss if I did not take the time and the opportunity to thank the gentleman from Illinois (Mr. MADIGAN) and the gentleman from New Jersey (Mr. FLORIO) for the fine work they have been doing working with our railroad problem. I want them to know I truly appreciate it.

I am one of those that has got a chunk of the Rock Island Railroad. Part of it has been bought up, but I still have 57 grain elevators with a grain capacity of over 40 million bushels that are not being served by anybody at the present time.

Also, I am from one of those districts where for years and years we have been exporting natural gas to the northeast, to Michigan, to New York and to Pennsylvania. We are now just sending it basically for housing warmth and we are being forced to and are establishing large coal plants on the prairies of Kansas where we have adequate natural gas if it was ours to keep and use; so I have that worry in the whole thing.

I likewise would relate that I know the Rock Island went under. I could go into a long litany on some of the reasons, many of which were not rail rates that did it; but today I would like to address my remarks more on the agricultural features of the Eckhardt amendment. I certainly know it is not the panacea and from some of the arguments, I know we do not have an exact solution that is going to give us any type of assurance that we are solving it.

I do have great worries about jumping in over my head in this situation and leaving a lot of country elevators with no direction to go; but anyhow, Mr. Chairman, the amendment before us contains three provisions of importance to agriculture. Under section 204, grain dealers within a 75-mile radius of a grain dealer with a contract are eligible for the contract rate—presumably, lower—under certain conditions.

One condition is that the dealer ship at least 40,000 tons of an agricultural commodity between the contract origin point and a contract destination, as would the contractor.

This would be the equivalent of 400, 100-ton hopper cars. This is often more than the total volume of a small grain dealer. Therefore, we are seeking to amend this bill to lower the required amount to 5,000 tons, or 50 covered hopper cars.

I think this amendment will help us avoid concentration in the grain industry. Because of the very competitive nature of grain marketing, if we give a subterminal elevator a price advantage, that firm can pass its savings along to every affiliated country elevator in its marketing chain.

As independent elevators are eliminated, competition would be reduced, and farmers eventually might find themselves with no economically feasible alternative but to trade with the company which remained. With no competition, the remaining firm would find itself under little pressure to keep its margins down.

This would mean that farmers would get less for their products, with no corresponding decrease in consumer prices.

Another provision of this amendment would exempt many farm products from the demand-sensitive rate provisions of the bill. Like the contract provision, the demand sensitive provisions threaten the long-term health of the industry. What we need are uniform rates, even if at higher levels. Otherwise, we will possibly see the demise of independent grain firms.

I appreciate the effort of Congressman MADIGAN to amend the original bill language in committee; however, the amendment would apply only to larger shippers who are capable of contracting for "future" demand for rail cars. Only large shippers would be able to contract for their cars to avoid demand sensitive or seasonal provisions. The "seasonal" shipments of grains or cotton are no longer dependent on mother nature or her seasons. Even normal economic seasons no longer prevail to the extent they once did. Our major movement of grain is determined by export markets and our Government embargoes.

To facilitate the orderly movement of grain, particularly where there is no barge competition available, we must have uniform rates published well in advance.

The other provision of this amendment would repeal the exemption for all contract rates from ICC appeal by third parties on the basis of rate discrimination. The exemption now in the bill, section 208, page 118, line 7, would take away the strength behind the rights granted by the earlier amendment to section 205. If equidistant points are served by two railroads, or if one railroad has two different contract rates with two shippers at the same location, then an ICC appeal is deserved. This provision would restore that right to protest to the ICC.

I ask my colleagues to support this amendment and others I will be offering today in order to avoid massive economic dislocations in the U.S. grain industry.

Thank you.

□ 1350

The CHAIRMAN. The time of the gentleman from Kansas has expired.

(By unanimous consent Mr. SEBELIUS was allowed to proceed for 3 additional minutes.)

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman.

Mr. MADIGAN. The gentleman has made three points to which I would like to respond.

Mr. SEBELIUS. I am glad because I am in a quandry and I want to know the facts because now I believe that my little man is being hung out on the limb.

Mr. MADIGAN. The gentleman made reference to the demand sensitive rate provision and has taken issue with that and suggested that the Eckhardt amendment is preferable because it exempts agriculture from the demand sensitive rate. Earlier in the day an amendment of mine was adopted which struck demand sensitive rates entirely from the bill.

Mr. SEBELIUS. And it is not replaced?

Mr. MADIGAN. No.

Mr. SEBELIUS. I appreciate that.

Mr. MADIGAN. I think the gentleman will agree what I have done in that regard is better than what is being offered here.

The gentleman made a point about the radius that would be involved in giving a contract that would be the same as one that had already been given to somebody else. He suggested that the 75-mile radius would be the most desirable. The 75-mile figure is included in the amendment of mine which was adopted earlier in the day. The Eckhardt amendment now pending before the Committee of the Whole has 50 miles. I would suggest that in that second regard what has already been done is better than what the gentleman from Texas is advocating.

The third issue that the gentleman raised is the 40,000-ton threshold to be contract eligible. Earlier in the day an amendment of mine was adopted which reduced the 40,000 figure to 20,000. I thought the gentleman would want to know that also.

Mr. SEBELIUS. I knew about the last one and I appreciate that. I am not sure, how these things are being offered, what parts of the Eckhardt amendment duplicate that of the gentleman—I intend, if I can, to offer an amendment to reduce this figure to 5,000 ton, which is 50 hopper cars, and I appreciate the gentleman's cooperation.

Mr. MADIGAN. In all fairness to the gentleman from Texas (Mr. ECKHARDT) I must tell the gentleman that his amendment does have the 5,000 figure, but in two of the three situations the gentleman feels are important enough to bring to the well to discuss this bill I think the gentleman would regard the provisions in my amendment as being superior in two of the three instances.

Mr. SEBELIUS. I appreciate those provisions and appreciate the gentleman's sincerity in working at this because he and I have a common problem, except that his District is between a little water transportation, or gets close to it. I have to go 500 miles to the western part of my district to get to a terminal, and a lot of the gentleman's goes to Decatur, Ill. and is manufactured in some manner as alcohol, cornstarch, and then shipped out by rail. I have to ship it by rail to get it there, and I do appreciate those features.

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

(By unanimous consent Mr. SEBELIUS was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Texas.

Mr. ECKHARDT. The distinguished minority member on the subcommittee has said that the section was taken out with respect to demand sensitive rates. But, as I recall, it was put back in under the title "Assured Agricultural Rail Transportation Agreements." It is said on page 6 of this amendment, "The Interstate Commerce Commission shall, subject to restrictions of this title, permit the establishment of tariffs by agricultural commodities under which rates may be raised or lowered between established maximum and minimal levels in response to expected or actual fluctuations in demand for rail service."

So what was done is it was taken out in one place but then reinserted in another.

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

(By unanimous consent Mr. SEBELIUS was allowed to proceed for 1 additional minute.)

Mr. MADIGAN. Will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman.

Mr. MADIGAN. What the gentleman from Texas has referred to is a provision that we have added to the bill which is not demand sensitive rates but is a provision that would allow a shipper to enter into a futures contract arrangement with a railroad for rail transportation of any commodities. So there would be three options available to any shipper: the published tariff, the long-term contract, which has been discussed here, or the futures contract for an individual and specific movement to which reference has just been made.

I thank the gentleman.

Mr. SEBELIUS. I appreciate the gentleman's remarks and would just like to point out I am not on the Interstate and Foreign Commerce Committee. If my colleagues want to talk about agriculture, I will talk about agriculture.

Mr. MADIGAN. And the gentleman does it very well.

Mr. SEBELIUS. But I believe that we are breaking some ground here that is apt to leave us out there totally at the end.

There is only one railroad now and a lot of these towns have lost that one, so I am very interested in this and that is the reason I hope we can do something about it.

Mr. MADIGAN. If the gentleman will yield further, as the gentleman knows, we have lost many of these under existing law.

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

(By unanimous consent Mr. SEBELIUS was allowed to proceed for 1 additional minute.)

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. I have great concern about the threshold the gentleman mentioned. How many hopper cars, 20,000? Has it been reduced to 20,000?

Mr. SEBELIUS. Yes; 20,000 tons.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield.

Mr. MADIGAN. It is 20,000 tons.

Mr. MARLENEE. The elimination of the small elevators is also my concern. I would ask the gentleman from Illinois is there any particular reason why that level was established at 20,000 tons.

Mr. MADIGAN. If the gentleman will yield further, yes. As a matter of fact, a study by the land grant university in my State, the University of Illinois, some 3 years ago recommended these contract provisions that we have put in this bill. They recommended the 20,000 level. We started out with 40,000 because we found that in most of the areas where we inquired 40,000 was below what was actually going on. Most of the elevators were functioning at transportation levels above 40,000.

But when the issue about 40,000 was raised, we dropped it to 20,000.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 204, noes 197, answered "present" 2, not voting 30, as follows:

[Roll No. 424]

AYES—204

Abdnor
Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
AuCoin
Barnard
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burton, Phillip
Campbell
Carney
Carr
Chappell
Cheney
Chisholm
Clay
Clinger
Conte
Conyers
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Dingell
Donnelly
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edwards, Calif.
Emery
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Frost
Fuqua
Garcia
Gibbons
Ginn
Gonzalez
Goodling
Gore
Gramm
Grassley
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Heftel
Hightower
Hinson
Horton
Huckaby
Hutchinson
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kazen
Kildee
Kogovsek
LaFalce
Latta
Leach, Iowa
Livingston
Loeffler
Long, La.
Lott
Lujan
McDade
McHugh
McKinney
Markey
Marriott
Mattox
Mazzoli
Mica
Miller, Calif.
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Musto
Myers, Ind.
Neal
Nedzi
Nolan
Oberstar
Ottinger
Perkins
Peyser
Pickle
Price
Quillen
Rahall
Rangel
Ratchford
Richmond
Roberts
Rosenthal
Rostenkowski
Roybal
Scheuer
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Spence
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Studds
Stump
Synar
Tauke
Tauzin
Traxler
Ullman
Vander Jagt
Vanik
Vento
Walker
Watkins
Weiss
White
Whitley
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Alaska

NOES—197

Akaka
Ashley
Aspin
Atkinson
Bailey
Barnes
Beard, Tenn.
Beilenson
Biaggi
Bolling
Boner
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Butler
Byron
Carter
Cavanaugh
Clausen
Cleveland
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Dornan
Dougherty
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Erdahl
Erlenborn
Evans, Del.
Fascell
Fazio
Fenwick
Ferraro
Fish
Florio
Fowler
Frenzel
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Glickman
Goldwater
Gradison
Gray
Green
Grisham
Guarini
Hall, Ohio
Hanley
Harris
Harsha
Hawkins
Heckler
Hefner
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Hughes
Hyde
Ichord
Jeffords
Jenrette
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Lederer
Lee
Lehman
Lent
Levitas
Lloyd
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McDonald
Madigan
Maguire
Marks
Marlenee
Martin
Matsui
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Moakley
Moorhead, Calif.
Moorhead, Pa.
Murtha
Myers, Pa.
Natcher
Nelson
Nichols
Nowak
O'Brien
Obey
Panetta
Pashayan

Patten
Patterson
Paul
Pease
Pepper
Petri
Porter
Preyer
Pritchard
Quayle
Railsback
Regula
Reuss
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Roth
Rousselot
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Shelby
Shuster
Simon
Solarz
Spellman
Staggers
Stockman
Stratton
Swift
Taylor
Thomas
Thompson
Trible
Van Deerlin
Volkmer
Walgren
Wampler
Waxman
Weaver
Whitehurst
Whittaker
Williams, Mont.
Wirth
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—2

Bafalis
Hillis

NOT VOTING—30

Anderson, Ill.
Badham
Baldus
Bingham
Bowen
Collins, Ill.
Derrick
Edwards, Okla.
Findley
Ford, Tenn.
Holtzman
Leach, La.
Leath, Tex.
Leland
Lewis
McCormack
McEwen
McKay
Mathis
Mavroules
Oakar
Pursell
Rhodes
Runnels
Solomon
St Germain
Symms
Udall
Wilson, Bob
Wilson, C. H.

☐ 1410

The Clerk announced the following pairs:

On this vote:

Mr. McCormack for, with Mr. St Germain against.

Mr. Symms for, with Mr. Lewis against.

Mr. DUNCAN of Tennessee changed his vote from "no" to "aye."

Ms. FERRARO, Mr. WAXMAN, and Mr. THOMPSON changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1420

The CHAIRMAN pro tempore (Mr. FLIPPO). The Clerk will designate title III.

Title III reads as follows:

TITLE III—RAILROAD INTER-CARRIER PRACTICES

COMPENSATORY JOINT RATE RELIEF

SEC. 301. (a) Chapter 107 of title 49, United States Code, is amended by inserting after section 10705 the following new section:

"§ 10705a. Joint rate surcharges and cancellations

"(a)(1)(A) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may publish and apply a surcharge increasing or decreasing the through charge applicable to any movement between points designated by the surcharging carrier subject to a joint rate. Such a surcharge may be applied without the concurrence of the other carriers that are party to such joint rate.

"(B) Any surcharge applied pursuant to this subsection must be applied in equal dollar amounts to the movement subject to the surcharge over all routes between the points participated in by the surcharging carrier under the joint rate involved, and, when the surcharge increases the through charges, under any of such carrier's single line rates between the same points.

"(2)(A) Whenever a rail carrier applies a surcharge increasing a through charge pursuant to paragraph (1) of this subsection, any other rail carrier that participates in any movement subject to such surcharge may, at any time after the date such surcharge is filed, cancel the application of such surcharge to any route participated in by such carrier, if such carrier makes the demonstration described in subparagraph (B) of this paragraph.

"(B) A rail carrier may cancel the application of a surcharge under this paragraph if such carrier demonstrates to the Commission that the surcharging carrier's share of the revenues from its participation in the movement over the route involved would be equal to or greater than 110 percent of its variable costs of providing service over such route, under either—

"(i) the applicable joint rate without the surcharge;

"(ii) a new rate division increasing the share of the surcharging carrier; or

"(iii) a new higher lawful rate published by the canceling carrier.

"(C) If the rail carrier canceling the application of a surcharge makes the demonstration described in subparagraph (B) of this paragraph, the canceling tariff shall become effective—

"(i) if such demonstration is made on the basis of the applicable joint rate without the surcharge, on one day's notice; or

"(ii) if such demonstration is made on the basis of a new rate or division, on the date such new rate or division becomes effective.

"(D) A canceling tariff filed pursuant to this paragraph may be suspended by the Commission only on the grounds that the carrier proposing the cancellation has not made the demonstration described in subparagraph (B) of this paragraph.

"(E) The remedy available to a rail carrier canceling the application of a surcharge under this paragraph shall be in addition to any other remedy available to such carrier under this chapter.

"(3) If no demonstration with respect to a surcharge is made by a rail carrier pursuant to paragraph (2)(B)(i) or (ii) of this subsection within 45 days after the date such surcharge is filed, then a shipper moving traffic over a route to which such surcharge applies may cancel the application of such surcharge to any single route if such shipper demonstrates to the Commission that—

"(A) there is no remaining route for the movement of such traffic that is not subject to such surcharge; and

"(B) the surcharging carrier's share of the revenues from its participation in the movement over the route to which such surcharge applies, under the applicable joint rate without the surcharge, would be equal to or greater than 110 percent of its variable cost of providing service over such route.

"(4) For purposes or rate regulation under section 10701 of this title—

"(A) only the rail carrier proposing a surcharge under this subsection shall be required to defend such surcharge; and

"(B) the reasonableness of the surcharge and the revenues received by the rail carrier proposing the surchage under the joint rate to which the sucharge applies shall be determined without regard to amounts received and services performed by other rail carriers that are party to such joint rate.

"(5) A rail carrier may not apply a surcharge under this subsection unless, for the one-year period preceding the surcharge, such carrier has concurred in all rate increases of general applicability applicable to the joint rate to which such surcharge applies and agreed to by all other carriers that are party to such joint rate.

"(6) A rail carrier may not apply a surcharge under this subsection increasing a through charge applicable to a particular movement more than once each calendar year.

"(7) Notwithstanding any other provision of this subsection, a rail carrier may, by tariff, reduce the total charges applicable to a movement over any specific joint line or single line route or routes in which such carrier participates, if such reduction does not lower the total charges applicable to such movement to a level that is less than the lowest total charges applicable to the same movement over a competing route. Any such reduction may be made without the concurrence of any other rail carrier, and shall be borne solely by the carrier reducing the charge.

"(b)(1) A rail carrier may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 3,000,000 gross ton miles of traffic per mile, in the most recent calendar year for which traffic data is available. Such a surcharge may be applied without the concurrence of any connecting rail carrier.

"(2) A rail carrier may apply a surcharge under this subsection, if, prior to the application of such surcharge, that portion of the charges applicable to traffic to and from the line to which the surcharge applies and accruing to the surcharging carrier does not provide such carrier revenues adequate to cover—

"(A) 110 percent of such carrier's variable cost of transporting the traffic involved to or from such line; plus

"(B) 100 percent of such carrier's reasonably expected costs of continuing to operate such line.

"(3) A rail carrier may not apply a surcharge under this subsection that results in any shipper being required to bear more than a reasonable proportion of the reasonably expected costs of continuing to operate the line to which such surcharge applies.

"(4) In this paragraph, 'reasonably expected costs' include all costs necessary to continue operations on the line to which a surcharge applies.

"(c)(1) Notwithstanding any other provision of this title, any prior agreement in effect on the effective date of the Rail Act of 1980, or any requirement of the Commission, a rail carrier may cancel the application of a joint rate to a through route in which it participates, without the concurrence of any other rail carrier that is a party to such joint rate, unless another rail carrier that participates in such through route makes the demonstration described in paragraph (2) of this subsection.

"(2) The application of a joint rate to a through route may not be canceled under this subsection if a rail carrier that participates in such through route demonstrates to the Commission that the canceling carrier's share of the revenues, under either the joint rate in effect, a new rate division increasing the share of the canceling carrier, or a new higher lawful rate published by the carrier making the demonstration, would be equal to or greater than—

"(A) 110 percent of the canceling carrier's varibale cost of providing service over such route; or

"(B) such lesser percent of the canceling carrier's variable cost as such carrier earns over a competing through route to which application of the joint rate has not been canceled, or over a competing single line route.

"(3) If the demonstration described in paragraph (2) of this subsection is made on the basis of a proposed new rate or division, the cancellation shall, nevertheless, become effective unless such new rate or division becomes effective within 120 days after the proposed effective date of the rate cancellation.

"(4) Whenever the application of a joint rate to a through route is canceled under this subsection and a rate other than a joint rate is or has been published by the canceling carrier to apply to such route, such rate shall thereafter apply in lieu of all other rates (except joint rates subsequently agreed to by such carrier) and any through rate of which such rate is a factor shall divide as the separate factors of such rate are made.

"(d)(1) Except as provided in paragraph (2) of this subsection, any increase or decrease in revenue resulting from the application of a surcharge under subsection (a) of this section, or from the cancellation of the application of a joint rate under subsection (c) of this section, shall accrue solely to or be borne solely by the carrier applying the surcharge or canceling the application of the joint rate, as the case may be.

"(2) Whenever an intra-territorial rail carrier participating in a through route to which a surcharge has been applied under subsection (a) of this section, or to which the application of a joint rate has been canceled under subsection (c) of this section, demonstrates to the Commission that any increase in revenue received by the carrier applying the surcharge or canceling the application of the joint rate results in such surcharging or canceling carrier receiving total revenues in excess of 110 percent of its variable costs over such route, such surcharging or canceling carrier shall, from the date of such demonstration, share those revenues in excess of 110 percent of its variable costs with all intra-territorial rail carriers participating in such route, on the basis of their existing divisions of the joint rate.

"(e)(1) Except as provided in paragraph (1) of this subsection, whenever a rail carrier proposes to apply a surcharge under subsection (a) of this section or to cancel the application of a joint rate under subsection (c) of this section and another rail carrier subsequently agrees to a new rate division or a new lawful rate that increases the surcharging or canceling carrier's share of the total through charges for a movement over a particular through route subject to a joint rate, such other rail carrier shall also agree to any other new rate division and new lawful rate—

"(A) that is proposed within 120 days after the date of the first agreement; and

"(B) that increases the surcharging or canceling carrier's share of the total through charges for movements over a competing through route subject to such joint rate.

"(2) A rail carrier shall not be required to agree under this subsection to any proposed new provision or new rate which would—

"(A) reduce such carrier's share of the total through charges for a movement over any through route to less than (i) 110 percent of its variable costs of providing service over such route, or (ii) such lesser percent of its variable costs as such carrier earns from such movement over a competing through route with respect to which such carrier has agreed to a new division or rate;

"(B) increase the surcharging or canceling carrier's share of the total through charges for a movement over any through route to an amount in excess of 110 percent of its variable costs of providing service over such route;

"(C) reduce such carrier's share of the total through charges for a movement over any through route by a dollar amount in excess of the greatest dollar reduction which such carrier has agreed to make, for purposes of increasing the surcharging or canceling carrier's share, to its share of the total through charges for a movement over any competing through route; or

"(D) reduce such carrier's share of the total through charges for a movement over any through route in an amount in excess of such carrier's pro rata share (based on established divisions for movements over such route) of the increase of the surcharging or canceling carrier's share of the total through charges for movements over such route.

"(f) A rail carrier applying a surcharge or canceling the application of a joint rate under this section shall file a tariff with the Commission in accordance with section 10762 of this title. Such a tariff may not become effective until the expiration of the 45-day period (or such longer period as the filing carrier specifies) beginning on the date such tariff is filed.

"(g) If the application of a surcharge or the cancellation of the application of a joint rate under this section is found to constitute a violation of any provision of this title, such violation shall not be ordered remedied in any manner which requires the surcharging or canceling carrier to provide service over any route under a rate that provides revenues to such carrier that are less than 110 percent of its variable costs of providing such service.

"(h) Within 5 days after the request of a rail carrier participating in a joint rate subject to a surcharge or cancellation under this section, the Commission shall make available to such carrier the variable costs of the carrier applying the surcharge or canceling the application of the joint rate.

"(i)(1) Whenever a class III rail carrier, in a protest filed with the Commission, makes a prima facie showing that an action taken pursuant to this section will have an adverse affect on competition, the Commission shall, within 30 days after the date such protest is filed, investigate such protest. If on the basis of such investigation the Commission finds that the action protested is, or is intended to be, anticompetitive, the Commission shall order such action rescinded and may, on presentation of an adequate record, prescribe new joint rates or divisions of joint rates.

"(2) No joint rate or division prescribed under this subsection shall require a carrier to provide service over any route under a rate which provides revenues less than 110 percent of the variable cost of providing such service unless the Commission determines that the public interest requires a lesser revenue to variable cost ratio to avoid anticompetitive action and to preserve service on the route involved.

"(j)(1) Any class III rail carrier which originates or terminates traffic may protest a surcharge or cancellation of the application of a joint rate under this section whenever—

"(A) such surcharge or cancellation affects the sole remaining route available to that carrier for that traffic; and

"(B)(i) such carrier demonstrates that alternative transportation is available or that a shipper dependent on that carrier will suffer significant market loss because of the surcharge; or

"(ii) the surcharge alone or when considered in conjunction with other surcharges affecting the carrier is likely to unduly impair a carrier's ability to earn an adequate rate of return.

"(2) The Commission may, on the basis of a protest under this subsection, prescribe a lesser surcharge or a different division on the joint rate. The Commission shall grant the surcharging carrier not less than 110 percent of revenue to variable cost on the movement involved, unless it determines that the public interest requires a lesser revenue to variable cost ratio to preserve service on the route involved.

"(k) For purposes of this section—

"(1) variable costs for a class I rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates;

"(2) variable costs for a rail carrier other than class I shall be presumed to be the average variable costs of all class I rail carriers in the region in which such carrier operates (as determined under paragraph (1) of this subsection) unless a rail carrier rebuts such presumption with other proof of variable costs; and

"(3) at the option of a carrier applying a surcharge or canceling the application of a joint rate under this section, revenue share may be determined by reference to past revenue settlements actually made in the most recent calendar year by connecting lines.

"(l) The authority to apply a surcharge under subsection (a) of this section shall expire 3 years after the effective date of the Rail Act of 1980 unless extended for one additional year by the Commission upon petition of any rail carrier and for good cause shown. Any surcharge lawfully applied under this section shall remain in effect in accordance with its terms following the expiration of the provisions of this section.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10705 the following new item:

"10705a. Joint rate surcharges and cancellations.".

RATE BUREAUS

SEC. 302. (a) Section 10706(a)(1) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) 'practicably participates in that movement' means—

"(i) with respect to a revision of an existing joint-line rate, that a carrier has, during the 12 months preceding the discussion, agreement, or vote, actually carried traffic under the joint-line rate at issue; or

"(ii) with respect to a joint-line rate proposed for a movement never before conducted, or for which no joint rate was previously in effect, that a carrier has agreed to carry any traffic tendered to it under the joint-line rate at issue during the 12 months following the date on which the joint-line rate becomes effective.".

(b) Section 10706(a)(2)(A) of title 49, United States Code, is amended—

(1) by inserting "publication," after "initiation," in the first sentence; and

(2) by striking out "section 10101" in the second sentence and inserting in lieu thereof "section 10101a".

(c) Section 10706(a)(2) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) As soon as practicable but not later than January 1, 1984, the Commission shall promulgate such rules as are necessary to allow rail carriers to establish rates in the manner required by this section. If the Commission finds, after a hearing on the record, that it is unable to promulgate rules described in the preceding sentence that allow rail carriers to maintain their competitive position in the transportation industry, the Commission shall, no later than January 1, 1983, submit a report to the Congress containing a finding that it is unable to promulgate such rules and setting forth its recommendations for appropriate legislative or administrative action."

(d)(1) Section 10706(a)(3)(A) of title 49, United States Code, is amended to read as follows:

"(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

"(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single line rates proposed by another rail carrier;

"(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in that movement; or "(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. This clause shall take effect (I) if the Commission promulgates rules under paragraph (2)(C) of this subsection, on the effective date of such rules or on January 1, 1984, whichever first occurs, or (II) if the Commission does not promulgate rules under paragraph (2)(C) of this subsection and the report of the Commission under such paragraph is disapproved by a joint resolution of the Congress, on January 1, 1984. If such report is not so disapproved, this clause shall not take effect.".

(2) Section 10706(a)(3)(B) of title 49, United States Code, is amended to read as follows:

"(B) Until January 1, 1983, subparagraph (A)(ii) and (iii) of this paragraph does not apply to (i) general rate increases or decreases for joint rates if the agreement gives shippers, under specified procedures, at least 15 days notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission, or (ii) board tariff changes that are of at least substantially general application throughout the area when the changes will apply, except single line rates where subparagraph (A)(i) of this paragraph prohibits the participation of carriers with single line rates.".

(3) Section 10706(a)(3)(C) of title 49, United States Code, is amended—

(A) by inserting "(i)" immediately after "(C)"; and

(B) by adding at the end thereof the following new clause;

"(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, the party making the allegation shall have the burden of showing by clear and convincing evidence that the agreement, conspiracy, or combination occurred. Proof of the violation may not rest on or be inferred from evidence that two or more carriers acted together with respect to a rate, division, rule, classification, or practice applicable to an interline movement and that a party to such action took similar action with respect to a rate, division, rule, classification, or practice applicable to a competitive route or traffic.".

(4) Section 10706(a)(3) of title 49. United States Code, is amended by adding at the end thereof the following new subparagraph:

"(D) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Commission and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5.".

(e) Section 10706(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of this subsection, one cr more rail carriers may enter into an agreement, without obtaining prior Commission approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Commission may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Commission may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.".

(f) Section 10706(h)(1)(B) of title 49, United States Code, is amended by striking out "section 10101" and inserting in lieu thereof "section 10101a".

(g) The Interstate Commerce Commission shall require rail carrier members of a rate bureau to provide the employees of such rate bureau who are affected by the amendments made by this section with fair arrangements no less protective of the interests of such employees than those established pursuant to section 11347 of title 49, United States Code. For purposes of this subsection, the term "employees" does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions.

LONG AND SHORT HAUL TRANSPORTATION

SEC. 303. (a) Section 10726(a)(1) of title 49, United States Code, is amended—

(1) by striking out "I or"; and

(2) by adding at the end thereof the following new sentence: "The provisions of this paragraph shall apply to a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title when the Commission determines that there is competition between a rail and water service or route and the application of this paragraph is necessary to prohibit anticompetitive behavior.".

(b) Section 1726(c) of title 49, United States Code, is repealed.

RAILROAD ENTRY

SEC. 304. (a) Section 10901(a) of title 49 United States Code, is amended by striking "will be enhanced by" and inserting in lieu thereof "permit".

(b) Section 10901 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(d)(1) Where a rail carrier has been issued a certificate of public convenience and necessity by the Commission authorizing the construction or extension of a railroad line, no other rail carrier may block such construction or extension by refusing to permit the carrier to cross its property if (A) the construction does not unreasonably interfere with the operation of the crossed line, (B) the operation does not materially interfere with the operation of the crossed line, and (C) the owner of the crossing fine compensates the owner of the crossed line.

"(2) If the carriers are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Commission for determination.

"(e) The Commission shall require any rail carrier proposing to construct and operate a railroad line pursuant to this section to provide a fair and equitable arrangement for the protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title.

"(f) If, after construction of a railroad line pursuant to this section, a rail carrier rearranges or adjusts its work force in anticipation of a transaction with the purpose or effect of depriving an employee of benefits to which he otherwise would have become entitled under this title, the provisions of this title will apply to such employee.".

SERVICE DURING PERIODS OF PEAK DEMAND

SEC. 305. Section 11101(a) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "A rail carrier shall not be found to have violated this section because it fulfills its commitments under agreements approved under section 10712 of this title before responding to reasonable requests for service.".

RECIPROCAL SWITCHING

SEC. 303. Section 11103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The Commission may require rail carriers to enter into reciprocal switching agreements and joint service agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Commission shall establish such conditions and compensation.

"(2) The Commission may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.".

CAR SERVICE COMPENSATION

SEC. 307. (a)(1) Section 11122(b)(2) of title 49, United States Code, is repealed.

(2) Section 11122(b)(1) of title 49, United States Code, is amended by striking out "(1)" immediately before "The rate".

(b) Section 11122(b) of title 49, United States Code, as amended, is further amended by adding at the end thereof the following new sentence: "If the Commission finds that the level of ownership of any type of freight car is inadequate because of the rate of compensation for such type of freight car, the Commission shall increase such rate of compensation to a level that is adequate to attract capital for investment in such type of freight car.".

(c) Section 11122 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1)(A) Any rail carrier or other entity may file with the Commission a notice of request for negotiation with respect to compensation for use by any rail carrier of rolling stock owned by any entity other than a carrier or with respect to the setting of demurrage rates. Such notice shall state the names and addresses of the parties to be directly involved in the negotiations and the subject matter of such negotiations. Upon the filing of such notice of request, the Commission shall promptly forward such notice to the parties designated therein.

"(B) Upon receipt of notice under subparagraph (A) of this paragraph, the parties shall, within thirty days (unless an extention is agreed to by all parties), begin to negotiate in good faith with respect to the subject matter of the negotiation as described in the notice. If no agreement with respect to such subject matter has been reached by the 180th day after the date of commencement of the negotiations, any party directly involved in such negotiations may require that the matter be settled by submitting the issues in dispute to the Commission. The Commission shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Commission.

"(2)(A) Subject to subparagraphs (B) and (C) of this paragraph, any meeting or discussion by parties and other persons held strictly for the purposes and regarding the subject matter set forth in paragraph (1) of this subsection (whether held prior to, during, or after the negotiations), and any parties and other persons participating in the carrying out of any agreement resulting therefrom, shall be exempt from the provisions of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a).

"(B) No party participating in any meeting or discussion described in subparagraph (A) of this paragraph shall be deprived of the right of independent action if such party decides to refrain from executing any agreement reached as a result of any such meeting or discussion.

"(C) The antitrust immunity granted by this paragraph shall apply only if the parties provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Commission and made available to other Federal agencies in connection with their statutory responsibilities, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5.".

CAR SERVICE ORDERS FOR EXIGENT CIRCUMSTANCES

SEC. 308. Section 11123(a) of title 49, United States Code, is amended to read as follows:

"(a)(1) When the Interstate Commerce Commission finds that a shortage of equipment, congestion of traffic, or other failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States, the Commission may, for a period not to exceed thirty days—

"(A) suspend any car service rule or practice;

"(B) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section;

"(C) require joint or common use of facilities, on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section, when that action will best meet the emergency and serve the public interest; and

"(D) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

"(2) The Commission may extend any action taken under paragraph (1) of this subsection beyond the thirty-day period provided in such paragraph only if the Secretary of Transportation certifies that a transportation emergency exists.

"(3) In carrying out the provisions of this subsection, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.".

EMPLOYEE PROTECTION

SEC. 309. (a) Section 11347 of title 49, United States Code, is amended by inserting "or pursuant to section 1172(b) of title 11" immediately after "this title".

(b) In authorizing any abandonment of a railroad line under section 1170 of title 11, United States Code, the court shall require the rail carrier or carriers involved to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of title 49, United States Code.

(c) Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

Mr. FLORIO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. FLIPPO, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes, had come to no resolution thereon.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE ARTS AND THE NATIONAL COUNCIL ON THE ARTS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, July 24, 1980.)

ANNUAL REPORT FOR 1979 OF SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Public Works and Transportation:

(For message, see proceedings of the Senate of this date, July 24, 1980.)

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7631, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT — INDEPENDENT AGENCIES APPROPRIATIONS, 1981

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 727 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 727

Resolved, That during the consideration of the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 2, lines 8 through 16; beginning on page 3, line 3 through page 5, line 13; beginning on page 7, lines 6 through 21; beginning on page 7, line 23 through page 9, line 24; beginning on page 11, lines 5 through 20; beginning on page 14, line 18 through page 15, line 18; beginning on page 16, lines 19 through 22; beginning on page 18, line 2 through page 19, line 23; beginning on page 21, line 7 through page 22, line 24; beginning on page 25, line 1 through page 28, line 17; beginning on page 28 lines 19 through 24; and beginning on page 35, lines 9 through 13; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, Rule XXI are hereby waived: beginning on page 3, line 3 through page 4, line 2; beginning on page 4, lines 9 through 23; beginning on page 7, lines 11 through 21; and beginning on page 9, lines 1 through 24.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes for debate to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 727 is a rule waiving points of order under clauses 2 and 6 of rule XXI against certain sections of the bill H.R. 7631, the HUD—independent agencies appropriations for fiscal year 1981.

Unfortunately, Mr. Speaker, I should begin by noting that there is almost no housing money in this bill. The proposed authorization for the next fiscal year is so different from what it has been in the past, and so different from the Senate version, that the Appropriations Committee feels that so far they do not have enough information to recommend most of the appropriation. We will have to consider the funding for housing programs later in the year, after we have had a chance to address the authorization.

Nonetheless, there is a considerable amount of money made available by this bill, primarily for the independent agencies. The necessary authorizations for those appropriations are generally out of committee, and many of them have passed one or both Houses but, since they are not yet signed into law, the appropriations are not actually authorized.

As a result, one purpose of this rule is to waive points of order under clause 2 of rule XXI—which prohibits unauthorized appropriations—against several specified sections. Among the affected agencies, whose authorizations are not completely in place, are the EPA, NASA, and the National Science Foundation.

In addition, Mr. Speaker, clause 2 of rule XXI prohibits legislation in an appropriations bill. And, there are several sections of this bill that are protected by clause 2 waivers because, although the necessary authorizations may be in place, there is language in this bill that would technically be regarded as legislation in an appropriation.

In the paragraph entitled "Housing for the elderly or handicapped fund," for instance, is a requirement that the financial activities of the fund continue to be included in the budget of the U.S. Government. The provision has been carried in previous appropriations but is technically legislation and requires a clause 2 waiver.

The second set of waivers, Mr. Speaker,

is of clause 6 of rule XXI which prohibits reappropriations in an appropriation bill. There are several instances—in the housing for the elderly or handicapped fund, for example, and the troubled projects operating subsidy—where unexpended appropriations from previous years are made available again in the coming fiscal year. Since these provisions in effect reappropriate money that has already been appropriated, the waivers are necessary for those sections.

This bill, H.R. 7631, Mr. Speaker, is one of the major appropriation bills for fiscal year 1981. As I mentioned earlier, the committee was unable to provide much of the money for the Department of Housing and Urban Development due to considerable uncertainty over the shape of the final authorization. But, this appropriation does contain much of the funding for a number of important independent agencies, including the Consumer Product Safety Commission, the Environmental Protection Agency, the Federal Emergency Management Agency, and the Veterans' Administration.

It is an important piece of legislation, Mr. Speaker, and I urge the adoption of this rule in order to expedite its consideration.

□ 1430

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 727 is the rule making in order consideration of H.R. 7631, the 1981 appropriations bill for the Department of Housing and Urban Development and 20 independent agencies and offices.

The rule waives clause 2 of rule 21 against specific provisions of the bill since it provides appropriations for programs in nine areas for which authorizing legislation has not yet been enacted into law. For this reason, the rule before us waives all points of order that would otherwise lie against consideration of the bill under clause 2 of rule 21 for portions of titles I and II.

In addition, the rule waives points of order under clause 6 of rule 21 since five of the appropriation paragraphs in title I continue the availability of funds provided in prior appropriations and to negate special limitations carried in previous appropriations acts. Since these provisions constitute reappropriations language, this rule waives points of order that would otherwise lie against consideration.

Mr. Speaker, H.R. 7631 is one of the major appropriations bills before the Congress for the 1981 fiscal year, totaling over $39 billion in new budget authority for the Department of Housing and Urban Development, and some 20 other agencies, including the Veterans' Administration.

Included in the bill is $5.9 billion for HUD in fiscal year 1981, far less than the $33.5 billion in current funding because the Committee on Appropriations deferred action on a major account—assisted housing—until an authorization measure has been enacted.

The bill also provides $11.6 billion for VA compensation and pensions; $6 billion for VA medical care; $4.6 billion for general revenue-sharing funds for State and local governments; $3.8 billion for HUD's community development block grants; $3.4 billion for EPA construction grants; and $1.1 billion for NASA.

Despite the deferral of action on major accounts by the Committee on Appropriations, the amount of taxpayers dollars appropriated in this bill is enormous and several of the specific programs are controversial. There will be several amendments offered, including one by our colleague from Ohio, Clarence Miller, to reduce the overall amount by 2 percent for accounts not obligated by law, with no more than a 5-percent cut from any single account.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

● Mr. LEATH of Texas. Mr. Speaker, contained within the legislation before us, H.R. 7631, is the budget for the Consumer Product Safety Commission. At this time I would like to call to the attention of this House a concern I have.

As many Members may be aware, Congress, in 1978, passed the Emergency Interim Consumer Product Safety Standard Act, Public Law 95–319. This legislation directed the Commission to establish a rule relating to the standards for flame resistance and corrosiveness of certain insulation, especially cellulose.

I have read the legislation and do believe it is a responsible action of Congress. It is my understanding that both the industry and the consumer groups supported this legislative directive.

The Congressional mandate stipulated that the Commission would rely on the GSA standards; however, it is my understanding that they have instead adopted different tests and procedures. I also understand that many independent laboratories question the reliability of these tests and point to the fact that the results produced by the Commission cannot be reproduced or repeated by these laboratories. This being the case, I would like to call this to the attention of the Commission and would hope they would take the necessary steps to meet scientific standards of accuracy before trying to close down small manufacturers of cellulose insulation.

For example, in my home State of Texas, we had some 63 manufacturers of cellulose 3 years ago. Today, only 14 have survived. Mr. Speaker, this is a survival rate of only 22 percent, and it is felt by the industry that the main reason for that failure rate is the negative publicity generated by the Commission for cellulose. This negative publicity is dependent upon the questionable tests and procedures developed by the Commission.

Again, I would like to call to the attention of the House the costly burden felt by cellulose manufacturers. Congress has the duty and responsibility to engage in oversight since Congress did pass earlier legislation, and I believe the Consumer Product Safety Commission should be aware of our continuing concern. I would hope that the Commission could work more cooperatively with the industry and the independent laboratories to develop responsible tests and procedures.●

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON THE BILL MAKING APPROPRIATIONS FOR THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES, 1981

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

Mr. COUGHLIN reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. Minish). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7631, and that I be permitted to include tables, charts, and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1981

Mr. BOLAND. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1½ hours, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. Coughlin) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. Boland).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7631, with Mr. Levitas in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Massachusetts (Mr. BOLAND) will be recognized for 45 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, I yield myself such time as I might require.

I first want to compliment the distinguished ranking minority member of this subcommittee, the gentleman from Pennsylvania (Mr. COUGHLIN), and the minority members for their work on this bill. I also wish to thank all of the majority members who serve on the Subcommittee on HUD-Independent Agencies.

Mr. Chairman, the 1981 HUD-independent agencies appropriation bill includes $39.6 billion in new budget authority for the Department of Housing and Urban Development and 20 independent agencies. That is a decrease of $771.7 million below the budget estimates considered.

Before I detail some of the actions recommended by the committee, I want to point out that we have deferred funding for three major accounts in the bill. They are: Annual contributions for assisted housing—local government transitional assistance—and the National Aeronautics and Space Administration's research and development activity. In the case of subsidized housing and the local government transitional assistance program there are new authorizations required in 1981 that will probably significantly alter the existing program structures. We felt that appropriating funds for these activities at this time without the necessary authorization does not give us an opportunity to review what we expect may be major programmatic changes.

As you know, the 1980 housing and community development bill has been reported to the House and may be considered on the floor in the next few days. That bill includes significant changes in the subsidized housing programs. For example, the Banking Committee is recommending a change in the "mix" of new and existing subsidized housing units—it is recommending an entirely new public housing comprehensive improvement assistance program—it is recommending a new multi-family housing initiative program that will incorporate a shallow subsidy for the middle-income American—and it is recommending a revised section 235 homeownership assistance program. The Senate version of the same bill is somewhat different and before we recommend up to $33.2 billion in budget authority for these programs we want to see what the bottom line will be in that authorization bill.

We are also recommending deferral of the principal NASA account pending enactment of the 1981 authorization bill—and I might say pending the satisfactory resolution of some other matters that are of concern to the committee.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Although we are temporarily deferring funding for the major subsidized housing account in HUD—I wanted to point out that last year this committee recommended a change in the mix between new and existing section 8 units. At that time we felt that by taking some of the contract authority away from the new units and providing it for existing section 8 housing, we would be able to make available 13,000 more subsidized units within the same number of dollars. That change which we suggested was not ultimately adopted by the Congress and was opposed by the members of the Committee on Banking, Finance, and Urban Affairs.

As I mentioned a few minutes ago—the authorization committee is now relooking at that recommendation of ours, and has suggested a "mix" change which even goes beyond what we were recommending last year. So it is encouraging to see that one of the things that we felt was important to do is being addressed by the legislative committee—and I would hope that when their authorization is completed that the change in the mix survives the entire congressional process.

Now, getting on to some of the other HUD programs—we have provided $830 million for the section 202 elderly or handicapped program. This will support approximately 19,000 additional elderly housing units in 1981.

We have reduced the troubled projects operating subsidy program by $10 million—but as the report details on page 7, this should not impair the 1981 program because the assumed carryover from 1980 is expected to be at least $10 million higher than the $65.9 million currently estimated.

On page 9 of the report, we are recommending $90 million by transfer for the new Solar Energy and Energy Conservation Bank. The Solar Energy and Energy Conservation Bank is a new entity within the Department of Housing and Urban Development. We are recommending the inclusion of these funds at this time to insure that the conservation and solar subsidies will be available to consumers during the 1980 and 1981 winter heating season. The $90 million is being derived by transfer from the Department of Energy's alternative fuels production, solar, and conservation reserve.

For the community development block grant program and the urban development action grant program we have included the legislative committee's recommendations of $3.81 billion and $675 million, respectively.

We have reduced the comprehensive planning grants program by $17,500,000 and have directed that of the balance, $20,000,000 be available only for metropolitan and nonmetropolitan areawide planning organizations and $2,500,000 be available for use by all eligible recipients to continue the work-study program for disadvantaged and minority students.

We have offset the reduction in the comprehensive planning grants program by adding $20 million to the rehabilitation loan program. The original budget request proposed by the President for this activity was $188 million. That was reduced to $124 million in the April budget revision. We have restored $20 million of that $64 million decrease because we feel that the section 312 rehabilitation loan program is an excellent program—one that works—and one that provides housing for low, moderate, and middle-income Americans.

Finally, under HUD, we have provided $10 million for the housing counseling assistance program; $9 million for the neighborhood self-development program; and $50 million for the research arm of the Department.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

For the regular operational accounts of the Environmental Protection Agency the budget request was $1.4 billion. The committee has recommended all but about $55 million of that funding level for 1981. Within the $1.3 billion, the committee has made some modest "puts and takes," and these additions and subtractions are detailed on pages 18 through 27 of the report.

In addition, $3.7 billion was requested for the construction grants program. The committee has reduced that by $300 million. This level of funding is identical to the 1980 appropriation. The committee felt that in view of the proposed deferral of $3.2 billion of 1980 funds into 1981, the total of $6.6 billion available for the program is sufficient.

FEDERAL EMERGENCY MANAGEMENT AGENCY

For the Federal Emergency Management Agency, the committee is recommending $1,195,937,000. This is $54.8 million below the budget request. The principal reductions recommended are $23 million from the $120 million requested for Civil Defense, and $28 million from the $603 million requested for restoration of funds to the national flood insurance program.

The $23 million reduction in Civil Defense is primarily targeted in the plans and preparedness activity. Basically, the position of the committee is not unlike its position last year. We believe that we have not received adequate assurance or documentation of any coherent national civil defense policy. Without such assurance, we do not believe the significant increase requested above 1980 is warranted. The fact is that the budget request simply does not have any real support behind it. What we need is a firm multi-year redirection of our civil defense program. When we get that—you can be assured that this committee will review it carefully and give it very serious consideration. But until that time, these nickel and dime increases are really not well thought out or well directed.

NATIONAL SCIENCE FOUNDATION

For the National Science Foundation we are providing the full budget request of $1,074,000,000. This is an increase of $77.7 million above the current fiscal year. We have reduced the major research account by $10 million and transferred that to the science education activity which we feel has been underfunded for some years. However, the total for the Foundation is identical with what was recommended in the President's revised budget.

While discussing the budget of the Foundation I want to take just a minute to say a few words about Dr. Richard C. Atkinson who is resigning as Director of the NSF to become chancellor of the University of California at San Diego.

Dr. Atkinson brought to his work a sense of purpose—a sense of vitality—and a sense of what was important. He had a special quality that was rare among the witnesses appearing before our subcommittee. Above all, he was always forthright. He understood what the Foundation was about, and he was one of their most effective spokesmen in the NSF's 30-year history.

The National Science Foundation and the Congress are going to miss Dick's sense of excellence—but our loss is the University of California's gain. And I want to express for myself and for the other Members of the Appropriations Committee, our best wishes to Dr. Atkinson for a long, healthy, and prosperous career in San Diego.

SELECTIVE SERVICE SYSTEM

For the Selective Service System we are recommending $27,137,000 which is a reduction of $8.3 million from the budget request. The reduction consists of $7.6 million requested to register women and a $750,000 general reduction is to be applied at the discretion of the agency.

REVENUE SHARING

The Committee has included the budget request of $4,569,949,000 for general revenue sharing in 1981. This represents a continuation of the existing program—minus the $2.3 billion formerly targeted as the States' share. This action conforms with the revised request of the President and with the 1981 first concurrent resolution on the budget.

I should point out that this program requires reauthorization—but it is our general understanding that the reauthorization will not significantly change the program for the 39,000 local jurisdictions currently receiving general revenue sharing.

VETERANS' ADMINISTRATION

For the programs of the VA we are recommending $20,729,436,000 in 1981.

The revised budget requested by the President in April reduced the medical care appropriation by approximately $197 million. We have restored $85.4 million of that reduction including $21 million for an additional 1,000 direct health care personnel that were not requested by the President. However, we have also made corresponding reductions to finance the increase in medical care—where we believe the high priorities should be. The committee recommended a decrease of $143 million in the major construction activity. Now let me make clear to the members of the committee that the reductions from the construction account are primarily targeted at six projects—namely Brooklyn, Denver, Little Rock, Miami, Seattle, and Sepulveda, which we did not believe would require any funds in fiscal year 1981. We are not making these reductions permanent. These reductions are made without prejudice, and we will add in these funds in 1982 when the funds can be used. But the fact is that it did not make any sense to appropriate money that could not be used.

Since the subcommittee marked-up, the VA has changed its position and now indicates the $14,240,000 for Little Rock is needed in 1981. Mr. HAMMERSCHMIDT will offer an amendment at the proper time to add funds for Little Rock, and I will accept that amendment.

In addition, we have cut $28 million from four low priority projects that we feel could be legitimately eliminated. Also, we have eliminated the Wichita nursing home care bed project which was not authorized by the Veterans Affairs Committee. I might say that not only was it not authorized—even if it had been—we probably would have recommended the reduction in view of the fact that the Veterans' Administration announced the go-ahead on this project before they had even received the funding from the Congress. I don't think that is the correct procedure. I do not think it is the way that we should operate with the executive branch—and therefore we are sending them a message in making this reduction.

I might also point out that in terms of construction of major projects, we are including $376 million in this bill which is $65 million above the level of last year.

In other veterans programs we are providing the budget requests with the exception of minor construction where we make a small $13.5 million reduction from $140.5 million requested and in readjustment benefits—the GI bill—where we are legislating an elimination of all flight and correspondence training programs in 1981. That action will save $56.3 million. It has been requested by the President for many years. It is long overdue in coming. We understand that the legislative committees are considering a revision in the basic legislation accomplishing the same purpose—and we want to show our support by actually legislating the end of these two activities in this bill.

I think it is important to understand that the elimination of flight training benefits is not targeted at a high priority program. These benefits were designed to enhance readjustment to civilian life and to provide training for basic employment. However, it has long since become clear that the programs are not meeting those goals. What they are doing is providing training for recreational purposes that very often does not lead to professional full-time employment.

Finally, Mr. Chairman, the VA has about 70 Visual Impairment Service (VIS) teams across the country. The teams provide a variety of services to blinded veterans. It is the committee's intention that, within available resources the number of centrally funded VIS team coordinator positions be increased by at least 12.

Mr. Chairman, that concludes my summary of the bill.

SUMMARY OF ESTIMATES AND NEW BUDGET (OBLIGATIONAL) AUTHORITY IN BILL

Department or agency	Appropriations, 1980	Budget estimates, 1981	Recommended in bill	Bill compared with— Appropriations, 1980	Bill compared with— Budget estimates, 1981
(1)	(2)	(3)	(4)	(5)	(6)
American Battle Monuments Commission	$7, 603, 000	$8, 897, 000	$8, 967, 000	+$1, 364, 000	+$70, 000
Cemeterial expenses, Army	8, 326, 000	5, 135, 000	5, 135, 000	−3, 191, 000	--------
Consumer Information Center	1, 315, 000	1, 421, 000	1, 409, 000	+94, 000	−12, 000
Consumer Product Safety Commission	40, 600, 000	43, 489, 000	43, 489, 000	+2, 889, 000	--------
Council on Environmental Quality	3, 126, 000	3, 400, 000	3, 200, 000	+74, 000	−200, 0000
Department of Housing and Urban Development	33, 555, 193, 000	6, 129, 520, 000	5, 937, 410, 000	−27, 617, 783, 000	−192, 110, 000
Department of the Treasury	6, 911, 233, 000	4, 666, 639, 000	4, 666, 389, 000	−2, 244, 844, 000	−250, 000
Environmental Protection Agency	4, 660, 242, 000	5, 084, 317, 000	4, 729, 065, 000	+68, 823, 000	−355, 252, 000
Federal Emergency Management Agency	441, 930, 000	1, 250, 738, 000	1, 195, 937, 000	+754, 007, 000	−54, 801, 000
Federal Home Loan Bank Board [1]	(51, 825, 000)	(56, 250, 000)	(54, 135, 000)	(+2, 310, 000)	(−2, 115, 000)
National Aeronautics and Space Administration	4, 923, 500, 000	1, 153, 154, 000	1, 133, 154, 000	−3, 790, 346, 000	−20, 000, 000
National Commission on Air Quality	5, 500, 000	2, 476, 000	2, 000, 000	−3, 500, 000	−476, 000
National Consumer Cooperative Bank	24, 950, 000	43, 634, 000	37, 700, 000	+12, 750, 000	−5, 934, 000
National Institute of Building Sciences	750, 000	625, 000	625, 000	−125, 000	--------
National Science Foundation	996, 250, 000	1, 074, 000, 000	1, 074, 000, 000	+77, 750, 000	--------
Neighborhood Reinvestment Corporation	12, 000, 000	13, 426, 000	12, 000, 000	--------	−1, 426, 000
Office of Consumer Affairs	1, 861, 000	2, 457, 000	2, 308, 000	+447, 000	−149, 000
Office of Science and Technology Policy	2, 625, 000	2, 921, 000	2, 712, 000	+87, 000	−209, 000
Velective Service System	7, 830, 000	35, 482, 000	27, 137, 000	+19, 307, 000	−8, 345, 00
Seterans Administration	20, 331, 055, 000	20, 862, 092, 000	20, 729, 436, 000	+398, 381, 000	−132, 656, 000
Total	71, 935, 889, 000	40, 383, 823, 000	39, 612, 073, 000	−32, 323, 816, 000	−771, 750, 000

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[1] Limitation on corporate funds to be expended.

□ 1450

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the distinguished chairman of the Veterans' Affairs Committee. Let me say that I regret that the distinguished chairman, the gentleman from Texas, is not running for reelection. His service on the Veterans' Affairs Committee and also on the Public Works and Transportation Committee have been of tremendous benefit to this Nation. His concern for the veterans is well recognized all over this Nation by veterans' organizations and by all of us who serve on this committee.

Again, I regret his leaving the Congress, but I wish the gentleman well in the years to come. I am delighted to yield to my distinguished friend, the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I certainly appreciate the gentleman yielding and I appreciate his kind remarks. Above all, I appreciate the way the gentleman has handled veterans programs over all these years that I have been in the Congress. I am very grateful to the gentleman from Massachusetts.

I am grateful that the gentleman put back the Little Rock Hospital, provided they meet the starting deadline, and I agree with the gentleman's deadline.

There are one or two other veterans items that we do not totally agree on, but basically I think we can work those out.

I want to commend the gentleman to the Members of the House and to all the veterans of this country for the great service Mr. BOLAND has provided to them.

Mr. BOLAND. Mr. Chairman, I thank the gentleman.

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we finally have this bill on the floor.

Today the House is considering the fiscal year 1981 Housing and Urban Development-independent agencies appropriations bill. The chairman (Mr. BOLAND) has done as good and thorough a job of explaining the bill and its contents as he has in conducting the hearings. It is a genuine pleasure to work with so distinguished and fair a gentleman. The chairman, members of the subcommittee, and I are aided by a good staff: Kenny Kraft and Mary Silveira for the minority and Dick Malow, Paul Thomson, Del Davis, and Marilyn Mueller.

The bill contains $39,612,073,000 in new budget authority. This is $771,750,000 below the budget estimates considered.

Actually, what is omitted is just as interesting as what is in this appropriation. This is a HUDless HUD bill. Consideration of our largest account, $33 billion in federally assisted housing money, has been deferred pending authorization. Also deferred are local government transitional assistance and National Aeronautics and Space Administration research and development funds.

Overall, the minority supports the bill. Although I will not rehash what the chairman has just said about specific accounts, let me draw your attention to several minority initiatives.

Bill language forbidding HUD from implementing final energy conservation performance standards, also known as the odious BEPS. As you will note, both the House and Senate authorization committees have approved amendments which would extend the deadline for issuing standards from August 1980 to August 1982.

Bill language insisting that any State implementation plan (SIP) approved by the Environmental Protection Agency (EPA) comply with section 110 (a)(2)(E) of the Clean Air Act. This will insure that no State will be prevented from attainment or maintenance of ambient air quality standard due to approval of another State's SIP.

Bill language prohibiting compensation of intervenors. This is similar to limitations carried in other appropriations bills. It is the duty of the Federal Government to protect the citizens, not pay for someone to sue it. The situation is getting so bad that the EPA lied during hearings about its intentions with regard to the use of intervenors.

The one amendment I will have is to reduce the urban development action grant program of HUD from $675,000,000 to $500,000,000. It is a good program but it is discretionary. It is one of the places which can be cut in order to control Federal spending.

Mr. Chairman, I will have more to say about that later, and I reserve the balance of my time.

● Mr. LENT. Mr. Chairman, contained within the legislation before us, H.R. 7631, is the budget for the Consumer Product Safety Commission. At this time I would like to call to the attention of this House, a concern I have.

As many Members may be aware, Congress, in 1978, passed the Emergency Interim Consumer Product Safety Standard Act, Public Law 95–319. This legislation directed the Commission to establish a rule relating to the standards for flame resistance and corrosiveness of certain insulation, especially cellulose.

I have read the legislation and do believe it is a responsible action of Congress. It is my understanding that both the industry and the consumer groups supported this legislative directive.

The congressional mandate stipulated that the Commission would rely on the GSA standards; however, it is my understanding that they have instead adopted different tests and procedures. I also understand that many independent laboratories question the reliability of these tests and point to the fact that the results produced by the Commission cannot be reproduced or repeated by these laboratories. This being the case, I would like to call this to the attention of the Commission and would hope they would take the necessary steps to meet scientific standards of accuracy before trying to close down small manufacturers of cellulose insulation.

For example, in my home State of Texas, we had some 63 manufacturers of cellulose 3 years ago. Today, only 14 have survived. Mr. Speaker, this is a survival rate of only 22 percent, and it is felt by the industry that the main reason for that failure rate is the negative publicity generated by the Commission for cellulose. This negative publicity is dependent upon the questionable tests and procedures developed by the Commission.

Again, I would like to call to the attention of the House the costly burden felt by cellulose manufacturers. Congress has the duty and responsibility to engage in oversight since Congress did pass earlier legislation, and I believe the Consumer Product Safety Commission should be aware of our continuing concern. I would hope that the Commission could work more cooperatively with the industry and the independent laboratories to develop responsible tests and procedures.●

● Mrs. CHISHOLM. Mr. Chairman, I would like to express my serious and active concern, within the context of appropriations for the Environmental Protection Agency, with the lagging implementation of the agency's minority business enterprise participation in its grant-in-aid program. I realize that my concerns could have been voiced to the subcommittee earlier in the consideration of H.R. 7631, but I have only recently become fully aware of the scope of the problem and asked subcommittee members to join in efforts to resolve it.

Several minority firms have complained to me that their experience with EPA, the grantees and EPA's office of civil rights have been far from positive. While the MBE program initially made some progress in directing wastewater treatment works design and construction funds to minority consultants and contractors, a fragmented approach combined with inadequate monitoring, technical assistance and minority input have brought complaints and setbacks.

EPA is attempting to implement the program out of its regional offices, rather than under close scrutiny in Washington, and has not: First, provided the necessary resources to monitor MBE participation on grant-in-aid projects; second, included MBE participation in its computerized monitoring system; third, developed a national plan for implementation or monitoring MBE participation; or fourth, established sufficient minority participation or representation on its advisory committee.

Even worse, EPA now plans to shift responsibility for the program from its office of civil rights to the local engineers whose attention to minority businesses would be nearly impossible to determine until long after the money has been spent, if ever. I already have evidence, from projects in Richmond, Va., and Hagerstown, Md., that the local project directors will make little effort to attract minority firms; often claiming that none are locally available while at the same time reaching out hundreds of miles for other engineering or planning contracts.

I have made my concerns known to EPA Administrator Douglas Costle, and have requested of him a full report of the MBE program to date. I am happy to have this opportunity to draw my colleagues' attention to this situation, and hope that many of you will share my active interest in achieving a meaningful and significant role for minority contractors in these major construction projects.●

● Mr. CORRADA. Mr. Chairman, the HUD-independent agencies appropriations bill before us today for debate, H.R. 7631, is an important instrument in easing the present condition of our national housing industry, and in providing funds for the many vital programs of the Department of Housing and Urban Development.

I rise in strong support of this bill as reported to the House.

This legislation, which provides $39.6 billion in new budget authority for fiscal year 1981 for the Department of Housing and Urban Development also funds basic programs of the Veterans' Administration, the Environmental Protection Agency and the U.S. Treasury Department.

While slightly below the administration's budget request for some programs in the subcommittee bill, this bill authorizes $675 million for such vital programs as the continuation of the Carter administration's urban development action grant program (UDAG). Also, the slight increases in HUD's Community Development block grant program and other housing programs are a clear signal to our urban communities that vital housing and community development funds will continue uninterrupted in the coming fiscal year.

Puerto Rico, under the community development block grant program (CDBG) alone, is expected to receive slightly more than $110 million next fiscal year and our Island's involvement in the urban development action grant has seen increasing activity in recent months.

More than any other program, the community development block grant has given our cities the needed flexibility in determining local needs and priorities. This significantly contributed to enhancing and improving the quality of life for the large portion of this country that lives in what is broadly known as "urban America."

The UDAG program not only effectively targets funds to the areas of greatest needs, but additionally involves the private sector as a true partner in urban development activities, bringing about better and increased housing opportunities.

In addition, the continuation and expansion of veterans' compensation and pensions will certainly have an immediate favorable impact on the Nation's veterans. Puerto Rico alone has slightly more than 156,000 veterans living in our population and this appropriations bill will assure them that our Government clearly recognizes their contribution to this Nation.

Mr. Chairman, this bill provides that the basic operating expenses of these agencies shall continue at a sustained, and in some instances, at an increased level and it merits our strong support.

The HUD programs particularly, are vital ingredients to a strong economy, in Puerto Rico as well as in the Nation as a whole, and the consideration and passage of this bill is important to all of us. I hope the House moves speedily to pass this important appropriations measure.●

● Mr. BIAGGI. Mr. Chairman, I rise in strong opposition to this amendment, which would reduce the appropriation for HUD's urban development action grant program from $675 million to $500 million for fiscal year 1981.

My opposition is based on the fact that I have seen firsthand the significant and positive impact this program has had on our Nation's urban environment. Since the program's beginning in 1978, over $1.1 billion has been awarded nationally to revitalize "severely distressed" cities. The program goals are accomplished by using public funds to attract industry, create jobs, strengthen urban tax bases, and leverage private investment into the area.

My home State of New York has received $89 million in UDAG funds to date. New York City has received 23 UDAG's over the past 2 years, totaling approximately $33.5 million. The program's achievements have been most apparent and impressive.

UDAG funds have been particularly beneficial to the extensive revitalization effort in the south Bronx, an area where residential and commercial growth was nonexistent prior to the beginning of this program. As part of President Carter's strong commitment to rebuilding the south Bronx, millions of dollars in UDAG funds have been pumped into this severely distressed area to create a more positive environment by providing more jobs, a more attractive physical appearance, new industry, and increased neighborhood development.

Specific UDAG awards to the south Bronx have included over $1.5 million dollars to help establish a plastic bottle manufacturing plant, PETCO, Inc. This award will result in over 340 new jobs for low and moderate income people in the community, and will stimulate a large portion of private investment in the area.

Another UDAG award of over $1 million has allowed a wholesale grocery distributor, Best Way, to consolidate and expand its 15-year-old operation in the south Bronx. The project will provide a significant boost to the Bronx economy by creating 123 new jobs, mostly for persons from low and moderate income households, and retaining 77 jobs in the community. In addition to leveraging over $2.5 million private financial commitment in the Bronx, the UDAG award will also have a positive impact on the physical appearance of the Bronx by replacing a garbage strewn vacant lot with an attractive industrial facility.

Mr. Chairman, as a representative and lifetime resident of New York City, I can certainly attest to the need for vital programs aimed at combating urban blight. The Carter administration has done a great deal to effectively address this serious problem, and the UDAG program is certainly an essential component of that effort.

I might also note that the President's request and this legislation do not provide for any increase in UDAG funding over the fiscal year 1980 level of $675 million. Certainly, this is not a unreasonable request for a program that has proven so effective.

I urge this body to continue its commitment to our Nation's cities at a time when most are facing fiscal crises—to provide new jobs at a time of high unemployment—to stimulate private and commercial investment at a time when such investments are absolutely essential to combat inflation. I strongly urge the continuation of UDAG, a highly efficient Federal program at a time when there is too much government inefficiency. We should overwhelmingly defeat this amendment aimed at weakening one of our Nation's most valuable programs.●

● Mr. ROBERTS. Mr. Chairman, as Chairman of the Committee on Veterans' Affairs, I have mixed feelings about the appropriations contained in this bill for the Veterans' Administration.

I want to commend the distinguished chairman of the subcommittee, the very able gentleman from Massachusetts (Mr. BOLAND), for the positive action he is taking to correct several deficiencies. I am very pleased that the bill contains an increase of $85 million above the President's request for medical care. Over the years the gentleman and members of his subcommittee have placed a very high priority on the medical care budget. This increase is earmarked for the following:

First, $21,609,000 for 1,000 additional direct health care personnel (staff years).

Members of the House are acutely aware of the problems we have had during the past 3 years with reductions in medical staff and operating beds. Last year the gentleman from Massachusetts and his subcommittee very wisely added funds for 3,800 FTEE to restore some of the reductions of fiscal year 1979. This additional 1,000 FTEE added to the 3,800 last year will restore most of the cuts previously made.

Second, $10,600,000 to restore a 500,000 outpatient visit reduction proposed by the President this past April.

Third, $8,762,000, to treat 2,000 additional patients in community nursing homes. The community nursing home program is a very cost-effective program.

Fourth, $15,000,000 to restore the proposed reduction in beneficiary travel. I am pleased that the subcommittee has not accepted the President's request to reduce beneficiary travel by $15 million. We have had a tremendous problem with beneficiary travel during this year. The Office of Management and Budget placed a cap on the amount of beneficiary travel allowances to be made which created major problems. The cap resulted from OMB's interpretation of language contained in the continuing resolution for 1980 limiting allowances to be paid for employee and transportation expenses. In addition, the Veterans' Administration underestimated the amount needed for fiscal year 1980. Many veterans, both non-service-connected and service-connected, were not reimbursed for their travel to VA health-care facilities even though they were eligible under current law to receive the beneficiary travel allowance.

Mr. Chairman, although I applaud the subcommittee for not accepting the President's proposed cut in this account, I am not totally pleased with the language contained in the committee report on page 46. The report states: "The Committee expects the VA to take the necessary action to limit beneficiary travel to the amount provided." Although I share the view that hospital directors should better manage this account, in my view, the Veterans' Administration is without authority to comply with this clear intent of the committee.

Beneficiary travel has always been interpreted by the Veterans' Administration to be an entitlement. Therefore, if the number of eligible veterans who apply for beneficiary travel exceed the number projected by the committee, it may require more than the $70,000,000 being appropriated for fiscal year 1981. Should that be the case, then the amount that it exceeds this figure would have to be absorbed from other appropriated funds or the agency would be required to seek a supplemental appropriation for this purpose.

Members should be advised that, in all probability, beneficiary travel for veterans during the next fiscal year will approach $80 million or more, rather than the $70 million provided for in this bill.

Fifth. $30,000,000 to partially restore the proposed reductions in the supplies and materials, equipment and land structures classifications.

The committee is to be commended for these actions, Mr. Chairman, and I want to acknowledge the good work of the committee in seeking to relieve some major problems facing the chief medical director during the next fiscal year. This action will assist him greatly.

I am very pleased that the committee is recommending the President's budget request for medical and prosthetic research—$129,496,000.

Now I will direct my attention to those actions in which I do not concur. First, I am very disappointed in the committee's action to reduce the medical administration and miscellaneous operating expenses account by $5,289,000. I note that $4,894,000 of the total reduction is for the development of Department of Medicine and Surgery's proposed health care information system. I happen to believe this reduction is a tragic mistake.

For years, the VA has been been handling its administrative functions manually. In recent testimony before our Subcommittee on Special Investigations, the director of a major VA health care center, in strongly urging the Congress to implement a modern information system, put it this way:

> I would like to say that the American Hospital Association made a survey not too long ago, and they found out that 60 percent of their hospitals throughout the nation are automated. Of the balance, 20 percent plan to be automated within the next few years. We presently find ourselves with a Model T Ford going down Route 95, trying to keep pace with the cars of the seventies and coming into the eighties. We feel very strongly that, as health care professionals, to support the physician in getting the job done, we need automation in our medical centers, and we solicit your support.

I recognize there have been some problems in the agency and problems between the agency and the Office of Management and Budget concerning the implementation of this system; however, most of the problems have been resolved and OMB has finally approved the funding for the project and included a modest amount in the budget request for such purpose. For the Appropriations Committee to delete these funds is a mistake. We cannot allow the current trend to continue. We must put an end to veterans having to wait 2, 3, or 4 hours to see a physician or to have a prescription filled. We can no longer tolerate medicines being provided to veterans from two or more VA hospitals, when in some instances it may be endangering his or her health. We must modernize the system and we must begin without further delay.

I want to alert my colleagues that I shall offer an amendment at the proper time to restore the cut in this account and I would urge my colleagues to support the amendment.

Finally, I want to express my concern about the reductions made in the President's proposed construction budget. The committee is proposing a reduction of more than $143 million. The cuts include projects in Brooklyn, Denver, Little Rock, Miami, Seattle, Sepulveda, Atlanta, Danville, Hines, Long Beach, and Wichita. Some of the reductions are recommended without prejudice, on the basis that none of the funds will be required in fiscal year 1981.

I fully realize the frustrations we all have experienced from time to time with the procedures of the Veterans' Administration relating to construction. Our committee has experienced difficulty in obtaining "firm" figures and schedules from various agency officials. Some of these problems are in the construction service. Some are caused by the department of medicine and surgery when officials working on projects continually change their mind about the scope of a particular project. Some of the problems can be attributed to the Controller's Office. And some of the delays and confusion lies with "the 10th floor."

Notwithstanding these past experiences, I am advised by the Administrator's staff that, except for the Seattle project, the Administrator plans to appeal all of the reductions. I would hope the cuts can be restored if, in fact, the Administrator provides assurance that the funds can be obligated during fiscal year 1981.

The Administrator has personally advised the ranking minority member of our committee, the Honorable JOHN PAUL HAMMERSCHMIDT, and myself, that the Little Rock, Ark., project is on schedule, and I plan to join Mr. HAMMERSCHMIDT when he offers an amendment to restore the funds for this project.

Mr. Chairman, I shall enthusiastically support an amendment which will be offered by my distinguished colleague from Minnesota, the Honorable TOM HAGEDORN, to strike that portion of the bill that would restrict the number of beds for the new replacement hospital in Minneapolis. We cannot allow local health planning agencies to determine what the bed level should be in any VA facility, and I will be strongly urging every Member of the House to join us in support of Mr. HAGEDORN's amendment when it is offered.

On balance, this appropriations measure will allow the agency to fulfill its obligations to our Nation's veterans. I feel the amendments to be offered will enhance the lives of every veteran eligible for, and who seeks, assistance from the agency. I commend the very able gentleman from Massachusetts, Mr. BOLAND; the ranking minority member of the subcommittee, Mr. COUGHLIN; the great chairman of the full committee, Mr. WHITTEN, and the able ranking minority member of the full committee, Mr. CONTE, for getting this bill to the House for consideration. Veterans throughout the country are grateful for their commitment and assistance.●

● **Mrs. HECKLER.** Mr. Chairman, I rise in support of the Committee's action on H.R. 7631. This bill represents a beginning—but only a beginning of better housing for more Americans.

As you know, the dream of home ownership and the hope of affordable rentals are becoming part of the distant past for many Americans. This bill has many provisions which will help to relieve some of our most serious housing pressures. For example, the rent supplement program brings relief to lower- and moderate-income tenants—those who are hit hardest by the strong gusts of inflationary winds. Assistance for Solar and Conservation Improvements is provided for under this legislation. I have seen, in my own district in New England, the tremendous upsurge of interest in and the need for solar technology and better conservation methods. Funding for these areas will, I believe, spark even more citizen commitment to energy independence.

But the provision of this bill that comes closest to my heart is the Housing for the elderly or handicapped fund. This Fund means there will be solid housing benefits for the elderly and the handicapped. It is the backbone of an essential—a vital—loan program for the needy of our Nation.

The fund makes money available at a little better than market interest rates and that is some help in these bleak economic times. What is particularly attractive about this Housing Fund is its two-pronged approach to the problems of housing for senior citizens and those with special problems.

This revolving fund will permit loans to be made to nonprofit sponsors to build housing units. The fund is set up so that the elderly and handicapped will not have to pay more than 25 percent of their adjusted income for rent. The legislation assists in the actual construction of units. In addition, the legislation helps people pay their rents. Too often in the past, senior citizens and handicapped citizens were unable to afford to pay the rent for even subsidized housing units.

But, again, I urge my colleagues to consider this legislation as only the beginning. There is much that remains to be done. This becomes increasingly clear to me in my work on the Veterans' Affairs Committee, where I am deeply involved with housing issues for veterans. As chairperson of the subcommittee on housing at the recent Republican Convention, I researched and studied the entire range of issues that will touch on housing decisions that must be made in the next decade and beyond.

We need new initiatives in the area of creative financing to revitalize and rehabilitate our neighborhoods—to keep them alive. We need to encourage home ownership by making home ownership opportunities available to families—particularly young families just beginning to earn good incomes. Under present conditions, this is almost impossible. I have found the average cost of a new home in my State of Massachusetts is now $72,000. At these prices, it would take more than the average incomes of both a young husband and wife to purchase a new home. It is imperative that we look to more far-reaching and innovative programs to aid young families with moderate incomes.●

● Mr. FLORIO. Mr. Chairman, I would like to commend the efforts of my colleagues on the Appropriations Committee who have worked so diligently to bring this bill, H.R. 7631, to the floor for consideration. Their task was made especially difficult due to the severe budget constraints facing us this fiscal year. However, I feel it necessary to express my deep concern over some provisions in this bill that would succeed in wasting past expenditures by virtue of saving incremental expenditures in the future.

By this, I am referring to the committee recommendation that the existing program to provide financial assistance to localities for resource recovery planning under the Resource Conservation and Recovery Act be eliminated. This recommendation is based on the committee's determination that the $25 million total provided in fiscal year 1979 and 1980 to support 63 projects obviates the need for an additional $10 million as requested in fiscal year 1981. The Environmental Protection Agency, on the other hand, has budgeted $35 million for a three-phase resource recovery planning program.

This reduction in funds occurs at a particularly unfortunate time. Over the past year, Congress has made energy sufficiency and environmental pollution caused by solid wastes a priority. We have considered and adopted a number of proposals to encourage the development of resource recovery as one way to diminish our solid waste problem while recovering valuable energy and materials.

The Environmental Protection Agency estimates that the United States produces over 140 million tons of garbage annually. This garbage represents the equivalent of 250,000 barrels of oil daily and according to the General Accounting Office, as much as $3 billion in lost nonrenewable minerals. Resource recovery is critical to securing the continued availability of valuable nonrenewable energy resources.

Resource recovery is, however, fraught with obstacles: First, the technology is complex and diverse; second, traditional institutional arrangements, such as procurement policies, are ill-suited for accommodating resources recovery; and third, market realities for energy and materials fluctuate dramatically.

Communities must face all this knowing that, from day to day, their diverse and unpredictable garbage must fit into a complex resource recovery plan as an alternative to traditional landfilling.

According to the Environmental Protection Agency, most of the communities in this grant program will be entering the final phase of resource recovery planning next summer—just as the existing funds run out. It would be unfortunate if those communities who are nearest completion of the third and final phase of planning were forced to abandon this project.

In response to this concern, and in the event no additional funds can be made available, the Congress directs the Environmental Protection Agency to focus its remaining funds on those project grant recipients most likely to complete the final planning phase set forth by the Environmental Protection Agency.●

Mr. BOLAND. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

URBAN DEVELOPMENT ACTION GRANTS

For grants pursuant to section 103(c) of title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $675,000,000, to remain available until September 30, 1983.

AMENDMENT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COUGHLIN: On page 8, line 19, strike "$675,000,000" and insert in lieu thereof "$500,000,000".

Mr. COUGHLIN. Mr. Chairman, this amendment would provide some restraint in the growth of the urban development action grant program, the so-called UDAG program.

Now, I am not saying that the UDAG program is a bad program. It is a good program, but it is a program that has grown in just a little bit over 3 years from zero to a proposed $675 million. It is a program that has grown quickly and has potential for unlimited future growth.

The amendment that we are offering now would merely provide some restraint in that rate of growth by reducing this year's appropriation from $675 to $500 million.

It will be argued that this program, the UDAG program, does not create large outlays in 1981, and that is true; but that is exactly how we got ourselves in this budget pickle in the first place. Starting programs that only had a little outlays in the first year, but then involving us in major commitments as we went down the line for larger and larger outlays in the out years, is how we got in the budget pickle.

It will be argued that the UDAG program leverages private capital. This is true. It does leverage private capital, but by the same token, many of the projects if, indeed, they are so worthy, would be constructed entirely by private capital without the intervention of the Federal Government.

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This is a program that we in Congress can control. We talk a lot about noncontrollable expenditures, but here is a program that can be controlled if we are willing to act now.

This does not mean that any worthy project will be terminated. It does mean that some projects might be deferred for a few years. If we are serious, if we are serious about controlling the growth of the Federal budget, then we are going to have to be willing to say let us just defer some things that we may think are good and some programs that we may think we need. We may just have to put them off, put off this project or that project for a few years until we get our budget under control and until we can afford to fund the project. If we are going to talk about restraint in the growth of spending, if we are going to talk about controlling controllable programs, if we are going to talk about controlling the growth of new programs, here is a good place to start.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment.

Typically the distinguished gentleman from Pennsylvania (Mr. COUGHLIN) has offered this amendment in his forthright manner. It is strictly an amendment which would reduce the urban development action grant program from $675 million to $500 million.

The gentleman concedes that the program is a good program. He suggests this is the year when budget restraint ought to be exercised. As the gentleman indicated, this program has grown over the past 4 years.

The program was funded at $400 million in each of its first 2 years. Last year it was funded at $675 million. This year we again recommend $675 million.

Mr. Chairman, last fall the Committee on Appropriations directed its surveys and investigations staff to examine the UDAG program because there were concerns about it. These concerns were shared by the gentleman from Pennsylvania and other members of the subcommittee. The review was designed to determine how well the program was meeting its goals, among other issues.

The investigative staff concluded that the UDAG program is successful in its attempts to stimulate economic development in industrial and commercial areas. Their report noted that the goal of neighborhood conservation is not being met quite as successfully. The committee addressed this in its report, urging the Department to further expand efforts in this area. But let us look at the UDAG program, what it has accomplished from its inception in fiscal year 1978 through December 1979.

A total of 194 industrial projects have received awards of $245 million. The gentleman from Pennsylvania talked about private investment leverage. Indeed it is substantial, private investment leveraged by the UDAG funds for the industrial projects is $1.9 billion or over $7.71 for each UDAG dollar. In the commercial category, $549 million in UDAG funds have been awarded for 193 projects. The private investment totals more than $3 billion. Therefore, the ratio is $5.58 for each UDAG dollar.

In the neighborhood category, the ratio is $4.67 to every UDAG dollar. This is the area where the investigative staff suggested that there may be room for improvement. Yet this is generating nearly $5 of private investment for each $1 that the Federal Government provides.

But the benefits of the program far exceed the private investment leveraged by the grants. By law, the projects must aid low- and moderate-income persons living in distressed areas. The projects can do this in many ways: by providing or retaining jobs, by improving housing and living conditions, by stimulating commercial development.

UDAG projects have accounted for 171,000 new permanent jobs, 88,000 retained jobs and 143,000 temporary construction jobs.

In this regard, it is worth noting that the investigative report maintained the UDAG staff had reduced benefits claimed in circumstances where its analysis indicated the estimates were overly optimistic or included employment figures that were not related to UDAG activity. The investigative staff believes the UDAG staff makes an honest effort to analyze and present reasonable benefit estimates for the grant projects funded based on the information available and accessible to them. In one grant reviewed, the estimate of jobs to be created was reduced during negotiations by UDAG staff from 1,200 to 300 because some of the activity would have taken place whether the grant had occurred or not.

There have been accusations that too many UDAG awards are made for luxury hotel projects or parking lots that do not benefit the poor. The numbers just do not bear this out. Sixty-five percent of the 559 projects awarded in the first 14 rounds were for industrial or neighborhood projects. Of the 193 commercial awards, 64 were to cities under $50,000 in population. The commercial projects accounted for 53 percent of the new permanent jobs and 44 percent of the construction jobs. In addition, HUD's regulations require an unequivocal statement that a project could not proceed without UDAG or comparable funding.

Mr. Chairman, UDAG has widespread support throughout the country and widespread support in this Congress. More than 400 cities have already received awards. A total of 150 applications are now pending for the next round of small city awards, and 200 applications are expected for the next round of metro city awards.

In conclusion, Mr. Chairman, this is a program that works. The gentleman from Pennsylvania concedes that it works. It leverages private investment. It provides jobs. It fosters community revitalization and, in my judgment, and I think in the judgment of the members of this committee, the reducing of this appropriation would be false economy.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the distinguished chairman of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs who managed the authorization bill in the House 3 years ago.

Mr. ASHLEY. I appreciate very much the gentleman yielding. I want to take just a moment to associate myself with his observations.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. Ashley and by unanimous consent, Mr. Boland was allowed to proceed for 2 additional minutes.)

Mr. BOLAND. I yield to the gentleman.

Mr. ASHLEY. I think one of the comments of the distinguished chairman of the Appropriations Subcommittee is especially worthy of note. This program, as the gentleman from Pennsylvania indicated, is a targeted program. What that means is that in order to be an applicant for a UDAG grant the community involved must meet certain basic criteria of distress.

Now, it is no news flash to anybody that our national economy at the present time is in recession. How fast we are going to emerge from economic recession remains to be seen. But what we know to a certainty is that in those communities that meet the distress criteria, this would be a most inappropriate time to adopt the amendment of the gentleman from Pennsylvania, which would amount to something in the nature of a 25- to 30-percent cut in program funding.

What I am speaking about specifically, if I may be permitted to be parochial, is that in my home community of Toledo, which even before the recession met the distress criteria of the UDAG program, now has about 15 percent unemployment because we are heavily automotive. I ask my colleagues to think of the consequences of a significant cutback in this UDAG program. What I am saying, of course, is that we are selling half of the cars in Toledo that we sold a year or so ago. We have many thousands who are out of work. One of the lifelines that we have is the fact that where there is private leverage, we can qualify for a UDAG grant which has a significant and beneficial economic impact throughout our community.

The example I cite is one that is repeated in countless communities throughout the country. For this reason I support the opposition of the gentleman from Massachusetts to the pending amendment.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. Rousselot and by unanimous consent, Mr. Boland was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield.

Mr. ROUSSELOT. I know the distinguished gentleman from Ohio (Mr. Ashley) is chairman of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs. I have noticed, however, in the Appropriations Committee report (page 11) it says in the section on UDAG that the committee investigators noted that several examples of incomplete project documentation occurred. The concern of the committee appears to be that we are moving this thing way up to $675 million and yet there is not always adequate documentation as to whether these projects are really always doing what the Congress originally thought was supposed to be accomplished.

□ 1520

The committee has urged HUD to do a better job of providing proper project documentation and have a more concise audit of the funding under this program?

As chairman of the Housing Subcommittee, is the gentleman aware of that concern?

I am referring to the committee report, the report of the Committee on Appropriations.

Mr. ASHLEY. Perhaps the question could be better directed to the gentleman from Massachusetts (Mr. Boland).

Mr. ROUSSELOT. Yours is the committee that overseas that and I know the gentleman is always careful to see that the money we are putting out at the Federal level is really achieving the results we hoped it would.

Mr. ASHLEY. If the gentleman will yield, we have a very large Subcommittee on Housing.

Mr. ROUSSELOT. That I am aware of.

Mr. ASHLEY. It is well represented on both sides of the aisle.

Mr. ROUSSELOT. I at one time was on that subcommittee.

Mr. ASHLEY. We have held extensive hearings on the UDAG program and on the effectiveness of the implementation of the program by the Department. At no time were we caused to confront the issue that the gentleman now raises. I am leveling with the gentleman. There was never any assertion that we were aware of that there was any incomplete documentation with respect to project applications.

Mr. ROUSSELOT. Then I guess we should direct the question to the chairman of the Appropriations Subcommittee because it is in their report at page 11:

> The report noted several examples of incomplete project documentation.

Mr. BOLAND. Mr. Chairman, the report referred to in the committee report is the one prepared by the investigative staff.

Mr. ROUSSELOT. That is the gentleman's investigation?

Mr. BOLAND. That is correct, the investigation conducted by the surveys and investigations staff of the Committee on Appropriations. It was its conclusion that this program is running well and that the only area in which the legislated goals were not being completely attained was in grants for neighborhood revitalization.

Mr. ROUSSELOT. The thing that caught my eye, Mr. Chairman, was at page 11 on the bottom of page 11 says the report noted several examples of incomplete project documentation. I just found that disturbing.

Mr. BOLAND. I would say to the distinguished and perceptive Member from

California, that is just several projects. There were hundreds of projects, of course, involved.

Mr. ROUSSELOT. We know that. There must be with $675 million involved.

Mr. BOLAND. As I remember, I believe the gentleman from California was a supporter of this program.

Mr. ROUSSELOT. The gentleman is incorrect.

Mr. BOLAND. I regret that because we could use the expertise and knowledge of the gentleman from California.

Mr. ROUSSELOT. I used to be on the Subcommittee on Housing with my colleague, the gentleman from Ohio (Mr. Ashley), and I had some great concerns, but I was really struck by this clause here at the bottom of page 11 in your report that there were "several examples" of incomplete project documentation. I wondered if we could know what those are.

Mr. BOLAND. I do not have the specific details of the several examples of incomplete documentation at my fingertips. But I will say that in a program of this kind, and considering the number of applications filed with the Department this has been a remarkably well-managed effort.

Mr. VENTO. Will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding.

This does not necessarily mean there is anything wrong with the program because there is incomplete documentation. The fact is the UDAG program is a fast start program, it is a turnaround program, it is a turnkey type program and we get results very quickly. I think what they might be talking about here is whether they are obtaining the type of leverage that is desired, whether or not the investments are justified. Frankly, I think they are. I have seen close hand some of these serving on the Oversight Committee on Housing and Banking this last year.

The point is, of course, that I want to voice my support in opposition to the Coughlin amendment which cuts this down. The fact is the UDAG program appropriation is not increased over last year's appropriation and we desperately need these targeted funds for urban areas. The fact of the matter is the new authorizing legislation expanded the scope in terms of pockets of poverty. We are trying to do with the same amount of money that we had last year and, of course, with inflation being what it is that will not go as far. We are trying to expand it to a larger number of communities. I think it would be a mistake. I recognize, as the gentleman from Pennsylvania (Mr. Coughlin) has pointed out, the merits of this program, the leverage, the type of economic spinoff and development that has taken place, so I wish that this body would turn down that particular amendment.

Mr. BOLAND. Let me again respond to the gentleman from California. If you read the last line of page 11 of the committee's report you see that the Department is strongly urged to take specific actions which will improve project documentation and permit a concise audit trail on funding decisions.

That is the committee's response to the incomplete documentation issue. The oversight which this subcommittee exercise upon the Department of Housing and Urban Development and the urban development action grant program is the kind of oversight. I am sure you would all agree with.

Let me also say, I know of no other individual in the Department of Housing and Urban Development who does a finer job than does the Assistant Secretary for Community Planning and Development. I think Assistant Secretary Robert Embry has done a fantastic job. He is particularly forthright and he knows what he is doing. He previously worked in Baltimore and I think probably is much responsible for the improvement of that city, and it is improving magnificently. I think probably he is as much responsible as any one individual because he started a lot of the improvements in Baltimore. The committee has brought this issue to his attention and we will track it for the gentleman from California to be sure that the several examples of incomplete project documentation will be cleared up.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 7631 and I rise also in opposition to the amendment offered by my dear friend and colleague from Pennsylvania (Mr. Coughlin).

This is a complex bill including as it does funding for such varied purposes as revitalization of our communities, protection of the environment, assistance to veterans, relief to disaster victims and space exploration. To examine the adequacy of budget proposals for such diverse national needs is a challenge all its own. Then to have to weigh these program evaluations against the need to keep Federal spending in check makes this a very difficult job indeed. It is a job that was not made any easier by the vacillations of the administration in proposing one budget in January and a completely new budget in March, long after our hearings process was underway.

Nevertheless the committee members have been persistent in their efforts to make sound judgments on program needs and I think this is reflected in the recommendations incorporated in the bill we bring to you today. This bill is a little unusual, however. It is unusual because it contains no funding recommendation for three major program accounts: Annual contributions for assisted housing, local government transitional assistance, and research and development under NASA. The committee chose to defer action on these accounts because new authorizations are needed and the disposition of the Congress on the new authorizations is not clear. As you know the House is scheduled later today to begin consideration of a new housing and community development authorization bill.

While reluctant to leave these matters undetermined, the committee felt it would be irresponsible to proceed without an indication of the Congress wishes.

Therefore do not be misled by the comparative tables included in the committee report which show our committee recommendations for fiscal year 1981 to be far below that of the fiscal year 1980 bill. With the exception of the three deferred accounts, the committee has acted responsibly to review each program and where merited to provide inflation and program increases.

I join the chairman, Mr. Boland, and the ranking minority member, Mr. Coughlin, in supporting this bill.

Now with respect to the amendment presented under construction, let me give an example of how well the UDAG program is administered, and I will direct my remarks to the gentleman from California.

My hometown is the city of Pittsfield which is the heart of Beckshire County and with which the gentleman is very familiar. This town applied for a UDAG grant last year. Our problem in Pittsfield was one shared by many urban areas whose growth and vitality are being threatened by burgeoning shopping center development in the suburbs. Berkshire County needs and can support additional commercial development. Unfortunately developers seemed interested only in building in the suburbs which was resulting in the slow but sure deterioration of the inner core of our city. Recognizing the need to take positive action to turn this situation around, the mayor decided at that time to apply for a UDAG grant which would give the city the means necessary to work with a developer to bring a large shopping center to the downtown.

They would build a large shopping mall right in the heart of the city. This effort to curtail suburban commercial development in favor of building downtown in the central city received a tremendous amount of attention from people throughout the country.

Mr. Chairman, I worked very, very closely with Assistant Secretary Robert Embry. I agree with the gentleman from Massachusetts (Mr. Boland) when he says that Mr. Embry runs a tight ship and a good shop. He was very exacting, he was very demanding. We had meeting after meeting involving the city, the developer, preservationists and the department and after a long series of these meetings the city finally received a grant.

It happened to be the largest UDAG grant awarded up to that time, $14.2 million. Unfortunately, the developer was not able to get the anchor stores necessary for the project and Mr. Embry at that point withdrew the $14.2 million and we wound up receiving no funds at all for this particular project.

So, you can see, the administrators of the UDAG program watch over every dollar that is spent, and they make sure that the dollars are spent wisely. It is an excellent program.

I yield back the balance of my time.

☐ 1520

Mr. HUTCHINSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I feel a certain amount of temerity rising to speak due to my short tenure in this body, but I feel compelled to rise in opposition because I have spent 9 years as a mayor of one of the cities of this Nation. As a mayor I worked hard a few years ago to help pass the original UDAG program. No one can better express than a mayor or a former mayor of this country the frustration one feels day to day dealing with HUD and some of the HUD programs. But, there is one excellent program we have available to our cities, and that is the UDAG program. We have been crying for many years about the major amounts of money—millions of dollars, billions of dollars—this country has wasted trying to revitalize our cities. We have finally gotten a program developed which is operating very successfully, whereby we are forcing private enterprise to reinvest in our central cities. That creates jobs downtown. That creates a greater tax base for our center cities, and allows them to provide the services without additional money from the Federal Government.

This is an extremely important program. I would think that the gentleman, instead of proposing to cut back UDAG, would be more willing to get on this floor and say that this is a program that works, and let us increase rather than decrease the UDAG appropriation.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I regret, as does anybody on our side of the aisle and I am sure the chairman of the subcommittee, when I have to oppose an amendment by the very capable gentleman from Pennsylvania because we are sure it has been thoroughly thought out. I would only say to the Members of the House that last year, on a similar amendment, I was on the other side of the fence. UDAG was a relatively new program, and when it came out of our subcommittee I felt that that kind of money for a new program was excessive. I helped to lead the fight to cut down the program.

Mr. Chairman, we have had over a year's experience in this. In fact, we have had a couple of years on UDAG. As the gentleman from Massachusetts has so well put it, Mr. Chairman, the backlog and the applications for this program are far greater than the amount of money that we will appropriate here today.

What I would like to point out in fairness, Mr. Chairman, is the fact that I was worried last winter and early spring that the UDAG program was used for political purposes. I had the minority staff on the Housing Committee go into rather extensive research to find out if this particular program, like others in the past has been used for political purposes.

What I would like to do is present to the Members a couple of facts. The staff went through four different grant periods starting in November, December, January, and ending in April of this year. We took the small city grants and large city grants. Examination of 150 grants was broken down. It so happens that there were 100 Democrat grants given and 50 Republican grants. In the small cities grants, Mr. Chairman, there were 35 Democrats and 27 Republicans, which does not reflect, as we all know, party division in the House. So, certainly on our side of the aisle, from a political point of view, it could not be said that this has been used across the board for political purposes.

There is question, and there are documented reports in regard to the possibility that there was influence from time to time for use in the primary on the Democratic side of the aisle, but that is minuscule compared to the overall percentage of grants, small and large, that were given on both sides of this aisle.

As a further example, the gentleman from Massachusetts (Mr. CONTE) pointed out that he had one of the largest grants, $14 million. I would point out that the second largest grant is some $16 million, which went into the district of the minority whip, the gentleman from Illinois.

So, Mr. Chairman, I would simply point out that we have examined the fairness of this program.

Second, the gentleman from Massachusetts has well pointed out the backlog of grants that are waiting. We passed months and months ago in our committee the authorization for this amount of money. The gentleman from Minnesota has clearly said that it is exactly the same amount of money that was authorized last year. If it had been one penny more, Mr. Chairman, I would have been leading the opposition to this question. We have attempted to hold the line, and that is what we did.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to associate myself with the remarks of my colleague from Ohio and the chairman of my committee. I have been a member of this commitee for 16 years, and I think this is one of the finest programs I have seen being developed.

Mr. Chairman, I rise in opposition to the amendment offered by my colleague from Pennsylvania. I strongly support the action grant program which has been an effective tool in assisting distressed cities and urban counties.

As my colleagues know, this is one program which requires a firm commitment of private capital before the Federal dollars are spent. In this time of budget austerity, it would be well to pay increased attention to a program which generates private funding at a ratio of $6 to $1. The action grant program is a successful joint venture using the financial and technical resources of the Federal Government and the business community, in cooperation with local units of government.

During June of this year HUD received the largest number of applications for any funding round since the program's inception. In the present quarter, HUD has $170 million allocated to fund metro applications and expects requests totaling more than $1 billion. These statistics give us some idea of the funding needs of our communities. The recently enacted pockets of poverty provision and energy conservation related projects will place increased demands upon the funds available.

The action grant program is only 2 years old but more than 400 of the 766 approved projects are already under construction. The project fallout rate is only 5.3 percent and the terminated funds have been recaptured.

The action grant program has demonstrated its effectiveness and success. I strongly urge my colleagues to reject this attempt to cut its funding level.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding to me. Knowing how exact my colleague is, how much new capital has this program brought into the marketplace?

Mr. STANTON. I do not know if anybody could really tell that. I could give the gentleman a specific example.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. STANTON was allowed to proceed for 3 additional minutes.)

Mr. McDADE. Mr. Chairman, if the gentleman will yield further, let me say to my friend from California that for a community to even be there at the threshold of competitiveness, they have to have $5 of private capital for every single dollar of Federal investment. That is just to be competitive. Many of the grants go as high as $10—10 to 1 in other words—of private capital for every single dollar of public money invested.

Mr. ROUSSELOT. So, how much new capital, because the statement has been made that this has attracted vast, new amounts of capital, actually has been brought to the marketplace as the result of the UDAG program.

Mr. STANTON. What the gentleman from Pennsylvania I think is basically saying is that what you have done is leveraged a program.

Mr. ROUSSELOT. I understand that.

Mr. STANTON. Set the gross at 5 or 10 times the $675 million. This is the initial amount. When we would talk about leverage, though, it is from local and private funds. What I thought the gentleman's question went to was probably the thousands of jobs that would be created in an economic climate. I further point out to my friend that I do not have a UDAG grant in my district, but south of my district in Youngstown, Ohio.

Mr. ROUSSELOT. You do not?

Mr. STANTON. I do not. I should be on the gentleman's side because there are a number from California, and I think they are all on the majority side and not in the gentleman's district. But, this grant south of my district is for a new plant expansion in the city of Youngstown. We all recognize Youngstown is an area that certainly needs this type of grant, and it is a very important thing.

Mr. ROUSSELOT. Our colleague (Mr. COUGHLIN) is not asking to eliminate the program, just a slight reduction of the amount for the year; so, the leverage figures would still be there.

Mr. STANTON. I am a little embarrassed. I joined the fight a year ago to reduce this program. A year ago, it was still a new program.

Mr. ROUSSELOT. The leverage factor would still remain because my colleague is not cutting the whole program. He is just reducing it slightly.

Mr. STANTON. Listen, nobody is going to live or die over this amendment, but some people in some distressed communities in this country are going to be hurt. I will seriously say to my friend from Pennsylvania, there are other programs that I think could better fit under the formula of saving money.

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Mr. ROUSSELOT. The gentleman can help us on some of the others?

Mr. STANTON. I certainly would be happy to.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I think we must recognize that if the amendment carries, my recollection is, pursuant to amendments we have adopted previously, that the basic program would be unimpaired; what would be impaired would be the funding of projects in pockets-of-poverty areas that we added to the legislation last year.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. STANTON) has expired.

(By unanimous consent, Mr. STANTON was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I simply repeat that the impact of the amendment, if adopted, would be that it would preclude the funding of projects in pockets-of-poverty areas, in addition to the program that was widely hailed last year when it was adopted.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I am happy to yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, we are not eliminating the program but just reducing it slightly. Members might be unaware that $500 million was the original Budget Committee recommendation for this program.

Mr. ROUSSELOT. Is that our Budget House Committee?

Mr. COUGHLIN. Yes, our Budget Committee, back when it started out.

Mr. ROUSSELOT. Then the amount in this appropriation is going against our Budget Committee.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I am pleased to yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I thank the gentleman for yielding.

I would like to say to the gentleman that perhaps a partial answer to the gentleman from California (Mr. ROUSSELOT) is that one of the justifications for the program in the first 14 rounds—and that would be as of December of 1979—is that the $245 million that had been spent in the UDAG program from public moneys had leveraged $1.9 billion in private moneys; that is on an average of $7.71 of private moneys per dollar vis-a-vis the Federal moneys.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the Coughlin amendment because I feel the $675 million appropriation is much too high for this particular program.

We on the Budget Committee set a maximum of $500 million rather than $675 million. The Appropriations Committee exceeds our limit by $175 million, and this amendment seeks to eliminate the extra $175 million.

When the Congress misses spending in one area, all the rest ask for increases, too. Because so many of the programs that are worthwhile and are somewhat effective, have been raised, the prospects of a balanced budget have been shipwrecked.

I think it is simply good fiscal sense for this body to adopt this very modest amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN). UDAG is one of those grant programs which gets bigger and bigger, because more and more people can get their fingers into free money. As the gentleman from West Virginia said, mayors love it. Why not? It is found money. It comes from the general taxpayers, rather than from their local taxpayers.

When we created the program, we promptly funded it with $400 million. One year later we raised it by 70 percent to $675 million, at which level the committee attempts to fund it today.

This heavy funding is one of those things that has led to the staggering deficit of $61 billion in this fiscal year and will contribute to a deficit that will certainly be greater than $30 billion for the coming fiscal year.

The Coughlin amendment gives us an opportunity to indicate that we are willing to save as well as to spend. It is not going to have a drastic effect on the program. In fact, it is probably not going to reduce the activity very much. Since we had an increase of 70 percent over a 2-year period, it will make the increase over the 2-year period a relatively reasonable one, perhaps a current services kind of increase.

With respect to the backlog, I think the matter has been a bit overstated by several speakers here today.

In the early days of UDAG, HUD was funding everything that came across the desk that qualified under the law. They could show a rejection ratio, but that was simply because some applications did not fit the specifications of the law.

This year I am told they are accepting one in six applications. At least that is what the Secretary or someone in his office informed me on the telephone. However, if you check, you find that four out of the six do not even fit the basic law, so they were rejected out of hand. What is happening is that HUD is approving about one-half the applications received that are in proper form.

Obviously, the mayors and city councils of this country are just beginning to gear up for UDAG. The pot of gold has just been made obvious to them. There will be many more requests in the future. Then the committee and the authorizing committee will be able to come before us and say, "Why, there are so many applications out here it must be a wonderful program. Let's raise it some more."

This is a self-fulfilling program. It is like a highway. If you build one, suddenly there will be cars on it, and then you say, "Wasn't it a smart idea to build it?" because it involves all that traffic. Any program that gives the people's money away free will always have plenty of takers.

My first experience with the UDAG grants was in Cando, N. Dak., a metropolis of 1,500 people. The town got over a million dollars, and the fellow who was putting in his money put up a million dollars. Then the city sold industrial, tax-exempt revenue bonds and raised another $5 million.

Do you know what they built with that $7 million? They built a macaroni plant. This country has a lot of macaroni plants, and they are all built with private money. Most of them are built in larger, more dilapidated metropolitan communities than Cando, N. Dak., but they are still built with private money.

HUD must have seen some new, exciting metropolitan problem or perhaps Cando hired a creative grants man. In any case, the result of all the wonderful leverage was, perhaps, a dozen jobs. I am sure the people of Cando think it is very nice. I am sure they are glad to have it. In fact, I bet they love it.

But the general taxpayers do not. Neither do the privately financed macaroni plants, or their employees and shareholders. The Cando plant is a great example of unfair competition.

But even if the UDAG program is perfect, when we are talking in terms of deficit financing, when we are talking of just an enormous deficit, we really have no business funding it.

The jobs that are supposed to be created by this program are estimates by creative grants men, or innovative hard people. The innovative grant-givers will tell us of the thousands, and hundreds of thousands of jobs that are going to be created. But they do not have any idea if the jobs will ever exist. Also the job guesses are usually spread over a number of years. If there are not enough at first count, a few more can always be found somewhere.

So the number of jobs claimed for UDAG grants, it seems to me, is far in excess of what realistically can be expected.

I understand that the local matching contribution feature, so praised here today, is also a problem. There have been too many horror stories about local applicants adding in all sorts of nonassociated improvements so that their projects qualify. I would urge the subcommittee to investigate what may be a serious abuse of this program.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. As the chairman of the subcommittee, knows and as other Members familiar with this law are aware, if a UDAG grant is involved, the ceiling on industrial revenue bonds that are tax exempt is doubled from $5 million to $10 million.

So in almost every instance where there is a UDAG grant, there is another assault on the taxpayer in terms of a tax-exempt industrial revenue bond. That is a dandy double-dip into the taxpayer's pocket.

So it is not simply the $675 million that is involved here but also millions of dollars which do not go into the Treasury because of the tax exemption concerning those bonds.

Mr. Chairman, this probably is a good program. There are some fine projects in my city of Minneapolis, and in St. Paul, the city of my neighbor, the gentleman from Minnesota (Mr. VENTO), that work out very well. But we have lots of Government programs that work pretty well and are not vitally necessary. They should not be funded by a 70-percent increase over a 2-year period when we are in a deficit position.

I hope that the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN) will be adopted.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 30 additional seconds.)

Mr. COUGHLIN. Mr. Chairman, it occurs to me that when the gentleman talks of leverage and his own experience with the macaroni plant, that many of these projects might be funded with private capital if they are in fact so good and so worthwhile.

Mr. FRENZEL. Mr. Chairman, there is no question that if some of these taxpayer financed developments are going to work, they are going to work just as well with private money. When the Federal Government blesses one project and damns another one, the normal workings of the free marketplace are disrupted. The result is often interference, strangulation, regulation, and an enterprise that never should have been created in the first place.

Mr. COUGHLIN. Mr. Chairman, I thank my colleague, the gentleman from Minnesota (Mr. FRENZEL).

Mr. LUNDINE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the urban development action grant program is one of the most outstanding examples of a new initiative which joins public and private investment in new jobs and new economic activity that this country has seen in some time.

This whole concept of public and private cooperation is relatively new, and I think even the opponents of the program and the proponents of this amendment must concede that there have been some worthwhile undertakings which would not have occurred but for the investment of these public dollars. I can attest that it has worked in small communities, as well as large, and at a time when we are entering a recession a program that is popular with mayors and provides jobs should not be condemned for that very reason, for, after all, if there is leverage of five to one or six to one, as I understand it, which is more typical, that means that we are inducing the investment of $6 of private capital in job creation enterprises for every dollar of the taxpayer's money we are spending.

☐ 1540

It seems to me that the only way we are going to cut this deficit is to reduce the amount of the entitlement programs that now comprise nearly one-half of the Federal budget. It seems to me that the way to do that is to get people working and off the dole kind of program that most Members here in this Chamber and most of the people I represent find offensive.

It is true that the action grant program is administered with a relatively small staff. I am impressed with the efficiency with which HUD has administered the program, and I am deeply impressed with the fairness of my friend and colleague, the gentleman from Ohio, Mr. BILL STANTON, who has carefully analyzed it and seen that this is a program designed to provide economic initiative, not one that is being administered on some political or other basis.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from New York.

Mr. PEYSER. I thank my friend, the gentleman from New York, for yielding.

Mr. Chairman, I want to very clearly state my hope that the Coughlin amendment would be defeated, and I would like to say to those who question UDAG that not only are they, I believe, administering their programs in an outstanding way, when they are finding violations—one of my own UDAG grants ran into that problem—they are going after them and they are getting the money back. They are very conscientious in the carrying out of this program. The program itself, incidentally, as the gentleman said, is reaching out to suburban areas, not to just the big-city areas, and is vitally important. I would hope that the amendment would be defeated, and I very much support the statement of my friend, the gentleman from New York.

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment. I do so as a Congressman who represents a rural area of this country, 25 counties. Also, I speak in behalf of the rural areas that for the first time are working and trying to work with a partnership with the private sector in order to try to rebuild their communities.

Approximately 35 to 40 years ago many of the rural areas of this country had the largest outmigration and removal of their people from their communities for economic survival, leaving and going into the large urban centers of this country. At no time have we written a program to assist the redevelopment of those communities. Our country saw fit, after World War II, to write the Marshall plan to rebuild the economic base of Europe. Our country has seen fit also to write a program after the riots of the 1960's of a urban redevelopment program for the large cities. The urban development action grant is one program, because it has a 25-percent set-aside, that allows some of our small rural communities access to some money to be able to work and leverage that money in order for the first time in 25 years to start rebuilding their communities. When I say "start rebuilding," for the first time to remove the boards that have been put up on the front windows of buildings that have been left there vacant, for the first time to start having the industrial areas developed. This is a program that is assisting to allow some of the community people to get together and leverage what they can with the private sector and qualified to receive a UDAG program.

As I said, there are a lot of other programs that I think should be cut and could be cut and will probably end up being cut, but this has a 25-percent set-aside for small cities and rural communities, and I think it is one that allows these communities which do not have lobbyists walking the Halls of this Congress to be able to have access to a needed program.

So I stand opposed to this amendment cutting this program, and I urge a majority of our colleagues to do the same.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COUGHLIN. Mr. Chairman, I demand a recorded vote.

A recorded vote as ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 262, not voting 35, as follows:

[Roll No. 425]

AYES—136

Abdnor
Andrews, N.C.
Archer
Ashbrook
Bafalis
Bauman
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Cheney
Clausen
Cleveland
Clinger

Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Dornan
Edwards, Ala.
Edwards, Okla.
English
Erdahl

Erlenborn
Fenwick
Forsythe
Frenzel
Gibbons
Gingrich
Goldwater
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha

Heftel
Hightower
Holt
Hopkins
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Loeffler
Long, Md.
Lujan
Lungren
McCloskey
McDonald
Madigan
Marlenee
Marriott
Mattox
Mica
Michel
Miller, Ohio
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
O'Brien
Pashayan
Paul
Petri
Porter
Railsback
Regula
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stump
Taylor
Thomas
Trible
Vander Jagt
Walgren
Walker
Whitehurst
Whitley
Whittaker
Wilson, Bob
Wilson, Tex.
Wyatt
Young, Alaska
Young, Fla.

NOES—262

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Bailey
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Hinson
Holland
Hollenbeck
Howard
Hughes
Hutchinson
Hutto
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd
Long, La.
Lott
Lowry
Luken
Lundine
McClory
McDade
McHugh
McKinney
Maguire
Markey
Marks
Martin
Matsui
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Roe
Rose
Rosenthal
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Skelton
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—35

Anderson, Ill.
AuCoin
Badham
Baldus
Bingham
Bowen
Campbell
Derrick
Evans, Ga.
Ford, Tenn.
Giaimo
Hillis
Holtzman
Horton
Leach, La.
Leath, Tex.
Leland
Lewis
McCormack
McEwen
McKay
Mathis
Mavroules
Moakley
Oakar
Pursell
Rhodes
Rodino
Rostenkowski
Runnels
Sebelius
St Germain
Symms
Udall
Wilson, C. H.

☐ 1600

Messrs. GOLDWATER, GRISHAM, and MOORHEAD of California changed their votes from "no" to "aye."

Mr. HEFNER and Mr. NEAL changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr ROYBAL: Page 8, insert after line 20 the following:

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregaate Housing Services Act of 1978, $10,000,000, to remain available until September 30, 1984.

Mr. ROYBAL. Mr. Chairman, this amendment provides $10 million for the congregate housing services program in fiscal year 1981 and is cosponsored by my colleagues, the gentleman from Florida, Mr. PEPPER; the gentleman from Arkansas, Mr. HAMMERSCHMIDT; the gentlemen from New York, Mr. BIAGGI and Mr. LUNDINE; the gentleman from California, Mr. BURTON; the gentleman from Virginia, Mr. WAMPLER; the gentleman from South Dakota, Mr. ABDNOR, and the gentleman from New York, Mr. WOLFF.

Last year we stood together in voicing our support for a $10 million appropriation for this program and only a few weeks ago we were successful in reversing the Appropriations Committee's recommendation to rescind $5 million of the fiscal year 1980 appropriations. Today, I ask you again to support our efforts in providing fiscal year 1981 funding for the congregate housing services program.

All of us are conscious of doing our part to reduce spending. But, if we intend to save money by not funding congregate housing services, we are defeating our efforts. To single out this program as an example of reducing Federal spending is neither warranted nor wise.

Congregate housing services actually result in savings for taxpayers of 60 to 80 percent over the amount of tax dollars now spent on medicaid reimbursements for nursing homes. It costs over $10,000 per year to maintain a person in a nursing home and only about $1,800 per year for the same person to stay at home with congregate housing services support.

Congregate housing services is not only a fiscally sound and cost effective program; it is also in line with our Nation's policy toward older Americans. The primary objective of that policy is to provide the necessary support systems to enable our elderly population to live independently in their homes.

The program, like many other new programs, experienced some startup delays, but has made excellent progress in administering and awarding the funds to the community.

The process of selecting 80 finalists for the 1980 funds has been completed. The 15 to 20 awards will be made by Friday of this week. Any delays experienced this year can be attributed to the uncertainty of whether the program would be reduced by 50 percent in the Supplemental and Rescission Act of 1980. As we know, this proposal was rejected on the floor of this House.

There is great interest and need for this program all over the country. HUD has already received over 200 inquiries about the 1981 competition. I have been assured that if $10 million is appropriated for fiscal year 1981, awards would be made in early July. I have also been informed that the 1981 competition might involve joint efforts with the Administration on Aging and the Health Care Financing Administration.

We have come to the floor of this House twice before in support of this program. Twice we have presented the arguments that the congregate housing services program is not a "pilot program." We have documented and proven over and over the viability of this program and how older persons are assisted. We have reassured the members of the Appropriations Committee that, by law, the congregate housing services program must coordinate with local area agencies on aging in order to avoid duplication of services. Both times the Members of the House have agreed with us on the concepts and objectives of this program and provided the funds to serve the elderly in the greatest need of these services.

This program has proven that it can meet the needs of partially impaired older persons and does so at less cost than the available alternatives. Therefore, I strongly urge your support of this amendment. Anything less than last year's funding level of $10 million will definitely endanger our efforts in reducing costs and providing more effective services to the elderly in this country.

Mr. RATCHFORD. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman.

Mr. RATCHFORD. Mr. Chairman, I want to recommend the gentleman. As he knows, I served as the commissioner of aging in the State of Connecticut. Connecticut is one of the States that has begun to move into the field of congregate housing, along with Maryland and Florida.

There are two aspects of this that need to be pointed out, and the gentleman has done it very well. First, the programs are humane. Second, they are cost efficient because, as the gentleman has stated, the alternative here is nursing care or congregate housing. Congregate housing definitely is less expensive.

What we are talking about is a housing component with centralized kitchen, public health nursing care, and this certainly is a better option than nursing home care.

What we need in America is to keep our commitment to the older American for a continuum of care, home health care, day care facilities for the aging, and congregate housing and, where it is necessary, nursing home care.

This is an appropriate intermediate step and I commend the gentleman.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment to add $10 million for congregate housing services for the elderly and handicapped who reside in section 202 and public housing projects. If these words sound familiar, it is because they are an exact quote from last year's statement. It is unfortunate that some things have not changed with time.

The Congregate Housing Services Act was adopted in 1978 because thousands of frail elderly and handicapped persons living in section 202 and public housing were confronted with two options, living independently but without adequate nutrition, health care, and social services or moving into nursing homes. Although the authorizing committees recommended appropriations of $120 million for fiscal years 1979 through 1982, neither the administration nor the House Appropriations Committee has requested any funding to date. In fiscal year 1979, $10 million were eventually appropriated as the result of the compromise reached in conference. A little over a year ago, members of the Select Committee on Aging were successful in obtaining another $10 million in a floor amendment because Members of the House supported our belief in this program.

Here we are again. It astonishes me that we have had to battle another year for an amendment which is so necessary, cost effective, and eminently humane. Substantial testimony in hearings held before House and Senate committees has revealed that many people enter nursing homes not because they require 24-hour nursing care but because they do not have the strength or physical capacity to perform some of the tasks of daily living such as cooking, shopping, or housekeeping. A great number of these older people could continue to live independently if they had reliable social services.

Often members who have opposed us have said that there are various social service programs that can meet the needs of the frail elderly in Federal housing programs. Please let me assure you that this is not the case, for if it were so, we would not be here today. While it is true that there is a variety of Federal, State and community social service programs, only food stamps and medicare are federally guaranteed. All other health related and social service programs vary from State to State and community to community. There is no way to insure the availability of services in the amount, frequency, and duration required in existing housing programs. Other barriers to utilization of these separate programs are: First, funds are insufficient to provide services to all the eligible people; second, eligibility requirements for service programs are virtually incompatible with current housing programs; and third, the elderly are frequently underserved due to age-based discrimination in benefit an service programs receiving Federal funds.

In terms of costs, the congregate housing program is clearly more cost effective. When we were fighting the rescission of $5 million from congregate services for the fiscal year 1980 budget, I did some figuring to get a more precise comparison between the costs of congregate services and nursing home care. Federal expenditures for an older person in section 202 or public housing is about $1,800 per year. If we combine that with the estimated cost of the congregate services we have a total of $3,675 per person per year. On the other hand, Federal reimbursement for skilled nursing home care under the medicaid program ranges from $6,081 for Maryland, a State with the lowest Federal matching requirement,* to $7,117 for Mississippi, the State with the highest Federal match. If we compare even the lowest cost to the Federal Government for Nursing Home care, we see that it is almost $2,000 higher than the cost of congregate services, and if we look at the highest cost, it is almost $3,400 more per person per year.

Lastly, we must look at some of the intrinsic conditions of nursing homes before we relegate persons to them too hastily. Many reports document the negative effects of institutionalization—depersonalization, apathy, dependency, low self-esteem, lack of opportunity for personal choice. The most profound negative effects are caused by the loss of autonomy and control over one's own destiny and the need to surrender the direction of one's personal life and turn to others for care. We do not want elderly persons to experience these conditions if they are not in need of 24 hour nursing care.

Mr. Chairman, my belief in the value of congregate housing services remains firm. I hope my colleagues will once again see that an appropriation for this program is worthy of their support.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I wish to rise in support of the amendment offered by my distinguished colleagues from California (Mr. ROYBAL) who serves with great distinction on the Appropriations Committee and as chairman of the Housing Subcommittee of our Aging Committee.

It seems that it was just yesterday, indeed it was only a few weeks ago, that this House approved an amendment offered by Mr. ROYBAL to restore $5 million to the congregate services program for 1980 after the Appropriations Committee had moved to rescind such funds. And by the same overwhelming consensus 1 year ago, this House adopted an amendment similar to today's, also offered by Mr. ROYBAL, to provide the original $10 million for this program.

Today, the Appropriations Committee by not providing funds for this program in 1981 is yet again asking us to ignore the action taken by the House over the Appropriations Committee's objections. This program deserves to be funded, and over the past year this House has supported such funding.

As chairman of the House Select Committee on Aging, I feel compelled to say to those who would argue that the amendment we propose must be defeated to save money, that we can not, that we should not, and that we must not blindly ignore the needs of the elderly in our rush to provide a more balanced budget.

Indeed, the congregate services program is a highly cost-effective program. Studies have shown that congregate housing, with a cost of $1,500 to $2,000 a year, is an investment which provides great savings when compared to the $9,000 or more it costs for a nursing home. Not only does this program reduce costly and unnecessary institutionalization of the elderly, but it also represents a commitment on the part of this Congress to develop options to nursing homes, options which will enable older Americans to live more independently—and to live with dignity.

The congregate housing services program provides therapeutic assistance for those who do not need the care of an institution yet would benefit from services such as occasional housekeeping, the provision of meals, and the availability of social and medical services. Because these programs are offered on-site, the potentially isolating effects of immobility and the lack of viable transportation are overcome. Indeed, studies have shown that if services are further than six blocks from an older person's residence, older persons will often do without these services, even if they are essential. The integrated delivery of services in this program is not only an example of government working efficiently but also helps insure that no duplication of services occurs.

I feel compelled to remind those who

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* Maryland is one of 17 states that receives a 50 percent match for its medicaid program. Because each state determines its own daily rate of reimbursement for skilled nursing home care, there may be states that are slightly higher than Maryland.

argue that this program is only experimental, and that no further funds are needed to complete the ongoing "studies" or projects, that the Congregate Housing Services Act of 1978 authorized this program at over $120 million over 4 years. Clearly this large authorization was a demonstration of our commitment to a significant new program, and this cannot be described as a demonstration project.

I urge my colleagues to join with me, the American Association of Retired Persons, the National Council of Senior Citizens, the National Council on Aging, and the American Association of Homes for the Aging in supporting this amendment to add these funds for congregate housing.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the distinguished gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I thank the gentleman from Florida for yielding. I want to associate myself with his remarks and rise in support of the amendment. I hope that we have proven that there have been ample studies to support what the gentleman from Florida has said. Money expended in this way is, in fact, an investment and not an expenditure. If this money can be spent in this way, it will not be spent on people in nursing homes where the cost is much higher. I feel we ought to be supporting programs such as this and turning our backs on those programs that are costing the Government so much money.

Mr. PEPPER. I thank the able gentleman and hope this amendment will be adopted.

Mr. BOLAND. Mr. Chairman, I move to strike the last word and rise to oppose the amendment.

Here I go again. We have all of the big generals from the Select Committee on Aging, and it is difficult to turn them back. But, Mr. Chairman, a lot has been said here about the fact that this is not a demonstration program.

☐ 1620

But, of course, it is. Even the budget justifications indicate that. Let me quote from the justifications:

> A demonstration program beginning in 1980 is being conducted to test the provision of supportive services for congregate facilities through the Department of Housing and Urban Development. The demonstration includes two full meals 7 days a week and those additional supportive services such as housekeeping aid, personal assistance or other services deemed essential for eligible individuals to maintain semi-assisted independent living standards. Services provided are limited to those areas not duplicative of services provided by other programs, except to the extent that the needs of the demonstration may require.

Those are the words carried in the justifications and, of course, HUD is treating it as a demonstration project.

As has been indicated, this program was started and conceived back in 1978. A total of $10 million was provided for this program in 1979. Last year the administration requested no funds for the program and the Committee originally agreed with that request. However, when the HUD bill reached the floor, the gentleman from California offered an amendment adding $10 million for fiscal year 1980. The Committee agreed to that amendment, the Senate agreed and so $20 million was available for the pilot program.

Just about 2 weeks ago we had on this floor the supplemental appropriations and rescission bill. The Committee originally recommended rescinding $5 million of the $10 million provided in 1980. We did that on the basis that the money was not needed to conduct an adequate pilot test. However, again in deference to the gentleman from California and the members on the Select Committee on Aging, we agreed to accept an amendment restoring the $5 million proposed rescission. Now we are back again with another amendment adding $10 million in fiscal year 1981.

Mr. Chairman, it would appear to me on the basis of the moneys that have been provided so far, enough is enough. I have no problems with the program. It is a good program. It will probably develop into a full blown program within a short period of time and could cost over $1 billion.

It is true, as the distinguished chairman of the Select Committee on Aging, the gentleman from Florida (Mr. PEPPER) and as the gentleman from Arkansas (Mr. HAMMERSCHMIDT) indicated, this program now will run nearly $2,000 per year per person. In time it will be a $1 billion program. But I think precisely the kind of services that are going to be offered ought to be coordinated with other agencies.

Now, the gentleman from Florida indicated that we could take 1 million people out of nursing homes. Well, you cannot do that. The vast majority of people in nursing homes are people you cannot take out of there—they need that constant care, almost day and night. Congregate services is not going to take care of that kind of individual.

Congregate services are good but we ought to find out precisely what we are going to spend in this area.

Let me indicate the amount of money that is now being spent by the Department of Health and Human Services in this area. Congregate meals are in the 1981 request at $295 million. Home delivered meals is $55 million. The request for local services and multipurpose senior centers is $247 million for a total of nearly $600 million in fiscal year 1981.

What the demonstration program with the Department hopes to pull together is all these programs so we can move ahead with the kind of program all of us want. That is what the chairman and all of those who serve on the Select Committee on Aging, who have been doing such a marvelous job for the elderly of this Nation, want.

I have no problem with the program. My problem is we ought to crawl a little bit before we run. If the results of this demonstration program—and it is a pilot program; it is a demonstration program—are positive, I would be the first and I am sure the subcommittee would be the first to recommend funding that will provide the kind of services that are envisioned and that the elderly deserve to have.

Mr. LUNDINE. Mr. Chairman, I move to strike the requisite number of words.

As one of the original authors of the Congregate Services Act of 1978, I would like to comment to the distinguished chairman of this subcommittee that I agree, for one, that we should have a demonstration program. Various studies have indicated over many years, since 1963 when the initial study was done on this matter, that up to 1 million people are now in nursing homes who need not be in nursing homes and who are getting excessive levels of care simply because there is not another alternative.

Mr. Chairman, I think it is necessary to demonstrate—before you go to any kind of program that even begins to approach the level that the gentleman from Massachusetts mentioned of $1 billion, that this is not just theory but that it is fact.

I would suggest to this committee that $10 million for 3 years is not an unreasonable investment when you have studies which show that we are wasting taxpayers' money on medicare and medicaid, people being in nursing homes at the present time. So they say it is a great program but they are constantly trying to cut it even from a demonstration level.

Now, Mr. Chairman, it is true we had $10 million in fiscal year 1979 and $10 million in fiscal year 1980 and now maybe with this $10 million we will get the attention of the Department of Housing and Urban Development and they will get off the dime and do a few thousand units so that we can go back in and do empirical studies and determine how many of these people would have been in nursing homes but for this program.

Finally, we have debated this thing over and over again. The will of the House has been made known, but one more time let me say, this is not a duplication of nutrition programs. Nutrition programs on a 5-day week basis, one meal a day, do not meet the needs of elderly persons who cannot take care of themselves and are not self-sufficient. I do not know how many Members would like to try to live independently on one meal a day for 5 days a week, but I do not think it is a reasonable answer to the need of people who need not be in nursing homes for health care reasons but who do need some kind of meals assistance and minimal other assistance to maintain independent levels.

Mr. BOLAND. Will the gentleman yield?

Mr. LUNDINE. Of course I will yield to the gentleman from Massachusetts.

Mr. BOLAND. The program provides for two full meals a day.

Mr. LUNDINE. The gentleman has cited the Health and Human Services nutrition programs in making up his total.

Mr. BOLAND. I am citing the demonstration program being conducted by the Department of Housing and Urban Development.

All of the $10 million for fiscal 1979 has been committed. Not a dime of the 1980 $10 million has been committed up to this point.

Mr. LUNDINE. That is right, but the gentleman did cite the Health and Human Services programs, nutrition proprograms, in adding up to that $600 million.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. Certainly I will yield to my colleague from Minnesota.

Mr. SABO. Mr. Chairman, I wonder if my friend from New York would describe to me how the needs of a senior who lives in a section 202 unit or public housing unit on one side of the street differs from a senior who lives across the street in a home, a private home with a similar income.

Mr. LUNDINE. There could be people living in either one which have a range of needs. What we are trying to here determine is whether there is not a level of care that is needed which is very minimal in these 202 and public housing programs.

Mr. SABO. If the gentleman will yield further, it is one of the problems I have with this program. I happen to think the basic concept that the gentleman and other advocates are getting at is very, very good but I do not think it should be in HUD. It should be a part of the Department of Health and Human Services.

What happens right now in congregate meals, for instance, is that one of the locations for the program can be a senior public housing unit and people from the neighborhood can come in and participate in the program the same as the resident. The problem with this program, as I understand it, is, it has to be exclusively for the people who live in that HUD project.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SABO and by unanimous consent, Mr. LUNDINE was allowed to proceed for 2 additional minutes.)

□ 1630

Mr. SABO. What we do is build in huge discriminations in our delivery of service. If you are lucky and happen to be in one of these projects, then it is available. If you are across the street in a home; maybe owning, maybe renting, maybe even in a poor apartment house because you are on the waiting list to get into the public housing unit, then you would not be eligible for this kind of meal.

Mr. LUNDINE. I understand the gentleman's point, and I do not pretend to suggest that with this kind of appropriation we are ever going to meet the need for everyone who needs it. But, we are not going to be able to demonstrate even whether the concept has merit if we way. There is no question that there are some people who can live independently at very advanced ages in their own homes without that kind of service. There is no question that we are not reaching all of the needs for those people who even need to be in nursing homes. But, is the gentleman suggesting therefore that we should cut out all kinds of health programs simply because we are not meeting the needs? It is not logical.

Mr. SABO. If the gentleman would yield further, what I am suggesting is that all the efforts and attention that goes into this relatively small appropriation in the HUD bill, we should save some for the HEW bill which comes later. That is the appropriate place for it.

Mr. LUNDINE. I understand the gentleman's point, but Congress made its will known in 1970 that HUD and HEW ought to get together. There was a cooperation agreement that went on for 3 years, and by the admission of the Department of HEW, they did not even undertake one single project under this cooperation agreement. So, Congress had to step in in 1978, 15 years after President Kennedy first proposed it, and set up a free-standing program. Now, what we are talking about is, can we carry out this program?

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if we do not force these agencies to work together, instead of separating people into categories we will continue to spend money in the useless duplication of services Congress must insist that they do so.

In my district, for example, if you are an elderly person with 3(B) transportation, you have difficulty getting into title XX buses, although all of it is for old people. What we ought to do is build the program from the person, not from the agency and from the title and everybody ought to be able to use the section 8 housing restaurant so that we do not have to set up a whole separate program for people who may live across the street. Unless we can somehow begin to get commonsense into the operation of these programs, our old people are going to suffer and our taxpayers also.

Mr. LUNDINE. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. Yes, of course.

Mr. LUNDINE. I am not sure whether the gentlewoman is speaking for or against the amendment, but that is exactly what we have done. We have set up an integrated program. We have not isolated health and human services from that program.

Mrs. FENWICK. I am in favor of the congregate housing because there is no use for us to put people into nursing homes when it is not necessary. What I am saying is what our colleague has said. Are people who live across the street going to be able to get in and get lunch? The answer is no. That is silly, because then we are going to have to set up a whole separate program. Obviously, if the restaurant is overcrowded, we could not do it.

Mr. LUNDINE. The people who will get in there are the eligible applicants that are determined by the private, nonprofit sponsors or by the public housing agency.

Mrs. FENWICK. I am speaking to what our colleague said a minute ago. What happens to the person across the street who was not lucky enough to get into the section 8 housing? They cannot get any of those services. We are going to have to set up something separate for them. That is the trouble, because they are not in the HUD program. They are under HEW. So, we are going to have a whole separate plan for them until we get these agencies to understand that we do not arrange programs for them. We set them up for the people, and if the people are available and there is room, they ought to be taken in.

Mr. LUNDINE. If the gentlewoman will just yield one more time, I think that this Congregate Services Act is designed with the individual in mind. It says that people who need this kind of services will be eligible for the full range.

Mrs. FENWICK. You do not understand. I am not making myself clear. I am addressing myself to the point our colleague made earlier. I am in favor of congregate housing. I am not against it, but I am against an agency, designed to help older people, refusing to cooperate with another agency also serving senior citizens. That is what I am against, and it is an obvious flaw in all the arrangements we make for the aging.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

My colleague from New Jersey is right, and the chairman is right, and my distinguished colleague from Minnesota is right. This amendment is on the wrong track. No one is saying that we should not have congregate services. What we are saying is, do we need one program or two; one in HUD and one in Health Services. If we are going to have two programs, at least start the second one out as a pilot program. That is what we have in here.

None of the money has been obligated that has already been appropriated for this program. We do not need this amendment, and in my judgment we do not need two congregate services programs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYBAL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROYBAL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 426]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McHugh
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1650

The CHAIRMAN. Three hundred seventy-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. ROYBAL. Mr. Chairman, at this time I wish to withdraw my request for a recorded vote and request a vote by division.

The CHAIRMAN. The gentleman from California (Mr. ROYBAL) withdraws his request for a recorded vote and asks for a division.

Mr. BOLAND. Mr. Chairman, would the Chair instruct the Clerk to read the amendment so that the Members will understand precisely what we are voting on?

The CHAIRMAN. Without objection, the Clerk will read the amendment.

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: Page 8, insert after line 20 the following:

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1978, $10,000,000, to remain available until September 30, 1984.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYBAL).

The question was taken; and on a division (demanded by Mr. ROYBAL) there were—ayes 161, noes 57.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISION

None of the funds appropriated by this title may be expended to implement final energy conservation performance standards for new residential or commercial buildings.

☐ 1700

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 12, line 13, strike "Provision" and add "Provisions".

Page 12, after line 16, add the following: "None of the funds appropriated by this title shall be used to provide financial assistance for nonimmigrant student aliens."

Mr. VENTO. Mr. Chairman, I rise to offer an amendment with my colleague and friend, the gentleman from Minnesota (Mr. SABO), a member of the subcommittee, which would prohibit nonimmigrant student aliens from receiving Federal housing assistance.

Simply stated, this amendment would prohibit the Department of Housing and Urban Development from providing housing assistance for the benefit of those individuals who are admitted to study in this country pursuant to 8 United States Code 1101(A)15(f). This issue came to my attention because of an article published in the major newspaper in the Minneapolis-St. Paul metropolitan area in which, incredible as it may seem, students of nonimmigrant status, who make a declaration when they come to this country that they will not work and will not be dependent upon the Government had, even before entering this country in some instances, their names placed on a list to live in public housing.

The impact of this, of course, is that it displaces the needy in our society, some of who actually may be immigrants. I might say I have about 5,000 to 6,000 Indochinese immigrants in the district I represent, and the working poor in our areas who are in desperate straits in trying to meet their housing needs.

Specifically, this situation was brought to my attention by articles written by John Kostouros and published by the Minneapolis Tribune. These articles focused on just one apartment complex in Minneapolis where almost 30 percent of the assisted units were occupied by foreign students while the waiting list for these apartments runs from 3 to 5 months. As a member of the Subcommittee on Housing and Community Development, I have spent considerable time in trying to develop and gain congressional support for programs to meet the housing needs of low- and moderate-income families. I was shocked and more than a little angry to learn of this apparent loophole in our housing and immigration laws.

The Immigration and Naturalization Service feels that they cannot bring sanctions against these students because under present laws neither requesting nor receiving this assistance is illegal. The Minneapolis HUD area office attempted to prohibit this assistance; however, it was the opinion of HUD central that no authority exists by which it can eliminate these people from the program. This amendment gives the Department the authority to rectify this situation which is clearly contrary to the intent of Congress.

I am sure my colleagues will agree that, considering the current crisis situation in housing and particularly in rental housing, the Federal Government has the responsibility to direct these housing assistance programs to those families most in need.

The availability of housing in the St. Paul area is fairly typical of the Nation as a whole. The St. Paul HRA receives approximately 100 units of section 8 housing a year. This is in an area of 300,000 people and a vacancy rate of less than 2 percent. This has resulted in a waiting list of more than 900 families. This translates into a waiting period of more than 3 months for the most readily available type of units and in excess of more than 18 months for families with a large number of children.

This amendment is not intended as a punitive action nor is it intended to single out one nationality or group of students. Indeed the current situation that allows these foreign students to receive Federal housing subsidies works to the direct disadvantage of many truly needy immigrants as well as low-income Americans. In St. Paul, 52 percent of the families on the waiting list for publically assisted housing are Indochinese refugees. It is indeed ironic that these students, who sign an affidavit which certifies that they are financially able to support themselves for their entire period of study, receive this assistance to the exclusion of others.

I think all of us are keenly aware of the housing shortages, the pressure on rental housing and public-assisted housing that exists today with regards to our various communities, so I am very pleased to have visited with the chairman of the appropriations subcommittee, the gentleman from Massachusetts (Mr. Boland), and the ranking minority member, the gentleman from Pennsylvania (Mr. Coughlin), and hopefully have won their support.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman for yielding.

As he has indicated, the amendment would prohibit making financial assistance available from HUD funds to nonimmigrant student aliens.

I understand that the gentleman has offered the amendment because the Department of Housing and Urban Development is currently subsidizing housing units for student aliens while citizens in his area are on the waiting list.

I do want to point out there may be some problem about this amendment. It is not without some problems. HUD has advised me that if the amendment becomes law it would require HUD to amend or cancel existing contracts between HUD and hundreds of private landlords and public housing agencies. I am not sure that is true. But if the landlords or housing agencies subsequently sued HUD for breach of contract, HUD's lawyers believe that the Department would not have a strong case to make in its defense.

I am conscious of the appeal of the amendment, and I agree with the amendment; but I am concerned with the potential problems. So if the Department gets the message and can correct this by the time we get to conference and the amendment at that time appears to have made its point, I would think that perhaps we could solve the problem.

Mr. VENTO. I appreciate the chairman's support.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to my colleague, the cosponsor of the amendment, the gentleman from Minnesota.

Mr. SABO. I thank the gentleman for yielding.

I would like to thank the gentleman from Minnesota (Mr. Vento) for offering this amendment. I think it is a good and an appropriate amendment and I would like to be associated with his comments.

Mr. VENTO. I indeed appreciate the gentleman's support.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I thank the gentleman for yielding.

The minority certainly concurs with the purpose of the amendment and commends the gentleman for bringing this to our attention.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I do want to congratulate the gentleman for promoting this amendment, and I would ask the gentleman, and I hope also that he will amend the basic law, since what we have before us can only last for 1 year.

Mr. VENTO. I think the gentleman makes a good point. I plan on offering a similar amendment to the authorization, to the Housing and Community Development Act Amendment of 1980 the product of the subcommittee on which I serve.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

I, too, want to join in support of my colleague's efforts here to tie this up for the time being and put some permanent legislation into effect to deal with this loophole in the years ahead.

Mr. VENTO. I appreciate the gentleman's support.

I might add that I think the issue with regard to contracts, as the chairman has pointed out, is a most interesting one, because it presupposes that any modification of the basic eligibility might not be possible, whether it is percentage of income or a host of other factors, so I do not share the timidity with which the Department of Housing and Urban Development approaches modification of those section 8 or other public assistance housing programs. I think that we can work something out that will accomplish this correction and will permit the housing assistance programs and basic shelter programs to go to the needy in our society for whom they are intended.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Vento).

The amendment was agreed to.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this HUD-independent agencies appropriations bill is the work of the appropriations subcommittee and the full Congress, the people's branch. My friend, Eddie Boland of Massachusetts, the chairman of the subcommittee, and ranking members of the full committee, and other subcommittee members have done a fine job on this bill, which covers housing, veterans' hospitals, veterans' payments and hundreds of other programs. This bill, like these Members, reflects the diversity of viewpoint and interest in our country, as well as the wide range of our efforts.

CONGRESS—THE PEOPLE'S BRANCH

In recent weeks the press, and the television media, have had their eyes on the Presidency.

The House of Representatives and the Senate, a separate and independent branch, constitute the people's branch of the Government; it is the Congress which passes laws, provides for programs and funds for them. The President can only propose, it is the Congress which disposes. Occasionally a few people comment that a working Member does not spend his time in the district. The work of a Congressman is to do what he was elected to do—that is represent his district in Congress which meets in Washington. The job takes about time and a half.

APPROPRIATIONS COMMITTEE

Our Committee on Appropriations in the House, where appropriations bills for programs, and activities are initiated, reviews all such programs and efforts are made to provide what is needed, to avoid waste and fraud and, of course to balance the budget.

Of course, we must balance the budget, but we must have escape valves to respond to immediate situations like natural disasters such as floods, crop failures, the Mount St. Helens Volcano, and we must balance it at a high level. We must keep employment and income up.

Once the Congress appropriates funds, the dispersal of the funds and supervision, is in the hands of the executive branch, or under some programs in the hands of the States, counties, and cities.

TWO WAYS TO SERVE

Mr. Chairman, there are two ways to serve as a Representative in Congress.

One is to sit back and merely record your views. While this approach may be popular with people who judge you by your vote alone, it accomplishes little in obtaining results.

The other way to serve is to do all you can to bring about what you believe in, to accomplish something. They call us Congressmen but really the name is Representative in Congress—this means that a Representative is something like a lawyer working for you. It means getting the best settlement possible. It does mean that sometimes it may be a little more, other times you are forced to accept a little less. In other words we must act, and justify our actions to both sides.

With the support of my colleagues I hold a most enviable position in Congress to be of service, that of chairman of the Appropriations Committee of the U.S. House of Representatives.

Of course with 54 members of our committee and 435 Members of the House of Representatives, seldom do we have anything just as we would individually like it.

THE CHAIRMANSHIP

The chairman is a member of each of the 13 subcommittees. With the help of colleagues, we can see that adequate funds are provided for Defense and Energy, for the conservation of our water resources, highways, watershed protection and flood control. Funds for disaster relief, for the food programs, for energy research, for education, for housing, for sewer and water systems, for river and harbor development and other public works projects for forestry, for hospitals and health programs, for welfare, for medicaid and medicare are all provided to serve our people.

We serve on all conferences on appropriation bills, where we save billions of dollars annually but in order to get the settlement we have to compromise—we have to "sign the papers" and defend the settlement. Other Members, without this responsibility or opportunity, can just vote "no" and build up a record, but one rather slim in accomplishments.

SOMETHING OF A RECORD

Recently we went through quite an ordeal in handling the supplemental appropriations bill. Some parts of all phases of our Government were before us. All 13 of our subcommittees on the Appropriations Committee had programs and items to be considered. There were 600 items in the House-passed bill, followed by 344 amendments in the Senate. Nineteen Members of the House of Representatives and 24 Senators were in the conference. As chairman of the House Appropriations Committee, it was my privilege to preside.

THE CONFERENCE

The conferees met at 2:30 p.m. on July 1, 1980, and were in continuous session until 2:45 a.m. the next morning but we made it, agreeing on 343 out of the 344 amendments. At times, the arguments were fierce, and when too long, we asked the principals to retire and work it out among themselves. It worked. It is surprising how much quicker differences can be worked out away from an audience.

WITHIN BUDGET CEILING

Needless to say, there had to be some give and take, and there had to be agreement, for we faced many emergencies, such as disaster relief assistance for our farmers, which was out of funds. These were provided through additional funds that will be necessary in view of the recent drought.

Work on the conference report began in the predawn hours and was completed before noon. The Appropriations Committee staffs of the House and Senate did a marvelous job putting together the reports with all their figures and language.

The bill, which I handled on the floor, came up less than 12 hours after the conferees reached agreement. The record covering the consideration and debate covers many pages of the CONGRESSIONAL RECORD and fills two volumes, taking an extra day for printing. We were determined that the bill must be within the budget ceilings. With some considerable effort, we were able to accomplish this.

Our main concern must be to balance the budget, but it must be balanced at a high level, keeping incomes up with expenditures. To do this we must provide incentives to expand production—and the greatest incentive would be to strike down the many unnecessary regulations, which could be termed strangulations. We must stabilize the value of our currency, for we cannot pay the cheap dollar we borrowed with a hard-to-get dollar.

The present financial situation has been caused by commitments bypassing the appropriations process. Remember that the totals of Committee on Appropriations bills have been below the budget 36 out of the last 37 years.

It is important for the Congress to stress productive spending—really, investments. Our country is big, from Maine to California, from Washington to Florida, and now from Alaska to Hawaii, each with similar yet different problems and interests with Members of Congress who reflect these different interests and feelings—435 of them. These diversities create competing needs for dollars. Often Members of Congress get letters from a few people who do not have everything they would like—and who does? What many people overlook is what they do have—more in a material way than the people of any other nation. We do have financial problems and here we must balance it off—stabilize the purchasing power of the dollar.

ITEMS OF SPECIAL INTEREST

Mr. Chairman, over the years we have always been strong supporters of national defense, the National Guard and Reserve, the B–1 bomber and the nuclear carrier for which funds are provided.

Food programs: First, funds essential for food programs faced an immediate emergency. We took these out and provided funds separately, attempting to eliminate fraud and waste in the process.

Other listed items: Priority for the Tupelo Airport, tornado warning equipment, the Yocona-Delay Road Bridge in Lafayette County, protection for the town of Coffeeville, repair of Gums Crossing, drainage for Coahoma Junior College, dredging for the Tallahatchie, Yalobusha, Yocona, and Coldwater Rivers, so water could be drained out before the farming season, funds for development and operation of the four reservoirs, Twenty Mile Creek in Tishomingo, Prentiss and Itawambe Counties. We have also kept alive the solar energy project. Additional funds were provided for water and waste disposal grants, the Soil Conservation Service, resource conservation and development projects and for Public Law 480.

The Department of Transportation, the State of Mississippi, and local interest groups are working out an arrangement for the continued operation of the ICG railroad from Houston, Miss., to the Tennessee State line. We have urged similar joint effort on the railroad from Bemis, Tenn., to Coffeeville which is vital to a number of manufacturing industries and to the pulp and paper production and the railroad from Clarksdale to Lake Cormorant, vital to the movement of cotton and soybeans, the chief agricultural production of this delta region.

Funds for Goodman Road also remain. Funds are made available for a continuation of planning alternative means of flood protection on Nonconnah, Horn Lake and Cowpen Creeks; in addition to funds to help solve the pollution problem across the Mississippi line in Tennessee.

TENNESSEE-TOMBIGBEE WATERWAY PROJECT

We provided additional funds for construction in the supplemental. Later we passed through the House of Representatives funds for next year. This bill is now pending in the Senate. About 70 to 80 percent of the actual cost is now committed.

The leaders of the Congress owe it to the ever-increasing number of people in this Nation to complete the construction of the Tennessee-Tombigbee navigation project. I have read fantastic figures that are being spread by the media in contradition of the facts.

The attacks come from the same kind of forces which used such tactics in opposition to the St. Lawrence Seaway, the Bonneville Power Administration of the Northwest—which supplies power all down the west coast—the irrigation projects of the Southwest and the Tennessee Valley Authority. Without those developments, our standard of living would be much lower today.

The Navy was directed to retain the operation of the Naval Air Station at Millington, Tenn., at present levels.

The Natchez Trace appropriation appears in another bill.

It is fine to see in my hometown and over our district the capital improvements coming through revenue sharing, the EDA or Appalachia—courthouses, schools, libraries, street improvements, water and sewer lines and many others. Truly as a Nation we do have something to show for our expenditures and, of course, there are thousands of other productive programs which are not as readily visible.

CHRYSLER LEGISLATION

The supplemental appropriations bill also addressed the critical situation of the Chrysler Corp., a company problem with stockholders over the United States facing financial disaster. We provided that the Government have first mortgage on the corporation's assets which are many times the total the Government will guarantee.

History has shown us that such a bankruptcy can snowball into thousands of other bankruptcies and unemployment. The bill provides for a Government guarantee which enables the corporation to borrow funds. Involved was 20,000 suppliers and about 600,000 employees in addition to the numerous dealers.

During the Depression, which we must not let happen again, we had the Reconstruction Finance Corporation, a Government corporation which enabled companies, corporations—including districts and other political entities to refinance their obligations. In fact, I handled the refinancing of bonds for several drainage districts. This Corporation did much to snap us out of 10 years of depression. Such an approach would be good today for it would enable us to have folks better trained in dealing with business, financial obligations and collateral, such as notes and other assets.

I repeat again, we must balance the budget but it must be balanced at a high level—with income kept up with expenditures—and we owe so much now that this means increased production at home.

To do this we must provide incentives to expand production—and the greatest incentive would be to strike down the many unnecessary regulations which might be termed strangulations.

We must stabilize the value of our currency, for we cannot pay the cheap dollar we borrowed with a hard-to-get dollar.

Our present financial situation has been caused by avoiding the Committee on Appropriations—for 36 out of the last 37 years, appropriation bills have been below the budget.

Many people talk about what they do not have or what is not right—and that could be—but if we would think of the other side, what we do have, of the good things of life, we have much more than our parents or grandparents had and far more than the people of any sizable nation in the world ever had.

If each of you will look out the window, no matter what your age, and remember what you first saw and compare it with what you see today—roads, highways, and streets. Factories, our buildings, our schools, our farms, our trees. our forests, everything you will see is so far above what you first remember and in some cases thousands of times better. No country has ever had it so good in a material way, and I do not want to lose it. Let us keep in mind that as long as we have a rich country, we can surely work out of our financial trouble. We can meet our problems. We must tighten our belts, increase our production, by striking down harmful regulations. We can do it by increasing production and selling our products.

Mr. Chairman, we have a great country. Let us save it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ABATEMENT, CONTROL AND COMPLIANCE

For abatement, control and compliance activities, $529,838,000, to remain available until September 30, 1982, of which not to exceed $4,500,000 shall be available for purposes of Resource Recovery and Conservation Panels established under section 2003 of the Resource Conservation and Recovery Act (42 U.S.C. 6913).

☐ 1710

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES: On page 15, line 14, strike "$529,838,000" and insert "$531,338,000".

Mr. YATES. Mr. Chairman, I offer this amendment on behalf of the gentleman from Illinois (Mr. McCLORY) and myself.

Mr. Chairman, I now yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding and I thank the gentleman for offering the amendment. This amendment would enable the Environmental Protection Agency to undertake a study and begin work with regard to the elimination of PCB, which has its highest concentration of any place in the world in Waukegan Harbor on Lake Michigan. It is a situation which adversely affects all the residents on Lake Michigan, including the residents from the district of my colleague, the gentleman from Illinois (Mr. YATES) in Chicago, as well as those who reside in the districts abutting on Lake Michigan in the other States which abut on Lake Michigan; indeed, the entire Great Lakes.

It is a subject of national importance and, therefore, the additional amount of $1,500,000 would enable this national project to be undertaken.

Mr. Chairman, Waukegan Harbor is an important port located on Lake Michigan. The situation of PCB contaminants in the harbor affects not only the residents of my district in and around Waukegan but some 15 million people living around Lake Michigan. I speak of the contamination of the harbor and surrounding areas by 2 million pounds of polychlorinated biphenyls, or PCB's, one of the most toxic chemicals known to man.

PCB's were once a widely employed industrial compound. They were added to adhesives, plastics, paints, varnishes, sealants, and other surface coatings and were widespread as a component of carbonless carbon paper. Because of their chemical and thermal stability and low conductivity of electricity, PCB's are useful as hydraulic fluids, and as coolants and insulation fluids in electrical transformers and capacitors. PCB's have been the fluid of choice within the electrical industry since the early 1930's. Only since the mid-1960's, when technology was developed to measure PCB's in the environment, has the chemical been identified as a contaminant. Since that time, several incidents point up the terrible consequences of PCB exposure.

In 1968, the accidental factory leak of PCB's into cooking oil sickened at least 1,200 consumers in Yushio, Japan. Immediately, many suffered from swollen joints, sever skin lesions, and other disorders. Of the 13 contaminated women who became pregnant, there were 2 stillbirths, and 12 of the 13 babies were born smaller than national standards. Within 5 years, 22 deaths had occurred among the victims—9 were from cancer.

The next year, PCB's leaked from a factory near Pensacola, Fla., contaminating organisms in Escambia Bay. Less than one part per billion killed half of the exposed shrimp within 15 days.

In the last decade, scientific studies and unfortunate accidents involving PCB's have demonstrated the many dangers of the chemical. Immediate symptoms of PCB poisoning are acne-like eruptions of the skin, nausea, and vomiting, swelling, jaundice, and fatigue. PCB's are suspected of lowering the body's ability to recover from other illnesses and of reproductive difficulties. Research conducted at the University of Wisconsin Medical School has shown that at concentrations as low as 2.5 parts per million, laboratory monkeys and their offspring suffered many of these consequences. PCB's are dangerous, and the information we do not have is potentially as alarming as that which is known.

The U.S. EPA has claimed that the highest concentrations of PCB's in the environment are located in Waukegan, Ill.—higher, by EPA's reckoning, than perhaps anywhere in the world. An otherwise undistinguished drainage ditch—legally classified "navigable" because it is a tributary adjacent to Lake Michigan—contains PCB concentrations in amounts exceeding 200,000 parts per million. It is barren of even the lowest life forms. In Waukegan Harbor, a commercial and heavily trafficked pleasure port, sediment concentrations have been found as high as 10,000 parts per million. Obviously, these figures are alarming, especially when compared with effects of low levels of the chemical I mentioned earlier.

The problem of PCB contamination in Waukegan is not merely a local problem. It has the potential of affecting each and every resident of the region who depends on Lake Michigan for drinking water, for fish, and for recreation. The contamination of Lake Michigan by PCB's is truly a problem with which the entire Nation shares a concern.

Among the most popular species of the Great Lakes sport fishery—now valued at about $1.2 billion per year—are varieties of lake trout and salmon. Ironically, these are also the most PCB-contaminated fish of Lake Michigan and the most consumed. Each State bordering Lake Michigan warns anglers against consuming more than 1½–2 pounds of these popular fish per week. In some cases all women of childbearing age, pregnant women, or mothers nursing their infants are urged not to eat these fish at all.

What is distressing about the Waukegan situation is that, aside from matters of liability, it is entirely clear cut. Any concerned citizen can see that the matter is serious and demands immediate remedial attention. It is known who the polluter is. It is clear where the contaminants are going. It is clear what the dangers are. Yet, since the discovery of nearly 2 million pounds of PCB's in that area in 1976, not one step has been taken to remove this urgent health and environmental hazard.

While it is true that the State of Illinois and U.S. EPA and Outboard Marine Corp. are suing each other before the U.S. district court to determine just who is responsible for the cleanup of this contaminated area, neither the agency nor OMC has yet to successfully mitigate the immediate hazard. Evidence of the immediacy of the hazard is apparent:

An emergency water intake station for the city of Waukegan is located in the harbor itself. This intake, generally used for a few hours each year, in fact pumped the entire water supply for the city's 80,000 people just 11 years ago. PCB contamination was serious then as it is now, and no studies have been undertaken to determine the impact of exposure to this drinking water.

The North Ditch, the recipient of the heaviest concentrations of PCB's, is a drainage ditch for much of the immediate area. Many local health officials and officers of the Illinois Environmental Protection Agency are concerned about the impact of a major storm resuspending the contaminated sediments and sending them into Lake Michigan.

Outfalls from the polluting factory, while not actively discharging PCB's at present, flow across a public beach and are unrestricted and untreated. Significant residual quantities of PCB's exist in this effluent, nevertheless. One literally has to walk through the effluent to continue past these outfalls. Nothing exists to warn passers-by of potential dangerous plant effluent.

Heavy boat traffic, the scraping of bottom sediments by fully loaded cement freighters using the harbor, and severe weather occurrences can possibly churn up the contaminated sediments in the harbor itself, allowing them to make their way into Lake Michigan to further degrade the already contaminated fishery.

No amount of study, of warnings on fishermen's guides, of attention called for in the press or by interest groups can substitute for the removal of these millions of pounds of PCB's from this area. Up until now, the EPA has devoted its full attention to the development of a case against the alleged polluter to attempt to have that company assume full responsibility for the damage done and the cleanup. Before the lawsuit wends its way through the courts and the responsible party is ordered to clean up the area, we may have a serious public health problem as more PCB's flow into Lake Michigan. It is this that we must avoid.

The EPA has spent at least $500,000 on studies of the situation to back up their litigation, and the time has come to begin to rid ourselves of this potent threat to Lake Michigan, to the citizens of the region, and to the many others who look to the Great Lakes system as a source of economic and personal well being.

With this in mind, I am supporting the appropriation of $1.5 million to clean and dredge out the PCB's in Waukegan Harbor and the North Ditch and to safely segregate PCB's from the Great Lakes. The $1.5 million is to be used for a plan, an engineering design, and actual cleanup operations.

I urge the adopting of this amendment which has been offered by my Illinois colleague (Mr. Yates) and which is identical with an amendment which my colleague from Illinois (Mr. Porter) and I support.

I thank the gentleman for yielding.

Mr. YATES. Mr. Chairman, I thank the gentleman for his remarks. The gentleman from Illinois (Mr. McClory) was a moving factor in connection with this amendment.

I join in the amendment because every district on the lake is affected by the contamination in Waukegan Harbor. As the gentleman from Illinois (Mr. McClory) said, it is the most contaminated area of PCB in the entire world. The unrestricted movement of fish in and out of the harbor threatens not only the fisheries industry, but the people who eat the fish that come out of Lake Michigan.

I think it is a necessary amendment. It is very important and I urge approval of the amendment.

Mr. Chairman, I commend the continuing fine work of the subcommittee, and, especially, its outstanding chairman, my good friend, Mr. Boland.

Mr. Chairman, this amendment to add $1.5 million to EPA's abatement, control, and compliance account is intended to begin the clean-up of Waukegan Harbor. According to EPA officials, the concentration of PCB's in Waukegan is the highest ever found in the United States and perhaps in the world. The entire lake is threatened by the unrestricted movement of the contaminated sediments into the lake where they are spread by Lake Michigan's plentiful fish. PCB's have been linked to a broad range of terrifying diseases: birth defects, nervous disorders, cancer in laboratory animals, sexual dysfunction, and other ailments. Direct contact leads to serious skin disorders. The extremely high level of PCB's in Waukegan Harbor is a clear and present danger.

The clean-up of the harbor, however, is bogged down in complicated litigation over liability. The suit is expected to take years to resolve. I am aware of the importance of this litigation, and this amendment should not be interpreted in any way as a judgment about liability. But I also believe that the clean-up must proceed.

This amendment is a simple and excellent vehicle for achieving this goal. It is to be hoped that a comprehensive environmental policy on toxic pollutants will eventually emerge, as envisioned in the proposed "superfund" legislation. But the situation in Waukegan Harbor is so singular and unique, the PCB levels so high, that delay is impermissible. I urge my colleagues to join in support for this important and necessary amendment.

AMENDMENT OFFERED BY MR. FLORIO TO THE AMENDMENT OFFERED BY MR. YATES

Mr. FLORIO. Mr. Chairman, I offer an amendment to the amendment.

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Illinois will state his parliamentary inquiry.

Mr. YATES. Mr. Chairman, is it in order at this time to ask for a vote on my amendment prior to the vote on the amendment offered by the gentleman from New Jersey?

The CHAIRMAN. The gentleman from New Jersey has been recognized for purposes of offering his amendment. It would not be in order.

The Clerk read as follows:

Amendment offered by Mr. Florio to the amendment offered by Mr. Yates: On page 15, line 14, strike "$531,338,000" and insert "$541,338,000".

Mr. FLORIO. Mr. Chairman, at the outset I would say I support the concept of the gentleman from Illinois (Mr. Yates) and the gentleman from Illinois (Mr. McClory) in support and would identify with their comments as to the desirability of what it is they are trying to do.

In essence, what my amendment to their amendment does, because we are dealing with this particular section, is to add $10 million for the following purposes:

Over the past year, Congress has made energy sufficiency and environmental pollution caused by solid wastes a priority. We have considered and adopted a number of proposals to encourage the development of resource recovery as one way to diminish our solid waste problem while recovering valuable energy and materials.

The EPA estimates that the United States produces over 140 million tons of garbage annually. This garbage represents the equivalent of 250,000 barrels of oil daily and according to GAO, as much as $3 billion in lost nonrenewable minerals. Resource recovery is critical to securing the continued availability of valuable nonrenewable energy resources.

In 1979, the Congress launched a short-term program to assist communities in solid waste resource recovery planning by appropriating funds under the Resource Conservation and Recovery Act under the President's urban grant program. At that time, 63 communities were chosen to participate in this program carried out under the Resource Conservation and Recovery Act. The Congress appropriated $10 million in 1979 and $15 million in 1980, providing a total of $25 million to launch this initiative.

According to the EPA, most of the communities in this grant program will just be entering the final phase of resource recovery planning next summer—just as the existing funds run out.

The EPA budgeted $35 million for a start-to-finish three-phase resource recovery planning program. Without the fiscal year 1981 $10 million appropriation, the grantees will be left dangling without completion of the third and final critical phase of planning. It would be unfortunate if these select communities were forced to abandon this project with two-thirds of the way—and the money—spent. It is a terrible waste of our financial and technical resources to abandon this important effort mid-stream, particularly at a time when national energy and materials conservation policies seek to encourage resource recovery at the local level.

For this reason, I have an amendment at the desk raising the total Environmental Protection Agency's abatement and control budget from $529,838,000 to $539,838,000 providing an additional $10 million.

I ask my colleagues to reconsider the importance of this program and to vote in support of this amendment.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Jersey (Mr. Florio) to the amendment offered by the gentleman from Illinois (Mr. Yates) and the gentleman from Illinois (Mr. McClory).

Mr. Chairman, I might also add that I would favor the amendment offered by the gentleman from Illinois (Mr. Yates) on behalf of himself and the gentleman from Illinois (Mr. McClory); but I rise in opposition to this amendment.

The gentleman from New Jersey seeks to add $10 million to this bill, and the purpose of the amendment is to provide funds for local resource recovery financial assistance in EPA's solid waste program.

The committee has supported this program in the past. Fifteen million dollars were appropriated in 1979 for this program. Although there was no authorization in 1980, the committee recommended $10 million and that amount ultimately was made available. These funds have been appropriated in addition to the $33.6 and $25.2 million, respectively, in State hazardous waste and solid waste grants in 1979 and 1980. The 1981 bill includes $38 million for these State grants.

I know that the purpose of the local resource recovery grants is different from the State grant money, but I cite those figures to demonstrate that considerable solid waste funds have been provided to State and local governments in recent years. In the local resource recovery program, the particular program the gentleman from New Jersey is targeting, the EPA, as the gentleman has indicated, has made some 63 awards. As the committee report indicates, this equates to nearly $400,000 per project. These funds are strictly for planning, strictly feasibility studies, and $400,000 ought to be sufficient to fund a pretty good study.

The EPA's 1981 budget requested an additional $10 million for these 63 projects. That would mean a total of $35 million for these 63 projects, or $550,000 each. The committee felt this was excessive.

Incidentally, I understand that the Environmental Protection Agency is now preparing a matter reprograming proposal to cover shortfalls in the salary and expense account. This is one of the programs that the Agency is seriously considering reducing. The Agency intends to take from $2 million to $3 million of the $10 million appropriated in 1980 for this program and divert it to employees' salaries. I maintain that the Agency is not too interested in the priority of this project, if this is any indication, and I think the amendment to the amendment ought to be defeated.

Mr. COUGHLIN. Mr. Chairman, I rise in opposition to the Florio amendment and in support of the McClory-Yates amendment.

□ 1720

Mr. Chairman, the chairman of the subcommittee has stated the case for opposition to adding $10 million under the Florio amendment. I think it is a relatively low priority program with EPA, and despite the fact this $10 million might complete the some 63 projects, we can be sure that additional projects will be before us again in another year.

On the other hand, the amendment of the gentleman from Illinois (Mr. Yates and Mr. McClory) is certainly a very important and vital one to treat the PCB problem in that area.

I yield back the balance of my time.

● Mr. JEFFORDS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I believe it is imperative that we carry through on our commitment to plan for the initiation of resource recovery centers to make productive use of the waste of our society. This amendment would merely insure the completion of a commitment we made to achieve the production of energy and the recovery of resource materials from our Nation's waste products.

The conversion of waste to energy as a national goal was recognized by this House a few weeks ago in the inclusion of the biomass provisions of the Energy Security Act. In section 235 on page 260 of that act, this House referred to the planning and feasibility studies under existing law. The planning and studies being conducted under the provisions of the Resource Conservation and Recovery Act are the only studies being done under existing law.

The unamended bill would entirely cut out any funding for the completion of the studies being done on resource recovery throughout the Nation. We must approve this amendment to insure the prompt implementation of the waste-to-energy provisions of the Energy Security Act.

As is the case with many of the Members in this body, a study is currently being done for a recovery facility in my State to convert waste to energy. This study is currently in its second phase, and I have been assured that the third and final phase would not be completed unless this amendment passes. I am sure that most Members of this body would consider it tragic if all that the semi-completed study achieved was to add to the abundance of waste material.

I urge the Members of this body to carry through on the effective implementation of the recently passed biomass energy provisions by amending this bill to provide for the completion of the 63 studies and plans being prepared under the Resource Conservation and Recovery Act. The citizens and communities of this Nation deserve representation which carries through on commitments in the energy and resource conservation fields.

Again, I urge the Members of this House to support the Florio amendment to fund the completion of the final phases of these studies.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Florio) to the amendment offered by the gentleman from Illinois (Mr. Yates).

The question was taken; and on a division (demanded by Mr. Florio) there were—ayes 8, noes 29.

Mr. FLORIO. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1730

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

There is pending a request for a recorded vote by the gentleman from New Jersey.

A recorded vote was refused.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Yates).

The amendment was agreed to.

The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISION

The foregoing appropriations shall only be available for the purposes of preparing, reviewing, or approving State Implementation Plans or revisions thereto that comply with section 110(a)(2)(E) of the Clean Air Act, as amended.

AMENDMENT OFFERED BY MR. BENJAMIN

Mr. BENJAMIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENJAMIN: Page 17, insert at the end of line 2 the following: "The foregoing appropriations shall not be available for enforcement activities in any air quality region to require installation of particulate control equipment before the Administrator has completed the initial review required by section 109(d)(1) of the Clean Air Act. The foregoing appropriations shall not be available to impose noncompliance penalties under section 120 of the Clean Air Act against a person who is proceeding on a compliance schedule to bring the source, with respect to which the penalty would be imposed, into compliance with applicable requirements only if in imposing such penalties actual dollar credit is given, as required by section 120(d)(2)(B) of such Act, for expenditures for such compliance activities.".

Mr. BENJAMIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. CARTER. Mr. Chairman, I reserve a point of order on the amendment.

Mr. BENJAMIN. Mr. Chairman, I offer an amendment which, in essence, incorporates the provisions of item (7) and (8), page 24, of the committee report (H.R. No. 96–1114), into the text of the bill at page 17 following the present provisions on the Environmental Protection Agency:

Basically, the amendment:

First. Prohibits any expenditure of funds for enforcement of the national ambient air quality standards (NAAQS) relating to particulate matter until criteria is revised to comply with law.

Second. Prohibits any expenditure of funds for enforcement of section 120 (d)(2)(B) of the Clean Air Act unless dollar-for-dollar credits against noncompliance penalties are provided for expenditures made for the purpose of bringing the source into compliance.

I personally believed that the provisions of the committee report is sufficient guidance for the EPA and that bill language would not be necessary. However, because the history of EPA's relationship with the Congress indicates that it might not be bound by the committee report, I wrote to the administration on June 19 stating:

> I am extremely concerned that industry, and the steel industry in particular, are being required to expend large amounts of capital to comply with standards which may be significantly altered subsequent to EPA's required review of the air quality criteria and standards.
>
> I am also concerned that EPA is not providing an adequate offset credit against the noncompliance penalties for investments made to attain compliance.
>
> These are two examples of industries being required to expend large amounts of capital for completely non-productive purposes. This appears particularly absurd in light of the critical shortage of capital which exists in the majority of industries.
>
> We currently face a critical shortage of capital and the lowest employment level since the depression. We must act quickly to assist the industry and the workers before severe damage is done to the market system.

In a subsequent conversation, I asked the Administrator to state in writing whether he would comply with the provisions of the committee report regarding sections 109 and 120 of the Clean Air Act.

While the Administrator initially ignored my inquiry on section 109, he did respond on June 30 regarding section 120 as follows:

> As you know, EPA proposed regulations to implement section 120 last year, and I expect to sign final regulations in the near future. Both the concerns which you have raised relative to the section 120 program were considered in formulation of the regulations.
>
> Relative to imposition of penalties on facilities installing control measures as rapidly as possible, EPA intends to implement the section 120 regulations in a manner which gives low priority to sources in compliance with EPA-approved schedules for installation of controls. Because of its limited resources, EPA must establish priorities for issuance of notices of non-compliance (which triggers the running of penalties) and conducting hearings. We have concluded that giving lower priority to sources acting to install necessary controls expeditiously in accordance with approved agreements is a rational and effective use of EPA resources.
>
> On the question of credits for expenditures made towards compliance, the act of course requires appropriate consideration of such expenditures. We have structured the economic model to take such expenditures into account in the initial calculation of the penalty in a manner which reflects the true economic savings to the company. This adjustment will reduce the penalty as expenditures are incurred, the earlier the expenditures the greater the reduction.
>
> Therefore, I believe our section 120 regulations as they will soon be issued take ample cognizance of the concerns which have been raised.

I called again on section 109 and finally received correspondence, dated July 21, which stated in part:

> The agency's process for review of the particulate criteria document is currently under litigation. Though the outcome of the litigation is unclear, I would like to assure you that the particulate standards arrived at will reflect a careful consideration of available health data and be designed, as required by the Clean Air Act, to protect the public health and welfare.
>
> Many regions of the country have not yet achieved the required degree of control to meet the present particulate standard. In our discussion, you raised the possibility that the revised standards may require a lesser degree of control than is presently required. Your concern is that investments made by industry now to achieve present standards might be partially unnecessary if the standard is relaxed. I fully understand the point you are making. However, I feel the agency must be very cautious in responding to such an argument if we are to make progress in improving our air quality. As you are aware, the Clean Air Act requires EPA to review the ambient standard criteria every five years. Since the lead time for installation of major pollution control equipment is often several years, adopting a policy that would allow delay of compliance schedules simply because the applicable standard is under review could result in controls never being installed. I think it is also important to note that many of the affected areas so far exceed the applicable standard that it is doubtful that any revision in the standard would significantly reduce the compliance obligations facing industry in these areas.
>
> EPA has been working and is continuing to work with industry to resolve this situation. Recognizing the economic difficulties faced by many companies, we have made every reasonable effort to accommodate these difficulties while still carrying out the mandate of the clean air act. A number of compliance agreements to meet applicable particulate emission limits have been reached thus far with industry. They reflect compromises by all the parties. The obligations contained in these agreements were reviewed and freely consented to by the board of directors of the affected companies. In view of the negotiations and compromises, and given the review and agreement at the highest levels in these companies, I believe that these obligations should now be met.
>
> I appreciate and fully understand the depth and strength of your concern in this matter. In addressing this difficult situation, we will do our best to accommodate the interests you represent and have brought to my attention.

Mr. Chairman, the environmental regulations of the EPA and the cost to the steel industry has been the subject of numerous reports, governmental and private.

The Council on Wage and Price stability, in a 1977 report to the President, indicated that while environmental expenditures were not large then compared to other production cost components, they were prospectively large enough to be a factor in the competitiveness of U.S. produced steel. It also found that the manner in which environmental standards were set and enforced provided a strong disincentive against modernization.

COWPS estimated that operating and annualized environmental capital costs amounted to $8 per ton in 1976. However, the estimates of the long-run cost of environmental controls could amount to $18 to $33 per ton in 1976 dollars or 5 to 10 percent of production costs. The industry estimated environmental costs to be 15 percent of production costs. COWPS projected that the environmental costs would rise as a result of the 1977 Clean Air Act amendments.

In essence, COWPS found that the status of regulations was confusing and uncertain.

On December 6, 1977, Anthony M. Soloman submitted a report to the President entitled "A Comprehensive Program for the Steel Industry," which was predicated, in part. on the analysis prepared by the Council on Wage and Price Stability.

While the report clearly refused to recommend a relaxation of basic environmental goals or more lenient treatment in regulation or enforcement for the steel industry, it did indicate that the environmental protection agency would coordinate all future air and water pollution standard-setting and enforcement efforts for the steel industry, as well as future environmental requirements under the toxic substances and solid waste statutes to assure compatability.

The report further indicated that the EPA would continue to consider the combined effects of the costs of EPA and OSHA requirements in assessing the appropriate levels of control in future EPA regulations. It also stated that the EPA would examine possible disincentives to modernization in establishing future new source performance standards and generally review its regulatory processes and standards to reduce rigidities and unnecessary barriers to modernization.

Unfortunately, despite the passing of more than 30 months, this report, although coordinated with EPA, remains only so many words.

In January 1980, the steel industry reported in "Steel At the Crossroads" that it had invested $6 billion in constant 1978 dollars between 1951 and 1978 for environmental control facilities. It further estimated that it would need another $600 million per year or $4 billion through 1985, and possibly $700 million annually or $7 billion through 1985.

The report noted that the standards for particulate matter are important to the steel industry since particulates represented the largest quantity of pollutants discharged by the steel industry.

The industry believes that the standards for particulate matter are significantly more stringent than the law requires. The industry believes that revision is essential and have frequently discussed it wth the EPA. It finally started litigation to revise the criteria on which the standard is based. Unless EPA moves speedily on this matter, the industry will be started on a major round of capital spending that may well prove unnecessary.

Within the past month, the Office of Technology Assessment, upon the request of the House Subcommittee on Trade, issued a comprehensive report entitled, "Technology and Steel Industry Competitiveness," which identifies the steel industry as one of the largest pollution sources.

The report states that there can be no argument against the goals of reducing environmental pollution. However, the impact of regulations on creations and steelmaking technology merits examination. For technological innovation, regulations can act as either a barrier or incentive.

The report indicates that regulatory requirements have accelerated industry decisions to phase out and replace aging facilities.

EPA and OSHA related capital investments during the 1970's were about $365 million per year or about 17 percent of total annual steel industry capital investment. These expenditures have placed greater limits on steel industry modernization than on other industries. Annualized capital and operating costs for environmental requirements, according to the report, add about 6 percent to steel production costs and prices.

A well-designed and vigorously implemented Government policy has nurtured Japanese steel industry's expansion and adoption of new technology. The U.S. steel industry, on the other hand, has been hurt by a long series of Federal Government policies that have frequently been uncoordinated, contradictory, and inattentive to critical issues. Editorially, the enactment and enforcement of EPA standards is certainly within this category.

There was little fanfare 10 days ago when former Federal Reserve Chairman Arthur F. Burns announced the formation of a committee to fight inflation. Perhaps there should have been.

Burns is a scholar in residence at the American Enterprise Institute for Public Policy Research, which made the announcement.

The committee appears to be something more than another token effort to study an obvious problem.

It is impressive for a couple of reasons. First, it consists of 13 former Government officials, both elected and appointed, experienced in financial and economic affairs.

Perhaps the key word is "former." None is a Government employee or elected official. They should be free from the political pressures which often prejudice committees appointed by incumbent officials.

Burns is the chairman and the committee includes former Treasury Secretaries Henry H. Fowler, W. Michael Blumenthal, C. Douglas Dillon, George P. Schultz, and William E. Simon. Former chairman of the Council of Economic Advisers Paul W. McCracken is also a member.

The committee made seven initial presentations on how to promote effective anti-inflation policies. Included is a balanced Federal budget with emphasis on expenditure restraints rather than tax increases as a way of holding down deficits.

The committee recommended "reforming regulations directed at protecting the environment and the public health and safety to insure that basic national objectives in these areas are achieved at minimum feasible cost.

That of course refers mainly to Environmental Protection Agency mandates on pollution control.

That is important to the steel industry which has done a remarkable job cleaning up the air.

But that progress has been costly. Both in what it has meant to the price of steel projects and the number of persons employed in area steel mills and related industries. And according to current regulations, it is going to get costlier.

Unemployment, not pollution, is the most pressing problem here and in other industrial areas of the country.

The committee's recommendation is a good one. Congress must take a close look at the EPA and the powers it has given that agency.

My amendment should be adopted unless we can be assured by the authorizing committee that it will examine and resolve the problems attendant to sections 109 and 120 to protect the environment while not adding to the burden of the steel industry and the inflation of our economy.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I have reviewed the report language that the gentleman has had inserted in the appropriations bill that is before us. I hope that EPA might be responsive to it. I would like to urge the gentleman to withdraw the amendment at this time. I am pledged to work with the gentleman to see if we can accomplish the no inequity occurring this year. We, of course, will be reviewing the Clean Air Act for reauthorization next year and I want to work closely with the gentleman from Indiana to see if we can accomplish the goals which we certainly share along these lines.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BENJAMIN was allowed to proceed for 2 additional minutes.)

Mr. BENJAMIN. Mr. Chairman, I thank the chairman of the Subcommittee on Health for his assurances and his understanding of the problem. I also thank the gentleman for reviewing the subcommittee report from which this language is taken that is offered in the amendment.

With the assurances the gentleman offers to me and because of the respect I have for the gentleman and his intimate working knowledge of the EPA as well as the gentleman's concern about public health and the attendant cost, I ask unanimous consent that I be permitted to withdraw the amendment. I look forward to working with Chairman WAXMAN, his subcommittee, the EPA and industry, including its employees, to accomplish our national environmental and health objectives in a practical, economical and expedient manner.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CARTER. Mr. Chairman, I withdraw my point of order.

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to make certain comments on this piece of legislation and particularly this area involving funding for the Environmental Protection Agency.

First of all, Mr. Chairman, I would like to commend the chairman of the committee, the ranking member and the members of the subcommittee for their diligence in carefully overseeing the funding of activities of the Environmental Protection Agency, particularly in the area of the construction grant program. The committee report notes on page 25 that in 1979 the committee directed that the construction grants projects with incremental advanced wastewater treatment costs exceeding $1,000,000 should be personally approved by the Administrator. This figure was later raised to a $3,000,000 threshold.

Mr. Chairman, as the report points out, while this may have been the theory, there apparently has been a delegation of the real decisionmaking to the regional offices with essentially a rubber stamp being given by the national office. This, of course, is quite contrary to the intention of the committee. It is a matter which I have discussed with the chairman of the committee upon a number of occasions concerning the necessity to review very carefully the expensive advanced water treatment projects. I am pleased to note that in the committee report the committee insists that the Agency is directed to restore to the headquarters review process all projects with AWT incremental costs above $3 million. This means the Administrator personally, himself, shall make the review. That is clear English.

□ 1740

It is also encouraging to note that the committee points out in its report that as a result of the reviews which were undertaken, already more than $100 million in taxpayers' money have been saved. So, I want to call that to the attention of the Members and to commend the committee.

But, there is one other point I feel constrained to comment upon. The rule under which this bill is being considered contains waivers of points of order for certain appropriations which have not been authorized. There are a number of provisions in this appropriation bill for which authorizations have not yet passed Congress. Two of them in particular are of considerable interest to me.

One is the noise control legislation, and the other one is the Federal Insecticide, Rodenticide, and Pesticide Act. Both of those programs have not been authorized, and yet there is funding in this legislation for them.

It is particularly important to have authorization, it seems to me, because it is through authorization that Congress sets down the limitations and the charter of every agency in fulfilling its obligations.

In these two instances, the legislation, which has not yet had full action by the Congress, contains provisions requiring legislative vetoes of the rules issued by the Environmental Protection Agency in its noise program and in the FIFRA program, positions on which this House has overwhelmingly taken positions.

I had proposed to offer an amendment which would have restricted any funding being used to implement regulations which had been vetoed. There are no programs presently enacted into law in these two agencies to which that would apply, and therefore I will not offer the amendment. But I would like to inquire of the chairman of the subcommittee what the feeling is of his committee with respect to these programs which have not been authorized, and particularly where substantial authorizing legislation with major policy impact is involved for the future.

Mr. BOLAND. As the gentleman has indicated, the legislative veto, of course, is a major policy impact. The gentleman from Georgia is responsible for the legislative vetoes that have been attached to the two bills. The committee did note the amendment which was printed in the RECORD that the gentleman was going to offer to H.R. 7631. That amendment indicated that:

> No part of any appropriation contained in this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Of course, we run into the difficulty that these two bills with the legislative veto—the Federal insecticide, fungicide and rodenticide bill and noise control bill—have not been authorized.

The CHAIRMAN pro tempore (Mr. BARNARD). The time of the gentleman from Georgia has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. BOLAND. My position in this is totally agreeable with the position the gentleman from Georgia takes. We would express our concern to the department and the agencies if there is any effort made to bypass a veto that has occurred pursuant to law.

Mr. LEVITAS. I thank the gentleman from Massachusetts for his comments. I think it is very important that, regardless of what position any Member may take on the question of whether there should or should not be any legislative vetoes, once they are part of the law, the administration cannot ignore them. They must follow the law, and we should cut off any funding to implement any regulation which has in fact been vetoed by Congress pursuant to the legislative veto.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am glad that the gentleman from Georgia (Mr. LEVITAS) is here, because we have a piecemeal but ongoing dialog on the subject of legislative veto. By that I want to make clear that I am not necessarily opposed to it, nor am I necessarily in favor of it, but I recognize in the subject matter a very significant, very important legislative policy which is beginning to impact much of the important legislation that comes before the House.

My concern lies in the fact that it is now having a sufficient impact so that it actually influences whether or not certain legislation can even be passed, and this causes me grave concern. It is my opinion, for whatever that is worth, that the question of the validity of the legislative veto—the constitutionality, I perhaps should say, or the form it should take—is one which is a question that is going to have to be resolved sooner or later for our country if our legislative and executive branches are going to be able to continue to function.

This subject should be put into some legislation. It should be tested in the courts. It should go all the way up through the appellate procedures and it should be decided by the Supreme Court of the United States, because we cannot continue piecemeal to frustrate legislation, to encumber legislation, to encumber the function of the executive department.

Without resolving this very important question, and I am sure that the gentleman from Georgia knows that in making these comments I am not taking issue on whether or not legislative veto is a good idea, but I am expressing a very deep concern that we must resolve this question because it is tending to inhibit and will eventually paralyze our legislative business.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I will be pleased to yield.

Mr. LEVITAS. I thank my colleague from California for yielding. I quite agree, this matter should be resolved and should be resolved by the Supreme Court of the United States with respect to its constitutionality. In the meantime, we as Members of Congress have to exercise our own judgment both as to constitutionality and as to policy.

But, let me just say one other thing. We are in agreement on that point, but I want to say one other thing.

As far as holding up legislation, the fact of the matter is that the legislative veto bill, H.R. 1776, is being held up itself. It has over 230 cosponsors, and yet whoever runs this place around here is holding that bill up; and the regulatory reform bill, which is in the gentleman's Judiciary Committee, is being held. I think those bills should come out and be voted on.

Mr. DANIELSON. I thank the gentleman, but I do recapture my time because I have a couple of items I want to add. They are these:

I recommend, I urge very sincerely, in a totally ecumenical manner to either side of the aisle, that we not append the legislative veto onto each and every piece of legislation, because it tends to overburden the legislative process when we might just as well take it up through the courts on appeal to the Supreme Court on one or two pieces of legislation rather than the entire scope of our calendar.

Now, I have one grave concern on legislative veto. It is one of the more old-fashioned concerns, and that is, we might not just have time enough to exercise legislative veto responsibly if we were to get it. You know, we had, for example in last year, we had more than 7,000 new Federal rules and regulations promulgated. How in heaven's name could we review 7,000 of these rules and regulations in 1 year and still take care of our ordinary business? That bothers me. Now, I will give you one prime example, and then I will be quiet and fade quietly off into the sunset.

□ 1750

That example is this: On November 14, 1979, the Members may not know it but an emergency order was declared by the President of the United States. An emergency was created. It resulted from the taking of hostages in Iran on November 4. On November 14, 1979, an emergency was decreed. By the law of the land, that had to be reviewed in 6 months by the Congress, namely, May 14.

This is the 24th day of July. I have been counting the days. Not one Member of this House of Representatives, so far as I have been able to ascertain, has even so much as said "boo" about that emergency which should have been reviewed on May 14.

I am delighted that the gentleman from Pennsylvania has now said "boo" because that proves that we are not standing entirely silent. But it illustrates the fact that for 2 months and 10 days after our limitation on action, nothing has been done.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DANIELSON) has expired.

(On request of Mr. LEVITAS, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. It is my privilege to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank my kind and eloquent colleague for yielding.

I would like to point out that this House and the other body have exercised legislative vetoes, and if we do not exercise our legislative responsibilities, then the bureaucrats run the country.

We just exercised our responsibility and vetoed the FERC regulation on incremental gas pricing, and if we had not done that, we would be in a very sorry mess right now. We vetoed the regulations of the Federal Election Commission. In the last 2 months this House has vetoed, along with the other body, four regulations of the Department of Education that totally disregarded congressional intent. If we had not done that, they would have gone into effect.

Indeed the reason for this proposed amendment was that the Federal Government threatened to implement regulations that had been vetoed.

So, Mr. Chairman, it is a question of who is going to run the country, the elected Congress or the unelected bureaucrats.

Mr. DANIELSON. Mr. Chairman, if I may respond to the gentleman from Georgia (Mr. LEVITAS), I would say, on the question of who is going to run the country, let us get back to the Constitution. The Congress legislates, the executive executes, and the judiciary decides the case and the controversies.

But we are not the executive, and we should not invade that sphere. The executive is not the legislative; they should not invade that sphere. And the judiciary should stay out of the other two and restirct its activities to the cases and controversies.

God bless you all. I fade now off into the sunset.

Mr. Chairman, I yield back the balance of my time.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from California (Mr. DANIELSON) has a bill in his committee, and I know I wrote some of the early language of that bill. I just committee will be reporting that regulatory reform bill any time soon.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. Yes, I would be delighted to yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I would like to report to the gentleman from North Carolina (Mr. BROYHILL) that I am working diligently to see that the ends of justice are furthered.

Mr. BROYHILL. Mr. Chairman, I know that the gentleman has worked on this bill in this Congress. I have put a discharge petition there at the desk discharging his committee from further consideration of that bill.

I do know if I will get a majority to sign that petition. I hope I will, but I would also hope that the gentleman will move expeditiously to get that bill out.

The gentleman, in fact, did in his comments indicate or make a very good argument for the legislative review and veto procedure. He said that we ought to get back to the Constitution. I agree with that, and the gentleman from Georgia, I know, agrees.

In his remarks the gentleman said that the Congress legislates, the executive will execute the law, and the judiciary will interpret it. The problem is that we have been turning over lawmaking powers to the executive, and that is wrong.

POINT OF ORDER

Mr. TRAXLER. Mr. Chairman, I rise to a point of order.

Mr. BROYHILL. Mr. Chairman, we ought to retain that legislative responsibility ourselves.

The CHAIRMAN pro tempore. The gentleman from North Carolina (Mr. BROYHILL) will suspend.

Will the gentleman from Michigan (Mr. TRAXLER) state his point of order?

Mr. TRAXLER. Mr. Chairman, with due respect and with due deference to my colleagues, I must rise to a point of order.

October 1 is coming, and I feel we will not have this bill completed by that time. I would ask that we return to general order.

The CHAIRMAN pro tempore (Mr. BARNARD). The debate must be confined to the subject of the bill. For that reason, the point of order is sustained.

The gentleman from North Carolina (Mr. BROYHILL) will proceed in order.

Mr. BROYHILL. Mr. Chairman, I yield back the balance of my time.

Mr. PETRI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the remarks of the gentleman from Georgia (Mr. LEVITAS).

He addresses a fundamental constitutional question. The question is whether the people will write the laws through their elected representatives, or whether unelected bureaucrats will write those laws.

We need to make it clear that the legislative branch makes the laws and the executive branch carries them out. If the executive branch has strayed so far from the intent of the law that it is transformed into something new, then it is our duty to tell the executive branch it is not fulfilling its duty to carry out the will of the people.

It is not within the power of department heads to change the laws of Congress. It is not within their purview to create new laws through regulations.

Recently, this controversy took on urgent importance when the Secretary of Education, backed by an opinion of Attorney General Civiletti, chose to ignore congressional disapproval of four Education Department regulations.

It has been suggested this is a matter for the courts to decide, but I submit that that view is wrong. The courts are a coequal branch of government, not sovereign over the Congress.

One way to help decide this question is the method taken by the gentleman in his amendment. Simply do not appropriate funds for carrying out vetoed regulations. This is clearly within our power and will end this question with dispatch.

This body, and our colleagues in the Senate, must challenge this usurpation of our responsibility. We owe it to the constitutional provision of separation of powers, and we owe it to the people of this country who elected us to make the laws and to oversee their implementation.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

EMERGENCY PLANNING, PREPAREDNESS AND MOBILIZATION

For necessary expenses, not otherwise provided for, to carry out civil defense and emergency preparedness activities, including activities authorized by section 103 of the National Security Act (50 U.S.C. 404 et seq.), the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), and the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), $136,017,000, of which not to exceed $39,034,000 shall be available for allocation under section 205 of the Federal Civil Defense Act of 1950, as amended.

AMENDMENT OFFERED BY MR. MITCHELL OF NEW YORK

Mr. MITCHELL of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MITCHELL of New York: Page 18, line 25, strike out "$136,017,000" and insert in lieu thereof "$203,017,000".

Mr. BOLAND. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DANIELSON) having assumed the chair, Mr. LEVITAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will at this time take 1-minute speeches.

CARTER'S ENERGY KIDDIE CORPS

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, has Jimmy Carter's 1977 energy kiddie corps been resurrected?

Back in 1977, the White House was proposing a "youth energy program" consisting of teenagers going from house to house checking on how their neighbors were doing in conserving energy.

Presumably, these energy detectives would have checked everything from the air in automobile tires to the putty around window panes, from thermostat settings to the water level of commodes.

The plan created quite a stir in Congress and was quietly shelved.

Has it been dusted off?

Two days ago the President announced "phase 2" of his national "energy efficiency program." According to yesterday's Washington Star, civic, neighborhood, and voluntary groups will be asked to "conduct door-to-door surveys to promote energy conservation."

Is this the rebirth of the 1977 Greg Schneiders/Jimmy Carter "corps of energy detectives"?

I had difficulty finding out the details of the original plan in 1977—and was told by the White House that it would be made available only to handpicked Members of Congress.

Since I am not one of the White House's selected confidants, I am still curious about the plan.

Is this the same plan circulated in 1977, with checklists, suggestions for the Kiddie Corps and a motto claiming there would "be a reawakening of our cultural heritage" and an improvement in our mental and physical health?

Is this the same plan whose author feared it might be misconstrued to be too much like the Youth Corps made famous in prewar Germany?

The original proposal in 1977 was chilling with its implications of surveillance. The newest proposal, even though we know little about it, still raises many doubts and serious concerns.

I never did like the idea of volunteers checking up on whether or not I am conserving energy. At the very least, Mr. President, it is a violation of citizens privacy. At the very most, it smacks of big brother, and I suggest that this newest version of the Carter Energy Kiddie Corps be put back on the shelf and not in our neighborhoods.

INTRODUCTION OF LEGISLATION TO OBTAIN EQUITABLE TREATMENT FOR SOYBEAN PRODUCERS

(Mr. BURLISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BURLISON. Mr. Speaker, I understand that some of our colleagues on the minority side of the aisle complained to the majority leader and the Acting Speaker for putting off the 1-minute speeches from the first item on the program to the end of the day.

I just want to assure my colleagues that I objected along with them when this announcement was made in the whip meeting this morning, because I had an extremely important 1-minute speech that I thought deserved the attention of the House and of the country. So I want my colleagues to know that that decision by the Acting Speaker certainly should not be looked upon as a partisan decision.

Mr. Speaker, I am today introducing legislation designed to treat the soybean producer equitably with the other major commodity producers, in case of a disaster declaration. The sad truth is that there is now no program for soybeans.

This position is not new for me. For many years I have striven, often without success, to treat soybean producers equally with wheat, feed grain, and cotton growers. Frequently, the processors and some so-called producer groups succeed in exempting or otherwise restraining soybeans from the programs, in their efforts to keep producer prices down. Here is what I said on this point in September 1977:

> My great disappointment in this new law is the treatment accorded soybeans. As you know, there has never been an income support (target price) program for soybeans. Neither has there been a loan mandated by law. Rather, the Secretary has had the discretion of providing a loan. Most farmers will recall that for nine years I have been the chief advocate in the Congress for a higher loan. In 1969 I thought a $2.50 loan was inadequate and was vocal in opposition to administration threats to lower it to $2.05. Over my protests, the Secretary did in fact lower the loan to $2.40, $2.25, and $0.00 in successive steps between 1970 and 1973. It has been my view that if we were to have no soybean program, the least that we should do is provide a minimum loan. This for a commodity that ranks second in the Nation among cash crops.
>
> It was in this context that I offered a floor amendment to mandate a minimum $4.00 loan for soybeans. As has been the case historically, the processors and trade were adamantly opposed, as they want to buy soybeans at the lowest possible price. Our family farmers had little interest and no organization. So the well-oiled processor lobby rolled over my amendment. Farmer interest may pick up this fall, however, if soybean prices drop below the $4.00 level. The $4.00 proposal was eminently fair inasmuch as soybeans historically have sold for 2¼ to 2½ times the price of corn.

We are fast approaching a national disaster by drought in my district. If and when that time comes, soybean producers will be left out. If my colleagues feel this to be unfair, you are invited to join in sponsorship of my bill.

□ 1800

HOW DUMB CAN YOU GET?

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Hooray, Mr. Speaker, I finally got my 1-minute speech at this late hour. I am very honored that the Speaker would allow me to speak for 1 minute. Please keep your eye on the clock and cut me off when I get to 60 seconds. Such is free speech and the first amendment in a Democrat-controlled House.

I did want to take this time to protest the decision by the Speaker pro tempore this morning that the 1-minute speeches would not be permitted at the opening of our proceedings. It is within his discretion to do that. But I want to let you know why he did it. He did it because this morning in the Democratic whip meeting, as was just admitted by the gentleman from Missouri, who is an assistant whip, a calculated decision was made to deny the minority party the right to employ 1-minute speeches, particularly because of the Billy Carter affair. I was told that the speeches we have been making and the questions we were asking were being broadcast on evening television, and this was the majority's way of preventing us from using our free speech and the media from having access early in the day to the comments that we would make about the Billy Carter matter.

I suggest to you, my colleagues, and Mr. Speaker, that this is the first brick in the stone wall. And if that phrase has a familiar ring to it, you might go back and read recent history.

How dumb can you get?

IT IS TIME FOR A CHANGE

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker—

> The rising cost of food, clothing, housing, energy, and health care has eroded the income of the average American family, and has pushed persons on fixed incomes to the brink of economic disaster. . . . If we do not plan, but continue to react to crisis after crisis, our economic performance will be further eroded.

Those words, Mr. Speaker, were taken from the Democratic Party platform in 1976. And I believe it is abundantly clear to the American people today exactly where that planned economy under a Democratic controlled administration and Congress has taken us.

Inflation was running 4.8 percent when Mr. Carter took office. Under Democratic leadership it rose every succeeding year until it reached 18.1 percent for the first quarter of 1980. By his own predictions, Mr. Carter will preside over an economy in deep recession with an average annual inflation rate of 13.4 percent in 1980 and nearly 10 percent in 1981.

Mr. Speaker, it is time for a change.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7724, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1189) on the resolution (H. Res. 750) waiving certain points of order against the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3486, DOCUMENTARY MATERIALS PRIVACY PROTECTION ACT OF 1980

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1188) on the resolution (H. Res. 749) providing for the consideration of the bill (H.R. 3486) to limit governmental search and seizure of materials possessed by persons involved in first amendment activities, to provide a remedy for persons aggrieved by violations of the provisions of this act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7299, MENTAL HEALTH SYSTEMS ACT

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1190) on the resolution (H. Res. 751) providing for the consideration of the bill (H.R. 7299) to revise and improve the Federal programs of assistance for the provision of mental health services, and for other purposes, which was referred to the House Calendar and ordered to be printed.

NUMBERS TELL THE STORY

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, here is what 1 day's collection of wire service stories tells us about the state of our economy:

Food prices rose 0.5 percent in June and are expected to rise at higher rates in coming months. Consumer prices rose at an annual rate of 12.4 percent in June. Democratic congressional leaders in the field of agriculture have told President Carter that the farm economy is "in the worst shape since the 1930's."

What is amazing about all of this is that no one seems to be shocked. Everyone has become accustomed to bad economic news. The media are actually telling us that the devastating inflation rate of 12.4 percent is an "improvement" because it is lower than the 18 percent we have been enduring. Perhaps only under the Carter administration could a double-digit inflation rate be seen as a step forward.

This administration has done more than simply mismanage the economy. It has caused such profound damage that it will take years before it can be totally repaired. What we are witnessing is the gradual but inexorable disintegration of the American economy. The only American who seems to be making money out of all this is a former gas station owner from Plains, Ga.

THE THICKENING LIBYAN PLOT

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I am thrilled to be here to have the opportunity to finally speak. Had I not been among the gagees this morning—and I finally later learned that we were gagged as a conscious decision of the Democratic leadership to block daytime coverage of the latest Carter-Libyan scandal, such are the ways of the majority—but had I had an opportunity to speak this morning, I would have pointed out that the already thickening plot is turning rancid with the disclosures yesterday that President Carter and his NSC adviser knew last March that Billy Carter had an agreement to make millions of dollars by obtaining Libyan oil for an American firm, the same Presidential brother who is badly in debt to the Carter warehouse, we are told, which is reportedly 62-percent owned by the President.

But that is not all. Today we read that President Carter actually met with the Libyan diplomat who gave the check, who passed the money to his brother. And, in an unrelated matter, we are told that the Justice Department's internal investigative chief has criticized the Attorney General for going easy on two employees accused of misconduct. If Carter's Justice Department goes easy on underlings, how soft must they be on their political mentor in the White House.

An independent special prosecutor is the only remedy to get to the bottom of this sordid scandal. What is the President afraid of? Why will he not appoint an independent special prosecutor?

PLO MISSION IN NICARAGUA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, fresh from his visit to Moscow where he embraced the Soviet leaders and helped to open the 1980 Afghanistan memorial Olympics, terrorist PLO leader, Yasser Arafat, raised the Palestine Liberation Organization flag in the now "liberated" Nicaragua. In what was described as an emotional ceremony, the Marxist Sandinistas announced the establishment of formal diplomatic relations with the PLO, the first such mission in Central America.

One by one the Sandinista leaders took turns in praising their good PLO friends and colleagues in the international terrorist movement. Their enthusiasm in delivering rabidly anti-Semitic statements condemning Israel and the Jewish people overshadowed their teacher Arafat's words, which were described as mild in comparison. While confirming that the Sandinistas had received training and arms from the PLO, Daniel Ortega, a member of the junta and Sandinista directorate revealed that Palestinians had taken part in the fighting during the Nicaraguan revolution. Furthermore, he admitted that "the blood of Nicaraguans had been shed in the name of the Palestinian cause."

It would appear that this confession reveals a serious violation of the conditions set forth by the Congress in providing assistance to Nicaragua. Under the terms of H.R 6081, the special Nicaraguan aid bill, no assistance can be provided if it is shown that the Sandinistas are aiding, abetting or collaborating with interantional terrorists. While not unexpected, this open slap at Israel and the United States unfortunately confirms my earlier position about the true nature of the new "democrats" in Managua.

The cancer that now attacks all of Central America through the assistance of such international Marxist-terrorist connections points out a kind of global interdependence that underscores the false hopes of the Carter administration's policies that support progressive revolutions in the Third World. Hopefully, the administration will not liberate anymore of our allies before November in their openly stated effort to make Nicaragua the model for the rest of Latin America.

At this point in the RECORD I would like to insert a July 23 article from the Washington Star on Arafat's visit.

PLO MISSION IS ESTABLISHED IN NICARAGUA

(By Bernard Diederich)

MANAGUA, NICARAGUA.—In an emotional ceremony yesterday, Yasser Arafat raised the Palestine Liberation Organization's green, white, black and red flag here, establishing the first PLO mission in Central America.

Shortly before the flag-raising, a member of the ruling junta, Moises Hassan, whose father is of Palestinian descent, made an impromptu and rabidly anti-semitic speech condemning Israel and the Jewish people. In comparison, Arafat's words were mild during an hour-long press conference attended by all but one member of the five-man junta.

There is strong anti-Israeli sentiment in Nicaragua as there is in most leftist revolutionary groups in Latin America because of the Israeli government's policy of selling arms to estabilshed governments and not to revolutionary movements. This means that the Israelis end up supplying arms to right-wing dictatorshops throughout Latin America.

When the United States halted arms sales to his regime, Anastasio Somoza Debayle turned to Israel and his national guard in the last year of the war was armed with Uzzi submachine guns, the Galil assault rifles and had at least four Aravah planes used as light troop transports.

At the end of the press conference, Daniel Ortega, another member of the junts, and nine-man Sandinista directorate, announced the establishing of formal diplomatic relations with the PLO.

Ortega said that the blood of Nicaraguans had been shed in name of the Palestine cause and that Palestinians had died fighting with the Sandinistas in the insurrection against Somoza.

Interior Minister Tomas Borge confirmed reports that some Sandinista fighters had been trained with the Palestinians. The PLO also supplied weapons to the Sandinistas during the war.

□ 1810

FAIR HOUSING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, 12 years ago, Congress enacted the Fair Housing Act of 1968, a bill which proscribed housing discrimination on the basis of race, color, national origin, or religion. This bill was considered a great victory for civil rights, and the culmination of a series of civil rights statutes which included the Civil Rights Act of 1964 and the Voting Rights Act of 1965. It failed, however, to provide an effective enforcement system, leaving the bill merely a statement of principles on fair housing. As a result, the chances of a black family being discriminated against in housing are estimated to range from 40 to 60 percent. Incidences of discrimination are widespread, covering every aspect of sales and rentals. Therefore, I supported H.R. 5200, the Fair Housing Amendments Act of 1980, in order to fulfill the promise Congress has already made on fair housing.

H.R. 5200 was approved by the House only after heated debate regarding the type of enforcement mechanism best suited to the job of countering housing discrimination. As you know, the bill as reported to the House provided for administrative enforcement by the Department of Housing and Urban Development. An alternative measure providing for enforcement through the courts was offered by Representatives F. JAMES SENSENBRENNER and HAROLD L. VOLKMER.

However, in my view, neither of these proposals responsibly balanced the need for quick, inexpensive resolutions to housing disputes against the desirability of impartial hearings in such cases. Therefore, I supported a compromise enforcement procedure offered by Representatives MIKE SYNAR. Let me explain.

Most fair housing disputes involve relatively simple questions of law with minor financial consequences. They are serious indignities needing redress, but do not involve the kind of financial injury that encourages private litigants or attorneys to initiate Federal court action, which involves high costs and inordinate lengths of time. Thus, the Sensenbrenner-Volkmer approach would not have provided true relief in most cases. However, I also questioned the Judiciary Committee's proposal to allow HUD to decide housing discrimination cases. This mechanism has been criticized—and properly so—for making HUD the investigator, prosecutor and judge of fair housing complaints. I felt the compromise language was necessary to insure the impartiality of such a procedure.

The Synar proposal included administrative enforcement of the fair housing statute, as did the committee bill. Like the committee bill, it offered the following limits on HUD's authority: Fair housing disputes must be referred to a certified State or local fair housing agency before any action is taken through Federal administrative procedures; no cease and desist preliminary orders can be issued by HUD; and all decisions are subject to a de novo review in Federal district court if either party chooses to appeal a decision.

The compromise further insured impartial enforcement by mandating that administrative law judges (ALJ's) be taken out of HUD and placed in the Department of Justice, thereby establishing their autonomy from the investigative and prosecutive functions of HUD. Further, the ALJ's will be appointed by the Attorney General from a list of three per vacancy, supplied by the Office of Personnel Management, not HUD. These ALJ's will work for and be paid by the Justice Department, not HUD.

In addition, no ALJ may serve as an investigator or prosecutor under HUD for 2 years prior to being a judge or hearer; an ALJ may be removed for cause only after a hearing before the Merit System Protection Board; and, an ALJ may not have ex parte communications with anyone who supervises or who is in fact an investigator or prosecutor for HUD.

The Synar language added two more provisions: First, both parties to a housing discrimination case would be given two opportunities to attempt conciliation before administrative or court hearings could be used. Second, HUD is prohibited from becoming involved in local matters of land use control, and such matters must be referred to the Attorney General.

Under this system, which was approved by the House, I believe there can be no question as to the impartiality of the hearing process, or of its fairness to defendants. H.R. 5200 now provides the greatest possible opportunity for conciliation to work, and protects the victim of discrimination and the defendant from the cost and time required for litigation to work.

The House is to be commended for producing a bill which will make fair housing accessible to all, and I regret that, due to an official leave of absence, I was not able to vote on this matter. Of course, I hope that this legislation will become law in the near future.●

DENIAL OF 1-MINUTE SPEECHES PROTESTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 60 minutes.

Mr. BAUMAN. Mr. Speaker, I take this time to observe with sorrow the events that occurred earlier today. I did not wish to explore them at length during the 1-minute speech which I was finally permitted, but I do think they deserve some comment. I will try to confine myself to the 1 hour the House permits me under special order.

I happen to believe that the conduct of the President's brother, Billy Carter, has raised valid questions that need to be answered. I hope and pray for the sake of President Carter and for the Nation that the answers to those questions will be quickly forthcoming in detail and lay to rest any question of involvement the President may have had with the activities of his brother. I do not think this country needs another Watergate. I do not think it needs to go through the agony of a Presidential investigation and resignation and pray God that none of that is entailed in this matter.

Nevertheless, a very high standard of conduct has been demanded of Presidents of the United States in recent years, much of it growing from the statements of members of the majority party that has controlled this House for most of the last quarter century and beyond.

That standard having been established, I think it should be applied. There are legitimate questions about the Billy Carter matter that needs to be answered. I am not going to explore them here tonight.

I have introduced, along with nearly 100 Members of the House from both parties, a resolution of inquiry, which has been referred to the Committee of the Judiciary and the Committee on Foreign Affairs of the House. Scheduled hearings will be held next week on this resolution of inquiry. One hopes that the committees will approve of that resolution and the questions that it embodies and that the President will respond and respond fully, as only 2 days ago he said he wished to do. I do not believe that he has done so yet.

Most of the editorials from newspapers that I have read, such as the Washington Star, the Baltimore Sun and others, indicate that they are not satisfied. Certainly that should not be the final test, editorial comment. But it is one indication of whether or not full information is being given.

Having stated that predicate, I would only like to observe this: If any Members who participated this morning in the Democratic whip meeting would like to state fully what occurred there, it is my information from sources that I deem to be very reliable and obviously would not like to be quoted directly, that during that meeting the question was raised on how best to prevent Members of the minority party from taking the 1-minute speeches that have traditionally been allowed at the beginning of each day after the prayer and the reading of the Journal. The discussion centered on how the majority could prevent those speeches from being given, not so much as a time-saving measure, but because the minority Members have been discussing in detail and asking questions about the Billy Carter affair.

Since the proceedings of the House have been televised, all networks have access to what occurs here. They may take any part of the proceedings and use them in their newscasts as they see fit. And what has happened? Obviously, the American people now not only view proceedings of the House on C-span television, but millions see on newscasts part of those proceedings.

Now this was the discussion at the Democratic whip meeting this morning, and in concurrence with the consensus that apparently developed there, the gentleman from Texas (Mr. WRIGHT), who had been elected last night as Speaker pro tempore in the absence of Speaker O'NEILL, who I understand is away attending a funeral, came to the rostrum and allowed the prayer and approval of the Journal, as the order of business indicates, but when the 1-minute speech time came, he, as the RECORD will indicate in previous pages to those on which these remarks now being made appear, ruled that Members would not be able to have 1 minute because of the press of business today.

He offered no other explanation. I queried him as to whether or not this would be his policy for the rest of the session. He said he was not announcing the policy for the rest of the session, but indicated that it would be for Thursday and Friday of this week. I indicated then, and I repeat now, that it is the prerogative of the Speaker to decide on any day to exclude 1-minute speeches, and the precedents are ample to support that position; and certainly the Speaker was within his rights.

However, I would suggest to you that if, as the Speaker pro tempore said at that time, the press of business was the reason for limiting speeches, a few factors should be considered; there were exactly four Members in the well of the House where I now stand, all of which were within the view of the Speaker pro tempore. Two of them happened to be Democrats and two Republicans, one of whom just protested the speech from a Democrat. He was denied the right to speak as the rest of us were.

If saving time and the heavy legislative schedule were in fact the reason for that denial, why is it now—6:19 p.m.—and why did the committee rise at 6 o'clock on a multibillion dollar appropriation bill when we have one after another of appropriation bills stacked up behind it? We could have stayed here, as we did last night, until 7. That would have been 1 more hour of work, or until 10, or beyond.

It is the prerogative of the leadership to set the schedule and to rise when they wish and to put aside business or to take it up.

Obviously there was no valid reason, for purposes of saving time, to deny 1-minute speeches today. The rumor or the fact, as things operate in this House, was we would rise at 6 o'clock, which was known early in the afternoon. It may have been known from the beginning of the day, because quite often the Speaker in his press conference will announce just before the session to what hour we will go that day. That is the way things operate here.

So that there was no reason, as far as the gentleman from Maryland can tell, that the 1-minute speeches today had to be excluded because of the press of heavy business. There has been no such business.

Now, perhaps this will be the policy to be followed in the future. Perhaps the information the gentleman from Maryland has regarding the discussion in the Democratic whip meeting this morning on the majority side is incorrect.

Perhaps no one mentioned the Republicans making embarrassing speeches or the fact these speeches appear on television in the evening news. Maybe none of that happened, but I have confidence in the people who I discussed this with and others who were told, apparently, by sources in this House as well, because I was talked to by several representatives of the television networks.

Ironically, I would say at this point, if the purpose was to keep Republicans from discussing Billy Carter and Jimmy Carter on television, I was interviewed by two networks today as result of the denial of my right to speak under the 1-minute speeches.

□ 1820

They may not use it tonight on the news, I do not know. I am not going to be able to watch it because I am here defending the rights of the minority.

Mr. WRIGHT. Mr. Speaker, would the gentleman yield?

Mr. BAUMAN. Yes; I will yield in a moment, but I just want to make this point. If, indeed, the House is to be run on a totally partisan basis, even though as we edge toward the Presidential election everybody postures to get advantage, if that is the way it is going to be run it does a disservice to the President, who is perhaps part of this issue, and to both parties. It certainly does a disservice to the institution of the House of Representatives to depart from our traditions and silence Members simply for political advantage. It invites the worst situation of all, and that is parliamentary retaliation, a much greater problem as far as handling legislation.

It could invite objections to requests that ought to be allowed, and it could produce generally a feeling of ill-will in the U.S. Congress. Certainly those of us who serve in the Congress cannot afford this at this time.

So, I would just suggest that we all reexamine our position and only put aside the traditions of the House and the free speech of Members if it is absolutely necessary for good reason.

I certainly yield to the distinguished gentleman from Texas (Mr. WRIGHT), whom I have mentioned in my remarks.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman for yielding and, of course, the gentleman from Maryland is fully within his rights to disagree with the judgment of the Chair. Any occupant of the Chair is prone to human error. I certainly claim no infallibility.

I do want to reassure the gentleman, however, that he is quite thoroughly wrong in his assumption that there was something sinister or partisan in the decision of the Chair this morning to expedite the business of the House and put in secondary position the 1-minute speeches. I think the gentleman will probably admit that those speeches, on both sides of the aisle, are frequently less important to the conduct of the Nation's affairs than the actual conduct of the business of the House.

Now, I want to keep this on a high plane and I want to avoid getting into partisan controversy or the imputation of impure motives. That is a game that can be played both ways. I think it is a cheap game. I think it degrades the American political process.

I must say to the gentleman that I think it was really unwarranted for Members of the minority to take the position that the Chair's decision this morning to move first to the business of the House had some sinister political motive. I think the gentleman overspoke himself when he refers to that.

Mr. BAUMAN. Mr. Speaker, if I may temporarily reclaim my time, I did not use the word sinister. I did not think there was anything sinister at all in the motive. The motive apparently will have to be left to the people who made the decision. All I said was that I had been informed that in the Democratic whip meeting this morning, a decision had been made with specific reference to the minority party and the 1-minute speeches that had been made about Billy Carter and the fact that they received television coverage.

Now, if that did not occur, the gentleman can now set the record straight. I impute no sinister motives.

Mr. WRIGHT. Mr. Chairman, if the gentleman would yield, I would like very much to set the record straight. What the gentleman has been reporting is either hearsay or fantasy. It certainly is not fact.

There was discussion in the whip meeting about the fact that too much time has been consumed in the 1-minute speeches. There was not any discussion that I can recall about Billy Carter.

Mr. WATKINS. Mr. Speaker, if the gentleman would yield, that is correct.

Mr. WRIGHT. I am certain that there was no mention made whatever about Billy Carter.

Now, mention has been made, though, that we wasted an awful lot of time in 1-minute speeches at the beginning of the day and that has delayed us in getting on to the business of the day.

On January 22, for example, there were 32 1-minute speeches. That consumed the better part of an hour by the time all was said and done.

Mr. BAUMAN. Well, if I may reclaim my time momentarily, if the gentleman is going to make these points, on January 22, as in any session, we are usually in a situation where we have no legislation on the floor and quite often Members use 1-minute and special orders to fill in time because we have nothing else to do. And if the gentleman will check the RECORD he will find most of that time was used by his own party members.

Mr. WRIGHT. If the gentleman would have indulged me, I was going to recite some other times, also.

In March, for example, on March 4, there were 23 1-minute speeches.

On March 5, there were 22.

On March 25 and again on May 22, there were more than 20.

Now, the Chair stated this morning that it was not the Chair's intention to silence anybody nor to deny anybody the rights of free speech. There were Members on the Democratic side who would have preferred to have been permitted to make speeches they earlier had intended to make.

What the Chair wants to suggest to the gentleman from Maryland is this. We do have business to transact and it is very important business. It is the business of the Nation. Quite frankly, while the minority has the right to criticize, the majority has the responsibility to perform. We have only 39 days remaining in this session of Congress. Having announced the intention of the leadership to conclude business on October 4, we feel under some constraint for all Members, minority Members as well as majority Members, to permit us to conclude at least the essential business, the important appropriations bills which have been delayed day after day and the budget bills and others that must be enacted in the interest of maintaining and operating the Nation.

So, I do not believe I have any reason to apologize for the decision that was made this morning, nor do I think I should be placed in a position of being defensive about it. I think we made the right decision.

Mr. BAUMAN. I say to the gentleman, he does not have to apologize to me or anyone else. The Chair has the full prerogative to do what the gentleman did this morning.

Mr. WRIGHT. I appreciate the gentleman's reassurance. That makes me feel real good.

Mr. BAUMAN. But if the gentleman is not on the defensive, why is he here speaking and answering my charges. It appears he came back to this Chamber just to respond.

Let me just make one other observation. If the gentleman's thesis is correct, and his purpose was to save time, why am I standing here at 6:30 on special orders?

Mr. WRIGHT. That is a pretty good question.

Mr. BAUMAN. When we could have stayed here and deliberated on the HUD appropriation, which is far more important than what either of us is saying at this point. I came back from the Republican Convention in Detroit prepared for daily sessions lasting to 8 and 10 o'clock at night, or later, 5 days a week, and we are proceeding at a leisurely pace that does not indicate that we have only 39 more days in session. That is why I raise a question about the gentleman's statement this morning that the reason the 1-minute speeches were dispensed with was the need to do legislative business today. That is patently not the case. We are not having legislative business at a late hour tonight and four 1-minute speeches this morning could not have in any way impaired what the gentleman from Texas controls, which is the legislative situation and scheduling.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes; I yield.

Mr. WRIGHT. I would like to make one other comment and then I will not make a further comment.

This is simply that the majoritv does have a responsibility to make decisions. Sometimes those are good decisions. Sometimes they are bad decisions; but I think the gentleman from Maryland really belabors the point in seeking every opportunity to criticize the majority. Perhaps the gentleman from Maryland some day may be in a position of having the responsibility of making those judgments. If he is, I hope those judgments will be wise and I hope he will try to be tolerant of others who find nothing good in them and find only occasions to carp and criticize.

I hope that I may be tolerant of those who in an election year find criticism more attractive than constructive assistance.

Mr. BAUMAN. Whoever those people may be, I assume the gentleman means.

Mr. WRIGHT. Well, I have long since learned that it probably is too much to hope that the gentleman from Maryland would enter into a harmonious cooperative endeavor to try to expedite the business of the House.

Mr. BAUMAN. Well, if I may reclaim my time, Mr. Speaker, the gentleman from Texas has too short a memory. But I offer the gentleman from Texas here and now the olive branch. In fact, I think if the gentleman had heard all the remarks that I made, he would know I opened this discussion in the context of improving relations with both sides; but I know of nothing that sours the relationship between the two parties more quickly than when the majority takes undue advantage of the minority and the minority reacts with the use of the rules to protest the unfairness.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, let me just say this. I think the rules of the House are probably the most finely tuned and best balanced rules of almost any body on Earth. The late Lew Deschler used to believe they were and frequently said they were.

I think they have two basic purposes. They exist to protect the minority, and any minority, from intolerance and oppression by the majority. They exist also to protect the majority from the tyranny of a minority.

□ 1830

Under those rules it is the majority that has the responsibility to try to make things work. So long as I am in a position in the majority charged with that responsibility, I intend to do the best I can to carry it out and to protect the rights of the minority. I believe the gentleman from Maryland would testify that in general I have faithfully done that. I think the Speaker, Speaker O'NEILL, has on many occasions bent over backward to be assiduously careful that the rights of the minority would be protected. It is a precious thing in this country.

But I do believe that the gentleman or any other person today who took the position that the majority was trying to gag the minority really was straining at a gnat and swallowing a camel.

Mr. BAUMAN. My only reply to the gentleman from Texas is that I think we were unduly taken advantage of today for no good reason except political purpose. I regret that and I would reiterate further that in the past I am sure the gentleman from Texas will recall that when the Chair has taken unto himself his rights and ruled there would be no 1-minute speeches, it was usually in a situation where we had a very heavy schedule, perhaps toward the end of the session, and an automatic consensus existed supporting such a decision.

It was the right thing because 20 Members were standing in the well and there was an important bill up and we had a long day's schedule that day. None of those factors operate today. There were four people in the well, we ended our activity at 6 o'clock on the bill. There does not seem to be any rush today on legislation.

So the gentleman's statement this morning just does not ring true. He can give the excuses that he wishes, but I do not accept them.

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Speaker, I was in my office signing mail when I detected the gentleman from Maryland was on his feet and making concerned remarks about the action in the whip meeting. I was in the whip meeting this morning. I came from my office in the Cannon Building over here hoping that the discussion would be continued and so that I could make sure that the record was clear.

I have all the respect for my friend the gentleman from Maryland, however, the gentleman left the indication that the reason for the delay of the 1-minute speeches today was because of Billy Carter or something like that. At no time do I recall anything being mentioned in the whip meeting about Billy Carter. I have, for one, been asking the majority leader and other leaders for well over a month, and longer, to dispense with the 1-minute speeches until the end of each day's sessions so that we can get on with the business of the House.

I am a businessman who came to Congress. I think we waste a whole lot of time at the beginning of each day under the 1-minute rule which could be handled at the end of each day.

If we could get on with the business, get the business out of hand, then anyone who wants to could stay and make their comments at the end of that day's session.

So I would like to say to my good friend here that his indication was completely out of context and completely wrong. I made that trip from the Cannon Building over here to make sure that the record was clear on that point.

Mr. BAUMAN. I appreciate the gentleman for his effort to set the record straight, and quite obviously it would not benefit anyone involved for me to quote to the gentleman my sources for the information I have. The gentleman may well be correct in his flat statement that Billy Carter was not mentioned in the whip meeting this morning. My information was, and I rely on it, that the reason, however, for what occurred this morning was an effort to prevent the minority from making statements that were embarrassing to the majority and then having those statements appear on the evening television.

Perhaps that was not mentioned in the gentleman's whip meeting. Perhaps it did not appear in anyone's mind. It is just amazing, however, that it occurred at this juncture of current events when we had very little to do on the floor today. It was cloaked under the guise of speeding up legislation. We are not speeding up anything except controversy in the House.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. HYDE. I would like to say to the gentleman from Oklahoma that he has characterized 1-minute speeches as a waste of time. Beauty is in the eye of the beholder.

I understand during the Watergate era, and I did not get here until 1975, a lot of time was consumed in attacking the Republican Party and various officials thereof, and that was thought to be very expeditious, fruitful use of time.

It seemed to me that accepting what the majority leader says at face value, as I am certainly willing to do, perhaps a compromise could be reached, and perhaps it could be agreed that the minority be allowed 15 minutes at the start of business, let us say, and have the first 14 or 13 of us that arrive, or the first 5, but give us 15 minutes at the start of every day to express ourselves in whatever way we choose. Free speech is very precious and important. After that we could then defer the rest of the 1-minute speeches as long as we are under this terrible crunch to move ahead with this legislation. I am sure we will if there are no golf outings that intervene between now and the end of this session.

But give us some time at the beginning to unburden ourselves of these things that are troubling our souls, at least 15 minutes, and then I am sure that will not delay the rush to judgment on all of this important legislation.

What does the gentleman think of that suggestion?

Mr. BAUMAN. Certainly it would provide some numerical measure of whether or not the minority was abusing the rights granted under the first amendment to the Constitution, free speech, beyond what the majority would like to allow. I would like to play it a little more loosely, to use the vernacular, and let the Chair have the discretion that he has always had, but let him not abuse it, and let him allow the speeches to a point where it is reasonable each day.

Mr. HYDE. If the gentleman will continue to yield, I would suggest we could have a drawing and see which of the Republican Members would want to address the House for the first 15 minutes, but give some of us a chance to unburden ourselves before the day's business.

Mr. BAUMAN. Perhaps we could operate like a grocery checkout counter, and take numbers.

The SPEAKER pro tempore. The gentleman has only 36 minutes remaining.

Mr. BAUMAN. I thank the Chair for that unsolicited reminder. You have destroyed my thought, if that is what you are trying to do.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I notice the gentleman from Oklahoma is still on the floor and I think it is important maybe that we get clarified the point the gentleman raised, that it may not have been that Billy Carter's name was mentioned in the meeting, but I wonder if the gentleman from Oklahoma (Mr. Watkins) could clarify for us whether or not the idea of politics came up at all therein, or whether or not there was any discussion of the fact that the minority seemed to be using this for television purposes that accrued a political benefit. I did not hear an answer to the gentleman when he raised that particular possibility.

I wonder if maybe the gentleman would yield to the gentleman from Oklahoma to answer whether or not that came up in the whip meeting.

Mr. BAUMAN. I do not see the gentleman from Oklahoma on his feet.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to another gentleman from Oklahoma, but first I would have to say to the gentleman from Pennsylvania (Mr. Walker), your question remains unanswered by the gentleman from Oklahoma (Mr. Watkins). I think we can reach our own conclusions as to why he remains silent.

Mr. EDWARDS of Oklahoma. I appreciate the gentleman in the well letting all of us gentlemen from Oklahoma dominate the time here during this special order. I have noticed, of course, I more than almost anyone else here recognizing that when we are in session we are often doing harm to the taxpayers and the people of this country and I am often eager for us to conclude our business and go home.

But I find it very difficult to accept that it is necessary to squelch the 1-minute speeches so that we can expedite the business, because I have been on this floor a number of times when we all took relief knowing that we were going to get out of here early that night because the Boston Red Sox were playing a game or some other very important thing had arisen that required us to go off and do something other than our business on the floor.

I must say that I take a little pleasure in the whole situation as it is developing. I, like so many on this side of the aisle, have managed to sit quietly without saying a word as in the past, many times, the Speaker and the majority leader have taken the well to berate the heartless Republican Party, or whatever, reinstituting the rhetoric of the 1930's to make their points, and we sit here and very politely listen as the country moves in the other direction away from them.

It is not without some sense of sympathy for what position they now find themselves in that I stand here, but I think the gentleman has done a very good thing here by at least making it clear that sometimes, despite the fact that we are taking our greatest pleasure from the fact that the country is moving in the direction of the Republican philosophy, and quite obviously that the results after November are going to be satisfactory to us, I still think it is good occasionally for us to get up and tweak their noses a little bit. I thank the gentleman for leading us in this discussion.

Mr. BAUMAN. The gentleman from Oklahoma has injected a note of perhaps crass partisanship which I had tried to avoid in my statesmanlike manner in this debate. But I tend to agree with his conclusions.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arkansas.

□ 1840

Mr. BETHUNE. Mr. Speaker, I thank the gentleman from yielding.

I would like to associate myself with the remarks of the gentleman from Illinois when he pointed out that, whether or not the 1-minute speech is a waste of time depends upon the person who is analyzing the event. When the majority analyzes the 1-minute speech they see it as a waste of time. If they were to sit on this side of the aisle for a little while and live in the minority for a little while they would begin to realize that it is one of the rare opportunities that we have to speak freely and to gain the attention of the membership to gain the attention of the public by the television coverage of this body.

Mr. Speaker, I can also say that as a new Member of Congress it is doubly hard for a freshman to get access to the floor and to have time to speak to the membership.

Mr. Speaker, I came over this morning. I was one of the three Republican Members who was here to make a 1-minute speech this morning. I had absolutely no intention of speaking about Billy Carter. That was the last thing that was on my mind.

Mr. BAUMAN. I can understand the gentleman's reluctance.

Mr. BETHUNE. Yesterday at the Committee on Banking, Housing, and Urban Affairs, Paul Volcker appeared and I thought it was a very interesting appearance because he was suggesting that we should go slow about a tax cut. Of course, he hit a nerve with me because I have long advocated a tax cut and I think all that the Republican Party is trying to do with our tax cut is give back a small portion of what the taxpayer has lost as a result of inflation and bracket creep.

Mr. Volcker's admonition we should be very cautious about passing such a tax cut just struck me the wrong way because it was Volcker and then Carter and Miller who conspired on March 14 of this year, without any caution whatsoever in implementing credit controls, which threw this country into a horrible recession, threw millions and millions of people out of work, and now they are over here counseling caution to us on a measure that is not apt to cause much economic dislocation at all. In fact if one has any confidence and faith in the American system, the tax cut will rejuvenate this economy and put people back to work. That is what I came here to say this morning.

Mr. BAUMAN. The gentleman wanted to get all that into 1 minute?

Mr. BETHUNE. I was going to get all that into 1 minute and I was going to tell the world and my colleagues of this double standard that they seem to apply.

In any case, Mr. Speaker, I came here, I left my office, there were people in my office from the district who had been waiting to see me, I hurried through that so that I could get here and make my 1-minute speech. I thought it out on the way over. I was cocked and primed and ready to go and the majority leader announced to me that in the interest of time that we could not hear my 1-minute speech. I was so disappointed.

Mr. BAUMAN. I believe they call that in the law, speechus interruptus. Very frustrating.

Mr. BETHUNE. I thought it was very much out of character for the majority leader because it has been my observation the gentleman has been very fair here in this body.

Mr. WATKINS. Will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Let me just interject long enough to say I have enjoyed the speech of the gentleman from Arkansas (Mr. BETHUNE) very much.

Mr. BAUMAN. I am pleased that the gentleman from Oklahoma enjoyed the speech.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I heard the majority leader speaking a little bit ago about the problems of the gentleman in the chair to decide how the House will proceed with its business. It occurred to me that the gentleman failed to note, however, that the role of the opposition party is to oppose. That is, in fact, our responsibility here, and the gentleman berated the gentleman from Maryland a little bit for not showing proper responsibility toward the work of the House.

Well, it seems to me that one of the responsibilities of us on this side is to make certain that the House does stick by the rules, stick by its traditions and more importantly to raise opposition at those points when either the national course is being abused or the course of the legislative process is being abused.

That is one of the opportunities of the 1-minute speeches. That is one place where we have an opportunity to put that opposition very clearly on record in a very concise way. It seems to me that this is what the affront was, to those of us, the gaggle of gaggees who were gagged here earlier today, it seems to me that is what happened was, that the voice of opposition—our responsibility in the House was shut off by the Chair. I think that is a disturbing note and it is something where we ought to really reexamine the issue of responsibility raised by the majority leader and I think that any clear indication of responsibility would show that in fact the opposition party does have a direct responsibility to be in opposition to many of the policies raised by the majority .

Mr. Speaker, I thank the gentleman for yielding.

Mr. HYDE. Will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I would not want this hour to pass without paying tribute to the Clerks and the attendants here who have been very attentive to something that I am sure is not a burning issue to them. Their decorm has been remarkable and I salute them.

To the gentlemen occupying the chair of the Speaker, the distinguished, learned and eloquent gentleman from California (Mr. DANIELSON), none of the innuendos, I trust, that have been entered, here, in the remotest apply to him. Certainly not on my part. If I believed in incarnation I would indeed believe that Pericles himself has returned to this Earth in the person of the gentleman from California.

I thank the gentleman.

The SPEAKER pro tempore. Comments will appear in the RECORD.

Mr. BAUMAN. Mr. Speaker, momentarily we have treated in a rather light matter a very serious issue that has been raised today. Despite the remarks that were made earlier by the Speaker pro tempore who is also the majority leader, at least for this session, I must leave the record clear. If the majority seeks in the future to muzzle the minority without justification, the only response we have is to use the rules of the House in a manner to protest that unfair activity.

I would hope we could avoid that confrontation, that some discussions could be had between whoever are the appropriate leaders on both sides and that we can proceed as we have in the past under the traditions of the House, permitting us to make remarks that should be made at the beginning of the day. No patent political decision should govern the way the business of the House is conducted. Heaven forefend that should ever happen.

With that, Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The time of the gentleman has expired.

STATEMENT OF THE HONORABLE JOHN M. MURPHY ON THE CONTINUED COVERUP BY THE U.S. GOVERMENT OF THE ABSCAM VIDEO TAPES AND HIS MOTION TO DISMISS HIS INDICTMENT FOR VIOLATION OF THE "SPEECH OR DEBATE" CLAUSE OF THE CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 60 minutes.

● Mr. MURPHY of New York. Mr. Speaker, I have requested this special order to comment on the continuing developments in the so-called Abscam investigation. Mr. Speaker, I have inserted in the CONGRESSIONAL RECORD on two previous occasions (June 18, and June 24, 1980) details of my legal actions in relation to the Justice Department's charges. In keeping with that practice I wish to refer today to the remarks I made on July 11, 1980, in regard to my request to make the Abscam video tapes public and my motion to dismiss the indictment for violation of the "speech or debate" clause of the Constitution.

THE COVERUP CONTINUES

I will comment first today on my continued efforts to prevail on the Justice Department for unfettered release of the so-called Abscam videotapes involving me so that I might vindicate myself and prove my innocence to the American public. Second, I will outline the motion my lawyers will file today for dismissal of charges against me based on the "speech and debate" clause of the Constitution of the United States.

As many of you who have followed this case from the beginning know, we have demanded the right to show the Abscam video tapes of my activities since legal proceedings were begun by me to accomplish this on February 5, 1980, 3 days after the deplorable release by the Justice Department of apparently incriminating portions of those tapes to the major news media.

Subsequent moves by my legal counsel to obtain a speedy trial in my case have all been met by a stonewalling Federal prosecutorial team.

On July 1, 1980, I saw a ray of hope when 100 plus hours of video and audio tapes were delivered to my lawyers. Now, I thought I could counter the Government's campaign of selectively releasing portions of those tapes in a manner to do the worst possible harm. Now, I thought a full disclosure of those tapes would prove my innocence. And while my lawyers were deciding on the way I could most effectively reach the public with this evidence, on July 7, 1980, they received from Thomas Puccio a proposed protective order—a "gag" order if you will—to restrict the showing of these tapes to persons other than the defendants, their attorneys, and those persons directly involved in the preparation of the defense in the Abscam case.

The irony of this is that this same Mr. Puccio is one of the prime suspects in the original "leaks" of those very tapes.

And so, to date, the net result of our efforts to achieve the full public disclosure of this evidence has been a lamentable cipher. This is all the more surprising in view of the Supreme Court's decision just last week that in addition to the sixth amendment right of access of a defendant to such evidence in a legal proceeding—the press, all of you here has a first amendment right of access to such legal proceedings. This leads me to ask you: Why are you all standing out here today instead of being up in the courtroom demanding that these tapes be released?

In any event, the coverup continues in what is now a blatantly obvious effort to destroy me politically by inflicting a fatal blow to my chances to win the September 9 primary and the November 4 general election.

The reason the tapes will not be released became clear to me when the Government filed a bill of particulars with my attorneys on July 7, 1980 concerning my indictment. In reference to the crucial October 20, 1979 meeting at the Hilton Inn at John F. Kennedy Airport concerning which the Government "leakers" have repeatedly charged that I accepted bribe money, the Government now says, and I quote from this indictment:

> Criden left the meeting in physical possession of the money. The date on which and place where Murphy took physical possession of his share of the payment is unknown.

The reason it is unknown is that it never happened.

That is why the Justice Department will not show the tapes.

That is why my trial has been given the "slows", to let the cloud of suspicion hang over me until the elections have come and gone. They want to get me in the ballot box. Not in court.

That is a far cry from the statement by the Justice Department that those involved in Abscam and I am quoting from the Justice Department's highest officials, "would have a chance to clear themselves before the November elections."

As to my motions today, I will, of course, fight the Government's "gag" order on the video tapes. My counsel, Michael Tigar, will file a motion in opposition to the Government's on the grounds that their refusal to make these records available has significantly impaired my right to conduct my official duties effectively and my right to campaign for reelection to Congress.

The second motion to be filed today calls for a dismissal of the indictment for violation of the "speech or debate" clause of the U.S. Constitution. The point of this motion is contained in the fundamental precept of the separation of powers under the Constitution and the "dangers to representative Government when legislators are targeted for prosecution by the executive or judiciary based upon the way they spoke, voted, or otherwise carried on the duties entrusted to them by article I of the Constitution."

My case represents two distinct violations of the speech or debate clause. In the words of the motion being filed today the "first violation is executive questioning of Representative MURPHY's legislative acts, evidence of which was then presented to the grand jury which returned this indictment. The second violation appears from the face of the indictment itself, the allegations of which would permit the Government to prove and require the defense to show in rebuttal legislative acts of Representative MURPHY."

And in summation: "The Government's utter indifference to these constitutional commands, as they apply to me, and indeed its agents' manifest violation of them, requires dismissal of this indictment."●

CONGRESSMAN MURTHA SPEAKS ON U.S. ENERGY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MURTHA) is recognized for 15 minutes.

● Mr. MURTHA. Mr. Speaker, during the recent congressional recess I addressed a group in the area I represent on America's energy policy for the coming years. I would like to include in the CONGRESSIONAL RECORD a copy of the remarks I prepared for delivery on that subject.

ENERGY, AMERICA, AND THE 1980's

(Remarks by Congressman MURTHA Before the Somerset Chamber of Commerce, July 17, 1980)

Usual Greetings.

I want to talk to you today about energy. Since the 1974 Arab Oil Embargo awakened America to our energy problems, I doubt there has been a single day that the news hasn't carried some energy item. In fact, the news has come so quickly and in such a jumble, that it's difficult to make sense out of what's happened in the last six years, and what's likely to come in the decade of the eighties. Over the next few minutes I want to try to put America's energy policy into a clearer framework.

The first point I want to make is that despite all the confusion, differing ideas, legislative problems, and splits in public opinion, we've really made a good deal of progress on energy. Consider for a moment that in the first nearly 200 years of our Nation's history we didn't have anything approximating a national energy plan. Yet, in the last six years Congress has passed over 100 bills that form the base of such a plan, and that's helping to reshape America's entire energy consciousness.

Let's look for a moment at some of those steps:

Congress completely reshaped the policy on natural gas pricing and in the process helped turn what was a major natural gas fuel shortage in the winter of 1977 into what is now an abundant, available fuel and will remain sufficient in supply for the years ahead;

In 1976 the government passed for the first time auto mileage standards to be met by American automakers. The companies bitterly fought us. But in a recent article "Newsweek" noted that had Congress not passed that law that raised the average fleet mileage standard from 13 mpg to 21 mpg that the American auto industry today would be without any hope for the future.

We turned around an entire Nation's thinking. Before 1974 no one gave much attention to auto mileage, efficiency of electrical appliances, or how much insulation to put into a new home or office building. Now, energy saving decisions are made each day of our lives, and conservation has become a hallmark of our decisions.

In the last five years Congress has spent over $20 billion on new energy research, stimulating work in such areas as electrical cars, solar homes, windmill power, energy from the seas, and other options. As businessmen, you know companies can't invest huge sums on exploratory research, and it's particularly tough when you have twin recessions, just six years apart in 1974 and 1980. So without government development money, our energy research effort would be well behind pace.

We've removed decades of controls on oil prices to encourage more oil exploration in our Nation; and at the same time passed a "windfall profits" tax to prevent huge oil companies from making profits because of international price hikes rather than their own productivity.

That's only a partial list, but it shows significant progress over a relatively short time. But also out of those years have come a number of basic facts which we must acknowledge and understand as we shape future policy.

First, we must face the fact that energy prices are not going back down. The best we can hope for is price stabilization, and the only way we can do that is to decrease our dependence on foreign oil, so OPEC cannot raise prices whenever they wish. For decades we benefited in this country from cheap energy, but now those days are gone. America is energy intensive, our growth is tied to energy, and we must figure that in to our economic plans for the years ahead.

That leads to fact Number Two: Our economic future is directly tied to our energy future. As individuals, our checkbooks cannot tolerate the continued jumps in gasoline and home heating prices. As businessmen, you cannot tolerate unplanned-for energy jumps that can only be met by cutting back expansion plans and reducing employment. Internationally, we cannot continue to spend $90 billion a year for foreign oil. Nationally, we cannot stand the impact of uncontrolled energy prices. My favorite example for demonstrating the impact is the auto industry. Higher prices for energy means individuals put off buying a new car for another year. That lays off auto workers. The depressed auto industry affects the rubber maker who produces tires, the battery maker, and, as we know in our area, the steelworker. That unemployed worker then buys less, travels less, affecting the small businessman, the tourist industry. As we know, even the Pennsylvania Turnpike suffers because its toll revenues fall off. We cannot tolerate such continued economic jolts.

The third basic fact is that there are no simple solutions. A couple years ago I met with Ralph Moody who drove a car from Florida to Washington getting 88 mpg. I thought this might be a key answer and we arranged for him to testify before Congress. He did. Then, he went back to do more work on the car. It seemed some changes he had made in the transmission caused it to burn out in about a year. His car couldn't pass basic government tests. In sum, more research was needed. Some people hail solar power as the answer, but solar's impact is mainly in home heating and commercial space heating which are about 11 percent and 7 percent respectively of our energy supply. Thus, even if we achieved 20 percent of our space heating by solar means we would be contributing only about 4 percent to the total energy requirements of the country. Some experts are looking at massive solar projects that would produce electricity for whole areas by solar panel. But to do it with today's technology we would have to devote one-fifth of Pennsylvania's land to solar collectors to replace present boilers. That's ten to twenty times the area covered by roads and buildings at present.

And that leads to the fourth basic fact: the energy problem will be with us throughout the nineteen eighties. It's not going away. As long as OPEC exports oil, as long as we rely on foreign imports for 42 percent of our oil needs, the energy problem will stay with us, will continue to be in the news.

What this means is that our energy options are limited. We will continue to rely on oil because our economy is geared to it. In fact, few people know the U.S. is the world's third largest oil producer, behind Saudi Arabia and the Soviet Union. Our economy is built around oil and it will not be turned around overnight. The oil problem will stay with us. Our natural gas supplies look good. This can continue to fill some of the void.

One of the next two key steps we have to take is to make our national decision on nuclear power. Since Three Mile Island, we've been paralyzed on nuclear power. We have to either count it in or out, but we can make no plans for the years ahead until we come to a consensus. It takes 8–10 years to site, plan, develop, and build a nuclear power plant. We need to know what we can do. Personally, I see no option to at least continuing with our present nuclear plants. It would take 1.3 million barrels of oil a day to generate the amount of electricity produced by the 70 licensed nuclear power plants in the U.S. If we took those plants out of operation, the cost of electricity would increase by $185 billion. Of course, we must make certain the plants are used safely and that federal inspection is tighter, but I see no alternative to nuclear power.

The second step for the future involves coal. The synthetic fuels bill signed on July 4 by President Carter will help in the latter half of the 1980s. The goal is for production of 500,000 barrels of oil a day by 1990. As you know, I'm strongly backing the Westinghouse proposed plant which will impact the Somerset-Cambria-Indiana area and use 18,000 tons a day of Western Pennsylvania coal.

It is in the short-range that we face problems on increasing coal production. One option is to increase our exports. Many European nations use large supplies of coal and are running out of easily accessible supplies. The second option is something I've been working on for 15 months—to speed the conversion of electric utility boilers from oil to coal. I'm one of the 18 original sponsors in the House of the Administration's plan for this proposal. At the present time it is my coal priority, and could increase coal production by 150 million tons a year and put 25,000 miners back to work.

Those are the ingredients—oil, natural gas, coal, conservation, and possibly nuclear—with which we must shape the plans for the 1980s. How well we do in that planning will tell a great deal about our economic status by the end of the decade, and possibly about the future of the Nation itself.

Gentlemen, right at this time there is a small string of tankers wending their way out of Arabian oil ports, through narrow straits in the Arabian seas, and finally on a long journey across the ocean to American oil ports. That line can be stopped at any time. It can be stopped by a shiek or government leader who gets mad at the U.S. or disagrees with one of our policies. It can be stopped by the Soviet Union through mining certain harbors and ports, putting the world to the brink of WWIII or nuclear holocaust.

We cannot afford to let that vulnerability continue. We must use our domestic energy supplies, we must cut back on our oil consumption, so that line of tankers no longer holds our national future in its hands. We must solve this American energy problem, with American energy sources. And we must have the resolve to do it. Our very existence as a Nation may depend on it. Our individual life styles definitely depend on it. The stakes are extremely high—it is a contest we cannot ignore or wish away; nor that we can afford to lose.●

MAGUIRE BILL WOULD PROVIDE WELL-TARGETED RELIEF TO CAPITAL STARVED SMALLER BUSINESSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 5 minutes.

○ Mr. DOWNEY. Mr. Speaker, on July 23, 1980, I had the opportunity to continue to hear from distinguished Members of Congress in testimony before the Ways and Means Committee regarding the proposed tax cut for 1981.

One of the most innovative and thoughtful proposals was offered by Congressman ANDY MAGUIRE. Our colleague from New Jersey has introduced the Small Business Capital Formation, Capital Retention, and Expansion Act of 1980, H.R. 7049, which would focus a productivity-oriented tax reduction toward the small business sector of the economy. I am pleased to be a cosponsor of this legislation which would permit qualifying small business concerns to set up a "business expansion reserve," to which 50 percent of the amount contributed for investment, expansion, or hiring would be allowed as a tax credit. Using their own retained earnings, smaller and growing businesses will have the opportunity to expand and grow without facing the unfriendly capital markets in competition with larger firms.

Mr. MAGUIRE's impressive testimony before the committee is printed below. I would urge my colleagues to review his proposal and to cosponsor our bill:

SMALL BUSINESS CAPITAL FORMATION, CAPITAL RETENTION, AND EXPANSION ACT OF 1980

(Testimony of Congressman ANDREW MAGUIRE before the Committee on Ways and Means)

Mr. Chairman and Members of the Committee, I am delighted to have the opportunity to testify on behalf of H.R. 7049, my Small Business Capital Formation, Capital Retention and Expansion Act of 1980. If enacted, this bill would permit qualifying small business concerns to set up a "business expansion reserve" to which 50% of the amount contributed for investment, expansion or hiring would be allowed as a tax credit. The maximum credit that a small business could receive each year would be $300,000. I am pleased to report that H.R. 7049 has been endorsed by several trade associations and representatives of industry including Arthur Leavitt, Jr., President of the American Stock Exchange.

Only four months ago, Congress and the President agreed that the budget must be balanced and all tax cuts deferred. On the eve of these very hearings held to discuss anti-recession tax cuts, Administration economists forecast that the 1980 budget deficit would exceed $60 billion and the 1981 projected "budget with a surplus" would be $30 billion in the red. The Republican platform calls for a 10% across the board reduction which would provide a family of four earning $100,000 per year with a reduction ten times the size of that accruing to a similarly sized family with annual earnings of $20,000. We all know that the steel and auto industries must have relief, but the scale of the remedies needed for their woes will, in all likelihood, have to be addressed in a larger package. Finally, the most popular tax cut—the 10–5–3 approach—would cost, according to Treasury estimates, $57 billion after five years. And many respected economists question the advisability of the asset groupings and the lack of targeting in this legislation.

In short, the Committee is under a conflicting set of mandates. Virtually everybody has "Ways" to cut taxes, but with our deficit and the state of our economy, there is reason to question if we indeed have the "Means" to afford to be unfocused and indiscriminate in our approach or whether we have, on the other hand, the will and good sense to provide an effective, carefully targetted and well-balanced tax cut for 1981. Given the size of the estimated deficit, we should surely decide on a reduction that results in the biggest bang for our tax cut buck. It is my contention that one of the most thoughtful and productive reductions which the Congress could prescribe would result from a small business tax cut. In terms of targeting, productivity gains, the critical need for increased R & D funding, and the hope of creating new jobs at a time of rising unemployment, I would submit that a small business tax cut is one of the best approaches for us to take.

About 80% of the tax reductions from the Jones-Conable Bill would go to the largest

1/10 of 1% of all United States corporations. My bill, by contrast, provides relief to a more broadly-based selection of firms. There are 10 million non-farm businesses in the United States today. Small businesses account for 97% of the non-farm enterprises; 43% of the Gross National Product; 48% of the Nation's output, and 55% of employment. These firms, however, are capital-starved.

Small firms are dependent upon external equity capital because they do not generate sufficient internal funds to grow. Long-term debt financing generally is not available. It takes time for these firms to make a profit and long-term debt tends to inflate their fixed expenses. The market for external capital has not been promising. Earlier this year, small businesses were competing with larger firms for loans at 22 percent interest, if indeed, they could get money at any price. To end this capital famine, my bill would permit small businesses to retain a significant portion of their pre-tax earnings for expansion and investment.

This is the kind of investment which will pay off for the whole economy. To quote Senator Gaylord Nelson, " . . . the most uncentralized, unbureaucratized, and competitive element in this country—small business—produces half of all innovations, and does so at one-24th the cost of large corporations." The kinds of innovations he was talking about include the development of the airplane, helicopter, automobile, catalytic oil refining, oxygen steel-making, photocopying, air conditioning, the instant camera, and many other commercial items. Despite this remarkable record, America's innovative industries—especially the electronics and computer industries—will get very little tax relief, if a tax cut focusing incentives strictly on the amount of physical assets, passed. We must invest in smaller businesses.

Incentives for capital investment will do little to help the smaller high technology companies which so often provide crucial improvements in productivity. We know productivity gains are important, and a recent Joint Economic Committee/New York Stock Exchange study showed how important. The study indicated that for every one percentage point increase in productivity, the economy would enjoy a corresponding three point reduction in inflation. Such leveraging is especially likely in those industries characterized by high rates of innovation. And within those industries, studies show that small firms innovate more frequently than larger ones, and small technology-based firms do better than the corporate sector as a whole.

To maximize the productivity gains inherent in small business innovations, my legislation awards a 50 percent tax credit to contributions to a small firm's "business expansion reserve." This will emphasize the creation of R&D dollars and investment.

A tax credit for small business, as the center-piece for a productivity-oriented tax reduction for 1981, would yield tremendous advantages in terms of employment. A recent MIT study found that 66 percent of the new jobs created from 1969 to 1976 were in firms with less than 20 employees; 87 percent of new jobs were in firms with 500 employees or less. We can best continue this record of job creation, so vital to our economy with unemployment heading toward 9 percent by year's end, if we lower tax rates for small businesses. Moreover, as our most mature sectors of heavy industry, like steel and the automotive industries, seek to regain their competitive edge in the world's economy with greater automation of their manufacturing processes, smaller businesses must create more jobs to absorb the workforce permanently displaced by modernization.

To recap: Any firm that qualifies under Section 3 of the Small Business Act will be entitled to set up a "business expansion reserve" under my bill. Money in the reserve could be retained for up to five years and could be used for qualified business expansion reserve expenses which would include (1) the acquisition of capital equipment, (2) construction or reconstruction costs, (3) the hiring of new employees, (4) research, (5) replacement of vehicles over five years of age and the purchase of additional vehicles. 50 percent of the amount contributed during the tax year would be allowed as a credit up to a maximum $300,000 credit. These funds could be retained for future use for up to five years.

The Small Business Capital Formation, Capital Retention, and Expansion Act of 1980 is needed to steer our economy, once again, in the direction of expanded productivity and increased economic output. This legislation provides the tools for the one sector with the firmest demonstrated record, in recent years, for growth, for expansion, employment and innovation, to lead our economy back to health and stability. And it will contribute to this recovery at a cost to the budget which can be justified. There is broad support for a tax cut in our country; let's direct these dollars and this energy toward a formula which will do our country the most good.●

FAMILY FARM ANTITRUST ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, I am pleased today to reintroduce the Family Farm Antitrust Act, which has been cosponsored by Congressmen BALDUS, HARKIN, NOLAN, BROWN, and JEFFORDS. This legislation is a revised version of a bill I sponsored early last year, and its purpose is to preserve the family farm base of American agriculture by prohibiting large, nonfarm investors from gaining control of farm production.

Historically, American agriculture has been based on the family farm. To a large degree, this is still the case. However, we are now witnessing major changes in the way we produce food. Since the late 1930's farm numbers have declined from 6.8 million to under 2.7 million. The size of the average farm has increased dramatically, and the Nation's largest farms are producing a growing share of our food supply.

Concern over these trends prompted U.S. Agriculture Secretary Bob Bergland to hold a series of public forums around the Nation on the structure of American agriculture. If there has been one common thread in these discussions, it has been the widespread public support for the family farm. Americans recognize that it is the farm family which has made the United States the most efficient food producer in the world.

We cannot totally halt the trend toward fewer and larger farms, nor is it desirable to return to an era of small, subsistence farms. What we can do, and what my proposal seeks to do, is to insure that corporate giants do not use their overwhelming economic power to control the production of food in this country.

During the past decade we have found that companies such as Dow Chemical and Boeing are in direct competition with family farmers. Many of the large conglomerates which produce farm machinery, fertilizer, seed, and livestock feed are moving directly into farming. Often these companies also process and market farm commodities. Therefore, they can provide important advantages to their farm subsidiaries. We cannot expect small independent farmers to compete with the economic muscle of these giant firms.

In discussing this issue, many would argue that the presence of business corporations in farming is not a problem. They would point out, with some justification, that nonfarm corporations have a very small share of the agricultural market.

However, if we look beyond the general statistics, we find some disturbing trends. In a staff working paper, the Congressional Budget Office recently analyzed the most current available figures on corporate farming. The Budget Office revealed that there are 800 large corporations involved in farming and reported that most of these corporations have substantial nonfarm business activities. The CBO further looked at the largest one-third of these corporations and found that on the average, each owned 20,000 acres of farmland and had $9.3 million in annual agricultural sales. Twenty-one of these companies reported receiving Government farm subsidy payments averaging $134,000 in 1974.

As a further sign of this alarming trend, during the past few months we have heard reports that a group of pension funds have joined together to form the American Agriculture Investment Management Co., Inc., which would purchase control of and manage farms throughout the United States.

Several State governments have acted to restrict such investments by nonfarm corporations and aliens. These statutes vary greatly, but their existence indicates the level of concern among the States over this issue.

We must recognize three important points about corporate concentration in agriculture. First, it will not increase efficiency. U.S. Department of Agriculture studies have shown that a fully mechanized, single-family farm can achieve maximum efficiency per unit of production. Second, soil and water conservation will decline under corporate stewardship. Business firms seek to maximize profits, and many important conservation practices reduce profits in the short term. Such practices are much more attractive to a family which has held a farm for generations and hopes to leave the land to its children and grandchildren. Third, corporate control will change the very character of rural communities. Sociological studies show that a much higher quality of life exists in areas dominated by independent farm families than in those areas where nonfarm investors are prevalent.

We are slowly learning the painful lesson that economic concentration does not result in greater efficiency and productivity. We have seen the effects of such concentration in the profiteering of the oil companies and the total mismanagement of the steel and automobile industries. Enactment of the Family Farm Antitrust Act will mean that we will not have to relearn this same lesson in our most important industry—food production.

The Family Farm Antitrust Act would prohibit any person or corporation with nonfarming business assets in excess of $5 million from engaging in farm production. It addresses not only the ownership of productive farmland, but also the control of agricultural production through the leasing of farmland and through contracts which give the corporation control over the actual operation of farms. The Secretary of Agriculture is directed to periodically advise the Congress on the need to raise the nonfarm business asset ceiling.

Upon passage of the Family Farm Antitrust Act, companies and individuals who are in violation would have 5 years to divest their holdings. The Farmers Home Administration would be authorized to acquire those holdings at fair market values if no other buyers could be found. A civil penalty would be applied to those who do not divest within the 5-year period and those who come into violation of the bill after its passage. The penalty equals $2,000 per year for every acre of farmland controlled in violation of the act, or twice the value of the commodity illegally produced, whichever is greater.

Agricultural cooperatives and charitable, research and educational institutions would be exempt from the bill.

Mr. Speaker, I urge my colleagues to support the Family Farm Antitrust Act. I would like to submit the text of this legislation to the RECORD at this time:

H.R. 7822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Family Farm Antitrust Act of 1980".

FINDINGS; DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) in order to nurture the private enterprise system, it is desirable to protect consumers and small businesses, and to provide for the continued existence of the family farm, by protecting family farms against the monopolization of the agricultural industry;

(2) vertical integration of the agricultural industry by corporations engaged in the processing, distributing, and retail industries, and other conglomerate corporations, tends to create monopolies in the agricultural industry, to foster anticompetitive trade practices in that industry, and to produce unfair competition for family farms; and

(3) the anticompetitive forces at work within the agricultural industry, by threatening the existence of the family farm, are causing population shifts from rural areas to urban areas which rob the rural areas of productive population and increase the problems of already overcrowded urban areas.

(b) The Congress declares that it is the policy of the United States, and the purpose of this Act, to restore competition to the agricultural industry and to provide for the continued existence of the family farm.

AMENDMENT OF THE CLAYTON ACT

SEC. 3. (a) The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. (a) Except as provided in subsection (b), no person engaged in commerce (or affecting commerce) in a business other than farming, whose nonfarming business assets exceed $5,000,000, shall—

"(1) engage, directly, or indirectly, in farming or the production of agricultural products,

"(2) control, or attempt to control, agricultural production through the ownership or leasing of land for agricultural purposes, or

"(3) participate in farming through corporate integration or merger, or by any other means of acquisition or control of another person who is engaged in farming.

"(b) The provisions of subsection (a) shall not apply to—

"(1) any organization described in section 501 (c) or (d) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code to the extent that the farming activities of that organization do not result in unrelated business income taxable under part III of subchapter F of chapter 1 of such Code; or

"(2) any farmer owned and controlled cooperative, corporation, or association which is—

"(A) an association described in the first section of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (commonly known as the Capper-Volstead Act) (7 U.S.C. 291) and meets the requirements of such section; or

"(B) a cooperative association, as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

"(c)(1) Subject to paragraph (2), any activity engaged in, or interest owned, during the 5-year period beginning on the date of the enactment of this Act by a person to whom subsection (a) applies which would (but for the provisions of this subsection) be in violation of subsection (a) shall not be considered in violation of such subsection for such 5-year period if such activity or interest is a continuation by such person of an activity engaged in, or interest held, by such person immediately before the date of the enactment of this Act and is not increased or expanded during such 5-year period.

"(2) Paragraph (1) shall not apply with respect to any activity engaged in, or interest owned, during such 5-year period by any such person if, immediately after the end of such 5-year period, such person holds any property or other interest in violation of subsection (a).

"(d) It shall not be a violation of the provisions of subsection (a) for any creditor, beneficiary, or intestate successor to acquire, pursuant to forfeiture, devise, or the laws of intestate succession, and hold for not more than two years any property or other interest, which acquisition and holding would violate such provisions but for this subsection.

"(e) Any person who knowingly violates any provision of subsection (a) shall be subject to a civil penalty not exceeding the greater of—

"(1) twice the amount of the income from agricultural production received by such person, directly or indirectly, which is attributable to such violation; or

"(2) the sum of the amounts for the calendar years during which such violation occurs or continues, each of which amounts is equal to, for each such calendar year, $2,000 times the number of acres of land with respect to which such violation occurs or continues during such calendar year.

Such penalty shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(f) The Secretary of Agriculture shall from time to time submit to each House of the Congress any recommendation for adjustment of the monetary amount set forth in subsection (a) which the Secretary determines necessary, taking into account changes in economic conditions, to carry out effectively the purposes of this section.".

(b) Section 11 of the Clayton Act (15 U.S.C. 21) is amended by—

(1) by striking out "sections 2, 3, 7, and 8" in subsections (a) and (b) and inserting in lieu thereof "sections 2, 3, 7, 8, and 8A"; and

(2) by striking out "sections 7 and 8" in subsection (b) and inserting in lieu thereof "sections 7, 8, and 8A".

ASSISTANCE OF THE SECRETARY OF AGRICULTURE

SEC. 4. (a) The Secretary of Agriculture, acting through the Farmers Home Administration, is authorized and directed to acquire at fair market value any property or interest of which a person is required to divest himself under subsection (c) or (d) of section 8A of the Clayton Act, as amended by this Act, if that person establishes to the satisfaction of the Secretary that he is otherwise unable to divest himself of such property or interest in accordance with requirements of that subsection.

(b) The Secretary shall sell at the then prevailing market value any property acquired under subsection (a) as soon as practicable, but in no event later than two years after the date on which such property was acquired by him under that subsection.

(c) The Secretary shall prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(d) There are authorized to be appropriated to the Department of Agriculture such sums as may be necessary to carry out the provisions of this section.●

THE UNITED STATES AND ITS NATO ALLIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, our colleague from Georgia, Mr. LEVITAS, has written a timely and perceptive article about the relationship between the United States and our NATO allies that appeared recently in the Atlanta Constitution.

Mr. LEVITAS points out the need to strengthen the alliance in view of the buildup of the Warsaw Pact nations by the Soviet Union. He also notes that NATO is a political as well as a military alliance and that our European allies must show they can be relied on to support American policies aimed at curbing Soviet aggression.

The article follows:

U.S., NATO BUILD DEFENSE TOGETHER

(By ELLIOTT H. LEVITAS)

Even for those who were not already aware of it, or willing to admit it, the events of recent months must make it obvious that the security interests and military capability of the United States and its allies must assume the highest priority among our concerns. The capability and willingness of the Soviet Union to use military force to accomplish what it perceives to be its national interest objectives, in addition to its historic use of surrogates for this purpose, is a stark reminder of a world situation that is becoming increasingly dangerous.

The aggressive actions of the Soviet Union in arrogant disregard and contempt for world opinion and verbal protest demonstrates that only the defense strength of the United States and our allies and a demonstration of our willingness to use it to protect our interests can serve as any check on the designs or decisions of the Kremlin rulers.

Aside from the first priority need in the United States to strengthen our own military capacity both in quality and quantity, the most important element in our defense ability must necessarily lie with NATO and our Western allies. Confronted by the Soviet Union and the Warsaw Pact, NATO becomes either the deterrent or the target, depending upon its capabilities both militarily and as a politically credible alliance.

As we enter the decade of the 1980s, we enter into an era for the North Atlantic Alliance that assumes new and critical dimensions. Decisions have to be made on both sides of the Atlantic in the very near term which will shape the destiny of the alliance and the security implications it portends for many years to come.

From a military point of view, there is no question that significant improvement must be made in NATO's capabilities. Over the past decade or more, the Warsaw Pact and Soviet military power has been increasing relentlessly. We know that between 13 percent and 15 percent of the Soviet Gross National Product is devoted to a defense budget representing almost a 5 percent real increase in defense expenditures each year. Not only has the numerical superiority of the Warsaw Pact been maintained, but in addition the areas in which NATO has heretofore had unquestioned superiority, in fields such as high technology weapons and nuclear arms, is now seriously challenged by the Warsaw Pact. The ability of the Soviet Union and its allies to deploy high quality operational forces and equipment in a relatively short period of time cannot be ignored any longer.

In short, the relative strength of NATO versus the Warsaw Pact is subject to serious question at best, and requires prompt action not only by the United States, but by NATO allies as well.

The decisions made in 1978 to provide the 3 percent real increase in defense spending amongst the NATO alliance must go forward without delay while recognizing the budget constraints that the United States and our allies have.

There can be no national priority more important than that of providing for our security and collective security arrangements. In addition, these policies must be pursued with consistency.

Too frequently changes in direction of policies, hesitancy, quick starts and stops with respect to implementation of decisions, have not only created problems and doubts amongst our allies, but have also given the wrong type of signals to the Soviet Union.

On the political level, the alliance must come to realize that NATO is a two-way street. It is not only a means by which the United States lends its military power for the protection of Europe, but it is also an alliance from which the United States can properly and reasonably expect support for our security interests and our strategic policies.

Accordingly, the response by NATO nations to America's call for support in connection with the Iranian situation by taking economic and political sanctions and, in addition, support for American policies aimed at the Soviet aggression in Afghanistan, may well determine the attitudes of the United States Congress as to the reliability of our NATO allies when we call upon them.

A failure of NATO to work cooperatively with the United States in these two critical areas might well cast a doubt as to the reliability of the alliance in the future.

Recent events have indicated that Western Europe recognizes the interdependence with the United States and is responding, perhaps more slowly than we would like, but nevertheless in a reliable way. Positive signs are found in the implementation of the 3 percent increase in defense spending. Mixed signals, however, come from the watered down economic sanctions on Iran and the less than unanimous Olympic Games boycott.

In addition to that, the United States has recently made it clear to our NATO allies that the Europeans must do more to defend the Mediterranean area and Europe as the U.S. responsibilities for security are becoming more demanding in other parts of the world, such as the Middle East and South-Central Asia. As our force commitments are strained to provide credible and effective military presence in these areas, the Europeans will have to assume a greater role in Europe. The Europeans positive response to this situation at a recent NATO defense ministers meeting in Brussels is a constructive step.

What now needs to be done to strengthen the alliance for the 1980s?

First, more reinforcement of our political cooperation which underpins the cohesiveness of the alliance.

Second, major upgrading of NATO military readiness, pre-stocking of supplies, enhanced integration of systems and equipment, and modernization of weapons.

Third, and perhaps most fundamentally, the improvement of our own U.S. defense position, through significant increases in defense spending in this country. Recent budget actions by Congress—providing the largest budget dollar increases in defense in any one year—is evidence that this element is about to be realized.

These are all costly and difficult steps. But, they are essential.

THE ICE AGE NATIONAL SCENIC TRAIL IN WISCONSIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, I have today introduced H.R. 7825, a bill that would give national recognition as a scenic trail to Wisconsin's Ice Age Trail. Joining as cosponsors of the bill are my Wisconsin colleagues Congressman Les Aspin, Alvin Baldus, Robert Kastenmeier, David Obey, Thomas Petri, Toby Roth, and Clement Zablocki. Senators Gaylord Nelson and William Proxmire are introducing identical legislation in the Senate.

This bill has been worked out in close cooperation with the Department of the Interior's Heritage Conservation and Recreation Service. In his July 9 letter to me, Regional Director Frank D. Jones said:

> I believe the Ice Age Trail meets national scenic trail criteria very well and could be designated without much difficulty.

The Ice Age Trail has been developed over the last 20 years by two Wisconsin voluntary citizens groups—the Ice Age Park and Trail Foundation and the Ice Age Trail Council. It provides parallel hiking and biking trails over a 1,000-mile route from Potowatomi State Park in Door County, through Point Beach State Forest in Manitowoc County, through the Northern and Southern Kettle Moraine State Forests, through disused railway rights-of-way, through Devils Lake State Park, over private lands and little-used roads, through Chequamegon National Forest, and ending at Interstate Park in Polk County on the Minnesota border.

The trail brings together the nine units of the Ice Age National Scientific Reserve, set up by Congress in a series of laws starting in 1962. Included in the nine units are Two Creeks Buried Forest, Campbellsport Drumlins, Horicon Marsh Cross Plains (Dane County), Devils Lake, Chippewa Moraine Unit, and other major geological features.

The Ice Age Trail lies on a variety of lands—national forests, State parks and forests, county parks and forests, and private lands under cooperative agreements.

In August 1979, the Wisconsin Department of Natural Resources assumed joint administrative responsibility for the trail with the private foundation and council. The trail offers an outdoor experience close to population centers such as Milwaukee, Chicago, and the Twin Cities, with a population of 12 million.

Jim Staudacher, a 20-year-old Milwaukeean, was the first to hike the full 1,000 miles of the trail, taking 3 months to do so last summer.

The legislation introduced today would make the Ice Age National Scientific Reserve a national scenic trail. This status has been accorded to only eight other trails in the Nation, including the 2,000-mile Appalachian National Scenic Trail in the East, and the 2,350-mile Pacific Crest National Scenic Trail extending from the Canadian to the Mexican borders. The designation as a national scenic trail would involve no additional costs, nor disturb the ownership and control of the existing lands in Wisconsin.●

THE BILLY CARTER CASE AND THE PEOPLE'S RIGHT TO KNOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Panetta) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, in recent days the American people have witnessed the unraveling of a disturbing and unfortunate set of details involving the brother of the President of the United States and his role as a "foreign agent" on the payroll of Libya's strongman Colonel Qaddafi. These reports raise the serious allegation that there has been a conflict of interest within the White House based solely on the President's relationship to his brother. Moreover, the delicate foreign relations of the United States appear to have been partially influenced with reports that Billy Carter, because of his Libyan connection, may have played a role relating to the American hostages in Iran.

If this matter concerned only the activities of private citizen Billy Carter, then the behavior could well be excused as that of a family member that nobody, not even the President, can control. But the implication of recent reports is that the relationship became entangled in the activities of the White House and possibly the President himself, and that Billy Carter's special relationship with the President may have been used to promote activities that otherwise would not have occurred.

The American people, therefore, deserve and are rightly entitled to a full and complete disclosure of all the facts involved. The danger otherwise is that bits and pieces of new information, whether confirmed or not, will continue to make their way into the headlines, further undermining the confidence of the people and the office of the Presidency.

It is essential that there be a thorough investigation to determine all of the relevant factors and allow for an appropriate response by those involved. The question is not one of guilt or innocence. Indeed, the Justice Department has already determined that Billy Carter should have been registered as a foreign agent. But while that much may be all right for the Justice Department; it is not enough for the American people.

I believe the Congress, principally the Senate, should conduct such an inquiry without delay and in a bipartisan spirit. Both the White House and the State Department should be cooperative and forthcoming during this investigation so all relevant facts can be determined and assessed by the people.

I understand that the Senate leadership has agreed to move expeditiously to investigate this case. It is very important for our people to know whether Billy Carter has been simply a bumbling opportunist in this matter or whether he in fact exploited his relationship with the President of the United States for personal gain, and whether such behavior was in fact sanctioned and encouraged by the White House.

I recognize that it is unfortunate that such an investigation involving the White House should take place in the heat of a Presidential campaign. It is likely that there will be efforts to distort the facts whatever they may be for political gain. And yet, not to proceed would be a violation of the public trust of those who have a responsibility to insure that the American people know all of the facts. Such an investigation is necessary because it is in the interest of not only the people, but the President and our entire system of democratic government.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, I was unable to be present for several votes that were taken on July 1 and July 2. Had I been present, I would have voted as indicated:

On rollcall No. 390 (July 1, 1980), amendment to H.R. 7584 to increase appropriations for Immigration and Naturalization Service for additional border patrol positions and inspectors: "Yes."

On rollcall No. 391 (July 1, 1980), amendment to H.R. 7584 to provide for the reprograming of $100 million from the Department of Justice appropriation for grant programs administered by the Law Enforcement Assistance Administration: "No."

On rollcall No. 392 (July 2, 1980), adoption of conference report on S. 2240, NASA authorization: "Yes."

On rollcall No. 394 (July 2, 1980), substitute amendment to H.R. 7235 to narrow the definition of effective transportation competition, which a railroad could use against rate challenges: "Yes."

On rollcall No. 395 (July 2, 1980), adoption of the conference report on H.R. 7542, making supplemental appropriations for fiscal 1980 and making rescissions of previously appropriated funds: "Yes."

On rollcall No. 396 (July 2, 1980), motion that the House recede from its disagreement to the Senate amendment to H.R. 7542 providing $8.1 billion for foreign aid programs: "No."

On rollcall No. 397 (July 2, 1980), motion that the House concur in the Senate amendment to H.R. 7542 providing foreign aid funds, provided that funds are reduced by $554 million: "No."

On rollcall No. 398 (July 2, 1980), motion to table the motion to reconsider the vote by which the amendment to H.R. 7542 was agreed to (see rollcall No. 397): "No."

On rollcall No. 399 (July 2, 1980), motion to reconsider the vote by which the previous motion was agreed to (see rollcall No. 397): "Yes."

On rollcall No. 400 (July 2, 1980), motion to table the appeal from the ruling of the chair with respect to H.R. 7542: "Yes."

On rollcall No. 401 (July 2, 1980), motion to concur in the Senate amendment on foreign aid with an amendment substituting the original $46 million House-passed foreign aid appropriation, plus $80 million for aid to Nicaragua: "No." ●

INTELPOST

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, it is with a mixture of admiration and envy that I call to the attention of the House the announcement by the Canadian Postal Service that Intelpost, the international electronic system which provides overnight delivery of letters between Canada and Great Britain, was introduced on June 17. This new service allows letters from Toronto to London to be delivered at a cost of $5 a page. I congratulate the Canadian and British Governments for this development.

My envy, and I must say my sadness, derives from the failure of the United States to implement a similar system. Had the Federal Communications Commission not disapproved a similar program proposed by RCA and TRT just 3 months ago, the United States would be in a position to offer a similar service. It is a matter of regret to me and to Postmaster General Bolger that we are not further ahead. In a note to me the other day, the Postmaster General describing the new Canadian service, said:

> It could have been and should have been the United States about a year ago.

I hope that the Congress and the President will more clearly appreciate the necessity and desirability of the development of electronic communications by the Postal Service as soon as possible.

I include the following:

THE POSTMASTER GENERAL,
Washington, D.C., June 18, 1980.

Hon. JAMES M. HANLEY,
House of Representatives,
Washington, D.C.

DEAR JIM: Yesterday I visited Canada as they launched Intelpost service from Toronto to London. It was a successful launching. Enclosed is a copy of the press release they issued. It could have been and should have been the United States about a year ago.

Sincerely,

WILLIAM F. BOLGER.

CANADA POST AND TELEGLOBE ANNOUNCE INTELPOST

TORONTO, June 17.—Canada Post joined Teleglobe Canada in the space age today when satellite-transmitted mail was exchanged within minutes between Toronto and London, England.

Called Intelpost, the new service is a joint venture of Canada Post and Teleglobe Canada. At a basic cost of $5.00 per page, it allows businesses such as banks, stock brokers, importers and exporters, etc., to send facsimiles of letters, photographs, drawings and charts to their correspondents in England.

It is the first electronic mail service of its kind to be inaugurated on an international basis.

A ceremony launching the satellite mail service was held today at Canada Post's Front Street office. Intelpost service will be provided between this site and the Stock Exchange Branch Post Office in London, serving the metropolitan areas of both cities. Facsimile copy will be transmitted and received via Teleglobe Canada's international satellite facilities.

Postmaster General André Ouellet described Intelpost as "the wave of the future here now in international and national communications". Jean-Claude Delorme, President and Chief Executive Officer of Teleglobe Canada, stated that "Intelpost forms part of a range of sophisticated new services designed to meet international business needs for data communications and facsimile transmission".●

DR. FRANK LAUBACH AND THE LAUBACH LITERACY INTERNATIONAL

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker—

> You think it is a pity they cannot read, but the real tragedy is that they have no voice in public affairs, they never vote, they are never represented in any conference, they are the silent victims, the forgotten,

> driven like animals, mutely submitting in every age before and since the pyramids were built. It is a human weakness not to become aware of suffering unless we hear a cry.

Those are the words of a most perceptive man. His name is Dr. Frank C. Laubach, and the work he began 50 years ago is today being celebrated not only for its evident success but for its future promise as well.

Dr. Frank Laubach died in 1970, but the fight against illiteracy to which he devoted himself so completely is moving forward through the nonprofit educational corporation he funded, Laubach Literacy International.

Putting the problem of illiteracy in perspective is difficult for those of us fortunate enough to have benefited from a system and an environment which emphasizes education as fundamental. Let me put it bluntly. In our world, illiteracy breeds fear. The North Carolina bus boy who is afraid to accept a promotion, because he cannot read the menu. The Portland mother whose constant nightmare is that her children will be hurt, but she cannot read the phone book to call for help. The Spanish speaking father who desperately needs work, but cannot fill out a job application. The Syracuse 20-year-old who cannot read signs, newspapers, or maps. He knows little of public issues and does not vote. He cannot read want ads or fill out applications, but he can steal.

All of these people are hostages to their own lack of knowledge and skill. While we sadly expect to find widespread illiteracy among the poor, underdeveloped nations, what really strikes us are the huge numbers of illiterates in the United States and Canada. Laubach Literacy International estimates there are 25 million adults in North America who cannot read. These people suffer. Their fear and resentment develop a "get even" attitude most easily expressed in idleness and crime. And we, the taxpayers, suffer too, when we pay taxes that support multibillion dollar crime enforcement and welfare costs related to illiteracy.

As striking as this fact of illiteracy in our own "neighborhood" may be, the knowledge that 2 out of every 5 adults around the world—800 million people—cannot read brings home the realization that poverty, hunger, and unemployment are self-sustaining under these conditions. Laubach Literacy International has developed programs utilizing 20,000 volunteers to meet the instructional needs of just the United States and Canada. Its work worldwide is nothing short of miraculous, with basic education provided for 60 million adults in 103 countries and 312 languages, since the 1930's.

How did such an organization come into being?

It was the result of the vision and humanitarianism of a 46-year-old missionary who had worked for 15 years with the Maranao tribe on the Philippine island of Mindanao. A product of Princeton, Columbia, and Union Theological Seminary in New York, Frank C. Laubach was sent as a Christian missionary to the factionalized Philippine island in 1915. Sensing that fundamental understanding and sustained faith in the gospel message could only be fully assured by literate communicative abilities on the part of those who accepted the message, Frank Laubach concentrated on teaching fundamental reading. When the depression dried up funds for these efforts, he could no longer afford to pay his teachers. But a Maranao chieftain, Kakai Dagalangit, himself a beneficiary of Laubach's teaching, mandated that each literate person teach one other illiterate person—or die.

The effort, though forced, was successful and Laubach saw the possibility in this "each one teach one" approach. He began mobilizing volunteer tutors in scores of countries—without the accompanying threat—"each one teach one" became not only a world renowed slogan but a functional success.

The year 1980 thus marks 50 years of volunteer literacy tutoring using the Laubach method. A jubilee celebration is being marked at Laubach Literacy International at its Syracuse, N.Y., headquarters this June. The organization is now headed by the founder's son, Dr. Robert S. Laubach.

In a recent interview with James Reston in the New York Times magazine, National Security Advisor Zbigniew Brzezinski identified literacy as one of the five fundamental forces of change at work in today's world. The other four: nationalism, ideology, urbanization, and demograph—"the fantastic explosion in population."

Dr. Brzezinski said:

> Literacy makes people susceptible to being politically mobilized. It is not an accident that political movements rely on pamphleteering.
>
> To make the world congenial to ourselves, to prevent America from being lonely in the world, we have to be very active in shaping wider and new global institutions, wider and fairer patterns of global cooperation . . . this is why we have to shape new arrangements to give so many new participants in the global political process a genuine opportunity to participate.

From this global vision of America's National Security Advisor to the "each one teach one" concept of Dr. Frank C. Laubach, the motivation is the same—to make the world a fairer place to live by providing the keys to problem-solving and opportunity in the form of literacy.

Mr. Speaker, on behalf of the people of the 32d Congressional District in New York, I salute the unmatched achievements of Laubach Literacy International, and convey our best wishes for continued success. We are proud that you have chosen central New York as your headquarters.●

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS

(Mr. PANETTA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PANETTA. Mr. Speaker, I am, once again, introducing a bill to clarify the Farm Labor Contractor Registration Act (FLCRA). My colleagues will recall that earlier this Congress I introduced H.R. 4151 and H.R. 6177, both of which were designed to correct some very serious misinterpretations by the Department of Labor of the existing law. The legislation I am introducing today along with my distinguished colleagues Mr. Foley, Mr. Coelho, and Mr. Symms, would eliminate a source of redtape, paperwork, and harassment for farmers and other agricultural employers. In addition, it would improve the Department of Labor's ability to provide real protection to migrant workers.

The Farm Labor Contractor Registration Act was passed by Congress in 1963 to protect migrant farmworkers from abuse by unscrupulous crew leaders. The act was also intended to protect farmers and other agricultural employers from the irresponsible actions of some crew leaders. I firmly believe that the act should continue to serve that purpose. Since its enactment, however, the Department of Labor has misconstrued its terms to justify imposing many unnecessary and inappropriate requirements on farmers and other agricultural employees who were never intended to be covered by the act. Farmers are required to be fingerprinted, to register with and be investigated annually by the Labor Department, to carry a registration card, to publicly state their salaries or their income, to obtain a special medical examination and so on.

Such requirements are necessary to deal with the potential problems posed by bona fide farm labor contractors. But farmers, ranchers, and other fixed site agricultural employers are not of the same ilk as the farm labor contractor who generally moves with the harvest and serves as an independent labor supplier to more than one operation at a time. To impose FLCRA requirements on the fixed-site agricultural employer who is already held responsible for his treatment of workers under the Fair Labor Standards Act, the Wagner-Peyser Act, the Federal Unemployment Tax Act, the Occupational Health and Safety Act, and the Federal Insecticide, Fungicide, and Rodenticide Act, to name a few, is simply unnecesary and burdensome.

The Farm Labor Contractor Registration Act is an important part of the protections we have provided for migrant workers. Unfortunately, the Department of Labor has decided in an increasing number of cases that farmers and other agricultural employers, or their employees, are required to register as farm labor contractors under this act.

It is a great irony that the Department of Labor is now trying to regulate under this act the very persons Congress was trying to protect with it. This action by the Labor Department is unjustified. It casts a bad light on the entire law and the purposes that we are trying to achieve with it.

The purpose is to protect migrant workers and farmers. The Department's implementation makes it look like the purpose is to harass farmers. Its implementation is diverting attention and resources away from the basic purpose of protecting migrant workers from abuse by unscrupulous crew leaders. I believe our amendments should be adopted in order to insure the proper implementation of this act.

UNRESOLVED ISSUE

The problem we are trying to resolve with this bill is the same problem addressed in a letter from 52 Senators to Secretary of Labor Marshall on October 24, 1979. Unfortunately, in spite of the request by a majority of the Senate, the problem has not been resolved.

The Secretary did, on November 26, 1979, respond to the letter in a positive tone, although he did not respond to a number of problems that exist with the act. I placed copies of the Senator's letter and the Secretary's response in the December 18, 1979, CONGRESSIONAL RECORD on page 36850.

This bill, and its companion measure in the Senate, is consistent with the direction of the Secretary's letter. The Secretary said:

> We are also instructing our field enforcement staff to make certain that they concentrate on serious violations committed by the traditional farm labor contractors who have repeatedly and seriously violated the Act.

That goal is the fundamental purpose of this bill—to insure the regulation of traditional farm labor contractors or crew leaders, not the regulation of farmers and other agricultural employers who are supposed to be protected by the act.

The Secretary also said:

> (W)e believe that in the great majority of cases, neither the corporate employer nor any of its employees will be required to register as a farm labor contractor.

Our bill is consistent with that, although we are concerned not just about corporate employers and their employees, but about private and cooperative employers and their employees as well. The philosophy of this bill is that the exclusion of farmers, processors, and other employers from the term "farm labor contractor" should not be a function of their form of doing business. Neither should employees be regulated under the act if his or her employer is not.

While the Secretary's letter is helpful, it has not been implemented so as to resolve the problems with the act. There are a number of misinterpretations by the Department of Labor and ambiguities in the act that need to be cleared up, which this bill would do.

THE PROBLEM

Mr. Speaker, all too often we see cases where a department or agency of the executive branch tries to extend its power and authority by a particular interpretation of its statutory authority. That is exactly the kind of situation we have here.

It is tough when you are a farmer and the Department of Labor says you are a crew leader and says you must annually register with the Labor Department, have your fingerprints taken every 3 years, disclose your salary or income, have your name published in a public central registry in Washington, D.C., and comply with numerous other unnecessary requirements.

When Congress passed the Farm Labor Contract Registration Act in 1963, the intent was to stop abuses by certain irresponsible contractors, often referred to as "crew leaders" or "crew pushers," who contracted for the services of migrant agricultural laborers. The term "farm labor contractor" was defined to mean "any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers (excluding members of his immediately family) for agricultural employment."

Congress did not consider "farm labor contractors" to include farmers and other agricultural employers, who are permanently located and who are tied to land or property. This is clear from the Senate committee report on the 1974 amendments:

> Although specific functions of the farm labor contractor, *often called* a "crew leader" or "crew pusher," might vary from job to job, his role essentially remains the same—a bridge between the operator and the worker. (Senate Report 93-1206 to accompany H.R. 13342, p. 2.)
>
> Evidence has also emerged of contractor exploitation of farmers. The contractor would agree to arrive with a crew on a designated date, and simply fail to show up because better opportunities presented themselves elsewhere. This would leave the farmer with no help to harvest his ripening crop. More common is the practice of leaving after the first picking when the second and third pickings become more difficult, and consequently less profitable. (Senate Report 93-1206 to accompany H.R. 13342, p. 2.)

LABOR DEPARTMENT'S MISINTERPRETATION

The basic problem with the act stems from the Labor Department's interpretation of it. For example, the Department interprets the term "migrant worker" to include all agricultural employees. Quoting from the Labor Department's Field Operations Handbook—April 18, 1979, paragraph 58a04(d):

> The term "migrant worker" as defined by Sec. 3(g) of the Act includes any individual whose primary employment is in agriculture, as defined in Sec. 3(f) of the FLSA or who performs agricultural labor, as defined in Sec. 3121(g) of the Internal Revenue Code, on a seasonal or other temporary basis. In other words, any employee who is performing agricultural work is a migrant worker for purposes of the FLCRA. There is no distinction between the worker who moves about the country within the stream of production and the worker who remains at his home and works in his own area year round.

Mr. Speaker, calling every worker in agriculture a migrant worker is an affront to good judgment. Congress passed a law to protect migrant workers and the Department tries to apply it to everybody in agriculture. No wonder we hear complaints about the act.

The problem does not stop there. When Congress passed the act, we included provisions to guard against a bona fide crew leader evading the law by claiming to be a farmer, processor, or other agricultural employer or employee. The Department has interpreted those provisions so that virtually every farmer, processor, canner, ginner, packing shed operator, and nurseryman, and their employees could be construed to be a "farm labor contractor."

The bill we are introducing would clarify the act so that no doubt will remain as to what Congress intended.

EXAMPLE OF MISAPPLICATION

Mr. Speaker, in order to understand how the Labor Department is misapplying the law, we should look at a specific example. There are many cases that demonstrate how the Department has gone far beyond what Congress ever intended, even to the extent many feel is absurd. Let me cite one example which has become the Federal court case of Marshall against Heringer Ranches, Inc.

According to the findings of fact in the case, Heringer Ranches is a farming corporation engaged in the growing and harvesting of tomatoes, sugar, beets, alfalfa, corn, pears, and other crops. Several generations of Heringers have worked the farm which the family operated as a partnership until 1973.

In 1973, the Heringers incorporated as Heringer Ranches, Inc. The ownership of the corporation resided equally in four Heringer brothers including Mr. Lester S. Heringer, who is a defendant in the case.

In other words, Heringer Ranches is a true family farm. It is also incorporated, and because of that, the Department of Labor said it must register as a farm labor contractor.

As president of the corporation, Mr. Heringer is a full-time employee of Heringer Ranches. Most of his time is spent in the fields making and implementing the decisions which the operation of the farm requires. They include what crops to plant, where to plant them, how to prepare each field, when and how to fertilize, and so on. In addition, Mr. Heringer deals with such matters as negotiation of loans, seed purchasing, payrolls and accounting, equipment maintenance, and acquisition in crop sales.

Heringer Ranches employs a foreman who works full time and exclusively for the Heringers since 1948. He spends most of his time implementing Mr. Heringer's decisions as to irrigation, which is critical to the success of a Sacramento Valley farm. He also helps prepare fields for planting and performs many other duties.

From time to time, Mr. Heringer and his foreman perform certain functions for Heringer Ranches which relates to the hiring process, as do other members of the Heringer family. When workers arrive, they are put on the Heringer Ranches' payroll—or "hired"—just as any employee of any business is hired.

Neither Mr. Heringer nor his foreman "recruits" or "solicits" migrant workers. They do not "furnish" migrant workers to other farms. Heringer Ranches, Mr. Heringer and his foreman deal with migrant workers solely for Heringer Ranches.

Mr. Heringer spends less than 5 percent of his time in activities which could be characterized as "hiring," "transporting," or "furnishing" as those terms are used in the act; his foreman less than 10 percent. Neither of them engages in such activities for any other "person."

Heringer Ranches is a primary employer of migrant labor solely for its own farming operation. It does not employ migrant workers for a fee. Mr. Heringer and his foreman act only as the employees or agents of Heringer Ranches, not as middlemen.

Yet, the Labor Department cited Mr. Heringer, his foreman, and Heringer Ranches for failing to register as farm labor contractors. A Federal judge of the U.S. District Court, Eastern District of California, Sacramento division, ruled in favor of Heringer Ranches and the defendants, and against the Labor Department. However, the Labor Department has appealed the ruling to the Ninth Circuit Court in California. Even though Heringer Ranches has spent the time and expense to go to court, their trouble still has not been resolved.

HISTORY OF PROBLEMS

Mr. Speaker, the Labor Department's implementation of this act has a long history of problems.

In 1975, the Department said that anyone with a custom combine, hay harvesting, or sheep shearing operation must register as a farm labor contractor. It was clear to most people that those engaged in custom combining, hay harvesting or sheep shearing were not farm labor contractors. Neither were they migrant workers.

In early 1976 the Congress adopted an amendment that specifically said the term "farm labor contractor" shall not include "any custom combine, hay harvesting, or sheep shearing operation."

The junior Senator from Wisconsin, Mr. NELSON, made a statement during the debate on that amendment that is still true today with respect to this bill. He said:

> The refusal of the Department of Labor to grant administrative relief in this minor matter in view of the legislative history and the expressed attitudes of the legislative sponsors is disturbing. It runs as part of a pattern with the administration of the Occupational Safety Health Act when more important aspects of the law were bypassed in favor of harassment in minor cases. DOL, in the case of the amended Farm Labor Contractor Registration Act, has spent a lot of time not only taking on sheep shearers and custom harvest crews but also growers and their agents, without the kind of effort to reach the vast number of crew leaders that DOL knows very well it was the intent of the legislation to cover.

The misinterpretation and misapplication of this law is a danger to the entire program.

Then in 1976, the Labor Department tried to say that anyone engaged in a custom poultry harvesting, breeding, debeaking, sexing, or health service operation is a farm labor contractor. Again, it was clear that those persons were neither farm labor contractors nor migrant workers, and Congress had to adopt an amendment to specifically say that they are not covered by the term "farm labor contractor."

Yet a third time, in 1978, the Labor Department said that students and other young persons engaged in detasseling and roguing hybrid seed corn or sorghum are migrant workers and that the persons involved in organizing them or transporting them are farm labor contractors. Yet again, we recognized that that was not the case, and for the third time, Congress adopted an amendment to specifically say so.

Mr. Speaker, the Congress could continue that same approach. We could go through the entire food and fiber industry, sector by sector, adopting amendments to specify that the agricultural employers in this sector or that sector are not farm labor contractors and should not be required to register under this act.

That would be the wrong approach. Instead, we should adopt this bill to clarify the law once and for all.

During the hearings leading to the 1974 amendments, the Department of Labor estimated there were 6,000 crew leaders—the traditional farm labor contractors—in the United States and that about 2,000 of them had been registered. Now, by its interpretation, the Department has expanded the term "farm labor contractor" to cover millions of persons, including farmers, processors, canners, ginners, packing shed operators, nurserymen, and their employees. The list is practically limitless. It includes dairy farmers, dairy processors, feedlot operators, cotton growers and ginners, fresh fruit and vegetable growers, fruit and vegetable processors, seed growers and processors and many, many others. Probably every sector of agriculture in the broadest sense is covered.

BASIC DIFFERENCES

There are good reasons why the customary agricultural employer was not intended to be covered by FLCRA. There are basic differences between the crew leader or traditional farm labor contractor and the farmer or other agricultural employers.

By definition, crew leaders are usually transient and hard to find. Crew leaders usually recruit a crew in Florida, or Louisiana, or Texas, or Puerto Rico, or some other place and transport them to another State like Wisconsin or New Jersey. So, crew leaders, whom the act was originally intended to regulate, may be hard to locate and control.

Farmers and processors and other employers are easy to find. They are permanently located and are tied to their farm or their processing plant or other property. If they appear to be abusing migrant workers, they can be held accountable under many laws that protect migrant workers including the Fair Labor Standards Act, the Wagner-Peyser Act, the Occupational Safety and Health Act, the Social Security Act, the Department of Transportation Act, the Environmental Protection Act, the Federal Unemployment Tax Act, and numerous State laws.

All of these are reasons why agricultural employers were not considered to be farm labor contractors, and do not need to be regulated as farm labor contractors under FLCRA in order to provide protection to migrant workers.

Mr. Speaker, enactment of this bill is much needed by the agricultural industry. It is fully justified and I hope we can pass it this year.

In lieu of a fuller explanation of the bill, I insert a section-by-section analysis of it, and the text of the bill in the RECORD at this point:

SECTION-BY-SECTION ANALYSIS OF FLCRA BILL

1. Title: The Farm Labor Contractor Registration Act Amendments of 1980.

2. Section 2 strikes the word "personally" and substitutes "such person's" for the word "his" in subsection 3(b) (2) of the Act. Subsection 3(b) (2) excludes farmers, processors, canners, ginners, packing shed operators, and nurserymen from the definition of "farm labor contractor," subject to certain limitations. The changes clarify subsection 3(b) (2) so that the listed businesses are excluded regardless of their form of doing business, including operating as an individual, corporation, partnership, association, joint stock company, or trust. This clarification reflects the interpretation adopted by the Ninth Circuit in *Marshall* v. *Green Goddess Avocado Corp.*, and by federal district courts in *Espinoza* v. *Stokely-Van-Camp* and *Cantu* v. *Owatonna Canning Co., Inc.*

3. Section 3 deletes the phrase "on no more than an incidental basis" in subsection 3(b) (3) of the Act. Subsection 3(b) (3) excludes from the definition of "farm labor contractor" any full-time or regular employee of an entity listed in subsections 3(b) (1) or (2) if the employee engages in farm labor contracting activities solely for his employer "on no more than an incidental basis." The ambiguity of the phrase "on no more than an incidental basis" has resulted in much controversy and disagreement about how the Act should be implemented.

The Secretary of Labor told 52 Senators in a letter on November 26, 1979, that the phrase should be interpreted to mean no more than 20 percent of an employee's time. This interpretation is still vague and subject to different interpretations, as well as creating much difficulty in implementation. It also results in a situation where an employer is excluded from registration, but not the employee. As a matter of fairness and public administrative policy, many feel that in those situations in which the Act has excluded the employer from registration, his employee should be excluded as well.

Striking the phrase "on no more than an incidental basis" resolves these problems. Some have expressed concern that striking the phrase opens a loophole by allowing a crew leader to escape regulation by becoming a full-time or regular employee of an exempt employer. This fear is answered by the fact that an employer may be held liable for the actions of an employee. If an employee abuses a migrant worker, the employer may be held responsible under the Fair Labor Standards Act, the Wagner-Peyser Act, and numerous other statutes. The change is consistent with the original Congressional intent of the Act that a person, either an employer or an employee, is required to register under the Act if he supplies migrant workers for another operation or employer.

4. Section 4 creates a new subsection 3(b) (11) in the Act which excludes cooperative associations of farmers, growers or ranchers from the definition of "farm labor contractor."

5. Section 5 creates two new subsections 3(h) and 3(i), which would provide as follows:

a. Subsection 3(h) defines the term "for such person's own operation", which is found in subsection 3(b) (2) (as amended by this bill). Subsection 3(b) (2) currently states that an employer is excluded from the definition of "farm labor contractor" if he supplies migrant workers "solely for his own operation." Congress added this phrase to ensure that a crew leader would not evade regulation under the Act by claiming also to be a farmer. However, the Labor Department has gone beyond Congressional intent by saying that an employer cannot be engaged "solely for his own operation" if he does not have title to the commodity. The new subsection 3(h) clarifies Congressional intent so that an employer can act solely "for such person's own operation" regardless of whether he has title to the commodity. This relates to the numerous situations throughout agriculture, including the livestock, cotton, citrus, fruit and vegetable industries, where a producer or processor performs an activity pursuant to his own operation, but does not have title to the commodity. Encompassed by the term "such person's own operation" are all activities by a person with respect to commodities which are or will be the subject of or diverted from his operation. For example, when a canner harvests a crop destined for his cannery, he is engaged in activities for his own operation, regardless of when title to the crop is deemed to pass. Under some circumstances a packing shed operator may harvest a grower's crop for the purpose of selecting the highest quality fruit for packing operations. That fruit which is not so selected is typically then diverted to other processing operations. The amendment would make clear that the harvesting and handling of the entire crop by the packing shed operator is regarded as "for such person's own operation."

b. Subsection 3(i) defines the term "regular employee," found in subsection 3(b)(3) of the Act, to include any seasonal or part-time employee of an entity in 3(b)(1) or (2). The purpose is to state explicitly that, for example, a foreman, who in many agricultural sectors is employed on a seasonal basis, is excluded from the definition of "farm labor contractor," if he meets the other limitations of 3(b)(3).

6. Section 6 amends Section 3(d) of the Act to clarify Congressional intent in the definition of "agricultural employment." The amendment makes clear that the inclusion in the definition of "agricultural employment" of "handling, planting, drying, packing, packaging, processing, freezing, or grading" refers to those operations that are done on the farm or ranch. This is consistent with the references in the definitions of "agricultural employment" and "migrant worker" to agriculture as defined in the Fair Labor Standards Act and agricultural labor as defined in the Internal Revenue Code. Those two statutes have long been held to differentiate clearly between an operation on the farm and an operation in a plant or business away from the farm.

7. Section 7 is a new definition of the term "migrant worker" in subsection 3(g) of the Act. This definition reflects the underlying purpose of the Act: the protection of the true migrant agricultural worker. An agricultural worker whose domicile is on or near a farm, and who never comes in contact with a true labor contractor, does not need the Act's protections. The new definition covers the actual migrant worker as well as the "day-haul" worker.

H.R. 7824

A bill to amend the Farm Labor Contractor Registration Act of 1963, as amended and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Labor Contractor Registration Act Amendments of 1980."

SEC. 2. Section 3(b)(2) of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. § 2042(b)(2)), is amended by striking the word "personally" and by substituting the phrase "such person's" for the word "his".

SEC. 3. Section 3(b)(3) of such Act is amended by striking the phrase "on no more than an incidental basis".

SEC. 4. Section 3(b) of such Act is amended by adding a new paragraph (11) to read as follows:

"(11) Any nonprofit or cooperative association of farmers, growers, or ranchers, duly incorporated and qualified under the nonprofit association or farmer cooperative statutes of a State, and operated solely for the mutual benefit of the members thereof; and any full-time or regular employee of such association or cooperative who engages in such activity solely for his or her employer."

SEC. 5. Section 3 of such Act is amended by adding new subsections (h) and (i) to read as follows:

"(h) The term 'for such person's own operation' refers to the operations of a person as a farmer, processor, canner, ginner, packing shed operator, or nurseryman, and includes all activities by such person or such person's employees with respect to the agricultural or horticultural commodities which are or will be the subject of or diverted from such operations, and regardless of whether such person has title to such commodities at the time such operations or activities are performed."

"(i) The term 'regular employee' includes an employee who is employed on a seasonal or part-time basis by any person referred to in subsection (b)(1) or (b)(2) of this section."

SEC. 6. Subsection 3(d) of such Act is amended by inserting the words "on a farm or ranch" after the word "grading."

SEC. 7. Subsection 3(g) of such Act is amended to read as follows:

"(g) The term 'migrant worker' means an individual engaged on a farm or ranch, on a seasonal or other temporary basis, in agricultural employment as defined in section 3(d) of this Act who cannot regularly return to his or her domicile each day after working hours, or who is transported from and to his or her domicile each workday by the person who recruits, solicits, hires or furnishes such worker for agricultural employment on a farm or ranch owned or operated by another person." ●

SCHEDULING OF 1-MINUTE SPEECHES

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, for the record I would like for it to be known that I am in favor of the 1-minute speeches. However, I would like to see these addresses made at the end of the day so that business of the House can be conducted expeditiously at the beginning of the day's deliberations.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOUGHERTY) to revise and extend their remarks and include extraneous material:)

Mr. MCKINNEY, for 5 minutes, today.

Mr. BAUMAN, for 1 hour, today.

(The following Members (at the request of Mr. PANETTA) to revise and extend their remarks and include extraneous material:)

Mr. MURPHY of New York, for 60 minutes, today.

Mr. VANIK, for 10 minutes, today.

Mr. MURTHA, for 15 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DOWNEY, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. REUSS, for 20 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. WHITE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PANETTA, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,572.

(The folowing Members (at the request of Mr. DOUGHERTY) and to include extraneous matter:)

Mr. SYMMS.

Mr. DANIEL B. CRANE.

Mr. GILMAN.

Mr. MCKINNEY.

Mr. WINN.

Mr. MOORHEAD of California.

Mr. ERDAHL.

Mr. WYDLER.

Mr. MARRIOTT in two instances.

Mr. HANSEN.

Mr. JEFFRIES.

Mr. KEMP.

Mr. QUAYLE.

Mr. DERWINSKI in two instances.

(The following Members (at the request of Mr. PANETTA) and to include extraneous matter:)

Mr. BRODHEAD.

Mr. OTTINGER.

Mr. MAVROULES in two instances.

Ms. MIKULSKI.

Mr. WOLFF.

Mr. RANGEL.

Mr. HAMILTON.

Mrs. CHISHOLM.

Mr. COELHO.

Mr. MCDONALD.

Mr. MCKAY.

Mr. LEHMAN.

Mr. SWIFT.

Mr. FARY.

Mr. CLAY.

Mr. CHAPPELL.

Mr. VENTO.

Mr. SKELTON.

Ms. FERRARO.

ADJOURNMENT

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 49 minutes p.m.), the House adjourned until tomorrow, Friday, July 25, 1980, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first and second quarters of calendar year 1980 in connection with foreign travel pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [3]
Sen, Helen	4/5	4/12	Israel	15,708.50	375.00		[3] 1,215.00				
Stillman, Kate	4/5	4/12	Israel	15,708.50	375.00		[3] 1,215.00				
Sletzinger, Martin	4/5	4/13	Israel	18,884	450.00		[3] 1,215.00				
Davidson, Lynne	4/5	4/13	Israel	18,850.50	450.00		[3] 1,290.00				
	4/13	4/15	Italy	136,200	150.00						
Donovan, Margaret Ann	4/5	4/13	Israel	18,850.50	450.00		[3] 1,290.00				
	4/13	4/15	Italy	136,200	150.00						
Kurz, Ester	4/5	4/13	Israel	18,850.50	450.00		[3] 1,290.00				
	4/13	4/15	Italy	136,200	150.00						
Brescia, Christopher	4/13	4/22	Switzerland	1,340.95	768.00		[3] 923.00				
Donovan, Margaret Ann	5/12	5/18	Belgium	21,635	749.00		[3] 2,305.10				
Oliver, R. Spencer	5/29	6/1	Spain	18,690	267.00		[3] 1,047.00				
Wise, Samuel	5/20	5/21	France	390.10	94.00		[3] 1,386.25				
	5/21	5/22	England	50.21	115.00						
	5/22	5/26	Italy	289.648	334.00						
	5/26	5/27	Federal Republic of Germany.	154.86	87.00						
	5/27	5/29	Belgium	6,137	214.00						
	5/29	6/1	Netherlands	525.85	270.00						
Boutin, George	6/2	6/7	Poland	7,475.50	247.86		[3] 1,320.00				
	6/7	6/12	Sweden	1,906.40	280.36	325.00	10.78				
Brescia, Christopher	6/7	6/8	Germany	173.46	98.00		[3] 1,499.00				
	6/8	6/13	Bulgaria	321.75	376.00						
	6/13	6/14	Hungary	2,025	90.00						
Total					7,099.22		16,006.13				

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Round trip.

DANTE FASCELL,
Chairman, Commission on Security and Cooperation in Europe.

June 30, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Edward A. Lee	6/6	6/7	Costa Rica	640.50	75.00					640.50	75.00
Local transportation in Costa Rica							31.93				31.93
Miscellaneous expenses: Including overtime									105.35		105.35
	6/7	6/10	Nicaragua	2,250	225.00					2,250	225.00
Local transportation in Nicaragua							270.66				270.66
Miscellaneous expenses: Including control room									40.03		40.03
Transatlantic and intercountry transportation provided by DOD							839.82				839.82
Total					300.00		1,142.41		145.38		1,587.79

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES M. HANLEY,
Chairman, Committee on Post Office and Civil Service.

July 15, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Lester L. Wolff, M. C.	2/15	2/16	Austria	1,171.25	94.00		1,035.00			1,171.25	1,129.00
	2/16	2/17	Italy	60,300	75.00		[3] 94.00			60,300	169.00
Benjamin A. Gilman, M. C.	2/15	2/16	Austria	1,171.25	94.00		1,035.00			1,171.25	1,129.00
	2/16	2/17	Italy	60,300	75.00		[3] 94.00			60,300	169.00
	2/17	2/19	Belgium	4,767.92	214.00					4,767.92	214.00
Total					552.00		2,258.00				2,810.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Local transportation costs incurred in Vienna.

Apr. 30, 1980.

LESTER L. WOLFE,
Chairman, Select Committee on Narcotics Abuse and Control.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4894. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a decision has been made to convert the laundry/dry cleaning function at Fort Carson to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4895. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting various project performance audit reports prepared by the International Bank for Reconstruction and Development, and by the Asian Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4896. A letter from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting monthly reports for April 1980 on changes in market shares for refined petroleum products and retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

4897. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to render a final decision in docket No. 37301, *Restricted Transit, Trans-Continental Shipments of Oil*, within the previously extended time period, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

4898. A letter from the Secretary of Health and Human Services, transmitting the second annual report on the end-stage renal disease program, pursuant to section 1881(g) of the Social Security Act; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 749. Resolution providing for the consideration of H.R. 3486. A bill to limit governmental search and seizure of materials possessed by persons involved in first amendment activities, to provide a remedy for persons aggrieved by violations of the provisions of this act, and for other purposes. (Rept. No. 96–1188). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 750. Resolution waiving certain points of order against H.R. 7724. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes. (Rept. No. 96–1189). Referred to the House Calendar.

Mrs. CHISHOLM: Committee on Rules. House Resolution 751. Resolution providing for the consideration of H.R. 7299. A bill to revise and improve the Federal programs of assistance for the provision of mental health services, and for other purposes (Rept. No. 96–1190). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 589. Joint resolution providing additional program authority for the Export-Import Bank. (Rept. No. 96–1191). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. Report submitted pursuant to the fiscal year 1980 reconciliation provision contained in section 7 of the First Concurrent Resolution on the Budget (H. Con. Res. 307). (Rept. No. 96–1192). Referred to the Committee of the Whole House on the State of the Union.

Mr. DUNCAN of Oregon: Committee on Appropriations. H.R. 7831. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1193). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 4966. A bill for the relief of the estate of Philip H. Ward (Rep. No. 96–1187). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clauses 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL:

H.R. 7809. A bill to provide grants to expedite the conversion by certain existing electric powerplants from the use of oil to coal or another alternate fuel and assist the ratepayers of the electric utilities involved in reducing the costs of conversion, and to otherwise reduce oil and other fuel consumption by electric utilities and their residential customers through conservation and other means; to the Committee on Interstate and Foreign Commerce.

By Mr. ANNUNZIO:

H.R. 7810. A bill to amend the Truth in Lending Act to permanently ban credit card surcharges, and for other purposes; to the Commitee on Banking, Finance and Urban Affairs.

By Mr. ARCHER (for himself and Mr. PICKLE):

H.R. 7811. A bill to amend the Internal Revenue Code of 1954 to increase the competitiveness of American firms operating abroad and to help increase markets for U.S. exports; to the Committee on Ways and Means.

By Mr. BARNES (for himself, Mr. McCLORY, and Mr. MATSUI):

H.R. 7812. A bill to amend section 402 of title 23, United States Code, relating to highway safety programs, to require the establishment of a comprehensive alcohol-traffic safety program in each State aimed at discouraging driving while under the influence of alcohol; to the Committee on Public Works and Transportation.

By Mr. BURLISON:

H.R. 7813. A bill to authorize the Secretary of Agriculture to make payments to producers of the 1980 crop of soybeans for losses caused by natural disasters; to the Committee on Agriculture.

By Mr. CARNEY (for himself and Mr. LENT):

H.R. 7814. A bill to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness" and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CLAY:

H.R. 7815. A bill to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. COTTER (for himself, Mr. GIAIMO, Mr. MCKINNEY, Mr. DODD, Mr. RATCHFORD, and Mr. MOFFETT):

H.R. 7816. A bill to designate the U.S. Federal Building in Hartford, Conn., as the "Abraham A. Ribicoff Federal Building"; to the Committee on Public Works and Transportation.

By Mr. DRINAN:

H.R. 7817. A bill to amend or disapprove certain amendments to the Federal Rules of Criminal Procedure and the Federal Rules of Evidence proposed by the Supreme Court, and to amend chapter 231 of title 18, United States Code (relating to probation); to the Committee on the Judiciary.

Mr. DUNCAN of Tennessee:

H.R. 7818. A bill to amend the Railroad Unemployment Insurance Act to increase the maximum daily benefit from $25 to $40; to the Committee on Interstate and Foreign Commerce.

By Mr. FARY:

H.R. 7819. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for up to $750 of the cost of purchasing a new highway vehicle; to the Committee on Ways and Means.

By Mrs. FENWICK:

H.R. 7820. A bill to provide that rates of pay for Members of Congress shall not be subject to adjustment under the Federal Salary Act of 1967 or subject to any other automatic adjustment, and to provide that any bill or resolution, and any amendment to any bill or resolution, which would increase Members' pay may be adopted only by a recorded vote; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. JONES of Oklahoma:

H.R. 7821. A bill to amend the Internal Revenue Code of 1954 to treat certain retailers of natural gas as independent producers for purposes of the crude oil windfall profit tax; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. Baldus, Mr. Harkin, Mr. Nolan, Mr. Brown of California, and Mr. Jeffords):

H.R. 7822. A bill to amend the Clayton Act to provide for additional regulation of certain anticompetitive developments in the agricultural industry; to the Committee on the Judiciary.

By Mr. LEE:

H.R. 7823. A bill to amend section 402 of title 23, United States Code, relating to highway safety programs, to require the establishment of a comprehensive alcohol-traffic safety program in each State aimed at discouraging driving while under the influence of alcohol; to the Committee on Public Works and Transportation.

By Mr. PANETTA (for himself, Mr. Foley, Mr. Coelho, and Mr. Symms):

H.R. 7824. A bill to amend the Farm Labor Contractor Registration Act of 1963, as amended, and for other purposes; to the Committee on Education and Labor.

By Mr. REUSS (for himself, Mr. Zablocki, Mr. Aspin, Mr. Baldus, Mr. Kastenmeier, Mr. Obey, Mr. Petri, and Mr. Roth):

H.R. 7825. A bill to establish the Ice Age National Scenic Trail, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SWIFT:

H.R. 7826. A bill to provide an incentive to encourage homeownership by amending the Internal Revenue Code of 1954 to allow a deduction for certain contributions to an individual housing account, the proceeds from which are used to purchase a principal residence for such individual, and for other purposes; to the Committee on Ways and Means.

By Mr. WILLIAMS of Montana (for himself and Mr. Marlenee):

H.R. 7827. A bill to authorize the Assiniboine Tribe to file in the Court of Claims any claim against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 7828. A bill to authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the U.S. Constitution, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DUNCAN of Oregon:

H.R. 7831. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. WHITTEN (for himself and Mr. Conte):

H.J. Res. 589. Joint resolution providing additional program authority for the Export-Import Bank; to the Committee on Appropriations.

By Mr. ZABLOCKI (for himself, Mr Rosenthal, Mr. Bingham, Mr. Solarz, Mr. Bonker, Mr. Pease, Mr. Mica, Mr. Barnes, Mr. Gray, Mr. Hall of Ohio, Mr. Broomfield, Mr. Derwinski, Mr. Buchanan, Mr. Winn, Mr. Gilman, Mr. Goodling, Mr. Pritchard, Mrs. Fenwick, Mr. Maguire, and Mrs. Schroeder):

H. Res. 748. Resolution relating to the United Nations Mid-Decade Conference for Women; to the Committee on Foreign Affairs.

By Mr. BEDELL:

H. Res. 752. Resolution calling upon the President to rescind the embargo placed on the export of U.S. grain to the Union of Soviet Socialist Republics; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARNES:

H.R. 7829. A bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko; to the Committee on the Judiciary.

By Mr. WHITLEY:

H.R. 7830. A bill to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Capt. Tom* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 100: Mr. Bonker, Mr. Bingham, Mr. Coelho, Mrs. Collins of Illinois, Mr. Fish, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Garcia, Mr. Harris, Mr. Kogovsek, Mrs. Schroeder, Mr. Seiberling, Mr. Weaver, Mr. Wolff, and Mr. Barnes.

H.R. 654: Mr. Jeffries, Mr. Bereuter, and Mr. Lehman.

H.R. 2047: Mr. Bonior of Michigan.

H.R. 2443: Mrs. Holt and Mr. Wolff.

H.R. 3782: Mr. Leach of Iowa.

H.R. 5062: Mr. Coelho.

H.R. 5099: Mr. Mavroules.

H.R. 5395: Mr. Dickinson.

H.R. 5610: Mr. Railsback and Mr. Dannemeyer.

H.R. 5773: Mr. Donnelly, Mr. Corcoran, and Mr. Jenkins.

H.R. 5887: Mr. Lott.

H.R. 6466: Mr. Dornan, Mr. Skelton, Mr. Patten, Mr. Luken, Mr. Shumway, and Mr. Murphy of New York.

H.R. 6637: Mr. Rudd.

H.R. 6685: Mr. D'Amours, Mr. Fithian, Mr. Neal, Mr. Pepper, Mr. Fazio, Mr. Wolpe, Mr. Evans of Georgia, Mr. Gray, Mr. Phillip Burton, Mr. Spence, and Mr. Albosta.

H.R. 6918: Mr. Ullman.

H.R. 6986: Mr. Ratchford.

H.R. 7300: Mr. Tauzin, Mr. de la Garza, Mr. Charles Wilson of Texas, Mr. Breaux, Mr. Stockman, and Mr. Deckard.

H.R. 7505: Mr. Jeffords.

H.R. 7548: Mr. Forsythe and Ms. Mikulski.

H.R. 7550: Mr. Frenzel, Mr. Conyers, Mr. Fish, Mr. Hyde, Mr. Hughes, Mr. Mollohan, Mr. Moorhead of Pennsylvania, Mr. Seiberling, and Mr. Tauke.

H.R. 7594: Mr. Hillis and Mr. Butler.

H.R. 7643: Mr. Jones of Tennessee, Mr. Marlenee, and Mr. Mottl.

H.R. 7716: Mr. Pickle, Mr. Jacobs, Mr. Stangeland, Mr. Regula, Mr. Gilman, Mr. Collins of Texas, Mr. Addabbo, Mr. Roth, Mr. Lungren, Mr. Taylor, Mr. Mazzoli, Mr. Hillis, Mr. Hyde, Mr. Ambro, Mr. Kindness, Mr. LaFalce, Mr. Kramer, Mr. Brinkley, Mrs. Fenwick, and Mrs. Snowe.

H.R. 7773: Mr. Stockman.

H.J. Res. 266: Mr. Frost.

H. J. Res. 573: Mr. Ritter, Mr. Pashayan, Mr. Gramm, Mr. Whitehurst, Mr. Kramer, Mr. Horton, Mr. Evans of Georgia, Mr. Frenzel, Mr. Livingston, Mr. Emery, and Mr. Kemp.

H. Con. Res. 349: Mr. Hutto and Mr. Robert W. Daniel, Jr.

H. Con. Res. 361: Mr. Clausen, Mr. Evans of Indiana, Mr. Hopkins, Mr. Murphy of New York, and Mr. Charles Wilson of Texas.

H. Res. 745. Mr. Findley, Mr. Shuster, Mr. Dornan, Mr. Campbell, Mr. Quayle, Mr. Emery, Mr. Young of Alaska, Mr. McKinney, Mr. Beard of Tennessee, Mr. Taylor, Mr. Hyde, Mr. Hansen, Mr. Whitehurst, and Mr. Rinaldo.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

397. By the SPEAKER: Petition of the Eastern Regional Conference on Uniform Reciprocal Enforcement of Support, relative to child support; to the Committee on Armed Services.

398. Also, petition of the National Association of Manufacturers, Washington, D.C., relative to its support of section 2 of H.R. 6830; to the Committee on Interstate and Foreign Commerce.

399. Also, petition of the Eastern Regional Conference on Uniform Reciprocal Enforcement of Support, relative to child support; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7235

By Mr. ROBERTS:

—Section 301, page 138, line 14. Add new paragraph "m" to subsection (a) as follows:

"(m) Subsection (a) of this section does not empower or authorize any rail carrier to apply a surcharge to joint rates applicable on commodities moving in international commerce through the ports of the various States as part of the waterborne international commerce of the United States.

H.R. 7583

By Mr. HARRIS:

—Page 43, after line 5, insert the following:

Sec. 614. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

H.R. 7591

By Mr. HARRIS:

—Page 51, after line 26, insert the following:

SEC. 612. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

H.R. 7631

By Mr. DANNEMEYER:

—Page 23, line 6, strike "$2,000,000" and insert in lieu thereof "$1,457,600".

By Mr. HARRIS:

—Page 45, after line 23, insert the following:

SEC. 411. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

H.R. 7724

By Mr. HARRIS:

—Page 60, after line 9, add the following:

SEC. 307. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SENATE—*Thursday, July 24, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. STEWART).

PRAYER

The Right Reverend Philip R. Cousin, bishop of the Ninth Episcopal District of the African Methodist Episcopal Church, Birmingham, Ala., offered the following prayer:

O God, the Creator and Sustainer of all people, we thank You for minds to know You, hearts to love You, and voices to praise You. In these challenging times we pray for the President of the United States and his advisers. Give them the wisdom and a moral commitment to make the right decisions which will enable us to live in peace with ourselves and our world. We humbly solicit Your guidance for the Members of Congress, our Representatives and our Senators. Endow them with a spirit of justice and love that will enable them to be sensitive and perceptive to the needs of our people. Take from the minds of our elected officials all selfish desires and thoughts of personal or political aggrandizement so that Your will can be manifested through their legislative efforts. Keep them from the temptation of political and partisan expedience and let Your will become their will. Save us from the discord and confusion which would lead to violence and destruction. Let our love for You and mankind lift us over the obstacles which thwart our progress and block our efforts for world peace. Grant to Your public servants and all of us a sense of righteousness and a commitment sustained by Your power that will enable us to become human manifestations of what the will of God can do in the lives of people. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SOVIETS IN AFGHANISTAN

Mr. ROBERT C. BYRD. Mr. President, this week athletes of the world have gathered in Moscow for the 22d Olympiad. Noticeably absent from these events are the teams of the United States, Canada, China, Japan, West Germany, and 63 other nations. Also missing are members of the Afghan wrestling and basketball teams. These athletes are absent in protest of the brutal suppression of the people of Afghanistan by the Soviet Union.

The continuing Soviet occupation of Afghanistan must be kept in the international spotlight. I offer these remarks to add some perspective to the situation in Afghanistan, and to remind us that our decision not to participate in the Olympics is because of Soviet Union action which has offended so many nations.

BACKGROUND

Afghanistan is one of the poorest, most underdeveloped countries in the world. Its per capita GNP is $150 per year. Health conditions are appalling. One-half of the children die before they reach the age of 5. There is not one sanitary sewage disposal system in the country. The 10-percent literacy rate is among the lowest in the world.

In 1973, the Afghan monarchy was overthrown, and President Daoud declared the establishment of the Afghan Republic. Under Daoud, the country continued to pursue a Soviet-leaning, but neutralist policy. But Daoud, a Socialist, also looked to the United States for assistance. He was overthrown in 1978 and was replaced by the pro-Soviet Nur Mohammad Taraki.

In turn, Taraki was overthrown in May 1979, and was replaced by Hafizullah Amin, a Soviet protege, but the Soviets discovered that they could not rely on Amin to retain control. The Communists' policies offended the Moslem population. Ninety-nine percent of the population is Moslem; 80 percent are of the Sunni sect. The independent mountain people of Afghanistan disliked the almost total dependence on the Soviets.

There were sporadic revolts against the government in all 29 provinces during 1979. The Soviets continued to send military advisers and soon were sending in troops to fight alongside Afghan Army forces in their attempt to contain the rebels.

There were warnings of the coming Soviet invasion. A major buildup of Soviet combat troops on the U.S.S.R. side of the Afghan border began in early December 1979. On December 8 and 9, Soviet troops were airlifted to a Soviet-used airfield near Kabul. These troops cleared the road between Kabul and the Soviet border—the subsequent invasion route.

On December 24, 1979, the Soviets airlifted 5,000 troops and tactical military equipment into Afghanistan. The tactics of this invasion were similar to those employed by the Soviets when they invaded Czechoslovakia. The Soviets argued that under their treaty with the Afghans, they were required to protect Afghanistan from foreign interference. They rendered this argument absurd when they captured and killed Amin and his family on December 27. Babrak Karmal was flown in from exile in Eastern Europe and made President.

The number of Soviet troops eventually increased to about 80,000 in Afghanistan and 40,000 in the Soviet Union just across the border. In the spring, the Soviets went on the offensive, bombing and burning villages where the guerrillas hide.

In June, the Soviets announced they were withdrawing troops from Afghanistan. Around 5,000 men, who comprised antiaircraft missile units and a tank regiment, were pulled out. These systems had not proved useful in fighting the guerrillas. Truck and air transport traffic was reported to be very heavy in June, with much of it at night, so it is difficult to say if the Soviets have actually reduced troop strength.

POLITICAL SITUATION

There are more than 1 million refugees from the invasion. Eight hundred and fifty thousand of these are in Pakistan, and most of the others have gone to Iran. It is interesting to note that none have been reported to have gone to the U.S.S.R.

The Karmal regime clearly does not enjoy strong public support, and there is widespread discontent with the Soviet presence in Afghanistan. There were large and widely supported public protests in April, May, and June. One rebel faction is thought to have a clandestine radio station. In Kabul, night letters are circulated after the 11 p.m. curfew to organize resistance and have been very effective. One of the most daring protests took place on July 18 when antigovernment and anti-Soviet banners were hung in the trees across from the Soviet Embassy.

MILITARY SITUATION

Evidence indicates that the Soviets are probably planning a long occupation. Military dependents have been brought into Kabul. Soviet soldiers reportedly have been told to plan on a 2-year tour in Afghanistan. Permanent quarters are being built for the military, and plans are being drawn up to build a railroad from the Soviet border to Kabul. The two bridges across the river that forms the border are being rebuilt. Fuel reserves are being increased, and permanent communication facilities are being constructed.

In June, the Soviets are reported to

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

have brought in new, more experienced troops, who were highly mobile. The Soviets are attempting to adapt to fighting counterinsurgency warfare. Some divisions have been split into smaller units so that they can move faster. They are reportedly allowing more "free fire" in the villages.

The Soviets have greatly stepped up their bombing, and in the last month, 50 to 60 villages have been reported bombed. Helicopters are assuming a growing role in counterinsurgency. Both transport and gunship helicopters are used extensively to support Soviet and Afghan operations. In the latest offensive, tanks, heavy artillery, jet fighters, and helicopter gunships attacked rebel positions.

The Soviets have, in recent weeks, been mining the main trails between Pakistan and Afghanistan, effectively slowing rebel traffic and supply movement. Supplies have continued to move along secondary trails. Previously, the rebels had mined some of the roads throughout the country. The Soviets now rely primarily on transport aircraft for logistical support.

Militarily, the situation appears to be at a stalemate. The Soviets and government troops control the areas they occupy, mostly the cities, but they are unable to end rebel resistance. The counterinsurgency operations have been generally unsuccessful because, when government forces leave, the partisan forces reinfiltrate and regain control. The Soviets are unable to develop wide support for the Karmal regime. The only highway under full government control is the road from Kabul to the Soviet border.

The Soviets seem to have four missions:

First. Protection of highways and major urban areas;

Second. Denial of border areas to partisans, cutting them off from refugee camps and supply caches;

Third. Operations against partisans in the Afghan countryside with the aim of destroying partisan forces and reestablishing government control. Many of these operations are conducted jointly with Afghan forces, and

Fourth. Rejuvenation of the Afghan Army.

Some military experts are predicting that the Soviets may step up activities after the Olympics. This could include an increase of Soviet strength in Afghanistan.

The Soviets have been required to assume more of the fighting because of massive desertions in the Afghan Army. Deserters include Soviet-trained, field grade officers. It is estimated that desertions have caused the Army to drop from its normal strength of 80,000 personnel to 30,000 to 50,000. Government forces are said to be knocking on doors in the middle of the night searching for young men to press into service. All draft exemptions have been ended, and the draft age has been lowered from 22 to 15.

In just a few months, the rebels have expanded their area of operations and control from the Pakistan border to the heart of Kabul. Given the nature of the Afghan insurgency, estimating partisan strength is difficult. It is believed that 70,000 to 100,000 partisans may be involved.

Operating in relatively small groups, these partisans have been effective in virtually every Afghan province. They have periodically caused disorders in most large cities. The rebels have strong support from the population, and morale is said to be very high among the partisans. Their military effectiveness has been upgraded through training by the defecting Afghan soldiers. These defectors have also been giving small arms to the rebels.

The partisans are lightly armed but do have some mortars, antitank weapons, and antiaircraft weapons. They fear the Soviet Hind D attack helicopters and would like more antiaircraft weapons. Rebels have asked why nations sympathetic to their cause have not helped them obtain such weapons.

The major guerrilla parties have their headquarters in Peshawar, Pakistan, which is near the Afghan border. There are now rebel camps within 20 miles of Kabul. The Soviets had to fly through a gauntlet of small arms fire during the major airlift of the invasion. The rebels are said to operate easily in Kabul, blending in with crowds during the day and escaping Soviet patrols at night. Pictures of rebel Moslem leaders are pasted on mosque walls, and proclamations are being circulated. The freedom fighters—Mujahideen—range from secular leftists to monarchial rightists. There are 10 major resistance groups. At present there is no central leadership in partisan operations.

SOVIET MOTIVATION

The most credible rationale for the Soviet invasion is that the Soviets saw a tactical opening in the Middle East and moved to take advantage of it. Some analysts have suggested that the Soviets may have sought to dominate a situation which was getting out of hand and might have resulted in an anti-Soviet regime coming to power in Kabul.

The analysts point out that traditional Soviet fear of invasion induces them to react to instability on their borders. At the time of the Soviet invasion of Afghanistan, two important events were taking place in countries on Soviet borders. A radical Moslem rebellion had occurred in Iran. The Islamic propaganda broadcasts of the new regime in Iran were spilling over the Soviet border. The Chinese were becoming more friendly with the United States and more strained in relations with the Soviets.

These fears and events may have caused the Soviets to feel that they needed to more completely control Afghanistan, to remove a government which could not maintain order, and put down an Islamic insurrection. They may have feared that if the Moslem Mujahideen were successful in overthrowing the government in Kabul, then Soviet Moslems might be inspired to start their own insurrection. With a Moslem government in Afghanistan, the Soviets would find a block of potentially hostile Islamic states—Iran, Afghanistan, and Pakistan—on their border. These nations, along with Turkey and China, would represent unfriendly nations on the entire length of the Soviet southern border, except for Mongolia.

U.S. RESPONSES AND OPTIONS

In response to the Soviet invasion, President Carter announced that the United States would boycott the Olympics in Moscow. The Senate endorsed this boycott in a resolution, by a vote of 88 to 4, on January 20. Sixty-eight nations are joining the boycott, including Canada, West Germany, China, Japan, Kenya, and most of the Islamic nations. During opening ceremonies the teams of some nations, such as Great Britain, were absent.

The United States has restricted high technology trade and halted the sale of grain to the Soviet Union. However, we have not been very successful in getting other nations to join this embargo.

The Soviet intervention was condemned by the Venice Summit, the United Nations General Assembly, the European Community, and the Islamic Conference. The Islamic Conference has expelled the Karmal regime. The Senate unanimously condemned the occupation in the resolution which I introduced on June 24, on behalf of myself and the distinguished minority leader.

World opinion on the invasion has drawn Soviet response. It has shown that the Soviets are not really interested in "national liberation" or in the Third World. But there is a danger that Soviet actions will recede from the public view and be forgotten.

Mr. President, while the Olympic games proceed as a largely empty exercise in Moscow, the American people can be proud that we have not added the legitimacy and acquiescence of our presence to the capital of the invading nation. In Kabul and in the other cities and mountain regions of Afghanistan, people are fighting and dying—and this includes children, schoolboys and schoolgirls, who have had the courage to stand up to the Soviet rifles and some of whom have been slain as a result of this demonstration of courage and dedication to their country's freedom—fighting and dying to resist a foreign military invasion.

I am pleased that the President's actions to disassociate the United States from the Olympics have received broad support, both in the United States and in many other nations.

When we consider what the Soviets have done and are doing to the Afghan people, when we consider the sacrifices the Afghans have made, the losses they have incurred, the families that have been separated, the refugees who have been driven from their country, the men, women, and children who have been murdered and imprisoned, young men and women who never will have the opportunity to participate in any Olympics because they have given their lives for their country, who have had the temerity and the bravery to stand up against the Soviet invaders, then we realize that we can be proud that the U.S. flag is not being flown in Moscow by American athletes and that the American athletes did not go.

While the games proceed, our attention should continue to be not on the Olympics but on the rape of Afghanistan by the Soviet Union.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished minority leader is recognized.

Mr. BAKER. Mr. President, I have no need for my time. Since time is short, if the Senator from Wisconsin would want my time, I will be glad to yield it to him.

Mr. PROXMIRE. Mr. President, I am very grateful.

Mr. BAKER. Mr. President, I yield my time to the Senator from Wisconsin.

PORTRAIT OF A SURVIVOR: THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, 6 million Jews died in the Hitler genocide. That figure is well-known to all of us. Often forgotten are the 750,000 Jews in Nazi occupied territories who escaped the death planned for them by Hitler and his followers. Remarkably, 75,000 outlived the concentration camps such as Auschwitz, Treblinka, and Bergen-Belsen. Some of the other Jews survived in the labor camps or by hiding in the forests. Some, with false papers, passed as Christians, while others remained alive in the confined quarters of an attic or cellar.

After the war, most of the survivors emigrated to foreign lands because strangers dwelled in their former homes. All their possessions had been stolen, lost, or confiscated, from tablecloths and silver to suits and hats. With virtually none of those whom they had loved and known left alive, the survivor went from the hideousness of Nazi Germany to the vast loneliness of the post-war era.

What is the survivor like today? Eli Wiesel in his novel, "The Accident," offers one portrayal of the oft-forgotten survivor.

> You must look at them carefully. Their appearance is deceptive . . . They look like the others. They eat, they laugh, they love. They seek money, fame, love. Like the others. But it isn't true: they are playing. Sometimes without even knowing it. Anyone who has seen what they have seen cannot be like the others, cannot laugh, love, pray, bargain, suffer, have fun or forget. Like the others. You have to watch them carefully when they pass by an innocent-looking smokestack, or when they lift a piece of bread to their mouths. Something in them shudders and makes you turn your eyes away. These people have been amputated; they haven't lost their legs or eyes but their will and their taste for life. The things that they have seen will come to the surface again sooner or later. And then the world will be frightened and won't dare look these spiritual cripples in the eye . . . they aren't normal human beings. A spring snapped inside them from the shock.

We are incapable of restoring these people to the way they were before Hitler set out to destroy their group. Even the miracles of science and the passage of time cannot soothe and heal the soul that witnessed such torment and wickedness, nor the heart broken by the loss of so many loved ones, nor the body that sustained such starvation, disease, and beatings.

What we can do however, is to insure that the condition of the survivor never again exists. To this end, we must ratify the Genocide Convention. More than 80 nations have seen fit to make such a commitment. Yet, this country has not joined the ranks because this Senate has been unable to muster a two-thirds vote of approval.

I would like to think that some of the suspicion and fear still felt by many of the survivors would melt away if this great Nation endorsed the international treaty prohibiting genocide. The nightmares may never cease, a knock may continue to unleash a flood of dark memories, and a uniform may still send a shudder down the spine of a survivor. We are incapable of erasing history. We are capable, though, of providing a future much less likely to see a repeat of the Nazi's attempt at genocide if we pass the Genocide Convention.

ORDER FOR THE CONSIDERATION OF S. 1177

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the orders for the recognition of Senators have been completed today, and I believe there are three of them, the Senate temporarily lay aside the Alaska lands bill and proceed instead to Calendar Order No. 762, S. 1177, a bill to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, with the understanding that the Alaska lands bill will be held aside only until action is completed on the mental health bill or until the close of business today, whichever is the earlier.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the matter of making the mental health bill the pending business in the manner described by the majority leader is satisfactory to us. I am happy to say that we were able, overnight, to clear that for action at this time.

As I understand the request of the majority leader, as soon as the special order time expires, we will proceed without any further motion or procedural requirement to the consideration of this measure.

Members on this side who are involved in the mental health measure should be aware that it might come up as early as 9:30 or a quarter to 10.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader. This will give the managers of the Alaska lands bill, and other Senators on both sides of the aisle, an opportunity to continue to attempt to resolve matters and thus, hopefully, expedite final action on the bill. I would hope that they would be prepared, upon the disposition of the mental health bill, to resume consideration of the Alaska lands bill, but in the event they are not, the joint leadership will certainly make every effort to have something else to call up on a temporary basis so that the Senate will utilize its time to the fullest degree.

RECOGNITION OF SENATOR JEPSEN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. JEPSEN) is to be recognized at this time for not to exceed 15 minutes.

Mr. BAKER. Mr. President, I have been advised that the Senator from Iowa (Mr. JEPSEN) is unavoidably detained. I ask unanimous consent that the special orders may be reversed and that the Senator from New Mexico (Mr. SCHMITT) may be recognized at this time, to be followed by Senator JEPSEN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. SCHMITT) is recognized for not to exceed 15 minutes.

Mr. SCHMITT. Mr. President, I thank the distinguished minority leader for his courtesy.

FOR A FAIR ELECTION PROCESS

Mr. SCHMITT. Mr. President, I have not, up until this time, commented on litigation in the Federal courts in which I am involved, nor will I comment in detail at this time as it is not appropriate, in my opinion, to do so.

However, there are attempts in Federal court and before the Federal Election Commission to relitigate the constitutionality of Federal election law which allows the rights of individual Americans and groups of Americans to be exercised by making independent expenditures in behalf of a candidate for Federal office.

Although an unnecessary exercise, this matter will be resolved in due course by the courts and need not be addressed at this time by the Congress.

However, I do think it is clear that in the next session of Congress, the experience that many of us and the election process are undergoing is going to be the subject for consideration.

One reason it is necessary, however, to make independent expenditures in behalf of Federal candidates is partially to balance the power of incumbency when used to the limit of the law and beyond what ethics would otherwise dictate. Mr. President, yesterday, the press reported another example of the misuse of Presidential incumbency, in the form of a letter dated July 18, 1980, from Timothy G. Smith, general counsel to the Carter-Mondale Campaign Committee. This letter is addressed, "Dear Broadcaster," and it is the understanding of this Senator that it was sent widely to radio and television broadcasters throughout the country.

As if the chilling effect of the court suits and the FEC complaints were not enough, now we have the Carter-Mondale Committee attempting to intimidate broadcasters through the threat of litigation. First, an attack on free speech, and now an attack on freedom of the press.

In this letter from the general counsel of the Carter-Mondale Committee, the following threat was made relative to the airing of advertising paid for by independent political groups, groups which, again, clearly are protected by law and by the first amendment to the Constitution. I quote from the letter:

> If, as claimed in the actions mentioned above, the groups in question are found to be acting in concert with the Reagan for President Committee or otherwise ineligible for the making of "independent expenditures," then:
>
> The purchase by them of broadcast time may involve serious violations of law that could potentially involve a participating station in litigation before courts and federal agencies.
>
> The purchase of time by such groups would obligate a station to provide equal opportunities to all opposing candidates and their affiliated supporters.

The letter goes on in its concluding paragraph to say,

> We hope you will give careful consideration to the problems inherent in use of the broadcast media for these purposes and, if you have any questions, we urge you to consult with your counsel before accepting requests for the purchase of political broadcast time by any group which is not the official authorized committee of a qualified candidate.

Mr. President, these statements, coming from the President's reelection committee, amount to blatant intimidation of broadcasters which borders on harassment. It is certainly neither ethical nor appropriate to the high office of the President of the United States. And to add insult to injury, the latter boldly indicates that a copy has been sent to the Federal Communications Commission.

Mr. President, I ask unanimous consent that a copy of the letter be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
July 18, 1980.

DEAR BROADCASTER: It has come to the attention of the Carter/Mondale Reelection Committee, Inc. that allegedly "independent" supporters of Ronald Reagan's campaign plan massive purchases of broadcasting time to air highly controversial spots, containing attacks on either the President, other leading Democrats, or the Democratic Party generally. The Wall Street Journal, for example, reported on June 19, 1980, page 1, that groups identified as "Americans for Change," "Citizens for Reagan in '80," "Americans for Reagan," and "The Ronald Reagan Victory Fund" are among those which intend to spend over $50 million to try to influence the outcome of the November election. (See also the attached New York Times editorial and a recent Associated Press article on the commercials apparently already being distributed by one of the groups.)

The Carter/Mondale Reelection Committee, Inc., the official and authorized campaign committee for President Carter, and the Democratic National Committee have filed a complaint with the Federal Election Commission against these so-called "independent" groups, the Reagan for President Committee, and others alleging that the Federal Election Campaign Act will be violated if the Republican nominees receive public funding of their campaign while at the same time receiving massive support from alleged "independent" backers.

In addition, a lawsuit was recently filed by Common Cause against one of these groups challenging its independent status and charging that the proposed expenditures in support of Reagan's candidacy will seriously distort and undermine the plan for public financing of Presidential election campaigns enacted by Congress in 1974. Finally, the Federal Election Commission this week has filed its own action seeking a judicial ruling that would have the effect of prohibiting these groups from making their planned multi-million dollar expenditures while the Reagan campaign is also accepting more than $29 million in taxpayer funds. These cases are pending in the Federal District Court in Washington, D.C.

We are confident that these proceedings will establish that such groups are not permitted under the law to make such expenditures on behalf of a presidential candidate who also is receiving public financing. Further, we believe that it will be determined that the particular committees in question and their organizers are not, and cannot be, truly independent of the Reagan campaign.

However, in either event, the purchase of broadcasting time by the so-called "independent" groups under such circumstances raises serious legal questions which you should consider.

Even if some or all of these groups are deemed legally capable of making independent expenditures for Reagan as a matter of federal election law:

They are not entitled to the reasonable access provision of Section 312(a)(7) of the Communications Act.

The broadcast of programs dealing with controversial issues of public importance paid for by such "independent" groups may obligate you under the FCC's Fairness Doctrine to provide time without charge for the broadcast of opposing viewpoints.

Any such program which constitutes a personal attack will obligate you, under the FCC rules, to notify the person or persons attacked and to offer them a free opportunity to respond.

To the extent any such program involves a "political use" by a qualified candidate within the meaning of Section 315(a) of the Communications Act, you will be required to offer equal time to all other legally qualified candidates, and, to the extent that the political use was without cost to the candidate whose candidacy was promoted in the broadcast, you would be required to offer free time to all other legally qualified candidates. See Letter to Hon. Mike Monroney, 40 F.C.C. 251 (1952).

If, as claimed in the actions mentioned above, the groups in question are found to be acting in concert with the Reagan for President Committee or otherwise ineligible for the making of "independent expenditures," then:

The purchase by them of broadcast time may involve serious violations of law that could potentially involve a participating station in litigation before courts and federal agencies.

The purchase of time by such groups would obligate a station to provide equal opportunities to all opposing candidates and their affiliated supporters.

As is apparent from this letter, we believe that expenditures, by allegedly independent backers of one candidate, of massive funds for the purchase of broadcast time to influence the result of the Presidential Election in favor of that candidate is a direct threat to the delicately balanced system of campaign spending limitations and public financing mandated by Congress for the conduct of Presidential elections.

We hope you will give careful consideration to the problems inherent in use of the broadcast media for these purposes and, if you have any questions, we urge you to consult with your counsel before accepting requests for the purchase of political broadcast time by any group which is not the official, authorized committee of a qualified candidate.

Sincerely,

TIMOTHY G. SMITH,
General Counsel.

Mr. SCHMITT. I yield to my distinguished colleague, Senator DURENBERGER, of Minnesota, whatever time he may require.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I thank the Senator from New Mexico for the opportunity to join him this morning briefly to discuss the subject of the election process in this country.

Our political process in the United States of America has endured an awful lot of failures during its more than two centuries of existence but, despite things like dishonesty and fraud and scandal and arrogance and deception and, in some cases, just plain bad candidates, the process has survived. The process has thrived because of one very important ingredient, the participation of the citizens of this country.

Whenever things have gotten a little bit out of kilter, individual people, working through and with this unique system, have corrected the imbalances and brought us back to the center track.

It has been the history of our Nation to recognize the importance of citizen participation in electing our public officials. We have gone from an electorate limited at one time to the propertied class to an electorate that is limited only by age, and even that qualification has been liberalized in recent years.

No legislative body has been more affected by this commitment to an involved citizenry than the one in which my colleagues and I have the honor of membership. Just in this century, in the lifetime of many people, the Senate has rejected election by a few in favor of election by the general public.

Other reforms have supplemented this welcome trend toward greater participation. Many political contributions now qualify for tax credits. Political education has been encouraged by official actions. Involvement by many has replaced influence by a few.

Mr. President, I offer this historical perspective to make a point. I don't believe, and I was not here at the time, that Congress, when it passed the public financing law intended to undo two centuries of efforts to get more people rather than fewer involved in electing their leaders. Instead, the clear intent of that legislation was to provide a funding base for each major candidate and allow individual participation in the campaign of his or her choice.

One of these committees that I happen to be part of, by a series of circumstances which found me not at all involved in the candidacy of the nominee of the party, is an organization called "Americans for Change." This organization is one that exercises a historical right to correct the policy imbalances that have more than doubled the Federal tax burden in the last four years, tripled the rate of inflation and put about 8 million Americans out of work.

I feel that I am part of an organization that is an honest agent for change.

There has been no secrecy about anything that I have done or anything this organization I belong to has done. We announced the formation, the purpose, and the goals of Americans for Change in an open news conference. Unfortunately, not many people showed up.

Our reports are filed with the Federal Election Commission and I can say from personal experience that we will discuss "Americans for Change," in detail and at great length, with anyone who will listen.

While we are working openly for change, the Carter-Mondale campaign condemns us publicly, then works secretly to maintain the status quo—another 4 years of a failed administration.

We have asked for private citizens to join our cause. The President instead, chooses to spend his time raising millions of dollars for State Democratic parties—millions of dollars that will be spent for the reelection of President Carter by professional politicians who serve at the pleasure of professional politicians.

Yet, the President's committee goes to the FEC and asks that Governor Reagan's funds be withheld because, the committee falsely claims, "Americans for Change" and certain other committees are not independent of Governor Reagan. This duplicity astounds me.

While we have based our appeal for support on the issues, the President's committee has based its appeal on implicit threats. Letters sent by "Americans for Change" use facts to demonstrate the failure of the current administration and the promise of hope for change. The President's letters, as the Senator has pointed out, rely on threats of Federal intervention in private businesses.

The letter sent by the President's counsel to 700 television stations urging them not accept the legitimate political messages purchased by "Americans for Change" is an outrageous example of the use or threat of abuse of the power of incumbency.

The last time we experienced that threat of the use or abuse of the power of incumbency was in 1972, and it was specifically because of that kind of activity that the public financing laws were constructed as they were.

Every American who cares about our country's tradition of citizen involvement, every American who prefers a system that is determined by private individuals to one that is determined by professional politicians and their threats, every American who cares about the future of our country should join me in expressing our outrage.

Mr. SCHMITT. Mr. President, I thank my distinguished colleague for his comments and ask that I be associated with them. They were well formed and they clearly indicate the nature of the problem that faces the American electorate today.

I hope the Carter-Mondale Committee and those associated with it will forego these kinds of actions and just get on with the business of talking to the American people, of laying out the facts, letting them be judged, and participate as the Senator has indicated in the election process.

That is our strength and it will continue to be our strength. I know the two of us will continue to try to make sure that process never ceases.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. JEPSEN) is to be recognized for not to exceed 15 minutes.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum and ask unanimous consent it be charged to the time of the Senator from Iowa.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR CHAFEE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the appearances this morning in the special orders be reversed and that I precede Senator JEPSEN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Rhode Island (Mr. CHAFEE) is recognized for not to exceed 15 minutes.

NEED FOR AN INTELLIGENCE IDENTITIES BILL

Mr. CHAFEE. Mr. President, almost 5 years ago, Richard S. Welch, CIA station chief in Athens, Greece, was brutally murdered in front of his home as he returned from a Christmas party at the American Ambassador's residence. Welch's assassination occurred within a month of the time that he was publically identified as CIA station chief in the Athens Daily News. The information for the News story came from Philip Agee's Counterspy magazine.

I have a special feeling for this brutal murder because the Welch family comes from Rhode Island. Richard Welch grew up in Providence where he was an honor student at Classical High School, and a member of the track team. He went on to Harvard, graduating in 1951 magna cum laude with a degree in Greek and classical languages. Welch's mother and wife were both from Rhode Island, and a brother and sister still live there today. His uncle, Joseph S. Wholey, was the probate judge in Smithfield and former clerk of the family court.

The first point I am trying to make in all of this is that Richard S. Welch was not some thick-thumbed goon in a trench coat, as CIA officers are so often characterized, but a well-educated, able, and intelligent family man. He gave up what could have been an easy life at home in Rhode Island for an important, though dangerous, series of assignments overseas. He believed in the primary mission of the CIA, which is to collect foreign intelligence so that U.S. policymakers can make informed judgments at home. He died for these beliefs because a small clique of treasonable individuals make their living by "naming names."

A second, and equally important point, is that it has been 5 years since Richard Welch was brutally murdered, and yet the Congress has done nothing legislatively to address the problem of "naming names." At the time of the Welch assassination, Counterspy magazine claimed they had leaked the names of 225 alleged CIA agents. Now, 5 years later, Louis Wolfe of the Covert Action Information Bulletin can boast that he has helped to disclose the names of more than 2,000 American intelligence officers stationed around the world.

The same Louis Wolfe was responsible for revealing the names of 15 alleged CIA officers in Kingston, Jamaica, this month. Within 48 hours of the announcement, the home of one of the men named, Richard Kinsman of the U.S. Embassy, was fired upon with submachineguns and an explosive device. Four days later, another assassination attempt was made—this time on Jessie Jones of the U.S. Agency for International Development, who had also been named by Wolfe.

Newspaper reports from Jamaica have stated that the names, addresses, telephone numbers, and automobile license plate numbers of all 15 people named by Wolfe are now being distributed throughout Kingston on wall posters. As a result of this situation, the United States has been forced to relocate at least six American families from Jamaica. Mr. Jones has left the island because, according to newspaper reports, he "found it impossible to continue his work and protect his family." Mr. Kinsman has also departed.

It is difficult for those of us here in this country, most of whom have never served in a foreign service post abroad, to visualize what it must be like to see anti-American hysteria and violence stirred up through the vicious and irresponsible acts of people like Louis Wolfe. The helplessness and frustration which these Americans and their families must feel are beyond my abilities to describe.

However, on Monday, I received a letter from Sheila Kinsman, the wife of Richard Kinsman. When we consider that her home has been bombed by unknown terrorists, that her 12-year-old daughter's bedroom window has been smashed by submachinegun bullets, and that her husband has narrowly escaped assassination, I think that her letter stands as a reasonable and a courageous plea for sanity in dealing with an illogical and unacceptable situation.

Mr. President, I think that we in the Senate and in the House have a responsibility, in the words of Mrs. Kinsman, to "pursue legislation which will defeat those factions in America who are dedicated to destroying our intelligence agencies, and who deliberately seek to harm American officers and their families serving our Nation abroad." I concur with Mrs. Kinsman, who has gone through a great deal lately, and I recommend the full text of her letter to all Members of this body for their consideration.

Clearly, Mr. President, this naming names must be stopped. The Congress must act immediately to place a cost on the activity of those who use this means to impair and impede duly authorized American intelligence operations around the world. To paraphrase the Washington Post:

> The murder of Richard S. Welch, CIA station chief in Athens was the entirely predictable result of the disclosure tactics chosen by certain American critics of the Agency as part of their effort to destroy it. Public identification of Richard Welch was tantamount to an open invitation to kill him. To think that any of the CIA's past excesses constitute a moral license to extra-legal punishment of its employees is just wrong. Richard Welch, after all, was not the agent of a hostile power. He was an American citizen serving his government, and he had been accused of no crime.

In my judgment, the time is ripe for markup of an intelligence identities bill. Both the House and the Senate have introduced legislation on this issue (House—H.R. 5615, Senate—S. 2216). Extensive hearings have already been held. We have heard all sides of the issue. I think recent events in Jamaica make it particularly timely for us to address this urgent issue now.

Last week, the Washington Star wrote in an editorial that Congress was considering an Intelligence Identities Protection Act, and they concluded by saying "it's about time."

I concur wholeheartedly that it is about time, and I hope that the Senate Intelligence Committee and the Members of this body will act quickly and expeditiously to markup and to vote on S. 2216 or its equivalent. Our failure to do so is not only negligent; it is irresponsible.

Mr. President, I will read into the RECORD the letter from Mrs. Kinsman, whose home was attacked following the vicious and irresponsible disclosures of Louis Wolfe just 3 weeks ago. The letter is addressed to me:

> DEAR SENATOR CHAFEE: The incident in Jamaica of July 4th which threatened the lives of my family and particularly my husband, Richard Kinsman, after his "exposure" by an American as Chief of Station for the C.I.A. was, to say the least, deplorable. I take strong issue with those who suggest that Congress should hesitate to censor such anti-intelligence propaganda, and I was enormously heartened to read (in Jamaica's Daily Gleaner) that you will seek to introduce legislation in Congress which will prohibit further exposures of our country's intelligence officers.
>
> Only in the United States, Senator Chafee, are a Louis Wolfe and the editors of a Covert Action Magazine free to travel to a foreign country to hold a press conference and appear before an entire nation on television for the purpose of implicating fellow Americans as intelligence agents. Only in the United States are they free to distribute pamphlets with the names, photographs, local addresses, telephone numbers and car registration numbers of these American agents and foreign service officers. And finally, after having set up their fellow citizens for harassment and possible death, they are free to return to this Land—sleek and smug behind the safety of our great Constitution—free to continue their traitorous objectives, free to write, free to speak and free to vote.
>
> To question and criticize the activities of our Nation's agencies among ourselves and within our boundaries is all very well and good. But to flaunt our country's liberties in order to expose and endanger the lives of our foreign service officers overseas under the pretext of certain "ideologies" is completely sinister and un-American. It is difficult for me to understand why our country's laws continue to protect these unprincipled few (Phil Agee, Louis Wolfe, etc.)—and moreover, why American lives must be jeopardized in exchange for their rights.
>
> I question also how far our Central Intelligence Agency must compromise its effectiveness for the sake of a Louis Wolfe's constitutional liberties. Where do America's priorities really belong in this controversy?
>
> As an American who loves my country and values my freedom, I urge you, Senator Chafee, to pursue legislation which will defeat those factions in America who are dedicated to destroying our intelligence agencies, and who deliberately seek to harm American officers and their families serving our Nation abroad.
>
> Sincerely yours,
>
> Mrs. N. RICHARD KINSMAN,
> *U.S. Government Evacuee.*

RECOGNITION OF SENATOR JEPSEN

The PRESIDING OFFICER (Mr. FORD). Under the previous order, the Senator from Iowa (Mr. JEPSEN) is recognized at this time for not to exceed 15 minutes.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On the time of the Senator from Iowa.

Mr. CHAFEE. Mr. President, I ask that any time I have remaining be used for the quorum call.

The PRESIDING OFFICER. Without objection, the quorum call will be on the time of the Senator from Rhode Island. The remainder of the time will be taken from that of the Senator from Iowa (Mr. JEPSEN).

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized for the duration of his special order.

S. 2959—DEDUCTION OF ADOPTION EXPENSES

Mr. JEPSEN. Mr. President, I send to the desk a bill on behalf of myself and the Senator from Oregon (Mr. HATFIELD) which would allow individuals a deduction for certain expenses paid or incurred in connection fith the adoption of a child.

Specifically, Mr. President, the bill amends (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 by including an additional new section entitled "Adoption Expenses." Under the new section there are three new subsections:

(a) "Allowance of Deduction," which establishes the deduction allowance to individuals who incur expenses in an adoption during the taxable year. These deductions are limited to:

Reasonable and necessary adoptive agency fees.

Court costs.

Attorney fees, and agency fees.

Other expenses which are directly related to the legal adoption of a child by the taxpayer and which are not incurred in violation of State or Federal law.

(b) "Adoption Expenses Defined," which defines the term "adoption expenses."

(c) "Denial of Double Benefit," which provides that there shall be no amount under the bill for computing a deduction or credit under the provisions of itemized deductions for individuals.

The remainder of the bill makes necessary technical corrections to the Internal Revenue Code consistent with the provisions of the bill.

There are many reasons why this bill is necessary. First and foremost is the fact that as a result of Federal and State laws, the Supreme Court decisions relating to adoptions, child custody provisions and parental rights, the cost of adoption has increased dramatically over the years. This is of particular concern to me because of the large number of individuals who literally wait years for the opportunity to adopt and then are faced with the burden of committing large sums of money to finalize the adoption process.

Unbeknown to many Americans, the adoption process involves a great deal of expertise and technical knowledge in statutory as well as administrative law. Even under the most convenient or conducive circumstances an adoption is a lengthy and tedious process.

For example, a blue ribbon case, involving an unwanted child by a college coed who has an adoptive family waiting and financially prepared to accept the child, the process is still filled with high costs, legal technicalities, and administrative delays.

Depending on which State or region of the country a person lives, there may be the cost of terminating the parental rights of a biological parent. Second, the adoptive family may be required to pay for prenatal and maternity care. Then, there is the preplacement cost, and thereafter the actual cost of placement. After placement is provided there is a fee for the State or private agency involved in licensing or providing background information on the child and its ancestry regarding genetic disease. Now comes reasonable attorney fees, court costs and other incidental costs associated with finalizing the adoption process. I must emphasize again, that these are minimal costs of a blue ribbon adoption. The average adoption and adoptions involving a hard-to-place child is much more costly.

In spite of the high cost, tedious, technical legal work, and administrative delays, there are a great number of individual families who have a strong desire to adopt a child. This bill will help to encourage and maintain their desires, because it offers a hedge against the built-in financial economic disincentives associated with the adoption process.

Mr. President, I have not yet formally requested a revenue estimate on this bill, but I have made several informal inquiries to the Joint Committee on Taxation and various child welfare and national adoption associations here in Washington and around the country.

According to the Joint Committee on Taxation, there are approximately 150,000 adoptions annually in America. One-third of these adoptions are among families and relatives. Another one-third involves agency adoptions, and the final one-third involves independent adoptions. The Joint Committee on Taxation received this information from the Childrens Bureau of the Department of Health and Human Resources. The cost to the Nation in lost revenues resulting from this bill according to the committee would be approximately $50 to $60 million.

The nongovernment figures are twice the administration figures, therefore, we may be talking about approximately 300,000 adoptions nationwide with an estimated cost between $100 and $120 million in lost revenues.

I realize that in this period of economic crisis it is not popular to talk about new or additional expenditures. Nevertheless, the adoption process and the public interest in insuring that children in need, as well as individual families who desire to adopt, have every reasonable available alternative to do so must be addressed.

Mr. President, according to the Senate Finance Committee report to H.R. 3434, the Child Welfare Amendments of 1979, the cost of foster care under Aid to Families with Dependent Children (AFDC) was approximately $351,171,877 in 1977. I emphasize again, this figure only represents foster care under AFDC. Unfortunately, figures for 1979–80 are not available on the cost of foster care. Nevertheless, it is expected that foster care in America has exceeded $400 million today.

Therefore, Mr. President, the bill I offer will have the effect on reducing the cost of foster care. If children are taken out of the foster care setting, and placed in homes as adopted children, the cost to State and local governments and the Federal match for foster care will be greatly reduced, and as such, represents a very attractive offset of expenditures and loss revenues.

Every child in America should have the opportunity to be surrounded by the love and warmth of a family. Likewise, every individual family ought to have an opportunity to share its sense of family with a child in need if it so desires. There is no such thing as an unwanted child so long as there are parents who want to adopt a child.

The bill which I offer is only one step to curbing the dramatic impact of the high cost of adoptions for those individuals who wish to adopt a child, while at the same time it opens up a new avenue of choice for those individuals who for personal or financial reasons do not desire an unwanted child.

The issue is whether or not the Congress is willing or prepared to respond to this situation in an effective and responsible manner. Therefore, I ask for your support and the support of this Congress in addressing this issue.

Mr. President, I ask unanimous consent that the bill be held at the desk until the end of the day in order that other Members may have the opportunity to be added as cosponsors. There are several Members who have indicated they wish to be cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"Sec. 221. Adoption Expenses.

"(a) Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction the amount of the adoption expenses paid or incurred by the taxpayer during the taxable year.

"(b) Adoption Expenses Defined.—For purposes of this section, the term 'adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child by the taxpayer and which are not incurred in violation of State or Federal law.

"(c) Denial of Double Benefit.—No amount which is taken into account in computing a deduction or credit under any other provision of this chapter shall be allowed as a deduction under this section.".

(b) Section 62 of such Code (defining adjusted gross income) is amended by inserting after paragraph (14) the following new paragraph:

"(15) Adoption expenses.—The deduction allowed by section 221.".

(c) The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Adoption expenses.

"Sec. 222. Cross references.".

(d) The amendments made by this Act shall apply to taxable years beginning after December 31, 1980.

Mr. ROBERT C. BYRD. Mr. President, does the Senator have any time remaining?

The PRESIDING OFFICER. The Senator has 50 seconds.

Mr. ROBERT C. BYRD. Mr. President, I yield the remaining time to the Senator from North Dakota.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

LOUIS L'AMOUR—STORYTELLER OF THE WILD WEST

Mr. YOUNG. Mr. President, an excellent article on one of our Nation's foremost authors, Louis L'Amour, appeared in this month's edition of the Reader's Digest. This is a well-deserved tribute to the man who has brought alive the fascinating story of the settling of the little known West.

The article by Mr. John G. Hubbell very accurately describes the many reasons for the popularity and success of Louis L'Amour's novels, particularly his painstaking attention to detail and authenticity. His novels, though fictional, are based on actual places, people, and events.

Louis L'Amour has excited millions of his readers, not only in this country but throughout the world, with the fascinating stories which came out of the rich American experience in settling the West. Few writers have had their works so widely accepted and respected.

Mr. President, I and several of my colleagues introduced legislation to authorize a specially struck gold medal for Louis L'Amour in recognition of the many great contributions he has made to our Nation. I am sure that this article by Mr. Hubbell will have a very favorable influence on Members of the Congress, a great many of whom have read all of his books. Mr. President, I ask unanimous consent to have inserted in the Record, as a part of my remarks, the article, "Louis L'Amour—Storyteller of the Wild West," as it appeared in the July 1980 issue of the Reader's Digest.

There being no objection, the article was ordered to be printed in the Record, as follows:

Louis L'Amour—Storyteller of the Wild West

(By John G. Hubbell)

Louis L'Amour looks like a character out of a Western novel. He is big, more than six feet tall, and weighs perhaps a shade over 200 pounds. His face is square, weathered, friendly, and his hazel eyes are deep-set, searching, the kind of eyes that listen as well as look. His hands are those of a cattleman—massive, strong—but they could also belong to a lumberjack, a merchant seaman, a miner. L'Amour has been all of these things, but for a long time now he has been one of the most widely read authors in history. His 77 novels have sold more than 100 million copies in 19 languages. So far, 23 of his stories have become major motion pictures, and last year one of his fictional families. "The Sacketts," was the subject of a four hour TV mini-series.

Asked to explain the enormous public interest in his work, L'Amour says: "The settling of the American West was unique. The territory was vast, fraught with danger, yet men, women and families packed up and pushed into it to build a country. In the 1840s it took a lot of money to move west—$60 to $100 for a wagon, six to eight oxen at $30 per head, rifles, shotguns, powder and shot, clothing, food for up to nine months of travel, and stake money for settling somewhere. A lot of courageous people sold farms and businesses to do it. Why they did is a fascinating story, a major part of our American heritage. People want to know about it, read about it, and talk about it."

L'Amour is a gifted storyteller whose often poetic prose provides detailed, gripping dramatization of worthwhile people imposing civilization upon an immense wilderness. Within that epic framework, L'Amour reflects, "are a thousand little Alamos, where people fought and died for their families, homes and a way of life. They triumphed because they were bigger than life—they had to be."

The key to L'Amour's success is his meticulous research. Though fictional, his stories are filled with real people, places and events. Kathy, Louis's wife of 24 years, and their children, Beau, 18, and Angelique, 16, are his enthusiastic companions during research trips. Vacations are spent walking, climbing, Jeeping through and helicoptering over country where L'Amour plans to set a story. They study the land, take pictures, make copious notes.

Nowhere is this scrupulous attention to detail better illustrated than in the first chapter of the Empty Land. In three fast-moving pages, L'Amour deftly describes 11 centuries in the geological development of a tiny patch of western Utah mountainside and stream—the very stream in which gold would ultimately be found.

L'Amour reads the reminiscences of old-timers and often travels to visit with them. He combs libraries and bookstores for genealogical histories, old diaries and family journals. Once, he found an abandoned cabin whose occupants 70 years earlier had used newspaper to insulate the structure against frigid winds. He spent days removing the insulation, took it home and gleaned facts for two stories.

By the time L'Amour starts a novel, he will be armed with copies of every topographical map, relief map, and mine chart that exist on the area covered in his story. "My descriptions must be right," he insists. "When I tell my reader about a well in the desert, he knows it's there, and that the water is good to drink."

In The Ferguson Rifle, a treasure was buried in a cave under a white cliff with an aspen forest above it. Nobody can find it. But Ronan Chantry, the story's hero, eventually uncovers it because he knows that the aspen, a mother tree, grows fast and tall with spruce trees growing in its shelter. Once the spruce is high, the aspen dies and the spruce forest stands in its place. Through Chantry, the reader knows this, and understands that what Chantry must look for after all the years involved is a spruce, not an aspen, forest.

Out of the Myths. L'Amour also unburdens his readers of many misconceptions about the Old West:

By and large, the white man was a good deal less savage in imposing his own civilization on the West than most Indian nations had been in supplanting one another. "What happened to the Indian," says L'Amour, "was simply that he was superseded by another civilization, just as the various Indian civilizations had supplanted one another. The Iroquois from New York drove the Cherokee south to Georgia and raided as far west as the Black Hills. The Sioux remained in Minnesota and Wisconsin until the early 1600s when they acquired horses, whereupon they became a raiding nation; at one time they conquered more territory than Charlemagne ever held."

Indian women were not docile creatures. They owned the lodges and had plenty to say about everything. If a woman's man displeased her, she could end the marriage, in some tribes, simply by placing his belonging outside the lodge. In the Cherokee and Iroquois nations, for instance, women could actually hold veto power over war and peace decisions.

Many so-called bad men in the Old West were simply cowboys who wanted to work for themselves. A new breed of cow had developed on the open ranges of Texas, a descendant of domestic cattle abandoned by early Spanish settlers. This animal was tall, long of horn—hence the name longhorn—and a fearless fighter. No one owned the millions of free-roaming cattle. After the Civil War there was a great demand for beef, and a few big ranchers offered their $30-per-month cowboys an extra $2 per head for each longhorn they could brand for them. When the cowboys began rounding up herds on their own—as they had every right to do—the big ranchers labeled them outlaws and put prices on their heads.

The settlers were tough people, rarely intimidated when the lawless came to town. Most had no qualms about facing up to gun-toting bullies. What happened to the Jesse James-Cole Younger gang in Northfield, Minn., was typical—they tried to rob the bank and got shot to pieces by peaceful farmers and businessmen

Wanderlust. Louis Dearborn L'Amour is about 70, looks 55, and refuses to say when he was born in Jamestown, N.D. Age, he insists, isn't the measure of a man. What counts is what he has experienced, learned, accomplished.

L'Amour was the youngest son of Emily Dearborn and Louis Charles LaMoore, a veterinarian and farm-machinery salesman. During the 1920s, an agricultural depression in the Dakotas forced his parents to seek greener pastures. They wandered southwest, taking work where it could be found. At 15, Louis dropped out of school to help, but he never stopped educating himself. Between odd jobs he haunted libraries, soaked up Tolstoy, Victor Hugo, Dostoyevsky, de Maupassant, Robert Louis Stevenson. He yearned to see the world, experience its wonders and, above all, to write about it.

Once, for $3 a day, he agreed to help an 80-year-old trapper, hired to skin all the dead cattle on a rancher's spread. "There were 925 of them, and some had been dead for a while," he remembers. "Nobody else would come near the place. But the old man had a story to tell: he had been kidnapped by Apaches when he was seven years old and had been brought up as one of them. He had ridden with the great chiefs Nana and Geronimo, and actually had scalped whites. I had him all to myself for three months and got a lot of material for books I wrote later: Hondo, Shalako and The Skyliners."

L'Amour was forever wandering off in search of new work and excitement. He spent time with a circus, lumberjacked in Oregon, won all but five of 59 fights as a professional boxer, mucked and trammed in an Arizona gold mine and, while still in his teens, saw much of the world as a merchant seaman. Eventually, he found his way back to his parents, who had reached Oklahoma City. There, he began his writing career.

"My stories came back like homing pigeons," he recalls. "I had more than 200 rejection slips before I realized that I had to be less wordy, more direct and to the point."

In time, he achieved success: a story sold for $12, another for $40. Soon L'Amour was writing novelettes for as much as $600. Then came World War II and service as an officer. Prior to the invasion of Europe, L'Amour explored the English cities, countryside, boggy lowlands and coastal areas that later became the points of origin of the fictional families with whom he would open the American West.

Family Affair. L'Amour had lots of fans by now, and following the war he got back to the business of satisfying them. In 1953, he expanded his short story "The Gift of Cochise "into the book Hondo. It sold more than three million copies and became a hit John Wayne movie.

Rated one of the best Western novels ever written and used in college writing courses, this is the classic adventure of an Army scout, a woman and her heroic young son together fighting against all odds on a ranch in Apache country.

In 1956, L'Amour married Kathy. "That," he says, "is when I *really* struck it rich!"

His bride's extensive family genealogy provided L'Amour with a literary master plan: "Kathy's family came from England and Scotland," he explains. "As its various members moved west some lived concurrently in the same small towns as members of my family. They couldn't have missed knowing each other. I was fascinated at the thought that a lot of Americans are married or are good friends whose ancestors might have known each other under dramatic circumstances. Perhaps they suffered together through that terrible winter at Valley Forge, or traveled on the same wagon-train trek.

"I decided to settle the West through the adventures of three families from the British Isles and northwestern France—the Sacketts, Talons and Chantrys—who came separately to this country, but whose lives intertwined on the push into the new land." Fortunately for his readers, much of the three-family saga remains to be written.

Despite his lifelong love affair with the Old West, L'Amour says, "I'd rather be alive and be an American during these times than in any other. Think of it, we've put a man on the moon! Out there in space is the new frontier."

Who knows? Perhaps, one day, descendants of his perennial pioneer families will step off for Venus, Pluto and the stars beyond.

BIRTH OF A BOOM TOWN

In Europe, Pope Gregory the Great had died, in Ireland the Golden Age of scholarship was at its height, and on the Continent the Merovingian Kings ruled much of what is now Germany and France. It was the seventh century, and the great T'ang dynasty was rising in China, while across the Asian Continent a relatively unknown young man named Mohammed sat meditating in Mecca, conceiving the religious teachings that were to dominate civilization for the next seven hundred years.

In what was someday to be known as western Utah, a hungry coyote trotted across a barren slope. The coyote had no awareness of history nor any realization of the events he was soon to start in motion, a sequence that was to enrich several men and at least one woman, and was to bring sudden and violent death by bullet or blade to at least 40 men. All of that lay more than 1100 years in the future, but it was the coyote that began it.

The slope itself was a litter of sand, low-growing brush and an occasional juniper, broken here and there by the teeth of exposed ledges or outcroppings. There was nothing to draw the attention, even less to hold it. But the coyote remembered a chipmunk that lived somewhere near the crest.

Wise in the ways of coyotes, the chipmunk was alert to his coming and, not adverse to a little game of tease and tag, waited until the coyote charged, then flipped his tail and ducked into a hole. Whining with eagerness, the coyote dug at the hole, scattering sand and gravel behind him. Then his claws scraped on rock, uncovering a narrow crack, much too small for a coyote, but perfect for a chipmunk. Frustrated and furious, the coyote gnawed at the edges of rock, breaking off a few brittle flakes. Finally, after some useless digging, he gave up and trotted off, pausing only occasionally for a backward glance.

Two months later it rained. The earth was still loose where the coyote had dug, and the trickle of water off the outcropping came eagerly upon it, filling the hole, then trickling over the edge and starting a tiny stream that hurried down the slope to join the larger waters rushing through the wash. The tiny stream carried along with it a small burden of silt and sand, mingled with some minute fragments from the rock broken off by the teeth of the coyote. When the flash flood ran itself out, the flakes were dropped and left lying to mingle with the sand.

Over the years rains pounded at the slope and the wind worried it. A juniper seed fell into the crack in the rock, found some slight nourishment and grew. Water from a late-fall rain fell into the crack, a norther froze it, and the expanding ice split the crack still wider. The growing juniper, over the many years, thickened its roots, pushing hard against the rock until it split, and the slab on the downhill side fell, turned over and lay still. The exposed side, partly covered by the juniper roots, was seamed with bright streaks that ran like jagged lightning through the crumbling quartz.

It was in the fall of 1824 that a trapper, crossing the arid slope toward the tree-clad mountains beyond the next valley, made a brief pause in the juniper shade. The dribble of water from the rock had widened the coyote-dug hole into a gully that at the top was several feet deep, and deepened steadily as it cut into the slope. This cut offered a shield for the fire he built to make coffee. Seated over the dying coals, he idly sifted some rocks through his fingers. One fragment threw a tiny gleam into his eyes. Turning it in his fingers, he found the small rock was laced with a golden material.

For 19 years he carried it for a pocket piece, believing it brought him luck. In 1843 he tossed the nugget into a trunk and forgot it. But within its tiny golden heart lay something explosive and violent, something that lay dormant now, but would one day shatter the Nevada-Utah nights with gunfire.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that Senators may speak therein up to 5 minutes each, and that the period extend not beyond 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

MENTAL HEALTH SYSTEMS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1177, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. That so much of this Act as precedes title VII, along with the following table of contents, may be cited as the "Mental Health Systems Act".

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TITLE II—COMMUNITY SERVICES

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TITLE VII—RAPE PREVENTION AND CONTROL

Sec. 701. Rape prevention and control.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds—

(1) despite significant progress that has been made in making community mental health services available and improving residential mental health facilities since the original community mental health centers legislation was enacted in 1963, unserved and underserved populations remain and certain groups in the population in particular, such as chronically mentally ill individuals, children and youth, elderly individuals, racial or ethnic minorities, women, poor persons, and persons in rural areas, often lack access to adequate private and public sector mental health services and support services;

(2) the process of transferring or diverting chronically mentally ill persons from unwarranted or inappropriate institutionalized settings to their home communities has frequently not been accompanied by a process of providing those persons with the mental health and support services they need in community-based settings or a process of affording training, retraining, and job placement for employees affected by institutional closure and conversion and the establishment of community-based programs;

(3) the delivery of mental health and support services is typically uncoordinated at the individual, local, State, and Federal level, and among concerned local, State, and Federal entities and agencies of government;

(4) mentally ill persons are often inadequately served by programs of the Department of Health and Human Services such as medicare, medicaid, supplemental security income, and social services (under title XX of the Social Security Act), and the programs of the Department of Housing and Urban Development, the Department of Labor, and other Federal agencies;

(5) health care systems often lack general health care personnel with adequate mental health training and often lack mental health care personnel, resulting in millions of persons with some level of mental disorder not receiving appropriate mental health care;

(6) present efforts to prevent mental illness through discovery and elimination of its causes and through early detection and treatment are far too limited;

(7) a comprehensive and coordinated array of appropriate private and public sector mental health and support services for all people in need within a specific geographic area, based upon a cooperative local-State-Federal partnership, remains the most effective and humane way to provide a majority of mentally ill individuals with mental health care and needed support; and

(8) because of the rising demand for mental health services and wide disparities in the distribution of psychiatrists, clinical psychologists, psychiatric nurses, and psychiatric social workers, psychiatry is a medical shortage specialty, and there are distinct needs for the other health professionals.

(b) It is, therefore, the purpose of this Act to—

(1) provide and assure an appropriate, coordinated, and accountable network of comprehensive community-based mental health services through the private and public sector for all persons in need of such services, which is sufficiently flexible to respond to changing community circumstances, to the diverse cultural and ethnic backgrounds of individuals, and to differences in race, sex, and age among individuals;

(2) improve and initiate mental health and support services for unserved and underserved populations, particularly chronically mentally ill individuals, children and youth, elderly individuals, racial and ethnic minorities, women, poor persons, persons in rural areas, and any other group with special need;

(3) encourage innovative programs for

preventing mental illness and promoting mental health and provide for a specific administrative structure within the Federal Government to direct such efforts;

(4) provide more flexibility in the funding of mental health services and encourage development of a partnership in the delivery of mental health services and related support services among private providers and local, State, and Federal governments;

(5) facilitate State efforts to carry out the State responsibility for—

(A) providing or arranging for the provision of appropriate care for those adults and children whose mental illnesses are so severe that they require inpatient care on a short-term or long-term basis;

(B) bringing about the transition from an institution-based service system (including skilled nursing and intermediate care facilities) to a community-based service system by providing those discharged or diverted from institutions, or who might otherwise be sent there, with the opportunity for appropriate mental health and support services through a comprehensive system of community mental health and support services and by providing training, retraining, and job placement for personnel displaced by institutional closures and conversions and the development of community-based services;

(C) coordinating the mental health services provided in the State with related support services provided in the State;

(D) ensuring the adequacy and fiscal soundness of all mental health and support services within the State through the mental health planning process; and

(E) fostering the most effective use of private, local, State and Federal resources (including private and public forms of health insurance) by promoting the coordinated delivery of, and planning for, mental health and support services at and among all levels of activity and government; and

(6) promote evaluation of the mental health delivery system, particularly with regard to its effectiveness in meeting the needs of priority population groups.

DEFINITIONS

SEC. 3. For the purposes of this Act, unless the context otherwise requires, the term—

(1) "State" includes (in addition to the fifty States) the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(2) "Governor" means, the chief executive officer of a State;

(3) "Secretary" means the Secretary of Health and Human Services;

(4) "nonprofit", as applied to any entity, means an entity which is owned and operated by one or more corporations or associations no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or person;

(5) "mental health service area" means a geographic area established for the purpose of planning and providing mental health services in accordance with section 103 of this Act;

(6) "State health plan" means the plan prepared in accordance with title XV of the Public Health Service Act;

(7) "mental health services" means the treatment provided by the private or public sector which reasonably can be expected to ameliorate a nervous, mental, or emotional disorder, or which reasonably can be expected to prevent the decline of or improve a person's level of mental functioning;

(8) "support services" means health services (other than mental health services), and the educational, rehabilitation, vocational, housing, and social services, and other services specified by the Secretary;

(9) "priority population group" means any group which is determined by the Secretary to have special mental health needs and to be unserved or underserved by mental health service programs, such as but not limited to chronically mentally ill individuals, children and youth, elderly individuals, any racial or ethnic minority, women, Indians and urban Indians (as those terms are defined in the Indian Health Care Improvement Act), Native Hawaiians, the poor, rural residents, and victims of violence or disaster;

(10) "comprehensive mental health services" means the services described in section 201(b) of the Community Mental Health Centers Act (as amended by this Act);

(11) "community mental health center" means an entity which either through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities provides those services described in paragraph (10) of this section; and

(12) "contract" means a cooperative agreement as described in section 6 of the Federal Grant and Cooperative Agreement Act of 1977 and shall not be governed by the provisions of volume 41, chapters 1 and 3, of the Code of Federal Regulations.

TITLE I—STATE MENTAL HEALTH SYSTEM

CONDITION OF FEDERAL FUNDING

SEC. 101. In order for any entity in a State to receive funding under this Act, the State shall meet the requirements of this title.

DESIGNATION AND FUNCTIONS OF STATE AGENCIES

SEC. 102. Each State shall designate an agency or authority to act as the State administrative agency with regard to mental health services. Such agency shall be referred to in this Act as the "State Agency." The State Agency shall divide the State into, and designate, mental health service areas in accordance with section 103 and shall prepare, consistent with the mental health provisions of the State health plan described in section 104, a State mental health operations program which meets the requirements of section 105.

MENTAL HEALTH SERVICE AREAS

SEC. 103. (a) Within one year after the effective date of this Act, each State Agency shall divide the State into, and designate, mental health service areas. Each mental health service area shall be a geographic region appropriate for the effective development, delivery, and coordination of mental health services in such area. Prior to designating mental health service areas, the State Agency shall conduct hearings relating to the designation of such areas, and all interested persons shall be afforded an opportunity to participate in such hearings. In designating mental health service areas, the State Agency shall consider the following factors:

(1) the optimum number of persons to be served in each area;

(2) the accessibility of services to persons in each area;

(3) the cultural needs of the area;

(4) preexisting geographic boundaries related to the provision of mental health and other services; and

(5) the boundaries of the health service areas of the State established pursuant to title XV of the Public Health Service Act.

(b) The boundaries of each mental health service area shall be within or conform to the boundaries of a health service area established pursuant to title XV of the Public Health Service Act.

MENTAL HEALTH PROVISIONS OF THE STATE HEALTH PLAN

SEC. 104. Each State health plan prepared pursuant to title XV of the Public Health Service Act shall contain, in an identifiable place or places, provisions relating to—

(1) the need for mental health services in the State;

(2) the special mental health service needs in the State of chronically mentally ill individuals (including chronically mentally ill individuals who are multiply handicapped), emotionally disturbed children and adolescents, elderly individuals, and other priority population groups;

(3) the adequacy of public and private mental health facilities and services available in the State;

(4) mental health service priorities in the State;

(5) geographic, cultural, linguistic, and economic barriers with respect to the delivery of mental health services in the State;

(6) the coordination of mental health services with health and other services;

(7) the measures which need to be taken to assure that statistics and other information collected with regard to the provision of mental health services conform to such criteria, standards, and other requirements relating to form, method of collection, content, and confidentiality as have been prescribed by the Secretary; and

(8) such additional requirements as the Secretary may prescribe to carry out the provisions of title XV of the Public Health Service Act and this Act.

MENTAL HEALTH OPERATIONS PROGRAM

SEC. 105. (a) Each State Agency shall prepare, consistent with the mental health provisions of the State health plan described in section 104 and after consultation with the Statewide Health Coordinating Council established pursuant to title XV of the Public Health Service Act, a mental health operations program.

(b) The mental health operations program required under subsection (a) shall—

(1) identify the mental health service areas within the State;

(2) identify the need in each mental health service area of the State for mental health and related support services after consideration of—

(A) the demographic, economic, cultural, and social characteristics of the population of the area, and

(B) the services and activities needed in the area for the prevention of mental illness;

(3) identify the special mental health services needs in each mental health area of chronically mentally ill individuals (including chronically mentally ill individuals who are multiply handicapped), emotionally disturbed children and adolescents, elderly individuals, and other priority population groups;

(4) identify and evaluate the public and private mental health facilities, the mental health personnel, and the mental health services available in each mental health service area, and determine the additional facilities, personnel, and services necessary to meet the mental health needs of each area;

(5) identify the methods used (A) to determine the mental health needs of each mental health service area, and (B) to evaluate the facilities, personnel, and services of each mental health service area;

(6) list the mental health service needs of each mental health service area in the order of priority that such needs should be addressed through the use of existing Federal, State, and local resources;

(7) identify measures which need to be taken to alleviate geographic, cultural, linguistic, and economic barriers with respect to the delivery of mental health services;

(8) identify measures which need to be taken to assure that mental health services will be provided in a manner respectful of each individual's human dignity, and with attention to continuity and quality of care;

(9) identify the legal rights of persons in the State who are mentally ill or otherwise mentally handicapped in addition to the rights provided under title III of this

Act, and describe any measures which need to be taken to protect all such rights; and

(10) identify the measures which need to be taken to coordinate the provision of mental health services, including mental health services and support services for chronically mentally ill individuals and other priority population groups.

(c) The mental health operations program required under subsection (a) shall also describe in specific terms how the State agency will—

(1) ensure the continued provision of appropriate services which have been provided in the past by local entities in the State, which entities have received Federal funding under the Community Mental Health Centers Act and this Act, but which entities may in the future become ineligible for Federal funding under this Act;

(2) promote the development of comprehensive mental health services in each mental health service area where such services are currently unavailable;

(3) ensure, within a five-year period after the program is prepared (or within such other period as the State Agency justifies and the Secretary determines to be reasonable), that—

(A) residents of public inpatient psychiatric facilities who are inappropriately placed in such facilities are identified, discharged, and, to the extent appropriate, placed in the least-restrictive settings and provided mental health and support services appropriate to such persons' level of functioning;

(B) persons who need to be placed in mental health facilities are placed in least-restrictive settings and provided mental health and support services appropriate to such persons' level of functioning; and

(C) persons who are discharged from, or are in need of placement in, mental health facilities shall—

(i) upon discharge or prior to placement, be informed of available community-based facilities and programs providing mental health and related support services, and

(ii) have access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services;

(4) promote the development of adequate mental health services for chronically ill individuals and other priority population groups;

(5) promote the prevention of mental illness;

(6) assist the courts and other public agencies, and appropriate private agencies, in screening persons being considered for inpatient care in mental health facilities in the State in order to determine if such care is medically or psychologically indicated;

(7) comply with regulations prescribed by the Secretary of Labor pursuant to section 212(b) of this Act; and

(8) made adequate provisions for the development of planning and service delivery staffs with appropriate training and experience at both the local and State levels.

(d) The mental health operations program required under subsection (a) shall—

(1) describe the financial commitment and ability of the State to implement the provisions of subsection (c);

(2) include an analysis of the services made available for mentally ill individuals in the State under titles IV(A), V, XVI, XVII, XIX, and XX of the Social Security Act, the Education for All Handicapped Children Act, the Older Americans Act, the Developemental Disabilities Assistance and Bill of Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1973, the Drug Abuse Office and Treatment Act, and other relevant Federal statutes; and

(3) describe the steps being taken in the State to coordinate the provision of services under this Act with the provision of services under the aforementioned Acts.

(e) In preparing the mental health operations program required under subsection (a), the State Agency shall consult with a State advisory council, which council shall include:

(1) representatives of consumers and providers of mental health services in the State who are familiar with the need for such services, and

(2) representatives of nongovernment organizations or groups, and of State Agencies, concerned with the planning, operation, or use of such services.

Such representatives of consumers shall constitute a majority of the members of such council.

ENFORCEMENT

SEC. 106. (a) Whenever the Secretary determines that there has been a substantial and persistent failure to comply with the requirements of this title, the Secretary shall notify the appropriate State Agency that further payments under this Act will not be made to any entity in the State, including the State Agency, until the Secretary is satisfied that such failure has been or will be corrected. After providing such notice and the opportunity for an informal hearing in the State, if the Secretary reaffirms the determination that there has been a substantial and persistent failure to comply with the requirements of this title, the Secretary shall make no further payments under this Act to any entity in the State, including the State Agency, until the Secretary is satisfied that such failure has been or will be corrected.

(b)(1) Notwithstanding the provisions of subsection (a), the Secretary may continue to make payments to any entity in a State, other than the State Agency, which received funding under the Community Mental Health Centers Act prior to October 1, 1979, if the Secretary determines that—

(A) such entity in no way contributed to the failure to comply with the requirements of this title which led to the termination of payments under subsection (a), and

(B) payments have been terminated under subsection (a) for at least one month.

(2) No entity receiving payments pursuant to paragraph (1) may receive such payments for more than eight years.

TITLE II—COMMUNITY SERVICES

PART A—CONTRACT AUTHORITY

CONTRACTS

SEC. 201. (a) The Secretary may enter into contracts with public and nonprofit entities, including State Agencies, for the purpose of assisting such entities to provide the services described in part B of this title.

(b) No contract may be entered into under subsection (a) unless an application has been submitted to and selected by the Secretary in accordance with parts C, D, and E of this title.

(c) The Secretary shall determine the amount of any contract entered into under this title, but in no case may such amount be more than the amount permitted under section 223.

PART B—TYPES OF SERVICES

SERVICES FOR CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 202. (a) For purposes of this subsection, the Secretary may enter into contracts with public or nonprofit private entities other than a State Agency for the provision of mental health and related support services to chronically mentally ill individuals. A contract entered into under this subsection shall provide for at least one of the following:

(1) identifying and providing outreach to chronically mentally ill individuals located in inpatient facilities, boarding homes, nursing homes, intermediate care facilities, residential care facilities, group homes, and other community settings, and identifying the barriers preventing chronically mentally ill individuals from receiving needed services and devising and implementing measures to eliminate such barriers;

(2) making available to each chronically mentally ill individual a case manager to assume responsibility for coordinating the provision of mental health services and, as needed, related support services for such individual, and assuring the availability of outreach services, including information and counseling for the families and employers of chronically mentally ill individuals; and

(3) developing, in collaboration with other health, mental health, and human services agencies, community support services not otherwise available to chronically mentally ill individuals (such as screening and referral, followup care, alternatives to hospitalization, assistance in applying for entitlements, crisis stabilization, psychosocial rehabilitation, and supportive living and working arrangements) in order to reduce the dependency of, and increase the potential of, individuals receiving such services, and arranging for the provision of such services in cooperation with such other agencies or entities.

(b) For purposes of this subsection, the Secretary may enter into contracts with a State Agency for the provision of mental health and related support services to chronically mentally ill individuals. A contract entered into under this subsection shall provide for at least one of the following:

(1) assisting mental health service areas in the continuing process of identifying chronically mentally ill individuals in need of mental health and related support services, planning the provision of such services, and carrying out such plans;

(2) assessing the needs of chronically mentally ill individuals throughout the State, identifying local, State, and Federal barriers preventing chronically mentally ill individuals from receiving needed services, and devising and implementing measures to eliminate such barriers;

(3) improving the skills of personnel providing services to chronically mentally ill individuals by providing or arranging for the provision of inservice training, other training, or retraining for such personnel;

(4) providing or arranging for the provision of job placement for, and training and retraining of, employees of public inpatient psychiatric facilities at which there has been a reduction in the need for such employees in order to train and place such employees in settings where such employees can perform comparable work; and

(5) coordinating the operations of State agencies or intrastate regional agencies responsible for mental health and related support services for chronically mentally ill individuals, and coordinating the provision of mental health and support services for chronically mentally ill individuals with the provision of services under titles IVb, V, XVI, XVIII, XIX, and XX of the Social Security Act, the Rehabilitation Act of 1973, the United States Housing Act, the Comprehensive Employment and Training Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Older Americans Act, and other Federal and State statutes.

SERVICES FOR SEVERELY DISTURBED CHILDREN AND ADOLESCENTS

SEC. 203. The Secretary may enter into contracts with public and nonprofit private entities for the provision of mental health and related support services to severely disturbed children and adolescents. A contract entered into under this section shall provide for at least one of the following:

(1) identifying and assessing the needs of severely disturbed children and adolescents, and providing needed services which are not provided by existing programs;

(2) assuring the availability of appropriate personnel responsible for providing, or arranging for the provision of, mental health and related support services needed by severely disturbed children and adolescents;

(3) coordinating the provision of mental health and related support services available to severely disturbed children and adolescents with the activities of community agencies and State agencies and with the provision of services available pursuant to titles IV(b), V, XVI, XIX, and XX of the Social Security Act, the Education for All Handicapped Children Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Rehabilitation Act of 1973, and other Federal and State statutes;

(4) establishing cooperative arrangements with juvenile justice authorities, educational authorities, and other authorities and agencies that come in contact with severely disturbed children and adolescents to ensure referral of such children and adolescents to appropriate mental health and related support services;

(5) establishing self-help groups and crisis support programs for children and adolescents and their families; and

(6) providing auxiliary mental health services to handicapped children served under the Education for all Handicapped Children Act.

SERVICES FOR ELDERLY INDIVIDUALS

SEC. 204. The Secretary may enter into contracts with public and nonprofit private entities for the provision of mental health and support services to elderly individuals. A contract entered into under this section shall provide for outreach activities and for at least one of the following:

(1) identifying and assessing the mental health needs of elderly individuals and providing needed services which are not provided by existing programs;

(2) assuring the availability of appropriate personnel responsible for providing, or arranging for the provision of, mental health and related support services needed by elderly individuals;

(3) coordinating the provision of mental health and related support services available to elderly individuals with the area agency on aging (as defined in the Older Americans Act) and other community agencies providing mental health and related support services for elderly individuals and with the provision of services available pursuant to titles XVI, XVIII, XIX, and XX of the Social Security Act, the Older Americans Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, the Drug Abuse Office and Treatment Act, the United States Housing Act, the Domestic Volunteer Service Act of 1973, and other Federal and State statutes;

(4) providing mental health services to elderly individuals in, and staff training for employees of, nursing homes, intermediate care facilities, boarding homes, senior centers, and ongoing self-help groups and crisis support programs; and

(5) providing medical differential diagnoses for elderly individuals in order to distinguish between and establish the need for mental health services and other medical care prior to receiving treatment.

SERVICES FOR PRIORITY POPULATION GROUPS

SEC. 205. The Secretary may enter into contracts with public and nonprofit private entities for the provision of mental health and support services to priority population groups other than chronically mentally ill individuals, severely disturbed children and adolescents, and elderly individuals. A contract under this section shall promote comprehensive mental health services, where appropriate, for such priority population group.

PREVENTION OF MENTAL ILLNESS AND PROMOTION OF MENTAL HEALTH

SEC. 206. (a) The Secretary may enter into contracts with public and nonprofit private entities for programs to prevent mental illness and promote mental health. A contract under this section shall focus upon population groups that have a higher incidence, or greater risk, of mental illness than other population groups. A contract entered into under this section may be for, but need not be limited to, a program to—

(1) educate the general public regarding mental health problems and mental illness, prevention of mental health problems and mental illness, and promotion of mental health;

(2) improve the ability of health, social service, and other human services personnel to identify mental illness in individuals and assure appropriate care;

(3) provide screening, consultation, referred, and education in public school systems and in the work place in order to detect early and prevent mental health problems and promote mental health;

(4) organize self-help groups for populations that have a higher incidence, or greater risk, of mental illness than other population groups; and

(5) promote measures to manage and reduce stress.

(b) Programs supported under this section shall be consistent with national goals and priorities regarding the prevention of mental illness and promotion of mental health determined by the Director of the National Institute of Mental Health pursuant to section 455 of the Public Health Service Act.

COMMUNITY MENTAL HEALTH CENTERS

SEC. 207. (a) The Secretary may enter into contracts with public and nonprofit private entities for the provision of comprehensive mental health services by a community mental health center.

(b) A community mental health center which provides services pursuant to this section shall comply with all applicable provisions of the Community Mental Health Centers Act and shall also establish, in accordance with regulations prescribed by the Secretary a quality assurance program which includes—

(1) multidisciplinary peer review and utilization evaluation;

(2) a secure system of recordkeeping that—

(A) integrates physical and mental health records, and

(B) is in accordance with applicable Federal and State laws respecting confidentiality of and access to such records;

(3) a multidisciplinary professional advisory board; and

(4) an identifiable administrative unit responsible for providing consultation and education services.

(c) The provision of services by a community mental health center in a mental health service area under this section shall be coordinated as appropriate with the provision of services by other mental health, health and social service programs and agencies (including public inpatient psychiatric facilities) serving residents of the mental health service area. Services may be provided under this section—

(1) at a community mental health center, or at a satellite facility, located in the mental health service area;

(2) by the staff of the community mental health center, or through appropriate arrangement with other health professionals and other providers located in the mental health service area; and

(3) in the case of inpatient, emergency, partial hospitalization services, or certain specialized services, by health professionals or agencies, pursuant to appropriate arrangements, in any location that is readily accessible to residents of the mental health service area.

(d) All services provided under this section shall be accessible and promptly available to residents of the mental health service area. Such services shall assure continuity and quality of care, and shall take into account the cultural, economic, and social characteristics of the population to be served.

NON-REVENUE-PRODUCING SERVICES

SEC. 208. (a) The Secretary may enter into contracts with public and nonprofit private entities for the provision of non-revenue-producing services. A contract entered into under this section shall require the provision of such services by an existing community mental health center, or, if no such center is providing services in a mental health service area, by any other entity providing mental health services in the mental health service area.

(b) Services provided under this section may include—

(1) consultation and education services (as described in section 201(b) of the Community Mental Health Centers Act);

(2) evaluation of the mental health services program of a community mental health center;

(3) case management; and

(4) any other nonrevenue producing service which has been determined to be appropriate by the Secretary.

LINKAGES BETWEEN HEALTH CARE SETTINGS AND MENTAL HEALTH SERVICES

SEC. 209. (a) The Secretary may enter into contracts with any public or nonprofit private entity providing mental health services, or having in effect a written agreement with another entity providing mental health services, for the purpose of ensuring linkages between health facilities and programs, nursing homes, and intermediate care facilities and mental health facilities and programs.

(b) A contract entered into under this section shall—

(1) identify individuals in need of mental health services in health care facilities, nursing homes, and intermediate care facilities; and

(2) provide, or arrange for the provision of, mental health and related support services for such individuals, including 24 hours emergency services, outpatient services, and consultation and education services (as described in section 201(b) of the Community Mental Health Centers Act).

PART C—APPLICATION REQUIREMENTS

SEC. 210. (a) An application for a contract under this title may omit any service or other requirement required to be provided or met under section 202 through 209 if the application demonstrates that the service or requirement is already being provided or met to such an extent that the allocation of additional resources to provide the service or to meet the requirement is unnecessary. Any application omitting a service or requirement under this subsection shall demonstrate to the satisfaction of the Secretary that the entity submitting the application has identified another entity providing the service or meeting the requirement and has established a cooperative working agreement with such entity.

(b) An application for a contract under this title shall be submitted in accordance with the provisions of this part and applicable regulations prescribed by the Secretary. Such application shall contain or be accompanied by—

(1) a statement of the objectives of the services to be provided;

(2) information regarding the organization and operation of the entity submitting the application;

(3) a financing plan and budget for the fiscal year for which funding is sought (and such additional period as the Secretary may require), indicating for each service to be provided the sources of funding for the service;

(4) the schedule of fees to be charged for services to be provided, and the discounts to be allowed (to individuals unable to pay in full) on the basis of relative inability to pay for a service, and satisfactory assurances that the entity submitting the application will make every reasonable effort to collect fees for such services;

(5) satisfactory assurances that funds made available under this Act will be used to supplement and, to the extent practicable, increase the level of non-Federal funding for the services provided, and that such Federal funds shall not supplant non-Federal funds except when necessary to carry out the purposes of this Act;

(6) satisfactory assurances that measures have been taken by the entity submitting the application to consult with members of the group or groups to be served, members of the public, and affected organizations and agencies during the development of the application, and to give reasonable opportunities to members of such groups, members of the public, and interested organizations and agencies to comment on the application;

(7) where substantial portions of the population to be served are of limited English-speaking ability, or bicultural, or both, a description of how the entity will provide services in appropriate languages and cultural contexts and the extent to which staff will be bilingual and bicultural;

(8) a description of the efforts made by the entity submitting the application, and the efforts to be made by such entity, to coordinate the services to be provided with other mental health and support services in the same area;

(9) such satisfactory assurances as are required as conditions of eligibility under part D of this title;

(10) information regarding the extent to which and manner in which the entity has served chronically mentally ill individuals in prior years (if such service has been provided) and proposes to serve chronically mentally ill individuals during the fiscal year in which funding is sought under this title (if such service is proposed);

(11) satisfactory assurances that the entity submitting the application shall submit such reports, at such times and containing such information, as the Secretary may request, maintain such records as the Secretary may find necessary for purposes of this Act, and afford the Secretary and the Comptroller General of the United States access to such records and other documents as may be necessary for an effective audit of each service or activity;

(12) statistics and other information requested by the Secretary necessary to evaluate the compliance of the application with the requirements of this Act; and

(13) such other information and material and such other assurances as the Secretary may prescribe in order to carry out the purposes of this Act.

PART D—APPLICANT ELIGIBILITY

ELIGIBILITY REQUIREMENTS: IN GENERAL

SEC. 211. (a) (1) In order to be eligible to enter into a contract under this title, an entity shall—

(A) in the case of an entity, other than a public entity or a hospital, which seeks to provide comprehensive services through a community mental health centers pursuant to section 207, or which has as its primary purpose the provision of services which are funded under this Act, provide satisfactory assurances to the Secretary that it has a governing board which—

(i) is composed, where practicable, of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area, taking into considering their employment, age, sex, and place of residence, and other demographic characteristics of the area: *Provided*, That at least one-half of the members of such board shall be individuals who are not providers of health care, and

(ii) meets at least once a month, establishes general policies for the entity (including a schedule of hours during which services will be provided), approves the entity's annual budget, and approves the selection of a director for the entity; or

(B) in the case of any entity not described in subparagraph (A), provides satisfactory assurances to the Secretary that it has an advisory committee which—

(i) is composed of individuals who reside in the entity's mental health service area and are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics of the area: *Provided*, That at least one-half of the members of such committee shall be individuals who are not providers of health care, and

(ii) advises the entity with respect to the provision of services which are funded under this Act.

For the purposes of this paragraph, the term "provider of health care" shall have the same meaning as under section 201(c)(2) of the Community Mental Health Centers Act.

(2) Notwithstanding paragraph (1), any public or nonprofit private entity receiving a grant or entering into a contract under section 328 of the Public Health Service Act (relating to hospital-affiliated primary care centers), section 329 of the Public Health Service Act (relating to migrant health centers) or section 330 of the Public Health Service Act (relating to community health centers) shall be eligible for a contract under this title.

(b) (1) In order to be eligible to enter into a contract under this title to provide services pursuant to sections 202, 203, 204, 205, 206, or 209 in any mental health service area—

(A) in the case of an entity other than a State Agency, such entity shall provide satisfactory assurances to the Secretary that it has negotiated in good faith regarding, or secured, a contract or agreement with any entity providing comprehensive mental health services through a community mental health center in the mental health service area concerning such entities' mutual responsibilities, and

(B) in the case of a State Agency, such State Agency shall provide satisfactory assurances to the Secretary that it has made a good faith effort to coordinate, or has coordinated, with any entity providing comprehensive mental health services through a community mental health center in the mental health service area concerning such entities' mutual responsibilities.

(2) In order to be eligible to enter into a contract under this title to provide services pursuant to section 207 or 208 in any mental health service area—

(A) in the case of an entity other than a State Agency, such entity shall provide satisfactory assurances to the Secretary that it has negotiated in good faith regarding, or secured, a contract or agreement with any other entity providing mental health services in the mental health service area concerning such entities' mutual responsibilities, and

(B) in the case of a State Agency, such State Agency shall provide satisfactory assurances to the Secretary that it has made a good faith effort to coordinate, or has coordinated, with any other entity providing mental health services in the mental health service area concerning such entities' mutual responsibilities.

(c) In order to be eligible to enter into a contract under this title, an entity shall provide satisfactory assurances to the Secretary that any application for a contract submitted by such entity is consistent with the State health plan of the State.

ELIGIBILITY REQUIREMENTS FOR STATE AGENCIES

SEC. 212. (a) In order to be eligible to enter into a contract under this title, a State Agency shall provide satisfactory assurances to the Secretary that local public and nonprofit private entities have been included as providers of service to the maximum extent possible.

(b) (1) In order to be eligible to enter into a contract under this title, a State Agency shall be certified to be in compliance with the regulations established pursuant to paragraph (2).

(2) The Secretary of Labor, after publishing a notice in the Federal Register and providing an opportunity for consultation for the Governor of any State and the Secretary of Health and Human Services, shall establish regulations which require fair and equitable arrangements to protect the interests of employees adversely affected by actions taken to emphasize outpatient treatment of mentally ill individuals, against a worsening of such employees' positions with respect to their employment, including those arrangements that are required by section 1642(c) (1) of the Public Health Service Act. In applying this subsection the Secretary of Labor may, to the extent feasible consistent with the principal objective of protecting against a worsening of the positions of affected employees, take into account the States financial circumstances and their legal requirements.

(3) The Secretary of Labor shall certify which States, which have applied for funding under this title, are in compliance with the regulations required by paragraph (2), and shall provide the Secretary of Health and Human Services with a list of States so certified.

ELIGIBILITY REQUIREMENTS FOR STATE AGENCIES SEEKING TO BE EXCLUSIVE CONTRACTORS

SEC. 213. (a) (1) A State Agency may be the exclusive contractor of services for a State under this title if—

(A) such State Agency complies with the provisions of this section, and

(B) the Secretary enters into an exclusive contract with such State Agency under section 217.

(b) A State Agency, in order to be eligible to enter into a contract to be the exclusive contractor for services for a State under this title, shall demonstrate to the satisfaction of the Secretary that it is effectively implementing its mental health operations program prepared pursuant to section 105, and shall also demonstrate to the satisfaction of the Secretary that it, or another agency of the State, is making a good faith effort to establish and implement procedures for carrying out the requirements of subsection (c).

(c) (1) A State Agency, in order to be in compliance with this section, shall monitor the placement in the community of chronically mentally ill individuals discharged or diverted from mental health facilities, and shall prevent overconcentration of such individuals in any community or group of communities.

(2) A State Agency, in order to be in compliance with this section, shall administer a program of support and placement services for chronically mentally ill individuals in the State discharged or diverted from mental health facilities or who may be so dis-

charged or diverted. Such program shall prescribe and enforce minimum standards for the provision of followup care for such individuals by community mental health centers and other appropriate entities. Such program shall include as a minimum the following:

(A) Timely notification by the mental health facility to the appropriate community mental health center or other entity concerning the discharge of each chronically mentally ill individual and the placement of such individual in the mental health service area in which the center or other entity is located.

(B) A prerelease consultation between the mental health facility and the appropriate community mental health center or other entity with respect to each chronically mentally ill individual to be discharged and placed in a community. Such consultation shall take place without delaying the discharge of such individual from the mental health facility. Such consultation shall include a preliminary evaluation of the physical, mental, social, and monetary needs of the individual to be discharged, and an identification of the services and programs for which such individual is eligible.

(C) Development by the mental health facility of a written treatment and services plan for each chronically mentally ill individual to be discharged, or already discharged, or diverted, in consultation with a case manager in the community mental health center or other appropriate entity in the mental health service area in which such individual will or does reside. Such plan shall—

(i) to the maximum extent feasible, be developed with the participation of the individual discharged or diverted and the family of such individual;

(ii) include appropriate living arrangements suited to the needs of the individual. If family or independent living is not possible and the individual resides in a multioccupant residence, the State Agency shall assure that such residence is subject to a program for regulation as described in paragraph (3) of this subsection;

(iii) describe appropriate mental health services and other needed services, such as medical and dental services, rehabilitation services, vocational training and placement, social services, and living skills training; and

(iv) identify specific programs and services for which the individual is eligible, including income support, and provide for a periodic reevaluation of the plan at least every one hundred and twenty days.

(D) Designation of a case manager responsible for the coordination of service for each chronically mentally ill individual discharged or diverted from a mental health facility and the implementation of the treatment and services plan for such individual.

(3) A State Agency, in order to be in compliance with this section, shall develop a program for regulating multioccupant residences (other than family residences in which all the residents are related by blood or marriage, and residences that are subject to and in compliance with section 1616(e) of the Social Security Act and which are located in a State in which the standards applicable to such residences pursuant to section 1616(e)(1) of such Act are comparable to the standards required by this paragraph) in which four or more chronically mentally ill individuals reside and for which room is charged, in accordance with guidelines established by the Secretary. Such program shall include the following:

(A) Minimum standards for approval of a residence, including referral to and assistance in reaching appropriate medical, dental, mental health, and other services not otherwise available at such residence, compliance with appropriate life safety, fire, and sanitation codes, and access for visitation during reasonable hours without prior notice by appropriate mental health and social service staff.

(B) Evaluation, inspection, and monitoring procedures.

(C) Remedies for noncompliance.

(4) A State Agency, in order to be in compliance with this section, shall provide educational or informational services to educate the population of the State regarding the problems of chronically mentally ill individuals, the need for community involvement in programs designed to resolve the problems of chronically mentally ill individuals outside institutional settings, and the resources available or needed to help such programs succeed.

(5) A State Agency, in order to be in compliance with this section, shall improve the skills of personnel invovled in providing services for chronically mentally ill individuals through inservice training, retraining, or other training of such personnel.

(6) A State Agency, in order to be in compliance with this section, shall review State policies and programs to determine if such policies and programs discriminate against chronically mentally ill individuals, and the means by which such discrimination may be eliminated.

(d) A State Agency, in order to be eligible to enter into a contract to be the exclusive contractor of services for a State under this title, shall provide satisfactory assurances to the Secretary that it will submit an annual report to the Secretary regarding its efforts and progress under this section. including the manner in which the needs of chronically mentally ill individuals in each mental health service area in the State are being met within the community and the State's progress in implementing mechanisms to ensure that. as chronically mentally ill individuals are discharged from mental health facilities. State mental health funds are flowing from institution-based care to community-based care.

PROCESS FOR DETERMINING ELIGIBILITY OF STATE AGENCIES TO BE EXCLUSIVE CONTRACTORS

SEC. 214. No later than the date three hundred and thirty days before the beginning of each fiscal year, the Secretary shall determine and announce which State Agencies have met the requirements of section 213 and are thereby eligible to be the exclusive contractors of services for their respective States under this title. Prior to such date, the Secretary shall provide technical assistance to State Agencies which do not appear to have met the requirements of section 213 but which seek to meet such requirements.

PART E—APPLICATION PROCEDURE, SELECTION OF APPLICATIONS, PERFORMANCE CONTRACTS

APPLICATION PROCEDURE

SEC. 215. (a) All applications by public and nonprofit private entities to enter into contracts under this title (except the applications of a State Agency) shall be submitted to the State Agency. Applications shall be submitted no later than the date two hundred and seventy days prior to the first day of the fiscal year for which funding is sought under this title. All such applications shall be submitted to the health systems agency prior to submission to the State Agency. The health systems agency may submit recommendations and comments regarding such applications to the State Agency at any time prior to the transmission of such applications to the Secretary.

(b)(1) A State Agency may—

(A) prepare one or more applications to enter into contracts under this title; or

(B) if the State Agency has been determined to be eligible to be the exclusive contractor of services for the State under this title pursuant to section 214, prepare an application to be the exclusive contractor of services for the State under this title.

(2) If a State Agency prepares one or more applications to enter into contracts under this title pursuant to paragraph (1)(A), the State Agency shall submit such applications to the effected health systems agencies no later than the date two hundred and seventy days prior to the first day of the fiscal year for which funding is sought under this title. Such health systems agencies may submit comments and recommendations regarding such applications to the State Agency at any time prior to the transmission of such applications to the Secretary.

(3) If a State Agency which has been determined to be eligible to be the exclusive contractor of services for the State under this title decides that it will submit an application to the Secretary to be the exclusive contractor of services for the State under this title, such State Agency shall announce such decision no later than two hundred and seventy days prior to the first day of the fiscal year for which funding is sought under this title. The application to be the exclusive contractor of services for the State under this title, prepared pursuant to paragraph (1)(B), shall be submitted to the Statewide Health Coordinating Council of the State established pursuant to title XV of the Public Health Service Act no later than such date. The Statewide Health Coordinating Council may submit comments and recommendations regarding such application to the State Agency at any time prior to the transmission of such application to the Secretary.

(c) Within forty-five days after the final date of submission applications under subsection (a), the State agency shall—

(1) provide public notice of all applications submitted, under subsection (a), the comments and recommendations (if any) submitted by health systems agencies regarding such applications, and the comments and recommendations (if any) of the State Agency regarding such applications;

(2) provide public notice of all applications prepared by the State Agency itself under subsection (b)(1) and the comments and recommendations (if any) submitted by health systems agencies regarding such applications; and

(3) in the case of a State Agency that, pursuant to subsection (b)(2), has announced its decision to submit an application to the Secretary to be the exclusive contractor of mental health services for the State under this title, provide public notice of the application to be submitted by the State Agency to the Secretary and the comments and recommendations (if any) submitted by the Statewide Health Coordinating Council regarding such application.

(d) No sooner than twenty days but no later than thirty days after the date public notice is provided under subsection (c), the State Agency shall convene public hearings and receive public comment regarding such application or applications.

(e) After consideration of the public comments received pursuant to subsection (d), the State Agency, on the date one hundred and fifty days prior to the first day of the fiscal year for which funding is sought under this title, shall—

(1) transmit to the Secretary the applications to enter into contracts under this title submitted pursuant to subsection (a), or prepared pursuant to subsection (b)(1)(A), the comments and recommendations (if any) submitted by health systems agencies regarding such applications, the comments and recommendations (if any) of the State Agency regarding such applications and the comments and recommendations (if any) received by the State Agency pursuant to the public hearings held under subsection (d); or

(2) in the case of a State Agency that, pursuant to subsection (b)(1)(B), has pre-

pared an application to the Secretary to be the exclusive contractor of mental health services for the State under this title, transmit to the Secretary such application, the comments and recommendations (if any) of the Statewide Health Coordinating Council regarding such application, and the comments and recommendations (if any) received by the State Agency pursuant to the public hearings held under subsection (d).

(f) An application transmitted by a State Agency to the Secretary to be the exclusive contractor of mental health services for the State under this title may omit applications submitted by other entities under subsection (a) and incorporate any one or more of the following:

(1) applications submitted by other entities under subsection (a), in substantially their original form;

(2) applications submitted by other entities under subsection (a), but substantially modified by the State Agency; and

(3) services under this title proposed only by the State Agency.

(g)(1) Whenever a State Agency transmits an application to the Secretary to be the exclusive contractor of mental health services for the State under this title, and such application omits an application submitted by an entity under subsection (a), or incorporates an application submitted under subsection (a) in a substantially modified form, the State Agency shall inform the entity that submitted such application under subsection (a) that such application has been so omitted or modified, make available the reasons for such omission or modification to the entity and any interested party, and inform the entity of the procedure described in paragraph (2).

(2)(A) If, in an application transmitted to the Secretary by a State Agency to be the exclusive contactor of mental health services for a State under this title, an application submitted by an entity under subsection (a) has been omitted by the State Agency, or has been substantially modified by the State Agency, the entity may, within thirty days after receipt of notice from the State Agency under paragraph (1), request that the application or modified portions thereof be considered in original form during the negotiations of the State Agency's application between the State Agency and the Secretary. Such a request shall be accompanied by written justifications for the incorporation of such application or portion thereof in the State Agency's application. If an entity makes such a request, the Secretary shall promptly determine if—

(i) the application or modified portions thereof are consistent with the State health plan of the State; and

(ii) the entity has sought to, or had an opportunity to, make a good faith effort to negotiate with the State Agency regarding the incorporation of the application or the modified portions thereof in the State Agency's application.

(B) If the Secretary determines that the requirements of subparagraph (A)(i) and (A)(ii) have been met, the Secretary shall review—

(i) the justifications submitted by the entity regarding incorporation of its application or modified portions thereof in the State Agency's application; and

(ii) the justifications of the State Agency regarding omission of such application or portions thereof in the State Agency's application.

(C) If the Secretary determines, upon review under subparagraph (B), that—

(i) an entity's justifications for incorporation of its application or portions thereof are as meritorious as the State Agency's justifications for omission or modification; or

(ii) the decision by the State Agency to omit or modify such application or portions thereof—

(I) is inconsistent with the provisions of the State health plan of the State, or

(II) was made in an arbitrary or capricious manner;

the entity's application or portions thereof shall be considered during the negotiation of the State Agency's application between the State Agency and the Secretary.

(h) The State Agency shall make available to any interested party, on the date one hundred and fifty days prior to the first day of the fiscal year for which funding is sought under this title, the materials transmitted to the Secretary under paragraph (e).

(i) In the event that the State Agency fails to transmit the appropriate material pursuant to subsection (e), any entity that submitted an application to enter into a contract under subsection (a) may transmit such application to the Secretary directly.

(j) If a State Agency transmits an application to the Secretary to be the exclusive contractor of services for the State under this title, there shall be selected, by the State Agency and the Secretary, two citizen representatives to provide advice during the negotiation of the State Agency's application between the State Agency and the Secretary. Organizations representing consumers of mental health services within a State, and organizations representing local providers of mental health services within a State, may recommend to the State Agency and the Secretary the names of individuals willing and able to serve as representatives of consumers or providers, respectively, during such negotiations. On the basis of such recommendations, the State Agency and the Secretary shall agree upon one representative of consumers and one representative of providers from the State to serve as advisors during such negotiations.

SELECTION OF APPLICATIONS

SEC. 216. (a) After conducting appropriate negotiations with the entities that submitted the applications transmitted under section 215(e)(1), or with the State Agency in the case of a State Agency that has transmitted under Section 215(e)(2) an application to be the exclusive contractor of mental health services for the State under this title, the Secretary shall select those applications that—

(1) are consistent with the State health plan;

(2) are consistent with the applicable provisions of this title; and

(3) are most likely, in the judgment of the Secretary, to—

(A) provide priority population groups with the most effective and broadest services,

(B) provide the general population with the most effective and broadest services,

(C) lead to the provision of comprehensive mental health services for all persons in every mental health service area,

(D) provide for the maximum feasible utilization of private and public non-Federal resources, including private and public forms of health insurance, and

(E) where substantial portions of the population to be served are of limited English-speaking ability, or bicultural, or both, provide services in appropriate languages and cultural contexts, and provide staff that is bilingual and bicultural.

(b) Upon selection of applications to enter into contracts to provide services under this title, the Secretary shall provide an explanation to each entity whose application was transmitted to the Secretary under section 215(e) of the reasons for acceptance or rejection of such entity's application. If the Secretary uses a formula to rank applications, the Secretary shall provide notice of the principles upon which such formula is based. The explanation provided to the entity under this subsection shall include an explanation of the designated rank of such entity's application.

PERFORMANCE CONTRACTS

SEC. 217. (a) Any entity whose application to provide services has been selected under section 216 shall be eligible to enter into an annual performance contract with the Secretary. In the case of a State Agency for which an application to be the exclusive contractor of mental health services for a State under this title has been selected, the performance contract shall be an exclusive statewide performance contract, and shall provide for the State Agency to enter into performance contracts with other entities providing services in the State as subcontractors.

(b) Each performance contract shall include agreements regarding—

(1) the establishment of citizen participation in the administration of services;

(2) the populations to be served, including any priority populations, the settings in which services are to be delivered, the means by which such settings shall be the least restrictive and most accessible as possible, and the anticipated outcome and service impact on the populations to be served;

(3) the standards by which the performance of the entity will be monitored and evaluated, incentives for meeting such standards, the role of consumers and individuals representative of affected communities in any monitoring and evaluation, and the role of the Secretary in such monitoring and evaluation;

(4) the methods and format by which performance data shall be collected and transmitted to the Secretary;

(5) the qualifications and clinical and administrative functions and responsibilities of the personnel of the entity;

(6) the annual budget of the entity;

(7) the means by which the activities of the entity will be coordinated with the activities of other entities providing mental health services or related support services in any affected mental health service area;

(8) the allocation of responsibilities among local, State, and Federal entities for provision of mental health services and administration of such services;

(9) the means by which the entity shall decrease its reliance on Federal financial support under this Act;

(10) a schedule for the performance of all obligations arising under the performance contract;

(11) an expeditious and impartial method by which disputes arising under the performance contract may be resolved;

(12) appropriate and defined remedies available to each contracting party in the event that the other contracting party fails to carry out an obligation arising under the performance contract; and

(13) such other matters that the Secretary determines shall be negotiated and resolved to carry out the purpose of this Act.

(c) The Secretary shall promulgate regulations establishing criteria with respect to the evaluation of the performance of entities under this Act.

ENFORCEMENT

SEC. 218. (a) No entity may receive funds under this title unless it has entered into a performance contract which complies with the requirements of section 217.

(b) The extent to which an entity or State Agency has performed in accordance with the performance contract entered into under section 217 and the extent to which the entity has cooperated with other entities providing mental health or support services in the affected mental health service areas shall be periodically reviewed by the Secretary. Substantial and unreasonable failure to perform in accordance with such performance contract or to cooperate with other entities providing mental health or support services in the affected mental health service areas shall, after notice of such alleged failure and an opportunity for an informal hearing which results in a finding of such failure, be a reasonable justification for termination of funding under this title. The Secretary shall consider any such failure with regard to any subsequent application for funding under this title.

FUNDING FOR INNOVATIVE PROJECTS

SEC. 219. (a) Notwithstanding the provisions of this title relating to application procedures, a public entity, nonprofit private entity, or other private entity engaged solely in the provision of services related to mental health may submit directly to the Secretary an application to provide services under this title, or rights protection and advocacy services, if such entity demonstrates that the services to be provided are innovative and of national significance.

(b) The Secretary may accept such applications and enter into contracts for such services under this section if the Secretary determines that such services are innovative and of national significance, but no more than 5 percent of the funds available for allocation under this title may be used for such contracts.

(c) Any entity receiving Federal funding under this section shall be subject to the requirements of sections 217 and 218.

PART F—GENERAL PROVISIONS

DURATION OF CONTRACTS

SEC. 220. A contract under this title shall be for such period of time, not exceeding one year, as the Secretary may determine.

INDIRECT PROVISION OF SERVICE

Sec. 221. Any services for which a contract is entered into under this title may be provided directly by the contracting entity at its primary or satellite facilities, or by arrangements with other entities or health professionals.

PAYMENT PROCEDURES

SEC. 222. (a) Except as provided in subsection (b), the amount of payments under any contract for any fiscal year under this title may be reduced to the extent that—

(1) the sums paid to the entity under any prior contract under the same section of this title, or the sums paid to such entity under sections 203(a), 203(e), or 211 of the Community Mental Health Centers Act, plus

(2) the funds available for the project, activity, or services for which the prior sums were paid, from State, local, or other sources (including collections),

exceed the total cost of the project, activity, or services for which the prior sums were paid, in lieu of such excess being repaid to the United States.

(b) In the case of any such excess under subsection (a)—

(1) a reduction under subsection (a) shall not be made to the extent adjustments regarding such excess were made previously, or were retained and excluded from repayment under clause (2) of this subsection, and

(2) such portion of an excess under subsection (a) for any year for any project, activity, or services for which sums were paid under this Act and the Community Mental Health Centers Act as the Secretary may determine, but not exceeding 5 per centum of the cost of operation of the recipient's mental health program, may be retained by the recipient for deposit in a reserve fund maintained for purposes approved by the Secretary, and shall not be counted as available funds for purposes of any subsequent contract under this title.

ALLOCATION OF FUNDS

SEC. 223. (a) Under this title, no single public or nonprofit private entity shall receive funding for more than eight fiscal years for the provision of the same mental health services in the same affected mental health service areas. For purposes of this subsection, one or more grants for a fiscal year under section 203(a) of the Community Mental Health Services Act (or section 220 of the Community Mental Health Centers Act as in effect before July 29, 1975, or as continued after such date by section 203(e) of that Act) shall be considered funding for a fiscal year under this subsection. No funding under a contract under this title may exceed the following percentages of the cost of the services with respect to which such contract is made:

(1) 90 per centum in the case of the first and second years of funding;

(2) 80 per centum in the case of the third year of funding;

(3) 70 per centum in the case of the fourth year of funding;

(4) 60 per centum in the case of the fifth year of funding;

(5) 50 per centum in the case of the sixth year of funding;

(6) 40 per centum in the case of the seventh year of funding; and

(7) 30 per centum in the case of the eighth year of funding.

(b) Notwithstanding the limitations described in subsection (a) on the number of years for which funding under this title may be received and the maximum amount of such funding, an entity that submits annual applications to provide services pursuant to section 208 may receive funding under this title for such longer periods and for such greater amounts as determined by the Secretary, but no such funding may exceed $1.50 per capita of the population of the affected area.

(c) Notwithstanding the limitations described in subsection (a), any entity that receives eight years of funding under section 202, 203, 204, 205, 206, 207, or 209 of this title and which thereafter continues to provide substantially the same level of services for the same population for which it received funding under such section, may receive funding to provide different services in the same mental health service area or areas under any other such section.

(d)(1) Outpatient treatment and care and related support services for chronically mentally ill individuals shall account for—

(A) no less than 5 per centum of the Federal funding allocated under this title within each State in the fiscal year ending September 30, 1982;

(B) no less than 10 per centum of the Federal funding allocated for services under this title within each State in the fiscal year ending September 30, 1983;

(C) no less than 15 per centum of Federal funding allocated for services under this title within each State in the fiscal year ending September 30, 1984; and

(D) no less than 20 per centum of Federal funding allocated for services under this title within each State in the fiscal year ending September 30, 1985.

(2) Funds for contracts to provide mental health services to chronically mentally ill individuals under section 202 shall account for—

(A) no less than 10 per centum and no more than 20 per centum of all available funding under this title in the fiscal year ending September 30, 1982;

(B) no less than 10 per centum and no more than 20 per centum of all available funding under this title in the fiscal year ending September 30, 1983;

(C) no less than 15 per centum and no more than 25 per centum of all available funding under this title in the fiscal year September 30, 1984; and

(D) no less than 20 per centum and no more than 30 per centum of all available funding under this title in the fiscal year ending September 30, 1985.

(3) Treatment and care and related support services for chronically mentally ill individuals shall account for no less than 20 per centum of the Federal funds allocated under section 207 of this title.

(e) Not more than 5 per centum of the funds allocated under section 207 shall be allocated to entities which do not meet the governing board requirements of section 211 (a)(1)(A).

(f) Not less than 90 per centum of the Federal funds for any contract under this title shall be used to provide services at the local level.

(g) The Secretary, after allocating funds under this title, shall submit an annual report to the Committee on Labor and Human Resources of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives detailing the extent to which—

(1) each community mental health center funded under section 207 of this title is directing its resources towards the treatment and care of chronically mentally ill individuals, and

(2) the requirements of subsection (d)(1), (2), and (3) are being met.

The report required by this subsection shall be submitted to the committees described in this subsection no later than January 1 of each year.

EVALUATION AND TECHNICAL ASSISTANCE

SEC. 224. (a) With the approval of the Secretary, any entity entering into a contract under this Act may use a portion of such contract funds for evaluation of the projects or activities the entity conducts.

(b) The Secretary shall set aside from appropriations for contracts under this title such sums as are determined to be appropriate for the evaluation of the performance of entities under this title. Such evaluation shall determine the extent to which entities have complied with applicable requirements and the extent to which entities have advanced the objectives for which funding was provided.

(c) A portion of the funding available under this title for any fiscal year, as determined by the Secretary, but not to exceed 2 per centum, shall be available to the Secretary to provide technical assistance, including but not limited to the technical assistance described in section 214 and short-term training of personnel responsible for the implementation of contracts under this title. Such amounts shall be available to assist in the improvement of the management and administration of services provided pursuant to this title.

CONFORMING AMENDMENTS

SEC. 225. (a) The second sentence of section 455(a) of the Public Health Service Act (relating to the National Institute of Mental Health) is amended—

(1) by striking out "and" after "sections 301 and 303 of this Act" and inserting in lieu thereof a comma; and

(2) by inserting ", and the Mental Health Systems Act" after "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II)".

(b) Section 507 of the Public Health Service Act (relating to grants to Federal institutions) is amended—

(1) by striking out "and" after "drug dependence,"; and

(2) by inserting ", and appropriations

under title VI of the Mental Health Systems Act" before "shall also be available".

(c) Section 513 of the Public Health Service Act (relating to evaluation of programs) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

(d) Section 1513(e)(1)(A)(i) of the Public Health Service Act (relating to functions of health systems agencies) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

(e) Section 201(b)(1)(A)(iii) of the Community Mental Health Centers Act is amended by adding after "facility" the following: ", including—

"(I) designation of a case manager responsible for the coordination of services for each resident discharged from a public inpatient psychiatric facility and for the development of an individual treatment and services plan for such individual:

"(II) pre-release consultation with respect to such individual; and

"(III) preparation and submission of an annual report to the State Agency designated under section 192 of the Mental Health Systems Act describing the manner in which the needs of chronically mentally ill individuals in the catchment area are being met.".

CONTRACTS FOR INDIAN TRIBES

SEC. 226. (a)(1) An Indian tribe (as defined in the Indian Self-Determination Act) or intertribal organization may submit an application directly to the Secretary to provide services eligible for funding under this title if such services will be available within or will specifically serve—

(A) a federally recognized Indian reservation,

(B) any land area in Oklahoma that is held in trust by the United States for Indians or that is a restricted Indian-owned land area,

(C) a native village in Alaska (as defined in section 3(c) of the Alaska Nativce Claims Settlement Act), or

(D) an Indian community the members of which are recognized as eligible for services under the Indian Health Care Improvement Act.

Each application shall demonstrate the manner in which the proposed services will be consistent with the Tribal Specific Health Plan of the tribe or tribes to be served. A copy of the application shall be provided to the appropriate Health Systems Agency or Agencies established under title XV of the Public Health Service Act and to the appropriate State Agency for review and comment. Upon receipt of an application under this subsection, the Secretary shall review, rank, select, and fund the application according to the same criteria used to review, rank, select, and fund applications under this title.

(2) A tribe or intertribal organization receiving Federal funds under this title shall, prior to receiving such funds, enter into an annual performance contract with the Secretary pursuant to section 217, and shall receive payment directly from the Secretary (except as provided in subsection (b) of this section). Each performance contract shall conform with the provisions of section 217, and the provisions of section 218 shall also be applicable, to the extent that such provisions are not inconsistent with the purposes of this section.

(b) At the request of any Indian tribe or intertribal organization or any urban Indian organization (as defined in the Indian Care Improvement Act), the Secretary may enter into a contract with the Indian Health Service or any institution, clinic, or other unit thereof, for the purpose of serving the members of such tribe or organization, on the same terms and conditions as under subsection (a).

(c) Any contract under subsection (a) or (b) may be made for a project serving members of an Indian tribe, intertribal organization, or urban Indian organization even though the area in which the members of such tribe or organization reside is included in two or more mental health services areas of a State.

OBLIGATED SERVICE FOR MENTAL HEALTH TRAINEESHIPS

SEC. 227. Section 303 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Any individual who, after the date of enactment of the Mental Health Systems Act, has been informed in writing of the requirements and other provisions of this subsection and thereafter accepts a clinical traineeship in psychology, psychiatry, nursing, or social work, under subsection (a)(1) that is not of a limited duration or experimental nature (as determined by the Secretary) is obligated to serve, in service determined by the Secretary to be appropriate in the light of the individual's training and experience, at the rate of one year for each year (or academic year, whichever the Secretary determines to be appropriate) of the traineeship.

"(2) The service required under paragraph (1) shall be in a public inpatient psychiatric facility institution, or for any entity eligible for a contract under title II of the Mental Health Systems Act, or in a health manpower shortage area (as determined under subpart II of part D of title III of the Public Health Service Act), or in any other area or for any other entity designated by the Secretary, and shall begin within such period after the termination of the traineeship as the Secretary may determine. In developing criteria for determining for which institutions or entities or in which areas, referred to in the preceding sentence, individuals must perform service under this paragraph, the Secretary shall give preference to institutions, entities, or areas which in the Secretary's judgment have the greatest need for personnel to perform that service unless, for good cause shown to the Secretary, the individual requests performance of other service under this paragraph.

"(3) Any individual who fails to perform the service required of the individual under this subsection within the period prescribed by the Secretary is obligated to repay to the United States an amount equal to three times the cost of the traineeship (including stipends and allowances) plus interest at the maximum legal rate at the time of payment of the traineeship, multiplied, in any case in which the service so required has been performed in part, by the percentage which the length of the service so performed is of the length of the service so required to be performed.

"(4)(A) In the case of any individual any part of whose obligation to perform service under this subsection exists at the same time as any part of the individual's obligation to perform service under section 752 or 753 (because of receipt of a scholarship under subpart IV of part C of title VII) or the individual's obligation to perform service under section 472 (because of receipt of a National Research Service Award thereunder), or both, the same service may not be used to any extent to meet more than one of those obligations.

"(B) In any case to which subparagraph (A) is applicable and in which one of the obligations is to perform service under section 752 or 753, the obligation to perform service under that section must be met (by performance of the required service or payment of damages) before the obligation to perform service under this subsection or under section 472.

"(C) In any case to which subparagraph (A) is applicable, if any part of the obligation to perform service under section 472 exists at the same time as any part of the obligation to perform service under this subsection, the manner and time of meeting each obligation shall be prescribed by the Secretary."

TITLE III—MENTAL HEALTH RIGHTS AND ADVOCACY

PART A—MENTAL HEALTH RIGHTS

BILL OF RIGHTS

SEC. 301. (a) A person admitted to a program or facility for the purpose of receiving mental health services has the following rights:

(1) The right to appropriate treatment and related services in a setting and under conditions that—

(A) are most supportive of such person's personal liberty; and

(B) restrict such liberty only to the extent necessary consistent with such person's treatment needs, applicable requirements of law, and applicable judicial orders.

(2) The right to an individualized, written, treatment or service plan (such plan to be developed promptly after admission of such person), the right to treatment based on such plan, the right to periodic review and reassessment of treatment and related service needs, and the right to appropriate revision of such plan, including any revision necessary to provide a description of mental health services that may be needed after such person is discharged from such program or facility.

(3) The right to ongoing participation, in a manner appropriate to such person's capabilities, in the planning of mental health services to be provided such person (including the right to participate in the development and periodic revision of the plan described in paragraph (2)), and, in connection with such participation, the right to be provided with a reasonable explanation, in terms of language appropriate to such person's condition and ability to understand, of—

(A) such person's general mental condition and, if such program or facility has provided a physical examination, such person's general physical condition;

(B) the objectives of treatment;

(C) the nature and significant possible adverse effects of recommended treatments;

(D) the reasons why a particular treatment is considered appropriate;

(E) the reasons why access to certain visitors may not be appropriate; and

(F) any appropriate and available alternative treatments, services, and types of providers of mental health services.

(4) The right not to receive a mode or course of treatment, established pursuant to the treatment plan, in the absence of such person's informed, voluntary, written consent to such mode or course of treatment, except that treatment may be provided without such consent—

(A) during an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(B) as permitted under applicable law in the case of a person committed by a court to a treatment program or facility.

(5) The right not to participate in experimentation in the absence of such person's informed, voluntary, written consent, the right to appropriate protections in connection with such participation, including the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks, and the right and opportunity to revoke such consent.

(6) The right to freedom from restraint or seclusion, other than as a mode or course of treatment, except that restraint or seclusion

may be used during an emergency situation if such restraint or seclusion is pursuant to or documented contemporaneously by the written order of a responsible mental health professional.

(7) The right to a humane treatment environment that affords reasonable protection from harm and appropriate privacy to such person with regard to personal needs.

(8) The right to confidentiality of such person's records, including confidentiality of information pertaining to such person's identity, diagnosis, prognosis, and treatment, under the same terms and conditions applicable to patients under section 515 of the Public Health Service Act.

(9) The right to access, upon request, to such person's mental health care records, except that such person may be refused access to—

(A) information in such records provided by a third party under assurance that such information shall remain confidential; and

(B) specific material in such records if the health professional responsible for the mental health services concerned has made a determination in writing that such access would be detrimental to such person's health, except that such material shall be made available to a similarly licensed health professional selected by such person and such health professional may, in the exercise of professional judgment, provide such person with access to any or all parts of such material or otherwise disclose the information contained in such material to such person.

(10) The right, in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours, except that, if a mental health professional treating such person determines that denial of access to a particular visitor is necessary for treatment purposes, such mental health professional may, for a specific, limited, and reasonable period of time, deny such access if such mental health professional has ordered such denial in writing and such order has been incorporated in the treatment plan for such person. An order denying such access shall include the reasons for such denial.

(11) The right to be informed promptly at the time of admission and periodically thereafter, in language and terms appropriate to such person's condition and ability to understand, of the rights under this part.

(12) The right to assert grievances with respect to infringement of such person's rights under this part, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the program or facility.

(13) Notwithstanding paragraph (10), the right of access to (including the opportunities and facilities for private communication with) any available—

(A) rights protection service within the program or facility;

(B) rights protection service within the State mental health system designed to be available to such person; and

(C) qualified advocate;

for the purpose of receiving assistance to understand, exercise, and protect such person's rights under this part and other provisions of law.

(14) The right to exercise such person's rights under this part without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(15) The right to referral as appropriate to other providers of mental health services upon discharge.

(b)(1) The rights provided in this section are in addition to and not in derogation of any other statutory or constitutional rights otherwise afforded to all persons, handicapped persons, or recipients of health care services.

(2) The rights to confidentiality of and access to records as provided in paragraphs (8) and (9) of subsection (a) shall remain applicable to records pertaining to a person after such person's discharge from the program or facility.

(c)(1) No otherwise eligible person shall be denied admission to a program or facility for mental health services as a reprisal for the exercise of the rights provided in this section.

(2) Nothing in this part shall—

(A) obligate an individual mental health or health professional to administer treatment contrary to such professional's clinical judgment;

(B) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

(C) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by withholding consent to proposed treatment; or

(D) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(3) In order to assist a person admitted to a program or facility in the exercise or protection of such person's rights, such person's authorized advocate shall have reasonable access to—

(A) such person;

(B) the areas of the program or facility where such person has received treatment, resided, or had access; and

(C) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services to which such person has a right of access under section 301(a)(9).

(4) Where a person is refused access to certain material in such person's mental health care records under subsection (a)(9), a court of competent jurisdiction, upon petition of such person and following in camera review of such material and the reasons for denying such person access to such material, shall issue one of the following orders:

(A) an order that such material or parts thereof be released to such person;

(B) an order that such material or parts thereof not be released to such person; or

(C) an order that such material or parts thereof be released to an authorized advocate who is an attorney licensed to practice law before such court, which order shall direct such attorney not to reveal the contents of such material or parts thereof to such person.

(5) Each program and facility shall post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights under this title of all persons admitted to such program or facility. Each such notice shall conform to the format and content for such notices, and shall be posted in all locations, as required in regulations prescribed under section 302 (a)(1).

(d)(1) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent to treatment or experimentation under paragraph (4) or (5) of subsection (a), or the right to confidentiality of or access to records under paragraph (8) or (9) of such subsection, or to provide authorization pursuant to subsection (c)(3)(C), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization.

(2) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under paragraph (4) or (5) of subsection (a), or the right to confidentiality of or access to records under paragraph (8) or (9) of such subsection, or to provide authorization pursuant to subsection (c)(3)(C), because such person has not attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf of such person by a parent or legal guardian of such person.

(3) Notwithstanding paragraph (1) and (2), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility may act as such person's guardian or representative under this subsection.

ENFORCEMENT

SEC. 302. (a)(1) The Secretary of Health and Human Services shall prescribe regulations providing for compliance with and enforcement of the rights provided in section 301, except that, in the case of programs and facilities within the jurisdiction of the Administrator of Veterans' Affairs or the Secretary of Defense, the Administrator of Veterans' Affairs and the Secretary of Defense shall each prescribe regulations providing for such compliance and enforcement consistent with the laws governing the health care programs carried out by the Veterans' Administration and the Department of Defense, respectively.

(2) Regulations under paragraph (1) shall be prescribed no later than one year after the date of enactment of this title.

(3) Notwithstanding section 301(a)(9), a person's access to such person's mental health care records maintained by the Veterans' Administration or the Department of Defense shall be as provided under section 552a of title 5, United States Code.

(b) With regard to any program or facility that is responsible for the violation of a person's right under section 301, or that fails to operate in accordance with the provisions of this part, the Secretary of Health and Human Services (and, in the case of programs and facilities within the jurisdiction of the Administrator of Veterans' Affairs or the Secretary of Defense, such Administrator and such Secretary) may withhold from such program or facility further payments, reimbursements, grants, loans, loan guarantees, or contracts, under this Act, the Public Health Service Act, or the Community Mental Health Centers Act (or, in the case of a program or facility under the jurisdiction of the Administrator of Veterans' Affairs or the Secretary of Defense, under title 38 or title 10, United States Code, respectively) until the basis for such withholding no longer exists, or corrective action has rectified the violation of this part.

(c) In prescribing regulations under this section with respect to participation in experimentation by persons admitted to a program or facility for the purpose of receiving mental health services, the Secretary of Health and Human Services, the Administrator of Veterans' Affairs, and the Secretary of Defense shall take into account the appropriate recommendations of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral research as provided in section 1802 of the Public Health Service Act.

RIGHT OF ACTION

SEC. 303. (a) If a person demonstrates to the court that—

(1) such person has exhausted the grievance precedure to which such person is entitled under section 301(a)(12); or

(2) the exhaustion of such procedure cannot afford timely relief;

such person may bring a civil action for the violation of any right of such person under the provisions of this part in an appropriate United States district court, without regard to the amount in controversy.

(b)(1) The district courts of the United States shall have exclusive jurisdiction of any action brought under this section in which the United States is a party.

(2) If State or local jurisdiction exists for a cause of action under this part, such action may be brought in the appropriate State or local court, and such State or local court shall apply the requirements of subsection (a) with respect to such action.

(c) In any action under this section, the court may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States (or any agency thereof), and a State (or any agency thereof) shall be liable for costs the same as any other party.

(d) Nothing in this part shall be construed to provide a cause of action to any person other than a person to whom the rights in section 301(a) apply.

PART B—MENTAL HEALTH ADVOCACY PROGRAM

ADVOCACY PROGRAM

SEC. 304. (a) The Secretary shall establish a Mental Health Advocacy Program (hereinafter referred to as "MHAP"). The MHAP may make grants to and enter into contracts with public and nonprofit private entities to provide advocacy services and other assistance to assure opportunities for adequate care and treatment services and to protect the legal and human rights of any person in connection with mental health services. Such grants and contracts shall assist in the development of a nationwide network of advocacy programs. The MHAP shall be located in the Office of the Secretary or in any other administrative unit of the Department of Health and Human Services that is independent from any administrative unit that provides funding or reimbursement to providers of health, mental health, or related services. The Secretary shall assure that the MHAP has sufficient staff and adequate administrative and travel resources to carry out the responsibilities of the program.

(b) In order to be eligible to receive a grant or enter into a contract under this part, an entity shall demonstrate that—

(1) personnel of the entity have the authority and capacity to pursue informal and formal legal, administrative, and other appropriate remedies to assure and protect the rights of any person in connection with mental health services;

(2) such entity, except for the receipt of Federal assistance for the operation of advocacy services, is an independent entity, not directly associated with any agency that—

(A) provides mental health services or funds for mental health services; or

(B) is responsible for establishing or implementing policy for the provision of mental health services; and

(3) such entity—

(A) is a recipient of funds under the Legal Services Corporation Act, or

(B) has agreed to coordinate its services with existing Legal Services Corporation projects, if any, in the area to be served, in order to concentrate the use of funds provided under this part for legal assistance on individuals with the greatest need but who are not eligible for legal assistance under the Legal Services Corporation Act.

(c) No grant may be made or contract entered into under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information and assurances as the Secretary shall by regulation prescribe, including but not limited to information or assurances relating to—

(1) the area to be served by the grant or contract;

(2) consumer participation in the applicant's advocacy program design and policy determination processes;

(3) the range of legal and lay advocacy services to be provided, including the extent to which the entity will pursue systemwide advocacy cases as well as individual advocacy cases;

(4) the training and qualifications of the staff with respect to mental health care;

(5) knowledge of and appropriate cooperation with consumer, legal services, citizen, and other advocacy groups, and with any rights protection programs within the area to be served, and utilization, when appropriate, of available volunteers; and

(6) a procedure for establishing the goals and priorities of the program and assessing the performance of the program, such goals and priorities to be consistent with local needs and to include, to the maximum extent practicable, the protection of persons with regard to discrimination in treatment and services, and if resources permit, discrimination in housing, education, employment, the use of public services and facilities, and the provision of benefits to which such persons are entitled.

(d)(1) Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary shall find necessary. The amount of any grant or contract shall be determined by the Secretary, except that no grant or contract for an advocacy program serving an entire State shall be less than $50,000. Programs receiving assistance under this part are authorized to accept additional financial support from other sources provided that the program meets the requirements of subsection (b).

(2) Funds appropriated for this section shall supplement and not supplant other public funds and programs providing legal representation to individuals.

(3) The Secretary shall set aside up to 20 percent but not less than 10 percent of funds available for grants and contracts under this section for the provision of technical assistance, training, and backup support for advocacy projects receiving grants or entering into contracts under this part.

(e)(1) The Secretary shall establish a review group to review applications submitted under this part and provide recommendations to the MHAP regarding training, technical assistance, and other support projects to be undertaken by MHAP. The members of such group shall include individuals with training and experience in providing mental health advocacy services and indivduals representing citizen, consumer, and membership organizations that have demonstrated interest in mental health advocacy.

(2) No grant or contract shall be approved by the Secretary unless it has also been approved by the review group.

(f) The Secretary shall assure that each grant or contract awarded under this section shall, with respect to the provision of any legal assistance under such grant or contract, include provisions to assure that any use of funds under this part for legal assistance shall be subject to the same specific restrictions and regulations prescribed under the Legal Services Corporation Act applicable to grantees under such Act regarding the provision of legal assistance (other than restrictions and regulations concerning eligibility for legal assistance under such Act and membership of local governing boards), and shall assure compliance with such provisions.

REPORT ON ADVOCACY

SEC. 305. (a) The Comptroller General shall conduct a study to examine the performance of advocacy programs that represent—

(1) persons admitted to programs and facilities for the purpose of receiving mental health services;

(2) persons who are developmentally disabled or severely disabled; and

(3) youth, racial and ethnic minorities, women, and other appropriate groups with respect to the constitutional and statutory rights of such persons.

(b) No later than the date 18 months after the effective date of this title, the Comptroller General shall submit to the President and the Congress a comprehensive report of such study, and shall include in such report any legislative recommendations that the Comptroller General considers appropriate.

(c) The report shall assess the performance of advocacy programs established by Congress or undertaken as demonstration projects within executive agencies designed to protect the constitutional and statutory rights of priority population groups. The report shall, at a minimum—

(1) summarize the advocacy activities and evaluate the performance of MHAP and advocacy efforts authorized by the Developmental Disabilities Assistance and Bill of Rights Act and the Rehabilitation Act;

(2) describe and assess the role of the Legal Services Corporation in providing legal services to such priority population groups;

(3) describe and assess the role of the various volunteer agencies and other institutions and professions in providing advocacy services;

(4) assess the need for advocacy services currently not being provided;

(5) make recommendations regarding the efficient provision of advocacy services;

(6) make recommendations regarding measure to improve the Federal advocacy effort on behalf of youth, racial and ethnic minorities, and women, and

(7) assess the impact of advocacy programs upon the cost and quality of care and treatment in programs and facilities.

PART C—MISCELLANEOUS

DEFINITIONS

SEC. 306. For purposes of this title, the term—

(1) "admitted" means accepted, but not yet discharged in connection with such acceptance, on either an ambulatory, residential, or inpatient care basis in connection with the need for the provision of mental health services;

(2) "emergency situation" with respect to any person means a situation in which a responsible mental health professional determines that such person presents a substantial likelihood of imminent harm to himself or herself or others;

(3) "mental health services" includes diagnosis and treatment for a mental disorder other than or in addition to mental retardation, and other services directly related to such diagnosis and treatment;

(4) "program or facility" means an entity that provides mental health services and that—

(A) directly provides health care services on an inpatient basis;

(B) has a contractual arrangement (other than or in addition to admitting privileges) under which such entity may have patients admitted for health care services on an inpatient basis at a facility operated by another entity; or

(C) is in receipt of funds under the Mental Health Systems Act;

(5) "responsible mental health professional" means a mental health profesisonal who

has administrative authority within a program or facility to approve treatment in emergency situations and holds a license required under applicable provisions of law to prescribe the treatment concerned;

(6) "qualified advocate" means—

(A) an attorney licensed to practice law in a State or jurisdiction;

(B) an individual employed to provide advocacy services by—

(i) a Legal Services Corporation grantee;

(ii) a State protection and advocacy agency;

(iii) a recipient of funds under part B of this title; or

(iv) an advocacy agency that meets the eligibility criteria of section 306(b); or

(C) an individual registered pursuant to section 307;

(7) "authorized advocate" means a qualified advocate who—

(A) has been authorized in writing by a person to represent such person for purposes of this title; or

(B) is an attorney appointed by a court of competent jurisdiction to represent a person; and

(8) "treatment" means mental health treatment.

ADVOCATE REGISTRATION

SEC. 307. The Governor of each State shall (1) establish an administrative procedure under which a citizen or consumer organization that has demonstrated an interest in mental health advocacy and intends to provide the services of individuals acting as qualified advocates for the purposes of part A of this title may apply for registration of such individuals as qualified advocates, (2) upon the application of such organization, determine whether such organization is capable of providing services bv individuals with qualifications and training appropriate to serving as advocates in a responsible manner, and (3) in the case of an affirmative determination under clause (2), provide for the registration of the name and organizational affiliation of each individual designated by such organization to serve as a qualified advocate.

EFFECTIVE DATE

SEC. 308. (a) Except as provided in subsection (b), the provisions of this title shall become effective on the date one year after the date of enactment of this Act.

(b) Sections 302(a) and 304(e)(1) shall become effective on the date of enactment of this Act.

TITLE IV—ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

ASSOCIATE DIRECTOR OF MINORITY CONCERNS

SEC. 401. Section 455 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Director shall designate an Associate Director for Minority Concerns to develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased focus on minority populations.

"(2) The Associate Director for Minority Concerns shall assist the Director in assuring that the Institute—

"(A) supports programs with regard to the delivery of mental health services to minority populations, including demonstration projects;

"(B) develops a plan to increase the representation of minority populations in mental health service delivery and manpower programs with an emphasis on developing bilingual and bicultural programs;

"(C) supports programs of basic and applied social and behavioral research on minority mental health;

"(D) studies the effects of racial, age, and sexual discrimination on institutions and individuals, including majority institutions and individuals;

"(E) develops systems to assist minority populations in adapting to, and coping with, the effects of racial, age, and sexual discrimination;

"(F) supports and develops research, demonstration, and training programs aimed at eliminating institutional racial age, and sexual discrimination; and

"(G) provides for increased emphasis on the concerns of minority populations in training programs, service delivery programs, and research endeavors.

"(3) The Secretary shall report to Congress every 3 years on the Institute's activities in carrying out the provisions of this subsection.

"(4) Nothing contained in this subsection shall be construed to prevent or impair the administration or enforcement of any other provision of Federal law, nor shall the Associate Director for Minority Concerns be deemed to have exclusive jurisdiction of the Institute's responsibility to develop effective policies and programs for minority populations.".

TITLE V—PREVENTION

PREVENTION UNIT

SEC. 501. Section 455 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an administrative unit for prevention of mental illness and the promotion of mental health. The purpose of such unit shall be to—

"(A) design national goals and establish national priorities related to the prevention of mental illness;

"(B) design national goals and establish national priorities related to the promotion of mental health; and

"(C) encourage and assist local entities and State agencies to achieve the goals and priorities described in this paragraph.

"(2) The Director shall designate an individual to develop and coordinate prevention policies and programs and to assure increased focus on the prevention of mental illness and the promotion of mental health. This individual shall assist the Director in assuring that the Institute—

"(A) enhances, focuses, and coordinates the research and training activities being carried out under existing legislative authorities which are aimed at preventing mental illness and promoting mental health;

"(B) encourages and assists local, State, and Federal efforts to prevent mental illness and promote mental health, particularly efforts relating to children and adolescents; and

"(C) emphasizes and strengthens orderly planning, implementation, and evaluation of the activities described in this paragraph.

"(3) The Secretary shall report to the Congress every three years on the Institute's activities in carrying out the provisions of this subsection.".

TITLE VI—MISCELLANEOUS

COMMUNITY MENTAL HEALTH CENTERS ACT APPROPRIATIONS

SEC. 601. (a) Section 202(d) of the Community Mental Health Centers Act is amended by deleting "and" after "1979", deleting the period at the end of such subsection, substituting a comma, and adding "and $1,000,000 for the fiscal year ending September 30, 1981.".

(b) Section 203(d)(1) of the Community Mental Health Centers Act is amended by deleting "and" after "1979", deleting the period at the end of such paragraph, substituting a comma, and adding "and $42,000,000 for the fiscal year ending September 30, 1981.".

(c) Section 204(c) of the Community Mental Health Centers Act is amended by deleting "and" after "1979", deleting the period at the end of such subsection, substituting a comma and adding "and $19,000,000 for the fiscal year ending September 30, 1981.".

(d) Section 213 of the Community Mental Health Centers Act is amended by deleting "and" after "1978", and adding after "1979," the phrase "and $25,000,000 for the fiscal year ending September 30, 1981,".

(e) No funds may be appropriated under the Community Mental Health Centers Act for any year period after September 30, 1982.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) There are authorized to be appropriated, for funding under title II, $400,000,000 for the fiscal year ending September 30, 1982, $450,000,000 for the fiscal year ending September 30, 1983, $500,000,000 for the fiscal year ending September 30, 1984, and $550,000,000 for the fiscal year ending September 30, 1985.

(b)(1) Sections 237 of the Community Mental Health Centers Act and 314(g) of the Public Health Service Act are repealed as of September 30, 1981.

(2) For the purpose of assisting States in carrying out their responsibilities under this Act for—

(A) planning and program design,

(B) data collection,

(C) data analysis,

(D) research,

(E) evaluation,

(F) setting and enforcing regulatory and other standards,

(G) reporting to the Secretary, and

(H) establishing, expanding, or operating internal rights protection programs,

the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (3) on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

(3) There are authorized to be appropriated, for the purpose of assisting the States in carrying out their responsibilities under paragraph (2), $20,000,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the next three fiscal years.

(4) No funds shall be made available to a State under this subsection unless the provisions of section 307 of this Act are being carried out in such State.

(c) There are authorized to be appropriated, for funding under title III, $10,000,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the next three fiscal years.

REPORT ON SHELTER AND BASIC LIVING NEEDS OF CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 603. (a) The Secretary of Health and Human Services and the Secretary of Housing and Urban Development shall jointly submit a report to the committees on Labor and Human Resources and Banking, Housing, and Urban Affairs of the United States Senate, and the Committees on Interstate and Foreign Commerce and Banking, Finance, and Urban Affairs of the United States House of Representatives, relating to Federal efforts to respond to the shelter and basic living needs of chronically mentally ill individuals.

(b) The report required by subsection (a) shall include—

(1) an analysis of the extent to which chronically mentally ill individuals remain inappropriately housed in institutional facilities or have otherwise inadequate or inappropriate housing arrangements;

(2) an analysis of available permanent noninstitutional housing arrangements for the chronically mentally ill;

(3) an evaluation of ongoing permanent and demonstration programs, funded in whole or in part by Federal funds, which are designed to provide noninstitutional shelter

and basic living service for the chronically mentally ill, including—

(A) a description of each program;

(B) the total number of individuals estimated to be eligible to participate in each program, the number of individuals served by each program, and an estimate of the total population each program expects to serve; and

(C) an assessment of the effectiveness of each program in the provision of shelter and basic living services;

(4) recommendations of measures to encourage States to coordinate and link the provisions in State health plans which relate to mental health and, in particular, the shelter and basic living needs of chronically mentally ill individuals, with local and State housing plans;

(5) recommendations for Federal legislation relating to the provision of permanent residential noninstitutional housing arrangements and basic living services for chronically mentally ill individuals, including an estimate of the cost of such recommendations; and

(6) any other recommendations for Federal initiatives which, in the judgment of the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, will lead to improved shelter and basic living services for chronically mentally ill individuals.

(c) The report required by subsection (a) shall be submitted to the committee described in subsection (a) no later than January 1, 1981.

REPORT OF THE IMPLEMENTATION OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 604. (a) The Secretary shall submit a report to the Committee on Labor and Human Resources of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives regarding the implementation of the Mental Health Systems Act.

(b) The report required by subsection (a) shall include—

(1) a description of the number and types of proposals which have been funded, the populations served, and the kinds of services provided under the Act;

(2) an analysis of the extent to which the purposes of the Act have been achieved, are being achieved, and are likely to be achieved if the Act is continued;

(3) an analysis of the major problems, if any, which have arisen at the local, State, and Federal levels in implementing the Act; and

(4) recommendations regarding possible changes in the basic policy, design, requirements, criteria, and technical features of the Act which, in the judgment of the Secretary, would improve the provision of mental health care, further the prevention of mental illness, and promote mental health in the United States.

(c) The report required by subsection (a) shall be submitted to the committees described in subsection (a) no later than January 1, 1985.

CONFIDENTIALITY OF MENTAL HEALTH RECORDS

SEC. 605. The Public Health Service Act is amended by adding, at the end of title V of such Act, the following new section:

"CONFIDENTIALITY OF MENTAL HEALTH RECORDS

"SEC. 515. (a) Records of the identity, diagnosis, prognosis, or treatment of any patient pertaining to such person's mental health which are maintained in connection with the performance of any program or activity relating to mental health or health education, training, treatment, services, rehabilitation, or research which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b)(1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (h).

"(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

"(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the therapist-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(D) Where the patient is admitted on an inpatient basis, to any person upon reasonable determinations by the individual responsible for the patient's diagnostic or treatment services that (i) such person is a close friend or family member of the patient and is concerned about the patient's welfare as the result of being unable to locate the patient, (ii) the patient is incapable of making an informed decision as to whether to provide consent to disclosure, and (iii) disclosure would not be inconsistent with any arrangement that has been made for the provision of the services involved. Disclosures under this subparagraph shall be limited to the location of the patient and the patient's general physical condition.

"(E) Where the patient is admitted on an inpatient basis, to a person who is a close friend or family member of a patient who is suffering from a serious physical condition involving the possibility of the patient's death if the individual responsible for the patient's diagnostic or treatment services reasonably determines that the patient is incapable of making an informed decision as to whether to provide consent to disclosure. Disclosures under this subparagraph shall be limited to the patient's location and information pertaining to such physical condition.

"(F) To such persons as the individual responsible for the patient's diagnostic or treatment services reasonably considers necessary to protect against a clear and substantial risk of imminent, serious bodily harm to the patient or others. Nothing in this subparagraph shall make such individual civilly or criminally liable for failing or refusing to make any disclosure under this subparagraph.

"(G) By a department or agency of the Federal Government that has provided care and treatment services to the patient, as necessary for the purposes of the United States' obtaining, from a third party, payment for the costs of the patient's care and treatment if the United States has the right under Public Law 87-693 or other applicable law to recover such costs in the absence of an assignment from the patient and there are reasonable grounds to believe that such third party is liable for such costs.

"(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

"(d) The prohibitions of this section shall continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he or she ceases to be a patient. For purposes of section 303 of this Act, persons who maintain records referred to in subsection (a) are deemed to be authorized by the Secretary to protect the privacy of individuals.

"(e) The prohibitions of this section do not apply to any interchange of records—

"(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care or determining eligibility for benefits or services under title 38, United States Code; or

"(2) between such components and the Armed Forces.

"(f) Any person who obtains a patient's consent to disclosure of a record referred to in subsection (a) of this section shall assure that such consent is informed and voluntary.

"(g) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

"(h) Except as provided in subsection (i) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. The regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

"(i) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (h) of this section to records referred to in subsection (a) of this section that are maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38. In prescribing and implementing regulations pursuant to the subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

"(j) For purposes of this section—

"(1) The term 'identity' means—

"(A) the patient's name or other data from which it could be reasonably anticipated that a person could—

"(i) identify such patient, or

"(ii) ascertain other data than from which such patient might be identified; or

"(B) a code, number, or other means used to identify the patient in relation to a record regarding him.

"(2) The term 'record' means data or information in any recorded medium created or maintained that—

"(A) reveals or contains a patient's identity; or

"(B) relates to the physical or mental health history, diagnosis, condition, treatment, or rehabilitation of a patient.

"(3) The term 'patient' includes a mental health research subject.".

TITLE VII—RAPE PREVENTION AND CONTROL

RAPE PREVENTION AND CONTROL

SEC. 701. (a) Part D of title II of the Community Mental Health Centers Act (42 U.S.C. 2681) is amended by adding at the end thereof the following new section:

"RAPE SERVICES DEVELOPMENT AND DEMONSTRATION PROJECTS

"SEC. 232. (a) The Secretary, acting through the National Center for the Prevention and Control of Rape, shall make grants to, and enter into contracts with, public and private entities to develop or demonstrate new and innovative methods to provide rape services.

"(b) The Secretary may award grants and contracts under subsection (a) for development or demonstration projects for any one or more of the following—

"(1) training programs (including counseling techniques for the victim or the offender) for professional, paraprofessional, and volunteer personnel in the fields of law, social service, mental health, and other related fields in which personnel are or will become engaged in areas relating to the problems of rape;

"(2) treatment programs providing—

"(A) counseling for the victim, the victim's immediate family, or the offender;

"(B) information about or referral to medical, mental health, social, or legal services including necessary transportation costs and accompaniment to such services;

"(C) consultation with allied professionals; or

"(D) followup counseling for the victim, the victim's immediate family, or the offender;

"(3) community education;

"(4) offender rehabilitation and counseling;

"(5) self-help programs for victims, as well as potential victims:

"(6) telephone systems to provide assistance to the victims;

"(7) emergency shelter programs; or

"(8) projects which are likely to result in the development and demonstration of methods of preventing rape, or which address social problems related to rape.

"(c)(1) No grant may be made or contract entered into under this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) The amount of any grant or contract under this section shall be determined by the Secretary.

"(3) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may find necessary.

"(d) Each entity participating in a program under this section shall—

"(1) establish a recordkeeping system to insure the protection of the privacy of the victim, as well as of other individuals involved in accordance with subsection (f); and

"(2) establish internal procedures to measure progress in achieving the goals stated by the grantee or contractor in its application.

"(e) The Secretary shall develop standards and outcome criteria by which the effectiveness of this program shall be measured. Such standards and criteria shall be developed in consultation with the National Rape Prevention and Control Advisory Committee and established within ninety days after the date of the enactment of this section. The Secretary shall review the effectiveness of the development and demonstration projects carried out pursuant to this section.

"(f) Except as provided by Federal law other than this section, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this section shall use or reveal any information furnished by or on behalf of a victim and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this section. Such information and copies thereof, when supplied to, or gathered by, such officer or employee of the Federal Government, or any recipient of assistance under the provisions of this section, shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

"(g) The annual submission to Congress under section 231(b)(1)(B) shall be submitted not later than March 1 of each year and shall include, in addition to the requirements of section 231—

"(1) a summary of the activities funded pursuant to this section; and

"(2) a review of the effectiveness of the activities carried out pursuant to this section.

"(h) Not more than 5 percent of any funds appropriated to carry out the provisions of this section for any fiscal year may be used by the Secretary to provide technical assistance to any public or private entity which desires to submit an application under this section. The Secretary may provide such assistance, upon request, if the Secretary determines that the entity does not possess the resources or expertise necessary to develop and submit an application without such assistance.

"(i) The Secretary shall, to the extent feasible, coordinate development and demonstration projects carried out under this section with other activities relating to rape carried out by the Secretary and the heads of other Federal agencies.

"(j) Not more than 90 percent of the costs of any project shall be funded by a grant or contract under this section.

"(k) There are authorized to be appropriated to carry out the provisions of this section $6,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, and $12,000,000 for the fiscal year ending September 30, 1983.

"(l) The Secretary, notwithstanding the provisions of section 311 of the Civil Service Act of 1978 (Public Law 95-454, 92 Stat. 1111), in carrying out his functions and administering the provisions of this section and without regard to any other provision of this Act, is authorized to obtain the services of not more than ten full-time staff members to assist in carrying out the functions of the National Center for the Prevention and Control of Rape. There are authorized to be appropriated to carry out the provisions of this subsection $200,000 for the fiscal year ending September 30, 1981, $212,000 for the fiscal year ending September 30, 1982, and $224,000 for the fiscal year ending September 30, 1983.".

(b) Section 231(d) of the Community Mental Health Centers Act is amended—

(1) by striking out "and" before "$9,000,000"; and

(2) by inserting the following after "1980": ", $10,200,000 for the fiscal year ending September 30, 1981, $11,500,000 for the fiscal year ending September 30, 1982, and $13,000,000 for the fiscal year ending September 30, 1983."

(c) Sections 231 and 232 of the Community Mental Health Centers Act shall be moved and redesignated as sections 456 and 457 of the Public Health Service Act.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. WILLIAMS. Mr. President, I rise in support of the Mental Health Systems Act, S. 1177.

The original Community Mental Health Centers Act of 1963 evolved from legislation proposed by Senator John F. Kennedy in 1957 and was signed into law by President Kennedy. That legislation acknowledged that we had been warehousing our mentally ill in State institutions far removed from their home communities. It is fair to say that, before 1963, many mentally ill patients were receiving nothing better than custodial care. The Community Mental Health Centers Act advanced the notion that State hospital populations could be significantly reduced and that patients in institutions could be more effectively treated in community-based facilities near their homes.

Unfortunately, as State hospital populations have been reduced during the past 15 years, there has been a corresponding increase in the rate of readmissions, which strongly suggests that we are not doing enough to maintain patients in the community after discharge. And we have all read about the hundreds of deinstitutionalized patients who live in crumbling rooming houses, or perhaps in subways, bus shelters, and parks, receiving little or no mental health care. The legislation before us attempts to address the problems of the chronically mentally ill, and other unserved and underserved groups, in a meaningful way.

This legislation also begins to integrate community-based mental health programs with what the States are doing.

The approximately 700 community mental health centers we have in the United States are generally doing an excellent job with limited resources, but too often there is little interaction—and sometimes there is open conflict—between these centers and State mental health agencies. We can no longer afford such a fragmented nonsystem. The bill before us attempts to make the system coherent—especially by clarifying and strengthening the role of State government in the planning and delivery of mental health services.

To achieve a mental health system that responds to unmet needs in a coherent way, the Committee on Labor and Human Resources has fashioned legislation which guarantees strong local input in the planning and delivery process, allows for all concerned to participate, gives the States a key role in deciding which services to provide and where they should be provided, and thus channels Federal dollars where they will do the most good.

Mr. President, let me explain briefly the major features of this legislation:

Title I calls for citizens and government officials in each State to work together to formulate a State mental health operations program. Consistent with the State's overall health plan, this operations program would spell out the State's mental health priorities.

Title II then describes how specific local and State proposals for funding may be submitted, after review and comment, to the Federal Government. If a State meets specified criteria regarding its commitment to community-based services and to care for the chronically mental ill, the State mental health agency may choose to submit a single statewide proposal to the Federal Government. Where a local entity feels that its original proposal has been unfairly excluded or modified by the State agency in the State agency's single statewide proposal, an appeals mechanism is provided.

Title II of the bill spells out eight areas in which mental health program funding could be obtained from the Federal Government:

First. The chronically mentally ill;

Second. Severely disturbed children and adolescents;

Third. The elderly;

Fourth. Other priority population groups, such as racial and ethnic minorities, women, and rural residents;

Fifth. Prevention;

Sixth. Community mental health centers;

Seventh. Nonreimbursable services such as consultation and education; and

Eighth. Programs that link the provision of mental health services with physical health care.

Performance contracts, between the entity receiving funding and the Federal Government, would spell out standards by which success could be measured.

Title III of this legislation establishes a bill of rights and an advocacy program.

The remaining titles set forth authorization ceilings, provide for an Associate Director for Minority Concerns within the National Institute of Mental Health, require a greater focus on prevention by NIMH, and reauthorize an expanded rape prevention program.

Mr. President, the bill before us today builds on the administration's original proposal. It incorporates the key recommendations of the President's Commission on Mental Health. Dozens of concerned organizations and individuals have spent countless hours working with the Subcommittee on Health and Scientific Research, chaired by Senator KENNEDY, and the Committee on Labor and Human Resources, which I chair. These recommendations from the Commission greatly improve the bill.

I am pleased to note that the bill before us today is supported by the administration, the National Council of Community Mental Health Centers, the Mental Health Association, and the National Association of State Mental Health Program Directors. Letters indicating their support have been placed on the desks of each Senator.

Mr. President, the Mental Health Systems Act has received broad, bipartisan support in both subcommittee and full committee. Its sponsors now include Senator KENNEDY, Senator PELL, Senator RANDOLPH, Senator CRANSTON, and myself on the Democratic side, and Senator JAVITS and Senator SCHWEIKER on the Republican side.

Mr. President, I urge my colleagues to adopt this important and most needed legislation.

I am very pleased that I have the opportunity to manage this legislation. The chairman of our subcommittee, Senator KENNEDY, is occupied right now chairing a committee hearing that is of great importance. It is for this reason that the privilege comes to me to be comanager of the mental health systems bill while Senator KENNEDY is otherwise occupied. It is regrettable that he cannot be here. In my estimation he has done such a sensitive and painstaking legislative job in leading and developing this legislation, with great cooperation throughout the committee, and certainly from the ranking member of our committee, the Senator from Pennsylvania, Senator SCHWEIKER.

Mr. SCHWEIKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I rise in support of S. 1177, the Mental Health Systems Act. As the ranking Republican on the Health Subcommittee and the full Committee on Labor and Human Resources, I have been actively involved in the development of this legislation.

The bill before us today represents much careful work by the committee. Over the last year, we have molded the administration's original bill into a document worthy of congressional support. It provides a flexible, integrated system of mental health services that makes the best use of available resources; it focuses on the crucial needs of the chronically mentally ill; and it represents a rededication to a national policy of treating the mentally impaired in the most appropriate, least restrictive setting.

I take pride in associating myself with certain policies embodied in the text of this humane and cost-effective proposal:

First, the Mental Health Systems Act is a system. Since the passage of the Community Mental Health Centers Act in 1963, progress has been made in legitimizing community-based delivery of mental health care. For example, over 200,000 persons residing in 89 Federal Catchment areas, half of which have had community mental health center grants, are served each year by the community mental health system in Pennsylvania. Nevertheless, that progress has been stifled by your existing fragmented and exclusionary system of mental health care. After 17 years more than half of the total mental health dollar is still being spent in large State psychiatric institutions and mental health-related nursing homes.

For the first time, this bill promotes a policy that cuts across Federal, State, and local government jurisdictions. It forms a partnership whereby we can tap the State-run institutional dollar, direct it toward community-based care, eliminate duplication, provide coordination, and fill service gaps by funneling all mental health proposals through the State, and thereby eliminate authority of the Secretary of Health and Human Services to interpret needs and priorities.

Second, the bill strengthens the Health Planning Act. Last year, the Congress by a wide margin approved amendments to the Health Planning Act which contained provisions to take account of mental health services. This bill reinforces that commitment by requiring consistency between that act and a State's mental health operations plan upon which all systems' act proposals must be based.

Third, it sets up a small demonstration program for local proposals which the Secretary believes are innovative and of national significance. Private entities are allowed to share in this effort to provide better care for the mentally ill. Mental health has been monopolized by the public sector for too long. It is time for the private sector to recognize its responsibilities with regard to developing creative, affordable approaches to the delivery of mental health services.

Fourth, it recognizes the special needs of the elderly whose mental health is often complicated by debilitating physical conditions. The National Institute of Mental Health has estimated that during 1980 approximately 80 percent of the elderly who need assistance for emotional disturbance will never be served. Moreover, as many as 30 percent of those older Americans described as "senile" actually have reversible psychiatric conditions which, if treated, would allow them to become better functioning members of society while saving a substantial amount of health care dollars by reducing inappropriate institutionalization.

Fifth, and foremost, the bill provides needed support for the chronically mentally ill person who has been deinstitutionalized or diverted from inpatient care and is in need of services in the community. This section of the bill is one that I sponsored and worked hard to include in our committee bill. Nowhere are the failures of our current mental health system more glaring, the needs more acute, or the problems more complex and intractable than in this service area. A congressional study released in 1978 showed that the number of inpatients in State mental hospitals dropped 62 percent from 1969 through 1977. Many of those discharged were not receiving the care and services they needed. Instead they have been forgotten in slum housing, old hotels, and boarding homes. Without adequate food, clothing, or shelter they are caught in a revolving door of being discharged and readmitted many times with no appreciable improvement in their condition.

As a precondition of receiving funds under this bill, States must begin to implement a program of care that includes: Preparation of individual treatment plans, implemented through a system of individualized case management; accessibility to needed health and mental health services in the community; appropriate placement of former patients, with attention to problems of oversaturation, so that so-called psychiatric ghettoes are not created; accessibility to social services, recreational opportunities, and transportation; and for those patients who are not ready for independent living in the community, regulation of placement facilities to avoid the horrors of unsanitary and unsafe conditions, and actual physical abuse that have marked the lives of so many former inmates of State hospitals.

The committee is serious about its attention to the needs of this unfortunate population and its commitment to effectuate change for them. First, every community mental health center must allocate at least 20 percent of its budget to serving this population. Second, each State must use at least 5 percent in the first year, rising each year to 20 percent, of its Federal share of Mental Health Systems Act money for services to the chronically mentally ill. Finally, the Secretary must account for an expenditure for these disadvantaged persons of at least 10 percent, rising to 20 percent, over the authorized period of the bill.

This legislation contains many other features which I believe are worthy of support. I recommend its speedy passage so that the leadtime allotted in the bill for transition from the old to the new program will proceed smoothly.

Mr. President, I particularly commend the chairman of our Mental Health Subcommittee, Senator KENNEDY, and his staff for the fine work, leadership, and cooperation they have given in this effort. I regret that his conflict, because of a hearing schedule, does not permit him to manage this bill on the floor, but I commend him for his interest.

I also thank the chairman of our full committee, Senator WILLIAMS, and his staff for their interest and work in this project in the committee.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BOREN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I rise in support of S. 1177, the Mental Health Systems Act. This act would make significant changes in the Federal mental health services program in order to strengthen mental health services in our country, and to promote a more coherent interaction among Federal, State, and local elements of the Nation's mental health delivery system. The committee bill would reduce the present duplication of effort between the Federal and State levels and would improve the responsiveness of the mental health services program to the needs of mental patients.

The bill provides for the establishment of a partnership between local entities and agencies, State governments and the Federal Government for the purpose of improving coordination of mental health services in each State.

In addition, the bill replaces the existing community mental health center legislation with a broader, more flexible mental health services program that permits States, local public agencies or local private nonprofit agencies to apply for funds for mental health services targeted at such priority population groups as chronically mentally ill individuals, severely disturbed children and adolescents, elderly individuals, and others.

The bill requires the National Institute of Mental Health to establish an administrative unit concerned with the prevention of mental illness and the promotion of mental health including the development of national prevention goals.

In addition, the bill authorizes appropriations for existing rape control and prevention programs for 3 years and authorizes appropriations for demonstration, treatment and training programs for rape services. Mr. President, I believe each of these provisions will contribute toward greatly improving mental health services in this country.

A critically important aspect of this legislation is the inclusion of a patient's bill of rights and advocacy program in title III. Title III would provide patients admitted to a facility for the purpose of receiving mental health services with certain clearly defined basic rights, including the right to appropriate treatment in a setting that is most supportive of their liberty. A grievance procedure is required to be implemented at the local level so that any disputes concerning these rights may be resolved quickly and inexpensively, without necessary resort to Federal courts, as it now all too often the case.

The need for such a measure is well documented. Cases involving serious abuses of mental patients reach the courts with distressing frequency, and the existing patchwork of Federal, State, and court orders provide little effective guidance to most mental health providers, patients, or families with a member who is receiving treatment.

Mental patients are especially vulnerable to abuse or neglect and are especially handicapped in protecting their own interests. They are often deprived of the rights that they enjoy under general legal principles—such as the right to give informed consent to intrusive medical procedures—under the assumption that these rights do not apply to them. When individual rights are ignored, the needs of individuals are also ignored. There is a continuing need to assure attention to individuals within the program, and to assure their active participation in treatment. Thus, mental health rights are a major force for improving the services patients receive as well as for the public recognition of the full citizenship of the mentally ill.

In my judgment, the need for Federal legislation to establish these rights rests upon three foundations. The first and simplest is the Federal responsibility to assure that services funded or promoted by the Federal Government are delivered with a careful regard for the interests of those being served.

Second, the current patchwork of standards relating to mental health rights has caused unnecessary confusion among providers, patients, and patient's families. We need a clear statement of carefully balanced, workable principles to guide the mental health community.

Finally, the Congress has a responsibility to define with more comprehensiveness, clarity and balance the rights relating to mental health services that have been found to arise from the Federal Constitution. Until now, we have left this responsibility to the courts, and this case-by-case basis has resulted in inconsistent and piecemeal results. This has encouraged litigation for the sole purpose of clarifying rights and obligations that should be balanced legislatively.

Mr. President, title III has been carefully drafted to minimize the need to resort to litigation. The rights are clearly and precisely delineated. Internal rights protection systems and grievance procedures are required, and no lawsuit can be filed until administrative remedies have been exhausted. Litigation will no longer be the necessary means to rights definition and application, but will become a last resort to the settlement of disputes. The recent explosion of mental health litigation can be substantially abated with the enactment of title III.

Finally, Mr. President, I wish to acknowledge the remarkable thoroughness with which this title was refined during committee consideration of S. 1177. More than 23 successive drafts were circulated to interested parties for their comment, and frequent meetings between staff and these interest groups were held over a 6-month period. The president of the American Psychiatric Association was invited to brief the committee staff and engaged in a debate before the staff on this subject. Representatives of almost every major mental health provider, professional or citizen organization were extensively consulted. The result is remarkable—a great majority of mental health provider organizations have given their formal endorsement to title III of S. 1177. In my judgment, this fact supports the characterization of the rights and enforcement provisions of title III as balanced, reasonable and workable. They offer substantial protections and guidance to both patient and provider, and I urge my colleagues to support this effort to protect the civil rights of the mentally ill.

• Mr. DOLE. Mr. President, I am pleased to support the Mental Health Systems Act which we have before us for consideration at this time. In addition to citizens with varying degrees of physical disabilities, there were an estimated 834,000 persons receiving treatment at community mental health centers at the beginning of the 1977 reporting year. During the year, an estimated 1.05 million were added, and the number of people being treated increases with each year.

TRENDS IN TREATMENT

Since its inception in 1963, the community mental health centers program has aided millions of mentally disabled individuals throughout the country. Treatment for the mentally ill has undergone tremendous progress since the

19th century when individuals with psychological problems were shunted off to institutions never to be heard from again.

By the end of World War II, at least 80 percent of people suffering from mental illness were treated in large public institutions that were operated by the States. These institutions were, for the most part, underbudgeted and understaffed. The only hospitals that seemed to cope well with their mental population were those operated by the Veterans' Administration. In these hospitals, Federal support was almost three times that of State support in this area. The staff-patient ratio was over two times that found in State mental hospitals, and for this reason modes of treatment had far better results.

Because of the implications of housing mental patients, State hospitals were most often located in rural settings far from large population centers. The rational for such locations was largely an out-of-sight, out-of-mind approach. The positive side of this kind of location gave patients access to fresh air, opportunity for outside activities, and humane attention to basic needs. However, this pastoral setting contributed to a sense of isolation from community supports, as well as encouraging a chronic state of mental illness.

Somatic therapy, along with individual and group therapy, psychosurgery, and a comprehensive treatment plan were prominent modes of coping with mental disabilities during the 1940's. Further progress in treatment occurred in the mid-fifties with the acceptance of the use of tranquilizing drugs. As a result, there was a dramatic decrease in the rate of people being hospitalized in State institutions, and this decline has continued to the present. The widespread use of drugs made it possible to reduce the populations of State mental hospitals. Such a reduction in population caused the institutions to serve as back-up centers, in many cases, instead of as primary housing institutions.

With this trend, basic care for the mentally ill began to be provided through facilities and programs located in their home conmunities. This development in treatment has continued to the present, with community mental health centers responding to the new approach. State mental institutions are now chiefly used for initial treatment centers and to house long-term chronic mental patients who can never hope to rejoin their communities.

A POSITIVE APPROACH TO MENTAL HEALTH CARE

Community mental health centers have provided valuable services to our Nation's mentally disabled individuals. These CMHC's serve both children and adults and can operate as outpatient departments of general or mental hospitals, as part of State or regional systems for patient mental patient care, or as independent agencies operating at the local level. CMHC's have reduced the need of many persons suffering from mental illness for prolonged or repeated episodes of hospitalization. Interaction with normal, community life serves as therapy in itself, and those patients with less serious types of mental illness are enabled to return to their communities and participate in the mainstream of life. This approach to treatment provides the best therapy possible, because prolonged institutionalization only serves to reinforce mental problems intensified by isolation. CMHC's provide positive psychological support during difficult times of transition back to the community for mentally disabled individuals.

ENCOURAGEMENT OF ABILITIES

With this system of CMHC's, came an attitude of increasing openmindedness to the capabilities of people who had mental disabilities. There was an accent on what they could do, as opposed to what they should not be allowed to do, because they were a potential danger to society. It would seem that the most effective treatment for mental illness would be to encourage, whenever possible, participation in the mainstream of community life.

Just last month the Special Olympics were held in many States across the Nation, and we had an opportunity to witness the potential of mentally disabled persons. These people participated in sports activities that enabled them to demonstrate their capabilities to those observing their efforts. I think more activities of this kind should be encouraged at all levels of society. Every individual who participated in these Special Olympics was a winner—these individuals did not let a disability prevent them from open competition in a demonstration of overcoming great odds to perform normal activities.

PROBLEMS IN CURRENT PROGRAM

Some problems continue to exist, as may be expected in any program of this magnitude. However, the overall success of the community mental health centers program has been a viable alternative to State inpatient facilities for mental health care. Presently there are some 700 CMHC's serving millions of our citizens. Despite progress in providing this type of care, there are still many cases of people with chronic mental illness, children, adolescents, and older Americans who receive inadequate or no mental health care. In addition, certain other segments of our population continue to be underserved, among them women, racial and ethnic minorities, the urban poor, and migrant and seasonal farmworkers.

NEED FOR CURRENT LEGISLATION

More clearly outlined areas of responsibility at all levels of government are needed for providing mental health services. It is my hope that S. 1177 will assist in improving this valuable mental health program in those areas where problems continue to exist. This legislation defines and develops a closer partnership between the Federal and State Governments, as well as a better working relationship between Federal, State, and local government and community groups. Through legislative initiatives taken in this bill, conflicting and overlapping Federal statutes are clarified, and additional financial resources are provided to care for the deinstitutionalized mental patient.

Mr. President, the Community Mental Health Centers Act has made great strides in treatment for our Nation's mentally disabled citizens, but it has become increasingly clear that this is not an adequate vehicle for providing a coordinated, comprehensive system of mental health care as we enter the 1980's. Therefore, I strongly support the revisions in existing programs set forth by the Mental Health Systems Act of 1980, in strengthening the cooperation between the various levels of government and coordinating with community programs.●

UP AMENDMENT NO. 1414

(Purpose: To amend title XIX of the Social Security Act to strengthen the capabilities of States and the Federal Government to detect medicaid fraud, waste, and abuse and to improve the administration of the medicaid program by requiring the use of effective computerized management techniques)

Mr. SCHWEIKER. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 1414.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. . Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(r)(1)(A) In order to receive payments under subsection (a) without being subject to the penalties set forth in subparagraph (C) of this paragraph, a State must provide that mechanized claims processing and information retrieval systems of the type described in subsection (a)(3)(B) and detailed in an advance planning document approved by the Secretary be operational on or prior to the deadline established under subparagraph (B).

"(B) The deadline for operation of such systems for a State shall be the earlier of (i) September 30, 1982, or (ii) the last day of the sixth month following the date specified for operation of such systems in the State's most recently approved advance planning document submitted prior to the date of enactment of this subsection.

"(C) If a State fails to meet the deadline established under subparagraph (B), the Federal matching percentages, with respect to the next two fiscal quarters beginning on or after such deadline, for purposes of paragraphs (2) and (7) of subsection (a) shall be reduced by 5 percentage points. Such Federal matching percentages shall be further reduced by an additional 5 percentage points after each period consisting of 2 fiscal quarters during which the Secretary determines the State fails to meet the requirements of subparagraph (A); except that neither such Federal matching percentage may be reduced by more than 25 percentage points by reason of this paragraph.

"(D) The Federal matching percentages for a State under paragraphs (2) and (7) of subsection (a) shall be restored to the full percentage as provided in such paragraphs for quarters following the quarter during which such State meets the requirements of subparagraph (A).

"(2)(A) In order to receive payments under subsection (a) without being subject to the penalties set forth in subparagraph (C) of this paragraph, a State must have its mechanized claims processing and information retrieval systems, of the type required to be operational under paragraph (1), initially approved by the Secretary as meeting the requirements of subsection (a)(3)(B) and the requirements of this subsection relating to initial approvals, on or prior to the deadline established under subparagraph (B).

"(B) The deadline for approval of such systems for a State shall be the last day of the fourth fiscal quarter that begins after the date on which the Secretary determines that such systems became operational as required under paragraph (1).

"(C) If a State fails to meet the deadline established under subparagraph (B), the Federal matching percentages, with respect to the two fiscal quarters next following such deadline, for purposes of paragraphs (2) and (7) of subsection (a) shall be reduced by 5 percentage points. Such Federal matching percentages shall be further reduced by an additional 5 percentage points at the end of each period consisting of two fiscal quarters during which the State fails to meet the requirements of subparagraph (A); except that neither such Federal matching percentage may be reduced by more than 25 percentage points by reason of this paragraph.

"(D) The Federal matching percentages for a State under paragraphs (2) and (7) of subsection (a) shall be restored to the full percentage as provided in such paragraphs for quarters following the quarter during which such State's systems are approved by the Secretary as provided in subparagraph (A).

"(E) Any State's systems which are approved by the Secretary for purposes of subsection (a)(3)(B) on or before the date of the enactment of this subsection shall be deemed to be initially approved for purposes of this subsection.

"(3)(A) When a State's systems are initially approved, the 75 percent Federal matching provided in subsection (a)(3)(B) shall become effective with respect to such systems, retroactive to the first quarter beginning after the date on which such systems became operational as required under paragraph (1), except as provided in subparagraph (B).

"(B) In the case of any State which was subject to a penalty under paragraph (2), the Federal matching percentage under subsection (a)(3)(B) shall be reduced by 5 percentage points with respect to the two fiscal quarters next following the approval deadline date under paragraph (2)(B), and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two fiscal quarters beginning after such deadline date and before the date on which such systems are initially approved.

"(C) The Federal matching percentage for a State under subsection (a)(3)(B) shall be 75 percent for quarters beginning after the date on which such systems are initially approved.

"(4)(A) The Secretary shall review all approved systems not less often than once each fiscal year, and shall reapprove or disapprove any such systems. Systems which fail to meet the current performance standards, system requirements, and any other conditions for approval developed by the Secretary under paragraph (6) shall be disapproved. Any State having systems which are so disapproved shall be subject to a penalty under subparagraph (B). The Secretary shall make the determination of reapproval or disapproval and so notify the States not later than the end of the first quarter following the review period.

"(B) If the Secretary disapproves a State's systems under subparagraph (A), the Secretary shall, with respect to quarters beginning after the determination of disapproval and prior to the first quarter beginning after such systems are reapproved, reduce the Federal matching percentage for such State under subsection (a)(3)(B) to a percentage of not less than 50 percent and not more than 70 percent as the Secretary determines to be appropriate and commensurate with the nature of noncompliance by such State; except that such Federal matching percentage may not be reduced by more than 10 percentage points in any 12-month period by reason of this subparagraph. No State shall be subject to the penalty for noncompliance under this paragraph prior to the fifth quarter beginning after initial approval.

"(C) The Secretary may remit any penalty levied under subparagraph (B), if the Secretary determines that the State's systems meet all current performance standards and other requirements for reapproval and that such action would improve the administration of the State's plan under this title; except that no such remission may extend beyond the four quarters immediately prior to the quarter in which Federal matching under subsection (a)(3)(B) resumes.

"(5)(A) In order to be initially approved by the Secretary, mechanized claims processing and information retrieval systems must be of the type described in subsection (a)(3)(B) and must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types of services and items, including prescribed drugs.

"(ii) The State must provide that information on probable fraud or abuse which is obtained from, or developed by, the systems, is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet all performance standards and other requirements for initial approval developed by the Secretary under paragraph (6).

"(B) In order to be reapproved by the Secretary, mechanized claims processing and information retrieval systems must meet the requirements of subparagraphs (A)(i) and (A)(ii) and performance standards and other requirements for reapproval developed by the Secretary under paragraph (6).

"(6) The Secretary, with respect to State systems, shall—

"(A) develop performance standards, system requirements, and other conditions for approval for initially approving such State systems, and shall further develop written approval procedures for conducting such initial reviews, including specific criteria for assessing systems in operation to insure that all such performance standards and other requirements are met;

"(B) by not later than October 1, 1980, develop an initial set of performance standards, system requirements, and other conditions for reapproval for use in reapproving or disapproving State systems, and shall further develop written reapproval procedures for conducting such reapproval reviews including specific criteria for reassessing systems operations over a period of at least six months during each fiscal year to insure that all such performance standards and other requirements are met on a continuous basis;

"(C) provide that reapproval reviews conducted prior to October 1, 1981, shall be for the purpose of developing a systems performance data base and assisting States to improve their systems, and that no reduction in Federal matching percentage under paragraph (4) shall be made on the basis of such a review;

"(D) insure that review procedures, performance standards and other requirements developed under subparagraph (B) are sufficiently flexible to allow for differing administrative needs among the States, and that such procedures, standards, and requirements are of a nature which will permit their use by the States for self-evaluation;

"(E) notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards and other requirements will be used for conducting reapproval reviews;

"(F) periodically update the systems performance standards, system requirements, review criteria, objectives, regulations, and guides as the Secretary shall from time to time deem appropriate;

"(G) provide technical assistance to States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

"(H) for the purpose of insuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform identification coding system (to the extent feasible) for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under the State plans (approved under this title) or under title XVIII;

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

"(I) develop and disseminate clear definitions of those types of reasonable costs relating to the State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

"(J) report on or before October 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

"(7)(A) The Secretary shall waive the provisions of this subsection with respect to initial operation and approval of mechanized claims processing and information retrieval systems with respect to any State which had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), and with respect to any State other than the 50 States and the District of Columbia, if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title.

"(B) If a waiver granted to a State under subparagraph (A) is subsequently withdrawn, the Secretary shall impose a timetable for such State with respect to compliance with the provisions of this subsection and the imposition of penalties. Such timetable shall be comparable to the timetable established under this subsection as to the amount of time allowed such State to comply and the timing of penalty assessments.

"(8) (A) The reductions in payments to States required under this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the relevant requirements of this subsection—

"(i) for good cause (but such a waiver may not be for a period in excess of 6 months), or

"(ii) due to circumstances beyond the control of such State.

"(B) If the Secretary determines under subparagraph (A) that a State is not subject to such reductions, the Secretary shall report to the Congress on the basis for each such determination and on the modification of all deadlines and penalties as described in subparagraph (C).

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

Mr. SCHWEIKER. Mr. President, this medicaid antifraud, waste and abuse amendment is similar to an amendment which passed the Senate by voice vote on October 25, 1979. It requires all States, unless waived, to install computerized medicaid management systems to administer the State/Federal medicaid program, and further requires that procedures be implemented to insure that the most cost effective management techniques are continually utilized by all States which administer a medicaid program.

Although this overdue reform passed the Senate October 25, it was discarded by the conference committee because of a jurisdictional problem and because of last minute technical objections voiced by the Department of Health and Human Services. The amendment I am offering today was developed in consultation with HHS, which supports this improved amendment, and with the cooperation of the Senate Finance Committee staff, and the staff of the House committee of jurisdiction. We have eliminated, to the best of our ability, the technical problems of my initial medicaid management amendment, and have established more appropriate deadlines for computerized system implemention and better incentives for system installation. This amendment is an improved version of my earlier amendment, but it accomplishes identical objectives.

Mr. President, I do not believe the Senate Finance Committee, which has primary jurisdiction over medicaid legislation, has any substantive objections to my amendment. I have worked in cooperation with the committee on this issue since last October, and because similar legislation has already passed the Senate with the Finance Committee's approval, I do not believe the committee has any objections to this technically improved version.

I would like to restate the basis for this amendment and the strong need for its prompt enactment. Over 7 years ago, a computerized medicaid management information system, commonly known as "MMIS," was developed. By coordinating information on medicaid providers, recipients, and claims, MMIS has enabled both the large and small States which use it to save literally hundreds of millions of medicaid dollars. This sophisticated system can be tailored to the needs of any State and is currently being utilized by States ranging in population size from tiny Hawaii to California; 29 States have installed the system to date, and the taxpayers are enjoying enormous savings as a result. For example, New York City saved an estimated $100 million by installing MMIS. Florida rejected $26 million worth of erroneous claims the first year an MMIS was operational. Idaho, with a relatively small program, saved $1.4 million the first year it installed the system. The list goes on, indicating that MMIS can save an average of 5 percent of medicaid program costs. This is not a small amount, when you consider that medicaid is a $20 billion program.

Presently the Federal Government pays 90 percent of the developmental and startup costs for MMIS, and 75 percent of its operational costs once in place. States that do not have MMIS are only reimbursed for 50 percent of their operational costs. However, for often unacceptable reasons, over 40 percent of the States have failed to install these computerized systems to get their medicaid programs out of the stone age. The primary purpose of my amendment is to push these laggard States to install the computerized systems by reasonable deadlines.

A number of GAO reports, including a September 1979, report I requested on my own State of Pennsylvania, have stressed that the antiquated manual medicaid claims processing systems still used by many States simply cannot detect fraud, waste, and abuse. In fact, in my own State it was calculated that claims payment personnel could take only 5 seconds to view each claim which is hardly enough time to add up the figures. The GAO report said Pennsylvania had not been doing its job, and the same is true in other States. At a time when the American people and Congress are justly concerned with poor and wasteful use of tax dollars, it is difficult to explain that many of our States run multimillion dollar medicaid programs without the capability even to detect, let alone stop, medicaid waste ranging from paying ineligible providers, or paying providers twice for the same service, to thousand dollar fraud. This is especially difficult to explain given the fact that computerized systems that can easily detect waste, fraud, and abuse have been available for installation for over 7 years.

These MMIS computerized systems have proven to save about 5 percent of medicaid program costs where installed. States not yet having MMIS accounted for an estimated $7.3 billion in medicaid expenses last year.

If MMIS installations save 5 percent of program costs in those States—and that has been the experience of States that have put them in to date—$365 million will be saved the first year the new systems have been installed. Some savings estimates go up to 8 percent, depending on the State and the mechanics of their program.

Most of the laggard States report they are currently working to install mechanized systems, yet some of them have been trying to install systems, which should take 6 to 18 months, for over 6 years. GAO documented repeated delays in Illinois and Pennsylvania. Washington, D.C., and Maryland submitted detailed plans for MMIS installation almost 5 years ago, and still have no systems running. The list goes on, the record showing State after State pledging to HHS to have an operational system by a certain date, and failing to stick to their pledges time after time.

In fact, even since last summer when I first started working on this matter, 9 States have slipped on their installation date pledges by 1 year or more. Yet these and other laggard States continue to receive 90-percent Federal funding for their "efforts" to install computerized systems.

The developmental and installation costs for MMIS are minimal compared to the systems' potential savings, and the Federal Government picks up 90 percent of these costs. Money to cover this has already been budgeted for HHS's fiscal year 1981 budget, and HHS has pledged, as usual, to push laggard States to install the system. Yet the delays continue. The time has come to end the delays and to begin to enjoy the fullest savings the most efficient computerized administrative systems can offer.

The primary purpose of my amendment is to ensure that States stick to their plans to install MMIS by establishing penalties for failure to do so. And my secondary purpose is to insure that medicaid management systems continue to operate effectively once installed. With these goals, my amendment does the following:

First, it requires States, by a specified deadline, to have mechanized medicaid management systems operational as detailed in their pledge submitted to HHS prior to receiving 90 percent Federal funding for systems development. If unwaived States do not have a system operational by the earlier of September 30, 1982 or 6 months after the date specified for systems operation in their pledge to HHS, they will begin to lose Federal matching money they get for medicaid administrative costs. Once a system is operational, the State is then allowed 1 year to debug their system, at the conclusion of which it must be approved as meeting all requirements of an effective system.

Second, my amendment requires HHS to aid States with technical advice on installation and operation of effective computerized systems. HHS is also required to develop clear and reasonable guidelines to aid States in understanding what constitutes an effective system eligible for higher Federal matching.

Third, HHS is required, as recommended in a GAO report, to periodically check State systems in operation to insure that they continue to meet appropriate performance requirements. If

States do not meet appropriate requirements after a reasonable time period, they will be assessed penalties until they are brought back into compliance.

Finally, my amendment allows for enough flexibility so that the very few small, efficient States which do not need computerized systems to improve efficiency may be waived from installation requirements, and so that other States will not be penalized without good cause.

I believe that the approach I take in this amendment is fair to both the States and the taxpayers. The installation deadlines established allow the States plenty of time to get their systems going. But at the same time, a deadline is set so that we can put a stop to the constant and costly pattern of delay that the record shows.

Second, by calling for HHS to give more technical assistance to States trying to install the system, it attempts to eliminate one of the stumbling blocks—lack of technical expertise—that have caused States to delay.

Third, by requiring HHS to periodically check State systems in operation to determine if minimum standards for the higher 75-percent Federal matching are being met, it attempts to insure that once the systems are in place, they will be properly operated so that their enormous cost savings potential can be fully realized.

I would like to emphasize that although my amendment requires HHS to check State systems in operation to insure that certain minimum requirements are met, it is not my intent to have HHS draft regulations which require uniform types of computer systems, the use of only certain types of computer hardware and software, or the mechanization of every aspect of every State's medicaid program. I have been quite careful in drafting the amendment to require only that States meet certain performance criteria, and that their systems meet certain broad objectives.

For example, my amendment directs HHS to require that State systems have the ability to develop provider and patient profiles so that individuals can be isolated and checked for possibly abusive practice. Any mechanized system should have this capacity. However, it is not my intent for HHS to tell the States exactly how they must go about developing these profiles. Most States will need computers and sophisticated programs to do so, but some States may be able to develop profiles with simple processes.

I am well aware that HHS has not always allowed for sufficient State flexibility when it drafts regulations, and has sometimes imposed requirements on all States which are reasonable only for some States. I would like to state very clearly, for purposes of legislative history, that my amendment is intended to direct HHS to develop criteria for mechanized systems which are sensitive to the differing needs and programs of different States. They are to develop system parameters to be used in checking State systems, but are to leave the States free within those parameters to run their medicaid programs as the States feel best.

Finally, my amendment contains a waiver provision which allows the few small States with small medicaid programs which will not benefit from mechanization to continue running their programs using manual techniques. If such States can demonstrate their ability to run efficient systems without mechanization, they will be permitted more far-reaching departures from the provisions of my amendment, as it makes no sense to require computer installation if it is unnecessary.

I believe that it is the proper role of the Federal Government, which will pour over $12 billion into medicaid reimbursements next year, to require the kind of proven medicaid management techniques MMIS brings. Although we have not yet developed perfect computerized management techniques to wipe out all program error, experts are unanimous in agreeing that automated systems are much better than the obsolete and inefficient manual techniques still used in many States.

As long as States continue to run their medical programs using obsolete and inefficient management techniques, and as long as States need technical assistance to run their programs effectively, the administrative integrity of the medicaid program is threatened and tax dollars are wasted. My amendment establishes the kind of responsible oversight and improvement that is sorely needed in these times of increased taxpayer aversion to Government programs and spending.

Mr. President, I hope that the Senate will once again agree that it is time to require the use of efficient medicaid management techniques. I urge my colleagues to accept this amendment.

Mr. WILLIAMS. Mr. President, certainly the record tells us that the Senate has voiced its approval of this amendment of the Senator from Pennsylvania as well as on many another occasion. The amendment is worth while and, for this side of the aisle, I would recommend that we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1414) was agreed to.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1415

Mr. WILLIAMS. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1415.

Mr. WILLIAMS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On p. 67, line 6, change "IV(A)" to "IV(B)".

On p. 72, line 21, change "IVb" to "IV(B)".

On p. 73, line 23, change "IV(b)" to "IV(B)".

On p. 80, line 19, insert "(1)" before "health facilities".

On p. 80, line 21, insert "(2)" before "mental health facilities".

On p. 85, line 6, change "considering" to "consideration".

On p. 99, line 1, change "recommendation" to "recommendations".

On p. 143, line 4, change "306(b)" to "304(b)".

On p. 143, line 17, insert "organization" after "citizen".

On p. 114, line 6, change "any" to "each".

Mr. WILLIAMS. Mr. President, the amendment makes a small number of technical changes in S. 1177. During the marking up of this bill, a few inconsistencies in grammar, cross-referencing and matters of that nature were discovered. Inadvertently, they were not corrected before coming to the floor with the bill. The amendment makes the necessary corrections, all of a technical nature.

Mr. SCHWEIKER. Mr. President, these amendments are perfectly acceptable to the minority and I strongly support them.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1415) was agreed to.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, the Mental Health Systems Act contains a small but vital program authorization. Title VII of the act authorizes the National Center for the Prevention and Control of Rape within NIMH to provide service funding for organizations, both public and private, which provide assistance to the victim of rape. The National Center is currently authorized only to conduct research into the trauma suffered by the victim, methods of treating that trauma, the causes of rape and avenues of reducing the incidence of rape.

I was grateful to the Senate for passing the legislation which I sponsored in 1975 which resulted in the establishment of the National Center.

It is now time for the results of that research to be applied by providing some minimum level of support for services to rape victims. Title VII of the act before us provides that support.

I express my appreciation to the chairman, the Senator from New Jersey (Mr. WILLIAMS) and the ranking minority member, the Senator from Pennsylvania

(Mr. Schweiker) for their careful and thoughtful consideration of this provision.

Among the services which would be eligible for support are:

Training programs for professional, paraprofessional, and volunteer personnel in law, social service, mental health, and related counseling fields;

Counseling for the victim, and/or her immediate family, and/or counseling of the offender;

Referral to appropriate allied professional services;

Community education concerning rape—how, when, and why it occurs;

Offender counseling and rehabilitation;

Self-help programs for victims as well as potential victims;

Telephone hot lines as the first avenue of assistance usually sought by the victim;

Emergency shelter programs; and

Development and evaluation of methods of preventing rape.

I need not remind Senators of the magnitude of the heinous crime of rape and the trauma it brings to its victims. Rape has no age, race, or income barriers. It can happen to anyone and it does.

The FBI reports that a rape is committed in the United States once every 10 minutes. It is a crime that is heavily underreported because of the trauma, embarrassment, and burden of proof placed upon the rape victim. Authorities in the field estimate a probability of 1 in 15 that a women will be raped in her lifetime.

The National Center for the Prevention and Control of Rape estimates there are 900 rape crisis centers across our Nation which serve as the first point of aid and comfort to the rape victim. For the most part, such centers are volunteer efforts relying on donations of money, space, and time from their communities.

Too much of their time is devoted to staying afloat financially instead of counseling and aiding the victim. There exists a great need in this country to provide a reliable and stable source of financial support for such rape crisis centers in order that they might continue to upgrade the quality and quantity of victim services as well as broaden community education about the subject.

I am pleased to have had the cosponsorship of this provision of the bill by Senators Bayh, Heinz, Jackson, Stafford, Riegle, Randolph, Leahy, Inouye, Tsongas, Williams, Wallop, and Hatfield.

Mr. SCHWEIKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I commend the Senator from Maryland (Mr. Mathias) for his leadership in this area.

The Senator has worked on this problem for a number of years. This is significant in terms of putting the bill into a legislative framework and to assure we have a good chance of getting it all the way through the Congress and onto the President's desk.

The Rape Prevention and Treatment Act, which he has introduced and fought for, is a very significant piece of legislation. I think it is needed. That is why the committee did incorporate Senator Mathias' bill and concept into this bill.

It appropriately fits in some of our delivery systems for mental health and is an adjunct to that.

Senator Mathias is to be commended for his perseverance and leadership in this area. I am pleased to strongly support this part of the bill, which we included at his innovation.

Mr. MATHIAS. I thank the Senator from Pennsylvania.

As I said earlier, I am very grateful for his supportive attitude and the careful consideration he has given this matter in committee.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I have an amendment to the pending bill, but the staff of the committee and my own staff are working right now to try to bring about a satisfactory compromise. I believe that if the Senate will bear with us just a few more minutes, we will be ready to proceed with it. In doing so, we may save hours of the Senate's time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I ask for the yeas and nays on final passage of this bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1416

(Purpose: To encourage States to adopt laws protecting mental health patients)

Mr. MORGAN. Mr. President, on behalf of myself, the Senator from New Jersey (Mr. Williams), the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Hatch), the Senator from South Carolina (Mr. Thurmond), the Senator from North Carolina (Mr. Helms), and the Senator from Nebraska (Mr. Exon), I send forth an unprinted amendment, and I might say while it is going forward that it is essentially the same amendment that I had put at the desk and had printed except with some slight modifications.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina (Mr. Morgan) for himself, Mr. Williams, Mr. Dole, Mr. Hatch, Mr. Thurmond, Mr. Helms, and Mr. Exon proposes an unprinted amendment numbered 1416.

Mr. MORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 122, line 5, strike out through page 144, line 10, and insert in lieu thereof the following:

"BILL OF RIGHTS

"Sec. 301. It is the sense of the Congress that each State should review and revise, if necessary, its laws to insure that mental health patients receive the protection and services they require. It is further the sense of the Congress that each State should take into account the recommendations of the President's Commission on Mental Health, and the following provisions:

"Sec. . (a) A person admitted to a program or facility for the purpose of receiving mental health services has the following rights:

"(1) The right to appropriate treatment and related services in a setting and under conditions that—

"(A) are most supportive of such person's personal liberty; and

"(B) restrict such liberty only to the extent necessary consistent with such person's treatment needs, applicable requirements of law, and applicable judicial orders.

"(2) The right to an individualized, written, treatment or service plan (such plan to be developed promptly after admission of such person), the right to treatment based on such plan, the right to periodic review and reassessment of treatment and related service needs, and the right to appropriate revision of such plan, including any revision necessary to provide a description of mental health services that may be needed after such person is discharged from such program or facility.

"(3) The right to ongoing participation, in a manner appropriate to such person's capabilities, in the planning of mental health services to be provided such person (including the right to participate in the development and periodic revision of the plan described in paragraph (2)), and, in connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to such person's condition and ability to understand, of—

"(A) such person's general mental condition and, if such program or facility has provided a physical examination, such person's general physical condition;

"(B) the objectives of treatment;

"(C) the nature and significant possible adverse effects of recommended treatments;

"(D) the reasons why a particular treatment is considered appropriate;

"(E) the reasons why access to certain visitors may not be appropriate; and

"(F) any appropriate and available alternative treatments, services, and types of providers of mental health services.

"(4) The right not to receive a mode or course of treatment, established pursuant to the treatment plan, the absence of such person's informed, voluntary, written consent to such mode or course of treatment, except that treatment may be provided without such consent—

"(A) during an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

"(B) as permitted under applicable law in the case of a person committed by a court to a treatment program or facility.

"(5) The right not to participate in experimentation in the absence of such person's informed, voluntary, written consent, the right to appropriate protections in connection with such participation, including the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks, and the right and opportunity to revoke such consent.

"(6) The right to freedom from restraint or seclusion, other than as a mode or course of treatment, except that restraint or seclusion may be used during an emergency situation if such restraint or seclusion is pursuant to or documented contemporaneously by the written order of a responsible mental health professional.

"(7) The right to a humane treatment environment that affords reasonable protection from harm and appropriate privacy to such person with regard to personal needs.

"(8) The right to confidentiality of such person's records, including confidentiality of information pertaining to such person's identity, diagnosis, prognosis, and treatment, under the same terms and conditions applicable to patients under section 515 of the Public Health Service Act.

"(9) The right to access, upon request, to such person's mental health care records, except that such person may be refused access to—

"(A) information in such records provided by a third party under assurance that such information shall remain confidential; and

"(B) specific material in such records if the health professional responsible for the mental health services concerned has made a determination in writing that such access would be detrimental to such person's health, except that such material shall be made available to a similarly licensed health professional selected by such person and such health professional may, in the exercise of professional judgment, provide such person with access to any or all parts of such material or otherwise disclose the information contained in such material to such person.

"(10) The right, in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours, except that, if a mental health professional treating such person determines that denial of access to a particular visitor is necessary for treatment purposes, such mental health professional may, for a specific, limited, and reasonable period of time, deny such access if such mental health professional has ordered such denial in writing and such order has been incorporated in the treatment plan for such person. An order denying such access shall include the reasons for such denial.

"(11) The right to be informed promptly at the time of admission and periodically thereafter, in language and terms appropriate to such person's condition and ability to understand, of the rights under this part.

"(12) The right to assert grievances with respect to infringement of such person's rights under this part, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the program or facility.

"(13) Notwithstanding paragraph (10), the right of access to (including the opportunities and facilities for private communication with) any available—

"(A) rights protection service within the program or facility;

"(B) rights protection service within the State mental health system designed to be available to such person; and

"(C) qualified advocate; for the purpose of receiving assistance to understand, exercise, and protect such persons rights under this part and other provisions of law.

"(14) The right to exercise such person's rights under this part without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

"(15) The right to referral as appropriate to other providers of mental health services upon discharge.

"(b)(1) The rights provided in this section are in addition to and not in derogation of any other statutory or constitutional rights otherwise afforded to all persons, handicapped persons, or recipients of health care services.

"(2) The rights to confidentiality of and access to records as provided in paragraphs (8) and (9) of subsection (a) shall remain applicable to records pertaining to a person after such person's discharge from the program or facility.

"(c)(1) No otherwise eligible person shall be denied admission to a program or facility for mental health services as a reprisal for the exercise of the rights provided in this section.

"(2) Nothing in this section shall—

"(A) obligate an individual mental health or health professional to administer treatment contrary to such professional's clinical judgment;

"(B) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

"(C) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by withholding consent to proposed treatment; or

"(D) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

"(3) In order to assist a person admitted to a program or faciilty in the exercise or protection of such person's rights, such person's attorney or legal representatives shall have reasonable access to—

"(A) such person;

"(B) the areas of the program or facility where such person has received treatment, resided, or had access; and

"(C) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services to which such person has a right of access under subsection (a)(9).

"(4) Each program and facility shall post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights under this title of all persons admitted to such program or facility. Each such notice shall conform to the format and content for such notices, and shall be posted in all appropriate locations.

"(d)(1) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent to treatment or experimentation under paragraph (4) or (5) of subsection (a), or the right to confidentiality of or access to records under paragraph (8) or (9) of such subsection, or to provide authorization pursuant to subsection (c)(3)(C), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization.

"(2) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under paragraph (4) or (5) of subsection (a), or the right to confidentiality of or access to records under paragraph (8) or (9) of such subsection, or to provide authorization pursuant to subsection (c)(3)(C), because such person has not attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf of such person by a parent or legal guardian of such person.

"(3) Notwithstanding paragraphs (1) and (2), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility may act as such person's guardian or representative under this subsection.

"REPORT ON ADVOCACY

"SEC. 302. (a) The Comptroller General shall conduct a study to examine the performance of advocacy programs that represent—

"(1) persons admitted to programs and facilities for the purpose of receiving mental health services;

"(2) persons who are developmentally disabled or severely disabled; and

"(3) youth, racial and ethnic minorities, women, and other appropriate groups with respect to the constitutional and statutory rights of such persons.

"(b) No later than the date eighteen months after the effective date of this title, the Comptroller General shall submit to the President and the Congress a comprehensive report of such study, and shall include in such report any legislative recommendations that the Comptroller General considers appropriate.

"(c) The report shall access the performance of advocacy programs established by Congress or undertaken as demonstration projects within executive agencies designed to protect the constitutional and statutory rights of priority population groups. The report shall, at a minimum—

"(1) summarize the advocacy activities and evaluate the performance of advocacy efforts authorized by the Developmental Disabilities Assistance and Bill of Rights Act and the Rehabilitation Act;

"(2) describe and assess the role of the Legal Services Corporation in providing legal services to such priority population groups;

"(3) describe and assess the role of the various volunteer agencies and other institutions and professions in providing advocacy services;

"(4) assess the need for advocacy services currently not being provided;

"(5) make recommendations regarding the efficient provision of advocacy services;

"(6) make recommendations regarding measures to improve the Federal advocacy effort on behalf of youth, racial and ethnic minorities, and women; and

"(7) assess the impact of advocacy programs upon the cost and quality of care and treatment in programs and facilities.

EFFECTIVE DATE

"SEC. 303. This title shall become effective on the date of the enactment of this Act."

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 304. (a) In order for a State to receive funds under title II, the State shall have in effect a system to protect and advocate the rights of mentally ill individuals. Such system shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and be independent of any agency which provides treatment, services, or rehabilitation to mentally ill individuals. The State shall submit to the Secretary in a form prescribed by the Secretary in regulations—

(1) a report, not less often than once every three years, describing the system; and

(2) an annual report describing the activities carried out under the system and any changes made in the system during the previous year.

(b)(1)(A) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the sums appropriated under section 602 (c). Allotments and reallotments of such sums shall be made in accordance with subparagraph (B), except that no State (other than Guam, the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) in any fiscal year shall be alloted an amount under this paragraph which is less than the greater of $50,000 or the amount of the allotment to the State under this subsection for the previous fiscal year.

(B) In each fiscal year, the Secretary shall, in accordance with regulations, allot the sums appropriated for such year under section 602 (c) among the States on the basis of—

(i) the population;

(ii) the extent of need for services for the chronically mentally ill; and

(C) the financial need,

of the respective States. The amount of an allotment to a State for a fiscal year, which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as the Secretary may fix (but not earlier than thirty days after the Secretary has published notice of the intention to make such reallotment in the Federal Register), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such periods; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under this paragraph for such fiscal year.

(2)(A) Notwithstanding paragraph (1), if the aggregate of the amounts of the allotments for grants to be made in accordance with paragraph (1) for any fiscal year exceeds the total of the amounts appropriated for such allotments under section 602(c), the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such paragraph as the total of the amounts appropriated for that year under section 602 (c) bears to the aggregate amount required to make an allotment to each of the States in accordance with paragraph (1).

(B) The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section.

(3) The Secretary shall set aside up to 10 percent but not less than 5 percent of funds available for grants and contracts under this section for the provision of technical assistance, training by entities concerned with and back-up support advocacy.

On page 51, strike out the items relating to title III and insert the following in lieu thereof:

"TITLE III—MENTAL HEALTH RIGHTS AND ADVOCACY

"Sec. 301. Bill of Rights.

"Sec. 302. Report on advocacy.

"Sec. 303. Effective date.

"Sec. 304. Protection and Advocacy of Individual Rights.".

Mr. MORGAN. Mr. President, this relates to title III of the bill, which was concerned with a bill of rights for the mentally ill and accompanying enforcement provisions.

I had some real concerns as did others about that provision as it was written. By working with staff of the committee and the staffs of the various Members of the Senate we have agreed on this compromise. I think it is a good compromise. I urge all of my colleagues to support it.

Mr. President, this compromise encourages States to provide adequate protection for mental health patients. It authorizes an advocacy program to be run by the individual States and requires it for those States which establish a State mental health system pursuant to this act.

At the same time, it takes care of my major concerns with title III as proposed by the committee, namely, the Federal bill of rights and especially the application of these rights to private institutions, the private right of action in the Federal courts, and external advocacy.

I think it is a good compromise, and I urge its adoption.

Mr. President, I might mention that 35 States already have a bill of rights for the mentally ill.

THE RIGHTS THEMSELVES

Mr. President, some question has been raised about why my amendment provides such a weak endorsement—even in terms of State action—of the specified rights themselves. At the same time, most of the debate surrounding title III has focused on the larger issues, namely on whether there should be a Federal bill of rights at all, on the private right of action, and on external advocacy.

Mr. President, there are a number of problems with the enumerated rights themselves, as I interpret them. Some of these rights have some very broad implications if broadly interpreted by the courts, and there is no reason, in my opinion, to conclude that some courts would not rule in such a fashion.

The 2d and 15th rights, taken together, can be construed to confer an absolute right of treatment to any mental health patient after discharge from a program or facility, and may well establish mental health treatment has an entitlement under medicare and medicaid, contrary provisions in the Social Security Act notwithstanding.

The fourth and sixth rights, again taken together, clearly mean that the Federal courts have the right to review any commitment or treatment decisions made by the State courts. The right to refuse treatment is only qualified by two factors, first, the existence of an emergency situation, and second "as permitted under applicable law in the case of a person committed by a court to a treatment program or facility." The problem here is that applicable law includes the Federal bill of rights, and so every State court decision is reviewable on Federal, statutory grounds.

Right No. 12 requires every State institution, county and private hospital, and every community mental health center to have a "fair, timely, and impartial grievance procedure" which has to meet standards set in Federal regulations.

Not knowing what the regulations will say, it is difficult to predict how much complying with No. 12 will cost these facilities. But, it seems that, at the very least, every facility is going to have to hire two new employees, one arbitrator and one secretary. But the cost per institution could be much higher if that grievance procedure is required to have an appeals process.

This requirement is especially ironic in the case of hospitals, considering the pressure the administration is putting on hospitals by reducing Federal reimbursement levels under medicare and medicaid and by threatening Federal revenue controls.

The 14th right, the right to be free from reprisal including "reprisal in the form of denial of any appropriate, available treatment" contradicts with right No. 4 (the right to refuse treatment) and with subsection (b)(2), which says a facility may discharge a person who has refused to consent to treatment. How are courts supposed to find its way through these contradictions in a consistent manner?

The ninth right, the right of access to records is perfectly reasonable in principle, but it is drafted in a way that seems odd. Basically, a mental health professional can refuse to provide a person with his records if he states, in writing, that access would be detrimental to the patient's health. However, the patient can, in effect, appeal to a second provider, and this second provider, who is not in any way responsible for treatment, has an absolute right to overrule the first provider without prior notice or consultation. This raises numerous problems, of which probably the most obvious is the question of liability if a malpractice suit is subsequently filed.

Mr. President, I yield the floor.

Mr. WILLIAMS. Mr. President, we have had opportunity to have thorough discussions with the Senator from North Carolina in connection with his concerns about some of the provisions of title III, and these discussions both with Members and with the assistance of staff have produced what impresses me as a very sound resolution. It brings us to an adjustment of the concerns of the Senator from North Carolina, one that I personally can accept and will recommend to my colleagues on this side of the aisle we accept.

The amendment offered by our distinguished colleague from North Carolina represents a compromise amendment and it is, in my judgment, a significant improvement over current law. It includes an excellent advocacy program and a statement of congressional intent for the establishment of a patient's bill of rights on a State-by-State basis.

This kind of comprehensive statement of rights in connection with those who are cared for in mental health facilities is long overdue, and this would bring to patients some fundamentals that all who have given profound thought to this problem have recommended.

So I am happy to join in this amendment, which is a compromise, but retains the essence of the bill of rights.

Mr. SCHWEIKER. Mr. President, I also rise and commend the Senator from North Carolina (Mr. Morgan). I think it is a good compromise. I think it is a positive contribution. I think it retains the thrust, the direction, and the objective of what the committee wanted to do, and yet I think it provides some balance and fairness.

I commend the Senator for his contribution and expertise in the area.

Mr. MORGAN. Mr. President, I thank my distinguished colleagues.

I wish to express to their staff and to my staff and especially to Tom Polgar of my staff my appreciation for the long hours of hard work they put in trying to resolve this matter in a manner that would be satisfactory to all parties concerned and at the same time protect the rights and interests of the mentally ill of this country.

Mr. Polgar has spent endless hours and weeks working with people from all across the country and working with other staff, and I express for the record my appreciation to him.

Mr. President, I am reluctant to ask for a rollcall vote because I know it takes time and it calls our colleagues away from their other duties, but because of the widespread interest and importance of it I feel that I must ask for a rollcall vote.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

● Mr. HATCH. Mr. President, one of the most important pieces of legislation the Congress will consider this year, and the most lasting in its impact is the Mental Health Systems Act. The bill emerged from the Labor and Human Resources Committee on which I serve, and I regret having to express reservations about portions of the bill now as I did during its consideration in committee.

Title III of the legislation would establish a bill of rights for mentally handicapped citizens admitted to mental health treatment programs, and would propose a mental health advocacy program. Senator Javits as the principle legislative architect of title III, the so-called patients' rights provision, is as usual inspired by a noble purpose, and it is one I share. As did all of my colleagues, I complimented him during the Health Subcommittee consideration of the bill, applauding the policy goals he eloquently established at that time, and voting to include a patients' rights section to the final bill which would later be reported by our committee.

On the Judiciary Committee where I also serve, I cosponsored and worked to enact legislation which has since become law, S. 10, the Civil Rights for Institutionalized Persons Act. However, while I have already begun to hear analogies being drawn between S. 10 and title III of S. 1177, there are actually essential differences which separate the two bills. While S. 10 provided a mechanism for enforcing patients rights, the title III provision we now find in S. 1177 goes much further in specifying these rights in enumerated form. Where S. 10 posits original legal authority with the States rather than with the Federal Government and exercises its mandated authority through the established institutional procedures within the respective State governments, title III presumes to act directly through individuals and thus bypassing the Federal-State lines of authority which we went to great pains to build.

For these and other reasons, I agreed to cosponsor the amendment which has been introduced by our colleague, Senator Morgan, in order to encourage each State to do what the prevailing title III section would mandate be done through the Federal Government. I confess that this is not especially hard for me to do in light of my own predisposition to favor channeling power and authority to States and localities rather than further multiplying the establishment of Federal power.

As Senator Morgan wrote to each of us not long ago, the present construction of title III in the legislation we now consider would override some 35 existing State laws and give the Federal Government a legal bludgeon with which to coerce State governments into spending more money even to the possible detriment of their own State programs. I believe such a construction is questionable constitutionally, and it is questionable as any kind of working practice to insure better health policy across the board.

Rather than new charters of rights, we might devote our best energies to new and improved forms of services. Money being an inelastic-supply at every level of government these days, we cannot afford any new Federal programs or new Federal regulatory procedures which are not strictly accountable to State and local authorities and to their own budget restrictions.

I am similarly concerned about the advocacy portion of the title. Although modest in its current construction, as I said during the full committee consideration of the legislation, the advocacy program portends to be a litigator's heaven and a health professional's nightmare. As a lawyer, I recognize that members of my professional call already help assure legal rights through the courts in individual cases based on their training and skill. Legal advocates, however, sent on class action missions to presumably protect the rights of unknown parties too often leave more harm than help in their wake.

In short, Mr. President, I share the goals so ably stated by my colleague. Senator Javits, to assure the rights and better fulfill the medical needs of persons requiring psychiatric treatment or service. Where I disagree with him is in the area of means, and I believe that Senator Morgan has put together a reasonable and workable compromise which deserves our support.

If I may add one postscript comment, Mr. President: This whole debate over the level of the Federal Government's involvement in mental health care is one chapter in the much larger story of the Federal Government's activity in the area of health care generally. I do not think this is the time to fully discuss the matter, but I look forward to the day very soon when we can. And before we do, I hope all of my colleagues will find some spare moments when they can read a tightly written and thoughtful analysis which appeared in the summer edition of the Public-Interest, "The Economics of Health in a Post-Industrial Society," prepared by Prof. Victor Fuchs of Stanford University's School of Economics. I ask that the text of this superb analysis be printed in the Record.

The article follows:

THE ECONOMICS OF HEALTH IN A POST-INDUSTRIAL SOCIETY

(By Victor R. Fuchs)

Those who advocate even more physicians, nurses, hospitals, and the like are either mistaken or have in mind objectives other than the improvement of the health of the population.

The earliest studies that reported this conclusion were greeted with skepticism in some quarters because the analyses typically relied on mortality as the measure of health. Mortality, it was said, is a rather crude index of health. It was suggested that more sophisticated measures would reveal the favorable effects of greater numbers of physicians, nurses, and hospital beds. A recent RAND study, however, based on six more specific indicators of ill health (cholesterol levels, varicose veins, high blood pressure, abnormal chest X-ray, abnormal electrocardiogram, and a periodontal index) provides striking confirmation of the results based on mortality. Variations in the amount of health resources available across 39 metropolitan areas of the United States had no systematic effect on these health measures taken alone or in combination.

The lack of correlation between medical care and health is apparent in many countries other than the United States. In Great Britain, for instance, the National Health Service (NHS) has undoubtedly served to reduce sharply class differences in *access* to medical care, but the traditionally large class differentials in infant mortality and life expectancy are no smaller three decades after the establishment of NHS. Also, despite free access to medical care, time lost from work because of sickness has actually increased greatly in Britain in recent decades. The number of sick days depends on many factors in addition to health, but these data hardly support the notion that there has been a large payoff from the NHS in that area. The discrepancy between health and medical care is even sharper in the USSR. In recent years there has apparently been a deterioration in health as measured either by infant mortality or life expectancy, even though the Soviet medical-care system is said to have improved.

There are several reasons why an increase in medical resources, given a reasonable quantity as a base, does not have much effect on health. First, if physicians are scarce, they tend to concentrate on those patients for whom their attention is likely to make the most difference. As doctors become more plentiful, they naturally tend to spend more time on patients less in need of attention. Second, patients also alter their behavior, depending upon how easy or difficult it is to get to see a physician. When physicians are more numerous, patients tend to seek attention for more trivial conditions. Third, many of the most effective interventions, such as vaccinations or treatment of bacterial infections, require only modest amounts of resources. Quite often, one "shot" goes a long way. On the other hand, the long-term benefits of some of the most expensive procedures, such as open-heart surgery or organ transplants, are still in doubt. Fourth, there is the problem of "iatrogenic disease"—illness that arises as a result of medical care. Because medical and surgical interventions are more complex and extensive than ever before, they carry with them greater risk. Sometimes too much care, or the wrong care, can be more deleterious to health than no care at all. Finally, it is becoming abundantly clear that factors other than medical care (for example, genes, environment, life style) play crucial roles in many of the most important health problems.

To this point the question we have been considering has been, in effect, what will be the results of increasing the quality of physicians, nurses, and hospitals, in the absence of a change in the way care is delivered. Yet for a full understanding of the issue, we must examine another question as well: What will be the effects on health of a given quantity of physicians, nurses, and hospitals if there has been some advance in medical science?

PROGRESS IN MEDICAL SCIENCE

It seems to me that some writers, in their answers to this question, have overstated the "medical care doesn't matter" argument. For example, there is no doubt that medical progress was slow until well into the 20th century. But from about 1935 to about 1955—a period which marked the introduction of anti-infectious drugs—major improvements in health were recorded in all industrial nations. The decreases in mortality were far greater than could be attributed to general economic advance, increases in the quantity of medical care, or similar changes.

With some delay, the application of new knowledge also improved health in the less-developed countries, and at unprecedented speed. Life expectancy, which in 1940 averaged only 39 years in Asia, Africa, and Latin America, rose to 60 years by 1970—an increase I believe largely attributable to the introduction of modern medical and public-health technology. By contrast, in the United States the same change in life expectancy—from 39 to 60 years—required three-quarters of a century, from 1855 to 1930, because health technology was developing so slowly at that time.

It is clear that the pace at which medical progress contributes to the improvement of health is neither steady nor predictable. During the 1960's many "breakthroughs" in medical science were hailed, and expenditures for medical care rose appreciably, but the favorable consequences for health were quite limited. In recent years, however, U.S. death rates—especially from heart disease—have decreased rapidly. For men and women at most ages, the probability of death from arteriosclerotic heart disease in 1975 was 20 to 25 percent lower than in 1968. The technologically-inclined attribute most of this decrease to better control of hypertension, special coronary-care units, open-heart surgery, and other medical innovations. Other observers tend to credit changes in diet, smoking, exercise, and other aspects of personal behavior. We do not know the true explanation; I suspect there is some validity to both points of view.

INCOME, EDUCATION, AND GOOD HEALTH

For most of human history, income has been the primary determinant of health and life expectancy—the major explanation for differences in health among nations and among groups within a nation. The effect of income on health is still observed in the less-developed nations, but in the United States the correlation has tended to disappear. This is true when health is measured by mortality, or by indicators such as high blood pressure, varicose veins, cholesterol levels, and abnormal X-rays or cardiograms, or by subjective evaluation of health status. Other things equal, there is no longer any systematic effect of income on health, except possibly at the deepest levels of poverty.

In the past, economic growth and technological change not only served to increase average life expectancy, but also resulted in a dramatic reduction in inequality in life expectancy among different economic classes. The principal reason for the reduction is that general economic growth, even if unaccompanied by any reduction in income inequality, has more favorable effects on the health of the very poor than on those who have already attained a standard of living well above subsistence. A second reason is that the most effective medical discoveries of the past half-century, such an antibiotics, have typically been both relatively low in cost and widely available.

Not only has the distribution of life expectancy become much more nearly equal within the U.S. white population, but the difference between white and nonwhite life expectancy has also been reduced substantially in this century. In 1900, life expectancy for whites was 47 percent higher than for nonwhites; in 1975 the differential was 8 percent. The overall reduction in inequality of life expectancy bears a strong relation to reduction in inequality by income class. In 1900, those with short life expectancy were disproportionately from the lower half of the income distribution. Now, with the correlation between income and life expectancy much weaker, we can say that with respect to the most precious good of all, life itself, the United States is approaching an egalitarian distribution.

Despite the general trend toward equality in life expectancy, there is one factor that consistently appears as a significant correlate of good health: education. The same research by health economists that has revealed the small marginal contributions of medical care and income to health has reported a strong positive relation between health and years of schooling. In the United States, regardless of the way health is measured (mortality, morbidity, symptoms, or subjective evaluation), and regardless of the unit of observation (individuals, city or state averages), years of schooling usually emerges as the most powerful correlate of good health. Michael Grossman, an economist who has done extensive research on this question, has tended to interpret this relationship as evidence that schooling increases the individual's efficiency in producing health, although he recognizes that some causality may run from better health to more schooling. The way schooling contributes to efficiency in producing health has never been made explicit, but Grossman has speculated that persons with more education might choose healthier diets, be more aware of health risks, choose healthier occupations, and use medical care more wisely.

I accept the "efficiency" hypothesis, but I think that it needs some qualification. Education, for instance, seems to have little connection with the more knowledgeable use of medical resources. Recent research on surgical utilization casts doubt on the proposition that the better-educated use medical care differently than do the less-educated. While the probability of surgery is much lower for the highly educated than for the rest of the U.S. population, a new study by Louis Garrison shows that the highly educated who do undergo surgery enter the hospital at the same stage of disease as do the less-educated. He also finds that the better-educated patients choose the same kinds of physicians, have about the same length of stay, and apart from the fact that their general health is a little better than average, have about the same outcomes from surgery. Thus, at least in the context of in-hospital surgery, there is little support for the "efficiency" effect in the use of medical care.

The most plausible explanation for the lower surgery rates of the highly educated is that they have less need for surgery—that is, they are in better health. The question remains, why? One explanation that I favor is that both schooling and health are manifestations of differences among individuals in the willingness and/or ability to invest in human capital. Both schooling and health-related activities involve incurring current costs for the sake of future benefits, and it seems quite clear that individuals differ in their willingness to make such far-sighted investments.

Recent preliminary research gives some support to the view that individual differences in willingness and ability to delay gratification are related to health. A colleague and I surveyed a group of young adults to ascertain their "rate of time discount" with respect to receiving money awards and paying fines. The time-discount rate can serve as a rough measure of the degree to which individuals are willing to postpone satisfaction over time. An individual with a low discount rate, for example, is one who is wiling to delay reward over a longer period of time, or willing to accept a smaller reward for any given period of delay, than is a person with a high discount rate. In our research, my colleague was interested in the pattern of the rates—how they changed with length of time involved, the size of the award, and the like. I added a few questions about the respondents' health and then looked at the relation between health and discount rate. I found a strong, statistically significant negative relation between the rate of discount and the subjective assessment of health. Of the 25 percent of the sample with the lowest discount rates, 63 percent reported themselves in excellent health; of the quarter with the highest rates, only 32 percent reported themselves in excellent health.

Some recent statistics from England provide additional support for my view of the correlation between health and schooling. A study of cigarette smoking revealed that among men in social class I (the highly educated) the proportion who smoked fell almost by half between 1958 and 1975. In contrast, among men in social class V (the poorly educated) the proportion scarcely changed. It seems unlikely that this difference in behavior arises primarily because the poorly educated have not heard about the dangers of smoking or do not understand the implications for health. It is more likely that they are unwilling (or unable) to give up a present pleasure for a distant and uncertain benefit. I suspect that if one compared these two groups of men with regard to other aspects of behavior that involve using foresight or delaying satisfaction (such as saving versus buying on credit), one would find similar differences.

THE GROWTH OF MEDICAL CARE

Despite the conclusion supported by these findings—that health is much more dependent on non-medical factors than on the quantity of medical care—the growth of expenditures for medical care has been unrelenting. For at least the past three decades (and probably for much longer) the share of gross national product devoted to medical care has steadily increased in the United States and elsewhere. In several countries, the portion of national resources devoted to health is rapidly approaching 10 percent. There are several possible explanations for the rapid growth of health care as an industry.

One popular, but I believe exaggerated, explanation for the relative growth of service industries in general is the growth of per capita income. But with respect to health care, higher income is clearly not a direct causal factor. Precise estimates of the income elasticity of the demand for health care differ, but almost all investigators agree that the demand for health care does not rise in direct proportion to a rise in per capita income. People behave as if health care were a "necessity," not a "luxury."

Thus, the growth in medical care's share of the GNP and of total employment is not attributable to rising income. Rather, the employment trend in the medical industry reflects a change in the character of health care itself. Labor "input" per patient, especially in hospitals, has grown at an extremely rapid rate. In 1976, there were 304 full-time-equivalent employees per 100 patients in American short-term hospitals, compared with 178 per 100 patients in 1950. The character of hospital activity has also changed greatly since 1950. Each patient now has many more tests and X-rays, more complex surgery is performed, and new treatment facilities—such as intensive-care units—have proliferated.

I use the word "activity" rather than "output" deliberately, because we are far from knowing how much this increased activity has resulted in better health. Some changes in medical technology, such as the anti-infectious drugs mentioned previously, have clearly raised productivity enormously, but the only thing we know with certainty about some of the other technological changes is that they have greatly raised expenditures.

Medical Technology.—The explosion of medical technology—the vast expansion in the character and scope of interventions that physicians can undertake—has, unquestionably, been a major factor in the growth of health expenditures in recent decades. Familiar examples include renal dialysis, open-heart surgery, organ transplants, and high-energy cancer treatments. These innovations may or may not make large contributions to improved health, but relative ineffectiveness does not deter their use.

In the past I have referred to the proclivity of physicians to employ new technologies, simply because they exist, as the "technological imperative." Recent economic research, however, provides a different explanation for the emphasis on expensive treatments that yield little in lives saved—while preventive treatments with higher productivity are denied resources. This tendency may be fully consistent with consumer preferences regarding the kinds of health services they are willing to pay for. The amount most people are willing to pay for a given reduction in the probability of death is positively related to the level of the probability. Thus, a person facing almost certain death would usually be willing to pay a great deal for even a small increment in the chance of survival; that same person, facing a low probability of death, would not pay nearly as much for the same increment in survival probability.

For example, imagine a program to treat cancer that costs $1 million per life saved, and another program to lower the probability of getting cancer that costs only $500,000 per life saved. People might be more willing to pay for the treatment if sick, than to pay for the prevention if well. This behavior is not necessarily "irrational," nor need it be the result of some "death-denying" psychological quirk. We do not think it odd that a thirsty man will pay a large amount for a small drink of water if there is very little available, but is not willing to pay much for a drink when he is not particularly thirsty.

The medical profession has frequently been criticized for failing to allocate resources so as to maximize the number of lives saved, but some of this criticism may be unjustified—at least in the sense that the emphasis on heroic efforts in life-threatening situations, at the expense of preventive measures, may actually be a reasonable response to consumer preferences. It follows that if we seek a health-care system that does what people want it to do, we should not expect the most efficient outcome in terms of costs per life saved.

OTHER CAUSES

Government, Family, and Religion.—There are three non-medical factors that I believe have also contributed substantially to the growth of the health-care industry: the growth of government, the decline in importance of the family, and the weakening of traditional religion. The subsidization of health care by government clearly induces additional demand. Nearly all health economists who have studied the price elasticity of demand for health care have found that a decrease in price does not result in as proportionally great an increase in demand—but all have found some increase in demand accompanying a drop in price. It follows that a reduction in the price of medical care (at the time of utilization) through public (or private) insurance increases the quantity demanded.

The effects of the decline of the family and of traditional religion are more difficult to quantify, but I shall offer a few examples to convey the flavor of the argument. Consider nursing homes. In the U.S. they are by far the fastest-growing component of health care; their share of total health spending climbed from less than 2 percent in 1960 to almost 8 percent in 1977. Nursing-home expenditures now exceed spending for drugs or for dentists' services; the only larger categories are hospitals and physicians' services. But what is a nursing home and what services does it provide? I would argue that it provides very little that was not provided in the past at home by the family. Indeed, in some cases it does not provide as much.

To be sure, the growth of nursing homes is attributable in part to growth in the relative number of the aged. But more important, in my opinion, is the growth in female labor-force participation (no one is home) and the mobility of the population. Elderly widows comprise the bulk of the nursing-home population, and there has been a tremendous increase in the percentage of widows 65 and over who live alone. In 1950 that figure was 25 percent; in 1976 it was 65 percent. True enough, rising income makes living alone possible and helps pay for nursing-home care; but my main point is that a considerable amount of what we think of as an increase in health care is not an increase at all, but a substitute for care that was formerly provided within the family.

Not only does purchased medical care in part take the place of the family, but I believe that it is frequently a modern substitute for religion. This is most obvious in the case of mental illness. The similarity between psychiatry and religion has been frequently discussed; it needs to be emphasized, however, that many visits to physicians who are not psychiatrists are undertaken for purposes other than specific diagnostic or therapeutic intervention. The patient may be seeking sympathy, or reassurance, or help in facing death (his own or that of someone close to him). The patient may want to unburden himself to an authority figure who will keep his secrets confidential. There may be a desire to find someone to assume responsibility for a difficult decision, or there may be a need for validation of a course of action already decided upon. The ability to state, "The doctor says I should (or shouldn't) do this" often is worth a great deal.

In an earlier day priests, ministers, and rabbis met many of these demands. For some persons they still do—but today many find a white coat more reassuring than a black one, a medical center more impressive than a cathedral. One interesting statistic reveals the change in the customary site of death. In an earlier day dying was usually a private affair, attended by family and friends, and legitimized by priest, or shaman, or witch doctor. Today, in most Western nations, more than half of all deaths occur in hospitals. The physician is now our chief ambassador to death.

THE GROWTH OF GOVERNMENT

The expansion of government in all aspects of health is a major political phenomenon requiring separate consideration. There are several possible explanations for this trend in post-industrial society.

One likely reason is the ever-increasing complexity of modern life. Consumers are now faced with a bewildering array of goods and services and they feel a great need for information about them. There can be significant economies of scale in the provision of information about the quality of beef, the purity of drugs, and the safety of airlines; it may, therefore, be more efficient to have a single agency, the government, provide that information.

Many observers also believe that urbanization and the growth of population and income have increased the importance of externalities, so that there is legitimate scope for the government to do more than simply provide information. A health-related externality exists if Smith's consumption or other actions have favorable (or unfavorable) effects on Brown's health, but these effects are not reflected in the prices Smith faces and there is no feasible way for Smith and Brown to make a private arrangement that would cause Smith to take these effects into account. Familiar examples in this category include vaccinations (positive externality) and air pollution (negative externality). When externalities exist, the solution most economists prefer is to use subsidies or taxes to bring private costs (or benefits) into line with social benefits (or costs). Direct regulation which compels or forbids certain activities outright should generally be avoided unless the costs of administering the subsidies or taxes are unreasonably high.

A special kind of externality discussed by Guido Calabresi and Philip Bobbitt in their recent book Tragic Choices concerns society's unwillingness to see some of its members (typically the very poor) take unusual risks or pursue degrading activities. This kind of externality sometimes results in a demand for health-related government regulation. An example is the inhibition regarding the sale of kidneys or other organs by living donors. It seems to me that issues of this character are really just matters of taste; they have more to do with "aesthetic" considerations than with a moral or practical concern for the health of members of society. The importance of taste and social conventions in these matters is nicely illustrated by the fact that society readily permits individuals to work in coal mines and to pursue other activities that are far more dangerous to health than is the loss of one kidney.

But modern governments clearly go far beyond providing information or dealing with obvious health-related externalities. In the United States especially, the government, in the name of health and safety, now undertakes detailed regulation and control of thousands of products and activities. One possible reason for the proliferation of government interventions is that they serve as a form of "precommitment" concerning certain kinds of behavior. In other words, Brown may vote for laws which force persons in Smith's circumstances to behave in ways contrary to Smith's preference in order to pre-commit himself (Brown) if his circumstances should change to those of Smith. For example, Brown may think that if he were to become poor he might be tempted to sell a kidney. He therefore now votes to make such sales illegal in order to prevent himself from ever taking such action. Health insurance can be regarded as a form of precommitment; the insured is pre-committing himself to disregard price in making decisions about the utilization of care. Compulsory health insurance can be viewed as pre-commitment to buy insurance regardless of changes in income or other circumstances.

Conventional economic analysis regards "pre-commitment" as irrational; why should anyone ever want to gratuitously restrict his options? Economist Richard Thaler has suggested an answer: "pre-commitment" may be a rational strategy for dealing with problems of self-control. Such problems can arise when there is tension between alternative behaviors which have very different implications for our welfare in the short and long run. For instance, in the short run I may get pleasure from smoking or from spending, but I also know that in the long run I will suffer from smoking or from a lack of savings. I may pre-commit myself by taking a job where smoking is prohibited, and I may join a Christmas Club.

The growth of government can also be viewed as a substitute for family or church as the principal institution assisting individuals in time of economic or social misfortune. Private insurance could conceivably do the same job, but problems of "free riders" (those who don't buy insurance and then need help anyway), adverse selection (the tendency for the worst risks to buy the insurance), or excessive sales and administrative costs may make universal, compulsory programs the more sensible way to proceed. Moreover, a principal thrust of many government programs is to combine insurance with redistribution. Indeed, I believe that an unrelenting pressure for a more egalitarian society is one of the most important explanations for the growth of government in health and other areas.

The conditions of modern life seem to compel a more equal sharing of material goods and political power. In Equality and Efficiency: The Big Tradeoff, Arthur Okun assumes this occurs because people have a "preference" for equality. Perhaps some do, but it is also possible that many who have power and goods would rather not share them; their ability to maintain inequality, however, may vary with circumstances. It seems to me that the more affluent and the more complex a society becomes, the more it depends on the willing, cooperative, conscientious efforts of the people who work in that society and the more difficult it is to obtain satisfactory effort through the use of force.

When the main task at hand consisted of hauling large blocks of stone from the river to the pyramid, it was a relatively simple matter to rope a dozen slaves together and use a whip and the threat of starvation to secure compliance. In feudal societies the predominantly agricultural workforce was kept in line despite huge inequalities in income through force, the need for protection, the limited mobility of the poor, and through the promise of Heaven and the threat of Hell. But when a nation's workers are airplane mechanics, teachers, and operating-room nurses, for example, it is clear that such techniques will not do. A few dissatisfied air-traffic controllers can change the pace of a continent. Even such low-paid work as the changing of tires in a tire store involves considerable potential for disruption. It would be very expensive to check every bolt on every wheel, but the management lives in constant fear that a few carelessly tightened bolts will allow a wheel to fall off and result in a million-dollar suit against the company.

The preoccupation with equality or the appearance of equality is evident in many discussions about health. With respect to the British National Health Service, for instance, economists John and Sylvia Jewkes have argued that "The driving force behind [its] creation . . . was not the search for efficiency or for profitable social investment. It was something quite different: It was a surging national desire to share something equally." As noted earlier, the effects of the establishment of the NHS seem consistent with that view.

Or think of the buckets of ink that have been spilled over the issue of regional inequality in the physician-to-population ratios in Canada, the United States, and most other countries. In the United States at least, this interminable discussion has proceeded without any evidence that health is adversely affected by a low physician-to-population ratio. Indeed, in the U.S. one cannot even show that the number of physician visits per capita is significantly lower in areas that have been identified as "medically under-served." Moreover, the oft-heard argument that an overall increase in the number of physicians will result in a reduction in regional inequality seems to be without empirical foundation.

The more one examines this issue the more puzzling it appears. Nearly everyone says regional inequality in physician supply is bad, but no one quite explains why. Nearly everyone says it should be reduced, but not much is done about reducing it. In California, for a long while, we had the spectacle of the state's political leaders voicing loud complaints about how difficult it was to get physicians to settle in rural areas at the same time that they were setting fee schedules for MediCal (Medicaid) patients that reimbursed rural physicians at a lower rate than their urban counterparts. In my view, national health insurance and other governmental interventions in health are best viewed as political acts undertaken for political and social objectives relatively unrelated to the health of the population. This seems to be an inescapable conclusion from the evidence now available.

THEORIES OF THE RIGHT AND LEFT

The foregoing analysis gives us some basis for evaluating the general positions advanced by the Right and the Left about medical care, particularly concerning the role of government in the health field. The positions of conservatives and radicals are usually clearcut and often provocative. In my judgment, however, they are ultimately unsatisfactory either as analysis of how we have come to our present position or as prescription for our future direction.

For the most part, conservatives argue against large-scale government intervention in medical care, consistent with their general tendency to recommend a decentralized price system as the most efficient mechanism allocating scarce resources. Frankly, it's a shame that we need to be reminded of this—surely theory and experience combine to teach us that the alternative (some sort of centralized control) will usually be much less efficient.

To this extent, conservatives offer a potentially valuable critique of current trends in the health-care industry. But where the Right goes wrong is in their lack of historical understanding of the sources of those current trends. The conservative response to the growth of national health insurance around the world is to castigate it as one more deplorable trend towards socialism. When pressed for an explanation of the trend, the Right offers two unsatisfactory types of response. First, there is the "people are stupid" explanation. The same people who are supposedly so knowledgeable when running businesses or choosing occupations or spending money are suddenly presumed foolish, irrational, or worse when they must make choices about government health policy. This is an easy out, but not a very convincing one. If there is some widespread behavior that we do not understand, let's not automaticaly attribute it to the other fellow's ignorance or irrationality.

Not all conservatives subscribe to the "people are stupid" theory. A substantial number try to explain the growth of national health insurance and similar (in their view) misguided legislation as the triumph of special interests over the general public interest. The research strategy is to identify the special groups that benefit from policies that seem to result in a general welfare loss (and many economists believe national health insurance fits that category because it encourages excessive utilization). A second task is to figure out how these groups are able to assert and maintain their interest over that of the majority. Sometimes this approach is useful, but with respect to explaining the growth of national health insurance, it has not been notably successful. Indeed, in the United States, one special-interest group that has benefited greatly from Medicare and Medicaid has been the physicians—and they were in the forefront of the groups who opposed such legislation.

What the Right apparently cannot accept—but neither can it refute—is the hypothesis that national health insurance comes to developed countries not out of ignorance, not out of irrationality, not at the behest of narrowly defined special-interest groups, but because most of the people want it, because it meets certain needs better than alternative forms of organization. That these needs are often political, social, and psychological rather than physiological is one of the most important points of this essay. Thus, it seems to me that the fulminations of the Right against the ever-increasing role of government in health are often misdirected. The constant assertions that this or that regulation or subsidy is irrational and inefficient often fall on deaf ears simply because the majority doesn't see it that way.

Let us turn now to the Left. And let us again begin on a positive note. We should be grateful to the Left for two reasons. First, they remind us that a decentralized price system isn't always the best way to allocate scarce resources. There are things such as externalities and transaction costs which may mean that some allocation problems are better handled by institutions other than the market. And there are, as we have seen, reasons of this sort which may justify government intervention in the health field.

More importantly, the Left at its best makes a contribution by keeping before us a vision of a just society. Like the prophets of old, they scold, they warn, they preach. The big problem with the Left is not their inability to identify important problems. It is their "analysis" of the causes and their proposed solutions that must give one pause. Who among us does not think that health is better than illness, life better than death? But to state worthwhile goals is one thing; to have some good ideas about how to reach them is another.

Among the Leftist critiques of health and medical care there is, for example, the naive reformist position typified by, say, John Kenneth Galbraith. Accordnig to this view, the problem is one of insufficient public funds. If only we had more hospitals, more physicians, more medical schools, and so on, the problem would be solved. This at a time when, in the United States, there is excess hospital capacity in every major metropolitan area, when general surgeons are carrying what they themselves agree is only 40 percent of a reasonable workload (and there is widespread suspicion that many of the operations should not be done), and when iatrogenic illness (arising out of the medical-care process itself) is a major problem! That so many on the Left can still believe so many shibboleths is a tribute to the triumph of ideology over analysis. This view, that "more is better," has been sufficiently refuted by the findings I have reviewed in the first part of this paper.

There is another type of Leftist critique, however, which is slightly more sophisticated and far more radical. Far from simply prescribing "more medical care," these critics argue that the "system" is at fault. The trouble, we are told, is that providers are oriented to profits rather than to health, that if only we made the system more "democratic," placed public health at top priority, put physicians on salaries, and so on, all would be well. Would it? Right now in the U.S. about 95 percent of the hospital industry is in the hands of nonprofit organizations, either public or private, yet the escalation in costs in these hospitals has been tremendous, and the emphasis on complex, esoteric technology very great. When we look at other systems with other forms of organization and reimbursement, such as in England or Russia, do we see more emphasis on preventive medicine, more action on environmental-health problems, more consumer control of the medical process? The answer is overwhelmingly negative.

Because the Left is so eager to attribute the problems of the world to capitalism, it ignores some basic observations about human behavior. Most of the health problems which they identify existed before capitalism and persist in non-capitalist countries. Many problems arise from the conflict between health and other goals, rather than from the evil or selfish intent of physicians. Personal behavior and genetic endowment are far more important to health than is medical care—whatever the system. Even when medical care is relevant, health is rarely something one person can give to another. It comes, if at all, from the efforts of physician and patient working together, often in the face of uncertainty and fear.

One of the strongest generalizations warranted by a comparative study of medical care in modern nations is the inability of planning agencies, insurance funds, hospital boards, and other lay authorities to control completely the medical profession. In country after country the introduction of national health insurance was marked by significant concessions to physicians with respect to methods and levels of reimbursement, procedures for reviewing the quantity and quality of care, geographical and specialty choice, and control over allied (competing?) professions.

There are, I think, some very subtle factors at work here. The effectiveness of medical care depends in considerable measure on a bond of mutual confidence between physician and patient. Too much external control can break that bond. Moreover, physicians, like priests or magicians, can fill their roles effectively only if set apart from the common run of mankind. A medical profession that was completely subservient to lay authority would be, in several respects, a less effective profession. This is not to say that fee-for-service reimbursement never leads to over-utilization, or that licensure laws are completely in the public interest, or that present institutional arrangements are ideal. It is to say that many of the most difficult problems of health and medical care transcend particular forms of economic and political organization—a conclusion that the Left leaves out.

BY WAY OF CONCLUSION

What speculative generalizations do I draw from a broad economic survey of health and medical care in modern society?

For one thing, I am impressed by the widespread confusion between process and product, the tendency to identify medical care with health even though the connection is a fairly limited one. I wonder if that same confusion does not exist in other aspects of society, for example, schooling vis-a-vis learning, litigation vis-a-vis justice, or police work vis-a-vis public safety?

The growth of big government in modern society stands as a major challenge for social analysis. My reading of its role in health and other medical care leads me to emphasize two factors—the decline of other institutions and the pressure for a more egalitarian society. It seems clear to me that the success of the market system in the Western world was attributable in no small measure to the existence of strong non-market institutions such as the family and religion. The fruits of the market system—science, technology, urbanization, affluence—are undermining these institutions, which were the foundation of the social order. Human beings need more than an abundance of material goods. They need a sense of purpose in life—secure relationships with other human beings—something or someone to believe in. With the decline of the family and of religion, the inability of the market system to meet such needs becomes obvious, and the state rushes in to fill the vacuum. But it does so imperfectly because it is so large and so impersonal.

The affluence and complexity of modern life also contribute to the pressure for more equality, and the government is now the chief institution for undertaking redistributive functions. This is not to suggest that the pressure for equality is always met quickly and fully. On the contrary, much legislation is designed to give symbolic recognition of the ideal of equality, but does not involve significant redistribution. This is not necessarily to be condemned; a preoccupation with equality and the neglect of other goals can be socially harmful. It is useful to recall Lord Acton's comment on the French Revolution: "The finest opportunity ever given to the world was thrown away because the passion for equality made vain the hope of freedom."

For all its weakness, the family is probably still the greatest single barrier to equality in post-industrial society. As long as mothers and fathers pass on to their offspring their own particular genetic endowment and their own special heritage and values, attempts to achieve complete equality will be frustrated. At some point we shall have to ask whether that last increment of equality is worth the loss of so valuable an institution as the family—one that can stand as a refuge from impersonal markets and authoritarian government.

Government also grows because the majority frequently sees no feasible alternative for dealing with the complexity and interdependence of modern life. The point which I think needs emphasis is that the cumulative impact of the growth of government is to weaken (and ultimately destroy) other useful institutions such as the market, the family, and private associations of a religious, fraternal, and philanthropic character. Thus, we should be wary of the constant expansion of government, and especially centralized government, not only because any particular proposed expansion is "inefficient"—it may well pass a comprehensive cost-benefit test for a majority of the population—but because there are other goals besides efficiency.

For me the key word is balance, both in the goals that we set and in the institutions that we nourish in order to pursue these goals. I value freedom and justice and efficiency, and economics tells me that I may have to give up a little of one goal to insure the partial achievement of others. Moreover, I believe the best way to seek multiple goals is through a multiplicity of institutions—the market, government, the family, and others. No single institution is superior for all goals. And diversification—be it of institutions, genes, or security holdings—is the best assurance of stability and survival in the face of an uncertain future.●

● Mr. DOLE. Mr. President, the Senator from Kansas rises as a cosponsor and wholehearted supporter of the amendment by Senator MORGAN to title III of S. 1177, the Mental Health Services Act.

The Senator from Kansas, as a cosponsor of S. 10, the rights of the institutionalized bill, (now Public Law 96-247), is a strong advocate of protecting the rights of the mentally ill and other disadvantaged people. That is why this Senator endorses the provisions of S. 1177 except for title III.

Mr. President, title III as presently drafted establishes a mental health advocacy program—MHAP—as a new division of the Department of Health and Human Services. MHAP provides $10 million for fiscal year 1982 to make grants and/or contracts to individual public and nonprofit private legal services organizations in order to establish a nationwide network of advocacy programs on behalf of persons receiving mental health services.

Thus, title III, concerning the role of the Federal Government in the enforcement of rights of the handicapped, creates an entirely different and somewhat contradictory approach to that of S. 10. Whereas S. 10 allowed the Attorney General of the United States to intervene on behalf of institutionalized persons facing egregious or flagrant conditions, title III creates a new Federal agency which would finance litigation against both State and private institutions. S. 10 represents a middleground position, eliciting the active cooperation of States in rectifying the problems at State institutions without trampling States rights. In contrast, title III represents an overt intrusion into these State affairs without any attempt to seek local cooperation.

Moreover, the Senator from Kansas is greatly troubled by the absence of any hearings on the proposed bill of rights in title III. Opponents had no opportunity to express their views for the public record. S. 10, by contrast, had 8 days of hearings where both sides provided extensive testimony.

The complexity and importance of these issues mitigates against even considering title III on the floor of the Senate until such informed public debate, including hearings before the appropriate Senate committees, has taken place.

Finally, Mr. President, it makes little sense to create a new Federal advocacy program for the handicapper without the prior examination of the results of the GAO study, provided for in title III, on the effectiveness of present advocacy programs for such persons. Otherwise, what purpose would the GAO study serve?

Mr. President, the amendment proposed by Senator MORGAN, would deal effectively with the problems raised by title III. It would only recommend, not compel, States to enact a bill of rights for the mentally handicapped.

The Morgan amendment makes S. 1177 a better bill. While mental health services would be promoted, concern for unwarranted intrusions into State affairs would be retained. No new advocacy programs would be undertaken without the additional knowledge gained from a comprehensive report of existing programs. Each State without unfettered Federal interference or mandate is encouraged to provide needed protection and services for mental health patients.

Accordingly, it is the fervent hope of the Senator from Kansas that his colleagues will adopt the Morgan amendment to S. 1177.●

● Mr. DANFORTH. Mr. President, I support Senator MORGAN's amendment to title III of the Mental Health Systems Act. No one favors exploitation of mental patients, unnecessary restrictions or restraints on their freedom or the converse of any of the other rights enumerated in title III. The issue here cannot be fairly formulated as who is for or against mental patients. Rather, the issue is what level of government should be responsible for insuring that the rights of mental patients are protected. The issue is whether a case has been made for Federal preemption in this area.

I do not believe the Federal Government should act to preempt the States in an area unless the States have shown themselves to be incapable of acting or unwilling to act. In the present case, the States have shown themselves to be the opposite of unwilling to act.

Most States have themselves moved in the direction of establishing State bills of rights for mental patients. In my own State of Missouri, for example, the State legislature this session revamped its laws regarding the mentally ill and included a comprehensive set of patient rights closely paralleling those contained in title III. This action on the part of the State of Missouri surely does not evince an unwillingness or incapacity to act.

Having served for 8 years in State government, I know how demoralizing and frustrating it is to have one's actions preempted by Washington. I understand the resentment that develops from the implication that all compassion and caring resides in Washington.

The fact of the matter is that there are sensitive, caring people in State government as well as Federal Government. The fact of the matter is that most social problems can be more flexibly, and therefore more effectively, dealt with at the local level. A persistent effort by Washington to convert local governments into its own administrative arms will drive the best people out of local government and will worsen, not improve, the lot of the underprivileged.

If a convincing case can be made that the rights of mental patients can only be vindicated by preemption of State law and by lodging jurisdiction in the Federal courts, I will support those actions. But I do not believe such a case has yet been made.●

The PRESIDING OFFICER. Is there further discussion?

If not, the question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered.

Mr. SCHWEIKER. Mr. President, I am willing to have a rollcall vote. I wish to check our side on the timing of it. I wonder if I could suggest the absence of a quorum for a moment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHWEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from North Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN) and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Maine (Mr. COHEN) would vote "yea."

The PRESIDING OFFICER (Mr. HEFLIN). Are there any other Senators who desire to vote?

The result was announced—yeas 91, nays 1, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—91

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—1

Proxmire

NOT VOTING—8

Burdick
Church
Cohen
Durkin
Inouye
Kennedy
Roth
Talmadge

So Mr. MORGAN's amendment (UP No. 1416) was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. MORGAN. I move to lay that motion on the table.

Mr. JAVITS. Will the Senator withhold that? I wish to be heard for a few minutes.

Mr. MORGAN. Yes, I will withhold it.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I regret that this amendment has been accepted. I am the author of this particular provision in the bill, and I am not satisfied with the amendment.

I regret that the amendment was accepted on my behalf, Mr. President, by a representative of my office. It is very unfortunate, but that is the situation, and, as has been my practice here for many years, I am bound by it. But I had to record myself as being deeply dissatisfied, because this bill of rights affects millions of people and their interests have not been advocated in this particular matter. So I wanted to be heard on it.

I believe that in our country there is a way to correct an injustice. The amendment retains the provision directing the Comptroller General to report back to the Congress on advocacy programs and on the need for further rights protection actions. There is another body to consider this matter, and the bill is still open for amendment in other places. So I will continue to press these concerns.

What I tried to do originally was to parallel the experience which we had with the developmentally disabled, in which we found such outrageous conditions on the State level as to assail our consciences so deeply that we had to have some uniform rule respecting the basic and most elementary rights in the United States. And that has worked. We have not had a great deal of litigation under that legislation, which incorporated a set of rights which we gave the individual.

In addition, there are now a great many litigations, and the Supreme Court has just sustained, under the old civil rights acts of the 1870's, the fact that people confined in institutions, like those who are confined because of mental health difficulties, have certain civil rights as human beings and as individual Americans which should not be restrained.

The rights which are set forth in this particular measure are essentially those rights. There is nothing fancy about them at all. And such litigation as there is and will be—and there will be a great deal because of the fact that the Supreme Court has now opened up the right to bring suit on these matters—will at least have a body of law which is the considered opinion of the Congress. We have enumerated a minimum standard which incorporates our judgment of the proper application of basic constitutional principles.

For example, I would like to point out to my colleagues that in mental health it is uniquely possible to give a patient treatment which the patient may reject. The question is whether it may be forced upon him. There are circumstances in which it may, where the patient is not in any mental condition to make up his own mind. But there are many cases in which that is done without his consent or some deliberate feeling that he really wants it and that he is competent to judge. We had a great movie on that score called "One Flew Over the Cuckoo's Nest," which put that problem very, very tragically before us all. So, Mr. President, this bill of rights had a very serious purpose.

Now Senator Morgan's objections to it—and as far as I know he was the only one who objected—was based upon States' rights. We have all learned that States' rights have to be consistent with the U.S. rights and that every citizen is not only a citizen of the State but a citizen of the United States and that, therefore, if the State does not protect him adequately in a manner in which he is vulnerable and where he is subject to State power that the United States may protect him.

That was the purpose of this bill of rights.

My whole purpose and intent in raising this matter was, therefore, first, that the rights should be stated.

Now let us recognize that under this agreement which has been accepted, the rights are stated. But what is not done is to give the individual any express opportunity to implement those rights by asserting his right to enjoy them.

We had a very mild provision in our original amendment which would have given the right of suit to the individual. I was perfectly willing to see that compromised out by giving the Department the right, on hearing, et cetera, to withhold funds from those who received Federal funds. That was a very, very considerable whittling down.

Now, based upon this compromise, there is no mechanism in the bill which enables the individual to assert his rights, and that we are back again to the necessity for litigations under the old Civil Rights Act or some other act by which the individual might get into court.

Lastly, the amendment contained an advocacy clause, so that there was someone around to assert the individual's rights if the individual was unable to do so.

I find that that has been transformed to an advocacy arrangement which is very much in the hands of the States, and it is the very States themselves who may be the worst culprits in this matter. Not every State, unhappily for all of us, is as enlightened as most of our States in respect of matters of this kind.

So in my judgment, the matter is left in a very unsatisfactory state. I just wish to advise the Senate, Mr. President, that either in this, or in some other measure, I will continue to do my utmost to correct what has been wrong in this matter. If Senator Morgan and I have to have a debate, I would welcome it, because he is a man of quality and is a serious and well-motivated Senator, I am sure.

In my judgment, there is enough remaining in the Senator's amendment to significantly advance the interests of the mentally ill but it is not all that I aspired to include for their protection. I feel that I must apologize to the millions whom this affects because there are many, many people who will be adversely affected by what we do here today in comparison to the intent of the original bill. This is a very key matter in this bill, perhaps the most key in this bill.

So without disrespect or criticism of anyone, and I appreciate Senator Morgan withholding his motion to table, before the matter is absolutely locked up I felt it my duty to explain to the Senate and to all of those who will be affected, my position in this matter.

Mr. President, I thank you very much.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, the Senator from New York is no more concerned about the rights of the mentally ill than the Senator from North Carolina. I am sorry if the Senator found himself surprised by this compromise, but I thought it was a compromise, and it is a compromise, that staff had been working on for several days. I thought it was one that had been generally accepted. I would be happy to debate the issues with the Senator because, as I told someone earlier, my basic nature is not to compromise. When I practiced law, I never negotiated with the opposing counsel. My law partner had to do it.

But the truth is that we differ in philosophy. I trust people in the States. I believe that the people closest to home are just as concerned about the mentally ill as we here in Washington are. I feel that the people back in the States, closer to home, know just as well what is good for the people as we do here in Washington.

Thirty-five States already have bills of rights for the mentally ill, and some of them are stronger, I think, than the ones offered here. In addition, the bulk of public funds spent to serve the mentally ill comes from the States. It is not a question of protecting the interests of the mentally ill; it is a question of who can do it best. I recognize that the Senator and I disagree on that matter.

The matter as it was proposed created an advocacy program in the Department of Health and Human Services. That money went not to the Governors or to the States, but to individual private sources, community action programs, whoever the Secretary of Health and Human Services decided it should go to. It would have created a system of private lawsuits and private litigation that would have clogged the Federal courts forever and ever and ever.

I believe that the compromise, the one that passed, is satisfactory. I believe that the Governors of the States and the legislatures of the States are just as concerned about the people in their States as we are. I think if we could follow this philosophy a little more, we might be able to complete our work here in the Congress a little quicker and the Federal courts might be able to mete out justice in a more expeditious manner.

Thomas Jefferson was a great proponent of the Federalist system of government. He was a great believer in States rights. He once said that if you believe that the people are not sufficiently entitled to exercise the prerogatives of Government, the remedy was not to deprive them of those rights but to enlighten them, educate them, so that they could exercise them.

Mr. President, I believe this is a satisfactory compromise. Thirty-five States have already enacted bills of rights.

I might say, Mr. President, that I think the Senator knows there were not full and adequate hearings on this matter. It was not in the original bill. The Senator offered it as an amendment in the subcommittee. There was not a rollcall vote there. Out of the 20 witnsses who testified, only one or two addressed the question specifically. It was not generally known.

There has been a considerable debate and discussion all across the country for the last month or so. I was involved in it before I went home.

Mr. President, I now renew——

Mr. JAVITS. Will the Senator withhold that?

Mr. MORGAN. Yes.

Mr. JAVITS. Mr. President, just by way of reply, we do differ on philosophy, but my philosophy is not quite as Senator Morgan interprets it. My philosophy is that where the States can do what needs to be done to protect the rights of the individual, then that is fine. I am for the States doing it. But not where there is a great difference between how different States apply their remedies, or where their remedies are, in many States, unsatisfactory.

To say 35 States have programs does not tell us very much. We have gone through that in the whole period of the great civil rights struggle from 1954 on, and we spent 10 years debating before we got the Civil Rights Act of 1964 which had the right balance. That is, where the right is not given by the State or assured by the State, it shall be given and assured by the Federal Government. That is all my amendment did.

I was willing to accept an arrangement where the Feds were brought in only when, as, and if the State did not do what it should do. That is the whole Federal system. Otherwise, what are we here for in the Senate, in the Congress, and with the Constitution of the United States?

I will develop a policy on this matter. The only reason, as I say—and again I express my appreciation to Senator Morgan—that I took the floor now is that I do not want to let the matter go on the assumption that the present resolution is fine with me. It is not. I realize the complete good faith of the managers of the bill, who, incidentally, joined in the adoption of this particular bill of rights and had no reason to challenge the approval by my representative on the floor while I was in the committee meeting.

I wish to serve notice that I am not

content with the situation and I shall look into it very carefully and see what I can do to improve it.

Again, I thank the Senator from North Carolina.

Mr. MORGAN. Mr. President, I agree with the Senator that States rights are for responsible States. But I think before we act to remove responsibility from them, we should look to see whether or not they have been responsible. If the Senator wants to pursue this matter in public hearings, I shall be just as interested as he is. If we find that there are areas lacking or not being filled, he can rest assured that I shall support efforts to fill them.

Mr. President, I move to on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I rise to ask if I might have a brief colloquy with the distinguished manager of the bill, the Senator from New Jersey. I have in mind title IV of the legislation, which deals with minority concerns. I raise the question in the context of a certain background which I have had in this matter.

In 1961, I was assigned by the White House, under President Kennedy, to work with the Department of HEW and the Veterans' Administration in developing what became the first Community Mental Health Services Act, the act of 1963, as I recall, on which we are building here. I have followed the subject with some care, I hope, since that time.

Mr. President, I wish to note at the outset that we are dealing here with the public health laws of the country. This is an amendment to the Public Health Service Act. We are dealing here with the medical branch of the National Government, the Public Health Service, a professional and, of course, distinguished organization that has been with us for the very longest while. I am one of those who has been, I hope, as active in the advancement of minority concerns as I have been able to be over a quarter of a century in public affairs, but I do have to admit that constituents raise a legitimate concern when they begin to see the question of minority status written into legislation having to do with the health services of the Nation. We begin to approach an appalling situation in which there are biological definitions of condition as between American citizens.

I do not suggest that this legislation would bring this about, and I hope I shall be assured by the manager of the bill, for whom I have the deepest affection and respect, that it will not. Yet we cannot, in my judgment, be too careful about these matters.

Mr. President, the word "race," Senators may be interested to know, has only recently appeared in the language. The word "racism," for example, first appears in English in 1934 in a translation of Trotsky's history of the Russian revolution. It is a very new thing. The word appeared in French in the contest of the National Socialists, the Nazis. The Nazis knew what they meant by race. They had elaborate decrees, the Nuremberg decrees, which defined in genetic terms what individuals were. The result was that the single greatest crime that Western civilization has ever perpetrated can reasonably be said to have come from the word "race." It distinguished what you could do to some persons from what you could do to another person because those persons were different.

We had hoped we might have a very different condition in our society, that the Constitution and laws would be color blind, and in the Civil Rights Act we went out of our way to seek to avoid identifying persons in these terms. Yet it has been one of the unanticipated results that we have, more and more, done so.

There is almost no foundation in science, genetics, or sociology for these definitions. They can be accommodated by a reasonable society trying to do reasonable things. But one grows alarmed to see the language begin to appear in the public health statutes.

Often, the best intentions in the world lead to the worst results. We have the whole of the middle of the 20th century as witness to what can come of the adoption of the notion that there are racial differences between people. Among other things, we shall very quickly be forced to ask, what are these racial differences? With respect to what may be established? And then what do we do?

You just consider what you have done when you first ask the question, how do you know what is the racial category of one person as against another?

So, Mr. President, I ask my friend, who, I know has given this a great deal of thought, whether he might clarify the term used here and I do so with the thought that, there is one answer which would be highly satisfactory to me, which is that persons are self-defined. As long as persons are self-defined, as in the census, for example, we can accept the idea of definition. But I should like to be assured that we are not embarked in this matter upon a medical or governmental definition of race in our country.

Mr. WILLIAMS. Mr. President, I believe that the statement just made by the Senator from New York is worthy of a great deal of study and thought. I regret that I could not give it my full attention as he spoke. But I recognize that it is worthwhile to understand the issues that are raised by the Senator from New York

This bill's provision dealing with the designation of an Associate Director for Minority Concerns in the National Institute of Mental Health is in response to what has been found to be a problem in best serving the mental health needs of our Nation's minorities. Hearings developed, and additional discussions with those in the field confirmed that NIMH had not focused adequate attention on the needs of minority populations. It is for this reason that the provision establishing an associate director for minority concerns.

For example, the health professions such as psychologists and psychiatrists, who are black, Hispanic, Indian or other minorities, serving those with mental health problems is small compared to the number of minorities who have mental problems.

I will say that I am, in a sense, a surrogate here for the chairman of our subcommittee who has spent years in this area in the most effective way. Unfortunately, I am not as familiar with all of the background that brought us to this particular provision in the bill which brings us to this discussion in the Senate.

I know, however, that the ranking member of our Committee on Health, the Senator from Pennsylvania (Mr. SCHWEIKER), and Senator KENNEDY, have applied themselves for a long period of time, with great sensitivity, with their knowledge, wisdom, and ability in developing the provisions in the Mental Health Systems Act.

I think it would be helpful for the Senator to join in this colloquy with the Senator from New York, if I may suggest that. I think we would benefit by the Senator from Pennsylvania's thoughts in his responding to the issues raised by the Senator from New York.

Mr. SCHWEIKER. Mr. President, I would like to further elaborate a little bit on the objective of the bill

I call page 56 of the report to the attention of the distinguished Senator from New York, because I think it gives a little broader perspective to what we are trying to accomplish in terms of minorities and other groups.

As we look down the priority services list we set up, we talk about chronically mentally ill individuals, severely disturbed children and adolescents, elderly individuals, other priority population groups—and that is the area the Senator has raised some questions about, prevention of mental illness and promoting mental health, community mental health centers, nonrevenue producing services, and linkages between health care centers and mental health service.

Coming back to the fourth priority, Mr. President, which is entitled as "Other Priority Population Groups," I would like to read this part of the report. It goes to the heart of the question the Senator from New York raised:

> However, despite its mandate and significant success, there is increasing evidence that the CMHC movement has not reached a large segment of the population. The literature on Latino, Black, Asian, and Native American mental health is growing and almost without exception it indicates that mental health services for minority populations are either inaccessible or unresponsive. The President's Commission on Mental Health Report points out that despite major gains in service accessibility over the past 15 years due to the Community Mental Health Centers (CMHC) Program, major gaps continue to exist for high risk, high need groups such as children and youth, women, the elderly, the chronic mental patient, minorities, and victims of disaster.

So it is a very broad concept we are discussing here.

So I do not think race is unduly emphasized.

By the same token I think we recognized that in a number of cases Native Americans, and Asians, and Latin groups, have not been given needed health service. So that is part of the reason for including it.

Mr. MOYNIHAN. If I may respond to the very gracious and thoughtful statements made by the managers of the bill, it would be in two regards.

First, I would like it to be clear that I share their concerns altogether. I have been involved with the subject for a very long while.

But I am constrained to ask again something that I think has not been answered:

Are we making our way towards a biological definition of citizenship?

Now, in speaking to one of the able staff associates just recently on this matter, he spoke about discrimination encountered in the National Institute of Mental Health.

I am surprised at that. If he says it is true, I have no evidence to the opposite. When I last dealt with the National Institute of Mental Health, I found it a very open group of people, most of them medical doctors. They did not seem to be the kind of persons who discriminate. Well, if they are, let the Senate so state.

But I hope we do not expect this profession—or do we?—to be a miniature of the polity.

Are we to have quotas in the profession? Do we know how many Finnish psychiatrists there are, how many Bolivian, how many Tamil, how many Guiarati? Will we describe the Irish, such as they are, as Irish, or will we break them down to Kerry, Cork, and Connaught Irish? How shall we know? Will we take blood samples? Do we believe that such a sample could produce anything?

The idea of race as a definable, biological concept is a lie that has been at the heart of much of the evil of the 20th century.

Are we now commencing to introduce it into our statutes?

Obviously, we have not thought sufficiently about this.

On page 90 of the report, with respect to this, one finds reference to the unique problems of our Nation's ethnic minority populations. Is there anybody in the Chamber who would suggest, in that respect, that we are not all ethnic minorities?

I am not sure how we would know. But I know of no majority. If we mean everybody, well, then, all right. If by "minority" we mean everybody, fine.

But if we are not careful, and I leave the matter here quietly, and without any animus, I would have to suggest that the day may come when someone tells us the words mean something very disagreeable.

I would hope that on a matter that has caused us such horror in this century and such anguish in this Nation for two centuries, we would not begin to make categorical distinctions between one human being and another, one American citizen and another, distinctions that cannot be based on science and therefore must be based upon prejudice of one kind or another.

I observe the concern in the bill for Asian Americans. The Census Bureau will doubtless establish in 1980, as it established in 1970, as it established in 1960, that the two highest socioeconomic groups in this society, based on country of origin, are Chinese and Japanese, in that rank. They are the elites of our Nation, and proudly so.

Why do we put them in this legislation? Because they are top? No. Because we remember the racial stereotypes, and this lingers, and it is dangerous.

I do not expect what I have had to say today to have any consequence whatever. But the day may come when we deeply regret that we began to pass statutes that incorporated the identities from a discredited past into the statutes and programs of the future.

I thank the chairman for his thoughtfulness and his courtesy, which he shows to everyone. It has been a special source of my pleasure in this Chamber to be associated with him.

I recognize that, once again, he is doing his duty to a brother Senator who cannot be present. I do not wish to press him any further, only to thank him and the Senator from Pennsylvania.

Mr. WILLIAMS. Mr. President, I appreciate that statement by the Senator from New York.

I only wish to say—and this is a minimal response, of course—that there is no such intention through this provision in this Mental Health Systems Act, but rather the intent is to respond appropriately to the needs of an underserved population. There is no thought of establishing quotas of any kind. I repeat, there are absolutely no quota thoughts in this provision in any way.

With respect to any forerunner of some approach of biological definition of citizenship, not only is that not on our minds, but also, it has not even been suggested until heard from the Senator from New York.

Be at ease: This is not in any way leading us into any kind of biological definition within the community of our country.

Beyond that, however, I suggest that perhaps we have not been profound enough in our thoughts as we legislate specific responses to what we consider an underserved classification of people.

We have minority written into many areas of law—set-asides for minority contractors, affirmative action of employment under Federal contracts for minorities.

The Senator from New York has opened a new door of thought, not only with respect to inquiry but also with respect to a study of what it is all about—this response to what we have done, responded to minority needs. I am grateful for the Senator having raised this discussion.

Mr. MOYNIHAN. The Senator is more than generous; he always is.

I repeat: My concern arises from seeing this in legislation affecting the health laws of the country. We really should watch what we do when we talk about these things.

I should like to repeat to the Senator something I have studied somewhat. The idea of race is a very new idea to mankind. It arises in the late 19th century. When Joseph Chamberlin and people like him began to write about it, their animus at first was not distinctly malevolent.

Mr. WILLIAMS. It might be useful if the Senator would give us a little bibliography right now, for the record, so that we might later refer to it.

Mr. MOYNIHAN. I will give the Senator one example.

The word "racism" does not appear in the Oxford English Dictionary. It is so new a word that it is not in the Oxford English Dictionary. It will be in the next edition. It first appears in English in 1934. It appears at the time of the Nazis.

The word "racialism" is the same term and appeared at about the same time.

Antisemitism was their principal ingredient at first. As the European society seemed to be becoming less Christian, the accustomed grounds for antisemitism seemed doomed to disappear; and this came along just in the nick of time, we might say, obnoxious and, in the end, evil.

I hope we know with what we are dealing. I do not have much more to say, but I hope we know that we are dealing with a toxic substance here. These words can poison minds. Let us be careful how we use them.

Thank goodness we have in the chairman and manager of the bill a person of sensibility and deep culture who will appreciate this. I have been on this floor for 3½ years, and this is the first time any colleague has ever suggested that I expand on a subject, to put more into the record. I appreciate the opportunity. It is characteristic of the Senator from New Jersey that he would want to learn more, although I doubt there is much more to be learned from me.

Mr. WILLIAMS. I regret that I did not notice that the Senator from New York did not have his microphone in place for much of this discussion. For those who are listening in their offices, I suggest that the Record tomorrow will be worthy of their attention.

Mr. MOYNIHAN. I thank the chairman.

UP AMENDMENT NO. 1417

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I send five amendments to the desk at this time.

The PRESIDING OFFICER. Is the Senator asking that they be considered en bloc?

Mr. PRYOR. Mr. President, I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. Pryor) proposes unprinted amendments en bloc numbered 1417.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Purpose: To amend title II, part B to

permit State agencies which contract to provide mental health and related support services to the chronically mentally ill to give special emphasis to the needs of priority population groups in the training and retraining of employees public inpatient psychiatric facilities.

On page 72, line 14, insert the following before the semicolon: ", including, but not limited to, work with priority population groups as defined by this Act".

Purpose: To amend title II, part B to provide that entities which contract to provide services to the elderly deliver a core of three essential services, including outreach, differential diagnosis, and either services not provided by existing programs or services to the elderly, and training for staff, in settings where they are located.

On page 74, line 17, insert "(a)" after "Sec. 204.".

On page 74, line 21, insert the following after "activities": ", medical differential diagnosis to distinguish between and establish the need for mental health services and other medical care prior to treatment,".

On page 74, line 24, insert "and" after the semicolon.

Beginning with page 75, line 1, strike out through page 76, line 2, and insert in lieu thereof the following:

"(2) providing mental health services to elderly individuals in, and staff training for employees of, nursing homes, intermediate care facilities, boarding homes, senior centers, and ongoing self-help groups and crisis support programs.

"(b) With respect to geographic areas where the Secretary determines the services in subsection (a) are being provided, the Secretary may enter into contracts with public and nonprofit private entities for the provision of at least one of the following:

"(1) assuring the availability of appropriate personnel responsible for providing, or arranging for the provision of, mental health and related support services needed by elderly individuals; and

"(2) coordinating the provision of mental health and related support services available to elderly individuals with the area agency on aging (as defined in the Older Americans Act) and other community agencies providing mental health and related support services for elderly individuals and with the provision of services available pursuant to titles XVI, XVIII, XIX, and XX of the Social Security Act, the Older Americans Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, the Drug Abuse Office and Treatment Act; the United States Housing Act, the Domestic Volunteer Service Act of 1973, and other Federal and State statutes.".

Purpose: To amend title II, part B to provide for certification that multioccupant residences exempt from regulation by the State Agency are subject to, and in compliance with, section 1616(e) of the Social Security Act.

On page 93, line 2, insert "the State Agency certifies to the Secretary's satisfaction" after "that".

Purpose: To amend title II, part F to include service to priority population groups among the types of obligated service for mental health traineeships.

On page 120, line 9, insert "or to serve any priority population group as defined by this Act," after the comma.

Purpose: To amend title II, part B, to provide that entities that contract to provide services to the chronically mentally ill deliver a core of three essential services, including identification and outreach, case management, and development of community support services.

On page 70, line 4, insert "(1)" after "(a)".

On page 70, line 9, strike out "one of".

On page 70, line 10, strike out "(1)" and insert in lieu thereof "(A)".

On page 70, line 18, strike out "(2)" and insert in lieu thereof "(B)".

On page 71, line 1, strike out "(3)" and insert in lieu thereof "(C)".

On page 71, after line 12, insert the following:

"(2) In addition to the provisions of section 210(a) relating to omission of any service or other requirement from an application for a contract, the Secretary may permit the omission of services from an application for a contract to provide services under paragraph (1) if the entity applying for a contract demonstrates, to the satisfaction of the Secretary, that—

(A) the entity is incapable of providing all the services required under paragraph (1), and the chronically mentally ill individuals to be served would benefit from less than all the services being provided by such entity; or

(B) the services to be omitted are not needed by the chronically mentally ill individuals to be served.

Mr. PRYOR. Mr. President, it is my understanding at this time that these five amendments are going to be accepted by the managers of this bill.

Mr. President, I deeply appreciate the cooperation that has been extended to my staff and to myself and to my colleagues who are cosponsoring these five amendments. I also appreciate the cooperation of the chairman and the ranking minority member and all of those who have been involved in this because, as a member of the Special Committee on Aging, I have the support on these amendments of the chairman of that committee, Senator LAWTON CHILES, and we have as cosponsors Senator STONE, Senator PACKWOOD, Senator HEINZ, Senator GLENN, Senator BURDICK, who is a cosponsor of two of these amendments, and Senator DOMENICI, who is the ranking minority member of the Special Committee on Aging, and also, of course, a very valued member of that committee has joined in sponsorship, Senator MELCHER of Montana.

Very briefly, these amendments relate to mental health services as they relate to the elderly portion of our population.

As a member of the Special Committee on Aging I have had the opportunity recently to chair hearings on aging and mental health, overcoming barriers to service. The testimony received at those hearings in Arkansas and in Washington has highlighted the failure of the current mental health system to adequately serve the elderly, particularly those older individuals who are chronically mentally ill.

Mr. President, these amendments are being accepted today by the managers of this legislation, and I believe that in doing this we are taking a gigantic step forward in trying to improve and make more responsive the mental health delivery system in this country, specifically as it relates to the delivery system of mental health services to the older section of our population entity in America.

The intent of my amendment is to strengthen the delivery system. It is my understanding that the acceptance by the managers of the legislation will also speak to the very crying need for these amendments and to the purposes for which they serve.

Mr. President, I do have a longer and more detailed statement as to the specific explanations of the particular amendments.

Mr. President, I would like to express my sincere praise of the Labor and Human Resources Committee, especially Senators KENNEDY and SCHWEIKER, for the effort that has gone into S. 1177, the Mental Health Systems Act.

We are at a turning point in the delivery of mental health services in this country. Twenty years ago, we knew that many individuals who were institutionalized did not have to be, and that hospitalization for mental illness could often be prevented if adequate outpatient and community services were available. Thus, we have moved toward a network of centers and facilities at the local level to provide to support these persons would need to either leave the psychiatric wards or remain in the community.

As we gained experience with the community mental health program, we have seen that while all segments of the population need a core of preventive services and treatment for mental and emotional disorders, certain groups have greater needs and are more difficult to reach and serve. Historically, then, we have seen these "priority population groups" underserved or unserved altogether.

Herein lie the strengths of the legislation reported by the Labor and Human Resources Committee. Briefly, I shall mention a few of these strengths.

The States are given a greater role and responsibility for planning and providing mental health services in the community level, rather than solely in State institutions.

There is an effort to create a balance and a partnership between the Federal Government, the States, and local agencies in the provision of mental health services.

State and communities are given more flexibility to tailor their programs to the needs of the populations they serve. The bill permits services to be shared and prioritized.

Agencies and organizations in addition to those who traditionally provide mental health services may be eligible to contract to serve those populations which are hard to reach and have specialized needs.

Most of all, the focus of the bill before us recognizes that under the current system, the elderly, the chronically mentally ill, and other underserved groups, need programs of special assistance to reach them. This legislation moves, as most Federal legislation should, away from general assistance and toward incentives and aid in reaching those groups which have been shown to be beyond the current capabilities of the States and local communities to serve.

As a member of the Special Committee on Aging, I have been particularly concerned and involved with the unmet needs of one of those groups—older Americans. I chaired hearings in Arkansas and Washington to delve into the question of how our current resources might be better targeted to bring about more effective programs for the mental health of the elderly at the local and national level.

What I found is that the problem lies not so much in the lack of resources, although that is always a problem, but the need for cooperation and coordination, and particularly, the need for outreach to the elderly where they are by persons trained to recognize and understand the special mental health needs of the elderly. From the hearings, several factors emerged as crucial to successful delivery of mental health services to older persons:

One such factor is medical differential diagnosis. That is a fancy term for a very simple concept—the process of aging is so complex and individualized, that when you couple it with the number of prescribed medications an older person may be taking for chronic conditions, you often find that an apparent mental or emotional problem really has its roots in an untreated physical condition or the medication being prescribed for a physical disorder.

On the other hand, emotional symptoms such as depression, can mimic "senility" or organic brain syndrome. Therefore, the elderly especially need an examination to determine what are physical and which are mental problems the individual faces.

Second, the elderly must be reached, and often served, in settings where they are. In no other segment of the population is there a greater stigma about seeking professional help for mental and emotional problems than among the elderly.

Today's 65-plus population have lived through times when mental illness was "treated" by locking the so-called insane and feeble-minded away from the rest of society. Our society's stereotypes about old age do not help alleviate the fears the elderly have senility. Forgetfulness or eccentric behavior which might forewarn a treatable condition or the normal depression that goes with loss of spouse, income, or useful work may be deliberately hidden by an older person afraid he is "losing his mind."

Do we have any evidence that the failure of the current system to address these factors is a serious threat to the mental well-being of the Nation's elderly? Yes, we do. In cold statistical terms it boils down to this:

Twenty to 25 percent of all reported suicides are committed by persons over the age of 60.

The incidence of depression and psychosis, the most serious mental disorder, rises dramatically in the over-65-age group. An individual over age 75 is far more likely to experience one of these problems than younger persons.

We can compare these facts to national figures which show that only 4 percent of the initial visits to community mental health centers are by older Americans. Generally, less than 6 percent of the consultation and education services of community mental health centers are to facilities and agencies which deal primarily with the elderly. Only about 2 percent of the patient loads of psychologists and psychiatrists are composed of older persons.

Those are the statistics, but in human terms we have to look at the waste when even one member of the 11 percent of the population which is over 65 is made nonproductive and useless by a treatable mental or emotional disorder. After the year 2000, when the population of older Americans grows to one in every four or five persons, it would be tragic to waste this vast human resource, and inhumane to deny individuals who can physically thrive to age 75, 85, or older the opportunity for mental wellbeing as well.

In light of the information gained from our hearings, the President's Commission on Mental Health, and the U.S. Commission on Civil Rights Age Discrimination Study, I am offering a series of five amendments to S. 1177. The chairman of the Special Committee on Aging, Senator Chiles, as well as Senator Heinz, join me in sponsoring these amendments, which are designed to strengthen the provisions for training and for services to the elderly and the chronically mentally ill. I sincerely thank the Labor and Human Resources Committee for their cooperation in the development of these provisions and their attention to the needs of older Americans in accepting the amendments.

Briefly, I shall describe the purpose of my amendments. The first encourages entities which apply for contracts to serve the chronically mentally ill to provide all three of the core services—outreach and identification, case management, and development of community support services—which have been shown to be essential in helping those who can be deinstitutionalized make a successful transition into the community.

A second amendment prioritizes the services to the elderly and insures that older persons served by the special contracts in this legislation will have a differential diagnosis and receive either services not currently being provided or outreach in settings where they are localed—such as nursing homes, boarding homes, senior centers, et cetera.

Two amendments, which Senator Burdick also joins me in cosponsoring, encourage training of professionals and other personnel to serve the priority population groups designated by this legislation.

The final amendment gives the State mental health agency, in cases where the State wishes to be the sole contractor for mental health services, the responsibility for certifying that standards for boarding homes are being enforced.

Again, I express my appreciation to the committee for this opportunity to incorporate the findings of the Special Committee on Aging hearings into this very valuable mental health legislation. No one piece of legislation is going to provide all the answers to the problem of mental and emotional illness in this country. Yet I feel that the Mental Health Systems Act, coupled with these strengthening amendments, will be a step in the direction of improved services to the elderly and the chronically mentally ill.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. PRYOR. I am happy to yield to my friend from Florida, the very distinguished chairman of the Special Committee on Aging.

Mr. CHILES. Mr. President, I wish to join my colleague from Arkansas in praising the Labor and Human Resources Committee for the legislation that they reported to reauthorize and expand our mental health programs. I am also very pleased to cosponsor the amendment Senator Pryor is offering on behalf of the elderly and the chronically mentally ill.

As chairman of the Special Committee on Aging, I believe Senator Pryor deserves a special word of praise for the leadership he has shown in the area of aging and mental health. His previous service as Governor of Arkansas and outstanding concern for older Americans has given him an understanding, in very human terms, of the special service needs of the elderly.

When he came to the Senate and became an active member of our Committee on Aging, he was disturbed to see these needs multiplied nationwide and has certainly followed up in a positive, energetic fashion to see what we could do to improve mental health services for older persons. I am particularly impressed with the commonsense approach that Senator Pryor is taking in stressing coordination and innovation at State, local, and national levels.

Mr. President, that is exactly what these amendments attempt to do, to not say that every time we can solve a problem by throwing more money at it. But sometimes when we have limited resources, and we know that often is the case, we can try to utilize that money we have in the best way and to allow those people who are dealing with the problem, those who are handling it every day who know what their particular concerns are and how they best can shape and handle those concerns, the flexibility of trying to do that.

I again commend the Senator for the type of amendments, and I am delighted to see that the committee is going to accept them.

All too often, the response of Congress and the executive branch to a problem is to throw money at it. Yet the hearings of the Special Committee on Aging have highlighted that money, just money, is not the single answer. Innovative and effective mental health programs to serve the elderly have been possible when community mental health centers, area agencies on aging, and primary health care providers have pooled their resources to develop outreach to the elderly and training for people that serve them. Testimony at the "Aging and Mental Health" hearings demonstrated that when these cooperative efforts were prevented or destroyed, it was Federal paperwork, regulations, and redtape that created the barrier as often as it was lack of funds.

At the national level, our hearings showed that an issue like the mental health and the elderly is one that can "fall through the crack" in the Federal bureaucracy. When you get the administrators of programs to serve the elderly or to provide health and mental health services together, you find there is room for a lot more cooperation and coordination at the Federal level.

I believe the amendments we are offering are sound because they move us toward providing a core of services that have been shown, in years of study and experience, to be what it takes if we are going to reach the elderly and the chronically mentally ill. We have indeed learned that requiring community mental health centers to take limited resources and spread them out trying to do all things for all people is too much. The strength of S. 1177 is that it permits States and local mental health agencies to examine their populations and determine what the service needs are. Wasteful duplication is lessened by allowing local areas to share resources and services. New resources and innovative approaches are marshaled by provisions allowing agencies and organizations other than traditional ones to be involved in mental health.

As we redirect the Federal legislation to special grants and contracts to serve the currently underserved groups, however, we do need to focus these programs on doing the things we know make the difference between successful and unsuccessful efforts. By requiring more of those who would contract to serve the special needs populations, we are encouraging entities to pool their efforts and cooperate in seeing that the core of services can be provided.

Like Senator PRYOR, I do not see this legislation or the amendments as a final answer. We need to follow up at the Federal level to see that national efforts are coordinated and redtape, paperwork, and these administrative barriers to cooperation among agencies are reduced. We also need to look further at the reimbursement system to see how it might be improved to encourage outpatient mental health care, without opening the door to undue cost and abuses.

Again, I thank the Labor and Human Resources Committee and Senator PRYOR for their diligence with this issue.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Arkansas.

Mr. PRYOR. Mr. President, I deeply appreciate Senator CHILES' remarks. He serves with great distinction in this body and certainly with great distinction as the chairman of the Special Committee on Aging in the Senate.

I thank once again the managers of the bill, the chairman and the chairman of the subcommittee, the ranking members of the committee and subcommittee, and certainly the staffs who have had this opportunity to work through these amendments. I think that they will be amendments that will speak directly to mental health services for the elderly that are so critically needed. In the past we have been very, I think, very negligent, I must say, as a country in meeting some of these particular needs.

Especially to the Senator from New Jersey, the chairman of the full committee, we express our deep appreciation.

Mr. WILLIAMS. Mr. President, I rise to support these amendments that have been offered by the Senator from Arkansas (Mr. PRYOR) and applaud him and the chairman of the Special Committee on Aging, Senator CHILES, and I am grateful that they have given us these amendments to further improve this very important legislation dealing with mental illness.

I did not know just how it would develop in the years following the continuation of this special committee but I remember the time that it was suggested within the Rules Committee that there not be a Special Committee on Aging. I strongly suggested that the special committee could render great service to other committees in the particular areas dealing with their subject of the older Americans, in order to share their knowledge with the various committees to improve legislation that impacts in some way on our elderly.

Once again, the Special Committee on Aging has brought us some thoughtful analyses of elderly needs, and it is expressed here in these amendments. It will be of great benefit to this legislation.

I ask unanimous consent that, as a former member of the Special Committee on Aging and former chairman of that committee, I be added as a sponsor, with the Senator from Arkansas, of these amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. I am happy to accept it.

Mr. SCHWEIKER. Mr. President. I rise in support of these amendments.

I commend the distinguished Senator from Arkansas, Senator PRYOR, for these amendments. They amend sections of the bill that we worked on.

I think that since the hearing of the Select Committee on Aging came after our bill was marked up we did not have time prior to markup to consider them. I think they are very constructive and positive suggestions, and I certainly urge their adoption as well.

Mr. HEINZ. Mr. President, I ask unanimous consent that my name be added as a cosponsor to all five amendments offered by Senator PRYOR.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I rise today to offer my full support for the amendments offered by Senator PRYOR. I also wish to commend the Labor and Human Resources Committee for the amount of time and work that they have devoted to S. 1177. I trust that the new thrust of this legislation, targeting our Federal dollars to those individuals who have been unserved or poorly served by the present system, is a wise one. It is my hope that the actions we take today will set the pace for further necessary reform of our mental health care delivery system.

As a member of the Special Committee on Aging, I was pleased to participate in the hearings chaired by Senator PRYOR on "Aging and Mental Health: Overcoming Barriers to Service." Like my colleagues on the committee, I was impressed with the fact that so much of the problem of serving the elderly and the chronically mentally ill seemed rooted in lack of a coordinated effort, failure to reach out to these populations, and inadequate training of both health and social service providers of the special needs of these groups.

I would like to thank Senator PRYOR for the effort he has devoted to this issue and to these amendments. These measures seek to strengthen the worthy efforts of the Labor and Human Resources Committee, to insure that as we reallocate resources to the special needs groups, our attempts are not piecemeal or inadequate. In 1980, we know enough about what works and what does not, we have learned enough from our failures, as well as from demonstrations of successful projects and from studies and reports, to put into place the essential services for these priority groups.

Mr. President, the services that this bill would provide and the amendments that Senators PRYOR, CHILES, myself, and other members of the Aging Committee have offered today are vital steps toward providing the critically needed community-based outpatient care for our needy older Americans. But more must be done to remedy the fragmented, acute-care oriented Federal health care delivery system that is inadvertently, and unintentionally assuring that millions of our elderly do not receive the care needed to allow them to be productive, active participants in our society.

The present medicare and medicaid reimbursement systems stress treatment for acute disorders, whereas the elderly suffer from disorders marked by longevity and chronicity. I believe that it is time our medicare program be revitalized to serve the purpose for which it was intended—that is, meeting the health care needs of the elderly and disabled.

One approach which I believe is viable—and which I have introduced in legislative form—would begin such a revitalization for the mentally ill elderly population. Specifically, my bill, S. 1289, the Comprehensive Mental Health Act, calls for:

Elimination of the $250 annual ceiling for outpatient mental health care and replace that unfair and inadequate control with a strong utilization review requirement;

Allowing community mental health centers to qualify for provider status whether or not they are operated under the aegis of a hospital;

Providing coverage for partial hospitalization for mental health care by qualified providers, including community mental health centers;

Elimination of the 190-day lifetime limit for inpatient psychiatric care; and

Replacement of the 50–50 copayment for mental health services with the same 80–20 copayment required for physical health care under medicare.

There are other, highly commendable proposals designed to change the Federal payment scheme to insure that our elderly have access to and receive the appropriate, necessary services, and I do not mean to cite my proposal to the exclusion of these other important measures.

My intention and sincere hope, Mr. President, is that we follow today's action on S. 1177 with the critically needed reform of the medicare system. I believe that this is imperative if we are to assure the mandate of the Older Americans Act, that all of our Nation's elderly are entitled to a life of independence and dignity.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Arkansas.

The amendments en bloc (UP No. 1417) were agreed to.

Mr. PRYOR. Mr. President, I move to reconsider the vote by which the amendments en bloc were agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1418

(Purpose: To permit use of medical records for eligibility determinations)

Mr. WILLIAMS. Mr. President, for myself and Senator Long, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New Jersey (Mr. Williams) for himself and Mr. Long, proposes an unprinted amendment numbered 1418.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 154, line 20, insert "or eligibility determination" before "but".
>
> On page 154, line 20, delete "or" before "program".

Mr. WILLIAMS. Mr. President, this amendment permits use of medical records for eligibility determinations under the Social Security Act.

Mr. President, I understand this is an acceptable amendment.

Mr. SCHWEIKER. That is right.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1418) was agreed to.

Mr. SCHWEIKER. Mr. President, I thank Stuart Shapiro and David Reimer of Senator Kennedy's staff, Letitia Chambers and Pat Markey of Senator Williams' staff, Barbara Green and John Rother of Senator Javits' staff, Ron Docksai of Senator Hatch's staff. Ron Preston of Senator Humphrey's staff, and Cynthia Hilton and David Winston of my staff for all the work they have done on this bill.

Mr. WILLIAMS. I do not have a statement written. Senator Kennedy, I know, has spoken to me of the great assistance he feels has received from all of the staff who have been named, and those who have been here on the floor, and others that have not been mentioned. He expressed to me the feeling that there is great dedication and commitment that is equal to the very necessary main reach of this legislation.

So Senator Kennedy, and I now the present manager of the bill, to all of the staff express a deep gratitude, and also pleasure in being the comanager on the floor with my dear friend from Pennsylvania, Senator Schweiker.

I have no further amendments.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

Mr. MATSUNAGA. Mr. President, as one of the cosponsors of the original legislation which established the community mental health centers program in 1963, I rise in strong support of the passage of this important legislation by the Senate today.

The enactment of S. 1177 would greatly improve and expand the services which are currently being provided by our community mental health centers by permitting greater flexibility and coordination among local public and these private, nonprofit mental health service providers. It also would establish the first major step toward the planning and coordination of community-based mental health services at all levels of government.

S. 1177 would provide much needed additional resources to care for the deinstitutionalized mental patient and would establish a comprehensive bill of rights and advocacy program for all mentally ill individuals.

As the primary cosponsor along with my distinguished colleague from Hawaii of legislation to establish an Office of Minority Concerns within the Alcohol, Drug Abuse, and Mental Health Administration of the Department of Health and Human Services, I am particularly pleased that title IV of S. 1177 specifically includes an authorization to establish formally a position of Associate Director for Minority Concerns within the National Institute of Mental Health to develop and coordinate the prevention, treatment, research, and administrative policies and programs for the purpose of assuring an increased focus on the mental health problems of our Nation's minority groups.

The Associate Director for Minority Concerns will actively evaluate the responsiveness of community mental health centers to the prevention and service needs of minorities. The Associate Director will also explore the effects of racism, sexism, and ageism on the mental health of minorities and aggressively promote research, training, and service activities aimed at promoting mental health and preventing mental illness among minority groups. It should be noted that this authority in title IV is entirely consistent with a specific recommendation made in the final report of the President's Commission on Mental Health.

One of the first priorities of the Associate Director for Minority Concerns will be to evaluate thoroughly the mental health needs of refugees and newly arrived immigrants. A recently completed special report on the primary health care needs of our Nation's immigrants that has been submitted to the Congress by the Department of Health and Human Services has highlighted the mental health needs of these groups as a serious primary health problem in need of immediate resolution.

The special report also highlighted the 10 States with the highest number of refugee and newly arrived immigrants. The State of Hawaii was listed as the State with the highest percentage of refugees and immigrants per capita to its resident population. I believe that the work of the Associate Director for Minority Concerns will be of effective assistance to these "gateway" States, and particularly to the State of Hawaii, in addressing this most serious need of refugees and newly arrived immigrants.

Mr. President, I am deeply appreciative of the work of the Committee on Labor and Human Resources in this area and urge my colleagues to support this important provision in S. 1177 along with the other provisions of the bill.

Mr. President, the junior Senator from New York, Mr. Moynihan, has expressed serious concerns over the possible consequences of title IV, which would establish an Associate Director for Minority Concerns within the National Institute of Mental Health.

The Senator from New York articulated his concerns regarding the formal establishment of an ethnically based program for the treatment of mental health problems of our Nation's minority groups.

As the primary cosponsor of legislation along with my colleague from Hawaii which would establish an Office of Minority Concerns within the Alcohol, Drug Abuse, and Mental Health Administration of the Department of Health and Human Services, and as a strong supporter of the provisions and intent of title IV of S. 1177, I wish to call to the attention of my colleagues the Executive summary of the final report of the President's Commission on Mental Health, which clearly outlines the need for such a provision. Pertinent abstracts of that report read as follows:

> According to the 1975 Special Census, the population of America includes 22 million Black Americans and 12 million Hispanic Americans. There are 3 million Asian and Pacific Island Americans and 1 million American Indians and Alaska Natives. Appropriate services are not available to many of them, even though social, economic, and environmental factors render them particularly vulnerable to acute and prolonged psychological and emotional distress.
>
> Too often, services which are available are not in accord with their cultural and linguistic traditions. The number of Asian and Pacific Island Americans utilizing mental health services increases dramatically when services take into account their cultural traditions and patterns. Language barriers prevent many Hispanic Americans from seeking care, and when they do seek it the absence of bilingual personnel can reduce the effectiveness of treatment. Government funded or operated programs often ignore existing cultural, social, and community supports in the American Indian community.
>
> A frequent and vigorous complaint of minority people who need care is that they often feel abused, intimidated, and harassed by non-minority personnel. Like everyone else, minorities feel more comfortable and secure when care is provided by practitioners who come from similar backgrounds. Yet fewer than 2 percent of all psychiatrists in America are Black. The percentage of Hispanic American psychiatrists is even lower, and there are only 13 psychiatrists in the country who are American Indian. A recent survey by the American Psychological Association estimates that of all the doctoral-level health services providers in psychology, 0.9 percent are Black, 0.7 percent are Asian,

> 0.4 percent are Hispanic, and 0.1 percent are American Indian.
>
> Seasonal and migrant farmworkers and their families, many of whom belong to racial minorities, represent a population of approximately five million which has been almost completely excluded from mental health care. The constant mobility as they move from place to place in search of work frequently prevents them from obtaining any care, let alone continuity of care.
>
> The common bond among these racial and ethnic minority groups is that all encompass people whose basic mental health needs have not been sufficiently understood by those involved in the planning and delivery of mental health services.

Mr. President, title IV of S. 1177 is necessary to meet the immediate needs of a segment of our population who would otherwise continue to be neglected. The continued neglect of such acute needs would surely lead to disastrous consequences. The enactment of title IV would solve problems, not create them.

I urge the passage of S. 1177 as reported out by the committee.

● Mr. KENNEDY. Mr. President, on May 17, 1979, I introduced S. 1177, the Mental Health Systems Act. Today, 14 months later, I am pleased that the legislation will pass the Senate.

Since the 1950's, enormous progress has been made in treating the mentally ill. Two decades ago, the mentally ill citizens of this country had two alternatives—they could take up residence in the overcrowded, large, isolated mental hospitals run by the States, where their illnesses would often get worse; or they could see a psychiatrist for $50 per hour. But most mentally ill Americans needed a third choice—limited inpatient and outpatient care in small facilities in their home communities at a reasonable cost. Except in a few communities, the third choice was nonexistent. There simply were no community mental health centers.

In 1963 things began to change. In that year the Community Mental Health Centers Act was enacted into law and endorsed and signed by President John F. Kennedy. Under that law, the Nation was divided into approximately 1,500 mental health service or "catchment" areas. In many of these areas community mental health centers (CMHC's) began to be built, and later staffed, with the help of Federal funds. During the last 17 years, in roughly half the catchment areas, approximately 760 CMHC's have been established with Federal aid. As a result, half of the people of the country now have access to comprehensive mental health care in their home communities at affordable prices.

Mr. President, this program of funding CMHC's for an 8-year period until they can generally finance themselves without Federal support must continue. There are also many catchment areas which have no CMHC's, but where it makes sense to establish them. The funding of new CMHC's in such situations should remain a Federal responsibility.

The CMHC program, however, is not without its limitations. Evaluations conducted during the 1970's by the Department of HEW itself, the GAO, and most recently the President's Commission on Mental Health have made it clear that there are at least three basic mental health problems in this country which the CMHC program is unable to solve.

First, there is the problem posed by the thousands of chronically mentally ill individuals who, in recent years, have been discharged or diverted from State mental hospitals and returned to their home communities. We are all familiar with the tragic stories of deinstitutionalized patients who not only receive no mental health treatment but who live in dilapidated hotels or boarding homes, six to a room, with leaking roofs and broken toilets. We have all seen the men and women who spend their winters in subways or on hot air grates and their summers on park benches. These miserably neglected Americans have been inadequately served by CMHC's—partly because they cannot effectively compete with more articulate groups for CMHC resources, and partly because their needs are so great that CMHC's cannot meet them and still provide all other services required by law.

Second, there is the problem posed by other groups with very unique mental health problems—severely disturbed children and adolescents, mentally ill elderly individuals, women, and in some communities certain racial or ethnic minorities. These people often go without help. In some cases CMHC's are simply not equipped to deal with them; in other cases, CMHC's have proven incapable of reaching out to them.

Third, there is the problem of disorganization within the mental health system itself. Today, patients who must be institutionalized are cared for by State governments, and many community-based programs now also receive State support. In fact, the States spend $9 for every Federal dollar spent on mental health. At the same time, divorced from this activity by the States, hundreds of CMHC's receive Federal funding from the National Institute of Mental Health within the Department of Health and Human Services. Thus, the State system and the Federal system pass each other like ships in the night.

States make decisions to discharge or divert patients from State hospitals without cooperating with the federally funded CMHC's which must try to handle the flood of deinstitutionalized patients with declining Federal support. Conversely, States have no effective control over Federal spending decisions, yet they are often obliged in the end to pick up the cost of Federal initiatives after the Federal Government terminates its funding. Together, the separate State and Federal systems amount to a chaotic, inefficient, nonsystem. At one time, such disorganization could be tolerated. Today, in a time of scarcer resources, the need for a unified system, which brings together local groups, local and State governments, and the Federal Government in a working partnership, is essential.

The seriousness of these three problems, that is, the unmet needs of chronically mentally ill individuals, the special problems faced by young people and elderly people and other groups, and the disorganization in planning and delivering mental health services among various levels of government, has persuaded the Committee on Labor and Human Resources that a new approach is needed. Taking the administration's bill as our starting point, we have substantially revised it to reflect the priorities and procedures we think should be followed in carrying out Federal mental health policy in the future.

Let me explain briefly how the Mental Health Systems Act, S. 1177, as amended by the committee, would work. The bill calls for citizens and government officials in each State to work together; formulate a State mental health operations program for the State; and, consistent with the State's overall health plan, formulate a State mental health operations program which would describe in detail the State's mental health priorities. Once the mental health operations program was in place, local and State proposals for funding could be submitted, after a period for review and comment by State planning and mental health agencies, to the Federal Government. If a State meets certain criteria regarding its commitment to community-based services and care for the chronically mentally ill, the State mental health agency may elect, also after a period of review and comment, to submit a single statewide proposal to the Federal Government. Where a local entity feels its original proposal has been unfairly excluded or modified by a State agency in the State's single statewide proposal, an appeals mechanism is provided.

The bill sets out eight areas in which mental health funding could be obtained from the Federal Government:

First. The chronically mentally ill;

Second. Severely disturbed children and adolescents;

Third. The elderly;

Fourth. Other "priority populations" such as racial and ethnic minorities, the poor, women, rural residents, and so forth;

Fifth. Prevention;

Sixth. Community mental health centers, both startup and continuation;

Seventh. Nonreimbursable services such as consultation and education; and

Eighth. Programs that link the provision of mental health services with physical health care.

Performance contracts between the entity receiving funding and the Federal Government would spell out standards by which success could be measured.

This legislation also includes provisions which:

Establish a patient's bill of rights and advocacy program;

Provide for an Associate Director for Minority Concerns within the National Institute of Mental Health;

Require a greater focus on prevention by NIMH; and

Reauthorize an expanded rape prevention program.

Mr. President, the effort to redefine what Federal mental health policy should be has not been easy. Many of the concerned groups have very strong beliefs about what we should do, and many of the Members on the committee also had very strong convictions about the course that should be taken. Reconciling these often divergent positions was difficult. But I would like to point out that most of the major national organizations concerned with mental health have endorsed the Mental Health Systems Act, S. 1177, as reported by the committee. In both subcommittee and committee, this bill received strong bipartisan support.

Mr. President, mental illness has always been a painful matter for society and government. For centuries, the mentally ill were simply ignored. Then, they were locked up in madhouses. When, during the last century, the need to treat mental illness has a disease came to be accepted, the favored method of treatment—large State hospitals—often did more harm than good; and there were too few hospital beds for all those who needed help. Since 1963, in this country, we have committed ourselves to treating the mentally ill in small facilities in their home communities, a decision which has resulted in the cure and rehabilitation of thousands of Americans, has prevented the worsening or onset of mental illness among millions, and has dramatically expanded the availability of mental health care in both urban and rural areas.

During the last few years, we have come to recognize that our commitment to community-based mental health care must move into a second phase. Comprehensive community mental health centers must continue to receive Federal support. But noncomprehensive programs designed to serve those most in need must also be established, and the disorganized elements of our mental health care nonsystem must be integrated into a true mental health system.

Accomplishing these goals is the primary purpose of the Mental Health Systems Act, S. 1177.

Mr. President, I urge my colleagues to adopt this landmark legislation.●

Mr. ROBERT C. BYRD. Mr. President, in the 1960's President John Kennedy urged the Nation to pursue a "bold new approach" to mental health care, by establishing a network of small, community-based facilities in which mental patients could receive needed treatment close to their homes and relatives. In 1963, Congress passed legislation for community-based centers and pledged money to help States establish them.

Since that time, a dramatic shift in the institutional care of the mentally ill has occurred. The movement has gained support by court rulings that mental patients should be treated under the least possible restraints. The population of large State and county mental hospitals nationwide has decreased from about 500,000 to about 160,000 since 1963. Thirty years ago, three out of four mental patients were treated in institutions. Today, that ratio has been reversed and 75 percent of all mental patients are cared for at outpatient facilities.

It is estimated that between 20 to 30 million Americans need some form of mental health service each year. Some individuals do not seek care because of the lingering stigma attached to mental illness. Studies indicate that many people tend to visit physicians even though their health needs are primarily emotional rather than psychological, and that more effective utilization of psychological services might serve to reduce health care costs. There is mounting evidence that mental health and general health care progams are not, in most communities, adequately integrated.

There is also substantial evidence that different groups of people suffer from a disproportionate amount of mental illness. Individuals from two distinct groups stand out in this regard: the Nation's elderly and minority citizens. Perhaps these individuals continue to suffer from greater stress than most Americans. Their income levels, housing conditions, and their overall health are substantially below those of our Nation as a whole.

The reauthorizing legislation passed by the Senate today should strengthen our national commitment to fight mental illness by clarifying the lines of responsibility for providing mental health services across all lines—between Federal, State, and local governments and community groups. I wish at this time to express my appreciation to Senator WILLIAMS for his able management of the bill today, and to Senator SCHWEIKER, the minority manager. Senator KENNEDY, chairman of the Health Subcommittee, deserves recognition for his contributions to this measure. And, special thanks are owed to Senator MORGAN and Senator JAVITS for their worthy and productive cooperation on this legislation.

Mr. ROTH. Mr. President, I want to go on record today as supporting the amendment offered by Senator MORGAN to S. 1177, The Mental Health Systems Act.

Title III of the committee bill provides for establishment of a Federal advocacy program and Federal bill of rights for mentally disturbed persons. The title provides specific jurisdictional authority to the Federal district court for adjudicating actions brought under this title.

While I am concerned about the rights of mentally ill persons and the need for them to be protected, I believe this is an issue which is most appropriately a matter of State jurisdiction. More than 35 States currently have a statutory bill of rights for mentally ill persons, and I do not believe it is appropriate to enact Federal legislation allowing the State bill of rights to be challenged and litigated.

The Morgan amendment offers a reasonable and acceptable alternative. Specifically, the amendment expresses the sense of the Congress to encourage States to take into account the recommendations of the President's Commission on Mental Health and the rights as stated in the committee-adopted bill. However, it is also clear the States are not limited by these recommendations, but are free to develop the best bill than can produce. I believe it is significant the President's Commission did not recommend a Federal bill of rights be established.

I am submitting for the RECORD a copy of a letter from the attorney general of the State of Delaware which clearly states the desirability of a State established bill of rights.

I commend the Senator from North Carolina for his efforts to insure the rights of mental health patients are provided for at the appropriate level of government—the State level.

The letter follows:

STATE OF DELAWARE,
Wilmington, Del., July 11, 1980.

Hon. ROBERT MORGAN,
U.S. Senate,
Washington, D.C.
Re: S. 1177

DEAR SENATOR MORGAN: I read with interest your letter of June 26, 1980 regarding S. 1177. I wish to endorse the views which you expressed therein.

The legislature of the State of Delaware has already seen fit to establish a "Bill of Rights" for patients residing in Delaware's mental hospital as well as for nursing home patients and the mentally retarded. *16 Del.C.* §5161; 16 *Del.C.* §1121; and 16 *Del.C.* §5501 *et seq*. These sections are enforceable through a variety of mechanics and certainly could provide the basis for private suit in state court (such as specifically authorized for the mentally ill by 16 *Del.C.* §5162). Therefore, state law adequately addresses the needs of Delaware's institutionalized citizens. A further overlay of federal law in this area could cause serious disruption in Delaware's services to the mentally ill while providing only negligible benefits to its mentally ill citizens.

Aside from the statutory provisions outlined above, institutions are regulated by numerous licensing agencies. Delaware State Hospital, Delaware's institution for the mentally ill is inspected by:

1. Delaware's Division of Public Health;
2. The Accreditation Committee for the Joint Commission on Accreditation of Hospitals;
3. The United States Department of Health and Human Services (formerly HEW) for compliance with Medicare and Medicaid regulations;
4. The United States Social Security Administration to determine whether the Hospital properly handles funds patients receive from Social Security;
5. Delaware's Auditor of Accounts;
6. Delaware's Fire Marshal;
7. The Federal Office of Civil Rights.

Furthermore there has been a substantial growth in case law, developing and refining constitutional rights for the mentally ill which may be enforced through federal and state court. This virtual explosion of case law has established numerous patient rights. For example, the United States Supreme Court has decided that a person may only be committed if his mental condition causes him to be dangerous to himself or others and such can be proven by clear and convincing evidence. Case law indicates a patient has both a right to treatment and a right to refuse treatment. Courts have restricted a facility's ability to use restraints, solitary confinement and electroshock therapy. They have banned unrestricted opening of patient's mail, administrative transfer from a jail to a mental hospital and unrestricted release of a patient's medical history. In short, the courts have lent an open ear to the complaints of the mentally ill and have developed a modern body of case law for their benefit.

A new set of federal mandates would only confuse the rapidly developing set of standards mandated by courts and regulatory bodies. It would encourage litigation which diverts valuable time, energy and money from the care of the mentally ill, all for no gainful purpose.

Thank you for the ability to express my

views on this matter. If you have any questions, please contact me.

Yours truly,

RICHARD S. GEBELEIN,
Attorney General.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is: Shall the bill pass? The yeas and nays have been ordered, and the Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—93

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield,
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simspon
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—3

Byrd, Harry F., Jr.
Helms
Proxmire

NOT VOTING—4

Burdick
Church
Kennedy
Talmadge

So the bill (S. 1177), as amended, was passed as follows:

S. 1177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. That so much of this Act as precedes title VII, along with the following table of contents, may be cited as the "Mental Health Systems Act".

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.

TITLE I—STATE MENTAL HEALTH SYSTEM

Sec. 101. Condition of Federal funding.
Sec. 102. Designation and functions of State Agencies.
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FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds—

(1) despite significant progress that has been made in making community mental health services available and improving residential mental health facilities since the original community mental health centers legislation was enacted in 1963, unserved and underserved populations remain and certain groups in the population in particular, such as chronically mentally ill individuals, children and youth, elderly individuals, racial or ethnic minorities, women, poor persons, and persons in rural areas, often lack access to adequate private and public sector mental health services and support services;

(2) the process of transferring or diverting chronically mentally ill persons from unwarranted or inappropriate institutionalized settings to their home communities has frequently not been accompanied by a process of providing those persons with the mental health and support services they need in community-based settings or a process of affording training, retraining, and job placement for employees affected by institutional closure and conversion and the establishment of community-based programs;

(3) the delivery of mental health and support services is typically uncoordinated at the individual, local, State, and Federal level, and among concerned local, State, and Federal entities and agencies of government;

(4) mentally ill persons are often inadequately served by programs of the Department of Health and Human Services such as medicare, medicaid, supplemental security income, and social services (under title XX of the Social Security Act), and the programs of the Department of Housing and Urban Development, the Department of Labor, and other Federal agencies;

(5) health care systems often lack general health care personnel with adequate mental health training and often lack mental health care personnel, resulting in millions of persons with some level of mental disorder not receiving appropriate mental health care;

(6) present efforts to prevent mental illness through discovery and elimination of its causes and through early detection and treatment are far too limited;

(7) a comprehensive and coordinated array of appropriate private and public sector mental health and support services for all people in need within a specific geographic area, based upon a cooperative local-State-Federal partnership, remains the most effective and humane way to provide a majority of mentally ill individuals with mental health care and needed support; and

(8) because of the rising demand for mental health services and wide disparities in the distribution of psychiatrists, clinical psychologists, psychiatric nurses, and psychiatric social workers, psychiatry is a medical shortage specialty, and there are distinct needs for the other health professionals.

(b) It is, therefore, the purpose of this Act to—

(1) provide and assure an appropriate, coordinated, and accountable network of comprehensive community-based mental health services through the private and public sector for all persons in need of such services, which is sufficiently flexible to respond to changing community circumstances, to the diverse cultural and ethnic backgrounds of individuals, and to differences in race, sex, and age among individuals;

(2) improve and initiate mental health and support services for unserved and underserved populations, particularly chronically mentally ill individuals, children and youth,

elderly individuals, racial and ethnic minorities, women, poor persons, persons in rural areas, and any other group with special need;

(3) encourage innovative programs for preventing mental illness and promoting mental health and provide for a specific administrative structure within the Federal Government to direct such efforts;

(4) provide more flexibility in the funding of mental health services and encourage development of a partnership in the delivery of mental health services and related support services among private providers and local, State, and Federal governments;

(5) facilitate State efforts to carry out the State responsibility for—

(A) providing or arranging for the provision of appropriate care for those adults and children whose mental illnesses are so severe that they require inpatient care on a short-term or long-term basis;

(B) bringing about the transition from an institution-based service system (including skilled nursing and intermediate care facilities) to a community-based service system by providing those discharged or diverted from institutions, or who might otherwise be sent there, with the opportunity for appropriate mental health and support services through a comprehensive system of community mental health and support services and by providing training, retraining, and job placement for personnel displaced by institutional closures and conversions and the development of community-based services;

(C) coordinating the mental health services provided in the State with related support services provided in the State;

(D) ensuring the adequacy and fiscal soundness of all mental health and support services within the State through the mental health planning process; and

(E) fostering the most effective use of private, local, State, and Federal resources (including private and public forms of health insurance) by promoting the coordinated delivery of, and planning for, mental health and support services at and among all levels of activity and government; and

(6) promote evaluation of the mental health delivery system, particularly with regard to its effectiveness in meeting the needs of priority population groups.

DEFINITIONS

SEC. 3. For the purposes of this Act, unless the context otherwise requires, the term—

(1) "State" includes (in addition to the fifty States) the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(2) "Governor" means the chief executive officer of a State;

(3) "Secretary" means the Secretary of Health and Human Services;

(4) "nonprofit", as applied to any entity, means an entity which is owned and operated by one or more corporations or associations no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or person;

(5) "mental health service area" means a geographic area established for the purpose of planning and providing mental health services in accordance with section 103 of this Act;

(6) "State health plan" means the plan prepared in accordance with title XV of the Public Health Service Act;

(7) "mental health services" means the treatment provided by the private or public sector which reasonably can be expected to ameliorate a nervous, mental, or emotional disorder, or which reasonably can be expected to prevent the decline of or improve a person's level of mental functioning;

(8) "support services" means health services (other than mental health services), and the educational, rehabilitation, vocational, housing, and social services, and other services specified by the Secretary;

(9) "priority population group" means any group which is determined by the Secretary to have special mental health needs and to be unserved or underserved by mental health service programs, such as but not limited to chronically mentally ill individuals, children and youth, elderly individuals, any racial or ethnic minority, women, Indians and urban Indians (as those terms are defined in the Indian Health Care Improvement Act), Native Hawaiians, the poor, rural residents, and victims of violence or disaster;

(10) "comprehensive mental health services" means the services described in section 201(b) of the Community Mental Health Centers Act (as amended by this Act);

(11) "community mental health center" means an entity which either through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities provides those services described in paragraph (10) of this section; and

(12) "contract" means a cooperative agreement as described in section 6 of the Federal Grant and Cooperative Agreement Act of 1977 and shall not be governed by the provisions of volume 41, chapters 1 and 3, of the Code of Federal Regulations.

TITLE I—STATE MENTAL HEALTH SYSTEM

CONDITION OF FEDERAL FUNDING

SEC. 101. In order for any entity in a State to receive funding under this Act, the State shall meet the requirements of this title.

DESIGNATION AND FUNCTIONS OF STATE AGENCIES

SEC. 102 Each State shall designate an agency or authority to act as the State administrative agency with regard to mental health services. Such agency shall be referred to in this Act as the "State Agency". The State Agency shall divide the State into, and designate, mental health service areas in accordance with section 103 and shall prepare, consistent with the mental health provisions of the State health plan described in section 104, a State mental health operations program which meets the requirements of section 105.

MENTAL HEALTH SERVICE AREAS

SEC. 103. (a) Within one year after the effective date of this Act, each State Agency shall divide the State into, and designate, mental health service areas. Each mental health service area shall be a geographic region appropriate for the effective development, delivery, and coordination of mental health services in such area. Prior to designating mental health service areas, the State Agency shall conduct hearings relating to the designation of such areas, and all interested persons shall be afforded an opportunity to participate in such hearings. In designating mental health service areas, the State Agency shall consider the following factors:

(1) the optimum number of persons to be served in each area;

(2) the accessibility of services to persons in each area;

(3) the cultural needs of the area;

(4) preexisting geographic boundaries related to the provision of mental health and other services; and

(5) the boundaries of the health service areas of the State established pursuant to title XV of the Public Health Service Act.

(b) The boundaries of each mental health service area shall be within or conform to the boundaries of a health service area established pursuant to title XV of the Public Health Service Act.

MENTAL HEALTH PROVISIONS OF THE STATE HEALTH PLAN

SEC. 104. Each State health plan prepared pursuant to title XV of the Public Health Service Act shall contain, in an identifiable place or places, provisions relating to—

(1) the need for mental health services in the State;

(2) the special mental health service needs in the State of chronically mentally ill individuals (including chronically mentally ill individuals who are multiply handicapped), emotionally disturbed children and adolescents, elderly individuals, and other priority population groups;

(3) the adequacy of public and private mental health facilities and services available in the State;

(4) mental health service priorities in the State;

(5) geographic, cultural, linguistic, and economic barriers with respect to the delivery of mental health services in the State;

(6) the coordination of mental health services with health and other services;

(7) the measures which need to be taken to assure that statistics and other information collected with regard to the provision of mental health services conform to such criteria, standards, and other requirements relating to form, method of collection, content, and confidentiality as have been prescribed by the Secretary; and

(8) such additional requirements as the Secretary may prescribe to carry out the provisions of title XV of the Public Health Service Act and this Act.

MENTAL HEALTH OPERATIONS PROGRAM

SEC. 105. (a) Each State Agency shall prepare, consistent with the mental health provisions of the State health plan described in section 104 and after consultation with the Statewide Health Coordinating Council established pursuant to title XV of the Public Health Service Act, a mental health operations program.

(b) The mental health operations program required under subsection (a) shall—

(1) identify the mental health service areas within the State;

(2) identify the need in each mental health service area of the State for mental health and related support services after consideration of—

(A) the demographic, economic, cultural, and social characteristics of the population of the area, and

(B) the services and activities needed in the area for the prevention of mental illness;

(3) identify the special mental health services needs in each mental health service area of chronically mentally ill individuals (including chronically mentally ill individuals who are multiply handicapped), emotionally disturbed children and adolescents, elderly individuals, and other priority population groups;

(4) identify and evaluate the public and private mental health facilities, the mental health personnel, and the mental health services available in each mental health service area, and determine the additional facilities, personnel, and services necessary to meet the mental health needs of each area;

(5) identify the methods used (A) to determine the mental health needs of each mental health service area, and (B) to evaluate the facilities, personnel, and services of each mental health service area;

(6) list the mental health service needs of each mental health service area in the order of priority that such needs should be addressed through the use of existing Federal, State, and local resources;

(7) identify measures which need to be taken to alleviate geographic, cultural, linguistic, and economic barriers with respect to the delivery of mental health services;

(8) identify measures which need to be taken to assure that mental health services will be provided in a manner respectful of each individual's human dignity, and with attention to continuity and quality of care;

(9) identify the legal rights of persons in the State who are mentally ill or otherwise mentally handicapped in addition to the rights provided under title III of this Act,

and describe any measures which need to be taken to protect all such rights; and

(10) identify the measures which need to be taken to coordinate the provision of mental health services, including mental health services and support services for chronically mentally ill individuals and other priority population groups.

(c) The mental health operations program required under subsection (a) shall also describe in specific terms how the State agency will—

(1) ensure the continued provision of appropriate services which have been provided in the past by local entities in the State, which entities have received Federal funding under the Community Mental Health Centers Act and this Act, but which entities may in the future become ineligible for Federal funding under this Act;

(2) promote the development of comprehensive mental health services in each mental health service area where such services are currently unavailable;

(3) ensure, within a five-year period after the program is prepared (or within such other period as the State Agency justifies and the Secretary determines to be reasonable), that—

(A) residents of public inpatient psychiatric facilities who are inappropriately placed in such facilities are identified, discharged, and, to the extent appropriate, placed in the least-restrictive settings and provided mental health and support services appropriate to such persons' level of functioning;

(B) persons who need to be placed in mental health facilities are placed in least-restrictive settings and provided mental health and support services appropriate to such persons' level of functioning; and

(C) persons who are discharged from, or are in need of placement in, mental health facilities shall—

(i) upon discharge or prior to placement, be informed of available community-based facilities and programs providing mental health and related support services, and

(ii) have access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services;

(4) promote the development of adequate mental health services for chronically ill individuals and other priority population groups;

(5) promote the prevention of mental illness;

(6) assist the courts and other public agencies, and appropriate private agencies, in screening persons being considered for inpatient care in mental health facilities in the State in order to determine if such care is medically or psychologically indicated;

(7) comply with regulations prescribed by the Secretary of Labor pursuant to section 212(b) of this Act; and

(8) made adequate provisions for the development of planning and service delivery staffs with appropriate training and experience at both the local and State levels.

(d) The mental health operations program required under subsection (a) shall—

(1) describe the financial commitment and ability of the State to implement the provisions of subsection (c);

(2) include an analysis of the services made available for mentally ill individuals in the State under titles IV(B), V, XVI, XVIII, XIX, and XX of the Social Security Act, the Education for All Handicapped Children Act, the Older Americans Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1973, the Drug Abuse Office and Treatment Act, and other relevant Federal statutes; and

(3) describe the steps being taken in the State to coordinate the provision of services under this Act with the provision of services under the aforementioned Acts.

(e) In preparing the mental health operations program required under subsection (a), the State Agency shall consult with a State advisory council, which council shall include:

(1) representatives of consumers and providers of mental health services in the State who are familiar with the need for such services, and

(2) representatives of nongovernment organizations or groups, and of State Agencies, concerned with the planning, operation, or use of such services.

Such representatives of consumers shall constitute a majority of the members of such council.

ENFORCEMENT

SEC. 106. (a) Whenever the Secretary determines that there has been a substantial and persistent failure to comply with the requirements of this title, the Secretary shall notify the appropriate State Agency that further payments under this Act will not be made to any entity in the State, including the State Agency, until the Secretary is satisfied that such failure has been or will be corrected. After providing such notice and the opportunity for an informal hearing in the State, if the Secretary reaffirms the determination that there has been a substantial and persistent failure to comply with the requirements of this title, the Secretary shall make no further payments under this Act to any entity in the State, including the State Agency, until the Secretary is satisfied that such failure has been or will be corrected.

(b)(1) Notwithstanding the provisions of subsection (a), the Secretary may continue to make payments to any entity in a State, other than the State Agency, which received funding under the Community Mental Health Centers Act prior to October 1, 1979, if the Secretary determines that—

(A) such entity in no way contributed to the failure to comply with the requirements of this title which led to the termination of payments under subsection (a), and

(B) payments have been terminated under subsection (a) for at least one month.

(2) No entity receiving payments pursuant to paragraph (1) may receive such payments for more than eight years.

TITLE II—COMMUNITY SERVICES

PART A—CONTRACT AUTHORITY

CONTRACTS

SEC. 201. (a) The Secretary may enter into contracts with public and nonprofit private entities, including State Agencies, for the purpose of assisting such entities to provide the services described in part B of this title.

(b) No contract may be entered into under subsection (a) unless an application has been submitted to and selected by the Secretary in accordance with parts C, D, and E of this title.

(c) The Secretary shall determine the amount of any contract entered into under this title, but in no case may such amount be more than the amount permitted under section 223.

PART B—TYPES OF SERVICES

SERVICES FOR CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 202. (a)(1) For purposes of this subsection, the Secretary may enter into contracts with public or nonprofit private entities other than a State Agency for the provision of mental health and related support services to chronically mentally ill individuals. A contract entered into under this subsection shall provide for at least the following:

(A) identifying and providing outreach to chronically mentally ill individuals located in inpatient facilities, boarding homes, nursing homes, intermediate care facilities, residential care facilities, group homes, and other community settings, and identifying the barriers preventing chronically mentally ill individuals from receiving needed services and devising and implementing measures to eliminate such barriers;

(B) making available to each chronically mentally ill individual a case manager to assume responsibility for coordinating the provision of mental health services and, as needed, related support services for such individual, and assuring the availability of outreach services, including information and counseling for the families and employers of chronically mentally ill individuals; and

(C) developing, in collaboration with other health, mental health, and human services agencies, community support services not otherwise available to chronically mentally ill individuals (such as screening and referral, followup care, alternatives to hospitalization, assistance in applying for entitlements, crisis stabilization, psychosocial rehabilitation, and supportive living and working arrangements) in order to reduce the dependency of, and increase the potential of, individuals receiving such services, and arranging for the provision of such services in cooperation with such other agencies or entities.

(2) In addition to the provisions of section 210(a) relating to omission of any service or other requirement from an application for a contract, the Secretary may permit the omission of services from an application for a contract to provide services under paragraph (1) if the entity applying for a contract demonstrates, to the satisfaction of the Secretary, that—

(A) the entity is incapable of providing all the services required under paragraph (1), and the chronically mentally ill individuals to be served would benefit from less than all the services being provided by such entity; or

(B) the services to be omitted are not needed by the chronically mentally ill individuals to be served.

(b) For purposes of this subsection, the Secretary may enter into contracts with a State Agency for the provision of mental health and related support services to chronically mentally ill individuals. A contract entered into under this subsection shall provide for at least one of the following:

(1) assisting mental health service areas in the continuing process of identifying chronically mentally ill individuals in need of mental health and related support services, planning the provision of such services, and carrying out such plans;

(2) assessing the needs of chronically mentally ill individuals throughout the State, identifying local, State, and Federal barriers preventing chronically mentally ill individuals from receiving needed services, and devising and implementing measures to eliminate such barriers;

(3) improving the skills of personnel providing services to chronically mentally ill individuals by providing or arranging for the provision of inservice training, other training, or retraining for such personnel;

(4) providing or arranging for the provision of job placement for, and training and retraining of, employees of public inpatient psychiatric facilities at which there has been a reduction in the need for such employees in order to train and place such employees in settings where such employees can perform comparable work, including, but not limited to, work with priority population groups as defined by this Act; and

(5) coordinating the operations of State agencies or intrastate regional agencies responsible for mental health and related support services for chronically mentally ill individuals, and coordinating the provision

of mental health and support services for chronically mentally ill individuals with the provision of services under titles IV(B), V, XVI, XVIII, XIX, and XX of the Social Security Act, the Rehabilitation Act of 1973, the United States Housing Act, the Comprehensive Employment and Training Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Older Americans Act, and other Federal and State statutes.

SERVICES FOR SEVERELY DISTURBED CHILDREN AND ADOLESCENTS

Sec. 203. The Secretary may enter into contracts with public and nonprofit private entities for the provision of mental health and related support services to severely disturbed children and adolescents. A contract entered into under this section shall provide for at least one of the following:

(1) identifying and assessing the needs of severely disturbed children and adolescents, and providing needed services which are not provided by existing programs:

(2) assuring the availability of appropriate personnel responsible for providing, or arranging for the provision of, mental health and related support services needed by severely disturbed children and adolescents;

(3) coordinating the provision of mental health and related support services available to severely disturbed children and adolescents with the activities of community agencies and State agencies and with the provision of services available pursuant to titles IV(B), V, XVI, XIX, and XX of the Social Security Act, the Education for All Handicapped Children Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Rehabilitation Act of 1973, and other Federal and State statutes;

(4) establishing cooperative arrangements with juvenile justice authorities, educational authorities, and other authorities and agencies that come in contact with severely disturbed children and adolescents to ensure referral of such children and adolescents to appropriate mental health and related support services;

(5) establishing self-help groups and crisis support programs for children and adolescents and their families; and

(6) providing auxiliary mental health services to handicapped children served under the Education for all Handicapped Children Act.

SERVICES FOR ELDERLY INDIVIDUALS

Sec. 204. (a) The Secretary may enter into contracts with public and nonprofit private entities for the provision of mental health and support services to elderly individuals. A contract entered into under this section shall provide for outreach activities, medical differential diagnosis to distinguish between and establish the need for mental health services and other medical care prior to treatment, and for at least one of the following:

(1) identifying and assessing the mental health needs of elderly individuals and providing needed services which are not provided by existing programs; and

(2) providing mental health services to elderly individuals in, and staff training for employees of, nursing homes, intermediate care facilities, boarding homes, senior centers, and ongoing self-help groups and crisis support programs.

(b) With respect to geographic areas where the Secretary determines the services in subsection (a) are being provided, the Secretary may enter into contracts with public and nonprofit private entities for the provision of at least one of the following:

(1) assuring the availability of appropriate personnel responsible for providing, or arranging for the provision of, mental health and related support services needed by elderly individuals; and

(2) coordinating the provision of mental health and related support services available to elderly individuals with the area agency on aging (as defined in the Older Americans Act) and other community agencies providing mental health and related support services for elderly individuals and with the provision of services available pursuant to titles XVI, XVIII, XIX, and XX of the Social Security Act, the Older Americans Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, the Drug Abuse Office and Treatment Act, the United States Housing Act, the Domestic Volunteer Service Act of 1973, and other Federal and State statutes.

SERVICES FOR PRIORITY POPULATION GROUPS

Sec. 205. The Secretary may enter into contracts with public and nonprofit private entities for the provision of mental health and support services to priority population groups other than chronically mentally ill individuals, severely disturbed children and adolescents, and elderly individuals. A contract under this section shall promote comprehensive mental health services, where appropriate, for such priority population group.

PREVENTION OF MENTAL ILLNESS AND PROMOTION OF MENTAL HEALTH

Sec. 206. (a) The Secretary may enter into contracts with public and nonprofit private entities for programs to prevent mental illness and promote mental health. A contract under this section shall focus upon population groups that have a higher incidence, or greater risk, of mental illness than other population groups. A contract entered into under this section may be for, but need not be limited to, a program to—

(1) educate the general public regarding mental health problems and mental illness, prevention of mental health problems and mental illness, and promotion of mental health;

(2) improve the ability of health, social service, and other human services personnel to identify mental illness in individuals and assure appropriate care;

(3) provide screening, consultation, referral, and education in public school systems and in the work place in order to detect early and prevent mental health problems and promote mental health;

(4) organize self-help groups for populations that have a higher incidence, or greater risk, of mental illness than other population groups; and

(5) promote measures to manage and reduce stress.

(b) Programs supported under this section shall be consistent with national goals and priorities regarding the prevention of mental illness and promotion of mental health determined by the Director of the National Institute of Mental Health pursuant to section 455 of the Public Health Service Act.

COMMUNITY MENTAL HEALTH CENTERS

Sec. 207. (a) The Secretary may enter into contracts with public and nonprofit private entities for the provision of comprehensive mental health services by a community mental health center.

(b) A community mental health center which provides services pursuant to this section shall comply with all applicable provisions of the Community Mental Health Centers Act and shall also establish, in accordance with regulations prescribed by the Secretary a quality assurance program which includes—

(1) multidisciplinary peer review and utilization evaluation;

(2) a secure system of recordkeeping that—

(A) integrates physical and mental health records, and

(B) is in accordance with applicable Federal and State laws respecting confidentiality of and access to such records;

(3) a multidisciplinary professional advisory board; and

(4) an identifiable administrative unit responsible for providing consultation and education services.

(c) The provision of services by a community mental health center in a mental health service area under this section shall be coordinated as appropriate with the provision of services by other mental health, health and social service programs and agencies (including public inpatient psychiatric facilities) serving residents of the mental health service area. Services may be provided under this section—

(1) at a community mental health center, or at a satellite facility, located in the mental health service area;

(2) by the staff of the community mental health center, or through appropriate arrangement with other health professionals and other providers located in the mental health service area; and

(3) in the case of inpatient, emergency, partial hospitalization services, or certain specialized services, by health professionals or agencies, pursuant to appropriate arrangements, in any location that is readily accessible to residents of the mental health service area.

(d) All services provided under this section shall be accessible and promptly available to residents of the mental health service area. Such services shall assure continuity and quality of care, and shall take into account the cultural, economic, and social characteristics of the population to be served.

NON-REVENUE-PRODUCING SERVICES

Sec. 208. (a) The Secretary may enter into contracts with public and nonprofit private entities for the provision of non-revenue-producing services. A contract entered into under this section shall require the provision of such services by an existing community mental health center, or, if no such center is providing services in a mental health service area, by any other entity providing mental health services in the mental health service area.

(b) Services provided under this section may include—

(1) consultation and education services (as described in section 201(b) of the Community Mental Health Centers Act);

(2) evaluation of the mental health services program of a community mental health center;

(3) case management; and

(4) any other nonrevenue producing service which has been determined to be appropriate by the Secretary.

LINKAGES BETWEEN HEALTH CARE SETTINGS AND MENTAL HEALTH SERVICES

Sec. 209. (a) The Secretary may enter into contracts with any public or nonprofit private entity providing mental health services, or having in effect a written agreement with another entity providing mental health services, for the purpose of ensuring linkages between (1) health facilities and programs, nursing homes, and intermediate care facilities and (2) mental health facilities and programs.

(b) A contract entered into under this section shall—

(1) identify individuals in need of mental health services in health care facilities, nursing homes, and intermediate care facilities; and

(2) provide, or arrange for the provision of, mental health and related support services for such individuals, including 24-hour emergency services, out-patient services, and consultation and education services, (as described in section 201(b) of the Community Mental Health Centers Act).

PART C—APPLICATION REQUIREMENTS

SEC. 210. (a) An application for a contract under this title may omit any service or other requirement required to be provided or met under section 202 through 209 if the application demonstrates that the service or requirement is already being provided or met to such an extent that the allocation of additional resources to provide the service or to meet the requirement is unnecessary. Any application omitting a service or requirement under this subsection shall demonstrate to the satisfaction of the Secretary that the entity submitting the application has identified another entity providing the service or meeting the requirement and has established a cooperative working agreement with such entity.

(b) An application for a contract under this title shall be submitted in accordance with the provisions of this part and applicable regulations prescribed by the Secretary. Such application shall contain or be accompanied by—

(1) a statement of the objectives of the services to be provided;

(2) information regarding the organization and operation of the entity submitting the application;

(3) a financing plan and budget for the fiscal year for which funding is sought (and such additional period as the Secretary may require), indicating for each service to be provided the sources of funding for the service;

(4) the schedule of fees to be charged for services to be provided, and the discounts to be allowed (to individuals unable to pay in full) on the basis of relative inability to pay for a service, and satisfactory assurances that the entity submitting the application will make every reasonable effort to collect fees for such services;

(5) satisfactory assurances that funds made available under this Act will be used to supplement and, to the extent practicable, increase the level of non-Federal funding for the services provided, and that such Federal funds shall not supplant non-Federal funds except when necessary to carry out the purposes of this Act;

(6) satisfactory assurances that measures have been taken by the entity submitting the application to consult with members of the group or groups to be served, members of the public, and affected organizations and agencies during the development of the application, and to give reasonable opportunities to members of such groups, members of the public, and interested organizations and agencies to comment on the application;

(7) where substantial portions of the population to be served are of limited English-speaking ability, or bicultural, or both, a description of how the entity will provide services in appropriate languages and cultural contexts and the extent to which staff will be bilingual and bicultural;

(8) a description of the efforts made by the entity submitting the application, and the efforts to be made by such entity, to coordinate the services to be provided with other mental health and support services in the same area;

(9) such satisfactory assurances as are required as conditions of eligibility under part D of this title;

(10) information regarding the extent to which and manner in which the entity has served chronically mentally ill individuals in prior years (if such service has been provided) and purposes to serve chronically mentally ill individuals during the fiscal year in which funding is sought under this title (if such service is proposed);

(11) satisfactory assurances that the entity submitting the application shall submit such reports, at such times and containing such information, as the Secretary may request, maintain such records as the Secretary may find necessary for purposes of this Act, and afford the Secretary and the Comptroller General of the United States access to such records and other documents as may be necessary for an effective audit of each service or activity;

(12) statistics and other information requested by the Secretary necessary to evaluate the compliance of the application with the requirements of this Act; and

(13) such other information and material and such other assurances as the Secretary may prescribe in order to carry out the purposes of this Act.

PART D—APPLICANT ELIGIBILITY

ELIGIBILITY REQUIREMENTS: IN GENERAL

SEC. 211. (a)(1) In order to be eligible to enter into a contract under this title, an entity shall—

(A) in the case of an entity, other than a public entity or a hospital, which seeks to provide comprehensive services through a community mental health centers pursuant to section 207, or which has as its primary purpose the provision of services which are funded under this Act, provide satisfactory assurances to the Secretary that it has a governing board which—

(i) is composed, where practicable, of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area, taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, provided that at least one half of the members of such board shall be individuals who are not providers of health care, and

(ii) meets at least once a month, establishes general policies for the entity (including a schedule of hours during which services will be provided), approves the entity's annual budget, and approves the selection of a director for the entity; or

(B) in the case of any entity not described in subparagraph (A), provides satisfactory assurances to the Secretary that it has an advisory committee which—

(i) is composed of individuals who reside in the entity's mental health service area and are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics of the area: *Provided*, That at least one half of the members of such committee shall be individuals who are not providers of health care, and

(ii) advises the entity with respect to the provision of services which are funded under this Act.

For the purposes of this paragraph, the term "provider of health care" shall have the same meaning as under section 201(c)(2) of the Community Mental Health Centers Act.

(2) Notwithstanding paragraph (1), any public or nonprofit private entity receiving a grant or entering into a contract under section 328 of the Public Health Service Act (relating to hospital-affiliated primary care centers), section 329 of the Public Health Service Act (relating to migrant health centers) or section 330 of the Public Health Service Act (relating to community health centers) shall be eligible for a contract under this title.

(b)(1) In order to be eligible to enter into a contract under this title to provide services pursuant to sections 202, 203, 204, 205, 206, or 209 in any mental health service area—

(A) in the case of an entity other than a State Agency, such entity shall provide satisfactory assurances to the Secretary that it has negotiated in good faith regarding, or secured, a contract or agreement with any entity providing comprehensive mental health services through a community mental health center in the mental health service area concerning such entities' mutual responsibilities, and

(B) in the case of a State Agency, such State Agency shall provide satisfactory assurances to the Secretary that it has made a good faith effort to coordinate, or has coordinated, with any entity providing comprehensive mental health services through a community mental health center in the mental health service area concerning such entities' mutual reponsibilities.

(2) In order to be eligible to enter into a contract under this title to provide services pursuant to section 207 or 208 in any mental health service area—

(A) in the case of an entity other than a State Agency, such entity shall provide satisfactory assurances to the Secretary that it has negotiated in good faith regarding, or secured, a contract or agreement with any other entity providing mental health services in the mental health service area concerning such entities' mutual responsibilities, and

(B) in the case of a State Agency, such State Agency shall provide satisfactory assurances to the Secretary that it has made a good faith effort to coordinate, or has coordinated, with any other entity providing mental health services in the mental health service area concerning such entities' mutual responsibilities.

(c) In order to be eligible to enter into a contract under this title, an entity shall provide satisfactory assurances to the Secretary that any application for a contract submitted by such entity is consistent with the State health plan of the State.

ELIGIBILITY REQUIREMENTS FOR STATE AGENCIES

SEC. 212. (a) In order to be eligible to enter into a contract under this title, a State Agency shall provide satisfactory assurances to the Secretary that local public and nonprofit private entities have been included as providers of service to the maximum extent possible.

(b)(1) In order to be eligible to enter into a contract under this title, a State Agency shall be certified to be in compliance with the regulations established pursuant to paragraph (2).

(2) The Secretary of Labor, after publishing a notice in the Federal Register and providing an opportunity for consultation for the Governor of any State and the Secretary of Health and Human Services, shall establish regulations which require fair and equitable arrangements to protect the interests of employees adversely affected by actions taken to emphasize outpatient treatment of mentally ill individuals, against a worsening of such employees' positions with respect to their employment, including those arrangements that are required by section 1642(c)(1) of the Public Health Service Act. In applying this subsection the Secretary of Labor may, to the extent feasible consistent with the principal objective of protecting against a worsening of the positions of affected employees, take into account the States financial circumstances and their legal requirements.

(3) The Secretary of Labor shall certify which States, which have applied for funding under this title, are in compliance with the regulations required by paragraph (2), and shall provide the Secretary of Health and Human Services with a list of States so certified.

ELIGIBILITY REQUIREMENTS FOR STATE AGENCIES SEEKING TO BE EXCLUSIVE CONTRACTORS

SEC. 213. (a)(1) A State Agency may be the exclusive contractor of services for a State under this title if—

(A) such State Agency complies with the provisions of this section, and

(B) the Secretary enters into an exclusive contract with such State Agency under section 217.

(b) A State Agency, in order to be eligible to enter into a contract to be the exclusive contractor of services for a State under this title, shall demonstrate to the satisfaction of the Secretary that it is effectively implementing its mental health operations program prepared pursuant to section 105, and shall also demonstrate to the satisfaction of the Secretary that it, or another agency of the State, is making a good faith effort to establish and implement procedures for carrying out the requirements of subsection (c).

(c) (1) A State Agency, in order to be in compliance with this section, shall monitor the placement in the community of chronically mentally ill individuals discharged or diverted from mental health facilities, and shall prevent overconcentration of such individuals in any community or group of communities.

(2) A State Agency, in order to be in compliance with this section, shall administer a program of support and placement services for chronically mentally ill individuals in the State discharged or diverted from mental health facilities or who may be so discharged or diverted. Such program shall prescribe and enforce minimum standards for the provision of followup care for such individuals by community mental health centers and other appropriate entities. Such program shall include as a minimum the following:

(A) Timely notification by the mental health facility to the appropriate community mental health center or other entity concerning the discharge of each chronically mentally ill individual and the placement of such individual in the mental health service area in which the center or other entity is located.

(B) A prerelease consultation between the mental health facility and the appropriate community mental health center or other entity with respect to each chronically mentally ill individual to be discharged and placed in a community. Such consultation shall take place without delaying the discharge of such individual from the mental health facility. Such consultation shall include a preliminary evaluation of the physical, mental, social, and monetary needs of the individual to be discharged, and an identification of the services and programs for which such individual is eligible.

(C) Development by the mental health facility of a written treatment and services plan for each chronically mentally ill individual to be discharged, or already discharged, or diverted, in consultation with a case manager in the community mental health center or other appropriate entity in the mental health service area in which such individual will or does reside. Such plan shall—

(i) to the maximum extent feasible, be developed with the participation of the individual discharged or diverted and the family of such individual;

(ii) include appropriate living arrangements suited to the needs of the individual. If family or independent living is not possible and the individual resides in a multioccupant residence, the State Agency shall assure that such residence is subject to a program for regulation as described in paragraph (3) of this subsection;

(iii) describe appropriate mental health services and other needed services, such as medical and dental services, rehabilitation services, vocational training and placement, social services, and living skills training; and

(iv) identify specific programs and services for which the individual is eligible, including income support, and provide for a periodic reevaluation of the plan at least every one hundred and twenty days.

(D) Designation of a case manager responsible for the coordination of service for each chronically mentally ill individual discharged or diverted from a mental health facility and the implementation of the treatment and services plan for such individual.

(3) A State Agency, in order to be in compliance with this section, shall develop a program for regulating multioccupant residences (other than family residences in which all the residents are related by blood or marriage, and residences that the State Agency certifies to the Secretary's satisfaction are subject to and in compliance with section 1616(e) of the Social Security Act and which are located in a State in which the standards applicable to such residences pursuant to section 1616(e)(1) of such Act are comparable to the standards required by this paragraph) in which four or more chronically mentally ill individuals reside and for which room is charged, in accordance with guidelines established by the Secretary. Such program shall include the following:

(A) Minimum standards for approval of a residence, including referral to and assistance in reaching appropriate medical, dental, mental health, and other services not otherwise available at such residence, compliance with appropriate life safety, fire, and sanitation codes, and access for visitation during reasonable hours without prior notice by appropriate mental health and social service staff.

(B) Evaluation, inspection, and monitoring procedures.

(C) Remedies for noncompliance.

(A) A State Agency, in order to be in compliance with this section, shall provide educational or informational services to educate the population of the State regarding the problems of chronically mentally ill individuals, the need for community involvement in programs designed to resolve the problems of chronically mentally ill individuals outside institutional settings, and the resources available or needed to help such programs succeed.

(5) A State Agency, in order to be in compliance with this section, shall improve the skills of personnel involved in providing services for chronically mentally ill individuals through inservice training, retraining, or other training of such personnel.

(6) A State Agency, in order to be in compliance with this section, shall review State policies and programs to determine if such policies and programs discriminate against chronically mentally ill individuals, and the means by which such discrimination may be eliminated.

(d) A State Agency, in order to be eligible to enter into a contract to be the exclusive contractor of services for a State under this title, shall provide satisfactory assurances to the Secretary that it will submit an annual report to the Secretary regarding its efforts and progress under this section, including the manner in which the needs of chronically mentally ill individuals in each mental health service area in the State are being met within the community and the State's progress in implementing mechanisms to ensure that, as chronically mentally ill individuals are discharged from mental health facilities, State mental health funds are flowing from institution-based care to community-based care.

PROCESS FOR DETERMINING ELIGIBILITY OF STATE AGENCIES TO BE EXCLUSIVE CONTRACTORS

SEC. 214. No later than the date three hundred and thirty days before the beginning of each fiscal year, the Secretary shall determine and announce which State Agencies have met the requirements of section 213 and are thereby eligible to be the exclusive contractors of services for their respective States under this title. Prior to such date, the Secretary shall provide technical assistance to State Agencies which do not appear to have met the requirements of section 213 but which seek to meet such requirements.

PART E—APPLICATION PROCEDURE, SELECTION OF APPLICATIONS, PERFORMANCE CONTRACTS

APPLICATION PROCEDURE

SEC. 215. (a) All applications by public and non profit private entities to enter into contracts under this title (except the applications of a State Agency) shall be submitted to the State Agency. Applications shall be submitted no later than the date two hundred and seventy days prior to the first day of the fiscal year for which funding is sought under this title. All such applications shall be submitted to the health systems agency prior to submission to the State Agency. The health systems agency may submit recommendations and comments regarding such applications to the State Agency at any time prior to the transmission of such applications to the Secretary.

(b) (1) A State Agency may—

(A) prepare one or more applications to enter into contracts under this title; or

(B) if the State Agency has been determined to be eligible to be the exclusive contractor of services for the State under this title pursuant to section 214, prepare an application to be the exclusive contractor of services for the State under this title.

(2) If a State Agency prepares one or more applications to enter into contracts under this title pursuant to paragraph (1)(A), the State Agency shall submit such applications to the affected health systems agencies no later than the date two hundred and seventy days prior to the first day of the fiscal year for which funding is sought under this title. Such health systems agencies may submit comments and recommendations regarding such applications to the State Agency at any time prior to the transmission of such applications to the Secretary.

(3) If a State agency which has been determined to be eligible to be the exclusive contractor of services for the State under this title decides that it will submit an application to the Secretary to be the exclusive contractor of services for the State under this title, such State Agency shall announce such decision no later than two hundred and seventy days prior to the first day of the fiscal year for which funding is sought under this title. The application to be the exclusive contractor of services for the State under this title, prepared pursuant to paragraph (1)(B), shall be submitted to the Statewide Health Coordinating Council of the State established pursuant to title XV of the Public Health Service Act no later than such date. The Statewide Health Coordinating Council may submit comments and recommendations regarding such application to the State Agency at any time prior to the transmission of such application to the Secretary.

(c) Within forty-five days after the final date of submission applications under subsection (a), the State Agency shall—

(1) provide public notice of all applications submitted, under subsection (a), the comments and recommendations (if any) submitted by health systems agencies regarding such applications, and the comments and recommendations (if any) of the State Agency regarding such applications; and

(2) provide public notice of all applications prepared by the State Agency itself under subsection (b)(1) and the comments and recommendations (if any) submitted by health systems agencies regarding such applications; and

(3) in the case of a State Agency that, pursuant to subsection (b)(2), has announced its decision to submit an application to the Secretary to be the exclusive contractor of mental health services for the State under this title, provide public notice of the application to be submitted by the State Agency to the Secretary and the comments and recommendations (if any) submitted by the Statewide Health Coordinating Council regarding such application.

(d) No sooner than twenty days but no later than thirty days after the date public notice is provided under subsection (c), the State Agency shall convene public hearings and receive public comment regarding such application or applications.

(e) After consideration of the public comments received pursuant to subsection (d), the State Agency, on the date one hundred and fifty days prior to the first day of the fiscal year for which funding is sought under this title, shall—

(1) transmit to the Secretary the applications to enter into contracts under this title submitted pursuant to subsection (a), or prepared pursuant to subsection (b)(1)(A), the comments and recommendations (if any) submitted by health systems agencies regarding such applications, the comments and recommendations (if any) of the State Agency regarding such applications and the comments and recomendations, (if any) received by the State Agency pursuant to the public hearings held under subsection (d); or

(2) in the case of a State Agency that, pursuant to subsection (b)(1)(B), has prepared an application to the Secretary to be the exclusive contractor of mental health services for the State under this title, transmit to the Secretary such application, the comments and recommendations (if any) of the Statewide Health Coordinating Council regarding such application, and the comments and recommendations (if any) received by the State Agency pursuant to the public hearings held under subsection (d).

(f) An application transmitted by a State Agency to the Secretary to be the exclusive contractor of mental health services for the State under this title may omit applications submitted by other entities under subsection (a) and incorporate any one or more of the following:

(1) applications submitted by other entities under subsection (a), in substantially their original form;

(2) applications submitted by other entities under subsection (a), but substantially modified by the State Agency; and

(3) services under this title proposed only by the State Agency.

(g)(1) Whenever a State Agency transmits an application to the Secretary to be the exclusive contractor of mental health services for the State under this title, and such application omits an application submitted by an entity under subsection (a), or incorporates an application submitted under subsection (a) in a substantially modified form, the State Agency shall inform the entity that submitted such application under subsection (a) that such application has been so omitted or modified, make available the reasons for such omission or modification to the entity and any interested party, and inform the entity of the procedure described in paragraph (2).

(2)(A) If, in an application transmitted to the Secretary by a State Agency to be the exclusive contractor of mental health services for a State under this title, an application submitted by an entity under subsection (a) has been omitted by the State Agency, or has been substantially modified by the State Agency, the entity may, within thirty days after receipt of notice from the State Agency under paragraph (1), request that the application or modified portions thereof be considered in original form during the negotiations of the State Agency's application between the State Agency and the Secretary. Such a request shall be accompanied by written justifications for the incorporation of such application or portion thereof in the State Agency's application. If an entity makes such a request, the Secretary shall promptly determine if—

(i) the application or modified portions thereof are consistent with the State health plan of the State; and

(ii) the entity has sought to, or had an opportunity to, make a good faith effort to negotiate with the State Agency regarding the incorporation of the application or the modified portions thereof in the State Agency's application.

(B) If the Secretary determines that the requirements of subparagraph (A)(i) and (A)(ii) have been met, the Secretary shall review—

(i) the justifications submitted by the entity regarding incorporation of its application or modified portions thereof in the State Agency's application; and

(ii) the justifications of the State Agency regarding omission of such application or portions thereof in the State Agency's application.

(C) If the Secretary determines, upon review under subparagraph (B), that—

(i) an entity's justifications for incorporation of its application or portions thereof are as meritorious as the State Agency's justifications for emission or modification; or

(ii) the decision by the State Agency to omit or modify such application or portions thereof—

(I) is inconsistent with the provisions of this Act,

(II) is inconsistent with the provisions of the State health plan of the State, or

(III) was made in an arbitrary or capricious manner;

the entity's application or portions thereof shall be considered during the negotiation of the State Agency's application between the State Agency and the Secretary.

(h) The State Agency shall make available to any interested party, on the date one hundred and fifty days prior to the first day of the fiscal year for which funding is sought under this title, the materials transmitted to the Secretary under paragraph (e).

(i) In the event that the State Agency fails to transmit the appropriate material pursuant to subsection (e), any entity that submitted an application to enter into a contract under subsection (a) may transmit such application to the Secretary directly.

(j) If a State Agency transmits an application to the Secretary to be the exclusive contractor of services for the State under this title, there shall be selected, by the State Agency and the Secretary, two citizen representatives to provide advice during the negotiation of the State Agency's application between the State Agency and the Secretary. Organizations representing consumers of mental health services within a State, and organizations representing local providers of mental health services within a State, may recommend to the State Agency and the Secretary the names of individuals willing and able to serve as representatives of consumers or providers, respectively, during such negotiations. On the basis of such recommendations, the State Agency and the Secretary shall agree upon one representative of consumers and one representative of providers from the State to serve as advisors during such negotiations.

SELECTION OF APPLICATIONS

SEC. 216. (a) After conducting appropriate negotiations with the entities that submitted the applications transmitted under section 215(e)(1), or with the State Agency in the case of a State Agency that has transmitted under Section 215(e)(2) an application to be the exclusive contractor of mental health services for the State under this title, the Secretary shall select those applications that—

(1) are consistent with the State health plans;

(2) are consistent with the applicable provisions of this title; and

(3) are most likely, in the judgment of the Secretary to—

(A) provide priority population groups with the most effective and broadest services,

(B) provide the general population with the most effective and broadest services,

(C) lead to the provision of comprehensive mental health services for all persons in every mental health service area,

(D) provide for the maximum feasible utilization of private and public non-Federal resources, including private and public forms of health insurance, and

(E) where substantial portions of the population to be served are of limited English-speaking ability, or bicultural, or both, provide services in appropriate languages and cultural contexts, and provide staff that is bilingual and bicultural.

(b) Upon selection of applications to enter into contracts to provide services under this title, the Secretary shall provide an explanation to each entity whose application was transmitted to the Secretary under section 215(e) of the reasons for acceptance or rejection of such entity's application. If the Secretary uses a formula to rank applications, the Secretary shall provide notice of the principles upon which such formula is based. The explanation provided to the entity under this subsection shall include an explanation of the designated rank of such entity's application.

PERFORMANCE CONTRACTS

SEC. 217. (a) Any entity whose application to provide services has been selected under section 216 shall be eligible to enter into an annual performance contract with the Secretary. In the case of a State Agency for which an application to be the exclusive contractor of mental health services for a State under this title has been selected, the performance contract shall be an exclusive statewide contract, and shall provide for the State Agency to enter into performance contracts with other entities providing services in the State as subcontractors.

(b) Each performance contract shall include agreements regarding—

(1) the establishment of citizen participation in the administration of services;

(2) the populations to be served, including any priority populations, the settings in which services are to be delivered, the means by which such settings shall be the least restrictive and most accessible as possible, and the anticipated outcome and service impact on the populations to be served;

(3) the standards by which the performance of the entity will be monitored and evaluated, incentives for meeting such standards, the role of consumers and individuals representative of affected communities in any monitoring and evaluation, and the role of the Secretary in such monitoring and evaluation;

(4) the methods and format by which performance data shall be collected and transmitted to the Secretary;

(5) the qualifications and clinical and administrative functions and responsibilities of the personnel of the entity;

(6) the annual budget of the entity;

(7) the means by which the activities of the entity will be coordinated with the activities of other entities providing mental health services or related support services in any affected mental health service area;

(8) the allocation of responsibilities among local, State, and Federal entities for provisions of mental health services and administration of such services;

(9) the means by which the entity shall decrease its reliance on Federal financial support under this Act;

(10) a schedule for the performance of all obligations arising under the performance contract;

(11) an expeditious and impartial method by which disputes arising under the performance contract may be resolved;

(12) appropriate and defined remedies available to each contracting party in the event that the other contracting party fails to carry out an obligation arising under the performance contract; and

(13) such other matters that the Secretary determines shall be negotiated and resolved to carry out the purposes of this Act.

(c) The Secretary shall promulgate regulations establishing criteria with respect to the evaluation of the performance of entities under this Act.

ENFORCEMENT

SEC. 218. (a) No entity may receive funds under this title unless it has entered into a performance contract which complies with the requirements of section 217.

(b) The extent to which an entity or State Agency has performed in accordance with the performance contract entered into under section 217 and the extent to which the entity has cooperated with other entities providing mental health or support services in the affected mental health service areas shall be periodically reviewed by the Secretary. Substantial and unreasonable failure to perform in accordance with such performance contract or to cooperate with other entities providing mental health or support services in the affected mental health service areas shall, after notice of such alleged failure and an opportunity for an informal hearing which results in a finding of such failure, be a reasonable justification for termination of funding under this title. The Secretary shall consider any such failure with regard to any subsequent application for funding under this title.

FUNDING FOR INNOVATIVE PROJECTS

SEC. 219. (a) Notwithstanding the provisions of this title relating to application procedures, a public entity, nonprofit private entity, or other private entity engaged solely in the provision of services related to mental health may submit directly to the Secretary an application to provide services under this title, or rights protection and advocacy services, if such entity demonstrates that the services to be provided are innovative and of national significance.

(b) The Secretary may accept such applications and enter into contracts for such services under this section if the Secretary determines that such services are innovative and of national significance, but no more than 5 percent of the funds available for allocation under this title may be used for such contracts.

(c) Any entity receiving Federal funding under this section shall be subject to the requirements of sections 217 and 218.

PART F—GENERAL PROVISIONS

DURATION OF CONTRACTS

SEC. 220. A contract under this title shall be for such period of time, not exceeding one year, as the Secretary may determine.

INDIRECT PROVISION OF SERVICES

SEC. 221. Any services for which a contract is entered into under this title may be provided directly by the contracting entity at its primary or satellite facilities, or by arrangements with other entities or health professionals.

PAYMENT PROCEDURES

SEC. 222. (a) Except as provided in subsection (b), the amount of payments under any contract for any fiscal year under this title may be reduced to the extent that—

(1) the sums paid to the entity under any prior contract under the same section of this title, or the sums paid to such entity under section 203(a), 203(e), or 211 of the Community Mental Health Centers Act, plus

(2) the funds available for the project, activity, or services for which the prior sums were paid, from State, local, or other sources (including collections),

exceed the total cost of the project, activity, or services for which the prior sums were paid, in lieu of such excess being repaid to the United States.

(b) In the case of any such excess under subsection (a)—

(1) a reduction under subsection (a) shall not be made to the extent adjustments regarding such excess were made previously, or were retained and excluded from repayment under clause (2) of this subsection, and

(2) such portion of an excess under subsection (a) for any year for any project, activity, or services for which sums were paid under this Act and the Community Mental Health Centers Act as the Secretary may determine, but not exceeding 5 per centum of the cost of operation of the recipient's mental health program, may be retained by the recipient for deposit in a reserve fund maintained for purposes approved by the Secretary, and shall not be counted as available funds for purposes of any subsequent contract under this title.

ALLOCATION OF FUNDS

SEC. 223. (a) Under this title, no single public or nonprofit private entity shall receive funding for more than eight fiscal years for the provision of the same mental health services in the same affected mental health service areas. For purposes of this subsection, one or more grants for a fiscal year under section 203(a) of the Community Mental Health Services Act (or section 220 of the Community Mental Health Centers Act as in effect before July 29, 1975, or as continued after such date by section 203(e) of that Act) shall be considered funding for a fiscal year under this subsection. No funding under a contract under this title may exceed the following percentages of the cost of the services with respect to which such contract is made:

(1) 90 per centum in the case of the first and second years of funding;

(2) 80 per centum in the case of the third year of funding;

(3) 70 per centum in the case of the fourth year of funding;

(4) 60 per centum in the case of the fifth year of funding;

(5) 50 per centum in the case of the sixth year of funding;

(6) 40 per centum in the case of the seventh year of funding; and

(7) 30 per centum in the case of the eighth year of funding.

(b) Notwithstanding the limitations described in subsection (a) on the number of years for which funding under this title may be received and the maximum amount of such funding, an entity that submits annual applications to provide services pursuant to section 208 may receive funding under this title for such longer periods and for such greater amounts as determined by the Secretary, but no such funding may exceed $1.50 per capita of the population of the affected area.

(c) Notwithstanding the limitations described in subsection (a), any entity that receives eight years of funding under section 202, 203, 204, 205, 206, 207, or 209 of this title and which thereafter continues to provide substantially the same level of services for the same population for which it received funding under such section, may receive funding to provide different services in the same mental health service area or areas under any other such section.

(d)(1) Outpatient treatment and care and related support services for chronically mentally ill individuals shall account for—

(A) no less than 5 per centum of the Federal funding allocated under this title within each State in the fiscal year ending September 30, 1982;

(B) no less than 10 per centum of the Federal funding allocated for services under this title within each State in the fiscal year ending September 30, 1983;

(C) no less than 15 per centum of Federal funding allocated for services under this title within each State in the fiscal year ending September 30, 1984; and

(D) no less than 20 per centum of Federal funding allocated for services under this title within each State in the fiscal year ending September 30, 1985.

(2) Funds for contracts to provide mental health services to chronically mentally ill individuals under section 202 shall account for—

(A) no less than 10 per centum and no more than 20 per centum of all available funding under this title in the fiscal year ending September 30, 1982;

(B) no less than 10 per centum and no more than 20 per centum of all available funding under this title in the fiscal year ending September 30, 1983;

(C) no less than 15 per centum and no more than 25 per centum of all available funding under this title in the fiscal year ending September 30, 1984; and

(D) no less than 20 per centum and no more than 30 per centum of all available funding under this title in the fiscal year ending September 30, 1985.

(3) Treatment and care and related support services for chronically mentally ill individuals shall account for no less than 20 per centum of the Federal funds allocated under section 207 of this title.

(e) Not more than 5 per centum of the funds allocated under section 207 shall be allocated to entities which do not meet the governing board requirements of section 211(a)(1)(A).

(f) Not less than 90 per centum of the Federal funds for each contract under this title shall be used to provide services at the local level.

(g) The Secretary, after allocating funds under this title, shall submit an annual report to the Committee on Labor and Human Resources of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives detailing the extent to which—

(1) each community mental health center funded under section 207 of this title is directing its resources towards the treatment and care of chronically mentally ill individuals, and

(2) the requirements of subsection (d) (1), (2), and (3) are being met.

The report required by this subsection shall be submitted to the committees described in this subsection no later than January 1 of each year.

EVALUATION AND TECHNICAL ASSISTANCE

SEC. 224. (a) With the approval of the Secretary, any entity entering into a contract under this Act may use a portion of such contract funds for evaluation of the projects or activities the entity conducts.

(b) The Secretary shall set aside from appropriations for contracts under this title such sums as are determined to be appropriate for the evaluation of the performance of entities under this title. Such evaluation shall determine the extent to which entities have complied with applicable requirements and the extent to which entities have advanced the objectives for which funding was provided.

(c) A portion of the funding available under this title for any fiscal year, as determined by the Secretary, but not to exceed 2 per centum, shall be available to the Secretary to provide technical assistance, including but not limited to the technical assistance described in section 214 and short-term training of personnel responsible for the implementation of contracts under this title. Such amounts shall be available to assist in the improvement of the management and administration of services provided pursuant to this title.

CONFORMING AMENDMENTS

SEC. 225. (a) The second sentence of section 455(a) of the Public Health Service Act (relating to the National Institute of Mental Health) is amended—

(1) by striking out "and" after "sections 301 and 303 of this Act" and inserting in lieu thereof a comma; and

(2) by inserting ", and the Mental Health System Act" after "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II)".

(b) Section 507 of the Public Health Service Act (relating to grants to Federal institutions) is amended—

(1) by striking out "and" after "drug dependence,"; and

(2) by inserting ", and appropriations under title VI of the Mental Health Systems Act" before "shall also be available".

(c) Section 513 of the Public Health Service Act (relating to evaluation of programs) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

(d) Section 1513(e)(1)(A)(i) of the Public Health Service Act (relating to functions of health systems agencies) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

(e) Section 201(b)(1)(A)(iii) of the Community Mental Health Centers Act is amended by adding after "facility" the following: ", including—

"(I) designation of a case manager responsible for the coordination of services for each resident discharged from a public inpatient psychiatric facility and for the development of an individual treatment and services plan for such individual;

"(II) pre-release consultation with respect to such individual; and

"(III) preparation and submission of an annual report to the State Agency designated under section 102 of the Mental Health Systems Act describing the manner in which the needs of chronically mentally ill individuals in the catchment area are being met.".

CONTRACTS FOR INDIAN TRIBES

SEC. 226. (a)(1) An Indian tribe (as defined in the Indian Self-Determination Act) or intertribal organization may submit an application directly to the Secretary to provide services eligible for funding under this title if such services will be available within or will specifically serve—

(A) a federally recognized Indian reservation,

(B) any land area in Oklahoma that is held in trust by the United States for Indians or that is a restricted Indian-owned land area,

(C) a native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act), or

(D) an Indian community the members of which are recognized as eligible for services under the Indian Health Care Improvement Act.

Each application shall demonstrate the manner in which the proposed services will be consistent with the Tribal Specific Health Plan of the tribe or tribes to be served. A copy of the application shall be provided to the appropriate Health Systems Agency or Agencies established under title XV of the Public Health Service Act and to the appropriate State Agency for review and comment. Upon receipt of an application under this subsection, the Secretary shall review, rank, select, and fund the application according to the same criteria used to review, rank, select, and fund applications under this title.

(2) A tribe or intertribal organization receiving Federal funds under this title shall, prior to receiving such funds, enter into an annual performance contract with the Secretary pursuant to section 217, and shall receive payment directly from the Secretary (except as provided in subsection (b) of this section). Each performance contract shall conform with the provisions of section 217, and the provisions of section 218 shall also be applicable, to the extent that such provisions are not inconsistent with the purposes of this section.

(b) At the request of any Indian tribe or intertribal organization or any urban Indian organization (as defined in the Indian Care Improvement Act), the Secretary may enter into a contract with the Indian Health Service or any institution, clinic, or other unit thereof, for the purpose of serving the members of such tribe or organization, on the same terms and conditions as under subsection (a).

(c) Any contract under subsection (a) or (b) may be made for a project serving members of an Indian tribe, intertribal organization, or urban Indian organization even though the area in which the members of such tribe or organization reside is included in two or more mental health services areas of a State.

OBLIGATED SERVICE FOR MENTAL HEALTH TRAINEESHIPS

SEC. 227. Section 303 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Any individual who, after the date of enactment of the Mental Health Systems Act, has been informed in writing of the requirements and other provisions of this subsection and thereafter accepts a clinical traineeship in psychology, psychiatry, nursing, or social work, under subsection (a)(1) that is not of a limited duration or experimental nature (as determined by the Secretary) is obligated to serve, in service determined by the Secretary to be appropriate in the light of the individual's training and experience, at the rate of one year for each year (or academic year, whichever the Secretary determines to be appropriate) of the traineeship.

"(2) The service required under paragraph (1) shall be in a public inpatient psychiatric facility institution, or for any entity eligible for a contract under title II of the Mental Health Systems Act, or in a health manpower shortage area (as determined under subpart II of part D of title III of the Public Health Service Act), or to serve any priority population group as defined by this Act, or in any other area or for any other entity designated by the Secretary, and shall begin within such period after the termination of the traineeship as the Secretary may determine. In developing criteria for determining for which institutions or entities or in which areas, referred to in the preceding sentence, individuals must perform service under this paragraph, the Secretary shall give preference to institutions, entities, or areas which in the Secretary's judgment have the greatest need for personnel to perform that service unless, for good cause shown to the Secretary, the individual requests performance of other service under this paragraph.

"(3) Any individual who fails to perform the service required of the individual under this subsection within the period prescribed by the Secretary is obligated to repay to the United States an amount equal to three times the cost of the traineeship (including stipends and allowances) plus interest at the maximum legal rate at the time of payment of the traineeship, multiplied, in any case in which the service so required has been performed in part, by the percentage which the length of the service so performed is of the length of the service so required to be performed.

"(4)(A) In the case of any individual any part of whose obligation to perform service under this subsection exists at the same time as any part of the individual's obligation to perform service under section 752 or 753 (because of receipt of a scholarship under subpart IV of part C of title VII) or the individual's obligation to perform service under section 472 (because of receipt of a National Research Service Award thereunder), or both, the same service may not be used to any extent to meet more than one of those obligations.

"(B) In any case to which subparagraph (A) is applicable and in which one of the obligations is to perform service under section 752 or 753, the obligation to perform service under that section must be met (by performance of the required service or payment of damages) before the obligation to perform service under this subsection or under section 472.

"(C) In any case to which subparagraph (A) is applicable, if any part of the obligation to perform service under section 472 exists at the same time as any part of the obligation to perform service under this subsection, the manner and time of meeting each obligation shall be prescribed by the Secretary."

TITLE III—MENTAL HEALTH RIGHTS AND ADVOCACY

BILL OF RIGHTS

SEC. 301. It is the sense of the Congress that each State should review and revise, if necessary, its laws to insure that mental health patients receive the protection and services they require. It is further the sense of the Congress that each State should take into account the recommendations of the President's Commission on Mental Health, and the following provisions:

(a) A person admitted to a program or facility for the purpose of receiving mental health services has the following rights:

(1) The right to appropriate treatment and related services in a setting and under conditions that—

(A) are most supportive of such person's personal liberty; and

(B) restrict such liberty only to the extent necessary consistent with such person's treatment needs, applicable requirements of law, and applicable judicial orders.

(2) The right to an individualized, written, treatment or service plan (such plan to be developed promptly after admission of such person), the right to treatment based on such plan, the right to periodic review and reassessment of treatment and related service needs, and the right to appropriate revision of such plan, including any revision necessary to provide a description of mental health services that may be needed after such person is discharged from such program or facility.

(3) The right to ongoing participation, in a manner appropriate to such person's capabilities, in the planning of mental health services to be provided such person (including the right to participate in the development and periodic revision of the plan described in paragraph (2)), and, in connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to such person's condition and ability to understand, of—

(A) such person's general mental condition and, if such program or facility has provided a physical examination, such person's general physical condition;

(B) the objectives of treatment;

(C) the nature and significant possible adverse effects of recommended treatments;

(D) the reasons why a particular treatment is considered appropriate;

(E) the reasons why access to certain visitors may not be appropriate; and

(F) any appropriate and available alternative treatments, services, and types of providers of mental health services.

(4) The right not to receive a mode or course of treatment, established pursuant to the treatment plan, in the absence of such person's informed, voluntary, written consent to such mode or course of treatment,

except that treatment may be provided without such consent—

(A) during an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(B) as permitted under applicable law in the case of a person committed by a court to a treatment program or facility.

(5) The right not to participate in experimentation in the absence of such person's informed, voluntary, written consent, the right to appropriate protections in connection with such participation, including the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks, and the right and opportunity to revoke such consent.

(6) The right to freedom from restraint or seclusion, other than as a mode or course of treatment, except that restraint or seclusion may be used during an emergency situation if such restraint or seclusion is pursuant to or documented contemporaneously by the written order of a responsible mental health professional.

(7) The right to a humane treatment environment that affords reasonable protection from harm and appropriate privacy to such person with regard to personal needs.

(8) The right to confidentiality of such person's records, including confidentiality of information pertaining to such person's identity, diagnosis, prognosis, and treatment, under the same terms and conditions applicable to patients under section 515 of the Public Health Service Act.

(9) The right to access, upon request, to such person's mental health care records, except that such person may be refused access to—

(A) information in such records provided by a third party under assurance that such information shall remain confidential; and

(B) specific material in such records if the health professional responsible for the mental health services concerned has made a determination in writing that such access would be detrimental to such person's health, except that such material shall be made available to a similarly licensed health professional selected by such person and such health professional may, in the exercise of professional judgment, provide such person with access to any or all parts of such material or otherwise disclose the information contained in such material to such person.

(10) The right, in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours, except that, if a mental health professional treating such person determines that denial of access to a particular visitor is necessary for treatment purposes, such mental health professional may, for a specific, limited, and reasonable period of time, deny such access if such mental health professional has ordered such denial in writing and such order has been incorporated in the treatment plan for such person. An order denying such access shall include the reasons for such denial.

(11) The right to be informed promptly at the time of admission and periodically thereafter, in language and terms appropriate to such person's condition and ability to understand, of the rights under this part.

(12) The right to assert grievances with respect to infringement of such person's rights under this part, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the program or facility.

(13) Notwithstanding paragraph (10), the right of access to (including the opportunities and facilities for private communication with) any available—

(A) rights protection service within the program or facility;

(B) rights protection service within the State mental health system designed to be available to such person; and

(C) qualified advocate;

for the purpose of receiving assistance to understand, exercise, and protect such person's rights under this part and other provisions of law.

(14) The right to exercise such person's rights under this part without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(15) The right to referral as appropriate to other providers of mental health services upon discharge.

(b)(1) The rights provided in this section section are in addition to and not in derogation of any other statutory or constitutional rights otherwise afforded to all persons, handicapped persons, or recipients of health care services.

(2) The rights to confidentiality of and access to records as provided in paragraphs (8) and (9) of subsection (a) shall remain applicable to records pertaining to a person after such person's discharge from the program or facility.

(c)(1) No otherwise eligible person shall be denied admission to a program or facility for mental health services as a reprisal for the exercise of the rights provided in this section.

(2) Nothing in this section shall—

(A) obligate an individual mental health or health professional to administer treatment contrary to such professional's clinical judgment;

(B) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

(C) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by withholding consent to proposed treatment; or

(D) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(3) In order to assist a person admitted to a program or facility in the exercise or protection of such person's rights, such person's attorney or legal representatives shall have reasonable access to—

(A) such person;

(B) the areas of the program or facility where such person has received treatment, resided, or had access; and

(C) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services to which such person has a right of access under subsection (a)(9).

(4) Each program and facility shall post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights under this title of all persons admitted to such program or facility. Each such notice shall conform to the format and content of such notices, and shall be posted in all appropriate locations.

(d)(1) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent or treatment or experimentation under paragraph (4) or (5) of subsection (a), or the right to confidentiality of or access to records under paragraph (8) or (9) of such subsection, or to provide authorization pursuant to subsection (c)(3)(C), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization.

(2) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under paragraph (4) or (5) of subsection (a), or the right to confidentiality of or access to records under paragraph (8) or (9) of such subsection, or to provide authorization pursuant to subsection (c)(3)(C), because such person has not attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf of such person by a parent or legal guardian of such person.

(3) Notwithstanding paragraphs (1) and (2), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility may act as such person's guardian or representative under this subsection.

REPORT ON ADVOCACY

SEC. 302. (a) The Comptroller General shall conduct a study to examine the performance of advocacy programs that represent—

(1) persons admitted to programs and facilities for the purpose of receiving mental health services;

(2) persons who are developmentally disabled or severely disabled; and

(3) youth, racial and ethnic minorities, women, and other appropriate groups with respect to the constitutional and statutory rights of such persons.

(b) No later than the date eighteen months after the effective date of this title, the Comptroller General shall submit to the President and the Congress a comprehensive report of such study, and shall include in such report any legislative recommendations that the Comptroller General considers appropriate.

(c) The report shall assess the performance of advocacy programs established by Congress or undertaken as demonstration projects within executive agencies designed to protect the constitutional and statutory rights of priority population groups. The report shall, at a minimum—

(1) summarize the advocacy activities and evaluate the performance of advocacy efforts authorized by the Developmental Disabilities Assistance and Bill of Rights Act and the Rehabilitation Act;

(2) describe and assess the role of the Legal Services Corporation in providing legal services to such priority population groups;

(3) describe and assess the role of the various volunteer agencies and other institutions and professions in providing advocacy services;

(4) assess the need for advocacy services currently not being provided;

(5) make recommendations regarding the efficient provision of advocacy services;

(6) make recommendations regarding measures to improve the Federal advocacy effort on behalf of youth, racial and ethnic minorities, and women; and

(7) assess the impact of advocacy programs upon the cost and quality of care and treatment in programs and facilities.

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 303. (a) In order for a State to receive funds under title II, the State shall have in effect a system to protect and advocate the rights of mentally ill individuals. Such system shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and be independent of any agency which provides treatment, services, or rehabilitation to mentally ill individuals. The State shall submit to the Secretary in a form prescribed by the Secretary in regulations—

(1) a report, not less often than once every three years, describing the system; and

(2) an annual report describing the activities carried out under the system and any changes made in the system during the previous year.

(b) (1) (A) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the sums appropriated under section 602(c). Allotments and reallotments of such sums shall be made in accordance with subparagraph (B), except that no State (other than Guam, the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) in any fiscal year shall be allotted an amount under this paragraph which is less than the greater of $50,000 or the amount of the allotment to the State under this subsection for the previous fiscal year.

(B) In each fiscal year, the Secretary shall, in accordance with regulations, allot the sums appropriated for such year under section 602(c) among the States on the basis of—

(i) the population;

(ii) the extent of need for services for the chronically mentally ill; and

(C) the financial need, of the respective States. The amount of an allotment to a State for a fiscal year, which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as the Secretary may fix (but not earlier than thirty days after the Secretary has published notice of the intention to make such reallotment in the Federal Register), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such periods; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under this paragraph for such fiscal year.

(2) (A) Notwithstanding paragraph (1), if the aggregate of the amounts of the allotments for grants to be made in accordance with paragraph (1) for any fiscal year exceeds the total of the amounts appropriated for such allotments under section 602(c), the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such paragraph as the total of the amounts appropriated for that year under section 602(c) bears to the aggregate amount required to make an allotment to each of the States in accordance with paragraph (1).

(B) The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section.

(3) The Secretary shall set aside up to 10 percent but not less than 5 percent of funds available for grants and contracts under this section for the provision of technical assistance, training, and backup support by entities concerned with advocacy.

EFFECTIVE DATE

SEC. 304. This title shall become effective on the date of the enactment of this Act.

TITLE IV—ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

ASSOCIATE DIRECTOR OF MINORITY CONCERNS

SEC. 401. Section 455 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d) (1) The Director shall designate an Associate Director for Minority Concerns to develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased focus on minority populations.

"(2) The Associate Director for Minority Concerns shall assist the Director in assuring that the Institute—

"(A) supports programs with regard to the delivery of mental health services to minority populations, including demonstration projects;

"(B) develops a plan to increase the representation of minority populations in mental health service delivery and manpower programs with an emphasis on developing bilingual and bicultural programs;

"(C) supports programs of basic and applied social and behavioral research on minority mental health;

"(D) studies the effects of racial, age, and sexual discrimination on institutions and individuals, including majority institutions and individuals;

"(E) develops systems to assist minority populations in adapting to, and coping with, the effects of racial, age, and sexual discrimination;

"(F) supports and develops research, demonstration, and training programs aimed at eliminating institutional racial, age, and sexual discrimination; and

"(G) provides for increased emphasis on the concerns of minority populations in training programs, service delivery programs, and research endeavors.

"(3) The Secretary shall report to Congress every 3 years on the Institute's activities in carrying out the provisions of this subsection.

"(4) Nothing contained in this subsection shall be construed to prevent or impair the administration or enforcement of any other provision of Federal law, nor shall the Associate Director for Minority Concerns be deemed to have exclusive jurisdiction of the Institute's responsibility to develop effective policies and programs for minority populations.".

TITLE V—PREVENTION

PREVENTION UNIT

SEC. 501. Section 455 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(e) (1) The Director shall designate an administrative unit for prevention of mental illness and the promotion of mental health. The purpose of such unit shall be to—

"(A) design national goals and establish national priorities related to the prevention of mental illness;

"(B) design national goals and establish national priorities related to the promotion of mental health; and

"(C) encourage and assist local entities and State agencies to achieve the goals and priorities described in this paragraph.

"(2) The Director shall designate an individual to develop and coordinate prevention policies and programs and to assure increased focus on the prevention of mental illness and the promotion of mental health. This individual shall assist the Director in assuring that the Institute—

"(A) enhances, focuses, and coordinates the research and training activities being carried out under existing legislative authorities which are aimed at preventing mental illness and promoting mental health;

"(B) encourages and assists local, State, and Federal efforts to prevent mental illness and promote mental health, particularly efforts relating to children and adolescents; and

"(C) emphasizes and strengthens orderly planning, implementation, and evaluation of the activities described in this paragraph.

"(3) The Secretary shall report to the Congress every three years on the Institute's activities in carrying out the provisions of this subsection.".

TITLE VI—MISCELLANEOUS

COMMUNITY MENTAL HEALTH CENTERS ACT APPROPRIATIONS

SEC. 601. (a) Section 202(d) of the Community Mental Health Centers Act is amended by deleting "and" after "1979", deleting the period at the end of such subsection, substituting a comma, and adding "and $1,000,000 for the fiscal year ending September 30, 1981.".

(b) Section 203(d) (1) of the Community Mental Health Centers Act is amended by deleting "and" after "1979", deleting the period at the end of such paragraph, substituting a comma, and adding "and $42,000,000 for the fiscal year ending Septmber 30, 1981.".

(c) Section 204(c) of the Community Mental Health Centers Act is amended by deleting "and" after "1979", deleting the period at the end of such subsection, substituting a comma and adding "and $19,000,000 for the fiscal year ending September 30, 1981.".

(d) Section 213 of the Community Mental Health Centers Act is amended by deleting "and" after "1978", and adding after "1979," the phrase "and $25,000,000 for the fiscal year ending September 30, 1981,".

(e) No funds may be appropriated under the Community Mental Health Centers Act for any year period after September 30, 1982.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) There are authorized to be appropriated for funding under title II, $400,000,000 for the fiscal year ending September 30, 1982, $450,000,000 for the fiscal year ending September 30, 1983, $500,000,000 for the fiscal year ending September 30, 1984, and $550,000,000 for the fiscal year ending September 30, 1985.

(b) (1) Sections 237 of the Community Mental Health Centers Act and 314(g) of the Public Health Service Act are repealed as of September 30, 1981.

(2) For the purpose of assisting States in carrying out their responsibilities under this Act for—

(A) planning and program design,

(B) data collection,

(C) data analysis,

(D) research,

(E) evaluation,

(F) setting and enforcing regulatory and other standards,

(G) reporting to the Secretary, and

(H) establishing, expanding, or operating internal rights protection programs,

the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (3) on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

(3) There are authorized to be appropriated, for the purpose of assisting the States in carrying out their responsibilities under paragraph (2), $20,000,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the next three fiscal years.

(4) No funds shall be made available to a State under this subsection unless the provisions of section 307 of this Act are being carried out in such State.

(c) There are authorized to be appropriated, for funding under title III, $10,000,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the next three fiscal years.

REPORT ON SHELTER AND BASIC LIVING NEEDS OF CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 603. (a) The Secretary of Health and Human Services and the Secretary of Housing and Urban Development shall pointly submit a report to the committees on Labor and Human Resources and Banking, Housing, and Urban Affairs of the United States Senate, and the committees on Interstate and Foreign Commerce and Banking, Finance, and Urban Affairs of the United States House of Representatives, relating to Federal efforts to respond to the shelter and basic living needs of chronically mentally ill individuals.

(b) The report required by subsection (a) shall include—

(1) an analysis of the extent to which chronically mentally ill individuals remain inappropriately housed in institutional facilities or have otherwise inadequate or inappropriate housing arrangements;

(2) an analysis of available permanent noninstitutional housing arrangements for the chronically mentally ill;

(3) an evaluation of ongoing permanent and demonstration programs, funded in whole or in part by Federal funds, which are designed to provide noninstitutional shelter and basic living services for the chronically mentally ill, including—

(A) a description of each program;

(B) the total number of individuals estimated to be eligible to participate in each program, the number of individuals served by each program, and an estimate of the total population each program expects to serve; and

(C) an assessment of the effectiveness of each program in the provision of shelter and basic living services;

(4) recommendations of measures to encourage States to coordinate and link the provisions in State health plans which relate to mental health and, in particular, the shelter and basic living needs of chronically mentally ill individuals, with local and State housing plans;

(5) recommendations for Federal legislation relating to the provision of permanent residential noninstitutional housing arrangements and basic living services for chronically mentally ill individuals, including an estimate of the cost of such recommendations; and

(6) any other recommendations for Federal initiatives which, in the judgment of the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, will lead to improved shelter and basic living services for chronically mentally ill individuals.

(c) The report required by subsection (a) shall be submitted to the committee described in subsection (a) no later than January 1, 1981.

REPORT ON THE IMPLEMENTATION OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 604. (a) The Secretary shall submit a report to the Committee on Labor and Human Resources of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives regarding the implementation of the Mental Health Systems Act.

(b) The report required by subsection (a) shall include—

(1) a description of the number and types of proposals which have been funded, the populations served, and the kinds of services provided under the Act;

(2) an analysis of the extent to which the purposes of the Act have been achieved, are being achieved, and are likely to be achieved if the Act is continued;

(3) an analysis of the major problems, if any, which have arisen at the local, State, and Federal levels in implementing the Act; and

(4) recommendations regarding possible changes in the basic policy, design, requirements, criteria, and technical features of the Act which, in the judgment of the Secretary, would improve the provision of mental health care, further the prevention of mental illness, and promote mental health in the United Services.

(c) The report required by subsection (a) shall be submitted to the committees described in subsection (a) no later than January 1, 1985.

CONFIDENTIALITY OF MENTAL HEALTH RECORDS

SEC. 605. The Public Health Service Act is amended by adding, at the end of title V of such Act, the following new section:

"CONFIDENTIALITY OF MENTAL HEALTH RECORDS

"SEC. 515. (a) Records of the identity, diagnosis, prognosis, or treatment of any patient pertaining to such person's mental health which are maintained in connection with the performance of any program or activity relating to mental health or health education, training, treatment, services, rehabilitation, or research which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b)(1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (h).

"(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

"(A) to medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluation, or eligibility determination, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

"(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the therapist-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(D) Where the patient is admitted on an inpatient basis, to any person upon reasonable determinations by the individual responsible for the patient's diagnostic or treatment services that (i) such person is a close friend or family member of the patient and is concerned about the patient's welfare as the result of being unable to locate the patient, (ii) the patient is incapable of making an informed decision as to whether to provide consent to disclosure, and (iii) disclosure would not be inconsistent with any arrangement that has been made for the provision of the services involved. Disclosures under this subparagraph shall be limited to the location of the patient and the patient's general physical condition.

"(E) Where the patient is admitted on an inpatient basis, to a person who is a close friend or family member of a patient who is suffering from a serious physical condition involving the possibility of the patient's death if the individual responsible for the patient's diagnostic or treatment services reasonably determines that the patient is incapable of making an informed decision as to whether to provide consent to disclosure. Disclosures under this subparagraph shall be limited to the patient's location and information pertaining to such physical condition.

"(F) To such persons as the individual responsible for the patient's diagnostic or treatment services reasonably considers necessary to protect against a clear and substantial risk of imminent, serious bodily harm to the patient or others. Nothing in this subparagraph shall make such individual civilly or criminally liable for failing or refusing to make any disclosure under this subparagraph.

"(G) By a department or agency of the Federal Government that has provided care and treatment services to the patient, as necessary for the purposes of the United States' obtaining, from a third party, payment for the costs of the patient's care and treatment if the United States has the right under Public Law 87–693 or other applicable law to recover such costs in the absence of an assignment from the patient and there are reasonable grounds to believe that such third party is liable for such costs.

"(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

"(d) The prohibitions of this section shall continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he or she ceases to be a patient. For purposes of section 303 of this Act, persons who maintain records referred to in subsection (a) are deemed to be authorized by the Secretary to protect the privacy of individuals.

"(e) The prohibitions of this section do not apply to any interchange of records—

"(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care or determining eligibility for benefits or services under title 38, United States Code; or

"(2) between such components and the Armed Forces.

"(f) Any person who obtains a patient's consent to disclosure of a record referred to in subsection (a) of this section shall assure that such consent is informed and voluntary.

"(g) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

"(h) Except as provided in subsection (i) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. The regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

"(i) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (h) of this section to records referred to in subsection (a) of this section that are maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38. In prescribing and implementing regulations pursuant to the subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

"(j) For purposes of this section—

"(1) The term 'identity' means—

"(A) the patient's name or other data from which it could be reasonably anticipated that a person could—

"(i) identify such patient, or

"(ii) ascertain other data from which such patient might be identified; or

"(B) a code, number, or other means used to identify the patient in relation to a record regarding him.

"(2) The term 'record' means data or information in any recorded medium created or maintained that—

"(A) reveals or contains a patient's identity; or

"(B) relates to the physical or mental health history, diagnosis, condition, treatment, or rehabilitation of a patient.

"(3) The term 'patient' includes a mental health research subject.".

TITLE VII—RAPE PREVENTION AND CONTROL

RAPE PREVENTION AND CONTROL

SEC. 701. (a) Part D of title II of the Community Mental Health Centers Act (42 U.S.C. 2681) is amended by adding at the end thereof the following new section:

RAPE SERVICES DEVELOPMENT AND DEMONSTRATION PROJECTS

"SEC. 232. (a) The Secretary, acting through the National Center for the Prevention and Control of Rape, shall make grants to, and enter into contracts with, public and private entities to develop or demonstrate new and innovative methods to provide rape services.

"(b) The Secretary may award grants and contracts under subsection (a) for development or demonstration projects for any one or more of the following—

"(1) training programs (including counseling techniques for the victim or the offender) for professional, paraprofessional, and volunteer personnel in the fields of law, social service, mental health, and other related fields in which personnel are or will become engaged in areas relating to the problems of rape;

"(2) treatment programs providing—

"(A) counseling for the victim, the victim's immediate family, or the offender;

"(B) information about or referral to medical, mental health, social, or legal services including necessary transportation costs and accompaniment to such services;

"(C) consultation with allied professionals; or

"(D) followup counseling for the victim, the victim's immediate family, or the offender;

"(3) community education;

"(4) offender rehabilitation and counseling;

"(5) self-help programs for victims, as well as potential victims;

"(6) telephone systems to provide assistance to the victim;

"(7) emergency shelter programs; or

"(8) projects which are likely to result in the development and demonstration of methods of preventing rape, or which address social problems related to rape.

"(c)(1) No grant may be made or contract entered into under this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) The amount of any grant or contract under this section shall be determined by the Secretary.

"(3) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may find necessary.

"(d) Each entity participating in a program under this section shall—

"(1) establish a recordkeeping system to insure the protection of the privacy of the victim, as well as of other individuals involved in accordance wtih subsection (f); and

"(2) establish internal procedures to measure progress in achieving the goals stated by the grantee or contractor in its application.

"(e) The Secretary shall develop standards and outcome criteria by which the effectiveness of this program shall be measured. Such standards and criteria shall be developed in consultation with the National Rape Prevention and Control Advisory Committee and established within ninety days after the date of the enactment of this section. The Secretary shall review the effectiveness of the development and demonstration projects carried out pursuant to this section.

"(f) Except as provided by Federal law other than this section, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this section shall use or reveal any information furnished by or on behalf of a victim and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this section. Such information and copies thereof, when supplied to, or gathered by, such officer or employee of the Federal Government, or any recipient of assistance under the provisions of this section, shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

"(g) The annual submission to Congress under section 231(b)(1)(B) shall be submitted not later than March 1 of each year and shall include, in addition to the requirements of section 231—

"(1) a summary of the activities funded pursuant to this section; and

"(2) a review of the effectiveness of the activities carried out pursuant to this section.

"(h) Not more than 5 percent of any funds appropriated to carry out the provisions of this section for any fiscal year may be used by the Secretary to provide technical assistance to any public or private entity which desires to submit an application under this section. The Secretary may provide such assistance, upon request, if the Secretary determines that the entity does not possess the resources or expertise necessary to develop and submit an application without such assistance.

"(i) The Secretary shall, to the extent feasible, coordinate development and demonstration projects carried out under this section with other activities relating to rape carried out by the Secretary and the heads of other Federal agencies.

"(j) Not more than 90 percent of the costs of any project shall be funded by a grant or contract under this section.

"(k) There are authorized to be appropriated to carry out the provisions of this section $6,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, and $12,000,000 for the fiscal year ending September 30, 1983.

"(l) The Secretary, notwithstanding the provisions of section 311 of the Civil Service Act of 1978 (Public Law 95–454, 92 Stat. 1111), in carrying out his functions and administering the provisions of this section and without regard to any other provision of this Act, is authorized to obtain the services of not more than ten full-time staff members to assist in carrying out the functions of the National Center for the Prevention and Control of Rape. There are authorized to be appropriated to carry out the provisions of this subsection $200,000 for the fiscal year ending September 30, 1981, $212,000 for the fiscal year ending September 30, 1982, and $224,000 for the fiscal year ending September 30, 1983.".

(b) Section 231(d) of the Community Mental Health Centers Act is amended—

(1) by striking out "and" before "$9,000,000"; and

(2) by inserting the following after "1980": ", $10,200,000 for the fiscal year ending September 30, 1981, $11,500,000 for the fiscal year ending September 30, 1982, and $13,000,000 for the fiscal year ending September 30, 1983."

(c) Sections 231 and 232 of the Community Mental Health Centers Act shall be moved and redesignated as sections 456 and 457 of the Public Health Service Act.

TITLE VIII—MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 801. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(r)(1)(A) In order to receive payments under subsection (a) without being subject to the penalties set forth in subparagraph (C) of this paragraph, a State must provide that mechanized claims processing and information retrieval systems of the type described in subsection (a)(3)(B) and detailed in an advance planning document approved by the Secretary be operational on or prior to the deadline established under subparagraph (B).

"(B) The deadline for operation of such systems for a State shall be the earlier of (i) September 30, 1982, or (ii) the last day of the sixth month following the date specified for operation of such systems in the State's most recently approved advance planning document submitted prior to the date of enactment of this subsection.

"(C) If a State fails to meet the deadline established under subparagraph (B), the Federal matching percentages, with respect to the next two fiscal quarters beginning on or after such deadline, for purposes of paragraphs (2) and (7) of subsection (a) shall be reduced by 5 percentage points. Such Federal matching percentages shall be further reduced by an additional 5 percentage points after each period consisting of 2 fiscal quarters during which the Secretary determines the State fails to meet the requirements of subparagraph (A); except that neither such Federal matching percentage may be reduced by more than 25 percentage points by reason of this paragraph.

"(D) The Federal matching percentages for a State under paragraphs (2) and (7) of subsection (a) shall be restored to the full percentage as provided in such paragraphs for quarters following the quarter during which such State meets the requirements of subparagraph (A).

"(2)(A) In order to receive payments under subsection (a) without being subject to the penalties set forth in subparagraph (C) of this paragraph, a State must have its mechanized claims processing and information retrieval systems, of the type required to be operational under paragraph (1), initially approved by the Secretary as meeting the requirements of subsection (a)(3)(B) and the requirements of this subsection relating to initial approvals, on or prior to the deadline established under subparagraph (B).

"(B) The deadline for approval of such systems for a State shall be the last day of the fourth fiscal quarter that begins after the date on which the Secretary determines that such systems became operational as required under paragraph (1).

"(C) If a State fails to meet the deadline established under subparagraph (B), the Federal matching percentages, with respect to the two fiscal quarters next following such deadline, for purposes of paragraphs (2) and (7) of subsection (a) shall be reduced by 5 percentage points. Such Federal matching percentages shall be further reduced by an additional 5 percentage points at the end of each period consisting of two fiscal quarters during which the State fails to meet the requirements of subparagraph (A); except that neither such Federal matching percentage may be reduced by more than 25 percentage points by reason of this paragraph.

"(D) The Federal matching percentages for a State under paragraphs (2) and (7) of subsection (a) shall be restored to the full percentage as provided in such paragraphs for quarters following the quarter during which such State's systems are approved by the Secretary as provided in subparagraph (A).

"(E) Any State's systems which are approved by the Secretary for purposes of subsection (a)(3)(B) on or before the date of the enactment of this subsection shall be deemed to be initially approved for purposes of this subsection.

"(3)(A) When a State's systems are initially approved, the 75 percent Federal matching provided in subsection (a)(3)(B) shall become effective with respect to such systems, retroactive to the first quarter beginning after the date on which such systems became operational as required under paragraph (1), except as provided in subparagraph (B).

"(B) In the case of any State which was subject to a penalty under paragraph (2), the Federal matching percentage under subsection (a)(3)(B) shall be reduced by 5 percentage points with respect to the two fiscal quarters next following the approval deadline date under paragraph (2)(B), and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two fiscal quarters beginning after such deadline date and before the date on which such systems are initially approved.

"(C) The Federal matching percentage for a State under subsection (a)(3)(B) shall be 75 percent for quarters beginning after the date on which such systems are initially approved.

"(4) (A) The Secretary shall review all approved systems not less often than once each fiscal year, and shall reapprove or disapprove any such systems. Systems which fail to meet the current performance standards, system requirements, and any other conditions for approval developed by the Secretary under paragraph (6) shall be disapproved. Any State having systems which are so disapproved shall be subject to a penalty under subparagraph (B). The Secretary shall make the determination of reapproval or disapproval and so notify the States not later than the end of the first quarter following the review period.

"(B) If the Secretary disapproves a State's systems under subparagraph (A), the Secretary shall, with respect to quarters beginning after the determination of disapproval and prior to the first quarter beginning after such systems are reapproved, reduce the Federal matching percentage for such State under subsection (a)(3)(B) to a percentage of not less than 50 percent and not more than 70 percent as the Secretary determines to be appropriate and commensurate with the nature of noncompliance by such State; except that such Federal matching percentage may not be reduced by more than 10 percentage points in any 12-month period by reason of this subparagraph. No State shall be subject to the penalty for noncompliance under this paragraph prior to the fifth quarter beginning after initial approval.

"(C) The Secretary may remit any penalty levied under subparagraph (B), if the Secretary determines that the State's systems meet all current performance standards and other requirements for reapproval and that such action would improve the administration of the State's plan under this title; except that no such remission may extend beyond the four quarters immediately prior to the quarter in which Federal matching under subsection (a)(3)(B) resumes.

"(5)(A) In order to be initially approved by the Secretary, mechanized claims processing and information retrieval systems must be of the type described in subsection (a) (3) (B) and must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types of services and items, including prescribed drugs.

"(ii) The State must provide that information on probable fraud or abuse which is obtained from, or developed by, the systems, is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet all performance standards and other requirements for initial approval developed by the Secretary under paragraph (6).

"(B) In order to be reapproved by the Secretary, mechanized claims processing and information retrieval systems must meet the requirements of subparagraphs (A)(i) and and (A) (ii) and performance standards and other requirements for reapproval developed by the Secretary under paragraph (6).

"(6) The Secretary, with respect to State systems, shall—

"(A) develop performance standards, system requirements, and other conditions for approval for initially approving such State systems, and shall further develop written approval procedures for conducting such initial reviews, including specific criteria for assessing systems in operation to insure that all such performance standards and other requirements are met;

"(B) by not later than October 1, 1980, develop an initial set of performance standards, system requirements, and other conditions for reapproval for use in reapproving or disapproving State systems, and shall further develop written reapproval procedures for conducting such reapproval reviews including specific criteria for reassessing systems operations over a period of at least six months during each fiscal year to insure that all such performance standards and other requirements are met on a continuous basis;

"(C) provide that reapproval reviews conducted prior to October 1, 1981, shall be for the purpose of developing a systems performance data base and assisting States to improve their systems, and that no reduction in Federal matching percentage under paragraph (4) shall be made on the basis of such a review;

"(D) insure that review procedures, performance standards and other requirements developed under subparagraph (B) are sufficiently flexible to allow for differing administrative needs among the States, and that such procedures, standards, and requirements are of a nature which will permit their use by the States for self-evaluation;

"(E) notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards and other requirements will be used for conducting reapproval reviews;

"(F) periodically update the systems performance standards, system requirements, review criteria, objectives, regulations, and guides as the Secretary shall from time to time deem appropriate;

"(G) provide technical assistance to States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

"(H) for the purpose of insuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform identification coding system (to the extent feasible) for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under the State plans (approved under this title) or under title XVIII;

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

"(I) develop and disseminate clear definitions of those types of reasonable costs relating to the State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

"(J) report on or before October 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

"(7)(A) The Secretary shall waive the provisions of this subsection with respect to initial operation and approval of mechanized claims processing and information retrieval systems with respect to any State which had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), and with respect to any State other than the 50 States and the District of Columbia, if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title.

"(B) If a waiver granted to a State under subparagraph (A) is subsequently withdrawn, the Secretary shall impose a timetable for such State with respect to compliance with the provisions of this subsection and the imposition of penalties. Such timetable shall be comparable to the timetable established under this subsection as to the amount of time allowed such State to comply and the timing of penalty assessments.

"(8)(A) The reductions in payments to States required under this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the relevant requirements of this subsection—

"(i) for good cause (but such a waiver may not be for a period in excess of 6 months), or

"(ii) due to circumstances beyond the control of such State.

"(B) If the Secretary determines under subparagraph (A) that a State is not subject to such reductions, the Secretary shall report to the Congress on the basis for each such determination and on the modification of all deadlines and penalties as described in subparagraph (C).

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHWEIKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

FARM CREDIT ACT AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority leader. I ask unanimous consent that the Senate now proceed to the consideration of Calendar order No. 917, S. 1465, a bill to amend the Farm Credit Act of 1971.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1465) to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry with amendments as follows:

On page 2, line 2, strike "1979" and insert "1980";

On page 2, line 7, strike "paragraph" and insert "clause";

On page 2, line 10, strike "paragraph" and insert "clause";

On page 2, line 11, after "(12)" insert "the following:";

On page 2, line 14, after "4.18" insert "of this Act";

On page 2, line 15, strike "which" and insert "that";

On page 2, line 18, strike "everything after" and insert "all that follows";

On page 2, line 19, strike "paragraph" and insert "clause";

On page 2, line 19, after "(15)" insert "down through the end of the clause";

On page 2, line 21, after "there" insert "the following:";

On page 2, line 23, strike "which" and insert "that";

On page 3, line 4, after "adding" insert "at the end thereof";

On page 3, line 4, strike "paragraphs" and insert "clauses";

On page 3, line 12, strike "regulations of" and insert "by its board of directors and approved by";

On page 3, line 21, after "Administration" insert a comma;

On page 3, line 22, strike "may also be issued";

On page 3, line 24, strike "which" and insert "that";

On page 4, line 2, strike "and shall be retired for";

On page 4, line 3, strike "as may be" and insert a period and "issuance and retirement of such nonvoting stock shall be as";

On page 4, line 7, after "adding" insert "at the end thereof";

On page 5, line 1, after "loans in" insert "rural";

On page 5, line 2, after "areas," insert "as";

On page 5, line 2, after "Administration," insert "or to producers or harvesters of aquatic products";

On page 5, line 9, strike "in the first sentence" and insert "at the end of the first sentence the following:";

On page 5, line 11, after "4.17" insert "of this Act";

On page 5, line 19, strike "which" and insert "that";

On page 5, line 22, after "amount," insert "not to exceed 100 per centum of the appraised value of the real estate";

On page 5, line 24, strike "is" and insert "under";

On page 6, line 14, strike "the percentage of total processing or marketing for which financing is extended" and insert "20 per centum, or such larger per centum";

On page 6, line 17, after "Administration" insert a comma and "of the total processing or marketing for which financing is extended";

On page 6, line 21, strike "and" and insert "or";

On page 6, line 23, after "Act" insert "of";

On page 7, line 3, strike "in paragraph (13)";

On page 7, line 3, after ""shall"" insert "in clause (13)";

On page 7, line 5, strike "in paragraph (14)";

On page 7, line 6, after "appears" insert "in clause (14)";

On page 7, line 7, after "adding" insert "at the end thereof";

On page 7, line 7, strike "paragraph" and insert "clause"";

On page 7, line 12, after "out" insert ""fair"";

On page 7, line 13, strike ""fair"";

On page 7, line 14, after "adding" insert "at the end thereof";

On page 7, line 16, after "(a)" insert "of this section.";

On page 7, line 19, strike "which it sells" and insert "that is sold";

On page 7, line 19, strike "which" and insert "that";

On page 7, line 20, strike "which" and insert "that";

On page 8, line 1, after "out" insert ""excess"";

On page 8, line 2, strike ""excess"";

On page 8, line 13, strike "which" and insert "that";

On page 8, line 14, strike "hereof" and insert "of this section";

On page 9, line 1, strike "loans" and insert "loan";

On page 9, line 7, after "inserting" insert ""or participation certificates,"";

On page 9, line 8, strike ""or participation certificates,"";

On page 9, line 9, after "inserting" insert ""or other Farm Credit System institutions"";

On page 9, line 10, strike ""or other Farm Credit System institutions"";

On page 9, line 17, strike "in paragraph (13) everything after" and insert "all that follows";

On page 9, line 18, after "appears" insert "in clause (13) down through the end of the clause";

On page 9, line 20, after "thereof" insert "the following:";

On page 10, line 1, strike "paragraph" and insert "clause";

On page 10, line 1, strike "reads" and insert "read";

On page 10, line 8, strike "paragraph" and insert "clause";

On page 10, line 12, after "4.18" insert "of this Act";

On page 10, line 15, strike "inserting before" and insert "striking out";

On page 10, line 16, after "(d)" insert "and inserting in lieu thereof the following:";

On page 10, line 18, strike "and, notwithstanding the provisions of subsection (g), shall be retired for";

On page 10, line 20, strike "as may be", insert a period and "Issuance and, notwithstanding the provisions of subsection (g) of this section, retirement of nonvoting stock for other Farm Credit System institutions shall be as";

On page 10, line 23, strike "its" and insert "the bank's";

On page 11, line 1, after "out" insert ""fair"";

On page 11, line 2, strike "subsection (g) "fair"." and insert "subsection (g);";

On page 11, line 4, after "thereof" insert "the following:";

On page 11, line 8, after "out" insert ""fair"";

On page 11, line 8, after "(i)" strike ""fair"";

On page 12, line 11, after ""if"" insert "the following:";

On page 12, line 14, after "Administration"" insert "the following:";

On page 12, line 18, after "inserting" insert ""or aquatic"";

On page 12, line 18, after ""on-farm"" strike ""and aquatic"";

On page 12, line 21, strike "inserting in" and insert "striking out "of less than 25 per centum";

On page 12, line 22, strike "before "25 per centum" "or more than"";

On page 13, line 6, strike "paragraph" and insert "clause";

On page 13, line 7, after "(11)" insert "the following:";

On page 13, line 12, strike the period and insert a semicolon;

On page 13, line 13, strike "paragraph" and insert "clause";

On page 13, line 14, after "(13)" insert "the following:";

On page 13, line 18, after "4.18" insert of this Act";

On page 13, line 19, strike "paragraph" and insert "clause";

On page 14, line 4, after "(e)" insert "the following:";

On page 14, line 6, after "out" insert ""fair"";

On page 14, line 7, strike ""fair"";

On page 14, line 9, strike "provisions" and insert "provision";

On page 14, line 18, strike "which" and insert "that";

On page 14, line 18, strike "retained" and insert "funded";

On page 14, line 20, after "out" insert ""fair"";

On page 14, line 21, strike ""fair"";

On page 14, line 23, after "thereof" insert "the following:";

On page 15, line 3, after "out" insert ""fair"";

On page 15, line 3, after "(k)" strike ""fair"";

On page 15, line 8, strike "the";

On page 15, line 15, strike "the percentage of total processing or marketing for which financing is extended" and insert "20 per centum, or such larger per centum";

On page 15, line 19, after "Administration" insert a comma and "of the total processing or marketing for which financing is extended";

On page 15, line 22, strike in subsection (b) after "borrowers" "as provided in section 4.17" and insert " "as provided in section 4.17 of this Act" " in the first sentence of subsection (b) after "Administration";

On page 16, line 2, after "inserting" insert " "or aquatic" ";

On page 16, line 2, strike " "and aquatic" ";

On page 16, line 4, strike "AND" and insert "FOR";

On page 16, line 7, strike "paragraph" and insert "clause";

On page 16, line 8, after "(11)" insert "the following:";

On page 16, line 11, after "4.18" insert "of this Act";

On page 16, line 12, strike "paragraph" and insert "clause";

On page 16, line 13, after " "System" " insert "the following:";

On page 16, line 17, strike "paragraph" and insert "clause";

On page 16, line 19, strike the colon and insert a dash;

On page 16, line 20, strike "Obligations" and insert "obligations";

On page 16, line 23, strike "which" and insert "that";

On page 16, line 25, after the semicolon insert "and";

On page 17, line 3, strike "paragraph" and insert "clause";

On page 17, line 7, strike "which" and insert "that";

On page 17, line 8, after "3.7" insert "of this Act";

On page 17, line 20, after the period, insert the following:

"Such investments shall be made in accordance with regulations of the Farm Credit Administration, which may authorize investments equivalent to those that may be made directly by banks, bank holding companies, and corporations organized under section 25(a) of the Federal Reserve Act, and by corporations organized under the laws of the United States or any State thereof and operating under agreements with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act, or indirectly through their foreign and domestic branches, subsidiaries, or affiliated entities: Provided, That prior to the issuance or amendment of such regulations, the Governor of the Farm Credit Administration shall consult with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency to ensure that the authority of banks for cooperatives under such regulations or amendments to make such investments is equivalent to, but not greater than, the authority, direct and indirect, of such banks and other entities to make such investments: Provided further, That, following such consultation, the Governor shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on any unresolved differences among the parties to the consultation as to the equivalency of authority under such regulations or amendments.";

On page 18, line 20, after "adding" insert "at the end thereof";

On page 18, line 20, strike "paragraphs" and insert "clauses";

On page 18, line 22, after "As" insert "may be";

On page 18, line 22, strike "the" and insert "its";

On page 19, line 9, after "adding" insert "at the end thereof";

On page 19, line 19, after "4.0(b)" insert "of this Act";

On page 20, line 6, strike "in the fourth sentence";

On page 20, line 7, after "exceeding" insert "in the fourth sentence";

On page 20, line 12, after "exchange" insert "as necessary to service their international trade transactions";

On page 20, line 14, after "adding" insert "at the end thereof";

On page 20, line 17, strike "which" and insert "that";

On page 20, line 22, strike "which" and insert "that";

On page 21, line 1, strike "a" and insert "the";

On page 21, line 2, strike "Pursuant to" and insert "under";

On page 21, line 8, strike "and approved by" and insert "under regulations of";

On page 21, line 9, after the period, insert the following:

Such regulations relating to foreign and international activities may provide for powers and authorities equivalent to those that may be exercised directly by banks, bank holding companies, and corporations organized under section 25(a) of the Federal Reserve Act, and by corporations organized under the laws of the United States or any State thereof and operating under agreements with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act, or indirectly through their foreign and domestic branches, subsidiaries, or affiliated entities: *Provided*, That prior to the issuance or amendment of such regulations, the Governor of the Farm Credit Administration shall consult with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency to ensure that the authority of banks for cooperatives under such regulations or amendments to make such loans and commitments and provide such assistance is equivalent to, but not greater than, the authority, direct and indirect, of such banks and other entities to make such loans and commitments and provide such assistance: *Provided further*, That, following such consultation, the Governor shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on any unresolved differences among the parties to the consultation as to the equivalency of authority under such regulations or amendments.

On page 22, line 12, strike "in the first paragraph the comma the second time it appears" and insert "the comma after "of farmers, producers" ";

On page 22, line 15, after "business" insert "Services or";

On page 22, line 16, strike "in subsection (c)";

On page 22, line 17, after " "services" " insert "in clause (c)";

On page 22, line 20, strike "in subsection (d)";

On page 22, line 22, after " "cooperatives)" " insert "in clause (d)";

On page 23, line 15, strike "in" and insert "at the end of";

On page 23, line 16, after "(a)" insert "the following:";

On page 23, line 17, after "4.17" insert "of this Act";

On page 23, line 18, after "(2)" insert "in subsection (d),";

On page 23, line 18, after "out" insert " "book" ";

On page 23, line 19, strike "of subsection (d) "book" ";

On page 23, line 20, after "sentence" insert "at the end thereof";

On page 24, line 3, strike "striking out";

On page 24, line 4, strike "less than 25 per centum" and inserting in lieu thereof "less than or more than 25 per centum"; and," and insert "striking out "of less than 25 per centum" and "of not to exceed such per centum of net savings";

On page 24, line 15, strike "the" and insert "its";

On page 24, line 24, after "(1)" insert "in the first sentence,";

On page 24, line 24, strike "in the first sentence";

On page 25, line 2, strike "his" and insert "the President's";

On page 25, line 3, after "(2)" insert "in the third sentence,";

On page 25, line 3, strike "in the third sentence";

On page 25, line 10, after "adding" insert "after section 4.16";

On page 25, line 12, after "lending" insert "under this Act";

On page 25, line 14, strike "made by" and insert "from";

On page 25, line 15, after "System" insert "under this Act";

On page 25, line 18, strike "any State" and insert "the";

On page 25, line 18, after "statute" insert "of any State, territory, or commonwealth of the United States,";

On page 25, line 20, after the period, insert the following:

Similarly, interest rates on loans made by agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks under section 2.3 of this Act shall be exempt from any interest rate limitation imposed by the constitution or statute of any State, territory, or commonwealth of the United States, or other law, which is hereby preempted for purposes of this Act.

On page 26, line 7, strike "provisions" and insert "provision";

On page 26, line 20, strike "State";

On page 23, line 20, after "statute" insert "of any State, territory, or commonwealth of the United States";

On page 23, line 21, strike "any other";

On page 26, line 21, strike "which" and insert "that";

On page 26, line 24, strike "83" and insert "82";

On page 27, line 1, after "institutions" insert the following:

and agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks under section 2.3 of this Act

On page 27, line 7, after "Title IV" insert "of the Farm Credit Act of 1971";

On page 27, line 8, strike "a new part D" and insert "new Parts D and E";

On page 27, line 15, strike "other than the extension of credit, which said" and insert "that the";

On page 27, line 16, strike "pursuant to" and insert "under";

On page 27, line 17, after "Act" insert a colon and the following:

Provided, That a corporation so organized shall have no authority either to extend credit or provide insurance services for borrowers from Farm Credit System institutions; nor shall it have any greater authority with respect to other functions and services than the organizing bank or banks possess under this Act

On page 27, line 22, beginning with "A" strike through and including the period in line 25;

On page 28, line 2, strike "concerning" and insert "of";

On page 28, line 4, strike "objects" and insert "objectives";

On page 28, line 14, strike "him" and insert "the Governor";

On page 28, line 19, strike "he" and insert "the Governor";

On page 29, line 10, strike "The" and insert "Within the limitations set out in this part, the";

On page 29, line 12, strike "pursuant to" and insert "under";

On page 29, line 15, strike the quotation mark and the second period;

On page 29, beginning with line 17, insert the following:

"PART E—SALE OF INSURANCE

"SEC. 4.28. LINES OF INSURANCE.—(a) The regulations of the Farm Credit Administration governing financially related services that the banks and associations of the Farm Credit System may provide under sections 1.11, 1.15, 2.5, and 2.16 of this Act may authorize the sale to any member of any such bank or association, on an optional basis, of credit or term life and credit disability insurance appropriate to protect the loan commitment in the event of death or disability of the debtors and other insurance necessary to protect the member's farm or aquatic unit, but limited to hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers.

"(b) Such regulations shall provide that—

"(1) in any case in which insurance is required as a condition for a loan or other financial assistance from a bank or association, notice be given that it is not necessary to purchase the insurance from the bank or association and that the borrower has the option of obtaining the insurance elsewhere:

"(2) such insurance services may be offered only if—

"(A) the bank or association has the authority to render insurance service under this Act in an effective and efficient manner;

"(B) there exists the probability that any insurance program under this Act will generate sufficient revenue to cover all costs; and

"(C) rendering insurance service will not have an adverse effect on the bank's or association's credit or other operations: and

"(3) no bank or association shall directly or indirectly discriminate in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any person who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

"(c) Notwithstanding any provision of this section to the contrary, any bank or association that, on the date of enactment of the Farm Credit Act Amendments of 1980, is offering insurance coverages not authorized by this section may continue to sell such coverage for a period of not more than one year from such date of enactment and may continue to service such coverages until their expiration.".

On page 31, beginning with line 14, insert the following:

SEC. 501. Section 5.0 of the Farm Credit Act of 1971 is amended by inserting before the period at the end of the first sentence the following: "and one of which districts may, if authorized by the Federal Farm Credit Board, include the Virgin Islands of the United States: Provided, That the extension of credit and other services authorized by this Act in the Virgin Islands of the United States shall be undertaken only if determined to be feasible under regulations of the Farm Credit Administration".

On page 31, line 23, strike "501" and insert "502";

On page 31, line 1, after "out" insert " "three" ";

On page 32, line 2, strike " "three" ";

On page 32, line 4, after "out" insert " "three" ";

On page 32, line 5, strike " "three" ";

On page 32, line 7, strike "502" and insert "503";

On page 32, line 8, strike "in the first sentence";

On page 32, line 9, after "day" insert "in the first sentence";

On page 32, line 13, strike "503" and insert "504";

On page 32, line 19, strike "in" and insert "for level I of";

On page 32, line 19, strike "(5 U.S.C. §§ 5311–5317)" and insert "under section 5312 of title 5 of the United States Code";

On page 33, line 7, strike "504" and insert "505";

On page 33, line 9, after the dash insert "(a)";

On page 33, line 12, strike "him" and insert "the Governor";

On page 33, line 15, strike "he" and insert "the Governor";

On page 33, line 21, strike "in" and insert "for level I of";

On page 33, line 22, strike "(5 U.S.C. §§ 5311–5317)" and insert "under section 5312 of title 5 of the United States Code";

On page 33, line 23, beginning with "The" strike through and including page 34, line 4, and insert in lieu thereof the following:

The Governor is further authorized to appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. Appointments of examiners and credit officers may be made by the Governor without regard to the provisions of the competitive civil service and classification statutes:

On page 34, line 11, strike "annual" and insert "maximum";

On page 34, line 12, strike "positions at";

On page 34, line 12, after "Schedule" insert "under section 5316 of title 5 of the United States Code";

On page 34, line 15, after "57" insert "of";

On page 35, line 3, strike the quotation mark and the second period;

On page 35, beginning with line 4, insert the following:

"(b) Notwithstanding any other provision of law, the Farm Credit Administration may, subject to such terms and conditions as the Federal Farm Credit Administration may, subject to such terms and conditions as the Federal Farm Credit Board may prescribe, make available to any person who is an employee of the Farm Credit Administration on the effective date of the Farm Credit Act Amendments of 1980, or who becomes an employee of the Farm Credit Administration after such date, retirement benefits reflecting the person's previous service in the employment of any institution of the Farm Credit System that is not otherwise creditable service for purposes of the Civil Service Retirement Act. Such benefits shall be supplemental to any annuity that such person receives under the Civil Service Retirement Act, but shall not exceed (1) the difference between the annuity that such person received under such Act and the annuity such person would have received thereunder if service with any Farm Credit System institution was considered to be creditable service for purposes of such Act, less (2) any annuity or other similar retirement benefit that such person receives from any Farm Credit System institution that formerly employed such person. Any expense incurred by the Farm Credit Administration in making available the benefits authorized by this subsection shall be considered administrative expenses of the Farm Credit Administration for the purpose of section 5.15 of this Act.

"(c) The powers of the Governor may be exercised by the Governor through such other officers and employees of the Farm Credit Administration as the Governor shall designate.".

On page 36, line 8, strike "505" and insert "506";

On page 36, line 10, strike "in the first sentence";

On page 36, line 11, after "comma" insert "the following:";

On page 36, line 21, after "5.16(b)" insert "of this Act";

On page 36, line 24, after "5.16(a)" insert "of this Act";

On page 37, line 1, strike "506" and insert "(507(a)";

On page 37, line 2, strike "paragraph (57)" and insert " "Governor of the Farm Credit Administration." ";

On page 37, beginning with line 4, insert the following:

(b) Section 5.27(a) of the Farm Credit Act of 1971 is amended by striking out "and inserting in positions at level III the additional position '(58) Governor of the Farm Credit Administration.' (5 U.S.C. 5314)".

On page 37, line 8, strike "507" and insert "508";

On page 37, line 9, strike "in the first sentence" and insert " "or" ";

On page 37, line 10, strike " "or" ";

On page 37, line 10, strike "by";

On page 37, beginning with line 11, strike through and including page 38, line 25;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Credit Act Amendments of 1980".

TITLE I—FEDERAL LAND BANKS AND ASSOCIATIONS

SEC. 101. Section 1.4 of the Farm Credit Act of 1971 is amended by—

(1) striking out in clause (6) "loans and" and inserting in lieu thereof "and participate in loans, make";

(2) inserting before the period at the end of clause (12) the following: ", participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act, and participate with lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this title";

(3) striking out all that follows the second comma in clause (15) down through the end of the clause and inserting in lieu thereof the following: "and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) sell to lenders that are not Farm Credit System institutions interests in loans, (ii) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (iii) make other investments."; and

(4) adding at the end thereof new clauses (22) and (23) as follows:

"(22) Accept contributions to its capital from Federal land bank associations and account therefor as authorized by the Farm Credit Administration.

"(23) Agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by its board of directors and approved by the Farm Credit Administration.".

SEC. 102. Section 1.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out in subsection (b) "hypotheticated" and inserting in lieu thereof "hypothecated";

(2) striking out the first sentence of sub-

section (d) and inserting in lieu thereof two new sentences as follows: "Nonvoting stock may be issued to the Governor of the Farm Credit Administration, to borrowers as patronage refunds, and to Federal land bank associations in amounts that will permit the bank to extend financial assistance to eligible persons other than farmers, ranchers, and producers or harvesters of aquatic products. Nonvoting stock also may be issued to other Farm Credit System institutions. Issuance and retirement of such nonvoting stock shall be as authorized by its board of directors and approved by the Farm Credit Administration."; and

(3) adding at the end thereof new subsections (f) and (g) as follows:

"(f) Patronage refunds may be paid in nonvoting stock, participation certificates, allocated surplus, and other equities of the bank, or cash, or in both equities and cash, as determined by the board of the bank, to borrowers of the fiscal year for which such patronage refunds are distributed. All patronage refunds shall be paid in the proportion that the amount of interest on the loans to each borrower during the year bears to the interest on the loans of all borrowers during the year or on such other proportionate patronage basis as the Farm Credit Administration may approve.

"(g) Equities to evidence contributions to capital may be issued to Federal land bank associations when the bylaws of the bank so provide.".

Sec. 103. Section 1.6 of the Farm Credit Act of 1971 is amended to read as follows:

"Sec. 1.6. Real Estate Mortgage Loans.—The Federal land banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products and make continuing commitments to make such loans under specified circumstances, or extend other financial assistance of a similar nature to eligible borrowers, for a term of not less than five nor more than forty years.".

Sec. 104. Section 1.7 of the Farm Credit Act of 1971 is amended by inserting before the period at the end of the first sentence the following: "as provided in section 4.17 of this Act".

Sec. 105. Section 1.8 of the Farm Credit Act of 1971 is amended by striking out in clause (1) "and ranchers" and inserting in lieu thereof ", ranchers, or producers or harvesters of aquatic products".

Sec. 106. Section 1.9 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans originated by a Federal land bank or in which it participates with a lender that is not a Farm Credit System institution shall not exceed 85 per centum of the appraised value of the real estate security, or such greater amount, not to exceed 100 per centum of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration for loans guaranteed by Federal, State, or other governmental agencies, and shall be secured by first liens on interest in real estate of such classes as may be approved by the Farm Credit Administration.".

Sec. 107. Section 1.10 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans made by the Federal land banks to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: *Provided*, That the applicant's operations shall supply at least 20 per centum, or such larger per centum that is required by the board of directors of the bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended.".

Sec. 108. Section 1.11 of the Farm Credit Act of 1971 is amended by inserting "or aquatic" before "operations".

Sec. 109. Section 1.12 of the Farm Credit Act of 1971 is amended by striking out "(a)".

Sec. 110. Section 1.15 of the Farm Credit Act of 1971 is amended by—

(1) striking out "shall" in clause (13);

(2) striking out "may" the second time it appears in clause (14); and

(3) adding at the end thereof a new clause (21) as follows:

"(21) Contribute to the capital of the bank.".

Sec. 111. Section 1.16 of the Farm Credit Act of 1971 is amended by—

(1) striking out "fair" in the sixth sentence of subsection (a); and

(2) adding at the end thereof a new subsection (c) as follows:

(c) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan (1) made by a Federal land bank that is sold to a lender that is not a Farm Credit System institution, or (2) that such lender retains or acquires in participating in the loan with a Federal land bank.".

Sec. 112. Section 1.17 of the Farm Credit Act of 1971 is amended by—

(1) striking out "excess" in the last sentence of subsection (a) and inserting in lieu thereof "excess"; and

(2) amending subsection (b) by inserting "and pay patronage refunds, or do any of them, as provided in its bylaws," after "dividends", and striking out "with" and inserting in lieu thereof "the".

Sec. 113. Section 1.18(b) of the Farm Credit Act of 1971 is amended to read as follows:

"(b) Any association may declare a dividend or dividends and pay patronage refunds, or do any of them, as provided in its bylaws, out of the whole or any part of its net earnings available therefor that remain after (1) maintenance of the reserve required in subsection (a) of this section and (2) bank approval. All patronage refunds shall be paid on the proportionate patronage basis approved by the bank. Dividends shall be noncumulative, and the rate of dividends may be different between different classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the Federal land bank by such classes and issues, but otherwise dividends shall be without preference.".

Sec. 114. Section 1.19 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new sentence as follows: "Associations also may enter into agreements with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by the bank in accordance with regulations of the Farm Credit Administration.".

Sec. 115. Section 1.20 of the Farm Credit Act of 1971 is amended by inserting "or participation certificates," after "stock" the second time it appears and inserting "or other Farm Credit System institutions" after "Administration."

TITLE II—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

Sec. 201. Section 2.1 of the Farm Credit Act of 1971 is amended by—

(1) striking out all that follows "agency" the second time it appears in clause (13) down through the end of the clause and inserting in lieu thereof the following: ", and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (ii) make other investments.";

(2) amending clause (18) to read as follows:

"(18) Agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by its board of directors and approved by the Farm Credit Administration."; and

(3) inserting before the period at the end of clause (20) the following: ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act".

Sec. 202. Section 2.2 of the Farm Credit Act of 1971 is amended by—

(1) striking out the period at the end of the first sentence of subsection (d) and inserting in lieu thereof the following: ", and may be issued to other Farm Credit System institutions. issuance and, notwithstanding the provisions of subsection (g) of this section, retirement of nonvoting stock for other Farm Credit System institutions shall be as authorized by the bank's board of directors and approved by the Farm Credit Administration.";

(2) striking out "fair" in the second and fourth paragraphs of subsection (g);

(3) striking out everything through "Governor" in subsection (h) and inserting in lieu thereof the following: "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(4) striking out "fair" in subsection (i).

Sec. 203. Section 2.3 of the Farm Credit Act of 1971 is amended by—

(1) amending subsection (b) to read as follows:

"(b) The Federal intermediate credit banks are authorized to discount for, or purchase from, any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products, with its endorsement or guaranty, any note, draft, or other obligation the proceeds of which have been advanced or used in the first instance for any agricultural purpose, including the breeding, raising, fattening, or marketing of livestock, or for the production or harvesting of aquatic products; and to make loans and advances to any such financing institution secured by such collateral as may be approved by the Farm Credit Administration: *Provided*, That no such loan or advance shall be made upon the security of collateral other than notes or other such obligations of farmers and ranchers and producers or harvesters of aquatic products eligible for discount or purchase under the provisions of this section, unless such loan or advance is made to enable the financing institution to make or carry loans for any agricultural purpose or for the production or harvesting of aquatic products."; and

(2) inserting in the second sentence of subsection (c) before "if" the following: "or for the production or harvesting of aquatic products,".

Sec. 204. Section 2.4 of the Farm Credit Act of 1971 is amended by inserting in the first sentence after "Administration" the following: "as provided in section 4.17 of this Act".

Sec. 205. Section 2.5 of the Farm Credit Act of 1971 is amended by inserting "or aquatic" after "on-farm".

Sec. 206. Section 2.6(c) of the Farm Credit Act of 1971 is amended by striking out "of less than 25 per centum" in the second sentence.

Sec. 207. Section 2.10 of the Farm Credit Act of 1971 is amended by striking out the comma after "States" and inserting in lieu thereof a period.

Sec. 208. Section 2.12 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of clause (11) the following: "; and buy from and sell to such banks interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration";

(2) inserting before the period at the end of clause (13) the following: "; and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act"; and

(3) amending clause (15) to read as follows:

"(15) Agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration.".

Sec. 209. Section 2.13 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of subsection (e) the following: "or in lieu of nonvoting stock";

(2) striking out "fair" in the first sentence of subsection (f);

(3) amending the last sentence of subsection (f) to read as follows: "Notwithstanding any other provision of this section, for a loan in which an association participates with a commercial bank or other financial institution other than a Farm Credit System institution, nonvoting stock or participation certificates may be issued to the commercial bank or other finanical institution in satisfaction of the requirement that the borrower own stock or participation certificates, which requirement shall apply only to the portion of the loan that is funded by the association.";

(4) striking out "fair" in the first sentence in subsection (g);

(5) striking out everything through "Governor" in subsection (j) and inserting in lieu thereof the following: "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(6) striking out "fair" in subsection (k).

Sec. 210. Section 2.15 of the Farm Credit Act of 1971 is amended by—

(1) amending clause (1) in the first sentence of subsection (a) to read as follows: "(1) bona fide farmers, ranchers, and producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: *Provided*, That the borrower's operations shall supply at least 20 per centum, or such larger per centum that is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended,"; and

(2) inserting "as provided in section 4.17 of this Act" in the first sentence of subsection (b) after "Administration".

Sec. 211. Section 2.16 of the Farm Credit Act of 1971 is amended by inserting "or aquatic" after "on-farm".

TITLE III—BANKS FOR COOPERATIVES

Sec. 301. Section 3.1 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of clause (11) the following: ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act";

(2) inserting in the first sentence in clause (12) after "System" the following: "or any other financial organization, domestic or foreign, as may be authorized by its board of directors and approved by the Farm Credit Administration";

(3) amending clause (13) to read as follows:

"(13) (A) Buy and sell—

"(i) obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency;

"(ii) bankers acceptances that are obligations of any member bank of the Federal Reserve System; and

"(iii) as may be authorized by its board of directors and approved by the Farm Credit Administration, other obligations, which, for purposes of this clause, shall include, but not be limited to, drafts, notes, checks, loans, acceptances, accounts, currencies, or obligations payable in recognized currencies, originating in the ordinary course of transactions that the bank may finance under section 3.7 of this Act.

"(B) As may be authorized by its board of directors and approved by the Farm Credit Administration, (i) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (ii) make other investments.

"(C) As may be authorized by its board of directors and approved by the Farm Credit Administration, invest in ownership interests in business entities, foreign or domestic, to facilitate obtaining credit information and performing loan servicing and financial services related to international transactions. Such investments shall be made in accordance with regulations of the Farm Credit Administration, which may authorize investments equivalent to those that may be made directly by banks, bank holding companies, and corporations organized under section 25 (a) of the Federal Reserve Act, and by corporations organized under the laws of the United States or any State thereof and operating under agreements with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act, or indirectly through their foreign and domestic branches, subsidiaries, or affiliated entities: *Provided*, That prior to the issuance or amendment of such regulations, the Governor of the Farm Credit Administration shall consult with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency to ensure that the authority of banks for cooperatives under such regulations or amendments to make such investments is equivalent to, but not greater than, the authority, direct and indirect, of such banks and other entities to make such investments: *Provided further*, That, following such consultation, the Governor shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on any unresolved differences among the parties to the consultation as to the equivalency of authority under such regulations or amendments."; and

(4) adding at the end thereof new clauses (18) and (19) as follows:

"(18) As may be authorized by its board of directors and approved by the Farm Credit Administration, maintain credit balances and pay or receive fees or interest thereon, for the purpose of assisting in the transfer of funds to or from parties to transactions authorized by this title.

"(19) Agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by its board of directors and approved by the Farm Credit Administration.".

Sec. 302. Section 3.3 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Participation certificates may be issued to parties to whom voting stock may not be issued.".

Sec. 303. Section 3.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out the first three sentences and inserting in lieu thereof three new sentences as follows: "Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 4.0(b) of this Act before any other outstanding voting or nonvoting stock or participation certificates shall be retired except as may be otherwise authorized by the Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock and participation certificates may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called stock or participation certificates retired in response to a call, reserving the right to have such stock or participation certificates included in the next call for retirement."; and

(2) striking out "fair book value not exceeding" in the fourth sentence.

Sec. 304. Section 3.7 of the Farm Credit Act of 1971 is amended by—

(1) inserting "(a)" immediately before the first sentence and inserting in the first sentence "currency exchange as necessary to service their international trade transactions," before "collateral"; and

(2) adding at the end thereof new subsections (b) and (c) as follows:

"(b) A bank for cooperatives is authorized, in connection with transactions of an association that is a voting stockholder, to make or participate in loans and commitments to a domestic or foreign party in which such association has at least the minimum ownership interest approved in accordance with regulations of the Farm Credit Administration, or that engages in transactions with such association for the purchase, sale or exchange of agricultural commodities, farm supplies, or aquatic products, or the lease of real or personal property and extend to such domestic or foreign party other technical and financial assistance if the bank for cooperatives determines under such regulations, that the voting stockholder will benefit substantially as a result of such loan, commitment, or assistance.

"(c) Loans, commitments, and assistance authorized by subsection (b) of this section shall be extended in accordance with policies adopted by the board of directors of the bank under regulations of the Farm Credit Administration. Such regulations relating to foreign and international activities may provide for powers and authorities equivalent to those that may be exercised directly by banks, bank holding companies, and corporations organized under section 25(a) of the Federal Reserve Act, and by corporations organized under the laws of the United States or any State thereof and operating under agreements with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act, or indirectly through their foreign and domestic branches, subsidiaries, or affiliated entities: *Provided*, That prior to the issuance or amendment of such regulations, the Governor of the Farm Credit Administration shall consult with the Board of Governors of the Federal Reserve

System and the Comptroller of the Currency to ensure that the authority of banks for cooperatives under such regulations or amendments to make such loans and commitments and provide such assistance is equivalent to, but not greater than, the authority, direct and indirect, of such banks and other entities to make such loans and commitments and provide such assistance: *Provided further*, That, following such consultation, the Governor shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on any unresolved differences among the parties to the consultation as to the equivalency of authority under such regulations or amendments.".

SEC. 305. Section 3.8 of the Farm Credit Act of 1971 is amended by—

(1) striking out the comma after "of farmers, producers" and inserting "or aquatic" before "business services or";

(2) striking out "or farm business services" in clause (c) and inserting in lieu thereof "farm or aquatic business services, or services to eligible cooperatives"; and

(3) striking out "not less than 80 per centum (70 per centum in the case of rural electric, telephone, and public utility cooperatives)" in clause (d) and inserting in lieu thereof "not less than 60 per centum".

SEC. 306. Section 3.9(a) of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof a new sentence as follows: "Each borrower entitled to hold voting stock shall, at the time a loan is made by a bank for cooperatives, own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan.".

SEC. 307. Section 3.10 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of the first sentence of subsection (a) the following: "as provided in section 4.17 of this Act"; and

(2) in subsection (d), striking out "book" in the first sentence and inserting in lieu thereof "market", and adding a new sentence at the end thereof as follows: "In no event shall the bank's equities be retired or canceled if the retirement or cancellation would adversely affect the bank's capital structure, as determined by the Farm Credit Administration.".

SEC. 308. Section 3.11 of the Farm Credit Act of 1971 is amended by—

(1) in the second sentence of subsection (b) striking out "of less than 25 per centum" and "of not to exceed such per centum of net savings"; and

(2) striking out the first sentence of subsection (c) and inserting in lieu thereof a new sentence as follows: "The net savings of each district bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsection (a) or (b) of this section, whichever is applicable, shall be paid in stock, participation certificates, or cash, or in any of them, as determined by its board, as patronage refunds to borrowers to whom such refunds are payable who are borrowers of the fiscal year for which such patronage refunds are distributed.".

TITLE IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

SEC. 401. Section 4.5 of the Farm Credit Act Act of 1971 is amended by—

(1) in the first sentence, striking out "presidents" and inserting in lieu thereof "president", and inserting before the period at the end thereof "or the president's designee"; and

(2) in the third sentence, strike out "subcommittee's" and inserting in lieu thereof "subcommittees".

SEC. 402. Section 4.10 of the Farm Credit Act of 1971 is amended by striking out "name" and inserting in lieu thereof "same".

SEC. 403. Title IV of the Farm Credit Act of 1971 is amended by adding after section 4.16 new sections 4.17, 4.18, and 4.19 as follows:

"SEC. 4.17. INTEREST RATES.—In order that lending under this Act can continue on a self-sustaining basis, interest rates on loans from institutions of the Farm Credit System under this Act shall be determined with the approval of the Farm Credit Administration as provided in this Act, notwithstanding any interest rate limitation imposed by the constitution or statute of any State, territory, or commonwealth of the United States, or other law, which is hereby preempted for purposes of this Act. Similarly, interest rates on loans made by agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks under section 2.3 of this Act shall be exempt from any interest rate limitation imposed by the constitution or statute of any State, territory, or commonwealth of the United States, or other law, which is hereby preempted for purposes of this Act.

"SEC. 4.18 PARTICIPATION LOANS.—Notwithstanding any other provision of this Act, the terms of any loan participated in by two or more Farm Credit System institutions operating under different titles of this Act, including provision for capitalization of the portion of the loan participated in by each institution, shall be as may be agreed upon among such institutions and authorized by the Farm Credit Administration, except that, for purposes of determining borrower eligibility, membership, term, amount, loan security, and purchase of stock or participation certificates by the borrower, the provisions of law applicable to the loan shall be provisions in the title under which the institution that originates the loan operates.

"SEC. 4.19. TRUTH IN LENDING.—The provisions of any statute of any State, territory, or commonwealth of the United States or law or regulation that impose, with regard to a credit transaction, any duty or requirement that had been imposed by the Truth in Lending not to be applicable to credit transactions of Farm Credit System institutions and agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks under section 2.3 of this Act.".

SEC. 404. Title IV of the Farm Credit Act of 1971 is amended by adding at the end thereof new parts D and E as follows:

"PART D—SERVICE ORGANIZATIONS

"SEC. 4.25. ESTABLISHMENT.—Any bank of the Farm Credit System, or two or more of such banks acting together, may organize a corporation or corporations for the purpose of performing functions and services for or on behalf of the organizing bank or banks, that the bank or banks may perform under this Act: *Provided*, That a corporation so organized shall have no authority either to extend credit or provide insurance services for borrowers from Farm Credit System institutions; nor shall it have any greater authority with respect to other functions and services than the organizing bank or banks possess under this Act. The organizing bank or banks shall apply for a Federal charter for the corporation by forwarding to the Governor of the Farm Credit Administration a statement of the need for the corporation and proposed articles specifying in general terms the objectives for which the corporation is formed, the powers to be exercised by it in carrying out the functions and services, and the territory it is to serve. The Governor for good cause may deny the charter applied for. Upon the approval of articles by the Governor and the issuance of a charter, the corporation shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"SEC. 4.26. POWERS OF THE GOVERNOR.—The Governor shall have power, under rules and regulations prescribed by the Governor or by prescribing in the terms of the charter or by approval of the bylaws of the corporation, to provide for the organization of any corporation chartered under this part and the territory within which its operations may be carried on, and to direct at any time such changes in its charter as the Governor finds necessary for the accomplishment of the purposes of this Act. The powers of the Governor to provide for the organization of any corporation chartered under this part include, but are not limited to, approval of—

"(1) corporate title;

"(2) general corporate powers;

"(3) eligibility for membership on, and the powers, composition, selection, terms, and compensation of, the board of directors;

"(4) classes, issuance, value, and retirement of stock;

"(5) sources of operating funds;

"(6) dissolution, liquidation, and distribution of assets on liquidation; and

"(7) application and distribution of earnings.

"SEC. 4.27. SUPERVISION AND EXAMINATION.—Within the limitations set out in this part, the corporations organized under this part shall be institutions of the Farm Credit System and shall be subject to the same supervision and examination by the Farm Credit Administration as are the organizing bank or banks under this Act.

"PART E—SALE OF INSURANCE

"SEC. 4.28. LINES OF INSURANCE.—(a) The regulations of the Farm Credit Administration governing financially related services that the banks and associations of the Farm Credit System may provide under sections 1.11, 1.15, 2.5, and 2.16 of this Act may authorize the sale to any member of any such bank or association, on an optional basis, of credit or term life and credit disability insurance appropriate to protect the loan commitment in the event of death or disability of the debtors and other insurance necessary to protect the member's farm or aquatic unit, but limited to hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers.

"(b) Such regulations shall provide that—

"(1) in any case in which insurance is required as a condition for a loan or other financial assistance from a bank or association, notice be given that it is not necessary to purchase the insurance from the bank or association and that the borrower has the option of obtaining the insurance elsewhere;

"(2) such insurance services may be offered only if—

"(A) the bank or association has the capacity to render insurance service under this Act in an effective and efficient manner;

"(B) there exists the probability that any insurance program under this Act will generate sufficient revenue to cover all costs; and

"(C) rendering insurance service will not have an adverse effect on the bank's or association's credit or other operations; and

"(3) no bank or association shall directly or indirectly discriminate in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any person who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

"(c) Notwithstanding any provision of this section to the contrary, any bank or association that, on the date of enactment of the Farm Credit Act Amendments of 1980, is offering insurance coverages not authorized by this section may continue to sell such coverings for a period of not more than one year from such date of enactment and may continue to service such coverages until their expiration.".

TITLE V—DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION

Sec. 501. Section 5.0 of the Farm Credit Act of 1971 is amended by inserting before the period at the end of the first sentence the following: "and one of which districts may, if authorized by the Federal Farm Credit Board, include the Virgin Islands of the United States: *Provided*, That the extension of credit and other services authorized by this Act in the Virgin Islands of the United States shall be undertaken only if determined to be feasible under regulations of the Farm Credit Administration".

Sec. 502. Section 5.2 of the Farm Credit Act of 1971 is amended by—

(1) striking out "three" in the last sentence of subsection (b) and inserting in lieu thereof "two"; and

(2) striking out "three" in the first sentence of subsection (c) and inserting in lieu thereof "two".

Sec. 503. Section 5.8(h) of the Farm Credit Act of 1971 is amended by striking out "the sum of $100 a day" in the first sentence and inserting in lieu thereof "compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5 of the United States Code".

Sec. 504. Section 5.11 of the Farm Credit Act of 1971 is amended to read as follows:

"Sec. 5.11 Compensation; Salary and Expense Allowance.—The compensation of the Governor of the Farm Credit Administration shall be at the rate fixed by the Federal Farm Credit Board, but not to exceed the maximum rate of basic pay for level I of the Executive Schedule under section 5312 of title 5 of the United States Code. The Board shall fix allowances, or per diem in lieu thereof, for necessary travel and subsistence expenses of the Governor while traveling on official business. In addition, the Board may fix (1) allowances, or per diem in lieu thereof, for necessary travel, relocation, and subsistence expenses of a person newly appointed as Governor and the immediate family of such person, and (2) allowances for necessary travel and subsistence expenses of persons under consideration for appointment to the position of Governor incurred in connection with interviews requested by the Board.".

Sec. 505. Section 5.13 of the Farm Credit Act of 1971 is amended to read as follows:

"Sec. 5.13. Farm Credit Organization.—(a) The Governor of the Farm Credit Administration is authorized, in carrying out the powers and duties now or hereafter vested in the Governor by this Act and acts supplementary thereto, to establish and fix the powers and duties of such divisions and instrumentalities and to appoint such number of Deputy Governors as the Governor may deem necessary to the efficient functioning of the Farm Credit Administration and the successful execution of the powers and duties so vested in the Governor and the Farm Credit Administration. The salary for the positions of Deputy Governor shall be at the rate or rates fixed by the Federal Farm Credit Board, but not to exceed the maximum rate of basic pay for level I of the Executive Schedule under section 5312 of title 5 of the United States Code. The Governor is further authorized to appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. Appointments of examiners and credit officers may be made by the Governor without regard to the provisions of the competitive civil service and classifications statutes: *Provided*, That the salary for any such position may not exceed the maximum rate of basic pay for level V of the Executive Schedule under section 5316 of title 5 of the United States Code. With the approval of the Federal Farm Credit Board, the Governor may fix, without regard to the provisions of Chapter 57 of title 5 of the United States Code, (1) allowances, or per diem in lieu thereof, for necessary travel and subsistence expenses of officers and employees of the Farm Credit Administration while traveling on official business, (2) allowances, or per diem in lieu thereof, for necessary travel, relocation, and subsistence expenses of new appointees, and of officers and employees of the Farm Credit Administration who are transferred in the interest of the Farm Credit Administration from one official station to another for permanent duty, and their immediate families, and (3) allowances for necessary travel and subsistence expenses of applicants for employment with the Farm Credit Administration incurred in connection with preemployment interviews.

"(b) Notwithstanding any other provision of law, the Farm Credit Administration may, subject to such terms and conditions as the Federal Farm Credit Board may prescribe, make available to any person who is an employee of the Farm Credit Administration on the effective date of the Farm Credit Act Amendments of 1980, or who becomes an employee of the Farm Credit Administration after such date, retirement benefits reflecting the person's previous service in the employment of any institution of the Farm Credit System that is not otherwise creditable service for purposes of the Civil Service Retirement Act. Such benefits shall be supplemental to any annuity that such person receives under the Civil Service Retirement Act, but shall not exceed (1) the difference between the annuity that such person receives under such Act and the annuity such person would have received thereunder if service with any Farm Credit System institution was considered to be creditable service for purposes of such Act, less (2) any annuity or other similar retirement benefit that such person receives from any Farm Credit System institution that formerly employed such person. Any expense incurred by the Farm Credit Administration in making available the benefits authorized by this subsection shall be considered administrative expenses of the Farm Credit Administration for the purpose of section 5.15 of this Act.

"(c) The powers of the Governor may be exercised by the Governor through such other officers and employees of the Farm Credit Administration as the Governor shall designate.".

Sec. 506. Section 5.15 of the Farm Credit Act of 1971 is amended by—

(1) inserting after the second comma the following: "and without regard to the provisions of law relating to the acquisition of property and services by the Government of the United States,"; and

(2) adding at the end thereof a new sentence as follows: "The Farm Credit Administration may dispose of property so acquired without regard to the provisions of law relating to the disposal of Government property, and any amounts collected from the disposition of such property shall be deposited in the special fund provided for in section 5.16 (b) of this Act and shall be available to the Administration in the same manner and for the same purposes as the funds collected under section 5.16(a) of this Act.".

Sec. 507(a). Section 5314 of title 5 of the United States Code is amended by striking out "Governor of the Farm Credit Administration.".

(b) Section 5.27(a) of the Farm Credit Act of 1971 is amended by striking out "and inserting in positions at level III the additional position '(58) Governor of the Farm Credit Administration.' (5 U.S.C. 5314)".

Sec. 508. Section 6308 of title 5 of the United States Code is amended by inserting "or" before "(vi)" and striking out ", or (vii)".

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF S. 2587

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority leader and others on both sides.

I ask unanimous consent that upon the disposition of the Farm Credit Act amendments of 1980, the Senate proceed to the consideration of Calendar Order No. 814, S. 2587, a bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act for 2 years, with the understanding that the Alaska lands bill will be set aside temporarily pending final action on both of these measures that have been ordered up, or until the close of business today, whichever is earlier.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The asistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, before I make this request, what is the business before the Senate?

The PRESIDING OFFICER. The pending business is S. 1465.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may now be a period for the transaction of routine morning business until 1 o'clock p.m. today and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. Bradley). Time for morning business has expired.

FARM CREDIT ACT AMENDMENTS OF 1980

The PRESIDING OFFICER. The Senate will resume consideration of S. 1465, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1465) to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

Mr. ZORINSKY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I urge the Senate to approve S. 1465, the Farm Credit Act Amendments of 1980. The bill has wide support in the agricultural community, and 31 Senators, including 16 members of the Committee on Agriculture, Nutrition, and Forestry, have joined me in sponsoring it.

S. 1465 updates and improves the Farm Credit Act of 1971. American agriculture changed dramatically in the 1970's. The amendments to the Farm Credit Act made by the bill will allow the Farm Credit System to remain responsive to needs of agriculture and to fulfill more effectively its historic mission—to provide a cooperative system under which farmers can obtain credit tailored to their special needs.

Much study and deliberation have been given to this legislation. At my urging, all components of the Farm Credit System reached a unified position of support for the package of legislative proposals before they were introduced as S. 1465.

At the hearings on the bill, which were held last fall, and subsequent to the hearings, it became evident that this legislation enjoys wide support in American agriculture. The U.S. Department of Agriculture has endorsed the banks for cooperatives export and other key provisions of the bill. The American Farm Bureau, the Grange, the National Farmers Union, and the National Council of Farmer Cooperatives support S. 1465, as do a large number of commodity groups and cooperatives. The farm credit legislation is also supported by the Independent Bankers Association of America, the Western Independent Bankers Association, and the Independent Insurance Agents of America.

I believe S. 1465 deserves the widespread support that it enjoys. The bill would make constructive changes in the Farm Credit System to better equip it to meet the growing credit needs of American farmers, ranchers, fishermen, and cooperatives.

EXPORT FINANCING

One issue addressed in S. 1465 concerns the need to expand U.S. agricultural exports and to equip farmer cooperatives to play a more active role in marketing their products abroad, thus gaining a greater share of the benefits for farmers. Because of the growing dollar volume of agricultural exports, farm income is becoming greatly dependent on world markets and the efficiency with which U.S. farm products are exported. Moreover, agricultural exports are playing an increasingly vital role in the U.S. balance of payments. There was a $16 billion agricultural balance of trade surplus in 1979.

At present, the banks for cooperatives do not have the authority needed to provide adequate export credit and related services to agricultural cooperatives. S. 1465 would provide the banks for cooperatives with these authorities. Specifically, it would enable the banks for cooperatives to make deposits in foreign banks, buy and sell bankers acceptances, purchase time drafts payable by foreign buyers of agricultural products, engage in currency exchange, finance trading facilities that are jointly owned by U.S. and foreign cooperatives, and invest in foreign servicing operations related to export trade.

To insure that commercial banks are not placed at a disadvantage by the provisions of the bill relating to banks for cooperatives export financing, the Agriculture Committee, at markup, added language to limit the authorities of banks for cooperatives to engage in export related activities to those equivalent to, but not greater than, the authorities that national banks, bank holding companies, and other banking entities have. Also, the Farm Credit Administration will be required to consult with the Federal Reserve Board and the Comptroller of the Currency on the equivalency issue, and to report to Congress in the event of a difference of opinion among the agencies on this matter.

PROCESSING AND MARKETING LOANS

S. 1465 would broaden the authorities that the Federal land banks and production credit associations now have to finance the activities of a farm, rancher, or aquatic havester, in processing and marketing his products and those of other bona flide farmers, ranchers, and aquatic harvesters.

Many family farmers process or market the production of neighboring farmers to make the best use of their equipment and facilities and provide a needed service to their local farm community. Experts in agricultural economics have pointed out that increased use of processing and marketing equipment and facilities can have a significant effect on the family farmer's income. In striving for these advantages, many farm operators install marketing and processing facilities exceeding the capacity needed for their individual farms.

At present, the farm credit lending institutions provide loans to farmers, ranchers, and aquatic harvesters for processing and marketing activities; but, under the regulations, the applicant must provide more than 50 percent of the product processed or marketed in order to be eligible for a loan. S. 1465, as introduced, would have removed this limit and allowed each Farm Credit district board to set its own requirement on the amount of product processed or marketed that has to be supplied by the applicant.

To insure that a relationship exists between the applicant's own production and the processing and marketing activities to be financed by the loan, the Agriculture Committee, in mark up, amended this provision to establish a 20 percent minimum requirement.

COOPERATIVES ELIGIBILITY

S. 1465 will adjust banks for cooperatives eligibility requirements to insure that the banks for cooperatives provide uninterrupted service to cooperatives. At present, the eligibility criteria for banks for cooperatives financing require that, for rural electric and other utility cooperatives, 70 percent of their voting stock must be in the hands of farmers. Supply and marketing cooperatives are required under present law to meet an 80-percent farmer voting control requirement.

The 70- and 80-percent voting control eligibility requirements were appropriate in the early 1970's, but are now becoming increasingly unrealistic for a number of cooperatives. The reason for this is that the population mix of rural America is changing and will continue to change. As cities and towns expand and as farmers and ranchers acquire new nonfarm neighbors, it becomes increasingly difficult for cooperatives to meet the 80- or 70-percent voting control requirements.

The eligibility problems are particularly great for utility cooperatives. The regulations of most State public service commissions require that rural electric cooperatives and telephone cooperatives serve everyone located in their territory. Also, regulations of the Rural Electrification Administration require that all rural utility cooperative users have the right to vote in the affairs of their rural electric cooperative. As a result of this area coverage rule, utility cooperatives cannot restrict voting rights to agricultural producers. Yet, these cooperatives become ineligible to receive competitively priced credit from the banks for cooperatives when more than 30 percent of the membership are not farmers or ranchers. At the same time that the capital needs of rural electric generating and transmission cooperatives are increasing, an important source of credit for cooperatives is being threatened due to demographic factors beyond the control of the cooperatives.

There are similar eligibility problems facing supply cooperatives. The district farm credit banks tell us that a substantial number of supply cooperatives are now, or soon will be, ineligible if the present voting control requirement is not changed.

To meet the present needs of agricultural cooperatives, S. 1465 will lower the minimum voting control requirement to 60 percent, with authority for each farm credit district to establish a higher voting requirement for its own region.

REAL ESTATE LOAN LIMITS

Another important problem addressed by S. 1465 is the need to facilitate the entry of young and low-equity farmers into American agriculture. As is well known, many persons are finding it increasingly difficult to get started in agriculture. Each year the average age of the farm population is going up, as is the size of the average farm unit. Congress provided some relief to young and low-equity farmers in the 95th Congress when it passed the Agricultural Credit Act of 1978. That act authorizes low-interest rates and beneficial repayment terms on farm ownership loans and loan guarantees to low-income, limited-resource borrowers.

Under current law, Federal land bank loans cannot exceed 85 percent of the appraised value of the real estate security. A further restraining factor is the requirement in the law that the borrower invest in the stock of his Federal land bank association in the amount of between 5 and 10 percent of his loan. In practice, because of these two provisions, many young and low-equity farmers are unable to take advantage of Federal land bank financing, even if they can obtain a loan guarantee under the Agricultural Credit Act of 1978.

The Farm Credit Act Amendments of 1980 will complement the Agricultural Credit Act of 1978 by allowing Federal land banks to make real estate loans of up to 100 percent of the appraised value of the real estate security where guarantees are provided by the Farmers Home Administration or another Federal or State agency. This provision of S. 1465 will enable the Federal land banks to make loans to creditworthy young farmers who cannot make the large down payments that are otherwise required to enter farming today.

AQUACULTURE LOANS

S. 1465 addresses the credit needs of the U.S. aquaculture industry, which has entered a new era of expanded activity and growth due to the extension, in 1976, of U.S. territorial limits to 200 miles from shore.

The United States has been, and continues to be, a net importer of fishery products. In 1979, the Nation imported fish products in excess of $3.8 billion. However, the situation has been changing in recent years. With the help of Government policy, it is hoped that aquatic imports will continue to drop, helping to reduce the foreign trade deficit.

The Farm Credit Act of 1971 established authority to Farm Credit System institutions to make fishery loans, and subsequent legislation in 1978 (the Allen-Weaver Act) extended to 15 years the maximum term for PCA capital aquaculture harvesters. S. 1465 will improve the ability of the System to provide financial services to fishermen by authorizing Federal intermediate credit banks to discount the aquatic loans of other financing institutions; clarifying that cooperatives solely engaged in furnishing aquatic business services are eligible to borrow from the banks for cooperatives; authorizing Federal land banks to make long-term loans to producers and harvesters of aquatic products; and authorizing Farm Credit System institutions to provide to borrowers, members, and applicants financially related services appropriate to aquatic operations.

FCA PERSONNEL

S. 1465 will amend provisions of law relating to personnel of the Farm Credit Administration. These provisions of the bill are designed to enable the board to insure that the agency is staffed with employees of the caliber required to supervise the operations of the System's banks and associations, which now have $60 billion in loans outstanding. Appropriated funds would not be used to pay the cost of implementing these provisions, since the cost of Farm Credit Administration is borne by the Farm Credit System.

CONCLUSION

U.S. agriculture is today facing profound difficulties. Prices for many commodities have not kept pace with the dramatic increase in the cost of farming, which was 17 percent in 1979. Net farm income in the second quarter of this year was 40 percent below last year's level. As a result, in many parts of the country, farmers and ranchers are experiencing severe financial problems.

S. 1465 is an important step this Congress can take to help farmers. It will alleviate the credit needs of farmers by improving the operations of the cooperative Farm Credit System. S. 1465 will do this without appropriating a single dollar from the U.S. Treasury.

I urge my colleagues to join me in voting for the passage of this important legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the major provisions of S. 1465.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 1465

The major provisions of S. 1465, as reported by the Committee on Agriculture, Nutrition, and Forestry, would—

(1) Reduce—from 80 percent (70 percent in the case of rural utility cooperatives) to 60 percent—the minimum voting control of a cooperative that must be held by farmers, aquatic producers or harvesters, or eligible cooperatives in order for the cooperative to be eligible for loans from a bank for cooperatives;

(2) Authorize Federal land banks to make loans in excess of 85 percent—but not in excess of 100 percent—of the appraised value of the real estate security if the loan is guaranteed by Federal or other governmental agencies;

(3) Authorize Federal land banks and production credit associations to make loans to finance basic processing and marketing directly related to an applicant's farm, ranch, or aquatic operation and those of other eligible farmers, ranchers, or producers or harvesters of aquatic products (such a loan could be made only if the applicant's operation supplied at least 20 percent of the amount of the commodity to be processed or marketed);

(4) Authorize the banks for cooperatives to finance transactions for the exportation of agricultural aquatic products by U.S. cooperatives that are borrowers from the banks, and provide the cooperatives with other financial services to enable them to participate effectively in foreign markets for agricultural and aquatic products (the Farm Credit Administration, prior to issuing regulations implementing the new export financing authority, would be required to consult with the Federal Reserve Board and the Comptroller of the Currency to ensure that the powers extended to banks for cooperatives are equivalent to, but not greater than, those of commercial lenders and their affiliated entities, and report to the agriculture committees of Congress any unresolved differences among the consulting parties on the matter of "equivalency" of such powers);

(5) With respect to the production and harvesting of aquatic products—

(a) authorize Federal land banks to make real estate mortgage loans to producers or harvesters of aquatic products;

(b) authorize Farm Credit System institutions to provide to borrowers, members, and applicants, financial-related services appropriate to their aquatic operations;

(c) authorize Federal intermediate credit banks to discount aquatic loans of lending institutions outside the Farm Credit System; and

(d) clarify that cooperatives engaged in furnishing aquatic business services are eligible to borrow from the banks for cooperatives;

(6) Authorize Farm Credit System institutions to extend credit and other services to persons in the Virgin Islands of the United States;

(7) Authorize Farm Credit System institutions to invest or participate in loans with other System institutions, and Federal land banks to sell loans to, and participate in loans with, lending institutions outside the System;

(8) Authorize production credit associations to issue participation certificates to lending institutions outside the Farm Credit System;

(9) Authorize any Farm Credit System institution to enter into general loss-sharing agreements with other System institutions;

(10) Authorize Federal intermediate credit banks and banks for cooperatives to transfer more than 25 percent of net annual earnings to reserve or allocated surplus accounts (under existing law, there is a 25 percent upper limit on such transfers of earnings);

(11) Authorize Federal land banks and Federal land bank associations to pay patronage refunds;

(12) Authorize Federal land bank associations to pay dividends to stock and participation certificate holders at rates based on the contributions of each class and issue of stock or participation certificate to the capital and earnings of the Federal land bank (as applied to an individual borrower, this provision would base his dividend payment on the amount of interest charged on his loan);

(13) Authorize Federal land bank associations to contribute to the capital of Federal lands banks, and authorize the banks to issue equities to evidence such contributions to capital;

(14) With respect to State laws—

(a) Provide that provisions of State truth-in-lending laws that impose duties that are no longer required under the Federal truth-in-lending statute will not be applicable to credit transactions of (i) Farm Credit System institutions and (ii) livestock credit corporations organized in conjunction with cooperatives and eligible to discount with the Federal intermediate credit banks; and

(b) clarify the authority of Farm Credit System institutions to set interest rates without limitation by State law and extend a similar exemption to livestock credit corporations organized in conjunction with cooperatives and eligible to discount with Federal intermediate credit banks;

(15) Specifically authorize Farm Credit System institutions to sell to their members, on an optional basis, credit or term life and credit disability insurance appropriate to protect the loan commitment, and other insurance necessary to protect the member's farm or aquatic unit, but limited to hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers. Whenever insurance is required as a condition for a loan, System institutions would be required to give notice that the insurance

need not be purchased from the institution, but could be obtained elsewhere. System institutions would be required to have the capacity to provide effective insurance service, and would be prohibited from discriminating against any agent, broker, or insurer, or any person who obtains insurance from a nonaffiliated agent, broker, or insurer. The insurance program of any institution would have to be designed to assure that it will generate sufficient revenue to cover all costs, and will not have an adverse effect on the bank's or association's credit or other operations. Any institution that is offering, on the date of enactment of the bill, insurance coverages not authorized by the bill could continue to sell the coverages for one year after the date of enactment and service policies of such coverage until their expiration;

(16) Authorize Farm Credit System banks to organize federally-chartered corporations to perform services and functions (other than the extension of credit or the provision of insurance services for borrowers) that the banks are authorized to perform under the Farm Credit Act of 1971 (the corporations would be supervised by the Farm Credit Administration);

(17) Make several changes in the law relating to the management and operation of the Farm Credit Administration, including provisions—

(a) authorizing the Federal Farm Credit Board to set the salaries of the Governor and deputy governors of the Farm Credit Administration, except that the salaries could not exceed the maximum rate of pay in the executive schedule, and to fix allowances for travel, relocation, and subsistence for any newly-appointed Governor of the Farm Credit Administration and for travel and subsistence expenses in connection with preappointment interviews;

(b) Authorizing the Governor to establish a salary and classification system, and job position qualification requirements, for Farm Credit Administration bank examiners and credit officers, and to set allowances for travel, relocation, and subsistence for Farm Credit Administration employees and for travel and subsistence in connection with preemployment interviews;

(c) establishing the maximum salary for any Farm Credit Administration position at not to exceed the basic rate of pay for level V of the executive schedule;

(d) authorizing the transfer of annual and sick leave and retirement benefits for employees transferring from Farm Credit System institutions to the Farm Credit Administration (the costs of transferring retirement benefits would be borne by the Farm Credit Administration); and

(e) increasing the daily rate of compensation for members of the Federal Farm Credit Board from $100 per day to the daily equivalent of the GS–18 pay rate;

(18) With respect to any election of a farm credit district director, provide that the list of nominees for the position may consist of the two candidates receiving the highest number of nomination votes, rather than (as under existing law) the three candidates receiving the highest number of nomination votes; and

(19) Authorize presidents of Farm Credit System banks to designate persons to represent them on interbank finance committees.

Mr. ZORINSKY. Mr. President, I now yield to the minority leader of this bill, Senator HELMS from North Carolina.

Mr. HELMS. I thank my friend from Nebraska.

Mr. President, Senate consideration of S. 1465, the Farm Credit Act Amendments of 1980, culminates over 1 year of debate and review of this comprehensive legislation designed to improve the ability of the Farm Credit System to serve farmers and ranchers. I support the bill, and am a cosponsor, along with 15 other members of the Committee on Agriculture, Nutrition, and Forestry.

The committee has been careful and deliberative in its consideration of S. 1465, and has favorably reported a bill that I believe to be both supportive of the Farm Credit System, and fair to other farm lenders with whom the System competes.

The bill is a very important one, and our committee actions reflect its significance. The Subcommittee on Agricultural Credit and Rural Electrification, ably chaired by Senator ZORINSKY, and the full committee, chaired by the able Senator from Georgia (Mr. TALMADGE) have both received testimony and accepted suggestions from the public representing a broad spectrum of agricultural organizations and financial institutions interested in the legislation.

Public response and comments have enabled the subcommittee and full committee to make necessary modifications in S. 1465 where appropriate, and have contributed to the drafting of balanced legislation. While the final version of the Farm Credit Act Amendments of 1980 will no doubt contain further changes suggested by the House, I can recommend to my colleagues that the bill is deserving of their support.

Previous opening statements have detailed the provisions of S. 1465, and have provided the justification for those proposals to amend the Farm Credit Act of 1971. However, I would like to briefly comment on a few of the major provisions of the bill, and make some general observations about farm lending, as well.

Since passage of the Farm Credit Act of 1971, the Farm Credit System has grown, and more importantly, has altered its lending policies to better serve the ever-growing demand for reasonable farm credit and financial services. During this time period, we have witnessed the growth of farmer cooperatives and the expansion of our domestic aquaculture industry—just to name two items of change and progress with which the Farm Credit System has had to cope. In fact, all farm lenders have felt the impact of this amazing surge in U.S. agriculture. and have done their best to continue the flow of financial support into rural America. Farming and ranching have become more modern, and so must our support services that help keep these important businessmen productive.

S. 1465 contains proposals that will allow the Farm Credit System to apply the experience it has gained in recent years to proper servicing of farmer demands for financial assistance. Amendments to the act that seek to assist farmers process and market their crops or livestock, and help finance export sales by cooperatives are but two examples of how this legislation can promote increased farm income for the borrower-members of the Farm Credit System. I believe these are far-sighted improvements, and will only add to the stability of agricultural productivity in the future.

In fact, the provisions of the bill that will allow the banks for cooperatives to provide export credit and related services to cooperatives, I find are some of the most interesting. Farmers whose co-ops choose to obtain banks for cooperatives financing will be able to enjoy increased co-op activity in these sales, and that will result in higher returns for its members. This, in my opinion, is the very best way to resolve our present agricultural credit and farm debt crisis—increase of farmer income. That, and not further expansion of Government-subsidized loan programs for farmers, is our ultimate answer for the constriction in our farm economy.

As in other provisions, the banks for cooperatives export proposals are not drafted or designed to disadvantage commercial lenders that presently finance export transactions. It appears that a healthy, expanding export market should be desired by all lenders, as it will only lead to further sales and a stronger U.S. position on the world scene.

S. 1465 provides that all new banks for cooperatives export-related authorities can be equivalent—but no greater than—those now used by commercial banks and bank holding companies. If our major farm lenders are all working at the same level and with the same tools to stimulate exports, the outcome should be a favorable one, with the farmer the ultimate winner. There also seems to be plenty of business for all that are interested, a point that has been echoed by officers of large, commercial banks currently engaged in export financing and promotion.

Other major provisions of S. 1465 similarly seek to enhance emerging agricultural industries and allow agricultural lenders to more easily cooperate on farm lending. The legislation before the Senate today provides new authority that will allow components of the Farm Credit System to extend credit to fishermen and others engaged in aquaculture, just as they do for farmers and ranchers.

Additionally, the bill will make it easier for commercial banks and the Farm Credit System to cooperate on farm loans. This joint participation should foster greater support at the local level for farmers in need of credit, where or when credit is scarce.

After careful observation of the many facets of farm lending—from governmental to commercial—I have formed a viewpoint that growth of our private lending institutions and the System is preferable to that of loan programs supported by the taxpayers. I think the reasoning for this is simple. Capital generated and provided by the Government will be much more expensive for our economy if it must be provided for the smallest to the largest farming enterprise, and in unlimited amounts.

If it becomes too thin and stretched, its effectiveness cannot help but dim, and the only way our present programs can counter that is to inject more money still into the system. That plainly will not work and only postpones a farmer's fair evaluation of his success or failure. It is not fair to the taxpayer or the farmer.

For these reasons, I believe a strong Farm Credit System and strong commercial lenders are best for U.S. agricultural credit needs. The Farm Credit System is self-supporting and requires no Government or taxpayer subsidy. As long as it can provide reasonable credit, terms and services—in competition with private lenders—it should be encouraged.

Otherwise, we can only continue to more heavily burden our strained Farmers Home Administration and other Government entities that have grown so dramatically in recent years. We should not act here to deny credit resources to eligible farmers, but neither can we shirk our responsibility to provide the best financing possible at the lowest cost.

Some private lenders have shared their concern with me about the expansion and branching-out of the Farm Credit System. I understand their concern in this instance and share it, just as I would about any other large organization closely resembling the Farm Credit System.

However, as I stated before, modern farming has changed, and there is not good reason to oppose the needed modernization of the System set forth in this legislation. I do not believe that S. 1465 will allow the System to evolve into a type of federalized banking system, or in any way disadvantage commercial banks. I also feel, however, that Congress should not ignore its oversight responsibility because the System is regulated by the Farm Credit Administration, and remains interrelated with Government and the private sector alike.

The Farm Credit System, then, should be kept within its authorized framework to provide adequate credit for its member-borrowers. It does not need to diversify to the point where it resembles a private banking system, and I do not believe the components of the System desire this, nor do farmers. S. 1465 represents needed changes for the System, but is within the scope of its present authority. It will be the job of this Senator and the Committee on Agriculture, Nutrition, and Forestry to see that the Farm Credit System remains on this course and to this I am committed.

If enacted, S. 1465 will allow the Farm Credit System to improve its service and better assist farmers. It is worthy of your support and should be approved. While it may not solve all of our farmers' financial problems in a short matter of time, it will assure farmers of available credit facilities and services to meet their future requirements.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. HELMS. Mr. President, I am delighted to yield to my friend from South Carolina.

Mr. THURMOND. Mr. President, I rise today to express my support of S. 1465, the Farm Credit Act Amendments of 1980. This bill, which I am pleased to cosponsor, expands and improves the services of the Farm Credit System institutions to the agricultural community.

Mr. President, the farm credit system is a major lending source for U.S. farmers. The system provides about one-third of all the credit needs of American agriculture, including individual farmers and rural cooperatives. Furthermore, the system is composed of cooperative associations, which operate at no cost to the taxpayers. It includes Federal land banks, which make long-term farm real estate loans; the Federal intermediate credit banks, which make intermediate-term operating loans through Production Credit Associations; and banks for cooperatives which lend to farmer cooperatives.

Mr. President, the Farm Credit System has a history of success. It has long played a major role in providing credit and related services to the agricultural sector of our country. Passage of this legislation will enhance the potential for even greater success and provide more and better services to the farmer.

This bill would permit, among other things, Federal land banks to make loans for more than 85 percent, but not greater than 100 percent of the appraised value of the farm real estate. This provision will better enable the system to assist the many young farmers desiring to get started in farming or increase their existing operations. Another important provision of the bill authorizes the banks for cooperatives to finance agricultural export transactions more fully. This will have a positive impact on the volume of U.S. agricultural exports, and in so doing improve our balance of payments.

Mr. President, the 28 amendments to the Farm Credit Act contained in this legislation greatly expand and improve the services of the Farm Credit System institutions to the agricultural community of our Nation. I hope that my colleagues recognize the importance of this bill and support its passage.

Mr. President, I thank the able Senator from North Carolina.

Mr. DOLE. Mr. President, will the distinguished Senator from North Carolina yield?

Mr. HELMS. Mr. President, I am delighted to yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I am supporting S. 1465, a bill from the Committee on Agriculture, Nutrition, and Forestry to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers.

S. 1465 was introduced by Senator TALMADGE on July 9, 1979, and I was one of the original cosponsors. Many of us have worked since that time to see that this legislation becomes law.

Adequate and reliable agricultural credit is vital to the continued success of America's farmers and ranchers. Present economic conditions have worked a particularly harsh hardship on our farmers, and I believe we must take every reasonable step to assure their continued success and high productivity.

The Farm Credit System, over the years, has provided a reliable source of credit for the agricultural community. Their efforts, combined with those of the commercial banking community, have been a primary factor for insuring the continued strength of this country's vital interest in rural areas.

The proposed amendments to the Farm Credit Act (S. 1465) are a combination of steps to broaden the system's ability to respond to current credit needs of producers and a number of housekeeping amendments to clarify positions of the 1971 Farm Credit Act.

The Senate Agriculture Committee has been very conscious of the need to maintain a reasonably competitive position between the private sector and the cooperative farm credit system. This balance, over the years, has fostered constructive competition and has been a major factor in maintaining competitive interest rates for farmers and ranchers.

SYSTEM LOANS RECORD AMOUNT

The Farm Credit System loaned a record $59.1 billion during the year ended December 31, 1979, an increase of 31.6 percent over 1978. The increase was twice that posted between 1977 and 1978. Loans outstanding at the end of 1979 stood at $58.5 billion, an increase of 23.5 percent from a year earlier.

THREE LEADING GROUPS

The Farm Credit System is made up of three lending groups. The 12 Federal land banks make long-term loans secured by first mortgages on farm or rural real estate. The loans are made through 505 Federal Land Bank Associations.

The 12 Federal intermediate credit banks provide short and intermediate term loan funds to 425 production credit associations and about 120 other financing institutions serving eligible borrowers.

The 12 district banks for cooperatives make loans of all kinds to agricultural, aquatic, or rural utility cooperatives within their respective territories. The Central Bank for Cooperatives participates with the District Banks in loans that exceed their individual lending capacities.

I have watched with interest the lending activities of the farm credit system for many years. They have done an outstanding job in my State of Kansas and across the country. I have visited with the officials of the farm credit banks in Kansas and they approve of this legislation.

I have had many telephone calls and letters from farm credit officials and farmers across Kansas supporting this legislation.

SUMMARY OF MAJOR PROVISIONS

The major provisions of the bill would—

First. Reduce—from 80 percent (70 percent in the case of rural utility cooperatives) to 60 percent—the minimum voting control of a cooperative that must be held by farmers, aquatic producers or harvesters, or eligible cooperatives in order for the cooperative to be eligible for loans from a bank for cooperatives.

Second. Authorize Federal land banks to make loans in excess of 85 percent—but not in excess of 100 percent—of the appraised value of the real estate security if the loan is guaranteed by Federal or other governmental agencies. Farmers Home Administration officials have indicated to me their support of this provision.

Third. Authorize Federal land banks and production credit associations to make loans to finance basic processing and marketing directly related to an applicant's farm, ranch, or aquatic operation and those of other eligible farmers, ranchers, or producers. Such a loan could be made only if the applicant's operation supplied at least 20 percent of the amount of the commodity to be processed or marketed.

Fourth. Authorize the banks for cooperatives to finance transactions for the exportation of agricultural and aquatic products by U.S. cooperatives that are borrowers from the banks, and provide the coperatives with other financial services to enable them to participate effectively in foreign markets for agricultural and aquatic products.

I believe this bill will update and improve the operations of the Farm Credit System. It will expand the ability of the farm credit system institutions to serve the credit and related needs of their member-borrowers.

I urge the passage of this bill.

Mr. HELMS. Mr. President, I yield the floor.

The **PRESIDING OFFICER.** The clerk will state the first committee amendment.

The legislative clerk read as follows:

On page 2, line 2, strike "1979" and insert in lieu thereof "1980."

Mr. HELMS. Mr. President, I support the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. ZORINSKY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the remainder of the committee amendments of the Committee on Agriculture, Nutrition, and Forestry to S. 1465 be agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. ZORINSKY. I thank the Chair.

UP AMENDMENT NO. 1419

(Purpose: To amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes)

Mr. ZORINSKY. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY), for Mr. PROXMIRE, proposes an unprinted amendment numbered 1419.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 32, between lines 12 and 13, a new section 504 as follows:

"SEC. 504. Section 5.10 of the Farm Credit Act of 1971 is amended by inserting after the second sentence a new sentence as follows: 'Pursuant to a policy statement adopted by the Federal Farm Credit Board, the Governor of the Farm Credit Administration shall consult on a regular basis with the Secretary of the Treasury in connection with the exercise by the System and the Governor of the powers conferred under section 4.2 of this Act, and with the Board of Governors of the Federal Reserve System in connection with the effect of System lending activities on national monetary policy.' "

On page 32, line 13, strike out "SEC. 504." and insert in lieu thereof "SEC. 505".

On page 33, line 7, strike out "SEC. 505." and insert in lieu thereof "SEC. 506".

On page 36, line 8, strike out "SEC. 506." and insert in lieu thereof "SEC. 507".

On page 37, line 1, strike out "SEC. 507." and insert in lieu thereof "SEC. 508".

On page 37, line 8, strike out "SEC. 508." and insert in lieu thereof "SEC. 509".

Mr. ZORINSKY. Mr. President, this amendment is being presented on behalf of Mr. PROXMIRE and would require the Farm Credit Administration to adopt a policy statement pursuant to which it would be required to consult with the Secretary of the Treasury and the Federal Reserve on the issuance of debt obligations.

In 1979 the farm credit system raised $35.8 billion in the money markets. Of this total, $9.3 billion was new money and $26.5 billion was used to finance maturing securities. Farm credit system financing over this period amounted to 5.3 percent of the total amount raised in public markets.

Because of the significant position it has in public markets, the Farm Credit Administration consults on a regular basis with the Treasury Department and the Federal Reserve on the interest rate and timing and other features of its market offerings in the interests of orderly securities markets and a stable monetary policy.

The amendment would insure that this practice would be institutionalized and not depend on the good will of the various officials responsible.

The Farm Credit Administration favors this amendment and so far as I have been able to ascertain, it is noncontroversial and I commend it to my colleagues in the Senate.

I ask for its adoption.

Mr. HELMS. Mr. President, I certainly have no problem with the amendment. I support it and I ask its adoption.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (UP No. 1419) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ZORINSKY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1420

(Purpose: To amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes)

Mr. ZORINSKY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes an unprinted amendment numbered 1420.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 17, strike lines 15 through 25 and insert in lieu thereof:

"(C) As may be authorized by its board of directors and approved by the Farm Credit Administration, invest in ownership interests in business entities, foreign or domestic, engaged in the business of obtaining credit information and performing financial services incidental to the financing of international transactions and make minimum contributions in foreign cooperatives: *Provided*, That nothing herein shall be construed as authorizing a bank for cooperatives to invest in a foreign or domestic commercial bank, directly or indirectly. Such investments shall be made in accordance with regulations of the Farm Credit Administration;"

On page 18, strike lines 1 through 4 and the words "'affiliated entities: *Provided*, That" on line 5 and insert in lieu thereof the word "and,".

On page 18, line 11 strike the words "equivalent, to but" and the second comma.

On page 18, line 12 strike the words "such banks and other entities" and insert in lieu thereof the words "banks and bank holding companies and their branches, subsidiaries, and affiliates".

On page 21, strike everything after the period on line 9, strike lines 10 through 18 and on line 19 strike the words "*Provided*, That prior" and insert in lieu thereof "Prior".

On page 21, line 25, strike the words "equivalent to"

On page 22, line 1, strike the word "but" and the first comma.

On page 22, line 2, strike the words "such banks and other entities" and insert in lieu thereof the words "banks and bank holding companies and their branches, subsidiaries, and affiliates".

Mr. ZORINSKY. Mr. President, this amendment clarifies the authority of the banks for cooperatives to engage in the financing of international transactions.

The amendment makes clear that banks for cooperatives may invest in entities foreign or domestic which are engaged in obtaining of credit information and performing financial services incidental to the financing of international transactions and to make minimal contributions to foreign cooperatives provided that nothing shall be construed as authorizing a bank for cooperatives to invest in a foreign or domestic commercial bank.

The amendment also provides that with respect to such investment authorities the Farm Credit Administration shall consult with the Federal Reserve and the Comptroller to insure that banks for cooperatives are not accorded investment powers which exceed those for banks and bank holding companies and their subsidiaries, branches, and affiliates.

Mr. President, this clarifying amendment is supported by the Farm Credit Administration and to my knowledge is not controversial.

I commend it to my colleagues in the Senate as a way to provide banks for cooperatives with the authorities they need to engage in international finance.

Mr. HELMS. Mr. President, I support the amendment and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (UP No. 1420) was was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ZORINSKY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. BUMPERS. Mr. President, I am pleased to support S. 1465, as reported by the Senate Committee on Agriculture, Nutrition, and Forestry. As a cosponsor of the bill, I urge the Senate to adopt in a prompt fashion. The provisions of this bill will help alleviate many of the credit problems facing our Nation's farmers. This is needed more than ever in today's farm environment because without immediate help many of the farmers of this country will not be in business next year.

Also, Mr. President, the provision allowing Federal land banks to loan in excess of 85 percent, but no more than 100 percent, of the appraised value of real estate when the loan is guaranteed is certainly an improvement. The existing 85-percent limitation makes little sense when prices for farmland have risen very rapidly in the past few years. The effect of the limitation has been to prohibit many young persons from entering this field due to the requirement of a large down payment. Therefore, by raising the limitation to 100 percent of the appraised value of the real estate, the Federal land banks will still have adequate security for the loan and, at the same time the beginning farmer will be purchasing farmland.

Mr. President, the problems of the farmers of this Nation have been magnified by the post embargo prices and the severe drought which has plagued certain parts of our country, including Arkansas.

Recently, the Department of Agriculture has released statistics which estimate that farm income for 1980 may drop as much as 40 percent. The purchasing power of our farmers has dropped to the same level it was in the mid-1920's and most of us know what that period of time was like. Another alarming statistic, Mr. President, is that on May 30, 1980, USDA reported that farm prices were 8.1 percent lower than in May 1979.

The drought of this summer has only served to compound the problems of the farmers. The USDA has already estimated that in my State of Arkansas alone, in excess of $600 million in agricultural products have been lost. We have lost $13 million worth of young chickens, and 50 percent of the soybean crop valued at $360 million. I take this opportunity, during the consideration of this bill, to urge the President and Secretary Bergland to act quickly in responding to the needs of our farmers.

Mr. President, I strongly support S. 1465 and urge my colleagues to support it.●

● Mr. TALMADGE. Mr. President, I am pleased to support the passage of S. 1465, the Farm Credit Act Amendments of 1980. The bill will improve and modernize the operations of the borrower-owned Farm Credit System. S. 1465 is needed to insure that the Farm Credit System continues to meet the changing credit needs of our farmers and ranchers.

The cooperative Farm Credit System is of vital importance to American agriculture. The System is today the single largest source of credit for U.S. farming. It supplies almost a third of the total amount of credit used by farmers and ranchers and two-thirds of the credit used by farmer cooperatives.

As of January 1, 1980, the System held 29.2 percent of the total farm debt outstanding; and the Federal land banks held 35.5 percent—the largest share—of outstanding farm real estate debt. Although banks continue to hold the lion's share of nonreal estate farm debt—41.1 percent—the production credit associations and the Federal intermediate credit banks held 24.4 percent of such debt on January 1, 1980. Additionally, the banks for cooperatives made loans totaling $19 billion to 3,152 cooperative associations in the year ending December 31, 1979.

The System operates at no cost to the U.S. taxpayer. The farmer-owners of the System obtain loan funds from the private money markets, not from the Government, and they pay for all of the operating expenses of the System, including the expenses of examination and supervision conducted by the Farm Credit Administration.

When I introduced S. 1465, I took note of the fact that the bill had the unified support of the combined Farm Credit System. Today, I am pleased that such is still the case. Although S. 1465 has been amended by the Committee on Agriculture, Nutrition, and Forestry to accommodate the concerns of those outside the Farm Credit System, the amendments improve the bill and have been agreed to by the System.

Section 404 of S. 1465 includes new parts relating to service organizations and sale of insurance. This section makes it clear that the Farm Credit System and banks of the System cannot organize service corporations to provide insurance services for borrowers from Farm Credit System institutions. It is my reading of this language that it would prevent the Farm Credit System or banks within the System from acting as an insurance company—that is, providing insurance services that have traditionally been provided by private insurers to the Farm Credit System.

Under section 404, however, the banks of the Farm Credit System will continue to provide the traditional kind of supervision of insurance programs that they have in the past. That is, the banks will continue to have the authority and the responsibility to prescribe reasonable standards to be met by insurers and insurance programs to guarantee compliance with the requirements of the act.

I believe that the banks should not be able to circumvent the provisions of section 404 by designating a particular insurance company as an underwriter and undertake, through the designated company, to provide insurance services that have traditionally been offered by the insurance companies themselves. Of course, the individual production credit associations should still be free to choose among insurers offering insurance programs approved by supervising banks.

The Subcommittee on Agricultural Credit and Rural Electrification held thorough hearings on S. 1465; and both the Subcommittee and the Committee on Agriculture, Nutrition, and Forestry gave full consideration to the views and concerns expressed by a wide variety of interests. I would like to thank Senator ZORINSKY and Senator HAYAKAWA for their hard work and leadership in developing this comprehensive legislation for consideration by the Senate today.

We are going through an era of skyrocketing inflation in the costs of producing crops that has increased the need for capital investment in farming. U.S. farmers must be given access to adequate financing if they are to continue to produce bountiful supplies of food and fiber for the Nation and the world. S. 1465 makes the changes in the law necessary to insure that the Farm Credit System will be able to respond to the changing credit needs of the U.S. agricultural economy, and I urge its speedy passage.●

Mr. McGOVERN. Mr. President, I rise in support of S. 1465, the Farm Credit Act Amendments of 1980. As a member of and the former chairman of the Subcommittee on Agricultural Credit and Rural Electrification, I have a strong interest in the agricultural credit situation generally and in the services offered by the Farm Credit System in particular.

The Farm Credit System has, since its inception in 1916, provided an invaluable service to American agriculture. Through times of tight credit and high interest the System has been the most reliable source of credit for American farmers and ranchers. At no time has the need for a strong farm credit system been demonstrated more acutely than in the current situation of escalating costs of production, low farm prices, and recent high interest rates which have made it difficult for farmers in much of rural America to obtain adequate financing.

Therefore, it is with great enthusiasm that I have supported the pending legislation. It makes a number of changes in the law which will promote better administration and operation of the Farm

Credit System. One of the most significant changes in authority that the bill provides is the authority for the Federal land banks and production credit associations to finance basic processing and marketing directly related to farming and ranching operations.

Another very important authority is the authority for the cooperatives to finance transactions for the export of agricultural commodities. I hope that this new authority will make it possible for the Nation's farmers to assume a much larger role in the processing, marketing, and exportation of their own commodities. For too long we have seen that the exportation of agricultural commodities is concentrated in the hands of a few powerful companies to the detriment of farmers. The grain trade is an excellent example of this phenomenon.

In addition, I was quite pleased that the pending bill has resolved a long-simmering dispute about the role Farm Credit should have in the sale of insurance. The bill has clarified the authority that the Farm Credit System has to offer insurance services to borrowers through private insurance companies. The legislation makes clear that the System cannot authorize the sale of collateral insurance through the production credit associations and land banks.

The law clearly states that any bank or association of the Farm Credit System can, on an optional basis, make available credit or term life and credit disability insurance appropriate to protect the loan commitment. In addition, it states clearly that the banks and associations of the System can offer borrowers hail and multiple peril crop insurance, title insurance, and insurance to protect the facilities and equipment of the aquatic borrowers.

Moreover, the bill addresses another concern that many parties have had about the Farm Credit System. It states clearly that the banks of the Farm Credit System cannot get in the insurance business themselves. The bill clearly states in section 404 that the banks cannot establish corporations to provide insurance services for borrowers from Farm Credit System institutions.

Moreover, it is implicit in this language that the banks themselves cannot get into the insurance business. Therefore, I believe that the bill makes it clear that the Farm Credit System can continue to make available the kinds of insurance services that are authorized in the legislation through private insurance companies.

However, the banks would not be able to undertake to provide insurance services that have traditionally been offered by insurance companies themselves. This arrangement has, over the years, worked in the best interests of farmers and ranchers. Local farmers who sit on the boards of directors of production credit associations across the Nation have the right to make a choice of the insurance company that will insure that local PCA's will continue to enjoy this freedom of choice.

The **PRESIDING OFFICER.** If there be no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time. The bill was read the third time.

The **PRESIDING OFFICER.** The question is, Shall the bill pass?

The bill (S. 1465) as amended, was passed as follows:

S. 1465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Credit Act Amendments of 1980".

TITLE I—FEDERAL LAND BANKS AND ASSOCIATIONS

Sec. 101. Section 1.4 of the Farm Credit Act of 1971 is amended by—

(1) striking out in clause (6) "loans and" and inserting in lieu thereof "and participate in loans, make";

(2) inserting before the period at the end of clause (12) the following: ", participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act, and participate with lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this title";

(3) striking out all that follows the second comma in clause (15) down through the end of the clause and inserting in lieu thereof the following: "and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) sell to lenders that are not Farm Credit System institutions interests in loans, (ii) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (iii) make other investments."; and

(4) adding at the end thereof new clauses (22) and (23) as follows:

"(22) Accept contributions to its capital from Federal land bank associations and account therefor as authorized by the Farm Credit Administration.

"(23) Agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by its board of directors and approved by the Farm Credit Administration.".

Sec. 102. Section 1.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out in subsection (b) "hypotheticated" and inserting in lieu thereof "hypothecated";

(2) striking out the first sentence of subsection (d) and inserting in lieu thereof two new sentences as follows: "Nonvoting stock may be issued to the Governor of the Farm Credit Administration, to borrowers as patronage refunds, and to Federal land bank associations in amounts that will permit the bank to extend financial assistance to eligible persons other than farmers, ranchers, and producers or harvesters of aquatic products. Nonvoting stock also may be issued to other Farm Credit System institutions. Issuance and retirement of such nonvoting stock shall be as authorized by its board of directors and approved by the Farm Credit Administration."; and

(3) adding at the end thereof new subsections (f) and (g) as follows:

"(f) Patronage refunds may be paid in nonvoting stock, participation certificates, allocated surplus, and other equities of the bank, or cash, or in both equities and cash, as determined by the board of the bank, to borrowers of the fiscal year for which such patronage refunds are distributed. All patronage refunds shall be paid in the proportion that the amount of interest on the loans to each borrower during the year bears to the interest on the loans of all borrowers during the year or on such other proportionate patronage basis as the Farm Credit Administration may approve.

"(g) Equities to evidence contributions to capital may be issued to Federal land bank associations when the bylaws of the bank so provide.".

Sec. 103. Section 1.6 of the Farm Credit Act of 1971 is amended to read as follows:

"Sec. 1.6 Real Estate Mortgage Loans.—The Federal land banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products and make continuing commitments to make such loans under specified circumstances, or extend other financial assistance of a similar nature to eligible borrowers, for a term of not less than five nor more than forty years.".

Sec. 104. Section 1.7 of the Farm Credit Act of 1971 is amended by inserting before the period at the end of the first sentence the following: "as provided in section 4.17 of this Act".

Sec. 105. Section 1.8 of the Farm Credit Act of 1971 is amended by striking out in clause (1) "and ranchers" and inserting in lieu thereof ", ranchers, or producers or harvesters of aquatic products".

Sec. 106. Section 1.9 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans originated by a Federal land bank or in which it participates with a lender that is not a Farm Credit System institution shall not exceed 85 per centum of the appraised value of the real estate security, or such greater amount, not to exceed 100 per centum of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration for loans guaranteed by Federal, State, or other governmental agencies, and shall be secured by first liens on interest in real estate of such classes as may be approved by the Farm Credit Administration.".

Sec. 107. Section 1.10 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans made by the Federal land banks to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: *Provided,* That the applicant's operations shall supply at least 20 per centum, or such larger per centum that is required by the board of directors of the bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended.".

Sec. 108. Section 1.11 of the Farm Credit Act of 1971 is amended by inserting "or aquatic" before "operations".

Sec. 109. Section 1.12 of the Farm Credit Act of 1971 is amended by striking out "(a)".

Sec. 110. Section 1.15 of the Farm Credit Act of 1971 is amended by—

(1) striking out "shall" in clause (13);

(2) striking out "may" the second time it appears in clause (14); and

(3) adding at the end thereof a new clause (21) as follows:

"(21) Contribute to the capital of the bank.".

Sec. 111. Section 1.16 of the Farm Credit Act of 1971 is amended by—

(1) striking out "fair" in the sixth sentence of subsection (a); and

(2) adding at the end thereof a new subsection (c) as follows:

"(c) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan (1) made by a Federal land bank that is sold to a lender that is not a Farm Credit System institution, or (2) that such lender retains or acquires in participating in the loan with a Federal land bank.".

Sec. 112. Section 1.17 of the Farm Credit Act of 1971 is amended by—

(1) striking out "excess" in the last sentence of subsection (a) and inserting in lieu thereof "excess"; and

(2) amending subsection (b) by inserting "and pay patronage refunds, or do any of them, as provided in its bylaws," after "dividends", and striking out "with" and inserting in lieu thereof "the".

Sec. 113. Section 1.18(b) of the Farm Credit Act of 1971 is amended to read as follows:

"(b) Any association may declare a dividend or dividends and pay patronage refunds, or do any of them, as provided in its bylaws, out of the whole or any part of its net earnings available therefor that remain after (1) maintenance of the reserve required in subsection (a) of this section and (2) bank approval. All patronage refunds shall be paid on the proportionate patronage basis approved by the bank. Dividends shall be noncumulative, and the rate of dividends may be different between different classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the Federal land bank by such classes and issues, but otherwise dividends shall be without preference.".

Sec. 114. Section 1.19 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new sentence as follows: "Associations also may enter into agreements with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by the bank in accordance with regulations of the Farm Credit Administration.".

Sec. 115. Section 1.20 of the Farm Credit Act of 1971 is amended by inserting "or participation certificates," after "stock" the second time it appears and inserting "or other Farm Credit System institutions" after "Administration".

TITLE II—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

Sec. 201. Section 2.1 of the Farm Credit Act of 1971 is amended by—

(1) striking out all that follows "agency" the second time it appears in clause (13) down through the end of the clause and inserting in lieu thereof the following: ", and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (ii) make other investments.";

(2) Amending clause (18) to read as follows:

"(18) Agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by its board of directors and approved by the Farm Credit Administration,"; and

(3) inserting before the period at the end of clause (20) ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act".

Sec. 202. Section 2.2 of the Farm Credit Act of 1971 is amended by—

(1) striking out the period at the end of the first sentence of subsection (d) and inserting in lieu thereof the following: ", and may be issued to other Farm Credit System institutions. Issuance and, notwithstanding the provisions of subsection (g) of this section, retirement of nonvoting stock for other Farm Credit System institutions shall be as authorized by the bank's board of directors and approved by the Farm Credit Administration.";

(2) striking out "fair" in the second and fourth paragraphs of subsection (g);

(3) striking out everything through "Governor" in subsection (h) and inserting in lieu thereof the following: "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(4) striking out "fair" in subsection (i).

Sec. 203. Section 2.3 of the Farm Credit Act of 1971 is amended by—

(1) amending subsection (b) to read as follows:

"(b) The Federal intermediate credit banks are authorized to discount for, or purchase from, any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products, with its endorsement or guaranty, any note, draft, or other obligation the proceeds of which have been advanced or used in the first instance for any agricultural purpose, including the breeding, raising, fattening, or marketing of livestock, or for the production or harvesting of aquatic products; and to make loans and advances to any such financing institution secured by such collateral as may be approved by the Farm Credit Administration: *Provided,* That no such loan or advance shall be made upon the security of collateral other than notes or other such obligations of farmers and ranchers and producers or harvesters of aquatic products eligible for discount or purchase under the provisions of this section, unless such loan or advance is made to enable the financing institution to make or carry loans for any agricultural purpose or for the production or harvesting of aquatic products."; and

(2) inserting in the second sentence of subsection (c) before "if" the following: "or for the production or harvesting of aquatic products,".

Sec. 204. Section 2.4 of the Farm Credit Act of 1971 is amended by inserting in the first sentence after "Administration" the following: "as provided in section 4.17 of this Act".

Sec. 205. Section 2.5 of the Farm Credit Act of 1971 is amended by inserting "or aquatic" after "on-farm".

Sec. 206. Section 2.6(c) of the Farm Credit Act of 1971 is amended by striking out "of less than 25 per centum" in the second sentence.

Sec. 207. Section 2.10 of the Farm Credit Act of 1971 is amended by striking out the comma after "States" and inserting in lieu thereof a period.

Sec. 208. Section 2.12 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of clause (11) the following: "; and buy from and sell to such banks interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration";

(2) inserting before the period at the end of clause (13) the following: "; and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act"; and

(3) amending clause (15) to read as follows:

"(15) Agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration.".

Sec. 209. Section 2.13 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of subsection (e) the following: "or in lieu of nonvoting stock";

(2) striking out "fair" in the first sentence of subsection (f);

(3) amending the last sentence of subsection (f) to read as follows: "Notwithstanding any other provision of this section, for a loan in which an association participates with a commercial bank or other financial institution other than a Farm Credit System institution, nonvoting stock or participation certificates may be issued to the commercial bank or other financial institution in satisfaction of the requirement that the borrower own stock or participation certificates, which requirement shall apply only to the portion of the loan that is funded by the association.";

(4) striking out "fair" in the first sentence in subsection (g);

(5) striking out everything through "Governor" in subsection (j) and inserting in lieu thereof the following: "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(6) striking out "fair" in subsection (k).

Sec. 210. Section 2.15 of the Farm Credit Act of 1971 is amended by—

(1) amending clause (1) in the first sentence of subsection (a) to read as follows: "(1) bona fide farmers, ranchers, and producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: Provided, That the borrower's operations shall supply at least 20 per centum, or such larger per centum that is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended,"; and

(2) inserting "as provided in section 4.17 of this Act" in the first sentence of subsection (b) after "Administration".

Sec. 211. Section 2.16 of the Farm Credit Act of 1971 is amended by inserting "or aquatic" after "on-farm".

TITLE III—BANKS FOR COOPERATIVES

Sec. 301. Section 3.1 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of clause (11) the following: ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act;

(2) inserting in the first sentence in clause (12) after "System" the following: "or any other financial organization, domestic or foreign, as may be authorized by its board of directors and approved by the Farm Credit Administration";

(3) amending clause (13) to read as follows:

"(13) (A) Buy and sell—

"(i) Obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency;

"(ii) bankers acceptances that are obligations of a member bank of the Federal Reserve System; and

"(iii) as may be authorized by its board of directors and approved by the Farm Credit Administration, other obligations, which, for purposes of this clause, shall include, but not be limited to, drafts, notes, checks, loans, acceptances, accounts, currencies, or obligations payable in recognized currencies, originating in the ordinary course of transactions that the bank may finance under section 3.7 of this Act.

"(B) As may be authorized by its board of directors and approved by the Farm Credit Administration, (i) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (ii) make other investments.

"(C) As may be authorized by its board of directors and approved by the Farm Credit Administration, invest in ownership interests in business entities, foreign or domestic, engaged in the business of obtaining credit information and performing financial services incidental to the financing of international transactions and make minimum contributions in foreign cooperatives: *Provided*, That nothing herein shall be construed as authorizing a bank for cooperatives to invest in a foreign or domestic commercial bank, directly or indirectly. Such investments shall be made in accordance with regulations of the Farm Credit Administration; and, prior to the issuance or amendment of such regulations, the Governor of the Farm Credit Administration shall consult with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency to ensure that the authority of banks for cooperatives under such regulations or amendments to make such investments is not greater than the authority, direct and indirect, of banks and bank holding companies and their branches, subsidiaries, and affiliates to make such investments: *Provided further*, That following such consultation, the Governor shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on any unresolved differences among the parties to the consultation as to the equivalency of authority under such regulations or amendments."; and

(4) adding at the end thereof new clauses (18) and (19) as follows:

"(18) As may be authorized by its board of directors and approved by the Farm Credit Administration, maintain credit balances and pay or receive fees or interest thereon, for the purpose of assisting in the transfer of funds to or from parties to transactions authorized by this title.

"(19) Agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for other purposes, as may be authorized by its board of directors and approved by the Farm Credit Administration.".

SEC. 302. Section 3.3 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Participation certificates may be issued to parties to whom voting stock may not be issued.".

SEC. 303. Section 3.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out the first three sentences and inserting in lieu thereof three new sentences as follows: "Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 4.0(b) of this Act before any other outstanding voting or nonvoting or participation certificates shall be retired except as may be otherwise authorized by the Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock and participation certificates may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called stock or participation certificates retired in response to a call, reserving the right to have such stock or participation certificates included in the next call for retirement."; and

(2) striking out "fair book value not exceeding" in the fourth sentence.

SEC. 304. Section 3.7 of the Farm Credit Act of 1971 is amended by—

(1) inserting "(a)" immediately before the first sentence and inserting in the first sentence "currency exchange as necessary to service their international trade transactions," before "collateral"; and

(2) adding at the end thereof new subsections (b) and (c) as follows:

"(b) A bank for cooperatives is authorized, in connection with transactions of an association that is a voting stockholder, to make or participate in loans and commitments to a domestic or foreign party in which such association has at least the minimum ownership interest approved in accordance with regulations of the Farm Credit Administration, or that engages in transactions with such association for the purchase, sale, or exchange of agricultural commodities, farm supplies, or aquatic products, or the lease of real or personal property and extend to such domestic or foreign party other technical and financial assistance if the bank for cooperatives determines, under such regulations, that the voting stockholder will benefit substantially as a result of such loan, commitment, or assistance.

"(c) Loans, commitments, and assistance authorized by subsection (b) of this section shall be extended in accordance with policies adopted by the board of directors of the bank under regulations of the Farm Credit Administration. Prior to the issuance or amendment of such regulations, the Governor of the Farm Credit Administration shall consult with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency to ensure that the authority of banks for cooperatives under such regulations or amendments to make such loans and commitments and provide such assistance is not greater than the authority, direct and indirect, of banks and bank holding companies and their branches, subsidiaries, and affiliates to make such loans and commitments and provide such assistance: *Provided further*, That, following such consultation, the Governor shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on any unresolved differences among the parties to the consultation as to the equivalency of authority under such regulations or amendments.".

SEC. 305. Section 3.8 of the Farm Credit Act of 1971 is amended by—

(1) striking out the comma after "of farmers, producers" and inserting "or aquatic" before "business services or";

(2) striking out "or farm business services" in clause (c) and inserting in lieu thereof "farm or aquatic business services, or services to eligible cooperatives"; and

(3) striking out "not less than 80 per centum (70 per centum in the case of rural electric, telephone, and public utility cooperatives)" in clause (d) and inserting in lieu thereof "not less than 60 per centum".

SEC. 306. Section 3.9(a) of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof a new sentence as follows: "Each borrower entitled to hold voting stock shall, at the time a loan is made by a bank for cooperatives, own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan.".

SEC. 307. Section 3.10 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of the first sentence of subsection (a) the following: as provided in section 4.17 of this Act"; and

(2) in subsection (d), striking out "book" in the first sentence and inserting in lieu thereof "market", and adding a new sentence at the end thereof as follows: "In no event shall the bank's equities be retired or canceled if the retirement or cancellation would adversely affect the bank's capital structure, as determined by the Farm Credit Administration.".

SEC. 308. Section 3.11 of the Farm Credit Act of 1971 is amended by—

(1) in the second sentence of subsection (b) striking out "of less than 25 per centum" and "of not to exceed such per centum of net savings"; and

(2) striking out the first sentence of subsection (c) and inserting in lieu thereof a new sentence as follows: "The net savings of each district bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsection (a) or (b) of this section, whichever is applicable, shall be paid in stock, participation certificates, or cash, or in any of them, as determined by its board, as patronage refunds to borrowers to whom such refunds are payable who are borrowers of the fiscal year for which such patronage refunds are distributed.".

TITLE IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

SEC. 401. Section 4.5 of the Farm Credit Act of 1971 is amended by—

(1) in the first sentence, striking out "presidents" and inserting in lieu thereof "president", and inserting before the period at the end thereof "or the president's designee"; and

(2) in the third sentence, striking out "subcommittee's" and inserting in lieu thereof "subcommittees".

SEC. 402. Section 4.10 of the Farm Credit Act of 1971 is amended by striking out "name" and inserting in lieu thereof "same".

SEC. 403. Title IV of the Farm Credit Act of 1971 is amended by adding after section 4.16 new sections 4.17, 4.18, and 4.19 as follows:

"SEC. 4.17. INTEREST RATES.—In order that lending under this Act can continue on a self-sustaining basis, interest rates on loans from institutions of the Farm Credit System under this Act shall be determined with the approval of the Farm Credit Administration as provided in this Act, notwithstanding any interest rate limitation imposed by the constitution or statute of any State, territory, or commonwealth of the United States, or other law, which is hereby preempted for purposes of this Act. Similarly, interest rates on loans made by agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks under section 2.3 of this Act shall be exempt from any interest rate limitation imposed by the constitution or statute of any State, territory, or commonwealth of the United States, or other law, which is hereby preempted for purposes of this Act.

"SEC. 4.18. PARTICIPATION LOANS.—Notwithstanding any other provision of this Act, the terms of any loan participated in by two or more Farm Credit System institutions operating under different titles of this Act, including provision for capitalization of the portion of the loan participated in by each institution, shall be as may be agreed upon among such institutions and authorized by the Farm Credit Administration, except that, for purposes of determining borrower eligibility, membership, term, amount, loan security, and purchase of stock or participation certificates by the borrower, the provisions of law applicable to the loan shall be the provisions in the title under which the institution that originates the loan operates.

"Sec. 4.19. Truth in Lending.—The provisions of any statute of any State, territory, or commonwealth of the United States or law or regulation that impose, with regard to a credit transaction, any duty or requirement that had been imposed by the Truth in Lending Act (82 Stat. 146) prior to any amendment thereto shall not be applicable to credit transactions of Farm Credit System institutions and agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks under section 2.3 of this Act.".

Sec. 404. Title IV of the Farm Credit Act of 1971 is amended by adding at the end thereof new parts D and E as follows:

"Part D—Service Organizations

Sec. 4.25. Establishment.—Any bank of the Farm Credit System, or two or more of such banks acting together, may organize a corporation or corporations for the purpose of performing functions and services for or on behalf of the organizing bank or banks, that the bank or banks may perform pursuant to under this Act: *Provided*, That a corporation so organized shall have no authority either to extend credit or provide insurance services for borrowers from Farm Credit System institutions; nor shall it have any greater authority with respect to other functions and services than the organizing bank or banks possess under this Act. The organizing bank or banks shall apply for a Federal charter for the corporation by forwarding to the Governor of the Farm Credit Administration a statement of the need for the corporation and proposed articles specifying in general terms the objectives for which the corporation is formed, the powers to be exercised by it in carrying out the functions and services, and the territory it is to serve. The Governor for good cause may deny the charter applied for. Upon the approval of articles by the Governor and the issuance of a charter, the corporation shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"Sec. 4.26. Powers of the Governor.—The Governor shall have power, under rules and regulations prescribed by the Governor or by prescribing in the terms of the charter or by approval of the bylaws of the corporation, to provide for the organization of any corporation chartered under this part and the territory within which its operations may be carried on, and to direct at any time such changes in its charter as the Governor finds necessary for the accomplishment of the purposes of this Act. The powers of the Governor to provide for the organization of any corporation chartered under this part include, but are not limited to, approval of—

"(1) corporate title;

"(2) general corporate powers;

"(3) eligibility for membership on, and the powers, composition, selection, terms, and compensation of the board of directors;

"(4) classes, issuance, value, and retirement of stock;

"(5) sources of operating funds;

"(6) dissolution; liquidation, and distribution of assets on liquidation; and

"(7) application and distribution of earnings.

"Sec. 4.27. Supervision and Examination.—Within the limitations set out in this part, the corporations organized under this part shall be institutions of the Farm Credit System and shall be subject to the same supervision and examination by the Farm Credit Administration as are the organizing bank or banks under this Act.

"Part E—Sale of Insurance

"Sec. 4.28. Lines of Insurance.—(a) The regulations of the Farm Credit Administration governing financially related services that the banks and associations of the Farm Credit System may provide under sections 1.11, 1.15, 2.5, and 2.16 of this Act may authorize the sale to any member of any such bank or association, on an optional basis, of credit or term life and credit disability insurance appropriate to protect the loan commitment in the event of death or disability of the debtors and other insurance necessary to protect the member's farm or aquatic unit, but limited to hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers.

"(b) Such regulations shall provide that—

"(1) in any case in which insurance is required as a condition for a loan or other financial assistance from a bank or association, notice be given that it is not necessary to purchase the insurance from the bank or association and that the borrower has the option of obtaining the insurance elsewhere;

"(2) such insurance services may be offered only if—

"(A) the bank or association has the capacity to render insurance service under this Act in an effective and efficient manner;

"(B) there exists the probability that any insurance program under this Act will generate sufficient revenue to cover all costs; and

"(C) rendering insurance service will not have an adverse effect on the bank's or association's credit or other operations; and

"(3) no bank or association shall directly or indirectly discriminate in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any person who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

"(c) Notwithstanding any provision of this section to the contrary, any bank or association that, on the date of enactment of the Farm Credit Act Amendments of 1980, is offering insurance coverages not authorized by this section may continue to sell such coverages for a period of not more than one year from such date of enactment and may continue to service such coverages until their expiration.".

TITLE V—DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION

Sec. 501. Section 5.0 of the Farm Credit Act of 1971 is amended by inserting before the period at the end of the first sentence the following: "and one of which districts may, if authorized by the Federal Farm Credit Board, include the Virgin Islands of the United States: *Provided*, That the extension of credit and other services authorized by this Act in the Virgin Islands of the United States shall be undertaken only if determined to be feasible under regulations of the Farm Credit Administration".

Sec. 502. Section 5.2 of the Farm Credit Act of 1971 is amended by—

(1) striking out "three" in the last sentence of subsection (b) and inserting in lieu thereof "two"; and

(2) striking out "three" in the first sentence of subsection (c) and inserting in lieu thereof "two".

Sec. 503. Section 5.8(h) of the Farm Credit Act of 1971 is amended by striking out "the sum of $100 a day" in the first sentence and inserting in lieu thereof "compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5 of the United States Code".

Sec. 504. Section 5.10 of the Farm Credit Act of 1971 is amended by inserting after the second sentence a new sentence as follows: "Pursuant to a policy statement adopted by the Federal Farm Credit Board, the Governor of the Farm Credit Administration shall consult on a regular basis with the Secretary of the Treasury in connection with the exercise by the System and the Governor of the powers conferred under section 4.2 of this Act, and with the Board of Governors of the Federal Reserve System in connection with the effect of System lending activities on national monetary policy.".

Sec. 505. Section 5.11 of the Farm Credit Act of 1971 is amended to read as follows:

"Sec. 5.11. Compensation; Salary and Expense Allowance.—The compensation of the Governor of the Farm Credit Administration shall be at the rate fixed by the Federal Farm Credit Board, but not to exceed the maximum rate of basic pay for level I of the Executive Schedule under section 5312 of title 5 of the United States Code. The Board shall fix allowances, or per diem in lieu thereof, or necessary travel and subsistence expenses of the Governor while traveling on official business. In addition, the Board may fix (1) allowances, or per diem in lieu thereof, for necessary travel, relocation, and subsistence expenses of a person newly appointed as Governor and the immediate family of such person, and (2) allowances for necessary travel and subsistence expenses of persons under consideration for appointment to the position of Governor incurred in connection with interviews requested by the Board.".

Sec. 506. Section 5.13 of the Farm Credit Act of 1971 is amended to read as follows:

"Sec. 5.13. Farm Credit Organization.—(a) The Governor of the Farm Credit Administration is authorized, in carrying out the powers and duties now or hereafter vested in the Governor by this Act and acts supplementary thereto, to establish and fix the powers and duties of such divisions and instrumentalities and to appoint such number of Deputy Governors as the Governor may deem necessary to the efficient functioning of the Farm Credit Administration and the successful execution of the powers and duties so vested in the Governor and the Farm Credit Administration. The salary for the positions of Deputy Governor shall be at the rate or rates fixed by the Federal Farm Credit Board, but not to exceed the maximum rate of basic pay for level I of the Executive Schedule under section 5312 of title 5 of the United States Code. The Governor is further authorized to appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. Appointments of examiners and credit officers may be made by the Governor without regard to the provisions of the competitive civil service and classifications statutes: *Provided*, That the salary for any such position may not exceed the maximum rate of basic pay for level V of the Executive Schedule under section 5316 of title 5 of the United States Code. With the approval of the Federal Farm Credit Board, the Governor may fix, without regard to the provisions of Chapter 57 of title 5 of the United States Code, (1) allowances, or per diem in lieu thereof, for necessary travel and subsistence expenses of officers and employees of the Farm Credit Administration while traveling on official business, (2) allowances, or per diem in lieu thereof, for necessary travel, relocation, and subsistence expenses of new appointees, and of officers and employees of the Farm Credit Administration who are transferred in the interest of the Farm Credit Administration from one official station to another for permanent duty, and their immediate families, and (3) allowances for necessary travel and subsistence expenses of applicants for employment with the Farm

Credit Administration incurred in connection with preemployment interviews.

"(b) Notwithstanding any other provision of law, the Farm Credit Administration may, subject to such terms and conditions as the Federal Farm Credit Board may prescribe, make available to any person who is an employee of the Farm Credit Administration on the effective date of the Farm Credit Act Amendments of 1980, or who becomes an employee of the Farm Credit Administration after such date, retirement benefits reflecting the person's previous service in the employment of any institution of the Farm Credit System that is not otherwise creditable service for purposes of the Civil Service Retirement Act. Such benefits shall be supplemental to any annuity that such person receives under the Civil Service Retirement Act, but shall not exceed (1) the difference between the annuity that such person receives under such Act and the annuity such person would have received thereunder if service with any Farm Credit System institution was considered to be creditable service for purposes of such Act, less (2) any annuity or other similar retirement benefit that such person receives from any Farm Credit System institution that formerly employed such person. Any expense incurred by the Farm Credit Administration in making available the benefits authorized by this subsection shall be considered administrative expenses of the Farm Credit Administration for the purpose of section 5.15 of this Act.

"(c) The powers of the Governor may be exercised by the Governor through such other officers and employees of the Farm Credit Administration as the Governor shall designate.".

SEC. 507. Section 5.15 of the Farm Credit Act of 1971 is amended by—

(1) inserting after the second comma the following: "and without regard to the provisions of law relating to the acquisition of property and services by the Government of the United States,"; and

(2) adding at the end thereof a new sentence as follows: "The Farm Credit Administration may dispose of property so acquired without regard to the provisions of law relating to the disposal of Government property, and any amounts collected from the disposition of such property shall be deposited in the special fund provided for in section 5.16(b) of this Act and shall be available to the Administration in the same manner and for the same purposes as the funds collected under section 5.16(a) of this Act.".

SEC. 508. (a) Section 5314 of title 5 of the United States Code is amended by striking out "Governor of the Farm Credit Administration.".

(b) Section 5.27(a) of the Farm Credit Act of 1971 is amended by striking out "and inserting in positions at level III the additional position '(58) Governor of the Farm Credit Administration.' (5 U.S.C. 5314)".

SEC. 509. Section 6308 of title 5 of the United States Code is amended by inserting "or" before "(vi)" and striking out ", or (vii)".

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ZORINSKY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT EXTENSION

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to consider S. 2587, which the clerk will state by title.

The legislative clerk read as follows:

Calendar 814, S. 2587, a bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act for 2 years.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition and Forestry with an amendment to strike all after the enacting clause and insert the following:

That section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136y) is amended by adding at the end thereof the following: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1980, and ending September 30, 1981, such sums as may be necessary, but not in excess of $77,500,000.".

Mr. STEWART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEWART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEWART. Mr. President, S. 2587, as amended by the committee, would extend the authorization for appropriations to support the Federal pesticide program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) through September 30, 1981. The bill would authorize appropriations of $77,500,000 for fiscal year 1981 to implement FIFRA.

S. 2587 will extend the authorization for appropriations to support the Federal pesticide program under the Federal Insecticide, Fungicide, and Rodenticide Act through September 30, 1981. The bill will authorize appropriations of $77,500,000 for fiscal year 1981 to implement the act.

The Committee on Agriculture, Nutrition, and Forestry amended S. 2587 by increasing the authorization for appropriations for fiscal year 1981 from $64,480,000 to $77,500,000. The $13,020,000 increase in the appropriations authority will cover research activities and costs involved in the disposal of stocks of the herbicide silvex under the act.

S. 2587, as amended by the Agriculture Committee, also strikes out the authorization for appropriations for fiscal year 1982. The Environmental Protection Agency is in the process of implementing the substantial amendments to the act made by the Federal Pesticide Act of 1978. In light of continuing concern that the programs and regulations being developed by the Environmental Protection Agency effectively implement the 1978 amendments, it is important that Congress review the agency's implementation effort in 1981 prior to authorizing appropriations for 1982 and subsequent fiscal years.

In addition, the Subcommittee on Agricultural Research and General Legislation, which I chair, will hold hearings later on this year on the agency's administration of the pesticide program and specifically on how the agency is implementing the 1978 amendments to the act.

Mr. President, the Federal pesticide program is funded by annual appropriations authorized under section 31 of the act. Section 31 must be amended to extend the authorization for appropriations beyond fiscal year 1980. S. 2587 meets this need by adding to section 31 a new authorization for appropriations to cover fiscal year 1981, and I urge my colleagues to vote for its passage.

I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, if the Chair will bear with me, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am going to restrain myself from rhapsodizing about this piece of legislation and, therefore, will have no opening statement beyond saying that I favor the bill. I do have an amendment which I will submit at the proper time.

The PRESIDING OFFICER. The amendment is in order at this time.

Mr. STEWART. Mr. President, I move that the amendment of the Committee on Agriculture, Nutrition, and Forestry to S. 2587 be agreed to and that the bill may be considered as original text for the purpose of amendment.

The motion was agreed to.

UP AMENDMENT NO. 1421

(Purpose: To provide that the Administrator of the Environmental Protection Agency submit to the Scientific Advisory Panel for comment the action taken to suspend any pesticide, and to provide that the Administrator develop formal written peer review procedures for the design and conduct of studies conducted pursuant to Federal Insecticide, Fungicide, and Rodenticide Act)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for it to be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1421.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 11, insert the following:

"SCIENTIFIC ADVISORY PANEL

"SEC. 2. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w) is amended by adding at the end thereof the following sentence: 'Whenever the Administrator has exercised his authority under section 6(c) of this Act to immediately suspend the registration of any pesticide because of an imminent hazard, he shall promptly submit to the Scientific Advisory Panel for comment, as to the impact on health and the environment, the action taken to suspend the registration of such pesticide'.

"SEC. 3. (a) Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following new subsection (e):

"'(e) PEER REVIEW.—The Administrator shall promulgate written procedures providing for peer review with respect to the design, protocols and conduct of major scientific studies to be conducted pursuant to this Act by the Environmental Protection Agency or by any other Federal agency, any State or political subdivision thereof, or any institution or individual pursuant to grant, contract, or cooperative agreement from or with the Environmental Protection Agency. Such written procedures shall also provide for peer review, utilizing the Scientific Advisory Panel or appropriate experts appointed by the Administrator from a current list of nominees maintained by such panel, with respect to the results of any such scientific studies conducted as noted above and relied upon by the Administrator with respect to actions he may take relating to the change in classification, suspension or cancellation of a pesticide: *Provided*, That whenever the Administrator determines that he cannot await the conduct of the peer review of the results of any such scientific study and he exercises his authority under section 6(c) of this Act to immediately suspend the registration of any pesticide because of an imminent hazard, he shall promptly thereafter employ the peer review procedures as provided in this sentence. The evaluations and relevant documentation constituting the peer review which relate to the proposed scientific studies and the results of the completed scientific studies shall be included in the submission for comment forwarded by the Administrator to the advisory panel as provided in subsection (d). As used in this subsection, the term "peer review" shall mean an independent evaluation by scientific experts, either within or outside the Environmental Protection Agency, in the appropriate disciplines.'."

Mr. HELMS. Mr. President, the amendment I am offering was recently adopted by the House of Representatives as one of the provisions of H.R. 7018, the House bill reauthorizing the Federal Insecticide, Fungicide, and Rodenticide Act.

It is the outgrowth of recommendations made by the General Accounting Office on EPA's procedures for the emergency suspension of a pesticide's use. I might mention that the distinguished Member of the House of Representatives from Virginia, Mr. WAMPLER, who is the ranking minority member of the House Agriculture Committee, asked that GAO perform that review several months ago due to the controversy that has surrounded EPA's emergency suspension of the herbicide 2,4,5-T. Mr. WAMPLER and other members of the agricultural community were deeply concerned that EPA suspended 2,4,5-T without obtaining adequate commentary from the agency's own scientific advisors as to the health and economic impact of that act, and without obtaining adequate peer review of the design and interpretation of the study used as the basis for the suspension. And ever since EPA suspended 2,4,5-T in February of 1979, debate has raged over whether or not EPA took that action with the full weight of scientific evidence behind it.

The amendment I am proposing is simple. It has received the support of those on all sides of the political spectrum who are concerned that the regulatory decisions EPA hands down are indeed premised on scientifically valid studies.

One provision of this amendment would simply require that whenever the Administrator of EPA suspends the registration of a pesticide due to an imminent hazard, he must also promptly submit the action taken to the Scientific Advisory Panel for comment. As the law now stands, the Administrator need never seek the Panel's comments when it suspends a product.

In case Senators wonder what the Scientific Advisory Panel is, it is a board of seven scientists who advise the EPA Adminstrator on the health and environmental impact of proposals by the agency to either cancel a pesticide or to hold hearings with intent to cancel.

The second provision of the amendment would require that EPA set up formal written peer review procedures for independent scientific review of the design and results of major scientific studies used as the basis of EPA regulatory actions. According to GAO testimony, EPA has no such written policy. Under this amendment, if a severe delay would result if the Administrator had to go through this formal review process before an emergency suspension, he could postpone the review until immediately thereafter.

In closing, I should mention that EPA has no objection to this amendment. I urge its unanimous adoption.

Mr. STEWART. Mr. President, it is my understanding that this amendment is part of the House language. I have no problems with it. We do not have any problems with it on our side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS).

The amendment (UP No. 1421) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEWART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. HELMS. Third reading, Mr. President.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2587) was passed.

Mr. STEWART. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act for one year.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action by the Senate in passing Calendar Order No. 814, S. 2587, and the action by the Senate in amending the title thereof, be vitiated; that the Senate proceed to the consideration of Calendar Order No. 916, the House bill, H.R. 7018, an act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, until September 30, 1981, and for other purposes; that all after the enacting clause be stricken and the Senate bill, as amended, be inserted in lieu thereof; that the House bill, H.R. 7018, then be advanced to third reading, passed; that a motion to reconsider be laid on the table; that S. 2587 be indefinitely postponed, and the title of H.R. 7018 be appropriately amended.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the bill (H.R. 7018) as amended, and passed, is as follows:

That section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136y) is amended by adding at the end thereof the following: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1980, and ending September 30, 1981, such sums as may be necessary, but not in excess of $77,500,000.".

SCIENTIFIC ADVISORY PANEL

SEC. 2. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w) is amended by adding at the end thereof the following sentence: "Whenever the Administrator has exercised his authority under section 6(c) of this Act to immediately suspend the registration of any pesticide because of an imminent hazard, he shall promptly submit to the Scientific Advisory Panel for comment, as to the impact on health and the environment, the action taken to suspend the registration of such pesticide.".

SEC. 3. (a) Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act: is amended by adding at the end thereof the following new subsection (e):

"(e) PEER REVIEW.—The Administrator shall promulgate written procedures providing for peer review with respect to the design, protocols and conduct of major scientific studies to be conducted pursuant to this Act by the Environmental Protection Agency or by any other Federal agency, any State or political subdivision thereof, or any institution or individual pursuant to grant, contract, or cooperative agreement from or with the Environmental Protection Agency. Such written procedures shall also provide for peer review, utilizing the Scientific Advisory Panel or appropriate experts appointed by the Administrator from a current list of nominees maintained by such panel with respect to the results of any such scientific studies conducted as noted above and relied upon by the Administrator with respect to actions he may take relating to the change in classification, suspension or cancellation of a pesticide: *Provided*, That whenever the Administrator determines that he cannot await the conduct of the peer review of the results of any such scientific study and he exercises his authority under section 6(c) of this Act to immediately suspend the registration of any pesticide because of an imminent hazard, he shall promptly thereafter employ the peer review procedures as provided in this sentence. The evaluations and relevant documentation constituting the peer review which relate to the proposed scientific studies and the results of the completed scientific studies shall be included in the submission for comment forwarded by the Administrator to the advisory panel as provided in subsection (d). As used in this subsection, the term 'peer review' shall mean an independent evaluation by scientific experts, either within or outside the Environmental Protection Agency, in the appropriate disciplines.".

Amend the title so as to read: "An Act to extend the Federal Insecticide, Fungicide, and Rodenticide Act for one year.".

Mr. STEWART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 39, the pending business, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the national park, national wildlife refuge, national forest, national wild and scenic rivers, and national wilderness preservation systems, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time I consume not be charged against anybody on the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to Calendar Orders 938, 939, and 940.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, the purpose of the reservation is to advise the majority leader that the three calendar items identified by him are cleared on our side and we have no objection to their consideration and passage.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

Mr. President, I ask unanimous consent that the measures be considered en bloc, that the amendments shown be adopted, that the committee amendments to title or titles be adopted, that the motion to reconsider the actions be laid on the table en bloc, and that appropriate extracts from the reports be printe in the Record on each measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAST GUARD AUTHORITY TO ESTABLISH LINES OF DEMARCATION DIVIDING THE HIGH SEAS AND INLAND WATERS

The bill (H.R. 1198) to clarify the authority to establish lines of demarcation dividing the high seas and inland waters, was considered, ordered to a third reading, read the third time, and passed.

MARITIME LABOR AGREEMENTS ACT OF 1980

The Senate proceeded to consider the bill (H.R. 6613) to amend the Shipping Act, 1916, in order to prohibit regulation of collective bargaining agreements by the Federal Maritime Commission, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

Section 1. That this Act may be cited as the "Maritime Labor Agreements Act of 1980".

Sec. 2. Section 1 of the Shipping Act, 1916 (46 U.S.C. 801) is amended by adding, at the end of that section, the following:

"The term 'maritime labor agreement' means any collective bargaining agreement between an employer subject to this Act, or group of such employers and a labor organization representing employees in the maritime or stevedoring industry, or any agreement preparatory to such a collective bargaining agreement among members of a multiemployer bargaining group, or any agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group.".

Sec. 3. The first paragraph of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) is amended to read as follows:

"Sec. 15. Every common carrier by water, or other person subject to this Act, shall file immediately with the Commission a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this Act, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; alloting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term 'agreement' in this section includes understandings, conferences, and other arrangements, but does not include maritime labor agreements or any provisions of such agreements, unless such provisions provide for an assessment agreement described in the fifth paragraph of this section.".

Sec. 4. Section 15 of the Shipping Act, 1916, as amended, is further amended by inserting between the fourth and fifth paragraphs thereof, the following new paragraph:

"Assessment agreements, whether part of a collective bargaining agreement or negotiated separately, to the extent they provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized, shall be deemed approved upon filing with the Commission. The Commission shall thereafter, upon complaint filed within 2 years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, or to operate to the detriment of the commerce of the United States. The Commission shall issue its final decision in any such complaint proceeding within 1 year of the date of filing of the complaint. To the extent that any assessment or charge is found, in such a complaint proceeding, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. Such adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. To the extent that any provision of this paragraph conflicts with the language of section 22 or any other section of this Act, or of the Intercoastal Shipping Act, 1933, the provisions of this paragraph shall control in any matter involving assessment agreements described herein.".

Sec. 5. Section 45 of the Shipping Act, 1916 (46 U.S.C. 842), and all references thereto, is redesignated section 46 and a new section is added as follows:

"Sec. 45. The provisions of this Act and of the Intercoastal Shipping Act, 1933, shall not apply to maritime labor agreements and all provisions of such agreements except to the extent that such provisions provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized. Notwithstanding the preceding sentence, nothing in this section shall be construed as providing an exemption from the provisions of this Act or of the Intercoastal Shipping Act, 1933, for any rates, charges, regulations, or practices of a common carrier by water or other person subject to this Act which are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to a maritime labor agreement.".

Sec. 6. The changes made to existing laws by the provisions of this Act shall not affect any claims for reparation, if any, based upon conduct occurring prior to the date of enactment of this Act or formal Commission proceedings commenced prior to the date of the enactment of this Act.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An act to amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.

COAST GUARD ENFORCEMENT OF DRUG LAWS

The Senate proceeded to consider the bill (H.R. 2538) to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 1, line 5, after "to" insert "knowingly and intentionally";

On page 2, line 4, after "to" insert "knowingly and intentionally";

On page 2, line 8, after "to" insert "knowingly or intentionally";

On page 2, beginning with line 17, insert the following:

This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

On page 2, line 23, after the comma, insert "or a vessel of the Government of the United States or any person on board such vessel who possesses or distributes a controlled substance in the lawful course of his duties";

On page 3, beginning with line 15, strike through and including line 21, and insert in lieu thereof the following:

(g) (1) Any person who commits an offense defined in subsection (a), (b), (c) or (d) of this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Act.

(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Act if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

On page 5, beginning with line 13, strike through and including page 7, line 2, and insert in lieu thereof the following:

SEC. 4. Any property described in section 511(a) of the Comprehensive Act that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forefeited under section 511 of the Comprehensive Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes from Mr. Jackson's time to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, for the past 3 days the Senate has been debating the Alaska land bill. This legislation has received some of the most intensive study, countless numbers of hearings, and thorough discussions and coverage that I can recall in my years in the Senate. The Alaska national interest lands conservation bill is truly one of the most significant land and wildlife conservation issues in our Nation's history. The issue of protecting and preserving the lands and wildlife of our largest, most spectacular State, is vital—for the people of my State of Vermont, for the people of the State of Alaska, and for the people of the entire Nation.

I might add parenthetically, Mr. President, it is very difficult as a Vermonter for me to refer to any State as being a spectacular State other than my own, but in the case of Alaska I can do that.

I have consistently supported a fair and balanced settlement of the Alaska lands issue. I have supported a settlement that will satisfy the responsibility we have to uphold the national interest in these priceless wildlands, and will allow for the measured, responsible development of Alaska's abundant minerals and other natural resources.

Mr. President, because of my concern over this issue and my desire to see a sound and sensible bill passed this year, I intend to support the amendments to the Senate Energy Committee bill offered by my distinguished colleague, Senator Tsongas. And I will resist efforts to weaken these amendments—efforts that are made not in an air of compromise, but, rather, to kill the basic thrust of the amendments.

I believe the Tsongas amendments will help assure the integrity of Admiralty Island and Misty Fjords National Monuments, the protection of the William O. Douglas Arctic Wildlife Range, and the proper stewardship of numerous other magnificent, unrivaled areas in Alaska.

We have a unique opportunity in Alaska, I must say our last opportunity, to balance the development of our natural resources with the protection of our natural environment. We have the opportunity now to protect vast stretches of wilderness. This is wilderness that we in New England can scarcely comprehend, where we cherish small fragments of undisturbed land. If we are wasteful with Alaska, if we deplete its riches, we will be left with mere remnants even in our largest, most rugged State. We must also remember the generations that will follow us who, if we act properly today, will certainly praise us for our foresight in preserving America's last frontier. We can always make the resources of Alaska available, but once the wilderness is lost, it is gone forever.

I recognize the very legitimate right of Alaskans to develop the economic resource of their State without undue interference from outsiders. We Vermonters resent outsiders telling us what to do, too. There are, however, both State and national interests involved in this issue. I believe the Tsongas amendments strike the appropriate balance between these legitimate concerns.

The Alaska lands debate has been suspended while the principals attempt to work out a compromise. I am hopeful that my colleagues will produce a good strong bill and one which will allow the Senate to move forward expeditiously on the substantive issues involved.

I applaud the efforts of our distinguished majority leader in his attempts to bring the parties together to work out such compromises, but I wanted to take this opportunity to inform my colleagues I am in full support of Senator Tsongas in his amendments. I am also in full support of a bill that will preserve for generations to come the vast wilderness and natural beauty of Alaska, the last of our vanishing heritage.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. On whose time?

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Alaska lands bill again be laid temporarily aside, to be called up by the majority leader at any time before the close of business today, with the hope that other legislation can be called up in the meantime and disposed of while the various parties are working out problems on the Alaska lands bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Inouye). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT —INVESTIGATION OF ACTIVITIES RELATING TO INDIVIDUALS REPRESENTING INTERESTS OF FOREIGN GOVERNMENTS

Mr. ROBERT C. BYRD. Mr. President, meetings have occurred on yesterday and today with the distinguished minority leader, the distinguished minority whip, Senators Thurmond and Dole from the minority, the distinguished majority whip, Senator Bayh, Senator Ribicoff, Senator Baucus, Senator Pell, and myself, in my office to discuss the investigation of activities relating to individuals representing the interests of foreign governments.

Several discussions took place and the following unanimous-consent request represents the unanimous agreement that was reached after those discussions terminated in the final meeting earlier today.

The distinguished minority leader is here to speak for himself. I am sure that he discussed with other Senators on his side of the aisle the understanding that was reached, and I have done the same on my side of the aisle.

Mr. President, I ask unanimous consent that a committee of the Judiciary Committee, consisting of four Democrats and three Republicans, to be selected by the acting chairman (Mr. Bayh), who has been designated acting chairman by the chairman of the Judiciary Committee (Mr. Kennedy), and ranking member of the Judiciary Committee, be established immediately for the purpose of conducting an investigation of activities relating to individuals representing the interests of foreign governments, which subcommittee shall submit to the Senate not later than October 4, 1980, a final or interim report·

Provided further, that two members of the Foreign Relations Committee, one each to be designated by the majority and minority leaders, shall serve as members of the aforementioned subcommittee, with the same powers, authority, and prerogatives of all other members of that subcommittee;

Provided further, that service on this subcommittee shall not be considered a violation of Senate rule XXV, subsections 4(b)(1) and 4(e)(2);

Provided further, that subpenas shall be issued by the subcommittee upon the cosignature of its chairman and vice chairman, or upon the signature of either of them at the direction of the subcommittee;

Provided further, that the Senate legal counsel and deputy counsel be authorized and directed to work with and under the jurisdiction and authority of the subcommittee chairman and ranking member;

Provided further, that the extent and scope of the investigation shall be determined by the subcommittee.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, the majority leader, of course, correctly describes the negotiations that have been undertaken in the course of the last 2 days and which culminated in the meeting conducted an hour or so ago in his office.

Mr. President, I wish to join with the majority leader in asking unanimous consent for the action directed in this request.

Mr. President, further on reservation, I would like to thank the majority leader for his time and patience and his consideration of the elements of this agreement, which were deemed to be especially significant to those of us in the minority who were concerned with the quality of the investigation that is about to occur.

I personally had hoped for and would have preferred a select committee, a select committee appointed by the majority and minority leaders, comprised of equal representation of both parties, and drawn from the Senate as a whole.

But I recognize the circumstances that have suggested this arrangement and I believe this is the best arrangement that can be achieved at this time. I fully support it.

It should be noted, Mr. President, as I have noted in previous meetings leading to this point, that nothing in this resolution deprives me, or any other Member of the Senate, from later introducing a resolution calling for the creation of a select committee, nor does it abrogate nor supersede the jurisdictional responsibility or opportunity of any other committee. But this is a good beginning. This is a good way to commence.

This, I believe, is a good faith effort by both sides to create a forum for a fair, depoliticized, impartial inquiry of the most sensitive nature into a matter of great importance to the Senate and to the country.

Having arrived now at a satisfactory arrangement for that undertaking, I wish, on this reservation, to pledge to the majority leader, to the Senate, and to the country, there, so far as we are concerned on our side of the aisle, from this moment forward there will be no element of partisan politics involved; that this will be the most judicious, the fairest, the most impartial inquiry that is possible. We recognize and acknowledge not only the sensitivity of this issue but also our responsibility to the Senate and to the country, which far transcends any temporary political advantage.

Mr. President, we recognize that the lives, the fortunes, and the good names of men and women are being dealt with in this inquiry, and we are sensitive to that requirement. We wish no one ill.

Now, Mr. President, I thank the majority leader for his cooperation. I believe it is especially important that we broaden the inquiry to include representatives of the Foreign Relations Committee. If this unanimous-consent request is granted—and I hope it will be—I will designate one member from our side of the Foreign Relations Committee to participate.

I am especially pleased that the senior Republican on this committee, who will be chosen from the Judiciary Committee, will be designated as the vice chairman. I believe it is important that we will have coauthority between the chairman and the vice chairman to issue subpenas. I approve of the provision which states that if the chairman and the vice chairman cannot agree on the issue of subpena, either of them may sign the subpena on order of the subcommittee itself.

It is my understanding, although I do not see it in the request, that this subcommittee will make its report to the Senate. Maybe I overlooked that.

Mr. ROBERT C. BYRD. It is in there.

Mr. BAKER. It will make its report to the Senate, which I believe is an important aspect.

I am especially pleased that, on the suggestion of the majority leader, the Senate legal counsel and the deputy legal counsel will be involved in these proceedings. That is a good employment of their resources and talents.

Altogether, Mr. President, I believe the Senate has acted wisely and well in a difficult and sensitive political situation, and I offer my congratulations to the majority leader for his efforts in this respect.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for his cooperation in arriving at the unanimous-consent agreement.

I thank all the other Senators whose names I have mentioned previously and, of course, I thank those whose advice and concurrence were sought, but whose names I have not mentioned, for their cooperation.

I also express my appreciation to the distinguished minority leader for the statement he has just made. I wish to say, on my own behalf, Mr. President, that this is a matter that is not going to go away. It is a matter that, in my judgment, requires the investigation which has been ordered by this consent agreement.

I believe that the Judiciary Committee, having primary jurisdiction over the matter, and certainly jurisdiction over any criminal activities that may have occurred, is the appropriate committee to conduct the investigation, with the added proviso that the Foreign Relations Committee, which has jurisdiction over the Foreign Agents Registration Act, is appropriately represented by the unanimous-consent agreement.

I have every confidence that the acting chairman of the Judiciary Committee, Mr. BAYH, who has been asked by me to serve as chairman of the subcommittee, and the Democrats whom he will select from that committee, as well as the ranking member, Mr. THURMOND, and the Republican members whom he will select, and the two members of the Foreign Relations Committee who will be selected by Mr. BAKER and me, will discharge their duties in a responsible, honorable, admirable, and dutiful way.

It will be the responsibility of this subcommittee to act fairly and to act thoroughly and to follow leads wherever they may go. I have every confidence that they will be able to do that.

I appreciate the statement of the distinguished minority leader—if I did not misunderstand him—that this will not be a partisan matter, and I agree that it should not be a partisan matter. I am just as concerned about this matter as is any other Member of the Senate, on either side of the aisle, and just as concerned that there be an investigation; that it be fair; that it be thorough; that it be impartial, and that it be conducted on a nonpartisan basis rather than on a partisan basis.

As the distinguished minority leader has said, there are people whose names, whose reputations, whose lives, and whose honor may be involved. So I feel it the duty of the Senate to proceed forthwith.

I can understand the preference of the majority leader for a select committee; but, as he has indicated, I believe there are circumstances which, in my judgment, dictate that the procedure that has been agreed upon is the better one under the circumstances.

The Judiciary Committee is staffed and has the authority to employ additional staff. The Senate legal counsel, who I appointed, and the Senate deputy legal counsel, who was appointed by Mr. BAKER, both of whom received the formal approval of the Senate, are very able men and are being authorized and directed by the agreement to assist the chairman and the ranking member of the subcommittee which is being created by the consent agreement. This will enable the investigation to proceed immediately. There should be no delay.

I believe that the agreement that was reached with respect to the issuance of subpenas gives to both the majority and the minority the right to subpena witnesses, but with the cosignature each of the other. I feel that, in all respects, this is a very appropriate way to proceed.

It has been required that the subcommittee report to the Senate, and that is very appropriate; that at least an interim report be submitted by October 4, which will be either the sine die adjournment of the Senate or will be adjournment of the Senate over until after the election.

Having said that, Mr. President, I again feel indebted to the minority leader and the Members on his side of the aisle, to my own Members, especially Mr. BAYH, who will be taking on this onerous task, and to the others whose names were mentioned.

I think that about does it.

Mr. BAYH. Mr. President, I think the Senate owes the distinguished majority leader a debt of gratitude for the time and effort he expended in putting together the framework on which the special subcommittee of the Judicial Committee will undertake this very important task.

I express my deep appreciation to him for the tremendous role he played in this.

I think we also owe to the minority leader a debt of gratitude because he was willing to display a significant willingness of give and take that was necessary to put this together in a harmonious fashion.

This is a thankless task. It is an important task. It is one that I trust the subcommittee will in fact exercise in a manner in which the entire Senate can take some degree of pride.

We want this committee to act expeditiously, thoroughly, and fairly, and we shall endeavor to do just that.

Again, I am indebted to the distinguished majority leader for the critical catalytic role he played in putting this together in a way that I think the hearings that are conducted by this committee will as much as is humanly possible search the truth and follow the tracks of these activities wherever they may lead and let the chips fall where they may.

I am confident that the Senator from South Carolina and I will be able to structure a committee in such a way that we will put on our quasi-judicial robes and we will take off the partisan remnants that occasionally adorn us every 2 years or 4 years and pursue truth. We will avoid the temptation to resort to witch hunting or playing petty expedient politics.

Let us see what the facts are and then the Senate itself, the Government of this country and more importantly, the people of this country can decide for themselves what the proper course of action should be.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Indiana (Mr. BAYH) and again I say that I have asked him to serve as chairman of the subcommittee and I have done it with the utmost confidence in his integrity and dedication to purpose.

Mr. THURMOND. Mr. President, I wish to commend the able majority leader and the able minority leader in reaching agreement as to the membership to be composed of this Subcommittee on Investigation.

It was suggested that we have a select committee of the Senate. I, like the distinguished minority leader, would have preferred that. But since that was not the decision, as the ranking member of the Judiciary Committee, who I presume now will be the vice chairman of this subcommittee, I just wish to say that it shall certainly be my intention to see that this investigation is conducted in a fair, impartial, and honest manner.

No investigation is worth anything unless it is conducted in such a manner. We are not entering upon this investigation as partisans. We are not entering upon this investigation as Democrats or Republicans. We shall enter upon this investigation with one purpose in mind, and that is to seek the truth.

We shall go after the facts, regardless of where they lead to, regardless of who it affects. It may affect individuals. It may affect people in the Government. Or it may affect other individuals in one way or another.

But this investigation from the standpoint of the vice chairman will certainly be conducted in a way that we hope will meet the approval of the American people and to do that it must be done in a fair, just, impartial, and honest manner.

Mr. BAUCUS. Mr. President, I know it is customary during these moments when the Senate is embarking upon an investigation to praise the participants who were part of putting the endeaver together. But I wish to say that I, as one who somewhat participated, probably more observed these deliberations in the last 24 hours, was very impressed with the fact that we are starting off with the right foot. The right tone is being set.

No one knows precisely where this investigation is going to go. No one knows precisely what evidence will be uncovered, and no one knows probably in any way where this investigation will lead.

But I must say I am very impressed and very proud that the participants, particularly the minority leader and the majority leader, started off on the right foot with the right tone in the spirit of bipartisanship.

There were times when the negotiations almost broke down. There were times when emotions perhaps got a little higher than they ordinarily are. But with perserverance in the effort and more important, in my judgment, because the majority leader and minority leader and those who participated above all wanted the investigation to proceed properly, we overcame those differences as small as they might be and in the end we reached agreement as to how we might proceed.

Mr. President, I must say that I think that speaks well not only for our institution, our body—and I commend the minority leader and majority leader very highly—but it also speaks well for the professional manner in which this investigation will be undertaken.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the two budget waivers, Calendar Orders numbered 950 and 951, and that those actions be followed by the Senate proceeding to the immediate consideration of Calendar Order No. 918, the child nutrition program, with the understanding that the Alaska lands bill be laid aside temporarily until the disposition of these measures or until the close of business today, whichever is the earlier.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, I see the distinguished Senator from North Carolina on the floor. I know he has a particular interest in that bill and I will yield to him on this reservation to speak on it.

Mr. HELMS. Mr. President, I have no problem with the request of the distinguished majority leader to expedite the business of the Senate as best we can.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ALASKA LANDS BILL

Mr. ROBERT C. BYRD. Mr. President, let me allay a rumor. I do not know of any place in the world that constitutes a more prolific rumor mill than this building. I would rather not just confine it to this institution. I love this institution so much.

But I understand it is rumored that I may be about to call down or pull down the Alaska Lands Act, which is news to me. While I am recovering from the information that has just come to me I state that while I still am in command of my mental faculties and senses I have no intention of taking down the Alaska lands bill.

I yield the floor.

BUDGET ACT WAIVER

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Calendar Order No. 950.

The resolution (S. Res. 479) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2675, was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of that Act are waived with respect to the consideration of S. 2675, a bill to amend and extend the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes. Such waiver is necessary because S. 2675 provides new spending authority for the nutrition education and training program to become effective in a fiscal year for which the first concurrent resolution on the budget has not yet been adopted.

BUDGET ACT WAIVER

The resolution (S. Res. 480) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2675, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 2675, a bill to amend and extend the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes. Such waiver is necessary because S. 2675 authorizes the enactment of new budget authority that would first become available in fiscal year 1981 and the bill was reported after May 15, 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the votes by which the two budget waivers were agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHILD NUTRITION AMENDMENTS OF 1980

The PRESIDING OFFICER. Under the previous order, Senate will now proceed to the consideration of Calendar Order 918, which the clerk will state by title.

Mr. HELMS. Let us hold up, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2375) to amend and extend the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Child Nutrition Amendments of 1980".

SCHOOL LUNCH PROGRAM, GENERAL REIMBURSEMENT

SEC. 2. Section 4 of the National School Lunch Act is amended by adding at the end thereof the following: "For any school food authority in which less than 60 percent of the lunches served in the program were served free or at reduced-price during the second preceding school year, the national average payment under this section, after being adjusted in accordance with the provisions of section 11(a) of this Act, shall be reduced by 2½ cents. The amount of State administrative expense funds disbursed under section 7 of the Child Nutrition Act of 1966 shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence.".

DIRECT FEDERAL EXPENDITURES, COMMODITY ASSISTANCE

SEC. 3. Section 6 of the National School Lunch Act is amended by—

(1) striking out the second sentence of subsection (a); and

(2) amending section 6(e) to read as follows:

"(e)(1) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

"(2) For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch. Such amount shall be adjusted on an annual basis through the school year ending June 30, 1979, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. For the school year ending June 30, 1980, and subsequent school years, the amount specified by the first sentence of this paragraph, as adjusted for the school year ending June 30, 1979, in accordance with the second sentence of this paragraph, shall be adjusted on an annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions, which shall be computed using five major food components in the Producer Price Index published by the Bureau of Labor Statistics of the Department of Labor (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 after the school year ending June 30, 1979, by the annual percentage change in the three-month simple average value of the Consumer Price Index for Foods Used in Schools and Institutions for March, April, and May of each year. The adjustments required by this subsection shall be computed to the nearest one-fourth cent. Beginning with the school year ending June 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as established and adjusted in this subsection, shall be reduced by 2 cents. Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

"(3) For the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based on the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966. The Secretary may, in subsequent school years, donate foods valued in an amount of 3 cents per school breakfast, and such amount may be adjusted on an annual basis to reflect changes in the Consumer Price Index for Food Used in Schools and Institutions.".

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 4. (a) Section 9(a) of the National School Lunch Act is amended by striking out in the third sentence "(and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school)".

(b) Section 9(b)(1) of the National School Lunch Act is amended by—

(1) striking out the second and third sentences and inserting in lieu thereof the following: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.";

(2) striking out in the eighth sentence "95" and inserting in lieu thereof "85";

(3) striking out in the ninth sentence "95" and inserting in lieu thereof "85".

(c) Section 9(b) of the National School Lunch Act is amended by redesignating paragraph (2) thereof as paragraph (3) and inserting the following new paragraph after paragraph (1):

"(2) In computing household income in all States except Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 a month for each household. Such standard deduction shall be adjusted every July 1 to the nearest $5 to reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the twelve months ending the preceeding March 31. The first such adjustment shall be made on July 1, 1980, and shall reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the period September 1977 through March 1980. The monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for the contiguous States. The monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to be standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for the contiguous States.".

SPECIAL ASSISTANCE

SEC. 5. Section 11(a) of the National School Lunch Act is amended by—

(1) amending the fourth sentence to read as follows: "For the purposes of making special assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free and reduced-price lunches, respectively, during each school year of the three-school-year period shall be deemed to be the number obtained by multiplying the number of lunches served during each such year by the percentage of lunches served during the first school year of such period that were served to children eligible for free and reduced-price lunches, respectively, unless such school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period.";

(2) striking out in the fifth sentence ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater";

(3) striking out in the sixth sentence ", and on January 1, of each fiscal year, semiannual adjustments" and inserting in lieu thereof "an annual adjustment"; and

(4) striking out in the second proviso in the sixth sentence "six-month" and inserting in lieu thereof "twelve-month".

MISCELLANEOUS PROVISIONS AND DEFINITIONS, NATIONAL SCHOOL LUNCH ACT

SEC. 6. (a) Section 12(d) of the National School Lunch Act is amended by—

(1) inserting in paragraph (1) "the Commonwealth of the Northern Mariana Islands," after "America Samoa,"; and

(2) inserting in paragraph (6) "except Job Corps Centers funded by the Department of Labor" after "retarded".

(b) Section 12(f) of the National School Lunch Act is amended to read as follows:

"(f) In providing assistance for program payments in Alaska and Hawaii, the Secretary shall establish appropriate adjustments for each such State to the payment rates prescribed under sections 4, 11, 13, and 17 of this Act, and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the food program costs in such States and the food program costs in all other States. In providing assistance for program payments in Guam, American Samoa, Puerto Rico, the Virginia Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish such adjustments.".

(c) The second sentence of section 12(h) of the National School Lunch Act is amended to read as follows: "In no event shall Federal reimbursement to school food authorities exceed the combined cost of operating both the school lunch and breakfast programs.".

(d) Section 12 of the National School Lunch Act is amended by adding the following new subsection at the end thereof:

"(i) Claims eligible for reimbursement for meals served during a fiscal year under this Act or the Child Nutrition Act of 1966 shall be limited to claims that are submitted to the appropriate State agency during such fiscal year or within ninety days after the end of such fiscal year, with the exception of claims so filed but subequently amended as a result of an audit or investigation.".

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 7. (a) Section 13(a) of the National School Lunch Act is amended by—

(1) amending clause (B) of paragraph (1) to read as follows: "(B) 'service institutions' means any of the following nonresidential institutions and residential summer camps that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966: (i) public institutions; (ii) private nonprofit institutions that use self-preparation facilities to prepare meals or that obtain meals from a public entity (such as a school district, public hospital, or State university); (iii) private nonprofit school food authorities, including colleges and universities; (iv) private nonprofit institutions that serve meals primarily to migrant children; (v) camps; and (vi) private nonprofit institutions that purchase meals from a food service management company and that serve meals to not more than two thousand children daily at not more than twenty locations;";

(2) inserting the following after the first sentence of paragraph (4): "If a school has not proposed to the State, by March 15 of any year, that it wishes to participate in the program, such school shall lose its priority for sponsorship under the preceding sentence. If a school proposes, after March 15, to operate the program and another service institution also proposes to serve the same area, the State shall select the service institution that it determines will operate the program most successfully. To ensure that maximum outreach has been conducted by States among schools, States shall inform all school food authorities that operate the school lunch program under this Act under the direction of the State agency, prior to March 15 of each year, regarding the eligibility of such school food authorities to participate. Subsequent to March 15 of each year, States shall provide information upon request to any member of the public regarding whether any school has proposed to operate the program in an area. Each State shall establish a date for submission of applications and accept applications to operate the program after such date only when failure to do so would preclude the operation of the program in an area in which poor economic conditions exist or result in a significant number of needy children not having access to the program."; and

(3) adding the following at the end of paragraph (4): "States shall conduct active outreach efforts to identify service institutions eligible to participate in the program in areas in which there are large concentrations of low-income families, unless such areas are already adequately served by eligible institutions.".

(b) Section 13(b) of the National School Lunch Act is amended by—

(1) amending paragraph (2) to read as follows:

"(2) Any service institution may serve lunch and either breakfast or a supplement during each day of operation, and any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements."; and

(2) amending paragraph (4) to read as follows:

"(4) The Secretary may authorize States to—

"(A) permit service institutions that prepare their own meals to use a preapproved portion of the reimbursement that is otherwise available for operating costs under paragraph (1) for administrative costs; and

"(B) permit service institutions that prepare their own meals to use a preapproved portion of the available reimbursement that is otherwise available for administrative costs under paragraph (3) for operating costs."

(c) Section 13(e) of the National School Lunch Act is amended by adding the following new paragraphs at the end thereof:

"(3) Each fiscal year the Secretary shall make available to States administering the program, for purposes of conducting audits of all participating service institutions, an amount up to 2 percent of the funds expended by each State in the program under this section, during the preceding fiscal year.

"(4) Service institutions that are required to have an audit conducted of their program in accordance with standards developed by the Secretary shall receive final payment as soon as the results of the audits have been received, reviewed, and approved by the State.".

(d) Section 13(k)(1) of the National School Lunch Act is amended to read as follows:

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year $30,000 plus—

"(A) 20 percent of the first $50,000 in funds distributed to such State for the program in the preceding fiscal year;

"(B) 10 percent of the next $100,000 distributed to such State for the program in the preceding fiscal year;

"(C) 5 percent of the next $250,000 in funds distributed to such State for the program in the preceding fiscal year; and

"(D) 2½ percent of any remaining funds distributed to such State for the program in the preceding fiscal year.

The amount paid to each State shall not exceed 33⅓ percent of the program funds expended in the State during the preceding fiscal year. The Secretary may adjust the amount paid to any State to reflect changes in the size of the program in such State since the preceding fiscal year. Any State that receives funds under this subsection shall hire and retain at least one person who, on a year-round basis, shall administer the program and provide technical assistance to potential program sponsors.".

(e) Section 13(k) of the National School Lunch Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and inserting the following new paragraph (2) after paragraph (1):

"(2) The Secretary may establish criteria under which additional funds may be provided to a State for its administrative costs if a State justifies to the Secretary that such State would otherwise have insufficient resources available to ensure program integrity.".

(f) Section 13(m) of the National School Lunch Act is amended to read as follows:

"(m) States and service institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued under this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for a period of time, not to exceed five years, determined by the Secretary to be necessary. The Secretary may establish special procedures for the conduct of audits of participating service institutions in order to ensure program integrity.".

(g) Section 13(p) of the National School Lunch Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

COMMODITY DISTRIBUTION PROGRAM

SEC. 8. Section 14 of the National School Lunch Act is amended by—

(1) striking out in subsection (a) "September 30, 1982" and inserting in lieu thereof "September 30, 1984"; and

(2) adding at the end thereof the following new subsection:

"(f) Each State agency that distributes agricultural commodities and other foods to schools participating in the programs under this Act shall establish procedures so that any school may request and receive, to the extent practicable, the desired amounts and types of commodity assistance available to the State during any school year. When offered commodities are not accepted by a school during any school year, alternate commodities shall be offered for delivery if available to the State during the same school year. For the purposes of this subsection, 'alternate commodities' shall not include any commodities available from stocks of the Commodity Credit Corporation and designated by the Secretary as bonus commodities that are above the level of assistance to be provided to the State under section 6(e) of this Act.".

NATIONAL ADVISORY COUNCIL

SEC. 9. (a) Section 15(a) of the National School Lunch Act is amended by—

(1) striking out in the first sentence "nineteen" and inserting in lieu thereof "eighteen";

(2) striking out in the second sentence "a person engaged in child welfare work" and inserting in lieu thereof "a representative of a nonprofit organization that has experi-

ence with, and knowledge of, the child nutrition programs";

(3) striking out in the second sentence "a person engaged in vocational education work" and inserting in lieu thereof "a person involved with the operation of the child care food program, a person involved with the operation of the summer food service for children, and a person who is a State coordinator of the nutrition education and training program";

(4) striking out in the second sentence "four members shall be officers or employees" and inserting in lieu thereof "one member shall be an officer or employee";

(5) striking out "their" in the second sentence; and

(6) inserting the following at the end thereof: "One such member shall also be a representative of a private school.".

(b) Section 15(b) of the National School Lunch Act is amended by striking out "fifteen" and inserting in lieu thereof "seventeen".

(c) Section 15(f) of the National School Lunch Act is amended by striking out "annually" and inserting in lieu thereof "biannually".

CHILD CARE FOOD PROGRAM

SEC. 10. (a) Section 17(c) of the National School Lunch Act, is amended by —

(1) striking out "and January 1" each place it appears in paragraphs (1), (2), and (3);

(2) striking out "six-month" the second time it appears in each of paragraphs (1), (2), and (3) thereof and inserting in lieu thereof "twelve-month"; and

(3) inserting the following at the end of paragraphs (1), (2), and (3): "The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.".

(b) Section 17(n)(1) of the National School Lunch Act is amended by striking out "$6,000,000" and inserting in lieu thereof "$4,000,000".

(c) Section 17(q) of the National School Lunch Act is amended by adding the following at the end thereof: "The Secretary may establish special procedures for the conduct of audits of participating institutions in order to ensure program integrity.".

(d) Section 17 of the National School Lunch Act is amended by redesignating subsection (r) as subsection (s) and inserting the following new subsection (r) after subsection (q):

"(r) The Secretary may require each State to establish a standard form of contract for use by institutions in purchasing meals. The Secretary may prescribe requirements governing bid and contract procedures for the purchase of meals, including but not limited to, procedures for the review and approval of contracts by States, provisions to ensure maximum free and open competition, and safeguards to prevent collusion.".

REDESIGNATION

SEC. 11. The National School Lunch Act is amended by redesignating section 22 (relating to study of menu choice) as section 23.

CONGRESSIONAL REVIEW AND INCLUSION OF WHOLE MILK IN THE SCHOOL LUNCH PROGRAM

SEC. 12. The National School Lunch Act is amended by adding the following new sections at the end thereof:

"CONGRESSIONAL REVIEW

"SEC. 24. (a)(1) Concurrently with the publication in the Federal Register of any final regulation of general applicability under this Act or under the Child Nutrition Act of 1966, such regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the regulation is inconsistent with the Act from which it derives its authority, and disapprove the regulation.

"(2) The failure of the Congress to adopt a concurrent resolution under paragraph (1) with respect to any final regulation under this Act or the Child Nutrition Act of 1966 shall not represent, with respect to such regulation, an approval or finding of consistency with the Act from which the regulation derives its authority for any purpose; nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

"(3) For purposes of this section, the term 'regulation' means any rule, regulation, guideline, interpretation, or requirement of general applicability. However, the term 'regulation' shall not include any rule, regulation, guideline, interpretation, or requirement of general applicability the issuance of which is nondiscretionary by the Secretary because the action is required by an amendment to this Act or the Child Nutrition Act of 1966 contained in the Child Nutrition Amendments of 1980 or subsequent acts or court order, or when issued by the Secretary to meet an emergency situation if the Secretary determines that the provisions of this section will render such action ineffectual.

"(b) The forty-five-day period specified in subsection (a) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, subject to the call of the Chair, or to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment that lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days have elapsed unless, during such thirty calendar days, either the Committee on Education and Labor of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate shall have directed its chairman, in accordance with the rules of the committee and the rules of the applicable House, to transmit to the Secretary of Agriculture a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which Congress may adopt the concurrent resolution provided for in this section. No such final regulation shall become effective until the forty-five-day period has elapsed, as provided for in this section, for both Houses of Congress.

"(c) Whenever a concurrent resolution of disapproval is adopted by Congress under the provisions of this section, the Secretary may issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved, and how the agency believes the modification disposes of the findings by Congress in the concurrent resolution of disapproval.

"(d) The provisions of this section shall be effective with respect to (1) any regulation or amendment thereto promulgated on or after the date of the enactment of the Child Nutrition Amendments of 1980, and (2) any regulation relating to the Assessment, Improvement, and Monitoring System, for which system a proposed rule was published in the Federal Register on October 25, 1979.

"INCLUSION OF WHOLE MILK IN THE SCHOOL LUNCH PROGRAM

"SEC. 25. Whenever a lunch eligible for Federal cash reimbursement under this Act is required by regulation to contain unflavored, fluid lowfat milk, skim milk, or buttermilk as a lunch beverage, whole milk shall also be offered.".

SPECIAL MILK PROGRAM

SEC. 13. Section 3 of the Child Nutrition Act of 1966 is amended by—

(1) inserting in the second sentence "the Commonwealth of the Northern Mariana Islands," after "American Samoa,"; and

(2) inserting the following after the seventh sentence: "Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.".

SCHOOL BREAKFAST PROGRAM

SEC. 14. (a) Section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "on a semiannual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(2) striking out "six-month" and inserting in lieu thereof "twelve-month".

(b) Section 4(d) of the Child Nutrition Act of 1966 is amended by inserting the following after the first sentence: "Beginning with the school year ending June 30, 1982, all schools under the jurisdiction of a school food authority shall qualify for such additional assistance for severe need if—

"(1) during the second most recent preceding school year for which lunches were served, 40 percent or more of the lunches served to students attending schools under the jurisdiction of the school food authorities were served free or at a reduced-price.

"(2) the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program; and

"(3) all of the schools under the jurisdiction of such school food authority that serve 25 percent or more of their school lunches free or at a reduced-price are participants in the school breakfast program.

A school food authority may not receive districtwide additional assistance for severe need if such school food authority qualified for such assistance, under the criteria established in the preceding sentence, as a result of its termination of a school feeding program in any of its schools.".

(c) Section 4 of the Child Nutrition Act of 1966 is amended by adding the following new subsection at the end thereof:

"(h) If, in any school year, the parents of 30 percent of the children enrolled in any school petition the principal of such school or the school food authority having jurisdiction for such school to implement the school breakfast program, such school food authority, within one hundred and twenty days of the petition's submission, shall decide and publicly announce, or shall cause its designated representatives (such as the principal or food service officer of the affected school) to decide and publicly announce, whether it will implement the breakfast program in such school. No school official shall reject a petition for breakfast program implementation without a public hearing before the school food authority regarding the advisability of implementing the breakfast program, and notice of such hearing provided to all parents of children attending the affected school.".

FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 15. (a) Section 5(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"(a) There is authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for each succeeding fiscal year, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act and in the National School Lunch Act.".

(b) Section 5(e) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "September 30, 1978, September 30, 1979, and September 30, 1980," and inserting in lieu thereof "September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984,"; and

(2) striking out the fifth and sixth sentences and inserting in lieu therof: "If, at the end of the first six months in any fiscal year, any funds so withheld for a State have not been obligated, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b).".

STATE ADMINISTRATIVE EXPENSES

SEC. 16. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended by—

(1) striking out the period at the end of the second sentence in paragraph (1) and inserting the following in lieu thereof: "to the agency responsible for the administration of the programs authorized under the National School Lunch Act and this Act, except section 17 of this Act. Such funds, and State funds specified under subsection (h), shall be used to ensure the proper, effective, and efficient State administration of programs conducted under the National School Lunch Act and this Act, except section 17 of this Act."; and

(2) amending paragraph (5) to read as follows:

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be available to the State for use as needed in meeting the costs of administration of programs authorized under the National School Lunch Act and this Act, except section 17 of this Act.".

(b) Section 7(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) The Secretary shall establish a date for the submission of a plan each year by each State for the disbursement of funds provided under this section and the Secretary shall reallocate any unobligated funds, as evidenced by such plans, to other States as the Secretary deems appropriate.".

(c) Section 7(i) of the Child Nutrition Act of 1966 is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

MISCELLANEOUS PROVISIONS AND DEFINITIONS, CHILD NUTRITION ACT OF 1966

SEC. 17. (a) Section 15(a) of the Child Nutrition Act of 1966 is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "American Samoa,".

(b) Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting "except Job Corps Centers funded by the Department of Labor" after "retarded".

ACCOUNTS AND RECORDS

SEC. 18. Section 16 of the Child Nutrition Act of 1966 is amended by adding the following at the end thereof: "The Secretary may determine the amount of any claim arising under the provisions of this Act, the National School Lunch Act, or the regulations issued under such Acts, settle and adjust any such claim, and compromise or deny all or any part of any such claim.".

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 19. (a) Section 17(c)(2) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "and" after "1981,"; and

(2) inserting ", September 30, 1983, and September 30, 1984" after "1982".

(b) Section 17(f)(2) of the Child Nutrition Act of 1966 is amended by adding the following at the end thereof: "At least one month in advance of such public hearings, the State agency shall notify local agencies, appropriate health officials and professionals (including pediatricians, obstetricians, and nutritionists having demonstrated an interest in the program), organizations composed of potentially eligible program participants, and organizations representing low-income people regarding the date, time, location, and format of the hearings."

(c) Section 17(f)(3) of the Child Nutrition Act of 1966 is amended to read as follows:

"(3)(A) Each State agency shall set aside program funds that are sufficient to serve and provide benefits to migrant farmworkers. The amount of such set-aside shall be based on regulations promulgated by the Secretary which, for each State, shall take into account the number of migrant farmworkers in the eligible program population, including the number of migrant farmworkers projected to come into each State, the length of time such migrant farmworkers will remain in the State, and the administrative funds necessary to serve such migrant farmworkers.

"(B) The Secretary shall review and evaluate the projections of funding needs of migrant farmworkers in each State under this paragraph, and ensure that funds set aside to serve migrant farmworkers are used for such purposes. The Secretary shall establish procedures under which migrant farmworkers who have been certified to participate in the program shall continue to receive program benefits, to the maximum extent practicable, on a timely basis whenever such migrant farmworkers leave a State or project area and travel to another State or project area that is operating the program.

"(C) In each State plan of operation the State agency shall describe how it intends to spend the funds set aside for migrant farmworkers, including the funding of local agencies that can initiate the program in areas in which large numbers of migrant or seasonal farmworkers are employed or reside, and giving a preference in such funding to migrant health agencies and farmworker organizations that have access to health services in such areas. In developing this portion of the State plan of operation, the State agency shall consult with appropriate organizations representing migrant and seasonal farmworkers. The State shall undertake, in conjunction with organizations representing migrant and seasonal farmworkers, outreach services in areas in which large numbers of migrant and seasonal farmworkers are employed and reside, and the State may pay, out of the administrative funds provided under subsection (h), expenses incurred by organizations representing migrant and seasonal farmworkers in the undertaking of outreach activities. The Secretary shall establish a definition of 'migrant farmworker' for the purposes of this section.".

(d) Section 17(f) of the Child Nutrition Act of 1966 is amended by—

(1) inserting a period after "commercially available" and striking all that follows in the third sentence of paragraph (12); and

(2) inserting "bilingual personnel and" after "appropriate" in paragraph (14).

(e) Section 17(g) of the Child Nutrition Act of 1966 is amended by striking out "$950,000,000 for the fiscal year ending September 30, 1982," and inserting in lieu thereof "such sums as may be necessary to increase program participation by 300,000 persons for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, over the number of participants in the program in the preceding fiscal year,".

(f) Section 17(h) of the Child Nutrition Act of 1966 is amended by—

(1) striking out in paragraph (2) "1982" and inserting in lieu thereof "1984";

(2) adding the following at the end of paragraph (2) thereof: "The Secretary may make available administrative funds in excess of the funds otherwise provided under this subsection to the States based on the number of local agencies serving migrant farmworkers and the number of migrant farmworkers served."; and

(3) adding the following new paragraph at the end thereof:

"(5) With respect to local agencies that demonstrate to the satisfaction of the State agency that advance funding of administrative expenses is necessary to administer the program in an effective and efficient manner, the State agency shall forward in advance an amount equal to the projected administrative costs of such agencies for a period of time, not to exceed 3 months, as determined by the State agency.".

(g) Section 17(i) of the Child Nutrition Act of 1966 is amended by inserting the following after the second sentence: "The Secretary, in formulating any such reallocation, shall take into account any unanticipated changes in the movements of migrant farmworkers from one State to another and shall not reallocate unspent program funds set aside for serving migrant farmworkers if there is a likelihood that such funds will be spent during the course of the fiscal year. If any such funds are reallocated, the Secretary shall give first preference in reallocating such funds to States that need additional funding to serve migrant farmworkers. Within 45 days after any reallocation of funds under this subsection by the Secretary from one State to another, each State agency shall determine whether any of its local agencies are unable to spend the funds allocated to them. If any local agencies are deemed unable to spend such funds, the State agency shall reallocate the projected unexpended funds to either new local agencies in the State or local agencies in the State that are seeking, and that have the capability, to serve additional eligible persons.".

NUTRITION EDUCATION AND TRAINING

SEC. 20. (a) Section 19(h)(3) of the Child Nutrition Act of 1966 is amended by—

(1) inserting the following after the first sentence: "Such comprehensive plan shall be submitted to the Governor, and at least one month prior to such submission, the State coordinator shall either conduct hearings to enable the general public to participate in the development of the State plan or comply with the requirements of paragraph (4) of this subsection.";

(2) striking out "and" after "sound principles of nutrition education;" in the third sentence; and

(3) inserting the following before the period at the end of the third sentence: "; (F) a plan for publicizing the availability of grants and contracts, which publicity shall be extended to land grant universities, other institutions of higher education, public or

private nonprofit education or research agencies, community groups, consumer and advocacy organizations, family and group day care sponsoring organizations, child care centers, parent and community organizations, and local school districts; and (G) a description of the activities to be undertaken in the plan year".

(b) Section 19(h) of the Child Nutrition Act of 1966 is amended by adding the following new paragraph at the end thereof:

"(4) If the State coordinator does not conduct a public hearing under paragraph (3), the State shall establish an advisory council to assist in developing the nutrition education and training program under this section. If such an advisory council is established, the State shall ensure that low-income participants and local program administrators of the school breakfast program under section 4 of this Act, the summer food service program for children under section 13 of the National School Lunch Act, the child care food program under section 17 of the National School Lunch Act, and the school lunch program under the National School Lunch Act, are included on such State advisory council.".

(c) Section 19(j) of the Child Nutrition Act of 1966 is redesignated as section 19(i).

(d) Section 19(i) of the Child Nutrition Act of 1966 (as redesignated by subsection (c)) is amended by—

(1) striking out in paragraph (1) "October 1, 1977, and October 1, 1978," and inserting in lieu thereof "October 1, 1981, October 1, 1982, and October 1, 1983,";

(2) striking out in paragraph (2) "the fiscal year beginning October 1, 1979," and inserting in lieu thereof "the fiscal years beginning October 1, 1979, and October 1, 1980,";

(3) adding the following at the end of paragraph (2): "There is authorized to be appropriated not more than $15,000,000 for the fiscal year beginning October 1, 1980."; and

(4) amending paragraph (3) to read as follows:

"(3) Enrollment data used for purposes of this subsection shall be the latest available to the Secretary.".

PARENT-STUDENT COMMITTEES

SEC. 21. The Child Nutrition Act of 1966 is amended by adding the following new section at the end thereof:

"PARENT-STUDENT COMMITTEES

"SEC. 21. School food authorities that operate the school lunch program or the school breakfast program (other than the school lunch program or school breakfast program in residential child care institutions) shall promote activities to involve students and parents in such programs. Such activities may include menu-planning, enhancement of the eating environment, program promotion, related community support activities, and the formation of parent-student advisory committees in schools to assist such schools in improving the quality of the program and increasing participation and food consumption. Parent-student committees that have been established for other educational purposes may act as such advisory committees.".

PROMULGATION OF REGULATIONS

SEC. 22. The Secretary shall promulgate final regulations to effectuate the amendments made by sections 6(b), 6(d), 7, 15(b)(2), and 19(b) of this Act by no later than January 1, 1981, and the Secretary shall promulgate final regulations to effectuate the amendments made by sections 4(a), 8(2), 14(b), 14(c), 19(c), 20(a), 20(b) and 21 of this Act by no later than July 1, 1981. All other provisions shall be promulgated as expeditiously as possible.

Mr. HELMS. Now, Mr. President, just for the record, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2675.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, S. 2675, the Child Nutrition Amendments of 1980, as reported by the Committee on Agriculture, Nutrition, and Forestry, contains a number of improvements in the administration of the child nutrition programs. In addition, it effectuates $559 million of cuts in spending authority, more than fulfilling the $500 million in cuts required of the Agriculture Committee by the first concurrent resolution on the budget for fiscal year 1981.

Although I regret seeing any cuts made in the child nutrition program, I am pleased that the bill before us, while containing significant program reductions, maintains the structure and goals of these programs that the committee and Congress have worked so hard to develop; $530 million of the budget cuts contained in S. 2675 were also included in the reconciliation bill, S. 2885, which was passed by the Senate on June 30, 1980. In addition, S. 2675 contains $29 million in additional cuts that are not included in the reconciliation bill. These are a $19 million reduction through the elimination of commodity assistance for the school breakfast program for the 1980–81 school year, a $5 million cut in the nutrition education and training program for fiscal year 1981, and a $5 million reduction in food service equipment assistance for fiscal year 1981.

These reductions were not included in the reconciliation bill because under the Senate Budget Committee's interpretation, the $29 million is not countable because it is taken from programs controlled by the appropriations process. It should be noted that this interpretation is not shared by the House Budget Committee.

Mr. President, I do not think that anybody would dispute the fact that these are real savings that are going to result in fewer expenditures by the taxpayer, and that is one thing we are interested in. The committee acted responsibly in accomplishing its reconciliation instruction in a manner that does not restructure the child feeding programs or result in needy children going hungry. The cuts, quite frankly, are of a somewhat greater magnitude than I would have personally liked but they are well conceived and I do not think anyone can charge that they are punitive.

REAUTHORIZATIONS

S. 2675, as reported by the committee, extends all nonpermanently authorized child nutrition programs, including those expiring at the end of the 1980 fiscal year, through fiscal year 1984. The programs whose authorizations expire at the end of this fiscal year are the summer food service program for children, the nutrition education and training program, the funding authority for State administrative expenses, and the reservation of funds under the food service equipment assistance program. The programs whose authorizations expire at the end of fiscal year 1982 are the special supplementary food program, which we call the WIC program, a special program for women, infants and children, and the commodity purchasing authority under section 14 of the National School Lunch Act. By placing these programs on a uniform reauthorization cycle, congressional oversight and evaluation will be enhanced. These programs, I am sure Senators will agree, have shown their value and should be reauthorized.

I will be offering an amendment on behalf of the committee that will remove the provision in S. 2675 that creates an entitlement for the nutrition education and training program for fiscal years 1982 through 1984. The amendment will extend the program through fiscal year 1984 but will continue to have it be subject to the appropriations process.

However, we are also interested in feeding children, so I must reiterate my concern that we may be forgetting this essential goal as we argue whether these count or not toward reconciliation.

SPECIAL SUPPLEMENTAL FOOD PROGRAM (WIC)

The WIC program, which is also an extremely successful child nutrition program, is expanding rapidly, but it still falls very short of reaching the eligible population. S. 2675, therefore, limits the WIC program authorization level for fiscal year 1981 to $900 million, which adds fewer than 50,000 new participants to the program. For fiscal years 1982 through 1984 the authorization for appropriations would be increased by sums necessary to accommodate, but not exceed, 300,000 new participants each fiscal year. Historically the program has increased by 300,000 new participants each fiscal year.

Additional changes in the WIC program include increased and improved opportunities for migrant farmworkers to participate in the program, advance administrative funding for local agencies when deemed necessary by the State, and removal of the authority of the Secretary of Agriculture to provide noncommercially available infant formulas to WIC program participants.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Mr. President, quickly hitting the highlights of what the bill does. The bill also makes a number of changes in the summer food program. Those changes, frankly, are designed to tighten up and improve the administration of that program. Members of the Senate will recall that there were some abuses in the summer food program. I think we have worked very hard to identify those abuses and to provide the kind of tightening up in this bill that will make that program not only operate more effectively but more in line with the congressional intent.

With regard to the school lunch program that is perhaps the heart of this legislation.

The bill makes a number of changes in the summer food program to improve its administration. Additional funds would be provided for audits, and final program payments would be withheld until the audits were approved by the States. A minimum of $30.000 in administrative funds would be available to each State, and the Secretary could provide funds beyond the amount determined under the administrative expense formula when needed to insure program integrity.

To facilitate planning for the summer program and thereby improve administration, the bill requires each State to have an employee, year-round, to administer the program and provide technical assistance. Schools would be required to notify the State agency by March 15 if they intend to operate the program or lose their priority in funding. States would be required to conduct outreach activities for sponsors in low-income areas not served by the summer program.

SCHOOL LUNCH PROGRAM

The bill makes several changes in the operation of the school lunch program. S. 2675 allows States to refuse to accept more than 20 percent of offered commodities and to replace them with other commodities if available. The bill increases substantially the accuracy of accounting for items served by removing the offered versus served option in junior high and middle schools. This change is both nutritionally and fiscally sound. S. 2675 further requires that whole milk be offered in the lunch program in unflavored, fluid nonfat milk, skim milk, or buttermilk is required by regulation to be offered, as is presently the case.

FOOD SERVICE EQUIPMENT ASSISTANCE

The bill modifies the equipment assistance reserve to provide for reallocation of funds unobligated after 6 months among all States rather than first reallocating among those States eligible for reserve funds, as is currently the case. This will improve program flexibility and better target equipment funds where they are needed in a timely manner.

SCHOOL BREAKFAST PROGRAM

S. 2675 makes a number of improvements in the administration of the child nutrition programs. Among the most important of these are changes in the school breakfast program. In 1975 Congress affirmed its support of the school breakfast program when it stated in section 4(g) of the Child Nutrition Act of 1966:

> As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance.

A recent CBO budget issue paper concludes that:

> The school breakfast program appears to be the least costly and the most beneficial, (of the school feeding programs) regardless of the income of the participant. Because it has a relatively low Federal subsidy and a markedly greater nutritional benefit, its cost-effectiveness is high.

I think that finding by the Congressional Budget Office, Mr. President, squares with the observation of a number of people who are watching these child nutritional programs closely, that a good school breakfast program, considering the modest amount of money involved, is one of the better nutritional bargains that we have in our child nutritional system.

To encourage expansion of the school breakfast program, the bill provides that, beginning in the 1981–82 school year, school districts would qualify for the severe need reimbursement rate, presently available only on a school-by-school basis, if first, 40 percent or more students receive free or reduced-price lunches; second, the regular school breakfast reimbursement is inadequate to cover the costs of the program; and third, each school in the district that has at least 25 percent needy children participates in the breakfast program.

In addition, S. 2675 would require the school officials or school food authority to decide and publicly announce whether it will initiate a breakfast program if petitioned by 30 percent of the parents of children enrolled in the school to do so. Before an adverse decision can be announced, a public hearing must be held and all parents of children in the affected school must be notified.

CONGRESSIONAL REVIEW

The bill contains a provision for a two House congressional veto of new child nutrition regulations and the aims regulations.

The preceding is only a description of some of the provisions of the bill. I ask unanimous consent that a summary of all the provisions of S. 2675 be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 2675

Section 1. Short title.

Section 1 provides that the bill may be cited as the "Child Nutrition Amendments of 1980".

Section 2. School lunch program, general reimbursement.

Section 2 reduces the general cash reimbursement rate under section 4 of the National School Lunch Act for all categories of lunches served (free, reduced-price, and paid) by 2½ cents, except in school districts in which 60 percent or more of the lunches served were served free or at reduced-price during the second preceding school year. Under existing law the section 4 cash reimbursement in fiscal year 1981 is estimated to be 19.14 cents per lunch. The 2½ cent reduction in the section 4 general cash reimbursement rate would not affect the amount of State administrative expense funds disbursed under section 7 of the Child Nutrition Act of 1966.

Section 3. Direct Federal expenditures, commodity assistance.

Section 3(1) deletes the second sentence of section 6(a) of the National School Lunch Act to allow States to refuse more than 20 percent of the tendered commodities and replace them with other commodities, if available.

Section 3(2) amends section 6(e) of the National School Lunch Act to reduce commodity assistance in the school lunch program by 2 cents. Under existing law, commodity assistance in the school lunch program in fiscal year 1981 is estimated to be 17.1 cents per lunch.

Section 3(2) also amends section 6(e) of the National School Lunch Act to prohibit the Secretary of Agriculture, for the 1980–1981 school year, from offering commodity assistance to the States for the school breakfast program. In subsequent school years, the Secretary could provide 3 cents in commodity assistance to the States for the school breakfast program. In subsequent school years, the Secretary could provide 3 cents in commodity assistance to States for the school breakfast program, which could be adjusted on an annual basis to reflect changes in the Consumer Price Index for Food Used in Schools and Institutions.

Section 4. Nutrition and other program requirements.

OFFERED VERSUS SERVED

Section 4(a) amends section 9(a) of the National School Lunch Act to remove the provision allowing students, when approved by the local school district or nonprofit private schools, in junior high and middle schools to accept fewer than all menu items offered to them in the school lunch program.

POVERTY GUIDELINE

Section 4(b) amends section 9(b)(1) of the National School Lunch Act to provide that the income poverty guidelines for the child nutrition program will be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget for the forty-eight States adjusted annually.

ELIGIBILITY GUIDELINES

Section 4(b) also changes the eligibility guidelines for free and reduced-price school meals from 125 percent and 195 percent of poverty, respectively, to 125 percent of poverty plus a standard deduction and 185 percent of poverty plus a standard deduction. The hardship deductions that are currently allowed under the Department of Agriculture regulations would be replaced by the standard deduction. By reducing the eligibility guideline for reduced-price school meals, section 4(b) also reduces the maximum income eligibility for the special supplemental food program (WIC). The standard deduction would be the same as the standard deduction used in the food stamp program and is projected to be $80 per month when this provision is implemented.

Section 5. Special assistance.

Section 5(1) amends section 11(a) of the National School Lunch Act to provides that special assistance reimbursement in schools electing to serve all children free school lunches during any period of three successive years, during the second and third years of that period, will be based on the percentage of lunches served to children eligible for free and reduced-price lunches during the first year instead of the number of lunches served to those children in that year.

Section 5(2) further amends section 11(a) of the National School Lunch Act to remove the incentive for schools to offer reduced-price lunches at less than 20 cents per lunch. Under existing law, schools that charge less than 20 cents per reduced-price lunch receive cash reimbursement equal to the free lunch reimbursement factor reduced by 10 cents or the price charged for reduced price lunches in that State, whichever is greater.

Section 5(3) amends section 11(a) of the National School Lunch Act to replace the semiannual adjustments in the school lunch program reimbursement rates with an annual adjustment made on July 1 of each year to reflect changes for the most recent 12 month period for which such data are available.

Section 6. Miscellaneous provisions and definitions National School Lunch Act.

Section 6(a)(1) amends section 12(d) of the National School Lunch Act to include the Commonwealth of the Northern Mariana Islands within the definition of "State".

Section 6(a)(2) specifically excludes Job Corps centers funded by the Department of Labor from the definition of "school" in section 12(d) of the National School Lunch Act.

Section 6(b) amends section 12(f) of the National School Lunch Act to require the Secretary to make adjustments in program payments for the school lunch and breakfast programs, the summer food service program for children, and the child care food program in Alaska and Hawaii and authorize him to make adjustments in program payments for those programs in Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands to reflect differences between the food program costs in those States and the food program costs in all other States.

Section 6(c) amends section 12(h) of the National School Lunch Act to provide that in no event may Federal reimbursement to school food authorities exceed the cost of operating both the school lunch and breakfast programs.

Section 6(d) adds a new subsection (i) to section 12 of the National School Lunch Act to limit the eligibility of claims submitted for meals served during a fiscal year under the National School Lunch Act or the Child Nutrition Act of 1966 to those submitted to the appropriate State agency during that fiscal year or within 90 days after the end of the fiscal year, except for claims so filed but subsequently amended as a result of an audit or investigation.

Section 7. Summer food service program for children.

SERVICE INSTITUTIONS

Section 7(a)(1) amends section 13(a)(1) of the National School Lunch Act to preclude private nonprofit institutions other than school food authorities, camps, and programs primarily serving migrants that purchase meals from a food service management company and that serve more than 2,000 children daily at more than 20 locations from participating in the program.

PRIORITY OF SPONSORS

Section 7(a)(2) amends section 13(a)(4) of the National School Lunch Act to provide that if a school does not propose to the State that the school will operate the summer program by March 15 of any year, it will lose its priority for sponsorship. If a school proposes after March 15 of any year to operate the summer program and another service institution has proposed to serve the same area, the State will select the service institution that it determines will operate the program most successfully. After March 15 of each year, States will provide information upon request to any member of the public regarding whether any school has proposed to operate the program in an area.

INFORMATION TO SCHOOL FOOD AUTHORITIES

Section 7(a)(2) requires States to inform all school food authorities that operate the school lunch program, prior to March 15 of each year, regarding their eligibility to participate in the summer program.

APPLICATIONS

Section 7(a)(2) requires each State to establish a date for submission of applications and accept applications to operate after that date only when failure to do so would preclude the operation of the program in an area in which poor economic conditions exist or result in a significant number of needy children not having access to the program.

OUTREACH

Section 7(a)(3) adds a new sentence to section 13(a)(4) of the National School Lunch Act to require States to conduct active outreach efforts to identify service institutions eligible to participate in the program in areas in which there are large concentrations of low-income families, unless such areas are already adequately served by eligible institutions.

NUMBER OF MEALS

Section 7(b)(1) amends section 13(b)(2) of the National School Lunch Act to limit meal service in the summer program to two meals (lunch and either breakfast or a supplement) daily, except in camps and service institutions serving meals primarily to migrant children.

COMBINED USE OF FUNDS

Section 7(b)(2) amends section 13(b)(4) of the National School Lunch Act to allow States to approve the use of a preapproved portion of the reimbursement for program operating costs for program administrative costs and a preapproved portion of the reimbursement for program administrative costs for program operating costs by service institutions that prepare their own meals.

PROGRAM AUDITS

Section 7(c) adds new sections 13(e) (3) and (4) to the National School Lunch Act.

New section 13(e)(3) requires the Secretary to make available to States administering the summer program for purposes of conducting audits of all participating service institutions an amount up to 2 percent of the State's summer program funds expended during the preceding fiscal year.

New section 13(e)(4) provides that service institutions that are required to have an audit conducted of their program in accordance with standards developed by the Secretary will receive final payment for program expenses as soon as the results of the audits have been received, reviewed, and approved by the State.

ADMINISTRATIVE EXPENSE FUNDS

Section 7(d) amends section 13(k)(1) of the National School Lunch Act to establish a minimum administrative payment for each State of $30,000. The amount of administrative expense funds paid to a State will not exceed one-third of the summer program funds expended in that State in the preceding fiscal year.

Section 7(d) also requires States receiving administrative funds to hire and retain at least one person year round to administer the summer program and provide technical assistance to potential program sponsors.

Section 7(e) amends section 13(k) of the National School Lunch Act to authorize the Secretary to provide additional administrative funds if a State justifies to the Secretary that it would otherwise have insufficient resources available to ensure program integrity.

AVAILABILITY OF ACCOUNTS AND RECORDS

Section 7(f) amends section 13(m) of the National School Lunch Act to provide access for inspection and audit to summer program accounts and records of States and service institutions to the Comptroller General of the United States and appropriate State representatives, in addition to representatives of the Secretary.

Section 7(f) also authorizes the Secretary to establish special procedures for the conduct of audits of participating service institutions in order to ensure program integrity.

AUTHORIZATION FOR APPROPRIATIONS

Section 7(g) amends section 13(p) of the National School Lunch Act to extend the authorization for appropriations for the summer program through fiscal year 1984. Under existing law, the authorization for appropriations for the summer program expires at the end of fiscal year 1980.

Section 8. Commodity distribution program.

Section 8(1) amends section 14(a) of the National School Lunch Act to extend the authorization for appropriations for the commodity distribution program through fiscal year 1984. Under existing law, the authorization for appropriations for the commodity distribution program expires at the end of fiscal year 1982.

Section 8(2) adds a new section 14(f) to the National School Lunch Act to allow States to request and receive, to the extent practicable, the desired amounts and types of commodity assistance available to the State during any school year. When offered commodities are not accepted by a school during any school year, alternate commodities will be offered for delivery if available to the State during the same school year. Alternate commodities would not include any bonus commodities available from stocks of the Commodity Credit Corporation.

Section 9. National advisory council on child nutrition.

Section 9(a) amends section 15(a) of the National School Lunch Act to (1) reduce the membership on the national advisory council on child nutrition from 19 to 18; (2) replace three positions for officers or employees of the Department of Agriculture, the child welfare worker position, and vocational education worker with a child care food program operator, summer food service program operator, representative of a nonprofit organization that has experience with, and knowledge of, the child nutrition programs, and State coordinator of the nutrition education and training program.

Section 9(a) also provides that one member of the council will also be a representative of a private school.

Section 9(c) amends section 15(f) of the National School Lunch Act to provide that the council will submit a written report to the President and Congress on a biannual rather than an annual basis.

Section 10. Child care food program.

REIMBURSEMENT RATES

Sections 10 (1) and (2) amend sections 17(c) (1), (2), and (3) of the National School Lunch Act to provide that adjustments in the reimbursement rates for supplements will be made on an annual rather than semiannual basis.

Section 10(3) provides that, beginning in fiscal year 1981, the Federal cash reimbursement rate for supplements served in the program will be reduced by 3 cents. It is estimated that in fiscal year 1981 under current law the average reimbursement rate for paid supplements would be 7.74 cents, for reduced-price supplements 23.28 cents, and for free supplements 30.96 cents.

EQUIPMENT ASSISTANCE FUNDS

Section 10(b) amends section 7(n)(1) of the National School Lunch Act to reduce from $6 million to $4 milion the amount available annually for providing equipment assistance to enable child care institutions to establish, maintain, and expand the program.

AUDITING PROCEDURES

Section 10(c) amends section 17(f) of the National School Lunch Act to authorize the Secretary to establish special procedures for the conduct of audits of participating institutions to ensure program integrity.

STANDARD FORM OF CONTRACT, BID AND CONTRACT PROCEDURES

Section 10(d) adds a new section 17(r) to the National School Lunch Act to authorize the Secretary to require each State to establish a standard form of contract for use by institutions in purchasing meals. The Secretary would also be authorized to prescribe requirements governing bid and contract procedures for the purchase of meals in the program.

Section 11. Redesignation.

Section 11 redesignates section 22 (relating to study of menu choice) of the National School Lunch Act as section 23.

Section 12. Congressional review and inclusion of whole milk in the school lunch program.

Section 12 adds new sections 24 and 25 to the National School Lunch Act.

CONGRESSIONAL REVIEW

New section 24 allows Congress to disapprove any final child nutrition program, rule, regulation, guideline, interpretation, or requirement of general applicability issued by the Secretary after the date of enactment of the bill or relating to the Assessment, Improvement and Monitoring System (AIMS), if it is found that the regulation is inconsistent with the National School Lunch Act or the Child Nutrition Act of 1966, and a concurrent resolution is adopted to that effect within 45 days of publication in the Federal Register. Final regulations will be submitted to Congress on the same day that the regulation is published in the Federal Register.

This provision would not apply to any regulation over which the Secretary has no discretion. In promulgating some regulations, the Secretary performs a purely perfunctory role, such as when Congress or a Federal court orders the Secretary to take a specific action. For example, the Secretary has no discretion with regard to regulations implementing the provisions of the bill that reduce cash and commodity entitlement rates and change income eligibility limits. The regulations implementing these nondiscretionary provisions to achieve budgetary savings would not be subject to the congressional review provision. Subjecting these provisions to congressional review would only delay the achievement of savings and reduce the level of savings below what the committee intended.

INCLUSION OF WHOLE MILK IN THE SCHOOL LUNCH PROGRAM

New section 25 requires that whenever a lunch eligible for Federal cash reimbursement under the National School Lunch Act is required by regulation to contain unflavored, fluid lowfat milk, skim milk, or buttermilk as a lunch beverage, whole milk will also be offered.

Section 13. Special milk program.

Section 13(1) amends section 3 of the Child Nutrition Act of 1966 to include the Commonwealth of the Northern Mariana Islands within the definition of "United States".

Section 13(2) further amends section 3 of the Child Nutrition Act of 1966 to reduce and freeze the reimbursement rate for milk served in the special milk program to paying children in schools, institutions, or camps that participate in one of the other child nutrition programs to 5 cents per half-pint. It is currently estimated that the reimbursement rate for paid milk in the special milk program in fiscal year 1981 under existing law would be 8.10 cents.

Section 14. School breakfast program.

MAXIMUM FREE BREAKFAST REIMBURSEMENT

Section 14(a) amends section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 to provide for a maximum free breakfast reimbursement of the higher of (1) the national average payment established by the Secretary, or (2) 45 cents, indexed annually rather than semiannually to reflect changes in the series for food away from home of the Consumer Price Index.

SEVERE NEED

Section 14(b) amends section 4(d) of the Child Nutrition Act of 1966 to revise the eligibility for additional assistance for severe need in the school breakfast program, beginning with the 1981–1982 school year, to include all schools under the jurisdiction of a school food authority if (1) 40 percent or more of lunches were served at free or reduced prices during the second preceding school year, (2) the rate established by the Secretary is insufficient to cover costs of the breakfast program, and (3) all of the schools under the school food authority that provide 25 percent or more of their school lunches free or at reduced price participate in the breakfast program. District-wide severe need funding will be prohibited if the school food authority terminates a school feeding program in any of its schools in order to qualify for severe need assistance.

PARENTAL PETITION FOR PROGRAM INITIATION

Section 14(c) adds a new section 4(h) to the Child Nutrition Act of 1966 to require school officials or school food authorities to decide and publicly announce whether they will initiate a breakfast program within 120 days from the date they are petitioned by 30 percent of the parents of children enrolled in a school to initiate the breakfast program. School authorities will be prohibited from rejecting a petition without first holding a public hearing, with advance notice to all parents of children attending the affected school.

Section 15. Food service equipment assistance.

AUTHORIZATION FOR APPROPRIATIONS

Section 15(a) amends section 5(a) of the Child Nutrition Act of 1966 to lower the authorization for appropriations for food service equipment assistance to $15 million for fiscal year 1981, $30 million for fiscal year 1982, $35 million for fiscal year 1983, and $40 million for each fiscal year thereafter. Under existing law, the authorization for appropriations for food service equipment assistance is permanent at a $75 million per fiscal year level.

RESERVE OF FUNDS

Section 15(b)(1) amends section 5(e) of the Child Nutrition Act of 1966 to extend through fiscal year 1984 the requirement for the Secretary to reserve 40 percent of food service equipment assistance funds appropriated to assist schools without a school lunch or breakfast program that plan to use food service equipment to initiate such a program. The reserve requirement in existing law expires at the end of fiscal year 1980.

Section 15(b)(2) further amends section 5(e) of the child Nutrition Act of 1966 to provide that if, at the end of the first 6 months in any fiscal year, any reserve funds for a State have not been obligated, the Secretary will immediately apportion those unobligated funds among the States on the basis of the number of lunches served in each State as compared to the total number of lunches served in all States.

Section 16. State administrative expenses.

DISTRIBUTION OF FUNDS

Section 16(a)(1) amends section 7(a)(1) of the Child Nutrition Act of 1966 to specify that State administrative expense funds will be made available to the State agency responsible for administering the child nutrition programs, except the WIC program. State administrative expense funds will be used to ensure proper, effective, and efficient State administration of the child nutrition programs.

TRANSFER OF FUNDS

Section 16(a)(2) amends section 7(a)(5) of the Child Nutrition Act of 1966 to remove the 10 percent limitation on the authority of the States to transfer administrative funds among the child nutrition programs, except the WIC program.

REALLOCATION OF FUNDS

Section 16(b) amends section 7(e) of the Child Nutrition Act of 1966 to require the Secretary to establish a date for the submission of a plan each year by each State for the disbursement of administrative expense funds and to reallocate any unobligated funds, as evidenced by the plans, to other States as the Secretary deems appropriate.

AUTHORIZATION FOR APPROPRIATIONS

Section 16(c) amends section 7(i) of the Child Nutrition Act of 1966 to extend the authorization for appropriations for State administrative expense funds through fiscal year 1984. The authorization for appropriations contained in existing law for State administrative expense funds expires at the end of fiscal year 1980.

Section 17. Miscellaneous provisions and definitions, Child Nutrition Act of 1966.

Section 17(a) amends section 15(a) of the Child Nutrition Act of 1966 to include the Commonwealth of the Northern Mariana Islands within the definition of "State".

Section 17(b) specifically excludes Job Corps centers funded by the Department of Labor from the definition of "school" in section 15(c) of the Child Nutrition Act of 1966.

Section 18. Accounts and records.

Section 18 amends section 16 of the Child Nutrition Act of 1966 to authorize the Secretary to determine the amount of any claim arising under the National School Lunch Act or the Child Nutrition Act of 1966 or regulations issued under those Acts, settle and adjust any such claim, and compromise or deny all or any part of such claim.

Sec. 19. Special supplemental food (WIC) program.

PUBLIC HEARINGS ON STATE PLANS

Section 19(b) amends section 17(f)(2) of the Child Nutrition Act of 1966 to require, at least 1 month before public hearings on the State WIC plan, the State agency to notify local agencies, appropriate health officials and professionals, organizations of potentially eligible program participants, and organizations representing low-income people of the date, time, location, and format of the hearings.

MIGRANT PARTICIPATION

Section 19(c) rewrites section 17(f)(3) of the Child Nutrition Act of 1966.

New section 17(f)(3)(A) requires each State agency to set aside WIC program funds that are sufficient to serve and provide benefits to migrant farmworkers. The amount of the set-aside will be based on regulations promulgated by the Secretary, which will take into account the eligible program population, the length of time that migrant farmworkers will remain in the State, and the administrative funds necessary to serve the eligible migrant farmworkers.

New section 17(f)(3)(B) requires the Secretary to review and evaluate the State projections of eligible migrant farmworker funding needs and ensure that funds set aside to serve migrant farmworkers are used for that purpose. The Secretary will establish procedures under which migrant farmworkers who have been certified to participate in the WIC program will continue to receive program benefits, to the maximum extent practicable, on a timely basis whenever they move from one State or project area to another that is operating the program.

New section 17(f)(3)(C) requires each State in its plan of operation to describe how it intends to spend the funds set aside for migrant farmworkers, including the funding of local agencies in areas in which large numbers of migrant or seasonal farmworkers work or live, giving preference in such funding to migrant health agencies and farmworker organizations that have access to health services in such areas. In developing this portion of the plan of operation, the State will consult with appropriate organizations representing migrant and seasonal farmworkers.

New section 17(f)(3)(C) requires the State, in conjunction with organizations representing migrant and seasonal farmworkers, to undertake outreach services in areas in which large numbers of migrant or seasonal farmworkers work or live. The State may pay, out of administrative funds, the expenses incurred by organizations representing migrant and seasonal farmworkers in undertaking those outreach activities.

New section 17(f)(3)(C) also requires the Secretary to establish a nationally uniform definition of "migrant farmworker" for the WIC program.

NONCOMMERCIALLY AVAILABLE PRODUCTS

Section 19(d)(1) deletes from section 17(f)(12) of the Child Nutrition Act of 1966 the authority for the Secretary to permit the use of noncommercially available products designed for pregnant, postpartum, and breastfeeding women or infants.

BILINGUAL PERSONNEL

Section 19(d)(e)(2) amends section 17(f)(14) of the Child Nutrition Act of 1966 to require the State agency to use appropriate bilingual personnel in the administration of the program in areas in which a substantial number of low-income households speak a language other than English.

AUTHORIZATION FOR APPROPRIATIONS

Section 19(e) amends section 17(g) of the Child Nutrition Act of 1966 to extend the authorization for appropriations for the WIC program through fiscal year 1984 and provide that the authorization for fiscal years 1982, 1983, and 1984 will be based on the amount necessary to increase program participation by 300,000 persons over the number of participants in the program in the preceding year. The authorization for appropriations for the WIC program in existing law expires at the end of fiscal year 1982.

AUTHORITY FOR ADMINISTRATIVE FUNDS

Section 19(f)(1) amends section 17(h)(2) of the Child Nutrition Act of 1966 to extend the authority of the Secretary to allocate administrative expense funds through fiscal year 1984.

Section 19(f)(2) further amends section 17(h)(2) to authorize the Secretary to make additional amounts of administrative expense funds available to the States based on the number of local agencies serving migrant farmworkers and the number of migrant farmworkers served.

ADVANCE ADMINISTRATIVE FUNDING

Section 19(f)(3) adds a new section 17(h)(5) to the Child Nutrition Act of 1966 to require State agencies to provide up to 3 months' advance administrative funding to any local agency that demonstrates to the satisfaction of the State agency that advance funding is necessary to administer the program in an effective and efficient manner.

REALLOCATION OF FUNDS

Section 19(g) amends section 17(i) of the Child Nutrition Act of 1966 to require the Secretary to take into account any unanticipated changes in the movements of migrant farmworkers from one State to another in formulating a reallocation of program funds. The Secretary may not reallocate unspent program funds set aside for migrant farmworkers if there is a likelihood that those funds will be spent in the fiscal year. If any set-aside funds are reallocated, the Secretary will give first preference to States that need additional funding to serve migrant farmworkers. The State agency will determine, within 45 days of any reallocation of funds by the Secretary to the State, if local agencies receiving such funds are able to expend those funds. If local agencies are unable to expend the funds, the State agency will reallocate the funds to either new local agencies or local agencies that are seeking, and have the capability, to serve additional eligible persons.

Section 20. Nutrition education and training.

COMPREHENSIVE PLAN FOR NUTRITION EDUCATION

Section 20(a)(1) amends section 19(h)(3) of the Child Nutrition Act of 1966 to require the State coordinator for school nutrition education either to conduct public hearings on the development of the State plan for nutrition (at least one month prior to submission of the State plan to the Governor), or to establish an advisory council to assist in the development of the State plan.

Section 20(a)(3) amends section 19(h)(3) to require that the State plan for nutrition education include (1) a plan for publicizing the availability of grants and contracts and that the publicity be extended to colleges, universities, agencies, and other groups and (2) a description of the activities to be undertaken in the plan year.

STATE ADVISORY COUNCIL

Section 20(b) adds a new section 19(h)(4) to the Child Nutrition Act of 1966 to provide that if the State coordinator does not hold public hearings on the State plan and establishes an advisory council instead, the State will ensure that low-income participants and local program administrators of the school breakfast program, the summer food service program for children, the child care food program, and the school lunch program are included on the council.

AUTHORIZATION FOR APPROPRIATIONS

Sections 20(d)(1) and (2) amend section 19(i)(1) of the Child Nutrition Act of 1966, as redesignated by section 20(c), to extend the program through fiscal year 1984 and to provide that for fiscal years 1982, 1983, and 1984 program appropriations will be based on an entitlement to the States of 50 cents per child or not less than $75,000 for each year.

Section 20(d)(3) amends section 19(i)(2) to limit the authorization for appropriations for the fiscal year 1981 program to $15 million.

ENROLLMENT DATA

Section 20(d)(4) amends section 19(i)(4) to provide that enrollment data used for allocation of funds under section 19(i) will be the latest data available.

PARENT-STUDENT COMMITTEES

Section 21 adds a new section 21 to the Child Nutrition Act of 1966 to require that school food authorities, operating a school lunch or breakfast program, promote activities to involve students in those programs. The activities may include menu-planning, enhancement of the eating environment, program promotion, related community support activities, and formation of parent-student advisory committees.

IMPLEMENTATION

Section 22 requires the Secretary to promulgate by January 1, 1981 final regulations to effective the provisions of the bill regarding adjustments in payment rates in "States" outside the continental United States (Sec. 6(b)), the timing of claims for reimbursement (Sec. 6(d)), the summer food service program for children (Sec. 7), reallocation of unobligated food service equipment assistance reserve funds (Sec. 15(b)(2)), and the requirement for States to notify at least 1 month before public hearings on the State WIC plan local agencies, appropriate health officials and professionals, organizations of potentially eligible program participants, and organizations representing low-income people of the date, time, location, and format of the hearings (Sec. 19(b)).

Section 22 also requires the Secretary to promulgate by July 1, 1981, final regulations to effectuate the provisions of the bill regarding offered v. served in junior high and middle schools (Sec. 4(a)), allowing States to refuse more than 20 percent of offered commodities, if other commodities are available (Sec. 8(2)), especially needy breakfast funding (Sec. 14(b)), the petitioning by 30 percent of the parents of children attending a school for implementation of the breakfast program (Sec. 14(c)), the set-aside of WIC funds for migrant farmworkers (Sec. 19(c)), requiring the State nutrition education and training coordinator to either hold public hearings or establish an advisory council at least 1 month prior to the submission of the State plan for the nutrition education and training program to the Governor (Secs. 20 (a) and (b), and parent-student committees (Sec. 21).

Final regulations to effectuate all other provisions of the bill are to be promulgated as expeditiously as possible. The Secretary would be expected to promulgate immediately upon enactment regulations implementing the cost-saving provisions of the bill (except those relating to the summer program).

I urge my colleagues to join me in supporting S. 2675, as reported by the Committee on Agriculture, Nutrition, and Forestry with the amendment that I will offer to the nutrition education and training program on behalf of the committee.

Mr. McGOVERN. Mr. President, I think the entire committee has worked very hard on this legislation. We may have a few differences. Some amendments, as I understand, will be offered.

At the outset, I want to commend the ranking Republican member of the committee (Mr. HELMS) and others who have given a great deal of time and attention to this legislation.

I think, basically, we have brought a bill to the floor that not only saves something in excess of a half billion dollars in cost, but which has preserved the best features of our existing child nutrition program.

Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. CULVER). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, the legislation before us is a much improved version of the original S. 2675. The Committee on Agriculture, Nutrition, and Forestry, as my friend from South Dakota has indicated, engaged in a lengthy and detailed study of this legislation, particularly during the markup session. Many substantive improvements were made, the most prominent of which would bring the bill in line with the budget resolution for fiscal year 1981 and the reconciliation figures contained in that resolution. That is to say, Mr. President, the committee reported a bill which reduced the cost of the programs provided for in the bill by $500 million.

I am gratified by that achievement, and I commend the committee for making some difficult decisions, which enabled us to report a bill that is fairly realistic from the budget standpoint.

Having said that, Mr. President, I am bound to observe that there were a number of details in S. 2675 that were not adequately addressed by the committee in its markup session. For that reason, the bill, as reported by the committee, is now in need of further amendment.

Mr. President, I should mention that it had been my intention when the bill was considered in committee to offer some amendments that I intend to propose here this afternoon. But it did not prove possible to offer those amendments during the markup session because of the tight time constraints under which we were operating. I know that the distinguished Senator from South Dakota will recall that, just as we had reached the last compromise on the reconciliation figures, when Senators began to leave the committee room and the committee was in danger of losing its quorum, as I recall, the distinguished chairman of the committee (Mr. TALMADGE) somewhat emphatically asked Senators to remain for just another moment so that the motion to report the bill could be offered and acted upon. That was the time constraint situation that we had facing us at the time.

I mention that, Mr. President, simply to illustrate why there will be a number of amendments offered this afternoon by this Senator and probably other Members of the Senate.

While I did have other amendments, it was obvious that to object to the motion to report the bill on the ground of discussing further amendments would have caused the bill not to have been reported and the committee would have been in a position of not having reached agreement on its reconciliation figure. So, I decided at that time to forego further committee amendments, and to offer them on the floor, instead.

Mr. President, I hope the Senators will agree that the amendments that I shall propose are reasonable. I really do not think they are all that controversial, if they are controversial at all. I am confident that they will be supported by Senators on both sides of the aisle of all philosophical orientations. We shall see.

Let me briefly explain my intent with respect to these amendments. First is the question of verification of income for those families eligible for free and reduced price lunches and breakfasts, it seems to me that local officials, the people there on the ground, who are responsible for operating the program as free from fraud and abuse as possible, ought to have the option of establishing income verification procedures if they wish—and not for some specious "for cause" reason. The intent, of course, is to provide local officials with the tools they need to operate these programs with a minimum of fraud and abuse.

I do not think there is a Senator in this body who has not had reports from back home of extensive fraud and abuse in the food stamp program and other nutrition programs.

Local officials have told us that they simply must have these tools if they are to perform their job adequately and properly, and I feel that they ought to be given such authority as may be reasonable and proper in that connection.

I say, Mr. President, that this amendment would not—let me reiterate, it would not—require State or local authorities to verify any information; it simply would allow them to do so.

Then, Mr. President, I have a series of amendments that delete existing provisions from Senate Resolution 2675, provisions that serve to take away from State and local officials the authority that they now have and instead place that authority in the hands of the Federal bureaucracy in Washington, D.C. Maybe somebody can explain it to me, but this Senator simply does not understand why any Member of Congress should believe that the bureaucracy in Washington, D.C., has more sense than the local people in their own States and communities in terms of managing these child nutrition programs carefully and properly.

Mr. President, I believe the Senator from Mississippi would like me to yield to him and I am glad to do so.

Mr. COCHRAN. I thank the Senator.

UP AMENDMENT NO. 1422

(Purpose: To provide that the application form for free and reduced price meals under the National School Lunch Act and the Child Nutrition Act of 1966 shall only show the applicable income guidelines for a family of four with a notation that the guidelines vary according to family size)

Mr. COCHRAN. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CULVER). The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 1422.

Mr. COCHRAN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 13, strike out the period and insert in lieu thereof ", and";

On page 39, between lines 13 and 14, insert the following:

"(4) inserting after the first comma in the tenth sentence the following: 'except that only such income guidelines for a four person household, with an indication that the guidelines vary according to household size, may be included in the descriptive material distributed by such local food authorities with the application form for program participation,' ".

Mr. COCHRAN. Mr. President, this amendment deals with tightening up the eligibility guidelines of the school lunch program. I think that we can agree that there are certain changes that are needed to help the Department further to reduce and eliminate fraud and instances of abuse which sometimes occur in the administration of the program.

Mr. BOREN. Mr. President, will the Senator yield to me for the purpose of offering an amendment to his amendment?

Mr. COCHRAN. I am happy to yield for that purpose.

UP AMENDMENT NO. 1423

(Purpose: To clarify the Farm Labor Contractor Registration Act of 1963, as amended)

Mr. BOREN. Mr. President, I send to the desk an amendment to the amendment of the Senator from Mississippi in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) for himself and Mr. TALMADGE, Mr. JOHNSTON, Mr. ZORINSKY, Mr. PRYOR, Mr. ARMSTRONG, Mr. LAXALT, Mr. HELMS, Mr. LUGAR, Mr. COCHRAN, Mr. EXON, Mr. GOLDWATER, Mr. THURMOND, Mr. HUMPHREY, Mr. DOLE, Mr. LONG, Mr. HEFLIN, Mr. TOWER, Mr. STENNIS, Mr. ROTH, Mr. DANFORTH, Mr. HAYAKAWA, Mrs. KASSEBAUM, Mr. SIMPSON, Mr. DURENBERGER, Mr. NUNN, Mr. BUMPERS, Mr. STONE, Mr. YOUNG, Mr. WARNER, Mr. HATCH, Mr. HOLLINGS, Mr. BOSCHWITZ, Mr. BENTSEN, Mr. WALLOP, Mr. JEPSEN, Mr. CHILES, Mr. SASSER, Mr. HARRY F. BYRD JR., and Mr. MCCLURE, proposes an unprinted amendment numbered 1423 to the Cochran amendment numbered 1422.

Mr. BOREN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

An amendment in the nature of a substitute to the amendment offered by Senator COCHRAN.

In lieu of the language to be inserted insert the following:

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS OF 1980

SEC. 23. (a) The amendments made by this section may be referred to as the Farm Labor Contractor Registration Act Amendments of 1980.

(b) Section 3(b)(2) of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2042(b)(2)), is amended by striking the word "personally" and by substituting the phrase "such person's" for the word "his".

(c) Section 3(b)(3) of such Act is amended by striking the phrase "on no more than an incidental basis."

(c) Section 3(b) of such Act is amended by adding a new paragraph (11) to read as follows:

"(11) Any nonprofit or cooperative association of farmers, growers, or ranchers, duly incorporated and qualified under the nonprofit association or farmer cooperative statutes of a State, and operated solely for the mutual benefit of the members thereof; and any full-time or regular employee of such association or cooperative who engages in such activity solely for his or her employer."

(d) Section 3 of such Act is amended by adding new subsections (h) and (i) to read as follows:

"(h) The term 'for such person's own operation' refers to the operations of a person as a farmer, processor, canner, ginner, packing shed operator, or nurseryman, and includes all activities by such person or such person's employees with respect to the agricultural or horticultural commodities which are or will be the subject of or diverted from such operations, and regardless of whether such person has title to such commodities at the time such operations or activities are performed.

"(i) The term 'regular employee' includes an employee who is employed on a seasonal or part-time basis by any person referred to in subsection (b)(1) or (b)(2) of this section.".

(e) Section 3(d) of such Act is amended by inserting the words "on a farm or ranch" after the word "grading".

(f) Subsection 3(g) of such Act is amended to read as follows:

"(g) The term 'migrant worker' means an individual engaged on a farm or ranch, on a

> seasonal or other temporary basis, in agricultural employment as defined in section 3(d) of this Act who cannot regularly return to his or her domicile each day after working hours, or who is transported from and to his or her domicile each workday by the person who recruits, solicits, hires, or furnishes such worker for agricultural employment on a farm or ranch owned or operated by another person.".

Mr. BOREN. Mr. President, the amendment I just sent to the desk I sent on behalf of myself and the distinguished chairman of the committee (Mr. Talmadge), Mr. Johnston, Mr. Zorinsky, Mr. Pryor, Mr. Armstrong, Mr. Laxalt, Mr. Helms, Mr. Lugar, Mr. Cochran, Mr. Exon, Mr. Goldwater, Mr. Thurmond, Mr. Humphrey, Mr. Dole, Mr. Long, Mr. Heflin, Mr. Tower, Mr. Stennis, Mr. Roth, Mr. Danforth, Mr. Hayakawa, Mrs. Kassebaum, Mr. Simpson, Mr. Durenberger, Mr. Nunn, Mr. Bumpers, Mr. Stone, Mr. Young, Mr. Warner, Mr. Hatch, Mr. Hollings, Mr. Boschwitz, Mr. Bentsen, Mr. Wallop, Mr. Jepsen, Mr. Chiles, Mr. Sasser, Mr. Harry F. Byrd, Jr., of Virginia, and Mr. McClure of Idaho.

Mr. President, this amendment, that I am very proud to join these other distinguished Members of the Senate in offering, is an amendment which is identical in content to S. 2875 which was introduced on June 25, 1980. It is an amendment which seeks to clarify the provisions of the Farm Labor Contractor Registration Act of 1963.

This amendment would insure that the present law is properly administered and enforced in a manner consistent with congressional intent.

By doing so, it would preserve and strengthen the protective provisions of the act by targeting the Department of Labor's enforcement actions on those crew leaders who continue to provide migrant workers in agriculture. At the same time, this amendment would be and has become a source of redtape and paperwork and needless harassment for farmers and other agricultural employers, including their employees.

All of us, Mr. President, want to see an end to any abuse of migrant farm workers. But, at the same time, we very strongly want to assure that an additional regulatory burden is not placed upon the farmers, the farm co-ops, and others involved in agriculture across the country.

Our people are already overburdened by unnecessary regulation of their businesses and their daily lives.

Mr. President, the problem we are addressing today relates to the administration and enforcement of this act. It was passed in 1963 to protect migrant farmworkers and agricultural employers from being abused by unscrupulous crew leaders.

I mention that at the time it was passed it was also stated to be the intent of those who were supporting the legislation to protect the farmers as well as the migrant farmworkers from the actions of unscrupulous labor contractors who were offering the services of migrant workers.

I will quote from the Congressional Record of November 25, 1974, from the remarks made by the distinguished Senator from New Jersey (Mr. Williams) in talking about some additional amendments to this act:

> The adoption of this legislation will, therefore, by strengthening the Government's ability to enforce violations of the Farm Labor Contractor Registration Act, improve the terms and conditions for this Nation's migrant and seasonal farmworkers. It will also aid toward the elimination of abuses against farmers who are dependent upon the contractors for providing them with the labor needed to harvest the Nation's food crops.

A very worthy goal, Mr. President, as stated at that time by the Senator from New Jersey, an act of Congress to protect both the migrant farmworkers and the farmers themselves who depend upon these services from the actions of unscrupulous crew chiefs who seek to provide migrant farm labor for farmers across the country.

However, the Department of Labor, in implementing this legislation, has moved far from the intent of the Congress and the intent of those who spoke on the legislation at that time.

The law requires crew leaders or farm labor contractors to register with the Department of Labor, to be fingerprinted, to disclose their salaries, post signs indicating the wages paid all employees, obtain a special medical examination, and to comply with numerous other provisions. Specifically exempt from these requirements are farmers and other agricultural employers, including their employees who meet certain tests.

These exemptions were specifically written into the law to assure that farmers and other farm organizations would not be overburdened by having to comply with all the regulations in this act which were aimed at migrant crew chiefs and labor contractors.

The Department of Labor, however, has in effect largely denied these exemptions solely on the basis of its own narrow interpretation of the law. One example is the Department of Labor's definition of "migrant worker" as anyone employed in agriculture, anyone.

Clearly, Mr. President, everyone employed in agriculture is not a migrant worker. A migrant worker is a person who moves from place to place with no fixed base, no fixed base of operation. A migrant worker is not simply someone who happens to work on a farm.

I would like to quote from the Department of Labor's field operations handbook, dated April 18, 1979, in which they defined what a migrant worker is. It says in paragraph 58a04(d):

> The term "migrant worker" as defined by Sec. 3(g) of the Act includes any individual whose primary employment is in agriculture—

It goes on to state—

> on a seasonal or other temporary basis. In other words, any employee who is performing agricultural work is a migrant worker for purposes of the FLCRA. There is no distinction between the worker who moves about the country within the stream of production and the worker who remains at his home and works in his own area year around.

So that, certainly, I think goes beyond the intent of Congress.

Mr. COCHRAN. Will the Senator yield to me for a unanimous-consent request?

Mr. BOREN. I am happy to yield to the Senator.

Mr. COCHRAN. Mr. President, I ask unanimous consent that my amendment be modified to go at the end of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I thank the Senator.

Mr. BOREN. I thank my colleague.

Clearly, Mr. President, by changing the definition of the term "migrant worker" to include virtually all agricultural employees, we have changed the whole intent of the law.

By doing so, I think we have undermined the original purpose. We have caused, the Department of Labor, as they have now included virtually every farmer and agricultural employer under this act, requiring virtually all of them, at least in theory, to register. By doing so the Department of Labor can no longer concentrate its limited resources on the migrant crew chiefs and the farm labor contractors whose past abuses was the reason for this legislation in the first place.

Now, this will be spreading their limited resources to investigate and force compliance and increase regulation on farmers and other good faith agricultural workers all across the country.

So, not only are we doing damage to agriculture across the country, to the average farmer across the country, but because of the actions of the Department of Labor in issuing rules and regulations that depart far from the intent of the original law, we are lessening the ability of the Department to protect the very people that the law was written to protect.

The Department of Labor has been subjecting farmers and other agricultural employers, including their employees, to civil and criminal penalties for failing to comply with registration and other requirements of this act.

The problem simply has not been resolved.

Because of the concern throughout the agricultural community by this Department, by the Department of Labor, from the original intent of the law, several agricultural organizations have joined to support and to work actively for passage of the amendment I am offering today.

Mr. President, I would like to share with the Members of the Senate the names of some of the agricultural organizations which have united in this effort to return the administration of this law to its original intent. The following organizations have joined in support of this amendment:

The American Soybean Association; the American Farm Bureau Federation, with some 3 million farmers as members; the American Frozen Food Institute; the American Mushroom Institute; the American Seed Trade Association; the American Sod Producers Association; the American Sugar Beet Growers Association; the Florida Citrus Processors Association; the Florida Sugar Cane League; the International Apple Institute; the National Broiler Council; the National Institute of Wheat Growers; the

National Cattleman's Association; the National Cotton Council; the National Council of Agricultural Employers; the National Council of Farmer Cooperatives; the National Food Processors Association; the National Grange, with more than 500,000 members, made up of farmers; the National Meat Association; the National Peach Council; the Pennsylvania Food Processors Association; the Rio Grande Valley Sugar Growers Cooperative; the Society of American Florists; the United Fresh Fruit and Vegetable Association, and the Western Growers Association.

These are some of the organizations which have joined in announcing their support and their endorsement of this amendment, which will clarify the intent of the law.

Mr. President, this amendment makes it clear that we are not intending to cover farmers themselves, that we are not intending to cover the bona fide farm organizations and the farmer cooperatives across the country which now serve the farmers, the farmer members of such cooperatives. I makes clear that we are not trying to cover every agricultural employee in this country.

By defining the term "migrant labor," by defining the term "farmer," and making clear what we mean when we talk about a farmer, it returns the law, through limiting language, to the intent as originally set forth by Congress.

I urge my colleagues to think carefully about this matter, to take this action to bring the Department of Labor back within the bounds of the original intent of Congress, to help the Department of Labor, through this legislation, to do a better job of focusing its resources on the migrant labor crew chiefs and labor contractors who have abused workers in the past, and to quit harassing the farmers, farm organizations and farm cooperatives all across the country with threats of making them register, to be fingerprinted, and to comply with all sorts of other unnecessary paperwork and redtape, which would constitute an undue burden upon them, or be faced with potential civil or criminal penalties.

This is an opportunity for Congress to demonstrate that it is ready to curb, in this important agricultural area, unnecessary abuse of authority by the bureaucracy and to see to it that the original intent of Congress is carried out.

Mr. President, I hope that my colleagues, after examining this issue, will agree with me that this amendment should be adopted.

Mr. HELMS. Mr. President, I commend the distinguished Senator from Oklahoma (Mr. BOREN) for offering this amendment. I want him to know that I support it completely, and I am grateful for his efforts.

The change in law that this amendment would provide is an absolutely reasonable one. It is one that is of utmost importance, as he has said, to American agriculture.

As background, I indicate that I am a cosponsor of S. 2875, introduced by Senator BOREN; and I believe 38 of our colleagues also are cosponsors, including almost all the Committee on Agriculture, Nutrition, and Forestry.

Mr. President, the Senator from North Carolina has long been concerned about the interpretation by the Department of Labor of the Farm Labor Contractor Registration Act, known as FLCRA. I believe that the clarification provided by the amendment, drawn from S. 2875, is absolutely essential at this time.

Last year, I assisted in constructing amendments to FLCRA which would address the major concerns of farmers, who are now burdened and harassed under this law, as described by the Senator from Oklahoma; and my interest has continued in this matter, through support of the legislation proposed by the Senator from Oklahoma and the amendment he now offers.

As ranking member of the Committee on Agriculture, Nutrition, and Forestry, I am distressed that the issue is just as much an agricultural concern as it is a matter involving labor. I believe the Committee on Agriculture, Nutrition and, Forestry is concerned about the proper administration and enforcement of FLCRA but not exceeding the scope of what Congress intended to accomplish by the original act.

The pending amendment offered by the Senator from Oklahoma would alleviate a source of redtape and paperwork for farmers and other agricultural employers; and in doing so, it would free these producers to get on with the business of feeding and clothing the American people and people in many other lands.

One thing should be clear, Mr. President, and that is that this amendment will not gut the Farm Labor Contractor Registration Act. This amendment will not exempt giant corporate farms from coverage under the act. This amendment would not eliminate the substantive protections against abuse that are available to migrant workers. What the amendment will do is to insure that the present law is administered and enforced properly to protect farm workers from serious abuses by labor crew leaders and farm labor contractors.

Congress never intended that the law consider farm labor contractors to include farmers and their employees who are tied to the land or property and are permanently located.

As a further indication of congressional intent, the section on congressional findings and FLCRA indicates that the act is to protect both the producers of agricultural products and migrant agricultural laborers.

It is clear that we would not consider agricultural producers to be "farm labor contractors" when we are trying to protect them against exploitation from farm labor contractors.

So, Mr. President, bona fide farmers in my own State this summer are feeling the effects of the misinterpretation of this act. Instead of targeting their efforts to enforcement of FLCRA against unscrupulous crew leaders and administering this law as Congress intended, the Department of Labor has, according to my understanding, inconvenienced and harassed numerous farmers who are attempting to produce their crops.

These farmers are not crew leaders. These farmers are not farm labor contractors. They are farmers, period.

I suppose I find this activity even more aggravating because the Department of Labor has to be aware that we are trying to correct the regulatory abuse to which they have been and are subjecting farmers and ranchers.

Our action in approving this amendment will only strengthen the Farm Labor Contractor Registration Act and it will help promote the understanding of farmers and proper regulation of crew leaders. The result should be a more efficient and less costly enforcement of existing law.

It is important that we give our approval to the amendment offered by the distinguished Senator from Oklahoma and redirect FLCRA toward its stated intent so that Congress does not have to continue to provide special clarifications as has been the case in the past. It is time-consuming to do this and will not really solve the problems just as our attempts to persuade the Department of Labor to correct their interpretation have been a waste of time and have not been successful.

So again I commend the distinguished Senator from Oklahoma, and I want him to know that I strongly support his amendment.

Mr. NELSON. Mr. President, the Senator from Oklahoma (Mr. BOREN) has offered in the Senate a proposal which would amend the Farm Labor Contractor Registration Act. The amendment by Mr. BOREN is similar to a bill that he introduced with 39 cosponsors on June 25, 1980, S. 2875.

At this time, Mr. President, I would hope that at the appropriate time, in view of what I have to say, the Senator from Oklahoma might be willing to withdraw his amendment and wait for the hearings of the committee.

First, the amendment affects the Department of Labor's administration of the Farm Labor Contractor Registration Act. The amendment is drafted as an amendment to the Farm Labor Contractor Registration Act. As the Senator knows, this law is within the exclusive jurisdiction of the Labor and Human Resources Committee. The Subcommittee on Employment, Poverty, and Migratory Labor, which I chair, is responsible for legislation affecting this act. Neither the subcommittee, nor the full Labor and Human Resources Committee, has had an opportunity to review the proposed legislation.

Second, there is another bill, S. 2789, which was introduced by Senator JAVITS on June 4, 1980, cosponsored by Senators WILLIAMS, METZENBAUM, LEAHY, and myself, which bill also proposes to amend the Farm Labor Contractors Registration Act. This legislation, as well as the bill of the Senator from Oklahoma, has been referred to the Committee on Labor and Human Resources and subsequently referred to the Employment Subcommittee.

Third, may I say to the Senators from Oklahoma and Mississippi, there is no question in my mind that serious problems have arisen with the administration of this act since 1974, which was the last time the act was revised by Congress. Numerous lawsuits have been filed, and both agricultural employer as well as farm workers have expressed dissatisfaction with the Department of Labor's administration of this law and justifiably so, in my opinion.

I personally wrote to the Secretary of Labor expressing my concern with the Department's administration of this law on October 19, 1979. Then 52 other Senators, 5 days later, on October 24, 1979, sent a similar letter expressing their dissatisfaction with the way the law was being administered.

Therefore, as chairman of the subcommittee with legislative oversight responsibilities, I have set up a legislative hearing on S. 2789 and S. 2875 on August 19, 1980, beginning at 10 a.m. in the Labor and Human Resources Committee hearing room. My staff has notified the offices of Senator Boren and Senator Javits to inform them of the hearing time.

It is, of course, our practice to hear from all of the appropriate witnesses and we will, of course, hear from the authors of the legislation, Senator Boren, Senator Javits, and any other Senators who wish to testify on these two pieces of legislation, and, of course, we will hear from all of the appropriate interested parties as well as the Department of Labor.

Certainly, the Department of Labor and representatives of agricultural employers and migrant and seasonal employees shall be given an opportunity to testify at the subcommittee's hearing.

Mr. President, this is not the proper time and place to consider the legislation proposed by the Senator from Oklahoma. After the Subcommittee on Employment, Poverty and Migratory Labor conducts its legislative hearing, the subcommittee will carefully evaluate the Senator's proposal, as well as the proposal of the Senator from New York. If corrective legislation is needed, the orderly process through which legislation is considered by the Labor and Human Resources Committee and by the Senate will be followed.

So it seems to me that it is important that we follow here the appropriate congressional legislative procedures and conduct thorough hearings, go to a markup on the legislation, and then come to the floor after having had the hearings, after the hearings are printed, after the committee report has been filed, so that everyone with an interest will have an opportunity to carefully examine the record and reach their individual decisions as to the merits of the legislation that will come to the floor.

I wish to assure the Senator from Oklahoma that this chairman is interested in seeing the administration of this law improved. I have been chairman of this committee for several years now, and this legislation is in our jurisdiction. We amended the law back in 1974. We have proposed amendments to make changes now just as the Senator from Oklahoma has done. And I will ask at the appropriate place in the Record, following my remarks, that a number of letters that have been exchanged between myself and other Senators and the Department of Labor be printed in the Record.

I wrote a letter on October 19, 1979, to the Secretary of Labor, raising issues respecting the administration of the law. As I mentioned in my remarks on October 24, 5 days later, a letter signed by 52 Senators to the same effect was sent to the Secretary of Labor.

I then received a response on November 28 from the Secretary of Labor, and on November 26 the Secretary responded to the 52 Senators who had written to him.

Then on December 5 a letter was sent to the Secretary signed by Senator Long and Senator Bennett Johnston, responding to the answer of the Secretary dated November 26, 1979.

Then on May 2, 1980, Senator Williams, chairman of the committee and Senator Javits, sent a letter to Secretary Marshall on the same subject matter. Then on May 29, 1980, Senator Williams and Senator Javits sent another letter to the Secretary on the same subject matter.

On July 11, 1980, a response was made to Chairman Williams signed by the Secretary. Then again on July 22 an additional letter was sent to the chairman signed by the Secretary of Labor.

So there has been extensive correspondence between the chairman of the committee and Secretary Marshall, the chairman of the subcommittee and Secretary Marshall, between other Members of the Senate and the Secretary of Labor, and out of all of this, as I said, Senator Javits, Senator Williams, and I and others joined in introducing a bill on June 4 to amend the Labor Contractor's Act.

Then Senator Boren introduced his bill on June 24.

So I would say to the Senate we have acted as expeditiously as it is conceivably possible for a committee to do. We scheduled hearings on Senator Boren's bill almost within 3 weeks of the time he introduced it because we are interested in having these hearings both on his bill and on the bill that others of us have introduced. So we are following the procedures established for considering legislation.

If we had been refusing to conduct hearings and delayed for a long, long time on legislation that was introduced then, of course, there would be more compelling argument for coming to the floor with the amendment itself.

I know the Senator intended to proceed with this legislation, and has proceeded with it, although he was not aware, I am sure, that we had intended to conduct hearings as quickly as we have arranged for them.

Mr. President, I ask unanimous consent to have printed in the Record the correspondence to which I previously referred.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Labor and
Human Resources,
Washington, D.C., October 19, 1979.

Hon. Ray Marshall,
Secretary of Labor, U.S. Department of Labor, Washington, D.C.

Dear Mr. Secretary: Recently, I have been contacted by representatives of the food processing industry and organizations representing farmworkers, concerning the Department of Labor's interpretation and administration of the Farm Labor Contractor Registration Act (FLCRA).

As you know, FLCRA was enacted by Congress to protect migrant and seasonal agricultural workers as well as farmers from abuses and exploitation by farm labor contractors.

Those affected by the law now have raised questions about the Department of Labor's interpretation of exemptions granted by the Act under Sections 3(b)(2) and 3(b)(3). More specifically, the Department's interpretations of the word "personally" in 3(b)(2) and "on no more than an incidental basis" in 3(b)(3) have been challenged.

As Chairman of the Labor and Human Resources Subcommittee on Employment, Poverty, and Migratory Labor, which authorized the Farm Labor Contractor Registration Act, I request that you review the interpretation and enforcement procedures under this Act, and forward a report on these concerns to me as soon as possible.

Your attention to these matters is appreciated. I look forward to hearing from you.

Sincerely,

Gaylord Nelson,
U.S. Senator.

U.S. Senate,
Committee on Appropriations,
Washington, D.C., October 24, 1979.

Hon. F. Ray Marshall,
Secretary of Labor, U.S. Department of Labor, Washington, D.C.

Dear Mr. Secretary: We are writing this letter to express our increasing concern over the Department of Labor's administration of the Farm Labor Contractor Registration Act as amended.

The Farm Labor Contractor Registration Act was enacted by Congress to protect not only migrant and seasonal agricultural workers, but also farmers and other agricultural employers from abuses and exploitation by unscrupulous crew leaders. This remains the purpose of the Act and we fully support the continuing need for such legislation. However, we are concerned that the law is not being administered fairly or uniformly in a manner consistent with Congressional intent.

In a growing number of actions the Department has ruled that farmers and certain other agricultural employers, or their employees, are required to register as farm labor contractors. Such a requirement we believe goes beyond any reasonable interpretation of the law.

Under Sections 3(b)(2) and 3(b)(3), no "farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation, or any full-time or regular employee of such entity . . . who engages in such activity solely for his employer on no more than an incidental basis . . ." is required to register as a farm labor contractor.

The Department's actions, which are apparently based on its own extremely narrow interpretation, are completely contrary to Congressional intent and purpose and has only served to impose an undue penalty and economic burden on those specifically exempted by Congress from the scope and coverage of the law's requirements. Moreover, these actions have resulted in a misdirection of the Department's limited resources at the expense of those the law was intended to protect.

We strongly urge therefore that the Department review its present policy and concentrate its resources on curbing abuses by unscrupulous crew leaders as Congress intended.

We appreciate your attention to these concerns and we look forward to hearing from you.

Sincerely,

J. Bennett Johnston, Lloyd Bentsen, Herman E. Talmadge, Thad Cochran, Donald W. Stewart, Russell B. Long, David Pryor, Dale Bumpers, George McGovern, J. James Exon, John Tower, Dennis DeConcini, S. I. Hayakawa, Thomas F. Eagleton, Lawton Chiles, John C. Stennis, Strom Thurmond, Pete V. Domenici, Henry Bellmon, David L. Boren, Milton R. Young, Richard (Dick) Stone, Ernest F. Hollings, Jesse Helms, and Edward Zorinsky.

Richard Lugar, Gordon J. Humphrey, Rudy Boschwitz, John Melcher, William S. Cohen, Barry Goldwater, Donald W. Riegle, Jr., Sam Nunn, Howard H. Baker, Jr., Bob Dole, Roger W. Jepsen, Orrin G. Hatch, Jim Sasser, Harrison Schmitt, Nancy Landon Kassebaum, William V. Roth, Jr., Bob Packwood, Harry F. Byrd, Jr., Frank Church, Dave Durenberger, Mark O. Hatfield, Howell T. Heflin, Larry Pressler, Paul Laxalt, Malcolm Wallop, Robert Morgan, and James A. McClure.

U.S. Department of Labor,
Washington, November 23, 1979.

Hon. Gaylord Nelson,
U.S. Senate,
Washington, D.C.

Dear Senator Nelson: Thank you for your letter of October 19, 1979, regarding the Labor Department's administration of the Farm Labor Contractor Registration Act (FLCRA). You ask specifically about the Department's interpretations of the term "personally" in section 3(b)(2) and the phrase "on no more than an incidental basis" in section 3(b)(3).

As you know, FLCRA was enacted in 1963 to provide certain basic labor protection for migrant agricultural workers whose employment was dependent upon crewleaders. In hearings preceding passage of the Act, Congress found widespread abuses in this relationship. It found that migrant workers were not receiving proper pay, transportation or housing arrangements. Often these workers and their families were transported in unsafe vehicles and were misled about the job conditions to be found at the work site.

After ten years of experience under the Act, Congress determined that the abuses had not ended, and passed the 1974 FLCRA amendments to extend coverage and improve enforcement. These amendments included the language from sections 3(b)(2) and 3(b)(3) referenced in your letter. The legislative history of these amendments indicates that this language was part of a larger Congressional desire to expand coverage generally, but to carve out two exemptions. The first exemption was intended to exclude family farms and agriculturally related businesses (such as canners, ginners and packing shed operators) which "personally" recruited migrant labor for their own operation. The second exemption was to exclude from coverage any full-time or regular employees of any incorporated farm or agricultural business if these employees only performed farm labor contractor-type activities on an "incidental" basis.

Consistent with this statutory language and legislative history, the Department has exempted family farms in which the farmer personally hires agricultural employees. We have also taken the position that the family farm does not lose the exemption for farm labor contracting activities done personally by the farmer and solely for the farm's own operation, simply because the farm is incorporated.

Even if the farmer does not personally perform these activities, the Department does not apply the Act unless the farm has employees who engage in farm labor contracting activities on "more than an incidental basis." If the farm, whether incorporated or not, does not have any employee performing these tasks on more than an incidental basis, the statutory exemption from registration applies.

We believe, therefore, that FLCRA applies where there is a crewleader hiring or transporting workers or where there are company employees substantially engaged in activities generally performed by crewleaders. We also believe that it is critical to enforce the Act in a way which discourages evasion of its provisions—to deter farm labor contractors from being placed on payrolls and appearing to assume the status of full-time or regular employees. This enforcement approach is consistent with both the letter and spirit of the Act. It recognizes the classic farm labor contracting activities to which the Congress intended the Act to be applied irrespective of the relationship (i.e., direct employee or independent contractor) between the farm and the individual performing farm labor contracting activities.

We recognize the concerns which have been expressed by farm operators, canners, packing shed operators, processors and others regarding the application of the Act's requirements when they hire or transport agricultural employees directly through the use of full-time or regular employees of the company and where such employees do not spend a sustantial amount of their working time in these activities. In this regard, we concur in their view that the Department may not have defined the term "incidental" as specifically as possible.

We, therefore, intend to adopt an interpretation of the term "incidental" that will include any full-time or regular employee of a farmer, processor, canner, ginner, packing shed operator or nurseryman who does not spend more than 20 percent of the time in farm labor contracting activities and performs that activity solely for his employer.

With this refinement of the definition of "incidental," we believe that in the great majority of cases, neither the corporate employer nor any of its employees will be required to register as a farm labor contractor.

We are also instructing our field enforcement staff to make certain that they concentrate on serious violations committed by traditional farm labor contractors who have repeatedly and seriously violated the Act.

These administrative changes will clarify our enforcement position while at the same time preserving important protections for farm workers under the Act. These include protections designed to generally prohibit convicted felons from being crewleaders; protections relating to housing and transportation safety; protections designed to assure workers of advance and continuing notice of wages, hours and working conditions, and to assure that workers will receive prompt payment of wages.

Although the Occupational Safety and Health Act and the Fair Labor Standards Act provide coverage to farm workers in certain instances, neither statute affords farm workers the basic labor protections which are set forth in FLCRA.

The Labor Department owes farm workers, the Congress and employers a FLCRA enforcement program that concentrates on major violations and we appreciate your support in helping to make FLCRA work precisely as it was intended.

Sincerely,

Ray Marshall,
Secretary of Labor.

U.S. Department of Labor,
Washington, November 26, 1979.

Hon. Gaylord Nelson,
U.S. Senate,
Washington, D.C.

Dear Senator: Thank you for your letter of October 24, 1979, regarding the administration of the Farm Labor Contractor Registration Act (FLCRA). We agree that enforcement under the Act be targetted on repeat and serious violations which jeopardize labor standards for agricultural workers. To the extent that FLCRA enforcement has not been so targetted in the past, we are issuing field instructions to assure that there will be appropriate and consistent enforcement priorities.

As you know, FLCRA was enacted in 1963 to provide certain basic labor protection for migrant agricultural workers whose employment was dependent upon crewleaders. In hearings preceding passage of the Act, Congress found widespread abuses in this relationship. It found that migrant workers were not receiving proper pay, transportation or housing arrangements. Often these workers and their families were transported in unsafe vehicles and were misled about the job conditions to be found at the work site.

After ten years of experience under the Act, Congress determined that the abuses had not ended, and passed the 1974 FLCRA amendments to extend coverage and improve enforcement. The legislative history of these amendments indicates that although Congress extended coverage generally, it intended to exempt family farms and agriculturally related businesses (such as canners, ginners and packing shed operators) which "personally" recruited migrant labor for their own operation. Congress also exempted from coverage any full-time or regular employees of any incorporated farm or agricultural business if these employees only performed farm labor contractor-type activities on an "incidental" basis.

Consistent with this statutory language and legislative history, the Department has exempted family farms in which the farmer personally hires agricultural employees. We have also taken the position that the family farm does not lose the exemption for farm labor contracting activities done personally by the farmer and solely for the farm's own operation, simply because the farm is incorporated.

Even if the farmer does not personally perform those activities, the Department does not apply the Act unless the farm has employees who engage in farm labor contracting activities on "more than an incidental basis." If the farm, whether incorporated or not, does not have any employee performing these tasks on more than an incidental basis, the statutory exemption from registration applies.

We believe, therefore, that FLCRA applies where there is a crewleader hiring or transporting workers or where there are company employees substantially engaged in activities generally performed by crewleaders. We also believe that it is critical to enforce the Act in a way which discourages evasion of its provisions—to deter farm labor contractors from being placed on payrolls and appearing to assume the status of full-time or regular employees. This enforcement approach is consistent with both the letter and spirit of the Act. It recognizes the classic farm labor contracting activities to which the Congress intended the Act to be applied irrespective of the relationship (i.e., direct employee or independent contractor) between the farm and the individual performing farm labor contracting activities.

We recognize the concerns which have been expressed by farm operators, canners, packing shed operators, processors and others regarding the application of the Act's requirements when they hire or transport agricultural employees directly through the use of full-time or regular employees of the company and where such employees do not spend a substantial amount of their working time in these activities. In this regard, we concur in their view that the Department may not have defined the term "incidental" as specifically as possible.

We, therefore, intend to adopt an interpretation of the term "incidental" that will include any full-time or regular employee of a farmer, processor, canner, ginner, packing shed operator or nurseryman who does not spend more than 20 percent of his time in farm labor contracting activities and performs that activity solely for his employer.

With this refinement of the definition of "incidental", we believe that in the great majority of cases, neither the corporate employer nor any of its employees will be required to register as a farm labor contractor.

We are also instructing our field enforcement staff to make certain that they concentrate on serious violations committed by traditional farm labor contractors who have repeatedly and seriously violated the Act.

These administrative changes will clarify our enforcement position while at the same time preserving important protections for farm workers under the Act. These include protections designed to generally prohibit convicted felons from being crewleaders; protections relating to housing and transportation safety; protections designed to assure workers of advance and continuing notice of wages, hours and working conditions and to assure that workers will receive prompt payment of wages.

Although the Occupational Safety and Health Act and the Fair Labor Standards Act provide coverage to farm workers in certain instances, neither statute affords farm workers the basic labor protections which are set forth in FLCRA.

The Labor Department owes farm workers, the Congress and employers a FLCRA enforcement program that concentrates on major violations and we appreciate your support in helping to make FLCRA work precisely as it was intended.

Sincerely,

F. Ray Marshall,
Secretary of Labor.

U.S. Senate,
Committee on Appropriations,
Washington, D.C., December 5, 1979.

Hon. F. Ray Marshall,
Secretary of Labor,
Washington, D.C.

Dear Mr. Secretary: Thank you for your letter of November 26, 1979 in response to our letter (copy enclosed) expressing increasing concern over the Department of Labor's administration of the Farm Labor Contractor Registration Act.

We are pleased to learn the Department will now concentrate its efforts on curbing abuses by unscrupulous crew leaders. In this regard, we would appreciate very much a copy of the instructions being prepared for enforcement officers. Concentrating on what you refer to as "traditional farm labor contractors" is the proper focus of the Department's activities. Such action will help ensure that migrant agricultural workers receive the full benefit and protection of the law as Congress intended. But it does not completely address the concerns we have.

The Department's ruling that farmers and certain other agricultural employers, or their employees are required to register as farm labor contractors is completely contrary to congressional intent and purpose. In recognition, your letter states you "intend to adopt an interpretation of the term 'incidental' that will include any full-time or regular employee of a farmer, processor, canner, ginner, packing shed operator or nurseryman who does not spend more than 20 percent of his time on farm labor contracting activities and performs that activity solely for his employer." The effect of this new definition, you indicate, is that in the "great majority of cases, neither the corporate employer nor any of its employees will be required to register as a farm labor contractor.

Unfortunately, the Department's action would have no such effect. The reason is that there has been no change in how section 3(b)(2) has been interpreted.

Under the Department's interpretation, virtually every farmer, processor, canner, ginner, packing shed operator and nurseryman, if incorporated, must register as a farm labor contractor. To be exempt, employers are required to act "personally." However, as set forth in Opinion Letter WH 433 (October 3, 1977), the Department has ruled that only in extremely limited circumstances can corporate employers act personally. Since many agricultural cooperatives are incorporated, this interpretation means that many coop employees and quite possibly coop members must also register. The result has been to deny farmers and other agricultural employers the exemption which Congress specifically intended.

Moreover, since there has been no change in the Department's interpretation of section 3(b)(2), the new definition of "incidental" provides no protection for full-time or regular employees. Under section 3(b)(3), in order for an employee not to be included in the definition of a "farm labor contractor", he must be a full time or regular employee of an "entity" referred to in section 3(b)(2). Yet, under the Department's continued interpretation, very few farmers who are incorporated, or processors, canners, ginners, packing shed operators or nurserymen are included in section 3(b)(2). Therefore, very few corporate employees are not required to register as a result of section 3(b)(3). If the revised definition of "incidental" were to have any real significance, it would have to be substantially more specific than your letter indicates.

First, in order to know if an employee is engaged on more than an incidental basis, he must be engaged less than 20 percent of some time period. Logically, the time period should be his total manhours of employment. The failure of your letter to specify a time period leaves open the possibility that "20 percent of his time" means 20 percent of any work week, any work day, or any pay period. Any one of these possible meanings would render the 20 percent standard ineffective as far as strengthening the exemption provided by Congress.

Second, your letter is not specific about the meaning of farm labor contracting activities. As we understand the Department's interpretation of the Act, supervision is considered to be a farm labor contracting activity. Since your letter does not clarify this, the new definition of "incidental" again becomes less significant.

Third, your letter does not indicate what regulatory standing the new definition of "incidental" would have. The Department's intent should have been set forth in formal regulations, subject to public comment. Similarly, the interpretative regulations for the Act itself are long overdue.

For all these reasons, we believe the Department's actions fail to address our concerns. There has been no change in the Department's interpretation of subsection 3(b)(2). The new definition of "incidental" is vague and appears to have virtually no effect on registration requirements. The result is that farmers and other agricultural employers, and their employees, will continue to be burdened and penalized by regulations even though this clearly was not the intent of Congress.

Sincerely,

Russell B. Long,
J. Bennett Johnston,
U.S. Senators.

U.S. Senate,
Committee on Labor and
Human Resources,
Washington, D.C., May 2, 1980.

Hon F. Ray Marshall,
Secretary of Labor, Department of Labor Building, Washington, D.C.

Dear Mr. Secretary: We are writing to express our concern about the Department's proposed reinterpretation of the Farm Labor Contractor Registration Act (FLCRA) with respect to the determination of when a farmer, processor, canner, ginner, packing shed operator, or nurseryman, or an employee of such entity, is covered by the Act.

The Committee continuously receives information from farmers, growers, farmworkers, labor organizations and others familiar with agricultural labor problems indicating that labor contracting is still too often characterized by the exploitation and abuse of migrant and seasonal workers. The existence of FLCRA, particularly since the 1974 Amendments, has eliminated or alleviated some of these problems; others have proven more difficult to overcome and, while progress is being made, FLCRA is the only Federal statute which strikes at the heart of many of these abuses. Accordingly, it is essential that the Department interpret and apply it in a way that will minimize ambiguity and confusion while effectuating the statute's basic purposes. There is every reason to conclude that the Department's present strategy in attacking these deplorable conditions needs to be strengthened and that vigorous enforcement must not be compromised by curtailing coverage through administrative actions.

For this reason, we have been particularly concerned by the Department's recent statements to the effect that the Act's exemptions from coverage for certain farmers, processors, canners, ginners, packing shed operators and nurserymen (the so-called stationary employers) are being reevaluated. Permanent, fixed-situs employers should be assured of fair treatment under FLCRA and are entitled to a clear statement of their statutory obligations and the elimination of unnecessary administrative burdens. On the other hand, migrant and seasonal farmworkers, who are the most exploited groups of workers in America, need and deserve the full protection of the law.

We appreciate the Department's particular difficulty in interpreting the exemption in subsection 3(b)(3) of the Act for entities with employees engaged in covered activities "on no more than an incidental basis." And, we agree that it would be desirable to develop a more administratively feasible standard for coverage that can be applied equally to all such employees of stationary employers. However, we have the most serious reservations about the acceptability of any reinterpretation of the "incidental basis" test that would exempt entities solely on the basis of the time spent by employees engaging in farm labor contracting activities.

First, given the widespread abuses of farmworkers, such a standard could not be broadly enforced unless all employees engaging in covered activities were required to maintain accurate time records of their labor contracting activities on a daily basis. Neither the Act nor any other Federal law requires detailed recordkeeping of such a potentially expansive nature. Both compliance with such a requirement and its enforcement would be quite onerous, and enforcement could be expected to lead to new rounds of litigation and to pressures for wholesale legislative exemptions.

Second, we doubt that any time-period test alone is a sufficient or reliable indicator of whether any individual foreman or other employee is significantly engaged in labor contracting activities, since farm labor contracting is not time intensive.

Third, such a test could permit employers to evade coverage merely by shifting duties among several employees.

Fourth, in view of the widely varying peak-harvest labor periods respecting different crops, this test might arbitrarily exempt a very large number of operations which are intended to be covered. If this occurred, the proposed administrative reinterpretation would, in effect, amend FLCRA to narrow its coverage, contrary to the intent of Congress. Certainly, no such significant change in administrative interpretation of section 3(b)(3) should be adopted until its impact has been fully substantiated.

Finally, we observe that if the recent decision by the U.S. Court of Appeals for the Ninth Circuit in *Marshall* v. *Green Goddess Avocado Corporation*, No. 78-3704 (9th Cir., March 25, 1980), were to be adopted by the Department, it would be even more clear that broadening the section 3(b)(3) exemption would be contrary to congressional intent.

In that case, the Court rejected the Department's interpretation of the section 3(b)(2) exemption for corporate employers and thereby invalidated the basis of the Department's proposed broadening of the section 3(b)(3) exemption for employees of such entities which the Ninth Circuit concluded is very narrow.

We believe these problems are so critical that both the Department and the Congress have an obligation to reconsider the present situation which is unsatisfactory from both a legislative and administrative standpoint.

Accordingly, we are prepared to support legislation to amend FLCRA which would, while preserving its important protections, clarify and simplify coverage, provide for more efficient enforcement, and eliminate unnecessary regulatory requirements. In particular, this legislation will eliminate a number of statutory obligations presently imposed on employers operating from permanent locations who engage migrant or seasonal employees solely for themselves. It will also replace the ambiguous "incidental basis" test with a more certain basis for exempting small farms and other agricultural operations.

Until this legislation is adopted, however, we believe the Department should avoid any administrative changes that might exempt employers or their employees from substantive provisions of the Act. Any action taken by the Department, even on an interim basis, must be consistent with the 1974 Amendments. Under those Amendments, most agricultural employers of migrant and seasonal farmworkers are within the coverage of the Act, subject only to certain relatively narrow exemptions in section 3, for small operations considered unlikely to involve significant numbers of covered workers, and for whom compliance with the Act would be unduly burdensome.

We know that you share our firm personal commitment to providing the strongest practical labor standards protection for agricultural workers. Likewise, we share your desire to minimize unnecessary burdens for employers and contractors covered by the Act. To these ends, we look forward to working with you and your staff on the aforementioned legislation which will serve the interests of all concerned parties in the fair and effective enforcement of the Farm Labor Contractor Registration Act.

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.
JACOB K. JAVITS,
U.S. Senator.

U.S. SENATOR,
COMMITTEE ON LABOR AND
HUMAN RESOURCES,
Washington, D.C., May 29, 1980.

Hon. F. RAY MARSHALL,
Secretary of Labor,
Department of Labor Building,
Washington, D.C.

DEAR MR. SECRETARY: Since our letter to you of May 2, 1980 concerning enforcement of the Farm Labor Contractor Registration Act, we have become even more concerned that the Department's proposed reinterpretation of the exemption provisions of Section 3 of the Act would virtually eliminate vital Federal protection of migrant and seasonal farmworkers. In that letter, we expressed our view that the Department should not make any administrative changes that might exempt employers or their employees based solely on time spent in farm labor contracting activities. Such weakening of FLCRA enforcement would clearly contradict the Congressional intent of Section 3. Moreover, we believe these actions contravene the past orders of the court in *NAACP, Western Region* v. *Marshall*, (Civil Action No. 2010-72) and the Department's recent agreements and commitments in that case.

In our May 2 letter we stated several objections to any reinterpretation of the "incidental basis" test in Section 3(b)(3) of the Act that would exempt entities solely on the basis of time spent by employees in covered activities. Since that time, the District Court for the Eastern District of California, in *Bruce Church, Inc.* v. *Marshall* (No. F 79-13, May 12, 1980), attempted to apply the Department's broad time-based reinterpretation of the Section 3(b)(3) exemption. Unfortunately, the Court expressly rejected the interpretation that time spent by a foreman in *supervising* migrant workers may properly be included, but nonetheless went on to apply the remainder of the Department's exemption criteria. Not surprisingly, by applying such a rigid quantitative test, the Court found that a foreman who spent more than 19 percent of his time in transporting workers, and less than one percent on recruiting, soliciting, hiring, and furnishing migrant laborers for a fee, as part of an operation employing approximately 4,000 migrant and seasonal farmworkers annually, was totally exempt from the requirements of the Act.

The Court's conclusion that the crew foreman is exempt under the Act is particularly appalling since, on the facts found by the Court itself, this employee and his employer were obviously engaged in exactly the kind of labor contracting activities intended to be regulated under FLCRA. As we noted in our previous letter, most farm labor contracting activities are not time-intensive and therefore any exemption standard which relies on a time analysis is seriously deficient and unworkable.

The "on no more than an incidental basis" phrase in Section 3(b)(3) certainly does not demand total reliance on time factors and was not so intended by the 1974 Amendments to FLCRA. If this exemption approach is permitted to continue, every major employer of migrant and seasonal farmworkers may well be able to exempt themselves and their foremen from the Act's coverage. It was the prospect of just such a result that prompted our previous letter to you.

We were also disturbed to learn just this week that the Department advised representatives of the cotton industry last November that all enforcement activity under the Act has been suspended with respect to the cotton gin industry pending the issuance of a new interpretation of the Act by the Department. It is our understanding that this non-enforcement policy was adopted in part as a response to a request that the Department abandon its long-established position that cotton ginning cooperatives covered by the Act are ineligible for exemption because their activities are not conducted solely for their own operation. This, too, would be an unwarranted abrogation of congressionally established coverage under the Act, and would be inconsistent with recent Federal appellate court decisions.

We know of no justification for contradicting the judgment of the Congress, made in 1963 and reaffirmed in 1974 that cotton gins are among the entities which require coverage by the Act. Moreover, the combination of the Department's non-enforcement policy and its unwarranted reinterpretation of FLCRA's exemption provisions are seriously impeding our efforts to secure passage of legislation amending the Act to limit its requirements for stationary employers while retaining essential coverage. We believe that this legislation, if enacted, would eliminate the administrative difficulties that the Department has faced in enforcing the Act's present provisions, but preserve important protection for farmworkers.

We hope that you share our concerns about adequate protection of migrant and seasonal farmworkers through effective administration and enforcement of FLCRA. In order to clarify the Department's current position in light of recent federal court decisions and the other points raised in this letter and our letter of May 2nd, we ask that you reply to us as promptly as possible. The present uncertainty continues to contribute to confusion among employers, to threaten the well-being of farmworkers, and to hinder enactment of reasonable compromise legislation.

With best wishes,

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.
JACOB K. JAVITS,
U.S. Senator.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 11, 1980.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Human Resources, Washington, D.C.

DEAR MR. CHAIRMAN: This is to present the views of the Department of Labor on S. 2789, a bill cited as the "Farm Labor Contractor Act of 1980." The Department of Labor agrees with the thrust of the bill and supports its enactment.

The bill would maintain the protections provided for agricultural workers under the Farm Labor Contractor Registration Act (FLCRA), while eliminating unnecessary paper work requirements from fixed situs agricultural employers (such as farmers and canners) who hire agricultural workers only for their own operations.

Under S. 2789, a line of demarcation is drawn between the requirements placed on those two provide agricultural workers for others and those who obtain agricultural workers only for their own operations. For the first category—those who provide workers for others—the full range of registration and documentation requirements currently provided under FLCRA would be retained. For the second category—those who obtain workers only for themselves—the registration and documentation requirements would be removed, but they would still be required to provide substantive FLCRA protections for their agricultural workers.

This is a sensible approach, since the FLCRA registration and documentation provisions were initially established to deal with crew leaders who provide workers to others, and who regularly move from one place to another in carrying out those activities. It is imperative that some means of registration and documentation be maintained in order to protect both workers and employers. It has become clear, however, that in relation to those fixed situs employers who obtain agricultural workers only for their own operations, the need for registration and documentation is less important than assuring substantive labor protection and has resulted in unnecessary paper work.

At the same time, however, it remains abundantly clear that agricultural workers employed by fixed situs employers still need substantive FLCRA protections. We believe the bill appropriately addresses these issues.

The bill would also remove the possibility under current law that corporate employers may be eligible for certain exemptions from coverage, but that their managerial or full-time employees would not be exempted. This could result in employees being held responsible for corporate policy over which they have no control.

The bill addresses numerous other issues which have been raised under current law. We are enclosing for your use a more detailed discussion of the bill's provisions.

In summary, we believe that the legislation, if it is enacted, would both maintain the substantive protections currently available to agricultural workers and eliminate unnecessary employer burdens. By making these changes, the bill would also assist the Department of Labor in targeting its compliance activities in the most effective manner possible.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Enclosure.

TECHNICAL COMMENTS OF THE DEPARTMENT OF LABOR ON S. 2789, THE FARM LABOR CONTRACTOR ACT OF 1980

In general this legislation addresses the principal issues concerning the Act which have been the subject of continual concern to the Congress and those affected by the law.

Currently, section 3(b)(3) exempts certain employees of entities referred to in sections 3(b)(1) and 3(b)(2). While employees of entities exempt under section 3(b)(2) are now themselves included in proposed section 3(b)(2), we are concerned that no provision has been made for employees of entities exempt under section 3(b)(1). Section 3(b)(1) should include the expression "or any employee of any such entity who performs such activities solely for such entity" just before the semicolon. Since this simply appears to be an oversight, there should be no objection to the additional change.

The principal concern about the current Act has centered on the terms "personally" and "solely" under section 3(b)(2) and "on no more than an incidental basis" under section 3(b)(3), and DOL's interpretation of those terms in applying the Act to corporate farms and other agricultural operations. The bill removes these terms and also recasts the law to provide instead for a series of exclusions from the term "farm labor contractor" applicable to farms and other named fixed-base agricultural operations, but requires that they still comply with the substantive provisions of the Act. That is, they are relieved from the registration requirements only from a drafting standpoint this presents some concerns.

The principal provision is a new section 3(b)(2), which extends the exemption afforded under the current section 3(b)(2) to all farms, processors, gins, canneries, packing sheds, and nurseries which perform FLC activities for their own operations. As the exemption is couched in establishment (farm, etc.) rather than individual (farmer, etc.) terms, it is clearly extended to corporate entities. (This is consistent with the holdings in *Green Goddess*, CA 9th, and *Espinoza, et al.* v. *Stokely Van-Camp, Inc.*, U.S.D.C., N.D. Ill., E.D. (March 28, 1980, not yet reported), that corporations can act personally, but would change the result by clarifying that corporations would remain subject to the substantive provisions of the Act.)

Any employee of an entity exempted by the new section 3(b)(2) would also be exempt from registration. As explained above, these entities would no longer come within the definition of "farm labor contractor." Both such employers and employees, however, would be subject to certain substantive provisions of the Act, as detailed in new section 6(b). Thus, all present substantive requirements will be applied even to those not required to register.

Covered employers and employees remain subject to the investigation, penalty, and procedural provisions of the Act (everything from section 7 to the end). Inasmuch as these entities are not required to obtain certificates of registration, there is no provision for applying the sanctions of section 5(b) to them, i.e., revocation, etc., of registration.

The present section 3(b)(3) is dropped, as employees of entities exempt under proposed section 3(b)(2) are themselves included in that section. One of the tests under current section 3(b)(3) is that an employee, in order to be exempt, is restricted to FLC activities on behalf of his/her employer. Although this restriction is implicit in the proposed section 3(b)(2) in the term "and its employees," it would be useful to add language to this effect. In addition, legislative history is needed to make it clear that a traditional farm labor contractor cannot qualify for the partial exemption of proposed section 3(b)(2) by being placed on one grower's payroll after another.

A new section 3(b)(3) completely exempts any farmer, etc. who does FLC work individually on behalf of an operation owned only by one or more members of his/her immediate family. This generally comports with the DOL interpretation of the current section 3(b)(2) of the law.

A proposed new section 3(b)(4) exempts from coverage as a FLC/FLCE a nonsupervisory employee of an entity exempt under new section 3(b)(3) whose only FLC activity is transporting, who never transports more than two other employees at one time, and who transports only in a properly insured and safe vehicle owned or controlled by the employer. It would appear that the purpose of section 3(b)(4) is to extend to employees engaged in limited transportation of farmworkers the employers' individual section 3(b)(3) exemption (while continuing the individual exemption in section 3(b)(3)). Once the limiting conditions of section 3(b)(4) are exceeded, both the employer and the employee should again be subject to the substantive requirements of the Act as section 3(b)(2) employers and employees. Therefore, we recommend deleting section 3(b)(4) and placing its provisions within section 3(b)(3) with appropriate clarification.

We provide the following clarifying change as one means to accomplish the foregoing purpose.

Replace proposed sections 3(b)(3) and 3(b)(4) with one section 3(b)(3) as follows:

"(3) Any farmer, processor, canner, ginner, packing shed operator or nurseryman, regardless of the legal form of the business operation for whom such activities are performed, if he or she engages in such activity individually on behalf of an operation owned and operated exclusively by him or her or one or more members of his or her immediate family and if all farm labor contractor activity is performed for such operation exclusively by such individual or individuals, except that this exemption shall also apply to an otherwise qualified individual and to any employee of the operation who is not such a qualified individual, if the employee performs no farm labor contractor activities other than transportation of not more than two other such employees at any one time in a vehicle owned or controlled by an exempt individual or operation, which vehicle complies with the requirements of sections 6(b)(2) and (3), except further that if any employee referred to above exceeds the transportation limitation, both the employee and the individual shall be deemed to be an entity or employee of an entity referred to in paragraph (2) of this subsection."

Our understanding is that the purpose of this exemption is to allow employees of family-run agricultural operations to transport up to two workers at a time without subjecting either the employee or the employer to the requirements of the Act. We believe that the language supplied above will accomplish that purpose in a manner which subjects employer and employee to the same requirements. We would note that under this approach, an employer might arrange to transport eight workers in four separate trips of two workers each. If this were done for legitimate business reasons, this would, of course, be permissible; but were this done to purposefully avoid the Act, we assume that the legislative history would make it clear that this would not be permitted.

The application of new sections 3(b)(2) and (5) no longer depends upon FLC activities being performed solely for the named entity. Current section 3(b)(2) requires that a farmer, etc., perform FLC activities *solely* for his or her own operation in order to avail himself or herself of the exemption; new sections 3(b)(2) and 3(b)(5) omit the word *solely*. New section 3(b)(3) exempts an individual who performs FLC activities on behalf of his or her family operation; it also omits *solely*.

As these sections are worded, questions arise as to the treatment of a joint venture between a processor and a grower, a processor who is paid for processing the crop of a grower who retains title to the crop, and a farm, etc., which engages in FLC activities for its own operation and (separately) for the operations of others. The last situation is one which needs to be specifically addressed. A farmer who performs FLC activities for his or her family farm (a farm that never employs more than ten nonfamily members) may claim exemption under section 3(b)(5), even though he or she also furnishes workers to another farm.

The section-by-section analysis of the amendments states, "The phrase 'for its own operation' in [section 3(b)(2)] is intended to make plain that the Act will *continue to apply* (emphasis added) to any farm, processor, cannery, gin, packing shed, or nursery that engages in farm labor contractor activities for the operation of another employer." Since the 9th Circuit in several cases has now clearly defined the term "*solely* for this own operation" (emphasis added), the word "solely" should be reinserted in new sections 3(b)(2) and 3(b)(5) before the phrase "for its own operation" as well as before the phrase "on behalf of an operation" in new section 3(b)(3). We understand that the bill's delegation of the word "solely" is not intended to change the current exemption. If, however, that deletion is intended to address a specific problem of any agricultural sector, that problem should be addressed separately and not in the context of a general exemption.

The amendments fail to address the problem of inconsistency between sections 3(d) and 3(g) as to what constitutes agriculture. We therefore suggest that section 3(g) be amended to read as follows:

"The term 'migrant worker' means an individual who is primarily or on a seasonal or other temporary basis engaged in agricultural employment, as defined in section 3(d) of this Act."

Section 9(a) (criminal penalties), which had been phrased so as to apply only to a FLC or FLCE, is amended in order to specifically include 3(b)(2) entities.

Section 2(a) of the bill should also delete the word "or" before the term "similar organization" in section 3(b)(1) of the Act.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., July 22, 1980.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Human Resources, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our views on S. 2875, a bill cited as the "Farm Labor Contractor Registration Act Amendments of 1980." The Department of Labor is strongly opposed to the bill. S. 2875 exempts from coverage most employees brought within the protection of the Act by the 1974 Amendments and eliminates the protections for a significant number of presently covered farmworkers who were brought within its protection by the original enactment in 1964.

The bill would delete the word 'personally' from section 3(b)(2) of the Farm Contractor Registration Act (FLCRA) and the phrase 'on no more than an incidental basis' from section 3(b)(3) of FLCRA. This would broaden the exemption from coverage under FLCRA for most fixed situs employers and their employees. The bill would also extend the exemption from coverage to agricultural cooperatives and associations and their employees.

The bill adds definitions for the term 'regular employee' and the phrase 'for such person's own operation' and redefines the term 'migrant worker'. These new definitions have the effect of limiting the impact and curtailing the capacity of the Act to provide labor protections.

Through the enactment of FLCRA in 1964, Congress recognized that migrant farmworkers as a group were in need of protection from middlemen and crew leaders who had assumed employer-type authority and responsibility over their employment conditions and opportunities. Accordingly, Congress focused the thrust of FLCRA on the regulation of entities and employers which recruit, solicit, hire, furnish or transport farmworkers. These protections, among others, include safe vehicles for transportation, safe and sanitary housing, prompt and proper payment, full disclosure of working conditions, full disclosure of terms of employment, prohibition against discrimination for exercising their rights, proper recordkeeping, prohibition against the use of undocumented workers, and the prohibition against giving misleading information to farmworkers. In 1974 Congress substantially amended FLCRA to extend the Act's coverage to include significant intrastate activities and to provide more effective enforcement.

The reasons for FLCRA's present coverage of farmworkers and the changes this bill would make to present law are not difficult to understand. Farmworkers are potentially subject to abuses in employment because they lack a permanent relationship with their employer(s). FLCRA appropriately protects these farmworkers who are most vulnerable to potential abuse in employment. Since 1974 the Act has protected workers employed in agriculture regardless of whether they move their domicile. We believe that such protection for these vulnerable workers is proper and should not be altered.

While this Department recognizes that implementation of the 1974 Amendments necessitated interpretations and subsequent judicial decisions which replace an administrative burden upon some fixed situs agricultural employers, we do not believe that this bill contains the proper means of alleviating the situation.

Although S. 2875 would relieve fixed situs operations from the burden of registration, we believe that it would unnecessarily eliminate existing essential protections for their farmworkers. Furthermore, the bill would reduce the general class of presently protected farmworkers. This Department cannot support legislation which would lessen farmworker protections. Because farmworkers continue to be the class of laborers in agriculture which are least able to protect themselves, their current labor protections under the Act must continue.

Not only would the bill expand the category for exempt agricultural employers, it would also exempt traditional farm labor contractors from the Act's obligations. For example, this bill defines a 'regular employee' to include a person "employed on a seasonal or part-time basis" by exempt entities under the Act. Such a definition would permit a traditional farm labor contractor who recruits, hires, solicits and furnishes farmworkers to agricultural employers to be temporarily 'employed' by the exempt entity. Such employment would permit that farm labor contractor to personally circumvent the registration requirements and would have the effect of removing farmworkers supplied to the agricultural entity from the Act's substantive protections.

Recently, Senator Javits and others introduced S. 2789, a bill cited as the "Farm Labor Contractor Act of 1980". On July 11, 1980, we transmitted comments to you supporting S. 2789 with minor modifications. Under that bill, fixed situs agricultural employers would be generally exempted from the registration requirements of FLCRA although they would remain subject to FLCRA's substantive protection requirements. While FLCRA's registration requirements may, indeed, be unnecessary for fixed situs agricultural operations, a simple exemption from those requirements need not dilute farmworker protections. S. 2789 is based on this basic fact and also satisfies the concerns of both agricultural employers and farmworkers.

In summary, we recognize that there is a need for modification of FLCRA to relieve fixed situs agricultural operations which provide workers only for their own operations from unnecessary paperwork burdens under FLCRA. We believe, however, that this can and must be done without denying or diminishing the protections which FLCRA affords to farmworkers in such operations. S. 2875 does not accomplish these goals. This Department is therefore strongly opposed to S. 2875.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. McGOVERN. Mr. President, will the Senator yield to me?

Mr. NELSON. Yes.

Mr. McGOVERN. Mr. President, I think the Senator from Wisconsin has made the pertinent case against this amendment. Senator BOREN was kind enough to call me this morning and tell me he was going to offer this amendment.

I have no quarrel at all with what he is attempting to do, but I do think this is clearly the wrong forum in which to offer this bill. Doubtless there does need to be some administrative changes in the migrant labor program, and I know the Senator from Oklahoma has given a great deal of thought to that problem. But, after all, we are debating a child nutrition bill here today. This is the Nation's school lunch program, the school breakfast program, the special supplemental feeding program for women, infants, and children. What relationship that has to the migrant labor program escapes me.

The Committee on Agriculture has no jurisdiction at all over the migrant labor program. As the Senator from Wisconsin has said, he has not been attempting to delay hearings before his committee, which does have jurisdiction over this program, and has the professional staff and the Senators who are familiar with the program.

So without getting into any argument here today about the merits or the demerits of this program on substantive grounds, I hope that the appeal the Senator from Wisconsin has made will be heard by Senators, that he has moved ahead to schedule hearings and has provided the proper forum for it. His committee clearly is the committee with jurisdiction.

We have got enough complicated provisions in this child nutrition bill without adding to it the complexities of the migrant labor program.

I think we would also run into difficulties with the other body. The House of Representatives has already completed action on the child nutrition bill. When we complete action on the bill now pending before us, hopefully this afternoon, we will be expected to go into conference with them very shortly, and I do not see any way by which the Members of the other body could accept a measure of this kind that is clearly not germane to the legislation now before us.

On that basis, I would like to reinforce what the Senator from Wisconsin has said. I hope the Senator from Oklahoma will not press this amendment right now.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I rise in support of the position that has been enunciated by the distinguished Senator from Wisconsin (Mr. NELSON). I do so somewhat reluctantly by opposing the amendment which has been offered by the Senator from Oklahoma. I join in the request that it either be withdrawn or that, as I understand it, a motion to table will be offered and that it will prevail.

Mr. President, I am voting against Senator BOREN's amendment with a great deal of difficulty. I support the general thrust of the amendment which is aimed at reducing unnecessary governmental regulation. I have been a longstanding supporter of efforts to eliminate excessive Government regulation and will continue to support all appropriate efforts in that regard.

However, this amendment affects an area which is of vital importance to this country and which is definitely not in the category of "excessive governmental regulation." In fact, it involves an area where there is a demonstrated need for greater governmental involvement to protect the legitimate economic interests of the United States. The area which I refer to is the flood of illegal aliens who are taking millions of jobs from American citizens.

The Farm Labor Contractor's Registration Act is the only piece of Federal legislation which contains a prohibition against the recruitment, employment, or utilization of illegal aliens. Although it applies to a very narrow segment of the labor force, it has been effective in preserving jobs for Americans. With a small force of people, the Department of Labor has uncovered thousands of illegal aliens and has assessed civil money penalties which probably discourage the hiring of thousands of additional aliens. At a time when the U.S. economy is sinking further into a recession and unemployment is rising rapidly, I do not believe that it is a wise policy to remove more employers from the scope of this provision. Instead, the responsible action to be taken at this time would be to increase the scope of this prohibition against the hiring of illegal aliens.

Several months ago when the unemployment rate was around 6 percent, Secretary of Labor Ray Marshall, who has worked as a labor economist for 25 years, said that if aliens were removed from the job market, unemployment could be reduced to 3.7 percent. And these new jobs, says Secretary Marshall, would go to the most vulnerable people in our society, minority youth, women and older workers.

The impact on the job market of millions of illegal workers in the United States is substantial. The ready supply of illegal labor depresses wages and working conditions. Because of illegal immigrants' fear of detection and deportation, they are inclined to work for lower wages and under conditions that legal workers would not and should not tolerate. The Department of Labor has recently documented millions of dollars in unpaid wages, for example, owed by unscrupulous employers to illegal immigrants. The end result of this is a huge pool of illegal labor that is used by employers and a corresponding large pool of domestic labor which is priced out of the job market. Unemployed Americans increasingly must depend on taxpayer-supported assistance programs in order to maintain a decent standard of living.

There is a prevailing myth that illegal immigrants only take the jobs which Americans shun. This thesis is untrue. Millions of Americans, primarily minority youth and older workers, hold jobs where the hours are long, pay is low, and work is hard. And many of our unemployed would take any job that pays the minimum wage and is safe. Yet some employers will turn Americans away from jobs they have held for many years to hire easily-exploited illegal immigrants willing to work for lower wages and without complaint.

It is true that some of the jobs taken by illegal immigrants are unattractive to many of us. However, this does not mean that they are not sought by many of our unemployed. These jobs are important to our total job market and serve as a stepping stone to better positions. The Border Research Institute of Trinity University recently released its interim report on "The Importance of the Urban Mexican Worker in Re-evaluating U.S. Immigration Policies." This report states that:

> We would argue that although the urban secondary labor market is characterized by low-paying, dead-end jobs, it is utilized by most non-college youth to encounter their first jobs, and that a highly significant number of married females are employed in this labor market in order to supplement the salaries of working-class husbands, and although averaging only half of their husbands' salary, the augmentation of family income provides the margin by which middle-class living standards are maintained; (4) urban Blacks and Mexican-Americans are becoming increasingly restive in cities like Los Angeles, Chicago, and Houston, as they find themselves forced to compete with illegal migrants for employment. Considering the present downward overall trend of the economy, the expected rise in unemployment due to the application of inflation controls, and the anticipated lower levels of federal and state assistance to most social services, the secondary labor market will become an important factor of subsistence for urban minorities.

The argument that the jobs at the lower end of the employment scale are very much in demand by domestic labor is substantiated by a major new study done by the U.S. Department of Labor. The New York Times, which obtained a copy of the report, states that it indicates unemployment among American youth is much higher than official figures now indicate. However, the most significant finding is that these young people are more than willing to take the type of jobs which many would have us believe only illegal aliens want. The Department of Labor survey found that:

> A majority of the young people would be willing to take low-paying jobs in such areas as fast-food restaurants, cleaning establishments, supermarkets as well as dishwashing. A substantial number of the young people surveyed said they would work at below the minimum wage.

I believe that this survey strongly indicates that our unemployed youth are willing to start at the bottom and work their way up. However, this is impossible if the available jobs are taken by millions of illegal aliens.

Because of these reasons, I must vote against the amendment.

Mr. NELSON. Mr. President, I want to say that I would not wish to leave any impression with anybody in the RECORD or with anybody here on the floor or with the distinguished Senator from Oklahoma (Mr. BOREN) that I am critical of his raising the issue here, because I am not. As a matter of fact, I welcome the opportunity to discuss this issue on the floor because I share the concern of the Members, the 39 sponsors, and the 7 or 8 sponsors of Senator JAVITS' proposal—I share the concern about the way in which this law has been administered and, as a matter of fact, my guess would be that if this measure were administered the way it ought to be administered, about 80 to 85 percent of the complaints would disappear. You might have to make some minor changes.

But for several years—and we amended it in 1974 for that very reason because problems were being raised by the method of administration, and I think it has been a badly administered law, and I think that is too bad, it is unfortunate, and I welcome Senator Boren raising the question so that we can get it out in the open here and so that people over at the Department of Labor will see our concern, and the people who are involved on all sides, the workers and the employers, will see that the Senate is concerned about the way this law is being administered and that we, in fact, intend to do something about it.

As I said to the Senator, our hearings are scheduled, and we will get a markup and we will send a bill out to the floor.

The Senator may or may not agree entirely with it. I, of course, have no way of knowing at this time.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the Senator from North Carolina certainly does not doubt the sincerity nor the intent of the distinguished Senator from Wisconsin (Mr. NELSON). I know that he will do precisely what he has said he will do.

However, the time frame for getting such a bill out of committee and on the floor and over to the House very clearly would work against enactment of any legislation in this regard this year. So this is about the only opportunity we have and the only method that we have to have some effective action taken by Congress this year.

I am not one who disdains nongermane amendments. Some of the best actions taken by Congress have been through nongermane amendments.

I personally hope that the Senate will approve the amendment of the distinguished Senator from Oklahoma (Mr. BOREN), notwithstanding my high regard and respect for the distinguished Senator from Wisconsin (Mr. NELSON).

• Mr. TOWER. Mr. President. I rise to join the distinguished Senator from Oklahoma giving my support to the farm labor contractor registration amendment.

This amendment is designed to make some necessary and rather simple clarifications to the Farm Labor Contractor Registration Act (FLCRA).

While the FLCRA was passed and amended for the purpose of regulating "crew leaders" and preventing abuses sometimes inflicted upon migrant workers by these farm labor contractors, the Department of Labor has almost completely disregarded the intent of Congress, in its administration, and has chosen to apply the act in a manner that is almost unbelievable.

Since the enactment of the 1974 amendments, the Department of Labor has persisted in its efforts to bring virtually all agricultural employment under the jurisdiction of this act, rather than concentrating on the protection of migrants from abuses by irresponsible crew leaders.

I have been contacted by every agricultural association and organization in Texas this past year protesting the Department of Labor interpretations of FLCRA.

Mr. President, I am convinced that the amendment offered by Senator BOREN would correct much of the confusion and misapplication of the act as interpreted by the Department of Labor. Without these changes, many farmers, ranchers, and other agricultural employers will continue to be unduly burdened by Labor Department regulations.

I urge my colleagues to join with Senator BOREN by supporting the FLCRA amendment.●

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I appreciate the remarks that were made by my distinguished colleague from North Carolina. I associate myself with them.

Again, with great respect for the Senator from Wisconsin, the chairman of the subcommittee, I appreciate very much his interest in this subject and his willingness to hold hearings. I also appreciate the comments that have been made by the chairman of the subcommittee and the distinguished ranking member of the Committee on Agriculture, my friend the Senator from South Dakota.

I know that they are sincere, absolutely sincere in what they have said. I know that both of them have been interested for a long time in this subject. Certainly their interest spans a period of time before I ever came to this body and I pay tribute to them for it. I know they are also both Members who are sincerely concerned about agriculture and have been staunch friends of agriculture in this body for a number of years.

This problem has been here a long time. It has not just been here since I introduced the bill. It has been here for several years. It has been strong enough, in terms of concern across the agricultural community of the country, that hearings were held in the House on this matter last fall. And even after the hearings were held in the House last fall, there was still no action forthcoming from the Department of Labor to clean up its act, to end the abuse of regulatory power, to stop the harassment of the agricultural community across the country. They have continued to persist with their same regulations which violate the intent of Congress. They have continued to compile unnecessary regulations on the agricultural community.

We have not had hearings in the Senate, even though these problems have been known since 1974. I believe that was the last time we had hearings on the Senate side on this question. I believe at that time action was taken to provide relief for the custom combiners, who have been drawn in inadvertently, again through the regulations by the Department of Labor.

This is a problem that has persisted in several administrations. So I think that the fact that 40 Members of the Senate, including myself and 39 cosponsors, have joined together to offer this amendment at this time is a sign of the frustration that is being felt across the country; the fact that so many farm organizations, as I indicated in my opening statement, have joined in endorsing this amendment, organizations with literally millions of members in the agricultural community across the country, have said, "We waited long enough. We have had this problem for a number of years. It was first brought to the attention of the Congress some 6 years ago. It was brought again and again with increasing frequency. Hearings were held in the House of Representatives last fall about the problem and still nothing has happened." I feel obligated, because of their concern and because of the frustration and that of my fellow Members of the Senate who joined with me in this amendment, to proceed ahead.

I do so, as the Senator from North Carolina has indicated, certainly with no disrespect to the committee system or to my distinguished colleagues who have raised these concerns. I understand what they are saying. And I am a strong supporter of the committee process. Normally I would agree.

One of the problems we have all across the country—and it is not just in agriculture, it is in many areas of endeavor—cuts across a broad cross section of our citizenry. When people have a problem with Government, particularly when they have a problem of overregulation, of the profession or business in which they themselves are involved, they seek relief and they seek relief and they wait and they wait and they hope that something will happen and the wheels of Government tend to grind very, very slowly. It is almost like saying to a drowning man "Wait, we will study this. We will look this over and someday we will get around to acting."

I think what the agricultural community of the country is saying is that we have waited just as long as we can wait. And I think that is what my 39 colleagues who have joined with me are saying.

I know my distinguished colleague from Wisconsin, my colleague from South Dakota are among the most effective Members of this body. I know that there are issues that they feel very strongly about. And having observed them and many other Members of the Senate in action, I have seen time and time again when a vehicle comes along which holds out the opportunity for relief from abuse which Members of the Senate have detected, that there certainly, time and time again, has been action to take advantage of that vehicle to get relief.

As the Senator from North Carolina has indicated, I do not know when there will be another opportunity this year. This is a bill on which action must be taken by this Congress. It is a bill in which action must be taken by the President. Candidly, it is because it is an important bill and one which will demand the consideration of the Congress that it becomes a potential vehicle for relief of those agricultural communities who are suffering from overregulation.

It is for that reason, again being perfectly candid, that we have chosen this time and this place to make an effort to provide for the relief of those in agriculture who have been abused by the regulatory authority.

So with all due respect—and again I appreciate very much the comments that have been made by my colleagues and I do want them to know that I have very seriously considered their feelings, along with the feelings of those in the agricultural community and the 39 other Senators who have joined with me in offering this amendment and in introducing the original bill.

Mr. President, I just must say that on balance I feel compelled to proceed ahead. This abuse has gone on long enough and I think it is time for us to demonstrate that the Government of the United States can act with speed when the situation demands it, that we can look at the facts in this deliberative body on the floor of the Senate and that we can make a change that is long overdue.

● Mr. LUGAR. Mr. President, I wish to endorse strongly these clarifying amendments to the Farm Labor Contractors Act (FLCRA). These amendments should prevent the Department of Labor (DOL) from continuing to work an unnecessary regulatory burden on farmers and other agricultural businessmen.

The intent of Congress in enacting FLCRA was to protect traditional migrant work crews from unscrupulous labor contractors. Even though FLCRA specifically excludes farmers, processors, canners, packing shed operators, and nurserymen from the definition of "Farm Labor Contractor," DOL has chosen to interpret the language in such a way as to nullify the exemption to business enterprises operating as a corporation. In addition, DOL's interpretation of migrant worker includes many people who are not regularly considered migrant workers. The fact is that DOL interprets FLCRA in such a way that many agricultural businesses and many agricultural employees are subject to FLCRA, when neither the employers nor the employees would be considered a farm labor contractor or migrant worker by any reasonable person.

The Department of Labor has been imposing this undue regulatory burden on agricultural employers and employees for much too long. In 1978, I worked with several of my colleagues here in the Senate to obtain a specific exemption from FLCRA for high school students detasseling and roguing hybrid seed corn and grain sorghum during their summer vacations. I was astonished to learn at that time that DOL considered these students migrant workers.

Late last year, 52 Senators signed a letter to the Secretary of Labor expressing their concern about the administration of FLCRA. The Secretary of Labor's reply explained some possible adjustments in administration, but there has been no basic change in DOL's administration of FLCRA.

It seems that the only way to reduce this unnecessary regulatory burden and to assure that the intent of Congress is carried out is to enact these very simple specific amendments.

This is another classic case of Federal bureaucrats extending their authority beyond all reasonable limits.●

Mr. NELSON. Will the Senator yield?

Mr. BOREN. I am happy to yield.

Mr. NELSON. Just for purposes of the record, I would like to say to the Senator from Oklahoma, this problem has not been around visible, at least to our staff in our subcommittee, until about 18 months ago. At that time we started getting the complaints that prompted 52 Senators only last October to write to the Secretary.

I then asked the subcommittee staff to investigate the administration of the act. We started 18 months ago when we first started getting these complaints.

Then I had the subcommittee proceed to investigate the administration of the act.

Then an informal group of staff of the Labor Committee, the subcommittee and the full committee, entered into discussions with the National Council of Agricultural Employers, the American Farm Bureau Federation, the Florida Citrus Industry, the National Food Processors Association, the American Association of Nurserymen, the National Cotton Council, the United Farm Workers, and the Migrant Legal Action Program.

Along with staff, these representative groups proceeded for some period of time and met in great depth.

They almost reached an agreement, I understand, but, finally, they did not quite reach an agreement, so it broke down.

I am advised by staff that these negotiations broke down in May of this year. So there is hardly any way we could proceed any more expeditiously than we have.

Once these negotiations broke down, Senator Javits designed legislation to address the problems raised here, and he was joined in that legislation, as cosponsors, by the chairman of the committee, Mr. Williams, myself, Mr. Metzenbaum, and others.

That legislation was then drafted, I think expeditiously, too, when you consider that the negotiations on which we were hoping to reach an agreement between all parties broke down in May and the legislation designed by the Senator from New York was introduced on June 4. The legislation by the distinguished Senator from Oklahoma was introduced on June 24. Then I, as chairman of the committee, announced hearings on this legislation within a 30-day period from the time Senator Boren introduced his legislation.

I do not think there is any way anybody here on the floor would suggest for a moment that we did not act as expeditiously as is practicable. We were out of session for an 8- or 10-day period there. I do not know of very many times when I have introduced legislation and had the chairman of the committee schedule my legislation within 30 days. I would sure be delighted if that happened to me once in a while.

But we did that because we considered the problem important.

To try to legislate without hearings, to try to do that on the floor, on a very complicated matter like this, is very dangerous business.

Even though I cosponsored the legislation of Senator Javits and read it, I would be very reluctant to vote for it without having hearings, because it is in the hearing process, with experts testifying and representing all viewpoints, that weaknesses in legislation are disclosed.

That is the way sound legislation is developed.

Every time I have looked at legislation around here which turned out to be a disaster, it was either hurriedly considered or offered as an amendment on the floor, as happens so often, and adopted with consequences that nobody intended, that nobody anticipated, and that nobody would have supported if they had anticipated it.

I would leave the Senator by saying that I am moving as expeditiously as the whole Senate process will allow us. Maybe we can or cannot get it passed. I simply say to the Senator, I would doubt very much whether the House of Representatives is going to take an amendment on the nutrition bill and accept it in conference. I surely would not. I do not think the Senator from Oklahoma, if he were chairman of the committee in the other house, and they came over with a totally nongermane amendment which had never been heard about, about which the chairman of the committee had not scheduled hearings, would accept the amendment and send it to the President. I do not think any legislator here would seriously recommend that as a rational process for legislation in this body or any other body.

Mr. BOREN. Mr. President, I certainly do not mean disrespect to my colleague from Wisconsin and the committee process proceeding with this amendment. I certainly want to make it clear for the record that I have never suggested, nor would I suggest, that the Senator from Wisconsin has in any way been dilatory or has postponed in any way consideration of the legislation which I have introduced. That is not the case. I appreciate his courtesy in being willing to schedule hearings as rapidly as he has scheduled them.

I want to make it clear that I feel he has operated in good faith in every way. I would never say otherwise. I appreciate the willingness on his part to consider this problem.

Mr. President, again, in all candor I would have to say that we could argue about whether it has been 6 years or 18 months since the problem surfaced. I just say either way it has been too long. It is time for us to take action.

It is true that negotiations were held between many of the agricultural organizations and others involved in this legislation, but it is also true that those negotiations broke down, not on matters of detail with regard to the bill which has since been offered by the Senator from New York, but really in terms of differences in philosophy. The approach is totally different.

The legislation offered by the Senator from New York actually expands in some way the definition of farm labor contractor. It exempts organizations of organized labor from any kind of coverage. It does not deal with this thorny problem of the definition of migrant employee, migrant worker.

There are many areas of philosophical disagreement between those in the agricultural community and those who have argued on the other side of this matter.

I would doubt that negotiations as philosophically apart as the two sides started could succeed on this matter.

Mr. President, I would say that this matter if it was in the court would be ripe for adjudication. The lines have been drawn. There is a difference of philosophy.

There is a problem that exists, and there are two different schools of thought as to how to approach the problem. I think it is perfectly right for the Senate then to proceed and work its will. The majority of this body may well agree with the Senator from Wisconsin. If that is the case, I would not quarrel with the decision of this body. I hope they will not agree with him. I hope they will support the amendment because I believe the changes we are suggesting are reasonable and right.

I would say, however, that I think it is time for us to get on with a decision on this matter. Hearings have been held on it in the House, on the general problem. Long negotiations have taken place. A good deal of staff attention as well as attention of the members involved in the discussion has been focused on it. I think it is proper for us to go ahead and take care of the problem and for the Senate to work its will.

(Mr. MITCHELL assumed the chair.)

Mr. DOLE. Will the Senator yield?

Mr. BOREN. I am happy to yield.

Mr. DOLE. Mr. President, the Senator from Kansas supports the amendment to the Farm Labor Contractor Registration Act (FLCRA) by the Senator from Oklahoma (Mr. Boren).

EARLIER AMENDMENT

In 1976, the Senator from Kansas sponsored an amendment to this same act. The purpose of that amendment, which was passed and enacted, was to clarify that custom combine operators, custom hay harvesters, and sheep shearers were not covered by this law.

At that time, we received numerous letters and telephone calls from Kansas and other States about the implementation by the Department of Labor of the Farm Labor Contractor Registration Act. Those who contacted me were complaining about a move by the Labor Department to regulate custom cutters and sheep shearers under the act. People said that the application of this law to custom cutters and sheep shearers was inappropriate. They said it resulted in a great deal of unnecessary red tape for these traditional farm operations.

We developed an amendment to exclude custom combine operators, hay harvesters and sheep shearers from FLCRA. During the debate on that amendment, I placed in the CONGRESSIONAL RECORD a list of 25 different forms and statements that were required under the act. It is possible there were even more statements or forms required that we were not aware of at that time.

When we inquired of the Department of Labor in 1976 as to why it was taking the action, we found that the Department was not doing it because of any particular need or problem that had been observed. There had been no determination that custom cutters or sheep shearers were abusing migrant workers. The Department had simply determined that the technical wording of the definition of migrant worker and the definition of farm labor contractor could be construed to cover custom cutters and sheep shearers.

Many of my colleagues from the Midwest may recall the controversy that arose over the Labor Department's application of FLCRA in that instance.

ANALOGOUS SITUATION

I raise the example of the earlier amendment because it appears the situation today is very analogous to the earlier problem.

As the situation has been presented to me, the Labor Department is now trying to extend the act to cover virtually all agricultural producers and processors or their employees. The Department is also interpreting the term migrant worker to mean any employee in agriculture. I have in my hand a page from the Labor Department's field operations handbook which provided the interpretation of "migrant worker." According to this, "Any employee who is performing agricultural work is a migrant worker for purposes of the FLCRA." It is my understanding that the act was passed in order to protect migrant workers from the abuses of unscrupulous crew leaders or crew pushers.

It just seems to this Senator that if we pass a law to regulate crew leaders and to protect migrant workers, then the act should be interpreted to mean exactly that. It should not be interpreted to cover all agricultural employees nor to cover virtually all agricultural employers.

The Boren amendment would clarify the act so that it will apply to migrant workers and crew leaders. For that reason, I support its adoption.

Mr. President, I think all of us who have offered amendments on the floor on which there have not been prior hearings. I think every Senator here has done that, and, if not, they will at some time. I can recall in 1976 when I sponsored an amendment because they wanted to include custom combine operators and sheep shearers within the definition of this act. They had to fill out about 25 forms. That was done.

I just believe that the Senator from Oklahoma indicated correctly that, certainly, the Senator from Wisconsin is a friend of the farmer and will move expeditiously. But I am not certain that there can be any better time to vote on it than today. We can find out how much support there is for the concept. If there is enough support, even though it may not survive the conference, it is going to be very helpful to the Senator from Wisconsin to know that 55 or 60 Senators might support his approach. It would be very helpful in the hearings to know there is that much support.

We may not even make it to conference. Well, we shall make it to conference at least, but we may not make it back. But it will be at least a strong signal to the Senate that we feel that the present provisions and regulations or whatever go too far.

Mr. President, I hope we can vote on the amendment. I know some will be opposed to it and some may be opposed to the amendment finally reported when it is reported by the Senator from Wisconsin. I applaud the distinguished Senator from Oklahoma for his effort.

Mr. PRYOR. Will the Senator from Kansas yield to me?

Mr. DOLE. I yield the floor.

Mr. PRYOR. Mr. President, I am proud to yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Tom Little of my staff be granted the privilege of the floor during consideration and voting on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I compliment the Senator from Oklahoma for bringing this matter to the attention of this body at this time. I think it is a matter for which a remedy is needed. As the distinguished Senator from Oklahoma just mentioned, the way we have to adjudicate matters like this is to legislate on them, to make a decision and to establish congressional intent on legislation such as this.

I am pleased to join the Senator from Oklahoma in cosponsoring S. 2875, which seeks to assure that the Secretary of Labor administers the Farm Labor Contractor Registration Act in a manner consistent with congressional intent.

Mr. President, in order that the purpose of the Act is accomplished, it is absolutely imperative that the Department of Labor direct its energies to the abuses of unscrupulous crew leaders and farm labor contractors rather than adding one more—I must say yet one more—regulatory burden upon agriculture. With the limited resources of the Department of Labor directed at this time to correction of the real threat to farm workers, agriculture can again become the productive sector of our economy—an agriculture sector which is the envy of the world.

I am proud to join the Senator from Oklahoma in this effort and I yield back my time.

I am glad to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I want the floor in my own right.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I am impressed by the report I have had of this debate and what I have heard of it since I have been here. I might explain to my colleague (Mr. BOREN) that I was in a House-Senate conference on the higher education bill, which, just this very minute, finished the matter I was there on. I apologize for not being here to hear the Senator myself.

I have been impressed by two points that have been made so far, Mr. President. One is that the greatest deliberative body in the world legislates better if it does not know the facts. The other is that this matter will in some way be locked up if we vote today.

Neither is the fact. All that Senator NELSON is asking for is that we learn more than we know now, and that a bill will come to the Senate floor. The Senate will then decide based on the evidence of what is going to be the result of either bill.

Second, when that bill emerges, it will come here. Our attention will then be concentrated both upon the record and upon our own views of what the committee has produced, and exactly the same thing which is sought to be done now can be done then. But then we will know; at least we will have the evidence before us in the only way that evidence can be gotten, and that is by conflicting points of view—opposing briefs, as we lawyers say.

I think the matter should very definitely be judged on the basis that we are really the greatest deliberative body in the world if we give ourselves an opportunity to find out. As Senator DOLE himself has said, we are a friend of the farmer—and I feel I am, too. The farmers' views will have every consideration.

I have been here for some time. It took about 32 years from the Great Depression to correct what was one of the most shameful episodes in American life in terms of worker employment, of the migrant farm laborer who was tremendously abused and held in peonage.

The stories which we heard respecting crew leaders, at the time we passed the first bill, were almost unbelievable in this country, that people could literally be held by force over long periods of time in the most abominable conditions, without pay, in a state of peonage.

With that kind of background, I shall be the first to agree to reasonable amendments. That is why I put the bill in that I did, because I do have a solicitude for this act working and not breaking down.

We then found that some corrections were needed, I tried to bring the pendulum back to the middle. Now Senator BOREN says it is not brought back to the middle. OK. We shall have plenty of opportunity to argue that out and try to bring it back to the middle, to where it will protect the migrant worker, protect the farmer, who is a human being and means well, and at the same time, eliminate as much paperwork and unnecessary regulation as we feel should be eliminated.

It seems to me, Mr. President, that is an infinitely more rational and preferable method than just to storm ahead now before a hearing is held. We have to hear others, including the worker, on the experience under this law. So, Mr. President, I believe that we have suggested a reasonable and intelligent way in which to proceed.

Further, we have the chairman of the subcommittee (Mr. NELSON), we have the chairman of the full committee (Mr. WILLIAMS), and Senator SCHWEIKER as the ranking member. I believe that in the course of the debate, we can give the Senate assurance as to the hearing and report on this bill so that the Senate will have a feeling of confidence that, within a very proximate period of time, a bill will be reported back. Then the Senate, with knowledge of the facts, may work its will. That will be a rational, intelligent just way, considering the wrongs which we have sought to right and the wrongs which may be perpetuated if we do not right them now.

I am very much impressed with the catalog of what the Boren amendment will do and the loopholes which it will open up in this situation.

For one, it has already been pointed out, I think very clearly, that we will be repealing the only Federal prohibition against the knowing—that word is very important—employment of illegal or undocumented alien workers. And, we would be creating a giant loophole through which any farm labor contractor could evade the act merely by calling himself a part-time or seasonal employee.

We would be repealing existing protections for all workers, both migrant and seasonal, in canneries, cotton gins, packing sheds, and food processing operations.

Those are but some examples, Mr. President, of why we should not legislate in haste and regret it later.

Mr. President, I hope there will be a way in which the committee will give assurance to the Senate that within a very proximate period of time we will have dealt with this matter and report a bill to the Senate.

That, it seems to me, is an assurance the Senate ought to have, and an assurance which many proponents of this amendment ought to have, and is entirely consistent with my view that we ought to legislate with knowledge instead of shooting blind, which is what we are asked to do by this particular amendment. It is what I would be asking the Senate to do if I moved my amendment on this bill, which I could do just as well as Senator BOREN, but which I have, of course, not done because I feel it proper that we get the facts, and that is what Senator NELSON proposes to do.

The Farm Labor Contractor Registration Act is an important statute—indeed the only statute—regulating the activities of those who use or supply migrant workers for seasonal agricultural employment. The history of abuses to which migrant farm laborers have been subjected, the unhealthy conditions in which they have been forced to live and the intolerable conditions under which they have had to work led Congress to enact this law in 1964, and to amend it in 1974. The amendments offered by the Senator from Oklahoma purport to deal with certain problems in the administration and enforcement of the act. I agree there is a need to be addressed. However, the effect of the amendments now before us would be to weaken substantially the protections of the act, and to exempt entirely large groups of employers from its coverage.

Although the roving independent farm labor contractor supplies hundreds of thousands of workers to farm employers every year, he is but an agent in a larger system of harvest labor recruitment and supply. Before FLCRA was enacted, itinerant crewleaders frequently exploited both the workers they recruited and the employers for whom they did the recruiting.

The 1963 act sought to control the abusive practices of contractors by subjecting them to registration with the Department of Labor. However, sufficient resources were not provided to the Department at that time to enforce substantive violations of the law. Thus the only effective portion of the act was its registration provisions. Registration itself posed a substantial administrative burden on those who were required to register. Each contractor was fingerprinted, and subjected to an FBI check for past convictions for certain offenses. Prior to engaging in farm labor contracting, each contractor then had to show that the housing used to shelter the workers complied with applicable State and Federal codes, and that the transportation offered to the workers was safe and insured at policy limits required by the law.

The burdens imposed on the contractor did not stop at mere registration. Each person registered under the act must carry a farm labor contractor registration card, as must his employees. These cards must be displayed to workers when the contractor or his employees recruit them or hire them. If they transport workers, they must also show workers a transportation authorization card; and if they "house" workers, they must also show workers a housing authorization card. Violation of any of these registration and related provisions subject a contractor to civil money penalties levied by the Department of Labor or to criminal prosecution. To facilitate legal proceedings, each farm labor contractor was required to name the Secretary of Labor as his agent for service of process.

In 1974, after the act had been operating for a decade, continuing abuses by contractors and others were brought to the attention of the Congress. At least a part of the cause was to be found in the fact that in 1974 more migrant seasonal farmworkers were being recruited, hired, transported, and "housed" by stationary farm employers and their employees than by registered farm labor contractors.

So we adopted amendments intended to bring large numbers of formerly exempt independent farm labor contractors into the act, and also to bring within its scope a majority of farm employers and their employees. By expanding the scope of the act as we did, I hoped we would succeed in attacking a long-standing and intractable problem.

Mr. President, 6 years after the passage of the 1974 amendments, stationary farm employers have returned to the Senate asking that they and their employees be exempted from the registration provisions of the law. They argue that, as applied to them, registration and the accompanying requirements I have described are unduly burdensome and costly.

I and other members of the Labor and Human Resources Committee have been attentive and sympathetic to their complaints. Indeed, the legislation I introduced on June 4 is the product of intensive discussions and negotiations with representatives of agricultural employers. I believe that many of them agree that this bill largely answers their major—and legitimate—complaints. But others apparently want no part of a reasonable compromise and expect that, as to them, the act should effectively be repealed. That would be the result of the amendment offered by the Senator from Oklahoma, which they support.

It should be understood that this amendment goes far beyond the realm of administrative relief. The basic substantive requirements of the act itself would be nullified.

Its proponents suggest that it is well crafted to restore original congressional intent to a law that has been maladministered by the Department of Labor. In fact, this bill does nothing less than repeal the law in its entirety, at least as it applies to a substantial segment of employers. The amendment capitalizes on the complexities of the Farm Labor Contractor Registration Act to make seemingly innocuous, but ultimately devastating, amendments to its key definitional and coverage provisions. A cursory review of the amendments may lead one to believe they do no more than their proponents say. But a careful analysis of these amendments reveals that they accomplish much more than their stated purpose.

In the simplest terms, if this measure is enacted it would result in a total exemption from liability for virtually every farm employer in the United States. Moreover, because its hidden intent is to end all Federal control over farm labor contracting, it creates enough loopholes in the law to enable even the most violent and unscrupulous of the classic, itinerant crewleaders to evade detection and prosecution. The effective repeal of a law which experience shows is still very much needed will be an unconscionable act that can only bring continued hardships for the poorest of the working poor.

First, since the 1974 amendments were passed, it has been argued that Congress never intended to cover stationary employers as farm labor contractors under the act. In fact, the 1963 act clearly provides that farmers, canners, ginners, processors, packing shed operation, and nurserymen were covered if they did not meet the criteria in the section 3(b)(2) exemption for employers who recruit migrant workers solely for themselves. In 1974, when we enacted certain limitations to the exemption sections for these employers and their full-time or regular employees, we also expanded the definition of "agricultural employment" to include virtually every migrant and seasonal worker engaged in the farm industries involved. It was precisely our intent in 1974 to regulate most employers who engaged in the same activities as the classic transient crewleader.

Employers, of course, would prefer to turn back the clock to pre-1963 days when no Federal regulation of their employment activities concerning migrant and seasonal workers was on the books. Thus, they propose, among other things, to delete the limitations we added in 1974. They accomplish this in several indirect ways. Very simply, the 1974 amendments to section 3(b)(2) mean that an agricultural employer can be exempt if he "personally" does the contracting and that he does it solely for his own operation. His employees, such as a foreman, can be exempt under section 3(b)(3) if they perform farm labor contracting on "no more than an incidental basis" for that sole employer's operation.

We added the "personally" requirement to the act for two reasons. First, to afford a complete exemption to the small farmer who has always done his own farm labor contracting, and for whom it was thought no likelihood of widespread worker abuse existed. Because the good name of his business was on the line when he recruited or hired workers, we felt he would be careful not to mislead them about the terms of conditions of employment and about the housing and the transportation made available to them. Second, we adopted this test as a way to define what we regarded as a narrow exemption for the small family farmer. This approach had the advantage of using the practical limits of one person's own activities as a basis for exemption, but without having to specify arbitrarily the numbers of workers involved or the amount of time the person spent performing these activities.

Building on that basis for exemption, we then drafted language that would permit full-time or regular employees of the employer, such as a foreman, also to gain an exemption if they engaged in farm labor contracting on less than a regular recurring basis. Because of the burdensome registration features of the act, we wanted it to be very clear that we never intended an employee whose major job was not recruit, hire, transport, or furnish workers to register under the law.

Since 1974, these exemptions for employers and employees have proved to be a major source of controversy. By exempting employers who "personally" engage in farm labor contracting activities, the controversy has centered around those entities which have adopted a corporate form of business organization. The Department of Labor, which in my judgment correctly interpreted our intent as it relates to the scope of this particular exemption, held that "if a farmer is a corporation, the term 'personally' may apply if the corporation is under the effective control of an individual whose authority is equivalent to that of a sole proprietor, and if that individual acts in person with respect to the farm labor contracting activities for the corporation."

It is my belief that the Department made a good faith effort to supply a reasonable interpretation of this exemption in the case of incorporated employers. Unfortunately, the mere fact that an employer is a corporation has led to anomalies in enforcement of the law and application of its registration provisions. In a recent decision of the U.S. Court of Appeals for the Ninth Circuit, in Marshall against Green Goddess Avocado Corporation, the court held that corporations could qualify under the "personally" exemption, if they meet the "solely for own operation" test also present in coverage section 3(b)(2). This decision is consistent with the well-known legal axiom that a corporation can act only through its employees, but the court noted that allowing corporations access to the exemption in practice meant that it could act "personally" through its employees.

In the second part of its ruling the court implied that this decision might create an entirely different set of anomalies which, if unaddressed, could lead to widespread evasion of the act by anyone called an "employee" of an otherwise exempt corporation. The amendments sponsored by the Senator from Oklahoma stand this problem on its head by arguing that it is a logical absurdity to exempt the corporation and not to exempt all of its employees. This reasoning overlooks the explicit concerns of the ninth circuit that the current law's limitations on the level and extent of farm labor contracting performed by an exempt employee were necessary to preclude the employment of the classic itinerant crewleader as an "employee."

Thus, if we look at the changes that are made by the Senator's amendments to the "personally" exemption for employers and to the "incidental basis" language for employees, we find that these qualifying terms are both deleted from the act. Moreover, these amendments go even further and define a "regular" employee under the act to include anyone who is either part-time or seasonal. Thus, as rewritten by these amendments, any full-time, part-time, or seasonal employee of a farm employer named in the act, even the unscrupulous or violent independent crewleader masquerading as an employee can avail himself of an exemption under the law and totally evade any substantive regulation of his crewleading activities.

A current example of the ease with which even the notorious crewleader may pass himself off as a full-time or regular employee is illustrated by the disturbing story of Marcos Portalatin, who was recently convicted in New Jersey State Court of stabbing a legal services attorney attempting to recover wages for several workers who were being held in near peonage conditions. Although Mr. Portalatin had been a crewleader for some 20 years, he was at the time claiming that he had no need to register under the law since he was a full-time corporate employee of Sorbello Farms, Inc.

The workers represented by the attorney claimed they were forced to work as many as 80 hours a week, for which some of them received as little as one penny in pay. The crewleader, according to the workers' statements to the attorney, often beat them in the fields to compel them to work at a breakneck pace.

Sometimes, he drove his pickup truck behind the workers or made other threats of physical violence to make them pick faster. They were denied the right to leave the premises when they wished, and to insure that they did not, the crewleader often refused to pay them their due wages.

When several finally did manage to escape and make their way to the legal aid offices, the attorney attempted first to recover their money by telephone. When contacted, the crewleader/employee informed the attorney that he would make the pay available to the attorney if he would come out to the labor camp and get it. When the attorney arrived, he immediately found himself under attack and was stabbed repeatedly in the face and stomach.

Fortunately, he escaped with his life. But future workers and attorneys may not be so lucky if this vastly broadened provision becomes law.

A second change proposed by the Senator from Oklahoma is one which would extend an exemption from the act to most agricultural nonprofit associations and cooperatives. These entities have been held to be acting as middlemen farm labor contractors when they supply migrants for the harvest of crops on different individual growers' farms. The basis for these decisions is the "solely for own operation" test that is part of the "personal" exemption for employers. The courts have ruled that if such an operation does not possess lawful title to the crops, it is not acting solely for its own operation when migrant workers are furnished to the owners' farm for harvest work.

The amendments would allow a complete exemption for all such cooperatives and nonprofit agricultural associations and their employees. The latter exemption for their employees presents the same problems that I have already discussed. To repeat, to grant a blanket exemption to the employees of an agricultural cooperative or nonprofit association is to open the door to the wholesale employment of the classic crewleader as an "employee." This we cannot permit.

All too often these entities have been shown to be mere corporate shells established to evade compliance by submerging the labor contracting operations of as many as 50 individual growers into a single corporate operation. Clearly, because the number of workers that is recruited and hired is so much larger than the crew of the classic independent labor contractor, the potential for abuse is correspondingly greater. In fact, experience has shown that the abuses associated with these farm employers have resulted in injury to many hundreds of workers.

A third change made by these amendments is to redefine the term "agricultural employment" which the Congress in 1974 quite deliberately expanded to include most agricultural employers' operations. As redefined, agricultural employment would no longer include any work engaged in by migrant and seasonal workers for canners, cotton ginners, or food processing or packing shed operators. This particular change is being justified by the totally spurious argument that these employers do not subject their employees to abuses for which the Farm Labor Contractor Registration Act is designed to prevent. However, there are numerous examples of abuse associated with these employers, abuses for which most State laws provide no effective or appropriate remedy, and which most definitely involve migrant workers.

One such example is also worth relating briefly. In 1976, the Owatonna Canning Co., Inc., of Owatonna, Minn., recruited hundreds of migrant workers to travel from Texas to Minnesota to work in their asparagus fields. Among other promises made to the workers which later proved to be false, the employer promised to pay the workers adequately at or above the minimum wage. As is often the case in the other farm industries intended to be exempted by this amendment, these workers found that their pay was not only less than they were promised, but it was less than the Federal minimum wage.

Owatonna Canning Co. was subsequently sued by a large class of the adversely affected workers, who alleged that the company violated not only the Farm Labor Contractor Registration Act but also the Fair Labor Standards Act. In depositions taken by the worker/plaintiff's attorneys this past spring, Mr. Wayne Olmstead, the vice president of Owatonna Canning Co., admitted that he had changed many of these workers' daily pay records kept by the company timekeepers.

Although Mr. Olmstead claimed these changes were merely "corrections," one of the company's crew leaders admitted in deposition that the purpose was to reduce workers' hours so the company would not have to pay the minimum wage. Of the 600 approximate migrant farmworker plaintiffs, 383 were subjected to these so-called "corrections" and most were subjected to multiple reductions of hours for many days and weeks throughout the season.

Mr. President, I think it is highly relevent that a corporation being represented by the very associations that have come to the Congress asking for wholesale exemptions has apparently engaged in these types of activities. I will resist any suggestion that this case is an isolated example, for it most definitely is not.

In another recent example, Griffin and Brand, Inc., a large Texas agribusiness corporation, was found to have violated FLCRA and minimum wage law during 1975, 1976 and 1977 by hiring and then underpaying more than 200 undocumented alien farmworkers. The court awarded the workers more than $85,000 in unpaid wages. Given the plethora of abuses which occur in these farm industries, I think that to relieve them of registration is as far as they can reasonably expect.

Finally, these amendments would also redefine the term "migrant worker." This is a subject that was raised during the course of the multiparty discussions undertaken by the committee this spring. It was agreed by all the parties that, with respect to the hiring of local housewives and college students in canneries, gins, packing sheds and food processing plants, the current law's definition should exclude these workers. Employers had argued that they employed large numbers of such workers and all parties agreed to attempt to define them for purposes of this act.

The language proposed in the amendments of the Senator from Oklahoma differs substantially from the language that was agreed to during the negotiation session. It suffers from a number of severe problems.

For example, the chief beneficiary of the changed language would be the employer who wishes to operate a "day-haul" operation without any substantive protections for the workers involved. As some of my colleagues may remember, the "day-haul" operation, whether intrastate or interstate, has been implicated in many of the abuses for which the FLCRA was enacted. These operations must be covered. The proposed "migrant worker" language agreed to in the joint employer-worker negotiation session and contained in my bill preserves continued coverage of this operation, but would exempt the type of seasonal in-plant local employees that stationary employers are concerned about.

In the interest of fostering a compromise between the two bills and laying to rest any suggestion that S. 2789 represents only one extreme on a broad spectrum of concern about this law, the language I propose meets the legitimate concerns of employers who wish to hire local housewives and college students for seasonal in-plant agricultural employment. It simply says, and we will have to put this into the appropriate section of the act, that any person who is not required to be away from his permanent residence overnight, who is not transported or housed as an incident of his employment and who is recruited or hired for temporary or other seasonal employment solely within a gin, cannery, packing shed or food processing plant shall not be considered a "migrant" worker under the act.

In conclusion, Mr. President, I would like to briefly summarize how my bill fully meets the legitimate concerns of employers without exposing migrant and seasonal workers to the abuses for which FLCRA was enacted. I think this measure deserves the support of the Senate, and I think that I and the committee have shown considerable interest in accommodating the concerns of the Senators on the other side of this issue. I would hope that we could achieve some mutual understanding about our differing interests and resolve to compromise where we can.

First, we have created two total exemptions from the law for small family farmers. In one of them we have adopted the implicit suggestion of the Federal District Court for the Northern District of Illinois, in Espinoza, et al., against Stokely Van Camp, Inc., that Congress replace the word "personally" with the word "individually" if it means to exempt a farmer or other farm employer who personally and individually engages in farm labor contracting activity on behalf of his own operation. S. 2789 preserves the existing exemption that has always been intended for individuals who personally performed these activities by inserting the word "individually" in that new exemption.

In addition, we have provided a new small family farm exemption for those farm operations which are family-owned and operated and which do not employ on any single day more than 10 non-family employees for agricultural labor. This additional total exemption was requested by one of the major farm associations and seems to us to be defensible and reasonable in narrowly expanding the current small-family farmer exemption.

These amendments were adopted as a means of eliminating the employer/employee farm labor contracting exemptions which have been the subject of so much litigation and administrative confusion.

The first of these exemptions also eliminates coverage distinctions that were being made between often identical operations that chose to adopt a different legal form of business organization. It makes plain that an individual who is an owner and operator of a family operation and who does farm labor contracting himself for his family business is totally exempt.

The second of these amendments was adopted to give a complete exemption to the small family farm employer who wishes to use foreman or other employees to do these things so long as it is truly a small operation. As I just indicated, we adopted this new small family farm exemption largely upon the suggestion of the large membership farm organizations.

For every other stationary farm employer who is not exempt, but who is engaged in the recruitment, hiring, transporting, or "housing" of farmworkers, S. 2789 creates a new category of "limited" coverage. When these stationary farm employers and their employees are engaged in the hiring, soliciting, recruiting, furnishing and transporting of farmworkers, they are exempted from the basic requirements of the act which relate to registration and its affirmative duties. In other words, no farm employer or his employee will ever again have to register when they engage in these activities.

While being relieved of registration duty, the "limited exemption" employers and their employees will still be required to meet the substantive provisions of the law. Without elaborating on these provisions, they are intended to attack the all-too-familiar abuses that these workers must often experience in their daily work lives, as well as to prohibit the knowing utilization of an undocumented alien worker. They will pose no significant problem or burden for the responsible employer for he surely already complies with them.

Mr. President, I believe that the bill I introduced, S. 2789, improves the present law substantially and provides necessary administrative relief to stationary employers without cutting back on the Farm Labor Contractor Registration Act's substantive protection for farmworkers.

Mr. President, for all of those reasons, I hope that at this time, without prejudice, that the amendment proposed will be rejected.

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I rise to support this amendment.

I wish to set the record straight in saying this does not eliminate the righting of wrongs that were done years ago, and that it does not permit the exception of foreign migrant workers from both registering and fingerprinting and complying to the other things that have been required both for their protection, and other reasons.

What it does do is provide for those folks back home, outside Washington, D.C., out on the farm and the ranch, doing the work, obeying laws, paying the bills, to be permitted to operate without having big Government saddled on his back with about 6 feet of rules and regulations, which amounts to one thing that has already started. It started in Iowa earlier this summer, will continue from here on.

They do not have time to wait for a committee to meet. We have corn to detassle. Lots of people will go out for that, to save money to go to colleges and schools, as they have for many years.

But there are companies not hiring them if they have to go through the redtape and 6 feet of paperwork that goes on, doing something that is not necessary, does not affect anything, negatively. In fact, it is a very harassing thing, that this is creating more unemployment on the very thing we are wrestling with now in this country, especially with our young people.

It is strange that we cannot work in this Senate and legislate with some of the admonishments like, "Do not fix it if it is not broken," or "If you do something wrong," like in this particular requirement, which put a lot of people out of work in my State.

It is an example of going after a fly with a 105-millimeter howitzer cannon, you blow the whole countryside apart to kill the fly.

The real world says. "Please, please, let our people go, get off our backs."

That is what they are asking us. That is what this amendment says. "Quit doing things for us." That is what this amendment is saying.

Let us employ our young people and let us use some commonsense. This redtape and paperwork required by this will cause nothing except grief, unemployment, and set a whole lot of folks that want to work, that want to be productive, back to just twiddling their thumbs this summer because of Government redtape.

I thank the Senator.

Mr. BOREN. Mr. President, I appreciate the comments just made by my colleague from Iowa. I would like to add to what he said, that this amendment does not do away with the requirement about knowingly or wilfully hiring illegal aliens.

The crew leaders who are covered would still be prohibited from doing so.

All the amendment does is simply make sure the Department of Labor imposes its regulations and its oversight on those who are intended to be covered by the original act. That is those people who are labor contractors and not the farmers across the country, and not the ginners, and co-ops, who were never intended to be covered.

So it does not remove that restriction in any way. It just limits coverage of the act to those people the Congress intended to be covered.

I say that, as always, my colleague from New York has been extremely eloquent in his remarks. It is always with great hesitation that I enter into any discussion from an opposing viewpoint with him because he argues with such ability.

But I say that the Senator from Oklahoma shares his deep concern about the past abuses of migrant labor in this country.

I remember one of the early television documentaries which made a great impact upon me. In fact, it is one of the first TV documentaries I can remember. It was called, "Harvest of Shame," which talked about this very situation.

The late Edward R. Murrow was among the first to delve in an investigative way into the conditions that existed for migrant laborers.

I am sure that these conditions helped prompt the original piece of legislation and studies later of the late Mr. Murrow, for whom I briefly had the privilege of working.

That is not what we are arguing about in this legislation. In fact, I am convinced that passage of this amendment will help prevent those kinds of abuses.

The Department of Labor does not have unlimited resources. If the Department of Labor spends its time going out registering and fingerprinting and taking all sorts of mountains of paperwork from farmers all across this country and from agricultural cooperatives and from others who were never intended to be covered by this act, it will not be able to do a good job of registering, fingerprinting, regulating and overseeing the farm labor contractors and the crew chiefs who have been most responsible in the past, some of them, for abusing the migrant workers.

I am convinced that far from taking us back to the days when there was not adequate protection for the migrant workers, that this amendment will help us do the job better. That is a concern I am sure is shared by those who joined me in offering this amendment. None of us want to go back to those days. We want to assure that the resources of the Federal Government are targeted—are targeted—to the areas of greatest potential abuse.

We have heard that word "targeted" a number of times and it is a term we will hear more and more often, because the Federal Government does not have unlimited resources, unlimited funds, and unlimited numbers of employees.

We are consuming more of the Nation s product each year in the governmental sector than we can afford. We will have to do that job better, within the resources that are available to us.

So I say, this amendment targets the resources of Government.

It takes a rifle-shot approach at the area of greatest potential abuse, instead of doing what the Senator from Iowa so ably said, firing a howitzer at a small subject and, by detonating a huge artillery shell, doing damage to the entire landscape.

I am saying let us do the job, let us do the job effectively, and let us provide true protection for the migrant workers, the farm laborers who have suffered in the past. We do not accomplish that by defining every agricultural employee as a migrant worker.

Just think: If you are going to be watching every migrant worker and you expand the definition to include everybody who works in agriculture, how in the world, with limited resources, can you do that effectively? In trying to look over the shoulder of the crew chief or the farm labor contractor who has misused his position in the past to mistreat migrant farm workers, how can you do that effectively if you expand the definition so broadly that you are trying to look over the shoulder of every farmer in the United States? Obviously, it cannot be done.

That is the philosophical question here; that is the practical question; that is the problem that exists. That is the reason why so many farm organizations, representing millions of members of the agricultural community across the country, have said, "We need some relief. We must have some change in the law."

The question is clear, and that is the reason why I believe we should get on with deciding what we want to do, where we stand on this issue, and get on with the work at hand. That is the reason why I feel so strongly that this amendment should be adopted.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I do not, today, want to get into an argument on the merits of the amendment offered by the Senator from Oklahoma. I am sure he is addressing a problem that requires some attention. It may very well be that, in due course, I might be one of these who favors what he is trying to do, although I have not had a chance to study the measure carefully, and I do not know whether many other Members of the Senate have.

However, it seems to me that this is a measure that does not belong in this bill. I have great respect for Senator

Boren. I serve with him on the Committee on Agriculture, Nutrition and Forestry. He is an extremely conscientious and capable advocate of the interests of farmers, not only in his State but across the country as well. It happens that this particular measure does not affect my State. We do not have any problem, one way or another, with the migrant labor issue; so I have no immediate State interest in the issue.

However, as the manager of this child nutrition bill, which is of vital interest to millions of children across this country, I think it is a mistake to attach to this bill a measure that clearly belongs in the jurisdiction of another committee and doubtless is going nowhere. Even if it were to be approved in the Senate, I cannot imagine our colleagues in the House accepting it, under the rules under which they operate. So I believe it would turn out to be an exercise in futility, even if this amendment were to be accepted in this body.

So, without in any way prejudicing the substance of the amendment that Senator Boren has before us, I simply appeal to Senators to consider the arguments that were made by Senator Nelson, Senator Javits, and others with regard to the procedures we should be following.

Hearings have been slated on this measure before the appropriate committee. I know that Senator Nelson is going to move this whole matter along. We will know better what the impact of the proposal is after it has had proper hearings and there is time to deal with it, if it is as urgent as Senators have said here today.

So, Mr. President, I move——

Mr. JAVITS. Mr. President, will the Senator withhold that, so that we can get the principals back to the floor?

Mr. McGOVERN. Yes.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I was in the conference on higher education and did not hear the proposal made by the Senator from New York (Mr. Javits) that possibly our committee could have our hearings as scheduled on this matter in the Committee on Labor and Human Resources and the Subcommittee on Employment, and consider the bill in executive session, markup, and be in a position to report by September 15. That is not only possible, it can be stated as an objective that we can make with certainty. If that will help the situation here I think all of the debate has made it abundantly clear that there is an overwhelming feeling that some changes should be made in the legislation here, that arises out of administrative problems that we know about.

There is a clear consensus that something should be done legislatively.

I am a supporter of the bill that was introduced by Senator Javits. We would have in our hearings the bill as introduced by Senator Boren. We would have our hearings as already scheduled by Senator Nelson, which will come in August, and there is certainly sufficient time to do a thoughtful legislative job, markup, and report by the date I suggested, September 15.

It will follow on what all have said is necessary, some changes in the underpinning of legislation.

Mr. McGOVERN. Mr. President, am I correct that the pending measure is really an amendment offered by Senator Cochran, the Senator from Mississippi, with a proposed substitute by Senator Boren of Oklahoma?

The PRESIDING OFFICER. The Senator is correct.

Mr. McGOVERN. Mr. President, under those circumstances then, I move to table the Cochran amendment.

Mr. HELMS. I ask for the yeas and nays.

Mr. THURMOND. Mr. President, will the Senator withhold a minute so I can make a statement on the Boren amendment?

Mr. McGOVERN. Mr. President, if I may, I will withhold the request momentarily for the Senator to make a statement.

The PRESIDING OFFICER. Without objection, the Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to support the legislation offered by the distinguished Senator from Oklahoma (Mr. Boren) to amend the Farm Labor Contract Registration Act of 1963.

I am a cosponsor of this amendment, which I hope will reduce the amount of unnecessary intervention by the Department of Labor into the lives and the businesses of law-abiding farmers. The original intent of Congress was to curtail abuse of migrant workers by crew leaders. It appears that the Department of Labor has exceeded this original focus with a variety of excessive regulations with which farmers and other agricultural employers must comply.

These regulations force farmers, ginners, and employees of agricultural cooperatives to be fingerprinted, disclose their salaries, and do other needless, burdensome things to satisfy the Department of Labor. This represents not only unwarranted bureaucratic intervention but also a counterproductive, inefficient manner of seeking out the small number of violators.

I hope the Senate will pass this amendment, which I feel confident will clarify the original intent of Congress and help properly focus future investigation of abuses of migrant workers.

I wish to thank the distinguished Senator.

Mr. McGOVERN. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (UP No. 1422) of the Senator from Mississippi.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HEINZ (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Georgia (Mr. Talmadge), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Alabama (Mr. Stewart) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators who wish to vote?

The result was announced—yeas 45, nays 49, answered "present" 1, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—45

Baucus
Bayh
Biden
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Huddleston
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevens
Stevenson
Tsongas
Weicker
Williams

NAYS—49

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
Harry F., Jr.
Chiles
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Morgan
Nunn
Pressler
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

ANSWERED "PRESENT"—1

Heinz

NOT VOTING—5

Church
Inouye
Kennedy
Stewart
Talmadge

So Mr. McGovern's motion to lay on the table Mr. Cochran's amendment (UP No. 1422) was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Oklahoma. The yeas and nays have been ordered.

Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, in view of the outcome of this vote, if it is agreeable to the proponents of the amendment, I ask unanimous consent that we vitiate the yeas and nays and take it on a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. There is an objection. I ask for the yeas and nays on this to see how Senators feel.

The PRESIDING OFFICER. The

question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BOREN). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HEINZ (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

The PRESIDING OFFICER (Mr. EXON). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 57, nays 37, answered "present" 1, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—57

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Morgan
Nunn
Packwood
Percy
Pressler
Pryor
Randolph
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—37

Baucus
Bayh
Biden
Bradley
Burdick
Chafee
Cranston
Culver
Durkin
Eagleton
Glenn
Gravel
Hart
Huddleston
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Proxmire
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Tsongas
Weicker
Williams

ANSWERED "PRESENT"—1

Heinz

NOT VOTING—5

Church
Inouye
Kennedy
Stewart
Talmadge

So Mr. BOREN's amendment (UP No. 1423) was agreed to.

Mr. BOREN. I move to reconsider the vote, Mr. President.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the first degree as amended.

The amendment in the first degree (UP No. 1422), as amended, was agreed to.

UP AMENDMENT NO. 1424

Mr. HATCH. Mr. President, I call up an unprinted amendment and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1424:

On page 66, after line 24, insert the following:

Sec. 17 of the "Child Nutrition Act of 1966" is amended to add a new sentence at the end of Subsection (c)(1) as follows:

"No local agency shall be required to apply for, or carry out, any special supplemental food program established by this Act."

Mr. HATCH. Mr. President, when the women, infants, and children supplemental food program became law in 1972, there were a number of Congressmen who predicted that the program would prove to be one of the greatest welfare mistakes of this decade and that waste, abuse, and duplication would doom WIC to inevitable failure. With those dire predictions still ringing through the Halls of Congress, the Senate reauthorized WIC in 1975, and again unanimously in 1978 by an 89-to-0 vote, one of the very few instances of any authorizing legislation receiving unanimous support. I was among those who voted for the program.

I did so with some doubts and with some reservations. I still believe the program can be strengthened and improved. However, I voted yes with full knowledge of a number of persuasive statistics and arguments.

First, in the initial 6 years of the program, WIC significantly changed the health of a good number of Americans. Studies in Arizona showed that anemia among WIC clients was reduced by 81 percent. In Pennsylvania, infant death among those same clients fell from 10 percent to 0 and premature births from 12 percent to less than 2 percent. In Michigan, some health problems were reduced by 80 percent. And nationwide, Howard University estimated that for every dollar spent in supplemental food to mothers and children at a health risk, $3 would be returned to the U.S. Treasury in future savings in medicare, medicaid, and other related welfare programs.

Second, I was impressed that at last the Congress had developed an assistance program that combined the humanitarian needs of low-income Americans, with the kinds of protections for the taxpayers that many welfare programs do not enjoy. A WIC client is not given a blank check for the purchase of food. Specific food items are identified on a voucher by a health professional. Those food stuffs are age-specific. If the voucher is for an infant, the item includes: Baby cereals, infant formula, juices, and so forth. For mothers, the voucher is limited to foods as basic as milk and cheese and fortified food items. The vouchers cannot be negotiated for other foods or personal purchases, cannot be negotiated for cash, cannot be negotiated for change, and can be used only by the individual whose name is printed on the form.

Third, by experience, the States, especially Utah, have developed a number of procedures to monitor the program. As a result of those methods, the Bureau of Health Promotion and Protection in a detailed investigation of WIC found that client abuse was less than 1 percent, and that abuse by retailers was virtually nonexistent. Additionally, the State Division of Health, the father agency in Utah for this program, has initiated a number of accounting procedures to eliminate abuse. A client can be suspended for altering or attempting to trade vouchers. A hotline has been established which a retail merchant can call 24 hours a day to verify the eligibility of any person in his store attempting to redeem a food voucher.

Certainly, this program, like all Government programs, can stand improvement. It is up to Congress to improve this program to insure that those receiving the benefits are the truly needy. When the bill was considered by the Senate in 1978, I offered several amendments to do just that.

A problem with the WIC program has arisen in my home State of Utah in that the Utah County Commission and the Mountainland Association of Governments is being sued by private persons with the assistance of Utah Legal Services for not implementing the WIC program. It is my understanding that the law establishing the WIC program does not mandate any local agency to operate the program but that, to the contrary, the program is voluntarily sought after by the local agency based upon its free choice as to the program's need and its desirability for its local citizens.

I ask the managers of the bill—is my understanding of the operation of this program correct?

Mr. President, the reason for this amendment is that we have had in my home State, and I presume there may be in other States, a desire by certain local municipalities not to participate in this program and some strong feelings that they should not participate in this program. I think it should be the right of the local community to determine whether or not it wants to participate in the women, infants, and children program.

We also have a number of communities within my home State, and I presume throughout the country, who do desire to participate in the program.

I ask unanimous consent that a letter from Dr. Harry L. Gibbons, director of the Salt Lake City-County Health Department, be printed in the RECORD. In it he states that the program has its problems, but works very well in that county.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SALT LAKE CITY-COUNTY
HEALTH DEPARTMENT,
Salt Lake City, Utah, May 5, 1980.

Senator ORRIN G. HATCH,
Washington, D.C.

DEAR SENATOR ORRIN: It was great to see you at Mt. Vernon. I appreciate all you accomplish.

I understand there has been some question raised about the WIC program. There are going to be problems with any program like this, but we feel quite strongly that a properly administered WIC Program such as the one in Salt Lake County, will prevent expenditures of funds down the road when these people would have had problems which we're trying to avoid through the WIC Program. We think we're running a good, tight ship in providing the service that should be provided to some people that otherwise would become far more expensive wards of the State at a later time.

Please let me know if you have any questions on this. We feel it has an important role to play. Thanks, and best wishes.

Sincerely yours,
HARRY L. GIBBONS, M.D., M.P.H.,
Director.

Mr. HATCH. Mr. President, what I am concerned about is what my amendment does. It gives the local community and the local agencies the right to turn down the program if they so choose. My personal opinion is that they probably should not turn down the program. On the other hand, I think they ought to have the right to do it.

It is also my opinion and my understanding from chatting with members of staff and others here, in this body, that this particular program, from its inception, was a voluntary program.

I would like to ask the manager of the bill, perhaps I could ask the distinguished minority manager of the bill and the distinguished majority manager of the bill, if that is not their understanding, that this program at its inception began as a voluntary program and should be treated the same?

Mr. HELMS. I say to the able Senator, I certainly would confirm his interpretation of it, as far as I am concerned.

Mr. HATCH. I ask the Senator, Am I correct?

Mr. McGOVERN. I think the Senator is probably correct.

As a practical matter, there is not enough money to fund this program for everybody who wants to participate.

Mr. HATCH. That is my understanding.

Mr. McGOVERN. So, as a practical matter, there are a lot of areas where they might like to get additional participation where there is just not adequate funding.

Mr. HATCH. That is also my understanding.

Mr. McGOVERN. I am not sure the program has even been regarded as a mandatory program where a State or municipality or county is forced to participate.

I hesitate, I say to the Senator, to make any definitive statement on that. Frankly, it is not quite clear to me, with a matter like this pending in the courts, whether we ought to be trying to make legislative history on it here today, or not.

I would rather defer any definitive statement, other than to give the Senator my impression. That is about all I can do.

Mr. HATCH. I would like to ask the distinguished floor manager of the bill, and the minority floor manager of the bill, I would be happy to have it adopted by voice vote. I think that would clarify what has been, I think, clearly stated in the past, and I think would also make possible the greater utilization of these funds for the purpose of the people who want them, without imposing them on the people who do not want them.

Rather than have a rollcall vote, I would appreciate it if the managers of the bill would accept this amendment.

Mr. McGOVERN. Mr. President, I, frankly, am not entirely certain of the legal basis for the Senator's amendment. As I said earlier, it is my impression that this supplemental program is not a mandatory program.

The law does state that each State agency shall submit annually to the Secretary a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this.

In other words, if we were interested in applying under the mandatory feature, we have to come up with a plan. But in just a cursory review of the law, I do not see any requirement in the law that would make it mandatory for a State or any political entity to participate.

With the understanding that we are operating on rather uncertain ground, what I would suggest to the Senator is that we take this to conference. It will give us a little time to look into the matter. If we find we have been amiss in our interpretation, we can correct it there.

But, under the circumstances, if it is agreeable with the distinguished minority manager of the bill (Mr. Helms), I would have no objection to accepting the amendment.

Mr. HATCH. I thank the distinguished Senator.

Mr. HELMS. I have no objection to the amendment.

Mr. HATCH. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1424) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1425

(Purpose: To provide that the application form for free and reduced price meals under the National School Lunch Act and the Child Nutrition Act of 1966 shall only show the applicable income guidelines for reduced price meals with a notation that the guidelines are lower for free meals)

Mr. BOREN. Mr. President, on behalf of myself, the Senator from South Dakota (Mr. McGovern), and the Senator from North Carolina (Mr. Helms), I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Boren), for himself, Mr. McGovern, and Mr. Helms, proposes an unprinted amendment numbered 1425.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 13, strike out the period and insert in lieu thereof "; and".

On page 39, between lines 13 and 14, insert the following:

"(4) striking out the tenth sentence and inserting in lieu thereof the following: 'Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year, except that only the income eligibility guidelines for reduced-price lunches (with an indication that the guidelines are lower for free lunches) may be included on the application for program participation or the descriptive material distributed by such local food authorities with the application. Determinations with respect to the annual incomes of any applicant household shall be made solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household. Local school authorities may for cause seek verification of the data in such application. Local school authorities shall notify all applicant households of their eligibility or ineligibility for free or reduced-price lunches and shall include the income eligibility guidelines in the notification.'."

Mr. BOREN. Mr. President, on behalf of Senator McGovern, Senator Helms, and myself, I have offered an amendment to S. 2675, the Child Nutrition Amendments of 1980. Our amendment will help to insure that federally financed free, and reduced price school lunches are operated to benefit only those who are the most truly needy.

The courts have taken a simply worded phrase in the present National School Lunch Act and expanded its meaning far beyond the intent of Congress. They have taken the phrase, and I quote from the act, "Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year," and contended that this one phrase means that free and reduced-price income guidelines must be placed directly on the application forms.

The way in which the application forms are currently printed presents an open invitation to fraud. Easily, a person whose income actually falls in the reduced-price category could immediately see that if he lied, just a little, his income would fall in the free category. This person could do this without ever thinking he has defrauded the Government.

Last November, the Office of the Inspector General conducted a special review of free and reduced-price applications. In that review, they stated:

> Evaluating those applications completed at the maximum for free, plus those completed at $110, $210, and $310 below the maximum levels . . . shows approximately 3 percent of the applicants may have used the income guidelines on the application to be assured of program benefits.

The review clearly points to the need for removal of the free lunch income guidelines from the school lunch program application.

Our amendment, Mr. President, does remove the free lunch guidelines from the applications. The reduced-price guidelines will continue to be printed on the application and will clearly state the maximum incomes eligible for either the free or the reduced-price lunch.

Our amendment will also require that all applicants be notified of their eligibility or ineligibility for free or reduced-price meals. In this notification, the income guidelines for both free and reduced-price meals will be printed.

The majority of the States currently use some type of notification. The Food and Nutrition Service of the Department of Agriculture has printed a handbook on notification and most States use this as a guide.

We need to have a uniform system of notification as prescribed by the Secretary. This will not increase the paperwork of the local schools, as most already send out a notification, rather it will provide the parents with an opportunity to see why their application was approved or not approved. The Child Nutrition Act of 1966, as amended, established the parents' right to appeal. We feel the printing of these guidelines in the notification will facilitate the parents, as well as the local school authorities, in the appeals process.

Some have argued that it is the applicant's right to have the guidelines printed on the application because it is his/her right to know what the guidelines are. Under our amendment, an applicant will still have the right to find out what the guidelines are, the applicant will just not have the incentive to "lie a little" in order to fit into the free category.

Mr. President, this has been discussed with the managers of the bill on both sides of the aisle, and I believe and hope that it will be acceptable to them.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I am happy not only to accept this amendment but also to join Senator Boren as a cosponsor.

The amendment is designed to correct one of the possible abuses in the school lunch program by people who are not entitled to receive free lunches.

I have had occasion to be home in my State a considerable amount of time the last 2 or 3 weeks, and I am struck by the fact that on a number of programs that we have authorized and funded in Congress, which are well-intentioned programs and which I believe are important and much needed programs, sometimes the implementation in the field is not everything it should be.

I regret that we do not have more time for congressional oversight in looking into the abuses and the inefficiencies in some of these programs. When I first came to the House of Representatives back in 1956, Congress used to adjourn around the end of August or the first of September, and we would have 3 or 4 months at home to look at the various programs we had authorized and funded in Congress.

However, now that Congress is in session most of the year, there is less and less opportunity to look at how these programs are impacting on people where we live—in the neighborhoods and the towns and the communities and the farms back home.

So I believe that anything that we who believe in the school lunch program and other so-called people-oriented programs can do to correct the areas of abuse or potential abuse, it is all to the good. This is what Senator Boren is attempting to do.

The amendment still leaves in place on the application the guidelines for the reduced price lunches but would remove them for the free lunches to avoid the temptation to exploit that part of the program by people who are not really entitled to it.

So I am happy to be a cosponsor of this amendment and to accept it, and I hope it will be accepted by other Senators.

The PRESIDING OFFICER. Without objection, the name of the Senator from South Dakota is added as a cosponsor of the amendment.

Mr. HELMS. Mr. President, also as a cosponsor of the amendment offered by the distinguished Senator from Oklahoma. I urge its adoption.

If there is any one thing that needs to be done by this Congress and by the executive branch, it is to tighten up on the distribution of the largesse of the Federal Treasury.

As Senator McGovern has said, the situation across the country is almost out of control. As a matter of fact, it is out of control. To the extent that the amendment of the distinguished Senator from Oklahoma will help that situation, it will be a blessing to the taxpayers.

I say to the Senator that I have a followup amendment to his, which will further tighten up the situation.

I commend the Senator, on behalf of this side of the aisle, and I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1425) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1939

(Purpose: To permit the State to consolidate and reorganize certain food programs administered by the Department of Agriculture for the benefit of needy persons)

Mr. BELLMON. Mr. President, I call up amendment No. 1939.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) proposes an amendment numbered 1939.

Mr. BELLMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, after line 23, insert the following:

TITLE I—SCHOOL LUNCH AND CHILD NUTRITION

On page 70, after line 11, insert the following:

TITLE II—CONSOLIDATION PROGRAM

STATEMENT OF PURPOSE

Sec. 23. (a) It is the purpose of this title to afford to the States the option of consolidating and reorganizing the following food assistance programs presently being provided the States under existing laws:

(1) the child feeding programs provided for under the National School Lunch Act and the Child Nutrition Act of 1966;

(2) the expanded food and nutrition education program provided for under the Smith-Lever Act; and

(3) the commodity supplemental food program.

(b) It is the further purpose of this title to permit those States which select the consolidation and reorganization program authorized by this title greater flexibility in the use of Federal funds provided for food and nutrition assistance than such States presently have under the separate programs described in subsection (a); to permit the States to formulate, establish, and administer food and nutrition programs which best meet the nutritional needs of their people; to develop effective methods of educating their citizens regarding the health consequences of diet and nutrition; and to encourage the States to operate food and nutrition programs in an efficient and effective manner.

DEFINITIONS

Sec. 24. As used in this title—

(1) The term 'Secretary' means the Secretary of Agriculture.

(2) The term 'State' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. Such term also includes any agency designated in accordance with applicable State law to receive and disburse funds made available under this title.

CONSOLIDATED PROGRAM OPTION

Sec. 25. (a) Any State may, upon application to the Secretary and subject to the other provisions of this title, participate in the consolidated program provided for in this title. Any State which elects and qualifies to participate in such program shall receive the funds it would have otherwise received under—

(1) the programs provided for under the National School Lunch Act and the Child Nutrition Act of 1966, including the special supplemental food program provided for pregnant women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966;

(2) the expanded food and nutrition education program provided for under the Smith-Lever Act;

(3) any other program which is enacted after the effective date of this title, administered by the Department of Agriculture, and provides food assistance to needy persons or provides nutrition information or education to the citizens of the several States, unless the legislation enacting such program specifically provides otherwise.

(b)(1) Any State which elects to participate in the consolidated program in lieu of the categorical programs described in subsection (a) may withdraw its election to participate in the consolidated program and continue participation in the categorical programs if such State withdraws its election at any time prior to the beginning of the first fiscal year it would have been eligible to receive funds (other than planning funds) under the consolidated program.

(2) Any State which has participated in the consolidated program for at least two fiscal years may terminate its participation in such program upon written notice to the Secretary at least sixty days prior to the end of any fiscal year.

(3) A State which terminates its participation in the consolidated program as provided in paragraph (2) shall become eligible to participate in the categorical programs described in subsection (a) at the beginning of the fiscal year following the fiscal year in which participation in the consolidated program ends.

(c) All States which elect to participate in the consolidated program shall begin participation at the beginning of a fiscal year. In no case may a State participate in the consolidated program and in one or more of the categorical programs described in subsection (a) in the same fiscal year.

(d) Notwithstanding any other provision of this title, not more than six States may participate in the consolidated program under this title at any one time. Those States which first meet the requirements of this title for participation shall be selected for participation in the consolidated program.

CONSOLIDATION PROGRAM PAYMENTS

SEC. 26. (a) Each State which elects and qualifies under this title to receive funds for carrying out the consolidated program provided for in this title shall be paid by the Secretary of the Treasury each fiscal year such amount as shall be certified to him by the Secretary.

(b) The Secretary shall certify for payment in the case of any State participating in the consolidated program in any fiscal year an amount equal to the total amount received by such State under the categorical programs described in section 25(a) in the most recent four consecutive quarters during which such State received funds under such programs and for which the necessary information is available. In no case shall the amount certified for payment in any fiscal year in the case of any State which participated in the consolidated program in the preceding year be less than the amount such State received under this subsection in such preceding year.

(c) The amount to which any State is entitled under this section shall be adjusted each fiscal year to reflect changes in the preceding fiscal year in the prices of food as published by the Bureau of Labor Statistics, Department of Labor.

(d) The Secretary shall submit to the Congress, not later than one year after the date of the effective date of this title, specific recommendations for legislation to provide an equitable adjustment in the amount of the payment to be made to any State participating in the consolidated program under this title whenever there has been a significant gain or loss in the population of such State.

PLANNING GRANTS

SEC. 27. (a) Any State desiring to participate in the consolidated program authorized by this title may, for the purposes of preparing a consolidated plan in accordance with this title, receive a planning grant for use in not more than two consecutive fiscal years. Any State desiring to receive a planning grant under this section shall file an application at such time, in such manner, and including such information as the Secretary may reasonably require consistent with this section. Each such application shall include, but not be limited to provisions which—

(1) describe the objectives to be achieved in the development of the State plan with assistance made available under this title,

(2) set forth procedures to assure an opportunity for comments to be submitted by the chief executive of the State,

(3) set forth assurances that the comprehensive State plan required under section 30 will be prepared in accordance with section 29, and

(4) describe procedures for the promulgation of regulations for the State administration of the programs consolidated by this title.

(b) The maximum amount of a grant which a State may receive under this section is equal to not more than 2 per centum of the total amount of funds allocated to that State under the programs described in section 25(a) in the most recent fiscal year, and the minimum amount is $500,000.

STATE ADMINISTRATION

SEC. 28. (a) Each State desiring to receive funds for the consolidation program authorized by this title for any fiscal year shall—

(1) designate, as provided by the constitution and laws of the State, the single State agency within the State which will be responsible for—

(A) assessing the food and nutrition needs of the neediest population of the State;

(B) formulating the State plan provided for under section 30;

(C) receiving and apportioning the funds (Federal and State) made available for carrying out in such State the consolidated program provided for in this title;

(D) monitoring on a continuing basis the progress of the programs carried out in such State under this title;

(E) preparing the general guidelines for the State plan; and

(F) examining all reports and audits required in connection with the consolidated program carried out in such State under this title;

(2) publish prior to the first year of consolidated assistance made to that State under this title, and each third year thereafter, a three-year comprehensive State plan which—

(A) is developed in accordance with the procedures described in section 29, and

(B) contains the provisions designed to meet the requirements of section 30,

(3) develop and publish an annual update of the comprehensive State plan, and

(4) certify to the Secretary that it has developed and published the comprehensive State plan or annual update in accordance with the provisions of this title.

(b) A State desiring to receive funds for the consolidation program authorized by this title for any fiscal year shall, in addition to the requirements of subsection (a), provide for—

(1) an audit of expenditures for each program year as provided in the State plan;

(2) an annual evaluation of the implementation of the State's final comprehensive plan, and any amendment thereto, adopted under section 29; and

(3) an annual report of that audit and evaluation which report shall include—

(A) such information as the Secretary may prescribe consistent with the consolidation and provisions of this title, and

(B) assurance that funds were expended in accordance with the title and the comprehensive State plan.

PROCEDURE FOR DEVELOPING THE COMPREHENSIVE STATE PLAN

SEC. 29. Each State shall, in the development of the comprehensive State plan, establish procedures designed to assure that—

(1) a comprehensive assessment is made to determine the food and nutritional needs of the people of the State, such assessment to include, but not be limited to, the children, infants, expectant mothers, elderly people, institutionalized populations, and isolated populations of the State who are living in circumstances of poverty or who are unable to provide themselves with an adequate nutritional diet;

(2) a comprehensive assessment is made to determine the need for food and nutrition education among the people of the State, including segments of the State's population which may be suffering from over-nutrition as well as those segments which may be suffering from inadequate nutrition;

(3) procedures are established for obtaining, prior to and during the development of the comprehensive State plan, the participation of interested citizens, local organizations, health care providers, child care providers, educational agencies and institutions, units of general local government, and appropriate State agencies;

(4) the legislature of the State will be informed of the development of the procedures required by this subsection;

(5) programs will be identified in terms of priorities for which funds will be allotted, distributed, and expended;

(6) the use of funds for purposes described in this title will be coordinated with the use of State, local, and Federal funds (including commodities) made available for similar purposes;

(7) the use of funds for purposes described in this title will be coordinated with each other and other Federal programs to avoid duplication of effort;

(8) the proposed comprehensive State plan or the annual update thereof will be published at least one hundred and eighty days prior to its effective date and such plan or update thereof will be available to interested parties and to local agencies within the State, and comment on such plan will be accepted from interested persons for a minimum of thirty days after such publication;

(9) a final comprehensive State plan, or annual update thereof, will be published and made generally available prior to its effective date together with a summary of the comments received and an explanation of the differences between the proposed plan and the final plan and the reasons for such differences;

(10) any amendment to the final comprehensive State plan prepared by the State agency designated pursuant to section 28(a)(1) will be published as a proposed amendment on which the public may comment for a period of at least thirty days, and thereafter the final agreement, together with a summary of the comments received and the action taken on such comments, will be published;

(11) procedures will be established to assure that regulations and rules established, amended, or repealed by that State will be established, amended, or repealed with the counsel of local agencies and consistent with State administrative procedures and due process;

(12) the aggregate amount to be expended by the State and its agencies from funds derived from non-Federal sources for the consolidation program for any fiscal year will not be less than the amount expended by the State and its agencies in the preceding fiscal year on programs described in section 25(a) and on similar or related programs; and

(13) Federal funds provided under this title supplement and in no case supplant State or local funds.

PROVISIONS OF THE COMPREHENSIVE STATE PLAN

SEC. 30. (a) A comprehensive State plan meets the requirements of this section if such plan—

(1) sets forth the procedure for, and the results of, the needs assessments conducted pursuant to section 8(a)(1);

(2) sets forth the goals to be achieved under the plan, the basic program objectives and a description of the programs to be carried out under the plan;

(3) sets forth the State's program for providing food and nutrition education and information designed to meet the needs of its people as revealed in the needs assessment;

(4) sets forth the policies and procedures to be followed by the State to assure that the distribution of funds to State and local agencies, institutions, and organizations within the State is in accordance with the provisions of this title;

(5) contains a description of the organizational structure through which the program consolidated by this title will be administered;

(6) sets for the State's program (if any) for providing meals and food and nutrition education in connection with or as a part of (A) any Head Start or Follow Through program for children, (B) the nutrition program

for the elderly carried out under part C of title III of the Older Americans Act of 1965, (C) the community food and nutrition program, and (D) any other federally funded food or nutrition education or information program carried out with funds not provided under this title;

(7) sets forth the procedures for monitoring activities of the agencies, institutions, and organizations within the State responsible for administering the comprehensive plan of the State, including a provision for technical assistance by the State to each such agency, institution, and organization;

(8) contains a description of the process that the State will use to insure that any agency, institution, or organization in the State which receives funds under this title will annually develop or update a comprehensive plan for the use of such funds and that the plan will be made available to the public for comment as provided in the comprehensive State plan;

(9) provides, consistent with State law and practice, for an audit of the expenditure of funds received under this title by local agencies, institutions, and organizations;

(10) sets forth procedures to be used by the State to eliminate unnecessary paperwork and duplication of informational requests in regard to local agency applications, evaluations, and reporting;

(11) prescribes procedures to be followed by the State when a local agency fails to develop or implement a program plan, including procedures for notice and opportunity for hearing in any case funds are to be withheld;

(12) provides a local agency appeal process within the State for any local agency which is dissatisfied with the State's action with respect to the State's compliance with substantive and procedural provisions of this title. A local agency may appeal the final ruling of the State to the Secretary;

(13) provides for an audit of expenditures for each program year in accordance with generally accepted accounting principles, conducted, in a manner approved by the Secretary, by—

(A) an auditor of the State, using certified public accountants, or

(B) a private certified public accountant or auditing firm utilizing certified public accountants; and

(14) provides for an annual report of such audit; and

(15) is approved and signed by the chief executive of the State.

(b) The Secretary shall, within sixty days after receiving any comprehensive State plan from any State, notify such State in writing whether such plan complies with the requirements of this title. In the event the Secretary fails to notify any State within the time period prescribed, the comprehensive State plan shall be deemed to have been approved by the Secretary. If the Secretary notifies a State that a plan does not meet the requirements of this title he shall indicate specifically in what respect such plan failed and what action must be taken to meet the requirements.

SUPPLEMENTAL PAYMENT

SEC. 31. (a) Each State which elects and qualifies to receive funds for carrying out a consolidated program under this title shall also be eligible, upon application therefor, to an additional amount of funds for carrying out such program equal to 10 per centum of the amount to which such State is entitled under section 26 on the condition that such amount is matched by such State with an equal amount of funds from non-Federal sources which will be used for carrying out the purposes of this title. A State may, if it so elects, receive any amount under this section equal to less than 10 per centum of the amount it is entitled to receive under section 26 on the condition that such lesser amount is matched by such State with an equal amount from non-Federal funds which will be used to carry out the purposes of this title. For purposes of this section, funds received by any State under a Federal-State revenue sharing plan shall be considered to be funds from a non-Federal source. No funds may be counted as matching funds for purposes of this section by any State if such funds are used by such State to meet the maintenance-of-effort procedures of the State plan provided for in section 29(12) or if such funds are counted as State matching funds for the purpose of any other Federal program.

(b) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the amount to which each State is entitled under this section for such fiscal year, the amounts which all States may receive under this section for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(c) Additional funds under this section shall be paid to a State by the Secretary of the Treasury upon certification of the amount to be paid by the Secretary.

TIME OF PAYMENTS

SEC. 32. The Secretary shall determine the time or times at which payments under this title are to be made to States.

FEDERAL SERVICES; USE OF FUNDS FOR FOOD SERVICE EQUIPMENT AND FACILITIES

SEC. 33. (a) Whenever any State elects to carry out a consolidated feeding program under this title and any part of such program is substantially the same or provides substantially the same benefits as any of the programs described in section 25(a), the Secretary shall, upon the request of such State, furnish with respect to such part of such program any services in-kind which would have been furnished such State by the Federal Government had such State participated in the programs described in section 25(a) on a separate basis rather than electing to participate in a consolidated program under this title.

(b) Funds made available to any State under this title may be used for the purchase of any food service equipment and facilities necessary or appropriate to carry out effectively the comprehensive State plan of such State.

ADMINISTRATIVE EXPENSES

SEC. 34. (a) Except as provided in subsection (b), none of the funds made available to any State under this title (excluding the State's share of matching funds under section 31), in any amount in excess of an amount equal to 7½ per centum of such funds may be used for administrative expenses in carrying out the consolidated program under this title in such fiscal year.

(b) A State may expend for administrative expenses in any fiscal year an amount in excess of the maximum amount permitted under subsection (a) if at least one-half of the amount expended by the State in such fiscal year in excess of such maximum amount is provided by the State from non-Federal sources.

EVALUATIONS

SEC. 35. (a) The Secretary, after consulting with and obtaining the assistance of the State agency designated pursuant to section 28(a)(1), shall prepare and design several models for evaluation of program effectiveness which will be consistent with the purposes of the consolidation program authorized by this title. Evaluation of local agency programs should focus on the food and nutrition services provided for needy persons in the State, the food and nutrition education program, the number of such persons served by each program, and the effect or results of such services and programs.

(b)(1) Each State participating in the consolidation program authorized by this title shall (A) select one of the models developed under subsection (a) of this section, or (B) use a model developed by that State, and shall be responsible for the use of that model in program evaluation of the consolidation program authorized by this title. Each such evaluation design shall involve participation by local agencies of that State.

(2) An evaluation report which is consistent with the procedures established pursuant to this section and the State comprehensive plan shall be prepared annually by each local agency and submitted to the State agency designated pursuant to section 28(a)(1). No other evaluation reports for programs authorized by this title may be required of local agencies by the State agency.

(3) The annual State agency evaluation report prepared pursuant to this subsection shall be submitted to the Secretary on such date as the Secretary shall establish. The Secretary shall analyze the State evaluations received under this paragraph and shall, not later than March 1 in the year succeeding the year in which the evaluations are submitted, prepare and submit to the Congress a report on such evaluations.

(c) The Comptroller General shall conduct an evaluation of the program authorized by this title and, not later than the end of the fifth fiscal year following the fiscal year in which this title becomes effective, prepare and submit to the Speaker of the House of Representatives and the President of the Senate a report on such evaluation together with such recommenations, including such recommendations for legislation, as the Comptroller General deems advisable.

(d) The Secretary shall conduct a comprehensive evaluation of the operation of the consolidated program in the case of each State electing to participate in such program. The first such evaluation shall be conducted by the Secretary within three months after one or more States have participated in such program for a period of two years. Thereafter such evaluation shall be made at the end of every second year. In carrying out his evaluation of the operation of the consolidated program in the case of any State, the Secretary shall hold public hearings in such State to afford interested persons a reasonable opportunity to give testimony regarding such program. The Secretary shall report the results of each such evaluation to the Speaker of the House of Representatives and to the President of the Senate together with such comments and recommendations as the Secretary deems appropriate.

MONITORING AND TECHNICAL ASSISTANCE

SEC. 36. (a) The Secretary shall conduct annually such monitoring programs in each State selecting the consolidation program authorized by this title as he deems appropriate. The monitoring program authorized by this section shall include review of the development of the comprehensive State plan for compliance with the provisions of this title. Monitoring shall also include review of implementation of programs for conformity with this title and with the comprehensive State plan. In order to avoid duplication of monitoring visits as well as an excess of such visits, the Secretary shall coordinate his visits under this section with monitoring visits made by other Federal departments and agencies of the Government.

(b) Whenever, as a result of monitoring activities conducted pursuant to this section, the Secretary identifies areas of noncompliance, the Secretary shall establish procedures with the appropriate State agency designated under section 28(a)(1) for the necessary modifications.

(c) The Secretary shall provide advice, counsel, and technical assistance upon request of State and local agencies.

INTERSTATE COOPERATION

SEC. 37. (a) The Secretary shall carry out a program of making grants to States which have elected to consolidate under this title for the purpose of interstate cooperation.

(b) Such grants for cooperation among States shall be for the purpose of addressing common administrative problems under this title and for planning and research.

(c) There are authorized to be appropriated $3,000,000 for each of the ten fiscal years beginning October 1, 1982, to carry out the provisions of this section.

FEDERAL ADMINISTRATION

SEC. 38. (a) The Secretary shall establish within the Department of Agriculture not later than sixty days after the date of the effective date of this title a separate identifiable unit to administer the consolidated program authorized by this title.

(b) Personnel to be employed in the administration of the consolidation program authorized by this title shall come from program units administering the categorical programs consolidated under this title. Any additional personnel necessary for the administration of such consolidated program shall be based on the number and population of the States which elect to consolidate.

(c) The Secretary shall establish procedures to minimize all paperwork in regard to information required of State and local agencies.

DELEGATIONS, TRANSFERS OF FUNDS, AND CONTRACTS BY THE STATE AGENCY

SEC. 39. The State agency designated pursuant to subsection 28(a)(1) may, to the extent necessary to carry out the provisions of this title—

(1) delegate its administrative functions, under this title to other appropriate State agencies,

(2) transfer to such agencies administrative responsibilities and any funds provided to the State under this title, and

(3) enter into contracts with public and private agencies, organizations, and institutions for carrying out activities authorized under this title.

Any arrangements entered into under this section for any fiscal year shall be set forth in the comprehensive State plan for that year.

ENFORCEMENT

SEC. 40. (a)(1) No payment may be made under section 26 or 31 to any State that has failed to provide the certification required by section 28(a)(4).

(2) In the case of any State that has provided those certifications, if the Secretary, after reasonable notice and opportunity for a hearing to the State, finds that the comprehensive plan fails to comply with the requirements of sections 29 and 30, or the State has failed substantially to comply with any provision of that plan, or has failed to inform the Secretary of any substantial failure to comply with any provision of that plan or those sections, the Secretary is authorized to (A) reduce the amount otherwise payable to the State under section 26 by any amount equal to not in excess of 7½ per centum, (B) refer to the Attorney General of the United States the matter regarding any such failure by a State with a request that the Attorney General seek an injunction requiring compliance by the State with the requirements of sections 29 and 30 or the provisions of the State plan, as the case may be, (C) terminate the participation of the State in the consolidated program and permit the State to return to participation in the categorical programs described in section 25(a), or (D) utilize any combination of (A), (B), and (C) as he deems appropriate.

(b) The Secretary shall establish a due process procedure to consider appeals made by local agencies under section 30(a)(12).

(c)(1) If any State or local agency is dissatisfied with the Secretary's final action with respect to any action taken under this title, the State may, within sixty days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) The Secretary and the Comptroller General of the United States, in the exercising of their authority under this title may not prescribe to the State any requirement for expenditures of funds other than funds provided under this title.

INAPPLICABILITY OF EXISTING LAW

SEC. 41. (a) Unless otherwise provided in this title, no provision of law referred to in section 25(a) of this title shall be applicable to the consolidation program instituted under the provisions of this title by any State, and no person shall be entitled to any right or benefit under any such provision of law in any such State after the date on which such State has initiated the operation of such program.

(b) The provisions of subsection (a) shall not apply to the claim of any person in any State for a right or benefit that accrued under any such provision of law referred to in section 25(a) of this title for any period before such State initiated the operation of a consolidated program under this title or to any claim in connection with a right or benefit that arises in such State after such State has discontinued operation of a consolidated program under this title.

CIVIL RIGHTS REQUIREMENTS

SEC. 42. Funds made available under this title shall be subject to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d—2000d–5), title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

SEC. 43. If a State is prohibited by law from providing for the participation of children enrolled in private nonprofit or Indian tribal elementary and secondary schools, or if the Secretary determines, after affording notice and an opportunity for a hearing, that a State has substantially failed to provide for such participation, he shall arrange, by contract or otherwise, for such children to receive, on an equitable basis, services similar to those provided under this title to public school children in the State. The cost of providing those services for any fiscal year shall be paid from the allotment of the State under section 26.

CRIMINAL PENALTY

SEC. 44. Any individual who is an officer, director, agent, or employee of, or who is connected in any capacity with, any partnership, association, firm, group, corporation, business, organization, or other entity, public or private, which receives benefits under this title by means of a grant, contract of assistance, subsidy, or any other form of Federal assistance, and who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property obtained under any program authorized by this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, such individual shall be fined not more than $1,000 or imprisoned not more than one year, or both.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 45. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, subject to the limitation contained in section 37(c) on the amount that may be appropriated for interstate cooperation grants.

EFFECTIVE DATE

SEC. 46. The provisions of this title shall become effective October 1, 1982.

Mr. BELLMON. Mr. President, I offer this amendment on behalf of myself and the distinguished senior Senator from New Mexico (Mr. DOMENICI).

We are offering this amendment, which is the former S. 605, to the child nutrition legislation because we believe it is a valuable alternative option for six pilot States to try in order to consolidate, reorganize, and simplify existing food and nutrition categorical programs at the State level. The amendment would not force any State to take this new direction; it would simply provide an option for no more than six States willing to design food and nutrition programs more nearly in accord with the nutritional needs of their populations. This option is needed, Mr. President, because it is time to begin finding new ways to more adequately deal with nutritional need than is currently possible through a score of narrow, growing, Federal categorical programs. Conditions in various States vary. The opportunity to adjust programs to meet their various needs is desperately needed.

To give some idea of the character, scope, and status of Federal categorical child nutrition programs, Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from a May 1980 Congressional Budget Office paper entitled "Feeding Children: Federal Child Nutrition Policies in the 1980's."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT

Public and private expenditures for child nutrition programs have grown from about $2.4 billion ten years ago to $8.1 billion in fiscal year 1980. Federal expenditures for these programs have grown from $750 million to over $4.7 billion in the same period. The federal outlay represented 25 percent of total expenditures on child nutrition programs in

1969, and nearly 50 percent in 1980. If current policies are continued, federal child nutrition support will reach about $7.1 billion in fiscal year 1985.

CURRENT FEDERAL PROGRAMS

Shifting federal policies have resulted in an array of child nutrition programs. The largest of them is the national school lunch program (NSLP), which reaches over 27 million children on an average school day—60 percent of all children enrolled in elementary and secondary schools. About $3.1 billion or 65 percent of all federal child nutrition expenditures will support the NSLP in fiscal year 1980.

Although the NSLP is the largest federal program, it is not the most rapidly growing one. Today there are nine other major child nutrition programs that either provide food directly to families with children or subsidize meals, food service equipment, and nutrition education programs. These programs (in general order of cost) are the special supplemental food program for women, infants, and children (WIC), the school breakfast program, the child-care food program, the special milk program, the summer food service program, a program covering state administrative expenses for child nutrition activities, an equipment assistance program, the commodity supplemental food program, and the nutrition education and training program. These non-NSLP programs are funded almost entirely by federal funds and are likely to receive increased outlays in the 1980s.

The ten categorical child nutrition programs are administratively complex. The decade of the 1970s saw a major shift in funding the majority of the programs—away from the traditional grant-in-aid concept to a statutorily defined reimbursement formula for various types of services provided within a state. Today the programs serve different categories of children, provide different types of benefits, and are administered locally by a wide variety of civic, health, and school organizations (see Summary Table 1). While not specifically defined as entitlement programs, they are widely regarded as such, and are administered and funded as if they were entitlements.

FARM POLICIES AND NUTRITION PROGRAMS

The federal child nutrition programs were once closely related to federal farm policies, helping to provide outlets for surplus agricultural commodities. The programs' administrative and financing systems still reflect those early objectives. Over the last decade, however, the programs have changed so that they provide less direct support for the agricultural sector. Today, schools and other outlets are assured a prescribed level of assistance, in commodities or in cash, and can make plans on the basis of these guarantees. Commodity assistance, therefore, may merely substitute for what would otherwise have been purchased by these organizations.

Child nutrition food expenditures probably have a minor impact on gross farm income. In 1978, they may have translated into an additional $1.9 billion, or about 1.5 percent, of total gross farm income. A few specific commodities, such as canned peaches and turkeys, however, may receive substantial market support from the programs' commodity purchases.

Today the major goal of the federal child nutrition programs is to improve the health and wellbeing of the nation's children. Federal subsidies are provided to all income groups, the objective being to increase program participation and thereby improve nutritional status. Larger subsidies are generally provided to lower-income groups thus offering both a direct form of nutritional support and indirect general income support.

EFFECTS OF THE CHILD NUTRITION PROGRAMS

Hunger and severe malnutrition are not widespread public health problems in the United States today. Some children, to be sure, have inadequate diets and suffer related health problems. Some diseases of adults—for example, heart disease, stroke and hypertension, diabetes, arteriosclerosis, and cirrhosis of the liver—may result from poor nutritional problems during childhood. The federal expenditures on children's nutrition programs are sometimes described as long-term investments in public health.

It is difficult, however, to say what effect the child nutrition programs may have on the general level of health. Few studies have been conducted on a national basis to measure their impact, especially over the long term. Existing evidence suggests the following:

Iron-deficiency anemia appears to be the primary child nutrition problem today, and special supplemental food programs such as the WIC program appear to have greater impact on this problem than do the institutionalized feeding programs;

Children who participate in the school lunch program do not have lower rates of iron-deficiency anemia than children who do not participate in any federal feeding program;

Children who participate in only a school breakfast or milk program show a positive and slightly significant increase in the adequacy of their diets;

In general, the nutritional status of children who participate only in the NSLP does not appear to be better than that of the nonparticipating children, but lower-income children receive slightly more nutritional intake than higher-income children from the program; and

The nutritional impact of participating in more than one program appears mixed. High-income multiple-program participants have no better diets than high-income single-program participants; but for low-income children, the combination of a breakfast and a lunch program appears to provide more nutritional benefit.

The school feeding programs appear to be significantly more effective in improving the nutrition of low-income children than direct money payments to their families, except in a few instances. Based on limited data, the school breakfast program appears to be the least costly and the most beneficial regardless of the income of the participant. Because it has a relatively low federal subsidy and a markedly greater nutritional benefit, its cost-effectiveness is high.

Mr. BELLMON. Mr. President, there are several observations I wish to make about the material cited from the CBO issue paper.

First, the size of these Federal categorical programs, as measured by Federal expenditures, has grown by a factor of 525 percent just during the last 10 years, and shows every evidence of growing more in the coming years. We now have a Federal food and nutrition program empire with a built-in drive for expansionism.

Second, the States have long contributed substantially to these programs and are presently putting up about half the money.

The States put up half the money, but the Federal Government designs the programs and decides how they will be run, and we are trying here in this amendment to reverse that.

The States have not, however, had a major voice in designing the programs and in formulating the rules of administration. Design of the programs has been centralized in Washington, where uniform, national programs have been the preferred approach to widely varying State and local problems.

Third, while the programs have been rationalized on the basis that grave needs of hunger demanded them, hunger and malnutrition are not major contemporary problems in the United States at this time. The CEO report, referred to earlier, points out that "Despite some limited cases of severe malnutrition found by the Senate Subcommittee on Employment, Manpower, and Poverty in the Mississippi delta in 1967, statements that severe malnutrition exists on a national scale have never been documented, even during the early years of the 'War on Poverty' programs."

Fourth, the Federal programs are administratively complex and, because of their growing size and intended applicability to numerous different local and State situations, can hardly be expected to become simpler.

Fifth, evidence of the nutritional effectiveness of these child nutrition programs is generally thin and sometimes nonexistent. Further support for this point is provided by studies summarized in an October 1979 publication of the American Dietetic Association entitled "Costs and Benefits of Nutritional Care: Phase 1."

Mr. President, since these programs, with the exception of the WIC program, were not designed to address specific nutritional problems, it is not surprising that inadequate information about their effectiveness exists. Nevertheless, we are now at a point where the legitimacy of the programs depends upon their contribution to the public health and well-being. It is high time that we had the flexibility to design programs to fit the nutritional needs of specific populations, and that is what this amendment is intended to do.

This amendment will create a limited opportunity for six States to redesign the nutritional programs the Federal Government has now handed down to them.

This amendment would not cut funds to these States; instead, it would make it possible for a State to receive up to a 10-percent Federal bonus, providing the State matched that 10 percent with new money from State sources. This is intended as an inducement to get the States to undertake this approach.

Thus, it would be possible for a State to consolidate under the amendment at 120 percent of present Federal contributions. The State is required to maintain its efforts, so there is very real opportunity for program growth, if such is necessary.

This amendment would provide a planning grant for a 2-year period, during which the State would prepare a consolidated plan. The key to this State plan would be a comprehensive assessment of the food and nutritional requirements of the people of the State including, but not limited to, the children, infants, expectant mothers, elderly people, institutionalized populations, and isolated populations of the State, who are living in circumstances of poverty or who are unable to provide themselves with an adequate nutritional diet. There would also be a comprehensive assessment of the need for food and nutrition education among the people of the State.

The State plan would incorporate all food and nutrition programs, even those not consolidated in its amendment so this overlap—and this is a very important part of the amendment—so that we can get away from overlap and duplication, and that is a major problem of the present program. We hope that we get in this way the most effective and efficient delivery system that could be devised. An open planning process is required, including the participation of interested citizens, local organizations, health care providers, child care providers, educational agencies and institutions, units of general local government, and appropriate State agencies. The State would not be bound to pattern its State programs after existing Federal models, being free to design a package of programs that would meet the needs of populations as revealed by the assessments of need.

The Secretary of Agriculture would have a strong role in the consolidated approach. He would approve the State plan, monitor State programs to insure conformity with the act and the State plan, would have the power to initiate various actions in the event of noncompliance, and would provide advice, counsel, and technical assistance upon request of State and local agencies. The Department would relinquish its role as the promulgator of rules and regulations and as the initiator of program design. The funds provided to consolidating States would be subject to civil rights protections, and there would be criminal penalties for fraud. Non-public school children would participate in the consolidated program.

A State which consolidated would receive funds equal to the amount in total received by that State under the categorical programs in the most recent fiscal year. This amount would be adjusted annually to reflect changes in the price of food. Federal funds would have to be used to supplement, and not to supplant, State and local funds. Supplementary funding would be available up to 10 percent of the consolidated Federal funds, providing the State matched that amount with an equal amount of non-Federal funds. Funds could not be used for matching purposes if they are used by the State to meet the maintenance of effort requirements of the act or if such funds are counted as State matching funds for the purpose of any other Federal program.

No more than 7½ percent of the funds made available to a State could be used for administrative purposes. However, a State could exceed the 7½ percent limit if at least one-half of the amount in excess of 7½ percent is provided by the State from non-Federal sources. If it used less than 7½ percent for administration, the State would not lose funds.

Within a year after enactment, the Secretary of Agriculture would recommend to the Congress legislation to provide an equitable adjustment in the amount of the payment to participating States whenever there has been a significant gain or loss in the population of such State.

Mr. President, this amendment is endorsed by the National Governors' Association and by the American Medical Association.

I might say there are some groups who do not like it, and we are going to hear about that in just a minute.

There are important groups that realize the ridiculous situation we have now with 15 or 20 categorical programs, some overlapping, and many of them poorly administered, and are ready to try this new approach on a pilot basis, just six States. It gives the chance to see if it will work. If it does work, perhaps it can be adopted by other States and get away from some of the criticism which we now get because of the poorly administered programs we have.

Mr. President, finally, I shall read excerpts from some recent GAO studies which document the difficulties with the present categorical child nutrition programs, difficulties that we feel would not exist under the Bellmon-Domenici amendment approach.

I have a lengthy group of these. I will not read them at all, but I wish to read just a few for the RECORD and for the enlightenment of Members who are here.

First, in a May 6, 1980 report by the GAO entitled "Efforts to Control Fraud, Abuse, and Mismanagement in Domestic Food Assistance Programs," this statement is made:

> School lunches were not meeting Federal standards. "Since 1977, both we (GAO) and the Department's OIG have found significant shortages in school lunches using various testing procedures. The (Food and Nutrition) Service has not penalized the localities involved, even after extended periods of noncompliance, at least partly because it has not issued standards and procedure for determining compliance." GAO goes on to point out that "Even compliance with Agriculture's quantity standards will not ensure achievement of its nutritional goals."

Also, in this same May 6, 1980 report we find this:

> GAO has documented a long history of fraud, abuse, and mismanagement in the operation of the summer food service program for children. Despite many GAO recommendations, some revisions in legislation, some revisions in Food and Nutrition Service regulations and USDA proposals for additional legislation, GAO "continues to have concerns . . . in the areas of funding State and sponsor administrative costs, obtaining feeding sites with adequate facilities, and program monitoring."

In a June 6 report, just a couple of months ago—not even that long—this report entitled "Child Care, Food Program: Better Management Will Yield Better Nutrition and Fiscal Integrity":

> GAO found that delivery of services and financial accountability were unacceptable, "Of 131 meals tested at 80 selected feeding sites, 81 meals at 52 sites did not meet USDA's minimum nutritional standards for weight or contain required meal components.
>
> "These failures may have been caused by such factors as
>
> Not enough food being purchased or prepared;
>
> Food being purchased to satisfy children's requirements but served to adults;

Apparently, they have got programs that are being badly abused by adults who are not eligible, but no one was there to turn them away.

Also in the same report GAO had this to say:

DEFICIENCIES IN EXISTING CATEGORICAL NUTRITION PROGRAMS ACCORDING TO VARIOUS GAO REPORTS

> Date, title of report, and excerpts from findings:
>
> June 16, 1980. "Major Factors Inhibit Expansion of the School Breakfast Program" CED–80–35, GAO supports the basic policy of a voluntary, rather than mandatory, school breakfast program and suggests that it be continued and encouraged.
>
> Expansion has been hampered by:
>
> Local attitudes toward the program and perceptions of local needs and responsibilities;
>
> Program costs that exceed maximum Federal reimbursement;
>
> Low participation, especially among teenagers;
>
> Operating problems; and
>
> Insufficient and/or misdirected promotion efforts.
>
> "Although the Congress intended the breakfast program to be targeted to the 'nutritionally needy,' no criteria have been developed for identifying target students or schools except criteria related to family income. With a number of different Federal programs now providing food assistance to low-income families, it may be inaccurate to presume all children from families with incomes below a certain level are nutritionally needy or that their parents do not feed them breakfast.
>
> "On the other hand, changes in food technology and students' eating habits are casting some doubt on the assumption that children from middle- and upper-income families are well-nourished. . . .
>
> "Present nutritional information systems are not adequate for deciding whether students are nutritionally needy."
>
> May 6, 1980. "Efforts to Control Fraud, Abuse, and Mismanagement in Domestic Food Assistance Programs: Progress Made—More Needed" CED–80–33. School lunches were not meeting Federal standards, "Since 1977, both we (GAO) and the Department's OIG have found significant shortages in school lunches, using various testing procedures. The (Food and Nutrition) Service has not penalized the localities involved, even after extended periods of non-compliance, at least partly because it has not issued standards and procedures for determining compliance." GAO goes on to point out that "Even compliance with Agriculture's quantity standards will not ensure achievement of its nutritional goals."
>
> OIG reports disclose that:
>
> Some schools did not check free and reduce-price meal applications for completeness or for applicants' eligibility.
>
> Some schools claimed free and reduced-price meal reimbursements according to the number of valid applications on file rather than the actual number of children receiving such meals.
>
> Some schools claimed reimbursement for meals not served to children.
>
> Some school districts did not vary reimbursement rates according to meal cost, or lacked accounting records to show that meal cost equaled or exceeded reimbursement.
>
> GAO has documented a long history of fraud, abuse, and mismaangement in the operation of the summer food service program for children. Despite many GAO recommendations, some revisions in legislation, some revisions in Food and Nutrition Service regulation and USDA proposals for additional legislation, GAO "continues to have con-

cerns . . . in the areas of funding State and sponsor administrative costs, obtaining feeding sites with adequate facilities, and program monitoring."

June 11, 1980. "Food, Agriculture, and Nutrition Issues for Planning" CED–80–94, GAO identified as a major area of concern: "How effective are the Federal domestic food assistance programs?"

June 6, 1980. "Child Care Food Program: Better Management Will Yield Better Nutrition and Fiscal Integrity" CED–80–91, GAO found that delivery of services and financial accountability were unacceptable. "Of 131 meals tested at 80 selected feeding sites, 81 meals at 52 sites did not meet USDA's minimum nutritional standards for weight or contain required meal components.

"These failures may have been caused by such factors as:

Not enough food being purchased or prepared;

Food being purchased to satisfy children's requirements but served to adults;

Menus not conforming to meal component requirements thus misleading food service personnel;

Meal servings scheduled too close together, resulting in serving sizes being reduced to accommodate diminished appetites; and

Food service personnel unfamiliar with meal service requirements."

"In addition, unhealthy conditions existed at 24 of the 115 feeding sites visited. The conditions included evidence of vermin; toxic chemical stored adjacent to food; and foods, such as rice, beans, and cereals, stored in uncovered containers.

"At 61 of the 82 sponsors where GAO evaluated recordkeeping, systems for maintaining records did not support claimed expenses, meal counts or costs were overstated, and records of participant eligibility were unreliable.

"Other practices by sponsors tended to unnecessarily increase the food costs claimed. Some fed more adults than necessary, claimed nonprogram costs, failed to consider claims for expenses already submitted to other Federal programs, and overstated costs claimed."

"As a result of GAO's work, 16 sponsors were referred to USDA's Office of Inspector General for followup due to indications of fraud or other abuses."

Furthermore, GAO found that program management needed strengthening. It concluded that management problems have come from incomplete State plans, not enough staff, ineffective program monitoring, failure to meet audit requirements, weak controls over nonfood assistance activities—equipment funding, inconsistent reimbursement procedures, superficial sponsor approval processes, and limited training of program personnel

February 27, 1979. "The Special Supplemental Food Program for Women, Infants, and Children (WIC)—How Can It Work Better?" CED–79–55. "The Congress intended that WIC operate as an adjunct to good health care. Although participants are not required to receive health services, local agencies operating the program are supposed to make obstetric and pediatric services available to participants as needed. . . .

"Neither the Food and Nutrition Service nor the States took adequate steps to be sure that health services would be available before local programs were approved, or to make sure that once the programs began operating health services actually were available."

Some of the local clinics GAO audited were not making the essential nutritional risk assessment. Uniform criteria were not being used to determine whether WIC program applicants are at nutritional risk.

"With a few exceptions, the local programs were making little or no attempt to prescribe individual food packages. Instead, the maximum allowable standard quantities of all foods were given to nearly all participants. In a few cases, food packages could have aggravated participants' health conditions."

"The (Food and Nutrition) Service has not provided sufficiently specific guidance to States on what is required in nutrition education nor made sure nutrition education is an integral part of local programs."

January 29, 1979. "Food, Agriculture, and Nutrition Issues for Planning" SED 79–36, ". . . reliable assessments of the special supplemental food program's overall results and benefits have not been made."

GAO identified as areas of concern:

Overlapping. "The programs were assembled in a piecemeal fashion. This could allow some potential target groups to be missed and definitely creates the possibility of overlapping benefits whereby some recipients can receive food far in excess of their daily requirements."

GAO notes that "the multitude of programs might not be the most efficient means of delivery."

GAO states that "The most important question, and one surprisingly not asked very often, is: 'Are the programs really meeting their objectives?' Is the nutritional status of recipient groups being improved? Unfortunately there is a decided lack of information that provides a milestone by which these programs can be measured."

GAO recommended that the following questions should be addresed:

"1. Do these food assistance program objectives need to change in the current set of circumstances?

"2. Do the programs actually reach the target groups or does both overlap and inequity result?

"3. Are benefits keeping pace with current costs of living? Do these benefits effectively bootstrap the recipients?

"4. What alternative structural reorganization efforts could improve the efficiency of these programs?"

November 7, 1978. "Future of the National Nutrition Intelligence System" CED–79–5; "Federal programs to achieve nutrition must be based on a variety of information on the nutritional status of the population. A properly designed and coordinated system can supply the nutrition intelligence needed. The United States presently does not have such a system but some of the information is supplied by activities conducted by the Departments of Agriculture and Health, Education and Welfare.

"Weaknesses in existing activities include data which is often untimely, not sufficiently specific geographically, omits important population groups, and is inadequate for evaluating program effectiveness.

"Further, existing activities are fragmented among several agencies and not integrated into a coordinated system."

June 13, 1978. "Federal Domestic Food Assistance Programs—A Time for Assessment and Change" CED–78–113, GAO's review showed "benefit overlaps and gaps, eligibility differences, administrative inconsistencies, coordination problems, and insufficient nationwide data on program benefits and nutritional impact.

Among the GAO recommendations to the Executive Branch were these:

Determine, on a priority basis, the precise extent of current benefit overlaps and gaps among the major Federal food assistance programs;

Develop and carry out a coordinated and timely way to measure the nutritional statue of Americans and use this data to evaluate the effectiveness of Federal food assistance efforts;

Propose consistent income and asset eligibility requirements and procedures for the Federal food assistance programs and study the effects of such requirements and procedures on program participation, costs, and work incentives;

Study the feasibility of (1) considering benefits from one Federal food program when determining eligibility and benefits in other Federal food programs and (2) consolidating certain administrative aspects of designated food programs at the local level;

Explore alternatives to present food delivery systems in the women, infants, and children program;

Provide mechanisms to make sure that persons in need of, or receiving, specific benefits from one program are aware of and referred to other food programs that they are eligible for; and

Study ways to encourage the exchange of information among local "food program administrators to assist them in identifying potential or ineligible recipients."

Among the GAO recommendations to the Congress were these:

"On the basis of the executive branch's study and proposals involving consistent income and asset program standards, adopt a uniform income and asset definition of the term 'needy' and establish consistent criteria and procedures for determining who is eligible for Federal food assistance;

"Consolidate certain Federal food programs;

"On the basis of the results of the executive branch's feasibility study, require a single State/local agency to be responsible for certain administrative aspects of designated Federal food programs to help assure a more efficient delivery of food assistance to needy Americans."

Mr. President, I believe this gives ample evidence that there is need for improvement in the administration of the present programs, and I believe it gives the Senate reason to undertake some new approaches, and that is what this amendment proposes to do.

I also have a summary of the present nutrition programs that have been designed by the USDA, by authorities here in Washington. I ask unanimous consent that this summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY TABLE 1.—CHILD NUTRITION PROGRAMS, PARTICIPANTS, AND FEDERAL COSTS IN FISCAL YEAR 1979

Program	Targeted population	Type of benefit	Number of participants (in millions)	Average subsidy per participant (in cents)	Cost (millions
National school lunch	School-age children (under 21 yr of age) enrolled in schools or residential child-care institutions.	Cash subsidies and commodities.	27.3	62 per meal	$2,693.5
School breakfast	do	do	3.4	40 per meal	215.0
Child care food	Children under 19 yr of age in nonresidential child-care organizations.	Cash subsidies, commodities, and equipment assistance.	.7	42 per meal	151.0
Summer food service	Children under 19 from areas of poor economic conditions for months May through September.	Cash subsidies and commodities.	2.9	92 per meal	148.5
Special milk	Children under 21 yr of age in schools, residential child-care institutions, and summer camps.	Milk subsidies	8.0	8 per ½ pt.	142.0

SUMMARY TABLE 1.—CHILD NUTRITION PROGRAMS, PARTICIPANTS, AND FEDERAL COSTS IN FISCAL YEAR 1979—Continued

Program	Targeted population	Type of benefit	Number of participants (in millions)	Average subsidy per participant (in cents)	Costs (millions)
Special supplemental Food Program for women, infants, and children (WIC).	Low-income pregnant, postpartum, and breastfeeding women, and their infants and children up to age 5.	Food vouchers and commodities	1.5	27 per meal	550.0
Commodity supplemental food	Low-income infants, children, and women certified vulnerable to malnutrition.	Commodities	.1	19 per meal	19.5
Nonfood assistance (equipment)	Schools and residential child-care institutions	Cash grants	2.9		24.0
Nutrition education and training	Children in schools and child-care institutions	do		50 per child per year	27.9
State administrative expense	State administrative employees	do			32.0

Source: CBO.

BENEFITS OF U.S. FOOD AND NUTRITION PROGRAMS

Program	Coverage	Direct benefits	Nutritional benefits study	Findings
Food stamp program	16.7 million households (1977)	More than $5 billion food stamps annually.	Clarkson[1]	Increased food purchases with increased convenience foods and a 50% replacement of earlier expenditures by food stamps.
			Madden/Yoder[2]	Small dietary improvement; large substitution effect.
			Hoover/Whittaker[3]	Insignificant dietary intake improvement.
			Lane[4]	Increased dietary intake.
			Price/West[5]	No significant impact on biochemical indexes or diet for school children.
National school lunch program			Comptroller General's Report[6]	Provides a large proportion of food intake for low-income children, especially blacks.
			Paige[7,8]	No increases in height, weight, hematocrits.
			Emmons et al.[9]	Possible improvement in nutritionally needy children.
WIC	More than 1 million women, infants, and children given food supplements and nutrition education.	$550 million in fiscal year 1979	Edozien et al.[10]	Possible improvements in iron nutriture and overall nutritional status for infants and pregnant women; improved weight gain during pregnancy.
			CDC analysis[11]	Reduction of anemia; improved weight for height; possible reduction in proportion of low birth weights.
Title III—Nutrition program (elderly).			Pelcovits[12]	Group meals appeared effective.
			Kohrs et al.[13]	Improved dietary intakes for group meal participants.
			Joering[14]	Enhanced dietary intake with home-delivered meals.

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[1] Clarkson, K. W.: Food Stamps and Nutrition. Washington, D.C.: American Enterprise Institute for Public Policy Research, 1975.

[2] Madden, J. P., and Yoder, M. P.: Program Evaluation: Food Stamps and Commodity Distribution in Rural Area of Central Pennsylvania. Department of Agriculture, Economics and Rural Sociology Final Report, State College: Pennsylvania State University, 1971.

[3] Hoover, D. M., and Whittaker, J. K.: Regression Analysis of the North Carolina Nutrition Survey Data: Some Problems and Tentative Findings. Raleigh: Institute of Statistics, North Carolina State University, 1972.

[4] Lane, S.: Food-Aid Program Effects on Food Expenditures and Levels of Nutritional Achievement of Low-income Household. American Agriculture Economics Association annual meeting, College Station, Tex., 1974.

[5] Price, D. W., and West, D A.: Analysis of Food Program, Socioeconomic and Nutritional Characteristics of Washington Households Eligible for Food Stamps Pullman: Washington State University, College of Agriculture Research Center, 1977.

[6] Comptroller General of the United States: The School Lunch Program—Is It Working? Report to the Congress, Washington, D.C.: General Accounting Office, 1977. Pub. No. PAD-77-6.

[7] Paige, D. M.: The school feeding program: An underachiever, J. School Health. 42:392 1972.

[8] Paige, D. M., and Cardano, A.: Nutritional supplementation of disadvantaged elementary school children American Public Health Association annual meeting, Nov. 6, 1973.

[9] Emmons, L., Hayes, M., and Call, D.: A study of school feeding programs. J. Am. Dietet. Assoc. 61:262, 1972.

[10] Edozien, J. C., Switzer, B. R., and Bryon, R. D.: Medical Evaluation of the Special Supplemental Food Program for Women, Infants and Children (WIC) Summary and Conclusions. Chapel Hill: Department of Nutrition, School of Public Health, University of North Carolina, 1976.

[11] CDC Analysis of Nutritional Indices for Selected WIC Participants. Atlanta: Center for Disease Control, 1977.

[12] Pelcovits, J.: Nutrition to meet the human needs of older Americans. J. Am. Dietet. Assoc. 60:297, 1972.

[13] Kohrs, M. B., O'Hanlon, P., and Eklund, D.: Title VII—Nutrition programs for the elderly. J. Am. Dietet. Assoc. 72:487, 1978.

[14] Joering, E.: Nutritive contributions of a meals program for senior citizens. J. Am. Dietet. Assoc. 59:129, 1971.

Mr. BELLMON. I yield to the cosponsor of the amendment, the Senator from New Mexico.

Mr. DOMENICI. Mr. President, today I am most pleased to stand in support of the Bellmon-Domenici amendment known as the Food and Nutrition Program Optional Consolidation and Reorganization Act of 1980. We are offering this consolidation option as an amendment to the Child Nutrition Amendments of 1980.

The need for this amendment is clear, Mr. President, when we consider for a moment the great diversity of foods available from a wide variety of cultures in this country. The bureaucratic mind likes to reduce this variety to a set of standards that is hardly appetizing. There is needless difficulty created when regional eating differences are diminished by the Government. The attitude that serves to reduce food to calories and vitamins without the appreciation of geographic and cultural variables causes administrative and implementation problems. For example, the abundant seafood of the Northeast can be technically compared to the enchiladas of the Southwest if one is willing to sacrifice all color, shape, and taste to the standards of vitamin content and caloric value.

While I am grateful for the scientific advances made possible from the use of standardized measurement, I appreciate the local flavor of tradition. We are most fortunate to be able to judge nutritional values from the viewpoint of healthful eating habits. But it is also important to recognize and encourage local variety and custom in reaching our goal of healthful diets for all.

In New Mexico alone, many traditional Indian, Spanish, Mexican, and New Mexican dishes add much to our feeling of uniqueness. I am sure that every State has its ethnic richness to offer to the tables of America. It is fundamentally in the interest of preserving and encouraging these differences, Mr. President, that I support legislation that will give six States the opportunity to approach nutrition from a new viewpoint while seeking to provide adequate nutritional value to all of its citizens.

Gov. Bruce King of New Mexico has expressed his full support of this consolidation approach because, in addition to giving New Mexicans a chance to eat like New Mexicans (regardless of income level) he tells me that:

> A consolidation of these programs could produce a savings to taxpayers and produce a comparable level of service to the recipients.

A single source for food and nutrition assistance would be viewed by the many rural communities in our State as a great step forward. Right now they are faced with 14 different categorical programs which result in a mix of commodities and school lunch subsidies that can be bewildering.

In some cases, the major problem may be one of nutrition education rather than availability of basic foods. Our Governor could more easily adjust to these local situations in our valley areas with the help of our proposed amendment. He would face many barriers under current law where he is told where to spend the Federal, and hence the local resources.

Senator BELLMON and his staff have done an excellent job of describing the functional aspects of our amendment. I would, however, like to emphasize the fact that our amendment requires a comprehensive assessment of the food and nutritional requirements of the people of the people of the State as well as monitoring to assure program delivery in line with the findings of the assessment. Thus, children, infants, expectant mothers, elderly people, institutionalized populations would be viewed in perspective by need rather than the current system of addressing their problems primarily by statute which can often be 180 degrees from the actual situation.

We are seeking to give six innovative States the opportunity to use their same Federal allocation from the many programs in a way that combine the same resources toward need rather than bureaucratic reconception.

Mr. President, I urge my colleagues to support an experiment that can lead the way to a more efficient and more tasty way of feeding Americans who are hungry or Americans who can benefit from a more nutritional use of available foods.

Mr. President, I have been in the Senate now for almost 8 years. When I came right out of the city government as mayor, I heard everyone then saying that categorical grant programs are too restrictive; they cannot possibly cope with the flexibility needed in this country; they are too inflexible in their rules and regulations, and we ought to find a better way in order to do a better job.

The theory came along "Let us go to block grants, and give them the money and let them do it." I see the distinguished Senator sitting in the chair (Mr. EXON) who used to occupy the position of Governor, and that was the coming thing for a few years.

That went by the boards.

The next thing was, "Well, let us have less categorical grants. That is the way to do it. We will just consolidate them."

So now every time we have a major bill with categorical grants in it they consolidate, Congress consolidates, about 7 or 8 and then adds about 10 or 12.

So here we are 8 years from the time I arrived and we are still searching for the truth.

What we are trying to find out is is there a better way to manage a program such as nutrition with more than 15 categorical grant programs in it? Is there a better way than with one National Government setting guidelines and rules and regulations or not?

What the distinguished Senator from Oklahoma and I have done in this amendment—and we have modeled it after an effort of ours in education—is we have said, "You know, there are some who are not sure that the States can run programs. There are others who are still convinced that the categorical grant program, with all of the strings and rules that apply well in one State and not so well in another, good for one group, not so good for another, with marginal people in the middle, who somehow cannot understand why they are not taken care of, well maybe what we ought to do is to try a living experiment that has little chance of hurting anyone, and in 3 or 4 years we will be able to take a look at these two systems; the ever-proliferating categorical grant program idea with specific targets from on high, to wit, Washington, we will let that one run its course, but we will let six States under this bill experiment with us.

"There is very little risk of anyone getting hurt in this experiment because of the way it is set up. Six States regionally dispersed in this country would make a good sample, will be given an opportunity under this approach to say to the Secretary of Agriculture, 'We will try to come up with a State plan. You give us some planning money,' and it is provided for in here; 'we will involve our legislature,' and that is provided for in here; 'we will involve the public in hearings,' and that is provided for in here; 'and we will send you, Mr. Secretary, a plan as to how each of these six States' "—perhaps Nebraska, perhaps Oklahoma, perhaps Minnesota, will say, "Here is how we will do this."

The same amount of money, same match from the Federal Government and the State government. The State has a big interest in this. They pay for half of it. The thing is we are going to let them plan this one for their half rather than the Feds planning the whole thing as they have, with all the problems that the good Senator from Oklahoma has described, and hundreds more that we have not had time to discuss.

Then we say that in case it might be something so bad, because these Governors in the States after all "We cannot trust those fellows, that is why we ought to do it up here," that is why the Secretary of Agriculture has to approve it under this legislation, and then they get the money.

The State decides what State agency is in charge of administering that plan, with the same goals and objectives, but some broader ones, so they can do some educating, some consolidating.

If they want to spend more they have to put up more of their own money. Up to 10 percent more, we will give them 10 percent more, if they will put up 10 percent of their own.

Now, the reason why we call this a demonstration is because this will be a living demonstration, properly monitored, with the National Government having the authority to prosecute for fraud and all the things we might expect, just as we find it in the Federal Government's administration. They will be able to report to us on an annual basis.

There will be ample opportunity for people of all kinds of philosophies about Federal Government versus State government, federalized nutrition programs being the only kind that will work, say some; others say "Let us try another." Six States will have that program running down on an annual basis. Congress will have to appropriate, and in the event there is some kind of real default on the part of our States, it can be cut off.

My guess is that what we will find in the second or third year when six States are trying this under the guidelines I have been describing, what we will find to our amazement is that there are far better ways to handle the billions of dollars in the nutritional money for our children by trusting our States under a State plan that must be certified, and we will find one and for all the truth.

There are people around here who do not want to try this because they do not want the truth. They want to keep fiddling around with the Federal strings, hoping against hope that there is some management scheme, perhaps with new computerization, whereby we can turn this diversified Nation of 50 States, with all the other economic and social diversity, that we can all of a sudden turn it into something we can manage from up here, and that is the best way to do it.

I think we will find the truth is that our States can be trusted at this point in our national history, especially when they must do such a vital job as to provide child nutrition, and especially when it is being done in the public eye, with public hearings, with all the same kind of people who want to see it done right, but they will be arguing down at the State level about doing it right instead of having their national lobbying groups come around to two or three committees in the Congress where they claim they represent everyone who is concerned about nutrition. That lobbying will take place when that State plan is going on in that State legislature, and before that plan is developed to spend this money for the exact same goals and purposes that it is now being spent for in the numerous categorical grants, with so many shortcomings, so many inflexible rules, so much waste not only because of fraud and malfeasance but just because you cannot manage a program of this magnitude out of one place, be it as great as the Department of Agriculture or whatever.

So I see this as a rare opportunity for the U.S. Senate to say, "On the one hand, for those who think the categorical grant programs ought to be consolidated, streamlined in their management and administration, made workable, they will get a trial with six States doing it 1 year at a time as prescribed."

For those who think the present program is good, they will have all the rest of the States, the six that do not get selected or do not want to exercise the option. They can watch the nutrition program grow in those other 44 and they will find these GAO reports and these internal audits. They will not stop, they will abound, they will be just as many with only 44 States as there are now with 50.

I submit we will have something exciting to look at in 3 or 4 years in terms of some new ways of doing some real things for our people. I think this is actually an approach—I tried it in education. It is the first one in education and we cannot get it through. But I submit it borders on an approach that maybe a national legislature ought to try across the board. Maybe we ought to take all the categorical grant programs and maybe we ought to say, "Let's have five or six States experiment with consolidation and simplification and that it be monitored every 2 or 3 years."

How else are we going to find out whether or not the time has come to get control and management of these hundreds and hundreds of categorical grant programs down closer to the people? Is the State the right place to start?

Senator BELLMON and I think there will be six States that we can trust. There will be six States that will submit a plan that we ought to take a chance with. This is an opportunity for U.S. Senators to decide whether they want to do this or not.

Mr. BELLMON. Mr. President, before the Senator from New Mexico concludes, I would like to say that this idea is basically the idea of the Senator from New Mexico, the idea that we have an optional approach that the States can elect and that we have oversight by the Federal agencies to be sure that the plan is a sound plan.

I do not want the Senate to not be advised of the fact that the genesis of this bill is the optional educational consolidation bill which the Senator from New Mexico offered the Senate some weeks ago.

I want to thank the Senator from New Mexico and say we are trying to apply his idea in nutrition areas just as he applied it in the education area.

Mr. DOMENICI. I say to my good friend from Oklahoma that he is most generous. From the first time he and I got the idea, we have worked on it together. The first bill that was drawn was the educational bill, and the Senator said immediately that it ought to apply to nutrition, and I commend him for that.

I just hope that it is the one the Senators will see the light on and vote for. One of these days something like this is going to happen. It might just be that maybe we are moving in the direction of seeing the light—it might happen here tonight—that the first real experiment in decentralizing categorical grant programs in a way that we can monitor, in a way that we can look at that is cautious, that does not have any of the fear attached to it of a total turnaround toward block grants. Maybe this is the cautious way of experimenting with it, and it might just pass.

(Mr. BAUCUS assumed the chair.)

Mr. BELLMON. Mr. President, I am so persuaded by my argument and the argument of the Senator from New Mexico that I hope it is spreading out to the floor managers of the bill and perhaps they can accept our amendment and give this idea a test.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, this is a good amendment. It is an idea whose time has come. I commend the able Senators from Oklahoma and New Mexico, Mr. BELLMON and Mr. DOMENICI, for the sound legislative effort that has been dedicated to the preparation of this amendment.

As Senator BELLMON said at the outset of his remarks, this amendment is almost identical to S. 605, the amendment that he and Senator DOMENICI submitted in May of last year.

In December of last year a hearing was held on the bill in the Agriculture Committee. During that hearing the principal differences in this amendment and S. 605 were discussed. Finally, the amendment was favorably considered in the Agriculture Committee during markup of the bill now before the Senate. But due to the very crowded agenda of that committee meeting it was not moved as an amendment to the bill.

I support this amendment. Not only is it a carefully drafted and well-thought-through proposal administratively, it promises to make more prudent use of tax dollars delivered to serve the nutritional needs of the children, infants, expectant mothers, elderly people, institutionalized populations, and isolated populations of the various States choosing to consolidate their nutritional programs under this act.

The Senator from North Carolina has heard Senators of all persuasions and political affiliations endorsing flexibility in State administration of various programs. Now is the time for us to back up our words with action.

This amendment permits up to six States to consolidate the various nutritional programs concerned so that they can better serve the nutritional needs of the State's population. That is a sound idea. The States are familiar with the particular nutritional needs of their respective populations. Those who would consolidate these programs in order to better serve their citizens certainly ought to be allowed to do so.

Those who do not want to see the Federal strings loosened from our State administrators who are all to often treated as puppets of the Federal bureaucracy—have been mumbling that there are things wrong with this amendment. They, of all people, have been grumbling that it is too expensive. Well, the Senator from North Carolina is proud to be known as a fiscal conservative. And, frankly I initially looked at the potential cost of this amendment with a jaundiced eye, but found that its minimal cost will not doubt be more than offset by a much more prudent use of Federal tax dollars.

Mr. President, I heartily endorse this proposal as a road to more effective use of limited tax dollars through increased State flexibility in administration of nutrition programs.

I yield the floor.

Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, first of all, I want to say it has been my privilege to work with Senator BELLMON on nutritional and agricultural matters for a number of years. I have a very high regard for his knowledge of these programs and also his intentions in trying to improve the operation of our various food programs.

I think this particular amendment is a mistake for a number of reasons. First of all, the nutritional programs that we have designed over the last 10 or 12 years have probably been the most impressive success story in Government. I think it is fair to say that the war against hunger, which began to gather force roughly in 1968 and 1969 and has continued to this day, has had more impressive results than any other single social program in which the Federal Government has been involved.

I can see a number of problems in what the Senator from Oklahoma is proposing, which, in effect, would turn over the design and the administration of these programs to the several States.

One of the first things that should be kept in mind—and I hope this would be a matter that would carry considerable weight with the Senator from Oklahoma—is that the Congressional Budget Office has estimated that in each of the first 2 years this amendment would cost an additional $15 million above and beyond the cost of the bill as it now stands. And that additional cost factors would move it to $26 million in succeeding years.

Senators who sat through the painstaking effort of our committee to try to find some way to reduce $500 million from the child nutritional programs, which we did, will recognize that to come in with an amendment now that has the effect of adding another $25 million a year—$26 million to be exact—to a program with no demonstrable advantages, puts us in a very awkward position.

On that ground alone, I would be inclined to oppose this amendment. I know how difficult it was to make some of these cuts where we cut a million here, $2 million there, $5 million there. But this amendment would have the effect, after the first 2 years of adding another $26 million. These are not my estimates, these are the estimates of the Congressional Budget Office.

Mr. BELLMON. Will the Senator yield?

Mr. McGOVERN. Yes, I yield to the Senator.

Mr. BELLMON. When the Senator realizes the total cost of the programs involved in this amendment is $8.1 billion, of which $4.7 billion is Federal, I think he can see that the planning money, which is what we are talking about, the $15 million planning money, is almost a minuscule amount. We probably can either get that much better result or eliminate that much fraud and waste and abuse or produce many more savings than that by simply getting the programs into the hands of those who would administer them better.

Mr. McGOVERN. I wish I could agree with the Senator on that. But I am going to move on to a second point, that I think the pattern that he sets in this amendment, as a matter of fact, actually opens the way for more fraud and abuse in the program. It results, without any question, in the disruption or the termination of existing programs that have been proved over the years to be successful and cost-effective.

For example, the WIC program. I do not know of any program in which the Federal Government is involved that has been operating any more effectively or any more efficiently than this special supplemental feeding program for women, infants, and children. That program literally is saving this country tens of millions of dollars in terms of future expenditures that would otherwise have to be made for the illnesses of people who otherwise are benefited by what amounts to a preventive health care program.

I can see a situation developing in the several States, where if you turn over the guidelines, that are tested and proved guidelines that have been worked out in this program, these might be supplanted under the pressure of stronger local interest groups. Food manufacturers in a given State could very well be sufficiently powerful to influence the food and nutrients provided in a particular nutrition program.

I think one of the advantages in establishing the national guidelines that we have for this program is that we have been reasonably successful in resisting lobbying pressures, special interest pressures, and putting first and foremost the health and well-being of the people we are trying to assist in these various food programs.

The Federal Government is certainly in a better position to withstand these local political pressures, resulting in programs that are rationally suited to meeting nutritional needs.

Mr. President, each State choosing the block grant option under the proposal by the distinguished Senator from Oklahoma would be required, under that amendment, to do a nutritional assessment of its residents' needs. That is an immense undertaking which the States are not equipped to do, if the survey is to be scientifically valid.

Moreover, it is not cost effective for individual States to do the research necessary to bring any programs they may design up to date with the latest nutritional developments.

Beyond this, there is no evidence that I am aware of indicating that nutritional needs from State to State are so diverse as to require separate State strategies.

It may sound good in theory, to say that there is a vast difference in the nutritional requirements of people in one State as against another. The facts just do not bear that out.

There are certain basic nutritional considerations that are universal. There is no evidence at all that we have to have a separate State-by-State strategy for these various nutritional programs.

Where there are differing needs within a State, for example, let us say a greater need among rural populations, or feeding patterns which vary among different ethnic groups, the current programs already afford the States the flexibility they need to meet those differing requirements.

Many States under present law are not taking advantage of that flexibility to tailor benefits to individual needs. In other words, there is flexibility in this program as it is presently structured which is not being fully taken advantage of. There is no reason to think that they would do so under the proposal offered by the Senator from Oklahoma.

The present law already requires the States to survey nutritional needs and to undertake statewide, comprehensive planning. In other words, these programs are not allowed to develop in a hit-or-miss fashion within a State. A State has to come up under the existing law with a comprehensive plan for administering these various programs. It is simply not correct to suggest that the Bellmon amendment is needed to compel that kind of a coordination or review process.

Mr. President, States choosing the block grant approach would be compelled to designate a single State agency to administer all child nutrition programs. I think this would result in a significant dislocation of programs and activities. The various programs are now, by and large, administered by those agencies within the State that are best suited to advance the objectives of the program.

I listened to the very eloquent argument by the Senator from New Mexico about the diversity that the amendment of the Senator from Oklahoma is going to introduce into this program. But, paradoxically enough, by bringing all of these programs in a given State under a single agency, and ruling out some of the line agencies that have had experience in the development and operation of this program, we may lose some of the flexibility and diversity that we have in the exsting program.

For example, to take the WIC program again, it is presently well integrated into the overall health activities of each State. I do not know of any instance where there have been serious malfunctions in the way that program has been handled. But assigning all programs to, let us say, the more powerful State education department, and if that were the agency that was picked—let us say the Bellmon amendment were in effect and State A had decided to implement the option provided in that amendment and they designated the State education agency to run all of the programs that have to do with nutrition in that State—it is quite possible that dollars now targeted to low-income mothers and children in the WIC program could be reallocated to nonneedy students in the school meals program.

I am not saying that is an automatic result, but it is one of the dangers where you set up a State agency and disrupt the experienced line agencies that have been conducting the various programs in the State.

Under present law, the various State agencies and land grant universities work together to address complex nutritional problems. That kind of pluralistic model is superior, in my judgment, to vesting all responsibility in a single State agency.

I know, Mr. President, that on the surface there is a kind of superficial appeal in saying, "Why do we not turn these programs over to the States and let them experiment for awhile and see if they can do a better job of designing nutritional guidelines, of determining what the nutrients should be in the school lunch program, of determining whether the priorities ought to be between the WIC program or, let us say, the school breakfast program?"

The facts are that we have gained enormously valuable experience in recent years with the development of these programs, with the Department of Agriculture and the Congress taking the lead in their design. I am very much concerned that we are going to lose much of the effectiveness of those programs if we begin experimenting with State plans that are under the control of a single State agency.

The specter of local interest groups, local lobbying groups, powerful economic interests in a given State exerting their influence on local people—all of those things, I think, are not in the interest of the proper operation of our nurtitional programs.

I would hope, Mr. President, that this amendment would be rejected. It has already been rejected by the American School Food Service Association, which is the most prestigious and most experienced group in the country in dealing with the school lunch program and our other child nutritional programs.

It has been rejected by the Children's Foundation.

It has been rejected by the National Anti-hunger Coalition, which is a broad coalition of a number of nutritional groups that are fighting malnutrition and hunger in this country.

Numerous commodity groups have opposed it, including the National Milk Producers Federation.

So for these and other reasons, Mr. President, I feel constrained to oppose this amendment, and I hope the Senate will reject it.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I do not want to hold the Senate unnecessarily long, but I do want to respond to some of the statements of the Senator from South Dakota.

I believe the Senator from South Dakota knows that even though the present law requires nutritional assessment, such an assessment has never been made for the reason that there has never been any funding provided for that assessment. Therefore, the States have never undertaken it.

That is the reason we have put in both the requirement for a nutritional assessment and also the funds to accomplish that assessment. So that, alone, would be a major accomplishment of this amendment.

Also, there would be no retargeting of these funds, as the Senator from South Dakota has suggested, unless the Secretary specifically approved that when he accepted the plan which the State will develop. That, to me, is not a real danger. There is no State that is going to take funds away from infants and pregnant women and give them to school lunch children anyway. But if they try to do it, the Secretary could easily veto that situation when he is dealing with their proposed plan.

So far as the single State agency is concerned, this provision appears on page 7 of the bill. The idea here is to have a single State agency for administrative purposes in an effort to try to avoid overlap and try to be sure we get a better job of keeping records and controlling the programs, and also making the assessment, unless several other purposes at the single State agency would accomplish it.

On page 23 of the amendment, the provision appears, which allows the State agency designated pursuant to subsection 28(a)(1) to the extent necessary to carry out the provisions of this title to—

First, delegate its administrative functions, under this title to other appropriate State agencies;

Second, transfer to such agencies administrative responsibilities and any funds provided to the State under this title; and

Third, enter into contracts with public and private agencies, organizations, and institutions for carrying out activities authorized under this title.

So, whereas there would be one single State agency that would have responsibility for the program, that agency could delegate the authority to any other State agency or even private and public agencies that were considered to be able to meet the responsibilities of this amendment. So that is not a valid concern so far as the amendment is drawn.

Mr. President, unless there are other requests for time—are we under controlled time?

The PRESIDING OFFICER. There is not any control of time.

Mr. McGOVERN. Mr. President, I think all the arguments have been made. The Senators are aware of the issue here, and I suggest that we go to the vote.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I yield myself 2 minutes. I thank the distinguished floor manager of the bill for his kind remarks and the way he has analyzed the opposition to it and responded. I do have just this observation.

Inherent in the argument against this amendment is the notion that you will get bad lobbying, bad special interest groups that are adverse in some way to the public good at the State level, but that just does not happen at the national level. I just do not believe that is anywhere close to reality. In fact, I really believe that it is an impossibility. The difference is that you get very special interest groups at the national level and they never change, and they are a pretty close-knit group. That is why we have them saying what we have is good and anything else that you try would be bad, because they might not be representative of the nutritional interest in Oklahoma, but they sure are up here; they may not be in New Mexico, but they sure are up here.

The second notion is the abiding and almost pervasive notion that goals and ideas can only be carried out into constructive programs if they are being done from Washington; that somehow or other, if you get it down there to that State level, where Senator EXON is running the program in the State of Nebraska, somehow, they are not going to do it as well. As I said in my few remarks following the distinguished Senator from Oklahoma, that day is past. There may be some issues where we do not want to trust our States and Governors and local people. I do not know what they are. There may have been a time in our history, that is not worth talking about now, when that was the case. But I guarantee that it is not the case when it comes to the average program for people in this day and age. They happen to be just as responsive as we are, quicker to act, probably have as good management technicians or better; and most of all, they are far more apt to be responsive to the needs of their particular constituents than we are nationally.

That is what it seems to me is the pervasive thing that keeps programs stuck as they are at the national level.

Mr. BELLMON. Mr. President, I should like to add just one thought to the points raised by the Senator from New Mexico. The other pervasive attitude here in Washington seems to be that all virtue, all morality, all wisdom, all vision is somehow located here in the Nation's Capital. I do not believe that is the case. The miserable results we get in some of these programs prove that is not the case. What we are trying to do here is give the six States which do have some meritorious contributions to make the opportunity to do that. As the Senator from New Mexico said, it does not wreck the whole program. In literally 44 States, the programs would go on as they are now. But we would have the chance to test this new approach in six States and I think it is clearly an opportunity that we need to have.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alaska (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—51

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Chafee
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Durkin
Exon
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Kassebaum
Laxalt
Levin
Long
Lugar
McClure
Mitchell
Morgan
Nunn
Packwood
Percy
Pryor
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Thurmond
Tower
Wallop
Warner

NAYS—44

Baucus
Bayh
Biden
Bradley
Burdick
Byrd, Robert C.
Cannon
Cranston
Culver
DeConcini
Eagleton
Ford
Glenn
Gravel
Hart
Heflin
Inouye
Jackson
Javits
Johnston
Leahy
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Pell
Pressler
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stevenson
Stone
Tsongas
Weicker
Williams
Young
Zorinsky

NOT VOTING—5

Baker
Church
Kennedy
Stewart
Talmadge

So the amendment (No. 1939) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. TALMADGE. Mr. President, I support S. 2675 as reported by the Committee on Agriculture, Nutrition, and Forestry.

In accordance with the reconciliation instructions contained in the first concurrent resolution on the budget for fiscal year 1981, House Concurrent Resolution 307, the Committee on Agriculture, Nutrition, and Forestry submitted its recommendations for reducing spending under laws under its jurisdiction. Those recommendations were passed by the Senate as title I of S. 2885. According to the Congressional Budget Office, these provisions will reduce both budget authority and outlays for the child nutrition programs in fiscal year 1981 by over $520 million. Those costsaving provisions are also contained in S. 2675. The bill contains additional 1981 savings of $29 million that were not included in the reconciliation bill.

The Committee on Agriculture, Nutrition, and Forestry has been exemplary in its approach to the congressional budget process. I have always supported the child nutrition programs. The importance of these programs in helping to insure that no child or adult is deprived of his or her opportunities for development due to lack of a proper diet cannot be overemphasized. I was personally torn between the goals of fiscal responsibility and maintaining the integrity of the child nutrition programs. My concerns were shared by several members of the committee. Through extensive debate and consideration, we are able to bring to the Senate a bill that satisfies both of those objectives. This is an accomplishment of which we can be proud.

In addition to the cost saving provisions, S. 2675 contains provisions that will result in more efficient and effective operation of the child nutrition programs. The bill will remove the offered versus served option in the school lunch program in junior high and middle schools and thereby improve the nutritional content of the lunches that students in those schools actually receive. The bill, by allowing States to transfer administrative expenses funds among the child nutrition programs without limitation, will provide greater administrative flexibility at the State level. This will allow the States to reduce their paperwork and address the real needs of the State. Claims for meals served in the child nutrition programs will have to be submitted to the appropriate State agency during the fiscal year or within 90 days after the end of the fiscal year in which the meals were served. The amount of administrative expenses funds for the summer food service program for children has been effectively increased, by establishing a $30,000 per State per year minimum amount, in recognition of the value of this program and the administrative problems it has experienced. Incentives and procedures are provided for schools in which there is a desire to implement the school breakfast program. The bill also contains constructive modifications in the special supplemental food program and the nutrition education and training program.

There has been a good deal of discussion about the commodity distribution program. S. 2675 addresses the criticisms of this program by allowing States to refuse more than 20 percent of the tendered commodities and replace them with other commodities, if available.

The commodity distribution program serves as a cost-effective means for the Federal Government to fulfill the dual purpose of the child nutrition programs: To provide children with wholesome and nutritious meals and to provide an effective tool for the stabilization of the agricultural economy. The committee commends the recent work of the U.S. Department of Agriculture in: First, upgrading the commodity distribution program, second, improving the program to better serve participating States and schools that provide child nutrition food service, and third, encouraging greater consumption of agricultural products in bountiful supply.

The Food and Nutrition Service has conducted a bonus commodity program for those schools that make full use of the commodity donation program and can use additional commodities removed from price support stocks of the Commodity Credit Corporation. This program has proven quite successful and has contributed to the stabilization of agricultural markets as well as having contributed to the nutritional well-being of participating children. To this same end, the Food and Nutrition Service is to be commended for supporting the school breakfast program with commodities in past years. The Food and Nutrition Service is encouraged to continue the bonus commodity program and the bonus commodity support of the school breakfast program in cooperation with the Commodity Credit Corporation as long as the additional commodities can be used by schools without waste and the removal program continues to assist in the stabilization of agricultural markets.

A matter has come to my attention related to an effort by the Department of Agriculture to improve the nutritional quality of food served in the school feeding programs. This is a laudable goal and one that I support. It is consistent with the fundamental reason why I have supported the school lunch program and other child feeding programs since becoming a Member of the Senate. The reason for these programs is to nutritionally improve the diets of school-age children.

However, the Department has recently embarked on a new and controversial means of attaining the goal of improving school meal quality. My concern is that the school lunch program will not benefit, and indeed may suffer, if it becomes embroiled in controversy due to these actions by the Departmeent of Agriculture.

Recent publications by the Department's food and nutrition service (FNS) entitled "food buying guide for school food service" and "menu planning guide for school food service" require that products used in the programs must either be listed in the food buying guide or must bear "CN" (child nutrition) labeling. This requirement was not presented to interested parties for comment before publication.

Several products were excluded from the food-buying guide because the Department claims that they do not have adequate information to calculate the serving size or portion and contribution to the meal requirement. What concerns me is that the Department made no effort to contact producers of these products and request the necessary information so that it could be included in the food-buying guide. Since these products are not included in the buying guide they will require "CN" label approval before they can qualify for the school lunch program.

Processors were unaware that such labeling would be required for these products and thus had no opportunity to seek "CN" label approval from the food and nutrition service. The "CN" labeling requirement is in addition to the regular label approval required by USDA for all meat products and would be made by a different group within the Department. Thus, the "CN" label must be approved by two groups within the Department. The time required for such approval could be quite lengthy. If the product is a nonmeat item, the producer must be certain that the label conforms to all requirements of the Food and Drug Administration.

For these reasons, it was imperative that the Department submit the buying guide and menu-planning guide for public inspection and comment well in advance of their use in the school lunch program. This would have given all interested parties the opportunity to submit data regarding use of the affected product. The Department would then be able to review this data and prepare a more accurate and usable guide for the school lunch program.

I understand that the Department now plans to withdraw certain pages of the food buying guide and publish them for public comment in the Federal Register. Although that should have been done at the outset, I support this step.

However, I understand that there remain several portions of the guide that also are of questionable validity and also should be similarly withdrawn.

In a July 2, 1980, letter to Secretary Bergland, I raised several issues about the Department's recent act and requested the Secretary to provide me a report on the concerns expressed by the food industry. I request unanimous consent that my letter to Secretary Bergland be inserted at this point in the RECORD.

My hope is that USDA will respond in a more constructive manner to the concerns related to the food buying guide and the menu planning guide.

The letter follows:

U.S. SENATE,
Washington, D.C., July 2, 1980.

Hon. BOB BERGLAND,
U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: The Food and Nutrition Service has just released two publications entitled the Menu Planning Guide for School Food Service and the Food Buying Guide for School Food Service.

Several food businesses who sell products to school systems for use in the school lunch and breakfast programs have informed me that, in their view, the publications contain provisions showing an apparent prejudice against beef, pork, milk, and all processed meats and canned vegetables. They also believe that adherence by school systems to the guidelines will result in an unreasonable exclusion from the programs and mechanically-deboned poultry and processed meats containing poultry. Moreover, the businesses believe that the publications contain misleading economic statements, inaccurate yield statements, and will require the implementation of a new "Child Nutrition" (CN) labeling system that is a redundant, prejudiced, and in excess of the Department's authority under existing law.

While I recognize the importance of school systems making purchases of products that are properly reimbursable under the school lunch and school breakfast programs, I am concerned that the publications represent an effort by the Food and Nutrition Service to change food purchasing patterns without adequate legal or scientific basis. The imposition of additional labeling requirements is a matter of particular concern. A large number of school systems may believe that any product that does not have a CN label is not eligible for reimbursement under the school lunch or breakfast program (although the staff of the Food and Nutrition Service has informed the Committee staff that this is not the case).

Based on the information available to me, the CN labeling system has been implemented without advance public notice and an opportunity for comment. (According to the food companies who have expressed concern about the publications, the CN labeling system is inconsistent with parallel provisions under programs administered by the Food Safety and Quality Service.)

Because of the many questions that the two publications raise, I should appreciate your looking into this matter and furnishing me a report on the concerns expressed by the food businesses. I also suggest that there be no further distribution of the guidelines until adequate responses on these concerns are furnished this Committee, the school systems, and the food businesses affected by the guidelines.

With every good wish, I am
Sincerely,
HERMAN E. TALMADGE,
Chairman.

Mr. TALMADGE. S. 2675 would place all nonpermanently authorized child nutrition programs on the same reauthorization cycle. Under the bill, authorizations for appropriations for all of these programs would expire at the end of fiscal year 1984. This change will enable Congress to evaluate these programs on their individual merits as well as their relation to the other programs in a comprehensive, systematic manner. I believe that this will lead to more thorough and meaningful analysis during the reauthorization process.

S. 2675 is the result of the diligent work of several of the members of the Committee on Agriculture, Nutrition, and Forestry. Senator McGOVERN, the chairman of the Nutrition Subcommittee, and Senator DOLE, the ranking minority member of the subcommittee, were very instrumental in guiding the progress of this bill. Senators HELMS, BOSCHWITZ, and ZORINSKY made constructive contributions to our committee deliberations.

S. 2675 is legislation that will improve the operation of the child nutrition programs. I urge my colleagues to join me in supporting this bill.●

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

The Senate will be in early tomorrow, and there will be many rollcall votes, beginning reasonably early—I would say by 10 o'clock, if not before.

The PRESIDING OFFICER. The Senate will be in order.

The Senate is not in order.

Senators who wish to converse will please refrain from doing so or leave the Chamber.

THE HISTORY OF THE 1980 BUDGET

Mr. HARRY F. BYRD, JR. Mr. President, because of the recordbreaking spending increase for fiscal year 1980 ($85 billion) and the near-record deficit ($61 billion), it is instructive to look at the history of the 1980 budget and to analyze the components of the huge increases which have taken place in estimates since January 1979.

First, as to the history of budget estimates, I ask unanimous consent to have a table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—ESTIMATES OF BUDGET RECEIPTS, OUTLAYS, AND DEFICITS, FISCAL YEAR 1980

[In billions of dollars]

	Receipts	Outlays	Deficit
President, January 1979	502.6	531.6	29.0
First Concurrent Resolution, May 1979	509.0	532.0	23.0
President, July 1979	513.8	542.4	28.6
Second Concurrent Resolution, November 1979	517.8	547.6	29.8
President, January 1980	523.8	563.6	39.8
President, March 1980	532.4	568.9	36.5
Revised Second Concurrent Resolution, June 1980	525.7	572.2	46.5
President, July 1980	517.9	578.8	60.9
Total change, January 1979 to July 1980	+15.3	+47.2	+31.9

Mr. HARRY F. BYRD, JR. Mr. President, following are some observations:

First. Revenues. While the recent revenue estimates have fluctuated widely, much of this is traceable to the assumption of an oil import fee/gasoline tax and the subsequent rejection of this. The revenue estimate now stands exactly where it was at the time of the second concurrent budget resolution last November. The net change from 18 months ago (President's budget, January 1979) is only +3 percent.

Second. Deficit. The deficit estimate has more than doubled ($29 billion to $61 billion, rounded). But even this huge increase represents only two-thirds of the spending increase, since revenues are estimated higher than they were a year and a half ago.

Third. Outlays. The spending increase is $47.2 billion, each successive estimate being higher than its predecessor. Spending is now estimated 8.8 percent higher than it was a year and a half ago.

Now we need to know the components of the huge spending increase. The administration points to three: First, defense; second, increased unemployment estimates, and third, higher interest on the debt.

The facts are contained in a table which I ask unanimous consent to have printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—SPENDING INCREASES FOR DEFENSE, DEBT INTEREST, UNEMPLOYMENT COMPENSATION AND ALL OTHER PROGRAMS, ESTIMATES OF JANUARY 1979, COMPARED TO ESTIMATES OF JULY 1980

[In billions of dollars]

	Defense	Debt interest	Unemployment compensation	All other
President, January 1979	125.8	65.7	12.4	327.7
President, July 1980	135.6	74.8	17.9	350.5
Increase	9.8	9.1	5.5	22.8

Mr. HARRY F. BYRD, JR. Mr. President, from the above, we see that all other spending increases are far greater than defense, debt interest or unemployment compensation. If we combine the three factors cited by the administration, the total increase for all three amounts to $24.4 billion, or only slightly over half the total increase.

A breakdown of the total spending increase, July 1980, over January 1979, by percentage composition, is contained in the next table, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 3.—TOTAL INCREASE IN SPENDING ESTIMATES, JANUARY 1979 TO JULY 1980, DIVIDED INTO 4 COMPONENT ELEMENTS OF OUTLAYS

	Amount	Percent of total
Total increase	47.2	100.0
Defense	9.8	20.7
Debt interest	9.1	19.2
Unemployment compensation	5.5	11.6
All other	22.8	48.3

Mr. HARRY F. BYRD, JR. Mr. President, we see from the above that defense, debt interest and unemployment compensation do indeed account for more than half of the increase in spending estimates over the last 18 months. However, it is only barely over half.

The next question is, what are the chief components of the increase in "all other" outlays? In terms of the budget functions used by the administration and the Congress, the answer is found by looking at seven functions, which more than account for the net increase of $22.8 billion, as depicted in the next table, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—INCREASES IN SAMPLE BUDGET FUNCTIONS, JANUARY 1979 TO JULY 1980

[In billions of dollars and percentages]

	January 1979	July 1980	Dollar increase	Percent increase
International Affairs	8.2	10.9	2.7	32.9
Nat. Res. and Env	11.5	13.7	2.2	19.1
Commerce, Hous. Cred	3.4	8.3	4.9	144.1
Transportation	17.6	20.8	3.2	18.1
Comm., Reg. Dev	7.3	9.5	2.2	30.1
Health	53.4	56.9	3.5	6.5
Income security [1]	51.5	57.8	6.3	12.2

[1] Excludes unemployment compensation and social security

Mr. HARRY F. BYRD, JR. Mr. President, from table 4, we can see that international affairs (primarily foreign aid) is up by almost a third; that income security programs, setting aside social security and unemployment payments, are up by more than $6 billion and exceed the increase in unemployment compensation itself; that the commerce and housing credit function accounts for $4.9 billion of the increase and is up by 144 percent; and that, in general, domestic spending programs and foreign aid have gone up faster—in percentage terms—than defense or debt interest.

In conclusion, one can safely say that while defense, debt interest and unemployment compensation have risen sharply, they only half explain the huge boost in spending estimates which has taken place over the past year and a half.

There has been a total lack of discipline in spending on the part of the administration and the Congress.

A STORY OF COURAGE

Mr. HARRY F. BYRD, JR. Mr. President, last October a splendid friend and an outstanding newspaper publisher underwent a laryngectomy—removal of the larynx, or voice box—after a 2-year battle with cancer.

He is Frank Batten, chairman of Landmark Communications, Inc., which publishes the Virginia-Pilot and Ledger-Star in Norfolk, Va., and the Times and World-News in Roanoke, Va.

Frank Batten always has been a very active person. He has been honored as Norfolk's "First Citizen," probably the most cherished honor the city can bestow.

The other day he wrote an article about his experiences in regaining his power of vocal communication. I found it quite moving and even inspirational.

I ask unanimous consent that Mr. Batten's article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Throat Cancer Victim Reflects: "I've Gained More Than I Lost"

(By Frank Batten)

"Imagine that your doctor has just told you that you have throat cancer. You must undergo surgery immediately to have your larynx removed. What are your immediate thoughts?"

The speaker was a discussion leader at the Mayo Clinic. She was addressing speech pathologists at a seminar on teaching esophageal speech to people who have lost their vocal cords. The speech teachers divided into groups to discuss the question.

Most reacted with dark forebodings. "Will they find all the cancer? I may die. I may never talk again. How can I keep my job if I can't talk? My friends, or even my family, may abandon me."

One of the pathologists said thoughts of the surgery and then learning to speak in a strange, guttural voice were so threatening she would rather die.

I expect the pathologists conjured up most of the emotions that terrify us when we discover we have cancer. However, nine months after my larynx was removed, I can say that the reality is nothing like what I had anticipated.

The road I traveled has been full of frustrations and doubts. I struggled for hours on end to evoke the first human sound and agonized over whether it would ever come. Then there were months of incessant practice, taming and discipling an ungoverned burp to shape it into a new voice. At last, my speech became intelligible in quiet surroundings, and I can produce it on demand.

Learning esophageal speech is no different from learning anything else. It takes time and patience. You learn in short steps and pause on plateaus that seem endless. If you concentrate and persist, your fluency will slowly but surely get better.

The prospect of having to learn again something you first learned as a child is disheartening. Imagine how a professional golfer would feel if he had to start from scratch and learn to play golf again.

But the rewards of learning to speak again are worth every bit of the effort. As strange as my new voice may sound to others, I am proud of it. Already it represents one of the most exhilarating accomplishments of my life. And I can set my sights higher with each sign of improvement.

Most of the early anxieties have been resolved in much the same way. Occasionally I've been angry or sorry for myself, but not for long. The thought itself rebukes me when I remember that I have been dealt good cards throughout my life. If I have any complaints, they are not with the Dealer. Any fault lies with me for not playing my cards better. Recognizing that has allowed me to contemplate my lot realistically.

What have the disease and surgery taken from me?

Well, I can't talk with my mouth full. How my mother would have loved that.

I can't swim, because I breathe through an open hole in my neck. But I play tennis three or four times a week, and I was unable to go skiing two months after the surgery.

It is difficult for others to hear my low-pitched voice in crowds or noisy places. Sometimes I want to grab people and shake them to get their attention. So, by necessity, I have become a better listener. I've learned also that people in large gatherings usually don't say much that's worth listening to.

My limitations do not add up to much. They seem almost trivial compared to the plight of people who have lost their sight or their minds.

The truth is that I have gained more than I lost from the encounter with cancer.

Discovering that I can face adversity with some equanimity and overcome a handicap has given a big lift to my psyche. It seems incredible, but I don't think I would trade this experience and the invigoration it has given my spirit for a new pair of vocal cords.

My family has drawn closer together. We have become more important to each other. My wife has embarked on a career of her own She had wanted to do this for years, but my illness motivated her to act. This may be the most positive step in her life.

Dealing with the handicap has taught me more than a new way of speaking. Most of us learn early that keeping your eye on the ball is essential to success in any ball game.

But it dawned on me as I was learning to speak how useful that simple tenet is in meeting other challenges of life. If I look back in regret or look ahead in expectation, I lose sight of the immediate target. Then nothing worthwhile happens. But it's surprising what I can do if I concentrate single-mindedly on the task at hand.

There have been other lessons. I am more aware of people's limitations as well as their boundless capacity for change. My own priorities are different and they are clearer. My life has more point.

My experience with throat cancer may not be typical, but in one respect I believe it is similar to other cases involving handicaps. Like the speech pathologists at the seminar, we focus, at first, on what we have lost.

But the human spirit seems to have a mechanism that helps people replace what they lost. When one thing ends, something else begins. The very process of change and self-renewal makes life a breathtaking journey.

SOVIET INVASION OF AFGHANISTAN

Mr. DeCONCINI. Mr. President, I am proud to join today with the members of the Baltic Council of Arizona in condemning the Soviet Union's ruthless invasion of Afghanistan.

All too often in our struggle against the expansion of the Soviet empire, we get self-doubts or we sense that we are alone in the battle, that our allies have been sidelined by economic consideration or by the wan hope of eventually attaining "peaceful coexistence" through toleration of Soviet aggression. However, our confidence is restored when we recall the events of the past or are reminded of these previous Soviet conquests by their victims.

The peoples of the Baltic States, Latvia, Lithuania, and Estonia, and their relatives in this country know full well the tragedy that a nation experiences when it is subjugated to the iron rule of the Soviet Union. They know what it means to risk daily and to sacrifice their lives in defiance of the Soviet regime that was imposed on them and attempts to destroy them culturally, geographically, ethnically, and politically through dispersions and deportations to Siberia.

The people of Afghanistan are just beginning to feel the impact of Soviet control. Like the people of the Baltic States, the people of Afghanistan are entitled to self-determination. But, as the Baltic Council of Arizona reminds us, the iron hand of the Soviet Union will not loosen its grip without firm action by the United States and the other free nations of the world. Thus, I urge my colleagues to pay close heed to this voice of the Baltic peoples.

Mr. President, at this time I ask unanimous consent that the resolution drafted by the Baltic Council of Arizona be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Proclamation of the Joint Baltic Council of Arizona

The Baltic Council of Arizona expresses its condemnation of the invasion of Afghanistan by the Soviet Union. This Soviet aggression clearly parallels the Soviet takeover of the Baltic States of Estonia, Latvia, and Lithuania. The Soviet methods used in Afghanistan—military invasion, installation of a puppet regime, summary arrests and executions—all reveal an unchanging pattern of Soviet behavior. The situation in Afghanistan is a recurring example of Soviet imperialism, a threat to the independence of all sovereign nations.

The Baltic Council of Arizona supports the actions which the United States government has taken to date in response to the Soviet invasion. We support all efforts to gain the withdrawal of Soviet occupying forces from Afghanistan and other areas.

It is the conviction of the Baltic Council of Arizona that Soviet withdrawal from all nations now occupied by the U.S.S.R., including the Baltic States, will lead towards peace and security in the world. The potential Soviet control of the Persian Gulf is as threatening to the West as is the continuing Soviet control, through East Europe and the Baltic States, of the Baltic Sea.

The Baltic Council of Arizona heartily approves the initiatives of the United States Government in having gained the United Nations resolution condemning the Soviet invasion and occupation of Afghanistan. The Council urges our government to continue this initiative by seeking wider actions at the United Nations to condemn the Soviet occupation of the Baltic States and East Europe.

Activities in the United Nations may include a call for Baltic Republics representation in that world body, and judgment by the International Law Court in The Hague of Soviet actions in the Baltic.

SENIOR INTERN PROGRAM

Mr. DeCONCINI. Mr. President, I have enthusiastically participated in the senior intern program since being elected to the U.S. Senate. Of the many laudable programs sponsored by Congress, I find the senior intern program one of the most rewarding.

Our senior citizens constitute a large pool of skills and accumulated experience which must be tapped as we attempt to formulate policies and programs addressing their needs. The senior intern program provides a unique forum to familiarize senior citizens with existing Federal programs targeted on the elderly, to educate them to the intricacies and complexities of the political process, and to motivate them to use their collective power to effectuate the changes which they believe will best meet their social, economic, and medical needs.

I am very proud of my 1980 senior interns—Dr. and Mrs. Jesse Lansner. They are extremely talented, knowledgeable, energetic, and enthusiastic individuals who, immediately upon their return to Sun City, Ariz., began to translate their Washington experience into positive action on a variety of fronts. I think this is precisely the type of response which was envisioned by the program formulators and I congratulate the organizers for fashioning a well-planned, comprehensive, practical, and successful program.

Despite any program's success, however, I think we would all agree that there is room for improvement, and I should like to share with my colleagues Dr. Lansner's suggestions on ways in which the program might be enhanced.

I ask unanimous consent to have his suggestions printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUGGESTIONS

The Senior Intern Program is a major step in the proper direction. It should be expanded, either by legislation, or resolution, to include interns from the offices of every senator and representative. It should be funded out of general funds, and not out of each legislator's budget.

The program should be divided up into 4 sections, so as to prevent too large a group, which can become unwieldy. The program should be run or an ongoing basis, with each group functioning quarterly, so as to provide for a more detailed and positive continuity.

Sufficient, and permanent staffing, should be provided.

The format of the program should provide for more round table discussion, and less formal presentations.

The agenda should be prepared in advance after preliminary input by past interns, in response to surveys and questionnaires, as to priorities of the subject matter. From my observations, those most vitally concerned, namely the senior citizen, should have more input into the content of the program itself.

There should be an almost immediate, and generalized follow-up on the effectiveness of the program, while the details are still fresh in the minds of the interns.

Serious thought must be given as to the dissemination of the overall resultant information and productive output of the programs, to all the concerned organizations and individuals, as far as possible, on a state and local level.

Many aspects of senior citizen care and concerns were taken up at meetings in Washington. But people need specific information to make appreciable progress.

Consumer problems were discussed on a broad basis. It might be well-advised to zero in on specifics, such as consumer cooperatives, and their utilization to help cut the cost of daily living.

Transportation is a most definitive problem for the elderly, especially in Arizona. Local systems have their limitations, both financially and physically. Routes cannot be established to cater to all those needing assistance. A federal and state financed "dial-a-ride" program may be the only answer in areas such as Sun City and Green Valley.

Housing is a major concern for many senior citizens. Control of rents, regulation in the areas of mobile homes and park space, protection for the elderly in the delicate area of conversion by real estate intrests of rental property, to cooperatives and condominiums.

Control of inflation and high mortgage rates make new housing and existing housing difficult for the general population, and even more so for the elderly, usually on a fixed income, and in a competitive market.

Nursing homes/long term care present a myriad of problems. These include high costs associated with questionable quality of care itself. Many times a complete loss of dignity is a result. The programs could provide lower costs, and more humaneness for those elderly involved.

Health care is a massive subject. I have definitive ideas as to broadening health services for the elderly, in a cost-containment program, which I would like to go into indepth with you sometime when you are in Arizona for a short time. Medicare, the utilization of HMO type organizations, the assistance of retired professionals on a limited basis, are items to be explored.

Dissemination of information on a national level to inform all citizens, including the elderly, on abuses such as the ill-fated Lincoln Thrift Association scandal, insurance ripoffs and a myriad of other consumer frauds.

Establishing of a means of legal assistance for the indigent elderly so as to give them a source of access to help in this area at a minimal fee, or when necessary, no fee.

Mr. DeCONCINI. Mr. President, it is my sincere hope that the senior intern program can be expanded that some of Dr. Lansner's proposals will be incorporated in the program in future years. The Senate can be assured by my continued and wholehearted support for the senior intern program.

ATHLETIC PROWESS OF GRAND CANYON COLLEGE

Mr. DeCONCINI. Mr. President, occasionally in the past, in this Chamber, I have made note of what a successful baseball State my home State of Arizona is. Without a doubt, Arizona is an exemplary model for any State in terms of perpetuating our national pastime, although I must add in all humility, that we are lacking a "Major League" franchise. All other levels of baseball, however, are represented exceptionally.

This was extremely evident last month when the Antelopes of Grand Canyon College captured the national baseball championship of the National Association of Intercollegiate Athletics (NAIA). Grand Canyon, a Baptist school in Phoenix with an enrollment of approximately 1,200—more than 80 percent of which hails from Arizona—defeated Lewis University of Lockport, Ill., to cap an undefeated performance in the NAIA national tournament in Nashville.

The athletic tradition at Grand Canyon is a proud one, Mr. President. The Antelopes, in addition to being perennial powerhouses in baseball (indeed, they are greatly feared by our State schools, Arizona and Arizona State, both of which are accustomed to winning NCAA baseball championships), also are inevitably a force to be reckoned with in basketball. An NAIA national tournament that goes by without the name Grand Canyon College figuring prominently in its outcome is a rare one.

On behalf of my home State of Arizona, Mr. President, I take this opportunity to commend the Antelopes for their outstanding play this year.

THE ACCOMPLISHMENTS OF THE MORMONS

Mr. McCLURE. Mr. President, on the 24th of July, 133 years ago, Brigham Young and his small band of followers stood on the foothills above the Salt Lake Valley. Brigham Young declared that valley to be "The Place," and for many of these pioneers it was. For others of them, however, and for thousands more who followed, Salt Lake City was only a staging area, where they prepared to be sent out on colonizing expeditions to other parts of the intermountain West.

The Territory of Deseret, originally established by Brigham Young, included a good part of what is now Idaho, and so this area was a natural object of the Mormon colonization efforts. Literally hundreds of small communities in Idaho were originally settled by Mormon pioneers, sent to spread the beliefs of the Mormons among the Indian tribes, and to expand the area of culture and influence of the United States.

It is significant, Mr. President, that although the Mormons had been expelled from Ohio, chased from Missouri, and driven from Illinois in the midst of a winter so severe that the Mississippi River froze, although their civil rights had been denied, although they had been made the object of an extermination order in Missouri and an expulsion order in Illinois, and although the Federal Government had refused them protection, the Territory of Deseret was claimed as a territory of the United States. Brigham Young and his followers regarded themselves as Americans, and claimed those western territories in the name of the United States. From that day, the patriotism and faith of the Mormons have been unquestioned. These qualities are among their distinguishing characteristics.

As part of their program of western settlement, the Mormons established the first permanent settlement in what is now Idaho. There are thousands of Mormons in Idaho, including the present Governor of the State, and they have always been a stabilizing influence, providing an industrious, productive people, active in civic affairs, involved in the community, and faithful to the principles of their religion.

At the present time, there appears to be a nationwide ferment over the subject of the family, and here too the Mormons have been in the forefront, continually emphasizing the importance of the family as the basic unit of society, seeking ways to strengthen it, to help it do its job as the primary transmission belt of our culture. Mormons were among the first to recognize that the impacts of Government programs have not always helped the family, and I am proud to say that Mormons have resisted those programs in such cases. Today the church is involved, and members of the church are involved in efforts to preserve the family against the atomizing influences of modern life.

One of the age-old struggles of mankind has been to preserve the individual against the unbridled power of the centralized state. Two of the most important institutions that can serve as buffers between the individual and the state are the family and the church. It is significant to me that these are two of the institutions most heavily emphasized by the Mormons. Their faith in these mediating structures predates the current emphasis sociologists and psychologists attach to them: they attached the same emphasis to them in the early days of Mormonism as they do now. It appears that the rest of the world is just now catching up with Mormon thought in this area.

As we think about Pioneer Day, it is particularly appropriate this year that we recognize the progress of the Latter-day Saints since the founding of the church 150 years ago. The Saints have made special efforts this year to have commemorative events in every local ward and stake, to remind each Mormon, and each of us, the importance of the past, the importance of our heritage. Some of the events have been spectacular such as the performance of a special sesquicentennial choir here in Washington, at Constitution Hall; others have been quietly touching, such as a dramatic recreation of the significance of a small girl's name, traced back through seven generations of Mormons, from mother to daughter, tying the present to the past through trial, tribulation, happiness, and growth.

These are the qualities we have come to admire in the Mormons, the qualities that have led to the growth in the church from 6 individuals 150 years ago, to more than 4 million today. Those 4 million, though they are scattered throughout the world, all partake of a part of the heritage of the "Days of '47, of Pioneer Day," and the few who led the way to a new way of life in the intermountain West, 133 years ago.

CHILD NUTRITION AMENDMENTS OF 1980

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1426

(Purpose: To require the Secretary of Agriculture to conduct a pilot study to verify the accuracy of information furnished by households receiving free and reduced price meals under the National School Lunch Program)

Mr. BOREN. Mr. President, I have an unprinted amendment on behalf of myself and Senator McGOVERN which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself, Mr. McGOVERN, and Mr. HELMS, proposes an unprinted amendment numbered 1426.

Mr. BOREN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 13, strike out the period and insert in lieu thereof "; and".

On page 39, between lines 13 and 14, insert the following:

"(4) adding at the end thereof the following: 'Notwithstanding any other provision of law, the Secretary shall conduct a pilot study to vertify the data submitted on a sample of appplications for free and reduced-price school meals. In conducting the pilot study under the preceding sentence, the Secretary may require households whose applications are included in the study to furnish social security numbers of all household members and such other information that the Secretary may require, including, but not limited to, income tax returns filed by household members, W-2 forms, pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers, as a condition for receipt of free or reduced-price school meals.'.".

Mr. BOREN. Mr. President, since the beginning of the school lunch program, many questions have arisen concerning the fraud and abuse that may be present due to the lack of income vertification. The time has come to answer the many questions we all have about fraud and abuse in this program.

It has been proposed that we require vertification of income in the school lunch program. Before we enact a law requiring vertification, we must first ascertain the actual extent of abuse in this program. We must then discover where these abuses are and why they exist.

Once we know these answers, we must then determine what method, if any, of verifying income is the most effective in combating fraud.

We must also determine whether it is cost effective to require the verification of income in the school lunch program. We must, at that point, realize that verification may impose additional paperwork, as well as additional costs, that may or may not outweigh the actual costs of fraud and abuse in the school lunch program.

It is for these reasons, Mr. President, that we offer a second amendment which would give us the answers to our questions.

Our amendment would instruct the Secretary of Agriculture to conduct a pilot study to verify that data submitted on a sample of applications for free and reduced-price meals. This project is necessary before we place any more burdens on the local school authorities.

It is time, Mr. President, to take the actions we propose today. The people of the United States are justifiably tired of supporting those who do not need it.

We urge our colleagues to join us in this effort to insure that only those who are truly needy will benefit from the federally financed free and reduced-price school lunches.

I simply add that the amendment provides for a pilot study to verify the data submitted on the sample of applications to determine the effectiveness of an income verification program.

I have discussed this with the managers of the bill on both sides and, of course, the Senator from South Dakota, the distinguished manager has joined with me in offering this amendment. I am very pleased by that and I am hopeful it will be accepted on both sides of the aisle and also the distinguished ranking minority member of the committee, Senator HELMS, has also joined with me in this effort. I ask that they both be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. I am very hopeful that this amendment will be accepted.

Mr. McGOVERN. Mr. President, the Senator has offered what I regard as a thoughtful, well-conceived amendment. It is designed to analyze the extent of possible fraud in the program and to test various methods for verifying information on applications. I think the amendment is one that any Senator who wants to see these programs work effectively can support.

I am pleased not only to accept it but to join as a cosponsor of the amendment. I hope it will be adopted.

Mr. HELMS. Mr. President, as the Senator from Oklahoma has stated both Senator McGOVERN and I are cosponsors of this amendment and I commend it to the Senate.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 1426) was agreed to.

UP AMENDMENT NO. 1427

(Purpose: To authorize the Secretary of Agriculture to withhold funds from any State for the improper administration of child feeding programs)

Mr. EAGLETON. Mr. President, I have an unprinted amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment No. 1427.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, between lines 18 and 19, insert the following new section:

"STATE RESPONSIBILITIES

"SEC. 26. (a) Each State shall be responsible for the proper, effective, and efficient administration of each program carried out by such State under this Act or the Child Nutrition Act of 1966. If the Secretary determines that any State is failing to administer any such program in accordance with the provisions of this Act or the Child Nutrition Act of 1966 (other than section 17), or in accordance with any regulation issued under either such Act, and that such failure is a serious deficiency in the administration of such program, the Secretary, after consultation with the chief State school officer of such State or with any other appropriate official of such State, shall inform the State of the deficiency and shall give the State a specified period of time to correct the deficiency. If the State does not take sufficient actions to correct the deficiency within the specified period, the Secretary may withhold from the State all or any portion of the funds allocated to the State under section 13(k) of this Act or section 7 of the Child Nutrition Act of 1966, as appropriate. Upon a later finding by the Secretary that the program is being administered in an acceptable manner, any or all of the funds withheld may be allocated to the State.

"(b) If the Secretary determines that there is failure by a State to comply with any provision of this Act or the Child Nutrition Act of 1966, or any regulation issued under either such Act, the Secretary may request the Attorney General of the United States to seek injunctive relief to require compliance with such Act or regulation. The Attorney General may seek such relief in any United States district court having competent jurisdiction. Such injunctive relief shall be in addition to any other action the Secretary is authorized to take under this Act or the Child Nutrition Act of 1966.".

Mr. EAGLETON. Mr. President, my amendment would give the Secretary of Agriculture authority to withhold administrative funds for improper State administration of child nutrition programs.

The Inspector General urged its adoption by saying it was "the most important recommendation made in (his) testimony." To my Agriculture Appropriations Subcommittee, he pointed out that this provision is essential to give the Department an effective tool it needs to correct deficiencies that are discovered year after year in audits of the child nutrition programs. Similar authority is already in the law for WIC and food stamp programs. Temporary authority of this nature was incorporated in the 1980 agriculture appropriations bill, but this now needs to be made permanent. Finally, the House Appropriations Committee has included a similar language amendment in H.R. 7591, the 1981 agriculture appropriations bill, as reported.

I fully support the extension of the child nutrition programs, but believe it is essential that the Department and the Inspector General be given the tools they have requested to reduce fraud and abuse in these programs. I am submitting for the RECORD a letter that Senator BELLMON and I sent to the distinguished chairman of the Agriculture Committee urging the adoption of this amendment. The committee, however, failed to include this amendment when it marked up the bill. I urge its adoption now.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter to which I have made reference.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 4, 1980.
Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that the Senate Agriculture, Nutrition and Forestry Committee will be marking up the Child Nutrition Amendments of 1980 sometime next week. Although the Subcommittee on Nutrition has not formally recommended a bill, we have been advised that S. 2675, introduced by Senator McGovern, will serve as the basic legislative vehicle.

We are concerned that S. 2675 as presently drafted does not include three very important amendments that were proposed by the Administration to reduce fraud and abuse and improve program management in the child nutrition programs. One amendment would limit private sponsors and private venors in the summer feeding program. The second amendment would require States to administer the summer and child care programs in order to participate in the school lunch program. The third amendment would give the Secretary of Agriculture authority to withhold administrative funds from States that are not properly administering child nutrition programs.

During our Appropriation Subcommittee reviews of the Department of Agriculture budgets for both fiscal 1980 and 1981, these three amendments were strongly endorsed by the Inspector General of the Department of Agriculture. In addition, the Comptroller General provided a general endorsement of these amendments, although he has not addressed them specifically.

The need for these amendments was clearly spelled out by the Inspector General in his testimony to our Subcommittee in his semi-annual report dated May 30, 1980. In the case of the summer feeding program, he has pointed out that the chronic fraud and abuse which has characterized the program is largely attributable to large private sponsor and private vendor combinations. These would essentially be prohibited by the Administration-proposed amendment. S. 2675 includes a relatively weak provision on large private sponsor/vendor combinations that will not solve the problems identified by the Inspector General.

With respect to the amendment that would require States to administer child care and summer feeding programs in order to receive school lunch reimbursements, the Inspector General has emphasized that the Food and Nutrition Service (FNS) lacks the regional staff to administer these programs properly. Direct administration by FNS precludes them from providing important technical assistance and monitoring which could otherwise help to minimize fraud and abuse in these two programs. In addition, the Inspector General testified that "on more than one occasion a State's threat to drop out of the program has been used as a powerful weapon to resist taking effective corrective action on deficiencies."

Finally, with respect to the amendment that would give the Secretary of Agriculture authority to withhold administrative funds for improper State Administration of child nutrition programs, the Inspector General urged its adoption by saying it was "the most important recommendation made in (his) testimony." He pointed out that this provision is essential to give the Department an effective tool it needs to correct deficiencies that are discovered year after year in audits of the child nutrition programs. As you know, similar authority is already in the law for the WIC and food stamp programs. And, temporary authority of this nature was incorporated in the 1980 Agriculture Appropriations bill, but this now needs to be made permanent.

We fully support the extension of the child nutrition programs, but believe it is essential that the Department and the Inspector General be given the tools they have requested to reduce fraud and abuse in these programs. We urge the Committee to include them in the bill you consider next week. Copies of the proposed amendments are attached. If there are questions, the Agriculture Appropriations Subcommittee staff (Mr. Lieberman, 47272) should be consulted.

Yours very truly,
THOMAS F. EAGLETON,
Chairman, Subcommittee on Agriculture, Rural Development and Related Agencies.
HENRY BELLMON,
Ranking Minority.

Mr. McGOVERN. Mr. President, this is another constructive amendment and I commend the Senator from Missouri for offering it. It gives the Secretary the authority to withhold all or part of the States' administrative expenses if they do not correct those abuses. So I hope very much the amendment will be adopted.

Mr. HELMS. Mr. President, I find the amendment acceptable and I support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (UP No. 1427) was agreed to.

Mr. BOSCHWITZ. Mr. President, I wish to engage in a short colloquy with the distinguished floor manager of the bill.

Mr. President, studies that have been completed on the WIC program have shown that it indeed has met its purpose of overcoming the nutritional deficiencies of women and their infants. However, over the past month, I have become greatly concerned over the future direction of the WIC program. In particular, I feel that the program is beginning to change its goals. The original intent of the WIC program was to improve the diets of a select group in our society—that being women, infants and children. While testifying on July 29, 1972 before the Senate Subcommittee on Agriculture Research and General Legislation, my distinguished predecessor, the late Senator Hubert Humphrey, who was a driving force behind the establishment of the WIC program, described the purpose of the program as follows:

> The purpose (of the W.I.C. program) is to improve the nutritional status and upgrade the health of the target population, namely infants and young children up to the age of four years, and pregnant and lactating women. It is not to establish a program simply to encourage more food consumption.

However, a series of proposed rules which have been published in the Federal Register show that the administrators of the WIC program are beginning to stress the goal of increasing food consumption rather than overcoming nutritional deficiencies of their select population that the program is aimed to reach. No better example of this exists than the recently proposed food and nutrition service regulation which would lower the iron-fortification level for cereals included in the WIC package from 45 percent to 25 percent of the United States recommended daily allowance for iron.

Fortified breakfast cereals were included originally as a source of iron, which was identified as one of the five nutrients frequently lacking in the diets of the target group. The level of 45 percent of the United States recommended daily allowanace per serving was set as the minimum iron level for cereals offered by the WIC program "to insure that the cereals provided to the WIC program participants would contain considerable quantities of iron."

The current food package provides 12 milligrams of iron per day. The recommended daily allowance for pregnant women is greater than 18 milligrams. In fact, it is recommended that pregnant women receive 30 to 60 milligrams of supplemental iron. However, the Department of Agriculture has indicated that recent surveys have shown that many participants do not receive supplemental iron. Therefore, it seems ridiculous that pregnant and lactating women should continue to receive a minimum of 45 percent of the United States recommended daily allowance of iron, even if they are not initially diagnosed as anemic.

Why a speech on iron content, Mr. President? Because I understand that iron is one of the truly essential needs of pregnant and lactating women. Their need for iron is particularly high during these periods—higher, I understand, than at any other time in a woman's life.

Opponents of the 45-percent iron standard have suggested that if participants had greater cereal selection, they would use more vouchers, eat more cereal and thus consume more iron. There is simply no empirical evidence to support such a conclusion.

It is equally important in considering the iron requirement for cereals, to give greater heed to medical opinion than to the convictions of a few who substitute WIC's health objective for the sake of variety.

Opponents of the present 45-percent iron fortification level base their argument on three points. First, they argue that greater cereal variety is strongly supported by WIC participants. However, a recent USDA study showed that 71 percent of the WIC participants surveyed liked the cereals offered and only 11 percent expressed dissatisfaction with the variety of cereals offered.

Second, the opponents of the 45-percent iron fortification level feel that there are simply not enough types of cereals with their iron fortification level to make the WIC cereal component viable. However, it should be noted, that the number of new iron-fortified cereals that qualify for the WIC program has doubled since the program's inception. And, if the 45-percent iron-fortification requirement is maintained, it is apparent that other cereals will be reformulated to provide more variety under the WIC program. It takes time to develop these iron-fortified cereals—but a reasonable expectation on the part of cereal producers that the 45-percent standard will endure will lead to great cereal varieties.

At the present time, a total of 11 cold cereals qualify for WIC distribution. In addition, three hot cereals are eligible for the WIC program. I understand that those cereal manufacturers that qualify have developed higher iron content in their cereals specifically to qualify for this program. Total and Kicks are cereals that were developed for this program.

Finally, opponents of the current iron-fortification level state that lowering the level to 25 percent will lead to an increase in cereal consumption. If this argument is indeed correct, the WIC participants would have to eat almost 2 ounces (which might be as many as three cups) of the 25-percent cereal to attain the same degree of iron supplemental as provided in 1 ounce of the 45-percent cereal. It is hard to believe that anyone now eating cereal will choose to eat three cups simply because new brands are available.

In conclusion, Mr. President, I feel that there is simply no empirical evidence to support a lowering of the iron fortification level for WIC cereals from 45 percent to 25 percent. And, Mr. President, I strongly urge the Department of Agriculture not to accept this proposed change in the types of cereals offered under the WIC program.

If the Department of Agriculture sees fit to adopt this proposed change, I will seek to overturn that change by using the legislative veto authority granted to Congress in this bill.

Mr. McGOVERN. Mr. President, if the Senator will yield, I just want to say I share his concern about the efforts to lower the iron fortification in the WIC program. The Senator may recall that in our last meeting of the Nutrition Subcommittee I asked a series of questions expressing my own concern about this matter, and I am still reviewing the answers that have come in from the executive agencies to those questions.

While I do not feel—I do not think the Senator does at this point—that there is a need for a legislative remedy right now, I do think it is important that the Nutrition Subcommittee continue to monitor this question to make sure we do not lose some of the values in the WIC program in too severe a cut in the iron fortification requirement.

I agree with the observations the Senator has made. I assure him that I will do what I can to see that that concern is properly monitored by our committee.

Mr. BOSCHWITZ. I thank the distinguished floor manager, and I appreciate his comments.

UP AMENDMENT NO. 1428

(Purpose: To delete the language creating an entitlement for the nutrition education and training program for fiscal years 1982 through 1984 and substitute language authorizing appropriations for the program for those years)

Mr. McGOVERN. Mr. President, we have two noncontroversial committee amendments. I send the first one to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGovern) proposes an unprinted amendment numbered 1428.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, strike out lines 20 through 23.

On page 68, line 24, strike out "(2)" and insert in lieu thereof "(1)".

On page 69, line 2, strike out "and October 1, 1980" and insert in lieu thereof "October 1, 1980, October 1, 1981, October 1, 1982, and October 1, 1983".

On page 69, line 3, strike out "(3)" and insert in lieu thereof "(2)".

On page 69, line 7, strike out "(4)" and insert in lieu thereof "(3)".

Mr. McGOVERN. This amendment would modify S. 2675 simply to provide that the funding for the nutrition education and training program be for the period the program is extended by the bill, subject to the availability of appropriations, and is not an entitlement program.

What the amendment does is simply to replace the entitlement of 50 cents per child for the fiscal years 1982 through 1984 with an authorization of appropriations for a similar amount.

That was done, very frankly, Mr. President, by the committee and done unanimously, to bring us into compliance with the budget act provisions.

I hope the amendment will be adopted.

I ask unanimous consent that Chairman Talmadge's letter to Chairman Hollings relating to the amendment be printed in the Record.

I would note that the technical amendments I will be offering make it clear that the increase made by S. 2675 in administrative expenses for the summer food program is effective October 1, 1980.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on Agriculture,
Nutrition, and Forestry,
Washington, D.C., July 22, 1980.

Hon. Ernest F. Hollings,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: When our Committee reported the Child Nutrition Amendments of 1980 (S. 2675), it also reported two resolutions waiving provisions of the Congressional Budget Act of 1974 with respect to the consideration of that legislation (S. Res. 479 and S. Res. 480).

When the child nutrition legislation is considered by the Senate, two amendments will be offered on behalf of our Committee. The first amendment will make it clear that the increase in administrative expense funds for the summer food program is effective October 1, 1980. The second amendment will modify S. 2675 to provide that the funding for the nutrition education and training program is, for the period the program is extended by the bill, subject to the availability of appropriations (and not an entitle program).

I trust that these amendments will facilitate your favorable consideration of the waiver resolutions.

With every good wish, I am
Sincerely,
Herman E. Talmadge,
Chairman.

Mr. HELMS. Mr. President, I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (UP No. 1428) was agreed to.

UP AMENDMENT NO. 1429

(Purpose: To provide that commodity entitlements under the school lunch and child food programs shall be based on the number of meals served in each State during the prior school year)

Mr. McGOVERN. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGovern) proposes an unprinted amendment numbered 1429.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 18, strike out the quotation marks and the second period.

On page 38, between lines 18 and 19, insert the following: "'(4) Commencing with school year ending June 30, 1982, and for each school year thereafter, the level of commodity support provided under this section shall be based on the number of meals served in the preceding school year.'."

On page 52, between lines 9 and 10, insert the following: "(b) The second sentence of section 17(h) of the National School Lunch Act is amended by striking out 'that school year' the first time it appears and inserting in lieu thereof 'the preceding school year'."

On page 52, line 10, strike out "(b)" and insert in lieu thereof "(c)".

On page 52, line 13, strike out "(c)" and insert in lieu thereof "(d)".

On page 52, line 18, strike out "(d)" and insert in lieu thereof "(e)".

Mr. McGOVERN. Mr. President, this amendment, which I am offering on behalf of Senator Talmadge, was requested by the Department of Agriculture.

The amendment would affect the way in which State commodity entitlements are determined under the school lunch and child care food programs.

Under the amendment, beginning with the 1981–82 school year, commodity entitlements would be based on the number of meals served in each State during the prior school year.

The budgetary impact of this change would be minimal if not nil, according to the Department of Agriculture.

I ask unanimous consent that a letter from Secretary Bergland requesting the amendment and pointing out the reasons for it be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Agriculture,
Office of the Secretary,
Washington, D.C., June 10, 1980.

Hon. Herman E. Talmadge,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In connection with the scheduled mark-up of child nutrition legislation, I would like to request your consideration of a technical change that would be beneficial to Federal, State and local program administrators. The proposed change would affect the way in which State commodity entitlements are determined for the National School Lunch and Child Care Food Programs.

Current law bases the commodity entitlement rate for each school year on the Department's estimate of the number of meals that will be served in each State during that same year. This estimate must be made prior to the end of the school year, at a time when most State Education Agencies have submitted only preliminary reports covering their meal service through February. As a result, the Department must estimate the number of meals that will be served in each State from March 1 through June 30. In addition, some States subsequently make significant changes in their reports on the number of meals served before March. The effect of this estimation system is that some States receive less commodity support than they should while other States receive more support than they should, a clear inequity. Moreover, the uncertainty about the level of commodity support to be received makes planning and budgeting more difficult for State and local school foodservice directors.

To remedy this situation, beginning in school year 1981–82, we would like to base commodity entitlements on meals served in each State during the prior school year. Such a change would benefit everyone involved in the program. The Department would know, near the beginning of the school year, just how much would have to be spent on commodity support. Each State would know exactly how much support they would receive during the school year. Each local agency could be told by the State how much support to expect during the year. This would be a major aid in decisions about setting meal prices and could also aid in menu planning to stay within a budget.

The budgetary impacts of this change are minimal since the National School Lunch Program, which generates the vast majority of the commodity support provided, is very stable. In fact, the Department is not projecting any growth in the National School Lunch Program over the next few years.

The language that we propose to make this change is shown below:

1. Section 6(e) of the National School Lunch Act is amended by adding at the end thereof the following:

"Commencing with the school year ending June 30, 1982, and for each school year thereafter, the level of commodity support provided under this section shall be based on the number of meals served in the preceding school year.".

2. Section 17(h) of the National School Lunch Act is amended by striking "that school year" the first time it appears and inserting in lieu thereof "the preceding school year".

A similar letter has been sent to Chairman Perkins of the House Committee on Education and Labor.

Sincerely,

Bob Bergland,
Secretary.

Mr. McGOVERN. Mr. President, I think this is a noncontroversial proposal and I hope it will be adopted by the Senate.

Mr. HELMS. Mr. President, I support the amendment and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (UP No. 1429) was agreed to.

UP AMENDMENT NO. 1430

Mr. HELMS. Mr. President, I have two amendments which have been discussed with the distinguished manager of the bill. I send an unprinted amendment to the desk and ask for it to be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 1430.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 62, beginning on line 18, strike out all down through line 2 on page 63.

Mr. HELMS. This amendment simply strikes language in S. 2675 which, if left in the bill, would simply add administrative burdens to the already heavy workload of the local officials handling the WIC program.

The amendment deletes language in S. 2675 which would require State agencies to go through all of the time-consuming and costly activities involved in notifying various advocacy groups concerning the development of the State WIC plan.

Public hearings on the WIC plan are already required by law, and mandating this unnecessary, nonessential extra detail work simply does not make sense.

I urge the adoption of the amendment.

Mr. McGOVERN. Mr. President, I support this amendment, and I also urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1430) was agreed to.

UP AMENDMENT NO. 1431

(Purpose: To strike language requiring State officials either hold public hearings or establish advisory councils concerning administration of the Nutrition Education and Training Program)

Mr. HELMS. Mr. President, I send another unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 1431.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, beginning on line 2, strike out all down through line 15 on page 68.

On page 68, line 16, strike out "(C)" and insert in lieu thereof "SEC. 20. (a)".

On page 68, line 18, strike out "(d)" and insert in lieu thereof "(b)".

Mr. HELMS. Mr. President, this amendment would strike unnecessary language in S. 2675 that would require States either to hold public hearings on their nutrition education and training plan or to establish advisory councils. Advisory councils are already required under Federal regulations, and this amendment simply prevents the child nutrition law from being cluttered up with further unnecessary, nonessential requirements.

I urge adoption of the amendment.

Mr. McGOVERN. Mr. President, I think this is a commonsense amendment, and I hope it will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1431) was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to extend beyond 30 minutes, and Senators may speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN BAR ASSOCIATION EXECUTIVE DIRECTOR BERT H. EARLY ANNOUNCES RESIGNATION

Mr. BAYH. Mr. President, Bert H. Early, executive director of the 225,000 member American Bar Association, announced his resignation to the association's board of governors at its June 6, 1980, meeting in Monterey, Calif. His resignation is effective as of September 1, 1981.

Mr. Early's primary purpose in making his intentions known at this time, as he explains, "is to assure an orderly transition of executive responsibilities."

Mr. Early intends to return to private law practice and told the ABA board of governors:

> Some years ago when television personality Hugh Downs announced his retirement from the Today Show, he observed that periodically everyone should "re-pot" himself. That time approaches for me.

ABA president Leonard S. Janofsky acknowledges the resignation "with deep regret," pointing out that Early was the leading staff officer in the development of the association "from a small fraternity to the largest voluntary professional organization in the country." President Janofsky praised Early "as being a fountain of innovation and a tireless stimulus to the succession of presidents he has worked with during the past 17 years."

Mr. President, the resignation of Bert Early finds me in an ambivalent mood. I am excited for him knowing that he will be returning to private practice and "re-potting" himself in areas that will bring new initiatives, goals and accomplishments to his already expansive career. But I am saddened to be loosing a close colleague and friend from the American Bar Association. Bert has not only been a good friend, but he has also been a strong supporter of the numerous issues that have been my good fortune to sponsor over the long years that we have toiled together ranging from the 25th amendment to the Constitution providing for succession of the President and Vice President in case of removal or vacancy in these offices and the 26th amendment of the Constitution, enabling our young citizens 18 and older to vote to the equal rights amendment and extension; the District of Columbia representation amendment; the direct election of the President and Vice President, and the Civil Rights and Voting Rights Acts; the Juvenile Justice and Delinquency Prevention Act; the Civil Rights of Institutionalized Act; the Fair Housing Amendments Act; the Speedy Trial Act; the Patent Reexamination Act; the Independent Patent Office Act; and the Omnibus Judgeship Act.

Mr. President, I am quite sure that I have not exhausted the numerous areas that Bert and I have worked on over the years, that is not my goal. However, I did want my colleagues to learn of the most important issues that it has been my pleasure to work with Bert on during our long relationship. You will note, however, that I have not included the National Institute of Justice Act in this listing. For good reason. Even though I was the sponsor of this act, the full measure of credit for this act should go to Bert.

It was Bert H. Early who in 1972, as the executive director of the ABA, published an article in the West Virginia Law Review which highlighted the deficiencies in the functioning of the justice system in this country. It was Mr. Early who noted that the present efforts to learn more about this system were meager and distressingly uncoordinated. And it was Mr. Early who suggested the creation of an independent agency to fund and coordinate justice system research efforts in this country outside the Department of Justice where the present system resides. Bert's 1972 article stimulated the ABA's then president, Leon Jaworski, to appoint a task force to explore the concept. The task force created a National Institute of Justice Commission within the ABA. The commission in turn developed a bill to create a National Institute of Justice, an "independent" national institute of justice. This "idea" of Bert's was approved in principle by the ABA's house of delegates in 1974.

I should note that this concept and bill were not a criticism of the law enforcement assistant administration's research component in the Department of Justice. The ABA proposal was the product of an independent concern with the overall pattern of justice research.

Mr. President, Bert Early an immense applause from our colleagues and deep appreciation for his endeavors and persistence in seeing his creation brought to fruition during this Congress. His entire idea, however, was not fulfilled since the Congress did not wish to create an "independent" National Institute of Justice, but did consent to creating a National Institute of Justice within the Department of Justice. We have not gone far enough yet, but thanks to Bert Early we are on our way.

He is just a man who at this particular junction is beyond our times. Hopefully, in the not too distant future we in Congress will enact legislation creating an "independent" National Institute of Justice outside the Department of Justice. This is a goal that he has strived for, for over 8 years. And I was fortunate in being the Senator to introduce Mr. Early's and the ABA's proposal in 1978 and again in 1979.

I still believe that a major problem with existing research in the justice field is that it is done on a piecemeal basis, with little coordination between the various efforts. A comprehensive approach would permit both greater awareness of other research projects and appropriate exchange of information and ideas between researchers in many areas of law and justice. The assumption underlying the creating of the Institute is that an agency with expertise and impartial concern for our system of law and justice can advise the public and governmental policymakers to stimulate much needed change and improvement in this vital aspect of our society.

This legislation was not viewed as a be-all and end-all solution to our justice research problems I intend it, as a great many others have, as a vehicle to focus attention and concern on the problems of justice and the need for a greater Federal role in justice research. This legislation is a turning point in the Federal Government's commitment to assist State and local governments in their many and varied research projects.

Mr. President, I ask unanimous consent to have printed in the RECORD a portion of the ABA's announcement of Bert Early's resignation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESIGNATION OF BERT H. EARLY

Early joined the staff of the American Bar Association in 1962 as Deputy Executive Director. In 1964, he was named Executive Director, becoming at age 42 one of the youngest major association executives in the nation.

Since 1962 the membership of the Association has grown from 101,000 and a budget of $2.8 million to more than 255,000 lawyers and nearly 38,000 law students and an annual budget in excess of $35 million. Early heads a staff of 440 employees.

Since 1964, the ABA has become increasingly important in its role as the national voice of the legal profession in America. During 1979, ABA witnesses appeared before congressional committees 46 times, or more than once during every four days Congress was in session. The Association's views are influential in setting standards of conduct for lawyers and judges throughout the country, and for the administration of court systems. The Association has also promulgated standards for the administration of criminal justice and juvenile justice, and for the discipline of judges and lawyers.

Early came to the Association from a position as associate general counsel for the Island Creek Coal Co., then the third largest coal producer in the nation. He was graduated from Harvard Law School in 1949, and then entered private practice in Huntington, West Virginia.

Before joining the ABA staff, Early had been active in the Association's volunteer programs. He was chairman of the ABA Junior Bar Conference (now Young Lawyers Division) in 1958, and was a member of the Association's policy-making body, the House of Delegates, and of the Association's Special Committee on Court Congestion.

He is a fellow of the American Bar Foundation and Assistant Secretary General of the International Bar Association; he holds memberships in the American Bar Association. West Virginia State Bar, West Virginia Bar Association. American Law Institute, American Judicature Society, the National Legal Aid and Defender Association, and the Inter-American Bar Association.

Early is a member of the Board of Directors of United Charities of Chicago and is a member of The Economic Club of Chicago.

His past civic activities have included membership on the boards of the Community Renewal Society of Chicago (1965–75); The Robert Crown Center for Health Education (1970–76); the Huntington City Council (1961–62); the Board of Directors of the Huntington Public Library (1951–60); and the Board of Directors of Huntington Galleries (1961–62).

His past professional activities have included membership on the West Virginia Judicial Council (1960–62); the West Virginia Tax Institute (1961–62); Task Force of the Twentieth Century Fund on Governmental Regulation and Press Freedom (1971); and, the Visiting Committee of the University of Chicago Law School (1975–78). He served as Vice Chairman of the Conference of National Organizations from 1971 to 1973.

Early was an instructor in Labor Law and Business Law at Marshall University in Huntington (1950–53) and a member of the Board of Trustees of Davis and Elkins College (1960–63). He served as a pilot in the U.S. Army Air Corps during World War II.

Early and his wife Elizabeth reside in Hinsdale, Ill. They have five sons, Bert Hylton, Robert Christian, Mark Randolph, Philip Henry and Peter St. Clair.

Mr. BAYH. Mr. President, I highly commend Bert Early for his accomplishments while working for the American Bar Association, and I call on my colleagues to join me in wishing Bert Early extreme success in his next endeavor in private life. The appreciation, gratitude, and respect I hold for Bert are well deserved, and this brief tribute cannot take the place of a man who has devoted the major portion of these past 16 years to serving the American Bar Association and, in turn, Congress. I trust that we will give his successor the same degree of cooperation that we have given Mr. Early.

God bless you, Bert, and your family, and may you continue to enjoy life at its best.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with Public Law 86–42, appoints the Senator from Idaho (Mr. McCLURE) to the Canada-United States Interparliamentary Group.

A JOINT LABOR-MANAGEMENT TASK FORCE TO ADDRESS NEW ENGLAND'S RAILROAD PROBLEMS

Mr. LEAHY. Mr. President, on July 11, at the region 1 meeting of the United Transportation Union in Burlington, the UTU adopted a forward-looking resolution which will aid greatly in the search for solutions to the Northeast's railroad problems.

That resolution calls upon the UTU to "join with other railroad labor organizations, preferably through the Railway Labor Executives Association, to seek management's cooperation and active participation in a joint task force to address difficulties confronting northeast railroads in the context of the U.S. Railway Association and NERCOM New England rail restructuring study. In this forum, railroad management and labor could work toward common goals, such as increasing market shares, stabilizing employment, and improving efficiency, productivity, and job satisfaction."

The United Transportation Union is to be applauded for their early and full commitment to join with railroad management in a common effort to address the region's railroad problems. This is precisely the type of effort—a forward-looking, cooperative effort—that will be necessary if acceptable solutions to New England's rail problems are to be achieved.

Mr. President, let me now call upon rail management and other railroad labor organizations to pledge their active participation in a joint labor-management task force as recommended in the context of the USRA and NERCOM New England rail restructuring study.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Leslie R. Green, of Minnesota, to be a Commissioner of the U.S. Parole Commission, which was referred to the Committee on the Judiciary.

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS AND THE NATIONAL COUNCIL ON THE ARTS—MESSAGE FROM THE PRESIDENT—PM 225

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I transmit herewith the Annual Report of the National Endowment for the Arts and the National Council on the Arts for the Fiscal Year ending September 30, 1979, prepared in accordance with the requirements of the National Foundation on the Arts and Humanities Act of 1965, as amended.

JIMMY CARTER.

THE WHITE HOUSE, *July 24, 1980.*

REPORT OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT—PM 226

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I transmit herewith the Saint Lawrence Seaway Development Corporation's Annual Report for 1979. The Corporation, an agency of the Department of Transportation that is financed by income received from tolls and other charges, earned $11 million in 1979, up from $9.9 million in 1978. It is responsible for the operations and maintenance of that part of the Seaway within the territorial limits of the United States, and for vessel traffic regulation and other safety-related maritime activities. This report has been prepared in accordance with Section 10 of the Saint Lawrence Seaway Act of May 13, 1954, and covers the period January 1, 1979 through December 31, 1979.

In 1979 the Saint Lawrence Seaway, jointly operated by the United States and Canada, celebrated the twentieth anniversary of its opening to deep-draft navigation with the Seaway's third highest cargo tonnage year. Overall, 848 million metric tons of cargo have moved through the Seaway since it was opened in 1959. This waterway is one of the most important commercial routes for the shipment of agricultural and industrial cargoes between North America and major overseas ports. It is a proud example of effective international cooperation.

JIMMY CARTER.

THE WHITE HOUSE, *July 24, 1980.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following acts and joint resolution:

On July 2, 1980:

S. 2698. An act to provide authorizations for the Small Business Administration, and for other purposes.

On July 8, 1980:

S. 751. An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes.

S.J. Res. 168. Joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day".

On July 9, 1980:

S. 598. An act to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarded soft drink products are lawful under the antitrust laws.

S. 2546. An act to authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes.

On July 23, 1980:

S. 2009. An act to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes.

MESSAGES FROM THE HOUSE

At 5:45 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7584. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 7584. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, July 24, 1980, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2492. An act to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the Untied States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes;

S.J. Res. 180. Joint resolution to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 181. Joint resolution to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources and the Committee on Finance, jointly, with an amendment:

S. 1076. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954, as amended, for the purpose of improving retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, authorizing plan preservation measures for financially troubled multiemployer pension plans, and revising the manner in which the pension plan termination insurance provisions apply to multiemployer plans.

Mr. LONG. Mr. President, in connection with the filing of S. 1076, the multiemployer pension plan bill, for myself and Senator WILLIAMS, I ask unanimous consent that there being printed in the RECORD at this point a summary of the bill as reported.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 1076

1. Findings and declaration of policy.

The general statement of policy included in ERISA does not specifically refer to multiemployer plans.

The policy of the bill, as declared therein, is (1) to foster and facilitate interstate commerce, (2) alleviate certain problems which tend to discourage the maintenance and growth of multiemployer plans, (3) to provide reasonable protection for the interest of participants and beneficiaries of financially distressed multiemployer plans, and (4) to provide a financially self-sufficient program for the guarantee of benefits under multiemployer plans.

2. Definition of multiemployer plan.

Under present law, a plan is a multiemployer plan for a year if it is maintained by more than one unrelated employer under a collective bargaining agreement, if the plan meets Labor Department requirements, and if (1) no employer makes 50 percent or more of the aggregate employer contributions for the year (unless a special rule is satisfied), and (2) benefits for a participant's service while the employer maintains the plan are payable without regard to the cessation of plan contributions by the employer. All corporations that are members of a controlled group are treated as a single employer.

Under the bill, the test relating to proportionate employer contributions (the 50-percent test) and the test relating to continuity of benefits in the event of a cessation of employer contributions are to be deleted from the definition. The bill provides that all trades and businesses (whether or not incorporated) under common control are to be considered a single employer for purposes of counting the number of employers maintaining a plan. This aggregation rule is the same as the rule for aggregation of employers generally applicable under ERISA and related Code provisions. In addition the bill provides that a plan continues to be a multiemployer plan after its termination if it was a multiemployer plan for the plan year ending before its termination date.

Certain plans which are single-employer plans under present law and which would otherwise be multiemployer plans under the bill are permitted to elect to continue to be considered single-employer plans.

The provision applies upon enactment except that the present law definition is continued for plan years beginning before enactment.

3. Employer withdrawal liability, mergers, etc.

a. Withdrawal liability.

Under present law, the liability of an employer under a multiemployer plan ends when the employer withdraws from the plan unless, within 5 years after the withdrawal, the plan terminates with insufficient assets to provide benefits at the level guaranteed by the PBGC. In the event of such a termination, each employer who maintained the plan during the 5-year period preceding the termination is liable to the PBGC for a share of the insufficiency. An employer's liability is limited, however, to 30 percent of its net worth.

Under the bill, an employer who totally or partially withdraws from a multiemployer pension plan after April 28, 1980, is generally to be liable for a portion of the plan's unfunded vested benefits determined as of the year of withdrawal (computed without regard to certain events occurring prior to April 29, 1980, which reduced the employer's contribution base). A special definition of withdrawal liability is included for certain employers in the building and construction industry, the entertainment industry and, under certain circumstances, employers in the trucking industry. The construction provisions may be extended by the PBGC in other cases. A *de minimis rule* which reduces or eliminates small liabilities is also provided. The bill has a basic method for computing withdrawal liability as well as several alternative methods which a plan may adopt. Under the basic method, a plan's unfunded vested benefits accumulated in years ending before April 29, 1980, are to be allocated to the employers who maintained the plan before that date and continued to maintain the plan after April 28, 1980. The share of these unfunded vested benefits for which an employer is liable generally depends upon the employer's proportionate share of total contributions to the plan during the five plan years preceding April 29, 1980. A change in unfunded vested benefits for a year ending after April 28, 1980, is generally to be allocated to withdrawing employers in proportion to their plan contributions for the five plan years preceding the year of the change. The bill also limits the liability of an employer in the event of insolvency or the sale of all (or substantially all) of the employer's assets, and permits the use of certain reinsurance funds.

With respect to certain employers who withdrew from multiemployer plans covering employees in the seagoing industry, the withdrawal liability provisions of the bill are effective May 3, 1979.

b. Merger or transfer of plan assets or liabilities.

Under present law, the rules relating to the merger or consolidation of pension plans, or the transfer of assets or liabilities between plans, apply to multiemployer plans only to the extent prescribed by the PBGC. To date the PBGC has not prescribed such rules.

The bill requires that a merger, etc., involving a multiemployer plan meet certain standards designed to protect participants' benefits and the PBGC.

c. Plan reorganization.

Under present law, financially troubled plans are generally subject to the same minimum funding standard as other plans.

Under the bill, certain financially troubled multiemployer pension plans are in a status of "reorganization." Once a plan enters reorganization, a minimum contribution requirement, which usually requires an increase in employer contributions, applies to the plan. The minimum contribution requirement is phased in to protect employers against very large increases in contributions for a plan year. In the case of a plan which is considered overburdened because it has a high proportion of retirees, the additional funding required under the minimum contribution requirement is reduced by an overburden credit. The bill requires that employers and employee organizations representing plan participants be notified that contributions may have to be increased to avoid excise taxes on funding deficiencies.

d. Financial assistance.

Under present law, guaranteed benefits are paid by the PBGC with respect to a multiemployer pension plan only upon plan termination and, until August 1, 1980, only at the discretion of the PBGC.

Under the bill, the PBGC is required to provide financial assistance to insolvent multiemployer plans (whether or not terminated) where the assistance is needed to enable the plans to pay basic benefits.

e. Enforcement.

The bill includes provisions for appropriate legal remedies, equitable relief, or both. In addition, the bill provides a civil penalty of up to $100 per day for failure to provide any notice required under the bill.

4. Termination of multiemployer plans.

Under present law, officials of a plan generally initiate the plan termination process by filing a notice with the PBGC. However, ERISA provides a procedure under which the PBGC may institute proceedings to terminate a plan. If a multiemployer plan terminates with insufficient assets to provide benefits at the level guaranteed by the PBGC, the employers who contributed to the plan during the five years preceding termination are each liable to the PBGC for a proportionate share of the insufficiency. An employer's liability is limited to 30 percent of its net worth.

The bill provides new rules for determining the date on which a multiemployer plan terminates.

In the case of a terminated plan from which all employers have not withdrawn, the bill requires that employers who continue to maintain the plan continue to fund the plan in accordance with the minimum funding standards of ERISA and also requires that plan contributions continue at not less than the highest rate applicable during the last five plan years ending on or before the date of termination. A reduction of contributions is permitted, with the approval of the PBGC, where the plan is becoming fully funded.

The bill authorizes the PBGC to prescribe reporting requirements and rules for the administration of terminated multiemployer plans where such reports or rules are needed to protect the interests of plan participants or to protect the PBGC against unreasonable losses.

5. Termination insurance premiums.

Under present law, a multiemployer plan which is subject to the termination insurance program is required to pay annual premiums to the PBGC at the rate of $.50 per plan participant. The premium rate may be changed by the PBGC with the approval of the Congress by a concurrent resolution. (Such a resolution is required to be referred to the tax committees and labor committees of the Senate and of the House of Representatives.) Also, the PBGC is authorized to set premium rates for insurance of nonbasic benefits and to develop a risk-related premium schedule.

The bill provides that the annual per participant premium for multiemployer plans is to increase from the present $.50 rate to $2.60 over a 9-year period. However, under standards set forth in the bill, the PBGC may increase the premium at a more rapid rate, but not to an amount in excess of $2.60. The premium may also be increased automatically, under a formula provided by the bill, to a rate not in excess of $2.60 per year, per participant. Also, the bill continues the authority of the PBGC to prescribe regulations under which the premium rate for multiemployer plans will not apply to the same participant in a multiemployer plan more than once for any plan year.

In addition, the bill modifies the authority of the PBGC to establish alternative premium rates and bases for basic benefits (subject to Congressional approval) by deleting specific restrictions on the computation of such premiums. Generally, basic benefits consist of certain vested retirement benefits.

With respect to nonbasic benefits guaranteed under a multiemployer plan, the bill provides that premium rates prescribed by the PBGC may reflect any reasonable consideration that the PBGC determines to be relevant. Supplemental benefits (retirement benefits in excess of basic benefits) are required to be guaranteed by the PBGC only at the election of a plan. The bill provides for Congressional review of premiums for supplemental benefit guarantees. The separate funds of the PBGC for the guarantee of supplemental benefits and for reimbursement of withdrawal liability are not to borrow from, or lend to, the PBGC or any fund maintained by the PBGC.

The bill does not affect premium rates for single-employer plans. Also, receipts and disbursements of the PBGC will be included in the budget of the United States Government (i.e., PBGC would be "on budget").

Since ERISA was enacted in 1974, the payment of guaranteed benefits under terminated multiemployer plans has been within the discretion of the PBGC, subject to statutory standards. The guarantee of benefits under single-employer plans is not discretionary. The guarantees, which are subject to the same maximum limits under multiemployer and single-employer plans, extend only to basic benefits, determined before plan termination. Basic benefits are insured by the PBGC to the extent of the lesser of $750, adjusted for inflation since 1974 ($1,159.09 for 1980) or a participant's average high 5-year compensation. The insurance of benefits is generally phased in over a 5-year period. The insurance for multiemployer plans would be mandatory for the plans and for the PBGC beginning August 1, 1980, and would be provided whether or not premiums are paid.

Under the bill, certain prior service benefits eliminated or cancelled because of the cessation of an employer's contributions to the plan are not guaranteed by the PBGC.

Under the bill, the first $5 of monthly basic benefits earned per year of a participant's service is generally fully guaranteed and 75 percent of the next $15 of monthly basic benefits is generally guaranteed. The 75-percent guarantee is reduced to 65 percent under plans which did not meet specified funding requirements. Payments under the guarantees are made by the PBGC only in the event of the insolvency of a multiemployer plan. As under present law, the bill does not extend guarantees to plan benefits of certain substantial owners of an employer.

The bill continues the requirement of present law that PBGC premium increases beyond $2.60 must be approved by the Congress. However, the bill adds a new procedure for periodic Congressional review of premium and guarantee levels.

The bill authorizes the PBGC to guarantee non-basic benefits subject to terms and conditions imposed by the PBGC. Supplemental benefits under a plan are guaranteed if the plan elects such coverage.

The bill limits the aggregate benefit provided by the PBGC with respect to any participant to the same level provided by present law except that, under PBGC regulations, financial assistance provided by the PBGC to a plan is considered the provision of guaranteed benefits.

7. Annual report of plan administrator.

Under ERISA, a plan administrator is required to report the occurrence of specified reportable events to the PBGC. Also, the plan administrator of a plan to which more than one employer contributes is required to notify each substantial employer annually that it is a substantial employer. In addition, reports are required to be filed with the payment of premiums (Form PBGC–1).

The bill adds a requirement that annual report of a plan administrator, with respect to a plan subject to termination insurance, include such information with respect to the plan as the PBGC determines is necessary for enforcement purposes and is required by PBGC regulations. The bill provides that the information required may include (1) a statement by the plan's enrolled actuary relating to the value of plan assets and liabilities, and (2) a statement by the plan administrator relating to withdrawal liability.

8. Contingent employer liability insurance.

ERISA provides for a program designed to permit an employer to insure against the contingent employer liability (up to 30 percent of the employer's net worth) arising out of the termination of a plan with insufficient assets to provide benefits at the level guaranteed by the PBGC. Under ERISA, the contingent employer liability insurance (CELI) may be developed by the PBGC in conjunction with private insurors. The PBGC is authorized to provide premium rates and collect premiums under the CELI program. The CELI program has not been implemented by the PBGC for lack of feasibility.

The bill repeals the contingent employer liability insurance provisions of ERISA for multiemployer plans and single-employer plans.

9. Miscellaneous Multiemployer Plan Provisions.

Under the bill, the PBGC is required to study the subject of union-mandated withdrawals from multiemployer plans to determine whether special rules are necessary and, if the PBGC determines that they are needed, to make recommendations with respect to such rules.

In addition, the Department of Labor is required by the bill to study the feasibility and desirability of requiring employers and unions to bargain over both benefits and contributions and to provide the Congress with recommendations within three years.

The General Accounting Office is required to conduct a study and report to Congress no later than June 30, 1985, on the effects of the bill on parties affected by the bill (e.g., participants, employers and unions) and the self-sufficiency of the PBGC insurance fund. Congressional hearings are required on the study and GAO recommendations.

10. Miscellaneous ERISA Provisions.

The present law definition of the term "church plan" is continued without reference to dates, so that a church plan which covers the employees of a church agency generally would be exempt from the provisions of ERISA. In addition, certain definitions relating to church plans are clarified.

A company that sells a business to a State government can claim a current tax deduction under the bill for contributing the amount necessary to avoid PBGC liability to its single-employer plan.

The Secretary of Labor is authorized by the bill to treat certain severance pay plans and supplemental income plans as welfare plans rather than as pension plans under ERISA, so long as such treatment is consistent with the purposes and standards of ERISA.

The bill provides that the law of the State of Hawaii with regard to health insurance plans maintained by employers generally would not be preempted by ERISA.

BACKGROUND

The Employee Retirement Income Security Act of 1974 (ERISA) established a program of insurance for employee benefits under most tax-qualified, private, domestic, defined benefit pension plans.[1] The program is administered by the Pension Benefit Guaranty Corporation (PBGC), a corporation within the Department of Labor. The Board of Directors of the PBGC consists of the Secretary of Labor (Chairman), the Secretary of the Treasury, and the Secretary of Commerce.

The PBGC maintains a trust fund and a revolving fund for insurance of benefits under terminated multiemployer defined benefit pension plans (multiemployer plans), as well as a trust fund and a revolving fund for insurance of benefits under all other terminated defined benefit pension plans (referred to as "single-employer plans"). The PBGC presently is not "on budget", and the United States is not liable for debts of the PBGC.

The insurance program (referred to as "termination insurance") is supported by (1) premiums paid by plans, (2) assets of plans that have terminated with insufficient funds to provide guaranteed benefits, (3) payments by employers who maintained plans which terminated with insufficient funds to provide guaranteed benefits, and (4) earnings on investments. The funds maintained for multiemployer plans are the sole source of guaranteed benefits under terminated multiemployer plans. Similarly, the funds maintained for single-employer plans are the sole source of guaranteed benefits under single-employer plans.

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[1] See ERISA sec. 4021. A defined benefit pension plan provides a specified level of benefits for participants. A church pension plan is generally exempt from the insurance program unless the plan has elected to be subject to ERISA standards. (If a church plan covers employees of a church agency, the exemption expires for plan years beginning after 1982.) Also, plans of certain professional service employers are excluded from the program.

Under present law, the guarantee by the PBGC of benefits under a multiemployer plan is within the discretion of the PBGC until August 1, 1980. Beginning on August 1, 1980, the guarantee of these benefits becomes mandatory. To date, the PBGC has extended discretionary coverage in three instances, and PBGC's estimated cost for guaranteed benefits under those plans after collection of employer liability payments is $22 million. Employer payments covered less than 25 percent of the unfunded guaranteed benefits.

GENERAL REASONS FOR THE BILL

Multiemployer plans usually cover employees working within an industry or craft in a specified geographic area. They can provide workers with greater retirement income security than single-employer plans, for two reasons. First, they provide workers with pension portability because employees retain their pension credits as they move from one covered employer to another. Second, they usually provide benefits to an employee even though the employer leaves the plan.

Trustees are required to set benefit levels on the basis of the expected resources and experience of the plan. The cost of benefits is generally estimated on the basis of actuarial assumptions as to the level of benefits to be paid to employees who retire with vested benefits and the period for which benefits will be paid. These assumptions require projections of future experience for an extended period. The resources of a plan available to pay those benefits consist of assets held by the plan, future contributions expected by the plan, and income expected to be earned on plan investments for the future.

Contributions to a multiemployer plan generally depend upon the number of hours of service completed by employees who participate in the plan. Accordingly, the estimate of future plan contributions depends upon an estimate of future employment levels for an extended period. One of the most serious threats to the security of benefits under a multiemployer plan is an unanticipated decline in employment covered by the plan. Where this occurs, the plan is unlikely to have the resources necessary to provide benefits promised to employees. Industry decline, whether caused by technological change, foreign competition, or other unanticipated changes can cause plan insolvency unless the rate of employer contributions is increased. Where an industry has suffered a substantial decline, however, employers may be unable to increase the rate of contributions.

In the more than five years since the enactment of ERISA, the Committees and the PBGC have had an opportunity to study and observe multiemployer plans. The Committees' conclusion, based upon these years of experience, is that certain of the ERISA provisions applicable to multiemployer plans need to be amended. The Multiemployer Pension Plan Amendments Act of 1980 (S. 1076) is offered in response to that need for change.

The termination insurance program was established by ERISA because of concern that the Act could not otherwise secure employee pension benefits against loss due to premature plan termination. The program was designed, in part, on the basis of an Administration study[1] that considered the effects of the termination of single-employer and multiemployer pension plans during a period preceding the enactment of ERISA. Because of substantial uncertainty as to the need for the insurance in the case of multiemployer plans and the effects of insuring such plans, the insurance of benefits under multiemployer plans was generally left to the discretion of the PBGC until January 1, 1978. The date of nondiscretionary insurance of benefits under multiemployer plans was subsequently delayed until August 1, 1980, because of concern that the program, if nondiscretionary, might encourage the premature termination of multiemployer plans.

The requirements of ERISA have contributed to a substantial improvement in the operation of private defined benefit pension plans and the benefit security of plan participants. For example, vesting standards now protect participants against unduly restrictive forfeiture provisions and stricter funding standards help assure that plans will actually have the assets required to pay benefit obligations.

Unfortunately, these requirements have placed added pressures on multiemployer plans in declining industries. ERISA has restricted the powers that plan trustees once had to defer funding, reduce benefits, or restrict vesting under a plan. In financially distressed plans, a shrinking number of employers may be required to pay increased contributions in order to sustain a very modest level of benefits. Active employees may have little reason to support a financially troubled plan that absorbs an increasing portion of their pay package but that offers them very little in return. Under these circumstances, employers have great incentives to terminate the plan.

Under ERISA, an employer who has paid all required contributions to a multiemployer plan can withdraw from the plan and, if the plan does not terminate within 5 years after the withdrawal, the employer will have no further responsibility for any part of the unfunded liabilities of the plan. Where this occurs, employers who continue to maintain the plan "inherit" the liability which would have been satisfied by the withdrawing employer. The Committees believe that, in this regard, present law provides an undesirable incentive for employers to withdraw from plans and an unfair burden on the employers who continue to maintain the plans.

Under present law, after July 31, 1980, PBGC guarantees will extend to substantially all benefits provided by multiemployer plans. As a result, employees cannot be expected to resist employer efforts to terminate a distressed plan after that date.

The Committees are concerned that the combined effect of the present law incentives for employees and employers to abandon distressed plans will result in an accumulation of liabilities that cannot be satisfied by the PBGC. S. 1076 deals with these problems of multiemployer plans by (1) increasing the funding requirements for multiemployer plans in most cases, (2) requiring further accelerated funding of plans in financial distress, subject to restrictions designed to avoid undue financial strain on employers maintaining seriously overburdened plans. (3) relaxing the vesting rules of ERISA to permit benefit suspensions in insolvency. (4) modifying the level of benefits guaranteed so that, in most cases, continuation of a plan will be more beneficial to employees than plan termination, (5) requiring continued funding of terminated plans, and (6) making plan insolvency the only insurable event. The bill also provides for increased termination insurance premiums, additional reporting requirements, and enforcement authority.

Mr. JAVITS. Mr. President, I ask unanimous consent that my views on S. 1076 be printed in the Record at this point.

There being no objection, the views were ordered to be printed in the Record, as follows:

Individual Views of Senator Jacob K. Javits on S. 1076

The Multiemployer Pension Plan Amendments Act of 1980 (S. 1076), which has been approved by the Senate Labor and Human Resources Committee as well as the Senate Finance Committee, is the product of almost three years of hard work by the Administration, the Congress, and numerous interested groups from the private sector.

In 1974, when the Congress enacted ERISA (the Employee Retirement Income Security Act of 1974), of which I was a principal coauthor with Senator Williams, we realized that there was some uncertainty about the impact of the Title IV plan termination provisions on multiemployer plans. The Congress consequently delayed the effective date of mandatory insurance coverage for such plans until January 1, 1978. During the interim period, the Pension Benefit Guaranty Corporation (PBGC) was to use its discretion to cover terminations that occurred prior to that date.

On August 4, 1977, I announced that I had information that a number of multiemployer plans intended to terminate on or about January 1, 1978, thereby shifting possibly hundreds of millions of dollars of liability to the PBGC insurance system. On that day, I introduced S. 2019 which would have postponed the mandatory coverage date for one year until January 1, 1979. The legislation which was eventually enacted in late 1977 (P.L. 95–214) delayed the effective date until July 1, 1979 (see Oversight of ERISA, 1977: Hearings on S. 2125 Before the Subcommittee on Labor of the Senate Human Resources Committee, 95th Cong., 1st Sess. 1977). It also directed the PBGC to prepare a comprehensive study of multiemployer plan termination insurance by July 1, 1978.

The PBGC engaged in a full-scale reappraisal of Title IV's applicability to multiemployer plans and after extensive discussions and interaction with interested parties across the country, issued a lengthy report on July 1, 1978 containing new ideas and options for redesigning the multiemployer plan termination program (on that date, the PBGC also released a status report on contingent employer liability insurance). On February 27, 1979, the PBGC issued legislative policy recommendations for consideration by the Congress. These recommendations were later embodied in Senate legislative text on May 3, 1979, when at the request of the Administration, Senators Williams, Long and I introduced S. 1076. Hearings on this Administration bill were held by the Senate Labor Committee on June 26 and 27, 1979 (see Multiemployer Pension Plan Amendments Act of 1979: Hearings: on S. 1076 Before the Senate Committee on Labor and Human Resources, 96th Cong. 1st Sess. (1979)). In order to give the Congress additional time to study and shape the legislation, H.R. 3915 was enacted to delay the mandatory coverage date from July 1, 1979 to May 1, 1980. Two additional delay bills were subsequently enacted.

The bill which the Senate Labor Committee and the Senate Finance Committee have agreed upon is essentially the Administration's bill with the addition of a number of improvements which the Committees thought necessary. Both the Administration's bill and the Senate Committees' bill reflect the extensive input of many diverse organizations in the private sector. Groups which have had a significant impact on and generally support the plan termination insurance amendments include the National Coordinating Committee for Multiemployer Plans, the National Construction Employers Council, the United Food and Commercial Workers International Union, the Western

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[1] Department of the Treasury and Department of Labor, *Study of Pension Plan Termination, 1972—Interim Report,* February 1973.

Conference of Teamsters Pension Trust Fund, the United Mine Workers of America, the Food Marketing Institute, the Bituminous Coal Operators Association, and the AFL–CIO. In addition to the foregoing groups, other organizations which have had an impact on S. 1076 include the American Association of Retired Persons, the Graphic Arts Supplemental Retirement and Disabilities Fund, and the Associated General Contractors of America. The general plan termination insurance principles of the bill are supported by the ERISA Industry Committee, the American Bankers Association, the American Council of Life Insurance, the National Association of Manufacturers, and the U.S. Chamber of Commerce.

S. 1076 is necessarily a complex bill, both substantively and politically, and in order to develop a consensus in support of the legislation, it was necessary to make compromises. I doubt that any one group that had an impact on this legislation is pleased with all of it. Personally, I have reservations about certain provisions of the bill, but I believe that as the nation needs this legislation, it should be enacted.

The establishment and implementation of plan termination insurance, which we championed in the 1974 ERISA legislation, was and still is the right thing to do. Its purpose is to assure that working men and women receive the pensions for which they worked over a long span of years even if their plan terminates. All of us know about the disappointment and hardships endured when thousands who lost their jobs also lost all or much of their pensions when Studebaker Motors closed its doors before ERISA's passage. Plan termination insurance is perhaps the keystone of ERISA's assurance that the promise of a pension benefit will be kept. If the plan (and the employer or related industry) hits hard times, the PBGC insurance system will be there to guarantee that plan participants and beneficiaries receive what they earned—their pension benefits.

It appears that the single-employer plan termination insurance program is working relatively well. I think, however, there is general agreement that ERISA's present scheme for multiemployer plan termination insurance is not doing well and that it must be redesigned. Unlike some who have proposed, in one way or another, to abolish multiemployer termination insurance, I am firmly committed to protecting workers and retirees covered by such plans. I believe that we must try our best, in the face of limited resources and large unfunded liabilities, to develop an insurance system that will be as protective and yet as fair as our social system can carry. I believe that S. 1076, as approved by the Senate Labor Committee and the Senate Finance Committee, is such an effort to do the best we can under difficult circumstances.

A major purpose of the bill is to protect participants and beneficiaries of multiemployer plans by encouraging the continuance of such plans. The bill contains provisions which would accelerate present ERISA funding, impose employer withdrawal liability, require plan reorganization, facilitate mergers and transfers of assets and liabilities, and permit the use of certain reinsurance funds. The bill would establish a realistic form of insurance through the PBGC's provision of financial assistance to multiemployer plans which become insolvent. It would also establish an improved premium schedule for basic benefits.

The two aspects of S. 1076 which deeply trouble me are the reducing of benefit guarantee levels and the requiring (for insolvent plans, terminated plans by mass withdrawal, and spun-off partitioned plans) of certain benefit suspensions.

The Administration proposal on guarantee levels was to guarantee 100 percent of the first $5 of pension accrual per month per year of service and 60 percent of the next $15 per month per year of service. The original proposal at the March 24, 1980 Senate Labor Committee markup of S. 1076 was 100 percent of the first $5 and 75 percent of the next $15. The 75 percent figure would be reduced to 65 percent for those plans which did not meet certain minimal pre-ERISA funding requirements.

At the markup, I opposed both the Administration and the Committee proposals and offered an amendment to raise the guarantee to 100 percent of the first $5 and 85 percent of the next $15. The 85 percent figure would be reduced to 80 percent for those plans which did not meet certain nominal pre-ERISA funding requirements. My efforts to raise the guarantee were supported by the American Association of Retired Persons, the United Food and Commercial Workers International Union, and the United Mine Workers of America. With the assistance of Senator Pell, a compromise guarantee was approved which was 100 percent of the first $5 and 80 percent of the next $15. For those plans not meeting the specific pre-ERISA funding requirements, the 80 percent figure would be reduced to 70 percent. As with all compromises, I was not fully satisfied with the 80 percent-70 percent figures we settled on, but it was better than the original proposal. Subsequently, in order to get a joint Committee bill to the Senate Floor, it was unfortunately necessary to reduce the guarantee to 100 percent of the first $5 and 75 percent/65 percent of the next $15. I am pleased, however, that in working out the Committees bill, the permissive authority of plans in reorganization to eliminate certain accrued benefits was deleted.

Even though I believe that the bill's provisions on lower guarantee levels and benefit suspensions are too severe. I believe they are the best that are possible of agreement. I urge my Senate colleagues and affected workers and retirees to join in opposing proposals for guarantees lower than the Senate Committee's guarantee level, as already approved by the House of Representatives.

By Mr. PELL, from the Committee on Rules and Administration:

Special report entitled "Report of the Committee on Rules and Administration Pursuant to Section 302(b) of the Congressional Budget Act of 1974" (Rept. No. 96–864).

By Mr. SASSER, from the Committee on Governmental Affairs, with amendments:

S. 2. A bill to require authorizations of new budget authority for Government programs at least every ten years, and for other purposes (together with minority and additional views) (Rept. No. 96–865).

By Mr. LEVIN, from the Committee on Governmental Affairs, with an amendment:

S. 1945. A bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies (together with minority views) (Rept. No. 96–866).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JEPSEN (for himself and Mr. Hatfield):

S. 2959. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for certain expenses paid or incurred in connection with the adoption of a child; to the Committee on Finance.

By Mr. CRANSTON (by request):

S. 2960. A bill to amend title 38, United States Code, to provide the Veterans' Administration revolving supply fund with authority to base its charges for the direct cost of supplies and equipment on recent significant purchase prices and allow for retention and use of such charges in the operations of the revolving supply fund; to the Committee on Veterans' Affairs.

By Mr. GOLDWATER (for himself, Mr. Bayh, Mr. Chafee, Mr. Lugar, Mr. Garn, Mr. Inouye, Mr. Moynihan, Mr. Jackson, Mr. Mathias, Mr. Huddleston, Mr. Wallop, Mr. Durenberger, Mr. Stevenson, and Mr. Boren):

S. 2961. A bill for the relief of Viktor Ivanovich Belenko; to the Committee on the Judiciary.

By Mr. CULVER (for himself, Mr. McGovern, Mr. Baucus, Mrs. Kassebaum, and Mr. Jepsen):

S. 2962. A bill to amend the Rock Island Transition and Employees Assistance Act; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON (for himself and Mr. Proxmire):

S. 2963. A bill to establish the Ice Age National Scenic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HEFLIN:

S. 2964. A bill to provide for making payments to certain citizens and nationals of the United States held hostage in a foreign country, and for other purposes; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself and Mr. Cohen):

S. 2965. A bill to amend the Act of August 28, 1957, providing for the conveyance to the State of Maine of certain lands located in such State; to the Committee on Armed Services.

By Mr. BAKER (for himself and Mr. Domenici):

S. 2966. A bill to amend the act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980"; to the Committee on Appropriations.

By Mr. NELSON (for himself, Mr. Harry F. Byrd, Jr., Mr. Wallop, and Mr. Eagleton):

S. 2967. A bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes; to the Committee on Finance.

By Mr. SASSER (for himself, Mr. Bumpers, and Mr. Eagleton):

S. 2968. A bill to amend section 2809 of title 42, United States Code, to provide for the establishment of heat crisis programs during periods of heat emergencies; to the Committee on Labor and Human Resources.

By Mr. WILLIAMS (for himself, Mr. Stewart, and Mr. Cochran):

S. 2969. A bill to amend the Internal Revenue Code of 1954 to provide incentives for the construction and rehabilitation of real property; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN (for himself and Mr. Hatfield):

S. 2959. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for certain expenses paid or incurred in connection with the adoption of a child; to the Committee on Finance.

(The remarks of Mr. Jepsen when he introduced the bill appear earlier in today's proceedings.)

By Mr. CRANSTON (by request):

S. 2960. A bill to amend title 38, United States Code, to provide the Veterans'

Administration revolving supply fund with authority to base its charges for the direct cost of supplies and equipment on recent significant purchase prices and allow for retention and use of such charges in the operations of the revolving supply fund; to the Committee on Veterans' Affairs.

● Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 2960, a bill to amend title 38, United States Code, to provide the Veterans' Administration revolving supply fund with authority to base its charges for the direct cost of supplies and equipment on recent significant purchase prices and allow for retention and use of such charges in the operations of the revolving supply fund. Mr. President, I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD at this point.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5021 of title 38, United States Code, is amended by—

(1) inserting in clause (2) of subsection (a) after "direct" the following: "cost (which may be based on recent significant purchases)"; and

(2) deleting the last sentence in subsection (a) and inserting in lieu thereof the following: "At the end of each fiscal year, the Administrator shall return to the Treasury of the United States as miscellaneous receipts, such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.".

SEC. 2. The amendments made by clause (1) and clause (2) of section 1 of this Act shall take effect on October 1, 1979.

VETERANS' ADMINISTRATION,
Washington, D.C., July 21, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38. United States Code, to provide the Veterans Administration revolving supply fund with authority to base its charges for the direct cost of supplies and equipment on recent significant purchase prices and allow for retention and use of such charges in the operations of the revolving supply fund," with the request that it be introduced in order that it might be considered for enactment.

The Veterans Administration (VA) supply fund was established by the Second Independent Offices Appropriation Act, 1954 (Pub. L. No. 83-149), and is currently codified in section 5021 of title 38, United States Code. The supply fund was established to operate and maintain a cost effective supply system for the VA with reference to the procurement, warehousing, and distribution of supplies, materials, and equipment by VA facilities. The supply fund finances the cost of warehouse inventory at depot and field station locations that, in major part, have been procured centrally at volume discounts.

The supply fund is funded by reimbursements from sales to the VA and other Federal agencies for the direct cost of all equipment and supplies furnished, as well as the indirect cost (overhead) of maintaining the supply fund. In addition, appropriations have provided for the initial and subsequent necessary capitalizations. At the end of the fiscal year, any net income from the supply fund, after making provision for prior losses, is deposited into the Treasury as miscellaneous receipts.

Generally, revolving funds such as the VA supply fund are intended to operate in a businesslike manner and to be substantially self-sustaining. Although not expected to make a profit, receipts should equal expenditures to the extent possible. Rather than depend on annual appropriations or a fiscal year cycle of operations, the supply fund provides a means for continuous financing of acquisition and holding of inventory. Purchases of inventory may be timed to take advantage of favorable prices, particularly seasonal items, more advantageously than if the items were financed under limitations of annual appropriations.

As has become apparent over the past several years, financing the necessary increases required to overcome the burdens caused by inflation and increases to the number of items sold has become the major problem of the supply fund. To maintain adequate inventories on hand and on order, the VA is proposing an amendment which would permit the supply fund to operate more nearly on a break-even basis, as Congress intended. It also would reduce the frequency for funding by appropriations by removing a significant cause of cash-flow problems.

The proposed amendment would provide the supply fund with the discretionary authority to base its charges for the direct cost of supplies and equipment on recent significant purchases. Further, it would authorize retention of reimbursements, without fiscal year limitations, for use in the operations of the supply fund. It is not clear under the current law, which authorizes the supply fund to charge for the "direct and indirect cost" of supplies, equipment and services sold, whether the statute permits a charge based on recent significant purchases. Therefore, the VA, in the past, has interpreted the provision to limit the revolving supply fund to charges based solely upon original acquisition and overhead costs.

Under the proposed amendment, the fund no longer would be limited to a charge based on the original acquisition cost, but would have the flexibility during periods of inflation to base its direct cost charges to the VA appropriations and other Federal agencies on recent significant purchases. Currently, inventory purchased at a given time at a certain purchase price is sold at that price despite the fact that recent significant purchases of the same inventory items were acquired by the fund at a higher price. Additional flexibility also is provided in the computation of recent significant purchases in that the supply fund need not consider the purchase of inventory under unusual market conditions to be a recent significant purchase. The charging and retention of charges based on recent significant purchases would assist in putting the fund on a more self-sustaining basis, and allow it to operate in a more businesslike manner. Accordingly, we are requesting that this proposed amendment take effect on October 1, 1979. This would allow the fund to apply the proposed changes in pricing to items currently in stock and purchased during the last fiscal year.

The amendment also would allow the Administrator of the VA to determine how much is excess to requirements at the end of each fiscal year, rather than requiring that all net income be transferred to the Treasury at that time. This change would allow the fund to make purchases early in the succeeding fiscal year on items whose prior year purchases may have reflected several prices. During inflationary times those items will have generated a profit during a fiscal year. However, the purchase price during the succeeding year will be higher, thereby using the profit in order to maintain normal business practices. The present requirement that net income be returned at the end of each fiscal year is inconsistent with the concept of a revolving fund, because it imposes the artificial limitation of the fiscal year on a continuing operation, and in effect obstructs congressional purpose in establishing such a fund. The change will facilitate more economical procurement through use of the fund's capital to purchase in volume at a time when prices may be favorable.

Enactment of this draft bill will not result in any significant cost to the VA. The proposed legislation allowing the VA to base its charges for the direct cost of supplies and equipment on recent significant purchases would have a negligible effect on the cost to VA departments utilizing the supply fund. In fact, this proposed change will assist acquisition of necessary operating supplies at volume discount savings, rather than purchasing same at regular market prices.

Advice has been received from the Office of Management and Budget that there is no objection to the submission of the draft legislation.

Sincerely,

MAX CLELAND,
Administrator.●

By Mr. GOLDWATER (for himself, Mr. BAYH, Mr. CHAFEE, Mr. LUGAR, Mr. GARN, Mr. INOUYE, Mr. MOYNIHAN, Mr. JACKSON, Mr. MATHIAS, Mr. HUDDLESTON, Mr. WALLOP, Mr. DURENBERGER, Mr. STEVENSON, and Mr. BOREN):

S. 2961. A bill for the relief of Viktor Ivanovich Belenko; to the Committee on the Judiciary.

VIKTOR IVANOVICH

Mr. GOLDWATER. Mr. President, today we are introducing legislation which will clear the path to gain U.S. citizenship for Viktor Belenko. Belenko, a former Soviet Air Force pilot, flew a MiG-25 to Japan in the fall of 1976 and defected to the United States. Even today the MiG-25 is a Soviet front line interceptor. Viktor Belenko not only delivered this front line fighter to allied hands but, in many debriefings over the past few years, has provided us with invaluable information, especially to our Air Force. The book "MigPilot" by author John Barron and Belenko is a recent release which clearly describes Belenko's feelings for his new country and provides, as well, a clear contrast between life in the Soviet Union and life in the United States.

Mr. President, Viktor Belenko has made a great contribution to the national security of the United States and deserves citizenship on that basis alone. However, we can expect an even greater contribution from Belenko in the future with the speedy enactment of this legislation which will move the naturalization process forward.

Since he has been in this country, he has been educated in English. He is now very well skilled in the language. I am introducing the bill to make him a U.S. citizen so that we might use his talents in teaching American pilots the tactics used by the Russians. We would particularly like to use him out at Red Flag, Nellis Air Force Base, Nev. He can pilot the aircraft.

I have heard him talk and it is a speech that every American should hear, about how really bad off the Russian air force is relative to pilots.

Mr. President, I introduce this bill on behalf of myself and a number of other members of the Intelligence Committee and ask that the bill be referred to the proper committee.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. BOREN. I wonder if the Senator will add me as a cosponsor. I have read the gentleman's book and listened to him. I would very much like to be added as a cosponsor.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the name of the Senator from Oklahoma be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, it is a privilege to join with my distinguished colleague and vice chairman of the Senate Select Committee on Intelligence to offer a private bill to grant citizenship to Viktor Ivanovich Belenko. Four years ago on September 9, 1976, Mr. Belenko flew a technically advanced Mig–25 "Foxbat" interceptor aircraft to an airbase in Japan and turned it over to U.S. authorities. Since that time, he has cooperated completely with the United States, and particularly the U.S. Air Force since he defected. In fact, he has made a unique contribution to our national security and his effort merits our special consideration.

The private bill we are introducing today waives provisions of the Immigration Act which require a 10-year waiting period for persons who have been members of the Communist Party in a foreign country. Without this legislation, he would not become eligible for U.S. citizenship until September 1986, because as an officer of the Soviet armed forces Mr. Belenko had automatically become a member of the Communist Party of the Soviet Union.

Since coming to this country, Mr. Belenko has learned to speak and write English fluently. He has written an autobiography and included in it his reasons for defecting from the Soviet Union. The value of the plane and the expertise Mr. Belenko brought with him is worth more than $5 million, according to the estimates of debriefers. As a U.S. citizen, Mr. Belenko will be able to contribute still further to our national security and I urge that the Senate make this possible by speedy approval of this bill.

By Mr. CULVER (for himself, Mr. McGovern, Mr. Baucus, Mrs. Kassebaum, and Mr. Jepsen):

S. 2962. A bill to amend the "Rock Island Transition and Employees Assistance Act"; to the Committee on Commerce, Science, and Transportation.

NON-CARRIER RAILROAD ACQUISITION ACT OF 1980

● Mr. CULVER. Mr. President, today I am introducing legislation to help shippers, farmers, employees and other associations of noncarriers purchase segments of railroads that would otherwise be abandoned.

The decline and bankruptcy of the Rock Island and Milwaukee Railroads have been the objects of congressional legislation several times during the past 2 years. The loss of service along substantial segments of these bankrupt lines has caused major economic and community hardship throughout Iowa and the Midwest. In my State alone, it has been estimated that the ultimate abandonment of major portions of these two railroads would result in an estimated revenue loss of over $300 million and a net job loss of over 5,200 jobs. The devastating impact of the cutoff of such service must be minimized to the greatest possible extent.

The Rock Island Transition and Employees Assistance Act (Public Law 96–254) provides funds to be used for acquisition of portions of the Rock Island and Milwaukee systems by associations of shippers, farmers, or other nonrailroad organizations. While these funds are welcome, I believe that they are not sufficient to help these noncarrier groups purchase or rehabilitate rail lines that are essential to the continued economic well-being of many communities. Under Public Law 96–254, only $25 million is available for noncarrier acquisition of the Rock Island Railroad, and $18 million for the Milwaukee. In order to minimize the loss of rail service, additional funds must be made available for this purpose.

Earlier this Congress, I coauthored the successful floor amendment to earmark $1 billion in windfall profit tax revenues for railroad improvement purposes. The conference report of this legislation, which was enacted as Public Law 96–223, contains a $34.1 billion fund earmarked for energy and transportation projects. The conferees explicitly stated that freight railroad improvement was a permissible use of windfall revenues earmarked for this fund.

Therefore, the legislation I am introducing today authorizes funds to be drawn from the energy and transportation account to supplement the funds already authorized by the Rock Island Transition and Employees Assistance Act for noncarrier railroad acquisition. This bill increases the revenues available for Rock Island Railroad acquisition from $25 million to $50 million, and the revenues available for Milwaukee Railroad acquisition from $18 million to $36 million. It specifies that these additional funds come from the energy and transportation projects account contained in the windfall profit tax bill.

Mr. President, during Senate debate on the original amendment to use windfall profits revenues for railroad improvement purposes, I state that it was ironic that the Nation's railroads were collapsing at the very moment we are trying to achieve energy independence. Railroads are the most energy efficient form of transportation—if track and equipment can be maintained in good condition. Nobody will benefit from the abandonment of large portions of the Rock Island system—not the farmers, shippers, employees, and communities that depend on shortline service for their economic well-being, and not the Nation, which needs a national freight system in good condition. A number of noncarrier associations are willing to invest their future in railroads by attempting to purchase and rehabilitate those portions of track upon which they are most dependent. I believe that Congress should make a similar investment by providing additional revenues to help them save essential rail services.

The Non-Carrier Railroad Acquisition Act will help accomplish this goal. The use of windfall profits revenues to help noncarriers acquire economically and in terms of maintaining a national rail system. I commend this legislation to my colleagues.●

By Mr. NELSON (for himself and Mr. Proxmire):

S. 2963. A bill to establish the Ice Age National Scenic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. NELSON. Mr. President, I am today introducing with my colleague from Wisconsin (Mr. Proxmire) a bill to establish the Ice Age National Scenic Trail in Wisconsin. A companion measure has been introduced today in the House of Representatives by all of the members of the Wisconsin delegation.

This legislation brings together the nine units of the Ice Age National Scientific Reserve, an outstanding and unique example of continental glaciation. The trail, which has been developed over the last 20 years by citizen groups in Wisconsin, provides parallel hiking and biking trails over a 1,000-mile route which crosses the State from Door County to the Minnesota border.

The Ice Age trail would be added to a select group of eight such nationally recognized trails, including the 2,000-mile Appalachian National Scenic Trail. The designation confers national status but involves no additional costs and does not affect the ownership or the control of the lands in the nine units.●

By Mr. HEFLIN:

S. 2964. A bill to provide for making payments to certain citizens and nationals of the United States held hostage in a foreign country, and for other purposes; to the Committee on Foreign Relations.

COMPREHENSIVE HOSTAGE COMPENSATION ACT

Mr. HEFLIN. Mr. President, I want to introduce a bill today called the "Comprehensive Hostage Compensation Act."

Mr. President, on July 4, 1980, this Nation celebrated Independence Day. While we commemorated 204 years of freedom 53 of our fellow American citizens who were taken hostage in Iran on November 4, 1979, were not able to join in this celebration. Eight months is a long time to be held in captivity by foreign militants in hostile surroundings. One hostage has since been released, and we hope and pray that all will soon be returned safely home.

Mr. President, the bill which I will introduce today is designed to discourage foreign countries from holding Americans as hostages and to compensate the families of each civilian employee of the U.S. Government, and, as appropriate, each U.S. citizen taken hostage by any militants or terrorists, acting in collusion with the government of any country, or where any such kidnaping has been stamped with an official badge of approval by the government of the country in which American civilians or citizens were taken hostage.

The bill I am introducing today provides that when such a government has assets in this country, the U.S. Government shall have the right to seize those assets and compensate the families of each American hostage at the rate of $1,000 for each day that the American citizen was held hostage or otherwise detained.

The bill would also authorize payments to the estates of any members of the uniformed services, as defined in section 101 of title 37, the United States Code, who died while performing their duties in response to the holding hostage or other detention of U.S. citizen by the foreign government in question or by an individual aided or abetted by such foreign government.

The compensation proposed in this bill would be exempt from taxation under chapters 1 and 11, respectively, of the Internal Revenue Code of 1954.

Mr. President, under this bill, the compensation funds will come from blocked assets that the foreign government in question has in this country. When a foreign government or an individual or group, acting in collusion with such foreign government detains or holds hostage a U.S. citizen in that country, and the foreign government has assets in the United States, these assets will be blocked immediately, pursuant to law, and conveyed to the Government of the United States.

Mr. President, my bill is designed so that it will not cost the American taxpayer a penny. It is a broadly worded bill that covers the international kidnaping of any American citizen or Government employee while abroad.

It was not until certain Iranian militants acting in collusion with the Khomeini government trespassed upon the territory of the United States in its Embassy in Tehran, Iran, and kidnaped most of the Americans inside our Embassy there that we discovered that we did not—and still do not—have a law on the books to compensate American victims of international kidnaping. Let us recapitulate what happened in Iran in November 1979.

At that time, many Iranian terrorists conspired—some of them in collusion with the official Iranian Government—to trespass upon U.S. property and deprive our American citizens and employees at our Embassy there in Tehran of certain equal protection of the laws of the United States and of certain privileges and immunities of the laws of the United States. Said Iranian militants and their government also deprived our said Americans of their 1st, 4th, 5th, and 14th amendment rights.

The Iranian terrorists and their government also committed certain intentional and negligent torts against our American citizens. Our fellow Americans in the U.S. Embassy at Tehran were falsely arrested and imprisoned. The Iranian militants and their government, by their outrageous conduct of kidnaping, intentionally inflicted emotional distress—not only upon the American victims there, but also upon members of their families.

The Iranian Government either knew or should have known about the purported siege of the American Embassy in Teheran on November 4, 1979, and not only failed to act to prevent it, but actually encouraged it. The very presence of American personnel in its Embassy in Teheran created a duty owed on the part of the Iranian Government to the U.S. Government to protect our personnel in our Embassy in Teheran. Yet, the Iranian Government, knowingly, intentionally, willingly, and recklessly permitted—and acted in collusion with—certain Iranian terrorists to trespass upon the American Embassy in Teheran and detain and hold hostage the American personnel therein. When this happened, the Iranian Government breached its duty to the U.S. Government and to our citizens. This breach of duty was the proximate cause of the various injuries sustained by the said American Embassy personnel and also the cause of their deprived lawful rights.

Mr. President, under these or similar circumstances, it is only fittting and proper that we force the foreign tortfeasor to compensate—directly or indirectly—the families of any American victim of international kidnaping. When a foreign government breaches one of the highest duties owed to the U.S. Government and to our people, that is, to protect our personnel in our embassy on that foreign soil, it seems that a reasonable humanitarian gesture of demonstrating our concern for the hostages and the families of such American victims is the type of compensation which I propose in my bill. By impounding the assets of any such foreign government, we can create a special claims fund within the U.S. Treasury to compensate the families of the American hostages for each day that they are held in captivity.

Mr. President, my bill differs from the others already in the hopper in that it is designed to cover any act of international terrorism in any foreign country wherein American citizens and/or Government employees become victims of kidnaping. I think that this bill represents good legislation whose time has come.

I urge my colleagues to support it and to push for its speedy passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "comprehensive Hostage Compensation Act".

SEC. 2. (a) All right, title, and interest of a foreign government in assets blocked pursuant to law shall be conveyed to the Government of the United States if—

(1) such assets were blocked in response to the holding hostage or other detention of a citizen or national of the United States by such foreign government or by an individual or group aided or abetted by such foreign government; and

(2) such hostage holding or detention violates the provisions of any treaty or other international agreement to which the Government of the United States and such foreign government are signatories.

(b)(1) There shall be established in the Treasury of the United States in each case of assets conveyed under subsection (a) a special claims fund to be designated by the name of the respective foreign government.

(2) The Secretary of the Treasury shall convey into each such fund assets of a foreign government engaged in the activities described in subsection (a) and may liquidate any part of such assets as may be necessary for transfer into such fund.

(c)(1) The Secretary of the Treasury, out of sums conveyed into such fund, shall pay to—

(A) each citizen or national of the United States held hostage or otherwise detained by the respective foreign government or by an individual or group aided or abetted by such foreign government, if such detention violates the provisions of any treaty or other international agreement to which the Government of the United States and such foreign government are signatories, or

(B) the appropriate legal representatives of such citizens or nationals,

an amount determined under paragraph (2).

(2) To each citizen or national or the appropriate legal representative of such citizen or national, as the case may be, who is eligible for a payment under paragraph (1), the Secretary of the Treasury shall pay—

(A) an amount equal to the product obtained by multiplying $1,000 by the number of days such citizen or national was held hostage or otherwise detained as described in subsection (a); or

(B) if the amount of assets is insufficient to cover the aggregate amount payable under clause (A), an amount equal to the product obtained by multiplying the number of days such citizen or national was held hostage or otherwise detained, as described in subsection (a), by an amount which bears the same proportion to $1,000 as the amount of available assets bears to the aggregate amount payable to all citizens, nationals, and representatives of citizens or nationals under clause (A).

(3) After making payments under paragraph (1) and after deducting, pursuant to subsection (d), administrative expenses related to such payments, the Secretary of the Treasury shall make payments to the estates of any members of the uniformed services, as defined in section 101 of title 37, United States Code, who died while in performance of duties in response to the holding hostage or other detention of United States citizens or nationals by the respective foreign government or by an individual aided or abetted by such foreign government, as determined by the President and certified to the Secretary of the Treasury.

(4) After making payments under paragraphs (1) and (3) and after deducting, pursuant to subsection (d), administrative expenses related to such payments, the Secretary of the Treasury shall make payments to the various departments and agencies of the United States which have incurred expenses while in the performance of duties in response to the holding hostage or other detention of United States citizens or nationals by the respective foreign government or by an individual aided or abetted by such foreign government, as determined by the President and certified to the Secretary of the Treasury.

(5) After making payments under paragraphs (1), (3), and (4) and after deducting, pursuant to subsection (d), administrative expenses related to such payments, the Secretary of the Treasury shall convey the balance of the assets described in subsection (a) into miscellaneous receipts of the Treasury of the United States.

(d) There shall be deducted from the amount of each payment made pursuant to paragraphs (1), (3), and (4) of subsection (c) administrative expenses incurred by the United States in carrying out this Act, but not to exceed an amount equal to 5 per centum of such payment.

(e) Subject to the provisions of any claims agreement to be entered into between the Government of the United States and a foreign government, any payment made pursuant to this Act shall not be construed as having divested any claimant or the United States on his behalf of any rights against such foreign government for the unpaid balance of his claim.

Sec. 3. Payments made under subsection (c)(1) of section 2 of this Act shall be exempt from taxation under chapter 1 of the Internal Revenue Code of 1954 and payments made under subsection (c)(3) of such section shall be excluded from the gross estate of the individual to whose estate the payment is made for purposes of chapter 11 of the Internal Revenue Code of 1954.

By Mr. MITCHELL (for himself and Mr. COHEN):

S. 2965. A bill to amend the act of August 28, 1957, providing for the conveyance to the State of Maine of certain lands located in such State; to the Committee on Armed Services.

● Mr. MITCHELL. Mr. President, I introduce today a bill that would remove certain use restrictions from a 28-acre parcel of land conveyed by the Secretary of the Navy in 1957 to the State of Maine.

That property, which formerly comprised part of the Fort Preble Military Reservation, is located on the campus of the Southern Maine Vocational-Technical Institute in South Portland, Maine. When Congress passed legislation in 1957, Public Law 85–185, authorizing the Secretary of the Navy to convey such property to the State of Maine, the only uses envisioned for the land at the time were "for vocational and other school purposes."

However, since 1957, a conservation zone and public park called the Spring Point Shoreway has been established along this particular portion of South Portland's coastline. Officials of the Southern Maine Vocational-Technical Institute and of the State of Maine wish to traverse this property for access to the beach area, parking, and so forth, but are partially prevented from doing so by the use restrictions contained in the Navy Secretary's deed.

Since this land is owned by the State of Maine, the State Legislature acted this spring to pass private and special legislation for the Spring Point Shoreway authorizing the commissioner of the Maine Department of Educational and Cultural Services to apply to the appropriate Federal agency for release of the use restrictions.

In a response to an inquiry initiated earlier this year by my predecessor, former Senator Edmund S. Muskie, Navy Secretary Edward Hidalgo indicated that legislation would be necessary to authorize removal of the restrictions in the deed.

Mr. President, development of the Spring Point Shoreway is now under way, and the use restrictions in this deed must be removed so construction can proceed during 1980. I therefore hope this legislation can be passed expeditiously.

I ask unanimous consent that Secretary Hidalgo's letter of April 14, 1980, and the text of the bill, be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1 and 2 of the Act entitled "An Act to provide for the conveyance to the State of Maine of certain lands located in such State", approved August 28, 1957 (71 Stat. 467), are amended by striking out the words "for vocational or other school purposes" therein and substituting therefor the words "for public purposes".

SEC. 2. The Secretary of the Navy shall issue such deed or other document as may be necessary to carry out the purpose of this Act.

DEPARTMENT OF THE NAVY,
Washington, D.C., April 14, 1980.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MUSKIE: This is in response to your letter of January 28 regarding the desire of the City of South Portland, Maine to use a portion of the former Fort Preble Military Reservation as a public park.

Review of the Act of August 28, 1957 (Public Law 85–185), confirms that the restrictions contained in the Navy deed granting the property to the State of Maine are included therein pursuant to Sections 1 and 2 of the statute, and would in fact preclude use of the property as a public park. Remedial legislation would, therefore, be necessary to authorize removal of the restrictions of the deed. Pursuant to your request, a draft bill to accomplish that purpose is enclosed.

Sincerely,

EDWARD HIDALGO,
Secretary of the Navy.●

By Mr. BAKER (for himself and Mr. DOMENICI):

S. 2966. A bill to amend the act entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980"; to the Committee on Appropriations.

HEAT WAVE ASSISTANCE

Mr. BAKER. Mr. President, today I am introducing legislation along with my distinguished colleague Senator DOMENICI, which will provide immediate assistance to States severely affected by the current heat and drought. The low-income citizens of Tennessee and many other States have been rendered powerless in their attempts to combat the heat and drought. Over 1,100 Americans have lost their lives during this heat wave and many of these were low-income citizens. It is imperative that we provide assistance to combat the extensive expense of fighting the heat.

The irony of this situation is that funds remain available in the low-income energy assistance program allocated to the States by the Community Services Administration and the Department of Health and Human Services. The Congress established this emergency program last year to assist low-income citizens faced with severe energy-related expenses. However, a technicality in the law passed by this Congress prohibits the States from spending the millions of dollars in unobligated funds after June 30, 1980. At the time the legislation was passed last fall, we could not predict the equally severe impact of a devastating heat wave this summer.

The bill which I am introducing, after consultations with the Governor of Tennessee, is similar to the one introduced in the House by Congressman BIAGGI. I believe as he does that by extending the date of the spending authority from June 30 to September 30, 1980, the intent of the Congress will be carried out in assisting low-income citizens faced with energy-related problems. More importantly, it will save additional lives as the prospects remain high for continued heat.

No further funds will be required from CSA or HHS. In fact, in the State of Tennessee, over $750,000 of unallocated funds remain from the amount originally provided by CSA. It has not been determined what amount still remains from funds provided by HHS. However, the program had allotted a far greater portion of the funding to HHS under their portion of appropriation.

I am pleased that the Senate Select Committee on Aging, of which my colleague Mr. DOMENICI is a member, has realized the impact of this heat wave and will be hold hearings on this subject tomorrow.

I have offered this approach because I believe that it provides a swift method of releasing available funds to assist the low-income citizen. I am hopeful that it will be used by the committee in conjunction with any other proposals presented by the Congress and the administration. Time is of the essence, and I believe that we must all work together to quickly ease the plight of those unable to assist themselves.

Mr. DOMENICI. Mr. President, in the past few weeks, the prolonged period of excessively high temperatures has produced an economic crisis and taken a tragic toll in human life in Tennessee and throughout the Deep South and the Southwestern part of our Nation.

This unexpected weather pattern has clearly demonstrated that a heat wave can produce an energy crisis and that cooling is not a luxury in many parts of the country, but a necessity.

As ranking minority member of the Senate Special Committee on Aging, I am particularly concerned about the impact of the heat wave on the elderly. It has already claimed over 1,200 lives, the majority of which were older people. Low income older persons often do not have air conditioning or do not have adequate income to pay their electric bills. Even if loaned cooling devices are provided, they will not be used without some assistance for payment of the utility bill.

The bill introduced by Senator Baker and I today would extend the authority of the Community Services Administration and the Department of Health and Human Services to spend funds from the low income energy assistance program of 1979–80 through September 1980, not June 30, 1980, as the current law requires. Funds which were not utilized by States for the heating program due to this past year's relatively mild winter can be made available to all of those States which have suffered a crisis situation during the past few weeks. This is an attempt to utilize these unspent funds in a sensible way to meet this special crisis. The assistance should be provided to those for whom cooling is essential to life and health.

Even though cooling assistance is possible under the new 1980 Home Energy Assistance Act, most States have not had their State plans approved in order to receive and begin using those funds. In the future, the need for energy assistance for cooling as well as heating can be addressed, not through a stop-gap program, but through the ongoing energy assistance program planned and administered by each State to take into account its weather patterns and unique energy needs. Also, in the future we must encourage research, development, and use of energy efficient cooling devices as we have for energy efficient heating. This is the only way we can hope to ease the burden of higher energy costs of cooling for our low income elderly citizens in the long run.

By Mr. NELSON (for himself, Mr. Harry F. Byrd, Jr., Mr. Wallop, and Mr. Eagleton):

S. 2967. A bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes; to the Committee on Finance.

FAMILY ENTERPRISE ESTATE AND GIFT TAX EQUITY ACT

• Mr. NELSON. Mr. President, today I am introducing the Family Enterprise Estate and Gift Tax Equity Act. Senators Harry Byrd, Malcolm Wallop, and Thomas Eagleton are joining as original cosponsors.

The major features of this measure are:

An increase from $175,000 to $500,000 in the amount of property that may pass free of Federal estate and gift taxes;

A provision which exempts from estate and gift taxes all property inherited by or transferred to a spouse;

A provision which doubles the amount of property which an individual may give tax-free annually to another individual from $3,000 to $6,000; and

A simplification of the so-called special use valuation rule for farms and closely held businesses to take into consideration the problems of those who are disabled, receiving old-age benefits, elderly spouses, minors, and students.

Mr. President, upon assuming the chairmanship of the Senate Small Business Committee in 1975, I began the task of reforming our Federal estate and gift tax laws in an effort to preserve family enterprises.

Something had to be done about laws that force inheritors of a family farm or business to sell that enterprise in order to pay estate taxes on it. A family farm or business is not only an extremely productive component of our economy; it also provides a quality of life which millions of Americans cherish. Extensive hearings were held by the Small Business Committee in 1975.

At the time of those hearings, the Federal estate tax laws had not been revised since 1942. Thirty or forty years ago productive agricultural land could be purchased for less than $100 per acre. At these levels farms and businesses could pass from one generation to another with few estate tax problems. By way of comparison, the national average price for acreage in 1979 was $559, ranging from a low of $100 per acre in New Mexico to a high of over $2,000 an acre in New Jersey.

The 1975 hearings proved that the fixed exemption limit under the old tax law was preventing many family farms and businesses from being transmitted from one generation to the other. Studies showed that farms were being sold—either to raise the money to pay estate taxes (which inflation had made a major burden), or to avoid paying these taxes.

Independent companies were being forced to merge into large corporations, because marketable stock could be acquired tax free and many estate tax problems associated with a small business could be dispensed with.

In 1942, the estate tax applied to only 1 estate out of 60. But, by 1976, this had increased to 1 out of 10, significantly broadening the application of the law. Because of inflation, the same farm or business that was worth $60,000 in 1942 has come to be valued at about $250,000.

As a result of the 1975 Small Business Committee hearings my staff and I designed a series of proposals which became law as part of the Tax Reform Act of 1976 and the Revenue Act of 1978. These include:

A tripling of the amount of property that may pass free of Federal estate taxes from $60,000 to $175,000;

An exemption of up to half the value of the family farm or small business for surviving spouses in recognition of their working contribution to the enterprise; and,

A provision—commonly referred to as the "special use valuation" rule—which allows farms and closely-held businesses to be valued for estate tax purposes on their value as farms or small businesses. Prior to this reform, the property was valued at its highest and best use, which often meant that land farmed for many years might be highly taxed on the basis of what it would be worth as a shopping center or housing development.

The development of the "special use rule" for the valuation of farms and small businesses is particularly noteworthy. As the following table demonstrates, it significantly reduced the amount of Federal estate tax on these enterprises.

ESTATE TAX SAVINGS RESULTING FROM THE MAXIMUM ACTUAL USE VALUATION REDUCTION

Taxable estate [1]	Estate tax bracket on top dollar (percent)	Estate tax savings	Savings as percentage of taxable estate
$750,000	37	$177,500	24
$1,000,000	39	190,000	19
$1,250,000	41	200,000	16
$1,500,000	43	210,000	14
$2,000,000	45	225,000	11
$2,500,000	49	245,000	10
$3,000,000	53	265,000	9
$3,500,000	57	285,000	8
$4,000,000	61	305,000	8
$4,500,000	65	325,000	7
$5,000,000	69	345,000	7
Over $5,000,000	70	350,000	7

[1] Taxable estate equals the adjusted gross estate minus any marital deduction, assuming no taxable gifts had been made since 1976.

However, as beneficial as they are, the reforms of the past 5 years do not go far enough.

The sad fact is that double-digit inflation pushed family businesses that were too small to pay estate taxes into extremely high tax brackets. The result has been that heirs of these enterprises have been forced out of business in order to pay stiff Federal estate taxes.

Inflation and the increase of economic concentration through conglomerate mergers has seriously imperiled the maintenance of family farms and businesses of all kinds. Our existing tax structure has the effect of subsidizing the growth of big business usually at the expense of small and independent enterprise. Present tax laws encourage those who own an interest in small business to sell out to large companies because the acquiring company may exchange its stock for the stock of the small business. The entire transaction is tax free. What we are witnessing today is a major threat to the very survival of our free and independent enterprise system.

Family-owned businesses are an integral and vital component of our economy and society. As a source of entrepreneurial spirit and for their many contributions in the fields of technology, innovation, and social advancement, family-owned small businesses must be preserved and protected. The family business is a source of pride which gives the family a personal sense of freedom, accomplishment, and pride in ownership. The perpetuation of the family business in America is of significant importance to the survival of free enterprise that has built the foundation of our country and economy.

The measure I am introducing today would provide estate tax relief to more than 95 percent of our Nation's family-owned farms and businesses, allowing them to continue their many contributions to the American economy—creating more jobs, advancing technology and innovation, and increasing our productivity.

The proposal also recognizes once and for all the importance of a working spouse in a family enterprise. By providing for an unlimited marital deduction, the proposal establishes a long-deserved measure of equality between spouses.

Mr. President, I ask unanimous consent that a section-by-section analysis prepared by the staff of the Finance Committee, as well as the text of the bill be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title; Amendment of 1954 Code.

(a) Short Title.—This Act may be cited as the "Family Enterprise Estate and Gift Tax Equity Act".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Sec. 2. Increase in Unified Credit.

(a) Credit Against Estate Tax.—

(1) In general.—Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking out "$47,000" and inserting in lieu thereof "$155,800".

(2) Conforming amendments.—

(A) Subsection (b) of section 2010 is amended to read as follows:

"(b) Phase-in of Credit.—

In the case of decedents dying in:	Subsection (a) (1) shall be applied by substituting for '155,800' the following amount:
1981	$47,000
1982	70,800
1983	96,300
1984	121,800

(B) Subsection (a) of section 6018 (relating to estate tax returns by executors) is amended—

(i) by striking out "$175,000" in paragraph (1) and inserting in lieu thereof "$500,000"; and

(ii) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Phase-in of filing requirement amount.—

In the case of decedents dying in:	Paragraph (1) shall be applied by substituting for '500,000' the following amount:
1981	$175,000
1982	250,000
1983	325,000
1984	400,000

(b) Credit Against Gift Tax.—

(1) In general.—Paragraph (1) of section 2505 (a) (relating to unified credit against gift tax) is amended by striking out "$47,000" and inserting in lieu thereof "$155,800".

(2) Conforming amendment.—Subsection (b) of section 2505 is amended to read as follows:

"(b) Phase-in of Credit.—

In the case of gifts made in:	Subsection (a) shall be applied by substituting for '155,800' the following amount:
1981	47,000
1982	70,800
1983	96,300
1984	121,800

(c) Effective Dates.—The amendments made—

(1) by subsection (a) shall apply to the estates of decedents dying after December 31, 1980, and

(2) by subsection (b) shall apply to gifts made after such date.

Sec. 3. Unlimited Marital Deduction.

(a) Estate Tax Deduction.—

(1) In general.—Section 2056 (relating to bequests, etc. to surviving spouses) is amended—

(A) by striking out subsection (c) and redesignating subsection (d) as subsection (c); and

(B) by striking out "subsections (b) and (c)" in subsection (a) and inserting in lieu thereof "subsection (b)".

(2) Conforming amendment.—Paragraph (3) of section 2057 (e) (defining property passing from a decedent) is amended by striking out "2056 (d)" and inserting in lieu thereof "2056 (c)".

(b) Gift Tax Deduction.—

(1) In general.—Subsection (a) of section 2523 (relating to gift to spouse) is amended to read as follows:

"(a) Allowance of Deduction.—Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount with respect to such interest equal to its value.".

(2) Technical amendment.—Section 2523 is amended by striking out subsection (f).

(c) Effective Dates.—The amendments made—

(1) by subsection (a) shall apply to the estates of decedents dying after December 31, 1981, and

(2) by subsection (b) shall apply to gifts made after such date.

Sec. 4. Increase in Annual Gift Tax Exclusion

(a) In General.—Subsection (b) of section 2503 (relating to exclusions from gifts) is amended by striking out "$3,000" and inserting in lieu thereof "$6,000".

(b) Effective Date.—The amendment made by this section shall apply to gifts made after December 31, 1981.

Sec. 5. Valuation of Certain Farm, etc., Real Property.

(a) Definition of Qualified Real Property.—Subsection (b) of section 2032A (defining qualified real property) is amended by adding at the end thereof the following new paragraphs:

"(4) Retired and disabled decedents.—

"(A) In general.—If, on the date of death of the decedent, the decedent did not otherwise meet the requirements of paragraph (1) (C) with respect to any property, and the decedent—

"(i) was eligible to receive old-age benefits under title II of the Social Security Act, or

"(ii) was disabled for a continuous period ending on such date,

then paragraph (1) (C) shall be applied by substituting 'the date on which the decedent became eligible to receive old-age benefits under title II of the Social Security Act or became disabled' for 'the date of the decedent's death'.

"(B) Disabled defined.—For purposes of subparagraph (A), an individual shall be disabled if such individual has a mental or physical impairment which renders him unable to materially participate in the operation of the farm or other business.

"(5) Special rule for spouses who are qualified heirs.—In the case of any qualified real property which was acquired by a qualified heir who is the spouse of the decedent and which does not otherwise meet the requirements of paragraph (1) (C) upon the death of such spouse, such real property shall be treated as meeting the requirements of paragraph (1) (C) if such spouse was engaged in the active management of the operation of the business at all times during—

"(A) the 10-year period ending on the date of death of the spouse, or

"(B) the period beginning on the date of death of the decedent and ending on the date of death of the spouse.

"(6) Special rule for certain woodlands.—In the case of real property used for a farming purpose described in subparagraph (C) of subsection (e) (5) which does not otherwise meet the requirements of paragraph (1) (C), such real property shall be treated as meeting the requirements of paragraph (1) (C) if, at all times during the 10-year period ending on the date of the decedent's death—

"(A) such real property was owned by the decedent or a member of the decedent's family and used for such farming purpose, and

"(B) the decedent or a member of the decedent's family was engaged in the active management of the operation of the business.".

(b) Dispositions and Failures to Use for Qualified Use.—

(1) 10-year holding period.—

(A) In general.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended—

(i) by striking out "15 years" in paragraph (1) and inserting in lieu thereof "10 years", and

(ii) by striking out paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6).

(B) Conforming amendments.—Paragraph (2) of section 2032A(h) (relating to treatment of replaced property) is amended—

(i) by striking out in subparagraph (A) all that follows "involuntarily converted," and inserting in lieu thereof the following: "except that with respect to such qualified replacement property the 10-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a) (2) (B) (i), during which the qualified heir was allowed to replace the qualified real property,", and

(ii) by striking out "(7)" in subparagraph (C) and inserting in lieu thereof "(6)".

(2) cessation of qualified use.—

(A) In general.—Paragraph (6) of section 2032A(c) (defining cessation of qualified use), as redesignated by paragraph (1), is amended to read as follows:

"(6) Cessation of qualified use.—For purposes of paragraph (1) (B)—

"(A) In general.—Real property shall cease to be used for the qualified use if—

"(i) such property ceases to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b) (2) under which the property qualified under subsection (b), or

"(ii) except as provided in subparagraph (B), during any period of 8 years ending after the date of the decedent's death and before the date of the death of the qualified heir, there has been periods aggregating 3 years or more during which—

"(I) in the case of periods during which the property was held by the decedent (other than periods during which the decedent was an individual described in subsection (b) (4) (A) (i) or (ii)), there was no material participation by the decendent or any member of the family in the operation of the farm or other business, and

"(II) in the case of periods during which the property was held by any qualified heir, there was no material participation by such qualified heir or any member of his family in the operation of the farm or other business.

"(B) 10-year active management.—If an eligible qualified heir elects, at such time and in such manner as the Secretary may prescribe, to have the provisions of this subparagraph apply to any real property—

"(i) the provisions of clause (ii) of subparagraph (A) shall not apply to such property, and

"(ii) such property shall cease to be used for the qualified use if the fiduciary or the eligible qualified heir or any member of his family did not take part in the active management of the farm or other business at all times during the period beginning on the date of death of the decedent and ending on the earlier of—

"(I) the date of death of the qualified heir, or

"(II) the date which is 10 years from date of death of the decedent.

"(C) ELIGIBLE QUALIFIED HEIR.—For purposes of this paragraph, the term 'eligible qualified heir' means—

"(i) any qualified heir with respect to real property the qualified use for which is a farming purpose described in subparagraph (C) of subsection (e)(5), and

"(ii) in any other case, a qualified heir who, on the date of death of the decedent—

"(I) is the spouse of the decedent,

"(II) has not attained the age of 21,

"(III) is a student described in subparagraph (A) or (B) of section 151(e)(4), or

"(IV) was disabled (within the meaning of subsection (b)(4)(B)) for a continuous period ending on such date.".

(B) CONFORMING AMENDMENT.—Subsection (e) of section 2032A (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) ACTIVE MANAGEMENT.—The term 'active management' means the making of the management decisions of a business (other than the daily operating decisions).".

(c) REPEAL OF $500.000 LIMITATION.—Subsection (a) of section 2032A (relating to value based on use under which property qualifies) is amended to read as follows:

"(a) VALUE BASED ON USE UNDER WHICH PROPERTY QUALIFIES.—If—

"(1) the decedent was (at the time of his death) a citizen or resident of the United States; and

"(2) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.".

(d) EXCHANGE OF QUALIFIED REAL PROPERTY.—

(1) IN GENERAL.—Section 2032A (relating to valuation of certain farm, etc., real property) is amended by adding at the end thereof the following new subsection:

"(i) EXCHANGES OF QUALIFIED REAL PROPERTY.—

"(1) TREATMENT OF PROPERTY EXCHANGED.—

"(A) IN GENERAL.—If an interest in qualified real property is exchanged—

"(i) no tax shall be imposed by subsection (c) on such exchange if the interest in qualified real property is exchanged solely for an interest in qualified exchange property in a transaction which qualifies under section 1031(a), or

"(ii) if clause (i) does not apply, the amount of the tax imposed by subsection (c) on such exchange shall be the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX WHERE PROPERTY IS NOT SOLELY AN INTEREST IN QUALIFIED EXCHANGE PROPERTY.—The amount determined under this subparagraph with respect to any exchange is the amount of tax which (but for this subsection) would have been imposed on such exchange reduced by an amount equal to that portion of such tax which is attributable to the amount of the interest in qualified exchange property received by the taxpayer.

"(2) TREATMENT OF QUALIFIED EXCHANGE PROPERTY.—For purposes of subsection (c)—

"(A) any interest in qualified exchange property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was exchanged, and

"(B) any tax imposed by subsection (c) on the exchange shall be treated as a tax imposed on a partial disposition.

"(3) QUALIFIED EXCHANGE PROPERTY.—For purposes of this subsection, the term 'qualified exchange property' means real property which is to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the real property exchanged therefor originally qualified under subsection (a).".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 2032A(f) (relating to statute of limitations) is amended—

(i) by inserting "or exchange" after "conversion",

(ii) by inserting "or (i)" after "(h)", and

(iii) by inserting "or of the exchange of property" after "replace".

(B) Paragraph (2) of section 6324B(c) (relating to special liens) is amended by inserting "and qualified exchange property (within the meaning of section 2032A(i)(3))" before the period at the end thereof.

(e) ELECTION REQUIREMENT OF SPECIAL RULES FOR INVOLUNTARY CONVERSIONS REPEALED.—Section 2032A(h) (relating to special rules for involuntary conversions of qualified real property) is amended—

(1) by striking out "and the qualified heir makes an election under this subsection" in paragraph (1)(A); and

(2) by striking out paragraph (5).

(f) METHOD OF VALUING FARMS.—

(1) NET SHARE RENTALS.—

(A) IN GENERAL.—Paragraph (7) of section 2032A(e) (relating to method of valuing farms) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) VALUE BASED ON NET SHARE RENTAL IN CERTAIN CASES.—

"(i) In general.—If there is no comparable land from which the average annual gross rental may be determined, subparagraph (A)(i) shall be applied by substituting 'average net share rental' for 'average gross cash rental'.

"(ii) Net share rental.—For purposes of this paragraph, the term 'net share rental' means the excess of—

"(I) the value of the produce received by the lessor of the land on which such produce is grown, over

"(II) the cash operating expenses of growing such produce which, under the lease, are paid by the lessor.

"(iii) Determination of average net share rental.—For purposes of this subparagraph, the average net share rental shall be—

"(I) the average net share rental for reasonably comparable land published by the Department of Agriculture, an agency of the State in which the land is located, or a college or university of such State (within the meaning of section 511(a)(2)(E)), or

"(II) if the average described in subclause (I) is not available, the average net share rental determined on the basis of comparable land located in the locality of such farm.".

(B) CONFORMING AMENDMENTS.—

(i) Clause (i) of section 2032A(e)(7)(C) (as redesignated by subsection (a)) is amended by inserting ", or where it is established that the average net share rental is not capable of being determined under subparagraph (B)(iii)" after "determined".

(ii) Subparagraph (A) of section 2032A(e)(7) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (C)".

(2) Comparable sales.—Subparagraph (D) of section 2032A(e)(8) (relating to method of valuing closely held business interests, etc.) is amended by striking out "comparable" and inserting in lieu thereof "Reasonably comparable".

(g) BASIS UPON RECAPTURE.—Paragraph (3) of section 1014(a) (relating to basis of property acquired from a decedent) is amended by inserting "(increased by the value of any interest in such property (determined for purposes of this chapter without regard to this section) with respect to which an additional estate tax is imposed under section 2032A(c)(1))" after "section".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1981.

SEC. 6. ESTATE TAX TREATMENT OF TRANSFERS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) IN GENERAL.—Section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended by adding the following new subsection at the end thereof:

"(d) VALUATION OF GIFTS.—For purposes of subsection (a), the value of property included in the gross estate by reason of subsection (a) shall be the value of such property at the time of its transfer. The preceding sentence shall not apply to a transfer of an interest in property which is included in the value of the gross estate under section 2036, 2037, 2038, 2041, or 2042 or would have been included under any of such sections if such interest had been retained by the decedent.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made after December 31, 1980.

SEC. 7. ELECTION TO PAY GIFT TAX.

(a) IN GENERAL.—Section 2505 (relating to unified credit against gift tax) is amended by adding at the end thereof the following new subsection:

"(e) ELECTION TO PAY GIFT TAX.—

"(1) IN GENERAL.—An individual may elect with respect to any calendar quarter not to have the credit allowed by subsection (a) apply with respect to gifts made during such quarter.

"(2) ELECTION.—Any election under paragraph (1) shall be made at the same time as the return required to be filed for such quarter under section 6019 is filed and shall be in such form and manner as the Secretary may by regulations prescribe.

"(3) EFFECT OF ELECTION.—For purposes of subsection (a)(2), the amount of any credit which does not apply by reason of an election under paragraph (1) shall not be treated as an amount allowable as a credit under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gifts made after December 31, 1980.

SEC. 8. COORDINATION OF EXTENSIONS OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) ELIGIBILITY REQUIREMENTS.—Paragraph (1) of section 6166(a) (relating to alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended to read as follows:

"(1) IN GENERAL.—If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds—

"(A) 35 percent of the value of the gross estate, or

"(B) 50 percent of the taxable estate, of such decedent, the executor may elect to pay part or all of the tax imposed by section 2001 in 2 or more (but not exceeding 10) equal installments.".

(b) COORDINATION WITH SECTION 303.—

(1) IN GENERAL.—Subparagraph (A) of section 303(b)(2) (relating to relationship of stock to decedent's estate) is amended by striking out all that follows "gross estate"

the first place it appears and inserting in lieu thereof "exceeds—

"(i) 35 percent of the value of the gross estate of the decedent, or

"(ii) 50 percent of the value of the taxable estate of the decedent.".

(2) Conforming amendment.—Subparagraph (B) of section 303(b)(2) is amended to read as follows:

"(B) Special rule for stock in two or more corporations.—For purposes of subparagraph (A), stock of two or more corporations, with respect to each of which there is included in determining the value of the decedent's gross estate more than 20 percent in value of the outstanding stock, shall be treated as the stock of a single corporation. For purposes of the 20-percent requirement of the preceding sentence, stock which, at the decedent's death, represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent's gross estate.".

(c) Acceleration of Payment.—

(1) Amount of disposition.—Subparagraph (A) of section 6166(g)(1) (relating to acceleration of payment in the case of disposition of interest or withdrawal of funds from a business) is amended by striking out "one-third" each place it appears and inserting in lieu thereof "50 percent".

(2) Failure to pay installment.—Paragraph (3) of section 6166 (g) (relating to failure to pay installments) is amended to read as follows:

"(3) Failure to pay installment.—

"(A) In general.—If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(B) Payment within 6 months.—If any installment under this section is not paid on or before the date determined under subparagraph (A) but is paid within 6 months of such date—

"(i) the provisions of subparagraph (A) shall not apply with respect to such payment,

"(ii) the provisions of section 6601(j) shall not apply with respect to the determination of interest on such payment, and

"(iii) there is imposed a penalty in an amount equal to the product of—

"(I) 5 percent of the principal amount of such payment, multiplied by

"(II) the number of months (or fractions thereof) after such date and before payment is made.

The penalty imposed under clause (iii) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.".

(d) Repeal of Section 6166A.—Section 6166A (relating to extension of time for payment of estate tax where estate consists largely of interest in a closely held business) is hereby repealed.

(e) Technical Amendments.—

(1) Sections 303 (b)(1)(C), 2204(c), and 6161(a)(2) are each amended by striking out "or 6166A" each place it appears.

(2) Paragraph (2) of section 2011(c) is amended by striking out "6161, 6166 or 6166A" and inserting in lieu thereof "6161 or 6166".

(3) Subsections (a) and (b) of section 2204 are each amended by striking out "6166 of 6166A" and inserting in lieu thereof "or 6166".

(4) Subsection (b) of section 2621 is amended—

(A) by striking out "sections 6166 and 6166A (relating to extensions" and inserting in lieu thereof "section 6166 (relating to extension", and

(B) by striking out "Sections 6166 and 6166A" in the subsection heading and inserting in lieu thereof "Section 6166".

(5) (A) Subsection (a) of section 6166 is amended by striking out paragraph (4).

(B) The section heading for section 6166 is amended by striking out "ALTERNATE".

(C) The table of sections for subchapter B of chapter 62 is amended by striking out the items relating to sections 6166 and 6166A and inserting in lieu thereof the following:

"Sec. 6166. Extension of time for payment of estate tax where estate consists largely of interest in closely held business.".

(6)(A) Subsections (a), (c)(2), and (e) of section 6324A are each amended by striking out "or 6166A" each place it appears.

(B) Paragraphs (3) and (5) of section 6324A(d) are each amended by striking out "or 6166A(h)".

(C) The section heading for section 6324A is amended by striking out "OR 6166A".

(D) The table of sections for subchapter C 6324A(d) are each amended by striking out "or 6166A" in the item relating to section 6324A.

(7) Subsection (d) of section 65[illegible]3 is amended by striking out "6163, 6166, or 6166A" and inserting in lieu thereof "6163 or 6166".

(8) Subsection (a) of section 7403 is amended by striking out "or 6166A(h)".

(f) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1980.

Sec. 9. Disclaimers.

(a) In General.—Subsection (c) of section 2518 (relating to disclaimers) is amended by adding at the end thereof the following new paragraph:

"(3) Disclaimers ineffective under state law.— For purposes of subsection (b)(4), an interest shall be treated as passing without any direction on the part of the person making the disclaimer if—

"(A) the disclaimer meets the requirements of paragraphs (1), (2), and (3) of subsection (b),

"(B) the disclaimer does not result in the passing of the interest under the applicable State law, and

"(C) the person transfers the interest to the person to whom the interest would have passed had the person making the disclaimer died before the holder of legal title of such interest before the last date on which the disclaimer must be received under subsection (b)(2).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1980.

Section-By-Section Analysis

Section I. Title. "Family Enterprise Estate and Gift Tax Equity Act."

Section II. Unified Credit. The estate tax exemption is increased to a level of $500,000 by 1985 through the mechanism of an estate tax credit. The level of the credit is:

1981 $47,000
1982 $70,000
1983 $96,300
1984 $121,800
1985 $155,800

Section III. Unlimited Marital Deduction. The bill provides for an unlimited gift and estate tax marital deduction, thereby permitting one spouse to give the other spouse property without incurring an estate tax on the amount of property given to the spouse. Under current law, the amount of the marital deduction is limited to the greater of $250,000 or 50 percent of the adjusted estate. This provision is effective beginning in 1982.

Section IV. Increase in Annual Gift Tax Exclusion. The bill increases annual gift tax exclusion from $3,000 per year to $6,000 per year per donee. Currently, a person may make gifts of up to only $3,000 a year to another person without incurring any gift tax liability. This provision is effective beginning in 1982.

Section V. Special Use Valuation Rules. The bill makes numerous changes in the special use valuation rules.

1. It permits disabled individuals and those who receive Social Security to qualify for purposes of the material participation requirements if the individual had materially participated for five out of eight years preceding the year in which they become eligible for old age benefits or in which they became disabled.

2. It permits the spouse of a decedent to meet the material participation requirements as long as the spouse actively manages the farm for ten years or the date of death of the decedent, which ever occurs first.

3. It permits owners of woodlands to qualify where they have actively managed the property for ten years prior to death.

4. The bill permits special use qualification to remain as long as the property is farmed by the spouse or heirs of the decedent for ten years rather than the current fifteen year requirement.

5. The bill permits active management rather than material participation as a test for qualification for the estate of spouses, children under age 21, students, and disabled individuals who receive the property from a decedent who qualified for special use valuation.

6. The bill eliminates the $500,000 limitation currently placed upon the application of special use valuation.

7. The bill permits like kind exchanges without losing special use valuation qualification.

8. The bill permits crop share rentals to qualify for special use valuation as well as cash rentals.

9. The bill permits the basis of assets which are recaptured because of the loss of special use valuation to be stepped up to the fair market value which would have otherwise been if special use valuation had not been elected.

The effective date of these provisions is 1982.

Section VI. Gifts Made Within Three Years of Decedent's Death. The value of gifts within three years of decedent's death is included in the gross estate at the value at the time of gift rather than the value at date of death. This provision is effective in 1981.

Section VII. Election to Pay Gift Tax. Bill permits individuals to elect to pay a gift tax rather than use the unified credit. This assists persons who make gifts to set a value which will not be later disputed by the Internal Revenue Service.

Section VIII. Extension of Time for Payment of Estate Taxes. The bill simplifies current duplicative provisions which have different rules to qualify for the extension of time for the payment of estate taxes. Internal Revenue Code Section 6166 and 6166(a) are combined into Section 6166. A business would qualify for the deferred payment as long as the closely held business is 35 percent of the value of the gross estate or 50 percent of the value of the taxable estate.

Section 303 of the Internal Revenue Code is also amended to conform to these requirements. This provision would be effective in 1981.

Section IX. Disclaimers. The bill would permit disclaimers to be valid for estate tax purposes even where a state law would not recognize the disclaimer.●

● Mr. HARRY F. BYRD, JR. Mr. President, this bill is designed to provide a

measure of estate tax reduction. It increases the level of the Federal estate tax exclusion and clarifies technical and policy matters which have arisen in connection with the Tax Reform Act of 1976.

Finally, the bill seeks to meet the capital formation needs and liquidity problems facing many small businesses and farms which the estate tax law creates.

Clearly, there is a need to reduce estate taxes.

Inflation has driven up the value of many assets, particularly land, to record high levels.

In 1976, extensive changes were made in the estate tax law to accommodate for inflation and reduce the estate tax burden. At that time, no one anticipated the continuing record high inflation levels.

An example of the effect of inflation is the Federal estate tax exclusion. In 1976, the exclusion was increased, through the mechanism of an estate tax credit, to a maximum of $175,625, or a credit of $47,000 in 1981. Today, just to compensate for inflation, the $175,000 exclusion should be adjusted upward to over $250,000.

The likelihood is that inflation will continue for many years in the future. This means that an asset which today is worth $70,000, at an inflation rate of 9 percent for the next 20 years would be worth over $420,000 with no real increase in value.

Now, therefore, is the time to come to grips with estate tax reductions. This is especially the case for small businesses and farms.

The President's Council on Small Business listed estate tax reductions in fourth place among the top 15 recommendations of the White House Conference. The economic effect of high estate taxes on farms and small businesses is evident. Many family businesses may, at one time, have been too small to pay estate taxes. But rising prices have pushed up the value of the business to a level where the heirs of these enterprises will be forced out of business in order to pay stiff Federal estate taxes.

The key to providing for the continuation of the small business and the family farm is to structure the estate tax in such a way as to provide liquidity for these operations so that the estate tax does not cause their forced sale.

This bill seeks to achieve this result by raising the level of the estate tax exclusion to be $500,000 by 1985 and by revising the deferred payment provisions in the estate tax law.

The estate tax affects not only farmers and the small businessmen but also millions of working Americans who have accumulated a modest estate over their lifetime. The bill seeks to make changes which conform the estate and gift tax laws with the way in which most Americans view the family unit. It permits a husband to leave an unlimited amount of property to his wife and deduct the value of this property from the total value of an estate. Furthermore, it increases the gift tax exclusion to $6,000.

The current exclusion of $3,000 has been in the law since 1942 and should be increased upward.

In addition to providing tax relief, the bill also seeks to resolve technical problems which were created by the 1976 Tax Reform Act.

One of the areas which needs to be revised is the special use valuation rules. The bill makes the rules more workable and seeks to carry out the original intent of Congress in seeking to preserve the family farm.

In addition, the bill irons out many technical difficulties which were brought to the attention of the Subcommittee on Taxation and Debt Management in hearings on estate tax revisions associated with the current estate tax law.●

● Mr. WALLOP. Mr. President, today I join with Senator NELSON and Senator HARRY BYRD in introducing legislation that will make long over-due changes in the estate tax laws. The Family Enterprise Estate and Gift Tax Equity Act will provide needed estate tax relief for all individuals and particularly farmers and small businessmen. Inflation has combined with the estate tax to create unwarranted burdens for the average Americans. This legislation addresses many of the problems created by inflation and greatly simplifies the estate and gift tax laws.

By providing an unlimited marital deduction, this bill will not only address the economic effects of inflation, but it will also restore some equity to the tax treatment of transfers between spouses. At present a marital deduction is allowed equal to half the adjusted gross estate or $250,000, whichever is the larger. If we assume that the inflation rate continues at 10 percent, the purchasing power of that $250,000 in 1980 dollars would decline to $225,000 in 1981. By 1987 it would decline to $125,000 in 1980 dollars and by 1994 the buying power of the original $250,000 would decline to $62,000 in 1980 dollars. An unlimited deduction is needed so that any set limit will not be eroded by inflation.

The unlimited marital deduction would also remove the fear on the part of many couples that they must trace gifts made over a lifetime of home and car purchases, stock or land exchanges, in an effort to calculate their estate and gift tax liabilities. This legislation will not only add simplicity to the estate tax laws as they relate to exchanges between husbands and wives, but it would also give due recognition to the contribution each spouse makes in building a family's business or savings. A 100-percent deduction means that a husband and wife would be able to transfer property without facing the estate tax burden. This bill would give legal truth to the often expressed attitude of married couples that the property is "ours" whatever the Federal Government may say or try to devise.

Another significant change called for in this legislation pertains to the special use valuation provisions for family, farms, and machines. The special use valuation rules for farmland and small businesses allowed this type of property to be valued for estate tax purposes at its actual current use rather than at its so-called highest and best use. This prevents an operating farm or ranch from being valued as if a subdivision or shopping center were built on the same land.

Unfortunately, many restrictions placed on those wishing to use special use valuation prevent this provision from being fully effective. The material participation restriction requires a farmer to materially participate in the management of the farm for 5 out of the 8 years prior to death. Unfortunately, this leaves many farmers with the difficult choice between retiring and collecting social security benefits that are rightfully theirs, or continuing to work so that they can qualify for the special use valuation.

The original law also prevents farmers who became disabled in the course of their labors from qualifying for the estate tax break. This bill would address these problems by applying the material participation test with reference to the 8 years immediately preceding the year in which they become eligible for old age benefits or in which they become disabled. This change will provide estate tax relief to many farmers who are disabled or wish to retire. Other changes are called for in this bill that will help preserve the family farm and keep scenic, productive farmland in agriculture.

In addition to making substantial changes in the special use valuation provisions that benefit small farmers and family owned businesses, this bill would provide tax relief to the average taxpayer by increasing the annual gift tax exclusion from $3,000 to $6,000. Again we have an example of how inflation has a profound effect on taxes.

In 1943 the Congress reduced the annual gift tax exclusion to $3,000. Compared to the purchasing power of $3,000 in 1943, $3,000 now has the purchasing power of only $810. If Congress were to give the gift tax exclusion the same purchasing power it had when the $3,000 level was established it should be set at approximately $14,000. The legislation we introduce today provides only a first step toward reaching the goal of restoring the purchasing power of the annual gift tax exclusion.

Mr. President, this legislation represents a combination of estate tax reform proposals that Senator NELSON, Senator HARRY BYRD, and I have proposed in various bills. The Family Enterprise Estate and Gift Tax Equity Act reflects the testimony presented before the Committee on Taxation and Debt Management and long months of close consultation with estate tax experts from around the country. I urge my colleagues to support this legislation and work with us toward its enactment in the 96th Congress.●

By Mr. SASSER (for himself, Mr. BUMPERS, and Mr. EAGLETON):

S. 2968. A bill to amend section 2809 of title 42, United States Code, to provide for the establishment of heat crisis programs during periods of heat emergencies; to the Committee on Labor and Human Resources.

EMERGENCY ENERGY CONSERVATION SERVICES AMENDMENTS OF 1980

Mr. SASSER. Mr. President, I am today introducing legislation designed to better mobilize the Federal Government to take positive actions to avert "heat crises" which have plagued the Southern and Southwestern parts of our country during the last few weeks.

Mr. President, just this past week I had occasion to witness firsthand the effects of this devastating heat wave in my native Tennessee.

Over 60 persons—most of them elderly—have died in Memphis and Shelby County during the heat wave. Hundreds more required emergency treatment of one sort or another.

Emergency medical teams and facilities were stretched to their maximum, and sometimes beyond.

It is difficult to measure the human impact of such a situation. Grimly, the people of the Memphis area and the people of Tennessee—as well as the other parts of the Nation suffering from the heat wave—listen and watch as that most visible measure, the loss of human life, is tallied each day.

But this does not begin to measure the total impact. Those people in the Memphis area who have been able to cope with the heat wave are doing so by tapping what financial resources they have to pay for utility bills—simply, in effect, to survive.

It is amazing that the people of Memphis and Shelby County have been able to cope as well as they have. And they have done so—setting up emergency shelters, friends taking neighbors in, and emergency teams performing above the normal call of duty.

Still, the immediate human impact in my home State is but one measure of the severe effects of this heat wave.

First, it removes any ambiguity whatsoever that the Community Services Administration can implement a heat crisis program. It enables CSA to provide appropriate relief services to the poor and elderly during heat emergencies. It enables CSA to help pay for excessive utility bills, purchase appropriate cooling devices for these individuals, and help transport these individuals to community run shelters.

I am happy to say that local government and community service agencies in Memphis have done an excellent job in responding to the present heat crisis. They have gone ahead with a variety of heat assistance efforts, not worrying about where the funding for such assistance is going to come from.

Business losses in Tennessee have been substantial as well. Crop losses in the State have soared well beyond the $100 million level and many farmers face severe economic problems as a result of the heat wave and drought.

As a result of the heat wave in Memphis and other parts of Tennessee, I recently wrote to President Carter urging specific action to offset the human misery and economic losses in Tennessee and her other Southern sister States.

I ask unanimous consent that my letter to President Carter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 22, 1980.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you well know, many of our Southern States are facing an extreme heat emergency which demands prompt federal assistance in a number of areas.

During my recent visit to West Tennessee this past week, I was distressed to learn that as a result of the protracted hot weather that nearly 65 individuals had died during the past few weeks in the Memphis area. Many others have been hospitalized and are in critical condition. Statewide in Tennessee, more than 100 fatalities have occurred as a result of the current heat wave. At this point, temperatures have eased somewhat, but the heat wave is expected to recur in the near future, and I fear that there may be many more needless deaths unless the federal government moves promptly to alleviate this crisis.

Moreover, the heat has adversely affected Tennessee business as well. Crop losses in Tennessee may well exceed $100 million and even higher if the 100-degree plus temperatures return. Small businesses, including the tourism industry, which are dependent on stable consumer traffic, are also hurting as a result of the inclement weather.

Mr. President, I commend you for the heat crisis program that you recently announced for the States of Texas, Louisiana, Kansas, Arkansas, Oklahoma, and Missouri. I also commend you for dispatching a Presidential representative to Memphis over the weekend to assess the situation on a first-hand basis.

In light of the current crisis in Tennessee and other similarly affected Southern States, however, I would urge that you take the following steps:

First, direct the Community Services Agency to immediately forward to the Congress a reprogrammed request that will enable that agency to provide whatever sums are necessary to adequately reimburse and fund the ongoing heat crisis programs of local community action agencies in Tennessee and other States adversely affected by the current heat emergency. These local agencies are in the best position to reach out to the poor and elderly and help them tolerate the heat. These agencies will be able to provide suitable assistance, whether this be in the form of assistance in paying for energy bills or helping to transport these families and individuals to adequate shelter during this emergency.

Second, I suggest that you direct Secretary of Agriculture Bergland to act expeditiously in considering disaster designation for some Tennessee counties under the Farmers Home Administration's emergency loan program. It is my understanding that crop losses in a number of Tennessee counties may exceed 50 percent. Agriculture officials in the state have told me that perhaps more than half the counties in Tennessee will qualify for emergency agriculture loans. In order to insure prompt processing of loan applications, I am also asking that Farmers Home Administration personnel from other states be transferred on a temporary basis to Tennessee to help handle the applications.

I know that you deeply appreciate the urgency of this request, and I look forward to working with you to alleviate the human misery and economic disruption that this current heat emergency has inflicted on Tennessee and many of her sister Southern States.

Sincerely,

JIM SASSER,
U.S. Senator.

Mr. SASSER. Mr. President, I believe that my bill is a much-needed piece of legislation for several reasons.

But I believe that since the Federal Government has already committed itself to pay for costs dealing with community emergencies that are life-threatening they should also do so when a heat crisis occurs. My legislation would have that occur.

Another beneficial aspect of the legislation is that a heat crisis is defined in specific terms. Temperatures must be over 100 degrees and abnormally high for the time period for a heat crisis to exist. This will take the guesswork out whether a crisis or emergency exists and will enable resources to flow immediately to affected individuals.

Finally, the legislation gives ample authority to local community action agencies to implement these programs. These community-run organizations are very well-equipped to run these programs. In cooperation with local city and county governments, they know how to reach out to the poor and the elderly to alleviate their human suffering. My legislation will put these agencies on a sound footing in responding to these heat crises.

Mr. President, we cannot idly stand by during this heat crisis. President Carter has wisely rushed assistance to Kansas, Louisiana, Missouri, Texas, Arkansas, and Oklahoma during recent days. But now is the time for us to make appropriate changes in our energy assistance legislation that will have us better combat heat crises in the future. I am confident that S. 2968 will enable us to do that in a compassionate and responsive manner.

Mr. EAGLETON. Mr. President, I am joining with Senator SASSER as an original cosponsor to S. 2968, to amend section 2809 of title 42 to provide emergency energy assistance to those suffering the effects of prolonged heat waves.

As my colleagues all know, the Midwestern States have been in the stranglehold grip of a searing heat wave for over a month. The latest heat-related death toll nationwide is over 1,200, with some 300 of these deaths in Missouri. Although I do not have hard statistics, authorities tell me that the majority of the victims are elderly.

Mr. President, I am fully aware that Congress recently enacted the Home Energy Assistance Act as title III of the Crude Oil Windfall Profit Tax Act of 1980, and that this title authorizes assistance to meet the rising costs of energy sources needed to provide cooling when such assistance is medically necessary. But this authorization is not effective until fiscal year 1981.

Mr. President, we cannot wait for these provisions to become effective on October 1. We are faced with an emergency situation now, and we must respond now with emergency legislation to address today's need.

This bill, thus, is in perfect harmony with title III of the Crude Oil Windfall Profit Tax Act of 1980.

By Mr. WILLIAMS (for himself, Mr. STEWART, and Mr. COCHRAN):

S. 2969. A bill to amend the Internal Revenue Code of 1954 to provide incentives for the construction and rehabilitation of real property; to the Committee on Finance.

REAL ESTATE CONSTRUCTION AND REHABILITATION TAX INCENTIVES ACT OF 1980

Mr. WILLIAMS. Mr. President, I am today introducing a comprehensive package of Tax Code changes relating to real estate, which are designed to provide stimulus to the ailing construction industry. The legislation would also provide certainty in the code's treatment of amortization of structures, and in other technical areas, and provide simplifications which will reduce the bookkeeping costs of builders and diminish the chances of disputes arising between them and the Internal Revenue Service. I am pleased that Senators STEWART and COCHRAN have joined me in submitting this measure.

Mr. President, there are compelling long- and short-term reasons for the expeditious consideration and passage of this legislation. Viewing requirements for the future, there is widespread agreement that the present method of depreciation permitted by the tax code is unnecessarily complex and, in the context of inflation, does not permit business to set-aside a realistic amount to accommodate replacement costs. As for immediate needs, the powerful engine of construction, so critical to the Nation's economy, has been sputtering along and is in grave need of a tune-up if we are to lift the Nation out of recession and give millions of Americans the opportunity to get out of unemployment lines and back onto payrolls.

The latest available figures indicate that the rate of decline in construction activity during the first half of 1980 has been far steeper than during the 1974–75 recession, and there are no immediate prospects for a quick turnaround. The dismisal news becomes even more depressing when we consider new starts of residential rental housing by the unsubsidized market. HUD reports that only 130,000 unsubsidized rental units were built in 1979, the lowest level in two decades, and that no more than 50,000 such units are expected to be started during 1980. The result of this collapse of residential construction is the lowest national vacancy rate since the end of the Second World War. The contracting supply of rental housing is resulting in inflationary increases in the cost of shelter; and is beginning to limit the mobility of Americans to the extent that, in some areas of the Nation, it is becoming increasingly difficult for business to attract or retain key personnel due to the shortage of affordable housing.

Mr. President, this legislation will end the Tax Code's present bias against investment in structures and in so doing will boost the Nation's productivity by encouraging the construction of modern factories. Further, it will aid in the continuing development of a supportive infrastructure of commercial and retail property, and it will help to reverse the dramatic and unacceptable collapse of rental housing construction. It will do so principally by providing for straight-line, 20-year capital cost recovery for all structures; and by repealing the present code requirement that construction period interest and taxes be amortized over a 10-year period, rather than currently epensed as is permitted for all other economic activity. My approach is widely favored by the real estate industry over the most widely discussed proposal for altering the depreciation treatment of realty, the "10" provision of the Capital Cost Recovery Act.

First, while my proposal would provide significant stimulation in comparison to current law, it would not depart as radically from the actual lives of structures as 10-year accelerated depreciation would. Second, the implementation of this approach would take full effect as of January 1, 1981, whereas the phased-in approach of that other proposal would delay full implementation and might encourage many builders to defer new projects for some time. Third, while both proposals eliminate audit disputes with the IRS centered on the proper lifetime of the structure, the Capital Cost Recovery Act would provide for punitive recapture of excess depreciation upon the sale of such assets in comparison to present law. My proposal would eliminate recapture entirely by adopting straight-line amortization. Finally, my proposal is far less costly, and less inflationary, than the "10" portion of "10–5–3."

Initial revenue loss figures calculated, on a static and conservative basis by the National Association of Realtors, indicate that the combined cost of 20-year structure lives and repeal of section 189, including rental housing, would start at $2 billion in 1981, rising to $3.3 billion in 1982, $4.8 billion in 1983, and $6.2 billion in 1984. In comparison, Data Resource, Inc.'s estimates for 10-year accelerated depreciation of all structures, exclusive of rental housing, would be $5.8 billion in 1981, $6.8 billion in 1982, $13.5 billion in 1983, and $17.1 billion in 1984.

In sum, Mr. President, the approach I am suggesting would result in only about one-third of the revenue losses of the most widely discussed alternative while curing its serious defect of omitting rental housing construction. I believe that a $2 billion tax cut for real property construction could be easily accommodated within the total business tax reduction currently being discussed for 1981 implementation. Further, the actual revenue loss would be far less when one factors in the feedback effect of reduced unemployment compensation costs, higher incomes of construction workers, and the overall productive and revenue-generating activities of the businesses housed in more efficient new structures.

Under my proposal, the only deviation from 20-year depreciation for structures would be to provide a 15-year lifetime for assisted low-income rental housing. The many difficulties involved in constructing and maintaining these projects require that investors be given somewhat more favorable treatment to assure a continuing supply of construction capital.

Mr. President, this legislation will also provide, on an experimental basis, a 10-percent investment tax credit which can be elected in lieu of depreciation. A 1977 study by the Congressional Budget Office speculated that, in the case of residential rental housing, such a credit would constitute an efficient use of tax expenditure dollars. I believe it is worth trying out this concept to test its value.

Another provision of great benefit to rental housing is an extension of the present Code provision allowing for the 5-year depreciation of rehabilitation expenses, with the minimum and maximum amounts eligible for such treatment adjusted to conform with inflation-induced cost increases. This bill would also make such favorable treatment available to all residential rental housing, not just that for low-income persons, on the theory that the best immediate step we can take to address the rental housing crisis is to preserve and upgrade the maximum number of existing apartments.

This legislation also proposes what I believe is an innovative and positive response in the controversial area of conversions of rental housing to condominiums and cooperatives. This is an area of prime importance, especially in light of a just-issued HUD report predicting that more than 1 million rental units will be converted between now and 1985. I am very pleased that the Senate recently passed the minimum national tenant protection and disclosure standards which I proposed, and which were embodied in title V of S. 2719, the 1980 Housing and Community Development Amendments. The new provisions of this bill can complement those reasonable standards by utilizing the incentive of mutual economic advantage to bring tenants and landlords together to shape conversions which are more affordable, and which make special adjustments for tenant difficulties. The present tax laws, in the words of a March 1980 Congressional Research Service analysis, "make it more attractive for the owner of a rental building to sell to a developer than to convert the units himself." This is because a sale to a developer receives favorable capital gains treatment, while a self-conversion's profits are taxed at higher ordinary income rates. As a result, professional conversion firms have arisen which, despite the denial of capital gains treatment, can still make large profits on individual unit sales, owing to the great demand for affordable housing of any type in this time of short supply.

I propose that a landlord be permitted to receive capital gains treatment in a self-conversion situation if the terms and conditions of the conversion have been worked out with a representative tenants' organization. In effect, this would permit landlords and tenants to split the added layer of profit that now is taken by the professional converter, resulting in a better price for landlords and low unit prices, and special considerations, for tenants. I do not believe that this proposal will encourage conversions to occur, but will certainly influence how they occur to the benefit of owners and tenants alike.

I further propose that where at least half the units are sold to persons of low and moderate income, or to a tenants' organization, and the seller reinvests his proceeds in new rental construction within 2 years, that one-half of those proceeds be "rolled over" without tax consequences. This change would increase the supply of affordable housing by encouraging the establishment of limited-equity cooperatives and the reinvestment of conversion proceeds in new residential construction.

Mr. President, this bill will also make many other beneficial Tax Code changes. It will remove the approaching expiration dates for those code provisions which encourage the retention and rehabilitation of historic properties, and the removal of architectural barriers to the handicapped. These provisions have shown their effectiveness, and in the absence of alternative proposals to achieve these same goals should be made a permanent part of the code so that developers can rely on them. Other changes include:

Clarifying present law to permit pre-opening expenses incurred within 2 years of a property's placement in service to be currently deducted;

Providing a technical correction to the "vacation home loophole" closing enacted in 1976 to make sure that it does not discourage relatives from assisting each other by denying tax benefits which would be available if a property is rented to a non-relative;

Providing for greater efficiency and increased rehabilitation activity in the use of tax-exempt housing bonds; and

Eliminating the ceiling for individual deductions of interest and investment indebtedness.

Mr. President, I believe that this legislation is a sound and responsible response to the most pressing issues of the day in the vital realm of real estate development. Although each of them has additional comments about specific portions of the legislation which will be articulated next week in Finance Committee hearings, virtually every group involved in the construction of new realty supports the overall thrust of this measure, including both private market and subsidized residential rental property developers, as well as those active in rehabilitation. These groups include the National Association of Homebuilders, National Association of Realtors, Coalition for Low and Moderate Income Housing, National Leased Housing Association, National Realty Committee, National Apartment Association, National Rental Housing Council, Building Owners and Managers Association, International Council of Shopping Centers, and Council of State Housing Agencies.

I welcome their support for a comprehensive revision of the Tax Code's treatment of realty, particularly in the areas of depreciation and construction period interest and taxes, and hope that all of my colleagues will also find reason to support this legislation after careful review of its provisions.

Mr. President, I ask unanimous consent that the text of this bill, and a section-by-section summary of its contents, be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Real Estate Construction and Rehabilitation Tax Incentives Act of 1980".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—CAPITAL COST RECOVERY TREATMENT OF NEW SECTION 1250 PROPERTY

SEC. 101. DEPRECIATION OF SECTION 1250 PROPERTY.

Subsection (j) of section 167 (relating to special rules for section 1250 property) is amended to read as follows:

"(j) SPECIAL RULES FOR SECTION 1250 PROPERTY.—

"(1) GENERAL RULE.—Except as otherwise provided in this section, in the case of section 1250 property subsection (b) shall not apply, and the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method using a useful life of—

"(A) 15 years in the case of low income housing described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B), and

"(B) 20 years in the case of any other section 1250 property.

"(2) APPLICATION OF GENERAL RULE.—Paragraph (1) shall apply with respect to section 1250 property placed in service after the effective date of the Real Estate Construction and Rehabilitation Tax Incentives Act of 1980.

"(3) TRANSITIONAL RULE FOR USED SECTION 1250 PROPERTY.—In the case of section 1250 property acquired after the effective date of such Act, the original use of which did not commence with the taxpayer—

"(A) which is placed in service within 60 months after such date, paragraph (1) shall not apply and the provisions of this subsection, as in effect on the day before the date of enactment of such Act, shall apply with respect to such property, or

"(B) which is placed in service more than 60 months after the date of enactment of such Act, subsection (b) and paragraph (1) shall not apply, and the term 'reasonable allowance', as used in subsection (a), shall mean, at the election of the taxpayer—

"(i) an allowance computed under the straight line method using a useful life of 20 years, or

"(ii) an allowance computed using the remaining economic useful life of the property (determined in accordance with regulations prescribed by the Secretary).".

SEC. 102. TECHNICAL AMENDMENT.

Subparagraph (C) of section 312(k)(2) is amended by striking out "(j)(1)(C)" and inserting in lieu thereof "(j)".

TITLE II—INVESTMENT TAX CREDIT FOR SECTION 1250 PROPERTY

SEC. 201. CHANGE IN INVESTMENT TAX CREDIT.

(a) APPLICABLE PERCENTAGE.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) APPLICABLE PERCENTAGE FOR NEW SECTION 1250 PROPERTY.—Notwithstanding paragraph (2), the applicable percentage for purposes of paragraph (1) shall be—

"(A) in the case of new section 1250 property with respect to which the taxpayer does not elect the application of section 167(j), 100 percent, or

"(B) in the case of new section 1250 property, with respect to which the taxpayer elects the application of such section, zero percent.".

(b) AMENDMENT OF RECAPTURE RULES.—

(1) IN GENERAL.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR NEW SECTION 1250 PROPERTY.—

"(A) GENERAL RULE.—If during any taxable year section 38 new section 1250 property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the recapture period, then the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) RECAPTURE PERCENTAGE.—For purposes of subparagraph (A), the recapture percentage shall be determined in accordance with the following table:

"If the taxable year in which the property ceases to be section 38 property is:	The recovery percentage is
The taxable year in which placed in service	100 percent
The first taxable year after the year in which placed in service	80 percent
The second taxable year after the year in which placed in service	60 percent
The third taxable year after the year in which placed in service	40 percent
The fourth taxable year after the year in which placed in service	20 percent

"(C) DEFINITIONS AND SPECIAL RULES.—

"(i) SECTION 38 NEW SECTION 1250 PROPERTY.—For purposes of this paragraph, the term 'section 38 new section 1250 property' means any section 38 property which is new section 1250 property.

"(ii) RECAPTURE PERIOD.—For purposes of this paragraph, the term 'recapture period' means, with respect to any property, the period consisting of the taxable year in which such property is placed in service and the 4 succeeding taxable years.".

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (D) of section 47(a)(3) is amended—

(i) by striking out "paragraph (1), paragraph (1)" and inserting in lieu thereof "paragraph (1) or (5), as the case may be, such paragraph", and

(ii) by striking out "paragraph (1)" in the subparagraph heading and inserting in lieu thereof "paragraph (1) or (5)".

(B) Paragraph (6) of section 47(a) (as redesignated by paragraph (1)) is amended by striking out "paragraph (1) or (3)" and inserting in lieu thereof "paragraph (1), (3), or (5)".

(C) Subparagraph (B) of section 47(a)(7) (as redesignated by paragraph (1)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

(c) Amendment of Section 48.—The last sentence of section 48(a)(1) (defining section 38 property) is amended by striking out "includes only property" and inserting in lieu thereof "includes only new section 1250 property and any other property".

(d) Study by Secretary of the Treasury.—Not later than January 1, 1984, the Secretary of the Treasury shall transmit to the Congress a study of the extent to which the investment tax credit allowed by section 38 of the Internal Revenue Code of 1954 has been used in connection with new section 1250 property. The study shall include the Secretary's finding and recommendations concerning the effectiveness of the investment tax credit as an incentive for the construction of such property, and its relative efficiency for such purposes as compared with depreciation for such property in accordance with such methods of depreciation as are permitted under such Code. The study shall also include the Secretary's recommendations concerning the extension, modification, or termination of the amendments made by this title and an explanation of the reasons for such recommendations.

(e) Effective Date.—The amendments made by this section shall apply to periods after December 31, 1980, and before January 1, 1985, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

Sec. 202. No Additional First-Year Depreciation for New Section 1250 Property.

Paragraph (1) of section 179(d) (defining section 179 property) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) which is not new section 1250 property.".

TITLE III—DEDUCTION OF CONSTRUCTION PERIOD INTEREST AND TAXES

Sec. 301. Repeal of Section 189.

(a) In General.—Section 189 (relating to amortization of real property construction period interest and taxes) is repealed.

(b) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 189.

(c) Deduction of Unamortized Balance of Interest and Taxes Required To Be Amortized by Section 189 Before Its Repeal.—To the extent that a taxpayer does not elect, after the date of enactment of this Act, to treat the unamortized balance of construction period interest and taxes (as defined in section 189(e)(1) of the Internal Revenue Code of 1954 as in effect on the day before the date of enactment of this Act) as chargeable to capital account under section 266 of such Code, the taxpayer may deduct such unamortized balance under the appropriate provisions of such Code for the first taxable year of the taxpayer ending after December 31, 1980, as if such unamortized balance constituted such interest and taxes paid or incurred in such taxable year.

(d) Application of Section 263.—Paragraph (1) of section 263(a) (relating to capital expenditures) is amended—

(1) by striking out "or" at the end of subparagraph (F),

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof a comma and "or", and

(3) by adding at the end thereof the following new subparagraph:

"(H) interest for which a deduction is allowable under section 163 or taxes for which a deduction is allowable under section 164.".

(e) Effective Date.—The repeal made by subsection (a) and the amendment made by subsection (d) shall apply—

(1) in the case of nonresidential real property, to construction periods beginning on or after the first day of the first taxable year beginning after December 31, 1975, and

(2) in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977.

TITLE IV—EXTENSION AND EXPANSION OF EXISTING INCENTIVES

Sec. 401. Permanent Extension, Etc., of Certain Expiring Code Sections.

(a) Section 167(k) Amendments.—

(1) Permanent extension of provision.—Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended—

(A) by striking out "and before January 1, 1982," in paragraph (1), and

(B) by striking out subparagraph (D) of paragraph (3).

(2) Extension of provision to all residential rental property.—Subsection (k) of such section is amended—

(A) by inserting "And Other Residential Real Property" in the caption of such subsection immediately after "Housing",

(B) by inserting "or residential rental property" immediately after "low-income rental housing" each place it appears in paragraphs (1), (2), and (3)(A), and

(C) by adding at the end of paragraph (3), as amended by paragraph (1)(B), the following new subparagraph:

"(D) Residential rental property.—The term 'residential rental property' means property which is or can reasonably be expected to be residential rental property as defined in subsection (j)(2)(B).".

(3) Increase in limitations.—Paragraph (2) of section 167(k) (relating to limitations) is amended—

(A) by striking out "$20,000" in subparagraph (A) and inserting in lieu thereof "$30,000", and

(B) by striking out "$3,000" in subparagraph (B) and inserting in lieu thereof "$5,000".

(b) Permanent Extension of Section 167(n).—Paragraph (2) of section 2124(c) of the Tax Reform Act of 1976 (relating to depreciation of improvements) is amended by striking out ", and before January 1, 1981".

(c) Permanent Extension of Section 167(o).—Paragraph (2) of section 2124(d) of the Tax Reform Act of 1976 (relating to substantially rehabilitated property) is amended by striking out ", and before July 1, 1981".

(d) Permanent Extension of Section 190.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 is amended by striking out ", and before January 1, 1983".

(e) Permanent Extension of Section 191.—Paragraph (4) of section 2124(a) of the Tax Reform Act of 1976 (relating to effective date for section 191) is amended by striking out ", and before June 15, 1981".

(f) Permanent Extension of Section 280B.—Paragraph (3) of section 2124(b) of the Tax Reform Act of 1976 (relating to demolition) is amended by striking out ", and before January 1, 1981".

Sec. 402. Minimum Tax Treatment of Rapid Amortization of Low-Income Rental Rehabilitation Expenditures.

Paragraph (2) of section 57(a) (relating to accelerated depreciation on real property) is amended by adding at the end thereof the following new sentence: "In the case of property with respect to which the taxpayer has made an election under section 167(k), the amount treated as an item of tax preference under this paragraph shall not exceed the amount which would have been determined as an item of tax preference under this paragraph if the taxpayer had used an allowance computed under the declining balance method using a rate not exceeding twice the rate which would have been used if the allowance had been computed under the straight line method.".

Sec. 403. Section 1250 Amendments.

(a) Clarification of Reference to Similar State or Local Laws.—Clause (i) of section 1250(a)(1)(B) (relating to applicable percentage for certain insured mortgage section 1250 property) is amended by striking out "under similar provisions of State or local laws" and inserting in lieu thereof 'under provisions of State or local laws establishing the definition of and intended primarily to finance or assist housing for families or individuals of low or moderate income".

(b) Low-Income Housing to Include Section 221(d)(4) Insured Housing and Certain Other Subsidized Housing.—Subparagraph (B) of section 1250(a)(1) (relating to applicable percentage) is amended—

(1) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) in the case of dwelling units—

"(I) which, on the average were held for ocupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, or under the provisions of State or local law providing for subsidies of a similar nature for low- or moderate-income families and individuals,

"(II) with respect to which a mortgage is insured under section 221(d)(4) of the National Housing Act, or

"(III) which are government-assisted housing, if at least 20 percent of the units in such housing are held for occupancy by families or individuals eligible to receive subsidies under section 8 of such Act or equivalent rental asistance to assure that tenants do not pay more than one-quarter of their incomes for rent,

100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;", and

(2) by adding at the end thereof the following new sentence: "For purposes of clause (ii)(III), the term 'government-assisted housing' means housing which is financed, insured, or assisted by loan, interest reduction payments, or tax abatement under Federal, State, or local law.".

TITLE V—CONDOMINIUM AND COOPERATIVE COST REDUCTION

Sec. 501. Capital Gains Treatment for Gain From Residential Rental Property Conversions.

Subsection (b) of section 1231 (relating to definition of property used in the trade or busines) is amended by adding at the end thereof the following new paragraph:

"(5) Conversion of residential rental property.—In the case of residential rental property which is converted to condominium or cooperative housing for purposes of selling the dwelling units in such property, the property shall not be treated as 'property used in the trade or business' unless the dwelling units are sold after the terms and conditions of the sale of such units are negotiated with, and agreed to by, an organization representing the tenants of at least 51 percent of the dwelling units in such property which were occupied or sublet by tenants as of the date on which all tenants receive notice from the taxpayer that the conversion of the property to condominium or cooperative housing is proposed by the taxpayer.".

SEC. 502. TAX-FREE ROLLOVER OF HALF OF THE GAIN FROM SALE OF RENTAL PROPERTY TO TENANTS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. SALES OF RESIDENTIAL RENTAL PROPERTY TO TENANTS.

"(a) IN GENERAL.—If a taxpayer—

"(1) sells residential rental property which is treated as property used in the taxpayer's trade or business under section 1231(b)(5) in a qualified sale, and

"(2) within 24 months after the date of that sale enters into a binding contract for the construction of residential rental property which is section 1250 property,

then a portion (determined under subsection (b)) of the long term capital gain from the sale of such property shall not be recognized.

"(b) DETERMINATION OF NONRECOGNITION PORTION.—The portion of the long term capital gain not to be recognized under subsection (a) is 50 percent of such gain, reduced by one-half of the amount (if any) by which the proceeds of the sale exceed the cost of construction of the residential rental property described in subsection (a)(2).

"(c) QUALIFIED SALE.—The sale of residential rental property shall be treated as a qualified sale for purposes of subsection (a) only if—

"(1) not less than 50 percent of the dwelling units in such property are sold to purchasers of low or moderate income, or the property is sold to an organization of tenants of such property described in section 1231 (b)(5), and

"(2) there is a substantial likelihood that the overall economic character of dwelling unit owners will remain the same as the units are sold to subsequent purchasers.

"(d) LOW OR MODERATE INCOME.—A purchaser shall be treated as a low or moderate income purchaser for purposes of subsection (c)(1) if the family income of the purchaser is 120 percent or less of the median family income for the statistical area in which the residence is located. The family income of the purchaser and median family income for the area shall be determined under regulations prescribed by the Secretary after consultation with the Secretary of Housing and Urban Development and which are consistent with the regulations prescribed under section 8 of the United States Housing Act of 1937.

"(e) NO ADJUSTMENT TO BASIS FOR CONSTRUCTED PROPERTY.—The basis of the residential rental property constructed by the taxpayer pursuant to the binding contract referred to in subsection (a)(2) shall not be reduced by the amount of the gain not recognized under subsection (a) on the sale of the property described in subsection (a)(1).

"(f) STATUTE OF LIMITATIONS.—If during a taxable year a taxpayer sells residential rental property at a gain, and elects the application of this section, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing residential rental property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase such property within the period specified in paragraph (2), or

"(C) a failure to make such purchase within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) HOLDING PERIOD.—Section 1223 (relating to holding period of property) is amended by redesignating paragraph (12) as paragraph (13) and by inserting immediately after paragraph (11) the following new paragraph:

"(12) In determining the period for which the taxpayer has held residential rental property the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale of residential rental property, there shall be included the period for which the residential rental property with respect to which gain was not recognized had been held, and the period such replacement residential rental property was held as of the date of such sale or exchange.".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter o of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales of residential rental property to tenants.".

SEC. 503. REGULATIONS TO BE PRESCRIBED AFTER CONSULTATION WITH SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

In prescribing regulations to carry out the provisions of the Internal Revenue Code of 1954 amended by this title, the Secretary of the Treasury shall consult with the Secretary of Housing and Urban Development.

TITLE VI—REMOVAL OF IMPEDIMENTS TO NEW REAL PROPERTY DEVELOPMENT

SEC. 601. LIMITATION ON DEDUCTION OF INTEREST ON INVESTMENT INDEBTEDNESS.

Subparagraph (D) of section 163(d)(3) (relating to definitions for limitation on interest on investment indebtedness) is amended by inserting "(other than section 1250 property)" immediately after "property".

SEC. 602. DEDUCTION OF CERTAIN PRE-OPENING RENTAL PROPERTY EXPENSES.

(a) IN GENERAL.—Subsection (a) of section 162 (relating to trade or business expenses) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and the word "and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) amounts paid or incurred in connection with, or during the period of, the acquisition, development, construction, reconstruction, or erection of section 1250 property except to the extent that any such amount—

"(A) is a capital expenditure (within the meaning of section 263); or

"(B) is paid or incurred more than 24 months before the day on which the taxpayer begins to receive income from the property (unless the Secretary consents, upon application by the taxpayer at such time in such form and manner as the Secretary may prescribe, to a longer period because the longer period is appropriate for the particular property or circumstances).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to all taxable years to which the Internal Revenue Code of 1954 applies.

SEC. 603. USE OF TAX EXEMPT BOND FUNDING IN CONNECTION WITH RESIDENTIAL REAL PROPERTY.

(a) ADVANCE REFUNDING TO BE AVAILABLE.—Paragraph (7) of section 103(b) (relating to advance refunding of qualified public facilities) is amended—

(1) by inserting "or residential real property" immediately after "facilities" in the caption of such paragraph, and

(2) by inserting "or residential real property for family units" after "facility" in subparagraph (A).

(b) USE OF PROCEEDS TO REMOVE EXISTING FIRST LIENS.—For purposes of subparagraph (A) of section 103(b)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities), the use of any part of the proceeds of an issue of obligations to remove existing first liens encumbering property which is to be rehabilitated shall be treated as a use of such proceeds to provide residential real property for family units within the meaning of section 103(b)(4)(A) of such Code.

SEC. 604. PERSONAL USE OF RESIDENCE BY FAMILY MEMBER NOT TO TRIGGER DISALLOWANCE OF DEDUCATION.

Subparagraph (A) of section 280A(d)(2) of the Internal Revenue Code of 1954 (relating to personal use of unit) is amended by inserting before the semicolon at the end thereof the following: "(unless such member of the family pays a rental which, under the facts and circumstances, is fair rental and uses the unit as his principal place of residence)".

TITLE VII—EFFECTIVE DATES

SEC. 701. GENERAL EFFECTIVE DATES.

Except as otherwise provided, the amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1980.

REAL ESTATE CONSTRUCTION AND REHABILITATION TAX INCENTIVES ACT OF 1980—SECTION-BY-SECTION SUMMARY

Section 1. (a) Short title. (b) Unless otherwise stated, all amendments are to the Internal Revenue Code of 1954.

TITLE I.—CAPITAL COST RECOVERY TREATMENT OF NEW SECTION 1250 PROPERTY

Section 101. All section 1250 property (real estate) placed into service after the Act's effective date is to be given twenty-year straight-line depreciation, with the exception of low-income rental housing which is given fifteen-year straight-line deprecation. Present law would continue to apply to real property in service as of the effective date, as well as to such property sold within five years after the effective date. For existing property sold more than five years after such date, a taxpayer could elect to continue depreciating the property using its remaining useful life or, in the alternative, twenty years.

TITLE II.—INVESMENT TAX CREDIT FOR SECTION 1250 PROPERTY

Section 201. In lieu of the new depreciation schedule set forth in Title I, a taxpayer may elect to take a one-time ten percent investment tax credit. This credit would be recaptured, in whole or in part, if the property is sold within five years of being placed in service. This tax credit would be available for property placed in service from January 1, 1981 until December 31, 1984. No later than January 1, 1984, the Secretary of the Treasury shall report to Congress concerning the effectiveness and efficiency of this Title, and making recommendations regarding its extension, modification, or termination.

TITLE III.—DEDUCTION OF CONSTRUCTION PERIOD INTEREST AND TAXES

Section 301. Section 189 of the Code, requiring construction period interest and taxes to be amortized, is repealed. A taxpayer may elect to continue depreciating the balance of unamortized construction period interest and taxes carried in his capital account or, in the alternative, to deduct such balance in 1981.

TITLE IV.—EXTENSION AND EXPANSION OF EXISTING INCENTIVES

Section 401. The expiration dates are stricken for the Code sections permitting rapid amortization of rehabilitation expenses for low-income rental housing; prohibiting accelerated depreciation for new structures built on historic sites; providing for favorable depreciation of rehabilitated historic property; encouraging the removal of architectural barriers; and prohibiting deductions for the demolition of historic structures. In addition, section 167(k), relating to rapid amortization of rehabilitation expenses for low-income rental housing, is expanded to include all residential rental housing; and the minimum depreciable per unit expenditure is raised from $3,000 to $5,000 while the maximum is raised from $20,000 to $30,000.

Section 402. The tax preference arising under Section 167(k) is equalized with that arising for new Section 1250 property, to eliminate the Code's present bias favoring new construction over rehabilitation.

Section 403. The preferential depreciation rules of Section 1250 are clarified to make clear their applicability to housing constructed under provisions of state or local law which define and primarily finance shelter for persons of low and moderate income. This preferential treatment is expanded to include Section 221(d)(4)—insured housing, and any government-assisted housing in which at least twenty percent of the units are reserved for persons eligible for Section 8 rent subsidy assistance; in addition to the existing inclusion of Section 8 housing.

TITLE V.—CONDOMINIUM AND COOPERATIVE COST REDUCTION

Section 501. The owner of residential rental property held for at least one year shall be entitled to receive capital gains treatment of the proceeds of the sales of individual units in a condominium or cooperative conversion, provided that the terms and conditions of such sales have been negotiated with and agreed to by an organization representing a majority of the units occupied by tenants residing in the property as of the date on which tenants receive notice of the proposal to convert.

Section 502. If a taxpayer is entitled to preferential tax treatment under the provisions of the preceding section through a "qualified sale" and further enters into a binding contract for the construction of new residential rental property within twenty-four months, then a portion of his capital gain may be "rolled over" without tax consequences. The portion rolled over shall be half of the gain if the cost of construction will equal or exceed the proceeds of the sale; if the construction cost is less, than the deferral shall be reduced by one-half of the difference. A sale will qualify for this treatment if at least one-half of the units are sold to purchasers of low or moderate income (no more than 120 percent of area median income), of if the property is sold directly to a tenants' organization; and if the conversion project's by-laws are written to substantially assure that the overall economic character of the project will remain stable during subsequent resales. These requirements are meant to encourage the establishment of limited-equity cooperatives. The basis of the newly constructed rental property shall not be reduced by the amount of unrecognized capital gain.

Section 503. The Secretary of the Treasury shall consult with the Secretary of Housing and Urban Development in developing the regulations to carry out this Title.

TITLE VI—REMOVAL OF IMPEDIMENTS TO NEW REAL PROPERTY DEVELOPMENT

Section 601. Section 163(d) of the Code, limiting the deduction of investment indebtedness interest for individuals, is made inapplicable to real property investments.

Section 602. Current law is clarified so that pre-opening expenses incurred in connection with real property development are permitted to be currently expensed if they occur within two years prior to the property's placement in service. A taxpayer is permitted to apply for a longer period if he feels it would be appropriate.

Section 603. The advance refunding of tax-exempt housing bonds is permitted, and the use of any portion of the proceeds of such bonds to remove existing first liens to permit rehabilitation is also allowed.

Section 604. The Code provision limiting deductions on "vacation homes" is technically corrected to permit a taxpayer to take deductions for repairs, depreciation, and related items where the property is rented to a relative, provided that the relative uses it as a principal residence and the rent charged is fair.

TITLE VIII.—EFFECTIVE DATES

Unless otherwise provided, the provisions of the Act take effect as of January 1, 1981.

ADDITIONAL COSPONSORS

S. 1862

At the request of Mr. McClure, the Senator from Minnesota (Mr. Durenberger), the Senator from North Carolina (Mr. Morgan), the Senator from West Virginia (Mr. Randolph), and the Senator from California (Mr. Hayakawa) were added as cosponsors of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

S. 2623

At the request of Mr. Goldwater, the Senator from Hawaii (Mr. Inouye), and the Senator from Texas (Mr. Bentsen) were added as cosponsors of S. 2623, a bill to incorporate the U.S. Submarine Veterans of World War II.

S. 2718

At the request of Mr. Stevenson, the Senator from California (Mr. Hayakawa), the Senator from Michigan (Mr. Levin), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2732

At the request of Mr. Packwood, the Senator from Utah (Mr. Hatch), and the Senator from Idaho (Mr. McClure) were added as cosponsors of S. 2732, a bill to direct that a clinical investigation of the safety and efficacy of dimethyl sulfoxide as a drug to be used by persons with arthritis be conducted through the National Institute of Arthritis, Metabolism, and Digestive Diseases.

S. 2748

At the request of Mr. Bayh, the Senator from Montana (Mr. Baucus) was added as a cosponsor of S. 2748, a bill to simplify trade procedures regarding sales of U.S. products abroad, and for other purposes.

S. 2773

At the request of Mr. Roth, the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 2773, a bill to establish a national export policy for the United States.

SENATE JOINT RESOLUTION 82

At the request of Mr. Goldwater, the Senator from Florida (Mr. Stone) was added as a cosponsor of Senate Joint Resolution 82, a joint resolution to designate the week commencing with the third Monday in February of each year as "National Patriotism Week."

SENATE JOINT RESOLUTION 189

At the request of Mr. Stevenson, the Senator from Wisconsin (Mr. Proxmire), the Senator from Maine (Mr. Cohen), the Senator from Arkansas (Mr. Bumpers), the Senator from Alaska (Mr. Gravel), the Senator from Nebraska (Mr. Exon), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Wyoming (Mr. Simpson), the Senator from New Mexico (Mr. Schmitt), the Senator from New York (Mr. Moynihan), and the Senator from Michigan (Mr. Levin) were added as cosponsors of Senate Joint Resolution 189, a joint resolution to establish a Commission on Presidential Nominations.

SENATE JOINT RESOLUTION 191

At the request of Mr. Garn, the Senator from Massachusetts (Mr. Tsongas), and the Senator from Kansas (Mrs. Kassebaum) were added as cosponsors of Senate Joint Resolution 191, a joint resolution providing additional program authority for the Export-Import Bank of the United States.

SENATE RESOLUTION 490—SUBMISSION OF A RESOLUTION REGARDING THE AGREEMENT BETWEEN ARGENTINA AND THE UNION OF SOVIET SOCIALIST REPUBLICS

Mr. BAYH (for himself, Mr. Talmadge, Mr. Ford, Mr. Melcher, Mr. Williams, and Mr. Levin) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 490

Whereas, the President halted American grain shipments to the Union of Soviet Socialist Republics and suspended further sale of certain agricultural commodities as a result of such country's military intervention in Afghanistan in January of 1980.

Whereas, Argentina is the second largest exporter of corn and refuses to join in the suspension of sales to the Union of Soviet Socialist Republics initiated by the United States;

Whereas, Argentina recently announced that it has agreed to sell 22.5 million tons of corn, sorghum, and soybeans to the Union of Soviet Socialist Republics over the next five years; and

Whereas, the United States continues to uphold the suspension of sales established by the President: Now, therefore, be it

Resolved, That the Senate disapproves of the action taken by Argentina with regard to grain sales to the Union of Soviet Socialist Republics in light of the military intervention in Afghanistan and, in emphasizing the need for solidarity among nations with regard to the suspension of sales to the Union of Soviet Socialist Republics, calls upon the President to formally protest such sales agreement.

SOVIET-ARGENTINE GRAIN SALE

Mr. BAYH. Mr. President, earlier this month, the Soviet Union and the Government of Argentina concluded a 5-year grain deal involving 22.5 million tons worth of corn, sorghum, and soybeans. I am most pleased to be joined by the distinguished chairman of the Agriculture Committee, Senator LEVIN, Senator FORD, Senator MELCHER, and Senator WILLIAMS in proposing today a Senate resolution disapproving this agreement. The Argentine Government's actions in this matter are a clear departure from its normal trading pattern in agricultural commodities with the Soviet Union.

It underlies once again the difficulties we face in making our own grain embargo against the Soviets as effective as it could be. As many of my colleagues know, Argentina is the world's second leading producer of corn. At the same time, Argentina has also sold thus far 7.7 million tons worth of wheat this year to the Soviet Union, further undercutting the impact of the U.S. embargo.

Because of my own particularly strong concern about this arrangement guaranteeing delivery of grain to the Soviets, I wrote to President Carter on July 16 asking that he make a strong protest to the government in Buenos Aries and urged appropriate U.S. retaliatory action by banning imports of canned and processed beef from Argentina. These imports presently make up approximately 25 percent of all of Argentina's imports to this country.

While no doubt the argument may be advanced that such an action by the United States could provoke a cutoff of U.S. exports to that country, it just seems to this Senator that Argentina is in far greater need of the kinds of capital equipment upon which Argentina's overall economic growth depends than the United States is on corned beef. It is simply time for the United States to take action when the powers of persuasion fail to convince other nations that policies which undermine the effectiveness of U.S. sanctions efforts against either the Soviet Union or Iran are not cost free. In short, if we are not serious in our resolve to pursue these policies, how can we expect other nations to be?

It seems to me that the Senate has a responsibility in this instance to begin to name names and propose to the President that the long-term grain deal between the Soviet Union and Argentina be protested. While there are many here in the Senate who have proposed that the U.S. grain embargo against the Soviets be lifted, as long as it does remain, it seems to me that we should make every effort to see that it is as effective as possible.

However, as it becomes clear that the administration is unwilling or incapable of bringing the offices of our Government to bear effectively in support of this policy which is a cornerstone of efforts to convince the Soviets that their invasion of Afghanistan will indeed be costly, then the embargo should be terminated.

If that becomes the case, there is, however, no guarantee to American farmers that previous supplier relationships will resume or that other suppliers will not be favored in such a way as to see renewed sales going to the U.S.S.R. at a loss.

Calls for a termination of the embargo underline the failure of administration follow-through to date of the agricultural policies announced shortly after the embargo began. And it would certainly be a sorry signal to the world if the prosperity of the American farmer were suddenly found to be dependent on the Soviet Union. There are other markets for U.S. grain in the world and these should be more aggressively developed.

MORE COMPREHENSIVE ACTION NEEDED

Mr. President, we simply cannot continue to tolerate circumstances which tell the American farmer that for diplomatic reasons he will continue to make the lion's share of the sacrifice. This is not fair and it only serves to undercut support for our overall sanctions efforts. When the Senate considered the foreign aid authorization bill, we did obtain a sense-of-the-Congress resolution relating to the importance of concerted action by our allies and other countries with respect to the Soviet invasion of Afghanistan and the hostage crisis in Iran. However, I proposed at that time legislation which would put real teeth into U.S. efforts to encourage and sustain international cooperation by authorizing the President to impose trade and other penalties on those nations which he determined not to be cooperating with the United States in its efforts consisent with powers he presently has under the International Economic Emergency Powers Act.

Mr. President, I recognize there is considerable reluctance to marshal the economic strength of this Nation in pursuit of meeting what have been termed extraordinary threats to the peace. I do not share that view and will continue to see that every consideration is given and effort made to make our sanction effort effective in the eyes of the world community and the eyes of the American people to produce the results intended.

At this point, I ask unanimous consent that copy of my letter to the President of July 16 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., July 16, 1980.

The Honorable JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I was greatly disturbed to learn of the long-term grain agreement between the Soviet Union and Argentina which will clearly further dilute the impact of our own embargo of grain sales. While the effect of our actions to date has made available grain more clostly for the Soviets to obtain, this does not lessen the impact of the unfortunate decision of the Argentine government to convert projected sales levels of 3 million tons of corn, 1 million tons of sorghum and 500,000 tons of soybeans per year to a five-year, 22.5 million ton agreement. This figure represents over half of the current estimated annual Soviet capacity to import grain and feedstocks.

It seems to me that if we are going to demonstrate a determination to see that our efforts against Soviet aggression are supported by the world community or, as importantly, not undermined, our displeasure over the decision by Argentina to undercut the U.N. General Assembly resolution for which it voted should extend beyond expressions of displeasure. The time has come to selectively limit the importation of commodities from Argentina such as canned and processed beef. I would urge you to take the steps necessary to limit the importation of commodities from Argentina such as canned and processed beef. With the athletic competitions beginning in Moscow, and reports of strikes in Soviet cities because of meat and milk shortages, now is not the time to signal a willingness to tolerate circumvention of U.S. efforts which results in a heavier price on the American farmer than against Soviet aggression.

I hope that we will formally protest this agreement to the government of Argentina at the highest levels. For a regime which is proclaimed by some as a bulwark against communism in the Hemisphere, its recent actions are hardly consistent with its avowed policy goals. If we are unwilling to take steps necessary to prevent Argentina and others from profiting at the expense of American farmers, we should terminate the grain embargo. Certainly, no nation which refuses to cooperate in fighting communist aggression should be allowed to benefit at the expense of the American farmer.

Thank you for giving this matter your serious consideration.

Sincerely,

BIRCH BAYH,
U.S. Senator.

AMENDMENTS SUBMITTED FOR PRINTING

NUCLEAR WASTE POLICY ACT—S. 2189

AMENDMENT NO. 1948

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY (for himself and Mr. HATFIELD) submitted an amendment intended to be proposed by them to S. 2189, a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

Mr. BRADLEY. Mr. President, title IV of the Nuclear Waste Policy Act is intended to address the need for the long-term disposition of high-level radioactive waste. It requires the Secretary of Energy to provide Congress with a proposal for site-specific designs, specifications and cost estimates for the initial facility of a surface storage system as an alternative to geologic disposal. This proposal would be developed without the benefit of an environmental impact statement, due to the explicit waiver in section 405(a) of the NEPA requirements. Furthermore, if Congress should act to approve the proposal, there will never be an EIS on the matters of site and design, due to the NEPA waiver in section 405(b). Finally, although such facility must be licensed by the Nuclear Regulatory Commission, the Commission would be prohibited from considering alternative sites or different design criteria, due to the provisions of section 405(c).

I appreciate the sponsors' desire to accelerate the resolution of the long-term disposal issue. However, I believe that section 405 goes too far.

Title III of the bill would establish Federal interim storage capacity to solve the immediate problem of accumulated spent fuel that cannot be stored at powerplant sites. With provision for Federal away-from-reactor storage, I question whether the case has been made for a long-term storage facility that would permit ready retrieval of the spent fuel. Certainly, I do not believe there is sufficient urgency to justify abandoning NEPA in preparing for an initial long term surface disposal facility.

However, if we are to move forward with a site-specific proposal for such a facility, it is essential that Congress first obtain the information an environmental impact statement would develop. In this legislation, we are not just talking about a general description of a disposal system. Rather, we are talking about a proposal that is sufficiently detailed and specific to permit solicitation of construction bids on the first facility. That kind of specificity demands thorough environmental analysis.

For this reason, I believe the broad NEPA waivers of section 405 as reported out by this Committee are inappropriate.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources on the nominations of Mr. Lindsay D. Norman, to be Director of the Bureau of Mines in the Department of the Interior, and Mr. John David Hughes, to be a member of the Federal Energy Regulatory Commission in the Department of Energy.

The hearing is scheduled for Monday, August 4, beginning at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Committee on Energy and Natural Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510. For further information regarding the hearing, you may wish to contact Jessie Mackenzie of the committee staff on extension 47147.●

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

● Mr. HUDDLESTON. Mr. President, I wish to announce that the Agriculture Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices and the Subcommittee on Foreign Agricultural Policy will hold joint hearings on S. 2569 and S. 2886, both of which amend the U.S. Grain Standards Act.

The hearing will be held on Tuesday, July 29 beginning at 10 a.m. in room 324, Russell. Anyone wishing to testify should contact the Agriculture Committee staff, at 224-2035.●

SUBCOMMITTEE ON RURAL DEVELOPMENT

● Mr. LEAHY. Mr. President, as chairman of the Rural Development Subcommittee of the Committee on Agriculture, Nutrition, and Forestry, I and members of the committee have used the hearing process to force Federal agencies and departments to better meet the needs of the 60 million Americans living in our rural areas and small communities. In this regard the subcommittee has held oversight hearings on a wide range of Federal services that did not equitably serve the people of nonmetropolitan America. This has included health, housing, and transportation programs as well as the standby gasoline rationing plan and other energy related initiatives.

Within the next decade America will construct facilities for the safe storage of ever-increasing nuclear wastes resulting from commercial and military nuclear development. While the specific location, design, methods, and more technical considerations of storing nuclear wastes have not been determined and the first repository for high level nuclear wastes will not be completed for several years, numerous committees of Congress, the administration, and various Federal agencies have placed these questions under intense review and thorough, professional analysis. In fact, in the next few weeks the Senate is likely to consider legislation to begin to address these technical aspects of the safe disposal of nuclear wastes.

While the technical questions of storing nuclear waste have not been determined, it is clear that nuclear waste repositories will be constructed and that they will be located in rural areas. In light of this, I want to make certain that the interests of rural areas being considered for nuclear waste sites are protected and carefully considered before the construction of a nuclear waste site begins. Just because fewer people will live near a nuclear waste site located in a rural area does not mean they deserve less protection from all the effects of a site than if it were located downtown in a major city.

I am particularly concerned that a careful assessment of the potential socioeconomic impacts of a nuclear waste storage facility on nearby small communities has not taken place. And while these facilities will not be constructed for several years, it is important that Congress begin to investigate and study these questions today so that we can avoid potential problems tomorrow.

Mr. President, if nonmetropolitan areas are to store the wastes from a nuclear industry which serves the entire Nation, Congress has the responsibility to ascertain and mitigate the effects of these sites on nearby communities as early as possible. Through early action Congress can give the agencies responsible for the development and operation of nuclear waste sites clear direction as to the questions that must be answered and impacts mitigated before any place in rural America is made the repository of the Nation's nuclear wastes.

In line with this responsibility, the Rural Development Subcommittee will hold an oversight hearing on the socioeconomic effects of nuclear waste sites on nearby rural areas and small communities. The hearing will be held on August 26 in room 324 of the Russell Building beginning at 8 a.m. A wide array of witnesses familiar with these issues will testify as well as representatives from various Federal agencies.

Anyone desiring more information or wanting to provide testimony for the hearing record should contact Ken Pierce of my staff at 224-4242.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. GLENN. Mr. President, the Committee on Governmental Affairs will conduct a hearing to consider the nominations of three members to the U.S. Postal Service Board of Governors and one member to the Postal Rate Commission. The nominees to the Board of Governors are David E. Babcock, Paul D. Hughes, and Timothy L. Jenkins. Janet D. Steiger has been nominated to serve on the Postal Rate Commission.

The hearing is scheduled for Monday, July 28, at 10 a.m. in room 3302, Dirksen Senate Office Building.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today and hold a markup session on nuclear waste legislation and other pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on the Moon and Other Celestial Bodies Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold an oversight hearing on Indian education.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROPOSED MODEL STATE ADOPTION ACT

• **Mr. CRANSTON.** Mr. President, for the past several Congresses I have been deeply involved in legislative activities designed to facilitate the adoption of special needs children. The enactment on June 17 of Public Law 96–272, the Adoption Assistance and Child Welfare Act of 1980, was a source of great personal satisfaction to me, representing—as it did—the culmination of those legislative efforts. Its provisions will begin a process of reducing the foster care load through the support of programs designed to restore children to their families, to prevent unnecessary foster care in the first place, or to provide opportunities for adoption for children who might otherwise live out their childhood in institutions or foster homes.

Mr. President, the 95th Congress enacted legislation I authored which was designed to provide an impetus for reform of the adoption process with a primary focus on facilitating the adoption of children with special needs and removing barriers to adoption generally. Title II of that measure, Public Law 95–266, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, mandated the following:

First. The appointment of a panel of individuals experienced in the area of adoption to propose model adoption legislation and procedures designed to eliminate jurisdictional and legal obstacles to adoption and facilitate adoption by families of all economic levels;

Second. The establishment of an administrative arrangement within HEW—now the Department of Health and Human Services—to provide a centralized focus for planning and coordinating all departmental acivities affecting adoption and foster care;

Third. The establishment of a national computerized adoption information exchange system to assist in locating children in foster care who would benefit from adoption and to help match those children awaiting adoption with prospective adoptive parents;

Fourth. The development of an education and training program on adoption, including programs focused on the location of prospective adoptive parents for children with special needs;

Fifth. The establishment and operation of a national adoption and foster care data gathering and analysis system to help assure that children not become lost in the foster care system, and

Sixth. The preparation of a report analyzing the scope and effects of the placement of children in adoptive homes by persons or agencies not licensed or subject to regulation by any governmental entity.

Mr. President, the Subcommittee on Child and Human Development, which I am privileged to chair, held oversight hearings on April 17 on implementation of title II of Public Law 95–266. Generally, it appeared that the administration has made considerable progress in implementing the provisions of title II. However, there is considerable controversy surrounding the implementation of section 202 which mandated the development of model adoption legislation and procedures.

Mr. President, on February 15, 1980, Department of Health and Human Services published in the Federal Register for public comment, the proposals recommended by the independent panel appointed pursuant to section 202 of the public law. The law requires that the Secretary take into consideration public analysis and recommendations before publishing final Department of Health and Human Services model proposals.

In this respect, I think it is important to underscore the fact that the proposals of the panel published on February 15 reflected the views of its membership, and should not be misinterpreted as being the views of the Department. Even more important to stress is the fact that no Federal law or regulations would emanate from this process at any point; the model is to be available for guidance only—to help State and local legislative bodies interested in reviewing or formulating adoption law or regulatory changes in their jurisdictions. The process was designed to assist in remedying the existing practices whereby the 50 States, and often jurisdictions within States, deal with adoptions in such a way as to pose barriers to the interjurisdictional placement of special needs children; experience has shown that all too often a special needs child may be waiting in one State and prospective parents waiting in another, but legal and regulatory barriers make it impossible to bring the parties together.

Mr. President, the panel's proposal has many strengths. Its comprehensiveness itself lends to its usefulness as a reference point for discussion and reflection on issues relating to adoption. Its provisions relating to the adoptive placement of children with special needs represent major steps forward in our efforts to provide opportunities for adoption for these children, and the witnesses at our April 17 hearing overwhelmingly endorsed that part of the proposal.

But there are controversial aspects of the proposals as well, specifically provisions relating to access to adoption records, rights of putative fathers, independent adoptions, and revocation of voluntary relinquishments.

Mr. President, I and several of my colleagues on the Labor and Human Resources Committee have written to Secretary Harris expressing our views on aspects of the panels proposals that we feel require particular scrutiny and revision. So that my colleagues in the Senate who are concerned about the panel's proposals can be fully aware of our views, I shall submit the full text of our July 9 letter for the RECORD at the conclusion of my remarks.

Mr. President, I am optimistic that, as the development of the model act moves into its next stage, there will be substantial revisions before the final document is published. Title II of Public Law 95–266 specifically mandated the Secretary to consult with various organizations and interested individuals and provide opportunities for public comment on the proposal of the panel before issuing final model adoption legislation. This spring, the Department held 10 regional hearings on the proposal and received written comments from many organizations and individuals. I know that during those hearings as well as our May 17 subcommittee hearing many individuals and organizations expressed concerns about the areas outlined in our letter, and I fully expect the Secretary to give every consideration to these concerns. Indeed, to assure full opportunity for public participation, we have urged in our July 9 letter, that the Secretary publish her proposal for further public comment before issuing the Departments' model act and regulations.

Mr. President, I want to assure my colleagues that, as chairman of the Child and Human Development Subcommittee, I intended to follow closely the activities of the Department in revising the proposed model act with the expectation that the final version of the model act will truly serve as a model for eliminating barriers to adoption, especially for those thousands of special needs children now in foster care who could be freed for adoption.

The text of the letter follows:

COMMITTEE ON LABOR AND
HUMAN RESOURCES,
Washington, D.C., July 9, 1980.

Hon. PATRICIA ROBERTS HARRIS,
Secretary of Health and Human Services,
Washington D.C.

DEAR PAT: As you know, the Labor and Human Resources Committee, through its Child and Human Development Subcommittee, worked for many years in developing legislation—title II of Public Law 95–266—designed to eliminate barriers to adoption, particularly the adoption of children with special needs. In April, the Subcommittee held a hearing on the Department's implementation of title II of Public Law 95–266.

As you are well aware, there is considerable controversy surrounding implementation of section 202, which required the development of model adoption legislation and procedures with the assistance of an advisory panel of experts in the field of adoption. We share many of the concerns that were expressed by witnesses at the April 17 hearing regarding the draft model act and procedures and wish to provide you with our thoughts on four controversial aspects of the panel's proposal.

Before doing so, however, we do want to stress that many of the provisions of the draft model act which relate to the adoptive placement of children with special needs—as opposed to infant adoptions—are excellent and represent major steps forward in our efforts to free these children from foster care and provide them with loving permanent adoptive homes. It was the overwhelming view of the witnesses who testified at the April 17 hearing—many of whom strongly opposed other provisions of the proposed model act—that the portions of the proposal which dealt directly with the problems of adoption of children with special needs were important and desirable provisions.

The controversial portions of the proposed model act relate basically to those provisions regarding the adoption of healthy, new-born infants, specifically provisions that relate to open adoption records, rights of putative fathers, independent adoptions, and revocation of voluntary relinquishments.

ADOPTION RECORDS

The provisions of the proposed model act relating to access to adoption records are obviously the most controversial portions of the proposal. We recognize that there are strongly held views in this area, but, on balance, we do not feel that the panel's recommendations with respect to access to adoption records should be approved.

There are many serious and fundamental unanswered questions as to the effects this proposal would have. For example, the reports of a fifty-percent drop in adoptions in England following enactment of its open records statute concern us deeply. We are also troubled by the fact that there exists little objective data on the potential consequences of an open records policy on decisions relating to abortion and on other aspects of the adoption process. During the April 17 hearing, the Subcommittee Chairman requested Department representatives to undertake efforts to acquire data on these issues to provide guidance for further consideration of the policy implications of the panel's proposals. We hope the Department will move forward rapidly on this effort.

We also very strongly believe that the panel's treatment of past adoptions, as opposed to prospective adoptions, is inappropriate. Indeed, it is inconceivable to us that the federal government would propose such a fundamental breach of commitments of confidentiality without the consent of individuals affected. The suggestion of the panel that a biological parent who did not wish to be contacted has a tort remedy for invasion of privacy seems, to us, to be insensitive to the human needs of all parties to an adoption. We recommend with respect to past adoptions that records be made available only where there is consent.

With respect to prospective adoptions, we suggest consideration be given to recognizing a range of options for all parties. For example, if a pregnant woman would prefer adoption to abortion only if she could be guaranteed confidentiality, that option should be made available to her. Similarly, if a pregnant woman knew that she wanted to make her identity available to be learned by the child at some time in the future, she should have that option also, and potential adoptive parents would then be made aware of this condition. This approach, which recognizes the various interests and rights of all of the parties to an adoption and provides for a flexible approach designed to protect and respect these interests and rights, would seem to be preferable to that proposed by the panel.

However, since the issues relating to the open records question are so complex and clearly necessitate further review and data evaluation, we strongly urge that you give consideration to the recommendation which has been made by several organizations to separate the records provisions from the other provisions of the model act, and publish the records provisions separately at a subsequent date. It would be extremely unfortunate if the controversy over these provisions were to delay—as seems almost unavoidable at this point—final promulgation of the less-controversial and much needed provisions that are aimed at helping find adoptive homes for those special needs children in foster care.

PUTATIVE FATHERS

The provisions of the proposed model act relating to the rights of putative fathers, as presently drafted, are in need of substantial revision. They appear to give a putative father an absolute right to take custody of a child being placed for adoption by the mother, regardless of the mother's views or of the fitness of the putative father. Resolution of the rights of a putative father may be critical to freeing a child for adoptive placement, but they should not take precedence over the best interests of the child. We recommend that consideration be given to provisions that would allow for a showing of unfitness of the father to be proffered and an opportunity for the interests of the mother to be taken into consideration as part of a final determination of custody based on the best interests of the child.

REVOCATION OF RELINQUISHMENT

The provisions of the proposed model act relating to revocation of voluntary relinquishments are also of concern to us. States presently vary considerably in their policies regarding revocation of voluntary relinquishments. Some make relinquishments irrevocable when given. Others allow for revocation of a relinquishment up to the time of entry of a final adoption decree or within a specified period of time. A number of witnesses, however, expressed concern over the impact that the fourteen-day period in the proposed model act would have on infants who would probably be left in a hospital or in foster care during those critical first two weeks of life. We were impressed by the testimony of the American Academy of Pediatrics on the adverse impact such a delay would have on an infant's development. We strongly urge that in cases involving newborns you consider shortening this time period.

INDEPENDENT ADOPTIONS

The provisions of the proposed model act relating to independent adoptions are also troublesome. We recognize that independent adoptions are legal in many states and that governmental intervention in the private lives and decision-making of individuals ought to be limited as much as possible. Yet, the Department's own study of independent adoptions—required by section 204 of title II—suggests that there are substantial risks for children involved in independent adoptions. Assistant Secretary Perales, in his April 17 testimony, outlined some of those problems found by your study: lack of appropriate information or counseling for biological parents and adoptive parents, problems with permanency being established for the child in independent adoptions, and a finding that placement of a child in a home that cannot meet his or her needs appears to be greater in independent adoptions.

The results of the section 204 study do not appear to warrant prohibiting all independent adoptions; they do, however, suggest a need for closer supervision of independent adoptions than is reflected in the proposed model act. For example, the proposed model act provides for post-adoptive home studies in independent adoptions; a *pre*-adoptive home study would provide greater safeguards for the child. We suggest revisions in these sections to provide for greater supervision and control over independent adoptions with the primary goal of protecting the interests of the infant.

We believe that the four problems outlined above merit the most serious consideration by the Department during the process of re-drafting the proposed model act. As we stressed earlier, there is a wide consensus that many provisions of the proposal are helpful and will provide meaningful guides to state legislatures in reviewing, updating, and revising their adoption codes in an effort to remove unintended barriers to adoption. However, in our view, the provisions discussed above must be revised if the model act is to assist in eliminating barriers to adoption, as was envisioned by the underlying legislation.

Finally, there appears to be some question as to whether the Department intends to publish its revised model act for public comment before promulgation of a final version. Since the draft published on February 16 represented the views of the panel and not the Department, we strongly urge that the Department allow for a public comment period on its version.

With warm regards,

Cordially,

HARRISON A. WILLIAMS, Jr.,
Chairman.

JENNINGS RANDOLPH,

ALAN CRANSTON,
Chairman,
Subcommittee on Child and
Human Development.

DONALD W. RIEGLE, Jr.

COMMEMORATING NATIONAL POW/MIA RECOGNITION DAY

● Mr. SCHWEIKER. Mr. President, on July 18, the United States appropriately celebrated "National POW/MIA Recognition Day." By publicly acknowledging the ordeal of American servicemen held captive during the Vietnam conflict while commemorating those killed or unaccounted for, this Nation responds faithfully to the humanitarian strain of its national and foreign policy tradition.

We must expend every effort to obtain a full accounting of all those whose status has never been definitively resolved. Nothing is accomplished by changing status on a presumptive basis, as congressional and Presidential task forces have previously done. Such changes do little to ease the gnawing problem of those POW/MIA families who must continue to live with uncertainty.

Recent confirmation by the Defense Intelligence Agency of a former North Vietnamese mortician's claim that the remains of 400 American servicemen are still stored in Vietnam belies the validity of speculative findings that all Americans have been removed from that country. Moreover, eyewitness reports by Vietnamese refugees of U.S. personnel living in Southeast Asia compound the issue, yet the Carter administration has been curiously reluctant to pursue the leads provided. This latter occurrence alone confirms my own worst suspicions about the conduct of arbitrary status reviews without sufficient evidence to warrant these changes.

The controversial question of live prisoners and the repatriation of the remains of the dead must be resolved satisfactorily without further delay.

Further Government investigation of this situation must build upon the courageous efforts of the National League of Families of American Prisoners and Missing in Southeast Asia to provide answers to the haunting questions which remain.

As we honor the POW/MIA's of the Vietnam era, we cannot conscionably do less than to pursue and verify all information concerning those whose fate is undetermined. Failure to do so expeditiously would deny these individuals the inalienable human right to be remembered and cared for by the Government they dutifully served.

The POW/MIA question is ultimately a moral one, and we tarnish our own sense of honor and compassion if we dismiss or demean it for politically expedient motives.●

REGISTRATION FOR THE DRAFT

● Mr. PELL. Mr. President, beginning this week, several million of our 19- and 20-year-old young men are expected to go to their local post offices and register for the draft. This exercise is being conducted under a cloud of constitutional uncertainty due to the exclusion of young women from the registration plan. There is also considerable popular opposition to registration, no doubt fueled by the still fresh memories of our tragic involvement in Vietnam.

This is an appropriate moment to reconsider the various alternatives for generating military manpower. In my view, the All-Volunteer Armed Force has proven itself to be a failure. It has failed to attract young men in sufficient quantity or quality to meet our defense needs, and—even worse—it has degenerated into a mercenary army because of its failure to represent a social and economic cross section of our society.

I do not believe that registration offers the ideal way of meeting our manpower needs, either. I support it because I recognize the overriding need to increase our presently inadequate state of military preparedness. I do believe, however, that there is another alternative which would be of much greater benefit to our country and to the young people who are called to serve. That alternative is national service, a concept I believe to have greater potential to meet our military and nonmilitary needs. Along with Senator TSONGAS and 10 other Senators, I am the sponsor of legislation to create a Presidential Commission to study national service.

As the Nation resumes registration amidst controversy, there is great merit in examining the idea of national service as an alternative to the draft and the All-Volunteer Army. That idea was effectively expressed last week in an editorial in the Providence Journal, and I ask that the text of the editorial, entitled "Needed: A National Debate Over National Service'," be printed in the RECORD.

The editorial follows:

NEEDED: A NATIONAL DEBATE OVER "NATIONAL SERVICE"

President Carter's draft registration scheme—the quickie, two-week sign-up at local post offices for all males born in 1960 and 1961—begins next Monday. Protesters there may be, and no-shows may pose later dilemmas for law-enforcement agencies. Yet because registration can help U.S. armed forces become better prepared to cope with some future emergency—in which an actual draft may become inescapable—it is worth doing.

Registration remains, however, a kind of standby procedure that fails to address larger questions of American manpower and whether young people owe their country some form of public service. For the military, we have gone from conscription to a draft lottery to an all-volunteer force; in the civilian sector, we have had a number of programs—such as the Depression-era Civilian Conservation Corps, the Peace Corps and VISTA—that help others and give a sense of purpose to participants. Yet all these efforts have run on separate tracks: there has been no guiding philosophy, no sense of what debt America's young might properly be expected to meet on their country's behalf. With the nation now pointed toward a possible resumption of the military draft, it would be worthwhile exploring these questions in detail.

Seventy years ago, the philosopher William James urged the United States to adopt some form of national youth service, to which all young people would be drafted to perform needed work and "to get the childishness knocked out of them." The idea lay dormant for decades, but today, as the nation wrestles with problems of alienated youth, unemployment and a huge domestic agenda, national service is receiving fresh attention. We like the idea. In theory, at least, it holds great potential to help young people find a sense of purpose and direction, to do important jobs that now go begging, and to revive something that most of us seldom reflect upon anymore: an ethic of duty and service to the nation's well-being. Such a program, if successful, could even bring forth enough willing young people to strengthen the all-volunteer military and make a return to the draft unnecessary.

The idea of a national service program raises tough questions. How would young people be matched with available jobs? How would civilian service and military service be related? How well would the gains from a full-scale program justify its considerable cost (estimated, in one study by the Congressional Budget Office, at $12 billion a year in 1978 dollars)? Above all, perhaps, should such a program be voluntary or (as favored by Sen. Claiborne Pell, among others) compulsory for every young American?

The nation deserves the most thoughtful possible answers to such questions. Sen. Paul E. Tsongas, Democrat of Massachusetts, proposes a presidential commission to examine the various possible forms of national service and recommend some choices. The cost of the study would be modest, and its beneficial impact on the nation's future could be profound. A Gallup poll indicates that there are at least four million young Americans right now willing to contribute a year of their time to help others, and Congress should set in motion the needed study to see how this potential might best be tapped.●

CLARIFICATION OF THE VIEWS OF THE COUNCIL ON WAGE AND PRICE STABILITY ON STANDARDS FOR FEDERALLY FUNDED DAY CARE

● Mr. CRANSTON. Mr. President, several weeks ago the Senate voted to suspend for 1 year implementation of the new standards for day care funded by the Department of Health and Human Services. In the same action, the Senate also repealed the existing standards for federally funded day care, and provided that, until no sooner than October of 1981, there would be no minimum Federal standards for federally funded day care programs.

I opposed this action, which was included as part of the proposed "Reconciliation Act of 1980," S. 2885, because I strongly felt then, and continue to feel, that such a major policy issue should not be dealt with in such an extraordinary fashion—without any congressional hearings or opportunity for proponents and opponents of the provisions to be heard in the normal congressional process. I also urged that this issue be dealt with on its merits, and not under the false guise of cost savings.

During the course of debate on my amendment, the distinguished Senator from Kansas (Mr. DOLE), quoted from and inserted in the RECORD a letter dated November 19, 1979, from R. Robert Russell, Director of the Council on Wage and Price Stability, expressing the Council's concern over the cost implications of the new standards for federally-funded day care programs.

Mr. President, I recently received a letter from Alfred E. Kahn, Chairman of the Council on Wage and Price Stability clarifying exactly what the Council's position was on the new standards. In particular, Mr. Kahn pointed out that the letter quoted by the Senator from Kansas was written prior to promulgation of the final version of the standards and that the Department had made revisions in the standards in response to comments, both from the public and from the Council subsequent to the November 1979 letter. Mr. Kahn also stated that the Council felt that HHS had "clearly dealt reasonably and responsibly with an extremely complex, emotion-laden, and important set of regulatory issues. * * * We had intended only that our concerns be taken into account, and are satisfied that they have been."

Mr. President, I shall submit the July 10, 1980 letter from Mr. Kahn for the RECORD at the conclusion of my remarks.

Mr. President, my purpose in clarifying the position of the Council on Wage and Price Stability on the day care standards is not to debate once again the merits of the action taken by the Senate nor to suggest bad faith on the part of the proponents of the suspension.

Rather, it is to underscore, once again, the dangerous path we tread when the budget reconciliation process is used as a short cut to resolve major substantive issues with only minimal budgetary implications. Had the Senate Finance Committee conducted hearings on the new standards—standards which would not go into effect until October of this year in any event—the current and accurate position of the Council on Wage and Price Stability would have been readily brought out.

The text of the letter follows:

COUNCIL ON WAGE AND PRICE STABILITY,
Washington, D.C. July 10, 1980.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: I understand that there is some confusion about the Council's position on the Department of Health and Human Services' new day care regulations. It may therefore be useful for me to summarize our past statements and current position.

The Department formally proposed revised day care regulations last spring. We filed comments in the public rulemaking docket last fall, and subsequently received a number of comments from the public that we were forced—reluctantly—to answer with a brief form reply, an example of which Senator Dole quoted on the Senate floor on June 30.

In the public comments that we filed with HEW we praised the proposal as flexible and well presented, and particularly commended the Department for its extensive analysis of its economic effects. We also observed, however, that the proposal might adversely affect day care homes (homes serving twelve or fewer children), that some of its costs appeared to have been underestimated, and that one type of saving (reduced overstaffing) appeared to have been overestimated.

Since we inadvertently emphasized our concerns at the expense of our praise in the form letter that Senator Dole quoted, I would like to emphasize three points particularly by way of clarification.

First, before promulgating final regulations, HEW substantially improved its economic analysis.

Second, HEW also revised some of the burdensome requirements for day care homes—for example, dropping the requirement that each home set forth its daily activities program in writing—and announced that it would make any further revisions that its current study of home day care shows to be necessary.

Third—and this is really my major point—HEW clearly dealt reasonably and responsibly with an extremely complex, emotion-laden, and important set of regulatory issues that it is particularly well-positioned to handle. In view of this fact, we did not, and do not, intend to second guess the Department's final decisions. We intended only that our concerns be taken into account, and are satisfied that they have been.

Sincerely,

ALFRED E. KAHN,
Chairman.●

REGULATORY IMPACT STATEMENT

● Mr. RANDOLPH. Mr. President, several weeks ago, the Senate Committee on Environment and Public Works reported Senate Joint Resolution 188, extending the reporting date of the National Commission on Air Quality. That resolution has since been enacted. Consistent with Senate Rule 27.6, which requires a regulatory impact statement with each report, the committee determined that there was no regulatory impact to Senate Joint Resolution 188.●

AFGHANISTAN RELIEF WEEK, CAPTIVE NATIONS WEEK AND THE OLYMPICS

● Mr. PELL. Mr. President, this week marks the observance of two testimonials to the cynical expediency which the Soviet Union places above such international principles as the right of national self-determination. The 22d commemoration of Captive Nations Week, which was originally to have taken place the week of July 13–19, and Afghanistan Relief Week have this year been timed to coincide with the opening week of the Moscow Olympics, since both seek to draw attention to those peoples who so painfully bear the burden of Soviet occupation at a time when the Soviets are boasting that the holding of the Olympic games in Moscow represents international endorsement of Soviet foreign policy.

I am particularly pleased with the observation of Afghanistan Relief Week as I am one of the honorary cochairmen of the Afghanistan Relief Committee, Inc., a private organization that has provided invaluable assistance to the Afghan refugees in Pakistan. I and several other Senators and Members of Congress requested last May 14 that the President declare the opening week of the Moscow Olympics as Afghanistan Relief Week, and I am pleased that he complied with that request.

Mr. President, the Olympic games, representing the pinnacle of international amateur competition, have long provided the most talented young athletes of the world with an opportunity to compete against each other in an environment where sports reign supreme. Political differences are set aside there in the celebration of athletic accomplishments.

The nation which holds the Olympics, Mr. President, has a special responsibility to guarantee that it is, indeed, sports which is the sole focus of the games and that they remain untainted by political concerns. The Soviet Government has, unfortunately, not done that. It has, instead, sought to use the games to further their political goals, in particular to obtain a seal of approval on their appalling invasion of Afghanistan. The Soviet handbook on the Olympics, for example, includes the following statement:

> The decision to give the honored right to hold the Olympic Games in the capital of the world's first socialist state has become a convincing testimony to the general recognition of the historical importance and the correctness of the foreign political course of our country, of the enormous services of the Soviet Union in the struggle for peace, its contribution to the international Olympic movement, and to the development of physical culture and sports.

The decision of the Olympic Committee of our Nation and scores of others to boycott the Moscow games represents a justified condemnation of the Soviet exploitation of the games and of the invasion of Afghanistan which revealed the blatant Soviet disregard for the ideals of peace which the Olympics stand for.

The invasion of Afghanistan revealed far more, however, than the Soviets' insincere support for Olympic principles. In the December occupation, the world found itself witness to yet another example of Soviet imperialism and the abuse of the rights of individuals and nations to determine their own fate.

History has provided us with an unfortunate plethora of predecessors to Afghanistan, from the 1940 absorption of the Baltic countries to the post-war establishment of puppet regimes in Eastern Europe and the subsequent repression of a rebirth of freedom in Hungary and Czechoslovakia. To this list must be added the many individuals within the Soviet Union itself who find themselves denied the basic human rights of free speech, movement and religious expression.

Such rights have been affirmed and reaffirmed by Moscow in such agreements as the Atlantic Charter, the United Nations Charter and, most recently, the Helsinki accords. Their signature on these documents has, regrettably, not brought the Soviets any closer to actually respecting the tenets of the agreements as I am sure will be brought to light in Madrid this November when compliance with the provisions of the Helsinki accords will be reviewed.

In this connection, the Commission on Security and Cooperation in Europe, of which I am the cochairman, will play an important role both in preparation for and during that conference.

This week, though, the American people have handed down their own verdict on Soviet actions in Afghanistan and Europe by commemorating Captive Nations Week, when we reaffirm our support for the independence and human rights of the victims of Soviet expansionism. These victims, victims of the theft of their own liberty, must know that they have not been forgotten.

The latest of these victims, the Afghans, have suffered tremendously in recent months. Even the right of life has been denied this simple, but fiercely independent, people. They have been forced to withstand the savage onslaught of modern weaponry which has destroyed their homes, fields, and herds, all under the cynical pretext of being necessary for their own salvation.

Over a million Afghans have chosen to flee through tortuous mountain paths to swollen refugee camps in Pakistan, where they now represent the highest concentration of refugees in the world. Although their hearts remain with their homeland, to which they hope to return someday, the Afghan refugees are now faced with serious overcrowding and shortages of tents, clothing, and medical care.

As homeless and needy peoples of the world have done in the past, the Afghans now turn to the beacon of hope which the United States has always proudly displayed. This week, Afghanistan Relief Week, the American people are being alerted to the plight of the Afghan people, giving us the opportunity to show our compassion and generosity once again and to demonstrate our support for the people of the most recent "captive nation."

While the Soviets are this week staging in Moscow an Olympic mockery of the ideals of self-determination and basic human rights, we must provide hope to those who suffer from the Soviets' cynical perversion of these ideals. The observance of Afghanistan Relief Week and Captive Nations Week provides a shining counterpoint to the dark spectre of Soviet expansionism.●

MORMON HOLE IN THE ROCK EXPEDITION

● Mr. GARN. Mr. President, today is the 24th of July, the day on which Mormons all over the world think back to 1847, when the first pioneers entered the Salt Lake Valley, after a bitter and arduous trip across the Plains. Against great odds, across land that was little known and mainly uncharted, Brigham Young led the first party of Latter-day Saints from temporary quarters in Iowa more than 1,400 miles to establish "in the tops of the hills" a bastion where they would be free to worship God as they saw fit.

Following that beginning, Saints from all over the world made their way to Utah by wagon, on horseback, pulling handcarts, taking ships around South America to California and then trekking back, steaming up the Mississippi River to Independence and then "jumping off" for the territory of Deseret. They came from every country and from every clime, and their coming enriched the heritage of today's Mormons.

In addition to the westward migration, there was another phase to the Mormon settling of the West. It is not often remarked that, having established themselves in the Salt Lake Valley, thousands of Mormons then answered the call of their leaders to settle not only what is now Utah, but Idaho, Arizona, Nevada, Wyoming, towns in Alberta, Canada, and in Old Mexico. Hundreds of Mormons, having made the difficult trip to Utah, and finally gotten established, were then called by Brigham Young or later prophets to uproot their families and move to even more desolate spots. Sometimes the calls came more than once.

For example, the southwestern corner of Utah, around St. George, was colonized by Saints who had crossed the Plains, built their houses and planted their farms near Salt Lake City, and who were then called to move to the South. As desolate as Salt Lake City was in those days, St. George was even more desolate. But more trials and opportunities were in store. In 1879, President John Taylor, successor to Brigham Young, called a body of Saints to leave the St. George-Cedar City area and establish the San Juan mission in the southeastern corner of Utah.

The Saints responded, and under the leadership of Silas S. Smith, Platt Lyman, Kumen Jones, and others, 250 men, women and children crossed some of the roughest country God ever made. Today, that country contains national parks and monuments, and is still the most spectacular and roughest country there is. The most serious barrier in this totally unexplored stretch was the Colorado River, flowing more than 500 feet below the mesas over which the pioneers traveled. To get down to the River, the pioneers found a narrow slit in the west wall of the canyon, called the Hole in the Rock. This they widened out, in the middle of winter, at tremendous cost to their energy and health, and then lowered their wagons down through what amounts to a sheer cliff.

There is nothing I can say that can communicate the difficulty of this accomplishment, or the climb up Cottonwood Hill on the other side of the river, or of the toil up the Chutes, or the struggle up Clay Hill. At one point the pioneers were stopped for weeks at the top of a bluff. Finally, one of their number watched a mountain sheep pick its way down the slope and decided that that was as good a way as any. So they built their road down that mountain goat track.

Mr. President, I have been over much of this country. When I go, I go in a jeep with big rubber tires, good brakes, and four-wheel drive. It is almost impossible to understand how those men and women could have taken their horse-drawn wagons, with inefficient brakes, with steel-rimmed wheels, over rocks and trails so steep and slick it is impossible to stand on them. It is harsh country, with only a few inches of rainfall a year. Little grows there. And yet, it is some of the most beautiful country on Earth. One of the things that adds to its appeal is the knowledge of the toil and sacrifice of those who made that first trip across, through the Hole in the Rock, to establish the San Juan Mission.

The descendants of these first settlers still live in this area, are still moved by faith in their God and honor toward their forebears. They are my constituents and my friends, and I am proud to honor them today, as we commemorate the original pioneers, and the members of the Hole in the Rock expedition, which reached San Juan County 100 years ago this year.●

COMMISSION ON PRESIDENTIAL NOMINATIONS

● Mr. STEVENSON. Mr. President, on June 27, I and 10 of our colleagues introduced Senate Joint Resolution 189 which calls for the establishment of a Commission on Presidential Nominations. Since its introduction, additional Senators, who share our concern about the inadequacies of the system by which we nominate Presidential candidates, have requested they be listed as cosponsors.

Mr. President, I ask that Senators Levin, Proxmire, Cohen, Bumpers, Gravel, Exon, Harry F. Byrd, Jr., Simpson, Schmitt, and Moynihan be added as cosponsors to Senate Joint Resolution 189.

Since the final round of primary elections on June 3, several commentators have discussed the shortcomings of the current Presidential nomination system and reviewed some of the alternatives for reform.

Mr. President, I ask to have printed in the Record the following: A July 4, 1980, editorial from the Chicago Tribune; an article from the Chicago Tribune on June 5, 1980, by Steve Neal; two columns by David Broder published in the Washington Post on June 11 and 15, 1980; and an article from the Chicago Sun-Times on July 1, 1980, by Richard Reeves.

The material follows:

[From the Chicago Tribune, July 4, 1980]

A Platform for 1980: For a Better Primary System

The two major parties are working on platforms to be approved at their respective conventions. We have printed five editorials defining the kind of platform we think is needed in 1980. Today's editorial, the last in the series, deals with a topic which is not normally dealt with in party platforms but is at least as important as anything they do contain.

A certain amount of windy rhetoric in a party's national platform is acceptable, and no doubt expected. One can approve of a statement of party principles without believing in it as, say, a sure cure for inflation.

There is, however, one high-priority national need that requires both parties not only to make promises but to deliver on them, because it is their job alone. That is to overhaul our system of choosing presidential candidates—a system that is defined primarily by party rules, not by laws or court interpretations. And the imperative goal is to give us one that will not produce candidates who leave the electorate appalled.

As the party conventions draw near, there seems to be a deepening sense of dismay at the unavoidable nominations of President Carter and Ronald Reagan. How did a process, supposedly so democratic produce results satisfactory to so few?

FRONTLOADING

Many voters are reduced to hoping that the system will go wholly off the rails; that, for instance, a deadlock in the Electoral College will throw the choice of a President into the House of Representatives, with results that are unforeseeable but are felt to be preferable. The number of people who talk rather longingly of this prospect seems to us alarming. When anything, even chance, is widely regarded as a better way to elect a President than the one we have, it is clear that changes are in order.

What exactly are the complaints about our primary system—besides its having produced two uninspiring candidates? First, it distorts the process so that the first states to register their choices have a wildly disproportionate effect on the candidates' standings and their chances in future races. Through the same "frontloading" effect, the leading candidates may be assured of nomination—as Mr. Carter and Mr. Reagan were—before the voters in some key states have had their say.

Second, rapid sequence of the widely scattered primaries and caucuses forces candidates to use superficial, quick-sell techniques; it puts a premium on personality rather than ability.

WEAKENED PARTIES

That in turn skews the process so that parties tend to be defined by their candidates, not the other way around. Candidate chic, not party philosophy, shapes campaigns, programs, and platforms—and they as a result have less and less to do with political realities.

Indeed, it now seems advisable for a candidate to stress his lack of connection with a party or with government; to be seen as an outsider, a free spirit uncorrupted by the Washington establishment. That helped Mr. Carter in 1976; it will undoubtedly help Mr. Reagan in 1980.

Either as a result or as a parallel development, the parties themselves are clearly weakening. They have few functions left that seem indispensable; few people who rely on them for jobs, favors, or guidance. More and more voters declare themselves independents and seem to regard party politics as rather crass and demeaning.

Instead of the widely shared community of interests and convictions once represented by the parties, politics seems increasingly dominated by single issues—abortion, gun control, more "rights" for this or that minority.

COUNTER-REFORMATION

The result is that presidential primary campaigns must focus on narrow, superficial, or local issues. Their outcomes are decided, rapidly and unconvincingly, through choices in which relatively few voters take part or care much about.

No wonder this system produces unsatisfactory results. It seems specifically geared toward nominating candidates who aren't ready for the office. And it needs to be changed.

"Changed"—not "reformed." In our view, the main trouble with the malfunctioning primary system is that it has been reformed too much already—tinkered with to the point of being useless. Improvements, in fact, will have to take the shape of counter-reformation, an attempt to base our primary system on practical political needs rather than well-meant efforts to "open up" the system.

Step One, we think, is for both parties to recognize a blunt fact: They are political organizations. Their purpose is to win elections, and to do so by pleasing the greatest number of people—the majority, in fact. They are to go about this task using all the skill, experience, and shrewd judgment they can muster. And they are to stop trying to run their parties according to the half-formed opinions of people ignorant of politics.

VOICE OF EXPERIENCE

Step Two is for each party to announce a program for rejuvenating itself, stating its members' faith in the two-party system and their determination to keep it going. Each should then propose [and carry out] rules changes designed to strengthen the party: to broaden its usefulness and appeal to the voters, tighten its ability to discipline members, give itself a stronger voice in judging an aspirant's qualifications.

A specific suggestion, made by lawyer Alex Seith on this page Monday, is to change party rules so that only a limited number of convention delegates would be chosen through state primaries or caucuses; a large part of each state's delegation would be made up of government and party officials and "leaders of broadly representative groups."

Without endorsing Mr. Seith's formula [he proposes a 2-to-1 ratio of unelected to elected delegates], we agree that people experienced in government and politics should have a strong voice in their party's choice. The ideal, in fact, is a balance between the two kinds of judgments: The candidate's popularity and electability assessed by the popular vote and his or her political knowledge and qualifications judged by fellow politicians.

REGIONAL PRIMARIES

Beyond rules changes, the parties should also consider supporting legislation aimed at making primary elections more coherent and significant. The regional primary bill long championed by Sen. Bob Packwood [R., Ore.] deserves careful weighing. Mr. Packwood's bill calls for consolidating the patchwork of state primaries into five regional primaries, to begin the second Tuesday of March and continuing one month apart; the order would be determined by lot. The advantage would be to let candidates concentrate on one region—one broad set of issues and interests—at a time, rather than dashing from one superficial test to another.

The grim fact is this: Our primary system has been reformed to the point where it no longer works. The earnest efforts to make it more "democratic" have had the opposite effect—left the decision chiefly in the hands of people with a single, overriding preoccupation, rather than a broad wedge of America as a whole.

The only agencies that represent those broad interests are the two major parties; and it is time they reasserted their power to give shape, meaning, and direction to the American political system. If they don't, who will?

[From the Chicago Tribune, June 5, 1980]

PRIMARILY, '80 CAMPAIGN "CONFUSING"

(By Steve Neal)

WASHINGTON.—Was that any way to nominate a President?

Now that the nation's longest primary season is over, a lot of folks think it's time to try something else. The crazy-quilt system of primaries and caucuses that gave us Jimmy Carter and Ronald Reagan is getting hit from all sides.

"I don't think the mind of man could contrive a worse process," says Sen. Stevenson [D., Ill.].

"It's too confusing," says veteran pollster George H. Gallup. "It's the worst way of choosing a candidate."

"The process may be testing for the wrong qualities," adds James David Barber, a Duke University political scientist. "We've turned it into an endurance contest."

"It costs millions of dollars," says Democratic National Chairman John White. "And probably the worst thing is that we exhaust both the candidates and the voters."

To be sure, it's a haphazard method. There are too many primaries. What used to be a handful of exhibition contests has grown into a six-month war of attrition. This year, there were 37 primaries—more than ever before.

Senate Minority Leader Howard Baker [R., Tenn.] wryly observed that you've got to be unemployed to have the time for a full-scale presidential campaign. He's not far off the mark.

This year's two finalists for the GOP nomination, Reagan and George Bush, were out-of-work pols. So were Jimmy Carter in 1976 and Richard Nixon in 1968.

Too much weight is given to smaller states. Carter's early victories in the Iowa caucuses and New Hampshire primary received more attention than Sen. Edward Kennedy's impressive wins in New York, California, and Pennsylvania, the nation's three most populous states.

"What happened in Iowa and New Hampshire was 10 times more important than what happened in California and New Jersey," says political scholar Austin Ranney of the American Enterprise Institute. "The system clearly violates the principle of one-man, one-vote."

Is is no longer possible for late starters to have a shot at the nomination. In March, former President Ford wanted badly to try to get his old job back. According to the polls, he was the GOP's favorite candidate and would have been a heavy favorite in a rematch with Carter. But, much to his disappointment, Ford conceded that Reagan had wrapped up the nomination.

Carter's heavy-handed use of his incumbency raised questions about just how open the new, "improved" system really is.

The President doled out federal grants to supporters in key primary states to his undeniable advantage. "Carter showed that primaries can be manipulated like the old-fashioned convention," says former Oregon Gov. Tom McCall. "The Rose Garden is his own version of the smoke-filled room."

For Reagan, 69, the primaries were an opportunity to put the so-called age issue to rest, at least temporarily. By waging a spirited campaign from New Hampshire to California, the onetime movie actor projected an image of vigor and vitality.

One of the biggest changes in recent presidential campaigns has been the breakdown of the political parties. Power brokers no longer control delegates by offering cabinet posts and patronage. Everything gets decided in the primaries.

In days of old, there wasn't much delegate turnover at national party conventions. Every four years, the bosses and party leaders would have a large role in the making of Presidents. "An elite of party leaders performed a screening function," says James L. Sundquist of the Brookings Institution. "They administered a kind of competence test."

Critics like to dwell on the shortcomings of the cigar-chomping kingmakers, of which there were a few. But their smoke-filled rooms were, after all, the system that came up with Franklin D. Roosevelt, Abraham Lincoln, and Woodrow Wilson. It didn't work every time; the bosses also chose Warren Harding and Millard Fillmore.

All things considered, though, some political observers think it was a better way. "Under the old system, you had a much better chance of nominating persons who were qualified to be President," says Jeane R. Kirkpatrick, a Georgetown University political scholar.

Another problem is the absence of coalition-building in the nominating process. In past elections, the presidential nominee carefully put together coalitions of his party's leadership—governors, senators, congressmen—with whom he would work as President. Because of the primaries, that doesn't happen anymore.

"That's what's wrong with this system," says AEI's Ranney. "The process of forging nominating and governing coalitions shouldn't be separated."

Some candidates seem to like the system. California Gov. Edmund G. Brown, Jr., who made a splash in the late 1976 primaries and lesser showing this year, is among its defenders. "When I try to think of a better system," says Brown, "it doesn't come easily. I would say that a lot of the media experts who are knocking it wouldn't come up with a better alternative."

There are, however, some efforts already under way to make things simpler. Stevenson is planning to introduce legislation that would establish a national commission to devise a new method. His own choice, he says, would be a two-stage primary.

Sens. Bob Packwood [R., Ore.] and Abraham Ribicoff [D., Conn.] have introduced a bill calling for a series of five regional primaries that would make it possible for candidates to plan a more orderly campaign.

Gallop advocates a national primary, with all states holding their elections on the same day and without crossover voting.

Whatever happens, Democratic Chairman White wants the 1984 primary season to be much shorter. "The longer it goes on," White says, "the lower the turnout. That's the real tragedy of all these primaries. People get tired of it and don't vote in the fall."

[From the Washington Post, June 15, 1980]

CAMPAIGN SHORTAGES

(By David S. Broder)

LOS ANGELES.—The 1980 presidential nomination contest was marred by a number of excesses—and two conspicuous shortages.

There were too many primaries, too many early-starting candidacies and too many premature prophecies by the press.

There were not enough professional judgments applied to the question of who was qualified to be president. And there were not enough funds available to those serious aspirants.

In an earlier article, I discussed ways of remedying the excesses. A party rule requiring that primaries be held only on the first Tuesdays of March, April, May and June of the presidential election year, as proposed by Rep. Morris K. Udall (D-Ariz.), would go a long way toward curing the worst of the excesses.

One of the critical shortages—the lack of sufficient professional politicians in the convention hall—could also be remedied by the action of the Democratic and Republican national committees.

The decline has been dramatic. According to Elaine Kamarck of the Democratic National Committee staff, the percentage of Democratic governors who were voting delegates or alternates fell from 85 percent in 1960 to 47 percent in 1976. The decline among U.S. Representatives was from 45 percent in the earlier years to 15 percent in the latter. And the percentage of delegates who were state or local party officials was cut by about one-third.

The professional politicians and officeholders could supply an essential ingredient that is now missing from our primary-dominated presidential selection system: knowledge of the contenders based on accumulated experience over a long period of time. They could provide the peer review that has been squeezed out of the present system by the proliferation of primaries.

It is not difficult to remedy this shortage. The Democrats this year set aside 10 percent of their delegate seats for elected and party officials. That percentage could be increased—say to 25 percent—by revision of party rules.

It would be desirable if many of those professionals were allowed to come to the convention as uncommitted delegates, free to exercise their discretion in weighing the results of the primaries and caucuses. That could be done by exempting them from the present Democratic rule requiring that all delegates "fairly reflect" the candidate preference expressed in the state's primary or caucus proceedings. Similar discretion would be welcome in the GOP.

The presence of a large bloc of uncommitted professionals in the convention hall would tend to offset the "rush to judgment" implicit in the primary system and delay the decision on the nominee until all of the results are measured and the skills of the aspirants fully tested.

For that to be a fair test, Congress needs to revise the contribution and spending limits for presidential nomination aspirants that if passed in 1974. By the time this campaign year began, inflation had reduced the $1,000 contribution ceiling to $641 in real terms. By 1984, at the same rate, the original $1,000 would be worth only $472. The ceiling on individual contributions obviously needs to be raised.

At the same time, spending ceilings should be readjusted to prevent the stifling of competition in the latter stages of the contest that we witnessed this year. There is no public interest served by limiting the candidates as severely as Ronald Reagan and Jimmy Carter were limited this year in their efforts to communicate with the voters of major states like California, Ohio and New Jersey that happen to come at the end of the primary parade.

The mechanics of the needed changes are not difficult to accomplish, and there is plenty of room for compromise in picking the right mix of procedures. What is needed is a clear realization on the part of the public that the task of selecting candidates for president is more complicated than simply adding up the votes in the primaries.

The objective of the nominating game is to establish a government with a chance of addressing the nation's problems. That means that the selection process itself should serve, not just to eliminate pretenders, but to equip the survivors with the alliances and coalitions they will need to function in the White House.

Counting the votes is the right way to choose between the party nominees. But getting the right nominees in the convention halls requires giving the representative process—the political process—room to work.

Unless we as voters understand and accept that reality, the current complaints about the quality of the candidates are likely to be unavailing.

[From the Washington Post, June 11, 1980]

GIVING THE PRIMARIES SOME SPACE

(By David S. Broder)

LOS ANGELES.—The single biggest improvement that could realistically be made in the presidential primary system is to achieve decent intervals between the primaries. Theoretically, it might be nice to abolish two-thirds of the 36 primaries that now clutter the calendar, but that is not possible.

But spacing can be achieved, most simply through the proposal of Rep. Morris K. Udall (D-Ariz.) that primaries be allowed only on the first Tuesdays of March, April, May and June in the presidential year.

Udall offered that suggestion three years ago in a bill co-sponsored by Rep. John Ashbrook (R-Ohio). But, as he knows, the Republican and Democratic national committees could do it themselves without even involving Congress. The need for spacing the primaries is widely recognized, and a number of more sophisticated schemes have been offered for doing that. Regional primaries, "time zone" groupings and other variants are possible.

The Udall plan has the virtue of simplicity. It requires only a single decision by the two party committees—to accept as accredited delegates from presidential primary states only those chosen or bound by the results of voting on those four specified dates.

His plan allows the maximum freedom of choice for the states. No state would be required to hold a primary, nor be barred from holding one. No chronological order of states would be mandated, nor any particular geographical grouping.

If predictably rebellious states like New Hampshire challenged such a rule in court, the precedents suggest that the authority of the parties to prescribe their own delegate-selection procedures would be upheld. Obviously, nonconforming states would have the option of choosing delegates on a wider variety of dates through a caucus-convention system.

Spacing the primaries would have some disadvantages. It would make it harder for a rank outsider to establish himself by an early plurality victory in a single small state. It would require candidates to raise more money at an early stage of the contest. It would perhaps enhance the role of advertising and other "wholesaling" political techniques as against handshaking and other "retailing" methods.

From the viewpoint of a New Hampshire Chamber of Commerce official or a self-proclaimed "outsider" like the Jimmy Carter of 1976, these may seem overriding objections. But the advantages to be gained by grouping and spacing the primaries must seem clear to most disinterested observers.

The grouping process itself would probably encourage some states to drop their primary, thus restoring balance to a selection system now overly weighted to the primaries, where more than 80 percent of the delegates are chosen.

Small states that clung to their primaries, even with altered dates, would find their influence reduced. No longer would New Hampshire be the tail wagging the dog, just because it came first. And no longer would a single publisher, like William Loeb of the Manchester Union Leader, exercise disproportionate national influence because of his dominance of opinion in a single market.

What is true of Loeb would be true of the press and television in general. Spacing and grouping the primaries would reduce the role of the mass media in anointing the candidates—a change I and most other political reporters would welcome.

If the primaries were grouped on four dates, in a somewhat random fashion, most Tuesday nights would find us reporting mixed results. In March and April, with large fields of contenders, a single day might produce five or six different "winners."

Even at the end, results would probably read like those of last June 3, when Ted Kennedy won five primaries and Carter won three—and the stories pointed to the diversity of messages being sent by the voters of various states. That would be healthy, because it would reduce the emphasis on the irrational factor of "momentum." That cursed word might be erased from the journalistic and political vocabulary.

There would be less of a rush to judgment, less of a tendency to force worthy candidates to the sidelines early. There would be more opportunity for candidates to emerge over time and for voters in many states—not just the early states—to play a significant part in the selection process.

Finally, spacing the primaries would allow for real campaigns to take place, rather than the quick flicks of attention that are all the candidates give most states on the present cluttered calendar. It takes time for candidates to deliver serious messages, and time for voters to make informed judgments. With four-week intervals between the primaries, the voters would have that time. There could be nationally televised debates before each new round of primaries and a real airing of issues. And all this could be done without prolonging the campaign process.

In fact, reducing the influence of the results in individual states early in the primary calendar should tend to eliminate the incentive for starting campaigns two years in advance.

With this change—and two others to be discussed in the last of this series of articles—we might even get back to the point where astute politicians believed that the best way to win the presidency was to gain respect in their present jobs.

[From the Chicago Sun-Times, July 1, 1980]

IT ALL HAPPENED IN NEW HAMPSHIRE

(By Richard Reeves)

WASHINGTON.—This is a company town and most of the employees seem to think that they will be getting a new boss next January. So the place is alive with questions about the guy: What's Reagan like? What do you think he'll do? Who will he bring in?

There aren't many answers around here. The fact is that Ronald Reagan was able to win the GOP nomination for president without revealing much about himself or his plans.

And President Carter was able to win the Democratic nomination without answering any questions at all. Without campaigning.

The disappointing thing about the Carter-Reagan choice is not so much what you think of them as men and leaders, but that two very vulnerable politicians were able to win those nominations so easily. A weak, unpopular president and an aging, engaging idealogue were able to glide through what is supposed to be a public testing process.

That means, to me, that the nominating process is almost worthless—at least as a means of testing potential presidents.

Both Carter and Reagan essentially won the nomination in February—when each won his party's primary election in New Hampshire. Why should that little election in one of the smallest states be so important? Because we have stumbled into a system in which the primaries have replaced party conventions as the nominating device—each primary is like a ballot at the old conventions. And New Hampshire is the first, most important ballot.

The idea of the primaries as convention ballots was suggested to me by William Leonard, president of CBS News, who's seen his share of conventions and primaries. And it is his business, network television, that makes the new system possible. TV makes local events like New Hampshire into national events.

We all watch the New Hampshire primary—because of the power and reach of television we almost think we are participating in it. But we are not. Only citizens of that state have the power to vote—and an extraordinary influence on the selection of presidents. Whatever else they were, convention first-ballots were national events in the sense that all states deed power.

If you live in New York or California, while the real business of the Republic is being conducted in New Hampshire, you are a semi-citizen. You can watch, but you can't play. No wonder so many Americans feel alienated from the process—they are.

So, this year at least, it could be argued that one candidate won his nomination by staying at home and worrying about American hostages. Carter never had to face the test of talking about his many failings. The other one may have won simply by grabbing a microphone at a debate in Nashua—that television event seemed to be the key to Reagan's New Hampshire victory.

After that, neither man had to do much of anything. Campaign spending limits—and the natural reluctance of contributors to give money to first-ballot "losers"—practically eliminated the field.●

ORDER OF RESUMPTION OF CONSIDERATION TOMORROW OF S. 2675

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately after the two leaders or their designees have been recognized under the standing order tomorrow, the Senate resume consideration of Calendar Order No. 918, the child nutrition bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Alaska lands legislation continue to be set aside temporarily until the disposition of that measure or until the close of business tomorrow, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 1280 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 2675 tomorrow, the child nutrition bill, the Senate then proceed to the consideration of Calendar Order No. 862, S. 1280, a bill to amend the Energy Policy and Conservation Act; and that the Alaska lands bill be temporarily set aside and remain temporarily set aside until the disposition of S. 1280, order No. 862, or until the close of business tomorrow, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NO ROLLCALL VOTES TO OCCUR BEFORE 12 NOON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any rollcall votes which are ordered before the hour of 12 noon tomorrow not occur until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the convening hour be changed to 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1647.

The PRESIDING OFFICER (Mr. BAUCUS) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1647) entitled "An Act to establish a commission to review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens, to review directives of United States military forces requiring internment of Aleut civilians, and to recommend appropriate remedies, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on Wartime Relocation and Internment of Civilians Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) approximately one hundred and twenty thousand civilians were relocated and detained in internment camps pursuant to Executive Order Numbered 9066, issued February 19, 1942, and other associated actions of the Federal Government;

(2) approximately one thousand Aleut civilian American citizens were relocated and, in some cases, detained in internment camps pursuant to directives of United States military forces during World War II and other associated actions of the Federal Government; and

(3) no sufficient inquiry has been made into the matters described in paragraphs (1) and (2).

(b) It is the purpose of this Act to establish a commission to—

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens;

(2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and

(3) recommend appropriate remedies.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established the Commission on Wartime Relocation and Internment of Civilians (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seven members, who shall be appointed within ninety days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives.

(3) Two members shall be appointed by the President pro tempore of the Senate.

(c) The term of office for members shall be for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) The first meeting of the Commission shall be called by the President within one hundred and twenty days after the date of enactment of this Act, or within thirty days after the date on which legislation is enacted making appropriations to carry out this Act, whichever date is later.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, for each day, including traveltime, he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES OF THE COMMISSION

SEC. 4. (a) It shall be the duty of the Commission to—

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens;

(2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and

(3) recommend appropriate remedies.

(b) The Commission shall hold public hearings in such cities of the United States that it finds appropriate.

(c) The Commission shall submit a written report of its findings and recommendations to Congress not later than the date which is one year after the date of the first meeting called pursuant to section 3(d) of this Act.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

SEC. 6. The Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–18 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(4) procure supplies, services, and prop-

erty by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

TERMINATION

SEC. 7. The Commission shall terminate ninety days after the date on which the report of the Commission is submitted to Congress pursuant to section 4(c) of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 8. To carry out the provisions of this Act, they are authorized to be appropriated $1,500,000.

Amend the title so as to read: "An Act to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order Numbered 9066, and for other purposes.".

Mr. MATSUNAGA. Mr. President, as a cosponsor of S. 1647, a bill providing for a study of the internment of American civilians during World War II, I strongly urge acceptance of the House amendments and immediate final passage of the bill as amended.

The Senate measure was passed by this body on May 22, 1980, and only relatively minor technical amendments were made by the House. Agreement by the Senate will mean that this measure can be sent to the White House for the President's signature.

Briefly, the bill would establish a seven-member Federal commission to conduct a 1-year study of the actions taken by the Government under the provisions of Executive Order 9066, which was issued by President Franklin D. Roosevelt on February 1942. Under that Executive order, some 120,000 Americans of Japanese ancestry, then living on the west coast, were relocated and incarcerated in American concentration camps. Not a single one of them was ever tried for, or convicted of, any crime. Although we are nearing the 40th anniversary of the evacuation, and although many questions have been raised by the former internees and their children, the Government has never examined the actions taken under Executive Order 9066 to determine whether or not the internees were deprived of their constitutional rights.

Such a study is long overdue, and in full confidence of the action of this body, I commend my colleagues and thank them for expediting the final passage of this bill.

Mr. STEVENS. Mr. President, I join with my good friend from Hawaii in commending the House in accepting the proposition of the Senate in this matter. I look forward to working with him.

The Aleuts of Alaska are included in this bill. It is a fine bill.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9:30 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, the Senate will resume consideration of the child nutrition bill.

Several rollcall votes are expected to occur on that measure and on amendments thereto. But rollcall votes will begin no earlier than 12 noon tomorrow.

Upon the disposition of S. 2675, the child nutrition bill, the Senate will proceed to the consideration of the bill, S. 1280, a bill to amend the Energy Policy And Conservation Act, on which there is a time agreement.

The Alaska lands bill will be set aside temporarily until the Senate disposes of those two measures on tomorrow, child nutrition and energy policy and conservation, or until the close of business tomorrow, whichever is the earlier.

I would expect rollcall votes throughout the day on tomorrow.

Mr. President, I hope that I will be able to secure, with the fine cooperation of the minority and all Senators on both sides of the aisle who are involved in the nuclear waste legislation, I hope with the cooperation of these various parties that the Senate will be able to enter into a time agreement tomorrow on the nuclear waste legislation, S. 2189, and, if that can be done, the Senate will not be in on Saturday of this week.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 7:56 p.m., the Senate recessed until tomorrow, July 25, 1980, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 24, 1980:

UNITED STATES PAROLE COMMISSION

Leslie R. Green, of Minnesota, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice William E. Amos, term expiring.

EXTENSIONS OF REMARKS

REPORT URGES GLOBAL ACTION ON RESOURCES

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. ERDAHL. Mr. Speaker, the New York Times carried an article today—or yesterday—on the report prepared by the State Department and Council on Environmental Quality describing the changes in the world's population and natural resources, and the implication of these changes on the population and public policy.

The findings are very disturbing. It points out that the drastic increases in population will occur in the most disadvantaged countries of the world by the year 2000. And, while we struggle with the many problems of our large cities today, it is absolutely mind boggling to envision a world where 60 cities will have more than a million people—which will be the case by the end of the century. Mexico City will be the largest city in the world with 31 million people. In fact, 12 Third World cities will be among the 15 most populous cities in the world. The impact of the great increase in population will have alarming effects on the environment and political stability.

The message is clear enough. We must intensify our efforts to come to grips with the population explosion in a responsible, humane manner if there is to be a livable world for our children and our grandchildren in the year 2000. I submit the article from the New York Times for the record and I ask my colleagues to direct their attention to the report which I have mentioned:

REPORT URGES GLOBAL ACTION ON RESOURCES

(By Philip Shabecoff)

WASHINGTON, July 23.—Time is running out for international action to prevent a starving, overcrowded, polluted, resource-poor world, according to a report for President Carter prepared by the State Department and Council on Environmental Quality.

The report, which President Carter ordered three years ago, was described by Administration officials as the most exhaustive and well-documented study ever produced of long-term changes in the world's population, natural resources and environment and the implications of those changes for populations and public policy.

In a letter transmitting the report to the President, the authors warn that they have found "the potential for global problems of alarming proportions by the year 2000," adding, "Environmental, resource and population stresses are intensifying and will increasingly determine the quality of human life on our planet."

The report itself concludes: "If present trends continue, the world in 2000 will be more crowded, more polluted, less stable ecologically, and more vulnerable to disruption than the world we live in now."

No recommendations for dealing with the predicted problems are made in the report other than urging that the nations of both the industrial and developing worlds, with the United States taking the lead, start now to undertake "determined new initiatives."

The report had been scheduled to be made public tomorrow by the White House, but publication was advanced when an embargo on its release was broken today by the Knight-Ridder newspapers.

As a result of the report, President Carter will establish a new Cabinet-level "Task Force on Global Resources and the Environment" under the chairmanship of Gus Speth, chairman of the Council on Environmental Quality, to insure "high priority attention is given to important global resource, population and environment problems."

In an interview, Mr. Speth said that while the 800-page report presented no startling new findings, "it is in many respects important and, indeed, unique." He continued:

"It is, for example, the first time this Government or any government has made an effort to project the trends in all of these crucial areas at once. It is the most highly detailed and quantified study of these trends and their interrelationship ever made. And it provides the basis for major strides forward for domestic and international policy.

"We have to understand that these are absolutely crucial issues we must address for humanitarian and security reasons," he added.

Asserting that "the world in 2000 will be different from the world today in important ways," the report presents these forecasts on population, income, resources and the environment:

POPULATION

There will be little slowdown in the rapid growth of the world's population, which will grow from 4 billion in 1975 to 6.35 billion in 2000. The vast majority of the added populace will be in the poorer, less developed countries.

There will also be major shifts of population from rural to urban areas. Mexico City, with a population of 11 million in 1975, is projected to have 31.6 million by 2000.

INCOME

While the output of goods and services is expected to grow more rapidly in many less-developed countries than in the industrialized nations, the gap between rich and poor will increase because high population growth rates will keep per capita income low in the poorer countries.

While per-capita gross national product is expected to reach $8,000 annually in 1975 dollars in the industrialized countries and $14,212 in the United States, in the less developed countries per capita gross national product will average less than $600 a year, the report states.

FOOD

Assuming no deterioration as a result of climate changes or other factors, world food production is expected to increase by about 90 percent from 1970 to 2000 and per-capita production nearly 15 percent in the same period. However, most of the increased food consumption will be in countries where diets already are adequate or better. Individual food consumption in South Asia, Africa and the Middle East will hardly grow at all and in some cases will decline below present levels.

Meanwhile, the price of food in constant dollars is expected to double within 20 years largely because of the rising price of petroleum used in agricultural production.

FISHERIES

The world fish harvest, an important source of protein, leveled off in 1970 and is not expected to increase by much, if at all, by the year 2000. Despite increased fish farming and the gathering of nontraditional marine species, such as Arctic krill, pollution and overfishing are likely to keep the harvest at no more than current levels.

FORESTS

Deforestation of the world is proceeding rapidly and per-capita supplies of growing stocks of wood is expected to decline 47 percent worldwide by 2000. The shortage will be critical in cultures that depend on firewood for fuel.

WATER

Regional water shortages, already serious in many parts of the world, are likely to become worse 20 years from now in the face of increasing demand for water for human consumption, irrigation and new systems of energy production.

ENERGY

In the 1990's, world oil production will reach maximum capacity and prices will continue to rise as demand also increases sharply. The burden of energy prices will fall most heavily on the less developed countries.

NONFUEL MINERALS

There is no projection that any mineral resources will be exhausted by 2000, but prices will rise sharply as will prices for most commodities in a resource-scarce world.

ENVIRONMENT

The report says that perhaps the most serious environmental problem over the next 20 years will be "an accelerating deterioration and loss of the resources essential for agriculture," including the loss of crop land to erosion and deserts as well as the increasing urbanization of lands now devoted to growing food. The use of pesticides and other chemicals, while increasing yields, now present a broad range of serious environmental threats to crop lands and people.

The heavy use of chemicals also will mean spreading water pollution. Increasing salinity from excessive irrigation is also likely to threaten water supplies.

Despite progress in reducing air pollution, the quality of air is expected to worsen, in the developing as well as industrialized countries, as increased amounts of oil, coal and other hydrocarbon fuels are burned.

One result will be an increase in the amount of carbon monoxide in the air, which many scientists believe will raise the world's temperature with disastrous results. Also to be expected is more acid rain, which is believed to destroy wildlife in freshwater lakes and damage cropland. Increased ozone in the air could sharply increase the incidence of skin cancer and damage food crops.

Finally, the report says, "the world faces an urgent problem of loss of plant and animal genetic resources" through the accelerating extinction of species.

GUIDE TO GOVERNMENTS

The authors of the study said that public policy in this country and abroad was starting to address some of these problems. They also emphasized that the report was not a prediction of what would actually be the situation in the world in the year 2000 but rather a call and a guide to governments to adopt policies to avert the predicted trends.

"This is not a council of despair," Mr. Speth said in the interview. "We have an opportunity because of this timely warning to address these issues before it is too late."

One of the major lessons to be learned from the report, he said, is that "it is a mistake to view economic development and environmental protection as antagonistic."

The focus of the new task force formed by President Carter today, Mr. Speth said, will be to "build a consensus" in this country and internationally on the course of action that must be taken to deal with the threats described by the report.●

DONALD T. CARPENTER

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. MOORHEAD of California. Mr. Speaker, last week a southern California community lost one of its most distinguished leaders, Donald T. Carpenter, publisher of the Ledger newspapers.

Mr. Carpenter fought courageously for those virtues in which he believed. He was a true patriot who refused to compromise the welfare of his fellow citizens, his country, or his views.

As an editor-publisher, he received numerous awards, including three George Washington Honor Medals and two honor certificates from the Freedoms Foundation at Valley Forge.

Mr. Carpenter was a friend of mine and thousands of others from our district and community. I include in the CONGRESSIONAL RECORD parts of two eulogies written by Beverly Place and Mike Pottage, who were both employees and friends of Mr. Carpenter.

PATRIOTIC SPIRIT TYPIFIES EDITOR

(By Beverly Place)

"Eternal vigilance is the price of liberty." That was the motto Don Carpenter had chosen for The Ledger's masthead—a staunch motto that pervaded his editorial commentary through the years.

Former Assemblyman Frank Lanterman said: "Don Carpenter stands as a beacon of freedom, liberty and justice and is a tribute to the nation he has epitomized."

And the spread-winged eagle in The Ledgers front page insignia, Lanterman described as showing "flaming defiance and a spirit of patriotism unashamed."

Now the editor and publisher of The Ledger Newspapers is dead. Don Carpenter, who once said, "Without my family and without The Ledger family, I could certainly claim no success," has lost his valiant battle with cancer. But for so many, there will always be wonderful memories of the man.

He was a man of the mountains and the prairies. He loved the sea. He was a hunter and a fisherman. He collected art, Western Americana, guns, ship and airplane models—and awards.

His favorite reading was politics and history, particularly that of the United States. He loved to give out nicknames. He was a marvelous raconteur. His wonderful sense of humor was as infectious as his ready laugh. He was also a good artist, cartoonist and photographer.

Don Carpenter's files are filed with notes and letters from senators, congressmen, governors, generals, mayors, judges, sheriffs, supervisors and police chiefs as well as the many who vigorously agreed or vehemently disagreed with his editorial stands. He was proud of that—he was being "read."

As Mr. Carpenter's time became more involved with the responsibilities of operating his large newspaper business, he had less time for news reporting. But on everything he wrote, he always closed with "30" to denote the end of the copy—the finish of the story.

And so it is with newsman Don Carpenter, we now write a final "30."

DONALD T. CARPENTER, 1915–80

(By Mike Pottage)

Respect. The man whose Mostly Political column occupied this space since 1938, received respect from all quarters. He earned it. He gave it.

Donald T. Carpenter guided this newspaper, watched it grow, and with considerable pride, accepted hundreds of accolades from fellow newspaper people and the public.

But the rewards were not just cast in bronze and mounted on walnut. For Mr. Carpenter the rewards came when real community progress was achieved and his newspaper had had a part in that achievement.

Respect. The man and his editorial crusades, for or against, always showed proper respect. Donald T. Carpenter was a family man, a religious man, a man with a historical perspective. He was a traditionalist, a conservative, a crusader. He was a man with historical perspective. It showed in his politics. He never gave a knee-jerk reaction to a crisis, but instead judged the issue from a basic philosophy, a philosophy that emphasized freedom, liberty and individual responsibility. If the issue involved a choice between government programming and individual effort, Mr. Carpenter was for the individual.

There were times when the choice was between a political position and advertising revenue. The decision was easy. Principle came before money. And those who brought the financial pressure learned respect. They came back.

With a national reputation as a conservative newspaper editor and publisher, Mr. Carpenter was the first to endorse Senator Barry Goldwater for president. Robert Taft had been his choice over Dwight Eisenhower. He never wavered in his defense of Joe McCarthy. He criticized those people and institutions that would change the American republic. He was anticommunist. He worked hard for American veterans. He advocated military supremacy and an American-first foreign policy.

At home, he sought to strengthen local city councils and school boards. Federal aid, his editorials always reminded area officials, ultimately bring federal control.

Within the newspaper community, Don Carpenter worked hard to keep governmental institutions open to the press, and thus the public. He once told a joint membership of the Bench, Bar and Media Committee to dissolve. The issues of press freedom and fair trial were settled with the adoption of the Bill of Rights.

I took a leave of absence for one year to work in Washington D.C., and one evening at the other end of the telephone line was Don Carpenter. "Mike," he said, "Steve is away at school, and I just felt like talking to a son."

Mr. Carpenter, if you don't mind, from time to time I may talk to you. You always were a good listener. RIP.●

A HEROIC RESCUE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. MAVROULES. Mr. Speaker, once again I call your attention to a brave and compassionate act committed by one of my constituents that demonstrated remarkable courage.

According to the report of a playmate who saw the incident, a group of children were involved in a fierce water balloon fight in Danvers, Mass., when something started to go wrong. One of the boys accidentally swallowed a balloon he was trying to blow up. He began to choke on the balloon, gasp for air, and he started to turn blue.

It was then that my constituent, young Kevin Carney, came to his friend's aid and dislodged the balloon using the Heimlich maneuver, a choke-saving method he had been taught in school, saving his friend from what could have been a serious threat to his life. I am extremely proud and honored to represent Kevin Carney, and I hope that other children will learn from his courage and strength in the face of a stressful situation.●

IRANIAN TERRORISM IN WASHINGTON

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. McDONALD. Mr. Speaker, yesterday 19 of my colleagues joined with me in asking the Attorney General to immediately initiate an investigation into Iranian terrorism in Washington, D.C. A copy of the letter that was sent to Attorney General Civiletti is as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1980.

Hon. BENJAMIN CIVILETTI,
Attorney General, Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: With the murder of former Iranian diplomat Ali Akbar Tabatabai on July 22, by a group evidencing terrorist training and support by their modus operandi we must urge the Department of Justice and the Federal Bureau of Investigation to provide us with reports on the activities of pro-Khomeini terrorist and terrorist-support groups presently active in the United States.

The activities and potential of these groups to use terrorist tactics in the U.S. obviously poses a threat to the maintenance of law. It also creates a threat to the national security of the United States. Responsibility for preventing terrorist attacks rests with you, as Attorney General, and with your department.

Specifically we wish to be informed on:

(1) The activities on behalf of the Government of Iran and/or Ayatollah Ruhaolah Khomeini or any other Iranian principals of Bahram Nahidian of 2046 Kirby Road, McLean, and whether any action has been taken against him under the Foreign Agents Registration Act or any other federal law.

(2) The activities of Bahram Nahidian in relation to the Islamic Center in Washington, D.C.; his attempts to coerce the leadership of that Center by force and his use of that religious institution to cloak political activities of a nature inimical to the interests of the United States.

(3) The activities of Bahram Nahidian and his associates to recruit support from among Muslim and other prisoners in Lorton Reformatory, and in other local, state and federal prisons in various parts of America.

(4) Information related to contacts and meetings between Bahram Nahidian and members and former members of revolutionary groups, active in the District of Columbia; together with known reports of weapons owned or stored by Bahram Nahidian.

(5) The activities of the Iranian Student Association (ISA) and its fronts and splinter groups, including the organization known as the Islamic Guerrilla Association, possibly based in Moscow, Idaho.

(6) The activities of revolutionary groups in the U.S. supporting the activities of the ISA, including but not confined to the support provided by the Workers World Party (WWP), the Socialist Workers Party (SWP), the Communist Party, U.S.A. (CPUSA), the Communist Party, Marxist-Leninist (CPML), and the Revolutionary Communist Party.

(7). The activities of persons serving as diplomats in Washington, D.C. for the governments of Libya and Afghanistan in support of groups listed in paragraphs 4 and 5 above.

(8) The activities of diplomats, accredited to the United Nations in New York City, representing the government of Libya, Iraq and Afghanistan, and representatives of the Organization of Arab States and the Palestinian Liberation Organization (PLO) in supporting financially and logistically any activities of groups listed in paragraphs 4 and 5 above.

It would be appreciated if you would provide us with an initial response to this letter on or before July 31, 1980.

Sincerely,

John H. Rousselot, Benjamin Gilman, John Ashbrook, Larry P. McDonald, Thomas Kindness, Mendel Davis, Eldon Rudd, G. V. Montgomery, Tennyson Guyer, Daniel Crane, James Collins, Carroll Hubbard, Don Young, William Dannemeyer, Ron Paul, Lester Wolff, Philip Crane, Sam Devine, Richard Shelby, and Kenneth Robinson.

Members of Congress.●

THE TWO FACES OF THE IRS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. HANSEN. Mr. Speaker, the tax collector should collect revenues due to the Government and administer tax laws fairly and impartially. Nowhere was it intended for the Internal Revenue Service to abuse citizen rights and cheat them out of their money. And yet we are witnessing a continued IRS metamorphosis from the dutiful servant into a dangerous and provocative role of Dr. Jekyll and Mr. Hyde.

The following article in the May 1980 edition of Saturday Review by investigative journalist Blake Fleetwood outlines the grave departure from acceptable practices the IRS is too frequently taking:

THE TAX POLICE TRAMPLING CITIZENS' RIGHTS

The IRS does a good job of collecting America's taxes—too good a job. In its zealous pursuit of revenue, the agency will do just about anything: pick locks, bug phones, spy on you. And if you're not terrified enough by that, there's always the audit.

It is a land ruled by Draconian laws. There people are guilty until proven innocent. Even when you've done nothing wrong, it is wiser to confess and pay a large fine than to hire a lawyer to establish your innocence. Agents of the regime routinely seize homes, businesses, cars, bank accounts—even before the victims are told what they have been accused of. The incomprehensible laws change all the time, according to whether you live in the city or the country; when new laws are made the regime won't disclose them to the citizens. If you need help, the rulers will gladly give you advice, but they don't promise that the advice is sound. If they feel like it, they can prosecute you for doing exactly what they told you to do. And if the regime is after you, there's nothing it won't stoop to: It will bug phones, pick locks, hire women to prostitute themselves, and use a variety of methods to spy on your private life.

This is no foreign, totalitarian land. Its borders are coextensive with the United States. It is the land of the Internal Revenue Service (IRS), an agency that has so much raw naked power, it has become virtually a law unto itself. It is responsible to no one.

Consider the case of James White, a carpenter. White was working in the home of a man who had been arrested the night before on a drug charge. IRS agents rushed up and confiscated the carpenter's car, which was parked in the driveway—despite documentary evidence that the automobile did not belong to the person the IRS was after. It took eight months, $1,500, and a federal court order for White to get his car back. And the frightening thing about the incident was that the IRS agents were acting completely according to the law. They can take anybody's property, anytime, and it's up to you to prove that they are wrong.

Or consider James Thun, who, after 20 years of hard work, turned a bushland into a thriving airport. He has assets on paper worth more than $2 million. Then the IRS started harassing him, with seizure-liens, assessments, penalties and interest, and legal fees. Trouble is, he sold the airport for annual payments, but the IRS wanted all of its money right away. He was audited every year from 1969 to 1977, paid over a quarter of a million dollars in taxes, and is now bankrupt. The IRS still claims that he owes over $200,000.

Or Michael Wolstencroft, the resident manager of the Castle Bank in Nassau, who in a recent affidavit testified that he had sexual relations with Mrs. Sybil Kennedy several times, "including the night of January 15, which I spent with her." Mrs. Kennedy was a paid IRS informant. Her assignment that night was to keep Wolstencroft busy so that other agents could photocopy the contents of his briefcase. Mrs. Kennedy was paid $200 to $300 for her services.

Or a case described recently by columnist Nicholas Von Hoffman in which the IRS sent Mrs. Virginia Wright, a mother of five, to jail for owing $11,661 in back taxes. The poor woman made $10,000 a year as a practical nurse and had been unable to make ends meet. Why had she been selected? The answer, according to Von Hoffman, has a lot to do with public relations. Every March, the "tax gangsters" of the IRS flood the mass media with stories about the horrible things that will happen to you if you don't pay up. So, although Mrs. Wirght offered to pay her due taxes in installments, the IRS didn't want to accept because "she had been selected by the bureaucratic roulette of cruelty to play the part of Terrifying Example."

The IRS claims that these transgressions have stopped, that the agency is behaving itself today. However, a four-month investigation by Saturday Review has revealed that abuses are still common.

Last summer, for example, two IRS agents put on a brutal display in full view of dozens of onlookers and news photographers. While Stephen and Mona Oliver sat in their Volkswagen, the agents smashed in the car windows and dragged the couple over the broken glass, leaving them bruised and bloody. A tow truck hauled their car away. The IRS assessed them $4,700 for their 1977 taxes without giving a reason and moved immediately to seize their car.

Unfortunately for the Olivers, they live in Alaska, one of three easy-seizure states (Nevada and Ohio are the other two). If you live in one of these states, the IRS is two or three times more likely to use seizures and levies to "settle" delinquent accounts than in Georgia, Kansas, and Wyoming. The seizure rate is also high in Montana, Vermont, and Minnesota.

The IRS monster has been out of control for decades. The first indication that the agency was overstepping its authority was in the 1930s, when it came to be regarded as a weapon against organized crime. The Justice Department could not dispose of mobsters like Al Capone and Frank Costello within the traditional bounds of American jurisprudence. So it recruited the IRS to do the dirty work. Now using the IRS to put mobsters in jail is not something most of us, except the American Civil Liberties Union, can get very upset about, but it set the precedent. The agency began being employed for political and economic ends, far from its main function of collecting revenues impartially. In the Fifties the IRS was used against leftists and Communists. In the Sixties the "get the Mafia" campagins of the Justice Department relied heavily on IRS special agents and their powers. In the Seventies suspected drug dealers were liable to confiscation of all their property without any hearing whatsoever. The trend culminated in the Nixon years. The agency was unleashed against the President's enemies; Federal Strike Forces, with the help of special agents and broad-based conspiracy laws, harassed virtually anyone they wanted; and the agency launched operations Haven and Leprechaun, which spied on people's private lives.

A few years ago an independent government-sponsored study concluded that the IRS is frequently "whimsical, inconsistent, unpredictable, and highly personal." The secrecy of its procedures and rulings, the report claimed, has resulted in "dissimilar treatment of similarly situated taxpayers." The study said that the authority Congress has given the IRS makes its agents among the most powerful in government.

Attempts to curb the IRS have proved futile, for the organization is not subject to the system of checks and balances. This is not to say that there have been no reforms, but rather that they have been largely cosmetic.

The fate of two legislative investigations of the IRS shows the extent of the agency's power. In the mid 1960s Senator Edward V. Long (D.-Mo.) conducted an exhaustive three-year probe into the IRS. The Senate subcommittee he chaired found that the IRS defied court orders, criminally picked locks, stole records, illegally tapped phones, opened mail, and that much of this lawlessness was encouraged by highly placed Washington officials. "The IRS," Long said, "has become morally corrupted by the enormous power which we in Congress have unwisely entrusted to it. Too often it acts like a Gestapo preying upon defenseless citizens."

What happened to Ed Long? His tax returns were illegally leaked to Life magazine months before his reelection campaign in 1968. All sorts of irregularities were suggested. Long was cleared by a Senate subcommittee and never did have any tax problems, but his 38-year politicial career was destroyed. Although he had never been beaten in a political race before, he lost the Democratic nomination to Thomas Eagleton.

"He caught it across the chops and we never finished the investigation," according to Bernard Fensterwald, the prominent Washington attorney who was chief counsel for Long's committee. "It taught other people not to investigate the IRS." Fensterwald was himself audited for years afterward—in retribution for the investigation, he believes. "Senators and congressmen not scared of looking into the IRS have to be crazy, because the IRS will just ruin your career. If I worked for one I would sure advise him against investigating the IRS."

Only one senator was brave—or foolish—enough to take on the agency again: Joseph Montoya (D.-N.M.) of Watergate fame. Montoya chaired a Senate subcommittee that had jurisdiction over IRS spending. In 1972 he started looking into IRS abuses and was branded in a confidential IRS memo as a "dangerous protester." But Montoya had just been elected to his second term in 1970 and wouldn't be up for reelection until 1976, so the IRS apparently decided to bide its time. It publicly announced that it had gone through the senator's tax returns from 1966 to 1972 and found nothing to warrant an audit. Montoya continued to hold hearings on IRS abuses. In 1974, one day before Barbara Hutchinson, who had spoken publicly against the IRS, was due to appear before his subcommittee he was visited by tax agents. They informed him that Mrs. Hutchinson was unfit to testify because she was under psychiatric treatment. This was untrue. She had never undergone psychiatric treatment—not, that is, until after she testified before Montoya that the IRS used mental hospitals to repress dissent. Shortly after her appearance, she was convicted of omitting the signature of a tax expert on her return, despite the fact that her attorney had signed it, and was hauled away for a 90-day psychiatric evaluation. Only through the efforts of Senator Montoya, Senator Mark Hatfield (D.-Ore.), and the Citizens Commission on Human Rights was she able to regain her freedom.

Months before Montoya's reelection campaign in 1976, the IRS struck again. The ground was well prepared. The year before, the agency had leaked stories that Montoya was being shielded from an audit by the IRS commissioner. The news of an audit mysteriously found its way into Jack Anderson's syndicated column. Cover-up and tax irregularities were alleged. Montoya had no chance to defend himself. The Republican opposition made use of the burgeoning scandal and Montoya lost the election, his first defeat. It was the end of a 40-year career in public service. Mysteriously, as in the Long case, no tax irregularities were ever found in his audit. In fact, according to Montoya aide Doris Ulman, the IRS discovered that they owed him money.

The IRS has also managed to frighten much of the nation's press with its unlimited auditing power and its ability to find something wrong, somewhere. (According to an IRS memo, "Agents should be able to discover errors in 99.9 percent of all returns if they want.") Overwhelmingly, the evidence shows that journalists and newspapers are audited after criticizing the agency, though the IRS has steadfastly refused to admit that anything out of the ordinary has happened.

Take the case of Ernest Bromley, former editor of the Peacemaker, who advocated nonpayment of taxes for war and armaments. The IRS promptly began harassing him and eventually confiscated his house. The reporter who detailed Bromley's problems for the Cincinnati Enquirer was himself audited presently but could not prove that the audit had anything to do with his story. Bromley ultimately won his battle in court and the house was returned to him.

Playboy magazine, which first wrote about the Bromley case in a biting article attacking IRS methods, soon thereafter found itself facing a tough IRS probe. Three months after the article was printed in April 1976, the magazine was assessed $7.7 million following the IRS's refusal to accept Playboy's deductions. Subsequently the magazine was told to pay $13.6 million for 1970-76. Playboy continues to contest the agency's assessment.

Perhaps the best investigation of the IRS, however, was conducted by ABC in an hour-long documentary in 1975. Highlighting the many abuses of the IRS, the show demonstrated that Congress had been negligent in overseeing the agency. The program also called for restrictions on the IRS's right to seize property. (In 1976 Congress did enact laws designed to insure the confidentiality of tax returns and cut back on some of the seizure powers.) Two weeks after a screening for the IRS, the documentary's writer, Paul Altmeyer, was called in for an audit, and dunned $2,125.09. It took him a year, a dozen letters, and hundreds of phone calls to straighten out the matter, despite the fact that Altmeyer was able to take his case directly to the commissioner. After his vigorous protest, the IRS decided that, in fact, what he really owed was $51.47. He was audited once again, and then the audits stopped just as suddenly as they began.

Under the Freedom of Information Act, Altmeyer discovered that the IRS had compiled a nearly 100-page dossier on him, almost all of which was assembled after the program was aired. Many of the documents were classified, but he nevertheless felt that the handling of his case was suspicious: "I have no way in hell of proving that the show kicked off the file," he says, "but I found some unusual patterns in the way it was switched from office to office."

Hank Greenspun, publisher of the Las Vegas Sun, also investigated the IRS and was continually harassed. "Whenever a paper prints something other than IRS releases verbatim," he stated, "they themelves become targets of harassment. No publisher or editor is immune from an audit. The research in our series has shown that any newspaper that wrote anything critical of the IRS has been submitted to an audit, and this scares them off."

Organizations that have traditionally fought for citizens' rights have chosen not to tangle with the IRS. The ACLU, for example, has never really contested IRS dogma, which holds that the taxpayer is guilty until proven innocent. Ralph Nader's group, Public Citizen, documented many IRS abuses, but lately has been silent on the subject.

Moreover, tax lawyers and accountants—the only people in a position to know what the IRS is doing—have been intimidated into silence. E. Edward Stephens, who writes a tax column for the Washington Star, says: "They don't complain because the IRS has the power to destroy their business." Recently the IRS instituted a new rule requiring every paid preparer to append his social security number or his IRS identification number to every return he works on. The agency maintains a Problem Preparer's List and can quickly audit all the clients of a particular lawyer, thus forcing him out of business. Another new rule makes every tax preparer liable to a $100 fine for even an honest error. (For fraud, he can be hit with a $5,000 fine and/or five years in jail.) Given the complexity of the tax laws, "errors" can be found on all but the simplest returns. The net effect is to discourage accountants from advising their clients on legitimate deductions. It forces them to be what former Internal Revenue agent Paul Strassels calls "part-time employees of the IRS."

For instance, an attorney in Greenwich, Connecticut, patiently answered questions about his tax returns until the IRS demanded all his records. "You have no right to them; they contain confidential information," he said. So the IRS arbitrarily disallowed his legitimate business deductions for three years and claimed that he owed the government $27,703.52. It seized his bank accounts, ordered tenants of a cottage that he owned to pay their rent to the government instead, and confiscated his boat. After hounding him for more than two and a half years, the IRS decided that he owed nothing at all.

The case of Chicago accountant Howard F. MacNeil is especially chilling. He was assessed $36,000 personally for the taxes of a corporation that had been one of his clients. MacNeil refused to be bullied into a "compromise" and the IRS, as it has the power to do, without any court proceeding, attached his bank accounts and posted signs around his house proclaiming "Keep Out—Property of the U.S. Government." He lost his business and went into debt as he waited years for his case to come to court. At the trial he was completely vindicated, but in the meanwhile the IRS had completely ruined him.

Despite the odds, there have been effective campaigns against the IRS. Susan and Philip Long, a modest couple from Bellevue, Washington, have been locked in a winning struggle with the agency for the last decade. In 1969 Long, a small real estate developer, was audited and assessed $38,144 in addition to the $21,412 he had already paid over a previous three-year period. He found out from friends that this is a typical IRS opening gambit. If you fight them, he was told, they will settle for one-third or less of their original claim. But Long was a totally honest man. He didn't owe the money. He couldn't afford a lawyer, but that didn't stop him. He went after the agency, all the more after it threatened to seize his property if he carried his fight any further.

With Sue Long doing most of the legal work, the couple sued under the Freedom of Information Act to see how the IRS reached its conclusions. The IRS claimed that detailed knowledge of its procedures would make it easier for people to evade the regulations, a line of argument that had been upheld by numerous courts. The Longs replied that they just wanted to know what the regulations were, seemingly a simple enough request, yet it was a million-to-one shot that they would prevail. The Longs were not to be thwarted, however. After spending $20,000 and 10 years of their lives on the matter, a series of landmark cases forced the IRS to reveal some of its regulations. The Longs' own case was not settled until 1977, when the U.S. Court of Appeals upheld Philip and Susan Long's original contention that they didn't owe the IRS anything.

Because invoking criminal sanctions would bring taxpayers under the stringent demands of due process, the IRS prefers civil penalties: Less than one in 10,000 IRS actions involves criminal penalties. As long as cases remain in the civil area, taxpayer rights are practically nonexistent.

Nor is the average wage earner in a position to defend himself legally against a $500 or $600 IRS claim. (The average recommended deficiency for a field audit is $2,584, and for an office audit $220.) The cost of a decent attorney prohibits contesting such relatively small assessments. Hence, it is easier for the IRS to zero in on defenseless middle-class taxpayers than to indict tax criminals or tax evaders. For 20 years the IRS has denied that it has a quota for auditors, but testimony and memos made public by dozens of ex-auditors belie the assertion. They are simply very careful not to call it a quota. Auditors are under great pressure to produce, and the middle-class and often the poor bear the brunt of IRS effort, since they are its most helpless victims.

Most of the abuses of the IRS are well known within the agency, and serious efforts at reform have come from the commissioners as well as from low-level agents. Unfortunately, the attempts have been doomed to failure in the face of the bureaucratic powers that be. The problem is that the commissioners, usually tax lawyers with little administrative or political experience, are in an impossible position. They serve an average of three years with no independent staff and have virtually no way of finding out what's going on. Agents, through their union, and ex-agents have also complained about IRS abuses, including the "nonexistent quota system" and the severity with which the agency interprets the law, but the pressures from the bureaucracy have been too great.

In fairness, it must be noted that the agency is trapped in a situation not wholly of its making. People have been getting angry at the tax system for a variety of reasons—the inequity and complexity of the tax laws, as well as the tangential factors of recession and disillusionment with government spending—and this is forcing the IRS to pursue revenue ever more vigorously. (A national Roper poll found that 64 percent of the respondents thought that the tax system was "totally unfair.") Signs of tax unrest are everywhere. The speed with which Proposition 13 fever spread across the country may be equaled by Howard Jarvis's latest proposition, which would cut state income taxes in half. In Alaska, tax rebels are trying to do away with the state income tax altogether.

More ominous for the IRS is the tremendous amount of nonreporting. Recent studies have shown that cash businesses—boutiques, restaurants, bars, shoe stores, etc.—routinely cheat on their taxes. The agency itself admits that 48 percent of independent contractors (people whose taxes are not withheld from their salary) report no income whatsoever. A "cash discount" has become commonplace; it works for television sets, doctor bills, carpenters, and just about everything else. This underground economy represents by some estimates as much as $250 billion a year, 10 percent of the entire U.S. economy.

The response of the IRS bureaucrats to the growing discontent takes several forms. On the one hand, they deny that anything is wrong. They know that the more people hear about other people not paying taxes (the rich with loopholes and the poor by living "off the books"), the more such behavior will be imitated. And they like to point out that we have the best "voluntary" tax system in the world—97 percent of all revenues are sent in freely. On the other hand, the agency has been asking for more money and sweeping new powers from Congress to clamp down the anti-tax behavior. Last year the IRS added 750 auditors to cope with the growing tax rebellion. Since 1969 the cost of operating the IRS has tripled, even though they are doing fewer and fewer audits.

If the problem, then, is the progressive tax system itself, the question that must be asked is: What is there to replace it with? Many people have proposed the Value Added Tax (VAT), essentially a large sales tax that prevails in many Western nations, as a reasonable alternative. Indeed, Representative Al Ullman has introduced a bill in the House that would impose VAT on goods and services. Another possibility has been put forth by free-market economist Milton Friedman. He claims that current tax rates, which range 'from 14-70 percent are "window dressing." He proposes a flat 13 percent tax; the revenue yield, he says, would be the same.

The basic argument against these two proposals is that they favor the rich. But under the present setup the loopholes are so obvious that only fools pay the full 70 percent. The brunt falls on the middle-class wage-earner (presumably under any flat system, people with low incomes would be excluded from paying taxes at all).

One editorial called the U.S. tax system "organized insanity, administered by the asylum's inmates." The trouble is that "progressive" taxation rests upon a jerry-built structure of incomprehensible, unenforceable, and inequitable laws. Until that changes, the Internal Revenue Service will keep terrorizing the citizens of America.●

REPRESENTATIVE CHARLIE BENNETT PRAISED

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. CHAPPELL. Mr. Speaker, on many occasions the Members of this House are the recipients of criticism from the press and other news media. It sometimes may make us critical of our country's great institution: the free press. Yet, it is equally true that it is the press which calls public attention to the truly commendable achievements of our colleagues. Such a case is the July 10, 1980, Ocala Star-Banner editorial on my esteemed colleague from the Third District of Florida, Representative Charles Bennett:

An Enviable Vote Record by Bennett

You've got to hand it to Rep. Charles Bennett of Jacksonville. For someone who wears a heavy brace on his polio stricken leg and uses a cane, the veteran lawmaker has fashioned a truly remarkable record in Congress.

He is the Lou Gehrig among the nation's lawmakers, having completed 29 years in the House of Representatives without missing a single legislative roll call vote.

This would be an outstanding record for anyone to accomplish. The fact Bennett as a polio victim was once told he could never walk again, makes his achievement all the more significant.

A member of the House since January 1949, Bennett has compiled a voting record that's not likely to be equaled or even approached anytime soon, if ever.

Although it's considerably more difficult for him than his colleagues to get to the House floor to vote within the 15 minutes allowed by the rules, he has answered over 12,500 roll calls, including in excess of 8,337 recorded votes and more than 4,172 quorum calls.

Actually, Bennett's disability is the driving force behind his voting performance. He was determined from the start of his congressional career to prove the brace and cane would not slow him down in representing his constitutents.

Bennett has no intention of easing up after all these years and after having convincingly proven his capabilities to make it to the chamber on time for roll call votes. "I plan to keep on responding to the roll calls as the best way of insuring that my constitutents have a say in every matter before the House," he says.

There is a blemish, however, in what otherwise would be an unbroken string of participation in all types of congressional votes.

Back in February 1974, he missed a procedural roll call vote by several minutes. He had been told there would be no more roll call votes that day, so he left for home. After a roll call had been demanded unexpectedly on a motion to adjourn, one of his aides frantically tried to track him down. But despite rushing back, he arrived several minutes after the vote had been concluded.

Even so, that single instance does not detract one bit from what truly is a remarkable voting record in an era when absenteeism frequently is high in both the House and Senate.●

SHOULD FOREIGN STUDENTS GET HOUSING SUBSIDIES?

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. VENTO. Mr. Speaker, the House today approved an amendment I offered with Mr. Sabo which will prohibit nonimmigrant foreign students from receiving Federal housing subsidies. I include in the Record the articles from the Minneapolis Tribune which brought this situation to my attention. I am pleased that the House approved this amendment and I wish to inform my colleagues that I will offer a similar amendment to the Housing and Community Development Act Amendments of 1980 when it is considered by the House. The following article was the first in a series of two articles; I will include the second article in tomorrow's RECORD:

Should Foreign Students Get Housing Subsidies?

(By John Kostouros)

When Mark Stoffer and Reed Bible separately but coincidentally discovered that many—probably hundreds—of foreign students living in the Twin Cities are receiving federal rent subsidies that can amount to hundreds of dollars a month, they were shocked.

So, apparently, were officials of the Department of Housing and Urban Development (HUD), which administers the rent subsidy programs for low-income people. Foreign students must pledge that they can support themselves and that they will not become charges of the government in order to get permission to study in the United States.

Ever since, HUD has been scrambling—so far unsuccessfully—to find a way to stop the subsidy payments, according to department officials.

Even though officials from both agencies say the students should not be allowed to receive the subsidies, that payment of any public monies to foreign students violates the spirit if not the letter of the laws governing student visas, officials say current immigration and housing guidelines are unclear about how to stop foreign students from receiving the subsidies.

"I think the students are really enjoying a loophole in our laws and regulations," said Gerald Coyle, director of the Twin Cities immigration office.

Stoffer, a criminal investigator for the immigration service, found out about the rent subsidies while he was investigating charges that a student and his wife were employed, a violation of their student status. His investigation convinced him that foreign students have been collecting housing subsidies for years, and that the payments are widespread. Stoffer has been working with HUD to try to stop the payments.

Bible, the coordinator for assisted housing at the Cedar Square West apartments, discovered the same thing last year soon after he began working at the complex.

A list of tenants receiving subsidies at the complex shows that as many as 200 foreign students living there are receiving rent subsidies. Some are paying as little as $48 for apartments that normally rent for $280 to $400.

When Bible, a law student, complained to HUD about the situation, HUD officials first told him to stop putting foreign students on the subsidy program. But in mid-June, just six weeks later, HUD official Doug Strandness retracted the suggestion, telling Bible that HUD's central office had ruled that the subsidies could not be denied just because the applicants were not American citizens.

That ruling effectively tied Bible's hands, He was forced to resume placing foreign students in subsidized apartments. Meanwhile, the waiting list for the 600 subsidized apartments at the 1300-unit complex remains long, from five to eight months. The three subsidy programs being offered at Cedar Square West are supposed to aid low- and moderate-income families.

(Rent subsidies, which are parceled out to cities on the basis of need, have always been in short supply in the Twin Cities. Housing officials say that the demand for housing assistance now is very high because of a shortage of affordable rental housing and the impact of the recession on family earning power and unemployment.)

The subsidies, which vary according to the program and the applicant's family size and stated income, can be substantial. One Taiwanese student is paying $107 a month for a one-bedroom apartment that normally rents for more than twice that much.

An Iranian student with a wife and two children pays $46 a month for a two-bedroom apartment that normally rents for more than $300. Iranians make up the largest group of foreign students living at Cedar Square West, according to documentation provided by the management. Forty-one subsidized apartments are rented to Iranians. Korean students account for 36 units, more than twice as many as the third largest group.

Nobody disputes that many of the students need help, although everyone contacted had heard stories about foreign students living affluently while receiving the rent subsidies. And Bible has known of students who have put the names of other foreign students on the waiting lists for subsidies, even before the student has arrived in the United States.

"That way when the student arrives, he doesn't have to wait long to get an apartment," Bible said, Applicants can register by mail.

But the real issue, according to Bible and the government, is whether the government should be subsidizing the housing of foreign students when it cannot provide for the needs of American families.

HUD officials say no, but protest that federal law prevents them from withholding housing subsidies on the basis of citizenship. Congress must change the housing laws before the department can act, they say.

Immigration officials say no, but admit that they have yet to try to take action against a foreign student who has applied for and is receiving a rent subsidy.

"But we intend to," Coyle said. The only action the department can take against a student is deportation, he said, and that cannot be accomplished without taking the student before a special immigration judge.

And immigration officials say they are not even sure what will happen if they try to deport a student for getting subsidies. The laws that govern entry into the United States clearly state that a student must intend to support himself when he gets here, according to Coyle. But once the student has arrived, the laws governing deportation are less clear.

"If we can get them to publish federal regulations stating that it will be a violation of student status to accept subsidies, then we would have them on a violation of status," Coyle said. Not everyone agrees that the students should be prohibited from getting subsidies.

"During their stay in the United States a small number of students have something happen that prevents them from supporting themselves," said Wadad Alsuwayeh, president of the Minnesota International Students Association (MISA).

Students who come to the country fully intending to support themselves sometimes find themselves in a bind because of political changes back home, or changes in family situations that prevent family members from continuing to support the student, he said.

"I can't think of one example of a student who gets assistance who does not need it," Alsuwayeh said. "I don't see anything wrong with a student getting financial assistance if it is needed."

American students studying abroad often get help from the governments of their host country, Alsuwayeh said. "I think the same standards should apply here."●

TURKISH INVASION OF CYPRUS

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Ms. FERRARO. Mr. Speaker, this past Sunday, July 20, marked the sixth anniversary of the Turkish invasion of Cyprus. I was not a Member of this body when it voted to lift the arms embargo on Turkey. I doubt whether I would have been persuaded by the arguments that by doing so we would come closer to a solution of the Cyprus problem. With hindsight, however, it is easy to see that the lifting of the embargo has not led to a resolution. I am inserting in the RECORD an editorial from the July 5, 1980, New York Times. It needs no further explanation or clarification, as it eloquently speaks to the issue. I commend the article to my colleagues and constituents and hope that we bear in mind the closing thought in the editorial: "In the matter of Cyprus, it is Turkey's turn to give."

Turkey's Turn

When the NATO ministers gathered in Ankara last week, it was simply Turkey's turn to serve as host; the site had no special significance. But the circumstances were special. Turkey's NATO partners have dug deep to help an afflicted ally. In addition to loans of more than $1 billion from 25 industrial nations, Turkey is also getting a credit of $1.65 billion from the International Monetary Fund—the largest, in relation to a country's quota, that the I.M.F. has ever extended.

These outlays show that the alliance is well, and generous when it comes to bailing out a troubled democracy. That achievement contrasts sadly with the alliance's failure to budge Turkey's stubbornness when it comes to Cyprus, scene of a long conflict that endangers the eastern flank of NATO.

Turkey occupies a strategic bridgehead between Europe and the Middle East, sharing frontiers with Iran, Iraq and the Soviet Union. Geography partly explains why the West has committed billions to a minority Government in a society shaken by violence. The monthly death toll has reached 200, double that of a year ago. And there are at least 47 terrorist factions—half of them leftist, the remainder a miscellany of separatists and religious or right-wing zealots.

What tilted the balance in Turkey's favor was Prime Minister Demirel's uncommon pluck in carrying out unpopular reforms. Since January, he has scrapped the subsidies and protectionism that hobbled a low-growth economy. At the cost of short-term hardship, his austerity plan paid for the oil Turkey needs to move production into low gear. If Mr. Demirel can survive parliamentary challenges without making crippling compromises—as he did, narrowly, on Wednesday—he may bring Turkey out of the infirmary.

Yet that other trouble, Cyprus, persists. It is now six years since Turkey invaded

Cyprus, carving the island into inequitable parts and uprooting 180,000 Greek Cypriots. Turkish Cypriots make up 18 percent of the population but control 37 percent of the land. They have repeatedly rebuffed attempts to unite them with the Greek community in a federal structure. This stalling feeds fear that the Turkish Federated State of Cyprus will declare itself independent and scuttle unification talks.

Moral considerations aside, the issue has poisoned Turkey's relations with Greece and thereby weakened NATO. No one can reasonably ask Prime Minister Demiral to produce a "solution," but he could at least help bring about a resumption of talks between the two national communities on Cyprus. In propping up Turkey's economy, no diplomatic conditions were imposed on Ankara. Yet the allies' concern obviously extends to political as well as monetary equities in the region. In the matter of Cyprus, it is Turkey's turn to give.●

OUR FLAG CAN RESTORE OUR SPIRIT AND OUR SOULS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. MARKEY. Mr. Speaker, I would like to bring to my colleagues' attention a speech written by Mr. Brett Matthews, a junior high school student from Reading, Mass., for the town of Reading Flag Day ceremony. When the future of America appears so dim and foreboding, it is reassuring to know that there are bright, articulate young people such as Brett, who are willing to work for a strong and united America:

OUR FLAG CAN RESTORE OUR SPIRIT AND OUR SOULS

It was a rainy day and my friend and I decided to search the attic of our new home. In a half hour of searching, we uncovered little. Then—we found an American flag folded into a triangle. The cloth felt different from the one we had in the back yard. It was heavy and seemed like wool or cotton. When we opened it, there were only 48 stars on the blue field, meaning that this flag was made before 1959 when Alaska and Hawaii became new states and after 1912 when Arizona and New Mexico became states.

This flag, as the flags before it, had seen America's good and bad. Why was this flag in the attic folded in a triangle? Had it been on a soldier's coffin? Maybe it had been raised in triumph at the end of a hard fought battle in World War I or II. Maybe it survived the Battle of the Bulge or Iwo Jima or the Korean War.

The good and the bad. The good is when we rally around and help other people when they need help away from our shores . . . the people in Cambodia who know the goodness of our flag when food and medicine reaches these starved and gentle people. The good of our flag when it is raised in jubilation as our Olympic hockey players win the gold medal and beat Russia—the good when we help other countries develop to their full potential or help those in our country live the American dream.

The bad is when we allow our flag and all that it stands for to be captured by governments that do not stand for the basic decency of humanity, or when we in the United States allow our flag to be shamed by political dishonesty or not properly honoring the Vietnam veterans who fought so nobly and saw their fellow Americans die so horribly.

The good and the bad. That is why people respect their flag. It is a symbol of happiness when the sky is blue and everything is right. It is a symbol of sorrow when it flies at half-mast for an assassinated President or for our fifty-three hostages held captive in Iran. The flag is our hope and our dreams for the future, of what we have been in the past, and what we may become.

Americans must strive for excellence, not mediocrity, and we must not squash excellence, but reward excellence. The future for all Americans is coming, but only we can decide where it is going.

There is talk today of rallying around the flag in patriotism to possibly defend our country with the drafting of young men. I think we should go one step further in serving under the flag of the United States. Instead of just young men serving the country, every person, every citizen of the United States, should serve in some way to re-establish the American "can-do" attitude. What do I mean? In the "breadbasket" states such as Pennsylvania and the states of New England, the farmers have handed down from generation to generation the knowledge that if the soil is not properly tilled and refertilized, it becomes useless and crops won't grow.

There is so much to do to make America better, to keep it properly tilled and replenished, so it will never die. We must each take a part in serving our country—everyone from an early age until old age. We can rally around our flag by serving in schools, in nursing homes, hospitals, cleaning up our parks, conserving energy, refurbishing our cities, giving a certain number of hours every week to serve our country's needs—restoring our souls and staying strong militarily so that our flag will never be dead on our shores, on our land, or in a foreign land.

We must learn at an early age that there are two ways of living—to be casual and simply exist or to do something constructive about one's own life and that of society./We are all part of a larger order of life.

In 1914, Franklin Lane spoke of the flag as if it could speak. He wrote:

"I am your belief in yourself, your dream of what a people may become.

"Sometimes I am strong with pride, when men do an honest work.

"Sometimes I droop—sometimes I am loud, garish and full of that ego that blasts judgment.

"I am the day's work of the weakest men and the largest dream of the most daring.

"I am the battle of yesterday and the mistake of tomorrow.

"I am the mystery of the men who do without knowing why.

"I am what you make me; nothing more."

From the time when a group of girls in Portsmouth, New Hampshire, made the first flag to be flown on the staff of a ship with John Paul Jones in command in 1777, to 1980 when the flag waved from every hand at the Lake Placid Olympics, the American flag in all its glory is the symbol of our land and our spirit. It is the symbol that we are a strong and decent people and that we can do anything we set our minds to do.

The flag of the United States of America flies above while life goes on, and under this banner: freedom will be preserved for generations not yet born.●

REPRESENTATIVE WOLFF'S TESTIMONY AT DOT HEARING IN NEW YORK

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. WOLFF. Mr. Speaker, I would like to submit for my colleagues' consideration a copy of my written testimony before the Department of Transportation's hearings in New York City on that agency's proposal that hazardous nuclear wastes be transported through the middle of that great city. It is clear to me that any attempt to transport highly radioactive material along DOT's proposed route would threaten the health and safety of over 9 million citizens in our Nation's most populous city. Less dangerous, alternative routes are available and are economically feasible. I believe that we owe it to the millions of Americans in the New York metropolitan area to further explore these possibilities and to keep New York City free from the dangers of a potential nuclear catastrophe. My remarks at the hearing follow:

STATEMENT BY HON. LESTER L. WOLFF

Like my esteemed colleague from New York, Congressman Ted Weiss, I also regret that I was unable to personally testify at this hearing. Unfortunately, my duties required me to be abroad when this hearing was held. I thank the Department of Transportation for allowing me to submit this statement.

Unfortunately, I must vehemently oppose the Department's proposal, which creates the likelihood that potentially hazardous and lethal radioactive wastes will be transported into and through New York City. The regulations would override an amendment to the New York City Health Code which severely restricts the transportation of these radioactive shipments.

New York City, and other local and state governments, instituted these restrictions to protect the health and well-being of its constituents. Indeed, every level of government has the responsibility to protect the welfare of its citizens. But New York City's metropolitan area has two unique and important distinctions: its geography and its extremely high population density. While most sections of the United States can provide several alternative highway systems that would avoid major population centers, New York's geography virtually prescribes which roads would be utilized. If the regulations are adopted, then Brookhaven National Laboratories would be allowed to resume its previous transportation route—along the Long Island Expressway, over the 59th Street Bridge, into Manhattan and then up either Third Avenue or the Cross-Bronx Expressway and over the George Washington Bridge onto the highway to the reprocessing plant in South Carolina. The Long Island Lighting Company (LILCO) has indicated that it will use a similar route, if allowed to do so, when the Shoreham plant begins its operation in the near future.

Congressman Weiss has eloquently described the potential hazards of transportation in Manhattan. Similarly, my deep concern stems from the beginning portion of this route along the Long Island Expressway. According the DOT proposal, transportation would be limited to hours of least utilization, probably between 12:30 a.m. and 6:30 a.m. But even at these early hours of the morning, this highway has considerable traffic, with many cars traveling at a rapid pace. Unfortunately, existing accident rates are clearly unacceptable to allow for the transportation of highly radioactive material.

New York's other major relevant characteristic is its very high population density. In his statement, Congressman Weiss recounts the documented calamitous effects of exposure to highly toxic radioactive wastes. In addition, it is becoming increasingly evident that many diseases, especially several forms of cancer, are either caused or exacerbated by exposure to low levels of radiation.

It is for these reasons that I strongly endorse my New York colleagues, Congressman Weiss and Congresswoman Ferraro. I recently cosponsored Mr. Weiss' bill, H.R. 792, which would prohibit radioactive shipments in areas with more than 12,000 persons per square mile. Its purpose is to minimize the effects of a nuclear accident. It is illogical, immoral, unnecessary, and unacceptable for thousands of people residing along this route to be subjected to these conditions unless there is no viable alternative.

But there is an alternative, Since New York City imposed its ban on highway transportation, the waste from Brookhaven's Long Island Reactor has been shipped by barge across Long Island Sound to Connecticut. From Connecticut, the waste was transported by truck to a site in South Carolina on a route that avoided New York City, the region's most densely populated locality.

In addition, several experts have suggested that a waterway route direct from Long Island to the South Carolina storage site be developed. Apparently, even the Department's own spokesman indicated that such a waterway route would be relatively insignificant. According to a representative of LILCO, use of that route instead of going through New York City would cost his company an additional $500,000 per year—just 50 cents per year for each of LILCO's one million customers. My congressional district consists of the north shore of Long Island, I can safely say that my constituents would be willing to spend the additional 50 cents per year in order to lessen the possibility of a nuclear calamity.

Thus, viable and attractive alternatives do exist. If the Department of Transportation adopts these regulations then I believe it constitutes an arbitrary and capricious decision—one that emphasizes accommodating the nuclear industry to the detriment of our health and that of future generations.●

ADDRESS BY CAPT. EUGENE McDANIEL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● **Mr. SKELTON.** Mr. Speaker, Capt. Eugene McDaniel, of the U.S. Navy Congressional Liaison Office, delivered an address at the First Baptist Church in Pensacola, Fla., on July 6, 1980. It was truly an inspirational address. All of us can learn from the words of Captain McDaniel, who is one of our finest Americans:

Address by Capt. Eugene B. McDaniel

"Nothing is worth dying for." Those words appeared in a recent Harvard Campus newspaper ad announcing a rally to protest the draft. Nothing is worth dying for! What have we done to our children that would cause them to refuse military service by saying, "Nothing is worth dying for."

Now, not one of us wants to die. God forbid that any young American ever again will have to go to war and give his life for his country. I pray every day that God will protect this nation from further armed conflict. I have a young son who just graduated from the Naval Academy and another son who is just the right age to be included for the draft registration that will begin a few weeks from now. I am proud of my son who is a brand new ensign and I will be proud of my 20 year old when he goes to the post office and signs his name so that he will be available to serve his country if he is needed. I am thankful that my two sons are not part of an anti-draft movement. I pray every day that it will never be necessary for them to give their lives for their country. But I hope I never hear them say, "Nothing is worth dying for."

What would we die for? Before we pass judgment on the youngster who said, "Nothing is worth dying for," perhaps we should examine our own hearts to find the depth of our commitment to the things we have and say we believe in. Just how far would we go to protect our country, our freedom, our families, our faith? Just how precious are these things?

Six years in a communist prison camp—deprived of family, freedom, country (we were not deprived of faith; it was our faith that kept us alive—but deprived of a bible and freedom of worship)—six years in a communist prison camp gives a man time to reflect—and reason to reflect—on the value of those blessings we take so lightly: our families, those people in our lives who give us purpose and meaning; our country, that land of our birth which has nourished us and given us so much prosperity; our freedom, that precious heritage that allows us to think what we want to think, say what we want to say, believe what we want to believe; our faith, that belief in a great God who purchased our salvation at such great price.

I have had the privilege in recent days to speak at several graduation ceremonies and to deliver the bacculaureate at my daughter's high school. I always share with the young people my hope that, as they go out to make their mark in the world, they will make a commitment to establish a good marriage and a strong family. The American home is crumbling and that in turn will cause our nation to crumble.

After I returned from Vietnam, someone asked my wife Dorothy how she was able to love me, wait for me and hold our family together for six years. Her answer was, "Love is more than a feeling; love is a decision and a commitment." There are times when you just don't feel like loving your mate or your child. Then you must decide to love them. Sometimes you must make a sacrifice—you must sacrifice your pride, your love of self. You must ask, "What is this family worth?" and exercise your personal commitment to your family.

What about our country—our freedom? What is it worth? Do we fully appreciate this land and what it represents? If you were not comfortably settled in your pew in First Baptist Church Pensacola this morning, what would you be willing to do to attain the freedom that America has to offer? Cuban refugees have risked their lives to escape from that Communist island and reach America. Boat people from Indo-China have put to sea in small leaky vessels in the waters of Vietnam, desperately hoping for America. Throughout our history people have taken great risks to attain America. In spite of our many problems—inflation, unemployment, the energy shortage—we are still the greatest, the strongest, and the kindest nation in the world. If you don't believe that, leave it for six years as I did.

America is a land of opportunity. America is a land of prosperity. America is a land of freedom. Our Declaration of Independence signed 204 years ago represented a commitment to freedom. Fifty-six of our founding fathers laid their lives, liberty and honor on the line when they signed the Declaration of Independence. They paid a high price for their commitment to freedom. In the War for Independence, nine were killed in action, five died as prisoners of war, 12 had their homes burned, several lost sons, one man's wife died in prison, and 17 went broke. The legacy of our founding fathers is described in the words of Thomas Paine: "Those who expect to reap the blessing of freedom must, like men, undergo the fatigue of supporting it." Let us not forget the price of our freedom. Since America became a nation 204 years ago, we have fought wars around the globe in freedom's name and have paid a terrible price in human sacrifice for our freedom.

How much is America worth? In my work as a Navy liaison officer for the House of Representatives, I live in a world of "political trends". To do my job, I need to know how Members of Congress look at the polls. Even the most dedicated of them have to consider how to vote. Three months ago, in the wake of the holding of American hostages in Iran and the massive Soviet invasion of Afghanistan, the big concern of Americans was the state of our national defense. Today our hostages are still in Iran. The Russians are still in Afghanistan, and what is the No. 1 concern of Americans? Inflation and the state of our economy! What is our national defense worth? Are we willing to "pay any price, bear any burden" for the survival of our Nation?

I have a lot invested in America—2110 days in a Communist prison camp. There are others though who have given much more than I for our freedom. Millions of Americans have given their lives. There is not a family here this morning who has not been touched by war. The price of liberty is high. May we guard it carefully.

America needs to renew her commitment to God, for we are a Nation founded upon a faith in God. The Declaration of Independence says: "We hold these truths to be self-evident, that men are endowed by their creator with certain inalienable rights." God is the source of our rights as Americans; not the Constitution, not the courts, not the Congress. The Constitution, the courts, the Congress, all the branches of our Government, exist to preserve and protect the rights that were given to us by God when He created us in his own image, the Declaration of Independence is, first of all, a declaration of dependence on God. Without God, America has no basis for our rights and freedoms.

Soon after America became a nation, a young French journalist named Alexis de Toqueville came to our country to answer the question, "What makes America great?" He looked for the greatness of America in our fields and in our forests, in our mines and in our commerce, in our Congress and in our Constitution. But, he said, "not until I went into the churches of America and heard the pulpits flame with righteousness did I understand the secret of her genius and power. America is great because America is good—and if America ever ceases to be good, America will cease to be great".

What about our faith? What kind of commitment do we have to God? In the scriptures, Saint Paul says, "I know and am persuaded that He is able to keep that which I have committed unto Him." God keeps His commitments to us. In Vietnam I learned to agree with Saint Paul that God can be trusted to keep what we commit to Him; I learned what it means to live by faith.

In 1969, after a well-organized escape attempt, one of three attempts, all of which were unsuccessful, torture was rampant. At least one American was tortured to death during this period. Because of my involvement as the main communication link between two camps I went through brutal torture. For seven days and seven nights I was without sleep, kneeling on pitted concrete. I was beaten daily with a fan belt and suffered a badly broken arm. Bleeding from many open wounds, weighing 110 lbs. and very near death with nothing left to give except the will that says "hang on", I gave my life to God. He made known to me His presence and He taught me a valuable lesson: Courage is not the absence of fear; courage is the presence of faith."

In Vietnam I learned how precious our freedom of worship is.

The Sontay raid, November 20, 1970, was an attempt to rescue American POW's. It was a raid that was similar to the recent Iran rescue attempt. The Sontay raid was perfect except for one thing: The camp was vacant and no prisoners were rescued. On November 26, 1970, 6 days after the Sontay raid, the North Vietnamese moved all prisoners from five camps into the "Hanoi Hilton", a large prison in the middle of the city of Hanoi. I moved into a cell with 57 men. One of the first things we did was press for the right to have a Sunday worship service. Daily for two weeks we asked to see the camp commander. He refused to see us. In order to get his attention we starting singing at the top of our voices—352 of us. We sang songs like "God Bless America", "The Battle Hymn of the Republic", "Onward Christian Soldiers", and other hymns. However, it doesn't take aviators long to run out of religious and patriotic songs so for two days we sang fraternity songs and school fight songs. The enemy countered by turning on the loudspeakers that were in the cells to drown us out. The higher the volume, the louder we sang. After two days the enemy soldiers came in large numbers to remove 60 of our senior officers, and placed them in leg irons and solitary confinement for the next three years. They stayed in those leg irons until our release in 1973. We gained though the right to have a 15 minute worship service each Sunday. So I ask you these questions. Why would a man risk torture to gain the privilege of worshipping freely? Do you think I will ever again take lightly the freedom to worship God?

In Vietnam I learned to turn to God through prayer. And God was there when we needed Him. He honored His commitment to me. Now I can say with the psalmist, "He refused to let the enemy triumph over me. He gave me back my health. He brought me back from the brink of the grave, from death itself." Now that I am a free man I must keep my commitment to Him.

I'm glad that, when Jesus went to Calvary, He didn't say "nothing is worth dying for". He said we were worth dying for. He loved us so much that He did die for us that we might know salvation and come to know Him and to be with Him throughout eternity.

We need to pray today for America, that we as people might commit our way unto God. We need to pray for ourselves that we might renew our commitments to our families, to our country and to our God. And we need to pray for the young man who said "nothing is worth dying for"—that he might know, and that we might know also: If there is nothing worth dying for, then there is nothing worth living for.●

HOME PURCHASE INCENTIVE ACT OF 1980

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. SWIFT. Mr. Speaker, we have already heard a lot of talk about a tax cut. Being an election year, I suspect we will hear a lot more in the coming months. Certainly, if the recession runs too deep, a tax cut may be necessary medicine. But, as with everything these days, things can get complicated in a hurry.

First, a tax cut would undoubtedly throw our budget far out of balance. While we would hope it would in turn stimulate the economy enough to keep the impact to a minimum, we must be careful we do not rekindle the cooling embers of inflation. Saving tax dollars—only to be forced to pay higher prices everywhere—does not help anyone.

We should keep two things in mind when we start to look seriously at tax cuts for the coming year. First, target them to lagging parts of the economy and make sure they help without hyperventilating the rest of the economy.

Second, as long as we are going to cut taxes, let us look closely at some of the inequities we could not afford to fix until now because of their high cost in revenues.

Mr. Speaker, today I have introduced legislation which I believe can go a long way toward solving several serious problems: The depression that has gripped the housing industry and, in my own area, the related wood products industry, the great need to increase savings, and the problems our young people face when they try to buy their first home.

My bill, which I have titled the "Home Purchase Incentive Act of 1980," can help solve such a wide variety of problems because the solution of each problem helps solve the others. I commend this bill to the attention of my colleagues.

With the concern that has been expressed here on the House floor, I know these problems are serious in all parts of the country but they are especially bad in my own State because a substantial part of the economy is based on the forest industry and the products it supplies to homebuilders. It was the magnitude of these problems and the discussions I have had with people in my district that encouraged me to introduce this bill today.

When housing slowed, many people were out of work. Lumber mills are the only major employer in many towns in my district and, when they are closed, whole communities have suffered. All at a time when the region as a whole is straining under growth that is unprecedented. Thousands of people are moving to the Pacific Northwest and the demand for new housing comes with them. Sadly, demand has pushed prices even higher.

Frankly, the combined problems—growth, continuing inflation, soaring interest rates, and demand—has meant that many young people trying to buy their first home cannot afford it. They are never able to save enough for that all-important downpayment. Money they are able to save constantly loses ground to inflation and they cannot make it.

I realize we are going to have to do many things to help bring inflation under control: Balance the budget, cut spending, encourage savings and capital formation, increase productivity, eliminate our terrible dependence on foreign oil, and decrease borrowing by everyone to name a few. But, I believe this bill can help us down that road.

The legislation allows individual housing accounts (IHA) to be established. These tax-deferred accounts would be similar in many ways to the individual retirement accounts this body established several years ago. A taxpayer could deposit up to $3,000 per year into this account and up to $15,000 during his or her own lifetime. To remain tax exempt, this money could be used only for the purchase of a principal residence by the person—or people in the case of a married couple who establish a joint account—who set up the account. There is no limit on the total yearly income of people who could take advantage of such an account but no more than 20 percent of each yearly contribution could come from unearned income. Only one IHA could be used to purchase any single house and families could have no more than one IHA at a time until such time as the children were out on their own and could set up their own IHA.

Once funds are deposited in an IHA, tax would be deferred either until the home is sold or the funds were used for some other purpose. The account must be used within 10 years and, in the event of a divorce, could go to either partner.

First-time home buyers certainly need this help. Once you own a home, you can usually use equity from that home as the all-important downpayment for a new home.

That is it. Obviously there are some restrictions to prevent this program from being abused by housing speculators but complications should be kept to a minimum. Other than that, there is no need for endless redtape or a massive bureaucracy. This is not a grant, guaranteed loan, or subsidy-type program with all the bureaucracy and redtape those programs would require. It is not a handout program.

It is an approach that enables those who wish to use it to do so with a minimum of fuss and government involvement. It will give hard-working young people—and others who may have rented until now—the chance to save toward a downpayment . . . the incentive to own their own home.●

TRIBUTE TO JOHN CARDINAL DEARDEN

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. BRODHEAD. Mr. Speaker, John Cardinal Dearden has resigned as archbishop of Detroit. Plagued by illness in recent years, this wise and gentle man has finally decided to seek a rest from the tremendous demands of leading the area's 2.1 million Catholics.

Cardinal Dearden has established a splendid record as pastor of his flock and as a leader of the Nation's Catholics. However, the years and the heavy burdens he has borne have taken their toll of this great man—a priest for 48 years, a bishop for 30 years, Archbishop of Detroit for 21 years, and a cardinal for 11 years. Now he will enjoy the rest he has so richly deserved.

Cardinal Dearden's leadership extended far beyond the boundaries of his diocese. He participated in the Second Vatican Council in the early 1960's, helping to write several of the major documents which brought the church into the modern era. In 1966, he was elected to a 5-year term as the first president of the National Conference of Catholic Bishops. This significant accolade from his peers is evidence not only of his leadership qualities but of the great esteem in which he is held.

Always first in Cardinal Dearden's concern was the welfare of his flock. If the changes brought on by the Vatican Council proved painful to some, he softened that pain with his loving kindness. And yet he exercised a firm and decisive control at a time when change swept not only his church but his archdiocese as well.

Cardinal Dearden will be sorely missed by all of the people of the Detroit area whether or not they are members of his church. I ask my colleagues to join me in honoring this remarkable man and in wishing him a long and happy retirement.●

PIONEER DAY

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. McKAY. Mr. Speaker, Thursday, July 24, marks an important anniversary in our Nation's history. It is the 133d annual commemoration of the first arrival of Mormon settlers in the Salt Lake Valley on July 24, 1847, and in Utah is known as "Pioneer Day," a State holiday.

Historians call this mass migration of thousands of men, women, and children over thousands of miles of treacherous terrain the best-organized movement of people in American history. These were families who went westward without benefit of guides or professional outfitters or rugged equipment. In making this difficult journey they would be required to improvise, to battle against hunger, thirst, freezing cold, desert heat, and steep mountain terrain. They pressed onward against all the odds, propelled by their past experience as the most persecuted religious community in early America and by their faith in God.

Nothing in our modern-day American lives can serve to faithfully remind us—to make us fully understand—the hardships which those pioneers faced in their journey. An anthem to their hardships was written early-on during the migration by one of their number, William Clayton. This hymn has had great meaning to Mormons ever since that time, and its vividly stirring refrain serves as well as anything can to remind us of these sacrifices and of this supreme dedication. In many ways, their spirit was and is the best of the American spirit of greatness. I would like at this time to recall the words of this hymn, "Come, Come Ye Saints:"

Come, come ye Saints, no toil nor labor fear;
But with joy wend your way.
Though hard to you this journey may appear,
Grace shall be as your day.
'Tis better far for us to strive,
Our useless cares from us to drive;
Do this, and joy your hearts will swell—
All is well! All is well!
Why should we mourn or think our lot is hard?
'Tis not so; all is right.
Why should we think to earn a great reward,
If we now shun the fight?
Gird up your loins, fresh courage take;
Our God will never us forsake;
And soon we'll have this tale to tell—
All is well! All is well!
We'll find the place which God for us prepared,
Far away in the West,
Where none shall come to hurt or make afraid
There the Saints will be blessed.
We'll make the air with music ring,
Shout praises to our God and King;
Above the rest these words we'll tell—
All is well! All is well!
And should we die before our journey's through,
Happy day! All is well!
We then are free from toil and sorrow too;
With the just we shall dwell!
But if our lives are spared again
To see the Saints their rest obtain,
O how we'll make this chorus swell—
All is well! All is well!

This was a migration which is without parallel in our history. For all its limitation in equipment and supplies, the march westward was distinguished by its organization and cohesion. The forward parties planted crops and built shelters for those who would come later.

That same impressive organization was also applied to the settlement effort itself. The first arrivals in the Salt Lake Valley, without wasting as much as a day's time, immediately formulated hand tools and began staking out the land, plowing the ground, harrowing, and irrigating. Some 35 acres were put into crops that first week. Other companies of men were laying out the new city in 135 10-acre blocks, with a site for the future Salt Lake Temple in the center. Another committee set to work gathering timber, building roads, and preparing tools and materials for cabinmaking.

The unique blend of cooperation, individual initiative, belief in God and a striving for excellence which was the essence of the pioneer spirit is a collection of the very qualities which have been at the heart of American accomplishment and American greatness. This vital example is but one component of the living legacy these brave men and women have left to us.●

HANDGUN CONTROL: THE NEED FOR FEDERAL LEGISLATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. LEHMAN. Mr. Speaker, once again I would like to express my support for the Handgun Crime Control Act of 1979. Federal legislation is needed to stem the increasing violence in this country. Last year, 8,124 deaths by handguns were reported by the news media. Of a total of 200 million guns in the United States, 60 to 80 million are handguns. According to the Department of Justice, in 1978, 49 percent of all murders in the United States involved handguns. These handguns have no apparent use other than to threaten human life.

The Rodino bill is an important step in reversing the growing tide of violence victimizing the Nation. The bill would ban all commerce in "Saturday night specials," the favorite weapon of the criminal. It mandates swift and sure punishment for the misuse of handguns. It screens out illegal purchasers, while requiring accountability from both dealers and owners of handguns. Enforcement of the law would be transferred from Treasury to the Department of Justice, and financial aid would become available to victims of handgun crime. States will be urged to pass "license to carry" laws which have been shown to decrease gun-related crimes.

The United States is the only industrial society without effective national controls over the sale of firearms. The absence of such controls on a national level undercut measures that individual States enact because of lax standards in neighboring States. Despite a vocal opposition, polls have consistently shown overwhelming public support for strong gun control measures.

Senseless gun violence must be stopped. Often deaths associated with handguns are the byproduct of a domestic argument or a child's curiosity. I have become convinced that strong national handgun control is necessary to stop these tragic killings. This is an issue that will not go away as long as handgun deaths continue to occur. Responsible action must be taken. The Rodino bill will be an important and effective measure in achieving a reduction in handgun deaths.●

JUDGE JAMES E. SHEFFIELD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. CLAY. Mr. Speaker, as my colleagues are aware, there is an apartheid controversy that has been transpiring in the past few months over the nomination of Judge Sheffield for a Federal judgeship position from Virginia. I would like to take this opportunity to share with my colleagues an article which appeared in the Washington Post newspaper regarding Judge Sheffield. At a time when our country is in dire need of sound leadership within our judicial system, Judge Sheffield has proven under exhaustive examination in the past 3 years that not only are his qualifications unquestionable but his integrity impeccable. It is my firm belief that Judge Sheffield would be a stalwart of justice given the opportunity based on his record. It is my hope that he will be judged on his record and not on the basis of an archaic attitude that has plagued us in the past. Following is the text of that article.

A SOFT-SPOKEN JUDGE AT THE CENTER OF CONTROVERSY

(By Megan Rosenfeld)

In almost every respect James Edward Sheffield is the model of a traditional, establishment, achiever. He graduated cum laude from law school, served his country in the Air Force and his community on the boards of the YMCA, the Boy Scouts, the Richmond Symphony, two hospitals and the usual bar associations.

Various organizations have named him Citizen of the Year, Businessman of the Month, Boss of the Year. He likes antiques, hunting and fishing and lives in a restored 18th-century plantation with a swimming pool and a couple of horses. One of his daughters goes to St. Catherine's, the most exclusive girls' school in Richmond.

When he walks into the Downtown Club, half a dozen secure denizens of Main Street look up from their businessmen's lunches to greet him by name. "Hello, Judge," they say. "How are you today?"

But he is not altogether one of them, not quite a complete member of the familiar network of comfortable conservatives who make up the Virginia establishment. And the main thing that sets him apart has also placed him in the middle of a historic and intricate confrontation between President Jimmy Carter, who has nominated him for a federal judgeship, and Virginia Sen. Harry Byrd Jr., who has not.

James E. Sheffield is black.

He's hardly the sort of person you would expect to be the fulcrum of a major controversy. Soft-spoken, unflamboyant, cautious, there is little in his past that would have predicted his current situation. The fate of his nomination is still uncertain, but whatever happens, this particular confluence of events and history have combined to make him at least a footnote in future records.

When President Carter nominated him on April 9 of this year, almost three years after the process to find qualified judgeship candidates had begun, Carter officially challenged both a senator and his own system. It was the first time a president questioned a senator's candidates because he did not include any minorities.

Three years previously, Byrd, acting on a handwritten letter he, the Senate's only Independent, had received along with all Democratic senators, appointed a commission to find candidates for four new federal judgeships that were opening in the state. Five of the 18 members of the commission had contributed to Byrd's last campaign; 13 were well-established lawyers; two were close personal friends. The commission, to the suprise of almost no one, produced a list of 10 white males, saying there were just no qualified blacks or women in the entire state.

Sheffield is the only black circuit court judge in Virginia, and thus the highest-ranking black judge. The American Bar Association rated him "qualified" to be a federal judge. But Harry Byrd's commission did not interview him.

That Harry Byrd is an independent and an irritant to much of the Democratic party in Virginia undoubtedly made it somewhat easier for Carter to decide to take him on. But it is not known whether Carter would have challenged him, despite his campaign promises to elevate more minorities and women to judgeships, if strong Democrats and liberals in the state had not objected to Byrd's list. The alliances and muscle flexing that have gone on during this battle will probably have an influence on Virginia politics in the future, but it is too soon to read the tea leaves.

Sheer racism, some said about Byrd's list, another example that the Byrd machine and the political philosophy it bequeathed the state are still potent. These people—black leaders, (comparatively) liberal North Virginia congressman Herbert E. Harris, and anti-establishment groups like the A.C.L.U., began to organize and pressure the Carter administration. Nine months after Byrd released his list of 10 names, the protestors were assured in November 1978 the president would not, nominate only white males. A year and five months later, Carter nominated Sheffield, having previously picked two other names from Byrd's list, and then a third.

Former attorney general Griffin Bell had visited Byrd "at least a dozen times," the senator said, trying to get him to expand the list. "This administration doesn't like confrontation," explained one Virginia Democrat. "Bell is a Byrd-type guy, he could smell a populist 40 miles downwind. They decided 'why make Byrd mad?' I think they spent two years trying to find a black that Byrd could bend with, then they finally had to bite the bullet."

Byrd, meanwhile, was adhering to the "moral commitment" he feels he made to the commission he appointed.

"All I know is that I got a handwritten letter signed 'Jimmy,' I did what the president asked . . . I felt I had a moral commitment not to go outside that list. The White House has been very unfair to the members of the commission who worked so hard, and very unfair to those the commission deemed the best qualified, and to the people of Virginia," he said.

He has two friends he'd hoped would be on the commission's list, the senator continued. "If I couldn't expand the list to include them I don't see how I could go back and ask the commission to do it for someone else."

"Byrd has decided to follow his daddy and be the last bastion of massive resistance," said Oliver Hill, at 73 one of the godfathers of civil rights in Virginia. He may be overstating the case somewhat, but he gives an indication of the depth of feeling this case has aroused.

"It's regrettable from Judge Sheffield's standpoint," said Sen. John W. Warner, Virginia's Republican senator. "He's irrevocably caught in this situation. It could be this matter will be resolved between the legislative and the executive and he will never have the occasion to stand, so to speak, and be judged by 100 senators on his qualifications because of a procedural dispute."

At 48, Jim Sheffield is slight, starting to gray, and reserved. His friends say his response to this three-year endurance test has been typically "stoic." He has a face that betrays little emotion, a demeanor that does not draw attention to himself and gives the impression of total self-control.

"He's driven by something," said an old friend and hunting companion, C. S. McCall Jr., a Richmond insurance agent. "He's the most motivated person I know. I've never seen anyone who puts in the hours he does. He feels a great need to succeed, to create more or less a pathway for other blacks in the South."

Sheffield did not want to be interviewed for fear of seeming to campaign for the job, but from earlier interviews and conversations the picture emerges of a man who is determined to keep going, to go through the nomination process and who hopes to be judged on his qualifications rather than his race.

He was born and raised in the resort town of Hot Springs, Ark., one of nine children and the son of a Pullman car railroad porter working the Hot Springs to Memphis run. His father brought home magazines that passengers left on the train, and it was through reading old issues of Life, The New Yorker, the New Republic and the Saturday Evening Post, among others, that he was introduced to the outside world.

". . . they gave me the urge to look out and see the world," he told Richmond Times-Dispatch reporter Shelley Rolfe in 1974. "I had a glimpse of it that not many boys in Hot Springs had . . ."

He worked as a hotel waiter and bus boy, and spent his summers waiting tables in other resort towns. Joining a sister in Chicago, he started college at night, later graduating from the University of Illinois with a year at Texas College on a football scholarship.

He enrolled in law school at the University of Illinois because he liked political science, debating and history. Thinking he had done badly his first semester, because he was holding down a job at nights and weekends, he dropped out and enlisted in the Air Force, only to find out later he had passed every subject.

When he left the Air Force after four years, he stayed in Richmond, where his last assignment had been at Byrd Field. His first job was running the then-segregated Boy Scout program for black youths. He met his wife there while he was in the service, and they decided to make her home town their home. He worked until the next semester at Howard Law School began, and started what was to become several years of commuting between Washington and Richmond, often traveling by bus.

He also continued a pattern he had set earlier—going to school full-time while working at a job as well. He'd work at one job until his class load got too heavy, quit and find another later. He was a waiter at the Cosmos Club and the Market Inn, clerked at a liquor store, and sorted mail during Christmas.

"He was very businesslike and studious," recalled Leonard Lambert, a Richmond lawyer in partnership with State Sen. Douglas L. Wilder, who went to Howard Law School with Sheffield and remains his friend. "He had a sense of purpose the rest of us didn't have, perhaps because he was older, and married. We'd come in and he'd be studying. We'd go out to a bar or a movie or something and get back and he'd still be studying. Then when we got up in the morning there he'd be at 6 a.m., studying again."

He won a scholarship and a job as a teaching assistant at Howard after making straight A's his first semester, and even now continues to teach part-time at the University of Virginia Law School and at T.C. Williams Law school at the University of Richmond.

He worked as a law clerk for the U.S. Commission on Civil Rights while in law school, and after graduating served a year as a trial attorney with the Justice Department. He began practicing law in Richmond in 1964, starting with a Wednesday evening practice in an unused corner of an insurance office, and gradually building up a clientele that was 75 percent criminal work.

Meanwhile he was involved in numerous community activities, ranging from being on the finance committee of the Ebeneezer Baptist Church to the state, local and black bar associations.

"On Law Day he was always the guy who came by pushing the merits of law and how it could be a salvation to many of the problems that plagued black people," said Ray Boone, editor of both the Richmond and Baltimore Afro-American newspapers.

Eventually Sheffield had his offices in a building he bought and named the Sheffield building. It is in the section of Richmond known as Jackson Ward, not far from the modern federal high-rise where his office looks out over the old brick house, preserved in a sea of concrete, that was John Marshall's home.

Jackson Ward is a section of black-owned businesses and offices, like those of Lawyers Hills, Tucker and Marsh, and the N.A.A.C.P., the Afro-American and the oldest black-owned bank in the country. It's also the section where the only statue of a black in Richmond is located: Bill "Bojangles" Robinson, well on the south side of Broad Street but walking distance from chic Monument Avenue where Stonewall Jackson rides in stone splendor and other heroes of the Confederacy are memorialized.

He was also investing in real estate, buying 10 apartment units in Richmond in partnership with a colleague, and a house now worth about $185,000, according to the financial disclosure statement he filed with the judiciary committee. He was also accumulating debts, now amounting to $313,638. His last year in private practice he earned $131,955, putting him in an income bracket comparable to two of the other three nominees. He sets his assets at $417,284.

His wife recalls that at one point when her children were younger she was resentful of the time Sheffield spent on outside activities. "I used to look at my neighbors and I'd see the daddies coming home and cooking on the barbecue or mowing the lawn, and our daddy was at the Big Brothers or the Boy Scouts or some meeting or other," Patricia Sheffield said. "Finally I said to him, 'Jim, look at so-and-so, why can't you be more like him?' And he said to me, 'I can't live in a community I don't feel I'm giving something back to.' And I've never said anything about it since."

Now she is on a number of boards and committees herself. "If you can't beat them, join them," she laughed.

By 1974 Sheffield was part of an informal group pressuring to have at least one black named a circuit court judge. According to State Sen. Wilder and attorney Oliver Hill, when a Richmond judgeship became vacant in 1974, they called in the chips earned through having urged black voters to support the city's delegation to the General Assembly. Seven of the eight members of the delegation urged then-governor Mills E. Godwin to support Sheffield, even though he was the third choice of the Richmond Bar Association, and he did.

His appointment was viewed as a breakthrough, and Sheffield felt the responsibility keenly. As someone who believes that change can and must come from within the system, he saw himself not only as a role model for young people, who, like himself, might never aspire to be a judge because he'd never seen a black judge, but as a test case for white people as well.

On March 22, 1978, Judge Sheffield delivered a letter of resignation to Gov. John N. Dalton, citing "family and business commitments." That same month he and his wife were listed as being delinquent in paying real estate taxes; they paid the $1,071 they owed the next day.

Sheffield withdrew his resignation the following day, but ever since there has been speculation and gossip about his financial situation, speculation that has been re-circulated recently in stories in the conservative Richmond Times-Dispatch.

So far no one has turned up anything irregular about his finances. Even the rumors are vague. But, as Lambert said, they will probably come up during a confirmation hearing.

A source close to Sheffield said he resigned because he was angry and disappointed at not having been included in Byrd's list of 10 candidates, and frustrated that he had not even been interviewed. Citing "family and business commitments" seemed a graceful way to exit.

Sheffield did renegotiate some loans, the source said, and there were offers from various people to help him financially and to urge him to stay on the bench. After discovering that it seemed unlikely another black would take his place on the Circuit Court, he withdrew his resignation.

For the last three years Sheffield's qualifications have been examined exhaustively. The general consensus seems to be that he is hard-working rather than brilliant, thorough, occasionally slow in delivering an opinion, scrupulously fair to people appearing before him, and "judicial" in temperament. Few of the inevitably anonymous observers seem to feel that he is not qualified.

"You have firebrands who are lightning rods and stormy petrels, and you have those who operate in quiet persuasive manners," said state Sen. Wilder. "He is not the loudmouth person. He has a strong, even temperament and a reputation for being decent. His weakness, if he has one, is that he has not had federal experience."

Sheffield has been reversed seven times in 5½ years. Philosophically, he is uncomfortable with the idea of judges making law, but he believes the law must be pliable in order to survive.

In Virginia, the law has been very pliable when it comes to race. Although Virginians usually point out that there has been little violence between the races since Nat Turner's rebellion in 1831, the state's political history has been studded with successful efforts to disenfranchise blacks and keep them well under control.

From the 1902 constitution, which was revised to prevent blacks (poor whites were sacrificed to obtain the goal) from voting through complicated literacy tests and poll taxes, to the fiscal "pay as you go" austerity made famous by Harry F. Byrd Sr., legal measures were used to keep the white establishment invulnerable.

"That . . . the state became an economic and cultural backwater can be traced in significant measure to the commonwealth's most cherished policy," wrote Richard Kulger in "Simple Justice"; "maintaining the poor in the style to which they had become accustomed by among other things, providing them with 1) as few social services as possible—especially free compulsory education—and 2) a baffling array of devices to remove all political power from their unwashed hands."

Blacks make up about 18.5 percent of Virginia's 5 million people, making it one of the 15 states in the country with large black populations. Until the early 1970's, more blacks left the state than moved into it, a trend that started after the Civil War. There were few jobs or educational opportunities for them, other than service or blue collar jobs, and housing and schooling was correspondingly poor.

But the Virginia way of keeping control was somehow more benign than in other states in the deep South, where demagogues produced white supremacist rallying cries at regular intervals. Rarely did Virginia leaders engage openly in tacky race-baiting; rather they perfected a paternalism that effectively blurred anger which might have in turn stimulated rebellion. People were "nice" to each other. The plantation mentality reigned.

"Nobody said 'get out of here, nigger,' so you didn't feel that flush of anger," said Jack Gravely, head of the state's N.A.A.C.P.

The legacy is a black leadership that works within the system, an electorate that has rarely been unified as a "black vote" and change that has come very slowly.

"I think the change that comes slowly is effective change, it's here to stay," said Henry Marsh, Oliver Hill's law partner and the mayor of Richmond, in an interview a few years ago.

One change that came more quickly than the senior Byrd and his colleagues envisioned was the decline of massive resistance, the policy they came up with to avoid integrating public schools. The Byrd organization thought it would keep them in power for 25 years, according to reports at the time. But despite the array of laws the legislature enacted, and the spirit of places like Prince Edward County which closed its schools for four years, integration began—very slowly—in 1953.

Sen. Harry Byrd Sr.'s proclamation that "racial integration is not going to be accepted in the South," was defeated by the law of the land, although in Virginia "with all deliberate speed," was definitely more deliberate than speedy. White flight to suburbs and private schools was immense. Today there are black mayors in half a dozen cities, four blacks in the House of Delegates and one (Wilder) in the state senate. Although to many "Virginia Conservative" means racist, others feel it is more a question of social bias, cultural exclusion or a tendency to keep things the way they are, and were. Critics like to point out as an example that Virginia has yet to ratify such U.S. Constitutional Amendments as those authorizing direct election of senators and the income tax, recalling that as recently as 1977 there were emotional arguments against such radical acts on the floor of the state senate.

There is no Byrd machine or organization anymore. The men who once held the power are now old, if not gone, and their successors no longer dictate elections or appointments as they once did.

What remains is a philosophical affinity group, a strong sense of The Way We Do Things In Virginia, and a perhaps overinflated belief in the power of Sen. Byrd by those who oppose him.

Judge Sheffield's nomination is viewed by them as a blow against the Byrd mystique. "This is history-making in that it would mark the end of an era of Byrd-thinking in Virginia," said State Sen. Wilder, one of the leading black politicians in the state. "It would show that one senator cannot wave his finger and say nay."

After President Carter nominated Sheffield on April 9, Sen. Byrd "returned a negative blue slip," which in congressional parlance means he officially opposes the nomination.

Just how hard he will fight it, however, remains an open question. He does not oppose a hearing—the first hurdle that must be overcome before the judiciary committee votes whether or not to confirm him.

"I'll speak on behalf of those the commission nominated," Byrd said, referring to Richmond Lawyer Richard L. Willimas, State Sen. J. Harry Michael, an Abingdon lawyer, and Democratic party activist James P. Jones. "I'm going to do all I can to protect the commission I appointed at the president's request." He would not elaborate.

When Sen. Edward M. Kennedy took over the chairmanship of the Judiciary Committee, he jettisoned the system whereby a senator's opposition could kill a judgeship nomination. The Judiciary Committee conducts its own investigation of each nominee before asking for a hearing; in Sheffields' case the investigation has not been completed.

Some Republicans wouldn't mind delaying everything until after the presidential election in the hopes that Ronald Reagan will win. However, Virginia's other senator, Republican John W. Warner, urged Kennedy to hold a hearing as promptly as possible, and said he knows of no Republican moves to stop it.

Meanwhile, of course, both Carter and Kennedy have had other matters to concentrate on, like running for president and dealing with foreign crises. The blame for the length of time it has taken to get to the nominations at this point cannot be placed on any one person or group, but can be shared by all. Meanwhile, Congress will be in and out of session until the election, adding yet another practical problem to setting a hearing

These and other wisps of political smoke cloud any predictions of what may happen. The only thing that seems clear is that of all the players in this drama, James E. Sheffield had the most to lose. The others, for the most part, have already won.

Harry Byrd can't lose—he complied with the president's request to set up a commission and his steadfast refusal to change their list has reaffirmed his already firm support among conservatives. He doesn't have much support among blacks anyway, and the establishment doesn't care whether or not a black is appointed.

President Carter can't lose—after all, he has nominated the first black for a federal judgeship in Virginia, and bucked a senator to do so. If Sheffield is not confirmed, or withdraws, Carter can at least say he tried. And Carter has nominated a record number of minorities for judgeships, aided by the fact that he's had 154 new openings to fill.

Rep. Harris can't lose—he is the only Virginia politician in Congress who has worked actively for Sheffield, and is generally credited with the success of the effort so far. If he should decide to run for a higher office—which he hasn't said he has—he probably has not been hurt by the exposure.

Of course, Williams, Michael and Jones could lose, if their nominations get caught in the political whirlpool. But they have not been examined publicly to the extent Sheffield has, nor have their qualifications been questioned by sub rosa intimations of financial impropriety.

Lt. Gov. Charles S. Robb, the only Democrat in a statewide office and a man who hopes to run for governor, could lose because he initially backed Byrd's list. But he has tried to recoup his standing with the black community by running interference with the White House.

Sheffield's supporters will feel they have lost if he is not confirmed, but they know there will be another time, and that they have never gotten this far before.

"The nomination has been made," said Harris. "The question is: Should he be confirmed? All this talk about process is irrelevant. You have to deal with this in historic rather than procedural terms. We have for the first time nominated a black for a federal judgeship in Virginia."

"I do believe," said Sheffield's friend Lambert. "None of this would be happening if the man wasn't black."●

PRESIDENT CARTER'S LATIN AMERICAN POLICY

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. JEFFRIES. Mr. Speaker, the American Legion has been taking a good, hard look at recent events in Latin America, and what the Legion found going on in the back rooms of President Carter's foreign policy advisers is startling.

Frank Hamilton, the Legion's national commander, has even gone so far as to charge that the President's advisers are engaged in aiding the overthrow of pro-Western governments in Latin America.

Because the Legion is traditionally nonpartisan, these allegations demand a special scrutiny from Congress. That is why I want to share with my colleagues the following article by Frank van der Linden in the May 28 Sacramento Union:

WHO DICTATES CARTER'S LATIN AMERICA POLICY?

WASHINGTON.—President Carter's puzzling, hot-and-cold attitude towards the refugees from Cuba indicates that he is torn between his humanitarian impulses and strong pressures from the real architects of his Latin American policy, who want to buddy up to Dictator Castro and impose a socialistic New Order throughout this hemisphere.

Carter muffed his golden opportunity to welcome all the people fleeing from Castro's island prison as proof that they yearn for freedom and a better life in the United States, and that communism is a total failure in Cuba. But there are influential men, inside the administration and in Congress, who don't want to admit that failure by a regime that is a stooge of the Soviet Union.

Frank I. Hamilton, national commander of the American Legion, charged recently that some of Carter's own appointees are promoting the overthrow of existing governments in Latin America and producing "pluralistic" ones that are inevitably hostile to our own.

The Sandinistas, who ousted President Somoza and took over Nicaragua by a civil war, are openly allied with Moscow now, while Castro is fostering subversion in El Salvador, Honduras and Guatemala.

The erosion of our power in the Caribbean, Hamilton warned, weakens our ability to control the sea lanes that bring oil from the Middle East around South Africa, and from Alaska, transiting the Panama Canal.

The blueprint for this foolish policy, imperiling our "soft underbelly" in the Caribbean, was formulated, he said, on the basis of similar reports by two groups. One was a commission headed by Sol M. Linowitz, who renegotiated the Panama Canal treaties for Carter and was formerly the registered foreign agent of the Allende government in Chile.

The other report, entitled "The Southern Connection," came fom the Institute for Policy Studies (IPS), which the Legion commander called an "openly radical and leftist" outfit.

Several IPS members worked on the Linowitz Commission. In the preface to their own study, they expressed thanks to their "colleague and friend," the late Orlando Letelier, who had read the first draft. After Letelier was killed when his car was blown up in Washington, it was revealed that he had been receiving about a thousand dollars per month from the Cuban secret police, controlled by the Soviet KGB.

"One name leaps out from the IPS study," Hamilton said. "It is the name of Robert Pastor, Carter's principal Latin American policy adviser, working for the National Security Council.".

The Heritage Foundation has said that Pastor's "principal radical ties appear to be with the Transnational Institute of the IPS, the former co-director of which was Letelier."

So, Hamilton said, the Carter policy on Latin America was really written by the Linowitz Commission, supported by the Institute for Policy Studies, and "is being promulgated by Robert Pastor in the White House and supporters in the Department of State."

While the administration is seeking funds from Congress to protect the regimes in El Salvador and Honduras against a terrorist takeover, the legion chief said, Pastor is secretly working in the opposite direction.

Hamilton said Murat Williams, a former U.S. ambassador to El Salvador testified against the appropriations and said Pastor had asked him to do so. So Hamilton charged, "the principal adviser on Latin American affairs in the White House was subverting his president's policies!"

Pastor was also identified in news stories in 1977 as the National Security Council member who asked the CIA to develop a plan to topple the present anti-communist government in Chile.

Studies of IRS records show that the Institute for Policy Studies received about $8 million from private foundations in 1970-76, and over $5 million came from the Samuel Rubin Foundation, based on the Faberge cosmetics fortune.

The daughter of Foundation President Rubin is Cora Weiss, who has lobbied for Cuba and for U.S. "reparations", to Hanoi. She welcomed the Communist Vietnamese delegation to the U.N. at a "victory party" in New York.

Her husband, Peter Weiss, is chairman of the IPS board and first vice-president of the Rubin Foundation.●

SEVERAL GROUPS IN OPPOSITION TO ASHBROOK/DORNAN AMENDMENTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. RANGEL. Mr. Speaker, I would like to bring to the attention of my colleagues a letter addressed to every Member of the House. The letter is signed by the American Civil Liberties Union, League of Women Voters of the United States, National Urban League, National Catholic Conference for Interracial Justice, Public Citizen's Tax Reform Research Group, National Education Association, Lutheran Council in the USA, National Association of Social Workers, American Veterans Committee, and the NAACP Legal Defense and Education Fund.

This letter is written in opposition to the Ashbrook and Dornan amendments which these groups think is: "* * * neither warranted nor in the best interests of the Nation" in the wake of new developments since the first time this body passed those amendments.

Briefly, the reasons they believe the Ashbrook and Dornan amendments, which would prohibit IRS from promulgating new regulations on the tax exempt status of private schools which discriminate against minorities are unwarranted are:

First, that under present IRS regulations a number of schools which have been held by Federal courts to discriminate still enjoy tax exempt status.

Second, a Federal court in *Green* v. *Miller* has stated that current IRS regulations in this area are defective. The *Green* case established standards for Mississippi which they believe should be applied nationally. The Ashbrook and Dornan amendments would prevent the IRS from promulgating such rules on a national basis.

Third, the *Green* case would apply standards only to schools in Mississippi which were formed or expanded at the time of public school desegregation in a community; and

Fourth, during the original debate on Ashbrook/Dornan, Representative ASHBROOK stated that his amendment was a stopgap measure designed to prevent IRS from issuing regulations without court or congressional guidance. *Green* v. *Miller* provides that guidance and therefore IRS should be allowed to go ahead with new regulations.

I would like to associate myself with the points made in this letter. The text of the letter follows:

AMERICAN CIVIL LIBERTIES UNION,
Washington, D.C., July 22, 1980.

DEAR REPRESENTATIVE: The House will soon consider the Treasury, Postal Service, and General Government Appropriations Act, H.R. 7583. We write to you on behalf of a large number of organizations concerned with civil rights, including the American Civil Liberties Union, League of Women Voters of the United States, National Urban League, National Catholic Conference for Interracial Justice, Public Citizen's Tax Reform Research Group, National Education Association, Lutheran Council in the USA, National Association of Social Workers, American Veterans Committee, and the NAACP Legal Defense and Education Fund.

We urge you to oppose any effort to prohibit the Internal Revenue Service (IRS) from implementing any new regulations that might deny tax-exempt status to private schools that practice racial discrimination.

We are strongly opposed to any amendment similar to those sponsored by Representatives Ashbrook and Dornan on last year's Treasury Appropriations bill. Since the Congress enacted those amendments, there have been several new developments. We hope you will give these developments your careful consideration and conclude that re-enactment of the Ashbrook or Dornan amendments for another year is neither warranted nor in the best interests of the nation.

Further restrictive amendments should not be imposed on the IRS for the following reasons:

The IRS has stated repeatedly over the past two years that its current rules are ineffective in identifying schools which, while professing an open enrollment policy, in actual operation discriminate against minority students. It is a fact that a number of private schools hold tax-exemptions today even though they have been held by the federal courts to be racially discriminatory. Efforts by the IRS to promulgate new procedures that would focus on a school's actual operations have been blocked by the Ashbrook/Dornan amendments.

A recent federal court decision, *Green* v. *Miller*, has found current IRS procedures to be defective for conducting a meaningful review of private schools in Mississippi. This *Green II* decision restates the obligation of the IRS to ensure that racially discriminatory private schools do not benefit from tax-exempt status. While the *Green II* order technically applies only to Mississippi schools, there is no reason why the same standards should not be put into effect throughout the country. The Ashbrook/Dornan amendments would prevent this.

The new court-ordered standards for reviewing private schools in Mississippi apply only to schools that were formed or expanded at the time of public school desegregation, and schools that were adjudicated by courts to be discriminatory. Only these "badge of doubt" schools will have to come forward with a showing of acts and declarations that they do not limit their enrollment to non-minorities.

Last year when the Ashbrook and Dornan amendments were considered, even their supporters agreed that schools which actually discriminate against minorities should not enjoy tax-exempt status. When Representative Ashbrook introduced his amendment, he made clear that it was intended as a stopgap measure to prevent the IRS from announcing new standards without further guidance from the courts or from Congress. That guidance has been provided by the *Green* v. *Miller* decision. Now there is no justification for further restrictions. IRS must be allowed to fulfill its constitutional and statutory obligations to assure that racially discriminatory schools do not operate with the benefit of federal financial assistance in the form of tax exemptions.

We urge you to allow IRS to administer the tax exemptions provided in § 501(c)(3) in a fair, effective, and constitutional manner.

Sincerely,

John Shattuck, Director, Washington Office, American Civil Liberties Union; William L. Robinson, Director, Lawyer's Committee for Civil Rights Under Law; Ruth Robbins, Action Chair, League of Women Voters of the United States; Charles V. Bergstrom, Executive Director, Office for Government Affairs, Lutheran Council in the USA; Maudine R. Cooper, Vice President of Washington Operations, National Urban League; Father Frederick Hinton, Executive Director, National Catholic Conference for Interracial Justice; Mary A. Freeman, School Social Work Coordinator, National Association of Social Workers; Elaine Jones, Washington Office, NAACP-Legal Defense and Education Fund; Robert S. McIntyre, Director, Public Citizen's Tax Reform Research Group; Mary Jane Patterson, Director, Washington Office, United Presbyterian Church in the USA; Stanley J. McFarland, Director of Government Relations, National Education Association; Phineas Indritz, National Counsel, American Veterans Committee.●

PROHIBIT THE USE OF LIE DETECTORS IN HIRING PRACTICES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. KEMP. Mr. Speaker, because of the dangerous and widespread use of unreliable lie detectors as a basis for hiring and firing, I have cosponsored Representative DON EDWARDS' bill, H.R. 6034. This bill would prohibit the use of lie detector tests as a tool of employee personnel testing. It is long overdue.

Each year over 400,000 Americans are subjected to lie detector tests. Their crime? They want a job. It is estimated that fully half of this Nation's retail companies use polygraph tests to screen job applicants or to weed out unwanted employees.

There is no voluntary participation in a lie detector test to a person whose job is on the line. Refusal to take a test is tantamount to admitting to a criminal mind. Refusing to answer questions while voluntarily taking a test is equally damaging.

This is an unconscionable invasion of privacy. There can be no excuse for the use of lie detectors in hiring practices that is not outweighed by the inherent wrongness of the use of these devices on innocent people.

And the incredible thing about all this is—lie detectors lie.

There are two kinds of lie detectors in common use—the polygraph, and the voice stress analyzer (VSR). The VSR purports to detect poor workers from tremors in the voice. The most familiar test to most of us is the polygraph test—the machine which, when connected to the subject through electric wires, a corrugated rubber tube wrapped around the subject's chest, and a pressure cuff wrapped around the subject's arm, attempts to determine a person's character by measuring blood pressure, pulse rate, respiration, and perspiration. No allowance is made for individual differences such as blood sugar levels or other medical irregularities; no allowance is made for personality differences, which may make one subject nervous when simply asked his address under the clinical circumstances surrounding the administration of the test.

The accuracy of the lie detector? Experts agree that a trained personnel administrator will get consistently more accurate results with a history check and a personal interview than with a polygraph or a VSR. In fact, in many circumstances lie detectors are less accurate in determining bad employees than if the test administrator had simply flipped a coin to determine his or her honesty.

It is for this reason that I have cosponsored H.R. 6034, to prohibit the use of lie detectors by employers for reasons of hiring or firing. The American people should not have to be subjected to the humiliating invasion of privacy that lie detector tests mean to those who are forced to undergo them while innocent of any crime. I am supported in this effort by the United Food & Commercial Workers International Union and the Food and Beverage Trades Department of the AFL-CIO.

This violation of citizens' rights must be ended. I commend my colleague, Mr. EDWARDS, for his diligence on this bill, and I urge the Members of the House of Representatives to lend their strong support to halt this legalized invasion of privacy.●

TRIBUTE TO BERNARD POLEK ON HIS RETIREMENT AS CHAIRMAN OF TALMAN FEDERAL SAVINGS AND LOAN ASSOCIATION OF CHICAGO

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. FARY. Mr. Speaker, it is my privilege to commend my noted constituent Bernard A. Polek for his distinguished and unselfish dedication to the good of the people of the Fifth Congressional District of Illinois and to the people of the Greater Chicago area.

Bernard Polek is retiring as executive committee chairman of Chicago's largest savings and loan association, Talman Federal Savings and Loan Association.

He first joined Talman more than 41 years ago and was elected to Talman's board of directors in 1949. He served as Talman's president from 1961 to 1974 and was elected board chairman in 1963. During his many long years of service at Talman, Bernard Polek has earned the friendship and respect of an entire community.

The people of Chicago know Bernard Polek for much more than being an accomplished and nationally recognized banking authority. They know him for his selfless dedication to the good of our entire community. The Talman Federal Savings and Loan Association was founded many years ago by Bohemian immigrants to Chicago's southwest side, and has had an integral role in the area's development. Immigrant families from all nations who came to Chicago to work for a better life, started on the road to that better life by opening savings accounts at the local savings and loan. Even I can remember my parents sending me to the bank each week with the seven passbooks for my family and putting 10 cents or a quarter in each one. After 20 years of saving and sacrifice like this there was enough money in those accounts to act as a wedding present for the children to make the downpayment on a house, always with a rental unit to give some help with the payments. Without institutions like Talman Savings and Loan to help immigrants make it into the middle class, Chicago would not have thrived as it has. Without men like Bernard Polek working at Talman the whole system would not have worked as well.

Bernard Polek has served as chairman of the board of the Moraine Valley Community College Theodore Lownik Scholarship Fund, as a member of the advisory committee of the Civic Federation of Chicago, as a member of the board of the Chicago Association of Commerce and Industry, the government board of the Glenwood School for Boys, as a member of the Federal Legislative U.S. League Committee, and as president of the Geneva Lake Water Safety Committee.

He has also served on the New Monastery Fundraising Committee of the Development Foundation of the Poor Clares of Chicago, the Chicago Committee of the Illinois Sesquicentennial Commission, the Third Annual Business Leaders Conference on Crime and Delinquency, the board of trustees of Holy Cross Hospital, the board of trustees of Illinois Benedictine College, as general chairman of the building campaign for the Southwest School for Retarded Children, and was appointed to the Men of Mercy Sponsorship Committee for the building of Mercy Hospital.

His accomplishments in the financial community provide a proud record of distinction. Bernard Polek has served as vice chairman of the United States Savings and Loan League Law and Regulations Committee and the League's Arrangements, Resolutions and Liquidity Committees. He has been appointed to the league's Legislative Committee for 4 successive years.

He has served as president of the Federal Savings and Loan Council, as a director for 3 years, and on the council's Law Regulations Committee. Bernard Polek has also served as industrial finance chairman of the Committee for Economic Development of the Midwestern Savings and Loan Associations, as president of the Illinois Savings and Loan League convention, on the Special Anniversary Membership Committee for the Savings and Loan Foundation, the Joint Advertising and Publicity Committee of Insured Savings and Loan Associations of Cook County, as cochairman of special activities for the Cook County Council spring conference and installation banquet, as chairman of the Economic Liaison Committee for the Cook County Council of Insured Associations, and as vice president of the Illinois Savings and Loan League.

A tireless worker for the good of Chicago's diverse neighborhood communities, Bernard Polek has been active on the Chicago Real Estate Board, the Southwest Realty Board, the North Side Real Estate Board, the Federal Savings and Loan Council of Illinois, the board of directors of the Better Business Bureau of Metropolitan Chicago, Inc., the Southwest Lions Club of Chicago, the Evergreen Park Post of the American Legion, the Travelers Club, the St. Rita Council, Knights of Columbus, the Ascension Church of Oak Brook, and the Chicago Area Council of Savings Associations.

Bernard Polek's roots run deep into the community we love so dearly. He graduated Mount Carmel High School, the American Savings and Loan Institute, and he stayed relatively close to home when he graduated from the School of Savings and Loan, the School of Business at Indiana University. He and his lovely wife, Lydia, have four children and seven grandchildren.

Our good friend and neighbor also achieved a distinguished career in the U.S. Army during World War II with the 740th Railway Operating Battalion in France, Belgium, Holland, and in Germany.

Bernard Polek has devoted his life to serving our great community. He is an understanding and compassionate man. He is a man who intensely loves our wonderful community and our great country.

Since joining Talman Federal Savings & Loan 41 years ago, Bernard

Polek has been a driving force behind this community. He has helped instill confidence and trust in the health of our neighborhoods and the future of our city.

I wish everyone who hears my words would visit the southwest side of Chicago and witness for themselves the great vitality of our neighborhoods. I am not exaggerating when I say Bernard Polek has played an important role in building that vitality through his faith and confidence in our people.

The grateful people of the Fifth Congressional District of Illinois salute Bernard Polek on his retirement for his years of service to our great community.

We all give thanks and wish Bernard Polek Godspeed in all of his future endeavors and hope to see him continuing his involvement in the many things which make this city great.

He is the kind of person who has made this country what it is, through his unselfish and tireless dedication to our community, through his unending belief in the good of his fellow man, through his participation in the greatest democratic system ever known to man.

I am proud to call Bernard Polek my constituent, my good neighbor, and my good friend.●

THE CONSUMER PRODUCTS SAFETY COMMISSION

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● **Mr. QUAYLE.** Mr. Speaker, the Consumer Products Safety Commission has taken the worst aspects of the Federal Trade Commission, OSHA, EPA, and EEOC and raised them from a high art to a religion in terms of capriciously promulgating rules, changing standards, and being totally unwilling to take into consideration the results of their actions.

The CPSC's recent, unwarranted actions toward the cellulose insulation industry is a most painful case in point.

The cellulose insulation industry attempted, unlike some other industries, to reach an accord with the CPSC with respect to safety standards for their material.

The industry joined together to have materials tested by highly reputable testing laboratories, like Underwriter's Laboratory, Certified Laboratory, Factory Mutual, and others.

The cellulose industry is unique inasmuch as there were 800 small manufacturers of the product supplying insulation to a growing industry.

The CPSC decided to institute its own testing program. The results of that program has caused confusion, financial hardship, and, in many cases, bankruptcies.

The Consumer Product Safety Commission has not helped the consumer because there has not been a single instance of injury from installed insulation—either before or since they began their retesting program.

In fact, the Consumer Product Safety Commission has actually harmed consumers, because of the 800 small businesses which were in existence to manufacture this product, fewer than 250 remain.

Many of these are in imminent danger of having to close their doors, and put people out of work because of the unreasoning manner in which the Consumer Products Safety Commission is acting.

When is this Congress going to take control of this Government away from unelected, untrained, and unyielding bureaucrats so that the people of this country who want to be productive, who want to build businesses, who want to provide jobs, who want to help improve our society can be left alone to do so.●

NEED FOR IMPROVING OUR NONPROLIFERATION POLICY

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● **Mr. WYDLER.** Mr. Speaker, ineffective and self-defeating—these words best describe the record of the Nuclear Nonproliferation Act of 1978. This misdirected legislation and the administration's "policy of denial" have been aimed at preventing the transfer of nuclear materials and technology from our country, based on the self-deceptive premise that the United States has an effective monopoly on these goods. Since we do not have such a monopoly, the counterproductive results have included the loss of billions of dollars in business for American industries, and an end to U.S. influence in the nuclear policy of nations which have had to go elsewhere for nuclear technology. In all my discussion in at least 23 countries over the last 3 years, the conclusions I have drawn parallel those of Gordon C. Hurlbert, in his article, "Salvaging U.S. International Nuclear Policy," from the Nuclear Energy Digest.

The following excerpts are from Mr. Hurlbert's article from Nuclear Energy Digest, published quarterly by the Marketing Communications Department, Nuclear Commercial Operations Division, Westinghouse.

In this article I do not intend to provide an industry view of the success or failure of the United States in the area of international nuclear commerce since the passage of the Nuclear Non-Proliferation Act of 1978. Rather, I intend to present the view of an American citizen, one who is deeply concerned over the tragic failure of the United States to translate its legitimate concerns over the proliferation of nuclear weapons into policies and legislation which enhance achievement of this goal.

That the Nuclear Non-Proliferation Act of 1978 is failing in its objectives . . . that the United States is losing influence in this critical area . . . is not an opinion, but a fact, a fact easily substantiated by a review of what actions the United States has taken and is taking in the international nuclear area.

Fact: Although the Act was "designed" to have the United States become a more reliable supplier, the record shows frequent failures of the implementing agencies to meet the specified schedules for export licensing actions. The Executive Branch's January 1979 Report to the President, required by the Act, indicates that it exceeds the specified 60-day processing period in 226 cases, while processing only 134 applications in the same period. Although I don't have similar statistics on the performance of the NRC, it is my understanding that it exceeded the time limit in more than 40 percent of the cases.

A LACK OF UNDERSTANDING AND TRUST

I think the root of the problems in our existing nuclear policies is that we have given little thought to the energy needs of our allies and to their often limited access to energy resources. To our allies it seems that the U.S., with its still vast energy assets, is trying to limit and proscribe their future energy options, which might be based on quite different national circumstances than ours. For example, Japan must import 99 percent of its energy. West Germany, which is increasingly dependent on heavily subsidized deep-mined coal, or is buying large quantities of its oil on the Rotterdam spot market, should not realistically be expected to give up any energy option with as much promise as the fast breeder reactor. The breeder has the potential of providing a large measure of energy self-sufficiency.

Further heightening this sense of dependence is the fact that neither Japan nor West Germany has its own supply of uranium, as contrasted with the U.S. But U.S. policy, as embodied in the Nuclear Non-Proliferation Act, was directed at slowing down or negating the fast breeder option, without our being able to present convincing proof that any significant off-setting non-proliferation or other advantages would ensue. Of course France, Britain, and the Soviet Union, most advanced in breeder technology, have continued to develop this option despite U.S. views to the contrary.

The second major reason for the failure of our policies is that, embodied in their unilateral formulation and implementation, there is a blatant lack of trust in the intentions and institutions of our trading partners. The perception of our friends and allies is that we question their non-proliferation objectives and also their belief that to achieve those objectives they must maintain export policies which recognize the sovereignty of individual states. Not all nations represent the same non-proliferation risk, but we treat each as though it was the worst case on the scale. Had the U.S. first consulted with its allies, shown some flexibility in its policies and some trust in the intentions of other countries, where such trust in most cases is truly merited, many of the foreign attitudes and actions which have led to the present situation would not have developed to such a level of intensity.

GRAVE ECONOMIC AND POLITICAL CONSEQUENCES

This lack of recognition of other countries' needs, this inability to balance nonproliferation objectives against these energy needs, and this lack of trust in the resolves of our friends have, in combination, created a situation of great uncertainty with respect to the U.S. as a reliable supplier in the international nuclear market. As a consequence, a general movement on the part of all countries toward greater independence in nuclear matters, as well as greater interdependence among nations on supply arrangements which exclude the U.S. This major erosion in our position of nuclear leadership hurts us economically and politically.

Economically, it is accompanied by a declining market share of available nuclear export orders. In 1972 the U.S. had received about 90 percent of the export awards of nuclear power plants in the free world. During the period of 1973 to 1978, U.S. suppliers could achieve only about 50 percent of the available export awards. This severe loss of market share affects two crucial areas.

First, it results in a loss of jobs in the United States. The loss of one export order means the loss of 30,000 man years of employment for U.S. workers. These are lost jobs for professionals, engineers, technicians, and factory and construction workers in companies located in over 40 states throughout the country.

Second, it severely affects our balance of payments. The 1980 export value of one nuclear power plant project can exceed one-half billion dollars. During the next 10 years the potential export market could easily amount to several billions of dollars annually. Nuclear power plants, fabricated fuel, and enrichment services are probably the biggest single ticket item which the U.S. has in its export portfolio. As a result, it can play a major role in our ability to compensate for the continually rising costs of oil imports.

Politically, our loss of nuclear position is accompanied by a lessening of our ability to develop and lead a consensus of nations in achieving mutual non-proliferation goals and policies. It is ironic that our policies to date have probably achieved exactly the opposite results from those which were desired.

REGAINING A LEADERSHIP POSITION

The question we must now address is whether or not the U.S. Government can recoup its position as a leader in this area. I believe the answer is yes, but it is as a leader, not *the* leader. Other nations will still welcome our playing a constructive and important role in evolving long-term international policies in the areas of reprocessing, use of plutonium, breeder reactor development, and nuclear weapons control, as well as in developing a cooperative approach to nuclear environmental issues. But our approach cannot remain unilateral. We must recognize that we do not have all the right answers. We must recognize the views of the developing nations, as well as those with fully developed commercial nuclear capabilities. We must recognize the energy needs of all nations and be willing to adjust our policies to reflect those needs.

We should begin now to review the Nuclear Non-Proliferation Act with the objective of passing improving amendments as soon as possible. We might even consider replacing it with two acts—one devoted to weapons non-proliferation in its broadest sense, and one dealing with nuclear exports. Some of the present problems arise from the misconception that nuclear exports and weapons non-proliferation can be treated by the same legislative measures.

The present Act is so complex and often convoluted in its many redundant control mechanisms that it defies the comprehension of foreign customers, and even of those in the U.S. who work with it constantly. These should not be hasty, ill-thought-out revisions, but should carefully consider the realities of our position as one of many countries involved in commercial nuclear energy. Above all, the revised legislation should be simple in its implementation and should leave no doubt in any country's mind that when the non-proliferation requirements are met the necessary licenses will be issued.

There should be increased emphasis on the future sanctity of agreements, including the guarantees of security of supply contained within the terms of such agreements. The licensing process would then become much less complicated, with the role of the NRC changed to that of a technical adviser and consultant, rather than, as now, the dominant decision maker in this highly sensitive foreign policy area. The NRC should, in my opinion, be devoting its full efforts to important domestic nuclear problems, particularly in the areas of reactor safety and expedited licensing, rather than spending the substantial amount of time it now spends on international export matters.

We should strengthen our support of the IAEA in its activities with respect to spent fuel management, international plutonium storage (and, like it or not, there will be separated plutonium to be stored), and, above all, in its endeavors to establish an international regime in which assurances to prevent the spread of nuclear weapons are coupled with assurances of supply for fuel, services, and equipment.

The U.S. needs a reprocessing industry in the future, and I firmly believe that a rational multinational approach to this issue will greatly enhance our long-term nonproliferation goals. One possible approach to reprocessing and plutonium handling would be for the Federal Government to set up and run an entity whose sole raison d'etre is to develop and implement this advanced technology, including the development of sophisticated safeguards equipment and techniques. Perhaps this could be further extended to a multinational entity in the U.S. created to achieve a similar scope.●

STATEMENT ON PIONEER DAY BY CONGRESSMAN DAN MARRIOTT

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. MARRIOTT. Mr. Speaker, today, July 24, signifies a most important day in the history of the State of Utah. It was on this day in 1847, after many stuggles and hardships, that the Mormon pioneers finally arrived in the Great Salt Lake Valley.

It was on this day that Brigham Young, weak and feeble from exhaustion and illness, stepped out of his wagon, looked over the vast desert between the great Salt Lake and Utah Lake, divided by a Jordan River, and said, "This is the right place."

From that point on the pioneers went forward, worked hard, and built a great city and a great temple in the middle of a desolate desert. It was there that the hearty pioneers made the desert blossom as a rose as they built one of the most beautiful cities in America. It was also there that they were allowed to practice their religion in peace. And from that point on a great American religion continued to spring forth.

It was there too that we saw the beginning of a new State. Utah eventually entered the Union in 1896.

Today in Utah we celebrate the arrival of these hearty pioneers with the largest celebration in the State. There will be festivities in every city and town as Utahans pay tribute to those who sacrificed so much for so many.

Today Utah is one of the most crucial, important States in the Union. Here is a State that bears a great portion of our national defense capabilities. Here is a State rich in natural resources—oil, coal, and other minerals. Here is a State with over 93 percent of the Nation's tar sand deposits, having the potential of providing 25 to 30 billion barrels of new oil for America.

Here is a State where countless more billions of barrels of oil can be developed from the vast quantities of oil shale under the Earth's surface. Utah will become the home of the Nation's largest coal-fired electrical plant as well as one of the very few geothermal energy plants in the United States.

Utah also could be the home of a future synthetic fuels plant and the Nation's largest solar power conductor—the Great Salt Lake.

Obviously Utah will be the energy giant of the United States.

Utah is best known for its majestic mountains and beautiful scenery, its great skiing, and above all, its friendly, self-sufficient, patriotic people.

So as Utah stands ready to help the Nation in so many ways, let us pause and pay tribute to this great State. Let us pay tribute to its pioneers—its founders. Let us pay tribute to those hearty forefathers who made great sacrifices, often with their lives, to build up the State and the Nation.●

THE BEST TO YOU EACH MORNING

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. COELHO. Mr. Speaker, earlier this month I shared with my colleagues, through a statement in the CONGRESSIONAL RECORD, the waste of time and tax dollars on the Federal Trade Commission "shared monopoly" case, which alleges anticompetitive marketing practices on the part of the Nation's cereal industry. Since many of the products contained in breakfast cereals are grown in my largely agricultural congressional district in sunny central California, and since my

constitutents, whether engaged in agriculture or not, have let me know in no uncertain terms that they are fed up with bureaucratic nonsense in Washington, I am compelled to again discuss this issue with the House.

In the business and finance section of Sunday's Washington Post, staff writer Merrill Brown details the fiasco surrounding the FTC's handling of the case. I am including the article in the RECORD following my remarks. As far as I am concerned, Mr. Speaker, until the FTC gets back to the business which Congress intended it to do, our mornings at the breakfast table could be a little bit better.

The article follows:

SNAP, CRACKLE, POP: STORM OVER CEREALS

(By Merrill Brown)

In early August 1978, Harry R. Hinkes, then a 68-year-old law judge at the Federal Trade Commission, walked into the office of another FTC judge and suddenly announced that he planned to retire at the end of the month.

Although federal employees retire all the time, this announcement was a little different. Hinkes had been taking testimony for more than two years in the commission's landmark antitrust suit against the three largest members of the nation's cereal industry.

FTC officials panicked. Millions of dollars had been spent on the case, and they faced the possibility of retrying the entire cereal matter.

What followed is a complex and somewhat confusing tale of how the FTC kept Hinkes on board by offering him a $72,000 contract, approved by FTC Chairman Michael Pertschuk—a contract largely viewed by federal management officials and others as an improper, possibly illegal deal. Pertschuk later said the arrangement by which Hinkes remained on the case was of "questionable validity."

There is no evidence that the Civil Service Commission, which monitored the affairs of these judges at that time, officially approved the contract. Marvin Morse, new director of the Office of Administrative Law Judges at CSC's successor, the Office of Personnel Management, recently said such contracts are not "lawful or proper * * * We would not approve such a contract."

A congressional prober puts it even more bluntly. "Basically, the FTC procured a judge like a piece of meat," said the source. "But I don't think what Hinkes did was ethical or proper either."

Although the case against Kellogg Co., General Mills Inc. and General Foods Corp. did continue, and the record of evidence is now closed, the three companies claim the whole matter has been unfairly and irreparably tarnished.

The cereal case is considered one of the government's four most important pending antitrust cases because it addresses the question of shared monopoly—or industries in which a few companies control most of the market. At stake is the structure of the entire multibillion-dollar cereals industry—and other similar industries.

Without question, the "Hinkes affair" as it has come to be known in legal circles, has delayed the cereal case by months. Further, it has brought out the best and the worst of congressional lobbying efforts in connection with the FTC and has resulted in the passage of an amendment by the House Civil Service Committee to bar clearly the practice of retaining these judges while they are annuitants (recipients of a fixed pension payment).

A detailed look at the events in the Hinkes case now can be constructed through memos, sworn affidavits and internal commission documents.

On that August 1978 day, Hinkes told Ernest Barnes, assistant chief administrative law judge at the commission, that he could not afford to miss the opportunity to garner a 4.9 percent cost-of-living retirement bonus that he would not receive unless he retired by Sept. 1, Barnes recalled.

Barnes says he was surprised by Hinkes' announcement. Hinkes, who had first joined the federal government in 1945, had been hearing testimony in the cereal case for more than two years, and Barnes said he thought Hinkes had a commitment to see the case through.

If Hinkes had left the commission at the time, it was possible the case would have to be retried completely and perhaps could result in the commission being forced to drop the entire matter, FTC officials feared. About 36,000 pages of testimony already had been taken and it appeared at the time that the case was within a few weeks of completion. Only Hinkes' task of writing the initial decision remained for him to complete.

But there was one way out. Although Hinkes and Barnes disagree about who first raised the idea, Hinkes said he would consider signing a contract that would pay him enough money to keep him on board.

On Sept. 7, after considerable hand-wringing about the fate of the FTC's much-ballyhooed cereals case, Hinkes had his contract. It had been approved by Pertschuk, on the advise of counsel, and called for Hinkes to receive compensation, including his pension, of almost $72,000, considerably more than any other federal administrative law judge. The previous year, Hinkes had earned $47,500.

All sides in the case admit mistakes were made in the handling of the Hinkes question. To the FTC, it was a regrettable but innocent blunder.

But in time the blunder has become so serious that Pertschuk, in response to a proposal by the cereal companies, Friday reversed a year-and-a-half-old position and removed himself from the commission consideration of motions regarding the Hinkes affair.

To cereal companies such as Kelloggs, the Hinkes contract was a violation of federal law that at least should result in a retrial of the case.

For members of a House Civil Service investigative subcommittee, it points up holes in the entire administrative law judge system. At the FTC, these judges, employes of the commission, hear significant cases such as the cereals case.

One high level official, Charles Dullea, former director of the Office of Administrative Law Judges at the Civil Service Commission, wrote to Raymond Jacobson, the executive director of the CSC, in 1978 to lay out the ramifications of the case for law judges and the entire federal work force.

"You should be aware," he wrote, "of a situation, if the media learns about it (the case) could be used to reflect adversely generally on federal employes and on the Corps, but with particularity on one ALJ. The conduct of the ALJ is shameful to say the least."

Hinkes' wife was ill in California, Hinkes said, and he was tired of the journey from Washington to the West Coast. "I had to leave the case or leave my wife, one of the two," Hinkes recalled in a sworn statement. "And I defy anyone to tell me I should have left my wife."

Barnes, in an affidavit, remembers it a bit differently. "The difference between his take-home pay and his retirement pay would be such that it was not worthwhile for him to continue working," Barnes said. "He therefore had decided that at his age he should retire now to take advantage of the cost of living bonus and the tax-free period of his retirement."

Hinkes says any statement that he had a commitment to stay on the case was an "untruth." Further, he recalled that Barnes called him "greedy" and "unpatriotic." In addition, Hinkes said that he would be willing to continue his work on the case in Los Angles where his wife was getting medical treatment.

Barnes talked to Daniel H. Hanscom, the chief judge at the FTC, about a contractual arrangement. In conversation with Barry Kefauver, who then was the FTC's assistant executive director, Barnes insisted that the only option that would keep Hinkes on the case was a contract.

Kefauver discussed the contractual options with Dullea of Civil Service. According to Kefauver, in an affidavit, Dullea "expressed sympathy with the agency's dilemma and agreed that we apparently had no alternative but to yield to Judge Hinkes, given the substantial financial investment in the case."

Kefauver discussed the Hinkes contract situation with Daniel Schwartz, who at the time was deputy director of the Bureau of Competition.

"Schwartz stated that the agency had no alternative but to offer Judge Hinkes a contract or face the likelihood of retrying the whole cereal case," Kefauver recalled. The FTC officials concluded that the cereal case already had cost the FTC more than $5 million.

Later in August 1978, Pertschuk called Hinkes "and in a very brief conversation, indicated only that I hoped he would accept the contractural arrangement and complete the case," Pertschuk recalled in a 1978 statement, noting that he did not discuss with Hinkes the merits or handling of the case. Nevertheless, such a contact between a commission chairman and a sitting law judge is highly unusual, if not improper, experts say.

"Understanding as I did that the arrangement with Judge Hinkes presented no legal problems, I concluded that the potential benefit to all concerned in having the case concluded in a manner that did not entail significant delays and burdens on the parties justified that arrangement to retain the services of Judge Hinkes," Pertschuk said in his statement.

But Pertschuk recalled that after he reviewed briefs of the parties in the case and realized that the contract had not been approved by the Civil Service Commission, he concluded that Hinkes' remaining on the case "was of questionable validity." Pertschuk approved the contract from a New England vacation spot where he spent that entire month and did not seek the views of other FTC members.

But Kellogg's goes a bit farther. Christopher McNaughton, the company's senior vice president and general counsel, told the House subcommittee this spring that the contract "destroyed ALJ Hinkes' judicial independence, created conflicts of interest between him and the respondents and otherwise created both the appearance and the fact of impropriety and bias."

According to the FTC contract with Hinkes, the agreement could be ended "for the convenience of the government, when it was determined that such action is in the best interest of the government," and an amendment to the contract could be negotiated and the payments extended.

Hinkes was to be paid according to completion of his "tasks" in the case. For instance, he would receive $10,800 as he finished hearing each of the three companies' defenses. Another $10,800 would be paid for Hinkes' preparation of findings of fact and law.

In effect, the quicker Hinkes moved the case along, the sooner he was to have been paid.

With the contract in hand, Hinkes presided over the cereal case until Oct. 20, 1978, when the FTC stayed the case pending its handling of motions filed by Kellogg's and the other parties on the Hinkes affair.

On Dec. 8, 1978, the commission ruled that Hinkes was "unavailable" under federal law. He was removed from the case and replaced by another FTC judge, Alvin Berman, who resumed hearings in the case in October 1979, not having heard the testimony of 86 of the approximately 100 witnesses. Berman has pledged to finish his initial decision by October 1981.

The commission placed not only the cereal case, but also the Hinkes matter in Berman's hands. Berman withdrew from the Hinkes matter, noting that Hinkes was a personal friend. No ALJ would take the Hinkes case and the hot potato was thrown back into the laps of the commission itself.

Kellogg's and the other companies repeatedly have requested that an independent official be brought into the case to study the Hinkes affair and have asked Pertschuk to remove himself from both the antitrust case and the Hinkes inquiry.

Although the FTC has not been willing to bring in an outside judge, it is holding its own investigative proceeding, and FTC member David Clanton conducted a hearing on the Hinkes controversy. Affidavits were taken from some of the key officials involved in the case, and a decision on the Hinkes affair is expected soon.

Pertschuk denied in the motion filed Friday that he had prejudged the issues involved in the Hinkes matter, but said that resolving the motions before the FTC would involve evaluating "statements concerning matters in which I participated personally."

But the debate, legal maneuvering and lobbying on the Hinkes affair was only a beginning. While blasting the FTC's handling of the situation at every opportunity in the matter, the cereal makers took their case last year to Capitol Hill and found listeners in dozens of congressional offices.

Letters to the FTC began flowing in from members of Congress by the summer of 1979. The letters came from members of the House and the Senate who represent districts with special interests in cereal production: districts with Kellogg's facilities or districts where grain companies have substantial contracts with the cereal manufacturers. The letters sounded much the same, if not in a few cases, identical.

"Without in any way trying to prejudice this case, I believe that the appointment of Harry R. Hinkes by the FTC after his official retirement date to continue in this judicial capacity, raises some legitimate questions with respect to his appointment as an Administrative Law Judge as provided by the Administrative Procedures Act and the Civil Service Commission," wrote Sen. Donald Riegle (D-Mich.), a representative of the Kellogg Company's home state, in an Aug. 23, 1979 letter to Pertschuk. Two weeks later, Sen. Edward Zorinsky (D-Neb.), wrote a letter to Pertschuk with that identical language.

Letters on the Hinkes matter came to the FTC from members of Congress as powerful as Sen. Russell Long (D-La.), who said the case had come to his attention "via constituents in the Louisiana rice industry who have done business for many years with the Kellogg Co."

Rep. Howard Wolpe, (D-Mich.), a first-term member from Battle Creek, Kelloggs' home base, has been investigating the matter for much of his congressional term.

Noting that Kellogg's has a plant in Memphis, Sens. Howard Baker (R-Tenn.), the minority leader, and James Sasser (D-Tenn.), joined in, as did Sen. S. I. Hayakawa (R-Calif.), and many congressmen from grain trading states and from Michigan.

Most of the congressional activity on the Hinkes matter, from all indications, has been different in tone from the intense lobbying involved in this spring's congressional efforts to shut down the FTC's kidvid investigation of advertising directed at children or the antitrust case involving agricultural cooperatives.

All the congressional letters to the FTC clearly emphasize the procedural questions raised by losing a law judge in the middle of the case and the subsequent contract with Hinkes, rather than argue the merits of the antitrust action.

While the antitrust case dragged on, Rep. James Hanley (D-N.Y.), chairman of a civil service investigative subcommittee, was considering legislation to revamp the government's handling of administrative law judges, but like other members of Congress, Hanley steadfastly insisted that he would do nothing to interfere in the merits of the antitrust case.

Spurred by Rep. Donald Albosta (D-Mich.), Hanley conducted hearings on the matter last month. And the full civil service committee passed the amendment to bar the contract process, unless it is approved by the OPM. FTC officials say the handling of the matter, even the relentless work of Wolpe in particular, has been fair and even-handed.

Nevertheless, if the aggressive lobbying efforts by Kellogg's and the other respondents in the case of the questionable contract has ended with the passage of the amendment, the Hinkes matter remains a vital factor in the fate of the case. "It would be a shame to lose or have to retry a case we're winning," said an FTC official.●

THE AGRICULTURAL CONSERVATION PROGRAM

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to urge congressional support for the agricultural conservation program (ACP) administered as a partnership between the farmer and his Government. The objectives of this program include restoring and improving soil fertility, reducing erosion caused by wind and water, and conserving water on land. The ACP is administered through a local network of 3,053 farmer-elected county committees. This program provides the best possible means of meeting local conservation needs in all areas of the country by providing the leadership needed to identify the conservation problems and encourage fellow farmers to take action to correct these problems.

By integrating their farming knowledge and insight with their concerns, as local taxpayers and consumers, these committees have developed efficient and effective conservation management plans which benefit their counties.

In terms of accomplishments, this program has resulted in the planting of over 8 billion trees, the construction of over 2 million water impoundment structures, and the terracing of nearly 35 million acres of land.

For a number of years, the Congress has had to insist that this valuable program be maintained. Had the Congress not so insisted over the years, our country would now be like the other eroded and soil-deficient countries of the world.

Mr. Speaker, we must maintain this program and, for this reason, I support the appropriation of $190 million for the agricultural conservation program for fiscal year 1981, the same funding level for last year and over $30 million more than requested by the administration.

We must, Mr. Speaker, rededicate ourselves to the conservation of our greatest natural resources—our soil and water, maintain and supplement our battle against water pollution, enhance agriculture's contribution to the stability of the dollar and our balance of payments, insure a resource base for expanded food production to aid those less fortunate abroad, and contribute to energy conservation by preventing the waste of petrochemical-based fertilizers in the humid areas.

I urge congressional support for this worthwhile grassroots effort of local, State, and Federal cooperation.●

FROM SCHOOLTEACHER TO CORRECTIONS CHIEF

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mrs. CHISHOLM. Mr. Speaker, one of the refreshing things about the changing roles of women has been how well some of us have been able to adapt. There are many women who have been in the vanguard of this change who have come from very ordinary and traditional circumstances. Jacqueline McMickens is one of them. Formerly a third-grade reading teacher, she now serves as the first female chief of operations in the New York City Department of Correction.

These two positions outwardly have very little in common; but they both show Chief McMickens' desire to help and to serve others—female virtues that fit the role of leadership quite well.

The following article tells her story:

[From the New York Times, June 2, 1980]

From Schoolteacher to Corrections Chief

(By Judy Klemesrud)

Jacqueline McMickens used to teach reading to third-graders, a very traditional job for women. Nowadays the 44-year-old Brooklyn resident has one of the most nontraditional jobs ever held by a woman in the city: She is the first female Chief of Operations in the New York City Department of Correction.

Mrs. McMickens, or "Chief," as she prefers to be called, was named to the $49,000-a-year post last October after 16 years as a uniformed member of the department. She is in charge of the day-to-day operations of the department, and as the top uniformed member she personally responds to all escapes, suicides, homicides, inmate protests and job actions in the city's 16 corrections facilities.

"It's a job where you know when you have helped someone; when you're successful, the inmates leave the system," she said the other day in her office on the 15th floor of the Criminal Courts Building. "When I was teaching, there were fewer rewards, because I just didn't feel what I could do in nine months could be that permanent. It also depended on the teacher before me and the teacher after me."

A FAVORITE SUCCESS STORY

Recalling one of her favorite success stories, Chief McMickens told of an inmate she had worked with when she was a correction officer assigned to the old Women's House of Detention in Greenwich Village. It was the job of one inmate to make coffee, but she always refused to clean the urn afterward.

"I put soap and other things in the urn so she would have to wash it," Chief McMickens said. "Finally, she came to me one day and said, 'You make me so miserable that I want to be away from you and away from this place.' Today she is a graduate student at New York University and is assistant to a project director."

Chief McMickens, who was wearing a tan Calvin Klein suit with a slit skirt, looks extremely young for her age—more like a college sophomore than a 44-year-old woman in charge of the day-to-day operation of jails housing what on a recent day was 7,285 inmates (6,937 men, 348 women).

She said that because of her youthful looks, her height (5 feet 2 inches) and her sex, some of her male subordinates were at first reluctant to salute her.

SOME CAN'T ACCEPT HER

"Some of them still call me 'she' instead of 'chief,'" she said, in her calm but firm manner, "and it drives me up the wall. Some people just can't accept it that a woman finally has this job."

Her boss, Benjamin Ward, Commissioner of the Department of Correction, said he had chosen Mrs. McMickens for the important operations post "because she has a national reputation in the correction field, she has a master's degree, she ran the male-dominated training academy for many years, and she was one of the first female deputy wardens to run a male correction facility," the Adolescent Remand Detention Center on Rikers Island.

He added that when she took over her duties last fall, "I was overly concerned and protective, and all in vain." He paused for a moment, smiled and added: "I just wish she were six feet tall."

Another high-ranking member of the department described Chief McMickens as "tough but feminine."

"I've seen people come out of her office who looked like they didn't know what hit them," he said. "But then she'll turn on her feminine side, and start talking about her sons and the things she likes to cook."

The chief concedes that she has seen a lot in her 16 years with the Correction Department. But even she was amazed recently when a missing hacksaw blade that several Rikers Island inmates used to escape turned up inside a captured inmate's colostomy bag. "I thought it was pretty clever," she said with a slight smile. "In fact, it was incredible!"

Chief McMickens, who is on call 24 hours a day, seven days a week, was called to Rikers Island twice recently during a dispute that broke out when a kitchen at the Men's House of Detention ran out of pot roast on a day that pot roast and ham were the meal choices. "The inmates refused to leave the dining room until they got pot roast," she said. "So we arranged to cook some more pot roast, which took about two hours."

STOPPING A RUMOR

During that time, she said, one inmate who refused to go back into his cell had to be "restrained" by correction officers. He wound up in the hospital, and the rumor spread that he had been killed. When the inmates refused to go back to their cells in protest, Chief McMickens arranged to have the injured inmate talk to several other inmates by telephone, after which the protesters agreed to return to their cells.

Chief McMickens was born in Birmingham, Ala., where her father, Zollie Montgomery, was the first black man to work as a Railway Express driver. She studied biology at Miles College there, where she met her husband-to-be, William McMickens, who is now a bacteriologist for the city's Department of Health. He also works an additional four hours a day as a mail handler for the Postal Service.

"We're both workaholics," she said, adding that she also did management consulting work and taught at Baruch College, boosting her total income to more than $65,000 a year.

The McMickenses live in a 100-year-old dark green Victorian house in the Flatbush section of Brooklyn, with two of their three sons, Charles Maurice, 20, a Brooklyn College student, and Barry, 19, who plans to enlist in the Army. Their oldest son, Lennell, 26, is married and lives in Cincinnati, where he works for the Cincinnati Library Service. The McMickenses also own a summer house on Cape Cod.

A LOVE FOR COOKING

Despite the highly nontraditional nature of her work, Chief McMickens has no hesitancy in talking about her love for cooking ("Right now I'm into crab meat and spinach quiche"), her fondness for collecting crystal and her passion for good clothes. "I sew, too," she said, with an ironic laugh.

Devora Cohn, the general counsel for the Department of Correction, overheard Chief McMickens's comment about sewing and remarked: "She sews, she bakes, she's really the 'total woman.'"

The chief, who has both bachelor's and master's degrees from the John Jay College of Criminal Justice, said that one of her biggest rewards so far has been assigning more female correction officers to nontraditional jobs—in male prison wards, in the transportation division and in the Bronx and Brooklyn men's facilities.

"I am convinced that women officers can do almost any job that men officers can," she said. "But I wouldn't send a female in to supervise male inmates in the shower, and vice versa." At present, she said, there are about 3,400 male and 340 female correction officers.

Has the chief's husband always supported her correction career? "At first I had some pressure from him to leave," she said. "He insisted we have child care for the boys, and the baby sitter made more money than I did at the beginning. She used to lend me money."

But as she rose through the ranks from correction officer to captain to deputy warden, she said, her husband became more supportive, and he urged her to take her present job. "The only thing that concerns him is when I get a call in the middle of the night and have to drive to a correction facility alone," she said.

Does he ever volunteer to come along? She smiled. "He says, 'Drive carefully, and don't speed,' and then he goes back to sleep."●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. DERWINSKI. Mr. Speaker, yesterday, here in the House, we commemorated the 22d anniversary of Captive Nations Week. However, last week, this event was marked by rallies, church services, and other activities across the country. I would like to direct the attention of the Members to several proclamations issued in honor of this year's observance of Captive Nations Week. Mayor John Seymour of the city of Anaheim, Calif.; Mayor Jake M. Godbold of the city of Jacksonville, Fla.; and the Governor of the State of Kansas, Hon. John Carlin, all noted Captive Nations Week by official proclamation. They read as follows:

A Proclamation

Whereas through direct and indirect aggression the Russian Communists have enslaved the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Afghanistan, and others; and

Whereas the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States, as leaders in bringing about their freedom and independence; and

Now be it hereby proclaimed by the Anaheim City Council that the week of July 13 to 19, 1980, be declared as "Captive Nations Week in Anaheim" and calls upon all residents to recognize the plight of these captive peoples and support their just aspirations of freedom.

Authorized by the Anaheim City Council this 15th day of July, 1980.

John Seymour, *Mayor.*
E. Llewellyn Overholt, Jr.,
Mayor Pro Tem.
Miriam Kaywood, *Councilwoman.*
Ben Bay, *Councilman.*
Don R. Roth, *Councilman.*

Attest:

LINDA D. ROBERTS,
City Clerk, City of Anaheim.

PROCLAMATION

Whereas the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Afghanistan, and others; and

Whereas the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States, as leaders in bring about their freedom and independence; and

Whereas the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples: Now, therefore,

I, Jake M. Godbold, Mayor of the City of Jacksonville, Florida, by the authority vested in me, do hereby proclaim that the week commencing July 13, 1980 be observed as Captive Nations Week in Jacksonville, and call upon the citizens of Jacksonville to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

In Witness Whereof, this 10th day of July in the year of Our Lord, One Thousand Nine Hundred and Eighty.

JAKE M. GODBOLD,
Mayor.

PROCLAMATION BY THE GOVERNOR

To the People of Kansas, Greetings:

Whereas the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Afghanistan, and others; and

Whereas the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples: Now, therefore,

I, John Carlin, Governor of the State of Kansas, do hereby proclaim the week of July 13 through 19, 1980, as Captive Nations Week in Kansas, and call upon the citizens of the State to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

Done at the Capitol in Topeka under the Great Seal of the State this 7th day of July, A.D., 1980.

By the Governor:

JOHN CARLIN.
JACK H. BRIER,
Secretary of State.
WILLA M. ROE,
Assistant Secretary of State.●

THE IMPORTANCE OF CRIME PREVENTION IN PROVIDING A MORE SECURE LIVING ENVIRONMENT FOR THE ELDERLY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. BIAGGI. Mr. Speaker, fear of criminal victimization is one of the most serious concerns of older Americans.

This point was made emphatically as far back as the 1971 White House Conference on Aging. It was reaffirmed in a Louis Harris poll conducted for the National Council on Aging, which identified crime as the No. 1 concern of the elderly. Throughout my time as an original member of the 5-year-old House Select Committee on Aging, I have been aware of the great fear of crime among senior citizens. I have conducted three different hearings on the subject, including one hearing on confidence game schemes against the elderly.

My efforts led to the successful inclusion of an amendment to the 1979 legislation extending the Law Enforcement Assistance Administration. My amendment provides for the first time that crimes against the elderly must be included in statistics compiled by the LEAA. This will prove helpful in allocating Federal resources to fight crime.

My amendment may also prove helpful in more properly interpreting the statistics that are disseminated. Law Enforcement Assistance Administration statistics reveal that younger criminals are much more likely to be victims of violent crimes than older Americans. However, these figures standing alone can lead to misleading or erroneous conclusions.

First, the raw statistics do not show the psychological, economic, or social impact of crime. For example, an injury from an aggravated assault is likely to be more serious—and take a longer time to heal—for an older victim than a younger person. A theft of $100 will ordinarily cause greater hardship for an aged individual than a younger victim because the senior citizen is probably living on a limited income.

Second, the victimization rate for older Americans tends to be lower because many live under a form of house arrest—cut off from family, friends, and service providers. However, their security is purchased at the price of placing great restrictions on their freedom of movement. Routine tasks for most younger persons—such as shopping or going to the doctor—become formidable obstacles for older persons who fear for their personal safety. The net impact is that large numbers of older Americans live barricaded in their homes, afraid to venture into the outside world.

Third, a substantial amount of offenses committed against the elderly go unreported because they fear reprisals. Older witnesses may also be reluctant to testify if they fear for their personal safety.

However, the evidence is clear and convincing that much crime can be prevented through community efforts and at a comparatively low cost. Mr. George Sunderland, senior coordinator for the National Retired Teachers Association and American Association of Retired Persons crime prevention program, has made this point very forcefully and effectively.

Since 1972, NRTA and AARP have conducted a crime prevention program to help older persons reduce the risk of being victimized. This program provides a wide range of helpful and sensible tips to guard against street crimes, residential burglaries, and criminal fraud.

Many of the crime prevention techniques employed by the program—including neighborhood watches, security checks, the installation of security devices, escort services, and many others—can easily be replicated in practically every community throughout our Nation.

In addition, the associations stress the importance of education in preventing crime. One example is a brief pamphlet describing common sense precautionary rules to avoid victimization by con artists.

Mr. Speaker, I submit the NRTA-AARP publication on "How to Spot a Con Artist" to be printed in the RECORD, along with the associations' legislative and recommendations to reduce criminal victimization among the elderly.

The material follows:

PREVENTING CRIME THROUGH EDUCATION—HOW TO SPOT A CON ARTIST

THE CON ARTIST

What does a con artist look like?

If you can identify him by his looks, you can be sure he's not very successful in his trade. To avoid being victimized, study what he says and does, not what he looks like.

Know first that successful con artists are experts in human psychology and behavior. Anyone, no matter how educated or knowledgeable, can be swindled.

And remember that some con games may break your bank, but not the law. A smooth door-to-door salesman sold a man a set of encyclopedias for $450. But the books were 35 years old. The man got exactly what the salesman promised—in the sales contract. The buyer simply did not read the contract.

No law is broken when a land speculator pays $700 an acre for "sunny lots" in the Southwest and sells them through ads in Eastern newspapers for $5,000 per acre. A piece of land is worth exactly what you can get someone else to pay for it.

THE KEY WORDS

While you cannot identify a con artist by his looks, you can often spot him by his words. Here are some key words that should trigger your suspicions:

Cash: Whenever you are asked to turn over sizable amounts of cash, be cautious. Why is cash necessary? Why not a check? Consult with others before making your own decision. Avoid large cash transfers.

Secret plans: Be cautious of being drawn into secret deals wherein you are asked to surrender anything of value. Why are you being asked not to tell anyone?

Get rich quick: Any scheme that promises you rich rewards should be carefully investigated.

Something for nothing: A "retired" swindler once said that any time you are promised something for nothing, you usually get nothing.

Contests: Be sure they are not just a "come-on" where everyone "wins" something—usually being drawn into some money-losing scheme.

Home improvements: The very best investment you can make is to spend a little time investigating the reputation of the people with whom you are dealing. They should be reputable and have satisfied customers. It is often advisable to get estimates from several different firms so that you can compare home improvement costs. Be cautious of door-to-door solicitors and itinerant contractors.

Contracts: It is unfortunate, but homes have been lost as a result of signing a mere TV repair contract. Signing a contract is not a frivolous matter. The contract may be secured by a deed of trust on your house. It may include a provision that failure to pay on time will permit a judgment to be entered against you.

Haste: Be wary of any pressure that you must act immediately or lose out. There is no better insurance than dealing with reputable, well-recommended businesses or persons.

SOME RULES

Some good rules for self-protection from confidence men:

1. Do not discuss your personal finances with strangers.
2. Do not expect to get something for nothing, especially from strangers.
3. Do not draw cash out of a bank at the suggestion of a stranger.
4. Do not be too embarrassed to report the fact that you have been victimized or swindled.
5. Do testify in court, if asked, to help stop this kind of crime.

THE CON GAME

Many people are concerned about what they call the "new swindles." But as one police chief notes: "We really shouldn't be too concerned about the new swindles because all of the old ones are working so well."

The old "salting the gold mine" scheme is still being practiced, for example. But what is being "salted" today are not abandoned mines, but people's living rooms.

In the old ruse, you may remember, unscrupulous mine owners would place a few gold nuggets in exhausted mines so they could sell them for inflated profits. Recently in a Northern city, a con artist bought six color television sets at the regular price from a retail store. He then sold them, still in their cartons, to six prominent local persons for one-fifth of the price. Later he hired several high school students to work as telephone solicitors to sell "carloads of TV sets purchased new from a bankrupt retail chain."

When potential customers balked, the con artist used as references the original six customers who had been "salted." Before the police were alerted, he collected almost $60,000.

The old "Bank Examiner" scheme is still around and working well, particularly among older widows. The con artist poses as a bank examiner and asks the victim to help him test the honesty of bank employees by withdrawing substantial funds. When the funds are handed over to the con artist for "examination," he issues the victim an official-looking but worthless "receipt" and disappears.

Postal authorities warn citizens to be alert for mail-order swindles such as phony work-at-home schemes which require cash deposits or payments. Among all arenas for swindle activity, these are probably the most active—and productive for the con artist.

CRIME

The elderly tend to have greater fear of crime and are more vulnerable to certain types of crime than other population groups. Lack of mobility and living alone and/or in older, less secure housing exacerbates their fears and vulnerability. Steps must be taken to alleviate these fears and reduce the criminal victimization of the elderly.

First, the federal government ought to encourage state and local agencies to compile detailed and uniform crime statistics, including such information as victim age, so that those crimes with respect to which the elderly are disproportionate victims will be clearly and accurately identified. Second, federal funds ought to be targeted to a greater degree on prevention of crimes against persons and property, especially stranger-to-stranger violence. Third, more government sponsorship of crime prevention programs is needed to increase citizen interest and participation in community efforts to reduce crime. Fourth, more public information and media programs are needed to educate persons, especially older persons, about simple crime prevention techniques. Fifth, to reduce the level of economic crimes like criminal fraud, educational programs based on research data ought to be developed to demonstrate how the elderly are victimized and suggest means for self protection against fraudulent and deceptive practices. Sixth, the Law Enforcement Assistance Administration (LEAA) ought to continue, through its Community Anti-Crime Program its strong support of projects aimed at reducing crime against the elderly. Seventh, the Federal government should take steps to control the availability of handguns because of their frequent use in the commission of violent crime. Eighth, the federal government should provide financial assistance to encourage states to provide adequate indemnification to victims of crime and establish prosecution programs aimed at career criminals or repeat offenders.

As a final matter, a new federal criminal code should be enacted to eliminate inconsistencies in present law and strengthen the criminal justice system. One such way would be to require mandatory prison sentences, with no suspension or probation, for conviction of a felony in which any deadly weapon is employed, or of murder or attempted murder by means of strangulation or suffocation.●

CULTS AND THEIR SLAVES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. OTTINGER. Mr. Speaker, on June 2, 1980, the New York State legislature passed a bill which would address the frightening problem of coercive and deceptive recruiting of young people into various cult organizations, which has become an event of alarming frequency in our society.

The bill takes the approach of authorizing a judge to appoint a temporary conservator with power to supervise a person who has been recruited and held by a cult by coercive and deceptive practices for a short period of time so that the court can determine whether the individual's participation in the organization is truly voluntary.

Hearings by an ad hoc committee on the activities of cults in which I participated earlier this year revealed evidence of shocking illegal activities by these organizations. Among these allegations was deceptive recruitment; mental coercion comparable to the brainwashing of prisoners by the Germans in World War II including round-the-clock indoctrination without food or sleep, accompaniment of recruits 24-hours per day by members of the cult, restraint of recruits from contact with the outside world, false representations of the cult's activities and purposes and other coercive practices; illegal immigration practices; illegal representation of foreign governments; illegal financial activities and avoidance of cases on false claims of religious exemption; and other illegal activities.

To date, investigation of these allegations of illegal activities, to say nothing of prosecution, has been blocked by assertion of first amendment protection. Indeed, the New York State conservator bill was vetoed by Governor Carey on first amendment grounds. Yet it is clear to me that the activities of these cults claimed to be illegal are growing rapidly, imposing a serious threat to the civil liberties of the citizens who are subject to the alleged illegal recruitment and retention methods of the cults and an imposition on the taxpayers who have to make up the revenues avoided by the cult organizations. Illegal activities simply must not be permitted to be protected under the cloak of the first amendment.

The New York Legislature's conservator approach is one that deserves our serous consideration nationally. While the definitions in the bill may raise severe constitutional problems, a way must be devised to extract people subject to such coercion and put them under court supervision so that the effects of coercion can be nullified where such techniques have been practiced. Prosecution of illegal activities must be facilitated. In the days ahead, I will try to devise constitutional legislation along these lines. I have also sought hearings from the Judiciary Committee on illegal mental coercion of cult members and illegal immigration practices, and on the Internal Revenue Service's failure to address the tax exemption problems raised by the cults, so far without avail. I would welcome the help and suggestions of my colleagues.

The agony of the parents of children who have been captured by the cults and influenced with coercive means to withdraw from society has been overwhelming. In trying to talk to their children and give them a period away from the cults and their coercion, they find themselves and their children the ones attacked by the legal authorities rather than the cults. Attempting to see their children, they find themselves subject to prosecution for trespassing on cult property. If they try to get their children to withdraw, they may be sued for kidnaping or harassed by cult members in their communities.

I recently met with Gloria and James Weil of New Rochelle, N.Y., and heard their incredible tale of woe in trying to just get to see their child who had been "recruited" by the Unification Church. They finally succeeded in visiting him and persuading him to leave, but the coercion to which they and their son were subjected was simply unconscionable. Their kind of experience simply demands redress.

I submit for inclusion in the CONGRESSIONAL RECORD a letter from the Weils on the New York conservator law and the importance of enacting this kind of protection. I commend it to the attention of my colleagues.

CULTS AND THEIR SLAVES

To the EDITOR:

The Rev. Andy Smith's concern for the protection of religious freedom under the First Amendment (letter June 20) is shared by all who cherish the individual's right to believe whatever he wishes. But the Conservatorship Bill, which Mr. Smith envisons as an attack on this right, is explicitly directed against groups that practice deception in the recruitment of new members. This practice, not a group's unconventional religious beliefs, is the basis for the bill's distinction from mainline religions.

Loss of a child to cult membership has brought sudden awareness to families across the nation of the lengths to which some of these groups go to conceal their identity and objectives from new recruits. We are the parents of a former cult member. We saw the effect of only two weeks of indoctrination on our son's ability to make a free choice.

The religious conversion of two remarkable and mature adults, St. Paul and Martin Luther, cannot be compared to the "conversion" of thousands of vulnerable young people whose values and judgments are not fully formed and who are subjected to sophisticated modern techniques of mind control for the express purpose of promoting a sudden conversion.

Until legislators address themselves to the control of deceptive and illegal practices by groups that claim protection under the constitutional guarantee of religious freedom, the Conservatorship Bill is the only legal method available to parents who try to rescue their children from slavery to a cause they have never had a chance to choose.

GLORIA and JAMES WEIL,
New Rochelle, N.Y., June 22, 1980.●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the 144 Rockland County residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens and I invite my colleagues to join me in welcoming these newly naturalized Americans and extending to them our best wishes for a happy and prosperous life in their new homeland:

Samia Hanna Abadir, Samuel Alexander Afflick, Mavis Adassa Afflick, Kevork Krikor Aghshikian, Gloria Alday Agoncillo, Olga Rose Alphonse, Mariana Amadis, Aurea Zotomayor Ambrosio, Suk Hui Babcock, Eliseo Marcos Baquisal, Jonna Baron, Thelma Rose Barrett, Yaier Benjamin, Gurcharan Singh Bhalla, Rabindra Nath Bhattacharya, Joyce Theresa Blackwood.

John Bongiovanni, Magda Bourguignon, Jean Claude Boutin, Veronica Brown, Jeannine Bruno, Maria Altagracia Bueno, Jacques Jean Max Canal, Pasqua, Caraccia, Jean Juliot Carmand, Zoilo Laurente Castro, Lissiamma Chacko, Krishan Chand, Tai-Ping Chiang, Alice Wong Chow, Maria Ciropol, Kattlynn Civil.

Corazon Albacite Cole, Soimene Compas, Bridget Anne Coullon, Amita Jayantilal Desai, Mary Bridget Drew, Andree Dubreuil, Evelyn Edugene, Pierre Antoine Edugene, Michel Robert Estime, Carismene Estime, Trinidad Mendoza Fernando, Yoinesen Fisher, Joseph Jean Fleurimond, Isabelita Dela Cruz Francisco, Mario Dela Cruz Francisco, Paul Geler Gaspard.

Yichak Dov Gluck, Jagadish Chandra Goswami, Solomon Aaron Gubbay, Goolcharan Harnanan, Lolita Harnanan, Francisco Antonio Henriquez, Rafael Alcibiades Henriquez, Aurora Henriques, Hersch David Hort, Jean Gray Houtz, Monica Humphrey, Tehmina Manekshah Irani, Apance Jean-Charles, Jacques Joseph, Aleyamma Kurian, Sue Ling Kwong, Stefan Lakatos, Tore Lindland, Maxserge Lubin.

Michael Christopher Madden, Antonio Maida, Wing Yeung Mak, Mary Mattappillil Mani, Joseph Henry Marin, Iris Margarita Martinez, Ghulam Masih, Gulzar Masih, Rosetta Otensia McKenzie, Philip Melenka, Aleyamma Menon, Norberte Puteaux Misthopoulos, Benjamin Mizrachy, Maria Cristina Moreno, Thomas Brendan Mulcahy, Curlyn Gloria Murdock.

Padmavathy Nair, Mario Napolitano, Marie Andree Noel, Oswald Nathaniel Oates, Sheila Delceita Oates, Sun Sook Oh, Rosa Herminia Ortega, Jesus Patricio Osorio, Marie Jose Paillant, Padma Surendra Panchal, Florante Alcarion Pangilinan, Keith Anthony Parke, Jose Pulmones Pineda, Vihayendranath Prasannakumar Pradhan, Vaibhavi Vijayendranath Pradhan, Frantz Regis.

Victor Antonio Reynoso, Letitia Leanora Robinson, Eligio Antonio Rodriguez, Lucia Altagracia Rodriguez, Maria Dolores Romero, Juana Maria Romero, Shashi Bhusan Roy, Arron Rumpler, Eddy Emmanuel Saint-Cloud, Rosemary Altagracia Salce, Ysbinia Del Valle Di Salvo, Uri Sasson, Carmelo Scaffidi, Irma Senat, Jayantilal Manilal Shah, Deda Shkreli.

Annunziata Siena, Lucia Siena, Flora Spitzer, Vincenzo Surace, Marie Josette Paul Sylvain, Donovan Raymond Tai, Tsuey Tam, Allan Augustus Thompson, Teofilo Manalo Tolentino, Gregory Orlando Townsend, Judah Tsur, Malka Tsur, Hector Fernando Vargas, Edilio Aurelio Veras, Isabel Veras, Irene Voloshin, Oleg Voloshin, Clara Wagschal.

Celia Walsh, Nancy Weilenman, Arje Weiss, Gilda De La Caridad Yannuzzi, Carolina Peluso Zaccardo, Yolanda Guzman Zaldivar, Triantafilia Ziotis.●

KANSANS SUPPORT HOUSE CONCURRENT RESOLUTION 344

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. WINN. Mr. Speaker, as the Members of this body know, I introduced the first concurrent resolution on the House side in opposition to the proposed withholding tax on interest and dividend incomes. The response I have received from my colleagues as well as my constituents in support of House Concurrent Resolution 344 has been great. I am very pleased to share the following petition signed by several of my constituents from Olathe, Kans.:

We, the undersigned residents of the Third Congressional District of Kansas, do hereby express our support for and urge the passage of H. Con. Res. 344, introduced by Congressman Larry Winn, which states "that Congress stands in opposition to the imposition of a 15 per centum withholding tax, or any withholding tax, on interest-bearing bank accounts and on the receipts from dividends."

Dorothy Shriver, 406 N. Loula.
Edna L. Schermerhorn, 831 Windsor Road.
Faye C. White, 831 Windsor Road.
Gertrude S. Kisinger, 452 E. Loula.
Gladys Rowland, 628 Honeysuckle Drive.
Laura E. Buckles, 409 W. Loula.
Mary J. White, 460 S. Cherry.
Betty E. Hames, 608 Honeysuckle.
Helen L. Garlach, 1109 N. Curtis Drive.
Phyllis J. Iles, 601 Drury Lane.
Susan Tressin, 525 S. Harrison.
LaVonne K. Talbott, 16308 141st Terrace.
Patricia A. Dylmann, 408 Chambery.
Kathryn Allega, 1417 Oxford Place.
Eileen W. Bing, 1416 Oxford Place.
Helen L. James, 604 Honeysuckle Drive.
Kenneth M. James, 604 Honeysuckle Drive.
Ruth E. Jones, 600 Honeysuckle Drive.
J. F. Jones, 600 Honeysuckle Drive.
Warren Settles, 612 Honeysuckle Drive.
Eunice Settles, 612 Honeysuckle Drive.●

RAYMOND RICHARD AWARDED RED CROSS CERTIFICATE OF MERIT

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. MAVROULES. Mr. Speaker, I take this opportunity to call your attention to an exceptional demonstration of human courage and strength in the face of a stressful situation. The following meritorious act by a constituent of mine exemplifies the highest ideals of concern of one human being for another who is in distress.

On February 21, 1980, Mr. Raymond Richard of Peabody, Mass., trained in Red Cross cardiopulmonary resuscitation (CPR), was vacationing in Fort Lauderdale, Fla., when he heard screams coming from the direction of the ocean. Seeing that some swimmers were in distress, Mr. Richard ran to their aid. He helped pull a victim to safety, and after it was determined that the victim was not breathing, he began mouth-to-mouth resuscitation. He continued his efforts until the victim began to respond. Without doubt, the rescue and use of first aid by Raymond Richard saved the victim's life.

As a result of this successful attempt at saving the victim, Mr. Richard has been named to receive the Red Cross Certificate of Merit and accompanying pin, the highest award given by the American Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a Red Cross volunteer training program in first aid, small craft, or water safety. I am extremely proud and honored to represent Mr. Richard, and would like to take this opportunity to praise the Red Cross and other emergency training programs that have properly equipped Raymond Richard and others like him so that they are able to come to the aid of the unfortunate.●

GASOLINE RATIONING PLAN

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Ms. MIKULSKI. Mr. Speaker, recently in the RECORD I discussed why the standby gasoline rationing plan is inequitable. Today, I want to discuss why the proposed plan is impractical.

The House will have an opportunity to vote down this plan. A motion will be made to discharge the House Interstate and Foreign Commerce Committee from further consideration of House Joint Resolution 575, a resolution which would disapprove the proposed standby gasoline rationing plan. If the motion is approved, the full House will then have an opportunity to disapprove the plan. This will be our only opportunity to express our disapproval of a plan which I consider to be unfair and unworkable.

I am not alone in my opposition to the plan. The chairman of the American Bankers Associations' gas rationing task force, Mr. J. C. Welman, Jr., called this plan:

> One of the worst yet developed by the Energy Department, and one which comes close to being impossible to implement.

And this is from the key institution in our society which the Department of Energy is depending upon as its distribution source for gas ration coupons. Mr. Welman added that:

> Even if every bank were to participate, we are not at all certain that the full implementation of the present plan in a time of severe supply shortages would provide any less economic disruption, social chaos and personal dislocation for the motoring public than no plan at all.

The attached statement from the American Bankers Association points out in detail why the association can say that their opposition is based on the unmitigated chaos that would result from the plan's implementation.

I urge my colleagues to vote for the motion to discharge and then to vote in favor of House Joint Resolution 575.

STATEMENT OF THE AMERICAN BANKERS ASSOCIATION

As you are aware, the Standby Gasoline Rationing Plan presently pending before Congress will become final if not disapproved by joint resolution of both Houses of Congress by July 30. The American Bankers Association is strongly opposed to this version of the gas rationing plan and we urge you to support H.J. Res. 575 to disapprove the plan, which, we understand, will be offered first in the Interstate and Foreign Commerce Committee and then on the floor of the House of Representatives before July 30. We strongly urge that you actively oppose the plan, that you contact your colleagues to urge their disapproval, and that you consider cosponsoring the Resolution of Disapproval.

For the last seven years, the American Bankers Association has consistently supported various versions of gas rationing plans developed by the Department of Energy. Last year, we supported the plan submitted to Congress and stated that, with minor modifications, the plan could be made workable in the event of a serious gasoline shortage. Unfortunately, the present plan is the worst ever proposed to Congress by the Department of Energy. It cannot be made workable without major amendments. It is our view that the present plan is actually worse than no plan at all.

In brief, the problems we see with the rationing plan are three. First, because the plan would rely almost entirely on commercial banks to distribute gas ration coupons, there would be lines at banks added to lines at service stations in a gas crisis. Commercial banks would have to hire approximately 150,000 additional tellers just to give out gas rationing coupons, and there is insufficient lobby space in banks today for either the tellers or the customer lines. These customer line problems would impact most adversely in unit banking states where there are fewer banking offices per members of the driving public than in branch banking states.

Second, the proposal would allow any individual or firm to establish a "ration rights checking account" into which they could deposit gas ration coupons and on which they could draw "ration rights checks" denominated in gallons of gasoline. The major problem with these accounts is logistical. There are only about 100 million total checking accounts in the country today and this proposal could add as many as 170 million more. The burden of these new accounts could literally swamp the nation's payments processing system.

Our third concern is with the legal status of the gas rationing program. Under the Uniform Commercial Code, "checks" cannot be denominated in gallons of gasoline. In fact, the Department of Energy's proposed "ration rights checking accounts," "Treasury ration checks" (checks sent by Treasury entitling recipients to exchange them for gas ration coupons), and "redemption accounts" (checking accounts into which service station operators would deposit used gas ration coupons and on which they would draw checks denominated in gallons to replenish their gasoline supplies) have no legal status whatsoever.

Our Association wishes to emphasize that over the years we have continually supported past versions of the gas rationing plan. This is the first plan we have opposed, and our opposition is wholly based on the unmitigated chaos that would result from the plan's implementation. We strongly urge you to support the Resolution for Disapproval of the plan.●

CUTTING TAXES TO FIGHT RECESSION: CAPITAL COST RECOVERY

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. McKINNEY. Mr. Speaker, as a longstanding advocate of modernized, competitive depreciation rules for U.S. industry, I was pleased that the House Committee on Ways and Means convened hearings recently to discuss the general dimensions of a tax cut bill. My testimony before the committee calls for a tax reduction proposal to be drafted and enacted this year, before the recession drives more people out of work. We simply cannot afford to wait until the political dust settles to take already long-overdue steps to regenerate and revitalize basic industries. For the benefit of my colleagues, more than 300 of whom are cosponsors of the Capital Cost Recovery Act (H.R. 4646), I insert that testimony in the RECORD.

The testimony follows:

STATEMENT OF HON. STEWART B. MCKINNEY

Mr. Chairman, given the unsteady state of the U.S. economy today, it is certainly timely, perhaps vital, to discuss the size, scope and effect of tax reduction measures. I applaud your courage in calling these hearings and I appreciate the opportunity to present my views. My sole purpose today is to express my hope that you will formulate a tax reduction proposal for enactment before the 96th Congress adjourns, thereby setting in motion a real economic recovery.

For me, this opportunity to testify before the Committee is like celebrating Christmas in July, for it was last December 4 that I first moved to discharge this Committee from its prolonged consideration of the Capital Cost Recovery Act (H.R. 4646). As I said to you at that time, Mr. Chairman, I did so not out of any disrespect for you or the hardworking members of this Committee. Rather, I felt it necessary to make that extraordinary motion in order to emphasize the fact that Congress's approval of the Chrysler loan guarantee legislation, while justified, merely treated a symptom while our economic disease remained unchecked. Today that malady has reached epidemic proportions with a dangerous lack of investment capital crippling our ability to fight inflation, stifling productivity increases, retarding job creation and further eroding our ability to compete in world markets.

In addition, my motion was prompted by a sense of urgency based in a strong belief that effective, anti-inflationary tax relief could be crafted this year—if begun before political obstacles became insurmountable. Obviously, that sense of urgency is not yet shared by the 218 Members needed to approve the petition. As a result, we must confront today what I feared in December: both the need for tax relief and a political climate perhaps too charged to permit it. Nevertheless, it is my hope that this Committee will leave the political analysis to the pollsters, pundits and Cabinet Secretaries while taking those bold actions dictated by sound economic policy.

As the Ranking Member of the Banking Committee's Economic Stabilization Subcommittee, I have had a closer look at the increasing destablization of the U.S. economy than I ever wanted. From Lockheed to Chrysler, with hidden subsidies for almost every major steel maker in between, we have witnessed a tragic parade of anemic industrial giants lose their domestic and international competitive position. In addition, a steady slide in productivity increases has yielded to real productivity losses. These potentially disastrous trends are not new, nor are they susceptible to quick, one-shot solutions. Our current economic dilemma is the inevitable product of resting on our past investments while the world modernized beyond us. You need only read the growing industrial employers leaving Connecticut's 4th District to demonstrate the need for the productive renewal a depreciation tax cut could foster.

The road to renewed economic vitality must be traveled step-by-step, and the longer we wait to take that first step, the more difficult it will be, the more unsure its eventual success. We simply cannot await the perfect political moment to start a journey that should have begun months, perhaps years ago. Responsible economic planning demands that we make available the financial resources necessary to produce our way out of this recession. As the respected Ranking Member of this panel asserted yesterday, it must be assumed that Capital Cost Recovery will be an essential part of that plan.

Let me try to exorcize the political demons that have been summoned in an attempt to dissuade you from any immediate action. The call for "productivity oriented tax cuts" (to borrow the Administration's own phrase) was first heard by this Congress on June 27, 1979 when our colleagues, Reps. Jones (D-OK) and Conable (R-NY), again introduced the Capital Cost Recovery Act. Since then more than three hundred House Members have cosponsored that bill and ninety-three have signed my petition to bring the proposal to the House floor. In addition, the 1980 report of the Joint Economic Committee recommends that "* * * one half of * * * (any) * * * tax reduction should be designed to provide greater incentives for capital investment. This should be accomplished primarily by increasing allowances for business depreciation." (p.77) These are both strong, bi-partisan expressions of support for a tax reduction which will increase the supply of investment capital and jobs. I wholeheartedly agree with the Chairman's statement yesterday that we do not need a political tax cut. However, a deepening recession and strong bipartisan consensus argue strongly for a tax cut this year just to keep taxpayers afloat in the turbulent sea of inflation and new taxes. To refuse to do so just because this happens to be an election year would be to place our political problems over the real economic peril of millions.

Yesterday's testimony by Treasury Secretary Miller stands in sharp contrast to this longstanding, bi-partisan consensus. I was deeply troubled by his defense of the Administration's opposition to a tax cut bill "prior to the national election." Of what economic significance is November 4? No new jobs will be created, although a few may change hands on that date.

I plan to send Secretary Miller an ad carried in yesterday's Washington Post expressing the consensus of the participants at a recent conference sponsored by the Senate Subcommittee on International Trade, the New York Stock Exchange and Harvard University. Their answer to the question, "Can the United States remain competitive?" was embodied in eight statements, one of which called for tax changes to encourage investment, savings, job creation and innovation. They specifically recommended accelerated depreciation. That ad was signed by a long list of corporate officers as well as Senators and Representatives of both parties. The most prominent signature was that of Connecticut's senior Senator, Abraham Ribicoff.

In reading this ad thoroughly, you will see no mention of November 4. There is no call to wait for the recession to bottom out before taking economic stimulus measures. In fact, the ad concludes, "Let's Not Wait. A Strong Domestic Economy Is Essential to Provide Productive Jobs for All Americans, To Provide Necessary Social Programs, To Enhance our National Security and America's Position in World Affairs." As has been the case so often in the past, I am compelled to agree with my distinguished colleague from Connecticut. I hope you agree as well.

Mr. Chairman, I will not take your time matching my generalist's knowledge against the panels of experts who will analyze and quantify the beneficial impacts of a ten-five-three proposal. As a former small businessman, I can only remind you of an old axiom that our friends in the Treasury Department seem to have forgotten in their relentless zeal to protect federal revenues: You have to spend money to make money.

I make no claim that any tax cut will be self-financing. I only ask you to join me in the belief that we have not reached the limits of growth in this economy. We can and must unshackle those productive forces which are the source of all jobs and most government revenue.

In conclusion, Mr. Chairman, my recommendations are as follows: Ask the experts to calculate the price of waiting until next year to enact needed tax relief. In measuring the cost in financial and human terms, I hope your work will produce a remedy that will be a timely cure for the disease. Second, look to the Steiger capital gains proposal, which this Committee wisely adopted despite expert advice to the contrary, as an example of a tax reduction with longstanding benefits not seen until almost twelve months after enactment. Yet those benefits today are certain and continuing. I implore you to take the bold, decisive, even risky actions demanded by our economic plight. Expert advice can be useful, but I am reminded of the sage observation made by George Bernard Shaw when he said, "If all the economists were laid end to end, they would not reach a conclusion." But you must reach a conclusion and I hope it is one which recognizes the need for immediate tax relief for the productive sector of the economy, specifically in the form of depreciation reforms. Thank you.●

IN HONOR OF PIONEER DAYS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. SYMMS. Mr. Speaker, today, July 24, 1980, much of the West officially celebrates Pioneer Days. On this day, 133 years ago, a small band of determined Mormon pioneers entered the valley of the Great Salt Lake. Those hearty pioneers were followed by thousands more who sought a better way of life.

The great colonizer, Brigham Young, the Mormon leader and prophet, oversaw this great influx of people into the region. From his headquarters in Salt Lake City, Brigham Young called upon his people to settle the vast and often dangerous lands of the Rocky Mountains and Great Basin. Mormon settlements stretched from San Bernadino, Calif., to northern Mexico to Colorado to southern Canada.

And so, on this day, I am honored to recognize the great accomplishments of those Mormon pioneers. These industrious pioneers and their descendants made and continue to make invaluable contributions to our American way of life. I praise their achievements and laud their dedication to the traditional American values of morality and family life and to the principles held by the Founding Fathers of this great Nation.●

THE AGRICULTURAL SECTOR IN EGYPT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1980

● Mr. HAMILTON. Mr. Speaker, one of the most pressing problems confronting Egypt is the need to improve the performance of its agricultural sector. A considerable portion of the U.S. huge economic aid program in that country is devoted to helping this sector.

I would like to bring to my colleagues' attention recent correspondence I had with the Agency for International Development (AID) regarding our work in agriculture in Egypt. An article entitled "Egypt's Agriculture in Trouble" by Alan Richards which appeared in the January 1980 issue of Middle East Research and Informa-

tion Project gave a pessimistic view of Egypt's current efforts to strengthen this sector and prompted my letter.

Attached are my correspondence with AID and two excerpts from Mr. Richards' article:

June 4, 1980.

Mr. Douglas J. Bennet, Jr.,
Administrator, Agency for International Development, Washington, D.C.

Dear Mr. Bennet: Attached is an article from the January 1980 issue of Middle East Research and Information Project concerning the agricultural sector in Egypt. While I know nothing about the background of this journal or the author of the article, I find the conclusions disturbing.

I would like the Agency for International Development to comment on the conclusions of the article and especially on the observations toward the end of the article about President Sadat's agricultural policies. I would also like to know what specific policies and programs we have initiated and implemented to address the problems of the agricultural sector and how our PL 480 policies and Egyptian pricing policies in that country are impacting on the further development of the Egyptian agricultural sector.

I appreciate your consideration of this article and look forward to hearing from AID.

With best regards.

Sincerely yours,

Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East.

Attachment.

Agency for International Development,
Washington, D.C., June 27, 1980.

Hon. Lee Hamilton,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Thank you for your letter of June 4, 1980, soliciting our views on the Egyptian agriculture sector and Mr. Alan Richards' recent article in "Middle East Research and Information System." Rather than trying to comment point by point on the article, we would prefer to present our own view of Egyptian agriculture and its problems, as well as our judgment on the broad conclusions Mr. Richards reaches at the very end of his paper.

We share Mr. Richards' view that there is underinvestment in agriculture. Priority needs for major investments are drainage; rehabilitation, reconstruction and redesign of the existing irrigation system; production and supply of seeds, fertilizer and other inputs. Smaller but no less important investments are needed in research, extension and education and in improving the marketing system.

However, this investment program will not yield the production increases Egypt could obtain until the government establishes a more effective price policy framework for its farmers. Egypt simply does not pay its farmers enough to encourage them to produce at the higher levels that are possible. An Egyptian corn, wheat or rice farmer gets little over half of what the American farmer receives. Evading crop quotas, selling or applying controlled inputs to free market crops are common. These actions reflect the farmer's effort to act rationally within a system of selective price controls. The production of fruits, vegetables and livestock, which Mr. Richards notes, accelerated precisely because prices of these products are not controlled and they are in demand by consumers. Ideal planting times for certain quota or price controlled crops in the rotation system are compromised in the interest of free market crops. All farmers, big and small, try to operate in the margins that the system allows.

Egyptian officials are naturally sensitive to any suggestion that outsiders advise them on price policy issues which go to the heart of the economic, social and political benefits of the existing farming system. Nevertheless, they have expressed an interest in more systematic analytical work, which could sharpen their understanding of the issues. The attached report prepared by Multinational Agribusiness Systems Incorporated (MASI) for our Mission and the Minister of Agriculture is generally consistent with our view of Egyptian agriculture. It does identify a number of the policy issues that need to be addressed in future research. In addition we are developing a new agriculture policy project to strengthen Ministry of Agriculture work in this area. We also expect University of California and Ministry of Agriculture contributions under the agriculture economics component of the existing Agriculture Development Systems project.

Until better relative price/crop relationships are established we will continue to see growth in free market products, with declines in production in undervalued regulated crops. From time to time as prices are increased for one or another regulated crop one is struck by the size and rapidity of farmer response.

The ideal cropping system is something yet to be worked out. There is opportunity for Egypt to export more fruits and vegetables, but recent analysis shows that the opportunity in Europe and the Gulf States is probably not as large as some believe, and not much of even the possible can be realized until substantial improvements in Egyptian marketing occurs. The same can be said for the much discussed market for cut flowers.

As one thinks about the future of Egyptian agriculture in a more rational policy framework, the relationship of cropping patterns including berseem production, mechanization, rural labor supply, and the number of work animals is the most complicated question in Egyptian agriculture to be worked out. It is precisely the kind of issue that needs research to develop the tradeoffs. At present there is far too much speculation about important relationships.

For example, the government is committed to mechanization and our own project was designed to help the government maintain the investment already made, as well as make better choices in the future. We are interested in appropriate mechanization rather than subsidized mechanization.

As far as rural labor supply is concerned, and its relationship to mechanization one now gets very different views on the facts. We do know that real rural wages are rising rapidly.

Certainly the domestic investment boom as well as job opportunities in the Organization of Petroleum Exporting Countries (OPEC) countries are significant factors raising the demand for labor. Not much unskilled rural labor competes in the same job market as university graduates who benefit from the government's full employment policy and this would not be a major factor in rural wage rate determination as Mr. Richards suggests. The authors of the MASI report are not persuaded that the rural labor market is tight, but recommend research to develop the facts. (Clearly the price a farmer gets for a product and what he can afford to pay labor are related. Higher product prices should increase the demand for labor. Higher wages should increase the supply of labor.)

As far as Mr. Richards' conclusions are concerned we believe that: (1) It is more useful to view agricultural trends as reflecting the economic policy framework in existence in Egypt rather than as contradictions of state capitalist development. (2) Both large and small farmers seem to benefit from the free market opportunities in fruits, vegetables, meat and milk, that these products are produced in response to market demand, including middle class and foreign tourist consumption; and that not much is added analytically by describing this trend as an acceleration of capitalist development in agriculture. However, we would not challenge his view that the larger farmers benefit most. (3) We agree that rural labor's position seems to be stronger. (4) Finally, as Mr. Richards did not in his article discuss the economic conjuncture which he believes will bring further class conflict and all of our efforts to a dreadful conclusion, we will pass that point without comment.

Sincerely,

Douglas L. Bennet, Jr.

Attachment: As stated.

Egypt's Agriculture in Trouble

(By Alan Richards)

The horrendous state of the Egyptian economy is a principal factor underlying Sadat's willingness to address the Knesset in Jerusalem and to make major concessions at Camp David and since. Multiplying shortages, deteriorating infrastructures, and spiralling foreign debts comprise the economic news on Egypt. A central component of this domestic impasse is an acute agricultural crisis; for if agriculture flags, Egypt falls. Agriculture accounts for some 45-47 percent of total employment, for some 30 percent of Gross Domestic Product, and for more than 50 percent of exports. Further, more than 50 percent of Egypt's industry consists of agriculturally-based sectors such as textile and food processing. Services, transportation, commerce, and government activity are all intimately linked with agriculture—and Egyptian agriculture is in serious trouble. In 1974 Egypt became a net importer of agricultural commodities for the first time in its history. Labor productivity has stagnated. The rate of growth of land yields for cereal crops, cotton, and sugar cane has slowed or even declined in the 1970s. Food imports have soared from 1,305,700 metric tons of wheat and maize in 1970 to 3,376,900 metric tons in 1976, while exports of rice and cotton have declined from 654,500 and 285,300 metric tons, respectively, in 1970, to 211,000 and 165,200, respectively, in 1976.

The origins of the current crisis can be traced back to policy choices and political decisions made during the Nasser regime, and to the legacy of Egypt's agrarian development as a cotton exporter to the West since the 1820s. The course, pace and contradictions of historical capitalist development in Egypt were the product of the partial transformation of the relations of production by the integration of the country into the capitalist world market. Although the Egyptian countryside has long displayed strongly capitalist features, the pre-Nasser rural social formation was "disarticulated." A highly capitalistic labor process in agriculture was combined with considerable auto-consumption and, therefore, a weak domestic market. Largely because of the political contradictions engendered by the crisis of British imperialism in the region, a state of capitalist landlords. But the class structure, especially the strength of rural capitalists, the unequal distribution of resources, the social basis of the regime, and its weakness relative to the developed capitalist countries, frustrated a transition either to fully capitalist relations or to full-scale socialism. The regime was willing neither to mobilize the peasantry nor to provide decentralized incentives for farmers. The current problems in rural Egypt can be interpreted as the fruits of the contradictions of state capitalist agriculture. A brief sketch of Egypt's rural history before 1952 will help to place the analysis of the past twenty-five years in perspective.

THE SADAT YEARS: TOWARD A FULLY CAPITALIST AGRICULTURE?

The seeds of agricultural crisis were planted during the Nasser years; they have matured in the climate of the Sadat era. The responses so far taken are contradictory. The social complex of selective price controls, rich peasant dominance of cooperatives, corrupt quantitative allocation of inputs, and evasion of crop quotas has continued unabated. Agriculture's share in total investment has fallen from 25 percent in the mid-1960s to 7 percent in 1975, with little change since then. Yet, at the same time, farmers have expanded fruit, vegetable, and livestock production, and mechanization has accelerated since 1973. Rural labor appears to be in a relatively stronger position than ever before, but such a situation seems unlikely to persist. It is clear that the government would like to dismantle many of the old controls and to move toward a more purely capitalist agriculture. Such a move will not be easy because of the shrinking of the international market for Egyptian exports, the legacy of Nasserist policies, and the contradictions of the process itself.

Perhaps the worst immediate problem is that the neglect of drainage has begun to bear its insidious fruits. By the mid-1970s, some 80 percent of the most productive lands in the country had been affected. A soil survey revealed that roughly 50 percent of the best lands had deteriorated to the extent that they are now classified as "medium or poor soils." The problem had been recognized in the late 1960s. Due to the large investments needed, and due to the very tight capital constraint after the June War, the government sought, and obtained, IBRD loans for drainage installation. But construction has lagged behind schedule due to the lack of cement, overloaded ports, inadequate equipment, and labor bottlenecks. This last problem is especially acute: engineers and skilled labor increasingly have been taking higher-paying jobs in OPEC countries.

The agricultural trade problem is multifaceted, but its essence is fairly simple. The increased percentage of the population in the cities has raised the domestic demand for wheat and rice. The economic liberalization has joined with this urban growth to raise demand for milk, meat, and other high-income elasticity goods. In effect, middle-class urban demand, pent up under Nasser, has been released under Sadat. The price explosion for wheat in 1972-74, resulting from the acceleration of inflation in the West and the devaluation of the dollar, greatly increased the per-unit cost of imports. At the same time, the complex of selective price controls and coop corruption lowered cotton production (the principal export) and reduced the production of wheat and rice. The problems of drainage and the lack of fodder for animals inhibited the growth of crop yield.

The regime's current strategy to deal with these problems is largely a market solution. The regime continues to give relatively low priority to agriculture. One occasionally still hears grandiose land-reclamation schemes, usually now centering on the Sinai. However, other voices in the regime, including, significantly, presidential confidante Sayyid Marei, favor "vertical expansion." There are plans to push ahead with the construction of a drainage network; it is not evident how the transportation and skilled labor bottlenecks, which have impeded its construction to date, will be overcome. There is substantial pressure both from within the Ministry of Agriculture and from international lending agencies to dismantle the selective price-control system. So far little has been done.

The main hope, apart from improved drainage and incentives, appears to be a reallocation of cropping patterns. Shifting to higher-value crops, especially vegetables, has long been advocated by observers of the Egyptian economy. Such a policy would make the most intensive use of land, and also provide badly-needed employment. Agricultural planners do not seem to envision the development of large-scale, year-round exports to Europe; the already highly-protectionist agricultural trade policy of the EEC is only likely to worsen if additional Mediterranean countries, like Spain and Greece, are admitted to full membership. Because Egypt can grow some crops (e.g., grapes) when the Spaniards and the Italians cannot, they do hope to be able to make some off-season exports to Western Europe. The main market for horticultural exports, though, seems to be the Gulf and or the domestic market. The agricultural sector will cater to the demands of wealthier, largely Arab, consumers.

Regardless of the final consumers, the "vegetable option" faces horrendous marketing problems. The current physical infrastructure is utterly inadequate even for the current level of vegetable output, much less for a greatly-expanded volume of fresh produce. Cairo has one principal wholesale vegetable market (at Rod al-Farrag). Built in the late 1940s, when the population of the city was only 2.5 million, it is surrounded by a high wall and has basically two entrances, each just wide enough to let two trucks in abreast. Packing and handling are entirely unmechanized; as a result, considerable damage is done to the produce, especially to the fresh vegetables which come on donkey carts packed in hand crafted palm or bamboo crates. Such woeful inadequacies are repeated at every level, from the overcrowded road network to the jammed ports. Remedying these problems would be necessary for any large-scale expansion of vegetable production; such remedies would require large amounts of unavailable foreign exchange.

Another option is to try to increase the export of cotton and rice for foreign exchange, along with increasing fruit and vegetable production. This is often combined with recommendations to reduce full-season clover and to reduce the number of work animals. This would release the land planted in clover for other uses, and allow livestock production to become oriented to meat and dairy production, rather than traction power. These remaining animals would be fattened on maize and sorghum. Mechanization of land preparation, threshing, and irrigation work would make this all possible. Indeed, the government is committed to mechanization: the Five-Year Plan calls for the complete mechanization of agriculture by 1990. Such policies are widely supported by external aid agencies, such as USAID and the World Bank.

Although this argument is appealing at first glance, the alleged production gains may be illusory: the evidence for mechanization's independent contribution to increasing land yields is very weak. Further, it seems clear that farmers will not get rid of their animals, both because government price policies favor animal husbandry and because of the animals' multiple functions for small holders. In addition to traction power, the animals provide highly-profitable milk, meat, and cheese for sale. Those who do not sell the cheese consume it directly. Such cheese is a primary protein source for the fellahin: buffalo cheese has twice as much butterfat content as cattle cheese. The animals constitute a kind of insurance. If farmers have a bad year or are faced with a major financial crisis, they can sell the animals. It is likely that owning at least a share of such animals is necessary if a farmer wishes to lease additional land. The fact that peasant-owned work animals are so deeply embedded in the current social structure militates against any large reduction in their numbers and a consequent release of fodder land for other uses.

Nevertheless, mechanization is proceeding fairly rapidly. The number of locally-assembled tractors has doubled from 1973 to 1977; tractors were imported so rapidly after 1973 (from 1500 in 1973 to 6061 in 1977) that the market was oversold; the government has promoted the purchase of tractors in a variety of ways: over 90 percent of imported tractors were purchased at the old, grossly overvalued exchange rate. Loans for tractor purchases bear an interest of 8 to 11 percent (while rural inflation is at least 30 percent per year), and diesel fuel is heavily subsidized, costing only 3 to 5 piasters per liter. Such policies not only favor importers, wholesalers, and other middlemen; tractors are often owned by relatively small landowners (holding between two and eight feddans), who supplement their incomes by renting tractors to other farmers. As a result of these rental practices and the increased numbers of tractors and threshers, land preparation and threshing are now almost entirely mechanized in some Delta provinces. Upper Egypt, as usual, lags behind.

The principal reason for this change is an alleged "labor shortage." There is evidence of increasingly tight rural labor markets. Real wages of agricultural workers have risen rapidly recently: from 1972 to 1979, average daily wage rates have risen some 350 percent, while the rural Consumer Price Index has risen only 200 percent. Workers usually stop work at around 12:00 or 2:00 p.m. and demand such "fringes" as meals, tea, and cigarettes. The factors underlying such changes are rural to urban migration, stimulated by the construction boom and by urban food subsidies; overseas migration; spreading rural education; and the military draft. Except for migration to OPEC countries, each of these forces can be traced to state capitalist policies. Given continued population growth and weak industrial development, the labor shortage may prove to be temporary.

The extension of education, the guarantee of government jobs to college graduates, and the great expansion of the government role in the economy were central to Nasserist state capitalism. Such policies have had a cumulative effect, stimulating a movement from fields to offices, rather than from fields to factories. Workers refuse to work as long, as meticulously, and for as little pay as formerly. They carry this heightened consciousness abroad; one study of Egyptian workers overseas notes that "Egyptians are more ready to invoke labor laws against their employers than are other nationals." Here, too, Nasser's policies may have played a role; his labor laws in industry greatly reduced the force of that classic instrument of capitalist work discipline, "the sack."

In the absence of viable independent trade unions, market forces are behind these recent changes in labor, and the balance may shift against labor in the near future. The rural population continues to grow, and there may well be a net return of Egyptians from abroad when the OPEC countries complete the so-called "construction phase" of their development. The construction boom, overwhelmingly based on luxury consumption, is also likely to be short lived. There is a catastrophic urban housing shortage in Egypt, but remedying it would require either effective demand from the poor or a vast program of public housing construction. Neither seems at all likely under the current regime.

The labor displaced by agricultural mechanization could be employed in industry. In capitalist Third World countries, labor-intensive industrial development has been strongly export-oriented, as in Taiwan, South Korea, or Singapore. But the international conjuncture frustrates such a path. The regime's inability to tap the expanded resources of the nouveaux riches and the resurgent middle (and upper) classes, and to channel them away from conspicuous consumption and capital flight into productive investment, reduces the local capital which would be necessary for such a strategy. At the same time, continued political instability, infrastructural problems, and worker consciousness reduce Egypt's attractiveness for multinational industrial (and agricultural) investment.

A tentative generalization and summary of recent trends suggests the following: (1) the current motor of change in rural Egypt may usefully be viewed as the contradictions of state capitalist development. (2) The position of rich peasants and "closet pashas" has been strengthened and consolidated. The expansion of fruit orchards (typically by absentee capitalists), of agricultural mechanization (often on a custom-hire basis), of meat and milk production for middle-class and foreign tourist consumption—all indicated an acceleration of capitalist development in agriculture during the last five years. (3) In a contradictory direction, the legacy of Nasserist policies and the OPEC boom have strengthened rural labor's hand, to which mechanization, fruit planting, and meat production are, at least in part, a response. (4) These capitalist developments are likely to generate further contradictions and a further sharpening of class conflict, because of the international economic conjuncture, the continued (indeed, increasing) economic dependence of the Egyptian bourgeoisie, and the weakness of the current regime.●

SENATE—*Friday, July 25, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. PAUL E. TSONGAS, a Senator from the State of Massachusetts.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, whose power is limitless, whose love is inexhaustible, and whose grace is sufficient for all our needs, come upon us in this moment of prayer to renew our jaded nerves, our spent emotions, and our stressful souls. Lift our spirits above the contentious and irksome hours into the clear light of Thy truth. Uphold the President, the Members of the Congress, and all others who bear the heavy burdens of public office, and lead them in the ways of righteousness and peace of Thy name's sake. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 25, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL E. TSONGAS, a Senator from the State of Massachusetts, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. TSONGAS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time. Unless the minority leader wishes to have it, I shall yield it back.

Mr. BAKER. Mr. President, I thank the majority leader.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the minority leader is recognized.

Mr. BAKER. Mr. President, I have no need for my time. I appreciate the majority leader's offer. But in view of that circumstance, I yield back my time under the standing order.

CHILD NUTRITION AMENDMENTS OF 1980

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 2675, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2675) to amend and extend the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes.

The Senate resumed consideration of the bill (S. 2675).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CHILD NUTRITION AMENDMENTS OF 1980

The Senate continued with the consideration of the bill (S. 2675).

Mr. ROBERT C. BYRD. Mr. President, the business now before the Senate is the school lunch bill; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. S. 2675.

Mr. HELMS. I thank the Chair.

UP AMENDMENT NO. 1432

(Purpose: To eliminate the option permitting States to cause the Secretary of Agriculture to administer in the State the summer food service and child care food programs)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1432.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 35, after line 25, insert the following:

NATIONAL SCHOOL LUNCH PROGRAM

SEC. 2. Section 3 of the National School Lunch Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following:

": *Provided*, That beginning October 1, 1981, unless the State legislature meets biennially, in which case this provision shall be effective at the beginning of the fiscal year following the first meeting of the legislature after passage of the Child Nutrition Amendments of 1980, the Secretary shall not operate a program under either section 13 or section 17 of this Act.".

Mr. HELMS. Mr. President, this amendment has the very strong backing of the Inspector General of the Depart-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ment of Agriculture, as well as by the Department itself. The Inspector General has consistently stated for over a year now that this amendment represents one of the most important steps Congress can take to curb fraud, waste, and abuse in Federal food assistance programs.

Failure to adopt this amendment is likely to cost the American taxpayers millions of dollars.

Presently, the Department directly operates the summer feeding program in about 20 States and the child care food program in about 15 States. Since the States know that if they cease operating these programs the Federal Government must operate them, it is becoming increasingly popular for States to turn these programs over to the U.S. Department of Agriculture, reduce their own staffing needs and, thereby, claim a savings. Obviously, all Senators will recognize this as a gimmick. The job has merely been moved from one level of bureaucracy to another and it has been moved to a level that is further from the people; that level, of course, being the Federal Government.

The Inspector General has cited two principal reasons why turnbacks contribute to fraud, waste, and abuse.

First. The Department does not have the staff to operate all these programs and deal with literally thousands of local summer feeding sponsors and day care centers. This is the State's job. Because the Department has been forced to operate these programs in so many States, it has been compelled to reduce essential efforts to monitor and enforce compliance with program rules and reduce overpayment and waste.

Second. The Inspector General has reported that the Department has been unable to require States with deficient operations to correct these deficiencies, because the States threaten the Department with a "turn back" if the Department requires any corrective action the States do not wish to take. In fact, the Inspector General has further reported that the Department has in some cases been unable to collect debts due from audits of the summer feeding or child care program because the States threaten turnback if presented with a bill.

We know that the food assistance programs need intensive efforts to protect them from fraud, waste, and abuse, and to protect the American taxpayer. The Department of Agriculture had targeted a number of efforts for the coming fiscal year to reduce fraud, waste, and abuse. But in the past several months alone, four more State programs have been turned back and other States are also considering this budget gimmick. Unless this provision is enacted, the Department will not have the staff and resources necessary to undertake these necessary efforts.

Among the efforts that will be jeopardized by failure to adopt this amendment is:

First. Increased monitoring and compliance efforts in the child care food program in response to a recent GAO audit.

Second. Efforts to curb abuses in the processing of USDA donated commodities, as found by the Inspector General.

Third. A new effort to save substantial sums of money through cleaning up errors stemming from schools incorrectly reporting the number of free and reduced price school lunches eligible for Federal reimbursement.

Fourth. Implementation of major new provision enacted in May—Public Law 96-249—to curb fraud and abuse in the food stamp program.

Fifth. New efforts to reduce mail loses in the food stamp program.

It makes no sense to curtail efforts such as this in order for the Federal Government to take over what really should be a State role. The Inspector General has gone on record time and again in reports and testimony to Congress stating that this is one of the most important steps Congress can take to improve management and reduce overpayment in the food program area. This Congress professes to be against fraud, waste, and abuse and to support the Inspector Generals. On this occasion, Members of the Senate need to back up their profound sentiments on these matters and join Senator HELMS, the Inspector General of USDA, and the administration in enacting this provision.

Mr. President, the distinguished manager of the bill, Mr. McGOVERN, and I have discussed this amendment. I yield to my friend from South Dakota.

Mr. McGOVERN. Mr. President, as the Senator from North Carolina has said, we have discussed this matter. It was clear to me, as of yesterday, that it was the position of the Senate, where possible, to give the States greater responsibility as well as greater opportunity to participate in the design and operation of our nutritional programs.

I think the vote on Senator BELLMON's amendment, which was the last rollcall vote yesterday, opened the way for at least six of the States, if they so choose, to design their own nutrition programs.

That vote manifested the strong sentiment here in the Senate to give the States the responsibility and the opportunity to do more in terms of operating these food programs.

With that thought in mind, the amendment offered by the Senator from North Carolina is on all fours with that sentiment, because what he is saying, in effect, in his amendment, is that if we are going to have summer child-feeding programs and day care feeding programs, the States are going to have to assume the operation of those programs. They are not going to have the option from here on out of turning them over to the Department of Agriculture.

I discussed this matter with officials in the Department of Agriculture, and while they might have designed this amendment differently from the way it is presently worded, they make clear to us that they do not want to be put in the position where they have to take over the operation of programs merely because States are desirous of reducing their own budget and administrative responsibilities.

I want to make clear that I think it is important that these child-feeding programs be continued. I would hate to see this amendment interpreted—and I do not think it is Senator HELMS' intention—as an effort to reduce the numbers of children who are being fed in the summer program and in the day care program.

Very clearly, the thrust of this amendment is simply to require the States to face up to their own responsibilities in this field.

With that thought in mind, and knowing the Department's position on it, which is one of support, I accept the amendment and I hope it will be adopted.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. HELMS. Mr. President, I have been informed that the distinguished Senator from Missouri (Mr. EAGLETON) and the distinguished Senator from Oklahoma (Mr. BELLMON) are on their way to the floor and want to speak briefly on this amendment. To accommodate them, I will suggest the absence of a quorum.

Mr. McGOVERN. Will the Senator withhold that?

Mr. HELMS. Yes, I will.

Mr. McGOVERN. While we are waiting for the Senator from Missouri to arrive, I would like to urge the Senator from North Carolina to keep in the back of his mind for the time being that the bill does contain a modest increase in administrative funds for States to enable them to do a better job of running this program. If, in fact, we are going to close the door, as this pending amendment does, on the option of the State to turn the administration of the program over to the Department of Agriculture, I would hope that we would leave in the bill existing funding that helps them to do the kind of administrative job that they should do. I am sure that that is on all fours with the present Inspector General's report, that additional administrative funds are needed to improve the administration of these programs.

It does seem to me that it should follow, as a corollary, that foreclosing the possibility of the States turning these programs back to USDA also carries with it the implication that they are going to do the kind of effective and efficient administrative job that we want.

We have had some abuses in this program, as the Senator from North Carolina knows, and we do not want those to recur. We have made some progress, I think, in cleaning up the program. But a modest investment in funding for proper administration will, in my judgment, strengthen the amendment that I think the Senate is about to accept, which has been offered by the Senator from North Carolina.

Mr. HELMS. Mr. President, bearing in mind what the distinguished Senator has just said, I would point out to him that 2 years ago the formula was liberalized. I will have comments later on that subject. I will say that even with the liberalization of the formula 24 months ago, give or take a couple of months, this Senator has seen no credible evidence indicating that the taxpayers have benefitted. But I will address myself to that later.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Boren). Without objection, it is so ordered.

Mr. HELMS. I will say good morning to the distinguished occupant of the chair (Mr. Boren).

Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At this point the Senate proceeded briefly to the consideration of UP amendment No. 1433. By unanimous consent those proceedings are printed later in the Record.)

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, what is the pending order of business before the body?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from North Carolina numbered 1432.

Mr. EAGLETON. Is that the summer feeding program amendment?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1434

(Purpose: To require States to operate summer feeding and child care programs as a condition to receiving school lunch funds)

Mr. EAGLETON. Mr. President, I have a substitute which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. Eagleton) for himself and Mr. Bellmon, proposes an unprinted amendment numbered 1434 as a substitute to an unprinted amendment numbered 1432.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the amendment proposed by Mr. Helms.

Sec. . Section 4 of the National School Lunch Act is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this Act, effective October 1, 1981, no State shall be eligible for cash assistance under this section or section 11 unless such State administers a summer food service program for children under section 13 and a child care food program under section 17, except that in the case of any State in which the legislature meets biennially, the effective date of this sentence shall be the first day of the fiscal year which begins after the fiscal year in which the legislature of such State first meets after the date of the enactment of this sentence.".

Mr. EAGLETON. Mr. President, my substitute amendment would require that the States operate the summer and child care feeding programs as a condition for receiving school lunch reimbursement. It would implement a recommendation urged upon the Congress for the past 2 years by the administration that has been strongly endorsed by the Department of Agriculture Inspector General.

I need not review for the Members of this body the unfortunate history of the summer feeding program. Repeatedly in several past years, the GAO and the Inspector General of the Department of Agriculture have documented cases of terrible fraud, waste, and abuse of this program. Now, the Inspector General is strongly urging that we require that States run the program so that it can receive proper administration and oversight by the Department of Agriculture's Food and Nutrition Service.

I should like to read a few brief quotes from the Inspector General's last two semiannual reports, and his testimony before my Agriculture Appropriations Subcommittee just 2 months ago. I ask unanimous consent that the full testimony be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. Mr. President, this is what the Inspector General said in his May 30, 1980, report to Congress—page 11:

The history of this (summer) program shows a high vulnerability to mismanagement and outright fraud unless there is extensive monitoring and correction of problems during the planning stage and first few weeks of operations. An intensification of these efforts would reduce costs and improve the integrity of the program. Realistically, FNS and OIG are not now in a position to devote substantially more staff to such an endeavor. More staff could be provided at no added costs if FNS did not directly administer the program in at least 21 states including California and New York. The provision allowing any state to drop the program, in favor of direct Federal administration has had two effects. First, FNS personnel who could be reviewing all state operations, monitoring and providing technical assistance, are instead assigned to run the program. Second, on more than one occasion a State's threat to drop out of the program has been used as a powerful weapon to resist taking effective corrective action on deficiencies. *We believe program administration should be a state responsibility and we strongly endorse the Department's legislative proposal to recognize it as such.* (Emphasis supplied.)

Lest you believe that the IG's recommendation was something new, let me read something from his November 30, 1979, report to Congress, beginning on page 47:

In our last semiannual report we discussed endemic problems in the summer feeding program. We found inadequate planning and supervision; fraudulent bidding and contracting, such as collusion between vendors and sponsors; sponsors claiming more meals than actually served; meals given to adults or taken away from feeding sites and excess reimbursement claims.

Preliminary findings from our audit work covering this last summer suggest that program abuse may be less than in prior years in some communities and for certain sponsors . . .

The program still has major problems, however. For example, an audit this summer in Philadelphia found that only 24,561 of the 37,224 meals provided at 177 feeding sites were actually served to eligible children on the days of our audit visits . . .

There is still a need for the legislative remedies we suggested in our last semiannual report. It is imperative that state agencies operate the program. Last summer the Food and Nutrition Service was required to administer the program in 19 states because the National School Lunch Act allows states to turn over responsibility for the program to USDA. This included the two largest states, NY and California. This has profound consequences. Agency personnel who could have been used to monitor the program and work on major problems were required to spend their time on day to day training and supervision of sponsors, reimbursement claims processing, etc. The states are able to use the threat of dropping the program as a powerful weapon.

Just one final quote from a hearing, in which Senator Bellmon asked Mr. McBride this question:

You have recommended that States and localities take a more direct administrative role in the child nutrition programs so the Food and Nutrition Service won't be called upon to do that. Will there be resistance from the States? Are they willing to handle administrative responsibilities?

Mr. McBride replied:

I am sure there will be resistance, because they have, as the report indicates, turned over operation of the summer feeding program in about 20 states. But the option, which is to have the program unmanaged or poorly managed, if you will, and without adequate oversight is a worse option. I will give you an instance of how bad it can get. We had a criminal investigation of a child care center in one state, and this was a state which was FNS administered because the state turned back the administration of the program to the FNS. The FNS regional office was overtaxed as is always the case. In the case of this particular child care center, it was not a question of checking their books or counting their kids; it simply did not exist. There was no building, no chairs, no tables, no cooking facilities, no kids. A woman had received several hundred thousand dollars in reimbursement. That is about all there was. Not surprisingly the sentencing judge was caustic in his commentary on this instance of maladministration. While it is inexcusable and indefensible, these kinds of problems, though of a less serious nature, erupt all the time.

Our work in the summer feeding program has shown, you have to have someone out there looking at the site before you begin administering the program to make sure it isn't a vacant lot. You have to count the kids. We had to hire summer aides to go up and count kids. We found one instance where they bussed the kids in for lunch and we counted them, and they hustled them back on the bus and took them to another site and fed them again. So what I am saying is the monitoring chore is not just paper shuffling, and it is not an easy chore. It is very labor intensive. Naturally, the States don't want to do it, by and large. I should note that is not a wholesale condemnation. Some states have done an excellent job of administering. Many of them operate under personnel ceiling limitations not unlike that of the Federal Government. *"But we can't have any incentives to improve state management if once the going gets tough they say, look you hold us to high standards, we will give you the program. That is intolerable."* (Emphasis supplied).

And, Mr. President, I want to tell you that it is clear to me that States really do this kind of thing. Just recently, there were four turnbacks to USDA to operate these programs. It will go on and on, if we do not put a stop to it now and require States to run the program.

Mr. President, I have been informally advised by the Administrator of the Food and Nutrition Service that very few—possibly three or four, of the States which have turned back the program to FNS might elect not to operate it themselves if given the option. Realistically, I think it is unlikely that States would be so callous—especially since most States do have budgetary surpluses, but there still is the possibility that some States might not operate this program.

I should also point out that the bill we are considering today includes several new provisions that are designed to help States receive enough funds to administer the programs properly. Section 7(d) of the bill establishes a minimum administrative payment for each State of $30,000, and provides for additional administrative funding up to 33⅓ percent of the previous year's program funds expended. The same section requires States to hire and retain at least one person year round to administer the summer program and provide technical assistance to potential program sponsors. Finally, the bill would authorize the Secretary to provide additional administrative funds if a State justifies to the Secretary that it would otherwise have insufficient resources available to insure program integrity.

Mr. President, we are giving the Secretary of Agriculture the flexibility he needs to see that States receive enough money to run this program. We have given the Secretary a regional staff to monitor it. We now must do one final thing—take the recommendations of the Inspector General and Secretary Bergland, and require States to run the programs so that the Federal Government can monitor them properly to insure their integrity. It is as simple as that.

Mr. President, there is only one final thought. In 1978, I coauthored the Inspector General Act, and I truly believe that it is a dynamic and significant force in rooting out fraud, waste, and abuse and in improving Government. But, if our Inspectors General keep coming up to Congress and strongly urging program reforms, I say we had better start listening to them. Mr. McBride—a former Watergate prosecutor—has done extensive work on these programs and has urged reform in every report he has ever made to Congress and in all of his testimony on this program. If we ignore him now and leave the situation as it is, we are condemning him to continued audits of the summer and child care programs that will keep turning up fraud, waste, and abuse. If we reform this program and start making the States run it, I am convinced that his advice is sound, and that program operations will improve, and fraud and waste will be reduced.

I strongly urge my colleagues to support the Secretary of Agriculture and the Inspector General's recommendation, and vote in favor of this amendment.

EXCERPTS FROM HEARINGS ON AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

TUESDAY, MAY 6, 1980

U.S. SENATE, SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 1318, Everett McKinley Dirksen Senate Office Building, Hon. Henry Bellmon presiding.

TESTIMONY OF MR. MCBRIDE, USDA INSPECTOR GENERAL

SUMMER FEEDING PROGRAM

Mr. MCBRIDE. The history of this program shows a high vulnerability to mismanagement and outright fraud unless there is extensive monitoring and correction of problems during the planning stage and the first few weeks of operations. An intensification of these efforts would reduce the cost and improve the integrity of the program. Realistically, FNS and OIG are not now in a position to devote substantially more staff to such an endeavor. More staff could be provided at no added cost if FNS did not directly administer the program in at least 21 States including California and New York. The provision allowing any State to drop the program, in favor of direct Federal administration has had two effects. First, FNS personnel who could be reviewing all State operations, monitoring and providing technical assistance, are instead assigned to run the program. Second, on more than one occasion a State's threat to drop out of the program has been used as a powerful weapon to resist taking effective corrective action on deficiencies. We believe program administration should be a State responsibility and we strongly endorse the Department's legislative proposal to recognize it as such. Should permanent legislation not be enacted, we recommend that this Committee consider putting an appropriate limitation in the FY 1981 Appropriations Act.

While we will be reporting on the extent of these problems to FNS and the Congress in more detail when our current review is completed, we would like to make the preliminary observation that inadequate resources are being devoted to the management of this program. Where the State education agency runs the program, the managers are often oriented towards the needs of schools and day care problems get short shrift. Where FNS directly runs the program, the same problems of inadequate staff and oversight exist that we have mentioned in the discussion of the Summer Feeding Program. We recommend that the Congress require State administration of this program either by amending the permanent legislation or through language in the FY 1981 Appropriation Act.

SUMMER FEEDING AND CHILD CARE FOOD PROGRAMS

Mr. MCBRIDE. The two programs which I will try to cover quickly are the summer feeding and child care programs. They have similar problems, and rather than detailing the problems, which are spelled out in the testimony and were touched on by Mr. Staats, I will point to one basic issue, which is that neither of these programs require State administration. That is, a State or the advocacy groups or the community groups may feel strongly that they may want the program. They can have the program, but they can at the same time force the Food and Nutrition Service to administer it. So we find large programs in whole States—California and New York, for example—where these programs are in whole or part administered by the Food and Nutrition Service. The result is that the Food and Nutrition Service staff is spread so thin that, even with the best of wills and talents, they could not adequately manage or monitor the program. When you couple that with State administration, which is in many States not a model of effectiveness, you have really serious problems. We have had to devote an inordinate amount of audit resources to these programs, particularly summer feeding, far in excess of its funding levels. It is not a big program—I think it is now about $150 million—but it has had an egregious fraud situation in the past resulting in many criminal convictions. I am convinced if State administration were required, we could have two things: (1) We would free FNS staff to more adequately manage the program, and (2) the oversight of State administration could result in the effective implementation of either sanctions or incentives for better State administration. Right now if a State does a bad job last year and FNS says, look, you did such a poor job we are going to withhold administrative money, the State will in effect say if you do that, we will make you run the program. It is a really serious problem, because FNS, as I say, with the best of wills, finds itself paralyzed in taking effective actions in these program areas. So I would ask the committee to take a close look at that problem.

SUMMER FEEDING PROGRAM

Question. This committee has consistently tried to support the Department on reforms in the summer feeding program to eliminate the worst abusers. What is your estimate of the amount of fraud and abuse in last summer's feeding program?

What would be the strongest language that the IG would recommend for inclusion in the 1981 appropriations act in terms of a limitation to root out fraud and abuse in the summer feeding program and why would you strongly urge us to make that particular change in the bill?

Answer. Our audit work covering last summer produced fewer referrals for criminal investigation than in prior years. While outright fraud may have abated, mismanagement remains a problem.

Last summer, we concentrated our reviews on seven large cities where we observed over 900 feeding sites. While it is possible to make projections for individual sponsors in each of the cities, it is not possible to make a valid projection for the entire country.

Once again we found major problems. For example, in Philadelphia we estimate that only about 24,500 of the 37,000 meals provided at 177 feeding sites were actually served to children on the days of our audit visits. The others were not served, were consumed off-site, or were served to ineligible participants. We also found that only 52 percent of the lunches we randomly selected met the meal pattern requirements. They were most often deficient in the meat or meat alternate and milk requirements.

The best language to include as a limitation in the fiscal year 1981 Appropriation Act would be the Administration's legislative proposal which would require State administration of the program, thus freeing Federal resources for more extensive management review and technical assistance efforts. The proposal would also limit the size of private sponsors using private vendors. The large private sponsors have had the poorest performance records in the past because they frequently lack the management capability to handle a large scale operation.

STATE ADMINISTRATION OF CHILD NUTRITION PROGRAMS

Senator Bellmon. Thank you, Mr. McBride, for a very comprehensive report on your activities. We will examine the full report and the recommendations you have made.

I am going to have to leave to go to another meeting but I was curious about one comment you made. You have recommended that States and localities take a more direct and administrative role in the child nutrition programs so the Food and Nutrition Service won't be called upon to do that. Will there be resistance from the States? Are they willing to handle the administrative responsibility?

Mr. McBride. I am sure there will be resistance, because they have, as the report indicates, turned over operation of the summer feeding program in about 20 States. But the option, which is to have the program unmanaged or poorly managed, if you will, and without adequate oversight, is a worse option.

I will give you an instance of how bad it can get. We had a criminal investigation of a child care center in one State, and this was a State which was FNS administered because the State turned back the administration of the program to FNS. The FNS regional office was overtaxed, as is always the case. In the case of this particular child care center, it was not a question of checking their books or counting their kids; it simply did not exist. There was no building, no chairs, no tables, no cooking facilities, no kids. A woman had received several hundred thousand dollars in reimbursement. That is about all there was. Not surprisingly the sentencing judge was caustic in his commentary on this instance of maladministration. While it is inexcusable and indefensible, these kinds of problems of a less serious nature, erupt all the time.

Our work in the summer feeding program has shown, you have to have someone out there looking at the site before you begin administering the program to make sure it isn't a vacant lot. You have to count the kids. We had to hire summer aides to go up and count kids. We found one instance where they bussed the kids in for lunch and we counted them, and they hustled them back on the bus and took them to another site and fed them again. So what I am saying is the monitoring chore is not just paper shuffling, and it is not an easy chore. It is very labor intensive, Naturally, the States don't want to do it, by and large. I should note that is not a wholesale condemnation. Some States have done an excellent job of administering. Many of them operate under personnel ceiling limitations not unlike that of the Federal Government. But we can't have any incentives to improve State management if once the going gets tough they say, look, you hold us to high standards, we will give you the program. That is intolerable.

Senator Bellmon. Have you in your statement or could you for our record suggest a method of requiring or encouraging State administration?

GETTING MORE STATE INVOLVEMENT

Mr. McBride. We would be glad to give you language and supporting data. As I say, we recommend requiring State administration, because I know of no device short of that that would provide a structure on which you can build, then gradually improve the program.

Senator Bellmon. You anticipate if States administered the program, the State would pay for the administration?

Mr. McBride. The Federal Government would pay a substantial part of the administrative costs under either existing or perhaps slightly modified formulae.

[The information follows:]

REQUIRING STATE ADMINISTRATION

The Food and Nutrition Service expects to operate the Summer Feeding program in 21 States during the summer of 1980. This includes several large States such as California, New York and Michigan. The agency expects that something on the order of 130 staff years will be required for direct Summer Feeding Program administration. This has had the effect of diminishing the ability of FNS to identify program deficiencies, develop corrective action requirements and provide technical assistance to State agencies to improve their operation of these food programs. Ultimately this results in poorer service being provided to program participants.

On March 10, 1980, the Department sent draft legislation to the Congress which would make numerous changes in the National School Lunch Act including requiring direct State administration of the Summer Feeding and Child Care Food Programs. The specific provisions that would accomplish this may be found in sections 5(f) and 6(b) of the legislative proposal.

Senator Bellmon. I would like to ask one last question, and perhaps you could comment for the record. Your testimony makes several recommendations for legislative improvements in the child nutrition programs. You include such things as permitting the Food and Nutrition Service to withhold administrative expenses, turning back summer feeding and child care programs to the States, eliminating private sponsors in the summer feeding program. Could you again in written form summarize for the committee the legislative recommendations that you would propose that we include in the bill to accomplish what I believe are very fine recommendations? I think you could do that perhaps better than anyone else.

Mr. McBride. We would be pleased to.

[The information follows:]

LEGISLATIVE RECOMMENDATIONS

The most important recommendation made in the testimony is that the Department be permitted to withhold all or a part of the Federal funds provided for State Administrative Expenses of the State does not administer the programs efficiently and effectively. In the last few years these grants have increased at a far higher rate than any inflation index. In the other large domestic food assistance programs, food stamps and WIC there is already permanent authority for such fiscal sanctions. They have not been used in a punitive or arbitrary fashion. States have been told what standards they were being held accountable to and warned in advance to give them time to correct their administration if a sanction were warranted. In a few cases it has been necessary to actually withhold funds but in most cases the Department was able to work out an acceptable solution with the State agency before utilizing so drastic a remedy. Such legislation is needed because OIG audits continue to note the same deficiencies year after year in school lunch reviews and many State agencies have been unable or unwilling to deal with these problems on a systematic basis.

The testimony also recommends legislation to turn back administration of the Summer Feeding and Child Care Food Programs to the States and to eliminate certain categories of large private sponsors using private vendors in the Summer Feeding Program. These points are elaborated on in the prepared testimony.

Essentially they deal with the problem of providing adequate management attention to these programs. By requiring State administration. Federal personnel can concentrate on monitoring and providing technical assistance rather than tending to the immediate problems of day to day administration. By restricting participation in the Summer Feeding Program by the category of sponsors that has had the worst problems in the past—large private sponsors using private food service vendors—both Federal and State managers could concentrate on improving the best operations rather than on monitoring and corrective action for the worst abusers.

Senator Bellmon. Mr. McBride, thank you very much for your helpful testimony. I want to commend you for the work you have done and urge you to keep it up.

Mr. McBride. Thank you.

Mr. EAGLETON. Mr. President, let me summarize briefly what the difference in approach is between my substitute and the Helms amendment. Under the Helms amendment, the program is turned back to the States. Frankly, that is where it should be, in my opinion. That is where the Inspector General thinks it ought to be. That is where the Secretary of Agriculture thinks it ought to be. But under the Helms approach, the States would have the option of canceling the program.

The people at the Department of Agriculture give me their gut, visceral estimate that "perhaps"—"maybe"—I use the words "perhaps" and "maybe"—three or four States would see fit not to have a summer feeding program at all. I, personally, think that that would be a serious disservice to the young and needy people in those three or four States. Therefore, my substitute would do this: It would, indeed, turn the program back to the States, but it would mandate that the States have a program unless they want to drop their school lunch program. That is the key and the essential difference. That is the bottom line on it.

Mr. President, I am prepared to yield back the remainder of my time at such time as may be appropriate, depending on what Senator Helms' response is.

I say to my colleague from North Carolina that I have finished my introductory remarks and I am contemplating yielding back the remainder of my time when he and Senator McGovern have completed their statements.

Mr. McGOVERN. Will the Senator yield?

Mr. EAGLETON. I am happy to yield.

Mr. McGOVERN. Mr. President, it is clear that the Senator from North Carolina and the Senator from Missouri are trying to accomplish the same objective, which is to create a situation where the States will assume their proper responsibility in running the summer feeding and child care programs. These programs, indeed, are part of the total child nutrition effort in this country. As I indicated earlier, I think the Senate will do something in this area. In the absence of the kind of modification being suggested by the Senator from Missouri, I would support and can accept the amendment that Senator HELMS has offered.

I do think it is fair to say that the substitute offered by Senator EAGLETON is a more practical approach to this problem for the reason he states.

The probability is quite strong that we might have anywhere from two, three, four, five States that would simply opt to terminate any kind of a child care or summer feeding program. It could very well turn out to be those States that need it most.

So what the Senator from Missouri is attempting to do is to arrive at the same objective as contained in the amendment offered by the Senator from North Carolina, but to do it in a way that does not risk the possibility that some children will not have a child care or summer feeding program available to them.

It says, in effect, that if they want to participate in the school lunch program, they have to operate a balanced total program that takes into consideration the needs of children in child care and in the summer month.

People do not quit eating simply because the schools are closed in the summer months.

So if the Senator does, in fact, offer this as a substitute amendment, I would recommend that the Senate adopt it.

I do think it is an improvement in the way it is designed over the amendment offered by the Senator from North Carolina.

Mr. HELMS. Mr. President, I do not want to be a party pooper, but I do not agree with my friend from Missouri, nor with my friend from South Dakota.

I am glad we were able to accommodate the distinguished Senator from Missouri in presenting his substitute. This is not an improvement, Mr. President, this is a drastic amendment.

I want Senators to know that Senator EAGLETON is proposing that every State would be required to operate summer feeding and child care without option, or else all of the State's school lunch money would be taken away.

I remember this matter was discussed in the Agriculture Committee and the distinguished Senator from Georgia, the chairman of the Agriculture, Nutrition and Forestry Committee (Mr. TALMADGE), said, "Good Lord, even Sherman did not do that when he marched through Georgia."

I believe most Senators would agree that my able friend from Missouri is offering a pretty harsh proposal. Now, the amendment that I proposed maximizes the flexibility of the individual States to make their own decisions. Senator EAGLETON said, "Oh, no, that cannot happen, you do it or you get nothing."

I am constrained to ask, whatever happened to States rights? Whatever happened to the concept we all preach when we go home, the concept of taking some of this centralization out of Washington and put it back at home with the folks who know the problems?

No; this is not an improved amendment. This is a gutting amendment, pure and simple. And riding on this question is whether we really mean it when we say we will decentralize power in Washington, D.C., and whether we have faith in our State and local folks to do the job.

This amendment is totally unacceptable to the Senator from North Carolina because, I say again, it requires—requires—every State to operate summer feeding and child care whether they want to or not, or whether it is needed or not. Otherwise, big old Uncle Sam, sitting up in Washington, D.C., in the Agriculture Department says, "You don't get any money."

Being a pretty fair advocate of local responsibility and State responsibility, and having some record in that regard, I just cannot accept my friend's substitute.

I may lose, but I will not be the only one losing.

The concept of States rights and States' responsibilities and local initiative will be lost to the degree that this amendment is applicable.

Mr. President, this is a clear-cut issue. It is a question of whether we let the States decide, or whether we mandate from on high in Washington, D.C., holding money over the heads of the States for their other programs as a threat.

Mr. President, I may be one of the few Members of this Senate who has served on a local governmental body. I was a member of the Raleigh City Council for two terms. I began in 1957, and it was along about that time that the enticement of free money from Washington was really beginning to roll.

Time after time, the distinguished city manager of my city of Raleigh brought forth programs available from the Federal Government and he said, "Here is some free money."

I was a minority, even then. I used to say, "Mr. City Manager, you take this money and you are going to lose your authority."

I remember how red his ears became when he did not like what I was saying to him.

But about 2 or 3 months before he retired in 1973, Mr. President, that distinguished city manager came to me, and he said:

> Jesse, I used to get so mad at you about this business of Federal controls and Federal aid. I thought you were a Neanderthal, and I could not see why in the world you would caution against getting that money that everybody else was getting from Washington, D.C.

But he said:

> Let me tell you something. One reason I am retiring is because I cannot make a move without some Federal bureaucrat standing behind me and telling me that I can or, I cannot do. And I cannot run my city.

And here is a perfect example of this.

Here we are, some of us trying to return to the States and the local communities a little bit of judgment, a little bit of decisionmaking power, and I am afraid we are going to be thwarted again.

Mr. President, there is no free money from Washington. The substitute amendment offered by my friend from Missouri nailed down the point, "We are going to control you. You do what we say, or else."

I think we ought to be moving in the other direction. That is the reason I offered my amendment and that is the reason I must oppose, as vigorously as I can, the substitute offered by my distinguished colleague from Missouri, who knows how much I love him and how much I respect him.

Mr. EAGLETON. Mr. President, I will be brief. I am going to make a unanimous-consent request that the vote on this substitute occur at 12 noon, and I am going to ask for the yeas and nays.

I state that merely to inform both the Senator from South Dakota and the Senator from North Carolina.

In rebuttal to my colleague from North Carolina, I say this. He characterizes my substitute as a "harsh proposal."

Mr. President, the harshest proposal of all would be to have no summer feeding program in three, four, or whatever number of States decide not to have it.

President Roosevelt once referred to the four freedoms; and included in the list of the four freedoms, I believe, was the freedom from hunger. The distinguished Senator from North Carolina today espouses a new States rights freedom, the freedom "to hunger." That is what he espouses in the name of States rights—the right of the State not to operate a summer feeding program, so that needy youngsters will not eat during the summer months. I deem that not to be a sacred right of any sort, be it Federal, State, county, or municipal.

I believe that the government that operates and assists in the operation of nutrition programs during the school year, so that hungry youngsters can at least have at least one fairly decent meal a day, has an interest in seeing to it that those youngsters have a chance, if they avail themselves of it, of one fairly decent meal during the summer months.

Hunger never takes a holiday. Schools may take holidays, but hunger does not. I know of no real or illusory States rights to inflict upon hungry youngsters the right to starve.

So I say that the harshest proposal of all is not this substitute amendment. The harshest proposal of all is to espouse the freedom to starve.

I am prepared to yield back the remainder of my time.

Mr. HELMS. Mr. President, I point out to the distinguished Senator from Missouri that we are not under a time agreement; therefore, there is no time to yield. He is welcome to the floor for as much time as he wishes.

I do not know exactly how to say this

to my friend from Missouri, because I do not want to offend him, but I wonder whether he realizes what he is saying in his rebuttal to me.

He said, "I do not trust the people of Missouri to operate a program. I don't trust the people in any State, or their leaders."

If the Senator inferred in any way that I want children to go hungry, I want to clear his mind of that ideal. The question is not whether or not they are going hungry, but whether we are going to have a centralized program in Washington, D.C., where we scoop out the money and say to the States, "You spend it as we say, or you're not going to get any at all." That is the unvarnished truth about this issue.

I have a pretty fair record of interest in underprivileged children. I do not want any of them to go hungry. But I raise this question: If these children come from truly needy families, are not they eligible for food stamps? If the State, in its judgment, decides that the summer feeding program is not worthwhile, these children would not go hungry. Their meals can already be paid for with food stamps.

I am afraid that the Senator runs into a corner with his argument, because, sooner or later, he has to face the question of whether we can do things better here in Washington, D.C., or the State and local officials can do them better.

"States' rights" is a sort of buzz word, I know. Politically, some folks find it advantageous to sneer at States' rights, but they had better stop that. They should read the Federalist papers again, because we have departed so far from the original concept of this republic that the whole thing is about to come crashing down around us.

If it needs to be said by this Senator on this floor at this time, I will say it: Yes, sir, I think we should put more rights back to the States, the rights that were taken away. We should restore more responsibility.

I do not know about the people in Missouri, but the leaders of North Carolina, Democrat and Republican, are not the kind of folks to let children starve. This cliche about the freedom to starve is an absurdity. It has nothing to do with this argument. What we are talking about is whether we trust our people back home, and this Senator trusts his people back home.

I will jolly well guarantee that we will have a better situation in North Carolina if more authority and more responsibility and fewer controls emanate from Washington, D.C. This is not the reservoir of all knowledge or all judgment or all wisdom.

I often think of Will Rogers and what he used to say about Washington and Congress. I wish we could go back to Will Rogers' time and have the kind of sensible Congress and executive branch we had then, relatively speaking.

I recall that when I was a boy, I used to read Will Rogers' column on the front page of the Charlotte Observer every morning. It was down in the lower right-hand corner. It never was more than a couple of paragraphs long.

One morning in January, Will's column consisted of a couple of lines. They read:

> Well, I see where the Congressmen have gone back to Washington and will go into session today at noon. I was afraid they were going to do that.

Legislation pours through the Senate day after day, trying to solve all of our problems. In reality, it is the cause of the problems. I wonder where sanity has gone.

I am going to move to table the substitute amendment of the Senator from Missouri——

Mr. McGOVERN. Mr. President, will the Senator yield to me for a moment?

Mr. HELMS. Yes. I was about to say that I was going to move to table the substitute amendment after all have had their say.

I hope Senators will realize that this is a question of whether we have any confidence in our States and local governments, or whether we really do believe that all wisdom resides here in Washington, D.C.

I yield the floor.

Mr. McGOVERN. Mr. President, I wish to address a couple of remarks to the Senator from North Carolina.

The rhetoric may have become a little more heated here than necessary on this issue, because, as a matter of fact, the objective of the Senator from Missouri and the Senator from North Carolina is exactly the same.

If the Senator from North Carolina is right—and I believe there is a possibility that he is—in his judgment States are going to assume this burden without any nudging from Washington. Thus, we end up either with his amendment or with Senator EAGLETON'S amendment. Precisely the same situation. States operating the summer program, rather than turning it back to the Federal Government.

The argument that Senator EAGLETON made is not an anti-States rights argument at all. What he is saying is that we want to make sure that the States do assume their obligation to operate a balanced program, that children are not shortchanged in the summer months.

The objective is the same, as I see it, with both amendments. I can live with either one.

I told the Senator from North Carolina earlier, before I was aware that Senator EAGLETON would offer an amendment today, that I could accept this amendment as he offered it originally. I believe that the amendment offered by the Senator from Missouri is a modest improvement and probably would avoid the danger that two, three, or four States would do nothing at all.

So I intend to support the amendment offered by the Senator from Missouri. But if it fails, I say to my friend from North Carolina that I am going to keep my commitment to accept his amendment.

I hope we can adopt it on a voice vote.

On that basis, I think we are going to end up either way with a provision here that improves the existing situation. One that does avoid the problem where the Department of Agriculture is being asked to do more than it is capable of doing, that it, to provide the personnel to operate a good many of these summer programs where the States, in fact, should be carrying that burden.

Mr. EAGLETON. Mr. President, I failed to mention in my remarks that this is an amendment not only offered on behalf of myself but Senator BELLMON as well. Senator BELLMON, it should be noted, is a former Governor of the State of the distinguished presiding officer before the body and is a person well noted for his keen interest in and support of what is referred to as States rights.

Mr. HELMS. Mr. President, will the Senator yield for just one moment?

Mr. EAGLETON. I yield.

Mr. HELMS. I agree absolutely with what was mentioned about his friend and my friend, Senator BELLMON. Senator BELLMON just left the floor after telling me he supported my amendment. Maybe that will encourage the distinguished Senator from Missouri to withdraw his substitute.

Mr. EAGLETON. No; it does not. I think Senator BELLMON is in about the same position as Senator McGOVERN. Senator McGOVERN has expressed himself very ably. Senator McGOVERN will support the Eagleton-Bellmon substitute. If that fails, either on an up-or-down vote or a motion to table, then Senator McGOVERN indicated he is going to support Senator HELMS. I think Senator BELLMON is in that same posture.

Mr. HELMS. In any case, we will not fall out on that proposition. The Senator is my friend and I respect him.

Mr. EAGLETON. He will move to table.

Mr. HELMS. I shall get the yeas and nays.

Mr. EAGLETON. Yes. If the Senator moves to table, then I will ask for the yeas and nays.

Mr. HELMS. No, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, just one final thought, if I may, about this summer feeding program. One final thought about what some of us are trying to do to make sure that the taxpayers' money is not wasted by the barrelful.

Two or three years ago, Representative ELIZABETH HOLTZMAN paid a surprise visit to two of these summer feeding sites in Brooklyn. I think it can be fairly said that Ms. HOLTZMAN is not a hard-hearted lady. She is a very compassionate lady. She is not a conservative. She is not a Southerner. But she is a gracious lady, and, even though I differ with her on many occasions, I respect her highly.

She went to two feeding sites, as they called in Brooklyn, and she came back and she reported, and let me read what Representative HOLTZMAN said:

> I found children carrying away shopping bags full of food which is required by law to

be consumed onsite. I found boxes of food discarded and abandoned. I found cartons of milk being thrown at passersby, and I found no recordkeeping on the site by program sponsors.

Those are the words of Elizabeth Holtzman.

Mr. President, although this was several years ago, I think it is fair to say that this is a measure of what the State and local officials have been seeing throughout the country even today. It is certainly one reason that the Senator from North Carolina feels the responsibility for these programs should be State and local.

After Ms. Holtzman made the statement I have just read, she began receiving scores of telephone calls complaining that, for example, one site in Manhattan served mostly alcoholics and drug addicts who received several meals a day. At a site in the 25th Police Precinct in Manhattan, policemen took home meals—these are paid for by the taxpayers—took home meals to feed to their dogs.

I am quoting Ms. Holtzman:

At another site adults carried away shopping carts of food.

Mr. President, let me say as sincerely and emphatically as I know how, that I believe there is no one who has more sympathy for a hungry child than I. But I say again that that is not the question. The question is how long we are going to continue to make States run programs like this or else forfeit all of the support that they receive for the school lunch program. And that is the issue. The issue is not whether Tom Eagleton or Jesse Helms or George McGovern or Henry Bellmon love children. We all do.

Mr. President, I move to table the Eagleton substitute amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. JAVITS. Has the Senator moved to table already? I wish to say a word for a minute.

Mr. HELMS. Mr. President, I withdraw that for a moment. The distinguished Senator from New York wishes to speak.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, Senator Helms just referred to the situation in New York, and I wish to say for the information of the Senate that I supported very strongly in every way I possibly could this effort to clean up the New York program, which had very, very serious problems.

It did result in the USDA taking it over, and indeed the State of New York turned it over, and it did result in very material improvement. That was the reason why, Mr. President, I was prepared to oppose the Helms amendment because this avenue turned out to be a way out at least—I am not claiming perfection, of course—but some way out for the State of New York and for the large number of children who are involved.

I realize the desire of the Senator from North Carolina to really compel the States to take on these programs on their own, and, as Senator McGovern has indicated, should he take one of these amendments it would result in compelling my State to act. I believe it would, although the State has indicated it might very well drop the program. But, frankly, I do not think the people of the State of New York will stand for it.

But I will say this: We may find some grave difficulties on the transition. What I am hoping is that however this may come out in the final analysis, in view of the fact that the manager proposes to take one of these amendments, that in conference that will be a factor. In other words, what should a transition period be, because we certainly would not want a State to take it over when the State is not ready, and yet a State, even though not ready, might have to take it over or lose money. Under the Eagleton amendment indeed it would lose a great deal more than what is involved in a summer feeding program.

Lastly, may I say these programs are extremely important to the poor, especially working mothers. With about half of eligible people, that is, those who can possibly work among women in the work force, this becomes a critical matter even though there is the shortage of day care slots. This shortage is, I might say, one of the most serious shortages in the economic situation of the United States, let alone the social situation of our country, because it does inhibit many women from working and does cost us a good deal of welfare money. We heard testimony only yesterday in the Labor and Human Resources Committee, that the mothers want to work but cannot because there is not adequate provision for child day care and we are really making a terrible mistake, in fact being counterproductive on that subject. This problem leads directly to summer feeding because the summer feeding is critical when school is not in session and we do not have the school lunch.

So, as a practical matter, however I might feel about the Helms amendment which, as I say, I oppose, I believe the managers in the conference should be aware of the problems of a State like mine which ran the program, which subsequently had to turn it over to the Department of Agriculture, and which now will have to, by popular demand, I might say, even though it may not think so, take it up again. In that case people like Congresswoman Holtzman, myself, and others would want to be sure that the auspices were intelligent and proper and that the State did not have to latch onto it ready or not.

Mr. McGOVERN. Mr. President, will the Senator yield to me?

Mr. JAVITS. Yes.

Mr. McGOVERN. Over the last couple of years I have been very much aware of the concern the Senator from New York has had with respect to this problem relation to the summer feeding programs. He has been a leader in the Senate in addressing not only the importance of that program but also looking squarely at some of the abuses, and helping to play a role that I think has substantially cleaned up the program.

I think the summer programs are now vastly more efficient and more in line with congressional intent than they were a couple of years ago. I am not aware of major abuses in the program any longer, and the Senator from New York has played a part in helping to work out a formula that has corrected those abuses.

I also think the point he is making here this morning is well taken, that if, in fact, either the Helms or the Eagleton amendments are adopted, and I am confident that one or the other will be adopted, it is going to be a challenge to some of the States to get into operation an effective program.

We do not want to create a situation where we go back to some of the old mismanagement and the abuses that were in this program earlier.

So as one who expects to be a conferee on this bill, and knowing that there is no similar amendment adopted in the other body, they come in without any kind of a turn-back provision, I will assure the Senator we will look very thoughtfully at the problem he mentions and try to make this transition as smoothly and as effectively as possible.

Mr. JAVITS. I thank my colleague.

May I add one other point. Following en suite, as I understand, is another Helms amendment to cut the money which is going to be available to the States for an operating program, and again the same injunction as to that.

I hope it will not be accepted, and it will be contested; and, second, thoughtfully if you want to do this and do the job correctly, you may find that you are just loading the decks against yourself by cutting the money which is going to be available for that purpose.

Mr. McGOVERN. If the Senator will yield, Mr. President, on that point I have already urged the Senator from North Carolina to keep in mind that a logical followup of his amendment is one that retains the additional administrative funding that the committee put in the bill to enable the States to do a better job. It certainly does not make sense for Congress in one moment to say to the States, "We want you to play a better role, a stronger role, in administering this program, but we are going to give you less money to do it."

Mr. JAVITS. Right.

Mr. McGOVERN. That is being penny wise and pound foolish. So I hope the Senator from New York, with his knowledge of this program and his persuasive capabilities, will help us turn back this second move by the Senator from North Carolina if he goes ahead with it. We do need sound administrative funding if we expect the States to do a good job.

Mr. JAVITS. We can rely on the appropriations process, especially today, to hold down costs.

Mr. McGOVERN. Exactly.

Mr. JAVITS. I thank the Senator for his courtesy.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1432—AS MODIFIED

Mr. HELMS. Mr. President, I send to the desk a modification of my amendment to which Senator EAGLETON has offered a substitute and ask that it be stated.

The PRESIDING OFFICER. The amendment is so modified.

Mr. HELMS. Mr. President, I would like the clerk to read it.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1432, as modified:

On page 35, after line 25, insert the following:

NATIONAL SCHOOL LUNCH PROGRAM

SEC. 2. Section 3 of the National School Lunch Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following:

": *Provided*, That beginning October 1, 1983, the Secretary shall not operate a program under either section 13 or section 17 of this Act.".

Mr. DOLE. Mr. President, I would like to address the implications of this amendment, which seems like a good idea in support of State autonomy on programs administered under State jurisdiction. I realize the administration is in favor of the amendment introduced by the distinguished Senator from North Carolina, and, given the added responsibilities that USDA might incur if increasing numbers of States turned the summer food service programs back to the Department for administration, it is little wonder that they are in favor of preventing such a course of action.

The full-fledged implications to the Department of not putting any safeguards on potential turnback of this program mean that USDA would eventually find itself understaffed in this area and could not effectively administer this program for as many as all 50 States. Not preventing any further turnback would leave the door open to increased Federal expense.

Mr. President, we all recognize that there have been a lot of problems in the administration of this program at the State level, but these problems usually occur in the larger States, and New York, California, Texas, and others of these larger States have already turned their programs over to the Federal Government for administration. Any further expansion of this trend is undesirable, because USDA cannot possibly cope with individual administration of State programs—and it would mean an added fiscal burden on the Federal level.

It would seem to be a reasonable compromise if we could come to an agreement that as of January 1, 1979, or any other suitable date, those States that had already turned their programs over to the Department of Agriculture for administration could continue to have USDA administer these programs, but any additional turnback on the part of States should be prohibited as an impossible administrative burden.

Mr. McGOVERN. Mr. President, if the Senator will give me his attention for a moment, on the matter of how we are going to handle the summer feeding turnback problem, I have just talked with Senator EAGLETON. He has told me that, in view of the modification which the Senator from North Carolina has made in his amendment to delay the effective date until October 1, 1983, he thinks that this would give the States adequate time to assume their responsibilities to operate the program. Under those conditions, he could not only support the Helms amendment, which is modified amendment No. 1432, but would like to join as a cosponsor.

I am advised by the Chair that we can handle this whole matter with a unanimous-consent request, which I now propose: I ask unanimous consent that amendment No. 1434, which is the Eagleton amendment, be considered withdrawn and that amendment No. 1432, which is the Helms amendment as modified, be considered as agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (UP No. 1432), as modified, was agreed to.

The amendment (UP No. 1434) was withdrawn.

Mr. HELMS. I move to reconsider the vote, Mr. President.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I think this is a fair and equitable response to the Senator's problem, because legislators do meet biennially. I would not want to put any State in the problem area, so I think this is a fine solution. I thank the Senator from South Dakota.

UP AMENDMENT NO. 1433

(Purpose: To authorize the Secretary of Agriculture to require as a condition of eligibility for free and reduced price school meals a listing of household members' social security numbers on program applications and to eliminate the requirement "cause" be shown prior to verification of an applicant's eligibility)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1433.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 13, strike out the period and insert in lieu thereof a semicolon.

On page 39, after line 13, insert the following:

"(4) striking out in the tenth sentence 'solely' after 'annual incomes of any household';

"(5) striking out in the tenth sentence 'for cause' after 'local school authorities may';

"(6) inserting in the tenth sentence ', such form to include as a condition for participation in the program, that such adult furnish the social security account numbers of all members of such household' after 'adult member of such hosehold';

"(7) inserting in the tenth sentence 'the Secretary, the State, and' before 'such local school authorities may'; and

"(8) inserting in the tenth sentence 'and may utilize the social security account numbers provided in such application for the purpose of facilitating such verification' after 'data in such application'.".

On page 39, after line 13, insert the following:

"(c) Section 9(b)(2) of the National School Lunch Act is amended by striking out 'solely' after 'of preceding sentence'."

On page 39, line 14, strike out "(c)" and insert in lieu thereof "(d)".

Mr. HELMS. Mr. President, this is a verification amendment. It is intended to close a door that is presently wide open to fraud and abuse in the school lunch and breakfast programs.

Mr. President, I would say to the Senators that we must have received 300 or 400 complaints from my State alone about abuses which amount to fraud. Hence, the Senator from North Carolina is offering this amendment. Quite simply, it authorizes the Secretary of Agriculture to require, as a condition of participation, that applicants for free school meals or school meals that have been reduced in price, list on their application the social security numbers of household members.

Also, this amendment eliminates the current statutory requirement that verification of a household's income be performed only "for cause", which means upon the very unlikely event that school officials are notified that a household has income which exceeds the permitted eligibility levels.

I am sure it does not strain the imagination of the distinguished Presiding Officer to realize that this is no discipline at all on the situation that now exists in the program.

Mr. President, regarding the authorization of the Secretary of Agriculture to require social security numbers, I think Senators may want to bear in mind that an identical provision was adopted by this Senate last year as a part of an appropriation bill, but it was dropped in conference. Furthermore, the Food Stamp Act was amended last year in precisely this manner so that the Secretary of Agriculture would have the authority—let me repeat, would have the authority—to require that the social security numbers of program applicants be given in those circumstances which the Secretary deems appropriate.

I would emphasize that the Secretary is merely being given this authority under this amendment which he would use in an effort to cut back on the waste and fraud so apparent in these programs.

Regulations under this change in the food stamp law require adult members of each household to provide social security numbers on their program applications so that when income verification is attempted, it is possible. Otherwise, those trying to eliminate abuse are flying by the seat of their britches. These regulations make generous provisions for households that do not, at the time of application, have social security numbers. So, there will be no problem in implementing this amendment.

Let me, for the purpose of emphasis, make a few observations so that there can be no misunderstanding. This amendment does not require that all household members provide social security numbers on their applications for free or reduced-price school meals. It simply gives the Secretary of Agriculture the authority to so require in appropriate circumstances—that is when this tool might help reduce fraud and abuse. This is an eminently flexible amendment that will pose neither hardship nor cumbersome procedures on anyone.

What would be the result of the Secretary requiring social security numbers? First, the availability of social security numbers would be a tremendous aid to personnel attempting to verify the income of households that apply for free and reduced-price school meals. Presently, the lack of this information renders verification a virtual impossibility in those very rare cases where it is attempted. Second, and most important, a requirement to provide social security numbers would make clear to all applicants that there is a means of verifying reported income and consequently the temptation for an applying household to misrepresent its earnings will be reduced.

Regarding the elimination of the requirement that "cause" be shown prior to verification of a household's income, Senators should be aware of the crippling effect this requirement has on the integrity of our school feeding programs. This provision of current law literally places an impossible burden on administrators who would otherwise conduct methodical verification procedures. For example, it could be a tremendous boost to program integrity for a handful of State employees to spot check school districts with random verification of income reported on free and reduced-priced school meal applications. Such a very inexpensive undertaking would provide a means of cracking down on the program abuse.

Senators can imagine how slight the chances are that "cause" will be documented in a typical case of school lunch abuse. How frequently do school administrators receive a letter from a responsible source indicating that a named individual has income above a certain level and therefore, his or her children should not be receiving free or reduced price school meals. Very rarely I am sure.

Senators will realize just how rare "cause" is shown when they consider that before any such notice from a responsible source can be received by local officials, the responsible citizen who might notify authorities of abuse must first have an incredible knowledge of the abusing household's circumstances. First, he must somehow know what the household's actual income is. Second, he must know that the household's children are receiving free or reduced-price meals despite the tremendous care exercised by school officials not to take action that would distinguish children receiving free and reduced-price school meals from those children in the paid category. And, finally, he must notify the school officials of these facts without solicitation.

This amendment poses no new requirements on any administrators. It simply grants administrators authority to take badly needed actions that would help prevent program abuse. Yes, there are some studies on program verification still pending. But that is no reason for this Congress to tie the hands of administrators by denying them the authority to undertake simple verification procedures that pale in comparison to those required in other Federal programs.

Mr. President, the issue here is a very clear one. Will we allow administrators to verify the reported income of school meals program applicants or will we continue to hamstring administrators so they cannot combat program abuse.

The Senator from North Carolina believes our local administrators should be given the authority to prevent program abuse. And, that is the purpose of this amendment.

I have a slight modification to this amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment is so modified. The clerk will report the modification.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 39, line 13, strike out the period and insert in lieu thereof a semicolon.

On page 39, after line 13, insert the following:

"(4) striking out in the tenth sentence 'solely' after 'annual incomes of any household';

"(5) striking out in the tenth sentence 'for cause' after 'local school authorities may';

"(6) inserting in the tenth sentence 'at the discretion of the Secretary, such form to include as a condition for participation in the program, that such adult furnish the social security account numbers of all members of such household' after 'adult member of such household';

"(7) inserting in the tenth sentence 'the Secretary, the State, and' before 'such local school authorities may'; and

"(8) inserting in the tenth sentence 'and may utilize the social security account numers provided in such application for the purpose of facilitating such verification' after 'data in such application'.".

On page 39, after line 13, insert the following:

"(c) Section (9)(b)(2) of the National School Lunch Act is amended by striking out 'solely' after 'of preceding sentence'."

On page 39, line 14, strike out "(c)" and insert in lieu thereof "(d)".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS).

Mr. McGOVERN. Mr. President, I think this amendment offered by the Senator from North Carolina is unnecessary. The Senate acted yesterday on a verification amendment offered by the distinguished Senator from Oklahoma, Senator BOREN, which approaches this problem in what I think is a more practical and prudent manner by setting up a pilot program.

We really do not know whether the verification procedures outlined in the amendment of the Senator from North Carolina are cost effective or practical in any event. The amendment adopted yesterday, on the other hand, gives us an opportunity to set up a pilot program and to experiment with a verification pattern to determine whether or not we can find a practical way to deal with this problem.

I see the amendment being offered now as a redundant amendment. It is a case of overkill, as a matter of fact. There is no documented evidence that there is rampant fraud in the school lunch program, and there is certainly no evidence that the verification techniques suggested in this amendment are cost effective.

I think the Boren amendment addresses this problem in a much more manageable way. In view of the fact that that was adopted overwhelmingly by the Senate yesterday, I would hope we would stay with that position and reject the amendment now before us.

Mr. HELMS. Mr. President, first of all, there is no cost required by this amendment.

Secondly, this amendment is absolutely compatible with the provisions for a verification pilot project which the Senate adopted last night in the form of the Boren amendment, of which I was a cosponsor.

The fact is, Mr. President, that Senator BOREN and I, and our respective staffs, have worked closely so that these would be parallel amendments which did not in any way contradict one another.

This amendment does not require anything. It simply gives administrators more flexibility in preventing fraud and abuse, which is now invited by the complete absence of verification, or even any means of verification, of reported information on free and reduced-price school meal applications.

I wish I could feel that my good friend from South Dakota was correct when he said there was no evidence of fraud. He needs to listen to some of the reports that are coming to us.

Mr. President, let me emphasize this amendment does not require the Secretary to require social security numbers as a condition of eligibility.

This amendment merely gives the Secretary of Agriculture the authority to make that requirement in an effort to eliminate fraud and abuse. In other words, the mechanism is there for him to use prudently, wisely, and fairly. Surely, Mr. President, no Senator can argue against giving the taxpayer protection in this regard.

I do not think any Senator can put on blinders as to the waste and corruption in this type of program. It is absolutely incumbent upon us to show good faith with the hard-working American taxpayer. We must do everything possible to establish a mechanism to prevent people from freeloading off of the working taxpayer.

There is no intent to embarrass or otherwise affect the truly needy. As a matter of fact, Mr. President, the truly needy in this country are the ones who are being shortchanged by such programs as these, because so many billions of dollars are given in a willy-nilly way to all comers. At least, that is the way it had been before we began tightening up. We need to continue tightening up in every way possible.

But as for the social security verification mechanism, I would insist that the intent is that this authority be used rather than left on the shelf. I do not mean for the Secretary to disregard it. I mean for the Secretary of Agriculture, whoever he or she may be a year from now, to do everything he knows how to tighten up on this program and others.

We are giving him flexibility so that he will have the authority to act in an appropriate manner, as was done when a similar change was made in the food stamp law last year.

The very same is true concerning the second part of the pending amendment. It would delete the "for cause" prerequisite for verification. It does not place any heavier burden on those who administer the program. It simply grants administrators of the program the authority to verify information reported on applications without first having a specific need brought to their attention. In other words, administrators need not be able to document a reason for verifying information provided on concerned applications. Verification may be done on a random basis, for example, if this amendment is adopted. And, I hope it will be.

An example of what is envisioned in making this change in the law is the establishment of small teams of investigators at the State level who would visit local school districts and verify randomly selected applications. I think the taxpayers are entitled to that. Surely, we do not want to let continue the kind of abuse that now is all too common.

We need to tighten up this program—indeed all programs—and address ourselves to the requirements of the truly needy. I have no sympathy for the loafer. I have no sympathy for the irresponsible or the cheats. I want to do everything I can for the truly needy, the truly deserving, and the children of such families. But somehow, some way, we have to insist that the taxpayer who has to put up the money for all of these programs is protected. So far we have not done that. We have just shoveled out the money year after year. It is costing millions of dollars and is a great part of the national debt. That waste must be stopped.

The bottom line is whether or not this Congress is willing to grant the administrators of the school nutrition program the authority to take steps which will prevent fraud and abuse. Then, if they do not do it we have a case against them. We can hold them responsible. But I say to the Senate that the door is now wide open to all sorts of misconduct.

This Senator believes that Congress should give our administrators the authority to take preventive steps. So, in appropriate circumstances and consistent with the civil rights and protections of all citizens, safeguards can be put into effect that will offer a measure of protection to the taxpayers of this country.

I yield the floor.

Mr. President, I have concluded my comment on the verification amendment and I yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I really have nothing further to add on this amendment. I do just want to repeat that I think the more practical way to approach this problem is with a pilot approach, as in the amendment we adopted yesterday, rather than to assume rampant fraud in the program. I have no doubt at all that there are some abuses. I am not sure of the best way to develop verification procedures to detect those abuses. I am not sure what the cost factors would be, but I am reasonably confident that the approach we took yesterday will address this problem. It sets up a pilot approach under which we can experiment with verification procedures. I do not think the amendment now pending is necessary and I hope that the Senate will reject it.

Mr. HELMS. Mr. President, will the Chair state for the Senator from North Carolina any unanimous-consent agreement as to votes today?

The PRESIDING OFFICER. No rollcall votes may occur before the hour of 12 noon today.

Mr. HELMS. That does not preclude any votes thereafter?

The PRESIDING OFFICER. There may be rollcall votes after 12 noon today.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment will be set aside.

Mr. HELMS. All action on this amendment is set aside, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I yield to the distinguished Senator from Kansas who, I think, has an amendment.

UP AMENDMENT NO. 1435

(Purpose: To require that the announcement regarding any cropland set-aside for wheat be made no later than August 1 of each year)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himself, Mrs. KASSEBAUM, and Mr. BOREN, proposes an unprinted amendment numbered 1435.

Mr. DOLE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, after line 11, insert a new section as follows:

"ANNOUNCEMENT OF WHEAT SET-ASIDES

"SEC. 23. Section 107A(f)(1) of the Agricultural Act of 1949 is amended by striking out 'August 15' and inserting in lieu thereof 'August 1'.".

Mr. DOLE. Mr. President, this short amendment would require that the announcement regarding any cropland set-aside for wheat be made no later than August 1 of each year.

I am pleased to offer this amendment with the junior Senator from Kansas, NANCY LANDON KASSEBAUM.

The purpose of this amendment is to move forward by 2 weeks the date by which the Secretary of Agriculture is required to announce any set-aside of cropland under the wheat program. The final date is currently fixed by law at August 15 for wheat.

I offer this amendment to this bill because quick action is needed to change the date so farmers can adequately plan for this year's wheat crop. Many farmers have found that announcements of set-asides under the wheat and feed grains program as late as August 15 have worked hardships on them.

For example, winter wheat farmers in Texas, Oklahoma, and Kansas may, depending upon circumstance, begin planting wheat in late August or early September. If an announcement of any set-aside is not made until August 15, there is not enough time for planning their operations for the crop to be planted.

Essentially, the 2-week period would provide valuable assistance to farmers at a critical time—that time when plans are being made concerning the planting of crops.

For wheat production, much field preparation takes place prior to the current announcement dates. If the set-aside program is announced after the farmer has made considerable investments of time and capital into preparation, it is then unlikely that he will choose to forfeit this investment and participate in the set-aside program. Consequently, poor participation in the program could lead to a continual worsening of the farm economy, and under certain conditions, lead to increased governmental farm support costs.

I believe this amendment will be of benefit to wheat farmers and we should do everything we can at this time to assist them in saving money.

I believe this amendment is important and should be added to the legislation we are considering. It is important that it be a part of a bill that will move quickly through the legislative process.

I urge the adoption of this amendment.

Mr. President, I might add that Mrs. KASSEBAUM and I introduced this as an original bill on July 2, 1980. At that time, Senators YOUNG, MELCHER, ZORINSKY, HELMS, BELLMON, JEPSEN, MCGOVERN, BOSCHWITZ, PRESSLER, EXON, LUGAR, and BENTSEN joined as cosponsors of that legislation. In that legislation, feed grains were also included but, since there is time to change that date later, I have not included feed grains in this amendment.

Mr. President, I understand this may not deal directly with nutrition, but it deals with a lot of farmers who live in South Dakota, Kansas, Oklahoma, and other States. The distinguished Senator from South Dakota was an original cosponsor of this bill, along with the Senators I named. All it does is move forward by 2 weeks the date by which the Secretary of Agriculture is required to announce any set-aside cropland under the wheat program. The final date is currently fixed at August 15. I think it is one of those emergency amendments that ought to be passed.

I am assuming there will be a conference on this bill and we can take action and provide some relief prior to that time.

Mr. McGOVERN. If the Senator will yield, Mr. President, I think the Senator's point is well taken. While, as the Senator said, it is not immediately germane to the nutrition bill, it does fall within the purview of the Committee on Agriculture. We adopted a measure here yesterday that I think did not fall within the purview of the Committee on Agriculture, but this one clearly does. We are at the 25th of July. If we are going to act on this, we just about have to do it today.

I think it is a matter that is purely in the interest of the farm producers that make possible all of these nutritional programs and I am happy to be listed as a cosponsor of the original measure. I hope we can take it to conference and that it will be approved in the other body as well as here.

Mr. HELMS. Mr. President, I am certainly prepared to accept the amendment.

Mr. DOLE. Mr. President, I just add that a similar bill has been passed by the House, so it is not a controversial matter; I do not suggest that. I thank the distinguished Senators from North Carolina and South Dakota for their consideration. They both know that this will be most helpful to many farmers who would like to have that decision made not later than August 1.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1435) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1436

(Purpose: To strike language requiring State officials of the Special Supplemental Food program (WIC) undertake additional administrative activities and costs to increase migrant farmworker participation)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask unanimous consent that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1436.

Mr. HELMS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, beginning on line 3, strike out all down through line 20 on page 64.

On page 64, line 21, strike out "(d)" and insert in lieu thereof "(b)".

On page 65, line 3, strike out "(e)" and insert in lieu thereof "(c)".

On page 65, line 11, strike out "(f)" and insert in lieu thereof "(d)".

On page 65, line 14, insert "and" after the semicolon.

On page 65, beginning on line 15, strike out all down through line 20.

On page 65, line 21, strike out "(3)" and insert in lieu thereof "(2)".

On page 66, beginning on line 5, strike out all down through line 24.

Mr. HELMS. Mr. President, the issue addressed by this amendment is so clear cut that I really do not want to take up a lot of the Senate's time in discussing it.

If Senators will look at the Child Nutrition Act, they will perceive that it already provides special consideration for migrant workers who wish to participate in the WIC program.

Let me quote from section 17(j) of that act:

> By October 1 of each year, the Secretary shall prepare a report describing plans to insure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant and Fetal Nutrition.

Now, this is the end of the quote from the act.

Obviously, Mr. President, ample and generous regulations have already been drawn up to carry out that mandate.

Now we are being asked to provide even greater outreach for migrant farmworkers—even to provide special fund set-asides. And all of this without establishing a definition of what a migrant farmworker really is.

Just yesterday, as Senators will recall, we were discussing definitions of migrant farmworkers as we debated the Farm Labor Contractor Act amendment. As the distinguished junior Senator from Oklahoma pointed out, that definition has become so extensive that in some cases, it covers nearly every type of farmworker conceivable. It is almost bordering on an outrage to attempt to expand outreach and funding for any particular group when we do not even know how to identify and define that group.

It is another case of throwing Federal money into a program in the hope that whatever problem exists will go away.

The purpose of this amendment is clear. We do not need the language that this amendment would strike. It is as simple as that.

We do not need to add to the already thick statutes on this subject any additional mandates for the administrators to struggle with. Every Federal mandate that is added to these statutes becomes a spawning ground for litigation by these advocacy groups which, in large measure, are financed by the taxpayer.

I, for one, believe we have enough of that situation.

That is the purpose of this amendment and I urge its adoption, Mr. President.

Mr. McGOVERN. Mr. President, I hope this amendment will not be approved by the Senate. The committee, I think very wisely, included a provision in the bill to establish some kind of a nationally applicable definition of what a migrant farm worker is, and also provided for some type of informational program to reach these migrant workers so that the most vulnerable members of that group—namely, nursing mothers, pregnant women, infants, and young children—are aware of the fact that there exists a food supplemental program that can benefit them.

I remember some 10 or 11 years ago, going with the late Senator Ellender and a number of other Senators into some of the migrant labor camps where we were looking at the impact of our Federal nutritional programs. We found that one of the problems was that neither the Federal Government, nor the States, nor the local communities, were clear about what their responsibilities were to those people.

I remember the Governor of one of the States that we visited saying that this was not a responsibility for his State. He said, "These migrant people are Federal people." He used that phrase. We got the same thing from the county commissioners. They would say, "It is not our problem. This is a Federal problem."

We were there as Congressmen trying to urge the local communities, the counties, and the States, to take a greater share of the responsibility for the care of these migrant workers.

There certainly cannot be any doubt about the fact of the nutritional vulnerability of these migrant farmworkers and their families. I think that has been documented over and over again.

They have had the highest incidence of nutrition-related problems of any group in our population. Studies have shown that infant mortality among the migrant farmworker population is one-fourth higher than the national average. The incidence of infectious disease is 20 percent higher than among other groups. Births occurring outside of hospitals are nine times more frequent among migrants than among the general population.

I can assure every Senator, Mr. President, that the incidence of malnutrition, particularly prenatal, and childhood anemia, is higher for migrants than any other group in the population in this country.

Even among those migrant farmworker families that are reached by nutritional programs, it is difficult to maintain continuity of service because they are a mobile group, they move from community to community and State to State, and there is a lag time with each one of those moves before they qualify for assistance programs, even though they are among the poorest residents of this country.

S. 2675 would, in many respects, put into law what the Department of Agriculture currently requires regarding WIC migrant funding, or is doing a matter of policy. The bill directs that States set aside funds to serve migrant farmworkers. For the past 2 years the Department has provided special migrant allocations to States, and directed that these funds be used to serve migrants. The allocations have been based on States' estimates of the number of migrants in the States who could be served. Thus, the Department already has a migrant set-aside in effect that, in most respects, accords with the requirements of S. 2675.

However, there are a few States with migrant populations that have not requested special migrant allocations, generally because their original allocations were sufficient to serve the migrant population. S. 2675 would require all States with migrant populations of any significant size at any time of the year to set aside funds for migrants. The bill also prescribes that the amount of the set-aside for all such States must take into account the number of eligible migrants in the eligible population, including the number of migrants projected to come into each State and the length of time migrants will remain in the State.

The set-aside would be in amounts sufficient to serve migrants. States would be expected to set aside funds sufficient to cover all migrants who could be served both through existing local agencies and through additional local agencies that are available and could be opened in high impact migrant areas. The set-aside would not necessarily, however, be in an amount needed to cover every migrant who travels through the State if the State could not realistically reach every migrant because no existing or new local agency was available in every area in the State where every migrant resided at any time. To set aside funds for migrants who simply cannot currently or in the fiscal year be reached would mean that WIC funds were going unused while other poor women and children at nutritional risk went unserved.

The bill does require States to conduct outreach in high impact migrant areas in conjunction with organizations representing migrant and seasonal farmworkers. As a result, States should be able to reach a large proportion of the migrants in the State.

The bill also provides for reallocations of migrant funds. The Department's experience of the past 2 years has shown that some States do request more migrant funds than they actually use due to changes in the migrant stream. S. 2675 recognizes this, and allows funds set-aside for migrants to be redistributed if there is not a likelihood that the funds will actually be used for migrants. In redistributing such funds, the Department would be required to give first preference to other areas that need additional funds to serve migrants. If there are not other areas that need additional funds for migrants, then the funds would be reallocated for nonmigrant participants.

Setting aside funds for migrants does not mean that current participants must be replaced by migrant participants, or that migrants certified for the program in one area are guaranteed service in another area. The bill states that migrants should continue to receive benefits "to the maximum extent practicable". This is essentially identical to the requirement in Public Law 95-627. The Department instituted this requirement with a rule requiring that in any area where there is a waiting list, any migrants with a verification of certificaton (VOC) card from another area would go to the top of the wating list, but that no current nonmigrant participant would be terminated to open a slot for a migrant participant. This practice would continue.

The net effect, as I say, of the amendment offered by the Senator from North Carolina, is to make these migrant workers less aware of what the assistance is under our nutritional programs, to add to the already existing confusion as to who is responsible for assisting our migrant farm families, and I would think this is an amendment that reverses the intent of the committee of trying to clarify this one area of the program.

I very much hope that the Senate will reject this amendment.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is now open to further amendment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1437

Mr. McCLURE. Mr. President, I have an amendment at the desk and ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes unprinted amendment numbered 1437.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, between lines 4 and 5, insert the following:

PILOT PROJECTS

Sec. 10A. Section 20 of the National School Lunch Act is amended to read as follows:

"PILOT PROJECTS

"Sec. 20. (a) (1) The Secretary shall conduct 2-year pilot projects with respect to local school districts, for the purpose of determining whether there may be more efficient, economical, and reliable methods of operating the commodity distribution program under section 14 with respect to the school lunch program under this Act.

"(2) Such projects shall, notwithstanding any other provision of law, provide that (A) 50 school districts may receive all cash assistance in lieu of commodities for the school lunch program operated in such school districts, and (B) 50 school districts may receive all commodity letters of credit in lieu of commodities for the school lunch program operated in such school districts.

"(3) School districts selected for the pilot projects shall represent a variety of school districts nationwide, and shall be selected by stratified random sample from among all school districts interested in participating in the projects. Federal and State authorities shall monitor the activities carried out under this section in order to ensure the objectivity of the projects. In addition to the school districts selected for participation in the projects under this subsection, the school districts that participated in the cash in lieu of commodities program conducted by the Secretary pursuant to this section as previously amended by the National School Lunch Act and Child Nutrition Amendments of 1978 shall be given the option to participate in the cash in lieu of commodities pilot project authorized by this section.

"(b) (1) The Secretary shall conduct a study to analyze the impact and effect of the pilot projects carried out under this section. Such study shall include an assessment of the administrative feasibility and nutritional impact of cash payments and letters of credit in lieu of donated foods, the cost savings, if any, that may be effected thereby at the Federal, State, and local levels, any additional costs that may be placed on programs and participating students, the impact on Federal programs designed to provide adequate income to farmers, the impact on the quality of food served, the impact on plate waste in school lunch, the impact on local economies, and the impact on marketing, locally, and regionally, and nationally, of the commodities used in the school lunch program (with special emphasis on milk and other dairy products) and all beef and other meat products. The Secretary shall report to Congress, not later than December 15, 1983, on the results of the pilot projects and study conducted under this section. Any school district participating in one of the two-year pilot projects under this section shall be permitted to continue to participate in such project during the school year beginning September, 1983.

"(2) The General Accounting Office shall conduct an in-depth analysis of the current commodity distribution program as provided in section 14 and make recommendations to Congress regarding necessary improvements in such program to make such program more efficient, economical, healthful, and reliable.". Such recommendations shall be forwarded to the Congress within one year of the enactment of this Act.

Mr. McCLURE. Mr. President, this amendment deals with the school lunch program and builds upon a pilot study that was done earlier with respect to using cash in lieu of commodities as a grant to the school district for the school lunch program. That was the result of a 1978 amendment and was run during 1978 and 1979.

The results of that pilot program have been studied both by the Department of Agriculture and by Kansas State University and the evaluation shows some benefits. USDA indicated that it reduced food costs by 6½ percent but increased labor costs. They showed a decrease in spite of that of a modest decrease in the costs of producing a meal and greatly reduced State administrative costs by 30 percent.

Kansas State University indicated a 12½-percent reduction in food costs and in addition to that a reduction in labor costs, with an overall reduction of 7.3 percent in the cost of a meal.

Kansas State University in looking at that pilot program, which involved only eight schools, concluded that it had the potential for saving $328 million a year.

That study covered a period of 1 year. Their conclusions are as valid as the size of the sample, and think the only criticism of the conclusion is that the sample was too small.

The amendment that I have suggested would increase that program by an additional 50 school districts to be selected at random.

There were those at the time that we suggested the pilot program of cash in lieu of commodities that said, "Rather than cash, why do you not make it a letter of credit so that you can purchase but you must purchase the commodities through a letter of credit."

My amendment would include, again, 50 school districts as a sample on a letter of credit program, again to be selected at random and run that program with the cash in lieu of commodities and the letter of credit in lieu of commodities to determine what the nutritional and cost savings effects are and what the administrative effects may be and then to be able to come back and make an informed judgment as to whether or not that program has any possibility or any merit.

Mr. President, I discussed this amendment with sponsors of the bill on both sides. I am happy to yield to the Senator from South Dakota at this time.

Mr. McGOVERN. Mr. President, I thank the Senator from Idaho.

I have discussed the matter with Senator McClure and have looked at the amendment. I continue to be a very strong believer in the commodity program, as I think it has served us well as a price support mechanism for the farm producers of the country, and it has also given us a good nutritional package to strengthen our school lunch program. Nevertheless I recognize that there are a number of people who feel that in some cases either cash in lieu of commodities, or as the Senator has said, a letter of credit, which is a kind of a targeted cash expenditure, might be a feasible alternative, a feasible option.

Under those conditions, I am willing to accept the amendment which has the effect of giving us an opportunity to experiment with this alternative approach and to do it in enough districts so that it should give us some measure of the effectiveness of that alternative way of handling the school lunch program.

Under those conditions, Mr. President, I am willing to accept the amendment.

Mr. McCLURE. Mr. President, I thank the Senator for his remarks and the acceptance of the amendment.

The program as outlined in the amendment can affect the way in which the costs of the program are allocated and could have an impact of $2.255 million. That needs to be covered in the appropriations process to make certain that we do have this program covered, and it is my commitment and I understand it is the Senator's commitment to see that that is done.

Mr. McGOVERN. That is correct.

Mr. McCLURE. I thank the Senator, and I am prepared to yield back the remainder of my time.

Mr. McGOVERN. I say to the Senator we are not operating under controlled time. I move the adoption of the amendment.

Mr. McCLURE. I thank the Senator.

Mr. President, I ask unanimous consent that the Senator from Colorado (Mr. Armstrong) be added as a cosponsor to the amendment which I offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. ARMSTRONG. Mr. President, I commend Senator McClure for introducing this legislation and I am pleased to be a cosponsor. The adoption of the amendment will once and for all demonstrate that the cash in lieu of payments is a far more effective means to insure that our Nation's children are able to receive nutritionally balanced meals and actually enjoy eating the food prepared for them at school. In addition, the Federal Government and school districts will be able to eliminate wasteful spending.

The national school lunch program has, indeed, benefited our Nation's school children. The earliest aid to schools for lunch programs dates back to the early 1930's. The national school lunch program as it is called today, is our Nation's oldest and largest child nutrition program. It was authorized by Congress in 1946. Through the years the program has grown and its scope has changed.

The NSLP provides over 4.5 billion meals a year to approximately 27 million children in public and nonprofit schools across the United States.

In fiscal year 1980, an estimated $6.4 billion will be spent nationwide in the national school lunch program, representing approximately 80 percent of all child nutrition expenditures. Federal expenditures for the national school lunch program will reach about $3.1 billion or nearly half of the total expenditure for the program in fiscal year 1980.

Presently, part of the food is purchased directly from private food wholesalers, processors, producers, and retailers. The remainder is bought and donated by the U.S. Department of Agriculture through its food distribution programs and distributed to school lunch programs.

According to USDA, their purchases of food for the school lunch program supplied 20 percent of the food used in the program. The Department of Agriculture purchases these foods in carrying out commodity price support and surplus removal programs. USDA buys these commodities at market price and also pays to have them moved from the manufacturers where they were bought to individual States and central State warehouses or railsidings.

In addition to the USDA expenses for these foods, the individual States and school districts spent vast sums—between $66 to $140 million—during the 1978–79 school year in warehousing, handling, and transportation charges for these foods to get them to their school lunch kitchens. An additional $45 million was spent by the States and local school lunch programs to take these USDA bought foods and have them processed into usable products.

The adoption of this amendment will enable schools who participate in this program to eliminate this needless spending. Local school districts will be able to serve their communities more efficiently and provide better food for our schoolchildren.

Following a mandate by Congress, a special project was undertaken by the Food and Nutrition Service of the USDA to collect data from eight pilot school districts. In this project, these school districts received cash instead of USDA-donated commodities. The purpose of the pilot project was to analyze the effect on the schools' child nutrition programs when USDA-donated commodities were replaced with cash payments.

A recent Kansas State University study of the cashout of commodity distribution concluded that the eight school districts studied were able to reduce their food costs under a cash-in-lieu option. The report concludes:

> 1. In everyone of the pilot project school districts food costs for type A meals served were less with cash in lieu of commodities than they had been the year previously using donated government commodities. To make this comparison, a deflation factor was used to equate 1978–79 school year prices to 1977–78 prices.
>
> 2. Even with no factor for inflation between the cash year in which donated commodities were received by the school districts, six of the eight districts experienced actual reductions in food costs per meal ranging from 1.4 cents per meal to 6.6 cents per meal. The average food cost reduction of the six schools was 3.6 cents per meal. Projected nationally against the 4.5 billion meals served in the national school lunch program, individual school districts could have saved up to $162 million in the 1978–79 school year on food costs by doing all of their own buying with cash rather than receiving donated commodities.
>
> 3. Projecting 1978–79 deflated food prices against actual 1977–78 prices, the study finds that, on the average, the food costs for each meal served in the pilot project school districts decreased by 6.5 cents per meal.
>
> 4. Projected nationally against the 4.5 billion meals served in the National School Lunch Program, this means that cash in lieu of donated commodities could save hard pressed school food service programs as much as $292 million a year in food costs based on 1977–78 prices.
>
> 5. A 1974 USDA study of 15 school districts indicated that smaller school districts would do better with donated commodities than with cash while larger school districts could generally match USDA purchasing power. This study finds that both large and small, urban and rural, school districts can reduce food costs with cash rather than donated commodities.

Another portion of the KSU study compared costs of preparing school lunches in a typical city in my State, Greeley, Colo., and Hutchinson, Kans. The Greeley school district, like the majority of school districts, must use USDA-donated commodities while the Hutchinson school district is able to use cash in lieu of donated commodities as a result of an exemption for Kansas schools which was enacted in 1974. Cost comparisons were made for 1977–78 and 1978–79 for those two similar school districts. Food costs averaged 4.6 cents and 2.5 cents per lunch lower under the cash system for the 1977–78 and 1978–79 school year respectively.

As this study show, a cash in lieu of commodities program is a much more efficient manner in which to insure our schoolchildren receive nutritious meals. The amendment which the Senate is now considering would insure that we continue to examine the cash in lieu of system.

School food service directors are aware of the disadvantages of the food commodity system of USDA for school districts.

Margaret Benton, R.D., of the Denver Public School System, states:

> I have (in the past) supported the concept for commodity purchase, distribution and utilization but I abhor the program as it is operative today. The dollar cost of purchasing, distribution to the States, the cost of handling and utilization on the State and local level are draining dollars meant for improved nutrition on the plates for other areas.

Joyce Levandoski, director of School Food Services, Rochester, N.Y., states:

> A product is purchased by the United States Department of Agriculture, delivered to State warehouses, stored in State warehouses, allocated to schools and picked up by schools, we get our largest deliveries in the spring when we are ready to close down for summer recess and must pay to store a large inventory for fall use. There is also a great expense moving and storing products that could be avoidable.

Obviously, the people who actually are responsible for maintaining the nutritional lunch standards for our children are aware of the problems and disadvantages of continuing the present school lunch commodity system. The adoption of the amendment now pending before the Senate is another step in the right direction in alleviating the problems present in today's national school lunch program.

Local food distributors are also acutely aware of the disadvantages of continuing the present school lunch commodity program. As Mr. Stein, president of Stein Food Co., of Pueblo, Colo., stated before the House Education Subcommittee on Elementary Education:

> I am upset that I cannot sell the Pueblo schools the same quality ground beef that USDA pays $1.39 a pound for at the Nebraska packing plant for $1.22 a pound delivered to her (Pueblo schools) kitchens. . . . I know what it costs to move the food to Denver and then out to Pueblo. I know how much it costs to store and deliver the donated food in our small town and I know that I can deliver those products cheaper.

Many local food distributors throughout the Nation are left out of participating in this aspect of the USDA school lunch program.

Mr. President, I believe there is widespread evidence that we must reevaluate the role USDA commodities purchases should have in maintaining the efficiency and nutritional value of our school lunch programs. We must continue to evaluate our various Federal programs to insure that these programs fulfill their congressional objectives. For these various reasons, I strongly support the amendment from the Senator from Idaho and urge its adoption by the Senate.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1437) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1438

(Purpose: To strike language requiring local school authorities to hold a public hearing concerning implementation of the School Breakfast program upon the petition of 30 percent of the parents of children in the school district)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on two amendments on which the yeas and nays have previously been ordered. They will be voted on at this time.

Mr. HELMS. I am sorry, I did not understand the Chair.

The PRESIDING OFFICER. Under the previous order, the votes should come on the two amendments which have previously been——

Mr. HELMS. I certainly would not want to dispute my friend in the chair, but I understand there were to be no votes to occur before 12 o'clock, not at 12 o'clock.

The PRESIDING OFFICER. The hour of 12 o'clock has passed.

Mr. HELMS. I understand that.

I ask unanimous consent that I may proceed with an amendment that is going to be accepted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1438.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 58, beginning on line 15, strike out all down through line 7 on page 59.

Mr. HELMS. Mr. President, this amendment is very simple. It addresses itself to the provision of this bill which requires a public hearing concerning the school breakfast program upon petition of 30 percent of the parents in the school district. The provision this amendment would strike is just a further complication of a program that is already too complicated.

This business of allowing 30 percent of parents to petition for a program regardless of the previous judgment of the local elected officials raises a question: Why is it so hard for Congress to leave these decisions to our elected officials back home?

I spoke at some length about this general problem earlier this morning. Why do we repeatedly vote to step in and give these local administrators one more rule, one more regulation, or one more requirement, that they have got to hew to the line on.

Why do we not just leave them alone? We should let them do what they want to do—run a program that serves their communities in the best possible way?

So, in the interest of keeping our law clean and uncluttered with extraneous mandates which are unnecessary for the proper operation of the school breakfast program, this amendment simply calls for the deletion of language specifying the implementation of a school breakfast petition system. That is about all there is to it. It goes back to what I said earlier this morning, Mr. President, that somewhere along the line we are going to have confidence in our elected officials and leaders back home and not continue to assume that all wisdom and all virtue reside here in Washington, D.C., with the Congress and with the bureaucracy.

Mr. President, I urge the adoption of the amendment.

Mr. McGOVERN. Mr. President, I have discussed this amendment with the Senator from North Carolina. While I have some question about it, I am willing to accept the amendment and take it to conference.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS).

The amendment (UP No. 1438) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VITIATION OF YEAS AND NAYS

Mr. HELMS. Mr. President, the distinguished Senator from South Dakota and I have been conferring on these various amendments. I believe we have reached an accommodation wherein we may find it possible to vitiate the yeas and the nays. I wonder if the Senator would be willing to state precisely what he has in mind on the verification amendment, for example.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the yeas and nays that have been ordered on the so-called verification amendment and also the yeas and nays that have been ordered on another amendment relating to the WIC program and its service to migrants, that those two orders for the yeas and nays be vitiated.

The PRESIDING OFFICER (Mr. EXON). Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1433

Mr. McGOVERN. Mr. President, I ask unanimous consent that we revert now to consideration of the so-called verification amendment. After further discussion with the Senator from North Carolina, I am willing to take that amendment to conference. I think we can handle that on a voice vote.

Mr. HELMS. I agree with the Senator, Mr. President. I appreciate the cooperation of the distinguished Senator.

THE PRESIDING OFFICER. Without objection, the Senate will proceed to vote on that amendment at this time.

Mr. HELMS. That is correct; voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS).

The amendment (UP No. 1433), as modified, was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1436

Mr. McGOVERN. Mr. President, with regard to the so-called WIC amendment that related to the outreach program for migrant workers, this is one that I hope very much the Senate would reject. We have withdrawn the yeas and nays on that, but I hope the Senate would see fit to oppose that amendment. I think it is very important that our migrant workers be aware of the benefits that they are eligible for. What the committee is attempting to do in this section of the bill that this amendment would strike is to see that there is some kind of an outreach program in all States with a migrant population.

I urge Senators to reject this amendment relating to the WIC program and the outreach for migrant workers.

Mr. HELMS. Mr. President, obviously, I hope the Senate will approve the amendment, but I am willing to have it decided on a voice vote.

The PRESIDING OFFICER. If there is no objection, the motion to vote at this time would be in order.

The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS).

All in favor of the amendment indicate with the sign "aye."

Those opposed "no."

The ayes appear to have it.

Mr. McGOVERN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am willing to acknowledge that the nays outnumber the yeas on this vote and the amendment would be defeated.

The PRESIDING OFFICER. The Chair will put the question again.

The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS).

All those in favor of the amendment indicate by the sign "aye."

Those opposed "no."

It is the opinion of the Chair that the Senate is equally divided on this issue.

Mr. ROBERT C. BYRD. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division is requested. Senators in favor of the motion will rise and stand until counted. (After a pause.) Those opposed will stand until counted.

On a disvision, the amendment (UP No. 1436) was rejected.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1439

(Purpose: To strike language requiring activities involving parents and students in the administration of the school lunch and breakfast programs)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1439.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69, beginning on line 10, strike out all down through line 2 on page 70.

Mr. HELMS. Mr. President, this amendment merely strikes language which mandates something already required by Federal regulation: the parent-student involvement in the activities and administration of the schoool lunch program. I just do not believe that it is necessary to write into law something already required by Federal regulation. I move adoption of the amendment.

Mr. McGOVERN. Mr. President, here, again, I think this amendment is acceptable. Present regulations call for the involvement of parents and students in the administration of the school lunch program. What the Senator is doing is simply asking to strike out the legislative language. The Federal regulations will still require parent-student participation. Under those circumstances, I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1439) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1440

Mr. McGOVERN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted amendment numbered 1440.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, insert after line 13 the following:

"(4) striking the period at the end of the tenth sentence and inserting in lieu thereof the following:

": *Provided further,* That the school year beginning July 1, 1980, the Secretary may prescribe procedures for implementing any revision made after July 1, 1980, in the income guidelines for free and reduced price lunches which may allow school food authorities to (A) distribute applications at the beginning of the school year, but require eligibility determinations be based on the income guidelines as amended by the Child Nutrition Amendments of 1980; (B) delay the distribution of applications for a reasonable period beyond the beginning of the school year, as determined by the Secretary, so that the applications may contain the amended income guidelines for reduced-price lunches; or (C) make eligibility determinations based on applications distributed at the beginning of the school year, but require that new applications containing the amended income guidelines for reduced-price lunches be distributed and eligibility determinations be based on those applications promptly upon enactment of the Child Nutrition Amendments of 1980. School food authorities utilizing the procedure set forth under clause (A) of the proceeding sentence may delay eligibility determinations until the revised eligibility criteria are enacted and need not issue applications containing the revised eligibility criteria, although they shall make a public announcement of the revised eligibility criteria. The Secretary may prescribe procedures to ensure that children eligible for free or reduced price meals are able to receive such meals during any time prior to implementation of any revised eligibility criteria.".

Mr. McGOVERN. Mr. President, S. 2675, as well as the budget reconciliation bill, change the eligibility guidelines for free and reduced price meals for schoolchildren. However, a serious problem has arisen in implementing these guidelines. The current law requires the Secretary to announce eligibility guidelines on the 1st of July. Many school districts place orders in July to print applications for the coming year because of the leadtime necessary to print a large number of applications. But as a consequence, many areas are printing applications with the old eligibility guidelines.

Without this amendment that I now have at the desk, schools all over the country would be required to send parents one application with the higher guidelines and then a few weeks later send the second application with the new guidelines. This would have the effect of increasing the printing and other administrative costs, as well as invoking a needless paperwork burden.

The amendment would allow school districts three different ways to deal with this problem.

First, they could, if they chose, send parents applications printed with the old guidelines. Parents would fill out their income and return the application. The schools would then determine which children were eligible for free and reduced price meals, but they would make that determination using the new guidelines rather than guidelines printed on the applications. The schools would not be required to send out a second application form and parents would not be required to fill out two forms.

That option would be especially helpful for schools that have already printed applications carrying the old guidelines.

The second alternative which would be available would allow the schools to delay sending the applications to the parents until the new guidelines are enacted, and schools can print applications with the new lower income limits.

Under the amendment adopted yesterday, only the reduced price guidelines would be printed on the application.

For the first few weeks of school, the schools would simply use last year's applications to determine which students were eligible for free and reduced-price meals. This operation would be most useful for schools that have delayed printing the applications while waiting for Congress to complete action on legislation lowering the income limits.

These are the two options that were favored earlier this week at a meeting of the National Convention of the American School Food Service Association in Kansas City. I might just say parenthetically, Mr. President, that it was my privilege to attend that convention and visit with hundreds of school food service people from all over the country.

The amendment would also permit schools to send out two applications and make two different eligibility determinations, although few, if any, schools are likely to follow that route.

Let me just say in summary, Mr. President, that this amendment is needed to avoid forcing schools to send one set of application forms in August and another set after the legislation is completed. Some 97,000 schools, with tens of millions of children, would have to bear the expense of double work. So I hope the amendment will be adopted.

Mr. HELMS. Mr. President, obviously, the amendment makes sense and it is fully supported on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1440) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1441

(Purpose: To make technical corrections in S. 2675)

Mr. McGOVERN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted amendment numbered 1441:

On page 36, beginning with "The" on line 9, strike out all down through "sentence" on line 13 and insert in lieu thereof "The amount of State revenues appropriated or used for meeting the requirements under section 7 of this Act, and the amount of State administrative expense funds to be made available to the States by the Secretary under section 7 of the Child Nutrition Act of 1966 for the fiscal year beginning October 1, 1982, and each fiscal year thereafter, shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence".

On page 37, line 18, insert a comma after "poultry".

On page 40, line 10, strike out "guidelines" and insert in lieu thereof "guidelines".

On page 44, line 13, strike out "that".

On page 45, line 6, strike out "Subsequent to" and insert in lieu thereof "After".

On page 46, line 5, insert a comma after "operation".

On page 46, line 19, strike out "availa-".

On page 46, line 20, strike out "ble".

On page 50, line 8, strike out "commodities available from stocks" and insert in lieu thereof "commodities that are available from the stocks".

On page 51, line 18, strike out "biannually" and insert in lieu thereof "biennially".

On page 52, line 2, strike out "thereof".

On page 53, line 1, insert a comma after "including".

On page 53, line 16, strike out "under" the second time it appears.

On page 53, line 20, strike out "the".

On page 53, line 24, strike out "the".

On page 55, line 14, strike out "Such" and insert in lieu thereof "The transmittal of such".

On page 56, line 11, strike out "system".

On page 57, line 5, strike out "and which is served".

On page 63, line 17, strike out the comma.

On page 65, line 16, strike out "thereof".

On page 63, line 4, strike out "3" and insert in lieu thereof "three".

On page 66, line 15, strike out "45" and insert in lieu thereof "forty-five".

On page 69, line 8, strike out "Enrollment" and insert in lieu thereof "The enrollment".

On page 70, line 3, insert "and implementation" after "promulgation".

On page 70, line 4, insert "(a)" after "SEC. 22.".

On page 70, line 6, strike out "7,".

On page 70, after line 11 insert the following:

"(b) Regulations implementing the provisions of sections 2, 3(2), 4(b), 4(c), 5(2), 5(3), 5(4), 6(a)(2), 10(a), 10(b), 13(2), 14(a), and 17(b) of this Act shall be issued as soon as practicable. In no event shall such regulations be issued and become effective later than October 1, 1980. Regulations implementing the provisions of sections 7(a)(1) and 7(b)(1) of this Act may be issued in accordance with the requirements of section 13(g) of the National School Lunch Act and shall be effective for the fiscal year 1981 summer food service program for children.".

Mr. McGOVERN. Mr. President, this amendment is a technical amendment. It contains a number of technical corrections that conform the bill to action already taken. It does not affect the substance of the bill in any way. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1441) was agreed to.

The PRESIDING OFFICER. In my capacity as the Senator from Nebraska, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, very shortly, I will send to the desk an amendment that represents action taken by the Committee on Agriculture some weeks ago that has the effect of ameliorating the depressing impact of the grain embargo on farm prices.

Admittedly, this amendment is not directly germane to a child nutrition bill, but it is a matter of great urgency in that its effect on the agricultural economy makes possible this entire nutrition program. It is one without controversy in the Committee on Agriculture, which clearly has jurisdiction over the nutritional programs and legislation designed to ameliorate the impact of the grain embargo on farm prices and farm income.

The amendment I will offer is cosponsored by the Senator from Kansas (Mr. DOLE) and other members of the Committee on Agriculture—Senator BOSCHWITZ, who is in the Chamber; Senator COCHRAN; Senator HELMS; Senator DURENBERGER; and still other Senators may join in support.

The amendment has the effect of increasing the loan rate for grain that enters the farmer-held reserve: for wheat from $2.50 a bushel to $3:30; and corn from $2.10 to $2.40. It also would establish a 4-million-metric-ton food security reserve to be used as a backup to our food for peace program.

It would move up the announcement date on the wheat program from August 15 to August 1 and on feed grain from November 15 to November 1. This would give farmers more time to make their decisions on whether or not they are going to participate in the program.

One final feature of the amendment I will offer is that it increases the loan rates for grain not entering the reserve. The wheat loan rate would be increased from $2.50 a bushel to $3; corn, from $2.10 to $2.25, and soybeans, from $4.50 to $5.02.

Mr. President, I believe that all Americans have a sense of fairness about the impact of a measure that is taken in the interests of the country. The President placed this embargo on the Soviet Union as a means of demonstrating our disapproval of the Soviet action in Afghanistan.

I thought at the time that it was a mistaken action. I continue to think that it probably has damaged American farmers more than it has damaged the Soviet Union. Nevertheless, the decision was made, and now we have to live with it, for whatever length of time that embargo is in effect.

The people who have paid the principal price for it are the grain producers of this country, all of whom have suffered a loss in farm income as they have watched the depressing impact of the grain embargo drive down farm prices across agricultural America.

This amendment—which would cost some money, admittedly—would not impact on the current budget, the fiscal 1980 budget. It would have some impact on the fiscal 1981 budget, most of which would be recovered with the repayment of loans in fiscal 1982.

In any event, I believe it is only fair that the cost of that grain embargo—if, in fact, it is in the national interest—be shared by all Americans, not only by 4 percent of the people who make up the farm producers of this country.

We in the United States are blessed with the most efficient food producers in the world. It is the reason we have a child nutrition program of the kind that is before this body. It is the reason we have a food for peace program that provides food assistance for hungry people all around the globe. But, in all fairness, we cannot ask farmers to bear the burden for supplying us with the most plentiful food in the world and the best diets unless they are adequately compensated for it.

So the amendment we offer today will have the effect, in my judgment, of ameliorating some of the depressing effects of the grain embargo. It is an amendment that is overwhelmingly endorsed by the Committee on Agriculture. I hope that at the appropriate time, when I submit this amendment on behalf of myself, Senator DOLE, and others, the Senate will look favorably on its adoption.

Mr. DOLE. Mr. President, I commend the distinguished Senator from South Dakota for discussing the amendment, which I hope will be offered in the next few moments.

I understand that there may be some objection from the Budget Committee, though I believe we can draft the amendment to avoid any point of order. I am certain it is a measure in which the distinguished Senator from Iowa would be interested as a cosponsor, as well as the Presiding Officer, the Senator from Nebraska (Mr. EXON), who is one of the leading experts on agriculture, as is the Senator from Minnesota (Mr. BOSCHWITZ).

The senior Senator from North Dakota (Mr. YOUNG) discussed this proposal with me less than an hour ago and expressed his hope that we could properly bring it to the floor in an amendment.

As I said earlier, in offering an amendment to change the program dates on wheat from August 15 to August 1, the Senator from Kansas understands that this may be somewhat separate from the child nutrition bill we have been discussing under the leadership of the Senator from South Dakota and the Senator from North Carolina (Mr. HELMS), but it is related.

In effect, this is an embargo relief act for the American farmer. It is not a direct effort to set aside or to lift the embargo. It is an effort to give the farmers some relief and, again, not direct payments but some increase in loan rates in the so-called farmer held reserve and the regular loan rate increases, so that they can stay in business.

It is very difficult for many farmers in this country to stay in business and at the same time provide the food we talked about in the so-called nutrition program.

The American consumer must understand the plight of the American farmer. I do not suggest that consumers are happy with the prices they pay for food, but the American consumer still has the best food bargain in the world. Seventeen percent or less of disposable income is spent for food in this country, which is the best food bargain in the world.

Also worthy of note is that the American farmer, as other Americans, is entitled to make a profit. The American farmer, as other Americans, is entitled to try to make a profit or to make a living without the interference of the Federal Government. However, last January, the Federal Government interfered. It was not the first time. The Government interfered in the Ford administration, the Government interfered in the Nixon administration, and now the Government interfered in the Carter administration, with the grain embargo.

And that embargo said in effect to the American farmers, "You must make the sacrifice so we can indicate to the Soviets who have invaded Afghanistan that we don't like their policies."

So the American taxpayers spent about $3 billion in an effort to demonstrate their concern. It will cost the American farmers untold millions and perhaps billions of dollars. The embargo has been a total disaster. It has not been effective. It has not deprived the Soviets of any grain they needed to speak of—maybe 3 percent. It has not had any impact on the Soviet invasion of Afghanistan. It has had a severe impact on America's farmers which will have a severe impact on America's consumers and American taxpayers.

The Senator from North Carolina, the Senator from Kansas, the Senator from South Dakota, the Senator from Minnesota, and others, Democrats and Republicans, Republicans and Democrats, propose to provide some relief not by direct payments. The American farmer does not desire to farm the Treasury. But he wishes to have some protection. This protection is provided by increasing the loan rates in the so-called farmer-held reserve for wheat from $2.50 a bushel to $3.30 a bushel, by increasing the loan rates that go into the farmer-held reserve for corn from $2.10 a bushel to $2.40 a bushel. This is a provision the Senator from Kansas understands the administration is very interested in. They wish to have it. We wish to give it to them.

We would also increase in this legislation, if adopted, the regular loan rate increases in wheat from $2.50 to $3, corn $2.10 to $2.25, soybeans from $4.50 to $5.28 as suggested I might say by the distinguished Senator from Mississippi (Mr. COCHRAN).

So this is an effort to provide some cushion, and I might say to the American consumer an effort to keep more farmers in business because the farm sales in this country have increased more in the past 12 months than in any recent period in history.

We hear reports that the Secretary of Agriculture may raise the loan rates on his own which he has authority to do. We hear reports that this may not be a propitious time to do this because maybe the loan rate should be raised, maybe in October. But I suggest that the Senate and those who could sponsor this legislation can send a signal to the Secretary of Agriculture, to the administration, and to those on the other side seeking the office, that the American farmer has a problem, that the problem was inflicted on the American farmer not by his own doing but by the interference of Government, and therefore we have some responsibility.

In addition, this proposal would provide a humanitarian food reserve, another proposal supported by the administration, and it can be replenished subject to appropriations and then in the final section of the bill we change the program dates on wheat from August 15 to August 1 and on corn and feedgrains from November 15 to November 1.

In conclusion, Mr. President, I just hope that we can take action today and that we can take this bill to the conference. The time is now for action for the American farmer. The loan rates should be increased and there is no argument about that. The administration does not quarrel about that. I do not know of any Senator who quarrels about that.

I believe the amendment has now been drafted so it will not have any adverse impact on the budget and will not violate some provision in the Budget Act.

But the Senator from Kansas will remind every Senator on the floor and those who deal with the budget on a daily basis that the American farmer does not understand a point of order. The American farmer is beginning to understand bankruptcy. The American farmer does not understand the enrollment of a bill, that we could not enroll this because of some budget provision. He does understand when he cannot pay his bills, and that has been brought home on a daily basis to the American farmer.

When the American farmer cannot pay his bills and when the American farmer takes bankruptcy the next in the chain of sufferers is the American consumer and finally the American taxpayers. They are all the same. The consumers and the farmers are taxpayers.

Mr. President, I thank my distinguished Republican leader, Senator HELMS, for his support of this legislation and the others who have indicated an interest in trying to preserve and protect the family farmer, and I know of no better way to send a signal than to pass this amendment.

Mr. DOLE. Mr. President, we have before us S. 2675, the Child Nutrition Act Amendments of 1980, which Senator MCGOVERN and I introduced last May, and which now includes many of the provisions of legislation introduced by the Senator from Kansas just before the committee markup. I am pleased to support this bill, because, although it includes budget cuts in programs that have justified their existence in terms of nutrition benefits to our Nation's needy population, these cuts are achieved in ways that leave the essence of the programs themselves intact.

ELIGIBILITY ADJUSTMENTS

Although it is regrettable that budget cutbacks have become necessary in such worthwhile programs as child nutrition, WIC, and nutrition education and training, I think that S. 2675 as it is now written provides a satisfactory mode of reconciling the $500 million savings that the Budget Committee has mandated. These savings will be achieved across the board from many programs.

The greatest amount of savings comes from lowering the eligibility standards for free and reduced-price lunches to 125 percent and 185 percent of poverty, respectively, plus a standard deduction. In combination with raising the cost of reduced price lunches from 10 cents to 20 cents, and eliminating the March update, an estimated savings of about $130 million is achieved. The methods of accomplishing these savings were geared to cushion the lowest income groups from undue hardship, because such people are least likely to be able to absorb cuts in benefits.

There are several provisions that combine to affect the income eligibility requirements. S. 2675 would eliminate a provision that updates poverty guidelines to the March preceding the relevant fiscal year. Also, in place of hardship deduction, families would be allowed to use a standard deduction, like that used in the food stamp program.

Through modification of the income eligibility standards and cash reimbursement rates for the national school lunch program, program costs are reduced directly and indirectly through a potential reduction in program participation. However, it is difficult to determine precisely the magnitude of the indirect participation effects.

As has been mentioned, the bill would lower eligibility for reduced-price subsidies to 185 percent of nonupdated poverty guidelines. Eligibility for free meal subsidies has not been altered significantly. Reduced-price eligibility standards decline by nearly 10 percent for large families and by almost 2 percent for smaller family sizes.

The effect of these income modifications is to reduce by approximately 20 percent the number of children eligible for reduced-price meals. If a comparable reduction in reduced-price meals results, about $80 million savings would be achieved. This estimate includes $70 million for the NSLP and $10 million for the child care and school breakfast programs, which would also be affected.

SPECIFIC CHANGES IN SECTION 4

S. 2675 would reduce the section 4 meal reimbursement rate in the national school lunch program by 2.5 cents across the board, beginning with fiscal year 1981. However, in the event that participation drops significantly, a safety net has been devised to protect low-income schools. Districts in which more than 60 percent of the children receive free and reduced price lunches would be unaffected by this provision. Under current law, this section 4 reimbursement would average 19.1 cents per meal for fiscal year 1981, reducing the average reimbursement to 16.6 cents per meal. Savings from implementing this section 4 provision are estimated at $84 million.

OTHER SAVINGS PROPOSALS

In an effort to avoid further reduction of direct benefits to participants in the school lunch program, lunch commodities were reduced by 2 cents for a savings of approximately $90 million.

Replacing the semiannual reimbursement update with an annual one results in estimated savings of about $75 million. This bill eliminates the March extension, leaving the adjustments to be based on the change in the previous calendar year. Consequently, at the time this adjustment occurs, the updated poverty level will be 6 months behind price changes, instead of 3 months behind.

Over the years, there have been attempts to eliminate or considerably decrease benefits under the special milk program to accomplish budget savings, but the committee has consistently rejected such proposals out of a concern for the effect this would have on children who do not participate in the school lunch program, but who purchase milk separately, as part of an a la carte school lunch or to supplement a bag lunch from home. In an effort to comply with imposed demands for fiscal austerity in all Federal programs, this bill provides that the reimbursement for paid milk served in schools be set at 5 cents for each half-pint.

The effect would be to reduce the reimbursement to paying students by a little over 3 cents in fiscal year 1981, for an estimated savings of $57 million. This change will only minimally affect participating children, and will have no effect on needy children receiving free milk, or children in schools that do not have a school food service program. It leaves the special milk program intact, without jeopardizing the integrity of this worthwhile nutrition program.

Further savings of $42 million are achieved in the summer food service program by limiting the eligibility of private nonprofit institutions in the summer program—except for the private nonprofit school food authorities, camps, and those serving meals primarily to migrant children—that acquire meals from vendors to those that serve no more than 2,000 children at no more than 20 sites on a daily basis.

Two other provisions include additional savings. Approximately $6 million savings is achieved by reducing the child care snack reimbursement by 3 cents. Excluding the Job Corps centers funded by the Department of Labor from participation in the school lunch and breakfast programs results in savings of approximately $15 million.

SUCCESSFUL ACCOMPLISHMENT OF GOAL

Mr. President, all of these savings that I have outlined arrive at a point which is as close to the $500 million mark set by the budget committee as possible: $499 million—allowing for CBO estimates to vary as economic information is updated. I am convinced that the savings achieved in the ways described will leave the child nutrition programs intact and that administrative changes in other provisions will serve to provide increased flexibility and efficiency within the various programs.

The Senator from South Dakota and the Senator from Kansas have always been strong supporters of the child nutrition programs, but like everybody participating in the Federal Government today, we recognize the necessity for cutting back on the burden of expenses which our Federal Government now faces.

We in Government, along with the average American citizen, possess an increased awareness that the Federal budget does not provide for unlimited resources. We in Congress have a responsibility to the taxpayer to save money where possible, while trying to preserve the maximum amount of benefits to those families and individuals suffering the greatest hardship in these perilous economic times.

CONCLUDING SUPPORT

It is certainly regrettable that, because of the economic climate of current times, we are forced to think in terms of reducing funding for programs that have proven their value over time. Mr. President, it is our intention through this legislation to preserve benefits to our Nation's most needy citizens while giving some relief to the taxpayer's burden wherever possible. I join with the distinguished Senator from South Dakota in support of passage of the Child Nutrition Amendments of 1980, which we introduced 2 months ago, and which the committee has approved for action in the full Senate.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DOLE. I yield the floor.

Mr. HELMS. Mr. President, this is a good amendment and it needs to be not only considered but approved by the Senate now.

A very clear message must be sent to the farmers that someone up here cares, and I urge the Senate to adopt it.

Mr. President, I should also mention that I was coauthor of S. 2639, the Agricultural Trade Suspension Adjustment Act of 1980, a bill which adopts many of the provisions contained in S. 2356—a proposal that I introduced on February 27, 1980. The Agricultural Trade Suspension Adjustment Act of 1980 represents a reasonable way to mitigate the adverse effects of agricultural trade embargoes on the farmers of this country. Moreover, it can achieve such results without an undue drain on the U.S. Treasury.

The Carter administration's decision to suspend shipments of agricultural commodities to the Soviet Union was a precedent shattering course of action, the full effects of which will not be known for some time to come. I believe that the President's decision to employ food as a weapon against the Soviets may have opened the door to future use of our agricultural production system for the maintenance of national security and the attainment of foreign policy objectives.

While I recognize and appreciate the need to challenge those aggressors who seek to force their will and political philosophy on others, I am also sensitive to the sacrifices that American citizens are required to make in order to lend substance to those challenges. Particularly, I am concerned that the American farmer will have to shoulder a disproportionate share of the burden if policymakers decide to rely on our agricultural largess as a foreign policy tool.

Mr. President, the American farmer depends upon agricultural exports for almost one-third of his income. The threat of restricted or suspended international sales of U.S. agricultural commodities, therefore, jeopardizes the immediate economic well-being of rural America. Moreover, the specter of potential trade embargoes contributes to America's image as an unreliable supplier thereby undercutting the farmer's efforts to replace lost sales through the development of new markets for his products.

If the Federal Government is to use food as an instrument of foreign policy, it must take steps to mitigate the effects of such economic warfare on the American farmer. Measures taken to mitigate the impacts of agricultural trade embargoes must not be subject to ad hoc decisionmaking. They are best exercised in a consistent fashion according to comprehensive rules that have been laid down in advance. Otherwise, Mr. President, the farmer will be ill prepared to cope with a future of uncertainty and unpredictability.

This bill is premised on the notion that certainty with respect to the rules of the game provides all parties with the opportunity to make the adjustments needed for the most efficient exercise of their responsibilities. The certain knowledge that the Federal Goverment has the tools to alleviate the effects of its interference in export markets will allow the farmer to make planting and marketing decisions without having to divine the intentions of those in the State Department. Similarly, such certainty will enable those charged with making foreign policy to confront international emergencies head on without concern that domestic politics will compromise our national security.

Mr. President, the Agricultural Trade Suspension Adjustment Act of 1980 operates on two levels to allay the farmer's fear that he will be sacrificed for the sake of foreign policy.

On an immediate level, this bill forces the current administration to make good on its promise to shield the American farmer from the adverse effects of the Soviet grain embargo.

To attain this end, this bill requires the Secretary of Agriculture to make available price support loans of not less than $3.30 per bushel for wheat and $2.25 per bushel for corn to producers who place their 1979 through 1981 crops of wheat and feedgrains in the farmer-held grain reserve. These increased loan levels, in conjunction with the waiver of interest charges on such loans, would coax more grain off the market and into the farmer-held reserve—a measure that would help strengthen farm prices.

In addition, this bill requires the Commodity Credit Corporation to acquire not less than 4 million tons of wheat by June 1, 1980, and up to 10 million tons of corn by October 1, 1980, at prices not less than preembargo levels. USDA has already purchased the 4 million tons of wheat and as of the end of June had purchased 4 million tons of corn.

It is not enough, however, Mr. President, for the Government to simply buy excess grain. The Government must make sure the stocks of federally owned grain are sufficiently isolated from the market so that they have no disruptive effect on cash prices. This bill, therefore, sets forth specific rules that provide for orderly disposal of the Government owned grain.

The 4 million tons of wheat acquired by the CCC would be placed in a food security reserve and thereby isolated from the domestic cash market. The food security reserve would be in existence for 5 years during which time stocks would be released only for purposes of providing emergency food assistance to foreign countries under the Public Law 480 food for peace programs. Whenever stocks of wheat were released from the food security reserve, the reserve would be replenished.

The quantities of corn purchased by the CCC could be sold for use in the production of motor fuel at not less than the release price for corn, or if the fuel conversion price for corn is higher than the release price for corn, at not less than the fuel conversion price. The fuel conversion price, as defined in the bill, would be the price for a commodity that would make gasohol using alcohol produced from the commodity competitive in wholesale price with nonleaded gasoline.

While the above measures address the immediate problems created by the Soviet grain embargo, they do not provide any prospective remedies for future agricultural trade suspensions that might be imposed. Now that agricultural trade embargoes for national security and foreign policy purposes are a reality, it is essential, Mr. President, that we include in our legislative repertoire comprehensive rules for dealing with the adverse effects of future trade suspensions.

With this in mind, the Senate Agriculture Committee included in this bill provisions for a mechanism that would operate on a prospective level.

The mechanism would work as follows:

First, the Secretary of Agriculture, would be given the authority to establish a gasohol feedstock reserve and/or a food security reserve whenever the President suspends the commercial export sales of U.S. agricultural commodities for national security or foreign policy purposes.

Second, the Secretary, if he chose to exercise the above authority, would be required to place in the gasohol feedstock and food security reserves that portion of the suspended commercial export sales of the commodity that should be removed from the market to mitigate the adverse effects of the suspension on producers' prices.

Third, the Secretary would be required to sell stocks from the gasohol feedstock reserve at the fuel conversion price—a price that will permit gasoline-alcohol mixtures using alcohol produced from an agricultural commodity to be competitive with the wholesale price of nonleaded gasoline. If the fuel conversion price were less than the then current release price for the commodity under the farmer held reserve program, the Secretary could not sell stocks for use in the production of alcohol for less than the release price. The Secretary would be required to release stocks from the food security reserve only for purposes of providing emergency assistance and urgent humanitarian relief to foreign countries under Public Law 480 programs.

Fourth, the Secretary, without regard to any prior announcement made by him to the contrary, would be allowed to announce a cropland set-aside program for crop years 1980 or 1981 if he deemed such action to be in the public interest as a result of a suspension of commercial export sales of a commodity.

It is important to note that the prospective gasohol feedstock and food security reserves would not be permanent reserves that would overhang the market. The kind and amount of commodities placed in such reserves would be determined by the suitability of the commodities for use in alcohol production and food assistance programs and by the quantities of the commodities required to be isolated from the market so as to mitigate the adverse effects of the trade suspension on farmers. Once the acquired stocks had been disposed of, they could not be replaced until another trade suspension was imposed. Clearly, these reserves are designed to help the farmer not to hurt him.

Another positive feature of this bill is that it avoids involving the Federal Government in an unreasonable subsidy program for gasohol producers. The sale of commodities from the gasohol feedstock reserve at the fuel conversion price would provide an incentive for bringing new alcohol production facilities on line without fostering a long-term dependence on artificially low-priced grains. The fuel conversion price mechanism would insure that the Federal subsidy provided to gasohol producers would be based upon the economic relationships between gasohol and gasoline rather than an arbitrary decision to maintain commodity prices at certain levels.

The fuel conversion price also provides for an automatic phaseout of the Federal subsidy. As the price of gasoline increases, less of a subsidy would be required to make gasohol competitive with gasoline. The fuel conversion price system has sufficient flexibility to take such economic realities into account and to translate them into a reasonable subsidy level.

Mr. President, the most important feature of the Agricultural Trade Suspension Adjustment Act of 1980 is the certainty that it provides to all parties involved in or affected by an agricultural trade suspension. The Honorable Arthur A. Link, Governor of North Dakota and chairman of the National Governors' Association's Committee on Agriculture, stated in testimony before the Senate Agriculture Committee that:

> Further legislation would be desirable to clarify what actions should be taken if another sales suspension, based on national security concerns, were to occur. We need such a statute so that market disruption, which would depress farm prices, will be kept to an absolute minimum.

I believe that this bill, if enacted into law, would provide the clarification and certainty that Governor Link advocates and that farmers need.

I also point out that the farm press has stressed that the agricultural community should not be forced to bear the costs of the Soviet embargo. As evidence of this, I ask unanimous consent to have printed in the Record an editorial appearing in the June 1980 issue of Progressive Farmer which urges the Federal Government to make changes in the law so that farmers are not left to shoulder the full costs of the suspension of grain sales to the Soviets.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Sharing the Burden of Grain Embargoes

Had the Carter administration taken certain measures, the Russian grain embargo might well have been less damaging to grain producers. Now, what's more important is for Congress and the administration to develop a long-range plan that will make such trade disruptions of the future a national defense responsibility to be shared equally by all.

It was highly important that our Government take strong action against Russia's outrageous grab for Afghanistan. *Progressive Farmer*, along with farmers in general, gave reluctant support and cautious approval to the grain embargo against Russia as a measure of national security. We hoped the administration would do what it could to lessen the financial burden this embargo would place on farmers—and that it would take additional measuers to spread the national security burden as fairly and equally as possible among all classes of citizens.

Three months after the embargo was announced, cash grain prices had dropped sharply. Says the American Farm Bureau: "Farmers are hardest hit among citizens making economic sacrifices at a time when soaring inflation and near-impossible credit conditions have caused a cashflow crisis in rural America."

The ability of the U.S. to produce a superabundance of food and fiber will continue to be one of the most effective weapons a President can use in world diplomacy. There is ample evidence to indicate that any U.S. President, be it Nixon, Ford, or Carter, would not hesitate to use "Embargo Power" if it seemed to be in the best interests of the nation.

In declaring the embargo, President Carter and Secretary of Agriculture Bergland promised that measures would be taken to ensure that farmers would not bear an unfair share of the economic burden. And they did provide for the U.S. purchase of the grain intended for export to the Soviets. Moreover, loan rates and target prices for wheat and feedgrains were increased. But the increase in target prices should have been larger to more nearly reflect the zooming costs of production.

Carryover stocks project market prices. Under current conditions, 800 million bushels of wheat and 1 billion bushels of feedgrains are regarded by many as appropriate carryover levels. Any time an embargo of wheat or feedgrains promised to push carryovers beyond these levels, emergency legislation should go into effect.

Many growers though they had protective legislation in the law that guaranteed them 90% of a parity price whenever a commodity was embargoed due to short supplies. It was, however, a national emergency rather than a short supply that brought on the embargo, so the law did not apply.

Farmers and their organizations should do their dead-level best to persuade Congress to amend the law so that if at any time and for any reason (not just short supply) farm exports of grain or cotton are embargoed or suspended, producers would receive reasonable prices for their commodities.

Mr. HELMS. Mr. President, we all are acutely aware of the heat wave that has been blistering the Midwest and the Southwest during the past few weeks. Speculation as to the effect of the weather on the current crops has led to volatile swings in the futures prices of agricultural commodities. There is no way that the Federal Government can control the course of the weather or decipher the mysterious ways in which the Lord works. However, the Government can control the extent to which agricultural embargoes may be allowed to affect the farm commodity.

To date, the Carter administration's approach to mitigating the effects of the grain embargo has been to delay and meanwhile hope and pray for bad weather so as to reduce the size of this year's crops. It appears that Mr. Carter may have had his prayers answered. However, I doubt that his problems are at an end. High prices mean very little to farmers who have nothing to sell.

This brings me to my final observation. The Senate Agriculture Committee reported this embargo relief legislation on May 1, 1980. Had President Carter really been concerned about the plight of the American farmer, he could have pushed for early consideration of this bill. Instead, he decided to sit back and threaten vetoes of any legislation that tinkered with loan levels.

Now we hear rumblings from the White House that the administration is seriously considering increasing loan levels on its own accord. Such a change of heart is understandable in light of the fact that President Carter trails Gov. Ronald Reagan in the polls and desperately needs to attract more supporters. The plausibility of this change of heart, however, does not minimize the cynicism of those in the White House who believe that the farmers of this country can be bought off. The policies of this administration may force farmers to put their farms up for sale but they cannot force farmers to sell their votes and their pride.

I urge my colleagues in the Senate to support S. 2639.

The PRESIDING OFFICER (Mr. Mitchell). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, as a cosponsor I rise in support of this amendment. I am pleased that it contains my proposal which is printed amendment No. 1796 to increase the soybean loan rate from $4.50 to $5.02 per bushel.

During the time that the Agriculture Trade Suspension Act of 1980 was being considered by the Senate Agriculture Committee, soybean farmers too had assurances from the administration that they would not have to bear the full burden of the embargo. This has not been the case. The embargoed contracts purchased by USDA were quickly retendered back into the commercial market putting downward pressure on prices already being depressed by a record soybean crop in Brazil.

The result has been a decline in farm prices of soybeans from $6.39 per bushel in January to $5.76 in mid-June—the last farm price available from the Department of Agriculture.

To get a perspective of what this means to soybean farmers, it is necessary to look at USDA's cost of production figures recently supplied to Congress. USDA estimates that the cost of producing soybeans this year will be $6.97 per bushel for the renter, $6.49 for the farmer purchasing land several years ago, and $8.13 per bushel for the farmer who recently purchased land.

This means that at current farm prices, farmers with a soybean crop in the ground now will lose money unless prices improve substantially from the latest farm prices reported by USDA. Based on mid-June prices the renter will lose $37 per acre, the farmer who purchased his land several years ago will lose about $23, and the new farmer will lose $72 per acre. This is an intolerable situation.

The least we can do is to provide assistance to farmers in marketing their soybeans. This is the purpose of the price support loan. Rather than sell at depressed prices, farmers can obtain a loan from the Commodity Credit Corporation at an interest rate equal to the cost of money to the Government. This allows them to meet some of their immediate debt obligations with out selling their beans.

For the loan to be effective, it should be high enough to give farmers a realistic chance of maintaining title to their crop during the marketing year. Given the rapid increase in cost of production, it has become necessary to increase the soybean loan.

One of the considerations for choosing an appropriate loan level is to be sure that it does not interfere with our ability to meet competition in export markets. I share this concern.

However, I can assure my colleagues that a $5.02 loan rate will not interfere with continued expansion of soybean exports. Based on the current cost of production, if the market price drops to $5.02 per bushel, we would not have to worry about exporting soybeans because all of our soybean farmers will be broke and out of business.

I hope the managers of the bill accept this much needed amendment.

Mr. BOSCHWITZ. Mr. President, I wish to join in the remarks of the distinguished managing Senator of this bill and also the remarks of my friend from Kansas, Senator DOLE, about the situation in which the American farmer finds himself.

This year the projections are that net farm income will be down by 30 or 40 percent and perhaps that would not be so serious if net farm income had not been so low in the past.

There is no question about it, Mr. President, the embargo has worked to the detriment of our farm communities, not only to the farmer but our farm communities, and when we consider rural America that becomes a much larger element than just the farmers. So many people depend on them, so many people in the entire food cycle, so many people in rural America who make their living on basically a rural agricultural economy.

There is no question too, Mr. President, that the embargo that was touted to bring so much grief to the Russians has really not achieved that purpose. It has however, brought great grief and great shortages of income and ability to pay the bills, as the Senator from Kansas mentioned to the agricultural community.

As you may know, Mr. President, Russia is the largest grain producing country in the world, not the United States, but Russia; however, they do not produce enough for their own needs. They both feed their grain to their animals as well as to consumers and so they had a shortage of about 10 percent of their needs. By the time our embargo was put into place they had already made up 3 or 4 percent of that shortage, and with contracts they have been able to make elsewhere, the vast majority of the balance of the shortage has also been made up.

So, while the embargo has not particularly hurt Russia, it has caused us a great tragedy in rural America. It is time that we get this amendment, then, and that we raise the loan rates on wheat, corn, and soybeans.

I share the sentiment and remarks of my colleague from Mississippi who is principally involved with soybeans. We are involved in Minnesota with all three of those products. wheat. corn. and soybeans; and it is time after many years to raise the loan rates and give the farmer a decent chance. He is at the very base of the economic cycle in this country, and in the event we give him a decent chance to make a fair return, we are going to profit not only in rural America but up and down the scale of our economy.

I yield the floor.

Mr. YOUNG. Mr. President, I wish to join in support of this amendment. It was never more needed than now. After the grain embargo, most grain prices, specifically wheat, dropped about 30 percent. It has come back some since then, but it is still much too low to meet the cost of production. If it were not for the embargo farm grain prices would be much better now.

It is seldom that most of the farm organizations get together in support of any particular piece of farm legislation. But practically all of the farm organizations I know of are supporting an increase in price supports substantially like that being proposed here today.

It is not only necessary to help the farmers, who are in difficult financial circumstances now, but practically every farm machinery lot is full of farm machinery which it cannot sell. The farm and rural economy has pretty much come to a standstill both with the embargo, the lower prices, and the drought.

I know the amendment already has been explained, so I will not go into that, but I fully support it and I know of no more important piece of legislation to be considered here.

Mr. DOLE. Mr. President, is the Senator from South Dakota prepared to offer the amendment?

Mr. McGOVERN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I would like to engage in a short colloquy, if I might, with my friend, the distinguished Senator from South Dakota, regarding the matter before us, if he would agree.

Mr. McGOVERN. Yes.

Mr. EXON. Mr. President, and my friend from South Dakota, I believe you know that on February 5 this Senator introduced a bill in the Senate that is generally along the same lines as what I understand to be the amendment presently recommended by the Committee on Agriculture. The bill that I introduced on February 5 is S. 2264. In that bill, however, there is a slight difference on the amount of the loan rates. In that bill I had suggested that the loan rates on corn be set at $2.50 per bushel, and if I understand it correctly this bill is $2.40; is that correct?

Mr. McGOVERN. $2.25.

Mr. EXON. I believe, if I understood the colloquy correctly between yourself, Senator DOLE, and the Senator from North Carolina, it was—let me rephrase my question. Corn, in the program where the farmer goes into the farmer-held reserve, I believe, was to be suggested to be advanced from the present price of $2.10——

Mr. McGOVERN. That is true for the corn going into the reserve.

Mr. EXON. Up to $2.40; is that correct?

Mr. McGOVERN. That is correct.

Mr. EXON. Likewise on wheat where my S. 2264 increased that from $2.50 to $3.50, the figure in the amendment is from $2.50 to $3.30.

Mr. McGOVERN. That is correct.

Mr. EXON. I would just like to ask in view of the fact that cash prices of grains have come up dramatically, that the cash prices we have just agreed to are presently under the cash prices in the Grain Belt, therefore, I think we should make it clear that the only beneficial effect in the next few months would be that part of the bill that because of the percentage figures taking over would not force or allow this grain to go on the market, which is one of the problems we have currently with the rising prices primarily as a result of the severe drought in the Farm Belt.

Mr. McGOVERN. I think the Senator's point is well taken. I thought the legislation you offered in February made a great deal of sense, and the proposal we have pending before us now or about to have pending when the amendment is introduced is a very modest measure.

As the Senator just said, the loans are considerably below the present market price, but it is a safety net that I think the Senator will agree will have a stabilizing effect on market prices, and the security reserve aspect of the legislation, which increases the amount of grain held in reserve for the Public Law 480 program, would also have a stabilizing effect on market prices.

So while the measure probably does not go as far as either the Senator from Nebraska or other Senators from the Farm Belt would like it to go, it probably is about as much as we can accomplish, given the nature of this body, our friends in the House of Representatives, and the administration. I think we probably have pushed it as far as we can with any real chance of preserving it.

Mr. EXON. Mr. President, I appreciate very much those remarks and the honest assessment of the situation by my friend from South Dakota. I suspect he is entirely right.

I think it is important, though, that we make the point that this is an extremely modest step that we are taking here, because I would remind my colleagues that when I addressed this matter in February, where I indicated that I thought the loan price for corn in the farmer held reserve should increase from $2.10 to $2.50 a bushel and wheat, likewise, from $2.50 to $3.50 per bushel, that during that time we had cash prices of those two important crops considerably below the figure that they stand right now in July of this year.

Also, I point out that the Secretary of Agriculture at that time, way back in February when we had extremely low prices, endorsed publicly going to the full $2.50 per bushel on corn and $3.50 per bushel on wheat.

Nevertheless, the net effect of this bill, if it becomes law, would be somewhat helpful in a very modest fashion.

If my name has not been added as a cosponsor, I would like to have the floor manager of the bill agree to that at this time.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Senator from Nebraska, Senator Exon, the Senator from North Dakota, Senator Burdick, the Senator from Iowa, Senator Culver, and the Senator from Montana, Mr. Melcher, be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I thank my friend from South Dakota.

Before I yield the floor, I want to say that I feel that this is a matter that must—and I emphasize "must"—receive further attention, because I noticed, during the earlier remarks by the Senator from South Dakota, that he said that we were struggling with this matter, but this is indeed only a very modest approach and it does not begin to solve the great difficulties that we are having in the food-producing areas of America today, coupled with ever increasing escalating costs and one of the worst droughts that we have had in the last 10 years.

Mr. President, I yield the floor.

Mr. ZORINSKY. Mr. President, the amendment offered by Senator McGovern and other members of the Senate Committee on Agriculture, Nutrition, and Forestry to offset the impact of the Soviet agricultural embargo has my wholehearted support, and I wish to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. I am very pleased that the Senate is now considering this much needed and much delayed piece of legislation. Although the Agriculture Committee reported S. 2639, the Agricultural Trade Suspension Adjustment Act, and the bill on which the McGovern amendment is based, several months ago, consideration of the proposed legislation has been repeatedly delayed.

I understand that the proposed amendment includes several technical and substantive changes from the original trade adjustment bill. One of those changes, the increase of the corn loan rate—for corn entering immediately into the corn reserve—from $2.25 a bushel to $2.40 a bushel was of particular interest to me. I intended, Mr. President, to introduce an amendment to S. 2639 which would have accomplished precisely that effect. I am especially pleased that Senator McGovern saw fit to include this very necessary change in the amendment he has proposed.

● Mr. BENTSEN. Mr. President, I am pleased to be a cosponsor of this amendment offered by my distinguished colleague from South Dakota. This amendment, which is based on S. 2639, would make badly needed increases in the loan rates for wheat, feed grains, and soybeans. It would also establish an International Wheat Reserve to offer stability in our food aid programs overseas, and it changes the announcement deadlines on the various commodity programs to make them about 2 weeks earlier. This latter change is of particular importance to our farmers in Texas, who are among the first in the Nation to plant each year and who thus need to know commodity program details as early as possible.

FARM INCOME CRISIS MUST BE DEALT WITH

Mr. President, this amendment is a needed step in the right direction. We must recognize that our farmers are facing a crisis of major proportions, and we must deal with that crisis if our Nation is to continue to enjoy the abundant and low-priced food and fiber which we have come to take for granted.

The dimensions of this problem are clear. The Department of Agriculture estimated last fall that net farm income in 1980 could be down by 24 percent or more. More recent estimates put the drop nearer to 33 percent.

Mr. President, the American farmer is not General Motors. He is a price taker, not a price maker. Farm production costs are going through the roof, led by energy costs. Most farmers had to borrow large amounts of money at planting time last spring, when interest rates were at their peak. The farmer cannot pass through these rapidly rising costs, and so many farmers, especially smaller, younger farmers, are facing severe economic difficulties.

What would happen to the average American citizen if he was required to take a one-third cut in his take-home pay? Would he be able to make the mortgage payments on his house, to pay for his family's food and health care costs? The farmer faces these same problems, and if he can no longer produce, then we can no longer eat.

I would also point out that this proposal increases the loan rates rather than the target prices. Although both are a budgetary cost, the loans on these commodities are just that—loans. They are repaid when the commodity is sold, and these funds are returned to the Treasury.

I strongly support this proposal, and I hope that it will be implemented as soon as possible. It is my understanding that the administration is considering taking action, as it may do by law, to increase these loan rates. I have been urging this course of action, and I ask that a copy of a letter which I recently sent to the President be inserted in the Record following these remarks.

I commend my distinguished colleagues on the Agriculture Committee for the work that they have put into the bill which is now before us as a floor amendment, and I urge its adoption by the Senate.

The letter follows:

July 15, 1980.

Hon. Jimmy Carter,
The White House,
Washington, D.C.

Dear Mr. President: The farmers and ranchers of this country have suffered tremendously under the massive burden of inflation. Unlike other sectors of the economy, farmers cannot "pass through" the tremendous increase in production expenses by raising the prices of their products. However, they must pay this pass-through for other industries in the form of higher prices for the production items which they must buy. This is particularly burdensome in energy costs, which have gone up by 50% and more due to OPEC price increases and to the pass-through by oil companies of the Windfall Profits Tax.

As you are aware, these tremendous cost increases were reflected as early as last fall in Department of Agriculture estimates that net farm income for 1980 would be down by about 24%. More recent estimates indicate that the cut in the farmer's take-home pay may reach 33%.

In addition to these economic problems, several critical agricultural areas of this nation, including my home State of Texas, are facing severe problems due to hot, dry weather. These areas have already suffered major losses in yields, and a relatively brief continuation of this weather pattern could result in massive crop losses with attendant major impacts on both farmers and consumers.

In the light of these severe problems, I urge you to use your authority to increase the loan rates for agricultural commodities to more reasonable levels. I am supporting legislation which would accomplish this, but the legislative process is slow and time is a critical factor. The Texas wheat harvest is already complete, and the harvesting of other crops is now beginning in South Texas. Increased loan rates are critical to those farmers who make a crop and try to pay off the production loans they were forced to take out at very high interest rates.

Neither this nation nor its consumers will be well-served by allowing a large number of our farmers to go bankrupt. I respectfully urge your immediate consideration of this action.

Sincerely,

Lloyd Bentsen.●

Mr. THURMOND. Mr. President, I support the amendment offered by the distinguished Senator from Kansas, Mr. Dole, and others and am pleased to be a cosponsor.

This amendment provides for a modest increase in crop price support levels to help alleviate the adverse effects of the Soviet grain embargo. In addition to the price depressing effects of the grain sales ban, growers of wheat and feed grains have also been hard hit by unfavorable weather conditions, including the oppressive heat and drought of recent weeks in many areas of the country, and by production cost increases resulting from the high rate of inflation.

Mr. President, this Nation has heretofore been blessed with the most productive and efficient agricultural industry in the world. While there have been periods in our history when growers of particular commodities have experienced severe financial problems, the past months and recent years have been extremely difficult for nearly all farmers. Profit margins have literally disappeared in the cost-price squeeze, farm debt levels have risen dramatically, and many hard-working producers have been forced out of business.

This amendment is certainly not a panacea for those who grow wheat, corn, and other feed grains for their livelihoods. It does, however, provide an increased measure of price stability and is, therefore, in the best interest of the Nation. I hope the amendment will be adopted.

Mr. McCLURE. Mr. President, I ask unanimous consent that I might be added as a cosponsor of the amendment.

The PRESIDING OFFICER. The Senator's name can be added to the amendment when the amendment is sent to the desk. No consent is needed at this time.

Mr. McGOVERN. Mr. President, I will request it at that time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1442

Mr. McGOVERN. Mr. President, I now offer an amendment on behalf of myself and Senators Dole, Young, Boschwitz, Helms, Cochran, Exon, Culver, Thurmond, Melcher, and McClure.

Mr. DOLE. We have other cosponsors who may be added.

Mr. McGOVERN. There may be additional cosponsors to be added. This is the amendment, Mr. President, that we have been discussing. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGovern), for himself, Mr. Dole, Mr. Young, Mr. Boschwitz, Mr. Helms, Mr. Cochran, Mr. Exon, Mr. Culver, Mr. Thurmond, Mr. Melcher, Mr. McClure, Mr. Ford, Mr. Jepsen, Mr. Thurmond, Mr. Durenberger, Mrs. Kassebaum, Mr. Schmitt, Mr. Huddleston, Mr. Chiles, Mr. Stone, Mr. Magnuson, Mr. Baker, Mr. Zorinsky, Mr. Hayakawa, Mr. Lugar, Mr. Armstrong, Mr. Danforth, Mr. Domenici, Mr. Garn, Mr. Hatch, Mr. Tower, Mr. Percy, Mr. Bentsen, and Mr. Pressler, proposes an unprinted amendment numbered 1442.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following at the appropriate place:

Sec. 23. (a) Section 105A(a) of the Agriculture Act of 1949 is amended by inserting "except that, with respect to the 1980 and 1981 crops, not less than $2.25," after "1981 crops of corn,".

(2) Section 105A(f)(1) of the Agricultural Act of 1949 is amended by striking out "November 15" and inserting in lieu thereof "November 1".

(b)(1) Section 107A(a) of the Agricultural Act of 1949 is amended by inserting "except that, with respect to the 1980 and 1981 crops, not less than $3.00," after "1981 crop of wheat,".

(2) Section 107A(f)(1) of the Agricultural Act of 1949 is amended by striking out "August 15" and inserting in lieu thereof "August 1".

(c) Section 201(e) of the Agricultural Act of 1949 is amended by inserting the following before the period at the end thereof: ": *Provided further*, That the 1980 and 1981 crops of soybeans shall be supported through loans and purchases not less than $5.02 per bushel".

(d) The provisions of this section shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity, as computed under the Agricultural Act of 1949, as amended prior to the enactment of this Act, may elect after Sept. 30, 1980, to receive loans as authorized under this Act.

ADJUSTED PRICE SUPPORT LOAN LEVELS UNDER THE FARMER-HELD RESERVE PROGRAM FOR THE 1980 THROUGH 1981 CROPS OF WHEAT AND FEED GRAINS

Sec. 24. (a) Section 110(b) of the Agricultural Act of 1949 is amended by—

(1) striking out the period at the end of the first sentence and inserting in lieu thereof a colon and the following: "*Provided*, That the Secretary shall make available to producers for the 1980 and 1981 crops of wheat and feed grains price support loans under the producer storage program at such levels as the Secretary determines necessary to mitigate the adverse effects of the restrictions on the exportation of agricultural products to the Union of Soviet Socialist Republics imposed on January 4, 1980, on the market prices producers receive for their crops, but at not less than $3.30 per bushel for wheat, $2.40 per bushel for corn, and such levels for the other feed grains as the Secretary determines are fair and reasonable in relation to the minimum level for corn, taking into consideration, for barley, oats, and rye, the feeding value of the commodity in relation to corn and other factors specified in section 401(b) of this Act and, for grain sorghums, the feeding value and average transportation costs to market of grain sorghums in relation to corn: *Provided further*, That the levels at which loans for the 1980 and 1981 crops of wheat and feed grains are made available to producers under the preceding proviso shall not be used in determining the levels at which producers may repay loans and redeem commodities prior to the maturity dates of the loans under clause (5) of the second sentence of this subsection, or the levels at which the Secretary may call for the repayment of loans prior to their maturity dates under clause (6) of the second sentence of this subsection."; and

(2) in clause (3) of the second sentence after "except that the Secretary may waive or adjust such interest", inserting a comma and the following: "and the Secretary shall waive such interest on loans made on the 1979 through 1981 crops of wheat and feed grains".

(b) Subsection (a) of this section shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity as computed under the Agricultural Act of 1949, as amended prior to the enactment of this Act, may elect after September 30, 1980, to receive loans and payments as authorized under subsection (a) of this section.

MINIMUM LEVELS AT WHICH THE COMMODITY CREDIT CORPORATION MAY SELL STOCKS OF WHEAT AND FEED GRAINS

Sec. 25. Section 110(e) of the Agricultural Act of 1949 is amended by—

(1) after "Notwithstanding any other provision of law,", inserting "except as otherwise provided under sections 5 and 8 of the Agricultural Trade Suspension Adjustment Act of 1980,";

(2) striking out "150 per centum of the then current level of price support for such commodity" and inserting in lieu thereof "105 per centum of the then current level at which the Secretary may call for repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (6) of the second sentence of subsection (b) of this section"; and

(3) amending clause (3) to read as follows:

"(3) sales of corn for use in the production of alcohol for motor fuel at facilities that—

"(A) begin operation after January 4, 1980, and

"(B) whenever supplies of corn are not readily available, can produce alcohol from agricultural or forestry biomass feedstocks other than corn, when sold at not less than the price at which producers may repay producer storage loans and redeem corn prior to the maturity dates of loans, as determined under clause (5) of the second sentence of subsection (b) of this section, or, whenever the fuel conversion price (as defined in section 10 of the Agricultural Trade Suspension Adjustment Act of 1980) for corn exceeds such price, at not less than the fuel conversion price.".

COMMODITY CREDIT CORPORATION ACQUISITION OF GRAIN

Sec. 26. Notwithstanding any other provision of law, in order to ensure that the imposition on January 4, 1980, of restrictions on the exportation of agricultural products to the Union of Soviet Socialist Republics does not result in surplus supplies of such products that will adversely affect prices producers receive for agricultural commodities, the Commodity Credit Corporation shall acquire, through purchases from producers or in the market, up to four million metric tons of wheat by June 1, 1980, and up to ten million metric tons of corn by October 1, 1980. The Commodity Credit Corporation may not purchase grain from producers or in the market under this section at prices less than the national average market prices producers received for the commodities during the five marketing days immediate preceding January 4, 1980, as determined by the Secretary of Agriculture. Grain acquired under this section may be disposed of by the Commodity Credit Corporation only as prescribed in section 27 of this Act for wheat and sections 110(e) (as amended by this Act) and 407 of the Agricultural Act of 1949 for corn. Purchases of wheat and corn by the Commodity Credit Corporation to stabilize, support, and maintain farm income under the Commodity Credit Corporation Charter Act, when such purchases are made at not less than the prices specified under this section, shall be deemed to meet the requirements of this section.

FIVE-YEAR SECURITY WHEAT RESERVE

Sec. 27. (a) In order to provide for a wheat reserve solely for emergency food needs in developing countries, the President shall establish, and maintain through September 30, 1985, a reserve stock of wheat of up to four million metric tons for use for the purposes specified in subsection (c) of this section.

(b)(1) The reserve stock of wheat under this section shall be established initially by designation for that purpose by the Secretary of Agriculture of the wheat acquired by the Commodity Credit Corporation under section 26 of this Act.

(2) Subject to the provisions of subsection (1) of this section, stocks of wheat to replenish the reserve may be acquired (A) through purchases from producers or in the market if the Secretary of Agriculture determines that such purchases will not unduly disrupt the market, and (B) by designation by the Secretary of stocks of wheat otherwise acquired by the Commodity Credit Corporation. Any funds used to acquire wheat in order to replenish the reserve shall be subject to amounts as are contained in appropriation Acts.

(c) Notwithstanding any other provision of law, stocks of wheat designated or acquired for the reserve under this section may be released by the President to provide, on a donation or sale basis, emergency food assistance to developing countries at any time that the domestic supply of wheat is so limited that quantities of wheat cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954, except for urgent humanitarian purposes, under the criteria of section 401(a) of that Act. Notwithstanding the provisions of the preceding sentence, up to three hundred thousand metric tons of wheat may be released from the reserve under this section in any fiscal year, without regard to the domestic supply situation, for use under title II of the Agricultural Trade Development and Assistance Act of 1954 in providing urgent humanitarian relief in any developing country suffering a major disaster, as determined by the President, whenever the wheat needed for relief cannot be programed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional need. Wheat released from the reserve may be processed in the United States and shipped to a development country in the form of flour.

(d) Wheat released from the reserve for the purposes of subsection (c) of this section shall be made available under the Agricultural Trade Development and Assistance Act of 1954, except that section 401(a) of that Act, with respect to determinations of availability, shall not be applicable thereto.

(e) The Secretary of Agriculture shall provide for the management of stocks of wheat in the reserve as to location and class of wheat needed to meet emergency situations and for the periodic rotation of stocks of wheat in the reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954 and any other provision of law, but any quantity of wheat removed from the reserve for the purposes of this subsection shall promptly be replaced with an equivalent quantity of wheat.

(f) Stocks of wheat in the reserve shall not be considered a part of the total domestic supply (including carryover) for the purposes of subsection (c) of this section or for the purposes of administering the Agricultural Trade Development and Assistance Act of 1954 and shall not be subject to any quantitative limitations on exports that may be imposed under section 7 of the Export Administration Act of 1979.

(g) (1) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposal of wheat for or in the reserve.

(2) The Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistance Act of 1954 for wheat released from the reserve that is made available under such Act, such reimbursement to be made on the basis of actual costs incurred by the Commodity Credit Corporation with respect to such wheat. Such reimbursement may be made from funds appropriated for that purpose in subsequent years.

(h) Any determination by the President or the Secretary of Agriculture under this section shall be final.

(i) The authority to replace stocks of wheat to maintain the reserve under this section shall expire September 30, 1985, after which stocks released from the reserve may not be replenished. Stocks of wheat remaining in the reserve after September 30, 1985, shall be disposed of by release for use in providing for emergency food needs in developing countries as provided in this section.

AUTHORITY TO USE THE FUNDS, FACILITIES, AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION TO PURCHASE AGRICULTURAL PRODUCTS INTENDED TO BE EXPORTED TO THE SOVIET UNION

SEC. 28. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to use the funds, facilities, and authorities of the Commodity Credit Corporation in purchasing and handling agricultural products, other than grains, that—

(1) were intended to be exported to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, but

(2) cannot be exported under such contracts due to the imposition, on January 4, 1980, of restrictions on the exportation of agricultural products to the Union of Soviet Socialist Republics,

in the same manner and under the same conditions as the Secretary purchases and handles grains under similar contracts and subject to the imposition of the same restrictions.

SUPPLEMENTAL SET-ASIDE AUTHORITY

SEC. 29. Effective for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by adding at the end of title I thereof a new section 113 as follows:

"SUPPLEMENTAL SET-ASIDE AUTHORITY

"SEC. 113. Notwithstanding any other provision of law or prior announcement made by the Secretary to the contrary, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may announce and provide for a set-aside of cropland under section 101(h), 103(f)(11), 105A(f), or 107A(f) of this title if the Secretary determines that such action is in the public interest as a result of the imposition of restrictions on the exportation of any such commodity by the President or other member of the executive branch of Government. In order to carry out effectively a setaside program authorized under this section, the Secretary may make such modifications and adjustments in such program as the Secretary determines necessary because of any delay in instituting such program.".

TRADE SUSPENSION RESERVES

SEC. 30. Notwithstanding any other provision of law:

(a) Whenever the President or other member of the executive branch of Government causes the exportation of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 or any other provision of law and the Secretary of Agriculture determines that such suspension or restriction will result in a surplus supply of such commodity that will adversely affect prices producers receive for the commodity, the Secretary is authorized to establish a gasohol feedstock reserve or a food security reserve, or both, of the commodity, as provided in subsections (c) and (d) of this section, if the commodity is suitable for stockpiling in a reserve.

(b) Within thirty days after the exportation of any agricultural commodity to a country or area is suspended or restricted as described in subsection (a) of this section, the Secretary of Agriculture shall announce whether a gasohol feedstock reserve or a food security reserve of the commodity, or both, will be established under this section and shall include in such announcement the amount of the commodity that will be placed in such reserves, which shall be that portion of the estimated exportations of the commodity affected by the suspension or restriction, as determined by the Secretary, that should be removed from the market to prevent the accumulation of a surplus supply of the commodity that will adversely affect prices producers receive for the commodity.

(c) (1) To establish a gasohol feedstock reserve under this section, the Secretary of Agriculture is authorized to acquire agricultural commodities (the exportation of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in the production of alcohol for motor fuel through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2) The Secretary of Agriculture may dispose of stocks of agricultural commodities acquired under paragraph (1) of this subsection only through sale—

(A) for use in the production of alcohol for motor fuel, at not less than the fuel conversion price (as defined in section 10 of this Act) for the commodity involved: *Provided*, That, for wheat and feed grains, if the fuel conversion price for the commodity involved is less than the then current release price at which producers may repay producer storage loans on the commodity and redeem the commodity prior to the maturity dates of the loans, as determined under clause (5) of the second sentence of section 110(b) of the Agricultural Act of 1949, the Secretary may dispose of stocks of the commodity for such use only through sale at not less than the release price: *Provided further*, That such sales shall only be made to persons for use in the production of alcohol for motor fuel at facilities that, whenever supplies of the commodity are not readily available, can produce alcohol from other agricultural or forestry biomass feedstocks; or

(B) for any other use, if there is a Federal price support program in effect for the commodity, at not less than 150 per centum of the then current level of price support for the commodity, or, if there is no price support program in effect for the commodity, at not less than the average market price producers received for the commodity at the time the trade suspension was imposed.

(d) (1) To establish a food security reserve under this section, the Secretary of Agriculture is authorized to acquire agricultural commodities (the exportation of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in providing emergency food assistance and urgent humanitarian relief through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2) The Secretary of Agriculture may release stocks of any agricultural commodity acquired under paragraph (1) of this subsection, on a donation or sale basis, only for purposes of providing emergency food assistance to developing countries at any time that the domestic supply of the commodity is so limited that quantities cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954, except for urgent humanitarian purposes, under the criteria of section 401(a) of that Act. Notwithstanding the provisions of the preceding sentence, up to three hundred thousand metric tons of commodities in the reserve may be released from the reserve under this subsection in any fiscal year, without regard to the domestic supply situation, for use under title II of the Agricultural Trade Development and Assistance Act of 1954 in providing urgent humanitarian relief in any developing country suffering a major disaster, as determined by the President, whenever commodities needed for relief cannot be programmed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional

need. Wheat released from the reserve may be processed in the United States and shipped to a developing country in the form of flour.

(3) Agricultural commodities released from the reserve for the purposes of paragraph (2) of this subsection shall be made available under the Agricultural Trade Development and Assistance Act of 1954, except that section 401(a) of that Act, with respect to determination of availability, shall not be applicable thereto.

(4) The Secretary of Agriculture shall provide for the management of stocks of commodities in the reserve as to locations and classes of the commodities needed to meet emergency situations and for the periodic rotation of stocks in the reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954 and any other provision of law, but any quantity of a commodity removed from the reserve for the purposes of this paragraph shall be promptly replaced with an equivalent quantity of the commodity.

(5) Stocks of agricultural commodities in the reserve shall not be considered a part of the total domestic supply (including carryover) for the purposes of paragraph (2) of this subsection or for the purposes of administering the Agricultural Trade Development and Assistance Act of 1954 and shall not be subject to any quantitative limitations on export that may be imposed under section 7 of the Export Administration Act of 1979.

(6) The Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistance Act of 1954 for agricultural commodities released from the reserve that are made available under that Act, such reimbursement to be made on the basis of actual costs incurred by the Commodity Credit Corporation with respect to such commodities. Such reimbursement may be made from funds appropriated for that purpose in subsequent years.

(7) Any determination by the Secretary of Agriculture under this subsection shall be final.

(e) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposition of agricultural commodities under this section.

(f) The Secretary of Agriculture shall establish safeguards to ensure that stocks of agricultural commodities held in the reserves established under this section shall not be used in any manner or under any circumstance to unduly depress, manipulate, or curtail the free market.

(g) Whenever stocks of agricultural commodities are disposed of or released from reserves established under this section, as provided in subsections (c)(2) and (d)(2) of this section, the reserves may not be replenished with replacement stocks.

(h) The provisions of this section shall become effective with respect to any suspension of, or restriction on, the exportation of agricultural commodities, as described in subsection (a) of this section, implemented after the date of enactment of this Act.

STUDY OF THE POTENTIAL FOR EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS AND THE USE OF AGRICULTURAL EXPORTS IN OBTAINING NEEDED MATERIALS

SEC. 31. (a) The Secretary of Agriculture, in cooperation with the United States Trade Representative, shall perform a study of the potential for expansion of United States agricultural export markets and the use of agricultural exports in obtaining natural resources or other commodities and products needed by the United States. The Secretary shall complete the study and submit to the President and Congress a report on the study before April 1, 1981.

(b) In performing the study, the Secretary shall determine—

(1) world food, feed, and fiber needs over the next twenty years;

(2) estimated United States and world food, feed, and fiber production capabilities over the next twenty years;

(3) potential new or expanded foreign markets for United States agricultural products over the next twenty years;

(4) the potential for the development, over the next twenty years, of international agreements for the exchange of United States agricultural products for natural resources, including energy sources, or other commodities and products needed by the United States; and

(5) the steps that the United States must take over the next twenty years to (A) increase agricultural export trade, and (B) obtain needed natural resources or other commodities and products in exchange for agricultural products, to the maximum extent feasible.

DEFINITION

SEC. 32. As used in this Act, the phrase "fuel conversion price" means the price for an agricultural commodity determined by the Secretary of Agriculture that will permit gasoline-alcohol mixtures using alcohol produced from the commodity to be competitive in price with unleaded gasoline priced at the point it leaves the refinery, adjusted for difference in octane rating, taking into consideration the energy value of the commodity and the value of byproducts also recoverable from the commodity; the direct costs and capital recovery costs for a grain alcohol distillery capable of producing forty million gallons of alcohol and recovering byproducts annually; and Federal, State, and local tax and other incentives applied to alcohol used for fuel.

Mr. McGOVERN. So far as the substance is concerned, Mr. President, this amendment has already been fully explained here in the Chamber. The reason for the delay in introducing the amendment was to give us an opportunity to make certain conforming changes in it that would not do violence with the Budget Act. Those technical changes have been made.

If there is no Senator who wishes to be heard further on it, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1442) was agreed to.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1443

Mr. DECONCINI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1443.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following at the appropriate place:

FOOD BANK DEMONSTRATION PROJECTS

SEC. . (a) The Secretary of Agriculture shall carry out demonstration projects to provide agricultural commodities and other foods which might not otherwise be used, or might be more effectively used by organizations assisted under this section, to community food banks for emergency food box distribution to needy individuals and families. Notwithstanding any other provisions of law, the Secretary of Agriculture shall make available for purposes of such demonstration projects, agricultural commodities and other foods available to the Secretary of Agriculture pursuant to section 416 of the Agricultural Act of 1949 (63 Stat. 1058, 7 U.S.C. 1431), section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212, 7 U.S.C. 1446 a–1), and section 32 of the Act of August 24, 1935 (49 Stat. 750, 7 U.S.C. 612c). For purposes of distributing agricultural commodities and other foods to community food banks under this section, the Secretary of Agriculture may, in consultation with State agencies, utilize food distribution systems currently used to distribute agricultural commodities and other foods under the National School Lunch Act and Child Nutrition Act of 1966. The Secretary of Agriculture shall select food banks, in consultation with the Director of the Community Services Administration, for participation in the demonstration projects under this section. Such food banks shall represent an adequate geographic distribution of emergency food box programs in at least two but not more than seven Department of Agriculture regions.

(b)(1) No food bank may participate in the demonstration projects conducted under this section unless an application therefor is submited to and approved by the Secretary of Agriculture. Such application shall be submitted in such form and manner and shall contain such information as the Secretary of Agriculture shall prescribe.

(2) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and other foods provided under this section. The Secretary of Agriculture shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary of Agriculture shall determine the quantities and types of agricultural commodities and other foods to be made available under this section. The Secretary of Agriculture may prescribe regulations regarding the designation of eligible participants in the projects and any other regulations necessary to carry out this section.

(d) The Secretary of Agriculture shall submit a report to Congress on October 1, 1982, regarding the demonstration projects carried out under this section. Such report shall include an analysis and evaluation of Federal participation in food bank emergency food programs, the effectiveness of such participation, and the feasibility of continuing such participation. The Secretary of Agriculture shall also include in such report any recommendations regarding improvements in Federal assistance to community food banks, including assistance for administrative expenses and transportation.

(e) The sale of food provided under this section shall be prohibited and any person who receives any remuneration in exchange for food provided under this section shall be subject to six months in jail or $1,000 fine, or both.

(f) There is authorized to be appropriated to carry out this section $356,000.

Mr. DeCONCINI. Mr. President, during the consideration of the fiscal year 1980 agriculture, rural development and related agencies appropriations bill, the issue arose of allowing food banks, which provide emergency food boxes in limited circumstances, to participate in the commodity distribution program. At that time, it was agreed that too little information was available on the number of such food banks, the type of assistance that would be most beneficial, and the costs which would be associated with operating such a program.

On October 2, 1979, Senator EAGLETON, chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies, and I wrote to the Secretary of Agriculture, Bob Bergland, requesting that USDA undertake a study to determine the feasibility and costs of allowing food banks which provide limited crisis intervention to participate in the commodity distribution system.

On June 6, 1980, I received a letter from Robert Greenstein, Administrator of the Food and Nutrition Service, informing me that USDA had studied the issues concerning food banks and the feasibility of providing surplus commodities to those organizations administering food banks. The Department met with Second Harvest of Phoenix, and other representatives of large emergency food banks. The Department indicated that many emergency food bank organizations might be unprepared to undertake the administrative and reporting requirements that would accompany the receipt of Federal surplus food and suggested that the feasibility of such a program be tested on a pilot basis before considering any large-scale commodity program in food banks. Although the Department expressed its interest in initiating a pilot project, they informed me that they did not possess the legislative authority or appropriations to use Federal commodities in this way. My amendment is being offered to provide USDA with the legislative authority to proceed with such a pilot program.

Food banks are clearinghouses for the receipt and distribution of surplus and unsaleable foods to nonprofit organizations who feed the hungry. Many also distribute 3- to 4-day emergency food boxes directly to those in need. All of the food is donated. It must be usable although it might not qualify for commercial distribution because of mislabeling, damaged packaging, or simply because an organization has overproduced a specific commodity.

A 1977 General Accounting Office report indicates that approximately 20 percent of all food produced in the United States is lost or wasted annually. The dollar amount of this wasted food is around $31 billion. Allowing food to be wasted when there are hundreds of thousands of hungry people in this Nation is unconscionable. Food banks have proved instrumental in distributing these surplus foods to the needy, and I believe food banks would be an appropriate vehicle for the distribution of some surplus Government commodities as well.

More than 80 food banks have sprung up around the Nation and the number is increasing each year. I am proud to relate that the oldest and largest food bank in the Nation is St. Mary's Food Bank in Phoenix. It has been in existence since 1966 and now distributes more than 2 million pounds of food to local charities and feeding agencies who in turn distribute it to the poor. Based on the success of the St. Mary's program, John Van Hengel, its creator, decided to establish a network for exchanging food between banks. In 1976, under a grant from the Community Services Administration, Second Harvest was born. Second Harvest provides technical assistance to those wishing to initiate a food bank. It has enormous expertise in this area and I hope USDA will tap its experience in the demonstration project.

Food banks are designed to aid those who are in emergency need of food. They might be awaiting assistance through Federal, State, or local programs; or they might have an emergency one-time need for aid due to death or illness in the family or a similar crisis. These banks are a commendable private, volunteer effort to fill in the gaps that sometimes exist in Government programs for the needy.

Mr. President, my amendment would not establish a new program, it would merely allow the Department of Agriculture to test whether surplus Federal commodities might be provided, on a small scale, to supplement the privately donated foods already being packaged and distributed by food banks. Under federally prescribed rules, the food banks selected for these demonstration projects would be able to tap into the existing distribution network and make use of some of the agricultural commodities the Department of Agriculture already obtains for schools and other feeding outlets. It would not diminish the degree of commodity support provided to schools and other outlets. But simply allow the Secretary to set rules allowing food banks to have access to foods that might go unused or might be more effectively used by food banks for emergency aid. It would also allow the Department, in its regular commodity procurement activities, to plan for another potential outlet for foods and thereby make its purchasing more efficient, because foods that could not be used by a regular outlet would not be wasted or transported to another location. Instead, the local food bank could make use of the commodity in an efficient manner.

This authority for demonstration food bank projects carries on the precedent of Federal support for these efforts that were demonstrated in the 1976 Tax Reform Act. That act expanded the favorable tax treatment given to companies that donate foods to food banks and spurred the most recent surge of activity in this area. I believe that my amendment would allow us to find out if there are other ways of providing Federal support for private, volunteer food banks. They are a fine example of the American spirit of helping our neighbors and should be encouraged. I, therefore, urge adoption of this amendment.

Mr. President, my statement went into some detail on some negotiations that Senator EAGLETON, chairman of the Senate Committee on Agricultural Appropriations, and I have had with Secretary Bergland relating to this subject matter and the responses. The process now is about to go forward under the proposed amendment I have.

Mr. President, we have discussed this with the chairman of the committee and the manager of the bill, the Senator from South Dakota (Mr. McGOVERN). I believe that they are prepared to accept the amendment. I want in advance to thank the chairman and the ranking member, as well as the staff, for their consideration in helping us prepare the amendment, quite frankly, in a way that will be appropriate for the legislation presently before us.

Mr. McGOVERN. Mr. President, if the Senator from Arizona will yield, I have discussed this amendment with him. I find no problem with it.

Senator HELMS, the distinguished minority member who is manager of the bill, is not on the floor. He told me he did not have time to check with some of the Members on his side of the aisle, but he is not aware of any objection. However, if there is serious objection on the minority side, I told him that we would have to reserve the right perhaps to oppose this in conference.

I am not aware of any opposition to it and I think we can retain it in conference. I am happy to accept it.

Mr. DOLE. Will the Senator yield?

Mr. McGOVERN. Yes.

Mr. DOLE. Mr. President, I have been advised that Senator HELMS has no objection. He reserves the right, of course, if there is some new information, to object in conference, but at this time, he has none and is willing to accept the amendment.

Mr. DeCONCINI. Mr. President, I yield back the remainder of my time. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1443) was agreed to.

Mr. DeCONCINI. I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1444

Mr. McGOVERN. Mr. President, there is one technical amendment that does not change the bill in any substantive way. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted amendment numbered 1444:

On page 46, line 3, insert "residential" before "camp" and

On page 46, line 19, insert "residential" before "camps."

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

Mr. DOLE. If the Senator will yield, I want the RECORD to be clear there is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1444) was agreed to.

Mr. McGOVERN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McGOVERN. Have the yeas and nays been ordered on passage?

The PRESIDING OFFICER. They have not.

Mr. McGOVERN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Is the Senator asking for the yeas and nays on the pending House measure?

Mr. McGOVERN. Mr. President, I shall delay that request.

I yield to the Senator from Indiana.

UP AMENDMENT NO. 1445

(Purpose: To substitute a new alcohol processor grain reserve program for the trade suspension program provided for in section 8 of the bill)

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 1445.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, beginning with line 9, strike out all down through line 20 on page 17 and insert in lieu thereof the following:

SEC. 8. (a) As used in this section—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "processor" means any person engaged within the United States in the business of manufacturing grain into alcohol for use as a fuel either by itself or in combination with some other product.

(3) The terms "agricultural grain" and "grain" mean any agricultural commodity (A) which is suitable for processing into alcohol for use as a fuel, and (B) with respect to which a price support operation is in effect.

(4) The term "producer storage program" means the producer storage program provided for under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e).

(b) In order to effectively utilize those quantities of agricultural grain owned by the Commodity Credit Corporation that are surplus to the domestic consumption and export needs of the United States, including those quantities of grain acquired by such corporation as a result of the suspension by the President of export sales of grain to the Soviet Union, the Secretary shall subject to the availability of appropriations therefor, formulate and administer a program as provided in this section to encourage and assist persons engaged in the business of manufacturing grain into alcohol for use as fuel.

(c)(1) Except as provided in paragraph (3), on and after the date of the enactment of this Act, the total quantity of any grain that the Commodity Credit Corporation may sell for use in the manufacture of alcohol in any month may not exceed the total quantity of such grain, as determined by the Secretary, that was used in the United States in the preceding month to manufacture alcohol for use as a fuel.

(2) On and after the date of the enactment of this Act, grain owned or controlled by the Commodity Credit Corporation shall be sold at a price not less than the sale price in effect under section 407 of the Agricultural Act of 1949 at the time of the sale, except that, with respect to grain acquired by the Commodity Credit Corporation as a result of the suspension by the President of export sales of grain to the Soviet Union, such grain may be sold by such corporation at such price as the Secretary determines will encourage grain processors to purchase such grain for conversion into alcohol for use as a fuel, but no event may such grain be sold at a price less than the price at which grain (of the same kind) contained in the producer storage program may be sold (release price).

(3) The limitation on sales under paragraph (1) shall not apply to export sales for dollars made under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701–1715.)

(d)(1) In order to insure that persons engaged in the business of manufacturing alcohol for use as a fuel will have a dependable supply of grain at a reasonable price, the Secretary shall, subject to the availability of appropriations therefor, formulate and administer a program under which such persons may purchase and store grain needed by them for such purpose and obtain a loan from the Secretary on such grain. The Secretary shall carry out such program in a manner that is consistent with the objectives of the producer storage program, but no loans shall be made prior to October 1, 1980. No less than one-third of the loans made under the program shall be made to processors with the alcohol production capacity of not more than 5,000,000 gallons of alcohol for use as fuel in any year. For purpose of making loans under this section the Secretary shall not make loans to persons who are processors that produce 100,000,000 gallons or more of alcohol for use as fuel in any year. The loan program shall expire on the date five years after the date of enactment of this Act.

(2) Except as otherwise provided in this subsection, loans made under this subsection to carry out the processor grain reserve program shall be made on the same terms and conditions as loans made to carry out the producer storage program.

(3) The amount of the loan that the Secretary may make to an eligible processor at any time on any quantity of grain purchased by the processor shall be determined by multiplying the price support loan rate in effect for such grain at the time the loan is made times the quantity of grain purchased by the processor. The quantity of grain on which one or more loans may be outstanding at any time in the case of any processor may not exceed the estimated quantity of grain needed by such processor for one year of operation.

(4) Whenever any quantity of grain stored in the processor grain reserve under this subsection is removed from storage by a processor, the processor shall be required to replace such grain with an equal quantity, within such period of time as the Secretary shall prescribe by regulation, or repay that portion of the loan represented by the quantity of grain removed from storage.

(5) Grain on which an eligible processor has received a loan under this subsection may not be used for any purpose other than the manufacture of alcohol for use as a fuel, and the Secretary shall establish such safeguards as he deems necessary to assure that such grain is not used for any other purpose and is not utilized in any manner that would unduly depress, manipulate, or curtail the free market in such grain.

(6) Loans made under this subsection shall be made subject to such terms and conditions and subject to such security as the Secretary deems necessary to protect the interests of the United States and insure the success of the program provided for in this section, except that such loans may not be made as nonrecourse loans. Loans made under this section shall be made to the extent and in such amounts as provided in appropriation Acts.

(7) In carrying out the processor grain reserve program under this subsection, the Secretary shall—

(A) provide for the payment to processors of such amounts as the Secretary determines appropriate to cover the cost of storing grain held in the processor grain reserve, except that in no event may the rate of the payment paid under this paragraph for any period exceed the rate paid by the Secretary under the producer storage program for the same period;

(B) prescribe the rate of interest for loans made under this subsection based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest; and

(C) prescribe conditions under which the Secretary may require processors to repay loans made under this subsection, plus accrued interest thereon, refund amounts paid to the processors for storage, and require the processors to pay such additional interest and other charges as may be required by regulation in the event any processor fails to abide by the terms and conditions of the loan or any regulation prescribed under this subsection.

(8) The Secretary shall announce the terms and conditions of the processor grain reserve program as far in advance of making loans as practicable.

(9) The Secretary shall use the Commodity Credit Corporation, to the maximum extent feasible, to carry out the purposes of this subsection. The Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(e) (1) The Secretary is authorized to make a loan to any processor eligible for a loan under subsection (d) for the purpose of assisting such processor to construct or remodel a facility suitable for the storage of grain to be used by such processor in the manufacture of grain into alcohol for use as a fuel.

(2) Loans made under this subsection shall be made on the same terms and conditions as loans for onfarm storage facilities are made to farmers under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)), except that the storage capacity of any facility for which any loan may be made under this subsection may not exceed the storage capacity needed to store a quantity of grain needed for one year of plant operation.

(3) The authority to make loans under this subsection shall expire five years after the date of enactment of this Act.

On page 19, strike out lines 9 through 22.

Mr. BAYH. Mr. President, this amendment is designed to accomplish two important goals: Establish a new dependable market for our farmers and help us produce more domestic energy from renewable resources.

This amendment will immediately address the concerns that our farmers have that the recently embargoed grains will be allowed to reenter the markets at a time when commodity prices are rising and depress the market. Under my amendment this embargoed grain can be used only for the production of alcohol fuels. This will not only help the American farmer but will also assure our budding new gasohol industry that it will be guaranteed a dependable source of feedstocks for producing fuel grade alcohol.

This aproach will turn the suspended grains from a liability into an asset.

Briefly, here is how the Energy Independence Grain Reserve Act would work:

In the short term, the presently embargoed corn could be sold by the Commodity Credit Corporation only for alcohol fuel production. This will remove the threat of this grain reentering the market and depressing prices and will also insure that alcohol fuel producers will have a dependable source of feedstock supply. Over the next 2 to 3 years, this grain should be used up in producing alcohol fuels.

As this grain is removed, a longer-range program will begin taking effect. The energy independence reserve will work much like the present farmer-held reserves. Alcohol producers will receive a loan for placing crops into the reserve. This commodity can be removed only for the production of alcohol fuels.

Producers could hold up to 1 year's supply in the reserve. There would be encouragement to build up the reserve when prices were low—which would help to maintain reasonable market prices for farmers—and to withdraw commodities from the reserve when prices are high.

Looking into the future, I can foresee the energy independence grain reserve becoming a dependable new market for farmers, eliminating the need for costly set-aside and crop diversion programs. Indeed, these programs have been plagued with high costs to the taxpayers as well as participation by decreasing numbers of farmers. Last year, for example, less than a quarter of American farmers participated in the set-aside program. In 1978, it cost approximately $1.8 billion to idle 17 million acres of productive farmland under the set-aside program.

Survey after survey indicates that farmers do not want to be paid for not producing. They would prefer to earn an honest profit from what they do best: Farming. The energy independence grain reserve will make it possible for farmers to eventually produce as much as they can without sending prices through the floor.

I believe this amendment will serve in the short term to eliminate the fear that embargoed grains will end up depressing the market, and in the long term, will provide a vast new market for American farmers and a new domestic source of dependable energy-alcohol fuels. The benefits range from stabilizing the volatile grain market to helping to solve our energy problems.

There are a few significant points I should stress. First, the loan and reserve program would expire in 5 years. This should provide sufficient price stability for those groups currently contemplating getting into production.

Second, no loans would go to any alcohol producers with production capacity in excess of 100 million gallons per year. Any firm with a production capacity of that volume is either already producing alcohol—and does not need any further stimulus or grain market stability—or would have access to capital that would obviate the need for a loan.

Third, and equally important, at least one-third of the loan moneys would have to be made to facilities producing 5 million gallons of alcohol or less per year for fuel. Insuring that at least one-third of the loans are assured for our farmers and farmer cooperatives is extremely important. DOE has identified some 211 alcohol firms which DOE feels are "seriously considering" getting into the gasohol business. Of the 211, 177 would be 5 million gallons or less; 50 would be in the 1 to 5 million range. Most of the groups planning the 1 to 5 million gallon plants are farmer co-ops. So I believe it is very important that we make certain that at least one-third of the loans are reserved for the groups which my amendment—indeed Senator McGOVERN's amendment as well—is designed to serve: Our farmers and farmer cooperatives.

Mr. President, this amendment is identical in scope—although there have been some minor changes in the language so that it will not have a budgetary impact on this fiscal year—to the provisions of my Energy Independence Grain Reserve Act.

What this amendment does, as I explained, is take this embargoed grain, which is in the process of being purchased by the CCC, and spin it off into this energy reserve which can be used only for alcohol fuel production. It is our judgment that, with this incentive, there will be more people who will get into the production of alcohol. Our gasohol distillation capacity will then pick up. There will be an increased market for the farmers' grain in the long run in a dependable, domestic market not subject to embargoes or cutbacks. In the immediate, short term, the embargoed grain will be taken off the marketplace and be used only to produce gasohol.

The difference between keeping it in an energy independence reserve and the traditional CCC warehouses is that farmers have a rather sad history of what happens under the conventional way of doing things. It gets dumped back on the marketplace and thus has an unnatural, depressing effect on the marketing of corn. This is now contributing to the serious economic situation that exists in rural America.

Mr. President, I have checked this amendment with our distinguished colleague from South Dakota who wishes to be added as a cosponsor. I also understand that the Senator from Kansas wishes to be added as a cosponsor.

I ask unanimous consent that they be so added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Did the Senator from Idaho want to be added?

Mr. McGOVERN. Mr. President, Senator BAYH has discussed this proposal with a number of us on the committee. He is the chairman of the Alcohol Fuels Advisory Commission and is an authority on this bill, as well as a Senator very much interested in the agricultural producers of this country. I think his amendment, which I am happy to join as a cosponsor, is a practical and constructive amendment. I am more than happy to accept it.

Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, if the Senator will yield first, we have checked with the distinguished Senator from North Carolina. He has no objection, I understand. The Senator from Idaho would like to be a cosponsor of the amendment. I ask unanimous consent that he be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we are prepared to accept the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senator from Michigan, our distinguished Presiding Officer (Mr. LEVIN) also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment previously submitted by the Senator from Indiana, on his behalf and those of our other colleagues that were previously named, be substituted for section 8 in the amendment previously presented by the Senator from South Dakota and his colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment (UP No. 1445) was agreed to.

● Mr. JAVITS. Mr. President, I intend to vote for S. 2675, the Child Nutrition Amendments of 1980. I am disappointed by some of the provisions to which the Senate has agreed, but I have to vote for the bill to get it to conference because of my deep commitment to the programs in the bill and my belief in the importance of their continuation.

I do not support the concept of block grant funding for nutrition programs. The proposal agreed to establish what I feel may be an unfortunate precedent for food programs. Rather than moving toward a uniformity of benefits, this approach would leave nutrition services to the differences of individual States. Mr. President, I believe in avoiding unnecessary Federal interference by leaving to the States determinations which they are best equipped to handle, but we are not talking about a determination of where to build a housing project or how best to revitalize a community; we are talking about basic human needs which must be supplied on some uniform basis. Indeed what can be more basic than food—more fundamental than insuring proper nutrition for our Nation's children? The general arguments for State determination being more responsive to local needs, et cetera, simply do not apply. Every U.S. citizen needs equal substantive recognition.

There is no evidence that nutritional needs vary so widely among the States as to warrant separate strategies in each State. Where there are different needs within a State existing Federal programs already provide sufficient flexibility to address these differences.

Further, this program would cost at least an additional $14 million the first year for only six States to begin such a changeover. At a time when we are proposing cuts in program funding, expenditure of such additional sums for gratuitous program redesign is particularly inconsistent.

I am concerned too over the "turnback" issue: The efforts toward requiring States to administer the Federal summer feeding and child care programs. But I am pleased that the managers of the bill and I were able to work out a compromise on this matter. With the additional 2 years of time now provided, States will at least be able to prepare adequately to resume administration of their summer feeding programs.

Mr. President, I intend to cast my vote in support of S. 2675, the Child Nutrition Amendments of 1980. While some provisions cause me concern, this bill reaches its current form after long and careful consideration. Particularly in view of the substantial nature of the cuts mandated by the budget resolution, this bill is a reasonable and balanced measure, and I commend my colleagues the Senator from South Dakota (Mr. McGovern) and the Senator from North Carolina (Mr. Helms) for their efforts.

This bill contains several positive improvements in nutrition programs such as additional administrative funds for the summer feeding program.

Regarding the summer feeding program—which I have strongly supported—recent reports of the General Accounting Office and the USDA Inspector General indicate significant improvements have taken place in program administration. In view of such improvements I am pleased that this bill continues the summer feeding program—the need for child nutrition does not disappear with the advent of the summer.

Most significantly, this bill would extend the nonpermanently authorized child nutrition programs. These programs are of vital importance because they insure adequate food for our Nation's children—not only quantitatively, but also qualitatively and nutritionally.

Despite mandated cutbacks, the bill maintains the availability of these nutrition programs to children so that good nutrition and good nutrition habits will continue to be provided our Nation's children regardless of family income.●

Mr. ROBERT C. BYRD. Mr. President, the Child Nutrition Amendments of 1980, S. 2675, reauthorize 11 food assistance programs through fiscal year 1984. This bill makes very significant cost savings in child nutrition programs without reducing their effectiveness. Savings in this group of programs were recommended by the first concurrent budget resolution in the amount of $500 million for fiscal year 1981. The Agriculture, Nutrition, and Forestry Committee, and its Nutrition Subcommittee, have more than met that goal in this bill.

Outlays in fiscal year 1981 would be reduced by $520 million for the spending in child nutrition programs directly controlled by the Agriculture Committee. An additional $30 million in savings not controlled by the Agriculture Committee would also be made by this bill.

The school lunch, school breakfast, special milk, and other food programs extended by this bill are designed to aid the children of needy families and mothers with small children. Mr. McGovern, chairman of the Nutrition Subcommittee, is to be commended for all the work that he has done on these programs, for their development this year as in past years, and for bringing them within the current budgetary restraints.

The ranking minority member of the Nutrition Subcommittee, Mr. Dole, has devoted considerable energy to these programs as well.

The chairman of the Agriculture Committee, Mr. Talmadge, and the ranking minority member of the committee, Mr. Helms, have added their assistance to the evolution of this measure.

The distinguished junior Senator from Oklahoma, Mr. Boren, has had an active role in this legislative effort, and is to be commended for his skill and ingenuity.

Improvements made in the programs reauthorized by this bill will save money and help those truly in need. I support this measure and urge its adoption.

Mr. McGOVERN. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7664, Calendar 947, that all after the enacting clause be stricken and the language of S. 2675, as amended, be inserted in lieu thereof, and that the House bill be considered as having been read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 947, H.R. 7664, an act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such Acts, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 7664), as amended, was passed, as follows:

H.R. 7664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Amendments of 1980".

TITLE I—SCHOOL LUNCH AND CHILD NUTRITION

NATIONAL SCHOOL LUNCH PROGRAM

Sec. 101. Section 3 of the National School Lunch Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ": *Provided,* That beginning October 1, 1983, the Secretary shall not operate a program under either section 13 or section 17 of this Act.".

SCHOOL LUNCH PROGRAM, GENERAL REIMBURSEMENT

Sec. 102. Section 4 of the National School Lunch Act is amended by adding at the end thereof the following: "For any school food authority in which less than 60 percent of the lunches served in the program were served free or at reduced-price during the second preceding school year, the national average payment under this section, after being adjusted in accordance with the provisions of section 11(a) of this Act, shall be reduced by 2½ cents. The amount of State revenues appropriated or used for meeting the requirements under section 7 of this Act, and the amount of State administrative expense funds to be made available to the States by the Secretary under section 7 of the Child Nutrition Act of 1966 for the fiscal year beginning October 1, 1982, and each fiscal year thereafter, shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence".

DIRECT FEDERAL EXPENDITURES, COMMODITY ASSISTANCE

Sec. 103. Section 6 of the National School Lunch Act is amended by—

(1) striking out the second sentence of subsection (a); and

(2) amending section 6(e) to read as follows:

"(e)(1) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

"(2) For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch. Such amount shall be adjusted on an annual basis through the school year ending June 30, 1979, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. For the school year ending June 30, 1980, and subsequent school years, the amount specified by the first sentence of this paragraph, as adjusted for the school year ending June 30, 1979, in accordance with the second sentence of this paragraph, shall be adjusted on an annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions, which shall be computed using five major food components in the Producer Price Index published by the Bureau of Labor Statistics of the Department of Labor (cereal and bakery products; meats, poultry, and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 after the school year ending June 30, 1979, by the annual percentage change in the three-month simple average value of the Consumer Price Index for Foods Used in Schools and Institutions for March, April, and May of each year. The adjustments required by this subsection shall be computed to the nearest one-fourth cent. Beginning with the school year ending June 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as established and adjusted in this subsection, shall be reduced by 2 cents. Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

"(3) For the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based on the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966. The Secretary may, in subsequent school years, donate foods valued in an amount of 3 cents per school breakfast, and such amount may be adjusted on an annual basis to reflect changes in the Consumer Price Index for Food Used in Schools and Institutions.

"(4) Commencing with the school year ending June 30, 1982, and for each school year thereafter, the level of commodity support provided under this section shall be based on the number of meals served in the preceding school year.".

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 104. (a) Section 9(a) of the National School Lunch Act is amended by striking out in the third sentence "(and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school)".

(b) Section 9(b)(1) of the National School Lunch Act is amended by—

(1) striking out the second and third sentences and inserting in lieu thereof the following: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.";

(2) striking out in the eighth sentence "95" and inserting in lieu thereof "85";

(3) striking out in the ninth sentence "95" and inserting in lieu thereof "85";

(4) striking out the tenth sentence and inserting in lieu thereof the following: "Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year, except that only the income eligibility guidelines for reduced-price lunches (with an indication that the guidelines are lower for free lunches) may be included on the application for program participation or the descriptive material distributed by such local food authorities with the application. Determinations with respect to the annual incomes of any applicant household shall be made solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household. Local school authorities may for cause seek verification of the data in such application. Local school authorities shall notify all applicant households of their eligibility or ineligibility for free or reduced-price lunches and shall include the income eligibility guidelines in the notification.";

(5) striking out in the tenth sentence "sole" after "annual incomes of any household";

(6) striking out in the tenth sentence "for cause" after "local school authorities may";

(7) inserting in the tenth sentence ", at the discretion of the Secretary, such form to include as a condition for participation in the program, that such adult furnish the social security account numbers of all members of such household" after "adult member of such household";

(8) inserting in the tenth sentence "the Secretary, the State, and" before "such local school authorities may";

(9) inserting in the tenth sentence "and may utilize the social security account numbers provided in such application for the purpose of facilitating such verification" after "data in such application"; and

(10) striking the period at the end of the tenth sentence and inserting in lieu thereof the following: ": *Provided further*, That for the school year beginning July 1, 1980, the Secretary may prescribe procedures for implementing any revision made after July 1, 1980, in the income guidelines for free and reduced price lunches which may allow school food authorities to (A) distribute applications at the beginning of the school year, but require eligibility determinations be based on the income guidelines as amended by the Child Nutrition Amendments of 1980; (B) delay the distribution of applications for a reasonable period beyond the beginning of the school year, as determined by the Secretary, so that the applications may contain the amended income guidelines for reduced-price lunches; or (C) make eligibility determinations based on applications distributed at the beginning of the school year, but require that new applications containing the amended income guidelines for reduced-price lunches be distributed and eligibility determinations be based on those applications promptly upon enactment of the Child Nutrition Amendments of 1980. School food authorities utilizing the procedure set forth under clause (A) of the preceding sentence may delay eligibility determinations until the revised eligibility criteria are enacted and need not issue applications containing the revised eligibility criteria, although they shall make a public announcement of the revised eligibility criteria. The Secretary may prescribe procedures to ensure that children eligible for free or reduced price meals are able to receive such meals during any time prior to implementation of any revised eligibility criteria.".

(11) adding at the end thereof the following: "Notwithstanding any other provision of law, the Secretary shall conduct a pilot study to verify the data submitted on a sample of applications for free and reduced-price school meals. In conducting the pilot study under the preceding sentence, the Secretary may require households whose applications are included in the study to furnish social security numbers of all household members and such other information that the Secretary may require, including, but not limited to, income tax returns filed by household members, W-2 forms, pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers, as a condition for receipt of free or reduced-price school meals.".

(c) Section 9(b)(2) of the National School Lunch Act is amended by striking out "solely" after "of preceding sentence".

(d) Section 9(b) of the National School Lunch Act is amended by redesignating paragraph (2) as paragraph (3) and inserting the following new paragraph after paragraph (1):

"(2) In computing household income in all States except Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 a month for each household. Such standard deduction shall be adjusted every July 1 to the nearest $5 to reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the twelve months ending the preceding March 31. The first such adjustment shall be made on July 1, 1980, and shall reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the period September 1977 through March 1980. The monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for the contiguous States. The monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for the contiguous States.".

SPECIAL ASSISTANCE

SEC. 105. Section 11(a) of the National School Lunch Act is amended by—

(1) amending the fourth sentence to read as follows: "For the purposes of making special assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free and reduced-price lunches, respectively, during each school year of the three-school-year period shall be deemed to be the number obtained by multiplying the number of lunches served during each such year by the percentage of lunches served during the first school year of such period that were served to children eligible for free and reduced-price lunches, respectively, unless such school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period.";

(2) striking out in the fifth sentence ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater";

(3) striking out in the sixth sentence ", and on January 1, of each fiscal year, semiannual adjustments" and inserting in lieu thereof "an annual adjustment"; and

(4) striking out in the second proviso in the sixth sentence "six-month" and inserting in lieu thereof "twelve-month".

MISCELLANEOUS PROVISIONS AND DEFINITIONS, NATIONAL SCHOOL LUNCH ACT

SEC. 106. (a) Section 12(d) of the National School Lunch Act is amended by—

(1) inserting in paragraph (1) "the Commonwealth of the Northern Mariana Islands," after "American Samoa,"; and

(2) inserting in paragraph (6) "except Job Corps Centers funded by the Department of Labor" after "retarded".

(b) Section 12(f) of the National School Lunch Act is amended to read as follows:

"(f) In providing assistance for program payments in Alaska and Hawaii, the Secretary shall establish appropriate adjustments for each such State to the payment rates prescribed under sections 4, 11, 13, and 17 of this Act, and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the food program costs in such States and the food program costs in all other States. In providing assistance for program payments in Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish such adjustments.".

(c) The second sentence of section 12(h) of the National School Lunch Act is amended to read as follows: "In no event shall Federal reimbursement to school food authorities exceed the combined cost of operating both the school lunch and breakfast programs.".

(d) Section 12 of the National School Lunch Act is amended by adding the following new subsection at the end thereof:

"(i) Claims eligible for reimbursement for meals served during a fiscal year under this Act or the Child Nutrition Act of 1966 shall be limited to claims that are submitted to the appropriate State agency during such fiscal year or within ninety days after the end of such fiscal year, with the exception of claims so filed but subsequently amended as a result of an audit or investigation.".

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 107. (a) Section 13(a) of the National School Lunch Act is amended by—

(1) amending clause (B) of paragraph (1) to read as follows: "(B) 'service institutions' means any of the following nonresidential institutions and residential summer camps that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966: (i) public institutions; (ii) private nonprofit institutions that use self-preparation facilities to prepare meals or that obtain meals from a public entity (such as a school district, public hospital, or State university); (iii) private nonprofit school food authorities, including colleges and universities; (iv) private nonprofit institutions that serve meals primarily to migrant children; (v) camps; and (vi) private nonprofit institutions that purchase meals from a food service management company and serve meals to not more than two thousand children daily at not more than twenty locations;";

(2) inserting the following after the first sentence of paragraph (4): "If a school has not proposed to the State, by March 15 of any year, that it wishes to participate in the program, such school shall lose its priority for sponsorship under the preceding sentence. If a school proposes, after March 15, to operate the program and another service institution also proposes to serve the same area, the State shall select the service institution that it determines will operate the program most successfully. To ensure that maximum outreach has been conducted by States among schools, States shall inform all school food authorities that operate the school lunch program under this Act under the direction of the State agency, prior to March 15 of each year, regarding the eligibility of such school food authorities to participate. After March 15 of each year, States shall provide information upon request to any member of the public regarding whether any school has proposed to operate the program in an area. Each State shall establish a date for submission of applications and accept applications to operate the program after such date only when failure to do so would preclude the operation of the program in an area in which poor economic conditions exist or result in a significant number of needy children not having access to the program."; and

(3) adding the following at the end of paragraph (4): "States shall conduct active outreach efforts to identify service institutions eligible to participate in the program in areas in which there are large concentrations of low-income families, unless such areas are already adequately served by eligible institutions.".

(b) Section 13(b) of the National School Lunch Act is amended by—

(1) amending paragraph (2) to read as follows:

"(2) Any service institution may serve lunch and either breakfast or a supplement during each day of operation, and any service institution that is a residential camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that residential camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements."; and

(2) amending paragraph (4) to read as follows:

"(4) The Secretary may authorize States to—

"(A) permit service institutions that prepare their own meals to use a preapproved portion of the reimbursement that is otherwise available for operating costs under paragraph (1) for administrative costs; and

"(B) permit service institutions that prepare their own meals to use a preapproved portion of the reimbursement that is otherwise available for administrative costs under paragraph (3) for operating costs.".

(c) Section 13(e) of the National School Lunch Act is amended by adding the following new paragraphs at the end thereof:

"(3) Each fiscal year the Secretary shall make available to States administering the program, for purposes of conducting audits of all participating service institutions, an amount up to 2 percent of the funds expended by each State in the program under this section, during the preceding fiscal year.

"(4) Service institutions that are required to have an audit conducted of their program in accordance with standards developed by the Secretary shall receive final payment as soon as the results of the audits have been received, reviewed, and approved by the State.".

(d) Section 13(k)(1) of the National School Lunch Act is amended to read as follows:

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year $30,000 plus—

"(A) 20 percent of the first $50,000 in funds distributed to such State for the program in the preceding fiscal year;

"(B) 10 percent of the next $100,000 distributed to such State for the program in the preceding fiscal year;

"(C) 5 percent of the next $250,000 in funds distributed to such State for the program in the preceding fiscal year; and

"(D) 2½ percent of any remaining funds distributed to such State for the program in the preceding fiscal year.

The amount paid to each State shall not exceed 33⅓ percent of the program funds expended in the State during the preceding fiscal year. The Secretary may adjust the amount paid to any State to reflect changes in the size of the program in such State since the preceding fiscal year. Any State that receives funds under this subsection shall hire and retain at least one person who, on a year-round basis, shall administer the program and provide technical assistance to potential program sponsors.".

(e) Section 13(k) of the National School Lunch Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and inserting the following new paragraph (2) after paragraph (1):

"(2) The Secretary may establish criteria under which additional funds may be provided to a State for its administrative costs if a State justifies to the Secretary that such State would otherwise have insufficient resources available to ensure program integrity.".

(f) Section 13(m) of the National School Lunch Act is amended to read as follows:

"(m) States and service institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued under this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for a period of time, not to exceed five years, determined by the Secretary to be necessary. The Secretary may establish special procedures for the conduct of audits of participating service institutions in order to ensure program integrity.".

(g) Section 13(p) of the National School Lunch Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

COMMODITY DISTRIBUTION PROGRAM

SEC. 108. Section 14 of the National School Lunch Act is amended by—

(1) striking out in subsection (a) "September 30, 1982" and inserting in lieu thereof "September 30, 1984"; and

(2) adding at the end thereof the following new subsection:

"(f) Each State agency that distributes agricultural commodities and other foods to schools participating in the programs under this Act shall establish procedures so that any school may request and receive, to the extent practicable, the desired amounts and types of commodity assistance available to the State during any school year. When offered commodities are not accepted by a school during any school year, alternate commodities shall be offered for delivery if available to the State during the same school year. For the purposes of this subsection, 'alternate commodities' shall not include any commodities that are available from the stocks of the Commodity Credit Corporation and designated by the Secretary as bonus commodities that are above the level of assistance to be provided to the State under section 6(e) of this Act.".

NATIONAL ADVISORY COUNCIL

SEC. 109. (a) Section 15(a) of the National School Lunch Act is amended by—

(1) striking out in the first sentence "nineteen" and inserting in lieu thereof "eighteen";

(2) striking out in the second sentence "a person engaged in child welfare work" and inserting in lieu thereof "a representative of a nonprofit organization that has experience with, and knowledge of, the child nutrition programs";

(3) striking out in the second sentence "a person engaged in vocational education work" and inserting in lieu thereof "a person involved with the operation of the child care food program, a person involved with the operation of the summer food service program for children, and a person who is a State coordinator of the nutrition education and training program";

(4) striking out in the second sentence "four members shall be officers or employees" and inserting in lieu thereof "one member shall be an officer or employee";

(5) striking out "their" in the second sentence; and

(6) inserting the following at the end thereof: "One such member shall also be a representative of a private school.".

(b) Section 15(b) of the National School Lunch Act is amended by striking out "fifteen" and inserting in lieu thereof "seventeen".

(c) Section 15(f) of the National School Lunch Act is amended by striking out "annually" and inserting in lieu thereof "biennially".

CHILD CARE FOOD PROGRAM

SEC. 110. (a) Section 17(c) of the National School Lunch Act, is amended by—

(1) striking out "and January 1" each place it appears in paragraph (1), (2), and (3);

(2) striking out "six-month" the second time it appears in each of paragraphs (1), (2), and (3) and inserting in lieu thereof "twelve-month"; and

(3) inserting the following at the end of paragraphs (1), (2), and (3): "The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.".

(b) The second sentence of section 17(h) of the National School Lunch Act is amended by striking out "that school year" the first time it appears and inserting in lieu thereof "the preceding school year".

(c) Section 17(n)(1) of the National School Lunch Act is amended by striking out "$6,000,000" and inserting in lieu thereof "$4,000,000".

(d) Section 17(q) of the National School Lunch Act is amended by adding the following at the end thereof: "The Secretary may establish special procedures for the conduct of audits of participating institutions in order to insure program integrity.".

(e) Section 17 of the National School Lunch Act is amended by redesignating subsection (r) as subsection (s) and inserting the following new subsection (r) after subsection (q):

"(r) The Secretary may require each State to establish a standard form of contract for use by institutions in purchasing meals. The Secretary may prescribe requirements governing bid and contract procedures for the purchase of meals, including, but not limited to, procedures for the review and approval of contracts by States, provisions to insure maximum free and open competition, and safeguards to prevent collusion.".

PILOT PROJECTS

SEC. 111A. Section 20 of the National School Lunch Act is amended to read as follows:

"PILOT PROJECTS

"SEC. 20. (a)(1) The Secretary shall conduct two-year pilot projects with respect to local school districts, for the purpose of determining whether there may be more efficient, economical, and reliable methods of operating the commodity distribution program under section 14 with respect to the school lunch program under this Act.

"(2) Such projects shall, notwithstanding any other provision of law, provide that (A) fifty school districts may receive all cash assistance in lieu of commodities for the school lunch program operated in such school districts, and (B) fifty school districts may receive all commodity letters of credit in lieu of commodities for the school lunch program operated in such school districts.

"(3) School districts selected for the pilot projects shall represent a variety of school districts nationwide, and shall be selected by stratified random sample from among all school districts. Federal and State authorities shall monitor the activities carried out under this section in order to insure the objectivity of the projects. In addition to the school districts selected for participation in the projects under this subsection, the school districts that participated in the cash in lieu of commodities program conducted by the Secretary pursuant to this section as previously amended by the National School Lunch Act and Child Nutrition Amendments of 1978 shall be given the option to participate in the cash in lieu of commodities pilot project authorized by this section.

"(b)(1) The Secretary shall conduct a study to analyze the impact and effect of the pilot projects carried out under this section. Such study shall include an assessment of the administrative feasibility and nutritional impact of cash payments and letters of credit in lieu of donated foods, the cost savings, if any, that may be effected thereby at the Federal, State, and local levels, any additional costs that may be placed on programs and participating students, the impact on Federal programs designed to provide adequate income to farmers, the impact on the quality of food served, the impact on plate waste in school lunch, the impact on local economies, and the impact on marketing, locally, and regionally, and nationally, of the commodities used in the school lunch program (with special emphasis on milk and other dairy products) and beef and other meat products. The Secretary shall report to Congress, not later than December 15, 1983, on the results of the pilot projects and study conducted under this section. Any school district participating in one of the two-year pilot projects under this section shall be permitted to continue to participate in such project during the school year beginning September, 1983.

"(2) The General Accounting Office shall conduct an indepth analysis of the current commodity distribution program as provided in section 14 and make recommendations to Congress regarding necessary improvements in such program to make such program more efficient, economical, healthful, and reliable. Such recommendations shal be forwarded to the Congress within one year of the enactment of this Act.

REDESIGNATION

SEC. 112. The National School Lunch Act is amended by redesignating section 22 (relating to study of menu choice) as section 23.

CONGRESSIONAL REVIEW AND INCLUSION OF WHOLE MILK IN THE SCHOOL LUNCH PROGRAM

SEC. 113. The National School Lunch Act is amended by adding the following new sections at the end thereof:

"CONGRESSIONAL REVIEW

"SEC. 24. (a)(1) Concurrently with the publication in the Federal Register of any final regulation of general applicability under this Act or the Child Nutrition Act of 1966, such regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such regulation shall become effective not less than forty-five days after such transmission unless Congress shall, by concurrent resolution, find that the regulation is inconsistent with the Act from which it derives its authority, and disapprove the regulation.

"(2) The failure of Congress to adopt a concurrent resolution under paragraph (1) with respect to any final regulation under this Act or the Child Nutrition Act of 1966 shall not represent, with respect to such regulation, an approval or finding of consistency with the Act from which the regulation derives its authority for any purpose; nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

"(3) For purposes of this section, the term 'regulation' means any rule, regulation, guideline, interpretation, or requirement of general applicability. However, the term 'regulation' shall not include any rule, regulation, guideline, interpretation, or requirement of general applicability the issuance of which is nondiscretionary by the Secretary because the action is required by an amendment to this Act or the Child Nutrition Act of 1966 contained in the Child Nutrition Amendments of 1980 or subsequent acts or court order, or when issued by the Secretary to meet an emergency situation if the Secretary determines that the provisions of this section will render such action ineffectual.

"(b) The forty-five-day period specified in subsection (a) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, subject to the call of the Chair, or to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment that lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days have elapsed unless, during such thirty calendar days, either the Committee on Education and Labor of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate shall have directed its chairman, in accordance with the rules of the committee and the rules of the applicable House, to transmit to the Secretary of Agriculture a formal statement of objection to the final regulation. The transmittal of such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which Congress may adopt the concurrent resolution provided for in this section. No such final regulation shall become effective until the forty-five-day period has elapsed, as provided for in this section, for both Houses of Congress.

"(c) Whenever a concurrent resolution of disapproval is adopted by Congress under the provisions of this section, the Secretary may issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved, and how the agency believes the modification disposes of the findings by Congress in the concurrent resolution of disapproval.

"(d) The provisions of this section shall be effective with respect to (1) any regulation or amendment thereto promulgated on or after the date of the enactment of the Child Nutrition Amendments of 1980, and (2) any regulation relating to the Assessment, Improvement, and Monitoring System, for which a proposed rule was published in the Federal Register on October 25, 1979.

"INCLUSIONS OF WHOLE MILK IN THE SCHOOL LUNCH PROGRAM

"SEC. 25. Whenever a lunch eligible for Federal cash reimbursement under this Act is required by regulation to contain unflavored, fluid lowfat milk, skim milk, or buttermilk as a lunch beverage, whole milk shall also be offered.

"STATE RESPONSIBILITIES

"SEC. 26. (a) Each State shall be responsible for the proper, effective, and efficient administration of each program carried out by such State under this Act or the Child Nutrition Act of 1966. If the Secretary determines that any State is failing to administer any such program in accordance with the provisions of this Act or the Child Nutrition Act of 1966 (other than section 17), or in accordance with any regulation issued under either such Act, and that such failure is a serious deficiency in the administration of such program, the Secretary, after consultation with the chief State school officer of such State or with any other appropriate official of such State, shall inform the State of the deficiency and shall give the State a specified period of time to correct the deficiency. If the State does not take sufficient actions to correct the deficiency within the specified period, the Secretary may withhold from the State all or any portion of the funds allocated to the State under section 13(k) of this Act or section 7 of the Child Nutrition Act of 1966, as appropriate. Upon a later finding by the Secretary that the program is being administered in an acceptable manner, any or all of the funds withheld may be allocated to the State.

"(b) If the Secretary determines that there is failure by a State to comply with any provision of this Act or the Child Nutrition Act of 1966, or any regulation issued under either such Act, the Secretary may request the Attorney General of the United States to seek injunctive relief to require compliance with such Act or regulation. The Attorney General may seek such relief in any United States district court having competent jurisdiction. Such injunctive relief shall be in addition to any other action the Secretary is authorized to take under this Act or the Child Nutrition Act of 1966.".

SPECIAL MILK PROGRAM

SEC. 114. Section 3 of the Child Nutrition Act of 1966 is amended by—

(1) inserting in the second sentence "the Commonwealth of the Northern Mariana Islands," after "American Samoa,"; and

(2) inserting the following after the seventh sentence: "Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.".

SCHOOL BREAKFAST PROGRAM

SEC. 115. (a) Section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "on a semiannual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(2) striking out "six-month" and inserting in lieu thereof "twelve-month".

(b) Section 4(d) of the Child Nutrition Act of 1966 is amended by inserting the following after the first sentence: "Beginning with the school year ending June 30, 1982, all schools under the jurisdiction of a school food authority shall qualify for such additional assistance for severe need if—

"(1) during the second most recent preceding school year for which lunches were served, 40 percent or more of the lunches served to students attending schools under the jurisdiction of the school food authority were served free or at a reduced-price;

"(2) the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program; and

"(3) all of the schools under the jurisdiction of such school food authority that serve 25 percent or more of their school lunches free or at a reduced-price are participants in the school breakfast program.

A school food authority may not receive districtwide additional assistance for severe need if such school food authority qualified for such assistance, under the criteria established in the preceding sentence, as a result of its termination of a school feeding program in any of its schools.".

FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 116. (a) Section 5(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"(a) There is authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for each succeeding fiscal year, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act and in the National School Lunch Act.".

(b) Section 5(e) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "September 30, 1978, September 30, 1979, and September 30, 1980," and inserting in lieu thereof "September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984,"; and

(2) striking out the fifth and sixth sentences and inserting in lieu thereof: "If, at the end of the first six months in any fiscal year, any funds so withheld for a State have not been obligated, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b).".

STATE ADMINISTRATIVE EXPENSES

SEC. 117. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended by—

(1) striking out the period at the end of the second sentence in paragraph (1) and inserting the following in lieu thereof: "to the agency responsible for the administration of the programs authorized under the National School Lunch Act and this Act, except section 17 of this Act. Such funds, and State funds specified under subsection (h), shall be used to insure the proper, effective, and efficient State administration of programs conducted under the National School Lunch Act and this Act, except section 17 of this Act."; and

(2) amending paragraph (5) to read as follows:

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be available to the State for use as needed in meeting the costs of administration of programs authorized under the National School Lunch Act and this Act, except section 17 of this Act.".

(b) Section 7(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) The Secretary shall establish a date for the submission of a plan each year by each State for the disbursement of funds provided under this section and the Secretary shall reallocate any unobligated funds, as evidenced by such plans, to other States as the Secretary deems appropriate.".

(c) Section 7(i) of the Child Nutrition Act of 1966 is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

MISCELLANEOUS PROVISIONS AND DEFINITIONS, CHILD NUTRITION ACT OF 1966

SEC. 118. (a) Section 15(a) of the Child Nutrition Act of 1966 is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "American Samoa,".

(b) Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting "except Job Corps Centers funded by the Department of Labor" after "retarded".

ACCOUNTS AND RECORDS

SEC. 119. Section 16 of the Child Nutrition Act of 1966 is amended by adding the following at the end thereof: "The Secretary may determine the amount of any claim arising under the provisions of this Act, the National School Lunch Act, or the regulations issued under such Acts, settle and adjust any such claim, and compromise or deny all or any part of any such claim.".

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 120. (a) Section 17(c)(2) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "and" after "1981,"; and

(2) inserting ", September 30, 1983, and September 30, 1984" after "1982".

(b) Section 17(f)(3) of the Child Nutrition Act of 1966 is amended to read as follows:

"(3)(A) Each State agency shall set aside program funds that are sufficient to serve and provide benefits to migrant farmworkers. The amount of such set-aside shall be based on regulations promulgated by the Secretary which, for each State, shall take into account the number of migrant farmworkers in the eligible program population, including the number of migrant farmworkers projected to come into each State, the length of time such migrant farmworkers will remain in the State, and the administrative funds necessary to serve such migrant farmworkers.

"(B) The Secretary shall review and evaluate the projections of funding needs of migrant farmworkers in each State under this paragraph and ensure that funds set aside to serve migrant farmworkers are used for such purposes. The Secretary shall establish procedures under which migrant farmworkers who have been certified to participate in the program shall continue to receive program benefits, to the maximum extent practicable, on a timely basis whenever such migrant farmworkers leave a State or project area and travel to another State or project area that is operating the program.

"(C) In each State plan of operation the State agency shall describe how it intends to spend the funds set aside for migrant farmworkers, including the funding of local agencies that can initiate the program in areas in which large numbers of migrant or seasonal farmworkers are employed or reside, and giving a preference in such funding to migrant health agencies and farmworker organizations that have access to health services in such areas. In developing this portion of the State plan of operation, the State agency shall consult with appropriate organizations representing migrant and seasonal farmworkers. The State shall undertake, in conjunction with organizations representing migrant and seasonal farmworkers, outreach services in areas in which large numbers of migrant and seasonal farmworkers are employed and reside, and the State may pay, out of the administrative funds provided under subsection (h), expenses incurred by organizations representing migrant and seasonal farmworkers in the undertaking of outreach activities. The Secretary shall establish a definition of 'migrant farmworker' for the purposes of this section.".

(c) Section 17(f) of the Child Nutrition Act of 1966 is amended by—

(1) inserting a period after "commercially available" and striking all that follows in the third sentence of paragraph (12); and

(2) inserting "bilingual personnel and" after "appropriate" in paragraph (14).

(d) Section 17(g) of the Child Nutrition Act of 1966 is amended by striking out "$950,000,000 for the fiscal year ending September 30, 1982," and inserting in lieu thereof "such sums as may be necessary to increase program participation by 300.000 persons for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, over the number of participants in the program in the preceding fiscal year.".

(e) Section 17(h) of the Child Nutrition Act of 1966 is amended by—

(1) striking out in paragraph (2) "1982" and inserting in lieu thereof "1984";

(2) adding the following at the end of paragraph (2): "The Secretary may make available administrative funds in excess of the funds otherwise provided under this subsection to the States based on the number of local agencies serving migrant farmworkers and the number of migrant farmworkers served."; and

(3) adding the following new paragraph at the end thereof:

"(5) With respect to local agencies that demonstrate to the satisfaction of the State agency that advance funding of administrative expenses is necessary to administer the program in an effective and efficient manner, the State agency shall forward in advance an amount equal to the projected administrative costs of such agencies for a period of time, not to exceed three months, as determined by the State agency.".

(f) Section 17(i) of the Child Nutrition Act of 1966 is amended by inserting the following after the second sentence: "The Secretary, in formulating any such reallocation, shall take into account any unanticipated changes in the movements of migrant farmworkers from one State to another and shall not reallocate unspent program funds set aside for serving migrant farmworkers if there is a likelihood that such funds will be spent during the course of the fiscal year. If any such funds are reallocated, the Secretary shall give first preference in reallocating such funds to States that need additional funding to serve migrant farmworkers. Within forty-five days after any reallocation of funds under this subsection by the Secretary from one State to another, each State agency shall determine whether any of its local agencies are unable to spend the funds allocated to them. If any local agencies are deemed unable to spend such funds, the State agency shall reallocate the projected unexpended funds to either new local agencies in the State or local agencies in the State that are seeking, and that have the capability, to serve additional eligible persons.".

(g) Section 17 of the Child Nutrition Act of 1966 is amended to add a new sentence at the end of subsection (c)(1) as follows: "No local agency shall be required to apply for, or carry out, any special supplemental food program established by this Act.".

NUTRITION EDUCATION AND TRAINING

SEC. 121. (a) (c) Section 19(j) of the Child Nutrition Act of 1966 is redesignated as section 19(i).

(b) Section 19(i) of the Child Nutrition Act of 1966 (as redesignated by subsection (c)) is amended by—

(1) striking out in paragraph (2) "the fiscal year beginning October 1, 1979," and inserting in lieu thereof "the fiscal years beginning October 1, 1979, and October 1, 1980, October 1, 1981, and October 1, 1982, and October 1, 1983,";

(2) adding the following at the end of paragraph (2): "There is authorized to be appropriated not more than $15,000,000 for the fiscal year beginning October 1, 1980."; and

(3) amending paragraph (3) to read as follows:

"(3) The enrollment data used for purposes of this subsection shall be the latest available to the Secretary.".

PROMULGATION AND IMPLEMENTATION OF REGULATIONS

SEC. 122. (a) The Secretary shall promulgate final regulations to effectuate the amendments made by sections 106(b), 106(d), 116(b)(2), and 120(b) of this Act by no later than January 1, 1981, and the Secretary shall promulgate final regulations to effectuate the amendments made by sections 104(a), 108(2), 115(b), 115(c), and 120(c) of this Act by no later than January 1, 1981. All other provisions shall be promulgated as expeditiously as possible.

(b) Regulations implementing the provisions of sections 102, 103(2), 104(b), 104(c), 105(2), 105(3), 105(4), 106(a)(2), 110(a), 110(b), 114(2), 115(a), and 118(b) of this Act shall be issued as soon as practicable. In no event shall such regulations be issued and become effective later than October 1, 1980. Regulations implementing the provisions of sections 107(a)(1) and 107(b)(1) of this Act may be issued in accordance with the requirements of section 13(g) of the National School Lunch Act and shall be effective for the fiscal year 1981 summer food service program for children.

ANNOUNCEMENT OF WHEAT SET-ASIDES

SEC. 123. Section 107A(f)(1) of the Agricultural Act of 1949 is amended by striking out "August 15" and inserting in lieu thereof "August 1".

FOOD BANK DEMONSTRATION PROJECTS

SEC. 124. (a) The Secretary of Agriculture shall carry out demonstration projects to provide agricultural commodities and other foods which might not otherwise be used, or might be more effectively used by organizations assisted under this section, to community food banks for emergency food box distribution to needy individuals and families. Notwithstanding any other provisions of law, the Secretary of Agriculture shall make available for purposes of such demonstration projects, agricultural commodities and other foods available to the Secretary of Agriculture pursuant to section 416 of the Agricultural Act of 1949 (63 Stat. 1058, 7 U.S.C. 1431), section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212, 7 U.S.C. 1446a–1), and section 32 of the Act of August 24, 1935 (49 Stat. 750, 7 U.S.C. 612c). For purposes of distributing agricultural commodities and other foods to community food banks under this section, the Secretary of Agriculture may, in consultation with State agencies, utilize food distribution systems currently used to distribute agricultural commodities and other foods under the National School Lunch Act and Child Nutrition Act of 1966. The Secretary of Agriculture shall select food banks, in consultation with the Director of the Community Services Administration, for participation in the demonstration projects under this section. Such food banks shall represent an adequate geographic distribution of emergency food box programs in at least two but no more than seven Department of Agriculture regions.

(b)(1) No food bank may participate in its demonstration projects conducted under this section unless an application therefor is submitted to and approved by the Secretary of Agriculture. Such application shall be submitted in such form and manner and shall contain such information as the Secretary of Agriculture shall prescribe.

(2) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and other foods provided under this section. The Secretary of Agriculture shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary of Agriculture shall determine the quantities and types of agricultural commodities and other foods to be made available under this section. The Secretary of Agriculture may prescribe regulations regarding the designation of eligible participants in the projects and any other regulations necessary to carry out this section.

(d) The Secretary of Agriculture shall submit a report to Congress on October 1, 1982, regarding the demonstration projects carried out under this section. Such report shall include an analysis and evalution of Federal participation in food bank emergency food programs, the effectiveness of such participation, and the feasibility of continuing such participation. The Secretary of Agriculture shall also include in such report any recommendations regarding improvements in Federal assistance to community food banks, including assistance for administrative expenses and transportation.

(a) The sale of food provided under this section shall be prohibited and any person who receives any remuneration in exchange for food provided under this section shall be subject to six months in jail or $1,000 fine, or both.

(f) There is authorized to be appropriated to carry out this section $356,000.

TITLE II—CONSOLIDATION PROGRAM

STATEMENT OF PURPOSE

SEC. 201. (a) It is the purpose of this title to afford to the States the option of consolidating and reorganizing the following food assistance programs presently being provided the States under existing laws:

(1) the child feeding programs provided for under the National School Lunch Act and the Child Nutrition Act of 1966;

(2) the expanded food and nutrition education program provided for under the Smith-Lever Act; and

(3) the commodity supplemental food program.

(b) It is the further purpose of this title to permit those States which select the consolidation and reorganization program authorized by this title greater flexibility in the use of Federal funds provided for food and nutrition assistance than such States presently have under the separate programs described in subsection (a); to permit the States to formulate, establish, and administer food and nutrition programs which best meet the nutritional needs of their people; to develop effective methods of educating their citizens regarding the health consequences of diet and nutrition; and to encourage the States to operate food and nutrition programs in an efficient and effective manner.

DEFINITIONS

SEC. 202. As used in this title—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. Such term also includes any agency designated in accordance with applicable

State law to receive and disburse funds made available under this title.

CONSOLIDATED PROGRAM OPTION

SEC. 203. (a) Any State may, upon application to the Secretary and subject to the other provisions of this title, participate in the consolidated program provided for in this title. Any State which elects and qualifies to participate in such program shall receive the funds it would have otherwise received under—

(1) the programs provided for under the National School Lunch Act and the Child Nutrition Act of 1966, including the special supplemental food program provided for pregnant women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966;

(2) the expanded food and nutrition education program provided for under the Smith-Lever Act;

(3) any other program which is enacted after the effective date of this title, administered by the Department of Agriculture, and provides food assistance to needy persons or provides nutrition information or education to the citizens of the several States, unless the legislation enacting such program specifically provides otherwise.

(b)(1) Any State which elects to participate in the consolidated program in lieu of the categorical programs described in subsection (a) may withdraw its election to participate in the consolidated program and continue participation in the categorical programs if such State withdraws its election at any time prior to the beginning of the first fiscal year it would have been eligible to receive funds (other than planning funds) under the consolidated program.

(2) Any State which has participated in the consolidated program for at least two fiscal years may terminate its participation in such program upon written notice to the Secretary at least sixty days prior to the end of any fiscal year.

(3) A State which terminates its participation in the consolidated program as provided in paragraph (2) shall become eligible to participate in the categorical programs described in subsection (a) at the beginning of the fiscal year following the fiscal year in which participation in the consolidated program ends.

(c) All States which elect to participate in the consolidated program shall begin participation at the beginning of a fiscal year. In no case may a State participate in the consolidated program and in one or more of the categorical programs described in subsection (a) in the same fiscal year.

(d) Notwithstanding any other provision of this title, not more than six States may participate in the consolidated program under this title at any one time. Those States which first meet the requirements of this title for participation shall be selected for participation in the consolidated program.

CONSOLIDATION PROGRAM PAYMENTS

SEC. 204. (a) Each State which elects and qualifies under this title to receive funds for carrying out the consolidated program provided for in this title shall be paid by the Secretary of the Treasury each fiscal year such amount as shall be certified to him by the Secretary.

(b) The Secretary shall certify for payment in the case of any State participating in the consolidated program in any fiscal year an amount equal to the total amount received by such State under the categorical programs described in section 203(a) in the most recent four consecutive quarters during which such State received funds under such programs and for which the necessary information is available. In no case shall the amount certified for payment in any fiscal year in the case of any State which participated in the consolidated program in the preceding year be less than the amount such State received under this subsection in such preceding year.

(c) The amount to which any State is entitled under this section shall be adjusted each fiscal year to reflect changes in the preceding fiscal year in the prices of food as published by the Bureau of Labor Statistics, Department of Labor.

(d) The Secretary shall submit to the Congress, not later than one year after the date of the effective date of this title, specific recommendations for legislation to provide an equitable adjustment in the amount of the payment to be made to any State participating in the consolidated program under this title whenever there has been a significant gain or loss in the population of such State.

PLANNING GRANTS

SEC. 205. (a) Any State desiring to participate in the consolidated program authorized by this title may, for the purposes of preparing a consolidated plan in accordance with this title, receive a planning grant for use in not more than two consecutive fiscal years. Any State desiring to receive a planning grant under this section shall file an application at such time, in such manner, and including such information as the Secretary may reasonably require consistent with this section. Each such application shall include, but not be limited to provisions which—

(1) describe the objectives to be achieved in the development of the State plan with assistance made available under this title,

(2) set forth procedures to assure an opportunity for comments to be submitted by the chief executive of the State,

(3) set forth assurances that the comprehensive State plan required under section 208 will be prepared in accordance with section 207, and

(4) describe procedures for the promulgation of regulations for the State administration of the programs consolidated by this title.

(b) The maximum amount of a grant which a State may receive under this section is equal to not more than 2 per centum of the total amount of funds allocated to that State under the programs described in section 203(a) in the most recent fiscal year, and the minimum amount is $500,000.

STATE ADMINISTRATION

SEC. 206. (a) Each State desiring to receive funds for the consolidation program authorized by this title for any fiscal year shall—

(1) designate, as provided by the constitution and laws of the State, the single State agency within the State which will be responsible for—

(A) assessing the food and nutrition needs of the neediest population of the State;

(B) formulating the State plan provided for under section 208;

(C) receiving and apportioning the funds (Federal and State) made available for carrying out in such State the consolidated program provided for in this title;

(D) monitoring on a continuing basis the progress of the programs carried out in such State under this title;

(E) preparing the general guidelines for the State plan; and

(F) examining all reports and audits required in connection with the consolidated program carried out in such State under this title;

(2) publish prior to the first year of consolidated assistance made to that State under this title, and each third year thereafter, a three-year comprehensive State plan which—

(A) is developed in accordance with the procedures described in section 207, and

(B) contains the provisions designed to meet the requirements of section 208,

(3) develop and publish an annual update of the comprehensive State plan, and

(4) certify to the Secretary that it has developed and published the comprehensive State plan or annual update in accordance with the provisions of this title.

(b) A State desiring to receive funds for the consolidation program authorized by this title for any fiscal year shall, in addition to the requirements of subsection (a), provide for—

(1) an audit of expenditure for each program year as provided in the State plan;

(2) an annual evaluation of the implementation of the State's final comprehensive plan, and any amendment thereto, adopted under section 207; and

(3) an annual report of that audit and evaluation which report shall include—

(A) such information as the Secretary may prescribe consistent with the consolidation and provisions of this title, and

(B) assurance that funds were expended in accordance with the title and the comprehensive State plan.

PROCEDURE FOR DEVELOPING THE COMPREHENSIVE STATE PLAN

SEC. 207. Each State shall, in the development of the comprehensive State plan, establish procedures designed to assure that—

(1) a comprehensive assessment is made to determine the food and nutritional needs of the people of the State, such assessment to include, but not limited to, the children, infants, expectant mothers, elderly people, institutionalized populations, and isolated populations of the State who are living in circumstances of poverty or who are unable to provide themselves with an adequate nutritional diet;

(2) a comprehensive assessment is made to determine the need for food and nutrition education among the people of the State, including segments of the State's population which may be suffering from overnutrition as well as those segments which may be suffering from inadequate nutrition;

(3) procedures are established for obtaining, prior to and during the development of the comprehensive State plan, the participation of interested citizens, local organizations, health care providers, child care providers, educational agencies and institutions, units of general local government, and appropriate State agencies;

(4) the legislature of the State will be informed of the development of the procedures required by this subsection;

(5) programs will be identified in terms of priorities for which funds will be alloted, distributed, and expended;

(6) the use of funds for purposes described in this title will be coordinated with the use of State, local, and Federal funds (including commodities) made available for similar purposes;

(7) the use of funds for purposes described in this title will be coordinated with each other and other Federal programs to avoid duplication of effort;

(8) the proposed comprehensive State plan or the annual update thereof will be published at least one hundred and eighty days prior to its effective date and such plan or update thereof will be available to interested patries and to local agencies within the State, and comment on such plan will be accepted from interested persons for a minimum of thirty days after such publication;

(9) a final comprehensive State plan, or annual update thereof, will be published and made generally available prior to its effective date together with a summary of the comments received and an explanation of the differences between the proposed plan and the final plan and the reasons for such differences;

(10) any amendment to the final comprehensive State plan prepared by the State agency designated pursuant to section 206 (a)(1) will be published as a proposed amendment on which the public may comment for a period of at least thirty days,

and thereafter the final agreement, together with a summary of the comments received and the action taken on such comments, will be published;

(11) procedures will be established to assure that regulations and rules established, amended, or repealed by that State will be established, amended, or repealed with the counsel of local agencies and consistent with State administrative procedures and due process;

(12) the aggregate amount to be expended by the State and its agencies from funds derived from non-Federal sources for the consolidation program for any fiscal year will not be less than the amount expended by the State and its agencies in the preceding fiscal year on programs described in section 203(a) and on similar or related programs; and

(13) Federal funds provided under this title supplement and in no case supplant State or local funds.

PROVISIONS OF THE COMPREHENSIVE STATE PLAN

SEC. 208. (a) A comprehensive State plan meets the requirements of this section if such plan—

(1) sets forth the procedure for, and the results of, the needs assessments conducted pursuant to section 206 (1) and (2);

(2) sets forth the goals to be achieved under the plan, the basic program objectives and a description of the programs to be carried out under the plan;

(3) sets forth the State's program for providing food and nutrition education and information designed to meet the needs of its people as revealed in the needs assessment;

(4) sets forth the policies and procedures to be followed by the State to assure that the distribution of funds to State and local agencies, institutions, and organizations within the State is in accordance with the provisions of this title;

(5) contains a description of the organizational structure through which the program consolidated by this title will be administered;

(6) sets forth the State's program (if any) for providing meals and food and nutrition education in connection with or as a part of (A) any Head Start or Follow Through program for children, (B) the nutrition program for the elderly carried out under part C of title III of the Older Americans Act of 1965, (C) the community food and nutrition program, and (D) any other federally funded food or nutrition education or information program carried out with funds not provided under this title;

(7) sets forth the procedures for monitoring activities of the agencies, institutions, and organizations within the State responsible for administering the comprehensive plan of the State, including a provision for technical assistance by the State to each such agency, institution, and organization;

(8) contains a description of the process that the State will use to insure that any agency, institution, or organization in the State which receives funds under this title will annually develop or update a comprehensive plan for the use of such funds and that the plan will be made available to the public for comment as provided in the comprehensive State plan;

(9) provides, consistent with State law and practice, for an audit of the expenditure of funds received under this title by local agencies, institutions, and organizations;

(10) sets forth procedures to be used by the State to eliminate unnecessary paperwork and duplication of informational requests in regard to local agency applications, evaluations, and reporting;

(11) prescribes procedures to be followed by the State when a local agency fails to develop or implement a program plan, including procedures for notice and opportunity for hearing in any case funds are to be withheld;

(12) provides a local agency appeal process within the State for any local agency which is dissatisfied with the State's action with respect to the State's compliance with substantive and procedural provisions of this title. A local agency may appeal the final ruling of the State to the Secretary;

(13) provides for an audit of expenditures for each program year in accordance with generally accepted accounting principles, conducted, in a manner approved by the Secretary, by—

(A) an auditor of the State, using certified public accountants, or

(B) a private certified public accountant or auditing firm utilizing certified public accountants; and

(14) provides for an annual report of such audit; and

(15) is approved and signed by the chief executive of the State.

(b) The Secretary shall, within sixty days after receiving any comprehensive State plan from any State, notify such State in writing whether such plan complies with the requirements of this title. In the event the Secretary fails to notify any State within the time period prescribed, the comprehensive State plan shall be deemed to have been approved by the Secretary. If the Secretary notifies a State that a plan does not meet the requirements of this title, he shall indicate specifically in what respect such plan failed and what action must be taken to meet the requirements.

SUPPLEMENTAL PAYMENT

SEC. 209. (a) Each State which elects and qualifies to receive funds for carrying out a consolidated program under this title shall also be eligible, upon application therefor, to an additional amount of funds for carrying out such program equal to 10 per centum of the amount to which such State is entitled under section 26 on the condition that such amount is matched by such State with an equal amount of funds from non-Federal sources which will be used for carrying out the purposes of this title. A State may, if it so elects, receive any amount under this section equal to less than 10 per centum of the amount it is entitled to receive under section 204 on the condition that such lesser amount is matched by such State with an equal amount from non-Federal funds which will be used to carry out the purposes of this title. For purposes of this section, funds received by any State under a Federal-State revenue sharing plan shall be considered to be funds from a non-Federal source. No funds may be counted as matching funds for purposes of this section by any State if such funds are used by such State to meet the maintenance-of-effort procedures of the State plan provided for in section 207(12) or if such funds are counted as State matching funds for the purpose of any other Federal program.

(b) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the amount to which each State is entitled under this section for such fiscal year, the amounts which all States may receive under this section for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(c) Additional funds under this section shall be paid to a State by the Secretary of the Treasury upon certification of the amount to be paid by the Secretary.

TIME OF PAYMENTS

SEC. 210. The Secretary shall determine the time or times at which payments under this title are to be made to States.

FEDERAL SERVICES; USE OF FUNDS FOR FOOD SERVICE EQUIPMENT AND FACILITIES

SEC. 211. (a) Whenever any State elects to carry out a consolidated feeding program under this title and any part of such program is substantially the same or provides substantially the same benefits as any of the programs described in section 203(a), the Secretary shall, upon the request of such State, furnish with respect to such part of such program any services in-kind which would have been furnished such State by the Federal Government had such State participated in the programs described in section 203(a) on a separate basis rather than electing to participate in a consolidated program under this title.

(b) Funds made available to any State under this title may be used for the purchase of any food service equipment and facilities necessary or appropriate to carry out effectively the comprehensive State plan of such State.

ADMINISTRATIVE EXPENSES

SEC. 212. (a) Except as provided in subsection (b), none of the funds made available to any State under this title (excluding the State's share of matching funds under section 209), in any amount in excess of an amount equal to 7½ per centum of such funds may be used for administrative expenses in carrying out the consolidated program under this title in such fiscal year.

(b) A State may expend for administrative expenses in any fiscal year an amount in excess of the maximum amount permitted under subsection (a) if at least one-half of the amount expended by the State in such fiscal year in excess of such maximum amount is provided by the State from non-Federal sources.

EVALUATIONS

SEC. 213. (a) The Secretary, after consulting with and obtaining the assistance of the State agency designated pursuant to section 206(a)(1), shall prepare and design several models for evaluation of program effectiveness which will be consistent with the purposes of the consolidation program authorized by this title. Evaluation of local agency programs should focus on the food and nutrition services provided for needy persons in the State, the food and nutrition education program, the number of such persons served by each program, and the effect or results of such services and programs.

(b)(1) Each State participating in the consolidation program authorized by this title shall (A) select one of the models developed under subsection (a) of this section, or (B) use a model developed by that State, and shall be responsible for the use of that model in program evaluation of the consolidation program authorized by this title. Each such evaluation design shall involve participation by local agencies of that State.

(2) An evaluation report which is consistent with the procedures established pursuant to this section and the State comprehensive plan shall be prepared annually by each local agency and submitted to the State agency designated pursuant to section 206 (a)(1). No other evaluation reports for programs authorized by this title may be required of local agencies by the State agency.

(3) The annual State agency evaluation report prepared pursuant to this subsection shall be submitted to the Secretary on such date as the Secretary shall establish. The Secretary shall analyze the State evaluations received under this paragraph and shall, not later than March 1 in the year succeeding the year in which the evaluations are submitted, prepare and submit to the Congress a report on such evaluations.

(c) The Comptroller General shall conduct an evaluation of the program authorized by this title and, not later than the end of the fifth fiscal year following the fiscal year in which this title becomes effective, prepare and submit to the Speaker of the House of Representatives and the President of the Senate a report on such evaluation together with such recommendations, including such recommendations for legislation, as the Comptroller General deems advisable.

(d) The Secretary shall conduct a comprehensive evaluation of the operation of the consolidated program in the case of each State electing to participate in such program. The first such evaluation shall be conducted by the Secretary within three months after one or more States have participaed in such program for a period of two years. Thereafter such evaluation shall be made at the end of every second year. In carrying out his evaluation of the operation of the consolidated program in the case of any State, the Secretary shall hold public hearings in such State to afford interested persons a reasonable opportunity to give testimony regarding such program. The Secretary shall report the results of each such evaluation to the Speaker of the House of Representatives and to the President of the Senate together with such comments and recommendations as the Secretary deems appropriate.

MONITORING AND TECHNICAL ASSISTANCE

SEC. 214. (a) The Secretary shall conduct annually such monitoring programs in each State selecting the consolidation program authorized by this title as he deems appropriate. The monitoring program authorized by this section shall include review of the development of the comprehensive State plan for compliance with the provisions of this title. Monitoring shall also include review of implementation of programs for conformity with this title and with the comprehensive State plan. In order to avoid duplication of monitoring visits as well as an excess of such visits, the Secretary shall coordinate his visits under this section with monitoring visits made by other Federal departments and agencies of the Government.

(b) Whenever, as a result of monitoring activities conducted pursuant to this section, the Secretary identifies areas of noncompliance, the Secretary shall establish procedures with the appropriate State agency designated under section 206(a)(1) for the necessary modifications.

(c) The Secretary shall provide advice, counsel, and technical assistance upon request of State and local agencies.

INTERSTATE COOPERATION

SEC. 215. (a) The Secretary shall carry out a program of making grants to States which have elected to consolidate under this title for the purpose of interstate cooperation.

(b) Such grants for cooperation among States shall be for the purpose of addressing common administrative problems under this title and for planning and research.

(c) There are authorized to be appropriated $3,000,000 for each of the ten fiscal years beginning October 1, 1982, to carry out the provisions of this section.

FEDERAL ADMINISTRATION

SEC. 216. (a) The Secretary shall establish within the Department of Agriculture not later than sixty days after the date of the effective date of this title a separate identifiable unit to administer the consolidated program authorized by this title.

(b) Personnel to be employed in the administration of the consolidation program authorized by this title shall come from program units administering the categorical programs consolidated under this title. Any additional personnel necessary for the administration of such consolidated program shall be based on the number and population of the States which elect to consolidate.

(c) The Secretary shall establish procedures to minimize all paperwork in regard to information required of State and local agencies.

DELEGATIONS, TRANSFERS OF FUNDS, AND CONTRACTS BY THE STATE AGENCY

SEC. 217. The State agency designated pursuant to subsection 206(a)(1) may, to the extent necessary to carry out the provisions of this title—

(1) delegate its administrative functions, under this title to other appropriate State agencies,

(2) transfer to such agencies administrative responsibilities and any funds provided to the State under this title, and

(3) enter into contracts with public and private agencies, organizations, and institutions for carrying out activities authorized under this title.

Any arrangements entered into under this section for any fiscal year shall be set forth in the comprehensive State plan for that year.

ENFORCEMENT

SEC. 218. (a)(1) No payment may be made under section 204 or 209 to any State that has failed to provide the certification required by section 206(a)(4).

(2) In the case of any State that has provided those certifications, if the Secretary, after reasonable notice and opportunity for a hearing to the State, finds that the comprehensive plan fails to comply with the requirements of sections 207 and 208, or the State has failed substantially to comply with any provision of that plan, or has failed to inform the Secretary of any substantial failure to comply with any provision of that plan or those sections, the Secretary is authorized to (A) reduce the amount otherwise payable to the State under section 204 by any amount equal to not in excess of 7½ per centum, (B) refer to the Attorney General of the United States the matter regarding any such failure by a State with a request that the Attorney General seek an injunction requiring compliance by the State with the requirements of sections 207 and 208 or the provisions of the State plan, as the case may be, (C) terminate the participation of the State in the consolidated program and permit the State to return to participation in the categorical programs described in section 203(a), or (D) utilize any combination of (A), (B), and (C) as he deems appropriate.

(b) The Secretary shall establish a due process procedure to consider appeals made by local agencies under section 208(a)(12).

(c)(1) If any State or local agency is dissatisfied with the Secretary's final action with respect to any action taken under this title, the State may, within sixty days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) The Secretary and the Comptroller General of the United States, in the exercising of their authority under this title may not prescribe to the State any requirement for expenditures of funds other than funds provided under this title.

INAPPLICABILITY OF EXISTING LAW

SEC. 219. (a) Unless otherwise provided in this title, no provision of law referred to in section 203(a) of this title shall be applicable to the consolidation program instituted under the provisions of this title by any State, and no person shall be entitled to any right or benefit under any such provision of law in any such State after the date on which such State has initiated the operation of such program.

(b) The provisions of subsection (a) shall not apply to the claim of any person in any State for a right or benefit that accrued under any such provision of law referred to in section 203(a) of this title for any period before such State initiated the operation of a consolidated program under this title or to any claim in connection with a right or benefit that arises in such State after such State has discontinued operation of a consolidated program under this title.

CIVIL RIGHTS REQUIREMENTS

SEC. 220. Funds made available under this title shall be subject to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d—2000d-5), title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

SEC. 221. If a State is prohibited by law from providing for the participation of children enrolled in private nonprofit or Indian tribal elementary and secondary schools, or if the Secretary determines, after affording notice and an opportunity for a hearing, that a State has substantially failed to provide for such participation, he shall arrange, by contract or otherwise, for such children to receive, on an equitable basis, services similar to those provided under this title to public school children in the State. The cost of providing those services for any fiscal year shall be paid from the allotment of the State under section 204.

CRIMINAL PENALTY

SEC. 222. Any individual who is an officer, director, agent, or employee of, or who is connected in any capacity with, any partnership, association, firm, group, corporation, business, organization, or other entity, public or private, which receives benefits under this title by means of a grant, contract of assistance, subsidy, or any other form of Federal assistance, and who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property obtained under any program authorized by this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, such individual shall be fined not more than $1,000 or imprisoned not more than one year, or both.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 223. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, subject to the limitation contained in section 215(c) on the amount that may be appropriated for interstate cooperation grants.

EFFECTIVE DATE

SEC. 224. The provisions of this title shall become effective October 1, 1982.

TITLE III—FARM LABOR CONTRACTOR REGISTRATION ACT

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS OF 1980

SEC. 301. (a) The amendments made by this section may be referred to as the Farm Labor Contractor Registration Act Amendments of 1980.

(b) Section 3(b)(2) of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2042(b)(2)), is amended by striking the word "personally" and by substituting the phrase "such person's" for the word "his".

(c) Section 3(b)(3) of such Act is amended by striking the phrase "on no more than an incidental basis."

(d) Section 3(b) of such Act is amended by adding a new paragraph (11) to read as follows:

"(11) Any nonprofit or cooperative association of farmers, growers, or ranchers, duly incorporated and qualified under the nonprofit association or farmer cooperative statutes of a State, and operated solely for the mutual benefit of the members thereof; and any full-time or regular employee of such association or cooperative who engages in such activity solely for his or her employer.".

(e) Section 3 of such Act is amended by adding new subsections (h) and (i) to read as follows:

"(h) The term 'for such person's own operation' refers to the operations of a person as a farmer, processor, canner, ginner, packing shed operator, or nurseryman, and includes all activities by such person or such person's employees with respect to the agricultural or horticultural commodities which are or will be the subject of or diverted from such operations, and regardless of whether such person has title to such commodities at the time such operations or activities are performed.

"(i) The term 'regular employee' includes an employee who is employed on a seasonal or part-time basis by any person referred to in subsection (b)(1) or (b)(2) of this section.".

(f) Section 3(d) of such Act is amended by inserting the words "on a farm or ranch" after the word "grading".

(g) Subsection 3(g) of such Act is amended to read as follows:

"(g) The term 'migrant worker' means an individual engaged on a farm or ranch, on a seasonal or other temporary basis, in agricultural employment as defined in section 3(d) of this Act who cannot regularly return to his or her domicile each day after working hours, or who is transported from and to his or her domicile each workday by the person who recruits, solicits, hires, or furnishes such worker for agricultural employment on a farm or ranch owned or operated by another person.".

TITLE IV—AGRICULTURAL TRADE SUSPENSION ADJUSTMENT ACT OF 1980

SHORT TITLE

SEC. 401. This title may be cited as the "Agricultural Trade Suspension Adjustment Act of 1980.".

1980 AND 1981 CROPS

SEC. 402. (a)(1) Section 105A(a) of the Agricultural Act of 1949 is amended by inserting "except that with respect to the 1980 and 1981 crops, not less than $2.25," of "1981 crops of corn,".

(2) Section 105A(f)(1) of the Agricultural Act of 1949 is amended by striking out "November 15" and inserting in lieu thereof "November 1".

(b)(1) Section 107A(a) of the Agricultural Act of 1949 is amended by inserting "except that, with respect to the 1980 and 1981 crops, not less than "$3.00," after "1981 crops of wheat,".

(2) Section 107A(f)(1) of the Agricultural Act of 1949 is amended by striking out "August 15" and inserting in lieu thereof "August 1".

(c) Section 201(e) of the Agricultural Act of 1949 is amended by inserting the following before the period at the end thereof: ": *Provided further*, That the 1980 and 1981 crops of soybeans shall be supported through loans and purchases not less than $5.02 per bushel".

(d) The provisions of this section shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity as computed under the Agricultural Act of 1949, as amended prior to the enactment of this Act may elect after September 30, 1980 to receive loans as authorized under this Act.

ADJUSTED PRICE SUPPORT LOAN LEVELS UNDER THE FARMER-HELD RESERVE PROGRAM FOR THE 1980 AND 1981 CROPS OF WHEAT AND FEED GRAINS

SEC. 403(a). Section 110(b) of the Agricultural Act of 1949 is amended by—

(1) striking out the period at the end of the first sentence and inserting in lieu thereof a colon and the following: "*Provided*, That the Secretary shall make available to producers for the 1980 and 1981 crops of wheat and feed grains price support loans under the producer storage program at such levels as the Secretary determines necessary to mitigate the adverse effects of the restrictions on the exportation of agricultural products to the Union of Soviet Socialist Republics imposed on January 4, 1980, on the market prices producers receive for their crops, but at not less than $3.30 per bushel for wheat, $2.40 per bushel for corn, and such levels for the other feed grains as the Secretary determines are fair and reasonable in relation to the minimum level for corn, taking into consideration, for barley, oats, and rye, the feeding value of the commodity in relation to corn and other factors specified in section 401(b) of this Act and, for grain sorghums, the feeding value and average transportation costs to market of grain sorghums in relation to corn: *Provided further*, That the levels at which loans for the 1980 and 1981 crops of wheat and feed grains are made available to producers under the preceding proviso shall not be used in determining the levels at which producers may repay loans and redeem commodities prior to the maturity dates of the loans under clause (5) of the second sentence of this subsection, or the levels at which the Secretary may call for the repayment of loans prior to their maturity dates under clause (6) of the second sentence of this subsection."; and

(2) in clause (3) of the second sentence after "except that the Secretary may waive or adjust such interest", inserting a comma and the following: "and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains".

(b) Subsection (a) of this section shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity as computed under the Agricultural Act of 1949, as amended subject to the amendment of this Act, may elect after September 30, 1980, to receive loans and payments as authorized under subsection (a) of this section.

MINIMUM LEVELS AT WHICH THE COMMODITY CREDIT CORPORATION MAY SELL STOCKS OF WHEAT AND FEED GRAINS

SEC. 404. Section 110(e) of the Agricultural Act of 1949 is amended by—

(1) after "Notwithstanding any other provision of law,", inserting "except as otherwise provided under sections 406 and 409 of the Agricultural Trade Suspension Adjustment Act of 1980,";

(2) striking out "150 per centum of the then current level of price support for such commodity" and inserting in lieu thereof "105 per centum of the then current level at which the Secretary may call for repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (6) of the second sentence of subsection (b) of this section"; and

(3) amending clause (3) to read as follows:

"(3) sales of corn for use in the production of alcohol for motor fuel at facilities that—

"(A) begin operation after January 4, 1980, and

"(B) whenever supplies of corn are not readily available, can produce alcohol from agricultural or forestry biomass feedstocks other than corn,

when sold at not less than the price at which producers may repay producer storage loans and redeem corn prior to the maturity dates of loans, as determined under clause (5) of the second sentence of subsection (b) of this section."

COMMODITY CREDIT CORPORATION ACQUISITION OF GRAIN

SEC. 405. Notwithstanding any other provision of law, in order to ensure that the imposition on January 4, 1980, of restrictions on the exportation of agricultural products to the Union of Soviet Socialist Republics does not result in surplus supplies of such products that will adversely affect prices producers receive for agricultural commodities, the Commodity Credit Corporation shall acquire, though purchases from producers or in the market, up to four million metric tons of wheat by June 1, 1980, and up to ten million metric tons of corn by October 1, 1980. The Commodity Credit Corporation may not purchase grain from producers or in the market under this section at prices less than the national average market prices producers received for the commodities during the five marketing days immediately preceding January 4, 1980, as determined by the Secretary of Agriculture. Grain acquired under this section may be disposed of by the Commodity Credit Corporation only as prescribed in section 406 of this Act for wheat and sections 110(e) (as amended by this Act) and 407 of the Agricultural Act of 1949 for corn. Purchases of wheat and corn by the Commodity Credit Corporation to stabilize, support, and maintain farm income under the Commodity Credit Corporation Charter Act, when such purchases are made at not less than the prices specified under this section, shall be deemed to meet the requirements of this section.

FIVE-YEAR FOOD SECURITY WHEAT RESERVE

SEC. 406. (a) In order to provide for a wheat reserve solely for emergency food needs in developing countries, the President shall establish, and maintain through September 30, 1985, a reserve stock of wheat of up to four million metric tons for use for the purposes specified in subsection (c) of this section.

(b)(1) The reserve stock of wheat under this section shall be established initially by designation for that purpose by the Secretary of Agriculture of the wheat acquired by the Commodity Credit Corporation under section 405 of this Act.

(2) Subject to the provisions of subsection (i) of this section, stocks of wheat to replenish the reserve may be acquired (A) through purchases from producers or in the market if the Secretary of Agriculture determines that such purchases will not unduly disrupt the market, and (B) by designation by the Secretary of stocks of wheat

otherwise acquired by the Commodity Credit Corporation. Any funds used to acquire wheat in order to replenish the reserve shall be subject to amounts as are contained in appropriation Acts.

(c) Notwithstanding any other provision of law, stocks of wheat designated or acquired for the reserve under this section may be released by the President to provide, on a donation or sale basis, emergency food assistance to developing countries at any time that the domestic supply of wheat is so limited that quantities of wheat cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954, except for urgent humanitarian purposes, under the criteria of section 401(a) of that Act. Notwithstanding the provisions of the preceding sentence, up to three hundred thousand metric tons of wheat may be released from the reserve under this section in any fiscal year, without regard to the domestic supply situation, for use under title II of the Agricultural Trade Development and Assistance Act of 1954 in providing urgent humanitarian relief in any developing country suffering a major disaster, as determined by the President, whenever the wheat needed for relief cannot be programed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional need. Wheat released from the reserve may be processed in the United States and shipped to a developing country in the form of flour.

(d) Wheat released from the reserve for the purposes of subsection (c) of this section shall be made available under the Agricultural Trade Development and Assistance Act of 1954, except that section 401(a) of that Act, with respect to determinations of availability, shall not be applicable thereto.

(e) The Secretary of Agriculture shall provide for the management of stocks of wheat in the reserve as to location and class of wheat needed to meet emergency situations and for the periodic rotation of stocks of wheat in the reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954 and any other provision of law, but any quantity of wheat removed from the reserve for the purposes of this subsection shall be promptly replaced with an equivalent quantity of wheat.

(f) Stocks of wheat in the reserve shall not be considered a part of the total domestic supply (including carryover) for the purposes of subsection (c) of this section or for the purposes of administering the Agricultural Trade Development and Assistance Act of 1954 and shall not be subject to any quantitative limitations on exports that may be imposed under section 7 of the Export Administration Act of 1979.

(g)(1) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposal of wheat for or in the reserve.

(2) The Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistant Act of 1954 for wheat released from the reserve that is made available under such Act, such reimbursement to be made on the basis of actual costs incurred by the Commodity Credit Corporation with respect to such wheat. Such reimbursement may be made from funds appropriated for that purpose in subsequent years.

(h) Any determination by the President or the Secretary of Agriculture under this section shall be final.

(i) The authority to replace stocks of wheat to maintain the reserve under this section shall expire September 30, 1985, after which stocks released from the reserve may not be replenished. Stocks of wheat remaining in the reserve after September 30, 1985, shall be disposed of by release for use in providing for emergency food needs in developing countries as provided in this section.

AUTHORITY TO USE THE FUNDS, FACILITIES, AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION TO PURCHASE AGRICULTURAL PRODUCTS INTENDED TO BE EXPORTED TO THE SOVIET UNION

SEC. 407. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to use the funds, facilities, and authorities of the Commodity Credit Corporation in purchasing and handling agricultural products, other than grains, that—

(1) were intended to be exported to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, but

(2) cannot be exported under such contracts due to the imposition, on January 4, 1980, of restrictions on the exportation of agricultural products to the Union of Soviet Socialist Republics,

in the same manner and under the same conditions as the Secretary purchases and handles grains under similar contracts and subject to the imposition of the same restrictions.

SUPPLEMENTAL SET-ASIDE AUTHORITY

SEC. 408. Effective for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by adding at the end of title I thereof a new section 113 as follows:

"SUPPLEMENTAL SET-ASIDE AUTHORITY

"SEC. 113. Notwithstanding any other provision of law or prior announcement made by the Secretary to the contrary, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may announce and provide for a set-aside of cropland under section 101(h), 103(f)(11), 105A(f), or 107A(f) of this title if the Secretary determines that such action is in the public interest as a result of the imposition of restrictions on the exportation of any such commodity by the President or other member of the executive branch of Government. In order to carry out effectively a set-aside program authorized under this section, the Secretary may make such modifications and adjustments in such programs as the Secretary determines necessary because of any delay in instituting such program.".

TRADE SUSPENSION RESERVES

SEC. 409. (a) As used in this section—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "processor" means any person engaged within the United States in the business of manufacturing grain into alcohol for use as a fuel either by itself or in combination with some other product.

(3) The terms "agricultural grain" and "grain" mean any agricultural commodity (A) which is suitable for processing into alcohol for use as a fuel, and (B) with respect to which a price support operation is in effect.

(4) The term "producer storage program" means the producer storage program provided for under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e).

(b) In order to effectively utilize those quantities of agricultural grain owned by the Commodity Credit Corporation that are surplus to the domestic consumption and export needs of the United States, including those quantities of grain acquired by such Corporation as a result of the suspension by the President of export sales of grain to the Soviet Union, the Secretary shall subject to the availability of appropriations therefor, formulate and administer a program as provided in this section to encourage and assist persons engaged in the business of manufacturing grain into alcohol for use as fuel.

(c)(1) Except as provided in paragraph (3), on and after the date of the enactment of this Act, the total quantity of any grain that the Commodity Credit Corporation may sell for use in the manufacture of alcohol in any month may not exceed the total quantity of such grain, as determined by the Secretary, that was used in the United States in the preceding month to manufacture alcohol for use as a fuel.

(2) On and after the date of the enactment of this Act, grain owned or controlled by the Commodity Credit Corporation shall be sold at a price not less than the sale price in effect under section 407 of the Agricultural Act of 1949 at the time of the sale, except that, with respect to grain acquired by the Commodity Credit Corporation as a result of the suspension by the President of export sales of grain to the Soviet Union, such grain may be sold by such corporation at such price as the Secretary determines will encourage grain processors to purchase such grain for conversion into alcohol for use as a fuel, but in no event may such grain be sold at a price less than the price at which grain (of the same kind) contained in the producer storage program may be sold (release price).

(3) The limitation on sales under paragraph (1) shall not apply to export sales for dollars made under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701–1715).

(d)(1) In order to insure that persons engaged in the business of manufacturing alcohol for use as a fuel will have a dependable supply of grain at a reasonable price, the Secretary shall subject to the availability of appropriations therefor, formulate and administer a program under which such persons may purchase and store grain needed by them for such purpose and obtain a loan from the Secretary on such grain. The Secretary shall carry out such program in a manner that is consistent with the objectives of the producer storage program but no loans shall be made prior to October 1, 1980. No less than one-third of the loans made under the program shall be made to processors with an alcohol production capacity of not more than five million gallons of alcohol for use as fuel in any year. For purposes of making loans under this section, the Secretary shall not make loans to persons who are processors that produce 100 million gallons or more of alcohol for use as fuel in any year. The loan program shall expire on the date 5 years after the date of enactment of the Act.

(2) Except as otherwise provided in this subsection, loans made under this subsection to carry out the processor grain reserve program shall be made on the same terms and conditions as loans made to carry out the producer storage program.

(3) The amount of the loan that the Secretary may make to an eligible processor at any time on any quantity of grain purchased by the processor shall be determined by multiplying the prices support loan rate in effect for such grain at the time the loan is made times the quantity of grain purchased by the processor. The quantity of grain on which one or more loans may be outstanding at any time in the case of any processor may not exceed the estimated quantity of grain needed by such processor for one year of operation.

(4) Whenever any quantity of grain stored in the processor grain reserve under this subsection is removed from storage by a processor, the processor shall be required to replace such grain with an equal quantity, within such period of time as the Secretary shall prescribe by regulation, or repay that portion of the loan represented by the quantity of grain removed from storage.

(5) Grain on which an eligible processor has received a loan under this subsection may not be used for any purpose other than the manufacture of alcohol for use as a fuel, and the Secretary shall establish such safeguards as he deems necessary to assure that such grain is not used for any other purpose and is not utilized in any manner that would unduly depress, manipulate, or curtail the free market in such grain.

(6) Loans made under this subsection shall be made subject to such terms and conditions and subject to such security as the Secretary deems necessary to protect the interests of the United States and insure the success of the program provided for in this section, except that such loans may not be made as nonrecourse loans. Loans made under this section shall be made to the extent and in such amounts as provided in appropriation Acts.

(7) In carrying out the processor grain reserve program under this subsection, the Secretary shall—

(A) provide for the payment to processors of such amounts as the Secretary determines appropriate to cover the cost of storing grain held in the processor grain reserve, except that in no event may the rate of the payment paid under this paragraph for any period exceed the rate paid by the Secretary under the producer storage program for the same period;

(B) prescribe the rate of interest for loans made under this subsection based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest; and

(C) prescribe conditions under which the Secretary may require processors to repay loans made under this subsection, plus accrued interest thereon, refund amounts paid to the processors for storage, and require the processors to pay such additional interest and other charges as may be required by regulation in the event any processor fails to abide by the terms and conditions of the loan or any regulation prescribed under this subsection.

(8) The Secretary shall announce the terms and conditions of the processor grain reserve program as far in advance of making loans as practicable.

(9) The Secretary shall use the Commodity Credit Corporation, to the maximum extent feasible, to carry out the purposes of this subsection. The Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(e)(1) The Secretary is authorized to make a loan to any processor eligible for a loan under subsection (d) for the purpose of assisting such processor to construct or remodel a facility suitable for the storage of grain to be used by such processor in the manufacture of grain into alcohol for use as a fuel.

(2) Loans made under this subsection shall be made on the same terms and conditions as loans for onfarm storage facilities are made to farmers under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)), except that the storage capacity of any facility for which any loan may be made under this subsection may not exceed the storage capacity needed to store a quantity of grain needed for one year of plant operation.

(3) The authority to make loans under this subsection shall expire 5 years after the date of enactment of this Act.

STUDY OF THE POTENTIAL FOR EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS AND THE USE OF AGRICULTURAL EXPORTS IN OBTAINING NEEDED MATERIALS

SEC. 410. (a) The Secretary of Agriculture, in cooperation with the United States Trade Representative, shall perform a study of the potential for expansion of United States agricultural export markets and the use of agricultural exports in obtaining natural resources or other commodities and products needed by the United States. The Secretary shall complete the study and submit to the President and Congress a report on the study before April 1, 1981.

(b) In performing the study, the Secretary shall determine—

(1) world food, feed, and fiber needs over the next twenty years;

(2) estimated United States and world food, feed, and fiber production capabilities over the next twenty years;

(3) potential new or expanded foreign markets for United States agricultural products over the next twenty years;

(4) the potential for the development, over the next twenty years, of international agreements for the exchange of United States agricultural products for natural resources, including energy sources, or other commodities and products needed by the United States; and

(5) the steps that the United States must take over the next twenty years to (A) increase agricultural export trade, and (B) obtain needed natural resources or other commodities and products in exchange for agricultural products, to the maximum extent feasible.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that S. 2675, Calendar Order No. 918, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY MANAGEMENT PARTNERSHIP ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1280, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1280) to amend the Energy Policy and Conservation Act, as amended, to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Energy Management Partnership Act".

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FINDINGS AND PURPOSES

SEC. 2. (a) Congress finds and declares that—

(1) the achievement of energy security for the United States is vital to the national economy, vital to the well-being of its citizens, and vital to the maintenance of national security;

(2) the most rapid and economical method for reducing domestic dependence on insecure supplies of high-cost foreign petroleum is to increase the efficiency with which energy is used and increase the use of renewable resources;

(3) the Nation's States and units of local government have unique opportunities to achieve energy savings and to increase the use of renewable energy resources, because of their ability to make effective use of available human and economic resources, and their capacity to accommodate a high degree of direct citizen involvement in the planning, implementation, and demonstration of new programs; and

(4) such States and units of local government should be provided with financial resources and flexibility to develop their own program measures for energy conservation, renewable resources use, and emergency planning.

(b) It is the purpose of this Act—

(1) to permit States to consolidate applications for the funding of certain energy conservation and renewable resource programs of the Department of Energy authorized under existing law and to provide for more flexible administration by such Department of energy conservation programs authorized under part D of title III of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6201 et seq.), and the National Energy Extension Service Act (42 U.S.C. 7001 et seq.);

(2) to provide States and units of local government with greater resources and flexibility to plan and implement energy conservation and renewable resource programs which respond to Federal, State, and local energy needs and problems;

(3) to develop programs to foster coordinated and mutually supportive State, local, and areawide energy strategies; and

(4) to encourage community development activities which promote comprehensive energy conservation and renewable resource activities.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Conservation" means a reduction of energy consumption or an increase in the efficiency of energy use.

(2) "Governor" means the chief executive officer of a State, whether elected or appointed, or his designee;

(3) "Renewable resource" means any source of energy that is regenerative or essentially inexhaustible, including solar, geothermal, wind, low-head hydroelectric, biomass, and ocean systems energy.

(4) "Secretary" means the Secretary of Energy.

(5) "State" means a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) "State energy plan" means a plan, including the State energy programs identified in the plan, that a State has developed or will develop and which has been or will be submitted for approval under this Act.

(7) "State energy program" means any Deparment of Energy program that provides financial assistance to States under an allocation formula established under Federal law, including but not limited to programs authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) and the National Energy Extension Service Act (42 U.S.C. 7001 et seq.).

(8) "Unit of local government" means any city, county, town, municipality, or any other political subdivision that is a unit of general purpose local government of a State.

(9) "Metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.

(10) "Regional council" means any multijurisdictional unit established under State law, interstate compact, or interlocal agreement, to formulate policies and plans for the orderly development of a substate region or interstate region which, in the absence of a State law to the contrary, has a majority of local elected officials on its governing body.

(11) "Metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more; except that any city which has been classified as a metropolitan city under clause (B) of this paragraph shall continue to be so classified until the decennial census indicates that the population of such city is less than fifty thousand.

(12) "City" means (A) any unit of local government which is classified as a municipality by the United States Bureau of the Census, or (B) any other unit of local government which is a town or township and which, in the determination of the Secretary of Housing and Urban Development (i) possesses powers and performs functions comparable to those associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census which have not entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.

(13) "Urban county" means any county within a metropolitan area which—

(A) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of local government; and

(B) either (i) has a combined population of two hundred thousand or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of local government (I) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (II) with which it has entered into cooperative agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities, or (ii) has a population in excess of one hundred thousand, a population density of at least five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(14) "Population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time;

(15) "Indian tribe" means any federally recognized Indian tribe, band, nation, or other organized group or community, for which the United States holds land in trust or in a restricted status, or those recognized under the Alaska Native Claims Settlement Act.

(16) "Extent of poverty" means the number of persons whose incomes are below the poverty level. Poverty levels shall be determined by the Secretary of Housing and Urban Development pursuant to criteria provided by the Office of Management and Budget, taking into account and making adjustments, if feasible and appropriate and in the sole discretion of the Secretary of Housing and Urban Development, for regional or area variations in income and cost of living, and shall be based on data referable to the same point or period in time.

(17) "Extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(18) "Age of housing" means the number of existing housing units constructed in 1939 or earlier based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(19) "Federal Regional Council" means the organizations established by Executive Order Numbered 12149 of July 20, 1979.

TITLE I—STATE ENERGY PLANS

CONSOLIDATED APPLICATIONS

SEC. 101. (a) Notwithstanding any other provision of law, a State may submit an annual consolidated application requesting financial assistance under this title:

(1) for programs authorized under Part D of title III of the Energy Policy and Conservation Act, (42 U.S.C. 6201 et seq.);

(2) for programs authorized under the National Energy Extension Service Act (42 U.S.C. 7001 et seq.); and

(3) for activities described in sections 103 and 104 of this title.

The portion of the consolidated annual application for each program shall be approved by the State official or State agency official authorized to implement that program under State law.

(b) The Secretary shall within ninety days after the date of the enactment of this title prescribe rules providing for the orderly transition from multiple applications for financial assistance for State energy programs to the consolidated applications described in subsection (a). To enable a State to submit a consolidated application for a uniform time period, the Secretary and the appropriate State official or State agency, by mutual agreement, may amend the program time period and any other administrative provision associated with financial assistance awarded before the approval of the consolidated application, and may agree that the unexpended balance of any funds made available under such programs may continue to be available for the purposes for which those funds were appropriated.

(c) The Secretary shall review and approve or disapprove, in whole or in part, any application submitted under this section. An application shall be approved, subject to the availability of funds, if the Secretary determines that—

(1) the application meets the requirements of the regulations issued under subsection (b);

(2) the proposals for assistance are consistent with Federal law; and

(3) when financial assistance has been provided previously to a State under this title, either—

(A) the State has submitted, in good faith, a State energy plan within the time period required by section 103(a);

(B) the State has received an extension under section 103(c).

(d) Notwithstanding any other law, the Secretary shall approve a State's request in a consolidated annual application under subsection (a) to use financial assistance appropriated for the administrative costs of a State energy program covered by such application for expenditure under any other State energy program covered by the same application.

ASSISTANCE

SEC. 102. The Secretary, subject to the availability of funds, may provide—

(a) financial assistance to States to fund State energy programs and costs covered by an application submitted under section 101;

(b) financial and technical assistance to States to develop, implement and modify State energy plans submitted under section 103; and

(c) financial and technical assistance to Indian tribes for the purposes described in section 106(c) of this title.

REQUIREMENTS FOR STATE ENERGY PLANS

SEC. 103. (a) In order to continue to receive assistance under this title a State shall submit its first State energy plan within nine months after the date the Secretary issues regulations under subsection (b). A State energy plan may be modified and resubmitted at any time and shall be modified and resubmitted biennially from the date the State's first State energy plan was approved.

(b) The Secretary shall within ninety days after the date of the enactment of this title prescribe regulations for State energy plans, which plans shall contain—

(1) a description of State energy supply and demand and of its energy conservation and renewable resource goals and policies, including a description of any data systems the State will use in the development, modification, or implementation of a State energy plan;

(2) a mangement plan for, and a description of planned uses of funds provided under this title and under any other Federal financial assistance program that the State intends to use to implement the State energy plan. In addition, such management plan shall include—

(A) an identification of those major energy consumption sectors in which the State has the greatest opportunity to affect significant additional energy conservation, and a description of the State goals and objectives for energy conservation in such sectors;

(B) a description of the programs the State will carry out to achieve its energy conservation and renewable resources goals and objectives;

(C) program objectives by which the State will periodically monitor and assess its success in implementing the State enery plan; and

(3) a description of how the State plans to implement the State energy programs established under other law, including programs covered by an application under section 101, and the renewable resources program required by section 104.

(c) Upon written request of the Governor, the Secretary, for good cause, may extend the time for compliance with subsection (a).

(d) The Secretary shall approve, in whole or in part, a State energy plan or modification thereto if the Secretary determines that—

(1) the plan or modification complies with the requirements of this title; and

(2) the State energy plan, or the plan as modified, is consistent with Federal law.

(e) If a State so requests, each department, agency or instrumentality of the executive branch of the Federal Government that either produces or consumes significant quantities of energy within that State shall, consistent with applicable law, provide such available energy-related information as is necessary and practicable to assist the State in the development of its State energy plan.

(f) A State shall hold public hearings on the development of its first State energy plan, and or any modification thereof. Any such public hearing shall follow adequate notice, which shall be directed toward—

(1) units of local government;

(2) regional councils;

(3) Indian tribes within the State; and

(4) the public.

(g) A State shall consider the needs of the poor, the handicapped, and the elderly in developing and implementing a State energy plan.

RENEWABLE RESOURCES

SEC. 104. (a) Each State shall include in its State energy plan reasonable measures the State plans to implement to remove barriers to the use of renewable resources in the State.

(b) Each State shall include steps to—

(1) encourage the application, where practicable, of renewable resources in end-use sectors;

(2) encourage participation by financial institutions and other organizations in the activities necessary to facilitate renewable resource use;

(3) assess the applicability of practicable renewable resource technologies in buildings owned by the State and units of local government;

(4) provide information that will promote consumer protection; and

(5) implement other measures which the State determines to be appropriate.

(c) When deciding which measures are reasonable to implement under each step required under subsection (b), each State shall consider the appropriateness of a State role and the likely cost effectiveness of the measures.

DISAPPROVAL

SEC. 105. (a) If the Secretary, in whole or in part—

(1) disapproves an application for assistance under this title;

(2) disapproves a State energy plan or modification thereto; or

(3) finds that a recipient of assistance has failed to comply with—

(A) the provisions of this title or the regulations promulgated hereunder; or

(B) the provisions of any law governing a program covered by an application submitted under section 101,

the Secretary shall provide written notice of such disapproval or finding and provide a statement of the reasons therefor.

(b) Unless corrective action has been taken, the Secretary, after providing written notice and affording an opportunity to present views, shall make a final determination in writing stating the reasons for the determination.

(c) Upon issuance of the notice referred to in subsection (a), the Secretary may suspend payments of financial assistance. If the Secretary makes a final determination in accordance with subsection (b), no financial assistance shall be provided for any part of a State energy plan or other activities determined not to comply with appropriate requirements until the Secretary is satisfied there is no longer a failure to comply.

ALLOCATION OF FUNDS; STATE SHARE

SEC. 106. (a) For the purposes of providing the financial assistance authorized by this title, the Secretary shall allocate annually the sums available for financial assistance under this title among the States in the following manner—

(1) 75 per centum shall be allocated on the basis of the resident population of the States;

(2) 25 per centum shall be allocated equally among the States.

(b) Funds allocated under this title to any State for a fiscal year but not obligated by the Secretary in that fiscal year may at the option of the Secretary be reallocated among the States for the following fiscal year.

(c) Notwithstanding subsection (a), the Secretary shall reserve annually for the benefit of Indian tribes some portion of the sums available for financial assistance under this title and shall within ninety days after the date of the enactment of this title prescribe regulations for the allocation and use of the reserved portion as the Secretary, after affording reasonable opportunity for State comments, deems appropriate.

(d) Notwithstanding subsection (a), the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

(e) No recipient shall expend funds provided under this title—

(1) to pay the costs of any construction or the purchase of real property;

(2) to pay all or any portion of the purchase price of equipment, other than office equipment, except to the extent authorized by other law;

(3) to subsidize fares for public transportation; or

(4) for such other purposes as the Secretary may proscribe.

EXPENDITURES OF FINANCIAL ASSISTANCE

SEC. 107. (a) A State receiving financial assistance under this title shall provide to units of local government and regional councils appropriate financial assistance in amounts commensurate with the relative responsibilities shared among units of local government, regional councils and the State in the development, modification, or implementation of the State energy plan.

(b) A State may participate in interstate or multi-State regional organizations that provide for the coordination of its State energy plan with the State energy plans of other participating States. Each State may make available directly to such organizations a portion of the financial assistance provided under this title for any use consistent with the purposes of this title.

TRANSITION TO STATE ENERGY PLAN

SEC. 108. (a) Nothing in this title affects any financial arrangement made or entered into by the Secretary prior to the date of the enactment of this title.

(b) Nothing in this title supersedes any provision of existing law except to the extent that this title is inconsistent with such provisions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. For the purposes of this title, including the administrative and technical assistance costs of the Secretary, there is hereby authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1981, such sums as may be provided for such purposes in appropriations Acts within the authorization ceiling in S. 2332 (a bill to authorize appropriations to the Department of Energy and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980) for the appropriations account entitled "Energy Conservation" and $100,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, which may remain available until expended.

TITLE II—LOCAL ENERGY MANAGEMENT PARTNERSHIP

GRANTS

SEC. 201. (a) In order to encourage units of local government to adopt and implement community plans and programs designed to achieve significant energy savings and encourage the use of renewable energy resources within their jurisdictions, the Secretary in consultation with the Secretary of Housing and Urban Development is authorized to make grants as provided in this title.

(b) All applications for financial assistance under this title shall be submitted to the Governor of the State concurrently with submission to the Secretary. The Governor may prepare comments on each application including but not limited to an indication of whether the application conforms to the elements, requirements, and objectives of the State's energy plan approved by the Secretary under title I. For applications for grants to be made on the basis of competition, the Governor may submit a listing of the applications which the State recommends for funding under this title.

COMMUNITY ENERGY CONSERVATION STRATEGY

SEC. 202. (a) No grant may be made under this title unless the applicant has submitted an application which includes a community energy conservation strategy describing community energy needs and objectives. Such strategy shall consider—

(1) describing in detail community energy use;

(2) providing an inventory of existing Federal grants and Federal, State, and local programs which can be used in conjunction with this assistance, including a description of how energy conservation measures are being or will be incorporated into these programs;

(3) financial or other assistance for energy conservation with respect to residential structures, particularly for the benefit of low- and moderate-income tenants and homeowners;

(4) providing for energy emergencies;

(5) scheduling implementation of each element provided for in the community energy conservation strategy;

(6) describing of how such energy conservation strategy will be coordinated and administered;

(7) specifying the activities to be undertaken with the grant funds applied for in furtherance of the strategy, together with the estimated costs and general locations of such activities;

(8) assuring that the State has had ample opportunity to comment with regard to the consistency of such application to any applicable State energy plan; and

(9) assuring that an opportunity has been provided to receive public comment, including an opportunity to receive the views of existing local citizen and neighborhood community groups, and that such comment has been considered in the development of local energy programs.

(b) The Secretary shall not approve an application for funds provided under this title if—

(1) he makes any of the following negative assessments with regard to the strategy after considering the comments provided by the State;

(A) the strategy is not technically sound;

(B) the potential per capita consumption of nonrenewable resources is not significantly reduced; or

(C) the strategy does not meet the minimum requirements of the State energy plan approved by the Secretary under title I; or

(2) he determines that the applicant is incapable of effectively carrying out the community energy conservation strategy under subsection (a).

(c) For the first year in which funds are appropriated under this section, the Secretary may waive a portion of the requirements of subsections (a) and (b), except that an application under this subsection must include—

(1) a workplan leading to the submission of a comprehensive energy conservation strategy;

(2) satisfactory assurances that an opportunity has been provided to receive public comment, including an opportunity to receive the views of existing local citizen and neighborhood community groups, and that such comment has been considered in the development of local energy programs; and

(3) a description of ongoing or proposed local government energy activities.

If such waiver is requested in the first year, the Secretary is authorized to make the adjustments he deems appropriate in the amount of the grant.

(d) Except for an application for grants to be made on the basis of competition, an application under this section shall be deemed approved upon the expiration of seventy-five days after receipt unless, on the findings of the Secretary, he informs the applicant of specific reasons for disapproval. In taking any action under this section, the Secretary shall consider such comments as may be made by members of the respective Federal Regional Councils. Subsequent to approval of the application, the amount of the grant may be adjusted in accordance with the provisions of this section.

(e) Each grantee under this section shall submit annually a performance report on the activities carried out under this title, together with an assessment by the grantee of the relationship of those activities to the needs and objectives identified in the grantee's application submitted under subsection (a). The performance report shall include any citizen's comments submitted under subsection (a).

(f) The Secretary shall, at least on an annual basis, make such reviews and audits as he deems necessary or appropriate to determine whether the grantee has carried out a program substantially as described in its application, in conformance with the requirements of this section and other applicable laws, and whether the applicant has a continuing capacity to carry out in a timely manner the approved energy conservation strategy.

(g) The Secretary may make the adjustments he deems appropriate in the amount of the annual grants in accordance with the Secretary's findings pursuant to this section, based upon a performance report submitted by a grantee, or in accordance with any other reviews or audits made by the Secretary pursuant to this section. Such adjustments shall not attempt to recapture funds already expended on eligible activities under this title.

ALLOCATION OF FUNDS AMONG STATES

SEC. 203. (a) The Secretary shall allocate for each State a portion of the available funds under this title for distribution to communities within that State. The Secretary shall determine the allocation portion for each State. This portion shall be the greater of an amount that bears the same ratio to the total available funding for all States as either—

(1) the average of the ratios between—

(A) the population of that State and the population of all States;

(B) the extent of poverty in that State and the extent of poverty in all States; and

(C) the extent of housing overcrowding in that State and the extent of housing overcrowding in all States; or

(2) the average of the ratios between—

(A) the age of housing in that State and the age of housing in all States;

(B) the extent of poverty in that State and the extent of poverty in all States; and

(C) the population of that State and the population of all States.

(b) In determining the average of the ratios under subsection (a)(1) the ratio involving population shall be counted thrice, the ratio involving the extent of poverty shall be counted twice, and the ratio involving housing overcrowding shall be counted once. In determining the average of the ratios under subsection (a)(2) the ratio involving population shall be counted four times, the ratio involving extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.

(c) The Secretary shall in order to compensate for the discrepancy between the total of the amounts to be allocated under this section and the total of the amounts available, make a pro rata reduction of each amount allocated for each State so that each State will be allocated an amount which represents the same percentage of the total amount available under such section as the percentage which the same State would have been allocated under such section if the total amount available under this section had equaled the total amount which was allocated.

(d)(1) No State shall be allocated under this section less than one-half of 1 per centum of the funds available.

(2) Notwithstanding paragraph (1) the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

ALLOCATION OF FUNDS FOR CATEGORIES OF COMMUNITIES WITHIN A STATE

SEC. 204. The Secretary shall allocate a portion of the available funds for each State to each of the following three categories based on the respective population of each category within that State:

(a) metropolitan cities and urban counties in metropolitan areas;

(b) units of local government within metropolitan areas (other than metropolitan cities and urban counties); and

(c) nonmetropolitan areas.

DISTRIBUTION OF FUNDS TO METROPOLITAN AREAS

SEC. 205. (a) Metropolitan cities and urban counties in metropolitan areas shall be entitled to annual grants from the portion allocated them under section 204(a). The Secretary shall determine the amount of the grant to each metropolitan city and urban county, and such grants shall be the greater of an amount that bears the same ratio to the total available funding for all metropolitan areas as either—

(1) the average of the ratios between—

(A) the population of that metropolitan city (or urban county) and the population of all metropolitan areas;

(B) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty of all metropolitan areas; and

(C) the extent of housing overcrowding in that metropolitan city (or urban county) and the extent of housing overcrowding in all metropolitan areas; or

(2) the average of the ratios between—

(A) the age of housing in that metropolitan city (or urban county) and the age of housing in all metropolitan areas;

(B) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty in all metropolitan areas; and

(C) the population of that metropolitan city (or urban county) and the population of all metropolitan areas.

In determining the average of the ratios under paragraph (1) the ratio involving the population shall be counted thrice, the ratio involving the extent of poverty shall be counted twice, and the ratio involving housing overcrowding shall be counted once; and in determining the average of the ratios under paragraph (2) the ratio involving population shall be counted four times, the ratio involving extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.

(b) The Secretary shall make grants to units of local government within metropolitan areas (other than metropolitan cities and urban counties) from the portion of funds allocated to them under section 204(b). Such grants shall be made on the basis of competition among such units of local government within that State, based on the applications submitted under section 202.

(c) The Secretary shall in order to compensate for the discrepancy between the total of the amounts to be allocated under subsection (a) and the total of the amounts available, make a pro rata reduction of each amount allocated for the metropolitan cities (or urban counties) so that the metropolitan city (or urban county) in each State will be allocated an amount which represents the same percentage of the total amount available under subsection (a) as the percentage which the metropolitan cities (or urban counties) of the same State would have been allocated under such subsection if the total amount available under this section had equaled the total amount which was allocated under that paragraph.

(d) Any funds under this title to which a metropolitan city or urban county in a metropolitan area is entitled, but which are not requested or disbursed, shall be made available to other eligible units of local government within that same metropolitan area. If no such recipients are available, then the funds shall be made available to the other metropolitan areas of that State. If no such recipients are available then the funds shall be made available to the nonmetropolitan areas of the State under section 206. If no such recipients are available in that State then the funds shall be made available to eligible recipients in other States.

DISTRIBUTION OF FUNDS TO NONMETROPOLITAN AREAS

SEC. 206. The Secretary shall make grants to nonmetropolitan areas from the portion of funds allocated to them under section 204(c). Such grants shall be made on the basis of competition among nonmetropolitan areas within that State, based on the applications submitted under section 202.

APPLICATIONS ON BEHALF OF UNITS OF LOCAL GOVERNMENT

SEC. 207 In making grants under sections 205 and 206 the Secretary shall give priority to States, units of local government, or regional councils which submit applications on behalf of units of local government—

(a) which comply with the requirements of this title;

(b) which represent unified, integrated plans, programs, and strategies as defined in this title for a consortium of units of local government; and

(c) which demonstrate that such units of local government as are represented by such applications have given their full approval and certification to the respective application.

ADMINISTRATIVE PROVISIONS

SEC. 208. (a) The Secretary is authorized to provide grants under this title on a multiyear basis, subject to available appropriations.

(b) The Secretary shall to the extent feasible simplify and expedite the application process for grants for small communities under this title.

FORMULA STUDY

SEC. 209. (a) The Secretary is directed to study the feasibility of alternative formulae for the allocation of funds under this title so as to incorporate energy-related factors where appropriate. Such factors might include heating degree days, air conditioning needs, per capita energy consumption, average distance between inhabited areas, and other appropriate measures.

(b) The Secretary shall submit his report to the Congress including any recommendations for legislative amendments to the existing formulae by no later than one year from the date of the enactment of this section.

AUTHORIZATION OF APPROPRIATIONS

SEC. 210. For the purposes of this title, including the administrative and technical assistance costs of the Secretary, there is hereby authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1981, such sums as may be provided for such purposes in appropriation Acts within the authorization ceiling in S. 2332 (a bill to authorize appropriations to the Department of Energy and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980) for the appropriations account entitled "Energy Conservation" and $80,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, which may remain available until expended.

TITLE III—GENERAL PROVISIONS

AUTHORITIES

SEC. 301. The Secretary shall promulgate such rules as are necessary to implement this Act.

RECORDKEEPING AND REPORTING; ANNUAL REPORT

SEC. 302. (a) A recipient of financial assistance under this Act or under any State energy program shall keep records and shall make reports to the Secretary, which shall include such information as the Secretary considers necessary to prepare the annual report pursuant to subsection (b) and to facilitate an effective audit and performance evaluation. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, records, and reports of any recipients of financial assistance under this Act.

(b) The Secretary shall include in the annual report required by section 657 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7267), a report of the actions taken under this Act by recipients of financial assistance under this Act in the preceding fiscal year and an evaluation of their accomplishments and effectiveness.

(c)(1) The Secretary shall monitor and evaluate the performance and effects of the programs and activities receiving assistance under this Act.

(2) The Secretary may withdraw from the appropriations under this Act such amounts as are necessary to carry out this evaluation.

CONSOLIDATED APPLICATIONS

SEC. 303. (a) Notwithstanding any other provision of law, a State may submit an annual consolidated application requesting financial assistance under this Act and under any other State energy program. The portion of the consolidated annual application for each program shall be approved by the State official or State agency specifically authorized to implement that program under State law.

(b) The Secretary may prescribe rules providing for the orderly transition from multiple applications for financial assistance for State energy programs to the consolidated applications described in subsection (a). To enable a State to submit a consolidated application for a uniform time period, the Secretary and the appropriate State official or State agency, by mutual agreement, may amend the program time period and any other administrative provision associated with financial assistance awarded before the approval of the consolidated application, and may agree that the unexpended balance of any funds made available under such programs may continue to be available for the purposes for which those funds were appropriated.

(c) Notwithstanding any other law, the Secretary shall approve a State's request in a consolidated annual application under subsection (a), to use financial assistance appropriated for the administrative costs of a State energy program covered by such application for expenditure under any other State energy program covered by the same application.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, while the managers of the bill are coming to the floor, that I be allowed to suggest the absence of a quorum and the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the following members of the staff of the Senate Committee on Energy and Natural Resources be granted privileges of the floor during the consideration of S. 1280, along with Missy Grealy and Mitch Tyson of my staff: Dan Dreyfus, Mike Harvey, Richard Grundy, Ben Cooper, Jim Bruce, Pete Smith, and Veronica Kun.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Paul Gilman of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair, and I thank the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I shall read a statement on behalf of Senator JACKSON who is chairman of the full committee.

STATEMENT OF SENATOR JACKSON

Mr. President, I urge my colleagues to support S.1280, a bill to assist States and local governments in expanding and strengthening their capacities to deal with the nation's new energy realities. The "Energy Management Partnership Act" was introduced by me at the Administration's request and reported out of the Energy Committee on June 9.

One of the key themes to emerge from testimony before the Committee during this Congress is the need for active participation by governments at the State and local levels to help meet the energy challenge. If we are to tap our full potential for energy conservation and the use of renewable resources, aggressive and innovative efforts by the States, counties, cities, and towns will be essential. I am convinced that the foundation of an effective conservation and renewable resource policy lies with our State and local governments. The State and local level is where the most effective and responsive energy policies are generated and where the burden of implementation most often falls. The Energy Management Partnership Act recognizes the wisdom of a combined State and local and Federal approach to these problems and offers direct Federal aid to these entities for energy programs to improve the efficiency of energy use and promote renewable resources.

The Committee continues to solidly endorse Federal assistance for State and local conservation and renewable energy efforts because it understands that States and communities are facing energy problems of crisis proportions. These problems stem not only from the general weakness of our national energy position, but also from the burdens of implementing and enforcing Federal energy programs. In the past several years, we in Congress have passed a number of statutes which require States and local governments to act to conserve energy and promote renewable resources. While these are certainly worthwhile ambitions, they will only be realized if Federal cost-sharing matches Federal ambitions. Communities especially don't have excess funds to undertake the kinds of energy programs they would like to promote or to adequately implement Federally mandated programs.

The measures that the Committee reported would help out those States and communities which are trying to both meet Federal requirements and explore their own energy solutions without diverting funds from other critical social services. The bill also insures that Federal energy assistance to the States and localities be available more for implementation activities, and less for grant administration.

While the original form of the bill submitted by the President was a big step in the right direction, it had several deficiencies which the Committee worked very hard to rectify during its mark-up. First, while the bill improved the capacity of States to contribute to energy solutions, it didn't give enough emphasis to the enormous untapped potential at the local level. Title II of S. 1280 rectifies this situation by providing the critical Federal assistance necessary to make use of the resources and talents which exist at the local level by establishing a program of direct assistance to local government; minimizing layers of bureaucracy; and insuring consultation with the State and consistency with State energy programs.

Secondly, the bill repealed the existing State Energy Conservation Programs and the Energy Extension Service and replaced them with a single S. 1280 program. The Committee, however, felt that an administrative consolidation which would reduce administrative costs could be achieved without a wholesale repeal of existing programs which have been operating successfully for several years.

Lastly, the Committee was impressed by testimony concerning the need to promote programs for the development of renewable energy resources at the State and local level. Toward this end the Committee has strengthened these programs and has made them a key feature of the cooperative State/local/Federal effort.

I believe that the Committee has made significant improvements in the original bill so that it now provides a fully balanced program while preserving the momentum of existing State conservation and renewable energy programs. For this reason, I hope that you will support this program and that we will see it become law before the close of this Congress.

I would like to commend the President for proposing this legislation and for highlighting the needs of States and communities in the energy area. Also I would like to thank Senators Johnston and Tsongas, who have been especially active in soliciting support for this bill and in hammering out a vehicle which addresses the concerns of all constituencies.

Mr. TSONGAS. Mr. President, I now shall read a statement of Senator JOHNSTON.

STATEMENT OF SENATOR JOHNSTON

Mr. President. Today the Senate will take up S. 1280, the Energy Management Partnership Act (EMPA). I hope this bill can be dealt with expeditiously. A great deal of work has gone into the legislation, including the resolution of a number of divergent views. The consensus bill which has emerged from this process is a good bill and represents a positive response by the Senate to the request of the administration and representatives of the nation's Governors, Mayors and other local officials for legislation of this type.

I want to congratulate Senator Jackson, Senator Ford, Senator Tsongas and Senator Williams for their hard work on the Energy Management Partnership Act. Their efforts have been especially important in reaching the agreements necessary to prepare this legislation for Senate action.

The EMPA legislation is designed to provide Federal grant assistance to support energy-related activities by States and units of local government through a streamlined process which provides the flexibility needed to permit the most efficient use of these funds. Over the past few years, the Congress has established a number of energy conservation and renewable resource programs which involve significant responsibilities for States and units of local government. We have relied on State and local government to provide the efficiency and responsiveness which cannot be achieved by programs which are managed by bureaucrats sitting in a building in Washington, D.C.

But implementation of these essential energy programs costs money, and too often we have been unwilling to back up our delegation of responsibility for a problem with the necessary resources to fully deal with it. The list of activities required of State and local government is a long one. The EMPA legislation is an attempt to provide these resources so that State and local government can effectively carry out these activities.

For example, we assume and expect that State and local government will be knowledgeable in matters related to energy and will have acquired the capacity to manage and implement Federally mandated energy programs. This capacity cannot be created overnight, and it is not free. However, such capacity is absolutely essential if the major portion of the energy conservation and allocation authorities enacted by Congress since 1973 are to work. It is in the Federal government's interest to see that States and units of local government have the capability of responding effectively to energy problems. EMPA recognizes this fact. Administration of State set-aside programs for petroleum allocation, operation of low income weatherization, planning for energy emergencies, the development of the plans required for the residential energy conservation service and the schools and hospitals weatherization program are all activities which the Federal government expects State and local government to undertake. We should be willing to provide the support to see that these activities are done well.

Mr. President. This is the basis for the EMPA legislation. I ask that a summary of the bill be inserted in the RECORD at the conclusion of my remarks and urge the Senate to adopt the bill.

The material follows:

S. 1280 is an Administration bill introduced by Senator Jackson (by request) on June 5, 1979. On September 27, 1979 Senator Tsongas introduced S. 1829, the Community Energy Efficiency Act of 1979, a bill to provide Federal support to promote the development of energy conservation and renewable resource programs by units of local government. On April 17, 1980, Senator Tsongas introduced S. 2576, the Community Energy Act, which addressed many of the same issues involved in S. 1829. On April 15, 1980 the Department of Energy transmitted to Congress a substitute to S. 1280. The Committee on Energy and Natural Resources met in open business session on May 8, 13, 14 and 15, 1980 to consider the administration's proposed substitute for S. 1280 and amendments based on S. 2576. On May 15, 1980 by majority vote of a quorum present, the Committee ordered S. 1280 reported favorably to the Senate.

PURPOSE

The purpose of S. 1280, as reported, is to:

Permit States to consolidate applications for Federal financial assistance for certain energy conservation and renewable resource programs authorized under existing law;

Provide for more flexible administration of certain of these programs; and

Provide States and units of local government with financial assistance to support planning and implementation of energy conservation and renewable resource programs and activities in coordination with such State and national energy programs.

STATE ENERGY PLANS (TITLE I)

Title I provides for consolidation of annual applications by States for financial assistance for energy conservation grant programs authorized by specific existing statutes—the Energy Policy and Conservation Act (EPCA) and the National Energy Extension Service Act. States may also use funds under such an application for the development, modification and implementation of a new State energy plan, including certain renewable resource measures determined to be reasonable by the State.

A State energy plan, which must be submitted for a State to continue to receive funds under this title, must describe the energy supply and demand situation in the State and indicate how the State intends to implement the energy conservation and renewable energy resource programs authorized by this title and other law. A plan must also contain a management plan.

Any State receiving financial assistance under Title I is required to pass funds through to units of local government and regional councils in amounts commensurate with the relative responsibilities shared among units of local government, regional councils and the State in the development, modification or implementation of the State energy plan.

The Secretary of Energy would allocate funds for Title I programs to qualifying States under a formula with 75 percent weight for resident population and a 25 percent weight for uniform distribution among States. Financial and technical assistance for Indian tribes is also provided for in this title.

Authorization

For purposes of this title, an authorization of appropriations is provided for fiscal years 1981, 1982 and 1983. The authorization limitation for fiscal years 1982 and 1983 is set at $100 million to remain available until expended. For fiscal year 1981, an authorization ceiling is provided in S. 2332 (a bill to authorize appropriatons to the Department of Energy and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980) for the appropriations account entitled "Energy Conservation."

LOCAL ENERGY MANAGEMENT PARTNERSHIP (TITLE II)

Title II establishes a new program of Federal financial assistance to be provided by the Secretary of Energy, in consultation with the Secretary of Housing and Urban Development, to units of local government for the development and implementation of plans and programs to further energy conservation and the use of renewable resources.

Financial assistance would be made available to qualifying metropolitan cities and urban counties and units of local government within metropolitan areas on an entitlement basis and to other communities on the basis of competition. Any application for a grant under this title must include a community energy conservation strategy describing community energy needs and objectives.

The Secretary would allocate funds for Title II programs among States under a formula with equal weight factors for population and for indices of distress (poverty, housing overcrowding or age of housing). No state could be allocated less than one-half of one percent of the funds available. Within a State, funds would be allocated among metropolitan cities and urban counties, units of local government within metropolitan areas, and non-metropolitan areas on the basis of resident population.

Authorization

For fiscal year 1981, an authorization ceiling is provided in S. 2332 for the appropriations account entitled "Energy Conservation." For fiscal years 1982 and 1983 the authorization limitation is set at $80 million, which may remain available until expended.

GENERAL PROVISIONS (TITLE III)

Title III provides general authorities affecting the Act as a whole and, in addition, authorizes States to submit a consolidated application and to commingle administrative funds for any Department of Energy State energy program providing Federal financial assistance to States under an allocation formula. Examples of such programs include those covered by Title I of the Act, the Schools and Hospitals Weatherization Program authorized in the National Energy Conservation Policy Act and the Low Income Weatherization Program authorized in the Energy Conservation and Production Act.

Mr. TSONGAS. Mr. President, at this point I shall read my own words.

Mr. President, I rise in strong support of S. 1280, the Energy Management Partnership Act. The legislation consolidates and streamlines existing law to give States maximum flexibility in designing conservation and renewable resource programs. In addition, the legislation represents an important departure from the traditional Federal thinking with respect to national energy conservation goals:

It gives local governments partnership with the State and Federal governments in the design and implementation of energy conservation strategies which respond to uniquely local needs, and uniquely local capacity to meet those needs.

This legislation is the culmination of an extensive and exhausitive effort to give local governments a stake in their energy future. Senator WILLIAMS and I have been working jointly on legislation since last summer. Both the Senate Banking and Energy Committees held extensive hearings and discussions on this issue before they reported the local program out favorably. We have also worked in close conjunction with a broad coalition of groups from every sector: public interest groups, the administration, labor, environmentalists, and representatives of State, local, regional government officials to design the best possible program for local energy conservation.

I am pleased that the major leaders from all of those groups have strongly endorsed this legislation, and have worked actively for its passage.

With the passage of this bill, we will set in place a framework which could have a critical impact on whether or not our cities survive the energy crisis that is inevitable. When exorbitant prices and supply interruptions of nonrenewable fuel become the way of life in America, the cities that have prepared will have a chance. Cities caught unprepared simply will not be able to sustain even a reasonably good level of essential services to their citizens. The citizens of those cities—particularly the poor and the elderly—will suffer the consequences.

Clearly, it is in the national interest to make local governments active partners in our efforts to reduce dependence on fossil fuels and to increase use of renewable resources. Moreover, while local governments control many of the critical energy consumption decisions within their boundaries, and have enormous reservoirs of talent and skills to design programs to meet their particular needs, they cannot do the job without financial assistance.

The legislation we are discussing today takes the first step toward meeting those financial needs, by authorizing funds for comprehensive local energy conservation programs and for the development of a strategy for long term independence from nonrenewable energy sources.

Let me briefly summarize the basic elements of the local energy management partnership contained in title II of S. 1280.

AGENCY JURISDICTION

S. 1280 authorizes the Department of Energy to make grants to local governments in consultation with the Secretary of HUD. Senators JACKSON, JOHNSTON, WILLIAMS and I have introduced an amendment which will also require the establishment of an interagency task force between DOE and HUD, to permit DOE to take full advantage of HUD's capacity to deliver assistance directly to local governments. In this way, we can avoid the need to create a new field structure, or add to the regulatory burden. Our amendment is designed to tap the strengths of each agency, in order to insure that the program can come on line as early as possible, and achieve the clear energy conservation goals which we have set for local governments.

LOCAL GOVERNMENT FUNDING

In extensive consideration during hearings in Washington and in the field, the clear, strong message which we received from witnesses was that the local program must provide funds directly to local governments. Our traditional approach to energy conservation has been to mandate thousands of individual activities from the Federal level. This simply does not work. What makes sense for Boston, with a massive need to retrofit municipal facilities and residential housing, is not necessarily appropriate or helpful in New Orleans or Seattle. Local governments control the major energy consumption activities within their boundaries—land use, zoning, building, transportation, and municipal energy use. They must be given the funds to design their own programs to best meet those needs.

ROLE OF STATES

We took great care in developing this legislation so that a three-way equal partnership could be created among the Federal, State, and local governments. In line with that, we have given States a number of specific powers with respect to local programs, including a requirement that local funding applications go through the State for comment and review, a provision that requires the Energy Secretary to review local applications for consistency with State energy plans, and an opportunity for States to apply for local program funding on behalf of smaller communities within their States. This legislation protects the important concept of consistent energy conservation goals without undermining the ability of the local government to play a leadership role in its energy future.

LOCAL ENERGY STRATEGY

The legislation requires that the local community develop a comprehensive energy conservation strategy, which must be submitted as part of the grant application process. This requirement is not intended to set strict limits on the planning activities of local government with respect to energy conservation. It is intended to indicate the range of activities which it would be appropriate to address through both long-term and short-term programs.

An important aspect of this requirement is that it requires communities to maintain current commitments to energy conservation programs, so that limited financial assistance from the Federal Government is used to supplement, rather than substitute for local and private funds. The local energy strategy concept, and the concept of a local government developing a range of programs within established guidelines, parallel the highly successful community development block grant program, which has been in operation for 6 years. The basic premise here is that the local community has the opportunity to come up with programs designed to meet their needs. They receive money in the form of a "block" grant to fund those programs, rather than running to the government with individual applications for each separate need.

ALLOCATION OF FUNDS TO LOCAL GOVERNMENTS

Again, somewhat paralleling the CDBG approach to funding, the program would be a combination of entitlement grants and competitive grants. The formula which has been established takes into consideration several factors.

First, funds are allocated for various communities within each State, using a combination of "population" data and "need" data for the State as a whole. A minimum funding level for communities within each State is established, so that no State share is less than one-half of 1 percent of total funds available.

Second, once the amount for each State's local communities is determined, the funds are further divided into three categories, based on the population of the communities in each of the three areas. The three categories are metropolitan cities, units of local government within metropolitan areas, and units of government within nonmetropolitan areas.

Third, funds are distributed to metropolitan communities using the "population" and "need" formulas. These funds are received on an entitlement basis, subject to the fulfillment of the application requirements.

Fourth, funds are awarded to the units of local government in metropolitan and nonmetropolitan areas on a competitive basis.

In designing this allocation process, we took great care to attempt to be responsive to the special needs of small population States—thus the minimum threshold requirement. We also attempted to take care of the smaller cities, by cutting up the pie to represent the true nature of a State rural and urban population, rather than going by the national urban and rural split. We have also directed DOE to examine energy related criteria which can be incorporated into the allocation formula at some future point.

FUNDING LEVEL

The legislation authorizes the local program for 3 years, with a funding level of $80 million for 1982 and 1983. I am hopeful that we can also obtain some funding for fiscal year 1981, so that we can get this program going as soon as possible.

In closing, I am hopeful that we can pass this bill here in the Senate as a message to our colleagues in the House that we are serious about local energy conservation, and are ready to meet with them as soon as they complete their work in this area.

I am deeply convinced that we cannot solve our national energy problems without engaging in active partnership with local governments, and I am equally convinced that if we give local government the tools, they will lend immense support to that national effort.

I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself 3 minutes.

Mr. President, the Energy Management Partnership Act, S. 1280, is the fourth generation of Federal legislation to promote energy conservation through our States and local governments.

Since 1975 with enactment of the Energy Policy and Conservation Act, Congress recognized the fact that the success of our national conservation effort depends not on what happens here in Washington but what happens in communities across the country.

It is the unique ability of States and cities to impact directly on transportation, building codes and efficiency standards which makes State governments the real "cornerstone" of our entire national energy policy.

Mr. President, this legislation before us today not only continues to recognize our "energy partnership" with State governments, but S. 1280 contains two unique provisions which help States further promote energy conservation and renewable energy resources.

First, the EMPA legislation allows a State to submit a single consolidated application for over a dozen energy programs which are now being administered separately. And second, the bill allows a State to commingle their administrative funds among all those same programs providing for increased program flexibility.

Mr. President, the advantages of this streamlined administration and flexible funding mechanism are obvious. Not only will States be in a position to better utilize Federal financial resources, but with such consolidation we will see more money spent on program implementation rather than on the bureaucratic procedures which oftentimes strangle these important programs.

Mr. President, there is a third concept of this EMPA program which is unique to our national energy policy, and which I will be commenting on later.

Briefly, however, the concept is that we are now going to recognize cities and their contribution to our national energy conservation goals by providing them Federal financial assistance to plan and implement their own conservation and renewable energy resource programs.

I do not want to take up any more time than is necessary, Mr. President. I believe I have highlighted the significance of this bill and the historical context in which it applies to our existing conservation policy.

I reserve the remaining part of my time.

Mr. WILLIAMS. Mr. President, I rise in support of S. 1280, the Energy Management Partnership Act. Our action today serves as the culmination of months of work, and incorporates the essential feaures of the Community Energy Act, which the distinguished floor manager and I coauthored earlier this year after months of hearings.

During that period of time, our nation has been forced to endure the outrage of events in Iran—events which have gripped our Nation and revealed in starkest terms the instability and unreliability of regimes we depend upon for a sure and steady flow of oil. Today, imported oil comprises more than 50 percent of our oil consumption, and that percentage of dependence is steadily increasing. Indeed, as our overseas sources of conventional energy have become more and more fragile, the summer's searing heat across the nation has made it all too clear what an impact energy has, not just on our communities—rural and urban—but on thousands and thousands of Americans.

Not surprisingly, those most adversely affected by energy problems are the poor and the elderly. The elderly poor have been the single most susceptible class of citizens to die from this summer's heat. The poor are the first to become unemployed because they can no longer afford community costs, homeless because their owner has abandoned their building or because they can no longer pay their utility bills.

Much attention has been paid by this administration and Congress to increasing domestic fuel production and to subsidizing rising energy costs. Unfortunately, almost no attention has been given to reducing our domestic energy consumption—and thus reducing these Federal subsidies—as a permanent solution to our long-range energy problem. The U.S. consumes more energy per capita than any other developed nation on Earth. Over one-third of this energy is used to operate our commercial and residential structures. Of this, 22 percent is consumed by residential structures.

With careful conservation planning and program implementation, we can reduce this usage significantly without any hardship to our citizens. For example, estimates by the office of technology assessment indicate that "careful use of current technologies can cut energy use in new and existing homes and apartments by 50% or more with no loss in personal comfort or change in lifestyle". Based upon this assumption and upon current energy consumption patterns, an energy-efficient housing stock would save the United States over 4 million barrels of oil equivalent per day. This is, of course, far in excess of the President's goal of replacing 2.5 million barrels of imported oil per day by 1990.

As chairman of the Senate Subcommittee on Housing and Urban Affairs, I am profoundly concerned with the impact of energy consumption on the cost of housing in this country. Based upon a conservative projection of fuel oil price increases (from $.50 per gallon in 1979 to $1.25 in 1982), the percentage of every rental housing dollar used nationally to pay utility costs can be expected to rise from approximately 19 percent in 1979 to 31 percent in 1982. Clearly, this has major implications for an already existing rental housing crisis and an overburdened lower income rental population.

The cost of energy impacts the Nation's housing supply in other ways as well. Landlords are abandoning structures due to rising energy costs, and many of these units are lost from the housing inventory. Instead of providing needed shelter, these abandoned units are an added city maintenance cost, and a potential source of crime and neighborhood deterioration. Many public housing agencies are being forced to defer critical maintenance items in order to meet rising utility bills, which threatens the quality and quantity of public housing units available to our lowest income population.

In order to be able to reduce energy consumption, we must enlist the full involvement of States and local governments and give them the tools and resources necessary to undertake energy conservation plans and programs. Local governments are armed with zoning laws, building codes, master plans, code inspectors, planners, rehabilitation loan specialists, and a retinue of other tools and specialists for the rapid and effective initiation of energy conservation measures, if provided with adequate incentives and resources to do so.

By utilizing the community development block grant program as the model for the delivery of resources to localities under this bill, we avoid the need for a new bureaucratic process, while allowing communities wide latitude in fashioning programs tailored to unique local needs and conditions. Even if, through this process, only a portion of the projected future energy-related cost savings be realized, the contribution to energy conservation and to the fiscal health of communities will be significant.

To a large extent, the economic and social future of the country hinges on our ability to control our use of energy. Energy conservation is one of the most critical challenges we face as a people. Our success will depend on whether or not we bring together in a community of effort all segments of our society—government at all levels, private enterprise, and individual citizens. This legislation is meant to make local governments full working partners in the achievement of a more energy-efficient America, an America more directed toward its individual communities, and an America more confident of its own future course.

UP AMENDMENT NO. 1446

Mr. CRANSTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1446.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of page 58, add a new subsection (e), as follows:

"(e) For the purposes of this section, a consortium of units of local government may be treated by the Secretary as a metropolitan city if, (i) such consortium is entirely within an urban county which has a population in excess of two hundred thousand in its incorporated areas and a population in excess of two hundred thousand in its unincorporated areas; (ii) such consortium has an aggregate minimum population of at least two hundred thousand; (iii) such consortium demonstrates that such units of local government have given full approval and certification to the respective application; and (iv) no unit of local government represented by such consortium is otherwise applying for assistance under this section."

Mr. CRANSTON. Mr. President, this amendment is known to the two Senators handling this matter.

Mr. President, last month when the Senate considered the Housing and Community Development Act of 1980, I offered and the Senate adopted this noncontroversial amendment which pertains to the eligibility criteria for an entitlement grant to units of local government for energy planning.

However, the title to which it applied was later stricken from the Housing bill so that the Senate could consider the issue of community energy grants in the context of the Energy Management Partnership Act now before us. Thus, I am today offering my amendment to the pending bill with some further refinements. It has been shared with the distinguished floor managers of the bill and other interested parties and I know of no objection to it.

Very simply, my amendment is designed to permit a consortium of cities having a joint population as large as most counties in the Nation, within a county where there is no single large dominant city, if the consortium meets the other criteria for entitlement funding under the energy efficiency title of this bill, to make application for such funding. Only in a county having population in excess of 200,000 in both its incorporated and unincorporated areas would a city consortium be eligible for funding.

I am offering this amendment at the express behest of the people and city governments of Orange County, Calif. It is because of the unique population arrangement of Orange County that the additional flexibility supplied by my amendment becomes desirable and necessary. In Orange County, a consortium of cities has already been working together to achieve energy conservation by pooling resources and is anxious to continue to cooperate together as a consortium in making maximum beneficial use of the very important community energy efficiency provisions of this bill.

My amendment is carefully drafted to apply to a very limited number of counties and to avoid double-eligibility.

It would simply meet the unique needs of this particular area by providing an optional approach to seeking funding under this bill.

I believe this amendment may be acceptable to the managers.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, this amendment is the same as the one which was offered by Senator Cranston and adopted on Friday, June 20, when the HUD authorization legislation was passed by the Senate. Senator Cranston was amending the section of the HUD bill which established a program of energy planning grants to units of local government. That section was later deleted in anticipation of Senate consideration of EMPA.

The Cranston amendment permits a consortium of cities within a county which would otherwise qualify as an "urban county" under the bill to apply for an entitlement grant under title II of the bill if the consortium represents a population of at least 200,000.

Senator Cranston should be willing to state that his amendment will not enlarge the population of persons eligible for entitlement funding so that adoption of the amendment will not reduce the allotment of anyone else. The amendment is simply intended to provide a more flexible procedure for application by units of local government which would be eligible to apply anyway.

The Cranston amendment was acceptable on June 20 and should be acceptable today. We have no objection to the amendment.

Mr. HATFIELD. Mr. President, I would like to ask the Senator a question concerning the amendment. I have no objection to the amendment offered by the Senator from California. I do have just one question, however, which I would like to ask for clarification. My understanding of the Cranston amendment is that it only affects how funds are allocated within a State and does not affect how the Federal Government distributes money among the States.

Mr. CRANSTON. That is correct.

Mr. HATFIELD. In other words, by allowing consortiums to be eligible for entitlement grants, the Cranston amendment will provide how a State's allocation is dispersed, and a State's allocation is not in any way increased.

Mr. CRANSTON. That is correct.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. HATFIELD. I yield back my time.

Mr. CRANSTON. I yield back my time.

Mr. TSONGAS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (UP No. 1446) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1447

Mr. TSONGAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. Tsongas) for Mr. Jackson, proposes an unprinted amendment numbered 1447.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48 after line 4, section 109 is amended to read as follows:

"Sec. 109. For the purposes of this title, including the administrative and technical assistance costs of the Secretary, the Secretary may use during the fiscal year ending September 30, 1981, such sums as may be provided for such purposes in appropriation Acts pursuant to the authority in S. 2332 (a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981, and for other purposes and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980). There is hereby authorized to be appropriated to the Secretary $100,000,000 for each of the fiscal years ending September 30, 1982 and September 30, 1983 which may remain available until expended.

On page 60 after line 16, section 210 is amended to read as follows:

"Sec. 210. For the purposes of this title, including the administrative and technical assistance costs of the Secretary, the Secretary may use during the fiscal year ending September 30, 1981 such sums as may be provided for such purposes in appropriation Acts pursuant to the authority in S. 2332 (a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981, and for other purposes and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980). There is hereby authorized to be appropriated to the Secretary $80,000,000 for each of the fiscal years ending September 30, 1982 and September 30, 1983 which may remain available until expended.

The PRESIDING OFFICER. Is the Senator from Massachusetts offering one of the authorized specified amendments?

Mr. TSONGAS. Yes; in behalf of Senator Jackson.

The PRESIDING OFFICER. I thank the Senator.

Mr. TSONGAS. Mr. President, this amendment, which I offer on behalf of Senator Jackson, modifies the language in the sections of the bill which authorize appropriations so as to meet objections raised by the Senate Budget Committee. The Committee on Energy and Natural Resources reported S. 1280 on June 9, 1980, after the May 15 deadline established by the Congressional Budget Act of 1974. The bill as reported referenced S. 2332, the general authorization legislation for the civilian programs of the Department of Energy to establish the ceiling for appropriations for EMPA for fiscal year 1981. S. 2332 was reported by the committee on May 8, prior to the Budget Act deadline. At the request of the Budget Committee I am offering this amendment to clarify that aspect of the authorization language. It is my understanding that Senate Resolution 468 waiving the provisions of section 402(a) of the Budget Act for purposes of S. 1280 was adopted by the Senate on July 22.

Mr. President, when the original notion of the Community Energy Act was conceived it was conceived jointly by the senior Senator from New Jersey and myself separately, and the reason that we are even here today discussing this is because of the leadership he has shown, and I will at this point yield to him.

Mr. WILLIAMS. Mr. President, I thank the Senator from Massachusetts. The skill which he is managing this bill has been reported to me.

Mr. President, I rise in support of the amendment.

As we developed this concept over the course of the past year, we worked with the Department of Energy and the Department of Housing and Urban Development. We solicited their joint suggestions, and we were impressed with their ability to construct a common, yet creative approach together. I believe that this amendment offers a means to continue this coordination, to link energy planning and implementation to ongoing community housing, rehabilitation, and community development efforts. This combination should enable us to benefit from the talents, expertise, and experience of each agency. HUD has over 12,000 personnel in more than 100 field offices throughout the country who have administered the community development program through city and county officials for 8 years. Already, many of these individual grants are being issued for energy conservation purposes as a part of housing rehabilitation or preservation, or to revitalize neighborhoods through energy improvements which reduce local costs.

In this regard, I would ask the manager of the bill if, under this amendment, it might not be possible for localities to submit applications for local energy management partnership grants at the same time and to the same HUD office as such localities' community development block grant applications, so as to reduce any possibility of duplication and to take advantage of the field staff already in place for that purpose?

Mr. TSONGAS. Mr. President, my colleague, Mr. WILLIAMS, has addressed a point which concerns us—that is to implement this community energy conservation grant program with existing personnel. I understand that HUD has the capacity to review and allocate grants in the same funding process as the current "CD" cycles. Moreover, it is the committee's intent to insure coordination of programs, so that where a community will be doing rehabilitation work, it may undertake energy retrofit work at the same time and avoid duplication and inefficiency. In this way, we have directed DOE to work with and through HUD instead of creating any new offices or bureaucrats to run this program.

Mr. WILLIAMS. I thank the Senator from Massachusetts.

We certainly, over the weeks, indeed now months, had opportunities to think through various ways we could, within a community, move to a systematic approach to conservation. One of the ideas that we thoroughly considered with all of this impact and implication was through a method that is used in other areas, and that is the filtration process of the resources, for program resources to enter in at the State level, be treated through a State bureaucracy, and then filter to the community.

This was thoroughly examined. Its impact—its efficiency or inefficiency, its low cost or high cost—was thoroughly examined. And we came out on the side of taking something that has been tried, been tested, that has proven its ability to be efficient and effective within the community. We were determined to take a journey with these resources that would be most effective, most efficient and least costly not only in money but in time.

Mr. TSONGAS. The Senator is quite correct.

As one who sat through both committees' deliberations, I think that was clearly the consensus of those who testified.

Mr. HATFIELD. Mr. President, we have no objection to the amendment. I would accept the amendment or move its adoption.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 1447) was agreed to.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, I ask unanimous consent that Rich Arenberg of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum, I ask unanimous consent that it be charged to my controlled time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum and ask that it be charged to neither side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield myself 5 minutes on the bill.

Is it the intent of the committee that States may use EMPA funds for developing emergency conservation plans as called for under the Emergency Conservation Act of 1979?

I would like to state that as a question of the manager of the bill on the majority side.

Mr. TSONGAS. Mr. President, on behalf of Senator JACKSON, yes, it is the intent of the committee that EMPA funds are to be available to States to plan and prepare for a severe energy supply interruption. The Congress recognized the importance of emergency planning and of the States role in such planning in the passage of EECA last summer. However, the costs of the implementation of EECA plans will be provided separately by DOE because the likely cost magnitude would exceed the capability of EMPA funding.

As you know, the Energy Policy and Conservation Act of 1975 in section 362 (e) allows States to use EPCA funds for emergency planning. It was and still is our intent that these funds may be used by the States for emergency planning. Unlike the administration's version of EMPA, the committee has not repealed EPCA. Section 362(e) still stands. It is the committee's strong feeling that States ought to be involved in emergency planning now, not at some future date after EMPA is implemented.

Therefore, the committee intends that EMPA funds could certainly be used to refine and improve an existing State emergency energy conservation plan. It is the emphatic feeling of the committee that the Nation urgently requires a mechanism to cope with severe energy supply interruptions which could occur at any time. EECA established the basis for such a mechanism. This mechanism relies on the existence of State emergency energy conservation plans.

The committee does not intend any action implying less than an urgent need for States to submit emergency energy conservation plans under EECA. Nor does the committee intend that the development of these plans by States be contingent on the provision of Federal financial support.

Mr. HATFIELD. Mr. President, I appreciate the response from Senator TSONGAS, representing Senator JACKSON on this.

I would like to ask one further statement in the form of a question.

Under the Emergency Petroleum Allocation Act of 1973, section 19.a, Congress authorized the President to reimburse States for responsibilities delegated to the State under the Act. It is my understanding that although States have been operating State set aside programs since the enactment of this act, they have only been provided funds once in the early years of the program. This past summer most States faced enormous increases in their caseloads under the set-aside program due to changes in DOE allocation regulations and the summer gasoline shortage. Similar increases in caseloads will undoubtedly arise during future shortages. Will States be able to use EMPA funds for managing the set-aside?

Mr. TSONGAS. Mr. President, if I may respond again in behalf of Senator JACKSON, yes; should be allowed to manage the State set-aside program under EMPA. The purpose of EMPA, as its name implies, is to provide States the management capability to better carry out existing programs such as State set-aside programs to meet their own needs. The set-aside is an integral part of any State emergency program.

Mr. HATFIELD. Mr. President, I thank the Senator from Massachusetts for his response to these questions.

I reserve the remainder of my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

UP AMENDMENT NO. 1448

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment on behalf of myself and Senator HATFIELD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. HATFIELD, proposes an unprinted amendment numbered 1448.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In sections 202(c)(d)(f)(g), 205(b), 206, 207, and 208, strike "Secretary" and "Secretary's" and insert in lieu thereof "Governor" and "Governor's", whichever the case may be.

On page 49, strike lines 3 through 12 and insert in lieu thereof:

"(b) All applications from communities under this title shall be submitted for approval to the Governor of the State. The Secretary or, in the case of an interagency agreement under subsection (a), the Secretary of Housing and Urban Development, shall provide funds to the States pursuant to the provisions of sections 203–205 for distribution by the Governors to communities within the States.".

On page 51, lines 1 and 2, strike "Secretary shall not approve an application for funds provided under this title if", and insert in lieu thereof "Governor may not disapprove an application for funds provided under this title unless".

On page 51, lines 4 and 5, strike "after considering the comments provided by the State".

On page 52, line 19, after "ally" insert "to the Governor".

On page 53, strike lines 18 through 22 and insert in lieu thereof:

"SEC. 203. (a) Upon application by the Governor, the Secretary shall allocate to the State the funds available under this title for distribution to communities within that State. The Secretary shall determine the allocation for each State, which allocation shall be the greater of an amount that bears the same".

On page 59, line 10, strike "Secretary shall give priority to States," and insert in lieu thereof "Governor shall give priority to".

On page 60, following line 3 insert:

"(c) Notwithstanding the provisions of sections 204–206, a Governor may retain, for administrative and technical assistance costs incurred by the State, not more than 5 percent of the amount of any grant provided to a community in the State.".

On page 61, line 9, strike "recipient of financial assistance under this Act or under any State energy programs" and insert in lieu thereof "Governor receiving funds under this Act".

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Mr. President, is it correct that there is 1 hour allotted for the Domenici-Hatfield amendment, to be equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. And that that is not subject to a motion to table?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I yield myself 10 minutes on the amendment.

Mr. President, yesterday afternoon, on the child nutrition bill, the U.S. Senate did something rather historic. They, by a rather significant vote, decided that, in an existing categorical grant program of this Nation, the child nutrition program, which has some 15 categorical grant programs, maybe it was time to find out whether or not categorical grant programs that require precise rules and regulations, and inflexible kind of rules, and administration by the National Government out of the White House, out of one Secretary here in Washington, the Secretary of Agriculture, and a decision was made that maybe we ought to see if that is the way to run this Government.

That is really historic. It kind of passed unnoticed. But the Senate decided to try to let six States that would want to exercise an option to run their own program, let them build a program and then fund the State.

For the 8 short years that I have been in the Senate, the hue and cry has been, "We don't need so many categorical grant programs. We don't want to proliferate that kind of relationship which requires hundreds and sometimes thousands of cities and local units of government to be applying to a national office, to a national Secretary, be it Agriculture, Energy, or HUD. We want to begin to get these programs down at the local level."

The reason I offer this amendment with my good friend from Oregon, Senator HATFIELD, is that, on the one hand, here, today, we have a bill which consolidates a number of conservation grants that are kind of spawned around in the Federal Government. But on the other hand, while we are busy consolidating, we create another huge categorical grant program.

While there is an entitlement section to this bill that cities over 50,000 will get their money directly, there is a large part of this program where the smaller cities around those will compete, and they will be competing for their money by applying, the way the bill is now drawn, to none other than the Secretary of Energy for the United States.

As if the Department of Energy has not had enough criticism about its inability to manage programs, we now are going to have the cities of America applying specifically one at a time up here to the Secretary of Energy for the Secretary to weigh among competing grants and decide which one gets some of this conservation money. To my way of thinking, this is absolutely the opposite of what we ought to be doing.

I want to add, so the Senate will know, before we are finished with this bill they are not going to be applying only to the Secretary of Energy, but, because there is some dispute as to whether it is the Secretary of Energy or whether it is HUD that ought to be managing this kind of program, we are going to do ourselves one better and we are going to have both the Secretaries of Energy and HUD, in some kind of national comanagement, be the entity to which the cities of America can apply for their categorical grant programs.

Senator HATFIELD and I feel that this is absolutely the wrong time in our history, after decades of centralization through national bureaucracies, to vest the administration of this program, a grant program, in the national Secretaries of Energy and/or HUD or the combination thereof.

This bill very simply says the exact amount of money that is supposed to go to any State will still go to that State. It will go and it will have a slight stopover. It will stop over in the statehouse of each State. We limit what the State can take for management of the program. The entitlement cities under title I will prepare their conservation plans and send them to the statehouses. The criteria for approval for entitlement cities is identical, and a very short period of time is allowed for the Governor to approve the entitlement grants.

The lesser grants between the competitive cities will also send their grants to the States. The States will have the same criteria to evaluate the competing small cities and will fund them. There is no additional cost. In this Senator's opinion, there is a minimal delay and, in fact, the minimal delay, while it waits over to get approved under the very specific guidelines provided in the respective statehouses of our 50 States, will end up making sure that the plans are more consolidated and in tune with State plans than under the Energy Committee's bill.

It will make sure that there are no long delays while the Secretary of Energy and/or HUD go through the hundreds of grants that are going to be pending in their offices from the small cities of America. Those will be done in the statehouses of America as provided by this bill with the exact same criteria, but one additional one. That is that those smaller grants will have to mesh with a statewide comprehensive conservation plan which is already prescribed on the States by law.

In summary, the cities will get the same amount of money. There will be no significant delay. We will decentralize the decisionmaking but under the same criteria so that 50 States will be the place to which the grant applicants send their plans instead of the National Government through the Secretary of Energy, who can hardly handle what he has to handle today.

I hope that the U.S. Senate today says, "It is time we trust our States, especially on conservation matters that require a State plan. It is time we quit kidding ourselves, that we can administer categorical grant programs out of a national program on subjects like conservation for literally hundreds of communities, large and small, across our Nation."

And, last, we have limited the amount that a State can take for administration. I would suggest in passing there is no such limitation as to what the Departments of Energy and HUD will use of these funds to administer the program under their direction and supervision in a centralized and national manner.

I thank my good friend from Oregon (Mr. HATFIELD), a former governor who understands what we have been doing with this maze of categorical grant programs that proliferate, and especially, when we know that is the case. For us to come here today and to be doing more of the same seems to me to be absolutely the wrong way to go. I am most appreciative of his support.

Mr. HATFIELD. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. HATFIELD. I am delighted to join my colleague from New Mexico (Mr. DOMENICI) in offering this amendment. I would like to highlight two particular points which the Senator has already made.

Mr. President, I have no objections to cities receiving Federal financial support for local energy programs, nor do I believe that States should control the activities of their municipalities. But I do not think that is the question.

Mr. President, I think the point of this amendment is to utilize our existing State agencies rather than having DOE open another level of bureaucracy to process local energy grant applications.

Mr. President, there are concerns that the Domenici amendment, by using existing State delivery mechanisms, will put cities at the mercy of their Governor, or some State agency, who may delay Federal assistance targeted for local communities. This has been a problem in other programs, Mr. President, but steps have been taken in this bill to assure that cities will get their money. Let me enumerate some of these safeguards.

First, major metropolitan cities over 50,000 population and urban counties over 200,000 are expressly entitled to Federal financial assistance in this legislation.

Second, it is the Secretary of Energy who determines the amount of the grant for those cities, and counties, not the Governor.

Third, if for any reason money targeted to a city is not disbursed, the Governor is required to give the money to other eligible units of local government within the State. And if there are none, the Governor must return the money to the Department of Energy.

It is further provided that if in 75 days the Governor has not acted, the application is automatically approved.

Mr. President, with these safeguards, the Domenici/Hatfield amendment provides for the most efficient and cost-effective program and at the same time protects the interests of local communities who stand to gain most from this program.

I think these, in themselves, indicate the concern that Senator DOMENICI and I have to make sure the cities can get their allocations but more especially we are concerned that the taxpayer generally be relieved of the onerous task of having to set up another level of bureaucracy.

I might also indicate that there has only been 5 percent that has been allocated for State administrative purposes in this act. That is very modest because most programs that the Congress enacts, in which the State is to be an administrator, we allocate 10 to 15 percent for overhead or for administrative costs. So I think there again we have put the States on notice that we expect them to act expeditiously and to effectuate the goals and the objectives of this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time have we used on the amendment?

The PRESIDING OFFICER. The Senator has 17 minutes 15 seconds remaining.

Mr. DOMENICI. Mr. President, I yield myself 2½ minutes.

Mr. President, I know that most of the Senators received a letter from the National Governors Association under the hand of Gov. Bob Graham, but I would just like to reiterate that the National Governors Association supports the Domenici-Hatfield amendment. I think they quite succintly state that this amendment will utilized, as my good friends from Oregon has just indicated, the existing State energy agency capacity to work with local governments rather than requiring DOE to expand its bureaucracy to deal with thousands of local governments as prescribed in Senate bill 1280. States will be asked to administer a competitive grant program for smaller communities as well as passing through formula grant funds to metropolitan areas.

The letter goes on to indicate that our National Government wants a partnership with the States, wants a partnership in energy conservation, and then proceeds to say, "This is the place to start. Send this money down to the Governors under specific instructions, with the specific limitations that Senator Hatfield has alluded to, that will make sure it gets where it has to go and get there quickly."

Mr. President, I ask unanimous consent that the letter from the National Governors Association be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
July 25, 1980.

DEAR SENATOR: During floor consideration of S. 1280, the Energy Management Partnership Act, an amendment of critical importance to the effectiveness of state and local energy conservation programs will be offered by Senators Mark Hatfield and Pete Domenici. The nation's Governors strongly support this amendment because it will rely on state energy agencies to administer conservation grants to local governments and insure consistency between ongoing state energy planning and new local conservation initiatives.

The Hatfield/Domenici amendment will utilize the existing state energy agency capacity to work with local governments rather than requiring DOE to expand its bureaucracy to deal with thousands of local governments, as S. 1280 would currently contemplate. States will be asked to administer a competitive grant program for smaller communities as well as passing through formula grant funds to metropolitan areas. The competitive grant approach will result in targeting of funds to the most cost-effective projects, and the targeting will be handled by state officials familiar with the needs and capabilities of that state's local governments.

The Energy Management Partnership Act is a much-needed bill to streamline the existing myriad of state energy conservation programs. It will provide needed flexibility to carry out state-specific energy activities. With the addition of the Hatfield/Domenici amendment, the new proposed local grant program will be a vital addition to complement five years of state efforts with strong locally-implemented conservation initiatives.

As Chairman of the National Governors' Association Subcommittee on Renewable Resources and Conservation, I urge your support for the Hatfield/Domenici amendment to S. 1280 and for passage of S. 1280.

Sincerely,

GOVERNOR BOB GRAHAM.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS. Mr. President, I yield myself such time as I may consume.

Mr. President, the portion of the bill which is in question involves money which is going to be going to cities and towns. The way the bill is structured, there are several allocation categories. The overall amount of money that goes to each State is determined by formula and within the State entitlement, cities over 50,000, central cities in a SMSA, and urban countries receive entitlement grants. You also have a second portion of a State's entitlement which is distributed through discretionary grants to the remaining communities.

It seems to me that the essential question is, who is going to get the money? The "who" in this case are cities and towns. Why do we not ask ourselves, what do they want? Do they want the position taken by the committee or do they want the Governors to do it? Without exception, they want the committee bill. So, here, we have a strange situation, where we are telling cities and towns, "We know what you want, but we are going to do it differently, because we think it is better for you." I thought we were trying to get away from that kind of thing.

The amendment offered is a step backward, in my opinion, in the development of our national energy policy. One thing we have learned is that we cannot have an energy policy mandated at the Federal and State level. If we are going to solve the energy conservation issue, it is going to have to be done at the local level. That, I think, is one of the lessons we have learned, unhappily, over the past few years, that communities control development patterns for land use.

They control transportation, they control building codes, zoning codes, all kinds of inspections—the tools which are crucial to any kind of energy conservation plan.

We are moving in the direction of recognizing the role of local governments. The issue here is whether we want to go away from that and have a situation where the Governors control the flow of funds.

It is quite true that the Governors support the amendment. Of course they do—they are going to get the money. I would be surprised if there were a Governor who did not want that extra control. OK. So we put on that side of the ledger the National Governors Association. Why do we not look at the other side of the ledger, that which is supportive of the committee's approach?

We have had dozens of hearings on this subject by two committees in three States. The coalition that is formed to support the committee position includes the Consumer Energy Council, the AFL-

CIO, the Conference of Mayors, the League of Cities, the American Planning Association, the Solar Lobby, the National Association of Housing and Redevelopment Officials, the National Association of Counties, the National Association of Regional Councils, and the National Association of Towns and Townships. You can add to that both committees, the Banking Committee and the Energy Committee, and the administration. So, in any kind of judgment on the ledger sheet, yes, the Governors are supportive, but everybody else is on the other side, for very good reason.

I think the most compelling argument, at least in my opinion, is that those who would receive the money feel very strongly that they do not want the Governors controlling this, that it should go to the cities and towns directly. Most Members, I suspect, have received letters and phone calls on that issue. I do not think it is proper for the Feds to dictate to cities and towns a process that they are strongly opposed to because, somehow, we think it is a better approach.

As to the merits, what is the advantage, since we have an entitlement portion and competitive portion process, of having that go through the States? It is going to go from the Federal Government, because that is where the moneys are, to the cities and towns. Why reroute it through the States? The argument that could be made in favor of some kind of routing is that the States are not consulted. Yet, if we look at the bill, there are various provisions which we included during the committee markup which provide for State direction so that we do not have cities and towns going off in a way that is not consistent with the State energy plan.

The Domenici amendment would add to the bill a 5-percent administrative cost, which would go to the States for their role in this, which is the same thing, obviously, as a 5-percent diminishment of the moneys that are available to local government. So those who would argue that we spend less money in administration and more money in implementation have at least to consider the 5 percent that would have to be given under the amendment to the States simply to be a conduit.

The other point I would make is this: Under the bill as reported by the two committees and supported by all those groups that I referred to earlier, we have the normal judicial review by means of the Administrative Procedure Act. Under the Domenici amendment, in fact, there is no review of what the Governor decides to do. You may have an entitlement program and he does not have to sign the check. As I understand the amendment, there is no provision for any legal recourse against a Governor who acts arbitrarily or capriciously. I think that is something that should be of some concern.

Mr. President, I ask unanimous consent that the "Dear Colleague" letter which was sent out by myself, Senator WILLIAMS, who is cosponsor of the original bill, Senator PERCY, Senator MAGNUSON, and Senator JOHNSTON be printed in the RECORD at this point, as well as the letters by the American Planning Association, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities, the Solar Lobby, and the Deputy Secretary of Energy.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

AMERICAN PLANNING ASSOCIATION,
Washington, D.C., July 18, 1980.

Hon. PAUL E. TSONGAS,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR TSONGAS: On behalf of the American Planning Association, thank you for championing the cause of local government in the area of energy conservation by introducing, along with Senators Jackson, Johnston and Williams, the amendment to the Energy Management Partnership Act (S. 1280).

We are enclosing a copy of the letter which we are sending to all Senators seeking their support on the Senate floor for S. 1280 and for your amendment. In this letter, we express our opposition to the amendment which proposes to increase the role of States offered by Senator Domenici.

If we can be of further assistance to you or your staff, please call on us.

Sincerely,

RICHARD T. ANDERSON,
AICP.

AMERICAN PLANNING ASSOCIATION,
Washington, D.C., July 21, 1980.

Hon. PAUL E. TSONGAS,
U.S. Senate.

DEAR SENATOR TSONGAS: The American Planning Association urges your strong support for S. 1280, The Energy Management Partnership Act, as reported from the Senate Energy and Natural Resources Committee, and for the amendment proposed by Senators Johnston, Jackson, Williams and Tsongas. We ask you to vote against the amendment which will be offered by Senator Domenici.

The American Planning Association—with over 22,000 individual members who are elected officials, planning commissioners and professional planners at all levels of government and in private practice—is firmly committed to the conservation of both natural resources and their by-product, energy. S. 1280, which will be considered on the Senate floor the week of July 21, provides a critically needed energy conservation program for local governments, reinforced by well-developed State energy plans.

The Johnston-Jackson-Williams-Tsongas amendment instructs the Department of Energy and the Department of Housing and Urban Development to work together to administer the program and permits the use of existing field staff. We welcome HUD's involvement in this program because, as we testified before the Subcommittee on Housing and Urban Affairs, HUD already has a decentralized structure in place and is the most experienced of the Federal departments in delivering services at the local level.

We think that S. 1280, with the Johnston-Jackson-Williams-Tsongas amendment, will serve the cause of government efficiency. We would not favor the proliferation of single-purpose energy offices which increase government costs. We support linking energy planning and implementation to ongoing public planning and development programs, many of which are presently administered by HUD. Besides allowing the use of the same information sources, such linking promotes better coordination of Federal programs and better use of Federal dollars. Furthermore, greater energy conservation can be achieved when the implementation is administered by city and county officials who have purview over a wide range of programmatic responsibilities.

State and local governments both have important roles in energy conservation. S. 1280 provides for the development of State energy plans (Section 103) and includes measures to encourage the use of renewable resources in each State (Section 104). We do not favor the Domenici amendment, which would reallocate up to 5 percent of each local energy conservation grant for State administrative costs and give States total control over local energy programs. There are numerous examples of energy initiatives where the best solutions to the energy crisis have been developed locally. We believe in local administration of energy programs for the following reasons:

(1) State energy conservation planning programs vary in quality from one State to another. Local governments should not be held back if their State's experience in this area is limited.

(2) Solutions for energy problems differ from locality to locality. Houston's programs, for example, are probably not appropriate for Boston. S. 1280, complemented by the Johnston-Jackson-Williams-Tsongas amendment, allows for the greatest flexibility in local planning and decision-making.

(3) Compliance is largely dependent on social acceptance of programs. Energy conservation strategies that have emerged from local input and review processes will have strong community support. Enforcement and compliance suffer when administrators are removed from the project area.

S. 1280, as amended by Senators Johnston, Jackson, Williams and Tsongas, offers State and local governments an opportunity to participate in solving our national energy problems. APA urges you to give this bill your full support.

Our staff will be glad to explain our position in greater detail. If we can assist you or your staff in any way, please call on us.

Sincerely,

RICHARD T. ANDERSON,
AICP President.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., July 25, 1980.

DEAR SENATOR: The National Association of Counties strongly urges your support for passage of S. 1280, the Energy Management and Partnership Act. This bill represents the first significant attempt to integrate federal, state and local efforts to achieve our energy conservation goals.

During the course of the debate an amendment to S. 1280 will be offered by Senator Domenici. Passage of this amendment would endanger the success of the local title of this Act by constraining the ability of local governments to take advantage of unique local characteristics. Consequently, we would hope that you would join in efforts to defeat this amendment and to preserve local autonomy.

Your vote in favor of S. 1280 and against the Domenici amendment will be greatly appreciated.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., June 26, 1980.

DEAR SENATOR: The U.S. Conference of Mayors urges your strong support for S. 1280, the Energy Management Partnership Act of 1980.

S. 1280 is designed to actively involve local governments in the development and implementation of national energy policy.

As you know from discussions with the

Mayors in your own state, local governments have been the missing link in our energy strategy to date.

S. 1280 is the product of long and difficult negotiations between many federal, state and local officials, all sincerely dedicated to strengthening the capacity of local governments to promote energy conservation and renewable resource efforts. It challenges local governments to a full partnership in the national energy future. The Conference of Mayors believes our nation's cities are equal to the challenge and enthusiastically endorses this bill.

We base our support on several key factors. S. 1280 would provide funding directly to local governments for the development of energy conservation and renewable resource strategies with a minimum of bureaucracy and a maximum of efficiency. It would involve both metropolitan and non-metropolitan cities in the process as eligible applicants. It recognizes that while cities are different, with diverse energy problems, each can make a unique contribution in this area. The funding for S. 1280, while within the limits of the first congressional budget resolution, would be sufficient to make a real impact in fiscal year 1981.

The Conference of Mayors supports one important amendment to S. 1280 to be offered by Senators Jackson, Johnston, Tsongas and Williams. It would require the Secretary of Energy to enter into an interagency agreement with the Secretary of Housing and Urban Development for the Administration of the program or grant approval. It is clear from extensive hearings that DOE alone does not have the capability or staff in the field to administer the program of assistance to cities contemplated by S. 1280. Because of this proposed amendment actively involving HUD, Senator Williams agreed to delete a similar program of local government energy assistance to be run by HUD which was contained in the Housing and Community Development Act of 1980, passed by the Senate on Saturday. This spirit of compromise evident by this amendment can only help the programs in S. 1280 to be a success. We urge your support of the Jackson-Johnston-Tsongas-Williams amendment.

The Conference of Mayors also urges you to oppose any amendments designed to increase the role of state governments in the administration of local government energy programs. S. 1280 provides for a consolidation and reauthorization of state energy conservation programs which have been in existence since 1974. It also sets up a system for state-local coordination. Based on state performance over the years in this area, the nation's mayors believe the provisions contained in S. 1280 to be sufficient and urge you to vote against any amendments suggesting a stronger state role.

Passage of S. 1280 begins an important stage in U.S. energy policy and independence. During the recent 48th Annual Conference of Mayors, the Conference unanimously endorsed the framework of S. 1280. We hope you will join the Mayors of your state with your solid backing.

Thank you for your consideration and assistance.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

NATIONAL LEAGUE OF CITIES,
Washington, D.C., June 26, 1980.

DEAR SENATOR: On behalf of the National League of Cities, I am writing to convey our strong support for S. 1280, the Energy Management Partnership Act.

S. 1280 will establish a comprehensive framework for coperative State and local government action in the development and implementation of energy conservation and energy production programs. These federally assisted programs will make a significant contribution to national goals, particularly the most pressing one calling for reduced foreign oil dependence.

NLC believes that active local government involvement will greatly enhance and facilitate improvements in community energy efficiency and acelerate the application of small scale renewable energy technologies. We should not wait until communities can afford to begin this effort with their own limited resources; S. 1280 will do much to stimulate comprehensive community energy management programs.

During floor consideration on this important energy initiative, NLC urges our support for the bill as reported from Committee with one amendment that will be offered by Senators Jackson, Johnston, Williams and Tsongas. This amendment instructs the Department of Energy to enter into an interagency agreement with the Department of Housing and Urban Development to jointly administer the program of assistance to local governments. NLC believes that this amendment will ensure that existing federal capacity is utilized in the most efficient manner and it bypasses the need for additional federal and state bureaucracy which is both costly and unnecessary.

S. 1280 will establish for the first time a comprehensive framework for states and local governments to participate actively in meeting pressing national energy policy objectives. We urge your strong support for this important energy initiative during floor consideration.

Sincererly,

ALAN BEALS,
Executive Director.

SOLAR LOBBY,
Washington, D.C., July 1, 1980.

ACTION ALERT TO SUPPORT S. 1280: "THE ENERGY MANAGEMENT PARTNERSHIP ACT (EMPA)"

WHAT IS S. 1280?

S. 1280 (EMPA) will provide funds directly to both state and local governments for:

Coordination of existing federal grant programs such as the Energy Extension Service, the Residential Conservation Service audit program, the Schools and Hospitals audit and technical assistance program and Emergency Energy Planning,

Energy planning, including conservation and renewable resources, and

Removal of barriers at the local level for the direct application of renewable resources and conservation measures.

SHOULD AMENDMENTS TO ALTER THE FUNDING DIRECTIVES OF S. 1203 BE SUPPORTED?

No! S. 1280 now has separate funding provisions for both state and local governments. Although local plans should be coordinated with state plans, funding should go directly to local governments for local programs and local planning. The Domenici amendment would have all funds pass through the state. This amendment should be defeated.

CAN ENERGY MANAGEMENT LEGISLATION AFFECT OUR ENERGY CRISIS NOW?

Yes! DOE estimates an energy savings from requested FY '81 funding for S. 1280 of approximately .41 quads (194,000 bbl/day of oil).

So please support S. 1280 when the bill comes to the floor. This may happen before the recess.

THE SECRETARY OF ENERGY,
Washington, D.C., June 28, 1980.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JOHNSTON: This letter is in regard to Senator Domenici's amendment to Title II of the Energy Management Partnership Act (EMPA), S. 1280. The amendment, as we understand it, provides that all applications from communities under Title II (Local Energy Management Partnership) shall be submitted for approval to the Governor of the State.

Although the Administration has always felt the need to assure that local plans are coordinated with State actions, we oppose this amendment. We believe that S. 1280, as reported, provides that assurance of adequate coordination between local and State governments. The Administration supports a direct Federal to local competitive grant program.

The Office of Management and Budget has informed me that this position is consistent with the President's program.

Sincerely,

JOHN C. SAWHILL,
Acting Secretary.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield to Senator Hatfield as much time as he desires.

Mr. HATFIELD. Mr. President, I think there is a very interesting philosophical point being made here. I would like to say to my good friend from Massachusetts, yes, the Governors would control the matter of disbursements under the Domenici amendment, but let me say that under the committee amendment, the Secretary of Energy controls the allocation. I should like to go on record now—and I do not really make predictions very often. After having predicted Thomas Dewey's election in 1948, I gave up on that business.

But I should like to say that I feel very, very free to predict now to the Senator from Massachusetts that once the cities get into the business of trying to deal with the Department of Energy, they will rue the day that they ever signed their names to a letter asking that the Secretary of Energy be put in charge. I know of no agency of the Federal Government today that has a worse track record than the Department of Energy. I have heard these comments made within the Energy Committee by members of the majority and by members of the minority. The track record of the Department of Energy is abysmal. And we are now going to put it in the business of trying to deal directly with the small communities of our Nation—directly.

Let me say if anyone is to be in command, I would rather have the Governor in command, who is closer to the community of the State than the Secretary of Energy. Let me say further that they have in place already the machinery. They already have been in direct relationship to the communities. I would hate to rest my case upon the record of the Department of Energy to ask now to establish another bureaucracy within that Department to try to administer that program.

We will rue the day.

I say that, if the Domenici amendment loses, and I begin to get complaints from my cities that they cannot get any action out of the Department of Energy. I want to transmit them over to the Senator from Massachusetts to answer on my behalf, if he would be willing to make that commitment now.

Mr. TSONGAS. If the Senator will provide me with the appropriate staff, I would be pleased to fill that obligation.

Mr. President, I will make two points in response to my good friend from Oregon. One is, let us look at the record.

There is one program that is being administered out of Washington through the States, the schools and hospitals program. If anyone has looked at his mail recently, if there is any program dealing with conservation that is in disarray, it is that one. The reason is that the States do not have the capacity to administer it. Anyone who doubts what I say, simply has to call their local schools and hospitals and ask how they feel that program is administered.

So we have at least one piece of a track record, and it has not worked out.

Second, the argument made by the Senator from Oregon has merit. That is, DOE by itself, does not have the infrastructure to fully administer the program.

If we go back and look at the original bill filed by myself and Senator WILLIAMS, we acknowledge that.

In anticipation of that argument, and I think there is merit to it, we have the Johnston-Jackson-Tsongas-Williams amendment which provides for the interagency cooperation.

So we may, indeed, utilize the capacity of HUD which already has in place, the effective capacity for that kind of administration, and that, as I understand it, is agreed upon by both sides.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. LONG). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I hope everyone that is preparing to vote on the Domenici-Hatfield amendment knows this program, unless my amendment is adopted, is not only going to be managed by the Department of Energy, but it is going to be effectively managed because HUD will help them. I mean, thousands of cities in the United States are going to get a better deal, a more responsive ear, they are going to get more expeditious treatment now, not only because the Department of Energy is going to take care of them, but we will have HUD right there in some interagency cooperative agreement, because they have this fantastic infrastructure to foul up every program they are running now.

Mr. President, it is just absolutely incredible to me, the fact that the League of Cities, those who favor solar energy, the mayors of America, favor the bill as drafted, should have any bearing on the United States Senate's decision.

The issue here is, do we take a categorical grant program in energy conservation, consolidate the grants, and do we let the 50 States administer them under direct Federal guidelines, or do we trust the Department of Energy and HUD to deal once again with thousands of American cities, just because a long list of groups favor that this is the way we ought to do it?

I am amazed to find that the Secretary of Energy, acting through John Sawhill, sent a letter to the committee saying that they wanted to run this program out of the Department of Energy. Yet, in the White House communication attached to it, one of the most important issues they said we should address in this Nation is found in paragraph 3, where they say:

> Specially strong suggestions that programs could be made more effective if they, as well as other State energy-related initiatives, were carried out as part of an overall State energy plan. The effectiveness of these programs could be increased by assisting States in establishing a mechanism for their integration at the State level.

So what we are about to do today, unless we adopt the amendment, is say that we have an extension service in place out there in the States, they are running it, we have other energy programs and the States are trying to do that, we have mandated them to have a State energy plan, but when the first real money is coming for conservation, we are trying to be sold a bill of goods here today, that the National Government through DOE with an interdepartmental agency cooperation with HUD is apt to manage this program better than the States.

It really defies history. It really defies reality. It really defies experience.

I certainly hope the Senate continues with its record which it started yesterday of saying, "Let us see if the States, for a change, with specific guidelines from the National Government, cannot run a program better than thousands of cities applying to HUD and DOE."

Mr. President, I reserve the remainder of my time.

Mr. TSONGAS. Does the Senator from Illinois seek recognition?

Mr. PERCY. Yes. I would like to speak.

Mr. TSONGAS. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I realize this is a highly controversial matter and it gets down to the philosophy of government, in a sense, but also to the fundamental principle of whether or not we can really implement a program.

I know we would have liked to have left the 55-mile-an-hour speed limit to the States. We know full well, unless we mandated that program at a national level, it simply would have broken down completely.

Mr. President, the issue of energy conservation is one that I have been deeply concerned about for many years. Conservation represents this country's most effective means of reducing our dangerous dependence on foreign oil. I firmly believe that it must be the cornerstone of our energy policy as we move toward a greater degree of energy independence. While we must also move ahead in the development of energy supply technologies that will provide long-term help, we should not lose sight of conservation's role. Conservation can provide not only cost-effective and technically assured approaches to reducing our oil imports, but many conservation measures can also be implemented quickly. These are available to provide almost immediate relief from the staggering drain of about $10 million per hour that oil imports place on our economy.

The development of renewable energy resources presents another desirable approach to helping the United States reduce oil imports. Various renewable approaches have proven to be technically feasible and cost effective. In addition, as the prices of conventional energy sources continue to rise, renewables will become increasingly competitive.

Mr. President, in view of the need for a national commitment to energy conservation and renewable energy sources, I strongly support the Energy Management Partnership Act which is being considered today. By coordinating many of the Federal programs that provide grants to State and local governments, we will streamline Federal effort's and provide for more efficient use of grant dollars.

EMPA also provides for a program of direct grants to local governments. I feel that this is a very important step in bringing localities into a more active role in the vitally important areas of energy conservation and renewable resources.

We have some 90 million dwellings in this country, many of which are poorly insulated. HUD does have a structure that can be utilized and worked with in implementing, as rapidly as possible, measures to prevent the leakage from these sieves which were built at a time of cheap energy.

We simply must find a way to tighten up and make far more efficient all our housing. This is just one area where energy conservation will yield very, very high returns on our investment.

The Local Energy Management Act, which I introduced last year, also addressed the need for stimulating local involvement in the energy field. That bill called for the funding of demonstration grants which would allow selected communities to examine their patterns of energy consumption, develop strategies for saving energy, and plan for the use of renewable energy resources. In addition, the Local Energy Management Act addressed the important issue of communication between localities. The transfer of information about the approaches used and the results achieved from innovative energy programs is necessary for a far-reaching effort.

In my view, our local governments are in ideal positions to tap the ingenuity and versatility of America's citizens. We have many communities that have provided outstanding examples of what a community banding together with a common purpose can actually accomplish. Programs at the local level can also be tailored to be responsive to variations in geography, climate, resource availability, and economic conditions. I feel that the encouragement for local participation provided by EMPA's direct grant program is a very important part of this legislation. Therefore, I would oppose any amendments which would channel all Federal grants through the States. The pending amendment would reduce the effectiveness of the much-needed EMPA legislation and create an unnecessary layer of bureaucracy between the Federal and local levels of government.

As written, EMPA already provides State governments with an important role in the local grants program. Applications from localities, for example, must meet certain requirements that are set by the States. States can also apply for grants on behalf of localities. I do not share the view that the States should also control all of the grant funding for local energy programs under EMPA.

Mr. President, I urge my colleagues to support the Energy Management Partnership Act as written, and defeat the proposed amendment. A strong EMPA program, with direct grants to localities, will establish a stronger cooperative relationship among Federal, State, and local governments in the energy field. It will also provide substantial benefits to our Nation by furthering our goal of energy independence.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, will the Senator yield me 2 minutes?

Mr. DOMENICI. I yield.

Mr. HATFIELD. Mr. President, I wish to underscore again the fact that as to the 5 percent which has been allocated in the amendment for the administration, I challenge anyone with respect to the proposition that that 5 percent for administrative costs will be doubled at least by the Federal agency in administering the same program. The track record is there. The waste and the costs of administering such a program through a Federal agency will be far higher than the State agency administering the same program.

I believe it is very interesting that we have to challenge the capability of the Governors to allocate funds. I know of no closer relationship than a Governor to the communities of a State—a far closer relationship than that of a Federal agency to the State communities.

The Governors cannot arbitrarily withdraw funds. There are safeguards here, which we have stated before in detail, and there are entitlements that cities of larger size and counties will receive automatically.

Mr. President, if we are creating a bureaucracy, we are creating a bureaucracy in Washington. We are not creating the bureaucracy in the State capitals. Far more bureaucracy will be required here to administer this program than the kind of administrative machinery already in place at the State level.

It is interesting that there is already doubt on the part of the sponsors of this bill that it will work, for they now are going to suggest an amendment that there be an interagency agreement between HUD and the Department of Energy for the distribution of these funds; but it is a very interestingly worded amendment.

It says, in effect, that within 90 days after the enactment of this title, these two Secretaries shall enter into an intergancy agreement. But if they do not, after the 90 days, then the Secretary of Energy, in consultation with the Secretary of Housing and Urban Development, is authorized to make the grants.

So here, again, we are buying a pig in a poke. We are saying, in effect, "Enter into an agreement, but if you do not, then the Secretary of Energy and the Secretary of HUD will sort of jointly administer a program."

Obviously, we do not have the confidence in the capability of the Department of Energy to do this program, so we are trying to put togther a sort of bastardized arrangement of a possibility of an interagency agreement we do not even know about.

The crux of the whole thing is that those who do not have any confidence or trust in their State do not even have confidence in the Department of Energy to do the program; so now they are going to put together two departments, and we are not sure the two departments will be able to do it, because we recognize in the wording of the amendment that will come up next that if they cannot come to an agreement, the Secretary of Energy, in consultation with the Secretary of HUD, will issue the grants.

This is the ultimate ludicrous kind of administrative machinery. I believe that the people who drafted this had no administration experience or background. I never saw a more bastardized proposal for administering a program since I have been in the Senate than the amendment which will be coming up.

The Domenici amendment would clarify this whole thing and put it in place at far less cost to the taxpayer and with far greater effectiveness in the actual implementation.

Mr. DOMENICI. Mr. President, how much time does the Senator from New Mexico have?

The PRESIDING OFFICER (Mr. DECONCINI). Four minutes and thirty-five seconds.

Mr. TSONGAS. Mr. President, I am in a somewhat delicate position here, just having heard the Senator from Oregon indicate some difficulty with the agreed-upon next amendment, because his staff worked with ours to put it together.

Mr. HATFIELD. I just fired my staff. [Laughter.]

Mr. TSONGAS. Mr. President, I suggest that we do this: I ask unanimous consent that we suspend the proceeding on the Domenici amendment and then call up the Johnston-Jackson-Williams-Tsongas amendment and get that resolved. If Senator WILLIAMS has not arrived, I will then use time from the bill to give him time to arrive; and after that, we can go back to the Domenici amendment and have our rollcall in rather quick order.

Mr. PERCY. Mr. President, reserving the right to object, will the Senator give us some idea as to when the rollcall vote would occur then?

Mr. TSONGAS. I believe the rollcall vote would be in about 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1910

Mr. TSONGAS. Mr. President, on behalf of Senator JOHNSTON, I call up amendment No. 1910.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS), for Mr. JOHNSTON, Mr. JACKSON, Mr. WILLIAMS, and himself, proposes and amendment numbered 1910.

On page 48, line 24, after "jurisdictions," delete the following through the period on page 49, line 2, and insert in lieu thereof the following: "(1) the Secretary shall within ninety days after the date of enactment of this title enter into an interagency agreement with the Secretary of Housing and Urban Development which may provide for distribution of funds or approval of grants by the Secretary of Housing and Urban Development as authorized and provided for in this title. Such approvals and grants shall be made on the basis of rules promulgated by the Secretary in consultation with the Secretary of Housing and Urban Development, or (2) if the requirements of clause (1) are not met the Secretary, in consultation with the Secretary of Housing and Urban Development is authorized to make grants as provided in this title.".

On page 60, line 12, strike subsection (b), and insert the following in lieu thereof:

"(b) The President shall submit a report to the Congress including any recommendations with regard to the appropriate funding level and administration of a community energy conservation and renewable energy resource grant program, which activities should be included as part of such a program, and any legislative amendment to the existing formula by not later than nine months after the date of the enactment of this Act.".

Mr. TSONGAS. Mr. President, on Saturday, June 21, 1980, the Senate passed S. 2719, the fiscal year 1981 HUD authorization bill. During debate a section of that bill establishing a program of energy planning grants for units of local government was deleted with the understanding that this amendment would be offered when EMPA was considered by the Senate.

Amendment No. 1910 directs DOE to enter into an interagency agreement with HUD under which grant approval, fund distribution or some combination of these delivery functions would be carried out by HUD pursuant to rules promulgated by DOE. DOE and HUD would have 90 days to arrive at the agreement.

If no agreement is reached in 90 days, DOE would proceed with the program on its own.

Mr. President, I am now intrigued to call upon the Senator from Oregon for his comments.

Mr. HATFIELD. I am ready to accept this questionable amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HATFIELD. I yield back my time.

Mr. TSONGAS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1910) was agreed to.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1448

Mr. HATFIELD. Mr. President, may I inquire what time remains on the amendment?

The PRESIDING OFFICER. The question does recur on the amendment of the Senator from New Mexico, and the Senator from New Mexico has 4 minutes and 35 seconds remaining, and the Senator from Massachusetts has 14 minutes remaining.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. No, they have not.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I say to my good friend from Massachusetts that I know he wants to expedite voting on this. I have a Senator en route who wishes to speak in favor of my amendment. He will be here shortly. So I wish to reserve my time for just a few moments. I do not intend to delay matters, but since the Senator from Massachusetts has considerably more time I will reserve mine at this point.

Mr. TSONGAS. Mr. President, I ask unanimous consent that a quorum call may be called and the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I ask unanimous consent that I be permitted to proceed for 1 minute without the time being charged to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, how much time remains on the Domenici amendment.

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes and 7 seconds remaining and the Senator from New Mexico has 4 minutes and 30 seconds remaining.

Mr. TSONGAS. Mr. President, I indicate that I need only do a closing 2-minute statement, and I am prepared to go to a vote after that.

Mr. DOMENICI. Mr. President, I will yield 3 minutes of the 4½ to Senator EXON.

Mr. EXON. I thank my friend from New Mexico.

I rise in support of the amendment offered by the Senator from New Mexico and others. What we are really back to here is a management decision. If there has been one thing that has plagued us at all levels of government, it is the fact that all too often we in the Congress of the United States in good conscience pass laws and rules and regulations and the funding of them, well designed and well meaning, but then we make the vital mistake of, in my opinion, placing the responsibility for carrying out those programs in the nameless and the faceless bureaucracy in Washington, D.C.

My understanding of the amendment being offered by my friend from New Mexico basically says that this part of this particular program will be managed under the direction of the Governors of the States.

Having been a Governor for 8 years, I know something about the management of State government, and I know something about the responsibilities that a Governor has in carrying out the laws passed by Congress.

I do not think I always did it exactly correctly, but I can assure you, Mr. President, that the intent of Congress was better carried out by the Governor of Nebraska than it was carried out by the nameless and faceless bureaucracy in Washington, D.C.

If this amendment becomes law, as I hope it will, then we will be turning over some of the responsibility for this particular part of the program to the present Governor of the State of Nebraska. I do not happen to agree at all times with the decisions made by the present Governor of the State of Nebraska. Nevertheless, he is an elected official, and if he does not carry out the programs we pass here the way they should be carried out and the way they should be carried out according to the responsibility and views of the people of Nebraska, then he can be voted out of office.

What we are talking about here, it seems to me, is the fact of whether or not the chief executive officer of the States is going to have a key role to play in a program as important as this one is.

I am certainly not saying that mayors and other local government officials cannot carry this out. But it seems me the money can best be spent, and we can best affix responsibility if we pass this through the Governor's office.

There is bureaucracy in each and every State, but I think all of us would have to agree that the bureaucracy in the States, as bad as it is, is not as bad or as unmanageable as the bureaucracy in Washington, D.C.

As I understand the bill, unless we accept the amendment offered by the Senator from New Mexico, we are going to have a situation where we are going to have to have two of the largest bureaucracies in the Federal Government getting together on a program, those two agencies being the Department of Energy and the Department of HUD.

We all know that HUD and the Department of Energy have not been doing the job that those of us think they should do with regard to efficiency of carrying out Federal programs.

I certainly feel this is a worthy amendment, one that places responsibility at the lower level of government where it can best be carried out. I think if we can keep moving in these areas, we are going to find out that in the end the taxpayers' dollars are going to be better spent, and we can affix responsibility at the lower level of government where I think history has usually dictated that not only has the money been more wisely and more efficiently spent and in a more timely fashion, but also it is that lower level of government which is more responsible to the people whom they serve.

This is no disparagement at all of any of us here in the U.S. Senate or in the House of Representatives. But the fact of the matter is we are not executives. We do not carry out these programs. They are carried out by the bureaucracy.

It seems to me that while we have no perfect plan, the amendment offered by the Senator from New Mexico should be agreed to by the Senate.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. DOMENICI. Mr. President, do I understand from the Senator from Massachusetts that he will only use 2 additional minutes? I have a minute and a half. Would the Senator care to give his 2 minutes to me?

Mr. TSONGAS. Would the Senator care to give up his 2 minutes?

Mr. DOMENICI. I have talked so much I thought maybe the Senator would prefer to go first.

There is not much to add to what I said other than to make the point that if there is one thing every Senator I have talked to is complaining about it is the heavyhanded, arbitrary, capricious nature of the national bureaucracy; the fact that their rules do not seem to have people in mind; that ultimately what they do is a long way from what Congress intended, and many Senators feel that in order to get the national bureaucracy to do what it has been told to do our staffs would have to spend all of their time just following rules, regulations, and bureaucrats around.

I do not know it that is an exaggeration or not, but it seems to be logical, that in a country as diverse as ours, the time has come when we need less centralization rather than more.

It seems to me when we have a rare opportunity to create less national centralized bureaucracy and yet commit ourselves literally to the same goals and objectives with as good assurance as we can build into a law that the same amount of money will go to our cities, that thre will not be undue delay but that basically there will be 50 centers of activity for grants and competition rather than one made up of DOE and HUD, that we ought to move in that direction now on this bill.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I will not take up the remainder of my time but let me simply review quickly the arguments against the pending amendment.

First, as you read the amendment there is a 5-percent surcharge that would be given to the States for their bureaucratic maneuverings, and that comes right off the top. Cities and towns would receive 5-percent less than they would have received under the committee version. Anyone who speaks against bureaucracy cannot possibly be in favor of that 5 percent.

Second, if you want to get a good idea of what the capacity is now in States to administer programs, look at the school and hospitals program. There is unhappiness across the board because the States simply do not have the capacity to run these kinds of programs.

It is not like they are untested, it is not like we are talking about some capacity that is theoretical. Here is a program, DOE gave it to them, and it is not working as well as it should. Now we want to add more on top of that already burdened bureaucracy.

Third, the bill as reported reflects the combined wisdom of not just the Energy Committee but, indeed, the Banking Committee, which held separate hearings and came up with a separate bill. It is not just one committee, it is the combined judgment of the two committees that worked on this bill.

Fourth, one of the problems with the amendment is there is no provision for a city or town to have any kind of recourse against a Governor who acts arbitrarily. I am not saying that is going to happen, but if it did, the fact is there is nothing written into the amendment which would provide the kind of review that exists in the committee bill.

Those arguments, I think, are adequate. But the last argument is really the argument, and that is that those Members who are listening to me, if they would like to get a handle on this amendment, they should ask themselves the following question: Who is going to get the money? The answer to that is the cities and towns. Well, we have time before the vote, and I would suggest that any Member who has any doubt about what the cities and towns want should just call up their mayors. There is time to do that. Call your mayor, any mayor, and ask him what his position is.

The fact is that overwhelmingly the people who are going to receive this money feel very strongly against the pending amendment. I will finish by simply reiterating the list of those who are opposed to it. The list of those who are in favor includes the National Governors' Association. The list of those who are opposed is, and I repeat, the Consumer Energy Council, the AFL–CIO, the Conference of Mayors, the League of Cities, the American Planning Association, the Solar Lobby, the National Association of Housing and Redevelopment Officials, the National Association of Counties, the National Association of Regional Councils, and the National Association of Towns and Townships. You can throw in for good measure the administration and the two committees of jurisdiction.

That is overwhelming. It seems to me that if we have some sensitivity to the wishes of those who are going to receive this money, we should soundly reject the amendment and not try to impose that view over the wishes of the local officials who will be the beneficiaries of this bill if it is passed as the committee suggested.

I have nothing more to say, and I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I rise in opposition to the amendment offered by my colleague, Senator DOMENICI. I understand the concerns of my colleague from New Mexico, but I would strongly urge that any amendment which would delay or reduce the effectiveness of this program be defeated. His amendment would ignore the information derived from hearings in both the Senate Housing Subcommittee and the Senate Energy Committee, as well as the action taken by both the Senate Banking Committee and the Senate Energy Committee. It would delay the implementation of title II of this bill although both committees have clearly expressed their intent that local governments be permitted to commence community energy conservation programs this year—not in the distant future. It would add another layer of bureaucracy and redtape thus reducing efficiency of this program and reducing the amount of Federal assistance which could be devoted directly to the reduction of wasteful energy consumption.

Both committees went through a hearings process and considerable deliberation to create and approve a program which could work with existing personnel and delivery systems. Both committees, recognizing the enormous diversity of local governments and their respective circumstances endorsed a block grant, rather than a categorical grant concept. An energy conservation program that might prove enormously effective in Portland might be singularly ineffective in Boston. Consequently, this bill defers to the local needs, experiences, and capabilities of local elected officials.

Many cities and communities have already undertaken energy conservation and renewable resource programs—without any State or Federal assistance. According to testimony provided by the American Planning Association, cities and communities in a number of States are a decade ahead of their State governments in terms of energy conservation programs. To permit the States to dictate what local programs should be enacted would be a step backward in terms of a national energy policy—it could actually serve to punish communities which have been at the forefront of ingenuity and leadership in energy conservation.

The administration has also considered the issues raised by Senator DOMENICI. The Office of Management and Budget firmly rejected this proposal. OMB determined that bureaucratic, administrative, and regulatory costs at the State level would simply syphon off the funds that were intended for local governments and that were intended to be used for energy conservation rather than bureaucratic purposes. The administration believes that if we are going to make local governments eligible, we should insure that the very limited funding available should be allocated with a maximum of efficiency and a minimum of waste.

Very few States presently have the capacity to review, approve, and fund energy conservation applications of local governments. To develop and construct such ability would require a year at a very minimum—a year's delay in the implementation of this program. To develop such competence would require, by this amendment, at least $4,000,000 which could be used this year to conserve fuel and reduce OPEC oil imports. Portland, Oreg., Seattle, Wash., Fitchburg, Mass., St. Paul, Minn., and many other cities could put that $4 million to productive use today. They are ready to reduce energy consumption before next winter. They do not need, and can ill afford, the delay that this amendment would entail.

In our months of deliberation on this issue, we all worked to insure that this would be a comprehensive national energy program with as little bureaucracy, redtape, or delay as possible. We deliberately constructed this approach to provide for coordination between Federal, State, and local governments.

Consequently, we formulated an approach that would be consistent with existing State capacity and existing State energy policies. We also structured this program to insure maximum local flexibility, modeled upon a block grant program that has already proved enormously successful. The intent is to permit local elected officials, who are most familiar with local needs and capabilities to run these energy conservation programs. Local officials, after all, are those elected to make local decisions—not the Governor, nor DOE or HUD.

We permitted each State to comment on each application submitted, even to the extent of vetoing an application which is wholly inconsistent with the State energy program. We recognized the appropriate State interest, assured a State role, and insured local compliance with the State energy plan; but at the same time we recognized that States are not presently equipped to review each and every application. Thus, we have permitted the States to comment according to their capacity, without requiring the States to do that which they cannot.

For those States which have worked with local governments in energy conservation programs, there would be a priority to administer grants on behalf of consortiums of local governments.

Mr. President, I urge my colleagues to oppose this amendment. Despite its fine intentions, it can only result in delay in the implementation of local energy conservation. Together, the Banking Committee and the Energy Committee have agreed to language which would insure effective performance in this program. This legislation would permit applications to be submitted at the same time as community development block grant applications. It would permit administration by HUD, which has successfully run the community development block grant program for 8 years through more than 100 field offices by over 12,000 personnel. Why recreate the wheel, when we already have one refined through years of experience?

The PRESIDING OFFICER. All time having been yielded back——

Mr. DOMENICI. Mr. President, will the Senator from Oregon (Mr. HATFIELD) yield me 1 minute on the bill?

Mr. HATFIELD. I am happy to yield a minute to the Senator.

Mr. DOMENICI. Mr. President, I believe some of the remarks that my good friend from Massachusetts made with reference to why we should oppose the bill require a brief explanation.

The 5-percent administrative cost. Let me just say the best I can say about that is that that is an absolute red herring. How much of this money will the Department of Energy and HUD use to administer this program? Can you tell me that their overhead is less than 5 percent in administering grants of this type? No one can tell me that. In fact, 5 percent is about the lowest kind of overhead you can have. Probably, if you let DOE do it and HUD getting into the act with them, they will waste 15 percent administering it up here.

Second, on the issue of no recourse for those who were denied, let me just ask, what recourse will the 10,000 small cities that are denied a grant when they apply to the National Government have? They have some kind of right to file again. I think they would trust their appeal before a Governor more than they would before DOE and HUD combined in a new super agency.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I yield myself 20 seconds from the bill.

I point out that if the arguments made by the Senator from New Mexico were compelling, the mayors would support the amendment. In fact, they are strongly opposed to it. So, though the Senator may convince himself and a few colleagues—hopefully not a majority—he has clearly not convinced the mayors.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico (Mr. DOMENICI).

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Iowa (Mr. JEPSEN), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. BENTSEN). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 39, nays 48, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—39

Armstrong
Baker
Bellmon
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cannon
Chafee
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Exon
Garn
Hart
Hatch
Hatfield
Heinz
Helms
Humphrey
Laxalt
Lugar
McClure
Mitchell
Morgan
Packwood
Pressler
Pryor
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Wallop
Warner
Young

NAYS—48

Baucus
Bayh
Bentsen
Biden
Bradley
Burdick
Byrd, Robert C.
Cranston
DeConcini
Durenberger
Durkin
Eagleton
Ford
Glenn
Goldwater
Gravel
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Pell
Percy
Proxmire
Randolph
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stone
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—13

Bumpers
Church
Culver
Hayakawa
Jepsen
Johnston
Kassebaum
Kennedy
Nunn
Ribicoff
Stewart
Talmadge
Tower

So Mr. DOMENICI's amendment (UP No. 1448) was rejected.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, I am prepared to yield back whatever time remains on the bill.

Mr. HATFIELD. I yield back whatever time remains on our side.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Energy Management Partnership Act".

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FINDINGS AND PURPOSES

SEC. 2. (a) Congress finds and declares that—

(1) the achievement of energy security for the United States is vital to the national economy, vital to the well-being of its citizens, and vital to the maintenance of national security;

(2) the most rapid and economical method for reducing domestic dependence on insecure supplies of high-cost foreign petroleum is to increase the efficiency with which energy is used and increase the use of renewable resources;

(3) the Nation's States and units of local government have unique opportunities to achieve energy savings and to increase the use of renewable energy resources, because of their ability to make effective use of available human and economic resources, and their capacity to accommodate a high degree of direct citizen involvement in the planning, implementation, and demonstration of new programs; and

(4) such States and units of local government should be provided with financial resources and flexibility to develop their own program measures for energy conservation, renewable resources use, and emergency planning.

(b) It is the purpose of this Act—

(1) to permit States to consolidate applications for the funding of certain energy conservation and renewable resource programs of the Department of Energy authorized under existing law and to provide for more flexible administration by such Department of Energy conservation programs authorized under part D of title III of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6201 et seq.), and the National Energy Extension Service Act (42 U.S.C. 7001 et seq.);

(2) to provide States and units of local government with greater resources and flexibility to plan and implement energy conservation and renewable resource programs which respond to Federal, State, and local energy needs and problems;

(3) to develop programs to foster coordinated and mutually supportive State, local, and areawide energy strategies; and

(4) to encourage community development activities which promote comprehensive energy conservation and renewable resource activities.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Conservation" means a reduction of energy consumption or an increase in the efficiency of energy use.

(2) "Governor" means the chief executive officer of a State, whether elected or appointed, or his designee;

(3) "Renewable resource" means any source of energy that is regenerative or essentially inexhaustible, including solar, geothermal, wind, low-head hydroelectric, biomass, and ocean systems energy.

(4) "Secretary" means the Secretary of Energy.

(5) "State" means a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) "State energy plan" means a plan, including the State energy programs identified in the plan, that a State has developed or will develop and which has been or will be submitted for approval under this Act.

(7) "State energy program" means any Department of Energy program that provides financial assistance to States under an allocation formula established under Federal law, including but not limited to programs authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) and the National Energy Extension Service Act (42 U.S.C. 7001 et seq.).

(8) "Unit of local government" means any city, county, town, municipality, or any other political subdivision that is a unit of general purpose local government of a State.

(9) "Metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.

(10) "Regional council" means any multijurisdictional unit established under State law, interstate compact, or interlocal agreement, to formulate policies and plans for the orderly development of a substate region or interstate region which, in the absence of a State law to the contrary, has a majority of local elected officials on its governing body.

(11) "Metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more; except that any city which has been classified as a metropolitan city under clause (B) of this paragraph shall continue to be so classified until the decennial census indicates that the population of such city is less than fifty thousand.

(12) "City" means (A) any unit of local government which is classified as a municipality by the United States Bureau of the Census, or (B) any other unit of local government which is a town or township and which, in the determination of the Secretary of Housing and Urban Development (i) possesses powers and performs functions comparable to those associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census which have not entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.

(13) "Urban county" means any county within a metropolitan area which—

(A) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of local government; and

(B) either (i) has a combined population of two hundred thousand or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of local government (I) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (II) with which it has entered into cooperative agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities, or (ii) has a population in excess of one hundred thousand, a population density of at least five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(14) "Population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time;

(15) "Indian tribe" means any federally recognized Indian tribe, band, nation, or other organized group or community, for which the United States holds land in trust or in a restricted status, or those recognized under the Alaska Native Claims Settlement Act.

(16) "Extent of poverty" means the number of persons whose incomes are below the poverty level. Poverty levels shall be determined by the Secretary of Housing and Urban Development pursuant to criteria provided by the Office of Management and Budget, taking into account and making adjustments, if feasible and appropriate and in the sole discretion of the Secretary of Housing and Urban Development, for regional or area variations in income and cost of living, and shall be based on data referable to the same point or period in time.

(17) "Extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(18) "Age of housing" means the number of existing housing units constructed in 1939 or earlier based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(19) "Federal Regional Council" means the organizations established by Executive Order Numbered 12149 of July 20, 1979.

TITLE I—STATE ENERGY PLANS

CONSOLIDATED APPLICATIONS

SEC. 101. (a) Notwithstanding any other provision of law, a State may submit an annual consolidated application requesting financial assistance under this title:

(1) for programs authorized under Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.);

(2) for programs authorized under the National Energy Extension Service Act (42 U.S.C. 7001 et seq.); and

(3) for activities described in sections 103 and 104 of this title.

The portion of the consolidated annual application for each program shall be approved by the State official or State agency officially authorized to implement that program under State law.

(b) The Secretary shall within ninety days after the date of the enactment of this title prescribe rules providing for the orderly transition from multiple applications for financial assistance for State energy programs to the consolidated applications described in subsection (a). To enable a State to submit a consolidated application for a uniform time period, the Secretary and the appropriate State official or State agency, by mutual agreement, may amend the program time period and any other administrative provision associated with financial assistance awarded before the approval of the consolidated application, and may agree that the unexpended balance of any funds made available under such programs may continue to be available for the purposes for which those funds were appropriated.

(c) The Secretary shall review and approve or disapprove, in whole or in part, any application submitted under this section. An application shall be approved, subject to the availability of funds, if the Secretary determines that—

(1) the application meets the requirements of the regulations issued under subsection (b);

(2) the proposals for assistance are consistent with Federal law; and

(3) when financial assistance has been provided previously to a State under this title, either—

(A) the State has submitted, in good faith, a State energy plan within the time period required by section 103(a);

(B) the State has received an extension under section 103(c).

(d) Notwithstanding any other law, the Secretary shall approve a State's request in a consolidated annual application under subsection (a) to use financial assistance appropriated for the administrative costs of a State energy program covered by such application for expenditure under any other State energy program covered by the same application.

ASSISTANCE

SEC. 102. The Secretary, subject to the availability of funds, may provide—

(a) financial assistance to States to fund State energy programs and costs covered by an application submitted under section 101;

(b) financial and technical assistance to States to develop, implement and modify State energy plans submitted under section 103; and

(c) financial and technical assistance to Indian tribes for the purposes described in section 106(c) of this title.

REQUIREMENTS FOR STATE ENERGY PLANS

SEC. 103. (a) In order to continue to receive assistance under this title a State shall submit its first State energy plan within nine months after the date the Secretary issues regulations under subsection (b). A State energy plan may be modified and resubmitted at any time and shall be modified and resubmitted biennially from the date the State's first State energy plan was approved.

(b) The Secretary shall within ninety days after the date of the enactment of this title prescribe regulations for State energy plans, which plans shall contain—

(1) a description of State energy supply and demand and of its energy conservation and renewable resource goals and policies, including a description of any data systems the State will use in the development, modification, or implementation of a State energy plan;

(2) a management plan for, and a description of planned uses of funds provided under this title and under any other Federal financial assistance program that the State intends to use to implement the State energy plan. In addition, such management plan shall include—

(A) an identification of those major energy consumption sectors in which the State has the greatest opportunity to affect significant additional energy conservation, and a description of the State goals and objectives for energy conservation in such sectors;

(B) a description of the programs the State will carry out to achieve its energy conservation and renewable resources goals and objectives;

(C) program objectives by which the State will periodically monitor and assess its success in implementing the State energy plan; and

(3) a description of how the State plans to implement the State energy programs established under other law, including programs covered by an application under section 101, and the renewable resources program required by section 104.

(c) Upon written request of the Governor, the Secretary for good cause, may extend the time for compliance with subsection (a).

(d) The Secretary shall approve, in whole or in part, a State energy plan or modification thereto if the Secretary determines that—

(1) the plan or modification complies with the requirements of this title; and

(2) the State energy plan, or the plan as modified, is consistent with Federal law.

(e) If a State so requests, each department, agency or instrumentality of the executive branch of the Federal Government that either produces or consumes significant quantities of energy within that State shall, consistent with applicable law, provide such available energy-practicable to assist the State in the development of its State energy plan.

(f) A State shall hold public hearings on the development of its first State energy plan, and or any modification thereof. Any such public hearing shall follow adequate notice, which shall be directed toward—

(1) units of local government;

(2) regional councils;

(3) Indian tribes within the State; and

(4) the public.

(g) A State shall consider the needs of the poor, the handicapped, and the elderly in developing and implementing a State energy plan.

RENEWABLE RESOURCES

SEC. 104. (a) Each State shall include in its State energy plan reasonable measures the State plans to implement to remove barriers to the use of renewable resources in the State.

(b) Each State shall include steps to—

(1) encourage the application, where practicable, of renewable resources in end-use sectors;

(2) encourage participation by financial institutions and other organizations in the activities necessary to facilitate renewable resource use;

(3) assess the applicability of practicable renewable resource technologies in buildings owned by the State and units of local government;

(4) provide information that will promote consumer protection; and

(5) implement other measures which the State determines to be appropriate.

(c) When deciding which measures are reasonable to implement under each step required under subsection (b), each State shall consider the appropriateness of a State role and the likely cost effectiveness of the measures.

DISAPPROVAL

SEC. 105. (a) If the Secretary, in whole or in part—

(1) disapproves an application for assistance under this title;

(2) disapproves a State energy plan or modification thereto; or

(3) finds that a recipient of assistance has failed to comply with—

(A) the provisions of this title or the regulations promulgated hereunder; or

(B) the provisions of any law governing a program covered by an application submitted under section 101,

the Secretary shall provide written notice of such disapproval or finding and provide a statement of the reasons therefor.

(b) Unless corrective action has been taken, the Secretary, after providing written notice and affording an opportunity to present views, shall make a final determination in writing stating the reasons for the determination.

(c) Upon issuance of the notice referred to in subsection (a), the Secretary may suspend payments of financial assistance. If the Secretary makes a final determination in accordance with subsection (b), no financial assistance shall be provided for any part of a State energy plan or other activities determined not to comply with appropriate requirements until the Secretary is satisfied there is no longer a failure to comply.

ALLOCATION OF FUNDS; STATE SHARE

SEC. 106. (a) For the purposes of providing the financial assistance authorized by this title, the Secretary shall allocate annually the sums available for financial assistance under this title among the States in the following manner—

(1) 75 per centum shall be allocated on the basis of the resident population of the States;

(2) 25 per centum shall be allocated equally among the States.

(b) Funds allocated under this title to any State for a fiscal year but not obligated by the Secretary in that fiscal year may at the option of the Secretary be reallocated among the States for the following fiscal year.

(c) Notwithstanding subsection (a), the Secretary shall reserve annually for the benefit of Indian tribes some portion of the sums available for financial assistance under this title and shall within ninety days after the date of the enactment of this title prescribe regulations for the allocation and use of the reserved portion as the Secretary, after affording reasonable opportunity for State comments, deems appropriate.

(d) Notwithstanding subsection (a), the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

(e) No recipient shall expend funds provided under this title—

(1) to pay the costs of any construction or the purchase of real property;

(2) to pay all or any portion of the purchase price of equipment, other than office equipment, except to the extent authorized by other law;

(3) to subsidize fares for public transportation; or

(4) for such other purposes as the Secretary may proscribe.

EXPENDITURES OF FINANCIAL ASSISTANCE

SEC. 107. (a) A State receiving financial assistance under this title shall provide to units of local government and regional councils appropriate financial assistance in amounts commensurate with the relative responsibilities shared among units of local government, regional councils and the State in the development, modification, or implementation of the State energy plan.

(b) A State may participate in interstate or multi-State regional organizations that provide for the coordination of its State energy plan with the State energy plans of other participating States. Each State may make available directly to such organizations a portion of the financial assistance provided under this title for any use consistent with the purposes of this title.

TRANSITION TO STATE ENERGY PLAN

SEC. 108. (a) Nothing in this title affects any financial arrangement made or entered into by the Secretary prior to the date of the enactment of this title.

(b) Nothing in this title supersedes any provision of existing law except to the extent that this title is inconsistent with such provisions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. For the purposes of this title, including the administrative and technical assistance costs of the Secretary, the Secretary may use during the fiscal year ending September 30, 1981, such sums as may be provided for such purposes in appropriation Acts pursuant to the authority in S. 2332 (a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981, and for other purposes and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980). There is hereby authorized to be appropriated to the Secretary $100,000,000 for each of the fiscal years ending September 30, 1982 and September 30, 1983 which may remain available until expended.

TITLE II—LOCAL ENERGY MANAGEMENT PARTNERSHIP

GRANTS

SEC. 201. (a) In order to encourage units of local government to adopt and implement community plans and programs designed to achieve significant energy savings and encourage the use of renewable energy resources within their jurisdictions, (1) the Secretary shall within ninety days after the date of enactment of this title enter into an interagency agreement with the Secretary of Housing and Urban Development which may provide for the distribution of funds or approval of grants by the Secretary of Housing and Urban Development as authorized and provided for in this title. Such approvals and grants shall be made on the basis of rules promulgated by the Secretary in consultation with the Secretary of Housing and Urban Development, or (2) if the requirements of clause (1) are not met the Secretary, in consultation with the Secretary of Housing and Urban Development is authorized to make grants as provided in this title.

(b) All applications for financial assistance under this title shall be submitted to the Governor of the State concurrently with submission to the Secretary. The Governor may prepare comments on each application including but not limited to an indication of whether the application conforms to the elements, requirements, and objectives of the State's energy plan approved by the Secretary under title I. For applications for grants to be made on the basis of competition, the Governor may submit a listing of the applications which the State recommends for funding under this title.

COMMUNITY ENERGY CONSERVATION STRATEGY

SEC. 202. (a) No grant may be made under this title unless the applicant has submitted an application which includes a community energy conservation strategy describing community energy needs and objectives. Such strategy shall consider—

(1) describing in detail community energy use;

(2) providing an inventory of existing Federal grants and Federal, State, and local programs which can be used in conjunction with this assistance, including a description of how energy conservation measures are being or will be incorporated into these programs;

(3) financial or other assistance for energy conservation with respect to residential structures, particularly for the benefit of low- and moderate-income tenants and homeowners;

(4) providing for energy emergencies;

(5) scheduling implementation of each element provided for in the community energy conservation strategy;

(6) describing of how such energy conservation strategy will be coordinated and administered;

(7) specifying the activities to be undertaken with the grant funds applied for in furtherance of the strategy, together with the estimated costs and general locations of such activities;

(8) assuring that the State has had ample opportunity to comment with regard to the consistency of such application to any applicable State energy plan; and

(9) assuring that an opportunity has been provided to receive public comment, including an opportunity to receive the views of existing local citizen and neighborhood community groups, and that such comment has been considered in the development of local energy programs.

(b) The Secretary shall not approve an application for funds provided under this title if—

(1) he makes any of the following negative assessments with regard to the strategy after considering the comments provided by the State;

(A) the strategy is not technically sound;

(B) the potential per capita consumption of nonrenewable resources is not significantly reduced; or

(C) the strategy does not meet the minimum requirements of the State energy plan approved by the Secretary under title I; or

(2) he determines that the applicant is incapable of effectively carrying out the community energy conservation strategy under subsection (a).

(c) For the first year in which funds are appropriated under this section, the Secretary may waive a portion of the requirements of subsections (a) and (b), except that an application under this subsection must include—

(1) a workplan leading to the submission of a comprehensive energy conservation strategy;

(2) satisfactory assurances that an opportunity has been provided to receive public comment, including an opportunity to receive the views of existing local citizen and neighborhood community groups, and that such comment has been considered in the development of local energy programs; and

(3) a description of ongoing or proposed local government energy activities.

If such waiver is requested in the first year, the Secretary is authorized to make the adjustments he deems appropriate in the amount of the grant.

(d) Except for an application for grants to be made on the basis of competition, an application under this section shall be deemed approved upon the expiration of seventy-five days after receipt unless, on the findings of the Secretary, he informs the applicant of specific reasons for disapproval. In taking any action under this section, the Secretary shall consider such comments as may be made by members of the respective Federal Regional Councils. Subsequent to approval of the application, the amount of the grant may be adjusted in accordance with the provisions of this section.

(e) Each grantee under this section shall submit annually a performance report on the activities carried out under this title, together with an assessment by the grantee of the relationship of those activities to the needs and objectives identified in the grantee's application submitted under subsection (a). The performance report shall include any citizen's comments submitted under subsection (a).

(f) The Secretary shall, at least on an annual basis, make such reviews and audits as he deems necessary or appropriate to determine whether the grantee has carried out a program substantially as described in its application, in conformance with the requirements of this section and other applicable laws, and whether the applicant has a continuing capacity to carry out in a timely manner the approved energy conservation strategy.

(g) The Secretary may make the adjustments he deems appropriate in the amount of the annual grants in accordance with the Secretary's findings pursuant to this section, based upon a performance report submitted by a grantee, or in accordance with any other reviews or audits made by the Secretary pursuant to this section. Such adjustments shall not attempt to recapture funds already expended on eligible activities under this title.

ALLOCATION OF FUNDS AMONG STATES

SEC. 203. (a) The Secretary shall allocate for each State a portion of the available funds under this title for distribution to communities within that State. The Secretary shall determine the allocation portion for each State. This portion shall be the greater of an amount that bears the same ratio to the total available funding for all States as either—

(1) the average of the ratios between—

(A) the population of that State and the population of all States;

(B) the extent of poverty in that State and the extent of poverty in all States; and

(C) the extent of housing overcrowding in that State and the extent of housing overcrowding in all States; or

(2) the average of the ratios between—

(A) the age of housing in that State and the age of housing in all States;

(B) the extent of poverty in that State and the extent of poverty in all States; and

(C) the population of that State and the population of all States.

(b) In determining the average of the ratios under subsection (a)(1) the ratio involving population shall be counted thrice, the ratio involving the extent of poverty shall be counted twice, and the ratio involving housing overcrowding shall be counted once. In determining the average of the ratios under subsection (a)(2) the ratio involving population shall be counted four times, the ratio involving extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.

(c) The Secretary shall in order to compensate for the discrepancy between the total of the amounts to be allocated under this section and the total of the amounts available, make a pro rata reduction of each amount allocated for each State so that each State will be allocated an amount which represents the same percentage of the total amount available under such section as the percentage which the same State would have been allocated under such section if the total amount available under this section had equaled the total amount which was allocated.

(d)(1) No State shall be allocated under this section less than one-half of 1 per centum of the funds available.

(2) Notwithstanding paragraph (1) the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

ALLOCATION OF FUNDS FOR CATEGORIES OF COMMUNITIES WITHIN A STATE

SEC. 204. The Secretary shall allocate a portion of the available funds for each State to each of the following three categories based on the respective population of each category within that State:

(a) metropolitan cities and urban counties in metropolitan areas;

(b) units of local government within metropolitan areas (other than metropolitan cities and urban counties); and

(c) nonmetropolitan areas.

DISTRIBUTION OF FUNDS TO METROPOLITAN AREAS

SEC. 205. (a) Metropolitan cities and urban counties in metropolitan areas shall be entitled to annual grants from the portion allocated them under section 204(a). The Secretary shall determine the amount of the grant to each metropolitan city and urban county, and such grants shall be the greater of an amount that bears the same ratio to the total available funding for all metropolitan areas as either—

(1) the average of the ratios between—

(A) the population of that metropolitan city (or urban county) and the population of all metropolitan areas;

(B) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty of all metropolitan areas; and

(C) the extent of housing overcrowding in that metropolitan city (or urban county) and the extent of housing overcrowding in all metropolitan areas; or

(2) the average of the ratios between—

(A) the age of housing in that metropolitan city (or urban county) and the age of housing in all metropolitan areas;

(B) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty in all metropolitan areas; and

(C) the population of that metropolitan city (or urban county) and the population of all metropolitan areas.

In determining the average of the ratios under paragraph (1) the ratio involving the population shall be counted thrice, the ratio involving the extent of poverty shall be counted twice, and the ratio involving housing overcrowding shall be counted once; and in determining the average of the ratios under paragraph (2) the ratio involving population shall be counted four times, the ratio involving extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.

(b) The Secretary shall make grants to units of local government within metropolitan areas (other than metropolitan cities and urban counties) from the portion of funds allocated to them under section 204(b). Such grants shall be made on the basis of competition among such units of local government within that State, based on the applications submitted under section 202.

(c) The Secretary shall in order to compensate for the discrepancy between the total of the amounts to be allocated under subsection (a) and the total of the amounts available, make a pro rata reduction of each amount allocated for the metropolitan cities (or urban county) in each State will be allocated an amount which represents the same percentage of the total amount available under subsection (a) as the percentage which the metropolitan cities (or urban counties) of the same State would have been allocated under such subsection if the total amount available under this section had equaled the total amount which was allocated under that paragraph.

(d) Any funds under this title to which a metropolitan city or urban county in a metropolitan area is entitled, but which are not requested or disbursed, shall be made available to other eligible units of local government within that same metropolitan area. If no such recipients are available, then the funds shall be made available to the other metropolitan areas of that State. If no such recipients are available then the funds shall be made available to the nonmetropolitan areas of the State under section 206. If no such recipients are available in that State then the funds shall be made available to eligible recipients in other States.

(e) For the purposes of this section, a consortium of units of local government may be treated by the Secretary as a metropolitan city if, (1) such consortium is entirely within an urban county which has a population in excess of two hundred thousand in its incorporated areas and a population in excess of two hundred thousand in its unincorporated areas; (2) such consortium has an aggregate minimum population of at least two hundred thousand; (3) such consortium demonstrates that such units of local government have given full approval and certification to the respective application; and (4) no unit of local government represented by such consortium is otherwise applying for assistance under this section.

DISTRIBUTION OF FUNDS TO NONMETROPOLITAN AREAS

SEC. 206. The Secretary shall make grants to nonmetropolitan areas from the portion of funds allocated to them under section 204(c). Such grants shall be made on the basis of competition among nonmetropolitan areas within that State, based on the applications submitted under section 202.

APPLICATIONS ON BEHALF OF UNITS OF LOCAL GOVERNMENT

SEC. 207. In making grants under sections 205 and 206 the Secretary shall give priority to States, units of local government, or regional councils which submit applications on behalf of units of local government—

(a) which comply with the requirements of this title;

(b) which represent unified, integrated plans, programs, and strategies as defined in this title for a consortium of units of local government; and

(c) which demonstrate that such units of local government as are represented by such applications have given their full approval and certification to the respective application.

ADMINISTRATIVE PROVISIONS

SEC. 208. (a) The Secretary is authorized to provide grants under this title on a multiyear basis, subject to available appropriations.

(b) The Secretary shall to the extent feasible simplify and expedite the application process for grants for small communities under this title.

FORMULA STUDY

SEC. 209. (a) The Secretary is directed to study the feasiblity of alternative formulae for the allocation of funds under this title so as to incorporate energy-related factors where appropriate. Such factors might include heating degree days, air conditioning needs, per capita energy consumption, average distance between inhabited areas, and other appropriate measures.

(b) The President shall submit a report to the Congress including any recommendations with regard to the appropriate funding level and administration of a community energy conservation and renewable energy resource grant program, which activities should be included as part of a program, and any legislative amendment to the existing formula by not later than nine months after the date of the enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 210. For the purpose of this title, including the administrative and technical assistance costs of the Secretary, the Secretary may use during the fiscal year ending September 30, 1981 such sums as may be provided for such purposes in appropriation Acts pursuant to the authority in S. 2332 (a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981, and for other purposes and reported by the Senate Committee on Energy and Natural Resources on May 8, 1980). There is hereby authorized to be appropriated to the Secretary $80,000,000 for each of the fiscal years ending September 30, 1982 and September 30, 1983 which may remain available until expended.

TITLE III—GENERAL PROVISIONS

AUTHORITIES

SEC. 301. The Secretary shall promulgate such rules as are necessary to implement this Act.

RECORDKEEPING AND REPORTING; ANNUAL REPORT

SEC. 302. (a) A recipient of financial assistance under this Act or under any State energy program shall keep records and shall make reports to the Secretary, which shall include such information as the Secretary considers necessary to prepare the annual report pursuant to subsection (b) and to facilitate an effective audit and performance evaluation. The Secreatry and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, records, and reports of any recipients of financial assistance under this Act.

(b) The Secretary shall include in the annual report required by section 657 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7267), a report of the actions taken under this Act by recipients of financial assistance under this Act in the preceding fiscal year and an evaluation of their accomplishments and effectiveness.

(c)(1) The Secretary shall monitor and evaluate the performance and effects of the programs and activities receiving assistance under this Act.

(2) The Secretary may withdraw from the appropriations under this Act such amounts as are necessary to carry out this evaluation.

CONSOLIDATED APPLICATIONS

SEC. 303. (a) Notwithstanding any other provision of law, a State may submit an annual consolidated application requesting financial assistance under this Act and under any other State agency program. The portion of the consolidated annual application for each program shall be approved by the State official or State agency specifically authorized to implement that program under State law.

(b) The Secretary may prescribe rules providing for the orderly transition from multiple applications for financial assistance for State energy programs to the consolidated applications described in subsection (a). To enable a State to submit a consolidated application for a uniform time period, the Secretary and the appropriate State official or State agency, by mutual agreement, may amend the program time period and any other administrative provision associated with financial assistance awarded before the approval of the consolidated application, and may agree that the unexpended balance of any funds made available under such programs may continue to be available for the purposes for which those funds were appropriated.

(c) Notwithstanding any other law, the Secretary shall approve a State's request in a consolidated annual application under subsection (a), to use financial assistance appropriated for the administrative costs of a State energy program covered by such application for expenditure under any other State energy program covered by the same application.

The title was amended so as to read:

A bill to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes.

Mr. HATFIELD. I move to reconsider the vote by which the bill passed.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the bill, S. 1280, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The PRESIDING OFFICER. The question recurs on H.R. 39, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the national park, national wildlife refuge, national forest, national wild and scenic rivers, and national wilderness preservation systems, and for other purposes.

The PRESIDING OFFICER. The Senator from Washington (Mr. JACKSON) and the Senator from Alaska (Mr. STEVENS) have control of the time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Alaska lands bill be temporarily set aside again and that I be authorized to call it up at any time, when it will automatically come back anyhow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that Senators may speak therein, and that the period not extend beyond 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, I wish to state that there may be other rollcalls yet today and Senators should not leave.

I thank the Chair.

THE ECONOMY

Mr. STONE. Mr. President, the wholesale sales representatives, some 20,000 members strong, represent each year about $99 billion worth of sales mainly in the apparel industry. That adds up to about 5 percent of the gross national product.

One of my friends from Florida, Mr. Jerry Rieger, is active in that group which is in Washington to figure out ways to help our economy recover from a recession by selling our way out of it and thereby producing jobs which will in turn produce goods and products that are to be sold.

That is the right way to climb out of this recession, and anything Congress and the administration can do to facilitate their efforts to increase sales will be of benefit to ourselves and this country.

I encourage my colleagues to meet with them during their visit here with the view in mind that anything we can do to increase sales is the best thing we can do to increase jobs.

CORPORATE PROFITS: PART I—THE HEART OF OUR FREE ENTERPRISE ECONOMY

Mr. PERCY. Mr. President, we hear a great deal of talk these days about an "industrial policy" for the United States, one that recognizes the strengths of American free enterprise and builds on that to create more jobs and a better standard of living. We seem to be overlooking one of the fundamentals of our economic success, however: the profit motive.

Radio station WBBM, one of Chicago's foremost radio stations and an affiliate of CBS, recently provided an invaluable public service with a series of editorials on corporate profits and their role in our economy.

As WBBM's wrap-up editorial noted, "the public perception of profits is negative. As former Secretary of the Treasury William Simon says, this perception is caused by a lack of economic education on the part of the public. Some businessmen actually think that the media fuels this educational vacuum by distorting and misrepresenting the meaning of profits."

The series on profits, by Keith Bromery with the production assistance of Denise Hines, is truly a contribution to the public understanding of this vital component of our economy.

Mr. President, over the course of the next several days, I intend to speak on corporate profits, including the text of the WBBM editorials. I endorse their positive contribution and congratulate them on undertaking this series.

Mr. President, I ask unanimous consent that WBBM's wrap-up editorial and the first editorial of the series be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

CORPORATE PROFIT

Corporate profit is good. In fact, according to Senator William Proxmire:

"Profit is a beautiful word right up there with love, marriage, honor and all those other goodies. . . ."

In a WBBM five-part series on corporate profits, however, businessmen, politicians and academicians told us that the public perception of profits is negative. As former Secretary of the Treasury William Simon says, this perception is caused by a lack of economic education on the part of the public. Some businessmen actually think that the media fuels this educational vacuum by distorting and misrepresenting the meaning of profits.

In our series, Keith Bromery explained that profits are the heart of our free enterprise economy. They promote business expansion, stimulate more jobs and have made the United States the strongest economic country in the world.

Profits are good. And yet the general public perceives profits as an ever growing hoard of money in the hands of a privileged few. Not so—in fact, profits frequently are reinvested in new equipment, research and development. They are passed on to consumers in the form of dividends. They are affected by inflation, depreciation, government regulation, tax legislation, good and bad years.

We agree that the general public needs to become more educated in basic economic concepts. That is why we prepared our series explaining what profit is, where it comes from and where it goes. In the future, we will continue to report financial subjects in a clear and understandable manner. After all, economics is everyone's business.

That's our opinion. We'd welcome a reply.

CORPORATE PROFIT: THE CAUSE AND EFFECT

REPORT NO. 1

Corporate profit! What is it? Where does it come from? Where does it go? Is it a good or a bad thing? These are questions that many Americans are apparently asking themselves these days as inflation rates soar and oil company profits explode. An example—Exxon Corporation—the world's largest company in sales and profits—recently reported its net earnings or profit for the first quarter of 1980 to be $1.92 billion—an increase of over 100 per cent over its first quarter 1979 earnings and 41 per cent higher than its fourth quarter 1979 profits. Additionally—Mobil Oil reported its first quarter 1980 profits at $922 million and Texaco listed its at $600 million. These record-high oil company profits have drawn criticism from many sectors of the American public—criticism that has taken many businessmen and corporate executives by surprise—prompting some to strike back. . . .

"It's just a lack of general understanding in our whole public sector of what this capitalist/demoncratic system that we have is . . . and what the role of profits is. And I think it really starts with that."

That's Exxon Board Chairman Clifford Garvin who maintained at the corporation's annual stockholders' meeting held in Chicago earlier this year that the problem of the general public's lack of understanding of profits initiates in the nation's high school and college classrooms—where even basic economics has become a forgotten subject. As a result of what Garvin sees as this lack of understanding of business and profits—David Rockefeller, chairman of the giant Chase Manhattan Bank—believes this country's large corporations are under a state of seige these days. Addressing the University of Chicago's 28th annual management conference here earlier this year—Rockefeller said a growing vogue depicts big business as at once a lumbering dinosaur, unable to adopt to a hostile environment and as a wild beast, running roughshod over the economy, trampling competition and ravaging the environment. One of those on the outside of the business community who has been taking a closer look at the profits picture is Wisconsin Senator William Proxmire . . .

"When you read about those profits that are in the hundreds of millions and in some cases as you know in the several billion dollars a year . . . I think that that huge sum makes people feel they can't be honest profits, there must have been some element here that makes them dishonest. And of course they also translate those profits into the cruel price we all have to pay for—gasoline and heating oil and that kind of thing."

Trying to put the controversy into some kind of perspective is George Hagedorn, chief economist with the National Association of Manufacturers, who attempts to answer what he views as a very important question at the center of the dispute . . .

"The important question is . . . are profits really doing the kind of job that profits should be doing. Now the job the profit is supposed to be doing is attracting people to invest money and carry on business operations—to provide jobs for the people in their areas—to provide the products the public wants. And the profits they earn in that is their guide as to whether they made the right decisions or not. If the public wants a given product they will make it profitable for people to invest the money and to carry on operations for producing that product. If the public wants less of a product then that will show up in the profit figures and will discourage people to invest."

And like Exxon Board Chairman Clifford Garvin, Former U.S. Treasury Secretary William Simon related the whole problem back to a lack of education about our system of Capitalism. . . .

"It's going to require an education effort on the part of every American who understands the issue—from the owners of small business to the largest business in our country to educate their stockholders, to educate their employees—to the true meaning of free enterprise, the way our whole economic system works. We're going to have to start at the grass roots and re-explain to the American people the true source of their prosperity and their freedom."

Corporate profit! What is it? Where does it come from and where does it go? Is is a good or a bad thing? This report has concentrated on the overall nature of the controversy. Our next venture will attempt an accurate definition of the profits—the exact purpose of which will be to separate the reality from the myth. With production assistance from Denise Hines—I'm Keith Bromery.

AUTO INDUSTRY PRODUCTIVITY

Mr. PERCY. Mr. President, on June 28 I spoke in the Senate about the productivity improvement plans of Chrysler Corp. Under the Chrysler Loan Guarantee Act passed last fall, the corporation was required to submit a productivity improvement plan as a precondition to obtaining Federal assistance. In my earlier statement, I shared that report with my colleagues.

I have recently heard from the Secretary of Transportation about another part of the Chrysler Loan Guarantee Act which requires a long-range study of the domestic automobile industry. The legislation passed last fall contains an amendment I offered on the floor, directing that this study also take into account the productivity performance and improvement plans of the automakers.

Secretary Goldschmidt points out in his letter that the Department's report will be sent to Congress in August. He also makes several other interesting points regarding the auto industry's productivity record and I commend it to my colleagues.

Mr. President, I ask unanimous consent that Secretary Goldschmidt's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of Transportation,
Washington, D.C., July 11, 1980.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Senator Percy: In response to your inquiry about the status of the report required from the Department of Transportation by the Chrysler Corporation Loan Guarantee Act of 1979, preparation of the report is well advanced, and we plan to submit it to Congress next month. In fact, portions of the report were used by the Loan Guarantee Board when considering the Chrysler guarantee proposal.

The report to Congress will examine the problem of productivity in the automobile industry, with special attention to the plans of Chrysler and the other domestic manufacturers for improvement of their rates of productivity. Our assessment of productivity is not yet complete. Our current understanding is that the automobile industry bore a considerable part of the responsibility for the overall decline in the national productivity rate last year. However, we foresee the possibility of a reasonable increase in productivity for the automobile industry in 1980 as the effects of the closing of inefficient plants, increased use of automation, and increased production of small, fuel-efficient vehicles begin to take hold.

Sincerely,

Neil Goldschmidt.

ENERGY ASSISTANCE FOR THE ELDERLY

Mr. PERCY. Mr. President, today, the Senate Special Committee on Aging, of which I am a member, and the Senate Subcommittee on Aging of the Labor and Human Resources Committee, held a joint hearing. The focus of the hearing was Federal energy assistance available to ease the burden of low-income elderly victims of heat as well as those affected by the cold.

During the hearing, Mr. Michael T. Blouin, assistant director for Community Action of the Community Services Administration, announced that CSA is requesting approval of the Appropriations Committee to reprogram an additional $21 million of its funds for heat-relief assistance. Illinois is one of the states which would qualify for some of this assistance.

Mr. President, I ask unanimous consent that the full text of my remarks before the committee be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement by Senator Charles H. Percy on Energy Assistance for the Elderly: Impact of the 1980 Heat Wave

Mr. Chairman, the killer heat wave that has swept parts of this country has claimed the lives of over 1200 people. Many of the victims were elderly people. The members of the Senate Special Committee on Aging know full well the impact of extreme temperatures on the elderly. They suffer more than others. Elderly persons are far more susceptible to weather-related health problems such as hypothermia and heat prostration. They must have sufficient heating and cooling to avoid such problems.

When faced with soaring utility bills, many elderly persons living on fixed incomes are faced with a toss-up. Should they pay their fuel costs first and their food and medicine bills second, or vice versa? Some actually are reluctant to plug in their fans for fear of increasing their bills. They don't plug in, and sometimes it costs them their lives. We desperately need to address this problem.

During the last year, Congress has shown its compassion in helping the low-income and particularly the elderly to meet their energy needs by establishing an energy assistance program. The entire Special Committee on Aging sponsored a successful amendment to the 1981 program which gives priority to households having at least one elderly member. A total of $1.6 billion has been appropriated for the FY'80 program. This is $1.4 billion more than what the Federal government spent in low-energy assistance for FY'79. In the past, most of the debate surrounding this program has centered on meeting winter energy costs for low-income persons.

Today's hearing will focus on the flexibility of Federal energy programs to assist elderly victims of heat as well as those affected by cold.

For the last several weeks, a scorching heat wave has lingered over Illinois. Seventy-one residents of Illinois have lost their lives since July 1, 1980. Over 1,000 residents have required hospitalization for heat exhaustion. At the moment, we have a brief reprieve from the heat. It is expected to return.

Earlier this month, the Administration made available over $6.7 million of Community Service Administration (CSA) funds for emergency assistance to victims of the heat wave. Last Friday, Governor Thompson appealed to the Regional Director of CSA for funds to provide cooling devices for those in dire need of relief. I understand that Illinois was not selected to receive these reprogramed funds. I am sure that today's hearing will bring to light the other funds which may be available for states facing emergency situations.

In his letter to CSA, Governor Thompson raises another problem which may be outside the reach of the Federal government. As he points out, "For whatever reasons many elderly simply refuse to leave their homes, even though they have no air conditioning or fan . . . In those cases, which have unfortunately become too common, a fan could be a life saving device."

The Illinois Department on Aging is providing havens for the elderly during the heat wave. Nearly $1.5 million has been provided in emergency funds for area agencies on aging and other operations. The latter include the expansion of nutrition programs and the purchase of fans for use by individuals.

Mr. Chairman, I would like to submit for the record Governor Thompson's letter and a release on heat relief programs within the Illinois Department on Aging.

State of Illinois,
Office of the Governor,
Springfield, July 18, 1980.

Mr. Glenwood A. Johnson,
Regional Director, Community Services Administration, Chicago, Ill.

Dear Mr. Johnson: As you are aware Illinois has been hit by an unprecedented, severe, and prolonged heat wave. Temperatures in many areas of the state have soared into the upper 90's and lower 100's, with extremely high humidity, for the past three weeks. The National Weather Service predicts more of the same.

Since July 1, 1980 the Illinois Department of Public Health has confirmed 32 heat related deaths, with more suspected but as yet unconfirmed. As of today 946 Illinois residents have required hospitalization for heat exhaustion. Southern Illinois has been hit the hardest and the elderly have become the victims of this relentless heat and humidity.

State and local governments and private groups throughout Illinois have opened "cooling centers" for the elderly and provided transportation to them and this effort has helped. But, as in other states, we have found it very difficult to entice the elderly into leaving their homes and going to a "cooling center" during the daytime heat. For whatever reasons many elderly simply refuse to leave their homes, even though they have no air conditioning or fan. One mayor of a Southern Illinois city has personally pleaded with elderly residents to leave their homes, and some still refuse. In those cases, which have unfortunately become too common, a fan could be a life saving device.

I urge you to immediately provide Illinois, through the Department of Commerce and Community Affairs, with funding necessary to provide cooling devices for those in dire need and support other local emergency efforts now underway. The existing structure of Community Action Programs and other community service organizations funded by your agency would be the conduit for this much needed assistance.

Attached is an outline of what we have done so far to protect our residents from this unprecedented problem.

Sincerely,

James R. Thompson,
Governor.

DEPARTMENT OF PUBLIC HEALTH

1. Issued periodic warnings with tips on how individuals can stay cool to avoid medical problems.
2. Assessed by region problems and potential problems at nursing homes and hospitals with daily monitoring.
3. Instituted an emergency nursing home visitation program to visit daily and report any problems with un-air conditioned long term care facilities.

DEPARTMENT ON AGING

1. Urged all area offices, senior centers, and nutrition sites to remain open longer to provide havens from the daytime heat for the elderly.

2. Providing transportation to and from these "cooling centers" if needed.

3. Urged area offices to re-direct limited, unused funds to support efforts to keep the centers open longer, provide dinner meals, and if possible purchase cooling devices for those elderly who do not have them and cannot or will not leave their homes.

4. With the Lieutenant Governor's Office expanded to 24 hours the elderly hotline where an elderly person or one who is concerned about an elderly person can receive referral assistance.

EMERGENCY SERVICES AND DISASTER AGENCY

1. Has altered all local civil defense volunteers and reminded them of their duties to assist local governments with efforts to protect the public during the heat wave.

2. Identified location, ownership, and availability of all generators which could be used in the event of a life threatening power failure.

DEPARTMENT OF COMMERCE AND COOMMUNITY AFFAIRS

1. Contacted local governments to monitor what they are doing locally to combat the effects of the heat wave.

2. Publicized phone numbers where local governments can call for assistance.

DEPARTMENT OF AGRICULTURE

1. Assessed heat related problems with the livestock and crops in Illinois.

2. Monitoring farmers' situation and are available for assistance. (See attached assessment)

National Weather Service prediction: The next two weeks will be hot (90°), humid and occasionally interspersed with rain as various weather fronts move through the state.

Crops: Corn and soybeans are under stress from the intense heat and lack of rain. Yield losses could result if the heat wave continues. Corn is in the critical stage of pollination and heat may inhibit 100 percent pollination.

Soybeans will handle the heat better. They are currently flowering and producing pods. Predicted rains should protect the soybean crop from losses.

The wheat crop is unaffected by the heat as harvesting is almost completed.

Recent storms have forced extra moisture into grain storage areas. Unless this grain was removed, blended or stirred, rapid spoilage may result from the intense heat.

Reduction in yields could cause increased feed costs to livestock producers this fall. Smaller supplies of grain will increase grain prices.

Livestock: The current heat wave has placed tremendous stress on livestock. Animals are losing appetite and not gaining weight. This is critical for those almost ready for market. Livestock require regular observation, plenty of ventilation and cool water. Production costs can be expected to increase for producers.

An additional problem caused by the increased loss of livestock has been the inability of the rendering services to handle the demand. Longer hours and more trucks are being used to handle this problem.

Energy situation: Farmers have had little problem getting adequate power for electrical fans, water pumps and other needs for running a modern farming operation. Many farmers either have their own generators or have purchased one recently for emergency use.

Unusually high utility costs can be expected.

Financial assistance: Financial aid is available through local financial institutions in rural areas, the Farmer's Home Administration and the Small Business Administration. Farmers should check with their local banks before approaching FHA or SBA.

SUMMARY

Production of crops and livestock will be reduced from earlier expectations. However, figures will not be available until later this month when the Agriculture department will be able to estimate losses.

Farmers have been able to handle the situation by using proper management. However, help is available for those who have need in their local areas or from the FHA or SBA.

Heat Relief

SPRINGFIELD, ILL., July 18.—In response to Governor James R. Thompson's request to provide havens for elderly citizens during the current heat wave, the Illinois Department on Aging today made available up to $1.5 million in emergency funds to area agencies on aging and other departmental grantees for temporary relief measures through September 1.

Department Director Peg R. Blaser said mailgrams being sent to local grantees authorized increased expenditures for:

Additional meals—both congregate and home-delivered—on a temporary basis at nutrition sites;

Transportation costs, including fuel, maintenance, personnel, temporary leasing or mass transit agreements;

Personnel costs for overtime or temporary help;

Rental for temporary sites where necessary for additional shelters;

Purchase of fans for use by individuals and sites;

Utility costs, including telephone charges associated with increased operation of local centers.

"These emergency funds," Blaser said, "are being made available to help area agency on aging offices, nutrition sites and senior centers offset the increased costs associated with expanding their hours of operation."

Blaser said seniors unable to obtain help locally can call the Lieutenant Governor's Senior Action Center hotline toll-free at 1-800-252-6565 for information on where to go for help. Police should be summoned in medical emergencies.

She echoed the Governor's request that Illinois citizens be especially watchful of their elderly neighbors during periods of high temperature and humidity.

PRESIDENT CARTER'S DECISION NOT TO INVITE CHILE TO PARTICIPATE IN UNITAS XXI

Mr. THURMOND. Mr. President, I rise today to express my strong disagreement with the present administration's foreign policy toward Chile.

Mr. President, a series of discriminatory actions have been taken by the United States in retaliation for the Chilean Supreme Court's denial of the U.S. request for extradition of individuals allegedly involved in the murder of former Ambassador Orlando Letelier. Most recently, when invitations were extended by the United States to Latin nations to participate in UNITAS, an important annual naval exercise, only one South American coastal power was excluded—Chile.

Mr. President, the serious implications of this action are a matter of grave concern to me. UNITAS is designed to promote and coordinate the mutual preparedness and defense capabilities of the Americas. Chile has participated in this important exercise for 19 of the past 20 years. Yet, President Carter has chosen to exclude Chile, and in so doing jeopardize our mutual defense capabilities.

Mr. President, there is no question as to the importance of Chile in achieving mutual preparedness and defense capabilities in the Western Hemisphere. Chile has one of the best navies in the Western World. In addition, with Chile having a coastline of 2,600 miles, over one-fifth of the entire South American continental coast, its cooperation is mandatory for the support and servicing of U.S. vessels enroute around Cape Horn.

Mr. President, some differences will always exist among independent countries. However, we should strive to overcome these differences and not allow them to jeopardize our mutual defense goals and capabilities. It seems to me that this obvious politicizing of our mutual defense efforts by President Carter sets a dangerous and unwise precedent.

Mr. President, I had hoped that my recent letter to President Carter, which was cosigned by 12 other Senators, would persuade him to abandon this shortsighted policy. I am sorry that this was not the case. In fact, it appears that the President did not give enough consideration to this letter to even give a personal response.

Mr. President, I ask unanimous consent that a June 16, 1980, Washington Post article on this matter, a letter I received from the Chilean Embassy expressing their regret for the President's decision, my letter to President Carter, and the response I received from the State Department all be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 24, 1980.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: I wish to express to you my most sincere appreciation for your valuable support in the matter of Chilean participation in the Twenty First Annual Inter-American Naval Exercises (UNITAS XXI).

I hope you will also convey my thanks to your staff for their cooperation.

At the same time, I take the liberty of enclosing for your information an informal English translation of a statement issued by the Ministry for Foreign Relations in this connexion after the decision adopted by the Government of the United States became known.

With warmest personal regards, I remain,
Sincerely,

JOSÉ MIGUEL BARROS,
Ambassador of Chile.

STATEMENT OF THE CHILEAN MINISTRY FOR FOREIGN RELATIONS

The Ministry for Foreign Relations has learned that, in spite of the considered opinion of the Navy and congressional circles of the United States, this year the Department of State appears to have imposed, exclusively for political reasons, its decision to exclude Chile from the UNITAS exercises, the joint manoeuvres of the United States Navy with one or various Latin American countries which take place annually in accordance with their work program

This United States decision does not damage Chile but, rather, the entire defense system of the hemispheric alliance.

The Government of Chile is certain that these arbitrary measures will not impair the efficiency of its Navy. They will, however, introduce new elements which, brought up by a political decision of a discriminatory nature, go against the principle of sovereign equality of the States. The Chilean Government categorically rejects them.

U.S. Senate,
Washington, D.C., June 5, 1980.

The President,
The White House,
Washington, D.C.

Dear Mr. President: This fall the twenty-first annual Inter-American naval exercises (UNITAS XXI) are scheduled to take place. All the coastal powers of South America will participate in these important exercises with one notable exception. Chile, for the first time in the twenty-year history of UNITAS, has not been invited to participate.

The United States benefits from UNITAS in several ways. Most importantly, UNITAS affords us an opportunity each year to evaluate the effectiveness of the various navies in the Western Hemisphere, as well as providing us a chance to plan global and hemispheric strategic defense. Since the Chilean navy is among the most capable of all Latin American navies, it must naturally play an important part in those strategies. Furthermore, with Chile having a coastline of 2.600 miles, over one-fifth of the entire continental coast, its cooperation is mandatory for the support and servicing of American vessels en route around the Cape Horn.

Of equal importance in considering Chile's participation in UNITAS is the need to keep the Latin American navies focused on global strategic objectives rather than regional problems. By not including Chile in the exercises, and thus conspicuously demonstrating the absence of U.S. support for that country, we may encourage bordering nations to attempt to settle long-standing disputes with military means.

By not inviting Chile, moreover, we jeopardize our access to ports and facilities in the region, as well as the vital help which Chile could provide in defending the shipping lanes around the Cape Horn. Argentina, which shares Chile's strategic position on the Cape Horn, has already shown a willingness to disregard mutual strategic interests in favor of assuaging national pride. Though it plans to participate in this year's exercises, Argentina refused to cooperate in the 1977 and 1978 exercises because of what was considered the unfriendly act of terminating U.S. security assistance. Should Chile follow suit, the U.S. could be faced with the prospect of defending the shipping lanes around the Cape Horn without the cooperation of, and possibly with the active opposition of one or both of those countries.

We feel that the strategic interests of the U.S. as well as of the entire Western Hemisphere dictate that every major Latin American navy be invited to participate in UNITAS. During the twenty year history of the UNITAS exercises, never have political considerations caused a previously participating navy not to receive an invitation.

The decision to exclude Chile, however, sets a dangerous and undesirable precedent insofar as it politicizes regional military cooperation. While it is important to make clear our national condemnation of the act of terrorism which has brought about the present strain in United States-Chilean relations, we believe that a suitable response should not foreclose opportunities to work together as hemispheric partners. Therefore, we feel that the use of the UNITAS exercises for the purpose of punishing Chile would be inappropriate, imprudent, and not at all in the long-term interest of the United States.

Sincerely,
Strom Thurmond, Edward Zorinsky, Roger Jepsen, Jesse Helms, Orrin Hatch, S. I. Hayakawa, Richard Stone, James A. McClure, Henry M. Jackson, Gordon Humphrey, David L. Boren, Richard Schweiker, and Paul Laxalt.

Department of State,
Washington, D.C., June 24, 1980.

Hon. Strom Thurmond,
U.S. Senate.

Dear Senator Thurmond: Thank you for your letter regarding Latin American developments including our decision not to invite Chile to participate in the 21st annual Inter-American Naval Exercises (UNITAS XXI).

As you know, the Government of Chile's failure to make a vigorous effort to investigate or prosecute the three Chilean ex-intelligence officers implicated in the assassination of Orlando Letelier and Ronni Moffit in Washington in September 1976 has strained relations between our two countries. On November 30, 1979, we announced a series of steps to express our deep concern. We believe the decision not to invite Chile to participate in UNITAS this year is consistent with that announcement, a copy of which I am sending with this letter. I can assure you that the issue of which countries to invite to participate in UNITAS next year will be reviewed prior to the exercises. We have so advised the Chilean Government.

We are conscious of the need to avoid any misunderstanding in Argentina of our policies toward Chile, and we continue to make clear our strong interest in peaceful resolution of the boundary dispute.

Sincerely,
J. Brian Atwood,
Assistant Secretary for Congressional Relations.

Enclosure: Statement.

State Department Statement Concerning Measures To Be Taken Against the Government of Chile

The Government of the United States has been reviewing our relations with the Government of Chile, in light of Chile's actions with respect to the assassination of Orlando Letelier, a former Ambassador of Chile to the U.S., and Ronni Moffit. Mr. Letelier and Mr. Moffit were killed in Washington in September 1976 by a bomb attached to their car. On August 1, 1978, a federal grand jury handed down a number of indictments in the case. Three officers of the Chilean intelligence service (Messrs. Contreas, Espinoza, and Fernandez) were indicted for having planned and directed the killings. Michael Townley, a member of the Chilean intelligence service, pleaded guilty and was sentenced for his role in the crime, and two of his Cuban accomplices were subsequently tried and convicted in the U.S. District Court in Washington. The United States sought the extradition from Chile of the three Chilean officials, but on October 1 that request was denied by the Chilean Supreme Court. The court also chose not to call for a Chilean investigation of the murder charges.

The Government of Chile bears a two-fold responsibility in this matter. First, the three men indicted for having planned and directed the killings were officials of that government, and included the former head of Chile's intelligence service. The overwhelming body of evidence amassed by the Department of Justice makes it likely that the charges against these officials would be upheld if a fair trial could be held. Second, for over 20 months the Government of Chile has made no serious effort to investigate or prosecute these crimes on its own.

The Government of Chile has thus, in effect, condoned this act of international terrorism. It now seems likely that the men who planned and directed this crime, committed on the streets of our nation's capital, will go unpunished. We believe it is essential that we make clear, both to the Government of Chile and to others throughout the world, that such acts of terrorism cannot be tolerated .

Accordingly, the President has concluded that the following measures should be taken:

(1) We shall reduce the size of our Mission in Chile.

(2) By January 1, 1980, we will terminate the Foreign Military Sales "pipeline" to Chile and will thereby terminate all deliveries of military equipment to the Government of Chile by the U.S. Government.

(3) The MilGroup now stationed in our Embassy in Santiago will be phased down as the FMS pipeline is reduced; at the end of this year, we will assess whether the MilGroup should be completely eliminated.

(4) Pursuant to the Export-Import Bank Act and to authority delegated by the President, Secretary Vance has determined that suspension of Exim financing in Chile would "clearly and importantly advance U.S. policy" in combating international terrorism. Exim is therefore immediately suspending all such financing.

(5) OPIC will not approve any further guaranties or undertake any new activities in Chile.

Chile's deplorable conduct in this affair, and in particular its refusal to conduct a full and fair investigation of this crime, demand the actions we are taking today, which constitute a strong reaffirmation of our determination to resist international terrorism.

I would like to add one further comment, which is prompted by some press accounts that have sought to link our actions on the Letelier matter with the situation in Iran. There is only one link between those two situations—both involve egregious acts of international terrorism, and in both cases our responses reflect our determination to resist such terrorist acts, wherever they occur.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:31 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to House Resolution 746, that Hon. JIM WRIGHT, a Representative from the State of Texas, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 5580. An act to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

(The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4260. A communication from the Acting Public Printer, United States Government Printing Office, transmitting, pursuant to law, a report for the quarter ending June 30, 1980; to the Committee on Appropriations.

EC–4261. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report to the Hon. Bennett M. Stewart, entitled "Actions to Improve Parts of the Military Manpower Mobilization System are Underway," July 22, 1980; to the Committee on Armed Services.

EC–4262. A communication from the Acting Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, a report on the actuarial valuation of the Department of Defense military retirement system; to the Committee on Armed Services.

EC–4263. A communication from the Chief, Program Liaison Division, Office of Legislative Liaison, Department of the Air Force, reporting pursuant to law, the Air Force's decision to convert to contract performance the hospital linen control function at the Air Force Academy, Colorado; to the Committee on Armed Services.

EC–4264. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Jordan for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4265. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Australia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4266. A communication from the Chief, Forest Service, U.S. Department of Agriculture, transmitting, pursuant to law, a copy of the Management and Development Plan, Legal Description, and Map for the North Fork American River, California; to the Committee on Energy and Natural Resources.

EC–4267. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Residential Energy Efficiency Standards Study"; to the Committee on Energy and Natural Resources.

EC–4268. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the End-Stage Renal Disease Program (ESD); prepared by the Health Care Financing Administration (HCFA); to the Committee on Finance.

EC–4269. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Administration of the Steel Trigger Price Mechanism," July 23, 1980; to the Committee on Finance.

EC–4270. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, project performance audit reports prepared by the International Bank for Reconstruction and Development (IBRD) and project performance audit and project completion reports prepared by the Asian Development Bank (ADB); to the Committee on Foreign Relations.

EC–4271. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a proposed altered system of records; to the Committee on Governmental Affairs.

EC–4272. A communication from the Administrator, General Services Administration, reporting, pursuant to law, that, on May 5, 1980, the General Services Administration (GSA), Transportation and Public Utilities Service, entered into four contracts for air passenger transportation services for official travel by all uniformed personnel and all civilian employees of the Departments of the United States Government as defined in 5 U.S.C. 5701, providing for scheduled air service at reduced rates for a 6-month period; to the Committee on Governmental Affairs.

EC–4273. A communication from the Special Prosecutor, Office of the Special Prosecutor, transmitting, pursuant to law, a report on alleged possession of cocaine by Hamilton Jordan, May 28, 1980; to the Committee on the Judiciary.

EC–4274. A communication from the Chairman, Commission on the Review of the Federal Impact Aid Program, transmitting, pursuant to law, a report on the Commission's review and evaluation of the Federal Impact Aid Program; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Special report entitled "Special Report of the Committee on Labor and Human Resources Pursuant to Section 302(b) of the Congressional Budget Act of 1974" (Rept. No. 96–867).

By Mr. METZENBAUM, from the Committee on the Judiciary:

A report to accompany S. 2251, a bill to amend the Clayton Act to prohibit discrimination against the sale of gasohol or other synthetic motor fuels (reported previously) (Rept. No. 96–868).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Special report entitled "Report of the Committee on Banking, Housing, and Urban Affairs Pursuant to Section 302(b) of the Congressional Budget Act of 1974" (Rept. No. 96–869).

By Mr. CHURCH, from the Committee on Foreign Relations, without recommendation:

A report to accompany S. 333, a bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism (together with additional views) (Rept. No. 96–870).

By Mr. HART, from the Committee on Environment and Public Works, without amendment:

S. 2980. A bill to reestablish a program for nuclear waste regulation and control (together with additional views) (Rept. No. 96–871).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

James Bert Thomas, Jr., of Virginia, to be Inspector General, Department of Education.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

BILL PLACED ON THE CALENDAR

Pursuant to order of June 25, 1980, the Committee on Commerce, Science, and Transportation, the Committee on Foreign Relations, the Select Committee on Intelligence, and the Committee on the Judiciary were discharged from further consideration of the following bill, which was placed on the calendar:

S. 333. A bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism.

ORDER FOR RE-REFERRAL OF A BILL—S. 2

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2, the sunset legislation, which was reported yesterday from the Committee on Governmental Affairs, be re-referred to the Committee on Rules and Administration with instructions to be reported back to the Senate no later than September 4, 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR THE PERIOD FROM APR. 1 TO JUNE 30, 1980

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Philip S. Cook:									
Hungary	Florint	2,132	99.84					2,132	99.84
Romania	Lei	476	40.00					476	40.00
Yugoslavia	Dinar	2,331.50	187.00					2,331.50	187.00
Poland	Zloty	6,142	193.76					6,142	193.76
United States	Dollar				1,375.16				1,375.16
Carl W. Ford:									
Taiwan	New Taiwan	18,905	525.00					18,905	525.00
Japan	Yen	69,000	92.00					69,000	92.00
Korea	Won	48,052	82.00					48,052	82.00
United States	Dollar				1,659.00				1,659.00
Senator S. I. Hayakawa:									
Mexico	Peso	5,156	225.50					5,156	225.50
United States	Dollar				307.00				307.00
Karl F. Inderfurth:									
Japan	Yen	69,000	92.00					69,000	92.00
South Korea	Won	48,052	82.00					48,052	82.00
Taiwan	New Taiwan	18,905	525.00					18,905	525.00
United States	Dollar				1,659.00				1,659.00
Albert A. Lakeland:									
United Kingdom	Pound	54,05	116.58					54,05	116.58
Pakistan	Rupee	813,00	82.12					813,00	82.12
India	Rupee	4,305,00	525.00					4,305.00	525.00
United States	Dollar				2,090.00				2,090.00
Meredith Preston:									
Mexico	Peso	5,144	225.00					5,144	225.00
United States	Dollar				459.00				459.00
John Ritch:									
West Germany	Marks	215	122.00	105	60.00			320	182.00
United States	Dollar				827.00				827.00
Diana Smith:									
Hungary	Florint	701	108.90					701	108.90
Romania	Lei	420	35.35					420	35.35
Yugoslavia	Dinar	2,729	132.86					2,729	132.86
Poland	Zolty	6,843	215.08					6,843	215.08
United States	Dollar				1,252.00				1,252.00
Frederick S. Tipson:									
Taiwan	New Taiwan	18,905	525.00					18,905	525.00
Japan	Yen	46,000	184.00					46,000	184.00
United States	Dollar				1,659.00				1,659.00
William B. Bader:									
Germany	Mark								
United States	Dollar				2,283.00				2,283.00
Peter W. Galbraith:									
Thailand	Baht	11,983.50	586.78		146.50				733.28
Laos	U.S. Dollar		60.00		450.00				510.00
United States	Dollar				2,382.00				2,382.00
Senator Joseph R. Biden, Jr.:									
Germany	Mark								
United States	Dollar				2,246.00				2,246.00
Senator Claiborne Pell:									
Greece	Drachma			17,650	415.29				415.29
Switzerland	Franc	297.35	159.85	63.40	35.48				195.33
Italy	Lira	27,240	30.00	115,548	132.51				162.51
Total			5,252.62		19,437.94				24,690.56

June 27, 1980.

FRANK CHURCH,
Chairman, Committee on Foreign Relations.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR THE PERIOD FROM JAN. 1 TO MAR. 31, 1980

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Pauline Baker:									
Great Britain	Pound	139.10	320.00	8.6	20.00			147.16	340.00
Zimbabwe	Dollar	102.36	160.00	32.58	54.08			134.94	214.08
South Africa	Rand	189.62	158.02			15.48	12.90	205.1	170.92
Mozambique	Escudo	2,964	95.00			963.50	30.00	3,927.5	125.00
United States	Dollar				1,706.00				1,706.00
John H. Backer:									
Indonesia	Rupiah	102,125	163.40					102,125	163.40
Thailand	Baht	5,816.75	284.82					5,816.75	284.82
Philippines	Peso	977	131.67					977	131.67
Taiwan	Dollar	8,095.50	225.00					8,095.50	225.00
United States	Dollar				3,535.90				3,535.90
William B. Bader:									
Federal Republic of Germany	Mark	425.58	246.00					425.58	246.00
Geryld Christianson:									
Azores	Escudo	2,850	57.00					2,850	57.00
United States	Dollar		19.00		389.00				408.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384-22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR THE PERIOD FROM JAN. 1 TO MAR. 31, 1980—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gerald E. Connolly:									
Philippines	Peso	3,895.88	525.00	1,094	147.84			4,989.88	672.84
Thailand	Baht	9,186.75	450.00	830	41.31			10,016.75	491.31
Indonesia	Rupiah	421,875	675.00					421,875	675.00
United States	Dollar				2,530.40				2,530.40
Gerald Decker:									
Philippines	Peso	3,895.88	525.00	1,094	147.84			4,989.88	672.84
Thailand	Baht	9,186.75	450.00	830	41.31			10,016.75	491.31
Indonesia	Rupiah	421,875	675.00					421,875	675.00
United States	Dollar				2,506.40				2,506.40
Marcella T. Krause:									
Federal Republic of Germany	Mark	425.58	246.00					425.58	246.00
Senator S. I. Hayakawa:									
Indonesia	Rupiah	110,250	176.40					110,250	176.40
Thailand	Baht	4,546.75	222.63					4,546.75	222.63
Philippines	Peso	1,113	150.00					1,113	150.00
Taiwan	Dollar	8,095	225.00					8,095	225.00
United States	Dollar				3,235.90				3,235.90
Senator Claiborne Pell:									
Azores	Escudo	2,850	57.00						57.00
United States	Dollar		19.00		437.00				456.00
Rudolph Rousseau:									
Korea	Won	39,688	82.00					39,688	82.00
Philippines	Peso	1,669.50	225.00					1,669.50	225.00
Indonesia	Rupiah	276,875	443.00					276,875	443.00
Thailand	Baht	12,248	600.00	410	20.08			12,658	620.08
India	Rupee	1,473	185.52					1,473	185.52
Great Britain	Pound	49.90	108.78					49.90	108.78
United States	Dollar				1,708.00				1,708.00
Total			7,900.24		16,521.06		42.90		24,464.20

June 11, 1980.

FRANK CHURCH,
Chairman, Committee on Foreign Relations.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, CODEL BIDEN-BAKER, FOR THE PERIOD FROM APR. 3 TO APR. 13, 1980

Name and country	Name or currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph R. Biden, Jr.:									
Greece	Drachma	12,699	299.00					12,699	299.00
Turkey	Lira	5,500	75.00					5,500	75.00
Italy	Lira	204,300	225.00					204,300	225.00
Senator Howard H. Baker, Jr.:									
Greece	Drachma	11,216	263.91					11,216	263.91
Turkey	Lira	4,160.4	56.45					4,160.4	56.45
Italy	Lira	186,300	204.45					186,300	204.45
Senator Edward Zorinsky:									
Greece	Drachma	12,750	300.00					12,750	300.00
Turkey	Lira	5,500	74.63					5,500	74.63
Italy	Lira	204,300	225.00					204,300	225.00
William B. Bader:									
Greece	Drachma	12,750	300.00					12,750	300.00
Turkey	Lira	5,500	74.63					5,500	74.63
Italy	Lira	187,900	206.28					187,900	206.28
Howard Liebengood:									
Greece	Drachma	15,937.5	375.00					15,937.5	375.00
Turkey	Lira	4,160.4	56.45					4,160.4	56.45
Italy	Lira	204,300	225.00					204,300	225.00
Patricia A. Mink:									
Greece	Drachma	15,416	365.00	521	10.00			15,937.50	375.00
Turkey	Lira	5,500	75.00					5,500	75.00
Italy	Lira	199,950	220.00	4,350	5.00			204,300	225.00
Joanne Novins:									
Greece	Drachma	15,937.5	375.00					15,937.5	375.00
Turkey	Lira	5,500	74.63					5,500	74.63
Italy	Lira	204,300	225.00					204,300	225.00
John Ritch:									
Greece	Drachma	12,750	300.00					12,750	300.00
Turkey	Lira	4,400	60.00			1,100	15.00	5,500	75.00
Italy	Lira	190,680	210.00	13,620	15.00			204,300	225.00
Delegation expenses: [1]									
Oman							494.92		494.92
Greece							4,977.21		4,977.21
Turkey							1,365.85		1,365.85
Italy							2,394.22		2,394.22
Total			4,865.43		30.00		9,247.20		14,142.63

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of Public Law 95-384, and Senate Resolution 179, agreed to May 25, 1977.

Note: The following Senators and staff members were also members of Codel Biden-Baker and have filed their reports of expenditures of foreign currencies with the authorizing source indicated: Senator Malcolm Wallop: minority leader; Senator Thad Cochran: minority leader; Mr. J. Walter Stewart: majority leader; Mr. William F. Hildenbrand: minority leader.

FRANK CHURCH,
Chairman, Committee on Foreign Relations.

June 25, 1980.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b) COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR THE PERIOD FROM MAR. 5 TO 15, 1980

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles E. Morrison:									
Thailand	Baht	15, 316	750.00					15, 316	750.00
Total			750.00						750.00

July 1, 1980.

ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR THE PERIOD FROM APR. 4 TO 13, 1980

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mark Gitenstein:									
France	Franc	418.30	94.00						
Turkey	Lira	14, 555.75	197.50						
Greece	Drachma	6, 375	150.00						
Italy	Lira	272, 800	300.00						
Total			741.50						741.50

June 30, 1980.

EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR THE PERIOD FROM APR. 27 TO 28, 1980

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Richard Burke:									
Mexico	U.S. dollar	75.00							75.00
Antonia Hernandez:									
Mexico	U.S. dollar	75.00							75.00
Lawrence Horowitz:									
Mexico	U.S. dollar	75.00							75.00
Jan Kalicki:									
Mexico	U.S. dollar	75.00							75.00
Al Kamen:									
Mexico	U.S. dollar	75.00							75.00
Mark Schneider:									
Mexico	U.S. dollar	75.00							75.00
Robert Shrum:									
Mexico	U.S. dollar	75.00							75.00
Total		525.00							525.00

July 15, 1980.

EDWARD M KENNEDY,
Chairman, Committee on the Judiciary.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR THE PERIOD FROM APR. 5 TO JUNE 14, 1980

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Elizabeth A. Moler:									
Japan	Yen	174, 362	675.82		1, 502.00	88, 000	341.00		2, 518.82
Senator Bill Bradley:									
Saudi Arabia	Riyal	1, 158.75	342.14		2, 302.30				
Iraq	Dinar	Returned per diem							
Kuwait		0	0						
Oman	Riah	33.935	99.23						
Israel			75.00				108.00		2, 926.67
James G. Roche:									
Saudi Arabia	Riyal	2, 054.00	616.82		1, 937.00				
Oman	Riah	27.935	81.68						
Israel			80.00				108.00		2, 823.50

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR THE PERIOD FROM APR. 5 TO JUNE 14, 1980—Continued

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
D. Michael Harvey:									
Saudi Arabia	Riyal	2,081	624.93		1,937.00				
Oman	Riah	30.135	88.11						
Israel			80.00				108.00		2,838.04
Gina Despres:									
Saudi Arabia	Riyal	1,158.75	347.98		2,302.30				
Iraq	Dinar	Returned full per diem							
Kuwait		0	0						
Oman	Riah	28.935	84.61						
Israel			80.00				108.00		2,922.89
James Z. Pugash:									
Saudi Arabia	Riyal	2,004	601.80		2,004.00				
Oman	Riah	30.785	90.02						
Israel			80.00				108.00		2,883.82
George G. Dowd:									
Italy	Lire	285,500	344.00		1,105.00				1,449.00
Total			4,392.14		13,089.60		881.00		18,362.74

HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources.

July 1, 1980.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754 (b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR THE PERIOD FROM APR. 6 TO 8, 1980

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Carmen Ellis:									
Mexico	Peso	5,143.50	225.00	6,286.50	275.00	1,890.50	82.69	13,320.50	582.69
Total			225.00		275.00		82.69		582.69

HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry.

June 30, 1980.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, PUBLIC LAW 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR THE PERIOD FROM APR. 1 TO JUNE 30, 1980

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
F. David Foster:									
Switzerland	Franc	503.30	288.00		925.00			503.30	1,213.00
Jeffrey M. Lang:									
Switzerland	Franc	957.90	576.00		843.00			957.90	1,419.00
Total			864.00		1,768.00				2,632.00

RUSSELL B. LONG,
Chairman, Committee on Finance.

June 30, 1980.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TOWER:

S. 2970. A bill to amend section 404 of the Federal Water Pollution Control Act to restrict the jurisdiction of the United States over the discharge of dredged or fill material to discharges into waters which are navigable, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ARMSTRONG:

S. 2971. A bill for the relief of Monty P. Greene; to the Committee on the Judiciary.

By Mr. MORGAN:

S. 2972. A bill to increase the number of firms eligible to participate in the Small Business Administration business development program; to the Select Committee on Small Business.

By Mr. SARBANES (for himself and Mr. WILLIAMS):

S. 2973. A bill to amend the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Company Act of 1940 to clarify exemptions from such Acts for the funding by insurance companies of certain employee benefit plans; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MORGAN (for Mr. STEWART):

S. 2974. A bill to amend section 5137 of the Revised Statutes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SARBANES (for himself and Mr. WILLIAMS):

S. 2975. A bill to amend the Securities Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN (for himself, Mr. CHILES, and Mr. EAGLETON):

S. 2976. A bill to eliminate restrictions on funds appropriated for certain community services; to the Committee on Appropriations.

By Mr. THURMOND:

S. 2977. A bill to amend title 38, United States Code, to provide a new educational assistance program for veterans and persons who serve on active duty with the armed forces after December 31, 1980, and for persons who perform service in the Selected Reserves of the Ready Reserve of an Armed Force after such date, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BENTSEN (for himself, Mr. CHILES, Mr. EAGLETON, Mr. MATSUNAGA, and Mr. STONE):

S. 2978. A bill to revise certain provisions of the Home Energy Assistance Act of 1980; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. MATHIAS, Mr. ROTH, and Mr. BURDICK):

S. 2979. A bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living expenses; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. HART (from the Committee on Environment and Public Works):

S. 2980. A bill to reestablish a program for nuclear waste regulation and control. (Original bill reported and placed on the calendar.)

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TOWER:

S. 2970. A bill to amend section 404 of the Federal Water Pollution Control Act to restrict the jurisdiction of the United States over the discharge of dredged or fill material to discharges into waters which are navigable, and for other purposes; to the Committee on Environment and Public Works.

● Mr. TOWER. Mr. President, I am today introducing legislation that will curtail the seemingly never ending growth of the bureaucracy and clarify the Corps of Engineers authority over State water resources. Federal agencies have far over-stepped their bounds in their interpretation of what constitutes a "navigable stream" under Public Law 92–500.

My bill would restrict expansion of Federal authority over nonnavigable waters under section 404 of the Federal Water Pollution Control Act, which authorizes the corps to issue permits for activities in navigable waters involving the discharge of dredged or fill material.

Mr. President, the bill I introduce is not new to Congress. I attempted in 1975 and 1977, failing by a narrow margin, to obtain congressional mandate to instill commonsense in the COE permit procedures by limiting its jurisdiction over waters which are neither navigable nor critical to navigation.

I had more recently been led to believe that meetings between the COE, EPA, and U.S. Fish and Wildlife would result in a workable agreement for managing our water resources and issuance of permits.

But, Mr. President, this has not been the case. What we continue to have, and what the country is faced with is a growing regulatory scheme covering not just the wetlands of the Nation, but virtually all surface waters. Prolonged delays and piles of redtape continue to prevail.

In particular, section 404 of the 1972 act has been cited by the corps for the actions it has taken both in denying owners the right to discharge material on their own property—wetlands—and in denying public citizens—navigation districts, municipalities, the right to undertake flood control projects or other improvement projects that would affect the waters of the United States, loosely defined.

Mr. President, permit me to cite an example. In the high plains of Texas, in elevations of 3,000 plus feet, an area lucky if it receives 15 inches in rainfall a year—yet, it is one of my State's greatest food and fiber production areas—is now identified as a study site by EPA.

This study will cost taxpayers $70,000 to examine playa lakes. Mr. President, a playa lake is simply what every farmer or rancher calls a farm pond. We have approximately 16,000 of them in Texas.

Mr. President, the point is simple—farm ponds on private land used primarily for secondary irrigation and livestock water may be interpreted to be waters of the United States under section 404, thereby considered to be "wetland."

Should the EPA or COE make this determination, then the U.S. Fish and Wildlife will have jurisdiction over these farm ponds in the interest of adverse effect on migrating waterfowl.

Mr. President, where will it stop—the invisible hand of Government will someday approach the point where draining a backyard swimming pool would require a permit under Public Law 92–500.

I am pleased to join with the Honorable Ron Paul of Texas in introducing this bill that would make substantial strides toward rectifying the gross misinterpretations of congressional intent by our Nation's courts and toward pulling in the reins on Federal bureaucratic overregulation of locally financed, locally sponsored projects which the Federal Government shall have no interest in, no concern for, no responsibility for and no regulatory control over.●

By Mr. MORGAN:

S. 2972. A bill to increase the number of firms eligible to participate in the Small Business Administration business development program; to the Select Committee on Small Business.

SMALL BUSINESS MINORITY CONTRACTING EXPANSION ACT OF 1980

● Mr. MORGAN. Mr. President, for several years concerns have been expressed about the performance of the Small Business Administration Government procurement program for minority and disadvantaged persons, widely known as the 8(a) program.

In 1977 and 1978, my colleague from Florida, Senator Chiles, conducted extensive hearings in various States on alleged fraud and abuse in the 8(a) program. Subsequent to his efforts, the SBA undertook a major reform program and its new Inspector General, Mr. Boucher, has encouraged greater responsibility and accountability in the administration of the program.

Of concern to me, Mr. President, is a very different problem in the 8(a) program. It appears to many of us in the Congress that participants in this particular Government procurement program seldom appear to move on to regular Government procurement programs or, indeed, to simply compete in the private sector, which is the ultimate purpose of the law.

Currently, the Small Business Administration keeps no records on the length of time a minority or disadvantaged small business remains a participant in the 8(a) program. Also, SBA keeps no account of the progress of these firms, if they do in fact leave the program.

Mr. President, I have maintained in my State two offices in order that my constituents could have more immediate access to their Senator. The staff in these offices spend an extraordinary amount of time dealing with problems that center on the Small Business Administration. Over the past few years, the number of problems relating to the 8(a) program have increased.

In particular, my North Carolina offices have noticed that certain minority firms appear to remain in the 8(a) program for years. They have found a reluctance on the part of the SBA to accept new minority firms when some "old reliable" firms are available to get Government contracts.

We have also seen many small minority businesses grow on the basis of Government procurement, yet never leave the program. If they get near the size limits for small business, they often spin off new companies which are eligible for 8(a) loans but have similar managers or entrepreneurs. So no new businessmen are brought in.

Rather than detail all the issues here, let me note that I am introducing a bill which I feel will go a long way toward opening up more opportunity for minority firms to become involved in Government contracting so that they may grow and become more viable in the private sector.

In 1978, the President signed into law Public Law 95–507 which deals with several topics including Government procurement. Among the important findings made by the Congress were that—

> It is, therefore, the purpose of section 637(a) of this title to—
>
> (A) foster business ownership by individuals who are both socially and economically disadvantaged;
>
> (B) promote the competitive viability of such firms by providing such available contract, financial, technical, and management assistance as may be necessary; and
>
> (C) clarify and expand the program for the procurement by the United States of articles, equipment, supplies, services, materials, and construction work from small business concerns owned by socially and economically disadvantaged individuals—15 U.S.C. Section 631(e)(2).

The purpose of the 8(a) program is business development, not contract locating. Everyone supports graduation from the program, yet there has been no incentive. The bill I am about to introduce will do that and we eliminate the situation where, I am told, companies are kept in the program even if they no longer meet statutory definition of eligibility.

The Congress set forth the goals of increasing minority involvement in the American economy and the use of Government contracts to assist these firms in becoming financially viable and independent.

If minority businessmen are to be truly successful and if this success is to be open to everyone without limitation, then the progress must come in the private sector. The Government can only encourage and assist the broad spectrum of minority and disadvantaged businesses; the private sector is the ultimate crucible for their viability.

It has not been the goal of the program to keep certain firms on Government contracts forever. The ultimate goal of most minority firms is to get their operations going and then to move off into successful competition in the private sector. The continued participation of a few firms, in the absence of some compelling need, only injures those other small businessmen who could enter the marketplace through the 8(a) program.

The bill I am introducing today would encourage participation in the 8(a) program. Simply put, it would limit participation to 5 years and would reduce the amount of 8(a) contracts that a businessman could hold by 20 percent a year. Thus the businessman would have an eye on active participation in the private sector while receiving some stability through Government procurement.

In addition, the bill would transfer back to the Administrator of SBA ultimate authority over the minority program. This will provide for greater visibility of the 8(a) program, for more forceful advocacy of its goals and for greater accountability to the Congress.

Mr. President, I believe that this bill will go a long way toward increasing the number of minority small businesses in our country and will benefit the taxpayer by broadening the base of private firms competing for procurement.

I ask that a copy of the bill and of an analysis of its provisions be included in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. This Act may be cited as the "Small Business Minority Contracting Expansion Act of 1980".

Sec. 2. Section 8(a) (7) of the Small Business Act is amended by adding at the end thereof the following new sentence:

"No small business concern shall remain eligible for any assistance pursuant to this subsection for a period exceeding five years after receipt of its initial contract under this subsection: *Provided, however,* That the total annual dollar value of contracts awarded to such concern pursuant to this subsection shall be reduced each year by twenty percent of the total business sales projected for each year of such firm's program participation.".

Sec. 3. Section 7(j) (10) (C) of the Small Business Act is amended by striking the phrase "a reasonable period of time" and inserting in lieu thereof the phrase "the period of time specified in section 8(a) (7) of this Act.".

Sec. 4. Section 7(j) (11) of the Small Business Act is amended by striking the phrase "Associate Administrator for Minority Small Business and Capital Ownership Development" and inserting in lieu thereof "Administrator."

Sec. 5. Section 8(a) (8) of the Small Business Act is amended by striking the phrase "the Associate Administrator for Minority Small Business and Capital Ownership Development" and inserting in lieu thereof the phrase "the Administrator".

Section-by-Section Analysis

Section 1 states that the Act may be cited as the "Small Business Minority Contracting Expansion Act of 1980".

Section 2 amends section 8(a) (7) of the Small Business Act, relating to services to be provided to firms eligible to receive assistance under section 8(a) of the Small Business Act, by establishing a "graduation" period for eligibility under the program. Under the bill, no small business concern may remain eligible for assistance for more than five years following receipt of the initial contract received pursuant to this section. In addition, in order to insure a gradual, phased withdrawal from the program, the total annual dollar volume of contracts awarded to an eligible 8(a) concern is to be reduced by twenty percent each year of the total business sales projected for such firm's participation in the program. The intent of this provision is to insure that a firm increases its dependence on private sector and direct government contracts, rather than increase its reliance on contract aid through the 8(a) program.

Section 3 amends section 7(j) (10) (C) of the Small Business Act to make a conforming change required because of the amendments made by section 2.

Section 4 amends section 7(j) (11) of the Small Business Act, relating to responsibilities for formulating policies for the programs, by placing the authority in the Administrator of the Small Business Administration, rather than in the Associate Administrator for Minority Small Business and Capital Ownership Development.

Section 5 amends section 8(a) (8) of the Small Business Act, relating to determinations for eligibility for the 8(a) program, by placing that authority in the Administrator of the Small Business Administration, rather than in the Associate Administrator for Minority Small Business and Capital Ownership Development.●

By Mr. SARBANES (for himself and Mr. Williams):

S. 2973. A bill to amend the Securities Act of 1933. the Securities Exchange Act of 1934 and the Investment Company Act of 1940 to clarify exemptions from such acts for the funding by insurance companies of certain employee benefit plans: to the Committee on Banking, Housing. and Urban Affairs.

● Mr. SARBANES. Mr. President, for myself and the Senator from New Jersey (Mr. Williams), I introduce a bill to clarify exemptions from the Securities Act of 1933. the Securities Exchange Act of 1934 and the Investment Company Act of 1940 for the funding by insurance companies of certain employee benefit plans.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) (2) of the Securities Act of 1933 (15 U.S.C. 77c(a) (2)) is amended by striking out "or any interest or participation in a single" and all that follows through "section 401(c) (1) of such Code." and inserting in lieu thereof the following: "or any interest or participation in a single trust fund or in a collective trust fund maintained by a bank or any security arising out of a contract issued by an insurance company which interest, participation, or security is issued in connection with (A) a stock bonus, pension. or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954. (B) an annuity plan which meets the requirements for the deduction of the employer's contributions under section 404(a) (2) of such Code, or (C) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (A), (B), or (C) of this paragraph (i) the contributions under which are held in a single trust fund maintained by a bank or in a separate account maintained by an insurance company for a single employer and under which an amount in excess of the employer's contribution is allocated to the purchase of securities (other than interest or participations in the trust or separate account itself) issued by the employer or any company directly or indirectly controlling, controlled by, or under common control with the employer, (ii) which covers employees some or all of whom are employees within the meaning of section 401(c) (1) of such Code, or (iii) which is a plan funded by an annuity contract described in section 403(b) of such Code.".

Sec. 2. Section 3(a) (12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (12)) is amended by striking out "any interest or participation in any collective trust fund" and all that follows through "section 401 (c) (1) of such Code," and inserting in lieu thereof the following: "any interest or participation in a single trust fund or a collective trust fund maintained by a bank or any security arising out of a contract issued by an insurance company which interest, participation, or security is issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a) (2) of such Code, or (C) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (A), (B), or (C) of this paragraph (i) which covers employees some or all of whom are employees within the meaning of section 401(c) of such Code, or (ii) which is a plan funded by an annuity contract described in section 403(b) of such Code;".

Sec. 3. Section 3(c) (11) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c) (11)) is amended to read as follows:

"(11) Any employee's stock bonus, pension, of profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954 or which holds only assets of governmental plans described in section 3(a) (2) (C) of the Securities Act of 1933; any single trust fund or any collective trust fund maintained by a bank consisting solely of assets of such trust; or any separate account the assets of which are derived solely from (A) contributions under pension or profit-sharing plans which meet the requirements of section 401 of the Internal Revenue Code of 1954 or the requirements for deduction of the employer's contribution under section 404(a) (2) of such Code, (B) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of section 5 of the Securities Act of 1933 by section 3(a) (2)(C) of such Act, and (C) advances made by an insurance company in connection with the operation of such separate account.".●

By Mr. MORGAN (for Mr. Stewart):

S. 2974. A bill to amend section 5137 of the Revised Statutes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. MORGAN. Mr. President, for my colleague from Alabama, Senator Stewart, I introduce and send to the desk a bill to amend section 5137 of the Revised Statutes.

I ask unanimous consent that a statement by Senator Stewart on the bill be printed at this point in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Stewart

This bill clarifies the power of certain national banks to hold, at no risk to themselves, lawfully acquired title to and possession of certain kinds of real estate. Its purpose is threefold: (1) to promote bank soundness and security, (2) to protect the interest of bank depositors, and (3) to permit certain national banks to compete favorably with state chartered banks.

Section 5137 of the Revised Statutes, 12 U.S.C. § 29, provides, among other things, that a national bank may acquire real property to satisfy debts due to it, but that it shall not "hold . . . title and possession" of property so purchased for longer than five years. A principal purpose of the five-year limitation was to prevent a national bank from carrying on its books as an asset real property which perhaps could not be liquidated as promptly as might be necessary to satisfy the needs of the bank's depositors or other creditors.

The Comptroller of the Currency traditionally has enforced this five-year holding period by requiring a national bank to write down 20 percent of the property's value each year for five years. At the end of five years, the property would be either completely removed from the bank's assets or carried at the nominal value of one dollar. Thus, there was no danger that depositors or others dealing with the bank would rely up on the charged-off property in evaluating the bank's financial soundness.

Recently, however, the Comptroller of the Currency has taken the position that writing off the asset on the bank's books does not satisfy the five-year limit since the statute does not expressly state that it does so. The present Comptroller now is threatening to bring cease and desist proceedings or levy civil penalties against national banks which, with the knowledge and acquiescence of prior Comptrollers, have held various real estate interests for as long as a half a century or more.

These real estate interests were for the most part acquired by national banks during the depression years of the 1920's and 1930's. Sometimes the acquisition was by foreclosure on mortgaged real estate. In other instances real estate was accepted by the bank in satisfaction of an unsecured debt which could not be repaid. Frequently—especially in farming areas—there was no market for such real estate, and its value in reality was even less than the defaulted loans. Banks which could do so and still survive simply held on to the property and hoped for better times. National banks charged the acquisition value of the property off their books, as directed by the Comptroller.

The Comptroller's recent position substantially handicaps national banks both in eleven states that permit state-chartered banks to carry real property as an asset indefinitely, and in eleven other states that permit banks to hold real property indefinitely if they write it off their books in five to ten years. Moreover, it is not in the interest of depositors to weaken the financial stability of national banks by forcing such banks to dispose of potentially valuable real estate holdings which are held at no risk to the banks having been written off their books. The Comptroller's newfound interpretation of R.S. 5137 is completely at odds with his statements, and those of other bank regulators, as to the need to increase bank capital.

This bill would amend the statute to permit a national bank to retain title and possession of any real estate which the bank has charged down to a nominal value prior to December 31, 1979. So long as the real estate is not carried as an asset (i.e., held at no value or at only a nominal value for audit control purposes), the bank could continue to hold title and possession.

The proposed amendment is consistent with the trend of amendments over the last seventy years broadening the real estate activities of national banks to improve their financial stability and make them more competitive with state banks. In 1913, Congress permitted national banks for the first time to make loans secured by farm land, for up to five years and fifty percent of the value of the property; and in 1916 Congress enlarged this power to permit loans on real estate other than farm land for up to one year and fifty percent of market value. In 1927, Congress extended the permissible term on real estate loans for non-farm properties to five years. Since 1972, Congress repeatedly has increased the maximum terms of real estate loans so that today loans on improved real estate are permitted up to thirty years and ninety percent of appraised value. These amendments frequently were motivated by a desire to make national banks competitively equal with state banks.

Most recently, Congress amended R.S. 5137 to permit the Comptroller on a case by case basis to double the permissible holding period for real estate from five to ten years. The amendment was designed to protect the soundness of banks that had acquired large real estate holdings as a result of foreclosure on loans made in the late 1960's and early 1970's to real estate investment trusts or other real estate ventures that failed during the 1974 recession. Congress, in this recent amendment, specifically recognized that bank soundness could be promoted in some instances by lengthening the period for holding title to and possession of real estate.

I urge my colleagues to support this legislation which will update and clarify an important area of our nation's banking laws.

By Mr. SARBANES (for himself and Mr. Williams):

S. 2975. A bill to amend the Securities Investor Protection Act to increase the amount of protection available under such act to customers of brokers and dealers: to the Committee on Banking, Housing, and Urban Affairs.

● Mr. SARBANES. Mr. President, I am today introducing legislation to increase the insurance coverage available under the Securities Investor Protection Act of 1970. The proposal was originated by the Securities Investor Protection Corp. and enjoys the support of the entire securities industry, the self-regulatory organizations, including the national securities exchanges and the NASD, as well as the Securities and Exchange Commission.

Under the bill, the level of customer protection provided by SIPC for securities claimed would be increased from the current level of $100,000 to $500,000. In addition, consistent with congressional action earlier this year increasing FDIC and FSLIC coverage for depositors, the level of SIPC coverage for cash claims would be raised to $100,000.

Mr. President, this legislation will directly benefit investors and reinforce confidence in the securities markets and the securities industry. Raising the dollar limits of SIPC coverage for both cash and securities will contribute to the public's perception of the adequacy of the insurance program and the Congress' attitude toward mobilizing additional capital for commerce and industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(a) of the Securities Investor Protection Act (15 U.S.C. 78fff–3(a)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$500,000"; and

(2) in paragraph (1), by striking out $40,000" and inserting in lieu thereof "$100,000".

By Mr. THURMOND:

S. 2977. A bill to amend title 38, United States Code, to provide a new educational assistance program for veterans and persons who serve on active duty with the Armed Forces after December 31, 1980, and for persons who perform service in the Selected Reserve of the Ready Reserve of an Armed Force after such date, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' AND SERVICEMEMBERS' EDUCATION BENEFITS ACT OF 1980

Mr. THURMOND. Mr. President, I am sending to the desk a bill entitled the "Veterans and Servicemembers Educational Assistance Act of 1980." The provisions of this measure are needed now because the current educational program that is administered by the Veterans' Administration is simply not working. Also, many of our active duty personnel are below average in educational attainment and quality.

The Senate Committee on Veterans' Affairs held a hearing on June 19, concerning the various education programs available to veterans and servicemembers. Appearing at this hearing were Senators Cohen, Armstrong, and Warner, representatives of the Department of Defense, the VA, veterans groups, and the educational community.

The gist of their testimony was that the current contributory program, which provides that the accumulation of contributions by the servicemember will be matched 2 for 1 by the VA, has a participation of only 25 percent by active duty personnel.

Furthermore, witnesses testified that only 38 percent of today's Army volunteers are high school graduates, and to meet enlistment quotas, the services are taking a high percentage of young people from the below average mental category IV. These witnesses testified that certain features of the current contributory program should be combined with certain features of the now obsolete GI bill which was extremely successful, in order to make a new educational program.

Furthermore, there should be additional provisions that would assist in the recruitment and retention of active duty personnel. I believe the measure I am introducing today will accomplish this desired goal of recruitment and retention while continuing to provide an educational assistance program for those veterans who have served honorably in the armed services.

Mr. President, my proposed education assistance bill has the following significant features.

It will provide educational assistance of $400 per month up to a maximum of 36 months.

The program will be available to both active duty personnel and veterans after completing 2 years of service.

Participants will have up to 10 years after discharge to use these benefits.

A transfer of entitlement to dependents will be available by active duty persons after 8 years of service.

Service in the Selected Reserve for 4 years will qualify for participation in this program.

Two years of service with an honorable discharge is required for participation. Eligibility for active duty personnel would begin after 2 years of service.

For those individuals who currently participate in the contributory program, the statutory monthly contribution has been broadened and the maximum total contribution has been increased to provide greater flexibility on the part of the individual and the service. The Secretary of Defense is authorized to make the participant's contribution under appropriate circumstances.

Those veterans who may be precluded from using their old GI bill benefits (chapter 34) after December 31, 1989, will be allowed 4 additional years after discharge or the 1989 date, whichever is later, to utilize their benefits.

This program would be part of title 38, United States Code, and administered by the VA.

Mr. President, I believe that most parents today still want a college education for their children. When this proposed educational benefits program is publicized, it will be very attractive to high school graduates. This program should substantially increase the percentage of high school graduates who volunteer for service.

With the provision to transfer entitlement to dependents after 8 years of service and the flexibility to accumulate credits on a part-time basis, this important program should significantly improve the current military retention problem. Whereas the previous GI bill was a tool for readjustment purposes, my proposed legislation will be a major recruiting and retention tool for today's All-Volunteer Service.

Mr. President, today's Army is an Army of the poor and the uneducated. It is certainly not representative of middle America. I believe the time has come for Congress to take the necessary steps to get middle America back into the Army. To accomplish this, we must address the issues of adequate pay and education.

Mr. President, this Nation has a serious manpower problem in all of its armed services. The All-Volunteer Force must settle for below average recruits in many cases. Retention of experienced personnel is at an alltime low. Recently discharged veterans find little or no assistance in their efforts to move upward in their educational goals.

Mr. President, I believe my new GI bill will assist greatly in the areas of recruitment, retention and service to the veteran. I urge my colleagues to carefully consider this most vital measure.

By Mr. BENTSEN (for himself, Mr. CHILES, Mr. EAGLETON, Mr. MATSUNAGA, and Mr. STONE):

S. 2978. A bill to revise certain provisions of the Home Energy Assistance Act of 1980; to the Committee on Finance.

Mr. BENTSEN. Mr. President, in a national tragedy of major proportions, some 2,000 Americans—most of them aged or infirm—have died of heat-related causes during the past month. We will never know how many of them died needlessly. We will never know how many of them lost their lives because they could not afford to own or operate a fan.

As part of the effort to help insure that we will never again have to pickup the paper and read a tragic account of how an ill or elderly American died from the heat because that person was afraid to run up the electric bill, I am introducing legislation today that will enable the community service administration to distribute almost $21 million in cooling assistance during fiscal year 1980.

My legislation would also remove the current, unfair medical restrictions on such assistance, add cooling degree days as a factor in the allocation formula, and delete the squaring of degree days which is the primary factor in tilting this program toward heating costs.

I emphasize that we are not talking about a program to purchase air conditioners for low-income Americans, any more than the existing program would purchase furnaces in the Northeast and Midwest. I want to see an energy assistance program that will help pay the increasing cost of operating coolers on an equal basis with the cost of operating heaters.

Mr. President, it was only last November that the Senate debated the low income energy assistance program. There was a great deal of controversy—I know because I was involved in it—about how more than $7 billion should be allocated to enable low-income Americans to cope with rapidly and steadily increasing energy costs.

That debate, unfortunately, was tinged with an element of regionalism that seems to intrude whenever the Senate discusses how Federal funds are to be apportioned among the various States and regions.

Those who led the generally successful effort to insure that most of the $7 billion set aside for low income energy assistance would flow to the Northeast and Midwest frequently made the point that the poor in those regions faced the cruel choice between paying for food or for fuel; between eating and freezing.

That is a dilemma, Mr. President, that all Americans can appreciate and deplore. When we see pictures of Buffalo with 10-foot snowdrifts, it is easy enough to visualize death from cold.

The notion of death from too much heat is harder to appreciate; for most of us a temperature reading of over 100 degrees day after day does not seem as threatening as ice, snow, and biting cold. But we have seen, Mr. President, that too much heat can kill on a massive scale. I cannot recall any incident in which 2,000 Americans have died of the cold.

When we considered low-income energy assistance last year some of us who represent Sun Belt States made the point that heat, rather than cold, was the primary climatic threat to the vulnerable elements in our population. We suggested that energy expenses incurred for cooling should be an essential part of the low income energy assistance program.

This position was ridiculed by many of our colleagues, some of whom went so far as to oppose assistance for cooling even under the limited, medically qualified conditions finally included in the bill.

During the debate it was said that there was no urgency to the problem of cooling—that hot weather posed no real threat to life. It was said that cool air was a luxury, not a necessity, and it would be a mockery to provide assistance for cooling.

After what we have experienced this summer, after 2,000 heat-related deaths, I doubt very much whether the concept of assistance for cooling costs will be ridiculed in the future.

We can all agree that there is an urgent and apparent need for a program that will enable low income individuals to pay the higher energy costs involved in cooling as well as heating. The legislation passed last year by Congress is sadly deficient in this regard, and that is why I opposed it.

The current formula for the distribution of energy assistance funds is heavily weighted in favor of heating costs and, as a result, has contributed directly to the tragedy we are experiencing this summer. A tragedy that afflicts not just thes unbelt but States like Missouri, Illinois, North Dakota, and Montana.

In recent weeks we have seen that low income energy assistance is literally a matter of life and death. It is a national issue that transcends petty regional competition.

After the experience of this summer there can no longer be any doubt that intense heat can be just as life-threatening as winter cold. It can kill just as cruelly and as surely. It preys on those least able to protect themselves.

That is the indisputable reality, Mr. President, and I look forward to working with Senators from every region of this Nation to correct the mistakes of the past and make the Low Income Energy Assistance Act consistent with reality.

I hope that in the short time remaining during this session we can lay aside regional concerns and work together to develop an energy assistance program that recognizes death from cold and death from heat as equally unnecessary and equally unacceptable in the most prosperous and compassionate nation in the world.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 306(a)(2) of the Home Energy Assistance Act of 1980 (Title III of the Crude Oil Windfall Profits Tax Act of 1980) is amended by—

(1) inserting "and cooling" after "heating"; and

(2) striking "squared".

(b) Section 306(c) of such Act is amended to read as follows:

"(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling.".

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. MATSUNAGA. Mr. President, I wish to join the Senator from Texas in his proposal, and I ask unanimous consent that my name be added as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I am delighted to have the Senator from Hawaii as a cosponsor of the bill.

Mr. MATSUNAGA. Mr. President, I commend the Senator from Texas (Mr. BENTSEN) for bringing to the attention of Congress, especially of this body, the need for relief from heat.

As the Senator has well pointed out, when the legislation to which he has referred was before this body—and I supported the Senator—providing for relief from heat, we were practically laughed off the floor. They said, "Nobody is going to die from heat."

In the case of my State, that was true, because I come from the Paradise Isles where the temperature rarely rises above 90 degrees Farenheit. It is said that everybody wants to go to Heaven but nobody wants to die. Well, there is a heaven on Earth that anyone may visit without having to die, and that bit of heaven is Hawaii.

I hope that my support of the proposed legislation of the Senator from Texas will not be taken to mean that people in Hawaii die from heat, because they do not. As I indicated earlier, the temperature rarely goes over 90 degrees farenheit in Hawaii, even on the hottest days of the year.

The contention of the Senator from Texas is irrefutable, for how many people may I ask, died last winter from the cold? A thousand? No. Five hundred? No. If my information is right, not even a hundred froze to death last winter. Compare this to the more than 2,000 people who have already died from the heat during the past few weeks. And this summer is not even half over. The worst is yet to come.

So we definitely should and must provide relief, especially to the elderly. As the Senator from Texas has well pointed out, the elderly are the prime victims because they are fearful of leaving their homes for air-conditioned public quarters for fear their homes will be robbed in their absence. Their homes are without air-conditioners or fans. The tragic consequence is that they suffocate from the heat and die.

Let us provide relief before another 2,000 die in the unrelenting heat. One more death is one too many.

I joint the Senator from Texas in his great effort.

Mr. BENTSEN. I thank my friend.

I might say we are not talking about buying air-conditioners because it is not that kind of money we are talking about. We are not talking about that any more than we are talking about buying heat furnaces in the Northeast.

We are talking about having enough supplementary money for the poor to be able to buy a fan or even, if they happen to have a window unit, plug in that window unit without having the utility company turn off their utility.

By Mr. METZENBAUM (for himself, Mr. MATHIAS, Mr. ROTH, and Mr. BURDICK):

S. 2979. A bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living expenses; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

● Mr. METZENBAUM. Mr. President, the bill I am introducing today along with Senators MATHIS, ROTH and BURDICK is designed to avert the bankruptcy of the railroad retirement pension fund by amending both the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954.

Established in 1935, the railroad retirement program began primarily as a staff retirement plan intended to provide annuities that would induce older workers to retire, making their jobs available to younger workers. The program was needed because railroad workers were excluded from social security coverage. Originally, the program did not provide benefits to spouses, and survivors were entitled only to small payments. Over the years, disabled workers, spouses and surviving spouses, children, and parents were added as beneficiaries under the railroad retirement program, so that the program coverage today is comparable to that provided by social security.

But, as with social security, the large increase in beneficiaries has also created problems for the fund. The total amount in the railroad retirement account has dwindled from $4.1 billion in 1971 to less than $1.9 billion at the end of 1979. The following table illustrates the general decline of the account:

Railroad retirement account balance

Year:	April 30 cash balance
1971	$4,091,000
1972	3,855,000
1973	3,587,000
1974	3,365,000
1975	3,063,000
1976	2,631,000
1977	2,263,000
1978	2,020,000
1979	1,960,000
1980	1,801,000

The underlying reason for this annual shortfall is the large number of retirees in the program as compared to the number of workers contributing to the fund.

According to a February 1979 GAO report, there were 1,015,983 individuals drawing benefits while only 536,000 workers were making pension payments into the fund. Although the ratio of active employees to retired workers will change by 1995, the fund is projected to be bankrupt by 1983.

This is a grave situation for the million retired workers and dependents who rely on this pension to provide the necessities of life. Most of these individuals have spent a large portion of their lives working in service to our great rail system. They are alarmed over the prospect of bankruptcy and Congress should also be alarmed. Because if we allow the fund to go broke, it will cause an additional burden on our social security and welfare system. At a time when both of these are in dire straits.

The proposal which I am introducing is not meant as a long-term solution to the financial difficulty facing the fund. However, it will bring solvency to the fund while Congress considers a more comprehensive measure. It will maintain the current benefit formula until we can examine the benefit level more thoroughly. The bill only affects the tier 2 annuity component of the system which is the railroad industry pension (comparable to a private pension) and it does two things: First, the bill would maintain the cost of living increases for pre- and post-retirement. Second, it would increase the tax that employers are required to pay into the fund on behalf of active workers.

The current law provides for pre- and post-retirement cost-of-living increases. The cost-of-living increases occur once a year and will expire under current law. This bill simply extends the increases for 5 more years. I want to stress that although the increases are based on the Consumer Price Index (CPI) they are only percentage of the increase of the CPI. For example, the post retirement increase only amounts to 32.5 percent of the increase of the CPI. This legislation does not change or alter the benefit rate paid to the retirees. It simply extends current law.

These tier 12 benefits are currently financed through taxes on railroad employers. The second asoect of the bill provides that the rate of tax imposed on employers in behalf of active workers would increase from 9.5 percent to 12.5 percent in calendar year 1981 and automatically adjusted each year thereafter. The adjustment each year will be determined by a ratio of the benefits paid out and the cash balance.

Simply stated, if the account balance-benefit ratio for 1 calendar year is lower than it was for the previous year, the railroad retirement tax rate imposed on covered employers will go up. Conversely, if that ratio for a particular calendar year is higher than it was for the previous year, the tax rate will go down. The adjustment factor is aimed at keeping the account balance-benefit ratio at about 70 percent. In other words, if the balance in the railroad retirement account at the end of the applicable fiscal year is less than 70 percent of the total expenditures made from the account during the fiscal year, a larger tax rate increase would be necessary. On the other hand, if that ratio for a calendar year equals 70 percent or more, any tax increase may be smaller. It is anticipated that the tax rate would peak then decline after the fund becomes solvent. The purpose of the provision for an adjustable tax rate is to assure that the railroad retirement account at all times contains sufficient funds to pay benefits as they become due under the Railroad Retirement Act.

Mr. President, I urge my colleagues to give immediate consideration to this proposal. The million retirees should know that this Congress is aware of the potential financial crisis of that fund. And they deserve to know that Congress will take immediate action to maintain a system which has been promised to them.

I request the bill be printed in the RECORD along with a section-by-section analysis immediately following my remarks.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 3(b)(2) of the Railroad Retirement Act of 1974 is amended by striking "1981" and substituting "1986".

(b) Section 3(d)(4) of such Act is amended—

(1) by striking "1981" and substituting "1986"; and

(2) by striking "1980" each time it appears and substituting "1985".

(c) Section 3(g) of such Act is amended—

(1) by striking "and" which immediately precedes clause (D) in the first sentence thereof;

(2) by inserting immediately before the period at the end of the first sentence thereof the following: ", (E) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1981, with such index for the calendar quarter ending March 31, 1980, (F) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1982, with the higher of (i) such index for the calendar quarter ending March 31, 1981, or (ii) such index for the calendar quarter ending March 31, 1980, (c) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1983, with the highest of (i) such index for the calendar quarter ending March 31, 1982, (ii) such index for the calendar quarter ending March 31, 1981, or (iii) such index for the calendar quarter ending March 31, 1980, (H) the unadjusted Consumer Price Index for calendar quarter ending March 31, 1984, with the highest of (i) such index for calendar quarter ending March 31, 1983, (ii) such index for calendar quarter ending March 31, 1982, (iii) such index for calendar quarter ending March 31, 1981, or (iv) such index for calendar quarter ending March 31, 1980, and (I) the unadjusted Consumer Price Index for calendar quarter ending March 31, 1985, with the highest of (i) such index for calendar quarter ending March 31, 1984, (ii) such index for calendar quarter ending March 31, 1983, (iii) such index for calendar quarter ending March 31, 1982, (iv) such index for the calendar quarter ending March 31, 1981, or (v) such index for the calendar quarter ending March 31, 1980";

(3) by striking "and (D)" from the last sentence and substituting "(D), (E), (F), (G), (H), and (I)"; and

(4) by striking "and June 1, 1980," from the last sentence and substituting "June 1, 1980, June 1, 1981, June 1, 1982, June 1, 1983, June 1, 1984, and June 1, 1985".

SEC. 2. Subsection (a) of section 3221 of the Internal Revenue Code of 1954 is amended—

(1) by inserting "(1)" immediately after "(a)" at the beginning thereof;

(2) by striking out "9.5 percent" and substituting "the percentage determined for a particular calendar year pursuant to paragraph (2)"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) For purposes of paragraph (1), the percentage applicable for calendar year 1981 shall be 12.5 percent and the percentage applicable for any calendar year after 1981 shall be determined as follows, but shall not be less than 9.5 percent for any calendar year before 1986:

"(A) If the account balance-benefit ratio for a calendar year is less than 0.7 and is not greater than such ratio for the preceding calendar year, the percentage applicable for that calendar year shall be equal to the percentage applicable for the preceding calendar year plus the percentage which is numerically equal to 100 times the greater of (i) one-tenth of the amount by which 0.7 exceeds such ratio for the calendar year, with the amount computed after multiplying by one-tenth being rounded to the next higher 0.005, or (ii) one-tenth of the amount by which such ratio for the preceding calendar year exceeds such ratio for the calendar year, with the amount computed after multiplying by one-tenth being rounded to the nearest 0.005.

"(B) If the account balance-benefit ratio for a calendar year is less than 0.7 but is greater than such ratio for the preceding calendar year, the percentage applicable for that calendar year shall be equal to the percentage applicable for the preceding calendar year less the percentage which is numerically equal to 100 times one-tenth of the amount by which such ratio for the calendar year exceeds such ratio for the preceding calendar year, with the amount computed after multiplying by one-tenth being rounded to the nearest 0.005.

"(C) If the account balance-benefit ratio for a calendar year is at least 0.7 but is not greater than such ratio for the preceding calendar year, the percentage applicable for that calendar year shall be equal to the percentage applicable for the preceding calendar year plus the percentage which is numerically equal to 100 times one-tenth of the amount by which such ratio for the preceding calendar year exceeds such ratio for the calendar year, with the amount computed after multiplying by one-tenth being rounded to the nearest 0.005.

"(D) If the account balance-benefit ratio for a calendar year is at least 0.7 and is greater than such ratio for the preceding calendar year, the percentage applicable for that calendar year shall be equal to the percentage applicable for the preceding calendar year less the percentage which is numerically equal to 100 times the greater of (1) one-tenth of the amount by which such ratio for the calendar year exceeds 0.7, with the amount computed after multiplying by one-tenth being rounded to the next higher 0.005, or (ii) one-tenth of the amount by which such ratio for the calendar year exceeds such ratio for the preceding calendar year, with the amount computed after multiplying by one-tenth being rounded to the nearest 0.005.

"(3) For purposes of this subsection—

"(A) The 'account balance-benefit ratio' for a calendar year shall be the ratio of (i) the adjusted cash balance of the Railroad Retirement Account as of the close of business on September 30 of the preceding calendar year, to (ii) the net benefit payments made from such account during the twelve consecutive calendar month period ending September 30 of the preceding calendar year.

"(B) The term 'adjusted cash balance' means the excess of (i) the sum of the cash balance of the Railroad Retirement Account (as certified to the Railroad Retirement Board by the Secretary and as verified by such Board), plus tax and interest income due and owing under the Railroad Retirement Tax Act which the Railroad Retirement Board believes will be paid before December 31 of the calendar year in which the particular determination of the account balance-benefit ratio is being made, and plus amounts of overpaid benefits from the Railroad Retirement Account which such Board expects to recover, over (ii) the total amount of benefits which the Railroad Retirement Board has determined are due from the Railroad Retirement Account but which have not been paid as of the close of business on September 30 of the calendar year in which the particular determination of the account balance-benefit ratio is being made.

"(C) The term 'net benefit payments' means the excess of (i) the sum of all amounts expended from the Railroad Retirement Account during the twelve consecutive calendar month period ending September 30 of the calendar year in which the particular determination of the account balance-benefit ratio is being made, including amounts expended in loans during such period either to the Railroad Retirement Supplemental Account pursuant to section 15(d) of the Railroad Retirement Act or to the railroad unemployment insurance account pursuant to section 10(b) of the Railroad Unemployment Insurance Act, plus the total amount of benefits which the Railroad Retirement Board has determined are due from the Railroad Retirement Account but which have not been paid as of the close of business on September 30 of the calendar year in which the particular determination of the account balance-benefit ratio is being made, over (ii) the total amount of benefits which the Railroad Retirement Board had determined were due but were unpaid from the Railroad Retirement Account as of the close of business on September 30 of the calendar year preceding the calendar year in which the particular determination of the account balance-benefit ratio is being made.

"(D) The Railroad Retirement Board is authorized to use estimated amounts for the purpose of making the determinations required by this paragraph.

"(4) Not later than 30 days before the beginning of a calendar year, the Railroad Retirement Board shall determine the account balance-benefit ratio for such calendar year. As soon as practicable after the date of such determination, the Railroad Retirement Board shall publish a notice in the Federal Register, and shall advise all employers, employee representatives, and the Secretary, of the ratio so determined and of the tax rate applicable under paragraph (1) for the calendar year for which such ratio was determined.".

Sec. 3. The amendments made by sections 1 and 2 of this Act shall be effective January 1, 1981.

SECTION-BY-SECTION ANALYSIS

Section 1(A) and (B):

Section 3(b) of the Railroad Retirement Act of 1974 provides the pre-1975 or 1937 act portion of an employee's tier II annuity component, and section 3(d) of the act provides that portion of the tier II component of an employee annuity which is based on railroad service after 1974. Current law provids four pre-retirement cost-of-living increases for those annuity portions, which increases became or will become effective January 1, 1978, January 1, 1979, January 1, 1980, and January 1, 1981, for employees whose annuities have not begun prior to the date a particular increase became, or will become effective. The amendments made by subsections (A) and (B) of section 1 of the bill would provide five additional preretirement cost-of-living increases, which would become effective January 1, 1982, January 1, 1983, January 1, 1984, January 1, 1985 and January 1, 1986.

Section 1(C):

The current provisions of section 3(g) of the Railroad Retirement Act provide four post-retirement cost-of-living adjustments for those portions of an employee's tier II annuity which are determined under section 3(B) and 3(D) of the act. The last of these increases became effective June 1, 1980. The amendments made by section 1(C) of the bill would add five additional post-retirement cost-of-living adjustments. They would become effective June 1, of each year from 1981 through 1985, and would apply to employees whose annuities had begun to accrue on or before those dates.

Section 2 of the bill would amend section 3221(a) of the railroad retirement tax act to provide that the rate of tax imposed upon covered employers (the so-called "tier II" tax) would be 12.5 percent in calendar year 1981, and automatically adjusted each year thereafter based upon changes in the relationship between the adjusted cash balance of the railroad retirement account as of the end of each fiscal year and the amount of benefits paid from that account during the fiscal year. (It may be noted that a fiscal year begins on October 1 of each calendar year and ends on September 30 of the following calendar year.) This relationship is referred to in the bill as the "account balance-benefit ratio". The account balance-benefit ratio as of the end of a fiscal year (September 30), and the relationship of that ratio to the ratio at the end of the previous fiscal year, will determine the employer tax rate for the following calendar year.

Section 3 provides that the amendments made by section 1 and 2 will become effective January 1, 1981.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced by Senator METZENBAUM involving the Internal Revenue Code and the Railroad Retirement Act be referred jointly to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 1862

At the request of Mr. McCLURE, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

S. 2623

At the request of Mr. GOLDWATER, the Senator from Maryland (Mr. SARBANES) and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 2623, a bill to incorporate the U.S. Submarine Veterans of World War II.

S. 2823

At the request of Mr. CHAFEE, the Senator from Nevada (Mr. LAXALT) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2823, a bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for businesses in depressed areas.

S. 2873

At the request of Mr. MORGAN, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2873, a bill to provide for Small Business Administration loans and guaranteed loans for small businesses in the communications industry.

S. 2922

At the request of Mr. HEINZ, the Senator from Utah (Mr. HATCH), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2922, a bill to amend the Congressional Budget Act of 1974 to limit the level of total budget outlays in any fiscal year and to require compensation for additional costs imposed on State and local governments, and for other purposes.

S. 2923

At the request of Mr. CRANSTON, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2923, a bill to reduce the capital gains tax rate and for other purposes.

S. 2927

At the request of Mr. MORGAN, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 2927, a bill to prescribe an interest rate differential on deposits and accounts in insured banks and savings institutions.

SENATE JOINT RESOLUTION 56

At the request of Mr. HEINZ, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of Senate Joint Resolution 56, a joint resolution proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government.

SENATE JOINT RESOLUTION 123

At the request of Mr. HEINZ, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of Senate Joint Resolution 123, a joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with the first Sunday in June of each year as "National Garden Week."

SENATE CONCURRENT RESOLUTION 109—SUBMISSION OF A CONCURRENT RESOLUTION OF DISAPPROVAL OF PROPOSED EXPORT OF URANIUM TO INDIA

Mr. GLENN (for himself, Mr. RIBICOFF, Mr. CRANSTON, Mr. HARRY F. BYRD, JR., Mr. BOSCHWITZ, Mr. COHEN, Mr. CANNON, Mr. DOLE, Mr. GOLDWATER, Mr. HEFLIN, Mr. LEAHY, Mr. METZENBAUM, Mr. PROXMIRE, and Mr. THURMOND) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 109

Resolved by the Senate (the House of Representatives concurring), That the Congress does not favor the proposed export of low-enriched uranium to India pursuant to export license applications XSNM-1379 and XSNM-1569 which would be authorized by the Executive Order transmitted to the Congress by the President on June 19, 1980.

Mr. GLENN. Mr. President, on September 25, 1976, in one of the finest speeches he made as a Presidential candidate, President Carter outlined the foundation for a new policy by the United States to prevent or slow the proliferation of nuclear weapons around the world.

The President's words were stirring and memorable. He said:

> The continuing global proliferation of nuclear weapons is a dangerous and unacceptable barrier to world peace. The more countries that possess nuclear weapons, the greater the risk that nuclear warfare can erupt in local conflicts, and that these could trigger a major nuclear war. Terrorism, already a grave international threat, takes on an almost unthinkable dimension in a world where plutonium is widely available and inadequately safeguarded.

He ended the main body of his speech with the statement:

> I do not intend to sit by quietly, and accept the timid and cynical arguments that are made about the inevitability of proliferation.

The President then announced a 10-step plan to control nuclear proliferation with step No. 2 as follows:

> I will make no new commitments for the sale of nuclear technology or fuel to countries which refuse to forego nuclear explosives, to refrain from national nuclear reprocessing, and to place their nuclear facilities under IAEA safeguards.

I found much in common at the time between my own ideas on the subject of nonproliferation and those of the President, and I suspect that that is still true to a large extent.

It is therefore with no small amount of regret that I find myself in opposition to the President on an issue involving the first key test of the Nuclear Nonproliferation Act of 1978 (NNPA), the passage of which was made possible by the President's active support.

The issue now concerns the President's authorization of the sale to India of 38 tons of low-enriched uranium for two 200 MW reactors located at Tarapur despite a unanimous rejection of the licenses by the Nuclear Regulatory Commission.

In passing the NNPA, the Congress took the position, signed into law on March 10, 1978 by the President, that licenses for the export of nuclear materials to nonweapons States that did not have all their nuclear facilities under safeguards would not be approved for shipments occurring after March 10, 1980.

The purpose of this complicated provision was to provide a 2-year grace period during which negotiations could proceed to induce those nations lacking in nuclear safeguards to adopt them. It is fair to point out that all but a handful of our nuclear trading partners have adopted so-called "full-scope" safeguards. India is one of those that have consistently refused.

The refusal of India to adopt full-scope safeguards must be viewed from a perspective that includes the history and direction of India's nuclear program. India violated a U.S. understanding of a bilateral sales agreement we had with her when she used our heavy water to produce the plutonium for her 1974 explosion. India's present indigenous nuclear program would allow her the option of producing hundreds of nuclear weapons in this decade if her nuclear facilities remain unsafeguarded as at present.

In May 1978, 2 months after passage of the NNPA, licenses for the shipment of fuel to Tarapur came before the Congress for the first time as a result of a 2 to 2 vote in the NRC followed by a Presidential Executive order authorizing the export. We allowed the export to go because the law provided for a 2-year negotiating period, and the State Department was expressing some optimism based upon discussions with then Prime Minister Desai.

Those discussions eventually came to naught, and the Desai government was eventually replaced by a caretaker regime followed by the election of Mrs. Gandhi, who was in power and approved the nuclear explosion in 1974.

We must now face the fact that 2 years of negotiations with India have brought the viewpoints of our two countries no closer on the safeguards question. On the contrary, Mrs. Gandhi has told the Indian Parliament that further nuclear explosions will be performed whenever India deems them to be in that country's interest.

Indian press comments following the President's decision reinforces the view that we have set an unfortunate precedent in caving in on this issue without getting anything substantive in return. In a commentary in the Times of India on May 9, 1980, the following paragraph appears:

> The U.S. President's decision has come as a surprise since India did not make any compromising gesture despite consistent pressure from the United States that India should accept full scope safeguards for all its nuclear facilities. In fact, as was expected, the new government of Mrs. Gandhi ended all ambivalence about India's stand and went so far as to declare that, if necessary, peaceful nuclear explosions would be resumed. Lest patience be mistaken as weakness, India also made it clear that failure of assured fuel supplies for Tarapur would compel India to free itself from other clauses of the contract and to pull the Tarapur station out of safeguards.

In issuing his Executive order overturning the NRC decision, the President made reference to the geopolitical considerations that reinforce the desirability of having good relations with India. I, too, am sensitive to that argument. But I have seen no convincing case made by the President on the State Department that United States-Indian relations are critically hinged on the issue of Tarapur or that the benefits to those relations of sending the fuel are not outweighed by the accompanying damage to the credibility of our nonproliferation effort in the eyes of so many others.

The damage is almost palpable.

More than 100 nations have signed the Nuclear Nonproliferation Treaty, which pledges them to accept full-scope safeguards and to use nuclear materials only for peaceful purposes. India has not signed the treaty, and has no present intention of so doing. If we send this fuel, how can we say that our policy is one of inducing countries to sign the NPT? Why should any nation make a commitment to full-scope safeguards if India refuses and still gets nuclear assistance?

Now, one might say, as the State Department has, that we have the opportunity of influencing Indian foreign policy if we continue these fuel shipments. Well, we have lots of other levers besides the nuclear one. We are sending India more than $130 million in economic aid this year, and we have just completed negotiations for the sale of over 3,700 TOW anti-tank missiles to India.

It is well to ask just what influence we have had over recent Indian foreign policy as a result of our trade, both nuclear and otherwise. In the past few months, India has signed a $1.6 billion arms deal with the Soviet Union, did not support the U.N. resolution on the Soviet invasion of Afghanistan, signed a trade agreement with Iran that effectively undercuts our boycott, and recently recognized the Soviet-backed regime in Kampuchea.

I am therefore puzzled as to just what effect the sending of some uranium is expected to have in the context of these actions by the Indians, and I reiterate my disappointment at the lack of substantive backup to the administration's assertions in the case they have presented thus far.

It was because of my desire to see this case better presented and to have the benefit of the forthcoming 1981 review of our policy by the GAO—a review that is taking 20-some people in GAO several months of study to bring to completion, will be available some time next year—that I suggested in a letter to Secretary Muskie that it would be best to postpone any decision on this matter until next year. The President, however has decided otherwise, and the Congress is now forced to decide within 60 days of continuous session following submission of the Executive order, whether to overturn the President's order.

Fortunately, the flexibility of the NNPA allows us to treat the President's Executive order under the provision dealing with waivers of the full-scope safeguards criterion. Thus, if the Congress does overturn the Executive order, the President can resubmit the order next year.

Much has been made about the risk of the Indians claiming a breach of the United States-India nuclear agreement for cooperation. A legal analysis of the agreement by the American Law Division of the Congressional Research Service shows that the United States cannot be legitimately charged with being in breach of the agreement by virtue of refusing this particular export.

If in retaliating for our not approving the shipments, the Indians reprocess our spent fuel without our permission, or remove safeguards from the Tarapur reactors, it would be they who would be in violation of the agreement.

Some might argue, as the State Department has, that we must give in to this threat by the Indians. But a careful analysis of the situation shows that the consequences of the Indians breaking the agreement, regrettable though that would be, are not likely, in the long run, to be more serious than the consequences of our acquiescence in their huge unsafeguarded indigenous nuclear program.

In sum, we have a situation in which withholding the fuel shipment does not legally violate any agreement, but has the effect of first, upholding U.S. nonproliferation principles rather than doing a foreign policy flip-flop, second, sending a message to all signatories of the Nuclear Nonproliferation Treaty that their political commitment to full-scope safeguards was not made in vain; third, giving the President and the Congress direction of U.S. policy on nonproliferation and on South Asia generally next year.

On the other hand, the case for sending the fuel rests on some very weak suppositions concerning general Indo-United States relations, a weak legal case concerning the nuclear agreement, and a fear of Indian threats to reprocess our spent fuel at Tarapur against our wishes or to remove safeguards from the reactors.

I see no real contest between these positions.

Mr. President, I began my statement with some approving quotes from President Carter's speech on nuclear nonproliferation 4 years ago. I would like to add some further quotes that I also believe are true. The President said:

> We have done little to encourage the dozen or more non-NPT countries with active nuclear programs to join. In fact, we have given more assistance to those countries who have not signed the treaty than we have to those who have. For example, in recent hearings before the Nuclear Regulatory Commission on continuation of nuclear aid to India, the State Department has become that country's chief advocate and apologist, even though India, not an NPT party, used our past aid to explode a nuclear device—and even though

there are no safeguards to prevent this from happening again.

It appears, Mr. President, that the Congress will have to reaffirm its commitment to the ideals expressed in President Carter's 1976 speech by rejecting his Executive order on the fuel licenses for Tarapur in 1980.

Mr. President, I wish at this time to submit a resolution of disapproval of the President's Executive order. I am pleased to note that this resolution is cosponsored by Senators Ribicoff, Cranston, Byrd (Harry F.), Boschwitz, Cohen, Cannon, Dole, Goldwater, Heflin, Leahy, Metzenbaum, and Proxmire.

I ask unanimous consent to have printed in the Record the materials listed below. In the case of the editorials, I have included a list of all those we have found on the issue since last May. Out of 75 editorials, only 4 support the President's decision. The list follows:

First. A chronology of events involving Indian foreign policy following the President's decision to send the fuel to Tarapur.

Second. A factsheet on the Tarapur issue.

Third. An analysis of the Tarapur issue in question and answer form.

Fourth. Appendix I to item 3: NRC examination of State Department legal position on applicability of full-scope safeguards to this shipment.

Fifth. Appendix II to item 3: NRC staff analysis of Tarapur fuel requirements.

Sixth. Appendix III to item 3: CRS legal analysis of India-United States agreement and contract for Tarapur.

Seventh. Appendix IV to item 3: Article on India-Iran trade agreement from the Statesman (Delhi).

Eighth. Letter from Senator John Glenn to Secretary of State Edmund Muskie, May 28, 1980.

Ninth. List of editorials to date on Tarapur issue.

There being no objection, the material was ordered to be printed in the Record, as follows:

Chronology: U.S. Use of Tarapur Fuel Supply and Military Sales To Induce Favorable Foreign Policy Decisions by Indian Government—March-July 1980

1. March 14, 1980. Mrs. Gandhi, knowing final U.S. decision on continued Tarapur fuel supply is pending and that U.S. has sought assurances India will conduct no further nuclear tests, announces her government "will not hesitate from carrying out nuclear explosions . . . in the national interest."

2. May 8, 1980. Carter announces decision to send Tarapur fuel.

3. May 29, 1980. India and Soviets close $1.6 billion arms sale on terms extremely favorable to India (2) percent interest).

4. June 14, 1980. India and Iran sign major trade agreement undercutting U.S. embargo on exports to Iran.

5. June 14, 1980. U.S. sells $32 million worth of TOW anti-tank missiles to India (3700 missiles).

6. June 18, 1980. State Department testifies in favor of exports at Senate Foreign Relations/Governmental Affairs Committee Hearings, stressing, among other points in India's favor that India has refrained from recognizing the pro-Soviet Kampuchean government.

7. June 19, 1980. President signs Executive Order overruling the 5-0 NRC vote and authorizing the Tarapur exports, stating the need for the U.S. to "bolster our relations" with nations in South Asia, "particularly those that can play a role in checking Soviet expansionism."

8. July 8, 1980. India recognizes pro-Soviet Heng Samrin government in Kampuchea.

9. July 19, 1980. India orbits a satellite using a rocket whose guidance system can be adopted to an IRBM or ICBM. A number of Indian parliamentarians call for the development of nuclear warheads.

Uranium Shipments to India

FACTSHEET

India used U.S. heavy water in manufacturing materials for her nuclear explosion in 1974, despite U.S. formal communication 4 years earlier, that such use would violate U.S. understanding of sales contract.

India has refused, during two years of negotiations, to put her indigenous nuclear facilities under safeguards and still intends to pursue nuclear explosive development when in her "national interest."

India's unsafeguarded facilities could produce hundreds of nuclear weapons during this decade.

India recently demonstrated the capability of developing an intermediate range ballistic missile. In a parliamentary debate on the Indian defense program, some members argued in favor of moving ahead to develop nuclear warheads.

NRC refused to approve fuel licenses by unanimous vote because U.S. law requires India to accept full-scope safeguards in absence of Presidential waiver or override.

India has stockpiled enough fuel to last her until at least February, 1982. The present shipments are not needed to fulfill U.S. obligation under Agreement for Cooperation to provide only enough fuel for the "efficient and continuous operation" of the reactors at Tarapur.

Fuel contract pursuant to Agreement provides for all exports to be subject to "applicable laws, regulations, and ordinances of the United States."

American Law Division of CRS agrees that U.S. would not be in breach of Agreement if these fuel shipments are withheld.

India is attempting to force the U.S. into sending shipments by threatening to reprocess spent fuel from previous shipments to obtain weapons-usable material (plutonium) and possibly to abrogate safeguards on previous shipments. (Both acts would be violations under Agreement.)

India's foreign policy orientation will not be significantly altered by withholding shipments at this time. India has signed a $1.6 billion arms deal with the USSR; did not support the U.N. resolution on the Soviet invasion of Afghanistan; has signed a trade pac with Iran that helps render our boycott ineffective; has recognized the Soviet-backed regime in Kampuchea. (See attached article on India-Iran agreement from the Statesman (Delhi)).

U.S. and Western European ties to India go far beyond nuclear trade. For example, the U.S. will send 3,720 TOW anti-tank missiles to India and is providing more than $130 million in economic aid.

Sending fuel to India at this time will undermine the Nonproliferation Treaty (whose non-weapon state signatories receive nuclear assistance only under full-scope safeguards) and will further damage efforts to dissuade Pakistan from pursuing its own nuclear explosive program.

Public opinion in the U.S., including overwhelming editorial opinion, is strongly opposed to these shipments. (See attached editorials from New York Times, Washington Post, and Wall Street Journal).

Cut off shipments at this time will demonstrate U.S. seriousness concerning nonproliferation, and will show good faith with those other nations which have cooperated with our nonproliferation policy.

U.S. nonproliferation policy will be reviewed next year in a massive GAO report capping a 3-year study. The President and Congress can review the Indian situation again in that context, if Congress disapproves the present shipments.

Appendix IV

[From the Delhi Statesman, June 14, 1980]

India To Help Iran Beat U.S. Sanctions

New Delhi, June 13.—India is to send grain and a number of other industrial products believed to be worth several hundred million dollars to Iran to enable her to meet shortages arising out of the sanctions imposed by the USA and the EEC.

But a 17-member Iranian delegation led by Mr. Reze Sadr has been told that it would be difficult to supply cement, sugar and steel because of domestic shortages. It is possible, however, that these items will also become part of Indo-Iranian trade in future.

Prospects of substantially increased trade and economic contracts which will extend to management of plants in Iran, completion of contracts terminated by Western companies and establishment of new plants have emerged following the talks between the Iranian delegation and an Indian team led by Mr. Praneb Mukherjee, Minister of Commerce.

Further delegations are to be exchanged to study the possibilities opened up in the past few days and Indian business men are to be registered in Iran as both prime contractors and subcontractors. If all the deals discussed materialize, Iran will become a major trading partner of this country.

What remains to be finalized is the financing of the deals since India wants assurances on payments. This is presumably in the context of the default to the extent of nearly $400 million by Iran on the Kudremukh iron ore project which was also discussed in the current round. Mr. Sadr promised to convey India's position to his Government.

In effect, the result of the talks is that India has agreed to help Iran to beat the U.S. and EEC sanctions imposed because of the hostages issue. Iran presented a long shopping list to India of items that she needs urgently and much of her needs are to be met.

While he was here, Mr. Sadr promised that Iran would consider supplying India oil on a long-term, rather than annual, basis. This is an important outcome of the talks, as is the possibility of greatly increased exports to pay for the oil.

In the ministerial-level talks that ended today, India and Iran agreed that bilateral cooperation could be further expanded in the sectors of food and agriculture, drugs and pharmaceuticals, supply of engineering goods, provision of consultancy services and training of managerial personnel.

The Iranian side has expressed interest in purchasing from India items like iron and steel products including pipes, textiles, sugar, industrial raw materials, paper and agricultural products like wheat, barley, rice, maize, sugar and animal food.

The Indian side noted Iran's interests in these commodities, and provided immediate information in areas of surpluses. The Iranian delegation was assured that subject to its own domestic requirements India would make effort to meet the needs of Iran.

During the talks, both sides were in agreement on the desirability of strengthening bilateral commercial and economic links for their mutual benefit. It was decided in course of the discussions that a committee on trade, in terms of the Trade Agreement of 1974, would be constituted and it would meet at appropriate levels alternatively at Teheran and New Delhi.

It was also agreed to exchange delegations comprising various sectors of industry and commerce of the two countries for further discussions with their counterparts and identification of specific areas of cooperation and trade exchanges. There would also be close collaboration between industrial units and Export Promotion Councils in India and the Nationalized Industries Organization of Iran.

The Indian side referred to the experience acquired by India in the development and application of technology and emphasized the scope for expanding cooperation between the two countries through transfer of appropriate technologies. It was pointed out that India could supply a wide range of engineering equipment and machinery for various industrial products ranging from the small-scale sector to the heavy capital goods sector.

The Indian side offered to transfer technology to Iran accompanied by comprehensive assistance that would include training of Iranian technical personnel in Iran as well as in India, and consultancy and management services. The Iranian side stated that technology was required not only for new projects but also for existing industrial plants in Iran.

Both sides identified several areas of industrial cooperation, such as the automotive and commercial vehicles industry, automotive anciliaries, types and tubes, refrigeration systems, oil refineries and petro-chemicals, machine tools and electrical equipment, powerplants, the construction industry and establishment of industrial estates.

Cooperation was offered by India in the small-scale sector and for the establishment of industrial estates in Iran to cover a wide range of products. The Iranian side expressed great interest in collaborating with India in this field and stated that Iran attached priority to the setting up of industries in the small-scale sector.

The two sides identified broad areas for widening bilateral cooperation in the field of shipping. Iran sought Indian assistance in the manufacture and supply of a variety of dredgers, barges, launches and other port equipment, as well as spare parts for vessels of different makes, repair facilities, port development, training of port personnel and consultancy services. The Indian side agreed to extend necessary assistance, wherever possible.

Both sides agreed to strengthen the Iran-o-Hind Shipping Company. The Iranian side recommended that priority should be given by the company to transportation of cargoes between the two countries. It further stated that Iran-o-Hind were in need of suitable additional ships and suggested that India could assist by providing appropriate vessels on charter basis.

The Iranian side took note of the capability of the Indian Roads Construction Corporation and the Dredging Corporation of India to undertake consultancy in specific fields.

In the railways sector, both sides agreed that cooperation would be developed between the two countries in supplies by India to Iran of railway equipment and spares, services and maintenance, and training of personnel. A specific list of requirements of the Iranian State Railways was made available to the Indian side, including rehabilitation of tracks, repair of damaged locomotives and supplies of locomotive parts. The Indian side assured immediate examination of these proposals.

The Iranian side expressed interest in cooperation with India in the fields of agricultural machinery, such as, power tillers, ploughs, threshers, combines and plant protection machinery, animal husbandry and cattle upgrading, veterinary health services, including measures adopted in India to control animal disease and sheep breedings. Iran also showed interest in cooperation in fisheries, including education and training of personnel, fish processing, fisheries survey and fisheries craft and gear.

[From the New York Times]
June 22, 1980]

Proliferation End Game

The cause of preventing the spread of nuclear weapons will almost certainly suffer no matter how India and the United States finally resolve their almost irreconcilable dispute over further American fuel shipments. The question now is how bad the damage will be, and which country will be blamed.

The immediate issue is whether the United States should send India an additional 38 tons of enriched uranium to fuel two American-built reactors at Tarapur. The United States has been supplying their fuel since 1963 under a 30-year agreement that subjects the fuel and plants to strict audits and inspections. But after India exploded a "peaceful" nuclear device in 1974—using Canadian and American materials from another reactor—the United States increased its effort to bring all civilian nuclear activities everywhere under strict safeguards.

The wholly admirable American purpose is to prevent diversion of civilian materials to nuclear weapons production. But the policy has met stiff resistance in many nations, and in India most of all. The Indians refuse to renegotiate the Tarapur agreement or to renounce further "peaceful" explosions that might use non-American nuclear material.

Legally, the Indians have a strong case. They have lived up to the terms of the Tarapur agreement and contend that the United States cannot unilaterally amend it. Their argument for equity is also strong. By what right, they ask, does the United States, with its vast and growing arsenal of nuclear weapons, presume to dictate to other countries that all *civilian* reactors must be inspected? They see it as a case of the nations possessing nuclear weapons living by one set of rules while subjecting the have-nots to another.

For the United States, however, this is less a matter of legality or equity than one of sanity. The world has managed to live in uneasy stability with a limited number of nuclear-armed countries. Their number may multiply rapidly if other nations break the psychological barrier. Congress in 1968 required a halt in all fuel shipments to states that refuse to subject their nuclear power programs to international safeguards, unless the President sees an overriding, extenuating security reason. The Indians insist they have no intention of building bombs. But the duplicity surrounding their 1974 "peaceful" explosion, and the potential for a nuclear arms race with Pakistan, make these assurances less than binding or satisfactory. Inspection of *all* Indian reactors would lend force to the promise.

The Nuclear Regulatory Commission has followed the law and voted to cut off the shipments to India. The Carter Administration wants to continue the shipments, seeing them as less dangerous than the alternative. Cutting off the fuel, it fears, will only drive the Indians closer to the Soviet Union and undermine Western interests in the area. The danger may be overstated. The Indians already rely heavily on Soviet weapons and should themselves be wary of dependence.

But the Administration also believes that a rupture with India over Tarapur would weaken the cause of nonproliferation. If the Tarapur agreement is broken, India has said, it would feel free to extract plutonium from the American fuel already received. That danger, too, is probably overstated. India already possesses some plutonium not subject to safeguards. And the same diversion problem would arise once the Tarapur accord expires in 1993, and with much larger quantities of fuel if the shipments continue.

The greatest danger seems to lie in continuing the shipments. If the United States yields on safeguards to the only nation known to have carried out an explosion with civilian nuclear materials, it can hardly expect other suppliers and receivers of fuel to give the protective stipulations a high priority. Congress should block the shipments to India until it agrees to full-scope safeguards. If the Indians retaliate by using the spent American fuel for reprocessing, let them take responsibility for destroying the containment effort. If that effort is still to succeed, the line has to be held. If it is doomed to fail, let the world know why.

[From the Washington Post, June 22, 1980]

How Many Indian Bombs?

President Carter's decision to send nuclear fuel to India is running into solid—and justified—opposition on Capitol Hill. India's adamant refusal to accept any international safeguards and inspection of its nuclear facilities, and Prime Minister Gandhi's frequent reassertions of India's right to explode another nuclear bomb if it wishes to, make this export case the ultimate test of the seriousness of U.S. non-proliferation policy.

The central provision of this policy is a requirement of the 1978 law that a country accept full safeguards on its nuclear facilities to be eligible to receive U.S. nuclear exports. With India primarily in mind, the legislators provided a two-year grace period for current customers who did not meet this requirement to give them time to get right with it. Before the grace period expired last March, U.S. negotiators came up with a steady stream of proposals for a mutually face-saving agreement. India rejected them all.

The administration is now using four arguments to support its case. The first is that this proposed export actually does fall within the two-year grace period because India expected the shipments to be made before the deadline expired. This is legislistic gibberish that makes a mockery of the law's clear intent.

The administration also argues that "non-proliferation would be set back by withholding these exports" because they "will help us to maintain a dialogue with India in which we try to narrow our differences." This was the rationale for the several exports that were made during the now-ended negotiations, when there was still some hope—albeit slight—that agreement could be reached. It is indisputable that the effects of these exports on non-proliferation everywhere but India will be devastating. All hope of stopping Pakistan's nuclear weapons program and of bringing others such as South Africa and Agrentina under the international inspection system is likely to disappear.

A potentially more serious administration argument is that new geopolitical considerations must take precedence over those of nonproliferation. However, despite numerous opportunities to do so, administration spokesmen have been unable to develop this justification beyond the most vague of references to the invasion of Afghanistan. A more specific connection between these two events—one that also accounts for the recently announced $1.7-billion arms deal between Russia and India—needs to be drawn before this can begin to be considered a compelling case.

State Department lawyers have also been busy developing arguments in support of Indian's contention that if the United States fails to approve these exports it will have broken the agreement between the two countries, leaving India legally free to seize and reprocess used U.S. fuel already in that country. In fact, a stronger legal case can be made that India is in violation of the agreement and the fuel contract, which state that India shall "comply with all applicable laws . . . of the United States." Moreover, the agreement between the two nations merely obligates the United States to provide the fuel necessary to keep India's Tarapur reactor "operating continuously." By India's own estimate, U.S.-supplied fuel sufficient to operate the reatcor through 1982 is already stockpiled in India.

It is hardly surprising then that Congress appears likely to override the president's decision. The legislators, at least, seem determined to correct the mistake made in 1974 when the United States failed to make any protest to India's first nuclear explosion—which relied on illegal use of U.S.-supplied heavy water. The administration seems willing to turn the other cheek. If India explodes a second nuclear weapon, Deputy Secretary of State Christopher told the Senate the other day, why then the United States would certainly stop all nuclear shipments. Sure it would.

[From the Wall Street Journal, May 9, 1980]

NUCLEAR CAVE

Having failed to face down communists in Afghanistan or Ayatollahs in Iran, President Carter has just struck an ecumenical note by caving to the Hindus. Despite Indira Ghandi's adamant refusal to accept safeguards against the diversion of nuclear materials for military purposes, Mr. Carter has decided the U.S. will continue to ship to India.

In 1974, India set off its "peaceful nuclear explosion" using explosives produced with fuel from Canada and heavy water provided by the United States. Canada immediately cut off uranium supplies, but the U.S. took no action. With the failure of successive administrations to wrestle a promise from India to cease further testing, the Congress banned shipments of nuclear fuel to any nation that did not allow international inspection of its nuclear power facilities. The ban took effect last March, but the President has utilized a doubtful interpretation of the law to reach his present decision.

Not only has the U.S. failed to get India to agree to inspection of its nuclear operations, Prime Minister Indira Gandhi has already implied that India may plan further nuclear explosions. In a Jan. 31 speech, she declined to rule out "peaceful nuclear experiments."

President Carter maintains that refusing to ship fuel to India would have two harmful effects. Such an action, he says, could lead to a "political breakdown" in the Indian subcontinent and it would have caused India to pull out of its nuclear cooperation pact with Washington, thus depriving the U.S. of any influence over future Indian nuclear developments.

In fact, nothing could be more destabilizing to the region than a decision to supply uranium to India without safeguards. Indian nuclear weapons development is a direct threat to its neighbors Pakistan and China—the two nations the U.S. has been trying to woo in the wake of the Soviet invasion of Afghanistan. President Carter's decision, therefore, will make cooperation with those two nations more difficult and will lend impetus to Pakistan's drive to develop its own nuclear bomb.

Moreover, the President's action signals to non-nuclear countries that they can go ahead with a nuclear bomb program with impunity. If they get caught at it, the United States is likely to do little more than kick up a minor diplomatic fuss. Worst of all, it adds to the already dangerous impression of American ineffectuality. Everyone in the world knows that the Indians doublecrossed the U.S. by using nuclear materials for weapons purposes, and now everyone witnesses that the U.S. will not do anything about it, not even refuse to supply more nuclear materials. People, and nations, who issue invitations like that should not be surprised if they get walked over nearly everywhere.

[From the Wall Street Journal, May 21, 1980]

NUCLEAR RIPOSTE

In a rebuff to President Carter, the Nuclear Regulatory Commission last Friday rejected India's long standing request to buy additional uranium fuel for its Tarapur reactor. The unanimous vote of the five-member board which is often in disagreement, shows the weight of opposition to the President's stated intention to sell more fuel to India, despite that government's refusal to permit international inspection of its nuclear facilities.

Given India's precious diversion of U.S. and Canadian nuclear materials into a nuclear-weapons program and Prime Minister Indira Gandhi's recent refusal to rule out new "peaceful nuclear experiments," a decision to ship additional uranium to India would wreck the U.S. effort to contain the spread of nuclear weapons. In spite of this, Mr. Carter accepted State Department advice to go ahead with the shipment in the hopes of gaining Indian cooperation in countering the Soviet invasion of Afghanistan. Paradoxically, Mrs. Gandhi has already said there is no linkage between the uranium-supply issue and the Indian response to Afghanistan.

The NRC based its decision on the grounds that India did not meet the full-scope safeguards required under the Nuclear Non-Proliferation Act of 1978. If Mr. Carter decides to sanction the sale, he essentially will have to waive the inspection requirement of the Act in this worst of all possible cases. He will have to justify this on the grounds that failure to approve the export "would be seriously prejudicial to the achievement of the United States non-proliferation objectives, or would otherwise jeopardize the common defense and security."

Nothing could be more damaging to U.S. non-proliferation objectives or to stability in southern Asia than the shipment of uranium to India without safeguards. If the U.S. is willing to waive inspection for a country that has already misused nuclear fuel to make a bomb, what will be our response if Argentina, Spain, Israel or Japan seeks such a waiver? Or Pakistan?

Mr. Carter's advocacy of the Indian sale runs counter to our non-proliferation objectives and also to his own campaign rhetoric. In 1976, criticizing President Ford's handling of the India situation, Mr. Carter said that "the State Department has become that country's chief advocate and apologist, even though India, not a Non-Proliferation Treaty party, used our past aid to explode a nuclear device and even though there are no safeguards to prevent this from happening again."

It may be that it is too late to stop nuclear proliferation, after the 1960s Atoms for Peace program spread reactors around the world, and given the German and French interest in nuclear exports. But if the President wants to write off the policy he ought to say so, for that will be the inevitable effect of an Indian sale.

Beyond that, what is at issue here is not only nuclear proliferation but also the perception of United States integrity and strength abroad. If we acquiece to the demands of a nation that has already double-crossed us, then the United States will be hoisting a flag of impotence which will signal to other countries that they can abuse our largess and flout our requests with impunity.

QUESTIONS AND ANSWERS ON THE PROPOSED URANIUM SHIPMENTS TO INDIA

The Congress must soon decide whether to overturn a Presidential Executive Order approving the export to India of 38 tons of enriched uranium after the NRC had unanimously rejected the license applications for such shipments as not meeting the requirements of U.S. law.

The sending of this fuel at this time to a country that, after two years of negotiations, has refused to place all its nuclear facilities under safeguards and has announced a possible interest in future nuclear explosions, risks the destruction of U.S. credibility in the area of nonproliferation.

In contrast to the Administration's arguments, this paper will show, via a Question and Answer format, that neither U.S. nonproliferation objectives nor broader U.S. foreign policy objectives will be well-served by allowing these shipments to India to proceed.

1. IMPORTANCE OF TARAPUR DECISION

Q. Why are these particular shipments of such importance?

A. The pending fuel exports to Tarapur constitute a first landmark test of whether the United States will continue nuclear trade with nations which are deliberately and unambiguously keeping open the option of developing nuclear weapons by refusing to allow international inspections (safeguards) on all of their nuclear activities. In enacting the Nuclear Non-Proliferation Act (NNPA) in 1978, the U.S. declared that it would no longer extend the privilege of nuclear trade to nations unwilling to accept safeguards across-the-board.

The Act provided a two-year grace period (ending March 10, 1980) before the export cut-off would be triggered, for negotiations with nations which had not yet agreed to such comprehensive, or "full-scope" safeguards. Although negotiations with a number of our trading partners, including Argentina, Brazil, and Spain, are apparently close to succeeding, India has steadfastly refused to accept the required inspections.

Among the nations subject to the full-scope safeguard export restriction, moreover, India stands alone as the only nation which has overtly used unsafeguarded facilities to produce and test a nuclear explosive device (the Indian test of May 1974) and which, according to a recent statement by Mrs. Ghandi before the Indian Parliament, refuses to rule out future tests. Most recently, India demonstrated, by putting a satellite into orbit, that she is developing an IRBM capability.

Thus the basic question posed by the pending exports is whether the United States, having said two years ago that it would stop nuclear trade with nations unwilling to place all their facilities under safeguards, will now continue business as usual with its one trading partner that has an actual history of misusing unsafeguarded facilities to produce nuclear explosives and whose future plans in this regard are, perhaps, the most suspect of all our export recipients. The impact of U.S. action in this regard on other nations will be consequential, and is explored later on.

2. THE FULL-SCOPE SAFEGUARDS CRITERION

Q. Contrary to the State Department assertion, was the NRC correct in its legal interpretation that the NNPA provision on full-scope safeguards applies to these shipments?

A. Yes. The NNPA and its legislative history support the NRC position that after March 10, 1980, no license for nuclear exports can be approved for any country not having all its nuclear facilities under safeguards. The State Department argument that full-scope safeguards are not required for these fuel licenses has been demolished in a further analysis of the issue by the NRC's Office of General Counsel. (See Appendix I.)

3. IMPACT ON THE NPT AND ON THE ADOPTION OF FULL-SCOPE SAFEGUARDS BY OTHER NATIONS

Q. What will be the impact on other nations if the U.S. sends this fuel at this time?

A. The impact is at least 3-fold.

(a) The Nuclear Nonproliferation Treaty NPT), signed by 113 nations but not India), will be undermined. A member nation, which has necessarily accepted full-scope safeguards and forsworn nuclear weapons in return for nuclear trade and assistance, might well question the value of membership when

India receives nuclear trade and assistance without the same kind of political commitment.

(b) Non-NPT U.S. export recipients with whom negotiations are not yet complete on the full-scope safeguards question will undoubtedly balk when they realize that even though they have never taken any actions toward proliferation which begin to compare with those of India, they would be submitting to U.S. export control not being applied to that country.

(c) Nuclear supplier nations, some of whom now require full-scope safeguards as a condition for exports (Australia and Canada) and others who may be moving in this direction (France and West Germany), will surely take our permitting these exports in the normal course, as a sign that we are not serious about the full-scope safeguards requirement; undoubtedly they will begin to rethink their own position on this subject. For the U.S. to appear to other suppliers to be retreating at the first test from its full-scope safeguards stand taken in the Non-Proliferation Act only two years ago could have a devastating impact on the prospects for enhanced supplier cooperation on this vital issue.

4. SIGNIFICANCE OF SAFEGUARDS

Q. Why are full-scope safeguards of significance for India? Does India have significant indigenous unsafeguarded facilities?

A. The nuclear facilities that India used for her 1974 explosion are still unsafeguarded. This includes the Cirus heavy water research reactor, the Nangal heavy water facility, and the Trombay reprocessing plant.

Completed additional unsafeguarded facilities include a heavy water reactor (Rapp 2), a reprocessing plant at Tarapur, and three heavy water facilities (Tuticorin, Baroda, and Talcher).

Additional unsafeguarded facilities, either under construction or with design completed, include 4 heavy water reactors (Mapp 1 and 2, and Napp 1 and 2), one Fast Breeder Test Reactor, a reprocessing plant at Kalpakkam, and a heavy water facility at Kota.

It is therefore clear that if all these facilities remain unsafeguarded, India will be in a position to stockpile thousands of kilograms of unsafeguarded plutonium during this decade. (One Nagasaki-sized bomb can be produced from approximately 8 kilograms of plutonium).

5. INDIAN ATTITUDE ON SAFEGUARDS

Q. Two years ago, when fuel licenses for Tarapur were being reviewed by Congress, the State Department argued that sending the exports would be an inducement to the Indians to cooperate on the safeguards question. The exports were sent. What has been the Indian attitude on this issue since then?

A. Two years of negotiations with India have produced no discernible movement on their part on this issue. On the contrary, there have been repeated public statements by Indian officials adamantly opposing the adoption of full-scale safeguards.

One example illustrating the Indian attitude and the question it raises concerning the future direction of the Indian nuclear program concerns the recent sale by the Soviet Union to India of 250 tons of heavy water (needed by India to operate some of her reactors until her own heavy water production capabilities rise.) According to a report in Nucleonics Week (April 17, 1980), "The Indians have so far been holding up the operation of the Rapp–2 nuclear reactor rather than using Soviet heavy water supplies because they do not want to submit the reactor, and all other facilities which use any of its products, to international inspection".

6. U.S.-INDIA OBLIGATIONS

Q. What are major U.S. and Indian obligations under the U.S.-India agreement for Cooperation and fuel contract relevant to this case?

A. Our fuel supply agreement with India pledges us to supply sufficient nuclear fuel for the "efficient and continuous operation" of the Tarapur reactors until 1993, "in accordance with the terms, conditions and delivery schedule set forth in a contract to be made between the parties". The contract, in turn states that India "comply with all applicable laws, regulations, and ordinances of the United States . . ." India is not now in compliance with the currently applicable U.S. law, the requirement of the Non-Proliferation Act that she place all her nuclear facilities under international safeguards. The Agreement and the contract provide for no obligation by the U.S. toward any Indian fuel fabrication facilities.

7. POSSIBLE INDIAN LEGAL CLAIM

Q. Does India have a strong legal claim that rejection of the pending exports violates the U.S. obligation to supply the Tarapur reactors and that India is, therefore, released from her obligations under the agreement?

A. No. The NRC has determined that India has enough stockpiled fresh fuel on hand to last until at least 1982 (see Appendix II) India cannot legitimately claim that withholding these particular shipments is a breach of U.S. obligations (see answer to previous question). Moreover, the fuel contract language suggests that the U.S. would not be in breach of the Agreement as long as India does not satisfy the provisions of the NNPA. This legal interpretation is backed up by a paper from the American Law Division of CRS (See Appendix III).

8. POSSIBLE INDIAN ACTIONS AND CONSEQUENCES

Q. Despite the U.S. legal position, what would be the practical consequences if India violated the Agreement by reprocessing without our permission, 200 tons of U.S.-origin spent fuel stored at Tarapur and/or removed safeguards from the Tarapur facility?

A. There is no provision in the Agreement for a judicial or other 3rd party resolution of any conflict between the U.S. and India over the provisions of the Agreement. The removal of safeguards from the facility by India would almost certainly be condemned worldwide. Moreover, from a strictly practical point of view, the Indians will have access to thousands of kilograms of unsafeguarded plutonium in the next few years if they don't accept full-scope safeguards. By way of comparison, the spent fuel at Tarapur contains approximately 100 Kgms. of plutonium.

On the issue of reprocessing and plutonium recycle, the Indians are moving to establish a mixed oxide fuel facility that would allow them to use recycled plutonium as a fuel in their reactors, even if uneconomic. It will take at least 3–4 years before such a facility is ready to operate. The reprocessing of U.S.-origin spent fuel at Tarapur would not appreciably change the time at which the Indians might be ready to demonstrate plutonium recycling.

In any case, the State Department fears about an implicit threat by India to take certain actions in the event of a U.S.-cutoff to Tarapur leads to a policy without end. Must the U.S. continue to supply India indefinitely because of the fear of Indian actions described above if we don't? Is this an appropriate response to such an implicit threat? The answer is surely negative on both counts.

Thus, while Indian actions in the wake of a cutoff are a cause for concern, the abandonment of U.S. non-proliferation principles implied by the shipments and the associated impact on other countries is, in a real practical sense, cause for much greater concern, as indicated in answers to other questions.

9. CONTINUING DIALOGUE

Q. Will a cutoff cause irreparable damage to U. S.-Indian relations, thus making a continuing non-proliferation dialogue with India impossible, as claimed by the State Department?

A. No. According to reports in the Indian press, particularly the Times of India, some elements in India suggest that the Tarapur issue is a festering sore, blocking the improvement of Indo-U.S. relations, that could be cleared up through a clean break in nuclear relations. Certainly, the State Department has achieved no discernible progress with India in more than 2 years of negotiations on the full-scope safeguards issue during which time nuclear trade has continued. Moreover, as discussed below, progress is more likely to depend on events external to our nuclear trading position. Because of substantial contact between the U.S. and India in other areas (e.g. economic and military assistance) and our common concerns over the Pakistan nuclear program, there will be ample opportunity to maintain a constructive dialogue.

10. "UNRELIABLE SUPPLIER" ARGUMENTS

Q. Will a cutoff to India reinforce the image of the U.S. as an "unreliable supplier", as implied by the State Department?

A. No. It is U.S. policy under the NNPA to be a reliable supplier "to nations which adhere to effective nonproliferation policies". There is no evidence that other nations consider India's nuclear policies as effectively contributing to nonproliferation. The Canadians for example, have not reestablished nuclear trade with India since the 1974 explosion. Moreover, in contrast to India, the vast majority of our export recipients have accepted full-scope safeguards by signing the Non-Proliferation Treaty. They recognize—and know that we recognize—that India stands apart and that actions we take with respect to her do not affect our reliability with respect to meeting their needs. If the U.S. has an image problem in this area, it has to do with the apparent inconsistency of our nonproliferation policy. Seen in this light, approving the fuel shipment will worsen rather than improve our image.

11. INDIAN FOREIGN POLICY

Q. What evidence is there to indicate that our nuclear trade with India has substantially affected India's foreign policy?

A. None. India's fundamental strategic goal is to maintain its nonaligned status by preserving a reasonable balance in its relations with the superpowers. In this context the Tarapur controversy has not been and is unlikely to be a significant factor in influencing Indian foreign policy.

Given India's overriding national interest of maintaining her nonaligned posture, it is most unlikely that India will drastically reduce her ties outside the nuclear trade area with the United States in favor of the U.S.S.R. as a result of the Tarapur controversy. There is no information provided in the State Department Fact Sheet to support a contrary conclusion. This controversy must be seen as a matter of limited significance in the overall fabric of India's superpower relations.

India is currently pursuing a foreign policy in many areas which is distinct from, if not in opposition to, U.S. objectives. For example, India has entered into a major trade agreement with Iran. (see Appendix IV—A copy of the front page of the Statesman(Delhi), dated June 14, 1980, with headline entitled, India to Help Beat U.S. Sanctions.) This appeared three days before the Senate Foreign Relations Committee held its first open hearing on Tarapur.

India has also recognized the pro-Soviet regime in Kampuchea, and she has recently signed a $1.6 billion arms deal with the Soviets. All of these highly visible events, of considerable political importance to the region, it may be noted, occurred after President Carter had reportedly promised Mrs. Gandhi the pending Tarapur fuel, and the recognition of the Kampuchean government came after the President had signed the now pending Executive Order overruling the NRC and authorizing these exports. Without raising the question of whether we should now reward Mrs. Gandhi for her actions by allowing these fuel shipments, at the very least, these events make clear that where major questions of India's foreign diplomacy are concerned, the Tarapur fuel is a bargaining chip of dubious value.

12. REMAINING U.S.-INDIAN TIES

Q. If the pending shipments are rejected, will the U.S. be left without any substantial economic or military links to India?

A. No. The State Department analysis grossly exaggerates the significance of the Tarapur exports to the promotion of U.S. interests in this region. It is simply not true, as the State Department asserts, that by withholding these exports we would "deal ourselves out of the game" with India. On the contrary, our nuclear trade with India is but one of our many political, economic, and military ties to that country. For example, President Carter has just announced a major sale to India of several thousand TOW anti-tank missiles, a sale which would be proceeding even as the Congress held back the Tarapur licenses. Furthermore, the U.S. currently provides India $131 million in economic assistance; this assistance will continue whether or not the pending exports are approved. Thus whatever action is taken on these exports, we will hardly have dealt ourselves out of the game with India; rather, the overall level of our exports and assistance, taking into account the TOW missile sale, will probably be increasing.

13. FUTURE U.S.-INDIA NUCLEAR TIES

Q. If this export is turned down, does that necessarily mean the end of all nuclear trade with India?

A. Not necessarily. Once rejected, the pending exports could be reconsidered next year via resubmission of the President's Exexcutive Order as provided in the NNPA under the section on waivers for full-scope safeguards (Sec. 128). Thus, far from foreclosing further negotiations with India, we would be maintaining a basis for continued discussions in a bargaining context more favorable to the U.S. than that which now prevails.

14. INDIAN-SOVIET NUCLEAR TIES

Q. If these shipments are rejected, won't the Indians turn to the Soviets for help?

A. From a strictly legal point of view, the rejection of these shipments would not provide the occasion for the U.S.S.R. to step in as an alternative supplier of Tarapur fuel; in any event substitution of Soviet for U.S. fuel would have limited significance, as indicated below.

(a) No legal basis.—Since a rejection of the pending exports under the terms proposed here would not violate the U.S. commitment to maintain the "efficient and continuous operation" of the Tarapur reactors, India could not turn to the U.S.S.R. during the next year for supply without herself breaking the agreement (which specifies that Tarapur will be operated only on U.S. fuel).

(b) Soviet controls strict.—Even if at some future point Russia were to step in as an alternate fuel supplier, that country has invariably required strict safeguards and other non-proliferation controls on nuclear projects she has aided. (Recall the safeguards requirement under the heavy water contract.) Indeed, the U.S.S.R. is required by her adherence to the Non-Proliferation Treaty and the Nuclear Suppliers Guidelines to require safeguards on all exported nuclear material and, under the latter document, is also committed not to undercut U.S. actions in furtherance of non-proliferation objectives. Thus, at the least, Soviet supplied fuel would be safeguarded and the Soviets might conceivably require as a condition of supply that safeguards be maintained on the U.S.-origin spent fuel now at Tarapur.

If India continues to follow a program of unsafeguarded indigenous nuclear development, there is likely to be only a limited role for the U.S.S.R. in the Indian program because of the application of safeguards to any Soviet-supplied materials or facilities.

15. EFFECT ON PAKISTAN

Q. What will be the impact on our effort to dissuade Pakistan from pursuing a nuclear weapons option if we provide the fuel for Tarapur?

A. The U.S. had ceased military and economic assistance to Pakistan in 1979 because of that nation's suspect nuclear development activities, but after the invasion of Afghanistan we had offered to lift this barrier and supply $400 million in aid. The offer was rejected and the official U.S. position, despite our recent approval of the rescheduling of Pakistan's debt, has reverted back to where it was in 1979. Permitting the Tarapur exports, particularly in light of Mrs. Gandhi's statements that future nuclear tests are not ruled out, will give rise to Pakistani claims that we have discriminated against her by using sanctions to redirect her nuclear program but taking no action with respect to India. Our effort to deter the Pakistanis from developing a weapons option will suffer accordingly.

16. IMPACT ON NUCLEAR TRADE

Q. Is support for a cutoff inconsistent with a pro-nuclear attitude?

A. No. Thoughtful advocates of nuclear energy should consider whether the future prospects for nuclear trade are enhanced in an environment in which such trade and the development of nuclear weapons are closely intertwined in the mind of the public. This suggests the importance of maintaining and building public confidence that the U.S., through its exports, is not aiding the nuclear programs of countries interested in nuclear explosions. If the public believes the U.S. is forsaking its commitment to effective nuclear export controls, including full-scope safeguards, it will be difficult to effectively dispel the trade/weapons connection, and the efforts of those seeking an end to all nuclear trade will receive a significant boost.

In this case, following the counsel of nuclear extremists on the other side who wish to see an end to effective nuclear export controls could have the unintended effect of severely damaging the industry as well as contributing to proliferation.

17. PAST MISUSE OF U.S. NUCLEAR EXPORTS

Q. Have the Indians ever misused any nuclear materials we have exported to them under a valid sales agreement?

A. Yes. The U.S. sold Indian 25 tons of heavy water under a 1956 sales agreement that pledged the Indians to use the material only for peaceful purposes. In 1970, the U.S. sent an aide-memoire to India pointing out that the U.S. would consider it a violation of the agreement for our heavy water to be used in a nuclear explosives program. Despite this, India proceeded to use our heavy water in the Cirus research reactor to produce the plutonium for her 1974 nclear exposion.

The State Department reaction in response to a Congressional inquiry was to first deny that any U.S. heavy water was involved and then to recant the denial when it became obvious on the basis of computations that the Indians did not, in fact, replace all the U.S. material with their own during the period when the plutonium was produced.

APPENDIX I

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C., June 25, 1980.

Memorandum for Chairman Ahearne, Commissioner Gilinsky, Commissioner Kennedy, Commissioner Hendrie, Commissioner Bradford.

From Leonard Bickwit, Jr., General Counsel.

Subject State Department Analysis of NNPA's Section 128.

In its legal memorandum of June 18, 1980, the State Department's Office of Legal Adviser has concluded that "the two proposed exports [of low enriched uranium to India for use in the Tarapur reactor] may properly be regarded as falling within the grace period provided by the statute as finally enacted and, therefore, are not subject to the full-scope safeguards requirements of section 128a."[1] We have carefully reviewed this memorandum and remain convinced that the Department's legal position on the effective date of section 128 is supported neither by the statute nor its legislative history.

Section 128 provides that the full-scope safeguards criterion "shall be applied as an export criterion with respect to any application . . . which is filed after eighteen months from the date of enactment of this section [September 10, 1979], or for any such application under which the first export would occur at least twenty-four months after the date of enactment of this section [March 10, 1980]." Three points should be made regarding the Department's interpretation of this provision.

First, the Department focused on the verb tense difference between "is filed" and "would occur" to support its conclusions that "Congress did not intend March 10, 1980, to be an absolute deadline"[2] and that "with respect to license applications filed prior to September 10, 1979 . . . the Commission should look to all the circumstances of a given proposal and decide whether, in those circumstances, approval of the proposed export would amount to a circumvention of the statute."[3] The State Department takes the view that "would occur" refers to the shipping date contemplated by the applicant when submitting its export license application. This verb tense difference is worth noting. However, there is a simple, practical reason for the difference that argues against the inference which the State Department seeks to draw. Section 128b. is an instruction to the licensing agency to be read by that agency at the time it makes its licensing decision. In that context, one would expect that different tenses would be used to describe the date by which the application, must be filed and the date by which the export must take place. The application, having already been filed, is appropriately referred to in the certainty of the present tense.[4] The date of export, however, cannot be referred to with similar certainty because, as the licensing agency approaches its decision that date cannot be definitely known. For applications considered prior to March 10, the licensing agency no doubt was expected to use its best judgment in determining whether the export, if authorized, would occur before the deadline. The future conditional is the most appropriate tense with which to convey that instruction. For applications such as this one, however—where no final decision had been reached prior to March 10—a similar exercise of judgment would not be necessary and could not have been contemplated.

Second, the Department's memorandum suggests that the examples of legislative history quoted in our earlier memorandum that refer to the "guillotine" effect of section 128 are misleading because the statements cited are based on an earlier version of section 128 subsequently modified by Congress before enactment of the statute. The Department of

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[1] Department of State, Application of Section 128 of the Atomic Energy Act of 1954 with Respect to Fuel Exports to India, at 1 (June 18, 1980).

[2] *Id.* at 9.

[3] *Id.* at 14.

[4] The past tense also would have been suitable.

State, however, significantly fails to address the abundant post-enactment statements by key Members of Congress and administration officials which indicate that a "guillotine" effect was contemplated at the end of two years. For example, in our earlier memorandum we quoted testimony delivered by Dr. Joseph Nye, Deputy Undersecretary of State for Security Assistance, Science and Technology, before the Senate Foreign Relations Committee in 1978, after the NRC had referred Tarapur export license application XSNM–1060 to the President. Dr. Nye testified that "India is fully aware of the recently enacted Non-Proliferation Act that establishes that a recipient country must, within 2 years, have all its peaceful nuclear activities subject to IAEA safeguards as a condition for U.S. supply after that time. India is, of course, also aware of the time when this requirement comes into effect."[5] *See also e.g.*, Statement of Senator Glenn, *Hearings on Nuclear Fuel Export to India Before the Subcommittee on Arms Control, Oceans, and International Environment of the Committee on Foreign Relations*, 95th Cong., 2d Sess. at 5, 6 (May 24, 1978); Statement of Representative Bingham, *Hearings and Markup on Export of Nuclear Fuel to India Before the Committee on International Relations*, 95th Cong., 2d Sess. at 17 (May 23, 1978). These remarks are clearly at odds with the flexible approach which the Department is now urging on the grace period issue.

Finally, the State Department does not provide an adequate answer to the concern expressed in our earlier memorandum regarding other applications to which the Department's reasoning might apply. In that memorandum, we stated:

> Use of the applicant's proposed shipping date could in fact lead to obviously unintended results. For example, in 1975 an application was filed with the NRC seeking authorization to export high-enriched uranium to South Africa. The Executive Branch has not yet provided the NRC with its views on that application. Suppose that five years from now the Executive Branch recommended issuance of that license. Under the State Department analysis full-scope safeguards would not be required because the application was filed prior to September 10, 1979, and the applicant expected to export the material prior to March 10, 1980. Certainly this is inconsistent with the Congressional intent that there be a "guillotine" approach in the implementation of the full-scope safeguards requirement.

The Department points out that its policy would not dictate an export in the situation discussed above because the application in that situation could be regarded as a "highly unusual proposal" that the Congress admonished the NRC to reject. Yet the Senate report language to which the Department's analysis refers in making this point states:

> The NRC should also not permit any other highly unusual proposals which are *intended* to circumvent this statutory provision.[6] (emphasis added)

In this context, the intent referred to can only be that of the applicant for the license. In the situation posed regarding South Africa, no possibility exists that the applicant intended to circumvent a statute which, at the time of the application, was not yet in existence. The Department's argument that this application is a "highly unusual proposal" within the meaning of the Senate report thus fails in this case as it would in other cases where no intent to circumvent could be established.

For the reasons set forth in our legal memorandum of May 12, 1980, OGC remains convinced that the section 128 full-scope safeguards criterion is applicable to the fuel export license applications that the Commission referred to the President. We believe our analysis is consistent with both the legislative history and the Congressional purpose of the NNPA.

APPENDIX II

NUCLEAR REGULATORY COMMISSION,
Washington, D.C., January 22, 1980.

Memorandum for Chairman Ahearne, Commissioner Gilinsky, Commissioner Kennedy, Commissioner Hendrie, Commissioner Bradford.

From Edward J. Hanrahan.

Subject Comparison of Fuel Requirements for the Indian Fuel Fabrication Facility and Tarapur Reactors.

At the request of Chairman Ahearne, the fuel requirements for optimum production of Tarapur (TAPS) subassemblies (S/A) at the Indian Nuclear Fuel Complex (NFC) have been analyzed and compared with the actual need for subassemblies at the reactors.

For the first time since OPE has been looking at fuel supply questions for India, we have now obtained a fairly complete picture of past production and current status of the NFC. At our request, the Department of State obtained from the Indians answers to a series of questions we raised (Ref. DOS Cable—Bombay 2297). We have been able to determine that these new data from the Indians are fairly consistent with other information we have.

The last OPE analysis of fuel S/A needed for TAPS was provided to you in our memorandum dated June 5, 1979 (copy attached for your convenience). The new data subsequently obtained from India does not change the conclusions reached in our June 5 memorandum. In fact, somewhat greater operational flexibility exists since the March 1979 refueling of TAPS II used only 49 new S/A*, as opposed to the average of 60 which was assumed for our last analysis.

CONCLUSIONS ON FUEL REQUIREMENTS FOR NFC AND TAPS

1. The schedules for exports of U.S. supplied fuel feed material (XSNM–1379 and 1569) requested by the Indians appear to be based on maintaining optimum NFC fuel S/A manufacturing operations; i.e., not keyed to meeting TAPS operational requirements.

2. Based on fuel currently available in India, air shipment of XSNM–1379 probably can be made as late as August 1980 without jeopardizing continued normal operations at the NFC.

3. Considering recent requirements for subassemblies for TAPS reactor operations, there is an apparent 18-month stockpile of fuel in India (i.e., XSNM–1379 could be shipped 18 months later than NFC operations require, and still meet TAPS needs).

DISCUSSION

The discussion of NFC fuel requirements which follows is based on analysis of: (a) new data from India (DOS Cable–Bombay 2297), (b) the September 1976 report by G. Last and W. Kieffer (SECY–78–105A), and (c) TAPS fuel usage since the previous OPE analysis (June 5, 1979 memorandum).

In discussion of NFC requirements, the implicit assumption made here is that fuel is available as needed for optimum operation of NFC, independent of the completed S/A already on hand and projected usage rate for TAPS operations.

Fuel material that was in process or available at NFC in July 1979, including XSNM–1222, is tabulated below:

Enrichment:	*kg. uranium*
2.66 percent	13,228
2.10 percent	11,739
1.60 percent	3,849

Based on the normal NFC production rate given in the Last-Kieffer report, this amount of fuel material should keep the NFC running for at least 14 months, until September 1980. Allowing one month for air transport, customs clearances, and road shipment results in a shipment date of August 1980 for XSNM–1379. Modifying the analysis of TAPS requirements given in our June 5 memorandum to account for air, instead of sea transport, XSNM–1379 could be shipped as late as February 1982, and still meet the reactor needs. Consequently, depending on whether TAPS or NFC needs are to be met, there is an 18-month difference in required shipping dates for XSNM–1379.

The following figure, which is a modification of that given in our June 5 memorandum shows the schedular relationship of fuel requirements between NFC and TAPS. Although not currently before the Commission for export license consideration, XSNM–1569 has been included to give a more complete picture. Optimum operation of NFC would dictate an air shipment date of September 1981 for XSNM–1569, if XSNM–1379 were shipped by August 1980. [Figure not reproducible in RECORD.]

As a point of information, the current requests in XSNM–1379 and 1569 do not correct the apparent imbalance among the three enrichments currently available in India. As discussed in our June 5 memorandum, maximum fuel utilization could be realized if this imbalance were corrected and up to three more refuelings of the TAPS reactors could be achieved. This could extend TAPS I operations for about 2½ years and TAPS II for about 15 months beyond the time possible with current fuel inventories and the present makeup of XSNM–1379 and 1569.

The question remains whether the U.S. obligation for fuel supply encompasses an obligation to ensure optimum operation of the entire fuel cycle (NFC and TAPS) or whether the obligation is only for the reactors. The U.S.-Indian Agreement for Cooperation covers the ". . . efficient and continuous operation of the Tarapur Atomic Power Station." (Article I.C.)

As you are aware, the State Department has taken the position that efficient operation of NFC (apart from efficient operation of TAPS) is an important factor to be considered. DOS has stated that ". . . We interpret the amount of material needed for operation to be the amount required to sustain normal operation of the Nuclear Fuel Complex at Hyderabad for the production of TAPS fuel, consistent with the usual method of operating this facility." (June 15, 1978 letter from Joseph Nye to Senator John Glenn.)

I hope this information will be useful to you. Please let us know if you have any questions, or if you want additional information.

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[5] *Nuclear Fuel Export to India Hearing Before the Subcommittee on Arms Control, Oceans, and International Environment of the Senate Foreign Relations Committee*, 95th Cong., 2d Sess., at 339 (1978). The Supreme Court in *Seatrain Shipbuilding Corp.* v. *Shell Oil*, —— U.S. ——, 48 U.S.L.W. 4149, 4156 (Feb. 20, 1980), recently sanctioned the use of post-enactment legislative history to ascertain Congressional intent. The Court stated that although legislative history developed by a "subsequent Congress cannot override the unmistakable intent of the enacting one, *International Brotherhood of Teamsters* v. *United States*, 431 U.S. 324, 359 n.39 (1977), such views are entitled to significant weight, *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 275 (1974), and particularly so when the precise intent of the enacting Congress is obscure."

[6] S. Rep. No. 95–467 at 18.

*The response from India stated that around 70 new S/A would have been required, but less were used due to uncertain and delayed shipments. According to the Indians, this resulted in a shorter operating cycle with reduced power level capability.

NUCLEAR REGULATORY COMMISSION,
Washington, D.C., June 5, 1979.

Memorandum for Chairman Hendrie, Commissioner Gilinsky, Commissioner Kennedy, Commissioner Bradford, Commissioner Ahearne.

From B. J. Snyder, Acting Director, OPE.

Subject Estimated Fuel Requirements for Tarapur Reactors

I am providing for your information a revised analysis of the fuel requirements and schedule for the Tarapur reactors. This updates information given to you in my previous memorandum dated January 16, 1979 and factors in the current application, XSNM-1379.

CONCLUSIONS

1. With the receipt of XSNM-1222 (approved by the Commission on March 23, 1979) and considering the fuel already on hand, the Indians have adequate material for operation of TAPS I until May 1983 and TAPS II until December 1982.

2. If approved, XSNM-1379 permits another refueling and year of operation for both plants: TAPS I probably can operate until August 1984 and TAPS II until March 1984.

3. Shipment of XSNM-1379 by sea could occur as late as December 1981 without any apparent impact on the reactor schedules. Air shipment could extend this date by up to two months, at considerably greater cost.

4. The above schedules of fuel supply and usage may not allow adequate operational contingency in case of a major problem (e.g., high leakage rate of fuel during reactor operations).

DISCUSSION

As discussed in my January 16 memorandum, the average usage during 1977 and 1978 has been 56 subassemblies (S/A) per refueling. Acknowledgment of this lower usage rate, as opposed to the optimum rate of 85 S/A per refueling, is given in the State Department's March 28 submission on XSNM-1379 (ref. SECY-79-233, March 30, 1979). An average usage rate of 60 S/A per refueling has been assumed, in this memorandum, consistent with the State Department's figure for "nonoptimum" operations.*

The total fuel available if XSNM-1379 is approved is:

[In kilograms]

Enrichment	On hand[1]	XSNM-1222	XSNM-1379	Total
2.66 percent	13, 165	9, 120	12, 160	34, 445
2.1 percent	10, 350	6, 080	6, 080	22, 510
1.66 percent	3, 625	1, 520	1, 520	6, 665

[1] Includes scrap.

Assuming no losses in processing and fabricating, the 34,445 kg of the 2.66% enrichment limits the fuel production to 402 S/A. To this is added the number of completed S/A—97 (ref. State Department telegram of December 18, 1978) giving a total of 499 S/A available. The March 28, 1979 State Department submission states that 488 S/A would be available. The difference of 11 S/A can be accounted for by an assumed 2% material loss during processing and fabrication, which appears reasonble. Using the 488 S/A at the average rate of 60 per refueling allows for eight refuelings.

The figure on the next page shows the projected refueling and operations schedule, based on a 3-month refueling shutdown and 12-month operating cycle. This figure is basically the same as given in my earlier analysis (January 16), with corrections for a 1-month slip in the schedule for TAPS II as given by State in their March 28 submission. In a more recent State Department telegram from Bombay, on April 20, 1979, it was reported that delays were being experienced in the ongoing TAPS II refueling. The cause and duration of these delays were not specified, nor were the number of fuel S/A to be inserted.

As may be seen in the following figure, TAPS I can probably operate until August 1984 and TAPS II until March 1984 if XSNM-1379 is shipped by sea no later than December 1981. This allows adequate time for transport, customs clearances and fuel fabrication. [Figure not reproducible in Record]

Maintaining the most efficient operation of the Nuclear Fuel Complex (NFC) where the TAPS fuel is produced has not been factored into this analysis. This point was discussed in more detail in my previous memoranda of January 16 and January 18 on this subject.

In the attached Appendix, I have presented for your information an analysis of the anticipated unbalance among the three enrichments of fuel the Indians will have available, assuming XSNM-1379 is approved. As may be seen in the Appendix this unbalance among quantities of fuel enrichments could be corrected by the Indians ordering a different mix of enrichments than they have in recent orders. This provides up to three more refuelings and 2½ years more operation (until September 1986) of TAPS II and 15 months more operation (until November 1985) of TAPS I.

I hope this information will be useful to you. Please let me know if you have any questions on the above, or if you want additional information.

Consistent with your decision on my January 16 memorandum, a copy of this memorandum is being placed in the Public Document Room.

APPENDIX: APPARENT UNBALANCE IN THE INDIAN FUEL SUPPLY

For some reason the Indian fuel supply has been consistently unbalanced among the three enrichments required for TAPS subassemblies.

Each subassembly requires:

U-enrichment:	*kg U-total*
2.66 percent	85. 6
2.1 percent	42. 8
1.66 percent	11. 6
Total	140

As tabulated earlier in this memorandum, the supply of each enrichment, assuming approval of XSNM-1379 is:

U-enrichment	kg-U available	"S/A" possible
2.66 percent	34, 445	34, 445/85.6=402
2.1 percent	22, 510	22, 510/42. 8=526
1.66 percent	6, 665	6, 665/11. 6=575

Maximized fuel utilization could be accomplished by balancing the supply of the two higher enrichments to use the excess of 1.66% material and produce 575 S/A instead of only 402 S/A.

This would require an order of:

2.66-percent material:

$$575-402-173\times85.6=\frac{14{,}808\text{ kg}}{1{,}520\text{ kg per UF}_6\text{ cylinder}}$$

=9.74 cylinders

or 10 cylinders of UF_6 at 2.66-percent enrichment.

2.1-percent material:

$$575-526-\ 49\times42.8=\frac{2{,}097\text{ kg}}{1{,}520\text{ kg per UF}_6\text{ cylinder}}$$

=1.38 cylinders

or 2 cylinders of UF_6 at 2.1-percent enrichment.

Having a total of 672 S/A (575 added to the 97 completed S/A on hand in December 1978), with an average of 60 S/A per refueling provides 11 refuelings. This compares to 8 refuelings possible with XSNM-1379 combined with currently available material. These three additional refuelings would allow operation of TAPS I for about 15 months longer, to November 1985 and TAPS II for about 2½ years longer to September 1986.

APPENDIX III

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., July 22, 1980.

To Senate Government Affairs Committee
Attn: Len Weiss.

From American Law Division.

Subject Questions Posed by Sale to India of Enriched Uranium.

Reference is made to your recent inquiry requesting information on the above matter. Specifically, you ask whether Senate and House rejection pursuant to the Nuclear Non-Proliferation Act of 1978, P.L. 95-242, Title III, § 308, 92 Stat. 120, 139-141; 42 U.S.C.A. § 215 (Supp.) of the proposed sale of 39,718 kgms. of low-enriched uranium fuel to India would constitute a material breach of the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning the Civil Uses of Atomic Energy, signed on August 8, 1963, (TIAS 5446) or the fuel contract pursuant to it, executed May 16, 1966, as amended, November 26, 1971, thus affording the Government of India the right to abandon the agreement and contract. You additionally ask for information respecting the settlement of differences which may arise in connection with the mutual obligations of the Parties to the agreement and contract.

The essential facts surrounding the proposed export of low-enriched uranium to India for use in fueling its Tarapur Atomic Power Station appear to be as follows:

The uranium shipment in question is pursuant to the 1963 agreement (A) and the 1966 fuel contract (K), as amended, pursuant to it. This agreement obligates India to fuel its two boiling water reactors at the Tarapur Atomic Power Station (A, Art. IX (b); K, Art. I r) solely with U.S. enriched uranium (A, Art. II A). The United States, in turn, is obligated to supply this enriched uranium, "as needed," (A, Art. II A; K Art. II A(1)) if the Indian Government procures all necessary permits or licenses (A, Art. V; Art. III D, as amended). The agreement is geared to India's need for enriched uranium to fully load the Tarapur Atomic Power Station, and bars supplies in excess of such need requirements (both in terms of sales by the U.S. and inventories by India) save such additional quantity as, "in the opinion of the Parties," is necessary to permit the efficient and continuous operation of the Station (A, Art. II C).

The agreement also requires that safeguards be maintained on the U.S.-supplied fuel to the Tarapur Atomic Power Station (A, Arts. VI, VII, VIII generally) and that the fuel be used only for peaceful purposes (A, Art. VI A) and not "for atomic weapons or for research on or development of atomic weapons or for any other military purpose . . ." (A, Art. VIII A 1). Furthermore, the agreement requires that the fuel not be reprocessed or execss plutonium from the fuel transferred to other nations without the approval of the U.S. (A, Art. II E, F).

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* In the March 28 State Department submission, they state that annual refueling with 60-65 S/A is a non-optimum condition and has resulted in power reductions to about 70% of design level. They go on to state that this non-optimum operation has been chosen largely because of continuing uncertainties regarding the supply of fresh fuel. Not mentioned by State were the recent problems with adequate spent fuel storage capacity.

The contract specifies that in the event that the applicable domestic laws or policies of the United States of America with respect to ownership and supply of special nuclear material for use by the Seller's domestic distributees are changed, the United States and India agree to consult with each other to determine modifications to the contract to accord with such changes in U.S. law and policies (K, Art. XI). In accord with the provision of the contract which calls for consultation and modifications to it in light of changed U.S. domestic laws and policies, the Parties in 1971 amended the 1966 contract in a number of vital particulars. Of particular significance for present purposes was the modification to Article III D of the contract whereby India agreed to "procure all necessary permits or licenses and comply with all applicable laws, regulations and ordinances of the United States . . . in connection with material delivered to the Purchaser pursuant to Article II A, or to the seller pursuant to Article VIII."

The significance of the mentioned contract modification subjecting it to changed U.S. laws, existing and prospective, becomes obvious in light of adoption into law of the Nuclear Non-Proliferation Act of 1978, (NNPA) P.L. 95–242, 92–Stat. 120. That Act, in no small measure a reaction to India's detonation in 1974 of a nuclear device, was intended to provide for more effective control over the proliferation of nuclear explosive capability. In accord with that purpose, Congress placed strict controls on the exports of nuclear equipment and supplies. §§ 304–307; 42 U.S.C.A. § 2155–2158. Additionally, Congress reserved to itself the power to block the export of any nuclear fuel by passing a concurrent resolution of disapproval. § 308; 42 U.S.C.A. § 2159 (Supp.).

The safeguards imposed by the Act take effect in two stages. The first stage, which became effective upon enactment (§ 603(c); 22 U.S.C.A. § 3201 note), requires nuclear exports to meet the following criteria: International Atomic Energy Agency (IAEA) safeguards must be applied to all materials exported by the United States: no exported materials may be used for any nuclear explosive device or for research on or development of any nuclear explosive device; adequate physical security measures are to be maintained with regard to exported materials; no exported materials may be reexported to a third nation without U.S. approval; no exported materials or materials produced therefrom can be reprocessed or otherwise altered without U.S. approval; no exported technology may be replicated unless the foregoing conditions are met. § 305; 42 U.S.C.A. § 2156 (Supp.).

The second stage of safeguards, with alternative effectiveness dates of 18 and 24 months from date of enactment, provides that no materials may be exported to any nation that did not accept "full-scope" IAEA safeguards on all peaceful nuclear facilities. These safeguards, among other things, require inspection by the IAEA. § 306; 42 U.S.C.A. 2157 (Supp.).

As indicated, implementation of the so-called "full scope" safeguards was delayed to allow a grace period in order that potential purchasing nations could bring on line policies and procedures consistent with safeguard requirements. Accordingly, full-scope safeguards did not apply to export applications filed before September 10, 1979 or to exports of nuclear materials made before March 10, 1980.

Down to the present time India is not in compliance with full-scope safeguards and inspections of its nuclear facilities by the IAEA. Moreover, in light of certain preconditions laid down by Indian officials to compliance (including, among other things, U.S.S.R. adherence to IAEA requirements and reduction in nuclear armaments by the nuclear club members), compliance by India with IAEA safeguards and inspections does not appear to be imminent.

Although the applications for licenses to export nuclear fuel to India were apparently submitted before the termination of the previously described application grace period (September 10, 1979), no exports associated therewith have been made prior to the alternative March 10, 1980 deadline for application of full scope safeguards. The Nuclear Non-Proliferation Act, § 302; 42 U.S.C.A. 2157 (Supp.) states that absent compliance no exports of nuclear fuel may be made in connection with any application "under which the first export would occur at least twenty-four months [i.e., March 10, 1980] after the date of enactment of this section. . . ."

In conformity with requirements of the 1978 Act, the Nuclear Regulatory Commission (NRC) forwarded the applications in question to the Secretary of State for Executive Branch scrutiny. § 304; 42 U.S.C.A. § 42 U.S.C.A. 2155 (Supp.). After a review of these applications, the Executive Branch "concluded that proposed exports would not be inimical to the common defense and security, that they met all applicable statutory criteria under the Atomic Energy Act, and that the licenses should be issued. The Commission was notified of these Executive Branch finding and recommendations on March 28, 1979, and May 7, 1980." Export of Special Nuclear Material and Components to India—Message of the President—PM 216 126 Cong. Rec. 15721 (June 19, 1980).

On May 16, 1980, the NRC decided that it could not find that the criteria for issuing the licenses had been met. NRC concurrence in the Executive Branch judgment is a requisite for export under the NNPA. § 304; 42 U.S.C.A. 2155(b). *Ibid.*

Under the NNPA, the President can override the NRC's action by an executive order. On June 19, 1980, the President by Executive Order 12218, 45 F.R. 41625 (June 20, 1980) approved the export of 39,718 kgs of low-enriched uranium to India. As indicated, the NNPA provides that Congress can block the export by passing a concurrent resolution within 60 legislative days of the President's actions.

It has recently been disclosed that NRC calculations indicate that India has sufficient fuel on hand to power the two reactors at the Tarapur Atomic Power Station at least through 1982.

The foregoing matters are assumed for purposes of assessing whether congressional action in the form of a concurrent resolution disapproving of the uranium shipments in question constitute a material breach of the 1963 agreement and 1966 contract, as amended, enabling the Government of India to abandon them and seek alternative sources of the same materials.

That congressional disapproval pursuant to the NNPA of the uranium would not constitute a breach of the mentioned agreement and contract can be supported on two grounds.

As in the case of contracts generally, the construction or interpretation of 1963 agreement and the 1966 contract, as amended, depends ultimately upon the intention of the Parties. Accordingly, if the intention of the Parties can be ascertained consistent with legal principles, it is to be given effect. Generally, it is assumed that the Parties understood the import of their contract and that they had the intention which its terms manifest.

The crucial intention for purposes of interpreting contracts is that of the Parties at the time of entering into the contract, regardless of subsequent events, particularly where such subsequent events were not reasonably within the contemplation of the Parties when the contract was made.

The intention of the Parties is gleaned from the language of the contract. In other words, it is the expressed or apparent intent that governs, not some asserted real but unexpressed intent.

Words used in a contract will be given their ordinary meaning. That is to say, words in a contract are to be given their usual and primary meaning at the time of execution of the contract. See 17 American Jurisprudence 2d, Contracts § 244 *et seq.*

The foregoing black letter principles of United States law seem in general accord with corresponding international legal principles. See, generally Whiteman, 15 *Digest of International Law* [Index] under Treaties and other international agreements: Interpretation. Note, however, that Article XVII of the contract in question stipulates that the applicable law is that applied by U.S. Federal Courts involving contracts to which the Government of the United States is a party.

Applying these fundamental principles to the agreement and contract in question, the intent of the Parties as manifested in the language of Article II was to enter into an arrangement whereby India would satisfy all of its fuel requirements for powering the two reactors at the Tarapur Atomic Power Station from the United States. The United States correspondingly undertook to satisfy India's fuel requirements with the qualification "as needed."

Although the agreement establishes some upper limits on fuel supplies in terms of U–235 content, the amounts ultimately to be provided by the United States and to be held by India is strictly in terms of fuel needs necessary to fully power the reactors at the Tarapur Atomic Power Station.

Any doubt regarding the significance of the prepositional phrase "as needed" is dispelled by paragraph C of Article II which provides that neither the United States shall sell nor India stock amounts of fuel in excess of such needs except that Parties *by mutual agreement*, may allow an additional quantity as is necessary to permit the efficient and continuous operation of the Station.

As indicated, because current NRC estimates indicate that India presently has sufficient fuel to fully power its two reactors through 1982, the proposed exports under consideration would appear to be in excess of current needs plus such additional quantity as by mutual agreement is necessary to permit the efficient and continuous operation of the Station.

Accordingly, congressional disapproval of the pending export may not constitute a material breach of the agreement and contract. Note that Article IX stipulates that neither the United States nor its agents "shall be subject to any liability resulting from the failure . . . to make available the material at the time or times requested."

Congressional action disapproving the pending export rather than being at odds and, therefore, in violation of the agreement, is arguably consistent therewith.

As noted, the Parties in Article XI of the 1966 contract made allowances for changed U.S. laws and policies in the matter of ownership and supply of enriched uranium. Pursuant to that Article, the Parties consulted and in 1971 India agreed "to comply with all applicable laws, regulations and ordinances of the United States. . . ."

The NNPA and its full scope requirement is such a law and by prior mutual consent of the Parties becomes a material element of the contract between them. India's refusal to submit to adopt full-scope safeguards and inspections for all nuclear facilities is not in conformance with its 1971 undertaking to comply with all applicable U.S. laws.

As a consequence, congressional rejection of the pending export may be regarded not as a violation of the agreement, but rather as an appropriate action proximately caused by India's refusal to live up to its undertaking to comply with applicable U.S. legal requirements. As such, India may be the Party in actual or potential breach of the agreement and in ordinary circumstances cannot walk away from the bargain previously struck.

Generally, the election to abandon a contractual obligation upon the occasion of a material breach is available only to injured Party. There is no obligation on the injured Party to make such an election and it may waive the breach and accept or insist on performance after such breach of the contract.

The U.S., accordingly, may continue to regard the existing agreement and contract as effective and seek to persuade India that it stands ready and willing to meet its obligation to supply India's fuel requirements when the latter indicates its willingness to stand by its contractual obligation to comply with U.S. legal requirements, including the NNPA's provision for the adoption of full scope safeguards and inspection of its nuclear facilities.

As regards the resolution of disputes, Article XII of the contract provides that all disputes concerning questions of fact arising thereunder shall be disposed of by mutual agreement of the Parties. In the event that such disputes are not resolved by mutual agreement, the Parties are committed to arbitration.

Article XIX of the contract stipulates the various ways by which it may be terminated. Generally, termination of the contract may be effected by mutual agreement of the Parties or by written notice served by one Party on the other. In the latter circumstances, notice of termination which is to become effective before the passage of five years, obligates one or the other Party to pay certain charges and costs.

The 1963 agreement for civil cooperation in civil uses of nuclear energy expires in 1993. Various provisions of the agreement, for example, the sale and stockpiling of additional enriched uranium (A, Art. II C) reprocessing of nuclear material (A, Art. II E), third party transfer of excess special nuclear material produced at the Station not desired by the U.S. (A, Art. II F), the terms conditions and amounts of materials (other than fuel for powering the two reactors) (A, Art. III), review of the design of the Station (A, Art. VI B 1), handling of surplus special nuclear material (A, Art. VI B 3), and the transfer of material, equipment or devices outside the jurisdiction of India (A, Art. VII A 2), specify either mutual agreement or subject to U.S. approval.

By virtue of Article VIII, failure of the Parties to reach mutually satisfactory agreement on trilateral safeguard arrangements constitutes grounds (after consideration of certain specified matters) for termination by either Party. Since the essence of such a safeguard arrangement touches closely on matters now required by NNPA in the revised contract, it may allow India the occasion to seek termination in accordance with Article VIII of the agreement.

Although the agreement is an international agreement which nominally could be brought to the International Court, the latter's exercise of jurisdiction seems problematical given U.S. and Indian conditional consent thereto. We have been unable to identify any other treaty or international agreements providing for resolution of the matter under consideration by the World body or any other organ or tribunal. Of course, the Parties, by mutual agreement, are free to submit any issue of interpretation of the agreement occasioned by congressional disapproval of the pending export for resolution by a suitable forum.

RAYMOND J. CELADA,
Senior Specialist In American Public Law.

U.S. SENATE,
Washington, D.C., May 28, 1980.

Hon. EDMUND S. MUSKIE,
Secretary, Department of State, Washington, D.C.

DEAR MR. SECRETARY: The Administration is being asked by the State Department to embark on a major change in U.S. nonproliferation policy in connection with the decision on sending fuel for the Tarapur power station in India and in connection with proposals for a relaxation of U.S. controls and conditions over reprocessing of U.S.-origin spent fuel and the subsequent use of plutonium.

I believe there are serious deficiencies in the arguments presented by the State Department as justification for these proposed actions. However, it is not the purpose of this letter to rebut these arguments. Rather, I wish to present some reasons why I believe it is in the interest of the United States to postpone any review or change in nonproliferation policy including any decision to overturn the NRC ruling on the Tarapur licenses until after the Presidential election.

First, it is important to ensure that policy decisions are made in a climate in which the best information is available, and that policy is not made through ad hoc decisions on specific cases. This is true not only with respect to the case of Tarapur, but also in the case of U.S. decisions on MB-10 requests for retransfer of U.S. origin spent fuel for reprocessing or for the return of plutonium to a foreign country for breeder R & D purposes. Any early decision in favor of the State Department position on these matters would be premature and, in my view, politically damaging to the President. Whether justified or not, he would be perceived as having abandoned the strong nonproliferation plank in the platform that he ran upon in 1976, as well as the policy that flowed from it after his inauguration. There has been ample editorial comment on this in major newspapers in New York, Washington, Los Angeles, Philadelphia, and other cities. It is my personal view that a Presidential override of the NRC decision on Tarapur would itself be overridden by both Houses of Congress at this time. I need not dwell on what this would do to the President's image not only in the eyes of the American people, but also in the eyes of our allies and adversaries abroad.

A decision to delay consideration of these problems, however, carries with it a number of benefits:

1. We will have more time to assess the geopolitical considerations regarding the South Asian subcontinent that ought to go into any decisions on nonproliferation policy affecting that part of the world. The delay would allow us to examine further the progress being made on the nuclear enrichment project in Pakistan, the Russian involvement in Afghanistan, the track record of Mrs. Ghandi with respect to Indian nuclear programs, the impact of the recent $1.6 billion arms deal that India signed with the Russians, and hopefully the resolution of the problem of the American hostages in Iran.

2. If it is the next Congress that deals with the Tarapur situation, the 60-day review period will end after the 3rd anniversary of the signing of the Nuclear Non-Proliferation Act. The latter has a provision calling for a GAO report to be issued prior to March 10, 1981 (the anniversary date), giving a comprehensive review of the operation of the Act and of U.S. policy. The GAO report is being prepared by more than 20 people and will cover every aspect of U.S. nonproliferation policy. It will provide a basis for review of our policy by the Congress, as well as by the President, and will give us the information base required in order to make any needed adjustments to the NNPA as well as to better judge the proposals by the State Department on post-INFCE policy and on Tarapur.

3. The Nonproliferation Treaty Review Conference will be taking place in Geneva this August. There will be a considerable amount of discussion regarding the nuclear supply policies of the industrialized countries and the obligations of nuclear weapons states under Article VI. I do not see that the U.S. will be making a positive contribution to the environment in which those discussions will take place if it arrives at Geneva with the President having made a decision to continue nuclear supply to a country that has steadfastly refused to undertake the obligations of every non-nuclear weapon state that is a party to the NPT.

4. The period of delay that I am proposing would not result in any disruption of supply of electricity from the Tarapur power station nor would it result in any disruption of the nuclear programs of our allies. We can continue to renegotiate our agreements for cooperation to bring them in line with the requirements of the NNPA and we can continue to try to convince the Indians that putting all their nuclear facilities under safeguards is in their best interest. I do not believe the Indians would have much of a legal case for claiming that the agreement for cooperation with the United States has been breeched by the NRC action on Tarapur, since the President will have made no decision to affirm that result. In the meantime, political passion on this issue may cool while our election process proceeds.

Should you desire, Mr. Secretary, I would be glad to discuss with you my views on the specific proposals made by the State Department in connection with post-INFCE planning. However, I wish simply to reiterate that setting such plans into concrete at this time would not seem to be in the best interests of the worldwide nonproliferation effort, the United States security, or the President's political fortunes.

Best regards.
Sincerely,

JOHN GLENN.

LIST OF EDITORIALS OPPOSING FUEL SHIPMENT TO INDIA

1. Philadelphia Bulletin Editorial, May 1980.
2. Worcester Gazette Editorial, May 10, 1980.
3. Cincinnati Post Editorial, May 12, 1980.
4. Pittsburgh Press Editorial, May 12, 1980.
5. Toledo Blade Editorial, May 13, 1980.
6. Northern Virginia Sun Editorial, May 15, 1980.
7. Hartford Courant Editorial, May 16, 1980.
8. Benton Harbor Herald-Palladium Editorial, May 16, 1980.
9. Norwalk Hour Editorial, May 17, 1980.
10. Terre Haute Star Editorial, May 19, 1980.
11. Boston Globe Editorial, May 20, 1980.
12. Shreveport Times Editorial, May 20, 1980.
13. Washington Post Editorial, May 20, 1980.
14. Wall Street Journal Editorial, May 21, 1980.
15. Philadelphia Inquirer Editorial, May 24, 1980.
16. Poughkeepsie Journal Editorial, May 24, 1980.
17. Philadelphia Bulletin Editorial, May 26, 1980.
18. Los Angeles Times Editorial, May 26, 1980.

19. Providence Journal Editorial, May 26, 1980.
20. New York News Editorial, May 29, 1980.
21. Norfolk Ledger-Star Editorial, May 30, 1980.
22. Palm Beach Post Editorial, May 31, 1980.
23. El Paso Herald-Post Editorial, June 4, 1980.
24. Florence News Editorial, June 7, 1980.
25. Waterbury Republican Editorial, June 8, 1980.
26. Sacramento Bee Editorial, June 12, 1980.
27. Hattiesburg American Editorial, June 13, 1980.
28. Toledo Blade Editorial, June 14, 1980.
29. San Jose News Editorial, June 20, 1980.
30. Richmond Times Dispatch Editorial, June 20, 1980.
31. Pine Bluff Commercial Editorial, June 20, 1980.
32. Wichita Eagle Editorial, June 20, 1980.
33. Los Angeles Times Editorial, June 20, 1980.
34. San Jose Mercury Editorial, June 20, 1980.
35. Tallahassee Democrat Editorial, June 21, 1980.
36. Martinsburg Journal Editorial, June 21, 1980.
37. Cleveland Plain Dealer Editorial, June 21, 1980.
38. Hutchinson News Editorial, June 22, 1980.
39. Haines City Herald Editorial, June 22, 1980.
40. Cocoa Today Editorial, June 22, 1980.
41. New York Times Editorial, June 22, 1980.
42. Washington Post Editorial, June 22, 1980.
43. Los Angeles Times Editorial, June 22, 1980.
44. Bethlehem Globe-Times Editorial, June 23, 1980.
45. Oklahoma City Oklahoman Editorial, June 23, 1980.
46. Little Rock Arkansas Gazette Editorial, June 23, 1980.
47. McKeesport News Editorial, June 24, 1980.
48. Philadelphia Bulletin Editorial, June 24, 1980.
49. Toledo Blade Editorial, June 24, 1980.
50. Youngstown Vindicator Editorial, June 25, 1980.
51. Asbury Park Press Editorial, June 25, 1980.
52. Fresno Bee Editorial, June 26, 1980.
53. Fullerton Daily News Tribune Editorial, June 26, 1980.
54. Roanoke Times & World-News Editorial, June 26, 1980.
55. Wichita Falls Times Editorial, June 27, 1980.
56. Milwaukee Sentinel Editorial, June 27, 1980.
57. San Antonio Light Editorial, June 27, 1980.
58. Lebanon Valley News Editorial, June 27, 1980.
59. Casper Star-Tribune Editorial, June 27, 1980.
60. Harrisburg Patriot Editorial, June 28, 1980.
61. Little Rock Arkansas Gazette Editorial, June 29, 1980.
62. Framington So. Middlesex News Editorial, June 30, 1980.
63. Austin American-Statesman Editorial, July 1, 1980.
64. Lynchburg Advance Editorial, July 2, 1980.
65. Palatka News Editorial, July 3, 1980.
66. Melbourne Age, May 1980.
67. Wall Street Journal Editorial, May 9, 1980.

EDITORIALS SUPPORTING FUEL SHIPMENT TO INDIA

1. Seattle Times Editorial, June 22, 1980.
2. Longview News Editorial, June 24, 1980.
3. Portland Oregonian Editorial, June 25, 1980.
4. Milwaukee Journal Editorial, July 5, 1980.

EDITORIALS TAKING NO POSITION ON FUEL SHIPMENT TO INDIA

1. San Francisco Chronicle Editorial, June 21, 1980.
2. Fayetteville Arkansas Times Editorial, June 22, 1980.
3. Scranton Tribune Editorial, June 25, 1980.

EDITORIAL DEALING WITH SOVIET SUPPLY TO TARAPUS

1. New York Times Editorial, July 20, 1980

Mr. RIBICOFF. Mr. President, I join with Senator GLENN in introducing this legislation.

The Nuclear Non-Proliferation Act of 1978 sets forth this Nation's policy and intentions to end the spread of nuclear weapons capability. The act sets forth criteria which recipient states must meet in order to receive U.S. material and technology. The act provided a 24-month "grace period" before requiring imposition of these criteria. The pending shipment of fuel to India falls after the expiration of this grace period.

This Nation and the world had a rude awakening when in 1974 India exploded a so-called peaceful nuclear device. This single event jolted the world into a picture of a world weighted with nuclear weapons and contributed to rising international tensions concerning the diversion of peaceful nuclear materials.

The nonproliferation situation for the world today is bleak. The prospects of other nations obtaining and using nuclear weapons is very real. Other supplier nations continue selling equipment, material, and technology to countries which have not renounced a nuclear explosives capability, which have refused to sign a nonproliferation pledge, and which have refused to accept full-scope safeguards on their nuclear facilities.

We must consider what other nations will do as they examine U.S. response to this first test of the Nuclear Non-Proliferation Act. If this shipment were made to India, do not other nations have the right to ask for exemptions to our policy? We must consider the message our decision would give to the world community.

India's past policies with respect to its nuclear activities have been contrary to the United States and world nonproliferation efforts. They have steadfastly refused to accept and apply full-scope safeguards. Indeed, they have broken off negotiations on the subject. India has not fully cooperated on safeguard inspections under international auspices. India has not signed the Non-Proliferation Treaty.

The United States has previously made two major concessions to the Indians as part of our efforts to gain their compliance with basic international safeguard norms. Neither of these concessions—not protesting Indian use of U.S.-supplied heavy water in the 1974 explosion, nor continuing of fuel shipments in March of 1979—resulted in any progress in discussions with the Indians. The State Department has provided no evidence that further waiver of fundamental nonproliferation standards would advance U.S. security interests.

Since the Indian 1974 nuclear test, U.S. efforts to gain worldwide adherence to full-scope safeguards and to avert the danger of a nuclear arms race have proceeded, with India usually being the test case. U.S. failure to comply with its own basic law on fuel shipments would critically weaken our carrot-and-stick approach to nonproliferation. Continuing fuel shipments to India opens the Pandora's box we thought we closed by passing the Nuclear Non-Proliferation Act.

Mr. DOLE. Mr. President, the Senator from Kansas feels that it is necessary and important to continue the friendship developed with the people and Government of India. India is one of the most populous countries in the world, and has a tradition of democratic institutions. As a leader of the nonaligned movement and the Third World, it is in our interests to maintain good relations with India. Yet the administration's stand on the export of additional nuclear fuel to India is not in the American interest, nor ultimately in India's.

This sale, should it occur, would be in direct contradiction to the stated foreign policy objectives of the United States over the past three administrations; namely, worldwide nonproliferation.

The decision whether to export additional fuel for use in the operation of the Tarapur nuclear powerplant is a true first test of the 1978 Nuclear Non-Proliferation Act. As many of my colleagues who participated will recall, that act was passed by an overwhelming 88-to-3 vote. In accordance with this act, all non-nuclear weapons states requesting a supply of nuclear fuel must accept international safeguards on their nuclear programs. If we continue to export this fuel to India, which has constantly rejected the nonproliferation treaty and safeguards, our policy of nonproliferation will become discredited. It will become difficult, if not impossible, to prevent nuclear proliferation, with all the risks that entails of nuclear warfare, to such developing countries as Argentina, Brazil, South Africa, Indonesia, Pakistan, and others.

The administration has been forced recently into the realization that our relations with Pakistan must be strengthened, that its strategic position is even more important now than before. That American opposition to Pakistan's nuclear capable program has been a major thorn in our mutual relations. Our nonproliferation act codifies that principle and policy the United States espouses. It is one of the few means available to discourage the pursuit of nuclear capabilities by threshold nations.

THE PRICE IS TOO HIGH

I do not see how the administration can accept a policy which, reduced to its essentials, is an attempt to buy the loyalty of India. If it can be bought, India's price is too high. The principle of nonproliferation is too dear a price, and too essential to our long-term national security, to be the questionably effective quid pro quo for India's friendship. Just recently India signed a $1.6 billion arms agreement with the Soviet Union. If we allow the export of U.S. uranium we cannot realistically expect that it will result in any significant change in India's foreign policy. It is clear after the Soviet invasion of Afghanistan which the Indians have greater reason to fear and yet, of all the Third World, protested the least, that India will make its security decisions on the basis of much larger geopolitical concerns.

The Senator from Kansas agrees that it is best to do what we can to improve relations with India. For instance, the United States just recently indicated its willingness to sell 3,700 TOW antitank missiles to India. This is more appropriate, and a much less harmful method of continuing our good relations with the Indians. However, how can the United States in good faith continue to supply the nuclear program of India when the Indian Government has violated its "peaceful use" assurances made to the United States under the agreement for nuclear cooperation in 1963? Its use of U.S.-supplied heavy water during their "peaceful nuclear explosion" in May of 1974 is a direct breach of our agreement.

How can the United States continue to export fuel to a nation which has not foreclosed future peaceful explosion and constantly threatens to again breach the 1963 agreement by extracting nuclear explosive material? Such use of U.S.-supplied fuel for the production of plutonium is a major threat to world stability.

It is the administration's view that to avoid the "possible" harm to our nonproliferation efforts a breach should not be made in our agreement to supply fuel to India. What kind of reasoning is this? If any breach has been made, it has not been by this country. In the sometimes complex and contradictory milieu of statecraft, where policies and motives are occasionally obscure and working at cross-purposes, the proper course is sometimes hard to see. I too continue to support strong and peaceful relations with India.

COMPROMISE POSSIBLE

The administration, however, has not exhausted all avenues of possible compromise that might lead to a diplomatic solution acceptable to both sides. Stanford Prof. Henry Rowen, an expert in nonproliferation issues, has pointed out that despite the added costs, the United States could make the return of spent fuel a condition for the future shipment of uranium. This is the usual practice for the Soviet Union when it acts as a supplier to third countries. Evidently India wants all or nothing, and has indicated no interest in this effort to budge the differences between our two countries.

The prospects for friendlier relations between India and the United States are therefore not very bright. To cave in to a nation that has consistently opposed U.S. foreign policy goals without achieving a commitment on nonproliferation cannot be construed to be even remotely in the interests of the United States. The Congress must be concerned about long-term effects of foreign policy decisions. We have learned that decisions made today about our future national security will have ramifications far beyond the next election. The Carter administration has overruled the unanimous decision of the Nuclear Regulatory Commission that the shipment would violate the Nonproliferation Act. It is up to the Senate to veto the President's decision and uphold the law, and to further the cause of nonproliferation.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs will hold a joint hearing with the Water Resources Subcommittee of the Committee on Environment and Public Works. This hearing will be held on July 29, 1980, at 10 a.m. in room 4200 of the Dirksen Building, and will concern oversight on the environmental effects of the Harry S. Truman Dam in Missouri.

Anyone having questions concerning this hearing may contact the Federal Spending Practices Subcommittee at 224-1480 or the Water Resources Subcommittee at 224-7854.●

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

● Mr. MELCHER. Mr. President, I wish to announce that the Agriculture Subcommittee on Environment, Soil Conservation, and Forestry has scheduled a hearing on S. 1942, which provides for a resource conservation and development program within the U.S. Department of Agriculture.

The hearing will be held on July 29 beginning at 9:30 a.m. in room 457 Russell. The subcommittee will hear from invited witnesses only, but statements submitted for the record are welcome.

Anyone wishing further information should contact Jim Giltmier of the Agriculture Committee staff at 224-6901.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of an open business meeting before the Select Committee on Indian Affairs.

An open business meeting is scheduled for July 31, 1980, beginning at 3 p.m., in room 5110 of the Dirksen Senate Office Building. The following is to be considered for markup: S. 2126, a bill relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation; and, the nomination of Thomas W. Fredericks to be an Assistant Secretary of Indian Affairs for the Department of the Interior.

For further information regarding the business meeting, you may wish to contact Max Richtman of the committee staff on 224-2251.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that the Subcommittee on Taxation and Debt Management of the Committee on Finance will hold a hearing on Monday, August 4, 1980, on S. 2967 introduced by Senators NELSON, BYRD (of Virginia), WALLOP, and EAGLETON, and miscellaneous tax bills.

The hearing will begin at 9 a.m. in room 2221, of the Dirksen Senate Office Building.

S. 2967 is the result of suggestions which the Subcommittee on Taxation and Debt Management received in previous hearings on proposals to revise the gift and estate tax laws. The principal features of S. 2967 are: an increase in the gift and estate exclusion, revision of the special use valuation rules and deferred payment rules.

Following the consideration of S. 2967 the following miscellaneous measures of general application unless otherwise specified, will be considered. Revenue estimates will be furnished at the hearing:

S. 2775.—Introduced by Senator BENTSEN. Under specified conditions, would exempt foreign pension plans from the tax provisions of the Employees Retirement Income Security Act of 1974 (ERISA).

S. 2805.—Introduced by Senator NELSON. Would provide that revenue ruling 80-60 cannot require a change in the taxpayer's method of accounting for taxable years beginning before 1980. Revenue ruling 80-60 implemented the Supreme Court case of Thor Power Tool Co. against Commissioner.

S. 2818.—Introduced by Senator TALMADGE. Would provide that pole rental and display listing income will not be treated as unrelated business taxable income to tax exempt mutual or cooperative telephone companies.

S. 2904.—Introduced by Senator TALMADGE. Would adjust the excise rate tax on highway tires from 10 cents per pound to 9.75 cents per pound and make other changes relating to the excise tax on rubber tires.

H.R. 7171.—Sections one, four, and five only. Section one would provide that Federal grants for college tuition are not includable in gross income merely because the recipient must render future service as a Federal employee. Section four would provide rules for the treatment of railroad stock in consolidated returns. The principal beneficiary of this section is the Norfolk and Western Railway Co. Section five would provide rules relating to the treatment of net operating losses in railroad reorganizations. The principal beneficiary of this section is the Erie Lackawanna Railway Co.

Witnesses who desire to testify at the hearing must submit a written request, including a mailing address and phone number, to Michael Stern, Staff Director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on July 30, 1980.

CONSOLIDATED TESTIMONY

The committee urges all witnesses who have a common position or the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the committee. This procedure will enable the committee to receive a wider expression of views than it might otherwise obtain. The chairman urges very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

WRITTEN STATEMENTS

Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five copies to Michael Stern, Staff Director, Committee on Finance, room 2227, Dirksen Office Building, Washington, D.C. 20510 not later than August 29, 1980.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a markup session on the nuclear waste legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on Monday, July 28, to hold hearings on international trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING AND SUBCOMMITTEE ON AGING

Mr. FORD. Mr. President, I ask unanimous consent that the Special Committee on Aging and the Aging Subcommittee of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate today to hold a joint hearing on energy assistance for the elderly.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SUPERFUND BILL—S. 1480

● Mr. STAFFORD. Mr. President, during much of the 2 years that the Committee on Environment and Public Works developed S. 1480, the so-called superfund bill, we were presented squarely with a glaring incongruity.

On the one hand, industry groups were adamant that there was no serious toxics problem in the United States. The existing laws and programs, we were told were adequate to deal with the relatively minor and isolated incidents which were the rule.

On the other hand, even though there was no reporting or data collection system for chemical poison incidents, what we knew anecdotally indicated clearly that there was a very grave national problem.

For example, we knew that 90 percent of the residents of Michigan carried body burdens of PBB, a chemical fire retardant. We knew that the James River had suffered massive contamination from Kepone; that the Hudson River and several others were contaminated by PCB's; that dozens of smaller rivers, streams and lakes were contaminated by poisons. Despite this, critics of the legislation insisted that the problem in the United States was being overstated and exaggerated.

To resolve this conflict, Senator Muskie and I asked the Library of Congress to catalog resources which had been damaged or destroyed by toxic poisons and report back to the Subcommittee on Environmental Pollution. That report, provided to us this spring, arrived at the following findings:

First, the loss of natural resources in the United States due to chemical poisons is "substantial and enduring."

Second, public awareness of the true extent of these losses has been lessened because press attention to selected disasters such as Love Canal has overshadowed the graver, but less spectacular, problems.

Third, although most losses discovered to date were caused by metal and pesticides, the large number of new organic chemicals present a "significant" potential for natural resource loss or degradation.

Fourth. the contamination of ground water in the United States (which supplies 96 percent of the drinking water for the country's rural areas and 40 percent of the irrigation water) is extensive.

Fifth, no region of the country was found to be free of at least a single serious incident of long-term economic damage attributable to airborne toxics.

The catalog painted an unexpectedly grim picture of the staggering losses to our Nation and to our economy from toxic poisons. whether the medium involved was the air, surface waters, or ground waters. The sources of these toxins included industrial accidents, intentional releases through smokestacks and discharge pipes, and seeps from abandoned dumps.

Former Senator Muskie and I had originally hoped to provide a copy of this report to each Member of the Senate as floor consideration of S. 1480 approach. Unfortunately, the demand for this extraordinary document exceeded supply and committee stocks were quickly exhausted. Although we had requested an additional printing, it will probably not be completed until after S. 1480 comes to the floor.

For this reason, Mr. President, I ask that the summary portions of the Library's report be printed in the Record. Although these summaries will fall short of providing Members with the valuable detail contained in the report, they will, I believe, give you an idea of the massive scope of this problem in the United States.

The report follows:

SUMMARY

This report catalogs toxic pollution incidents which have damaged natural resources in the United States. Although some of the incidents listed involve human health effects, the focus of the report is on identifiable natural resource losses resulting from surface water, groundwater, and airborne toxic pollution. The catalog contains 219 entries, some involving multiple incidents.

The collection—probably the most comprehensive now available, but still not complete—indicates that damage to natural resources in the United States by toxic chemicals is substantial and enduring. Historic and invaluable waterways—the Hudson, the Shenandoah, the Delaware, the Susquehanna, and the James Rivers, to name but five—are injured. The Great Lakes are contaminated by a variety of toxic and hazardous substances which have dealt a severe blow to the commercial and sportfishing industries there. Groundwaters on which millions depend for drinking water are contaminated. The aquifer underlying the San Joaquin Valley, one of the world's richest agricultural areas, is contaminated by a pesticide whose uses have been cancelled. Airborne chemicals have reduced agricultural productivity in some states, and eliminated fish in 90 percent of the alpine lakes of the Adirondacks.

Briefly, the collection identified the following:

Surface Waters:

Fishing in several major rivers and streams throughout the United States has been prohibited or restricted because of contamination by chemicals. For example:

Twenty-two incidents of identifiable cases involving 24 states in which fish, birds, or other wildlife were killed;

Twenty incidents involving 15 states in which fishing restrictions of various types were imposed;

The major rivers affected have included the James, Hudson, Shenandoah, Susquehanna, Delaware, Housatonic, Coosa, Shiawassee, Mobile, Tombigbee, and Holston, among others.

The most valuable and irreplaceable surface water now known to be contaminated by toxic chemicals is the Great Lakes system. The Great Lakes contain 20 percent of the world's surface and 95 percent of surface fresh waters of the United States. The collection identifies the following problems in the Great Lakes:

PCBs have been found in all the Great Lakes, but especially Lake Michigan. Commercial fishing of salmon, lake trout, and carp has been severely curtailed. The impacts vary from area to area, but it is estimated that overall commercial fishing has been limited by 50 percent. In addition, PCB-contaminated fish from the Great Lakes have caused severe reproductive disorders in commercially raised mink.

Other toxic substances found in one or more of the Great Lakes include the pesticides mirex and DDT, mercury, polychlorinated dibenzofurans (PCDFs), and asbestos.

Natural resource impacts of these chemicals are difficult to identify with certainty. However, it is known that some chlorinated hydrocarbons interfere with the physiological processes of some birds, leading to eggshell thinning and reduced reproductive success. Asbestos, which when inhaled by humans may cause cancer, is found in western Lake Superior, a source of drinking water.

Saltwater resources have also been directly or indirectly affected by chemical contamination. Many harbor bottoms have been contaminated by heavy metals and other toxic substances. In addition, several ocean areas known to be contaminated are closed to commercial fishing. Accurate estimates of total resource losses are impossible to calculate since no agency maintains a list of fishing restrictions, but one example is the closure of an area around an ocean dumping site off the Delaware-Maryland coast, where the annual loss is estimated at $360,000 in 1977 dollars.

Groundwaters:

Because groundwater contamination is so concealed and so persistent, it poses special problems. The most serious consequence of this damage to a natural resource is the contamination of wells. The collection identified 128 incidents in which an estimated 1,363 wells were closed. These incidents, broken down by contaminant, were as follows:

Contaminant	Incidents [1]	Well closings [2]
Organics	33	242
Insecticide	7	201
Chloride	13	26
Nitrate	4	23
Metals	18	619
Other inorganics	5	3
Industrial waste disposal	22	185
Landfill leachate	33	64
Total	135	1,363

[1] The total number of groundwater pollution described was 128, but the total for the incidents blocked by contaminant category is 135 because some incidents were included in more than one contaminant category.

[2] An estimated number of well closings was used in some incidents where the documentation did not provide specific numbers.

The total number of persons affected by these closures is difficult to estimate. However, since two of the above incidents each involved drinking water supplies for several hundred thousand persons, the number of persons affected is substantial.

In some instances, where alternative supplies are unavailable or too costly, contaminated water supplies continue to be used.

Fifty percent of the drinking water in the United States comes from groundwater.

Other significant aspects of the collection regarding groundwater include the following:

Some of the more serious problems were reported in California.

A well field in the San Gabriel Valley supplying drinking water to 400,000 persons was closed because of contamination by TCE, a solvent.

In the San Joaquin Valley, samples found one-third of the wells contained small amounts of DBCP, a pesticide whose use is now banned.

The chemical most commonly found in groundwater contamination incidents discovered so far is trichloroethylene (TCE). Often the source of the TCE contamination is unknown. Of the 242 well closings to date attributable to contamination by organic toxic substances, TCE accounts for 170.

Airborne Toxic Substances:

The natural resource damages caused by airborne toxic substances are less easy to identify and characterize than those in surface and groundwaters. This is partially because their transport, especially over long distances, is difficult to trace. It is also because their effects tend to result from long-term, sub-acute exposures. Nevertheless, the collection identified the following:

In some areas of California, 18 different crops can no longer be profitably grown because of airborne chemical pollution.

Ninety percent of the Adirondack Lakes above 2,000 feet elevation are barren because of acid rain contamination.

Fluoride emissions from aluminum smelters have resulted in damage or death of vegetation, sometimes up to 20 miles away.

RESOURCE LOSSES FROM SURFACE WATER, GROUNDWATER, AND ATMOSPHERIC CONTAMINATION: A CATALOG

PREFACE

The role of the Federal Government in compensating victims of pollution developed into a major legislative issue in the 95th Congress. The stimulus for this development was a series of well-publicized pollution disasters—most notably the polybrominated biphenyl (PBB) incident in Michigan, the kepone incident in Virginia, and the Love Canal incident in Niagara Falls, N.Y. Now, debates over legslative proposals have focused attention on the scope and nature of the problem. Are the notorious incidents so frequently cited as justifying comprehensive Federal legislation anomalous or do they represent a large class of pollution incidents involving serious, continuing damages?

This study is an effort to provide information on that question. We surveyed three kinds of pollution incidents—surface water contamination, groundwater contamination, and airborne contamination—to catalog what kinds of damages to natural resources have occurred.

Selection process

In choosing incidents to catalog, we used the following criteria: (1) A toxic pollutant was involved—that is, generally, we excluded incidents of "conventional" pollution. For example, we did not include incidents attributable to discharges of sewage; we did not include most emissions of "criteria" air pollutants, unless the damages were particularly severe or continuing, comparable to a toxic emission. We also included acid rain, which is the result of the transformation of criteria air pollutants. (2) Specific damages were attributed to toxic pollution, although in many cases the cause-and-effect relationship was presumed, not proved. Because of this criterion, we excluded instances where contamination has led to residues or body burdens of chemicals, but no specific adverse effects can be shown. Also, epidemiological studies of mothers' milk and of body tissues consistently show that a substantial proportion of samples contain residues of toxics, but the implications of those residues are not known: such information is not included. (3) Some sort of documentation was available, if only a newspaper account.

In addition, several types of incidents have been excluded, some because they are described elsewhere, some simply as a way of focusing the present study.

(1) We excluded food and feed contamination incidents in which the contaminations resulted from packaging, processing, additives, pesticide spraying, etc. Environmental contamination of food and feed is included however: that is, incidents in which pollutants in the ambient environment contaminated natural resources subsequently harvested for food or feed—for example, fish condemned because of mercury contamination of waters. A survey of food contamination was recently published: Office of Technology Assessment, *Environment Contaminants in Food* (Washington, D.C.: U.S. Govt. Print. Off., 1979), 279 p.

(2) Transportation incidents, such as train derailments, are also excluded. See, however, the EPA report, Joseph L. Buckley and Stephen A. Wiener, *Hazardous Material Spills: A Documentation and Analysis of Historical Data* (Cincinnati: Industrial Environmental Research Laboratory, Office of Research and Development, U.S. Environmental Protection Agency, 1978), 223 p.; and U.S. Congress, House, Committee on Government Operations, Government Activities and Transportation Subcommittee, *Hazardous Materials Reporting*. Hearing, 95th Cong., 2d sess. April 25, 1978 (Washington, D.C.: U.S. Govt. Print. Off., 1978), 401 p.

(3) Incidents involving radiation are excluded—for example, the Three Mile Island incident, a highly publicized event. For radiation incidents involving facilities or activities regulated by the U.S. Nuclear Regulatory Commission, see its quarterly, *Report to Congress on Abnormal Occurrence* (Available from National Technical Information Service, Springfield, Virginia).

(4) Oil spills are excluded. For information on spills involving oil that are reported under section 311 of the Federal Water Pollution Control Act, see U.S. Coast Guard, Department of Transportation, *Polluting Incidents in and around U.S. Waters* (Washington, D.C.: U.S. Govt. Print. Off., published annually). For international data, see *Worldwide Tanker Losses and Oil Spills—Full Years*, a quarterly newsletter of the Tanker Advisory Center, Inc. (New York, N.Y.).

These exclusions plus the application of the selection criteria give the catalog a clearer focus. However, the complexity and diverse ramifications of many events made selecting and categorizing some events difficult. For example, we excluded the PBB incident because the primary damages—to farm animals—resulted from feed contamination in processing, and because the secondary consequences—residues in Michigan residents—have had no quantifiable adverse effects. However, on some farms residues continue to contaminate soils; and in a number of cases contamination may preclude some forms of farming for years, for example dairying.

Information sources

In assembling this catalog, the biggest difficulty has been the lack of usable data. One can find references to innumerable pollution incidents; but it is rare indeed to find coherent, consistent information on sets of incidents—the background, the pollutant and its sources, the damages and associated economic costs, and the outcome.[1] Of course, for many incidents, gaps in information are to be expected—for example, the source of the pollution may not be known. But the chief problem, we found, is that no one authority has assumed the responsibility for collecting what information is available and organizing it in a consistent way.

In preparing the catalog, we reviewed various clipping files, searched the literature, skimmed numerous congressional hearings and reports, and sought the assistance of several Federal agencies. The agencies provided considerable help—for example, the Environmental Protection Agency supplied us with several surveys, including a draft report *Damages and Threats Caused by Hazardous Material Sites* (1980). But the incompleteness of the information and its inconsistent quality affirmed the inadequacies of the present data base and the shortcomings of current data collection processes by Federal agencies responsible for protecting natural resources (and presumably supporting the Administration's proposed "superfund" legislation).

First, information of this type is collected for different purposes and with different emphasis, and may be barely usable for other purposes. For example, an agency, in carrying out its mission, may compile anecdotal information in terms of enforcement actions taken in response to a particular problem, while not obtaining information on natural resource losses, which are the focus of this report. Furthermore, where data collection does occur, it tends to be focused on a single environmental medium, air or water, for example. Yet toxic contamination often crosses such traditional boundaries. From the available information sources, it is difficult to focus on intermedia problems, such as acid rain, which originates in the air and affects water, land, vegetation, and materials.

Second, without an explicit statutory mandate for reports, most agencies do not systematically collect either general or detailed information on toxic or hazardous substance incidents affecting the environment. Historical data are particularly lacking. What is available in many cases is random and incomplete information obtained from diverse sources, ranging from newspaper accounts to regional office surveys of local governments. Some provisions of recent pollution control legislation now authorize establishment of an approved data base: For example, the Resource Conservation and Recovery Act of 1976 (sec. 8003(a)(6)) requires the EPA to "develop, collect, evaluate, and coordinate information on . . . hazardous solid wastes, including incidents of damage resulting from the disposal of hazardous solid wastes." However this requirement illustrates the piecemeal nature of efforts to develop a data base—it is focused on only one type of pollution—and there seems little reason to hope that any hazardous solid waste data will be assembled and presented within a larger, coherent data set.

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[1] For additional discussion and analyses of selected incidents. see Congressional Research Service, Library of Congress, *Compensation for Victims of Water Pollution*, Committee Print prepared for the Committee on Public Works, U.S. House of Representatives (96th Cong., 1st sess.) Serial 96-4. (Washington, D.C.: U.S. Govt. Print. Off., 1979), 372 p.

In short, the processes by which Federal agencies collect information on resource losses attributable to pollution tend to be ad hoc and nonsystematic. Consequently, although the Federal agencies may have an organizational structure which reaches out to the incidents themselves, the data assembled by Federal agencies on such losses attributable to pollution tend to be as hit-and-miss and anecdotal as the data collected by outsiders.

Use of the catalog

Calling this report a catalog is intentional. It is based on a survey of accessible sources and consists of brief descriptions of pollution episodes meeting the selection criteria. The resulting entries vary widely in format, content, documentation, consistency, and coherence; and, thus, vary greatly in usefulness.

The nature of the survey and the quality of the information call for two important caveats, one concerning the individual episodes, one concerning the feasibility of generalizing about the complete set.

First, the descriptions of the episodes identify the incidents and give some notion of their scope. These descriptions should not be taken as complete, accurate, up-to-date assessments. In most cases the available data were insufficient to attempt full descriptions. Often the available information concerned early stages of investigation, but we did not try to update the information on such episodes. We believe that every incident listed in this catalog represents a case of real resource loss, but we have not tried to go beyond the sources in assessing those losses.

Second, the nature of the data bases from which we compiled this catalog makes any generalizations about the incidents of uncertain validity. This was not a survey in the sense that it is the product of systematic procedures designed to collect statistically representative data. The sources are too inconsistent for this catalog to be analyzed as a complete national sample. For example, regional variations in the sources reviewed make analyses of the geographical distribution of incidents highly doubtful. A major source for the groundwater section was a report, *Ground-water Contamination: Problems and Remedial Actions*, prepared through the Illinois State Geological Survey; while this report covers episodes across the Nation, not surprisingly it lists a high proportion in Illinois and the Midwest, which would probably skew the results of analysis. The lack of a nationally consistent reporting mechanism means that generalizations about geographical distributions must be suspect. Even EPA's reports cannot be taken as representative of the national picture, because most of the data in its reports come from regional offices (with different reporting processes) which depend largely on State reports, varying greatly in quality and thoroughness.

Similarly, it is probably not appropriate to compare numbers of incidents across media. That the number of entries is greatest in the ground-water contamination section of the catalog may mean this resource is most often damaged, but it may only reflect a current focus on this problem, the tangible nature of the damage (contaminated wells), and in some cases a better reporting process for well-water quality (which is subject to regulation in some States).

A table of contents by State will be found at the beginning of this report, and an abstract of natural resources losses is included in each of the three main sections, but these should be taken as guides only, not as representations of actual patterns.

CONCLUSIONS

Overall, despite the shortcomings of the data, the catalog sheds some light on natural resource losses due to toxic pollution. It is clear that Love Canal is not an isolated incident, although the damages there may be unusually serious. It is clear that many localized incidents in which natural resources are damaged have occurred, but that the news media have focused on the most spectacular individual incidents and not on the frequency of incidents. Finally, it is clear that groundwater contamination is extensive.

What remains unclear is the scope of the problem in terms of the natural resource losses. Few data exist on the extent of damages to persons victimized by those losses and on their success in obtaining redress.

Thus the preparation of this catalog has led us to two general conclusions: (1) numerous pollution incidents have resulted in natural resource losses, and many of these loses are substantial and enduring. The focus on selected disasters such as Love Canal, PBBs, and kepone (at least at the national level) may be obscuring the true extent of the problem for two basic reasons. First, their notoriety tends to overshadow comparably serious but less dramatic losses—for example, the inability to develop major fisheries on the Great Lakes and the Hudson River because of pollution by PCB, mercury and mirex. Second, their notoriety detracts from the multitude of individually less disruptive incidents which in total may represent even greater damages—such as the numerous trichloroethylene (TCE) incidents across the country which have closed wells supplying drinking water to thousands of people.

(2) while the information produced by current monitoring programs is adequate to verify the existence of the twin problem of natural resources damages and of losses suffered by victims, this information is totally inadequate to delimit the full scope of these problems.

RESOURCE LOSSES FROM SURFACE WATER CONTAMINATION

This section of the report discusses toxic contamination incidents affecting the Nation's surface water, lakes and streams. Surface releases come from a variety of sources, including accidental spills, intentional and illegal discharges, legally permitted discharges which may have unforeseen polluting effects, and in-place toxic releases. Not included in this listing of incidents are examples of surface water pollution resulting from nonpoint sources, such as urban and rural runoff or continuing acid and alkaline mine drainage; transportation accidents and derailments; or sewer effluent (unless contaminated by toxic substances).

The materials involved include pesticides, acid residues, mining wastes, hydrocarbon products and wastes, solvents, heavy metals, and numerous other organic and inorganic chemicals used extensively in society. Many of these chemicals are known to be persistent or acutely toxic in small amounts, unlike conventional pollutants which the aquatic system may be naturally capable of degrading or de-toxifying.

The examples and cases presented here are illustrative of the types of incidents which have occurred throughout the United States. They should be viewed as representative, rather than as an exhaustive or systematic list of all such incidents. The reference sources utilized include scientific reports, journal articles, press accounts, congressional documents, and some information from Federal agencies (the Environmental Protection Agency, Department of Interior, Food and Drug Administration, and National Oceanic and Atmospheric Administration).

This section of the report is organized in three parts.

Part I presents incidents affecting wildlife resources. The first class of wildlife-related incidents concerns acute lethal effects, that is, those in which toxic concentrations were high enough to cause death of fish, birds or other animals.

The best published data available in this area relate to fish kills. A comprehensive report in that category was prepared by the Environmental Protection Agency in 1978. It both details and summarizes a total of 8,967 incidents from 1961 to 1975 in which 465.4 million fish died. Pesticides and poisons were implicated in 1,572 cases; organic chemicals in 458 cases; inorganic chemicals in 724 cases; and mixed chemicals in 206 cases. Pesticides were second among all specific causes, with 18 percent of all reported incidents (after low dissolved oxygen, with 21 percent). Among the identified sources, only food products and sewage killed more fish than insecticides. (Reference: Environmental Protection Agency. Fish kills caused by pollution, fifteen year summary, 1961–1975. Washington, 1978. 78 p.)

A second class of incidents involves levels of contamination in fish and wildlife that would be harmful to humans, if the fish or animal in contact with the water source were ingested by man. Pollutant concentrations in excess of the "action levels," or maximum contaminant levels established by the Food and Drug Administration for a number of chemicals, can trigger restriction of the use of the resource, such as prohibiting sport and commercial fishing for particular species until pollution concentrations decline.

The third type of incident in Part I is examples of chronic effects in wildlife, such as reproductive changes in a species associated with longterm low-level toxic contamination. Chemical build-up can interfere with metabolic and other physical processes necessary for continuation of the species. Chronic low-level contamination, even if it does not alter the species, increases the likelihood that the pollutant substance will move up the food chain to man, through accumulation and biomagnification.

For each of these three types of incidents, there are ripple effects from the contamination. Restrictions on the use of a fishing area affects commercial and sport fishermen and other recreation users. Prohibitions also adversely affect secondary industries which serve them, such as bait and tackle shops, food processors, and various aquatic and tourist-related businesses. Many of the incidents described in Part I undoubtedly have had such rippling effects, even where they are identified explicitly.

Part II presents incidents of chemical contamination of surface waters that are essential to municipal and other users' public water supplies. Pollution of an aquatic resource used for such purposes involves threats to human health, as well as costs that must be incurred to remove the contaminant or treat the water.

Part III presents other incidents of chemical contamination of surface waters. Pollution of the water itself, of course, involves harm to a natural resource, in addition to contamination of fish and wildlife or human effects, which may or may not have been identified.

These cases and examples suggest three conclusions regarding toxic contamination of surface waters:

(1) Some contaminants are widespread in the waters of the United States. The pesticide DDT and the organic compound polychlorinated biphenyls (PCBs) are two such substances.

(2) Some areas of the Nation have been adversely affected by a large number of toxic chemicals, and restrictions on use of those waters often are extensive, continuing over a lengthy period of time. The Environmental Protection Agency reported in its most recent National Water Quality Inventory that 44 percent of the hydrological drainage basins across the country were affected by toxics from point sources. The most widespread impacts were in the heavily industrialized Northeast, North Central, and Great Lakes regions, where 62 percent of the basins were affected. (Reference: Environmental Protection Agency. National water quality inventory, 1977 report to Congress. Office of Water Planning and Standards, EPA-440/4-78-001. Washington, October 1978. 176 p.)

(3) The incidents in this section are predominantly examples of pesticides and metals contamination, plus the persistent organic PCBs. However, increasingly available today are new organic compounds, for which there are little environmental data and monitoring has only recently begun. The potential for natural resources loss and degradation in the future from a larger and larger pool of these toxic chemicals is significant.

ABSTRACT OF DAMAGES

Part I:

Fish, bird, and other wildlife kills. Twenty-two incidents or identifiable cases are cited, in which 24 States and two waterways in more than one State are discussed. The time period of these examples ranges from 1955 to 1979.

More than 12.5 million fish and 550 birds are documented as having been killed; unknown numbers of these and other wildlife were not recorded at the time of some of the incidents.

Pesticides were primarily responsible, according to the reports.

Fish contamination (non-lethal). Twenty incidents, involving several lakes and rivers in 15 States are cited. The time period ranges from the mid-1960's to the present.

Fishing closures of various types (health advisories; catch-and-release restrictions; restrictions affecting sport and/or commercial fishermen) were specifically noted in 15 of the examples cited.

From the reference sources it is not possible to say how many of these closures are still in effect. It also is not possible to estimate how many persons were affected by such closures.

Polychlorinated biphenls (PCBs) were implicated in 8 incidents, metals in 7 incidents, and pesticides in 5 incidents.

Part II:

Drinking water from surface sources. Three incidents in three States are reported, as well as three other incidents affecting waters that flow in more than one State. The time period of these examples ranges from 1973 to the present.

Various chemicals and compounds were believed to be responsible.

Part III.

Other surface water contamination. Ten incidents from seven different States are reported, involving a time period from 1964 to the present.

Chemicals were implicated in 7 incidents, mercury in 1 incident, and pesticides in 2 incidents.

Specific damages from these incidents generally are unknown, but toxicity of the chemicals raises concern, nevertheless.

RESOURCE LOSSES FROM GROUND WATER CONTAMINATION

This section catalogs 128 case histories of toxic pollution of ground water. Important factors in the selection of these case histories included data availability, the intentional exclusion of certain categories of ground water pollution, and time and resource constraints. The ground water affected in these incidents was sometimes an extensive portion of an acquifer, and at other times only a few wells located in a small portion of an aquifer. Data sources for the case histories included a State Geological Survey report, the Environmental Protection Agency, ground water newsletters and journals, newspaper clippings, and proceedings from symposia on ground water.

Data availability imposed a real constraint on the collection of more case histories. Where the data source did not reveal whether the ground water pollution was actual of potential, the incident was not used. If the information contained in the data source was too sketchy, the incident was not used. Case histories that were included were either found in more than one data source or were found in one data source but were well documented.

The intentional exclusion of certain categories of ground water pollution also limited the number of case histories. The excluded categories were radioactive pollution, pollution, induced by oil spills, and sewage contamination. While oil spills incidents were excluded, incidents involving pollution from petroleum product manufacturing processes were included. Cases of sewage pollution where toxic pollution was specifically mentioned were included. If not specifically mentioned, however, it was assumed that the sewage pollution incident consisted of conventional pollutants controlled by Federal secondary treatment requirements.

Each case study includes a breakdown of the incident by location, contaminant, source of contaminant, and background. In some cases, this breakdown was further refined by extracting from the background section information on the effect on the environment, geologic setting, and remedial action and effectiveness. One factor which was often difficult to find for the pollution incidents was cost information. Although cost information was provided for some of the incidents, most was very scanty, did not itemize specific expenditures, was outdated, or represented very rough estimates or wide ranges.

A review of this representative sampling of ground water pollution incidents shows the diversity of the contaminants as well as the widespread geographic distribution of the incidents. The contamination comes from surface impoundments, landfills, agricultural activities, leaks and spills, land disposal of wastewaters, and other sources. Among the contaminants are hydrocarbons, chlorides, heavy metals, and nitrates.

A difficulty in the control of ground water pollution is the delay between the time of the pollution incident and the time of detection of the pollution. Unlike pollution of the air or surface waters, ground water pollution travels slowly. Therefore ground water pollution which occurred decades ago may now be appearing in parts of aquifers used for water supply. Similarly, ground water pollution occurring today may not appear for decades.

Occurring simultaneously with the appearance of past pollution is the increasing use of the ground water resource. Over the past 25 years, the rate of ground water withdrawals has increased 4% annually. Presently ground water supplies 25% of the Nation's fresh water. For domestic supply, ground water supplies 20% of urban needs and 96% of rural needs. 36% of municipal and industrial water supply comes from ground water sources. About 40% of agricultural irrigation water comes from ground water supplies.

Unless present toxic pollutant disposal practices are improved, toxic contamination of ground water could pose problems for the continuation of present use patterns. Two approaches are available for controlling toxic pollution of ground water: control at the source, or treatment of the contaminated water before use. The latter approach is by far the more expensive. Control at the source, while the less expensive approach, requires foresight and realization of delay between pollution occurrence and detection.

Abstract of images

The prinicpal damages resulting from ground water pollution incidents are aquifer contamination and well closings. In the 128 incidents described, approximately 1,363 wells were closed. Two of these incidents affected the drinking water supplies of 500,000 people. It should be recognized, however, that more than this number of well closings may occur in the future, or conversely, some of these closed wells may be re-opened after remedial measures are taken. Of these well closings, 242 were from organics contamination, 201 from insecticide, 26 from chloride, 23 from nitrate, 619 from metals, 3 from other organics, 185 from industrial waste disposal where the contaminant was unknown, and 64 from landfill leachate where the contaminant was unknown. Of the organics-induced well closings, at least 170 were caused by trichloroethylene contamination. The following table breaks down the incidents by contaminant:

Contaminant	Incidents[1]	Well closings
Organics	[3] 33	[4] 242
Insecticide	7	201
Chloride	13	26
Nitrate	4	23
Metals	18	619
Other inorganics	5	3
Industrial waste disposal	22	185
Landfill leachate	33	64
Total	135	1,363

[1] The total number of ground water pollution described was 128, but the total for the incidents blocked by contaminant category is 135 because some incidents were included in more than one contaminant category.

[2] An appropriate number of well closings was used in some incidents where the documentation did not provide specific numbers.

[3] 10 TCE.

[4] 170 TCE.

DAMAGE TO RESOURCES FROM AIRBORNE CONTAMINANTS

Introduction

Incidents attributed to air contaminants resulting in damage to resources which are described in this section represent selected major illustrative bases. They focus mainly on damages inflicted by hazardous air pollutants as defined in section 112 of the 1977 Clean Air Act Amendments, or by uncontrolled toxic substances which either have not yet been listed as candidates for control, or which are about to be listed. The summary table shows the geographic distribution of these incidents by EPA region, the substances involved, and their sources. Resources include not only land, agricultural crops and livestock, forest products and the like, but also human health—perhaps the most essential natural resource in terms of productivity.

The incidents included in this catalogue are documented cases which have resulted in demonstrable damage. Hundreds of other recorded cases involving airborne toxic substances which resulted in a one-time material loss or injury but without permanent, long-term implications, have been omitted. Also excluded are intense air pollution episodes even though they may have involved excess fatalities, or a temporary loss of income by a sizeable labor force. Instead, the catalogue concentrates on incidents that have occurred in non-crisis periods, sometimes over several years, and mostly in the course of the past decade.

No EPA region in the country was found to be exempt from at least one serious incident resulting in long-term economic damage attributable to a toxic airborne contaminant. Thirteen discrete substances were involved, alone or in combination with other pollutants, emitted by four major categories of stationary sources, two kinds of motor vehicles—cars and buses—a single recurring activity—crop spraying—and one accident that resulted in permanent human health damage. One substance, asbestos, disclosed its pervasiveness in the environment by appearing in a different source for each of the four major incidents attributed to it.

The same source category was found to recur for different substances. Three of these sources—smelters, fossil fuel industrial installations and electric power plants—generally are associated with large-scale emissions of pollutants controlled under the Clean Air Act. The incidents in this presentation link them not only with these and their transformation products in the form of acid fallout, but also with toxic substances such as fluorides, heavy metals, and hydrogen sulfide that are uncontrolled by air quality legislation.

Because cf its focus, the catalogue omits all examples of damage sustained from other than documented incidents. However, undocumented incidents and the damages resulting from them are pervasive and costly to the public and private sectors of the economy alike, and therefore merit discussion.

Long term damage may be difficult to assess or predict at a given time because pertinent information that would allow the designation of the contaminant at fault as unsafe or hazardous pursuant to the Clean Air Act is not yet available. Such damage may be sustained "routinely" because certain toxic substances are present in the atmosphere over long periods of time in unsafe concentrations. General data, projections and trends on a nationwide basis may be available, but cannot be broken down by region or jurisdiction.

Specifics also may be lacking about damage sustained because of the gradual weakening of a resource as a result of continuing or repeated exposure to a contaminant, especially when such weakening occurs because the resource has been subjected to many short-lived accidents and episodes that keep recurring because their cause is not corrected.

Assessments of damages resulting from intermediate pollution may also be hampered by inadequate data. It may be equally difficult to extrapolate information about a toxic substance that is regulated by legislation other than the Clean Air Act, to fit the statutory requirements for air pollution abatement and control.

The problem of identifying the relationship between specific damages and specific air pollutants is illustrated by a study which monitored births at a medical center in Los Angeles. The results of this study indicated that pregnant women who live in smoggy communities may have babies weighing an average of half a pound less than normal, and that babies born in polluted areas tend to have a higher death rate. However, the sample on which the investigation was based was too small to yield conclusive evidence or to be extrapolated accurately for use nationwide.

Nonetheless, a number of fully documented incidents attributable to air contaminants and resulting in serious damage to resource were identified. They suggest the following observations:

Toxic substances uncontrolled by air pollution control legislation are being increasingly identified as hazards to human health and welfare, and as damaging to natural and manmade resources; transformation products of controlled pollutants, unregulated in their own right, are increasingly recognized as toxic and damaging substances; frequent or continuous exposure to controlled and uncontrolled air pollutants is believed to be responsible for extensive economic damage and reduced productivity because of adverse effects on human health and on agricultural and forest lands. While insufficiently documented at present, evidence of harmful effects is rapidly growing.

GEOGRAPHIC DISTRIBUTION OF DAMAGE TO RESOURCES BY EPA REGION, TOXIC SUBSTANCE, AND SOURCE

EPA region	Acid fallout	Arsenic	Asbestos	Carbon monoxide	Chlorine	Fluorides	Heavy metals	Hexachlorobenzene	Hydrogen sulfide	Lead	Oxidands	Pesticides	Sulfur dioxide
I				Motor vehicles.									
II	Fossil-fueled plants.		Flooring	Buses, police cars.									
III	do		Quarry	Buses		Smelters					Fossil-fueled plants.		
IV			Insulation	do						Chemical plant.			Smelters.
V	Fossil-fueled plants.								Fossil-fueled plants.				Do
VI		Smelter			Chemical plant.		Smelter	Landfill					
VII												Crop spraying.	
VIII		Smelter		Buses		Smelter, phosphate plant.							
IX			Landfill.								Fossil-fueled plants, motor vehicles.	Crop spraying, accidental spill.	
X		Smelter		Buses						Smelter			
Nationwide		Smelters, power-plants.				Smelters				do			

Abstract of damages due to airborne contaminants

Incidents of airborne pollution often involve multiple effects. The following abstract indicates the kinds of damages occurring in cited incidents. Because of multiple effects, the same incident may be cited under different categories of damages.

Agricultural production reduced or lost: 4 representative incidents are cited in 3 States.

The exact time period that culminated in the highest reductions or losses of productivity cannot be determined from available documentation, but appears to stretch over 5–10 years, and to be continuing.

Pollutants implicated are acid fallout (transformation products of sulfur oxides and nitrogen oxides), fluorides, hydrogen sulfide, oxidants, and pesticides. Their reported sources are fossil-fueled industrial plants, smelters, and crop spraying activities. Pollution from these sources appears to be continuing.

The exact amount of damage cannot be assessed from the reference sources, but appears significant. One source cites a 15 percent reduction in productivity on one State.

Forest products damaged or destroyed: 12 incidents in 9 States cited.

Pollutants implicated are fluorides, oxidants, and sulfur oxides generated by smelters, phosphate plants, and fossil-fueled industrial installations.

Most incidents are reported to have occurred over periods of many years. Some persistent and widespread damage is traced to the turn of the century. Damage seems to have intensified since the 1950s.

Although available reports are not always specific, they record destruction of and injury to forests and forest products stretching over tens of thousands of acres, often extending for miles from polluting sources. Economic damage sustained is generally recorded in acreage affected rather than in dollar figures. None of this acreage is reported as rehabilitated.

Ecosystem disturbed: Many incidents involve ecosystem changes. A major example are changes attributed to acid precipitation which began some 30 years ago, and are continuing. Changes include the elimination of fish from affected lakes, reduced forest growth, and disruption of the animal food chain.

Land productivity impaired or destroyed: 4 incidents are cited in 4 States, all due to long-term invasions of airborne contaminants. One incident was traced to a specific activity in 1973 although adverse effects were not discovered until 1979. Pollutants implicated include acid fallout, sulfur dioxide emitted by smelters and fossil fueled industrial plants, and asbestos fibers released by a landfill. Impairment of land productivity frequently is attributed to destruction of vegetation, leading to erosion.

Livestock killed or rendered unproductive: 6 instances are recorded in 6 States. Contaminants held responsible are arsenic, fluorides, hexachlorobenzene, hydrogen sulfide, and pesticides emitted by fossil-fueled industrial and power plants, smelters, a phosphate plant, a landfill, and crop spraying operations. Damage seems to have occurred repeatedly over fairly short time spans. Domestic animals affected include dairy cattle, poultry, horses, sheep, and honey bee colonies. Economic losses cited range from $65,000 to $3,500,000 million per incident.

Human health damage: 33 incidents are cited in 16 States. Pollutants held responsible are arsenic, asbestos, chloride, fluorides, lead, carbon monoxide, and pesticides. Sources include smelters, chemical and phosphate plants, vehicles, and a pesticide spill accident. Reported damages include apparent increases in lung cancer mortality, respiratory and intestinal problems due to crop dusting incidents occurring in urban areas adjacent to farm land. Health damage resulting from exposure to pollutants generated by smelters and other industrial plants generally was documented as occurring over unspecified but lengthy periods of time. Three incidents, one attributed to pesticides and two to carbon monoxide; were due to single short-term events; the second pesticide incident cited occurred over a 6-week period.

Fish and other aquatic life diminished or destroyed: 2 representative incidents are cited in two States. One is attributed to acid fallout and resulted in the destruction of all aquatic life in 90 percent of the lakes in one district over a period of approximately 30 years; the other implicates pesticides applied in a single month in 1976 in four counties of a State, resulting in an estimated economic loss of $3–$5 million.

Buildings damaged or rendered inhabitable: 2 incidents are reported in two States. One lasted only a few hours; the other caused permanent contamination.

Pollutants implicated are hydrogen and asbestos.

The incidents involved over 100 dwellings.

Materials rendered unusable: One incident involving a whole county is discussed, in which quarried stone used for gravel was found to contain asbestos. Material used had to be replaced or sealed.●

THE TRADE PROCEDURES SIMPLIFICATION ACT

● Mr. STONE. Mr. President, I recently joined as a cosponsor of S. 2748, the Trade Procedures Simplification Act of 1980, introduced on May 21 by Senator BAYH.

My good friend, Secretary of Commerce of the State of Florida, Sidney H. Levin, recently wrote to me expressing his support for this measure. Sid Levin has done a tremendous job for Florida. Through programs his department administers, Florida exports increased 17 percent between 1978 and 1979. He believes that this legislation would be most helpful in increasing export opportunities for small- and medium-sized businesses.

Mr. President, I hope the Congress will soon enact S. 2748 and other appropriate legislation to encourage export opportunities for American business.

I ask that the text of this letter from the distinguished Secretary of Commerce of the State of Florida, Sidney H. Levin, be printed in the RECORD.

The letter follows:

STATE OF FLORIDA,
SECRETARY OF COMMERCE,
June 20, 1980.

Hon. RICHARD STONE,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STONE: I would like to take this opportunity to urge your support of Senate Bill 2748—The Procedures Simplification Act of 1980.

Faced with a large domestic market, many small and medium sized companies in Florida have little incentive to export. What incentive they may have is further diminished in their lack of know-how management, financial resources and the inhibiting effect of some of our regulatory mechanisms.

Through our Departmental programs we have been able to significantly increase the number of Florida companies involved in the export process. Florida's trade statistics for 1979 show a 17 percent increase in exports over 1978.

We are extremely pleased with our successes but I am certain that Senate Bill 2748 will aid in our efforts to mobilize potential exporters and eliminate the uncertainty over the application of the antitrust laws to export.

When every $20,600 in exports creates one job in Florida, we must leave no stone unturned in our search for additional ways to expand our export markets.

Sincerely,

SIDNEY H. LEVIN,
Secretary, Florida Department of Commerce.●

GREAT DECISIONS 1980 OPINION BALLOTS

● Mr. PERCY. Mr. President, the results of this year's great decisions opinion balloting have been released by the Foreign Policy Association. More than 50,000 people across the country participated.

Great decisions has long been a favorite public education program of mine, not only because the program's materials and meetings have such a strong reputation for excellence, but also because participants are given an opportunity to express their own opinions after considerable deliberation of the pros and cons of a particular issue.

The outcome of great decisions balloting is always of great interest to me and I know that many of my colleagues who have not yet seen the results will be equally interested. I ask that a summary of the article from the June 1980 Outreacher, giving a report on this year's findings, be printed in the RECORD at this point.

The article follows:

SUMMARY

The SALT II Treaty will help stabilize the competition in strategic weapons between the United States and the Soviet Union, thus lessening the danger of war.

In conducting foreign policy during the past year, the U.S. government's attitude has been too weak.

The U.S. should play a more direct role in maintaining security in the Persian Gulf, increasing its military capabilities there if necessary.

In the Arab-Israeli conflict, the U.S. should press both Egypt and Israel to reach agreement on a Palestinian rights formula.

The U.S. should not normalize relations with Vietnam until that country removes its troops from Cambodia and stops expelling its own citizens.

We should tone down U.S. public pressure on Brazil's human rights policy.

We should reduce oil imports during the next 10 to 15 years, even if this means changes in the way Americans live, and place primary emphasis on conservation in planning long-range U.S. energy policy.

These are some highlights of the views expressed, with many dissents and qualifications, in a nationwide mailing of "Opinion Ballots" by participants in the Foreign Policy Association's annual Great Decisions program for 1980. Each ballot dealt with one of eight current foreign policy topics. Under each topic two or more issues are placed on the ballot, with participants asked to select for each issue the one option, among several offered, which comes closest to their own opinions.

Great Decisions 1980 was the 26th in a series conducted by FPA nationwide each year since 1955. In 1976, and again in the three years 1978–80. Great Decisions received the support of the National Endowment for the Humanities for its attention to historical and other humanistic values in foreign policy. In 1980, more than 100,000 Americans across the nation joined in study and discussion of the topics, while many more heard radio and TV programs and read newspaper articles which focused on the Great Decisions 1980 issues.

Participants in discussion groups study the pros and cons on each topic in FPA's Great Decisions annual and other available sources, and join in a discussion session on each topic. Typical participants evidently have more education and more exposure to international affairs than the national average. Those responding are far more likely than the average citizen to discuss foreign affairs with others and to be asked for their opinion on foreign affairs. Moreover, they are far more inclined than the average citizen to make their views known without being asked. To a question whether the participant had, in the past year, "communicated with some official or representative in Washington" on some foreign policy matter, an extraordinary 29 percent said yes in 1979.

TOPIC 1: THE WORLD IN 1980: AN UNEASY TIME FOR A SUPERPOWER

Overwhelmingly, participants in Great Decisions discussion groups in 1980 felt that the U.S. government's foreign policy attitude in the past year had been too weak. This feeling was much more widely held than when the same question was posed in the Association's survey in 1978. The change probably reflects, at least in part, a response to recent events in Iran and Afghanistan, and to prominent public debate over Soviet military capabilities.

Only 3 percent of participants in 1978, and 2 percent in 1980, thought the U.S. foreign policy stance had been too tough, in contrast, the number of those feeling it had been too weak, already a high 44 percent in 1978, shot up to 65 percent in 1980. Another 23 percent checked "about right." The remaining 10 percent gave more than one reply, indicating a more complex view than could be expressed in the choices given. A respondent from North Carolina, for example, described U.S. policy as "too unsure, too vacillating, not long-range enough, and too careless of contacts and assurance to our allies."

Paradoxically, respondents apparently do not associate the weakness they complain of with U.S. policy on two salient issues included in the survey, namely, the still-pending strategic arms (SALT II) treaty with the

Soviet Union and U.S. conduct in the third world.

On SALT II, only 27 percent felt that the pending treaty would enable the Russians to achieve strategic superiority, whereas 39 percent looked on it—as does the Carter Administration—as helping to stabilize the superpowers' strategic arms competition and eventually to reduce strategic weapons arsenals, thus lessening the danger of war. Another 19 percent agreed with a third view, that the treaty would merely serve as a license for both sides to escalate the strategic arms race.

As for U.S. policy toward countries of the third world, an overwhelming 72 percent thought the primary consideration should be the effect on U.S. relations with each country, while only 18 percent chose the "tough" option of giving primary weight to the effect on the U.S. strategic competition with the Soviet Union.

If our foreign policy has been too weak, as most seem to feel, who can best strengthen it: the President or Congress? According to most of the ballots, the answer is not to reduce the President's foreign policy powers but rather to have him assert them forcefully. Offered two options regarding the foreign policy process, 52 percent preferred to "reassert the preeminence of a strong President, able to resist congressional invasion of his policy responsibilities." Only 32 percent would prefer to continue the more active role which the legislative branch has recently played.

TOPIC 2: THE MIDEAST AND THE GULF: U.S. POLICY IN FERMENT

The more assertive foreign policy mood of most participants was visible with respect to the most volatile of recent foreign policy areas, the Persian Gulf. On a ballot listing three possible approaches to protecting U.S. interests in that area, 41 percent preferred to see the United States play a more direct role than hitherto in maintaining the region's security and favored increasing U.S. military capabilities for this purpose. Only 24 percent were content to rely on building up the military capabilities of friendly powers in the region, and only 18 percent would have the United States limit its commitments in the region to the present level. Hesitancy as to the right policy, however, was visible in the comparatively high 18 percent who gave more than one answer or wrote in their own answers. One respondent from New Jersey, for example, wrote, "I'd qualify 'build up military capabilities' with 'seek the cooperation of the NATO powers in doing this.' We are not the only ones whose economy and welfare depend on the Persian Gulf for oil . . . . I have checked (a) and (b); in light of recent developments, both policies are necessary."

Of the related issue of the Arab-Israeli dispute, a clear majority, 56 percent, favored a policy of working with both Egypt and Israel toward an agreed formula on Palestinian rights, pressing both sides when necessary to promote agreement. Only 20 percent preferred the option of pressing Israel for enough concessions on Palestinian rights to bring about comprehensive negotiations between Israel and its neighbors (which include Jordan, Syria and Lebanon as well as Egypt), while another 19 percent favored letting Egypt and Israel work to resolve the problem at their own pace.

TOPIC 3: THE UNITED NATIONS AT 35: ILLUSIONS AND REALITIES

As the UN entered its 35th year, Great Decisions participants were asked to say what broad direction they think U.S. policy toward the world organization should take in the eighties and beyond. A bare majority (54 percent) stated their preference either for limiting U.S. commitments to the UN to their present level (32 percent) or for increasing them (22 percent). Although less than 3 percent favored outright U.S. withdrawal from the organization, 35 percent opted for selectively reducing participation in activities that conflict with U.S. objectives.

Not all those who show limited faith in the UN's present capabilities, however, have given up hope for an improved UN in the future. A North Carolinian, for example, checked "limit commitments to about the present level" but then wrote, "Work for changes that will make the UN more effective."

Overwhelmingly, respondents urged the U.S. to pursue a policy of negotiation with Third World countries rather than, as Daniel Patrick Moynihan and others have proposed, using the UN as an arena for hardhitting debate "with the aim of winning over a majority [of the Third World] to this country's economic and political principles." Offered a choice between these two alternatives, 78 percent opted for negotiation and only 15 percent for confrontation, with the remaining respondents proposing other solutions or a combination of the two alternatives.

TOPIC 4: EASTERN EUROPE: EMERGING FROM MOSCOW'S SHADOW

The impact of Russia's invasion of Afghanistan and other recent East-West tensions appear to be reflected in the division of opinion on U.S. policy toward Moscow's Warsaw Pact allies in Eastern Europe. Although 45 percent of those completing Great Decisions ballots opted for a continuation of détente, urging that the U.S. should emphasize "stability and peace in relations with the Soviet Union, even if this means less U.S. influence in the affairs of the region," almost as many (41 percent) felt that the U.S. should compete with the Soviet Union for influence, "even at the risk of increased tension with the U.S.S.R." As one repondent from New Jersey, who opted for competition, put it. "We should do whatever possible to maintain the right of Eastern Europe to freedom."

On another issue, a large majority (61 percent) said that the primary goal of U.S. policy in Eastern Europe should be to encourage an independent foreign policy by the six countries of the region, rather than to influence their internal human rights policies. When asked whether trade with Eastern Europe should be used to obtain concessions on political issues, or should be conducted on its economic and commercial merits, an overwhelming majority (75 percent) preferred the latter course. (This contrasts with more evenly divided attitudes on restricting trade and credits to the Soviet Union: see Topic 5.)

TOPIC 5: HUMANITY ON THE MOVE: HOW MIGRATION AFFECTS US

In balloting that took place before the recent influx of Cuban refugees into the U.S. opinion on issues of migration—especially of Mexicans—reflected a practical concern with consequences for American citizens. "Take as many as can be assimilated," wrote one Californian. "Where there are jobs they should be admitted."

Much opinion on migration occupies a middle ground between more restricted and more liberal policies. Just about half of those responding, for example, favored continuation of the present policy of admitting 14,000 a month from Indochina, while 29 percent would reduce that number and 9 percent would admit all who want to come. And although few (11 percent) would increase the quota for legal immigrants from Mexico, only 19 percent favored tightening border controls and deporting illegal aliens as a way of coping with the problem. The most popular option by far, endorsed by 52 percent of those responding, is to promote development in Mexico in order to slow emigration in the long run.

With respect to emigration from the Soviet Union, opinion was almost evenly divided between those who advocated an end to the linkage of U.S. trade policy with Soviet emigration policy (53 percent), and those who favored continuing to restrict trade and credits to the Soviet Union in an effort to bring about liberalization (42 percent). A main reason for preferring to end the linkage was the conviction that the policy is ineffective. One respondent from Pennsylvania observed: "I don't think trade restrictions will work unless it is part of a world-wide policy."

TOPIC 6: BRAZIL'S RISING POWER: WHAT WEIGHT IN THE WORLD SCALE?

Great Decisions participants generally express a preference for regional rather than unilateral policies toward Brazil. For example, most respondents favored neither a U.S. policy that would leave Brazil free to develop a complete nuclear power cycle (endorsed by 16 percent), nor an alternative policy of urging Brazil to modify its nuclear development plans (endorsed by only 25 percent). Instead, 53 percent of the respondents said the United States should "work with both Brazil and Argentina to build a regional nuclear energy system with safeguards against the spread of nuclear weapons."

With respect to human rights violations in Brazil, an even larger majority (79 percent) urged the United States to "tone down its public pressure and leave the leadership to such organizations as the Inter-American Commission on Human Rights," while only 16 percent felt that the United States should continue its policy of speaking out forcefully on this issue. Disenchantment with the Carter Administration's earlier, more assertive policy toward Brazil, and toward Latin America generally, on human rights issues, appears to be reflected in comments such as: "Help them only if they ask us to" and "I think we should not interfere with Brazil about this."

Only with regard to future economic policy toward Brazil, where no regional alternative was offered, did a majority (54 percent) opt for increased U.S. commitment to Brazil's economic development, while only a third of the participants would leave Brazil's development needs to be met by other countries or by international business. However, many of those advocating an increased U.S. commitment appeared to share the view of the Californian who wrote: "Lower trade barriers and keep a low political profile."

TOPIC 7: VIETNAM AND ITS NEIGHBORS: BIG POWERS AND LITTLE WARS

Five years after the Communist victory in Vietnam, the United States has yet to normalize relations with the Hanoi government. Is it time for a change, or should we continue to "wait and see"? Questioned one year after the Vietnamese invasion of Cambodia and at the height of world attention on Vietnamese refugees, 55 percent of Great Decisions participants said the United States should not normalize relations until Vietnam removes its troops from Cambodia and stops expelling its own citizens. However, another 30 percent urged normalization of relations as quickly as possible, without setting conditions. Only 7 percent would refuse to normalize relations under any conditions. The majority view of "wait and see" is summed up by a respondent from Ohio, who wrote. "We should normalize relations eventually but we should be in no hurry to do so. . . . We should be sure that the time we select for normalization is to our greatest advantage."

On the issue of U.S. aid to Vietnam, a majority (52 percent) preferred to let U.S. aid continue to flow indirectly, through international agencies, but to give no direct aid until Vietnam removed its troops from Cambodia and stopped expelling its own citizens.

Nearly a quarter of those responding opposed aid through any channels until Vietnam met the two conditions outlined above. Smaller minorities backed simpler options: to give aid unconditionally (8 percent), and to give no aid under any conditions (10 percent).

TOPIC 8: THE WORLD ENERGY CRUNCH: U.S. CHOICES—AT HOME AND ABROAD

Great Decisions participants were asked to rank-order seven alternative sources of energy "in the order in which you think the U.S. should emphasize them in its long-term energy future." Although "conservation" appeared fifth on the ballot it garnered a resounding 51 percent of the first-place votes, followed at some distance by solar energy with 20 percent. Options gaining 12 percent or fewer of the first place votes were domestic oil and gas, nuclear energy, synthetic fuels, coal, and—most unpopular of all—foreign oil and gas (1 percent).

Other ballot choices gave further strong proof of the desire to escape from dependence on imported oil. Fully 86 percent favored the option of reducing oil imports from abroad even if this requires a change in the American way of life, while only 5 percent felt that the U.S. should continue to import as much oil as might be needed to preserve the current way of life. Some 8 percent proposed "other" solutions, prominent among which was to develop alternative energy sources.

Since in the short run the United States will continue to be dependent on OPEC for at least some of its oil supplies, participants were asked to choose among a series of options on how to deal with OPEC. These ranged from the "soft" one of making concessions to the oil-exporting nations to the "tough" one of taking military action in order to keep the oil flowing. A majority (57 percent) chose the middle alternative—"make no concessions, but rely on economic and diplomatic pressure"—while 28 percent chose to make concessions and 6 percent opted for military action, if necessary.

A third energy issue centered on the pedicament of the majority of developing countries (LDCs), still heavily dependent on OPEC oil at prices they can ill afford. Asked to rank-order a series of U.S. policies designed to ease the energy problems of the developing countries, 46 percent of Great Decisions participants gave first choice to helping such countries to develop alternative energy sources of their own. Reducing U.S. consumption of oil in order to reduce pressures on price and supply ran a close second, with 39 percent selecting this policy as their first choice. Neither of the other alternatives—helping such countries to finance deficits arising from rising OPEC prices, or negotiating with OPEC to reduce the price charged the developing countries—attracted more than 9 percent of the nominations for first place.●

THE NATIONAL TOURISM POLICY ACT

● Mr. CANNON. Mr. President, yesterday the Senate appointed its conferees for S. 1097, the National Tourism Policy Act, and requested a conference with the House. It is my hope that we can meet very shortly with the House to work out our differences on this legislation. In the interim, I would like to share with my colleagues a recent editorial that appeared in the Journal of Commerce which, I believe, argues very persuasively for enactment of the Senate approach to promoting tourism in the United States. The editorial also addresses effectively the rather lame objections to the Senate bill that have been raised by the administration.

The editorial follows:

WE NEED TO PROMOTE AMERICA

One of the mysteries of the modern age is America's inability or unwillingness to sell itself. Confronted with the day-to-day marketing hype most companies spew out, that may sound silly. When the bottom line is at stake, most people are apt to think nobody can make a beeline for it quicker or more effectively than the United States.

In many, if not most cases, that's probably true. But since the advent of the jet age, the United States has done a perfectly lousy job of selling itself as a tourist attraction for foreign visitors.

For a good many years in the postwar era, when the dollar was as good as gold and American economic power was unrivaled, the attractions of the U.S. were affordable to precious few foreigners. Meanwhile, Americans had the world at their feet. And since the net outflow of tourist invisibles amounted to only a few paltry billion dollars, the government didn't see any reason to get concerned. Unfortunately, those days are long since gone. And the incentives to get into the tourist business in an even bigger way abound.

As we all know, the dollar no longer is as good as gold. The U.S. balance of payments has been in chronic and perpetual deficit ever since oil prices were quadrupled in 1973. Much of the developed world has closed the economic gap with the United States. That's bad news for Americans with an insatiable wanderlust. But it could be very good news for the United States, if we ever wake up to the fact that traveling in the U.S. is a bargain-basement value for foreigners these days.

There is a bill pending in the Senate, the National Tourism Policy Act, which if enacted could go a long way toward achieving that end. Any opportunity to turn relative adversity into economic advantage should be exploited, and quickly. If foreigners can get America on the cheap, so be it. For several compelling reasons, the administration, which up to now has opposed the legislation, should get behind this bill, and push for its speedy passage and implementation.

For the administration's information, tourism is very big business these days. Last year tourists spent over $500 billion around the world. Futurist Herman Kahn has said that by the end of the century, tourism will be the world's largest single industry. And the U.S. tourist industry, which is more insular than it ought to be, is no small part of this country's service sector either. Last year industry receipts amounted to about $150 billion. Roughly 6 million workers, many of them the lowest-skilled employees in this country, were involved in making life easier for vacationers.

The Carter people also might like to know the United States is virtually the only country in the world without a national tourist board. And that the federal government, which likes to think it has no role in promoting tourism, in fact has a plethora of agencies doing—surprise, surprise—a number of contradictory things.

Washington does have a nominal stake in the national tourist promotion business, the United States Travel Service, established in 1961 by the Kennedy administration. However, since its inception USTS has been plagued by small budgets, and a lack of coordination between its activities and those of other agencies and state governments, who have been extolling their own virtues overseas for years. In 1976 the USTS budget was $12 million. By way of comparison, the Irish government spent some $23 million on tourist promotion, the United Kingdom and Spanish governments $25 million. Last year the Carter administration tried to kill the USTS program. Fortunately it survived, but its budget was slashed to $8 million. That in spite of a recent USTS study which showed a cost/benefit ratio of every dollar spent resulting in foreign tourist expenditures in this country of roughly 18 to one.

The National Tourism Policy Act is the product of six years of hard work. The House has its own bill, the Tourism Policy Act, which breezed through a floor vote earlier this summer. The Senate bill, which is sponsored by Sen. Daniel Inouye, D-Hawaii, the more controversial of the two. It is also the one we hope will survive markup when both houses meet in conference.

Sen. Inouye's bill has three titles. The first spells out specific national tourism objectives. The second would create a Cabinet Coordinating Council designed to oversee and smooth out contradictory and overlapping tourist-related activities sponsored by various departments in the executive branch. And the third—and most controversial—title would create a federally chartered National Tourist Corporation, to replace USTS. The corporation's major but not sole purpose: to promote the U.S. abroad as a vacation spot for foreign tourists.

The administration's objections to the bill range from the sublime to the ridiculous. In letters to leading congressional figures, OMB Director James McIntyre specifically cited potential conflict of interest problems among the corporation's board members, questioned its legal status, said that private groups could not be expected to have the same interests as federal officials, and said the corporation's existence would raise foreign policy implications outside the purview of the State Department.

Those objections seem unfounded to us. The raison d'etre of such an outfit seems pretty straightforward: to get foreigners to spend money in the U.S. What's good for the federal government if that effort is successful—a healthier balance of payments and more jobs for Americans—is also good for the private sector. And if the State Department is worried about foreign policy implications, perhaps it should try do something about the numerous states which promote themselves overseas, activities which seem outside Foggy Bottom's purview to us. Read the bill again please, Mr. McIntyre, take a look at the balance of payments and latest unemployment figures, untie America's arms, and support this legislation.●

1980 SENIOR CITIZEN INTERN PROGRAM

● Mr. WILLIAMS. Mr. President, I am extremely pleased that once again I was fortunate enough to participate in the congressional senior citizen intern program.

As former chairman of the Special Committee on Aging, I feel very strongly about the rights of senior citizens and the merits of a program which offers them an opportunity to observe and participate in Federal policymaking while learning of the various services and benefits available to them through their Government and local communities.

The senior citizen intern program affords an unusual opportunity for Government to learn, first hand, from its citizenry. I cannot overemphasize the value which personal interaction affords both citizen-voter and citizen-lawmaker. We benefit greatly from their experience and wisdom. It is also to be hoped that we have aided these valuable members of society by supplying them with answers and information which will increase their knowledge and understanding of the numerous Federal programs available to assist older Americans.

Mrs. Elizabeth Carroll, my 1980 senior citizen intern, is a perfect example of the substantial contributions seniors can make toward helping our communities. A professional educator for over 35 years, Mrs. Carroll has been an active participant in a wide variety of senior citizen and community service activities. Currently, she is working as a consumer advisor to the Better Business Bureau and the Hudson County Division of Consumer Fraud. I was most fortunate in having her as a part of my staff and, more importantly, as a member of an expanding liaison community of seniors in Government.

Mr. President, though we have had a formally organized intern program for only several years, I am proud that we began such a program many years ago in my office. The results have been splendid. All of the fine men and women who have served in my office have brought a special knowledge of New Jersey and a unique ability to focus on the needs and aspirations of seniors not only from that State, but from around the Nation as well. It is gratifying that the intern program has now been made a regular feature on Capitol Hill.

Mr. President, I look forward to continuing participation in this fine program, as a means of furthering the cooperative ties between the legislative branch of Government and the citizenry to whom we are ultimately responsible. I am convinced that by encouraging communication and interaction between these groups, we are furthering the ends of Government itself.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of the bill (H.R. 39).

The PRESIDING OFFICER. The question occurs on H.R. 39.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT— S. 2189

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that with respect to Calendar Order No. 582, S. 2189, the nuclear waste legislation, the Senate proceed on Monday, following the recognition of the two leaders or their designees and at no earlier than 11 a.m., to the consideration of that measure, with the understanding that the Alaska lands bill be temporarily laid aside but that the majority leader, after consultation with the minority leader, may call that bill back at any time with the understanding that if that is done the nuclear waste legislation would be held in temporarily laid aside status until action on the Alaska lands bill is completed or until the majority leader, after consultation with the minority leader, wishes to set that measure again temporarily aside; that the following time agreement obtain on the nuclear waste legislation:

Four hours on the bill, to be equally divided between Mr. JOHNSTON and Mr. HATFIELD; 2 additional hours on the bill under the control of Mr. GLENN; 2 additional hours on the bill under the control of Mr. HART and Mr. SIMPSON; 1½ hours on any amendment; 40 minutes on any amendment in the second degree, 3 hours on an amendment by Mr. HART and Mr. SIMPSON, 1½ hours on an amendment on the Simpson amendment in the second degree to the Hart-Simpson amendment in the first degree; 3 hours on a germane amendment by Mr. DOMENICI; 2 hours on an amendment by Mr. SCHMITT dealing with transportation of nuclear waste; 80 minutes on an amendment by Mr. THURMOND dealing with low-level waste disposal; 1 hour on an amendment by Mr. MCCLURE dealing with mixed oxide fuel; 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate; and that the agreement be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I reserve for the purpose of observing that the distinguished Senator from Wyoming (Mr. SIMPSON), who is the ranking minority member of the Nuclear Subcommittee of the Committee on Environment and Public Works, is in the Chamber, and I yield to him to express approval or disapproval of the request.

Mr. SIMPSON. Mr. President, I wish to thank the majority floor leader and the minority floor leader for their patience in this matter. We have worked long to conclude the time agreement in that order that we might forego a Saturday session.

I deeply believe that the time agreement just related by the majority leader is appropriate for the purpose of presenting to this body both the Energy and Natural Resources Committee bill and the Environment and Public Works Committee bill which we just processed this morning on final passage by a vote of 13 to 1 from the committee.

I do believe that this will present the entire concept of nuclear waste and that, of course, is the important issue.

I deeply thank Senator RANDOLPH for his assistance this morning and Senator STAFFORD.

My only regret is that staff will obviously have to forgo some lovely time on the beach in Rehoboth this weekend, but we will be ready Monday.

I thank the Chair.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, I have no further objection on this side.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. If the Senator has no objection, may we get the agreement first and then I will yield?

Mr. RANDOLPH. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That on Monday, July 28, 1980, at 11:00 a.m., when the Senate proceeds to the consideration of S. 2189 (Order No. 582), a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes, debate on any amendment in the first degree shall be limited to 1½ hours (except on a Hart/Simpson amendment, on which there shall be 3 hours; a Simpson amendment in the second degree to the Hart/Simpson amendment, on which there shall be 1½ hours; a Domenici amendment, which has to be germane, on which there shall be 3 hours; a Schmitt amendment, relative to transportation of nuclear waste, on which there shall be 2 hours; a Thurmond amendment, relative to low level waste disposal, on which there shall be 80 minutes; a McClure amendment, relative to mixed oxide fuel, on which there shall be 1 hour; and a Durkin amendment, relative to nuclear waste, on which there shall be 1 hour), to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 40 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or the designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. Johnston) and the Senator from Oregon (Mr. Hatfield): *Provided*, That there be 2 additional hours on the bill under the control of the Senator from Ohio (Mr. Glenn): *Provided further*, That there be 2 additional hours on the bill under the control of the Senator from Colorado (Mr. Hart) and the Senator from Wyoming (Mr. Simpson): *Provided further*, That the said Senators, or any one of them, may from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, now I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the action just taken reflects the well-reasoned cooperation and understanding of the leadership of the Senate.

I wish to state for the record that in the Environment and Public Works Committee, of which the able Senator from Texas, the Presiding Officer in the chair at this time is a member, we have had the jurisdiction for nuclear regulation, one of the newer jurisdictions of the jurisdictions given to us under the reorganization of the Senate as to committee responsibility.

We have been fortunate in having the services of the ranking minority member of the full committee, Senator STAFFORD, who has been most cooperative; and the services of Senator HART of Colorado as the chairman of that subcommittee; and the services of the Senator from Wyoming (Mr. SIMPSON), as the ranking minority member of that subcommittee.

It has been my privilege and responsibility to work within the structure of the subcommittee and the committee, and with the arrangement which was made beginning on Monday for debate and a possible decision on this matter, with the understanding that it might be set aside again and we will have to come back to it again. But I want to thank those members of our committee who have worked with a very knowledgeable staff that, frankly, will be working overtime during this weekend to prepare the report for the bill which Senator SIMPSON has indicated was reported from our committee earlier today by a vote of 13 to 1.

I do not want to pass mere pleasantries upon Senators STAFFORD, HART, and SIMPSON, except to say that we have had no surfacing of partisanship in connection with this subject matter which is of vital concern to the people of the United States of America.

We have had our differences within the subcommittee and within the committee. But these have always been resolved, winners and losers, with a recognition that the process of legislative matters coming from a subcommittee to a committee and from the committee to the Senate itself has been carried forward in the best tradition of fairplay within the Senate of the United States.

So, Mr. Leader, to you and to the minority leader at least from the standpoint of one of the three committees involved in this effort, let me say that we gave it our very best in connection with the coming debate and hoped-for decision in the interest of our country and our people. I thank the Senator very much.

Mr. ROBERT C. BYRD. Mr. President, I thank my senior colleague. I thank him for his statement.

I also want to thank him for his cooperation which he gave in securing this agreement. I am indebted also to the minority leader and to the minority whip, Mr. BAKER and Mr. STEVENS, respectively, and to Mr. SIMPSON, Mr. HART, Mr. GLENN, Mr. JOHNSTON, Mr. MCCLURE, Mr. DOMENICI, Mr. SCHMITT, Mr. DURKIN, Mr. METZENBAUM, Mr. MATSUNAGA, and Mr. JACKSON for the efforts that were put forth by all of these persons in arriving at this very difficult agreement on a very important, complicated, and controversial measure.

Mr. President, I ask unanimous consent that there be a 1 hour time limitation on an amendment by Mr. DURKIN dealing with nuclear waste.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the minority leader, and I ask unanimous consent that the Senate go into executive session to consider for not to exceed 1 minute the nomination of Mr. Marvin S. Cohen to be a member of the Civil Aeronautics Board, and the nomination of Mr. William Courtleigh Gardner to be an associate judge of the Superior Court of the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL AERONAUTICS BOARD

The assistant legislative clerk read the nomination of Marvin S. Cohen, of Arizona, to be a member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1985.

Mr. ROBERT C. BYRD. Mr. President, Mr. RANDOLPH and I support this nomination, and I am pleased to call it up at this time and to proceed with its consideration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, commenting on the action which has just been taken, I wish to add in connection with the nomination of Mr. Cohen: It is an important responsibility that he has at a crucial time in the history of the transition from one type of airline service to another throughout America, covering every State.

We have come to the conclusion that he will carry forward the responsibility of this position.

I support his nomination and I join the majority leader in bringing his nomination to the floor.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

The assistant legislative clerk read the nomination of William Courtleigh Gardner, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for the term of years prescribed by Public Law 91-358, as amended, vice Alfred Burka, retired.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHY THE SENATE WILL NOT BE IN SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I hope that before the day is over at least one other time agreement can be secured.

May I say that I earlier indicated to Senators and to the minority leadership, the Senators on my side of the aisle and to the minority leader and minority whip, that the Senate would be in session this Saturday and would also be in session next Saturday.

Mr. President, I was constrained to make that statement because of the workload. I had fully counted on the Senate continuing to debate and act upon amendments to the Alaska lands bill tomorrow, Saturday, and into next week.

As Senators know, the leadership has continued to set aside temporarily the Alaska lands bill for the last 2 days at least in order to give principals on both sides of the aisle the opportunity to resolve certain areas of difference in the hope that final action on the measure could thereby be expedited. Those discussions have been several in number and are continuing.

On yesterday evening I asked Mr. JACKSON and Mr. STEVENS what progress was being made and, in their opinion, how soon it would be possible to return to the consideration of the Alaska lands bill.

Both of them informed me that progress was being made by the discussions, but that any resolution of the various problems could not be expected before Monday at the earliest, and that they would advise against our returning to the Alaska lands bill at this point because it would simply bring all of the principals back to the floor for debate, and we understand that some of it was heated earlier this week, and that progress on working out compromises would be stayed.

So, acting upon their advice, I have not allowed the Alaska lands bill to be debated further. As I have often seen in the past it expedites action on a very controversial measure if the parties in controversy can withdraw from the Chamber and go to various rooms in the Capitol and discuss their differences and arrive at solutions, and then come back to the floor and move forward with the bill in question.

Now, Mr. President, that was the bill on which I was basing my consideration with respect to a Saturday session this week.

I think all Senators will understand my embarrassment in not going forward with the Saturday session.

Having understood from Mr. JACKSON and Mr. STEVENS that it would be best to give certain Senators until next week to bring in any compromise that they may be able to arrive at on the Alaska lands bill, I turned to the nuclear waste legislation that was on the calendar.

Mr. Johnston, who will be the manager of that particular bill, was willing to stay in the city today and tomorrow and manage the bill. For us to have done so would have placed Mr. Hart and Mr. Randolph and other Senators in a very difficult position because the Environment and Public Works Committee on yesterday attempted to mark up and did proceed with markup of a nuclear waste bill.

Mr. Randolph and Mr. Hart wanted very much—and so did Mr. Simpson and Mr. Domenici and others—for the committee to continue its markup today and be able to report that bill before the Senate proceeded to take up the nuclear waste bill which has been on the calendar and which Mr. Johnston will manage. Very reluctantly, they, I think, would have gone ahead today to consider that bill after the completion of other business, but they would have been at a disadvantage. They only were able to report that bill out this afternoon, I believe. May I ask Mr. Simpson if that is correct?

Mr. SIMPSON. This morning.

Mr. ROBERT C. BYRD. So, Mr. President, it was not, in my judgment, the best thing to do, to proceed to take up the nuclear waste legislation while the Committee on Environment and Public Works had not yet completed its action on its bill.

Having made those extensive remarks by way of explanation as to why we really do not have business to conduct tomorrow, I apologize to my colleagues for the inconveniences that may have been visited upon them by virtue of my having said earlier that there would be a session tomorrow. I never want to inconvenience my colleagues, but sometimes it is impossible to do what one predicts he will do. All things are not under my control, by any measure of the imagination.

I think I have acted reasonably in getting a time agreement on the nuclear waste legislation, which the principals were willing to work out, in the event that we could call it up on Monday. In doing this, we will give Mr. Hart and Mr. Randolph and others more time to prepare for action on the nuclear waste legislation. And we will also be giving the Senators who are involved in the Alaska lands controversy further time to work out some compromises in that regard.

Again, I apologize to my colleagues for stating there would be a Saturday session. I think, in the long run, the legislative work of the Senate will have been expedited by virtue of the nuclear waste agreement and by virtue of the time that is being given to the Senators to work out their problems in connection with the Alaska lands legislation.

Mr. President, that is the explanation for the fact that there will be no Saturday session.

I do not see how a Saturday session next week can possibly be avoided. I always go out on a limb when I talk about Saturday sessions.

Contrary to what some people may believe, Saturday sessions normally produce a good deal of work. For example, the last two Saturdays we were in session were June 21 and June 28. On Saturday June 21, the Senate considered a major piece of housing legislation, S. 2719. That legislation required four record votes, including final passage. On the following Saturday, June 28, the Senate had 10 recorded votes, all of which were on a major and necessary supplemental appropriations bill. In addition, the Senate passed a needed extension of the ERISA legislation, as well as four other pieces of authorizing legislation, one resolution and a conference report.

So, Mr. President, for all of my colleagues on both sides of the aisle, I am always sorry that they are inconvenienced by any change in scheduling plans, but, unfortunately the work we had planned for Saturday on the Alaska lands bill, as I said, will be delayed until next week.

Before the Senate goes out for the Democratic Convention in August, the Senate will have hopefully completed action on the nuclear waste legislation. The Department of Energy legislation is backed up behind that legislation. The nuclear regulatory legislation is backed up behind that legislation. The Foreign Relations Committee will be reporting the resolution with respect to the nuclear fuels shipment to India. There are expected to be some appropriation bills that will have been acted upon by the time the Senate goes out and the Department of Treasury authorization and the SEC authorization.

By the way, I put my colleagues on the alert to the fact that at any time, beginning with Monday when the Senate goes in session, I anticipate that I will call up the nomination of Don Alan Zimmerman to be a member of the National Labor Relations Board. I will call that legislation up at such time that will best further the completion of the overall workload that must be done before the Senate adjourns sine die. I anticipate that that nomination can be called up, therefore, at any time there is a gap in our legislative process beginning with Monday and continuing any day through next week and thereafter.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I am glad to yield.

Mr. BAKER. Mr. President, I thank the majority leader for issuing that notice. He had previously represented to me that he would give us advanced notice before proceeding to the consideration of the Zimmerman nomination. There are holds on that nomination on our Executive Calendar and have been for some time.

It is my understanding that the majority leader intends to move to the consideration of the Executive Calendar and this nomination. I will put out notice from our cloakroom this afternoon that the majority leader has now given notice. I expect Members on this side to be aware of that possibility beginning on Monday, as the majority leader has suggested.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

Other measures will be taken up as and when they are cleared for action. Of course, conference reports and privileged matters can be called up and so there is an extensive and heavy and complicated workload that remains for the Senate to do.

Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for another 30 minutes and Senators may speak therein for 5 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. SIMPSON. Mr. President, as the ranking minority Member on the floor at the time the majority leader was referring to the Saturday session, I assure him that no apology is necessary at all.

I appreciate what he did with regard to the accommodation of the time agreement, and I concur, certainly, and I want to state that he has been more than patient in dealing with us, in holding up the energy and natural resources nuclear waste bill while we completed our efforts on the environment and public works bill.

I appreciate the remarkable way he has of keeping us at our tasks. Certainly, the Saturday session is one that does that. It is difficult to scale an agenda. He does it admirably.

I cannot help but think of my days as a legislator when I was the majority leader of the Wyoming House of Representatives. How much easier it was to sort through the file and do the things that I wanted to do than it is here.

It is not always convenient to me, but I admire the efforts of the majority leader as he sets the agenda and keeps us occupied. It is a difficult task indeed.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO FURTHER ROLLCALL VOTES TODAY

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

VITIATION OF ORDER FOR THE SENATE TO CONVENE ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the Senate convening on tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I believe there is an order entered for the Senate to convene next week each day at 9 o'clock a.m. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on Monday?

The PRESIDING OFFICER. There are no orders.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS UNTIL MONDAY, JULY 28, 1980, AT 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10:30 on Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO THE CONSIDERATION OF S. 2189 ON MONDAY, JULY 28, 1980, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, the nuclear waste bill is ordered to come up at any time on Monday, but not prior to 11 a.m. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Then I will just make it specific.

Mr. President, I ask unanimous consent that at the hour of 11 a.m. on Monday, the Senate proceed to the consideration of S. 2189.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

WASHINGTON'S "SPEND-A-HOLICS"

Mr. HARRY F. BYRD, JR. Mr. President, The Federal Government needs help.

Just 45 days ago, the Congress and the administration took the pledge to stick to a balanced budget after 11 straight years of being drunk on deficit spending—and, indeed, drunk for 19 out of the last 20 years.

The "spend-a-holics" on Capitol Hill and in the White House and Federal departments said to the Nation:

> We're going to kick the deficit habit. We've produced a balanced budget for 1981. Just look at this wonderful budget of the President's, and his marvelous new congressional budget resolution. We're walking the straight and narrow path.

But sad to say, on July 21, the White House broke the pledge. After only 39 days of sobriety, the administration revised the budget to provide for $30 billion of red ink.

The "spend-a-holics" just could not take it. They went back to the "Big Spender Saloon" for another draft of "100-proof Old Deficit."

And there is no doubt that the Congress will follow suit. We will have a new budget resolution soon, containing plenty of the old spending sauce.

What Washington needs is a good clinic to cure the chronic spenders. Maybe Alcoholics Anonymous could be persuaded to take on the job.

Seriously, drastic action is needed to end Washington's addiction to huge spending increases and smashing deficits.

For the current year—1980—according to the President's newest figures, the Government will have the largest spending increase in history, $85 billion. And at the same time, the deficit will be the second highest in history, $61 billion.

And for the year ahead—1981—all hope of a balanced budget has been abandoned, and a $30 billion deficit is now projected. This was confirmed yesterday by Treasury Secretary Miller. This deficit will be in clear violation of the law, namely, Public Law 95–435, which prohibits a deficit in 1981 or any subsequent year.

As I see it, this spending boom will prevent any real progress in the fight against inflation, will weaken the dollar, and will do nothing to end the recession—which itself is really a hangover from the inflationary policies of the last few years.

THE GENOCIDE CONVENTION—ONE SMALL STEP

Mr. PROXMIRE. Mr. President, 11 years ago this week, Apollo 9 landed on the Moon, and two men walked on the lunar surface for the first time in history. As I think back to July 1969, I still recall Neil Armstrong's words as he climbed down from the "Eagle." He said:

> This is one small step for man, but one giant leap for mankind.

The few words he spoke said a great deal about how man views progress. We see it as a series of small steps which, taken together, constitute great strides forward in human knowledge, achievement, and ability.

The International Convention on the Prevention and Punishment of Genocide is much the same. It is a treaty of limited authority. But it brings us closer to our goal of halting the slaughter of innocent men, women, and children.

The treaty, which has sat in the Senate Foreign Relations Committee for the past 31 years, outlines measures to prevent the extermination of ethnic, racial, and religious minorities.

It is a fair treaty. It will not force the United States, or any other nation, to surrender its sovereignty. Nor will it spell the end of civil liberties in this country just because we agree to follow certain international legal procedures for punishing genocide.

I can tell what it will do—it will strengthen our resolve and our commitment to human rights by asserting our support for a treaty that has already been adopted by 83 other nations, virtually every other nation in the world. And it will end the embarrassment that mars our stand on human rights because we will finally agree to officially condemn genocide.

This treaty will not solve the problems of the world. Neither does landing men on the Moon. But, like the moonwalk, it would hold enormous symbolic value that could someday translate into practical gains.

Let us recognize the treaty's great potential and ratify it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders numbered 934, 936, and 941.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the measures be considered en bloc, that the amendments be considered and adopted and that the amendments to the title be adopted and that the measures be passed, the motion to reconsider laid on the table and extracts from the committee reports be inserted in the RECORD in explanation thereof.

Mr. STEVENS. I agree.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL GUARD PROPERTY

The bill (H.R. 5748) to amend title 3, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–849), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> H.R. 5748 would grant to the Secretaries of the Army and Air Force the authority to regulate property accountability standards for the Army National Guard and Air National Guard, respectively. The bill also allows the Secretaries involved to cancel liability for damaged property when there is good cause for such remission.

MILITARY ENLISTMENT OF CITIZENS OF THE NORTHERN MARIANA ISLANDS

The Senate proceeded to consider the bill (H.R. 4627) to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands, which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

That notwithstanding the provisions of sections 3253 and 8253 of title 10, United States Code, and in accordance with a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved on March 24, 1976, by Public Law 94–241), a citizen of the Northern Mariana Islands who indicates in writing to a commissioned officer of the Armed Forces of the United States of America an intent to become a citizen, and not a national, of the United States upon full implementation of such Covenant, and who is otherwise qualified for military service under applicable laws and regulations, may enlist in the Armed Forces of the United States of America.

SEC. 2. This Act shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands.

● Mr. JOHNSTON. Mr. President, H.R. 4627 will allow citizens of the Northern Mariana Islands to enlist in the U.S. Armed Forces, a privilege they were granted prior to 1978 when the covenant to establish permanent union between the United States and the Northern Mariana Islands was enacted.

Until 1978, young people from the Northern Marianas who wanted to enlist in the U.S. Armed Forces—and satisfied statutory or regulatory requirements of proof of permanent residence—were allowed to do so. In fact, a number of these islanders served and fought in both Korea and Vietnam. Ironically, the legal basis for this service was eliminated by an Immigration and Naturalization Service ruling in January 1978 which was designed to ease the transition period to permanent union by eliminating the "green card" requirements for citizens of the Northern Mariana Islands to take up permanent residence in the United States.

Statutes in the case of the U.S. Army and the U.S. Air Force (10 U.S.C. sections 505, 3253 and 8253 (1970)) and regulations in the case of the U.S. Marine Corps and the U.S. Navy (USMC Military Personnel Procurement Manual, Volume IV, MCO P 1100.74, section 2006, January 1977 and Navy Recruiting Manuel: COMNAVCRUT COM Instruction 1130. 8A 2–I–15 (2–I–18, CH–16, August 4, 1977)) prohibit enlistments except for citizens of the United States or persons "lawfully admitted for permanent residence," interpreted as holders of green cards. This bill makes the appropriate statutory changes for the U.S. Army and the U.S. Air Force and I am confident that the Department of Defense will make needed adjustments in Navy and Marine Corps regulations after congressional intent has been expressed.

During the 94th Congress the covenant to establish the Commonwealth of the Northern Mariana Islands was enacted. That historic moment brought to fruition the hopes and desires of a people long separated from their relatives in Guam. Their desire to join the United States and to assume burdens and responsibilities attendant to citizenship is nowhere better exemplified than in the request from Governor Carlos Camacho and Delegate Eddie Pangelinan that citizens from the Northern Marianas be allowed to enlist and serve in the Armed Forces of the country they have joined.

The Honorable ANTONIO WON PAT, the current delegate to the U.S. House of Representatives from Guam, has shown strong leadership in pushing this legislation through the House last year. I sincerely hope the Senate will soon follow suit.

Mr. President, I especially want to commend the senior Senator from Maine (Mr. COHEN), and the junior Senator from Georgia (Mr. NUNN), for their firm support of this needed change during the Armed Services Committee's consideration of this measure. In my view, it is very fitting for the Senate to pass legislation this year. Not only will this correct an inequity which I believe was not anticipated by the Congress during consideration of Public Law 94–241, but recent confusion and anger over an ill-advised INS ruling earlier this year also increases the need for us to demonstrate our continuing commitment to permanent union. I cannot think of a better way of giving concrete proof of our commitment to commonwealth than passing H.R. 4627, as amended.

Mr. President, the people of the Northern Marianas support this legislation; the Department of Defense testified in favor of similar legislation in the House; and the House has already passed H.R. 4627. I urge the Senate to act favorably on H.R. 4627 and demonstrate to the people of the Northern Mariana Islands that we intend to honor our commitment to them, thereby extending both the privileges and the responsibilities of citizenship.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An act to authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.

DISPUTES RESOLUTION PROCEDURE

The Senate proceeded to consider the bill (H.R. 827) to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

That section 1004 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) (1) The Postal Service and the supervisors' organization shall, unless otherwise mutually agreed to, meet at least once each month to implement the consultation and direct participation procedures of subsection (b) of this section.

"(2) (A) At least 7 days before each meeting, each party shall—

"(i) provide notice of agenda items, and

"(ii) describe in detail the proposals such party will make with respect to each such item.

"(B) Grievances of individual employees shall not be matters which may be included as agenda items under this paragraph.

"(d) (1) In order of facilitate consultation and direct participation by the supervisors' organization in the planning and development of programs under subsection (b) of this section which affect members of the supervisors' organization, the Postal Service shall—

"(A) provide in writing a description of any proposed program and the reasons for it;

"(B) give the organization at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the program; and

"(C) give any recommendation from the organization full and fair consideration in deciding whether or how to proceed with the program.

"(2) If the Postal Service decides to implement a program described in paragraph (1) of this subsection, the Postal Service shall before such implementation—

"(A) give the supervisors' organization details of its decision to implement the program, together with the information upon which the decision is based;

"(B) give the organization an opportunity to make recommendations with respect to the program; and

"(C) give such recommendations full and fair consideration, including the providing of reasons to the organization if any of such recommendations are rejected.

"(3) If a program described in paragraph (1) of this subsection is implemented, the Postal Service shall—

"(A) develop a method for the supervisors' organization to participate in further planning and development of the program, and

"(B) give the organization adequate access to information to make that participation productive.

"(4) The Postal Service and the supervisors' organization may, by agreement, adopt procedures different from those provided by this subsection.

"(e) (1) The Postal Service shall, within 45 days of each date on which an agreement is reached on a collective bargaining agreement between the Postal Service and the bargaining representative recognized under section 1203 of this title which represents the largest number of employees, make a proposal for any changes in pay policies and schedules and fringe benefit programs for members of the supervisors' organization which are to be in effect during the same period as covered by such agreement.

"(2) The Postal Service and the supervisors' organization shall strive to resolve any differences concerning the proposal described in paragraph (1) of this subsection under the procedures provided for, or adopted under, subsection (d) of this section.

"(3) The Postal Service shall provide its decision concerning changes proposed under paragraph (1) of this subsection to the supervisors' organization within 90 days following the submission of the proposal.

"(f)(1) If, notwithstanding the mutual efforts required by subsection (e) of this section, the supervisors' organization believes that the decision of the Postal Service is not in accordance with the provisions of this title, the organization may, within 10 days following its receipt of such decision, request the Federal Mediation and Conciliation Service to convene a factfinding panel (hereinafter referred to as the 'panel') concerning such matter.

"(2) Within 15 days after receiving a request under paragraph (1) of this subsection, the Federal Mediation and Conciliation Service shall provide a list of 7 individuals recognized as experts in supervisory and managerial pay policies. Each party shall designate one individual from the list to serve on the panel. If, within 10 days after the list is provided, either of the parties has not designated an individual from the list, the Director of the Federal Mediation and Conciliation Service shall make the designation. The first two individuals designated from the list shall meet within 5 days and shall designate a third individual from the list. The third individual shall chair the panel. If the two individuals designated from the list are unable to designate a third individual wtihin 5 days after their first meeting, the Director shall designate the third individual.

"(3)(A) The panel shall recommend standards for pay policies and schedules and fringe benefit programs affecting the members of the supervisors' organization for the period covered by the collective bargaining agreement specified in subsection (e)(1) of this section. The standards shall be consistent with the policies of this title, including sections 1003(a) and 1004(a) of this title.

"(B) The panel shall, consistent with such standards, make appropriate recommendations concerning the differences between the parties on such policies, schedules, and programs.

"(4) The panel shall make its recommendation no more than 30 days after its appointment, unless the Postal Service and the supervisors' organization agree to a longer period. The panel shall hear from the Postal Service and the supervisors' organization in such a manner as it shall direct. The cost of the panel shall be borne equally by the Postal Service and the supervisors' organization.

"(5) Not more than 15 days after the panel has made its recommendation, the Postal Service shall provide the supervisors' organization its final decision on the matters covered by factfinding under this subsection. The Postal Service shall give full and fair consideration to the panel's recommendation and shall explain in writing any differences between its final decision and the panel's recommendation.

"(g) Not earlier than 3 years after the date of the enactment of this subsection, and from time to time thereafter, the Postal Service or the supervisors' organization may request, by written notice to the Federal Mediation and Conciliation Service and to the other party, the creation of a panel to review the effectiveness of the procedures and the other provisions of this section and the provisions of section 1003 of this title. The panel shall be designated in accordance with the procedure established in subsection (f)(2) of this section. The panel shall make recommendations to the Congress for changes in this title as it finds appropriate.

"(h) For purposes of this section—

"(1) 'supervisors' organization' means the organization recognized by the Postal Service under subsection (b) of this section as representing a majority of supervisors; and

"(2) 'members of the supervisors' organization' means employees of the Postal Service who are recognized under an agreement between the Postal Service and the supervisors' organization as represented by such organization.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An act to establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–856), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to provide for improved consultation between the Postal Service and an organization of postal supervisors and to establish new procedures for resolving disputes between the Postal Service and an organization of postal supervisors on matters concerning pay and benefits. The committee amendment differs from the House-passed bill in that it provides for convening a factfinding panel to consider disputes over pay and benefits and to make recommendations to the Postal Service. It does not require arbitration of such disputes.

The right of consultation between postal supervisors and postal management is unique within the Federal Government. It has developed from the unique status of the U.S. Postal Service and the rights of its rank and file to bargain collectively for wages. The Postal Reorganization Act does not accord postal supervisors traditional collective bargaining rights, nor do they have the right to arbitrate either interest disputes or grievances. Recent disputes and court decisions have indicated the need for further clarification of the consultation process and, particularly, the procedures for resolving disputes with respect to pay and benefits policies.

The differences of interpretation of section 1004 of the PRA has resulted in costly and lengthy court proceedings which have consumed the time of both the Postal Service and the supervisors' organization.

As an example, in the 1975 case, *NAPS* v. *USPS*, Civ. No. 75–1909 (D.D C.) NAPS charged that a decision by the USPS to discontinue cost of living allowances (COLA) and a salary increase which accomplished a decrease in the average differential between management and rank and file workers was a violation of § 1004(a) of the PRA. On May 10, 1977 the court ruled that the Postal Act required an immediate salary increase effecting an upward adjustment in the salary differential. The judgment further obligated the Postal Service to provide a fixed salary differential in any future salary increase.

However, on appeal, *National Association of Postal Supervisors* v. *United States Postal Service*. Doc. No. 77–1684 (D.C. C.A. June 14, 1979) the U.S. court of appeals held,

In sum, although the district court had the authority to hear the case, and while the language of the Postal Act admits to some very restricted judicial review, the court below adopted too narrow a view of the Postal Service's discretion under section 1004. Consequently, we vacate the district court's judgment insofar as it grants salary increases in supervisory and other managerial personnel and establishes a fixed differential to be maintained in the future.

After a careful review of the situation, the committee determined the PRS should be amended with respect to supervisors' rights. It is the committee's intention to develop a dispute procedure which will make it more likely the parties can resolve their differences through improved consultation, rather than through the courts.

As originally introduced S. 794 provided for an arbitration board to settle disputes between the USPS and an organization of supervisors. The decisions of the Arbitration Board would have been conclusive and binding upon the parties.

The committee recognizes that many of the supervisors' concerns have merit—particularly with respect to pay increases which lag behind those of rank and file members who have won substantial wage gains through the interest arbitration provisions of the act. It also recognizes that many believe binding arbitration could blur management rights, possibly create conflicting loyalties among supervisors, and might impede management responsibility to effectively and efficiently conduct postal operations.

The committee believes that the substitute, H.R. 827, as reported provides a procedure which, while not binding, nonetheless requires a public finding and assumes the Postmaster General will give it serious consideration before reaching a final determination.

ORDER FOR TIME TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works have until 7 p.m. today to file the report on the nuclear waste bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TUESDAY, JULY 29, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next the following Senators be recognized each not to exceed 15 minutes, after the majority and minority leaders or their designees have been recognized under the standing order, Messrs. SCHMITT, BAKER, STEVENS, and TOWER.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCHMITT ON WEDNESDAY, JULY 30, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday of next week Mr. SCHMITT be recognized for not to exceed 15 minutes, after the two leaders or their designees have been recognized under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. MONDAY, JULY 28, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour 10:30 a.m. on Monday.

The motion was agreed to; and at 5:50 p.m. the Senate recessed until Monday, July 28, 1980, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 1980:

DEPARTMENT OF THE INTERIOR

Wallace Orphesus Green, of the District of Columbia, to be an Assistant Secretary of the Interior, vice John Henry Kyl, resigned.

THE JUDICIARY

Norman P. Ramsey, of Maryland, to be U.S. district judge for the district of Maryland vice J. Stanley Blair, deceased.

CIVIL AERONAUTICS BOARD

James Robert Smith, of Florida, to be a Member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1980, vice Richard Joseph O'Melia, resigned.

James Robert Smith, of Florida, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1986 (reappointment).

FEDERAL COUNCIL ON THE AGING

Jacob Clayman, of Maryland, to be a Member of the Federal Council on the Aging for a term expiring December 19, 1982, vice Nelson Cruikshank, term expired.

NATIONAL CONSUMER COOPERATIVE BANK

Wayman D. Palmer, of Ohio, to be Director of the Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank (new position).

CONFIRMATIONS

Executive nominations confirmed by the Senate July 25, 1980:

CIVIL AERONAUTICS BOARD

Marvin S. Cohen, of Arizona, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1985.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

William Courtleigh Gardner, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of years prescribed by Public Law 91-358, as amended.

HOUSE OF REPRESENTATIVES—*Friday, July 25, 1980*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Eternal Master, we come into Your presence with the awareness and thankfulness for a new day of life and the opportunity for service. We have not loved You as we ought, yet You continue to love us; we have not been faithful as we ought, yet You are ever faithful to us. We pray for the great needs of our Nation and our world, and also for those people who are near us and who need our love and care. Comfort and encourage those who are anxious about their lives, and give power to those who speak Your truth and testify to Your mighty acts. We pray in Your name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1198. An act to clarify the authority to establish lines of demarcation dividing the high seas and inland waters.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1647. An act to establish a commission to review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens, to review directives of United States military forces requiring internment of Aleut civilians, and to recommend appropriate remedies, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 86-42, appointed Mr. McCLURE to be a member of the Canada-United States Interparliamentary Group.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

As the Chair announced yesterday, requests to address the House for 1 minute will be entertained at the conclusion of the legislative business today, rather than at the beginning. This should not deprive any Member of the privilege of being heard on any subject of his choice, so long as the Member is willing to await the conclusion of the business of the House.

The Chair believes there is genuine value in the 1-minute rule in the exercise of free expression on subjects, the variety of which is limited only by the individual imaginations of the Members. The Chair would not desire to deny any Member this privilege. For all its value, however, the Chair does not believe that the 1-minute rule must necessarily precede, nor be permitted to postpone, the business of the House. On several occasions this year, the exercise of the 1-minute rule has delayed a beginning on the business of the day by periods extending from 45 minutes to 1 hour.

Only 38 legislative days remain, including Mondays and Fridays, between now and October 4, the date of our recess or adjournment sine die. Nine major appropriations bills remain to be acted upon by the House. No major appropriations bill at this time has completed the legislative process.

In addition to those very basic and indispensable legislative priorities, there are other bills, including the budget reconciliation legislation, the second budget resolution for fiscal year 1981, and a considerable number of important legislative initiatives, which, in the public interest, must be completed before the Congress can adjourn.

Under those circumstances, the Chair requests the understanding and cooperation of all the Members in expediting the necessary legislative business of the House, which is of course our first duty to the American people. The Chair assures all Members, to the extent that any such reassurance may be desired, that their rights under the rules will be fully respected and assiduously protected.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Maryland asks a parliamentary inquiry. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, yesterday the gentleman from Maryland heard the Chair answer a question regarding 1-minute speeches. The gentleman from Maryland asked the Chair whether or not limits on such speeches is to be a policy to be followed for the remainder of the session, and the Chair, as recorded on page 19386, said that the Chair was not announcing a policy for the remainder of the session, but only for Thursday and Friday.

Do I take the Chair's announcement this morning to mean that this will be the policy for the remainder of this session?

The SPEAKER pro tempore. No; as the Chair stated yesterday in response to a question from the gentleman from Maryland, the present occupant of the chair is not in a position to announce a policy for the remainder of the session, and so stated.

The policy for the remainder of the session would be more appropriately determined and stated by Speaker O'NEILL. At this present time, that is all the Chair has to say, or all that he properly should or could say.

QUESTION OF PRIVILEGE OF THE HOUSE

Mr. SHUSTER. Mr. Speaker, I rise to a point of privilege.

The SPEAKER pro tempore. The gentleman will state his privilege.

Mr. SHUSTER. Mr. Speaker, I offer a privileged resolution.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

Whereas the custom of allowing one-minute speeches is a longstanding tradition of the House, begun by Speaker Sam Rayburn in the 1940's;

Whereas the ability of the Minority to be heard rests to a large degree on the one-minute speeches; permitted in a timely fashion; and

Whereas the integrity of the proceedings of the House is impugned where all Members are not accorded a full opportunity to speak; Now, therefore, be it

Resolved, That the Speaker exercise his prerogative and reinstitute the custom of allowing one-minute speeches at the beginning of the session.

The SPEAKER pro tempore. The Chair must declare that a question of the privileges of the House under rule IX cannot impinge upon the Speaker's right of recognition. The gentleman's proposal is not, under rule IX, a privileged resolution, and the Chair will so rule. The Chair does not entertain the resolution at this time.

Mr. SHUSTER. Mr. Speaker, I rise to a point of privilege.

The SPEAKER pro tempore. The gentleman will state his point of privilege.

Mr. SHUSTER. Mr. Speaker, I reluctantly send a second privileged resolution to the desk.

The SPEAKER pro tempore. The Clerk will report the second resolution.

The Clerk read as follows:

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

H. RES. 753

Whereas the structural deficiencies of the West Front of the Capitol include walls that are "cracked, the stones are misaligned, the ties have rusted away, and the walls are held in place by a system of shores and braces;" and

Whereas the portico ceiling at the West Capitol Front is composed of "stone joints that have failed; and

Whereas "the exterior walls of the west central portion of the capitol are distorted and cracked, and require corrective action for safety and durability; now, therefore, be it

Resolved, That an independent investigation be immediately initiated into the safety of the Members of the House.

MOTION TO TABLE OFFERED BY MR. BRADEMAS

Mr. BRADEMAS. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Indiana (Mr. BRADEMAS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

☐ 1010

Mr. SHUSTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Chair will state that the vote is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) to table the resolution offered by the gentleman from Pennsylvania (Mr. SHUSTER).

The vote was taken by electronic device, and there were—yeas 222, nays 137, not voting 74, as follows:

[Roll No. 427]

YEAS—222

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Clay
Coelho
Conyers
Corman
D'Amours
Daniel, Dan
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Glickman
Gonzalez
Gore
Gray
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harris
Hawkins
Hefner
Heftel
Hightower
Howard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Markey
Matsui
Mattox
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Roberts
Roe
Rose
Rosenthal
Roybal
Russo
Sabo
Santini
Satterfield
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Skelton
Smith, Iowa
Solarz
Spellman
Stack
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki

NAYS—137

Abdnor
Andrews, N. Dak.
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Carney
Carter
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Frenzel
Gilman
Gingrich
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harkin
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hyde
Jeffords
Jeffries
Johnson, Colo.
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Lewis
Loeffler
Lujan
Lungren
McClory
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
Pashayan
Paul
Petri
Porter
Pursell
Quayle
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Stanton
Stockman
Tauke
Taylor
Thomas
Trible
Walker
Wampler
Whitehurst
Whittaker
Wilson, Bob
Winn
Wylie
Young, Fla.

NOT VOTING—74

Ambro
Anderson, Ill.
Ashley
AuCoin
Badham
Bedell
Beilenson
Boggs
Bowen
Byron
Campbell
Chisholm
Cleveland
Collins, Ill.
Cotter
Davis, S.C.
Deckard
Dodd
Dougherty
Ford, Mich.
Ford, Tenn.
Fowler
Giaimo
Ginn
Goldwater
Goodling
Gramm
Guarini
Holland
Holtzman
Hubbard
Jacobs
Kelly
Leach, La.
Leath, Tex.
Livingston
Lott
McCloskey
McDade
McDonald
McEwen
McKay
Maguire
Mathis
Mavroules
Mica
Moakley
Murphy, N.Y.
Nichols
O'Brien
Pepper
Pritchard
Rhodes
Richmond
Rodino
Rostenkowski
Runnels
Simon
Solomon
St Germain
Staggers
Stark
Steed
Symms
Tauzin
Udall
Vander Jagt
Waxman
White
Williams, Ohio
Wilson, Tex.
Wydler
Young, Alaska
Zeferetti

☐ 1020

Mr. DICKINSON changed his vote from "yea" to "nay."

Ms. MIKULSKI and Mr. BARNARD changed their votes from "nay" to "yea."

Mr. DUNCAN of Tennessee changed his vote from "yea" to "present."

Mr. DUNCAN of Tennessee changed his vote from "present" to "nay."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The Chair lays before the House the following enrolled bill.

Mr. BAUMAN. Mr. Speaker, I make a point of order at this point.

Mr. Speaker, a point of order.

Mr. Speaker, I make a point of order.

The Clerk proceeded to read the enrolled bill.

Mr. BAUMAN. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The Clerk will suspend.

A Member is seeking recognition to make a point of order, the Chair discerns.

Mr. BAUMAN. I am glad the Chair noticed.

The SPEAKER pro tempore. That being a highly privileged matter, the Chair will ask the gentleman to state his point of order.

☐ 1030

Mr. BAUMAN. Mr. Speaker, prior to the privileged or nonprivileged motions just offered by the gentleman from Pennsylvania, the Chair unilaterally issued a ruling regarding the 1-minute speeches and stated in essence, if I recall, that these speeches would not be permitted today or during his tenure as Speaker pro tempore because of the press of legislative business in the remainder of the session. I believe that was the import of his remarks.

The SPEAKER pro tempore. The Chair would correct the gentleman, if the gentleman would permit.

The Chair did not exactly say that, but the gentleman will state his point of order.

Mr. BAUMAN. I make a point of order against the ruling of the Chair. I make a point of order that the Chair cannot in fact deny the 1-minute speeches on the ground which he stated, and as authority for that, I cite chapter 21, section 7 of Deschler's, wherein there are several instances, including those referring to July 22, 1968; June 17, 1970; and October 19, 1966, where the Chair declined to recognize Members for 1-minute speeches because of the press of business, a heavy legislative schedule, which is Deschler's phrase, and proceeding to unfinished business.

Mr. Speaker, my point of order is that the traditions of the House, as evidenced in these precedents, indicate the Chair has the discretion to deny 1-minute speeches on those grounds, but that the ruling of the gentleman from Texas (Mr.

Wright), the Speaker pro tempore, has, in fact, allowed an arbitrary ground to be used at a time when there is no press of heavy legislative business manifested by the fact that the Speaker and others have announced that we will adjourn today at 3 o'clock when we can easily stay here and deal with any pressing legislative business if that exists.

Further my point of order is that the Speaker has departed from past traditions and, therefore, has exceeded his discretion in regard to 1-minute as supported by the traditions of the House.

The SPEAKER pro tempore. The Chair is prepared to rule on the point of order, unless other Members insist on being heard. The Chair is prepared to rule.

The gentleman's point of order in the first place comes too late. But the Chair is prepared to state that in any event it is not a sustainable point of order.

The gentleman from Maryland is aware, because he is a scholar of the rules of the House, and he is aware of the great thrust of the very section to which he made reference, paragraph 7 of chapter 21 of Deschler's Procedure.

The Chair would simply recite one or two of the precedents therein reported. Recognition for 1-minute speeches is within the discretion of the Speaker, and his evaluation of the time consumed is a matter for the Chair and is not subject to challenge or question by parliamentary inquiry.

Now that was May 9, 1972.

On December 16, 1971, the Speaker pro tempore announced that he would recognize Members to address the House for longer than 1 minute for reasons that he felt desirable. On a number of occasions, July 22, 1968; June 17, 1970; October 19, 1966, the same rule was applied. Recognition for 1-minute speeches is within the discretion of the Speaker, and when the House has a heavy legislative schedule, he sometimes refuses to recognize Members for that purpose.

So the traditions of the House are clear, and the customs have not been broken; and the Chair has tried to state to the gentleman his intention and his firm determination assiduously to protect the rights of all Members, minority as well as majority.

The Chair has had a conversation with the gentleman from Pennsylvania, and with the Chairman who will preside in the Committee of the Whole House and has asked that Chairman as a favor to the Chair and as an exercise in abundant fairness to be extremely tolerant of the rules of relevance so as to permit the gentleman from Pennsylvania to speak his mind on an amendment that he will be offering.

Now, the Chair has bent over backward in an effort to be fair with the minority, and the Chair believes the gentleman from Maryland is aware of that fact; and so the point of order is overruled.

Mr. BAUMAN. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The gentleman from Maryland appeals from the ruling of the Chair.

The Chair recognizes the gentleman from Indiana (Mr. Brademas).

MOTION OFFERED BY MR. BRADEMAS

Mr. BRADEMAS. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. Brademas).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 233, nays 139, answered "present" 1, not voting 60, as follows:

[Roll No. 428]

YEAS—233

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Chappell
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Corman
D'Amours
Daniel, Dan
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Glickman
Gonzalez
Gore
Gramm
Gray
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Howard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Mattox
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Roberts
Roe
Rose
Rosenthal
Roybal
Russo
Sabo
Satterfield
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Solarz
Spellman
Stack
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wyatt
Yates
Yatron
Young, Mo.
Zablocki

NAYS—139

Abdnor
Andrews, N.Dak.
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Carney
Carter
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Gilman
Gingrich
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hyde
Jeffords
Jeffries
Johnson, Colo.
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Lewis
Loeffler
Lott
Lujan
Lungren
McClory
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
O'Brien
Pashayan
Paul
Petri
Porter
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Stanton
Stockman
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Wilson, Bob
Winn
Wylie
Young, Fla.

ANSWERED "PRESENT"—1

Wright

NOT VOTING—60

Anderson, Ill.
Ashley
AuCoin
Badham
Bedell
Beilenson
Biaggi
Bowen
Campbell
Cleveland
Cotter
Davis, S.C.
Deckard
Dodd
Dougherty
Ford, Tenn.
Fowler
Giaimo
Ginn
Goldwater
Guarini
Holland
Holtzman
Hubbard
Kelly
Leach, La.
Leath, Tex.
Livingston
McCloskey
McDade
McDonald
McEwen
McKay
Mathis
Mavroules
Mica
Moakley
Nichols
Pepper
Rhodes
Richmond
Rodino
Rostenkowski
Runnels
Santini
Solomon
St Germain
Staggers
Stark
Steed
Symms
Tauzin
Udall
Waxman
White
Williams, Ohio
Wilson, Tex.
Wydler
Young, Alaska
Zeferetti

□ 1050

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT–INDEPENDENT AGENCIES APPROPRIATIONS, 1981

Mr. TRAXLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. TRAXLER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7631, with Mr. LEVITAS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, July 24, 1980, the Clerk had read through line 3 on page 19. Pending was an amendment offered by the gentleman from New York (Mr. MITCHELL).

The Chair recognizes the gentleman from New York (Mr. MITCHELL) for 5 minutes in support of his amendment.

Mr. MITCHELL of New York. Mr. Chairman, the Appropriations Committee reduced the amount for civil defense from the authorization that the Armed Services Committee provided from $167 million to $100 million. We have experienced this same situation for 4 years now, and this has prevented the United States from having any sort of civil defense system to protect its population in the event of a nuclear war.

My amendment merely restores the $67 million that the Appropriations Committee cut back up to the authorization level of our Armed Services Committee.

Remaining at last year's level will accomplish just what we accomplished last year toward improving civil defense—which was absolutely nothing. We do not have a civil defense program for our Nation today. We continue to go along with a policy of mutual assured destruction, whose acronym is MAD, and it makes an excellent acronym for this particular foolish policy.

The policy is that both the United States and the Soviet Union will keep their populations defenseless or hold them hostage to the strong, mighty nuclear arsenals of the other nation. This might not be too terrible a policy if the Soviet Union went along with it but, unfortunately, they have not, even though the United States has. The Soviet Union has developed an excellent civil defense system.

One might well ask what is magic about $167 million. It represents the cost of the first year of a comprehensive 7-year civil defense program for our country. We have never had this. This would be the first year of that kind of a comprehensive program.

To me the case is clear for an adequate civil defense system. Everyone in this Chamber, if asked, would readily admit that he desires peace. We are told by our leaders that the best way to assure peace is to maintain the strategic balance, to keep things even, to keep the scales from favoring the Soviet Union.

Our leaders also tell us that we enjoy something called "rough equivalence" in weaponry, that our weaponry is roughly the same as that of the Soviet Union. But if they can protect their population from our weapons and we cannot protect our population from their weapons, it adds up to them having far more weapons. It makes a mockery of the strategic balance. It gives a great advantage to the Soviet Union in any sort of confrontation.

There is a great debate about just how effective the Soviet civil defense system is.

□ 1100

I guess no one will know the answer to that question until it is too late to find out.

But if they even perceived their system to be far superior to ours—and most experts agree that it is—if they just think their system will protect their people, that creates a very dangerous situation which gives them a great advantage once again.

Mr. Chairman, we can also measure their superiority by how hard they are trying. They are trying approximately 10 times harder than we are to protect their population. When it comes to people, we have 10,000 people employed full time in civil defense. They have 100,000. When it comes to expenditures, we expend roughly $100 million a year for civil defense and they spend over $1 billion.

Mr. Chairman, when it comes to casualties we have the high numbers. Our experts tell us if there were an all-out nuclear war and both sides fired about everything they have, and the Soviets had time to put their civil defense system into effect, they would lose about 10 million people and the United States would lose more than 100 million people. The 10-to-1 ratio still holds when it comes to casualties.

Mr. Chairman, my point is, if we want to maintain peace we have to keep the balance on these strategic scales. We have to keep things even.

We have a couple of choices. One choice is to develop new and more sophisticated weapons, expensive weapons, and target them toward their population so we can kill more of our enemy. Another option is to develop a civil defense system to protect our people from their weapons and probably prevent war in the meantime.

I suggest to you, Mr. Chairman it is far more humane to save American lives than to destroy the lives of others and for all of those who are interested in the fiscal aspects of this or for balancing the budget, it also happens to be a great deal less expensive.

I would like to demonstrate something on the basis of this chart, something about the options for civil defense.

Mr. Chairman, this chart was the result of a study by an interagency group. It was requested by President Carter to find out just what our options are in civil defense.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MITCHELL of New York was allowed to proceed for 3 additional minutes.)

Mr. MITCHELL of New York. The scale to the left on the map indicates how many people will survive in the event of a nuclear attack with the various options. At the present time we are at option B. We have almost nothing going for us in civil defense and the Committee on Appropriations, year after year, will give us nothing. If there were all-out nuclear war today with option B, where we are right now, less than 40 percent of our population would survive. If we go to the most expensive alternative, option F where we build shelters for our entire population, 95 percent of our people would survive, but this costs $100 billion. If this Committee on Appropriations will not come up with $67 million they certainly will not come up with $100 billion.

The best compromise as I see it, Mr. Chairman, is that we go to what is called the D prime option where we provide a program of evacuation. We move our people out from where the bombs are going to go off. D prime saves 85 percent of our American population.

Mr. Chairman, I would like to point up these two options again. The option that the Committee on Appropriations wants us to maintain would save 40 percent of our population in the event of all-out nuclear war. The one I opt for costs a little bit more and would save 85 percent of our population.

Mr. Chairman, I would like to point out that all day long we talk about cost/benefit ratios in this House. The program I opt for—not the one the Committee on Appropriations would like—will save 100 million American lives and will cost, over a 7-year period, about $1 billion. If we figure that on a cost/benefit ratio, that amounts to about $10 for an American life. Even though the Committee on Appropriations does not feel that is an important expenditure, I think $10 for an American life is about the best cost/benefit ratio any of us will ever see.

We talk about $67 million as being sort of a big number. It is of course a lot of money, but when we consider it in the context of our overall defense, it is a pittance. We are spending more than $150 billion on our offensive effort for our troops, our tanks, our planes. This small amount of money, this $67 million is less than one-tenth of 1 percent of our defense effort.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to my friend from Missouri.

Mr. SKELTON. Mr. Chairman, I would first like to commend the gentleman from New York on his sponsorship of the amendment. I am pleased to have been named a cosponsor of the measure. I think this vote on this amendment could very well be the most important strategic defensive vote of our session. I commend the gentleman. I wish to speak to the amendment further later. I wish the measure well, because it is direly needed.

Mr. MITCHELL of New York. I thank the gentleman for his support and for his words of wisdom when it comes to nuclear war and civil defense.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MITCHELL of New York was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of New York. Mr. Chairman, I do not even know the makeup of the Committee on Appropriations, a committee apparently opposed to civil defense, apparently opposed to a program to protect our population, as far as their hawk-dove orientation is concerned. But this is one defense measure everyone in the Chamber can support. For hawks it can be supported because it is part of a full and well-rounded defense program. All we have now is an offensive capability.

Mr. Chairman, for the doves it is a system which can be supported because it is not destructive at all, it is passive, it is inexpensive, it helps to prevent war because it balances those strategic scales which it is so important to balance. It also protects, in the event of an all-out nuclear war, 100 million American lives.

I think for those who generally vote against defense expenditures can support this in good conscience. If you cannot vote for the weapon systems we need to defend our Nation, at least vote for a program that gives us a place to hide.

AMENDMENT OFFERED BY MR. SHUSTER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MITCHELL OF NEW YORK

Mr. SHUSTER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER as a substitute for the amendment offered by Mr. MITCHELL of New York:

None of the funds appropriated for the emergency preparedness and mobilization program may be used to purchase oil that originated in Libya, where evidence has been presented that said oil did in fact originate in Libya.

Mr. TRAXLER. Mr. Chairman, I reserve a point of order against the amendment of the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. BAUMAN. Mr. Chairman, I also reserve a point of order against the amendment.

Mr. SHUSTER. Mr. Chairman, I use this as a mechanism to focus on an issue of great importance to the minority and junior Members of both parties. By way of background leading up to the Libyan-HUD relationship, I wish to inform the House that this morning I delivered to the Speaker of the House a letter expressing our shock and disappointment with the sudden reversal of a many year custom in this House where the Chair refused to recognize Members for 1-minute speeches at the beginning of the day's session.

This decision has far-reaching implications for the minority's right to be heard in a timely fashion on public topics of its choice. Whether we are talking about HUD or Carter or the Libyan scandals, I think there are seven points which should be made relevant to this development, this sudden development. The first is the very fact that this custom of 1-minute speeches has been an integral and initial part of everyday's proceedings since Sam Rayburn initiated it many years ago, suggests that it should not be lightly or suddenly discarded.

□ 1110

Such a decision deserves careful, thoughtful consideration.

Second, the argument that 1-minute speeches, whether they deal with Carter or Libyan oil, or anything else, had to be dispensed with yesterday at the beginning of the session hardly fits the facts when only four Members were seeking recognition and the day's legislative business, even though unfinished, was concluded before 6 p.m.

Third, the circumstances surrounding the sudden change in procedure were at least suspicious. Earlier in the week, 1-minute speeches by minority Members about the Democratic administration's Libyan scandal had received widespread national coverage. By moving 1-minute speeches to the end of the day's session, the Democratic leadership was effectively cutting off those speeches for availability as news of the day.

Fourth, by eliminating the 1-minute speeches at the beginning, the majority is effectively stifling one of the few avenues of expression under the control of minority Members. Except for 1-minute speeches, the majority controls what topics will be debated in the House, when they will be debated, and under what rules.

Fifth, 1-minute speeches are especially important for new Members on both sides of the aisle, because they must often wait for hours or days to express themselves in committee or on floor debate, since the seniority system puts them at the bottom of the ladder. Sometimes, they are allocated.

POINT OF ORDER

Mr. JOHN L. BURTON. A point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. JOHN L. BURTON. The gentleman from California rises to inquire of the Chair if the gentleman is speaking on the HUD appropriation bill or has got an amendment to the House rules.

The CHAIRMAN. The gentleman from Pennsylvania is addressing the amendment offered by the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the Chair.

Mr. JOHN L. BURTON. I just—we have an agreement to let him talk out of order?

The CHAIRMAN. The Chair, with the sufferance of the Committee and at this point in the proceedings, is personally willing to allow the gentleman from Pennsylvania broad leeway—very broad.

Mr. SHUSTER. I thank the Chair, and will continue.

Mr. BAUMAN. Will the gentleman yield for a parliamentary inquiry?

Mr. SHUSTER. If I might conclude, then I would be happy to yield.

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. SHUSTER. Sometimes, junior Members are allocated no time whatsoever in floor debate due to the rigid time constraints in general debate. Junior Members should not be denied the very limited time to be heard, which they can only secure on occasion through the 1-minute speeches.

Sixth, if indeed in extraordinary circumstances the press of business requires that substantial time not be consumed in 1-minute speeches, then this matter could quite easily be announced when the week's legislative agenda is released, and at the discretion of the Chair the number of 1-minute speeches permitted at the beginning of the day limited and allocated equitably between the majority and the minority.

Seventh, if the majority leadership believes a longstanding, significant custom of the House should be changed, then it should be done in consultation with the minority and not suddenly and arbitrarily presented to the minority as a fait accompli. While you have the right to govern, we have the right to be consulted. The minority has a limited number of remedies available when it believes that they are not receiving fair consideration, and the minority is properly reluctant to resort to those procedures.

But cooperation, Mr. Chairman, in expediting the day's business is a two-way street. We urge that the majority rethink its position and permit both the majority and minority to be heard in a timely fashion on 1-minute speeches at the beginning of the day. The minority will not be gagged, and we demand that the Sam Rayburn custom of this House be upheld.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, I thank the gentleman for yielding.

The old political saying was, "If you can't stand the heat, get out of the kitchen."

Apparently, the Democratic leadership has changed that to say, "If you can't stand the heat, move the kitchen."

POINT OF ORDER

Mr. JOHN L. BURTON. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. JOHN L. BURTON. Mr. Chairman, these people are not talking about a relevant, germane amendment to this bill, and I think it is outrageous that these dilatory tactics go on in the people's House.

The CHAIRMAN. The gentleman——

Mr. JOHN L. BURTON. Makes a point of order it is out of order.

The CHAIRMAN. Does the gentleman from California make a point of order?

Mr. JOHN L. BURTON. Yes. He is out of order. Would you rule on my point of order?

The CHAIRMAN. The gentleman must proceed in order.

Mr. JOHN L. BURTON. Proceed in order. His time is expired?

Mr. SHUSTER. I am delighted to yield to the gentleman from Maryland. I am delighted to yield for 1 minute to anybody who would like to be recognized for 1 minute.

Mr. JOHN L. BURTON. Will the gentleman yield for a minute, or will you gag me?

Mr. SHUSTER. I will be delighted to yield to the gentleman for 1 minute.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Does the gentleman from Michigan insist on his point of order?

Mr. TRAXLER. Does the gentleman from Pennsylvania insist on his amendment?

Mr. SHUSTER. Considering the discussion I have had with the gentleman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. JOHN L. BURTON. I object.

The CHAIRMAN. Objection is heard.

Does the gentleman from Michigan insist on his point of order?

Mr. TRAXLER. Mr. Chairman, I raise the point of order and I insist on my point of order, most regretfully.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAXLER. The point of order, Mr. Chairman, is that the amendment is not germane and imposes new and additional duties upon the administrator which are not contemplated in the enabling legislation. It goes beyond the law.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to be heard?

Mr. SHUSTER. No, I do not concede the point of order because it indeed is germane, and while I was quite willing to ask to withdraw this amendment, it is a germane amendment. This does not impose any new condition. This simply places a limitation on an appropriation bill, and indeed we are very careful to say that the limitation is imposed only where evidence has been presented. Therefore, this does not impose any additional condition, and my amendment is in order.

The CHAIRMAN. The Chair is prepared to rule.

While the amendment offered by the gentleman from Pennsylvania may be germane to the subject before the committee at this time, it is the view of the Chair that the amendment does impose additional duties in that it requires the presentation of evidence which must be considered by someone in order to make the determination that the oil in fact did originate in Libya.

As such, the Chair is constrained to sustain the point of order, and the point of order is sustained.

Mr. SKELTON. Mr. Chairman, I rise to speak in favor of the Mitchell-Skelton amendment.

Mr. Chairman, I rise in favor of the amendment offered by the gentleman from New York (Mr. MITCHELL), which I am pleased to have cosponsored with him and worked with him at length to reach this point today. It is rather unfortunate that this amendment comes up in this mode, under the independent agency appropriation, because under authorization this is authorized under the Armed Services Committee.

The Armed Services Committee authorized for emergency preparedness and civil defense purposes $167 million. This particular subcommittee and committee which dealt with it, dealt with it as an independent agency, and I feel did not have the full purview which the topic requires.

Mr. Chairman, we have authorized already a full civil defense program in this body. I think it is now time for us to either fish or cut bait. I think we must decide now about having a strong civil defense for our Nation. I ask, Mr. Chairman, that we look back in history just a few years, to 1939, where in this very Chamber a vote was had on whether to fortify the Island of Guam and increase its naval fortifications. That lost.

□ 1120

In 1941 the draft extension amendment came before this body, and it passed by merely one vote.

History has told us and the warlords and their associates have told us that the Japanese felt a signal from this country that we would not protect and defend our interests in the Pacific as a result of those two actions by this body.

I also wish to point out the importance of this, as has been stated by the Chairman of the Joint Chiefs of Staff, Gen. David C. Jones, when he testified and said:

> To complement their strategic offensive posture, the Soviets maintain large strategic defense forces and an extensive civil defense program.
>
> Compared to the Soviet counterpart the U.S. civil defense program is funded at a very low level and is relatively ineffective.

Today we make it an effective program. It actually is and should be a part of our strategic defense. The U.S.S.R. expends in excess of $2 billion a year for civil defense, and we are just trying to get ours at the authorized level of $167 million.

There has been a clear national policy that is coherent, passed earlier by this body as an amendment to the Defense Authorization Act. The U.S. Senate, in a similar and parallel action, has passed the Eagleton amendment, which is very similar to that which was passed here. Thus we now have a coherent national civil defense policy.

At a later time, Mr. Chairman, when we are in the full House, I will include the amendment that was passed here, as well as the Senate amendment, as extra material so that the Members of this body can see that we now have a civil defense policy. What we have to do now is pay for it.

We have provided in this amendment not just for nuclear civil defense, we have provided for dual defense. We have had tornadoes, floods, and hurricanes, for we know that civil defense is an integral part of protecting the people of our country.

Mr. Chairman, this is an important amendment for all of us. It is much cheaper than the alternative, should we not pass it.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to my friend, the gentleman from New York.

Mr. MITCHELL of New York. Mr. Chairman, I want to commend my colleague, the gentleman from Missouri (Mr. SKELTON), on his excellent statement and his strong support for civil defense.

The gentleman pointed out that we have no credible civil defense system for our Nation, and our failure in this House to provide a civil defense system borders on a dereliction of our responsibility to provide for the common defense.

I would like to remind my friend of an interview that Mr. Tirana, the former Director of DCPA, engaged in just before he left office as to the status of our civil defense position. He was asked at the end of the interview what he would advise his family to do if there were a nuclear threat.

He said, "I would tell my wife and kids to get in the car and to drive."

The interviewer asked, "Where?"

He said, "I don't know."

That is where we are now. We do not have anything at all to point to in the way of civil defense, and I think it is terrible that the Committee on Appropriations cannot come up with $167 million in this House bill.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. SKELTON) has expired.

(By unanimous consent, Mr. SKELTON was allowed to proceed for 2 additional minutes.)

Mr. SKELTON. Mr. Chairman, in response to the gentleman from New York (Mr. MITCHELL), let me say that I appreciate his work and his leadership in this area.

We are not asking for that much. Would this amendment or this subject be in the Armed Services appropriations area, I think we would not have this particular dialog that we are having today or the necessity for it.

This is a strategic national defense issue. All of us must recognize that. It is part of our strategic national defense, just as much as the submarines and the MX missiles that we discuss at length in this body.

Mr. Chairman, I certainly hope that the amendment is agreed to.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. Yes, I yield to my friend, the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, I wish to compliment the gentleman in the well and the gentleman from New York (Mr. MITCHELL) for their leadership in this important field.

I would point out that there are two very real reasons why we should adopt this amendment. The first is a practical reason. If we go to dual use, it is cost effective. We get a spillover effect from a wartime need, and we get a practical peacetime benefit from planning for and responding to the natural disasters which always come, the hurricanes, the tornadoes, the wind storms and lightning, whatever they may be, that always come. We have to be prepared for those also. Thus we will know that we have a system that is a functional system and one which could respond to a wartime situation.

The second point is the psychological

thing. The gentleman referred to Guam in World War II and the fact that the Japanese took it as a signal of our unpreparedness. So it was with the Oxford oath, which was also perceived by Hitler to be a sign of the decay and moral decadence of England, and it precipitated perhaps in some degree the oncoming of World War II.

Mr. SKELTON. Mr. Chairman, I might interrupt the gentleman at that point.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. SKELTON) has expired.

(By unanimous consent, Mr. SKELTON was allowed to proceed for 2 additional minutes.)

Mr. SKELTON. Mr. Chairman, if the gentleman will recall, history tells us that nearly to a man those who took the Oxford oath ended up doing battle against Nazi Germany.

Mr. BRINKLEY. Yes, that is correct. And that certainly shows that we are well intentioned and we will all serve our country in the finest and fullest manner feasible as we see our right and obligation to do it.

But this is the time and the day for decision. It is time to provide this insurance. It is time to be cost effective in a practical way and also in a psychological manner.

Mr. SKELTON. Mr. Chairman, I thank the gentleman.

Mr. TRAXLER. Mr. Chairman, I rise in reluctant opposition to the distinguished gentleman's amendment.

Surely there are no more knowledgeable Members of this body than the two distinguished authors of this amendment. I treasure and value them as good friends and as Members who have a high degree of expertise in this matter, and it is, therefore, with great reluctance that I must oppose the amendment. I say that not only because of my friendship with them and my recognition of the knowledge they bring to this body and their dedication to this area of defense, especially civil defense, but because I am not opposed to civil defense. However, I must oppose the amendment.

Mr. Chairman, let me say that the Soviet Union is often credited with having a viable civil defense program. I am going to relate findings published by the Director of Central Intelligence concerning Soviet civil defense. The report is dated July 1978.

The Soviet program is under military control. It is meant to contribute to the maintenance of a functioning logistic base for continuing military operations, to help limit human and material losses, and to help enable the Soviets to speed recovery from the effects of nuclear war.

Soviet civil defense has three main objectives: To protect the people, to protect the sources of economic productivity, and to sustain the surviving population. The following statements are the CIA assessments of the Soviet's ability to accomplish those objectives:

(1) The Soviets probably have sufficient blast shelter space in hardened command posts for virtually all the leadership elements at all levels (about 110,000 people).

(2) Shelters at key economic installations could accommodate about 12 to 24 percent of the total work force.

(3) A minimum of 10 to 20 percent of the total population in urban areas (including essential workers at economic installations) could be accommodated at present in blast-resistant shelters. By 1985, the percentage of the urban population that could be sheltered would rise to 15 to 30 percent, assuming no change in the present rate of shelter construction.

(4) Soviet measures to protect the economy could not prevent massive industrial damage.

(5) With at least several weeks to build up reserves and distribute supplies of food and fuel, the Soviets could probably provide adequate supplies to sustain the relocated and surviving urban population in the period immediately folowing a nuclear attack.

The cost of the 1976 Soviet civil defense program was estimated to be 400 million rubles—or less than 1 percent of the estimated Soviet defense budget. According to the CIA, if the three elements of the Soviet program were to be duplicated in the United States, it would cost about $2 billion in 1976 dollars—with about three-fourths representing manpower costs. That figure is probably closer to $3 billion today.

Mr. Chairman, my point is that since it would require billions to match the Soviet civil defense program, the gentleman's amendment to add $67 million is a useless gesture. It will not significantly improve this country's civil defense posture. I urge the Members to agree with the committee's recommendation to maintain civil defense at the 1980 level.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am pleased to yield to my good friend, the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I appreciate the gentleman's remarks because he just made the case for a strong American civil defense.

Quoting the CIA report of 1978, which I might say is outdated, I suggest, makes the case for the need for American civil defense. If we are to have a strategic defense in this country, not just offensive, we must be able to protect our people, our population, our industry, and our leaders. A strong civil defense has the same effect as a workable antiballistic missile system.

Mr. Chairman, I say that the gentleman has just made the case and made the argument for the Mitchell-Skelton amendment.

Mr. TRAXLER. Mr. Chairman, I appreciate the gentleman's observation. Obviously I do not agree with him.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to my good friend, the gentleman from California.

□ 1130

Mr. CHARLES H. WILSON of California. How much money does the committee have in their bill for FEMA?

Mr. TRAXLER. Approximately $100 million.

Mr. CHARLES H. WILSON of California. And this amendment would add an additional $67 million?

Mr. TRAXLER. The gentleman is correct.

Mr. CHARLES H. WILSON of California. In the hearings that the gentleman held, what was the testimony of the Director of FEMA and the Agency that would spend the money? Do they have some plan to spend this money? Can they use the money if the money is given to them?

Mr. TRAXLER. They testified in support of the President's budget, which included $120 million for civil defense. The committee made a reduction of some $20 million in that regard. We felt that actually the amount that they could adequately handle was about $100 million, which is the amount in the bill.

Mr. CHARLES H. WILSON of California. Does the amendment of the gentleman from New York indicate where this money would be spent or is it just added to the $100 million?

Mr. TRAXLER. I would be pleased to yield to the gentleman from New York to respond to that question.

Mr. MITCHELL of New York. We have been through this dialog for 4 years now, and I think, if the gentleman from California thinks back a little, he will recall it. There is a comprehensive 7-year program for civil defense. It earmarks every single nickel in this nearly $2 billion program. Every single category is specified; every single one is described. The program has been in existence and it is the one I pointed to as being D-prime that President Carter requested 4 years ago. So it is there. It is all programed. It is ready to roll. We just need an appropriation approval.

Mr. CHARLES H. WILSON of California. I would agree with the chairman of the subcommittee. I think this is completely unnecessary. I do not know if the gentleman has a chance of beating the amendment. It is a motherhood amendment. But the money is not needed. It is a bad amendment, and I would hope that it would be defeated.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. TRAXLER) has expired.

(By unanimous consent, Mr. TRAXLER was allowed to proceed for 3 additional minutes.)

Mr. TRAXLER. Mr. Chairman, this is similar to the amendment that was offered last year. I want the gentleman from New York to know that each year he grows more eloquent. I want to restate the point I am trying to make in connection with the observations of the CIA in relationship to the Soviet civil defense effort. The $67 million amendment which I recognize is startup money, and the billion dollars that will be spent over the 7 years under the gentleman's proposal, candidly and honestly would not do the job and is not adequate to match the Soviet effort.

Surely, we are not asking our colleagues for sympathy, but I must tell the Members that our task is not an easy one on this committee. You have suggested limitations through the budget resolution upon us in terms of how much money we can recommend for appropriations. We must exercise some value judgments. I would not tell the Members that in every case we have made the right decision; I would say to the gentleman who has offered the amendment that in this instance in the opinion of the subcommittee and the full committee we have done the right thing.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from New York.

Mr. MITCHELL of New York. I thank the gentleman for yielding.

Mr. Chairman, if the gentleman has had a chance to review the chart that I had with me in the Chamber, the gentleman would have noticed that there is a far better program where we can shelter 95 percent of our population if the Appropriations Committee wants to come up with something like $95 billion. I am sure that if we cannot get a mere $67 million, we are not going to get a better program.

I am asking for the best one that we can get, one that protects 85 percent of the American people, that improves our survivability by 100 million American lives. It seems a small amount of money to spend to save 100 million American lives.

I would suggest that the committee bill is pennywise and pound foolish. You save a few million dollars by unbalancing the strategic scales to start a war. It seems like it is just a simple thing to spend the money, give us a program that would protect our population, and keep the strategic scale balanced.

Mr. COUGHLIN. Mr. Chairman, I rise in reluctant opposition to the amendment.

Mr. Chairman, it is difficult to rise in opposition to an amendment that would provide additional funding for civil defense. Certainly none of the members of this subcommittee are opposed to civil defense. Sometimes programs that on their face sound good really do not appear to have a payoff when you examine them very closely. If we had a really coherent civil defense policy, if we had a real solid program, then I think the members of this subcommittee would more willingly appropriate more money for it. We sat and listened to the members of FEMA on what they were preparing for civil defense, and really what is being done is the preparation of a series of evacuation plans.

Some of these plans, as was documented in the Washington Post recently, simply do not make a great deal of sense. In fact, they are nonsense. The Washington Post reported a plan for the evacuation of Washington, D.C., for example, would require, first of all, 3 days' notice of the attack. It would then require dependence upon volunteer bus drivers to evacuate the citizens of Washington, and some of them would be taken to places like the Homestead, a luxurious resort in Hot Springs, Va. When you look at that kind of planning and that kind of expenditure of money, it is really not a payoff for the taxpayers and is not real civil defense. It is nonsense.

It is for this reason that the subcommittee reluctantly opposes this amendment to increase the money for civil defense. If we have a coherent, rational civil defense program, then we will look at it again.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I wish to point out that we now have a coherent national civil defense policy.

Earlier this year an amendment was passed setting forth a complete civil defense policy through the Armed Services Committee authorization process. The U.S. Senate 3 weeks ago passed a parallel amendment setting forth a coherent national civil defense policy. We have authorized in the armed services authorization bill $167 million. I think we should stick to that. We have it. It is this year. We can do it. There is no reason to put it off. The policy is here. It has been voted upon here, it has been voted upon in the U.S. Senate. I think this is the year for fruition of a strong national civil defense.

Mr. COUGHLIN. I appreciate what the gentleman is saying, and yet it occurs to me as not being a really rational policy. If the evacuation plan for Washington, D.C., requires 3 days' notice, and if we have people sitting around and we are paying them money to draw up that kind of a plan, that is not a rational plan.

Mr. SKELTON. If I may interrupt the gentleman, the gentleman misunderstands the entire thrust of this. The programs set forth are far in excess of what the gentleman is speaking about. They speak about warning systems, communications, learning about shelter systems, research and development, protecting those who live in Three Mile Island situations, and many other areas. There is a comprehensive policy. The program the gentleman speaks of, which was the subject of the Washington Post article, is 2 or 3 years old. It is not the policy that we have adopted here. We are working on something very solid. That is why we should today pass this appropriation amendment.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to my colleague, the gentleman from New York.

Mr. MITCHELL of New York. I thank the gentleman for yielding, and I would just like to point out to my colleague, the gentleman from Pennsylvania, that we apparently have a communications problem. We have had a coherent civil defense program, with every nut and bolt in place, every dollar specified. It is called D-prime. It is the one I pointed to on the chart. It was designed by experts at the request of our President. It is 4 years old. It is the one that we can easily identify with.

Now, the gentleman stated that the plans for evacuation do not make sense, in fact, that they appear to be nonsense. I would point out that simply because it would take us 3 days to evacuate a large city is not a severe deterrent, because it will take the Soviet Union even longer to evacuate their cities.

We have better highways, and we have far more trucks, buses and automobiles. We have a better system of communication. All I am saying is, let us keep the strategic scales balanced. If the Soviet system is poor, give us one that is just as poor, but give us something. Do not leave us here where even the director of the agency does not know where to tell his family to go in the event there is an all-out nuclear war.

I think if the Members just consider the fact that our experts tell us that we can save 100 million American lives by spending a billion dollars over 7 years, the Appropriations Committee should reverse itself and go along with this amendment.

Mr. COUGHLIN. Mr. Chairman, I urge the House to oppose the amendment.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I first wish to salute the chairman, the gentleman from Michigan (Mr. TRAXLER), for his able handling of this bill, and also the ranking minority member of the subcommittee, and I would simply like to make a few remarks for the record with reference to the testimony before the committee chaired by our colleague, the gentleman from Michigan (Mr. NEDZI), which has taken testimony over the years with reference to civil defense.

First of all, I think that, from the testimony we have received, there is some confusion about the 3 days. It has been said that we require 3 days' notice before we can get a dispersal system in operation.

□ 1140

Well, of course we are going to have notice. We have a pretty fine intelligence system in this country, which is going to provide us with notice. There has been some confusion in suggesting that the missiles will be launched from our adversary and be here within 10 minutes or a half hour or within a half day, but we are going to see movements before that. We are going to know that the danger is imminent. We must recognize the fact, Mr. Chairman, that on bombing day, people are not coming into town; if they are wise and have been educated, and if we have a plan, there is going to be dispersal.

That is precisely what the Soviet Union plans to do. That is precisely the embryo plan which we have to receive as much advance notice and warning as possible and then to save as many American lives as is possible through a dispersal system.

I submit the fact that if it is worth $100 million, it is worth another $67 million. If it is not worth it, we should not spend any money at all.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I want to express my strong feelings for the sincerity of the three gentlemen who are carrying this fight this morning, the gentleman from New York (Mr. MITCHELL), the gentleman from Georgia (Mr. BRINKLEY), and the gentleman from Missouri (Mr. SKELTON).

I know the very, very great interest and sincere interest they all have in it, but the gentleman from New York (Mr. MITCHELL) on two occasions—I just could not resist this—on two occasions mentioned Mr. Tirana, the former head of the civil defense system, the fact that he was not able to say where he would send his children in the event of an evacuation. I would say that Mr. Tirana, who headed up the last inauguration that we had here in town, did not know where to send anybody on inauguration night, and he is hardly an expert.

Mr. BRINKLEY. I thank the gentleman for his contribution.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from New York.

Mr. MITCHELL of New York. I would like to point out Mr. Tirana did an excellent job under very difficult circumstances without very much support from the administration. As far as his not knowing where to send his wife and children, I do not think anyone in this Chamber knows where to direct their families or loved ones where to go either.

I think that is a crime that we do not know what to do in the event of an all-nuclear war or even an alarm for an all-nuclear war.

Mr. BRINKLEY. Let me just conclude with these words.

I do not think we should delude ourselves. I do not think we should delude the American people about a civil defense system by tokenism. If we are not going to have one, let us not take the $100 million. If we are going to have a meaningful system, we really ought to spend this $67 million.

Thank you, Mr. Chairman. I yield back the balance of my time.

● Mr. FRENZEL. Mr. Chairman, I believe our country needs a vastly improved civil defense system and I am prepared to support an effort to revitalize civil defense.

However, I will vote against this amendment to add $67 million to civil defense because I believe that extra money for the present system is likely to be wasted.

I think it will take a good deal more than $167 million to provide an adequate civil defense. If the system is reorganized, revitalized and given a long-term commitment, I will then be willing to vote the necessary funds.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MITCHELL).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. TRAXLER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1150

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan (Mr. TRAXLER) for a recorded vote.

Does the gentleman insist upon his demand?

Mr. TRAXLER. Mr. Chairman, I insist upon my demand.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 201, not voting 57, as follows:

[Roll No. 429]

AYES—175

Abdnor
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Anthony
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bethune
Bevill
Boggs
Boner
Bouquard
Breaux
Brinkley
Buchanan
Burgener
Burlison
Butler
Byron
Carney
Carter
Chappell
Cheney
Clausen
Clinger
Coleman
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Davis, Mich.
Davis, S.C.
Dicks
Dixon
Dornan
Dougherty
Duncan, Tenn.
Edwards, Okla.
Emery
English
Ertel
Evans, Ind.
Ferraro
Fish
Fithian
Flippo
Fountain
Frost
Gephardt
Gilman
Gingrich
Glickman
Goodling
Gore
Gudger
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Hawkins
Hefner
Hillis
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Lederer
Lee
Leland
Lent
Levitas
Lewis
Loeffler
Long, Md.
Lott
Lowry
Lujan
Lungren
McDonald
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Mica
Michel
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moore
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Neal
Nelson
Oberstar
Price
Pritchard
Quayle
Rahall
Rinaldo
Robinson
Roe
Royer
Rudd
Santini
Sawyer
Scheuer
Schulze
Sebelius
Sensenbrenner
Shuster
Skelton
Snowe
Snyder
Spence
Stack
Stanton
Stenholm
Stratton
Stump
Synar
Taylor
Thomas
Trible
Van Deerlin
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Williams, Mont.
Winn
Wolff
Wyatt
Young, Fla.
Young, Mo.
Zablocki

NOES—201

Addabbo
Akaka
Ambro
Albosta
Alexander
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Barnes
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Tex.
Conte
Conyers
Corman
Coughlin
Daniel, Dan
Danielson
Dannemeyer
Daschle
de la Garza
Dellums
Derrick
Derwinski
Devine
Dingell
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erdahl
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Findley
Fisher
Florio
Foley
Ford, Mich.
Forsythe
Frenzel
Fuqua
Garcia
Gaydos
Gibbons
Gonzalez
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guyer
Hagedorn
Hall, Ohio
Hamilton
Harkin
Harris
Harsha
Heckler
Heftel
Hightower
Hinson
Howard
Hutchinson
Jacobs
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Latta
Leach, Iowa
Lehman
Lloyd
Long, La.
Luken
Lundine
McClory
McCormack
McHugh
McKinney
Maguire
Markey
Matsui
Mazzoli
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Natcher
Nedzi
Nolan
Nowak
O'Brien
Oakar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
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Pursell
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Railsback
Rangel
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Rose
Rosenthal
Roth
Rousselot
Roybal
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Sabo
Satterfield
Schroeder
Seiberling
Shannon
Sharp
Shelby
Shumway
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Stangeland
Stewart
Stokes
Studds
Swift
Tauke
Thompson
Traxler
Ullman
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Whitten
Wilson, C. H.
Wirth
Wolpe
Wright
Wylie
Yates
Yatron

NOT VOTING—57

Anderson, Ill.
AuCoin
Badham
Bowen
Campbell
Cleveland
Coelho
Collins, Ill.
Cotter
Deckard
Dickinson
Dodd
Erlenborn
Ford, Tenn.
Fowler
Giaimo
Ginn
Goldwater
Guarini
Holland
Holtzman
Hubbard
Ichord
Leach, La.
Leath, Tex.
Livingston
McCloskey
McDade
McEwen
McKay
Mathis
Mavroules
Moakley
Nichols
Pepper
Rhodes
Richmond
Rodino
Rostenkowski
Runnels
Simon
Solomon
St Germain
Staggers
Stark
Steed
Stockman
Symms
Tauzin
Udall
White
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wydler
Young, Alaska
Zeferetti

□ 1210

The Clerk announced the following pairs:

On this vote:

Mr. Guarini for, with Mr. Staggers against.

Mr. Nichols for, with Mr. Pepper against.

Mr. Ford of Tennessee for, with Mr. Zeferetti against.

Mr. LLOYD changed his vote from "aye" to "no."

Messrs. DANIEL B. CRANE, HUTTO, and LOTT changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKELTON: Page 18, line 25, strike out "$136,017,000" and insert in lieu thereof "$159,017,000".

Mr. SKELTON. Mr. Chairman, unfortunately the last amendment offered by the gentleman from New York (Mr. MITCHELL) and by myself providing an additional $67 million for civil defense, did not pass.

Mr. Chairman, I have an amendment which would increase the civil defense appropriation back to the budget estimate which is only another $23 million. This puts it back to the figure that the administration had in its budget estimate.

It is not enough, Mr. Chairman, but in the light of the recent vote, I am constrained to offer it.

Mr. Chairman, I do not wish to go into all of the details we discussed at length concerning civil defense and the great need for it. We must move forward in this area. It is part of our strategic defense. I certainly hope that that last vote, which was a close one, we can help make up for it in this area because we do now have, Mr. Chairman, a coherent civil defense policy for our Nation as we pointed out in the last debate on the last amendment.

Mr. Chairman, I certainly hope that this amendment, which is a very, very modest increase for civil defense, is passed.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I will yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I thank the gentleman for yielding and would like to associate myself with the gentleman's amendment. I regret very much I did not know at the time that the previous amendment was going to be offered.

I would simply say, while I vote against budget busting, I am satisfied that this is one of the most important items in the defense of our land. I believe that a strong civil defense program is as important as having the B–1 bomber. I think it is a key part of our strategic defense to let any would-be aggressor know that we are prepared to protect our civilian population in the event of an attack. I believe that in itself is a strong deterrent.

Mr. Chairman, why is Russia using 100,000 military personnel, today, to train the people of Russia—at home, at school, at work—as to how they might best protect themselves. They are continuing to build shelters into which their people can pour. They even conduct civil defense drills on farms.

Mr. Chairman, we are told that in the event of a nuclear attack, which I think that adoption of this amendment would have a tendency to deter, that more than 100 million Americans might not survive but that 90 percent of the people in Russia would survive if we were to carry out a similar attack.

Again, I want to commend the gentleman, Mr. Chairman, and I hope this amendment in particular will pass. I think it is just as important to protect our civilian population that we may continue to fight in the event of an attack as it is to have an arsenal of weapons of war to protect our national security.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, one of the reasons I supported the previous amendment is not so much because the funds would all be going into preparedness against nuclear attack but because of the other functions of FEMA. For example, protecting people against disasters. I am concerned that the impression not be left that all of this money is going into just civil defense for nuclear attack.

Mr. SKELTON. I would like to point out to the gentleman that during the debate on the last amendment I did stress the fact that this is a dual-purpose cause. We have this also to assist in floods, hurricanes, tornadoes, and the like.

During my 4 years in Congress, I have had two killer tornadoes and a killer flood in my district. Civil defense helps in that regard, too.

Mr. GLICKMAN. If I may raise one other point, I am aware after the Three Mile Island accident that FEMA was given the primary responsibility to come up with evacuation plans in the event of accidents around nuclear powerplants. When I questioned the personnel at FEMA they told me that they were going to have to take personnel away from normal civil defense functions in order to accomplish that responsibility.

Would it be the intention of the gentleman that at least part of these funds would go toward the implementation of some of these other tasks that need to be done like evacuation plans around nuclear powerplants, so that the moneys would not be taken away from the normal civil defense positions and not just adding more money into civil defense positions?

Mr. SKELTON. There is no question about it, that is one of the prime areas in which we need civil defense planning and work.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SKELTON was allowed to proceed for 3 additional minutes.)

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from New York.

Mr. MITCHELL of New York. I thank the gentleman for yielding. I rise in support of this amendment, Mr. Chairman. It could not be, compared to the previous amendment, classified as even a half a loaf. It is more like a slice, but it is better than nothing and it is far better than what we are doing now, which is absolutely nothing to protect our population.

This is the administration proposal for the year and at least it will develop a plan to protect those people most likely to be the first targets of a nuclear attack. Those people living in areas of SAC bases and missile sites.

Unfortunately, this constitutes only 5 percent of our population. The amendment we just voted down would have protected 95 percent of our population.

Unfortunately, also, these areas for which we are going to devise a plan of evacuation are only 2 minutes ahead of the rest of the country if it comes to nuclear war.

One other disadvantage is that the program at this rate of development will take until the year 2,000 to develop, the D-prime program. It will take us until the year 2,000 to get a program for the entire country and at that time the demographics will have changed so much that we will have to start all over again.

I would like to say it is better than nothing and I do support it because at least it is a beginning in our D-prime program.

I thank the gentleman for yielding.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Chairman, I rise in reluctant support of this amendment, reluctant only because there is not sufficient funds to really do the job right. I also would support the statements made by the gentleman from North Carolina (Mr. FOUNTAIN) that this is extremely important, it is vital to our Nation and to just provide this paltry sum for civil defense will send a message to our enemies in Soviet Russia that we are not really paying attention to civil defense that we need to pay.

Mr. Chairman, I thank the gentleman for yielding.

□ 1220

Mr. SKELTON. Mr. Chairman, I urge the passage of the amendment.

Mr. BOLAND. Mr. Chairman, I reluctantly rise in opposition to the amendment. The arguments that prevailed with respect to the $67 million add-on are the same arguments with respect to the $23 million. I might say for the benefit of those who are concerned with whether or not there are moneys available for planning the evacuation of nuclear powerplants in response to the accident at Three Mile Island, that was taken care of in the supplemental appropriation bill. There was $1.9 million appropriated for that purpose. We also have provided $39 million in this bill for financial assistance to the States for civil defense, so that matter has been taken care of.

The problem we have—and this is the disagreement, I guess, between the Armed Services Committee and the Appropriations Committee—the problem we have is that there were no convincing justifications made by FEMA that really presented plans that are going to solve this problem. The gentleman from New York (Mr. MITCHELL) and the gentleman from Missouri (Mr. SKELTON) will remember, last year when this bill was on the floor we were concerned about whether or not there was going to be a multiyear planning for civil defense. I think all of us recognize the fact that there has to be that kind of operation, but we do not have it here. We are not going to get it with an increase of $67 million, and certainly not with an increase of $23 million.

The action of the Committee itself, the Committee of the Whole, in sustaining the position of the Committee on Appropriations is that we should provide the same amount of money that was provided in fiscal year 1980 until the agency comes up with the kinds of plans where we can meet the problem of civil defense. They have not done it yet, and I do not think they have done it with the plans discussed before the Armed Services Committee.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Missouri.

Mr. SKELTON. Is it not true, Mr. Chairman, that $2.9 million of what is actually in here by the committee was previously funded by the Department of Defense? Is that not correct, sir?

Mr. BOLAND. The gentleman is correct, I believe it was about $2.4 million.

Mr. SKELTON. So actually that causes it to be less. Also, we can all agree that inflation being what it is, we are left with a civil defense budget of around $86.5 million if we allow for inflation at a rate of 9 percent. Actually, we are funding, according to the gentleman's figures, less than we have ever historically funded civil defense in the history of this Nation.

Mr. BOLAND. I do not agree with the gentleman. Let me say that when I joined the subcommittee more than 20 years ago, one of the biggest fights was over the matter of civil defense and whether or not we were actually providing the kind of shelters that would protect our population and our leaders during a time of emergency or a time of war.

There were various plans offered at that time. This goes back many years. There were various plans offered for bomb shelters, gas shelters, about every kind of shelter. The other day I looked at appropriation requests that were made over those number of years, in the early years, for civil defense. It amounted to billions, as I remember.

Well, we do not have many bomb shelters, but if we built the bomb shelters 20 years ago they would not have been useful today anyhow. We do not have as many fallout shelters as some like, but if we had built them 20 years ago we would have to change them completely. We looked at the need and decided that was not the direction we wanted to go, and we saved billions.

A lot has been said here with reference to the civil defense activity of the Soviet Union. I think the gentleman from Michigan, who was managing the bill earlier, clearly indicated that it would require billions—actually billions—to match the Soviet civil defense program. And so, the $23 million add-on does not come close.

It is, in my judgment, a rather useless gesture. I think that when the FEMA comes up with plans that are really going to do something for the protection of our population, then I would be the first, and I am sure the subcommittee would be first, as would the Committee of the Whole, to vote that kind of program.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from New York.

Mr. MITCHELL of New York. Mr. Chairman, I would like to point out to my friend, the chairman of the subcommittee, the difference in the conditions in the country and the world now as compared to 27 years ago, or whenever the committee looked at the situation, was that we had massive missile superiority all over the world.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(At the request of Mr. MITCHELL of New York and by unanimous consent, Mr. BOLAND was allowed to proceed for 2 additional minutes.)

Mr. BOLAND. Let me just say on my own, and without conversing with my distinguished ranking minority member, the gentleman from Pennsylvania, would you be satisfied with the $23 million if I accepted it?

Mr. MITCHELL of New York. We have already lost $67 million. Yes, I think we would appreciate $23 million.

Mr. BOLAND. Mr. Chairman, will the ranking minority Member agree to the $23 million? This would be an add-on of $23 million, and we would be providing about $120 million for this effort in fiscal year 1981. Is that satisfactory?

Mr. SKELTON. That is my amendment.

Mr. BOLAND. The gentleman will be happy with it.

Mr. MITCHELL of New York. I thank the gentleman for his understanding of our problems.

Mr. BOLAND. Mr. Chairman, I accept the amendment on this side.

Mr. COUGHLIN. Mr. Chairman, the amendment is satisfactory on this side also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. SKELTON).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

HAZARD MITIGATION AND DISASTER ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973 (42 U.S.C. 400 et seq.), the Urban Property Protection and Reinsurance Act of 1968, as amended, and the National Insurance Development Act of 1975 (12 U.S.C. 1749bbb et seq.), the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 278f, 278g, and 2201 et seq.), the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671) and Reorganization Plan No. 3 of 1978, including not to exceed $500 for official reception and representation expenses, $109,350,000: *Provided*, That not more than $1,500,000 shall be available for the earthquake hazards reduction program: *Provided further*, That none of the funds shall be available for multihazard research, planning, and mitigation activities.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Page 19, strike out the colon in line 19 and all that follows thereafter through line 23, and insert in lieu thereof a period.

Mr. BROWN of California. Mr. Chairman, I hope that every Member will look closely at this amendment. There has been some misapprehension that perhaps it added money to the bill or something of that sort. Actually, what it does is merely to strike the last four lines of this section which puts certain limitations on the expenditure of funds for earthquake hazard research and multihazard research, planning, and mitigation activity.

I would like to explain briefly the reasons that I am offering this amendment. Frankly, it has been the position of the Science Committee, which originated the particular programs referred to here—the earthquake hazard reduction program as well as the national fire prevention and control program—that we wanted to have a reasonable voice in the determination of program levels and policy matters with regard to these programs. For that purpose, we wrote into the authorization bill, which passed the House 3 weeks ago, some language which has caused umbrage on the part of the Appropriations Committee.

I want to confess that perhaps we went further than we should have in this connection. What we had in the authorizing bill was language which required, in the event the appropriation was not up to the authorization, a pro rata reduction in the various programs. Now, in effect, what this does is give some additional priority to the earthquake program at the expense of the fire program, and I can understand that this would cause some concern within the administration and within the Appropriations Committee.

But, it was a legitimate reflection of priorities which the Science Committee felt were extremely important. It is the kind of problem which arises quite frequently. We had a similar problem arise with regard to the State, Commerce, Justice bill just last week in connection with the National Bureau of Standards, where the Science Committee wanted to give certain priority to programs aimed at industrial innovation, and in which there was not full understanding of this on the part of the Appropriations Committee.

□1230

I feel that this is legitimate, that these policy differences are legitimate and on matters of great significance they should be settled on the floor.

I do not really think this is a matter

of that great significance, and I have offered to the subcommittee chairman, as I did in connection with the chairman of the other subcommittee, the distinguished gentleman from Iowa (Mr. SMITH), to withdraw that language in the authorization bill in conference so that they will not be offended by it, and the discretion will be left with the administration as to the priorities. I make that offer to the distinguished subcommittee chairman on this particular issue.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I hope that we can expedite things today. I hope the gentleman's amendment will succeed by voice vote, because it is very simple and obvious and logical, and the discretion should be left up to the people involved here.

It is not just because we are Californians from earthquakes country, but it is only reasonable, given past tragedies, that there be all of the discretionary powers available to the people here concerned.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from California (Mr. DORNAN) for his comments.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from the earthquake area of San Francisco, the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, I would like to commend the distinguished subcommittee chairman for offering his amendment. This is not costing any more money. It does the job efficiently and economically, and I am in wholehearted support of it.

After we have just accepted an add-on for $23 million 5 minutes ago, I hope we can accept this one.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from California (Mr. JOHN L. BURTON).

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to my neighbor and colleague, the gentleman from California.

Mr. LLOYD. Mr. Chairman, I thank the gentleman for yielding.

I, too, would like to associate myself with the gentleman's amendment and with the remarks the gentleman has made.

Clearly, this is very thoughtful and functional legislation. I think, many times, in these troubled times that we are very well served by the presence of the gentleman from California (Mr. BROWN) in the Congress.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for his kind comments.

Mr. PATTERSON. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to my colleague from Orange County, the gentleman from California.

Mr. PATTERSON. Mr. Chairman, I would like to indicate that some people perhaps may feel that this is an important amendment only for, say, the west coast area, but it is true that 39 States out of the 50 have suffered major earthquakes.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(On request of Mr. PATTERSON, and by unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. PATTERSON. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. PATTERSON. Mr. Chairman, as I said, 39 States have had major earthquakes recorded. The two largest earthquakes have been these: One in the State of Missouri and one in the State of South Carolina. And, of course, we in California had the 1906 earthquake in San Francisco.

I think that we should allow FEMA to prioritize how the money is utilized for earthquakes and other kinds of hazards. The limitation that is placed here is really restrictive and unfair. It is a million-and-a-half-dollar cap only in the area of earthquakes.

Mr. Chairman, I thank the gentleman from California (Mr. BROWN) for offering this very valuable amendment, and I hope all the Members will support it.

Mr. Chairman, 3 years ago, the 95th Congress officially recognized the need to develop a national earthquake hazards reduction program by overwhelmingly approving the Earthquake Hazards Reduction Act of 1977. That act directed the President to prepare an implementation plan, aimed at reducing human and property losses which will inevitably befall this country when a major quake occurs—and there is little doubt that such a disaster will occur.

FEMA now stands ready to capitalize on recent technological breakthroughs in seismology and earthquake safety by developing such a plan. Yet the Appropriations Committee bill would gamble the lives of thousands of people and billions in property damage. They would allow no more than $1.5 million to be spent by FEMA in fiscal year 1981 on this program. This amount is less than a fifth of what the science committee found minimally adequate to get this program off the ground.

The U.S. Geological Survey estimates that a repeat of the great San Francisco quake would cause over $5 billion in losses to dwelling units alone. A major quake in the Los Angeles area could cause up to $50 billion in property damage. I shudder to think of the toll in human terms.

Last week I had the honor of chairing the Housing Subcommittee field hearings on earthquake insurance availability. Earthquake insurance is an important element of the FEMA hazard reduction program study. Our hearings have been metered to FEMA's development of an implementation plan so that Congress can be quick to respond with a preventive program before a catastrophe strikes.

The appropriations bill, on the other hand, will tie FEMA's hands and prevent it from establishing priorities, and providing the creative solutions which this problem demands.

The Appropriation Committee bill would sidetrack a disaster prevention plan that could potentially save billions of dollars. Moreover, how can the bill's funding restriction on just two areas—earthquakes and multihazard ever be justified? This would be a classic example of "pennywise, pound-foolish" legislation.

The Brown amendment will cost no more—it does not increase the appropriation—it merely eliminates an arbitrary restriction on earthquake hazard appropriations so that FEMA can set the correct priorities and meet its obligation under Federal law.

I urge the adoption of this amendment so that FEMA may be allowed to develop and put into action the kinds of hazard mitigation programs which are needed to protect our lives and property.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from California (Mr. PATTERSON).

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to my colleague, the distinguished ranking minority member of the subcommittee.

Mr. HOLLENBECK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from California (Mr. BROWN).

I would remind my east coast colleagues that our area as well is subject to several major faults and has been the site of several tremors over the past decade. I support the gentleman in his attempt to remove two provisions in the bill.

Mr. Chairman, the gentleman's amendment removes two provisos in the bill which restrict spending for earthquake hazards reduction to $1.5 million, and which prohibit the use of funds for multihazard research planning and mitigation. As ranking minority member of the Science, Research, and Technology Subcommittee, I can attest to our strong bipartisan support for efforts to reduce earthquake hazards, particularly through policy analysis, planning, and building and safety codes in addition to geophysical research.

The Science Committee also believes that multihazard research and planning are of great importance if we are to make the best use of our resources for meeting emergencies and disasters. Fire departments, civil defense, police departments and other such agencies can and do respond to many different types of natural and man-made emergencies. It is high time that Federal programs reflect these common purposes. Indeed, I always assumed that the purpose of reorganizing Federal disaster agencies into FEMA was to achieve this very desirable coordination.

I am pleased to note that the House itself has unanimously concurred with the Science Committee's recommendations in these two matters when we passed H.R. 7114 on Monday. Yet today, if this amendment is not accepted, we would repudiate what yesterday we acclaimed. I do not blame taxpayers for being disgusted with the inefficiency of Congress and the Federal Government if we continue this purposeless drift.

Let me emphasize that the amendment adds no new money to the appropriations bill in the overall ceiling of FEMA. I concur with the judgment of the Appropriations Committee that spending must be restrained. However, I do not concur with their decision, nor do I assent to their jurisdictional authority, to single out these two small but important programs for special restrictions.

Mr. Chairman, I urge my colleagues to support the amendment of the gentleman from California. Thank you.

Mr. ROYER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to my colleague, the gentleman from California.

Mr. ROYER. Mr. Chairman, I also rise in support of the amendment, and I certainly want to commend my colleague in the well, the gentleman from California (Mr. BROWN), and the ranking minority Member on our side for their efforts on this amendment. I feel it is absolutely imperative to recognize that the multihazard research, planning, and also the mitigation efforts that are necessary in this area, would be restrictive without the amendment.

Mr. Chairman, I ask that our colleagues support the amendment.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to my colleague, the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for yielding.

I, too, want to join in supporting the amendment and encouraging my colleagues to support it.

The flexibility that is built into multihazard studies for FEMA in the amendment, I think, is extremely timely and most appropriate. I think the restrictions in the bill as now established are unfortunate. I think it would be wise for us to provide this flexibility in multihazard research, planning, and mitigation.

Mr. Chairman, I thank the gentleman for sponsoring his amendment and encourage its support.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from Washington (Mr. McCORMACK) for his comments.

Unless we put too much stress on the restrictive nature of this language—which I certainly believe to be true, and I would not offer the amendment if I did not—I do want to stress the fact that the authorizing legislation which emerged from the Committee on Science and Technology was an equally stringent effort to put in restrictive language that would direct the course of research in this area. Perhaps in both cases we have gone too far, and that is why I am offering the amendment.

I hope the gentleman will accept this amendment as a good-faith offer. We have already begun discussions with the Senate staff to accomplish this, and I have no fears whatsoever that we can satisfy them with regard to the language in the authorizing legislation.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to my distinguished committee chairman.

Mr. FUQUA. Mr. Chairman, I want to thank the gentleman for yielding, and I rise in support of the amendment.

As the gentleman pointed out, it is certainly our intention to try to cooperate with the Committee on Appropriations, with which we have worked in many areas over a number of years and tried to strive to reach the same goals. I think the gentleman's amendment is, as he pointed out, a good-faith effort to try to work out the problem and cooperate with the Committee on Appropriations. That is certainly our intent.

Mr. BROWN of California. Mr. Chairman, we just want to get their attention. Would the gentleman not say that is our objective?

Mr. FUQUA. Mr. Chairman, I think the gentleman has expressed it very clearly.

Mr. LEWIS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. LEWIS. Mr. Chairman, I thank my colleague for yielding.

I would like to first compliment my colleague, the gentleman from California (Mr. BROWN), who represents the adjoining district to my home. I recognize his leadership in this field and hope that the House will respond to the work he has done in this area.

Mr. BROWN of California. Mr. Chairman, I appreciate very much the expressions of support by my colleagues. I do not want to belabor this point.

Let me say again that essentially what I am doing here is capitulating to the distinguished gentleman with regard to the language which offended him, and I hope he will be equally generous with regard to the language I am offering.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from California (Mr. BROWN) and all the other California "bears" are on the march. They have all made their speeches, and that is a tough delegation.

But what the gentleman from California is asking this committee to do is to accept a pig in a poke. He is going to go to conference on the authorization bill, and he is going to suggest particular changes—at least I think he is going to—which are less objectionable to the Committee on Appropriations. We also will have discussion on a similar matter concerning the National Science Foundation. We have some objections to the authorization committee's proportionality language, and it has some to ours. We have some objection to theirs and they have objections to ours, and we will discuss it later.

In any event, what the gentleman's amendment proposes to do is to strike the provision in the committee bill which says:

> *Provided,* That not more than $1,500,000 shall be available for the earthquake hazards reduction program: *Provided further,* That none of the funds shall be available for multihazard research, planning, and mitigation activities.

We carry $1,475,000 in this bill for earthquake hazard reduction. The National Science Foundation has about $20 million for earthquake research.

I can understand the position of all the Members from California, and particularly the distinguished gentleman who chairs the subcommittee on Science, Research, and Technology of the Committee on Science and Technology.

The amendment that the gentleman has offered would have had quite an impact upon other activities within FEMA. It certainly would have impacted the U.S. Fire Administration. It would have reduced funds available for fire programs by about $5,300,000 and increased earthquake hazard reduction funding by $4,600,000.

□ 1240

It would have also increased multihazard research by $690,000. The gentleman from California now says he is going to change that when he gets to the conference on the authorization bill. I am not sure it can be changed. I do not know what sort of an agreement he has with the conferees on that side that this would happen.

Mr. BROWN of California. If the gentleman will yield, obviously, the Senate has no such language. It is merely a matter of accepting the Senate language.

Mr. BOLAND. If the authorization conference agreement is reached, if you reach that agreement in conference, is it not true that the dollar effect of the gentleman's amendment to this appropriation bill is lessened?

Mr. BROWN of California. Will the gentleman repeat his question?

Mr. BOLAND. Is it not true that, on reaching an agreement in the authorization conference, the dollar effect of the gentleman's amendment to this appropriation bill will be lessened? Let me continue. It will be lessened, however, the effect is still to take funds appropriated for specific purposes and divert them to items in the authorization bill; that is true, is it not?

Mr. BROWN of California. That is true, yes.

Mr. BOLAND. I do not know why we should agree to that.

Mr. BROWN of California. If the gentleman will yield, I pointed out that there was a legitimate difference with regard to priorities between the gentleman's subcommittee and the authorizing committee. This is a situation which occurs within many authorizing committees. They develop an interest in those programs that they originate and they would like to secure the cooperation of the Appropriations Committee in having full funding for them. I am sure the gentleman experiences this in many situations.

Mr. BOLAND. All the time.

Mr. BROWN of California. And this was obviously our effort in regard to the language in our authorization bill. But believe me, I do not think it is worth the time, effort and debate to enter into this kind of an argument about a matter involving only $2 or $3 million. If the gentleman will remove his restriction, which is really unnecessary, because any transfer of funds into these programs above $250,000 the gentleman has to approve anyway if it is a transfer program, what the gentleman has resorted to with this restrictive language is really overkill. We would like to avoid the overkill and let us get back to the status quo.

Mr. BOLAND. Let me try to strike some sort of a balance here.. Will the gentleman withdraw his amendment on the National Science Foundation if this amendment is accepted?

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

(By unanimous consent, Mr. BOLAND was allowed to proceed for 2 additional minutes.)

Mr. BOLAND. I am willing to negotiate with the gentleman on this matter. I am terribly concerned and the Appropriations Committee is terribly concerned about the position of the gentleman's committee on the NSF authorization bill, and we are going to fight that one. I am telling the gentleman I am going to put whatever effort I can into defeating that amendment, and I think we can do it, because I think the gentleman is wrong. I think the Science and Technology Committee is getting in a position where they want not only to authorize, but they want to appropriate, too. So that would be the nub of my argument. I think perhaps we might be able to prevail there. So I am willing now to accept this amendment, provided the gentleman goes along and withdraws his amendment on the NSF.

Mr. BROWN of California. If the gentleman will yield, is the gentleman asking me about a pig in a poke?

Mr. BOLAND. No, because I am rather direct about it. I have to wait until the gentleman gets to the conference on his authorization bill to find out whether or not there is a pig in a poke or whether or not it is a dove in a poke, and I prefer to have a dove. If the gentleman is telling me now that he will come out with a dove, and also that he is willing to withdraw his amendment that he is about to offer on the NSF, then I think we can come to an agreement.

Mr. BROWN of California. If the gentleman will yield, I am very deeply anxious to move in a spirit of accommodation with the gentleman. I think he is well aware of that. I expressed in my earlier remarks our fear on the authorizing committee that the Appropriations Committee is seeking to restrict the authorization of programs. The gentleman has language in his bill which, if he did not have an exemption from the rules, would be subject to a point of order, because it alters an authorization bill.

Mr. BOLAND. That occurs from time to time.

Mr. BROWN of California. And we object to that very strongly in the authorizing committees.

Now, understanding that we have reasonable differences here, I am still willing to accommodate the gentleman because the language which the gentleman has with regard to the National Science Foundation is not nearly as restrictive and objectionable as the language which we are referring to in this amendment with regard to FEMA.

Mr. BOLAND. And it is not nearly as objectionable as the language in the NSF authorization bill; is that correct?

Mr. BROWN of California. It is closer in line with that; yes.

Mr. BOLAND. Well, not quite; not totally in line. There is one little line there that makes a difference.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has again expired.

(By unanimous consent, Mr. BOLAND was allowed to proceed for 1 additional minute.)

Mr. BOLAND. Do I unerstand that there is agreement that the gentleman is willing to withdraw the amendment on the NSF, and we will accept this amendment?

Mr. BROWN of California. Under some duress, I am wiling to agree with the gentleman. I will not offer my amendment to the National Science Foundation portion of his bill.

Mr. BOLAND. I appreciate the position of the gentleman. He is a very wise and a very able and a very intelligent individual. I know of no man who could have chaired the Committee of the Whole the other day on the State-Justice-Commerce-Judiciary appropriations bill better than he.

Mr. Chairman, on this side, I am willing to accept the amendment of the gentleman.

Mr. BROWN of California. I thank the gentleman.

Mr. COUGHLIN. Mr. Chairman, that agreement is acceptable to the minority, too.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $110,000,000, to remain available until September 30, 1983: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this head by this appropriation Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Mr. FUQUA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to inquire of the chairman of the Subcommittee on Appropriations who is handling the bill, I note that there are no funds contained in this bill, and the committee has not acted with regard to research and development funds for NASA.

I would like to inquire of the gentleman from Massachusetts what the plans are regarding this item that has been omitted from this appropriation bill.

Mr. BOLAND. If the gentleman will yield, as the distinguished chairman of the Committee on Science and Technology knows, the conference report on the 1981 NASA authorization bill has been adopted, and it does carry funding for research and development for NASA. The appropriation bill does not carry it. And one of the reasons for it is that the conference agreement includes roughly $70 million above the President's revised budget request. The add-on is for a number of projects, nearly all of which were reduced from the original budget request. We felt we would like to get a look at what the conference adopted, and that is one of the reasons why I suggested to the subcommittee that we not fund research and development until we get a better look at the bottom line.

Mr. FUQUA. I might point out to the gentleman that it is well within the budget item of the House budget resolution as agreed to by both bodies.

Mr. BOLAND. That is true. We will make an effort to resolve this matter in the conference, and if we cannot do it in conference, of course, we will have to do it in a supplemental bill or the continuing resolution.

Mr. FUQUA. If I might inquire of the gentleman, if the Senate's corresponding subcommittee adds funds for R. & D., would it be the intention of the gentleman to try to negotiate with the Senate on an agreeable figure that could come back to the House in conference?

Mr. BOLAND. If the gentleman will yield, I would respond in this way: There would be that possibility, but there is another little matter with which this subcommittee and I think the Appropriations Committee is concerned. I refer to reprograming. We need to reach a better agreement with NASA regarding reprograming procedures, so that when requests for reprogramings come to our committee, we have some say about reprogramings that we do not have now.

□ 1250

We may express a position in a letter to NASA in response to a request for reprograming, but you send it back oftentimes NASA pays no attention to it. Well, we have suggested to NASA that that is a matter with which we are vitally concerned. It was one with which we were vitally concerned last year when we were in conference on the bill, and perhaps we can come to some agreement with NASA in this area.

Mr. FUQUA. Of course, some of that is in the basic act that relates to reprograming, which the authorization committee has the legislative jurisdiction, and of course I share some similar concern that the gentleman from Massachusetts does about reprograming, and I think it is a proper area that we need to explore and we intend to do that with NASA regarding reprograming actions; but I hope that that would not hold up the entire R. & D. portion of the bill until that is resolved.

Mr. BOLAND. Well, if that matter is not resolved, then I must say the chances of this being held up might be very good. We have suggested to NASA—and I discussed this with the gentleman the other day—that it agree to an arrangement on reprogramings similar to that which the Department of Defense has had for 20 years with the appropriate congressional committees. I know that NASA does not agree that it can handle reprogramings the same as the Department of Defense. Somehow it feels that there is something very special about NASA and its programs that does not allow them to be reviewed under this type of reprograming procedure.

Frankly, I cannot accept that. I think that perhaps we can get an agreement with NASA where their reprograming requests can be handled on the same basis as the agreement between DOD and the committees.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Fuqua) has expired.

(By unanimous consent, Mr. Fuqua was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. I agree with the gentleman to a certain extent. NASA is not a line agency in certain respects, as the Department of Defense. The Department of Defense does carry on certain research and development activities. I do not think their reprograming all necessarily applies in the R. & D. programs as rigidly as it does in their more line day-to-day operational programs. I think as far as NASA is concerned and their day-to-day operations, certainly very stringent reprograming requests should apply. But certainly in R. & D. programs where certain types of programs have never existed before and estimates at the beginning of programs may change, certain criteria may be modified, it would necessitate certain reprograming.

So I think, while there should be adequate control very definitely of reprograming, I am concerned that we do not make it so strict that we hamstring the agency in carrying out the functions that Congress assigns to it.

Mr. BOLAND. If the gentleman will yield further, I would agree with that. It is not the intention of this subcommittee and certainly has never been the intention of this subcommittee chairman who has sat in that committee for so many years and has given NASA about everything it has desired over that period of time, to hamstring the agency. But I must say that within the last few years we have been having difficulty with NASA on reprogramings. It is perfectly clear to me that the existing reprograming system simply does not work, and there is a great deal of similarity between the programs in the Defense Department's R. & D. accounts and NASA's R. & D. account.

As a matter of fact, NASA's office of general counsel suggested the possibility of patterning their reprograming procedure after that of the Department of Defense. I think we can come to an agreement on it. But I must say that, and as the gentleman recognizes, I am concerned, deeply concerned, about this matter, and this matter needs to be settled to the satisfaction of this subcommittee.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Fuqua) has expired.

(At the request of Mr. Boland and by unanimous consent, Mr. Fuqua was allowed to proceed for 1 additional minute.)

Mr. BOLAND. If the gentleman would continue to yield, we want to be sure that NASA gets the flexibility to run their programs which are so essential to the economic health of the Nation and also to the great advances NASA has made in that area. It is certainly not the intention, may I repeat, of this Member to hamstring that effort, but I must say that in the areas of reprograming, that which we seek is something that I think the Congress is entitled to.

Mr. FUQUA. I hope that we can resolve that.

In addition, I hope that it will not hold up the R. & D. portion of the bill for this fiscal year. We will continue to work with the gentleman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

National Commission on Air Quality

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Air Quality as authorized by the Clean Air Act Amendments of 1977 (42 U.S.C. 7623 and 7626), including services as authorized by 5 U.S.C. 3109, $2,000,000.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 23, line 6, strike "$2,000,000" and insert in lieu thereof "$1,457,600.".

Mr. DANNEMEYER. Mr. Chairman, I will try to be as brief as this amendment is. Very simply, what this amendment would do is reduce the appropriation for the National Commission on Air Quality from $2 million to $1,457,600, thereby conforming the bill we have before us to an action the House took on June 27, 1980.

As Members may recall, the National Commission on Air Quality was authorized by section 323 of the Clean Air Act Amendments of 1977 for the purpose of producing several reports on various air quality issues. The Commission was given 3 years (and $10,000,000 was authorized) to complete its task, but because the President was slow in appointing the public members of the Commission, it was delayed almost a year in getting started. Subsequently, rather than accelerating its schedule, the Commission attempted to get its life extended for an additional year without, I might add, going through the Committee on Interstate and Foreign Commerce.

However, there was a strong feeling that the Commission's report should be available when Congress began reexamining the Clean Air Act itself, as it is scheduled to do next spring. So, 8 days after the Appropriations Committee reported H.R. 7631, of which Commission funding is a part, the House passed Senate Joint Resolution 188 which extended the Commission to no later than May 1, 1981, and required that the final report be finished by March 1. Senate Joint Resolution 188 was then signed into law on July 2 (Public Law 96-300), thereby confirming an extension 27 percent shorter than the one that had been requested.

Both the sequence of events and the committee report language indicate that the Appropriations Committee's recommendation $2,000,000 for the National Commission on Air Quality was based not on Senate Joint Resolution 188, but on the expectation that the Commission's request for a 1-year extension would be granted. True, the committee sliced the Commission's $2,476,000 fiscal year 1981 funding request by $476,000 but, the fact of the matter is that the $476,000 would have caused total appropriations for the Commission to exceed its $10 million authorization level, which would have violated the Budget Act.

Report language concedes that $2 million is a sufficient sum for the Commission to complete its work, presumably on August 7, 1981. So what we have here is a $2 million line item that, in reality, was everything the Commission could have expected—and that budget procedures would allow—for a time frame 99 days longer than the one which will be in effect. Thus, it seems to me that this $2 million figure should be cut back by a percentage equivalent to the percentage reduction in the duration of the Commission, that is to say 27.12 percent.

Mr. Chairman, in all honesty, even an appropriation level of $1,457,600—which is what we would have if we effect a 27-percent reduction in the appropriation level for the Commission—may be generous. Since the last 2 months of the Commission's life will be a phase-out period, payroll for those months should be lower. Also, because the final report will be due sooner than previously anticipated, there should be fewer expenses and less need for travel, public hearings, and certain studies. Beyond that, I understand the

Commission has some $800,000 in contingency funds on hand that can act as a cushion, so I do not think we need fear the Commission having insufficient funds to complete its work. Instead, what we need to worry about and focus on, especially in light of the latest budget estimates for fiscal 1981, is an unnecessary waste of the taxpayers money.

To fund a Commission for 3 months longer than it will be in existence would certainly be a waste of money. Cutting $542,400 may not make much of a dent in an estimated $29.8 billion deficit but we have to start making dents somewhere if we ever expect to punch a hole in inflationary deficit spending.

I urge my colleagues to support this amendment.

☐ 1300

Mr. LEWIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly rise to express opposition to the amendment of my colleague from California, which would reduce the budget of the National Commission on Air Quality.

As you may know, we in California have, to say the least, the country's most severe air quality problems. It is my own personal belief that closing down effectively the work of this Commission is most vital and will be very helpful to us in the Southwest air basin.

I might also mention that the Commission in their last year's budget had a budget of $5.5 million. This budget reflects a significant cutback in their budget, recognizes that they are closing down their work, but they are asking to be able to close down that work effectively.

Beyond that, I mentioned that last year they had 45 members on their staff. They reflect a staff request of 35 in this budget. I think they are responsibly responding to the reality that their work will be closing down progressively. They will not have to hire people as they leave during the year. Much of their budget is for personnel to complete that work.

I urge my colleagues to oppose the amendment.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I can understand the position of my colleague, the gentleman from California (Mr. DANNEMEYER), if he offers this amendment because he reasons that the Commission will not be in existence for the entire fiscal year. That is precisely correct.

Mr. DANNEMEYER. Mr. Chairman, if the gentleman will yield, that is the thrust of it.

Mr. BOLAND. That is correct, and by law, as the gentleman has indicated, the Commission must cease operations not later than May 1, 1981. If the Commission fails to complete its final report by March 1, 1981, it ceases to exist on that day. On a strictly pro rata basis, that would mean the Commission needs less money. But is that really so?

Although the time period has been shortened, the mission really remains the same. Basically, the same effort will have to be condensed into a shorter time period.

In addition, the committee has already reduced the recommended funding level for the Commission. The request for 1981 is $2,476,000 and the committee's recommendation, as the gentleman knows, is for $2 million. That equates to a 20-percent reduction.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. Yes, I am delighted to yield.

Mr. DANNEMEYER. Mr. Chairman, when this Commission started out in 1977, is it not true that it was originally authorized for a 3-year period for $10 million and up until this year it had consumed by way of appropriations $8 million; so when the gentleman says there was a reduction of $476,000 from the appropriation this year, that reduction was nothing more than a reflection of the ceiling established by the original authorization of $10 million in 1977.

Mr. BOLAND. Mr. Chairman, what the gentleman says is true. In our judgment, any further cuts below the $2 million would impair the Commission's ability to do its job well.

I agree with the distinguished gentleman from California (Mr. LEWIS) that the Commission has, over the time it has been in existence, marshaled its resources effectively. As a matter of fact, one of the most distinguished Members on the gentleman's side, the gentleman from Michigan (Mr. STOCKMAN) is a member of the National Commission on Air Quality. I am sure that the money we are providing here, the $2 million, will be used by the Commission as effectively as it has used funds during the past 2 years. I am also sure that, if the Commission does not require some of the money, a few thousand dollars for rent, postage, or other expenses in the last months, that money will all be returned to the Treasury.

As the gentleman knows, $8 million has already been appropriated to the Commission for some terribly important work, as described by the gentleman from California (Mr. LEWIS). The recommendations for 1981, the $2 million, will increase that total amount to $10 million.

I do not think we ought to tie the hands of the Commission at this late date from getting its job done, particularly in the critical months that lie ahead. We have a pretty good investment in this Commission now. I think to reduce it below the amount suggested by the committee would really jeopardize some of the work of the Commission.

On that basis, I oppose the amendment.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

I would like to pose some questions to my colleague, the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. I would be happy to respond.

Mr. COUGHLIN. Is it correct that the reduction in the life of the Commission was made after the date on which agreement was reached on the appropriation.

Mr. DANNEMEYER. That is correct. To be precise, 7 days after the Appropriations Committee completed its work authorizing the $2 million, Senate Joint Resolution 188 was adopted by this Congress and signed into law reducing the time within which the commission had to complete its work from August 7, 1981, to May 1, 1981.

Mr. COUGHLIN. Does the gentleman know whether the Commission had to employ any additional people or undertake any additional contracts to complete their work that would necessitate the use of the funds that the Appropriations Committee appropriated?

Mr. DANNEMEYER. I am advised that the personnel of the Commission at the present time is adequate to complete the work that it is required to do by the deadline which was set by Senate Joint Resolution 188. The report is due to the Congress by March 1. The committee itself goes out of business on May 1.

Mr. COUGHLIN. The gentleman's advice is that they do have sufficient personnel to complete that report on time?

Mr. DANNEMEYER. That is correct, and I am also advised that this Commission has available to it $800,000 in contingency funds. In the event that it would run into trouble in completing its work, it could draw on that money in order to complete its responsibilities.

Mr. COUGHLIN. Mr. Chairman, I will certainly be inclined to support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—ayes 9, noes 14.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 184, not voting 73, as follows:

[Roll No. 430]

AYES—176

Abdnor
Akaka
Albosta
Anderson, Calif.
Andrews, N.Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bethune
Boner
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Buchanan
Burgener
Butler
Byron
Carney
Carter
Chappell
Cheney
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Derwinski
Devine
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fish
Forsythe
Frenzel
Fuqua
Gibbons
Gilman
Gingrich
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Lee
Lent

Loeffler
Long, La.
Lott
Lujan
Lungren
McClory
McDade
McDonald
Marlenee
Marriott
Martin
Mica
Michel
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nelson
O'Brien
Paul
Petri
Pickle
Porter
Quayle
Quillen
Rahall
Regula
Rinaldo
Ritter
Robinson
Roe
Roth
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Steed
Stenholm
Stump
Tauke
Taylor
Thomas
Trible
Ullman
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Winn
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—184

Addabbo
Alexander
Ambro
Andrews, N. C.
Annunzio
Ashley
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Bereuter
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clausen
Clay
Coelho
Conte
Conyers
Corman
D'Amours
Danielson
Dellums
Dickinson
Dicks
Dingell
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Ertel
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Flippo
Florio
Foley
Ford, Mich.
Fountain
Frost
Gaydos
Gephardt
Glickman
Gonzalez
Gore
Gray
Green
Gudger
Hagedorn
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Howard
Hughes
Hutchinson
Jeffords
Johnson, Calif.
Kastenmeier
Kemp
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lewis
Lloyd
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Maguire
Markey
Marks
Matsui
Mattox
Mazzoli
Mikulski
Mineta
Minish
Mitchell, Md.
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Pursell
Rangel
Ratchford
Reuss
Roberts
Rose
Rosenthal
Roybal
Royer
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Skelton
Smith, Iowa
Solarz
Spellman
Stack
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Van Deerlin
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Whitten
Williams, Mont.
Wirth
Wolff
Wolpe
Wright
Yates
Zablocki

NOT VOTING—73

Anderson, Ill.
AuCoin
Badham
Biaggi
Bowen
Broyhill
Campbell
Cleveland
Collins, Ill.
Cotter
Daschle
Deckard
Dixon
Dodd
Early
Fithian
Ford, Tenn.
Fowler
Garcia
Giaimo
Ginn
Goldwater
Guarini
Holland
Holtzman
Hubbard
Jones, N.C.
Kelly
Leach, La.
Leath, Tex.
Livingston
McCloskey
McEwen
McKay
McKinney
Madigan
Mathis
Mavroules
Miller, Calif.
Mitchell, N.Y.
Moakley
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Pashayan
Railsback
Rhodes
Richmond
Rodino
Rostenkowski
Rousselot
Runnels
Simon
Solomon
St Germain
Staggers
Stanton
Stark
Symms
Tauzin
Udall
Vanik
Watkins
White
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wyatt
Wydler
Young, Mo.
Zeferetti

□ 1320

The Clerk announced the following pairs:

On this vote:

Mr. Guarini for, with Mr. Cotter against.
Mr. Tauzin for, with Mr. Nichols against.
Mr. Runnels for, with Mr. Richmond against.

Messrs. BAILEY, FOUNTAIN, and GLICKMAN changed their votes from "aye" to "no."

Mr. MONTGOMERY and Mr. NELSON changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> For necessary administrative expenses and technical assistance of the National Consumer Cooperative Bank, including the office of Self-Help Development and Technical Assistance, as authorized by sections 112 and 209 of the National Consumer Cooperative Bank Act (12 U.S.C. 3022 and 3049), $8,700,000: *Provided*, That none of these funds shall be used to retire any of the indebtedness of the National Consumer Cooperative Bank.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. YOUNG of Florida: On page 23, line 16, strike the period and insert in lieu thereof: ": *Provided further*, That none of these funds shall be used directly or indirectly to promote any particular political philosophy or to be used to to support any organization or cooperative engaged in political activity and lobbying efforts of any nature.".

● Mr. YOUNG of Florida. Mr. Chairman, the amendment I am offering here today is an attempt to prevent the National Consumer Cooperative Bank from pursuing policies based on political motivations. This amendment should not be necessary, that prohibition should be assumed because any agency which receives Federal funding should refrain from political activities. There are some disturbing indicators however, that the NCCB will in fact be politically motivated. That the same Sam Brown who attempted to use ACTION as a political vehicle is a member of the NCCB Board should be of some interest.

Mr. Phillip Kreitner, who is a consultant to the Bank and a Ralph Nader associate, stated the following:

> The key to the Bank's influence on the co-op movement will not be to whom it lends business development resources. The key will be what portion of its money, expertise, and ideology it commits to developing the non-commercial half of cooperation: the side of co-ops which makes them education organizations, facilitators of community organizing . . .

Mr. Kreitner also wrote:

> Throughout the U.S., co-op professionalization is being given a sharp boost with the advent of the National Consumer Cooperative Bank. Cooperators are captivated by the vision of a new way to capitalize the movement and their careers. The Bank is the first solid indication to the New Wavers that they might be able to make a living doing co-op work.

Just who are the "new wavers" Mr. Kreitner refers to? There has historically been an element within the consumer cooperative movement that perceives cooperatives as an alternative to the capitalists business system, and seeks ultimately to replace the market system with a cooperative economy. Today, cooperatives that share this view are known as "new wave" cooperatives. New wave cooperatives perceive their role not only as economic but also as social and political. New wave co-ops reject the corporate structure as evil, pernicious, and contrary to society's moral values.

The legislation which created the National Consumer Cooperative Bank was actively lobbied by consumer activist Ralph Nader. Mr. Nader advocates that the existing economy of our country, based on private investment, be replaced by a "cooperative economy".

Mr. Nader in an interview in the March/April issue of The Co-op magazine, said that the kind of co-op economy he envisions would have "ramifications towards political and economic change in this country * * *" Mr. Nader apparently perceives the National Consumer Cooperative Bank as that Government entity that can help bring about such a fundamental change. At a recent public interest lawyers conference, Mr. Nader said that in his opinion the cooperatives receiving loans from the National Consumer Cooperative Bank will be politically active in addition to providing goods and services.

One member of the National Consumer Cooperative Bank's board of directors, Derek Shearer, wrote an article in 1976 in which he listed several proposals which a President from the "left" might seek to implement. Such proposals included a corporate democracy act, which was suggested on the so-called big business day, and the establishment of a national bank for consumer cooperatives. Shearer's own views on solutions to our economic problems are in accordance with the views of the new left. He advocates an increase in "public enterprise" and in cooperatives. He has also suggested that to curb corporate abuse the Government establish a holding company in each dominant section of the economy. He writes:

> If the American economy is to be transformed that it begins to resemble a democratic economy, public control of the economy must grow substantially . . . Such a pluralist economy must effect a dramatic increase in public enterprise as well as in cooperatives, community development corporations and worker-owned cooperatives.

The implementation of Shearer's economic views would require a fundamental political transformation in the country. Shearer admits that his "comprehensive economic reform program will inevitably be labeled socialistic."

The rhetoric used by Mr. Shearer, Mr. Nader, and others can be persuasive and they have the right to advocate their views calling for less private enterprise, less individual participation and control of business, more Government and more collectivist activity in the economy. However, they should not be doing so with public funds or through programs created by the Congress. It should therefore be a matter of legitimate concern to taxpayers whether or not their dollars will go to support an organization that might give expression or implementation to such political ideals and goals.

There are other specific examples which increase my concern which I will not go into today in the interest of time. To close my remarks let me relate that in testimony before the Appropriations Subcommittee, the chairman of the board of directors of NCCB, Mr. Lawrence Connell, responding to my question in which I asked whether he would have any objection to writing language into this bill stating that there should not be any political use of these funds, Mr. Connell's response was "I would have no objection to that."

Finally, Mr. Chairman, I have discussed this amendment with the subcommittee chairman and the ranking minority member. It is my understanding that they have no objection to this amendment.●

□ 1330

Mr. BOLAND. Mr. Chairman, will the gentleman from Florida yield?

Mr. YOUNG of Florida. I will be happy to yield.

Mr. BOLAND. Mr. Chairman, the gentleman serves as a member of the HUD-Independent Agencies Subcommittee and performs very valuable service on that subcommittee. I personally am not aware of any particular problem with respect to the National Consumer Cooperative Bank planning politics or using its influence politically, but I see no harm in accepting the gentleman's amendment. We are willing to accept it on this side.

Mr. YOUNG of Florida. I thank the chairman.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, the gentleman has discussed the amendment with me before. I think it is an acceptable amendment and a good addition to the bill.

Mr. YOUNG of Florida. I thank the gentleman.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentelman from Colorado.

Mr. KRAMER. Mr. Chairman, I rise in strong support of the amendment and commend my colleague for his wisdom in offering it.

Lest anyone think that this bank will not engage in political activities without some explicit expression of congressional intent, I suggest a quick review of some of the statements made by the most active supporters of the Bank and of its employees and directors.

In looking over these statements of individuals and groups interested in the Bank, I have a sense of deja vu finding many of the same names and expressions of philosophy which I encountered during the ACTION reauthorization last year.

As Members in this body will recall, most of the problems associated with the ACTION agency last year could be traced back to the philosophy and political activism of the leaders of the agency, who used the agency and Federal funds to translate their particular viewpoints into activism at the community level. Thus, it was little wonder that the Appropriations Committee investigative staff found instances of federally funded volunteers engaging in labor organizing, lobbying, and political activity, and that organizations hurriedly funded by Brown and his cohorts at the agency lacked the ability to effectively manage Federal funds and used totally inappropriate materials to train ACTION volunteers—material which actually encouraged the volunteers to become politically involved and to incite confrontation in their communities.

Refreshing my colleagues' memories on the problems at ACTION under Sam Brown's leadership is not inappropriate at this time, because lo and behold that same Sam Brown is one of the directors of this National Consumer Cooperative Bank. So let us look at what Sam Brown says to get an idea what we might expect of his leadership of the Bank.

> We need to build a new coalition of vision . . . for a more equitable distribution of wealth.

This belief was translated into action through two Federal grants to controversial politically oriented organizations which described their objectives in the following way:

> ACORN deals with power, not simply with winning issues * * * all these issues are mere manifestations of a much more fundamental issue: The distribution of power in this country;

And

> The Midwest Academy teaches how to unite people in step-by-step campaigns where our collective strength wins concrete improvements and begins the job of redistributing wealth and power.

Another Brown quote:

> Politics is a struggle to redistribute power and wealth. That's what I'm all about.

Speaking to the National Congress of American Indians, Brown encouraged them to not only become politically active, but to do so on a partisan basis, urging them to bloc vote in local elections and to take an active role in the Democratic Party's national convention and platform process.

In short, Brown is an acknowledged political activist, bent on establishing a new social and political order, and we can expect more of the same from him in his capacity on the NCCB.

And I would again refer my colleagues to the statements of other members of the board of directors and the strongest proponents of this Bank to see that Brown is not alone in influencing the Bank in a politically active direction.

This Congress must expressly direct the Bank to channel its activities in nonpolitical directions. The amendment before us would guarantee that, and it should be adopted unanimously.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. YOUNG).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

NEW YORK CITY LOAN GUARANTEE PROGRAM

For necessary administrative expenses as authorized by the New York City Loan Guarantee Act of 1978 (Public Law 95–415), $922,000.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent that we go back to page 25. I was called off the floor inadvertently, and I had an amendment at that page.

The CHAIRMAN. Does the gentleman from Pennsylvania ask unanimous consent that the reading revert to page 25?

Mr. ERTEL. Yes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WYLIE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, domiciliary, construction and supply, research, employee education and training activities, as authorized by law, and for carrying out the provisions of section 5055, title 38, United States Code, relating to pilot programs and grants for exchange of medical information, $50,418,000, plus reimbursements.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS: Page 32, line 4, strike out "$50,418,000" and insert in lieu thereof "$55,312,000".

Mr. ROBERTS. Mr. Chairman, my amendment would restore to the appropriation for medical administration and miscellaneous operating expenses the sum of $4 894,000 for the development of health care information systems. For the past several years, the Administrator and the Chief Medical Director of the VA have been struggling with the Office of Management and Budget to obtain funds for a Health Care Information System. The requests for funds have been repeatedly denied until the fiscal year 1981 when $5,399,000 were included in the President's budget request.

The Subcommittee on HUD-Independent Agencies has reduced the amount by $4,894,000—the amount my amendment would restore.

The Subcommittee on Special Investigations of the Committee on Veterans' Affairs has held several hearings on this subject. While we may not entirely agree with the manner in which some funds for this purpose were obligated at the end of fiscal year 1979, the arguments for getting on with this task are overwhelmingly in favor of it. The Subcommittee on Special Investigations called VA medical center directors and chiefs of staff before it.

These individuals, as well as VA central office officials, repeatedly told us of the tremendous tasks that are being performed manually and those that are not being performed at all due to the lack of these computerized systems.

The private sector has acquired such systems for the delivery of more effective and quality health care. The Veterans' Administration, due to lack of funding, is still operating in the "horse and buggy" days in this regard. It is the commitment of the Congress to provide quality health care to eligible veterans. This cannot be done unless we provide the VA with modern tools and techniques requisite to this day and age.

The systems we are talking about do not happen overnight. The leadtime, from planning and designing the systems to development, installation, and operation, is a 7- to 10-year process. The longer it is delayed, the more expensive it will be. I ask you: Why should a veteran patient have to wait 4 to 8 or more hours to see a doctor when he is sick and goes to a VA medical center? Or even more threatening, it is possible that it could cost the veteran his life.

The computer systems we are talking about are cost effective in terms of personnel and in a medical setting can be lifesaving.

The House Committee on Veterans' Affairs, through its oversight functions, has heard an abundance of justification for getting on with this task without any further delay. I think it was best said by the director of one of the largest VA medical centers when he appeared before the Subcommittee on Special Investigations. He said:

> Mr. Chairman, I wish you could come to my hospital, walk through the halls, and see the problems that are being caused by this situation. Veterans, aged veterans, extremely ill, very disabled, are having to stand 2, 3, 4, 5 hours in long lines just to receive their medications. If they could go somewhere else, I am sure they would, but they cannot. They are very dependent upon us for their care.

I urge my colleagues to support this amendment. A vote for it could very well mean the difference between life and death in many cases of veterans seeking medical care through VA health care facilities.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, eariler this year, our Subcommittee on Special Investigations held oversight hearings on the VA's plans for computerizing its various systems in order to improve the quality, quantity, and timeliness of the services provided to eligible veterans.

These hearings brought out that the VA, rather than leading the way in developing these systems, lags well behind the private sector in all areas of ADP (automatic data processing). The gap between the VA hospitals and those in the private sector is graphically illustrated by a recent survey by the American Hospital Association ADP survey of hospital computers. The survey shows that in hospitals with more than 500 beds, 87 percent of private hospitals have ADP capabilities in admitting procedures, while only 4 percent of the VA hospitals are so equipped. In the field of pathology, these percentages are 74 to 4; in outpatient care are 74 to 3; and in pharmacy 74 to 4.

The present largely outdated and manual VA system is not modern and is often frustrating to patients and medical personnel alike. Trained health care professionals could better spend their time if the VA had a good computer system enabling them to better deliver quality medical care.

The VA is currently in the "dark ages" of ADP capabilities and the situation will deteriorate and cause even greater problems with the aging of the World War II veteran population. We should restore the $4,894,000 to start to modernize VA medical functions to keep veterans from having to wait from 4 to 8 hours to see a physician, to provide prompt pharmacy service on a timely basis, and to avoid duplication of expensive and potentially dangerous drugs, and so forth.

Simply stated, the situation is a life-threatening one; perhaps the difference between the life and death of a veteran.

I strongly urge my colleagues in the House to support this much-needed amendment.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, may I again, as I have done in the past, pay my respects to the distinguished chairman of the Veterans' Affairs Committee. As I indicated yesterday, I regret that he is leaving the Congress after this year, because he has done some very excellent work in this area, as he has on the Transportation and Public Works Committee. The committee denied the funds for some very good reasons. But I know how deeply the gentleman feels about this particular amendment, and the committee on this side is willing to accept it.

Mr. ROBERTS. I am deeply indebted to the gentleman from Massachusetts.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, I want to compliment the chairman also on his long and distinguished career in this area, and we certainly accept this amendment.

Mr. ROBERTS. I thank the gentleman.

● Mr. MONTGOMERY. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished chairman of the Committee on Veterans' Affairs. I cannot recall the last time he has offered an amendment to the VA appropriation bill, which means that he feels very strongly that the cut made by the committee in the Department of Medicine and Surgery's health information system must be restored. I share my chairman's concern.

Those of us serving on the authorizing committee have labored for several years to get the Office of Management and Budget to request funding for this project. Finally, the agency was able to convince OMB that a failure to implement a modern-day computer information system would, in the very near future, begin to affect the timely delivery of health services by the Department of Medicine and Surgery. It is not now uncommon for a veteran to have to wait from 2 to 6 hours to be examined at a VA medical center. It is not uncommon to have to wait 2 to 3 hours to get a prescription filled. Drugs are dispensed manually and we know of cases where some veterans are receiving drugs from two or more VA hospitals. That could be dangerous to their health simply because the agency is not equipped to handle the flow with computers.

I regret we do not have the time to quote extensively from our recently completed hearings when several hospital directors, chiefs of staffs and others, testified so eloquently in behalf of this budget request, but I think you will find some of their comments of interest.

In pleading for the funds to implement a health-care information system, the director of one of VA's largest hospitals stated:

> As a director of a hospital that has 25,000 inpatient visits, some 200,000 outpatient visits a year, I do not have the tools to control the escalating cost and complexity of a pharmacy operation. It is literally impossible for me to do my job unless somebody gives me the tools to do it with.
>
> The second thing I am very concerned about is patient care. Mr. Chairman, I wish you could come to my hospital, walk through the halls, and see the problems that are being caused by this situation. Veterans, aged veterans, extremely ill, very disabled, are having to stand 2, 3, 4, 5 hours in long lines just to receive their medications. If they could go somewhere else, I am sure they would, but they cannot. They are very dependent upon us for their medical care.
>
> Mr. Chairman, as a director of a hospital, I have said it before and I will say it again, I am ashamed when I go through and I see the job that we are doing. All I can ask is that Congress, OMB, VA try to get together, try to give us the tools so that we can take care of the deplorable situations that are now existing.

We also heard from the chief of staff at one of the VA hospitals in Chicago, who testified to the following dangerous situation:

> More importantly, I would submit to you that 20 to 50 percent of patients commit errors in the use of their prescriptions. This misuse of drugs poses a serious threat to the health of the patients. Various drug incompatibilities because of the number of physicians that are seen will vary from minor inconvenience to that patient but may have serious complications, even death.
>
> Permit me to substantiate my request for such an automated system, to take the figures from the Hines Veterans Hospital phar-

macy costs. In 1971, there were over 86,000 prescriptions which cost $142,000, or an average cost of $1.66 per prescription.

In 1979, they had over 360,000 prescriptions at a total cost of $994,000 plus, or $2.76 per prescription, which is a 60 percent increase.

The total cost of our drugs and pharmaceuticals is another interesting figure. In 1973, our total cost was $784,000, plus or minus. In 1979, there was a 262 percent increase in the cost of these drugs, for a total of 2,057,000 dollars.

Now if, as our figures show, we can expect a 25 percent saving in duplicate prescription costs, in 1979, we would have realized more than $514,000, which is 66 percent of the cost of drugs for the entire year of 1973 that I mentioned to you, and which is more than the cost of the entire automated pharmacy system in our medical district.

When properly programmed, these systems of automation will prevent many of the problems that I have indicated. Another hospital director told us the following:

I would like to say that the American Hospital Association made a survey not too long ago, and they found out that 60 percent of their hospitals throughout the nation are automated. Of the balance, 20 percent plan to be automated within the next few years. We presently find ourselves with a Model T Ford going down Route 95, trying to keep pace with the cars of the seventies and coming into the eighties.

We feel very strongly that, as health care professionals, to support the physician in getting the job done, we need automation in our medical centers, and we solicit your support.

I am sure many of my colleagues have heard veteran complaints of long delays in seeing a physician, or lengthy waits to get lab work completed. These complaints are numerous and the VA is anxious to do something about it. This is not the time to cut funds from the small amount requested by the President.

My colleagues should understand that Mr. ROBERTS' amendment does not add to the President's budget request; it would simply restore the cut made by the Appropriations Committee. A vote against the amendment is a vote to continue the practice of veterans having to wait to see a doctor, a nurse or other health-care professional; his having to wait long periods of time to get a prescription filled. Immediate implementation of the plan proposed by the Chief Medical Director and supported by the Committee on veterans' Affairs will eventually eliminate these delays.

I therefore urge my colleagues to support the amendment offered by my chairman, Mr. ROBERTS. Veterans throughout the Nation will be grateful that you did.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ROBERTS).

The amendment was agreed to.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent to offer an amendment which relates to page 25, out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, is this the amendment that would add funds to the National Science Foundation?

Mr. ERTEL. It is the amendment that would add funds only to the applied engineering and science function in the NSF.

Mr. ASHBROOK. Mr. Chairman, I object to that.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $376,343,000, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the Advance Planning Fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That none of these funds shall be available to plan, design or construct a replacement Veterans Administration medical center at Minneapolis, Minnesota, that exceeds six hundred forty-nine hospital and nursing home care beds.

AMENDMENT OFFERED BY MR. HAMMERSCHMIDT

Mr. HAMMERSCHMIDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAMMERSCHMIDT: Page 32, beginning on line 25, strike out "$376,343,000, to remain available until expended" and insert in lieu thereof "$390,583,000, of which $376,343,000 shall remain available until expended and $14,240,000 shall be for construction of replacement facilities at Little Rock, Arkansas, and shall remain available until April 30, 1981".

☐ 1340

Mr. HAMMERSCHMIDT. Mr. Chairman, my amendment would add $14.24 million for Veterans' Administration construction projects, to account for a reduction of that amount by the Appropriations Committee when it eliminated additional funding for phase 2 of the replacement hospital at Little Rock, Ark. The amendment would also place a contingency on the use of these funds, mandating that they be appropriated pursuant to a contract to be let on the Little Rock facility no later than April 30, 1981.

Mr. Chairman, it would appear that a misunderstanding occurred between the Veterans' Administration and the Appropriations Committee with respect to the Little Rock project, due to the excellent progress the Little Rock hospital construction program has made. It was originally believed that the contract for phase 2 of the project would not be let until September or October 1981. However, the Veterans' Administration is now certain that the contract will be let in April 1981. Failure to provide for the $14.24 million in our appropriations for this fiscal year will penalize prompt performance, and cost our taxpayers an additional $3 to $5 million in inflation adjustments due to the delay that would accompany such a failure to appropriate. This is a result that no one desires, Mr. Chairman. The Appropriations Committee has been very clear in its report that it does not wish to slow down construction projects, and our taxpayers have been very clear that they do not wish to throw money away when it could be saved. As such, I am offering this amendment to correct a result that apparently was not contemplated at the time the Appropriations Committee put this legislation together.

VETERANS' ADMINISTRATION,
Washington, D.C., July 18, 1980.

Hon. JOHN PAUL HAMMERSCHMIDT,
House of Representatives,
Washington, D.C.

DEAR MR. HAMMERSCHMIDT: The House of Representatives Appropriations Committee deleted the President's FY 1981 budget request of $14,240,000 in escalation funds for the Little Rock Medical Center construction project. This request was specifically designed to allow a construction contract award for the final and main phase (Phase II) of the 505-bed acute care facility at the Little Rock Division. Failure to provide these funds in the FY 81 Appropriation will result in a gap in time between the completion of Phase I and the initiation of Phase II.

The Phase I portion of construction awarded last month and currently underway includes excavation, foundations and erection of the structural steel frame plus metal floor decking throughout the building. The Phase II portion consists of enclosing the building, installing the mechanical and electrical items, and completing the interior architectural work. Also, the site landscaping and exterior paving will be completed at that time. To delay the continuity of the overall construction by not proceeding with finishing the building would result in the structural steel frame and metal decking being exposed to deterioration for an extended period of time.

To date, all parties involved in the progressive development of this project have not only maintained momentum in the development of the project, but it has been possible to substantially improve the overall schedule. The current projected Phase II award date of April 1981 illustrates this as compared to an earlier September/October 1981 schedule. At this time, it is estimated that an additional $4,250,000 would be required due to a delay in the Phase II construction award until October 1981.

Notwithstanding the adverse effect on the exposed structure and the break in the continuity of a large and complex project as this, the increased cost due to future inflation is considered to be of major concern. Also, there will be certain maintenance costs incidental to protecting the property and site during an extended period of delay. Finally the idea of a partially completed government building sitting idle on the landscape is disquieting from a public relations standpoint.

In view of the uncertain future market conditions and in order to avoid jeopardizing this project, it is considered that the requested funds for this project remain intact.

Your interest in assisting us in keeping this project on schedule is appreciated.

Sincerely,

MAX CLELAND,
Administrator.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, when the subcommittee marked up this bill and considered the major construction items of the Veterans' Administration, we were informed that some of the major construction items would not be started until fiscal year 1982. The Veterans' Administration, at the time of the markup, indicated Little Rock was one of them. Since that time, the VA has indicated that it can get started on the second phase of Little Rock in fiscal year 1981.

So, Mr. Chairman, this side accepts the amendment offered by the distinguished gentleman from Arkansas (Mr. Hammerschmidt).

Mr. HAMMERSCHMIDT. Mr. Chairman, I thank the distinguished chairman of the subcommittee.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, the gentleman from Arkansas (Mr. Hammerschmidt) has spoken to me previously about this. I understand the situation has changed from the time this actually occurred in the Committee on Appropriations, and we accept the amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. Coughlin).

● Mr. ROBERTS. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Arkansas (Mr. Hammerschmidt) and urge my colleagues to support his amendment to add $14.24 million to the appropriation for the construction, major projects, for the Veterans' Administration for fiscal year 1981, specifically for completion of the VA medical center in Little Rock, Ark. Any further delay in this construction would add from $3 to $5 million to the cost of construction of this replacement medical center.

The House committed itself to appropriate $144,070,000 in fiscal year 1979 to construct this hospital. Any further delay at this late time, when all of the construction funds for the replacement of this facility except this $14.24 million has been appropriated, would be penny wise and pound foolish.

This hospital will be near completion in fiscal year 1981. The appropriation of $14.24 million should complete its construction. There is no reason why these funds should not be appropriated. The Veterans' Administration has advised that all funds are required and will be obligated in fiscal year 1981.

In a recent letter to me, the Administrator of Veterans' Affairs stated:

> Failure to provide these funds in the fiscal year 1981 appropriation will result in a gap in time between the completion of phase 1 and the initiation of phase 2.
>
> To date, all parties involved in the progressive development of this project have not only maintained momentum in the development of the project, but it has been possible to substantially improve the overall schedule. The current projected phase 2 award date of April 1981 illustrates this as compared to an earlier September-October 1981 schedule. At this time, it is estimated that an additional $4,250,000 would be required due to a delay in the phase 2 construction award until October 1981.

Mr. Chairman, I do not believe we should allow this escalation in cost to occur. The passage of the amendment offered by the gentleman from Arkansas (Mr. Hammerschmidt) will preclude the needless expenditure of these funds.

I strongly support the Hammerschmidt amendment and urge my colleagues to vote for it.●

● Mr. MONTGOMERY. Mr. Chairman, I rise in strong support of the amendment offered by the ranking minority member of our committee, the very able John Paul Hammerschmidt.

The new hospital at Little Rock has been justified. It has been carefully reviewed by the Office of Management and Budget and most of the funds have already been appropriated. The Administrator has assured the chairman of the committee, Mr. Roberts, and Mr. Hammerschmidt that the funds are needed in fiscal year 1981 and has planned for some time to award the contract for phase 2 of the construction in April 1981. It makes no sense at all to have the project stand still for 6 months to a year. Should that happen, not only would veterans be adversely affected, but the delay would cost the Government another $4.5 million. This would be a waste of taxpayers' money.

The Veterans' Administration's construction budget request has been cut more than $143 million by the Appropriations Committee. These include: Brooklyn, $2,614,000; Denver, $42,000,000; Little Rock, $14,240,000; Miami, $26,650,000; Seattle, $15,910,000; and Sepulveda, $3,686,000. Other projects were cut because they are considered low priority. These include: Atlanta, $1,540,000; Danville, $5,600,000; Hines Supply Depot expansion, $8,800,000; and Long Beach, $12,171,000. It should be noted that the Long Beach project has been a very high priority project so far as our committee is concerned and it has been pending for more than 12 years.

The Administrator is appealing all of these cuts in the Senate, except for the Seattle project. He informs us that the funds can be used if appropriated and it is my hope the other body will proceed to appropriate all of the funds. Mr. Hammerschmidt's amendment would only restore the $14,240,000 cut for the Little Rock Medical Center. He does not seek to restore the other cuts made by the Appropriations Committee. The gentleman from Arkansas has worked tirelessly for this project. Through his efforts the Veterans' Administration and the Office of Management and Budget recognized the need to proceed with the project. That accomplishment is no small task and for Congress not to fund the project on time would create a needless and costly delay in the completion of the project. This is not very cost effective.

The Administrator has informed Mr. Roberts and Mr. Hammerschmidt that to date, "all parties involved in the progressive development of this project have not only maintained momentum in the development of the project, but it has been possible to substantially improve the overall schedule." This being the case, we should get on with completing the project by supporting the Hammerschmidt amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. Hammerschmidt).

The amendment was agreed to.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was intending to offer an amendment adding funding to the bill for the construction of a nursing care facility at the Veterans' Administration hospital complex in Wichita. However, I believe that the issue can be clarified by colloquy with the distinguished gentleman from Massachusetts (Mr. Boland). The project authorization was requested by the Veterans' Administration and has now been approved by the Committees on Veterans' Affairs, both here in the House and in the Senate. By the way, I would mention that this construction project is supported by both the VFW and the Disabled American Veterans.

The amendment would add $6.8 million to the section of the bill providing funds for major construction projects. It would cover costs associated with design and construction of the nursing care facility for fiscal 1981 including the funds necessary for construction of an underground drain culvert to eliminate flooding conditions at the medical center.

Before I get into a discussion of the need for this project, I think it is most important that my colleagues understand some of the background. When the Appropriations Committee was working on the bill before us today, the project this amendment seeks to fund had not been authorized by our Veterans' Affairs Committee. But, as explained in materials provided me by the VA, this occurred "through an apparent oversight." In fact, the Veterans' Affairs Committee mistakenly included among the construction items authorized as "major construction" a smaller project at the Wichita VA complex which under the governing statute did not require committee approval. That certainly highlights the confusion which necessitates the amendment I am offering today.

Now, however, the House Veterans' Affairs Committee and its counterpart in the Senate have approved the necessary authorizing resolutions for this project. And the Veterans' Administration has indicated once again its desire to have this project funded this year. Otherwise, it will throw the VA's priority funding process—which I understand was developed in conjunction with the Congress—out of line. I would also mention that failure to include this project's funding would further hinder the credibility of our Government. In March of this year, notification went out to Kansas from our Veterans' Administration that this project had been approved and that initial construction contracts would be issued in October 1980, the first month of the upcoming fiscal year. Without this amendment, that would not be permitted to occur and the cost of this project would be forced upward with inflation.

In closing, I do want to point out that this project is a needed and necessary one. As the Veterans' Administration advised me, the facility would increase by 60 the number of nursing care beds in VA District 22. These would be the only VA nursing care beds at the Wichita hospital. As a point of reference, I would note that nursing care beds available in other hospitals in region 22 presently meet only 57 percent of estimated need. Among the other nursing care facilities funded in the bill before us is one that would add space in a district where 66 percent of estimated need is currently met.

Mr. Chairman, I would like to ask the gentleman from Massachusetts (Mr. BOLAND) if he might comment to me on what he believes the status of the Wichita project to be.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, let me say that I know of no Member who has followed a project as assiduously as he has. I realize the intense interest that the gentleman's area and the gentleman's State has in this project.

At the time we marked up this bill the Wichita project was not authorized. It is now authorized by the Committees on Veterans' Affairs.

One of the problems we had, as the distinguished gentleman realizes, is that the Veterans' Administration announced this project last spring, and that gave us some concern. That was before the Congress authorized it or acted on the 1981 appropriation bill. We thought perhaps the Congress ought to have some input into it, particularly since the moneys are coming from the Congress.

I can envision a scenario in which postponing the funding for what is in effect two projects will not really cause a delay. The VA indicates that both projects are being designed in-house, so that effort will proceed notwithstanding the final outcome of the 1981 appropriation.

The drainage construction project is scheduled to be funded at the beginning of fiscal year 1981. Because the estimated cost of that project is $2.1 million, it can be funded from the minor construction account. That is what we will suggest to the VA, and that is what we are telling them to do. So in effect, the drainage construction contract can be let and we can tell them to go ahead and do that.

Because the nursing home care unit construction contract was scheduled to be awarded in September 1981, the project can be funded in 1982, with little if any delay.

Mr. GLICKMAN. Mr. Chairman, I appreciate the gentleman's response.

The two parts of this project are important to the veterans of my particular area. Basically, what the gentleman has told me is that the project can really proceed by using the minor construction part of the process with respect to the drainage part of the project, and the remaining part of the project can be appropriated next year, with no delay?

Mr. BOLAND. Mr. Chairman, the gentleman is correct.

Mr. GLICKMAN. Mr. Chairman, I appreciate the gentleman's remarks.

AMENDMENT OFFERED BY MR. HAGEDORN

Mr. HAGEDORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEDORN: Page 33, beginning on line 5, strike out ": *Provided, further,*" and all that follows through line 9 and insert in lieu thereof a period.

Mr. HAGEDORN. Mr. Chairman, my amendment deletes the language in this bill which restricts the size of the new Minneapolis VA Hospital to 649 beds. It would not add one dime to the fiscal 1981 appropriations—the $15 million necessary for design and architectural fees is already in the budget and the bill as reported. What my amendment would do, Mr. Chairman, is assure that the present and future health care needs of the veterans are adequately met.

Joining me today in offering this amendment are the distinguished chairman of the Veterans' Affairs Committee, Mr. ROBERTS, and the ranking minority member of that committee, Mr. HAMMERSCHMIDT.

Let me point out, Mr. Chairman, that the need for a new VA hospital is uncontested. All parties are firmly committed to replacing the existing facility. The oldest section of the medical center was built in 1927, and while improvements have been made over the years, approximately 40 percent of the operating beds are still located in three of the original six buildings of the 1927 vintage. The need to expand and modernize the facility to meet the medical needs of veterans is clear.

The controversy that we are engaged in today concerns the size of the new hospital. The Veterans' Administration has proposed an 845-bed facility—725 hospital beds and 120 nursing home care beds. It is interesting to note that the total number of hospital beds to be constructed under the VA's plan is less than the present operating level of 738 hospital beds. The Metropolitan Health Board, an unelected body limited to a seven-county region in Minnesota, wants to restrict the size of the medical center to 609 hospital beds and 40 nursing home care beds. It was upon this recommendation that the Appropriations Committee adopted the limiting language.

The Veterans' Administration recommendation was based on a model developed by the General Accounting Office and was made in conjunction with the professional staff and management at the VA facility. While that initial 1978 study was still in progress, the GAO recommended a revised bed-sizing formula, using more current data, and as a result, the initial 1985 bed requirements were changed. It is clear that the VA procedure for determining the size of the hospital was long, involved, and thorough with a full review of all pertinent and relevent facts.

Yet, despite this fact, the health board has been successful in promoting the parochial interest of the seven-county metropolitan area around the Twin Cities. But the Minneapolis VA Center has responsibilities that extend far beyond the seven-county metropolitan area of Minneapolis. The medical center serves veterans in a service area of five States—Iowa, Minnesota, Wisconsin, and North and South Dakota. In all, the VA Medical Center in Minneapolis provides medical care to a total veterans population of approximately 800,000. Currently, the medical center is experiencing in excess of 200,000 outpatient visits annually. It is inconceivable to me that a local health systems agency, whose scope is limited to a seven-county area, could adequately take into account the interests of veterans from a five-State region—even if it wanted to.

Yet this is what the health board claims to have done. Unfortunately, the board's concern regarding the size of the replacement hospital is centered on several misconceptions.

First, the health board maintains that if the VA used more recent community lengths of stay data rather than the 1974 data used, the projections for the number of beds needed would be reduced. In fact, as I mentioned, the VA has made several modifications to improve the bed-size model, including the use of more recent length of stay data and VA discharge rates for the most recent 4-year period. When the VA applied these modifications in May of this year, using 1976 community length of stay data with 4 years of trended discharge rates, the result was a projection for more beds, not fewer. In other words, if the VA based its request for beds on data suggested by the Health Board, more beds would be required.

With respect to the nursing home care bed levels, the Health Board has misinterpreted both the nursing home care feature of the hospital bed-sizing formula as well as the purpose of the nursing care facility itself. The GAO never intended the nursing home care feature of the hospital bed-sizing formula to adequately account for all nursing home care needs. Its only intent was to identify those nursing home care beds which patients hospitalized at the VA Medical Center could use if this alternative were available.

The VA is planning to assure a 20-percent share of the overall veteran need in this area. Under the planning model used by the VA, Medical District No. 18's share of VA nursing home care beds in fiscal 1987 is 328 beds. The programed beds for the new veterans facility are essential, therefore, to complement the 169 existing beds in the district.

□ 1350

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. HAGEDORN) has expired.

Mr. HAGEDORN. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. ERTEL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. VENTO. Mr. Chairman, I rise to speak in favor of the amendment.

Mr. Chairman, I will yield to my colleague, the gentleman from Minnesota

(Mr. Hagedorn), but first I want to voice my strong support for the amendment before the committee.

I now yield to my colleague from Minnesota.

Mr. HAGEDORN. I thank the gentleman for allowing me to complete my statement.

Mr. Chairman, contrary to the health board's understanding, the nursing care facility is not intended to be a prehospitalization nursing center but rather is to be used for post-hospitalization services for veterans anticipating relocation to a more permanent home. In my judgment, the 120-bed proposal is more than reasonable. Even with these beds, Medical District No. 18 will still have a nursing care unit bed total substantially below the VA's projected 1987 needs.

Going beyond the central merits of this issue, Mr. Chairman, the action of the Appropriations Committee would establish a dangerous precedent of permitting State and local health planning agencies to interfere with the traditional responsibility of the VA health care delivery system. As mandated by law, the House and Senate Veterans' Affairs Committees are authorized to approve by resolution all major construction of VA medical facilities. And both committees have done just that.

On April 24 the House Committee passed its resolution authorizing the construction of an 845 bed medical center, not a 649-bed facility that the Metropolitan Health Board calls for. Who are we going to listen to as we make decisions about the health care of our Nation's veterans? I suggest we take our advice from the appropriate Congressional committees and those in the executive branch most capable of assessing the needs of veterans, not a local health systems agency consumed by local interests. I am pleased to note that both the chairman and ranking minority member of the Veterans' Affairs Committee share my concern and I trust they will speak on this issue themselves shortly.

One of the arguments that has been made for letting the committee language stand is that we are dealing with a local issue which should be resolved by the local officials and Congressmen. But this is not merely a local issue. It has national significance because it concerns the health care of our Nation's veterans and the procedures whereby we assure their health care. If we do not adopt this amendment, we will have local health systems agencies all over the country dictating policy on the health care provided to veterans from areas far larger than those within the jurisdiction of the agency.

America's commitment to its veterans should be and is unbending. The action by the Appropriations Committee is the first attack on the integrity of the national commitment that we have to our veterans and their health care system. The need for an 845-bed faciilty has been shown and documented with the latest available data. The Congress, through its appropriate committees, has spoken, and the Veterans' Administration, charged with the responsibility of administering and coordinating the health care of our veterans, has thoroughly studied the matter. In my judgment, it would be improper for a local health systems agency to dictate the design of the new hospital, particularly when a careful review of all the facts is unsupportive of its position.

I urge my colleagues to support the Hagedorn amendment to H.R. 7631.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his statement and contribution to this issue, and I rise in support of the amendment.

Mr. Chairman, there is no issue here with regard to whether we need a hospital. I think everybody agrees with that. This Minneapolis VA hospital happens to be one of the leading health facilities in the Nation, and we should certainly maintain this quality. But we want to construct at this particular time, after all of this waiting, a model facility. I have long supported this particular objective, and I want to see an adequate facility planned and constructed. We all know the problems of trying to redesign and reconstruct an inadequate health care facility. The real issue here is what the projected needs are in the future. I submit that they are quite substantial, with the era of Vietnam veterans and the unique problems that they have, and an aging veteran population. A model facility should be constructed to replace the hospital as well as a facility that has adequate nursing-care qualities.

We do not have the quantity or quality of veterans' nursing care now in the Midwest area. This would bring it up to the level that the VA has recommended and which I support.

I just want to point out that I generally have been a strong supporter of HSA's. The Metropolitan Health Board in our area fills that role, and they have generally done a good job. In this instance, under an A-95 review, a voluntary process in which the MHB submitted their proposal to the VA, the timeframe provided apparently was not adequate to complete a thorough analysis. In my judgment, they have recommended an inadequate VA facility to address the needs of veterans.

I think the ultimate decision is the Congress and this particular committee of the whole. I think we take the HSA's advice and examine it. Some of the proposals that the MHB have brought forth are good proposals and I agree with them. But others are not appropriate. And obviously the size recommendation is one that they should be faulted for because it will not adequately meet veterans health needs.

I yield to my colleague, the gentleman from Mississippi (Mr. Montgomery).

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the amendment offered by Mr. Hagedorn of Minnesota. The issue here is far greater than the simple question of whether we will build a hospital with 845 beds versus the Appropriations Committee recommendation of 649 beds. The issue is much more complex.

The critical question is whether the Congress will continue to fulfill its obligation to our Nation's veterans as we have done for so many years through the current budget process or whether we will change that procedure and now begin to make decisions affecting veterans health care needs based on recommendations of local health planning agencies. In my view, the budget procedure we have operated under for so long, and so effectively, is the better way to proceed. Therefore, we must support the Hagedorn amendment.

Mr. Chairman, I can understand the reasons for the health planning agencies' recommendation to reduce beds in Minneapolis. I gather a number of factors, including mismanagement, have created excess hospital beds in the immediate Minneapolis area, but I can assure my colleagues of one thing. The Veterans' Administration did not contribute to the excess beds.

On the contrary, during the last 12 years the Veterans' Administration has reduced beds throughout the Nation by more than 27,000. If this amendment is defeated, and the Appropriations Committee recommendation is allowed to stand, in 1985 when the proposed new replacement hospital is scheduled to become operational, it will, in my view, be inadequate to take care of the needs of the veterans in this region of the country. My colleagues should understand that veterans thoughout the region are admitted to the Minneapolis hospital. It does not care only for veterans in the immediate Minneapolis area, as the gentleman from Minnesota has already pointed out.

We cannot afford to misjudge the demand for health care in VA hospitals within the next few years. Everyone understands that more than 12 million veterans of World War II will be 65 years of age or older by 1985. The demand for care will be overwhelming. It would be a tragic mistake if we decide now to reduce the bed level at this facility and be unable to care for all veterans who need care on the day the hospital is scheduled to open.

I urge my colleagues to support the Hagedorn amendment. In doing so you will assure the veterans of our country of our continuing commitment to care for those who had borne the battle.

Mr. VENTO. Mr. Chairman, I appreciate the support that we have received on this. I will just point out that, on this amendment, the veteran vote is "aye," the planning vote should be "aye," and the cost-saving vote is "aye." I would hope that my colleagues would agree and support an adequate facility in this particular area to one of the leading VA programs in this Nation, one that we can be proud of and one that will meet the projected needs of veterans in this five-State area. The A-95 is a good process. We have their input. That does not mean that we have to let it dictate exactly what we are going to do. I would hope that we could address this and start planning a model facility. The record is replete with inadequate facilities that have been planned, and the veterans' needs go unmet. I think this is not the place to argue what the policy should be with regard to veterans' health care needs. That policy has been made. It is one that we can follow in terms of developing facilities to meet that need.

As Minnesota's Fourth District Representative which encompasses a large part of the Twin Cities metropolitan area, I have taken a strong interest in this VA hospital project and followed closely the entire planning process. In the past weeks, I have also had an opportunity to review carefully both the Veterans' Administration's bed-sizing estimate and the Metropolitan Health Board's A–95 review of this project. From my review, I am firmly convinced that we must make every effort to construct a model facility in Minneapolis in accordance with the VA's estimated needs. Naturally, I was very disappointed to learn of the Appropriation Committee's decision to adopt the Metropolitan Health Board's recommendation to limit the hospital to 649 beds.

The rider attached to this bill stipulating a 649-bed total is inadequate. A 649-bed hospital is too small to adequately meet Upper Midwest veterans' demands. By comparison, it is almost 200 beds below the VA's bed-sizing estimate of 845 beds that was endorsed by the House and Senate Veterans' Affairs Committees. I might further add that the VA recently completed a revised bed-sizing estimate for the Minneapolis VA project based on 1990 needs that indicates that a more appropriate bed total really might be in the neighborhood of 905 beds. I think these significantly larger bed-sizing estimates done by the VA, certainly the most experienced planner of large VA hospitals, cast severe doubt on the adequacy of the 649-bed proposal as submitted by the Metropolitan Health Board.

I feel strongly that this body should also be made aware of some of the reasoning behind the local review board's proposal. The Metropolitan Health Board made several assumptions that I feel are of questionable validity and allowed them to significantly reduce their bed-sizing proposal. First, the Metropolitan Health Board assumed that younger veterans and veterans in the 46 to 65 age group would continue to use the VA facility at their present rate. The VA on the other hand, using statistics collected over many years of hospital use studies, assumes that veterans will significantly increase their use of the VA hospital facilities as they grow older. I personally feel that the VA's assumption in this case seems more logical.

Another questionable Metropolitan Health Board assumption is one regarding the nursing care facility. The VA designated 120 nursing care beds for the new facility in order to provide a much needed long-term, extended care facility and bring the districtwide number of VA program nursing home beds closer to the figure called for by VA guidelines. The Metropolitan Health Board, however, misinterpreted the purpose of the nursing care facility to be a short-term intermediate care facility to serve the immediate pre- and post-hospitalization needs of veterans using the Minneapolis hospital facility. The MHB therefore designated only 40 beds for the nursing care facility as called for in the GAO bed-sizing model. I can assure you that if this reduction of 80 nursing care beds takes place, veterans in the Upper Midwest will face a severe setback in the nursing care area. It is ironic to note that in 1977, prior to the hospital replacement project, the VA submitted similar plans to the Metropolitan Health Board for a large extended care nursing facility and received no negative comments during the allotted project review period. The Metropolitan Health Board's only objections to this nursing care facility have come now, as the VA has tried to consolidate the nursing care facility with the hospital project in an effort to reduce constuction costs.

Mr. Chairman, I hope that by detailing the shortcomings of these Metropolitan Health Board assumptions you can better understand the flaws in their analysis and the unacceptably low bed total to which this rider will hold the Minneapolis VA hospital. If we allow this rider to stay attached to the HUD-independent agencies appropriation, I think we will end up with a hospital in our area that will not meet veterans' needs. Supporters of this 649-bed proposal have argued that the hospital can always be added to if more beds are found to be needed. I submit that this is a bad way to keep hospital costs down. Any homeowner who has added a room to his house can tell you that the costs of adding the extra room were way out of proportion with the initial per-room cost. I think this extra cost pattern would certainly hold true with hospital construction, only it would probably be much more accentuated.

Certainly we can avoid a major error on this project by rejecting the unrealistic and inappropriate bed-sizing figure. Approving this 649-bed limit would only be a disservice to the veterans of the Upper Midwest and result in us being asked to appropriate more for an addition to the hospital later on. The way to save money on this project is to select the appropriate figure today and in this instance the experience and know-how of the VA should prevail.

On this amendment, the veteran vote is "aye"; the planning vote is "aye"; the cost-saving vote is "aye"; and the good government vote is "aye."

Mr. GUYER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. GUYER. I thank the gentleman for yielding.

Mr. Chairman, I rise to support the gentleman from Minnesota, the Honorable TOM HAGEDORN, in his amendment to strike the restricting language of H.R. 7631 as it relates to the replacement of a VA medical center in Minneapolis, Minn. It is my understanding that the entire Minnesota delegation, with the exception of one Member, supports this amendment. While this institution is physically located in the district of Mr. Sabo, it is an institution that serves veterans from the entire State of Minnesota, western Wisconsin, northern Iowa, the States of North and South Dakota, and even beyond. My concern is not parochial—we have 30,100,000 veterans in the United States—their future needs should have our concern now. I agree with the distinguished gentleman from Texas, the Honorable RAY ROBERTS, that it would be a tragic mistake to permit a local and parochial health systems agency to dictate bed sizing of VA facilities which serve a far greater geographic area than the area with which the local health planners are concerned.

In the past 14 days, I have spoken to American Legion conventions in Ohio and Iowa. Legionnaires of both States emphatically voiced opposition to any reduction to the number of beds in the Minneapolis facility. It would be shortsighted and a disservice to those who served their country.

I strongly urge my colleagues to support this amendment.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. VENTO) has expired.

Mr. HEFNER. Mr. Chairman, I ask unanimous consent that the gentleman from Minnesota (Mr. VENTO) be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. ERTEL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HEFNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment of the gentleman from Minnesota, the Honorable TOM HAGEDORN, and the gentleman from Texas, the Honorable RAY ROBERTS, to strike the language from H.R. 7631 which limits the planning, design, and construction of a replacement VA medical center in Minneapolis, Minn., not to exceed 649 hospitals and nursing home care beds.

This large medical center serves a much greater area than the Twin Cities metropolitan area, and it would be a tragic mistake to set in concrete in 1980 a hospital that would be inadequate to care for the eligible veterans who would be served by this outstanding institution in 1985. This is what the Congress would be doing unless we adopt the Hagedorn-Roberts amendment.

I urge all of my colleagues to support this amendment.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Chairman, the Hagedorn-Roberts amendment currently before this body raises several basic issues.

The President of the United States, as well as both legislative bodies, has strongly supported the veterans medical program as a distinct and separate system solely for the benefit of veterans. To permit a local health planning group to dictate the bed sizing of new or replacement hospitals would, in effect, place the VA health care program under the Department of Health and Human Services—formerly HEW. This must not and cannot happen.

I strongly urge all of my colleagues to support the Hagedorn-Roberts amendment.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his statement. These hospitals and this care are the exclusive property of the veterans of this country, and that is where they ought to remain and everybody else should keep their hands off of them except the Veterans' Administration. I applaud the gentleman for his support of this amendment and I hope that it passes.

☐ 1400

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the controversy surrounding the Hagedorn amendment verses the Sabo rider (attached to the HUD-independent agencies appropriation bill for fiscal year 1981) essentially involve two differing federally mandated health planning systems and winds up asking this body to determine the exact number of beds to be included in the Minneapolis Veterans' Administration replacement hospital.

First, we have the Health Planning and Resources Development Act (Public Law 93-641) which Congress passed in 1974. The act is designed to assist State and local health planners in controlling capital expenditures and to regulate the number of hospital and nursing home beds in the local area by requiring a "certificate of need" for facilities desiring to add more beds. Thus, local health planners have the final authority to approve or disapprove the addition of new non-Federal beds in the local health service area.

Second, Congress had charged the Veterans' Administration and the Veterans' Committee with providing quality medical service to veterans. Federal hospitals, such as veterans hospitals, are exempt from the Health Planning Act, as their mission is special and extends beyond local and State boundaries.

The Minnesota delegation requested that the Minneapolis VA voluntarily participate in the local health planning process during the planning stages of the Minneapolis VA hospital replacement facility. Although VA was not required to participate, it did cooperate with the local review. The local health planning agency set forth seven recommendations in their report and VA accepted many of these recommendations. The controversy then, lies in the number of acute care and nursing home care beds as recommended by either the VA health planners or the local health planners.

While there are many items in dispute over whose statistics are best, the one item not in dispute is the critical need for a replacement hospital facility in Minneapolis. The Minneapolis VA hospital is one of the three most antiquated VA hospitals in the country and is in desperate need of replacement. Both my colleagues, Mr. SABO and Mr. HAGEDORN agree on the need for a replacement facility.

The items in dispute seem to center around which planning body used the most recent statistics and which planning body was able to most carefully consider future projections, such as age, veterans populations, length of stays and facilities usage—all of which is, at best, a guessing game. We can examine each planning body's use of the varying statistics and would probably come up with an entirely different number of beds. Frankly, I find good arguments on both sides of this statistical guessing game.

In my own examination of the varying data used by both planning bodies, I do take exception to one item that I believe was not thoroughly understood by the local health planners as it related to veterans. The local health planners assumed that aging veterans—over 65—would use community health facilities as they become eligible for medicare benefits. In my judgment, only when medicare begins to pay for 100 percent of all health care benefits, are veterans likely to choose the facility closest to their home. Even then, veterans may still have more confidence in the VA facilities and service. Therefore, I believe the local health planners made an unwise assumption that aging veterans will choose a non-Federal facility over a VA facility because of eligibility of medicare benefits.

The issue can be further boiled down to the nursing home bed controversy, as the current VA hospital has 738 hospital beds and the new VA proposal calls for 725 hospital beds. The nursing home beds would be the addition. In my judgment, the local health planners' lack of consideration for aging veterans use of VA facilities is the same problem behind the discrepancy in the number of nursing home beds—120 versus 40. VA planners want to assume a 20-percent share of the overall veteran need in any one VA medical district. Based on the systemwide VA nursing home care bed projection, the Minneapolis VA district's share of nursing home care beds is 328 beds in fiscal year 1987. The district currently has 169 beds. With the addition of 120 nursing home beds planned for the Minneapolis facility, the district will still fall short.

The Sabo rider language also urges the VA to establish an outpatient clinic at the U.S. Air Base in Duluth. VA's criteria for the establishment of an outpatient clinic is 200,000 veterans. The Duluth area has 60,000 veterans. If Congress chooses to mandate a change in the criteria for an outpatient clinic, the Veterans' Affairs Committees should have an opportunity to review such a change.

Finally, putting all the statistics aside, the overriding issue here, is the precedent this body wishes to establish. It seems to me that unless the local planners have presented incontrovertible figures, we will be setting a dangerous precedent if we do not accept the Hagedorn amendment. I do not believe the local planners have presented incontrovertible figures.

We have charged the Veterans' Administration and our Veterans' Committee with providing medical service to veterans. Local planners have a different mission. Until they are given authority and resources to plan for VA hospital facilities and services, we ought to support the VA and our authorizing committee. Therefore, I urge my colleagues to support the Hagedorn amendment.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN).

I would hope other Members who want to speak on this could confine their remarks to a few minutes. We are trying to finish this bill by 3 o'clock. We have a good chance to do it. The opposition to the position of this committee has been well addressed by now. Most Members have spoken. I would hope that others who want to get in would confine their remarks as much as possible.

Mr. Chairman, may I say that this is the first time that I can remember that a Member has taken action to restrict the size of a VA hospital in his hometown. He does not want to abolish VA hospitals at all. He is not making any effort here to change the concept of Veterans' Administration hospitals at all. What he is doing, in my judgment, is trying to put some sense into the establishment of hospitals in areas where there is overbedding. I think that the gentleman from Minnesota has carefully weighed the facts. He has been serving this committee now for a couple of years. I know of no one who is so much in attendance, constantly in attendance, at these committee hearings, works as hard and is as concerned as he is about matters that come before this subcommittee.

As I have indicated, the gentleman from Minnesota (Mr. SABO) has carefully weighed the facts, and his recommendation is, and we put it into the bill, that the replacement VA medical center at Minneapolis not exceed 649 hospital and nursing home care beds. That, Mr. Chairman, is a rather courageous decision. I know it is not a popular thing to do. But in my judgment, the Federal Government and the VA can no longer afford to make decisions regarding health care facilities in a vacuum. That is exactly what we are trying to prevent. That is exactly what the gentleman from Minnesota is trying to do. We cannot talk about balancing budgets while we are building excess hospital beds.

On another point: This particular hospital, the hospital in Minneapolis, I think this is the first hospital that is being built in accordance with the advance planning fund that we established a couple of years ago for the construction of VA hospitals. One of the reasons why the VA got into the advance planning fund was to be assured that the cost estimate on building a hospital is accurate. It has been horrendous. It has been horrendous up until this particular hospital. I hope that the $221 million, if the gentleman's amendment is accepted, I hope the $221 million will build the kind of hospital that they say that they can build.

In any event, Mr. Chairman, I have made my point. I admire the position taken by my colleague on this subcommittee, and I hope that the amendment offered by the gentleman from Minnesota will be defeated and that the restriction in this bill will remain.

Mr. ERDAHL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Hagedorn amendment.

Mr. Chairman, I rise in support of the amendment to increase the number of hospital and nursing care beds for the proposed new veterans' hospital at Fort Snelling, Minn. We have before us an opportunity to lay the groundwork for an adequate medical facility for thousands of veterans living in the upper Midwest. For years, these men and women have had to endure the dismal conditions of one of the most used hospital structures within the entire VA system. While I am in strong agreement with the Appropriations Committee's decision to provide planning funds in 1981 for the new hospital, I cannot support the restriction on the size of the facility to 609 hospital and 40 nursing care beds.

There is every reason to believe that within a few short years, the veterans again would be underserved by an overcrowded and outdated medical center, much like the present facility. So we must recognize that as we consider this appropriation, we are preparing not only for the present veterans population, but a future one as well. Studies show that by the 1990's the number of veterans will have tripled, indicating the need for a larger facility than the one proposed by the committee. It should be remembered that the Fort Snelling Hospital draws patients from not only the Twin Cities area, but also from Iowa, Wisconsin, North and South Dakota, Wyoming, and Montana.

We owe it to these veterans to make a wise decision here today. Minnesota has a nationwide reputation for providing excellent medical care. The Mayo Clinic, for example, is located in my own district and the University of Minnesota is situated in Minneapolis. Patients from around the country also come to the Twin Cities and other Minnesota communities for medical care at many other public and private hospitals and clinics. So I recognize the need to avoid an expensive duplication of services between these fine medical facilities and the veterans' hospital. But the VA hospital offers a unique kind of service for America's veterans. These men and women should not be short-changed by short-sightedness. I urge all Members of this body to vote for this amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment to restore the 845-bed provision for the Minneapolis VA Medical Center. In doing so, very frankly, I am troubled by what I see as a Hobson's choice between equally questionable figures, those of the Veterans' Administration and those of the Metropolitan Health Board. Our colleague from Minneapolis (Mr. SABO) has done an outstanding service to the Congress and the Veterans' Administration, by forcing a review and detailed consideration of the number of beds to be dedicated to acute care and nursing home care.

I have the greatest respect for the very thoughtful and considerate manner in which he has approached this matter.

□ 1410

I have here a whole folder of documentation representing both viewpoints, which I have studied thoroughly. Frankly, I question these figures.

The question of the construction of this hospital comes down to four basic issues:

Acute care beds.

Nursing home care beds.

Shared medical resources.

And the cost of providing services.

In an appropriations bill, we are limited in the choices that we can make. There ought to be a wider latitude for resolving this matter than the forum in which we are now confined. We can resolve the question today on the basis of these four issues:

Acute care beds—750,000 veterans in 5-State areas are now served by an inadequate, aging, and grossly inefficient medical center. We cannot expect hospitals in the seven-county area to accommodate needs of that many veterans. The VA is treating a growing number of veterans with service-connected disease or complications. Current 4-year discharge rate data suggest that the 725 beds of acute care proposed by the VA is probably a conservative figure though, still, admittedly speculative.

Nursing home care beds—the formula for providing nursing care is: Forty percent of veterans' needs to be met by community nursing homes on fee basis; 20 percent in State nursing homes; 40 percent in VA nursing homes. The VA now provides 328 nursing care beds in the VA medical district, 18 served by the Minneapolis VA hospital and estimates it needs 120 more.

Again, these numbers are only a projection. Probably the best argument for the 120-bed figure—formulas aside—is the fact that WW II veterans are now nearing average age of 58 to 60 and entering a period in their lives when more and more intensive health care will be needed.

My sense of the issues is that there is no exact science for determining the number of long-term-care beds needed for the Nation's aging veteran population. The best answer probably is, in a word: More. The nagging question is: Who should provide that care, and what percentage by each class of provider?

The VA and Metro Health Board studies do not adequately answer that question. However, if the Congress is to err, it should probably err on the side of the veteran.

Shared medical resources—a criticism of VA by the Metro Health Board that appeared to have merit, at first.

I asked the VA for more detailed information about sharing of resources by the Minneapolis VA hospital and others throughout the United States. The VA report shows cooperative arrangements with seven hospitals and medical research institutions in the Metro area and out of State.

Nationally 99 VA hospitals have sharing agreements with 240 community health care providers at cost to VA of over $20 million.

One of the most important results of this whole process is the commitment of the Minneapolis VA Medical Center to cooperate with area hospitals in this matter of sharing resources.

Cost of medical care—The most persuasive argument for the proposed VA Medical Center is the VA record in controlling hospital and medical/surgical costs.

The VA, during the period 1977–78, provided medical/surgical care at 7 percent less than the cost of such care in the private sector.

Although the VA patient generally has a longer hospital stay, the VA cost per patient day is substantially less than that of community hospitals.

The alternative to direct VA-provided care for veterans is contracting out. Given the increasing need for veterans' health services, the Federal Government should do all it can to contain costs. It appears to me, on the basis of the facts, that one of the best ways of doing that is to update and expand the current VA Medical Center at Minneapolis.

On balance, with due consideration for the reservations I have already expressed, and absent a proper legislative forum for resolution of these various questions, I believe the House would do well to approve the 845-bed figure and keep a steady hand on the VA to cooperate fully with the rest of the Twin City area medical community on shared services.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I will be glad to yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. ROBERTS. Mr. Chairman, I very much appreciate the gentleman's statement. I appreciate very much the stand of the gentleman from Minnesota (Mr. SABO).

If this were a local hospital, I would certainly say that we ought to restrict it to Minneapolis and St. Paul. There are more veterans in Iowa and Ohio to be covered by this hospital than there are in all of Minnesota. This is a regional hospital. It is something that is not feasible, not a viable operation below 800 beds and the 845 beds was decided by the Veterans' Administration. It has been researched, as the gentleman has said, even the General Accounting Office came up with a recommendation and I certainly hope we will go along with the amendment.

Mr. Chairman, I rise to support the amendment of the gentleman from Minnesota to strike the language from H.R. 7631 pertaining to the limitation placed on planning, design, or construction of a replacement VA Medical Center in Minneapolis, Minn., not to exceed 649 hospital and nursing home care beds. As the gentleman has indicated, the Veterans' Administration has planned and justified the construction of a total of 845 beds in this replacement medical center. This would include 304 medical-care beds, 54 neurological beds, 277 surgical beds, 90 psychiatric beds, and 120 nursing home care beds.

Members should know that the 120 nursing home-care beds are the only increase proposed by the VA, and this type of bed is urgently needed for aging veterans and should be constructed. If this replacement hospital is constructed with nothing but hospital beds included under the limiting language of H.R. 7631, this will be a reduction of approximately 100 hospital beds below its current hospital bed level. If the 120 nursing home care beds are included within the constraints of 649 beds, this will be a reduction of over 200 hospital beds below its current hospital bed capacity.

Mr. Chairman, this medical center serves a far greater area than the metropolitan twin cities. It is the tertiary health care center for the entire State of Minnesota, as well as parts of North and South Dakota, northern Iowa, and western Wisconsin. Patients are frequently admitted from as far away as Wyoming and eastern Montana. This hospital renders outstanding medical care to veterans in over a 79 county area—not just the 7 counties covered by the health system agency that plans hospital beds for the Minneapolis-St. Paul metropolitan area.

Since the development of the estimate by the Veterans' Administration for inclusion in the fiscal year 1981 budget request, several modifications have been made to improve the bed-sizing model agreed upon by the VA and the General Accounting Office. More recent application of these modifications in the current year to the proposed VA medical center in Minneapolis would result in more rather than fewer beds.

Not only has the Minneapolis Metropolitan Health Board misjudged the impact of updated data on VA bed needs, they also misunderstand that the model used to determine the size of this hospital does not just rearrange hospital beds. It has redistributed 201 hospital beds to nonhospital requirements as follows:

Nursing care—the equivalent of 40 beds;

Outpatient care—the equivalent of 130 beds; and

Alternatives to hospital care—the equivalent of 31 beds.

The construction of this new medical center at a total of 845 hospital and nursing home-care beds is fully justified and is the absolute minimum required to render care to veterans in the area serviced by it.

It would be a sad mistake to legislate veterans health care facilities based on a local health system's or planning agency's decision. The appropriations bill, H.R. 7631, would do this. If there is a surplus of beds in the Twin Cities, or in any other urban area of the country, it is these same health planners who have created the overbedding. They now propose that the VA facilities, which service the veteran population in a far greater geographic area than just the Twin Cities, bail them out for their past blunders.

It will not add anything to the budget. A vote for the Hagedorn amendment will serve notice to the Department of Health and Human Services—formerly HEW—that Congress recognizes the need to make certain that in 1985 and thereafter when our 12 million World War II veterans reach the average age of 65 years or older, we will have adequate beds to take care of them in time of need.

This issue is of primary concern to every national service organization. It is the No. 1 issue today with the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the World War I Veterans of America, and the Paralyzed Veterans of America. My colleagues should be aware that a no vote on the Hagedorn amendment will be viewed by the veterans of this Nation as an antiveteran vote. A vote in support of the Hagedorn amendment will assure the veterans of our Nation that we will not have health planners who are tied directly to the Department of Health and Human Services, or HEW, involved in our business.

We must adopt the Hagedorn amendment, and I urge my colleagues to support it.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment that will delete the language relating to the limitation on the number of beds in the proposed replacement Veterans' Administration Medical Center at Minneapolis, Minn.

The Veterans' Administration, in the fiscal year 1981 budget presented in January of this year, requested funds to build an 845-bed replacement hospital in Minneapolis. The decision to construct an 845-bed facility rather than a 500-bed or 1,000-bed facility, Mr. Chairman, resulted from the application of methodology agreed upon by the Veterans' Administration and the General Accounting Office. It is based upon data that has proved to represent an accurate gage of the needs of the veteran population it is proposed to serve.

On April 24 of this year, the Committee on Veterans' Affairs, after considerable deliberation and further presentation by the veteran of the justification for the 845-bed facility by adoption of a formal resolution, authorized the appropriation of $15 million to begin the construction of the 845-bed hospital.

On June 19, Mr. Chairman, the Committee on Appropriations reported the measure now before the House (H.R. 7631). The funding level requested and authorized for this facility remains intact, but the bed level was reduced from 845 to 649 beds.

The report that accompanied the bill, Mr. Chairman, indicates that the Appropriations Committee based its action on a local health planning agency's recommendation rather than on the recommendation of the Veterans' Administration.

The Twin Cities Metropolitan Council and its Metropolitan Health Board has concluded that there is a surplus of beds in the Minneapolis-St. Paul area and, therefore, proposes that the surplus be reduced at the expense of the Veterans' Administration hospital.

Unfortunately, the Appropriations Committee has accepted the recommendation of the local council and "believes them to be well-founded." Accordingly, the committee in its report, directs the VA to design a replacement facility "which does not exceed 649 hospital and nursing home care beds."

Mr. Chairman, there is considerable justification for rejecting the Appropriation Committee's limitation upon the size of the Minneapolis hospital. First of all, the appropriation for hospital construction is not reduced by one penny, despite the arbitrary elimination of 196 planned beds. Perhaps the committee's decision would have been easier to understand had it involved a substantial cut in the appropriation.

The Veterans' Administration, in its planning, Mr. Chairman, has exercised considerable restraint. The existing hospital in Minneapolis has 738 acute-care beds. The proposed replacement hospital would have 725 beds for medical care with the additional 120 beds devoted to nursing care.

The committee's recommendation would reduce the current 738 acute care beds to 609 with the planned 120 nursing care beds, so desperately needed, reduced to 40.

Also to be considered, Mr. Chairman, is the parochial nature of the study that appears to have captured the fancy of the Appropriations Committee.

The Twin Cities Metropolitan Health Board, the health system agency that recommended the 649-bed hospital, is responsible for health care planning in the seven county area of Minneapolis-St. Paul.

The Veterans' Administration hospital, although located in Minneapolis, serves the medical needs of all veterans in the State of Minnesota as well as parts of North and South Dakota, northern Iowa and western Wisconsin. While the 845 beds in the new hospital may exceed the needs of citizens in the Minneapolis-St. Paul area, they are desperately needed by the sick and disabled veterans of the 72-county area of five States it will serve.

Aside from the justification for the 845 beds in this hospital, Mr. Chairman, I am concerned about a far greater danger posed by the precedent which the committee's action appears to establish.

I suppose the Veterans' Administration hospital system could survive the cut proposed for this hospital. It has survived the continuing erosion of beds over the past few years. But it cannot survive, Mr. Chairman, if the alleged surplus of hospital beds in this Nation is reduced by eliminating Veterans' Administration hospital beds.

The VA hospital system was created by our predecessors as an independent health care delivery system created exclusively for the care and treatment of the Nation's veterans. It has always provided so-called second-to-none medical care more economically than community hospitals.

In accepting the views of any local health planning agency, however well meaning, we are setting a dangerous precedent that could well be sounding the death knell of the entire VA medical program. It is inconceivable that any local planning group would have the overview or the insight required to ascertain the number of hospital beds needed in a regional, not a local, medical center serving the needs of Federal beneficiaries.

Mr. Chairman, I urge that the amendment be approved.

Mr. SATTERFIELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I first want to say that I appreciate the problems that confront the Appropriations Committee in a circumstance like this.

I rise with some degree of reluctance, because I disagree with respect to the action taken in that committee regarding the Minneapolis replacement hospital. I must confess that I do so with complete confidence in the correctness of my position.

I think we must realize that this replacement hospital came about as a result of a careful review by the VA of the need to replace that facility, the oldest part of which was built in 1927 and the newest part of which is 27 years of age.

A VA-wide assessment of medical facilities based on a scale of 0 to 100 placed this particular facility in the 98 percentile needing replacement. In other words, there were only 2 percent of VA facilities with greater need for replacement.

So the question is not replacement, but the question is the size of the replacement hospital necessary to serve the veterans in that area. This is where I find disagreement.

I refer to page 49 of the report that accompanied this bill to the floor, wherein it is stated that the committee analyzed the recommendation of the Twin Cities Council, which is the HSA in that area under the Health Planning and Resources Development Act, which, incidentally, grew out of the action of another subcommittee on which I serve, in addition to being chairman of the VA Medical Benefits and Facilities Subcommittee.

The amazing thing to me is that this HSA under existing law has absolutely no jurisdiction over VA facilities. The reason is very simple. The HSA deals with a service population different from that of a veteran facility and it deals with the general population and their needs, whereas the VA deals with a specific constituency with entirely different needs.

The Health Systems Agency under the health planning law makes its decisions upon guidelines issued by the Secretary of Health and Human Services. The VA makes its decision on the basis of guidelines issued by the VA relating to VA problems and VA needs.

I think that this situation is clear evidence of the wisdom of this Congress in excluding the VA from the jurisdiction of the Health Planning and Resources Development Act.

There were efforts made every time we considered a health planning bill to bring the VA under the control of the HSA and the entire health planning system, even under the certificate of need requirement, and this Congress has resisted those efforts. I think this is a classic example of why that was a wise decision.

□ 1420

Let me say briefly why that is so. The Minneapolis HSA deals in an area comprising seven counties. The VA service area comprises 72 counties. The area involved in the Minneapolis HSA area is 2,820 square miles. The VA catchment area is 63,707 square miles, 22 times the size of the HSA jurisdiction.

The VA population in the catchment area is 547,117 in 1979, only 310,770 of which reside and repose in the HSA jurisdictional area. That is why 845 beds were determined to be necessary to serve the needs of the larger VA catchment area and not 649 based on a circumscribed consideration of the HSA.

One might say that the objective of the Appropriations Committee to reduce expenditures is commendable and I am one who agrees with that basic approach. But if that basic approach is commendable, I am bound to say that as it is applied here, in this instance, it is being applied for the wrong reason. Therefore, the item of reduction should not be approved and I urge my colleagues to support this amendment.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman, I find myself in the unusual position of being here and asking my colleagues to spend less money in my State than most would want.

A few things are clear. A replacement hospital is needed. Good services are provided and will continue to be provided in the VA hospital in Minneapolis.

Why should my colleagues defeat the amendment? Let me just give them a few reasons. Let me respond to what has been said on behalf of the amendment, much of which I think is irrelevant, but a couple of things which I think are very basic.

The basic attack is on what the local health planning agency did. Some people say we should not listen to them, we should not even ask for their advice.

I will tell my colleagues I watch sometimes with irritation and sometimes with amusement as I see some of my conservative friends give the most vehement defense of centralized Washington planning that I have ever heard.

What we simply asked was that we not just listen to the bureaucrats in Washington, in the VA. When I went through my first session on this subcommittee listening to the budget presentations, there were none that ranked lower on my list of competence than the VA construction program, but we should listen to them solely, and we should not even bother hearing what the local people have to say about it. They do not know anything.

I think they do. I think they do. They cover little area, it is said, versus the area of the VA hospital, which is larger. True. True. That is true of every other hospital in our area.

The fact is this local health planning agency provides a certificate of need for every project at the University of Minnesota over $150,000. The fact is that the patients at the University of Minnesota come from all over the world. Fewer of them come from the immediate metropolitan area than does the VA patient.

We are a health care center. Practically all of our private hospitals pull in patients from all over the country. They clearly have the capacity to look at needs beyond the immediate regional area. They did. They did. That was part of the recommendation.

Then it said the substance of the recommendation is wrong. The VA had really three parts to their original request. They asked for 845 beds. Excuse me, the VA had four parts. They wanted a nursing home of 120, 40 superskilled beds, and 80 general nursing home beds. They wanted 825 hospital beds, 609 acute, 116 nonacute beds, for a total of 825. That is what the health board examined.

They looked at the nursing home. By the admission of the people who testified on behalf of the VA, they really did not have much of a case for the extra 80 nursing home beds.

Our State is on an aggressive building program for veterans' facilities in the State of Minnesota. That had not been coordinated with what the State was doing, with what the private sector was doing.

The health board said: "We will not recommend the 80 beds until you have a well worked out plan on what the real needs of veterans are. We will recommend the 40 beds that you are asking for for superskilled facilities."

The VA asked for 116 nonacute hospital beds. The health board recommended the 416. The crux of the difference was over acute beds where the VA wanted 609 and the health board recommended 493. They looked at more current data than the VA had in their original request.

Then the VA went back with these great models, this great competence, this great study, and said that "We are going to use more current data and develop a new model." All of a sudden there is a new model. What that new model is, I do not know. Nobody else knows. That is being used as the reason for disregarding the local health board recommendation.

The truth of the matter is their new study, if anything, reinforced what the health board had done. The VA originally had asked for 609 acute beds and the health board recommended 493. The new revised VA model, whatever it is, produced 558 acute beds, which is the heart of the controversy, a reduction of 51 from their original request, still 65 more than the health board recommended.

But lo and behold, they decided they needed a larger hospital because all of a sudden their need for nonacute beds which the health board recommended, what they asked for of 116 had grown to 229 or almost double what they originally asked for. If anything, I have serious question about the models and the data the VA is using.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent Mr. SABO was allowed to proceed for 2 additional minutes.)

Mr. SABO. Let me just suggest we need a VA hospital, we need to do it in the most fiscally prudent manner. We need to do it in a system with local involvement. I think that is appropriate and good and that was done here.

But let me also suggest that I think the VA does a great disservice to health care for veterans in the long term by their little sort of attitude of do not let go, they do not want anyone to look at them. I think that endangers health care for veterans in the long run. I think we make a mistake if we spend unneeded dollars for construction of facilities that are really not needed. That is a wrong priority for spending the limited dollars we have available.

I received a very interesting letter from someone from a veterans' organization writing me on behalf of the Hagedorn amendment. But one of his comments was:

> While we address health care in Minnesota, somehow we should be concerned over the serious shortage of nurses.
>
> This has affected the Minneapolis VA Hospital and the soon to be completed nursing care facility at the Minnesota Veterans Home. They will have to limit admissions since they are unable to hire the nurses for staffing.

In my judgment, putting limited VA dollars to needed personnel, paying them decent salaries rather than building unneeded facilities, serves the health care needs of the veterans of this country much better. I ask my colleagues to vote in opposition to the Hagedorn amendment.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to my friend from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding. I was interested in the gentleman's statement, but let me say the last statement about providing the personnel, this Congress has tried on a number of occasions to beef up the personnel at that facility, as well as many others, and what happens in recent years is that it goes down to the OMB and the White House and the emphasis that we have tried to place on meeting that manpower shortage has really been blocked at those points, not at a point here in Congress.

I join with the gentleman in calling for adequate staffing of all of our medical facilities, and on at least that point we agree.

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

(At the request of Mr. OBERSTAR and by unanimous consent, Mr. SABO was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman.

Mr. OBERSTAR. I thank the gentleman for yielding. Again I want to compliment the gentleman on the yeoman service he has done on this matter. In all fairness, it must be pointed out that the Veterans' Administration did not fairly and responsibly and adequately begin to look at the adequacy of its figures until the gentleman offered his amendment in subcommittee to affect the number of beds at the hospital. I think it is very, very important for the Appropriations Committee to maintain a strong hand on the Veterans' Administration and keep them in line with their estimates, which still I think are just guesses.

□ 1430

Unfortunately, we have to deal in this restrictive process. There ought to be another way of resolving the matter. The gentleman has done a great service, I think, in the long run for the Veterans' Administration by forcing them to think through their process.

Mr. SABO. Mr. Chairman, I thank the gentleman for his comment. I have to agree with the gentleman. I think it is very unfortunate that the VA feels so threatened by having an outside agency look at their figures. I think that is fundamentally wrong.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have something here we do not see very often. That is someone who opposes the spending of money in his district. I think because it is unusual it sort of stirs in people admiration, and it ought to.

If we were talking about a facility that was going to serve only the district of the gentleman from Minnesota, under no circumstances would I vote for this amendment. However, we are not talking about a facility that is going to serve just the district of the gentleman. We are talking about a facility that is going to serve 79 counties and not just serve the gentleman's State but other States.

Mr. Chairman, what is at issue here is not money in Minnesota; it is not competence of bureaucrats. Bureaucrats are not very competent at any level in government, whether we are talking about HEW or to some extent the Veterans' Administration itself. The question is: Who is going to dictate policy in the Veterans' Administration? This idea that the Veterans' Administration did not look at this very carefully is simply not true. We held hearings in the Committee on Veterans' Affairs on this subject. The Veterans' Administration put out a report on it. The OMB studied it and concluded that in fact their decision was a correct decision.

Mr. Chairman, what we are going to decide here in this vote is a very critical issue, and that issue has to do with the independence of the Veterans' Administration and the veterans' hospital system. I serve on the Veterans' Committee and I followed Tiger Teague to Congress (who was for many years here "Mr. Veteran"). If there is one issue that the veterans of this country are deeply concerned about it is the independence of the Veterans' Administration hospital system.

The question is: Are we going to allow a group of local health planners to dictate Federal policy as it relates to the building of a veterans' hospital which is going to serve a several-State area? I think the idea that we should allow local health administrators to dictate Federal policy that involves providing care across State lines is ludicrous and should absolutely be rejected by an overwhelming vote.

I urge my colleagues here today to vote yes on this amendment and in doing so, reassert the independence of the veterans' hospital system. If we are going to talk about competency in planning, it is very interesting that the people who do not want to build this hospital because of excess beds have got more excess beds in the private system under HEW than we do in the Veterans' Administration under our planning program.

Mr. Chairman, I urge a "yes" vote.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I will be happy to yield to the gentleman from Minnesota.

Mr. SABO. Let me refer to a couple of points which I believe to be grossly inadequate. It is not a question of who decides. Who decides is the Congress. Whether it is a recommendation of the VA central administration, the recommendation of a local health planning agency, the ultimate responsibility for making a decision rests with us, here. The question is do we have confidence enough to listen to more than one source.

Let me respond to a second item. It is said the only reason people are doing this is because there is an excess of health beds. Frankly, the local health planners did not look at that as a factor in making their recommendation.

I have seen all of the letters circulated by the folks who want to defend the original VA recommendation.

They say we have excess hospital beds. That is true. They were created by this health planning agency. The fact is they were created in good part to respond to the fact that historically we had overbuilt and a large part of that responsibility not resting with local planners but being the result of prior existing Federal programs.

Mr. GRAMM. Mr. Chairman, let me just respond by saying we held hearings on this issue. If people want to have the input, they had ample opportunity for that and we are interested in having a broad base input.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I will be happy to yield.

Mr. HAGEDORN. In response to my distinguished colleague from Minnesota, both the Senate Committee on Veterans' Affairs and the House Committee on Veterans' Affairs have already responded to this problem by recommending 845 beds. As my colleague says, it is the Congress that is going to set the policy and I think we are on the right track by accepting this amendment today.

● Mr. EDWARDS of California. Mr. Chairman, I rise in strong support of the Hagedorn-Roberts amendment.

First, I wish to emphasize that this amendment will not add one dime to the fiscal year 1981 appropriations—the $15 million necessary for design and architectural fees having been included in the administration's original budget request.

Second, this replacement hospital is vital to the present and future health care needs of not only Minnesota's veteran population—but, veterans from northern Iowa, western Wisconsin, North and South Dakota, Nebraska, and Wyoming.

Third, if the VA Minneapolis Hospital bed level is reduced, the vast majority of veterans who are indigent and have no private insurance coverage, will either receive no care or depend on medicare/medicaid in the private sector at a cost more expensive to the American taxpayer.

The maintenance and integrity of the VA medical system is the No. 1 concern of American veterans. I urge a "yea" vote on the Hagedorn-Roberts amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN).

The question was taken; and on a division (demanded by Mr. HAGEDORN), there were—ayes 33, noes 6.

Mr. HAMMERSCHMIDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $126,928,000, to remain available until expended: *Provided*, That not more than $26,344,000 shall be available for expenses of the Office of Construction.

Mr. ERTEL. Mr. Chairman, I ask unanimous consent that the amendment I have to the NSF authorization on page 25 be considered at the end of all amendments and that we revert to that section for that purpose for that amendment only.

The CHAIRMAN. The gentleman from Pennsylvania refers to the end of the amending process?

Mr. ERTEL. The Chairman is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For grants to assist the several States to construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S..C 5031–5037), $15,000,000, to remain available until September 30, 1983.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: Page 34, after line 3, insert the following: Grants to Affiliated Medical Schools and Other Health Manpower Training Institutions

For grants to established medical schools and other established health manpower institutions as authorized by law (38 U.S.C., subchapters II, III, and IV of chapter 82) $25,000,000 to remain available until September 30, 1987.

Mr. BROWN of Ohio. Mr. Chairman, the purpose of my amendment is to provide adequate funding for grants to established medical schools and other established health manpower institutions as authorized by Public Law 96–151, the Veterans Health Programs Extension and Improvement Act of 1979.

Public Law 96–151, enacted last December, authorized $25 million for fiscal year 1981 for medical schools and other health manpower training institutions participating under subchapters II, III, and IV of Public Law 92–541, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972. This sum has not been included in the appropriation for the Veterans' Administration reported to the floor in H.R. 7631. In behalf of Wright State University Medical School in my congressional district and the 192 other health manpower institutions participating under subchapter II, III, and IV, I am respectfully urging my colleagues to give favorable consideration to this amendment.

Under the 1972 pilot program, mentioned above, assistance has been provided by the VA in the establishment of five new State medical schools; grants have been awarded 18 affiliated medical schools in 13 States and Puerto Rico; 135 grants have been made to other health manpower training institutions in 40 States, the District of Columbia, and Puerto Rico; and 31 VA medical centers have been furnished funds for altering space and providing equipment for education purposes.

TRAINING PERSONNEL—PERSONNEL NEEDS AT VA HOSPITALS

The VA is not seeking extension of authority for appropriations for new grant programs under Public Law 96–151, but would work under the present authority to meet as fully as possible the commitment to the present grantees.

VA officials testifying before the HUD-Independent Agencies Subcommittee stated that based on the level of interest expressed at the time of the passage of Public Law 96–151, "it is apparent that eligible applications representing requests of several times $25 million would be received."

This program has proven to be extremely beneficial, both to the VA and to the affiliated institutions. In a recent report issued by the National Academy of Sciences on the affiliation of VA hospitals with medical schools, the following statement is made:

The VA can take satisfaction in the NAS findings regarding affiliations. The NAS observes that quality of patient care is enhanced by an educational environment, that the highly affiliated hospitals provide outstanding care, and that the only inadequacy of patient care detected was in non-affiliated hospitals. The NAS further notes that special medical services are possible only where affiliations exist and that other measures of increased efficiency—better staffing and reduced length of patient stay—are a matter of record.

Mr. Chairman, I again urge that my colleagues give favorable consideration to this amendment.

☐ 1440

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is probably as good a place to save $25 million as one would want to look for. The gentleman stated the matter quite precisely. During the hearings with the Veterans' Administration the question was asked whether or not in the past few years the VA has considered terminating this program, or did the VA support its reauthorization. The question was provided to Mr. COUGHLIN by the distinguished gentleman from Ohio, Mr. BROWN.

The Veterans' Administration's answer was:

The reauthorization contained in Public Law 96–151 was congressionally initiated. The VA did not object to its inclusion in Public Law 96–151, but we did not actively support it because of budget priorities and the national health manpower objectives of the Administration.

As the gentleman from Ohio has indicated, this program was started in 1972. The enabling legislation authorized $25 million per year for 7 years to assist in establishing up to eight medical schools. Five new State medical schools were started, including Wright State in the gentleman's district.

The Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972 also authorized $50 million per year for 7 years to provide grants to affiliated medical schools, other health manpower institutions, and expansion of VA hospital education and training capacities. The VA 1981 justification states that the funds previously appropriated allow for full support of all current program commitments.

If this program is opened for new commitments, it will be financed by additional Treasury borrowing. This is not a prudent thing to do at a time when both the legislative and executive branches are trying to keep the Federal budget deficit as low as possible. So, if we open it up now it is not going to be only $25 million. It might be today, but the cost is going to increase in this area. I suggest that this is not the time to do it. The assistance for health manpower training institutions program has been adequately provided for, and it would seem to me that this is an area in which the States should help. I would hope that the State of Ohio would pick up its share for this particular hospital.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am pleased to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Well, the purpose of the program, as the gentleman has well stated, is to provide for training for personnel for Veterans' Administration hospitals and for other purposes. I think the gentleman cannot deny that we do need some additional personnel in those Veterans' Administration hospitals; that the personnel situation is not adequately dealt with, and that one of the means of dealing with it is to enhance training for personnel for those hospitals.

□ 1450

The gentleman cannot deny that it is worth it. The benefits to those Veterans' Administration hospitals are clear, and we know that the inadequate service lies mostly in nonaffiliated hospitals; is that not correct?

Mr. BOLAND. Mr. Chairman, my response to the gentleman from Ohio (Mr. Brown) is that the VA considers this to be a program of lower priority. It does not attach the same priority that the gentleman would attach to it or that I might, under other circumstances, possibly attach to it.

Beyond that, who knows whether or not the medical personnel are going to go into the VA hospitals? They can go anywhere they want. There is no commitment on their part to go to a VA hospital, as the gentleman knows.

Mr. BROWN of Ohio. Mr. Chairman, while they are training at least they can be a benefit to those Veterans' Administration hospitals, by the report of the Veterans' Administration itself. The service to the veterans in those hospitals that are affiliated with such institutions is superior to that of the service in nonaffiliated hospitals or hospitals which are not affiliated with those institutions.

Mr. BOLAND. Mr. Chairman, I reluctantly oppose the amendment. This is for $25 million, and I would hope that the Committee of the Whole would sustain the position of the Appropriations Committee.

Mr. COUGHLIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is with the greatest reluctance that I rise in opposition to the amendment.

The testimony indicated that this program, simply on a priority basis, on a ZBB basis, or on whatever other kind of basis we want to use in appropriating the available funds, did not come up to the required order of importance or that it was warranted to be funded by the Veterans' Administration.

Mr. Chairman, we have to make those tough choices. They are tough choices, and I hope the amendment will be opposed by the Members.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Brown).

The question was taken, and the Chairman announced that he was in doubt.

On a division (demanded by Mr. Brown of Ohio) there were—ayes 10, noes 13.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding or improving State veterans' cemeteries as authorized by law (Public Law 95-476, section 202), $5,000,000, to remain available until September 30, 1983.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lujan: Page 34, after line 9, insert the following:

PURCHASE OF PROPERTY TO EXPAND SANTA FE NATIONAL CEMETERY

For expanding the Santa Fe National Cemetery in Santa Fe, New Mexico, as authorized by law (38 U.S.C. 1006), $600,000.

The CHAIRMAN. The gentleman from New Mexico (Mr. Lujan) is recognized in support of his amendment.

Mr. BOLAND. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Brademas) having assumed the chair, Mr. Levitas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes, had come to no conclusion thereon.

REQUEST FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M. TODAY TO FILE REPORT ON S. 658, CLARIFYING AND TECHNICAL AMENDMENTS TO BANKRUPTCY LAW

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 6 p.m. this evening to file its report on the Senate bill S. 658.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time for the purpose of inquiring of the acting majority leader as to the program for next week.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, the program for the House of Representatives for the week of July 28, 1980, is as follows:

On Monday, July 28, the House meets at noon. There are no bills scheduled on the District Calendar. Under suspensions, we have nine bills. Votes on suspensions will be postponed until the end of the consideration of all suspensions. The bills under suspension are as follows:

H.R. 7458, refinancing VA guaranteed home loans;

H.R. 7786, Presidential candidates spouses protection bill;

S. 1916, OPIC (Overseas Private Investment Corporation) amendments;

H.R. 5604, Lacey Act amendments;

H.R. 7152, intelligence authorizations;

H.R. 6626, small business loans programs flexibility;

H.R. 5961, Currency and Foreign Transactions Act amendments;

H.R. 7478, increase interest ceiling on U.S. savings bonds; and

S. 658, clarifying and technical amendments to bankruptcy law.

Then, Mr. Speaker, following the suspensions, we will take up H.R. 7631, HUD appropriations, and complete consideration.

On Tuesday, July 29, the House meets at noon. There is only one suspension—House Resolution 748—Relating to the United Nations Conference for Women. Then we will take up H.R. 7591, Agriculture appropriations, fiscal year 1981.

On Wednesday of next week, there will be a ceremony on the West Front of the Capitol to present to the members of the U.S. Olympic team of 1980 medals authorized by Public Law 96-306. It is the intention of the House and Senate to remain in session during these proceedings, but the leadership realizes a great many Members will want to attend these ceremonies. It is hoped the House will have no votes while the ceremonies are in progress, and the leadership will attempt to schedule only general debate during that period.

In the event the House schedule cannot be arranged in such a manner that the ceremonies will not be interrupted, it will be necessary to recess the House for a very brief period. It would be my intention to ask unanimous consent that the Speaker have permission to declare a recess only if it is required at the appropriate time.

On Wednesday, July 30, the House meets at 10 a.m. We will consider H.R. 7765, the Budget Reconciliation Act, subject to a rule being granted. At 11:45 a.m., Members will attend the ceremony on the West Front of the Capitol.

Also we will take up House Joint Resolution 575, disapprove administration's new gas rationing plan, and House Joint Resolution 589, providing additional program authority for the Eximbank.

On Thursday, July 31, the House meets at 10 a.m., and we will consider H.R. 7724, Interior appropriations, fiscal year 1981.

On Friday, August 1, the House meets

at 10 a.m. We will take up H.R. 7831, Transportation appropriations, fiscal year 1981, and then we will consider H.R. 6711, Youth Act of 1980, complete consideration.

The House will adjourn by 3 p.m. on Friday. Adjournment times on all other days will be announced.

Conference reports may be brought up at any time, and any further program will be announced later.

At the close of business on Friday, the House will adjourn until noon on Monday, August 18, 1980, for the Democratic National Convention and the August district work period.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. MURTHA) for his exposition of what we will be doing next week.

I would assume, after reading the RECORD of yesterday concerning allowing the 1-minute speeches in the normally prescribed morning hour, that that prohibition of 1-minutes at the beginning of the day was limited to yesterday and today, and that next week we could expect to operate under the normal procedure whereby Members, if they are so moved to say whatever is on their minds during that morning hour, will be given that opportunity.

Does the gentleman have any observation to make on that score?

I am inclined to think that if that practice that has been traditional in the House does not prevail, then we would conceivably have an extraordinary number of rollcalls, and Members should be advised of this possibility.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the acting majority leader.

Mr. MURTHA. Mr. Speaker, I have no additional information on the 1-minute-speech situation. The only thing I can see is that if we get pressed for time, I suppose there could be a decision on when to recognize Members for 1-minute speeches.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. MICHEL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I would like to ask the gentleman from Pennsylvania (Mr. MURTHA) this question: I notice the Treasury-Postal appropriation bill is not scheduled next week. Is the gentleman aware of when that bill is going to be scheduled?

Mr. MURTHA. Mr. Speaker, that appropriation bill will be scheduled after the recess.

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. MURTHA).

ADJOURNMENT TO MONDAY, JULY 28, 1980

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

□1500

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, the gentleman from Maryland has been most pleased with the adjournment hours this week. It has been very convenient for many of us. We are moving along at this leisurely pace, adjourning at 3 o'clock this afternoon, or a little thereafter, having adjourned at 6 o'clock last night. I know that we have been told that we have a very heavy legislative schedule that precludes the permission for Members to exercise their constitutional first amendment rights of free speech at the beginning of the day, the purpose of dispensing with those speeches being to move along with this heavy schedule.

Is the gentleman reflecting the leadership's view that we should not come in, say, at 10 o'clock or 9 o'clock on Monday to carry out the heavy schedule to which the Speaker pro tempore, the gentleman from Texas (Mr. WRIGHT), has several times alluded in the last few days? It seems we could get more done on Monday morning, when everyone is fresh from a weekend in their district.

Mr. MURTHA. Of course, many Members have much farther to travel than the gentleman from Pennsylvania or the gentleman from Maryland, as the gentleman knows, and I think it is convenient to meet at noon on Monday.

Mr. BAUMAN. So the legislative schedule is heavy, too heavy for speeches at the beginning of each day, but not heavy enough to come in early on Monday?

Mr. MURTHA. I think in this case it is a matter of convenience to the many Members who travel back to the district during this period.

Mr. BAUMAN. So the leadership view is that we would not want to inconvenience Members' travel, only to inconvenience Members' right to speak their minds freely under the traditions of the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST TO AUTHORIZE THE SPEAKER TO DECLARE RECESS ON WEDNESDAY, JULY 30, 1980.

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that on Wednesday, July 30, 1980, it may be in order for the Speaker to declare a recess subject to a call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, if the press of legislative business is so great that we cannot allow Members to make 1-minute speeches, it hardly seems appropriate that we should recess, even for such a laudable goal as honoring our Olympic athletes.

Of course, if this permission is granted, the Chair in its discretion could recess for any matter.

I just want to protect the leadership's stated goal that we must be here to do heavy legislative work, and so I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 O'CLOCK TONIGHT TO FILE REPORT ON H.R. 7786

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until 6 p.m. tonight, July 25, 1980, to file a report on H.R. 7786.

The minority has been consulted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I reserve the right to object.

Mr. DANIELSON. Mr. Chairman, would the gentleman from Maryland respond to a bit of a colloquy?

Mr. BAUMAN. Reserving the right to object, I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, this bill was passed by the Committee on the Judiciary this morning. It is to increase the period during which personal protection is provided to spouses of national Presidential and Vice Presidential candidates, and is particularly designed to protect Mrs. Reagan.

Mr. BAUMAN. I appreciate the gentleman's statement. We all want to protect Mrs. Reagan. We all want to protect the right of free speech here in the House. The gentleman from Maryland very carefully refrained today from interfering or using parliamentary procedures in any way that would have lengthened the session except for making the point about the Chair's ruling on 1-minute speeches. But henceforth, until the matter is resolved, very little business is going to take place by unanimous consent.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST TO CONSIDER HOUSE RESOLUTION 748, RELATING TO THE UNITED NATIONS MID-DECADE CONFERENCE FOR WOMEN

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution

(H. Res. 748) relating to the United Nations Mid-Decade Conference for Women, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

A SALUTE TO DETROIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, along with my colleague, the gentleman from Michigan (Mr. VANDER JAGT), I rise for special orders to salute the convention city of Detroit, its citizens and leaders who, as a result of hosting the Republican National Convention last week, rediscovered the magnificence of their city and the civic spirit. The idea of having special orders to salute Detroit occurred to us after having received so many superlative and laudatory comments from colleagues about the warm reception they received and memorable experience they had in the city of Detroit during their convention.

The more than 20,000 delegates and alternates, and journalists from all over the country and, indeed, the world, and guests who, according to every report that I have seen, were unanimous in the view that their Detroit visit was both memorable and remarkable. Part of this feeling, no doubt, resulted from the fact that the delegates regarded their convention as a major success. But, it seems, an even bigger factor was the tremendous hospitality and good feeling that was generated on the part of the citizens and the leaders during that extraordinarily busy week in Detroit.

The convention week in Detroit created something truly remarkable for the city. It created a renewed sense and perception of the city's strength, of its remarkable character and of the wonderful and varied experiences that it offers visitors to the city. There were a number of comments about this that illustrate how Detroit so captured the imagination of those visitors.

A Minnesota Delegate, Vern Neppl, told Dick Ryan of the Detroit News:

> The people here have been tremendous. They are caring, solicitous and hospitable.

Eighteen months ago, when Detroit was selected for the convention, he was one of the severest critics of that decision, and last week he apologized for his earlier view.

Another delegate was quoted as saying:

> I've never seen anyone try so hard to make it nice for us.

A Houston delegate was quoted in the New York Times as saying:

> We expected a dirty, ugly, awful city. Instead we found a beautiful town, just beautiful.

Nebraska's Gov. Charles Thone said:

> Detroit has been the victim in the past of some bad press.

I suppose this is an important reconsideration of cities like Detroit, which have been criticized in the past—until people get there in person and examine it for themselves, and then they find that the reports and stereotypes were not accurate.

□ 1510

A delegate from Portland, Oreg., summed up the sentiments of his colleagues when he told Mike Dupont of the Detroit News:

> Detroit is like any other American big city, except people are trying harder, there is a real can-do, helpful orientation about Detroit.

Bill Brock, the Republican National Chairman, told the Detroit Free Press:

> There has not been a single day that a dozen or more people have not come up to me and said, "Detroit is a helluva town. It is a nice place. We like it." I think Detroit with this convention will break its stereotype when people find out it really is a very fine place.

The new sense of the city perhaps was best captured by the Detroit News columnist Pete Waldmeir:

> I have never been so proud of this town and the way it conducted itself as I was during the GOP convention. It was a sight to behold and something that those who experienced it will not soon forget. . . . Go ahead and congratulate yourselves, Detroiters, for once you went into the revolving door behind adversity and came out in front of it.

The special significance of the past week in Detroit cannot be lost. The tremendous redevelopment of the city, including the redevelopment of its waterfront, the creation of Renaissance Center, the Joe Louis Sports Arena, and the other fine facilities, is a major factor behind the city's renewal. But even with this new development, Detroit never would have earned the title, "The Renaissance City," were it not for the incredible spirit and character of its people.

The event of the Republican Convention last week served to confirm for all time the fact of Detroit's renaissance and its rebirth as a city.

This salute to the city of Detroit honors its citizens and leaders. A special word has to be said for the mayor of the city, Coleman Young, without whose foresight, boldness, and leadership, much of what has taken place in the city might not have occurred. Two years ago when the mayor launched the effort to host a national political convention, some doubted or misunderstood the wisdom of this course of action. There can be no doubters today. Mayor Young understood then that Detroit had a great deal to offer visitors as a convention and vacation city. He recognized the need to diversify the city's economic base so that it did not have to depend exclusively on its industrial economy and only one source of income. His efforts more than paid off. Also deserving of note is the fine effort undertaken by the Detroit Host Convention Committee headed by Thomas Murphy, chairman of General Motors.

Detroit has a new sense of itself today. The Nation has a new awareness of the attractiveness of the city. This will have major significance for the city—and the State—in the coming years.

But having said this, please be assured I am not wearing rose-colored glasses. No one can overlook the adverse economic circumstances the city and citizens find themselves in today as a result of larger forces operating in the Nation, and indeed, the world, that clearly are beyond its control.

The energy crisis led, over the past decade, to a crisis in the auto industry, Detroit's economic mainstay. Two national recessions—in the mid-1970's and in 1980—have left the city with unprecedented problems. Among them an 18.5 percent overall unemployment rate, which includes an unemployment rate among black citizens of 30 percent and a jobless rate among black teenagers in excess of 56 percent.

One out of every four Detroiters now receives some form of public assistance. The city now labors under a $70 million budget deficit, which is projected to grow to over $100 million next year unless a dramatic national economic turnabout takes place.

The events in Detroit last week showed the remarkable resilience of the citizens in the face of these enormous economic and social problems. They shined despite their difficulties. However, we cannot allow ourselves to be carried away by the extraordinary spirit of Detroit that was experienced by the conventioneers last week, without pledging ourselves to do something about the economic problems that confront Detroit as well as other cities. I am hoping that my Republican colleagues in Congress, many who approached me to tell me how they were warmly welcomed not just by the city leadership, but by ordinary citizens—I hope we can join together and redouble our efforts in the Congress to resolve the economic problems that face Detroit, the big cities and the Nation, which are after all national in scope and must be solvable here, if they are to be solved anywhere.

I thank my colleagues for joining in this special order and salute to Detroit.

I have a number of news articles which I wish to insert in the RECORD.

Mr. VANDER JAGT. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I am happy to yield to my colleague from Michigan, who enthusiastically cosponsored the "Dear Colleague" letter calling for this special order.

Mr. VANDER JAGT. Mr. Speaker, I would like to commend my friend and distinguished colleague from Michigan for giving Members an opportunity to pay this well-deserved tribute to the city of Detroit.

A week ago, we were just concluding

the Republican National Convention in the Motor City, and the comments, the bouquets, the expressions of appreciation were unanimous, as the gentleman has said, not only from delegates of the United States, but from commentators and observers from all over the world.

Detroit stood tall in the eyes of the world because of the great job that they did of hosting this convention.

As the gentleman has pointed out so well, a lot of things went into it, from Mayor Coleman Young on down, but I think the factors that stood out most of all were the people of the city of Detroit, their caring, their concern, their courtesy, their extending themselves to make sure that everyone felt at home in Detroit. I think that everyone did.

I would also like to commend my friend for giving all of us this opportunity to express, I think, a very well-deserved tribute to a great city.

The Grand Old Party had a great party in Detroit, a new city, a city of renaissance, and we found that the Grand Old Party felt very new again as we left the city of Detroit and felt like a party that itself was filled and on the brink of renaissance.

It has been 1 week since the Republican National Convention adjourned, and delegates from across the Nation packed their bags to return home. And I think that I can safely speak for each and every delegate when I tip my hat to the great city of Detroit and say "thank you" for a job well done in hosting our national convention.

Probably to the pleasant surprise of many convention delegates. Detroit was really the perfect host. The facilities were just super. The friendliness of the people of Detroit was overwhelming and contagious. The cooperation and planning on the part of officials were obviously effective. In the final analysis, Detroit was the right place for Republicans to be in 1980, the best location from which Republicans could send our message to the American people.

The Cobo Hall-Joe Louis Arena complex was tailor made for a national convention. Delegates, guests, and the media had plenty of room inside Joe Louis Arena for comfortable and orderly sessions. The large area in Cobo Hall partitioned into a working area for the media was a very convenient arrangement according to all the comments I heard from press people. The sparkling renaissance center, combined with other waterfront attractions, made the downtown convention area just a great place for conventioneers to use—day and night.

And any concerns that convention goers may have had about safety in downtown Detroit were dashed by the very thorough effort of the Detroit Police Department, working in close cooperation with police from other local jurisdictions. Police officers were literally everywhere at every hour of the day providing a friendly atmosphere of safety without making it seem like security at the Moscow Olympics.

In Detroit last week, the cop on the street corner was not the only person with a smile and a greeting. Warm hospitality was the order of the week, from harried hotel and airline clerks to convention "hosts" to taxi drivers and just about everyone else we ran into. "Detroit Loves a Good Party" was the slogan adopted by the city and it soon became evident that Detroit really did enjoy hosting the convention.

As a native Michigander coming back to my home State, I was genuinely proud of the host city's performance. Undoubtedly, the bipartisan team of Governor William Milliken and Mayor Coleman Young was instrumental in overcoming the many problems of putting a national convention together. But there are obviously many, many people who deserve hearty congratulations for organizing this 1980 Republican Convention.

Mr. Speaker, last year when Detroit was selected to host the Republican Convention, many people were puzzled and asked "Why Detroit?", particularly for a Republican convention. Now that the hoopla is over and the dust has settled, it is rather obvious that Detroit was right not only for us conventioneers, but as a very real symbol of the message the Republican Party has for America in 1980.

Despite its glorious performance last week, Detroit is not a city without problems. It has a very high unemployment rate as a result of our misguided economic policies. It has a large, decaying inner city area with over 40 percent of the households receiving welfare benefits. To a great extent, Detroit carries the burdens of a nation with no effective policy for relieving the very real problems of unemployment, inflation, economic opportunities for minorities, and revitalization of urban areas.

Detroit is a working man's town, but is now a town in which over 20 percent of the working men and women have no job because of the administration's dismal economic programs. It was the appropriate place for the Republican Party to demonstrate our desire to put the workers of Detroit—and the workers of America—back to work through policies that emphasize progress, productivity, and most of all jobs.

But Detroit is in the process of a renaissance, rebuilding itself slowly and deliberately. The new downtown waterfront area is a remarkable tribute to the people who refused to give up on Detroit, people whose vision and work made that area what it is today, and what it promises for the city tomorrow.

Republicans believe that the Nation needs just such a renaissance, a reawakening of our spirit of what America can do. Republicans will be carrying the message from Detroit that with the right policies, the right leadership, progress can be made. Yes, much has been done, but there is still much to do. But Republicans have not given up on the spirit of America, on what the people of the United States can do for ourselves just as we did not give up on Detroit.

The 1980 convention was great for Republicans, and I think that it was great for Detroit. It was the perfect occasion for the city to launch a new era with a new image, and it was the perfect place for the Republicans to launch our campaign with a new message for America.

GENERAL LEAVE

Mr. VANDER JAGT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the subject of the special order being taken by the gentleman from Michigan (Mr. CONYERS) today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 1520

Mr. CONYERS. Mr. Speaker, I thank my colleague. I know his keynote speech at the convention was listened to, not only in Detroit, but across the country with great interest and his leadership contributed to bringing together the kind of participation that made the convention a success. All of us will feel free, hopefully, to come back to Detroit many more times. Perhaps even a Democratic convention will be some day held in the great city of Detroit, who knows.

I yield to my colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Michigan for yielding.

As a Wisconsin delegate to the Republican National Convention, I must confess that I was initially somewhat disappointed when the Republican National Committee selected Detroit as the site for the 1980 convention. Detroit's reputation, as the gentleman from Michigan knows, was not the most positive; but after spending a week in Detroit my impressions were completely turned around. I have nothing but good to say to all the citizens of Detroit, the police officers, the service personnel, the bus drivers, the taxi drivers; they all went out of their way to make the delegates to the Republican convention, the news media, all the guests of the Republican convention, really feel at home in Detroit.

Detroit is certainly a city that is on the rebound. I am glad that my political party was able to focus the attention of the Nation on the fact that Detroit is experiencing a renaissance.

I certainly wish to take my hat off to all the people in Detroit, particularly Mayor Young, as well as the civic host committee that did such a great job in helping to solve the problems of all the various delegations.

I hope that the Republicans come back to Detroit, particularly after our candidate carries Michigan this fall.

Mr. CONYERS. Mr. Speaker, I thank my colleague.

I yield to my colleague, the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, I appreciate the gentleman yielding.

I must say that after working with the gentleman for almost 2 years on the subcommittee of the Judiciary Committee, I am most happy that we have found something upon which we can totally agree.

As you know, I took a 1-minute speech when we were allowed to have 1-minute speeches earlier this week, to give a salute to Detroit, because I thought it was appropriate. As a matter of fact, I was kind of surprised when I got there, because I was one of the last ones in line, that it had not already been done, but evidently a number of people were waiting for this special order.

As the gentleman from Wisconsin said, I think a number of us were initially dismayed at the selection of Detroit for our convention, because of perhaps the erroneous reputation that it had achieved in the past. I must say that you certainly converted a great number of us. I know everyone in the California delegation that I spoke with had nothing but praise for the city of Detroit. A number of us talked about how we would consider Detroit and that area for periods of vacation in the future.

I thought it was interesting that our convention had sort of an international aspect to it, when you had the delegation from Arkansas staying in Canada and some other delegations staying across the river.

I just think that those of us who were somewhat concerned about it knew that there had been a renaissance in terms of buildings downtown, but we had to be there to see the renaissance of spirit that truly existed with the people from all walks of life; police officers stopping you on the street, asking you whether you were enjoying your stay; waiters stopping you in the middle of your meal and asking whether you were enjoying Detroit and welcoming you there; people of all sorts doing that.

It is very obvious that unless you have that sort of will, unless you have that sort of spirit, you cannot succeed as the city of Detroit did. As far as I am concerned, the city of Detroit did just tremendously well. It was extremely successful. Speaking as one California delegate pledged to the next President of the United States, Ronald Reagan, I can say we were most happy to be there.

I think, truthfully, that most of the delegates share the concern the gentleman from Michigan has expressed about the economic situation that presently exists around this country, but particularly in some of our major industrial cities and States. Although we may disagree with respect to the exact means that we seek to achieve the same goals, we are very hopeful that we do truly have an opportunity to implement some of the programs that we spoke about during our convention, that they will help provide the economy of Michigan and other cities and States around the country.

I thank the gentleman for having this special order.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for his comments. I know they are sincere. I look forward to saying to him and to others, that I have been trying to tell you this for so long that Detroit is a great city with a great people and only until we were able to bring the convention there and do what I suppose in human experience is necessary, to see for yourself, to understand firsthand the motivation that has led me to argue that even in adversity, Detroit and its citizens were able to excel, only then did it become clear how fine a city it is.

Mr. Speaker, I yield to my colleague, the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, I thank the gentleman for yielding.

I would like to lend support to all that has been said about the hospitality of the city of Detroit. As a southerner, I would like to say that we pride ourselves on being able to recognize hospitality when it is extended. It certainly was extended in your city. I would second everything that has been said about that.

A number of myths about Detroit were dispelled, not just in my mind, but I hope all across the country. One thing that was said repeatedly before we got there was that, "It's going to be hot and you are going to swelter there in the city of Detroit while you are in convention."

That has been completely laid to rest, because the weather was superb, on most days ranging anywhere from 70 to 75 degrees, particularly when you measure it against the city that was almost selected and lost out by one vote for the Republican National Convention. I am glad we settled on Detroit.

As was mentioned by the gentleman from California, I stayed in Windsor, Canada, your sister city. I found the people there to be just as hospitable as the people in Detroit. It surprised me that they were so interested in an American political convention. I guess it is because there is so much interaction between those two cities and the fact that they watch Detroit television that they have developed an interest in American politics.

In any case, we had many conversations with people there on that side of the river and they were just beautiful, too.

Mr. CONYERS. Well, Mr. Speaker, I thank my colleague for his observations of his experiences.

We in Detroit modestly do not claim to have any control over the weather itself, but I suppose all of these factors worked together to produce the actual results.

Many of the concerns of the citizens in Windsor stem from the fact that many of them work in the city of Detroit. They have frequently felt this dual connection to not only the cities, but the two countries.

Mr. Speaker, I yield to my colleague, the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I want to say to the gentleman from Michigan, Mr. Speaker, that it was a great pleasure for me as the cochairman of the Maryland delegation, along with my senior colleague from Maryland, Senator MATHIAS, to attend this convention in Detroit.

This is my seventh National Republican Convention, and serving as I did as a delegate, along with my wife who was also a delegate from my congressional district, we found the hospitality there unequaled in my experience in any of the seven conventions. It may well be that the conventions I have attended in Miami were graced by more tropical weather and vegetation. It is very hard to equal the conventions we have had in San Francisco with the views that the bay permits; but nowhere did I find more friendly people more genuinely interested in assisting the delegates. I say that as one who shared the initial skepticism about the location of the city of Detroit for our convention. We arrived there on Sunday afternoon before the convention and immediately attended a dinner that evening in the Renaissance Center and had a very difficult time finding a parking place because of the crush of many people trying to reach the area. We were assisted by a member of Detroit's finest, a policeman who let us park perilously close to a fireplug and assured us that he would be on duty until well after midnight and would keep an eye on our car so nothing would happen. Apparently they did not keep as close an eye on the Governor s car, because that was stolen, the Governor of Michigan, but that was in Romulus, not in the city of Detroit, as I understand.

So I would have to say after a week there, a genuine effort was made by everyone we met, every service personnel, all those who work for the city, and the average citizens who would welcome you on the street to make our stay a real pleasure, and that it was.

□ 1530

Without committing myself to casting any votes on future legislation that may bear on the gentleman's interests in Detroit, I can certainly say I am in a far better disposition to listen to his arguments in the future, which are always persuasive.

Mr. CONYERS. I thank my colleague for those excellent remarks. Even to know that his concern for my interests may grow as a result of his Detroit experience really warms my heart, to think of the possibilities of new cooperation that may even yet emerge from this particular Congress. I am very sincerely appreciative of his remarks.

● Mr. SPENCE. Mr. Speaker, I am especially pleased to rise and offer a few remarks pursuant to the special order of the gentleman from Michigan because I can speak with firsthand knowledge of the splendid hospitality and great courtesy of the people of the city of Detroit and the State of Michigan.

The banners said, "Detroit Loves a Good Party," and certainly I, together with my fellow delegates from South Carolina and across the country, can attest to the royal welcome rolled out by the people of Michigan for the Republican National Convention.

The convention facilities were splendid, Renaissance Center is a marvel and the hotel accommodations superb. But as always, it is people who make a city great. And Detroit is blessed with people who were especially gracious to all of us. My special thanks go to the friends at the Holiday Inn in Troy, who put grits on the menu to bring a touch of home to our South Carolina delegation; and to the guides and cabdrivers, local officials, and people on the street who went out of their way to welcome and assist us.

I know I speak for every South Carolinian and every delegate who was there when I say, "Hats Off to Detroit and Michigan." •

• Mr. ROUSSELOT. Mr. Speaker, I am pleased to have this opportunity to salute the people and the city of Detroit for the very fine job they did in hosting the Republican National Convention. Additionally, I would like to thank my colleagues, Representative JOHN CONYERS and Representative GUY VANDER JAGT of Michigan, for requesting this time for a special order to thank the people of Detroit for the outstanding job they did in welcoming the GOP.

It is my opinion, Mr. Speaker, as well as that of many of the California delegates, that the hospitality of the citizens of Detroit added substantially to the tremendous success of our convention. We emerged from the Joe Louis Arena a unified party—a party which stands for fiscal integrity, strong national defense, and jobs for the unemployed, and a party which believes in the family, the neighborhood, work, peace, and freedom. The "Good Party" had a "good time" in Detroit. We are ready to fight for the No. 1 position and to handle our Nation's problems—certainly the record shows that the GOP has fought better and harder at finding solutions than the other party.

The good spirit of Motor City, both in and out of the convention hall, the courteous manner, the welcoming attitudes of all the residents and service people warmed the hearts of the convention delegates and guests. Detroit is an outstanding example of the renaissance of an inner city of America; it clearly demonstrates the achievements that can be had when both the business community and the city work together with that special "can do" spirit. The people of Detroit have worked long and hard to revitalize their city, and the evidence of its rebirth is impressive. Republicans have endorsed the Urban Jobs and Enterprise Zone Act of 1980 and are committed to nurturing the spirit of self-help and cooperation throughout America in order that all American cities might experience this same renaissance.

Mr. Speaker, the Republican Party had a great reception, and a positive convention nominating the next President of the United States, Ronald Reagan. We owe our success not only to the people that make up the Republican Party, the fine leadership of Ronald Reagan, but also the many service people who made it all possible—the hotel clerks, elevator operators, waiters and waitresses, cab drivers, and all those who worked at the Joe Louis Arena and Cobo Hall. Thank you, Detroit, for hosting the Republican National Convention in 1980. The city's slogan is "Detroit Loves a Good Party." And, indeed, the GOP loves Detroit. •

• Mr. FORD of Michigan. Mr. Speaker, I am pleased to join my Michigan colleagues in paying tribute to the city of Detroit and its leadership for their outstanding job in hosting the recent Republican National Convention.

Renaissance City proved worthy of its nickname by demonstrating a genuine spirit of good will, hospitality and friendship to the more than 10,000 visitors from throughout the country.

Mayor Coleman Young and General Motors Chairman Thomas Murphy, who headed the host committee, are to be commended for hard work and dedication which they and their committee brought to the convention planning.

I was born in Detroit, and lived there as a small boy before my family moved to Taylor. For this reason, I feel a special pride in Detroit in its successful efforts to create a new sense of greatness and purpose.

The delegates and journalists who attended the Convention have returned to their home towns with a different viewpoint on the city of Detroit, which has suffered in recent years from unwarranted criticism.

As we move into the final decades of the century, Detroit is again taking its rightful place as one of the finest cities in America.

To Mayor Young, Chairman Murphy, and to every citizen of Detroit, I express my congratulations on a job well done. •

• Mr. NEDZI. Mr. Speaker, a few days ago the city of Detroit exceeded the highest expectations of visitors and its own citizens by being an outstanding host to the Republican National Convention.

The Detroit metropolitan area is being subjected to tremendous downward pressure these days because of the very serious problems of the automotive industry. The gravity of these problems is unfortunately not well enough understood by the leadership of both political parties, America's opinion makers and by the general public. Indeed, there seems to be a considerable body of opinion that says, "let Detroit stew in its own juice." But the automotive industry is not located exclusively in Detroit by any means. It is decentralized over 20 States. And if Detroit stews in its own juice, then soon thereafter the steel, glass, rubber, textile, and petrochemical industries will also stew in their own juices.

At the same time, we are witnessing a dramatic change in attitude in Michigan, a change which has brought together industry, union, and Government officials and rank and file in a spirit of cooperation. We have realized that working together is our best hope for survival and eventual triumph.

This new cooperative spirit helps explain the warm reception and united effort which greeted the Republican National Convention.

Accordingly, I am pleased to join in this bipartisan acknowledgment of this Detroit experience.

Under leave to extend my remarks, a Detroit Free Press editorial of July 17 is set forth below:

Center: The GOP Convention Shows What a Jewel the City Has Built

If Detroiters have seemed as interested in being seen by, as opposing to seeing, the visitors to town this week, the visitors will have to make allowances.

Detroit has been through rough waters. The riot of 1967, the physical and social decay of the late '60s and early '70s and the violence of the early post-riot years left our collective psyche badly scarred. And the energy shocks of '73–74 and '79–80 meant special difficulty here.

It was important for us to show ourselves, and the world, that this city could be a successful host for something as massive as the Republican convention. Those who minimize it in the light of the trouble in our industrial economy miss a fairly basic point.

For a city that has depended so heavily on an industrial economy, the creation of the civic center area and the emergence of Detroit as a newly aggressive contender for convention business is far more than symbolic. For us, this is vital diversification.

If anyone failed before the convention to understand what Mayor Young and the civic leadership have been trying to do, surely there is no basis for misunderstanding now. The civic center—the Plaza Hotel and the Renaissance Center, Hart Plaza, Ford Auditorium, the Veterans Memorial Building, Cobo Hall and the Joe Louis Arena—is one of the more coherent and impressive such complexes anywhere in the country.

For our part, we have emerged from this week more convinced than ever that the gutsy gamble the mayor took in getting the Joe Louis Arena built is going to pay off for Detroit. The much-maligned arena has its defects, and the mayor financed it on a wing and a prayer, but it is there, and it works.

The old argument about whether the mayor was concentrating on the downtown area at the expense of the neighborhoods never seemed all that persuasive to us. The renewal of the city had to start somewhere, and the place to start was on the riverfront.

Some mistakes have been made, for sure, but the renewal has taken hold in a persuasive, indisputable way. And the psychology of the metropolitan area has changed; the old defeatism is not banished, but it is no longer the dominant theme.

Detroit will continue to face some difficult days, as the auto industry struggles to adjust to the energy realities that the country tried so long to deny. A revolution is in process, and the fact that it is occurring in the middle of a recession makes it doubly painful for multitudes of Detroiters. And the hardest adjustments may lie ahead.

This week, though, and the events leading up to it, ought to tell us that Detroit is a survivor—that it is changing, that it is creating new possibilities and a new spirit. For an industrial town that has struggled so long with harsh realities, these new possibilities and this new spirit are important and uplifting. •

• Mr. HINSON. Mr. Speaker, I wish to commend the gentleman from Michigan for taking this time this afternoon to discuss the city of Detroit and the recent Republican National Convention which was held in that city. I was privileged, Mr. Speaker, to be one of the Mississippi delegates to the convention and was further honored with the responsibility of casting all of Mississippi's 22 votes for Governor Reagan.

I will admit that I went to Detroit with misgivings. As one from a State that has also suffered its share of bad press, I can sympathize with the concerns of the gentleman from Michigan and can say that I received an absolutely delightful surprise in Detroit. The people and the city officials of Detroit could not have been more courteous and hospitable. Mr. Speaker, I know a good deal about Southern hospitality but I had never had such a lengthy exposure to Northern hospitality. I can state absolutely that it is every bit as noteworthy as that to be found in Mississippi.

Detroit as a city did itself proud

during the Republican National Convention. This is due in part to its enlightened city administration under the direction of Mayor Coleman Young. It is also due to a committed business community which has come together to turn Detroit around and return it to its rightful rank as one of America's major industrial cities.

I thoroughly enjoyed my visit to Detroit and hope to be able to return again. One of our delegates prepared a sign which she carried throughout the convention hall on the night that Governor Reagan made his acceptance speech. It said simply, "Mississippi says, 'Thank you, Detroit.'" ●

● Mr. RHODES. Mr. Speaker, I am pleased to join in this special order with my colleagues and other Members who represent the Detroit area in the House in expressing our appreciation for the wonderful efforts of the city of Detroit to make our national convention a pleasant success.

The facilities were excellent, the convention site was convenient, and we were made welcome by the friendly community spirit that is rejuvenating Detroit.

Despite a dash of uncooperative weather, we found Detroit a most hospitable and attractive place to gather. I am certain that as our delegates, and those of us in Congress who took part, returned to their homes and jobs, we all carried back an impression of Detroit as an up and coming convention city.

I want to join my colleagues in expressing my appreciation for all the dedicated efforts made by city officials, the friendly reception by the people of the city, the Michigan Republicans who were our hosts, and the Republican National Committee, which exerted great effort to make the convention flow smoothly.

It was a good convention, held in a great city, and Detroit can be proud of its proven ability to accommodate a major function with grace and efficiency.●

● Mr. MICHEL. Mr. Speaker, while we were in Detroit, I just had to marvel at the Renaissance Center and the tremendous renovation of the downtown area along the river. I think the center is one of the greatest tributes to community spirit and civic pride we have in this country. Not a dime of Government money was spent on it.

I also spent one morning at the Navy and Marine armory where disadvantaged children are learning to read by way of a new and innovative method of instruction. In just a few short years this project has attracted countless volunteers and is now in operation at sites all over the city. Not a dime of Government money went into it.

When I arrived in Detroit, I was driven downtown by a young man named Jay Kennelly, a college student and part-time worker who volunteered his services for the convention. When he dropped us off, he said if we needed a ride anywhere day or night, just give his family a call. Thousands of other volunteers with the civic host committee greeted thousands of other convention-goers in the same manner. Not a dime of Government money was involved in the service. A billion in Government funds could not have generated the energy, the enthusiasm, the service, and the generosity of those volunteers.

That was and is the spirit of Detroit. It is the spirit of people who believe in their town and believe in themselves. And this comes at a time when many of those same people fear for their jobs and fear for the future.

They had a point to make and they made it. They had an impression they wanted to leave and they left it. They showed us what determined people who care about their home, their community and their neighbor can do in the face of adversity. Detroit stands as a symbol of self-reliance and will.

Detroit was not transformed into a bastion of Republicanism overnight. I doubt that we will sweep the city in the fall. But I hope we left as favorable an impression on Detroiters as they left on us.

Apart from all of the extravagance, flamboyance, and circus atmosphere of a convention, I hope the people of Detroit and other great cities alive with civic pride and determination understand that we are behind them 100 percent. We have more of a stake in them than they do in us and we must show them as they showed us, that we are willing and able to work as hard as we can to make their life better.●

● Mr. RINALDO. Mr. Speaker, as a delegate-at-large attending the Republican National Convention from the State of New Jersey, I want to express my appreciation to the city of Detroit for its gracious hospitality, and to commend the city for its outstanding civic spirit.

Detroit has demonstrated to other cities in the United States that urban centers can rise above the problems and setbacks of the sixties and take their place among the most vibrant and progressive in the Nation.

Detroit has not only recovered from what at one time threatened to be crippling racial disorders, but has emerged as a civic, cultural, and convention center well worth visiting and enjoying.

The convention provided a challenge to Detroit and the city met that challenge in every respect.●

● Mrs. HECKLER. Mr. Speaker, I am pleased to join my colleagues in a salute to the city and citizens of Detroit. I have attended many conventions over the years. Detroit as host city was truly the best. Starting with Mayor Coleman Young, General Motors Chairman Thomas Murphy, Gov. William Milliken and his wife Helen, just everyone was courteous, friendly, and warm.

The spirit of a city is very much reflected in its citizens. There is no question that Detroit's spirit is enthusiastic, boundless, and dynamic. I did not expect such an overwhelmingly pleasant experience. I know that Detroit, along with many other great cities, has its share of difficulties. But you could not tell from the reception the city gave its guests. I would like to make a special point of applauding the citizens of Plymouth, Mich. They went out of their way, as well, to help host convention delegates. Michigan is a State I plan to revisit, and Detroit can take the credit for making my visit a truly memorable experience.●

● Mrs. HOLT. Mr. Speaker, I wish to commend my colleagues Mr. VANDER JAGT and Mr. CONYERS in providing the leadership in suggesting a special salute to the city and citizens of Detroit for the wonderful spirit shown last week as hosts of the Republican National Convention. My own personal experience was one of enjoyment and relaxation, a result of the pleasant reception received from city officials, in particular Mayor Coleman Young, Host Committee Chairman Thomas Murphy, and the gracious citizens of Detroit.

I especially remember how the citizens from every walk of life went out of their way to extend a warm, cordial, and enthusiastic welcome and to provide for our needs no matter how inconvenient the time or circumstance.

I take this opportunity to applaud the civic spirit demonstrated by the citizens of Detroit which made the convention memorable for all in attendance.●

● Mr. DERWINSKI. Mr. Speaker, I am pleased to join with my fellow Republican colleagues in expressing a genuine thank you to Mayor Coleman Young; the chairman of the host committee, General Motors Chairman Thomas Murphy; and the citizens of the city of Detroit for making all of us who attended our national convention feel at home. "Detroit Loves a Good Party," and that was certainly reflected in the mood of the city during the week of the convention.

The vitality and friendliness of the city of Detroit was shown not only in the welcoming signs that were on billboards on the interstates entering the city and throughout the convention area, but also by the citizens who were willing to lend a helping hand in providing information when asked. The diversity and excitement of the city were highlighted by the entertainment and activities planned by the civic host committee during the week of the convention.

The key location of the Joe Louis Arena and the Cobo Hall and other meeting facilities were added extras to making the convention area convenient for the conventioneers. The Detroit Police Department did an excellent job in insuring the security and safety of all those attending the convention, and in directing the traffic around the area. In addition, the transportation provided to the delegates and alternates to and from the downtown convention centers was excellent, with no major tieup in getting to the meeting halls on time.

The hotel accommodations and preparations for those attending the convention were ideal. The staffs of the various hotels, in view of the enormous crowds, were pleasant and willing to be of assistance. The remarkable civic spirit was captured in the outstanding facilities made available to the delegates and alternates.

The city of Detroit demonstrated a truly remarkable atmosphere of friendship in hosting the Republican National Convention, and I am pleased to join in saluting the wonderful spirit expressed during the week of July 13. I look forward to future conventions being held in this memorable city.●

● Mr. COLLINS of Texas. Mr. Speaker, all of us who attended the Republican convention in Detroit were most appreciative of the warm hospitality of these fine citizens. I arrived in Detroit with deep apprehensions. Dallas had bid strongly for the Republican convention and we had come very close to getting it. But I was overcome by the warmth and friendly spirit of all of the people in Detroit.

The taxi drivers impressed me the most. I took many, many trips that were only six to eight blocks long, as I was trying to get across town in a hurry. Usually taxi drivers complain and grumble when you take a short trip. But every one of these drivers were friendly, nice, and courteous.

Thomas A. Murphy and Bill Agee had such dynamic personalities, one would have thought they were Texans.

When I went to the airport to leave, my plane was late. But the American Airlines desk attendant said she would try to get me on an earlier flight if they could retrieve my luggage. I went and got the man who originally checked in my bags. He took my ticket stubs and walked all the way to the plane to get my bags cleared. I offered him a tip, but he said he was glad to do it, as he had already checked my bags in once. I still tipped him, but I was surprised to see a person who was so cheerful to be of service.

Detroit was a clean city. The policemen were always ready to be of assistance.

Everyone was so sincerely motivated to make the convention a success that we had a tremendous convention.●

● Mr. HYDE. Mr. Speaker, I appreciate the efforts of my distinguished colleagues from Michigan (Mr. CONYERS and Mr. VANDER JAGT) in obtaining this special order on behalf of those of us who wish to properly commend the great city of Detroit.

As one of those who originally objected to the selection of Detroit as the site for the Republican National Convention, and as one who even chided our national party chairman, Bill Brock, I can only say, "I was wrong."

The city of Detroit has every reason to be proud of its performance, individually and collectively, during the Republican convention.

Mayor Coleman Young and General Motors Chairman Thomas Murphy, along with Detroit's businesses and citizens, went to great effort to prepare and promote their city for us. Everyone I met while there was helpful, pleasant, and concerned that we would enjoy our stay in their city. With such an outpouring of helpfulness and concern, it would have been impossible not to be impressed.

Therefore, for the record, I join my colleagues in saying, "Thanks, Detroit. Thanks, Mayor Young and Chairman Murphy, for making us so welcome and treating us with such warmth and hospitality."

And to my colleagues on the other side of the aisle, I say, "It's too bad you didn't have the foresight to schedule your convention for Detroit, a city that once was counted down, but definitely is not counted out by we Republicans." ●

● Mr. DEVINE. Mr. Speaker, I am happy to join in this special order today commending the citizens of Detroit, the mayor, his administration, the police department, and others, on the occasion of the Republican convention during the 2 weeks following Independence Day. Everything I have heard has been favorable, and my own personal impression during my time in the area was a definite plus.

An indication of my feelings on this matter was contained in a letter to the Honorable Coleman A. Young, mayor of the city of Detroit. My letter dated July 18 follows:

JULY 18, 1980.

Hon. COLEMAN A. YOUNG.
Mayor of the City of Detroit, City-County Building, Detroit, Mich.

DEAR MAYOR YOUNG: Not only as Chairman of the Republican Conference, but also as a visitor to your city on the occasion of the Republican National Convention, I wish to compliment you, your police department, and the citizens generally for a warm and cordial welcome.

Frankly, many people were apprehensive about visiting Detroit because of the publicized problems of the past. You, your administration, and your residents have acquitted themselves well and you are to be commended.

Thank you for a very pleasant week.

Sincerely,

SAMUEL L. DEVINE,
Representative to U.S. Congress.●

● Mr. CARR. Mr. Speaker, I understand that the Republicans who visited Detroit for the Presidential nominating convention last week were surprised and impressed by the city and the reception provided for them. Detroit—as everyone who has spent any time there recently knows—is a city on the move, a city whose vitality and hospitality are evident to all. Our good friends in the Republican Party are given to laboring under false impressions, and I am pleased that their visit to Detroit has led to their realization of what a fine city it is.●

● Mr. BRODHEAD. Mr. Speaker, I am gratified by the great number of our Republican colleagues who have been kind enough to seek me out to compliment the city of Detroit upon its handling of the recent convention.

They have learned what we Detroiters have always known—that our city is a great one. They have seen at firsthand that Detroiters are warm and friendly, that our convention facilities are second to none and that we are in the midst of a renaissance that is truly exciting.

I am very proud of my city, especially in view of the fact that it managed to host a fine convention while experiencing record unemployment and economic woes. I am delighted that our Republican friends chose to meet in Detroit and pleased that they enjoyed themselves.●

● Mr. BROOMFIELD. Mr. Speaker, those of us who call the Detroit area home were especially proud of the hospitality and the bright new image our city displayed to the Nation during the Republican National Convention last week.

On returning to Washington, I immediately wrote the following letter of congratulations to Detroit Mayor Coleman Young and General Motors Chairman Thomas Murphy, who chaired the convention host committee.

Yesterday, as Congress reconvened, I was happy to hear so much praise lavished on the City of Detroit for its outstanding job as host to the Republican National Convention.

Both in the Republican Cloakroom and on the floor of the House of Representatives, Member after Member told me that while they had some apprehensions about going to Detroit, they now were anxious to return for another event.

Everyone was impressed with the beauty of the new Detroit waterfront and pleasantly surprised at the excellence of the accommodations and the friendliness of the people. Joe Louis Arena, Renaissance Center, and the supporting facilities were tremendous. Everyone from taxi drivers to waiters seemed genuinely interested in making the visit as pleasant as possible.

It was a week that helped shape a new national image for the City of Detroit and one that will make it one of our country's great convention centers.

Everyone who worked so long and hard to make the Convention a success deserves our thanks. You, especially, deserve special praise for the leadership you provided in bringing the Convention to Detroit, for getting the new facilities built and for instilling the spirit that guaranteed everything would go smoothly.

As one who has called the Detroit area home all of my life, I was extremely proud of my City.

Best regards.

Mr. Speaker, the spirit of the Republican convention spilled across the city limits of Detroit and filled the entire metropolitan area with enthusiasm and community pride. In my district just north of Detroit, merchants decorated their store windows with signs welcoming the Convention delegates, and every evening was filled with parties and special events.

The Republican National Convention is one of many important national events that will be held in Detroit. People from all over America have come to know it as an interesting, pleasant, and friendly place to visit and vacation.

Bill Brock, chairman of the Republican National Committee, summed up everyone's feelings on leaving Detroit when he said he'd like to come back for the Republican Convention in 1984.●

● Mr. PURSELL. Mr. Speaker, at this time I would like to take the opportunity to commend the city of Detroit for its role as host of the 1980 Republican National Convention. Special thanks go to Mayor Coleman Young, Mr. Thomas Murphy, chairman of the board of General Motors Corp., who served as chairman of the civic host committee, and most of all many, many thanks to the citizens of Detroit who gave so much of themselves to make our guests feel at home.

Detroit, the Renaissance City, stands before America as a symbol of a new life, a new spirit, and a new opportunity for growth in this decade.

Community leaders and government officials are rebuilding a great city, and their efforts were demonstrated during our convention. The beautiful waterfront, highlighted by the Renaissance

Center, the new Joe Louis Arena, Cobo Hall, and other fine facilities were showcases of what a great city can do.

The efforts by Detroit that went into making our convention a success show that the city has a new spirit, a spirit that it can accomplish and succeed, a can-do spirit that I call the spirit of Detroit.●

● Mr. FISH. Mr. Speaker, last week the Republican national convention was held in Detroit, Mich. I would like at this time to share with my distinguished colleagues some of my experiences and impressions during the convention.

During my brief stay I heard repeated over and over again my view how friendly and warm the people of Detroit were as hosts for this convention. It was my pleasure to see this first hand. The city was extremely gracious in extending the use of its facilities to the convention's representatives and guests.

I would like to congratulate Detroit for its fine work. It was most gratifying to see the strong civic spirit, and the sincere efforts to make the convention a success. The dedicated city officials, public servants, fire and rescue teams, and many others put in long hours to make our stay as enjoyable and safe as possible. Hosting a convention of this size is certainly a noteworthy task, and to do it as successfully as was done last week is most commendable. The Hyatt-Regency in Dearborn which housed the New York delegation was a model for pleasant, accommodating service.

The remarkable civic spirit shown in Detroit was reflected in the most generous hospitality that we received. On our first evening I had the most fortunate opportunity to be entertained by Mr. and Mrs. Marvin L. Howard, of Birmingham, Mich. Their hospitality and delicious dinner were outstanding examples of the genuine friendliness evident in Detroit. There is certainly no doubt that Mrs. Howard's desserts could hold their own against the finest cuisine in the country.

The reception sponsored by civic representatives for the State of New York was also an outstanding success. These representatives went out of their way to make sure that we had an enjoyable afternoon. I do not think that anyone could argue with their claim that Detroit does indeed "love a good party." The Norths of Grosse Ile were especially gracious and are a fine example of the outstanding citizens of Detroit.

My own view of Detroit has been influenced by last week's events. On one walk from Cobo Hall to the Renaissance Center, one Detroit citizen stopped me and shook hands saying "welcome to Detroit." To many the Renaissance Center now symbolizes the rebirth of Detroit, and a new sense of the city's greatness. Clearly Detroit is alive and exciting. Whereas many people may have been afraid to visit downtown Detroit just a few years ago.

Last week we saw crowds listening to music in Hart Plaza, riding the trolley cars near Cobo Hall and taking advantage of the many other activities which the downtown area has to offer. I for one look forward to my next visit to the Renaissance City and its fine citizens.●

● Mr. ERLENBORN. Mr. Speaker, as a delegate to the Republican national convention held last week in Detroit, I would like to express my appreciation to the citizens of "the renaissance city" who proved to be such pleasant, friendly, and cooperative hosts.

The term "renaissance" means rebirth, and that is a most fitting theme for the city of Detroit which has emerged from the riot-torn period of the sixties with a new sense of civic pride. Detroit is dealing successfully with the difficult urban problems of crime, pollution, and inner city decay; the city is moving forward with a brighter future ahead of it.

The optimism of the people of Detroit is readily apparent, even to those of us who visited the city for just 1 week. Recently reported opinion surveys of my fellow delegates indicate that my positive impression of the city of Detroit was not an isolated reaction. The great majority of delegates were a little leery of holding the convention in Detroit but virtually all came away favorably impressed.

The facilities located in the heart of the renaissance center were ideal; the Joe Louis Arena, the nearby hotels, and restaurants efficiently accommodated well over 10,000 conventioneers, journalists, and guests, and offered every conceivable service that such a large gathering could demand.

I would like to take this opportunity to commend Coleman Young, the mayor of Detroit, as well as General Motors Chairman Thomas Murphy, the chairman of the host committee, but most of all I wish to thank the people of Detroit who went out of their way to help make the Republican convention the success that it truly was.●

Mr. CONYERS. Mr. Speaker, I would also like to include in the RECORD the following material:

[From the Detroit News, July 20, 1980]

THANK YOU NOTE TO OUR TOWN

(By Pete Waldmeir)

A clean-cut young man approached me one evening last week on the sidewalk between the RenCen and Hart Plaza. He was smiling pleasantly and I figured he was going to ask for directions.

"Sir," he began, looking me square in the eye, "you're proud and you're stupid."

Wrong again, I thought. He's one of my readers.

"I'm not proud at all", I answere defensively, hoping he might not press me on the second point. "They call me Old Humble Pete. I'm a very self-deprecating person."

"You, sir," he said, with finality, "are proud and stupid and you are going to hell."

"No," I corrected. I'm going to work. But yours is an honest mistake." As I departed, he was heading for another lost soul.

A girl on roller skates, dressed in a bikini, whizzed past selling bumper stickers that said obscene things about Jimmy Carter. A young man stood defiantly under the statue of George Washington which graces the lawn of Mariner's Church, holding a sign which proclaimed, "The permit I have to stand here is the First Amendment to the Constitution . . ."

An artist sat cross-legged on the lawn, sketching the head of a giant wolfhound in pastels while a pregnant girl played a guitar. A turbaned Sikh handed out religious pamphlets in front of the Plaza Hotel. Two overweight but frolicksome businessmen dressed in bedsheet burnooses paraded up and down Jefferson carrying a sign with read, "220,000 Libyans for Carter."

It was fun, the last two weeks. A big city showing off. New York without the pimps and hustlers and wall-to-wall crazies.

I've never been so proud of this town and the way it conducted itself as I was during the GOP convention. It was a sight to behold and something that those who experienced will not soon forget.

Conventions, political and otherwise, come and go. They're all pretty much the same. But the way Detroit's people reacted to this one, the way the town preened and strutted its stuff for the thousands of visitors, was absolutely amazing.

Go ahead and congratulate yourselves, Detroiters. For once you went into the revolving door behind adversity and came out in front of it.

We had a bus strike, a garbage strike, a newspaper strike and a storm that knocked out power to several sections of the city. Downtown restaurants put on extra help and lengthened their hours and took a bath the first few days because there were too many free parties where visitors could O.D. on booze and food.

A 70-pound ice sculpture melted, broke and went sailing out a window at the 73-story Plaza, crashing on a skylight below. Mayor Coleman Young put 2,100 of his 5,000 coppers on 12-hour shifts in the downtown area to make certain nothing messed up his party and it worked.

The bad guys not only were forced to hit Eight Mile Road, one went to Romulus and stole Gov. Milliken's limousine.

Miraculously, there was not one major incident. The protest marches were peaceful. Some kids got rowdy at a rock concert. But it was a minor punchup.

Glen Campbell and Tanya Tucker even remembered the words to the national anthem.

The only guy I know who wound up in the hospital was London Chop House entrepreneur Les Gruber, who keeled over from exhaustion. It's hard work writing all those big numbers on dinner tabs.

Sore-footed and bone-tired, Howard Lashbrook sat in McDonald's last Thursday night nursing a coffee. He's a Detroit traffic cop and he'd worked all week in front of Cobo Hall, where the crowds were heaviest.

"Do me a favor," he said. "When it's all over, thank the people for us. I never heard one cross word from anybody. They were all super, just super. I never would have believed we could do it.

"What a high-class town."

You heard the man. Thank you.

[From the Detroit Free Press, July 17, 1980]

CENTER: THE GOP CONVENTION SHOWS WHAT A JEWEL THE CITY HAS BUILT

If Detroiters have seemed as interested in being seen by, as opposing to seeing, the visitors to town this week, the visitors will have to make allowances.

Detroit has been through rough waters. The riot of 1967, the physical and social decay of the late '60s and early '70s and the violence of the early post-riot years left our collective psyche badly scarred. And the energy shocks of '73–74 and '79–80 meant special difficulty here.

It was important for us to show ourselves, and the world, that this city could be a successful host for something as massive as the Republican convention. Those who minimize it in the light of the trouble in our industrial economy miss a fairly basic point.

For a city that has depended so heavily on an industrial economy, the creation of the civic center area and the emergence of Detroit as a newly aggressive contender for convention business is far more than symbolic. For us, this is vital diversification.

If anyone failed before the convention to understand what Mayor Young and the civic leadership have been trying to do, surely there is no basis for misunderstanding now. The civic center—the Plaza Hotel and the Renaissance Center, Hart Plaza, Ford Auditorium, the Veterans Memorial Building, Cobo Hall and the Joe Louis Arena—is one of the more coherent and impressive such complexes anywhere in the country.

For our part, we have emerged from this week more convinced than ever that the gutsy gamble the mayor took in getting the Joe Louis Arena built is going to pay off for Detroit. The much-maligned area has its defects, and the mayor financed it on a wing and a prayer, but it is there, and it works.

The old argument about whether the mayor was concentrating on the downtown area at the expense of the neighborhoods never seemed all that persuasive to us. The renewal of the city had to start somewhere, and the place to start was on the riverfront.

Some mistakes have been made, for sure, but the renewal has taken hold in a persuasive, indisputable way. And the psychology of the metropolitan area has changed; the old defeatism is not banished, but it is no longer the dominant theme.

Detroit will continue to face some difficult days, as the auto industry struggles to adjust to the energy realities that the country tried so long to deny. A revolution is in process and the fact that it is occurring in the middle of a recession makes it doubly painful for multitudes of Detroiters. And the hardest adjustments may lie ahead.

This week, though, and the events leading up to it, ought to tell us that Detroit is a survivor—that it is changing, that it is creating new possibilities and a new spirit. For an industrial town that has struggled so long with harsh realities, these new possibilities and this new spirit are important and uplifting.

[From the Detroit News, July 16, 1980]

Critics Join Ranks of Detroit Boosters

(By Richard Ryan)

Eighteen months ago, Vern Neppl, chairman of the Minnesota Independent Republicans, was incensed when Detroit was selected as the site for the 1980 Republican National Convention.

"Detroit is a very depressing city," Neppl said at the time, explaining that his state colleagues preferred to go "anywhere but Detrot because they don't feel safe there."

Last night, Neppl stood on the convention floor in Joe Louis Arena, and apologized for his earlier remarks.

"The people here have been tremendous," Neppl said in completely unsolicitated comments. "They are caring, solicitous and hospitable."

"The convention facilities are great. The kind of job you people have done here will make it a very tough act to follow."

Similar unsolicited praise came from Nebraska Gov. Charles Thone.

He conceded he was frankly apprehensive about attending the convention. "Detroit," he said, "doesn't come to mind as a favorite vacation city."

But now, the third day of the convention, Thone has changed his mind.

"Detroit," he said, "has been the victim of some bad press."

California Sen. S. I. Hayakawa isn't hard to pick out of the crowd.

While the rest of his fellow California delegates are wearing white cowboy hats, Hayakawa insists upon wearing the tam-o'-shanter that has become his trade mark.

Hayakawa, a 73-year-old freshman senator, is attending his first convention. But he's not enjoying it very much.

"All you reporters go up and down the aisle talking to us and diverting our attention from the speakers," Hayakawa told a reporter.

Illinois Rep. Robert H. Michel is like the man who got all dressed up and had no place to go.

Michel is Reagan's floor manager. He's the guy with the red baseball cap with his name on top. The other fellow with red, yellow and white baseball hats work for him.

Their mission is to quell any rebellion on the convention floor. But there hasn't been any.

Reagan and his forces are in total control.

"It's not so much that we've stacked the convention," explained Rick Shelby, an Oklahoma delegate and one of Michel's floor leaders who helped stack the delegate deck for Ronald Reagan in Arkansas' GOP caucuses earlier this year.

"It's just that we were very successful in selecting our delegates."

[From the New York Times, July 16, 1980]

Detroit and Houston Reflect Shifting Fortunes of the Midwest and the Sun Belt

(By William K. Stevens)

DETROIT—It's 8 A.M., downtown Detroit early July. The temperature is a glorious 65, on the way to 83. The sun sparkles on the river and glints off the quintuple cylinders of the Renaissance Center, glossy for the Republican National Convention this week. There is extra spring in the step of white-collar workers coming in from the green leafiness of the suburbs. It is the best of seasons here.

Eleven hundred air miles, one time zone and a full turn of the wheel of economic history to the south-southwest, it is the worst of seasons. The morning temperature in downtown Houston is 84 degrees, on the way to 104. The city is oppressive. Everyone who can has fled inside to the air-conditioned comfort of office buildings or the underground tunnels that connect them.

In both cases, mood masks reality.

Even in the sauna that Houston has become, the new skyscrapers rise one after another, accompanied by clank and clatter and sweat. Beige and ebony, rose and emerald, they crown the explosively growing capital of the Oil Patch and proclaim the coming-of-age of the Sun Belt.

CLOSED BAR SYMBOLIZES DECLINE

Here in Detroit, the capital of the Middle Western industrial crescent, there is fundamental decline, symbolized by the plywood nailed up where the windows of Mickey's Dodge Bar used to be.

A short time ago one could go to the bar to take the economic and psychological pulse of the auto workers who flocked in from Dodge Main, the hulking factory across the street. Now Dodge Main is closed. The workers' profane laughter lives only in the imagination. There is no pulse to take at Mickey's anymore.

No two major cities today are more extreme examples of, or illustrate more dramatically, the great shift of power and people from the North to the South and from the East to the West.

It has been going on for some time, of course. So dominant has the North been, however, and so wide is the historical gap between it and the Sun Belt, that the day when the two regions might become equal seemed far off.

DAY OF PARITY NEARS

Now, as the Republicans meet in the depressed hub of the industrial crescent to nominate their candidate from the Sun Belt, a number of indicators suggest that the day of parity is much closer than had been expected. In fact, it may be reached before the 1980's are over.

Detroit, the nation's automobile capital, and Houston, the oil capital, opposite sides of the economic coin, illustrate what is happening. In 1970 less than half as many people lived in the Houston metropolitan area as in metropolitan Detroit. But Detroit's fortunes depend on a stagnating industry whose long-term troubles have been made worse by the nation's energy problems. Houston is built on a healthy, surging industry whose very strength comes from efforts to deal with those energy problems.

Detroit is not about to fold up. Nor is Houston a paradise. The difference is that Detroit has had its first great era, as symbolized by the drab, gray office buildings, straight out of the 1920's, that still set the dominant tone of downtown despite the glitter of Renaissance Center.

Houston's era is just beginning. The newspapers are always announcing new skyscrapers, and construction of one of the biggest, a 71-story, emerald-green tower, is proceeding in the very teeth of the national recession.

CLOSING THE POPULATION GAP

Today metropolitan Houston is about 60 percent as populous as metropolitan Detroit with an estimated 2.7 million people to greater Detroit's 4.4 million. Demographers expect the gap to close rapidly, some predict by 1990.

Houston's rapid gain on Detroit is part of a much broader movement of people between the regions. In the 1970's, according to Census Bureau estimates, the South and West combined became more populous than the North and East for the first time in the nation's history.

Moreover, in the last decade the South, including Texas, replaced the Middle West, and Texas replaced Michigan, as the region and state making the heaviest new capital investment in manufacturing. And although the Crescent is expected to remain the principal seat of heavy manufacturing for some time, the South is expected to overtake the Middle West in overall manufacturing employment by the middle of this decade.

At the same time, economists in the North fear the results of the new billions in taxes to be reaped by the governments of oil-producing states as oil and gas prices are decontrolled.

"The dynamics created by the shift of wealth to the oil-producing states would create forces that would inevitably draw more industry and more taxpayers to those parts of the country," said Felix Rohatyn, the New York investment banker.

UNEMPLOYMENT RATES COMPARED

In the cases of Houston and Detroit, the change in regional fortunes is highlighted by the recession. Greater Detroit, hit by what is being called a depression here, had an unemployment rate of 14.7 percent in May, the latest month for which comparative figures are available. In Houston, the rate was 4 percent, against a national figure of 7.8 percent.

In hard times, automobiles are one of the first things people stop buying. Even before that, the scarcity of fuel meant disaster for an auto industry unable to meet the new demand for fuel-efficient cars.

But the search for energy, that economic touchstone of the age, goes on, regardless. And in Houston, the economy for the most part is purring. As prices rise to reflect the scarcity, Houston becomes even more affluent. Moreover, it is the center of an industry that produces most of the world's oilfield equipment at a time when the search for oil and natural gas is at its most intense.

On a more fundamental level, manufacturing has gradually shrunk as a proportion of the nation's total economy. The industrial crescent, built on manufacturing, has accordingly suffered.

PLANTS ARE LESS COMPETITIVE

In addition, economists say, obsolete plants in both the steel and auto industries have made them less competitive with foreign producers. Here the Crescent is caught in yet another bind; The more its industries modernize and automate, the fewer jobs they provide. The result is further retrenchment and further migration of people to the Sunbelt.

Other factors are at play, too. When highways, air and modern communications superseded rail transportation, it became possible for factories and businesses to cut the ties that bound them to the older cities. Industry became footloose, and entrepreneurs tended to move where they perceived the business climate to be better. That meant south.

With all this, it would be a mistake to overstate Houston's run at parity with Detroit. Houston, like the rest of the South, started from a long way back.

Metropolitan Detroit is not only considerably larger than metropolitan Houston, it is also somewhat more affluent. Once a year, Sales and Marketing Management Magazine publishes a survey of buying power. Using an index of real, spendable wealth that it calls "effective buying income," the latest such survey determined that in 1978, the average Detroit family had $23,623 at its disposal, while the average Houston family had $22,437. The magazine projected that Detroit would maintain its lead at least until 1983.

INNER CITIES ARE SIMILAR

Detroit's restaurants and nightclubs are every bit as lively as Houston's, its cultural institutions at least as well-regarded. At the same time, stretches of the inner citys of Houston and Detroit look alike, their dilapidated buildings and mean streets virtually interchangeable.

But Houston is creating itself, right now, for the future, much as Detroit did decades ago. Things are so much in flux that Houston's character is not yet fully formed, although some of the elements are there: Southern and Western openness, boom-town optimism and verve, an ethnic mix led by traditional Texans but well leavened by Hispanic-Americans and Asians. Nor has Houston yet been tested in adversity as Detroit has.

Detroit's character is long established: tough, resilient, forged by decades of struggle by varieties of ethnic groups.

These days, Detroiters seem almost defiantly anxious to talk about their heralded renaissance. They flock to the riverfront on special festivals, filing downtown with a life unknown to downtown Houston after dark. As one Detroiter said, "This city is cooking."

RETRENCHING AND READJUSTING

But it is readjusting, too. The Renaissance Center, an impressive catalyst for downtown rebirth, was in a sense the creature of a special effort by a persistent Henry Ford 2d. In Houston, buildings just seem to grow naturally. It is a difference in stage of life.

Not long ago, according to Ralph Widner, president of the Academy of Contemporary Problems, a meeting of Middle Western developers and public officials took a straw vote, and all said they thought the industrial crescent would decline in population and employment in the 1980's or remain stagnant. "If you'd taken it three years earlier," Mr. Widner said, referring to the straw vote, "the worst case would have been stagnant and the best would be modest growth."

How will it end? Most analysis say the realities of the marketplace and the imperatives of automation will result not only in a smaller automobile industry, but also in a smaller Detroit that must learn to cope with no growth.

[From the New York Times, July 19, 1980]

Detroit: All Really Love Nice Parties

(By Iver Peterson)

Detroit, July 18.—Party politics came to Detroit with the Republican National Convention this week: parties in museums, parties on houseboats, parties at $1,000 a plate and parties that went barefoot in Belle Isle Park.

The city seemed to enjoy the parties, and the delegates gave the city rave reviews.

"There's all this free time, so we might as well use it," Ferdinand Taylor, an alternate delegate from Oregon, said between bites of a canape at a Republican Women's Club gathering.

It would be hard for any of the 10,000 delegates, alternates, news organizations' workers and other assorted conventiongoers to miss the cue. The city fought hard to overcome its image as a dull factory town and decked out everyone from busboys to Mayor Coleman A. Young with buttons declaring "Detroit Loves a Good Party," the city's official theme for the four-day convention.

A "BEAUTIFUL TOWN"

"I don't know what else they could have done for us," said Virginia Thomas, whose husband was a delegate from Florida.

Many out-of-towners said they had been afraid the city strike that hit Detroit two weeks before convention time would produce piles of garbage on the city's streets. The strike was settled two days before the convention opened.

"We expected a dirty, ugly, awful city," said Julie Gianellone of Houston. Instead, she said, she found a "beautiful town, just beautiful."

The Republicans held more than 60 official parties. The National Committee was the host at six, including "The World's Largest Detroit Loves a Good Party Party," which was open to anyone with $1.75 and a thirst for Stroh's beer. Each of the 50 state delegations, and the delegations from Puerto Rico, Guam, the Virgin Islands and the District of Columbia, held one. There were only eight delegates and alternates from Guam, but 200 people showed up for their party.

There were even signs that parties may be replacing the news release among special interest groups that have discerned which way the wine is flowing. The city of Pontiac, 30 miles north of Detroit, announced that it had "an unemployment rate of 26.4 percent, a staggering inflation rate, urban renewal problems and a volatile racial mix" and threw a "kegger" beer party, with a breadline to show that being down does not mean that the city is out of the social and political whirl.

DIFFERENT STYLE IN DETROIT

Mayor Young's official reception on an excursion boat in the Detroit River the day before the convention opened was akin to Pontiac's effort, though the style in Detroit is not to call attention to the problems it shares with the other manufacturing centers in the state.

But the city and its people were aware that Detroit had hardly been the first choice of the delegates. Its reputation as "Murder City," long outdated by a falling crime rate, stayed in the minds of the people who came to the convention, and the memory of the devastating race riot of 1967 outlasted more recent cheerful news.

Clarke Reed, a National Committee member from Mississippi, became a celebrity by saying, months before the convention: "They say that the convention center is only five minutes away from all the hotels. The trouble is that nobody has ever made it."

THE CITY TRIES HARD

Yet the main complaint about Detroit as a convention city was that the delegates were scattered in hotels as far as 25 miles away from the Joe Louis Arena, where they met this week.

"I've never seen anyone try so hard to make it nice for us," said Eileen Baker, who came from Missouri with her husband, a delegate.

Pat Cosgrove of Washington said: "The hospitality reminded me of a Southern city, not a Northern city."

The Cosgroves were among many visitors who praised the work of the Detroit police. Mrs. Gianelloni said, "You had to feel safe here; there was a policeman every five feet."

The delegates managed to have their fun without many problems. The only incident requiring the police was an anti-Republican demonstration by a band of self-described Yippies near the convention center.

The Detroit Bar Association had planned for the worst by opening a 24-hour legal referral hot line for anyone in sudden need of a lawyer, but not one call for help came through.

There were cries of disappointment from restaurateurs over a lack of business. According to the press agents hired by downtown establishments to promote some of the millions of dollars in business that the convension was expected to produce, the visitors stayed close to their hotels early in the week, while regular patrons avoided downtown in the belief that there was no room for them.

SUBURBANITES COME BACK

Later, however, when the disappointment of the restaurateurs became known through newspaper articles and radio and television reports, suburbanites began filtering back downtown.

The Detroit Institute of Arts mounted special exhibits for the delegates and pushed the closing time back to 10 P.M. in hopes of a rush of culture seekers. There was no rush.

One special display included a painting by Thomas Couture called "The Enrollment of the Volunteers," which was commissioned by the French Government in the mid-19th century to inspire a volunteer army for France.

"We thought it would tie in with the debate about the draft," Bob Rogers of the institute said, "but the Republicans came out against it in their platform. It looks like we were a little out of step."

[From Time Magazine, July 21, 1980]

Down But Far From Out: Hurt by the Recession, the G.O.P.'s Host Is Fighting Back

It's a lunch-bucket town with a world-class symphony. A heavily black city with a black-run government, but an economy dependent on white business leaders. A community that prides itself on its race relations, yet a town where the underlying tensions could still cause another riot. And it's a Democratic town holding the Republican National Convention.

With its many contradictions, Detroit defies labeling and upsets preconceptions. Self-styled sophisticates from elsewhere have long scoffed at the industrial city. Just last week a researcher from one of the television networks had the gall to ask a Detroit spokesman to help put together a list of a dozen "top mugging spots" for convention delegates to avoid. Actually, crime in the city has dropped dramatically in the past few years. And a European reporter who assumed the Detroit River was hopelessly polluted by the city's heavy industry looked out over the waterfront in astonishment at fishermen angling for coho salmon.

More than 20,000 visitors will form their own conclusions about Detroit this week during the four-day Republican Convention. Some 15,000 journalists will jostle with 4,000 delegates and alternates in and around the just finished $27 million Joe Louis Arena, where Ronald Reagan will become the Republicans' presidential candidate. The crowds are overwhelming Detroit's limited hotel and eating facilities; some conventioneers are staying across the border in Canada, or up to 40 miles away in small towns of Michigan.

Both Detroit and the G.O.P. are out to exploit each other, and make no bones about it. Coleman A. Young, Detroit's shrew and aggressive mayor, hopes to use the convention to prove to the nation that his town is, as its boosters have been boasting, a city in the midst of a revival. He is well aware of the risk in seizing the national spotlight, if only for a week. "We have our warts," Young says with typical candor, "and we see them too." Republican Party leaders, in turn, hope to use Detroit as a theatrical backdrop in their bid to lure blue-collar workers and blacks away from the Democratic Party.

Some of Detroit's warts were highly visible last week. Even as parking-lot operators were putting out potted geraniums to brighten the city's face for visitors, some 425 striking sanitation workers let garbage pile up along the streets. Bus mechanics, too, were on strike, forcing the collapse of local service that carries 200,000 people daily—although some residents claim the system has long been so poor that no one can tell the difference. In all, about 8,400 striking municipal workers (out of 21,700) tried to use the convention as a club to beat the city into granting hefty wage hikes. Young, who came out of the same tough "Black Bottom" ghetto that produced Joe Louis and was once an organizer for the United Auto Workers, bargained hard but at week's end settled for a draw. A new pact gave the workers less than they had asked but more than the mayor had offered—despite Young's repeated plea that "I ain't got no more goddam money."

The mayor had a point. Detroit's economy has long depended on the auto industry, which has been slowed to a sputter by the recession and foreign imports. Rising losses by the carmakers and spreading layoffs (the city's unemployment has reached 18 percent) have caused city tax revenues to fall and contributed to a financial deficit for the fiscal year of $70 million.

The symbiosis between city and cars is, of course, what makes the Motor City unique. "It is both a great blessing and a great problem," says Edward Cushman, a political science professor at Detroit's Wayne State University. In normal times more than one-third of the city's 1.8 million wage earners hold jobs directly related to the auto industry. When the assembly lines are rolling, the area's autoworkers, many of whom are black, can take home as much as $30,000 a year. When layoffs are temporary, the combination of company, union, state and federal benefits give workers up to 95 percent of normal pay. But Detroit is fearful now that the unemployment will linger on and on.

Still, in this city of contrasts, the good years of the auto industry helped power the undeniable revival of Detroit's downtown. So, too, has the unusual rapport between black city officials and the community's white business executives, who rarely live within the city limits. The outspoken Young, for example, does not hesitate in public to rib his good friend Henry Ford II. When the former Ford Motor Co. boss complained in a speech that the 73-story Detroit Plaza Hotel, the showpiece of the city's celebrated Renaissance Center complex along the waterfront, might be doing nicely in attracting conventions but was not producing enough "transient business." Young took a microphone to declare: "Hank the Deuce just told us we gotta start hot-sheetin' it at the hotel."

This close relationship between white and black leaders began as a community-wide reaction to the race riot of 1967, one of the worst in the Nation. A total of 33 blacks and ten whites died in the chaos, and the damage to property amounted to $80 million. Civic leaders formed an interracial group called New Detroit and worked hard to improve race relations, especially between black residents and a white-dominated police force. Three years later, Henry Ford led the formation of Detroit Renaissance, a group made up of chief executives of the major corporations in the city. This power elite had the financial clout to rebuild the downtown, which was so deserted after the riots that Young says: "You could have shot a cannon down any of the major thoroughfares at night and not hit anyone."

The redevelopment of the waterfront area has been economically successful, although critics differ over its aesthetic appeal. The main cluster of new buildings is the $350 million Renaissance Center, consisting of five glass towers containing office space and topped by the spectacular Detroit Plaza Hotel. The center has helped the city raise its conventional revenues from $56 million in 1970 to a projected $115 million this year. More than 90 percent of the center's office space is rented. Although the complex looks a bit like a mother ship from *Star Wars*—or perhaps because of the fact—visitors flock to its more than 20 restaurants and stylish boutiques.

While the grandest and gaudiest redevelopment has occurred downtown, Detroit has also built a number of privately owned housing projects around the city, including the remodeling of 125 houses and 175 apartments by General Motors Corp. near its headquarters three miles north of the downtown area. Obviously well intended by GM, the project is resented by many blacks, who fear that it will raise real estate values in the area until only affluent whites from the suburbs can afford to buy houses there. GM is planning to provide some subsidized housing.

General Motors Chairman Thomas Murphy discovered how quickly Detroit could respond when an auto company needs a lift. He told Young in June that GM's Cadillac division and the Fisher body plant that supplies it might have to leave Detroit in a search for more space. Within a week, the city assembled a land package of more than 500 acres in a deal with Hamtramck, a municipal enclave surrounded by Detroit. The plan will involve the razing of 1,500 homes and the relocation of churches, businesses—and even a cemetery.

Not all Detroiters, however, cheer all of the reconstruction that is going on in the city. To check decay, Young and other city officials have granted tax concessions to developers willing to build in the area, but they are criticized for doing so as city deficits grow. So far, however, most residents seem to agree with Bob McCabe, president of Detroit Renaissance, who defends Young: "This city is in a fight for its life. It needs to be competitive. You need tax abatements not to make developers rich but to make the developments possible."

A tougher challenge that constantly confronts Detroit's government is trying to improve the lives of the city's poor. About 60 per cent of Detroit's 1.2 million people are black, and about 80,000 have incomes below the poverty line. Some 300,000 are eligible for food stamps. Large sections of the city are 90 percent black, the public school system is 85 percent black; the students are up to two years below national standards. As in most major cities, unemployment figures for young blacks are astronomical: estimates range as high as 60 percent. Sources of racial resentment remain. Walter Douglas, the black who heads an organization that expedites new construction, points out that the privately operated Detroit Golf Club is in the middle of a predominantly black area, but has no black members. Says Douglas: "It's a damn shame."

Young has served his constituents well by leading a drive to expand black influence in the city. First elected in 1973 by a mere 12,000 votes (out of 250,000), he has helped blacks win six of the nine city council seats, including its presidency; a majority on the Wayne County board of supervisors, which sits in Detroit; and 16 of the 23 judgeships in the city's criminal courts. In addition, the deputy mayor, superintendent of schools and chief of police are black.

Young's pressure on the police department has been effective in two ways. By sharply increasing the percentage of black police officers (from 15 percent in 1974 to more than 40 percent), he has defused some of the emotional conflict between police and the black community. At the same time, the force has become more effective. In Young's first year in office, Detroit was known to headline writers as Murder City. Its 714 homicides constituted the highest per capita rate of any major U.S. city. Last year the murder toll was down to 451. Lesser crimes decreased too—so much so that other police departments have sent representatives to see what Detroit was doing right.

There are still muggings, of course, but downtown streets that were once an eerie no man's land after dark now come alive with normal night life, as the Republican delegates undoubtedly will discover. Detroiters tend to live it up to the lyric of an old Motown song: "By day we make the cars, by night we make the bars."

After years of decline, the city that produced such jazz greats as Kenney Burrell. Yusef Lateef and Joe Henderson is enjoying a resurgence in the music style. Unfortunately, rock and to a lesser extent soul have faded since the Detroit days in the '60s and '70s of Diana Ross, Stevie Wonder, Aretha Franklin, Gladys Knight and Alice Cooper. Detroit's main musical pride today is its highly respected symphony directed by Antal Dorati, 74, who has done for Detroit what he had achieved earlier for Dallas, Minneapolis and Washington.

Yet the beat to which Detroit moves remains, for better or worse, the rhythm of the assembly lines. The $45 million that Detroit merchants expect to ring up at the convention may inspire a few more "hallelujahs" in celebration of the city's revival, but it cannot affect the auto industry's deep-seated problems. Mayor Young remains optimistic—and defiant. "Detroit has always been a feisty city," he says. "We've known trouble, but we're not afraid to take it on."—By Ed Magnuson. Reported by Barrett Seaman/Detroit

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[From the Detroit News, July 15, 1980]

It's the Right Time for the Spotlight

(By Joe Falls)

Boston.—What a curious feeling.

You turn on the TV set and there is the Detroit skyline on the screen:

You look a little closer and there is Hart Plaza and Jefferson Avenue and the rising towers of the Ren-Cen.

Your first reaction is: "What are we doing on television?"

Then you find yourself smiling, feeling a strange sense of pride. Somebody is finally noticing us.

Detroit, Mich.

We really are the news capital of the world this week.

Thank you. Mr. Mayor. It's a nice feeling to be 700-miles from home and see our city in living color.

Sure, the streets may be dirty out near Jos. Campau, and maybe there's still some trash laying around on Brush and Beaubien.

But they've stopped showing these things. We are now seeing Detroit at its best—its vibrant, colorful, exciting best.

It's a fine feeling, sir. You ought to come here and see it for yourself.

It is also fair . . . because everybody has seen the other side of our city .

The fire and the smoke and those hard hats in the streets.

We've lived with that image for a long time.

It was 13 years ago, on that fateful Sunday afternoon in 1967, when the first telltale wisps of smoke appeared from out beyond the left field roof in Tiger Stadium.

One of the Yankee writers said, "Your city's on fire."

Somebody else laughed.

Naw. A city doesn't burn. What'd Horton do on the last pitch?

But the smoke billowed higher, until they were peering out back windows of the press box. Our city was burning and burning badly.

Now it is our time to show everybody there is more to Detroit than fire and smoke and helmets.

It is our turn to show them that there can be some glitter to Detroit.

Glitter . . . and hope and promise and, yes, even some prayers.

A lot of people still laugh at Detroit. A Boston sports writer named Steve Marantz took a shot at us in his Sunday paper. He was doing a piece on Richie Hebner, and he said the poor guy is trying to make his living in Detroit.

He said Detroit is a place where either people are dead or are waiting to be dead.

I don't know Steve Marantz. I've never bumped into him at a sports event. I just wonder if he realized what he was writing.

We've got a long way to go, but don't you have to start somewhere?

Detroit is trying to get started. We can only hope our comeback continues, until all the people in town this week come back to see us again, maybe in another 10 years, when there could be a sweep of civilization along the riverfront unlike anything this side of Chicago.

In the meantime, it is a kick to turn on your TV set and see John Chancellor talking to you from his NBC booth high atop Joe Louis Arena.

The arena is new to us, and it is far from perfect, but it is ours. It is fun to sit in your hotel room before going out to Fenway Park and watch the big TV stars do their stuff in Detroit.

You just hope they stop by Lafayette for a Coney Island light on the mustard, heavy on the onions. Or stop for a flaming cheese in Greektown.

If they want to show the trash piles, they can. If they want to show the empty auto plants, they can.

These things are real, and they are very hurtful. Nobody is proud of them.

The point is that these people visiting our town should have been around 10 years ago. There would have been nothing for them in the streets, not even safety.

Now there are a few things to do. A band to listen to, a pigeon to feed, an ice cream cone to lick.

Not much, maybe—not much at all when compared to a place like Boston, which is a great walking-around city.

Yet, what a delight it is to pick up the two Boston newspapers and see Detroit datelines plastered all over page one.

I wanted to kiss the Boston Globe for taking such a positive look at Detroit last Saturday, calling it not only the "Renaissance City" but a city which is simply trying.

It was left to CBS to show my favorite film clip on its morning show.

They showed my people pumping up the Detroit News hot-air balloon, while the commentator was extolling the efforts of the city to stage the Republican Convention.

He said, "But of course, not everything works out as planned," and almost on cue the big red and white balloon collapsed in a heap and the commentator concluded: "And that's how things are in Detroit."

I couldn't stop laughing.

I remember when I couldn't stop crying.

[From the Detroit News, July 15, 1980]

A Look at TV Boothmanship

(By Ben Brown)

You're a Detroit TV reporter with an eye on the next move up, maybe a job in New York or Los Angeles. Or maybe you just want a little professional acknowledgment, a pat on the back from someone more important than your mother's hairdresser.

So, here you are in Republican convention week, a week that belongs to Ronald Reagan and to the television news business. And in those broadcast trailers and booths in the adjoining downtown convention halls sit colleagues, idols and potential bosses—the very folks, in other words, who can make you beloved and rich.

Well, if you've watched the Detroit stations implant themselves in little "sky booths" in the Joe Louis Arena and then work through their first convention day, you already have a glimpse of the effect this wild context is likely to have on our local stars.

Channel 2's Robbie Timmons and Joe Glover are the least affected by their surroundings—too unaffected, in fact. They look as if they were sort of beamed down into their anchor chairs.

But superanchors Billy Bonds and Mort Crim are wonders to behold. Channel 7's Bonds—that fearless tyrant of Action News—has been genuinely transformed. I thought he'd been sedated for sure; but chances are he's just impressed, maybe even intimidated, by his surroundings.

Sharing host duties with Jim Herrington from a special section of the ABC News booth, Bonds worked against the NBC and CBS heavyweights yesterday morning for the opening session of the convention. At times, he turned away from the camera, mumbled quietly to the glass which separated him from the air above the arena, and looked for all the world as if he were considering a leap. I think the guy was actually feeling pangs of humility. Kinda gives you hope, doesn't it?

Crim and Channel 4, however, are in their glory. Suffering through two years of dismal news ratings and cranky attacks for not being Detroit enough—whatever that means—the station and its news department have discovered (or at least declared) their identity. So now, in a display of local boosterism that could make Coleman Young look like a slacker, Crim and company are celebrating the convention, the city, the future of industrial capitalism and life in general in Midwestern America.

The celebration is built into those slick news promotions that seem to air every 20 minutes or so, and it's formed the basis of two well-produced but vacuous convention specials. In the first special two Sundays ago, Crim announced the new mission: "It's image-making time for us in Detroit. . . . our big chance, if we don't blow it."

I'd rather hear that from city officials and the Chamber of Commerce, thank you—not from people who deliver the news.

To be fair, I have to admit that all this psyching up on Channel 4's part looks as if it will pay off. The station's expanded news—anchored partly on location in Joe Louis and partly in the studio—blew away the competition yesterday. But I still have this bad taste in my mouth.

If it was silly to criticize Channel 4 for its out-of-towner image—and I believe it was—isn't it just as silly (and phony) for the station to suddenly discover and celebrate its Detroitness?

Detroit Polishes Its Image—Delegates Came Carrying Mace But Left Smiling

(By Michael Dupont)

Dottie Young of Round Rock, Texas, packed away her Chem-Shield Mace gun and Katherine Moore's sister advised her in Show Low, Arizona to do the same.

They were delegates going to the Republican National Convention. They were unsure women going to Detroit.

Nearly 4,000 delegates carried that image to this week's convention: Detroit as tough, dangerous town. Rumors of citywide strikes, memories of fiery riots and tags of "Murder Capital, U.S.A." danced darkly in their heads.

By convention's end, the knowledge of Detroit they took home with them was something entirely different. The city's economy may not have boomed as much as merchants had hoped, but Detroit's image was soaring.

"It sounded like Detroit was an armed camp," recalled delegate Greg Leo of Portland, Ore.

"It's not so," the 28-year-old redhead firmly said. "It's like any other American big city, except the people are trying harder. There is a real can-do, helpful orientation about Detroit."

That can-do spirit enabled Iowa delegates to stage a lively welcome for George Bush at Wednesday's convention session. Hours before the session was to convene, Bush supporters lacked the shelf paper and markers necessary for their signwaving demonstration.

"We went into a Troy supermarket with a ridiculous request," recounted John Axel of Muscatine, Iowa, "and the manager and assistant bent over backwards to help us."

Supermarket employes picked through musty storerooms and dug under boxes to find sufficient quantities of the needed articles. The Iowans held their Bush celebration on schedule.

And the No. 1 concern of convention visitors never showed up. Not a single crime or violent act was committed against a delegate, Gerald Hale, chief of special operations for the convention police task force, reported Friday.

Hawaii's Allen Barr would not be surprised at that fact. He was already convinced Detroit police had done a superior job, with an attitude markedly different from the one he remembered as a boy growing up here.

"The police have been the tourist bureau for the city of Detroit," the Maui legislator offered. "Policemen could easily resent that, but they've been very courteous and helpful in answering even the most ridiculous questions."

"I have lingering wounds from run-ins with police here as a kid," Barr conceded. "But I'm impressed with their change of attitude. They've gone out of their way to put up with a lot of stuff."

Stuff like a Yippie sit-in on the Jefferson Avenue median near Cobo Hall or a Rock Against Reagan concert that turned violent at Clark Park. Both incidents were coolly handled by police officers with a minimum of force. Only 16 arrests were made.

While delegates were uniformly overwhelmed by the hospitality of Detroit, local businessmen were nowhere near as positive about their convention week experiences.

Detroit City Council members said Friday they had been fielding reports from merchants and restaurateurs complaining about poor sales during the GOP gathering.

"In talking with people, they seem to be disappointed," related Councilman Jack Kelly. "They were expecting big crowds, and they were wrong."

"The cabdrivers got a shafting," sneered Leonard Terry, spokesman for Checker Cab

Co. With 700 cabs, Checker operates Detroit's largest taxi fleet.

Councilman Clyde Cleveland took exception to the exaggerated hospitality fostered by the host committee. He said the bus transportation was "too good" and that there were too many free parties.

"It seems like all a Republican had to bring with him for the week was a $10 bill," Cleveland whined. "The rest of the time he could eat free."

No disagreement could be found among delegates on that point. Katrina Stone of Corpus Christi, Tex., enthused Wednesday that her convention highlight was "I haven't spent a dollar since I got here."

Yet, not all sellers suffered. In the downtown area, Emily's Across the Street was flooded with 5,000 customers a day.

"Business has been unbelievable," storeowner Emily Gail said excitedly. "Every customer who came in here left with a shopping bag full of stuff."

Out in the suburbs, Somerset Mall's business was booming. But it boomed for a reason.

"We aggressively pursued the delegates and it seems to have worked," said Brenda Green, spokeswoman for the mall in Troy. "The results I'm getting are generally pretty good and I haven't heard a single complaint."

Somerset merchants contracted for two 51-passenger busses to supplement the mall's own van in shuttling delegates from nine nearby hotels. All 43 stores pitched in items like soap, fragrances, discount coupons and gift certificates to fill a small shopping bag distributed to members of 12 state delegations.

It's that kind of attitude that keeps the customers coming back.

"The long-range benefits of having the convention in Detroit will be significant," said Diane Edgecomb, president of the Central Business District Association. "The image of Detroit has changed dramatically."

Ask Leo Whaley, a 44-year-old carpenter from Cohutta, Georgia. A delegate to both the Kansas City and Detroit conventions, he says there's really no comparison between the two.

"It's got Kansas City beat all to hell," he assured.

"People have gone out of their way here to be hospitable," Whaley said. "I'm really surprised because I thought we was coming up here to big problems."

"The cabdrivers got a shafting," sneered Leonard Terry, spokesman for Checker Cab Co. With 700 cabs, Checker operates Detroit's largest taxi fleet.

Terry said drivers felt "disgusted and abused" because the Civic Host Committee got their hopes up for big convention business that never materialized. Day after day, cabbies watched scores of busses ferry delegates between hotels and the Joe Louis Arena.

"They tell the drivers to put their best foot forward, that we're the ambassadors, but then we don't get nothing but a hard way to go," he lamented.

The Bob-Lo boat also fared badly during the convention's week long run. Company spokesman Chris Bueter said convention restrictions caused $400,000 in losses, as excursion boats sailed to Bob-Lo Island carrying far below capacity crowds.

After a devastatingly poor start, local restaurateurs recouped late in the week to achieve overall satisfying sales, according to a survey of 12 key Detroit eateries by the Michigan Restaurant Association.

"Business itself was spotty, but in almost every case it had improved by the end of the week," said Bob Moreillon, spokesman for the association.

The early-week slump was due to the glut of free meals provided to visitors, and heightened by the absence of regular customers wanting to avoid convention crowds, Moreillon explained.

[From U.S. News & World Report, July 14, 1980]

A SPIRITED GOP GEARS UP FOR ITS BIG SHOW

DETROIT.—Confident Republicans and eager Detroiters are all primed to formalize Ronald Reagan's presidential nomination in a fast-paced convention—one that is tailored to show off a party and a city both on the way back.

While the GOP prepares to put on a display of unity for 20,000 delegates, reporters and spectators—plus a vast TV audience—Detroit is determined to use the July 14–18 meeting to improve its own reputation across the country.

Often described as the world's largest one-industry town, the Motor City is counting on a smoothly functioning convention to bring in millions of dollars and help diversify, if only temporarily, an economy that rises and falls with automobile sales.

The only suspense in the script centers on the selection of Reagan's vice-presidential running mate. Still pondering that choice among eight finalists, Reagan says he will not reveal his decision until after his own nomination becomes official on July 16.

The preconvention mood is markedly upbeat among Republicans, who look to the November 4 election to wipe out any remaining political taint associated with the Watergate scandals of the 1970s.

GOP leaders claim things shape up so well that the party will have a real chance this fall to seriously challenge the Democrats for control of Congress as well as the Presidency.

Prospects for the White House race appear promising, at least in July. Reagan is running consistently ahead in the public-opinion polls against Democratic President Jimmy Carter and independent John Anderson by a margin as wide as 15 points in the latest CBS-New York Times survey.

The Republicans even have managed so far to avoid their customary election-year fight between conservatives and moderates. As one party official put it: "We are going to leave the infighting to the Democrats this year for a change."

SENSITIVE ISSUES

The only skirmishes at this convention are apt to come over adoption of the party platform on such delicate issues as the equal-rights amendment and abortion. But convention managers predict that, in the interests of party unity for the fall campaign, even those emotional controversies are not likely to get out of hand.

Instead of floor fights and angry debates, officials say, television cameras inside the city's new Joe Louis Arena will be focusing on 4,000 cheering delegates and alternates happily whooping it up for Reagan.

In fact, the convention schedule has been put together with viewers clearly given higher priority than the delegates. Explains one party planner: "The most important thing we can get out of our convention is TV coverage. Our own delegates are not the people we should be talking to; we want the TV audience."

Entertainment will share the spotlight with politics. With that goal in mind, the politicians, except for those making major addresses, have been asked to limit their speeches to a maximum of 8 minutes.

The party's stars—such as Reagan, his running mate, former President Gerald Ford and former Secretary of State Henry Kissinger—will speak during prime-time television hours. Verbatim reading of some dull committee reports will be eliminated to keep the program moving along and viewers at home awake.

IMPROVING ITS IMAGE

Detroit, a traditional Democratic stronghold hosting its first major political convention, is spending an estimated 2 million dollars in private and public money to clean up the city for the benefit of delegates, reporters and TV audiences. The convention budget itself comes to another 4.4 million, all of it in federal funds.

Aside from the long-term goal of improving the local image, the immediate returns are considerable. The 1976 Republican convention in Kansas City brought that community an estimated 37 million dollars. This year, Detroit officials anticipate that conventioneers will spend from 40 to 50 million in a local economy where the crucial auto industry is in the doldrums, overall unemployment is running 15 percent and joblessness among black youths ranges up to 55 percent.

Detroit also is hoping to shed any lingering image of a riot-scarred, crime-ridden city by demonstrating that it can compete effectively in the growth industry of attracting conventions. To that end, many merchants, restaurant operators and taxi drivers have pledged to refrain from gouging customers.

Coleman Young, the city's Democratic mayor, declares: "The entire world will see that Detroit, which once was declared dead, is indeed alive and well and has recovered from the maladies of our past."

Civic boosters contend that, despite its troubled past, Detroit has made major strides in the last decade. The city still has its slum areas, but also retains some attractive neighborhoods and is surrounded by suburbs ranging from modest to plush.

While crime remains a serious problem, officials say the rate of offenses has declined since the early 1970s, with particular improvement in the downtown area.

Urban blight, authorities acknowledge, is still troublesome but is being attacked through a multi-million-dollar rehabilitation program. A key part of that construction effort is the 357-million-dollar Renaissance Center—the Republican convention headquarters—a towering glass-and-steel complex built along the Detroit River.

Among other efforts being made to spruce up Detroit for the national convention:

Thirty-five derelict buildings have been demolished, and 50 others have been boarded up and painted. Abandoned cars have been towed from the downtown area and potholes repaired on streets and major freeways.

More than 10,000 shrubs and some $500,000 worth of ash, crab apple, locust, maple and evergreen trees have been planted along the John Lodge Freeway. City-park fountains, many of them dry for years, are spewing water again. Flags and bunting will decorate 400 downtown lampposts.

Visiting Republican delegates and other conventiongoers will be showered with attention and gifts. They will be assisted during the week by 3,000 local volunteers, ranging from homemakers to corporate executives, who will do chores such as answering telephones and chauffeuring VIP's.

Stores are planning special promotions for convention guests. Expensive celebrations—mostly paid for by passing the hat among private donors and area businesses executives—are being laid on for local helpers and revelers as well as visitors and the press in keeping with the convention slogan: "Detroit Loves a Good Party."

The Ford Motor Company and General Motors Corporation will offer free plant tours, although the assembly line at Ford's huge River Rouge operation will be shut down for the firm's annual model changeover.

Sums up Thomas A. Murphy, chairman of General Motors who also serves as head of the city's civic host committee for the convention: "The whole world will be watching us. The last time we had a chance for so much attention was in 1967 when, unfortunately, we had the riots."

Even amid the euphoria over hosting the convention, Detroit faces serious problems. The population has declined by some 250,000 since 1970. Latest reports disclose that white flight has continued to the point where blacks now make up 60 percent of the population.

In the best of times, the city has a history of labor tension. That tradition continued with the start of a strike in early July by more than one third of the city's municipal employes.

Local officials, too, are irked that one community group is offering GOP delegates a tour of the city's littered vacant lots and rat-infested tenements—an excursion billed as a visit to "the real Detroit."

THE RUSH FOR ROOMS

A lack of hotel rooms in the city has caused a scramble for accommodations stretching across the Detroit River into Canada and as far as Ann Arbor, an hour's drive away. Some 15,000 rooms have been allocated among 148 hotels and motels and nine university dormitories.

The Detroit convention offers special historical significance for the Republicans. The party held its first state-wide convention in 1854 in nearby Jackson, Mich. The all-male delegates assembled as Free Soilers, Free Democrats and Whigs, but left calling themselves Republicans.

The city was selected for the 1980 convention only after a three-year campaign and strong support from Bill Brock, the party chairman. Brock was anxious to symbolize the party's broadened appeal to black and urban voters by meeting in a heavily Democratic city in the industrial north, an area where many analysts predict the election might be settled.

Some Republican officials fought the selection, preferring Dallas instead. Other major convention bidders included New York, Miami Beach, Kansas City, Minneapolis and New Orleans.

An outspoken Republican moderate, Michigan's Governor William Milliken predicts that the convention "will emphasize that, just as Detroit is being rejuvenated, the Republican Party is being rejuvenated."

Detroit Polishes a Tarnished Image

Detroit officials have a special incentive to keep things peaceful at the Republican convention.

They are eager to convince the nation that the violent days of the 1967 riots are behind for good and that the label of "murder capital of the U.S.," hung on Detroit in the early 1970s, is long out of date.

More than 2,000 Detroit police officers, 160 Michigan state troopers, 80 Wayne County sheriff's deputies and squads of Secret Service agents will be on duty to insure peace and order. Price tag: About 6 million dollars, including a 3.5-million federal grant.

Officers will be watching the water as well as the city's expressways and streets. The Coast Guard and customs agents from both the U.S. and Canada will patrol the heavily traveled Detroit River that flows past the convention complex.

AREAS SECURED

A guarded 3-foot-high metal barricade will seal off the four-block area surrounding Cobo Hall and Joe Louis Arena, the main convention facilities, to all except those wearing proper credentials. The downtown area and convention hotels will be secured by officers on foot, in cars and on horseback.

Five closed-circuit-TV cameras will be positioned on building rooftops for surveillance of pedestrian and auto traffic. Scanning devices will be used at convention entrances to detect any concealed weapons or explosives. Specially trained dogs will prowl the area sniffing for any bombs the scanners may have missed.

Demonstrators will be restricted to Kennedy Square, an area several blocks from convention headquarters in the Renaissance Center. One protest group called Citizens Reacting to a Sick Society (CRASS) has been issued a permit for a "Rock Against Reagan" concert. A local chapter of the Irish National Caucus has a permit to protest "injustices" to the Catholic minority in Northern Ireland.

Said a police spokesman, with a concerned eye on Detroit's reputation: "So far, it looks like it will be very peaceful."

The Private Sector

(By Oscar Frenette and Hal Youngblood)

Americans are a pushover for an underdog. We adore it when the skinny, ugly kid is the one who gets the girl in the last reel of the picture. We're big on "come-from-behind" stories, too. Give us touchdowns in the final seconds of the fourth quarter, eleventh-inning home runs, and a long-shot filly galloping down the home stretch for a photo-finish win! Those are as American as apple pie and mother-in-law jokes.

We also believe in Horatio Alger, "pulling ourselves up by our own bootstraps," and "giving credit where credit is due."

String all of these together, and they spell Detroit, Michigan, circa 1980, a great, all-American, they-said-it-couldn't-be-done story of this decade.

Detroit calls itself Renaissance City, with justifiable pride and good cause. What with its "billion-dollar look" in new downtown construction, a mind-boggling Medical Center in the final stages of completion, a brand-new sports palace—The Joe Louis Arena, new apartments and condominiums rising in the heart of the city, and a promised downtown mall to complement the dazzling $350 million Renaissance Center. Detroit has a lot going for it!

As recently as 1970, Detroit was a city in deep trouble, still haunted by the ghost of the 1967 riot, plagued by sharp racial division, blighted by widespread urban decay, reeling from continuing population and industry losses, brutalized by street crimes, and throttled by an ever-shrinking tax base.

So, what happened in Detroit to so dramatically reverse the city's fortunes? Perhaps an attitude change by Detroiters, themselves, that is the opinion of Robert E. McCabe. President of Detroit Renaissance, Inc. a coalition of blue-chip corporate and big business leaders put together in 1970 to spearhead Detroit's drive for a comeback campaign. Says McCabe, "No one was sure that this thing, this coalition of big names was the answer. In fact, lots of people in this town didn't think that the big names, names as big as Henry Ford, were serious about doing something for this town. It took that private real estate development, the Renaissance Center, built by a group of 51 corporations, to convince some of them.

McCabe's views underscore the opinion held locally that the great awakening and resulting commitment by Detroit's private sector have made the real difference in Detroit's recovery bid. Increasingly, urban planners from other parts of the country are finding their way to Detroit looking for a role model in developing this kind of commitment.

It must be noted that the marshalling of resources from the private sector was aided by a massive flow of federal dollars siphoned into the recovery mainstream by Detroit's politically savvy, black Mayor, Coleman Young.

Young has proved to be an astute leader, involving every segment of Detroit, particularly big business. Young has used his early support of, and close association with, Jimmy Carter to wrench every penny available out of Washington. Young's willingness to work hand-in-glove with Detroit's corporate hierarchy has given him a solid reputation with them as "the best of all possible mayors."

Similarly, the Mayor's longstanding ties with Detroit's labor establishment—he was once an organizer for the U.A.W.—and his symbiotic relationship with Michigan's pragmatic governor, William G. Milliken, enables him to "draw on those political accounts" as he needs to. The bottom line is that Detroit has benefitted greatly from having the right mayor at the right time.

As the GOP delegates and the platoons of other convention supernumeraries arrive in Detroit two weeks hence, the most visible statement of Detroit's recovery will be The Renaissance Center, a gleaming, "Crystal-city" complex of office towers, shops, restaurants, clubs, theaters, and the world's tallest hotel—Western International's Detroit Plaza—which will serve as headquarters for the convention.

"The Ren Cen," as the locals call it, towers over the rest of Detroit's orthodox skyline like a visitor from outer space, an architectural precursor of the Twenty-first Century. This is, of course, precisely the effect that Detroit's mentors had hoped the Center would project: a tangible enunciation that Detroit is alive, well, and headed into the next century right now.

It is likely that the delegates will be impressed with Renaissance Center: most have been. If nothing else, its scale and proportions are staggering. The five glittering towers contain two million feet of glass, over 11 thousand windows with two acres of skylights hovering over ringed levels of boutiques, shops, 20 restaurants and lounges, movie theaters, a small legitimate theater now and even roving pushcart vendors. It is, in fact, an enclosed city-within-a-city. While the story may be somewhat apocryphal, it is said that world traveler-explorer Lowell Thomas got lost in the labyrinthine levels of the Center last year. Some have suggested that Stanley might not have found Livingstons had he been at large in Renaissance Center.

In the present four 39-story office towers, 95 percent of the space is leased and 91 percent is already occupied by 186 companies, employing more than 12 thousand people.

Occupying 33 acres of Detroit's waterfront, which was previously an area of terminal blight—empty warehouses, unpaved parking lots, an aging flour mill, a rail yard, and a shabby, 13-block industrial zone—the futuristic Center has given back much of the glamor and pizzaz that Detroit's downtown core had lost in recent years. Approached from any direction, Renaissance Center looks like nothing so much as a scene out of the "Wizard of Oz"—the city at the end of the yellow brick road!

Renaissance Center is backed by a 31-member industrial partnership and was the largest private investment group ever assembled in the United States for a major real estate development. The permanent first mortgage loan of $200 million is alleged to be the largest ever made for a single private real estate deal of this kind and the construction loan of $200 million, backed by a consortium of 28 banks, including six banks in Detroit, is believed to be the largest ever for a project of this type in the U.S.

Not only has Renaissance Center had a profound effect on Detroit from an aesthetic point of view, it has already pumped as much as one billion dollars into the city's economy, triggered record convention business, served as a much-needed catalyst for additional new construction and renovation downtown, brought new jobs into the core city, and increased property values both in downtown Detroit and throughout the metropolitan area.

"Make no mistake about it, it was Mr. Ford's program from the start," that from Wayne Doran, Chairman of the Ford Motor Land Development Corporation, a subsidiary of Ford Motor Company, which is the managing general partner that developed and built Ren Cen. "He conceived it and stayed with it from the initial planning stage to the ribboncutting."

Continues Doran, "The detractors, and there were some at the beginning, said that Renaissance Center would bleed the rest of downtown to death but that just hasn't happened. In fact, the reverse is true. We've served as a magnet for all of downtown."

About his boss, Doran says, "Mr. Ford was amazing! When he began talking to Portman (the Atlanta-based architect and developer who designed Peachtree Center and Renaissance Center, among others), he had to go look at everything that Portman had done to date to see if it would be good enough. This whole project was a labor of love for him."

Ford clout notwithstanding, the project was beyond one man. Nor, according to Doran, did Mr. Ford want the Center to be a memorial to himself. "A personal statement of his belief in Detroit, yes! A Henry Ford memorial, no In fact," say Doran, "he refused to consider naming the project Ford Center."

In lining up support for his dream, Ford had to use the full weight of his considerable prestige and power in Detroit. Doran recalls his foray into General Motors. "It was something that only Mr. Ford could have done. He called Mr. Gerstenberg, who was chairman of General Motors Board then, and told him that he wanted about forty-five minutes or so of his time. What he got was three hours! That was the day after Labor Day, 1972. And we had to sweat out a decision from the GM people until just before Christmas.

"When Mr. Gerstenberg told Mr. Ford that GM was going to come in with us, Mr. Ford said it was the best Christmas present he'd ever had!" Doran recounted.

The Ford salesmanship didn't stop at GM. "The Deuce," as the industry insiders like to call Ford, called on Lynn Townsend at Chrysyer and persuaded him to make a commitment for $1.5 million from that company. At American Motors, Ford got still another half-million, even though American Motors presence in Detroit consists only of their headquarters office tower in surburban Southfield.

Former board chairman Roy Chapin acknowledged. "In the end, our investment in this was a psychological and emotional compulsion to be part of this because we are part of Detroit."

It is quite possible that the impact of Renaissance Center on Detroit is as much psychological as it is physical. Walter "Buzz" Luttrell, community affairs director for WXYZ-TV, sums up a view held by many of Detroit's black business community. "The Ren Cen was the first glimmer of hope that I saw that somebody was really going to do something for this town: I mean, really spending enough money to get the job done right. If nothing else, the numbers, the amount spent on this place, had to be impressive. We needed a symbol of hope and progress in this town and we got one. But our biggest challenge lies ahead, holding onto our recent gains through uncertain economic times."

Among the marquee names of Detroit's renaissance is that of financier-industrialist, Max Fisher. Head of the earliest and most successful United Jewish Appeal, he has, through his connections in high finance and high government circles, become a friend to and confidant of presidents and prime ministers. Fisher has earned the sobriquet, The Dean of Detroit.

Predictably, Fisher was among the first summoned by then Governor George Romney to an emergency session at Detroit City Hall during the first frightening hours of the Detroit riots in 1967. Fisher remembers that first call.

"The fires weren't out yet," said Fisher. "I got this call from George Romney, then one from Mayor Cavanagh. They asked me to meet with them, because we had to do something to save this town. They didn't have to tell me that. I could see as many as fifty fires burning at one time right from my office window."

Even before those fires were out, Fisher and the others summoned by Romney and Cavanagh would meet to form the nucleus of an organization that grew into New Detroit, Inc., Detroit's first urban coalition to study its political and social problems. It was composed of people from every walk of city and suburban life—from government, the private sector, minority groups, street people, church leaders, labor leaders, civic and block clubs.

Though a septagenarian, Fisher is indefatigable and is still working for Detroit. Currently, he is chairman of Detroit Renaissance, Inc., and in association with real estate and shopping center developer, A. Alfred Taubman, is moving toward development of what Detroit needs most to realize final revitalization of the city—housing. Says Fisher, "You can't have a great city without great people living in it. Frankly, this is the project that's dearest to my heart right now."

Just as Renaissance Center was Henry's "baby," Max's "baby" will be a development called Riverfront West, in which Taubman is also involved. This will lie to the west of the Joe Louis Arena. When completed, it will consist of 2,500 housing units.

This project, along with the Washington Boulevard Apartment Tower, already under construction, and other housing units going up on Detroit's East Side, close to the Medical Center and New Center area, should dramatically boost the retail, restaurant, entertainment and cultural milieu of the central city. Optimists hope that such projects may lead to a beginning-of-the-end of the flight to the suburbs.

While housing developments in and around the central core of the city hold out much promise for better days ahead, brightening the downtown Detroit retail scene remains an unrealized dream.

The J. L. Hudson Company has maintained a presence downtown with its aging 24-story flagship store, in the face of diminishing profits. It is the last of the old-line glamor dapartment stores left in the once-bustling Woodward Avenue corridor. Hudson's has watched the lights go out and the wrecking ball swing against Kern's and Crowley Milner's, the other two big retail grand dames. Saks Fifth Avenue's in-town store followed its customers to the suburban malls this past year. Now, Hudson's has announced that its downtown store faces a 1983 execution date.

However, to fill this void, the Taubman Company is participating in the final developmental process of an urban shopping center called Cadillac Mall, estimated to cost $238 million. The plan, involving both public and private interests, would include a new Hudson store built, ironically, on the site of the old Kern's block. Currently, the project is stalled for the want of two other major retailers to join Hudson's to form a solid-base for the rest of the development.

Commenting on Hudson's future downtown, Hudson's chairman, merchant prince J. L. Hudson, Jr., says: "This town has shown remarkable resiliency in the past and I'm sure that, despite the current slump in retail sales, Detroit will come back and we'll find a way to build a downtown mall."

Youthful-appearing Mr. Hudson is no stranger to adversity in his city. He, too, was one of the civic leaders summoned by Governor Romney and Mayor Cavanagh to that hastily-called, initial meeting of the group destined to become New Detroit, Inc. Hudson was part of the shouting matches that all of the New Detroit members had to endure in those early months of existence. Hudson is also a member of Detroit Renaissance, Inc. and has kept himself and his store in the forefront of local recovery efforts. The Hudson Company still stages its annual Thanksgiving Day Parade downtown (second only to Macy's) and, with The Stroh Brewery of Detroit, underwrites one of the biggest fireworks displays in the nation, as part of Detroit's annual Fourth of July Freedom Festival. Mr. Hudson echoes a sentiment advanced more and more frequently in Detroit these days. "Detroit has been up against the wall before and come back. This current economic crunch isn't going to help us any but it isn't going to stop this town either."

One of the places that the pulse of America can be taken is Detroit. Its vital signs are often indicators of the health of the national economy and the mood of consumers.

The future of the country may not depend upon Detroit but the city is one barometer, one harbinger, and a careful look may offer the possibility of a prognosis for the nation. Perhaps the blueprint developing in Detroit suggests a pattern for a new era in the evolution of the American system.

Detroit suffered a complete breakdown in the summer of 1967 which brought disaster that required national troops to constrain. The trauma may have been predictable: there was deep internal conflict and a history of highs and lows going back more than half a century.

In the beginning everyone thought it had been caused by organized insurrectionists. Someone or something has to be responsible. It took time before the city came to the realization that it could blame only itself.

Detroit then tried to come to terms with itself. Leaders in business and industry, the labor unions, the government, education, religion and the grass roots community, who saw each other as the enemy, who could barely tolerate one another, forced themselves to sit together and talk. The ranting gradually subsided into barely civil conversation until, almost imperceptibly, there grew a measure of trust. The finger-pointing and fault-finding gave way to tolerance and understanding and eventually matured into a measure of respect and even affection.

Even before the riot, Detroit was bleeding. In the early fifties one of the nation's first suburban shopping centers was built at Northland, followed by people and jobs from central city.

Detroit was the first city to build freeways to speed circulation to the suburbs. By the mid sixties, the city's tax base had eroded seriously and this condition coincided with a dramatic increase in the black population. Blacks were approaching a majority when the conflagration struck in 1967 and many saw racism or racial conflict as the sole cause of the whole unhealthy situation, despite the fact that there were sound economic reasons for business and industry to pull out of the central city: outdated facilities, need for expansion, availability of land, modes of merchandising as well as the rising crime rate and security problems and parking and taxes. The encroaching decay of neighborhoods also chased people out.

Corporate leaders, almost to a man, credit Coleman Young for the rapport that has developed between the public and the private sectors.

The economic power in Detroit remains mostly white and the political power mostly black. That these two could harmonize seemed pretty far-fetched a few years ago. And to think that they could embrace union leaders and minority grass roots people to form a quartet was considered pure fiction.

And when Coleman Young, the Mayor of Detroit, backed by the coalition of those forces, talks about renaissance, you get the feeling that he is not just whistling in the dark.

New Detroit, Inc., the private-public coalition was created in the late 1960s to tackle political and social problems of the city: discrimination, crime and law enforcement, education, neighborhoods, housing, institutions, etc. Later Mayor Young asked two of its active members, James Roche and Lynn Townsend (former chairmen at GM and Chrysler respectively) to look into Detroit's income and expenditures, with the specific objectives of creating jobs and improving the city's tax base, and to make recommendations. They recommended that a permanent organization for economic development be established, known as the Detroit Economic Growth Corporation (DEGC).

"DEGC today involves the elected officials, the business community, organized labor and grass roots community leaders," notes Arthur Seder, chairman of American Natural Resources Company and chairman of the Executive Committee of DEGC.

The DEGC can assist business and industry where a government agency might be suspect. Because it has the respect of the business community, DEGC knows the buttons to push and the levers to pull. In some cases, DEGC actually helps administer government grants and uses them as leverage for private investment.

Tools and financial incentives which have been used by other areas to attract industry: tax abatement, tax-free industrial revenue bonds, development authorities, real estate and financial packaging services, employee training all are being used to hold on to what jobs are in Detroit and to meet the competition from the Sun belt states and suburban industrial parts.

Private sector involvement is absolutely essential to the redevelopment of the city of Detroit," said James Roche. "We are fortunate in being one of the pioneers of this approach. If we can't do it in Detroit, it can't be done."

The other three legs of the coalition felt equally about their involvement.

BUSINESS PEOPLE HAVE A RESPONSIBILITY

Tom Murphy is the most outspoken and accessible GM chairman in recent years. He's made some 300 speeches since 1975, addressing groups throughout the U.S. and from Sweden to Australia.

"Yes, the coalition of people working together is the key . . . and the willingness to take a risk, that's what brought us from a wilderness to where we are today. Our forefathers took a risk just in the trip to come here.

"Today we face a No-Grow situation only if we are willing to accept it. We don't have to settle for this. We have more technology and the means to keep growing, if we're willing to take a fraction of the risk that our forefathers took!

"We need to consider the future generations. The risks involved are not that great if put in the proper perspective. Take nuclear energy for example. At this stage we know more about that kind of energy than we have ever known about any other kind of energy at the equivalent stage of development. Think of when man first started using fire!

"And think of gasoline. If it were just being proposed today as a source of energy, with the prevailing attitude of some people, why, we'd never use it.

"The coalition approach should apply at the national level—it's taken a long time for the media to notice the coming together in Detroit—whether we're talking city, nation or planet.

"In addition to chambers of commerce, we must have chambers of government, press conferences in addition to business conferences, and town meetings in addition to sales meetings. We must be competitive in the marketplace of ideas.

"This is a marketplace that business has long neglected—a marketplace of participatory democracy, marketplace of civic action. And I feel this is the reason why our top executives must involve themselves. People respond best to other people—not to impersonal 'things' like a corporation. So if they are to compete effectively in the idea market, business leaders must also be public figures.

"Business is involved in almost every major issue confronting our country today; employment, equality, ecology, energy, economic growth. Some of these issues are being handled effectively, others are not.

"The whole point is that the objective of business, no less than that of government, must be the public's interest."

One of the hard realities facing Detroit's bid for a solid, long-term comeback is its reliance on the auto industry and its satellites to act as the city's breadwinner. Despite efforts by city and state agencies and scouting teams from the private sector to court other engineering-based industries-Detroit remains deeply dependent upon cars to keep itself rolling.

In recent months, local unemployment rolls have swelled from blows inflicted by the auto industry's deepening slump and the worst may be yet to come.

Curiously, one island of stability in the very heart of Detroit—and one which points to a possibility for more broad-based industries as an answer to the boom-bust cycle—also happens to be one of Detroit's oldest big-name companies: Burroughs Corporation.

In 1966, Burrough officials had a hard choice to make; with other industries fleeing Detroit for outlying industrial parks, should they not do the same. According to Burroughs Board Chairman, Paul Mirabito. The decision to remain in Detroit was made before the 1967 riot and despite that devastating event, we decided to stay where we were and go ahead with plans to build our world headquarters here where our plant and offices have been since 1904. We thought it made sense then, and we know it worked out that way.

What Burroughs did was to strip the old factory structure (designed by the famous architect, Albert Kahn) to the steel skeleton—then, build a sleek, modern concrete headquarters building over those bare bones. The effect was that an area around Burroughs called New Center was given new life and vitality, and efforts by General Motors and the new owners of The Fisher Building to shore up Detroit's mid-town were given an enormous boost.

The Detroit coalitions cut across political, economic, racial and social lines and the results are sometimes surprising. For instance:

GM was one of four corporate contributors in the purchase of an out-of-business motel in midtown Detroit which was given to Henry Ford Hospital.

When a Woolworth store was going to close downtown, chairman of K-Mart, Robert E. Dewar, was helpful in convincing Woolworth's chairman, Edward F. Gibbons, to stay put.

When a famous old downtown hotel was closing for lack of business, it took only four days for the Detroit Economic Growth Corporation to take it over.

Privately owned parks within the grounds of GM headquarters are maintained by the company for use by the public.

GM bought 125 homes and 175 apartment units in a six-block area in the center of the city and is upgrading this neighborhood working with government agencies at all levels. The project has national significance because, if successful, it could be done in other cities across the country where GM has plants. The objective is to make it economically feasible for small developers to continue the process of rebuilding a city—a new kind of urban renovation partnership which is preserving as much of the old as possible.

The new shuttle bus service that runs between the Cultural Center and New Center in midtown Detroit is the first system to be 50 per cent financed by the private sector.

Again, candidly, not only has Detroit's industrial base, its very livelihood, been under assault from Sun Belt raiders, but its pool of highly skilled and trained workers have been courted and lured south and westward. Further, a notion that Detroit's labor force is less productive and more costly than those in other parts of the country, has become something of a business cliche. Nothing could be further from the truth," says United Auto Workers International President, Douglas Fraser. The fact is, Detroit still has the largest and, overall, most productive labor force anywhere. You simply can't have the tradition and background that this town's worker has without having a solid, productive worker on the job. Anybody who wants to build anything, especially anything to do with a machine, and have it built efficiently . . . is smart to do it here. This town put the world on wheels and helped this country to win two world wars! How much proof do you need?

Detroit is sports mad: it's a marvelous lunacy bred-and-fed by such legends as "The Production Line" of The Red Wings Hockey Club's glory days and "The Fearsome Foursome" when The Detroit Lions made The Central Division truly black-and-blue. Names like Ty Cobb, Doak Walker, Gordie Howe, Al Kaline, and the star-crossed Denny McLain did Detroit proud.

It is, of course, no secret that Detroit's sports fortunes have fallen on the hardest of times in recent years, or that the town once called The City of Champions may be earning a new sobriquet. The City of Losers.

Still, there are bright spots. Red Wing fans are flocking to the brand-new Joe Louis Arena on the riverfront, despite that team's desultory performance. The Detroit Lions generally fill the futuristic Silverdome in Pontiac, thirty miles away, for the big games, withstanding their wretched 2-and-14 season last year, and The Silverdome (considered by many stadia experts to be the best covered football palace in the country) will host the 1982 Super Bowl. Even the local North American Soccer League franchise, The Express, does passably well in attendance, while the venerable, much-loved Detroit Tigers continue to draw heavily in the newly-refurbished Tiger Stadium, while "Sparky" Anderson works to bring his young team up to speed.

While smarting from the sting of disastrous seasons, like that of The Pistons (the worst ever for them and the worst in the NBA), the true-blue Detroiter never seems to lose hope, and talks endlessly about past glories. Few of those rival the come-from-behind win of the 1968 World Series by The Tigers, an event which many Detroit community leaders at the time credited with having saved Detroit from another "long, hot summer of '67."

Quite possibly, the best assessment of Detroit's sports fanaticism comes from the city's number one devotee and radio personality, WJR's J. P. McCarthy, who whimsically noted, "If there were a frisbee or tiddlywinks franchise available Detroit would have it, fill a stadium to watch it, this radio station would carry it play-by-play, and the team would probably be last in its division."

Since the days of the Tin Lizzie and even before. Detroiters suffered under the lash of a traditional view of their city as nothing more than a "blue-collar, lunchbucket, beer-and-pretzel town." While that was never really true, notions like that die hard.

However, Detroit is gaining a new reputation these days: that of a major cultural center. At least two of Detroit's major cultural organizations are approaching world class status.

Under the direction of Maestro Antal Dorati, The Detroit Symphony Orchestra crashed through a barrier that had denied the orchestra a recording contract in over 17 years. A consortium of Detroit-based corporations underwrote more than $300,000 to help finance an eight-nation European tour for the Symphony last year. Without exception, the orchestra drew rave notices from critics in Europe.

Since coming to Detroit three years ago, Dorati has staged three major international festivals. The first one, a Beethoven Festival, became a nine-part series aired nationally on PBS. Predictably, these musical spectaculars have heightened interest and attention of the Detroit corporate sector. According to Peter Remington, Director of Development, "The Detroit Symphony Orchestra ranks second in corporate support among the major American symphony orchestras and it continues to grow at an unprecedented rate."

With the help of Detroit Renaissance, Inc., almost half of the orchestra's annual maintenance fund, some $750,000 in 1979, was contributed by area businesses. The Ford Motor Company Fund singlehandedly provided the $325,000 to televise nationally the Beethoven Festival.

The Detroit Institute of Arts (DIA) has been, traditionally, well-supported by Detroit's cultural community. Generally considered one of the top museums in the country, DIA is currently in the third year of a five-year plan to upgrade the gallery to world class status.

The Detroit Repertory Company, located in the very heart of Detroit's central black community, has used matching funds from the government, businesses who share inner-city concerns, and the Michigan Council of Arts to grow and upgrade the caliber of its productions.

Currently in the planning stage is a project to recreate Shakespeare's Globe Theater on Detroit's upper-riverfront area. Wayne State University's Theater Department, one of the most active and vital in the country, has engaged British Shakespearean scholar, C. Walter Hodges, to head the ambitious project. Wayne Theater head, Leonard Leone, says, "We are counting on the local private sector to lead the way in realizing this important effort for Detroit. They've come through for us before—and I'm sure they'll find creative ways to help us with this magnificent dream."

The serious problem lying ahead of Detroit's widespread and far-ranging cultural community is, certainly, not a lack of audiences or emotional support; certainly, not a lack of willingness on the part of the private sector; or even the aficionado to support them. It is, rather, the large demand from the groups on the available dollars.

The larger the company, of course, the more requests it receives for support. Last year, Ford Motor Company and the Ford Company Fund, received about 8,000 requests for grants and subsidies. They were able to respond affirmatively to nearly two thousand.

Detroit likes calling itself The Renaissance City. The City of the Eighties and, candidly stated, that takes guts, what with the ever-darkening storm clouds on the economic horizon. But then, Detroit never lacked courage. Detroit also feels, justifiably, that it has written a book on urban recovery through coalition—bringing government, business, and labor into a closer working relationship with one another, and the community as a whole.

Nobody in Detroit seriously believes he's living in the land of Oz," or that tough times aren't ahead for a city so vulnerable to economic and social turbulence; everybody has his seat belt fastened. But, the mechanisms that stamped out a shiny new image for Detroit are in place—and working! And if there's anything dear to the heart of America's motor capital—it's a shiny new model to show off.

WELCOME IOWA CITY CABLE SUBSCRIBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. LEACH) is recognized for 5 minutes.

Mr. LEACH of Iowa. Mr. Speaker, I would like briefly to take this opportunity to welcome some new faces to the House gallery. Through the phenomenon of cable television, approximately 30,000 citizens of Iowa City, University Heights, and Coralville are now able to watch House proceedings. Hopefully, C-Span's broadcast of congressional activities will diminish geographical barriers and bring people closer to the legislative process by bringing the legislative process into the homes of the people. Because of the intricacies of floor procedures, a committee of the House has put together an excellent pamphlet explaining how laws are made and how the Congress functions. Anyone wishing a copy of this pamphlet may get it by simply writing to me: Representative JIM LEACH, U.S. Capitol, Washington, D.C. Welcome again to all the new Hawkeye cablevision subscribers from Iowa City, University Heights, and Coralville.

LEGISLATION TO IMPROVE THE MANAGEMENT OF THE NATIONAL FORESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, I am today introducing legislation which incorporates two suggestions put forward by the administration for improving the administration of the National Forest System.

The bill I am introducing today would amend two public laws that bear upon the exchange and withdrawal of lands in the National Forest System.

Subparagraph (1) would amend the act of July 8, 1943 (57 Stat. 388, as amended; 7 U.S.C. 2253) by extending the authority of the Secretary of Agriculture to provide a quitclaim deed to interests erroneously acquired by the United States when an exchange involves public domain land or resources. Interests of a private party who was not a proponent in an exchange of public domain may be acquired through error or inadvertent action. Since land acquired in exchange for public domain land or resources has been held to acquire the same status as the land or resources used in its acquisition, any erroneously acquired interest presently is not subject to disposal under the act of July 8, 1943 (57 Stat. 388, as amended; 7 U.S.C. 2253). There is presently no way for the Department of Agriculture to clear an erroneously acquired interest in land of a third party. The landowner must seek private legislation or judicial relief.

Subparagraph (2) amends section 24 of the Federal Power Act of 1920, as amended (41 Stat. 1075, as amended; 16 U.S.C. 818), to provide that any lands of the United States, reserved from entry, location, or other disposal as a result of a filing of an application for a proposed power project under provisions of this act, would be returned to their former status if no license application or new preliminary permit has been filed within 5 years after the expiration date of a preliminary permit granted by the Federal Energy Regulatory Commission or after a denial of a preliminary permit by the Commission.

The Secretary of Agriculture or the Secretary of the Interior would be required to notify the Commission of their intention to restore the reserved lands to their former status. The Commission would have 60 days to respond to the Secretary's notice before the restoration became final and the public land records were changed. The present language provides that these lands once such a filing for a proposed power project is made, will remain withdrawn until restored by specific action of the Commission regardless of whether the project is ever built.

Several hundred withdrawals exist on National Forest System lands. Management of these lands is impaired by this restriction. Resource development or land exchange cannot occur unless and until the Commission acts. This proposed amendment will have the effect of continuing in force any withdrawals on constructed projects but, in the case of lands withdrawn after enactment, will cause the restoration of lands where no project materializes. This proposal has been concurred in by the Department of the Interior.

The proposed amendments would not require additional outlays by the Federal Government. Savings to the Government should result in each case due to reduced administrative costs.●

BRINGING THE SEC UNDER THE FINANCIAL PRIVACY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, today, in cooperation with several of my colleagues, I am introducing legislation which will bring the Securities and Exchange Commission (SEC) under the provisions of the Right to Financial Privacy Act of 1978. This bill will provide our citizens with protections against potential misuse of SEC subpena authority comparable to the protections they now enjoy regarding other Government requests for bank records.

I say comparable, because the legislation is different in three important ways from the Right to Financial Privacy Act. The differences are all contained in the new provision of the bill which provides for delayed notice to the customer of an SEC subpena.

First, the delay of notice provision expressly outlines the statutory provisions which make an SEC request for bank records legitimate and appropriate.

Second, the delay of notice provision defines more explicitly than the Right to Financial Privacy Act those circumstances which might clearly jeopardize an investigation and thus justify delayed notice to the customer.

Third, like the statutory restrictions on the Internal Revenue Service, the bill permits the SEC to transfer information obtained through its subpena power to the Department of Justice without notice to the customer identified in the information for limited purposes. Such transfer is permitted only for an investigation by the Department which is directly related to the investigation by the SEC. If the Department wants to use the information for any other purpose, it must notify the customer or seek a delay as provided for in the Right to Financial Privacy Act.

The legislation was drafted in consultation with the SEC and other interested parties; and, the Commission fully supports the legislation.

Because the current provision of the Right to Financial Privacy Act which exempts the SEC from the act expires in November, I urge the most rapid attention to this legislation. We must act to insure that the transition to coverage of the SEC by the law is smooth and disrupts the activities of the Commission as little as possible, while assuring adequate protections for the interests of the individual. I believe that this legislation achieves those goals. I look forward to its timely consideration and passage into law.●

FREE VLADIMIR KISLIK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PORTER) is recognized for 20 minutes.

Mr. PORTER. Mr. Speaker, the continual inhuman treatment and persecution of Vladimir Kislik, a Jewish refusenik in the U.S.S.R., are grave violations of the cause of human rights that all Americans support.

Since Vladimir Kislik first applied to emigrate to Israel in 1973, he has been subjected to constant harassment.

Mr. Kislik has been separated from his family since 1973 when his wife, Yevgenia, and son, Maxim, were allowed to leave for Israel. At this time, Kislik was given the impression that he would soon be allowed to follow.

Kislik was a distinguished scientist at the Kiev Institute of Nuclear Research, and has had much scientific and popular literature published. Since the denial of his 1973 visa application, Kislik has not worked in the scientific field in any capacity, and has been able to find only menial jobs.

In 1974 Kislik was forcibly prevented from traveling to Moscow to meet with American Senators and Congressmen and, in that same year, was the victim of a brutal beating which the KGB refused to investigate.

Kislik was told officially in early 1975 that he would not be allowed to emigrate for at least another 5 years.

In May 1976 Kislik's phone was disconnected after he had spoken to his wife in Israel. After being warned by police to discontinue the scientific seminars which he organized, he was arrested and severely beaten by KGB officers.

Vladimir Kislik and six other refuseniks declared a 5-day hunger strike in 1977 to protest not receiving replies or even reasons for refusal to their visa applications.

Kislik was prevented from going to Moscow to attend a scientific symposium in 1979. Later in the year, he was one of a group of refuseniks arrested outside the Kiev OVIR office and detained for several hours.

Just recently, Mr. Kislik was again detained by Soviet authorities for a period of 15 days. Upon notification of a second 15-day detention, he initiated a hunger strike in protest. Due to his protest, Kislik was forcibly committed to a mental institution where he remains at this time.

Kislik has been accused of being a traitor, an Israeli spy, an agent working for foreign hostile countries, a black marketeer and swindler, and most recently, an idler avoiding work.

Mr. Kislik has no psychological or neurological disorders. Yet, he has been committed to a mental institution to prevent any more of his "anti-Soviet" activities, particularly during the Olympic games in Moscow. Kislik's commitment to the institution is his punishment; Kislik's desire to emigrate to Israel, the spiritual haven of the Jewish people, is his crime.

The case of Vladimir Kislik is yet another example of the Soviet's violation of the Human Rights and Fundamental Freedoms section of the accord which the U.S.S.R. signed in Helsinki in 1975. It is time for the Soviets to end their mistreatment and persecution of Vladimir Kislik and abide by the accord. Vladimir Kislik must be freed and allowed to live in peace with his wife and son in Israel.

Mr. Speaker, for these reasons, I and my distinguished colleague, Mr. LEHMAN, have today introduced a concurrent resolution expressing the sense of the Congress that the President express to the Soviet Government the condemnation of the Congress and all of the American people of these acts of harassment and persecution and that Vladimir Kislik be permitted to emigrate from the Soviet Union, and further that if his emigration not be permitted, the matter be placed on the agenda of the review session of the Helsinki accord to be hold in Madrid in November.

Mr. Speaker, I urge the support of all Members of the House for this resolution.

THE NEED TO INCREASE R. & D. IN ORDER TO IMPROVE AMERICA'S TRADE BALANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

● Mr. VANIK. Mr. Speaker, on July 21, the Ways and Means Trade Subcommittee held an oversight hearing on U.S. trade policy. Several witnesses stressed the importance of increasing our Nation's commitment to R. & D. in order to become more competitive in the world's export markets. Several of these witnesses supported H.R. 6632, a bill which I and 65 others have introduced to encourage industry-university research through the use of tax credits.

For the benefit of the Members, I would like to include at this point in the RECORD portions of the testimony of Mr. Victor Ragosine, on behalf of the American Electronics Association:

TESTIMONY OF MR. VICTOR RAGOSINE

Technological innovation in U.S. industry is a crucial element in the nation's ability to trade competitively in world markets. Our most innovative industries have been the bulwark of our trade: high technology electronics, capital equipment, pharmaceuticals, and agricultural products. We believe U.S. agriculture also belongs in this category because of its intensive R. & D. orientation (which has brought about continuous innovations to increase the quality and quantity of yields). As you well know, from 1960 to 1979, R. & D.-intensive manufacturing industries increased their export surplus from $5.9 bn. to nearly $30 bn. When agriculture is included, that surplus leaps to $47.5 bn. in 1979. In contrast, during this same period our less innovative, non-R. & D. intensive manufacturing industries increased their trade deficit from zero to $24 bn.

Innovation is important to our domestic economy and society, as well as to our exports. Innovation is key to real economic growth, increased employment, cheaper and better products, reduced inflation, conservation of energy and raw materials, and an improved standard of living. These benefits flow from the fact that innovation is central to increased productivity. Innovation not only generates new products and services, but allows existing products and services to be produced more efficiently.

A study by Professor R. Solow of MIT concluded that between 1909 and 1949 approximately 80 percent of GNP growth was due to technical change. Another study by Edward Dension showed that more than one-half of the increase in productivity in the United States resulted from technological innovation. . . .

INDICATION OF DECLINING U.S. INNOVATION

Given the critical role innovation plays for the health and strength of our businesses in the world economy, we are alarmed by the clear signs that it is declining in the United States:

(1) R&D spending as a percentage of GNP has declined by 27 percent in the last 15 years;

(2) The rate of growth in real industrial R&D has slowed since the 1960's;

(3) The more innovative, longer-term R&D funding by industry has especially declined;

(4) A steady decline in the rate of productivity increased from an annual average of 3.4 percent from 1948–1955 to a negative 0.4 percent in 1979;

(5) A decline from 18 percent to 11.8 percent in the U.S. world market share of manufactured goods from 1960 to 1976.

INDICATIONS OF ADVANCING INNOVATION ABROAD

At the same time, it is evident that other industrialized countries whose firms compete with us in markets here and abroad have and are continuing to make great strides in industrial innovation. The following table sets out some comparative data:

	Japan	West Germany	United States
Total R. & D. as a percentage of GNP from 1964 to 1976.	1.5 to 1.9 percent	1.6 to 2.3 percent	3 to 2.3 percent.[1]
Average annual rate of productivity improvement from 1960 to 1978.	8.5 percent	5.4 percent	2.6 percent.
Share of world exports from 1960 to 1977	4 to 8 percent	10.3 to 11.5 percent	18 to 11.8 percent.

[1] As a comparison of R. & D. efforts for nondefense and nonspace areas, these U.S. figures are deceptively high, since, for example, 36 percent of total U.S. spending for R. & D. in 1976 went to defense and space, whereas Germany and Japan spent less than 9 percent and 3 percent, respectively, in these areas.

These strides have not been accidental. They are the result of well thought out and consistently applied industrial policies. For example, consider some of the incentives other countries use to foster R&D and innovation.

1. The Japanese Government targets certain high-potential industries for development: automobile, steel and ship-building in the past—computers and semiconductors today. Companies in these areas can receive R&D subsidies (repayable only if the program is successful), accelerated depreciation allowances, and long-term, low-interest loans. In addition, a 20 percent tax credit is granted for increases in R&D expenditures by all businesses. Furthermore, companies that form joint research associations can immediately recover the cost of their investments in new machinery, equipment and facilities. Japan's Ministry of International Trade and Investment (MITI) wants to increase R&D spending to 3 percent of GNP by 1990.

2. The West German government provides low-interest loans for investments in R&D, a 7.5 percent tax-free cash grant for investment in R&D facilities and special accelerated depreciation allowances for R&D plant and equipment. In addition, in certain cases the income individuals receive for scientific activities is taxed at half the normal rate.

3. The French government provdes highly favorable tax treatment to companies specifically formed to conduct R&D or apply innovative processes. In addition, special accelerated depreciation allowances are applicable to plant and equipment used for scientific or technical research. The sale of patent rights, technical and manufacturing processes and know-how are taxable at 15 percent as long-term capital gains.

4. The Canadian government allows a tax credit of at least 10 percent for R&D expenditures, and a basic deduction for R&D expenditures over the average of the previous 3 years' spending levels. The government also provides grants to companies that perform high-risk R&D in commercial areas.

These trends are unmistakable and cannot be ignored. AEA believes the disparity between our R&D policies and those of our major competitors bodes ill for the future.

Our most dynamic, R&D-intensive industries are being targeted for displacement in world markets, while other U.S. industries need to innovate more to remain competitive under the onslaught of foreign competition. Our nation's competitive strength lies in our continued ability to innovate and produce new, improved, cheaper products and processes, be it textiles, steel, autos, chemicals or electronics.

NEEDED TAX POLICY CHANGES

To reverse these threatening trends, AEA believes the United States must redirect its tax policies to stimulate industrial innovation. We need a tax policy that stimulates both capital formation and industrial R&D—the two components most essential to innovation.

CAPITAL FORMATION

AEA supports legislation to stimulate greater capital formation. New equipment and facilities are required to commercialize new ideas and inject them into the production and distribution streams of the economy. In this regard we are supporting legislation to reduce the write-off period for all capital investment, and to further reduce the capital gains tax rate.

INCENTIVES FOR RESEARCH AND DEVELOPMENT

But, even with sufficient capital, this nation's ability to innovate will continue to be hindered unless new ideas and inventions are stimulated. The quality of new investment is important as well as the quantity. New capital must be accompanied by greater R&D to generate more efficient manufacturing processes and new products.

To this end, we believe Congress should enact H.R. 6632 S. 2355, "The Research Revitalization Act of 1980", and S. 2906 "The Research and Development Act of 1980". Together, these bills would stimulate two related and complementary types of R&D efforts:

(1) Closer research cooperation between industry and our colleges and universities; and

(2) Increased, more innovative R&D by businesses themselves.

H.R. 6632

Mr. Chairman, AEA is pleased by the leadership you have shown by introducing the Research Revitalization Act of 1980 which provides an incentive for businesses to contribute funds to colleges and universities for research.

Over the last 20 years, the federal government has been the major source of funds for research conducted by our colleges and universities. It now funds about 70 percent of all such research. During this same period, industry's share of total funding has declined. As a consequence, this research has become less relevant to the need of the industrial sector. The programs, facilities and resources of many colleges and universities are less able to assist industry in its search for commercially useful innovation today than in the past.

AEA believes the tax incentive approach of H.R. 6632 which encourages closer cooperation between industry and academia is far preferable to increasing the Federal Government's direct role in identifying and funding research likely to lead to industrial innovation. The bill allows businesses and universities to allocate research funds where they would be most beneficial to the country, and avoids the entangling red tape and inefficiencies which have been the bane of federally financed R&D in our colleges and universities.

By encouraging business contributions for colleges and university research, H.R. 6632 would help meet several important needs. First, of course, is the generation of research results which will contribute to industrial innovation, especially in the longer run. Second, underutilized talents of academic people could be brought to bear on research likely to lead to innovations for the marketplace. Third, increased cooperation would also better equip students for the job market by exposing them to the challenge of applying science to the needs of industry. Finally, it would have a very important side effect of increasing the supply of badly needed, technically oriented graduates for our most dynamic industries.

S. 2906

We strongly support H.R. 6632, but we believe it must be accompanied by new tax incentives for R&D performed by businesses themselves. Businesses need to be encouraged to increase their own internal R&D efforts. Their applied research and development projects are directly geared to marketplace innovation though the translation or commercialization of research results into new processes and products. The importance of corporate R&D efforts cannot be understated. Many experts believe, for example, that the key to Japan's and Germany's industrial success is applied research and development. These countries spend relatively little on basic research.

Corporate R&D is lagging in the U.S. Real growth in industrial R&D has slowed to nearly half the pace of the 1960's when it averaged 6.5 percent per year. From 1970 to 1979, real growth has averaged only about 3.5 percent. One of the key reasons for this is reduced corporate cash flows caused by high taxation.

Not only has real growth in overall spending slowed, but the nature of corporate R&D efforts has been changing. We believe that longer-term, riskier, and more innovative R&D by business is declining for several reasons:

Too much corporate R&D is being diverted to "defensive" efforts required by governmental health, safety, environmental and other regulations.

Too much R&D is being diverted to quicker-payout, lower risk programs (such as minor product modifications) because of uncertainties caused by high rates of inflation and vacillating government economic policies.

Congress and the Administration must recognize that R&D is by its very nature a risky investment. Most economists will agree that this risk tends to lead to underinvestment in many areas. Practical businessmen also recognize this.

On the positive side, however, the returns to the business and society as a whole can be substantial. For example:

A number of studies indicate that the rate of return on investment in R&D tends to be greater than equivalent investments in conventional physical capital.

A study by Edward Denison of Brookings implies that productivity gains from R&D investments may be several times greater than those from capital investments.

In essence, we are faced with a situation where a high risk investment has become even riskier, and less funds are available to venture.

For these reasons we urge you to establish a clear policy of encouraging greater corporate R&D efforts by enacting S. 2906. This bill, introduced by Senators Danforth and Bradley of the Senate Finance Committee, would provide a 25 percent tax credit for increases in R&D spending over the average annual R&D outlays for the previous three years. The bill includes provisions to insure that innovative start up companies receive maximum benefits by allowing them to use pre-startup zero value spending to calculate their average for three years. Any unused credits could be carried forward seven years. S. 2906 would therefore be a targeted, cost-effective way to encourage additional R&D while minimizing Treasury's revenue loss. At the same time it would aid new companies struggling to commercialize new ideas or inventions.

SUMMARY

In conclusion, Mr. Chairman, the U.S. has had virtually no industrial R&D policy. Industrial R&D has been expected to generate its own momentum, while being progressively constricted by other policies. The net effect has been to reduce both its quantity and quality. Congress must reverse this trend by establishing an R&D policy whose cornerstones are tax incentives for industry-university cooperative efforts and for increased internal corporate R&D. We are encouraged by your understanding of these issues and look forward to working closely with you to correct them in the remainder of this Congress.●

OMNIBUS RECONCILIATION ACT

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, section 895 of H.R. 7765, the Omnibus Reconciliation Act pursuant to the first concurrent budget resolution for fiscal year 1981, repeals the amendments contained in H.R. 1543 to improve the operation of the trade adjustment assistance programs for workers and firms under the Trade Act of 1974. The Committee on Ways and Means included repeal of H.R. 1543 as one of its recommendations, as reported in H.R. 7652 and included in title VIII of the Omnibus Reconciliation Act, for spending reductions totalling $2 billion in fiscal year 1981.

The Committee on Ways and Means has requested the Committee on Rules to grant a modified closed rule for House consideration of the reconciliation recommendations reported by the committee which would make in order an amendment to section 895 of H.R. 7765, which would not be subject to amendment, to delay the effective date of H.R. 1543 to September 30, 1981. If the rule permits, I intend to offer such an amendment as a substitute for repeal of the bill.

H.R. 1543 passed the House on May 30, 1979, by voice vote, has been reported by the Senate Finance Committee, and is currently pending on the Senate calendar. The bill addresses a number of inequities in the programs under current law, improves adjustment aspects, and speeds up certification and benefit delivery. A major provision of the bill extends benefit coverage to workers and firms supplying component parts and services directly impacted by increased imports of the end product. The Congressional Budget Office estimates the cost of H.R. 1543 as $822 million in fiscal year 1981, a reflection of high unemployment and increased need for the program in the automobile, steel, and other basic industries and their suppliers.

The amendment will achieve the same spending reductions as called for in the first concurrent budget resolution while retaining the improvements in the trade adjustment assistance programs provided by the bill. The text of the proposed amendment follows:

Page 306, strike out lines 11 through 19, inclusive, and insert the following:

Subtitle D—Delay of Effective Date of Trade Adjustment Assistance Amendments

Sec. 895. Delay of effective date of trade adjustment assistance amendments.

Notwithstanding any other provision of law, the effective date of the Act to improve the operation of the adjustment assistance programs for worker and firms under the Trade Act of 1974 (H.R. 1543, 96th Congress) shall be September 30, 1981.

Amend the index to bill accordingly.

ESTHER FANNIE GRANTON

(Mr. MITCHELL of Maryland asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MITCHELL of Maryland. Mr. Speaker, I would like to take a few moments to remember a person who was a very special inspiration to the black Americans who have served as Members of the U.S. House of Representatives and the U.S. Senate over the past 24 years. Esther Fannie Granton, a Washington correspondent and columnist for Ebony and Jet magazines, recently passed away. She was loved by many and we are saddened by her death.

During her 66 years, Ms. Granton was known for her kindness and for her knowledge of the Washington scene. When new black Members of Congress arrived in Washington, Fannie Granton recorded the welcoming ceremonies and social gatherings for the Nation in "Washington Scene," a weekly column published in Jet. She was always available to assist the spouses and smooth the adjustment to the endless maze of social obligations and responsibilities replete among Washington political life.

For the younger black political workers and journalists, Fannie Granton was a concerned aunt and grandma whose enthusiatic greeting of "What's going on?" smoothed many egos which had been singed or deflated. In her uniquely unpretentious style, she would make the right introduction, advise the new host or hostess and serve as a crucible of quiet strength. "Miss Fannie's" knowledge of black Americans who visited or resided in Washington, D.C., over the last quarter century was unsurpassed.

Fannie Granton will be missed by the black Members of Congress. She made a vital contribution to the tone and texture of our lives as a special historian who recorded the movement of black Americans into the Washington political and social scene. Her presence was as stunning as the giant redwood for which our Nation is famous. Her impact is as enduring as her written words.

I would like to submit for the RECORD, two special statements, one by Ms. Granton's close friend and colleague, world affairs journalist Ethel Payne, and the other by the renowned journalist Art Buchwald. Additional articles which recognized Esther Fannie Granton's contributions, also appeared in the Tuesday, June 17, 1980, issue of the Washington Star newspaper, the Wednesday, June 18, 1980, and the Monday, June 23, 1980, issue of the Washington Post newspaper, the Friday, June 20, 1980, issue of the New York Times, the Saturday, June 21 and 28, 1980, isues of the Afro-American newspaper, and the July 3, 1980, issue of Jet magazine. I am also submitting these articles for the RECORD:

[From the Afro-American, June 30, 1980]

E. FANNIE GRANTON

She was black. She was a woman. And she was one of the preeminent journalists of her time. We speak of Esther Fannie Granton, 66, who died in Washington last week.

These combining qualities were even rarer in the times in which she served. For E. Fannie Granton was writing and reporting even before the civil rights movement. What is more, her beat was the federal scene in Washington, D.C.—a bastion of segregation which was forced to recognize and appreciate her talents and charm.

For the past 24 years she moved around the capital like an expert—and she was—who had that special "nose for news," uncovering subtle patterns of bias, acting as a one-person-mediator to remedy injustice when it was within her power, and bringing the government itself to the people through her writings.

She covered the White House, Capitol Hill, the State Department, Embassy Row and every other conceivable arm or agency of power. Ambassadors wined-and-dined her. Presidents called on her for advice and counsel. Members of the Supreme Court also knew her.

She had that extraordinary and uncommon ability to sit through endless smoke-filled meetings and then rush out to translate what had happened into words of the common people, so that they could understand decisions that would affect their lives.

The deputy chief of the Washington Bureau of Johnson Publications, she had thousands of faithful followers who read her "Washington Scene" column in Jet magazine. "Fannie's column," as they used to say, "told it all."

Part of her success undoubtedly was due to her own breadth of interests. She had prepared herself well, at Howard, Shaw, Atlanta, and American universities.

Long a professional social worker, she always brought a personal dimension of concern and assistance to every situation. She was an unofficial social adviser to President Johnson. She helped make sure that blacks were included in federal functions (including social occasions) and that the loftiest didn't fail to greet the lowliest at such occasions.

Knowledge, grace, wit and independence, all were her personal characteristics. They leave us a memory of a woman whom everyone loved and respected.

[From the Washintgon Afro-American, June 21, 1980]

FANNIE GRANTON, A "GIANT" WOMAN

The Washington community, and more particularly persons in the journalistic field, this week mourn the unexpected and shocking death of a beloved citizen, E. Fannie Granton.

She was a "giant" among women in the Washington press corps and her passing leaves a void in the community she served unstintingly for the past 24 years.

A religious student in her earlier days, Fannie entered the news medium when jobs were difficult for blacks, even more so for a black woman, to find. Never doubting that she had made the right move, Fannie later became one of the most sought after and highly respected female journalists in the Washington area.

Fannie Granton was accredited to the White House where she was well liked by "Lady Bird" Johnson. She was no stranger to the Kennedys, Nixons or the Fords. Her articles, following her travels to Africa with Mrs. Muriel Humphrey, wife of the former vice president of the United States and with Pat Nixon, wife of former president, Richard M. Nixon, won wide acclaim.

Quiet and unassuming, it might be said of her that she walked with kings and supped with queens, yet never lost the common touch. Whatever the role, she could act it out on stage and receive applause because of her magnificent performance.

She was perhaps best noted for her work in the Washington community with "ordinary people." She had a deep respect for gospel great James Cleveland and was his number one fan when he sang "Ordinary People, God Chooses Ordinary People."

Fannie loved people and devoted much of her life serving people. Her world spanned the entire community—social, political, educational and organizational. She had almost boundless energy and in the course of a week would attend and be a part of better than 25 social, political, organizational or educational functions. Many sought recognition in her column which was widely read all over the country.

It was fashionable to be mentioned in her weekly column. In the 24 years she labored in the vineyards of journalism in the D.C. area, she never wrote unkindly of anyone. She was responsible for the making of socialites in the Washington area and was known for her generous assistance to struggling journalists. Her myriad contacts would be worth millions on the open market today for social writers and socialites past and present.

There is no question that Esther Fannie Granton leaves a legacy. She radiated a warmth and a charm possessed by few. To know her was to love her. A credit to black journalism and all that dedicated black journalists stand for, Fannie Granton can never be replaced. The key to success, as Fannie saw it, was "a job well done."

Fannie Granton may be gone from among us, but she will never be forgotten. Her spirit will live eternally in the hearts and minds of many Americans.—Three O—Fannie!

[From the Washington Afro-American, June 21, 1980]

E. FANNIE GRANTON. 66. FOUND DEAD AT HER HOME

Esther Fannie Granton, 66, deputy chief of the Washington bureau of Ebony and Jet magazines, and ranking black newswoman on the White House press corps, was found dead Monday at her Washington apartment at 1623 Lanier Place, N.W.

A coroner's report was not available at press time, but her relatives believe she died of natural causes. She was reported last seen alive on June 11 at a public function in the District.

Ms. Granton was on two weeks vacation and was due back at work Monday. She was a very punctual person and when she failed to show up as scheduled, and following calls to her office that she had not appeared at functions she was due to attend, concern grew as to her whereabouts.

The police were called and it was then that she was discovered dead in her home.

Ms. Granton had served for 24 years with the Johnson Publishing Co. office, the first black owned publishing firm to maintain downtown operations at 1750 Pennsylvania Ave., N.W. Starting off handling the business management of the bureau, Ms. Granton eventually moved into the journalistic phase by covering social events and political affairs. She served as a correspondent for the largest black magazines from the Eisenhower era, often covering White House news conferences and accompanying presidents and first ladies across the country.

She endeared herself to presidents and first ladies by her efforts to ensure that they met the important black guests at White House events. She often talked to social secretaries about involving the first ladies on social welfare projects involving blacks.

Ms. Granton's vast audience read her Washington Scene column in JET weekly magazine, which contained an up-to-date rundown on events in the nation's capital involving government officials, African diplomats and Members of Congress. Demands for her appearance at major social events kept her assignments on a seven-days-a-week basis, but she never complained.

Militant, aggressive and always confident, Ms. Granton worked assignments in the city ranging from the March on Washington to the inauguration of Mayor Marion Barry, whom she had first met during her coverage of her civil rights years before.

Born, Fannie Granton in Newport, Va.

She finished Armstrong High School in Washington and graduated from Shaw University in Raleigh, N.C. with a degree in religious education. Later, she graduated with a degree in social work from Atlanta University, and after a few years with the National Urban League in New Jersey, Texas, and Washington, D.C., decided to attend law school at American University.

She joined Johnson Publications in 1956. She was a member of the Washington Press Club, the Senate Department Press Association, and the Capitol Hill galleries.

She is survived by a sister, Alice Anderson; a brother, Louis Granton; 2 nieces, Karla Anderson and April Granton; and 2 nephews, Louis Brown and Charles Anderson.

A memorial service for the late Ms. Granton will be held Saturday, June 21 at the National Presbyterian Church and Center, 4101 Nebraska Ave., NW., beginning at 4 p.m.

Members of the public are welcome to attend the service.

Instead of flowers, contributions should be donated to the Fannie Granton Scholarship of the Howard University School of Communications.

[From the New York Times, June 20, 1980]

ESTHER F. GRANTON, AT 66; A JOURNALIST IN CAPITAL

WASHINGTON, June 20.—Esther Fannie Granton, Washington correspondent for the Johnson Publications Company, publishers of Ebony and Jet magazines, died of a heart attack in her apartment here Monday. She was 66 years old.

Miss Granton, who joined the organization's Washington bureau in 1956, covered nearly every segment of the Washington political and social scene, from the White House, Congress and the Supreme Court to the civil rights movement. At death, she was Johnson's deputy bureau chief in Washington.

As a recognized authority on black affairs in Washington, Miss Granton often served as an unofficial adviser to the White House, suggesting names of people to be invited to White House functions and arranging introductions. She once said that she considered handling misunderstandings and oversights at such functions to be part of her job as a reporter.

Miss Granton was considered an institution by her colleagues and Washington officials and was honored for her contributions at a party here last year.

Miss Granton was born in Newport News, Va. She grew up in Washington and attended Howard University for a short time, later earning a degree in social work from Atlanta University. She was a social worker for several years.

She is survived by a sister, Alice Anderson, and a brother, Louis Granton.

[From the Washington Post, June 18, 1980]

ESTHER FANNIE GRANTON

Today's huge corps of journalists assigned to official Washington may have its hands full explaining the mysteries of the White House, Congress, the Supreme Court or Embassy Row, but only a veteran few really appreciate what it took to be a black American correspondent in those circles decades ago. Esther Fannie Granton, who died here the other day at the age of 66, was a respected member of that pioneer club. Not only did she provide grace, wit and informative commentary for the readers of Ebony and Jet over the last quarter-century, but Miss Granton also earned a special place in the hearts of the presidents and their families who were her assignment.

Though she maintained her independence as a reporter, Miss Granton had so many friends and acquaintances and sources in a still quite segregated world that she became sort of an unofficial social adviser to the White House on black people. In this liaison mission, she would suggest names of people to be invited to White House functions; and, without great fanfare, she would see that presidents and others were introduced. If there were oversights on the part of officials, there would be a firm advisory from Miss Granton; or if a misunderstanding appeared in the making, she would do her best to smooth things.

Miss Granton wrote a weekly "Washington Scene" column for Jet and other reports as correspondent and finally deputy chief of the Washington bureau of Johnson Publications. She was an authority on the connection of the black community with the national political life of Washington; and through her interviews, readers shared impressions of members of Congress, Supreme Court justices and Cabinet members. Fannie Granton's friends in the news business—black and white—also valued her insight and counsel. We were counted among them.

[From the Washington Post, June 19, 1980]

COLUMNIST E. FANNIE GRANTON, 66, DIES, AUTHORITY ON BLACK AFFAIRS IN DISTRICT

(By J. Y. Smith)

Esther Fannie Granton, 66, a correspondent and columnist for Ebony and Jet magazines and a recognized authority on black affairs in Washington, was found dead Monday in her Washington apartment. The cause of death was a heart attack.

Miss Granton had worked for the Johnson Publications Co., the publishers of Ebony and Jet, for the past 24 years and was the deputy chief of its Washington bureau at the time of her death. She was widely known for "Washington Scene," a weekly column published in Jet.

She covered the White House, Capitol Hill, the State Department, Embassy Row, the civil rights movement and other subjects. She wrote about matters of interest to blacks and it is said that no balck ever appeared on a White House guest list whose name she did not record for her readers.

Beyond that, Miss Granton became a kind of unofficial social adviser to the White House on blacks. She suggested names of blacks who should be invited to the White House, saw that presidents and first ladies were introduced to them when they got there, and sometimes helped correct oversights on the part of officials. She once said that she considered this part of her job as a reporter, and as a reporter she covered an important aspect of life in Washington that previously had been unknown to those who were not part of it.

"She knew the community so well, she new exactly the right person to call to help smooth over (a) dreadful mistake," John Calhoun, an aide in the Ford White House, said at a party honoring Miss Granton a year ago. "And she was the first person I would call when we needed to know people, especially press people for briefings."

At that party, Miss Granton told an interviewer she was able to do what she did simply because "I know all those people. The knowledge comes from living here for years, having started with the old segregated social agencies, working with Southeast House, I knew Flaxie Pinkett's dad. Having gone to Howard . . . knowing the Mordecai Johnsons."

Miss Granton was born in Newport News, Va., and grew up there and in Washington. She graduated from Armstrong High School here and then attended Howard University. She interrupted her studies there to take a degree in religious education at Shaw University in Raleigh, N.C. She earned a degree in social work from Atlanta University, and for the next several years she was a professional social worker.

She worked with the National Urban League in New Jersey and Texas. In the mid-1940s, she returned to Washington. She was a social worker with the National Capital Housing Authority and worked with the Southeast and Southwest community houses. She also studied law at American University.

In 1956, she joined the Washington bureau of Johnson Publications, and one of the first things she did was help organize an open house party in connection with the second inaugural of President Dwight D. Eisenhower, in 1957.

"Members of the Supreme Court, the Congress and everyone else came," Miss Granton recalled last year. "It was the talk of the town."

At first, Miss Granton was the business manager of th Johnson bureau. She gradually worked her way into reporting and writing.

As a White House correspondent she made several trips with former president and Mrs. Lyndon B. Johnson and accompanied Mrs. Patricia Nixon on two overseas trips.

A frequent guest at White House embassy and similar functions, she herself was a hostess whose guests included many of the people about whom she wrote.

Miss Granton was a member of the Washington Press Club.

Her survivors include a sister, Alice Anderson, of Lanham, and a brother, Louis Granton, of Washington.

[From the Washington Star, June 17, 1980]

E. FANNIE GRANTON DIES; MAGAZINE NEWSWOMAN

Esther Fannie Granton, 66, deputy chief of the Washington bureau for Ebony and Jet magazines and the ranking black newswoman in the White House press corps, was found dead yesterday at her home on Lanier Place NW.

An associate said Miss Granton was due to return to work yesterday following a two-week vacation and that her absence caused her coworkers to investigate. She apparently died between Thursday and yesterday, the associate said. Police said that the death appeared to be from natural causes.

Miss Granton was the chronicler of Washington's black society through her weekly Jet column, "Washington Scene."

Miss Granton was a former social worker, a veteran of settlement houses and government welfare agencies, when she joined Johnson Publications Co. in 1954 when the magazine publisher opened its Washington bureau.

She was proof that the power to attract could flourish on intelligence, kindness and goodwill, without great wealth, position or beauty. She wielded the power of the pen, but she did not rise through her job. She got the job because she knew the people.

She did not look like a social arbiter, although she was swamped by calls from mothers who thought their daughters belonged on the cover of Jet, and by numerous groups giving teas.

Miss Granton did not look like the mistress of a salon, but her annual birthday parties were attended by ambassadors, presidential assistants, doctors and lawyers, and her home and office were long a check-in station for the cognoscenti and the young people on their way up.

For the last 24 years Miss Granton was associated with the Johnson Publications Co. office, said to be the first black-owned publishing firm to maintain downtown operations. The company's Washington office is at 1750 Pennsylvania Ave. NW.

She began working for Johnson by handling the business management of the bureau, but she eventually moved into the journalistic phase by covering social events and political affairs. She was a correspondent for the largest black magazines since the Eisenhower era, often covering White House news conferences and accompanying presidents and first ladies across the country.

Miss Granton was born in Newport News, Va., and moved with her family to Anacostia when she was 11 years old.

Miss Granton called herself "a passive person," but she took on more than her share of the sad, dirty work in human relationships. She sat every day with one of her brothers who died of cancer. She campaigned for venereal disease education when it was still an unmentionable.

A year ago, Miss Granton was honored at a "We Love You Fannie" reception organized by one of her young admirers. Last year, before the reception was held, a reporter asked Miss Granton how she came to prevail in the world of fashion and power while breaking all its rules. "I don't think I make any demands on people," she said. "You know people with a lot of money and power are extremely jealous of each other. I don't have any of these things. I have always found people to be very nice to me. You hear so-and-so say, 'so-and-so doesn't like me.' I've never had that."

Miss Granton endeared herself to presidents and first ladies by her efforts to ensure that they met the important black guests at White House events and she often talked to social secretaries about involving the first ladies on social welfare projects involving blacks.

Miss Granton was a graduate of Armstrong High School here and she received a degree in social work from Shaw University in North Carolina. Later she received a graduate degree in social work from Atlanta University. She also studied law at American University.

She was a member of the Washington Press Club.

She leaves a sister, Alice Anderson, and a brother, Louis.

FOR FANNIE GRANTON

(By Art Buchwald)

Fannie Granton was a Jewish mother to all of us. She could tell us when we had gone too far and bawl us out when we hadn't gone far enough. She also made excellent chicken soup when we felt lousy.

Like all good Jewish mothers she looked after her own, and had a sharp tongue for anyone who would do us harm. We shall miss her wisdom and her spirit. She has left her mark on all of us, and she will be missed by every one whom she touched over the years.

Washington needed Fannie, if for no other reason than that she kept the rest of us from going over the cliff.

If I know her, she's probably sitting on some cloud now, listening to a white angel say, "Fannie, what do your people think about Sugar Ray Leonard?"

[From The Afro-American, July 5, 1980]

REMEMBRANCE: TRIBUTE TO MISS FANNIE GRANTON

(By Ethel Payne)

As it must, to each of us, death came to Fannie Granton a few days ago.

She went as quietly as she had lived—no fanfare, no fuss, no bother.

The initial shock at the news of her passing left us numb. She was a fixture in the life of Washington that somehow it just seemed that she would be here doing the little things that made the difference.

Fannie was the perfect alter ego for Simeon Booker, chief of the Washington Bureau of the Johnson Publishing Company. With just a chuckle or a shake of her head she could counter the dry, witty barbs that are his trademark. Between boss and assistant there was an unusual relationship, a camaraderie which is not often seen in this town where competition has been raised to a high art form.

I guess it was Fannie's disposition which was responsible for the relaxed atmosphere that characterized the JPC offices at 1750 Pennsylvania Ave., N.W. It is a way-station for the lunch-time drop-ins, a listening post for what is happening in official Washington.

Many of us came to bask for a few minutes in the calm of Fannie, to be comfortable over cokes and conversation, to get away from the pressures of the day for a spell. Maurice Sorrell would come in from his photo dark room to join in the banter.

Fannie sat there in the middle of the long table, telephone at hand and scissors for clipping the stacks of newspapers, listening with infinite patience to gripes and jibes. If Booker got out of hand, she had only to glance reprovingly over her glasses to make him simmer down.

In her own way, she was the doyenne of Pennsylvania Avenue social gatherings. The office is only a block and a half away from the White House. To most folks, it was an extension of the Executive Mansion, because Fannie had ties into the First Ladies' office, whoever they were. The parties weren't the routine, office-types since Fannie gave them an extra touch, including her culinary productions served right from the pots.

She must have gotten some of her traits from her father, one of the most lovable characters I've ever known. He lived to a great age and enjoyed every moment of it. Papa enjoyed people period, especially the ladies. When he had an operation on his eyes for cataracts at past 90 years and was bandaged for awhile, I asked Fannie one day how he was getting along.

"Well," she said, "he's kind of depressed, but he'll be all right as soon as he can watch the girls again."

Fannie's birthday parties were an annual event with folks trooping in and out. They were always celebrated on Sundays to accommodate working friends and relatives.

When I first came to Washington in 1953 as correspondent for the Chicago Defender, the persons whom I remember with fondness for helping me out included Fannie and Simeon.

After the bureau was opened in 1954, she used to double up with laughter at the "friendly" rivalry between Booker and me over news scoops.

We traveled to Ghana in 1957 for the independence ceremonies. On the way back, the vice-presidential party made a stop in Rome.

There at a U.S. Embassy reception, the chance remark of a diplomat's wife gave me one of the biggest stories of the trip. She let it be known that she was very unhappy over her husband's next assignment as American ambassador to "that crumb country, Ghana."

I eased out and in 15 minutes, I found the nearest cable office and put the story on the wire. By the time I returned Simeon had picked up the remark. We passed each other on the stairs, I with a smug smile, knowing full well that he too was headed for the cable office! Weeks later after our return, Fannie just chuckled on hearing about the incident.

Far from being a "Goody-Two-Shoes," Fannie set her own standards of integrity, but she took people as they came, never fawning over anyone. I confess that I used to get exasperated sometimes when I would explode that so and so was a real s.o.b. Fannie would smile faintly, but never concur. All she did was sit there like the Sphinx while I fumed, "Oh shucks, Fannie, you know I'm right."

Her death shook us up, but Fannie had prepared well, and "the celebration of the life of Fannie Granton" was a testament to the quality of her living and the inner strength which inspired those who knew her.

No funeral, no flowers, just a simple memorial service she said in her will, and that's the way it was, well, almost because it was so elegant and eloquent, in its simplicity. In the beautiful sanctum of the National Presbyterian Church with its stained glass windows, the setting was perfect for the occasion.

Fannie, you were almost raised to sainthood! by the solemnity! Even saints had their faults, and if I were a good Catholic, I'd recommend you for canonization.

At any rate, I don't think Washington has ever seen anything quite like it. Those friends, neighbors and kin who filled the church must have drawn a great deal of comfort and joy from the service, for there were no tears, only a deep, spiritual feeling of calm as we left.

Fannie, I'm glad I met you on this journey through life. It was a privilege to know you, to share many moments of understanding and to benefit from your wisdom and strength. We are all a little better for your having been here. Those of us who are left behind will remember well as we continue on our way.

Postscript: Fannie Granton stipulated in her will that in lieu of flowers, she would like contributions to go to the Howard University School of Communications for a scholarship established in her name to assist young, aspiring journalists. Not only should we give to this, but the Howard University School of Medicine, to which she gave her body, would be another worthy recipient for a memorial gift.

[From Jet Magazine, July 3, 1980]

E. FANNIE GRANTON, 66, DIES OF NATURAL CAUSES

(By Simeon Booker)

When E. Fannie Granton didn't show up at her office punctually one Monday morning, co-workers at the Washington Bureau of JET Magazine knew something was wrong. For almost a quarter of a century, "Miss Fannie" came to work at 7:30 a.m. instead of 9, and worked nights and weekends in a non-stop newscoverage effort.

To further confirm suspicions, telephone calls from friends, dinner sponsors and fraternity officials came, inquiring as to why the 66-year-old Miss Fannie hadn't shown up at their functions as promised. Her reputation was unblemished. When she accepted an engagement she showed up . . . period.

Eight hours later, police were forced to climb through the back window of her co-op apartment and found Miss Fannie asleep in her bedroom. Asleep forever due to natural causes. Miss Fannie had a virtually unbroken work schedule for Johnson Publishing Co. spanning 24 years. Despite the fact that she was on a two-week vacation, she had been seen three times that week at various functions.

Atty. George Haley, who had seen her at a recent African economic meeting, said, "She was lively as ever. Smiling, saying she was enjoying her vacation."

The last person to talk to Miss Fannie was a longtime friend, Savannah Warfield Clark, who was surprised to find Fannie at home on Friday evening and "not in the street." Fannie said that she "was too tired and getting ready for a busy weekend, going to Syracuse, N.Y., early Saturday morning."

News of Fannie's passing saddened the Nation's Capital, Miss Fannie's hometown for most of her life, and where she had worked with politicians, bureaucrats and civil rights workers to end a segregation era and welcome a more fruitful period of integration.

Washington's fraternity paid tribute to the Black woman who had moved up to the front ranks, as the senior Black member of the White House Press Corps, and with a list of accomplishments which included serving as president of the Capitol Press Club to the first Black woman officer of the Downtown Washington Press Club.

As noted by the Washington Post: "Not only did she provide grace, wit, and informative commentary for the readers of Ebony and Jet over the last quarter-century, but Miss Granton also earned a special place in the hearts of the Presidents and their families who were her assignments."

A native of Newport News, Va., Miss Granton moved to Washington at the age of 11, graduated from Armstrong High School, Shaw University, earned a degree in social work at Atlanta U., studied law at American U., and served as a settlement house organizer and urban league social worker before becoming one of the first staff members of the Washington Bureau.

Starting as a secretary-office manager, Miss Fannie soon moved into the reporting ranks, covering social news and gathering information for Ebony Magazine. Eventually, she became "The old pro," informed on every aspect of D.C. life locally and nationally, and having thousands of "contacts" in every profession.

President Lyndon Johnson greeted her as "Miss Fannie" and read her articles. Mrs. Rosalynn Carter invited her many times to the White House for special events. Long accustomed to the protocol, Miss Fannie usually introduced newcomers to the members of the First Family and won lifetime friendships.

Beyond her reporting, Miss Fannie was an institution; "Grandma" to a new generation of Blacks who moved into high-level political positions. D.C.'s current mayor, Marion Barry, was a street militant when he first encountered Miss Fannie. Secretary of the Army Clifford Alexander often referred to Miss Granton as "The original soul sister."

Last year more than 1,000 Washingtonians gathered to pay tribute in a gigantic "I Love Fannie" party. As many VIPs showed up for this downtown function as at her bureau inaugural parties and her annual office Christmas party. Said one admirer, "Fannie was a gem. She walked with the bigtimers, but never lost that humility."

That was her legacy. When Atty. Wiley Branton, dean of the Howard Law School, disclosed contents of her will, the stipulations were that there be no wake, no funeral, and that her body be donated for medical research. Instead of flowers, contributions were to be sent to her own scholarship fund at the Howard University School of Communications. Even in death, Miss Fannie was not interested in making news. She was still the reporter moving on toward heavenly assignments.

Miss Granton is survived by one brother, Louis Granton; a sister, Alice Anderson; and two nieces and two nephews.

[From the Washington Post, June 23, 1980]

FANNIE GRANTON MADE PEOPLE FEEL SPECIAL

(By Dorothy Gilliam)

As we walked across the porch and opened Fannie Granton's front door, our noses smacked into the smell of cinnamon and onion. Her father, about 90 then, slow-talked stories he'd heard from his early days in the South while Fannie cooked beef in a cinnamon marinade and turkey with onion. The old man spun folk tales, telling how the Devil was outsmarting God but that John, that noble hero, was outsmarting the Devil. Fannie, wooden spoon in hand, laughed softly at the folklore. Her father was a "killer" and she knew it.

Older women sometimes cloak themselves in disguises that are hard for young people to penetrate. It's not so much that they're trying to be secretive as they're trying to protect themselves; probably because they've been around longer.

When Fannie Granton died last week at the age of 66, I was among the hundreds of people she knew, for she was the hub of black Washington's information network.

She's been a constant in my life for more than 15 years, but I never saw the day when the shield dropped, the day to ask what made her tick, the lessons she had learned, questions about failures and regrets.

Fannie Granton made her first foray into journalism when she was over 40, after working mostly as a social worker for several segregated agencies here. She probably studied social work because it spelled security for women in her generation. She rose to become a columnist for Jet Magazine, where she chronicled the events of the once-private world of Washington's black society. She later became deputy chief of the Johnson Publishing Company's bureau here.

She traveled to Africa with presidents and first ladies and covered the civil rights movement. Over time, I saw her become a better woman, her multiple interests and activities a reflection of the concerns that black women share.

She used what power she had to promote and encourage others, but she never expected payment in return. Not unexpectedly she had a lot of friends. By chronicling black society, she made people feel they were somebody special.

In my early years in Washington in the 1960s, Fannie was a constant counsel. She connected me with people who could help me find housing when I came as a young reporter for The Washington Post. She talked down my fears about discrimination against blacks who worked for white newspapers, cheered me on when I was discouraged about people who balked at being interviewed.

She provided invitations to her home where she seemed most totally herself—a little apart from social Washington and full of the congeniality and warmth people refer to as "down home."

In those early years she lived in Anacostia, and it seemed appropriate because Southeast was more like the South back then than part of a large city. To a Southern girl away from home, being entertained by Fannie was like going home to Mama.

But like a lot of young women, I was too busy learning the ropes, meeting new people, expanding my dreams. And the older friend was turned to less and less to answer questions or give advice.

So I watched Fannie take care of a father who lived to be over 100, a sister and a brother, but never learned the source of her maturity. I never learned how she really felt about never marrying. I never asked her why she willingly buried herself in her job, making everyone else's social life her social life.

So on the Sunday afternoons that we ate the cinnamon beef, we talked instead of black politicians' private lives and foibles, the civil rights movement and the progress of blacks in government.

She moved from Anascotia as her work grew more demanding. Occasionally I'd see her walking down Columbia Road headed for her roomy apartment on Lanier Place, wearing clothes so plain they escaped your notice, sensible flat shoes and, often, a nondescript hat.

Although she covered the White House, State Department and Embassy Row—and she was known as the unofficial social adviser to the White House on blacks—she was friends with many who'd never set foot in the White House, and she enjoyed being part of that circle. In turn, her friends loved and protected her—willingly chauffeuring the reporter who never got a driver's license.

On May 20 last year, I joined several hundred Washingtonians who paid tribute to Fannie on her 65th birthday. She described herself then simply as a "plugger" and stopped the lofty tributes by announcing that she planned to be around a long time. "So let's bring on the records now and rock." Even rocking, she looked dignified.

When I spoke to her, she diverted attention from herself. "Bring the children by some time, they must be really big by now."

I promised I would, but never got around to it. Now I'm doubly sorry. That visit might have opened Fannie up, not only to me, but to yet another generation.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Tauzin (at the request of Mr. Wright), for July 25 and 28, on account of a necessary absence.

Mr. Williams of Ohio (at the request of Mr. Michel), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Porter) to revise and extend his remarks and include therein extraneous material:)

Mr. Porter, for 20 minutes, today.

(The following Member (at the request of Mr. Dougherty) to revise and extend his remarks and include extraneous material:)

Mr. Leach of Iowa, for 5 minutes, today.

(The following Members (at the request of Mr. Conyers) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Weaver, for 5 minutes, today.
Mr. Preyer, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mitchell of Maryland and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,572.

Mr. Hammerschmidt, and to include extraneous matter, on the Hammerschmidt amendment to H.R. 7631 in the Committee of the Whole today.

(The following Members (at the request of Mr. Dougherty) and to include extraneous matter:)

Mr. Cheney.
Mr. Railsback.
Mr. Daniel B. Crane.
Mr. Carter.
Mr. Wydler.
Mr. Derwinski in two instances.
Mr. Collins of Texas in three instances.
Mr. Dornan.
Mr. Sensenbrenner.
Mr. McClory.
Mr. Gilman.
Mr. Roth in two instances.
Mr. Abdnor.
Mr. Evans of Delaware.
Mr. Pursell in two instances.

(The following Members (at the request of Mr. Conyers) and to include extraneous matter:)

Mr. Wolff in two instances.
Mr. McCormack.
Mr. Jacobs.
Mr. Jones of Tennessee.
Mr. McDonald.
Mr. Gaydos.
Mr. Albosta.
Mr. Bonker.
Mr. Drinan.
Mr. Santini.
Mr. Miller of California.
Ms. Oakar.
Mr. Lehman.
Mr. Hopkins.

ENROLLED BILL SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker pro tempore:

H.R. 5580. An act to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

ADJOURNMENT

Mr. LOWRY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until Monday, July 28, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4899. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period July 15 through October 15, 1980, pursuant to 10 U.S.C. 139; to the committee on Armed Services.

4900. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notice that a study has been conducted of the refuse collection function at U.S. Army Armament Research and Development Command, Dover, N.J., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4901. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

4902. A letter from the Acting Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting a report on the actuarial valuation of the Department of Defense military retirement system, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541); to the Committee on Government Operations.

4903. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed altered system of records, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4904. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 1815 North Lynn Street, Arlington, Va., pursuant to section 7 of the Public Buildings Act of 1959, as amended: to the Committee on Public Works and Transportation.

4905. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 400 First Street NW., Washington, D.C., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4906. A letter from the Comptroller General of the United States, transmitting a report on actions to improve the military manpower mobilization system (FPCD-80-58, July 22, 1980); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 5935. A bill to protect the privacy of medical information maintained by medical care facilities, to amend section 552a of title 5, United States Code, and for other purposes; with amendment (Rept. No. 96-832, pt. 2). Ordered to be printed.

Mr. SMITH of Iowa: Committee on Small Business. Small Business Committee allocation of budget totals to subcommittees for fiscal years 1980 and 1981. (Rept. No. 96-1194). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. S. 658. A bill to correct technical errors, clarify and make minor substantive changes to Public Law 95-598; with amendment (Rept. No. 96-1195). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DONNELLY:

H.R. 7832. A bill to extend from 5 to 10 years (until Nov. 30, 1987) the period during which spouses and surviving spouses who are eligible for Government pensions may qualify for an exemption from the pension offset provisions in title II of the Social Security Act; to the Committee on Ways and Means.

By Mr. FLORIO (for himself, Mr. Staggers, Mr. Madigan, Ms. Mikulski, and Mr. Matsui):

H.R. 7833. A bill to amend the Solid Waste Disposal Act to encourage the recycling of used oil, and for other purposes; to the committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN:

H.R. 7834. A bill: Rock Island Railroad Employee Assistance; to the Committee on Interstate and Foreign Commerce.

By Mr. MITCHELL of Maryland:

H.R. 7835. A bill for the relief of the city of Baltimore, Md.; to the Committee on the Judiciary.

By Mr. PREYER (for himself, Mr. Goldwater, Mr. Stark, Mr. Staggers, Mr. Eckhardt, Mr. Scheuer, Mr. Reuss, Mr. McKinney, Mr. LaFalce, and Mr. Cavanaugh):

H.R. 7836. A bill to provide that the Securities and Exchange Commission shall be subject to the Right to Financial Privacy Act of 1978, except as provided in the Securities Exchange Act of 1934; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

By Mr. SANTINI (for himself, Mr. Cheney, Mr. Clausen, Mr. Cleveland, Mr. Coelho, Mr. Gramm, Mr. Johnson of California, Mr. Kogovsek, Mr. Lewis, Mr. Lujan, Mr. Marlenee, Mr. Marriott, Mr. McKay, Mr. Pashayan, Mr. Patterson, Mr. Rudd, Mr. Shumway, Mr. Stump, Mr. Symms, Mr. Thomas, and Mr. Young of Alaska):

H.R. 7837. A bill to provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers; to the Committee on Interior and Insular Affairs.

By Mr. WEAVER:

H.R. 7838. A bill to improve the management of the national forests through amendment of certain public laws affecting public land exchange and withdrawals, and for other purposes; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. WHITEHURST:

H.R. 7839. A bill to amend chapter 34 of title 38, United States Code, to modify the termination date for veterans eligible for educational assistance provided under such chapter; to the Committee on Veterans' Affairs.

By Mr. WON PAT:

H.R. 7840. A bill to direct the Secretary of the Treasury to pay compensation to individuals of Japanese descent residing on the territory of Guam during World War II for damages caused such individuals by the Armed Forces of the United States; to the Committee on the Judiciary.

By Mr. DONNELLY:

H. Con. Res. 388. Concurrent resolution authorizing and requesting the President to establish May 29 as a day of remembrance of John F. Kennedy; to the Committee on Post Office and Civil Service.

By Mr. PORTER (for himself and Mr. Lehman):

H. Con. Res. 389. Concurrent resolution condemning the harassment and persecution by the Soviet Government of Vladimir Kislik; to the Committee on Foreign Affairs.

By Mr. ZABLOCKI (for himself, Mr. Bingham, Mr. Broomfield, Mr. Winn, and Mr. Quayle):

H. Con. Res. 390. Concurrent resolution with respect to an international treaty banning lethal and incapacitating chemical weapons; to the Committee on Foreign Affairs.

By Mr. SATTERFIELD:

H. Res. 754. Resolution to call on the President to declare a national emergency for the purpose of suspending the Davis-Bacon Act; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII memorials were presented and referred as follows:

512. By the SPEAKER. Memorial of the Legislature of the State of California, relative to the Santa Monica Mountain National Recretational Area; to the Committee on Interior and Insular Affairs.

513. Also, memorial of the Legislature of the State of California, relative to SSI/SSP recipients; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ADDABBO presented a bill (H.R. 7841) for the relief of Mrs. Frieda Simonson, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4223: Mr. Drinan, Mr. Pepper, and Mr. Weiss.

H.R. 4343: Mr. Howard, Mr. Hughes, Mr. Walker, and Mr. Patten.

H.R. 5060: Mr. Panetta.

H.R. 5225: Mr. Staggers, Mr. Buchanan, Mr. Vander Jagt, Mr. Ireland, Mr. Rahall, Mr. Anthony, Mr. Bereuter, Mr. Pickle, Mr. Hillis, Mr. Steed, Mr. Erdahl, and Mr. Swift.

H.R. 5401: Mr. Gradison and Mr. Pease.

H.R. 6637: Mr. Emery.

H.R. 6978: Mr. LaFalce and Mr. Matsui.

H.R. 7108: Mr. Ottinger, Mr. Horton, Mr. Weiss, Mr. Roe, Mr. Phillip Burton, and Mr. Jeffords.

H.R. 7489: Mr. Murphy of Pennsylvania, Mr. Bailey, Mr. Yatron, and Mr. Walgren.

H.R. 7548: Mr. McDade and Mr. Stenholm.

H.R. 7643: Mr. Murphy of Pennsylvania, Mr. Whitehurst, Mr. Hollenbeck, and Mr. Roe.

H.J. Res. 289: Mr. Cheney.

H.J. Res. 390: Mr. Cheney.

H.J. Res. 511: Mr. Bowen.

H.J. Res. 551: Mr. Barnes, Mr. Buchanan, Mr. Cavanaugh, Mr. Clausen, Mr. Corcoran, Mr. Davis of South Carolina, Mr. Hefner, Mr. Horton, Mr. Huckaby, Mr. Lent, Mr. McCormack, Mr. Patterson, Mr. Rostenkowski, Mr. Roth, Mrs. Snowe, Mr. Snyder, Mr. Spence, and Mr. Zablocki.

H. Con. Res. 343: Mr. Walker, Mr. Buchanan, Mr. Broomfield, and Mr. Hammerschmidt.

H. Res. 745: Mr. Erdahl and Mr. Hollenbeck.

H. Res. 748: Ms. Holtzman.

PETITIONS, ETC.

Under clause 1 of rule XXII,

400. The SPEAKER presented a petition of the City Council, Cuyahoga Falls, Ohio, relative to utility rates, which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7631

By Mr. LUJAN:

—Page 34, after line 9, insert the following:

PURCHASE OF PROPERTY TO EXPAND SANTA FE NATIONAL CEMETERY

For expanding the Santa Fe National Cemetery in Santa Fe, New Mexico, as authorized by law (38 U.S.C. 1006), $600,000.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Bill Digest Section, American Law Division of the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the Congressional Record of June 13, 1980 (page 14660). Cumulative listing may be found in the

Digest of Public General Bills and Resolutions.

H.R. 7451. May 28, 1980. Ways and Means. Amends the Internal Revenue Code to provide an additional personal tax exemption for a taxpayer, his spouse, or a dependent who is handicapped.

H.R. 7452. May 28, 1980. Ways and Means. Amends the Internal Revenue Code to allow a limited, refundable income tax credit for household expenses to any taxpayer who maintains a household in which a dependent aged 65 or over resides.

H.R. 7453. May 28, 1980. Judiciary. Requires the Director of the Office of Personnel Management to reimburse specified employees of the Langley Research Center, Hampton, Virginia, who lost specified benefits through their conversion from the Wage Board pay scale to General Schedule position.

H.R. 7454. May 28, 1980. Agriculture; Interior and Insular Affairs. Authorizes the Secretary of Agriculture to conduct a program of salvage of down, damaged, or associated timber and to mitigate the damage which has occurred to the renewable resources on and in the vicinity of the Gifford Pinchot National Forest as a result of the eruption of Mt. St. Helens.

H.R. 7455. May 28, 1980. Post Office and Civil Service. Directs the Director of the Office of Personnel Management to place the name of a specified individual on the register of Chicago region eligibles for the positon of Federal Aviation Administration air traffic controller.

H.R. 7456. May 29, 1980. Judiciary. Provides that the United States District Court for the Central District of California shall be held at Long Beach, California, in addition to Los Angeles, as currently provided.

H.R. 7457. May 29, 1980. Judiciary; Ways and Means. Requires appropriate State authorities to give full faith and credit to a valid child custody determination by a State court.

Amends the Social Security Act to allow the Parental Locator Service to include information for the enforcement of child custody determinations or parental kidnapping provisions.

Prohibits the intentional restraint of a child in violation of a valid State custody determination.

H.R. 7458. May 29, 1980. Veterans' Affairs. Permits veterans to refinance previously guaranteed mortgage loans which are secured by homes they still own and occupy.

H.R. 7459. May 29, 1980. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Secretary of Education to award grants for the establishment and operation of National Centers for Personal Computers in Education.

H.R. 7460. May 29, 1980. Agriculture. Amends the Food Stamp Act of 1977 to transfer the administration of the food stamp program to the Secretary of Health and Human Services.

H.R. 7461. May 29, 1980. Ways and Means. Allows individual taxpayers under the Internal Revenue Code an income tax deduction for travel deposits to attend the 1980 summer Olympics, which were lost due to the boycott of such games.

H.R. 7462. May 29, 1980. Ways and Means. Amends the Internal Revenue Code to permit the use of tax-exempt industrial development bonds, issued as the obligation of a State, to finance railroad facilities.

H.R. 7463. May 29, 1980. Foreign Affairs; Judiciary; Banking, Finance and Urban Affairs; Ways and Means. Seeks to promote export trading companies. Authorizes the Export-Import Bank to provide loans and guarantees to such companies. Amends the Webb-Pomerene Act to exempt such companies from antitrust restrictions. Amends the Internal Revenue Code to make such companies eligible for treatment as domestic international sales corporations (DISC) and Subchapter S corporations.

H.R. 7464. May 29, 1980. Interstate and Foreign Commerce. Expedites the decisionmaking process with respect to the siting of new coal-fired powerplants. Provides, where possible, that such plants be located in the general area where the energy is to be distributed.

H.R. 7465. May 29, 1980. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize the Administrator of the Environmental Protection Agency to grant, with the consent of the State Governor, waivers of specified air pollution control requirements for coal-fired power plants using innovative technological systems of continuous emission reduction.

Directs the Administrator to develop and implement plans to assess to effectiveness of a system of fees from and rebates to owners or operators of emissions sources to achieve national or secondary ambient air quality standards in specified regions.

H.R. 7466. May 29, 1980. Post Office and Civil Service. Permits Federal agencies and Federal advisory committees to employ personal assistants for handicapped employees or members at their official duty station and while on travel status.

H.R. 7467. May 29, 1980. Ways and Means. Repeals the estate tax, the gift tax, and the tax on generation-skipping transfers under the Internal Revenue Code.

H.R. 7468. May 29, 1980. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to provide that the Federal medical assistance percentage will be 100 percent for individuals during periods in which they have been incorrectly certified as SSI recipients.

H.R. 7469. May 29, 1980. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to direct that the average fuel economy standard for 1995 and later model years shall be 40 miles per gallon.

H.R. 7470. May 29, 1980. Interior and Insular Affairs. Provides for payments in lieu of taxes to be made from the Bonneville Power Administration fund to State and local taxing authorities for those transmission facilities of such Administration on which construction was completed after April 30, 1980.

H.R. 7471. May 30, 1980. Extends the temporary increase of the public debt limit.

H.R. 7472. May 30, 1980. Ways and Means. Amends the Internal Revenue Code to provide that meals furnished by employers to employees which are excluded from such employees' income shall not be subject to taxes under the Federal Insurance Contributions Act of the Federal Unemployment Tax Act.

H.R. 7473. May 30, 1980. Judiciary. Amends the Federal Rules of Criminal Procedure to require that a criminal case in a Federal district court having three or more judges in regular active service be reassigned if all defendants in such case jointly file timely notice.

H.R. 7474. May 30, 1980. Science and Technology. Directs the Secretary of Energy to prepare a comprehensive program management plan of research, development, and demonstration of ocean thermal energy conversion (OTEC) systems.

Establishes the OTEC Advisory Committee to advise and report to the Secretary.

H.R. 7475. May 30, 1980. Judiciary; Armed Services. Makes the Federal tort claims procedure the exclusive remedy in medical malpractice actions resulting from federally authorized National Guard training activities.

H.R. 7476. May 30, 1980. Judiciary. Declares a certain individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7477. June 3, 1980. Ways and Means. Amends the Internal Revenue Code to extend the authority to impose the tax on noncommercial aviation fuel, the tax on civil aircraft use, and the taxes on air transportation of persons and property.

Reduces the civil aircraft use tax rate for the transitional period of July 1, 1980, through October 1, 1980.

Amends the Airport and Airway Revenue Act of 1970 to extend the Airport and Airway Trust Fund.

H.R. 7478. June 3, 1980. Ways and Means. Amends the Second Liberty Bond Act to raise the ceiling on the investment yield on U.S. savings bonds. Increases the face amount of specified bonds which may be outstanding at any time.

H.R. 7479. June 3, 1980. Foreign Affairs; Banking, Finance and Urban Affairs; Judiciary; Ways and Means; Interstate and Foreign Commerce; Small Business; Agriculture; Education and Labor. Establishes a national export policy for the United States.

H.R. 7480. June 3, 1980. Ways and Means. Amends the Tariff Schedules of the United States to impose a tariff on imported shrimp.

H.R. 7481. June 3, 1980. Ways and Means. Amends the Internal Revenue Code to exempt a certain portion of royalty owner oil production from the windfall profit tax.

H.R. 7482. June 4, 1980. Banking, Finance and Urban Affairs. Authorizes the President to present a gold-plated medal, on behalf of the Congress, to those athletes selected through the Olympic trial process to be members of the United States Summer Olympic Team of 1980.

H.R. 7483. June 4, 1980. Ways and Means. Amends the Internal Revenue Code to allow commercial fishermen an income tax credit for fuel costs of their fishing vessels.

H.R. 7484. June 4, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 7485. June 4, 1980. Government Operations. Provides for payments in lieu of taxes to be made by the United States to local governments for property which is exempt from real property taxation under Federal law and which is located within the jurisdiction of the local government and owned by a foreign government of international organization.

H.R. 7486. June 4, 1980. Public Works and Transportation. Directs the General Services Administration to establish the Federal Protective Service for the protection of property under the jurisdiction of the Administration. Provides for the pay, training, and retirement of the members of such Service.

H.R. 7487. June 4, 1980. Ways and Means. Amends the Internal Revenue Code to impose a manufacturers' excise tax on the sale of light gauge steel drums.

H.R. 7488. June 4, 1980. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to increase civil and criminal penalties for violation of specified transportation safety and accident reporting laws.

H.R. 7489. June 4, 1980. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce; Public Works and Transportation. Provides grants and loans for production and utilization of anthracite coal, and other financial assistance for the planning, program coordination, and use of anthracite coal resources.

H.R. 7490. June 4, 1980. Judiciary. Directs the Secretary of the Treasury to pay a specified amount to Herbert J. Thomas Memorial Hospital in the State of West Virginia.

H.R. 7491. June 4, 1980. Interstate and Foreign Commerce. Provides exemptions from the Investment Company Act of 1940 and Investment Advisers Act of 1940 for specialized investment companies engaged in furnishing capital to unseasoned enterprises which are unable to obtain capital on favorable terms through conventional means and which frequently need and receive significant managerial assistance and for certain investment advisers.

H.R. 7492. June 4, 1980. Post Office and Civil Service. Declares that a Federal employee shall be considered to be disabled for purposes of disability retirement if the employee is unable to perform useful and efficient service in his or her position because of disease or injury and is not qualified for any vacant position at the same level.

H.R. 7493. June 4, 1980. Appropriations. Makes supplemental appropriations and rescinds certain budget authority for fiscal year 1980.

H.R. 7494. June 4, 1980. Armed Services. Provides for an investigation of the acquisition of lands on Natagorda Island, Texas, by the Federal Government in 1940. Preserves certain rights in that land to the former owners.

H.R. 7495. June 4, 1980. Post Office and Civil Service. Establishes Inauguration Day, January 20, following the election of the President, as a legal public holiday.

H.R. 7496. June 4, 1980. Merchant Marine and Fisheries; Ways and Means. Provides additional funds for certain projects relating to fish restoration.

H.R. 7497. June 4, 1980. Judiciary. Declares two named individuals to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7498. June 4, 1980. Judiciary. Declares a named individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7499. June 5, 1980. Merchant Marine and Fisheries. Provides financial and technical assistance with respect to the use of commercial fishing methods, in certain Great Lakes waters, that are consistent with sound fishery conservation and management practices.

H.R. 7500. June 5, 1980. Interstate and Foreign Commerce. Amends the Powerplant and Industrial Fuel Use Act of 1978 to make certain technical amendments to such Act. Revises the regulatory program implementing such Act.

H.R. 7501. June 5, 1980. House Administration. Amends the Federal Campaign Act of 1971 to permit certain organizations and corporations to solicit political contributions from members' families.

H.R. 7502. June 5, 1980. Interstate and Foreign Commerce. Allows State Medicaid plans to provide medical assistance for institutional services for mentally retarded individuals who are not otherwise eligible for such assistance because they are not treated as residents of the State.

H.R. 7503. June 5, 1980. Agriculture. Establishes a ceiling of nine percent on interest rates on price support loans for 1979 and 1980 crop agricultural commodities.

H.R. 7504. June 5, 1980. Ways and Means. Amends the Internal Revenue Code to allow an investment tax credit for costs related to a theatrical production.

H.R. 7505. June 5, 1980. Ways and Means. Amends the Internal Revenue Code to provide for a 20 percent investment tax credit for industrial property utilized to conserve energy. Increases the amount of the investment tax credit energy percentage for specially defined energy property and alternative energy property.

H.R. 7506. June 6, 1980. Government Operations. Prohibits a Federal agency from: (1) requiring any person to maintain records for a period in excess of four years; and (2) commencing an action against a person who violated a regulation after four years have expired since the violation occurred.

H.R. 7507. June 5, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act, to reaffirm that benefits payable thereunder are exempt from all taxation.

H.R. 7508. June 5, 1980. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to exempt municipalities with a population of 5,000 or less, or counties with a population of 10,000 or less or less than 20 persons per square mile and not within a metropolitan area, from specified prohibitions against open dumping of solid waste.

H.R. 7509. June 5, 1980. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers an income tax credit or deduction for the purchase of crime prevention devices.

H.R. 7510. June 5, 1980. Banking, Finance and Urban Affairs; Veterans' Affairs. Provides that the interest rate on mortgages secured by one- to four-family residences and insured or guaranteed under specified provisions of law be negotiated between the borrower and the lender. Prohibits lenders from charging discount points on such mortgages in excess of their acquisition costs.

H.R. 7511. June 5, 1980. Veterans' Affairs. Increases the rates of veterans' compensation for: (1) wartime disability compensation; (2) additional compensation for dependents; and (3) clothing allowance paid to certain disabled veterans.

Increases the rates of veterans' dependency and indemnity compensation for: (1) a surviving spouse; (2) surviving children; and (3) supplemental children's benefits.

H.R. 7512. June 5, 1980. Interior and Insular Affairs. Authorizes the Secretary of the Interior to retain as a national reserve, lands of the outer Continental Shelf included in a certain proposed lease sale. Prohibits the Secretary from leasing such lands for oil or gas porduction or development, except as recommended by the President and not disapproved by the Congress.

H.R. 7513. June 5, 1980. Ways and Means. Amends the Tariff Schedules of the United States to provide for the duty-free entry of potassium bicarbonate.

H.R. 7514. June 5, 1980. Interior and Insular Affairs. Provides for the conveyance of certain lands in Mammoth Lakes, California, to the Mammoth Unified School District, Mono County, and the Mono County Water District.

H.R. 7515. June 5, 1980. Ways and Means. Amends title IV (Aid to Families with Dependent Children) of the Social Security Act to substitute block grants for openended Federal matching. Gives States a fiscal incentive to reduce error, waste, and fraud in the aid to families with dependent children program. Provides fiscal relief to the States. Encourages the States to require work as a condition of eligibility for aid to families with dependent children payments. Establishes a demonstration project to provide a pilot test of the State's ability to design and implement their own welfare programs.

H.R. 7516. June 5, 1980. Interstate and Foreign Commerce. Amends the Trust Indenture Act of 1939 to make the small offerings exemption for specified securities consistent with such exemption under the Securities Act of 1933. Increases the amount of other specified securities entitled to the small offerings exemption.

H.R. 7517. June 5, 1980. Government Operations. Requires each Federal agency to prepare an annual employment impact statement for its proposed procurement practices.

H.R. 7518. June 5, 1980. Education and Labor; Government Operations. Prohibits any employee of the Bureau of Labor Statistics from disclosing data requested under a pledge of confidentiality in connection with a statistical program which could reasonably be uniquely associated with the identity of any individual or establishment to which the data pertains.

H.R. 7519. June 5, 1980. Interior and Insular Affairs. Amends the Indian Claims Commission Act of 1946 to prohibit the Indian Claims Commission, in determining the amount of payment to be made by the United States to an Indian claimant, from setting off against such payment any money or property given to, or funds expended gratuitously for such claimant after June 30, 1951.

H.R. 7520. June 5, 1980. Ways and Means. Amends the Internal Revenue Code to provide that any income received or accrued by a tax-exempt mutual or cooperative electric or telephone company from qualified pole rentals, or by a cooperative telephone company from the sale of display listings in a directory furnished to company members, shall not be treated as unrelated business income subject to tax.

H.R. 7521. June 5, 1980. Government Operations. Requires an individual to be a U.S. citizen to be eligible for any benefits wholly funded by the Government.

Terminates any Federal assistance to any program which uses such assistance to provide benefits to individuals who are not U.S. citizens.

H.R. 7522. June 6, 1980. Ways and Means. Amends the Internal Revenue Code to allow a refundable income tax credit to individual taxpayers for specified amounts of residential energy costs saved by such taxpayers during a taxable year in comparison with costs incurred in 1979.

H.R. 7523. June 5, 1980. Judiciary. Declares a named individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7524. June 5, 1980. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in full satisfaction of a claim against the United States for losses suffered as a result of Air Force personnel erroneously refusing to accept household goods of such individual for storage and subsequent commercial shipment.

H.R. 7525. June 5, 1980. Judiciary. Declares two named individuals to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7526. June 9, 1980. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 with respect to liability for accidents at nuclear facilities.

H.R. 7527. June 9, 1980. Ways and Means; Interstate and Foreign Commerce; Judiciary; Post Office and Civil Service. Institutes revisions in the health care delivery system. Assists all Americans in obtaining health care. Restrains increases in health care costs.

H.R. 7528. June 9, 1980. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act and the Internal Revenue Code to provide for: (1) protection of individuals against catastrophic medical expenses; and (2) employer-offered health plans to meet minimal requirements in order to receive certain tax benefits.

Amends the Public Health Service Act and the Social Security Act with respect to enrollment in health maintenance organizations.

H.R. 7529. June 9, 1980. Ways and Means. Directs the Secretary of Labor to develop model legislation and to make grants, and provide technical assistance, to States to develop, enact, and implement short-time unemployment compensation programs for individuals with reduced workweeks based on qualified employer plans.

H.R. 7530. June 9, 1980. Judiciary. Amends the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 7531. June 10, 1980. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to permit operations by the Overseas Private Investment Corporation in China.

H.R. 7532. June 10, 1980. Ways and Means; Rules. Amends the Internal Revenue Code to impose an additional excise tax on imported automobiles manufactured in a foreign country, imports of whose automobiles account for more than ten percent of the new automobiles sold in the United States for the most recent 12-month period for which data are available.

H.R. 7533. June 10, 1980. Ways and Means. Amends the Internal Revenue Code to provide that deferred compensation plans shall not be deemed as not satisfying minimum vesting standards even if there is a reasonable likelihood that the accrual of benefits or forfeitures under such plans will tend to discriminate in favor of employees who are officers, shareholders, or highly compensated.

H.R. 7534. June 10, 1980. Appropriations. Appropriates a sum for construction of facilities and acquisition of equipment in connection with a rapid transit project connecting Midway Airport and providing rapid transit service to the Southwest Side of Chicago.

H.R. 7535. June 10, 1980. Post Office and Civil Service. Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act to eliminate the limitation on the amount of leave a teacher employed overseas by the Department of Defense may accumulate. Requires that such a teacher receive credit for any sick leave earned at a prior Government job, and for sick leave and teacher's leave earned at the Department when reappointed to another agency, provided that any break in service does not exceed three months.

H.R. 7536. June 10, 1980. Armed Services. Amends the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) to change the costsharing formula for emergency inpatient medical and dental care for members, certain former members, and dependents.

H.R. 7537. June 10, 1980. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to provide financial assistance to municipalities to be used for the closing of open dumps and the construction of sanitary landfills, in compliance with specialized requirements of such Act.

H.R. 7538. June 10 1980. Ways and Means. Amends the Internal Revenue Code to permit an income tax deduction from gross income for agency fees, court costs, attorney's fees, and other necessary expenses incurred in the adoption of a child.

H.R. 7539. June 10, 1980. Ways and Means. Amends the Internal Revenue Code to extend the tax exclusion of interest on industrial development bonds to obligations issued to finance hazardous waste disposal facilities.

H.R. 7540. June 10, 1980. Judiciary. Redesignates the United States Customs Court as the United States Court of International Trade. Expands the jurisdiction and powers of such Court and sets forth procedures with respect to actions in such Court.

Makes similar revisions with respect to the Court of Appeals for International Trade, Patents, and Trademarks.

H.R. 7541. June 10, 1980. Ways and Means. Amends the Internal Revenue Code to postpone the recognition of losses which are generated by tax shelters involving the sale and purchase of offsetting positions in certain types of personal property.

Provides that certain obligations of the United States and its political subdivisions shall be treated as capital assets for capital gains tax purposes.

H.R. 7542. June 11, 1980. Makes supplemental appropriations and rescinds certain budget authority for fiscal year 1980.

H.R. 7543. June 11, 1980. Interior and Insular Affairs. Prohibits the inclusion of a scenic shoreline drive in the management plan for the Pictured Rocks National Lakeshore in the State of Michigan.

H.R. 7544. June 11, 1980. Public Works and Transportation. Designates the U.S. Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building."

H.R. 7545. June 11, 1980. Ways and Means. Amends the Trade Act of 1974 to make workers eligible for trade adjustment assistance if: (1) their firms' sales or production threaten to decrease absolutely; or (2) their firms provide essential parts or services to articles adversely affected by increased imports.

H.R. 7546. June 11, 1980. Foreign Affairs. Amends the Internal Revenue Code to permit tax-free industrial development bonds to be used to finance the construction and acquisition of office space and computer facilities at airports.

H.R. 7548. June 11, 1980. Agriculture Amends the Farm Credit Act of 1971 to permit farm credit system institutions to revise their services to borrowers.

H.R. 7549. June 11, 1980. Interior and Insular Affairs. Authorizes the generation of electrical power at the Palo Verde Irrigation District diversion dam in the State of California.

H.R. 7550. June 11, 1980. Judiciary; Foreign Affairs. Establishes a Commission on the International Application of Antitrust Laws. Charges such Commission with examining the international aspects of United States antitrust laws and related statutes, court rules, and administrative procedures and with making recommendations to the President and to the Congress on the results of such study.

H.R. 7551. June 11, 1980. Interstate and Foreign Commerce; Education and Labor. Provides financial assistance for programs for the prevention, identification, and treatment of adult abuse, neglect, and exploitation. Establishes a national center on adult abuse.

H.R. 7552. June 11, 1980. Armed Services. Authorizes the Secretary concerned of the Armed Forces to conduct a safety investigation of any aircraft accident under his or her jurisdiction. Prohibits public disclosure of certain parts of any such investigation.

H.R. 7553. June 11, 1980. Ways and Means. Amends the Internal Revenue Code to exempt from income taxation interest income received by a nonresident alien individual or foreign corporation on investments in U.S. corporations or partnerships.

H.R. 7554. June 12, 1980. Interstate and Foreign Commerce. Amends the Securities Act of 1933 and the Investment Company Act of 1940 to provide incentives for small business investment.

H.R. 7555. June 12, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to prevent payment, in certain cases, of disability insurance benefits for a physical or mental condition arising from an individual's commission of a crime or the individual's incarceration in a penal institution. Excludes from the definition of "full time student" any individual incarcerated in a penal institution following a felony conviction. Deems convicted felons to have refused rehabilitation services under certain circumstances.

H.R. 7556. June 12, 1980. Ways and Means. Amends the Internal Revenue Code to reduce the rate of excise tax on tires.

H.R. 7557. June 12, 1980. Agriculture. Authorizes appropriations for fiscal years 1981 through 1985 to the Secretary of Agriculture to carry out a program of matching grants to States to assist "1890 land grant colleges", including Tuskegee Institute, in acquiring and improving agricultural and food research facilities and equipment.

H.R. 7558. June 12, 1980. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to establish a formula for determining the amount of the annual Federal payment to the District of Columbia.

H.R. 7559. June 12, 1980. Ways and Means. Amends the Internal Revenue Code to prescribe procedures to increase compliance with reporting requirements for dividend and interest income.

H.R. 7560. June 12, 1980. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the purchase of fuel-efficient passenger automobiles. Permits a full ten percent investment tax credit for fuel-efficient automobiles without regard to the useful life of such automobiles.

H.R. 7561. June 12, 1980. Ways and Means. Amends the Internal Revenue Code to eliminate the age requirement for the one-time exclusion of gain from the sale or exchange of a principal residence.

H.R. 7562. June 12, 1980. Ways and Means. Amends the Internal Revenue Code to allow a deduction to any taxpayer furnishing professional design services for cash contributions to his service liability trust and for cash amounts paid to a captive insurer (wholly or partially-owned by the taxpayer) for service liability insurance.

H.R. 7563. June 12, 1980. Ways and Means. Amends the Internal Revenue Code to provide tax incentives for businesses in economically depressed areas.

H.R. 7564. June 12, 1980. Interior and Insular Affairs. Sets forth the intent of the Congress in connection with certain school grant indemnity land statutes and the Taylor Grazing Act.

H.R. 7565. June 12, 1980. Judiciary. Divides the current United States Court of Appeals for the Fifth Circuit into two circuits, the Fifth Circuit, composed of the States of Louisiana, Mississippi, and Texas, and the Eleventh Circuit, composed of the States of Alabama, Florida, and Georgia.

H.R. 7566. June 12, 1980. Ways and Means. Amends the Internal Revenue Code to revise the rules for the deductibility of expenses for attendance at a foreign convention.

H.R. 7567. June 12, 1980. Interior and Insular Affairs; Judiciary. Confers jurisdiction upon the United States Court of Claims and the United States District Court for the Eastern District of Oklahoma to hear all claims which the Cherokee Nation of Oklahoma may have against the United States with respect to certain lands and assets.

H.R. 7568. June 12, 1980. House Administration. Amends the Federal Election Campaign Act of 1971 to limit the aggregate volume of honorariums which may be accepted in any calendar year by certain employees of the House of Representatives from any particular individual or organization. Imposes certain limits with respect to the outside earned income permissable for certain of such employees.

H.R. 7569. June 12, 1980. Ways and Means. Amends the Trade Act of 1974 to make workers eligible for trade adjustment assistance if: (1) their firms' sales or production threaten to decrease absolutely; (2) their firms provide essential parts or services to articles adversely affected by increased imports; or (3) they constitute a significant number of workers in a trade impacted area which is eligible for adjustment assistance for communities.

H.R. 7570. June 12, 1980. Interior and Insular Affairs. Provides that funds which are to be distributed per capita to individual members of an Indian tribe may be so distributed by the Secretary of the Interior or the governing body of any such tribe.

H.R. 7571. June 12, 1980. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Authorizes grants to States in order to provide assistance to low-income households for residential heating costs.

H.R. 7572. June 12, 1980. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that appearances by actors in motion pictures or theatrical productions shall not be subject to the requirement of specified provisions of such Act.

H.R. 7573. June 12, 1980. Interior and Insular Affairs. Amends the Alaska Native Claims Settlement Act to extend, by 24 months, the deadline for completion (by the Secretary of the Interior, the Administrator of the General Services Administration, and the Cock Inlet Regional Corporation) of the nomination of Federal lands or property for such Corporation in exchange for other Federal lands which such Corporation would otherwise receive out of the Cook Inlet Area.

H.R. 7574. June 12, 1980. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to authorize and direct the Secretary of the Interior to grant preferences to small refineries in the sale of oil.

H.R. 7575. June 12, 1980. Judiciary. Declares a named individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7576. June 13, 1980. Foreign Affairs; Judiciary. Requires the Attorney General to determine whether: (1) U.S. business conduct and arrangements in various countries to expand exports conflict with basic antitrust principles; and (2) a more liberal enforcement policy for overseas activities would impede implementation of the antitrust laws.

H.R. 7577. June 13, 1980. Interstate and Foreign Commerce. Requires that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or efficacy becomes diminished.

H.R. 7578. June 13, 1980. Banking, Finance and Urban Affairs. Amends the Housing Act of 1959 to exempt certain housing projects for the elderly from the prevailing wage rate provision of such Act.

H.R. 7579. June 13, 1980. Public Works and Transportation. Amends the Public Buildings Act of 1959 with respect to the acquisition of public buildings by exchange.

H.R. 7580. June 13, 1980. Education and labor. Directs the Secretary of Education to make per capita grants to reimburse elementary schools and institutions of higher education for part of the cost of foreign language instruction.

Directs the Secretary to conduct a survey of the effectiveness of foreign language training in secondary schools and community colleges.

H.R. 7581. June 13, 1980. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in full satisfaction of a claim against the United States.

H.R. 7582. June 13, 1980. Judiciary. Permits a named individual to file a claim within one year after the date of enactment of this Act for refund of overpayment of taxes imposed under the Internal Revenue Code.

H.R. 7583. June 13, 1980. Appropriations. Makes appropriations for fiscal year 1981 to the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President, and specified independent agencies.

H.R. 7584. June 13, 1980. Appropriations. Makes appropriations for fiscal year 1981 to the Departments of State, Justice, and Commerce, the Judiciary, and related agencies.

H.R. 7585. June 16, 1980. Veterans' Affairs. Allows the Veterans' Administration to furnish outpatient medical services to any veteran exposed to ionizing radiation as a result of atmospheric testing of nuclear weapons.

H.R. 7586. June 16, 1980. Judiciary. Amends the Gun Control Act of 1968 to increase the prison sentences for anyone using or carrying a firearm during the commission of a felony which may be prosecuted in Federal court.

H.R. 7587. June 16, 1980. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to repeal a provision relating to forfeitures.

H.R. 7588. June 16, 1980. Public Works and Transportation. Designates the United States Post Office and Courthouse Building in Concord, New Hampshire, as the James C. Cleveland Building.

H.R. 7589. June 16, 1980. Small Business. Amends the Small Business Act to increase to $110,000 the amount of a borrower's disaster loans eligible for a three percent rate.

H.R. 7590. June 16, 1980. Appropriations Makes appropriations to the Department of Energy, the Department of Defense, the Department of the Interior, the Appalachian Regional Commission, the Delaware River Basin Commission, the Interstate Commission on the Potomac River Basin, the Nuclear Regulatory Commission, the Susquehanna River Basin Commission, and the Tennessee Valley Authority for energy and water development for fiscal year 1981.

H.R. 7591. June 17, 1980. Appropriations. Makes appropriations for fiscal year 1981 for specified agricultural, rural development, domestic food, and international programs of the Department of Agriculture and certain related agencies.

H.R. 7592. June 17, 1980. Appropriations. Makes appropriations for military construction for the Department of Defense for fiscal year 1981.

H.R. 7593. June 17, 1980. Appropriations. Makes appropriations for the legislative branch for fiscal year 1981.

H.R. 7594. June 17, 1980. Ways and Means. Amends the Internal Revenue Code to specify conditions under which accruals or forfeitures in a tax-qualified deferred compensation plan, which would otherwise be deemed discriminatory, will not be considered to have taken place.

H.R. 7595. June 17, 1980. Ways and Means. Amends the Internal Revenue Code and the Social Security Act to provide that social security taxes and income tax withholding shall not apply to certain chore services performed by an individual under an arrangement with a State program.

H.R. 7596. June 17, 1980. Interstate and Foreign Commerce. Directs the Department of Health and Human Services to halt implementation of certain regulations relating to clinical laboratory personnel.

H.R. 7597. June 17, 1980. Armed Services. Allows disabled individuals eligible for custodial care under the CHAMPUS program on October 18, 1978, to continue to receive such care concurrently with hospital insurance benefits provided by Medicare.

H.R. 7598. June 17, 1980. Ways and Means. Amends the Internal Revenue Code to allow a deduction to any business enterprise engaged in the manufacture, importation, distribution, lease, or sale of any product for contributions to its product liability trust account and for amounts paid to a captive insurer (wholly or partially-owned by the taxpayer) for product liability insurance.

H.R. 7599. June 17, 1980. Interior and Insular Affairs. Designates various areas as components of the national wilderness preservation system in the national forests in the State of Texas.

H.R. 7600. June 17, 1980. Ways and Means. Amends the Internal Revenue Code to exclude from gross income interest earned on series EE U.S. savings bonds.

H.R. 7601. June 17, 1980. Ways and Means. Amends the Internal Revenue Code to allow, for estate and gift tax purposes, effective disclaimer of an interest created by a transfer of property made before November 15, 1958.

H.R. 7602. June 17, 1980. Education and Labor. Amends the Library Services and Construction Act to: (1) permit grants to States to be used for State agency long-range planning for library services; (2) require that 15 percent of appropriations be available for direct grants to existing cooperative networks of libraries; and (3) declare that nothing in any law prevents U.S. communications common carriers from rendering free or reduced rate communications interconnection services for nonprofit library and educational activities.

Amends the Department of Education Organization Act to provide for an Office of, and Assistant Secretary for, libraries and Information Services.

H.R. 7603. June 17, 1980. Ways and Means. Amends the Internal Revenue Code to allow, in lieu of the amortization of amounts for pollution control facilities, a deduction in the year in which such amounts are paid of incurred.

H.R. 7604. June 17, 1980. Ways and Means. Amends the Internal Revenue Code to provide for the nonrecognition of gain from the sale of small business stock to an employee stock ownership plan if the proceeds from such a sale are reinvested in small business stock within 18 months of the date of the sale.

H.R. 7605. June 17, 1980. Interstate and Foreign Commerce. Amends the International Travel Act of 1961 to repeal provisions providing for an Assistant Secretary of Commerce for tourism.

Authorizes appropriations for the U.S. Travel Service. Terminates the limitation on the number of employees in the District of Columbia office.

H.R. 7606. June 17, 1980. Ways and Means. Amends the Internal Revenue Code with respect to the tax treatment of employee stock ownership plans.

H.R. 7607. June 17, 1980. Armed Services. Extends certain assignment rotation rights to civilian Defense Establishment employees from Guam, Puerto Rico, and the Virgin Islands.

H.R. 7608. June 17 1980. Judiciary. Declares a named individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7609. June 17, 1980. Judiciary. Authorizes the granting of a visa and admission to the United States for permanent residence to a named individual.

H.R. 7610. June 18, 1980. Education and Labor. Amends the Longshoremen's and Harbor Workers' Compensation Act to revise the manner of computing the benefits provided under such Act. Provides for certification of physicians eligible to provide medical care to workers covered by such Act. Provides for an attorney to serve as the representative of the special fund established under such Act. Establishes a benefits review board, the members of which are appointed by the President. Establishes an advisory committee to evaluate the manner in which the provisions of such Act are carried out.

H.R. 7611. June 18. 1980. Government Operations. Prohibits the receipts and disbursements of the Airport and Airway Trust Fund and any amount in such Trust Fund from being included in the totals of the budget of the United States Government.

H.R. 7612. June 18, 1980. Ways and Means.

Amends the Internal Revenue Code to provide that proceeds from identical wagers will not be aggregated for purposes of determining whether the excise tax on wagering should be withheld.

H.R. 7613. June 18, 1980. Public Works and Transportation. Authorizes and directs the Secretary of the Interior, acting through the National Park Service, to be responsible for structural and other building repairs, maintenance, security, information, interpretation, janitorial services, utilities, and all similar services necessary to the operation of the John F. Kennedy Center for the Performing Arts.

H.R. 7614. June 18, 1980. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax exclusion of interest earned on savings accounts on deposit with certain financial institutions. Disallows income tax deductions for interest paid on credit card debt.

H.R. 7515. June 18, 1980. Judiciary. Transfers the counties of Alleghany, Ashe, Watauga, and Wilkes from the Middle to the Western Judicial District of North Carolina.

H.R. 7616. June 18, 1980. Interstate and Foreign Commerce. Establishes a national center for clinical pharmacology in the Department of Health and Human Services.

H.R. 7617. June 18, 1980. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to grant to oil shale leaseholders additional leases for lands outside the oil shale lease lands for any purpose, other than the actual mining of oil shale, connected with operations pursuant to such oil shale leases.

H.R. 7618. June 18, 1980. Ways and Means. Amends the Internal Revenue Code to exempt from income taxation any income resulting from the transfer of stock to an individual exercising a stock option under an incentive stock option plan.

H.R. 7619. June 18, 1980. Education and Labor. Amends the National Labor Relations Act to specify that no faculty member or group of faculty members in any educational institution shall be deemed to be managerial or supervisory employees solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of educational policy.

H.R. 7620. June 18, 1980. Judiciary. Declares a named individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7621. June 19, 1980. Judiciary; Rules. Amends the Immigration and Nationality Act to provide for a one-House congressional veto of a Presidential determination to exceed the annual 50,000 refugee admission ceiling.

H.R. 7622. June 19, 1980. Post Office and Civil Service. Requires the Postal Service to maintain the frequency of mail delivery service in effect on June 1, 1980.

H.R. 7623. June 19, 1980. Education and Labor. Amends the Occupational Safety and Health Act to direct the Secretary of Labor to issue warning notices to employees before issuing citations. Sets forth procedures for the issuance of warning notices and citations.

H.R. 7624. June 19, 1980. Ways and Means. Amends the Internal Revenue Code to apply the excise tax on the sale of coal at the coal preparation plant.

H.R. 7625. June 19, 1980. Judiciary. Divides the current United States Court of Appeals for the Fifth Circuit into two circuits, the Fifth Circuit, composed of the States of Louisiana, Mississippi, and Texas, and the Eleventh Circuit, composed of the States of Alabama, Florida, and Georgia.

H.R. 7626. June 19, 1980. Armed Services. Increases certain special pay and allowances for members of the uniformed services.

H.R. 7627. June 19, 1980. Government Operations. Authorizes the Archivist of the United States to commence actions to recover records unlawfully removed from Federal agencies.

Requires the Administrator of General Services to provide an opportunity for public comment on the proposed disposal of agency records.

H.R. 7628. June 19, 1980. Government Operations. Declares that the Archivist of the United States shall be appointed by the President, by and with the advice and consent of the Senate.

Transfers to the Archivist specified records management functions of the Administrator of the General Services Administration.

H.R. 7629. June 19, 1980. Banking, Finance and Urban Affairs. Authorizes the President to present a gold-plated medal, on behalf of the Congress, to those athletes selected through the Olympic trial process to be members of the United States Summer Olympic Team of 1980.

H.R. 7630. June 19, 1980. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 7631. June 19, 1980. Appropriations. Makes appropriations for fiscal year 1981 to the Department of Housing and Urban Development, specified independent agencies, and government corporations.

H.R. 7632. June 20, 1980. Foreign Affairs. Terminates the export controls imposed by the President on agricultural commodities to the Soviet Union.

H.R. 7633. June 20, 1980. Ways and Means. Expresses the sense of the Congress with respect to certain withholding taxes.

H.R. 7634. June 20, 1980. Interstate and Foreign Commerce. Amends the Clean Air Act to revise the formula for determining the amount of any noncompliance penalty. Eliminates a specified minimum amount for such penalties.

H.R. 7635. June 20, 1980. Foreign Affairs. Terminates the export controls imposed by the President on agricultural commodities to the Soviet Union.

H.R. 7636. June 20, 1980. Ways and Means. Amends the Internal Revenue Code to: (1) permit the nonrecognition of gain from the sale of a principal residence even though the purchase price of a new residence is less than the sales price of the old residence; (2) extend the rollover period for the reinvestment of residential sales proceeds eligible for capital gains nonrecognition treatment; (3) allow an income tax deduction for contributions to an individual housing account; and (4) limit the allowable amount of the income tax deduction for interest paid on home mortgages.

H.R. 7637. June 20, 1980. Interior and Insular Affairs. Provides for the exchange of certain lands within Tuolumne County, California.

H.R. 7638. June 20, 1980. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in full satisfaction of a claim against the United States.

H.R. 7639. June 20, 1980. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and National Act.

H.R. 7640. June 23, 1980. Interior and Insular Affairs. Provides water to the Papago Tribe of Arizona and its members. Settles tribal and individual water rights claims in portions of the Papago Reservations.

H.R. 7641. June 24, 1980. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to provide for Medicaid coverage of acupuncturists' services.

H.R. 7642. June 24, 1980. Ways and Means; Interstate and Foreign Commerce. Amends part B of title XVIII (Medicare) of the Social Security Act with respect to acupuncture treatment in States which license or certify individuals who furnish such treatment.

H.R. 7643. June 24, 1980. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer to elect to treat expenditures paid or incurred by him during the taxable year for depreciable business property as currently deductible business expenses.

H.R. 7644. June 24, 1980. Education and Labor. Establishes a municipal arts program for the purpose of making available artistic and cultural opportunities in the Nation's cities.

H.R. 7645. June 24, 1980. Judiciary. Divides the current United States Court of Appeals for the Fifth Circuit into two circuits, the Fifth Circuit, composed of the States of Louisiana, Mississippi, and Texas, and the Eleventh Circuit, composed of the States of Alabama, Florida, and Georgia.

H.R. 7646. June 24, 1980. Banking, Finance and Urban Affairs; Education and Labor; Interstate and Foreign Commerce. Establishes a program under which the Secretary of Housing and Urban Development may provide funds to local educational agencies for the renovation of underutilized school buildings. Amends the Energy Policy and Conservation Act to provide that school facilities under the jurisdiction of local educational agencies which have experienced declining student enrollments shall be given priority for the receipt of funds under specified provisions of such Act.

H.R. 7647. June 24, 1980. Ways and Means. Amends the Internal Revenue Code to allow a refundable income tax credit for electric utility fuel surcharges resulting from a shutdown of nuclear power generating facilities.

H.R. 7648. June 24, 1980. Merchant Marine and Fisheries. Directs the Secretary of the Interior to issue renewable annual permits to enable eligible applicants to commute across the Back Bay National Wildlife Refuge in the State of North Carolina.

H.R. 7649. June 24, 1980. Veterans' Affairs. Designates the outpatient clinic of the Veterans' Administration Medical Center in Fresno, California, as the "Victor Maghakian Clinic."

H.R. 7650. June 24, 1980. Judiciary. Authorizes the granting of a visa and admission to the United States for permanent residence to a named individual.

H.R. 7651. June 24, 1980. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in full satisfaction of a claim against the United States arising from a wrongful death action.

H.R. 7652. June 25, 1980. Ways and Means; Interstate and Foreign Commerce. Makes expenditure reductions and raises revenues in accordance with the budget reconciliation process by revising provisions concerning Medicare and Medicaid, unemployment compensation, trade adjustment assistance, mortgage subsidy bonds, estimated income payments by corporations, oil and chemical excise taxes, telephone excise tax, taxation of foreign investments in U.S. real estate, and social security taxes paid by the employer.

H.R. 7653. June 25, 1980. Post Office and Civil Service. Provides for the issuance of a commemorative postage stamp in honor of Father Michael J. McGivney, founder of the Knights of Columbus.

H.R. 7654. June 25, 1980. Armed Services. Requires the Board of Regents of the Uniformed Services University of the Health Sciences to establish a program of training in military medicine for individuals enrolled in the Armed Forces health professions scholarship program.

H.R. 7655. June 25, 1980. Ways and Means. Amends the Internal Revenue Code to reduce income tax rates for each category of individual taxpayers.

Provides for a system of accelerated

capital cost recovery for investment in business facilities and equipment.

H.R. 7656. June 25, 1980. Agriculture; Banking, Finance and Urban Affairs. Authorizes the Secretary of Agriculture to make loans for the construction of facilities to produce ethanol for blending with motor fuel.

H.R. 7657. June 25, 1980. Post Office and Civil Service. Establishes general statutory authority for the head of a Federal agency to appoint experts or consultants for temporary services.

H.R. 7658. June 25, 1980. District of Columbia. Amends the National Capital Transportation Act of 1969 to require the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a compehensive study of extending the rail rapid transit line specified in the adopted regional system.

H.R. 7659. June 25, 1980. Public Works and Transportation. Amends the Tennessee Valley Authority Act of 1933 to make the enhancement of the economic and social well being of people residing and owning property in the Tennessee and Mississippi River Basin a purpose of such Act.

H.R. 7660. June 25, 1980. Ways and Means. Amends the Tariff Schedules of the United States to provide for the duty-free entry of specified freight containers.

H.R. 7661. June 25, 1980. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to designate a certain portion of the Little Pee Dee River in the State of South Carolina for potential addition to the Wild and Scenic Rivers System.

H.R. 7662. June 25, 1980. Foreign Affairs. Sets forth compensation to be paid by any foreign government which tolerates the taking of U.S. citizens as hostages. Vests assets of such government in the United States if the hostages are not released within a specified period.

H.R. 7663. June 25, 1980. Veterans' Affairs; Post Office and Civil Service. Expands eligibility of former prisoners of war for certain health care benefits.

H.R. 7664. June 25, 1980. Education and Labor. Amends the National School Lunch Act to extend the appropriations authorizations for the summer food program for children and the Secretary of Agriculture's commodity purchasing authority.

Amends the Child Nutrition Act of 1966 to extend the appropriations authorizations for: (1) special payments to schools without food service programs or hot meal facilities; (2) State administrative expenses, including unused fund availability; (3) special supplemental food programs for pregnant women, infants, and young children; and (4) nutrition education and training.

Sets forth procedures and requirements for States and service institutions participating in such programs.

H.R. 7665. June 25, 1980. Judiciary. Divides the current United States Court of Appeals for the Fifth Circuit into two circuits, the Fifth Circuit, composed of the States of Louisiana, Mississippi, and Texas, and the Eleventh Circuit, composed of the States of Alabama, Florida, Georgia, and the Canal Zone.

H.R. 7666. June 25, 1980. Post Office and Civil Service. Increases the amounts of regular and optional group life insurance available to Federal employees. Provides optional life insurance on family members.

H.R. 7667. June 25, 1980. Interstate and Foreign Commerce. Amends the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 to revise exemptions from such Acts to include within such exemptions government employee benefit plans.

H.R. 7668. June 26, 1980. Intelligence; Foreign Affairs. Amends the National Security Act of 1947 to revise the congressional oversight procedures with respect to intelligence operations conducted by the United States.

H.R. 7669. June 26, 1980. Interior and Insular Affairs. Establishes a permanent boundary for that portion of the Acadia National Park which lies within the town of Isle au Haut, Maine.

H.R. 7670. June 26, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to make adjustments in the allocation of social security tax receipts between the Federal old age and survivors insurance trust fund and the Federal disability insurance trust fund.

H.R. 7671. June 26, 1980. Foreign Affairs. Terminates the export controls imposed by the President on U.S. agricultural commodities to the Soviet Union.

H.R. 7672. June 26, 1980. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to exempt labor unions from coverage as farm labor contractors.

Grants a limited exemption from registration requirements to specified farms, processors, canneries, gins, packing sheds, and nurseries, and their employees.

Exempts from such coverage specified family farmers, processors, canners, ginners, packing shed operators, and nurserymen, and their employees.

Revises certain requirements of disclosure of information to workers by farm labor contractors.

H.R. 7673. June 26, 1980. Rules. Establishes a citizens oversight panel to accept complaints filed against Members, officers, and employees of the House of Representatives and, when appropriate, to direct the Committee on Standards of Official Conduct to conduct a formal investigation of any such complaint.

H.R. 7674. June 26, 1980. Post Office and Civil Service; Government Operations. Revises the authority for appointment and compensation of experts and consultants. Provides statutory guidelines concerning the award of contracts for the procurement of goods and services from consultants and contractors.

H.R. 7675. June 26, 1980. Interstate and Foreign Commerce. Directs the National Institute of Arthritis, Metabolism, and Digestive Diseases to conduct studies to determine the safety and efficacy under the Federal Food, Drug, and Cosmetic Act of dimethyl sulfoxide as a topical analgesic. Provides that, if the drug is so determined to be safe and effective, new drug applications may be approved under such Act based on the evidence submitted by the Institute.

H.R. 7676. June 26, 1980. Banking, Finance and Urban Affairs. Amends the Federal Deposit Insurance Act, the National Housing Act, and the Federal Credit Union Act to provide insurance for the full amount of public funds deposited in insured banks, thrift institutions, and credit unions. Repeals the restriction on the Federal Deposit Insurance Corporation's authority to limit the aggregate amount of funds that may be deposited in insured banks.

H.R. 7677. June 26, 1980. Public Works and Transportation. Provides for the regulation of motor carriers of passengers.

H.R. 7678. June 26, 1980. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the purchase of a new highway vehicle.

H.R. 7679. June 26, 1980. Ways and Means. Amends the Internal Revenue Code to allow married individuals filing jointly an income tax deduction from gross income to offset the effect known as the "marriage penalty" under the income tax rates.

H.R. 7680. June 26, 1980. Interstate and Foreign Commerce. Amends the Public Health Service Act to establish a program of grants to financially distressed hospitals serving the medically indigent.

Establishes a National Advisory Council on Hospital Financing Stabilization and Reorganization.

H.R. 7681. June 26, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to make homemakers eligible for OASDI benefits.

H.R. 7682. June 26, 1980. Armed Services. Revises procedures for the Armed Forces with respect to ordering Reserves to active duty.

H.R. 7683. June 26, 1980. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to two named individuals in full satisfaction of a claim against the United States.

H.R. 7684. June 26, 1980. Judiciary. Directs that the military service of a named individual shall be credited in determining the amount of survivor annuity payments due his survivor.

Directs the Director of the Office of Personnel Management to make a lump sum payment to a named individual for the amount of specified survivor annuity payments.

H.R. 7685. June 27, 1980. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 to postpone for one month (from July 1, 1980, to August 1, 1980) the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multiemployer plans.

H.R. 7686. June 27, 1980. Judiciary. Amends current law creating a Federal cause of action for the violation of a person's civil rights under color of State law to limit the availability of such action to the deprivation of constitutional rights and civil rights and equal protection laws.

H.R. 7687. June 27, 1980. Post Office and Civil Service. Provides that no increase in pay for Members of Congress and certain other Federal officials may take effect unless the Federal budget is in balance.

H.R. 7688. June 27, 1980. Ways and Means. Amends the Internal Revenue Code to provide homeowners with an income tax credit for the construction of residences which incorporate a passive solar energy system.

H.R. 7689. June 27, 1980. Science and Technology. Amends the Presidential Science and Technology Advisory Organization Act of 1976 and the National Science Foundation Act of 1950 to provide additional information to the Congress to provide a basis for implementing multiyear research and development authorizations.

H.R. 7690. June 27, 1980. Ways and Means. Amends the Internal Revenue Code to provide homeowners with an income tax credit for the construction of residences which incorporate a passive solar energy system.

H.R. 7691. June 27, 1980. Ways and Means. Amends the Internal Revenue Code to extend the period (rollover period) during which a taxpayer must reinvest the proceeds from the sale of a principal residence if a new residence in order to qualify for the nonrecognition of any gain from such sale.

H.R. 7692. June 27, 1980. Judiciary. Provides for the cancellation of student visas for Iranians studying in the United States, and for their departure within 30 days.

H.R. 7693. June 27, 1980. Agriculture; Interior and Insular Affairs. Designates management of certain lands in the Sam Houston National Forest, Texas, for uses other than wilderness.

H.R. 7694. June 27, 1980. Armed Services; Post Office and Civil Service. Provides civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees. Authorizes the Delegates in Congress from Guam and the Virgin

Islands to have two appointments each, rather than one appointment, to each of the service academies. Authorizes the establishment of a National Guard of Guam.

H.R. 7695. June 27, 1980. Judiciary. Declares a named individual to have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 7696. June 30, 1980. Veterans' Affairs. Amends the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 with respect to increased participation.

H.R. 7697. June 30, 1980. Government Operations; Ways and Means. Amends the State and Local Fiscal Assistance Act of 1972 to authorize appropriations for revenue sharing under such Act.

Amends the Internal Revenue Code to allow individual taxpayers an income tax credit for the payment of State and local taxes, in lieu of the currently authorized income tax deduction.

H.R. 7698. June 30, 1980. Interior and Insular Affairs. Directs the Secretary of the Interior to reconsider a specified mineral patent application and to issue a patent if it is determined that the requisite mining claim was properly filed.

H.R. 7699. July 1, 1980. Ways and Means. Amends the Internal Revenue Code, with respect to the penalty for failure to pay tax due to negligence or intentional disregard of rules and regulations (but without intent to defraud), to change the amount of the penalty.

H.R. 7700. July 1, 1980. Veterans' Affairs. Provides an educational assistance program for persons who enlist, reenlist, or otherwise enter the Armed Forces after December 31, 1980. Provides for the cancellation of certain educational loans in the case of individuals who perform service in the Selected Reserve of the Ready Reserve of the Armed Forces.

H.R. 7701. July 1, 1980. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to permit the Secretary of Education to waive certain requirements of such Act relating to matching funds for services provided under schoolwide projects to children who are not educationally deprived.

H.R. 7702. July 1, 1980. Interior and Insular Affairs. Designates certain public lands in the State of California as wilderness.

H.R. 7703. July 1, 1980. Interior and Insular Affairs. Revises the boundary of the Congaree Swamp National Monument in the State of South Carolina.

H.R. 7704. July 1, 1980. Ways and Means. Permits a taxpayer who is required to change his method of accounting pursuant to Revenue Ruling 80-60 (inventory valuation) and Revenue Procedure 80-5 to effect such a change only for taxable years beginning after December 31, 1979.

H.R. 7705. July 1, 1980. Judiciary. Grants a Federal charter to the Former Members of Congress.

H.R. 7706. July 1, 1980. Judiciary. Amends the Federal Claims Collection Act of 1966 to permit agencies to contract with commercial claims collection services for the collection of claims of the United States.

H.R. 7707. July 1, 1980. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to extend certain provisions of the Price-Anderson Act with respect to excess energy costs incurred following the closure of a nuclear powerplant due to a nuclear incident.

H.R. 7708. July 1, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that surviving divorced wives, as well as widows, may marry after attaining age 60 without affecting their entitlement to widow's insurance benefits.

H.R. 7709. July 1, 1980. Ways and Means. Amends the Tariff Schedules of the United States to increase the quantity of cigarettes which may be entered duty-free by U.S. residents, for their personal use, returning from specified insular possessions.

H.R. 7710. July 1, 1980. Interstate and Foreign Commerce. Restricts the authority of the Secretary of Health and Human Services with respect to the regulation of vitamin and mineral products for over-the-counter use.

H.R. 7711. July 1, 1980. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act by designating a segment of the American River in the State of California as a component of the National Wild and Scenic Rivers System.

H.R. 7712. July 1, 1980. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 with respect to the effect of such Act on certain State laws regulating insurance.

H.R. 7713. July 1, 1980. Government Operations; House Administration; Post Office and Civil Service; Judiciary. Directs the Administrator of General Services to submit to Congress a prospectus for establishing a central presidential library to replace new presidential archival depositories.

Increases the annual allowance to which the spouse of a former President is entitled.

Sets forth the official expenses which the Administrator may provide to former Presidents.

Revises the length of time during which the United States Secret Service is authorized to protect a former President, a former Vice President, and the spouse, widow, widower, or child of a former President.

H.R. 7714. July 1, 1980. Foreign Affairs. Requires the Director of the International Communication Agency to make available a copy of the film "The President's Country" for distribution within the United States.

H.R. 7715. July 1, 1980. Ways and Means. Amends the Internal Revenue Code to exclude from the gross estate of an individual the value of an annuity under a State-defined benefit plan for judges or their beneficiaries. Exempts from the gift tax the election of an option to designate a beneficiary of a plan.

H.R. 7716. July 1, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to impose limitations with respect to the benefits otherwise payable to convicted felons under such title.

H.R. 7717. July 1, 1980. Science and Technology. Establishes a national program of ground water environmental research.

H.R. 7718. July 1, 1980. Judiciary. Amends the Federal criminal code to establish criminal penalties for whoever robs or attempts to rob any controlled substance.

H.R. 7719. July 1, 1980. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to limit the authority of local educational agencies to use Federal funds received under specified provisions of such Act for construction of a school facility to cases in which no reusable closed public school facility is within three miles of the proposed school facility.

H.R. 7720. July 1, 1980. Interior and Insular Affairs; Judiciary. Confers jurisdiction upon the United States Court of Claims to hear all claims which the Seminole Nation of Oklahoma may have with respect to loss of mineral interests.

H.R. 7721. July 1, 1980. Judiciary. Declares a named individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7722. July 1, 1980. Judiciary. Declares four named individuals to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7723. July 1, 1980. Judiciary. Declares three named individuals to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7724. July 2, 1980. Appropriations. Makes appropriations for fiscal year 1980 for the Department of the Interior, the Forest Service within the Department of Agriculture, specified programs within the Department of Energy, Indian programs within the Departments of Health and Human Services and Education, and related Federal agencies.

H.R. 7725. July 2, 1980. Ways and Means. Amends the Internal Revenue Code to exempt independent producer oil and royalty owner oil from the windfall profit tax.

H.R. 7726. July 2, 1980. Armed Services. Reduces from 60 to 55 the age at which a member of the Armed Forces may retire for non-Regular service. Provides that the retired pay of such a member retiring before the age of 60 shall be reduced in a manner determined by the Secretary of Defense.

H.R. 7727. July 2, 1980. Education and Labor. Amends the Higher Education Act of 1965 to increase the eligibility of members of the military Reserves and of the National Guard for basic educational opportunity grants by $500.

H.R. 7728. July 2, 1980. Ways and Means. Amends the Internal Revenue Code to allow an employer an income tax credit for payment of compensation to an employee for periods during which such employee participates in armed forces summer camp training.

H.R. 7729. July 2, 1980. Foreign Affairs. Amends the Trading With the Enemy Act to provide that any sums not yet deposited into the War Claims Fund be deposited into miscellaneous receipts in the Treasury. Reserves a specified portion of such funds to be used for an ex gratia payment to Switzerland.

H.R. 7730. July 2, 1980. Ways and Means. Amends the Internal Revenue Code to reduce individual income tax rates. Provides for cost of living adjustments to individual income tax brackets and the personal income tax exemption amount. Increases the minimum income levels at which a taxpayer is required to file an income tax return.

H.R. 7731. July 2, 1980. Foreign Affairs. Terminates the export controls imposed by the President on agricultural commodities to the Soviet Union.

H.R. 7732. July 2, 1980. Interior and Insular Affairs; Interstate and Foreign Commerce. Establishes a revised process for decisionmaking in regard to significant nonnuclear energy facilities.

H.R. 7733. July 2, 1980. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to study whether there may be a relationship between exposure of members of the Armed Forces of the United States to nuclear radiation in Hiroshima and Nagasaki immediately after World War II and various symptoms currently exhibited by such members.

H.R. 7734. July 2, 1980. Ways and Means. Amends the Internal Revenue Code to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week to an eligible individual by the amount of certain retirement benefits received by such individual.

H.R. 7735. July 2, 1980. Banking, Finance and Urban Affairs. Amends the Depository Institutions Deregulation and Monetary Control Act of 1980 to restrict State limitations on interest or other charges with regard to the extension of consumer credit. Permits creditors to impose transaction fees and access fees pursuant to open-end credit plans.

H.R. 7736. July 2, 1980. Banking, Finance and Urban Affairs; Foreign Affairs; Judiciary. Seeks to promote export trading companies. Permits banking organizations to invest in such companies. Authorizes the Export-Import Bank to provide loan guarantees to such companies. Amends the Webb-Pomerene Act to exempt such companies and export trade associations from antitrust restrictions. Directs the Secretary of Commerce to establish an office to promote export trade associations within the Department.

H.R. 7737. July 2, 1980. Government Operations. Limits the amount of land which may be owned by the Federal Government.

H.R. 7738. July 2, 1980. Government Operations. Requires each executive agency and independent agency to reduce Federal paperwork costs relating to small business by 33 percent over a three year period.

H.R. 7739. July 2, 1980. Ways and Means. Amends the Internal Revenue Code to: (1) reduce corporate income tax rates; (2) make permanent the tax exclusion for interest and dividends; (3) increase the investment tax credit for used business property; (4) allow a tax credit for cash investments in small business concerns; (5) provide for the nonrecognition of gain from the sale of a small business which is reinvested in replacement property; (6) reduce individual capital gains tax rates for small business investments; and (7) permit an estate tax exclusion for the value of certain small business property.

H.R. 7740. July 2, 1980. Judiciary. Amends the Federal criminal code to establish criminal penalties for whoever certain power transmission lines or facilities in which the United States has a security interest.

Provides criminal penalties for the malicious destruction or interference with the operation of certain energy facilities.

H.R. 7741. July 2, 1980. Judiciary. Requires Federal agencies to: (1) invite, accept, and consider alternative approaches to a proposed rule which would achieve the objectives of such rule at a lower cost to small businesses and organizations; (2) publish those proposals with a justification of the selection of the final rule; and (3) publish a plan for reviewing their rules to determine whether they are efficiently achieving legislative goals.

H.R. 7742. July 2, 1980. Ways and Means. Amends the Internal Revenue Code to double the amount of the income tax exclusion for interest and dividend income and to increase the amount of such exclusion to $3,000 for taxpayers age 65 or older. Permits taxpayers to receive a refundable income tax credit in lieu of the tax exclusion for interest and dividend income. Makes such tax exclusion permanent.

H.R. 7743. July 2, 1980. Public Works and Transportation. Authorizes the Corps of Engineers in performing certain emergency repairs and restoration of flood control works to make improvements which provide a higher level of flood protection.

H.R. 7744. July 2, 1980. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide coverage under part B of the Medicare program for supplies and services furnished by hospitals to individuals who have been determined to be terminally ill.

H.R. 7745. July 2, 1980. Education and Labor. Amends the Black Lung Benefits Act to provide that certain amounts available for disbursements under such Act shall be available for payment of benefits and reimbursements in the case of miners whose last coal mine employment occurred before July 1, 1973.

H.R. 7746. July 2, 1980. Interior and Insular Affairs. Makes certain technical amendments to the Mineral Lands Leasing Act.

H.R. 7747. July 2, 1980. Interstate and Foreign Commerce; Judiciary. Amends the Communications Act of 1934 to prohibit the unauthorized interception and use of subscription telecommunications. Protects the privacy of the users of such telecommunications.

H.R. 7748. July 2, 1980. Ways and Means. Amends tilte II (Old Age, Survivors and Disability insurance) of the Social Security Act to suspend the payment of old age or disability insurance benefits to any individual who is confined in a penal institution or correctional facility. Provides for the payment of such benefits to the individual's dependents or to such institution or facility, if specified conditions are met.

H.R. 7749. July 2, 1980. Ways and Means. Amends the Internal Revenue Code to: (1) increase the unified credit against the estate and gift taxes; and (2) increase the gift tax exclusion.

H.R. 7750. July 2, 1980. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to make it unlawful, with a specified exception, for a foreign corporation to acquire U.S. securities if the country of such corporation places greater restrictions on the acquisition of securities in such country by U.S. corporations.

H.R. 7751. July 2, 1980. Education and Labor. Makes it the continuing duty of the Bureau of Labor Statistics to compile and publish the Consumer Price Index (CPI). Requires that no changes be made in the factors used in the formation of the CPI or any similar index, except as authorized by law, if such changes would reduce the amount of the cost of living increases provided by specified Federal retirement programs.

H.R. 7752. July 2, 1980. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to provide for the vacancies at the Merchant Marine Academy, currently allocated to the Canal Zone, to be filled by nominees of the Panama Canal Commission from among the children of residents of those areas in Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and children of U.S. Government personnel residing in Panama. Makes daughters, as well as sons, eligible for nomination.

H.R. 7753. July 2, 1980. House Administration. Establishes five regional presidential primary election districts for electing delegates to the national nominating conventions. Directs the Federal Election Commission to assist the participating States in conducting such regional primaries.

H.R. 7754. July 2, 1980. Judiciary; Rules. Prohibits a Federal agency rule from becoming effective if a committee of either House of Congress reports a resolution disapproving the rule and that House does not reject the resolution within a specified period.

H.R. 7755. July 2, 1980. Agriculture. Establishes a program to direct financial and technical assistance to those geographic areas of the United States which have severe and chronic soil erosion, soil erosion related, or irrigation water management problems.

H.R. 7756. July 2, 1980. Ways and Means. Amends the Internal Revenue Code to: (1) allow an income tax credit to employees and self-employed individuals for the payment of social security taxes; (2) reduce income tax rates on corporate income; (3) provide for accelerated depreciation for businesses in economically depressed area; and (4) allow corporations and individuals an income tax credit for compliance with voluntary wage and price guidelines.

H.R. 7757. July 2, 1980. Agriculture. Provides grants to the 1890 land-grant colleges, including Tuskegee Institute, in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings with respect to increasing their capacity to conduct food and agricultural research.

H.R. 7758. July 2, 1980. Interstate and Foreign Commerce. Makes technical changes in specified provisions of the Public Health Service Act and other Federal law regarding health planning.

H.R. 7759. July 2, 1980. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to authorize certain appropriations for energy conservation programs for schools and hospitals and buildings owned by units of local government and public care institutions.

H.R. 7760. July 2, 1980. Government Operations. Provides for the adjustment of geographic boundaries of standard metropolitan statistical areas for the purpose of Federal assistance programs.

H.R. 7761. July 2, 1980. Judiciary. Authorizes the Secretary of the Army to pay the claims of a named individual arising out of an automobile accident involving a military vehicle.

H.R. 7762. July 2, 1980. Judiciary. Declares two named individuals to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7763. July 2, 1980. Judiciary. Declares a named individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7764. July 2, 1980. Judiciary. Declares three named individuals to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7765. July 21, 1980. Budget. Provides for revenue reconciliation as provided by the Congressional Budget Act of 1974.

H.R. 7766. July 21, 1980. Ways and Means. Amends the Internal Revenue Code to extend for one year the provision providing refunds of Federal motor fuels taxes imposed on fuels used in certain taxicabs.

H.R. 7767. July 21, 1980. Veterans' Affairs. Allows veterans with service-connected disabilities who are eligible for military retired pay for non-regular service to receive compensation for such disabilities from the Veterans' Administration and to receive such retired pay without reduction to either such compensation or such retired pay.

H.R. 7768. July 21, 1980. Education and Labor. Amends the Federal Mine Safety and Health Act of 1977 to prohibit the issuance of a citation by the Secretary of Labor after the initial inspection of any coal mine or other mine.

H.R. 7769. July 21, 1980. Interior and Insular Affairs. Amends the Surface Mining Control and Reclamation Act of 1977 to prohibit the issuance of any notice of violation by the Secretary of the Interior after the initial inspection of a surface coal mining and reclamation operation.

H.R. 7770. July 21, 1980. Public Works and Transportation. Designates the Environmental Research Center in Cincinnati, Ohio, the Andrew W. Breidenbach Environmental Research Center.

H.J. Res. 557. May 28, 1980. Judiciary. Constitutional Amendment—Allows the enactment of certain laws by popular vote.

H.J. Res. 558. May 28, 1980. House Administration. Reappoints a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 559. May 28, 1980. House Administration. Reappoints a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 560. May 29, 1980. Post Office and Civil Service. Designates March 19, 1981, as "National Agriculture Day."

H.J. Res. 561. May 29, 1980. Judiciary. Constitutional Amendment—Prohibits any person who has been convicted of a felony from being a Representative or Senator.

H.J. Res. 562. June 3, 1980. Ways and Means. Extends the temporary increase of the public debt limit.

Disapproves the President's imposition of import fees on petroleum and petroleum products.

H.J. Res. 563. June 5, 1980. Judiciary.

Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 564. June 9, 1980. Post Office and Civil Service. Extends the congratulations of the Congress to the Order of the Sons of Italy in America for their 75th anniversary. Proclaims Sunday, June 22, 1980, as "National Italian-American Day."

H.J. Res. 565. June 10, 1980. Post Office and Civil Service. Requests the President to designate June 1 through June 6, 1981, as "National Management Week."

H.J. Res. 566. June 10, 1980. Foreign Affairs. Withdraws the United States from the Treaty on the Limitation of Anti-Ballistic Missile Systems and related agreements.

H.J. Res. 567. June 11, 1980. Post Office and Civil Service. Provides for the designation of the first week in May of each year as "Be Kind to Animals Week."

H.J. Res. 568. June 12, 1980. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week."

H.J. Res. 569. June 13, 1980. Amends the Second Liberty Bond Act to temporarily increase the public debt limit.

H.J. Res. 570. June 13, 1980. Amends the Second Liberty Bond Act to temporarily increase the public debt limit.

H.J. Res. 571. June 13, 1980. Interstate and Foreign Commerce. Disapproves the rationing contingency plan transmitted to the Congress on June 12, 1980.

H.J. Res. 572. June 13, 1980. Post Office and Civil Service. Extends the congratulations of the Congress to the men and women of the United States who have made the space programs possible.

Directs the President to designate the period of July 13 through July 20, 1980, as "Space Week 80."

H.J. Res. 573. June 16, 1980. Interior and Insular Affiairs; Agriculture; Merchant Marine and Fisheries. Provides for the removal of certain restrictions relating to the leasing of energy resources on public lands, the Outer Continental Shelf, and other lands that contain certain resources under the control of the Federal Government.

H.J. Res. 574. June 17, 1980. Interstate and Foreign Commerce. Disapproves the rationing contingency plan transmitted to the Congress on June 12, 1980.

H.J. Res. 575. June 19, 1980. Interstate and Foreign Commerce. Disapproves the rationing contingency plan transmitted to Congress.

H.J. Res. 576. June 19, 1980. Judiciary. Constitutional Amendment—States that the right to life is vested in each human being from the moment of fertilization.

H.J. Res. 577. June 25, 1980. Interstate and Foreign Commerce. Disapproves the rationing contingency plan transmitted to Congress.

H.J. Res. 578. June 26. 1980. Post Office and Civil Service. Proclaims June 4, 1981, as "Jack Jouett Day."

H.J. Res. 579. June 26, 1980. House Administration. Establishes the Commission on Presidential Nominations to make an investigation regarding the presidential nominating process. Directs the Commission to report to the President and the Congress respecting such investigation, including recommendations for the 1984 presidential elections.

H.J. Res. 580. June 30, 1980. Ways and Means. Directs the President to negotiate with Japan for a voluntary agreement to temporarily restrict imports of Japanese automobiles and trucks.

H.J. Res. 581. July 1, 1980. Judiciary. Constitutional Amendment—Provides that Representatives in Congress be apportioned on the basis of the number of U.S. citizens in each State.

H.J. Res. 582. July 1, 1980. Judiciary. Constitutional Amendment—Provides for single six-year terms for the President and Vice President. Repeals the 22d article of amendment to the Constitution.

H.J. Res. 583. July 2, 1980. Appropriations. Increases the limitation on program activity authorized for the Export-Import Bank with specified restrictions.

H.J. Res. 584, July 2, 1980. Post Office and Civil Service. Provides for the commemoration of the 250th anniversary of the birth of Philip Mazzei.

H.J. Res. 585. July 2, 1980. Judiciary. Constitutional Amendment—Provides for the direct popular election of the President and Vice President of the United States.

H.J. Res. 586. July 2, 1980. Appropriations. Increases the limitation on program activity authorized for the Export-Import Bank with specified restrictions.

H.J. Res. 587. July 22, 1980. Appropriations. Provides additional program authority for the Export-Import Bank.

H. Con. Res. 347. May 28, 1980. Foreign Affairs. Expresses congressional support for the President's proposals on improving the United Nations' peacekeeping capabilities.

H. Con. Res. 348. May 30, 1980. Foreign Affairs. Expresses the sense of the Congress that the President should seek the cooperation of Cyprus and Turkey in resuming negotiations to resolve the Cyprus problem.

H. Con. Res. 349. May 30, 1980. Post Office and Civil Service. Expresses the sense of the Congress that the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate should make every effort to develop legislative proposals which maintain the cost-of-living adjustment for Federal retirees.

H. Con. Res. 350. May 30, 1980. Ways and Means. Declares that it is the sense of the Congress that the enactment of a withholding tax on interest and dividend payments would be detrimental to the economic well-being of the United States.

H. Con. Res. 351. June 3, 1980. Ways and Means. Expresses the sense of the Congress that social security benefits are and should remain exempt from Federal taxation.

H. Con. Res. 352. June 4, 1980. Foreign Affairs. Expresses the sense of the Congress that the President should direct the U.S. representative to the United Nations to propose the establishment of a Special Committee to seek advisory opinions of the International Court of Justice regarding questions of international law submitted by national courts.

H. Con. Res. 353. June 4, 1980. Judiciary. Calls upon the President to designate as refugees those Cubans who have arrived in the United States in the last 60 days so that State and local governments currently responsible for them can qualify for Federal assistance.

H. Con. Res. 354. June 4, 1980. Judiciary. Urges the President to expel those Cuban immigrants who have participated in rioting and other civil disturbances at various processing centers.

H. Con. Res. 355. June 4, 1980. Judiciary. Urges the President to immediately order the expulsion from this country of those Cuban immigrants who have participated in rioting and other civil disturbances at various processing centers.

H. Con. Res. 356. June 5, 1980. Judiciary. Urges the President to expel those Cuban immigrants who have participated in rioting and other civil disturbances at various processing centers.

H. Con. Res. 357. June 5, 1980. Judiciary. Urges the President to expel those Cuban immigrants who have participated in rioting and other civil disturbances at various processing centers.

H. Con. Res. 358. June 5, 1980. Education and Labor; Judiciary. Expresses the sense of the Congress that the Constitution of the United States does not preclude periods of silence (for private prayer, meditation, contemplation, or introspection) in the public schools to be used at the discretion of individual students, even if such periods are supervised by a school official.

H. Con. Res. 359. June 10, 1980. Makes corrections in the enrollment of S. 562.

H. Con. Res. 360. June 10, 1980. House Administration. Directs the additional printing of copies of the report accompanying H.R. 7235 (H. Rept. No. 96–1035, economic regulation of railroads).

H. Con. Res. 361. June 11, 1980. Armed Services; Post Office and Civil Service. Expresses the sense of Congress that the provisions of law requiring biennial cost of living adjustments for Federal civil service and military retirees should not be changed.

H. Con. Res. 362. June 11, 1980. Foreign Affairs. Urges the President to secure greater international cooperation with respect to the large number of Cubans fleeing Cuba. Expresses the sense of the Congress that the President should seek the discussion of such situation in an appropriate international forum.

H. Con. Res. 363. June 11, 1980. Foreign Affairs; Ways and Means. Urges the President to negotiate with Japan concerning foreign trade matters.

H. Con. Res. 364. June 13, 1980. Ways and Means. Expresses the sense of Congress that the imposition of any withholding tax on interest and dividend payments would be detrimental to the American economy.

H. Con. Res. 365. June 17, 1980. Armed Services; Post Office and Civil Service. Expresses the sense of Congress that any reconciliation bill or resolution which reduces public service subsidies to the Postal Service or eliminates the biannual cost-of-living adjustments for retired Federal or military personnel would contradict established Federal policy and should be defeated.

H. Con. Res. 366. June 19, 1980. Banking, Finance and Urban Affairs; Education and Labor; Interstate and Foreign Commerce; Ways and Means. Promotes the competitiveness of U.S. industry in the world automobile and truck industry.

H. Con. Res. 367. June 19, 1980. Foreign Affairs. Disapproves the proposed export of low-enriched uranium to India.

H. Con. Res. 368. June 19, 1980. Foreign Affairs. Disapproves the proposed export of low-enriched uranium to India.

H. Con. Res. 369. June 19, 1980. Foreign Affairs. Disapproves the proposed export of low-enriched uranium and replacement parts to India.

H. Con. Res. 370. June 19, 1980. Banking, Finance and Urban Affairs; Education and Labor; Interstate and Foreign Commerce; Ways and Means. Promotes the competitiveness of U.S. industry in the world automobile and truck industry.

H. Con Res. 371. June 19, 1980. Post Office and Civil Service. Recognizes the period of August 9 through August 21, 1980, as a time of commemoration of the tricentennial of the Pueblo revolt of 1680.

H. Con. Res. 372. June 23, 1980. Foreign Affairs. Disapproves the proposed export of low-enriched uranium to India.

H. Con. Res. 373. June 24, 1980. Judiciary. Expresses the sense of the Congress that the United States not admit more than 650,000 immigrants, including refugees, in fiscal year 1980, and that the President shall submit to the Congress an annual U.S. immigration goal.

H. Con. Res. 374. June 24, 1980. Armed Services; Post Office and Civil Service. Expresses the sense of Congress that reconciliation instructions directing various congressional committees to achieve legislative savings shall not apply to semiannual cost-of-living adjustments for civil service and military retirees.

H. Con. Res. 375. June 25, 1980. Banking, Finance and Urban Affairs. Expresses the sense of the Congress that the Director of the Mint should consider implementing measures to alleviate the penny shortage.

H. Con. Res. 376. June 25, 1980. Ways and Means. Expresses the sense of Congress that the present level of the trade deficit with Japan is intolerable and threatens the future of trade between our nations. Urges Japan to cooperate in correcting such deficit.

H. Con. Res. 377. June 30, 1980. Post Office and Civil Service. Expresses the sense of the Congress that the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate should make every effort to develop legislative proposals which maintain the cost-of-living adjustment for Federal retirees.

H. Con. Res. 378. July 2, 1980. Ways and Means. Expresses the sense of the Congress not to impose additional Federal income tax withholding on interest and dividends.

H. Con. Res. 379. July 2, 1980. Post Office and Civil Service. Expresses the sense of the Congress that the Postmaster General should issue a postage stamp in honor of the American hostages in Iran.

H. Con. Res. 380. July 2, 1980. Ways and Means. Urges the President to negotiate with Japan to obtain a commitment from Japanese automobile manufacturers to increase U.S. production of automobiles in proportion to increases in U.S. sales in return for open access to the U.S. auto market.

H. Con. Res. 381. July 2, 1980. Foreign Affairs. Expresses the sense of the Congress that the President bring before the United Nations Security Council the probable violation of the Biological Weapons Convention of 1972 by the Soviet Union (the Sverdlovsk incident).

Calls upon the President to report, with any recommendations, to Congress concerning the status and capabilities of U.S. defenses against biological weapons.

H. Con. Res. 382. July 2, 1980. Foreign Affairs. Expresses the sense of the Congress that U.S. foreign policy should reflect a national strategy of peace through strength with specified principles and goals.

H. Con. Res. 383. July 21, 1980. Ways and Means. Disapproves the determination of the President not to provide import relief for the leather wearing apparel industry.

H. Con. Res. 384. July 22, 1980. Ways and Means. States the intent of the Congress that social security benefits payable to prison inmates be surrendered to defray the current costs to the taxpayer of supporting prisoners in penal institutions as well as supporting their dependents on public assistance.

H. Res. 683. May 29, 1980. Sets forth the rule for the consideration of H.R. 7098.

H. Res. 684. May 29, 1980. Sets forth the rule for the consideration of H.R. 7113.

H. Res. 685. May 29. 1980. Sets forth the rule for the consideration of H.R. 7115.

H. Res. 686. May 29, 1980. Sets forth the rule for the consideration of H.R. 7152.

H. Res. 687. May 29, 1980. Sets forth the rule for the consideration of H.R. 7265.

H. Res. 688. May 29, 1980. Sets forth the rule for the consideration of H.J. Res. 554.

H. Res. 689. May 29, 1980. Post Office and Civil Service. Expresses the sense of the House of Representatives that it offer its congratulations to Americans who participated in the second Olympic Winter Games for the Physically Disabled in Gielo, Norway, and to the organizations who helped to promote the event.

H. Res. 690. May 29, 1980. Foreign Affairs. Expresses the sense of the House of Representatives regarding U.S. assistance to Yugoslavia to maintain its independence.

H. Res. 691. May 30, 1980. Sets forth the rule for the consideration of H.R. 7428.

H. Res. 692. June 3, 1980. Rules. Amends the rules of the House of Representatives to prohibit Members from authorizing any other individual or any other Member to cast their votes or record their presence in the House or Committee of the Whole.

H. Res. 693. June 3, 1980. Judiciary. Expresses the sense of the House of Representatives that the Standing Committee on Federal Judiciary of the American Bar Association and the Attorney General take all measures necessary to end discrimination against potential lifetime Federal judges who do not qualify solely as a result of age barriers.

H. Res. 694. June 3, 1980. House Administration. Expresses the sense of the House of Representatives that if no candidate for the Presidency receives a majority of electoral votes in December, 1980, the Members should choose as the President the candidate having the greatest number of popular votes in the November 1980 election.

H. Res. 695. June 4, 1980. Sets forth the rule for the consideration of H.R. 6790.

H. Res. 696. June 4, 1980. Sets forth the rule for the consideration of H.R. 7301.

H. Res. 697. June 4, 1980. Sets forth the rule for the consideration of H.J. Res. 531.

H. Res. 698. June 4, 1980. Post Office and Civil Service. Extends the congratulations of the House of Representatives to the Order of the Sons of Italy in America for their 75th anniversary.

H. Res. 699. June 10, 1980. Sets forth the rule for the consideration of H.R. 6783.

H. Res. 700. June 10, 1980. Sets forth the rule for the consideration of H.R. 5164.

H. Res. 701. June 10, 1980. Sets forth the rule for the consideration of H.R. 6979.

H. Res. 702. June 10, 1980. Sets forth the rule for the consideration of H.R. 6711.

H. Res. 703. June 10, 1980. Public Works and Transportation. Expresses the sense of the House of Representatives that neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall promulgate any regulations or take any actions which would result in a reduction of public air service into Washington National Airport.

H. Res. 704. June 10, 1980. Judiciary. Expresses the sense of the House of Representatives that the President instruct the Attorney General to prosecute all persons who violate the Logan Act and the executive order prohibiting travel to Iran, thereby giving color of right to illegal actions by the Government of Iran.

H. Res. 705. June 11, 1980. Judiciary. Expresses the sense of the House of Representatives that the vandalism of patriotic monuments should be prosecuted and those convicted of such offense punished to the fullest extent of the law.

H. Res. 706. June 12, 1980. Ways and Means. Expresses the sense of the House of Representatives that there should be no expansion of the Federal income tax withholding on interest and dividends.

H. Res. 707. June 13, 1980. Sets forth the rule for the consideration of H.R. 7542.

H. Res. 708. June 16, 1980. Foreign Affairs. Reaffirms U.S. support for human rights in Taiwan. Calls on Taiwan to relax restrictions on freedom of expression and to return to democratic development. Urges a spirit of reconciliation in connection with the Kaohsiung incident.

H. Res. 709. June 16, 1980. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the President should convene a White House Conference on Energy Conservation.

H. Res. 710. June 17, 1980. Rules. Amends the Rules of the House of Representatives to require information on House votes by Members of Congress in their postal patron newsletters.

H. Res. 711. June 17, 1980. Rules. Amends Rule X of the Rules of the House of Representatives to provide that committee and subcommittee ratios reflect, to the closest degree possible, the party ratio in the House as a whole.

H. Res. 712. June 18, 1980. Elects specified Members to the House Committee on Public Works and Transportation.

H. Res. 713. June 18, 1980. Elects a named Member to the House Committee on Veterans' Affairs.

H. Res. 714. June 18, 1980. Sets forth the rule for the consideration of H.R. 6418.

H. Res. 715. June 18, 1980. Sets forth the rule for the consideration of H.R. 7584.

H. Res. 716. June 18, 1980. Sets forth the rule for the consideration of H.R. 7235.

H. Res. 717. June 18, 1980. Appropriations. Disapproves a specified portion of the proposed deferral of budget authority (D80-65) for Environmental Protection Agency grants for waste treatment works.

H. Res. 718. June 19, 1980. Provides for a procedure to concur in the Senate amendment to H.J. Res. 521.

H. Res. 719. June 19, 1980. Waives certain points of order against the bill H.R. 7590.

H. Res. 720. June 19, 1980. Waives certain points of order against the bill H.R. 7592.

H. Res. 721. June 19, 1980. Waives certain points of order against the bill H.R. 7593.

H. Res. 722. June 20, 1980. Provides a procedure for response to subpoenas by Members, officers, or employees of the House of Representatives.

H. Res. 723. June 20, 1980. Provides further procedures during the consideration of H. Res. 722.

H. Res. 724. June 24, 1980. Sets forth the rule for the consideration of H.R. 6811.

H. Res. 725. June 24, 1980. Sets forth the rule for the consideration of H.R. 7051.

H. Res. 726. June 24, 1980. Sets forth the rule for the consideration of H.R. 7244.

H. Res. 727. June 24, 1980. Waives certain points of order against the bill H.R. 7631.

H. Res. 728. June 24, 1980. Provides additional debate time and waives certain points of order against the conference report on S. 932.

H. Res. 729. June 25, 1980. Education and Labor. Calls upon the President to declare a national emergency for the purpose of suspending the Davis-Bacon Act.

H. Res. 730. June 25, 1980. Post Office and Civil Service. Extends the congratulations of the House of Representatives to Wayland Academy of Beaver Dam, Wisconsin, on 125 years of achievement in education.

H. Res. 731. June 26, 1980. Waives certain points of order against the conference report on S. 1308.

H. Res. 732. June 26, 1980. Sets forth the rule for the consideration of H.R. 6704.

H. Res. 733. June 26, 1980. Sets forth the rule for the consideration of H.R. 6386.

H. Res. 734. June 26, 1980. Sets forth the rule for the consideration of H.R. 6667.

H. Res. 735. June 26, 1980. Foreign Affairs. Deplores the politicization of the Mid-Decade Women's Conference. Urges the U.S. delegation to oppose any politically motivated resolutions at the Conference.

H. Res. 736. June 26, 1980. Foreign Affairs. Expresses the sense of the House of Representatives that international congressional fellowships for foreign nationals constitute a valuable resource for the Congress.

H. Res. 737. July 1, 1980. Foreign Affairs. Deplores Soviet violations with respect to Afghanistan. Calls for the withdrawal of Soviet troops from Afghanistan.

H. Res. 738. July 1, 1980. Foreign Affairs. Expresses the sense of the House of Representatives that the U.S. delegation to the Copenhagen Conference on the United Nations Decade for Women should sign the Convention on the Elimination of Discrimination Against Women and oppose any resolutions which do not relate directly to the goals of the Conference.

H. Res. 739. July 2, 1980. Elects certain named Representatives to the Committees on Appropriations and Foreign Affairs.

H. Res. 740. July 2, 1980. Post Office and Civil Service. Commends Dr. M. Stanley Livingston upon the 50th anniversary of his original work in the field of cyclic acceleration.

H. Res. 741. July 2, 1980. Judiciary. Refers to the Chief Commissioner of the Court of Claims a bill for the relief of two named individuals.

H. Res. 742. July 2, 1980. Judiciary. Refers to the Chief Commissioner of the Court of Claims a bill for the relief of two named individuals.

H. Res. 743. July 21, 1980. Provides that the Speaker of the House certify the Report of the Committee on Standards of Official Conduct with respect to the proceedings against a named U.S. Attorney for the District of Columbia.

H. Res. 744. July 21, 1980. Education and Labor. Expresses the sense of the House of Representatives regarding certain aspects of the model adoption legislation and procedures which the Secretary of Health and Human Services is required to issue under the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.

H. Res. 745. July 22, 1980. Foreign Affairs; Judiciary. Calls for an investigation into the activities of a named individual.

EXTENSIONS OF REMARKS

INSPIRING ADDRESS BY CAPT. EUGENE "RED" McDANIEL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. DORNAN. Mr. Speaker, I have just read a remarkable book, a volume that I will be speaking about later on in this session in more detail. I am speaking of Capt. "Red" McDaniel's autobiographical piece, "Scars and Stripes," a book detailing his harrowing experiences in Vietnam's Communist dungeons.

Many of us in this House have come to know Captain McDaniel as the representative of the U.S. Navy Congressional Liaison Office here on the House side of Capitol Hill. But those of us who have had the privilege of knowing him are proud indeed to have made his acquaintance; for he is a rare man. On behalf of the Republic, he has bravely confronted adversaries in circumstances that would constitute, for all of us, nothing less than an incredible nightmare. But Captain McDaniel belongs to a special breed of men; he represents the best that this Nation has to offer.

To give you an idea of the rare character of this man, Mr. Speaker, I would call to your attention his eloquent and moving address at the First Baptist Church in Pensacola, Fla. I submit his speech for the RECORD:

ADDRESS BY CAPT. EUGENE B. McDANIEL

"Nothing is worth dying for." Those words appeared in a recent Harvard Campus newspaper ad announcing a rally to protest the draft. Nothing is worth dying for! What have we done to our children that would cause them to refuse military service by saying, "Nothing is worth dying for."

Now, not one of us wants to die. God forbid that any young American ever again will have to go to war and give his life for his country. I pray every day that God will protect this nation from further armed conflict. I have a young son who just graduated from the Naval Academy and another son who is just the right age to be included for the draft registration that will begin a few weeks from now. I am proud of my son who is a brand new ensign and I will be proud of my 20 year old when he goes to the post office and signs his name so that he will be available to serve his country if he is needed. I am thankful that my two sons are not part of an anti-draft movement. I pray every day that it will never be necessary for them to give their lives for their country. But I hope I never hear them say, "Nothing is worth dying for."

What would we die for? Before we pass judgment on the youngster who said, "Nothing is worth dying for," perhaps we should examine our own hearts to find the depth of our commitment to the things we have and say we believe in. Just how far would we go to protect our country, our freedom, our families, our faith? Just how precious are these things?

Six years in a communist prison camp—deprived of family, freedom, country (we were not deprived of faith; it was our faith that kept us alive—but deprived of a bible and freedom of worship)—six years in a communist prison camp gives a man time to reflect—and reason to reflect—on the value of those blessings we take so lightly: our families, those people in our lives who give us purpose and meaning; our country, that land of our birth which has nourished us and given us so much prosperity; our freedom, that precious heritage that allows us to think what we want to think, say what we want to say, believe what we want to believe; our faith, that belief in a great God who purchased our salvation at such great price.

I have had the privilege in recent days to speak at several graduation ceremonies and to deliver the baccalaureate at my daughter's high school. I always share with the young people my hope that, as they go out to make their mark in the world, they will make a commitment to establish a good marriage and a strong family. The American home is crumbling and that in turn will cause our nation to crumble.

After I returned from Vietnam, someone asked my wife Dorothy how she was able to love me, wait for me and hold our family together for six years. Her answer was, "Love is more than a feeling; love is a decision and a commitment." There are times when you just don't feel like loving your mate or your child. Then you must decide to love them. Sometimes you must make a sacrifice—you must sacrifice your pride, your love of self. You must ask, "What is this family worth?" and exercise your personal commitment to your family.

What about our country—our freedom? What is it worth? Do we fully appreciate this land and what it represents? If you were not comfortably settled in your pew in First Baptist Church Pensacola this morning, what would you be willing to do to attain the freedom that America has to offer? Cuban refugees have risked their lives to escape from that Communist island and reach America. Boat people from Indo-China have put to sea in small leaky vessels in the waters of Vietnam, desperately hoping for America. Throughout our history people have taken great risks to attain America. In spite of our many problems—inflation, unemployment, the energy shortage—we are still the greatest, the strongest, and the kindest nation in the world. If you don't believe that, leave it for six years as I did.

America is a land of opportunity. America is a land of prosperity. America is a land of freedom. Our Declaration of Independence signed 204 years ago represented a commitment to freedom. Fifty-six of our founding fathers laid their lives, liberty and honor on the line when they signed the Declaration of Independence. They paid a high price for their commitment to freedom. In the War for Independence, nine were killed in action, five died as prisoners of war, 12 had their homes burned, several lost sons, one man's wife died in prison, and 17 went broke. The legacy of our founding fathers is described in the words of Thomas Paine: "Those who expect to reap the blessing of freedom must, like men, undergo the fatigue of supporting it." Let us not forget the price of our freedom. Since America became a nation 204 years ago, we have fought wars around the globe in freedom's name and have paid a terrible price in human sacrifice for our freedom.

How much is America worth? In my work as a Navy liaison officer for the House of Representatives, I live in a world of "political trends". To do my job, I need to know how Members of Congress look at the polls. Even the most dedicated of them have to consider how to vote. Three months ago, in the wake of the holding of American hostages in Iran and the massive Soviet invasion of Afghanistan, the big concern of Americans was the state of our national defense. Today our hostages are still in Iran. The Russians are still in Afghanistan, and what is the No. 1 concern of Americans? Inflation and the state of our economy! What is our national defense worth? Are we willing to "pay any price, bear any burden" for the survival of our Nation?

I have a lot invested in America—2110 days in a Communist prison camp. There are others though who have given much more than I for our freedom. Millions of Americans have given their lives. There is not a family here this morning who has not been touched by war. The price of liberty is high. May we guard it carefully.

America needs to renew her commitment to God, for we are a Nation founded upon a faith in God. The Declaration of Independence says: "We hold these truths to be self-evident, that men are endowed by their creator with certain inalienable rights." God is the source of our rights as Americans; not the Constitution, not the courts, not the Congress. The Constitution, the courts, the Congress, all the branches of our Government, exist to preserve and protect the rights that were given to us by God when He created us in his own image, the Declaration of Independence is, first of all, a declaration of dependence on God. Without God, America has no basis for our rights and freedoms.

Soon after America became a nation, a young French journalist named Alexis de Toqueville came to our country to answer the question, "What makes America great?" He looked for the greatness of America in our fields and in our forests, in our mines and in our commerce, in our Congress and in our Constitution. But, he said, "not until I went into the churches of America and heard the pulpits flame with righteousness did I understand the secret of her genius and power. America is great because America is good—and if America ever ceases to be good, America will cease to be great".

What about our faith? What kind of commitment do we have to God? In the scriptures, Saint Paul says, "I know and am persuaded that He is able to keep that which I have committed unto Him." God keeps His commitments to us. In Vietnam I learned to agree with Saint Paul that God can be trusted to keep what we commit to Him; I learned what it means to live by faith.

In 1969, after a well-organized escape attempt, one of three attempts, all of which were unsuccessful, torture was rampant. At least one American was tortured to death during this period. Because of my involvement as the main communication link be-

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tween two camps I went through brutal torture. For seven days and seven nights I was without sleep, kneeling on pitted concrete. I was beaten daily with a fan belt and suffered a badly broken arm. Bleeding from many open wounds, weighing 110 lbs. and very near death with nothing left to give except the will that says "hang on", I gave my life to God. He made known to me His presence and He taught me a valuable lesson: Courage is not the absence of fear; courage is the presence of faith."

In Vietnam I learned how precious our freedom of worship is.

The Sontay raid, November 20, 1970, was an attempt to rescue American POW's. It was a raid that was similar to the recent Iran rescue attempt. The Sontay raid was perfect except for one thing: The camp was vacant and no prisoners were rescued. On November 26, 1970, 6 days after the Sontay raid, the North Vietnamese moved all prisoners from five camps into the "Hanoi Hilton", a large prison in the middle of the city of Hanoi. I moved into a cell with 57 men. One of the first things we did was press for the right to have a Sunday worship service. Daily for two weeks we asked to see the camp commander. He refused to see us. In order to get his attention we starting singing at the top of our voices—352 of us. We sang songs like "God Bless America", "The Battle Hymn of the Republic", "Onward Christian Soldiers", and other hymns. However, it doesn't take aviators long to run out of religious and patriotic songs so for two days we sang fraternity songs and school fight songs. The enemy countered by turning on the loudspeakers that were in the cells to drown us out. The higher the volume, the louder we sang. After two days the enemy soldiers came in large numbers to remove 60 of our senior officers, and placed them in leg irons and solitary confinement for the next three years. They stayed in those leg irons until our release in 1973. We gained though the right to have a 15 minute worship service each Sunday. So I ask you these questions. Why would a man risk torture to gain the privilege of worshipping freely? Do you think I will ever again take lightly the freedom to worship God?

In Vietnam I learned to turn to God through prayer. And God was there when we needed Him. He honored His commitment to me. Now I can say with the psalmist, "He refused to let the enemy triumph over me. He gave me back my health. He brought me back from the brink of the grave, from death itself." Now that I am a free man I must keep my commitment to Him.

I'm glad that, when Jesus went to Calvary, He didn't say "nothing is worth dying for". He said we were worth dying for. He loved us so much that He did die for us that we might know salvation and come to know Him and to be with Him throughout eternity.

We need to pray today for America, that we as people might commit our way unto God. We need to pray for ourselves that we might renew our commitments to our families, to our country and to our God. And we need to pray for the young man who said "nothing is worth dying for"—that he might know, and that we might know also: If there is nothing worth dying for, then there is nothing worth living for.●

MARCELLUS JEROME CLARKE ALIAS SUE MUNDY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. CARTER. Mr. Speaker, it has been almost a hallmark of American history that injustices are never forgotten and that many will try unstintingly to right a wrong.

Such is the case with Marcellus Jerome Clarke, a Confederate soldier accused of being the guerrilla Sue Mundy and executed in Louisville, Ky., more than a century ago.

Recently a newspaper article on the reenactment by the Civil War Roundtable of the trail of M. Jerome Clarke, alias Sue Mundy, raised anew this century-old controversy. The result of that trial was vindication for M. Jerome Clarke. But it seems that erroneous statements regarding the life and untimely death of Sue Mundy persist.

An illustrious brother of a fraternity of which I am a member recently wrote me about that execution, which he believes was a terrible crime. In fact, an historic marker had been placed at the site of Mundy's hanging at 18th and Broadway in Louisville. It was knocked down in an accident, and my illustrious fraternity brother would not allow "the lie" to be put back up. Instead, he has proposed a new, more historically accurate inscription to be erected as part of the Kentucky historical highway marker program. That inscription, if approved, will state:

> During the last months of Civil War, Union troops occupied Louisville. Newspaper editor George Prentice, who was pro-Union but hated martial law, spread reports of a woman marauder named "Sue Mundy," who could not be captured by federal troops. In March 1865, long haired Confederate Marcellus Jerome Clarke of Simpson Co. was captured and accused of being Sue Mundy.
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> Jerome Clarke, 20, an artilleryman under John Hunt Morgan, was tried and convicted for the guerrilla activities of Sue Mundy. Maj. Gen. John M. Palmer signed Clarke's death order a day before records say his trial began. In block bounded by Broadway, Magazine, 17th and 18th Streets, Clarke was hanged March 15, 1865. Several thousand witnessed his death.

It is my understanding that a decision on approving the wording of a new marker inscription for Sue Mundy in Louisville is expected shortly by the Kentucky Historical Society's editorial committee.

Whether he was guilty as charged or hanged unjustly, the life and death of Sue Mundy continue to be a source for lively debate among historians and others interested in this famous Kentuckian.●

THE SAGEBRUSH REBELLION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. SANTINI. Mr. Speaker, I am proud to bring the Sagebrush Rebellion to the U.S. House of Representatives. Today, I am introducing legislation which provides a mechanism for transferring 460 million acres of western public land back to the States. The bill I propose addresses the longstanding inequity imposed on Western States by Federal ownership of 63 percent of all western lands. In my home State, Nevada, 87 percent of the State is under the Federal Government's jurisdiction. In some counties, Uncle Sam owns 99 percent of the land. In contrast, the Federal Government averages only about 5 percent ownership in States east of the 100th meridian. This injustice can no longer be tolerated.

Inequity today has its roots in yesterday. Instead of being admitted on an equal footing with the rest of the States in the Union, Congress said that public lands States could not be admitted to statehood unless they gave up all right and title to the vast majority of all land within their borders. The price of statehood came very very high to the West.

My bill would allow for the orderly transfer of Bureau of Land Management lands back to the States. Land transfers would not be automatic and States would be required to enact laws to insure sound land management and to protect natural resources. National parks, forest lands, wildlife sanctuaries, Indian reservations, and military installations would be exempt from the bill.

I urge my colleagues to give this bill careful consideration. Home rule for the West is long overdue. It is morally wrong for Uncle Sam to own one-third of the Nation.

At this time, I enter into the Record some questions and answers on the key questions surrounding the Sagebrush Rebellion.

Congressman Jim Santini Answers Questions on the Sagebrush Rebellion, July 25, 1980

1. Would you give a brief description of your bill?

Yes, the purpose of my Sagebrush Rebellion Bill is to right a wrong that is over 100 years old. Unlike Eastern states which were admitted to the Union with state or private control over the land within their borders, western public land states were treated like second-class colonies. Before it could be admitted to statehood in 1864, Nevada was forced to give up its right to the vast majority of land within its boundaries. I believe it is fundamentally wrong for Uncle Sam to own, control and regulate one-third of America. 87 percent of my state, Nevada, is controlled by the federal government. 63 percent of the land west of the Rockies is managed by the federal government. 99 percent of Esmeralda County, Nevada, is managed by our federal landlord, the Bureau of

Land Management. Please note that the first class states in the East, however, average about 5 percent federal ownership—a much more reasonable degree of federal presence, if I may say so.

I have introduced into the Congress of the United States a bill which redresses these inequities. My bill establishes a mechanism for transferring about 460 million acres of western lands now managed by the Bureau of Land Management from Federal to state control. The transfer would not be automatic, and states would be required to pass laws to provide for sound management practices and to protect natural resources. My bill does not permit transfer of such national treasures as national parks, forest lands, wildlife sanctuaries or Indian reservations.

Sagebrush Rebellion legislation returns the government of western states back to people who live there, which is where it belongs. Uncle Sam is an absentee landlord who lives 3,000 miles away. He's slow to return phone calls, can't afford to make repairs and always wants to raise the rent.

2. Are you confident that most Western States would want their lands back?

Indeed, I am. In 1979, Nevada was the first state to assert state control over federal land. Since then, Arizona, California, Colorado, Hawaii, Idaho, New Mexico, Utah, Washington state, and Wyoming have all passed similar state laws or resolutions of support.

In addition to the West's philosophical desire to be on an equal footing with the rest of the states, we are fed up with the morass of federal regulations that accompany federal land ownership in the West. We simply don't believe that "Washington knows best" when it comes to expanding a town, growing a crop, grazing a cow or drilling for oil. The West is over-regulated and under-compensated for its contributions to the nation.

3. What is the Federal Government doing wrong?

It would probably take less time to tell you what the feds are doing right, but I think a few concrete examples will portray the forces behind the Sagebrush Rebellion.

In case you think the Sagebrush Rebellion is just for a few western cowboys, let me recite a couple of urban issues. In the Las Vegas Valley, there are approximately 40,000 acres of land owned by the federal government. For the most part, it is quite unsuitable for the usual federal multiple use activities such as grazing, recreation, or mining. This land is prime urban real estate. One, 150 acre parcel is located on the Las Vegas Strip. Unless the Bureau of Land Management has plans for Developing a casino, I am hard pressed to understand why the Bureau of Land Management needs land on the Las Vegas Strip.

An even better example concerns some low-income senior citizens in Las Vegas who need land for a mobile home park. A local service organization is willing to commit its own money and also search for grants for the senior citizen project. BLM, however, will not let the group have the land.

Then there's the situation in the little town of Alamo, Nevada, which had to apply to the federal government to get land for a baseball diamond for the Little League.

How would a resident of New York City or Peoria feel if he had to work through the federal bureaucracy just to get a sewer hook-up or an electrical connection? What could be more basic functions of local government? Yet, in many western areas, where federal lands and private lands are closely interspersed or checkerboarded, a citizen who wants these basic local services has to get federal permission, in addition to fulfilling all the local requirements.

I could go on but space doesn't permit it. Suffice it to say that I hear from thousands of irate constituents each year with solid examples of what the federal government is doing wrong on the public lands.

4. What evidence is there that the States could or would do a better job?

"Home-rule" for the West will result in more efficient, more economical and more responsible government. People who have a stake in the land make better caretakers than a landlord who lives 3,000 miles away from the property. But let me give you some specific examples.

Environment—As Nevada's lone representative in the U.S. House of Representatives, I think I qualify as an endangered species. I can solemnly promise you that most Sagebrush rebels are not anti-environmentalists. The same cattlemen, ranchers, miners and farmers who strongly support the Sagebrush Rebellion are the strongest opponents of the Department of Defense's deployment of MX on public lands. The MX Dragstrip system will be laid out over about 10,000 square miles of land in the Great Basin desert, will use 112 billion gallons of water and will criss-cross Nevada and Utah with 10,000 miles of roads.

If this is the federal government's idea of land use planning, I really wish they would take their environmental blueprints elsewhere.

Economics—I have heard Interior representatives say such things as "the states can't afford to manage the public lands." I say nonsense; Let's consider my favorite agency, the Bureau of Land Management.

BLM is one of the few federal agencies that makes a profit, in 1978, BLM brought in over $621 million from 11 Western states. It spent $181 million in those states, leaving a net gain of almost half a billion dollars. BLM accomplished this feat with over 5,000 employees.

With these resources, there is little doubt that the western states could "afford" to manage their own lands. By way of comparison, I would like to point out that it costs the state of Utah 25¢ per acre to manage its state land, while it cost BLM 74¢ an acre to manage its federal land in Utah.

State control of land would make land management more efficient by removing several layers of unnecessary bureaucracy.

As you may know, 85 percent of the nation's oil reserves, almost 40 percent of the nation's gas and 50 percent of the nation's geothermal resources are on federal land. Rest assured, that with these kinds of valuable energy resources, western states can successfully finance management of the land they are entitled to.

5. The Feds have characterized the Sagebrush Rebellion as a struggle within the West (old versus new, urban versus rural) rather than an East-West conflict, do you agree?

No, I do not. In my state, the Sagebrush Rebellion is not an urban versus rural issue. In a State House overwhelmingly dominated by urban legislators, Sagebrush Rebellion legislation passed almost unanimously.

I would characterize the conflict as home-rule for states versus government by proxy from Washington, D.C. In fact, I think if Easterners were aware of the extent to which Western lives are dictated by the federal government, most of them would sympathize with us. After all, Easterners have a history of rebellion against government rule by long distance. It was called the American Revolution. The Sagebrush Rebellion is not just a variation on a traditional American theme.

6. Is the chief objection to Federal land management confined to the bureau of land management?

My primary objection relates to federal land policies which are unrealistic and overly centralized in Washington. Mining law which works for West Virginia may not be the best management practice in Wyoming. In addition, different federal agencies frequently promulgate conflicting regulations for western land use. The Department of Energy tells the West that development of energy resources is the top priority for Western land. The Department of Interior is now stressing wilderness preservation. And on the same federal land, the Department of Defense says that MX missile deployment absolutely takes first precedence. There are simply too many inconsistent directives coming out of Washington, D.C., which fail to consider local conditions and realities.

7. Is a rapprochement possible?

In my own State of Nevada, I do not think we will ever agree that control of only 13 percent of our land is either equitable or adequate for one of the fastest growing states in the nation. To provide for local services for an increasing population, the property tax base must be expanded. At an absolute minimum, urban federal lands must be placed into local ownership. The federal government in Nevada controls a land mass equal to the size of Maine, Massachusetts, Connecticut, New York, Rhode Island, and Delaware combined. That is intolerable.

I do think improved relations are possible between Uncle Sam and the Sagebrushers. The fact that the Department of Interior actively propagandizes against the Sagebrush Rebellion indicates to me that we've captured the federal government's attention if not their hearts.●

KID CHISSELL REPORTS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. JACOBS. Mr. Speaker, Noble "Kid" Chissell is a famous Hollywood son of Indianapolis—and a friend of one of our coworkers on Capitol Hill, Mayor Jim Balukevich. The following column published in the Hollywood Independent-Wilshire Press on July 2, 1980, is the quintessence of delicious nostalgia replete with the baking of "spuds" and the bare possibility of "home brew."

KID CHISSELL REPORTS

A phone call from sister Noretta from Indianapolis put a thorn in my side. Greedy vandals razed one of my historic, nostalgic haunts in the Indianapolis "Levee" section, the Colonial Theater, formerly a high-class silent film house, then converted to a burlesque house, where the great Texas rube comic, Buddy Kane, and his wife, Carrie, held sway for about four years, a hangout for many of us fighters, wrestlers and Runyonesque characters, situated between the Colonial Hotel and a Greek restaurant.

Buddy Kane packed them in every Friday and Saturday night with two shows. He would have made it big in Hollywood and was the pattern for Vincennes' Red Skelton, who springboarded to fame from there after I left.

Meanwhile, Buddy got stuck for a straight man, who got sick and pressed me into service for a few days, after we had one run through, as I was familiar with most of the routines.

Around the corner another block, at the Ohio Theater was where film star Dick Powell started his singing career. He later went to "Naptown's" finest movie house, The Circle, with the Charlie Davis Orchestra, where he was signed by First National Studios (later Warners) for his first film "Street Scene," in 1931.

Back to the Colonial Theater. As I said, this was a hangout for many: "Indian" Roy Cocayne, Cherokee middleweight boxer; "Tuffy," a flyweight; Jackie and Harry Maginity, brother boxer and wrestler; Mitchell Al DeRose, Chicago featherweight; and "Brownie," a crippled pilot from World War I.

The roughest of all was Chuck Wiggins. He beat world champ Gene Tunney so badly in the training camp at Crete, Ill., in 1927, they barred him from future training with Gene.

Chuck had no fear of the toughest hooligans of that era and I witnessed many of his escapades. He had a heart as big as his body and at Christmas would raise funds for poor folks.

I went with him on two occasions, when we delivered food, toys, candy and clothing to these less fortunate, with a caravan of cars, driven by Nate Farb, Shiner Middaugh, Tommy Dillon, Johnny and Jimmy Collins, "Stew" Donnelly, Bobbie Lee, Piez Oliver and others with my faulty memory I can't think of.

All this gang was connected with boxing and are remembered by old-timers. Also, Pete Doerschel, ex-Indiana fighter now a businessman here, who was aghast when I phoned to tell of the Colonial's destruction. I could write a book about experiences there.

On Saturday, after the midnight show, some of us pugs would join the burlesque troupe in Buddy and Carrie's flat in the Shield Apartments near the theater. We would bake spuds, make salad and cook steaks and corn. Some of them had home brew but most of us, coffee.

So you veteran Angelenos who watched the passing of the Red Cars and the Angels Flight know how I feel about Indianapolis' Colonial Theater.

It is true that Helen Liberty Smith is working with ASA Productions and with David Roth, who is preparing "The Maxie Rosenbloom Story" about the colorful, old light-heavyweight boxing champ who, with the late heavyweight champ Max Baer, were a good comedy team.

In my recent column on Oriental thespians, forgot to mention my friend, Suzanna Kim, who gave such a fine performance in "The Good Earth." She has many more good credits and is active in the Opera Reading Club and Film Welfare League. Suzanna was a recent visitor to our Cauliflower Alley Club.●

PROPOSED FEDERAL FIREARMS AMENDMENTS CRITICIZED

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. McCLORY. Mr. Speaker, recently I placed in the CONGRESSIONAL RECORD the first part of a letter prepared by the law firm of Wilmer & Pickering analyzing the first two sections of H.R. 5225, the Federal Firearms Law Reform Act of 1979.

Attached is the final portion of that letter—analyzing the last two sections of H.R. 5225. I would hope that my colleagues in the Congress will take this opportunity to review the letter in its entirety.

Such a measure could only have an adverse impact on the present efforts at controlling the illegal and damaging trafficking in handguns and could thwart any further progress in reducing the criminal misuse of such weapons.

The analysis follows:

ANALYSIS

III. THE BILL (H.R. 5225) WOULD UNNECESSARILY PREEMPT STATE LAWS GOVERNING THE TRANSPORTATION OF FIREARMS WITHIN STATE BORDERS

Another proposal that could give rise to illegal gun traffic is the suggested change to 18 U.S.C. 927. This section now provides that Congress does not intend to preempt state firearms law unless the particular state and federal provisions directly conflict and cannot be reconciled. Section 107 of the bill, however, specifically preempts any state law prohibiting the transfer of an unloaded, inaccessible gun through that state.

Such a provision would clearly fly in the face of the rights of states to limit the gun traffic within their borders. A state may have a legitimate interest in preventing, for example, the shipment through its ports of crates of guns to either domestic or international terrorist groups. Such guns could very easily qualify under the proposed amendment as unloaded and inaccessible. Yet Congress surely has little interest in insisting that a state provide a staging ground for the shipment of such weapons.

IV. THE BILL WOULD UNDULY RESTRICT THE EFFECTIVENESS OF FEDERAL FIREARM CONTROLS

A. The bill would effectively prohibit BATF compliance inspections

If amended as proposed, the Act would lose one of its most effective inforcement mechanisms—compliance inspections. Section 103(d) of the proposed bill would amend section 923(g) of the Act to provide for inspections of a licensee's records only if the BATF has reasonable cause to believe that a violation of the Gun Control Act has occurred and that evidence of such a violation might be found on the licensee's premises. Such a provision would effectively eliminate on-premises compliance inspections because it would be very difficult for inspectors to develop the requisite reasonable cause without actually seeing the records in question.

The sponsors of the legislation assert that this provision is merely an effort to put firearms inspections in accord with certain language in the Supreme Court's decision in *Marshall* v. *Barlow's, Inc.*, 436 U.S. 307 (1978), limiting the inspection powers of the Occupational Safety and Health Administration (OSHA). Even a cursory reading of *Barlow's*, however, reveals the Supreme Court's specific recognition of the legitimacy of inspections of firearms dealers. The firearms industry has long been subject to close supervision and inspection, according to the Court, and an entrepreneur embarking on such a business voluntarily chooses to subject himself to the full arsenal of governmental regulation and in effect consents to the restrictions placed upon him. 436 U.S. at 313. See *United States* v. *Biswell*, 406 U.S. 311, 316 (1972) (warrantless inspection of federal firearms licensee is not unconstitutional; if inspections are to serve as a credible deterrent, they must be frequent). Compounding their error, the sponsors would subject the BATF to far stricter requirements than those endorsed for OSHA.[1] Such a change lacks any sound justification.

B. Ninety-day public notice period and legislative veto

Sections 106 (c) and (d) of the bill alter the administrative provisions applicable to the BATF's rulemaking authority. Current law already requires "reasonable public notice" prior to the promulgation of any rules and regulations dealing with firearms, 18 U.S.C. 926(2). Section 106(c) of the bill imposes a minimum 90-day public notice period. Section 106(d) establishes a legislative veto procedure, which imposes an additional 90-day waiting period after any rule dealing with firearms is promulgated. These proposals would cripple the BATF's rulemaking ability and hamper its effectiveness by requiring at least a half-year delay in the effective date of every rule it intends to issue, however major or minor, however significant or routine.

If there are problems with BATF procedures, the answer is not to impose barriers that would impede the agency's ability to act and make decisions in a responsive and efficient manner. A better solution would be to transfer the authority for the regulation of firearms from the BATF to the Justice Department, an agency with more experience in crime control and enforcement.

C. Definition of "engaged in the business"

Current law makes it unlawful for anyone except a licensed dealer to engage in the business of dealing in firearms or ammunition. 18 U.S.C. 922(a)(1), 923(a).[2] The term "dealer" is defined as any person engaged in the business of selling firearms or ammunition at wholesale or retail. See 18 U.S.C. 921(a)(11); 27 C.F.R. 178.11. The term "engaged in the business" is not defined in the statute or in the regulations.

Section 101(c)(14) of the bill establishes a definition of the term "engaged in the business" as it applies to dealers, as well as to the other types of federal firearms licensees. This statutory definition is unnecessary at the present time. The BATF on December 19, 1979 issued an Advance Notice of Proposed Rulemaking setting forth a comprehensive inquiry into the need for, and proposed format for, such definitions, outlining a range of alternative interpretations and seeking public comment on all aspects of the issue. 44 Fed. Reg. 75186–87 (1979) (to be codified in 27 C.F.R. 178). That proceeding should provide valuable information necessary for an informed judgment about the most appropriate formulation of the definitions. The Notice correctly observes that a number of serious policy issues are presented by these definitions, as is demonstrated by the fact that the courts have developed various conflicting interpretations, focusing on several different types of factors as significant indicia of "engaging in business." See 32 A.L.R. Fed. 946 (1977). In such circumstances, it is essential that a full airing of the issue and consideration of the relative merits of all of these factors be undertaken before any final definitions are adopted. Accordingly, until the BATF proceeding is completed and the comparative advantages of a range of legitimate approaches are analyzed, there is no need for adoption of the proposed formulation.

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[1] The bill requires the BATF to show reasonable cause to believe that a violation had occurred as a predicate to inspect a dealer's premises. In contrast, *Barlow's* imposes the much more limited burden on OSHA to show that its searches be pursuant to a "general plan for enforcement" based on "reasonable administrative standards" instead of reflecting a mere arbitrary selection of the establishment searched. 436 U.S. at 320–21.

[2] These provisions include similar requirements for licensed manufacturers and importers.

The particular definitions proposed are also too narrow. The definition of dealer would exclude from federal licensing requirements (1) part-time businesses that may conduct a substantial number of sales but do not constitute the principal livelihood of the owner, (2) resale brokers who sell large "drop shipments" but do not maintain an inventory, and (3) new business not yet engaged in the regular course of business but fully intending to do so.[3]

D. Sanctions for persons convicted of violations other than those charged

Section 103(c) of the bill proposes that if a licensee is charged criminally for violations of the Act or its regulations but not convicted of such charges, the Secretary cannot use any of the violations alleged as a basis for interfering with the license. As a practical matter, the provision fails to achieve its intended purposes. The proposal fails to account for a central element of our criminal justice system—plea bargaining. For example, a licensee could be charged and convicted for tax evasion involving illegal shipments of firearms. This licensee could have been charged initially with various crimes and also with violations of the Gun Control Act in connection with the illegal shipments.

In the course of plea negotiations, the Gun Control Act violations could be dropped, even though the predicate for the licensee's ultimate plea would clearly involve the conduct upon which violations of the Act were based. Under the proposal, this conduct could not be a basis for revoking the license, even though all parties concerned recognized it had occurred.

Finally, as a legal question, the proposed formulation is contrary to the settled rule of law that even a criminal acquittal does not bar a later civil proceeding based on the same acts. See, e.g., *One Lot Emerald Cut Stones and One Ring* v. *United States*, 409 U.S. 232, 235 (1972); *Stone* v. *United States*, 167 U.S. 178, 188 (1897). The primary justification for the rule is that the burden of proof in a criminal proceeding is far higher than that in an administrative setting. As a result, the failure to obtain a conviction may have little bearing on the validity of the civil charges, and should not foreclose a legitimate case from being brought.

E. Restrictions on the forfeiture and seizure of firearms

Current law provides that any firearm or ammunition involved in, used, or intended to be used in a violation of the Act or any other federal criminal law is subject to seizure and forfeiture. 18 U.S.C. 924(d).

Section 104(d) of the bill removes application of the seizure and forfeiture provisions to weapons intended to be used in a violation. Moreover, forfeiture would only occur after the owner or possessor of the involved weapon has been convicted. And dismissal of any charge upon which seizure is based, or a result other than a finding of guilt as to such charge, would preclude forfeiture and require return of the seized weapon.

Many problems are caused by this change. First, a major loophole is created by the omission of guns intended to be used in a violation of the Act or other federal criminal law. An individual plotting to assassinate an officeholder may be planning to use a particular weapon. If he is caught in time, before the gun is put to use, his conviction for conspiracy might not be grounds for forfeiture of the weapon.

Second, an assassin could borrow a gun from an acquaintance, use it for his crime, and return it. Convicting him for assassination, however, would not confer authority on law enforcement agents to seize and retain the gun permanently, because he is not the owner or possessor of the gun.

Finally, this provision also ignores the nature of plea bargaining. The example of a typical holdup or mugging illustrates this. The prosecutor may, to secure a guilty plea and for a variety of other reasons, drop charges involving possession of a gun and accept a plea to mere assault. The defendant would nevertheless be required to admit to the use of a gun as part of the plea. Under the bill, however, the dismissal of the gun-related charges during the plea bargaining process would require law enforcement authorities to return the gun to the convict, perhaps to use on another victim.

F. Return of seized guns

Seizure and forfeiture provisions are addressed in another context. Section 104(d)(2)(C) of the bill would permit seizure and forfeiture of weapons only if particularly named and individually identified as involved in or used in a violation of the Act or any other federal criminal law.

Such a change from existing law would clearly permit crime guns to remain in the hands of criminals. If an owner of five guns used one to commit a bank robbery, was captured, and his weapon seized, the bill would not touch his remaining four guns. Assuming he was incarcerated for his offense, upon his release he could use his cache of weapons to commit an even more serious offense in the future.

G. "Knowing" violations

An additional one-word proposed change could significantly weaken the application of the law to criminals. Currently the law provides that a license may be revoked if the holder has violated the Act or its regulations. 18 U.S.C. 923(e). Section 103(b) of the bill would amend the provision to insert the word "knowingly" before the word "violated."

Such a change is plainly unwarranted and would provide criminal defendants with an additional layer of defense against legitimate prosecutions. The "knowingly" requirement might make knowledge of the provisions of the law an element of the offense—a tremendous burden for prosecutors. The regulatory features of the Gun Control Act, like regulatory measures throughout our laws, must provide that mere accomplishment of the proscribed act or omission satisfies the standard for criminal liability. A criminal intent requirement undermines the efficacy of such regulatory provisions.

V. CONCLUSION

We have shown that a number of provisions of the proposed legislation would have a detrimental effect on the operation of current federal and state controls over firearm crime and illegal gun traffic. These problems are compounded by the combined effect of the various provisions taken together. These many serious defects in the legislation provide a strong basis for opposing the bill.

Mr. Speaker, the complete analysis and comments prepared by Mr. Seeman and Mr. Goodstein are most illuminating and should assist all of us in this body in understanding that passage of H.R. 5225 would do serious damage to law enforcement—and the public interest.●

NATIONAL SCENIC TRAIL

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. ROTH. Mr. Speaker, I am pleased to be a part of the effort to bring national recognition to the Wisconsin ice age trail by designating it a national scenic trail.

For 20 years, voluntary citizens groups have been working to develop this trail. Presently, hiking and biking are the two fastest growing outdoor activities in the State of Wisconsin. We must also look to the future. With more and more thought about energy-saving recreational activities, we can only anticipate an increasing emphasis on our nature trails.

It is important that we maintain historic sites; that we set aside and enjoy areas that represent the past, where we can preserve for posterity natural scenic beauty.

For these reasons, Wisconsin citizens have committed their time and resources to establishing the ice age trail. I think it is also appropriate that the trail be designated a national scenic trail.

I am proud to join my colleagues from Wisconsin in introducing this legislation, and hope the ice age trail will be added to the other eight national scenic trails.●

EXPEDITIOUS ACTION NEEDED ON REGULATORY REFORM MEASURES

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. ABDNOR. Mr. Speaker, during the recent July recess of Congress I toured my State to conduct a series of meetings with members of the business community. After these discussions it was more apparent to me than ever before that together with inflation, nothing negatively impacts businesses more than excessive Government regulations.

Small businesses are especially hard hit because they lack the resources to comply with the mountains of paperwork and complicated requirements which are constantly promulgated by the bureaucracy.

Many of us in this body have consistently supported and sponsored legislation designed to provide for legitimate regulatory reform. I have personally worked for the adoption of measures which would require regulations to be structured so as to apply differently to small and large businesses as needs dictate. I also believe all regulations should be forced to carry a positive cost-benefit ratio and that Congress should have the authority to veto regulations deemed unnecessary.

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[3] We also note that section 101(c), presumably as a result of poor draftsmanship, defines "engaged in the business" as applied to an importer of firearms as a person who imports one firearm in any calendar year, thereby exempting importers of more than one firearm.

Unfortunately, in most instances this message has fallen on the deaf ears of the Carter administration and the House leadership. Currently, several vital regulatory reform measures are held hostage in committee at the request of the administration. Meanwhile, productivity continues to decline because of the enormous drain these regulations have on the output of the business community.

Recently, the Associated Press carried a story about banking regulations which exemplifies the need for expeditious action on regulatory reform measures. It seems that not even an offer of free money could interest consumers enough to read so-called important disclosures required by the Federal bureaucracy. The article, as printed in the Sioux Falls Argus Leader, appears below. I commend it to the attention of my colleagues.

The article follows:

BANK FINDS IT CAN'T GIVE MONEY AWAY

MINNEAPOLIS.—Northwestern National Bank bet $1,000 to prove it's a waste of money to mail detailed pamphlets to customers to disclose changes in banking regulations.

The bank lost not one cent of the money it put up to test its theory that nobody reads materials in the government-required mailings.

The bank experiment was made in a May-June mailing to 115,000 customers regarding the Federal Reserve's new "Regulation E" pertaining to electronic fund transfers.

One hundred of the checking account customers, chosen at random, got a pamphlet that had been specially printed. It contained one extra paragraph:

"Any customer who receives (in the mail) a disclosure that includes this paragraph can get $10 simply by writing 'Regulation E' and the customer's name and address on a card and sending it along with a self-addressed, stamped envelope to Northwestern National Bank of Minneapolis, 7th & Marquette, Minneapolis, Minn., 55480."

There were no responses.

Paul Eisen, the bank's senior vice president of marketing, noted it costs $69,000 to print and mail the disclosures he described as "laborious and difficult to read."

"Based on our experience, total costs to all banks across the nation might well be in the tens of millions of dollars," Eisen said. "Somewhere along the line, all these costs will have to be paid by the bank's customers."●

IN HONOR OF JUDGE JOHN P. STEKETEE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. MILLER of California. Mr. Speaker, the Congress recently approved, and the President signed into law, "The Adoption Assistance and Child Welfare Act of 1980," now know as Public Law 96-272.

Enactment of this long-awaited law is the culmination of the efforts of many hundreds of dedicated people throughout the United States who have recognized the deficiencies of the present foster care system and have worked diligently to improve it, often without any Federal support or public recognition.

One of the people most deserving of praise for his own efforts and his contributions to Public Law 96-272 is Judge John P. Steketee of the Kent County, Mich., Juvenile Court. Judge Steketee is one of the founders of the National Council of Juvenile Court Judges' children in placement program, on which many of the accountability features of Public Law 96-272 were based. The CIP project provided us with the essential data which shows that a better administered foster care program is better for the children, their families, and taxpayers, because the costs of the system are reduced.

Judge Steketee's work was the subject of a feature-length story in Parade magazine, which I want to share with all Members of Congress. And now, in addition to this national recognition, I am informed that the Council of Juvenile Court Judges itself has awarded him its Meritorious Service Award. I want to offer Judge Steketee my personal congratulations on his selection for this honor, and to offer him again my appreciation for his great personal contribution to the improvement of the child welfare system.

The article follows:

CHILDREN HAVE FRIEND IN COURT

(By Lynne McTaggart)

Becky was a prime candidate for long-term, indefinite foster care. A 15-year-old deaf mute subject to petit mal epileptic seizures and emotional disturbances, she had been described by social workers as "severely" mentally impaired. In January 1977, she was removed from her home by court order because of neglect by her mother, and she spent the next year and a half shuffling between two foster homes and her real home. In June 1878, Becky's mother gave her up permanently, but her social worker says the agency in charge of her care did not press to find Becky a home because no one believed there would be a couple willing to adopt her.

Becky might have remained permanently in foster care if the Michigan court monitoring her case hadn't ordered the agency to refer her to Spaulding for Children, a Michigan agency specializing in the adoption of children other agencies have been unable to place. In the fall of 1978, Becky was transferred to Spaulding; a month later, the agency found a couple interested in Becky; by December, they met her ("it was love at first sight—on both sides"); and two months later, Becky moved into what will be her permanent adoptive home.

Along with Spaulding, Judge John P. Steketee of Kent County (Mich.) Juvenile Court is responsible for Becky's swift placement and for making sure that other children like her don't drift on in the foster-care system. Steketee has designed a rigorous review process that provides the first check on foster care agencies, which traditionally have had an almost inviolate say on the future of their children. Through "creative tension" between the court and agencies, this monitoring system prods social workers to return foster children quickly to their parents or to get them adopted—or at least placed in the most stable possible family setting.

Now in use in some 30 courts across the U.S., Steketee's review process, called the Concern for Children in Placement Project (CIP), reflects an emerging judicial recognition of the legal right of children to quality parental care and to a permanent family. It also reflects the growing awareness among child welfare personnel that adoptive homes can be found for all children, no matter what age or race or handicap.

CIP aims to help those children who are involuntarily removed from their parents because of abuse or neglect and then become temporary or permanent wards of the court. Once they are taken from their homes, the court assigns their care either to a public or private nonprofit agency which is then supposed to place the child with a foster family, a group home or an institution while helping the parents solve their problems or attempting to get the child adopted.

Too often "temporary" foster care becomes permanent because of the inadequate attempts by agencies to reunite families or the courts' unwillingness to terminate the rights of clearly neglectful or abusive parents.

Of the estimated 500,000 children now in foster care, many have been "lost" in the system because of poor court or agency record-keeping. Agencies sometimes are sluggish in moving children because their financial survival depends upon the per diem rate they receive from the government for each individual in foster care—the most generous and only steady funding available. This fiscal "disincentive" to encourage permanent placement is aggravated when the determination of a child's future is left almost exclusively to an overburdened social worker with minimal training or experience. Decisions are often prejudiced or arbitrary, and too many workers tend to consider older, handicapped or minority children unadoptable.

Steketee's court was the first to challenge such attitudes through an adversary proceeding, in which the court acts as advocate for the child. Two lay persons keep track of all children under the court's jurisdiction and prepare case files including the length of time they have been in care, the number of foster homes to which they've been transferred and their legal status with their parents. The court appoints an attorney to represent each child in court. At least every six months, review hearings are conducted during which, says Steketee, "everybody comes together—the caseworker, the child's attorney, the natural parents"—to discuss plans to provide a stable home life.

The court first attempts to rehabilitate the family, offering services such as marital counseling, job training or education in child-rearing. Only if such efforts fail (and in the majority of cases, Steketee says, children do return home), the court acts to terminate parental rights. It orders the caseworker to tap all resources to place the child: Michigan's Adoption Resource Exchange (a statewide interagency communication system with data on all waiting children); newspaper columns that publicize children without homes; other agency lists of parents seeking children; and finally, the self-styled "court of last resort," Spaulding for Children.

Periodic court review of the status of its wards has been mandatory in Michigan since 1966, but prior to 1972, says Steketee, hearings were often a rubber-stamping of agency decisions—even in his own court. "The agency would say, 'This 8-year-old biracial child is not adoptable, so it looks like he'll grow up to adulthood in this foster home.' I didn't know any better. I believed what they were saying because I figured they were social workers, and I didn't have any training myself in social work."

In 1972, Steketee was approached by Peter Forsythe, founder of the Spaulding for Children agencies, who wanted to set up a branch in Michigan. At Forsythe's request, Steketee hired lay persons to determine whether children were needlessly drifting in foster care. Much to his chagrin, the two-year study showed that many children remained in care only because they had been classified as unadoptable. Douglas Lewis, a Grand Rapids attorney who has represented 50 children in review hearings, says that in many cases a foster family desired to adopt their foster child but that the agency simply had never explored the possibility.

As a result, Steketee began to conduct more aggressive review hearings that rarely accepted agency plans for indefinite foster care. He recalls: "A couple of times, very early on, when somebody said, 'This child is not adoptable,' I'd call his or her bluff and say, 'I think I can get this child adopted.' Then I'd call Spaulding and say, 'Look, get this kid adopted, will you?' And they usually did.

"When we started these hearings, everybody knew that there were going to be some pretty tough questions asked. It was amazing how many times, a few weeks before a hearing, a plan for a child would get made."

In 1974, aided by a foundation grant and in conjunction with the National Council of Juvenile and Family Court Judges, Steketee improved upon the pilot Michigan reviewing system and launched what he terms "Phase 1 of CIP," selecting 12 diversified courts to participate in the program and holding training sessions for judges and court personnel. At the outset, 24 percent of the children in these courts had been in foster care for five to 10 years, 30 percent had not had their cases reviewed in three to 10 years, and 56 percent had been moved to at least three foster homes.

After two years, among 2,499 cases reviewed at four of the courts, 927 children were moved out of foster care: 195 were returned home, 40 placed with relatives, 600 adopted, 70 discharged because they had reached their majority, and 22 placed in other permanent settings.

A final report on the three-year activity of the Phase 1 courts showed results less dramatic than these initial findings, but it did indicate an increase in plans and placements in more permanent settings (such as adoption) and a decrease in "limbo" placements (permanent foster care).

Phase 2 of CIP will attempt to introduce many more courts and juvenile judges to the project, with training programs tailored to individual court needs, particularly for those that cannot afford to hire attorneys to represent the children or lay persons to review case files. Under one plan, the courts train volunteers to act as advocates for children during hearings. Courts participating in CIP have recruited volunteers from the Junior League, law schools or universities, PTA boards, church groups and senior citizen organizations. The National Council of Jewish Women recently received a grant to train volunteers as review-hearing advocates.

"All you have to do is find a few kids lost in the system, and that justifies more than an entire salary," says Steketee. Foster care costs can range from as low as $780 per child annually in a foster family to $50,000 for an institutional placement.

Although many state laws require periodic reviews of foster children, Maris Blechner, a New York child advocate, believes that non-CIP court reviews such as those in her state are a "farce" because many judges aren't trained in child psychology and no one acts as an advocate for the child. "The judges don't have to speak to the children, you don't have to have a lay guardian—you don't have to have anything" she says.

Recently, in a non-CIP court in Michigan—where review hearings are supposedly mandatory—at least 64 children were lost in foster care because of various bureaucratic slipups. In several instances, orders that parental rights had been terminated were left in a drawer by a court employee after she retired. The American Civil Liberties Union has filed suit against the Michigan court on behalf of these children.

Steketee's review process has won an award from the National Council of Juvenile and Family Court Judges and the praise of Michigan Gov. William Miliken, who recommends that other courts in his state adopt the program. Nevertheless, Steketee says, he has been criticized for "practicing social work from the bench."

"Our position," he says, "is that it's the court's obligation, not just its right, to provide a forum for these problems because the court has the final authority to decide the fate of these children. We've taking these kids over from their parents because of parental or family neglect. For God's sake, we'd better not commit the same sin ourselves, substituting governmental neglect for parental neglect."

"I'm in favor of citizen's review boards because I think that ultimately is where the power lies," says Jayne Kidney, a social worker at Spaulding. "That kind of review board is going to get more results for kids than anything else because those people are going to keep pushing they're going to make life very uncomfortable for all of us social workers. And sometimes our lives need to be made uncomfortable." ●

WORLD FAST PITCH CHAMPIONS

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. ALBOSTA. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues America's victory in the world fast pitch softball championships. I am especially pleased to say that the United States was represented by the pride of the 10th District of Michigan, McArdle's Softball Team of Midland, Mich.

McArdle's won the fifth annual world fast pitch softball championship final in a 3 to 0 victory over Canada on Saturday, July 19. The team won all nine games they played in the tournament, and only one team was able to score against them.

Last Saturday night over 4,500 of my fellow 10th District residents came out to greet these fine athletes, who were returning to Midland from the week-long tournament in Takoma, Wash. Supporters gathered in Currie Park to greet the athletes who represented our district and their country so well.

I join the people of the 10th District and the United States in congratulating players Barry Cashin, Nelson Cronkright, Oren Mieske, Robert Ryan, Russ VanZoerin, Owen Walford, James Wright, James Fillion, Rod Johnson, Bruce Miller, Jeff Peck, Evans Telegradas, Butch Batt, Bill Stewart, Donald VanDeusen, Chuck D'Arcy; player-manager Jack Starling; coaches Thomas Whitfield, Tony Avilla, and Tom Wagner; trainer Jim Walsh; general manager Greg Bell; statistician Bob Kuck; bat boy Tommer McArdle; and director of publicity Dick Page.

Under the sponsorship of Tom and Dona McArdle, of McArdle's Pontiac & Cadillac of Midland, this team has brought excitement to the Michigan area for many years. I was privileged to meet the team this past winter, when I joined in celebrating their victory in the U.S. championships.

Mr. Speaker, I am honored to have the opportunity to salute this fine team today on the floor of this House, and I thank all those involved with the team—players, management, and fans—for their fine contribution to athletics and for the honor they have attained for our country.●

CAPTIVE NATIONS WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1980

● Mr. GILMAN. Mr. Speaker, it is indeed a solemn occasion to which I address my comments today. In 1959, when the Congress passed and President Eisenhower signed Public Law 86-90, the world was outraged at the barbaric Soviet enslavement of nations throughout Eastern Europe and Asia. It was hoped that the tragedy of Russian domination, made so very vivid in Czechoslovakia and Hungary, in 1948 and 1956 respectively, would be lessened with the passage of time. Alas, as we mark Captive Nations Week, some 21 years later, the Soviet hold is no less severe, no less cruel, and the list of captive nations that so angered the world in 1959, rather than shrinking, continues to grow.

Throughout its history, the deplorable conduct of Soviet leaders in the realm of both human and national rights has served as a constant reminder to all that the U.S.S.R., a country built on the crushed dreams of national self-determination, is not a law-abiding member of the world community. Their blatant disregard for the principles of national independence, liberty, and justice, principles that have formed the foundation of international law since the days of the League of Nations, has caused them to be despised by those who cherish the ideal of freedom.

Events of the past few months have served to reinforce the view, held throughout the free world, that the Soviet Union is a pirate among nations. Their brutal invasion of the small, technologically backward, and poor nation of Afghanistan is only the latest in a long list of Soviet crimes against humanity.

As despicable as the invasion of Afghanistan is, it is not, unfortunately, an isolated example of Soviet agression. While we of the free world appropriately express outrage at this latest attempt by the Soviet Union to subvert the national will of a people, we cannot and must not limit our criticism to Russian political and territorial expansion in Afghanistan. We shall never forget the millions of people, throughout the Communist world, who were enslaved by the bloody tide of Soviet imperialism, some, over 60 years ago. Afghanistan is today a graphic symbol of a foreign policy that respects nothing but the demands of its Government for world domination.

As we mark Captive Nations Week 1980, we do not forget the plight of all people who live in constant fear of persecution for simply seeking to fulfill their natural human right to freedom; we do not forget the struggle of nations behind the iron curtain to exercise their right to national self-determination. We, in the United States, wish to make known our total devotion to the struggle against all tyranny, wherever it exists. We do so regardless of the political consequences.

We understand that as the trustees of the greatest legacy of freedom the world has ever seen, we have a duty to those who are without. Let the leaders of the Soviet Union know of our determination to keep this sacred vigil before their terrible wall; let them be aware of our resolve.

Mr. Speaker, I urge my colleagues on both sides of the aisle to join in sending a clear message to the Soviets and, in the interest of the captive nations, to continue making their struggle known to the rest of the world.●

HUMAN RIGHTS: THE PHENOMENON OF DISAPPEARANCES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. DERWINSKI. Mr. Speaker, last fall, the Subcommittee on International Organizations, on which I am the ranking minority member, held a series of hearings on "Human Rights: The Phenomenon of Disappearances." The Wall Street Journal, on July 23, 1980, printed an article by James Ring Adams on the work of Iosif Dyadkin, a Soviet physicist, who authored not long ago a 46-page samizdat manuscript on "how many people had died unnatural deaths during the years 1927 to 1958" in the Soviet Union.

Many of the unnatural deaths which Mr. Dyadkin enumerated from a careful examination of official Soviet statistics fell into the categories of "contrived disappearances" covered by House Concurrent Resolution 285, the resolution on disappearances which developed from our subcommittee's hearings. Just how many is impossible to know but the overall figures revealed by Mr. Dyadkin's scholarship are mind-numbing. The total, conservatively estimated according to Mr. Adams, ranged between 43 million and 52 million. Statistics such as these are so immense that it is hard to remember that these were all flesh and blood human beings. The range between the higher and lower figures is itself 9 million people. Once again, when inhuman practices are considered the Communists win hands down.

Mr. Dyadkin was of course arrested by the KGB for his work. It is instructive to read Mr. Adams' article, reprinted below, and the Wall Street Journal's editorial appearing the same day, entitled "Too High a Price." His article follows:

REVISING STALIN'S LEGACY

(By James Ring Adams)

Iosif Dyadkin, a 52-year-old Soviet geophysicist, was a relatively quiet dissident, but that didn't stop the authorities from giving high priority to his arrest this spring. The KGB picked him up in his home city of Kalinin, on the Volga, apparently for the crime of doing some embarrassing statistical detective work. Using officially published population figures, Mr. Dyadkin tried to discover how many people had died unnatural deaths during the years 1927 to 1958, a period primarily consisting of Stalin's rule.

His 46-page samizdat, a privately circulated manuscript written in a dry, scientific style, told a shattering story. The unnatural deaths in this period totaled between 43 million and 52 million. The nature of the statistics did not draw distinctions between political deaths from Stalin's repressions and war casualties (which could be called another kind of Soviet government failure). Mr. Dyadkin deduced that fighting, deprivations and prison camps during world War II claimed 30 million Soviet lives; this is some 10 million more than the Soviet government acknowledges. Thus he concluded that some 13 million to 22 million died at other times from forced collectivization, the killing of the "non-progressive" classes, famine, blood purges and the conditions of the Gulag, the Russian acronym for the prison camp system.

However this conclusion offended the KGB less than the news that Mr. Dyadkin's paper had reached the West.

A LITERARY MEMORIAL

The exiled Alexander Solzhenitsyn, who has devoted himself to leaving a literary memorial to the victims of Soviet prison camps, had included its title in a list of documents he planned to publish in Russian. Mr. Dyadkin was arrested almost immediately after. Mr. Solzhenitsyn responded by calling on Western scholars to intervene. "With such methods of suppression," he wrote, "we shall never learn historical truth." Disappointed by the meager response, he released a copy of the samizdat exclusively to this newspaper, through the New York-based Center for Appeals for Freedom.

Although not a trained demographer, Mr. Dyadkin cites his considerable experience with applied mathematics. And remarkably, his paper, "Evaluation of Unnatural Deaths in the Population of the U.S.S.R., 1927-1958," is almost the only comprehensive study of the subject published in either the East or the West. Western demographers have not yet had access to the full document, but a portion dealing with World War II has appeared in the French scholarly journal "Cahiers du Monde Russe et Sovietique." Murray Feshbach, U.S. Census Bureau specialist in Soviet demographics, says that that fragment "looked like a very serious evaluation."

Mr. Dyadkin devotes much of his paper to explaining his own methodology because, he says, it is very difficult to see what methods the official Soviet demographers use to derive their figures. He charges that their work is in fact designed to mask the massive loss of life caused by governmental repression. Official tables consistently omit data for the years between 1929 and 1936, when repression in Russia was at its most lethal.

But the main shuffle, he writes, is to assume an average natural growth rate of 3.5 million at the end of the 1920s and then suddenly post a 2.5 million average for the 1930s. Since the net population growth is this natural birth rate minus the number of deaths, and this number has to be given with some accuracy, the government tried to hide the embarrassingly high number of deaths by lowering the figures for the actual birth rate. "It turns out, then," writes Mr. Dyadkin, "that the dynamics of the population cannot reflect forced collectivization, hunger, the Gulag and executions. But the magnitude of the loss is so great that no official effort to conceal it can succeed."

Much of Mr. Dyadkin's work depends on his own guess at the normal rate of growth, and he recognizes how much his choice can change the results. So he gives his estimates in ranges, sometimes with a variation of up to 50%, and he makes a point of choosing the more conservative conclusion.

For another approach, Mr. Dyadkin turns to the "question of the missing males." "At no time during the history of the U.S.S.R., including the current time," he writes, "did the percentage of men in the population achieve the proportion that existed during the Czarist period, 1897 to 1913. In 1913, in spite of the Russo-Japanese War and Revolution of 1905, this proportion stood at 49.7%." But subsequent troubles decimated the men. World War I and the Russian Civil War lowered the proportion by two full percentage points, so that in 1922 males were only 47.7% of the population.

Relative peace and Lenin's New Economic Policy (which tolerated private ownership) allowed a recovery; by 1926, males were up to 48.3%. Under normal conditions, this ratio should have improved even further, but the years 1929 to 1939 were far from normal; by 1939, the proportion of males had dropped back to 47.9%. But the real demographic disaster came in World War II, which pushed the male population below 44%. Only by 1976 had it risen as high as 46.4%.

Working with these figures, Mr. Dyadkin proceeds to estimate the casualties in the various periods of the terrible Stalinist years after 1929.

The first period, 1929 to 1936, is that of collectivization and "elimination of the classes," when Stalin took control with his version of Marxist economics. Though less famous than the subsequent Great Purge, this period was far more harrowing for the countryside. Kulaks, or the rich peasants, were exterminated wholesale with their families; whole regions suffered famines caused both by nature and the government. Mr. Dyadkin estimates deaths at more than 10 million men, women and children.

"I am afraid to present the upper limit," he adds, "but it is most probable that, according to the birth rate of 1937, and not the lowest of low birth rates for 1924 to 1939, that some 16 million perished."

In his second period, 1937 and 1938 the Great Purge had reached its peak. Millions of Communist Party members and bureaucrats were summarily sent to the Gulag or execution. Some 1.4 million, plus or minus 0.2 million, died.

In the third period, 1939 and 1940, the purge continued and reached into the Red Army, which also suffered a less significant number of casualties from the Winter War with Finland. The total loss, says Mr. Dyadkin, was 1.8 million, plus or minus 0.2 million.

These last four years, he writes, account for much of the missing males up to World War II. "It is possible to say, in contrast to the years 1929 to 1936, when men and women died equally, that during the repression years of 1937 to 1940, mostly men were killed in labor camps and executions."

Yet the period which obsesses Mr. Dyadkin, and most Russians, is the unimaginably bloody struggle against Nazi Germany, the Great Patriotic War. The official casualty figure is 20 million, and it apparently derives from an off-the-cuff remark former Soviet Premier Khrushchev once made to the prime minister of Sweden. Western Analysts have estimated 25 million; but Dyadkin derives a figure of 30 million, give or take a million. Of these deaths, some 20 million may have occurred in actual fighting. He says the rest, or 10 million, died through deprivation and the Gulag.

But an accurate total is probably unattainable. "Only if we can get casualty figures for every important military operation of the Soviet and German sides," he writes, ". . . will it be possible to answer the question: At what price did the Soviet Union achieve victory? . . . On the scale of the casualties depends the answer, was this really a victory?"

DEMOGRAPHIC DEDUCTIONS

His final period, 1950 to 1954, is almost anticlimactic, but men were still dying in prison camps until the death of Stalin in 1953 brought about releases and rehabilitations. Mr. Dyadkin estimates the deaths at 450,000, plus or minus 150,000. This figure comes from his demographic deductions, and he works back from it to extrapolate an estimate of the total prison camp population. Assuming a high mortality rate in the camps, he puts the number of prisoners at 3 million; assuming a low mortality rate, he puts it at 6 million.

The end result is awesome. In the absence of war and repressions, estimates Mr. Dyadkin, the Soviet population would have reached 250 million by 1950, 20 years earlier than it actually did.

"Let us end on an optimistic note," he concludes in the ironic style of the dissidents: "After the 20th Party Congress [in which Khrushchev revealed the crimes of Stalin] we can observe a coincidence of the general and the natural mortality rate and its declining level. We can witness a slow diminishing of the birth rate. This shows that mass repressions have basically ceased and the material level of life in our country has increased above that level to which the population had become accustomed. The population has completely adapted itself to the existing governmental order. In this respect the new Soviet man has indeed been created.

"A small number of dissidents have ceased paying by their silence and forced ovations for the privilege of life outside of prison camps, and this leaves no trace in demographic tables.

"But here we also see positive movement. Now we know their number without the aid of demography; we even know their names."

Too High a Price

When the Tyranny of the Thirty in post-Peloponnesian War Athens started murdering prominent citizens, Socrates fell in some trouble by remarking that a good shepherd was one who increased his flock rather than diminished it. A similar, if more dangerous, fate has befallen the Soviet geophysicist Iosif Dyadkin, author of the remarkable *samizdat* manuscript described nearby. Both men were dealing with a basic standard for judging human political arrangements, namely, how many people survive them. By this standard, the revolutionary utopia of Soviet Marxism is one of the greatest failures in history.

The argument continues as to whether the carnage Mr. Dyadkin so abstractly enumerates resulted from the nature of the revolution or from the peculiar personality of Stalin.

Our own belief is that Lenin's relatively moderate New Economic Policy was only an interlude before the logic of the Marxist revolution demanded to be worked out. Stalin's crudeness shouldn't distract us from the source of his economics, which was the Bolshevik Party.

Only two types of men, in fact, could have produced the demographic results Dyadkin describes—the stupid and callous or the intellectual and idealistic. The stupid, not to be moved by the suffering they caused; the intellectual, to rationalize it away. We can get some notion of the latter from the recent autobiography of Lev Kopelev, a literature professor and now one of the most prominent dissidents remaining inside Russia. ("Education of a True Believer," Harper & Row). As a dedicated member of the Komsomol (Young Communists), Kopelev took part in the confiscation of grain from Ukrainian peasants, even though he knew about the thousands of starving families flocking to the cities.

"Some sort of rationalistic fanaticism overcame my doubts, my pangs of conscience and simple feelings of sympathy, pity and shame," he writes, "but this fanaticism was nourished not only by speculative newspaper and literary sources. More convincing than these were people who in my eyes embodied, personified our truth and our justice, people who confirmed with lives that it was necessary to clench your teeth, clench your heart and carry out everything the party and the Soviet power ordered."

This fanaticism is not just a Communist (or Nazi) phenomenon. One could find it in the half-baked radicalism of the American 1960s. It's a danger accompanying every dream of a world reborn. The best, perhaps the only, antidote is a clear, commonsense look at the cost of achieving the "dream." Even if Soviet Russia were to succeed in realizing every promise of Karl Marx (and we can see even in Olympics-groomed Moscow how far short it falls), the price described by Mr. Dyadkin would be too high.●

A CATCH-22 SITUATION

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. GAYDOS. Mr. Speaker, one of the most difficult votes a Member of Congress must cast concerns military spending. If the Member votes for an increase, he or she may be subjected to criticism from certain quarters for being a war hawk or a big spender of the public tax dollar. If the Member votes to cut military spending, he or she becomes vulnerable to accusations of being soft on national defense or their patriotism is called into question.

Of course, Congress must spend enough to provide for the national defense of our country. I know of no Member of Congress who would deliberately weaken the ability of America to defend itself or the capability to crush those who would threaten the United States. As a naval veteran of World War II, I firmly believe no amount of money should stand in the way of an adequate defense for our Nation and our people. But, I also firmly believe that every dollar spent for that purpose should be put to good use and not wasted. As a Member of Congress, I am convinced that not every financial request from the Pentagon need be paid for by the taxpayers.

The Pentagon this year asked for a budget of $157 billion. The military pointed out its budget request amounted to only 6 percent of the gross national product (GNP) which is nearly $2.5 trillion. The sum, the Pentagon argued, was piddling compared to what the Government spends on domestic social programs. In effect, the Pentagon was telling Congress: The United States is the wealthiest Nation in the world. We have the money to spend and if we spend it on social programs we can spend it on the defense of the country.

There is, I believe, waste in the defense budget as there is in every budget request from a Federal agency. That waste can be curtailed through selective budget cuts, a practice I have used and which I believe will give our military the caliber of personnel it needs, the weapons and equipment it needs, and the umbrella of a strong defense the Nation needs. In addition, it will give the taxpayer a break—something he sorely needs.

Voting for huge increases in military spending without examining the whys and wherefores does not demonstrate an individual's patriotism any more than voting for a cut in spending impugns. It is merely a matter of using sense in spending dollars.●

H.R. 7631

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. DRINAN. Mr. Speaker, yesterday the House began consideration of H.R. 7631, legislation including appropriations for the National Science Foundation (NSF). In the very near future, we will also consider H.R. 7115, the fiscal year 1981 authorization legislation for the Foundation.

I thus thought that my colleagues would find the following article, "Of Talking Monkeys and Gas in the Tank," most timely and interesting. Written by Dr. Richard C. Atkinson, the distinguished former director of the NSF, this article cogently refutes common assertions that basic scientific research projects supported by the Government waste taxpayers' money.

Basic scientific research provides that which its name implies: The knowledge that serves as the foundation for the medical and technological advancements that have richly improved our lives. To shortchange the National Science Foundation and the projects of basic science that it supports is to cheat ourselves and future generations of much good.

I commend to my colleagues the following article, as reprinted from the Washington Post of September 9, 1979.

Of Talking Monkeys and Gas in the Tank

A minor industry in certain quarters is the generation of stories with headlines like "Uncle Sam Wastes *Your* Tax Dollars to Study Sex Life of Screwworm Fly" or "Scientist Gets Cushy Federal $$$ Teaching Monkeys to Talk."

Invariably, the scientific activities targeted for this treatment are government-funded research projects of the most fundamental sort, designed to expand our base of scientific knowledge rather than achieve some specific objective. What gives these formula pieces their particular bite is that the work seems irrelevant—sometimes absurdly so—to pressing daily concerns like coping with high prices or getting gasoline into the car.

Why, in these hard times, is the government giving money to scientists to study bugs and monkeys? If we are going to support science, let's at least have the scientists do something practical like developing synthetic fuel, or finding a cure for cancer, or improving economic productivity.

There is a brusque, no-nonsense logic to this approach, but it is a blinkered logic, one that fails to grasp the full role of science in our highly technological culture. If it were to govern the distribution of research funds, it would ultimately sap the vitality of the nation every bit as destructively as economic depression or energy starvation.

It is true, of course, that one of the most important roles of scientific research is the development of new products and the introduction of new technologies. Indeed, this sort of applied and developmental work accounts for the great bulk of our national R & D effort, both public and private, and it is perfectly appropriate to judge its worth in terms of the direct economic and social benefits it will bring.

What I am concerned about is the remaining one-eighth of U.S. research, that which is basic in character. The goal of this work is to expand our knowledge of life and our universe without regard to specific applications. Consequently, basic research may seem to be an aimless, free-floating indulgence, yet its product is an expanding web of knowledge containing the seeds of future applications and future surges in technology. It is the vital precursor to such practical scientific applications as developing synthetic fuel, or finding a cure for cancer, or improving economic productivity.

To illustrate the critical relationship between the two types of research, suppose the nation had declared a "war" on polio in the 1920s, seeking a quick fix to a major problem. Today we would boast of a magnificent technology in iron lungs, powered wheel chairs and other chilling appliances that were our only answers to that disease until the 1950s. Only after research of the most basic kind had brought to light the viral origin of the disease was it possible to develop the Salk and Sabin vaccines, which have proved so effective. Clearly, what we can realistically hope to achieve with our technology at any given moment is harshly constrained by the availability of fundamental knowledge. Unless we continually expand this knowledge, we will find our potential for new and beneficial applications contracting before our eyes.

Consider those fanciful headlines again. The screwworm fly is a major cattle pest in the South and Southwestern United States. In the years of its unchallenged infestation, it exacted annual losses of hundreds of millions of dollars on the cattle industry. But the pest has an Achilles heel—its reproductive cycle. By releasing huge numbers of sterilized but otherwise viable insects on the wild population, it has been possible literally to "mate" the screwworm fly out of existence in large regions of the United States.

Before the Agriculture Department could launch its remarkable eradication effort, an extensive body of prior scientific knowledge had to be assembled. One important part was the discovery in the 1940s that insects could be made sterile by X-rays. That discovery arose in an entirely different context—genetic experiments with fruit flies. Another part was the gathering of data on the population densities of various insects in the natural state. Only after this foundation of prior knowledge was constructed could scientists predict with confidence that low-density populations of insect pests like the screwworm fly would be vulnerable to the sterile-insect release method.

With respect to the second headline I have concocted, scientific interest in the remarkable facility chimpanzees have displayed in understanding and using linguistic symbols is largely fundamental at the present time, promising insights about the development of language as well as intelligence itself. But it is already apparent that the work has important applications, and may find many more, in helping learning-disabled children acquire language and helping adult stroke victims reacquire language.

To deride basic research projects like these as "academic con-games" or to insist that all government-supported scientific inquiry have a practical aim is simply to ignore the deep linkage between basic research, technological advance and economic and social welfare. Such a stance may seem tough-minded and the essence of common sense in light of the harsh economic realities we face today, but it's hardly the basis of sound public policy. Such tunnel vision would simply foreclose our nation's future options and deprive it of a fertile source of cultural, social and economic enrichment. As we look into the future, it is clear that our national well-being is going to depend on how wisely we deal with the constraints of a world with very real resource limitations. The roots of that wisdom are forming now and must be nurtured.●

BLACK VOTERS AND THE REPUBLICAN PARTY

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● **Mr. RAILSBACK.** Mr. Speaker, as one of those on our side of the aisle who for a long time has been concerned with the failure of our party to welcome into it disillusioned blacks and other minorities, I was very gratified to read William Raspberry's column in this morning's Washington Post under the heading "Yes, She's Going to Vote for Reagan."

There are many Republicans, and Governor Reagan is one of them, that believe that for too long a period of time the Democrats have taken the black voters for granted. At the same time, we recognize that in the past Republicans have not even established lines of communication with black voters.

The chairman of the Republican National Committee, Bill Brock, has taken a lead role in attempting to rectify past omissions of our party. I believe that there are many blacks and other minorities that agree with the woman alluded to in the Raspberry column who concludes, and I am paraphrasing, "What I want is some sort of policy that will benefit the masses, and the liberals aren't providing it. They feel pity for the poor, but the only thing they propose is more welfare-type solutions that only serve to cripple people." And then the woman goes on to say that she and others are making a psychological break because the Republican commitment to improve the overall economy might be the best chance black people have. It is that kind of thinking that gives us Republicans the opportunity to forge the new coalition which Governor Reagan has mentioned.

I submit the Raspberry column for the Record so that my colleagues will have the opportunity to read it in its entirety.

Yes, She's Going to Vote for Reagan

She's one of the brightest, most thoughtful people I know—sophisticated in the ways of the world, a serious pan-Africanist and committed to the point of militancy on the question of improving the lot of black Americans.

And she's voting for Ronald Reagan.

She sidled up to the subject, as though she were afraid I'd think her mad. But she finally got there, and there it was: though it goes against everything she's felt and believed and preached she'll vote for Reagan.

"I don't know what to make of it," she told me, "but it's not just me. In the past few days, I've talked to friends in other parts of the country—people I know very well—and they are headed in the same direction.

Just yesterday, I talked to a guy in Ohio, a person I know from the early '60s CORE days. The conversation turned to the presidential election, and he asked me what I was going to do.

"I said, 'Ed, you'd be astounded. I am going to vote for Reagan and Bush.'" But when she launched into an embarrassed explanation of how she had arrived at such a preposterous position, he cut her short with his admission that he had arrived there, too.

The same thing happened, she said, in a recent telephone conversation with an old friend in Memphis. This time, it was the friend who backed into the subject.

"I know what I'm going to do," he said, "but I won't tell you." He told her. He'll vote for Reagan.

"I've had the same conversation with friends here in Washington. We were all startled to see where we were. I mean, Reagan?!"

She doesn't anticipate any landslide of closet support for Reagan among black voters. And even her friends who confess they've decided not to go with Jimmy Carter again don't pretend any enthusiasm. Like her, they won't work for the Californian or try to persuade anyone else to vote for him. But as for their own ballot, Reagan has it.

"We've been suckered by nice words from the Democrats for too long," she said. "There was a time when it was important for me to hear those nice words. But now I'm comfortable enough with myself and my people that I don't need to hear these things anymore.

"What I want is some sort of policy that will benefit the masses, and the liberals aren't providing it. They feel pity for the poor, but the only thing they propose is more welfare-type solutions that only serve to cripple people.

"I guess you could say we're making a psychological break. We're saying that maybe these other people won't do anything to help the black masses with their private enterprise ideology and their trickle-down theories. But then again, maybe they will—not because they will set out to help black people but because their commitment to improving the overall economy might be the best chance that black people have.

"In any case, the Carter people certainly have not earned our undying loyalty. I'm not even convinced that Carter is a nicer man, let alone more competent, than Reagan. In fact, I'm more and more convinced he is a small, mean, vengeful man. As somebody put it, if your choice is between two evils, go with the one you haven't tried before."

I told her that my own soundings disclose a willingness among thoughtful, sophisticated blacks to give Reagan a try—except for two things: first, they are uncomfortable with what they perceive as anti-black hostility among Reagan's hard-core supporters and, second, they concede the point that Carter made in his appearance before the recent NAACP convention in Miami: that because the next president will have the opportunity to name a number of federal judges and two or three Supreme Court justices, blacks will be better off with a moderate in the White House. Further appointments of the sort made by Richard Nixon could be devastating to blacks.

"I think about that, too," she said, "but you know Reagan has shown in a number of ways—that business of making major concessions in an effort to get Ford on the ticket, although Ford had come out against him; his willingness to accept Bush as a running mate in spite of his personal reservations—his ability to compromise.

"Just look at his own family—a daughter living with a rock star, a son who is a dancer, another daughter who's been divorced a couple of times—you know these are things he doesn't like. But he can't be that rigid, or his family would be at each other's throat. I believe he has the capacity to compromise."

She said she thought about voting for John Anderson, but has become persuaded that the independent candidate is too full of "hypocrisy and self-righteousness."

She would have voted for Kennedy, had he been the Democratic nominee, as a sort of last gasp for liberalism. But the Carter presidency has been a disaster for blacks, she believes.

"I'm basically through with liberalism—not liberal positions on the issues but the liberalism that sees us as objects of pity and that doesn't really respect us. Liberalism was a good thing at one point, but I think its time has passed.

"It may turn out that we're worse off under a Reagan presidency, but if there is a significant black vote for Reagan in this election, it may open up the whole process for years to come."●

SOVIET JEWRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. LEHMAN. Mr. Speaker, I recently received a report entitled "Jewish Emigration From the U.S.S.R.," written by Elie Valk, director of the Soviet Jewry Research Bureau of the National Conference on Soviet Jewry. I would like to bring some of the pertinent facts in that report to the attention of my colleagues.

In 1979, 51,320 Jews left Russia to join family and friends in other parts of the world. This was the largest number to date of "refuseniks" that the Russians permitted to emigrate in any one year. This trend, however, has seen a sharp decline since November 1979. In May 1980, 1,976 Jews left Russia compared to 4,163 in May 1979, representing a decrease of 52.5 percent. In recent months, the Soviets have cleansed Moscow of dissident elements to make sure that these people do not come in contact with visitors from the West during the Olympic games.

Evidence of the worsening situation is not only reflected in terms of numbers, but also by the intensification of persecution toward potential emigres. One case, the Vallery Raines family of Riga, U.S.S.R., applied for an exit visa in August 1978. Not only were they denied in December 1978, but Vallery's wife Galina was brutally murdered on February 5 of the following year. Her family and friends believe this was done by the Government to intimidate other Jews in the community who wish to leave the Soviet Union.

Further provocation is exemplified in the case of Vladimir Prestin. Mr. Prestin was forced to leave work in the computer field 11 years ago. Since his retirement, there have been two entirely new generations of computers. Vladimir, together with his family, has been applying for exit visas for the past 9 years. He has repeatedly been refused because of "secrets he obtained while working with computers. Mr. Prestin does not know, nor will the KGB tell him, what these so-called secrets are.

In 1975, the United States, the Soviet Union, and 33 other nations signed the Helsinki accords, which among other provisions guarantees freedom of emigration and reunification of families. The pledge made by the nations signing the Helsinki accords to respect human rights is not being kept by the Soviet Union. Our efforts must be intensified to reunite these brothers, sisters, mothers, and fathers scattered around the world. Chai—life—in the land of one's choice, the most basic gift of all, must not be taken away. These people must not be forgotten.●

BUI ANH TUAN RECEIVES HONOR MEDAL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. DERWINSKI. Mr. Speaker, on the occasion of the 22d anniversary of Captive Nations Week, I believe that it is especially pertinent to direct special attention to the outstanding accomplishments of Bui Anh Tuan, who is the first Southeast Asian refugee to receive the George Washington Honor Medal by the Freedoms Foundation at Valley Forge. Tuan, a Vietnamese-born journalist, was awarded the medal for his column entitled, "Four Years From Vietnam." His column gives Americans a better understanding of how refugees from Communist nations feel about the United States.

I insert an article from the News World, of New York, which provides a commentary on Bui Anh Tuan's background as a freelance writer, which is followed by Tuan's stirring column, that was carried by several newspapers in May of 1979. It is reprinted below from the May 6 edition of the San Diego Union. These articles follow:

[From the News World, Mar. 19, 1980]

NEWS WORLD COLUMNIST WINS FREEDOM AWARD

Bui Anh Tuan, Vietnamese-born journalist, author and columnist for The News World, has been awarded the George Washington Honor Medal by The Freedoms Foundation at Valley forge for his column entitled "Four Years from Vietnam."

"Four years ago I came to America with love," he wrote in the column published last April 30. "I had lost everything, but America has given me the most valuable treasure on earth—freedom."

The George Washington Honor Medal is presented "for the most outstanding individual contribution supporting human dignity and the fundamentals of a free society."

In its citation, the Freedoms Foundation said: "America is lucky to have been able to adopt Bui Anh Tuan. He came here from Vietnam about five years ago and within that time has come to love America more than some of us who were born here."

Educated in France, Tuan spent 28 years in Asia as a war correspondent, news agency and radio editor, columnist, newspaper publisher and novelist.

He has written 15 books on international affairs, including studies of China, Southeast Asia and Eastern Europe. He also has written 63 novels.

Tuan was imprisoned by the Vietnamese communists for five years, from 1946 to 1951, and was briefly jailed by Saigon's military government in 1963.

After coming to the United States in 1975 as a refugee with his family, Tuan became editor of the International Digest, a newsletter in Washington, D.C., and has since written for several newspapers. The Georgetown University Center for Strategic and International Studies published his book, "Socialist Vietnam: The Way It Is," in 1977.

Tuan's most recent book, "Southeast Asia: Communism on the March," was published in the fall of 1978.

Freedoms Foundation at Valley Forge, Pa. is a nonprofit, nonpolitical and nonsectarian organization which since its formation in 1949 has directed its efforts toward preserving and perpetuating the principles embodied in America's freedom documents.

Its national awards program recognizes individuals and organizations who "speak up for America" through words and actions supporting freedom and who seek to help in solving the basic problems of the nation.

[From the San Diego Union, May 6, 1979]

HE LOVES HIS ADOPTED, NEAR-SIGHTED LAND

(By Bui Anh Tuan)

Four years ago, my native country, the Republic of Vietnam, fell to the Hanoi invading forces.

Today rallies, seminars and religious services to denounce repression and focus attention on the plight of boat escapees are being held by Vietnamese refugees throughout the United States. Unfortunately, the major media are not interested in these events.

Selective treatment—begun with news reporting before I came here—has expanded into the sacred area of human rights. America needed almost two centuries to achieve racial equality; on the contrary, many influential Americans have refused to settle for anything less than instant democracy when looking into the records of Park's South Korea, Pinochet's Chile, Marcos' Philippines and Smith's Rhodesia. Official ideologues, who used to pick Iran's shah to pieces, held their tongues when Khomeini went on a killing binge. Similarly, they have raised a stink over the human rights of Thai and Indonesian insurgents while nonchalantly putting up with the massacre of 60 million people in mainland China.

It goes without saying that in terms of being law-abiding, the United States is second to none. In fact, car-burning mobs which dictated U.S.-Vietnam policy still do so with Iran. America's strength lies in her constructive diversity. Since Vietnam, diversity had degenerated into a heresy of attacks on the nation's defense and security interests.

Four years ago I came to America with love. I had lost everything; but, in compensation, America has given me the most valuable treasure on earth—freedom. That is why I continue to love America, for all her frailties. As the late Gen. Daniel (Chappie) James Jr., the first black to ever become a U.S. four-star general, put it, "I love America, and as she has weaknesses or ills, I'll still hold her hands."

America's major weakness stems from a willingness to accept communist pledges and promises at face value. We lost the Vietnam war because American romantics placed high confidence in Moscow, Beijing and the Paris peace accords, and mainly because, instead of fighting the communist enemy, the Saigon generals ended up fighting among themselves and terrorizing the anti-communist opposition. I met with the generals—now in the U.S.—who had closed down my anti-communist newspaper and imprisoned me without trial, asking, "Why did you do that?" To a man, they replied, "Sorry, I do not know why."

In contrast, the communists know well what they do. They just launched a lobbying campaign for U.S. recognition of Hanoi, insisting that there is no repression in Vietnam, that about 95 percent of detainees have been released and that emigration regulations are being liberalized.

The well-informed Vietnamese refugee community in France put the number of political detainees in communist Vietnam at one million. A spot check with 50 Vietnamese families here showed that only an insignificant number of relatives have been released. As for me, all my acquaintances, friends and relatives—including two brothers detained since 1975—are still in jail.

For American leftists there is not such a thing as "concentration camp" in Vietnam. The truth is that I spent six long years (1946-51) in one of these Soviet-type gulags. Almost all its inmates died of malnutrition. I buried dozens of them, most of the time removing their tattered clothing before throwing them into shallow graves.

My wife's brother-in-law—a classmate of Premier Pham Van Dong—was held in a jungle gulag, along with hundreds of "landlords." He, his wife and their five children died for lack of food. Thousands of families died that way in the mid-'50s in communist-controlled North Vietnam.

The United Nations commissioner for refugees announced the other day that Hanoi was ready to let almost everyone emigrate, including former political detainees. I would like to acquaint him with the plight of my 79-year-old mother. She adamantly refused to be evacuated in April 1975. In return, the communists confiscated everything her departing children gave her. Since there is no Medicare, no Social Security, no food stamps in Vietnam, she has to sell her clothing and furniture to buy food. In desperation, she has applied for emigration, hoping to join her children and grandchildren in the United States. After eight months, there still is no response.

Like my old and ailing mother, thousands of Vietnamese mothers, wives and children are still waiting for exit papers that may come too late, or may never come.

Sen. Edward Kennedy, D-Mass., and other luminaries have called for revision of U.S. policy toward Hanoi. I don't disagree with them, although I harbor no illusion about the sincerity of communism. For me, there is no difference between Stalin and Brezhnev, between Mao and Deng, between Italy's Berlinguer and Cuba's Che, between the Khmer-Rouge butchers and the Hanoi soft-sellers.

The Hanoi ongoing effort to make peace with the United States is simply part and parcel of a Soviet-led campaign to counter China's opening up to the West. All told, it would be unwise not to give Hanoi what we gave its archrival, Peking. But, it would also be unwise—if not risky—to continue to give away just for kicks.●

AMEX SYSTEMS, INC.—BOEING'S SUBCONTRACTOR AWARD WINNER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. ANDERSON of California. Mr. Speaker, each year the Boeing Co. selects from among its thousands of suppliers, the one small disadvantaged business firm which best exemplifies outstanding performance in the American free enterprise system. I am proud to announce that Amex Systems, Inc., of Hawthorne, Calif., will be honored on August 5, 1980, as the Boeing Co.'s 1979 winner of the Small Disadvantaged Business Supplier of the Year Award.

The history of Amex Systems is one of remarkable achievement. The company was founded quite recently, in 1971, as a high-technology electronic design, fabrication, and support service organization. At its start, the company had only four employees and $7,000 in annual sales. It now boasts employment of 450 people and last year recorded sales of $12 million. This phenomenal growth was made possible by the reputation the company has established as a firm able to produce quality products, on schedule, and at competitive prices.

The outstanding performance of Amex led to the firm's nomination in the industry/U.S. Small Business Administration's subcontractor of the year program and also led to their selection as the Boeing Co.'s small disadvantaged business supplier of the year. These credentials firmly establish Amex Systems, Inc., as one of this Nation's finest small business firms.

The fact that over 90 percent of this firm's sales are Government sales means that the Federal Government, especially the military, and taxpayers in general are the indirect beneficiaries of the quality work produced by this firm. Their ontime deliveries and ability to work within budget restraints, have prevented cost overruns and waste. In addition, Amex has made some individual contributions to the Nation's military capabilities by its development of special technical devices which enhance U.S. Air Force aircraft.

Mr. Speaker, Amex System's president, Manuel R. Caldera, his entire management team, and all other Amex employees deserve many congratulations for maintaining a position of excellence in the aerospace industry. I hope their dedication and enthusiasm for quality carries them through many more years of success and prosperity.●

H.R. 7230—EXPORT TRADING COMPANIES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. BONKER. Mr. Speaker, the House Foreign Affairs Committee recently approved H.R. 7230, which I introduced and which is designed to foster the creation of trading companies to boost exports from the United States.

If there is any doubt about the importance of this legislation, one only needs to look at trade figures for the month of May. These figures show our exports suffering the largest 1-month drop since June 1978. Our trade deficit expanded to $4 billion—adding to the $90 billion trade imbalance we have suffered over the past 3 years.

This legislation deserves the overwhelming support of the Congress. The time has never been better for Congress to exercise leadership in the area of promoting exports.

With the passage of this legislation, the new export trading companies would become formidable competitors, with the incentive and means to create new markets and turn thousands of small- and medium-sized American businesses into exporters.

Commerce Department studies show that these new companies have the potential to ultimately lift overall U.S. exports by as much as 30 percent. Export success can often depend on intermediaries which take the actual risks and can easily develop economies of scale in marketing, transportation, financing, and other export services.

H.R. 7230 allows U.S. banks to establish trading companies that could handle export financing and promotion for small U.S. concerns that currently are not active in foreign markets. The bill would also provide antitrust clearance for trading companies that win certification from the Commerce Department.

Other provisions allow the Eximbank to provide financial assistance in the form of loans and loan guarantees; also included is an extension of trading companies of the tax-deferral provisions of the domestic international sales corporation, or DISC, provisions of the tax code.

Passage by the full Foreign Affairs Committee gives H.R. 7230 great momentum, and a good chance of passage this year. The Senate is working on similar legislation. Congress needs to act this session to establish a coherent and effective export policy. I hope all of my distinguished colleagues will join me in this effort to correct our trade imbalance and improve the economy.

H.R. 7230 is not a panacea for all our trading ills nor will it solve our export problems overnight. But trading companies are badly needed to help U.S. businesses compete with foreign trade organizations. This legislation goes a long way toward providing that assistance.●

PERSONAL EXPLANATION

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. PURSELL. Mr. Speaker, during consideration yesterday of the so-called Eckhardt/Rahall amendment to the proposed Rail Act (H.R. 7235), I was unavoidably absent due to a previous commitment, and it was not possible to obtain a pair with respect to the rollcall vote taken on that particular amendment. Because I believe that H.R. 7235 should be modified so as to further protect consumers and shippers who have no transportation alternative to a particular rail line, I would like to indicate that, had I been present and voting, I would have continued to support the Eckhardt/Rahall amendment, as I have done in the past.●

TAX REDUCTION AND JOB CREATION ACT

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. ROTH. Mr. Speaker, today our economy sorely needs help. A tax cut is certainly needed, and the Tax Reduction and Job Creation Act addresses this need. Recently, I testified before the House Ways and Means Committee on behalf of this legislation. Because of the great importance of this subject I am submitting my remarks for the RECORD.

Mr. Chairman: Today our economy cries for help. There is a growing need to stimulate it by putting more capital into the marketplace. There must be tax incentives to help small businesses. From these areas have come the overwhelming majority of the innovation and productivity that once built this nation into a world power.

Incentives for investment and growth will not only retain the spirit of opportunity but it will also preserve for the consumer the freedom of choice, of both product and services in quality, price and availability. Government must recognize that in order for it to increase revenues without damaging our citizen's standard of living, it is imperative to assist our businesses, especially by expanding small businesses. Between 1969-1977 small businesses accounted for about 68 percent of the new jobs created. If we are to fight unemployment, and save the fundamental foundation of opportunity we must recognize the role of small business and build a tax policy that promotes investment and economic expansion. In particular we must initiate a tax policy that (1) encourages capital formation and retention; (2) cuts through red tape and excessive paperwork; (3) counteracts inflation; and, (4) stimulates innovation for our nation's small businesses. In this statement I will attempt to show how the Tax Reduction and Job Creation Act, along with other measures, will help to resolve this problem and revitalize our economy.

My first point is that we must encourage capital formation through greater savings and incentives, especially for our nation's small businesses. This will enhance economic growth. The Tax Reduction and Job Creation Act addresses this matter. It would provide tax relief for our citizens which in turn will encourage savings. The 10-5-3 depreciation plan will give businesses greater incentives for investment which in turn will help generate more jobs. The 1979 Economic Report of the President shows that during the period 1960-1978, the U.S. lagged behind the major western economic powers in capital investment. Japan invested approximately twice as much of a percentage of its GNP as the U.S. And during the 70's Japan's rate of productivity staggered to an average increase of 2 percent per year. What is clear is that in order to increase our productivity we must increase our capital formation and investment. The Tax Reduction and Job Creation Act will encourage investment in our private sector, especially among our small businesses.

The second factor we must look at is a tax policy that will cut through red tape and excessive government paperwork. Presently, business spends some $30 billion a year on government paperwork, with small business accounting for $20 billion of the total. The Brookings Institution estimates that productivity would increase by one fourth if the capital now spent on paperwork and regulation was available for capital investment. And even a 10 percent increase in productivity would create a 6 percent increase in jobs. The point is that small businesses are most effected by excessive regulations and needless paperwork, and it is this sector that needs relief. It is our small business people who are unable to benefit from many tax incentives because they do not have the capital to hire experts to take advantage of the existing, complex laws calculating depreciation. The 10-5-3 plan would erase this discrepancy with a simplified depreciation accounting procedure which will give our small businesses the opportunity to maximize tax savings. But we can go further in this area. I would suggest that the Committee consider part of HR 1600, the Small Business Tax Relief Act, which would grant a $5 tax credit for each form or document which a small business is required to file under federal law or regulation. This would help ease much of the burden placed on small businesses that prevents expansion.

Third, we must set upon a course that counteracts inflation. Small businesses must bear the greatest burden of inflation since they are squeezed out of the commercial lending market by inflation-fueled rises in interest rates. Inflation also heightens the extent of cash needed for small businesses to survive. History has shown us that a tax reduction is an effective deterrent to inflation. In 1962, President Kennedy called for a tax cut that many people thought would cause inflation. It was forecast that there would be a $89 billion deficit for the years 1963-1968. But the result was tax revenues increased by $54 billion because of great acceleration in economic activity. The fact is that very high rates of taxation such as those which we are presently experiencing limit revenue by restraining output. Lowering tax rates from such counterproductive levels and offering depreciation incentives such as those found in the 10-5-3 can and will increase government revenue by spurring greater output.

Making a tax reduction of this proportion such as the 10-5-3 will undoubtedly have an effect on the federal government—but not necessarily a negative one. To continue the fight on inflation government programs will need to be cut back on spending.

And the time must come when Congress forces its agencies to eliminate useless programs, cut excessive administrative costs and trim the extravagances from viable programs. With a review of all government regulations, perhaps some sense will be applied to the massive rules and regulations that now encumber our lives.

The final point is that the Tax Reduction and Job Creation Act will spur innovation in our private sector, thus increasing productivity, efficiency, and employment. Small business cannot remain strong unless it has innovation. Without available capital we cannot have innovation, and without innovation we will not have adequate growth. Innovation from small businesses has resulted in such legends as the Xerox copier, the Polaroid camera and the telephone. It is the high technology-minded, innovative small businesses that are the major new job producers and the front-line fighters against inflation for they improve both the resources and productivity of our nation. The 10-5-3 plan will increase capital formation in our private sector that will give our small businesses the ability to invest capital into new ideas and new dreams that will become new realities. By creating more jobs, stimulating productivity, and increasing innovation the Tax Reduction and Job Creation Act will cause an upswing in the economy that will aid all aspects of society, providing a better way of life for all.

As a small businessman I have seen the advantages that small business can perform in the economy. (1) Small firms and small stocks have consistently outperformed, by almost 3 percent on the average, larger ones. (2) Small Business produces more major innovations. (3) Small Business is the creator of new jobs. (4) Small Business represents a pool of untapped export potential for the U.S. (5) Small Business provides the challenge of competition. (6) Small business people are the ones who support the local community activities and give personal service.

But small businesses have not benefitted from past tax reforms, such as the Investment Tax Credit and Asset Depreciation Range reform, because they were too complex and too costly for small businesses to maximize a tax break. The time has come to give small businesses a needed tax break. The 10-5-3 provides a simplified depreciation that will enable small businesses to benefit. The Tax Reduction and Job Creation Act will give incentives to small businesses and will help revive the life of our small business community. To do this will rejuvenate the hopes and dreams of the American character.●

COPENHAGEN CONFERENCE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. WOLFF. Mr. Speaker, I rise today to express my deep regret that the unanimous consent request to consider the resolution on the Copenhagen Conference was objected to by the gentleman from Maryland, Mr. BAUMAN. Mr. BAUMAN based his objection on considerations for free speech in the House, as the leadership asked that the 1-minute speeches be postponed from the beginning of the session until the end. Mr. BAUMAN'S deeply held principles have denied the opportunity of the House of Representatives to express a collective opinion on the Copenhagen Mid-Decade Conference on Women while it is in the process of discussing the highly charged international political issues.

I am very disturbed by the direction that the Conference is taking. Rather than addressing the critical issues facing women throughout the world, the U.N. has again politicized this Conference, giving the PLO another platform to rage against the existence of Israel.

I am concerned that the United Nations has again used U.N. funds to be channeled to support PLO terrorist objectives, objectives which contravene U.S. efforts toward peace, and U.S. national interests.

The United Nations is insulting women throughout the world by pushing aside the real problems of women, even in this Conference supposedly dedicated to those problems, by preferring to use it as a platform for political polemics by the PLO.●

WORLD CONFERENCE ON THE U.N. DECADE FOR WOMEN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Ms. OAKAR. Mr. Speaker, having returned as one of two congressional advisers to the U.N. Mid-Decade Conference on Women, may I take this opportunity to briefly comment on the ongoing progress of the World Conference in Copenhagen, Denmark.

As you are aware, the World Conference on the U.N. Decade for Women formally convened in Copenhagen on Monday, July 14, 1980. The Conference will reach closure on Wednesday, July 30. The principles and objectives set forth in the world plan of action adopted at the Mexico City Conference of the International Women's Year form the basis of action for the U.N. Decade for Women. The world plan of action establishes as its thematic purpose: "Equality, Development, and Peace" with the subtheme of "Employment, Health, and Education." The focus of the ongoing Conference in Copenhagen at this midpoint juncture of the Decade for Women is to refine and strengthen the guidelines of the program of action in light of the first 5 years experience.

A highpoint of great importance, which should be noted at the outset is that the United States of America signed the Convention on the Elimination of All Forms of Discrimination Against Women. Our signing of this international commitment to the elimination of discrimination against women represents a major step toward the attainment of the goal of equal rights for women. The U.N. Commission on the Status of Women began drafting this 30 article, a legally binding form of internationally accepted principles and measures to attain equal rights for women everywhere, some 5 years ago. The Convention comprehensively deals with insuring equal access in education, employment, and health. It clearly demands that national machinery put into action national legislation to ban discriminatory practices in the political, economic, social, cultural, and civil spheres as they affect women. While the United States of America has signed the Convention, our Constitution requires that the U.S. Senate ratify the same.

I cannot stress strongly enough the critical importance of prompt action by the Senate of the United States on behalf of the women of our Nation. This decisive document is an indispensable international instrument which will critically and positively impact the lives of over half of the population in the United States. The full and complete development not only of our Nation, but of all the nations of the world requires that a firm foundation of principles insisting upon equality of treatment in all areas of human existence be enacted.

In my capacity as a congressional adviser to the U.N. Decade Conference, I am keenly aware that the U.S. delegation was and is fully committed to insuring a universal peace, working toward a goal of total development with respect to economic, social, political, and cultural dimensions as they affect women, as well as eliminating inequalities and discrimination at all levels. As evidence of this commitment, the U.S. delegation initiated several resolutions of critical importance. The resolution on "Women and Discrimination Based on Race" acknowledges that the dual forces of race discrimination and sex discrimination imposes a double burden on women per se, as well as undue stress on other family members. A resolution on "International Drinking Water Supply and Sanitation" expresses the deep concern that an insufficient and unsafe water supply contributes to a high rate of disease and mortality, particularly among women and children. Yet another resolution on "Family Violence" called attention to the fact that violence directed toward family members creates serious social consequences which perpetuates itself from one generation to the next. A resolution on "Elderly Women and Economic Security" initiated by the United States at my request, calls for a recognition that because in many societies elderly women are the fastest growing segment of populations, are the least economically secure and are often the victims of neglect and denial, requests that all issues surrounding the plight of the elderly woman in particular, be paid equal attention at the World Assembly on the Elderly to be held in 1982.

One of the top priorities of the U.S. delegation dealt with "Women and the U.N. System." Specifically, the emphasis of the resolution focuses on the critical need for a fuller participation of women in both the formulation of policy and the implementation of programs at all levels of activity in the United Nations and of the members states. One of the most critical resolutions is the issue of "Women Refugees." Because it is clear that the refugee problem affects every continent in our global world compounded by the fact that the substantial majority of refugees in most areas are women, the resolution introduced by the United States insisted upon a recognition of the special needs indigenous to women and children refugees, followed by an urgent request to the Office of the United Nations High Commissioner for Refugees in cooperation with other United Nations agencies and international and nongovernmental organizations to establish the necessary programs to address this critical situation.

In conclusion, the U.S. delegation and all the delegations throughout our world community are continuing negotiations toward the establishment of world harmony and equality. A philosophy dedicated to peace, development,

and equality is unquestionably the pervasive mood of the World Conference on the U.N. Decade for Women. The achievements realized from this Conference will be of uppermost importance in terms of accomplishing the equal treatment of women throughout the world. I offer my firm support of these noble goals and was pleased to have been able to make a contribution to the attainment of the same.●

A MESSAGE OF HOPE

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. EVANS of Delaware. Mr. Speaker, on Thursday, July 17, Gov. Ronald Reagan accepted the nomination of the Republican Party for the Office of President of the United States.

His acceptance speech on that occasion outlined exactly what is wrong with our Government today, and what Governor Reagan intends to do about it once he is elected in November.

Most importantly, his speech was a message of hope to millions of Americans who have grown increasingly frustrated with Government and its inability to work for people.

In view of its importance, I include several excerpts of his address in the RECORD.

FROM THE ADDRESS BY RONALD REAGAN WHEN ACCEPTING NOMINATION FOR PRESIDENT AT THE REPUBLICAN NATIONAL CONVENTION IN DETROIT ON JULY 17, 1980

* * * * *

Never before in our history have Americans been called upon to face three grave threats to our very existence, any one of which could destroy us: We face a disintegrating economy, a weakened defense and an energy policy based on the sharing of scarcity.

The major issue of this campaign is the direct political, personal and moral responsibility of Democratic Party leadership—in the White House and in the Congress—for this unprecedented calamity which has befallen us. They tell us they've done the most that could humanly be done. They say that the United States has had its day in the sun, that our nation has passed its zenith. They expect you to tell your children that the American people no longer have the will to cope with their problems, that the future will be one of sacrifice and few opportunities.

My fellow citizens, I utterly reject that view. The American people, the most generous on earth, who created the highest standard of living, are not going to accept the notion that we can only make a better world for others by moving backward ourselves. And those who believe we can have no business leading this nation.

I will not stand by and watch this great country destroy itself under mediocre leadership that drifts from one crisis to the next, eroding our national will and purpose. We have come together here because the American people deserve better from those to whom they entrust our nation's highest offices, and we stand united in our resolve to do something about it.

* * * * *

Isn't it once again time to renew our compact of freedom—to pledge to each other all that is best in our lives, all that gives meaning to them—for the sake of this, our beloved and blessed land? Together, let us make this a new beginning.

Let us make a commitment to care for the needy, to teach our children the virtues handed down to us by our families, to have the courage to defend those values and virtues, and the willingness to sacrifice for them.

Let us pledge to restore in our time the American spirit of voluntary service, of cooperation, of private and community initiative—a spirit that flows like a deep and mighty river through the history of our nation.

As your nominee, I pledge to you to restore to the federal government the capacity to do the people's work without dominating their lives. I pledge to you a government that will not only work well but wisely—its ability to act tempered by prudence and its willingness to do good balanced by the knowledge that government is never more dangerous than when our desire to have it help us blinds us to its great power to harm us. . . . We still have time to use our renewed compact to overcome the injuries that have been done to America these past 3½ years.

First, we must overcome something the present administration has cooked up—a new and altogether indigestible economic stew: One part inflation, one part high unemployment, one part recession, one part runaway taxes, one part deficit spending—seasoned with an energy crisis. It's an economic stew that has turned the national stomach.

Ours are not problems of abstract economic theory; these are problems of flesh and blood, problems that cause pain and destroy the moral fiber of real people who should not suffer the further indignity of being told by the government that it is all somehow their fault.

* * * * *

Our instructions to the groups we enlist will be simple and direct: We will remind them that government programs exist at the sufferance of the American taxpayer and are paid for with money earned by working men and women. And programs that represent a waste of their money—a theft from their pocketbooks—must have that waste eliminated, or that program must go. It must go by executive order where possible, by congressional action where necessary.

Everything that can be run more effectively by state and local government we shall turn over to state and local government, along with the funding sources to pay for it. We are going to put an end to the money merry-go-round where our money becomes Washington's money, to be spent by the states and cities exactly the way the federal bureaucrats tell us it has to be spent.

I will not accept the excuse that the federal government has grown so big and powerful that it is beyond the control of any President, any administration or Congress. We are going to put an end to the notion that the American taxpayer exists to fund the federal government. The federal government exists to serve the American people. On January 20, we are going to re-establish that truth.

* * * * *

It is the responsibility of the President of the United States, in working for peace, to insure that the safety of our people cannot successfully be threatened by a hostile foreign power. As President, fulfilling that responsibility will be my No. 1 priority. Of all the objectives we seek, first and foremost is the establishment of lasting world peace. We must always stand ready to negotiate in good faith, ready to pursue any reasonable avenue that holds forth the promise of lessening tensions and furthering the prospectus of peace.

But let our friends and those who may wish us ill take note: The United States has an obligation to its citizens and to the people of the world never to let those who would destroy freedom dictate the future course of life on this planet. I would regard my election as proof that we have renewed our resolve to preserve world peace and freedom, that this nation will once again be strong enough to do that.

Everywhere we have met thousands of Democrats, Independents and Republicans from all economic conditions, all walks of life, bound together in that community of shared values of family, work, neighborhood, peace and freedom. They're concerned, yes, but they're not frightened. They're disturbed, but not dismayed.

The American spirit . . . is still there, ready to blaze into life if you and I are willing to do what has to be done. We have to do the practical things, the down-to-earth things such as creating policies that will stimulate our economy, increase productivity and put America back to work.

I'll confess that I've been a little afraid to suggest what I'm going to suggest. I'm more afraid not to. Can we begin our crusade joined together in a moment of silent prayer?

God bless America!●

OPPOSE SUSPENSION OF RULES ON S. 658—THE BANKRUPTCY JUDGES PAY AND PENSION BONANZA

HON. F. JAMES SENSENBRENNER, Jr.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. SENSENBRENNER. Mr. Speaker, S. 658, the technical amendments to the Bankruptcy Act, is tentatively scheduled for consideration on the suspension calendar next Monday.

Since the committee report will probably not be available should this bill be considered on Monday, I am taking the liberty of inserting my dissenting views in the RECORD so that Members will be able to see them.

Suspension of the rules should be opposed because of the pay and pension increases contained in this bill for bankruptcy judges. Clearly, the House should be able to vote on amendments to these highly controversial provisions.

DISSENTING VIEWS OF F. JAMES SENSENBRENNER, JR.

This bill contains 115 pages of necessary amendments to the Bankruptcy Reform Act (hereinafter referred to as "the Act") passed by the Congress two years ago. Among them, however, are several which go far beyond the "technical purpose" which fueled the swift movement of this bill through Committee. They include what I believe to be a significant financial bonanza to bankruptcy judges, both now and when they retire. Further, amendments were defeated in Committee which would have made the Act more effective in jurisdictions in which expertise in bankruptcy matters is narrowly distributed. For reasons which will become clearer in the balance of this opinion, I feel compelled to oppose S. 658 as amended by the Judiciary Committee.

I. RETIREMENT

Under provisions now contained in the Act, bankruptcy judges are elevated in their prominence and stature. Historically, they were relegated to an adjunct status secondary to federal district judges. In this capacity, they were salaried officers of the district courts, appointed by the district judges themselves for six-year terms, and subject to review and reversal by the district court. One of the major accomplishments, therefore, of H.R. 8200, as the House version of the Act was numbered, was to separate the bankruptcy court from the district court and upgrade its judges to Article III status.

I am inclined to believe that Article III status was a bit too much. For that reason, I agree with the Act's final language which granted the bankruptcy courts legitimacy and independence from the district courts but which compromised their status to that of an Article I court. This opinion is buttressed by the complexity of the legal issues now encountered by bankruptcy judges and the resultant need to attract qualified practitioners to the bankruptcy bench. Under the terms of the Act, bankruptcy judges will become subject to Presidential appointment following a transitional period of five years and will serve a renewable fourteen-year term.

I applaud the new independence of the bankruptcy courts; to me, it is essential to their efficient service to those who must appear before them. But those judges who are ultimately not appointed by the President in 1984 should not, in my judgment, be presented with the retirement deal of a lifetime. An amendment developed by Congressman Don Edwards does just that.

Sections 208(a)(4) and 309(e) of S. 658 provide that a judge who continues in office during the transition period, and is willing to serve but is not reappointed, may nevertheless immediately receive a pension if he has more than fourteen years of total service. The dollar amount of his pension will be computed based on his salary at the time he is not reappointed less two percent for every year under sixty-five years of age. Standard civil service retirement requirements, which would have applied had not this amendment been adopted, dictate that the maximum annuity may be eighty percent of the average of any three consecutive years of creditable service. Furthermore, the civil service employee would not, except in unique circumstances, be able to receive his pension until the age of sixty-two.

If a "disappointed" judge wishes to wait until he is sixty-five before receiving his annuity, his eligibility requirement is reduced to ten years. Of the more than two hundred bankruptcy judges now in service, eleven will be under the age of fifty by 1984 and thirty-six will be between the ages of fifty and sixty; all will have a minimum of ten years of service and will therefore be eligible for a pension of more than fifty percent of their 1984 salary when they reach sixty-five years of age. In those same categories, four judges will be under fifty with fourteen years of service, and another nineteen will fall in the fifty to sixty age group. These twenty-three individuals will be eligible to begin drawing their pensions immediately if they are not reappointed by the President.

While I am against any non-contributory retirement program, I am sensitive to the argument that we should not single out bankruptcy judges and must encourage bankruptcy judges to remain on the bench during the transition period begun last fall and ending in April of 1984. However, I believe it is an unconscionable rip-off of the public purse to reward mediocrity so completely. In my opinion, judges who are not reappointed either have not sought to serve under the new Act or have been unable to meet the new merit criteria for selection it contains. In either event, they should have no legitimate expectation for anything other than their original civil service retirement benefits

II. COST-OF-LIVING INCREASE

During the 95th Congress, we passed a limitation on the applicability of cost-of-living raises (Public Law 95-391). This limitation meant that no future cost-of-living increases would apply to federal officials making a salary equivalent to Executive Level V, or approximately $47,000. Last year, the Congress increased that figure to $50,112.50 (Public Law 96-86). The import of these two actions taken together is that cost-of-living raises no longer apply to federal officials, including judges, who receive compensation in excess of $50,112.50.

As one might expect, some members of the Judiciary quickly became concerned that their cost-of-living increases should be so limited. Accordingly, two such cases have been filed and are presently pending before the Supreme Court. One, *United States* v. *Will* (Supreme Court Docket 79-983), was filed in Chicago by several Article III judges arguing that limiting statutes violate the provisions of Article III, Section 1, which dictate that judges' compensation "shall not be diminished during their [c]ontinuance in [o]ffice". The other, which, like *Will*, has been decided in favor of the judges at the district level and which is also pending before the Supreme Court (*Carter* v. *Foley*, D.C. District Court Docket 79-3063), involved the Article III issue as well as a contractual argument with regard to all other non-Article III judges.

Since the Bankruptcy Reform Act passed last year raised the salaries of district judges to $50,000 when it became effective last October, the amendment offered by Congressman Harold Volkmer and accepted by the Committee would retroactively apply the cost-of-living increase in contravention of the policy decisions made by the Congress both last year and in 1978. I think it is important that we be aware of the decisions we are making.

III. CONFLICT-OF-INTEREST PROVISIONS

Two amendments were offered to S. 658 which were similar in purpose and which, had they been successful, would have made life demonstrably easier in jurisdictions which rely on a small bankruptcy bar. Under language now contained in Sections 1103(b) and 327(c) of title 11, persons employed by the creditors' committee and/or the trustee, respectively, are not permitted under any circumstances to serve in any representative capacity for any other entity connected with the bankruptcy case.

On the surface, these provisions seem reasonable. They are designed to eliminate the so-called "bankruptcy ring" and thus help broaden the base of bankruptcy expertise nationwide. However, as a practical matter, they may well act to make the operation of a creditors' committee more difficult. For example, one of the major services performed by credit associations for their members is to provide them with information regarding litigation filed by bankrupt debtors. Once such litigation commences, the association often furnishes a room for the meeting of the creditors' committee and its representatives are occasionally selected to serve as secretaries to assist in cataloging their claims. This function is a valuable one and not one which undermines the powers of the committee nor of the trustee under Section 327(c). On the contrary, I believe the language presently contained in the bill is counterproductive in its effect.

I supported the effort by Congressman George Danielson to amend Section 1103(b) and I myself offered an amendment to similarly alter Section 327(c). Our proposals would simply have stated that representations such as I have described do not constitute a per se conflict of interest. It would have had no bearing on actual conflicts: they, of course, would have been prohibited.●

WORDS OF HONOR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● **Mr. ANDERSON** of California. Mr. Speaker, we as Members of Congress have a unique and special responsibility each year when we nominate young men and women to attend the Army, Navy, Air Force, Coast Guard, and Merchant Marine Academies. It is very satisfying to be involved so closely in the events which help develop the future leadership of our Nation's military forces and the Coast Guard and merchant marine. During the nominating process we learn much about the character of our young people and what special traits are strengthened by training at the academies.

In working with those men and women who wish to attend the academies, we try to impress upon them the seriousness of the mission of which they seek to become a part. We explain to them the goal of the academies; to graduate young men and women of exceptional capabilities who will be worthy of the outstanding traditions which have been established at these institutions and who are willing to serve their country with distinction and honor.

Today I wish to share with my colleagues a description of that special quality called honor which the academies strive to instill into those who enter into their ranks. The words which follow are those written by Joseph Henry Hughes III, a young man who years ago overcame great obstacles to attain a career in the U.S. Coast Guard, but who tragically was killed in an auto accident after graduation from the Coast Guard Academy while on his way to his first assignment. I offer these stirring words to you, the Members of Congress, who help select new potential leaders for entry into the academies. I also offer them to all the young people who are part of this year's entering class of the academies, as an example of how true dedication to one's country and decency can inspire the active embodiment and expression of the finest virtues.

HONOR

Honor narrowly defined is the trait of a man who neither lies, cheats, nor steals. It is an intangible thing, not restricted to narrow definition. Honor binds a man in conscience to make real the image of his own character. Honor is divorced from the externals of existence; when the foundations of man's life disappears, when even loyalty is gone—Honor remains.

Honor exists in a man everywhere or not at all. A man who can lie for money or be unfaithful to his wife can, under sufficient pressure, sell his country down the river. But a man of honor is like a rock, for no force can sway him.

The companion of honor is trust. The ideal of honor is not used as a pathway to leadership or a ladder to success. Honor is an end in itself; or in the words of Montaigne, "Not for any profit but the honor of honesty itself."

Mr. Speaker, I proudly recognize Joseph Hughes III for the man that he was and for the inspiration that he has left us. He has outlined a path not only for those who follow him as Academy students, but also to those of us who strive for the ideals of decency and good character.●

TRIBUTE TO PROF. I. HERMAN STERN

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. GRAY. Mr. Speaker, I am honored to share with my colleagues the commencement day comments of Peter J. Liacouras, dean of the Temple University Law School, concerning one of the law school's most distinguished faculty members, the late I. Herman Stern.

Although I did not know Professor Stern personally, I was not only touched but impressed with his life's accomplishments.

I offer Dean Liacouras' comments for the RECORD so that my colleagues can glimpse at the life of the late Prof. I. Herman Stern of Temple University Law School:

A TRIBUTE TO PROF. I. HERMAN STERN

(By Peter J. Liacouras)

Dean Marshall, colleagues, new graduates, family and friends of the Class of 1980:

This is our first commencement in three decades without Professor I. Herman Stern delivering an invocation, conferring degrees, erupting with joy, or simply lending his august presence to this happy milestone. He loved this ceremony.

Following thirty years on our faculty, Herman Stern passed away suddenly last December 24th.

Most of you never met Professor Stern. Many of you have never even heard of him. Life can be awfully impersonal these days. We miss the chance to meet extraordinary persons with whom our children and friends come into contact at the University. To have missed Herman Stern, is to have missed a beautiful part of the lives of those whom he did touch.

He was a tradition, a Temple Law tradition.

Brother Stern was no different in this respect than other members of our faculty. We take them for granted. They toil faithfully and anonymously in the vineyards of teaching, research and community service. They ask for little in return for themselves personally, basking instead in the glory of their students.

For the next few minutes, I will talk about Herman Stern and his contributions, reminding us of the legacy of one of our own.

I

I often introduced I. Herman Stern as "Mr. Temple Law School." It was not just because he and his three children graduated from this Law School. Nor was it because, when he died, he was our senior faculty member.

Herman Stern epitomized, in his actions and spirit, everything good about our faculty and this Law School. He was practical—a very practical man. He was a traditionalist. But he was not afraid of change. He supported innovation, even where risk was involved. Thus, he was a leader in clinical education as he was in continuing education and graduate studies, placement and alumni (ae) activities, collective bargaining in law schools, affirmative action, student counseling, and more.

He identified the common educational purposes which brought persons with superficially different backgrounds into an association with Temple Law School. His stamp is on practically everything at the Law School which has a good chance to survive the fashions of the moment.

He was eminently practical, yet a visionary.

II

Another dimension of this man was his belief in our common humanity. He never forgot his origins. He was proud of his roots. He respected the heritage of others, Black or White, Christian or Jew, whatever.

It may surprise you that he was the first person of the Jewish faith appointed to this full-time faculty, some twenty-five years ago. That really meant something to him.

He was one of the first GI's to liberate Buchenwald. That experience overwhelmed him throughout his life.

He was the business agent of the Delicatessen Workers before becoming a lawyer. Such day-to-day activities moved Herman to question all theories which might, he would caution, "end up in practice with your feet in the air rather than on the ground."

These three circumstances helped mold Herman Stern into a professor of overpowering humanity. He was a blend of realism and idealism wrapped up in one colorful package.

III

The Law School was, to Herman, more than a building. It was both an idea and an ideal. It was even more than the sum total of the living human beings, in Philadelphia or our other campuses (Accra, Athens, Jerusalem, Rome). The Law School was more than all of us trying, at any given moment, to improve education and make a better life for ourselves and others. Professor Stern had a perspective of history—of continuity—which permeated his actions.

He thought that the Law School could fulfill its unique character, or "destiny" as he used to put it, only by maintaining fidelity to our past as well as to our future needs.

Thus, he was a trailblazer in forging an institutional identity for the Law School.

IV

He was a proud man. Herman Stern was proud to have been the teacher of thousands of labor lawyers and a dozen law professors, and the idol of most of them. He was proud of his family, his Law School and his own contributions. But he was never pretentious. He could be disarmingly humble. He was at peace with himself. How vividly I recall Herman Stern in 1976 at the Dead Sea in his bathing trunks, oblivious to the blushing stares of strangers at his exposed midriff which they considered fat but which Herman and his friends ignored as nothing special but simply part of his total charisma. Herman's beauty was indeed a reflection of his total impression.

He was so self-confident that he would regularly proclaim, "I am an amoeba," and would then dissect a complicated social issue into its manageable yet fundamental essence. He brought all of us down to earth with those em-PHÁ-ses on the wrong syl-LÁ-bles, and through other Sternisms (e.g., "getting your foot in the door is the toughest part"), including more colorful variations!

Proud yet humble, honest yet shrewd, strong yet gentle, committed yet open-minded, forward-looking yet respectful of tradition, enthusiastic yet doggedly tenacious—that was Brother Herman.

V

Herman Stern had another quality which will always stand out, and that was his loyalty.

Herman Stern was loyal, almost to a fault. If he gave you his word, he would never, never, never let you down. It did not have to be in writing, and he was careful not to give his word unless he meant it. But once he gave you his word, you could put that matter aside and know you could rely on him. Period.

His loyalty to family, friends, associates and former students is legion. There are many examples of this vanishing virtue which Herman Stern proudly possessed in abundance. "It's one thing to be loyal when the other person doesn't need you," Herman would say, "but something else to remember him when he's under attack or at rock bottom."

One illustration of "Stern Loyalty" was his penchant for testifying as a reputation witness at the trial of some former student or old friend. He did it often. He never equivocated when asked. (Please don't get the idea that Herman hobnobbed with criminals, because he did not. That's not my point.) On reputation testimony in highly publicized trials, Herman was under tremendous peer and media pressure not to stick by such friends when they were in need. "How about the presumption of innocence?," he would ask. "Why stick your neck out? It will embarrass you," would be the usual, cautious response of an adviser. Undaunted and unlike "sunshine patriots," Herman was like a bulldog: he would trudge ahead and testify, honestly, the same way he would have answered the question before this arrest or other notoriety of this friend. It did not matter that you were a big shot then, and nothing now.

Lawyers are noblest when defending unpopular causes or representing the interests of despised defendants. Herman Stern's performance in those circumstances was forthright and courageous.

How could one help not admiring Herman Stern for his loyalty, devotion to principle and courage? How could we help but learn from his example?

VI

But loyalty to the Law School was for Herman Stern the fundamental value. Persons connected with Temple can cite case after case of his fierce loyalty to this Law School. If he thought that you were taking personal advantage of a situation at the expense of the Law School, he would unleash a mighty torrent of criticism to bring you back to your senses. "I love you like a brother, but * * *," was his trademark. More often than not, he made his points in private, sometimes in between courses of a rich Italian meal and wine which he loved so much.

Passing away as he did at the end of the "Me Decade," Herman Stern never changed his focus from "Us."

This gentle, rough-and-tumble, colorful, incredibly thoughtful man was simultaneously worldly and provincial. In him, it was a beautiful mix.

VII

At the dedication of the Charles Klein Law Building six years ago, I. Herman Stern, following his much-too-long lecture, concluded his remarks with what he believed was the destiny of Temple Law School, and what he confided he wanted as his epitaph:

"There are those who would like Temple Law School to be Harvard. In the first place, Harvard is not good enough * * *."

We are proud of our history and mindful of the challenges ahead.

Temple Law School is indeed a unique institution. During the past four decades, the Law School has literally made the difference in the lives of thousands of upwardly mobile, committed, worthy folks. Temple Law School remains both a source for, and product of peaceful change in a pluralistic society aspiring to human dignity.

We can thank our lucky stars that Herman Stern came and stayed at Temple Law School, and not at Harvard. The Law School—all of us—are his legacy.

Herman Stern was, in the final analysis, a great teacher because all of us learned from him.

It is up to us to fulfill our Law School's "destiny."●

CONGRESSIONAL AWARD

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. HOWARD. Mr. Speaker, last fall the Congress sent the young people of America an important message. It spoke of the interest Congress has in their present and future. It offered a series of priorities in public service, personal creative interests, and physical fitness, to which we strongly urged they make an active commitment. And last, we offered a commitment to recognize such special achievements and endeavors. That message was and is the Congressional Award.

The leadership was entrusted with the task of appointing a distinguished group of Americans to direct this effort on our behalf. I enclose for the Member's information a list with addresses of the board. At this time, I would like to thank the 113 Members who joined in cosponsoring the act.

The board list follows:

BOARD OF TRUSTEES OF THE CONGRESSIONAL AWARD

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Dr. Roberta van der Voort, national executive director, Camp Fire, 4601 Madison Avenue, Kansas City, Mo. 64112.●

EQUAL RIGHTS FOR THE WEST

HON. RICHARD BRUCE CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. CHENEY. Mr. Speaker, I am pleased to join today with Congressman SANTINI and other colleagues from the West to introduce a bill designed to put our States on an equal footing with the rest of the States in this Nation.

Our objective is to provide equal rights for the West by giving the States an opportunity to assert ownership and management responsibility of certain Federal lands and associated minerals which are not reserved for some specific Federal purpose.

The Federal Government owns over one-third of all the land in this country, and bills are introduced in Congress every day to convey even more land to Washington. More than 90 percent of this federally owned land is in the 13 Western States, including my State of Wyoming. In a recent report criticizing Federal land acquisition activities, the U.S. General Accounting Office said:

> Year after year, more land is being taken over by the Federal Government. Already it owns over one-third of all the land in the United States, with local and State governments holding a small but growing share (6 percent).

GAO found that Government agencies buy land without considering the adverse impact on communities and private owners, and that Government has no overall policy on how much land it should protect, own and acquire.

Well, today, Mr. Speaker, we are proposing legislation that offers some specific guidance to the Federal Government concerning Federal ownership. We are proposing that except for lands set aside for specific purposes, such as national parks, monuments, forests, wildlife refuges and military and Indian reservations, Federal acreage should become available for transfer to the States of the West. We are proposing that the Western States be given the opportunity to assume ownership and management of lands and associated minerals administered by the Bureau of Land Management.

Under this bill, it would be up to individual State legislatures to decide via appropriate legislation whether to seek State ownership of eligible Federal acreage and associated mineral rights. Interested States would apply to specially designated Federal land transfer boards made up of Federal representatives and citizens of the affected States. Applicants would have to demonstrate capability to manage the lands consistent with certain guidelines to protect natural resources. States would have to honor valid existing rights of users and lessees, and assume responsibility for payments to local governments now entitled to compensation for their inability to tax publicly owned acreage.

In my own State of Wyoming, the Federal Government owns and controls 29.9 million acres, or 48 percent, of the State's 62.3 million acres. About 17.7 million acres are managed by the Bureau of Land Management and would potentially be subject to transfer to Wyoming if this bill were enacted and the State legislature elected to seek ownership.

It is time the Federal landlord divested some of its holdings, Mr. Speaker. The original 13 States owned all public lands within their borders, and most of the States created thereafter were granted the right of control over lands within their borders. But as a condition of admission to the Union, Congress has imposed significant burdens on the Western States by retaining ownership of huge amounts of territory.

We propose now that Congress give to these States the opportunity to own and control some of that territory in order that they might have the same means to provide for their citizens as other States.

I believe this is a responsible approach, and I hope it will be favorably considered by the Congress.●

CONSERVATION REQUIRES STRONG COMMITMENT

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. JONES of Tennessee. Mr. Speaker, today I want to call to the attention of my colleagues an article which appears in the July edition of the Progressive Farmer magazine. It is written by the magazine's Kentucky-Tennessee editor, Mr. Tom Curl, and focuses on the devotion to conservation of my constituent and long-time friend, Mr. A. K. McCalla of Rosemark, Tenn.

It is most appropriate that Mr. McCalla should be acknowledged at this time for his many tireless efforts in helping conserve and protect the quality of our Nation's soil and water. Only last week, I joined with him and several hundred other farmers and conservationists in a 2-day tour of soil and water conservation activities now being applied on farms and municipal lands throughout west Tennessee.

A. K. McCalla represents the best there is in the American tradition of citizen cooperation with government in preserving our most basic resources for the generations to come. I commend him for his many years of dedicated work in the field of conservation, and I am pleased to include the text of Tom Curl's article for the benefit of our colleagues:

Conservation Requires Strong Commitment

This conservation leader practices what he preaches.

"See that rough area there? I don't like it."

A. K. McCalla, bouncing along in a pickup truck looking at soil conservation structures, seemed slightly embarrassed that a turnrow was bare and subject to erosion. It was especially disconcerting because the field is next to McCalla's house.

So what? Lots of farmers have fields that suffer some degree of erosion. But McCalla, who farms with his brother Harry near Memphis, Tenn., is the only farmer on the Tennessee advisory committee, which was appointed to suggest ways to conserve soil and water under Section 208 of the Federal Water Pollution Control Act.

Besides, the likable, enthusiastic McCalla has long been a champion of soil stewardship. He served as president of the Tennessee Association of Soil Conservation Districts and is recognized as a national leader in conservation efforts.

The McCalla brothers, along with their half-brother Faires McCormick who is retired, have spent quite a bit of effort over the past 33 years trying to keep soil in place. The fertile loessial fields that lie along the Mississippi River can turn into liquid and begin running off after just a small rainfall.

"After I got out of college in the 1930's, I spent a lot of time laying out two-row and four-row terraces on the homeplace," McCalla says. Those small terraces did a good job of keeping soil from washing, but just weren't suited to modern farming methods. So some of the terraces were taken out.

As farming technology changed, fields were consolidated, farms were put together, and bigger machinery replaced human labor. But erosion continued.

"We saw that we were losing too much soil," the farmer recalls. So the family partnership started taking other conservation action.

For instance, soybeans on much of the farm are now planted with a grain drill rather than a conventional planter. Drilling is not a sure cure for erosion, but the McCallas help out by waiting as long as possible before working fields in the spring.

"With this system, about the only way we get bad erosion is if a field gets a heavy rain between preparation time and the time a good ground cover is established," McCalla explains.

Also, the farmers make some use of grassed waterways, wide terraces to accommodate eight-row equipment; drop outlets to control runoff, and even legumes as winter cover crops. Use of no tillage is tempting, but it isn't practiced much yet in southwest Tennessee.

McCalla, through involvement with his soil conservation district, has worked hard to get federal conservation programs written and financed well enough to help landowners and the general public.

He firmly believes in leaving as much control as possible in the hands of local citizens. He rejects the idea of forcing landowners to plant permanent sod on sloping lands.

"You just can't ask a man to cut his income in half when he may be struggling already," McCalla stresses.

"While many farmers are ready to accept the sound concepts of soil conservation practices, others just aren't financially able to pay for the sizable investment required to do the work," he adds.

He cites statistics for Shelby County, where he farms. About 150,000 acres of cropland in the county have soil erosion or water management problems.

It would cost about $100 per acre to reduce soil losses from the current average of 40 tons per acre annually to the accepted tolerance level of 5 tons (about what nature can replace). That runs the total bill for Shelby County to $15 million. Many counties up and down the Mississippi River have similar soil and water problems.

"I seriously doubt that many farmers can afford to pay more than half the cost of conservation work—especially when so many of them are forced to lease cropland on a year-to-year basis," the farmer-conservationist adds.

So McCalla strongly endorses tax incentives and more cost-sharing by the Government for soil conservation. And while he believes that national leaders recognize the seriousness of erosion, it is just one of the problems which must be dealt with in the face of record inflation. He worries that soil conservation programs will be among those cut whenever federal budgetcutters pull out their scalpels.

However, McCalla takes heart in the fact that soil conservation has been thrust to the forefront this past year in West Tennessee. The joint program between the USDA, the Tennessee Valley Authority, and various state and local agencies should provide a push for improved soil and water management.

McCalla says that success will require financial commitments by farmers and the general public. He warns that the consequences of doing too little too late will be devastating to farmers and consumers of future generations.

"I have always had the goal of leaving my land in good shape for the next man who farms it," McCalla concludes. "It's an obligation we all share."●

BLACK GOLD

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, decontrol of oil is the best option available to reduce U.S. dependency on foreign oil suppliers. We have long enjoyed artifically depressed prices for petroleum products.

Opponents of decontrol have argued that if domestic crude oil prices rise to world levels we are allowing OPEC to dictate the cost of petroleum products for American consumers. As shown in the attached article from the Commercial-News, Danville, Ill., the exact opposite is true. Decontrol represents the quickest way to reduce our reliance on the OPEC cartel. Removing controls has given producers the assurance that they will be able to recover their investment in new fields.

Removal of the arbitrary Federal controls on oil produced domestically has allowed our economic system of competition to function in the way it was designed. Regulatory constraints on the oil industry resulting from price controls have held domestic oil production at artifically low levels for much too long.

As shown in the attached article, the American marketplace can help relieve the shortages of oil products now that it is allowed to function free from government intervention:

[From the Commercial-News, Danville, Ill., May 26, 1980]

Black Gold!

(By Tom Minnery)

Midland, Texas.—They're drilling new oil wells in the sand dunes near here at the rate of one every nine days. Each is nearly a mile deep and each is a testimony to the fierce scramble for oil brought on by the recent decontrol of U.S. petroleum prices.

The feverish activity at this particular oil patch, the Sand Hills field owned by Exxon, is especially significant. Just a few years ago, the company figured it to be such a loser that it put the acreage up for sale. Only there was no buyer to be found.

Today, Sand Hills is the most profitable oil field in the company's 34-state Midcontinent Division. In 1974, when the for-sale sign went up, there were 125 wells. Now there are 361, and a drilling rig is working around the clock seven days a week sinking new wells.

It was no miracle of technology that brought about the stunning revival of this dying oil field. It's all economics, and it's happening across the country as rising prices suddenly make oil in difficult deposits such as this profitable to pump.

Exxon's Sand Hills oil field is 7,000 acres of scrub and sandy desert deep in oil-rich west Texas, not far from the New Mexico border. The amount of oil flowing from it has risen in lockstep with the rising price of crude.

In 1975, when oil brought only $11.07 a barrel, it produced barely 900 barrels a day. By the start of this year, Exxon was producing 2,200 barrels a day.

The wells here are relatively shallow, at 4,500 feet, and relatively cheap to drill, at about a quarter of a million dollars each. (That's about $55 a foot. Some wells cost up to $200 a foot, depending on the depth and rock formations.)

The higher prices have prompted Exxon to drill still more wells, and drill them closer together. Had prices not risen, Exxon would have simply left most of the oil untouched.

The new wells at Sand Hills aren't exactly gushers. A typical one might produce 100 barrels a day at first and then drop off to 50 barrels a day within a month, and slowly decline from there. "A lot of them will sit at 10 barrels a day for a helluva long time," said L. H. Byrd, manager of Exxon's Midcontinent Division.

Until recently, no major oil company would fool with a well producing only 10 barrels a day, but there are no price controls on these small-timers, called "stripper" wells. So at more than $30 a barrel, it's now well worth the effort.

The revival has made drilling rigs hard to come by, and the shortage is squeezing all producers, from the giants like Exxon down to the smallest wildcatter. Marathon Manufacturing Co., a leading supplier of rigs in Houston, is reported to have a three-year backlog of orders.

Exxon, the largest oil company in the world, doesn't own a single drilling rig. For cost reasons, it contracts all its work to independent drillers. That makes life tough for executives like Exxon's Byrd. A few years ago, drillers were pounding on his door looking for work, he said, but now the opposite happens. When he advertises for drilling bids, nobody responds, and he had to get on the phone trying to find a driller. "Rigs are almost impossible to get," Byrd said. "You have to get on a waiting list."

The revival in the Sand Hills field, and in hundreds of similar oil deposits around the country, means that oil companies, in essence, are doing just what they said they'd do if prices were allowed to rise. They're plowing the money back into the ground in a search for more oil.

Experts harbor no great hopes, however, that the industry will find enough new oil to free the country from the grip of OPEC. Most estimates are that the anticipated new finds will only slow the decline in U.S. petroleum reserves. The dependence on foreign oil won't end in the foreseeable future, they say.

In its recently updated report on future oil production, Exxon estimated that by the year 2000, the U.S. will still be importing 5.5 million barrels a day, or about one-third of the country's oil consumption. The U.S. now imports 8 million barrels a day.

Exxon predicts that U.S. production will continue declining from 10 million barrels a day to about 6 million barrels by 2000.●

NATIONAL PETITION CAMPAIGN TO SHOW HANOI AMERICA STILL CARES ABOUT OUR MIA'S AND POW'S

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. WOLFF. Mr. Speaker, on Friday, July 18, I was honored to be invited to participate in ceremonies at the Pentagon honoring our men still listed as missing in action, or as prisoners of war from the Vietnam war.

At that ceremony, a coalition from the National League of Families, from Members of Congress, from national and local veterans' organizations across the Nation, and from concerned private citizens, joined in launching a nationwide petition campaign on behalf of the goal of obtaining a full accounting of our MIA's and POW's.

As I said at the ceremonies Friday, when I visited Hanoi last August, the Vietnamese said they were surprised to learn that any Americans were still interested in the MIA/POW question.

When I visited Hanoi again last January, to present evidence on 425 remains we feel certain the Vietnamese have stored, despite their denials, the Subcommittee on Asian and Pacific Affairs again tried to demonstrate to Vietnam's leaders the continuing concern of the American people regarding the humanitarian quest for a final accounting for our men.

With the petition drive we are now inaugurating, we hope that the organizational facilities of the task force on MIA's/POW's chaired by Mr. Guyer at the request of the Subcommittee on Asian and Pacific Affairs, will provide a method whereby the American people can send the message to Hanoi loud and clear—we still care. We demand a final accounting for our men.

I do not think there is any question that so long as Hanoi continues to maintain it has no further knowledge on the many hundreds of our men which we know they once had in custody, both alive and dead, the many bilateral and strategic issues involved in United States-Vietnamese relations will remain very difficult to approach. I can assure you that, as chairman of the Subcommittee on Asian and Pacific Affairs, I will see to it personally that normalization of relations with the Vietnamese will await our satisfaction on this score.

Thus, I think it is equally clear that it is in Hanoi's humanitarian and strategic interest to respond to the families and friends of our men still listed as POW's and MIA's from so long ago.

Accordingly, Mr. Guyer and I have circulated a letter to our colleagues urging their support and participation in the nationwide petition drive.

We hope that by early October, we will have gathered more than 1 million signatures on these petitions, which we will then deliver personally to the Vietnamese delegation to the United Nations.

Never again will the Vietnamese be able to claim "they didn't know we still cared."

I present for the Record a copy of our Dear Colleague, and a sample petition which I urge Members to adapt to their own district for distribution.

The material follows:

HELP AMERICAN POW/MIA'S

Dear Colleague: You are probably aware of recent public testimony by a former North Vietnamese mortician that the government of Vietnam is holding over 400 sets of American remains. Despite Vietnamese denials, this information confirms what many of us have believed for some years. It is time for a wide-scale American campaign to demonstrate the intensity of public concern for this subject. Therefore, we are pleased that a number of major veterans' organizations have joined with the National League of Families in a campaign to obtain petitions signed by millions of Americans. This campaign began on July 18, National POW/MIA recognition Day, and the organizations hope to have the signatures collected by October 18, 1980, for delivery to the Vietnamese mission to the United Nations.

Since 1977 the Subcommittee on Asian and Pacific Affairs has been pursuing an accounting for American prisoners and missing in Southeast Asia. Last year, to demonstrate Congressional concern for this task, Subcommittee Chairman Wolff organized a bipartisan Foreign Affairs Task Force on POW/MIA's, under the Chairmanship of Tennyson Guyer (R-O). The Members and staff of the Subcommittee and Task Force have worked hard to generate executive branch interest, and to bring home to the governments of Vietnam and Laos the concern we feel about the lack of an accounting.

The Administration has cooperated in pressing this concern, and there has developed a partnership among the Congress, the executive branch agencies concerned, and the National League of Families.

These cooperative efforts have gained the attention of the Socialist Republic of Vietnam, which responded by producing a 64 page "White Paper" defending their failure to be more forthcoming, but without offering additional remains or information. We are still far from a full accounting for hundreds of Americans still missing in Indochina. Only public pressure will demonstrate to the Vietnamese how important this issue is to millions of Americans, particularly since we know they have more information.

For that reason, we call your attention to the petition provided herewith. You can adapt this for use in your district. For example, including this in a mailing to your constitutents would increase exposure tremendously. In addition, various of the participating Veterans' Organizations may ask your assistance in publicizing these efforts in your district.

If you have any questions, please feel free to call the Subcommittee on Asian and Pacific Affairs at EX 53044.

Sincerely,

Lester L. Wolff,
Chairman, Subcommittee on Asian and Pacific Affairs.
Tennyson Guyer,
Chairman, Task Force on POW/MIA's.

HELP AMERICAN POW/MIA'S

To: The Honorable Lester Wolff, Chairman, Subcommittee on Asian and Pacific Affairs, and to the Honorable Tennyson Guyer, Chairman, Task Force on American Prisoners and Missing in Southeast Asia.

We, the undersigned citizens of the United States, applaud your efforts to date and hope that our signatures will help you show Hanoi that the accounting for our POW/MIAs has the continuing support of the American people.

We ask that you call upon the Socialist Republic of Vietnam to release all information on Americans missing in Indochina and to return any American remains which are now in their possession or may subsequently be found. Vietnamese compliance with this request for humanitarian cooperation would end years of uncertainty for American POW/MIA families and could provide a basis for improved relations between the two countries.

We ask that you and the other Members of Congress continue your best efforts to secure the assistance of the people of the Socialist Republic of Vietnam to resolve this critical issue.

COOPERATING ORGANIZATIONS

Air Force Association, Air Force Sergeants Association, The American Legion, Amvets, Blinded Veterans Association, Disabled American Veterans Association, Fleet Reserve Association, Marine Corps League.

National Association of Uniformed Services, National Guard Association, National League of POW/MIA Families, Navy League, Non-Commissioned Officers Association, Reserve Officers Association, The Retired Officers Association, Veterans of Foreign Wars.

Return this petition, completed, to the House Task Force on POW/MIAs, Room SB329C Rayburn Building, Washington, D.C. 20515.●

STATE REVENUE SHARING

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. WYDLER. Mr. Speaker, the revenue sharing program is due to expire September 30, 1980. Legislation is currently moving through the Government Operations Committee which would extend this program for another 3 years. Funding for local governments seems assured under the new legislation. However, as one might expect, continued funding for State governments remains a matter of great controversy. At the present time the committee bill, H.R. 7112, would authorize funding for State governments in fiscal years 1982 and 1983 on an annual appropriations basis. The committee did not authorize funding for fiscal 1981 since moneys for the State share were not presumed in the first budget resolution.

I support continuation of the State program in fiscal 1981, and I feel it is a great mistake for the Congress not to fully reauthorize this program. However, I feel that the compromise we reached on State funding for 1982 and 1983 was a reasonable one and I think it will attract wide support. If the 97th Congress wishes to appropriate funds for State governments, they can do so. If conditions do not warrant such funding, there is always that option. Unlike the local share of the program, there would be no more entitlement funding for State governments.

Frankly, I am at a loss to understand the resentment which many in this body appear to hold against their State governments. I think elimination of the States from revenue sharing makes little sense in a mature federal system. In that vein, I have inserted below a copy of a Wall Street Journal editorial, July 21, 1980, entitled "Insights From the States." I am in agreement with many of the sentiments expressed here and I think the points made are particularly appropriate.

I ask that this editorial be reprinted as follows:

INSIGHTS FROM THE STATES

State legislators have a certain familiarity with the workings of representative bodies, so they make fascinating critics of their great rival, the U.S. Congress. And leaders of the National Conference of State Legislatures had a lot to say about their federal counterparts in the NCSL annual meeting in New York recently.

Relations between the two levels have been chilly ever since the state legislatures started agitating for a balanced federal budget several years ago. Some NCSL leaders had been pushing the call for a new constitutional convention to adopt a balanced budget amendment. Although the movement has since lost its momentum, the lasting implication was that Congress would never do the job alone, and Congressmen have never forgiven the insult. So this year, in the brief interval in which Congress made at least a paper exercise in reaching black ink, the first program to go was state general revenue sharing, which state legislatures like best.

In response, the NCSL and the National Governors Association produced a list of $4 billion to $7 billion in federal programs they would give up instead. Their alternative cuts made up more than twice the total cost of state GRS. But the response on the Hill, say the state legislators, ranged from "juvenile" to "churlish."

A look at the states' cut list will explain the frigid reception. The statehouses gave low priority to items such as tobacco price supports, construction of Veterans Administration facilities and that right-wing boondoggle, the Law Enforcement Assistance Administration. Not only were those governors and state legislators trying to tell Congress how to do its job, they were telling it to cut programs with potent constituencies.

The state lobbying, says George B. Roberts, Jr., speaker of the New Hampshire House and past president of the NCSL, was no match for Washington's "iron triangles." This formidable barrier consists of the close three-sided alliances formed between a special interest group, the bureaucracy which administers its pet programs and the congressional committee which passes the appropriations and oversees the bureaucrats. Ironically, he says, the last decade's wave of congressional "reform" just made things worse. The "reformers" vastly expanded the number of congressional committees and subcommittees; the House now has 211 (for 435 members). More members got to be committee chairmen, but their focus narrowed sharply, and the special interest programs were better defended than ever before.

With this fragmentation, the general public interest comes second, even that version represented by elected state officers. The new NCSL president, Richard S. Hodes, reports that he gets more attention from his own Congressman in Washington when he speaks for his professional interest group, the American Medical Association, than when he speaks in his official capacity as president pro tempore of the Florida House.

Congress suffers the further plague of a vastly expanded staff. The House and Senate now employ nearly 20,000 aides, sprawling into ever more pompous office buildings and controlling most of the details of legislation. Elected representatives are so "staffbound," in Mr. Roberts' phrase, that they sometimes can't control government growth even when they really want to. Adds Mr. Hodes, "More unemployment in Washington, D.C., would be better for the states."

The statement is practically incontrovertible. Local and state governments are reeling from costly programs Congress has ordered them to undertake but then failed to fund. Business is trammeled by poorly thought-out regulation. The public suffers from the stagflation created by soaring government spending. How come, then so few congressional incumbents loose their jobs? Because the voters don't associate their Congressman with the laws he passes, replies Mr. Hodes. They think of him as an "ombudsman," whose main job is to help them cope with the federal nightmares he may have helped create.

These critics are telling us the now familiar story that the diffuse public interest in controlling spending simply isn't a match for the concentrated special interest behind each particular program. Perhaps the only real solution would be for people to show less willingness to go to Congress for help in the first place. States have improved markedly in their administrative ability in recent years, one reason they are now so rambunctious in dealing with the feds, and they may find life easier if they just avoid taking federal money wherever possible. And the voters could turn things around altogether if they stopped thinking of their Congressmen as caseworkers and held them to account at the polls for the laws they pass.●

WASHINGTON STATE COMMISSION FOR THE HUMANITIES

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. McCORMACK. Mr. Speaker, it is with great pleasure that I take this opportunity to announce some of the accomplishments of the Washington State Commission for the Humanities.

The commission's overall purpose is to foster public understanding and use of humanities through a wide range of programs benefiting the people of Washington State. The WCH gives priority to projects that reach a broad cross section of the public not normally involved or affected by humanities activities.

Rural communities are given the opportunity to join in project planning for WCH activities. Strong community participation and enlarged audiences result.

I am pleased to share with my colleagues a list of the projects financed and supported by the Washington Commission for the Humanities in the Fourth Congressional District of Washington.

ELLENSBURG

"The Film as Art and Social Commentary." Central Washington University.

"Bio-Physical Culture." Central Washington University.

MOSES LAKE

"Humanities Intensive—Baroque." Big Bend Community College.

VANCOUVER

"Clark County Historic Preservation Calendar." Clark County Regional Planning Council.

WENATCHEE

"North Central Washington Pioneers: Their Life and Times in Dramatic Settings." North Central Washington Museum.

"William O. Douglas Distinguished Lectureship Series." Yakima Valley Community College.

I would also like to pay tribute to the trustees of the WCH, who have donated long hours to reading grants, to developing WCH goals and guidelines, to fundraising and to organizational work of the Commission:

Philip H. Ashby, Bainbridge Island, William H. Danforth Professor of Religion Emeritus, Princeton University.

Joan Sanchez Augerot, Elementary Social Studies Consultant, Seattle Public Schools, Seattle.

Marian L. Boylan, Film Director, KVOS-TV, Bellingham.

Norman H. Clark, Instructor, History and

English, Everett Community College, Everett.

Edmund J. Donohoe, Editor, Washington Teamster, Seattle.

John R. Elwood, Chairman, Dept. of English, Washington State University, Pullman.

Ralph W. Franklin, Director of the Library, Whitworth College, Spokane.

Georgia-Mae Gallivan, Chairman Emerita, Division of Humanities, Clark College, Vancouver.

Booth Gardner, President, Laird Norton Company, Seattle.

Larry George, Yakima Indian Nation, Toppenish.

Willis Konick, Associate Professor of Russian and Comparative Literature, University of Washington, Seattle.

S. Rudolph Martin, Jr., Member of the Faculty, Literature & American Studies, The Evergreen State College, Olympia.

Colleen J. McElroy, Associate Professor of English, University of Washington, Seattle.

Jack R. McFarland, Connell.

Karen H. Munro, WCH President 1980, Bainbridge Island.

Robert K. Powers, Attorney At Law, Spokane.

Mary Lou Schmidt, Chair, Language and Literature Division, Yakima Valley College, Yakima.

Brenda Teals, Moses Lake.

Carol G. Thomas, Associate Professor of History, University of Washington, Seattle.

Ann Widditsch, Seattle.●

LIFE ON "NIMITZ" FASCINATING EXPERIENCE FOR LOCAL SAILOR

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

● Mr. HOPKINS. Mr. Speaker, the citizens of our great Nation owe a large debt to the brave men who served 144 long days in the Persian Gulf aboard the U.S.S. *Nimitz*. These courageous sailors spent more days at sea than any other American crew since World War II, in hope that their sacrifices might free their 53 fellow Americans held captive in Iran.

As you know, it was from this ship that the ill-fated rescue attempt was launched, only to end in tragedy in the dark desert night. Although the rescue attempt was a failure, the crew of the *Nimitz* and the efforts they made are greatly appreciated by the American people.

And so it is with great pride that I honor today, Scott Singletary, a constituent of mine who served on board the *Nimitz* during those volatile days at sea. I wish to share with you an article from the Lexington Herald on Scott's days at sea. This is a tribute to Scott and the hundreds of other sailors who served their country in a time of crisis on board the U.S.S. *Nimitz*.

The article follows:

LIFE ON "NIMITZ" FASCINATING EXPERIENCE FOR LOCAL SAILOR

(By Andy Mead)

Few sailors had received any official information about the secret mission. But word had come through the grapevine that something big was up.

Scott Singletary, a 23-year-old junior officer in charge of the two 30-ton anchors on the USS Nimitz, was standing on the bridge of the giant aircraft carrier on the evening of April 24.

He saw the eight RH-53D Sea Stallion helicopters rise from the deck and disappear toward Iran. Their mission was to rescue the 53 hostages at the U.S. Embassy in Tehran.

The mission ended in equipment failure, confusion and death in the desert, but to Singletary and others who watched the choppers disappear over the horizon, it looked like the beginning of a dream come true.

"It was like all the time we had been there in the Indian Ocean was finally blossoming into something," he said. "We felt like we finally had a chance to do something, to be part of something.

"It was so quiet you could hear a pin drop."

Singletary, the son of University of Kentucky President Otis and Gloria Singletary, talked about his experiences on the Nimitz at his parents' Lexington home Tuesday. He is home on leave and returns to the ship Saturday.

When he reported on board the 1,092-foot carrier in January 1979, he had no idea he would see what came to seem like endless duty off the Iranian coast.

The Nimitz, named for Fleet Adm. Chester William Nimitz, hero of the Battle of Midway, left the States in September.

Singletary and some 5,500 shipmates were in the Mediterranean Sea when Iranian militants seized the U.S. Embassy on November 4.

"At first, we thought we would go there right away, but we stayed in the Mediterranean," he said. "We were going to Naples for Christmas and just before we arrived, the captain said we would be going to the Arabian Sea 'to help calm a troubled area.'

"Morale was very high, but Christmas came and went and we were afraid they would let the hostages go before we got there. It wasn't that we didn't want the hostages to be held a single extra day, but it was like the Civil War—Johnny Reb rushing to sign up and hoping the war wasn't over before he got in it."

When the Nimitz finally arrived in the Indian Ocean to replace the carrier Kitty Hawk, the crew quickly learned that Russian ships shadowed their every move.

One Russian vessel pulled alongside another American ship shortly after the Nimitz arrived and flashed the message "Where is Kitty Hawk?"

The U.S. ship waited a moment, then flashed back "Kitty Hawk is a small town in North Carolina."

"The Russians were with us constantly," Singletary said. "They escorted us about 80 to 90 percent of the time.

"It was a strange situation: We were there and they were there. We knew we weren't on friendly terms, but we were always polite, observing all the international rules of the road.

"When the American team won the hockey game against the Russians, we flashed them the message that we had won.

"Every two weeks we had a picnic on the flight deck with Frisbees, hot dogs and steaks. The Russians always came alongside to watch. They would wave at us and we would wave back."

While morale remained high, Singletary said the crew had to adjust to doing little but "steaming around in the ocean with nothing happening.

"When things got tight (in Iran) you could feel that something was going to happen," he said. "But the Indian Ocean was like a lake, 90 degrees and sunny every day with never a cloud in the sky.

"The routine would wear you down sometimes. You needed some kind of change. Soon we were finding things for people to do. There were Frisbee championships, backgammon championships, chess tournaments, anything you can think of."

As there was no need to raise or lower anchors—Singletary's main job—he took turns helping with the constant watch duty.

Even that turned into a diversion of sorts. There was no rain the entire time they were in the Indian Ocean. Each watch shift put $5 in a pot that was to go to the shift on duty during the first rain. It finally was won on the way back to the United States.

The crew was at sea for 144 days—longer than any American crew since World War II.

To celebrate the 100th day, the Navy broke a rule established in 1914: Each sailor was allowed to drink two beers on the ship. Some 10,000 cans of beer were flown in especially for the occasion.

"I had two beers," Singletary said. "They were lukewarm, but they tasted really good."

The long sea duty still has Singletary somewhat disoriented.

"We were out so long that coming home now feels like going to sea used to feel—different somehow," he said. "You learn to do without things like going out for pizza, watching *Mork and Mindy* on television, girls."

There are some parts of the aborted rescue mission Singletary isn't allowed to talk about. He won't say, for example, whether the helicopters that left the Nimitz returned to the ship after the mission.

But he will say the tragic mission crushed the hopes of the crew that had been waiting so long for something to happen.

"It was really tough for about a week after the mission was aborted," he said. "I don't know how to explain it. We went over there for something and it didn't work.

"We weren't mad at anybody. We just had a chance to do something and it didn't work out."

The entire time the Nimitz was at sea, the officers kept telling the crew that they were big news back home, but Singletary said he still was surprised at the welcome they got when they reached Virginia in May.

"The teletype on the ship started printing who was going to be on hand to greet us: The president, the secretary of defense, admirals.

"We really couldn't understand why they were doing all that. It was nice, but we felt we didn't really get the job done."

HOUSE OF REPRESENTATIVES—*Monday, July 28, 1980*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Unless the Lord builds the house, those who build it labor in vain. Unless the Lord watches over the city, the watchman stays awake in vain.—Psalms 127: 1.

Almighty God, we acknowledge our dependence on You and we testify to Your marvelous creation. We recognize that even our best efforts for good are not enough without Your providence and support. You know, O God, that we seek to do what we can for the sake of our world and our Nation, yet we fall short and Your kingdom is not realized. Give us renewed vision and confidence, that trusting in you, we may be Your stewards in the tasks before us. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the Chair's approval of the Journal?

Mr. BAUMAN. Mr. Speaker, reserving the right to object to the approval of the Journal, could the Chair inform us whether or not 1-minute speeches will be permitted today?

The SPEAKER pro tempore. Yes; the Chair would be delighted to respond to the inquiry of the gentleman.

The Chair has considered the pleas entered by those who feel that 1-minute speeches are important at the beginning of the day, and even in view of the fact that there are seven bills on suspension and an appropriation bill scheduled for today, all of which we hope to complete before the day is ended, the Chair has concluded that it would be in the interest of public debate to permit a reasonable number of 1-minute speeches. The Chair had concluded that if there were no vote on the approval of the Journal or any other vote to delay proceedings, he would entertain 1-minute speeches until not later than 12:20, and that in doing so he would alternate between the majority and the minority sides in recognizing Members so that there would be no possibility for the majority side Members, who normally are recognized first, to usurp the time, leaving none of that time remaining for the minority. It is the view of the Chair that this is an honorable and fair resolution of the question, while at the same time providing a reasonable shutoff time so that proliferation of 1-minute speeches would not unreasonably delay any of the proceedings on the legislative business of the day.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I think it is at least a momentary solution to what could have been a difficult problem, and the gentleman from Maryland does not wish to prolong the proceedings today by asking for a vote on the Journal. I would only suggest that while it may be a solution for today, perhaps further negotiations may result in some permanent solution that will protect all Members' rights of free speech.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the approval of the Journal?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5748. An act to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 827. An act to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service;

H.R. 2538. An act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes;

H.R. 4627. An act to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands;

H.R. 6613. An act to amend the Shipping Act, 1916, in order to prohibit regulation of collective bargaining agreements by the Federal Maritime Commission; and

H.R. 7018. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1280. An act to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes; and

S. 1465. An act to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive requests for recognition to extend remarks or to address the House for 1 minute.

DERAILMENTS CONTINUE—GAO SHOULD INVESTIGATE THE FEDERAL RAILROAD ADMINISTRATION

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, two more train derailments occurred over the past weekend, one in Kentucky and one in Massachusetts. The derailment in Kentucky forced the evacuation of over 7,500 people. These accidents add to a growing list of derailments which pose a clear and present danger to the health and safety of the American population. The Federal Government has a responsibility to assure the safety of this mode of interstate commerce, but it seems increasingly evident that someone, somewhere has made a conscious decision to ignore that responsibility.

If we allow these derailments to continue, we are acquiescing in eventual catastrophe. I feel sure my colleagues agree that we cannot be party to that type of abdication of responsibility. That was reflected by adoption of my amendment to the Rail Act to require the Transportation Secretary to advise the ICC of railroads which fail to meet safety standards so as to encourage railroads to plow back the fruits of deregulation to improve track safety and maintenance and to require that track inspections occur at least once each year.

But it is going to take more. This is a serious problem, and we need to get to the bottom of it. In light of the FRA's negligence to date, I have asked the GAO to investigate that agency, its monitoring policies, its track maintenance requirements, and its ability to handle the job of assuring rail safety. Quite frankly, my own investigations lead me to expect the worst, but when it comes to a matter of such national significance, we certainly need a thorough and comprehensive investigation without delay.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

A CALL FOR THE PRESIDENT TO APPOINT AN INDEPENDENT SPECIAL PROSECUTOR

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, permit me to commend the Speaker for returning to the 1-minute speeches at the beginning of the day, albeit not without determined pressure from the minority—still better late than not at all. Essentially, the procedure the Speaker has announced is point No. 6 which I sent to the Speaker in a letter last week, and I thank him for it. We were not being frivolous, Mr. Speaker. A matter of high principle was involved because a timely 1-minute speech is the only mechanism the minority has to speak on topics of its choice during the legislative day.

Mr. Speaker, based on the revelations over the weekend about Attorney General Civiletti, President Carter discussing the Billy Carter-Libyan case despite repeated previous claims that they had not done so; further, based on the revelation that the Attorney General himself is now under investigation by his own Justice Department; and based on the questions being raised over whether the Attorney General, or even the President may be guilty of obstructing justice—all point to the need for an independent special prosecutor to get to the bottom of this scandal—with each new revelation the need for an independent special prosecutor becomes more clear—if the President has nothing to hide, I should think he would want an independent prosecutor to clear his name—his unwillingness to appoint one further clouds this latest Carter administration scandal. And I again call on the President to appoint an independent special prosecutor.

A TRAGIC LOSS

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, great speeches are few and far between because all the forces of time and place and history have to coincide to cause really memorable speeches like Lincoln's Gettysburg Address, Socrates before his accusers, William Jennings Bryan's cross of gold speech or even the majority leader's recent remarks on synthetic fuels.

Last Thursday and Friday here in this place I was going to make such a speech. Lincoln would have given me a standing ovation. Socrates would have been hypnotized and Bryan would have been speechless. But, alas, my time did not come because of the cancellation of 1-minute speeches.

I was silenced. My time has now passed and the world will never know, Mr. Speaker.

FIFTY-FIVE-MILE-AN-HOUR SPEED LIMIT TO BE ABOLISHED

(Mr. HOWARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, there were several things that disturbed me about the convention in Detroit recently. One thing that disturbed me most did not get a great deal of attention, but it was the announced intention, should the Republicans put their nominee in the White House, that one of the things they would actively pursue would be the abolition of the 55-mile-per-hour speed limit.

Mr. Speaker, Members are cheering on the Republican side, at this time, but we have had the 55-mile limit in operation for several years now. There is not total adherence to the 55-mile-an-hour speed limit, but since that bill passed, Mr. Speaker, the average speed on our high-speed highways has gone from 67 miles an hour to 61 miles per hour and with that amount of adherence to a speed limit we have been saving approximately 8,000 lives each year in this Nation. We are saving almost 200,000 barrels of fuel, about 8 million gallons of fuel per day.

We also have 90,000 fewer paralyzing back injuries. We also have 70 percent fewer severe head injuries. Mr. Speaker, I certainly hope we do not eliminate this fine legislation.

SPECIAL TREATMENT OF BILLY CARTER BY THE DEPARTMENT OF JUSTICE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, for all of us in the legislative branch and all of those out there who are students of justice and political science, we have had the rather interesting experience in how legislative officials and how officials in the other branch of Government get treated if they run afoul of the law. It goes without saying we know the Members of this body have been confronted with legal proceedings for their alleged dealing with fabricated sheiks—we know what happened, what the Justice Department did, but look what happened when the President's brother dealt with a real live sheik. Not just a sheik but a terrorist madman. I think there are several things that are rather interesting to take a look at. First of all, none of our colleagues got a tipoff of the Justice Department's actions but if you are the President's brother you are going to get a tip.

Second, Mr. Speaker, I can hope, but I doubt it, that Billy was on camera during a lot of these proceedings but some of our colleagues are alleged to have been on camera in dealing with fabricated sheiks.

Mr. Speaker, I have another interesting parallel. They did not get any White House counsel, they did not have "Big Zig" or Lloyd Cutler or people like that advising, but the other person we are talking about did. Our colleagues are confronted with legal fees in the six figures. Also, none of our colleagues had a deal offered to them but the other fellow got a deal, a real deal it would appear.

Mr. Speaker, I think we ought to look at a few of these differences. No one condones wrongdoing, but it evidently makes a difference when your name is Carter and the Justice Department is involved.

DISCUSSIONS HELD BETWEEN THE PRESIDENT AND THE ATTORNEY GENERAL SHOULD BE MADE PUBLIC IMMEDIATELY

(Mr. JOHN L. BURTON asked and was given permission to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, I along with, I would say, the vast majority of American people, was rather disappointed with the revelations of the mention if not the discussions that were held between the President and Attorney General of the United States concerning Billy Carter. I would strongly urge that the President and the Attorney General come forth immediate with a full disclosure of whatever was mentioned if not discussed. The American people do want to know what was mentioned so we can put this either ahead of us in true perspective or behind us in true perspective.

At the appropriate time I shall ask unanimous consent to be listed as a coauthor on House Resolution 745.

□ 1220

DEMOCRATS IGNORE VOTERS, CALL FOR BACKROOM POLITICS

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I have hardly been able to believe the political news of the past several days, which indicates that after months of campaigning by three and then two major Democratic candidates, and after millions of taxpayers' dollars were spent in their publicly financed campaigns, we now hear serious proposals by Democratic politicians, many of whom are in this House, that the selection of a President of the United States be reduced to the back rooms of New York.

We are now hearing that the smoke-filled rooms of New York will replace the voting booth. Many of those proposing this kind of action have talked in the past about opening the process to the people. Now, the people are being abandoned in favor of political expediency.

Mr. Speaker, Republicans did not abandon the people. We selected the candidate that the American people indicated they wanted during the primary season. The question may be before us in this

Presidential year, will the people or the politicians pick the next President?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair is going to recognize one other Member for a 1-minute speech.

WILL DEMOCRATS GO "BILLY UP" OVER BILLY GATE?

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, there is no doubt that the brother of the President of the United States has been involved in a grave impropriety. There is, however, doubt that this impropriety alone should spell the death-knell of a Presidency.

As in the Watergate incident, a mechanism for a fair hearing should and has been established by Congress. What is unfair is that prior to the presentation of all the facts Democratic politicians all over the country are calling for their President to be denied the nomination he won in an open primary.

A real question emerges as to whether these politicians are responding primarily to public opinion polls indicating that for the first time in decades the American people prefer Republicans instead of Democrats for Congress. As the Presidency goes up in flames, the Democratic rallying cry seems to be "save our skins." The fair play implied in the American primary process has been replaced by backroom skulduggery.

This party disloyalty is as unseemly as the unfortunate conflict of interest that has occurred within the Carter family itself.

The President of the United States deserves a fair hearing and the chance for the American people to assess the merits of his administration this fall.

Jimmy Carter has always been an "outsider" President. Replacing an "outsider" with an "insider" like Kennedy or Mondale will only underscore Democratic Party responsibility for our unconscionably high inflation and sadly weakened national defense.

Face changes at the top do not redeem failed policies at the bottom. For Democratic politicians to act like Billy Goats over Billy Gate will not save the party from going "Billy up."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Today is the day for suspensions of the rules. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote on the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

REFINANCING OF VETERANS' ADMINISTRATION GUARANTEED HOME LOANS

Mr. BRINKLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7458) to amend chapter 37 of title 38, United States Code, to permit veterans to refinance outstanding loans previously guaranteed under such chapter, as amended.

The Clerk read as follows:

H.R. 7458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1810 of title 38, United States Code, relating to home loans to veterans, is amended—

(1) in subsection (a), by inserting after clause (7) the following new clause:

"(8) To refinance an existing mortgage loan previously guaranteed under this chapter which is secured by a dwelling or farm residence still owned and occupied by the veteran as the veteran's home."; and

(2) by adding at the end of such section the following new subsection:

"(e) Notwithstanding any other provision of this chapter, with respect to any loan made for the purpose specified in clause (8) of subsection (a) of this section:

"(1) The amount of such loan may not exceed the sum of the balance of the loan being refinanced and the amount of the closing costs, including discounts, permitted by the Administrator to be included in such loan.

"(2) The amount of the guaranty of such loan may not exceed the original guaranty amount of the loan being refinanced.

"(3) Such loan may be made without regard to the amount of outstanding guaranty entitlement available for use by the veteran, and no further charge to the veteran's guaranty entitlement shall be made because of such loan. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.".

Sec. 2. Section 1803(c)(3)(A) of title 38, United States Code, is amended by striking out "section 1810(a)(5)" and inserting in lieu thereof "clause (5) or (8) of section 1810(a) of this title".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Georgia (Mr. Brinkley) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. Hammerschmidt) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. Brinkley).

Mr. BRINKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, recent volatile occurrences in the Nation's housing market has made the enactment of H.R. 7458 necessary and urgent. This bill will amend chapter 37 of the title 38, United States Code, to permit veterans to refinance outstanding loans previously guaranteed under this chapter. As we all know, the VA home loan interest rate reached an alltime high of 14 percent on April 3, 1980. By May 15, 1980, the interest rate had dropped to its present level of 11½ percent.

Because of this wide discrepancy within such a short period of time, many veteran homeowners, who had loan commitments made at the 13- and 14-percent levels have made inquiry into the possibility of refinancing their home loans in order to take advantage of lower interest rates. What most of them have found is a legal roadblock prohibiting such steps, because current law states that the veteran must have existing loan guaranty entitlement in order to refinance the loan. This means that the veteran must have enough cash on hand to pay off his existing loan to regain any VA entitlement.

This bill would allow a veteran wishing to take advantage of a lower interest rate to refinance an existing VA home loan, which has a high interest rate, by utilizing the same entitlement for the refinancing loan as was used on the original loan being refinanced. The legislation puts the veteran on even footing with his nonveteran counterpart, who presently has the option of refinancing his home loan.

H.R. 7458 would add a new clause (8) to subsection 1810(a) of title 38, United States Code, which would enable an eligible veteran to refinance an existing VA guaranteed loan with a loan which could also be guaranteed by the VA subject to conditions established under a new subsection 1810(e). The loan would be authorized: First, if the residence is still owned and occupied by the veteran as the veteran's home; second, the principal balance of the refinancing loan does not exceed the remaining balance of the existing loan plus such closing costs, including discounts, authorized by the administrator; and third, when approved, the guaranty amount of the new loan does not exceed that of the loan being refinanced.

New subsection 1810(e) of title 38, United States Code, would also authorize that the new refinancing loan may be made without any additional charge to the veteran's entitlement. In effect, this would authorize the veteran's entitlement on the existing loan to be transferred to the new loan. Under the provisions of the bill, that entitlement could be restored once the conditions set forth in section 1802(b) of title 38, United States Code, are met.

Mr. Speaker, because the bill allows the charging of certain closing costs, including discounts, as authorized by the Administrator, members of the committee made it a point to stress to VA officials attending the markup session on this bill that those veterans seeking refinancing should be given counsel by the VA, in order to insure the veteran that any action he or she takes will be in his or her favor financially.

H.R. 7458 will not increase the Government's liability as the maximum guaranty amount on the refinancing loan would not exceed that used for the loan being refinanced. Additionally, as the bill is solely intended to assist veterans to lower their monthly mortgage payments, the veteran would not be permitted to obtain cash from the proceeds of the refinancing loan for other purposes.

As previously noted, this bill would assist veterans in receiving a loan at a lower interest rate resulting in a lower monthly payment. For example, monthly principal and interest payments on a $50,000 loan at 14 percent total $592.44. That monthly payment could be reduced to $514.96 on a $52,000 loan, which includes closing costs, at 11½ percent, should the veteran take advantage of the refinancing provision of this bill.

A more graphic example: The same veteran paying $592.44 per month on a 30-year loan at 14-percent interest, could, if obtainable through private lenders, refinance that loan for 15 years at 11½ percent with monthly payments of $584.10. Not only would the monthly payments be reduced by $8.34, but the term of the veteran's loan would be cut in half, thus, reducing the total mortgage cost from $213,278 to $105,138. This would mean a savings of $108,140.

Mr. Speaker, in summation, this bill has received a favorable report from the Veterans' Administration and from all veterans' organizations. The Congressional Budget Office states that no significant cost to the Government would be incurred as a result of enactment of this legislation. This is a good and necessary piece of legislation, and I urge its prompt passage.

Mr. Speaker, I reserve the balance of my time.

☐ 1230

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in wholehearted support of H.R. 7458, which would amend title 38 to permit refinancing of home loans to veterans and guaranteed by the Veterans' Administration. I first would like to commend the distinguished chairman of the Subcommittee on Housing, Mr. Brinkley, and the distinguished ranking minority member of the subcommittee, Mr. Abdnor, for their vision and prompt action in bringing this important piece of veterans' legislation to the floor.

Enactment of the bill would assist veterans who presently are saddled with high interest rates on their VA guaranteed home loans, by enabling them to refinance such loans at lower current rates. This is most significant, Mr. Speaker. For example, in the 6 months between October 1979 and April 1980, the VA maximum interest rate on conventional home loans rose from 10½ percent to 14 percent. That rate has thankfully declined along with rates on other home loans since then, and is presently at 11½ percent.

It is also important to note that despite a general slowdown in the real estate market, there were more than 36,000 VA guaranteed conventional home loans closed in the period when interest rates exceeded 11½ percent. Hence, there are potentially that number of veterans who are eligible to benefit from the legislation. If the interest rate moves further downward, the number of veterans benefiting will, of course, increase.

Allow me, Mr. Speaker, if I may, to give an example of how a veteran and his or her family may benefit from this legislation. If the veteran obtained a $75,000 loan at a rate of interest of 14 percent, to be repaid over a period of 30 years, the veteran's monthly payment of principal and interest amount to $889. If the loan were refinanced with a new loan of $78,000, which includes closing costs, the monthly payments are $773, or a reduction of $116 per month. Over the life of the loan, the veteran and his or her family will save over $41,000.

This bill, while benefiting the veteran, does not give the veteran any special privilege, since, as you know, nonveterans having conventional home loans or FHA approved loans may refinance their loans whenever interest rates decline sufficiently to make it advantageous for them to do so. And as explained by the distinguished chairman of the subcommittee, safeguards are provided in the legislation to carry out the limited purpose of the legislation and to adequately protect the interest of the Government.

The minimal administrative cost of the legislation will be more than offset by staving off loan defaults that would otherwise occur if the veterans continued to be saddled with sky-high interest rates.

Mr. Speaker, H.R. 7458 is an excellent bill and I urge the Members to join me in supporting it.

Mr. BRINKLEY. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Texas (Mr. Roberts), chairman of the full committee.

Mr. ROBERTS. Mr. Speaker, I rise in strong support of H.R. 7458 and I want to thank my distinguished colleague and chairman of our Subcommittee on Housing, Jack Brinkley, for getting this bill to the floor so that we can proceed to grant relief to many veterans who purchased homes when interest rates were so high. This measure was recommended unanimously by the full committee, and I know of no one who opposed the bill. As the gentleman from Georgia has already explained, the bill would simply allow a veteran to refinance his home loan now that interest rates are substantially below the rates that were available only a short while ago. For many veterans, this bill will mean lower monthly payments and a substantial savings.

The very able gentleman from Georgia has headed this subcommittee for several years and he has continued to do an outstanding job. He is a ranking member of the Armed Services Committee. In his position on Armed Services and Veterans' Affairs, he seeks to provide benefits and services for active duty personnel and veterans at a level that will adequately sustain them in life. This bill will help in that regard. I am very grateful for his work on the committee.

Mr. Speaker, I also want to thank the ranking minority member of the subcommittee, our good friend, Jim Abdnor, for working closely with Mr. Brinkley in bringing this legislation to the floor.

I will be leaving the Congress at the close of this session. Before doing so, I want to let my colleagues know the tremendous respect I have for the gentleman from South Dakota. I know of no individual who is more committed to our Nation's veterans than Jim Abdnor. When they need him he is there. His attendance record is one of the best on the committee. He attends the hearings. He enters into debate on all the issues and he works hard to bring about meaningful legislation for our Nation's veterans. Veterans owe him a great deal because he works in their behalf day and night.

It is a great pleasure to serve with Mr. Brinkley and Mr. Abdnor, and I just want the Members of this body to know that we continue to appreciate their great work in behalf of our Nation's veterans and their families.

Mr. Speaker, I want to thank every member of the Subcommittee on Housing who cooperated in moving this bill swiftly. I have no doubt it will be agreed to by the other body, and I am hopeful that in a short time veterans throughout the country will be taking advantage of the relief granted by this bill. I urge my colleagues to adopt it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to a very important member of the committee, the gentleman from Ohio (Mr. Wylie).

Mr. WYLIE. Mr. Speaker, I rise today in support of H.R. 7458, a bill which would permit veterans to refinance their VA guaranteed home loans. I compliment the distinguished chairman of the Subcommittee on Housing, Mr. Brinkley, and my esteemed colleague, the ranking minority member of the subcommittee, Mr. Abdnor, for bringing this important piece of legislation to the floor in such an expedited fashion.

It is important for this legislation to be promptly enacted, since under existing law thousands of veterans who are paying interest on their VA guaranteed home loans at rates as high as 13 or 14 percent are barred from refinancing those loans at today's rate of 11½ percent. Possibly that rate may further decline making it all the more evident that veterans should be able to refinance their loans at current rates whenever that would be to their advantage. Other homeowners, including those with FHA insured loans, are able to refinance their mortgages. Why should the veteran be prohibited from doing what is customary in conventional home loan financing?

Prompt enactment of this bill is important in view of the examples of refinancing previously set out by the chairman of the Subcommittee on Housing, Mr. BRINKLEY, and by the ranking minority member of the full committee, Mr. HAMMERSCHMIDT. In the case of a $50,000 mortgage at 11½ percent interest as opposed to 14 percent, the veteran could save $77.48 on each monthly payment of principal and interest. In the case of a $75,000 mortgage at the same given rates of interest, the veteran could save $116 each month, and over the term of the loan save more than $41,000.

Enactment of this legislation would not increase the VA's exposure on these loans in any respect. And the administrative costs in handling the refinancing are more than offset by avoiding defaults in loans that would occur if it were not for refinancing at lower interest rates.

Mr. Speaker, I hope to see prompt enactment of this legislation, and I urge all of my colleagues to support the bill.

● Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 7458 to permit the refinancing of VA guaranteed home loans.

The objective of the VA's loan guaranty program is to facilitate the extension of credit to eligible veterans for the purchase or improvement of their principal home under current law, home loans may be guaranteed up to 60 percent, with the maximum guarantee not exceeding $25,000.

In the spring of this year, the Administrator of the Veterans' Administration set the home loan interest rate at 14 percent—the highest level in the entire history of the loan program. Yet, 6 weeks later, the interest rate had dropped sharply to 11½ percent.

During this period many veterans purchased homes at the peak rate only to witness the rapid drop in interest rates. This bill will assist those veterans in refinancing their home loans.

Mr. Speaker, the Congressional Budget Office has indicated little cost would be incurred by the Federal Government if this bill is enacted into law, and I strongly urge its adoption by my colleagues.●

● Mr. HARRIS. Mr. Speaker, I rise in support of H.R. 7458, which would permit veterans to refinance VA guaranteed loans.

The recent period of high interest rates is happily behind us. But for many veterans who used their VA entitlement to finance a home loan during those weeks, the reality of high interest rates will plague them for the life of their home mortgage.

I received several letters from constituents describing what those high interest rates would mean to their families. One woman in my district wrote:

> We had agreed to purchase a home and paid a partial downpayment in October, 1979 when the VA interest rate was 11%. Between that time and the date our home was finished (April 15, 1980), the interest rate (for VA guaranteed loans) had jumped to 14% . . . the difference in our house payment was around $300 per month . . . Now, 2 months later, with the VA rate down to 11.5% we are stuck at 14%.

Another veteran wrote:

> Instead of being satisfied that the U.S. Government helped me purchase a home, I now feel like a sucker.

By passing this legislation, we can help these veterans and their families by permitting the refinancing of VA guaranteed loans. I strongly urge my colleagues to vote for this bill.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. BRINKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FLIPPO). The question is on the motion offered by the gentleman from Georgia (Mr. BRINKLEY) that the House suspend the rules and pass the bill, H.R. 7458, as amended.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that I may have permission to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 7548, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PRESIDENTIAL CANDIDATES' SPOUSES PROTECTION BILL

Mr. GUDGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7786) to amend Public Law 90-331 to increase the period during which personal protection is provided to spouses of major Presidential and Vice Presidential nominees, as amended.

The Clerk read as follows:

H.R. 7786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of subsection (a) of the first section of the Joint Resolution entitled "Joint Resolution to authorize the United States Secret Service to furnish protection to major presidential and vice presidential candidates", approved June 6, 1968 (82 Stat. 170; 18 U.S.C. 3056 note), is amended to read as follows: "Upon the request of a major presidential or vice presidential candidate, as determined by the Secretary after consultation with the advisory committee, the Secretary may authorize the United States Secret Service to furnish protection to the spouse of such major presidential or vice presidential candidate, except that such protection shall not commence more than 120 days before the general Presidential election.".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. GUDGER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. GUDGER).

Mr. GUDGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7786, as reported by the Judiciary Committee, would amend in two respects the law relating to Secret Service protection of spouses of Presidential and Vice Presidential candidates. First, it would amend language relating to eligibility of spouses for such protection to conform it to eligibility language relating to the candidates themselves. Second, it would extend the period during which such spouses are eligible for protection from 60 to 120 days preceding the general election.

By letter of July 14, 1980, to the Speaker, G. William Miller, Secretary of the Treasury, transmitted a legislative proposal to increase the period of time spouses of Presidential and Vice Presidential nominees of major parties are eligible for protection by the Secret Service from 60 days preceding the general election to 120 days. In transmitting the same proposal to Chairman RODINO on July 14, 1980, Treasury Assistant Secretary Richard J. Davis indicated that such a change had been requested by Governor Reagan's campaign committee. Mr. Davis noted that the proposal—

> Recognizes that the spouses of these nominees quickly become well-known public figures, frequently campaigning on behalf of the nominee. In order to provide them with appropriate security during this period of high visibility the Department urges that the Judiciary Committee act favorably upon this legislation, as soon as possible.

In reviewing the proposal and provisions of existing law, the Judiciary Committee determined that a further change in addition to extension of the time period for spousal protection is needed. The need for this additional change results from differences in the authority for protection of spouses from that applicable to the candidates themselves. Public Law 90-331, June 6, 1968, authorizes Secret Service protection for major Presidential or Vice-Presidential candidates. The determination as to which persons are major candidates is made by the Secretary of Treasury, after consultation with an advisory committee consisting of the Speaker of the House of Representatives, the House minority leader, the majority leader of the Senate, the minority leader of the Senate, and a fifth member selected by these four officers of the House and Senate. No time restrictions on eligibility for protection are contained in these provisions.

A 1976 amendment to Public Law 90-331 (Public Law 94-408), provides the authority for Secret Service protection of spouses of Presidential and Vice-Presidential candidates. Authority for spousal protection, under the 1976 amendment, is extended to spouses of Presidential and Vice-Presidential nominees of major political parties. It may be assumed that this distinction between coverage of candidates and coverage of their spouses reflects a policy decision to not authorize spousal protection during the party primary process, and to limit coverage during such period of time to the major candidates themselves.

However, there are circumstances in which a person who has been found to be a major candidate continues such candidacy beyond the period of the party primaries and conventions without becoming a nominee of a major political party. The Judiciary Committee takes the position that, under such circumstances, the eligibility of the spouse of such candidate for Secret Service protection should not turn upon whether or not such major candidate receives a nomination.

A current example of such a candidacy is that of JOHN ANDERSON. The Secretary of the Treasury has determined that he is a major candidate, and he is receiving Secret Service protection. However, Mr. ANDERSON is not and presumably will not be the nominee of a major political party this year, his being an independent candidacy. As a result, his spouse, under current law, is not and will not become eligible for such protection, including during the final 60 days of the campaign when the spouses of the other major candidates become so eligible.

Under the circumstances of the Anderson candidacy, and other potential major candidacies in the future which are not the result of major party nominations, the spouse of such candidates should be eligible for Secret Service protection on the same terms as spouses of other candidates who are major party nominees. The bill as reported by the Judiciary Committee would achieve this result by substituting "spouse of such major Presidential or Vice-Presidential candidate for spouse of such major Presidential or Vice-Presidential nominee."

☐ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 7786, of which I am a cosponsor. This bill would enlarge the circumstances under which spouses of Presidential and Vice Presidential candidates are afforded protection by the Secret Service.

Under existing law, the spouse of a Presidential or Vice-Presidential nominee of a major political party is not eligible for Secret Service protection until 60 days before the election. The candidate himself, is eligible for protection as soon as the Secretary of the Treasury, after consulting with the leadership of this body and the other body, determines that he is a major political candidate. Thus, until Labor Day, candidates may enjoy Secret Service protection while their spouses do not, even though they frequently travel separately from their husbands, and they are exposed to the same dangers. I firmly believe that the protection of spouses should begin earlier and this bill would advance the commencement of that protection to 120 days before the election.

H.R. 7786 was originally proposed by the Treasury Department after the problem with the protection commencement date came to light. However, during the Committee on the Judiciary's consideration of this bill, it became apparent that current law contains a second omission. While a "major Presidential or Vice Presidential candidate" is eligible for Secret Service protection, only spouses of "nominees of major political parties" are similarly protected. As a result, spouses of major candidates who are not sponsored by a political party are caught in a loophole and are not eligible for the protection that they deserve. To correct this inadequacy, the committee amended the bill to provide protection for spouses of "major political candidates," and I strongly support that change.

In sum, Mr. Speaker, H.R. 7786, as reported by the Committee on the Judiciary, makes two important changes in existing law to extend more adequate Secret Service protection to the spouses of Presidential and Vice Presidential candidates. It enables the Secretary of the Treasury to begin protection as early as 120 days before the election and it extends protection to the spouses of all major Presidential and Vice Presidential candidates, whether or not their spouses have been nominated by a major political party. I believe that both of these changes are highly necessary and I urge my colleagues to support the bill.

Mr. GUDGER. Mr. Speaker, I have no requests for additional time on this side.

I have one or two observations I would like to make at the conclusion of our presentation on this side. Therefore, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK), a member of the committee.

Mr. ASHBROOK. Mr. Speaker, I am pleased to join my colleagues in expressing support for H.R. 7786. This bill, in my view, corrects certain inadequacies in existing law governing the circumstances under which spouses of major Presidential and Vice-Presidential candidates are entitled to Secret Service protection.

Mr. Speaker, we are all familiar with the substantial contributions made by spouses to political campaigns. The campaigns for the Presidency and Vice-Presidency are the most demanding of all and subject the spouses, as well as the candidates, to many unfortunate dangers. In recognition of those dangers, Public Law 90-331 was enacted to provide Secret Service protection to "major political candidates" recognized as such by the Secretary of the Treasury. It was subsequently amended to include the spouses of major political party nominees.

During this election year, it has come to our attention that Public Law 90-331, as amended, has two inadvertent, but incongruous, results. First, it does not extend protection to the spouse until approximately Labor Day even though the candidate himself is protected from the moment that the Secretary recognizes him as a major political candidate. This ignores the fact that the spouse is equally in need of protection long before Labor Day. To correct this situation, H.R. 7786 would permit protection to begin as early as 120 days before the election, and I strongly support that change.

The second problem with existing law is that the category of spouses entitled to protection is smaller than the category of candidates similarly entitled. Current law extends protection to spouses of Presidential and Vice-Presidential nominees of major political parties, but not to spouses of major candidates who are not affiliated with such a party, even though the candidate is entitled to protection. I firmly believe that the spouses of those candidates should also be entitled to Secret Service protection and I support the amendment adopted by the Committee on the Judiciary that would make that possible.

Mr. Speaker, let me close by mentioning once again the significant contributions made by spouses of Presidential and Vice-Presidential candidates. I believe that H.R. 7786 affords them Secret Service protection which is commensurate with those contributions and I urge my colleagues to support it.

Mr. McCLORY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MOORHEAD), a member of the committee.

Mr. MOORHEAD of California. Mr. Speaker, I rise in vigorous support of H.R. 7786, the bill which expands Secret Service protection of the spouse of Presidential and Vice-Presidential candidates.

This bill recognizes that the spouses of major Presidential and Vice-Presidential candidates perform valuable services to the campaign from its inception. Under existing law, spouses are not entitled to the benefits of Secret Service protection until 60 days before the election. This ignores the realities of the situation—a candidate's spouse is highly visible and subject to danger long before that time. This bill, which was prompted by a proposal by the Treasury Department, would enable protection to commence as early as 120 days before the election.

Although H.R. 7786 was originally introduced for the purpose of correcting the unrealistic date on which protection may begin, the Committee on the Judiciary, of which I am a member, adopted an amendment to correct a second inequity in existing law. Currently, although all "major candidates" for the Presidency and Vice-Presidency qualify for Secret Service protection, only the spouses of "major political party" nominees who request protection similarly qualify. Obviously, a "major candidate" and a candidate of a "major political party" are not necessarily synonymous. The committee's amendment would, therefore, extend protection to the spouses of "major candidates."

Mr. Speaker, I strongly support H.R. 7786 because it recognizes the contributions of spouses to Presidential campaigns and provides them with the protion that they so obviously deserve.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for his remarks in support of this legislation.

I now yield 3 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I thank the distinguished gentlemen from Illinois (Mr. McCLORY) for yielding.

I rise in support of H.R. 7786, which extends the time for Secret Service protection for the spouses of major Presidential and Vice-Presidential candidates.

This bill recognizes that the spouse of a major candidate is a public figure in his or her own right, in that Secret Service protection would be afforded to that individual. From a practical standpoint, limiting the Secret Service protection to a mere 60 days prior to the Presidential election is inadequate, since the campaign begins almost from the time the convention nominates the candidate for President or Vice President or from the time an independent candidate qualifies for the ballot in a number of the States.

Second, I believe that the Committee on the Judiciary made a major improvement to this piece of legislation in making it clear that the wife of independent Presidential candidate JOHN ANDERSON would be eligible to receive Secret Service protection should she so request it during the period of this campaign.

The original law did not envision a major independent candidacy such as we are experiencing this year. Since there have been assassination threats and since there have been attempted assassinations in past Presidential campaigns, it is important that we give the maximum possible protection to the wives of the candidates in the 1980 campaign.

This legislation will do that, and I hope that it is speedily enacted into law.

Mr. McCLORY. Mr. Speaker, I have no further requests for time.

Mr. GUDGER. Mr. Speaker, I thank the Members of the House who have commented on this important legislation.

I have no requests for time on this side.

Mr. FLIPPO. The question is on the motion offered by the gentleman from North Carolina (Mr. GUDGER) that the House suspend the rules and pass the bill, H.R. 7786, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend Public Law 90-331 to provide for personal protection of the spouses of major Presidential and Vice-Presidential candidates during the 120-day period before a general Presidential election."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GUDGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS

Mr. WOLFF. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1916) to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

The Clerk read as follows:

S. 1916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 239 of the Foreign Assistance Act of 1961, as amended, is further amended by striking out "or" before Romania" and inserting in lieu thereof a comma, and by inserting "or the People's Republic of China" following "Romania".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. WOLFF) will be recognized for 20 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am speaking today on behalf of Mr. BINGHAM who is indisposed and unable to be present this afternoon. His role in moving forward this legislation has been substantial and thus his presence is all the more missed today.

Mr. Speaker, the Committee on Foreign Affairs reported H.R. 7531, a bill similar to S. 1916, by unanimous voice vote on July 2. Since the Senate acted first, passing its bill without objection on July 21, we are taking up that bill to save time. Only minor technical differences exist between the two bills.

The purpose of this legislation is to authorize OPIC to extend its investment insurance, loan guarantees, and finance programs to U.S. investors with an interest in the PRC. Presently, the Foreign Assistance Act prohibits these services in Communist countries, with the exception of Romania and Yugoslavia; this bill would add the PRC to the short list of exceptions.

Certainly the prospect of closer economic ties between the United States and China holds strong appeal to both our nations. For us, the PRC presents an immense potential marketplace whose growing interest in international commerce can be a boon to the American people through increased exports and the associated expansion of employment in our country. As Chinese incomes rise, so will their demand for goods and services from our shores. For China, the relationship holds the promise of eagerly sought commercial ties to the West, the development of agricultural and other technological skills, and the opening of new vistas and life styles for a people once living in considerable isolation.

Today, China is a nation with severe economic underdevelopment and yearns for rapid modernization and increased production. The huge Chinese energy resources lie dormant for the most part; housing is crowded and antiquated; transportation is inadequate; the communications system is outdated and unreliable; and, China's $460 per capita GNP is among the lowest in the world.

An extension of OPIC to China would represent another of several steps that have already been taken to improve commercial ties between our two nations. Full diplomatic relations were established on January 1, 1979. Since then, United States-China trade has expanded steadily. In October 1979, Li Qiang, the PRC Minister of Foreign Trade, came to the United States and entered into substantial economic understandings with our Nation, culminating in an agreement on trade relations. This agreement extended most-favored-nation (MFN) treatment to the PRC in return for an acceptance of a legal framework to make trade possible between ourselves and this enormous nonmarket economy. China agreed to base its commercial decisions in recognized international trade practices involving price, quality, delivery, terms of payment, and other matters. Following this historic agreement, the Export-Import Bank extended its first credits to a U.S. business seeking export opportunities in the PRC.

Since we have now settled claims between the two countries, established full diplomatic relations, and granted MFN, the way is clear for U.S. investments in China. The climate for U.S. investment there is highly favorable at the moment, and I believe it will continue to be. The Chinese are most interested in having such investments; and, many U.S. companies are exploring the possibilities as, of course, are companies from our trade competitors around the world.

But as favorable as the PRC market appears, politics in that nation can change quickly; investors need the assurance that they will be able to recover any losses that might incur from expropriation, currency inconvertibility, war, insurrection, and the like. The OPIC program would be of great assistance in providing security to U.S. business investments and would help to assure that these businesses obtain their fair share of the Chinese market.

The Subcommittees on International Economic Policy and Trade, chaired by Mr. BINGHAM, and Asian and Pacific Affairs which I have the honor to chair, received testimony this year from several prospective U.S. investors interested in China. They said they would be most reluctant to place their capital at risk in the PRC without the protection of the kind of political risk insurance and guarantees that OPIC offers and that is unavailable from private insurers.

The extension of OPIC coverage to the PRC is, in short, a logical and indeed beneficial step for our Nation to take.

Such a step provides no special status for China. OPIC programs in the PRC would be subject to the same requirements, limitations, and restrictions that apply to its programs in other developing countries. No more than 10 percent of OPIC's total outstanding liability may be committed to China; and, any proposed investment projects under the OPIC umbrella that might have a harmful effect upon the U.S. economy—especially the loss of jobs—would have to be rejected.

Nor would this legislation affect Taiwan. The Taiwan Relations Act directs OPIC to continue to offer its services to U.S. investors in Taiwan despite the fact that its per capita income exceeds $1,000, and that provision remains in effect. OPIC has provided services to U.S. investors in Taiwan since diplomatic relations were established with the PRC and would have to continue to do so after enactment of this legislation.

And, even with this authorizing legislation, before OPIC could actually offer its services to our investors in China, a bilateral United States-China investment agreement would have to be signed, setting forth basic understandings between the two countries about the treatment of foreign investors and their investments. The Chinese have indicated to the administration, and to me personally, their readiness to enter into these negotiations.

As an original sponsor of the Overseas Private Investment Corporation and chairman of the Subcommittee on Asian and Pacific Affairs, I consider this extension of OPIC's operating authority to be an important step in the direction of building a strong and enduring relationship with the People's Republic of China.

All too frequently in recent months we have heard talk of a developing Sino-American alliance or strategic entente directed against the Soviet Union. On occasion I have made clear my opposition to what I consider to be the military direction of our relationship with Beijing and my position that such a relationship is not in our interest nor of the PRC.

What is in our mutual interest is the establishment of a strong and enduring relationship, one able to withstand the sudden and radical shifts which have historically characterized the relationship between our two countries. And I regard the building of a solid economic foundation for our relations as the proper way to start.

So I believe the time has come for Congress to provide this authority. This bill was requested by, and has the strong support of, the administration. During his visit to China in 1979, Vice President WALTER MONDALE expressed the administration's willingness to extend OPIC activities to China.

I hope and trust that the United States will not be left behind in the dust of its competitors who, as I speak, are actively exploring the Chinese trade potential. I urge the adoption of S. 1916.

□ 1250

Mr. Speaker, I am happy to yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the full committee.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of S. 1916, which would authorize the extension of the operations of the Overseas Private Investment Corporation to the People's Republic of China.

Over the past several years the United States and China have taken steps which have put bilateral relations essentially on a normal basis—they have established full diplomatic relations and settled outstanding claims, and most-favored nation treatment has been extended to China, as have Export-Import Bank credits. Permitting OPIC activities in China is a logical extension of those actions.

The PRC clearly is a developing country, with a per capita income of only some $400. In the past year China has opened its doors to the international economy and is seeking foreign investment. While OPIC coverage will not be the determining factor as to whether American companies make investments in China, they have testified that it would be a factor in their decisionmaking.

It is important to note that this legislation in no way affects OPIC's activities in Taiwan. The Taiwan Relations Act directs OPIC to continue to offer its services to U.S. investors in Taiwan, and that provision remains in effect.

I might say, I for one will certainly have the oversight and continued concern that the Taiwan Relations Act be indeed implemented to its full effect.

I would like to commend the chief sponsor of this legislation, Congressman BINGHAM, chairman of the Subcommittee on International Economic Policy and Trade, who unfortunately due to ill-health cannot be here today. His subcommittee's oversight activities on this legislation included extensive hearings and a study mission to China. I would also like to recognize the work of Congressman WOLFF, who is managing the bill today as chairman of the Subcommittee on Asian and Pacific Affairs, which shared the jurisdiction and hearings on the bill. Also, Congressman LAGOMARSINO, ranking minority member of the Subcommittee on International Economic Policy and Trade, has cooperated in bringing the bill to the floor.

I urge Members to vote in favor of this legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Subcommittees on International Economic Policy and Trade and Asian and Pacific Affairs as well as the full Committee on Foreign Affairs have completed their consideration of S. 1916. This bill authorizes OPIC operations for the People's Republic of China without affecting the activities of OPIC for Taiwan.

The Taiwan Relations Act directs OPIC to continue to offer its services to U.S. investors in Taiwan and that provision will remain in effect with passage of this legislation. OPIC continued to provide services to American investors in Taiwan after the United States established normal relations with the PRC and, I repeat this legislation will have no impact on Taiwan.

It is also true that there are some very positive benefits for the United States by approving OPIC operations for the PRC. This legislation will assist American businesses wishing to enter China's potentially enormous domestic market. It may also serve to encourage the present favorable Chinese policy toward foreign investment to be broadened even further.

From my visit to China and my discussion with Chinese political economic leaders, I was impressed with the current leadership's sincerity in seeking ways to encourage greater foreign, particularly American, investment in China. But with that recognition, I believe the United States must not act precipitously to tie ourselves too closely to a system which shows great potential for sharp reverses in its political and economic development.

Also if we act too hastily to solidify our relationship with the PRC, we run the risk of provoking some type of counter action by the Soviet Union in the Asian region if the Soviets perceive our cooperation to be aimed against them.

Above all, I do not want to see a steadily mounting pattern of agreements which tie us to China without regard for the impact that would have on our Asian friends and allies.

Mr. BAUMAN. Mr. Speaker, I rise in opposition to this legislation. Despite all of the good descriptions just issued forth from the backers of this bill, it is another embracing of Communist China at a time when they have shown no great intention to abandon their past policies and certainly have not improved, to any great degree, their record of human rights. It is another example of a double standard which is applied consistently by the Carter administration. It comes in the light of Carter administration actions directed against Taiwan in recent months.

I am particularly concerned about seeking to impose upon the Republic of China on Taiwan the restriction that they not be permitted to use that name, the Republic of China, on goods exported or shipped to the United States. It was only after protests from a number of Members of Congress and others that the Carter administration backed down on this custom import policy, which was totally unnecessary and an indication of their true thinking toward Taiwan.

In addition, in recent months there have been problems imposed upon the shipment of goods from the United States to Taiwan, including the searching of goods for the ostensible purpose of trying to find illegal contraband that might be exported from the United States from west coast ports. This from an administration that does very little to inspect imports or exports that might include illegal contraband from any other country in the world.

It seems to me that this bill is another mark of approval which I do not wish to lend to the Red Chinese. It is, of course, a part of the larger mistake policy of the administration and I just do not care to be part of it.

Mr. WOLFF. Mr. Speaker, I yield myself such time as I may consume just that I might respond to the statement made by the gentleman from Maryland.

I just might remind the gentleman from Maryland in his statement, that this does not embrace the People's Republic of China. To the contrary, it embraces American business and I might remind the gentleman that the initial steps and the double standard was established not by this administration but by a preceding administration.

● Mr. SYMMS. Mr. Speaker, I rise in opposition to the passage of S. 1916, legislation which would permit OPIC to offer guarantees or insurance against certain noncommercial risks to American businessmen wishing to invest in the PRC. Noncommercial risks previously included war, revolution and expropriation. However, in more recent years, it seems that the definition of noncommercial risk is beginning to include the threat or possibility of default.

The Overseas Private Investment Corporation is a wholly owned U.S. Government corporation created by Congress in 1969 "to mobilize and facilitate the participation of U.S. private capital and skills in the economic and political development of less developed friendly countries, thereby complimenting the development assistance objectives of the United States." In other words, OPIC is one of the organizations which promotes the development of lesser developed countries at the risk of the U.S. taxpayer. Corporations doing business in these "insured countries" do not have to take a risk because the U.S. taxpayer is taking that risk.

I strongly oppose extending OPIC coverage to the PRC because I do not believe that the PRC will be any better of a borrower than the COMECON nations, Zaire, or any of the other tenuous borrowers that are heavily indebted to the U.S. lending institutions.

Now that the PRC has overcome their previously doctrinaire position that the presence of capitalist financiers would corrupt Marxist purity, they are very willing to follow the course of their Soviet and Eastern bloc brothers to use Western money not only to develop their own economy but to eventually use the threat of default as a lever to gain political concessions from the United States.

The proponents of this legislation support this bill on the premise that the encouragement of U.S. investment in the PRC through the OPIC program benefits the U.S. economy by giving U.S. firms the opportunity to participate in investment opportunities in the PRC, thereby improving our balance of payments position through increased exports.

However, the only public debate that has occurred thus far has involved the politics of the exchange. There has never been a debate over the simple fact that the Soviet Union, Zaire, and others do not pay for what they get. We send machines, computers, grain, et cetera, and receive nothing in return, except the illusion of prosperity for the farmers and firms being paid in funny money originating on the Federal Reserve's press. In my opinion, I do not believe that the situation will change with the PRC. In fact, it seems very likely that this shell game will continue and is being extended to include the PRC.

The rate of credit growth of COMECON, Zaire and others far exceeds their rate of real economic growth. It is very doubtful that the rate of real economic growth in the PRC will match their rate of credit growth if this bill passes. The only way that the PRC could raise enough hard currency to satisfy its impending debts would be to sell products to the West. But the PRC produces few goods of sufficient quality to compete on world markets. As a result of their economic inefficiency, trade will move mostly in one direction—toward the PRC. While goods in this "trade" will move toward the PRC, money will move in any meaningful way. We will "create" loans to "pay" for what we will send, all insured, indirectly, by the U.S. taxpayer.

Bankers maintain that all loans are backed by an implicit guarantee. Since the guarantee has never been forcibly exercised by a bank, it is impossible to tell if the implicit guarantee has any explicit value. I assume that the impending investors in the PRC will use the PRC's oil reserves for collateral.

Obviously, lenders would not want to speculate on the logistical specifics of foreclosing on that oil, which has not yet been developed. Furthermore, even if the PRC wanted to give us their oil, which has not yet been developed, to cover their impending debts, it is questionable, at this time, as to whether they would be able to extract it fast enough or what the future estimated use of that oil would be for their own uses.

Currently, there are enough economic and political risks imposed on our economy by the COMECON debt, Zaire debt, and other Third World debt. It is very unwise for the United States to pass into law legislation which will pass the risk of investing in another undeveloped country off to the taxpayer.

If it is a good risk, private corporations would be putting up their own money. If it is a bad risk, the Government has put up the money at great economic and political risk. The current recession in the United States and impending recession in the rest of the world, will present a perfect opportunity to the PRC, COMECON, and others because during a recession when banks are highly liquid because of the lack of loan demand, COMECON, the PRC, and others could blitz the credit markets soaking up every loan available. Experts disagree over the susceptibility of the banking community, however, in a recession environment, bankers compete for safe ways to unload their money. During the 1974–75 recession, the initial round of bad loans was made to the Soviet Union and it is very likely that another round of bad loans will be made not only to the Soviet Union but to the PRC if S. 1916 passes. Then, we will have given a trump card to the PRC as well.

In 1977, the Senate Foreign Relations Committee concluded that the entire international financial system could crumble beneath the weight of one or two major defaults, defaults that would send banks tumbling into each other like freeway traffic hitting a patch of ice. It is beyond me, why the chairman of that same committee now actively supports to extension of credit, insured at the risk of the taxpayer, to yet another illiquid economy.

I am very supportive of expanding our exports, but I do not believe that the expansion of our exports should be made possible by providing the funds by which to buy the goods. I believe our exports should be expanded by changing tax policies so as to encourage the exportation of our goods and by improving the atmosphere in which corporations operate by decreasing the amount of regulations imposed on them. Increased exports mean more jobs for Americans but creating money to loan to countries to buy our goods will only mean an increased inflation rate.●

Mr. WOLFF. Mr. Speaker, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. WOLFF) that the House suspend the rules and pass the Senate bill, S. 1916.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON WEDNESDAY, JUNE 30, 1980, DURING 5-MINUTE RULE

Mr. GUDGER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday, July 30, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. WOLFF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the Senate bill, S. 1916, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LACEY ACT OF 1980

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5604) to provide for the control of interstate and foreign commerce in fish and wildlife, as amended.

The Clerk read as follows:

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) The term "fish or wildlife" means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate or other invertebrate, whether or not bred, hatched or born in captivity, and includes any part, product, egg, or offspring thereof.

(2) The term "foreign commerce" includes, among other things, any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish, wildlife or plants in question are moving in any country or countries outside the United States.

(3) The term "foreign law" means laws or regulations of a foreign country which regulate the taking, possession, importation, exportation, transportation, or sale of fish or wildlife.

(4) The term "import" means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(5) The term "Indian tribal law" means any regulation of, or other rule of conduct enforceable by, any Indian tribe, band, or group but only to the extent that the regulation or rule applies within Indian country as defined in section 1151 of title 18, United States Code.

(6) The term "person" includes any individual, partnership, association, corporation, trust, or any officer, employee, agent, department, or instrumentality of the Federal Government or of any State or political subdivision thereof, or any other entity subject to the jurisdiction of the United States.

(7) The terms "plant" and "plants" mean any wild member of the plant kingdom, including roots, seeds, and other parts thereof, but excluding common food crops and cultivars, which is indigenous to any State and which is either (A) listed on an Appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or (B) listed pursuant to any State law that provides for the conservation of species threatened with extinction.

(8) The term "Secretary" means, except as otherwise provided in this Act, the Secretary of the Interior or the Secretary of Commerce, as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090); except that with respect to the provisions of this Act which pertain to the importation or exportation of plants the term means the Secretary of Agriculture.

(9) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(10) The term "taken" means captured, killed, or collected.

(11) The term "transport" means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 3. PROHIBITED ACTS.

(a) OFFENSES OTHER THAN MARKING OFFENSES.—It is unlawful for any person to—

(1) import, export, transport, sell, receive, acquire or purchase any fish or wildlife taken or possessed in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law;

(2) import, export, or transport, sell, receive, acquire, or purchase in interstate or foreign commerce—

(A) any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law, or

(B) any plant taken, possessed, transported, or sold in violation of any law or regulation of any State;

(3) within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18, United States Code)—

(A) possess any fish or wildlife, taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law or Indian tribal law, or

(B) possess any plant taken, possessed, transported, or sold in violation of any law or regulation of any State;

(4) make any false record, account, document, label, or identification concerning any fish, wildlife, or plant imported, exported, transported, or sold in interstate or foreign commerce;

(5) assault, resist, or impede any person enforcing this Act; or

(6) attempt to commit, solicit another to commit, or to cause to be committed, any act described in paragraphs (1) through (5).

(b) MARKING OFFENSES.—It is unlawful for any person to import, export, or transport in interstate or foreign commerce any container or package containing any fish or wildlife unless the container or package has previously been plainly marked, labeled, or tagged in accordance with the regulations issued pursuant to section 7(a)(2).

SEC. 4. PENALTIES AND SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who violates any provision of this Act, other than section 3(b), may be assessed a civil penalty by the Secretary of not more than $500 for each such violation.

(2) Any person who in the exercise of due care should know that he is violating any provision of this Act, other than section 3(b), may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation.

(3) Any person who violates section 3(b) may be assessed a civil penalty by the Secretary of not more than $250.

(4) For purposes of paragraphs (1) through (3), any reference to a provision of this Act or to a section of this Act shall be treated as including any regulation issued to carry out any such provision or section.

(5) No civil penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation. Each violation shall be a separate offense.

(6) Any civil penalty assessed under this subsection may be remitted or mitigated by the Secretary.

(7) In determining the amount of any penalty assessed pursuant to paragraphs (1) and (2), the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and with respect to the violator, the degree of culpability, ability to pay, and such other matters as justice may require.

(b) HEARINGS.—Hearings held during proceedings for the assessment of civil penalties shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) REVIEW.—Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) CRIMINAL PENALTIES.—Any person who knowingly violates any provision of this Act (other than section 3(b)) or any regulation issued to carry out such provision shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than five years, or both. Each violation shall be a separate offense.

(e) PERMIT SANCTIONS.—The Secretary may also suspend, modify, or cancel any Federal hunting or fishing license, permit, or stamp, or any license or permit authorizing a person to import or export fish or wildlife or plants (other than a permit or license issued pursuant to the Fishery Conservation and Management Act of 1976), or to operate a quarantine station or rescue center for imported wildlife or plants, issued to any person who is convicted of a criminal violation of any provision of this Act or any regulation issued hereunder. The Secretary shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension, or revocation of any licenses, permits, stamps, or other agreements pursuant to this section.

SEC. 5. FORFEITURE.

(a) IN GENERAL.—

(1) All fish or wildlife or plants, imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of this Act (other than section 3(b)), or any regulation issued pursuant thereto shall be subject to forfeiture to the United States.

(2) All vessels, vehicles, aircraft, and other equipment used to aid in the importing, exporting, transporting, selling, receiving, acquiring, or purchasing of fish or wildlife or plants is a criminal violation of this Act and shall be subject to forfeiture to the United States if the owner or master of such vessel or the conductor, driver, or other person in charge of such vehicle, aircraft, or equipment was at the time of the alleged illegal act a consenting party or privy thereto.

(b) APPLICATION OF CUSTOMS LAWS.—All provisions of law relating to the seizure, forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officers or employee of the Treasury Department may, for the purposes of this Act, also be exercised or performed by the Secretary or by such persons as he may designate.

(c) STORAGE COST.—Any person convicted of an offense, or assessed a civil penalty, under section 4 shall be liable for the costs incurred in the storage, care, and maintenance of any fish or wildlife or plant seized in connection with the violation concerned.

SEC. 6. ENFORCEMENT.

(a) IN GENERAL.—The provisions of this Act and any regulations issued pursuant thereto shall be enforced by the Secretary, the Secretary of Transportation, or the Secretary of the Treasury. Such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(b) POWERS.—Any person authorized under subsection (a) to enforce this Act may carry firearms; may make an arrest without a warrant for any criminal violation of this Act if he has reasonable grounds to believe that the person to be arrested has committed such violation; and may execute and serve any subpoena arrest warrant, search warrant, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this Act. Any person so authorized, in coordination with the Secretary of the Treasury, may detain for inspection and inspect any vessel, vehicle, aircraft, or other conveyance or any package crate, or other container, including its contents, upon the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States of such customs waters, or, if such conveyance or container is being used for exportation purposes, prior to departure from the United States or the customs waters of the United States. Such person may also inspect and demand the production of any documents and permits relating to the package, crate, or container as required by the country of natal origin, birth, or reexport of the fish or wildlife. Any fish, wildlife, property, or item seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to section 5 of this Act; except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(c) DISTRICT COURT JURISDICTION.—The several district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have jurisdiction over any actions arising under this section. The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(d) REWARDS.—Beginning in fiscal year 1982, the Secretary or the Secretary of the Treasury shall pay out of any moneys in the Treasury not otherwise appropriated a reward to any person who furnishes information which leads to a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of this Act or any regulation issued hereunder. The amount of the reward, if any, is to be designated by the Secretary or the Secretary of the Treasury, as appropriate, but shall not exceed the amount of the penalty, fine, or forfeiture collected in a case in which the person was an informant. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this subsection.

SEC. 7. ADMINISTRATION.

(a) REGULATIONS.—

(1) The Secretary, after consultation with the Secretary of the Treasury, is authorized to issue such regulations, except as provided in paragraph (2), as may be necessary to carry out the provisions of this Act.

(2) The Secretaries of the Interior and Commerce shall jointly promulgate regulations governing the marking and labeling of containers or packages containing fish or wildlife in interstate or foreign commerce. In promulgating these regulations the Secretaries shall take into consideration existing commercial practices.

(b) CONTRACT AUTHORITY.—To the extent and in the amounts provided in advance in appropriations Acts, the Secretary may enter into such contracts, leases, cooperative agreements, or other transactions with any Federal or State agency, public or private institution, or other person, as may be necessary to carry out the purposes of this Act.

SEC. 8. CONGRESSIONAL REVIEW OF REGULATIONS.

(a)(1) The Secretary, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House respectively.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of ninety calendar days of continuous session, after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a final rule of the Secretary shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Environment and Public Works of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of seventy-five calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Environment and Public Works of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Secretary), and debate on such motion shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Secretary.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than one hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported or has been discharged from further consideration of a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than ten hours which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Secretary is disapproved by the Congress under subsection (a)(2), then the Secretary may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Secretary in accordance with section 553 of title 5, United States Code, in any case in which the Secretary determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Secretary considers necessary or appropriate.

(2) The Secretary, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than twenty days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(f)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Secretary has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Secretary shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(g) For purposes of this section—

(1) the term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Secretary dealing with the matter of , which final rule was submitted to the Congress on ." (the blank spaces shall be filled in appropriately).

(2) the term "rule" means any rule promulgated by the Secretary pursuant to section 7 or 10(d) of this Act.

(h) The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 9. EXCEPTIONS.

(a) The provisions of subsection (a)(1) of section 3 of this Act shall not apply to any activity regulated by a fishery management plan in effect under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.);

(b) The provisions of subsection (a)(1), (2)(A), and (3)(A) of section 3 of this Act shall not apply to—

(1) any activity regulated by the Tuna Conventions Act of 1950 (16 U.S.C. 951–961) or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971(h)); or

(2) any activity involving the harvesting of highly migratory species (as defined in paragraph (14) of section 3 of the Fishery Conservation and Management Act of 1976) taken on the high seas (as defined in paragraph (13) of such section 3) if such species are taken in violation of the laws of a foreign nation and the United States does not recognize the jurisdiction of the foreign nation over such species.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) EFFECT ON POWERS OF STATES.—Nothing in this Act shall be construed to prevent the several States from making or enforcing laws or regulations not inconsistent with the provisions of this Act.

(b) REPEALS.—The following provisions of law are repealed:

(1) The Act of May 20, 1926 (commonly known as the Black Bass Act; 16 U.S.C. 851–856).

(2) Section 5 of the Act of May 25, 1900 (16 U.S.C. 667e), and sections 43 and 44 of title 18, United States Code (commonly known as provisions of the Lacey Act).

(3) Sections 3054 and 3112 of title 18, United States Code.

(c) DISCLAIMERS.—Nothing in this Act shall be construed as—

(1) repealing, superseding, or modifying any provision of Federal law other than those specified in subsection (b);

(2) repealing, superseding, or modifying any rights granted or reserved to Indian tribes pursuant to any treaties entered into by the United States and such tribes; or

(3) enlarging or diminishing the authority of any State or Indian tribe to regulate the activities of persons within Indian reservations.

(d) HUMANE SHIPMENT.—Section 42(c) of title 18, United States code, is amended by striking "Secretary of the Treasury" and inserting in lieu thereof "Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act of 1980".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is in response to the well-documented need to provide for the more effective enforcement of existing fish and wildlife conservation laws. H.R. 5604 was originally proposed by the administration in October 1979. The Subcommittee on Fisheries and Wildlife Conservation and the Environment held two lengthy hearings on this legislation in October and March of this year. We heard from every group that sought to testify on this legislation. The subcommittee accepted many of the recommendations of the original administration proposal but also made a number of significant changes in the bill in response to the testimony received during the course of our hearings.

This bill represents a major effort to provide for the effective enforcement of the fish and wildlife laws that are already on the books. As has already been described, the Lacy and Black Bass Acts are the two most important Federal wildlife enforcement statutes. These statutes seek to provide needed Federal assistance to the individual States and foreign nations in the enforcement of their own existing fish and wildlife conservation laws. These acts are in many ways our most important wildlife laws since they control trade in thousands of species protected by State and foreign laws.

The purpose of these acts is to thwart the interstate and foreign commerce in fish and wildlife that were illegally taken in a State or foreign country. Although these statutes have been an invaluable tool in the effort to provide for the long-term conservation of our fish and wildlife resources, the simple fact of the matter is that these acts have not kept pace with the change in the nature of the commercial trade in fish and wildlife products. This trade today is big business. It is highly sophisticated. The level of wildlife importations into the country in recent years is truly staggering—estimated at over 600 million items in 1978. Although many of these items were imported in an entirely legal manner in full compliance with all relevant conservation laws, the Fish and Wildlife Service believes that the level of illegal shipments may run as high as 10 to 25 percent of the total wildlife shipments entering and leaving the United States.

It became clear in the course of our hearings that the existing Lacey and Black Bass Acts no longer provide an effective deterrent to this level of illegal trade in fish and wildlife. Simply stated, the penalties provided in these acts are too low to defer highly profitable illegal activity. The Black Bass Act, for example, provides for a maximum

$200 fine. This fine cannot hope to deter, for example, the documented extensive illegal trade involving hundreds of tons of salmon taken in western rivers and marketed across the country.

H.R. 5604, as reported by the committee responds to many of the identified problems with the existing acts. The legislation proposes to make the following major changes in the Lacey and Black Bass Acts:

First. It would increase the maximum civil penalty to $10,000. The maximum penalty is currently $5.000 in the Lacey Act and $200 in the Black Bass Act.

Second. It would increase the maximum criminal penalty to $20,000 and 5 years imprisonment. The existing criminal penalty under the existing acts is 1 year in the Lacey Act and 3 months in the Black Bass Act.

Third. It would conform the criminal penalty culpability standard found in the Lacey Act to most criminal laws by deleting the double specific intent standard. The standard proposed in H.R. 5604 will still require the Government to prove that a defendant had knowledge of the underlying conservation statute. The Government will not be required, however, to prove that the individual also had knowledge of the Lacey Act.

Fourth. The legislation will consolidate the Lacey and Black Bass Acts and eliminate several inconsistencies. For the first time, the legislation will cover all species of fish and wildlife which are the subject of State or foreign conservation laws.

Fifth. H.R. 5604 proposes to reduce the marking and labeling requirements of the existing acts by eliminating the need to specify precise numbers and kind of fish and wildlife to be shipped.

Sixth. The legislation will add the regulations of Indian tribes to the substantive provisions of the Lacey Act. This will insure that the fish and wildlife conservation regulations that are applicable to Indian reservations will be subject to Federal enforcement.

Seventh. The legislation adds rare plants that are the subject of State conservation laws to the coverage of the Lacey Act. This provision would provide Federal enforcement assistance to States that have adopted laws regulating the taking and sale of rare plants. We have added this amendment in response to the well-documented testimony of several States that they are unable to deal effectively with the massive illegal trade in many native plants because of the interstate nature of this trade. This provision has been structured in such a way that it focuses attention on only those plants that have been recognized as being in a specially precarious biological condition.

Mr. Speaker, this bill has been through substantial analysis and discussion by all of the various interest groups potentially affected by the legislation. We have provided an ample opportunity for everyone to communicate their concerns to us, and we have made a conscientious effort to respond to those concerns. I believe that there is now a consensus on the part of all the groups that have taken an interest in this legislation that this bill now provides sufficient safeguards against indiscriminate enforcement efforts, while at the same time providing much needed control over interstate and foreign commerce in illegally taken fish and wildlife.

□ 1310

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5604 is to revise the existing Lacey and Black Bass Acts in order to provide for more effective enforcement of State, Federal, and foreign fish and wildlife conservation laws.

Although the Lacey Act of 1900 and the Black Bass Act of 1926 provided the mechanisms to enforce our fish and wildlife laws, recent investigations would indicate that our existing laws are not sufficient to contain the massive illegal trade of such species. In fact, recent information indicates these illicit activities are on the increase.

This is understandable in view of the tremendous profits involved in this kind of trade and the fact that present penalties are minimal. They do not provide the necessary deterrent needed to bring these illegal activities under control. To illustrate the significance of the problem, the Justice Department estimates that 10 to 25 percent of the shipments of wildlife into the United States today are in violation of wildlife laws. They also estimate the value of such illegal trade to be $50 to $100 million or more every year, depending on the species involved.

In addition to the ultimate threat to the species itself, this massive illegal wildlife trade can bring about other negative impacts. For example, it encourages the introduction of exotic diseases which may threaten our agriculture and pet industries, and it creates new markets for thousands of species which are taken in violation of those laws enacted to protect them.

All our efforts in Congress to provide for the protection of those valuable species which are rapidly disappearing—and which may ultimately become extinct—are useless unless we can effectively enforce these laws. There is a need to increase the existing penalties for violations, lessen the culpability standard to aid in prosecutions, relax the marking requirements to provide more flexibility, and extend the enforcement provisions to species not included under the existing statutes.

The bill, as amended by our committee, will accomplish those objectives while protecting the innocent. If enacted, this legislation will add a $500 strict liability penalty and increase the maximum civil penalty from $5,000 to $10,000, and the maximum criminal penalty from $10,000 to $20,00. These increased penalties will hopefully help to deter those who repeatedly violate our conservation statutes.

I would like to point out that our committee also extended the legislation to include plants taken in violation of State laws which provide for the protection of those species threatened with extinction. A growing number of States are enacting legislation to control the collection of their native plants. However, they are limited in their ability to enforce their laws once the plants leave the State and are beyond the jurisdiction of that State. The committee amendment to include plants will enable Federal enforcement agents to assist the States in their efforts to control this trade.

Mr. Speaker, if we are to provide an effective method to arrest the growing illegal trade in fish, wildlife, and plants, enactment of the Lacey Act of 1980 will be an important first step in deterring those who continually violate our important conservation laws. For these reasons, I want to urge my colleagues to join me in supporting H.R. 5604.

Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. Kindness).

Mr. KINDNESS. I thank the gentleman for yielding this time, which I requested for the purpose of hopefully clarifying what is being accomplished in the legislation with respect to changes in the criminal penalties. I would ask the gentleman handling the bill on the other side of the aisle, the gentleman from Louisiana (Mr. Breaux), if he would respond, or the gentleman from New Jersey (Mr. Forsythe), if either gentleman would respond to these questions.

On page 15 in section 3 entitled "Prohibited Acts," it is stated:

> It is unlawful for any person to—
>
> (1) import, export, transport, sell, receive, acquire or purchase any fish or wildlife taken or possessed in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law;

On page 20, the criminal penalty section, again on line 3 it refers back to that section and says:

> Any person who knowingly violates any provision of this Act (other than section 3 (b)) or any regulation issued to carry out such provision shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than five years, or both.

Is it intended by this change, then, that the person need only knowingly perform the act of importing or exporting and so on, or does "knowingly" also apply to the circumstance that it is in violation of a law, treaty, or regulation of the United States? I thought I understood the gentleman from Louisiana to indicate that the intention was that it not be necessary to prove knowledge of the violation of the Federal law, treaty, or regulation.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Louisiana.

Mr. BREAUX. The intent of the legislation is that the person who is being charged with the criminal violation does not have to know the specific section of the Lacey Act that we will be referring to. I think if the gentleman will look at page 18 of the committee report, we try and address the items that would be necessary to prove criminal liability. If the gentleman will yield further, I would just read that section back to the gentleman.

which may help clarify this for the record.

It says:

> Therefore, to prove a violation under the proposed Lacey Act of 1980 which, for example, prohibits the importation of wildlife taken in violation of a foreign law, it will be necessary for the Government to prove that:
>
> (1) the wildlife was taken in country A;
>
> (2) Country A forbids the taking of wildlife;
>
> (3) the defendant knew Country A forbids the taking of the wildlife; and
>
> (4) the defendant imported the wildlife into the United States.

So while the defendant would not have to know the specific provisions of the Lacey Act, the Government would have to prove that he knew that the wildlife was, in fact, taken from a country which forbade the taking of that particular species.

Mr. KINDNESS. I thank the gentleman for that explanation, with which I agree, or express agreement that it would seem appropriate to require the person have knowledge that he is violating the law in some manner.

Mr. BREAUX. The gentleman is correct.

Mr. KINDNESS. Second, I would ask the question whether the committee, in its consideration of the bill, made a specific finding, in its consideration of the bill, made a specific finding of some sort with respect to the need to increase the penalty from a misdemeanor in terms of the term of imprisonment that might be applicable up to a 5-year felony term, which is a very serious penalty that might be applicable for violations on a knowing basis. I apologize for not having read the entire report.

Mr. BREAUX. If the gentleman will yield further, I think it was brought out in the testimony of the witnesses who have appeared before the subcommittee that neither the civil penalty nor the criminal penalty was really acting as a deterrent to those who might engage in such illegal activities. Therefore, the suggestion was made, and there was really no disagreement with the suggestion, that we increase both the civil and the criminal penalty.

Now, as the gentleman I know understands, the criminal penalty provides for up to 5 years, and it could be 0 to 5 years; it is not mandated at a minimum of 5 years. There is a discussion, I believe, in the committee report that points out the fact that the judge should, in fact, in assessing the penalty, consider all of the circumstances surrounding the particular violation.

Just to summarize, we have had discussions in the committee's preparation for submitting this bill to the floor that the judge was, in fact, charged with considering all of the circumstances surrounding each one of these violations, and that is the reason why we did not put any or suggest any minimum criminal penalty, but suggested up to 5 years, which everyone seemed to agree with.

Mr. KINDNESS. I thank the gentleman. I would just quickly conclude by pointing out that this bill would, for the first time, I believe, provide for Federal jurisdiction—there is some concern on my part about how jurisdiction would be determined exactly—but it would provide for Federal jurisdiction of a felony nature for the violation of a State law or a foreign law. This is the sort of step to be taken very cautiously, and I would urge that it be considered by the Members on a very cautious basis.

The purpose of the bill, as I understand it, is a good purpose. But oftentimes in the quest for justice on a policy basis we may overreach. I believe this is one of those circumstances in which there is an attempt to overreach upon the jurisdiction of the States and foreign governments, and I believe we will find that there is going to be some great difficulty in determining when jurisdiction exists under the provisions of this bill.

☐ 1320

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Louisiana.

Mr. BREAUX. As a point of clarification, the real reason is really the fact that the committee was requested by the States who simply do not have sufficient capacity, if you would, in many of these cases, to actually enforce their own State laws. Therefore, what we have done, which is consistent with what the old Lacey Act did, was to say simply that in situations where you have a violation of State law—in other words, a species was taken in violation of some State law—that if that species is shipped in interstate commerce, then you have the authority to allow the Federal Government with their larger manpower, to come in and enforce what in effect is a State law.

The SPEAKER. The time of the gentleman has expired.

Mr. BREAUX. Mr. Speaker, I yield myself 2 additional minutes.

Mr. KINDNESS. Will the gentleman yield, Mr. Speaker?

Mr. BREAUX. I yield to the gentleman from Ohio.

Mr. KINDNESS. I would hope then for the record that it might show that the intended jurisdictional base is indeed movement in interstate commerce which involves crossing of State lines or an international boundary.

Mr. BREAUX. As I understand the legislation, it is that very simply we are talking about Federal enforcement of State statutes that have been violated and the Federal Government is involved in it because of interstate shipment of a species that was taken in violation of a State statute. It is basically an enforcement mechanism and the testimony we have had from the States is that it is something they would desire very greatly.

Mr. KINDNESS. If the gentleman would yield further, I believe I misspoke myself a moment ago in terms of discussing only crossing of State lines or international boundaries. I believe the intended jurisdiction would also apply with respect to violation of a foreign law when arrests might occur in international or territorial waters.

Mr. BREAUX. The gentleman is likewise correct in that assumption.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. FORSYTHE. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise as a member of the subcommittee in support of this legislation and to express my appreciation to the chairman of the subcommittee for his usual display of perspicacity and intelligence in crafting a compromise that will mean much to the watermen of the Chesapeake Bay since the bill seeks to solve the problems they have had with marketing and labeling crabs, oysters, and clams.

Mr. Speaker, the committee substitute of H.R. 5604 contains several important new provisions that will help thousands of watermen and seafood processors in Maryland and elsewhere. These people harvest and process the famous blue crab, oysters, and clams that grace the dinner tables of millions of Americans. These provisions will protect the watermen from the unreasonable requirements of the existing Lacey Act and its current interpretation.

As the law is now applied, all those who engage in the interstate shipment of wildlife covered by the Lacey Act, including seafood, must mark and label the containers with information concerning the number and destination of the species contained therein. For most forms of fish and animal life, this is a perfectly acceptable requirement that imposes no undue hardship. However, for those who harvest crabs and oysters the requirement that each bushel basket must contain a label showing the exact number is completely unreasonable. The need to deliver the seafood to market quickly to insure freshness, makes the counting of the contents of each basket unworkable in addition to being completely unnecessary. Crabs, clams, and oysters have been sold by the bushel and not by the number since God first made them.

Officials of the Fish and Wildlife Service have admitted that this present labeling requirement is not suited to mollusks and crustaceans, but they have continued to enforce this law despite numerous protests from all over the Nation.

Section 7A(a) of the committee substitute directs the Secretaries of Interior and Commerce to propose regulations that will govern the marking and labeling requirements required by the Lacey Act. The proposed section states that the two Secretaries shall, "take into consideration existing industry practices" when they draft these regulations. Since bushel sales have long been the "industry practice" for crabs, oysters, and clams, these new rules will reflect this fact when they are promulgated. But as an added protection the committee substitute provides for a two-house legislation veto for the regulations allowing Members of Congress from affected districts to review them and comment before they are promulgated.

The bill also reduced the penalty for violation of marketing and labeling requirements from $5,000 to a $250 penalty for each violation.

Had the distinguished chairman of the Subcommittee on Fisheries and Wildlife, Mr. BREAUX, not offered these provisions, I would have offered an amendment to exclude entirely mollusks and crustaceans from the coverage of the Lacey Act, so serious has been the problem in my area.

Mr. Speaker, once this bill becomes law, I will await the regulations of the Commerce and Interior Departments with great interest. I hope that the Secretaries will reach a reasonable determination concerning "existing industry practices" and that their regulations will reflect this. It was never intended that this law be used to harass the legitimate commercial activities of watermen and the seafood industry.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Louisiana.

Mr. BREAUX. Could the gentleman from Maryland explain the compliment just bestowed upon the chairman of the subcommittee?

Mr. BAUMAN. Mr. Speaker, I will do that at length in the Record and the gentleman can read my remarks in the Record tomorrow.

● Mr. ASHLEY. Mr. Speaker, H.R. 5604 is legislation which is intended to provide for more effective enforcement of State, foreign, and U.S. fish and wildlife laws. The President in his environmental message of August 1979, indicated that massive illegal trade in wild animals, wild animal parts and products, and wild plants had been uncovered through investigations of the Departments of Justice, Interior, and Commerce. The serious consequences of this illegal trade include the introduction of exotic diseases which threaten our agriculture and pet industries, the creation of new markets for the thousands of species taken in violation of State, Federal, or foreign laws, and ultimately, a threat to the continued survival of many species.

The President's environmental message indicated that he would be submitting a legislative proposal to Congress to overcome the obstacles inhibiting the ongoing effort to enforce existing fish and wildlife laws and to restrict this illegal trade. H.R. 5604, as amended, is our committee's response to this proposal.

In brief, the legislation would revise the two basic Federal fish and wildlife enforcement statutes, the Lacey and Black Bass Acts, to provide more effective tools to the enforcement agencies of the States and the Federal Government to control the illegal trade in fish and wildlife. The Lacey and Black Bass Acts date as far back as 1900. They were originally enacted to respond to the inability of the States to enforce State wildlife conservation laws beyond the borders of each State.

The Lacey and Black Bass Acts currently restrict the importation and interstate transportation and sale of illegally taken fish and wildlife. These two statutes are the major Federal laws which assist other States and foreign nations in the enforcement of their fish and wildlife conservation statutes.

The theory of these laws is that the Federal Government should attempt, where it can, to prohibit the interstate transportation of fish and wildlife products when the products are taken in violation of a State or foreign law. Although the States under our system have the primary responsibility for the conservation of fish and resident wildlife, it is clear that the States cannot do this job alone. They need the assistance of the Federal Government to effectively enforce State laws beyond their borders.

The role of the Federal Government in enforcing foreign laws is equally if not more important. Although the United States probably has the best wildlife management system in the world, we recognize that the conservation of the world's wildlife depends on other nations taking care of their own resources.

Many foreign nations have a deep desire to develop their natural resources in a responsible fashion and have taken steps to control the harvest and trade in their domestic species. Although the United States cannot and should not attempt to tell these nations how to run their own wildlife management programs, we do have a responsibility to assist their conservation efforts by prohibiting the importation of wildlife taken in violation of foreign laws.

Despite the valuable role that the Lacey and Black Bass Acts have played in the enforcement of State and foreign fish and wildlife laws, a number of problems have developed with these statutes over the years which have hindered their effectiveness, and in some cases, precluded enforcement of major violations. These problems include unreasonably low penalties, excessively rigid criminal culpability standards, insufficient coverage of species subject to extensive trade, and excessively rigid marking and labeling requirements. H.R. 5604 would cure these and other defects that have developed in these acts.●

● Mr. MURPHY of New York. Mr. Speaker, in recent years a massive illegal trade in fish and wildlife and their parts and products has been uncovered by the various Federal agencies charged with enforcing U.S. fish and wildlife laws. Evidence indicates that much of this illegal and highly profitable trade is handled by well-organized operations run by professional "white collar" criminals. This illegal trade is estimated to be as much as 10 to 25 percent of total wildlife shipments, depending upon the species involved, and valued at between $50 to $100 million annually.

This illegal trade has resulted in serious and detrimental consequences. It threatens the survival of many species of fish and wildlife, especially those which have an aesthetic or commercial value. It threatens agriculture and pet industries because of the introduction of exotic diseases, the most harmful of which is Newcastle disease, a disease transmitted by certain imported birds. In 1979, approximately 14,000 pet birds exposed to this disease had to be destroyed.

Currently, the trade in fish and wildlife is controlled primarily by the Black Bass Act and the Lacey Act. The purpose of these acts is to thwart the illegal interstate and foreign commerce of fish and wildlife taken or possessed in violation of certain State and foreign laws. However, over the years these acts have become ineffective in that they no longer provide an adequate deterrent to this illegal traffic. Simply stated, the penalties provided in these acts are too low and the criminal culpability standards of the Lacey Act are too rigid.

The purpose of H.R. 5604 is to provide for more effective enforcement of State and foreign fish and wildlife laws.

In accomplishing this purpose, the legislation would raise both civil and criminal penalties of the current laws to subject violators to a civil penalty of $10,000 and a criminal penalty of $20,000 or 5 years imprisonment, or both. The criminal culpability standards would be changed to make it clear the Federal Government need only prove knowledge of the facts or elements of a violation and not knowledge of the Federal act itself.

In addition, the rigid marking requirements governing current shipments of fish and wildlife products, which have encouraged thefts in the past, would be made more flexible.

I urge the prompt passage of H.R. 5604.●

The SPEAKER pro tempore. The question is on the motion of the gentleman from Louisiana (Mr. Breaux) that the House suspend the rules and pass the bill, H.R. 5604, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

INTELLIGENCE AUTHORIZATIONS ACT FOR FISCAL YEAR 1981

Mr. BOLAND. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 7152) to authorize appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1981".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the conduct of the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1981, for the conduct of the intelligence and intelligence-related activities of the agencies listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Permanent Select Committee on Intelligence of the House of Representatives to accompany H.R. 7152 of the 96th Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1981, funds may not be obligated or expended for any program for which funds are authorized to be appropriated by section 101 in an amount in excess of the amount specified for that program in the classified Schedule of Authorizations described in section 102 unless the Director of Central Intelligence or the Secretary of Defense notifies the appropriate committees of Congress of the intent to make such obligation or expenditure not less than fifteen days before such obligation or expenditure is made.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 104. Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 105. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1981 the sum of $11,400,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1981 the sum of $18,000,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and forty-five full-time personnel as of September 30, 1981. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1981, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1981, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1981, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1981 the sum of $55,300,000.

TITLE IV—GENERAL PROVISIONS

INCREASE IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 401. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

FUNDS TRANSFERS BY THE SECRETARY OF DEFENSE

SEC. 402. (a) During fiscal year 1981, the Secretary of Defense may pay for the expenses of arrangements with foreign countries for cryptologic support. Payments under this section may be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective only to the extent that appropriated funds are available for such purpose.

ADMINISTRATIVE PROVISIONS RELATING TO SPECIAL CRYPTOLOGIC ACTIVITIES OF THE NATIONAL SECURITY AGENCY

SEC. 403. (a) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, during fiscal year 1981 the Director of the National Security Agency may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

(b) During fiscal year 1981, the Director of the National Security Agency may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection—

(1) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (1), (2), (7), (9), (10), and (11) of section 911, and under sections 912, 914, 933, 941, 942, and 945, of the Foreign Service Act of 1946 (22 U.S.C. 1136 (1), (2), (7), (9) (10), (11), 1137, 1138a, 1148, 1156, 1157, 1160); and

(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency determines that it would be in the public interest to provide such housing.

(c) The authority of the Director of the National Security Agency to make payments under subsections (a) and (b) and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

TRAVEL EXPENSES OF PERSONNEL ASSIGNED TO CRYPTOLOGIC TRAINING OUTSIDE THE UNITED STATES

SEC. 404. (a) During fiscal year 1981, travel, transportation, and subsistence expenses may be paid under chapter 57 of title 5, United States Code, to civilian and military personnel of the Department of Defense who are assigned to cryptologic training outside the United States for a period of one year or longer without regard to section 4109(a)(2)(B) of such title.

(b) Any individual who is liable to the United States for any overpayment which was made to or on behalf of such individual before October 1, 1980, under chapter 57 of title 5, United States Code, while such individual was an employee of or assigned to duty with the National Security Agency and which was subsequently determined to be subject to the limitations contained in section 4109(a)(2)(B) of such title is hereby relieved of liability to the United States for such overpayment.

SECURITY OF CERTAIN FACILITIES OF THE NATIONAL SECURITY AGENCY

SEC. 405. During fiscal year 1981, the Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction.

AUTHORITY TO PAY DEATH GRATUITIES

SEC. 406. (a)(1) During fiscal year 1981, the Director of Central Intelligence may pay a gratuity to the surviving dependents of any officer or employee of the Central Intelligence Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(2) The provisions of this subsection shall apply with respect to deaths occurring after June 30, 1974.

(b) During fiscal year 1981, the Secretary of Defense may pay a gratuity to the surviving dependents of any officer or employee of the Department of Defense or of any member of the Armed Forces—

(1) who—

(A) is assigned to duty with an intelligence component of the Department of Defense and whose identity as such an officer, employee, or member is disguised or concealed; or

(B) is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and

(2) who after the date of enactment of this Act dies as a result of injuries (excluding disease) sustained outside the United States and whose death—

(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(c) Any payment under subsection (a) or (b) shall—

(1) be in an amount equal to the amount of the annual salary of the officer, employee, or member concerned at the time of death;

(2) be in lieu of payment of any lesser death gratuity authorized by any other law; and

(3) be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).

(d) The authority of the Secretary of Defense and the Director of Central Intelligence to make payments under this section is effective only to the extent that appropriated funds are available for such purpose.

The SPEAKER pro tempore. Is a second demanded?

Mr. ROBINSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 20 minutes, and the gentleman from Virginia (Mr. ROBINSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7152, the Intelligence Authorization Act for fiscal year 1981, is the third such bill in as many years reported out by the Permanent Select Committee on Intelligence. Like its predecessors, it was approved unanimously in committee—another example of the way in which the select committee has been able to deal with sensitive areas on a truly bipartisan basis. I compliment all members of the committee for this continued exercise of good sense and patriotism in such a sensitive area of Government.

As in past years, this bill authorizes all the funds for the next fiscal year for the intelligence and intelligence-related activities of the U.S. Government.

The category of "intelligence activities" includes all the activities of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, other intelligence components of the Department of Defense and the Departments of the Army, Navy, and Air Force, the Bureau of Intelligence and Research of the Department of State, the intelligence divisions of the Federal Bureau of Investigation, intelligence elements of the Departments of the Treasury and Energy and of the Drug Enforcement Administration, and the Intelligence Community Staff of the Director of Central Intelligence.

The category of "intelligence-related activities" includes a diverse array of reconnaissance, surveillance and target acquisition programs which are a functional part of the basic military force structure and provide direct information support to combat operations.

The Committee on Armed Services shares jurisdiction with the Permanent Select Committee on Intelligence in this latter area. The other committee requested sequential referral of H.R. 7152, and as its report indicates, concurred in the recommendations concerning intelligence-related activities found in the bill and its classified annex. Further, consultation with the Committee on the Judiciary has resulted in agreement on the amounts to be authorized for the intelligence programs of the FBI.

The format of H.R. 7152 remains basically the same as in the past. The bill authorizes fiscal year 1981 appropriations for all intelligence and intelligence-related activities, but the actual figures are to be found in the classified schedule of authorizations and a detailed classified annex to the report accompanying the bill.

Actual figures contained in the bill itself are those for the Intelligence Community Staff, which supports the Director of Central Intelligence in his role as head of the intelligence community, for the Central Intelligence Agency retirement and disability system and for the counterterrorism activities of the Federal Bureau of Investigation.

Aside from certain general provisions which appear in this bill as they have in past authorization acts, the bill contains certain new statutory authorities for fiscal year 1981. These include: A notification requirement when obligations—by transfer, reprograming or otherwise—exceed the amounts authorized in the bill; authority—previously written into the annual defense appropriations acts—to pay for cryptologic agreements with foreign countries; and a number of provisions relating to benefits and allowances of DOD intelligence personnel assigned overseas.

Further, certain claims of the U.S. Government against DOD personnel are forgiven in an amount not exceeding $50,000 and the General Services Administration is given authority to provide police protection to certain classified National Security Agency premises which it could not otherwise protect.

Lastly, both the Central Intelligence Agency and the Department of Defense are authorized to make lump sum death gratuity payments for certain of their employees who die abroad in the performance of duty. These payments would be identical to those already authorized by law for State Department employees.

Further, it is to this section that the committee recommends a change in order to correct an inadvertent exclusion of certain intelligence personnel. The change is embodied in the amendment which I have offered and which will be the subject of a colloquy between the chairman and the Program and Budget Authorization Subcommittee, the gentleman from Missouri (Mr. BURLISON), and the gentleman from Illinois (Mr. DERWINSKI).

Mr. Speaker, one reason for the bipartisan support which H.R. 7152 enjoys, is that all the recommendations of the Subcommittee on Program and Budget Authorization adopted by the committee have been so painstakingly documented and reasoned in their approach. That subcommittee had to review numerous studies, thousands of pages of justification material and has held more than 50 hours of hearings and briefings in its review of the budget. I attribute the great success of this effort—and the important and oft-needed guidance it has provided the intelligence community—equally to the character of the chairman, BILL BURLISON of Missouri, and ranking minority member, KEN ROBINSON of Virginia. Both these men have worked hard, considered long and led this entire budget process to the point where it has become a very effective tool of congressional oversight of intelligence activities.

Mr. Speaker, let me just add that the committee has once again considered the question of making public the overall intelligence budget figure and has rejected it. The committee continues to believe that caution should rule in this area since, once down the road of budget disclosure, the committee is uncertain at what point it will be possible to stop. Yet once down that road, pressure only mounts for more detail. The committee seeks to avoid that sort of scenario and feels further that even if the budget total were revealed, its value in terms of public accountability would be low without the necessary—and highly classified—information which can put it in context for the outside observer. That information is contained only in the committee's classified annex to its report.

Mr. Speaker, let me close by stating that, as in years past, the committee has made and continues to make the classified annex to its report available to all Members of the House during business hours in the committee's rooms. I would urge Members who have not yet had an opportunity to do so to read this report carefully.

I would like at this point to yield the remainder of my time to the distinguished chairman of the Program and Budget Authorization Subcommittee, the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON. Mr. Speaker, I want to first express my appreciation to the gentleman from Massachusetts for yielding this time to me. I want to take this opportunity to commend the gentleman on the great time and effort that the gentleman has devoted to our subcommittee work, in spite of the fact that the gentleman chairs the full committee and has many other important responsibilities in the House. The gentleman always is present for our hearings and for our markups and other proceedings.

Mr. Speaker, I would like to say the same for our very distinguished ranking minority member of the Subcommittee on Budget, the gentleman from Virginia (Mr. ROBINSON). I think the gentleman from Virginia must be the busiest Member of the House of Representatives because I am familiar with the work that the gentleman does on the Appropriations Subcommittee on Agriculture and the Subcommittee on Defense.

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He still has time to devote an enormous amount of effort to the work of this subcommittee.

Mr. Speaker, this bill, H.R. 7152, provides specific authorization for intelligence and intelligence-related activities. It authorizes those activities which make up what we call the national foreign intelligence program which provides intelligence of a very broad nature for the senior level of Government, particularly the President, the Cabinet, and the Joint Chiefs of Staff. These activities are conducted by several departments and agencies but are coordinated and tasked by the Director of Central Intelligence who is also responsible for budget preparation.

Further, this bill authorizes intelligence-related activities of the Department of Defense which are programs that are integral to the defense force structure but which are similar to national intelligence programs and are often tasked for national intelligence purposes, particularly in peacetime. The similarity of programs and functions between the national intelligence programs and the intelligence-related activities of the Defense Department is the reason that both are considered by the Select Committee on Intelligence and authorized in this bill. We have worked to assure that the program areas are complementary and mutually supportive but not duplicative. The referral of this bill to the Committee on Armed Services has assured that the judgments we have made from an intelligence viewpoint are equally sound from a military perspective. We have worked closely with that committee on a continuous basis and achieved a position agreeable to both committees even before referral.

Mr. Speaker, most intelligence activities are classified and necessarily so. In some cases, even the very existence of the program or activity is held secret. This sensitivity limits the description we can offer here on the floor. The schedule of authorizations to accompany the bill and the classified annex to the report have been available to Members. A number of Members have reviewed these materials. The subject material is complex but we have continued to revise these classified reports to improve their clarity.

The committee continues to recommend that the budget for intelligence not be disclosed. The disclosure of a single budget number might not itself be harmful but some explanation of the content and meaning of the number would be essential. But such an explanation would be excessively revealing.

Moreover, the committee recognizes that intelligence is inherently secret and any disclosure is the beginning of an erosive process. In discussing this point, people often refer to the degree of disclosure of our military budgets and systems. It is not a good analogy: The existence of military systems must be known in order to have deterrent value. If deterrence fails, military systems are effective in battle because of their numbers, the manner in which they are employed and the skill of the personnel using them.

Conversely, in the case of intelligence the mere awareness of an intelligence activity can easily reduce or eliminate its effectiveness, may endanger lives, and may lead to the collection of false information contrived by our adversaries to confuse or mislead us.

Mr. Speaker, I would like to summarize briefly the organization of H.R. 7152.

Title I provides for the bulk of our intelligence and intelligence-related activities. As I said earlier, funds and program details are in the classified schedule of authorizations and the annex to the report. One exception is the authorization for the counterterrorism program of the FBI which is unclassified. The bill provides $11.4 million for this function.

Title II provides for the Intelligence Community Staff. This group of 245 people assist the Director of Central Intelligence with his responsibilities for overall coordination of intelligence and preparation of the budget. An authorization of $18 million is recommended which is $700 thousand less than requested. The reduction is in the area of external contracts.

Title III provides authorization of $55.3 million for the Central Intelligence Agency retirement and disability system. This is a program established by Congress in 1964 to provide for those CIA personnel who perform hazardous duties or are in special situations, usually abroad, which may limit the length of their careers.

Title IV is devoted to general provisions which allow for a number of 1-year authorities. As in the past, section 401 provides for adjustments to pay which may occur as a result of general pay raises and other personnel legislation.

Title IV contains certain new statutory authorities for fiscal year 1981. These include: Authority—previously written into the annual defense appropriation acts—to pay for cryptologic agreements with foreign countries; and a number of provisions relating to benefits and allowances of DOD intelligence personnel assigned overseas. Further, certain claims of the U.S. Government against DOD personnel are forgiven in an amount not exceeding $50,000 and the General Services Administration is given authority to provide police protection to certain classified National Security Agency premises which it could not otherwise protect.

Lastly, both the Central Intelligence Agency and the Department of Defense are authorized to make lump sum death gratuity payments to the survivors of certain of their employees who die abroad in the performance of duty.

These payments would be similar to those already authorized by law for State Department employees. The committee believes it is important to provide a gratuity for our country's intelligence personnel who must bear the risk of service overseas and who are engaged in intelligence activities which expose them to substantial danger.

The amendment which Chairman BOLAND has offered changes the definition of which employees are eligible for payment of the death gratuity. This will be made more clear in a few minutes in a colloquy with the gentleman from Illinois (Mr. DERWINSKI).

Mr. Speaker, this bill authorizes less than the administration requested but still permits real growth over last year. Some specific proposals have been recommended for deferral, other for termination while a few have been increased. The net reduction in this bill is in contrast to a substantial addition by the other body.

Not all matters considered in the authorization process are budgetary matters. We try to insure that every program and expenditure is worthwhile in terms of the intelligence gained. Moreover, we try to assess whether those programs which risk lives or the position and prestige of the United States throughout the world are worth the risk. If not, they are not approved.

The world is ever more turbulent which has enlarged the need for intelligence. These increased demands for intelligence are being faced in an era of tightening budgets. Funding increases are few and numbers of personnel have been declining slightly in recent years. Sophisticated electronics computers, modern communications, and other technical contributions have helped efficiency and productivity.

Nonetheless, the proper balance between technical collection and that conducted by humans, between effort spent to collect information and that spent to analyze it, and many other trade offs are difficult to make and will continue to be matters of serious consideration and debate.

Mr. Speaker, H.R. 7152 is an important bill. I urge its passage.

Mr. ROBINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleagues in urging support of H.R. 7152, authorizing appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of our country. I fully support the amendment to be offered by our chairman to implement the proposal by Congressman DERWINSKI, of Illinois, a little later.

Initially, I would like to thank my colleagues on the other side for the kind words they have had to say about my work with this committee, and commend them for their unfailing bipartisanship in terms of the treatment of the minority on our subcommittee, and for the diligence in working with us to arrive at satisfactory settlement of our disagreements.

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Additionally, Mr. Speaker, I want to commend the staff of our subcommittee for its diligence and for its dedication and commend them also for their nonpartisanship. As a minority member of the full committee and of this subcommittee, I feel very close and comfortable with all of them and I consider that they are totally bipartisan in their treatment of us on the minority.

Mr. Speaker, H.R. 7152 is the product of a continuing intensive examination of our Government's intelligence needs begun almost 3 years ago following establishment of the Permanent Select Committee on Intelligence, and of a detailed review of the fiscal year 1981 intelligence resources requested by the President to meet these needs. Concurrent with this review of intelligence resources was a program-by-program review of all intelligence activities.

As a member of the Select Committee's Subcommittee on Program and Budget Authorization, I participated in this exhaustive examination. Mention has been made of the many hours of hearings, thousands of pages of testimony, program justification material and special studies that have gone into the preparation of this bill. I would like to emphasize the thoroughness of the committee's examination of the fiscal year 1981 request and assure my colleagues that the committee has vigorously pursued its intelligence community oversight responsibilities.

Authority over the resources available to intelligence agencies, as represented by the annual authorization of funds, continues to provide the committee with a key means to carry out its responsibility of insuring effective congressional oversight of the U.S. intelligence effort. This authority also conveys a responsibility to insure adequate legislative and funding support for our country's intelligence agencies and operations.

We live in a rapidly changing world. One year ago, 53 Americans were not being held hostage in Iran, the Soviets had not invaded Afghanistan, and Africa and Central America were not quite so dangerously disrupted as they are today.

The uncertain nature of the world presents many challenges to our intelligence agencies. Given the global economic and military involvement of the United States, the informational needs of policymakers are near infinite in scope. As U.S. military and economic power and ability to influence world events decline, relative to the capacities of others, the choices for policymakers become more difficult, and the need for good and timely intelligence increases.

In reviewing the fiscal year 1981 budet request, the committee placed special emphasis on providing sufficient resources to adequately cope with the challenges of today, as well as anticipated future intelligence needs.

I was particularly concerned that we continue to maintain and improve our military intelligence capabilities, and not permit them to be compromised in cost trade-offs with highly sophisticated systems for treaty monitoring or other high-level national intelligence. The significantly improved Soviet military, coupled with an increasingly aggressive Soviet foreign policy, underscores the need for continued improvements in the collection and analysis of Soviet military developments and ambitions.

The select committee examined carefully the balancing of national intelligence versus tactical military intelligence resource requirements, and I am convinced we have provided for essential military intelligence capabilities within the always present budget constraints.

For fiscal year 1981, the administration requested a substantial increase in overall intelligence funding over fiscal year 1980 levels. I fully support our committee's recommendation not to publicly disclose the amounts of these requested funds. I will not discuss, therefore, specific committee recommendations. Details of these recommendations are contained in the classified annex to our committee report which, along with the classified schedule of authorizations referred to in H.R. 7152 have been available for review by Members of the House since May 7.

While the committee generally supported the funding levels requested by the President, we were not persuaded that all of the specific programs were fully warranted. The committee's recommendations would delete or defer certain programs. In other cases, it would increase program funding. The funding authorization recommended by the committee, while a net reduction from the request, will allow real growth in the intelligence programs.

In addition to authorization of appropriations and personnel ceilings for intelligence activities, H.R. 7152 contains, under title IV, several new statutory authorities for fiscal year 1981 which have been described.

I fully support these provisions—many of which have been written into previous defense appropriations acts. They provide certain needed authorities to the Central Intelligence Agency, Department of Defense, and National Security Agency, including the authority to pay for cryptologic agreements with foreign countries; to provide benefits and allowances to cryptologic personnel assigned overseas comparable to those already authorized for CIA and State Department employees, and for the payment of a lump-sum death gratuity to the survivors of certain intelligence personnel who die overseas in the performance of their duties.

In closing, Mr. Speaker, H.R. 7152 provides for a program to meet the near-term intelligence needs of our Nation, as well as providing for the investment needed to sustain the intelligence capabilities and technologies essential to our national security and foreign policy in the future.

I fully support the bill and urge its passage.

Mr. ROBINSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), a member of our subcommittee.

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of H.R. 7152 which is important to the effective conduct of our Nation's intelligence activities.

The Intellligence Authorization Act of 1980 provides the House with its third opportunity to vote on legislation providing the authority for the conduct of our country's intelligence counterintelligence, and counterterrorism programs. This is the third time that Members of this body have been in a position to go to one source—the annex to the committee's report on this legislation—and be apprised of all the activities conducted by our intelligence agencies. And, this is the third opportunity for this body to go on record in support of the nuts and bolts operations so vital to our Nation's security.

Mr. Speaker, it is certainly true that the actual dollar and personnel figures with which we are dealing today are incorporated in H.R. 7152 only by reference. However, even in the free and open society in which we live, it is well recognized that there are matters which are legitimately kept secret; that there are matters which, if brought to the attention of our constituents, would arguably do them little good and certainly do them great harm; and, that there are matters about which we, as elected officials, must truly act as the representatives of the people in overseeing the activities conducted by our intelligence agencies at the direction of the President.

Mr. Speaker, it is often said that the people have a "right to know" what its government is doing. As a general proposition, this certainly cannot be questioned, but as with all other rights—be they constitutional, from our statutes, or from the common law—there is often an inherent conflict: The right to know versus the right to be secure from foreign aggression. An understanding of the true nature of this conflict explains the growing support for a strong and vital intelligence community, even though it must operate in secret as an entity serving the good of an open society.

Some have suggested that the Intelligence Committee, of which I am a member, has been granted a license to act willy-nilly, shrouded in secrecy. Yes, the committee has been delegated the responsibility toward putting together the intelligence community's budget authorization, but certainly the committee has not been granted the authority to make it all work. Each Member of the House retains that authority—and indeed the duty—to review our work so that he or she may go back to his or her constituents and say with conviction that our intelligence agencies are acting responsibly, within our laws, and for the collective good.

Mr. Speaker, I would like to highlight one aspect of this legislation: Section 406. It provides a death gratuity for certain Central Intelligence Agency employees killed while performing their duties overseas. This authorization is clearly needed by the CIA, and it is only just that we provide it.

We have all heard of the tragic death in 1974 at the hands of terrorists of the CIA station chief in Athens, Richard Welch. However, by the very nature of the work of a CIA intelligence officer, other equally upsetting deaths of patriotic Americans employed by the CIA in service to our country are not publicly known.

Mr. Speaker, legislation authorizing a death gratuity for CIA comes from the persistent urging of our colleague from Illinois, ED DERWINSKI. He has fought long and hard for this long overdue legislation, and it is a tribute to him that the Intelligence Committee has chosen to incorporate it as part of this legislation.

Mr. Speaker, I would like to note the unanimous support within the Intelligence Committee for this legislation. Detailed, arduous, and taxing work went into putting this legislation together, the foundation being firmly laid in the Budget Subcommittee, chaired by the distinguished gentleman from Missouri (Mr. EURLISON) and served in the capacity as ranking minority member by the distinguished gentleman from Virginia (Mr. ROBINSON). Their tireless, workmanlike efforts—and those of diligent staff—must not go unnoticed.

Mr. Speaker, I urge support of the Intelligence Authorization Act of 1980.

Mr. ROBINSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, I note with great pleasure that the intelligence authorization bill contains a death gratuity benefit for survivors of intelligence personnel killed abroad. I was one of the aimost 100 Members who cosponsored H.R. 5666, the legislation which was introduced by my colleague from Illinois, Mr. DERWINSKI, to provide this benefit. Enactment of this measure will reassure our intelligence personnel that the Congress of the United States supports their efforts. I commend the committee for its including a death gratuity provision in the intelligence authorization bill. I support this provision as I support the authorization bill itself.

Mr. ROBINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON. I am glad to yield to my committee chairman.

Mr. BOLAND. Mr. Speaker, I want to add my note of congratulations to the distinguished gentleman from Illinois (Mr. DERWINSKI) and also applaud the remarks of the gentleman from Kansas (Mr. WINN) on this particular amendment.

This was a provision that the Subcommittee on Program and Budget Authorization agreed with unanimously, and it was shepherded through the full committee, the Permanent Select Committee on Intelligence, by a colleague of the gentleman from Illinois (Mr. DERWINSKI), the gentleman from Illinois (Mr. MURPHY). This is an area that needed correction, and I am delighted that we have included it in this particular bill.

Mr. Speaker, again I want to compliment the distinguished gentleman from Illinois (Mr. DERWINSKI) for his authorship of this particular amendment.

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Mr. ROBINSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I note with great pleasure that the fiscal year 1981 intelligence authorization bill contains in section 406 a provision for payment of a death gratuity benefit to the survivors of intelligence personnel killed overseas. Nearly 100 Members of the House have cosponsored H.R. 5666, the legislation which I introduced on October 22 of last year to provide this benefit. Enactment of this legislation will be an important reaffirmation to our intelligence personnel that the Congress of the United States stands behind them in their efforts which are vital to the security of this country. It will demonstrate that we are concerned about the welfare of their families should tragedy strike. My bill was referred to the House Permanent Select Committee on Intelligence. I commend the committee for its decision to include a death gratuity provision in the intelligence authorization bill which is before us today.

I have been in touch with the Intelligence Committee on an inadvertent omission in the bill, as originally drafted, of a certain category of intelligence personnel, who should be included. The amendment by the gentleman from Massachusetts corrects this oversight.

In addition, I would like to direct some remarks to H.R. 5615, the protection of identities of certain U.S. undercover intelligence officers, agents, informants and sources, another matter having to do with intelligence matters.

Legislation to protect our intelligence people under cover from public identification by their adversaries is long overdue. American intelligence personnel are among our most loyal, hardworking and dedicated public servants; they are highly specialized and highly motivated. Those abroad serve their country in arduous and frequently dangerous assignments.

Although a competent and effective Association of Former Intelligence Officers exists to speak on behalf of these practitioners of the "craft of intelligence," it is interesting to note that American intelligence professionals are not, themselves, organized. They have no association to represent them to their employers, to the public or to the Congress. They are indeed a silent service—in more ways than one.

You can thus imagine the frustration and anger felt by a dedicated operations officer or communication specialist or clerk-typist in one of the world's backwaters or hotspots, working at difficult and dangerous jobs for the country that placed them there. These people have suffered congressional witch-hunts, media anti-intelligence campaigns and personnel cuts at headquarters. Having been repeatedly marked for murder by radical groups, they may be excused if they sometimes wonder whether the Government which sent them abroad worries about them. Unfortunately, there is no law against someone publicly identifying these people as U.S. intelligence employees undercover and thus pointing them out for attack.

It was Christmas 1975, 4½ years ago, that Richard Welch, CIA Chief of Station in Greece, was murdered by terrorists soon after being named as such by an American publication. On the Fourth of July this year, the home of an American Embassy official in Jamaica was bombed and machinegunned after the same publication, under a different name, identified him as the local CIA Station Chief.

That publication, now called the Covert Action Information Bulletin, has been publishing all this time, naming names and giving titles, revealing addresses and divulging telephone numbers, in an open effort to negate the effectiveness of our intelligence abroad—a mission which every American President and Congress since 1947 has believed to be in the national interest to maintain. Intelligence operations are conducted by the U.S. Government as a vitally necessary function for the survival of this country. It will surprise no one but the hopelessly naive if I point out that every major country conducts foreign intelligence operations.

It is well known that our intelligence community depends on the collaboration of foreign intelligence and security services and on that of foreign individuals. What with Hughes-Ryan and frequent security leaks and "dumps," the lack of an "identities" bill adds to the aura of disarray surrounding our intelligence efforts. It cannot but hurt that we are unable to tell potential informants and agents that the United States cannot protect their identities from disclosure.

Despite their country's mandate, nevertheless, the dedicated American officials of the intelligence community are not protected by law against the designs of their fellow countrymen marking them for assassination. Dick Welch's death was not enough. Perhaps the most recent attack in Kingston, Jamaica, is. After 4½ years, indeed this measure is long overdue.

Who is behind the Covert Action Information Bulletin, this publication which fingered Welch and the latest intended victim? One of the founders of the predecessor magazine and still connected with it today, Philip Agee, is a former CIA operations officer who resigned and defected to the Communists. He thanked the Communist Party of Cuba, as a matter of fact, for its help in writing his first book "exposing" the CIA. The Cuban Communist Party, as is well known, is often used as a cover by the Cuban intelligence service, the DGI, which itself is an adjunct of the Soviet KGB.

In any case, Agee and his comrades have publicly named American intelligence personnel in a number of countries over the intervening years. A lot of people, Government employees and others, Americans and foreigners, have been branded "CIA" by Agee and his fellow operatives.

How does Agee describe himself? In an interview printed in Tages-Anzeiger, Zurich, Switzerland, on April 22, 1975, he was asked his general opinion of intelligence agencies and answered as follows, according to the publication:

> It depends on their goals and motives. The CIA is plainly on the wrong side, that is, the capitalistic side. I approve KGB activities, communist activities in general, when they are to the advantage of the oppressed. In fact, the KGB is not doing enough in this regard, because the U.S.S.R. depends upon the people to free themselves. Between the overdone activities that the CIA initiates and the more modest activities of the KGB there is absolutely no comparison.

In an article he published in Esquire in June 1975, on the other hand, Agee said, "I aspire to be a Communist and a revolutionary."

Louis Wolf, Agee's comrade on the Bulletin staff, who actually made the charge in the Kingston case which was followed by the attack on the target's home, was interviewed by Pat Buchanan and Tom Braden on television soon thereafter. In response to prodding by the interviewers he revealed that, although he labors to negate the efforts of CIA officials today he would not have published the identities of U.S. intelligence personnel working against Nazi Germany in pre-World War II Europe. They were the good guys then; working against Communism, the DGI and the KGB today makes them the bad guys now.

These are the people of Covert Action Information Bulletin. Their work and their motives have been known to our beleaguered intelligence personnel abroad for years. They have been known to the Congress as well and yet there has been no legislation to outlaw their deeds. No wonder then that our intelligence people are angry and frustrated. Let us have the necessary bill now.

I yield now to my distinguished colleague from Missouri (Mr. Burlison) of the Permanent Select Committee on Intelligence.

Mr. BURLISON. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. Mazzoli), a member of the committee.

Mr. MAZZOLI. Mr. Speaker, I would like to extend congratulations to my chairman, the gentleman from Missouri (Mr. Burlison), for the outstanding work he has done, and also to my colleague on the other side of the aisle, the gentleman from Virginia (Mr. Robinson), for the outstanding work he has done in producing this bill.

Mr. Speaker, as a member of the House Intelligence Committee, I have expressed on a number of occasions my concerns about the need to publicly disclose the total budget figures for this country's intelligence activities.

The Intelligence Committee was originally established by the House with a mandate to study a number of issues. Among them was whether the disclosure of any of the funds authorized for the intelligence and intelligence-related activities of the Government is in the public interest.

In 1978, our committee began extensive hearings on this issue. While the committee found compelling evidence that disclosure of intelligence budget information was not justified at that time, the committee did agree to review this question on a yearly basis.

Since that time the committee has engaged in additional deliberations on this matter and I have become convinced that there are justifiable and compelling reasons to permit public disclosure of the total intelligence budget.

Foremost is the constitutional requirement that expenditures of all public money shall be published from time to time by the Congress.

It should be noted that the defense budget is publicly disclosed on an itemized basis and there is no compelling evidence that such disclosure is harmful to the national interest. It would seem a disclosure of only a total—not an itemized—intelligence budget similarly would do no harm.

The taxpayers deserve an explanation of the cost-effectiveness of the billions of dollars our intelligence agencies spend annually. A policy of public disclosure and public debate strengthens rather than weakens our national security. Such a debate could also help develop a national consensus for various defense policies.

It should also be noted that the Pike committee, the Church commiteee and the Rockefeller Commission all studied the Nation's intelligence system and, all recommended some form of budget disclosure for the intelligence agencies. These committees studied the question at length, and their serious study deserves the most careful consideration.

Implicitly in our yearly reexamination is the possibility—even the probability—that some kind of intelligence-budget disclosure will be made in the future.

While this year's authorization bill does not require disclosure, I am hopeful that our committee and the Congress will reach a consensus on this issue and allow for some form of disclosure in the near future.

Mr. BURLISON. Mr. Speaker, I take this opportunity to commend the gentleman from Kentucky for the attention he gives this issue. He revives consideration of it each year and insures that we have a look at it each year in the context of whatever change in circumstances may have occurred from the year preceding. I commend the gentleman for his diligent work in that area.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Panetta).

Mr. PANETTA. I thank the gentleman. I understand that the committee has included in its report a reference to foreign language needs and personnel management policies relating to linguists within the intelligence community. Is that right?

Mr. BURLISON. Yes, that is correct.

Mr. PANETTA. I wonder if the gentleman would be kind enough to describe briefly what the committee's concerns are in this area and what the committee is recommending in this bill.

Mr. BURLISON. I would be pleased to do so.

Our committee is gravely concerned about the shortfalls which exist in critical language skills, and particularly the shortages which are occurring in high priority intelligence programs. During its hearings with representatives of the intelligence community, the committee found that the linguist problem has been studied in detail; however, there was no evidence that a centralized effort had been made to develop corrective policies and programs. Recognizing this, the committee, in the report accompanying H.R. 7152, has directed the DCI and the Secretary of Defense to develop and submit with the fiscal year 1982 budget a program which encompasses a communitywide approach toward alleviating the linguist shortfalls.

The committee has asked that several aspects of the linguist problem be addressed in the proposed program. Committee areas of concern include: Personnel rotation policies, language training facilities, alternative approaches to language training, adequacy of recruitment policies and techniques, adequacy of career ladders, and paid policies for language trained individuals.

The committee intends to pursue this with additional hearings during the latter part of the calendar year. It is the committee's desire to insure that sufficient effort is being allocated to the problem and to monitor community progress in this area.

Mr. PANETTA. Well, let me commend the gentleman for paying special attention to this issue. I think it is extremely important to have the Director of Central Intelligence and the Secretary of Defense cooperate in looking at these intelligence requirements on a communitywide basis. I look forward to their report. I hope that the report will include a careful review of the existing foreign language training facilities of the Government and evaluate the adequacy of current levels of support for these institutions. As the chairman knows, my congressional district includes the Defense Language Institute—the largest foreign language institute of the Federal Government—and I therefore have a very strong interest in this matter. It is critical that we recognize foreign language competence as a basic element in our national intelligence capability. These programs deserve the wholehearted support of the Congress and the American people.

Let me urge the Intelligence Committee to pay close attention to DLI and other programs in any upcoming hearings on this subject.

Again, my thanks for the work of the subcommittee in addressing this issue.

Mr. BURLISON. The committee appreciates the interest of the gentleman from California in this critical problem area and his initiative in bringing it to the attention of the Members today. There is no question of the importance of foreign language training programs and I can assure the gentleman that the Defense Language Institute and other such programs will continue to receive the attention of this subcommittee.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. Zablocki), a member of the committee.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 7152, the Intelligence Authorization Act of 1980.

At the beginning, I want to commend the chairman of the Intelligence Committee, the gentleman from Massachusetts (Mr. Boland), a very fair and considerate chairman; Mr. Burlison, chairman of the Subcommittee on the Budget; and certainly, the ranking minority member, the gentleman from Virginia (Mr. Robinson) as well as the staff of the committee.

Mr. Speaker, H.R. 7152 is a bill whose passage is vital to the security of the United States. The programs to be carried out with the funds authorized by this bill will be used to collect and evaluate intelligence which is essential if the United States is to protect its interests around the world.

The role of intelligence in effective foreign policy is not always understood. In fact, it is sometimes underestimated and at times even ignored. When that happens it works directly against the national security of this country and the whole free world.

From my experience in these two important and inseparable areas—foreign policy and intelligence—I have come to recognize that the best way to prevent this from happening is through strong bipartisan cooperation.

It is that bipartisan spirit which guides my own Committee on Foreign Affairs. And it is that same bipartisan spirit which has guided the Intelligence Committee in bringing forth H.R. 7152.

For these many good reasons I support H.R. 7152 and urge my colleagues to do likewise.

Mr. BURLISON. Mr. Speaker, as our colleagues know, the gentleman from Wisconsin (Mr. Zablocki) is the ranking majority member on this committee, and, in spite of his busy duties elsewhere, he finds the time and the energy to make a great contribution to our Permanent Select Committee on Intelligence.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Weiss).

The SPEAKER pro tempore. The time of the gentleman from Missouri (Mr. Burlison) has expired.

Mr. ROBINSON. Mr. Speaker, not having any further requests for time on this side, I yield 2 minutes to the gentleman from New York (Mr. Weiss).

Mr. WEISS. Mr. Speaker, at the very outset I want to extend my appreciation to the distinguished ranking minority member for his courtesy in yielding time to me at this point.

Mr. Speaker, I do not want to seem like an ingrate, but what has just transpired, I think, is an indication of what is going wrong in this whole process. In 2 years we have had, I think, a classic case study of what happens when you start eroding free and open discussion in this body.

Two years ago we created a Select Committee on Intelligence, and that for the first time created two ranks of members, one more equal than the other. Then for the last 2 years we have had reports on legislation coming from that select committee which does not tell this House or the Nation anything about the intelligence activities of the country, including the total aggregate figures of what is being spent on intelligence.

Finally, we come in here under a suspension, so that even if the leadership wants to provide the time, the managers of the bill do not have an opportunity to provide time for Members to address the issues involved. I think this is a very dangerous path that we are going down. On the basis of the process itself, we ought to repudiate this piece of legislation.

Mr. Speaker, for the past 2 years I have voiced my deep concern at the decision of the Select Committee on Intelligence to withhold from the citizens of our Nation the sum of money it has authorized for U.S. intelligence operations. Today we are again being asked to vote for an authorization bill for an undisclosed amount of money for intelligence. Again I must rise in opposition.

The committee continues to refuse to divulge this information on the grounds that such disclosure would be harmful to our national security and inconsistent with the primary purpose of secrecy in intelligence matters. But how can the committee claim that revealing any information about the intelligence budget, including even the single budget total, would jeopardize national security when the Director of Central Intelligence has already approved disclosure of the aggregate total spent on foreign intelligence programs? The Director himself has said that there would be no breach of security to disclose this figure.

Even the committee itself has conceded this point, yet nevertheless declines to make this figure available to the American people on the grounds that it would be meaningless without a further breakdown or explanation. I disagree. I believe our citizens deserve as much information as possible that is consistent with our national security interests.

I must also express my strong objection to the decision to consider this important piece of legislation under suspension of the rules. Matters as vital to our national interest as intelligence authorization should receive close scrutiny by members of this body and open and robust debate. Instead, discussion will be severely limited and amendments will be prohibited.

It seems to me that in our overwhelming concern for national security we fail to recognize that freedom and liberty are the foundations of that security. Ben Franklin once said that he who would trade a little liberty for a little security would soon end up having neither liberty nor security. Let us heed his warning and remember that citizens of this open and democratic society have the right to know, at least, how much money we spend in the aggregate for intelligence purposes.

Should freedom and liberty ever disappear, they will not vanish in one fell swoop. Instead, they will erode over time because well-meaning people, overly concerned with security, failed to realize the ramifications of their actions.

I urge my fellow Members who believe in protecting and preserving the rights of the American people to join me in opposing this bill.

Mr. BURLISON. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Missouri.

Mr. BURLISON. Mr. Speaker, the gentleman has heard the earlier debate that the schedule of authorizations, which is classified, and the annex, the classified annex to our committee report, is available to the membership of the House to examine. The gentleman is aware of that.

Mr. WEISS. I appreciate that, but if the gentleman will allow me——

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. Weiss) has expired.

Mr. ROBINSON. Mr. Speaker, I have no further requests for time on this side.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I take this time only to underscore what the distinguished gentleman from Virginia (Mr. Robinson) has indicated about the staff of this committee that does most of the work on the Subcommittee on Program and Budget Authorization. In my judgment and in the judgment of all of those who serve on that subcommittee, and also all of those who serve on the Permanent Select Committee on Intelligence, all congressional committees have fine staffs, but I know of no congressional committee that has a staff that works as hard and puts in the long hours as the staff of this particular subcommittee. I know of no staff, really, that knows as much if not more about the matters and the systems and the problems that the intelligence community has than staff members of the subcommittee chaired by the gentleman from Missouri (Mr. Burlison).

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Jim Bush and Marty Faga, Duane Andrews, Annette Smiley, and Ilene Katz perhaps are as well versed and knowledgeable in intelligence matters as anyone on this bill. I am delighted that the gentleman from Virginia took the time to compliment them as the gentleman from Missouri has done also.

Again, I want to add my commendation and congratulations to that staff. Thank you very much.

Mr. ROBINSON. I would like to second everything that our chairman has said with regard to our staff. It is unparalled with regard to the treatment of both sides of the aisle and in its competence as well.

Mr. Speaker, at this time I would like to yield 2 minutes to the gentleman from Illinois (Mr. Price).

Mr. PRICE. Mr. Speaker, this is the third year that the Permanent Select

Committee on Intelligence and the Armed Services Committee worked together to report the authorization bill for intelligence and intelligence-related activities of the intelligence community.

As the Members will recall, the Armed Services Committee shares responsibility for authorizing certain elements in the intelligence authorization bill with regard to intelligence-related activities for the Department of Defense, and I am most pleased to report on the continued excellent working relationship with, and cooperation of, the select committee members and staff in arriving at complete agreement on all items of joint responsibility.

As part II of the report states, the results of our recommendations are classified and are included in the classified annex to the report on H.R. 7152 prepared by the select committee.

For the information of the members, the overall funds jointly authorized fall in budget category 050 and are in the Armed Services Committee authorization figures contained in H.R. 6974 which was passed in the House on May 21, 1981.

I urge the members to support the intelligence authorization programs for fiscal year 1981 and cast a favorable vote for H.R. 7152.

● Mr. BROOMFIELD. Mr. Speaker, as a member of the Foreign Affairs Committee, I am acutely aware of the role intelligence plays in the formulation of U.S. foreign policy. Needless to say, that policy presently leaves much to be desired in a number of important areas around the world and I am convinced that this can be at least partially attributed to a lack of good, insightful intelligence.

At this critical juncture in our Nation's history, we cannot afford such intelligence gaps. It is absolutely imperative that we have an effective global intelligence capability. This bill authorizes the money needed in fiscal year 1981 to help bring this about.

H.R. 7152 also contains a provision that deserves special notice. Specifically, I am referring to section 406 authored by my colleague on the Foreign Affairs Committee, Ed Derwinski. It authorizes the Director of Central Intelligence and the Secretary of Defense to pay a lump-sum death gratuity to the survivors of certain CIA and Department of Defense personnel who die overseas while in the performance of their duties. This is long overdue as it extends to our intelligence personnel abroad what other American employees have received for some time.

Like myself, my friend from Illinois has been a strong supporter of the U.S. intelligence community, not only in 1980, but also in the dark days of the mid-1970's. I commend my colleague for his initiative in offering the death gratuity provision and the Intelligence Committee for accepting it.

Mr. Speaker, I view this well-deserved, morale-boosting measure—in addition to its substance—as a gesture of support for our brave and dedicated intelligence people serving their country abroad in difficult and often dangerous circumstances. Passage of the Derwinski proposal means Congress, on behalf of a grateful American public, is saying, "well done" to these exceptional public servants.

In reviewing the Intelligence Committee's report accompanying this bill, I noted in particular the committee's rationale for not disclosing various intelligence budget figures. I unreservedly agree with that rationale as I believe such revelations would seriously endanger our foreign intelligence capabilities and therefore would not be in the national interest.

To my knowledge, no other country in the world discloses its intelligence budget, and for good reason. Once an intelligence figure is made public, it would be impossible to prevent the subsequent disclosure of many sensitive and critically important intelligence programs and activities. Among other things, I can envision such disclosures furnishing potential adversaries with significant insights into the nature and scope of our foreign intelligence effort, especially where analysis of year-to-year fluctuations in the budget are possible.

The committee report succinctly summarizes my feelings on this matter in responding to the public accountability argument in favor of budget disclosure:

> The Public does not wish congressional oversight to frustrate legitimate intelligence activities, but rather to guarantee their proper course. The committee continues to believe that disclosure of any intelligence budget information is not in the public interest. The committee has and will continue to make a consistent effort to conduct its oversight and legislative proceedings in public in order to provide the public with the assurance that intelligence activities are receiving appropriate congressional scrutiny."

Finally, I invite everyone's attention to the committee report's additional views written by our colleagues, Mr. Ashbrook and Mr. McClory, regarding the serious problems the FBI is experiencing in the preventive phase of its counterterrorism program. In this connection, I strongly endorse their recommendation that the FBI should "develop an aggressive informant recruitment program so that those groups that openly plan violence can be properly surveilled and prevented from carrying out such plans."

In sum, Mr. Speaker, H.R. 7152 is necessary legislation vitally important to our national security. I urge, therefore, that it be acted upon swiftly and favorably.●

● Mr. STARK. Mr. Speaker, I am voting against suspending the rules and passing H.R. 7152, the Intelligence Authorization Act, fiscal year 1981, because I continue to be concerned about the failure to publicly disclose at least the broad outlines of our intelligence budget.

Some years ago, a distinguished panel of the Bar Association of the city of New York looked at the budgetary procedure then in place and its constitutional implications. They concluded that the degree of secrecy then tolerated conflicted with the article I, section 9 "statements and accounts clause," in the Constitution that requires:

> No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

What was true in 1975 when the New York lawyers looked closely at this situation is still true today in my judgment. I agree with their conclusion that whether and to what extent greater specificity is mandated are more difficult questions. But it is clear that the American people are entitled to more information than they are getting today. This will in no way endanger necessary intelligence operations. But disclosure would be a blow for economy in Government and bring to the intelligence community some of the same oversight we urge for all Government spending.●

Mr. ROBINSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. Boland) that the House suspend the rules and pass the bill, H.R. 7152, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1981".

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 for the conduct of intelligence activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(b) The amounts authorized to be appropriated under this Act for the conduct of the intelligence activities of the agencies listed in subsection (a) are those listed in the classified Schedule of Authorizations for fiscal year 1981 prepared by the Select Committee on Intelligence. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1981 the sum of $18,700,000.

(b) For the fiscal year beginning October 1, 1980, the Intelligence Community Staff is authorized and end strength of two hundred and forty-five full-time employees. Such personnel may be permanent employees of the Intelligence Community Staff or employees on detail from other elements of the United States Government.

(c) Any employee who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that an employee may be detailed on a nonreimbusable basis for a period of less than one year for the performance of temporary duties as required by the Director of Central Intelligence.

(d) Except as provided in subsections (b) and (c), the activities and personnel of the Intelligence Community Staff shall be administered by the Director of Central Intelligence in accordance with the provisions of the National Security Act of 1947 (50 U.S.C. 401, et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j).

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1981 the sum of $55,300,000.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Appropriations authorized by this Act for salary, pay, retirement and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

SEC. 402. Section 5 of the Central Intelligence Act of 1949 (50 U.S.C. 403f) is amended by adding at the end thereof the following new subsections:

"(f) Accept, hold, administer, and utilize for artistic or general employee or dependent welfare, educational, recreational or like purposes, gifts, bequests, or devises of money, securities, or other property whenever the Director determines such action would be in the interest of the United States to do so, but may not accept any gift which is expressly conditioned upon any expenditure not to be met from such money, securities, or other property or from the income thereof unless such expenditure has been approved by law. Unless otherwise restricted by the terms of the gift, bequest, or devise, the Director may sell or exchange, or invest or reinvest, such property in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Gifts, bequests, and devises of money, securities and other intangible property accepted under the authority of this subsection, and the earnings and proceeds thereof, shall be deposited in a separate fund to be called the Central Intelligence Agency General Gift Fund and shall be disbursed upon the order of the Director. For purposes of Federal income, estate and gift taxes, all gifts, bequests, and devises accepted by the Director shall be deemed to be to or for the use of the United States.

"(g) Grant such monetary or other relief as the Director in his sole and unreviewable discretion deems appropriate whenever an employee or former employee of the Agency is found by the Director to have suffered unjustified negative career development or an unjustified personnel or administrative action.".

SEC. 403. (a) Chapter 4, title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 140a. Foreign cryptologic support.

"Funds made available to the Department of Defense for intelligence and communications purposes may be used to pay expenses of arrangements with foreign countries for cryptologic support. Such funds may be exchanged without regard to the prohibition contained in section 3651 of the Revised Statutes (31 U.S.C. 543).".

(b) The table of sections at the beginning of chapter 4 of such title is amended by adding at the end thereof the following new item:

"140a. Foreign cryptologic support.".

SEC. 404. (a) The Act of May 29, 1959 (73 Stat. 63) is amended by adding at the end thereof the following new sections:

"SEC. 9. (a) Funds of the National Security Agency may be used, with respect to a special limited class of its civilian and military personnel assigned outside the United States, to provide allowances and other benefits comparable to those authorized for officers and employees of the Foreign Service under clauses (1), (2), (7), (9), (10), and (11) of section 911 and sections 912, 914, 933, 941, 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (1), (2), (7), (9), (10), and (11), 1137, 1138a, 1148, 1156, 1157, and 1160).

"(b) Notwithstanding the provisions of section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 2675 of title 10, United States Code, or section 5536 of title 5, United States Code, the Director of the National Security Agency may—

"(1) rent or lease, for periods not exceeding ten years, such buildings and grounds outside the United States as may be necessary for the use of the National Security Agency; and

"(2) use such buildings and grounds to furnish personnel of such agency with living quarters, heat, light, and household equipment, without cost to such personnel, whenever the Director of the National Security Agency determines such action is in the public interest.

The Director of the National Security Agency may exercise the authority provided under this subsection only to the extent that funds have been appropriated for such purpose.

"SEC. 10. (a) In addition to the benefits provided in subsection 4109(a)(2)(B) of title 5, United States Code, the Director of the National Security Agency may provide allowances and other benefits to personnel assigned to training overseas for one year or longer to the same extent and for the same purpose for which such allowances and other benefits are provided employees of an agency under chapter 57 of title 5, United States Code.

"(b) In any case in which an employee of the National Security Agency received payment for training expenses under section 4109(a)(2)(B) of title 5, United States Code, before the date of enactment of this subsection and such payment was subsequently determined to have been improperly made as the result of an erroneous interpretation of such section, the Director of the National Security Agency may waive the collection of such erroneous payment, except that not more than a total of $50,000 in erroneous payments may be waived under this subsection.".

(b) The amendment made by subsection (a) shall become effective October 1, 1980.

SEC. 405. Section 3 of the Act of June 1, 1948 (40 U.S.C. 318), is amended by inserting "(a)" before "Upon" at the beginning of such section and by adding at the end of such section the following new subsection:

"(b) Upon request of the Director of the National Security Agency, the Administrator of General Services may detail special policemen appointed under the first section of this Act to provide protection for installations and grounds used by or under the control of the National Security Agency without regard to whether the United States has exclusive or concurrent criminal jurisdiction over such installations and grounds. Special policemen detailed to protect such installations or buildings shall have the same powers as special policemen appointed under the first section of this Act. The Administrator of General Services may extend the applicability of any regulation issued under section 2 to installations and grounds described in the first sentence of this subsection and to provide for the appropriate enforcement of such regulation.".

SEC. 406. (a) The Director of Central Intelligence and the Director of the National Security Agency are authorized to pay a gratuity to the surviving dependent or dependents of any officer or employee of their respective agencies who dies as a result of injuries (excluding disease) sustained outside the United States. The amount of the gratuity in the case of any such officer or employee shall be an amount equal to one year's compensation at the rate such officer or employee was entitled to receive at the time of death. Such a payment shall be made only upon a determination of the Director of Central Intelligence in the case of an officer or employee of the Central Intelligence Agency, or of the Director of the National Security Agency, that the death of such officer or employee (1) resulted from hostile or terrorist activities, or (2) occurred in connection with an intelligence activity having a substantial element of risk. Any payment made under this subsection shall be considered a gift and shall be in addition to any other benefit payable from any source.

(b) A death gratuity payment made under subsection (a) shall be made to the person or persons within the following classes and in the order named:

(1) To the widow or widower, if living.

(2) If no widow or widower, to the child or children in equal shares, if living.

(3) If no widow, widower, child or children, to the dependent parent or dependent parents in equal shares who last bore that relationship, if living.

(c) As used in this section—

(1) The terms "widow", "widower", "child", and "parent" shall have the same meaning given to such terms by section 8101 of title 5, United States Code.

(2) The term "United States" means the several States and the District of Columbia.

(d) The provisions of this section shall apply with respect to deaths occurring after June 30, 1974.

SEC. 407. (a) Part III of subtitle A of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 107.—GRANTING OF ADVANCED DEGREES AT DEPARTMENT OF DEFENSE SCHOOLS

"Sec.

"2151. Defense Intelligence School: degree.

"§ 2151. Defense Intelligence School: degree

"Under regulations prescribed by the Secretary of Defense, the Commandant of the Defense Intelligence School may, upon recommendation by the faculty of such school, confer the degree of master of science of strategic intelligence upon graduates of the school who have fulfilled the requirements for that degree.".

(b) The table of chapters at the beginning of subtitle A and of part III of subtitle A of such title are each amended by adding at the end thereof the following:

"107. Granting of Advanced Degrees at Department of Defense Schools..2151.".

Sec. 408. Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is amended by striking out in subsection (a) "and reports, in a timely fashion" and all that follows down through the period in subsection (b) and inserting in lieu thereof a period and the following: "Each such operation shall be considered a significant anticipated intelligence activity for the purposes of section 501 of the National Security Act of 1947.".

Sec. 409. The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

"CONGRESSIONAL OVERSIGHT

"Sec. 501. (a) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall—

"(1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this section referred to as the 'Select Committees') fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the Select Committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the Select Committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate;

"(2) furnish any information or material concerning intelligence activities which is in the possession, custody, or control of any department, agency, or entity of the United States and which is requested by either of the Select Committees in order to carry out its authorized responsibilities; and

"(3) report in a timely fashion to the Select Committees any illegal intelligence activity or significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activity or failure.

"(b) The President shall fully inform the Select Committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice.

"(c) The President and the Select Committees shall each establish such procedures as may be necessary to carry out the provisions of subsection (a) and (b).

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the Select Committees or to Members of the Congress under this section. In accordance with such procedures, each of the Select Committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves to strike out all after the enacting clause of the Senate bill, S. 2597, and to insert in lieu thereof the provisions of the bill, H.R. 7152, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, and for the Central Intelligence Agency retirement and disability system, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 7152, was laid on the table.

Without objection, House Resolution 686 was laid on the table.

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2597

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill, S. 2597, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none and, without objection, appoints the following conferees: Messrs. Boland, Burlison, Zablocki, Mineta, Robinson, and Whitehurst; and as additional conferees for such matters as fall within the jurisdiction of the Committee on Armed Services under clause 1(c) of rule X of the rules of the House, Messrs. Price, Ichord, and Bob Wilson of California; and as additional conferees solely for consideration of such provisions of sections 408 and 409 of S. 2594, and modifications thereof committed to conference as fall within the jurisdiction of the Committee on Foreign Affairs under clause 1(h) of rule X of the rules of the House. Messrs. Hamilton, Fascell, Broomfield, and Derwinski.

There was no objection.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 7152.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ASSISTANCE TO SMALL BUSINESS

Mr. SMITH of Iowa. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6626) to consolidate and modify the terms of the Small Business Administration programs under sections 7(a), 7(e), 7(h), 7(i), and 7(l) of the Small Business Act and sections 501 and 502 of the Small Business Investment Act of 1958, to exempt Small Business Administration loans from the environmental impact requirements of the National Environmental Policy Act of 1969, and to limit the annual amount of Small Business Administration loans, guarantees, and other obligations or commitments to the extent or amounts provided in appropriation acts as amended.

The Clerk read as follows:

H.R. 6626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 101. Section 7(a)(4) of the Small Business Act is amended to read as follows:

"(4) Except as provided in paragraph (5)—

"(A) no loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower for the revolving fund established by this Act would exceed $750,000: *Provided*, That no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed $350,000;

"(B) the rate of interest for the Administration's share of any such loan shall be the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus an additional amount as determined by the Administration, but not to exceed 1 per centum per annum;

"(C) no such loans including renewals and extensions thereof may be made for a period or periods exceeding twenty years, except that such portion of a loan made for the purpose of acquiring real property or constructing facilities may have a maturity of twenty-five years plus such additional period as is estimated may be required to complete such construction;

"(D) no amount of any guarantee fee shall be paid by a small business receiving any loan pursuant to this subsection.

"(E) any loan made under this subsection (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) may, upon the joint election of the borrower, Administration and lender, as the case may be, provide for the payment of interest only, during the—

"(i) first two years of its term is such term is at least eight years;

"(ii) first three years of its term is such term is at least ten years; and "(iii) first four years of its term if such term is at least fifteen years.

At the conclusion of the period of interest only payments, the loan agreement shall provide for amortization of the loan principal in equal payments of principal and interest during the remainder of the term of the loan.

"With respect to loans made under this subparagraph, a bank or lending institution may charge, in addition to any interest, fee, or service charge otherwise permissible pursuant to this Act and relevant regulations promulgated pursuant thereto, a one-time fee of 1 per centum of the total amount of such loan, which amount may be paid from the proceeds of such loan.

"(F) (i) any loan made under the authority of this subsection by the Administration in cooperation with a bank or other lending institution through an agreement to participate on a deferred basis, may, upon the concurrence of the Administration, borrower and such bank or institution, have the term of such loan extended or such loan refinanced with an extension of its term: *Provided*, That the aggregate term of such extended or refinanced loan does not exceed the term permitted pursuant to subparagraph (C) of this paragraph and: *Provided further*, That such extended loans, or refinancings shall be repaid in equal installments of principal and interest, except as may be provided for in subparagraph (E) of this paragraph.

"(ii) An additional service fee not exceeding 1 per centum of the outstanding amount of the principal may be paid by the borrower to the lender in consideration for such lender extending the term or refinancing such borrower's indebtedness if such extension or refinancing results in the term of such indebtedness exceeding ten years.

"(G) The authority provided in subparagraphs (E) and (F) shall not be construed to otherwise limit the authority of the Administration to set terms and conditions of the loan.".

Sec. 102. Section 7(a) (7) of the Small Business Act is amended to read as follows:

"(7) All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment. The Administration shall not decline to participate in a loan on a deferred basis under this subsection solely because such loan will be used to refinance all or any part of the existing indebtedness of a small business concern, unless the Administration determines that—

"(A) the holder of such existing indebtedness is in a position likely to sustain a loss if such refinancing is not provided;

"(B) if the Administration provides such refinancing through an agreement participate on a deferred basis, it will be in a position likely to sustain part or all of any loss which would have otherwise been sustained by the holder of the original indebtedness; and

"(C) such refinancing will not benefit the small business concern.

Provided, That on the portion of the loan used to refinance existing indebtedness held by a bank or other lending institution, the Administration shall limit the amount of deferred participation to 80 per centum of the amount of the loan at the time of disbursement: *Provided further*, That any authority conferred by this paragraph on the Administration shall be exercised solely by the Administration and shall not be delegated to other than Administration personnel.".

Sec. 103. Sections 101 and 102 are repealed October 1, 1983.

Sec. 104. Not later than February 28, 1982, and February 28, 1983, the Small Business Administration shall submit to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report which shall contain—

(1) with respect to section 7(a) (4) (A) of the Small Business Act—

(A) the aggregate number, dollar value, and default rate of all loans made in excess of $500,000 per loan; and,

(B) the aggregate number, dollar value, and default rate of all loans made since the effective date of this section not in excess of $500,000 per loan;

(2) with respect to section 7(a) (4) (C) of the Small Business Act—

(A) the aggregate number, dollar value, and default rate of all loans (other than for the acquisition of real property or for construction) having a maturity of more than ten years, and the aggregate number, dollar value, and default rate of all loans made for the purpose of acquiring real property or for construction having a maturity of twenty years plus such additional period as is estimated may be required to complete such construction; and,

(B) the aggregate number, dollar value, and default rate of all loans (other than for the acquisition of real property or for construction) made since the effective date of this section, having a maturity not in excess of ten years, and the aggregate number, dollar value, and default rate of all loans made for the purpose of acquiring real property or for construction made since the effective date of this section, having a maturity not in excess of twenty years plus such additional period as is estimated may be required to complete such construction;

(3) with respect to section 7(a) (4) (E) of the Small Business Act—

(A) aggregate number, dollar value and default rate of loans made subject to the election described in section 7(a) (E) (i) of such Act; and,

(B) for such loans described in subparagraph (A) of this paragraph, the geographic location of the recipients of such loans;

(4) with respect to section 7(a) (4) (F) of the Small Business Act—

(A) the aggregate number, dollar value, and default rate of loans extended or refinanced pursuant to such section; and,

(B) the average terms of loans before such extension or refinancing and the average term of such loans after such extension or refinancing; and,

(5) with respect to section 7(a) (7) of the Small Business Act, the aggregate number, dollar value, and default rate of all loans refinanced pursuant to such section.

Sec. 105. Section 16 of the Small Business Act (15 U.S.C. 645) is amended by adding the following new subsection:

"(d) Whoever kills any person within the employ of the Small Business Administration who is engaged in the performance of his official duties, or on account of the performance of his official duties, shall be guilty of felony.".

Sec. 106. This Act shall take effect October 1, 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Iowa (Mr. SMITH) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6626, and that I may be permitted to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6626 and urge the immediate passage of this legislation.

Mr. Speaker, this bill modifies the terms and conditions of loans made by the SBA under its 7(a) or regular business loan program by: First, increasing the maximum amount of a loan which SBA may guarantee to $750,000 (now $500,000); second, authorizing SBA to add up to 1 percent (now one-quarter of 1 percent) to the interest rate on direct loans; and third, setting the maximum term of a loan at 20 years (now 10 years) except for loans used to acquire real estate, which would be 25 years (now 20 years).

It also temporarily: Specifically authorizes the payment of interest only during the first few years of the loan, the time during which interest only payments could be made would depend upon the length of a term of the loan; authorizes SBA to approve extending the term of existing loans; and gives statutory guidelines for and imposes retrictions on the use of SBA loan proceeds to repay other indebtedness of the borrower. Finally, the temporary provisions are "sunset" October 1, 1983, and the SBA, prior to that date, is required to report to the Congress on the impact of the temporary changes.

This bill is designed to assist small businesses in overcoming the adverse impact of inflation and in coping with their financial needs in these times of high interest rates. Although interest rates have fallen considerably from the peaks of several months ago, they still impose a financial burden upon the small business community. It is your committee's hope that by encouraging lenders to provide long-term financing and by facilitating the repayment of loans that small businesses will be able to service needed debt from cash flow.

I want to note that the bill does not contain two provisions which were requested by the administration. As originally requested the bill would have consolidated six individual loan programs into one massive loan program. This proposal was specifically rejected by the committee. Each one of the programs the administration proposed to eliminate addresses a specific, identifiable segment of the small business community deserving of special assistance that members of the committee were afraid might not be emphasized under a consolidated loan program. Not only would these segments lose much needed assistance if consolidation were approved, but Congress would also relegate to the agency an essential legislative right—the right to specify what class or group of small businesses should receive the benefit of SBA administered programs.

In addition, as originally requested by the administration, the bill would have exempted SBA assistance from the requirements from the National Environmental Policy Act. Subsequent to the reporting of the bill by the Small Business Committee, the amendment to the National Environmental Policy Act was considered by the Merchant Marine Committee. That amendment was deleted as unnecessary and that committee incorporated in its report the new views of the administration and I want to quote from the official administration views which were submitted to the Merchant Marine Committee:

> Through inadvertence we registered no objection to section 102(b) of the bill when our views on the SBA draft proposal were sought within the executive branch. We would like to rectify this error and to register our opposition to section 102(b). The Council (on Environmental Quality) believes the proposed NEPA exemption for the SBA is inappropriate and unnecessary. This position is consistent with the administration's long-standing opposition to NEPA exemptions for agency activities.

For this reason, the NEPA provision has been deleted from this bill.

I want to thank all of the members of the committee who worked on this bill particularly, the ranking minority member, Joe McDade, who worked very hard on it and who originally conceived the concept of extending the term of existing loans and which is one of the program changes which is included in the bill.

In conclusion I believe that this is a good bill and that its enactment may provide the tools to the small business community to assist them with their financial needs.

I want to stress that the bill does not establish any new loan programs, it merely modifies the terms of established programs so that they will be more useful to the small business community, especially in today's inflationary economy. I also want to note that there is virtually no cost associated with this bill and I urge its support by all Members of the House.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, speaking on behalf of the minority members of the Small Business Committee, I enthusiastically endorse H.R. 6626, a bill appropriately called assistance to small business. H.R. 6626, will not only improve the economic life of many small businesses, but also, it will enable businesses, that would otherwise be forced to close, to keep their doors open.

Basically, the bill makes several very positive changes in the lending policies of the Small Business Administration by expanding the eligibilities of an SBA loan and altering the way in which repayment of the loan is to be calculated. These changes are designed to help small businesses overcome the devastating effects of inflation namely: Tight credit, high interest rates, and ever decreasing cash flow. H.R. 6626 does this by raising the maximum amount of a guaranteed loan from the current $500,000 limit to $750,000. It also changes the maximum maturity for regular business loans from 10 to 20 years and for real estate or construction loans from 20 to 25 years.

In addition, H.R. 6626 eliminates the 1-percent guarantee fee which a small business must now pay. It provides for an optional loan repayment plan, whereby the borrower may now be able to pay on the interest only under certain conditions.

One of the most important changes made by H.R. 6626, is that it allows for the extension of a guaranteed loan or refinancing in such a way as to result in an extended term. This provision was placed in H.R. 6626 as a result of a bill which was introduced in April, by our distinguished ranking minority member, Mr. McDade, of Pennsylvania. H.R. 7120 the Small Business Credit Relief Act. Simply, this addition will have the effect of reducing the monthly payment of the small businessman, perhaps keeping many businesses from bankruptcy. Currently, many SBA borrowers have a variable interest rate loan where the interest rate fluctuates with the prime. A loan made at 10 percent a year ago is now being paid back at 18 to 20 percent. This portion of H.R. 6626 amends the Small Business Act to allow where appropriate, the borrower to refinance the loan or extend the term thereby lowering the monthly payment. If used to the fullest, the change can lower the borrower's monthly payment by as much as 40 percent without any subsidy by the Government.

For those borrowers who have continuing short term credit needs, like car dealers and home builders, who can not wait for rates to fall, the changes will make credit available. For instance, a business doing x amount of dollars could afford a 10 percent rate of interest, but with a decrease in sales paying double the interest on a variable rate loan is difficult or impossible. By doubling the term of the loan and amortizing the payments over the term of the loan, that businessman is capable of managing the loan.

Unlike the recent rhetoric from the President about coming to the aid of auto dealers by giving the impression that new loan programs have been created by him, when in fact those programs have been around longer than he has, H.R. 6626 actually will help auto dealers, homebuilders and small businessmen and women in general.

Mr. Speaker, H.R. 6626 is an excellent bill. It will give new life to many sectors of the business world that are particularly effected by inflation.

As I said earlier, I wholeheartedly endorse H.R. 6626, assistance to small business and I encourage my colleagues to come to the aid of the small business sector by voting with me.

Mr. Speaker, as you will recall, on May 13, H.R. 6626 was ordered reported by a unanimous voice vote of the Committee on Small Business. The bill would modify the provisions of the SBA's business loan program to permit greater flexibility in the terms and conditions of assistance provided to small businesses by making a number of changes to section 7(a) loan programs of SBA. This legislation was sequentially referred to the Committee on Merchant Marine and Fisheries. Since that time, Chairman Smith has requested that the bill be placed on next Monday's Suspension Calendar, July 28.

Principal provisions are as follows:

Increases the maximum of section 7(a) loan (regular business loans) that SBA may guarantee from $500,000 to $750,000;

Authorizes SBA to add up to 1 percent to the cost of money formula of an SBA direct loan;

Changes the maximum maturity of section 7(a) loans from 10 to 20 years and from 20 to 25 years for those used to acquire real property or for construction;

Prohibits SBA from charging a small business any guarantee fee for a section 7(a) loan;

Makes it a Federal crime to kill an SBA employee engaged in official duties;

Sunsets the amendments pertaining to the section 7(a) loan program after a 3-year period;

Permits, under certain conditions, payment of interest only on guaranteed loans during initial years and permits the bank to collect a 1-percent fee from the borrower;

Encourages banks to extend existing loans or make new loans for longer terms by authorizing banks to charge borrower 1 percent fee if loan is over 10 years;

Permits SBA loans to be used to refinance the existing indebtedness of a small business in certain conditions; and

Requires SBA to report to the Congress on the effectiveness of the amendments made to the section 7(a) program.

□ 1400

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. Kindness).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding this time. I ask for the time only to do two things; one, to commend the committee for its work on this bill generally, but I do not hesitate also to criticize one small portion of the bill, which is section 105, beginning on line 17, page 14 of the bill. It provides that "whoever kills any person within the employ of the Small Business Administration who is engaged in the performance of his official duties or on account of the performance of his official duties shall be guilty of a felony."

Now, unfortunately, this bill comes up under suspension of the rules, so there is no opportunity to amend the bill by deleting that section, but it really does not do any great amount of harm because there is no sanction that is applicable in title XV of the code at or around section 645, which is where this section is added to title XV.

Mr. Speaker, I would just urge that the Congress has been in the process for some years now of trying to codify the criminal laws. I would urge the committees not to try to establish new crimes of this sort that are not very useful to begin with and establish a rather odd kind of precedent. Small Business Administration employees really are not in any more dangerous position in carrying out their duties than are employees of any other Federal agency. There may be some peculiar circumstances that arise every now and then, but hardly warranting making it necessary to add to the criminal laws of the United States such a provision as this. Since there is no penalty that is applicable, for what is described as a felony, for killing a person who is a Small Business Administration employee, it is really surplusage and does not do any great amount of harm; but you can imagine how cluttered our criminal laws would become if various committees came in here recommending such provisions for each of the separate agencies and departments and their employees. It really does not make any sense.

I would certainly urge that provisions of this sort not be fostered and that we try to approach the criminal laws of the United States in a more orderly fashion. I would certainly hope that before long we would have the criminal code coming before the House. I hope the version on the other side will be before the other body before long; but in the meantime, I believe this type of provision should be discouraged from being considered. It has no utility; otherwise, I commend the bill.

Mr. CARTER. Mr. Speaker, I regret very much that the ranking member, the gentleman from Pennsylvania (Mr. McDade) was detained on his way to Washington and was unable to be here. I want to say that he is one of the finest Members of this body I have ever known.

I want to say that of my chairman, the distinguished gentleman from Iowa (Mr. Smith). It has been a pleasure to work with him.

I urge passage of this bill.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. LaFalce).

Mr. LaFALCE. Mr. Speaker, I shall vote for H.R. 6626; however, I have some reservations about the bill as reported out of committee and offer my views herein for consideration of SBA officials as they implement resulting legislation.

My concerns about H.R. 6626 derive from the ad hoc and conflicting nature of its responses to certain very real problems of small businesses. For example, everyone acknowledges the need to ease the debt burden on small business in the early years of a project. H.R. 6626 responds to this need by authorizing longer repayment periods for SBA loans and moritoria on principal payments in the early years of SBA loans terms. I concur with this approach, but questions remain in my mind on the details of the legislation. For example, are the authorized repayment periods of 20 to 25 years long enough for investments in real property whose useful life can substantially exceed 20 to 25 years? Are they too long for working capital or equipment loans whose repayment out of project earnings would normally occur in a much shorter time frame? Are the authorized moritoria on principal payments of 2 to 4 years long enough for loans with terms of 8 to 15 years or more? Should provisions be made for moritoria on interest payments as well in the first year or two of a project since it is interest, not principal, that comprises the major part of debt service in the early years of long-term loans?

At the same time, H.R. 6626 authorizes increases in guarantee fees and direct loan interest rates for all loans. I wonder: Is it sensible and consistent to, on the one hand, seek a reduction in debt service by extending loan maturities and providing moritoria on principal payments and, on the other, raise guarantee fees and interest rates?

I do not believe these questions have been adequately considered and strongly suspect that ongoing consultations and analysis will suggest the need for several amendments to H.R. 6626. I would like to make some more specific comments on H.R. 6626:

Regarding the provision that permits SBA to add 1 percent to the interest rate on direct loans, up from one-fourth of 1 percent under current laws:

> The direct loan interest rate under 7(a) is currently set at the average annual interest rate on all interest-bearing obligations of the United States forming part of the public debt as computed at the end of the fiscal year preceding the date of the loan, adjusted upward by one-quarter of 1 percent per year. However, the recent dramatic rise in interest rates on Federal obligations will bring about at least a 1 percentage point rise in SBA's direct loan rate next year, when interest rates for conventional loans are on their way down. This is not the time to be adding an additional three-fourths percent surcharge to interest rates on SBA direct loans.

Regarding the provision that extends the maximum term of 7(a) loans up to 20 years, or 25 years if real estate is involved, up from 10 and 20 years under current law:

> The increase in the maximum maturity of working capital and equipment loans from 10 to 20 years introduces the real possibility that loans will have repayment periods in excess of the useful lives of the productive assets upon which repayment of loans depends. The result could be a high default rate late in the terms of such loans. At the same time, the increase in the maximum maturity of real estate and construction loans from 20 to 25 years may still leave certain fixed investments economically infeasible because the loans used to finance them must be repaid long before their earnings capacity is exhausted. To avoid such problems, the amendment could be revised along the lines of EDA's proposed legislation to relate maturities to the economic lives of the assets being financed and increase the maximum terms of loans to 30 years.

Regarding the provision that prohibits commercial lenders from charging businesses the 1-percent guarantee fee:

> Such a prohibition cannot be expected to reduce the cost of credit for small businesses. Commercial lenders will find a way to pass on any costs incurred in connection with making and servicing loans, whether through higher interest rates, servicing fees and other charges, or informal compensating balance requirements. If the Congress wishes to reduce the cost of credit for small businesses and the cost of administering SBA programs, it should simply eliminate SBA's guarantee fee.

Regarding the provision that encourages lenders to extend the terms of guaranteed loans by authorizing them to charge a 1-percent fee:

> Any fundamental change in the terms of a loan agreement would normally require refinancing and, with it, a new set of findings that the loan met all of the agency's requirements. At the very least, such a change would require the concurrence of secondary market holders of SBA guaranteed paper; after all, their investment income could be substantially affected by such a change. This amendment requires neither refinancing nor secondary market concurrence.

Regarding the provision that would prohibit SBA from refusing to guarantee a loan solely because it was used to refinance existing debt unless the administration would be likely to sustain a loss in place of the original lender:

> This amendment would open the floodgates to bad debt held by lenders seeking to minimize their losses by securing a Federal guarantee before default occurs. It will be difficult for SBA to distinguish bailouts from legitimate refinancings with any consistency. An amendment specifying the conditions for refinancing existing indebtedness is clearly required to guard against bailouts while permitting legitimate refinancings.

Regarding the provision that makes it a Federal offense to kill an SBA employee:

> Title 18 U.S.C. Section 1114 specifies those instances in which it shall be deemed a Federal offense to kill Federal employees. A reading of legislative history makes it clear that Congress originally intended to limit Federal jurisdiction to killings of Federal employees engaged in law enforcement activities. While it is understandable that each committee of the Congress has special concern for the employees under its jurisdiction, an ad hoc approach to such problems does not make for good law.

● Mr. ASHLEY. Mr. Speaker, I rise in support of H.R. 6626. H.R. 6626 was sequentially referred to the Merchant Marine and Fisheries Committee for the consideration of a provision in the bill which would exempt Small Business Administration loans from the Environmental Impact Statement requirements of the National Environmental Policy Act of 1969.

On June 27, the committee reported H.R. 6626. The committee adopted an amendment to the bill which eliminated the NEPA exemption. It is the committee's view that the Small Business Administration had not sufficiently documented its need for an exemption from the requirements of the National Environmental Policy Act.

The Small Business Administration has been unable to document having prepared any environmental impact statement or even any environmental assessment. Further, recently promulgated regulations by the Council on Environmental Quality permit Federal agencies to designate categories of actions that will not require any formal environmental review. In February of this year, the Small Business Administration designated 14 separate categories of activities that will not require any formal environmental review. These categorical exclusions include construction projects and land purchases not exceeding $300,000.

The committee believes that the Small Business Administration's experience with NEPA to date, and the existence of categorical exclusions from any formal environmental review in their own NEPA implementing procedures, eliminates any need for the amendment originally proposed in H.R. 6626.

The legislation before the House today accepts and incorporates the amendment adopted in the Merchant Marine and Fisheries Committee. For that reason, we have no objection to this legislation.●

● Mr. BREAUX. Mr. Speaker, H.R. 6626 was sequentially referred to the Merchant Marine and Fisheries Committee for consideration of a section of the bill which provided an exemption from the National Environmental Policy Act for Small Business Administration activities. The Subcommittee on Fisheries and Wildlife Conservation and the Environment, which I chair, investigated this matter and determined that the NEPA exemption for the Small Business Administration was not warranted. The committee subsequently struck the NEPA provision from the legislation. The legislation before us today includes the amendment adopted in the Merchant Marine and Fisheries Committee. For that reason, I support the legislation before the House today.

The NEPA exemption was originally suggested to the Small Business Committee by the Administration. The administration, however, subsequently reconsidered its position and now opposes a NEPA exemption for Small Business Administration activities.

The original justification for the NEPA exemption was that NEPA had imposed unnecessary paperwork burdens on the Small Business Administration. The committee's investigation of the SBA experience with NEPA indicated, however, that the agency is unable to document having prepared any environmental impact statement or even any environmental assessment. Spokesmen for the SBA were unable to explain any justification for the NEPA exemption in light of the existence of the NEPA regulations and the SBA implementing procedures which categorically exclude many SBA activities from any formal environmental review.

On November 29, 1978, the Council on Environmental Quality issued the first set of regulations implementing NEPA. The purpose of these regulations was to streamline the EIS process, eliminate waste, and reduce unnecessary paperwork. Section 1508.4 of these regulations permitted Federal agencies, in their implementing procedures, to designate "categorical exclusions" from the regular NEPA requirements. Categorical exclusions are categories of actions which do not have a significant effect on the human environment and which have been found to have no such effect, and for which neither an environmental assessment nor an environmental impact statement is needed.

Under existing law, no environmental impact statement is required of any Federal agency unless it proposes to take a major Federal action which could possibly have a significant effect on the environment. Typically, the NEPA process is initiated by an environmental assessment, except where a categorical exclusion applies. An environmental assessment is a short document, usually less than a few pages, which discusses whether a full EIS is appropriate.

SBA promulgated its NEPA procedures on February 1, 1980. The SBA-NEPA procedures categorically exclude many of its actions from the EIS requirement. This means that the agency need not prepare an environmental impact statement or an environmental assessment on many agency actions. We believe that the existence of these categorical exclusions cures whatever problems the Small Business Administration may have with the National Environmental Policy Act in the future.

The NEPA exemption originally proposed in H.R. 6626 was especially inappropriate in light of the substantial efforts undertaken by the Council of Environmental Quality to eliminate unnecessary paperwork and reduce delays in the EIS process. The committee believes that these regulations should be given an opportunity to achieve their stated goals without case-by-case legislative exemptions.●

● Mr. MURPHY of New York. Mr. Speaker, H.R. 6626, a bill to provide the Small Business Administration with additional authority to assist small business concerns in obtaining financing and for other purposes, as reported by the Select Committee on Small Business, contained a provision that would waive the requirements of the National Environmental Policy Act (NEPA) to any agreements to make or guarantee any assistance under the Small Business Act.

Because the Committee on Merchant Marine and Fisheries has jurisdiction over the National Environmental Policy Act, the bill was sequentially referred to the Committee on Merchant Marine and Fisheries for consideration of those provisions of the bill and amendments thereto having to do with NEPA.

NEPA provides that no Federal agency is required to file an environmental impact statement (EIS) unless such agency proposes to take a major Federal action which could possibly have a significant effect on the human environment. In 1978, the Council on Environmental Quality issued regulations implementing NEPA. The purpose of these regulations was to streamline the EIS process, eliminate delays, and reduce unnecessary paperwork. These regulations permitted Federal agencies in their implementing procedures to designate "categorical exclusions" from the NEPA requirements, that is, those categories of actions which are not expected to have a significant effect on the human environment and for which an EIS or an assessment is not needed.

In February of 1980, the SBA promulgated its NEPA procedures which categorically excluded certain agreements to make loans or guarantees for assistance under the SBA Act from the EIS requirements. Although the Select Committee on Small Business indicated the justification for the NEPA exemption in the bill was that NEPA had imposed unnecessary paperwork burdens on the SBA, the investigation of the Committee on Merchant Marine and Fisheries discovered that the SBA was unable to document having ever prepared any EIS or assessment. Furthermore, the SBA was unable to explain any justification for the NEPA exemption in light of the NEPA regulations and the SBA implementing procedures which categorically exclude many SBA activities.

In light of this discovery, the Committee on Merchant Marine and Fisheries reported an amendment to the bill that deletes all references in the bill to the NEPA exemption.

Mr. Speaker, the Select Committee on Small Business has agreed to this amendment and H.R. 6626, which is before the House for consideration, does not include any exemption to NEPA as it relates to such SBA activities.

I urge the passage of H.R. 6626, as amended.●

Mr. SMITH of Iowa. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 6626, as amended.

The question was taken; and (two-thirds having voting in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide the Small Business Administration with additional authority to assist small business concerns in obtaining financing and for other purposes.".

A motion to reconsider was laid on the table.

CURRENCY AND FOREIGN TRANSACTIONS REPORTING ACT AMENDMENTS

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5961) to amend the Currency and Foreign Transactions Reporting Act to: First, provide for more efficient enforcement of its provisions by making it illegal to attempt to export or import large amounts of currency without filing the required reports; second, allow U.S. Customs officials to search for currency in the course of their presently authorized search for contraband articles; and third, allow for the payment of compensation to informers, as amended.

The Clerk read as follows:

H.R. 5961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Currency and Foreign Transactions Reporting Act Amendments of 1980".

SEC. 2. (a) Section 231(a)(1) of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1101(a)(1)) is amended by inserting ", or attempts to transport or have transported," after "causes to be transported".

(b)(1) Section 231(a)(2) of such Act (31 U.S.C. 1101(a)(2)) is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(2) The amendment made by paragraph (1) shall take effect on July 1, 1981.

SEC. 3. Section 235 of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1105) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) Any customs officer may stop, search and examine without a search warrant, any vehicle, vessel, aircraft or other conveyance, envelope or other container, or person entering or departing from the United States on which or whom he shall have reasonable cause to suspect there are monetary instruments in the process of being transported for which a report is required under section 231 of this Act.".

Sec. 4. (a) Chapter 3 of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1101 et seq.) is amended by adding at the end thereof the following new section:

"§ 236. Award of compensation to informants

"(a) The Secretary is authorized to pay a reward to any individual who provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000, for any violation of this Act or any regulation issued hereunder.

"(b) The amount of the reward, if any, is to be designated by the Secretary, but shall not exceed 25 percent of the net amount of the fine, penalty, or forfeiture collected or $250,000, whichever is lesser, in a case in which the person was an informant.

"(c) Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of official duties is not eligible to receive any payment under this section.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(b) The table of contents at the beginning of chapter 3 of such Act is amended by adding after the item relating to section 235 the following new item:

"236. Award of compensation to informants."

(c) The amendments made by this section shall take effect on October 1, 1980.

Sec. 5. Not later than 18 months after the date of enactment of this act, the Secretary of the Treasury shall transmit a report to the Congress regarding the effectiveness of the amendments made by this Act in assisting the Secretary of the Treasury to carry out the provisions of the Currency and Foreign Transactions Reporting Act.

The SPEAKER pro tempore (Mr. Bennett). Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Rhode Island (Mr. St Germain) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. Wylie) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. St Germain).

Mr. ST GERMAIN. Mr. Speaker, today the House is considering H.R. 5961, a bill amending the Currency and Foreign Transactions Reporting Act. The bill represents the first substantive changes in the statutory provisions enacted in 1970 to provide law enforcement officials with tools to attack the money flow into and out of the country associated with tax evasion, organized crime and drug trafficking.

The Currency and Foreign Transactions Reporting Act and related provisions in the Bank Secrecy Act require depository institutions to maintain an identification number on accounts, to maintain certain records—like microfilm files of checks, deposits, statements of the purpose of loan transactions—and to file reports on large currency transactions. In addition, individuals are required to file reports if they are transporting $5,000 or more in monetary instruments into or out of the country. Monetary instruments are defined as cash, currency, and negotiable instruments like stock certificates. Various penalties for violations of the act were specified and the Treasury Department was given overall responsibility for enforcing the provisions of the act.

Since its passage in 1970 the act has been the subject of extensive oversight hearings by the Banking Committees of the House and Senate, by the House Government Operations Committee, by the House Ways and Means Committee, and by the Select Committee on Narcotics. The Commerce, Consumer and Monetary Affairs Subcommittee of the Government Operations Committee, of which I am a member, conducted a thorough analysis of the implementation of the act over a period of several years. These reviews led to changes in the regulations issued by the Treasury Department and better cooperation between the various agencies using data derived from the reports required by the act.

The House Select Committee on Narcotics Abuse and Control conducted hearings into the money flow which supports the illicit drug trade in the United States. Two major investigations occurred in Chicago and Florida in the 95th Congress. In its report on those investigations, the Select Committee recommended to the Banking, Finance, and Urban Affairs Committee changes in the Currency and Foreign Transactions Reporting Act. These changes are included in the provisions of H.R. 5961.

In 1978 the Justice Department transmitted to the Congress its recommendations for changes in laws related to enforcement efforts related to the drug trade. The Department suggested changes contained in H.R. 5961. Those provisions were initially included in an omnibus drug control bill. However, the Banking Committee was unable to consider those provisions and they were deleted from the final bill which was enacted in the 95th Congress.

The Oversight Subcommittee of the House Banking, Finance and Urban Affairs Committee also conducted oversight on the act and on November 29, 1979 held a hearing on the Patterns of Currency Transactions and their Relationship to Narcotics Traffic. Witnesses at that hearing, including the Honorable John LaFalce, the Treasury Department, the Drug Enforcement Administration, and the Comptroller of the Currency, testified on the flow of funds supporting illicit drugs and the need to provide law enforcement agencies, particularly the Customs Department, with additional tools to stop the money flow. Those tools are included in the provisions of H.R. 5961. On January 29, 1980 the Subcommittee on Financial Institutions held a hearing on H.R. 5961 introduced by Mr. LaFalce and numerous cosponsors. On February 27 the full Banking Committee favorably reported the bill.

H.R. 5961, despite statements to the contrary, does not impose new reporting requirements on the public. The bill is designed and does improve the tools used by law enforcement agencies in utilizing the existing reporting requirements of the Currency and Foreign Transactions Reporting Act. In fact, the bill will lessen some reporting requirements since the bill raises the minimum amount of currency which has to be reported—from current $5,000 to $10,000.

A second change would add to the Currency and Foreign Transactions Reportting Act an explicit reference making it a violation of the act to attempt to export or import currency without filing the required reports. Present law provides violations for causing to be transported or transporting monetary instruments. Thus, law enforcement agents may in the future be able to charge violations for attempts to transport without having to allow suspected violators to leave the country.

Third, the bill authorizes the Treasury Department to pay an informant up to 25 percent of the amount of a fine, penalty, or forfeiture subject to a maximum of $250,000 if the information leads to a fine, penalty, or forfeiture exceeding $50,000 for a violation of the act or the regulations implementing the act.

Fourth, the bill provides the Customs Department with search authority for monetary instruments comparable to its authority with respect to contraband merchandise. Presently, Customs officials may conduct warrantless searches if they have reasonable cause to believe that contraband merchandise is being transported. Monetary instruments, as they are defined in the Currency and Foreign Transactions Reporting Act, are not included in the definition of merchandise. H.R. 5961 would authorize a Customs officer to conduct a search without a warrant. The standard for the warrantless search in the Banking Committee bill was "reasonable cause" to suspect that currency is being transported into or out of the country and that a report regarding that currency is required to be filed under the act. The Banking Committee felt that this standard was justifiable since Customs had existing authority for warrantless searches for contraband with the same standard.

The Ways and Means Committee considered the bill and made one change. That committee made the standard for a warrantless search "probable cause." This is a higher standard and its inclusion should alleviate some of the concerns raised by some that the original standard was too loose. The Banking Committee accepts the amendment proposed by the Ways and Means Committee.

Last, the bill provides that the Secretary of the Treasury provide within 18 months of the enactment of the bill a report on the effectiveness of the amendments made by this bill. This is in keeping with the long line of oversight that the Banking and other committees have provided on the Bank Secrecy Act. This mandated report should provide the Congress with ample information to determine whether these initiatives truly made the act effective as a law enforcement tool.

In conclusion, I urge your support for this bill. H.R. 5961 will provide law enforcement agencies with more effective and efficient tools to tackle the mounting flow of currency connected with illegal activities like drug trafficking. At this point I would ask unanimous consent to include in the Record at this point a series of articles from the Washington Star about the drug trade in Florida. These articles provide a vivid example of the need for these amendments. The dollar figures in these stories are truly astounding and suggest a real need for this bill.

Mr. Speaker, I insert the following material:

[From the Washington Star, July 21, 1980]

The Cocaine Cowboys—Miami Drugs and Thugs: Traffic in Drugs Spawns New Florida Lawlessness

(By Mary Thornton)

(They use their favorite weapon, a machine gun that fires 700 rounds a minute, in shootouts on crowded highways and in busy shopping centers. Federal authorities call them Cocaine Cowboys and say that they have brought an open lawlessness to the streets of Miami that rivals the violence in Chicago during the height of prohibition. This is the first of a series of articles that examines drug smuggling in Miami, a $28 billion network whose violence has claimed more than 100 lives in the past two years.)

Miami.—Carlos Mercia Fajaro, the rich Colombian owner of a large emerald mine, was coming through U.S. Customs here last month when two Latin American men burst into the room and began spraying machine gun fire.

Miraculously, none of the bystanders was injured, but Fajaro was killed, and the two men—known to be active in the Miami drug underworld—have vanished without a trace. Police don't know exactly why Fajaro was killed, but they believe that somehow either he or another member of his family was involved in the large drug trade that is going on between the United States and Colombia.

By Miami standards, the murder wasn't too impressive.

Not nearly as exciting as the machine gun shootout last summer at the bustling, suburban Dadeland shopping center when a group of Colombians in an armorplated van opened fire on a liquor store, killing two Colombian drug dealers and injuring a customer and the store clerk, who jumped from car to car in the crowded parking lot to avoid the gunfire.

Not as exciting as the wild gun battles on Highway 1 south of here in which the cars pull even with one another and fire machine guns back and forth as they careen down the highway.

Fajaro's was just one of the many drug-related murders, most of them involving illegal Colombian immigrants, that have swelled the South Florida homicide rate over the past two years and given Miami a reputation as a center for violence and drug trafficking.

The murders and violence have become so commonplace, in fact, that a Miami television station ran a special series this spring warning viewers about steps to take in case they happen to be caught in a shootout: mainly to duck behind parked cars and to keep a low profile.

The scene was an average home in a comfortable, middle-class Northeast Miami neighborhood just before sundown on a spring night. Inside, authorities said, several young men were working out the details of a $150,000 deal for two kilograms of cocaine and 25,000 Quaalude tablets with two buyers who happened to be U.S. Drug Enforcement Administration undercover agents.

Outside, four unmarked DEA cars prowled the neighborhood, trying to look inconspicuous. And as the signal was given the cars raced in and nearly 10 agents, guns drawn, rushed into the house to make the arrests.

As the suspects were led away handcuffed, an astonished group of neighbors gathered outside. But the agent who directed the raid said that this was just a small, ordinary case, the kind that goes on nearly every night in Miami.

Several days earlier, DEA agents had made the largest drug seizure in history when they convinced a man they describe as a major South American drug dealer to sell 857 pounds of cocaine, with an eventual street value estimated at more than $200 million, to several agents posing as rich Miami drug dealers.

That broke a record set only a week earlier when a customs agent searching for illegal Cuban immigrants at a checkpoint on Highway 1 south of Miami found a car trunk filled with 410 pounds of cocaine.

Experts believe that drug-running is the number one industry in South Florida, surpassing even the tourist industry, and producing such a booming economy that most observers believe the state is virtually recession-proof.

Federal authorities estimate that 90 percent of the drug traffic in the United States involves Miami in some way. About 70 percent of the country's $40 billion annual business in marijuana and cocaine comes directly through Florida on its way to other cities in the United States.

Last year, DEA agents intercepted 284 pounds of cocaine and eight tons of marijuana in Washington, most of it believed to have come through Florida. DEA estimates that they intercept less than 10 percent of the illegal drug flow.

Much of the other traffic involves Miami financially, as the traffickers channel their profits through Miami banks to anonymous accounts and corporations in countries like Cayman Islands, Panama, the Bahamas and the Netherland Antilles.

The drug industry employs not only the suppliers and dealers themselves, but also a whole army of auxiliary personnel; the lawyers and accountants who channel the illegal profits into numbered bank accounts and foreign corporations; the pilots and boat captains who bring the drugs in from Colombia; the craftsmen who modify boats, planes, even suitcases, to hide their true purpose; and the lab workers who process the drugs.

On the Colombian end, police believe there are 3,000 high-level people employed by the drug trade, along with 65,000 lower-level employees, most of them farmers and truck drivers. Colombia itself produces most of the marijuana coming into the United States and serves as the processor and distributor for cocaine, which comes from a number of South American countries, primarily Bolivia, Peru and Brazil.

As the demand for drugs grows and the profits go higher and higher, the violence also has grown.

The murders have become so common—more than 100 in the last two years in South Florida—that law enforcement officers say they now expect an open gun battle at least every couple of weeks.

Although police have had little luck in solving the murders, they know that they are being carried out generally by Colombian drug traffickers who are largely responsible for the U.S. drug trade in cocaine, marijuana and quaaludes, a sedative-type drug.

Federal narcotics intelligence officials believe eight Colombian families are largely responsible for the drugs coming into Florida.

Historically, the Colombians used Cuban middlemen in Florida, but police say that in recent years as profits have gone up the Colombians have attempted to eliminate the middlemen to increase their own wealth. Police blame this shift at least partially for some of the violence on the streets of Miami.

"We're got open warfare on the streets," said Allan R. Pringle, the DEA agent in charge of the Miami office. "In this country, weapons are easy to come by. Colombian nationals—who are here illegally in most cases—obtain the weapons and use them to assassinate people.

"It may be someone they suspect of being an informant, someone who ripped them off, it may just be a way of moving up in the organization. It occurs right on the street in broad daylight, and any bystander can suffer the consequences, particularly if he was unfortunate enough to have been a witness," he said.

Arthur Nehrbass, the agent in charge of the Miami FBI office, compares the open lawlessness in Miami today to Chicago at the height of the Prohibition era.

The weapon used most often is the commando-style Ingraham machine gun, nicknamed the MAC-10, which is lightweight, capable of firing 700 rounds a minute and is commonly equipped with a silencer. "It's their favorite weapon," Nehrbass said, "and if you don't have a silencer on your machine gun, you're just not considered much of a guy."

But there isn't the public outrage in Miami over the murders that might be expected. Instead, the Colombians are seen by many as romantic figures and nicknamed "Cocaine Cowboys."

Law enforcement officials in Miami readily concede that the drug trafficking problem is out of control.

COCAINE COWBOYS' RUNNING RAMPLANT

Arrests in the cocaine cowboy murders have been almost nonexistent, and there has not yet been a single conviction.

Police say the drug rings are so sophisticated and well-financed—with elaborate equipment and bail funds of $1 million or more—that it is nearly impossible to keep up with them. The profits are so great that a drug organization can abandon a $100,000 boat after a single trip.

And with large amounts of cash at their disposal, the drug-smuggling organizations are suspected of being able to corrupt law enforcement agencies, buying secret information even from federal agencies.

Currently, six homicide detectives from the Dade County Public Safety Department are under investigation for allegedly providing protection for Miami drug dealers suspected of a series of gangland-style murders.

Florida's geography and economy make the state a drug smuggler's haven.

Located just 1,100 miles from Barranquilla, Colombia, the exit point for much of the traffic, Florida has a shoreline that extends for 8,426 miles, much of it deserted and remote—and an ideal place for landing cargo away from the watchful eye of the U.S. Customs Service.

There are more than 200,000 private pleasure boats registered in the state, along with more than 9,000 privately registered airplanes. In addition to the 250 registered airports in Florida, many of them small airstrips that are abandoned at night, there are dozens of permanently abandoned and unregistered airstrips that can handle nearly any kind of aircraft the smugglers are bringing in.

South Florida also has become a shopping mecca for South Americans, particularly those interested in protecting their funds from the unstable economies of their own countries. These shoppers serve as a unwitting smokescreen for the drug smugglers.

Every day nearly 10,000 passengers come into Miami International Airport, most of them from the drug-producing countries of South America—Colombia, Bolivia, Peru and Brazil. And every day at the airport it is possible to see huge boxes of cargo—televisions, stereos and other appliances—on the way to South America.

Like the drug dealers, these tourists deal strictly in cash—buying boats, cars, houses, airplanes, all in cash. At the posh Miami shopping centers, it isn't unusual to see a Latin American family spending thousands of dollars in cash in a single afternoon. Because they are violating their countries' currency regulations, they can't risk using checks, which could be traced.

Most law enforcement officials believe the only way to slow down Miami's drug traffic is to attack the large money flow—following banking transactions that could lead not only to large financial forfeitures but also to the leaders of the drug organizations.

As a result, currency investigations are being conducted now that involve the DEA, FBI and the Treasury Department.

So far, DEA has targeted for investigation 424 major drug traffickers in Florida. Of those, 118 are Latin American, most of them Colombian.

But although these investigations offer some hope, most law enforcement officials feel that because of the great demand and the tremendous profits available, new dealers are likely to go into business faster than authorities can catch the existing ones.

Because of the backlog of drug cases, only the most important violations are prosecuted. Even then, the time delay is often so long that witnesses disappear.

Capt. Marshall Frank of the Dade County Public Safety Department's Homicide Squad says it is almost impossible to catch the Colombians involved in the killings and the drug dealing.

Most of them are illegal aliens with no records—no driver licenses, no Social Security cards. They have no police records nor fingerprints on file. And the business is big enough that if they get into trouble they leave the country and send in another family member.

Even in cases where police do make an arrest, witnesses are reluctant to testify. "I'd be nervous about testifying myself," Capt. Frank of the homicide squad said.

"Most of the time if we do catch someone, it's by accident," he said.

So far, there have been no convictions in the cocaine cowboy murders, but it looks as if there will be one soon—because of one of the "accidents." In that case, Frank said, the defendant, Colombian Edgar Cadibad, who is accused of murdering two Colombians at a Miami apartment building, accidentally shot off his thumb in the process and left it at the scene of the crime.

When he went to a local hospital for treatment, police simply went over to the hospital and matched up the missing thumb.

But most cases don't work out that way.

"Each group has millions of dollars ready to make bond. Money means nothing to them," Frank said. "They all will kill. They're all trained with firearms, even the women. Our murder rate is 65 percent higher this year than it was last year. My attitude is that this is just going to keep on happening and we're just going to keep on treading water."

[From the Washington Star, July 22, 1980]

FLORIDA AWASH IN MONEY, BUT NOT EVERYONE'S HAPPY

(By Mary Thornton)

MIAMI.—A very large shopping center here was bought for $9 million by a Netherland Antilles corporation recently. There are no records on file that disclose the identity of the buyers or where the money came from.

It was the kind of financial deal that is becoming prevalent in South Florida. The corporation is like many others investing here—registered in such foreign tax-shelter countries as the Cayman Islands, Panama and the Netherland Antilles, where the names of company officers and financial information are well-guarded secrets.

But some people here are suspicious. They remember a similar deal not long ago where the corporate buyer of the shopping center suddenly stopped making payments and no one knew who to call. It wasn't until later, after the property had been foreclosed, that people found out the payments had stopped because the owner of the corporation had been murdered by one of his criminal associates.

U.S. Customs officials tell the story about the Lear jet that their agents stopped on a Florida runway for a routine check. When they asked the pilot and passengers to open their bags for inspection, they all cheerfully complied.

But no one would claim the leather briefcase in the back. The briefcase contained $467,000 in suspected drug money.

One agent shrugs and shakes his head. "They're dealing with amounts of money that you and I can't even imagine. In this business, they don't count their money. They weigh it."

While economists in Washington worry about mortgage interest rates and tightening credit, Florida is booming. The state is awash in a sea of cash that most law enforcement officials attributes at least in part to the illegal trafficking in cocaine, marijuana and quaaludes that have become Florida's number one industry.

It is an economy based on cash sales in cars, boats, airplanes, even condominiums that go for $300,000 and up. And it is made possible—even encouraged—by the legitimate businessmen who look the other way when a customer comes in carrying a suitcase full of cash and the bankers who accept deposits brought to them in cardboard boxes and grocery bags.

"Banks want the money," said one U.S. Customs official. "It's a way to get millions of dollars at a time. It's a coup to bring in a large depositor. The banker handling it might even get a promotion out of it.

"But I think it's fair to say that although they may not be technically violating a law, they have some idea of what's going on. Most legitimate businesses carry their cash in armored cars. They don't use shopping bags," he said.

Authorities confirm that there is a whole underground real estate network, largely involving homes with easy access to waterways. They say the seller not only can get virtually any price he asks, but he can also get much of the money under the table, listing a lower selling price and avoiding capital gains taxes.

"Your druggers buy houses for cash all the time," said Arthur Nehrbass, agent in charge of the Miami FBI office. "A real estate agent would not be shocked if you bought a two or three hundred thousand dollar house and paid in cash."

Law enforcement authorities say that the amounts of money available to the drug organizations are staggering.

"There's so much involved today," said Allan R. Pringle,, agent in charge of the Miami office of the Drug Enforcement Administration. "It's not uncommon to see violators who bond out on a million dollars—forfeit a million dollars. That's just pocket money to them. When people routinely carry out of this country $5 million to $10 million in suitcases.

"They'll take a $100,000 sport fisherman, punch a hole in the bottom, and let it sink if they see the Coast Guard coming. Probably the biggest purchasers of boats and planes today are the dope dealers. The sellers, they're as greedy as the next person. A lot of people profit from the dope traffic in this state."

FAMILIES GIVEN MONEY

Pringle says that when one of the traffickers goes to jail, it's not unusual for his family to receive an annual payment of $30,000, $40,000, even $50,000 or more, depending on his position in the organization.

One man who was formerly involved in a cocaine smuggling operation tried to describe a binge of conspicuous consumption that seems to go on among the leaders of many drug organizations.

"They all become crazy, decide to have airplanes, telephones in their cars. But it doesn't last long . . . it's too much money too soon . . . there's little work to do and they don't know what to do with their time. You lose all reality in life," he said.

"You get the money and don't know how long it will last. You have a lot of cash but you don't know where to put it. You don't want to put it in the bank because they might catch you. You don't want it in your house because someone might kill you for it. People start to steal from you. So you buy things. You buy anything whether you want it or not. It takes over your life."

Nehrbass cautions that not all the money in Miami is drug money. "Cash is not unusual here," he said. "Miami is a bilingual town. It is the Spanish-speaking commercial center of the U.S.

"There are tight currency controls in South America. They bring their money here in case of economic problems in their own countries. It's not unusual to go into a local department store and see someone buy $15,000 in merchandise and have it shipped home. A car in South America costs three times what it costs in Miami. TV sets and appliances are the same," he said.

But the South American trade also supplies a convenient smokescreen for the drug traffic which is moving into Florida, mostly from northern Colombia. The Latin American traffickers have a ready-made community to fade into. And authorities say that the flow of goods between the two continents helps mask the shipments of money and drugs that are going back and forth.

HIGH VOLUME TRAFFIC

Federal authorities say that 90 percent of the drug traffic in the United States involves Miami in some way. About 70 percent of the estimated annual U.S. marijuana and cocaine business come directly through Florida.

A recent currency study by the Treasury Department has found an astounding cash flow into Florida from other parts of the country, and many experts believe that the major part of that cash flow is caused by drug smuggling.

Last year there was a cash surplus of $4.9 billion in Florida's Federal Reserve banks, while the Federal Reserve System as a whole paid out about $10 billion more than it took in. Treasury officials feel the surplus this year in Florida may go as high as $7 billion.

As a result, the Customs Service has started an investigation, code named Operation Greenback, of large cash deposits into Florida's banks.

Using the Currency Transaction Reports that the banks must file for cash transactions of $10,000 and more, treasury sources say that normally they would have expected to find mostly cash businesses like department stores, grocery stores, racetracks and ballparks on the lists.

Instead, they are finding car, boat and plane dealerships as well as individuals bringing in deposits of hundreds of thousands of dollars in cash at a time.

The investigation is focusing on five Colombian money exchangers, all with links to suspected drug traffickers, who moved more than $100 million through Miami banks during an 18-month period in 1977 and 1978.

A joint DEA-FBI investigation called "Operation Banco" has linked $629 million in five Miami banks to suspected drug operations. The FBI is conducting a study on its own.

The Banco investigation has found lines between specific bank employees and drug violators, as well as bank employees soliciting drug traffickers accounts. It also has found banks transferring large amounts of money to secret foreign bank accounts.

According to a DEA report on Banco, one drug operation they have a targeted brought in $45 million in a three-month period, and $35 million of that was profits. "Further investigation uncovered purchases of freighters to be used as mother ships, waterfront property and leases for warehouses located in various areas of the country. It is believed that large amounts of illicit drug profits also were funneled to an offshore banking haven," the report said.

Charles Kimball, a real estate economist who is conducting a long-term study of property investments in South Florida, says that he expects a billion dollars in foreign investments in the Dade County area this year. Although some of the money is legitimate, much of it will be illegal profits being invested by drug smugglers and other criminal operators.

Flipping randomly through a microfilm record of May's property transactions at the Dade County registry of deeds, Kimball points out purchases in a new condominium building where units sell for $150,000 to $200,000.

Again and again, he finds that the units are being purchased in cash by corporations based in Panama, the Netherland Antilles, the Cayman Islands, the Bahamas. There are no individual names on most of the transaction records, not even a lawyer's name in most cases.

Because of U.S. banking laws, many criminal organizations are channeling money into tax shelter countries like those, either by physically taking the cash there in suitcases or through bank wires. Once the money reaches the chosen country, it is laundered through a secret corporate account.

Then the property in Miami is purchased under the corporate name. But because of the laws of these countries, it is impossible to find out the names of the corporate officers or to trace the purchased properties back to the original drug dealers.

FOREIGN INVESTORS CITED

Although much of the foreign investment is by reputable, even widely known, corporations, Kimball estimates that half of the foreign investment in South Florida is being done by these secret foreign corporations. He believes that about 80 percent of those investments have some element of illegal money—from drugs or other crimes. He puts the figure for suspicious investments in the Miami area at $271 million for last year.

"A lot of money is being bid indiscriminately for property. As a result, the normal working person has to pay housing prices that are much higher," he said, adding that he believes that the drug money is driving up all prices and creating an unfairly high inflation rate for the people who aren't involved in drug trafficking.

In spite of all the efforts at investigation, most law enforcement officials believe that the drug organizations are winning.

They complain about a shortage of manpower, funds and expertise and a lack of cooperation among the various federal agencies involved.

There is a significant backlog of cases in the U.S. Attorney's Office, and one Customs official camplains, "Today, if you can get a federal prosecutor to take a marijuana case for less than a ton, you're very lucky."

"They've got more money, better weapons, better electronic equipment," said another official. "We're outmanned. If we get one of them, the profits are so large that there's always another one coming along to take his place.

"And then you keep hearing how cocaine is the drug of the rich, how movie stars and fancy lawyers are using it all the time. It's very difficult for us to combat something like this once it's gained public acceptance. Sometimes I think we'd all be better off if we just tried to regulate it. The way it is now, we're all just playing a big game."

[From Washington Star, July 23, 1980]

"Black Tuna's" Daring Tactics Earned Riches

(By Mary Thornton)

Miami.—The Cuban drug dealer figured as his phone began to ring that it was just a business partner announcing the arrival of a new shipment of marijuana. When the unidentified voice on the other end of the line said, "Look out your window," he wasn't sure what to think.

But as he set down the receiver, he began to hear the thump, thump, thump of the rotors. And looking out the window, he could see the clouds of dust and the helicopter hovering nearly motionless over his home, a metal barrel dangling beneath the aircraft.

He returned to the phone and the caller reminded him of a continuing dispute over a missing shipment of 10,000 pounds of marijuana. The barrel was full of gasoline, the voice warned, and if the Cuban dealer was not willing to drop the issue, his house would be turned into an inferno.

Looking around the room at his wife and children, the Cuban quickly agreed.

It was an autumn day in 1976, and the helicopter had been sent by Bobby Platshorn and Robby Meinster, who had just moved their drug operation here from Philadelphia.

The Cuban drug dealer had been threatening them, charging that he hadn't been paid. Platshorn and Meinster claimed that the drugs had not been delivered. The disagreement had threatened to escalate into a full-scale gang war.

The helicopter incident not only resolved that dispute, but also served to introduce the gang, which came to be known as Black Tuna, to the macho world of South Florida drug smuggling, which is dominated by Colombian and Cuban dealers, generally armed with machine guns.

After that, no one was willing to tangle with Black Tuna.

And before long, Meinster and Platshorn were riding around in Mercedes cars and Lear jets, flashing rolls of $100 bills, living out of an opulent suite at the showy Fountainbleau Hotel and maintaining their own private army of bodyguards equipped with hand grenades and submachine guns. In their spare time they and their wives began collecting antiques, artwork and expensive jewelry.

The two young men who had grown up together in Philadelphia—both from working-class Jewish families, Meinster working at a used car lot, Platshorn selling pots and pans on the boardwalk in Atlantic City—finally believed they had it made.

Whenever one of the employees completed his first successful mission, he was given a reward—a solid gold medallion decorated with the imprint of the Blackfin Tuna that the gang members wore on neck chains.

People who knew Meinster and Platshorn then say that their lives were dominated by their drug smuggling and by cocaine, which they bought for personal use a kilo at a time (at $55,000 a kilo).

When they weren't having parties and spending their money, Meinster and Platshorn dreamed up big plans for Black Tuna. They were planning to expand their marijuana operation to import large quantities of cocaine and Quaaludes.

Police say they held discussions with organized crime figures about taking over the marijuana market in the Las Vegas-Los Angeles area. They talked about moving into an estate next door to Frank Sinatra.

There was even a plan to steal an Eastern Airlines Boeing 727. A gang member who was once an Eastern pilot planned to take it on one massive drug run, and then ditch it in the Atlantic—after leaping out, D. B. Cooper style.

No one knows for sure when Meinster and Platshorn began to deal in drugs, but the earliest knowledge police have on the Black Tuna organization goes back to 1974, when Meinster, then in his early 30s, was working at a used car lot, filling in part-time at his father's dress shop and apparently doing small-time dealing in marijuana and cocaine.

Platshorn, a long-time friend, was by then travelling around the country selling pots and pans and small appliances at carnivals and fairs. Sometime in August 1974 Platshorn ran into a man named Lucas McLeod at the Milwaukee, Wis., fairground, and the two quickly got into a discussion of drug smuggling.

The two federal undercover agents who worked on the Black Tuna case, Dick Koehler of the FBI and Brent Heath of the Drug Enforcement Administration (their names have been changed), say that Platshorn at that point made a deal to have McLeod ship 2,500 pounds of marijuana to Meinster in Philadelphia.

By the end of 1974, Platshorn and Meinster were accepting million dollar shipments of marijuana transported by McLeod and his assistants from Florida, and during 1975 the two are believed to have brought at least four other major shipments of marijuana into Pennsylvania and New Jersey.

Sometime in mid-1976, Meinster and Platshorn decided to increase their profits and wipe out the middlemen by moving to Miami with their wives. Platshorn traveled to Colombia and entered into a deal with Raul Davila-Jimeno to become the chief marijuana supplier for Black Tuna.

At about the same time, they opened the South Florida Auto Auction, a large used car lot in downtown Miami, to serve as a cover for the smuggling operations. The two couples bought homes, and then in the fall of 1976 Meinster and Platshorn rented the $300-a-day penthouse suite at the Fountainbleau to do their business entertaining.

Koehler and Heath say they were stunned when they finally saw the suite that Black Tuna had rented for more than a year—until early in 1978.

"You talk about a hotel suite and you think it might be a couple of rooms, but this place was unbelieveable. It's the kind of place movie stars would stay in when they were in town," Heath said. "You walked in through a double door and could see a spiral staircase leading up to the bedrooms on the second floor—four of them.

"Downstairs on one side was an oak-paneled room with a pool table. On the left, you stepped down into a living room with a Steinway grand piano, a bar seating six or seven people and then a huge picture window looking out over the ocean. There was a dining area that would seat 20 people. They even had gold fixtures in the bathroom," he said.

"They used it for their entertaining—they had parties there, with cocaine and prostitutes. They worked out their deals there. We had testimony that one day the pool table was covered with cash a foot high."

Black Tuna's first brush with the authorities came on the night on April 28, 1977, when a resident of San Marino Island noticed some strange activities at a neighbor's home. San Marino is a fancy residential area on a tiny island in Biscayne Bay, located on a causeway between Miami and Miami Beach.

He knew that the owner of the home was on vacation and couldn't figure out the procession of vans and the truck—labelled "CineTech—Hollywood, New York, Miami"—that had pulled up outside the house. So he called the Miami Beach Police.

When the police arrived, they found bales of marijuana, wrapped in plastic and burlap, stacked to the ceilings. Eight tons of it.

They arrested four young men trying to swim away, but they figured from the number of half-empty beer cans they found that many others were involved.

Before they left the house that night, police gathered up the beer cans for a fingerprint analysis and a bunch of pieces of paper that appeared to be receipts from a Miami used car lot.

Several weeks afterward, a judge dismissed the charges against the four young men, saying the police had not had "probable cause" to raid the house. But for some reason, no one threw away the fingerprint analyses or the receipts.

Months later, they would find that the fingerprints on those beer cans belonged to members of the Black Tuna gang.

The San Marino raid seemed to Platshorn and Mainster to be nothing more than a temporary nuisance. The police seemed to have closed the case. The loss of the marijuana—worth more than $4 million on the street—didn't slow them down for long.

Other shipments were coming in and by June 1, Platshorn's wife, Lynne, had ordered an employee to send a case of Pampers to Davila in Colombia via Aero Condor Airlines.

The message: "The baby is ready, send the mother." It was a signal for Davila to dispatch the mother ship loaded with a new shipment of marijuana.

Black Tuna was still flying high. Bobby and Lynne Platshorn had just bought a Spanish-style Miami Beach mansion with a pool and marble floors located on the Indian Creek waterway and worth nearly half a million dollars.

When they weren't in the suite at the Fountainbleau, Meinster and Platshorn were entertaining their customers on the Beam's Post Time, a 70-foot houseboat that Heath described as "gorgeous. It had thick white carpeting, a sunken bar, a built-in stereo even maid's quarters."

By about that time Platshorn was bragging to friends that he already had imported nearly a million pounds of marijuana into South Florida. By most accounts the gang was netting $500,000 and more every week—with as many as 60 employees on the payroll.

Estimates of Black Tuna's overall earnings were going as high as $300 million.

[From the Washington Star, July 24, 1980]

HUGE CASH BANK DEPOSITS LED U.S. AGENTS TO BLACK TUNA GANG

(By Mary Thornton)

(Black Tuna gang leaders Bobby Platshorn and Robby Meinster were making $500,000 a week in mid-1977 smuggling marijuana into Florida. The two, in their early 30s, drove Mercedes, lived in expensive mansions and had a fleet of yachts at their disposal. But they wanted more. They were going to branch out—into cocaine and Quaaludes. They didn't know that FBI agent Dick Koehler and Drug Administration agent Brent Heath soon would be on their trail.)

MIAMI.—On Aug. 31, the 90-foot yacht Presidential—one of several that Platshorn and Meinster had kept in the Fontainebleau Hotel Marina—began taking on water off the Island of Great Abaco in the Bahamas.

As it continued to take on water, the captain finally ran it aground to prevent it from sinking. On board was a large load of marijuana.

As the residents along the shore watched the curious goings on over the next few days, they first saw a small plane circle the crippled boat. The next day a helicopter came along and lowered pumping equipment. And finally, a day later, a second boat came along, began unloading square bales from the Presidential, then departed.

Later that day, when the Bahamian police arrived on the scene and took possession of the boat, there were still 31,000 pounds of marijuana on board, but the crew had vanished.

On Sept. 15, a short, stocky man with gold chains flashing from around his neck and a shirt unbuttoned nearly to his waist walked into the Flagship First National Bank of Miami Beach, carrying an attache case containing $500,000 in cash, which he deposited into an account called "Viomar."

He didn't realize when he left that he was being followed by DEA agents. They had been tipped off by a teller who became suspicious when "H. Roberts" had brought in $595,000 in cash two weeks earlier on Sept. 2 and refused to produce any personal identification.

For deposits of that size, a customer normally calls ahead to reserve the bank's counting room. The agents had asked the teller to tip them off the next time the mysterious customer called.

At that point, the DEA had never heard of Black Tuna, but huge cash deposits by casually dressed young men with no obvious source for that kind of money tended to raise their suspicions. H. Roberts was employed as a clerk in a local hardware store.

Over the next several months, they would discover that H. Roberts was really Howard Blumin, the man who handled the money and bookkeeping for Black Tuna. They would find that $10 million had passed through the Viomar account over the past few months, and that Viomar was an account controlled by a South American money exchanger, named after his mother and his mother-in-law, Violeta and Margareta.

For a fee of 10 or 15 percent, the exchanger takes U.S. money from a gang like Black Tuna and either pays the supplier in Colombia, or funnels profits into secret accounts in tax shelter countries like the Cayman Islands.

After picking up Blumin's trail at the Flagship Bank, the DEA set up a surveillance on his house. Eventually, a blue Mercedes 450SL pulled up and a small woman with long, black hair walked up to his front door. The woman was Lynne Platshorn.

They discovered that the car was registered to the South Florida Auto Auction whose owners were listed as Platshorn and Meinster.

AGENT VISITS MIAMI

Within about a week, Brent Heath (not his real name) said, one of the DEA undercover agents working on the case paid a visit to the Miami Beach police to find out if they knew anything about Platshorn, Meinster, Blumin or the South Florida Auto Auction, the front established by Platshorn and Meinster. And one of the officers happened to remember the San Marino raid and the slips of paper from the used car lot.

By December, Black Tuna was again crossing paths with the police—this time in North Carolina.

Some time in mid-1977, George Purvis, the son of a wealthy and politically powerful Fayetteville, N.C., family, had been recruited into the group by Mark Phillips. Phillips was Purvis' old prep school buddy and also a high-level gang member. According to later indictments, he specialized in procuring boats for the Black Tuna organization through his father's boat dealership.

The decision to recruit Purvis was one that Black Tuna would regret.

On December 8 Purvis was piloting a boat off North Carolina in search of the Colombian mothership "Don Elias." Behind him was a second boat also planning to help unload a huge shipment of marijuana.

Directing the operation from the shore were Robby Meinster and Chip Grant, a huge, bushy-haired young man of 23, who was in charge of "Chip's Army," the group in charge of protecting the offloading operations with an arsenal of weapons that included everything from hand grenades to AR-15 submachine guns.

At about 5:30 p.m. Purvis reached the rendezvous co-ordinates and shouted the code word "Black Tuna." A Colombian crewman shouted back "Black Tuna" and the unloading began.

What none of the Black Tuna members realized was that a police informer was piloting the second boat. By early the next morning U.S. Customs and the Coast Guard had wiped out the entire operation, seizing both boats along with the mother ship.

But authorities still had not linked the North Carolina operation to the Black Tuna organization, and the gang members fled as quickly as possible back to Florida.

The operation continued, with shipments coming in both by boat and air. On Jan. 28, Purvis and two other gang members set off for a rendezvous with their supplier at a landing strip on a banana plantation near Santa Marta, Colombia.

The plane had been modified with illegal fuel tanks installed inside the passenger compartment to enable it to make the long journey. By the time they approached the tiny landing strip, the three men were all ankle-deep in aviation fuel, and as they descended, the pilot began to lose control of the plane.

Purvis later recalled preparing himself to eject as the plane crashed into the strip. The first thing he could remember afterward was that he was out of the plane, lying on his back on the landing strip. And a man was standing over him with a silver-plated .357 magnum. That was his first introduction to Raul Davila, the 30-year-old Colombian who was Black Tuna's chief supplier.

NERVOUS PURVIS

Purvis was starting to get nervous. He learned after he was rescued from Colombia that he had been indicted in North Carolina. He later said he was attracted to the gang because he was tired of his life in North Carolina—the alimony payments, the boredom of running his father's car dealership. The idea of smuggling marijuana had sounded exciting, romantic. But this was getting to be more than he had bargained for.

By that time, a DEA investigator had decided to run Platshorn and Meinster through the Florida Crime Information Center computer to see if they had any business interests other than the South Florida Auto Auction.

They discovered the Green Turtle Construction Co., and then they learned that documents in the name of Green Turtle Construction Co. had been found on the Presidential, along with the 31,000 pounds of marijuana.

Shortly afterward, a Customs agent from North Carolina dropped by the Miami DEA office looking for information for his own investigation. He told the agents about the Dec. 9 operation in North Carolina and asked them if they'd ever heard of someone named Chip Grant. They had. Grant had been seen frequently with Meinster.

The customs agent also mentioned George Purvis, who was still unknown to the DEA.

Not long afterward, Heath said, one of the DEA agents on the case had a talk with Lucas McLeod, Platshorn's 1974 connection from the Milwaukee Fairgrounds. McLeod had become a DEA informant, and he outlined for DEA his early activities with Platshorn and Meinster.

That was the first time, Heath said, that DEA realized they were dealing with a major operator.

From then on, he said, things began to move quickly.

In March, DEA agents picked Purvis up on the street and found that he was anxious to find a way out of Black Tuna. He and his girlfriend Mandy Jackson became informants. And for the next couple of months, Heath met almost daily with Purvis.

With someone on the inside, Heath and Koehler were able not only to find out what was going on, but also to pinpoint the weak links in the organization and pick up new informants.

It was another year until a federal grand jury on April 30, 1979, returned indictments against the leaders of the Black Tuna organization, including charges of racketeering, conspiracy and drug violations.

Last Dec. 6 as the trial was under way, additional indictments were returned against Bobby and Lynne Platshorn, Meinster and several others. The charge was that they had offered a million dollars to Mafia figures in New York to disrupt the trial. Police said the possibilities discussed included murdering U.S. Judge James L. King, Purvis or even federal prosecutor Walter Schroeder.

A separate case involving a bribery of one of the jurors is still going on.

SOME TRIALS CONTINUE

Although some members of the gang are still being tried, most of the major figures have been convicted.

Meinster has been sentenced to 54 years in prison under a law that will make him ineligible for parole for at least 31 years.

Grant is serving a nine-year federal prison term before he begins serving a 10-year sentence in North Carolina.

Blumin, the money man, received immunity in return for his testimony.

George Purvis and Mandy Jackson are living somewhere in the United States under new identities in the federal witness protection program.

His old friend Mark Phillips is still being sought by police, along with Davila, who is presumed to be continuing his drug export business from Colombia.

Lynne Platshorn still is awaiting a separate trial.

Bobby Platshorn recently appeared before King to receive his sentence and made a 90-minute speech in which he charged that the government "invented the Black Tuna Gang" and then conducted "Soviet-style show trials . . . a government grandstand."

King fined Platshorn $325,000 and sentenced him to 64 years in prison. Platshorn, who is now 37, will be eligible for parole when he is 70.

[From the Washington Star, July 24, 1980]

DRUG SMUGGLING DOESN'T RUFFLE COOL KEY WEST

(By Mary Thorton)

(Fishermen in Key West, the southernmost city in the continental United States, can make more than a year's wages in one night by hauling marijuana. High school students cruise in new cars paid for in cash. Their source of wealth: drug smuggling. A local police department, short on funds and expertise, hasn't been able to prevent the city from becoming a major center in the drug trade.)

KEY WEST.—Dusk falls slowly here as great puffs of clouds gather lazily on the horizon in brilliant pinks and oranges, silhouetted boats slip by in silent procession and people gather on beaches and on the decks of sailboats for the nightly show.

There is no confusing Key West with mainstream America. This is a town with a different pace, a different set of values. It is a community that manages to welcome the hoards of tourists who descend each summer and winter, to accept the gay community that has made Key West a kind of Mecca and to tolerate the dropouts and hippies who hang out here in droves.

At 10:30 a.m. on a Saturday, the heat already is heavy and oppressive. The only sign of life in downtown Key West, except for the hound walking slowly down the sidewalk, is in an open-air bar where barechested men are sipping drinks to the rhythmic thump of the fans overhead and a juke box rendition of Jimmy Buffet's "Margaritaville."

Outside on the street, the sweet smell of marijuana wafts across the sidewalk mixing with the scent of rotting flowers that fall from the trees and are crushed underfoot. A jeep roars by sporting the bumper sticker: "How do I spell relief? C-O-L-O-M-B-I-A-N."

Federal and local law enforcement authorities say that over the past decade Key West has become one of the largest drug-smuggling centers in the United States.

It has become a city where a fishing boat captain can earn more in a single night carrying a load of marijuana than he would earn fishing in a whole year, where high school kids ride around in Cadillacs paid for in cash, where some men carry $20,000 around their necks in the form of gold chains.

Because most law enforcement agencies, both state and federal, are concentrating their activities on the large Miami drug market, Key West has been left to the local police department without the funds or expertise to fight the drug trade.

This is an ideal place for drug smuggling. It is the closest point in the United States to the northern coast of Colombia, the source of most of the marijuana, cocaine and illegal Quaaludes coming into this country. The countless deserted islands and the mangrove swamps provide a perfect place to unload and hide the drugs. And the island is only 154 miles by road from the insatiable Miami drug market.

In addition to the perfect geography, the island has one of the largest commercial fishing fleets in the country, as many as 300 shrimp boats and 150 crawfish boats.

And Monroe County Sheriff William Freeman says, "I'm sure some of those boats have never seen a fish."

Official estimates are that at least 50 percent of the boats have been used to haul "square grouper," the local nickname for the large square bales of marijuana. But fishermen say the actual number probably is much higher.

IRRESISTIBLE DEALS

According to many fishermen, the deals offered by the drug smugglers are almost irresistible. A man can earn $20,000 or more in a single night, and it is nearly risk-free. If there is any problem, the drug organization provides all the legal fees and replaces the boat if it is confiscated.

One fisherman, who has refused to carry marijuana, said he has stayed away from it partly because he thinks it's wrong and partly because he's afraid of getting involved with the kind of people who deal in drug smuggling. "Every now and then someone's supposed to make a run, and they don't, and then they get beat up pretty bad or their boats get burned."

But he believes most fishermen have been involved at some point.

"I've seen plenty," he said. "Anybody who lives down here can see what's going on. When you see two or three thousand dollars worth of gold around their necks, new Porsches, you know they didn't get it fishing. I know fishermen who only had a wood boat one year. The next year they've got a new boat, a new house all paid for, a new Lincoln.

"You can make $20,000 in a night. When you've got to make the $1,000-a-month payment on your boat, sometimes it gets pretty tempting," he said.

Key West has a reputation for lax law enforcement—with countless stories about the public officials who have been involved in the illegal drug trade and generally have gotten away with it.

Key West Commissioner Richard Heyman tells the story about Fire Chief Bum Farto who was picked up several years ago on charges of selling cocaine at the junior high school. He got out on bond and eventually disappeared before he was to come to trial.

Four days after disappearance, Heyman said, Farto's wife finally reported him missing, and he's never been heard from since. Some people still wear T-shirts asking "Where is Bum Farto?"

A computer study published recently by The Miami Herald concluded that Monroe County State Attorney Jeff Gautier has compiled the state's worst record for prosecuting drug felonies.

Almost every multiton marijuana smuggling case prosecuted by the Monroe County State Attorney's Office since 1976 has been botched and lost or plea-bargained to misdemeanors, according to the newspaper study of court records. In some cases, the Herald said, suspects caught with many tons of marijuana were allowed to plead guilty to possession of less than 20 grams and pay a modest fine.

Last April, Florida Gov. Bob Graham appointed a special prosecutor to investigate the allegations raised in the Herald stories, as well as other public corruption in the Key West area. Gautier has said he welcomes the investigation.

Four members of the Key West police force were convicted in May on charges arising out of an incident in September 1978 when 14 men, including the policemen, were found on a fishing dock * * *.

And just this month the head of the Florida Marine Patrol's operations in the Florida Keys was arrested on a charge of accepting a $50,000 bribe to allow two boatloads of marijuana to land in his area.

"MOCKERY OF THE LAW"

One white-haired woman who has lived on the island for the past 15 years said the drug trafficking has become so pervasive that "it's made a mockery of the law. No one's worried about getting caught because they know everyone's doing it. The police. Everyone. It's like a ball of yarn. The more it turns, the more it gets involved."

She talks about a public official who has been suspended without pay for more than a year for alleged drug involvement. "During that year, he bought a new car, new furniture for his house, and he had a swimming pool built. Now, I wonder where that money's coming from."

The signs of the drug trade are everywhere.

Heyman, who believes the drug trade may have surpassed tourism as Key West's number one source of income, says that it isn't unusual for customers to pay in cash—as much as $4,000 at a time—at his Gingerbread Art Gallery, and he has heard stories of cash purchases involving much more money.

"I immediately rushed to the bank with the $4,000," he said. "You see (cash) a lot. People with bags of money. I've even heard of cash land purchases. It could just be someone who's flashy, but you always have your suspicions."

Another resident added, "You see a kid bagging in the grocery store. Then you see him driving a Cadillac or a big Olds, and you know it's not his daddy's. They wear big gold chains around their necks. When I was a kid bagging groceries, all I could afford was a

St. Christopher's medal that turned my neck green."

But instead of outrage at the drug trade, there is a kind of quiet pride in the island's spirit of lawlessness.

"Kids take pride in the fact that the father may be hauling marijuana," said one resident. "It's romanticized. But just go back a few years to prohibition How is it any different. Maybe some day this will be looked on as just another era in the county's history. Those that are fighting marijuana legalization most are the Baptists and the drug dealers."

Blackie Valdez, a 59-year-old restaurant owner, said he doesn't approve of the drug traffic, but "this town is real compassionate. It doesn't go in for real harsh treatment unless it's a murder or something."

After all, people here say, Key West has served as home to people like Ernest Hemingway, Tennessee Williams and Thomas McGuane. It can't be all bad. And besides, the island has a history of operating a little outside the law.

The independence and lawlessness is a kind of relic of the island's wild past. Life on Key West has often been tough, dependent on the vagaries of the sea and more recently the whims of the tourist industry. Islanders have had to live by their wits.

In the early 1800s, that took the form of piracy. The history books say that until the 1820s piracy was the number one industry here, employing as many as 20,000 men.

DRUMMING UP BUSINESS

When the piracy was finally put to an end, the islanders turned to salvage work on the ships that foundered on the coral reefs. When business got slow, they simply turned out the lanterns on the lighthouses built to guide the ships safely through the reef.

During that period Key West became one of the wealthiest cities in the country. The federal government now calls it a "distressed city" with a poverty rate 50 percent higher than the national average.

Authorities here say that the drug smuggling started for the most part in the early 1970s when the Navy closed its submarine base here and moved most of its personnel out of the nearby Naval air station.

Many islanders lost their jobs, and the drugs seemed to come along to fill the void.

Freeman, who became county sheriff in 1977, feels he is fighting a battle that is virtually impossible to win.

In his first year in office, his department seized $200 million worth of marijuana, but he says he is hopelessly undermanned—with only six detectives in Key West, another four in Marathon about 50 miles north, and four others in Plantation Key, still farther north.

He has worked hard to shed the image of corruption that hangs over many other police departments, including the Key West City Police Department. Shortly after taking office, Freeman decided to require annual financial statements from all of his employees, along with a yearly psychological examination and a lie detector test.

He immediately was sued by some of those employees. By the time he won the suit last October, more than 60 percent of his employees had left.

But even with all his precautions one of Freeman's detectives was arrested early this year on marijuana-related charges.

Freeman says that the signs of drug smuggling are everywhere. "All of a sudden you see a man buy a $300,000 house for cash when he's got no job," he said. "I don't care if you're a Kennedy or a Rockefeller. You write a check. That's what the normal person does.

"You get a smuggler's son who has the T-Bird and the pocket full of money and he's gettin' all the girls. Doesn't set a very good example for the other kids," he said.

Freeman says there's a six-month backlog of drug cases awaiting trial and normally young offenders get off with virtually no punishment. "The kids know nothing will happen to them. We just keep chasing the same people again and again and again."

Freeman says he's asked again and again for federal help. "I got with the feds, tried to get them to open up an office," he said. "We didn't even have a customs office here until 1978. There's still no DEA office and only a one-man FBI office. I attacked the problem as best I could and I asked for help. But I haven't gotten it."

Mr. ST GERMAIN. Mr. Speaker, I yield 7 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I think we are all aware of the very, very serious drug problem now confronting the United States of America. It exists in every single community in this entire Nation.

I was struck in 1979 by the words of President Carter in his state of the Union address when he said that we must attack this drug problem, and that what we should do is stress financial investigations as a means of coping with international organized crime in general and international organized crime dealing in drug traffic in particular.

☐ 1420

As I investigated the law, however, I found out that there were certain loopholes in existing law which prevented using financial investigations as a primary vehicle to cope with international organized crime.

What were some of those loopholes? First of all, the 1970 Currency and Foreign Transactions Reporting Act omitted making it a crime to attempt to transport monetary instruments out of the country in excess of $5,000 without filing a report.

What happened? Individuals would go to the border ready to get on a plane, there would be knowledge on the part of the customs officers that these individuals were going to transport enormous sums of money out of the country and that they had not filed as required by the 1970 law, but they were powerless to do anything. The reason they were powerless to do anything is because the individuals had not actually left the country.

The 1970 law, as it has been interpreted by the courts, actually required the individual to leave the country before he would be in violation of the law. Of course, what would happen is that when the individual left the country he would be beyond our jurisdiction, and it would be too late to do anything.

So all we are doing in title I of this bill is closing a loophole by making it a crime to attempt to leave the country without filing a report.

Incidentally, what we are also doing in our legislation is increasing the amount of money that must be taken out of the country before requiring a report. Our present law requires $5,000. That was passed in 1970. It is now 1980. We are increasing that to $10,000.

There are absolutely no new reporting requirements. There will be no additional reporting requirements under this bill than under existing law. In fact, there will be less because we are increasing the amount from $5,000 to $10,000.

Second, whenever we are dealing with international organized crime we are dealing with some pretty mean mavericks. If individuals have information about these dealers in international organized crime they are going to be reluctant to come forth with that information because they might fear for their lives—unless there is an incentive to do so. Under present law there is no such incentive. This law creates an incentive. It gives the Secretary of the Treasury the discretionary authority to award an informer's fee out of the money that is collected, not the taxpayers' money, but out of the money that is actually obtained from the criminals in the amount of 25 percent of the amount that is obtained, or $250,000, whichever is the lesser.

Third, and here we come to the provision which has been the most controversial, although we have attempted to accommodate the arguments advanced against the original bill.

The Customs Department, the Drug Enforcement Agency, and the Justice Department thought that their ability to combat crime was being frustrated. The reason for this frustration was because even at the border it was necessary for them to obtain a search warrent on probable cause before they could apprehend, arrest, or search an individual. They said that whenever dealing with a border situation the Constitution of the United States would enable the customs officials to search an individual, not on probable cause with a warrant, but without a warrant, and on reasonable grounds to suspect that the individual is in violation of the law.

There were some objections to this provision, although the Department of Justice felt, in their judgment, it was constitutional. The Justice Department said the Supreme Court decisions in no instance had said that using the standard of reasonable cause to suspect that there is a violation of the law would be unconstitutional when dealing with border searches.

However, when it went to the Committee on Ways and Means, it was the judgment of the Committee on Ways and Means, in order to get unanimity of opinion concerning this issue, that we ought to accept an amendment permitting the searches only on the basis of probable cause. In order to accommodate those concerns, we have accepted that amendment, and it is that compromise bill that we have before us today, a bill that the administration, the Justice Department, the Customs Department, the Treasury Department, have all said will improve the effectiveness of our law enforcement efforts against international organized crime by approximately 100 percent. It is that bill that I ask my colleagues to vote for today.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MINISH).

● Mr. MINISH. Mr. Speaker, I rise in strong support of H.R. 5961.

I have been interested in the subject

of this bill, currency transactions and their relationship to narcotics trafficking for some time and am pleased that it is being considered under suspension today by the House.

The Oversight Subcommittee of House Banking, of which I am chairman, held hearings on this subject in November of 1979. We heard testimony from the Department of the Treasury, the U.S. Customs Service, the Drug Enforcement Agency, the Comptroller of the Currency, the General Accounting Office, and from Congressman JOHN LAFALCE, the prime sponsor of legislation dealing with this subject.

Our interest in this area was generated by a Treasury Department study, issued in September of 1979, which reported on currency flows among the various regional branches of the Federal Reserve System. The Treasury report showed unusually large currency flows into several States, especially Florida and Texas. Specifically, the study showed that currency deposits in the Miami and Jacksonville, Fla., offices exceeding payouts by more than $3.2 billion during 1978. After Miami and Jacksonville, the next largest inflow of cash was found in San Antonio and El Paso, Tex. During this same period, the Federal Reserve System as a whole experienced a net payout of more than $10 billion. These surprising statistics, together with the assertion by many experts that many of these currency transactions were related to narcotic deals, prompted our subcommittee's investigation. I would like to share with you the findings of our investigation and hearing.

It is true that there is an unusually high volume of crime-related currency transactions both within the United States and between the United States and other nations. Officials of the Drug Enforcement Agency told us that the retail value of illicit drugs imported into the United States in 1977 was about $45 billion. This included about $14 billion for cocaine and about $20 billion for marihuana. The DEA testified that between $8.9 billion and $13.6 billion worth of marihuana came from Colombia alone. It estimated that between $480 and $730 million was paid out to Colombian traffickers alone. So, as you can see, this is a huge and serious problem.

There are laws already on the books which are designed to help law enforcement agencies prevent illegal currency transactions. The present law requires financial institutions to file reports on unusual currency transactions in excess of $10,000. It also requires individuals entering or leaving the United States with $5,000 or more in currency to disclose that fact.

We found that domestic banks have been lax in enforcing the present reporting requirements. One DEA official asserted that some banks knowingly handle huge sums of drug money and others ignore obviously questionable transactions. We also found that the bank regulatory agencies have been lax in insuring that financial institutions enforce the present reporting requirements. The Department of the Treasury recently came out with new regulations designed to beef-up enforcement of the reporting requirements. However, up to now, we found that their enforcement has been irregular and the data collected has been spotty.

In response to this problem, I have asked the GAO to undertake a major study of the currency transaction reporting requirements which apply to American banks. The GAO investigation, which has been going on for several months, is concentrating on both the enforcement of the reporting requirements and the usefulness of the information that is collected. I believe that the GAO study, once completed, will give us a handle on the problem of illicit currency transactions and the role of financial institutions in them. As I said, the investigation is now in progress and I expect the GAO's report in the early fall.

The second focus of our hearings was on illegal currency transactions which reach outside the United States. We found that customs officials, who are primarily responsible for preventing the illegal import and export of currency, are hampered by some large loopholes in the customs laws. These shortcomings in the present law are addressed by H.R. 5961, originally introduced by Congressman LAFALCE, which I cosponsored and strongly support. I would like to mention two of the highlights of that bill and explain how it closes the loopholes we found in the present law.

One section of H.R. 5961 would amend the Currency and Foreign Transaction Reporting Act by making it a crime to attempt to export or import large amounts of currency without disclosing that fact to customs authorities. This is in response to a Federal court case in which the judge ruled that the present law does not prohibit the attempt to smuggle currency. Under this interpretation, law enforcement authorities cannot arrest someone they suspect of smuggling currency until he has actually left the United States. However, once the smuggler has left the country the United States has no more jurisdiction over him and he cannot be arrested. H.R. 5961 would close this obviously unintended loophole.

Another provision of H.R. 5961, as reported by the Banking Committee, would amend the Currency and Foreign Transaction Reporting Act to permit customs officers to search persons or vehicles entering or leaving the United States when the officer has "reasonable cause" to suspect that monetary instruments worth over $10,000 are being transported without the filing of the required report. Under present law, when an individual is entering the United States, there is no need for a search warrant or a showing of probable cause prior to search. Instead, reasonable cause standard is applied under the customs statute. A number of Supreme Court cases have affirmed this lower standard for border searches, basing their decisions on the Federal Government's authority to regulate interstate foreign commerce and its sovereign prerogative to protect itself from persons wishing to enter the country. Since customs officers already have authority to do searches without a showing of probable cause on persons entering the United States, the proposed Banking Committee legislation would simply clarify that the examination may include a search for large amounts of unreported currency.

A few of my colleagues have suggested that giving customs officials the right to search based on their reasonable cause to believe that currency is being smuggled is in contravention to the fourth amendment to the Constitution. Although I do not agree, I note that the Ways and Means Committee has decided to specify "probable" cause. I will support this approach in an effort to get this most important measure enacted this year.

H.R. 5961 was reported out by the House Banking Committee on February 27, 1980, and by the Ways and Means Committee on July 1, 1980. I believe that this bill is well thought out, tightly drawn, and very necessary. Although our hearings focused on its usefulness in preventing drug-related currency smuggling, it will be equally important in the Government's attempt to combat various other kinds of organized crime.

Mr. Speaker, I urge an overwhelming vote of approval for H.R. 5961.●

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I support this legislation and am pleased the committee adopted the Ways and Means Committee amendment.

Mr. Speaker, the Committee on Ways and Means made one amendment to title II of H.R. 5961 as introduced, which allows warrantless searches for unreported currency by the Customs Service only when probable cause rather than the lower standard of reasonable cause exists to suspect that a violation is occurring.

Although the "border search" exception to the traditional probable cause requirement has been a long established principle for incoming searches, there has never been a statement from the U.S. Supreme Court as to whether exit searches fall within the ambit of the border search doctrine. The chairman of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights urged deletion of this entire provision, stating that—

> It would be an unprecedented break from long-established law on the subject and is . . . unconstitutional.

Even the Justice Department, while supporting the bill, stated that this provision "involves a close constitutional question" in authorizing a warrantless exit search based on less than probable cause.

In light of these serious constitutional questions, the committee felt that the use of the more judicially acceptable "probable cause" standard would be preferable to the lesser standard of "reasonable cause."

Mr. WYLIE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the gentleman from New York (Mr. LaFalce) has done a considerable amount of hard work on this bill and has done an excellent job of describing its provisions.

I would just add my own observations. This bill does correct a deficiency, I would say, in the present law.

Present law requires that if a person with $5,000 cash in his pocket is leaving the country, that person must disclose that fact. But a Florida judge in the Centano Case held that this law could not apply to that person for failure to disclose until that person had reached foreign soil.

Customs officials have found themselves in a Catch-22 situation. They suspect somebody is taking huge amounts of cash out of the country to buy drugs, but they cannot ascertain that until the person gets to a foreign jurisdiction where they have no authority. That sums up the problem we found ourselves in as we listened to the testimony of the various Customs officials who came before our committee.

This state of affairs has allowed drug traffickers to take huge sums of money out of the United States to buy drugs. This bill will increase the amount which can be taken out without disclosure from $5,000 to $10,000 cash. That was the result of the Stanton amendment which was adopted in the full Committee on Banking, Finance, and Urban Affairs.

The sum of $10,000 is not exactly pocket cash. A person carrying $10,000 in cash has the intention of buying something pretty big. If that person wants to buy a Mercedes, all that person has to do is say, "I want to buy a Mercedes with that cash," and he has complied with the law. I might say that such disclosure is protected under the privacy laws.

I am a former prosecuting attorney and I will say that I get a little tired of protecting criminals against innocent victims, and to me that is the bottom line, all rhetoric aside. We have a problem of such magnitude that it goes to our national welfare and that, to me, is the real constitutional issue.

I listened to the customs officials. We have a problem, as I say, of monumental proportions that we must solve.

Cases were related to us where $50,000 boats, which were being approached for search, were being sunk so that there could not be a search. We are talking about big money. One way to solve the problem, customs officials tell us, is to be able to trace the money going into the purchase of these drugs and this bill, to me, provides one way they can do it.

It is beyond my comprehension why a law abiding citizen would not want to help us solve this drug problem. All of us have to help. All we have to do, I think, to know the problem is to visit a college campus or a school yard and we will know that it is a very serious problem.

The bill contains an amendment which I offered in the committee markup to require the Secretary of the Treasury to submit a report to the Congress within 18 months of the enactment of this act on the effectiveness of the amendments made by the act. This amendment will enable Congress to conduct early oversight if there should be any indication that the bill is not working out as well as anticipated. We would be especially concerned if there were substantial evidence that the amendments had resulted in undue inconvenience to the traveling public in relation to the benefits derived by law enforcement authorities. The Treasury Department has stated that it welcomes the opportunity to report its experiences under the bill, and it is clear Treasury is confident the experience will be favorable.

An important amendment was added by the Committee on Ways and Means, which had joint jurisdiction, as a result of the provision to permit warrantless searches upon a showing of "reasonable cause." The Vanik amendment changed the standard for the conduct of a warrantless search from "reasonable" to "probable" cause. It is felt that this amendment will significantly increase the protection afforded to the traveling public against unreasonable searches and seizures, and I endorse it as I think it will help passage of the bill.

I believe that this bill is worthy of support. Most of the Members of this House must be keenly aware of the problems faced by our law enforcement authorities in attempting to control the tremendous flow of contraband into the country, which is frequently accompanied by the flow of cash overseas. Speaking for myself, I would not want to deny the authorities the tools they may need to enforce the law, with due consideration given to the needs and rights of the innocent traveling public.

I believe this bill should be given a chance to work, and I urge my colleagues to support it.

Mr. Speaker, I now yield 2 minutes to a distinguished member of the committee, the gentleman from Ohio (Mr. Stanton).

□ 1430

Mr. STANTON. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I rise in support of H.R. 5961, the Currency and Foreign Transactions Reporting Act Amendments of 1980. This bill, which represents the first direct amendment of the so-called Bank Secrecy Act which was passed in 1970, makes it a crime to attempt to export or import large amounts of currency without filing the necessary reports. In addition, the bill amends the act to provide the U.S. Customs Service with search authority for monetary instruments comparable to its existing authority with respect to contraband merchandise.

Let me say at the outset that no one believes that this bill is the total solution to the problem of sizable money flows which support either the illegal drug trade in the United States or other activities associated with organized crime. This legislation, however, should provide law enforcement authorities, particularly the U.S. Customs Service, with some additional tools to help curb the flow of funds associated with any illegal activity.

Nothing in this legislation is meant to hinder the law-abiding citizen in his or her travels. It should be clear that the majority of individuals who transport monetary instruments across national borders do so for legitimate business or personal reasons.

Because of three important amendments which have been added to this bill, I am able to support H.R. 5961. First, an amendment which I offered in committee raises the reporting threshold from $5,000 to $10,000. This amendment should protect the ordinary business and vacation traveler from the inconvenience of having to file a report or submit to a search pursuant to the provision of the act. Because of the continuing inflation in this country, I believe that this is an equitable amendment since that amount has not been changed since 1970.

Second, my colleague on the Banking Committee, Chalmers Wylie from my home State of Ohio, is the author of a constructive amendment which requires the Secretary of the Treasury to report to the Congress regarding the effectiveness of the amendments made by this legislation. I know that some of my colleagues have reservations about the new powers that we are granting to law enforcement authorities. With this amendment, however, we will have the necessary followup information to determine whether in fact our actions here today have made law enforcement more effective. To the extent that I am able, I can assure my colleagues that the Banking Committee will hold oversight hearings once this report has been submitted.

Finally, although I have not yet seen the report of the Committee on Ways and Means, it is my understanding that the committee added an amendment which changes the test for conducting a search from that of having just a "reasonable cause" to that of having a "probable cause." This amendment in fact tightens the requirement that a customs official must satisfy if he or she suspects that monetary instruments are in the process of being transported in violation of the Currency and Foreign Transactions Reporting Act.

Mr. WYLIE. Mr. Speaker, I actually think this bill is more protective of individual rights and will help law enforcement officials. I urge its adoption.

I now yield 5 minutes to the distinguished gentleman from Texas (Mr. Paul).

Mr. PAUL. Mr. Speaker, I take issue with the viewpoint that has been so far expressed that this bill has satisfied the greater number of opponents of this legislation. As a matter of fact, if we took a survey we would find hundreds or possibly even thousands of letters have come in to Congress on this issue and I have yet to see one letter supporting this piece of legislation.

Mr. Speaker, not only that, the American Civil Liberties Union is still strongly opposed to this legislation along with the American Bar Association as well as the National Association of Criminal Defense Lawyers. So it is not one of these clearcut and dried issues whereby we are not jeopardizing some of our constitutional freedoms.

Mr. Speaker, let me just recite the fourth amendment for that is what we are here dealing with. I believe instead of this bill being called the drug trafficking bill—and, by the way, it never mentions drugs; it only talks about control of currency, control of people and searching people. This bill could be better known as the act to suspend the fourth amendment under the suspension of the rules.

The fourth amendment says:

> The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated and no warrant shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the person or things to be seized.

Mr. Speaker, we are not even going to get a warrant let alone describe what we are going to search for.

Mr. Speaker, a few months ago there was a case in California that went to the California Supreme Court as well as the Supreme Court of the United States. In this case an individual had stolen an automobile, placed a suitcase on the back seat of the car. The police opened this suitcase.

It has been ruled by the California Supreme Court as well as by the U.S. Supreme Court that even criminals have a right to privacy.

Mr. Speaker, we are talking about taking away more freedom from an individual passing from this country than we are providing for the convicted or alleged criminal who has stolen an automobile. I do not think we should do this carelessly. I think we should do this with a great deal of concern and realize exactly what we are doing here.

Mr. Speaker, the issue is the fourth amendment. We are not dealing with drugs. I had an amendment in the Committee on Banking and Finance to amend the bill and say that we should suspect individuals of transporting cash for the purchase of drugs before a search could insure. This was rejected outright. The authors do not want to mention drugs in the legislation. They want to control people and they want to control currency.

For 2½ years now there has been investigations of the large amount of cash in the Florida banks. There has been but one case where they related excessive amounts of cash to drug trafficking. This neither proves nor disapproves why the currency is arriving in the Florida banks.

Mr. Speaker, we might ask ourselves, what good is it to stop a private citizen and search him on the border. How is that going to explain why there is excessive cash in some bank?

Another thing: Why do we not ask ourselves, How do we achieve drug control by making wallets contraband and insinuating that currency is contraband without any proof of the fact that it was involved with crime or even was it suspected to be involved with crime? The same people who want this power cannot detect tons and tons of marihuana coming into the Nation. How can they detect a traveler's check by going through our wallets if they cannot even spot the ships and the planes used to bring in the marihuana. I think it is rather remarkable to think that by giving them this right or this privilege of looking in our wallets and searching our suitcases and for that matter it will probably involve wiretapping as well; will help to curtail the illegal drug trade. Much of the currency is transferred through wire service and, therefore, I believe, and others have agreed, that this legislaiton could imply that wiretapping would be permitted as well.

Mr. Speaker, the other important thing I think we ought to realize is, there are a lot of dollars showing up in Florida banks for one reason or another. If we pass legislation like this, this will do but one thing if it is involved with drugs and if it is illegal. The point is that money will leave the bank. That money will go underground. It will do you no good at all. To me it would be an asset to know the money is in the bank. You can check and follow it and use these deposits as evidence. But to take away the privilege of an individual leaving this country wihout a search is a dangerous precedent to establish.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WYLIE. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. PAUL. Mr. Speaker, I thank the gentleman.

Mr. Speaker, it has been pointed out this is nothing unusual because we have been looking in suitcases by customs officials for a couple hundred years. However, this is always coming into the country. We have never searched our people as they leave the country. This is a drastic change from what has been traditional and I think we must be very careful not to succumb to the temptation, no matter how well intended, to do something like this.

The ACLU, the American Bar Association, as well as the National Association of Criminal Defense Lawyers, all agree that this legislation is unnecessary and it is not constitutional. The one point that the American Bar Association makes is that if you start to check people leaving the country arbitrarily, it will be definitely different than checking everybody coming into the country because you will be discriminating. There is no indication they intend to search everybody leaving so, therefore, they indicate if you are arbitrary in your searches it would be that much more unconstitutional.

I would like to further explain my position and express strong opposition to this legislation.

H.R. 5961: A THREAT TO OUR CONSTITUTIONAL FREEDOMS

Today we are asked to amend the Currency and Foreign Transaction Reporting Act, better known as the Bank Secrecy Act of 1970. It has been misnamed 'the Drug Trafficking Act." It would be better called "the act to repeal the fourth amendment." The most basic issue involved in this legislation today is whether or not this Congress will respect and uphold the fourth amendment. To refresh our minds, let me read exactly what the fourth amendment says:

> The right of the the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the person and things to be seized.

This bill, if passed, will give the Federal authorities permission to search any law-abiding citizen as he leaves the country. This will be the first time that this has ever come about in our 204 year history. The question that we we must answer today is, do law-abiding citizens deserve the same protection from unreasonable search and seizure as hardened criminals?

In this day and age, evidence gathered by the police in criminal cases can never be used in court if it was gathered in violation of the Constitution. So how can we suspend the Constitutional protection of law-abiding citizens in their routine travels out of the country? In a recent case in California, the California Supreme Court held, and the U.S. Supreme Court upheld by refusing to hear, the right of even car thieves to the privacy of concealed contents they place in stolen vehicles. This came from a case where a car thief had his suitcase, found on the back seat of a stolen car, examined without a search warrant. It was upheld that the police could not look in a suitcase even in a stolen vehicle without a proper search warrant. If H.R. 5961 becomes law, it means that the Customs authorities will be able to look in our suitcases, in our wallets, and in our mail, without a search warrant, without even a suspicion that a crime was being committed. All that the authorities must suspect is that one is leaving the country with funds.

H.R. 5961 makes it a crime to transport or even attempt to transport monetary instruments out of the country. A good clear definition of attempting to leave the country is unavailable.

Monetary instruments, as defined in the 1970 Act, mean coin and currency of the United States. In addition, such foreign coin and currency, and travelers' cheques, bearer negotiable instruments, bearer investment securities, bearer securities and stock with title passing upon delivery, or the equivalent thereof, as the Secretary may by regulation specify.

The most serious threat to our constitutional freedom is that this legislation will permit warrantless searches upon probable cause of all individuals leaving the country.

What we are doing is making monetary instruments equivalent to contraband—a new and strange concept.

It is not necessary that a crime be suspected. Also there need be no suspicion of the concealment of evidence of a crime. Only the fact that an individual may be carrying monetary instruments is required.

This bill also sets up an informer program rewarding neighbors for turning in their neighbors, with a top payment of $250,000.

This bill will permit the search of any vehicle, vessel, aircraft, envelope, person, or container. With this massive sweeping power, it will not be surprising if wiretapping were permitted as well.

It is stated that the customs authority, provided in the Act of 1789, permits such sweeping power. It must be noted that the fourth amendment was ratified 3 years after the customs authorities received their power. Also, it has been traditional only that individuals, upon entry into the country, were examined for contraband and illegal goods. This will be the first time that individuals leaving the country would be subjected to a search.

One must ask, how will stopping people leaving the country, and opening up their suitcases, explain how large amounts of cash end up in certain banks in Florida. It seems to me that the two are unrelated.

Since our authorities are unable to detect tons of marihuana coming into the country, how is it that these same people will be able to seek out and detect travelers' cheques and other securities?

The United States has used as a qualification for loans an open emigration policy by other nations, and yet, here we are closing our doors and prohibiting emigration under certain circumstances.

The full Banking Committee would have no part of limiting this bill to detecting drug trafficking or other white-collar criminal activity. The open-ended, all-inclusive, sweeping powers is what was desired, and my amendment to limit this bill to drug trafficking was rejected outright.

It is claimed that the dollars showing up in the Miami banks are reflective of drug activity. If this is the case, it seems to me that it would be of great benefit to the authorities to have these bank accounts available for inspection. With this type of legislation, the dollars will be driven underground, and less information will be available to us in detecting the drug trade.

For more than 2 years now, intensive investigation has been underway in trying to correlate the excessive cash in the banks in Florida with the drug trade, and yet there has been only one proven correlation.

If the drug trade is the main motivation for this legislation, why is it that we are again just as concerned about currency in the country as well as out of the country, for were it due to drug trade, we would be concerned about drugs coming in and money going out.

It has been said that attempting to leave the country should be a crime because attempting to murder someone is also a crime. But this is an incredible comparison, for leaving one's country with one's assets certainly cannot be equivalent to attempting murder. Attempting to leave the country with one's assets should never be assumed to be a crime in a free country. It might be wise for us to remember that point 4 in the Communist manifesto was the confiscation of the property of all emigrants.

This legislation is obviously written for the purpose of international currency control, to limit emigration, and to diminish our freedoms. This is what is going to occur with this legislation, regardless of the good intentions of its authors.

The American Civil Liberties Union, the American Bar Association, and the National Association of Criminal Defense Lawyers are all on record as opposing this legislation.

Let me quote from the statement by Prof. Leon Friedman, who represented the American Civil Liberties Union before both the House Banking Committee and the Ways and Means Committee:

> The bill would revolutionize existing laws with respect to international travel, greatly burden and inconvenience innocent citizens, and violate the right to privacy of millions of Americans. It is the position of the ACLU that H.R. 5961 is probably unconstitutional, certainly undesirable and it is absolutely unnecessary in any event.

In Carol against United States (1925), the Supreme Court said:

> But those lawfully within the country have a right to free passage without interruption or search, unless there is known to a competent official authorized to search probable cause for believing that their vehicles are carrying contraband or illegal merchandise.

In this case, it is obvious that we must make our wallets and our suitcases equivalent to contraband.

The courts have very definitely over the years made a sharp distinction between examining a person leaving a country versus one coming into the country. In Kent against Dulles (1958), this distinction is made very clear:

> In that case, a passport was refused to Rockwell Kent by the Secretary of State on the grounds that he was a Communist and consistently adhered to the Communist Party line. The State Department argued that its right to withhold a passport was necessary to protect the country's internal security. The Supreme Court rejected that argument. . . . The court noted that the right to leave this country and travel throughout the world "is a part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment . . . Freedom of movement is basic in our scheme of values.

Quoting again from the testimony of Prof. Leon Friedman:

> Congress should not take this revolutionary step without a more careful consideration of the desirability of searches. . . . In summary, the ACLU is totally opposed to the provisions of H.R. 5961 permitting a search of American citizens leaving this country.

STATEMENT ON BEHALF OF AMERICAN CIVIL LIBERTIES UNION ON AMENDING THE BANK SECRECY ACT

My name is Leon Friedman and I am a Professor of Law at Hofstra Law School in Hempstead, New York, teaching criminal procedure and constitutional law. I welcome this opportunity to testify on behalf of the American Civil Liberties Union concerning H.R. 5961. The proposed bill adds various provisions to the Bank Secrecy Act, 31 U.S.C. §§ 1101(a), 1105. Our particular concern is the proposed amendment to Section 1105 which allows "any customs officer" to "stop search and examine any vehicle, vessel, aircraft . . . envelope or other container, or person entering or departing from the United States on which or whom he shall have reasonable cause to suspect there are monetary instruments" for which a report is required under the Act.

What the proposed bill would do is to permit every person leaving this country to be physically searched and every piece of luggage or container down to an envelope to be searched without a warrant by any customs officer on his reasonable suspicion that the person or container, might have more than $5,000 in monetary instruments which were not reported as required by law.

The bill would revolutionize existing laws with respect to international travel, greatly burden and inconvenience innocent citizens and violate the right to privacy of millions of Americans. It is the position of the A.C.L.U. that H.R. 5961 is probably unconstitutional, is certainly undesirable, and it is absolutely unnecessary in any event.

CONSTITUTIONALITY

At present there is no statutory authorization for any search of the physical person of Americans as they leave this country. Section 401(a) of Title 22 permits the seizure of illegal arms or munitions upon a showing of probable cause that the arms are being exported in violation of law. But this section relates to the seizure of goods generally in large containers and not likely to be found on a person leaving the country. Furthermore the law requires probable cause before any seizure can take place. Section 1581 of Title 19 broadly allows customs to search vessels or vehicles violating the navigation or other laws of the United States. Once again there is no reference to the search of persons.

There are laws permitting the search of persons as they enter the United States. Section 482 of Title 19 permits the search of vehicles and persons on which or whom a customs officer has "reasonable cause to suspect there is merchandise which was imported contrary to law." It is this statute which is apparently the model for H.R. 5961.

The difference between a search of a person coming into the country and one leaving the country is crucial to the understanding of the defects in the proposed law. In the leading case on the subject, *Carroll* v. *United States*, 267 U.S. 132, 153–54 (1925) the Supreme Court said:

> "Travellers may be . . . stopped in crossing an international boundary because of national self-protection reasonably requiring one entering the country to identify himself as entitled to come in, and his belongings as effects which may be lawfully brought in."

The Court added:

> "But those lawfully within the country . . . have a right to free passage without interruption or search unless there is known to a competent official authorized to search, probable cause for believing that their vehicles are carrying contraband or illegal merchandise."

This distinction has been upheld in a long series of Supreme Court cases permitting border searches in a variety of situations. See *United States* v. *Ramsey*, 431 U.S. 606 (1977) (permitting warrantless search of incoming international letter mail). *United States* v. *Brignoni-Ponce*, 422 U.S. 873 (1975) (roving patrol may stop car near border if reasonable suspicion exists that illegal aliens may be present) (*United States* v. *Martinez-Fuerte*, 428 U.S. 543 (1976) (stop but not search of car at fixed point near border permitted). But *cf. Almeida-Sanchez* v. *United States*, 413 U.S. 266 (1973) (roving patrol search of car not permitted).

It is obvious that the national interest in searching incoming travelers is of a different order than searching those departing. Such border searches may be necessary to keep out contraband that might have harmful effects within the country. No nation wants illegal arms or narcotics or other dangerous objects introduced into the nation. Customs laws require duties to be paid on certain merchandise. Each country requires that guests into the country have proper visa documents. Border searches of those coming in is simply an aspect of national self-preservation, as recognized in the *Carroll* case. This government interest weighs heavily when measured against other personal rights. Even here, however, the personal right to travel is protected by the reasonableness requirements of the Fourth Amendment. See *Almeida-Sanchez* v. *United States, supra*.

The government interest in searching travelers leaving the country cannot be justified in the same way. There is no comparable interest in national self-preservation that is served by such a search. Travelers leaving the country are protected by the fullest panoply of constitutional rights and the government interest that is measured against those rights is not as strong.

The Supreme Court decision in *Kent* v. *Dulles*, 357 U.S. 116 (1958) underscores this distinction. In that case a passport was refused to Rockwell Kent by the Secretary of State on the ground that he was a Communist and consistently adhered "to the Communist Party line." The State Department argued that its right to withhold a passport was necessary to protect the country's internal security. The Supreme Court rejected that argument. It held that the statutory authority granted the Secretary did not permit him to withhold passports on the asserted grounds. The Court noted that the right to leave this country and travel throughout the world "is a part of the 'liberty' of which the citizen cannot be deprived without due process of law under the Fifth Amendment." 357 U.S. at 125. "Travel abroad, like travel within the country, may be necessary for a livelihood. It may be as close to the heart of the individual as the choice of what he eats, or wears, or reads. Freedom of movement is basic in our scheme of values."

To burden that freedom of movement by permitting searches of millions of Americans who travel abroad on the basis of "reasonable cause" would violate the principles of *Kent* v. *Dulles*. This is not a situation where customs officials are looking for contraband—narcotics, illegal guns, and the like—or items of commerce for which no duty has been paid. Customs officers will be looking for currency, travellers checks, bank drafts, which every single traveler must have in some quantity. Every American is a potential target for a full body search. On what basis can a customs official decide that one traveler has more or less than $5,000 in monetary instruments which he has not reported? The standard is impossible to apply in this context without a potential for abuse or enormous proportions.

The Supreme Court has but recently emphasized the importance of proper standards for searches of American citizens. *Ybarra* v. *Illinois*, 48 U.S.L.W. 4023 (November 28, 1979). In that case the state of Illinois had passed a law permitting a search of anyone on premises being searched pursuant to a search warrant. The defendant was in a bar when the police came in with a search warrant looking for heroin. Each patron of the bar was patted down. When a police officer felt a cigarette pack on one patron, he took it from him and found some heroin in tinfoil packets. The Supreme Court found that the Illinois law permitting such a search was unconstitutional. The search in that case could not be justified as a Terry search for weapons. *Terry* v. *Ohio*, 392 U.S. 1 (1968). The Court emphasized that any search on less than probable cause must be carefully scrutinized. "The Terry case created an exception to the requirement of 'probable cause,' an exception whose 'narrow scope' this Court 'has been careful to maintain.'" 48 U.S.L.W. at 4025. Only if a police officer has a reasonable belief or suspicion may a search be made and *the search must only be for weapons*, not contraband in general; "nothing in Terry can be understood to allow a generalized 'cursory search for weapons' or, indeed, any search whatever for anything but weapons."

In anything except the search for weapons, the normal probable cause standard must be applied. "The 'long prevailing' constitutional standard of probable causes embodies 'the best compromise' that has been found for accommodating the often opposing interests in 'safeguard[ing] citizens from rash and unreasonable interferences with privacy' and in 'seek[ing] to give fair leeway for enforcing the law in the community's protection.'" *Ibid*. at 4026.

In another case, *Dunaway* v. *New York*, 442 U.S. 200 (1979) the Supreme Court held that custodial questioning of a suspect based on reasonable suspicion—as opposed to probable cause—violated the Fourth Amendment. In that case a defendant was brought to a police station but not arrested. He was questioned about a killing that occurred. After an hour, he confessed to the crime. The state agreed that there was no probable cause to arrest the defendant before his confession. The issue then became whether he could be taken into custody and questioned based only on a reasonable suspicion that he committed the crime. Once again the Supreme Court emphasized the importance of probable cause as a constitutional standard and the limited nature of searches or seizures that could be accomplished under a reasonable suspicion standard. "The central importance of the probable cause requirement to the protection of a citizens' privacy afforded by the Fourth Amendment's guarantees cannot be compromised. . . . Hostility to seizures based on mere suspicion was a prime motivation for the adoption of the Fourth Amendment. . . . The familiar threshold standard of probable cause for Fourth Amendment seizures reflects the benefit of extensive experience . . . and provides the relative simplicity and clarity necessary to the implementation of a workable rule." 442 U.S. at 213. See also *Delaware* v. *Prouse*, 440 U.S. 648 (1979) (random checks for driver's license and proper vehicle registration not permitted on less than articulable reasonable suspicion).

Last year the Supreme Court, in an unanimous decision written by Chief Justice Burger, declared unconstitutional a Texas law that required a citizen to identify himself when asked to do so by a police officer. *Brown* v. *Texas*, 443 U.S. ——— (June 25, 1979). The Court held that even asking for identification was a "seizure" within the meaning of the Fourth Amendment. Although the officer claimed that the defendant looked suspicious, the Court found that objective facts on suspicion were lacking.

DESIRABILITY

Congress must decide whether it wishes to grant customs officials this broad power to search every American leaving this country and every container and piece of luggage with him down to an envelope looking for monetary instruments of $5000. The statutory standards "reasonable cause to suspect" is so minimal in terms of the search for money that every American is a potential target for a search. The Supreme Court cases listed above indicate that any standard below probable cause must be narrowly confined to special situations such as the need to protect the physical safety of an officer. Obviously we have nothing like that situation here.

In only one other provision in the U.S. Code does the term "reasonable cause to suspect" exist (besides the customs provision previously mentioned). Section 1357(c) of Title 8 permits a search and seizure when there is reasonable cause to suspect that an illegal alien is about to enter the country. Such searches are of a totally different nature and involve the considerations mentioned in the *Carroll* case. Congress should not take this revolutionary step without a more careful consideration of the desirability of such searches.

NECESSITY

There is no showing made by the government for the need for this kind of change. Unless and until the government can show that serious abuse exists and can be solved in no other way should Congress even think of this type of provision.

In summary the ACLU is totally opposed to the provisions of H.R. 5691 permitting a search of American citizens leaving this country.

AMERICAN BAR ASSOCIATION—REPORT TO THE HOUSE OF DELEGATES

SECTION OF CRIMINAL JUSTICE

Recommendation

(This report with recommendations has been approved by the ABA Criminal Justice Section Council, but not by the ABA House of Delegates or Board of Governors. Until approved by the House or Board, it does not constitute ABA Policy.)

The Criminal Justice Section recommends adoption of the following resolutions:

Resolved, That the American Bar Association opposes H.R. 5961 (96th Congress), or similar amendments to the Currency and Foreign Transactions Reporting Act.

Be it further resolved, That the American Bar Association supports legislation similar to the forfeiture provisions for illegal alien smuggling (8 U.S.C. 1324(b)) to protect innocent owners of monetary instruments.

REPORT

Introduction

Legislation has been introduced in the 96th Congress (H.R. 5961) by Congressman John J. LaFalce (D-N.Y.)) to amend the Currency and Foreign Transactions Reporting Act (which is part of the Bank Secrecy Act). That Act, passed in 1970, now requires anyone transporting in or out of the U.S. "monetary instruments" in excess of $5,000 to file a formal declaration (31 U.S.C. 1101(a)). Failure to do so may result in a criminal penalty (31 U.S.C. 1058; one year or $1,000), a civil penalty (31 U.S.C. 1102, an amount equal to the monetary instruments), and a forfeiture (31 U.S.C. 1102) of all the funds, including that less than $5,000. *Ivers* v. *U.S.*, 581 F.2d 1362 (9th Cir. 1978).

These statutes were expressly aimed at narcotics dealers whose funds could be monitored or seized pursuant to these provisions. The broad penal provisions cover any monetary transfer—even though no connection with narcotics is established. The sanctions follow from a failure to disclose. Some courts have required a notice (a sign at the airport would be sufficient). The statute requires notice of the status of the transporter, destination, consignor and consignee, and type of instrument (31 U.S.C. 1101(b)). Failure to file may result in the forfeiture of the funds belonging to innocent third parties, although federal administrators may, in their generosity, grant relief or remission (31 U.S.C. 1104).

H.R. 5961 (copy of which is attached to this report) has three principal components—an "attempt to transport" provision, warrantless searches, and compensation for informants—all of which are deeply troubling to the Section of Criminal Justice. As a result, we urge the American Bar Association to go on record in opposition to the legislation.

STATUS OF THE LEGISLATION

H.R. 5961 was reported out of the House Banking Committee on March 18, 1980, and, as of date of this report, was pending in the House Ways and Means Subcommittee on Trade. Hearings were held by that subcommittee in April, and it is expected that markup will begin shortly. A companion bill, S. 2236, sponsored by Senators William Proxmire (D-Wis.) and Lloyd Bentsen (D-Tex.) is pending in the Senate Banking Committee. The bill has received support from the Departments of Treasury and Justice and the Drug Enforcement Administration. Nonetheless, the Section believes that there are serious deficiencies in the legislation—no matter how worthwhile its objective of reaching narcotics traffickers—which must be addressed, and opposed, by the organized bar.

PROBLEMS IN H.R. 5961

We will separately address the three focuses of H.R. 5961 and point to the problems which we see in each:

(1) Attempt to transport: While recognizing the worthwhile law enforcement objectives of the proposed "attempt" provision in H.R. 5961, we believe it is improperly drafted. As such, it would lead to a broad expansion of existing law. The present statute covers the individual who "transports or causes to be transported monetary instruments." 31 U.S.C. 1101(a)(1). The addition of "attempts to transport" is intended to reach the person departing at an airport, for example—for that person is not outside the U.S., but is about to commit the offense. Under the present statute, law enforcement officers must wait until a person has actually left the country before arresting him or her. The proposed attempt provision has not been limited to the immediate departure area, however. The expanded statute could also be applied to a bank messenger in New York City if he had taken one step leading toward delivery outside the U.S. Money or security transactions over $5,000 are not uncommon. The creation of attempt without limitation to the stated need of reaching narcotics trafficking, and without the limitation to the departure area setting, is unwarranted. As a result, the Section believes this change in current law should be opposed.

(2) Warrantless searches: Searches may be conducted without a warrant under current law at ports of entry, the border, or "functional equivalents" of the border. A pat-down (intensive or otherwise) is permitted, but case law interposes some limited restraints (less than probable cause) on a "strip search" ("reasonable suspicion") or a "body cavity search" ("plain suggestion"). For body cavity searches, some believe there should be the intervention of a magistrate (search warrant). Telephonic warrants (F.R.Cr.P. 41(c)) make the judicial officer readily accessible. H.R. 5961's provision would abrogate or eliminate the warrant authorization now contained in 31 U.S.C. 1105(a), which extends to *persons*. If a search warrant is presently required for a detained locked footlocker (*U.S.* v. *Chadwick*, 433 U.S. 1 (1977)) or an unlocked suitcase (*Sanders* v. *Arkansas*, 442 U.S. 753 (1979)), it should also be necessary for detained persons.

The proposed amendment would expand the warrantless search now allowed to departing vehicles and persons. The propriety of such searches at the border has been approved by one Circuit (*U.S.* v. *Stanley*, 545 F.2d 661 (9th Cir. 1979), cert. denied, 436 U.S. 917 (1978)), but the proposed statutory change in H.R. 5961 does not indicate at what place those warrantless searches would be authorized. This is a major deficiency in the bill which deeply concerns our Section. Further, the opportunity for such warrantless searches would greatly increase with the expansion of the statute to include "attempts" (as described above).

This new warrantless search procedure would authorize a "reverse customs search," permitting searches of all persons and vehicles leaving the U.S. Although a mechanism for the search of all persons under this proposal may not be feasible or sound public policy, searches conducted on a selective basis would be impermissible. *Delaware* v. *Prouse*, 440 U.S. 648 (1979).

(3) Compensation of informants: The legislation would amend the statute by providing large-scale payments (25 percent of the amount seized or not more than $250,000) for information on non-disclosures that result in seizures of more than $50,000. The serious danger of providing such payments, however, is not addressed by the sponsors. The undue incentive could lead to manufactured or manipulated violations—which in themselves might be minor or technical—where, we fear, the word of the informant might be treated as sacrosanct. A substantial reward could be obtained for a forfeiture that is in no way connected with a narcotics transaction—or with any criminal misconduct. If a financial incentive is necessary, it should not result in a lifetime windfall. Balancing the need for information against the known dangers of informant testimony, the reward provision should be materially reduced.

Under H.R. 5961, the reward would not be available to an "officer or employee" of the U.S., or of state or local government, yet no bar is made to payments to paid government informants. This is yet another deficiency in the legislation.

NEED FOR LEGISLATION TO PROTECT INNOCENT OWNERS OF MONETARY INSTRUMENTS

In February, 1980, the ABA House of Delegates, at our Section's recommendation, went on record in opposition to amendments to Section 274 of the Immigration and Nationality Act of 1952, since, under that legislation, there were no due process protections for innocent owners when vehicles used in alien smuggling were seized. Similarly, we urge the House of Delegates to support legislation comparable to existing forfeiture provisions for illegal alien smuggling (8 U.S.C. 1324(b) (copy of which is attached) to protect innocent owners of monetary instruments seized under the Currency and Foreign Transactions Reporting Act. As we pointed out in our February report to the House of Delegates, if the owner is innocent, he or she should be restored to the status quo ante. Forfeiture proceedings should not be used as a device to penalize without due process protections.

Respectfully submitted,

Richard E. Gerstein,
Chairperson.

UNREASONABLE SEARCH? OPPOSITION MOUNTS TO PENDING AMENDMENT TO THE BANK SECRECY ACT

(By Shirley Hobbs Scheibla)

Washington.—In a highly unusual about-face, Rep. John J. Cavanaugh (D., Neb.) now is opposing a bill he originally sponsored. It's an amendment to the Bank Secrecy Act the Administration is promoting, ostensibly as a means of curbing traffic in drugs. "I figured we should do anything we could to curtail this," says Cavanaugh. "I later learned that we were making necessary and legitimate conduct illegal which in 99 percent of the cases would have nothing to do with drug trafficking."

The Bank Secrecy Act, formally known as the Currency and Foreign Transactions Reporting Act, makes it illegal to take more than $5,000 out of the country without reporting it to the government. But that section of the law has proved impossible to enforce in the decade since it was enacted.

Here's a scenario the Administration constructs to illustrate the point: say the Customs Service receives a tip that a drug dealer is getting ready to leave the country with a million dollars to pay for cocaine and heroin. Customs officials would like to nab him for taking the funds out of the country without telling Uncle Sam. But they can't, even if they're lucky enough to find him boarding a plane with the money. That's because he hasn't violated the law until he is out of the country and thus beyond U.S. jurisdiction.

EVEN STOCKS AND BONDS

Two House committees have voted to correct this defect in the law by approving HR 5961, which would make it unlawful to attempt to take over $5,000 out of the country without reporting it. And the figure would cover all "monetary instruments," as defined by the Secretary of the Treasury, presumably including travelers checks, stocks, bonds and perhaps even electronic transfer of funds. (Nowhere does the bill mention drug traffic.) It would apply to anyone who failed to inform Uncle Sam and could mean fines and imprisonment.

Of course, the attempt to transport the monetary instruments can't be discovered without a search. The Administration has argued that by the time the Customs Service obtained a warrant, the suspect would be long gone. Accordingly, HR 5961 would allow a warrantless search, which would apply not only to a person, but also to "any vehicle, vessel, aircraft or other conveyance, envelope or other container." This is being interpreted as allowing the government to open mail and tap wires, among other things.

As reported by the House Banking Committee, the bill would require that prior to a search, there must be "reasonable cause" to believe that the person is transporting over $5,000 without reporting it. Since the courts have defined "reasonable cause" vaguely, it would give the Customs Service sweeping latitude.

The Ways and Means Committee's version of the bill would require "probable cause" for a search, a term the Supreme Court has defined more narrowly than "reasonable cause."

A HIGHER CUT-OFF

S. 2336, now pending before the Senate Banking Committee, contains the same provisions as HR 5961, except that its cut-off point for reporting is $10,000. Both versions offer a bounty of up to $250,000 to any informer leading officials to a search target.

Proponents of the bill would like to have the House consider it during the few days it will be in session between the Republican and Democratic conventions. The bill now is before the Rules Committee, where no decision has yet been made on whether it should be presented with a closed rule allowing no amendments or a partially closed one limiting them.

There may be a move to delay the bill in the Senate by having the Senate Finance Committee assume jurisdiction and thus necessitate further hearings. The strategy will be to wait and see if the measure makes it out of the Banking Committee.

The bill appeared likely to sail quietly through the House until Rep. Ron Paul (R., Texas), a member of the Banking Committee, began a one-man fight against it. An obstetrician and gynecologist, he gave up the private practice of medicine in 1976 to enter Congress because he was "convinced that the size, power and cost of the federal government had to be cut for our free society to survive."

Paul believes that the measure violates the Fourth Amendment of the Constitution, which says: "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause." Many influential persons agree with him.

HR 5961 would break new ground by allowing the Customs Service to conduct exit searches, according to Paul, who says this is characteristic of totalitarian states, not free societies. He contends it is solely a money control bill, doesn't even mention drugs and would set the stage for federal control of international capital flows.

When Paul offered an amendment in the Banking Committee to restrict the bill to drug traffic, it was defeated. He says he will try to get it back in when the bill reaches the House floor.

His remarks in the House, before the three committees considering the bill, and in other public states are bearing fruit. As noted, Rep. Cavanaugh has changed his position. Like Paul, he now believes that the bill is unconstitutional.

Normally a criminal statute deals with conduct that is illegal per se. But, according to Cavanaugh, there is nothing illegal about traveling abroad with money. He adds: "The fact of reporting every foreign transportation of money will give rise to unlimited government intrusion into the lives of citizens and business and will give impetus to many other regulatory ambitions. This bill is being quietly handled in Congress. You would think that bankers and securities dealers would be concerned."

When the House Banking Committee held two days of hearings in November and in January, it heard only witnesses in favor of HR 5961. But by the time the Ways and Means Committee got around to weighing it, Paul had stirred up enough interest so that some opponents were heard. Besides himself, they included Reps. Lawrence P. McDonald (D., Ga.), Fortney H. Stark (D., Ga.,) and Steven D. Symms (R., Idaho).

Besides arguing that the bill violates the Fourth Amendment, Symms pointed out that it "sets in place the mechanism by which foreign exchange controls could be enforced. . . . The lure of controls may become irresistible as more people come to realize that certain foreign currencies offer protection from inflation. . . . Prohibitions against ownership of foreign securities would not be out of the question. The same enforcement mechanisms could be applied against foreign securities as against foreign currencies."

Symms also sent a letter to all members of the House. It pointed out that during the Banking Committee debate on HR 5961, it was contended that if one's activities are legal, one should have no objection to a warrantless search. According to Symms: "That argument completely ignores the right of privacy. The Congress, using that argument, could justify wiretapping surveillance, etc. under the guise that innocent individuals have nothing to fear. I need not remind you that the Soviet Union operates on the same premise."

Last month, when the Senate Banking Committee held hearings on S. 2336, Prof. Leon Friedman of the Hofstra University School of Law opposed it on behalf of the American Civil Liberties Union. Border searches of those entering a country are necessary to keep out contraband which might have harmful effects within the country, Friedman noted, but searching outgoing travelers can't be justified the same way. "They are protected by the fullest panoply of Constitutional rights, and the government interest that is measured against those rights is not as strong," he testified.

The attorney argues that the government has failed to show a need for the bill. He pointed out that the Supreme Court recently ruled in the Mendenhall case that if the authorities think a drug courier is traveling in an airport, they have the right to stop him briefly to question him. If his answer indicates probable cause for a search, a customs official may phone a magistrate and get a full search warrant orally.

Despite the lack of publicity about the bill, Congress is getting mail against it. Dr. John W. Codling, a surgeon from Welfair, Wash., wrote Rep. Charles A. Vanik (D., Ohio), chairman of the Trade Subcommittee of the Ways and Means Committee, that it is "dishonesty personified" to claim that the bill will help stop drug trafficking when it fails even to mention drugs.

A letter to Vanik from the chairman of an Ohio company said, "At a time when our country is facing serious balance of payments problems, we need to increase U.S. exports of manufactured goods to compensate for present losses of market shares to Japan and West Germany. . . . Because of its farreaching and restrictive effect on trade, urge you to defeat HR 5961."

A Charlotte manufacturer wrote Rep. Henry Reuss, chairman of the House Banking Committee, that he has started to make a foreign-designed product. "Since most of our parts come from Europe, we regularly transfer large sums of money to pay for our purchases. Under the authority granted by HR 5961, our business can be destroyed by preventing transfer of moneys to Europe." He fears that, at the least, long delays and government regulation "will be imposed on movement of these funds."

The head of an Oregon company wrote Paul that the bill would hinder the placement of difficult insurance accounts. He added: "When Eurodollar holders realize that they will be further restricted in free commerce, they will effectively remove U.S. dollars from their holding."

A letter from Tacoma to Rep. Norman Dicks (D., Wash.) put it more dramatically: "The U.S. Treasury is playing a dangerous game. If the holders of billions of Eurodollars get the idea that they will be blocked . . . an avalanche of dollars could descend on the currency markets of the world sending the dollar into an unprecedented tailspin. Coincidentally, a very large proportion would be siphoned off into the gold market, creating an upward spiral to match the dollar's downward tailspin."

Cavanaugh summed up: "We always lose liberties in pursuit of some worthwhile goal. Safety and security mean loss of freedom. In this case, it's not a fair trade."

Mr. WYLIE. Mr. Speaker, I now yield 3 minutes to the distinguished gentleman from Minnesota (Mr. FRENZEL), a member of the Committee on Ways and Means.

Mr. FRENZEL. Mr. Speaker, I join my colleague, the distinguished chairman of the Trade Subcommittee, in supporting H.R. 5961, a bill amending the Bank Secrecy Act in order to strengthen the ability of customs officials to spot, search for, and thereby prevent, illegal transfers of large amounts of currency. As already noted, the goal is to provide an effective mechanism for preventing currency movements associated with drug trafficking.

The principal focus of the Ways and Means Committee was on section 3 of the bill which expands the authority of customs officials to search conveyances, baggage, or individuals without a search warrant when there is probable cause to suspect that a violation of currency reporting requirements is occurring or is about to occur. The committee discussed at length the constitutional implications of this provision as well as the intent of Congress in this regard when the Bank Secrecy Act was first passed in 1970. It was felt that the "reasonable cause" test for warrantless searches included in the bill as reported from the Banking Committee was a retreat from the purposes of this legislation as approved only a few years ago, and therefore the committee reestablished the "probable cause" test that was in the original bill.

Although customs officials do conduct warrantless searches when they have reasonable cause to suspect that contraband is being transported, it is not illegal to transport monetary instruments except without reporting such movements. It was felt that the need to protect a citizen's freedom of movement into and out of the country necessitated a more rigid test before the conduct of a warrantless search. This alludes to an important distinction made by the courts between border searches of incoming individuals and interference of those departing the country.

In the case of the transfer of monetary instruments, I believe the "reasonable cause" test now in the bill properly recognizes the rights and obligations involved without instituting a provision that perhaps has not been fully tested in the courts. It protects the constitutional rights of individuals, yet provides officials with an effective tool to be used in the curtailment of illicit drug trade.

Mr. Speaker, I urge my colleagues to support H.R. 5961.

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Mr. WYLIE. Mr. Speaker, I thank the gentleman from Minnesota for his very significant contribution.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GREEN), a distinguished member of the Committee on Banking, Finance and Urban Affairs.

Mr. GREEN. Mr. Speaker, I thank the gentleman for yielding. I rise in support of H.R. 5961.

Mr. Speaker, in 1970 Congress passed the Bank Secrecy Act in the hope that tracking large currency transactions would assist Federal investigators in locating and convicting criminals. In some isolated cases it has, but 9 years later the cold cash dollars are flowing in and out of the United States in increasingly larger volumes. The pattern of these money flows suggests that large amounts of these dollars are being used in illegal drug trade. Some of these dollars are also the end product of white collar crime or are apparently used for foreign bribes by U.S. corporations.

Let me emphasize here that what we are talking about today is not M1 or M2 or those other brain children of the economists, but cold cash dollars in suitcases going in and out of the country. This is not a question of monetary control, it is a question of crime—big dollar organized criminal activity.

Because we were concerned about growing criminal activity and the apparent ineffectiveness of the Bank Secrecy Act, the Oversight Subcommittee of the House Banking Committee, on which I serve as the ranking Republican, held hearings in hopes of uncovering some remedy to the problem. At those hearings, the gentleman from New York (Mr. LaFalce) urged us to support H.R. 5961 because he believed it would significantly improve the effectiveness of the Bank Secrecy Act where international currency transactions were involved. He noted that the Drug Enforcement Agency and the Customs Department supported H.R. 5961. After serious consideration, I believe this is a worthwhile step.

One provision of H.R. 5961 would amend section 231(a) of the Currency and Foreign Transaction Reporting Act by making it a crime to attempt to export or import currency without filing the required form (form 4790). The new attempt language would close a loophole in the present law which has arisen because of a Federal court decision in Florida, *United States* v. *Centeno*, No. 75–660–cr.—J.E. (S.D. Fla., March 25, 1976). The judge in that case ruled that the present Federal law does not prohibit the attempt to export currency without filing the proper form. Therefore, law enforcement authorities cannot arrest someone they suspect of smuggling currency until he has actually left the United States. However, once the smuggler has left the country, the United States has no more jurisdiction over him and he cannot be arrested.

Under the language in H.R. 5961, an individual could be arrested for attempting to smuggle currency before he actually leaves the United States. There is no logical reason for not prohibiting attempted currency smuggling. Practically all criminal statutes prohibit the attempt to commit a crime as well as the specific crime itself. The proposed change would merely bring section 231(a) into conformity with the rest of the criminal code and in doing so would close a loophole in the present law which its drafters never intended to create.

One of my colleagues expressed concern that criminals would find a way to get around the provisions in H.R. 5961, either by transporting currency in $9,999 amounts or by going underground. I would suggest that to the extent we make it more difficult for criminals to operate through legal channels, we have done something either to stem criminal activity or make it more detectable elsewhere.

And, in view of the dramatic increase in illicit drugs entering the United States, especially the new flow of high quality heroin from Iran and the rapid increase in the number of overdose deaths, anything we can do to slow this activity will help.

The Oversight Subcommittee, the Financial Institutions Subcommittee, and the full Banking Committee supported H.R. 5961 almost unanimously, and I urge all of my colleagues in the House to vote for this bill.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. Kindness).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding. I just would like to take this time to point out that I am appalled by this bill. I hope that others are appalled by it. I am horrified by it.

I am concerned that it is on the Suspension Calendar to begin with. It is a horrible practice to put a bill like this on the Suspension Calendar, one that deals with such basic constitutional rights as the fourth amendment. We have a handful of people to listen, to hear what this bill is about—to violate constitutional rights that are dear to the American people.

Some of the worst mistakes in governmental policy are made in the name of serving some kind of good purpose, and often in reaction to some temporary type of activity. Here, we are directing all of this toward what is occurring in one part of the country at the present time.

I submit to the Members that this is one of those cases in which we would be making a horrible mistake in terms of governmental policy and constitutional rights and privileges to pass such a bill as this, and certainly not on the Suspension Calendar.

I would certainly urge its defeat.

Mr. WYLIE. Mr. Speaker, may I inquire of the gentleman from Rhode Island if he has additional requests for time?

The SPEAKER pro tempore. Eleven minutes are left to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, I was enjoying this; for a while I thought I was hearing part of the Republican platform.

Mr. BAUMAN. Mr. Speaker, regular order.

Mr. WYLIE. How much time do I have left?

The SPEAKER pro tempore. The gentleman has 1 minute left.

Mr. ST GERMAIN. Mr. Speaker, at this time I yield 2 minutes to the gentleman from North Carolina (Mr. Preyer).

Mr. PREYER. Mr. Speaker, while I appreciate the problems which gave rise to this legislation, H.R. 5961, the provisions of title II of the bill trouble me. Those provisions would seem to permit the Customs Service to open mail without a search warrant, both when mail enters and when it leaves the country.

This mail-opening authority is in direct conflict with the findings and recommendations of the Committee on Government Operations contained in House Report No. 95–1681. That report and its recommendations, endorsed unanimously by the committee, were the product of more than a year's inquiry by the Government Information and Individual Rights Subcommittee, which I chair. The key element of the report, and of the bill, H.R. 5820, which I introduced last fall to implement the report, is a requirement that customs agents obtain a search warrant before they open incoming international mail. The committee found, after careful questioning in its hearings, that a warrant requirement was not unduly burdensome or impractical.

Neither the report nor my legislation addresses the opening of letters leaving the country. The subcommittee in its year-long investigation never considered the question. It never crossed our minds that the United States would seriously contemplate a practice so at odds with time-honored custom, constitutional strictures, and the basic principles of freedom on which this Nation was founded.

I am well aware, both from the subcommittee's initial investigation and from its continuing monitoring of Customs Services practices, of the current sensitivity on the part of the employees and officers of the Service to the privacy and individual rights of the citizens of this country. I commend them.

But, as I emphasized last fall when I introduced H.R. 5820, however effective the current policies and improvements of the Customs Service, the fundamental first amendment and privacy interests which are at stake need more certain protection. Where fundamental civil liberties are in question, the good will and sincere intentions of executive officers are not enough. Men change; new administrations and individuals replace the old; and the sensitivity of which the Customs Service is now so justly proud will fade. It is for those reasons that we have a government of laws and that the Committee on Government Operations recommended the limitation on the Customs Service's ability to open mail.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. ST GERMAIN. Mr. Speaker I yield 1 additional minute to the gentleman from North Carolina.

Mr. PREYER. Let me sum up by saying that I gather that, from talking with the chairman of the subcommittee, that it is not the intention of the subcommittee to allow searches of the mail, either domestic or international, without a search warrant. Is that correct?

Mr. LAFALCE. If I might answer the gentleman, his understanding is correct. That is not my interpretation of the bill. It is not the Customs Department's interpretation of the bill. Should that be their interpretation of the bill, I would be the first to join with the gentleman from North Carolina in altering that.

I feel confident that we can assure him that if it is necessary to clarify that in conference committee, we will do so, and certainly by regulation.

Mr. PREYER. Well, I think this kind of thing ought to be in the legislation. I am glad for this legislative history, which I think is helpful.

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What we need is language such as this: "Except that this subsection shall not permit the opening of any mail of domestic or foreign origin," and would the gentleman be willing to attempt to get language similar to that in the conference report so that we could be sure the legislative history is carried out in the form of the legislation?

Mr. LAFALCE. Yes, I would, Mr. Speaker.

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to a member of the committee, the gentleman from Nebraska (Mr. CAVANAUGH).

Mr. CAVANAUGH. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, it grieves me to oppose this legislation, particularly given the great dedication and concern that my friend and colleague, the gentleman from New York (Mr. LAFALCE), has dedicated to this bill. But I think that Members of the House perhaps are not clear on the extremely broad scope of this legislation.

We have talked a lot here about the transportation of cash for the purpose of purchasing drugs, but what this legislation prohibits goes far beyond the transportation of cash by American citizens. It requires every citizen who would transport any monetary instrument to file with the Secretary of the Treasury a description of those instruments and the purpose for which they were being transported out of the country.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. CAVANAUGH. Mr. Speaker, I would yield to the gentleman in just one moment.

Mr. Speaker, under the act, the term, "monetary instrument," means coin and currency of the United States and, in addition, such foreign coins and currencies and such types of travelers' checks, bearer negotiable instruments, bearer investment securities, and bearer insurance and stock certificates, with the title passing upon delivery or the equivalent thereof, "which the Secretary may by regulation specify for the purposes of this chapter."

I think to subject American citizens to a requirement that they fully disclose to their Government any transaction which they may be legitimately carrying on for their business concerns or interests and open themselves up to the review and evaluation by the Government is wholly inimical to the desirable goal of enforcing our restrictions against the importation of drugs.

Mr. LAFALCE. Mr. Speaker, if the gentleman will yield, I understand the gentleman's concerns, but I think they are misplaced. He places them in this bill, but his arguments should have been advanced with the 1970 legislation which created those reporting requirements. This bill reduces the reporting requirements.

The SPEAKER pro tempore (Mr. BENNETT). The time of the gentleman from Nebraska (Mr. CAVANAUGH) has expired.

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I have been listening to the debate here on the question as to whether or not probable cause should be used for search. It seems to me that the arguments that have been advanced thus far are very specious.

When I come from New York to Washington, my baggage is looked at, just as it is each time that I travel anywhere within or out of the country. There is no probable cause involved. I am not carrying anything that is illegal, but nobody here objects to that search.

Here we are, trying to effect a measure that establishes some control over the illegal transportation of currency out of the country. Anyone who wants to travel with currency in excess of $5,000 or $10,000 has ample opportunity to declare.

Mr. Speaker, what are we trying to do? There are those who are trying to permit people to travel with large sums of cash out of the country without any restrictions whatsoever. The only way we are really able to look at this drug picture is through the traffickers' pocketbook.

There is no way possible today, even if we station people shoulder to shoulder around this country, that we would be able to stop the illegal transport of drugs. But those people who are the masterminds of the drug business do not touch the drugs; what they do is handle the cash. This is one way we are able to establish some means of control.

One point that is involved here is the question as between "reasonable cause" and "probable cause." That has been clearly established in this legislation when the committee changed the words, "reasonable cause" to "probable cause." There were objections from various civil liberties organizations which said that there was an interference with the civil liberties of individuals by searching their baggage. What is the difference between going out of the country or coming into the country? If we are to control drug trafficking then we must reach out with every legal means possible. There is no constitutional question involved. The fourth amendment says "there shall be no unreasonable search;" probable cause is not unreasonable.

Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, and as a cosponsor with Representative LAFALCE of this bill, I rise in support of H.R. 5961, the Currency and Foreign Transactions Reporting Act Amendments of 1980. Enactment of this measure would close several loopholes in the existing Bank Secrecy Act—loopholes that seriously hinder the efforts of our law enforcement officials to curtail the multibillion dollar illicit drug trafficking industry.

Under its mandate to conduct a continuing comprehensive study and review of the problems of drug abuse and control, the select committee has investigated the financial transactions drug smugglers engage in to support and conceal their operations. In both Chicago and south Florida, the select committee found that drug dealers often use domestic financial institutions, including currency exchanges and banks, to launder the immense proceeds of their trade. These profits may be transferred to foreign bank accounts or used to infiltrate legitimate businesses. Particularly in south Florida, our committee found that the tremendous narcotics trade had made money laundering a big business, adversely affecting the climate for legitimate businesses.

Early in 1979, the select committee led a factfinding trip to Colombia, one of the major sources of illicit drugs entering the United States today. It is now reported that the trade in marihuana and cocaine from Colombia exceeds that of coffee, Colombia's main export crop. The committee was accompanied on the investigation by Mr. LAFALCE and other Members of Congress, as well as representatives from the White House and other executive branch departments and agencies. As a result of this mission, Mr. LAFALCE introduced three bills which have since been combined in H.R. 5961.

The Bank Secrecy Act, adopted in 1970, recognized that attacking the illegitimate profits of criminal enterprises is an effective weapon in curtailing the underlying illegal activity. That act was intended to provide Federal enforcement officials with the tools and information necessary to monitor and investigate unusual currency flows related to drug trafficking and other criminal acts. Serious gaps in the law, however, prevent its effectiveness from being fully realized.

H.R. 5961 would remedy several of these deficiencies. First, it would make illegal any attempt to leave the United States with more than $5,000 without filing a report as required under the act. The threshold amount would be increased to $10,000 effective July 1, 1981. Although the law currently requires any person leaving the country with more than $5,000 to file a report, courts have held that no crime occurs until a person has actually left the country without filing a report. This creates a catch-22 situation in which suspects may not be prevented from departing but cannot be arrested afterwards because they are outside the jurisdiction of U.S. enforcement officials. The amendment in H.R. 5961 would eliminate this anomalous situation.

Second, H.R. 5961 would permit customs officers to search for unreported currency and monetary instruments at the border without first obtaining a search warrant when they have probable cause to suspect that an amount in excess of $5,000—$10,000 after July 1, 1981—is being transported into or out of the country. This amendment will permit customs officials to search for currency in the course of their presently authorized search for contraband articles provided they have probable cause to suspect that a required report has not been filed.

I believe the change from a "reasonable cause" to a "probable cause" standard for warrantless searches is an improvement to the bill, one that I requested after speaking with a number of other people.

The Narcotics Select Committee, in several reports based on its investigations, has previously recommended the adoption of both of these amendments.

Third, H.R. 5961 would authorize cash rewards for original information leading to a recovery in excess of $50,000 for any violation of the Bank Secrecy Act. The amount of a reward could not exceed 25 percent of the net amount of the fine, penalty, or forfeiture collected, or $250,000, whichever is less. This amendment would provide a needed incentive for persons aware of currency smuggling to report this information to the Government.

Finally, the bill requires the Secretary of the Treasury to report to Congress within 18 months on the effectiveness of the other amendments.

I strongly urge the House to adopt H.R. 5961 which was cosponsored by over 50 Members of the House, including 9 from the select committee, and has been endorsed by Customs, Treasury, and the Drug Enforcement Administration. Companion legislation has also been introduced in the Senate. Enactment of this measure would greatly increase the tools available to our enforcement agencies to stem the flood of illicit drugs into our country.

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, let me address my question to the gentleman from Nebraska (Mr. CAVANAUGH) who raised it. The gentleman was quoting from the original law; is that correct?

Mr. CAVANAUGH. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. ROUSSELOT. So the new powers given under this act extend to the same items as a part of the original law which you just cited?

Mr. CAVANAUGH. Absolutely. The law prohibits the actual transfer. The legislation would prohibit the attempt to do it, relating to the same instruments I described in the original law.

Mr. ROUSSELOT. So how does this bill before us today apply to those items in the original act to which the gentleman has just referred?

Mr. CAVANAUGH. It includes those same items. The bill today would make the attempt to transfer cash, bearer securities, and stock certificates—that is the mere attempt to transfer those items—without reporting to the Secretary of the Treasury, a criminal act.

Mr. ROUSSELOT. The gentleman means when one leaves the country?

Mr. CAVANAUGH. Well, if one attempted to leave the country or were perceived to be attempting to leave the country.

Mr. ROUSSELOT. Mr. Speaker, I do have some concerns about this new procedure and I appreciate what the gentleman said.

Now, can the gentleman comment on this? On page 5 of the bill, it says, "envelope or other container." Are those items all eligible to be searched under this legislation?

Mr. CAVANAUGH. Mr. Speaker, I think that relates to the concerns of the gentleman from North Carolina (Mr. PREYER), because the gentleman was expressing concerns about lessening the constitutional protections against search for those types of instruments.

Mr. ROUSSELOT. Mr. Speaker, let me ask, have we ever given this kind of power before on the issue raised, or is this more or less an exception? Have we ever given this type of power to any Government agency before for people who are just leaving the country?

Mr. CAVANAUGH. To my knowledge, it is unprecedented.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the concerns the gentleman has raised, and I appreciate having been given this time by my colleague, the gentleman from Rhode Island (Mr. ST GERMAIN).

I would again say that some of us who had problems with this legislation might have been able to deal with them by offering amendments, but under this procedure we are not able to. I am sorry we are not given that opportunity.

As the bill stands now, I believe it creates only a slight inconvenience for criminals, the vast majority of whom will not be inhibited by a reporting requirement and a greater inconvenience for the law abiding traveling public. This inconvenience might be tolerable and justified if we were really convinced that the authorities were making the most effective possible use of the powers they already have, but many Members of this House and many of our constituents remain unconvinced.

I believe this bill would benefit from the fuller consideration which would be possible under a rule.

Mr. WYLIE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would just close by saying that I think the fears of the gentleman from Nebraska (Mr. CAVANAUGH) are unfounded and he is putting up a straw man here. Most business transactions of over $10,000 are going to be transacted by wire or in some other way than by cash.

The real purpose of this bill is to curtail international drug trafficking, not to restrict the rights of American citizens. Under current law, the Treasury Department encounters nearly insurmountable difficulties in attempting to halt or limit the massive drug trafficking that is flourishing in the United States, particularly in the State of Florida.

The existing law requires a person who knowingly transports more than $5,000 in monetary instruments to report this fact. This bill increases that to $10,000 and increases the test to probable cause. My preference would have been a reasonable cause test.

Mr. Speaker, I do not see how this bill can be objectionable to a law-abiding citizen, and I urge the adoption of it.

The SPEAKER pro tempore. The gentleman from Rhode Island (Mr. ST GERMAIN) has 2 minutes remaining.

Mr. ST GERMAIN. Mr. Speaker, I yield 1 minute and 50 seconds to the gentleman from New York (Mr. LAFALCE), with the privilege of yielding to whoever else wishes to be heard.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, let me make a few points. First of all, as we all know, we have a tremendous drug problem in the United States, and we should recognize that there are great defects in the existing law which inhibit us from effectively combating the drug traffic.

Every single agency and department of this administration has come out in strong support of this bill that they say would improve their effectiveness 100 percent. They have also said that it is constitutional. The Constitution prohibits unreasonable searches and seizures. This bill, which the Justice Department says is constitutional, says that one shall not make a search unless upon probable cause. If there is probable cause, there is nothing unreasonable about it.

Some individuals have made objections, but they have made objections not to this bill, they have made objections to the legislation that already exists and has existed since 1970.

What would we do to the reporting requirements that have existed since 1970? We would reduce those reporting requirements; we would not increase them.

The gentleman from North Carolina (Mr. PREYER) had one question, and that was concerning mail that would be outbound from the United States. The Customs people have just advised me that an existing section of the law, section 3623 of title 39, subsection (D), specifically requires them to have a search warrant for any mail, and H.R. 5961 would in no way alter that other existing provision of the law.

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For all reasons, I would ask the Members of this body to join with the ranks of those who want to effectively enforce the laws of the United States. Give our Customs Department, our drug enforcement agency, our Justice Department the tools they so desperately need.

Mr. ST GERMAIN. Mr. Speaker, I want to congratulate my colleagues for the spirited discussion and interest in this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I rise in opposition to suspending the rules and passing the Currency and Foreign Transactions Reporting Act (H.R. 5961). Under section 3(b) of H.R. 5961 a customs officer may stop, search and examine "without a search warrant" a person, vehicle. or envelope entering or departing the United States if the customs officer has "probable cause" that currency, negotiable checks or securities are being transported or conveyed.

This provision is contrary to the protections of the fourth amendment of the Constitution which limits the use of search and seizure without a warrant.

More importantly, already under rule 41(c)(2) of the Federal rules of criminal procedure a customs officer can be issued a warrant upon application by telephone to a magistrate in special situations. This is an easy administrative procedure—involving little procedural delay—which is already available and generous in terms of providing leeway for enforcement action.

I would also add that the chairman of the Government Operations Subcommittee on Government Information and Individual Rights, my distinguished colleague, Mr. PREYER, has pursued very thoroughly already needed administrative changes in the area of customs officials needing to open the mail for inspections. House Report 95-1681, which was unanimously adopted by the Government Operations Committee—a product of more than a year's inquiry and evaluation by Mr. PREYER and the subcommittee of which I am also a member—recommended a series of oversight revisions in the Custom Office's handling of the situations which H.R. 5961 addresses. Many of the changes have already been made. Additionally, Mr. PREYER proposed H.R. 5820, which I am cosponsoring, which legislates in appropriate fashion that which cannot be done through overslight—namely requiring agents to have search and seizure warrants.

Obviously H.R. 5961, if passed as it is written, will contradict the Committee on Government Operations recommendations as embodied in the committee report I have cited and in the proposed bill, H.R. 5820.

I strongly urge my colleagues to cast a "nay" vote on H.R. 5961 to give the House the opportunity to revise the legislation. It would be inappropriate to capriciously pass this legislation which is inconsistent with the action of the Committee on Government Operations.

● Mr. SYMMS. Mr. Speaker, I rise in opposition to H.R. 5961, the Currency and Foreign Transactions Act Amendments, previously misnamed as the Drug Traffic Act.

First, I want to clarify exactly what this bill will do. It provides for the more efficient enforcement of the provisions of the Currency and Foreign Transaction Reporting Act by making it illegal to attempt to export or import large amounts of currency without filing the required reports, allow the U.S. Customs officials to search for contraband articles, which under this bill include all monetary instruments since this bill classifies monetary instruments as contraband; and allow for the payment of compensation to informers for rewards up to $250,000.

Proponents of this bill maintain that this form of currency control is a necessary tool in the war against organized crime and the trafficking of drugs. That same argument was made in 1970 when Congress passed Public Law 91-508, and yet I have not heard of one mafia character being caught as a result of Public Law 91-508. Furthermore, this bill will require every corporation transferring more than $10,000 in funds to a foreign account to report their transfer of funds. Supposedly, this will help the Comptroller of the Currency to trace dummy corporations set up to launder money. However, it seems slightly ridiculous to assume that the Comptroller of the Currency will be able to trace, with the use of their computers, the financial transactions of a multitude of corporations transferring funds to foreign accounts under auspicious circumstances when that same Comptroller of the Currency was unable to unravel the financial affairs of Bert Lance with all of the information before him.

The individual rights of privacy were severely infringed upon as a result of the passage of Public Law 91-508 and the passage of H.R. 5961 will further diminish those rights. During the committee debate on the bill, it was stated that if one's activities are legal, one should have no objection to warrantless searches and seizures or the 1970 act. That argument completely ignores the right of privacy. The Congress using that argument could justify wiretapping, surveillance, et cetera, under the guise that innocent individual have nothing to fear. I need not remind you that the Soviet Union operates on the same principle. And, if my memory serves me correctly many of the Members supporting this bill are the same individuals who were aghast at the surveillance and wiretapping activities of the FBI and CIA several years ago because they claimed those activities infringed upon individual rights of privacy.

As it presently stands, H.R. 5961 will classify monetary instruments as contraband, subject each individual American leaving the United States to a search, and implement a reward program for informers who provide information leading to the conviction of any monetary instruments smuggler whether or not those monetary instruments can be tied to a criminal activity.

It is vitally important that the Members in this House realize that by passing this bill, they are setting in place the mechanism by which foreign exchange controls could be imposed. While you may refute the possibility of foreign exchange controls, the reality of current trends should not be dismissed. Very few thought gold assets would become illegal or that banks would be closed until that fateful day in 1933. Very few believed that wage-price controls would be imposed, but they were and some Members are calling for controls again. The point is that the web of Government controls and regulations continues to tighten around the individual. As economic problems worsen, the governments take more money and freedoms away from the people in the name of "public interest."

Finally, if the Congress is serious about attempting to control the illicit drug traffic, then we should not implement legislation which will drive that traffic further underground or make the flow of drug traffic harder to detect. If we are serious about controlling drug traffic we should encourage the use of our computers and intelligence to track vessels coming into the United States.●

● Mr. DERWINSKI. Mr. Speaker, I urge House approval of H.R. 5961, which would amend the Currency and Foreign Transactions Reporting Act of 1970.

As a cosponsor of this bill, I am pleased with the wide bipartisan support it has received from House Members and the endorsement given to it by the Treasury and Justice Departments, which believe it will be an effective tool of law enforcement.

By making it illegal to "attempt" to enter or leave the United States with more than $10,000 without filing a report with the Government, the legislation would enable authorities to make arrests which under current law cannot be done when the violator has escaped U.S. jurisdiction.

I believe the bill will close a loophole in the law now being taken advantage of by those engaged in organized crime and international drug trafficking.●

● Mr. CORRADA. Mr. Speaker, today I rise in support of H.R. 5961, the Currency and Foreign Transactions Reporting Act Amendments of 1980. This proposal is aimed at severely curtailing the flood of illicit drugs into our country as well as curbing all illegal movement of U.S. currency connected with organized crime.

H.R. 5961 is the culmination of a series of investigations designed at uncovering weaknesses in the current Currency and Foreign Transactions Reporting Act. As a result of investigations conducted in south Florida and Chicago by the Select Committee on Narcotics Abuse and Control, various loopholes in the existing law have been identified. H.R. 5961 proposes to correct the deficiencies and close the existing loopholes so that enforcement agencies are able to effectively hinder illicit activities.

Specifically, the act contains four major proposals: First, it imposes more stringent reporting requirements on the importing or exporting of currency. This provision will give the Government an adequate tool with which to halt the financing of large-scale drug trade.

Second, the bill amends existing reporting requirements by raising the amount subject to reporting from $5,000 to $10,000. This provision is included to update the threshold requirement for reporting so as not to inconvenience the ordinary business or vacation travelers. This provision recognizes that due to inflationary trends, $5,000 is not an unusual amount to carry on a trip.

Third, the bill amends the Currency and Foreign Transactions Reporting Act to permit a customs officer to conduct a search without a warrant if he has reasonable cause to suspect that currency exceeding $10,000 is being transported without a report having been filed. Presently, customs officers are allowed to conduct a search without a warrant if there is reasonable cause to believe contraband is being transported. This provision merely extends the reasonable cause for a warrantless search to include excessive amount of currency.

Last, H.R. 5196 adds a new section to the existing act to authorize the Secretary of the Treasury to pay an informant for information leading to a fine, penalty, or forfeiture exceeding $50,000.

The Currency and Foreign Transactions Reporting Act Amendments of 1980 are a well-thought-out and practical means of combating both drug smuggling and organized crime in this country. The amendments significantly improve upon the existing Currency and Foreign Transactions Reporting Act to the point of being an effective supressant to these illegal activities.

I urge my fellow colleagues to join with the administration, the Treasury Department, the Department of Justice, the U.S. Customs Service, and numerous others in supporting this urgently needed legislation.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. St Germain) that the House suspend the rules and pass the bill, H.R. 5961, as amended.

The question was taken.

Mr. PAUL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

FACILITATING MANAGEMENT OF PUBLIC DEBT

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7478) to facilitate the management of the public debt by increasing the ceiling on the investment yield on U.S. savings bonds to 8½ per centum and by increasing the amount of the bonds paying interest in excess of 4¼ per centum which may be outstanding, as amended.

The Clerk read as follows:

H.R. 7478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with respect to interest accrual periods beginning after the date of the enactment of this Act, paragraph (3) of section 22(b) of the Second Liberty Bond Act (31 U.S.C. 757c) is amended to read as follows:

"(3) The Secretary of the Treasury, with the approval of the President, may fix the investment yield on any United States savings bond at a yield which is above the 5½ per centum limitation contained in paragraph (1). The aggregate of the increases in investment yield which may take effect during any 6-month period pursuant to the preceding sentence for any United States savings bonds may not exceed 1 per centum per annum compounded semiannually."

Sec. 2. (a) Effective on the date of the enactment of this Act, the last sentence of the second paragraph of the first section of the Secondary Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$50,000,000,000" and inserting in lieu thereof "$54,000,000,000".

(b) Effective on October 1, 1980, the last sentence of the second paragraph of the first section of such Act is amended by striking out "$54,000,000,000" and inserting in lieu thereof "$70,000,000,000".

The Speaker pro tempore (Mr. Minish). Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon (Mr. Ullman) will be recognized for 20 minutes, and the gentleman from New York (Mr. Conable) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. Ullman).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill makes two amendments to the Second Liberty Bond Act that will facilitate management of the public debt by the Treasury Department. In the recent past, amendments which affect the interest rate on savings bonds and the exception from the interest rate limit on long-term bonds were included in bills that related to the public debt limitation. The new House procedure of setting the public debt limit through the budget process requires separate legislation for debt management subjects.

SAVINGS BOND INTEREST RATE

The bill effectively repeals the need for Congress to enact legislation each time Treasury finds it is necessary to increase the interest rate on savings bonds.

Under present law, Congress has set a limit on the interest rate that could be paid on savings bonds. In the past, Congress has enacted a specific rate that would be paid, or it would provide a large enough increase to permit the Treasury to make two or more small increases before returning to Congress for additional authority.

In this bill, the Ways and Means Committee has provided the Secretary of the Treasury with discretionary authority to raise savings bond interest rates, with the approval of the President, so that Congress will not need to process and approve each increase with legislation.

Under the new authority, the interest rate may be increased by the Secretary, but the level may not be increased at a rate that is greater than one percentage point a year, compounded semiannually. This limitation would prevent too fast a rate of increase.

The grant of discretionary authority takes into account that Congress cannot act quickly enough on the interest rate in the case of a very fluid money market. In the past 2 years, the savings bond program has been a net loser; that is, the value of bond redemptions has been greater than the value of sales. In recent months, the value of redeemed bonds has been more than $2 billion greater than the value of sales.

Last year, Congress approved an increase in the interest limit from 6 to 7 percent and allowed the Secretary to set the rate within that limit with the approval of the President and without returning to Congress. This authority has been used, but it has not stemmed the redemptions. The return on savings bonds is below the yields on comparable alternatives for investors. This provision should help to alleviate some of these pressures.

STUDY OF SAVINGS BOND PROGRAM

During the committee discussion on the decision to repeal the interest rate limit, enough important questions were raised by committee members concerning the current viability of the savings bond program to warrant a thorough reexamination of the program and its purpose.

As a result, the committee has requested the Secretary of the Treasury to complete a thorough, comprehensive study of the savings bond program for submission to the committee by January 1, 1981. In addition, the Congressional Budget Office has been requested to review the study and comment on the recommendations in the study.

EXCEPTION TO LONG-TERM BOND INTEREST RATE CEILING

For the past 9 years, Congress has allowed the Treasury to issue limited amounts of long-term bonds, that is, debt with maturities longer than 10 years, above the present statutory limit on these bonds of 4¼ percent. The exception applies to marketable issues held by the general public and does not apply to debt (usually nonmarketable) held by Federal agencies in trust funds and other accounts.

For several years before this exception was made available, the Treasury had been unable to issue any bonds. Besides the inability to take advantage of the desire in all maturity sectors in the money market to buy Federal debt, the average maturity of Federal debt declined considerably, thus further complicating debt management and forcing greater reliance on the much more volatile short-term market. Several years ago, a Treasury study demonstrated that the annual interest cost on the public debt would have been substantially lower had Treasury been free to issue all maturities without any restraint.

The committee bill increases the authority to issue long-term bonds by $4 billion through September 30, 1980. The $54 billion level is sufficient additional authority for the Treasury to realize its current debt management objectives for the remainder of fiscal year 1980. For the period beginning with fiscal year 1981, the exception will be increased to $70 billion, which is the amount the Treasury believes it will need to issue to meet its debt management and financing requirements through September 30, 1981.

This is a bill which provides important authority and flexibility in the debt management area. I recommend its approval by the House.

Mr. Speaker, I would like to read into the RECORD a letter from James G. Affleck, chairman and chief executive officer, American Cyanamid Co., national chairman of the 1981 U.S. Savings Bond Drive:

AMERICAN CYANAMID CO.,
Wayne, N.J., July 9, 1980.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means,
Washington, D.C.

DEAR MR. CHAIRMAN: It is my privilege to serve as National Chairman of the 1981 U.S. Savings Bond drive. In that role, I have a great interest in your bill, H.R. 7478, which would grant authority to Treasury to adjust U.S. savings bond interest rates.

It is vital that Treasury have this authority. Many important industrial leaders are unwilling to participate in the program because they feel it is morally wrong for them to press their employees to invest in bonds at such inferior rates of interest. In addition, most major employers offer company savings programs to their employees that provide much higher returns. In short, the Savings Bond program is in real jeopardy and will remain so, with redemption rates high and purchases low, until more competitive interest rates are offered.

I am pleased to note that your Committee has ordered H.R. 7478 reported. I urge that it be brought to the floor of the House for a vote as soon as possible and that you and your Committee colleagues give it your vigorous support in order to assure passage.

Sincerely yours,
JAMES G. AFFLECK,
Chairman and Chief Executive Officer.

Mr. Speaker, I reserve the balance of my time.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is comparatively little interest in this measure, but let no one mistake the fact that it is an important bill. Its presence on the suspension calendar does not mean that it is inconsiderable. I support the suspension of the rules for the immediate passage of H.R. 7478, which is designated as a bill to facilitate the management of the public debt. There is some error in the title of the bill. It does not establish the raising of the interest rate to 8½ percent, but permits the Secretary of the Treasury, with approval of the President, to increase the interest rate on savings bonds, the rate increase in any 6-month period not to exceed the rate of 1 percentage point a year. Therefore, the maximum rate increase would be 2 percentage points in any one year. Currently, the Secretary may increase the interest rate up to a rate of 7 percent a year. We are at the ceiling now. Under H.R. 7478, no statutory ceiling would exist on U.S. savings bonds interest rates, although rate increases could occur only at 6-month intervals.

For the record, Mr. Speaker, there are roughly $73 billion in savings bonds outstanding at the present time. That is less than 10 percent of the national debt. Of course, savings bonds are at an interest rate below that of other Government securities. It is somewhat embarrassing to have the level of savings bonds, for which, as the letter the chairman read indicates, a patriotic appeal is made to the employees of many companies, far below what the interest rate is for other comparable debt certificates. So it seems entirely appropriate to raise the ceiling at this point.

Since we considered this measure, of course, interest rates have been in something of a free fall, tumbling down. They may go up again. We do not know. There is no pressure on the Secretary to set the savings rate at a level to match the ceiling if it is not appropriate.

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He should have that power, particularly with an interest rate jumping around as it is now and with redemptions far exceeding purchase of savings bonds, so the total number outstanding is likely to be declining. This is a timely measure.

The bill also increases the amount of long-term bonds exempt from the 4¼ interest limitation from $50 billion to $54 billion through September 30, 1980, and to $70 billion beginning October 1, 1980.

Once again, with the interest rate going through gyrations, the economy in a very uncertain condition, it is entirely appropriate that we give to the Secretary of the Treasury the power to move to take advantage of long-term financing opportunities that can reduce the remarkable and very quick revolution of our national debt. It is absolutely ridiculous that we are financing so much of it on a short-term basis when there are opportunities through appropriate debt management to save the taxpayers of this country additional interest through judicious issuance of long-term bonds and not just the notes, which get you out from under the 4¼ percent interest limitation.

Increasing the portion of the long-term debt then will permit the Treasury to achieve the better balance of the maturity of national debt. Lengthening the average maturity of the debt reduces relative portion which must be financed with shorter term maturity. It is the shorter term maturity instruments which can fluctuate widely and significantly increase the Government's interest cost.

The bill also requests the Secretary of the Treasury to prepare a report on the savings bond program and to make recommendations for improvements.

Quite frankly, we should stay up with conditions in the interest market and have a better understanding of the relationship of the savings bond program to the other debt programs, which now total in the aggregate to $900 billion.

Mr. Speaker, H.R. 7478 will allow the Treasury to offer savings bonds at interest rates competitive with other investment alternatives. The surge in interest rates paid by other savings vehicles such as money market funds certificate of deposit accounts has resulted in situations where saving bond redemptions far exceed new purchase of savings bonds.

If I could give my colleagues the latest figure in recent months, the sale of new savings bonds have been $2 billion below the amount of redeemed savings bonds.

Savings bonds are an important part of the savings program of the American people, and we should treat it with respect as we should treat the American people, the patriotic savers, those people who take deductions at their places of work, with greater respect as well.

H.R. 7478 will restore the attractiveness of the U.S. savings bonds program as investment for millions of Americans and I urge its passage.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. ULLMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill, H.R. 7478, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to facilitate the management of the public debt by permitting an increase in the investment yield on U.S. savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ per centum which may be outstanding."

A motion to reconsider was laid on the table.

CLARIFYING AND TECHNICAL AMENDMENTS TO BANKRUPTCY LAW

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 658) to correct technical errors, clarify and make minor substantive changes to Public Law 95-598, as amended.

The Clerk read as follows:

S. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

Section 1. (a) Section 101(2)(D) of title 11 of the United States Code is amended by striking out "or all" immediately after "business".

(b) Section 101(8)(B) of title 11 of the United States Code is amended by striking out the colon at the end thereof and inserting a semicolon in lieu thereof.

(c) Section 101(9)(B) of title 11 of the United States Code is amended by inserting "348(d), 502(e)(2)," immediately after "section".

(d) Section 101(14) of title 11 of the United States Code is amended by inserting "and" immediately after "trust.".

(e) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting "stockbroker" in lieu thereof.

(f) Section 101(26)(B) of title 11 of the United States Code is amended—

(1) in clause (i), by striking out "the kind specified in subparagraph (A)(i) of this paragraph; and" and inserting "a kind specified in subparagraph (A)(i) of this paragraph; or" in lieu thereof; and

(2) in clause (ii), by striking out "separate" each place it appears and inserting "nonpartnership" in lieu thereof and by striking out "the kind specified in subparagraph (A)(ii)" and inserting "a kind specified in subparagraph (A)(i) or (A)(ii)" in lieu thereof.

(g) Section 101 of title 11 of the United States Code is amended—

(1) by redesignating paragraphs (35), (36), (37), (38), (39), and (40) as paragraphs (36), (37), (38), (40), (41), and (42) respectively; and

(2) by adding immediately after paragraph (34) the following new paragraph:

"(35) 'securities clearing agency' means person registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1), or whose business is confined to the performance of functions of a clearing agency with respect to 'exempted securities', as defined in section 3(12) of such Act (15 U.S.C. 78c(12)) for the purposes of such section 17A;".

(h) Section 101(36)(A)(xii) of title 11 of the United States Code, as so redesignated, is amended by striking out "is the subject of a registration statement" and inserting "is required to be the subject of a registration statement" in lieu thereof.

(i) Section 101(36)(B)(iii) of title 11 of the United States Code, as so redesignated, is amended by striking out "commodity" the second place it appears.

(j) Section 101(36)(B)(vi) of title 11 of the United States Code, as so redesignated, is amended—

(1) by striking out "certificate specified in clause (xii) of subparagraph (A)" and inserting "certificate of a kind specified in subparagraph (A)(xii)" in lieu thereof; and

(2) by striking out "the subject of such a registration statement" and inserting "required to be the subject of a registration statement in lieu thereof.

(k) Section 101 of title 11 of the United States Code is amended by inserting immediately after paragraph (38), as so redesignated, the following new paragraph:

"(39) 'State' includes the District of Columbia and Puerto Rico, except for the purposes of who may be a debtor under chapter 9 of this title;".

(l) Section 101(41) of title 11 of the United States Code, as so redesignated, is amended to read as follows:

"(41) 'stockbroker' means person—

"(A) with respect to which there is a customer, as defined in section 741 of this title; and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account;".

(m) Section 101(42) of title 11 of the United States Code, as so redesignated, is amended by striking out the period and inserting "; and" in lieu thereof.

(n) Section 101 of title 11 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(43) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.".

Sec. 2. Section 102(8) of title 11 of the United States Code is amended by striking out "continued" and inserting "contained" in lieu thereof.

Sec. 3. (a) Section 103(c) of title 11 of the United States Code is amended by striking out "stockholder" and inserting "stockbroker" in lieu thereof.

(b) Sections 103(d) of title 11 of the United States Code is amended by striking out "except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant".

Sec. 4. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title 11 of the United States Code are each amended by striking out "and" each place it appears and inserting "or" in lieu thereof.

(b) Subsections (a), (b), and (c) of section 108 of title 11 of the United States Code are each amended by inserting "nonbankruptcy" immediately after "applicable" and immediately after "entered in a".

Sec. 5. (a) Section 109(a) of title 11 of the United States Code is amended by striking out "in the United States" the first place it appears.

(b) Section 109(c)(5)(D) of title 11 of the United States Code is amended by striking out "preference" and inserting "transfer that is avoidable under section 547 of this title" in lieu thereof.

(c) Section 109(d) of title 11 of the United States Code is amended by striking out "stockholder" and inserting "stockbroker" in lieu thereof.

Sec. 6. Section 303(b) of title 11 of the United States Code is amended by inserting "against a person" immediately after "case".

Sec. 7. Section 303(j)(2) of title 11 of the United States Code is amended by striking out "debtors" and inserting "debtor" in lieu thereof.

Sec. 8 Section 321(b) of title 11 of the United States Code is amended by striking out "a case" and inserting "the case" in lieu thereof.

Sec. 9. Section 322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" immediately after "bond".

Sec. 10. (a) Section 326(a) of title 11 of the United States Code is amended by inserting "of this title" immediately after "7 or 11".

(b) Section 326(d) of title 11 of the United States Code is amended to read as follows:

"(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title or, with knowledge of such facts, employed a professional person under section 327 of this title.".

Sec. 11. Section 327 of title 11 of the United States Code is amended by inserting "or examiner" immediately after "trustee" the first place it appears.

Sec. 12. Section 328(a) of title 11 of the United States Code is amended by striking out "unanticipatable and inserting "not capable of being anticipated" in lieu thereof.

Sec. 13. (a) Section 329(a) of title 11 of the United States Code is amended by striking out "and" the first place it appears and inserting "or" in lieu thereof.

(b) Section 329(b)(1) of title 11 of the United States Code is amended by striking out "trustee" and inserting "estate" in lieu thereof.

Sec. 14. Section 330(a) of title 11 of the United States Code is amended—

(1) by striking out "to any parties in interest and to the United States trustee"; and

(2) in paragraph (1), by striking out "time, the nature, the extent, and the value of such services" and inserting "nature, the extent, the value of such services, the time spent thereon," in lieu thereof.

Sec. 15. Section 341 of title 11 of the United States Code is amended to read as follows:

"§ 341. Notice

"There shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title.".

Sec. 16. (a) Section 342 of title 11 of the United States Code is amended to read as follows:

"§ 342. Meetings of creditors and equity security holders

"(a) In a case under chapter 7 or 11 of this title, within a reasonable time after the order for relief in a case under this title, there shall be a meeting of creditors.

"(b) In a case under chapter 13 of this title, the court may order a meeting of creditors.

"(c) The court may order a meeting of any equity security holders.

"(d) The court may not preside at, and may not attend, any meeting under this section.".

(b) The table of sections for chapter 3 of title 11 of the United States Code is amended by striking out the items relating to sections 341 and 342 and inserting in lieu thereof the following:

"341. Notice.
"342. Meetings of creditors and equity security holders.".

Sec. 17. Section 343 of title 11 of the United States Code is amended—

(1) by striking out "341(a)" and inserting "342" in lieu thereof; and

(2) by striking out "examiner" the last place it appears and inserting "examine" in lieu thereof.

Sec. 18. Section 345 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) All entities with which such moneys are deposited or invested are authorized to deposit or invest such security as may be required under this section.".

Sec. 19 (a) Section 346(c)(2) of title 11 of the United States Code is amended by striking out "operation" and inserting "corporation" in lieu thereof.

(b) Section 346(g)(2) of title 11 of the United States Code is amended by striking out ", as adjusted under subsection (j) (5) of this section,".

(c) Section 346(j) of title 11 of the United States Code is amended by striking out paragraphs (3), (4), (5), (6), and (7).

Sec. 20. Section 347(a) of title 11 of the United States Code is amended by striking out "under chapter 129 of title 28" and inserting "under section 725 of title 31" in lieu thereof.

Sec. 21. Section 348(b) of title 11 of the United States Code is amended by striking out "means" and inserting "refers to" in lieu thereof.

Sec. 22. Section 349(b) of title 11 of the United States Code is amended—

(1) in paragraph (1) (B), by striking out "522(i) (2)" and inserting "522(h) (2)" in lieu thereof; and

(2) in paragraph (2), by striking out "522 (i) (1)" and inserting "522(h) (2)" in lieu thereof.

Sec. 23. Section 350(b) of title 11 of the United States Code is amended by striking out "a" and inserting "A" in lieu thereof.

Sec. 24. Section 361(1) of title 11 of the United States Code is amended by inserting "a cash payment or" immediately after "make".

Sec. 25. (a) Section 362(a) of title 11 of the United States Code is amended—

(1) by inserting "and section 365 of this title" immediately after "of this section";

(2) in paragraph (1), by inserting "action or" immediately after "other"; and

(3) in paragraph (3), by inserting "or to exercise control over property of the estate" immediately after "estate" the second place it appears.

(b) Section 362(b) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting "or to the extent that such act is accomplished within the period provided under section 547(e) (2) of this title" immediately after "title";

(2) in paragraph (6), by striking out "that are" and inserting "regarding" in lieu thereof, by striking out "commodity" immediately after "forward", and by inserting immediately before the semicolon the following: ", or, under subsection (a) of this section, of the setoff of any mutual debt and claim of a commodity broker, forward contract merchant, stockbroker, or securities clearing agency against the debtor for a margin payment, as defined in section 741 or section 761 of this title, or settlement payment arising out of a commodity contract, as defined in section 761 of this title, forward contract, or securities contract, as defined in section 741 of this title, against cash, a security, or other property held by such commodity broker, forward contract merchant, stockbroker, or securities clearing agency to margin, guarantee, or secure such commodity contract, forward contract, or securities contract";

(3) in paragraph (7), by striking out "said" and inserting "the" in lieu thereof and by striking out "or" the last place it appears;

(4) in paragraph (8), by striking out the period and inserting a semicolon in lieu thereof; and

(5) by adding at the end thereof the following new paragraphs:

"(9) under subsection (a) of this section, of the filing of any continuation statement or the refiling of any notice of a Federal tax lien required by nonbankruptcy law to maintain perfection of a security interest or the filing of such tax lien, properly filed under such law before the date of the filing of the petition; or

"(10) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument.".

(c) Section 362(c) (2) (B) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

(d) Section 362(d) (2) of title 11 of the United States Code is amended—

(1) by inserting "under subsection (a) of this section" immediately after "property", the first place it appears; and

(2) in subparagraph (B), by inserting "in a case under chapter 11 of this title or is not necessary to an effective plan in a case under chapter 13 of this title, as the case may be" immediately after "reorganization".

(e) Section 362(f) of title 11 of the United States Code is amended by striking out "The" and inserting "Upon request of a party in interest, the", and by inserting "with or" immediately after "court,".

Sec. 26. (a) Section 363(a) of title 11 of the United States Code is amended by inserting "whenever acquired" immediately after "equivalents" and by inserting "and includes the proceeds, products, offspring, rents, or profits of property subject to a security interest as provided in section 552(b) of this title whether existing before or after the commencement of a case under this title" immediately after "interest".

(b) Section 363(e) of title 11 of the United States Code is amended—

(1) by inserting ", with or without a hearing," immediately after "court"; and

(2) by striking out the last sentence.

(c) Section 363(f) (3) of title 11 of the United States Code is amended by striking out "such interest" the second place it appears and inserting "all liens on such property" in lieu thereof.

(d) Section 363(h) of title 11 of the United States Code is amended by striking out "immediately before" and inserting "at the time of" in lieu thereof.

(e) Section 363(j) of title 11 of the United States Code is amended by striking out "compenation" and inserting "compensation" in lieu thereof.

(f) Section 363(k) of title 11 of the United States Code is amended by striking out "if the holder" and inserting "the holder of such claim may bid at such sale, and, if such holder" in lieu thereof.

(h) Section 363(n) of title 11 of the United States Code is amended—

(1) by striking out "conditions" and inserting "condition" in lieu thereof;

(2) by striking out "a taking" and inserting "or the taking" in lieu thereof; and

(3) by striking out "interests" and inserting "interest" in lieu thereof.

(h) Section 363(n) of title 11 of the United States Code is amended—

(1) by striking out "void" and inserting "avoid" in lieu thereof;

(2) by striking out "voiding" and inserting "avoiding" in lieu thereof; and

(3) by amending the last sentence to read as follows: "In addition to any recovery under the preceding sentence, the court may grant judgement for punitive damages in favor of the estate and against any such party that entered into such an agreement in willful disregard of this subsection.".

(i) Section 363 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(o) In any hearing under this section—

"(1) the trustee has the burden of proof on the issue of adequate protection; and

"(2) the entity asserting an interest in property has the burden of proof on the issue of the validity, priority, or extent of such interest.".

Sec. 27. (a) Section 365(b) (2) (A) of title 11 of the United States Code is amended by inserting "or an insider" immediately after "the debtor".

(b) Section 365(c) (1) (A) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting "an entity other than the debtor or the debtor in possession" in lieu thereof; and

(2) by inserting "by virtue of the nature of such contract or lease" immediately before ", whether".

(c) Paragraphs (1) and (2) of section 365 (d) of title 11 of the United States Code are each amended by striking out "In" and inserting "Notwithstanding section 108(b) of this title, in" in lieu thereof.

(d) Section 365(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "or lease" each place it appears and inserting ", lease, or applicable law" in lieu thereof; and

(2) in paragraph (2), by striking out "the trustee" and inserting "an entity other than the debtor or the debtor in possession" in lieu thereof.

(e) Section 365(f) (3) of title 11 of the United States Code is amended by inserting a comma immediately after "applicable law".

(f) Section 365(h) (1) of title 11 of the United States Code is amended by striking out "treat the lease" and inserting "treat such lease" in lieu thereof.

(g) Section 365(h) (2) of title 11 of the United States Code is amended by inserting "under such lease" immediately after "debtor".

(h) Section 365(i) (2) (A) of title 11 of the United States Code is amended by striking out the comma after "may" and by inserting "under such contract" immediately after "debtor".

(i) Section 365(j) of title 11 of the United States Code is amended by inserting "to or for the benefit of the debtor" immediately before the period at the end thereof.

Sec. 28. Section 366(a) of title 11 of the United States Code is amended by inserting "of the commencement of a case under this title or" immediately after "basis".

Sec. 29. Section 501(d) of title 11 of the United States Code is amended by inserting "502(e) (2)," immediately before "502(f)".

Sec. 30. (a) Section 502(a) of title 11 of the United States Code is amended by inserting "general" immediately before "partner".

(b) Section 502(b) of title 11 of the United States Code is amended—

(1) by inserting "(e) (2)," immediately after "subsections";

(2) by inserting "in lawful currency of the United States" immediately after "claim" the second place it appears;

(3) in paragraph (1), by striking out ", and unenforceable against" and inserting "and" in lieu thereof;

(4) in paragraph (2), by inserting "other than unmatured interest due to an original issue discount of less than one-half of 1 percent of the stated redemption price at maturity multiplied by the number of full years from the date of original issue to maturity" immediately after "interest";

(5) by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(6) in paragraph (3), as so redesignated, by inserting "the" immediately after "exceeds";

(7) in paragraph (5), as so redesignated, by striking out "the claim" and inserting "such claim" in lieu thereof, by striking out the comma after "petition", and by inserting "or 523(a) (6)" immediately after "523(a) (5)";

(8) by amending paragraph (6), as so redesignated, to read as follows:

"(6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

"(A) without acceleration, the greater of—

"(i) the rent reserved for the rental year during which such termination occurs; or

"(ii) 15 percent of the rent reserved for the remaining term of such lease, not to exceed the rent reserved for the three years commencing with the rental year during which such termination occurs; plus

"(B) any unpaid rent due under such lease, without acceleration, on the earlier of—

"(i) the date of the filing of the petition; or

"(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property;"; and

(9) in paragraph (7), as so redesignated, by inserting "the claim of an employee" immediately before "for damages", by striking out "and" in subparagraph (A)(i) and inserting "or" in lieu thereof, by striking out "the" the first place it appears in subparagraph (B) and inserting "any" in lieu thereof, and by inserting a comma immediately after "such contract" in subparagraph (B).

(c) Section 502(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "the" before "fixing" and by striking out "closing" and inserting "administration" in lieu thereof; and

(2) in paragraph (2), by inserting "right to payment arising from a" immediately after "any" and by striking out "if such breach gives rise to a right to payment".

(d) Section 502(d) of title 11 of the United States Code is amended by striking out "section 542, 543, 550, or 553 of", by striking out "section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of", and by striking out "section 522(i), 542, 543, 550, or 553 of".

(e) Section 502(e)(1) of title 11, United States Code, is amended—

(1) by striking out "and (b)" and inserting ", (b), and (c)" in lieu thereof and by striking out the commas immediately before and immediately after "or has secured";

(2) in subparagraph (B), by inserting "or disallowance" immediately after "allowance"; and

(3) in subparagraph (C), by striking out "requests subrogation" and inserting "asserts a right of subrogation to the rights of such creditor" in lieu thereof, and by striking out "to the rights of such creditor".

(f) Section 502((h) of title 11 of the United States Code is amended by striking out "522(i)" and inserting "522" in lieu thereof.

(g) Section 502(i) of title 11 of the United States Code is amended to read as follows:

"(i) There shall be allowed a claim for any tax liability arising from payment from the estate of a claim for wages, salaries, or commissions, including vacation, severance, or sick pay, whether or not a proof of such claim is filed.".

(h) Section 502(j) of title 11 of the United States Code is amended to read as follows:

"(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder's claim, such holder may not receive any additional payment or transfer from the estate on account of such holder's allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such other holder. This subsection does not alter or modify the trustee's right to recover from a creditor any excess payment or transfer made to such creditor.".

SEC. 31. Section 503(b) of title 11 of the United States Code is amended—

(1) by striking out the comma immediately after "be allowed";

(2) in paragraph (1)(C) by striking out the comma immediately after "credit", and by inserting "incurred by the estate" immediately after "paragraph";

(3) in paragraph (2), by inserting "(a)" immediately after "330";

(4) in paragraph (3), by inserting a comma immediately after "paragraph (4) of this subsection";

(5) in paragraph (3(C), by striking out the comma immediately after "case";

(6) in paragraph (5), by striking out "and" immediately after the semicolon;

(7) in paragraph (6), by striking out the period and inserting "; and" in lieu thereof; and

(8) by adding at the end thereof the following new paragraph:

"(7) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (2) of this subsection, incurred by a committee appointed under section 1102 of this title.".

SEC. 32. Section 505(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "or liability of an entity for" immediately after "or legality of" and by striking out ", whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction" and inserting "or paid" in lieu thereof;

(2) in paragraph (2)(A), by inserting "or liability of an entity for" immediately after "or legality of" and by striking out "or legality" and inserting ", legality, or liability" in lieu thereof; and

(3) in paragraph (2)(B)(i), by striking out "and" and inserting "or" in lieu thereof.

SEC. 33. (a) Section 506(a) of title 11 of the United States Code is amended to read as follows:

"(a) An allowed claim of a creditor either secured by a lien on property in which the estate has an interest or that is subject to setoff under section 553 of this title is a secured claim to the extent of the value of such lien or to the extent of the amount subject to setoff, as the case may be, and, except to the extent that such creditor does not have recourse under any agreement or applicable nonbankruptcy law against the debtor on account of such claim, is an unsecured claim to the extent that the value of such lien or the amount so subject to setoff is less than the amount of such allowed claim. For the purpose of this subsection, value shall be determined in light of the purpose of the valuation and of any disposition proposed for such property and in conjunction with any hearing on disposition or use or on a plan affecting such creditor's interest.".

(b) Section 506(b) of title 11 of the United States Code is amended by inserting "for" immediately after "provided" and by inserting "if such provision is enforceable under applicable nonbankruptcy law" immediately before the period at the end thereof.

(c) Paragraphs (1) and (2) of section 506(d) of title 11 of the United States Code are amended to read as follows:

"(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

"(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.".

SEC. 34. (a) Section 507(a) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting a comma after "severance";

(2) in paragraph (4), by striking out "employee benefit plans" and inserting "an employee benefit plan" in lieu thereof;

(3) in paragraph (4)(B)(i), by inserting "each" immediately after "covered by";

(4) in paragraph (6), by inserting "only" immediately after "units,";

(5) in paragraph (6)(A), by amending clauses (ii) and (iii) to read as follows:

"(ii) assessed within 240 days before the date of the filing of the petition; or

"(iii) not assessed before the commencement of the case but not prohibited, at the time of the commencement of the case, from being assessed under the applicable statute of limitations, other than a tax or customs duty of a kind excepted from discharge solely under section 523(a)(1)(B) or 523(a)(1)(C) of this title;"; and

(6) in paragraph (6)(D), by striking out "earned from the debtor" and inserting ", or paid" in lieu thereof and by striking out "whether or not actually paid before such date,".

(b) Section 507(b) of title 11 of the United States Code is amended to read as follows:

"(b) Notwithstanding section 726(b) of this title, if the trustee provides, under section 362, 363, or 364 of this title, adequate protection of the interest of an entity other than the estate that has an interest in property of the estate or if the court finds that there is adequate protection of such interest by a lien on such property and, notwithstanding such protection, the holder has a claim allowable under section 503(b)(1) of this title arising from the stay of action against such property under section 362 of this title, from the use, sale, or lease of such property under section 363 of this title, or from the granting of a lien under section 364(d) of this title, and such holder's allowable claims shall have priority over every other claim of a kind specified in subsection (a)(1) of this section.".

(c) Section 507(c) of title 11 of the United States Code is amended by striking out "shall be treated the same" and inserting "has the same priority" in lieu thereof.

(d) Section 507(d) of title 11 of the United States Code is amended to read as follows:

"(d) If a claim of a kind specified in subsection (a)(3), (a)(4), (a)(5), or (a)(6) of this section is held by an entity other than the original holder of such claim, then such claim is entitled to priority under each such subsection, as the case may be, but only to the extent of the value actually transferred to or for the benefit of such original holder on account of the transfer of such claim by such original holder.".

SEC. 35. (a) Section 509(a) of title 11 of the United States Code is amended by striking out "subsections (b) and" and inserting "subsection (b) or" in lieu thereof, and by inserting "against the debtor" immediately after "a creditor".

(b) Section 509(b)(1) of the United States Code is amended by striking out "of a" and inserting "of such" in lieu thereof.

(c) Section 509(c) of title 11 of the United States Code is amended by striking out "section 509 of this title" and inserting "this section" in lieu thereof.

SEC. 36. Section 510(b) of title 11 of the United States Code is amended to read as follows:

"(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor or for damages arising from the purchase or sale of such a security shall be subordinated to all claims or interests that are senior to the claim or interest represented by such security.".

SEC. 37. Section 521(1) of title 11 of the United States Code is amended to read as follows:

"(1) file a list of creditors and, unless the court orders otherwise, a schedule of assets, liabilities, and equity interests, and a statement of the debtor's financial affairs;".

SEC. 38. (a) Section 522(a)(2) of title 11 of the United States Code is amended by inserting ", or with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate" immediately after "petition".

(b) Section 522(b) of title 11 of the United States Code is amended to read as follows:

"(b) Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate either—

"(1) property wherever located of a kind specified under subsection (d) of this section, unless the State law that is applicable to the debtor under paragraph (2) of this subsection specifically does not so authorize; or

"(2) any property or interest of the debtor in property, as of the date of the filing of the petition, to the extent that such property or interest is exempt or not subject to process or levy under Federal law, other than subsection (d) of this section, or is exempt or not subject to levy by a creditor, of only the debtor, on a simple contract whether or not such a creditor exists, under State or local law that is applicable on the date of the filing of the petition at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of the petition, or for a longer portion of such 180-day period than in any other place.".

(c) Section 522(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such claim had arisen, before the commencement of the case, except—

"(1) a debt of a kind specified in section 523(a)(1), 523(a)(5), or 523(a)(6) of this title; or

"(2) a debt secured by a lien that is—

"(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

"(ii) not void under section 506(d) of this title; or

"(B) a tax lien, notice of which is properly filed, whether or not such lien is avoided under section 545(2) of this title.".

(d) Section 522(d)(3) of title 11 of the United States Code is amended by striking out "that are".

(e) Section 522(e) of title 11 of the United States Code is amended—

(1) by striking out "exemptions" and inserting "an exemption" in lieu thereof;

(2) by striking out "with respect to such claim against property that" and inserting "to the extent of such claim with respect to property" in lieu thereof;

(3) by striking out "or (h) of this section to avoid a transfer, under subsection (g)" and by inserting ", (g), (h)," in lieu thereof; and

(4) by striking out "to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer,".

(f) Section 522(f) of title 11 of the United States Code is amended—

(1) by striking out "exemptions" and inserting "an exemption" in lieu thereof; and

(2) in paragraph (2)(A), by inserting "jewelry, or" immediately after "crops,", and striking out ", or jewelry that are" after "musical instruments".

(g) Section 522(g) of title 11 of the United States Code is amended to read as follows:

"(g) Notwithstanding any waiver of an exemption, the debtor may avoid a transfer or recover a setoff of property of the debtor and exempt such property under subsection (i) of this section, whether or not the trustee attempts to recover such property or avoid such transfer, if—

"(1)(A) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title, or recoverable by the trustee under section 553 of this title;

"(B) such transfer was not a voluntary transfer of such property by the debtor; and

"(C) the debtor did not conceal such property; or

"(2) such transfer is in satisfaction of a lien of a kind specified in subsection (f)(2) of this section.".

(h) Section 522(h) of title 11 of the United States Code is amended to read as follows:

"(h)(1) The debtor's power to avoid a transfer or recover a setoff under subsection (f) or (g) of this section is subject to the limitations of section 550 of this title to which the trustee's power to avoid such a transfer or recover such a setoff under this title is subject.

"(2) Notwithstanding section 551 of this title, a transfer avoided or property recovered by the trustee or by the debtor may be preserved for the benefit of the debtor, if—

"(A)(i) such property otherwise would be exempt under subsection (i) of this section;

"(ii) such transfer was not a voluntary transfer of such property by the debtor; and

"(iii) the debtor did not conceal such property; or

"(B) such transfer is of a kind specified in subsection (f) of this section.".

(i) Section 522(i) of title 11 of the United States Code is amended to read as follows:

"(i) The debtor may exempt under subsection (b) of this section property disencumbered or recovered under subsection (f), (g), or (h) of this section to the extent the debtor could have exempted such property under subsection (b) of this section had such property not been encumbered, transferred, or set off.".

(j) Section 522(j) of title 11 of the United States Code is amended to read as follows:

"(j) The debtor may exempt a particular kind of property under subsection (i) of this section only to the extent that such exemption, plus the debtor's already claimed exemption of the same kind of property under subsection (b) of this section, does not exceed the limitation specified for such kind of property in subsection (b) of this section.".

(k) Section 522(k) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "(g)" and inserting "(i)" in lieu thereof; and

(2) in paragraph (2), by striking out "(h)" and inserting "(g)" in lieu thereof, and by striking out "or of recovery of property under subsection (i)(1) of this section,".

(l) Section 522(l) of title 11 of the United States Code is amended by striking out ", or may claim property as exempt from property of the estate" and by inserting after the second sentence thereof the following new sentence: "In the even of the debtor's death, a dependent of the debtor may claim property as exempt from property of the estate.".

SEC. 39. (a) Section 523(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out "obtaining" each place it appears, and by striking out "refinance of credit," and inserting "refinancing of credit, to the extent obtained" in lieu thereof;

(2) in paragraph (3), by striking out "(6)" each place it appears and inserting "(7)" in lieu thereof;

(3) by amending paragraph (5) to read as follows:

"(5) to a spouse, former spouse, or child of the debtor, for support of such child, but not to the extent that such debt includes a liability designated as support unless such liability actually is in the nature of support;";

(4) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9), and (10), respectively; and

(5) by inserting after paragraph (5) the following new paragraph:

"(6) to a spouse or former spouse of the debtor for alimony to, maintenance for, or support of such spouse, but not to the extent that such debt includes a liability designated as alimony, maintenance, or support, unless such liability actually is in the nature of alimony, maintenance, or support;".

(b) Section 523(b) of title 11 of the United States Code is amended by striking out "(8)" and inserting "(9)" in lieu thereof.

(c) Section 523(c) of title 11 of the United States Code is amended by inserting "of a kind" immediately after "debt" the first time it appears, and by striking out "(6)" each place it appears and inserting "(7)" in lieu thereof.

SEC. 40. (a) Section 524(a) of title 11 of the United States Code is amended—

(1) by striking out "any act" each place it appears and inserting "an act" in lieu thereof; and

(2) in paragraph (2), by inserting a comma immediately after "recover", by inserting "wherever located and by whomever held, whether directed toward the debtor or any other entity, and" immediately after "property of the debtor,", and by inserting ", except to the extent provided under section 522(c) of this title" immediately after "waived".

(b) Section 524(c)(4)(B)(ii) is amended by striking out "redemption under section 722 of this title" and inserting "the debtor's right of redemption" in lieu thereof.

(c) Section 524(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(B)(ii), by inserting "and" immediately after the semicolon; and

(2) in paragraph (2), by striking out "subsection" the second time it appears and inserting "section" in lieu thereof.

SEC. 41. Section 525 of title 11 of the United States Code is amended by inserting "the" immediately before "Perishable".

SEC. 42. (a) Section 541(a) of title 11 of the United States Code is amended—

(1) by striking out "under" the second place it appears;

(2) by inserting "and by whomever held" immediately after "located";

(3) in paragraph (3), by inserting "329(b), 363(n)," immediately after "section";

(4) in paragraph (5), by striking out "An" and inserting "Any" in lieu thereof; and

(5) in paragraph (6), by striking out "and" and inserting "or" in lieu thereof.

(b) Section 541(c) of title 11 of the United States Code is amended—

(1) by inserting "in an agreement, transfer instrument, or applicable law" immediately after "provision"; and

(2) in paragraph (1)(B), by striking out "the taking" and inserting "taking" in lieu thereof, and by inserting "before such commencement" immediately after "custodian".

(c) Section 541(d) of title 11 of the United States Code is amended by inserting "(1)" immediately after "(a)".

(d) Section 541(e) of title 11 of the United States Code is repealed.

SEC. 43. Section 542(e) of title 11 of the United States Code is amended by inserting "to turn over or" immediately before "disclose".

SEC. 44. (a) Section 543(a) of title 11 of the United States Code is amended by inserting ", product, offspring, rents, or profits" immediately after "proceeds".

(b) Section 543(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "held by or" immediately after "debtor", and by inserting ", product, offspring, rents, or profits" immediately after "proceeds"; and

(2) in paragraph (2), by inserting ", prod-

uct, offspring, rents, or profits" immediately after "proceeds".

(c) Section 543(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "or proceeds, product, offspring, rents, or profits of such property" immediately after "property"; and

(2) in paragraph (3), by inserting "that has been" immediately before "approved".

(d) Section 543 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(e) For purposes of this section, custodian shall not include an assignee under a general assignment for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, but the trustee or the court may nevertheless, and at any time, require such an assignee to file an accounting as set forth in subsection (b)(2) of this section.".

(e) Section 543 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(f) For purposes of subsection (e), the term 'general assignment for the benefit of the debtor's creditors' means an assignment which is for the benefit of all of the debtor's creditors.".

SEC. 45. (a) Section 544(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "such" immediately after "obtained";

(2) in paragraph (2), by striking out "; and" and inserting "; or" in lieu thereof; and

(3) in paragraph (3), by inserting ", other than fixtures," immediately after "property", and by inserting "and has perfected such transfer" immediately after "purchaser" the second place it appears

SEC. 46. Section 545 of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by striking out "is" immediately after "debtor";

(2) in paragraph (1)(C), by striking out "appointed" and inserting "appointed or authorized to take" in lieu thereof; and

(3) in paragraph (2), by striking out "on the date of the filing of the petition" each place it appears and inserting "at the time of the commencement of the case" in lieu thereof.

SEC. 47. (a) Section 546(a) of title 11 of the United States Code is amended in paragraph (1) by striking out "and" and inserting "or" in lieu thereof.

(b) Section 546(b) of title 11 of the United States Code is amended by striking out "the trustee under section 544, 545, or" and inserting "a trustee under sections 544, 545, and" in lieu thereof.

(c) Section 546(c) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting "a trustee" in lieu thereof;

(2) by striking out "right" the first place it appears;

(3) by inserting "of goods" immediately after "seller" the first place it appears;

(4) by striking out "of goods" immediately after "business," and inserting "that has sold goods" in lieu thereof; and

(5) in paragraph (2), by inserting "the" immediately after "if", and by striking out "an administrative expense" and inserting "a claim of a kind specified in section 503(b) of this title" in lieu thereof.

(d) Section 546 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741 or 761 of this title, deposit, or settlement payment, made by or to a commodity broker, forward contract merchant, stockbroker, or securities clearing agency, and that occurs before the commencement of the case, except under section 548(a)(1) of this title.".

SEC. 48. (a) Section 547(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "including proceeds of such property," immediately after "law,"; and

(2) in paragraph (4), by striking out ", without penalty" and by inserting "without penalty" immediately after "payable".

(b) Section 547(b) of title 11 of the United States Code is amended by striking out "of property of the debtor" and inserting "of an interest of the debtor in property" in lieu thereof.

(c) Section 547(c) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting "by the debtor" immediately after "incurred";

(2) in paragraph (2)(C), by striking out "affairs of" and inserting "affairs between" in lieu thereof;

(3) in paragraph (3), by striking out "of" the first place it appears and inserting "that creates" in lieu thereof;

(4) in paragraph (3)(B), by inserting "on or" immediately after "perfected" and by striking out "such security interest attaches" and inserting "the debtor receives possession of such property" in lieu thereof; and

(5) in paragraph (5), by striking out "of" the first place it appears and inserting "that creates" in lieu thereof and by striking out "all security interest" and inserting "all such security interests" in lieu thereof.

(d) Section 547(d) of title 11 of the United States Code is amended—

(1) by striking out "A" and inserting "The" in lieu thereof;

(2) by inserting "an interest in" immediately after "transfer of";

(3) by inserting "to or for the benefit of a surety" immediately after "transferred"; and

(4) by inserting "such" immediately after "reimbursement of".

(e) Section 547(e) of the United States Code is amended:

(1) by amending paragraph (1) to read as follows:

"(1) For the purposes of this section, a transfer of property is perfected when either a bona fide purchaser from the debtor of real property, other than fixtures, or a creditor on a simple contract, against whom applicable law permits such transfer to be perfected, cannot acquire an interest in such property or a judicial lien on personal property that is superior to the interest of the transferee."; and

(2) in paragraph (2)(C)(i), by striking out "and" and inserting "or" in lieu thereof.

(f) Section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) For the purposes of this section, the trustee has the burden of proving the avoidability of a transfer under subsection (b) of this section, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving the nonavoidability of a transfer under subsection (c) of this section.".

SEC. 49. (a) Section 548(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "occurred" and inserting "was made" in lieu thereof; and

(2) in paragraph (2)(B)(ii), by inserting "or a transaction" immediately after "engaged in business".

(b) Section 548(b) of title 11 of the United States Code is amended by striking out "the debtor" each place it appears and inserting "such debtor" in lieu thereof.

(c) Section 548(c) of title 11 of the United States Code is amended—

(1) by inserting "or may retain" immediately after "lien on"; and

(2) by striking out ", may retain any lien transferred,".

(d) Section 548(d)(1) of title 11 of the United States Code is amended by striking out "becomes so far" and inserting "is so" in lieu thereof by striking out "such transfer could have been" and inserting "applicable law permits such transfer to be" in lieu thereof, and by striking out "occurs" and inserting "is made" in lieu thereof.

(e) Section 548(d)(2)(B) of title 11 of the United States Code is amended by striking out "or forward contract merchant" and inserting ", forward contract merchant, stockbroker, or securities clearing agency" in lieu thereof and by striking out "761(15)" and inserting "741 or 761" in lieu thereof.

SEC. 50. (a) Section 549(a) of title 11 of the United States Code is amended—

(1) by striking out "(b) and (c)" and inserting "(b) or (c)" in lieu thereof; and

(2) in paragraph (2)(A), by inserting "only" immediately after "authorized".

(b) Section 549(b) of title 11 of the United States Code is amended—

(1) by inserting "the trustee may not avoid under subsection (a) of this section" immediately after "involuntary case,";

(2) by striking out "that occurs" and inserting "made" in lieu thereof;

(3) by striking out "is valid against the trustee to the extent of" and inserting "to the extent" in lieu thereof; and

(4) by inserting "is" immediately before "given".

(c) Section 549(c) of title 11 of the United State Code is amended to read as follows:

"(c) The trustee may not avoid under subsection (a) of this section a transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filed, where a conveyance of such real property may be recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.".

(d) Section 549(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

SEC. 51. (a) Section 550(a) of title 11 of the United States Code is amended—

(1) by inserting "329(b), 363(n)," immediately before "544";

(2) by inserting "553(b)" immediately after "549,"; and

(3) in paragraph (2), by striking out "immediate or mediate transferee of" and inserting "subsequent transferee of" in lieu thereof.

(b) Section 550(b)(2) of title 11 of the United States Code is amended by striking out "immediate or mediate" and inserting "subsequent" in lieu thereof.

(c) Section 550(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by inserting "or accruing to" immediately after "by"; and

(2) in paragraph (1)(B), by striking out "value" and inserting "the value of such property" in lieu thereof.

(3) in paragraph (2), by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

"(D) payment of any debt secured by a lien on such property that is superior or equal to the rights of the estate; and"; and

(4) in paragraph (2), by redesignating subparagraph (F) as subparagraph (E).

(d) Section 550(e)(1) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

SEC. 52. Section 551 of title 11 of the

United States Code is amended by striking out "but only with respect to property of the estate".

Sec. 53. Section 552(b) of title 11 of the United States Code is amended—

(1) by inserting "522," immediately after "506(c),";

(2) by striking out "a secured party enter" and inserting "an entity entered" in lieu thereof; and

(3) by striking out "except to the extent" and inserting "except to any extent" in lieu thereof.

Sec. 54. (a) Section 553(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "other than under section 502(b)(3) of this title";

(2) in paragraph (2), by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B)(i) on or after 90 days before the date of the filing of the petition;

"(ii) while the debtor was insolvent; and

"(iii) for the purpose of obtaining a setoff against the debtor, other than in the ordinary course of business or financial affairs between the debtor and such creditor; or";

(3) in paragraph (3)(A) by inserting "on or" immediately before "after"; and

(4) in paragraph (3)(C), by inserting "other than in the ordinary course of business or financial affairs between the debtor and such creditor" immediately after "debtor".

(b) Section 553(b)(1) of title 11 of the United States Code is amended—

(1) by striking out "or 365(h)(1)" and inserting ", 365(h)(2), or 365(i)(2)" in lieu thereof;

(2) by inserting "or that occurs in the ordinary course of business or financial affairs between the creditor making such setoff and the debtor" immediately after "of this title"; and

(3) in subparagraph (A), by striking out "and" and inserting "or" in lieu thereof.

Sec. 55. (a) Subsections (a) and (b) of section 554 of title 11 of the United States Code are each amended by inserting "and benefit" immediately after "value".

(b) Section 554(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the court orders otherwise, any property scheduled under section 521(1) of this title not otherwise administered at the time of the closing of a case is deemed abandoned to the debtor and deemed administered for the purpose of section 350 of this title.".

(c) Section 554(d) of title 11 of the United States Code is amended by striking out "section (a) or (b) of".

Sec. 56. (a) Chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new section:

"§ 555. Defenses of the estate

"The estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.".

(b) The table of sections for chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new item:

"555. Defenses of the estate.".

Sec. 57. The table of sections for chapter 7 of title 11 of the United States Code is amended by striking out "Successor" in the item relating to section 703 and inserting "Successor" in lieu thereof.

Sec. 58. (a) Section 702(b) of title 11 of the United States Code is amended—

(1) by inserting "held" immediately after "meeting of creditors"; and

(2) by striking out "341" and inserting "342" in lieu thereof.

(b) Section 702(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "of a kind" immediately after "claims"; and

(2) in paragraph (2), by inserting "a" immediately after "for".

(c) Section 702(d) of title 11 of the United States Code is amended by striking out "subsection (c) of".

Sec. 59. Section 703(b) of title 11 of the United States Code is amended by striking out "specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee" and inserting "and subject to the provisions of section 701 of this title" in lieu thereof.

Sec. 60. Section 704 of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "up";

(2) in paragraph (7), by striking out "with the court and"; and

(3) by amending paragraph (8) to read as follows:

"(8) file interim reports of the condition of the estate and make and file a final report and account of the administration of the estate with the court.".

Sec. 61. Section 705(a) of title 11 of the United States Code is amended by striking out "under section 341(a)" and inserting "of creditors held under section 342" in lieu thereof.

Sec. 62. Paragraphs (1) and (2) of section 707 of title 11 of the United States Code are each amended by striking out "and" and inserting "or" in lieu thereof.

Sec. 63. Section 722 of title 11 of the United States Code is amended to read as follows:

"§ 722. Redemption

"(a) The debtor may redeem property pursuant to the provisions of section 524(c) of this title or subsection (b) of this section.

"(b) An individual debtor may, whether or not such debtor has waived such right, redeem from the holder of a lien that secures a dischargeable consumer debt, tangible personal property intended primarily for personal, family, or household use, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title, by paying such holder at the time of redemption before the case is closed the amount of such holder's allowed secured claim.".

Sec. 64. (a) Section 723(a) of title 11 of the United States Code is amended by striking out "title" and inserting "chapter" in lieu thereof.

(b) Section 723(c) of title 11 of the United States Code is amended—

(1) by striking out "such case" each place it appears and inserting "such partner's case" in lieu thereof;

(2) by striking out "be property" and inserting "by property" in lieu thereof;

(3) by striking out "726(a)" and inserting "726" in lieu thereof; and

(4) by striking out "the kind" and inserting "a kind" in lieu thereof.

Sec. 65. (a) Section 724(b) of title 11 of the United States Code is amended—

(1) by striking out "and" the first place it appears and by striking out "taxes" and inserting "a tax" in lieu thereof;

(2) in paragraph (1), by striking out "such tax lien" and inserting "the lien securing such tax claim" in lieu thereof;

(3) in paragraph (2), by striking out "claims" and inserting "the holder of a claim of a kind" in lieu thereof;

(4) in paragraph (3), by inserting "tax" immediately after "allowed" and by striking out "that is";

(5) redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) fifth, to the holder of a claim of a kind specified in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent that such claim is not paid under paragraph (2) of this subsection;";

(6) in paragraph (6), as so redesignated, by striking out "fifth" and inserting "sixth" in lieu thereof, by inserting "tax" after "allowed", and by striking out "tax" immediately after "such" the third place it appears; and

(7) in paragraph (7), as so redesignated, by striking out "sixth" and inserting "seventh" in lieu thereof.

(b) Section 724(c) of title 11 of the United States Code is amended by striking out "creditor" and inserting "holder of a claim" in lieu thereof and by striking out "creditors" each place it appears and inserting "holders" in lieu thereof.

(c) Section 724(d) of title 11 of the United States Code is amended by striking out "whose priority" and inserting "the priority of which" in lieu thereof and by inserting "if such lien were" immediately after "the same as".

Sec. 66. Section 725 of title 11 of the United States Code is amended by inserting "of property of the estate" immediately after "distribution".

Sec. 67. (a) Section 726(a) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting ", 501(b), or 501(c)" immediately after "501(a)", and by adding "or" immediately after the semicolon;

(2) by striking out paragraph (2)(B) and redesignating paragraph (2)(C) as paragraph (2)(B);

(3) in paragraph (2)(B), as so redesignated, by inserting ", 501(b), or 501(c)" immediately after "501(a)"; and

(4) in paragraph (3), by inserting ", 501(b), or 501(c)" immediately after "501(a)", and by striking out "(C)" and inserting "(B)" in lieu thereof.

(b) Section 726(b) of title 11 of the United States Code is amended—

(1) by striking out "a particular paragraph" and inserting "each such particular paragraph" in lieu thereof; and

(2) by striking out "administrative expenses" each place it appears and inserting "a claim allowed under section 503(b) of this title" in lieu thereof, and by striking out "have" and inserting "has" in lieu thereof.

(c) Section 726(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "Administrative expenses" and inserting "Claims allowed under section 503 of this title" in lieu thereof; and

(2) in paragraph (2), by striking out "Claims other than for administrative expenses" and inserting "Allowed claims, other than claims allowed under section 503 of this title," in lieu thereof.

Sec. 68. (a) Section 727(a) of title 11 of the United States Code is amended—

(1) in paragraph (6)(C), by striking out "property" and inserting "properly" in lieu thereof;

(2) in paragraph (7), by inserting ", under this title or under the Bankruptcy Act," immediately after "another case"; and

(3) in paragraph (8), by inserting a comma immediately after "371".

(b) Section 727(c)(1) of title 11 of the United States Code is amended by inserting "the granting of a" immediately after "to".

(c) Section 727(e)(2)(A) of title 11 of the United States Code is amended by striking out "and" inserting "or" in lieu thereof.

Sec. 69. (a) Section 728(c) of title 11 of the United States Code is amended by striking out the comma immediately after "taxable income".

(b) Section 728(d)(2) of title 11 of the

United States Code is amended by inserting "otherwise" immediately after "is", and by striking out "otherwise" immediately after "partner".

SEC. 70. Section 741 of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by striking out "holds" and inserting "has" in lieu thereof and by striking out "business as a stock broker" and inserting "such debtor's business as a stockbroker," in lieu thereof;

(2) in paragraph (2)(B), by striking out "holds" and inserting "has" in lieu thereof;

(3) in paragraph (4), by striking out "at any time";

(4) in paragraph (4)(A)(i), by striking out "and that is" and inserting "from and that is the lawful" in lieu thereof;

(5) in paragraph (4)(A)(ii), by inserting "of a customer" immediately after "claim";

(6) by redesignating paragraphs (5) and (6) as paragraphs (6) and (8), respectively;

(7) by inserting immediately after paragraph (4) the following new paragraph:

"(5) 'margin payment' means payment or deposit of cash, a security, or other property, that is commonly known to the securities trade as original margin, initial margin, maintenance margin, or variation margin, or as a mark-to-market payment, or that secures an obligation of a participant in a securities clearing agency;";

(8) in paragraph (6), as so redesignated, by striking out "the aggregate of all of a customer's accounts that such customer holds" and inserting "all accounts of a customer that such customer has" in lieu thereof;

(9) in paragraph (6)(A)(i), as so redesignated, by inserting a comma immediately after "petition", and by inserting "any" immediately after "except";

(10) in paragraph (6)(A)(ii), as so redesignated, by inserting "in such capacity" immediately after "customer";

(11) in paragraph (6)(B), as so redesignated, by striking out "342" and inserting "341" in lieu thereof, and by inserting "in such capacity" immediately before the semicolon; and

(12) by inserting immediately after paragraph (6), as so redesignated, the following new paragraph:

"(7) 'securities contract' means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, or the guarantee of any settlement of cash or securities by a securities clearing agency; and".

SEC. 71. Section 743 of title 11 of the United States Code is amended by striking out "342(a)" and inserting "341" in lieu thereof.

SEC. 72. Section 744 of title 11 of the United States Code is amended by inserting "but" immediately after "relief,".

SEC. 73. (a) Section 745(a) of title 11 of the United States Code is amended by inserting "the debtor for" immediately after "by."

(b) Section 745(c) of title 11 of the United States Code is amended by striking out "A" and inserting "Each" in lieu thereof.

SEC. 74. (a) Section 746(a) of title 11 of the United States Code is amended—

(1) by striking out "effects, with respect to cash or a security," and inserting "enters into" in lieu thereof;

(2) by striking out "with respect to such cash or security";

(3) by striking out "such date" and inserting "the date of the filing of the petition" in lieu thereof; and

(4) by striking out "effected" and inserting "entered into" in lieu thereof.

(b) Section 746(b) title 11 of the United States Code is amended—

(1) by striking out "has a claim for" and inserting "transferred to the debtor" in lieu thereof; and

(2) in paragraph (2), by striking out "is".

(c) The section heading for section 746 of title 11 of the United States Code is amended to read as follows:

"§ 746. Extent of customer claims".

SEC. 75. Section 747 of title 11 of the United States Code is amended by striking out "such claim arose" and inserting "the transaction giving rise to such claim occurred" in lieu thereof.

SEC. 76. Section 749 of title 11 of the United States Code is amended—

(1) by striking out "Any" and inserting "(a) Except as otherwise provided in this section, any" in lieu thereof;

(2) by inserting "by the debtor" immediately before "of property";

(3) by striking out "except" and inserting "but" in lieu thereof;

(4) by inserting "such property" immediately after "trustee, and";

(5) by striking out "549, or 724(a)" and inserting "or 549" in lieu thereof; and

(6) by adding at the end thereof the following new subsection:

"(b) Notwithstanding sections 544, 545, 547, 548, and 549 of this title, the trustee may not avoid a transfer made before five days after the date of the filing of the petition if such transfer is approved by the Commission by rule or order, either before or after such transfer, and if such transfer is—

"(1) a transfer of a securities contract entered into or carried by or through the debtor on behalf of a customer, and of any cash, security, or other property margining or securing such securities contract; or

"(2) the liquidation of a securities contract entered into or carried by or through the debtor on behalf of a customer.".

SEC. 77. (a) Section 752(a) of title 11 of the United States Code is amended—

(1) by striking out "customers allowed" and inserting "customers' allowed";

(2) by inserting "of the kind" immediately after "except claims"; and

(3) by inserting "such" immediately before "customer property.".

(b) Section 752(b)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting "726" in lieu thereof.

(c) Section 752(c) of title 11 of the United States Code is amended to read as follows:

"(c) Any cash or security remaining after the liquidation of a security interest created under a security agreement made by the debtor, excluding property excluded under section 741(4)(B) of this title, shall be apportioned between the general estate and customer property in the same proportion as the general estate of the debtor and customer property were subject to such security interest.".

SEC. 78. Section 761 of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "made" immediately after "commodity contracts";

(2) in paragraph (4), by striking out "if the debtor is" each place it appears and inserting "with respect to" in lieu thereof;

(3) in paragraph (4)(D), by inserting ", or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by the debtor" immediately before the semicolon;

(4) in paragraph (9), by striking out "if the debtor is" each place it appears and inserting "with respect to" in lieu thereof;

(5) in paragraph (9)(A), by striking out "the debtor" each place it appears and inserting "such futures commission merchant" in lieu thereof and by striking out "the debtor's" and inserting "such futures commission merchant's" in lieu thereof;

(6) in paragraph (9)(B), by striking out "the debtor" each place it appears and inserting "such foreign futures commission merchant" in lieu thereof and by striking out "the debtor's" and inserting "such foreign futures commission merchant's" in lieu thereof;

(7) in paragraph (9)(C), by striking out "the debtor" each place it appears and inserting "such leverage transaction merchant" in lieu thereof, by striking out "the debtor's" and inserting "such leverage transaction merchant's" in lieu thereof, by inserting "or" immediately after the semicolon in clause (i), and by striking out "hold" in clause (ii) and inserting "holds" in lieu thereof;

(8) in paragraph (9)(D), by striking out "the debtor" each place it appears and inserting "such clearing organization" in lieu thereof,

(9) in paragraph (9)(E), by striking out "the debtor" each place it appears and inserting "such commodity options dealer" in lieu thereof and by striking out "the debtor's" and inserting "such commodity options dealer's" in lieu thereof;

(10) in paragraph (10), by striking out "at any time", by striking out "and that is" in subparagraph (A)(viii) and inserting "from and that is the lawful" in lieu thereof, and by striking out "based on such property" in subparagraph (B) and inserting "for which such property would be liable" in lieu thereof;

(11) in paragraph (12), by inserting a comma immediately after "property" and by striking out the comma after "credit";

(12) in paragraph (13), by striking out "217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a)" and inserting "19 of the Commodity Exchange Act (7 U.S.C. 23)" in lieu thereof;

(13) in paragraph (14), by striking out "that is engaged";

(14) in paragraph (15), by striking out "or variation margin," and inserting "variation margin, or as a mark-to-market payment," immediately before "including";

(15) in paragraph (16), by striking out "at any time"; and

(16) in paragraph (17), by striking out "the aggregate of all a customer's accounts" and inserting "all accounts of a customer" in lieu thereof, by striking out "holds" and inserting "has" in lieu thereof, by inserting "the" immediately after "(A)" in subparagraph (A), by inserting "in such capacity" immediately after "customer" in subparagraph (A)(ii), by striking out subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

SEC. 79. Section 762 of title 11 of the United States Code is amended by striking out "342" and inserting "341" in lieu thereof.

SEC. 80. Section 763(a) of title 11 of the United States Code is amended by inserting "the debtor for" immediately after "by" and by striking out "deemed to be" and inserting "treated as" in lieu thereof.

SEC. 81. (a) Section 764(a) of title 11 of the United States Code is amended—

(1) by inserting "by the debtor" immediately after "any transfer";

(2) by striking out "except" and inserting "but" in lieu thereof;

(3) by inserting "such property" immediately after "trustees, and"; and

(4) by striking out "is" each place it appears and inserting "shall be" in lieu thereof.

(b) Section 764(c) of title 11 of the United States Code is repealed.

SEC. 82. (a) Section 765(a) of title 11 of the United States Code is amended by striking out "notice under" and inserting "notice required by" in lieu thereof and by striking out "342" and inserting "341" in lieu thereof.

(b) Section 765(b) of title 11 of the United States Code is amended by striking out "commitment" and inserting "commodity contract" in lieu thereof.

SEC. 83. (a) Section 766(a) of title 11 of the United States Code is amended—

(1) by striking out "of" the first place it appears and inserting "held by the debtor for" in lieu thereof; and

(2) by inserting "to such customer" immediately after "distribution".

(b) Section 766(b) of title 11 of the United States Code is amended—

(1) by amending the first sentence thereof to read as follows: "If an open commodity contract is being actively traded as of the date of the filing of the petition, the trustee shall, as required by sections 765 and 766(c) of this title, transfer such commodity contract, if feasible, or close out such commodity contract on or before the last day of trading in such contract or on the first day on which notice of intent to deliver on such commodity contract may be tendered, whichever first occurs."; and

(2) by inserting "the" immediately after "rules of".

(c) Section 766(d) of title 11 of the United States Code is amended by striking out "such amount, then the" and inserting "the amount to which the customer of the debtor is entitled under subsection (h) or (i) of this section, then such" in lieu thereof, and by inserting "then" immediately after "trustee" the second place it appears.

(d) Section 766(h) of title 11 of the United States Code is amended by inserting "and except that a customer net equity claim based on a proprietary account, as defined by Commission rule, regulation, or order, may not be paid either in whole or in part, directly or indirectly, out of customer property unless all other customer net equity claims have been paid in full" immediately after "this section".

(e) Section 766(j)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting "726" in lieu thereof.

SEC. 84. Section 901(a) of title 11 of the United States Code is amended—

(1) by striking out "552.";

(2) by striking out "547" and inserting "547(a), 547(b), 547(c), 547(d), 547(e)(1), 547(e)(2), 547(f), 547(g)" in lieu thereof;

(3) by striking out "1109" and inserting "1109(b)" in lieu thereof; and

(4) by inserting a comma immediately after "1111(b)".

SEC. 85. Section 902(2) of title 11 of the United States Code is amended by striking out "title, legal or equitable, to real property against which has been levied a special assessment or special tax" and by inserting "legal or equitable title to real property against which a special assessment or special tax has been levied" in lieu thereof.

SEC. 86. Secton 903(2) of title 11 of the United States Code is amended by striking out "to" the first place it appears.

SEC. 87. Chapter 9 of title 11 of the United States Code is amended by striking out "SUBCHAPTER II" and inserting "SUBCHAPTER II" in lieu thereof.

SEC. 88. (a) Section 921(c) of title 11 of the United States Code, is amended by striking out "an" and inserting "any" in lieu thereof, and by striking out the comma after "petition" the second place it appears.

(b) Section 921 of title 11 of the United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) Section 921(d) of title 11 of the United States Code, as redesignated, is amended by striking out "subsection (d)" and inserting "subsection (c)" in lieu thereof.

SEC. 89. (a) Section 922(a)(1) of title 11 of the United States Code is amended by inserting "a" immediately before "judicial", and by inserting "action or" immediately before "proceeding".

(b) Section 922(b) of title 11 of the United States Code is amended by striking out "and (g)" and inserting "(g), and "(h)" in lieu thereof.

SEC. 90. (a) Section 927(a)(4) of title 11 of the United States Code is amended by striking out "if" and inserting "failure of" in lieu thereof, and by striking out "is not" and inserting "to be" in lieu thereof.

(b) Section 927(b) of title 11 of the United States Code is amended by inserting "of a plan under this chapter" immediately after "confirmation".

SEC. 91. Section 943(b) of title 11 of the United States Code is amended—

(1) in paragraph (4), by striking out "to be taken"; and

(2) by amending paragraph (5) to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to be allowed to such claim; and".

SEC. 92. Section 945(a) of title 11 of the United States Code is amended, by striking out "execution" and inserting "implementation" in lieu thereof.

SEC. 93. Section 1102(b)(1) of title 11 of the United States Code is amended by striking out "order for relief" and inserting "commencement of the case" in lieu thereof.

SEC. 94. Section 1103(c) of title 11 of the United States Code is amended—

(1) in paragraph (3), by striking out "recommendations" and inserting "determinations" in lieu thereof, and by inserting "or rejections" immediately after "acceptances"; and

(2) in paragraph (44), by striking out ", if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case".

SEC. 95. Section 1105 of title 11 of the United States Code is amended by striking out "estate, and" and inserting "estate and of the" in lieu thereof.

SEC. 96. Section 1106(b) of title 11 of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," immediately before "any other".

SEC. 97. Section 1107(a) of title 11 of the United States Code is amended by inserting "serving in a case" immediately after "on a trustee".

SEC. 98. Section 1108 of title 11 of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," immediately after "court".

SEC. 99. Section 1111(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) Except where property of the estate that secures a claim is sold subject to section 363(k) of this title, abandoned under section 554 of this title, or surrendered to the holders of such claims, or is to be sold, abandoned, or surrendered under the plan—

"(A) a claim secured by such property shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder had such recourse, unless the class of which such claim is a part elects, by at least two-thirds in amount and more than one-half in number of allowed claims of such class, to be governed by subparagraph (B) of this paragraph; and

"(B) unless the aggregate value of the interests in such property of the holders of such claims is inconsequential, the class may elect, as provided under subparagraph (A) of this paragraph, that such claims of such class, whether or not the holders of such claims had recourse against the debtor and notwithstanding section 506(a) of this title, are secured claims to the full extent that such claims are allowed.

"(2) The provisions of paragraph (1)(A) of this subsection are limited to the purposes of this chapter and such paragraph does not in any other way alter, affect, or create any right or liability of any other entity.".

SEC. 100. (a) Section 1112(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out "is an involuntary case originally commenced under this chapter" and inserting "originally was commenced as an involuntary case under this chapter" in lieu thereof; and

(2) in paragraph (3), by striking out "on other than" and inserting "other than on" in lieu thereof.

(b) Section 1112(b) of title 11 of the United States Code is amended—

(1) in paragraph (5), by inserting "a request made for" immediately before "additional"; and

(2) in paragraph (8), by striking out "and" and inserting "or" in lieu thereof.

SEC. 101. (a) Section 1121(c)(3) of title 11 of the United States Code is amended by striking out "the claims or interest of which are" and inserting "of claims or interests that is" in lieu thereof.

(b) Section 1121(d) of title 11 of the United States Code is amended by inserting "made within the respective periods specified in subsection (c) of this section" immediately after "interest".

SEC. 102. (a) Section 1123(a) of title 11 of the United States Code is amended—

(1) by striking out "A" and inserting "Notwithstanding any otherwise applicable nonbankruptcy law, a" in lieu thereof;

(2) in paragraph (1), by inserting a comma immediately after "classes of claims" and immediately after "507(a)(6) of this title";

(3) in paragraph (3), by striking out "shall";

(4) in paragraph (5), by striking out "execution" and inserting "implementation" in lieu thereof;

(5) in paragraph (5)(G), by inserting "of" immediately after "waiving"; and

(6) in paragraph (6), by striking out "equity securities" the first place it appears and inserting "common stock" in lieu thereof.

(b) Section 1123(b)(2) of title 11 of the United States Code is amended by striking out "or rejection" and inserting ", rejection, or assignment" in lieu thereof and by striking out "under section 365 of this title" and inserting "under such section" in lieu thereof.

SEC. 103. Section 1124 of title 11 of the United States Code is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title;"; and

(2) in paragraph (3)(B)(i), by striking out "and" and inserting "or" in lieu thereof.

SEC. 104. (a) Section 1125(a) of title 11 of the United States Code is amended—

(1) in paragraph (1) by inserting ", but need not include such information about any other possible or proposed plan" immediately after "plan";

(2) in paragraph (2)(B), by inserting "the" imediately after "with"; and

(3) in paragraph (2)(C), by inserting "of" immediately after "holders".

(b) Section 1125(d) of title 11 of the United States Code is amended—

(b) by inserting "required under subsection (b) of this section" immediately after "statement" the first place it appears; and

(2) by inserting ", or otherwise seek review of," immediately after "appeal from".

(c) Section 1125(e) of title 11 of the United States Code is amended by inserting "acceptance or rejection of a plan" immediately after "solicits" and by inserting "solicitation of acceptance or rejection of a plan or" immediately after "governing".

SEC. 105. (a) Section 1126(b)(2) of title

11 of the United States Code is amended by striking out "1125(a)(1)" and inserting "1125(a)" in lieu thereof.

(b) Section 1126(d) of title 11 of the United States Code is amended by inserting a comma immediately after "such interests" the first place it appears.

(c) Section 1126(f) of title 11 of the United States Code is amended—

(1) by striking out "solicititation" and inserting "solicitation" in lieu thereof; and

(2) by striking out "interest" and inserting "interests" in lieu thereof.

(d) Section 1126(g) of title 11 of the United States Code is amended by striking out "any payment or compensation" and inserting "receive or retain any property" in lieu thereof.

SEC. 106. (a) Section 1127(a) of title 11 of the United States Code is amended by inserting "of a plan" immediately after "After the proponent" and by inserting "of such plan" immediately after "modification".

(b) Section 1127(b) of title 11 of the United States Code is amended by striking out "the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification" and inserting "circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title" in lieu thereof.

SEC. 107. (a) Section 1129(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "and this title" immediately after "chapter";

(2) in paragraph (2), by inserting "and this title" immediately after "chapter";

(3) by amending paragraph (4) to read as follows:

"(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;";

(4) in paragraph (5)(A)(ii), by striking out the period and inserting "; and" in lieu thereof;

(5) in paragraph (5)(B), by striking out "The" and inserting "the" in lieu thereof;

(6) in paragraph (6), by inserting "governmental" immediately after "Any";

(7) in paragraph (7), by inserting "of claims or interests" immediately after "each class", and by striking out "creditor's" in subparagraph (B) and inserting "holder's" in lieu thereof;

(8) in paragraph (8), by inserting "of claims or interests" immediately after "each class"; and

(9) by amending paragraph (10) to read as follows:

"(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.".

(b) Section 1129(b) of title 11 of the United States Code is amended—

(1) by striking out "Notwithstanding section 510(a) of this title, if" and inserting "If" in lieu thereof;

(2) in paragraph (2)(A), by striking out "lien" each place it appears and inserting "liens" in lieu thereof;

(3) in paragraph (2)(B)(ii), by inserting "under the plan" immediately after "retain"; and

(4) in paragraph (2)(C)(i), by striking out "claim" and inserting "interest" in lieu thereof and by striking out "and the value" and inserting "or the value" in lieu thereof.

(c) Section 1129(d) of title 11 of the United States Code is amended—

(1) by striking out "a party in interest that is";

(2) by inserting "the application of" immediately after "avoidance of" the second place it appears; and

(3) by adding at the end thereof the following new sentence: "In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.".

SEC. 108. (a) Section 1141(a) of title 11 of the United States Code is amended—

(1) by striking out "Except" and inserting "Notwithstanding section 510(a) of this title and except" in lieu thereof; and

(2) by striking out "any creditor or equity security holder of, or general partner in," and inserting "any creditor, equity security holder, or general partner in" in lieu thereof.

(b) Section 1141(c) of title 11 of the United States Code is amended to read as follows:

"(c) Except as provided in subsections (d)(2) and (d)(3) of this section and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the debtor.".

SEC. 109. (a) The heading for section 1142 of title 11 of the United States Code is amended to read as follows:

"§ 1142. Implementation of plan".

(b) The item relating to section 1142 in the table of sections for chapter 11 of title 11 of the United States Code is amended by striking out "Execution" and inserting "Implementation" in lieu thereof.

(c) Section 1142(a) of title 11 of the United States Code is amended by striking out the comma after "plan" the second place it appears.

(d) Section 1142(b) of title 11 of the United States Code is amended by inserting "a" immediately after "by".

SEC. 110. Section 1144 of title 11 of the United States Code is amended by inserting "if and only" immediately after "revoke such order".

SEC. 111. (a) Section 1145(a) of title 11 of the United States Code is amended—

(1) by striking out "Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section" and inserting "Section" in lieu thereof;

(2) in paragraph (3), by striking out "or an affiliate";

(3) in paragraph (3)(B)(i), inserting "or 15(d)" immediately after "13" and by inserting "or 78o(d)" immediately after "78m";

(4) by amending paragraph (3(B)(ii) to read as follows:

"(ii) in compliance with the disclosure and reporting provision of such applicable section; and";

(5) in paragraph (3)(C), by striking out "two" each place it appears and inserting "one" in lieu thereof;

(6) in paragraph (3)(c)(ii), by striking out "180" each place it appears and inserting "90" in lieu thereof; and

(7) in paragraph (4), by striking out "stockholder" each place it appears and inserting "stockbroker" in lieu thereof.

(b) Section 1145(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "and except with respect to ordinary trading transactions of an entity that is not an issuer" immediately after "subsection";

(2) in paragraph (1)(C), by striking out "for" and inserting "from" in lieu thereof;

(3) in paragraph (2)(A)(i), by striking out "combination" and inserting "or combining" in lieu thereof; and

(4) in paragraph (2)(A)(ii), by striking out "among" and inserting "from or to" in lieu thereof.

SEC. 112. (a) Section 1146(c) of title 11 of the United States Code is amended by striking out "State or local".

(b) Section 1146(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

SEC. 113. Section 1161 of title 11 of the United States Code is amended by striking out "341" and inserting "342" in lieu thereof.

SEC. 114. Section 1163 of title 11 of the United States Code is amended by striking out "qualified" and inserting "eligible, qualified," in lieu thereof.

SEC. 115. Section 1166 of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting "subtitle IV of title 49" in lieu thereof.

SEC. 116. Section 1168(b) of title 11 of the United States Code is amended by inserting a comma immediately after "approval".

SEC. 117. Section 1169(c) of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting "subtitle IV of title 49" in lieu thereof.

SEC. 118. (a) Section 1170(a) of title 11 of the United States Code is amended by inserting "of all or a portion" immediately after "the abandonment".

(b) Section 1170(c) of title 11 of the United States Code is amended by inserting a comma immediately after "abandonment".

(c) Section 1170(d)(2) of title 11 of the United States Code is amended—

(1) by striking out "the abandonment of a railroad line" and inserting "such abandonment" in lieu thereof; and

(2) by striking out "termination" each place it appears and inserting "suspension" in lieu thereof.

SEC. 119. Section 1171(b) of title 11 of the United States Code is amended by striking out "such" and inserting "the same" in lieu thereof.

SEC. 120. Section 1173(a)(4) of title 11 of the United States Code is amended by striking out "compatible" and inserting "consistent" in lieu thereof.

SEC. 121. (a) Section 1301(b) of title 11 of the United States Code is amended by inserting "and may protest" immediately after "of" the first place it appears.

(b) Section 1301(c)(3) of title 11 of the United States Code is amended by inserting "continuation of" immediately after "by".

SEC. 122. (a) Section 1302(b) of title 11 of the United States Code is amended—

(1) in paragraph (2)(C), by striking out "and";

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) dispose of, pursuant to regulations issued by the Director of the Administrative Office of the United States Courts, monies received or to be received in a case under chapter XIII of the Bankruptcy Act; and".

(b) Section 1302(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "fix" and inserting "set for such individual" in lieu thereof;

(2) in paragraph (1)(A), by striking out "for such individual";

(3) in paragraph (2), by inserting "made to entities entitled" immediately after "payments"; and

(4) in paragraph (2)(A), by striking out "of" and inserting "received by" in lieu thereof and by striking out "upon all payments" and inserting "of all such payments made" in lieu thereof.

SEC. 123. Section 1304(b) of title 11 of the United States Code is amended by striking out the comma immediately after "of the debtor".

SEC. 124. (a) Section 1307(b) of title 11 of the United States Code is amended by inserting a comma immediately after "time".

(b) Section 1307(c) of title 11 of the United States Code is amended—

(1) in paragraph (4), by inserting "a re-

quest made for" immediately before "'additional";

(2) in paragraph (6), by striking out "and" immediately after the semicolon and inserting "or" in lieu thereof; and

(3) in paragraph (7), by inserting "other than completion of payments under the plan" immediately after "in the plan".

Sec. 125. (a) Section 1322(a)(2) of title 11 of the United States Code is amended by inserting a comma immediately after "payments".

(b) Section 1322(b) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting ", or leave unaffected the rights of holders of any class of claims" immediately before the semicolon;

(2) in paragraph (4), by inserting "other" immediately after "claim or any";

(3) in paragraph (5), by striking out "maintenance of payments" and by striking out "on any unsecured claim or secured claim" and inserting "maintain payments on any claim" in lieu thereof;

(4) in paragraph (7), by inserting "subject to section 365 of this title," immediately before "provide", by striking out "or rejection" and inserting ", rejection, or assignment" in lieu thereof, and by striking out "under section 365 of this title" and inserting "under such section" in lieu thereof; and

(5) in paragraph (8), by striking out "any".

Sec. 126. Section 1323(c) of title 11 of the United States Code is amended by striking out "the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and" and inserting "such plan as modified, unless" in lieu thereof.

Sec. 127. Section 1324 of title 11 of the United States Code is amended by striking out "the" the second place it appears.

Sec. 128. (a) Section 1325(a)(1) of title 11 of the United States Code is amended by inserting "the" immediately before "other".

(b) Section 1325(a)(3) of title 11 of the United States Code is amended by inserting ", and represents the debtor's good faith effort" before the semicolon.

(c) Section 1325(b) of title 11 of the United States Code is amended by striking out "any" the second place it appears.

Sec. 129. Section 1326(a)(2) of title 11 of of the United States Code is amended by inserting "of this title" immediately after "1302(d)".

Sec. 130. Section 1328(a)(2) of title 11 of the United States Code is amended by inserting ", 523(a)(6), and 523(a)(8)" immediately after "section 523(a)(5)".

Sec. 131. Section 1328(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "by the debtor" immediately after "obtained"; and

(2) in paragraph (2), by striking out "knowledge of such fraud came to the requesting party" and inserting "the requesting party did not know of such fraud until" in lieu thereof.

Sec. 132. Section 1329(a) of title 11 of the United States Code is amended—

(1) by inserting "of the plan" immediately after "confirmation" and by striking out "a plan" and inserting "such plan" in lieu thereof; and

(2) in paragraph (3), by striking out the comma.

Sec. 133. Section 15102 of title 11 of the United States Code is amended by striking out "chapter" the first place it appears and inserting "title" in lieu thereof.

Sec. 134. Section 15103(f) of title 11 of the United States Code is amended—

(1) by inserting "342(b)," immediately after "326(b),";

(2) by inserting "1106(a)(1), 1108," immediately after "1105"; and

(3) by inserting "1302(b)(1), 1302(b)(3), immediately after "1302(a),".

Sec. 135. Section 15322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" immediately after "bond", by striking out "(2)" and by inserting "of this title" before the semicolon.

Sec. 136. Section 15324 of title 11 of the United States Code is amended by inserting a comma immediately after "a trustee".

Sec. 137. Section 15330 of title 11 of the United States Code is amended by adding at the end thereof the following: "The notice required under section 330 of this title shall be given to the United States trustee.".

Sec. 138. (a) Chapter 15 of title 11 of the United States Code is amended by inserting after section 15330 the following new section:

"§ 15342. Meetings of creditors

"In a case under chapter 13 of this title, the United States trustee may call a meeting of creditors. The court may not preside at and may not attend any meeting under this section.".

(b) The table of sections for chapter 15 of title 11 is amended by inserting immediately below the item relating to section 15330 the following new item:

"15342. Meetings of creditors.".

Sec. 139. Section 15343 of title 11 of the United States Code is amended by striking out "341(a)" and inserting "342" in lieu thereof.

Sec. 140. (a) Section 15701(a) of title 11 of the United States Code is amended by striking out "trustee established" and inserting "trustees established" in lieu thereof.

(b) Section 15701(b) of title 11 of the United States Code is amended by striking out "such persons" and inserting "the members of such panel" in lieu thereof.

Sec. 141. (a) Section 15703(a) of title 11 of the United States Code is amended by striking out "specified in section 15701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee." and by inserting "and subject to the provisions of sections 701 and 15701 of this title." in lieu thereof.

(b) Section 15703(b) of title 11 of the United States Code is amended by striking out "truste" and inserting "trustee" in lieu thereof.

Sec. 142. Section 15704 of title 11 of the United States Code is amended to read as follows:

"§ 15704. Duties of trustee

"The trustee shall—

"(1) if the business of the debtor is authorized to be operated, file with the United States trustee periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements; and

"(2) make and file interim reports on the condition of the estate with the United States trustee and make and file a final report and account of the administration of the estate with the United States trustee and the court.".

Sec. 143. Section 151102(b) of title 11 of the United States Code is amended by striking out "interest of" and inserting "interest," in lieu thereof.

Sec. 144. (a) Chapter 15 of title 11 of the United States Code is amended by inserting after section 151105 the following new sections:

"§ 151106. Duties of trustee and examiner

"A trustee shall perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title.

"(b) A trustee shall transmit a copy or a summary of any statement filed under section 1106(a)(4)(A) of this title to any creditors' committee, to any indenture trustee, to the United States trustee, and to any other entity as the court designates.

"§ 151108. Authorization to operate business

"Unless the court, upon the request of a party in interest or the United States trustee and after notice and a hearing, orders otherwise, the trustee may operate the debtor's business.".

(b) The table of sections for chapter 15 of title 11 of the United States Code is amended by inserting after the item relating to section 151105 the following new items:

"151106. Duties of trustee and examiner.

"151108. Authorization to operate business.".

Sec. 145. (a) Section 151302(a) of title 11 of the United States Code is amended by inserting ", or shall appoint a disinterested person to serve," immediately after "The United States trustee shall serve".

(b) Section 151302(b) of title 11 of the United States Code is amended to read as follows:

"(b) The trustee shall—

"(1) perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title; and

"(2) dispose of, pursuant to regulations issued by the Attorney General, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act.".

TITLE II—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE

Sec. 201. Section 151(c) of title 28 of the United States Code is amended by inserting a comma immediately after "suit".

Sec. 202. (a) Section 152 of title 28 of the United States Code is amended by adding at the end thereof the following:

"In recommending individuals to the President for appointment as bankruptcy judges, the Judicial Council of each circuit shall follow standards and procedures promulgated by the Judicial Conference of the United States. Such standards and procedures shall contain provision for public notice of all vacancies of bankruptcy judgeships. Further, such standards and procedures shall ensure that the Judicial Council gives due consideration to all qualified individuals, especially such groups as women, blacks, Hispanics, and other minorities."

(b) The Congress—

(1) takes notice of the fact that less than 2 per centum of bankruptcy judges are women, less than 3 per centum of bankruptcy judges are blacks, and only one bankruptcy judge is of Hispanic origin; and

(2) suggests that the President, in selecting individuals for nomination to bankruptcy judgeships created by this Act, give due consideration to qualified individuals without regard to race, color, sex, religion, or national origin.

Sec. 203. Section 153(b) of title 28 of the United States Code is amended by striking out "or circuits" each place it appears and by striking out "or councils" each place it appears.

Sec. 204. Section 158 of title 28 of the United States Code is amended by striking out "Court" and inserting "Bankruptcy court" in lieu thereof.

Sec. 205. (a) Section 160(a) of title 28 of the United States Code is amended by striking out "each circuit" and inserting "such circuit" in lieu thereof.

(b) Section 160 of title 28 of the United States Code is amended by adding at the end thereof the following new subsections:

"(d) A panel may exercise the powers of a bankruptcy court.

"(e) A single judge of a panel may enter an order if irreparable damage will result if such order is not entered. Such order shall remain in force only until the hearing and determination by the panel of three judges.".

Sec. 206. (a) Section 294(c) of title 28 of the United States Code is amended by striking out "district or bankruptcy judge" and inserting ", district, or bankruptcy" in lieu thereof.

(b) Section 294(d) of title 28 of the United States Code is amended by striking out "district judge or bankruptcy judge" and inserting "district, or bankruptcy judge" in lieu thereof.

SEC. 207. Section 295 of title 28 of the United States Code is amended by inserting a comma immediately before "district, or".

SEC. 208. (a) Section 373 of title 28 of the United States Code is amended—

(1) in the first undesignated paragraph by inserting "or bankruptcy judge" after "Virgin Islands,";

(2) in the second undesignated paragraph by striking out "sixteen" each place it appears and by inserting "fourteen" in lieu thereof;

(3) in the third undesignated paragraph by striking out "other" and by adding at the end thereof the following: "Service as a bankruptcy judge before April 1, 1984, shall be included in the computation of aggregate years of judicial service for the purposes of this section."; and

(4) by adding at the end thereof the following new paragraphs:

"Notwithstanding the computations specified in the preceding provisions of this section, a bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 and entitled to payments under this section who retires, by resigning or otherwise, before April 1, 1984, or after March 31, 1984, because of failure of reappointment, or who is reappointed after March 31, 1984, but does not continue in service for an aggregate period of at least five years after the date of such reappointment or until attaining the age of seventy years, shall receive during the remainder of his life payments equal to the sum of (1) that proportion of the salary such judge received when he relinquished office which the aggregate number of years of his service as a bankruptcy judge after November 5, 1978, bears to fourteen and (2) that proportion of such salary which the aggregate number of years of his service as a bankruptcy judge before November 6, 1978, bears to twenty-eight, but not to exceed the salary such judge received when he relinquished office and, in the case of such a judge who retires because of failure of reappointment, not to exceed 80 per centum of such sum.

"Notwithstanding the preceding provisions of this section, to receive payments under this section a bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 who is eligible to retire under this section, by resigning or otherwise, shall elect, at any time before retirement and without regard to the date of such eligibility, to receive payments under this section in lieu of payments under any other Federal employee pension plan in which such judge was enrolled before such election. Such judge shall so elect by filing written notice thereof with the Director of the Administrative Office of the United States Courts. The Director shall forward a copy of such notice to the head of the agency administering such other Federal employee pension plan. In the case of any bankruptcy judge who so elects—

"(1) no annuity or other payment shall be payable, except as provided in paragraph (2), to such judge under such other Federal employee pension plan with respect to any service performed by such judge (whether performed before or after such election is filed and whether performed as a bankruptcy judge or otherwise);

"(2) such judge shall be paid a lump-sum, upon making application therefor, from such other Federal employee pension plan consisting of the unrefunded amount equal to the sum of any retirement deductions made from the pay of such judge and any amounts deposited by such judge covering service before the date of such election; and

"(3) no deduction for purposes of any other Federal employee pension plan shall be made from the amount payable to such judge under this section or from any other salary, pay, or compensation payable to such judge, for any period beginning after the date on which such election is filed.

"Notwithstanding the preceding provisions of this section, this section does not apply to any bankruptcy judge who retires, by resigning or otherwise, before the date of the enactment of the Bankruptcy Technical Amendments Act of 1980.

"Notwithstanding the preceding provisions of this section, a bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 who has not attained sixty-five years of age before April 1, 1984, shall not be entitled to payments under this section unless such judge has filed with the President, the President of the Senate, and the Director of the Administrative Office of United States Courts before April 1, 1984, a written notice agreeing to accept appointment as a bankruptcy judge after such date and, if offered such appointment, accepts such appointment.

"Notwithstanding the preceding provisions of this section, this section does not apply to any bankruptcy judge who retires, by resigning or otherwise, on or after the date of the enactment of the Bankruptcy Technical Amendments Act of 1980 and before March 31, 1984, unless before such retirement (1) such judge has attained the age of seventy years, or (2) such judge has attained the age of sixty-five years and gives to the Director of the Administrative Office of the United States Courts a certificate of disability signed by the chief judge of the circuit involved.

"Paragraphs (i) and (ii) of section 8331 (1) of title 5 shall not apply with respect to a bankruptcy judge continued in office by section 404(b) of the Bankruptcy Reform Act of 1978 unless and until such bankruptcy judge elects to receive payments under this section.

"For purposes of this section, the term 'bankruptcy judge' means a referee in bankruptcy or a bankruptcy judge.

"For purposes of this section, the term 'reappointment' shall include appointment to a bankruptcy court established in section 151 of this title.".

(b)(1) The heading for section 373 of title 28 of the United States Code is amended to read as follows:

"§ 373. Judges in Territories and Possessions; bankruptcy judges.".

(2) The table of sections for chapter 17 of title 28 of the United States Code is amended by amending the item relating to section 373 to read as follows:

"373. Judges in Territories and Possessions; bankruptcy judges.".

SEC. 209. Section 376(a)(2)(A) of title 28 of the United States Code is amended by striking out "section 337" and inserting "section 373" in lieu thereof.

SEC. 210. Section 451 of title 28 of the United States Code is amended—

(1) in the first undesignated paragraph by inserting "and appellate panels created under section 160 of this title" before the period;

(2) in the first and third undesignated paragraphs by striking out "and" the second place it appears in each such paragraph and inserting a comma in lieu thereof and by striking out ", the judges of which are entitled to hold office for a term of 14 years"; and

(3) in the third undesignated paragraph by striking out "Congress," and inserting "Congress" in lieu thereof and by striking out "and judge" and inserting "and judges" in lieu thereof.

SEC. 211. Section 456 of title 28 of the United States Code is amended—

(1) in the fourth undesignated paragraph, by inserting a comma immediately after "district"; and

(2) in the fifth undesignated paragraph, by striking out the semicolon immediately after "each district judge" and inserting a comma in lieu thereof.

SEC. 212. Section 569(a) of title 28 of the United States Code is amended by inserting "court" immediately after "of the bankruptcy".

SEC. 213. Section 571(b) of title 28 of the United States Code is amended by striking out "United States marshals, under regulations prescribed by the" and by striking out the comma immediately after "Courts".

SEC. 214. Sections 581(a) and 582(a) of title 28 of the United States Code are each amended by inserting ", without regard to the provisions of title 5 governing appointment in the competitive civil service," after "appoint".

SEC. 215. (a) Section 586(a) of title 28 of the United States Code is amended—

(1) in paragraph (3), by inserting ", remove for cause such trustees in cases under chapter 7 or 11 of such title" immediately after "title 11";

(2) in paragraph (5), by striking out "and" immediately after the semicolon;

(3) in paragraph (6), by striking out the period and inserting "; and" in lieu thereof; and

(4) by adding at the end thereof the following new paragraph:

"(7) administer oaths to and take the testimony of witnesses called to testify at meetings under title 11 or appoint or designate to so act.".

(b) Section 586(b) of title 28 of the United States Code is amended by striking out "trustee" the third place it appears and inserting "trustees to serve as standing trustee" in lieu thereof.

(c) Section 586(e)(2) is amended—

(1) by inserting "made to entities entitled" immediately after "payments" the first place it appears;

(2) in subparagraph (A), by striking out "of" and inserting "received by" in lieu thereof and by striking out "upon all payments" and inserting "of all such payments made" in lieu thereof;

(3) in subparagraph (B), by inserting "fee fixed under paragraph (1)(B) of this subsection" immediately after "the percentage"; and

(4) in subparagraph (B)(i), by striking out "individual" and inserting "individual's" in lieu thereof.

SEC. 216. Section 587 of title 28 of the United States Code is amended by adding at the end thereof the following: "The positions of such trustees shall not be in the Senior Executive Service.".

SEC. 217. (a) Section 604(a) of title 28 of the United States Code is amended—

(1) in paragraph (10), by striking out "(17)" each place it appears and inserting "(18)" in lieu thereof;

(2) by redesignating paragraph (17) as paragraph (18);

(3) by redesignating paragraph (13), as added by section 225(a)(2) of the Act of November 6, 1978 (92 Stat. 2549), as paragraph (17);

(4) by redesignating paragraph (14), as redesignated by section 225(a)(1) of the Act of November 6, 1978 (92 Stat. 2549), as paragraph (13); and

(5) by inserting immediately after paragraph (13) the following new paragraph:

"(14) Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;".

(b) Subsection (f) of section 604 of title

28 of the United States Code, as added by section 225(b) of the Act of November 6, 1978 (92 Stat. 2549), is redesignated as subsection (h) and is amended by striking out "number and".

Sec. 218. Section 634(a) of title 28 of the United States Code is amended by inserting a comma after "salaries" the first place it appears and by striking out "rates for" and all that follows through "as amended" and inserting "an amount fixed in accordance with section 225 of the Federal Salary Act of 1967, subject to adjustment in accordance with such Act and section 461 of this title" in lieu thereof.

Sec. 219. (a) Section 773(c) of title 28 of the United States Code is amended by striking out "a circuit" and inserting "an appellate" in lieu thereof, and by striking out the parentheses around "but presents a substantial question".

(b) Section 773 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(d) Court reporters appointed or employed under this section shall be appointed or employed in accordance with all of the standards and procedures applicable to appointments or employment under section 753 of this title and shall be governed by the rules and regulations applicable to court reporters appointed or employed under section 753 of this title.".

Sec. 220. (a) Section 1293(a) of title 28 of the United States Code is amended by striking out "decisions" and inserting "judgments, orders, and decrees" in lieu thereof.

(b) Section 1293(b) of title 28 of the United States Code is amended—

(1) by striking out "an appellate panel created under section 160 or ";

(2) by striking out "District court of the United States" and inserting "district court of the United States," in lieu thereof; and

(3) by inserting ", and of appeals from interlocutory orders and decrees of an appellate panel created under section 160 of this title, a district court, and a bankruptcy court, but only by leave of the court of appeals to which the appeal is taken" immediately before the period.

Sec. 221. Section 1334(c) of title 28 of the United States Code is amended by striking out "that section" and inserting "this section" in lieu thereof.

Sec. 222. (a) Section 1471(a) of title 28 of the United States Code is amended by striking out "subsection" and inserting "subsection" in lieu thereof.

(b) Subsections (c) and (e) of section 1471 of title 28 of the United States Code are each amended by striking out "commenced" and inserting "pending" in lieu thereof.

(c) Section 1471(c) of title 28 of the United States Code is amended by inserting "or a proceeding arising under title 11 or arising in or related to a case under title 11" immediately after "title 11".

(d) Section 1471(e) of title 28 of the United States Code is amended by inserting ", and of all property, wherever located, of the estate in such case" immediately before the period at the end thereof.

Sec. 223. Section 1472(1) of title 28 of the United States Code is amended by striking out "principle" and inserting "principal" in lieu thereof.

Sec. 224. (a) Section 1473(a) of title 28 of the United States Code is amended by striking out "Except" and inserting "Notwithstanding any Act of Congress that confers venue in a specific district and except" in lieu thereof.

(b) Section 1473(c) of title 28 of the United States Code is amended by striking out "section" the first place it appears and inserting "subsection" in lieu thereof.

Sec. 225. Section 1481 of title 28 of the United States Code is amended by inserting "(a)" before "A" and by adding at the end thereof the following new subsection:

"(b) A contempt punishable by a bankruptcy court includes any act that is in violation of a stay under title 11.".

Sec. 226. Section 1482(b) of title 28 of the United States Code is amended by striking out "judgments, orders," and inserting "orders" in lieu thereof.

Sec. 227. Section 1827(i) of title 28 of the United States Code is amended by striking out "referee in bankruptcy" and inserting "bankruptcy judge" in lieu thereof.

Sec. 228. Section 1871(a) of title 28 of the United States Code is amended to read as follows:

"(a) Grand jurors in district courts and petit jurors in district courts and bankruptcy courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed, on the certificate of the clerk of the district court or of the clerk of the bankruptcy court, by the clerk of the district court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk of the district court only upon the order of a district judge or by the clerk of the bankruptcy court only upon the order of a bankruptcy judge.".

Sec. 229. Section 1914(a) of title 28 of the United States Code is amended by striking out "$60" and inserting "$30" in lieu thereof.

Sec. 230. Section 1923(b) of title 28 of the United States Code is amended to read as follows:

"(b) The docket fees of United States attorneys shall be paid to the clerk of the district court, the docket fees of United States trustees shall be paid to the clerk of the bankruptcy court, and all such fees shall then be paid by the clerks into the Treasury.".

Sec. 231. Section 1930(a)(1) of title 28 of the United States Code is amended by striking out "$60" and inserting "$30" in lieu thereof.

Sec. 232. Section 1962 of title 28 of the United States Code is amended by inserting "or bankruptcy court" immediately after "district court".

Sec. 233. Section 1963 of title 28 of the United States Code is amended—

(1) in the first paragraph, by inserting "or bankruptcy court" immediately after "district court" the first place it appears:

(2) in the first sentence of the first undesignated paragraph, by inserting "with the clerk of the district court or the bankruptcy court, whichever is appropriate" before the period at the end thereof; and

(3) by adding at the end thereof the following new undesignated paragraph:

"An order of discharge or an order of confirmation in a case under title 11 which has become final may be registered in any other district by filing in the office of the clerk of the bankruptcy court of that district a certified copy of the order and when so registered shall have the same effect as an order of the bankruptcy court of the district where so registered and may be enforced in like manner.".

Sec. 234. Section 1964 of title 28 of the United States Code is amended by inserting "or bankruptcy court" immediately after "district court" each place it appears.

Sec. 235. Section 2075 of title 28 of the United States Code is amended by striking out "in cases under title 11" and inserting "in cases under title 11 and in proceedings arising under title 11 or arising in or related to cases under title 11" in lieu thereof.

Sec. 236. Section 2256(1)(C) of title 28 of the United States Code is amended by inserting "or under title 11" immediately after "title".

Sec. 237. (a) Section 1914 of title 28 of the United States Code is amended by striking out subsection (d).

(b) The District of Columbia Code is amended—

(1) in section 15–701(a), by striking out "clerk of the United States District Court for the District of Columbia,";

(2) in section 15–703—

(A) by striking out "(b)" and subsection (a); and

(B) in the catchline of such section by striking out "Deposit for costs; security" and inserting in lieu thereof "Security";

(3) in section 15–704—

(A) in subsection (a) by striking out "(a)" and by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "the Superior Court of the District of Columbia"; and

(B) by striking out subsection (b);

(4) by striking out section 15–706;

(5) in section 15–712 by striking out "Any District of Columbia Court" and inserting in lieu thereof "The Superior Court of the District of Columbia and the District of Columbia Court of Appeals"; and

(6) in the analysis of sections for chapter 7 of title 15, by striking out the item relating to section 15–706.

TITLE III—AMENDMENTS TO THE ACT OF NOVEMBER 6, 1978

Sec. 301. The title of the Act of entitled "An Act to establish a uniform Law on the Subject of Bankruptcies", approved November 6, 1978 (Public Law 95–598; 92 Stat. 2549) (hereinafter in this title referred to as the "Act") is amended to read as follows: "An Act to establish a uniform law on the subject of bankruptcies".

Sec. 302. The Act is amended by inserting after the enacting clause the following: "That this Act may be cited as the 'Bankruptcy Reform Act of 1978'."

Sec. 303. Section 216 of the Act is amended by striking out "record" and inserting "records" in lieu thereof.

Sec. 304. Section 222 of the Act is amended by striking out "assistance" and inserting "assistants" in lieu thereof.

Sec. 305. Section 232 of the Act is repealed.

Sec. 306. Section 308(f)(3) of the Act is amended by striking out " 'C' " and inserting " '(C)' " in lieu thereof.

Sec. 307. Section 402(c) of the Act is amended—

(1) by striking out "210," and inserting "205, 206, 207, 211, 213," in lieu thereof;

(2) by inserting "226," immediately after "225,"; and

(3) by inserting "248" immediately after "246.".

Sec. 308. (a) Section 403(a) of the Act is amended by striking out "this Act" and inserting "the provisions of this Act other than this subsection and subsections (b) and (d) of this section" and by striking out "the Act" and inserting "such provisions".

(b) Section 403(b) of the Act is amended by inserting "or after" immediately after "on".

(c) Section 403(e) of the Act is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) the amount by which a fee exceeds $100,000 may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, or under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1979;

"(2) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(3) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Sec. 309. (a) Section 404(b) of the Act is amended to read as follows:

"(b) The term of a referee in bankruptcy who is serving on the date of enactment of this Act is extended to and expires on March 31, 1984, or when his successor takes office, and such person shall have the title United States bankruptcy judge. During the period commencing on October 1, 1979, and ending on March 31, 1984 (hereinafter in this title referred to as 'the transition period'), unless a bankruptcy judge is certified to be not qualified by the Chief Judge of the Circuit Court after a finding that such judge is not qualified is made by a merit screening committee established under subsection (c) of this section, such judge shall serve in the court of bankruptcy continued under subsection (a) of this section to which such United States bankruptcy judge was appointed, in the manner prescribed by this title. Section 8335(a) of title 5 of the United States Code shall not apply to United States bankruptcy judges during the transition period. During the transition period, United States bankruptcy judges shall be exempt from annual and sick leave laws and regulations.".

(b) Section 404(c) of the Act is amended by striking out the first sentence and inserting in lieu thereof the following new sentence: "There shall be established for each judicial district a merit screening committee composed of the president or the designee of the president of the State bar association, the president or designee of the president of a local bar association for the area within the judicial district wherein a referee in bankruptcy maintains his official headquarters and the dean, or designee of the dean, of an accredited law school, if any, located within the judicial district or State, and if no such law school exists, then a lay member selected by the chief judge of the United States district court for the judicial district wherein the referee in bankruptcy maintains his official headquarters.".

(c) Section 404(d) of the Act is amended by striking out "41,".

(d) Section 404(e) of the Act is amended by inserting immediately after the first sentence the following new sentence: "Bankruptcy judges for the district shall decide where the headquarters office of the clerk of the bankruptcy court shall be located.".

(e) Section 404 of the Act is amended by adding at the end thereof the following new subsections:

"(h) A bankruptcy judge (including a referee in bankruptcy) continued in office by subsection (b) of this section who is serving as a bankruptcy judge on March 31, 1984, and is not reappointed as a United States bankruptcy judge at the end of the transition period and who at the time of relinquishing office has fourteen or more years of service but has not yet attained the age of sixty-five years shall be eligible to receive retirement benefits under section 373 of title 28 of the United States Code, notwithstanding any provision of such section relating to the minimum age for retirement, if such judge has made the election required in such section. The retirement benefits of such bankruptcy judge shall be reduced by one-sixth of one percent for each full month such judge is under the age of sixty-five years at the time of retirement.

"(i) During the transition period, the powers granted under section 2071 of title 28 of the United States Code shall be exercised by the United States bankruptcy court of a district, exclusive of the district court of such district, for the purpose of promulgating local rules of procedure to be applicable in cases and proceedings before a United States bankruptcy judge of such court, and such powers shall be exercised for such purpose by the appellate panels created under section 160 of title 28 of the United States Code to be applicable in appeals before such an appellate panel.

"(j) During the transition period, sections 155, 156, 157, 158, and 159 of title 28 of the United States Code, contained in section 201 of this Act, and the amendment contained in section 210 of this Act, shall apply to the courts of bankruptcy continued under section 404(a) of this Act the same as such amendments apply to the United States bankruptcy courts established under section 201 of this Act.".

Sec. 310. (a) Section 405(a) of the Act is amended—

(1) by striking out "such cases" the first place it appears and inserting "in all cases under title 11 or arising in or related to a case under title 11 pending during the transition period" in lieu thereof; and

(2) in paragraph (1)(C), by inserting ", except as provided in subsection (c) of this section" immediately before the period at the end thereof.

(b) Section 405(c)(2) of the Act is amended by inserting "240," immediately after "238,".

(c) Section 405(d) of the Act is amended by striking out "248" and inserting "247" in lieu thereof.

Sec. 311. Section 407(c) of the Act is amended by striking out "332" and inserting "333" in lieu thereof.

Sec. 312. Section 408 of the Act is amended by adding at the end thereof the following new subsection:

"(d) During the transition period, section 604(h) of title 28 of the United States Code does not apply to bankruptcy courts for districts listed in section 581(a) of such title.".

Sec. 313. Section 409(a)(1) of the Act is amended by striking out "September 30, 1983" and inserting "March 31, 1984" in lieu thereof.

TITLE IV—AMENDMENTS TO OTHER ACTS

Sec. 401. Section 19 of the Commodity Exchange Act (7 U.S.C. 24) is redesignated as section 20 of such Act.

Sec. 402. Section 4(e) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499d(e)) is amended—

(1) by striking out "been adjudicated or discharged as a bankrupt" and inserting "been a debtor in a case filed under title 11 of the United States Code or received a discharge in such a case" in lieu thereof; and

(2) by striking out "adjudicated or discharged as a bankrupt" and inserting "which has been a debtor in a case filed under title 11 of the United States Code" in lieu thereof.

Sec. 403. Section 7A(c) of the Clayton Act (15 U.S.C. 18a(c)) is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting "; and" in lieu thereof; and

(3) by adding at the end thereof the following new paragraph;

"(13) transactions arising under title 11 of the United States Code or arising in or relating to cases under such title.".

Sec. 404. (a) Section 6(d) of the Securities Investor Protection Act (15 U.S.C. 78fff(d)) is amended by striking out "section 16(5)(A)" and inserting "section 16(4)(A)" in lieu thereof.

(b) Section 8(e)(4)(C) of such Act (15 U.S.C. 78fff2(e)(a)(4)(C)) is amended by striking out "section 9(a)(5)" and inserting "section 9(a)(4)" in lieu thereof.

Sec. 405. Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by inserting "(except cases under chapter 13 of title 11)" immediately after "Code", and by inserting "(except cases under chapter XIII)" immediately after "Act".

Sec. 406. Section 151 of title 18 of the United States Code is amended by striking out "mean" and inserting "means" in lieu thereof.

Sec. 407. Section 424(b)(3)(B) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 934(b)(3)(B)) is amended by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

Sec. 408. Section 3468 of the Revised Statutes of the United States (31 U.S.C. 193) is amended by adding at the end thereof the following new sentence: "This section does not apply, however, in a case under title 11 of the United States Code or in a case arising in or relating to a case under such title.".

TITLE V—RELATED PROVISIONS OF LAW

Sec. 501. Nothing in any provision of Federal or State law shall operate to prevent, stay, or otherwise prohibit a stockbroker or securities clearing agency from exercising a contractual right to liquidate a securities contract or to cause the liquidation of a securities contract, nor shall any court issue any order preventing, staying, or otherwise prohibiting the exercise of such contractual right, unless such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or is required because of a threat to the national security. As used in this section, the term—

(1) "contractual right" includes, but is not limited to, a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency; and

(2) "securities contract" means a securities contract as defined in section 741 of title 11 of the United States Code.

Sec. 502. No provision of Federal or State law shall operate to prevent, stay, or otherwise prohibit a commodity broker or forward contract merchant from exercising a contractual right to liquidate a commodity contract or forward contract, or to cause the liquidation of a commodity contract or forward contract, and no court may issue any order preventing, staying, or otherwise prohibiting the exercise of such contractual right unless such order is required because of a threat to the national security. As used in this section, the term—

(1) "contractual right" includes, but is not limited to, a right set forth in a rule or bylaw of a clearing organization or a contract market or in a resolution of the governing board thereof; and

(2) "commodity contract" means a commodity contract as defined in section 761 of title 11 of the United States Code.

Sec. 503. During the period beginning on the date of the enactment of this Act and ending on April 1, 1984, the amendments contained in sections 222, 223, 224, 225, 226, and 236, shall apply to courts of bankruptcy continued by section 404(a) of the Act of November 6, 1978 (Public Law 95-589; 92 Stat. 2549).

Sec. 504. This Act may be cited as the "Bankruptcy Technical Amendments Act of 1980".

TITLE VI—EFFECTIVE DATES

Sec. 601. (a) Except as provided in subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act and shall apply only to cases filed under title 11 of the United States Code after such date.

(b) The amendments made by sections 201, 202, 203, 204, 205, 210(1), 211, 212, 219, 220, 221, 222, 223, 224, 225, 226, and 236 of this Act shall take effect on April 1, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. SENSENBRENNER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without

objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. EDWARDS) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I call to the Members' attention two adjustments that have been made in this bill which cause it to be slightly different from the bill that was reported by the Committee on the Judiciary. First, section 314, on page 180, at lines 7 through 14, has been deleted; and second, on page 160, at line 18 before the period, the following has been inserted: "and, in the case of such a judge who retires because of failure of reappointment, not to exceed 80 percent of such sum." I will speak to these changes in a moment.

A key provision of this bill has to do with our country's financial markets. When the Bankruptcy Reform Act of 1978 was enacted at the end of the 95th Congress, special provisions were included to deal with liquidations of securities and commodities brokers. These provisions, however, have been found to be incomplete. They must be corrected. If they are not corrected as we have done so in this bill, the bankruptcy of an important brokerage firm could seriously disrupt the financial market.

Generally, what is involved here is the continuous net settlement process by which market transactions are concluded. Securities and commodities transactions must be settled. If they are not, clearing organizations and/or the exchanges must guarantee them. If a bankruptcy of a broker occurs, many transactions might be unsettled at the time the petition in bankruptcy is filed. Under the law today, there is no provision allowing these transactions to be settled; in fact, the law would probably prohibit that. Therefore, you can see how important it is to adopt these changes.

Another example of how financial markets could be disrupted is in the municipal bond market. The law now cuts off the rights of a municipal revenue bondholder to the specific fund that secures such a bond if the municipality issuing such a security files a petition under title 11. If this is not changed, many municipalities will be precluded from entering this market to raise needed funds. Potential bond buyers will not want to buy such securities.

Another very important provision is that dealing with retirement for bankruptcy judges. Mr. Speaker, it is with reference to this subject that one of the changes I mentioned has been made. Presently, bankruptcy judges are the only judges of U.S. courts participating in the civil service retirement system. The committee felt that this was inequitable. Moreover, without an adequate retirement, many of the best bankruptcy judges will not remain on the bench. This is because the Bankruptcy Reform Act changed the way in which bankruptcy judges are appointed. Now and in the past they have been appointed by the district court judges; beginning in 1984 they must be nominated by the President. The committee felt that participation in the judicial retirement system would be effective to encourage them to remain on the bench and to seek appointment.

There never has been opposition to bankruptcy judges' participation in the judicial retirement system beginning in 1984—as a matter of equity with other judges. The only difference of opinion has been over the extent to which bankruptcy judges would be given credit for service prior to April 1, 1984.

The formula and the conditions and limitations regarding this credit for past service, as reported from the committee, represented a compromise between 100 percent and nothing. The nature of this formula and the conditions and limitations themselves have not been questioned. However, disagreement has existed with the fact that this proposed retirement will be available to bankruptcy judges who are not appointed to the new court in 1984. The committee felt that this was acceptable. However, these past few days we have learned that this is the basis for opposition to the bill generally.

Mr. Speaker, this bill is too important for us to not seek any way available to us to enact it. Therefore, one of the two changes is to place an 80-percent cap on any benefits a judge not appointed to the new court could receive. But is not to apply to cost-of-living increases applicable to such judges' benefits.

The second change relates to another aspect of the bankruptcy judges' benefits provided for in the bill. The Administrative Office has interpreted the provision in the Bankruptcy Reform Act which set bankruptcy judges' salary at $50,000 as in lieu of a cost-of-living increase. This certainly was not what was intended and the committee approved including a provision in S. 658 to rectify this misinterpretation. However, this provision itself has been misinterpreted.

Mr. Speaker, again, this bill is too important for us to allow differences in interpretation to prevent it from being enacted. Therefore, this provision has been eliminated. And, this is the second of the two changes I mentioned earlier.

Mr. Speaker, S. 658 contains many needed and important corrections and clarifications of the Bankruptcy Reform Act. With economic conditions as they are today and the possibility that bankruptcies will occur more frequently, many problems in interpretation and application of the law will be eliminated with the enactment of S. 658. I strongly urge its adoption.

□ 1520

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, have we ever considered why many congressionally passed programs receive "golden fleece" awards? Do we ever wonder why Congress gets irate letters from the public after another taxpayer financed boondoggle has been exposed in the media?

It is simply because bills like S. 658 are brought up under a suspension of the rules and, thus, not subject to amendment.

This bill contains many necessary amendments to the Bankruptcy Act of 1978. These amendments are noncontroversial and should not cause any debate whatsoever; but the necessary changes due to loopholes in the Bankruptcy Act are being used to drag along unwise or expensive increases in pensions for bankruptcy judges. For this reason, S. 658 ought never to have been brought up under the Suspension Calendar today, but should come up under a rule permitting amendments.

The committee report on S. 658 was made available approximately 14 minutes ago. It is 176 pages long and it is difficult for me to believe that any Member of this body would have a chance to digest these technical changes in the bankruptcy law, let alone find out exactly the content, the import of the last minute changes in this bill, as described by my distinguished colleague, the gentleman from California (Mr. EDWARDS).

So I shall confine my remarks today to the bill as reported from the Judiciary Committee and the committee report dated July 25 that was filed, and I hope to get into a colloquy with my friend, the gentleman from California (Mr. EDWARDS), should he disagree with my analysis.

As reported by the Committee on the Judiciary, S. 658 contains two provisions which will result in an unconscionable bonanza being received by bankruptcy judges. The committee amendment by the gentleman from Missouri (Mr. VOLKMER) was adopted, which retroactively applied the cost-of-living increase to bankruptcy judges. The net effect of this amendment is that bankruptcy judges will be the only Federal employees who have a salary of $50,000 a year and are getting a raise this year. That is just plain unfair, and if I heard the gentleman from California (Mr. EDWARDS) correctly, that provision has been amended out of this bill on a last minute basis, and I commend him for that; but even more unconscionable are this bill's pension provisions for bankruptcy judges which will literally give these judges the pot of gold at the end of the rainbow.

At the present time, bankruptcy judges are under the Federal civil service annuity program, which is a contributory pension system in that the bankruptcy judges must contribute a part of their salary into the annuity plan in order to be eligible for an annuity. This bill changes the contributory pension program for bankruptcy judges into a noncontributory pension program, so that the bankruptcy judges will not have to contribute any part of their salary for their pension, unlike other Federal Civil Service employees and members of the congressional pension system.

Both those judges who would be reappointed prior to April 1, 1984, as well as those which are not reappointed, will get substantial pension increases as a result of this bill changing the pension from the civil service annuity plan to the new plan.

The Administrative Office of the U.S. courts has given the Committee on the Judiciary several actual examples of how this plan will result in substantial pension increases. I shall give the House today two actual examples of how the committee bill's provisions vividly demonstrate that there are substantial pension increases and that the Judiciary Committee has been overly generous to the bankruptcy judges.

No. 1. Judge X, who is presently age 59 and who became a judge in 1967 is reappointed by the President prior to April 1, 1984. If he retires in 1986, after having served 20 years as a bankruptcy judge, his civil service pension would have been $20,125 per year. S. 658 as reported raises that to full pay or $50,000 per year. That is not a very bad deal.

Example No. 2. Judge Z, who is presently age 43 and who became a judge in 1974, stays until 1984, but is not reappointed by the President. He would have to wait until he attained the age of 65 to collect the civil service pension of $10,000 per year. This bill would give him an immediate pension of $16,072 per year at age 47, an age still young enough for this disappointed judge to practice law privately and to begin another career. By giving this handsome pension immediately upon not being reappointed, the bill rewards mediocrity and insures that those judges who are disappointed from the bench will not be disappointed when their pension checks arrive every month.

Both the pay and pension example are based upon the bill as reported by the committee.

The only way to stop this outrage is to defeat the suspension of the rules today and to allow this bill to come up under a rule allowing amendments. I would hope that the Members would vote "no." This is a complicated piece of legislation.

The bill itself was reported last week by the Judiciary Committee. The report has only been available for somewhere under 20 minutes. It seems to me that with as controversial and potentially as expensive a provision as the pension provision in this bill, that a little time should be left to thoroughly analyze not only the committee report, but also the last minute changes described by the gentleman from California and that the motion to suspend the rules today should be defeated.

Mr. Speaker, I now yield 5 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I thank the gentleman for yielding.

I would not rise at this moment were it not for the fact that I had spent so much of my life developing the Bankruptcy Reform Act, which we are now living under. As a matter of fact, that is one of the reasons why I chose not to be on the subcommittee this year, because there is just so much bankruptcy a man can stand in one lifetime; so I cannot speak with any authority about the substance of the legislation that is before us, except to say that it is important.

It is important when you pass comprehensive legislation of the sort that we have passed in the last Congress, to come along now in our first year of experience to clear up the obvious problems that have developed. That is what this legislation is all about. That is why I think it is important that this legislation pass and I think everybody agrees on that aspect of the bill, including the gentleman from Wisconsin, if I understood the gentleman's remarks correctly.

□ 1530

The issue before us today, as appeared from the statements of the gentleman from Wisconsin (Mr. SENSENBRENNER) is the retirement benefits for the disappointed judges.

My colleagues must understand what we are talking about when we talk about disappointed bankruptcy judges. The legislation provides that in 1984 we are going to an entirely different appointment system for bankruptcy judges. They will be Presidential appointments and there is no requirement, no grandfather clause, nothing protecting the judges who are presently on the bench in 1984 to be assured that they will get that appointment.

So what we are talking about is the people that were on the bench in 1979, who stayed on the bench in 1979 and who will stay until 1984 with the expectation that the President of the United States will appoint them to the bench or to a bankruptcy judgeship. If the President does not appoint them, then there are certain benefits in this legislation which make it look like a pretty good deal. That is what the gentleman from Wisconsin is talking about. I congratulate the gentleman from Wisconsin (Mr. SENSENBRENNER) for calling attention to this matter. I think we should be sensitive to it and I think the gentleman from California (Mr. EDWARDS) has met, in part at least, the challenge by placing at least an 80-percent cap on the special benefits for those people.

But I want my colleagues to understand why I think it is important we do have special benefits for these people. During the interim from 1979 to 1984 while we are in a transition period it is important to keep experienced bankruptcy judges on the bench. These are the people we have to keep there, and it would have to be with the expectation in 1984 that should they find themselves out in the world, having devoted their time to the special area of judgeship, a special area of knowledge, without employment. So there is a lot to be said for giving them some special benefits.

But I want the membership to recognize that when we are talking about these disappointed judges we are not talking about judges who look at the benefits that are going to be there and decide that they do not want them, that they do not want to be appointed, that it is a better deal to take the retirement benefits. The people who will receive these benefits are not necessarily those who looked at the benefits and looked at the job of appointment and said, "I will take the benefits." That is not it at all. They have got to make themselves available for appointment to the 14-year term which the President of the United States has access to.

If the President then does not appoint them, if the President does not appoint them then they are qualified for the benefits in accordance with the bill. They will have to, therefore, be truly disappointed judges.

This is a small class of people, but in my judgment they are deserving. They are deserving of some of the special benefits. We ought to bear in mind that this bill will go to conference with the other body. The other body has not made this kind of retirement provision for these judges, and so they have got to rehash the whole issue all over again with the conferees from the other body if there are real discrepancies. If there are real discrepancies, if on analysis and reexamination, and particularly by benefit of the observations of the gentleman from Wisconsin, it seems to me we can take another look at it in conference and try to iron out these things.

I feel, in my judgment, special benefits are justified for truly disappointed judges. I have some reservation about it, and I will take those reservations to the conference if I am a conferee, but the important thing before us today is to clear up the problem with the comprehensive provisions of the bankruptcy law which passed in 1979, to clear up with technical corrections the problems that have been involved in the meanwhile, and that is really what this legislation is about. That is why we have this legislation, and that is why I think it is important that it pass.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

I would like to ask the gentleman from California (Mr. EDWARDS) if he could explain to the membership exactly how the 80-percent cap applies to pension benefits. Is it a cap that is similar to the civil service annuity cap that says that no annuitant can receive more than 80 percent of his average salary in a pension?

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. EDWARDS of California. If the person is a disappointed judge, and a disappointed judge has to have committed himself or herself to be a reappointed judge if the President would so select, then in that case, if the President does not reappoint the judge and the judge becomes a disappointed one, and the judge has otherwise qualified by sufficient service to get the 80 percent, the judge would have to have served for 22 years on the bench, and I trust that answers the gentleman's question.

Mr. SENSENBRENNER. Reclaiming my time, Mr. Speaker, the 80-percent cap, in my opinion, is largely a cosmetic attempt to deal with the complaints that I have raised during my debate on this subject. The only place where the 80-percent cap would really apply in the case of a disappointed judge would be the long-term disappointed judge who has been on the bankruptcy bench for a number of years, first as a referee and then as a judge, and is not reappointed.

The case of Judge Z which I alluded to earlier, who is now 43 years old, who would be 47 in 1984, and who is not reappointed, would still be eligible to receive the immediate pension of $16,072 upon being disappointed, since that is definitely less than 80 percent of the last salary of $50,000.

Furthermore, those bankruptcy judges who are reappointed, but just serve a little bit of time under the new system, such as the Judge X that I referred to earlier, would only have received a $20,125 annuity under civil service, but that would jump to $50,000 and would not be subject to the 80-percent cap since the judge was reappointed and served a short period of time as a newly appointed bankruptcy judge before reaching retirement age.

These figures I gave were compiled by the Administrative Office of the Courts. I have no reason to doubt their accuracy.

I think this House ought to know what it is doing before we pass such a bonanza that would accrue not only to judges who are reappointed, but also to judges who are disappointed after a short period of service. For that reason I hope that this motion to suspend the rules will be defeated.

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly disagree with my friend from Wisconsin (Mr. SENSENBRENNER). The Judiciary Committee went into all of the matters discussed by the gentleman from Wisconsin. The Judiciary Committee overwhelmingly voted in favor of this bill.

In the last few days we even compromised the pension system further by putting on an 80-percent cap and by removing the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

Our responsibility, Mr. Speaker, is not to have all of these bankruptcy judges who might be disappointed quit, because it is very important at this crucial period while the court is in a transitional status that they can look forward to something better than the civil service provision for retirement that they came in with as referees.

We have changed the entire structure. They have full responsibility for all bankruptcy matters regardless of whether or not they are multimillion dollar suits, tort actions, or whatever. The pensions these disappointed judges will get is a temporary thing. They will phase out rapidly.

I urge the House approve the bill as brought out by the Judiciary Committee.

Mr. Speaker, I yield such time as he my consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the very able, very capable, and very distinguished chairman of the Subcommittee on the Judiciary. I rise only to ask a couple of questions.

One question has to do with retirement. On page 3 of the report it states:

> The overwhelming opinion on this subject, including that of the Judicial Conference of the United States, is that bankruptcy judges should participate in the judicial retirement system.

Traditionally I understand the judicial retirement system is unique and overlooked by professional Congress haters who always accuse us of having the unique retirement system and the most profitable one. But is it correct when I say that the judiciary does not have to pay anything into the retirement fund like we do? Is that still true?

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman.

Mr. EDWARDS of California. That is the system that the entire Federal judiciary is accustomed to. There are people who have problems with that, but the territorial judges, the Tax Court judges, the district court judges, Supreme Court, circuit court judges, all have the same system, and it is a noncontributory system. The gentleman is correct.

Mr. GONZALEZ. So, by virtue of this legislation, though, the gentleman would be bringing in the bankruptcy court judges into that retirement system?

Mr. EDWARDS of California. That is correct.

Mr. GONZALEZ. In an identical form.

Mr. EDWARDS of California. They would have to serve 10 years and reach the age of 70 or 15 years and reach the age of 65.

Mr. GONZALEZ. Apparently, in part of the substantive changes of this bill it says it provides for uniformity and clarification in the treatment of securities and commodity brokers, liquidations. This is a very important current problem. We have had a real crisis a couple of times lately with silver speculation and the ongoing speculation on almost every one of these commodities.

Mr. Speaker, can the gentleman explain whether, out of obedience to this urgent need for some protection, that this is in the bill in this case or is it something that had been anticipated and now, at this opportunity, is being done in order to correct this deficiency?

Mr. EDWARDS of California. If the gentleman will yield, after the 1978 Reform Act was passed and after it became operative, it was noted by the commodity industry, which is a rather large industry in our country, that the bill did not provide for the settlement after filing of a petition in bankruptcy.

Those settlements are provided for in the bankruptcy of stockbrokers and so the amendment that has been added to the bill would provide for commodity brokers, also, to be able to settle accounts after filing of the petition. This is a very important provision.

Mr. GONZALEZ. I sensed that. I am very pleased that the gentleman is so up on this and gave such a good explanation.

I, for one, certainly join the gentleman and his committee in seeking prompt adoption of this legislation.

I have one more question which has to do with the attempt to protect the municipal revenue bondholders in the events of the bankruptcy of a municipality. How does this satisfy a need that is not currently being taken care of in the case of a bankrupt municipality?

Mr. EDWARDS of California. If the gentleman will yield, this provision became necessary because some of our colleagues and officials in two large cities of the United States that had outstanding bonds and also had a need perhaps, for further borrowings and the issuance of bonds, and it was not clear as to what source the bonds—at which sources the bonds could reach. I do not want to say a lot more than that because this is a very important dialog which could affect the bond market. What we did was to satisfy the various cities and the bond brokers so the law is about as it was and they are satisfied that these cities can go ahead and finance future borrowings.

The question of the double barreled bond was involved in this, too, where other sources of income are reached and I do not think we really ought to get into that either.

Mr. GONZALEZ. I do not want to tread on any ground that would endanger any legitimate interest, but it seems to me we should not be legislating out of concern for the bondholders or the bond speculators or peddlers' interests. I think the general public interest, in this respect, that, if this legislation wittingly or unwittingly provides a double guilt edge security for the bond seller or businessman, I do not see how that adds anythig in the way of protection other than just doubly insuring this special interest. I do not know how that would have any affect on the bond market unless these bond dealers are counting on this legislation to give them absolute protection which perhaps their better judgment and sense of responsibility ought to have given us to begin with.

Mr. EDWARDS of California. If the gentleman will yield, we are not trying to influence the bond market or set the requirements for the issuance of bonds to the bankruptcy law. That would be improper. We are really not involved in that at all. That would be the jurisdiction of another committee.

Mr. GONZALEZ. Let me say that I believe the gentleman should be complimented for bringing forth this legislation. I believe it is urgently needed and I certainly hope the House will approve it. I think that, generally, the overall thrust of this legislation is overdue and I salute the gentleman, his committee and subcommittee, for bringing it up.

Mr. EDWARDS of California. Mr. Speaker, I yield myself 3 additional minutes and I yield to the gentleman from California (Mr. THOMAS).

Mr THOMAS. Just prior to the last colloquy in the gentleman's summary remarks the gentleman from California indicated that the civil service program that the disappointed judges had when they were referees was characterized as a poor or a very poor retirement program. Those were the words the gentleman used. Was that in comparison with a noncontributory judicial requirement, which would, of course, make any pension system poor in comparison. Or was that more a general statement on the civil service retirement program?

Mr. EDWARDS of California. Perhaps my words were not chosen with the care I should have used in selecting them.

The civil service system is designed for a different group of people ordinarily: young people coming into the civil service in their twenties and early thirties and so forth.

When one is appointed a bankruptcy judge, one is ordinarily in the early or late forties or even fifties and the civil service system would not provide anywhere near the appropriate benefits and that is the only reason that I mentioned that the civil service system for a Federal judge is not comparable in quality to what the judges have and traditionally have had.

Mr. THOMAS. Then the comments of the gentleman from California were in reference to the relatively short period of time that the disappointed judges would have been in the civil service retirement program rather than a comment on civil service retirement program in general?

Mr. EDWARDS of California. That is correct.

Mr. THOMAS. Mr. Speaker, I thank the gentleman.

● Mr. MATSUI. Mr. Speaker, I rise to speak in support of S. 658, the Bankruptcy Technical Amendments Act of 1980. This measure addresses a number of unresolved policy questions generated by the enactment of the Bankruptcy Reform Act of 1978.

I have a specific interest in the provision of S. 658 which prohibits the discharge in bankruptcy of publicly assigned child support orders.

Under existing law, an applicant for AFDC aid is required to assign rights to court-ordered child support payments to the local entity in exchange for welfare assistance. The public entity is authorized to enforce these orders by legal or administrative action. Moneys recovered are placed in the public treasury as an offset to previously paid welfare benefits. Amendments made by the Bankruptcy Reform Act of 1978 permit delinquent parents to escape liability for these past support payments by filing for bankruptcy.

In my home county of Sacramento, the domestic relations division of the district attorney's office collects more than $4.5 million annually in support payments from delinquent parents of which it is estimated that $500,000 will be lost through bankruptcy filing. The Department of Health and Human Resources testified that the national loss by such bankruptcy filings could exceed $48 million annually.

We cannot afford these losses as they represent money that otherwise would accrue to the local entity to lower welfare costs.

Bankruptcy has historically served as a means by which a person can ease the burdens of economic misfortune. Bankruptcy gives the individual the opportunity for a new financial beginning. There are, however, certain obligations which should transcend bankruptcy, including the fiscal responsibility of a parent for his child. Parents who have the financial resources must be answerable to their child and to society, and bankruptcy should not serve as a release from these parental obligations.

S. 658 insures that this goal of financial accountability is achieved by specifically prohibiting the discharge of publicly assigned child support obligations in bankruptcy. This, I believe is the proper policy, and I request your support for S. 658.●

Mr. EDWARDS of California. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MINISH). The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the Senate bill, S. 658, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rule.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order, all by the yeas and nays: H.R. 7458; S. 1916; H.R. 5961; and S. 658.

□ 1550

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

REFINANCING OF VETERANS' ADMINISTRATION GUARANTEED HOME LOANS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7458, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BRINKLEY) that the House suspend the rules and pass the bill, H.R. 7458, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 0, not voting 51, as follows:

[Roll No. 431]

YEAS—382

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan

Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—51

Abdnor
Anderson, Ill.
Andrews, N.Dak.
Atkinson
Badham
Bereuter
Bonker
Brown, Ohio
Chisholm
Collins, Ill.
Conyers
Deckard
Dodd
Dougherty
Duncan, Oreg.
Edwards, Okla.
Fascell
Fithian
Ford, Mich.
Ford, Tenn.
Garcia
Holtzman
Hyde
Kelly
Kogovsek
Leach, La.
McCloskey
McDonald
Mathis
Mavroules
Moffett
Mollohan
Murphy, Ill.
Pritchard
Quayle
Rangel
Rodino
Rose
Rostenkowski
Runnels
Schulze
Simon
Steed
Tauzin
Vento
Waxman
White
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wydler

☐ 1600

The Clerk announced the following pairs:

Mr. Rodino with Mr. Abdnor.

Mr. Fascell with Mr. Quayle.

Mr. Murphy of Illinois with Mr. Wydler.

Mr. Rostenkowski with Mr. Pritchard.

Mrs. Collins of Illinois with Mr. McCloskey.

Mr. Dodd with Mr. Hyde.

Mr. Mollohan with Mr. Badham.

Mr. Charles H. Wilson of California with Mr. Bereuter.

Mr. Vento with Mr. Brown of Ohio.

Mr. Waxman with Mr. Dougherty.

Mr. Mavroules with Mr. Leach of Louisiana.

Mr. Rangel with Mr. Kelly.

Mr. Rose with Mr. Schulze.

Mr. Steed with Mr. Bob Wilson.

Mrs. Chisholm with Mr. Runnels.

Mr. Bonker with Mr. Kogovsek.

Mr. Atkinson with Mr. Duncan of Oregon.

Mr. Mathis with Mr. Edwards of Oklahoma.

Ms. Holtzman with Mr. Andrews of North Dakota.

Mr. Conyers with Mr. Deckard.

Mr. Ford of Michigan with Mr. McDonald.

Mr. Fithian with Mr. Moffett.

Mr. White with Mr. Williams of Montana.

Mr. Simon with Mr. Ford of Tennessee.

Mr. Tauzin with Mr. Garcia.

Mr. EDGAR changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ATKINSON. Mr. Speaker, on rollcall No. 431, I was off the floor. Had I been here, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1916.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. WOLFF) that the House suspend the rules and pass the Senate bill, S. 1916, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 328, nays 55, not voting 50, as follows:

[Roll No. 432]

YEAS—328

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rosenthal
Roth
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—55

Applegate
Archer
Ashbrook
Bauman
Benjamin
Bethune
Burton, John
Campbell
Carney
Chappell
Collins, Tex.
Crane, Daniel
Crane, Philip
Dannemeyer
Davis, S.C.
Derwinski
Devine
Dickinson
English
Gaydos
Goldwater
Gramm
Hansen
Harsha
Holt
Hutto
Ichord
Jeffords
Jeffries
Kindness
Kramer
Latta
Leath, Tex.
Levitas
Loeffler
Lujan
Marlenee
Mottl
Paul
Quillen
Ritter
Rousselot
Rudd
Sensenbrenner
Shelby
Snyder
Spence
Stockman
Stump
Symms
Taylor
Weaver
Wyatt
Young, Alaska
Zeferetti

NOT VOTING—50

Abdnor
Anderson, Ill.
Andrews, N.Dak.
Badham
Bereuter
Bonker
Brown, Ohio
Chisholm
Collins, Ill.
Conyers
Deckard
Dodd
Dougherty
Duncan, Oreg.
Eckhardt
Edwards, Okla.
Fascell
Fithian
Ford, Mich.
Ford, Tenn.
Garcia
Holtzman
Hyde
Kelly
Kogovsek
Leach, La.
McCloskey
McDonald
Mathis
Mavroules
Moffett
Murphy, Ill.
Pritchard
Quayle
Rangel

Rodino
Rose
Rostenkowski
Runnels
Schulze
Simon
Steed
Tauzin
Vento
Waxman
White
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wydler

□ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Rodino and Mr. Rangel for, with Mr. McDonald against.

Mrs. Chisholm and Mr. Ford of Tennessee for, with Mr. Runnels against.

Until further notice:

Mr. Waxman with Mr. Badham.
Mr. Rostenkowski with Mr. Bereuter.
Mr. Vento with Mr. Schulze.
Mr. Mavroules with Mr. Bob Wilson.
Mr. Ford of Michigan with Mr. Quayle.
Mr. Simon with Mr. Hyde.
Mr. Rose with Mr. Andrews of North Dakota.
Mr. Dodd with Mr. Brown of Ohio.
Mr. Fascell with Mr. Dougherty.
Mrs. Collins of Illinois with Mr. Edwards of Oklahoma.
Mr. Moffett with Mr. Pritchard.
Mr. Steed with Mr. McCloskey.
Mr. Tauzin with Mr. Leach of Louisiana.
Mr. Charles H. Wilson of California with Mr. Kelly.
Mr. Murphy of Illinois with Mr. Williams of Montana.
Mr. Duncan of Oregon with Mr. Mathis.
Mr. White with Mr. Wydler.
Mr. Conyers with Mr. Abdnor.
Mr. Kogovsek with Mr. Eckhardt.
Mr. Fithian with Mr. Garcia.
Ms. Holtzman with Mr. Bonker.

Mr. RITTER changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7531) was laid on the table.

CURRENCY AND FOREIGN TRANSACTIONS REPORTING ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5961, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. St Germain) that the House suspend the rules and pass the bill, H.R. 5961, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 135, nays 248, answered "present" 1, not voting 49, as follows:

[Roll No. 433]

YEAS—135

Alexander
Ambro
Annunzio
Anthony
AuCoin
Bafalis
Bailey
Baldus
Barnard
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Bolling
Brinkley
Carney
Carter
Chappell
Cleveland
Coelho
Conable
Corcoran
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, S.C.
Derrick
Derwinski
Dingell
Early
English
Erdahl
Ertel
Evans, Del.
Fary
Fisher
Flippo
Florio
Foley
Forsythe
Fowler
Frenzel
Fuqua
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gradison
Green
Guarini
Guyer
Hanley
Harkin
Harsha
Heftel
Holland
Hollenbeck
Huckaby
Hutchinson
Hutto
Ichord
Ireland
Jenkins
Jenrette
Jones, N.C.
LaFalce
Leach, Iowa
Lederer
Lee
Lloyd
Long, La.
Long, Md.
Lujan
Luken
Lundine
McClory
Martin
Mica
Miller, Ohio
Minish
Moore
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Musto
Myers, Pa.
Nedzi
Nowak
Oakar
Obey
Pepper
Petri
Price
Railsback
Regula
Reuss
Rinaldo
Ritter
Roth
Royer
Russo
Sabo
Sebelius
Shannon
Shumway
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
St Germain
Stack
Stanton
Stratton
Taylor
Trible
Ullman
Vanik
Volkmer
Williams, Ohio
Winn
Wolff
Wylie
Yatron
Zablocki
Zeferetti

NAYS—248

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Barnes
Bauman
Bingham
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Cavanaugh
Cheney
Clausen
Clay
Clinger
Coleman
Collins, Tex.
Conte
Corman
Cotter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Dellums
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Evans, Ga.
Evans, Ind.
Fazio
Fenwick
Ferraro
Findley
Fish
Fountain
Frost
Garcia
Gaydos
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Grisham
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leath, Tex.
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lowry
Lungren
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mazzoli
Michel
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Murtha
Myers, Ind.
Natcher
Nelson
Nichols
Nolan
O'Brien
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Peyser
Pickle
Porter
Preyer
Pursell
Quillen
Rahall
Ratchford
Rhodes
Richmond
Roberts
Robinson
Roe
Rosenthal
Rousselot
Roybal
Rudd
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Seiberling
Sensenbrenner
Sharp
Shelby
Shuster
Skelton
Snowe
Solarz
Spellman
Spence
Staggers
Stangeland
Stark
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Symms
Synar
Tauke
Thomas
Thompson
Traxler
Udall
Van Deerlin
Vander Jagt
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Wlson, Tex.
Wirth
Wolpe
Wyatt
Yates
Young, Alaska
Young, Fla.
Young, Mo.

ANSWERED "PRESENT"—1

Neal

NOT VOTING—49

Abdnor
Anderson, Ill.
Andrews, N.Dak.
Badham
Bereuter
Bonker
Brown, Ohio
Chisholm
Collins, Ill.
Conyers
Deckard
Dodd
Dougherty
Duncan, Oreg.
Edwards, Okla.
Fascell
Fithian
Ford, Mich.
Ford, Tenn.
Holtzman
Hyde
Kelly
Kogovsek
Leach, La.
McCloskey
McDonald
Mathis
Mavroules
Moffett
Murphy, Ill.
Pritchard
Quayle
Rangel
Rodino
Rose
Rostenkowski
Runnels
Schulze
Simon
Steed
Tauzin
Vento
Waxman
White
Williams, Mont.
Wlson, Bob
Wilson, C. H.
Wright
Wydler

The Clerk announced the following pairs:

On this vote:

Mr. Bereuter and Mr. Conyers for, with Mr. McDonald against.

Until further notice:

Mr. Rangel with Mr. Hyde.
Mr. Rostenkowski with Mr. Schulze.
Mr. Rodino with Mr. Wydler.
Mr. Ford of Tennessee with Mr. Pritchard.
Mrs. Collins of Illinois with Mr. Leach of Louisiana.
Mr. Fascell with Mr. Deckard.
Mr. Fithian with Mr. Dougherty.
Mr. Charles H. Wilson of California with Mr. Brown of Ohio.
Mr. Vento with Mr. Badham.
Mr. Waxman with Mr. Andrews of North Dakota.
Ms. Holtzman with Mr. Duncan of Oregon.
Mr. Ford of Michigan with Mr. Kelly.
Mr. Bonker with Mr. Quayle.
Mrs. Chisholm with Mr. Bob Wilson.
Mr. Kogovsek with Mr. Simon.
Mr. Mavroules with Mr. Runnels.
Mr. Dodd with Mr. Abdnor.
Mr. Mathis with Mr. Edwards of Oklahoma.
Mr. Murphy of Illinois with Mr. Moffett.
Mr. Wright with Mr. Williams of Montana.
Mr. Steed with Mr. Tauzin.
Mr. White with Mr. Rose.

□ 1620

Mr. LEWIS changed his vote from "yea" to "nay."

Mr. BLANCHARD changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

CLARIFYING AND TECHNICAL AMENDMENTS TO BANKRUPTCY LAW

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 658, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the Senate bill, S. 658, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 205, nays 178, not voting 50, as follows:

[Roll No. 434]

YEAS—205

Addabbo
Alexander
Andrews, N.C.
Annunzio
Anthony
Ashbrook
Ashley
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Carr
Cavanaugh
Chappell
Conte
Corman
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dixon
Donnelly
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Evans, Del.
Evans, Ga.
Fary
Fazio
Ferraro
Findley
Fish
Fisher
Florio
Foley
Fowler
Frost
Garcia
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Howard
Huckaby
Hughes
Hutchinson
Ireland
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kindness
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McHugh
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moore
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Pickle
Porter
Preyer
Price
Pursell
Quillen
Railsback
Reuss
Richmond
Roe
Rosenthal
Roybal
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Smith, Iowa
Solarz
Spellman
Stack
Staggers
Stark
Stewart
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walgren
Watkins
Weaver
Weiss
Whitley
Williams, Ohio
Winn
Wyatt
Yatron
Young, Mo.
Zablocki

NAYS—178

Akaka
Albosta
Ambro
Anderson, Calif.
Applegate
Archer
Aspin
Atkinson
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bevill
Boner
Broomfield
Broyhill
Burgener
Byron
Campbell
Carney
Carter
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Derwinski
Devine
Dickinson
Dingell
Dornan
Emery
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fenwick
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Goodling
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hamilton
Hance
Hansen
Harsha
Holland
Holt
Hopkins
Horton
Hubbard
Hutto
Ichord
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Jones, Tenn.
Kemp
Kildee
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
McDade
McEwen
McKay
McKinney
Madigan
Marlenee
Marriott
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Mottl
Murtha
Musto
Myers, Ind.
Natcher
O'Brien
Oakar
Patten
Paul
Perkins
Petri
Peyser
Rahall
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sensenbrenner
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Stenholm
Stockman
Stokes
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Whitten
Wilson, Tex.
Wirth
Wolff
Wolpe
Wylie
Yates
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—50

Abdnor
Anderson, Ill.
Andrews, N.Dak.
Badham
Bereuter
Bonker
Brown, Ohio
Chisholm
Collins, Ill.
Conyers
Deckard
Dicks
Dodd
Dougherty
Duncan, Oreg.
Edwards, Okla.
Fascell
Fithian
Ford, Mich.
Ford, Tenn.
Holtzman
Hyde
Kelly
Kogovsek
Leach, La.
McCloskey
McDonald
Mathis
Mavroules
Moffett
Murphy, Ill.
Pritchard
Quayle
Rangel
Rodino
Rose
Rostenkowski
Runnels
Schulze
Simon
Steed
Tauzin
Vento
Waxman
White
Williams, Mont
Wilson, Bob
Wilson, C. H.
Wright
Wydler

The Clerk announced the following pairs:

On this vote:

Mr. Rodino and Mr. Rangel for, with Mr. McDonald against.

Mrs. Collins of Illinois and Mr. Ford of Tennessee for, with Mr. Runnels against.

Mr. Conyers and Mr. Charles H. Wilson of California for, with Mr. Bereuter against.

Until further notice:

Mrs. Chisholm with Mr. Hyde.

Mr. Tauzin with Mr. Schulze.

Mr. Vento with Mr. Bob Wilson.

Mr. Rostenkowski with Mr. McCloskey.

Mr. Mavroules with Mr. Pritchard.

Mr. Waxman with Mr. Wydler.

Mr. White with Mr. Quayle.

Mr. Kogovsek with Mr. Edwards of Oklahoma.

Ms. Holtzman with Mr. Deckard.

Mr. Dodd with Mr. Brown of Ohio.

Mr. Dicks with Mr. Andrews of North Dakota.

Mr. Fascell with Mr. Abdnor.

Mr. Wright with Mr. Bonker.

Mr. Moffett with Mr. Dougherty.

Mr. Williams of Montana with Mr. Kelly.

Mr. Steed with Mr. Badham.

Mr. Simon with Mr. Duncan of Oregon.

Mr. Rose with Mr. Leach of Louisiana.

Mr. Mathis with Mr. Murphy of Illinois.

Mr. Ford of Michigan with Mr. Fithian.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1630

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7631.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS, 1981

Mr. BOLAND. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. BOLAND).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7631, with Mr. LEVITAS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Friday, July 25, 1980, the Clerk had read through line 9, page 34.

Pending was an amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The Chair recognizes the gentleman from New Mexico (Mr. LUJAN) for 5 minutes in support of his amendment.

Mr. LUJAN. Mr. Chairman, the amendment that I have offered is a very simple amendment. It simply asks for $600,000 to expand the Santa Fe National Cemetery in Santa Fe.

Now, the reason for that, of course, is that we are running out of room at that national cemetery. It is a cemetery that has existed since 1868 when it was first commissioned as a military post cemetery. In 1870, 2 years later, it was expanded by a donation of some land by the Catholic Church in Santa Fe. It is now running out of space. We have sufficient space at the moment for 8,776 graves, that should take us at the rate of burials to 1994.

Now, that seems like an awfully long time, Mr. Chairman, but that is at the current estimate of burials. We expect that with the age of veterans from World War II rising, that it will not take that long. There are 137,000 veterans in New Mexico and, as I say, this is the only land remaining which is next to the cemetery.

So I think that it is a very necessary acquisition. It is 47 acres. That should take us well into the future to satisfy the needs of the veterans of New Mexico.

I ask the House to approve this amendment.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment. I might indicate to the members of the committee that we have a good chance of finishing this bill by a little after 6 o'clock if we can get the cooperation of the membership.

Mr. Chairman, it pains me a bit to oppose this amendment of my friend, the engaging Member from New Mexico. The reason I am reluctant to accept this amendment is because the committee really has not had an opportunity to inquire into the details of this project. I do know that the purchase of its land is a lower priority for the VA. The Veterans' Administration did not request the $600,000 for the purchase of 40 additional acres.

What the distinguished gentleman from New Mexico says with respect to the burial plots that are available is a little different from the numbers the VA supplies. The gentleman indicates only 8,700 gravesites are available on developed and undeveloped land and that the cemetery will be filled by the year 1994.

The VA informs us that about 10,100 burial spots are available—both developed and undeveloped land—and that the cemetery will not be filled until 1999. That means there are sufficient grave sites to take care of the needs of the veterans in that area almost to the year 2000.

I am wondering whether or not I can have the attention of the gentleman from New Mexico to clear up some matters that were brought to the attention of the committee regarding this proposal. If the gentleman can clear them up satisfactorily, I might very well be willing to take this to conference and settle it in conference. But, I would like to have some answers to a number of questions before moving in that direction.

The Veterans' Administration informs the subcommittee that it is only interested in 40 acres of the land and that the owner of the land, Santa Fe Estates, does not wish to sell any more than 40 acres. Is that correct?

Mr. LUJAN. If the gentleman will yield, that is correct. There are 40 acres.

Mr. BOLAND. Can the gentleman indicate who owns or who controls Santa Fe Estates?

Mr. LUJAN. A fellow by the name of David McNeil, who is in charge of the company.

Mr. BOLAND. Does the city of Santa Fe—does the local government—have any involvement with that particular parcel of land?

Mr. LUJAN. Yes, they do. I do not know if this particular one, but the Santa Fe Estates is an organization that manages some lands that belong to the city of Santa Fe.

Mr. BOLAND. The 40 acres for $600,000 would come to about $15,000 per acre. Can the gentleman indicate what the land is presently valued at?

Mr. LUJAN. Well, I spoke to Mr. McNeil and the $600,000 figure is slightly higher than what we would be able to buy it for. I would imagine that the figure of $10,000 to $15,000 an acre is correct, because on one side is a superhighway with a shopping center across the street. On the other side there is high density residential area, and on the other side there is some very expensive type of housing.

Mr. BOLAND. Is there any movement to actually rezone the property?

□ 1640

Mr. LUJAN. The city of Santa Fe has agreed to zone that property for cemetery use.

Mr. BOLAND. Is access to the land limited? It is my understanding that one would have to drive through the cemetery in order to get to the land the gentleman seeks to have the Veterans' Administration purchase.

Mr. LUJAN. That is correct, because this particular parcel of land is immediately contiguous to the present cemetery.

Mr. BOLAND. That leads me to the question of whether or not the land is worth $15,000 per acre if the access to that land is limited—if it is impossible to get to the land without going through the road that is already in the Santa Fe Cemetery?

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(By unanimous consent Mr. BOLAND was allowed to proceed for 3 additional minutes.)

Mr. BOLAND. That leads me to the question of whether or not the property is worth $15,000 per acre.

Mr. LUJAN. If the gentleman will continue to yield, that is not entirely true. While if this were added to the cemetery one would go through the cemetery to get through it, if it were sold to someone else they could bring in a road from the other side.

Mr. BOLAND. They could bring the road in from the other side? What sort of road is there now?

Mr. LUJAN. There is no road. It is hills that are adjacent to the cemetery.

Mr. BOLAND. Some of the questions that I propound, of course, bother the subcommittee, and I have some problems with this. If the gentleman would be willing to withdraw his amendment and have it added on the other side, I am perfectly willing to work this out in conference for the gentleman. But on the basis of the fact that the Veterans' Administration did not recommend this to the subcommittee, and also it indicated to the subcommittee that this was a budget request that would enjoy a lower priority, then that does give rise to some questions. Ordinarily land for veterans' cemeteries is donated by the States and the local communities, or excess Federal land is used. This departs from the general norm, and that gives me some problems.

However, if the gentleman is willing to withdraw his amendment, I would be willing to try and work it out with the other body and be perfectly willing to do so.

Mr. LUJAN. Is what the gentleman telling me that if I were to withdraw this amendment and it came over from the other body that the gentleman would look kindly upon the proposition? Is that correct?

Mr. BOLAND. We would give it consideration, and I guess consideration means one would look kindly upon it. That would be my position. I would like to hear from the ranking minority member of the committee.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think from the minority point of view we just do not know really enough about the exact nature of the acquisition and the exact value of the land to really make a judgment on the amendment at this time. I would agree with the chairman of the subcommittee, if the gentleman will withdraw the amendment and we can get further information, then the subcommitte would certainly consider the amendment in a favorable light and do its best to accommodate the purpose the gentleman seeks to serve.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman and the chairman of the subcommittee. In view of the use of the words "kindly" and "favorable light" and those such things, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I could have the attention of the chairman of the subcommittee, and if we can also get the attention of the gentleman from New Mexico, do I understand the chairman of the subcommittee to say that he would look at or certainly give great consideration to the gentleman's argument, but if the committee looked at it and looked into these various aspects of this purchase and thought it was the wrong thing to do, certainly the gentleman would feel that he had the right to vote according to what appeared to be the right thing to do?

Mr. BOLAND. Mr Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman.

Mr. BOLAND. I think the gentleman describes my attitude better than I did myself. We would be very careful to look into the questions we propounded to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from New Mexico.

Mr. LUJAN. I wonder if the gentleman could repeat the question. I did not hear the question.

Mr. BEDELL. My understanding is the gentleman would certainly listen with a kindly ear toward the gentleman from New Mexico's arguments and consider them completely but that after he had considered both the gentleman's arguments and any arguments of the Veterans' Administration or anybody else who thought it might be a mistake, that he would still feel he had the freedom to vote what he thought was in the best interests of the Congress and the taxpayers.

Mr. LUJAN. If the gentleman will yield further, that is my understanding.

Mr. BOLAND. This is my understanding.

Mr. LUJAN. But the weight of the argument is in our favor and I am sure that we will convince the gentleman as well.

Mr. BOLAND. I thank my friend from New Mexico and the gentleman from Iowa.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 45, after line 23, add a new section as follows:

SEC. 411. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

□ 1650

Mr. REGULA. Mr. Chairman, it is becoming quite evident that public outcries about the abuse, waste, and conflict of interest in the consulting bureaucracy are being heard by Members of Congress. We have demonstrated our concern about these practices by adding this amendment to four fiscal year 1981 appropriations bills already.

I see this amendment as an important first step in correcting the abuses that continually come to our attention. I am reluctant to advocate cutting funds for the important work that is contracted out until we have the information available to help us determine what outside work is really necessary and what is of no benefit to the American taxpayers. The public is justifiably outraged at the amount of money spent on frivolous and unnecessary research and studies.

We are considering the fiscal year 1981 appropriations for the Department of Housing and Urban Development today. In fiscal year 1978 this Department had an estimated 16,000 employees on the Federal payroll and over 950,000 employed indirectly. It is understandable that we have trouble monitoring the work done by such a large number of outside employees.

In its recent series of articles on the consulting industry, the Washington Post described a HUD contract for $89,224 to study the effect of special security devices in deterring break-ins and burglaries at selected public housing sites. A year after the study began and after $55,083 was spent, the Government terminated the contract. The Government received nothing for its money.

The final responsibility for the money appropriated to Federal agencies lies with Congress and we simply must have more information on how the money is spent in order to justify these expenditures to the taxpayers.

I urge Members to demonstrate their concern about the abuse and waste in consulting practices once again and take this first step in monitoring these contracts and grants by adopting this amendment.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Massachusetts.

Mr. BOLAND. As I understand, this amendment has been added to four appropriation bills. I want to compliment the gentleman on the amendment. I know of no reason why anyone would want to oppose this amendment. I understand it requires that funds for consulting contracts be limited to those contracts where such expenditures are a matter of public record, except where otherwise provided under existing law. That seems to me to make sense and I am delighted to accept the amendment on this side.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. The gentleman is to be commended for his efforts in this area. The gentleman has provided us with a great deal of leadership in accomplishing a very worthwhile purpose and we will certainly accept the amendment.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I would again like to compliment the gentleman on his amendment. I think this is a step forward. I will be offering an amendment to try to further control contracting out later in this bill and I hope that the gentleman will join with me as we continue our fight to achieve reform in probably the most wasteful area of Government expenditure today.

I would like to compliment the gentleman on his amendment.

Mr. REGULA. Mr. Chairman, I thank the gentleman and I point out that this amendment is an attempt to make Government cost effective and bring about good management practices. I appreciate the support of the subcommittee leadership.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio. Page 45, after line 43, add;

SEC. 412. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum; *Provided*, That this amendment shall not apply to funds provided in this Act for the Veterans' Administration.

Mr. MILLER of Ohio. Mr. Chairman and members of the committee, this is the standard 2-percent amendment but exempting the Veterans' Administration. We have a bill before us that I am sure is quite a problem to the chairman, the gentleman from Massachusetts (Mr. BOLAND) and also to the ranking minority member, the gentleman from Pennsylvania (Mr. COUGHLIN). It is a problem because there are many things that are not in the bill. It is a housing bill without housing in it. It is also a NASA bill without the space program. However, that is not the problem for the chairman as such. At least the chairman did not create that problem. There are authorizations that are not as yet approved. In the bill, now, we have about $40 billion.

This is a round figure. I have the exact figures if anyone is interested, but it amounts to about $40 billion. Not in the bill are three items: The annual contribution for assisted housing which last year was $27 billion, the local government transitional assistance of $500 million, and last year that was zero, and the NASA research and development, and last year that was $3.8 billion.

Mr. Chairman, the point is, if we offer a 2-percent amendment to what is in the bill now, we would then reduce the bill as it stands by $530 million.

What about the rest of the bill? Apparently the chairman has two alternatives. First is, that the Senate would approve the HUD bill with the three items that are now missing because of lack of authorization, and then it could be agreed to in conference by our House Members, or we could have a continuing resolution that would carry on until there is an agreement.

If I did not offer the 2 percent at the present time, I would not have an opportunity, by all indications, to offer the reduction in spending. If the amendment is in the bill, we will have an opportunity to instruct the conferees when the bill comes back from conference, providing it does have the three missing items in it.

In this particular bill when it is finally completed, we will have an assisted housing program through section 8. I have talked to the chairman and the ranking minority member about this and I would hope that the Members would look on page 63 of the report. There I have additional views of about three or four pages. One of the items I would like to read tells about the amount of subsidy that any one family can receive in 1 month. It will not be necessary to read it. I will give you the amount.

It is possible for one family to receive $1,379 per month. That is one family, and your taxpayers would be paying that subsidy.

I believe the chairman of the committee like many of us is not fond of the section 8 program. To tell the truth we are here to help the chairman. I know the chairman is under a lot of pressure. We are here to bite the bullet in order to help reduce this bill.

The 2 percent would reduce the bill $530 million and I hope that it will be approved.

Mr. BOLAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I dislike opposing my distinguished friend from Ohio. The gentleman has offered this amendment before, and I think it was accepted on the legislative and energy and water development appropriations bills. I must oppose it on this bill.

What the gentleman said on page 63 of the committee's report is correct. The housing authorizations which have been passed by the Congress would permit such subsidies. That is the reason why the subsidies are that high. The statement the gentleman made with regard to $1,379 per month subsidy would apply to New York City. That is for a three or more bedroom apartment in an elevator highrise building in the city of New York. In short, the gentleman cites one of the most expensive examples.

Mr. Chairman, as I have indicated, this amendment has been offered a number of times on this bill and other bills in past years and has been generally unsuccessful, particularly on this bill. This bill is already 2 percent under the 1981 budget request. We have already cut $772 million from the estimates considered.

☐ 1700

It is true that we are not funding the annual contributions for assisted housing program or the NASA research and development program—for which $4.5 billion has been requested. And we are not funding the local government transitional assistance program which, of course, has not been authorized. When we get to decisions on these critical programs later it might well be the $772 million reduction below the budget estimates will be increased or, it might happen that the reduction will be maintained at the $772 million level.

My point is this—we have already cut this bill by $772 million. This is a substantial amount. There are several problems with the gentleman's amendment. First, I think it would give the executive branch too much leeway in making reductions in the areas in which it wants to. It takes that authority away from this committee and away from the Congress. The gentleman knows, because he serves on the full Appropriations Committee, the HUD-Independent Agencies Subcommittee has been laboring since February to fashion this appropriation bill. All the appropriations subcommittees have been addressing the funding needs of the Government. This subcommittee has been using that time to address the needs of the 21 agencies that are funded in this act.

The committee has made its judgment on each of those agencies, and its recommendations are carried in this bill. What the gentleman from Ohio seeks to do is to take all of the 5 months of deliberation in committee—to take all of the deliberation and debate here today and last week—and in a sense really throw out the window all of the efforts that have gone into shaping this particular bill.

That does not make sense to me, and I am sure it ought not to make sense to members of this committee. By taking a 2-percent reduction across the board, we are cutting housing for the elderly by $16.6 million, or 376 units that are needed for this program. We are cutting the community development block grant program by about $76.2 million. We are cutting the Environmental Protection Agency by $95 million.

The point is, Mr. Chairman, that we have already made our decision on each of these programs, and this is not the time to turn around and undo what we have already done. I think it is a sort of mockery of the appropriation process, and for those reasons and many other reasons I oppose the amendment.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as is apparent from an amendment I previously offered on the Urban Development Act grant program, I am not entirely in agreement with all aspects of this bill. There are areas where this bill could be cut, and should be cut. The Appropriations Committee made decision on programs on an individual basis.

It always occurs to me that across-the-board cuts, such as the one proposed, is not very selective. It makes cuts in programs such as the community block grant program, which is a very important program upon which communities rely, and is not very selective.

I think that the Appropriations Committee has done its work. This committee has done its work on each section of the bill, and the will of this committee has been expressed in funding levels for all the various programs. Therefore, a meat ax kind of cut at the end of the bill, it seems to me, would be a mistake, and I oppose the amendment.

Mr. GUYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GUYER. I yield to my colleague, the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I have heard both sides call this the "meat ax" cut. If Members were listening at the time the amendment was offered, they would know that the amendment only cuts the nonmandatory items. Only the nonmandatory items can be reduced, and no individual item can be reduced more than 5 percent.

This is the type of thing that is done by the Budget Committee at the present time under reconciliation. This is the very thing that the House approved—reconciliation. This gives the committee and the conference the opportunity to make those cuts.

As a matter of fact, if and when the bill is approved in conference, if the three items are added by the Senate, the bill could be approximately $70 billion. The reduction then would be very close to $1 billion. I would hope that we have an aye vote on the amendment.

Mr. GUYER. Mr. Chairman, I want to associate myself with Mr. MILLER of Ohio, and also say that in these days of wildfire inflation, an affirmative vote would be a good example of our good intentions to reduce spending—and send a signal to our people who are watching us very carefully. I do not see anyone getting hurt, personally, in this kind of amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 435]

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Danemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia

Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1720

The CHAIRMAN. Three hundred and sixty-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. MILLER) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Members will have 5 minutes within which to record their votes.

The vote was taken by electronic device, and there were—ayes 228, noes 151, not voting 54, as follows:

[Roll No. 436]

AYES—228

Albosta
Ambro
Andrews, N.C.
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Bennett
Bethune
Bevill
Boner
Bouquard
Bowen
Brinkley
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Foley
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McClory
McCormack
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Mica
Michel
Miller, Ohio
Minish
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Panetta
Pashayan
Paul
Petri
Pickle
Porter
Preyer
Pursell
Railsback
Rhodes
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Stangeland
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
Weaver
Whitehurst
Whitley
Whittaker
Wilson, Tex.
Wirth
Wyatt
Wylie
Yatron
Young, Fla.
Zablocki

NOES—151

Addabbo
Akaka
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Clay
Coelho
Conte
Corman
Coughlin
Danielson
Dellums
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fazio
Ferraro
Ford, Mich.
Fowler
Garcia
Giaimo
Ginn
Gonzalez
Gray
Green
Guarini
Harris
Hawkins
Heckler
Hollenbeck
Howard
Johnson, Calif.
Kastenmeier
Kildee
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McDade
McEwen
McHugh
Maguire
Markey
Matsui
Mazzoli
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Musto
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Perkins
Peyser
Price
Quillen
Rahall
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Rosenthal
Roybal
Sabo
Seiberling
Shannon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Watkins
Weiss
Whitten
Williams, Ohio
Wolff
Wolpe
Yates
Young, Mo.
Zeferetti

NOT VOTING—54

Abdnor
Anderson, Ill.
Andrews, N.Dak.
Badham
Bereuter
Bonior
Bonker
Brown, Ohio
Chisholm
Collins, Ill.
Conyers
Davis, S.C.
Dodd
Dougherty
Duncan, Oreg.
Edwards, Okla.
Fascell
Florio
Ford, Tenn.
Gephardt
Holtzman
Hyde
Kindness
Lee
McCloskey
McDonald
Mathis
Mavroules
Murphy, Ill.
Pepper
Pritchard
Quayle
Rangel
Rodino
Rose
Rostenkowski
Runnels
Scheuer
Schulze
Simon
Steed
Stockman
Tauzin
Vento
Walgren
Waxman
White
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Winn
Wright
Wydler
Young, Alaska

□ 1730

Mr. GUARINI changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know that the subcommittee chaired by our distinguished friend from Massachusetts (Mr. BOLAND), will be pleased to know, as will the Members, that for the next fiscal year I shall insist that the Veterans' Administration follow the rules of the House and obtain an authorization before its funds are appropriated.

I have been a member of the Committee on Veterans' Affairs for 10 years, and it has been my experience that the Veterans' Administration, each year, cavalierly refuses to recognize that we have rules in the House and refuses to request authorization for its expenditures. As a matter of fact, they do not even deign to respond to inquiries as to their proposed expenditures.

None of us wants to vote against the Veterans' Administration. Most of us are veterans or at least we have veterans in our families, and most of the programs are very good.

But we are talking today of $20 billion. That is "B" as in Boston, billion, $20,729,000,000 odd. That is an awful lot of money. I can remember when the entire U.S. budget was only $6 billion.

Mr. Chairman, I have notified the Veterans' Administration in writing, and I shall continue to do so in approximately monthly intervals.

I am making this statement now so they cannot come in here next year and say, "Oh, please. We forgot to ask for authorization." They will have that opportunity.

I intend to insist on observing the rules of the House.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Harris: Page 45, after line 23, insert the following:
>
> Sec. 413. No more than an amount equal to 20 percent of the total funds appropriated under this Act for any agency for any fiscal year and apportioned to such agency pursuant to section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) may be obligated during the last two months of such fiscal year.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MYERS of Indiana. Mr. Chairman, I reserve a point of order on the amendment.

Mr. HARRIS. Mr. Chairman, this amendment is identical to the amendment that was presented to this body last week with respect to the State-Justice appropriation. It limits the use of appropriated funds in the last 2 months of the fiscal year to 20 percent of the annual appropriation.

Mr. Chairman, this amendment is the result of over a year and a half investigation and documentation which cries out for reform and for action by this Congress.

The bill that we are considering today, I believe, is especially vulnerable to the criticism that an amendment limiting the amount of expenditure of the last 2 months of the fiscal year be adopted.

Mr. Chairman, the Department of Housing and Urban Development spent 47.2 percent of its appropriation last year in August and September. I would break that down specifically for my fellow Members of the House.

In August of 1979, HUD spent 18 percent of its budget. In September of 1979, HUD spent 29 percent of its budget.

There are all kinds of reasons that the various agencies give you for having to do this type of practice. The main reason is our investigation has determined the philosophy in many of the Federal agencies that simply says use it or lose it, the notion that you have to get the money spent or obligated or Congress will not think it has to appropriate quite as much money to you.

Now, I am not, nor was last week the first time this body has acted on this very important principle.

The budget resolution of 1980 said something should be done to limit the expenditures of the last months of the fiscal year. The budget resolution of 1981 said the problem had grown. Something must be done to limit this. The report on H.R. 4717 confirmed that this was a problem crying out for reform.

☐ 1740

The Government Operations report on this same bill also pointed this out.

The Department of Defense appropriations bill has had a provision in it placing such a limitation on many of the funds appropriated for the Department of Defense.

Today we are releasing a report from the General Accounting Office that further documents the excesses that many of the agencies have gone to.

Fact, undisputed fact, had the seven agencies that exceeded 20 percent of their appropriations in the last fiscal year in the last 2 months, had they held to 20 percent, we would have saved $13.2 billion.

We had better place this type of amendment on every one of our appropriation bills. The other body has said they will. We need not sit back and wait for the other body to act. We should act ourselves.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I would be happy to yield to my distinguished colleague, the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia, the distinguished chairman of the Subcommittee on Human Resources (Mr. Harris), of which I am a member.

This amendment, similar to one the gentleman offered to the State-Justice appropriations measure for fiscal year 1981, H.R. 7584, was overwhelmingly approved by the House last week.

As we previously indicated in the prior debate, our subcommittee's extensive hearings on Federal contracting confirmed our suspicion that year end spending sprees have become common place in the executive branch. The 20 percent year end spending limitation proposed by the gentleman from Virginia is an appropriate initial step to stop this flagrant misuse of taxpayer dollars.

Accordingly, I urge my colleagues to support this amendment.

The CHAIRMAN. Does the gentleman from Indiana (Mr. Myers) insist on his point of order?

Mr. MYERS of Indiana. I do, Mr. Chairman.

Mr. Chairman, the gentleman has offered an amendment to limit the appropriations to a specific time; but I respectfully suggest that the fact the gentleman has added the words, "No more than" is still not, in fact, a limitation.

The House has long established and the committee has long established that Congress does have the right to limit how money shall be spent for a specific purpose. I quote:

> The House's practice has established the principle that certain "limitations" may be admitted. It being established that the House under its rules may decline to appropriate for a purpose authorized by law, so it may by limitation prohibit the use of money for part of the purpose, while appropriating for the remainder of it.

The first precedent that I want to cite is Hinds' Precedents, volume IV, section 3936, where on January 17, 1896, the chairman of the Committee of the Whole, Nelson Dingley, ruled:

> The House in Committee of the Whole has the right to refuse to appropriate for any object which it may deem improper, although that object may be authorized by law; and it has been contended, and on various occasions sustained by the Committee of the Whole, that if the Committee has the right to refuse to appropriate anything for a particular purpose authorized by law, it can appropriate for only a part of that purpose and prohibit the use of the money for the rest of the purpose authorized by law.

Mr. Chairman, it has been firmly established a number of times, I could go on and quote, on January 31, 1925, the Chairman of the Committee of the Whole, John Tilson of Connecticut, ruled:

> Congress may appropriate for one subject authorized by law and refuse to appropriate for another object authorized by law.

This firmly establishes the principle that a limitation must apply to a specific purpose or an object.

Mr. Chairman, this does not do that.

I further cite that on June 25, Chairman Sharp of Indiana sustained a point of order that was asked by this gentleman on an appropriation bill, that he limits the discretionary power of the executive.

Now, this particular amendment has been remedied somewhat, or there has been an attempt to remedy, in citing section 3679 of the revised statutes of United States Code 31 U.S. 665.

Now, Mr. Chairman, the rules of the House of Representatives, rule XXI, section 843, says this:

> In construing a proposed limitation, if the Chair finds the purpose to be legislative, in that the intent is to restrict executive discretion to a degree that it may be fairly termed a change in policy rather than a matter of administrative detail he should sustain the point of order.

The key here, Mr. Chairman, is that if the intent is to restrict executive discretion to agree that it may be fairly termed a change in policy rather than a matter of administrative detail he should sustain the point of order.

Mr. Chairman, the fact that you are limiting here, not directing, but limiting the authority to the last 2 months how much may be spent takes away the discretionary authority of the Executive which might be needed in this case. It clearly is more than an administrative detail when you limit and you take away the right of the Executive to use the funds prudently, to take advantage of saving money for the Executive, which we all should be interested in, and I certainly am, too; but Mr. Chairman, rule 843 provides that you cannot take away that discretionary authority of the Executive.

This attempt in this amendment does take that discretionary authority to save money, to wisely allocate money prudently and it takes away, I think, authority that we rightfully should keep with the Executive, that you can accumulate funds and spend them in the last quarter if it is to the advantage of the taxpayer and the Executive.

Mr. Chairman, this clearly is in violation of the rules of the House.

The CHAIRMAN. Does the gentleman from Virginia desire to be heard?

Mr. HARRIS. I do, Mr. Chairman.

Mr. Chairman, let me first address the last point, probably because it is the weakest that the gentleman has made with respect to his point of order.

With respect to the discretion that we are in any way limiting the President, we cannot limit the discretion which we have not given the President directly through legislation. There is no discretion with regard to legislation that we have overtly legislated and given to the President.

Mr. Chairman, section 665(c)(3) of title 31 of the United States Code, which states the following:

> Any appropriation subject to appointment shall be distributed as may be deemed appropriate by the officers designated in subsection (d) of this section to make apportionments and reapportionments.

Clearly grants agency budget officers the discretionary authority to apportion the funds in a manner they deem appropriate. My amendment would not interfere with this authority to apportion funds. On the contrary, my amendment reaffirms this section of the United States Code, as Deschler's Procedures, in the U.S. House of Representatives, chapter 26, section 1.8, states:

> The provision of the rule forbidding in any general appropriation bill a "provision changing existing law" is construed to mean the enactment of law where none exists, or a proposition for repeal of existing law. Existing law may be repeated verbatim in an appropriation bill, but the slightest change of the text causes it to be ruled out.

My amendment, Mr. Chairman, as the Chair will note, specifically restates by reference the existing law, which in no way gives discretion as to spending, but gives discretion as to apportionment.

Mr. Chairman, as the Chair knows, the budget execution cycle has many steps. Whereas the Chair's earlier ruling related to the executive branch authority to apportion, my amendment addresses the obligation rate of funds appropriated under the fact. As OMB circular No. A-34 (July 15, 1976) titled "Budget Execution" explains:

> Apportionment is a distribution made by OMB.
>
> Obligations are amounts of orders placed, contracts awarded, services received, and similar transactions.

Mr. Chairman, my amendment proposes some additional duties, but only a very minimal additional duty upon the executive branch.

Deschler's chapter 26, section 11.1 says:

> The application of any limitation on an appropriation bill places some minimal extra duties on Federal officials, who, if nothing else, must determine whether a particular use of funds falls within that prohibited by the limitation.

The fact of the matter, Mr. Chairman, is that this is a very carefully drawn limitation on appropriations. It is consistent with a number of previous rulings of the chair.

Mr. Chairman, I would urge my colleague to withdraw his point of order, because even a narrow interpretation of the rules will not satisfy the other body on this. The other body has made it clear that this restriction will go into the appropriation bill.

☐ 1750

I think it is a shame, after this House has voted this past week 350 to 52, that it not go ahead and enact this type of provision on the HUD bill. I think the Members want to vote for it. I think the Members should be permitted to vote for it. I think it is a shame to just allow the other body to take the initiative on what I think is an extraordinarily important reform in our budgetary process.

The CHAIRMAN. Does the gentleman from Indiana desire to be heard further?

Mr. MYERS of Indiana. I do, Mr. Chairman.

The citation cited by the gentleman from Virginia points to the fact that this amendment, if adopted, would cause the executive to unwisely allocate and spend money in quarters earlier or in the year earlier when it might not be wise to spend it. This amendment, while the intent I do not disagree with, the spirit that would be carried out would cause the executive to allocate and spend money unwisely because it was forced by this amendment to allocate a portion according to this. But the amendment does not do what the gentleman aspires for it to do.

The CHAIRMAN. Does the gentleman from Texas desire to be heard?

If not, the Chair is prepared to rule based upon the arguments made with respect to the point of order.

In the first instance, the Chair would observe that it is not the duty of the Chair or the authority of the Chair to rule on the wisdom or the legislative effect of amendments.

Second, the Chair will observe that the gentleman from Virginia, in the way in which his amendment has been drafted, satisfies the requirements of the Apportionment Act, which was the subject of a prior ruling of the Chair in connection with another piece of legislation.

The Chair agrees with the basic characterization made by the gentleman from Indiana that the precedents of the House relating to limitations on general appropriation bills stand for the proposition that a limitation to be in order must apply to a specific purpose, or object, or amount of appropriation. The doctrine of limitations on a general appropriation bill has emerged over the years from rulings of Chairman of the Committee of the Whole, and is not stated in clause 2, rule XXI itself as an exception from the prohibition against inclusion of provisions which "change existing law." Thus the Chair must be guided by the most persuasive body of precedent made known to him in determining whether the amendment offered by the gentleman from Virginia (Mr. HARRIS) "changes existing law." Under the precedents in Deschler's Procedure, chapter 26, section 1.12, the proponent of an amendment has the burden of proving that the amendment does not change existing law.

The Chair feels that the basic question addressed by the point of order is as follows: Does the absence in the precedents of the House of any ruling holding in order an amendment which attempts to restrict not the purpose or object or amount of appropriation, but to limit the timing of the availability of funds within the period otherwise covered by the bill, require the Chair to conclude that such an amendment is not within the permissible class of amendments held in order as limitations? The precedents require the Chair to strictly interpret clause 2, rule XXI, and where language is susceptible to more than one interpretation, it is incumbent upon proponent of the language to show that it is not in violation of the rule (Deschler's chapter 25, section 6.3).

In essence, the Chair is reluctant based upon arguments submitted to him, to expand the doctrine of limitations on general appropriation bills to permit negative restrictions on the use of funds which go beyond the amount, purpose, or object of an appropriation, and the Chair therefore and accordingly sustains the point of order.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARRIS: Page 45, after line 23, insert the following:
>
> SEC. 413. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

Mr. MYERS of Indiana. Mr. Chairman, I reserve a point of order against the amendment. We do not have a copy, or at least I do not have a copy of the amendment.

The CHAIRMAN. The gentleman from Indiana reserves a point of order.

Mr. HARRIS. Mr. Chairman, first of all I would say that copies were delivered to the table and the amendment has been printed in the CONGRESSIONAL RECORD for at least 4 days.

Mr. Chairman, the amendment I am offering is one that simply tries to put teeth into the regulations that have been on the books at least since 1979 and before with regard to contracts, and specifically consultant contracts in our Federal Government. There is no question that regulations currently require that a cost comparison be performed under A76 and that with regard to consultants a determination be made of the necessity of the consultant contract before these contracts are entered into.

This amendment says:

No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

It is a simple, direct limitation that says no contracts will be entered into except pursuant to the law. We can hold such amendment out of order, I guess, Mr. Chairman, but only if we say that laws do not make any difference when we pass them in this body. This amendment does no more than say you cannot expend the funds unless you adhere to the regulations that have been promulgated.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield to my colleague.

Mr. BOLAND. I would hope the gentleman from Indiana (Mr. Myers) will not press his point of order. I see no problem with this amendment. It has been offered on another bill.

Mr. HARRIS. Several.

Mr. BOLAND. I have no problem with the amendment. I think it serves a purpose that is worthwhile, as the gentleman from Virginia explains.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield.

Mr. COUGHLIN. Mr. Chairman, it sometimes mystifies me as to why we need to have an amendment that says that an agency will adhere to the law. I certainly agree.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. Harris) has expired.

(By unanimous consent Mr. Harris was allowed to proceed for 1 additional minute.)

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia, the distinguished chairman of the Subcommittee on Human Resources (Mr. Harris), of which I am a member.

This amendment, an initial remedy for the widespread abuses associated with Federal contracting out which our subcommittee has uncovered during extensive hearings, would bar appropriations contained in this act unless a contract which is awarded and entered into is in full compliance with the Office of Federal Procurement Policy Act and regulations promulgated thereunder.

Accordingly, I urge my colleagues to support this measure so that executive branch agencies and departments will not take lightly the established statutes and regulations governing the Federal contracting-out system that has been estimated to consume over $100 billion annually.

The CHAIRMAN. Does the gentleman from Indiana insist on his point of order?

Mr. MYERS of Indiana. Mr. Chairman, having had an opportunity to read the amendment, I withdraw my point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. Harris).

The amendment was agreed to.

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Are there additional amendments to the bill?

Pursuant to the unanimous-consent request previously agreed to, the gentleman from Pennsylvania will suspend until we complete reading of the bill.

The Clerk concluded the reading of the bill.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876–1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; lease of one aircraft with option to purchase; maintain and operation of aircraft and purchase of flight services for research support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; not to exceed $57,700,000 for program development and management; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $982,800,000, to remain available until September 30, 1982: *Provided*, That not more than (1) $114,600,000 shall be available for Engineering and Applied Science, (2) $25,750,000 shall be available for Scientific, Technological, and International Affairs, (3) $28,750,000 shall be available for Cross-Directorate Programs and (4) $5,000,000 shall be available for grants to two-year and four-year colleges for equipment and instrumentation costing $35,000 or less: *Provided further*, That none of these funds shall be available for a new Center for Innovation Development: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That if an institution of higher education receiving funds hereunder determines after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has, after the date of enactment of this Act, willfully refused to obey a lawful regulation or order of such institution and that such refusal was of a serious nature and contributed to the disruption of the administration of such institution, then the institution shall deny any further payment to, or for the benefit of, such individual.

The Clerk read as follows:

Amendment offered by Mr. Ertel: Page 25, line 18, strike out "$982,800,000" and insert in lieu thereof "$991,200,000".

Page 25, line 19, strike out "$114,600,000" and insert in lieu thereof "$123,000,000".

Beginning on page 25, line 25, strike out "*Provided further*," and all that follows through "Center for Innovation Development:" on page 26, line 2.

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, I want to extend my thanks to the chairman of the HUD Appropriations Subcommittee, the gentleman from Massachusetts (Mr. Boland), and the gentleman from Ohio (Mr. Ashbrook) for their courtesy in allowing me to present this amendment, even though I understand they may oppose the amendment in substance. They have been courteous in at least allowing me procedurally to reach this point in getting the amendment on the floor because of a problem when I left the floor and the amendment was passed over at that time.

Mr. Chairman, this amendment is really quite straight forward. It simply provides for a 10-percent increase over the fiscal year 1980 funding level for the Engineering and Applied Science Directorate of the National Science Foundation. This part of the Foundation is involved in taking the fruits of our investments in basic research off the shelf and bringing them to bear to meet national needs, opportunities, and challenges. This activity is an important part of an effort to reverse the downward trends in productivity and innovation in this country.

Let us not deceive ourselves, Japan's and West Germany's increasing productivity and innovativeness is not simply a matter of their making up for lost time, or just their catching up with us. The harsh reality remains that in the last several quarters we have experienced negative productivity growth. Not lower or smaller increases, negative growth—real reductions in productivity.

Now while I will admit that the past few quarters may not represent a trend, they are at very least a serious warning which we seem to be trying to ignore.

The fact is that decreasing productivity helps fuel inflation and adds to unemployment. U.S. goods become less competitive abroad and the standing of the dollar is further eroded. I am not going to pretend to tell you that all of our economic problems will be solved if we can spur new growth in productivity; however, it is difficult to envision economic improvement without increased productivity.

Now, how does all of this relate to my amendment. As I stated at the outset, the

Engineering and Applied Science Directorate of the National Science Foundation is deeply involved in improving productivity and innovation in this country. This is accomplished through a variety of programs within the Directorate. Many of these were used as models for the President's industrial innovation initiatives of last year.

I would be happy to discuss in greater detail the various subactivities of this part of the NSF should that be necessary, but for the moment, let me turn my attention to specific funding levels in my amendment versus that provided in the bill before us. In fiscal year 1980, engineering and applied science was funded at $111.8 million. In January, the President requested $137 million. This was reduced to $119.6 million in his March revisions. The appropriations recommendation for fiscal year 1981, however, is $114.6 million. This is only 2.5 percent above the fiscal year 1980 level and below both the January and March requests. In an area so vital to our economic health and well-being, we should at least keep these programs funded at a constant level after adjusting for inflation. In this context, a 10-percent increase over the fiscal year 1980 level is a modest amendment and represents the very least which must be provided. This is the intent of my amendment.

I would also note that this amendment seems to be consistent with the budget resolution and will not require cuts in other parts of the budget. Our investments in this area will reap benefits many times over in the future. I urge the adoption of this amendment.

☐ 1800

I might just add a word. If we are going to win the war of economics in this world we have to increase our productivity in this country. Unless we take the information, the science and the research that we have and move it from the shelves of the Government into the private sector we are going to lose that battle. It seems to me with the 2-percent cut which was just passed in here along with the fact that we only have a 2.5-percent increase in this we are actually taking a cut in what should be our real move to increase our productivity in this country. What this will do is just bring us back to where the gentleman from Massachusetts (Mr. BOLAND) had recommended as far as the money is concerned. I would hope we would support this amendment.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Ohio.

Mr. PEASE. Mr. Chairman, I thank my colleague for offering this amendment. I associate myself with the remarks of the gentleman. I urge my colleagues in the House to adopt the amendment. I think everything the gentleman has said is right on target. I commend the gentleman for offering the amendment.

Mr. ERTEL. Mr. Chairman, I thank the gentleman and yield back the balance of my time.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment.

If we want to save $8.4 million, this is a good way to save it. There is no way in the world we are going to solve the problems of productivity or innovation with this amount of money. As the gentleman has said—and I am delighted the gentleman had the opportunity to offer the amendment and I appreciate the courtesy of the gentleman from Ohio (Mr. ASHBROOK) for permitting him to do so—the gentleman from Pennsylvania (Mr. ERTEL) is terribly interested in the problem. I think the gentleman has a good cause but he is in the wrong pew. He really should include this in the Department of Commerce. That is where it should be and not here—not in this appropriation bill.

Mr. Chairman, for the first time in the history of the National Science Foundation, the gentleman is going to ask the NSF to get into the area of supplying risk capital to corporations. That is what he is proposing to do. What the gentleman hopes to do is to establish an innovation center. The innovative center hopefully will be in the gentleman's district. The gentleman does not say so in the amendment. He would like to have it. I would like to have it. I am sure the particular center would be in an area where the unemployment level is among the highest—so it could be in a number of similar congressional districts throughout the United States.

Mr. Chairman, what I am saying is the National Science Foundation does not want this goody. This is the first time, incidentally, in the 30 long years of the National Science Foundation that the subcommittee has given the NSF every dime it requested. It is the first billion dollar budget in the history of the NSF and for good reason. About 87 percent of the funds appropriated to NSF go to basic research. Let us not take those basic research funds away to support this kind of a program. It is the wrong thing to do. We are getting away from the primary mission of the NSF. I think the amendment might very well have been added to some other bill but not here. I would hope the members of the committee would support the position of the subcommittee in opposing this amendment.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this would in fact remove a limitation that prevents the appropriation of unauthorized programs essentially. As worthy as the program might be, it has not been authorized. As the chairman has pointed out, really, to get the National Science Foundation into this kind of a business, in which they have not traditionally been involved, it does not belong in the National Science Foundation and it would be a tragic mistake.

Mr. Chairman, I yield back the balance of my time.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all let me offer my compliments to the committee and to the able chairman of the subcommittee for the excellent work done on this bill which the gentleman has indicated has been cut $772 million below the budget, and to particularly commend him for his treatment of the National Science Foundation which again, as the gentleman indicated, the gentleman brought to the floor at the amount of the President's budget. It was exactly the amount proposed in the President's revised budget. I think that that can be construed in a bill which cuts, on the average, most of the other items within its jurisdiction. It is a generous treatment for the National Science Foundation.

It was for that reason that I have personally refrained from making any substantial effort to change it, although I will have to say that the authorization bill which was brought out by the Committee on Science and Technology did go slightly above the President's budget and the amendment offered by the gentleman from Pennsylvania, while not as much as in the authorization, does come closer to the authorization bill on this one item.

Now, Mr. Chairman, I would like to ask the Members to consider very carefully the facts about this situation. The National Science Foundation budget which was presented in January was a recognition by the President of the importance of investment in basic science for this country. The March revision cut 7 percent from that January budget, roughly $75 million.

The Committee on Appropriations retained that level, but they made some minor readjustments within it. Where they made their adjustments I think is extremely important to note. They took $10 million from the applied science and engineering and related activities and added it to the science education function. They did not take any deductions from the basic science directorates themselves. They took them basically from the part which is the application of the results of science to the needs of this country, particularly the problems of productivity and innovation.

Now, I recognize that this is a very small program we are talking about, but the engineering and applied science first of all took a 15-percent cut between January and the March revision and then the Committee on Appropriations has taken another approximately 5-percent cut. What the amendment of the gentleman from Pennsylvania does, it restores a portion of this so that it comes up closer to the level originally proposed by the President in January, in recognition of the vital nature of the problem that we are addressing.

☐ 1810

I have here a release that is on the ticker right now, which I probably should not have torn off, but this gives this headline:

> The productivity of the U.S. economy fell at an annual rate of 3.1 percent this spring, marking the sixth consecutive quarter that the measure of economic efficiency has fallen, the government reported today.

This is precisely the problem which the work of the Applied Science and Engineering Directorate of the National Science Foundation is aimed at. It is the purpose of this program to help stimulate the processes of innovation and productivity in the economy.

Now, the able and distinguished chairman of the subcommittee made the point that this is a first—the program that is proposed to be restored by the gentleman's amendment is the first. Actually, the National Science Foundation has had this innovation program going for several years at a very, very small pilot demonstration level. What this fund does is to expand upon the success of this program, and there is no one who denies its success. It expands it in a very modest way, less than $10 million, in order to see if we cannot begin to reverse this economic malaise that faces us.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Brown of California was allowed to proceed for 5 additional minutes.)

Mr. BROWN of California. Mr. Chairman, I would not impose upon the Members if I did not think that this was an extremely important point. We are being asked to do something about the condition of the American economy. What we have here is a situation in which we have cut very few initiatives in the President's budget aimed at doing something about this.

I think it is highly regrettable that we should do this. Now, the gentleman from Pennsylvania made the point that the Miller of Ohio amendment, which we just adopted, still cuts 2 percent from the National Science Foundation budget. This would be approximately $20 million that we are talking about. Actually, this is an understatement. The Miller of Ohio amendment says that up to 5 percent can be cut from those programs not required by law, and this is one of those programs. The National Science Foundation will probably, under the Miller of Ohio amendment, be cut $50 million, and this amendment of the gentleman from Pennsylvania seeks only to restore $8 million of that for the program which we in the authorizing committee felt was of the very highest priority in terms of addressing the critical problems that face this country today.

So, Mr. Chairman, with all due respect to the members of the subcommittee, who I know worked long and diligently on this particular part of this very important bill and who, as I said, by any standard can be considered to have treated it generously, I think still, in the light of the action which has taken place on the floor and in the light of the actually critical problems that face this country, I think they missed an opportunity with a very small expenditure of money to begin to have a major effect on redressing the economic crisis that faces us.

So, I am asking the House to adopt this modest amendment to help restore a part of that $50 million that we have just cut from the overall budget in the hopes that we can begin to do something that is important and relative toward reversing the economic decline of this country.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to my distinguished colleague.

Mr. ERTEL. Mr. Chairman, I would ask the distinguished subcommittee chairman, has not the National Science Foundation under this program started the small business innovation program, and is that not part of this amendment to continue that program and to make it a viable and continuing effort?

Mr. BROWN of California. That is exactly true. This is not a program that is without precedent. As the gentleman well knows, the Foundation has been experimenting with this on a small basis for several years. I might say also that the chairman was quite correct in saying that this is the kind of program that ought to be spun off to the Commerce Department, and actually that is the intent of the foundation. As soon as this program has demonstrated its success on a scale which is readily translatable, it is the intention of the Foundation to turn this over to the Commerce Department, because their role of having demonstrated a new methodology and encouraging small business innovation, their role will have been completed and it can be profitably taken over by the Commerce Department.

Mr. ERTEL. I would ask the gentleman to yield for one further point. Is it not true that if we were to try and develop this initially in the Department of Commerce, that in fact the Department of Commerce would be asking each State and each local government where it might be located to work on cost sharing, where since it is a regional program it is very unlikely that any State or local government would go to cost sharing, so that we have to get it started with the Federal dollars and then go to the States and say. "It has worked. Take it over. We are getting out."

We could let the Department of Commerce run it and get cost sharing. But, we would then be getting the basic stuff, the billion dollars we spend would be appropriated.

Mr. BROWN of California. The gentleman's point has been very well taken. This has been the history of a number of important programs.

Mr. TRAXLER. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

I have three points: First, there is no money in the budget for this proposal; second, the National Science Foundation does not support this approach; and third, this is a departure from the traditional handling of the Foundation's funding of programs.

I urge the Members to vote no on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Ertel).

The amendment was rejected.

Mr. BOLAND. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Danielson) having assumed the chair, Mr. Levitas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

☐ 1820

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, in honor of the gentleman in the chair, the gentleman from California (Mr. Danielson), I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 313, nays 67, not voting 53, as follows:

[Roll No. 437]

YEAS—313

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Clausen
Clay
Cleveland
Clinger
Coelho
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fazio
Ferraro
Findley
Fish
Fisher
Fithian

Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Frost
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Hubbard
Huckaby
Hutchinson
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mazzoli
Mica
Michel
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rosenthal
Roybal
Royer
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—67

Anthony
Applegate
Archer
Ashbrook
AuCoin
Bauman
Beard, Tenn.
Bennett
Brodhead
Broomfield
Broyhill
Burton, John
Carr
Cheney
Coleman
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
English
Erlenborn
Evans, Ga.
Fenwick
Frenzel
Gramm
Hagedorn
Hall, Tex.
Hansen
Holt
Hughes
Ichord
Jacobs
Jeffries
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lewis
Loeffler
McKay
Marriott
Mattox
Miller, Calif.
Miller, Ohio
Moorhead, Calif.
Mottl
Paul
Roth
Rousselot
Rudd
Russo
Sensenbrenner
Shumway
Shuster
Solomon
Stenholm
Stump
Symms
Taylor
Wyatt

NOT VOTING—53

Abdnor
Anderson, Ill.
Andrews, N.Dak.
Badham
Bereuter
Bonior
Bonker
Brown, Ohio
Chisholm
Collins, Ill.
Conyers
Davis, S.C.
Dodd
Dougherty
Duncan, Oreg.
Edwards, Okla.
Fascell
Florio
Ford, Tenn.
Fowler
Fuqua
Gephardt
Harsha
Holtzman
Howard
Hyde
Kemp
Lee
McCloskey
McDonald
Mathis
Mavroules
Murphy, Ill.
Pritchard
Quayle
Rangel
Rodino
Rose
Rostenkowski
Runnels
Schulze
Simon
Steed
Stockman
Tauzin
Thomas
Waxman
White
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wydler
Young, Alaska

☐ 1830

The Clerk announced the following pairs:

On this vote:

Mr. Fuqua for, with Mr. McDonald against.

Until further notice:

Mr. Rodino with Mr. Runnels.

Mr. Rostenkowski with Mr. Abdnor.

Mrs. Chisholm with Mr. Schulze.

Mr. Rangel with Mr. Lee.

Mr. Howard with Mr. McCloskey.

Mr. Murphy of Illinois with Mr. Wydler.

Mr. Fascell with Mr. Thomas.

Mr. Florio with Mr. Bereuter.

Ms. Holtzman with Mr. Anderson of North Dakota.

Mr. Waxman with Mr. Edwards of Oklahoma.

Mr. Simon with Mr. Harsha.

Mr. Rose with Mr. Hyde.

Mr. Bonior of Michigan with Mr. Badham.

Mr. Mathis with Mr. Bob Wilson.

Mr. Mavroules with Mr. Young of Alaska.

Mr. White with Mr. Stockman.

Mr. Stead with Mr. Brown of Ohio.

Mr. Tauzin with Mr. Dougherty.

Mr. Ford of Tennessee with Mr. Pritchard.

Mr. Dodd with Mr. Quayle.

Mr. Davis of South Carolina with Mr. Kemp.

Mrs. Collins of Illinois with Mr. Williams of Montana.

Mr. Duncan of Oregon with Mr. Fowler.

Mr. Gephardt with Mr. Bonker.

Mr. Conyers with Mr. Charles H. Wilson of California.

Mr. BETHUNE and Mr. CAMPBELL changed their votes from "nay" to "yea."

Mr. MARRIOTT changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO MEET DURING BALANCE OF THE WEEK DURING 5-MINUTE RULE

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be permitted to meet during the balance of the week while the House is proceeding under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, can the gentleman tell us, is the gentleman taking up anything besides the great Communications Act?

Mr. VAN DEERLIN. Yes; preceding that tomorrow, it is intended to seek about one-half hour of the committee's time to act on the resolution by the gentleman from Ohio (Mr. BROWN), rejecting the administration's standby gas rationing authority.

Mr. ROUSSELOT. Well, I guess we could go for that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION OF COMMITTEE ON EDUCATION AND LABOR TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor be permitted to hold hearings tomorrow during proceedings under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. HALL of Texas. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING SPEAKER TO DECLARE RECESS ON WEDNESDAY, JULY 30, 1980

Mr. HALL of Texas. Mr. Speaker, I ask unanimous consent that on Wednesday, July 30, 1980, it may be in order for the Speaker to declare a recess, subject to a call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I do so only to state my understanding, and not implicate the gentleman from Texas in any way, that these agreements that are being granted at this point reflect a continuation of the liberal attitude of the Chair with reference to 1-minute speeches which are regarded so dear to all of us.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE LATE HONORABLE WILLIAM FRANCIS GAUL

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, it is with great personal sadness that I rise today to record the death of William Francis Gaul, associate general counsel for the Committee on Education and Labor for the past 13½ years.

The death of a friend is always sad, and if friendship were the only consideration involved, the loss of Bill Gaul would be a crushing blow.

But Bill Gaul was more than a friend. He was an able and wise coworker. He was a conscientious and tireless public servant. He was a professional's professional—a lawyer's lawyer.

Moreover, Bill was a model family man; a deeply religious man who lived by his faith; and an honorable man whose ideals and decency affected everyone with whom he worked.

I cannot think of a more respected member of the professional staff of the Congress, or an abler one.

Bill Gaul was this Congress principal authority in the field of law involving higher education. Probably no higher education legislation presently on the books has been without his contribution. His counsel and advice on education matters has gone far beyond members of the Committee on Education and Labor to scores of other Members of the House and Senate.

The amazing thing is that Bill achieved this eminence at an early age, for he would not have become 45 until August 8.

He was graduated cum laude from the University of Notre Dame in 1957, at the age of 22. He took his law degree from Georgetown University here in Washington in 1962. From 1958 to 1962, Bill was a teacher at the Woodward School for Boys.

Upon receiving his law degree, he became counsel to the Special Subcommittee on Education in 1962, and served in that capacity for 3 years. He was an administrative assistant to former Representative Edith Green in 1966, and then was named staff director of a major congressional study of the U.S. Office of Education.

It was my honor to appoint him to the post of associate general counsel to the Committee on Education and Labor when I became chairman in 1967.

Bill was born in Red Bank, N.J., August 8, 1935. the son of Mrs. Florence Gaul and the late Walter I. Gaul.

He was married to the former Joan Haenn of Philadelphia, and they are the parents of eight children: Sons Brian, Michael, Christian, Damien, Jonathan, and Justin; and daughters Natasha and Alexis.

Stricken with cancer late last year, Bill never became despondent or defeated. He went cheerfully about his work as long as he could, and was an inspiration to all his friends and associates. Death came at 11:30 a.m. Saturday at Georgetown University Hospital.

After a wake at the Shrine of the Blessed Sacrament Church at Chevy Chase Circle from 4 to 7:30 p.m. today, a funeral mass will be said at the church this evening at 8 p.m. Burial will be at 10 a.m. tomorrow, Tuesday, July 29, at Gate of Heaven Cemetery in Wheaton.

I know all Members of this House will join me and the committee staff in expressing condolences at the loss of this good and dear man.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I, too, join in expressing profound sympathy to the wife and children of William Francis Gaul.

Mr. Speaker, Bill Gaul was a splendid human being and one of the ablest persons whom I have known during my service in Congress.

Those of us who sit on the Committee on Education and Labor of the House of Representatives—particularly those of us who have served on the committee for a number of years are especially aware of the loss that Bill Gaul's death represents to American education generally and higher education in particular. Bill played an important role in the shaping of most of the major Federal education legislation passed in the last 18 years.

Mr. Speaker, Bill Gaul, who served in one capacity or another on subcommittees or the full committee staff of the Education and Labor Committee for some 18 years, was respected by members of our committee on both sides of the aisle for his integrity of purpose, his wide knowledge of the legislative fields in which he worked, his decency, and his unfailing good humor.

Bill was a graduate of the University of Notre Dame, in the congressional district I have the honor to represent, and was a loyal son of his alma mater.

He was a devoted member of the Roman Catholic Church and sought in his every day work here in the House to reflect his Christian faith.

As one who knew Bill Gaul throughout his entire service in the House of Representatives and who worked with him, I feel a deep sense of personal loss.

Mr. Speaker, William F. Gaul served his country well.

☐ 1210

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, speaking for the minority members of the committee I would say last week when we were in conference with the other body on the higher education bill, we all sadly missed our friend. We join with the gentleman from Kentucky and want to add our condolences to the family and express our appreciation for all the services Bill Gaul has given this body over the years.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

IN MEMORY OF RALPH JORDAN, AUBURN UNIVERSITY FOOTBALL COACH

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NICHOLS. Mr. Speaker, during the recent recess period of Congress, my State of Alabama lost one of our finest citizens in the death of Auburn University's great football coach, Shug Jordan.

Coach Jordan had directed the affairs of Auburn's football program for better than two decades prior to his retirement in 1975 and he was beloved by former players and thousands of friends throughout America.

It was my good fortune to have played football under Coach Shug Jordan and I can attest to the many fine qualities which endeared him to those of us who respected his knowledge of the game, his sincerity, his honesty, and the many fine traits which made him a great American.

He served his country with distinction in World War II and, in more recent years, he has played a leadership role as a member of the Auburn board of trustees in guiding the destinies of Auburn University.

Somehow the Auburn campus will not be the same this fall because Shug Jordan is not around but, in the minds of those of us who played ball for Auburn. we will continue to envision his presence on the Auburn bench in Jordan-Hare Stadium on Saturday afternoon. Perhaps Longfellow said it best when he wrote:

> Lives of great men all remind us,
> We too can make our lives sublime,
> And, departing, leave behind us,
> Footprints on the sands of time.

Shug Jordan left giant footprints indelibly imprinted on the lives of those of us who knew him as a coach and as a friend. I extend my deepest sympathy to his wife, Evelyn, and to other members of his immediate family.

DAVID HOUSEL ON JORDAN

AUBURN.—It was my great pleasure to know and love Coach Jordan.

And to know that he knew and loved me.

"Pleasure" is not the right word, but I'm not sure what the right word is. Maybe "privilege." Certainly "honor."

Most people knew him as a football coach. I knew him as a man, a totally wonderful beautiful man.

It was written when he retired in 1975 that Auburn had lost a patriot. The same could be said today. Auburn has indeed lost a patriot. And many of us have lost a friend.

I went to see him often through the final weeks. He was always the same. That was one of the beautiful things about Coach Jordan. He was always so sincere, so genuine, so open, so honest, so thoughtful, so kind.

Never a day went by that he did not ask about my mother and he always asked about the little boy from Gordo, the boy he had called once, just to encourage him to fight the good fight in his personal battle against cancer. The boy won his battle. Coach Jordan lost his.

Coach Jordan a loser?

How can it ever be said that he lost in the things that really mattered, things like love, loyalty, integrity, and courage. Courage. We must not leave that one out. Above all Coach Jordan was a courageous man.

He was a people-person. He cared deeply about his fellowman and he believed in Auburn because the Auburn he knew and loved—the Auburn he sought to preserve—cared about people too.

Ralph Jordan was not without his faults and shortcomings. He was, after all, human. He was said to be stubborn, and he was not afraid to use his power within the bounds of honor. People might disagree with his position, but they could not question his dedication and commitment. I know of no man who had more trust and faith, more love for a school and its people than he had for Auburn and Auburn people.

The Betterment of Auburn—that was the hallmark of Coach Jordan's life. It was the thing he worked for and lived for. Everything he did was, in some way, directed toward that ultimate goal—the Betterment of Auburn. His deeds can't be numbered. Many were never mentioned, but I think he would like to be remembered in that way, in that short, simple way: "Shug Jordan—He worked for the Betterment of Auburn."

It would be a fitting remembrance.

Coach Jordan. . . .

So many memories, so many images come vividly to mind.

The 1977 pep rally when he quietly and effectively admonished Auburn students for leaving a game early by saying simply, "Auburn people don't do that. . . ."

The jaw set and tilted upward toward the moonlight as the final seconds ticked off the clock in his last game against Alabama.

The way he said "Good God a-mighty" when something went wrong on the field.

The sheer utter joy he showed in the dressing room after Auburn beat Georgia 35–20 in 1971 and earned a Sugar Bowl bid. He stuck his tongue out, rolled his eyes back and shook his head back and forth like a little kid. A piece of hedge was tucked behind his ear.

His glistening eyes as he embraced Wade Whatley at midfield after the Gator Bowl in 1972. Whatley—the substitute quarterback who had come out of nowhere to lead Auburn to one of its sweetest victories ever. Colorado was the opponent.

Planting the pecan trees in 1953, a sign that he and Mrs. Jordan planned to be in Auburn a long time. Those trees are still there, like his influence, growing large, strong.

The faded old beige athletic department jacket he wore for good luck throughout the 1971 season. It worked every game but one.

The bright orange sweater that became a Jordan trademark.

The quiet voice, the Selma accent, that always marked his gentlemanness.

His dedication to Auburn, his commitment and great love that expressed itself every day in every way.

That faraway look that would come to his eyes and the smile that would creep gently across his lips when he talked about the old days in Selma and Auburn.

The deep chuckle that came so freely and so often.

The way he said, "You're so right, Carl," "Down Through the years," and "Selma, Queen City of the Blackbelt." There was always a slight pause between Selma and the rest of the phrase, "Queen City of the Blackbelt."

The way he said, "We're going to Atlanta with only one thought in mind. . . . Beat hell out of Georgia Tech."

His Seven D's of Success: Discipline, Desire to Excel, Determination, Dedication, Dependability, Desperation and the final one, when all else failed, "Damn it anyway, do something. . ."

The record will show that he won 175 football games—176 if a forfeit with Mississippi State is counted—but that is an incomplete record. A record, no matter how great that record may be, is incapable of measuring and remembering a man. It is a poor substitute.

At this moment I see his life as I have known it flash before my eyes—a man at the height of his power, a man entering retirement and a man facing old age. A strong and faithful man facing death.

I will remember his love, his loyalty, his compassion. In a word, his kindness. That and his sternness.

An Atlanta writer once said talking to Coach Jordan was like talking to your father. How true.

A father—that is what I and countless others have lost today.

We loved him.

And it will mean so much—Down Through the Years—to know that he returned that love.

[From the Atlanta Constitution, July 18, 1980]

AUBURN LOSES BELOVED COACH

(By Sam Heys)

The world of Auburn University knew him as "Shug," but the outside world never did get his name down quite right. They were always mispronouncing it.

Pronounced correctly, it was Shug (as in sugar cane) Jordan (to rhyme with burden). It was as if the rest of the world didn't understand the customs, culture and English of the man and his people.

The man was Auburn's football coach for a quarter of a century. He died Thursday at age 69 at his home in Auburn, Ala., where he had been ill with leukemia for several months. His funeral is scheduled for 3 p.m. EDT Friday at Holy Trinity Episcopal Church in Auburn, with burial to follow at Memorial Park.

To say James Ralph Jordan was more than a football coach would seem a trite thing to say except for the fact it's true.

Even after his retirement in 1975, he remained Auburn's most powerful man. Not because he had a 175–83–7 record, or because the football stadium bore his name, or because he was a member of the board of trustees, but because he was Shug Jordan. He could say something, and 80 percent of Auburn's people would agree with him. Not because what he said necessarily made sense, but because he said it. He was Shug Jordan, and he was their leader.

He was a Moses-like figure, for when he arrived in 1951, Alabama Polytechnic Institute had not won a football game the previous year, had scored only 31 points and had won only five games in four years.

And if API was a weak sister on the field, it was a stepsister off of it. The rest of the college world looked down its long nose at it.

The state legislature had been forced to make Alabama play API just three years earlier. Tennessee still refused to play "a team of farmers," and Georgia Tech, its biggest rival, wouldn't come to Alabama for a game. Even worse, the state government had always been controlled by lawyers who were University of Alabama alumni and forever giving API the financial shaft.

Jordan changed all that by rallying Auburn's clannish, prideful people around themselves, taking the 0–10 team he had inherited from '50 and converting it into a 10–0, national championship team by '57.

"They think they're better than we are," he'd tell his teams. "They think we're just an old bunch of country bumpkins."

To understand Shug Jordan, you must understand Auburn—which is more a way of life than a college.

David Housel, an Auburn author, once explained it this way: "Auburn is really a Horatio Alger. Here it was in the middle of East Alabama, the middle of the nowhere. It had nothing. Now it's something. Auburn is in the best interest of the American dream."

One would think that for a football coach to lead a university so far it would have taken a Bear Bryant-like figure. But Shug Jordan wasn't like Bryant, nor was he like the college football coaches of today. He probably didn't want to be.

He was a Southern gentleman, as corny as that might sound. He was a gentle person. He had a word for everybody. When you talked to him, he'd look you in the eye and call you by name. He had a great recollection of names, and of football games. During his retirement years, he could replay in that warm, Southern voice games of 20 years before.

He was always the same. Like a rock, someone once said.

Housel once wrote: "In an age of complex problems and more complex solutions, Coach Jordan suggests the existence of another world, a world of constant truths, a world of just and simple virtues, where, if a man has the courage and conviction to do what he believes is right, he can be a success."

Success didn't spoil Jordan; it really didn't affect him at all. He was a simple man who lived a simple life—in the best sense of the word "simple."

He didn't drive a Cadillac until he was given one as a retirement gift; his family has always driven Chevy and Fords. Auburn freshmen would be amazed how easy it was to run into him around town. They'd go to get a lemonade at Toomers Drugstore, and he'd be there getting one too.

His relationship with simple, down-home Auburn is best reflected by a statement he made when he turned down a coaching offer from the Philadelphia Eagles in 1955. He said, "I like Auburn. Auburn is my cup of tea."

He once described himself as "not very exciting," and he really wasn't. He refused to be controversial, even colorful. He wouldn't get into a war of words with the irascible Woody Hayes when Ohio State and Auburn split the national championship polls in '57. He never alibied in defeat, and he never complained during the probation years of the '50s. He never changed. He was like a rock.

His first coach, Paul Grist, remembers the day in 1918 in Selma, Ala., when a "little tow-headed boy in overalls drug a stalk of sugar cane in the front door of the YMCA and said, 'I want to play basketball.' "

The name "Shug" stuck, and so did athletics.

After graduating from high school, he worked for the state highway department to earn money to go to Auburn.

As a freshman basketball player he led the old Southern Conference in scoring, and in 1932 he pitched and hit Auburn to the Southern Conference baseball championship. But he lost his first coaching job when he wrote "Catholic" beside "Religious Preference" on his application. (He'd never mention the school's name, though. He'd say it wasn't important.)

Auburn took him back in. His old football coach, Chet Wynne, gave him a job as assistant freshman football coach and assistant basketball coach, and his coaching career was to begin before he turned 21. Two years later he became basketball coach and ran up a 91–72 nine-year record before entering the Army for World War II.

He was one of the few soldiers who participated in four of the war's major invasions—North Africa, Sicily, D-Day and Okinawa. He won the Purple Heart at D-Day.

He came home to Auburn to find new coaches in his old places, so he gave the old Miami Seahawks a try. The franchise folded, though, sending him to Georgia, where he became line coach for some of Wally Butts' best teams. He also coached the basketball team, winning 35 games in his two full seasons as coach—still a Georgia record over a two-year period.

When he gave up basketball to go back to Auburn as football coach, Kentucky basketball coach Adolph Rupp told him it was the worst mistake he had ever made. Meanwhile, the disgruntled and divided Auburn alumni wondered how good a football coach the Georgia basketball coach could be.

Jordan had applied for the Auburn football job three years earlier, but it had been given to Earl Brown, a Notre Dame man. Jordan didn't even apply in '51 until Jeff Beard, his old teammate who had just become athletic director, told him to. Jordan's application was simple: "I hereby apply for the head football coaching job at Auburn."

He got the job, narrowly, by a 3–2 vote, and he also got the five-year contract he had insisted on.

Upon departing, Brown had said, "No one could ever win at a place like Auburn," but Jordan wanted the job anyway. "After all, Auburn is my home," he said. ". . . I know Auburn people and Auburn troubles and Auburn hopes."

Jordan's first move was to get all that great Auburn spirit behind him.

"Auburn has always been famous for its spirit," says longtime Auburn business manager Bill Beckwith, "but in the previous two coaching regimes Auburn alumni were running in all different directions . . . Coach Jordan brought us together.

Jordan didn't need five years to make Auburn a winner. In his third year, the Tigers were 7–2–1. In the eight-year period from 1953–60, Auburn was 63–14–2. Jordan had made the oppressed the oppressor.

The key victories of that era came in the '55 game against Tech, which was Auburn's first victory over the Yellow Jackets in 14 years and firmly established Jordan's program, and the '57 game against Alabama, which gave Auburn the national title and ended the Alabama coaching career of J. B. Whitworth, who had once said Jordan was "too nice" to be successful.

Jordan's raging success at Auburn and his four straight victories over Alabama—by a total score of 128–7—forced Alabama people to find a coach they knew could compete with him. They hired Bear Bryant.

"A man has to learn where his breaking point is," Jordan once said of football. "Every season, there's the guy you can whip every time, there's the guy who whips you every time and then there's the guy who fights you to a standoff with no one winning. All of this happens before thousands of people, and the rules must be followed. It teaches a boy there are some things he can do and some he can't. Competitive sports helps make men out of boys."

A list of the great players who played for Jordan could go on and on: Sullivan, Burkett, Rice, Kolen, Beasley, Childress, Phillips, Dyas, Sidle, Fredrickson, Cody, Zeke Smith.

But such a list seems sort of inconsequential when you consider that the best of the bunch, Sullivan, once said, "Winning the Heisman Trophy was the second-highest honor of my life. The first was playing for Coach Jordan."

He was bigger than any of his players, but never too big to give a kid a chance. That's why Auburn led the world in walk-ons when he was coach. Fittingly, the player who blocked the two punts in Auburn's 17–16 victory over Alabama in 1972—Bill Newton—was a walk-on.

That game, which may be remembered as Jordan's greatest, culminated a four-year comeback by Jordan. From 1966–69, it seemed a few folks were alternately trying to fire Jordan or kill him off. They either said he had lost it or his health was too bad—he had surgery for prostate cancer in '68. Jordan fooled them, though. He proved his old-fashioned values and methods could still work. Auburn was 34–6 from 1969–72.

Jordan's only real defeat during this period came when university president Harry Philpott refused to make him athletic director. Jordan wanted the position badly, as a recruiting tool against Bryant, who was Alabama's AD. Philpott believed the dual job of coach-AD was too much for one man.

No one—from sportswriters to university presidents—could attack or hurt Shug Jordan without provoking the wrath of his people. But such a following never provoked Jordan to pretentiousness.

In his office was framed a verse that read: "The moral of this quiet example; Is to do just the best you can. Be proud of yourself, but remember, There's no indispensable man."

[From the Montgomery Advertiser, July 18, 1980]

Jordan Was More Than a Football Coach

(By Phillip Marshall)

I don't remember the first time I met Ralph Jordan, but I remember the first time he got my attention.

It was 20 years ago, 1960, and my brother and I had the rare privilege of watching Auburn play, I think it was Chattanooga, on the sidelines.

We stood watching in awe as Auburn warmed up for the game and Coach Jordan ambled over. "Now if ya'll see a big bunch of fellows coming toward you be sure to get out of the way," he told us. Then he smiled and made small talk for what seemed like hours with a couple of star-struck boys. He didn't have to take the time. . . . wasn't expected to. I became a Ralph Jordan fan that day, but it would be years later that I learned about the softness of his heart and the steel in his spine.

Ralph Jordan died Thursday. Auburn, the state of Alabama and the world are the losers, but he did his share toward making this a better place to live. I count myself among the fortunate because I knew him well, first as a wide-eyed child then as an admirer watching and writing about the game he taught.

It sounds corny, but Jordan taught more than football. He taught boys to be men, to stand up and fight for what was right, to give all they had and to be secure that, even if they didn't reach their goals, they had done their best.

Jordan coached a pile of All-Americans, a Heisman Trophy winner and thousands of boys who won because they tried harder. That's what he taught.

Jordan turned a down-and-out football program into one of the nation's best, but he was always the same country boy from Selma.

He thought football was meant to be played under the sun and on real grass, not at night or on what he often called "brillo pad." He thought football players were supposed to be cleancut examples of American youth, and he insisted on it. They couldn't have a mustache or a beard or long hair and play for Auburn University.

And he was superstitious. He wore a favorite old jacket and hat for years . . . after he gave up his lucky sweater.

There were those who said he was old fashioned, and he probably was. But the young men who played for him swore by him and they still do.

Never once did I see Jordan hang his head after a defeat. Never once did I see him fail to congratulate the opposing team.

Where do I start in remembering a great man? There were so many unforgettable moments on the field and long conversations in his office and on the telephone. Jordan was a wise man and knew about life.

I'll never forget the pure joy in his eyes after Auburn beat Georgia in Athens in the battle of the unbeatens in 1971. He held a piece of Georgia's famous hedge in his hand and allowed himself a blue-tinged word to describe the victory. "Now don't write that.' he said. "I'll have to be saying Hail Marys all week." Then he laughed a happy laugh.

I remember him just two weeks later, sick with disappointment after losing to Alabama but refusing to make excuses or belittle his team's effort.

I'll remember his joy after two blocked punts beat Alabama in 1972 and after an incredible comeback beat Georgia Tech in his final season of 1975.

But my most vivid memory of Jordan on the field was his last game at Jordan-Hare Stadium. His team, a disappointment after being picked to contend for the national championship, ran out ahead of him. Jordan walked out of the dressing room and was greeted by a sky-splitting roar. Finally, he raised his clinched hand above his head like a victorious fighter and went to his applauding team.

There were tears in the eyes of more than one writer in the press box that day. Auburn didn't win the game. Mississippi State came from behind for a 21–21 tie, and no one who was there will ever forget it.

Jordan gave 25 years to Auburn as a coach. He gave four as a player and four more as a member of the Board of Trustees. Auburn was his life. Now it is Auburn, his family and his friends who lose so much.

Jordan was a giant in his profession, respected everywhere football was played. But all he ever wanted was good things for Auburn.

It must have been in the 1972 Gator Bowl that a friend with me wanted to meet Coach Jordan, his long-time idol. We ran into Coach and Mrs. Jordan in the hotel lobby as the team was going to supper.

I stopped him to make the introduction. Instead of a quick nod of the head, he introduced his wife and talked to this man about where he was from, what he did and about his family. Like that day long ago on a football field, he didn't have to do it. He did it because that's the way he was.

Ralph Jordan stood for everything that is good—loyalty, integrity, effort. And that's the way he lived.

There have been more successful football coaches, men who have won more games and received more honors. Many coaches command tremendous respect from those who play for them, as did Jordan. But I never knew a man who inspired such love from those around him.

They'll bury him in Auburn today, with hundreds there to pay their respects.

They won't say goodbye. He'll live forever in the memories and hearts of those he knew.

[From the Montgomery Advertiser, July 18, 1980]

Shug Recalled as Gentleman

(By Tommy Hicks and Mark J. Skoneki)

Ralph "Shug" Jordan was Auburn University.

The 69-year-old former War Eagle head football coach and member of the school's Board of Trustees died at his Auburn home Thursday morning of acute leukemia.

He had suffered from the disease for almost four months. He also had a history of heart trouble.

Jordan's 25 years as head football coach, and the record accumulated during that span, placed him on a plateau as one of the game's greatest.

But more than that, his former coaches, players and friends said Jordan was a gentleman.

As numerous reactions to the news of Jordan's death poured in, that one word—gentleman—always surfaced.

"He was my coach as a player, he was my head coach when I was an assistant and we were rival coaches in the conference," Georgia football coach Vince Dooley said. "Through all that span of 30 years he was always a gentleman and my friend."

W. J. "Billy" Thames, a close friend for more than 50 years, echoed Dooley's sentiments.

"He was a super man, a fine Christian and a man of honor and character," he said.

Across the state, Alabama coach Paul "Bear" Bryant, a longtime rival, expressed his sorrow.

"He meant a lot to football and to the state," Bryant said. "I will miss him personally."

Auburn sports officials, too, were deeply saddened.

"I can never say how much he meant to me," said AU head football coach Doug Barfield.

Tiger Athletic Director Lee Hayley was "heartsick."

"He was my coach, and I grew up to be his friend," said Hayley, who played under Jordan from 1951–52.

Jordan, whose nickname some say came from his childhood love of sugar cane, compiled a 175–83–7 record and led the Tigers to a national championship in 1957. He also guided Auburn to 12 bowl appearences.

Born in Selma on Sept. 25, 1910, Jordan attended Auburn where he was a three-sport star, graduating in 1932.

He remained at Auburn as an athletic assistant, holding the post for 12 years, including a stint as the school's basketball coach.

Following a military tour during World War II, a brief return to Auburn and a short stint with a now-defunct pro football team, the Miami Seahawks, he joined the coaching staff at the University of Georgia where he remained four seasons

In 1951 Jordan returned to Auburn as head football coach, taking over a team that was winless in 10 games the previous season.

He turned the program around.

A boyhood friend, G. W. "Jeff" Beard, Auburn's athletic director at the time, hired Jordan.

"I didn't lack confidence," Beard said. "I knew he was the right choice for the job. He was probably the most knowledgable coach around."

Beard's confidence was reinforced after Jordan's first game, which the Tigers won 24–14 over Vanderbilt.

"That was the one big thrill that stands out in my mind," Beard said. "It's kind of been overlooked over the years but I'll never forget it. It convinced a lot of people and it got people behind Auburn again.

"But on Sunday he had the team right back out practicing. He had already put that win behind him."

Auburn went on to a 5–5 record that season and Jordan continued to make an impression on the people with whom he came in contact.

"He was a man that commanded respect," said Bob Scarbrough, a Montgomery businessman who played under Jordan from 1952–55. "He conducted himself in a way that made you want to emulate him."

Jordan seldom cursed, Scarbrough recalled, and even when he did it was rather tame.

"When he was really mad we'd hear him scream, 'Dammit, anyway,'" Scarbrough said. "That was the strongest curse we ever heard from him."

Several former players pointed to Jordan's compassion toward them, not only on the field but off it as well.

"I had some personal problems going into my junior year and Coach Jordan had me over to his house to talk about them," said Davis Brock, head football coach at Carver High School and a 1960–62 Auburn player. "He was concerned with me personally, and that was part of what helped me get through my problems."

Joel Eaves, athletic director emeritus at Georgia and a former Auburn staff member, was another close friend of Jordan's. He witnessed another kind of Jordan's compassion.

Eaves son, Joel Jr., died a few years ago. Before his death he was confined to a Birmingham hospital bed for two and a half months

"He (Joel Jr.) was quite depressed," Eaves said. "But Coach Jordan came up to visit him and it perked him right up. He talked with him for a long time and thoroughly enjoyed his visit.

"And even though he didn't like to fly, Coach Jordan took a plane here (Athens) for the funeral. That's the type of man he was. He always thought of others."

Even those Auburn players that didn't play under Jordan were aware of his presence and stature as a gentleman. One of those is Montgomery's Charlie Trotman, starting quarterback for Auburn last season, four years' after Jordan was retired.

"He was your friend first and your coach second," he said. "He was always concerned with your general welfare and that of those around you, not just how you were doing in football."

Trotman's father, John, who termed Jordan "one of the true Southern gentlemen," also had a fond memory of the former Auburn coach.

"Once, when I was president of the National Cattleman's Association, I was in Washington, D.C., for a meeting," he said. "Coach Jordan's picture made the front page of The Washington Post sports section. So I cut it out and mailed it to him from Washington. I also wrote that I had a son, Charlie, in junior high and that I hoped he would keep an eye out for him.

"Later, back home, I received a very nice, personal letter from him, thanking me for sending him the clipping and telling me that he certainly would keep an eye out for Charlie. I still have that letter in my scrapbook.

A couple of years after the letter was sent, the younger Trotman had the opportunity to meet Jordan.

"I told Coach Jordan that I wanted to play quarterback for Auburn," Trotman recalled. And he encouraged me to work hard and shoot for my goals.

"That made a very big impression on me. I didn't know if I would ever be good enough to play for Auburn but his taking the time to talk to a little boy like I was then was something I never forgot. I thought about that many times when I was out on the field or would see him around campus."

Carl Stephens, who hosted 139 Auburn football review television shows with Jordan on Montgomery's WSFA–TV, said the coach was always a gentleman during the broadcasts.

"He was always even-tempered whether they won or lost," he said.

It was on that show that Jordan started to say "You're so right, Carl," a line that would be repeated all over the Southeast and even printed on bumper stickers.

"Back in the early days of the show, it (the line) became a speech pattern for him," Stephens said. "Later when people started picking up on it, he made sure he said it every week."

Stephens said that when Pat Sullivan and Terry Beasley were impressing the nation with their aerial abilities, Jordan would come in before the show and watch the films.

"He'd get just as excited watching them as he did during the games."

[From the Atlanta Constitution, July 18, 1980]

Jordan Was the Plain's Top Citizen

(By Jesse Outlar)

No one could have loved Auburn University more than Ralph "Shug" Jordan did. and no one was more beloved by alumni and friends than the former coach who died of leukemia at his home in Auburn early Thursday morning.

I always called Jordan a man for all seasons. He was the same sincere gentleman whether his football team was the national champion, as it was in 1957, or had had a bad year.

Some critics claimed that Jordan, who retired in 1975 after compiling a 175–83–7 record at his alma mater, did not change with the times. There was no need for him to change.

I've never met a man involved in football with more character than Jordan had. He earned the respect of everyone who really knew him. Unlike many football coaches, he was a scholar. He majored in English and minored in literature when he was a three-letter star at Auburn. He was voted Auburn's outstanding athlete by his teammates in his senior year in 1932.

He was a disciplinarian, but he was fair, and he was indeed the type of coach you would have wanted your son to play for. I first met Jordan in 1950 when he was an assistant football coach on Wallace Butts' Georgia staff. He was also basketball coach, and his 50–32 record is still the best of any Bulldog coach in modern times.

The Auburn athletic program was at its lowest ebb in 1950, and it seemed that every Auburn old grad had a candidate for the football coaching job.

Jordan desperately wanted the job, and he was confident that he could restore Auburn prestige. While the War Eagles debated about a successor to Earl Brown, I asked Butts if he thought Jordan would get the job.

"He's the one man who can unite the Auburn alumni," said Butts. "If they hire Ralph, I'll guarantee you that they will have a winning program within a few years. He has everything it takes to succeed in this business. He's intelligent, tough, and he never quits working."

Auburn almost bypassed Jordan, but Jeff Beard and other supporters finally won the battle for him in a late-night session. And hiring Jordan was the greatest move Auburn ever made in its athletic department.

On the surface, it appeared it would take many years for any coach to win at Auburn. The football Tigers had scored only four touchdowns while losing all 10 games in 1950.

But Jordan went to work, and Georgia coach Vince Dooley, who played on his first team, vows that no one worked harder. The work paid off in the very first game at Cliff Hare Stadium, which is now Jordan-Hare Stadium.

Vanderbilt, one of the SEC's pre-season favorites with Billy Wade at quarterback, was a 17-point favorite, but Auburn won 24-14. The Jordan era was under way, and Auburn would have only three losing football teams during his illustrious 25-year career.

Down the years, I was fortunate to spend countless hours with Jordan. I shall never forget his last visit as a coach to Georgia Tech, in 1975.

Brash Pepper Rodgers, who was quarterbacking Brown High when Jordan became Auburn coach, stunned him before the game by requesting a television interview. He told Rodgers he didn't even talk to his wife before football games, but I think he said a few words on TV.

Georgia Tech led 27–10 with 20 minutes remaining, but Auburn won 31–27.

"Other than my victories over Alabama," Jordan told me after the game, "I'd have to say that this is the game I'll remember most. In one capacity or another, I've been competing against Tech for 45 years, so you can understand why this victory means so much to me."

Jordan was an eloquent speaker with a keen sense of humor. While he was winning his first fight with cancer several years ago, SEC Skywriters visited Auburn. Jordan gave an entertaining review of his team. Then, a writer said, "Coach, I regret to mention it, but we hear that you are seriously ill with cancer."

Jordan smiled and replied, "I'll assure you if I had only a few days to live, I wouldn't be spending one of my last nights with a group of sportswriters."

Jordan was truly a man for all seasons, and the seasons at Auburn won't ever be the same without The Gentlemen of the Plain.

Shug's Eulogy—Old Players, Old Fans, Old Adversaries

(By Richard Hyatt)

AUBURN, ALA.—The services were simple and straight-forward, like the man they were honoring.

Old players. Old fans. Old coaches. Old sportswriters. Old friends. Old Saturday afternoon adversaries. All gathered here Friday to express their feelings for Shug Jordan.

The players represented 25 years. The fans represented those who knew him well and those who wished they did. The coaches had worked with him in good times and bad. The sportswriters were here to write about him one last time. The former adversaries came to show that competitors could still be friends.

Ralph "Shug" Jordan died Thursday morning at the age of 69. Episcopal services were held Friday afternoon at the Holy Trinity Episcopal Church, just a couple of blocks from the comfortable home where Shug and Evelyn Jordan had lived for so many years.

In keeping with Episcopal tradition and belief, the eulogies were brief. But the Rev. Bill McLemore said it well when he told the hundreds inside his church and the hundreds listening on the hillside outside that they were the former coach's best eulogy.

"I can think of no better eulogy or sermon than your presence here today. Each of you brings your own sermon," the Rev. McLemore said.

The sermons the people brought were varied, too.

"He was present to us in so many ways. husband, father, brother, coach and friend," the minister said during the 15-minute services.

And the expressions you saw and heard around this town which had become Shug Jordan's home were varied also.

In the city workmen who up to an hour before the services were diligently clearing the shady street of every pine needle and limb in sight.

In the white wreath hanging on the plate-glass door of the Auburn Athletic Office where many of the old coach's friends gathered before and after the services.

In the prominently displayed photographs and plaques around the athletic offices, so many of them bearing his name and face.

In the trophy case, overstocked with aging footballs with memorable scores from memorable games on the side, in most of which he had a guiding role.

In the orange and blue decorated wreaths which were delivered to the tented grave site.

And naturally in the ever-embellishing tales which were retold over and over among the Auburn faithful among the hundreds who came.

It was difficult to recognize them all without a program, but a few stood out.

Such as Pat Sullivan, the 1971 Heisman Trophy winner. He and his old pass-catching teammate Terry Beasley joined former players Terry Henley, Mike Neel, Rusy Deen and Phil Gargis as the pallbearers.

"It was an honor for me to be asked from among the many whom Coach Jordan touched," said Beasley, who now lives in Montgomery.

"We actually became closer after I got out of school. He'd call me if he was in Birmingham and I'd go by his house and sit with him out in his backyard chewing the fat. He was just a friend. When I decided to get out of football he was the first person I called," said Sullivan, who sells insurance and coaches his 6-year-old's soccer team in Birmingham.

Sullivan and Beasley were joined by players from their era and from past years. Some looked like they could suit up right now. Many looked like the uniforms might fit a little snug.

Joining the old Auburn grads were a pair of Jordan's strongest Saturday adversaries, Bear Bryant of Alabama and Vince Dooley of Georgia. Of course, Dooley also qualifies as an old grad since he played for some of Jordan's earliest Auburn teams.

There was even a governor. But Gov. Fob James of Alabama wasn't there wearing the cloak of his elected office.

"I'm here as a former player for Ralph 'Shug' Jordan," said the former halfback, circa 1952–1955. "To him, I was always No. 23, old Fob the Halfback. This governor business didn't impress him a bit."

James laughed as he remembered Jordan's insight "I came into the room. There was Coach Jordan. There was my daddy. There was my shotgun and there were my rods and reels. All of that stuff was over in the corner. He (Jordan) told me that shotgun and those rods and reels would stay right there until my grades came up. And they did, too," James said.

The influence didn't stop there.

"Even these days he'll tell what he thought and how I ought to do something. And you know, he was always right."

Mr. HUTTO. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Speaker, in the passing of Ralph "Shug" Jordan, the Nation has lost one of its most outstanding sports figures. Coach Jordan was synonymous with Auburn football for a quarter of a century. His teams ranked among the best in the Southeastern Conference and the Nation, and one year, 1957, won the national championship. It was my pleasure to produce and narrate with Coach Jordan "Auburn Football Review" on a state-wide television network for a couple of years in the early 1960's. I came to know Coach Jordan not only as a great football coach, but also as a good friend. Although a tough taskmaster, he was also a kind, gentle, and understanding person, respected by friend and foe alike and loved by his players. In victory and defeat, he was always a gentleman of the highest caliber. I think this can best be summed up by a friend of mine who told me one time:

> Although I went to Alabama, if I had a son I would want him to play for Shug Jordan at Auburn.

FEDERAL SPENDING OUT OF CONTROL

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, although it did not receive the attention it deserved, we have received some very grim economic news from the administration. I have reference to the administration's revised budgets for fiscal years 1980 and 1981. If proof-positive was needed that Federal spending is out of control, then the President's mid-term budget update did exactly that. While packed full of numbers, the 80-page report documents that this administration and this Congress have failed to keep its promises and failed to carry out its responsibilities. Let me review a few of the more troubling facts and figures:

First. The deficit for this current fiscal year—1980—has now reached $60.8 billion; a figure twice as large as the deficit planned only last November when Congress passed its second budget resolution for 1980, and $15 billion higher than the deficit contained in the third budget resolution for 1980 the Congress adopted only last month. Moreover, when the off-budget deficit is added to this $60.8 billion, we end up with a total Federal budget deficit of $77 billion, the highest Federal deficit ever.

Second. For fiscal year 1981—and remember, fiscal 1981 was to be the first year we balanced the budget since 1969—the surplus we adopted in the first budget resolution last month has now vanished. The Carter administration is handing us a $29.8 billion deficit instead. As bad as that may sound, the administration has intentionally understated the true size of the deficit. Let me explain.

To arrive at the deficit of $29.8 billion, the administration assumes that spending in 1981 will total $633.8 billion and revenues will be $604 billion. But included in that revenue figure are two new taxes which the Congress has made clear it has no intention of imposing on the American people. First, the administration wants to withhold income taxes on interest and dividend payments, a move it says would raise $3.4 billion in revenues in 1981. Congress has told the administration that it will not enact this withholding, especially since there is wide agreement that we must increase the amount of savings and investment in this country in order to improve our productivity and increase our competitiveness with our foreign trading partners.

Second, in spite of overwhelming votes in both Houses to repeal the President's fee on imported oil, Mr. Carter is still assuming in his 1981 budget update that Congress will enact a 10 cent per gallon tax on gasoline, effective June 1, 1981, to go on top of the current 4 cents per gallon tax. We all know, and Jimmy Carter knows, that these new taxes will not be enacted by the Congress and that to do so would be totally irresponsible under current economic conditions. But when the President's budget is revised to reflect the fact that he will not get this added tax revenue, revenues drop by $6.9 billion and the deficit figure goes up to $36.7 billion.

The really bad news in the President's budget revision is how he expects the ecnomy to perform over the next year. Unemployment, which already stands at 7.7 percent will go up to 8½ percent by year's end and stay that way through 1981. CBA predicts unemployment to go to 9.4 percent in the fourth quarter. Let me tell you what this means: 8½ percent unemployment means over 9 million out of work not just this Christmas, but 9 million men and women out of work at Christmas time in 1981 as well. The economy—as measured by the real growth of the gross national product—will reline by 1.4 percent this year and grow by a meager 3/100ths of 1 percent next year. In spite of all this, inflation will remain at or about 10 percent all through the following year. But what does President Carter—the one who campaigned for President on the promise he would never fight inflation with unemployment—plan to do about all this social and economic misery he has wrought for the people of this country? The answer is more of the same.

He talks about maybe having a tax cut in 1981. He talks about maybe asking for a productivity tax cut next year even though productivity in this country actually declined last year, and has, for all of the 1970's trailed the growth of our principal trading partners. He talks about maybe doing something to offset the tax burden on the American working family which now stands at its highest level in history. Tax relief beginning in January 1981, he says, would be inflationary even though taxes will take over $50 billion additionally out of their pockets next year. I would like to recall the words of Jimmy Carter when he was seeking election, and I quote:

> I would never increase taxes for the working people of our country . . . and you can depend on that if I'm elected.

I recommend that each and every one of you get a copy of the administration's midsession review of the budget. It is a document which assures a continuation of this administration's policy of no growth, high taxes, higher unemployment, more deficit financing, and uncontrolled spending.

THE CASE OF MR. WILLIAM CARTER—MINISTER WITHOUT PORTFOLIO

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. DORNAN. Mr. Speaker, press reports abound with speculation over the affair of William Carter, a friend and apparent advocate of certain exotic North African interests in the United States. I notice that my Republican friends are asking familiar questions, an infinite series of "why's" and "what if's" painfully reminiscent of another scandal that brought down a President and disgraced a vast group of bright young Washington lawyers.

I appreciate the relevance of the questions my colleagues are now asking. Why did not Mr. William Carter register under the Foreign Agents Registration Act? How much did Mr. James Earl Carter know about his brother's dealings with a foreign power? I appreciate the relevance of those questions. But I think that we would make a grave mistake if we did not put the affair of Mr. Carter into proper perspective. After all, he was not an advocate of the interests of a Monaco, a Luxembourg, a Republic of Ireland, a Norway, a Switzerland, nor a New Zealand.

Whatever technical violations of our domestic laws may have been committed, the stark fact stands out that Mr. William Carter was on amicable terms with a morally reprehensible foreign power thoroughly hostile to the United States and her Western allies. But more than that, Libya, whose leadership so impresses Mr. William Carter that he feels he must advance their interests here in the United States, is also the prime staging ground for international terrorism. What kind of activities have the Libyans supported? Let me give my colleagues an incomplete shopping list—

Complicity on the assassination of 11 Israeli athletes at the Munich Olympics with the 3 surviving terrorist murderers being given a hero's welcome in Libya—after a hijacking of a Lufthansa jetliner blackmailed their freedom from the FRG;

The murder of two American diplomats at Khartoum, an Ambassador and his DCM executed Mafia style on their knees;

The murder of 32 people, including 10 American children, aboard a Pan Am jetliner at the Leonardo de Vinci Airport in Rome;

Asylum for the genocidal maniac Gen. Idi Amin;

The murder of 4 civilians, and the wounding of 55 others, on a TWA plane at the Athens airport;

An attack on a U.S. reconnaissance plane in international air space;

Complicity in the genocide of hundreds of thousands in the Sudan;

The kidnaping of oil ministers at OPEC meeting in Vienna;

The shooting of four people, including one of own congressional aides, in Istanbul.

And the distinguished list of terror goes on and on. Libya's dictator Moammar Qaddafi has assisted virtually every terrorist operation in the Middle East, at a time when Arab leaders in Jordan, Saudi Arabia, and Egypt have been trying desperately to achieve a workable peace in the Middle East, a goal so earnestly sought by all of us, and notably by Mr. William Carter's brother.

In July of 1976, Qaddafi admitted that thousands of Libyans were receiving training in the U.S.S.R. At the very time of that remarkable admission, Sudan told the United Nations Security Council that Libya was behind an abortive coup to overthrow Sudanese President Jaafar Numeiry, presenting proof from mercenaries that they had been trained in Libya.

In 1975 Qaddafi signed a $2 billion arms agreement with the Russians for 24 MiG fighters, 1,100 tanks, and 50 batteries of antiaircraft missiles. Much more than this has been delivered. Much still sits on the docks in Tripoli. Many of the small arms that the Russians ship to Libya are used for the hundreds of terrorist operatives that Qaddafi trains and finances each and every year. According to a recently published book, "International Terrorism" by Prof. Stefan Possony and Lyn Francis Bouchey of the Council for Inter-American Security:

> The arms and, in fact, the entire state apparatus are at the service of terrorism. Libya provides training for several hundred terrorist operatives each year. Training includes not only instruction in light weapons, but also flight training and instruction with advanced weapons such as SAMS. Egyptian and West German sources contend that missions are carefully rehearsed in Libya and the Libyan diplomatic service supports the operations through passports and weapons transported in diplomatic bags. (International Terrorism, ACWF, p. 28).

West German sources have claimed that Qaddafi has been spending millions of dollars each year on terroist activities, all of it under East German Communist supervision.

The gravity of Mr. William Carter's loathsome taste in friends cannot be obscured by a mask of buffoonery on the part of "lil' brother Billy," an innocent, smalltime, smalltown hayseed comic.

DO DEMONSTRATING IRANIANS VIOLATE THEIR RESIDENCY STATUS IN THIS COUNTRY?

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. LAGOMARSINO. Mr. Speaker, the violent demonstrations yesterday between pro- and anti-Khomeini factions in the streets of our Nation's Capital raise once again the issue of Iranians violating their residency status in this country.

I have written to the President and the Attorney General urging them to investigate the circumstances of those Iranians arrested and determine if they are in the

United States illegally or have violated the requirements of their visas.

If they are proved to be in the United States illegally or to have acted illegally, then, I believe, deportation proceedings should be immediately filed against them.

The murder of an exiled Iranian diplomat is serious enough without having those who welcomed his murder engaging in violent demonstrations against his followers.●

☐ 1810

QUALITY OF LIFE REQUIRES AIRCRAFT NOISE ABATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PORTER) is recognized for 15 minutes.

Mr. PORTER. Mr. Speaker, 7 months ago, this body committed a grave error when it blindly passed the conference report on H.R. 2440, the Airport and Airway Development Act of 1970. Although H.R. 2440 did address some major issues on the matter of airport development, it also took a giant step backward by undoing almost 11 years of effort to curb aircraft noise.

H.R. 2440, now Public Law 96-193, provides a major loophole for the airline industry by granting reprieves from the noise abatement standards established by the 1976 fleet noise rule. Under the previous act, noisier two- and three-engine aircraft would have to have been quieted or retired by 1983. Public Law 96-193 postponed that deadline to 1985 for three-engine aircraft and 1986 for two-engine aircraft. Four-engine aircraft were given no exemption and must still be in compliance with noise standards by 1985. The exemption for two- and three-engine aircraft is of special importance since 70 percent of the civilian airline fleet is composed of such aircraft.

Aircraft noise is a problem of major concern to over 6 million people living in the vicinity of the major U.S. airports. Some communities showed considerable foresight by building airports in sparsely populated areas. However, the housing crunch and the trend to move to the suburbs prompted many people to move into such areas. Nevertheless, the majority of the residential areas plagued by aircraft noise were in existence long before the adjacent airport was even in the planning stages.

Regardless of whether the airport preceded the suburb or vice versa, it is clear that people living in those affected areas are harmed by aircraft noise and are in dire need of relief.

Aircraft and airport noise represents a major environmental hazard to those who must live adjacent to an airport. Studies on the effects of excessive noise have shown that the human body subconsciously reacts to it. According to the Environmental Protection Agency studies, the blood pressure rises, heart rate and breathing increases, muscles tense and perspiration occurs.

These physiological reactions can occur even during sleep. The long-term result of exposure to excessive noise can result in serious illness including: ulcers, high blood pressure, and even emotional problems.

The Congress must take immediate action to corect its error in delaying full implementation of noise abatement standards. Failure to act will result in continuing the deteriorated quality of life that those living in the vicinity of airports were led to believe they would escape by the mideighties.

In 1976, the Federal Aviation Administration reported that there were 583 aircraft in the U.S. civil air fleet that met the Federal aviation regulation noise level standards; 1,584 aircraft failed to meet such standards. The FAA has projected that in 1985, without additional Federal incentives for noise reduction, there will be approximately 1,850 aircraft in compliance and 1,182 failing to meet the prescribed noise standards. Mr. Speaker, that represents an improvement of only 402 aircraft over a 9-year period of time. That is simply not good enough.

The legislation I am introducing today is intended to eliminate the special noise abatement exemptions granted to two- and three-engine aircraft in Public Law 96-193. The bill would direct the Secretary of Transportation to determine the lowest level of noise attainable by retrofitting the engines on two- and three-engine aircraft currently in commercial airline useage. The Secretary shall be further directed to authorize grants on a 50-50 cost sharing basis to meet the expense of retrofitting the engines. Such moneys shall be appropriated from the Airport and Airway Trust Fund.

I ask my colleagues in the House to join with me in improving the lives of all people residing by our Nation's airports.

MONTHLY LIST OF GAO REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The June list includes:

NATIONAL DEFENSE

Correct Balance of Defense's Foreign Military Sales Trust Fund Unknown. Acc. No. 112513, FGMSD-80-47, June 3.

Major Deficiencies in Army's Washington, D.C. Finance and Accounting Operation. Acc. No. 112446, FGMSD-80-53, June 5.

Late Fire Control System Deliveries for Army's M-60A3 Tanks Jeopardize Combat Readiness Improvements. LCD-80-79, June 30.

Operation and Support Costs of Navy's F/A-18 Can be Substantially Reduced. Acc. No. 112515, LCD-80-65, June 6.

Military Standard on Work Measurement—A Way to Control Cost and Increase Productivity. Acc. No. 112419, PSAD-80-46, June 3.

Issues Identified in 21 Recently Published Major Weapon System Reports. PSAD-80-43, June 12.

Department of Defense's Standardization Program for Military Computers—A More Unified Effort is Needed. Acc. No. 112594, LCD-80-69, June 18.

Navy has Opportunities to Reduce Ship Overhaul Costs. Acc. No. 112567, LCD-80-70, June 17.

World Wide Military Command and Control System—Evaluation of Vendor and DOD Comments. LCD-80-22A, June 30.

Better Controls and Data Needed to Distribute Defense Medical Supplies. LCD-80-77, June 25.

Eliminating Marine Corps Logistics Overlap Saves Millions; Further Savings Possible. LDC-80-74, June 30.

Controls Over Property in Custody of Military Units can be Improved. Acc. No. 112487, LCD-80-66, June 6.

Adjustments Recommended in Army's Ammunition Procurement and Modernization Programs. Acc. No. 112541, LCD-80-62, June 12.

Letter reports

Army Procurement of 10kw, 60 Hz gas turbine generators is more questionable because of rising fuel costs. Acc. No. 112417, PSAD-80-54, June 2.

The high altitude high speed target program should be modified or killed. Acc. No. 112418, PSAD-80-52, June 2.

Air Force justification for storing its advanced medium and short takeoff and landing prototype aircraft. PSAD-80-56, June 16.

Most Army and Air Force air and ground vehicles which could be used for medical evacuation purposes have other primary wartime missions. LCD-80-71, June 10.

The Army has removed fixtures and equipment from Fort Wadsworth in its transfer to the Department of Interior's Gateway National Recreation area. LCD-80-80, June 23.

INTERNATIONAL AFFAIRS

Cooperation in Agricultural Assistance: Elusive Goal in Indonesia. ID-20-29, June 11.

Foreign Direct Investment in the United States—The Federal Role. Acc. No. 112422, ID-80-24, June 3.

ENERGY

Effects in Washington, D.C. Area of 1979 Gasoline Shortage: Supplies Less Than National Average: Price Increases Comparable. EMD-80-70, June 24.

Potential of Ethanol as a Motor Vehicle Fuel. Acc. No. 112588, EMD-80-73, June 3.

How the Petroleum Refining Industry Approaches Energy Conservation—A Case Study. Acc. No. 112557, EMD-80-55, June 13.

NATURAL RESOURCES AND ENVIRONMENT

Status of Efforts to Clean Up the Shut-Down Western New York Nuclear Service Center. EMD-80-69, June 6.

EPA Should Help Small Communities Cope With Federal Pollution Control Requirements. Acc. No. 112431, CED-80-92, May 30.

Problems Continue in Federal Management of the Coastal Zone Management Program. CED-80-103, June 25.

Land Use Issues. CED-80-108, June 27.

Managerial Changes Needed to Speed Up Processing Permits for Dredging Projects. Acc. No. 112577, CED-80-71, June 9.

Letter reports

Amendment 1684 to Senate bill 1637 concerning the oil and gas leasing system has a negative impact on the recovery of a fair market value. EMD-80-79, June 22.

AGRICULTURE

Food, Agriculture, and Nutrition Issues for Planning. Acc. No. 112543, CED-80-94, June 11.

Letter reports

Information on grain subterminal facilities. Acc. No. 112514, CED-80-104, June 5.

TRANSPORTATION

Federal Assistance to Rehabilitate Railroads Should Be Reassessed. CED–80–90, June 27.

Conrail's Attempts to Control Labor Costs and Improve Its Labor Productivity. CED–80–61 June 20.

FAA Has Not Gone Far Enough With Improvements to Its Planning and Acquisition Processes. Occ. No. 112561, PSAD–80–42, June 4.

Letter reports

The Rapid Transit System of Metropolitan Dade County, Florida has slipped its starting date 16 months. Acc. No. 112452, PSAD–80–49, June 5.

The Department of Transportation and the Environmental Protection Agency acted within the scope of their responsibilities in providing contract funds for operation of the Citizen/Government Transportation Planning Center in Windsor, Conn. CED–80–99, June 19.

SOCIAL SERVICES

The Law Enforcement Education Program is in Serious Financial Disarray. Acc. No. 112429, FGMSD–80–46, June 4.

Making Public Buildings Accessible to the Handicapped: More Can Be Done. Acc. No. 112488, FPCD–80–51, June 6.

Need to Ensure Nondiscrimination in CETA Programs. Acc. No. 112595, HRD–80–75, June 17.

Section 8 Subsidized Housing—Some Observations on Its High Rents, Costs, and Inequities. Acc. No. 112485, CED–80–59, June 6.

Letter reports

Poor management has reduced the effectiveness of Tulsa Human Services Agency programs. HRD–80–62, May 20.

HEALTH

FDA Drug Approval—A Lengthy Process That Delays the Availability of Important New Drugs. Acc. No. 112450, HRD–80–64, May 28.

Problems Remain in Reviews of Medicaid-Financed Drug Therapy in Nursing Homes. HRD–80–56, June 25.

States Should Intensify Efforts to Promptly Identify and Recover Medicaid Overpayments and Return the Federal Share. Acc. No. 112540, HRD–80–77, June 10.

Child Care Food Program: Better Management Will Yield Better Nutrition and Fiscal Integrity. Acc. No. 112517, CED–80–91, June 6.

Major Factors Inhibit Expansion of the School Breakfast Program. Acc. No. 112566, CED–80–35, June 16.

Congress Should Mandate Formation of a Military-Va-Civilian Contingency System. HRD–80–76, June 6.

Letter reports

Problems identified in the data base and procedures of the Health Care Financing Administration's use of computing proposed home health care reimbursement limits. Acc. No. 112506, HRD–80–85, May 8.

The Congress can strengthen oversight by closer review of program design and regulation development in the executive branch. Acc. No. 112430, PAD–80–77, May 22.

Information on the Securities and Exchange Commission's utilization of office space. FGMSD–80–59, May 20.

INCOME SECURITY

Need to Prevent Windfall Benefits to Supplemental Security Income Recipients. Acc. No. 112406, HRD–80–44, May 30.

ADMINISTRATION OF JUSTICE

Poor Management Identified at the Bureau of Prisons. GGD–80–45, June 6.

Letter reports

Improvements are needed in the management of Federal prison industries' factories. Acc. No. 112511, GGD–80–67, June 9.

GENERAL PURPOSE FISCAL ASSISTANCE

Changes in Revenue Sharing Formula Would Eliminate Payment Inequities; Improve Targeting Among Local Governments. Acc. No. 112564, GGD–80–69, June 10.

Impact of Eliminating States From the General Revenue Sharing Program—A Nine-State Assessment. GGD–80–68, June 27.

Impact of Tiering and Constraints on Targeting of Revenue Sharing Aid. Acc. No. 112518, PAD–80–9, June 11.

Letter reports

More flexibility is needed in setting revenue sharing adjustment reserves. Acc. No. 112542, GGD–80–82, June 12.

GENERAL GOVERNMENT

Federal Agencies' Initial Problems With the Right to Financial Privacy Act of 1978. GGD–80–64, May 29.

Problems in Test Censuses Cause Concern for 1980 Census. Acc. No. 112560, GGD–80–62, June 3.

OMB's Study of Decentralization of Federal Government Functions. Acc. No. 112409, LCD–80–57, May 29.

Government Earns Low Marks on Proper Use of Consultants. Acc. No. 112520, FPCD–80–48, June 5.

Equal Employment Opportunity in State and Local Governments: Improving the Federal Role. HRD–80–74, June 25.

Disclosure and Summons Provisions of 1976 Tax Reform Act—An Analysis of Proposed Legislative Changes. Acc. No. 112579, GGD–80–76, June 17.

Status, Progress, and Problems in Federal Agency Accounting During Fiscal 1979. FGMSD–80–52, June 20.

Conversion: A Costly, Disruptive Process That Must Be Considered When Buying Computers. FGMSD–80–35, June 3.

GSA's Lease Versus Construction Present-Value Cost Analyses Submitted to the Congress Were Inaccurate. LCD–80–61, June 20.

Program to Improve Federal Records Management Practices Should Be Funded By Direct Appropriations. LCD–80–68, June 23.

First-Year Activities of the Merit Systems Protection Board and the Office of the Special Counsel. Acc. No. 112519, FPCD–80–46, June 9.

Evaluating a Performance Measurement System—A Guide for the Congress and Federal Agencies. Acc. No. 112444, FGMSD–80–57, May 12.

Audit of the House Recording Studio Revolving Fund for FY Ended December 31, 1979. GGD–80–65, June 16.

Audit of the House of Representatives Beauty Shop for the Calendar Year 1979. Acc. No. 112568, GGD–80–58, June 17.

Letter reports

Legislative change is needed to eliminate the requirement for a declaration of estimated tax. Acc. No. 112505, GGD–80–61, May 8.

Automating the search process at the Patent and Trademark Office is not feasible. Acc. No. 112512, FGMSD–80–40, May 9.

Information on the Cost-benefit analyses of the Professional Standards Review Organization Program. Acc. No. 112578, HRD–80–93, June 12.

The Congress should decide whether continuation of a comprehensive medical plans network is appropriate. HRD–80–89, May 30.

Estimate of California's FY 1980 non-Federal matching shares. Acc. No. 112421, GGD–80–73, May 30.

Impoundment of funds for the National Alcohol Fuels Commission, and the Departments of Commerce and Justice. Acc. No. 112451, OGC–80–13, June 4.

Examination of financial statements of the Overseas Private Investment Corporation for fiscal years 1979 and 1978. Acc. No. 112445, ID–80–45, June 5.

The District of Columbia has a reported deficit of $284.4 million in its general fund. GGD–80–85, June 23.

The monthly list of GAO reports and/or copies of the full texts are available from the U.S. General Accounting Office, distribution section, room 1518, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 275–6241.●

SUBCOMMITTEE ON CRIME TO HOLD A HEARING ON THE PHASING OUT OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS Mr. Speaker, on Tuesday, July 29, 1980, at 9:30 a.m. in room 2237 Rayburn House Office Building, the Subcommittee on Crime will hold a hearing on the phasing out of the Law Enforcement Assistance Administration (LEAA).

Witnesses scheduled to testify are Hon. ROBERT McCLORY, ranking member of the Judiciary Committee; Mr. Paul Michel, Associate Deputy Attorney General for the Department of Justice, accompanied by Mr. Henry Dogin, Director of the Office of Justice Assistance, Research and Statistics (OJARS) and Mr. Homer Broome, Administrator of the Law Enforcement Assistance Administration; Mr. Lee Thomas, director, Division of Public Safety Programs of South Carolina, and chairman of the National Criminal Justice Association; Mr. John O' Sullivan, director, Criminal Justice Coordinating Council; Hennipin, Minn., vice chairman of the National Association of Counties, Subcommittee on Criminal Justice Planning and Mr. John Lagomarcino, general counsel, National Governors' Association.

Individuals wishing to submit a statement for the Record should address their request to the Subcommittee on Crime, House Committee on the Judiciary, 207-E Cannon House Office Building, Washington, D.C. 20515 or telephone (202) 225–1695.●

THE BIG SUR COAST AREA ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

○ Mr. PANETTA. Mr. Speaker, last week the House Interior Committee completed action on the Big Sur Coast Area Act, H.R. 7380, which I introduced on May 19 of this year. I would like to take this opportunity to review the events leading up to introduction of this bill, as well as summarize the actions taken by the Interior Committee.

This legislation marks the culmination of over 2 years of work with the citizens of Big Sur, the affected local, State, and Federal agencies, local groups, and a number of interested parties. It is largely based on recommendations from the Big Sur Citizens Advisory Committee formed to advise Monterey County on a local coastal program.

In addition, it reflects literally hundreds of comments which I have received on draft legislation which I prepared and circulated to concerned agencies, groups, and citizens over the last 2 months. In the end, I believe the proposal represents a unique legislative approach to a truly unique area.

The Big Sur coast is an outstanding area of scenic beauty, of spectacular views, of magnificent and undeveloped coastline, and of independent and self-reliant people and communities. All of these qualities constitute the special character of what we know as the Big Sur area. And in seeking to protect and preserve this area, we must balance all of these important values that make Big Sur what it is today.

There is really no question but that this remarkable and unique area must be preserved. Regardless of differences in the approach, there is no disagreement among the residents or visitors to this area but that they want Big Sur to stay the way it is. And so do we all. But there are forces at play today which make preservation of Big Sur as it is difficult to achieve. There is increasing development of homes and residences. There are over 3 million visitors to Big Sur annually that strain the capacity of the two-lane coastal highway and increase commercial pressures on the area. There is a lack of sufficient resources to provide adequate natural and scenic protection. These trends promise not only to detract from the scenic attributes of the area, but additionally threaten to alter the rural, independent character of the communities there. No one wants the unique qualities of Big Sur marred in any way. Neither is there a desire to apply any kind of rubber stamp approach that does not speak to the special needs of this area.

Some take the position that the best way to preserve the area is to do nothing. But coordination of existing Federal authorities and adequate resources to implement a LCP cannot take place in a vacuum. The Citizens Advisory Committee has recognized this reality and for that reason supports the bill I have introduced.

To effectively preserve and protect Big Sur, there must be comprehensive planning, effective management and appropriate financial assistance and enforcement to implement such planning and management. By the very fact that there exists a mix of jurisdictions between the local, State and Federal Government in this area, there is a need to coordinate such planning and management. If standards conflict, if resources management differs, if property owners or residents face varying rules and regulations from different levels of Government, then the residents and citizens of Big Sur themselves will pay a heavy price for lack of coordination.

Additionally, in the effort to preserve those natural resources and areas worthy of special protection, adequate financing and compensation for landowners and residents will be necessary. With limited funds at both the State and local levels of government, both county and State agencies have stated that they do not have adequate resources and additional financing will be necessary if planning efforts are to be effective.

My legislation follows several basic precepts supported by the Citizens Advisory Committee: Involvement of the citizens of Big Sur in the planning processes for the region; the retention of existing jurisdictional authorities at the State and county levels; coordinated management authority in Big Sur; and limitations on Federal acquisition powers with an emphasis on assistance to local agencies and nonacquisition efforts to retain the land as it exists today.

To accomplish these goals, the legislation does the following:

First. It establishes a permanent Big Sur Council consisting of representatives of State, local, and Federal governments with a majority of the members (5 of 9) being residents of the area to be selected by the local board of supervisors. The council's duties would include the development of a comprehensive management plan for the area, reviewing and monitoring the implementation of the plan for the area, reviewing and monitoring the implementation of the plan by agencies within the Big Sur area, and oversight of any revisions and enforcement of the plan.

Second. It requires the development of a comprehensive management plan based on local planning efforts with a land-use component to be drawn from the local coastal programs (LCP) drafted by Monterey and San Luis Obispo Counties. The plan provides for a coordination program, a community resource protection program, a highway transportation program, a public use component, and an agricultural element. The plan will describe these areas of critical interest which should be protected, and enumerate the manner in which a variety of different land protection mechanisms at every level of government will be used to preserve these areas.

Third. State and local governments will retain their existing jurisdictional authorities. The Forest Service may acquire or make grants and assistance available to State and local government to acquire interests in land. A variety of approaches are provided depending on the comprehensive plan such as leasing back lands, purchase of development rights in the area, contracts with private or public agencies for land acquisition, and the conveyance of properties to State and local governments.

Fourth. The power to acquire private lands within Big Sur by condemnation is strictly limited. No existing legal structure can be condemned. Only those land uses which are substantially incompatible with the management plan are subject to this authority.

I have incorporated this broad range of options for land protection as well as a cost-sharing requirement for participating public and private agencies in order to provide the most cost-effective approach to protecting the national interest in this area. Existing land use regulatory powers at the State and local level are intended to be used to the fullest extent in order to limit the role of the Federal Government to providing supplemental assistance needed to complete the task of preserving this valuable resource.

H.R. 7380 is the result of a long and often arduous process of discussion and negotiation with the many groups and individuals concerned over the future of the Big Sur coast. It represents a careful balance which enjoys the support of a wide number of private individuals in the area, public officials and agencies at all levels, as well as numerous private organizations. It is an attempt to accomplish a common goal: protection of a nationally significant resource in a manner which incorporates the extensive planning work conducted to date at the State and local level.

The fact is that the traditional approach at the Federal level to protecting a scenic area such as this is neither warranted nor is it appropriate in this instance. Land acquisitions on a large scale would not only be a costly means of preserving the scenic beauty of the region, but would also destroy the special character of the area which is embodied in the unique lifestyles of its residents. The people of Big Sur have a proud history of independence and self-reliance, and I strongly agree with them that the present pattern of private ownership in Big Sur should be retained to the fullest extent possible.

During consideration of the bill by the House Interior Committee, several amendments were adopted; these changes largely served to strengthen and enhance the basic provisions of the measure. A broad consensus has developed favoring the approach which I recommended in introducing H.R. 7380, and I strongly urged the committee to avoid jeopardizing this consensus by rejecting any substantive changes which might be proposed. I am pleased to say that the basic mechanics of the bill, including the authorities of the Council, the role of the State and local planning efforts, and the limitations on the interaction of the Secretary of Agriculture with these other elements, have all been retained essentially unchanged.

Briefly, there were five notable changes made by the committee to this legislation:

First. The Council has been established as a permanent body not subject to dissolution by Executive order; and

Second. The terms of the members of the Big Sur Area Council will be staggered so as to insure continuity on that body;

Third. The injunctive powers of the Secretary have been deleted from the bill in light of the uncertain legality of this authority and the existence of comparable State and local powers.

Fourth. Language has been adopted including the protection of agricultural uses of the land as one of the purposes of the act, and a new component has been added to the comprehensive plan requiring the council to detail procedures for accomplishing this objective.

Fifth. The boundaries of the area have been contracted (Malpaso Creek in the north to San Carpoforo Creek in the south; the California coastal zone in the east extending to 3 miles offshore) in order to avoid conflicts with other Federal agencies and encompass a more coherent ecological unit.

The committee also inserted an authorization level in the bill; I had deliberately omitted to include a specific authorization level, preferring to defer to the work of the council as well as the estimation of the Interior Committee as to what figure would be most appropriate. While legislation introduced by Senator Cranston includes a $100,000,000 authorization level, there has never been any question in my mind that the bill I have sponsored, relying as heavily as it does on State and local regulatory authorities and nonacquisition techniques for protection of scenic values, would entail far lesser expense. The committee has stipulated a $30,000,000 maximum expenditure figure, and I believe this represents an accurate projection of the likely costs of preserving this unique area through the mechanisms established in my bill.

Generally, I was supportive of the changes which the committee made to the bill, many of which were the result of recommendations made by individuals during testimony submitted to the committee at the June 21 field hearing in Monterey, Calif. I am confident that this bill, as approved by the Interior Committee, can provide a means of protecting a region of national significance in a manner which avoids displacing local property owners or usurping State and county jurisdictional authorities. By enacting this measure into law, I believe we can insure that both residents and visitors to Big Sur alike can continue to enjoy this region in the future in much the same manner as they can today.

The following is a section-by-section analysis prepared by the Interior Committee for H.R. 7380:

Section-by-Section Analysis of H.R. 7380

Section 1. Short Title—"The Big Sur Coast Area Act"

Section 2. Findings and Declarations—This section includes findings and declarations that the Big Sur coast is a unique area of national significance; its beauty is enhanced by the independent and self-reliant character of the people of the area; there is growing development, tourist visitation and associated vehicular traffic; effective protection can be accomplished by State and local land-use control efforts coupled with appropriate Federal assistance where necessary to supplement these efforts.

Section 3. Purposes—The purposes of the Act are generally to protect, preserve, and enhance the qualities of the Big Sur coast; to manage public use of the area; to utilize local land-use planning and regulation; to define the Federal role in the implementation and enforcement of a comprehensive management plan; to maximize coordination with State and local units of government; to utilize existing levels of jurisdiction; and to provide appropriate governmental coordination, financing, and enforcement.

Section 4. Describes the boundaries of the Big Sur Area.

Section 5. Big Sur Coast Area Council—This section authorizes the establishment of a Big Sur Coast Area Council, to consist of five representatives of the residents of the Big Sur Area, and four representatives of State and Federal agencies. The Council will be responsible for developing and recommending a comprehensive management plan for the Area, reviewing and monitoring the implementation of the plan by Federal, State and local agencies, and making such recommendations to Federal, State and local agencies as it deems necessary to carry out the purposes of this Act.

Section 6. Comprehensive Management Plan—This section requires the submission of a comprehensive management plan to the Secretary of Agriculture by the Council within two years of the date of enactment of this Act. The comprehensive management plan will consist of the land use component of the Local Coastal Programs drafted by Monterey and San Luis Obispo counties, a summary of land protection mechanisms, an inventory of lands which may be purchased by the Secretary, a component for coordination of activities within the Area, a community protection component, a public use component, a transportation component, a resources protection component, and a component describing procedures for protection of existing agricultural uses of the land.

The Council shall submit the completed plan to the Secretary. If he determines it to be consistent with the purposes of the Act, the plan shall be approved and adopted. If not he shall recommend to the Council amendments to the plan. The Council shall revise the original plan in response to these amendments and submit a revised plan to the Secretary who shall respond to these revisions and adopt the plan.

Section 7. Administrative Responsibilities—This section states that all Federal, State, and local entities shall continue to exercise their responsibilities and authorities in the Big Sur Area, except that they shall administer the areas under their jurisdiction in a manner consistent with the comprehensive management plan. The Council shall consult with these agencies to monitor compliance with the plan, and shall provide recommendations on implementation of the plan.

Section 8. Land Acquisition Authorities—This section authorizes the Secretary of Agriculture to acquire lands within the Big Sur Area in accordance with the comprehensive management plan, or make grants to State or local agencies for up to 50% of the cost of such acquisitions. No lands may be purchased without the consent of the owner other than for the purpose of preventing uses substantially incompatible with the comprehensive management plan. In no event may any structure on which construction was initiated prior to July 1, 1980, be acquired without the consent of the owner, provided that such structure was approved pursuant to State and local law.

Section 9. Savings Provision—This section provides that nothing in the Act shall be construed to affect or in any way diminish the authority of the California Department of Fish and Game or the State Fish and Game Commission over fish and wildlife resources within the Big Sur Area.

Section 10. Includes the definition of terms used in the Act.

Section 11. Authorization of appropriations.●

CARTER DEFENSE POSTURE

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. DEVINE. Mr. Speaker, there are a number of misleading statements circulating in this election year. But none is more ridiculous than the assertion that the Carter administration reversed a steady decline in defense spending that occurred under the last Republican administration.

This rhetoric does not match the facts.

I encourage my colleagues to read the attached article which appears in the August issue of Armed Forces Journal. It shows vividly that Jimmy Carter's first two defense budgets were substantially below those prepared by President Gerald R. Ford.

[From the Armed Forces Journal, August 1980]

Facts vs. Political Rhetoric

As the 1980 Presidential election nears and it becomes increasingly evident that the American public and the Congress are not happy with the state of the Nation's defense, *Journal* readers are likely to hear a lot of rhetoric on national security issues from the campaign trail—and much of it won't match the facts.

The most startling example we've seen to date comes from the Democratic Party's draft 1980 platform:

"We had to reverse the steady decline in defense spending that occurred under the Republican Administration."—Draft of 1980 Democratic Platform.

That, of course, is a stark contrast to the party's 1976 platform, which echoed one of Jimmy Carter's most widely quoted campaign themes on his way to the White House:

". . . We believe we can reduce present defense spending by about $5 billion to $7 billion."—1976 Democratic Party Platform.

The rhetoric doesn't match the facts.

As the graph on the preceding page shows vividly, Jimmy Carter's first two defense budgets were substantially *below* those proposed by President Gerald Ford. The "decline in defense spending" which the Democratic Party says it "has had to reverse" is more of its own making than its predecessor's.

That fact is even more evident in the following data from an excellent article by Herschel Kanter of DoD's Institute for Defense Analyses in the spring issue of *Strategic Review*, showing the average annual growth rates implicit in each of the past five defense five-year plans. As the *AFJ* plot on the preceding page and Kanter's data indicate, not only were Jimmy Carter's first two defense budgets lower than President Gerald Ford's for the years in which their budgets overlapped, but the annual growth rates in them over their entire five-year period were significantly lower as well.

No doubt there will be similar misstatements from the Republican side of the fence as the campaign progresses. We'll watch for and report on them with equal care.

PROJECTED ANNUAL GROWTH RATES FOR 5-YR DEFENSE PLAN

	Date of projection	Fiscal years	Percent growth
Ford	1976	1976–81	2.97
Ford	1977	1977–82	3.46
Carter	1978	1978–83	2.55
Carter	1979	1979–84	2.47
Carter	1980	1980–85	4.59

Note: Compounded annually.

Source: DOD Annual Reports, fiscal years 1977 through 1981, published each January 1976 through 1980.

RESPONSIBLE ENERGY PLANNING

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, the Commonwealth Edison Co. of Illinois is making major contributions to the solution of the energy dilemma this Nation faces. Mr. W. B. Behnke, vice chairman of Commonwealth Edison, delivered a paper at an energy symposium held in the Rayburn Building last week which should receive the attention of all of us interested in solutions to our energy problem. I would like to highlight some of the actions Commonwealth has taken and include the complete text of his remarks at the close of my comments for the benefit of all of my colleagues.

Mr. Behnke reports that last year Commonwealth Edison, as the Nation's largest nuclear powerplant operator, met 40 percent of its load with nuclear energy. This energy was produced at a savings of $370 million compared to alternate coal-fired plants, or $865 million compared to an oil-fired alternative. Most importantly, this energy was produced completely independent of foreign inputs of any kind.

This major contribution to the solution of our energy problem reflects the outstanding leadership Commonwealth Edison has had and has. This leadership recognized and took advantage if the important role nuclear energy must play in the generation of electrical energy. Three decades ago Commonwealth Edison started the nuclear energy learning and training process. This vision made it possible for Commonwealth Edison to be the leader in making major contributions to the solution of our dependence on foreign energy supplies.

Mr. Behnke reports that new nuclear generating capacities are planned to meet two-thirds of its load with nuclear energy by the mid-1980's. Such a system will be a national asset of the first order in contributing to the welfare and security of our Nation. Only by utilizing our in-hand domestic sources of energy, particularly coal and nuclear, can we save ourselves from the precarious energy situation we face. We owe a debt of gratitude to Mr. Behnke and his colleagues for what they have done and are doing to advance critical national interests. We should support them and others in the utility business in their efforts to contribute to the solution of the energy problem.

I highly commend to you Mr. Behnke's complete report on nuclear energy options, which follows:

THE NEED OF ELECTRIC UTILITIES FOR THE NUCLEAR POWER OPTION

(By W. B. Behnke, Vice Chairman,
Commonwealth Edison Co.)

INTRODUCTION

Thank you. I am pleased to be a member of this distinguished panel.

My assignment is to discuss the need of electric utilities for the nuclear power option. I will be talking from the perspective of a large midwestern utility whose nuclear involvement spans nearly three decades. With six large nuclear units now in service at three generating stations, Commonwealth Edison is the nation's largest nuclear power plant operator. Last year, 40 per cent of the kilowatthours we produced were generated with uranium fuel.

In addition, we are building six more nuclear units at three new stations, with service dates scheduled over the period 1981 through 1986. As a result, in the mid-1980's, we expect that about two-thirds of our total system output will be nuclear. Beyond that, we have two additional nuclear units on order for service in the early 1990's, and we are also in the uranium mining and milling business. All this represents a commitment to nuclear energy in excess of $10 billion.

NUCLEAR POWER IS FAVORED

Utilities generally favor nuclear power because it is the most environmentally benign way to produce electricity and because it is the most economical. Moreover, at Edison, our nuclear units have proven to be more reliable than our large coal-fired units.

While nuclear plant construction costs are somewhat higher than those for equivalent coal-fired capacity, the higher carrying charges on the nuclear investments are more than offset by lower nuclear fuel costs. Our six large nuclear units now in service produce power at the bus bar, all costs included, for about half the cost of power from our six largest coal-fired units. The electricity we produced with uranium last year resulted in fuel cost savings of about $370 million compared with alternative coal-fired generation, and savings of around $865 million compared with burning oil.

Looking ahead, we do not expect to be able to repeat the exceptionally low costs we achieved in building the nuclear units now in service. A major reason is the extent to which government licensing delays have contributed to higher nuclear costs. This means that the cost advantage of nuclear over coal will not be as great in the future as in the past. Nevertheless, we still expect kilowatthours from new nuclear units to be less expensive than those from new base-load coal-fired units.

With the continuing escalation of nuclear power plant construction costs, some critics have suggested that nuclear power's economic advantage has disappeared. This simply is not true for the Commonwealth Edison system. While many factors are causing the cost of nuclear power to escalate, other factors such as pollution control requirements, higher fossil fuel prices, and escalating fuel transportation costs are causing the cost of alternative energy forms to escalate as well. We estimate the cost advantage of future nuclear units over the coal alternative on our system to be in the range of 10 to 20 per cent over the first ten years of operation, and even more over their full life. These figures take account of inflation and the cost of new regulation requirements growing out of the accident last year at the Three Mile Island nuclear plant. They also allow for waste disposal and decommissioning charges, using currently available cost estimates.

A major reason for nuclear's cost advantage over other methods of generation is that plant investments, once made, are fixed, while fuel costs, especially fossil fuel costs, are subject to inflation. For a nuclear unit, fuel costs represent a lower percentage of the total cost per kilowatthour produced than for a coal-fired plant. Thus, a smaller proportion of the total cost of power from a nuclear unit is subject to inflation than in the case of coal.

RELIANCE ON NUCLEAR POWER

The hard fact is that in only one-quarter of a century, we have come to rely on nuclear power for nearly 12 per cent of all the electricity consumed in the United States. The 70-plus nuclear power plants currently in service nationally produced about 250 billion kilowatthours last year, and by 1990, U.S. nuclear generation is expected to exceed 880 billion kilowatthours, provided that all of the reactors still under construction and on order are completed on schedule. By that time, nuclear power's share of the nation's electric capacity will approximate 20 per cent. How much Power is this? 880 billion kilowatthours is equivalent to over one and a half billion barrels of oil, or to 77 percent of the oil we imported from OPEC countries in 1979.

Regionally, nuclear energy's impact is even more dramatic than the national share. About 30 per cent of electric generation in Illinois, Wisconsin, Maryland, and Arkansas is nuclear; in South Carolina 45 per cent is nuclear; in Nebraska and Connecticut it is about 50 per cent; in Maine, 65 per cent; and in Vermont, 80 per cent. Fully 35 per cent of the electricity supply in the New England region is nuclear.

Overseas, installed nuclear capacity has risen by nearly 25 per cent since mid-1978, with Japan, France, and the Soviet Union and its allies most actively expanding their use of nuclear power. Germany, Spain, and Italy also recently have reaffirmed their goals of major nuclear expansion. West Germany has ten nuclear plants in operation and fifteen more in the planning stage. Spain, with three reactors, is planning to add fourteen more. Italy expects to more than double the number of its reactors in the decade ahead; four are now in operation. Belgium, Switzerland, and Sweden plan to produce 40 to 50 per cent of their electricity with nuclear reactors by 1990. Japan, with twenty nuclear reactors, has a generating capacity of nearly 13,000 megawatts—second only to the U.S. among noncommunist nations.

Russia and other communist countries in eastern Europe are forging ahead with nuclear power expansion. Comecon, the Soviet bloc's economic alliance, has a target of producing 25 per cent of its electric power with nuclear reactors by 1990—compared with about 5 per cent currently.

At the end of 1979, there were 166 operable nuclear power reactors outside the U.S., with 156 under construction and 266 planned or on order, for a total commitment of 588 units and 447 billion kilowatts of electric generating capacity.

BOTH NUCLEAR AND COAL ARE NEEDED

Last year the Committee on Nuclear and Alternative Energy Systems completed a four-year study for the National Academy of Sciences. The principal conclusion of the study was that the United States must rely on nuclear power and coal for electricity over the next several decades. Specifically. the authors agreed that:

As fluid fuels are phased out of use for electricity generation. coal and nuclear power are the only economic alternatives for large-scale application in the remainder of this century." They concluded that, "A balanced mix of coal and nuclear generated electricity is preferable to the predominance of either." Their report warns that while conservation is of prime importance, it should not be taken as a dependable basis for foregoing simultaneous and vigorous efforts on supply programs. Speaking for those responsible for managing the nation's electric power systems, I believe you will find little disagreement with this conclusion.

Similar warnings have been issued at the international level. The Nuclear Energy Agency, a unit of the 24-nation Organization for Economic Cooperation and Development recently cautioned that the western industrialized countries must speed up construction of their nuclear power facilities or face the threat of increased demand for imported oil. The agency noted that at current rates of construction, the industrialized nations would not be able to meet their minimum needs for nuclear power.

In its eighth annual report, the NEA warned that while world consumption of nuclear generated electricity increased an average of 28 percent a year from 1968 to 1978, the increase in the 24 member nations of the OECD in 1979 was only 2.2 percent. It further warns that the lag could persist for many years, because it takes five to ten years to complete a nuclear plant and ten to fifteen years to develop production of a uranium mine.

The Agency concluded that, "There is thus no doubt that a considerable potential contribution could be made available from nuclear power to decrease the dependence of industrialized countries on oil imports, provided that clear decisions and strong political leadership are applied."

A few weeks ago in Venice, President Carter and the leaders of Britain, Canada, France, Italy, Japan, and West Germany wisely approved an economic agreement which seeks to reduce reliance on oil producing countries by doubling coal production and use, and by expanding nuclear power capacity.

However, whether or not the U.S. can deliver on its commitment to reduce its dependency on foreign oil is another matter. U.S. industry is faced with regulatory restrictions as well as environmental concerns regarding the mining and burning of coal. It will be difficult to double our nation's coal production and consumption unless both regulatory and environmental concerns are dealt with in a more reasonable fashion than in the past. By the same token, nuclear power development is still bogged down by nuclear regulation and it is unlikely that new orders will be placed for nuclear generating capacity until delays and uncertainties have been eliminated from the process, and there is a clear national policy direction favoring nuclear power.

THE URGENCY FOR MOVING AHEAD

Electric generating reserves in the U.S. appear large and, in some areas, even give the impression of overbuilding. However, the seemingly large reserves can lead to a false sense of security. They are the result of the sharp decline in the growth of system peak loans which electric utilities have experienced beginning with the 1973 Arab oil embargo and the subsequent 1974–75 recession. This load growth reduction reflects several factors, including conservation, higher prices for electricity, a slow down in the long-term rate of economic growth, and the current business recession. One result is that a number of planned generating units have been cancelled and other units have been deferred.

In spite of the recent slow down in load growth, however, no one can be sure of the extent to which the trend will continue. Nor can anyone be certain of the degree to which the much talked about re-industrialization of America and future oil back-out programs will offset the effects of conservation and higher prices. The fact remains that 25 per cent of the U.S. central station electric generating capacity is fueled with oil, and is thus extremely vulnerable to a cut off of foreign supplies. Also, at least 10 percent of the nation's generating capacity is over 25 years old and will reach the end of its useful life over the next decade or so, necessitating its replacement. Regardless of the exact multiple by which electric demand increases, one thing thing is clear. As a nation, we cannot afford to gamble recklessly with the integrity of our electric power supply. Utility system planners are keenly aware that the consequences of being short of capacity in terms of human suffering and economic loss are far worse than the cost of having a few new plants in service a year or so earlier than necessary. Moreover, because of the long lead times involved for new generating capacity, it could take years to recover from a serious shortfall in electric generation.

The National Electric Reliability Council has warned that likely delays in the completion of presently scheduled coal and nuclear power plants raise (quote) "serious concerns regarding the adequacy of bulk power supply in the United States during the next 10 years." (end of quote) Under the circumstances, the only practical choice available is to assign the highest priority to the start up of those nuclear power plants already completed and awaiting operating licenses from the Nuclear Regulatory Commission while an all-out effort is made to complete and license those additional plants currently under construction.

According to information compiled by the Atomic Industrial Forum, if the NRC were to end its moratorium on licensing, which began after the Three Mile Island accident last year, eight nuclear power reactors could be licensed to operate in 1980 and another ten could be completed and put into operation in 1981, with eight more to follow in 1982. In total, these 26 units could save the equivalent of 275 million barrels of oil per year and would expand present U.S. nuclear capacity by more than 50 percent. Unfortunately, the six-month deadline that President Carter urged for a full-fledged resumption of nuclear licensing was surpassed on June 7. So far, fueling and low power tests of three plants have been authorized by the NRC. None, however, has been licensed to operate at full power, and no reactors have moved any closer to receiving a construction permit than they were in March 1979.

Apart from the matter of oil displacement, these nuclear power plant delays will add significantly to consumer charges for electricity. For example, analyses by Commonwealth Edison show that a one-year delay in the start up of our two-unit Braidwood nuclear power plant will add $150 million to the capital cost of the project and increase our system operating costs by more than $300 million.

THREE MILE ISLAND IN PERSPECTIVE

Three Mile Island is conceded to be the worst such accident in the history of commercial nuclear power in the United States. The immediate effect of the accident has been to raise questions and slow down the development of nuclear power.

Three Mile Island also has brought home clearly the lesson that a large nuclear commitment can put a utility's entire net worth at risk. This suggests that utility executives will hesitate before ordering additional nuclear plants in the future. Thus it is possible that the accident could extend indefinitely the current de facto moratorium on new nuclear orders and lead to the demise of the nuclear supply industry, beginning with the infrastructure of small equipment suppliers, subcontractors and consultants. Indeed, this is already beginning to happen to a limited degree, and the number of dropouts appears to be accelerating. If we do not resolve the present stalemate soon, it will be too late.

On the other hand, a secondary effect of the TMI accident could prove beneficial. That effect has been to stimulate a wide discussion of energy options. In the long run, this could help us address our energy supply problems more objectively.

Although Three Mile Island was a serious setback for the owner utility and the entire nuclear community, in one sense the accident confirmed the basic safety of nuclear power. The fact remains that nobody was killed or even injured, and no public property was destroyed.

In another sense, the accident pointed out a number of problems in the way in which nuclear power plants are regulated and in the way people are trained to operate them. As a result, both industry and government are vigorously addressing the recommendations of the Kemeny Commission and Rogovin reports.

Now, more than ever before, our capability for self-examination and improvement is needed. The development of new and improved operating procedures requires increased imagination and flexibility of both operators and regulators, and a readiness to accept change for the better.

Substantial improvements in management and operational practices, safety precautions and training have already been made since the accident and more improvements are sure to come. Among other things, the utility industry has established the Institute of Nuclear Power Operations to establish training guideposts and audit performance; the Nuclear Safety Analysis Center, to evaluate the generic significance of abnormal events at nuclear power plants, and Nuclear Electric Insurance Limited, a company which will write insurance against replacement energy costs occasioned by a prolonged forced outage of nuclear power plants.

The new regulatory requirements growing out of the accident at Three Mile Island are bound to be costly. At Commonwealth Edison, we have budgeted $600 million to cover the changes in equipment and training. The overall thrust of the new regulations will be constructive. Hopefully, the improvements and lessons learned will help restore public confidence in nuclear power and the morale of those working to make nuclear power plants reliable, safe and efficient. When we have done that, then there is a chance that we, as a nation, can not only live with nuclear power, but exploit its enormous benefits for our nation and its people.

Speaking before the Edison Electric Institute in Chicago last month, Dr. Walter Marshall, head of the United Kingdom Atomic Energy Authority, declared that the world cannot afford to lose the leadership of the United States in nuclear technology. Dr. Marshall said, (quote) "I look with dismay at the unbalanced reaction in the United States to the Three Mile island accident. I cannot reconcile the actual events which happened, the reports which have been made concerning them and the continued controversy over the significance of the incident and what is to be done next." Marshall also noted that, (quote) "The bureaucratic difficulty of living with your regulatory process . . . must surely weaken your industry and frustrate your utilities," warning that, ". . . you don't have much time left to get this problem sorted out." (end of quote)

CONCLUSION

There seems to be a broad and growing consensus among industry, labor, and government leaders that both coal and nuclear power are required to supply our country's future energy needs. There also is deep concern about the strategic risks and economic consequences of America's enormous dependence on oil from unstable Persian Gulf. While nuclear power remains the cleanest, cheapest, and most reliable alternative for base-load electric generation, utilities believe it is necessary to strive for a balanced mix of both nuclear power and coal. The cost of doing without nuclear power would be enormous, and is an alternative our nation and its utility customers simply cannot afford. However, without a strong national commitment to both coal and nuclear power, and a substantial overhaul of the regulatory process concerning the use and development of both fuels, it is hard for us in the electric power industry to see how we can continue to provide America with an adequate and reliable supply of electricity at a reasonable cost.●

THE ALASKA LANDS BILL: A PROGRESS REPORT FOR THE HOUSE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, we all recall the dramatic debate and votes on the Alaska lands bill that took place in this Chamber more than a year ago. This body put itself on record for the second time in a year that it wants, and indeed will insist upon, an Alaska lands bill that fully protects the outstanding wildlife and scenic values that exist on the federally owned lands in the 49th State. It might seem to some that the issue then dropped into a void, from which it might never return, but I am happy to state that this is not the case.

Last week, the Senate began the same process of debate that we went through, and the results look about the same. On Tuesday, the Senate took three test votes. Although the precise provisions of the Senate legislation vary from ours, the general framing of the issue is the same: Shall we pass on to future generations the grand wilderness glories of Alaska, or shall we short-sightedly commit to general and unplanned development the Nation's last intact frontier? I am pleased to say that the Senate seems to be of the same mind as the House. All three votes, dealing with wildlife refuge issues, sustained the spirit of the House bill by margins of about 2 to 1.

At this time, the bill is being negotiated by the interested Senators. I am glad to see that process. I believe that the national mood has been tested, and that the Senate bill will be strengthened to reflect that mood. I am greatly looking forward to seeing the Senate product, and to sitting down with our Senate counterparts to work out final details in conference. It has been a long and difficult road.

I have recently reviewed editorial opinion that has appeared in this Nation in newspapers from coast to coast. It is hardly surprising that the Senate voted the way it did last Tuesday, for these editorials commonly support the position of the House. The texts of a number of these editorials are included in the Record at the conclusion of these remarks.

Mr. Speaker, the Alaska lands issue has been correctly characterized as the land and wildlife conservation issue of the century. This issue has tested our legislative process, and I am confident that the Congress will come out of it with pride. We have had a national debate of nearly unprecedented dimensions.

Our committees have fulfilled their roles of investigation, public hearing and drafting. The full House has debated the issue at length, and now that process is taking place in the Senate. And at the conclusion of the Senate's deliberations, we will have a full and open airing of the issues in a conference committee, from which we will emerge, I hope, with a document that can be approved by both bodies and signed by the President.

In the 95th Congress, the legislative process failed to rise to the issue, and the paramount objective of protecting Alaska's wildlands was courageously met by the President. I believe in the 96th Congress we will meet the test, and pass a bill for which we will be thanked by generations of Americans.

The articles follow:

[From the Akron Beacon Journal, July 19, 1980]

SENATE SHOULD PRESERVE SCENIC BEAUTY OF ALASKA

The tug-of-war over Alaska resumes in the U.S. Senate Monday. It's a confrontation that has become the most severe test yet of the nation's loyalties to—on the one hand its environmental and conservation interests and—on the other—its energy and development interests.

The central issue the Senate will attempt to resolve is this: How urgent is the nation's need for the oil, natural gas, timber and other valuable resources awaiting harvest in Alaska when compared with the desire of some to preserve its natural and scenic treasures for the future enjoyment of Americans?

Debate will center on the amount of land the federal government will retain control over in Alaska, and the degree of its controls.

The Senate Energy Committee has recommended a bill that would designate 102 million acres as either national parks, wildlife refuges, forests or wild or scenic rivers.

Conservationists are unhappy with the measure and intend to offer several amendments to strengthen it and bring it closer to the House version, passed in May 1979 by an overwhelming margin of 360–65. The House bill, which enjoyed the strong support of Akron Rep. John Seiberling, would provide protection to 127 million acres of land.

A key feature of the amendments, which will be offered by Sen. Paul E. Tsongas, D-Mass., and others and are supported by the Carter administration, is that they would substantially boost the amount of acres in the "wilderness" category.

Land in that category is required to be preserved in its pristine state. It is the strongest form of protection the federal government provides. Other designations permit some forms of activity, such as hiking, sport hunting, fishing, lumbering or oil and gas drilling.

For those reasons, there are strong divisions over not only how much land will enjoy federal protection in the future, but also what kind of protection.

The Alaskan lands debate has become intertwined in some minds with concern over the nation's ability to solve its energy problems. The more land that is locked up in "wilderness" designations, some Alaska state officials and development interests contend, the less oil and gas and other minerals the nation will have to meet its own energy needs.

But that appears to be bluster. Rep. Seiberling has noted that the House bill, a stronger environmental measure than the Senate Energy Committee recommendation, would still open to exploration 100 percent of Alaska's offshore oil and gas deposits and 95 percent of all onshore areas having "high" or "favorable" oil potential ratings.

The 5 percent that would be off limits lies in the William O. Douglas National Wildlife Range, where drilling could destroy the last great caribou herd in North America.

The Senate should look favorably upon the amendments to be offered by Sen. Tsongas. Alaska is America's last frontier. Much of its vast stretches has yet to be disturbed by man. Only for the most compelling reasons should that change.

Adoption of the Tsongas amendments will still open valuable treasure chests of natural resources to the developers. Those that would be off limits for now could be tapped later, if the need becomes urgent.

But ecological systems disturbed now, remarkable scenery defaced now, mountains and river valleys scared now can never be replaced.

A cautious approach is the best one for the Senate to take.

[From the Los Angeles Times, July 23, 1980]

RETREAT IN THE WILDERNESS

The U.S. Senate will be guilty of grave and irreversible error if it enacts, without amendment, the Alaska lands legislation that has been sent to the floor by its Energy and Natural Resources Committee.

The measure, affecting more than 100 million acres of federal holdings in the northernmost state, would cede too much territory to miners, loggers, oil drillers and other developers, and leave too little for national parks, wildlife refuges and wilderness preserves.

We agree that Alaska's resource development—and certainly exploration for new supplies of oil and gas—is important to that state and to the nation at large. But the Senate measure would go far beyond what we think are the reasonable concessions of the Carter Administration—the opening of two-thirds of Alaska's land mass for commercial purposes, including 94 percent of the territory thought to have promising oil and gas potential.

Interior Secretary Cecil D. Andrus does not overstate the case when he argues that protection of the public lands is one of the most important environmental issues of the century. Vast areas of Alaska—mountain ranges, wild rivers, forests, lakes, tundra and seashore—are still in their natural state.

The lands to which the developers want access include the breeding grounds of sea lions, seals and otters; the habitat of grizzly bears, moose, wolves, wolverines, Dall sheep and musk oxen, and the rookeries of more than 40 million seabirds.

To open the most pristine tracts to the bulldozer, the chainsaw and the drill would be to repeat the pillage that already has cost the lower 48 states a tragic price in lost wildlands.

The proposal now before the Senate would place only 38 million acres in the wilderness category, open the Arctic Wildlife Range to oil and gas exploration, and downgrade the present protection for at least three wild rivers and the Admiralty Island and Misty Fjords national monuments.

It has the strong backing of Alaska's developers and most of its politicians, and vast sums have been spent to lobby it through Congress, including $350,000 on newspaper advertising last weekend alone in the home states of vacillating senators.

But the Alaska Coalition and other environmental organizations are just as determined to stop what Andrus calls "the rape, ruin and run boys." The Senate leader of the opposition is Sen. Paul E. Tsongas (D-Mass.), who intends to introduce a series of amendments that would bring the committee proposal into line with recommendations that have twice won overwhelming approval in the House of Representatives.

Tsongas would place 68 million acres in the wilderness category—30 million more than in the committee version; bar oil and gas development in the Arctic Wildlife Range; extend wild-river protection to the Copper, Squirrel and Yukon rivers, and outlaw development in the Admiralty Island and Misty Fjords areas.

Much of the debate centers on the wildlife range, which adjoins the Prudhoe Bay oil field on the northern coast of Alaska. Although the range is the calving ground of the largest caribou herd in North America, and an important subsistence resource for villagers in Alaska and Canada, the pending legislation would permit extensive oil exploration.

The argument is made that its development is critical to the nation's energy future. But conservationists respond that the range has nothing like the promise of Prudhoe Bay, and that Tsongas' proposals would permit exploration in all but 6 percent of the potential oil and gas tracts.

Supporters of the committee recommendations overlook what is perhaps the most important point: The federal lands in question belong to all Americans, not just to the inhabitants of one state. Although Alaskans already are the beneficiaries of vast wealth from North Slope oil, no one would deny them the right to expand their resource development in ways that respect the environment and the rights of all other Americans.

But Alaska wants to stake its claim on territory where development might cause permanent destruction to the terrain and to wildlife, and that will not do.

Sen. Henry M. Jackson (D-Wash.), chairman of the Energy and Natural Resources Committee, describes its proposal as a "major environmental initiative." He's dead wrong. It's a major retreat.

[From the Sarasota Herald-Tribune, July 14, 1980]

Alaska Lands Showdown

A week from today—July 21—may be a fateful date for the last great wilderness in North America. On that date the Senate will begin floor action on the Alaska National Interest Lands bill, and if it indeed has the national interest at heart it will accept the substitute, bipartisan measure drafted by Sens. Paul Tsongas (D-Mass.) and William Roth (R-Del.).

The substitute will severely restrict exploitation of about 120 million of Alaska's 375 million acres. In this it parallels the bill (H.R. 39) *twice* voted by the House of Representatives and stalled mainly by Alaska's two senators.

Last February, President Carter and Secretary of the Interior Cecil Andrus declared 96 million of those 120 million acres to be "national monuments" to save them from immediate despoiling. The Tsongas-Roth bill would include them and complete the preservation—at least until posterity decides it *has* to explore and use them in a national emergency.

It has been pointed out that two-thirds of Alaska's oil reserves are believed to lie offshore. The Tsongas-Roth measure, seeking to replace the weak bill offered by the Senate Energy Committee, would not prevent oil-seeking or production there.

What it would do is prevent mining and related roadbuilding through 43 million acres of national parks—*national*, not Alaska's—add 14.5 million acres of wetlands and watersheds to the national wildlife refuge system, restrict timber-cutting in southeastern Alaska, designate several rivers as wild and scenic, and preserve 27.5 million acres as "wilderness" closed to commercial or motorized intrusion.

What is at stake here is not only the fragile tundra, the habitat of caribou and polar bears, the Arctic sand dunes and primeval forests, but the only chance our posterity will have to see Earth (or a portion of it) almost as it was before the advent of man—and to have, in effect, "money in the bank" so far as untapped resources are concerned.

In the past, we believe, both of Florida's senators, Richard Stone and Lawton Chiles, have been sympathetic toward the stronger, more inclusive House measure—now replicated in the Tsongas-Roth bill.

It would do no harm, however, to remind them—if you care—that we all would like to leave something absolutely unique to the children, and those children's children. Barring a total, all-out struggle for national survival—and we judge that kind of emergency is not upon us yet—there is no valid excuse for ripping up America's fabulous, hidden storehouse in Alaska. Once it goes, it's gone.

Immediate self-interest, this time, should take a back seat to the long-range needs, spiritual and otherwise, of all the nation's citizens to whom that still-natural gem belongs.

[From the St. Paul Dispatch, May 29, 1980]

Rich Alaska Plans Some "Investments"

If you think the money you're shelling out at the gasoline pumps is just buying more Rolls-Royces for Arab sheikhs and ballooning Exxon's profits, think again—about Alaska.

Oil money is pouring into the Alaska state treasury so fast the state has abolished its income tax, promised rebates to taxpayers and has no idea what to do with the huge surplus piling up.

Alaska is already stashing away an annual surplus exceeding $3 billion, and by 1985 is expected to have a surplus exceeding $18 billion. That will, according to conservative projections, grow to $53 billion by 1990, $97 billion by 1991. All told, enough to pay every man, woman and child in the state $12,000 per year for 20 years! (Remember, this may be "domestic" oil, not subject to the whims of an ayatollah or a Bedouin king, but it is "new" oil and commands "world" prices, no matter what the actual production costs—and the state rake-off is tied to that price.)

While Alaskans lose sleep over what they're going to do with all that wealth (pity them!), cities in the "continguous 48" are laying off police and firemen and teachers, Congress is considering slashes in the food stamp program, and in nearly every state tax bites—on income, on sales, on real estate—go deeper and deeper.

Alaska even gets a break on the division of oil royalty income. Other states share their oil income 50–50 with the federal government; Alaska gets 90 percent, the federal government 10.

But back to the matter of how Alaska intends to spend all the income. It has found at least one way. Its Legislature has appropriated, for a starter, $7 million for more and bigger lobbying against the Alaska lands bill, the measure before Congress that would protect federal lands in the last-wilderness state from the timber, mining and oil exploiters. Alaska's "development" boosters are convinced, it seems, that the state doesn't control enough land, doesn't have enough opportunity to rake in royalties and fees and taxes from its natural resources.

The Alaska lobby, always vigorous but now with unlimited funds behind it, will be big on the "states rights" message. (Look for it in coming full-page ads.) Some states, it seems, equate rights with big money, and everyone knows you just can't get enough of that kind of rights.

[From the Dallas Times Herald, July 3, 1980]

Alaska Lands Bill

Back in February when Senate leaders, responding to lobbyists for oil, mining and timber companies, delayed until after the July 4 holiday discussion and floor action on the Alaska lands bills, Interior Secretary Cecil Andrus made good on a promise he had made the previous fall.

If the Senate did not act on the wilderness legislation by the end of 1979, Andrus pledged earlier that year, he would use his executive authority to do what had to be done by placing 40 million acres of the land under government protection as a wilderness refuge, thus protecting it from development.

In 1978, after the Senate failed to approve a measure setting aside wilderness and recreation areas in Alaska, the White House stepped in and imposed restrictions on development of 110 million acres until the senators got their act together, as the House had earlier.

The stumbling block in the Senate has been Alaska's Sens. Ted Stevens and Mike Gravel, who have been fighting a rear-guard action to stymie the legislation at the behest of commercial developers.

Their argument is that Alaska is the energy bank of America and that the enormous resources stored there would be precluded from exploitation if the legislation is passed.

The contention is seriously weakened by current U.S. Geological Survey data and the legislation itself. Alaska's total oil potential, including its offshore reserves—which wouldn't be affected by the lands measure—is calculated at a mean of 27 billion barrels by the USGS. More than half that amount, or 15 billion barrels, is located in the offshore areas. The Department of Energy's estimate of Alaskan reserves are slightly higher—30 billion barrels. Neither figure even comes close to what Ronald Reagan claims for America's last wilderness region. The former California governor has said that Alaska has more oil potential than the proven reserves of Saudi Arabia—which are placed at 165 million barrels.

In fact, the entire issue has been grossly distorted by those opposed to setting aside the lands and political bickering as well as wheeling and dealing in the Senate.

The Senate thus far has not met its responsibility of protecting this country's true final frontier, its awesome beauty and the resource wealth America may need years from now if she is squeezed into an energy corner.

Later this month senators will again be faced with the opportunity to run or take a stand on the Alaska lands legislation. May they find the backbone to do as the House has done twice previously—approve a strong measure preserving the lands. It is in the best interest of this country that they do so.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. White (at the request of Mr. Wright), for today, on account of a death in the family.

Mr. Bereuter (at the request of Mr. Rhodes), for today, on account of official business.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gingrich) to revise and extend their remarks and include extraneous material:)

Mr. Porter, for 15 minutes, today.

(The following Members (at the request of Mr. Hall of Texas), to revise and extend their remarks and include extraneous material:)

Mr. Hughes, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Conyers, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Benjamin, for 60 minutes, on July 29.

Mr. Benjamin, for 60 minutes, on July 30.

Mr. Benjamin, for 60 minutes, on July 31.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Gingrich) and to include extraneous matter:)

Mr. Evans of the Virgin Islands.

Mr. Broomfield.

Mr. Beard of Tennessee.

Mr. Clausen in two instances.

Mr. Findley.

Mrs. Holt.

Mr. Martin.

Mr. Guyer.

Mr. McClory.

Mr. Dornan in two instances.

Mr. Derwinski in two instances.

(The following Members (at the request of Mr. Hall of Texas) and to include extraneous matter:)

Mr. Anderson of California in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Matsui.

Mr. Ford of Michigan.

Mrs. Bouquard.

Mrs. Byron in two instances.

Mr. Thompson.

Mr. Applegate.

Mr. Donnelly.

Mrs. Schroeder.

Mr. Gudger.

Mr. Hawkins.

Mr. Mitchell of Maryland.

Mr. Moorhead of Pennsylvania.

Mr. Carr.

Mr. Clay.

Mr. Maguire.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1465. An act to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes; to the Committee on Agriculture.

SENATE ENROLLED BILL SIGNED

The SPEAKER pro tempore announced his signature to an enrolled bill of the Senate of the following title:

S. 1647. An act to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order No. 9066, and for other purposes.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R. 1198. An act to clarify the authority to establish lines of demarcation dividing the high seas and inland waters; and

H.R. 6666. An act to revise the laws relating to the Coast Guard Reserve.

BILL PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on July 28, 1980, present to the President, for his approval, a bill of the House of the following title:

H.R. 5580. An act to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

ADJOURNMENT

Mr. HALL of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 46 minutes p.m.) the House adjourned until tomorrow, Tuesday, July 29, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4907. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment and services to Egypt (Transmittal No. 80–79), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4908. A letter from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notice that a study has been conducted with respect to converting the laundry/dry cleaning activity at the U.S. Military Academy, West Point, N.Y., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4909. A letter from the Secretary of Housing and Urban Development, transmitting a report of the housing needs of the rural elderly and handicapped, pursuant to section 306(e) of Public Law 96–153; to the Committee on Banking, Finance and Urban Affairs.

4910. A letter from the Secretary of Education, transmitting proposed final regulations to govern the instructional media for the handicapped program, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4911. A letter from the Assistant Secretary of State for Congressional Relations, transmitting Presidential Determination 80–23, finding that the sale of certain sophisticated weapons systems to Egypt is important to the national security of the United States, pursuant to section 4 of the Arms Export Control Act; to the Committee on Foreign Affairs.

4912. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to Egypt (Transmittal No. 80–79), pursuant to section 36(b) of the Arms Export Control Act (confidential); to the Committee on Foreign Affairs.

4913. A letter from the Assistant Secretary of State for International Organization Affairs, transmitting a report prepared by the United Nations Joint Inspection Unit on the African Regional Training Centre for Labour Administration, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4914. A letter from the Under Secretary of State for Security Assistance, Science, and Technology transmitting the annual report on military assistance and military exports presenting statistical data for fiscal year 1979 relating to exports of arms, ammunition, and implements of war, pursuant to section 657 of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4915. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Federal Deposit Insurance Corporation for the year ended December 31, 1979, pursuant to section 17(c) of the Federal Deposit Insurance Act, as amended (H. Doc. 96–347); to the Committee on Government Operations and ordered to be printed.

4916. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting notice of a proposed new systems of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4917. A letter from the vice president, Farm Credit Banks of Baltimore, transmitting its annual report on the operation of its retirement plan, pursuant to Public Law 95–595; to the Committee on Government Operations.

4918. A letter from the Executive Secretary, Federal Reserve employee benefits system, transmitting the annual report for 1979 of the retirement plan for employees of the Federal Reserve System, pursuant to Public Law 95–595; to the Committee on Government Operations.

4919. A letter from the Director, Office of Personnel Management, transmitting the first annual report on the civil service retirement system, pursuant to Public Law 95–595; to the Committee on Government Operations.

4920. A letter from the Chief, Forest Service, Department of Agriculture, transmitting notice of an adjustment of the boundaries for a portion of the Middle Fork of the Feather Wild and Scenic River, Calif., pursuant to section 3(b) of Public Law 90–542; to the Committee on Interior and Insular Affairs.

4921. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $450,177.72 in excess royalties to Exxon Co., U.S.A., Sante Fe Energy Co., Mesa Petroleum Co., Oxy Petroleum Co., Columbia Gas Development Corp., Shell Oil Co., Chevron U.S.A. Inc., Arco Oil and Gas Co., Amoco Production Co., and Transco Exploration Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4922. A letter from the Acting Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Foster-Miller Associates, Inc., Waltham, Mass., for a research project entitled "Compact Service

Hoist System for Underground Metal and Nonmetal Mines" pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

4923. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting volume 3 of the annual report of the Energy Information Administration covering calendar year 1979, pursuant to section 57(a)(2) of the Federal Energy Administration Act, as amended; to the Committee on Interstate and Foreign Commerce.

4924. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend authorizations of appropriations for the developmental disabilities programs under the Developmental Disabilities Assistance and Bill of Rights Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

4925. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38 of the United States Code to authorize the Administrator to approve the release of name and address information from VA records systems for the purpose of bona fide research; to the Committee on Veterans' Affairs.

4926. A letter from the Comptroller General of the United States, transmitting a report on black lung benefits awarded without adequate evidence of disability (HRD-80-81, July 28, 1980); jointly, to the Committees on Government Operations and Education and Labor.

4927. A letter from the Comptroller General of the United States, transmitting a report on the need for guidance regarding the use of natural gas price escalator clauses (EMD-80-53, July 25, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

4928. A letter from the Secretary of Commerce, transmitting the annual report for calendar year 1978 on ocean dumping research, pursuant to section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 7786. A bill to amend Public Law 90-331 to increase the period during which personal protection is provided to spouses of major Presidential and Vice-Presidential nominees; with amendments (Rept. No. 96-1196). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. Report on Allocation of Budget Totals for Fiscal Years 1980 and 1981 with amendment (Rept. No. 96-1197). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 5381. A bill to amend the Federal Property and Administrative Services Act of 1949 to reform contracting procedures and contract supervision practices of the Federal Government, and for other purposes; with amendment (Rept. No. 96-1198). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BOUQUARD:

H.R. 7842. A bill to enable service station dealers to compete with refiner operated service stations by terminating certain petroleum allocation and pricing regulations, and to promote fair competition in the sale of motor gasoline at retail; to the Committee on Interstate and Foreign Commerce.

By Mr. COELHO:

H.R. 7843. A bill to amend section 501 of title 37, United States Code, to exempt from a maximum limitation of 60 days certain payments to members of the uniformed services for unused accrued leave; to the Committee on Armed Services.

By Mr. CORMAN:

H.R. 7844. A bill to amend the Internal Revenue Code of 1954 to provide a special estate tax valuation rule for certain artistic, literary, and musical property created by the decedent; to the Committee on Ways and Means.

By Mrs. FENWICK:

H.R. 7845. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia; to the Committee on the District of Columbia.

By Mr. FRENZEL:

H.R. 7846. A bill to reduce the capital gains tax rate, and for other purposes; to the Committee on Ways and Means.

By Mr. HANCE:

H.R. 7847. A bill to amend the Internal Revenue Code of 1954 to allow a deduction equal to 130 percent of the amount actually paid or incurred for natural gas used on a farm for farming purposes; to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 7848. A bill to amend the Internal Revenue Code of 1954 to facilitate the acquisition and ownership of all, or substantially all, of the stock of an employer by employees through an employee stockownership plan, and for other purposes; to the Committee on Ways and Means.

By Mr. MARTIN:

H.R. 7849. A bill to amend the Internal Revenue Code of 1954 to permit certain multiyear pension plan distributions to be treated as qualifying rollover distributions; to the Committee on Ways and Means.

By Mr. MATSUI:

H.R. 7850. A bill to improve the operation of the Federal Government's aviation safety activities, to establish a new Air Safety Administration, to improve the organization and operation of the national air traffic control system, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. NOWAK:

H.R. 7851. A bill to amend the Internal Revenue Code of 1954 to allow retail stores to use price indexes published by the Bureau of Labor Statistics in using the LIFO method of accounting with respect to the retail method of pricing inventories and to provide that only appropriated funds may be used in preparing and publishing such indexes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. PORTER:

H.R. 7852. A bill to repeal provisions of the Aviation Safety and Noise Abatement Act of 1979 which provide exemptions from certain aviation noise standards, to impose stricter noise standards for 2- and 3-engine aircraft, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SOLARZ:

H.R. 7853. A bill to amend title II of the Social Security Act to prevent payment, in certain cases, of disability insurance benefits for a physical or mental condition arising from an individual's commission of a crime or the individual's incarceration in a penal institution, to exclude from the definition of "full-time student" any individual incarcerated in a penal institution following a felony conviction, and to provide that disability insurance benefits may not be paid to individuals incarcerated in a penal institution following a felony conviction, unless that individual is participating in a rehabilitation program which has been approved by a court of law; to the Committee on Ways and Means.

By Mr. TAUKE (for himself, Mr. Bowen, Mr. Clay, Mr. Mitchell of New York, Mr. Guarini, and Mr. Lederer):

H.J. Res. 590. Joint resolution to authorize and request the President to proclaim November 14, 1980, as "National Operating Room Nurses Day"; to the Committee on Post Office and Civil Service.

By Mrs. FENWICK (for herself, Mr. Fascell, Mr. Yates, Mr. Bingham, Mr. Simon, and Mr. Buchanan):

H. Con. Res. 391. Concurrent resolution concerning the fifth anniversary of the Helsinki Accords and calling for prominent attention to human rights concerns at the Madrid Conference; to the Committee on Foreign Affairs.

By Mrs. BYRON:

H. Con. Res. 392. Concurrent resolution expressing the sense of the Congress that the President should establish a long-range plan for the acquisition of essential minerals from foreign sources and report to the Congress with respect to such plan; jointly, to the Committees on Armed Services and Interior and Insular Affairs.

By Mrs. BYRON (for herself, Mr. Alexander, and Mr. Stratton):

H. Res. 755. Resolution to designate October 11, 1980, as "National Jogging Day"; to the Committee on Post Office and Civil Service.

By Mrs. HOLT (for herself, Mr. Barnes, Mr. Brown of California, Mr. Dannemeyer, Mr. Fisher, Mr. Harris, and Mrs. Spellman):

H. Res. 756. Resolution to express the sense of the House of Representatives concerning the operations at Washington National and Dulles International Airports; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 654: Mr. McCloskey.

H.R. 4516: Mr. Oberstar.

H.R. 5000: Mr. Bafalis.

H.R. 5211: Mr. Burgener, Mr. Philip M. Crane, Mr. Loeffler, and Mr. Yatron.

H.R. 5225: Mr. Kazen, Mr. Brooks, Mr. Dougherty, Mr. Regula, Mr. Sebelius, Mr. McCormack, and Mr. Thomas.

H.R. 5738: Mr. Gingrich.

H.R. 6074; Mr. Walgren and Mr. Cheney.

H.R. 6171: Mrs. Fenwick.

H.R. 6402: Mr. Whitehurst, Mr. Cleveland, and Mr. Hillis.

H.R. 6734: Mr. Marks, Mr. Evans of Delaware, Mr. Courter, Mr. Trible, Mrs. Heckler, and Mr. Lee.

H.R. 7049: Mr. Williams of Montana, Mr. Porter, Mr. Oberstar, Mr. Mottl, Mr. Mollohan, Mr. Fish, Mr. Barnes, Mr. Bailey, Mr. Studds, Mr. Fithian, and Mr. Lowry.

H.R. 7224: Mr. Walgren.

H.R. 7337: Mr. Grassley.

H.R. 7349: Mr. Mottl.

H.R. 7481: Mr. Albosta.

H.R. 7522: Mr. Bedell.

H.R. 7557: Mr. Conyers, Mr. Hawkins, Mr. Brown of California, Mr. Mitchell of Maryland, and Mr. Dellums.

H.R. 7674: Mr. Oberstar, Mr. Downey, Mr. Pepper, Mr. Rodino, Mr. Madigan, Mr. Mitchell of New York, Mr. Moffett, Mr. Roe, Mr. Gibbons, and Mr. Fazio.

H.R. 7688: Mr. Pickle, Mr. Downey, Mr. Studds, Mr. Mazzoli, Mr. Weaver, Mr. Murphy of Pennsylvania, Mr. Frost, Mr. Emery, Mr. Conte, Mr. Wolff, Mr. Edgar, Mr. Bedell, Mr. Pepper, Mr. Mineta, Mr. Markey, Mr. Ertel, and Mr. Young of Missouri.

H.R. 7773: Mr. Gramm.

H.R. 7801: Mrs. Fenwick and Mr. Duncan of Tennessee.

H.R. 7824: Mr. Bafalis, Mr. Robinson, Mr. Bowen, Mr. Goodling, Mr. Ireland, and Mr. de la Garza.

H.J. Res. 551; Mr. Waxman, Mrs. Heckler, Mrs. Byron, and Mr. Mica.

H. Con. Res. 335: Mr. Benjamin, Mr. Jeffords, Mr. Ratchford, Mr. Hughes, Mr. Mitchell of Maryland, Ms. Mikulski, Mr. Oberstar, Mr. Vento, Mr. Kildee, Mr. Roe, Mr. Seiberling, Mr. Stokes, Mr. Daschle, Mr. Horton, Mr. Phillip Burton, Mr. Mottl, Mr. Downey, Mr. Conyers, Mr. Garcia, Mr. Pepper, Mr. Nolan, Mr. Atkinson, Mr. Bonior of Michigan, Mr. Kogovsek, Mr. Maguire, Mr. Miller of California, Mr. Moffett, Mr. Obey, Mr. Ottinger, Mr. Harkin, Mr. Markey, Mr. Edwards of California, Mr. Weiss, Mr. Dellums, Mr. Weaver, and Mr. Stack.

H. Con. Res. 344: Mr. Murphy of New York, Mr. Dornan, Mr. Dicks, Mr. Mathis, Mr. Charles Wilson of Texas, Mr. Foley, and Mr. Robert W. Daniel, Jr.

H. Con. Res. 365: Mr. Dicks, Mr. Evans of Georgia, Mr. Pepper, Mr. Hubbard, Mr. Ottinger, Mr. Spence, Mr. Mitchell of Maryland, Mr. Stack, Mr. Hall of Ohio, and Mrs. Spellman.

H. Res. 745: Mr. Dickinson and Mr. John L. Burton.

PETITIONS, ETC.

Under clause 1 of rule XXII,

401. The SPEAKER presented a petition of the Congress of American-Hellenic Organizations of Illinois, relative to Cyprus, which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6386

By Mr. MAZZOLI:

—On the first page, after line 9, insert the following new section:

Sec. 2. Paragraph (8) of section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)(8)) is amended to read as follows:

"(8) to provide legal assistance with respect to any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;".

—On the first page, line 3, insert "(a)" immediately after "That".

On the first page, after line 9, insert the following new subsection:

(b)(1) None of the funds authorized to be appropriated pursuant to the amendment made by subsection (a) of this section for carrying out the activities of the Legal Services Corporation may be used—

(A) to provide legal assistance with respect to any proceeding or litigation relating to abortion, unless such abortion is necessary to save the life of the mother; or

(B) to support in whole or in part any legal assistance activity of any attorney in connection with any proceeding or litigation relating to abortion, unless such abortion is necessary to save the life of the mother.

(2) Nothing in this subsection shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

H.R. 7765

By Mr. BARNES:

—Strike out title I (relating to elimination of September 1980 cost-of-living increase in military retired pay), which begins on page 2, line 14, and ends on page 4, line 2.

—Strike out section 401 (relating to limitation on annuity cost-of-living adjustments in fiscal year 1981), which begins on page 45, line 8, and ends on page 46, line 7.

—Page 418, after line 4, insert the following new subtitle (and redesignate the succeeding subtitle and section accordingly):

Subtitle F—Denial of Foreign Tax Credit for Oil and Gas Extraction Taxes

Sec. 968. Denial of Foreign Tax Credit for Oil and Gas Extraction Taxes.

(a) In General.—Section 901 of the Internal Revenue Code of 1954 (relating to taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Denial of Credit for Foreign Oil and Gas Extraction Taxes.—

"(1) In general.—Notwithstanding subsection (b) and sections 902 and 960, no credit shall be allowed under subsection (a) for any amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid under section 902 or 960) during the taxable year to any foreign country.

"(2) Oil and gas extraction taxes defined.—For purposes of this subsection, the term 'oil and gas extraction taxes' has the meaning given such term by section 907 (b)(5)."

(b) Technical and Conforming Amendments.—

(1) Subsections (a) and (f) of section 907 of such Code (relating to special rules in case of foreign oil and gas income) are hereby repealed.

(2) Subsections (b), (c), (d), and (e) of section 907 of such Code are redesignated as subsections (a), (b), (c), and (d), respectively.

(3) Subsection (i) of section 6501 of such Code (relating to limitations on assessment and collection) is amended by striking out "or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes)," and by striking out "or 907(f)".

(c) Restoration of Deduction.—Subsection (a) of section 275 of such Code (relating to disallowance of deduction for certain taxes) is amended by adding at the end thereof the following new sentence: "Paragraph (4) shall not apply to oil and gas extraction taxes (as defined in section 907 (b)(5))."

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to taxes paid or accrued after September 30, 1980, in taxable years ending after such date.

(2) Denial of carryovers.—Any amount of any tax carryover under section 907(f) of the Internal Revenue Code of 1954 (as in effect on September 30, 1980) from a taxable year ending before October 1, 1980 shall not be allowed as a tax carryover for any taxable year ending after September 30, 1980.

By Mr. SATTERFIELD:

—Page 261, line 11, insert "(a)" before "Section".

Page 261, after line 13, insert the following:

(b)(1) Title XI of such Act is amended by adding after section 1130 (added by section 866(a) of this Act) the following new section:

"QUALITY ASSURANCE PROGRAMS FOR CLINICAL LABORATORIES

"Sec. 1131. In exercising the authority provided under sections 1861(e) and 1861(s) of this Act for assuring the quality of diagnostic tests performed in hospital and independent laboratories, the Secretary shall—

"(1) only impose such requirements, in addition to those provided for by State or local law, as are found by the Secretary to be necessary to correct deficiencies in the quality of particular types of tests or laboratories;

"(2) employ quality assurance methods designed to result in—

"(A) the least imposition of costs, and

"(B) the fewest restrictions on the personnel who may perform or supervise such tests,

consistent with adequate standards of quality assurance; and

"(3) to the extent feasible, employ quality assurance methods which take into account and are appropriate to the different types of laboratories to which they apply.".

(2) The amendment made by paragraph (1) shall not be construed to require the Secretary of Health and Human Services to modify or repeal any regulations in effect on January 1, 1980.

SENATE—*Monday, July 28, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Keep thy heart with all diligence; for out of it are the issues of life.—Proverbs 4: 23.

Almighty God, whose mysterious ways man's mind cannot fathom, be graciously near to those who have suffered and those who now suffer in the traffic between nations and in the terrible conflicts within nations. Draw near to the hostages in a distant land to give them strength and courage in their isolation, loneliness and frustrated hopes. Guide all who work for their release and hasten the day of their deliverance.

Eternal Father, God of all grace and mercy, restorer and healer of our souls, give comfort to the bereaved household of Mohammad Reza Pahlavi. Confirm and strengthen all the good that has been done. Overrule and forgive whatever has been amiss. Take away the vindictiveness and cruelty of man to man and restore the spirit of reconciliation and compassion. We pray not for one nation alone but for all nations that they may dwell on this Earth in peace and righteousness.

Give Thy higher wisdom to the President and all the leaders of this Government that we may keep the soul of America righteous in Thy sight, "for out of the souls are the issues of life."

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 28, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MOHAMMAD REZA PAHLAVI

Mr. ROBERT C. BYRD. Mr. President, one of the most controversial figures of the 20th century, Mohammad Reza Pahlavi, the Shah of Iran, is dead.

Historians and students of international affairs will be analyzing and debating for years on the legacy of this man who played such a significant role in recent world affairs.

That the Shah was guilty of excesses, that he made mistakes in not broadening participation in the government while he ruled in Iran, that there were instances of brutality and repression during his reign—all of these are established facts. That he also made significant contributions to the improvement of the life of many Iranians, that he upgraded education, greatly increased opportunities for women, improved health care, introduced important technological advances to his country—these too are established facts.

The Shah was a man with grandiose dreams and ambitions for himself and for his country. Some of those ambitions were perhaps too grandiose, and in some of them he was encouraged by this country. He was, for many years, a close ally of the United States, and he enjoyed the support of a series of U.S. administrations.

I met with the Shah in Tehran just a few weeks before he was forced to flee the country in January 1979. At that time the turmoil in Iran was already building and it has not yet subsided. During these last months, as Iran goes through this period of chaotic instability in the aftermath of the Shah's rule, that distant country has been very much in the consciousness of all Americans.

The turmoil that prevailed in Iran at the time of my visit in late November 1978, has not subsided. The successors to the Shah—so critical of the tactics employed during his reign—have not been hesitant to use the most barbaric, brutal, and outrageous means of dealing with opponents and for maintaining control.

Let us hope that Iran can now begin to move toward some form of normalcy within the country and in its relations with other nations. Let us hope that those holding the American hostages will realize the futility and inhumanity of their actions and allow the captives to return home to their families.

Iran is a country of potentially great riches—not just from the oil income which poured in during the Shah's rule. It is a country with a great cultural tradition and a significant religious history. The Shah attempted to carry on that tradition while moving Iran into the modern era. He succeeded in some respects and failed in others. His heavy-handed tactics sometimes outweighed his genuine contributions to social and economic progress in Iran.

Mohammad Reza Pahlavi is dead, but his troubled legacy lives on.

He will be buried on Tuesday in Egypt in a state funeral at the direction of his loyal friend President Anwar Sadat. I offer my condolences to the Empress Farah and other members of the Shah's family.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. STEVENS. Mr. President, I yield back the remainder of our time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time that I consume be taken out of the majority leader's allocated time.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NONPARTISAN ISSUE: THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, as the 1980 Presidential election approaches, the party lines are gradually being drawn. One thing which has historically escaped partisan division is the Genocide Convention. Indeed, all of the seven Presidents in office since the treaty was sent to the Senate in 1949, have endorsed ratification: Four Democrats and three Republicans.

What has prevented ratification of this international treaty which prohibits the systematic annihilation of a racial, religious or cultural group? It has not been the lack of support of the executive branch or a bitter division along party lines.

One of the arguments used against ratification is the danger of entanglements posed by international commitment. However, there is sufficient precedent for the United States to add its name to the more than 80 nations who have supported the Genocide Convention. This country is already party to international agreements on drug trafficking, slave trade and piracy.

Furthermore, we must not overlook the psychological effects of ratification. It is a well recognized element of our foreign policy that understanding and cooperation are mandatory for progress in the world arena. The United States has in the past and will undoubtedly continue to enlist the support of nations around the world in various endeavors. Yet, we have failed to give our support on a matter clearly in harmony with American principles.

Every past administration has realized the importance of the Genocide Convention. Why cannot this Senate appreciate its immense value? I urge my fellow Senators to stop for a moment and question why ratification of this treaty has been frustrated. There is no question in my mind that we should approve this measure now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, is it not the order that at 11 a.m. the Senate will proceed to the consideration of S. 2189, the nuclear waste legislation?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business between this moment and 11 a.m., and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there morning business? If not, morning business is closed.

RECESS UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11 a.m. today.

There being no objection, the Senate, at 10:42 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HEFLIN).

NUCLEAR WASTE POLICY ACT

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now proceed to the consideration of S. 2189, which the clerk will state.

The legislative clerk read as follows:

> A bill (S. 2189) to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Time for debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Oregon (Mr. HATFIELD), with 2 additional hours on the bill under the control of the Senator from Ohio (Mr. GLENN), with 2 additional hours on the bill under the control of the Senator from Colorado (Mr. HART) and the Senator from Wyoming (Mr. SIMPSON). Time for debate on any amendment in the first degree shall be limited to 1½ hours except on a Hart/Simpson amendment, on which there shall be 3 hours; a Simpson amendment in the second degree to the Hart/Simpson amendment, on which there shall be 1½ hours; a Domenici amendment, which has to be germane, on which there shall be 3 hours; a Schmitt amendment, relative to transportation of nuclear waste, on which there shall be 2 hours; a Thurmond amendment, relative to low-level waste disposal, on which there shall be 80 minutes; a McClure amendment, relative to mixed oxide fuel, on which there shall be 1 hour; and a Durkin amendment, relative to nuclear waste, on which there shall be 1 hour, with time on any amendment in the second degree to be limited to 40 minutes, and with time on any debatable motion, appeal, or point of order to be limited to 20 minutes.

Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 15 minutes.

Mr. President, this bill deals comprehensively with the problem of civilian nuclear waste. It is an urgent problem, Mr. President, for this Nation. It is urgent, first, because we are running out of reactor space at reactors for the storage of the fuel, and if we do not build what we call away-from-reactor storage and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983, those predictions coming from the Nuclear Regulatory Commission and the Department of Energy.

It is essential that we set a predictable policy for utilities to operate on so that they know if they begin either to run a reactor, or if they are making a decision now as to whether to build one, that they have some policy to which they can refer that is predictable and certain for the United States.

Most important, Mr. President, we need to have a policy for the American people, who are deeply concerned about nuclear energy, concerned that the Congress has vacillated, has gone up the hill and down the hill and never made a decision over a period of 25 years with respect to the storage of nuclear waste.

Mr. President, our Committee on Energy and Natural Resources has considered this problem over a period of some years. This is, for example, the third time we have reported legislation on away-from-reactor storage.

We have had extensive hearings. This bill is comprehensive, dealing with away-from-reactor storage, with long-term storage, with alternatives to retrievable storage, such as geologic, deep ocean storage, shooting into space, and all other alternatives, as well as the problem of low-level nuclear waste.

Mr. President, this bill represents the safest technology for storage of nuclear waste that is obtainable. The bill passed by a vote of 13 to 3 in our committee, including on the affirmative side Senators JACKSON, CHURCH, JOHNSTON, BUMPERS, FORD, METZENBAUM, MATSUNAGA, TSONGAS, MCCLURE, DOMENICI, STEVENS, BELLMON, and WALLOP. Among that list, Mr. President, we note that there are all shades of the political and, certainly, the nuclear spectrum, some who have been considered pronuclear, of course, and some who have been on the decidedly anti-nuclear bent.

That kind of coalition, 13 to 3, could not have been put together did this bill not represent the highest and best technology and safety standards obtainable with respect to nuclear energy.

Mr. President, the bill essentially accomplishes four things. It deals with away-from-reactor storage, first. Second, it deals with monitored retrievable long-term storage. Third, it provides for accelerated R. & D. and demonstrates alternatives to monitored retrievable storage. Fourth, it provides for low-level storage and transportation in that it requires reports and recommendations on that low-level storage.

First with respect to the away-from-reactor storage, Mr. President, the bill provides that the Department of Energy shall take title to spent fuel rods from the utility at the utility site.

They will, secondly, acquire and construct one or more away-from-reactor storage facilities. They shall make a one-time charge to the utility; that charge shall take care of transportation, interim storage, or of the away-from-reactor storage, as well as ultimate storage.

So that when the title is transferred to the spent fuel at the reactor site, transferred to the Government, the one-time charge made to the utility shall be sufficient to cover all of the transportation and handling of that nuclear waste indefinitely.

The utility shall keep a nontransferable right to the residual value of the fuel so that should that fuel ever be reprocessed at any time in the future, the utility will have the right to receive back that money.

We do that not so much in anticipation of a sure decision to reprocess and get the residual fuel out of the rods, but, rather, because we want to provide for all contingencies in advance.

The bill provides that the amount authorized, that is, $300 million, shall be repaid to the Treasury out of this revolving fund, the revolving fund to be replenished, of course, by the payments from the utility.

Finally, it provides that the away-from-reactor storage sites are to be licensed by the NRC.

With respect to long-term storage, Mr. President, we provide that within 1 year the Secretary shall submit to the Congress site specific plans for the first module of a monitored retrievable storage site.

This report to the Congress shall contain design information and cost estimates sufficiently definite to be put out to bids.

This report to the Congress—which is a report to the Congress—shall not be subject to an environmental impact statement under NEPA, but when and if authorized by the Congress, then the action will be subject to NEPA and NRC licensing, except that at that time it would not be necessary to consider alternatives to the congressional criteria, such as geologic, nonretrievable, ocean storage, shooting into space. All those alternatives would not have to be considered. In effect, alternatives to the congressional criteria would not have to be considered.

The third part of the bill, Mr. President, provides for an accelerated consideration of alternatives, both research and development—with a goal of January 1, 1988, for the first demonstration of geologic storage—and mine repositories.

It also provides that they shall continue to do R. & D. on such things as storage in very deep drill holes, ocean sediments, shooting into space, or nuclear transmutation.

The final part of the bill deals with low-level waste and provides that the Secretary, within 4 months, shall report on the status of State license, low-level waste storage, on the status of regional transportation and disposable requirements, and it requires that the Secretary shall recommend with respect to these conditions within a period of 4 months.

Low-level waste, of course, is relatively nontoxic, relatively nonserious, in terms of the level of toxicity or level of radiation. Thirty percent to 40 percent of our low-level waste is made up of our medical programs. Nevertheless, we believe that transportation and storage probably can be improved on low-level waste disposal—hence, that section of the bill dealing with low levels.

Why do we provide with respect to an away-from-reactor storage? Very simply, Mr. President, the Department of Energy, the Nuclear Regulatory Commission, as well as the utilities themselves report that onsite facilities for storing spent fuel rods will be full by about 1983. In order to have an AFR complete by 1983, it must be begun now. So that there is a real sense of urgency with respect to AFR's.

There is no problem technologically with the storage of nuclear waste in an AFR. It is an old technology. It is essentially the same as storage of nuclear waste onsite, except that it is an away-from-reactor, a central collection point. It is a technology that has been in active use since the first reactor was opened in 1957.

Away-from-reactor storage, or so-called interim storage, envisages storage of a period of 10 to 20 years. There is no physical limitation of the length of time in which spent fuel rods can be stored in away-from-reactor storage, but it is generally considered that 10 to 20 years is the appropriate target time.

Mr. President, why do we provide for long-term, monitored, retrievable storage in this bill, as opposed to a nonretrievable or so-called permanent storage?

First of all, I want to make clear that monitored retrievable storage can be anywhere. It probably will be on Government reservations already existing. In a word, or in a sentence, monitored retrievable storage is safer than irretrievable storage.

Almost by definition, it is safer. If you monitor it, if you check it, then you know it is not leaking, you know there is no escape, as opposed to putting something away permanently where it is beyond control. Without any question, that is a safer way to store high-level nuclear waste.

Also, it will be much quicker to provide for the safe disposal of wastes if they can be monitored than if we put them in geologic formation forever, where they are irretrievable. The reason for that is not because of the difficulty of the technology of the storage of high-level nuclear waste but because of the uncertainty of geology.

If you make the problem proving the characteristics of geologic formation over a period of decades and decades, centuries and centuries, it becomes an impossible problem to prove what is going to happen in any given geologic formation over a period of thousands of years. Therein lies the problem.

So far as the technology of the storage of high-level nuclear waste is concerned, it is a proven technology, and it is absolutely safe. To prove my statement that this is the safest way—that is, monitored retrievable storage is the safest way—to store nuclear waste, we should consider some elemental things about the storage of nuclear waste and about the nature of nuclear waste.

First of all, we are dealing here with civilian nuclear waste, not reprocessed liquid waste. Civilian nuclear wastes are solid in form. At this time, they are in the form of spent fuel rods, which are zirconium-clad rods containing pellets of uranium oxide, which also are solid in form, contained within the zirconium-clad fuel rod. So they are solid; they are not liquid; they are not gaseous; they cannot move. You put them down somewhere and they will stay there. They do not flow. They are not like the reprocessed liquid waste at Hanford which has caused problems in the past.

Second, Mr. President, these are nonexplosive nuclear wastes. They cannot explode. They will not explode. They are nonexplosive.

Third, they are very small in quantity. The amount of high-level nuclear waste to be generated by the average person in 1 year is about the size of an aspirin tablet. All the nuclear waste for this country, between now and the year 2000, according to one engineering design which has been offered to us, could be stored in a series of shafts in the mountains in the Nevada atomic weapons test site. The area to be consumed by the shafts would be 30 feet by 6,000 feet.

In effect, the surface area for storage of all the high-level nuclear waste that this country would generate in the civilian program between now and the year 2000 would be consumed in about 7½ acres. A surface area of 7½ acres would contain all high-level waste for this country between now and the year 2000, according to one particular engineering design which appears to be very attractive.

The PRESIDING OFFICER (Mr. EXON). The 15 minutes of the Senator have expired.

Mr. JOHNSTON. I yield myself an additional 5 minutes.

Mr. President, the next question is how long are these wastes dangerous?

The heat generated from them subsists from an engineering standpoint for a period of from 10 to 20 years. In other words, it creates an engineering problem for from 10 to 20 years. The gamma radiation persists for 100 to 200 years, after which it drops off very rapidly. They have a 30-year half life. After 500 to 600 years there is no gamma radiation at all, and as one distinguished scientist put it, after that period of time you could eat your lunch on top of the waste and there will be no problem. I do not recommend that, but that is what he said.

Gamma radiation can be shielded against by a small quantity of lead, 6 feet of concrete, 10 feet of water, several hundred feet of air, but 6 feet of concrete will shield you from the most deadly nuclear waste of all, as will 10 feet of water.

There are many solutions to the problem of stopping gamma rays. There is no problem technologically in stopping gamma rays.

The toxicity that persists after the gamma rays are gone after a period of a couple of hundred years remains indeed for a very long time. This consists principally of alpha and beta rays which are not the kind of rays that will hurt you if they touch you or, in other words, you can hold something that is emitting these long-term beta rays in your hand without any harm at all. It has basically the toxicity of natural uranium which has persisted in the biosphere for millions and millions of years.

It is toxic, that means it must be ingested, but it is a solid, as one distinguished scientist called it, of remarkable stability. Indeed, there was a natural reactor a couple of billion years ago in West Africa, a scientific phenomena agreed upon by all scientists, that was radioactive for a period of perhaps 500 million years. That natural reactor contains now a huge lode of spent fuel. It is precisely the same thing that we have with spent fuel rods, only they are not zirconium clad. That natural material remains in place without transmigration even though it is in a water-fed environment. So it is a remarkably stable fuel. It is not nearly as poisonous as mercury, arsenic, cadmium, many things that we put on our crops. That is after the gamma rays are gone.

So the problem becomes progressively simpler as the gamma rays leave.

What, then, do we want to accomplish by long-term storage? Three things.

First of all, isolation from an external event, from an airplane crashing on it, from terrorists coming in, from people getting it, from anything that humans might do. We want to isolate it.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. JOHNSTON. Mr. President, I yield myself an additional 5 minutes.

Second, we want to contain it from the biosphere so that rays will not hurt anyone during that period of time, so it will not leech out into the water.

Third, perhaps most important, we want to assure the public it is all being done not only safely but extremely safely, and that is what monitored retrievable storage will do because it will provide absolute assurance not only that it works when you put it in but that it continues to work while it is there.

It is a superior way to contain nuclear wastes to have them where they can be monitored because by definition if anything happens you can fix it.

It will also be much easier to deal with the heat problem in a monitored environment where you can have air convection to dissipate the heat rather than have it down in the salt domes, for example, where the heat will melt the salt or crack the basalt or crack the granite, or perhaps do other untoward things. It is much better to put it in a monitored retrievable situation where you can have air convection that will deal with that.

The question of container integrity is an easier matter technologically. The Egyptians made remarkably good containers which persisted for 5,000 years without intrusions from the biosphere.

Lab tests would show that we are capable of making containers that would exist in this kind of atmosphere for periods of thousands and thousands of years without there being any intrusion or any violation of the container.

Monitored storage, as I say, is superior with the public. We can provide for a way of monitoring this that is virtually foolproof: put your rods within a stainless steel container as one scientist recommended, then put that container in anther container perhaps made of titanium or another highly resistant metal to rust or corrosion, and put a gas in between, argon gas or another noble gas that is easily detectable, and then you store the container in the monitored area.

If there is the slightest leak from that gas under pressure it would be immediately detectable chemically. That is why we say it is so much better to store these wastes where any leak can be ascertained and monitored.

Mr. President, there are so many good places to build excellent monitored retrievable storage sites. One of my particular favorites is the Nevada test site. We already have tunnels dug there, dug in connection with the nuclear weapons program, a long series of tunnels with little fingers and out in those fingers they had the actual atomic bomb underground blasts, and they would plug them off with massive plugs, but the tunnels with high integrity are still there. We would not even have to dig additional tunnels. We are certainly not going to be contaminating. This kind of storage will not contaminate the ground anyway but if it did it would contaminate the ground not one millionth, not one billionth of the amount it already has been contaminated.

So, Mr. President, we have so many good ways and good places to store these wastes safely, technologically perfectly, so that we can assure the American public that we will neither contaminate their air or their water nor in any way create a hazard for people or for the future.

The PRESIDING OFFICER. The Senator's additional 5 minutes time has expired.

Mr. GLENN and Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I will submit an amendment at the end of my statement.

Mr. McCLURE addressed the Chair.

Mr. GLENN. This is an amendment I have cosponsored with Senator Percy which addresses a number of key issues not adequately addressed in the pending legislation.

A matter of paramount importance to any successful nuclear waste disposal program, which is the central focus of our amendment, is the role that States and localities are to have in Federal nuclear waste repository planning and development.

Because of the unfortunate history of——

Mr. McCLURE. Mr. President, will the Senator from Ohio yield for a question?

Mr. GLENN. I yield.

Mr. McCLURE. Is it the intention of the Senator from Ohio or the Senator from Louisiana to allow the minority to make an opening statement before offering the amendment?

Mr. GLENN. I am glad to without losing my right to the floor after Senator McClure has spoken. I would be glad to yield to his statement so long as I have the right to the floor after he has spoken, and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I thank the Senator from Ohio for yielding.

Mr. President, I think it is customary under the circumstances to yield, to have the floor manager make the opening statement and the minority floor manager is then recognized to make whatever statement the minority wishes to make.

I just want at this point to say I have no objection to allowing the Senator from Ohio to go next, but it seems to me that at least the minority who is responsible for the legislation ordinarily gets the opportunity to make some statement.

I thank the Senator from Ohio for yielding on that basis.

The PRESIDING OFFICER. In the interest of the Chair, the Chair will simply say that the Chair followed the usual rule, that had the minority floor leader been on his feet the Chair would have seen fit to recognize him. He was not on his feet. Therefore, the Chair in this instance recognized the Senator from Ohio.

The Chair now recognizes the minority floor leader.

Mr. McCLURE. I thank the Senator, and I thank the Chair. I yield myself such time as I may consume.

Mr. HART. Mr. President, will the Senator from Idaho yield briefly for an observation?

Mr. McCLURE. I yield.

Mr. HART. Mr. President, the Senator from Colorado and the Senator from Wyoming each also have opening remarks on the pending legislation which relate primarily to the alternative approach taken by the Environment and Public Works Committee.

I think in terms of just cleanliness of the procedure it would also be helpful if we got those opening statements in before the amendment process started and got things fairly confused. I do not want to untrack the Senator from Ohio, but this is going to be a long complicated process in any case.

Mr. McCLURE. Mr. President, might I suggest this to the Senator from Louisiana as a matter of procedure that might be followed: that those who desire to make general opening statements would be recognized prior to the Senator from Ohio, who would then be granted permission to offer the first amendment, so that he is not untracked from his priority. I do not think we have any problems with that on our side. He would be recognized to offer the first amendment that would be offered. Would that be satisfactory?

Mr. GLENN. That would be satisfactory, so long as I offer the first amendment. I would be happy to stand aside temporarily for any opening statement anyone wanted to make on any part of this.

Mr. McCLURE. Is that satisfactory to the Senator from Colorado?

Mr. HART. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, will the Senator from Idaho yield for a unanimous-consent request?

Mr. McCLURE. I would be happy to yield without losing my right to the floor.

Mr. HART. Mr. President, I ask unanimous consent that the following staff members of the Committee on Environment and Public Works be granted the privilege of the floor during consideration of and voting on S. 2189: John Yago, Philip Cummings, Richard Harris, Larry Roth, Paul Leventhal, Keith Glaser, Laura Worby, Bailey Guard, James Asselstine, Jean Schrag, Linda Findlay, Peter Fellman; also Marrianne Klink of Senator SIMPSON's staff, and Peter Gold of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I would remark that just the colloquy and the list of staff people coming from the Environment and Public Works Committee begin to illustrate the complexity of the problem and the type of protection that is built into this discussion today.

Mr. President, I do rise in support of S. 2189, the Nuclear Waste Policy Act. I do so from two standpoints: First, as a Senator from a State which is deeply interested in this issue in at least three very important ways; and, second, as a matter of national policy, aside from the question of whether or not my State is interested.

The first way in which my State may be directly involved is because we have been for years a leader in nuclear energy research and development in this country and, indeed, in the world, with the Idaho National Engineering Laboratory, and a host of very capable scientists and support personnel who work there.

Second, the State has been and remains strongly supportive of this Nation's nuclear weapons program and of the civilian and military nuclear power programs.

Finally, and very importantly, the State is anxious to have an aggressive and dynamic nuclear waste policy and program for this country to address affirmatively the large inventory of nuclear waste accumulated over the past four decades.

I am convinced that S. 2189 would make a significant contribution in terms of those interests of my own State of Idaho and, perhaps more importantly, the overall national interest in developing that aggressive and dynamic nuclear waste policy and program.

This bill, as reported from the Energy and Natural Resources Committee, is focused exclusively on—and I want to emphasize this—exclusively on the management of civilian nuclear wastes as distinct from military nuclear wastes resulting from commercial nuclear power operations in civilian research and development.

We all recognize that currently nuclear waste from the defense program overwhelmingly exceeds those wastes from the commercial and civilian programs, with well over 90 percent of the volume being military wastes or wastes from the military program.

Current projections to the year 2000 continue the dominance of military wastes, but by then the operation of commercial nuclear powerplants will begin to contribute a more significant percentage of total national nuclear wastes. We will be discussing this subject in greater detail as we consider the bill and, particularly, as we consider the alternatives that may be offered from other sources. But it is important at the outset to note that S. 2189, as reported, addresses only the civilian and commercial nuclear waste issue.

The bill includes a series of significant initiatives which would represent substantial programs in developing an aggressive and dynamic program and policy.

First, the bill establishes a Federal program for the interim storage of spent nuclear fuel from civilian nuclear power plants away-from-the-reactor, and the immediate acquisition of storage capacity for the program.

Let me say, Mr. President, there is urgency to that requirement. We have already wasted too much time to meet the needs for commercial power storage at reactors, and I do not think there is anyone here who really will argue that point that by 1983 at the earliest and 1984 at the latest the current storage capacity at commercial reactors will have been filled and some alternative must be found by 1983 or 1984, and it is already too late to meet that in the manner in which it should have been met had we moved more aggressively earlier.

There are ways in which we will meet the AFR, away from the reactor, requirement, but it is not optimum. It is not what any of us would have desired, and it is a symptom of the delay that has been built into the difficulty of making decisions, and I underscore that because I want to make the point that we cannot afford further delay.

Second, the bill requires the submission to Congress within 1 year of a site-specific proposal for the disposal of spent fuel and high level radioactive waste from civilian nuclear activities in repositories permitting continuous monitoring and retrieval of the waste.

The distinguished Senator from Louisiana has discussed this question of monitored retrievable storage as distinct from geologic storage, and I want to underscore again in my mind the benefits of having monitored retrievable storage as distinct from trying to find a way and a method and a place in which you can simply bury the stuff and forget it for the next 15 million years.

Third, it directs an acceleration of a vigorous research and development program on a broad range of radioactive waste disposal technologies.

Fourth, the bill establishes an objective of completion and operation by January 1, 1988, of at least one demonstration of geologic disposal in mined repositories.

Fifth, it requires the Secretary of Energy to report to Congress within 4 months on the status of the low-level nuclear waste program.

These initiatives would fill the relative vacuum of policies and programs for civilian wastes which now exists in this country, and for the first time would provide for the positive and predictable management of civilian and commercial nuclear wastes.

In the absence of S. 2189 the Nation is without any policy and without any program for these wastes. I want to emphasize that statement because I think it is important for people to understand that unless we pass legislation there is no policy, there is no program. We need both.

Even worse, the announced proposals of the Carter administration, coupled with the nuclear power policies of this administration, would virtually guarantee there would be no firm action, could be no firm action, to dispose of these wastes until the 21st century, not in less than 20 to 30 years or more from now.

I might just point out that the administration in its submission before the NRC has suggested the optimum timeframe for the first of these proposals would be 1997. That is an absolutely and totally unacceptable timeframe for something that is happening now and must be decided certainly before the end of this century. At least we need to make policy, we need to make decisions for programs, that can be in being in far less than 20 years from now.

Mr. President, we cannot afford to wait 20 or 30 years or more for the next century to deal with this problem. We must act decisively and we must act now to establish a policy and implement a program in the immediate years ahead, not decades later.

S. 2189 forcibly takes such action, and I hope that the Senate will today support the thrust that has been taken by this bill.

Let me say at the outset, Mr. President, that there are three problems that must be confronted. First, away-from-reactor storage problem. We know that must be met and it must be met in the next 2 or 3 or 4 years. That means decisions for what will occur 3 or 4 years from now must be made now or they will not happen 3 or 4 years from now.

Second, the disposal of commercial waste in a satisfactory manner which can be done in the timeframe outlined in this bill if we make the decisions now to go forward. And it cannot possibly be done, if, as a matter of fact, we do not make the decisions now that are necessary to that progress over the near term.

Finally, the question of long-term geologic storage needs to have active support, not instead of but in addition to the other two steps which I have already mentioned.

Let me say, Mr. President, that interim storage of nuclear wastes—that is, interim in the sense of being less than final disposal of nuclear waste—is not a technological problem. It is a not a problem that technologists and scientists and engineers are incapable of dealing with, it is one which the political process has found either unwilling to deal with or perhaps it has found it too knotty a problem to deal with and so we have shied away from it.

We have the technology. We know what it is. We need to demonstrate that it can be done. We need to get on to doing it rather than allowing the naysayers to have us in a continual period of delay, as is being suggested by some and as I am sure will be suggested in the debate later on today.

Mr. President, I yield to the Senator from Oregon (Mr. HATFIELD), the ranking member of the Energy and Natural Resources Committee, such time as he may consume for a statement on the legislation.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the Senator from Idaho for not only his fine opening statement but for his willingness to manage this part of the bill.

Mr. President, on this matter of nuclear waste policy we are advised by the editorial writers of the Washington Post to "make haste slowly." Hardly is there an issue of such urgency on which we have moved more slowly than this. Successive administrations and Congresses have examined the question of what we will do with these wastes which nature has never seen before, and none have answered it.

We do not propose to answer it yet. In the Nuclear Waste Policy Act we simply recognize that the waste continues to pile up in temporary storage, and that this situation alone requires a bit of management. We do not presume that someone has yet found the answer—that right combination which will be safe enough and politically acceptable enough for us to steer our Federal policy machinery toward it.

We do, however, propose to solve two problems which are the direct result of our inability to solve the primary one. First, we propose to establish Federal away-from-reactor cooling pools for spent fuel assemblies from those civilian nuclear powerplants which cannot accommodate any more spent fuel on the powerplant site. Second, we propose to establish a long-term, retrievable storage facility for the spent fuel which cannot be kept swimming in their cooling pools any longer.

Mr. President, I believe few can quibble with these objectives. We need to obtain the first objective—Federal AFR storage—because today's nuclear powerplants were designed with early spent-fuel reprocessing in mind. Circumstances, partly the result of a switch in Federal policy on reprocessing, now make the capacity of on-site temporary storage facilities for spent fuel generally inadequate. Although expansion of these facilities is presently buying some time, the limits to this response will be reached sooner than there will be a long-term storage or disposal system operating. In that the Government bears a measure of the responsibility for the creation of the temporary storage problem, and in that repeated juggling of spent-fuel assemblies among utility powerplant sites is unacceptable to me, I support the establishment of a Federal AFR storage facility.

We need to obtain the second objective—long-term, retrievable storage—because we are not yet prepared to say to the American citizenry that we have a plan for nuclear waste disposal on which we should act, and because it is likely, given our track record, that we will not arrive at such a plan nor be able to implement it before the older of the spent reactor fuel assemblies in the land begin to "lose their structural integrity," in the parlance of the engineers who worry about such things. Such crumbling would create a more difficult waste containment problem than we have already, not to mention the attendant problems in public health and safety. I believe we should not risk these problems and that we should not, therefore, put off further the establishment of a long-term storage facility.

It has been the policy of the Government since the 1954 Atomic Energy Act that it would bear final responsibility for establishing the safe and effective isolation of high-level radioactive wastes from man and his environment. In the Nuclear Waste Policy Act, we do not shrink from this responsibility. We state that it is our intent that research and development work on permanent disposal systems be continued and accelerated, and we provide that until such a system is selected by the Congress the long-term storage facilities we build in the interim will be fully retrievable so that the stored wastes will be accessible to recovery and disposal in the selected manner.

Mr. President, the bill before us states that the long-term storage facility must be a fully monitored surface system. We are specific about this because we know today's technology can readily provide it, and because time is about up for the oldest waste in those pools. We no longer have the luxury of the time it would take to examine all the underground, underwater, midair, or whatever other configurations one could imagine in an environmental impact statement. We also know we can build a lead can in a concrete vault out in the middle of nowhere facility and manage it safely for 20 years.

A majority of the Energy and Natural Resources Committee voted to suspend the NEPA requirement for an environmental impact statement on such a facility. The distinguished Senator from New Jersey (Mr. BRADLEY) and I, however, would not go so far. While we recognize the superfluity of examining underwater and midair systems if the Congress directs "monitored, retrievable, surface storage," we do not believe an environmental assessment of the options within this directive is unimportant.

We will therefore offer an amendment to the bill to restore the requirement for an EIS, albeit only for those systems which would satisfy the congressional directive.

Mr. President, although the Government will build and manage AFR and long-term storage and disposal systems, the general taxpayers should not have to shoulder the associated costs, nor should these costs go unassessed against the benefits derived from the activities which generate the waste. The bill seeks to recognize and accept these principles. We would set up a special fund to support nuclear waste management activities, and would have the generators of the waste—electric utilities, mostly—pay into the fund such charges as will fully cover the costs.

I will propose an amendment, however, to assure that all civilian waste management activities of the Government—including handling and transportation, and facilities construction, and operation—except for the Federal R. & D. effort, are paid for out of the fund and only out of the fund; that the charges against the generators fully cover the costs of waste management; that any appropriations deposited into the fund be paid back to the Treasury with interest; and that expenditures from the fund be in such amounts and for such activities as are provided for in appropriations acts. I believe the Congress should maintain a large measure of budgetary control over this fund and these activities.

Mr. President, with the two amendments I have described this morning and the amendment to be offered by the distinguished Senator from New Mexico (Mr. DOMENICI) on state concurrence, I believe the Nuclear Waste Policy Act will solve a critical, near-term management problem which is now building with the accumulation of waste from our civilian nuclear reactors. I urge support for these amendments and support for the bill as modified thereby.

I thank the Senator from Idaho for yielding at this time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, Senators will be engaged in a very serious debate today and in subsequent days. My remarks will be general in nature, and must be in that frame of presentation because we have more than one committee that brings its legislation to the floor.

We have the measure (S. 2189) which comes from the Energy and Natural Resources Committee. But we also have legislation (S. 2980) that has been reported by the Environment and Public Works Committee which some might say is competitive, though I would rather not use that word. I think there are aspects in the overall subject matter which allow both of these committees, through their bills, by whatever arrangement, to have the opportunity to present the situation as we see it from the committees that have jurisdiction over nuclear regulation.

I understand, as does the able Presiding Officer from Nebraska, that he and all Members of the Senate are perhaps going to have some difficulty in separating these situations that we feel are important for decisionmaking by the Senate.

Mr. President, in recent years, the Committee on Environment and Public Works has devoted substantial time and energy to the subject of wastes.

This was necessary because of residues of our highly industrialized, complex society were threatening to overwhelm us and endanger what I call the good standard—we might call it a high standard—of living that Americans have labored so long to create. During this period of time, we have created problems as well as programs that were intended to be synonymous with progress in our country.

I am also positive in my thinking, but there are negatives that naturally cause me, at times, to take the overall look as we are today.

Present today are the ranking majority and minority members of our Subcommittee on Nuclear Regulation, Senator HART and Senator SIMPSON, who deserve not my cursory attention and acclaim. All members of our committee certainly appreciate the leadership that these two members of our committee have given to delving deeply into the implications which constantly surface in connection with the nuclear waste problem. I am also appreciative of the contributions of the able and cooperative ranking minority member of the committee, the Senator from Vermont (Mr. STAFFORD).

In 1976, to step back in my discussion, we made major revisions in the Solid Waste Act to help control and dispose of a wide variety of residues. I, in a sense, was as responsible in that area as were these two gentlemen. We used to have a little kidding in the committee, and even my friend from Idaho, (Mr. MCCLURE) had an interest through his membership over the years. He used to understand that they would say, "Give to so and so the subject of purifying the water or the air, and let Randolph take over the garbage."

Earlier this year the committee developed legislation addressing the growing problems associated with hazardous substances. That measure is pending on the Senate Calendar.

Today we turn to the wastes created over the past quarter century since the United States began generating electricity with nuclear energy.

The solid wastes of our country amount to millions of tons annually, and the hazardous substances are measured in millions of gallons every year. It is ironic that today we discuss waste materials that are relatively small in quantity but are probably the most poisonous of all, a danger that will continue many years in the future.

Mr. President, just over a year ago I introduced a nuclear waste bill, S. 1521. I said then and I believe today that it is unconscionable that our Nation continues to generate nuclear wastes while arrangements for protection of the public health and safety from these highly toxic and long-lived substances are at best rudimentary.

Fortunately, there has been a growing awareness of the problem in recent years. But until today attention generally has been paid only to isolated details of the overall problem.

The Senate now has before it two measures which together can for the first time help establish a national policy for nuclear wastes. The programmatic aspect of this policy has been addressed in S. 2189 by the Committee on Energy and Natural Resources under the leadership of the Senator from Washington (Mr. JACKSON) and the Senator from Louisiana (Mr. JOHNSTON). A complementary bill (S. 2980) was reported on July 25 by the Committee on Environment and Public Works. This measure, which seeks to establish the regulatory framework for a nuclear waste program, was developed by our committee with the valuable guidance, as I have said, of the Senator from Colorado (Mr. HART) and the Senator from Wyoming (Mr. SIMPSON).

Mr. President, I have personal doubts about the ability of nuclear energy to supply a major portion of our national energy needs in the long-term future. It would be unwise to rely heavily on nuclear power at a time when it is becoming increasingly costly and is faced with a myriad of unanswered questions on such issues as safety and, I say to Senator HART, public acceptance.

I am, however, a realist. Nuclear power generation exists today, and it is likely to be used for several years until we can develop and utilize energy sources that are economical, safe, environmentally sound, and are within the control of our own country.

I foresee a future when we will obtain a major part of our energy from domestically producer coal—either by direct burning or through synthetic fuels—and alternative sources, the nature of which we can only speculate about at this time.

Until that time, however, we must assure that nuclear energy is generated in the safest possible measure. Critical to that objective is the care and disposal of nuclear wastes in a manner that prevents them from endangering our population.

The magnitude of the problem is indeed substantial. Over the past 30 years we have accumulated a large stockpile of highly dangerous radioactive wastes. The Federal Government itself has generated 75 million gallons of radioactive liquids, most of which are temporarily stored on Federal property because we have not come to grips with developing a permanent disposal system.

Civilian nuclear power plants, in addition, have produced nearly 8,000 tons of used fuel, again highly toxic and dangerous. Considering that much of this waste can emit radiation for 1,000 years or more, a safe, permanent disposal system must be a matter of the highest national priority.

Development of permanent disposal facilities will necessarily be a complex and time-consuming task. It is one, however, that must be started without delay and be pursued with vigor.

We must maintain progress toward permanent disposal, and we must cautiously approach the question of what to do with nuclear wastes until permanent sites are ready to receive them. This is one of the most critical issues in the legislation before the Senate.

Most nuclear wastes are now stored where they were generated, and they should stay there until the problem of permanent disposal is solved unless, of course, additional capacity cannot be provided or there are serious environmental dangers.

Temporary storage of nuclear wastes away from reactors, in short, should be a last resort solution.

The bill reported by the Committee on Environment and Public Works adopts this approach and seeks to facilitate adequate space at reactor sites for temporary storage.

This is an important element of our bill, but it also addresses the other elements we see as essential to a nuclear waste disposal program.

In brief, our bill also establishes a specific timetable for placing a permanent disposal facility in operation by January 1, 2000.

It extends the licensing authority of the Nuclear Regulatory Commission to Department of Energy facilities for the disposal of certain nondefense wastes and thus provides a uniform regulatory approach to all disposal.

It establishes a pilot program to determine if NRC authority should be extended to other Department of Energy facilities.

It creates a method for States and Indian tribes to be involved in the locating, development and operation of waste disposal sites.

It requires the suspension of operating licenses and construction permits for new nuclear plants if the permanent waste repository is not open on schedule.

Mr. President, that is the general outline of S. 2980. It is, I believe, a measure that addresses the nuclear waste problem in a balanced and reasonable manner.

It is vital that the Congress act on this subject and pass the necessary legislation this year.

To develop a system of safety disposing of nuclear wastes will pose great challenges to our technological ability as well as our capacity to formulate and implement public policy in this area.

Is the time to start tomorrow, the next day, next year? No. The time is now.

I will not say it was yesterday because we have been working on this subject matter somewhat in a new energy industry source.

I am happy, in a sense, although I am sobered, in a sense, by the bringing of S. 2980 to this floor, happy because I can commend the members of the committee, for I have a responsibility to chair and work with them on material of this kind. Understanding, also, of the efforts made within the Energy and Natural Resources Committee.

I am gratified to have been involved in the development of S. 2980 by the Committee on Environment and Public Works. It will enable our country to move toward solution of one of our most serious problems.

If we are to have a solution on this problem, or a possible part solution, and sometimes we settle problems only in part, it will be marked up as something positive in the history of the legislation dealing with the nuclear subject of the waste substances created in connection with the production of energy.

Mr. HART addressed the Chair.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Colorado.

Mr. HART. Mr. President, as the Senate begins its consideration of S. 2189, the Energy Committee's nuclear waste bill, I want to impress upon my colleagues that this bill, standing alone, only provides half the framework for a national nuclear waste management program. S. 2980, as the Senator from West Virginia has just indicated, the National Nuclear Waste Regulation and Control Act, reported by the Environment and Public Works Committee, after 1½ years of study and hearings, supplies the other half of that framework.

The Energy Committee bill establishes a national program for storing and disposing of nuclear waste. The Environment and Public Works bill provides the equally important regulatory and control mechanism for such a program, to insure that it will protect public health and safety and the environment.

The Senate should not consider one bill to the exclusion of the other. Together, they form complementary parts of a comprehensive approach to solving the problems of nuclear waste storage and disposal. Separate reporting of these bills, with their individual consideration by the Senate, is consistent with Congress intent to separate regulatory from programmatic jurisdiction over nuclear energy when it dissolved the Joint Committee on Atomic Energy in 1977. Therefore, I urge Members to consider carefully the Environment and Public Works regulatory bill independent, but in the context of, the Energy Committee programmatic bill. Few issues have such profound implications for the health and safety of this and future generations than the question of how to regulate and control a program for the long-term storage and disposal of highly radioactive nuclear waste.

Consequently, I, joined by Senators SIMPSON, RANDOLPH, and STAFFORD, intend to offer S. 2980, in whole or in part, as amendments to S. 2189.

Mr. President, sound regulatory programs, by their very nature seek to achieve specific policy objectives that complement the objectives of the programmatic activities they regulate. The Environment and Public Works bill is compatible with the Energy Committee bill in many respects and provides a regulatory and control program that will add an additional measure of health and environmental protection. Such additional protection is absolutely essential because the problem of nuclear waste management has grown so large and so complex.

Since the dawn of the Atomic Age over 30 years ago, the Federal Government has generated over 75 million gallons of highly radioactive liquid wastes which it "temporarily" stores in tanks at several Federal reservations. These tanks have leaked at least 500,000 gallons of this highly radioactive liquid into the soil. At the same time, the commercial nuclear power program has generated over 7,700 metric tons of spent fuel, stored primarily in pools at the site of each nuclear powerplant. Any solution to the nuclear waste problem will require hundreds of shipments of this highly radioactive material over thousands of miles of highways through virtually every State in the Nation.

Let no one doubt that nuclear waste, if not regulated and controlled properly, presents significant hazards to the public health and safety and to the environment. Many of the elements that comprise nuclear waste have half-lives that will extend several generations into the future. Plutonium, one of the most radiotoxic and dangerous materials known to man, has a half-life of 24,000 years. Because of these potential risks, the Senate should give careful consideration to the regulatory and control program in this bill that complements the programmatic provisions in the Energy Committee bill.

At the same time, however, some policy objectives of the Energy Committee bill differ from the policy objectives of the Environment and Public Works bill.

For example, the Energy Committee bill emphasizes the construction and operation of long-term retrievable storage facilities for commercial spent fuel as an interim solution to the nuclear waste problem. Indeed, the Energy Committee would fast-track the development and licensing of the facility. Our bill avoids this interim step, emphasizing instead a regulatory timetable leading to the operation of a permanent repository by the year 2000.

The Energy Committee bill not only directs the Secretary of Energy, within 1 year, to present Congress with a complete set of construction plans and design specifications, it also abrogates the requirements of the National Environmental Policy Act, first, by not requiring DOE to prepare an environmental impact statement to accompany its proposal; and second, by expressly preventing the NRC, in its licensing review, from considering alternative sites or design criteria, an otherwise normal part of its licensing review process.

In contrast to the Energy Committee for construction of a latter-day blockhouse for long-term retrievable storage or spent fuel, the Environment and Public Works bill, through its regulatory requirements, emphasizes the development of facilities for the permanent disposal of highly radioactive liquid wastes and spent fuel. Development of this facility would conform to all the requirements of the National Enviornmental Policy Act.

The bill establishes a schedule, with deadlines for the appropriate Federal agencies to complete specified tasks, that will lead to the operation of a nuclear waste repository by January 1, 2000. The environment and public works bill, with its emphasis on implementation of safe technology for permanent disposal for nuclear wastes, rejects the Energy Committee's fast-track approach for several reasons:

First, this generation has a moral obligation to solve the problem of disposing of the exponentially increasing amounts of nuclear waste, rather than to leave that problem for future generations to solve. The long-term retrievable storage approach merely offers another "nonsolution" to the question of what ultimately to do with nuclear waste. Although the energy committee bill contemplates additional R. & D. on alternative disposal technologies, and even a demonstration geologic disposal facility to open in 1988, it does not provide any mechanism to assure that a comprehensive, safe method for permanently disposing of all highly-radioactive nuclear waste will go into effect before the end of the century.

Second, construction of one or several long-term retrievable storage facilities will create an additional incentive for bureaucratic delay in developing and implementing safe methods for permanently disposing of nuclear waste. During the 30-year history of atomic energy in this country, the urgent need to solve the problem of permanent waste disposal has received little attention. Yet, experts in and out of Government have lulled the American public into complacency by promising that a demonstrated technology for nuclear waste disposal will be available when we need it. We need it now, yet it still does not exist.

Many experts have suggested that bureaucratic wrangling rather than technological uncertainty has prevented the implementation of safe, reliable technologies for disposing of nuclear wastes. The Energy Committee's approach would signal a continuation of "business as usual" in the Federal bureaucracy and could indefinitely postpone nuclear waste disposal.

Third, the Energy Committee proposal resurrects an approach to nuclear waste management that died years ago. Indeed, neither the DOE, the NRC, nor the President in his national nuclear waste policy, announced this past February, endorsed the concept of long-term retrievable storage. Instead, they have all followed the recommendation of the Interagency Review Group, upon which the President based his policy, that the Federal Government should concentrate on permanent disposal.

Fourth, the Energy Committee proposal sidesteps the NEPA process and strips the NRC of the authority it needs to conduct a thorough licensing review. I cannot think of any activity with more potential for serious harm to public health and safety or to the environment, and to which the NEPA requirments would more appropriately apply, than nuclear waste storage and disposal. Yet, the Energy Committee proposal nullifies these requirements.

In contrast, the Environment and Public Works bill implements a step-by-step, technologically conservative approach toward the siting and development of a nuclear waste repository. In particular, our bill requires the Department of Energy to thoroughly characterize at least four sites in at least three different geologic media before applying to the NRC for a permit to construct a repository. This emphasis upon technological safety through the analysis of alternatives will enhance the public confidence so essential to the success of any nuclear waste management strategy.

The objectives of the Energy Committee bill differ from those required by the regulatory program in the Environment and Public Works bill in another important respect. The Energy Committee bill authorizes the Secretary of Energy immediately to build or acquire away-from-reactor AFR storage for commercial spent fuel. To finance this full-scale Federal away-from-reactor storage program, the bill establishes a $300 million trust fund that apparently would enjoy immunity from the normal congressional scrutiny of the annual authorization and appropriations process.

The Department of Energy has already announced that in setting up the Federal AFR program, it will attempt to buy two commercial reprocessing facilities so that it can use their spent fuel storage pools: The General Electric reprocessing plant at Morris, Ill., which was closed permanently because of serious engineering flaws, and the Allied-General Nuclear Services plant at Barnwell, S.C., at which construction was halted when the administration announced its indefinite deferral of commercial reprocessing.

The Department of Energy justifies the AFR program with studies based upon a faulty methodology and data base. Its studies indicate a need for certain utilities to ship spent fuel to a Federal AFR; yet, these same studies never take into account the ability of utilities to provide their own storage by constructing additional onsite pools. Indeed, many utilities have delayed plans to construct additional onsite pools while waiting to see whether the Federal Government would offer to transport their spent fuel and to store it in AFR facilities.

In contrast to the Energy Committee bill, the regulatory program in the Environment and Public Works bill implements two fundamental policies for Federal AFR storage, endorsed by both the administration and the President's Interagency Review Group:

First. Maximizing storage of spent fuel at the site of each nuclear powerplant, and thus minimizing the need for a massive Federal program to transport and store spent fuel away from reactor sites.

Second. Insuring full cost recovery by the Federal Government for the construction, acquisition, and operation of any AFR facility.

The environment and public works bill achieves these twin objectives by requiring the President to submit to Congress a specific proposal upon which Congress must pass before the DOE may construct or buy an AFR facility. In this proposal, the DOE, with NRC's concurrence, must identify those nuclear powerplants which will have to ship spent fuel to the AFR because they cannot otherwise provide additional storage on-site before they would have to shut down. If Congress approves the President's proposal, any additional utilities seeking to use the AFR must convince the DOE, with NRC concurrence, that circumstances unforeseen at the time of the President's proposal have forced them, also, to look for additional storage capacity away from the reactor. This provision grants NRC a concurrence role between the NRC, in its daily activities, works directly with individual utilities and has firsthand knowledge of their needs, and because the NRC can provide an independent check on DOE's analysis of need.

To further encourage maximization of on-site storage capacity, the environment and public works bill would require expedited licensing of additional on-site storage pools for those utilities that demonstrate an extreme need that would otherwise force them to shut down before they could provide the additional storage capacity needed.

The environment and public works bill promotes the objectives of maximizing on-site storage capacity and full-cost recovery by the Federal Government for two reasons:

First, use of an AFR facility will require two shipments of spent fuel before permanent disposal—once from the powerplant to the AFR facility, and a second time from the AFR facility to the nuclear waste repository. Many States and localities already have objected to numerous shipments of nuclear material across their borders. Needless to say, those objections will grow much stronger over otherwise unnecessary shipments of spent fuel from across the country to one or several Federal AFR storage facilities.

Second, the Federal AFR program, as conceived by the Energy Committee, poses the strong possibility of a Federal bailout of commercial nuclear power, another subsidy to add to the millions of dollars in subsidies the Federal Government has already pumped into the commercial nuclear power program. The Energy Committee bill would require the Federal Government to take title to the spent fuel at the powerplant site, taking the spent fuel off the hands of the utility forever. At the same time, however, the utility would retain a right to the value of the reprocessable material in the spent fuel, just in case reprocessing should ever resume in this country.

The utility would get all the benefits, with none of the attendant responsibility.

In addition, the Department of Energy would assess the utility a one-time charge for taking the spent fuel off the utility's hands, in the Energy Committee's bill. This charge would not only cover the estimated cost of providing away from reactor storage but also the estimated cost of ultimate disposal. No one has ever ventured to estimate with any certainty the true costs of permanently disposing of nuclear waste. Presumably, the costs will run into the hundreds of millions of dollars indefinitely into the future. Yet, the Energy Committee bill would require the Department of Energy to estimate these costs, assess the utility for its proportionate share of the costs, and, if the Department of Energy has underestimated the final tab, presumably require the Federal Government to absorb the balance. This hardly sounds like "full cost recovery."

The Environmental and Public Works bill, on the other hand, promotes full cost recovery in the most direct way possible: It requires the utilities to provide, to the maximum extent possible, their own additional storage capacity by constructing new on-site storage pools, and to pay the actual, not estimated, cost of any needed shipment and storage of spent fuel in a Federal away from the reactor site.

The Energy Committee bill differs from the Environment and Public Works Committee bill in one final, but important, respect. The Energy Committee bill does not give States, or the public an express role for participating in the siting or development of nuclear waste facilities. The Environment and Public Works bill, however, does give potential host States, affected Indian tribes, and the public a continuing voice in all decisions leading to development and operation of a nuclear repository.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. HART. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the point just made on local understanding and participation is something that we have reserved in the measure that the Senator from Colorado is discussing that comes from the Environment and Public Works Committee. I think this is a difference between the two measures in the sense to which I hope that Members of the Senate will give careful consideration in their determination of just what will we allow or permit or encourage from the more local aspects of our population rather than, let us say, a commission or a bureaucratic attempt. This nuclear waste disposal subject is a people's program and to have them on the periphery is not enough. Let us bring them into the arena of discussion and understanding.

I commend my colleagues for stressing this point.

Mr. HART. Mr. President, the distinguished committee chairman is exactly right. I think all those of us who serve on that committee understand that any program is not going to work without either public participation but more importantly public acceptance of the solution.

I think this is a key and distinguishing factor between the approach taken by the Environment and Public Works Committee and that of the Energy Committee because the dismal record of the Federal Government's past attempts to involve States and the public in its nuclear waste management plans I think strongly suggests the need for having this requirement prescribed in the statute.

Mr. President, finally, I just say that the problem of disposing of nuclear wastes, both commercial and Federal, has plagued this Nation for over 30 years. We continue to rely upon nuclear power without knowing for certain how or whether we will dispose of the wastes that it generates. We have to enact a comprehensive program that will not delay a solution to the problem but it will at the same time protect the public health and safety and the environment. For too long, we have mortgaged our future by enjoying the benefits of nuclear power while neglecting the disposal of nuclear wastes. It is time for Congress and the American people to begin to pay off that mortgage.

I yield the floor.

The PRESIDING OFFICER (Mr. FORD). The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I wish to make a few opening remarks about the bill now before the Senate and the bill reported by the Environment and Public Works Committee last Friday dealing with the problem of nuclear waste disposal.

I first commend our chairman, Senator JENNINGS RANDOLPH, who is a man of exceeding patience and eminent courtesy and in every sense a man of courtly attentiveness to the needs of the committee members, and he shepherds us through some difficult times in a way which assures us that we do not get involved in destructive partisanship.

I pay particular attention and make a comment about Senator STAFFORD, who has been more than helpful as ranking minority member of the committee, and he has been most courteous to me; and to GARY HART, who I have come to respect in the process of dealing with the issues of nuclear waste and more importantly the entire issue of a Nuclear Regulation Subcommittee. He and I have learned much since Three Mile Island, and there is much more on the agenda for us to deal with.

I believe that S. 2189 reported by the Energy and Natural Resources Committee does include several useful provisions authorizing the development of a national nuclear waste management program, involving both interim storage and ultimate disposal of nuclear wastes.

Frankly, I have some very specific concerns about this bill, but those concerns do not arise out of turf protection. They do not arrive out of competitiveness. We must get on with the action in this area.

But overall there is one essential ingredient missing. That is a regulatory framework to assure that any national nuclear waste management program goes forward in a safe as well as a very timely manner.

Mr. President, I believe the clear and proper regulatory framework is provided in the bill S. 2980, that was reported from the Committee on Environment and Public Works on Friday, and I should like to spend just a few minutes describing what I view as some of the more important features of the Environment and Public Works Committee bill.

First, that bill establishes for the very first time a statutory schedule for placing into operation the first commercial high-level waste repository in this country. This schedule includes each important milestone in the development of the project, including the necessary regulatory requirements. That statutory schedule is backed up by a compliance mechanism to assure that the various steps are carried out when needed and when scheduled.

This compliance mechanism assures direct presidential involvement and formal congressional review of the progress made in meeting that important timetable. Our objective here, then, was simply to set a realistic time schedule for the very first time and then to assure and to demand that it was met.

Second, the bill provides for the careful consideration of alternate sites in planning for a geological repository for high-level and transuranic wastes. In accordance with the President's interagency review group on nuclear waste management, the Nuclear Regulatory Commission, the Department of Energy, and the U.S. Geological Survey, we also believe the finest way to assure success in finding an acceptable solution to the waste disposal problem is to right now at the outset explore several different sites and geologic media. This may well prove to be one of the most beneficial approaches to assure that we avoid continuing to repeat the failures of the past.

Third, the Environment and Public Works Committee bill includes a mechanism for including the States and affected Indian tribes in the process for the developing of geologic repositories. The States and their citizens are justifiably concerned about the development of these facilities, facilities that must contain these wastes for substantial periods of time, and a way must be found to involve them and to make them an active part of the process.

The Environment and Public Works Committee bill does that by allowing each potential host State and affected tribe to work out a mutually acceptable arrangement with the Federal Government that provides the State an opportunity to concur or not to concur in the various stages of the siting, the development, the construction, and the operation of the facility.

These agreements would then take effect only after the opportunity for Presidential and congressional review. Once all parties are satisfied, the agreement would take effect and the State and the affected tribe would be assured of their rights to participate as partners in this process.

Mr. President, I really believe that one of the greatest obstacles toward solving the waste problem has been the past inability on the part of the Federal Government to work in partnership with the States in addressing their very real and sincere concerns and their fears in this area.

A recent example, such as that in the the State of Michigan, I think, provided encouragemnt to us that the type of consultation and concurrence process that is included in Environment and Public Works Committee bill will lead to greater cooperation and less confrontation than has been evident in the past.

Fourth, this bill of the Environment and Public Works Committee imposes some very necessary safeguards on the development of a Federal away-from-reactor program for the storage of spent fuel. You will hear a lot about that phrase in the ensuing debate, AFR, away from reactor. The safeguards are geared to three principles: First, we need to resolve the present uncertainty about the availability of adequate spent fuel capacity by assuring that sufficient capacity will be available either at the reactor site or at an AFR, if necessary.

We need to expedite the process for expanding the onsite storage capacity and, thereby, make that option more readily available, and we need to assure the Federal Government's role in this storage program is limited to that which is truly needed, and that the Federal Government is assured of recovering its costs, which is rather unheard of I will admit.

Finally, Mr. President, our bill addresses the problem of storing and disposing of nuclear wastes from our defense programs. Much of this activity is now outside the NRC's regulatory jurisdiction. Our bill would enact the recommendations of the President's Interagency Review Group for expanding the NRC's present licensing jurisdiction to include defense transuranic waste disposal and nondefense low-level waste disposal.

Mr. President, I want to emphasize where I am coming from on that one. I have no desire to intrude on the effectiveness of the weapons production chain. I do not want to hinder national security.

But in my 18 months here, during that time on this committee, this subcommittee, we spent an awesome amount of time strictly controlling the 20 percent of the waste that comes from commercial nuclear facilities, and we actually have very little knowledge of the disposal and storage practices of the 80 percent of the waste in this country which is generated by the Defense Department.

I think a pilot audit could determine that, and that is what this legislation provides.

In addition to that pilot program, we will determine whether additional NRC regulation of the nuclear waste activities of the Department of Energy is warranted or workable. This pilot program has been carefully crafted to protect the national security concerns that all of us share and wish to preserve regarding our defense programs.

So, Mr. President, I believe the Environment and Public Works Committee bill is in so very many respects compatible—yes, it is compatible—with the bill reported by the Energy Committee. But its real importance is in providing, at least in my view, a critically essential regulatory perspective which is now missing in this pending legislation.

I hope that during the consideration of the Energy Committee bill it will be possible to reflect the necessary regulatory perspective in fashioning a truly comprehensive piece of waste legislation.

These, then, Mr. President, are some of the areas in which the Energy Committee bill is distinguished from the approach taken by the Environment and Public Works Committee bill.

In each of those areas I believe it is important and necessary to offer amendments to S. 2189 in order to bring it into conformity with the regulatory concept of S. 2980.

Along with the very able chairman of the Nuclear Regulations Subcommittee, Senator HART, I will be offering a series of amendments for that purpose.

We have a critically important task before us in this legislation. I feel we will work well, and I want to assure that I will work diligently with the Energy and Natural Resources Committee and their floor managers in coming up with a fine piece of legislation. I express my serious and sincere cooperation to that end.

I do not feel any competitiveness in this issue. It should be a composite effort, and I intend to assist in that.

I thank the Chair.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a question?

Mr. SIMPSON. Yes; I yield to the Senator from Minnesota for a question.

Mr. BOSCHWITZ. As the Senator knows, I have some hesitation about the Energy Committee bill inasmuch as it seems to be a short-term rather than a long-term solution to a problem which, I think, deserves more thorough long-term consideration.

The Energy Committee's bill might also involve removal of the waste until more planning is done. The Energy Committee's bill deals with the reuse of the waste.

I am not a physicist, as the Senator knows, but currently the waste can be reused and is not being reused because of a Presidential declaration of not wanting to be the first to extract or utilize the plutonium involved.

Does the Environmental Committee bill also make provision that this waste could be recaptured at a later date and the uranium be enriched and the plutonium possibly be used, the plutonium from it?

Mr. SIMPSON. Mr. President, the Senator from Minnesota in his very usual perceptiveness—and I have come to know and admire him greatly in my time here, having worked with him on many issues—has already found one of the principal distinctions between the two pieces of legislation. There will be other distinctions drawn in the process of the debate.

One of the things that the Energy and Natural Resources Committee bill does is to provide for a retrieval method of the waste product from the repository. I do not think that is anything we should be providing for. In other words, I hunch—and their membership can tell us what they are thinking—if this country goes to reprocessing that then they will want to be able to dip into the waste geological media and retain that waste product in order that it might be reprocessed.

I do not think we should exhaust any energies in that area. If we are going to dispose of it, let us dispose of it. There are many methods by which to do that.

But if we are going to dispose of it in geological media let us put it in geological media where it can be retrieved at some later time because just having that option I think places us in position where we destroy the effectiveness of disposal.

Of course, one of the problems that right now is being deeply talked about in the Vice President's office at this very moment of time—and in which I will join my colleagues there in one moment—is the issue of State participation and State veto on the issue of where these disposal sites will be.

Until we get that resolved, that is the most critical issue, and that is the one that will be resolved in this debate.

Does that answer the inquiries of the Senator from Minnesota?

Mr. BOSCHWITZ. I will continue with the Senator personally.

Mr. SIMPSON. I yield to the Senator from Vermont, my very able colleague and the ranking minority member of the full Committee on Environment and Public Works.

Mr. STAFFORD. Mr. President, I very much appreciate the distinguished Senator from Wyoming's yielding to me. He is the manager for the minority on the legislation that came out of our committee last week.

Mr. President, the Committee on Environment and Public Works, on which I serve as the ranking minority member, this past week reported to the Senate S. 2980, the National Nuclear Waste Regulation and Control Act of 1980.

Mr. President, this Senator believes that the safe disposal of hazardous wastes is one of the most important and most difficult problems facing our country during the next decade. Already, we have over 75 million gallons of liquid high level radioactive waste and nearly 8,000 metric tons of spent fuel in temporary storage facilities. Clearly, disposing of nuclear waste in an environmentally sound manner is a challenge that must be met regardless of the future of nuclear power in this country.

The Senator from Vermont believes that the approach taken in S. 2980, reported by the Environment and Public Works Committee, is a sound approach to the long-term management and disposal of nuclear waste. Many of the past efforts in this area have not been carefully thought through or well coordinated and the result has been that the public is now skeptical, and rightly so, of any Federal program in which they are not involved throughout the process.

Therefore, it is most important that the next effort in this area is a deliberate, step-by-step, well thought out progression to a solution of the nuclear waste disposal problem. S. 2980, in the opinion of the Senator from Vermont, provides the kind of regulatory framework which will assure this and which will restore the public's confidence by insuring that they are deeply involved in the process.

The people in my own State of Vermont have made it very clear that while they depend on nuclear power as a source of energy—indeed, a principal source of energy in our State—they have emphatically stated on many occasions that they intend to have a voice in the siting of powerplants, in the transportation of nuclear waste, and in the disposal of that waste. This Senator added a provision to section 9 of S. 2980 to assure the public's participation in every phase of the permanent waste disposal process.

The bill before the Senate today, S. 2189, the Nuclear Waste Policy Act, reported by the Energy Committee, provides a Federal program for the management of radioactive nuclear waste. This Senator has a number of concerns about the approach in S. 2189.

First, there is no question that finding a solution to the environmentally sound disposal of nuclear waste is an urgent matter. However, it is not so urgent that we can afford to short cut public participation or waive the requirements of NEPA. This kind of approach will, in the end, only lengthen the amount of time it requires to find an economically, socially, and environmentally acceptable solution to the nuclear waste problem.

Second, before the Federal Government makes large investments in intermediate storage facilities, the Congress should have the opportunity to be assured that we are investing in the kind and size of facilities that are really needed in the near term. There is currently conflicting information as to the need for interim storage facilities. More information should be available during the next year or two and this Senator believes that when the need is sufficiently demonstrated Congress will act expeditiously.

Finally, the Senator from Vermont would urge my distinguished colleagues to support the regulatory framework contained in S. 2980 as a necessary complement to a Federal program for the long-term management and disposal of radioactive nuclear waste which will insure the protection of public health and safety.

Mr. President, the Senator from Vermont must express some mild dismay that we are considering S. 2189 this morning and that we are not also, as original text, similarly considering S. 2980, because it is the opinion of the Senator from Vermont that there are some desirable aspects of each of these bills, both in the nuclear waste field—this extremely important area—that the Senate ought to jointly consider and quite possibly adopt in its final product.

I regret, therefore, that the attention of the Senate is focused on S. 2189 and not also on the provisions of S. 2980, which the Environment and Public Works Committee worked extremely hard to get through adequate consideration and then voted out so that the Senate might consider it during last week.

Mr. President, a Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. Is the Senate operating under a time agreement at the present time?

The PRESIDING OFFICER. The Senator is correct. We are operating under a time agreement.

Mr. STAFFORD. Could the Chair inform the Senator how much time there is in general debate on this bill?

The PRESIDING OFFICER. 480 minutes.

Mr. STAFFORD. In that event, Mr. President, the Senator from Vermont suggests the absence of a quorum to be charged against the minority's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, commenting a little bit further following the statement I made earlier, it now appears likely that Senators from the Committee on Environment and Public Works will propose a series of amendments to the pending bill before the Senate in order that the more attractive and important portions of the Environment and Public Works Committee bill may be considered as amendments to the pending legislation.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. At present, there are four different Senators controlling the time on the bill.

Mr. STAFFORD. If it is in order, Mr. President, I would propose that the time be charged equally to all four on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Nelson). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I am pleased that the Senate has finally arranged to consider S. 2189, the Nuclear Waste Policy Act, which was reported from the Senate Committee on Energy and Natural Resources on December 20, 1979. This bill was an original bill reported from the committee based on the committee's consideration of S. 685, which Senators Johnston, Church, and myself cosponsored early in the 96th Congress.

I do not wish to dwell on the specific provisions of the bill because the committee report and the comments of Senator Johnston adequately described the bill's provisions. Rather, I would like to discuss the general philosophy which the committee intended in reporting this bill.

Mr. President, in April of 1977 this administration announced the policy of preventing the reprocessing of commercial spent nuclear fuel in either privately owned or prospectively Government owned reprocessing facilities. Since the inception of the nuclear power program in the United States, the Federal Government has led utilities to believe that the normal course of events would entail reprocessing of spent nuclear fuel and subsequent disposal of the high level waste resulting from that reprocessing in federally owned repositories. Without the prospect of reprocessing any time in the near future, the utilities in our country are faced with a situation analogous to a home owner with a clogged drain and a dripping basin faucet—the spent fuel basins are filling up. Without an opportunity to remove the spent nuclear fuel from the reactor sites, utilities are faced with a problem of over time filling the spent fuel storage capacity included in the original reactor design.

They are faced with few options for dealing with the spent fuel problem. They can transfer the fuel to the Federal Government, they can expand spent fuel storage capacity on site, or they can shut the reactors down. Because of unpredictable Federal policies in the past, no private investor would provide new spent fuel storage capacity without a Federal guarantee to protect his investment. Intra- and interutility transfer of spent fuel constitute a short-term bandaid approach to a festering problem.

If the world were truly an agreeable place, the expansion of spent fuel capacity at the reactor sites to provide for adequate storage until reprocessing occurs would be the clear choice. However, antinuclear groups and sincerely concerned citizens in many areas of the country have already taken actions to prevent utilities from even reracking spent fuel to achieve higher storage capacity in existing pools, let alone the construction of new spent fuel capacity onsite. In this climate, it calls into serious question the ability of all utilities to expand spent fuel storage capacity at all of their reactors.

Mr. President, I start from the premise that nuclear energy is an essential element of our energy mix in this country, so the option to shut down a reactor when the spent fuel capacity is filled is unacceptable to me and should be unacceptable to all reasoning men who want to maintain a semblance of our lifestyle as the world oil supply dwindles.

Because of these factors, I believe it is prudent and necessary for the Federal Government to provide sufficient away-from-reactor storage capacity for spent fuel to provide for the needs of those utilities which are prevented from expanding their storage capacity at the reactor site.

The bill before us provides the Department of Energy with the authority to construct or acquire an away-from-reactor storage facility for the interim storage of spent nuclear fuel. This capacity may have to be expanded over time until a decision is made to start reprocessing of spent nuclear fuel or until a facility of the type envisioned in section 402 of S. 3189 is operational.

Thus, Mr. President, I feel that the opponents away-from-reactor storage do not have a full appreciation of the problems facing utilities with nuclear powerplants, or they want to use this spent fuel problem as a way to prevent the operation of existing nuclear powerplants and the construction of new ones. In either case, I urge my colleagues who have heard the arguments by these opponents to realize that the problems of the utilities are largely of the Federal Government's making in that we have an obligation to provide spent fuel storage capacity for them when they are prevented from helping themselves.

Mr. President, S. 2189 also deals with the question of the disposal of spent fuel or the high level wastes resulting from this reprocessing. Now, no reasonable person today is advocating the disposal of spent fuel in an irretrivable fashion. In the aftermath of the international nuclear fuel cycle evaluation study (INFCE) there may be questions regarding the necessity at the present time of thermal recycle in light water reactors but absolutely no question about the need to pursue the breeder reactor. The plutonium in the spent fuel being generated by our utilities is just too valuable to be irretrievably lost. Thus, I am convinced that some day in the not-too-distant future we will indeed reprocess the spent fuel.

The administration, after a lengthy interagency debate about nuclear waste, issued a report which said that geologic disposal of spent fuel or high level waste was not feasible until the late 1990's or beyond. While the experts on balance believe that there are no technological problems sufficient to require waiting that long to achieve geologic disposal of high level waste, the administration has adopted the recommendations of the IRG and now expects to achieve the first geologic disposal by perhaps as late as the year 2007.

Mr. President, I do not believe that the American public is willing to wait until the year 2007 to have a geologic disposal option for high level waste. In fact, in view of our need to expand the use of nuclear energy in the United States I believe it is essential to demonstrate a workable method for the disposal of high level waste at the earliest practicable time. Thus, S. 2189 has been fashioned to include a concept which we know how to do today for disposing of high level waste as well as spent fuel.

Section 402 of the bill calls for the Department of Energy to submit to the Congress a proposal for a facility to accommodate interchangeably either spent fuel or high level radioactive waste with ready retrievable and active management for use so long as may be necessary. By this concept the committee intends that high level waste could be disposed of in this manner forever and need not be moved to different types of disposal facilities. In fact, this type of facility should serve as a standard by which other disposal options can be compared. If a clearly superior disposal method is demonstrated, then high level waste stored in this retrievable facility could be transferred to the new type of disposal facility.

This retrievable facility has the further attraction that, since it can store spent fuel in a retrievable fashion, that the capacity for away-from-reactor storage in water-filled pools may be of a much more limited amount than if we wait until the year 2007 to achieve geologic disposal.

There is another clear advantage to this managed storage concept, Mr. President. We do not have to find the perfect geologic formation, of which there may be few in the country, to achieve disposal of high level waste. With this type of facility, it is very realistic to conceive of a regional system for the disposal of high level waste, with the only siting criteria to be related to population density, flood potential, earthquake faults, and the like.

Thus, just as we envision regional away-from-reactor storage capacity to the extent that it is needed, we can achieve high level waste disposal more closely associated with the reactors that are producing the waste. It is important that no State feel that it has been singled out as the only site for the storage of spent fuel or the disposal of high level waste.

Mr. President, the committee debated at length the question of the participation of an affected State in the siting of a civilian high level waste facility and at that time could not formulate an optimal approach.

However, since that time I have come to believe that the State should have a full opportunity to participate in the project up until the time the Secretary of Energy applies for a construction permit before the Nuclear Regulatory Commission.

However, after the project reaches the point where large expenditures of Federal funds are occurring, it is my belief that concerns of the affected State with regard to the public health and safety which are not resolved by the Secretary of Energy should be decided as part of the normal licensing process under applicable law.

In the course of consideration of S. 2189, I intend to insure that an amendment is offered which embodies this principle. I also will support the addition of provisions establishing a State planning council as a permanent entity as part of this amendment. With the inclusion of this amendment to provide for State participation, I believe that S. 2189 is an excellent bill for moving us forward in dealing with nuclear waste issues and spent fuel storage.

I urge my colleagues who believe that nuclear power is an essential part of our national energy mix to support the committee's bill and to cast a dubious eye on amendments to the bill which offer the prospect of endless delay in resolving these important issues. The public support for nuclear power is contingent upon resolving in a safe, but timely way, their concerns with regard to storage of spent fuel and disposal of high level waste. To do less is an abrogation of our responsibility.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

The distinguished Senator from Ohio is ready to introduce an amendment on which we have been negotiating for some time, most of the principal players, on this question of State approval. I might say that the staff is, at this moment, working hard on it. I appreciate very much the efforts of the Senator from Ohio and the Senator from Illinois (Mr. PERCY) toward effective negotiation in getting the matter worked out—I hope.

I yield the floor, Mr. President.

UP AMENDMENT NO. 1449

Mr. GLENN. Mr. President, Senator PERCY and I have coauthored an amendment which addresses a number of key issues not adequately addressed in the pending legislation.

Mr. McCLURE. Mr. President, will the Senator yield for a moment?

Mr. GLENN. Yes.

Mr. McCLURE. Has the Senator called up his amendment?

Mr. GLENN. I have not called it up. I was going to submit it at the end of my statement.

Mr. McCLURE. I was going to suggest that the Senator might like to submit the amendment and the time will be allocated on the amendment rather than on the bill.

Mr. GLENN. That is a good idea, Mr. President.

I send the amendment to the desk and ask unanimous consent that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) for himself and Mr. PERCY, proposes an unprinted amendment numbered 1449.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line following line 25, insert the following:

(i) nuclear wastes generated in the national defense program have been accumulating for more than thirty years, and spent nuclear fuel and nuclear wastes from the commercial industry are increasing rapidly;

(j) nuclear waste has become a major issue of public concern, and stringent precautions must be taken to ensure that nuclear wastes do not adversely affect the public health and safety of this or future generations;

(k) the siting, development, and loading of nuclear waste depositories are responsibilities of the federal government;

(l) confidence in the ability of the Federal Government to manage a program providing for the safe and permanent disposal of nuclear wastes must be substantially increased if nuclear power is to contribute significantly to meeting the energy needs of the United States in the future;

(m) Federal nuclear waste disposal programs have been ineffective due to—

(A) inadequate coordination among the various Federal agencies and departments which have responsibilities relating to nuclear waste management;

(B) the lack of a policymaking process which integrates the views of all Federal agencies and departments into a comprehensive Governmentwide policy;

(C) the lack of an organizational mechanism which affords States, localities, and the public the opportunity to participate fully in the formulation of Federal nuclear waste management policy; and

(D) the lack of an organizational mechanism which allows States and localities to review Federal plans for the development of nuclear waste disposal facilities, and to ensure thereby that such plans adequately protect State and local interests;

(n) a State Planning Council on Nuclear Waste Management must be established to afford States, localities, and Indian tribes the opportunity to participate fully in the formulation of Federal nuclear waste management policy;

(o) a Nuclear Waste Management Plan which reflects the views of all Federal agencies and departments with responsibilties pertaining to nuclear waste management and the views of the State Planning Council on Nuclear Waste must be developed and periodically updated in order to—

(A) improve the coordination of the activities of Federal departments and agencies with respect to nuclear waste management; and

(B) provide a sound and credible basis for the safe storage and disposal of nuclear waste and spent fuel;

(p) Nuclear Waste Repository Review Panels must be established to ensure that States and localities have adequate opportunities to review plans for the development of Federal nuclear waste disposal facilities; and

(q) the Secretary must increase his efforts to consult and cooperate with States and localities concerning Federal repository siting development, and loading activities.

On page 7, following line 25, insert the following:

(e) establish a State Planning Council on Nuclear Waste Management to provide State, local, and Indian tribal views in the area of Federal nuclear waste management policy development;

(f) improve coordination of Federal nuclear waste management programs and to require the preparation of an annual Nuclear Waste Management Plan which reflects the views of all interested parties;

(g) provide for improved consultation and cooperation between the Department of Energy and States and localities concerning Federal repository siting, development, and loading activities subject to congressional review; and

(h) establish nuclear waste repository review panels, to ensure that States and localities have adequate opportunity to review Federal plans for the development of nuclear waste disposal facilities.

viz: On page 5, following line 21, insert the following:

(7) "Council" means the State Planning Council on Nuclear Waste Management;

(8) "Department" means the Department of Energy;

(9) "Review Panel" means a Nuclear Waste Repository Review Panel;

(10) "Plan" means the annual Nuclear Waste Management Plan;

(11) "Governor" means the Governor of a State, or successors to the Governor, during their respective terms of office, or their designees;

(12) "nuclear waste" means high-level waste, transuranic contaminated waste, and low-level waste;

(13) "high-level waste" means the highly radioactive wastes resulting from the re-reprocessing of spent nuclear fuel, and includes both the liquid waste which is produced directly in reprocessing and any solid material into which such liquid waste is made;

(14) "transuranic contaminated waste" means material contaminated with elements having an atomic number greater than 92, including neptunium, plutonium, americium, and curium, in concentrations of greater than 10 nanocuries per gram;

(15) "low-level waste" means material contaminated with radioactive elements emitting beta or gamma particles or with traces of transuranic elements in concentrations less than 10 nanocuries per gram;

(16) "repository" means a facility for the disposal of high-level waste, transuranic contaminated waste, or spent nuclear fuel, whether or not such facility is designed to permit the subsequent recovery of such material, except for facilities to be used exclusively for research and development purposes containing an insignificant amount of such material;

(17) "storage" means retention of nuclear waste or spent nuclear fuel with the intent to recover such material for subsequent use, processing, or disposal;

(18) "local government" means any political subdivision of a State including any town, city, township, borough, parish, village, county, or other general purpose politicial subdivision of a State;

(19) "Indian tribe" means an Indian tribe,

as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638);

(20) "public health and safety" means the public health and safety of current and future generations;

(21) "nuclear waste and spent nuclear fuel management" means the transport, storage, and disposal of nuclear waste and spent nuclear fuel;

(22) "main shaft" means the primary vertical access shaft of a nuclear waste repository; and

(23) "site characterization" means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the prcoedures under this part. Site characterization includes borings, surface excavations, excavation of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to determine the suitability of the site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken.

On page 20, following line 3, insert the following:

TITLE VII—ESTABLISHMENT, MEMBERSHIP, AND FUNCTIONS OF STATE PLANNING COUNCIL ON NUCLEAR WASTE

ESTABLISHMENT OF THE COUNCIL

SEC. 701. There is established an advisory committee to be known as the State Planning Council on Nuclear Waste (hereinafter referred to in this Act as the "Council").

MEMBERSHIP OF THE COUNCIL

SEC. 702. (a) The Council shall consist of eighteen members. Fourteen members shall be appointed to the Council by the President. Of these fourteen members, eight shall be Governors, five shall be State and local elected officials other than Governors, and one shall be a tribal government representative. The remaining four members of the Council shall be the Secretaries of Energy, Interior, and Transportation, and the Administrator of the Environmental Protection Agency. The Nuclear Regulatory Commission shall participate as an observer in Council activities. Of the members of the Council selected from among elected officials, seven shall be appointed for a one-year term and seven shall be appointed for a two-year term. Appointments, or reappointments, at the expiration of the initial terms shall be for terms of two years. Appointments to fill a vacancy occurring before the end of a term shall be for the balance of the term. No member who is an elected official may continue to serve on the Council if that member ceases to be an elected official. The Chairman with the concurrence of the Council may appoint nonvoting special advisors to the Council.

(b) In appointing members of the Council, the President shall endeavor to ensure representation of a broad range of views with respect to nuclear waste and spent nuclear fuel management and to ensure representation of geographical areas which are users of nuclear power and of geographical areas which are serving or may be likely to serve as locations for nuclear waste and spent nuclear fuel storage or disposal or which may be directly or substantially affected by those activities.

(c) The President shall designate one of the members of the Council as chairman. Only the Governor of a State is eligible for designation as Chairman of the Council.

FUNCTIONS OF THE COUNCIL

SEC. 703. The Council shall provide advice and recommendations to the President, the Secretary of Energy and, as appropriate, other Federal agencies, the Congress and the State and local governments and Indian tribes on nuclear waste management (including management of spent nuclear fuel). In carrying out its advisory functions the Council shall—

(1) recommend mechanisms for reviewing nuclear waste management plans and programs in a way to ensure the timely and effective involvement of State and local governments and Indian tribes;

(2) review the development of the National Nuclear Waste Management Plan and provide recommendations to ensure that this plan adequately addresses the needs of the State and local areas affected;

(3) advise on all aspects of siting facilities for storage and disposal of nuclear wastes, including the review of recommended criteria for site selection and site suitability, guidelines for regional siting, and procedures for site characterization and selection;

(4) advise on an appropriate role for State and local governments and Indian tribes in the licensing, permitting, regulation, and operation of nuclear waste repositories;

(5) advise on proposed Federal regulations, standards, and criteria related to nuclear waste management programs; and

(6) identify and make recommendations on other matters related to the transportation, storage, and disposal of nuclear waste that the Council believes are important.

AUTHORITY OF THE COUNCIL

SEC. 704. The Council shall have the authority to—

(1) designate special advisors;

(2) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State or local public agencies, and Indian tribes with or without reimbursement therefor;

(3) accept voluntary and uncompensated services;

(4) enter into contracts, leases, cooperative agreements, or other transactions necessary in the conduct of the Council's functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

(5) transfer funds to and accept funds from Federal agencies to discharge Council responsibilities as set forth in section 703 of this Act.

PERSONNEL AND ADMINISTRATION

SEC. 705. (a) Members of the Council including special advisors, who are not otherwise full-time employees of the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law (5 U.S.C. 5702 and 5703).

(b) The Chairman of the Council may appoint and fix the compensation of a staff director and such additional persons as may be necessary to discharge the Council's responsibilities. The Director and staff personnel shall be appointed in accordance with the provisions of title 5, United States Code, covering appointments in the competitive service and should be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. In addition, the Council may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code. Any persons who are Federal employees subject to the civil service laws and regulations at the time of appointment to the staff of the Council, shall retain civil service status without interruption or loss of status or privilege while employed by the Council.

(c) The Director and staff personnel may receive travel and transportation expenses, including per diem in lieu of subsistence, authorized by law.

(d) A vacancy that may occur on the Council shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(e) The provisions of the Federal Advisory Committee Act (5 U.S.C. App. D, except as inconsistent with this Act shall apply to the Council.

(f) The Secretaries of Energy, Interior, and Transportation, and the Administrator of the Environmental Protection Agency shall designate one officer to act on his behalf to attend each meeting of the Council as provided in section 10 of the Federal Advisory Committee Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 706. There are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary. Notwithstanding section 628-1 of title 31, United States Code, the Department of Energy shall transfer funds appropriated pursuant to this authorization to the Council to carry out the purposes of this Act.

EXPIRATION OF AUTHORITY

SEC. 707. The Council shall cease to exist ten years after the date of enactment of this Act.

TITLE VIII—NATIONAL NUCLEAR WASTE MANAGEMENT PLAN

ESTABLISHMENT OF NATIONAL NUCLEAR WASTE MANAGEMENT PLAN

SEC. 801. The Secretary, in consultation with the State Planning Council on Nuclear Waste, the Nuclear Regulatory Commission, the Council on Environmental Quality, the Director of the Office of Science and Technology Policy, the Administrator of the Environmental Protection Agency, the Secretaries of the Interior, Transportation, and State, and the head of any other Federal agency or department designated by the President shall prepare an annual nuclear waste management plan for the fiscal years 1982, 1983, 1984, 1985, and 1986, describing current and planned Federal activities for managing nuclear waste and spent nuclear fuel as follows:

(1) To the maximum extent feasible, the Plan shall incorporate the views of all of the above named Federal agencies and the Council. If significant divergencies of opinion exists among such agencies, including the Council, on major issues, the draft Plan shall indicate where such divergencies of opinion exist and shall include the relevant options for consideration by the President following the submission of public and agency comment pursuant to paragraph (2)

(2) The Secretary shall make the draft Plan available for public comment together with any divergent opinions (and relevant options) on the Plan of the above named Federal departments and agencies and of the Council for at least sixty days, and shall thereafter submit the draft Plan, revised as appropriate in light of the public comments received, to the President; concurrent with the submission of the draft Plan to the President, the above named Federal departments and agencies and the Council shall submit their views on the draft Plan to the President.

(3)(A) The President shall review the draft Plan and the comments and views he receives thereon and shall resolve any divergent views presented pursuant to paragraph (1), and may further modify the draft Plan as he deems appropriate.

(B) Protection of the public health and safety shall be foremost among the factors to be weighed by the Secretary in preparing the draft Plan and by the President in reviewing the draft Plan.

(4) Not later than March 1, 1982, and March 1 of each succeeding year thereafter

through March 1, 1986, the Secretary shall submit the final version of the Plan for the next fiscal year to the Congress.

(5) Any committee of either House of Congress reporting a bill authorizing funds for nuclear waste and spent nuclear fuel management activities shall consider the Plan and may specify in any report accompanying such bill the extent to which such proposed authorization is consistent with the Plan.

(6) In lieu of preparing an annual Plan for any fiscal year following 1982 the Secretary may prepare an update of a previous Plan, identifying any changes in current and future Federal nuclear waste and spent nuclear fuel management activities from those described in the previous Plan. Such update shall be subject to all the procedures of this title applicable to annual Plans.

TITLE IX—COORDINATION OF STATE REVIEWS AND DEPARTMENT OF ENERGY REPOSITORY, SITING, DEVELOPMENT, AND LOADING ACTIVITIES

STATE NOTIFICATION

SEC. 901. (a) At such time the Department shall decide to undertake the study of any area within a State for the purpose of determining its suitability for a repository or spent nuclear fuel storage facility, the Secretary shall notify in writing the Governor and the leaders of the State legislature of the State in which the area is located of such determination and shall furnish such persons all relevant information on a current basis concerning the program of the Department for such study.

(b) (1) In performing any study of an area within a State for the purpose of determining such area's suitability for a repository and in subsequently developing and loading any such repository within such State, the Secretary shall consult and cooperate with the Review Panel of the State in an effort to resolve the State's concerns regarding the public health and safety, environmental, economic, and social impacts of any such repository, taking such concerns into account to the maximum extent feasible. Such consultation and cooperation shall constitute the exclusive right of a state or Indian tribe to participate with the Secretary in the siting, development, and loading of a repository, except as may be provided in other federal laws.

In carrying out his responsibilities under paragraph (1),

(2) The Secretary shall, at the earliest feasible time after notifying a State of his decision to study an area within such State as a possible repository site, seek to enter into a written agreement with the Review Panel of such State setting forth the procedures under which the consultation and cooperation required by paragraph (1) shall be carried out. Such procedures shall include as a minimum—

(A) the right of such State to comment on, and make recommendations with regard to, the public health and safety, environmental, economic, and social impacts of any such repository before the submission of any Proposed Site Report, Repository Development Report, on Repository Loading Report relating to such repository and at such other times as may be identified in the agreement;

(B) procedures, including specific time periods, for the Secretary to receive, consider, resolve, and act upon comments and recommendations made by such Review Panel; and

(C) procedures for the Secretary and the Review Panel of such State to review or modify the agreement periodically.

PROPOSED SITE REPORTS

SEC. 002 (a) At such time as the Secretary, following detailed site characterization and investigation activities at one or more specific possible repository sites, proposes that for the purposes of further Department repository development activities any such site be selected as the location for a repository, the Secretary shall prepare and submit to the Congress a Proposed Site Report describing the site in question, the alternatives considered, if any, and his reasons for the selection of the proposed repository site from among any such alternatives.

(b) The Secretary shall not undertake further work toward the development of a repository at any proposed site as described in subsection (a), including the preparation of any necessary license application for any such repository, until forty-five days of continuous session (as defined in section 905) shall have elapsed following his submission to the Congress of the Proposed Site Report specified in subsection (a). The Congress by concurrent resolution may waive this time period.

(c) Prior to his submission to the Congress of the Proposed Site Report specified in subsection (a), the Secretary shall prepare a draft of such report and solicit the views thereon of—

(1) the Repository Panel convened in the State containing the repository site;

(2) other interested States, including specifically, the views of the Government (or other appropriate State officials as may be specified by State law) of other adjacent States that the Secretary determines may be directly and substantially affected by a repository at the proposed site;

(3) the public;

(4) the Council; and

(5) other Federal agencies and departments named in section 301.

The Secretary shall permit at least ninety days for such review and comment.

(d) The Secretary shall prepare a final Proposed Site Report after considering the comments he receives pursuant to subsection (c) and shall submit such final Proposed Site Report together with such comments to the Congress.

REPOSITORY DEVELOPMENT REPORTS

SEC. 903. (a) The Secretary shall—

(1) at the earliest feasible time prior to the intended submission by the Secretary to the Nuclear Regulatory Commission of an application for a license to construct the main shaft of a nuclear waste repository, or

(2) in the event that the Secretary is not required by law to obtain a license from the Nuclear Regulatory Commission for the construction of the main shaft of such repository, at the earliest feasible time prior to undertaking site preparation work leading to construction of the main shaft of such repository,

prepare a Repository Development Report. The Secretary shall immediately notify the Repository Review Panel of the State in which such proposed repository would be located of his decision to prepare the Repository Development Report.

(b) The Repository Development Report shall contain—

(1) the license application for the repository prepared by the Secretary for the Nuclear Regulatory Commission, including any relevant environmental impact statements, or, in the event the Secretary is not required by law to obtain a license from the Commission for the construction of the main shaft of such repository, a document containing comparable information and analysis;

(2) a plan for the transport of high-level or transuranic contaminated waste or spent nuclear fuel to the repository, including an assessment of anticipated environmental, health, and safety impacts and a description of emergency planning procedures; and

(3) any plan to provide financial assistance to State or local governments of Indian tribes with respect to health, safety, environmental, economic, or social impacts arising from the proposed repository.

(c) The Federal agencies and departments named in section 801 shall assist the Secretary by coordinating with the Secretary's preparation of a Repository Development Report for a proposed repository, the preparation by such agencies and departments of any pertinent Environmental Impact Statements mandated by the National Environmental Policy Act so as to avoid unnecessary delay and duplication of effort. Nothing in this title shall be construed to relieve any Federal agency or department of any duty imposed by that Act.

(d) (1) The Secretary shall prepare the Repository Development Report with respect to such proposed repository in close cooperation with the appropriate Review Panel and shall incorporate the views of such Panel into such Repository Development Report to the maximum extent feasible.

(2) The Secretary shall also consult with the Governor (or other appropriate State officials as specified by State law) of adjacent States that the Secretary determines may be directly and substantially affected by the repository described in the Repository Development Report and with the governing bodies of Indian tribes in adjacent States that may be so affected, and shall incorporate the views of such officials into the Repository Development Report to the maximum extent feasible.

(3) Upon completing the Repository Development Report, the Secretary shall submit the Repository Development Report to the Review Panel for final review and to the Governor (or other appropriate State officials as may be specified by State law) of adjacent States that may be directly and substantially affected by the repository described in the Repository Development Report, and with the governing bodies of Indian tribes in adjacent States that may be so affected, and shall make the Report available for public comment. The Seecretary shall also solicit the comments of the Council on such Report. The Secretary shall allow a period of ninety days for such comments.

(e) The Secretary shall submit the Repository Development Report for a proposed repository to the Congress, together with the comments of the appropriate Review Panel, those of other interested States, including specifically those of adjacent, directly and substantially affected States, and such other comments as the Secretary has received with respect to such Report. (F) The Secretary may not undertake site preparation work leading to the construction of the main shaft of a proposed repository, unless and until he shall have submitted a Repository Development Report for such repository to the Congress and Congress shall have passed a concurrent resolution pursuant to section 905 estating in substance that the Repository Development Report sufficiently addresses State and local concerns to permit the Secretary to apply to the Nuclear Regulatory Commission for a license to construct such repository or, if such a license is not required by law to proceed with construction of such repository.

(g) In the event that Congress fails to pass a concurrent resolution as specified in paragraph (f) with respect to a Repository Development Report the prohibition set forth in subsection (f) shall remain in effect until such time as—

(1) the Secretary shall have submitted to the Congress a revised Repository Development Report with respect to such repository, and

(2) Congress shall have passed a concurrent resolution as specified in subsection (f) with respect to such revised Repository Development Report.

Each revised Repository Development Report shall be prepared pursuant to the procedures set forth in this section and in section 1003 pertaining to the preparation of Repository Development Reports.

REPOSITORY LOADING REPORTS

SEC. 904. (a) The Secretary shall—

(1) at the earliest feasible time prior to the submission by any Federal agency or department to the Nuclear Regulatory Commission of an application for a license to emplace significant quantities of high-level or transuranic contaminated waste or spent nuclear fuel into a repository; or

(2) in the event that such agency or department is not required by law to obtain a license from the Nuclear Regulatory Commission in order to emplace significant quantities of high-level or transuranic contaminated nuclear waste or spent nuclear fuel into such repository, at the earliest feasible time prior to beginning the emplacement of such waste or spent nuclear fuel into such repository,

prepare a Repository Loading Report with respect to such repository.

(b) The Repository Loading Report prepared with respect to such repository shall contain the information required in the Repository Development Report prepared with respect to such repository appropriately updated. The Repository Loading Report for such repository shall identify any significant differences between the plans, descriptions, and analyses contained therein and those presented in the Repository Development Report prepared with respect to such repository. Special emphasis shall be given to assessing the significance of information collected during the course of the construction of the repository to the analyses of the anticipated environmental, health, and safety impacts of such repository. If the foregoing information is contained in an application prepared by the Secretary for a license from the Nuclear Regulatory Commission to load high level or transuranic contaminated waste or spent fuel in such repository, then such application may serve as a Repository Loading Report.

(c) The Secretary shall—

(1) prepare the Repository Loading Report with respect to such repository in close cooperation with the Review Panel of the State in which the repository is located and shall incorporate the views of such Panel into such report to the maximum extent feasible;

(2) the Secretary shall also consult with the Governor (or other appropriate State officials as specified by State law) of such adjacent States as the Secretary determines may be directly and substantially affected by the loading of the repository described in the Repository Loading Report and shall incorporate the views of such officials into the Repository Loading Report to the maximum extent feasible; and

(3) upon completing such Repository Loading Report, the Secretary shall solicit comments on the report from—

(A) the Review Panel,

(B) other interested States, including specifically the views of the Governor (or other appropriate State officials as may be specified by State law) of other adjacent States that the Secretary determines may be directly and substantially affected by the loading of the repository,

(C) the public,

(D) the Council, and

(E) the other Federal agencies and departments named in section 801.

The Secretary shall allow a period of ninety days for the receipt of such comments.

(d) The Secretary may not emplace significant quantities of nuclear wastes or spent nuclear fuel into any repository, unless and until the Secretary shall have submitted to the Congress a Repository Loading Report prepared with respect to such repository, together with the comments of the appropriate Nuclear Waste Repository Review Panel, and a period of forty-five days of continuous session of Congress (as defined in section 905) shall have elapsed. Congress may by concurrent resolution waive this forty-five-day period.

CONGRESSIONAL REVIEW PROCEDURES FOR REPOSITORY DEVELOPMENT REPORTS

SEC. 905. (a) Not later than forty-five days of continuous session after the date of transmittal to the Congress of a Repository Development Report, the committees of the House of Representatives and of the Senate to which such Repository Development Report is referred shall submit a report to their respective House on their views and recommendations respecting such Repository Development Report together with a concurrent resolution, as defined in subsection (g), stating in substance that the Congress believes that the report sufficiently addresses State and local concerns to permit the Secretary to apply to the Nuclear Regulatory Commission for a license to construct such repository, or if such a license is not required by law, to proceed with construction of such repository. If any such committee has not reported such a resolution at the end of such forty-five-day period, such committee shall be deemed to be discharged from further consideration of such Repository Development Report. If no such resolution has been reported at the end of such period, the first resolution as defined in subsection (g) which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

(b) The Secretary may amend a Repository Development Report to address any objection raised to it by the Secretary of the appropriate Review Panel during the first thirty days of continuous session after it is submitted to the Congress.

(c) When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of a Repository Development Report pursuant to subsection (a)), or when a resolution has been introduced and placed on the appropriate calendar pursuant to subsection (a), as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to, or disagreed to, shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(d) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to, or disagreed to, shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection (c).

(e) Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (3) the consideration of an amendment introduced by the majority leader or his designee to insert the phrase "does not" in lieu of the word "does" if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

(f) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

(g) For the purposes of this section, "concurrent resolution" means only a concurrent resolution, the matter after the resolving clause of which is as follows: "That the Congress believes that the Repository Development Report numbered relating to the proposed development of a repository at within the State of transmitted to Congress by the Secretary of Energy on , 19 (as amended by the Secretary of Energy on , 19) does sufficiently address State and local concerns to permit the Secretary to apply to the Nuclear Regulatory Commission for a license to construct such repository or, if such a license is not required by law, to permit the Secretary to proceed with the construction of such repository.", the blank spaces therein being appropriately filled and the text in parentheses being included if the Secretary has amended the report pursuant to subsection (b).

(h) If the Congress has not passed a concurrent resolution in accordance with the procedures described in this section within sixty days of continuous session after the transmittal of the Repository Development Report, such report shall be considered rejected.

(i) For the purposes of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(j) This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(k) In considering any Repository Development Report submitted to the Congress pursuant to this title, the Congress may obtain the views and comments of the Nuclear Regulatory Commission on such report. The provision of views by the Commission shall not be construed as binding the Commission with respect to any licensing action pertaining to the repository which is the subject of such Repository Development Report.

(l) The passage of a resolution by the Congress pursuant to this title shall in no way be considered as binding with respect to any licensing action of the Nuclear Regulatory Commission pertaining to the repository which is the subject of such resolution.

(m) For the purposes of this section a revised Repository Development Report as set forth in section 903(f)(1) shall be deemed to be a Repository Development Report.

EFFECT ON OTHER LAWS

Sec. 906. (a) Nothing in this Act shall affect the authority of the Nuclear Regulatory Commission to license and regulate high-level or transuranic contaminated waste or spent nuclear fuel storage and disposal pursuant to section 202 of the Energy Reorganization Act of 1974 or byproduct, source, or special nuclear material pursuant to section 201(f) of such Act.

(b) Nothing in this Act shall exempt any Federal department or agency from the requirements of the National Environmental Policy Act.

(c) Nothing in this Act shall affect the authority of States to inspect nuclear facilities as designated pursuant to State law pursuant to section 274 of the Atomic Energy Act.

"(d) Nothing in this Act is intended to grant any state any authority with respect to the siting, development, or loading of any repository, except as specifically provided herein."

TITLE X—ESTABLISHMENT, MEMBERSHIP, AND FUNCTIONS OF NUCLEAR WASTE REPOSITORY REVIEW PANELS

ESTABLISHMENT OF NUCLEAR WASTE REPOSITORY REVIEW PANELS

Sec. 1001. (a) Any governmental organization, task force, council, committee or other body established by State law to represent such State in its relations with the Federal Government concerning the siting, development, and loading of nuclear waste and spent fuel repositories shall be deemed to be a Nuclear Waste Repository Review Panel for the purposes of this Act, *Provided, however*, That such panel must include representation for affected Indian tribes.

(b) In the event that within one hundred and twenty days after receipt by the Governor of a State of notification of the Secretary's intention to study an area within such State as a possible site for a nuclear waste or spent fuel repository, pursuant to section 901(a) such State shall not have established by law a governmental body to represent the State as described in subsection (a), the Governor of such State shall establish a Nuclear Waste Repository Review Panel pursuant to section 1002.

(c) The requirements of title IX concerning the preparation of Proposed Site, Repository Development, and Repository Loading Reports and their submission to the Congress, and the prohibitions contained in title IX on repository development and loading activities of the Secretary shall not apply with respect to any repository in a State unless a Review Panel shall have been established in such State pursuant to this section.

(d) A Review Panel established pursuant to section 901(b) with respect to a proposed repository siting, development, and loading activities in a State shall continue to function until—

(1) the Secretary formally notifies the Review Panel that the Federal Government no longer intends to site, develop, or load a repository in such State;

(2) the Secretary formally notifies the Review Panel that a Repository Loading Report prepared with respect to such repository has been submitted to the Congress pursuant to section 903, and the Chairman of the Panel thereafter declares the Panel to be adjourned; or

(3) such time as may be provided by the laws of the State establishing the Review Panel.

MEMBERSHIP OF REVIEW PANELS

Sec. 1002. A Review Panel convened pursuant to section 1001(b) shall consist of—

(1) the Governor convening the Panel who shall serve as the Chairman of the Panel; and

(2) seven additional individuals from the State of the convening Governor to be appointed by the Governor and to serve at the pleasure of the Governor. The convening Governor shall include on the Panal individuals who are local government or Indian tribe officials of the area under study by the Department as a possible site for the proposed repository and may include—

(A) other officials of the State's government including members of the State legislature, and

(B) interested residents of the State, except that such residents shall be selected so as to ensure representation of a broad range of views on nuclear waste repository siting, development and loading issues.

FUNCTIONS OF REVIEW PANELS

Sec. 1003. (a) A Review Panel established pursuant to section 1001 shall enter into an agreement with the Secretary as specified in section 901 and shall meet regularly to review current and planned actions of the Department with respect to the siting, construction, and operation of the relevant proposed repositories within the State for which the Review Panel has been convened. Representatives of the Secretary shall meet regularly with the Review Panel to explain the Department's activities and to obtain the views of the Panel thereon.

(b)(1) In accordance with its agreement with the Secretary as described in section 901, a Review Panel shall cooperate closely with the Secretary in the preparation of a Proposed Site, Repository Development and Repository Loading Reports prepared pursuant to sections 902, 903, and 904.

(2) Such Review Panel shall; within ninety days after receipt of such reports review the health, safety, economic and social issues raised in the reports concerning the site or repository discussed therein, and may hold public hearings on the reports in support of such review.

(3) Within ninety days after the Review Panel receives any Proposed Site, Repository Development or Repository Loading Report, the members of the Panel shall submit their comments on such report to the Secretary for submission to the Congress.

The PRESIDING OFFICER. There are 1½ hours on this amendment, 45 minutes to a side.

Mr. GLENN. Mr. President, as I stated, this amendment addresses a number of key issues not adequately addressed in the pending legislation.

A matter of paramount importance to any successful national nuclear waste disposal program, and which is the central focus of our amendment, is the role that States and localities are to have in Federal nuclear waste repository planning and development. Because of the unfortunate history of State-Federal relations in this area, States today view Federal nuclear waste programs with extreme distrust and many States have taken action, in fact, to block any Federal activities within their borders which might lead to the development of permanent nuclear waste disposal facilities.

In many instances, State opposition has resulted in the passage of State laws prohibiting the storage or disposal of nuclear wastes outright or subjecting any future repository proposal to veto by the State legislature; in other cases, States have simply told the Federal Government to keep out, precluding even geologic screening activities.

While there is ample cause for State concern in light of the Federal Government's minimal efforts in the past to consult with the States on this highly controversial issue, the State actions I have referred to raise serious problems from two points of view. From the point of view of the States, there is the underlying question of whether State actions blocking a Federal waste disposal project are constitutional. The great likelihood is that they are not and that, therefore, in the end these efforts will not give the States the protection they are hoping for. At the same time, however, these State measures can temporarily stall the Federal program and may force it into areas of the country which may be less suitable for a nuclear waste repository from a technical standpoint and may well endanger far more people potentially than the original test site. At the very least, State efforts to impede the Federal program create grave uncertainties which undermine public confidence in the ability of the Federal Government to get the job done.

In contrast, the Percy-Glenn amendment provides a sure and certain mechanism for addressing the competing interests of the States and the Federal Government while insuring these conflicts are resolved in an evenhanded equitable fashion. First, the amendment for the first time provides the States with statutory rights to participate in the Federal (DOE) nuclear waste repository development program. Specifically, our amendment requires DOE to consult and cooperate with the States throughout the repository planning and development process pursuant to individual State agreements which would explicitly spell out DOE's obligation to provide notification and relevant information and the States' opportunities to comment on DOE activities.

Second, as work toward the development of a repository continued, DOE is required to file three key reports with the Congress for review, each accompanied by State comments: One when DOE selects a proposed repository site from among alternatives, a crucial event for the targeted State; one when DOE has completed its blueprint for the repository—when it is ready to apply for a license from the Nuclear Regulatory Commission; and a third when repository loading is about to commence. The reports would be made up of documents which DOE is already required to prepare; little, if any, new documentation would be necessitated.

The key feature of the Percy-Glenn amendment is the congressional review and approval process for the second of these reports, the "Repository Development Report." Under our agreement, a repository cannot proceed until, after considering this report and the concerns of affected States, both Houses of Congress pass a concurrent resolution stating that the repository proposal has addressed State concerns sufficiently to permit the proposal to be filed with the NRC for licensing, or to permit construction, if no license is required. Thus, a proposed repository is frozen until State grievances—including such matters as impact assistance, payments in lieu of taxes, and transport safety—are examined by Congress under procedural safeguards which give the State every advantage in making its case because both Houses have to be convinced that these concerns are fairly addressed before the project can be continued.

At the same time, however, the two-House resolution provides a preestablished mechanism for Congress to assert the national interest in having the repository go forward, if necessary. Congress would have 60 days to consider the resolution, under expedited procedures, and DOE could amend the report for the first 30 days, to include adjustments negotiated with Congress and the relevant State.)

The first ("proposed site") and third ("repository loading") reports would lay over for 45 days before the appropriate congressional committees. This "layover" would permit review of the DOE decision involved, consideration of State views, and the opportunity for negotiated adjustments, but no specific congressional action would be needed for the project to proceed.

States would be represented in their dealings with DOE by "Repository Review Panels," whose membership and voting rules, and so forth, would be established by State law to allow for State-by-State variations. A number of States have already established nuclear waste committees or task forces of the kind which would be deemed to be Repository Review Panels for the purposes of the amendment. (If no State law were enacted within 4 months, the amendment specifies the membership of the panel, with the Governor of the affected State to be the chairman.)

The prospect of congressional review, I would add, means that DOE from the outset will have some very strong incentives to accept State suggestions for modifying the repository development proposal as it evolves. Moreover, the amendment would require, as a matter of law, that DOE incorporate State views in the repository proposal to the maximum extent feasible.

The amendment also requires that in the repository development process, attention be given to such matters as Federal payments in lieu of taxes, and other ways of mitigating the overall costs of the repository to the State involved. This would be a matter for negotiation and discussion during the course of preparing the repository development report, as well as during congressional review. Indeed, one of the virtues of the congressional review process is that aspects of any repository development proposal requiring the expenditure of Federal funds, say for improving transportation links or for providing economic assistance of one type or another, could be taken into account and reflected in the final repository development report that Congress might approve. In effect, an approval of this kind would be a good faith commitment on the part of the Congress to provide the necessary funds in subsequent authorizations and appropriations.

This proposal has been carefully refined over the past 18 months and now has the support of the National Governor's Association and the National Association of Counties, is favorably regarded by key environmental organizations, and addresses major concerns of the nuclear industry by establishing clear mechanisms for resolving State and Federal differences on this extremely controversial issue. The Percy-Glenn amendment is the only "State participation" proposal to have this broad acceptance.

STATE PLANNING COUNCIL

As an additional mechanism for insuring adequate consideration of State concerns, the amendment would establish by statute the advisory State Planning Council on Nuclear Wast Management set up by the President in February through an Executive order. The President took this action in response to a recommendation of the Interagency Review Group on Radioactive Waste Management, a Federal task force which had just completed an indepth year long review of Federal programs in this area.

At that time, the President also recommended the enactment of legislation to give the Council a more permanent and solid basis and at its first meeting, the Council adopted the legislative language which is now the text of this portion of the amendment. The Council will be advisory, only, and will have a 10-year life. It will provide an important and visible mechanism for States and localities, at large, to participate in all major facets of Federal nuclear waste policy making and planning activities.

NATIONAL NUCLEAR WASTE MANAGEMENT PLAN

The second major area addressed by the Percy-Glenn amendment concerns the need for improved integration and coordination of the nuclear waste related activities of numerous Federal agencies, including DOE, EPA, DOI, DOT, and the NRC, and the need to give the public clear guidance on the progress and direction of Federal nuclear waste management efforts.

The amendment required DOE (in consultation with other interested agencies) to prepare an annual nuclear waste management plan for fiscal years 1982–86. Differences in agency views would be resolved by the President. After the first year, an update could be prepared instead of a complete plan. The plan would include clear timetables not only for DOE's R. & D. activities, but also for needed regulatory actions by other agencies. None of the now pending legislative initiatives addresses the problem of Government-wide coordination in this fashion. I believe these initiatives will make an extremely important contribution to improving the acceptability and management of our national efforts to dispose of these high toxic byproducts of our national nuclear program.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Does the Senator from Ohio have time to yield?

Mr. GLENN. Yes. I yield time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I rise to support an amendment on behalf of Senator GLENN and myself, to S. 2189, the Nuclear Waste Policy Act.

Mr. President, as the Senate begins its debate today on the first major legislation we have ever addressed to deal with the crucial national issue of nuclear waste management, there is one word which we must keep in mind at all times, one which we must never forget. That word is responsibility.

It is of the utmost importance that the Senate be ready to make some hard decisions now concerning how, when, and where 7,700 metric tons of highly-radioactive nuclear waste will be disposed of. We have been creating nuclear waste in this country for 37 years, and we should have thought long and hard about this issue from the first moment.

Should spent fuel storage be a Federal responsibility, a utility responsibility, or both? Is salt an adequate medium for geologic disposal, or should others be considered too? Is a geologic medium really the best method for removing nuclear waste safely and permanently from our midst? Last but not least, how should the Federal Government work with State and local governments, Indian tribes, and common citizens, to develop waste disposal plans which have the trust of those affected by them.

All these should have been paramount considerations when America embarked on her nuclear age. But they were not.

Tragically, Mr. President, since its earliest work with research nuclear reactors, the Federal Government's management of radioactive wastes has been characterized by an unbroken string of miscalculations over the scientific and institutional strategy necessary for an acceptable, and an accepted plan for nuclear waste disposal. In part because the costs and risks associated with radioactive waste management were often viewed as insignificant, when compared to the other costs of nuclear power, Federal funding for research into the optimum means of disposing of nuclear waste was wholly inadequate for the amount of nuclear growth we were experiencing. Just as tragically, Federal funding to develop a program of cooperation with State and local governments that might win their trust in waste management planning was nil.

Today, 7,700 tons of spent reactor fuel, 70 million gallons of high-level radioactive military waste, and 69 million cubic feet of low-level nuclear waste are scattered in storage pools and shallow dirt pits all across America. And we still have no assured medium for long-term disposal.

What may be even worse, however, is that we have almost no public trust, the one ingredient history has shown we are going to need to gain acceptance for waste management decisions, once they are made. One infamous example gives evidence why this is so.

In 1970, the old Atomic Energy Commission decided on its own to tab Lyons, Kans., as the site for the Nation's first pilot nuclear waste dump. Based on preliminary research and its instinct that the deep salt mines in Lyons would be ideal for long-term radioactive waste storage, two AEC representatives visited the then-Governor of Kansas, Robert Docking, and essentially told him that

Lyons had been chosen to receive nuclear waste; his task, they implied, was to prepare the people of Kansas for the fait accompli.

It was only later—after geologic tests were urged by the head of Kansas' State Geological Society—that these supposedly impervious solid salt mines were shown to be porous and fractured, and prime candidates for water leaching within a few short years.

In this pathetic, hapless example, the Federal Government failed to see that local authorities had to be intricately involved in geologic review—not only to win local support for Federal nuclear waste management plans, but also to educate the Federal officials themselves about areas that are often remote and unknown to them. Since that time, an ever-increasing number of States have decided that the Federal Government has no business mandating them to receive nuclear waste from around the nation. At last count, 13[*] States had enacted legislation prohibiting the creation of nuclear waste repositories within their borders: in other words, a State veto.

I affirm that there is a nuclear waste management crisis today, but it is not just a technical one. It is an institutional one. As Gus Speth of the President's Council on Environmental Quality has stated:

> Devising a program for the future must take into account the loss of credibility that has ensued: it will not be enough to devise a program that could be credible under other circumstances.

We simply cannot allow the heavy-handedness of the DOE and its predecessor agencies to continue—it cannot be allowed to make waste management policy alone. But neither can we accept the concept of a State veto: the way to combat an irresponsible Federal policy is not to institute an equally irresponsible State-preemption policy.

Mr. President, I for one am convinced that if State governments are given unlimited veto power over repositories planned within their borders, they will exercise that power every time, regardless of the merits of a plan. Public anxiety about the problem is that great. As one witness, a State legislator from Maryland, told Senator GLENN and myself during hearings on S. 742, the bill from which this amendment is taken, to do anything else would be "political suicide."

We must realize that, while States are entitled to an ongoing role in repository development, ultimate control over the siting of nuclear waste repositories has to remain in the hands of the Federal Government preferably the Congress, which is uniquely positioned to address State rights in a national context. We must realize that what is needed is neither an outright State veto nor Federal tyranny, but a "middle ground"—one which secures certain meaningful participatory rights in advance for State and local officials, while insuring that competent repository plans can be presented to the Nuclear Regulatory Commission for licensing.

I feel strongly that such a balance exists in the Percy-Glenn amendment I now introduce. Since its creation as S. 742—the Nuclear Waste Management Reorganization Act—March 1979, our proposal has gained the support of the National Governors' Association. It has gained the support of the National Association of Counties. It is favorably regarded by the Environmental Policy Center and the Sierra Club. In fact, I am pleased to say in the same breath that this amendment has been commended by the American Nuclear Energy Council for its approach to resolving the very, very difficult process of Federal-State interaction. Our proposal, I am convinced, offers a process for State participation that is sensitive, and sensible.

The Percy-Glenn approach, first of all, legislates creation of the State Planning Council on Nuclear Waste Management which President Carter created by Executive order last February. The Council would be advisory, with a 10-year life, and would provide an important mechanism for States and localities to work with DOE and other agencies in all major facets of national nuclear waste policymaking.

Second, our amendment requires DOE to work with the State Planning Council, the Environmental Protection Agency, the Department of Interior, the Department of Transportation, and other interested and affected Federal agencies to develop an annual nuclear waste management plan for fiscal years 1982–86. The plan, it is hoped, can serve as a general blueprint for national efforts to create a viable and accepted strategy for waste disposal. Differences in agency views would be resolved by the President.

Third, and most importantly, our amendment requires DOE to consult and cooperate with State officials whenever a site within their borders is being considered for repository planning. DOE and a potential host State would enter into a precise agreement on the nature of their consultation cooperation—the agreement would specify, for example, procedures by which DOE would receive and respond to the comments and recommendations of a State.

The Percy-Glenn amendment requires DOE to file three key reports with Congress on the status of its site investigations. Each report would be accompanied by the complete comments of the potential host State, as well as the comments of adjacent and interested States, agencies, and the public. Further, each report would come at the three events in repository planning that State and local authorities have told us are the most important ones from their perspectives: When DOE has selected a site for the facility, among its many alternatives; when DOE has completed its blueprint for the facility; and when DOE is ready to load the facility with radioactive wastes.

In fact, during the most important event in repository planning—the completion of the facility blueprint—the Percy-Glenn amendment requires an affirmative vote by both Houses for the repository to proceed to the NRC for licensing. Both Houses would have to be assured that the plan prepared by DOE was sensitive enough to any number of State concerns—transportation hazards, impact assistance, environmental hazards. Should only one House be satisfied that DOE has done its job, the repository plan goes back to the drawing board for further work.

I am confident, Mr. President, that this two-House approval process is a responsible and workable formula for balancing the concerns of State governments with the need for a national nuclear waste disposal solution. The Senate should not be led to believe that this Percy-Glenn amendment gives an undue edge to State governments, that it amounts to a State veto after all. Bear in mind exactly why legislation is being considered to guarantee States a role in repository planning in the first place: It is simply and purely because of past negligence by the Federal Government in not taking State perspectives into adequate account. It is paramount that the responsibility be placed on the shoulders of DOE this time, to persuade Congress that it has, once and for all, taken State views into account. State officials and the entire Nation are owed nothing less. The process contained in this amendment will not be, and should not be, an easy one for DOE to satisfy. Yet, if the agency is serious about developing a credible and accepted nuclear waste strategy, it should be eager to accept this duty.

Since then, Senator Jackson has engaged also in very serious consultations with Senator GLENN and myself and other interested Senators. Our exchange of views, I think, has helped bring us much closer together.

Mr. President, from the start S. 742—our amendment—has been a different kind of nuclear waste bill. Senator GLENN and I made the decision long ago not to address some of the more technical issues in nuclear waste policymaking which might not be immediately resolvable. To these issues, our amendment is fully adaptable.

We have focused exclusively in developing a balanced process for Federal-State interaction—and after 2 years of shaping this bill repeatedly, through numerous consultations with the nuclear industry, environmentalists, and State and local groups, I feel we have an approach to this problem which deserves the support of the Senate.

The Glenn-Percy amendment does not try to place technical findings about a repository plan's merits in the hands of any agency besides the NRC. Rather, we give Congress the integral role it deserves in seeing that State and local concerns are addressed with thoroughness and sensitivity by the DOE through all events leading to NRC licensing. If we can do this much before completing action on this legislation, we will have made a major and outstanding forward stride.

I urge the Senate to adopt the Glenn-Percy amendment to S. 2189.

Mr. GLENN. Mr. President, I appreciate very much the remarks of the distinguished Senator from Illinois. He worked on this bill for 3 long years that

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[*] Connecticut, Maine, New Hampshire, Alaska, New Mexico, North Dakota, Alabama, Louisiana, Minnesota, Montana, Oregon, South Dakota, Michigan.

I am aware of that we have worked on it mutually. The meetings we had this morning with other interested Senators resulted in a staff meeting being held at the present time to work out some of the areas of disagreement which I hope will be areas of minor disagreement. This meeting is under way right now, and I hope that we are able to bring that new version of the amendment out on the floor later this afternoon.

Mr. President, I reserve the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HEFLIN). On whose time?

Mr. GLENN. Mr. President, I ask unanimous consent that it be on the time on the bill to be split evenly on all the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I rise in support of the amendment offered by Senator PERCY and Senator GLENN. I am in favor of giving States a more meaningful role in determining where to locate waste materials.

One of the key issues involved in the entire question of nuclear waste is the role the States will play in determining the location of waste materials. I believe the amendment offered addresses the issue in an appropriate way, and I am pleased to support it.

Perhaps the most significant study on this question is the interagency review group report on nuclear waste management issued in March 1979. In the discussion of potential repository sites, after stating that we have the technology to identify potential sites "for further investigation," the report goes on to say:

> Reliance on conservative practices and multiple independent barriers can reduce some risks and compensate for some uncertainties. However, even at the time of decommissioning, some uncertainty about repository performance will still exist. Thus, in addition to technical evaluation, a societal judgment that considers the level of risk and the associated uncertainty will be necessary.

This amendment allows such a "societal judgment" to be made. It gives Congress oversight ability, on a site-by-site basis, to examine the technical and societal factors involved. It gives the States a chance to let their views be known, and it calls for meaningful consultation between Federal and State officials.

The argument is made against this amendment and other amendments that would give the States a meaningful role that we are running out of room and time and we cannot afford to delay any longer. Mr. President, I disagree. We have known about this problem for over 30 years. Surely prudence and caution dictate that we not rush into potentially disastrous action just so we can say that we have done something.

Mr. President, I have heard from hundreds of my constituents in south Mississippi who are extremely concerned that the Federal Government is unilaterally going to force this nuclear waste on them. Unless we give them a real chance to let their view be known—which this amendment will do—we will create more problems than we will solve.

This is a moderate amendment. It cuts a good, sound middle ground in an area loaded with difficult choices. I hope that the Senate will pass it.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I have cleared with Mr. STEVENS, the acting Republican leader, the following request:

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 949, S. Res. 467.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 467) waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 2189, a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, civilian activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 467) was agreed to, as follows:

> *Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2189. Such waiver is necessary because S. 2189 authorizes appropriations for the fiscal year 1980 but was reported after May 15, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO GO INTO EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Don Alan Zimmerman to be a member of the National Labor Relations Board.

Mr. HELMS. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider the nomination of Mr. Don Alan Zimmerman.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 12 Leg.]

Byrd,
  Robert C.
Helms
Johnston
Morgan
Stafford
Thurmond
Williams

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the role.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to direct the attendance of absent Senators.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 86, nays 2, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—86

Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.

Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stone
Thurmond
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—2

Goldwater
Weicker

NOT VOTING—12

Armstrong
Baker
Bayh
Church
Javits
Kennedy
Leahy
Mathias
Stennis
Stewart
Talmadge
Tower

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

Mr. ROBERT C. BYRD. Mr. President, that motion is not in order. A motion to go into executive session cannot be tabled.

The PRESIDING OFFICER. Under rule XXII, paragraph 1, the motion to proceed to executive business takes precedence over a motion to lay on the table. Therefore, the motion is not in order.

Mr. HELMS. I appeal the ruling of the Chair and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that appeal on the table.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. As many as favor——

Mr. HELMS. I asked for the yeas and nays.

The PRESIDING OFFICER. Did the Senator ask for the yeas and nays on the appeal?

Mr. HELMS. Yes.

The PRESIDING OFFICER. And they were so ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator also ask for the yeas and nays on the tabling motion?

Mr. HELMS. Yes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair of the Senator from North Carolina.

The clerk will call the roll.

The legislative clerk called the roll.

(Mr. METZENBAUM assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from Mississippi (Mr STENNIS), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

THE PRESIDING OFFICER. Is there any Senator in the Chamber still wishing to vote?

The result was announced—yeas 50, nays 37, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—50

Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Levin
Long
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stevenson
Tsongas
Williams
Zorinsky

NAYS—37

Bellmon
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Thurmond
Wallop
Warner
Weicker
Young

NOT VOTING—13

Armstrong
Baker
Bayh
Church
Javits
Kennedy
Leahy
Magnuson
Mathias
Stennis
Stewart
Talmadge
Tower

The PRESIDING OFFICER. The appeal of the decision of the Chair fails and the decision of the Chair stands.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the pending motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I do not believe the suggestion for the absence of a quorum is in order due to the fact that the yeas and nays had been ordered and no business had transpired.

Mr. HELMS. Mr. President, business had transpired.

The PRESIDING OFFICER. The yeas and nays had not been ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names.

[Quorum No. 13 Leg.]

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

The PRESIDING OFFICER (Mr. PRYOR). A quorum is present.

The question is on agreeing to the motion to proceed to executive session to consider the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board.

Mr. HELMS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The Senator will state his inquiry.

Mr. HELMS. That was my question, Mr. President, whether the yeas and nays have been ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 66, nays 23, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—66

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton

Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevens
Stevenson
Tsongas
Wallop
Weicker
Williams
Young
Zorinsky

NAYS—23

Bellmon
Boschwitz
Cochran
Cohen
Domenici
Durenberger
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Pressler
Roth
Schmitt
Simpson
Stone
Thurmond
Warner

NOT VOTING—11

Armstrong
Baker
Church
Javits
Kennedy
Leahy
Mathias
Stennis
Stewart
Talmadge
Tower

So the motion to proceed into executive session was agreed to.

Mr. PERCY. Mr. President, will the Senator yield so that I may ask the majority leader a question?

Mr. WILLIAMS. I yield.

Mr. PERCY. A number of Members have asked whether we can proceed with the nuclear waste disposal bill if a compromise is reached. It appears that the Zimmerman nomination will take a considerable period of time. Would it be possible, then, for the Zimmerman nomination to be set aside temporarily while the nuclear waste bill is disposed of?

Mr. ROBERT C. BYRD. The answer is, '"Yes."

Mr. PERCY. I thank the majority leader.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

EXECUTIVE SESSION

NOMINATION OF DON ALAN ZIMMERMAN TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

Mr. WILLIAMS. Mr. President, I am pleased to bring before the Senate the nomination of Mr. Don A. Zimmerman, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years expiring December 16, 1984. Mr. Zimmerman has been nominated to fill the vacancy in the Board created by the resignation of Mrs. Betty Southard Murphy.

Mr. Zimmerman has a broad background of experience which makes him well qualified to carry out the duties of a board member.

The National Labor Relations Board plays an essential role in promoting industrial stability and peaceful labor-management relations in this country. The decisions of the Board in thousands of labor disputes each year, and its role in conducting representation elections provide a fundamental framework defining and protecting the rights of both employers and employees.

It is essential that the Board administer the National Labor Relations Act with a complete commitment to fairness, objectivity, and neutrality between the often conflicting interests of management and labor.

Mr. Zimmerman has held a variety of positions both in and out of government which make him well qualified to assume these responsibilities. His service as legislative analyst with the Office of Management and Budget has provided him with insight into the role of the executive branch as well as the administrative agencies. He subsequently served for 2 years as special counsel to the trustees of the Penn Central Transportation Co., during which service he was substantially involved in labor relations and gained an understanding of private-sector labor relations. From 1972 to 1974, Mr. Zimmerman served as a senior associate at the National Manpower Institute, thus taking the opportunity to study and reflect on broad labor issues.

Finally, as many Senators know, since 1974, Mr. Zimmerman has served as minority counsel with Senator JAVITS on the Committee on Labor and Human Resources, with responsibility in the area of labor legislation. His service with the committee has required that he become fully familiar with the concerns of both management and labor with respect to labor issues.

I believe this breadth of experience and exposure to public policy questions makes Mr. Zimmerman well qualified to serve as a member of the Board and to carry out the duties of a Board member with objectivity and impartiality.

His appointment, as an independent, is in keeping with the established pattern of maintaining a bipartisan board. His broad background and understanding of the complexity of issues in labor-management relations, from the perspective of both management and labor, will enable him to enhance the balance of the Board and to carry out its functions with fairness, impartiality, and a high degree of competence.

Mr. President, I believe that Mr. Zimmerman is well qualified for the position for which he has been nominated, and I urge the Senate to confirm his nomination without delay.

Mr. President, I am happy to yield to the ranking minority member, who shares management of this nomination, the Senator from Vermont (Mr. STAFFORD).

Mr. STAFFORD. I thank the distinguished chairman of the committee, Senator WILLIAMS, for yielding to me.

Mr. President, I make this statement for Senator JAVITS, who is necessarily absent this afternoon. If he were here, he would make these remarks in support of the nomination of Don Zimmerman. Mr. JAVITS would say:

STATEMENT OF SENATOR JAVITS

Mr. President, I support the nomination of Don Zimmerman to be a Member of the National Labor Relations Board. The position of Member of the NLRB is one of the most imoprtant in our government for labor relations matters. The Board's role as an impartial arbitrator of labor-management disputes, as the enforcement agency for national labor policy as expressed in the National Labor Relations Act, and as protector of the free choice of employees regarding union representation places it in the center of our economic structure.

Mr. Zimmerman has advised me on labor relations matters for six years as Minority Counsel to the Labor and Human Resources Committee and, since 1979, as Special Minority Labor Counsel to the Committee. In the handling of labor legislation before the Labor Committee, Mr. Zimmerman has demonstrated a profound knowledge of labor relations law as well as enormous creativity and sensitivity in finding legislative solutions which properly balance the competing demands of management and labor.

In my judgment, Mr. Zimmerman is an outstanding nominee to this position. His performance in the Senate has demonstrated his excellent judgment and integrity. His nomination is supported by a wide range of business and labor organizations. There is an urgent need to bridge the labor-management polarization that we have seen develop in the last few years, and the fact that Mr. Zimmerman enjoys the confidence of both management and labor serves the need to bring these interests back into a productive relationship.

Mr. Zimmerman's experience at the Office of Management and Budget, as Special Counsel to the Trustees of the Penn Central Railroad, as a Senior Associate at the National Manpower Institute, and as Labor Counsel in the Senate has given him an extraordinary exposure to the problems of labor-management relations and to the breadth of governmental interaction with that relationship. The very range of this experience and the abilities that he has demonstrated throughout his career will enable him to make a major contribution to the development of healthy labor-management relations so critical to our economic future.

I urge my colleagues to confirm Mr. Zimmerman to the position of Member of the National Labor Relations Board.

Mr. President, so there will be no misunderstanding I again repeat the statement I have just made for the record is that of the senior Senator from New York (Mr. JAVITS) and is not the statement of the Senator from Vermont who has made the statement for Mr. JAVITS, because he has been unable to be present personally.

I will conclude, Mr. President, by saying that while I have not known Mr. Zimmerman as well as has Mr. JAVITS over the years I have known him well enough to believe him to be a very able and competent gentleman myself.

I support his nomination.

Mr. President, I at this point yield the floor.

Mr. HATCH. Mr. President, I just have a couple question to ask of our distinguished chairman of the Labor Committee if he could be so kind as to answer them.

Mr. President, will the distinguished Senator from New Jersey tell me about the historical process by which Board nominations are selected?

Mr. WILLIAMS. Mr. President, I ask the Senator from Utah to repeat the question because I am not sure that I get the import of the question.

Mr. HATCH. I am asking the distinguished chairman if he can tell me about the historical process by which Board nominations are selected. It is my understanding, and I believe that the Senator can confirm this, that the National Labor Relations Board process of selection of nominees has beeen basically bipartisan in nature.

Mr. WILLIAMS. I think it is accurate to say that the history shows that there has been since 1954 and 1955 a balance of either party and also the Board has included independents. In 1954 and 1955 members of the Board included two Republicans, one Democrat, and two independents. In 1956 the membership included three Republicans, one Democrat, and one independent.

I say to my friend from Utah that the National Labor Relations Act does not require that there be a balance between political parties in the membership of the Board.

Mr. Zimmerman's appointment as an independent impresses us as being clearly in keeping with the tradition of a bipartisan Board. In addition to his service on the Labor and Human Resources Committee, Mr. Zimmerman was counsel for many years to the ranking minority member of the committee. It impresses me that with this background the Board balance is preserved and that balance, of course, goes to not only the fact but the appearance of an impartial, fair, and politically neutral Board basically.

Mr. HATCH. Generally the Board has been bipartisan with the party in power having three members and the minority party having two members except in the few instances the Senator has cited that there have been some independents on the Board; is that correct?

Mr. WILLIAMS. It was President Eisenhower who brought it to this kind of balance. This is perhaps an unusual situation where the National Labor Relations Act does not do what so many acts do in requiring a balance.

Mr. HATCH. But it has been a time-honored tradition.

Mr. WILLIAMS. The act does not require it, but it was the wisdom of President Eisenhower who established this balance, and he as an appointing President found the balance not only in terms of Democrats and Republicans but also to include independents as well.

Mr. HATCH. As I understand it President Eisenhower did appoint independents to fill what were at least from a traditional standpoint Republican seats; is that correct?

Mr. WILLIAMS. Yes, that is correct.

Mr. HATCH. Mr. President, could I ask my friend from New Jersey another question?

Mr. WILLIAMS. Mr. President, if I could just correct one thing that might have been misunderstood in our most recent colloquy, President Eisenhower's appointment of independents were nominations to positions formerly held by Democrats, not Republicans.

Mr. HATCH. Would the Senator give the names, who they were, and if he could give us the names of who the independents were appointed for?

Mr. WILLIAMS. The two independents were Guy Farmer and Ivar H. Peterson.

Mr. HATCH. In the first place, if I could interrupt the Senator from New York, the first time I ever saw an independent appointed was March 21, 1952, when Ivar H. Peterson was appointed and there were four Democrats sitting on the Board at that time as of June 30, 1953; is that correct?

Mr. WILLIAMS. I have those who were in office on December 31, 1951. There were five Democrats.

Mr. HATCH. That is right, and as of June 30, 1953, the Chairman was Paul M. Herzog. John M. Houston, Paul L. Styles, and Abe Murdock were Democrats, with one independent, Ivar Peterson apparently appointed by President Eisenhower; is that correct?

Mr. WILLIAMS. Exactly.

Mr. HATCH. The next independent who was appointed was appointed on March 2, 1954, and that was when Guy Farmer was appointed Chairman of the Board. He was an independent. At that time Philip Ray Rodgers was a Republican, Ivar H. Peterson was an independent, Albert C. Beeson was a Republican, and Abe Murdock was a Democrat; is that correct?

Mr. WILLIAMS. That is right, and that conformed to what I said earlier, that Eisenhower appointed Republicans to positions formerly held by Democrats.

Mr. HATCH. In that case. But in the prior case—that is correct. I withdraw that. I think the Senator is correct on that.

Those were the only independents appointed, and they were appointed by Eisenhower, a Republican President, is that correct?

Mr. WILLIAMS. They were appointed to positions formerly held by Democrats.

Mr. HATCH. By Eisenhower.

Mr. WILLIAMS. By Eisenhower. He was slowly moving in the direction of what most boards are required by law, to have a balance. But he had the spirit and wisdom without the demands and mandates of law of getting this kind of balance.

Mr. HATCH. That was what he was trying to do at that time, to get a balance between the two major political parties; is that correct?

Mr. WILLIAMS. And evidently President Carter has that same spirit of balance. He comes to us with an eminent independent, Don Zimmerman.

Mr. HATCH. Let us follow that up just a little bit more. After March 28, 1957, there were no more Independents on the Board. At that point between March 28, 1957, and December 16, 1957, there were three Republicans and two Democrats: Stephen S. Bean, a Republican, Philip Ray Rodgers, a Republican; Joseph A. Jenkins, a Democrat; Boyd Leedom, who was the Chairman, a Republican; and Abe Murdock was a Democrat.

Mr. WILLIAMS. That is correct.

Mr. HATCH. From December 20, 1957, to August 27, 1960, there were three Republicans and two Democrats, Stephen S. Bean, Philip Ray Rodgers, and Boyd Leedom were the Republicans, and Joseph A. Jenkins and the new member, John H. Fanning, the present Chairman of the Board, those two were Democrats; is that correct?

Mr. WILLIAMS. That is correct.

Mr. HATCH. Between September 13, 1960, and March 6, 1961, again there were three Republicans.

Mr. WILLIAMS. That is right.

Mr. HATCH. Arthur A. Kimball, Philip Ray Rodgers, and Boyd Leedom were the Republicans, and Joseph A. Jenkins and John H. Fanning were the Democrats; is that correct?

Mr. WILLIAMS. That is correct.

Mr. HATCH. The balance then changed between April 14, 1961 and August 27, 1963 when we had three Democrats, Frank W. McCulloch as chairman, Gerald A. Brown, and John H. Fanning as a member, those were the three Democrats, and Philip Ray Rodgers and Boyd Leedom were the Republicans; is that correct?

Mr. WILLIAMS. That is correct.

Mr. HATCH. Between August 28, 1963 and December 16, 1964, again three Democrats, Mr. McCulloch, Mr. Brown, and Mr. Fanning, and two Republicans, Jenkins and Leedom.

Mr. WILLIAMS. Correct.

Mr. HATCH. And, frankly, it has been three Democrats and two Republicans ever since, is that not correct?

Well, I guess that is not correct. Between December 15, 1970 and August 27, 1971, there were three Republicans and two Democrats.

Mr. WILLIAMS. That is right.

Mr. HATCH. Mr. President, I ask unanimous consent that this document listing the various members of the National Labor Relations Board, plus a table at the end of the document showing the members of the Board be printed in the Record.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAMS. There is a summary which the Senator would agree shows that for a majority of years, two decades, two and a half decades, after the fifties, sixties, and seventies, those were the periods when the majority of the time there were three Republicans and two Democrats, I gather.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Aug. 27, 1935–Aug. 31, 1936: J. Warren Madden, Chairman, Democrat, John M. Carmody, Democrat, Edwin S. Smith, Democrat.

Sept. 23, 1936–May 31, 1939: J. Warren Madden, Chairman, Democrat, Donald Wakefield Smith, Democrat, Edwin S. Smith, Democrat.

June 1, 1939–Aug. 26, 1940: J. Warren Madden, Chairman, Democrat, William M. Leiserson, Democrat, Edwin S. Smith, Democrat.

Nov. 26, 1940–Aug. 27, 1941: H. A. Millis, Chairman, Democrat, William M. Leiserson, Democrat, Edwin S. Smith, Democrat.

Oct. 11, 1941–Feb. 23, 1943: H. A. Millis, Chairman, Democrat, William M. Leiserson, Democrat, Gerard D. Reilly, Democrat.

Mar. 15, 1943–July 4, 1945: H. A. Millis, Chairman, Democrat, John H. Houston, Democrat, Gerard D. Reilly, Democrat.

July 5, 1945–Aug. 26, 1946: Paul M. Herzog, Chairman, Democrat, John M. Houston, Democrat, Gerard D. Reilly, Democrat.

Aug. 27, 1964—July 31, 1947: Paul M. Herzog, Chairman, Democrat, John M. Houston, Democrat, James J. Reynolds, Jr., Democrat.

Aug. 1, 1947–Dec. 16, 1949: Paul M. Herzog, Chairman, Democrat, John M. Houston, Democrat, James J. Reynolds, Jr., Democrat,

J. Copeland Gray, Unknown, Abe Murdock, Democrat.

Feb. 27, 1950–Dec. 31, 1951: Paul M. Herzog, Chairman, Democrat, John M. Houston, Democrat, James J. Reynolds, Jr., Democrat, Paul L. Styles, Democrat, Abe Murdock, Democrat.

Mar. 21, 1952–June 30, 1953: Paul M. Herzog, Chairman, Democrat, John M. Houston, Democrat, Ivar H. Peterson, Independent, Paul L. Styles, Democrat, Abe Murdock, Democrat.

Mar. 2, 1954[1]–Dec. 16, 1954: Guy Farmer, Chairman, Independent, Philip Ray Rodgers, Republican, Ivar H. Peterson, Independent, Albert C. Beeson, Republican, Abe Murdock, Democrat.

Apr. 4, 1955–Aug. 27, 1955: Guy Farmer, Chairman, Independent, Philip Ray Rodgers, Republican, Ivar H. Peterson, Independent, Boyd Leedom, Republican, Abe Murdock, Democrat.

Dec. 1, 1955[2]–Aug. 27, 1956: Stephen S. Bean, Republican, Philip Ray Rodgers, Republican, Ivar H. Peterson, Independent, Boyd Leedom, Chairman, Republican, Abe Murdock, Democrat.

Mar. 28, 1957–Dec. 16, 1957: Stephen S. Bean, Republican, Philip Ray Rodgers, Republican, Joseph A. Jenkins, Democrat, Boyd Leedom, Chairman, Republican, Abe Murdock, Democrat.

Dec. 20, 1957–Aug. 27, 1960: Stephen S. Bean, Republican, Philip Ray Rodgers, Republican, Joseph A. Jenkins, Democrat, Boyd Leedom, Chairman, Republican, John H. Fanning, Democrat.

Sept. 13, 1960–Mar. 6, 1961: Arthur A. Kimball, Republican, Philip Ray Rodgers, Republican, Joseph A. Jenkins, Democrat, Boyd Leedom, Chairman, Republican, John H. Fanning, Democrat.

Apr. 14, 1961[3]–Aug. 27, 1963: Frank W. McCulloch, Chairman, Democrat, Philip Ray Rodgers, Republican, Gerald A. Brown, Democrat, Boyd Leedom, Republican, John H. Fanning, Democrat.

Aug. 28, 1963–Dec. 16, 1964: Frank W. McCulloch, Chairman, Democrat, Howard Jenkins, Jr., Republican, Gerald A. Brown, Democrat, Boyd Leedom, Republican, John H. Fanning, Democrat.

Apr. 20, 1965–Dec. 16, 1969: Frank W. McCulloch, Chairman, Democrat, Howard Jenkins, Jr., Republican, Gerald A. Brown, Democrat, Sam Zagoria, Republican, John H. Fanning, Democrat.

June 3, 1970[4]–Aug. 27, 1970: Frank W. McCulloch, Democrat, Howard Jenkins, Jr., Republican, Gerald A. Brown, Democrat, Edward B. Miller, Chairman, Republican, John H. Fanning, Democrat.

Dec. 15, 1970–Aug. 27, 1971: Ralph E. Kennedy, Republican, Howard Jenkins, Jr., Republican, Gerald A. Brown, Democrat, Edward B. Miller, Chairman, Republican, John H. Fanning, Democrat.

Feb. 22, 1972–Dec. 16, 1974: Ralph E. Kennedy, Republican, Howard Jenkins, Jr., Republican, John A. Penello, Democrat, Edward B. Miller, Chairman, Republican, John H. Fanning, Democrat.

Feb. 18, 1975–July 31, 1975: Ralph E. Kennedy, Republican, Howard Jenkins, Jr., Republican, John A. Penello, Democrat, Betty Murphy, Chairman, Republican, John H. Fanning, Democrat.

Nov. 23, 1975[5]–Aug. 31, 1977: Peter D. Walther, Republican, Howard Jenkins, Jr., Republican, John A. Penello, Democrat, Betty Murphy, Chairman, Republican John H. Fanning, Democrat.

Oct. 25, 1977–Dec. 14, 1979: John C. Truesdale, Democrat, Howard Jenkins, Jr., Republican, John A. Penello, Democrat, Betty Murphy, Republican, John H. Fanning, Chairman, Democrat.

NATIONAL LABOR RELATIONS BOARD, MEMBERS OF THE BOARD

Members	Profession	Period of service		Served as Chairman	
		From—	To—	From—	To—
Edwin S. Smith	Industry personnel	July 5, 1935	Aug. 27, 1941		
J. Warren Madden	Lawyer	Aug. 27, 1935	Aug. 26, 1940	Aug. 27, 1935	Aug. 26, 1940.
John M. Carmody	Industrialist	Sept. 4, 1935	Aug. 31, 1936		
Donald Wakefield Smith	Lawyer	Sept. 23, 1936	May 31, 1939		
William M. Leiserson	Economist	June 1, 1939	Feb. 23, 1943		
Harry A. Millis	do	Nov. 26, 1940	July 4, 1945	Nov. 26, 1940	July 4, 1945.
Gerard D. Reilly	Lawyer	Oct. 11, 1941	Aug. 26, 1946		
John M. Houston	Congressman	Mar. 15, 1943	Aug. 27, 1953		
Paul M. Herzog	Lawyer	July 5, 1945	June 30, 1953	July 5, 1945	June 30, 1953.
James J. Reynolds, Jr	Naval officer	Aug. 27, 1946	Dec. 31, 1951		
Abe Murdock (D)	Senator	Aug. 1, 1947	Dec. 16. 1957		
J. Copeland Gray	Industrial Relations counselor	do	Dec. 16, 1949		
Paul L. Styles	Printer	Feb. 27, 1950	Aug. 31, 1953		
Ivar H. Peterson (I)	Lawyer	Mar. 21, 1952	Aug. 27, 1956		
Guy Farmer (I)	do	July 13, 1953	Aug. 27, 1955	July 13, 1953	Aug. 27, 1955.
Philip Ray Rodgers (R)	Public administrator	Aug. 28, 1953	Aug. 27, 1963		
Albert C. Beeson (R)	Economist	Mar. 2, 1954	Dec. 16, 1954		
Boyd S. Leedom (R)	Judge	Apr. 4, 1955	Dec. 16, 1964	Nov. 2, 1955	Mar. 6, 1961.
Joseph Alton Jenkins (D)	Lawyer	Mar. 28, 1957	Apr. 13, 1961		
Stephen S. Bean (R)	do	Dec. 1, 1955	Aug. 27, 1960		
John H. Fanning (D)	Government official	Dec. 20, 1957		Apr. 14, 1977	
Arthur A. Kimball (R)	do	Sept. 13, 1960	Mar. 6, 1961		
Frank W. McCulloch (D)	do	Mar. 7, 1961	Aug. 27, 1970	Mar. 7, 1961	June 2, 1970.
Gerald A. Brown (D)	do	Apr. 14, 1961	Aug. 27, 1971		
Howard Jenkins, Jr. (R)	do	Aug. 28, 1963			
Sam Zagoria (R)	do	Apr. 20, 1965	Dec. 16, 1969		
Edward B. Miller (R)	Lawyer	June 3, 1970	Dec. 16, 1974	June 3, 1970	Dec. 16, 1974.
Ralph E. Kennedy (R)	Government official	Dec. 15, 1970	July 31, 1975		
John A. Penello (D)	do	Feb. 22, 1972			
Betty S. Murphy (R)	do	Feb. 18, 1975		Feb. 18, 1975	Apr. 13, 1977.
Peter D. Walther (R)	Lawyer	Nov. 26, 1975	Aug. 31, 1977		
John C. Truesdale (D)	Government official	Oct. 25, 1977			

Mr. HATCH. All right. I thank the Chair.

It is also true that during the vast majority of those years, the Board was split between the two parties, either three Democrats and two Republicans or two Democrats and three Republicans; is that correct?

Mr. WILLIAMS. That is correct.

Mr. HATCH. What is Mr. Zimmerman's party affiliation?

Mr. WILLIAMS. Well, in my opening statement his independent status was noted. He is an independent.

Mr. HATCH. Has Mr. Zimmerman ever been registered as a Democrat?

Mr. WILLIAMS. The record and the report will show that he at one point, I think during a local election—he was at one point a California Democrat.

Mr. HATCH. Can the Senator tell us at what point that was?

Mr. WILLIAMS. We have it in the material. While the Senator is proceeding—I know it was made clear during the hearing and it is known to us. I just do not have instant recall what year it was that he was.

Mr. HATCH. We will look it up in the record.

My point is it is also true that Mr. Zimmerman has been nominated to succeed the Honorable Betty Murphy, is that correct, who was a Republican?

Mr. WILLIAMS. That is right.

Mr. HATCH. That means if Mr. Zimmerman's nomination is confirmed by this body there will be three Democrats, one independent and one Republican on the Board; is that correct?

Mr. WILLIAMS. That is right.

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[1] Farmer, appointed July 13, 1953, replaced Herzog, who resigned the previous June 30. Rodgers was appointed August 28, 1953, the day after Houston's term expired. Beeson's appointment, on March 2, 1954, was to the unexpired term of Styles, who resigned on August 31, 1953. So, between June 30, 1953 and the following March 2, the Board functioned in a variety of 4-member compositions.

[2] Bean was appointed on December 1, 1955, to replace Farmer, whose term expired the previous August 27. Rodgers was designated Acting Chairman upon Farmer's departure and Leedom was designated Chairman on November 2, 1955. The Board, obviously, was composed of 4 members at the time.

[3] McCulloch was appointed on March 7, 1961, replacing Kimball who left the Board the previous day. Kimball was a recess appointment whom the Senate refused to confirm and whose nomination was not resubmitted by President Kennedy. Upon appointment, McCulloch was designated Chairman, replacing Leedom. Brown was appointed on April 14, 1961, replacing Jenkins who resigned the previous day. (Apparently, he had earlier indicated an intention to resign on that day.)

[4] Miller was designated Chairman upon appointment, June 3, 1970.

[5] Murphy served as Chairman until April 14, 1977, at which time President Carter designated Fanning Chairman.

Mr. HATCH. I thank my colleague from New Jersey.

I ask unanimous consent that this not be considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I move to lay nomination on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to lay the nomination on the table. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 29, nays 60, as follows:

[Rollcall Vote No. 319 Ex.]

YEAS—29

Bellmon
Boschwitz
Cochran
Dole
Domenici
Durenberger
Garn
Goldwater
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Packwood
Pressler
Roth
Schmitt
Simpson
Stevens
Stone
Thurmond
Wallop
Warner
Zorinsky

NAYS—60

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
Danforth
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Huddleston
Inouye
Jackson
Johnston
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Tsongas
Weicker
Williams
Young

NOT VOTING—11

Armstrong
Baker
Church
Javits
Kennedy
Leahy
Mathias
Stennis
Stewart
Talmadge
Tower

So the motion to lay on the table was rejected.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Will the Senator suspend for a moment? Will Members please take their seats? May we have order in the Chamber?

The Senator from Utah.

Mr. HATCH. Mr. President, I am a little concerned that this particular nomination has been brought up at this time. I have made known to the leadership on both sides that we have made efforts to resolve the conflicts surrounding this particular nominee. As a matter of fact, we have been bringing groups together who have dissident viewpoints with regard to whether or not this particular position on the National Labor Relations Board should be filled at this time.

It has been a very, very difficult situation for me because I know Mr. Zimmerman quite well. I like him personally. We have been very friendly as we have served together. He serves one of the great Senators in this Senate, Senator JAVITS. He is a member of his staff. He has done an excellent job for Senator JAVITS and for Senator JAVITS' point of view here in the Senate. I admire him for that.

As a matter of fact, no matter what the ultimate resolution of this is, or no matter what the procedural approach will be, there is nothing personal in this consideration against Mr. Zimmerman.

As a matter of fact, there are many places in Government where he could serve and serve very well, and many places where I would absolutely have no qualms at all in the excellent service he would render.

(Mr. TSONGAS assumed the chair.)

Mr. HATCH. Mr. President, I was commenting on what a difficult nomination this particular nomination is, the close, friendly, personal relationship I have had with Mr. Zimmerman, and the regard I hold for him personally.

On the other hand, there are some signals being sent out that really alarm me by many people, especially in the small business community in our society, especially in the construction industry, and especially in almost any aspect of work life in our society, that there is a deliberate, conscious, dedicated attempt to control everything that the National Labor Relations Board does.

This is more than a serious problem. It was highlighted by what happened to the person whose seat Mr. Zimmerman will take if this nomination is approved, and her name is Betty Murphy.

Betty Murphy served the National Labor Relations Board and this country with great distinction. She is one of the premier labor lawyers in this country. She was formerly the chairman of the National Labor Relations Board, who was removed when President Carter took over as President of the United States, and replaced by John Fanning, who some observers feel is probably one of the most partisan members who has ever sat on the National Labor Relations Board.

Betty Murphy, who had the confidence of not only the business community in this country and their support, with the confidence of all of many of the labor unions in this country and, I might add, their support, was a Republican.

She was the only Republican who had the support of all sides of the issue as a Member of the National Labor Relations Board. That was not an easy position to obtain. She had earned that privilege because of her approach as she served on the Board in recognizing the needs of all sides with regard to labor-management relations problems as they came before the Board.

The business community, the labor unions, and others, recommended that Betty Murphy be reappointed when her term expired last December. For all intents and purposes, it was apparent that this administration knew that it could not hold Betty Murphy's nomination back and would have to reappoint her.

However, before the administration nominated Mrs. Murphy, the administration sent up the nomination of William Lubbers as the independent General Counsel of the National Labor Relations Board.

Now, keep in mind, Mrs. Murphy term had expired. There were three highly partisan pro-union members of the Board and one who could be thought of as occasionally ruling in favor of the business community, or at least looking at the small business needs of this society.

So the balance on the board was 3 to 1, and it was apparent that that fifth seat needed to be filled.

If we believe in balance in labor-management relations in this country, filling that seat with Mrs. Murphy would have been a fair and reasonable way to go since we had the support of all sides, of all labor issues in this matter, in this country.

But her nomination was withheld and restrained and held back by the White House until they could send up the nomination of Mr. William Lubbers for the independent General Counsel position, I suppose under the theory that because the Republicans wanted Mrs. Murphy, because of our high regard for her, that we would let Mr. Lubbers just shoot on right through in our desire to have two Republicans on the board.

Well, as we all know, because, ostensibly, being a member of the National Labor Relations Board is more important than being independent General Counsel, Mrs. Murphy, as a result of this slight to her, caused by this administration—and I think blatently caused by this administration—really had no alternative other than to withdraw her name from nomination as a member of the National Labor Relations Board, and in the process, we lost a balance.

We lost a good advocate for labor and industry. We lost a person who could have spread oil on troubled waters, a person skilled and tremendously educated in the field covered by the National Labor Relations Board, and one of the all-time great servants to our Government, in favor of having Mr. Lubbers as independent General Counsel.

The only problem with Mr. Lubbers as independent General Counsel was that he was not an independent, and we doubt that he ever will be independent as he serves in the "independent" General Counsel's seat on the National Labor Relations Board.

Mr. Lubbers had worked for 20-plus years with or directly under the current chairman of the National Labor Relations Board, John Fanning, who is not known for his free-enterprise positions on the National Labor Relations Board. Therefore, I believe it is apparent to any person cogently examining the matter that William Lubbers is anything but independent, and I believe time will prove that that assertion is true.

I said earlier in my remarks that a Board position is ostensibly more important than the independent General Counsel's position; but, as a practical matter, the independent General Counsel's position is probably more important than that of any member of the Board, because the independent General Counsel's opinions and positions really are unappealable. He controls the cases to be brought, the delays to be sought, the people to be dismissed, and, of course, the opinions to be written that really can affect labor law in this country, for good or evil, for many years to come.

If, as many groups feel—and as I believe—Mr. Lubbers is a highly partisan "independent" General Counsel of the National Labor Relations Board, then are we helping labor-management relations in this country by now appointing to the one remaining Republican seat, by tradition, a person whose sympathies may very well go to the other three members of the Board, leaving only one person to question—intellectually, practically, and otherwise—the decisions of the Board and the activities of the Board with regard to fairness to those who work in the free enterprise system as small business owners or business owners of any other size?

The real problem, as anybody can plainly see, is that we have a wide belief in this country today that this administration, with the help of a number of others, is packing or stacking the National Labor Relations Board, not only in the General Counsel's office but also as a Board, to the point where it could lead to labor-management relations chaos in this country.

There is also a wide body of belief in the minority at this point that it is essential, if this country is to avoid labor-management relations difficulties, that we have a bipartisan Board, a balanced Board, and fairness to both sides on these particular issues. I suppose the best way to have fairness is to have a bipartisan, balanced Board which will give consideration to the needs of both sides in these matters.

Keep in mind another very important issue raised by those who criticize this nomination, and that issue is that it is essential to have at least two on the Board who may stand up for a balanced approach toward labor-management relations; because then the panels, if they are set up by the National Labor Relations Board, will have appropriate dissents even though the majority can control.

Through the years, the dissenting opinions have played a noble and very important role; because, on appeal, many of them have been upheld. They have been upheld because of the reasoning of those who have been fair as they sat on the Board, compelling the appellate judges who review the cases to rule in a reasonable and fair manner.

It is no small thing to understand that appellate judges in this country are not particularly skilled in labor law matters or labor-management related matters. If there is no balance on the Board, then the dissents will not be written, and the unlearned appellate court judges—unlearned, that is, in labor law matters, which may be very specific and very difficult from time to time—will not have the additional benefit of the wise counsel of those who dissent from the rubber stamp opinions sometimes offered by Board members. Or, should I say, the Board members who control the Board?

The best way to have honesty in labor-management relations is to have this bipartisan, balanced Board. If you do not have that and the Board becomes stacked and the "independent" General Counsel's position is also part of the stacking process, then we are all in danger of labor-management relations chaos.

In fact, it has been said by leaders in the field of labor law that the appellate courts are losing their confidence in the Board's expertise because of the unfair and partisan decisions rendered by a biased Board—by the present biased Board.

There is a high degree of reversal, in my opinion; but those reversals, themselves, will be difficult to do without the benefit of dissenting opinions.

If the Board is stacked so that the one remaining possible dissent is always put on inconsequential matters while the other four split up the most consequential matters, there will be no dissents to help us in this country from a labor-management relations standpoint.

This body, itself, benefits from dissent. It benefits from a strong minority on various issues. Where there is no strong minority dissenting from the will of the majority, we generally have a poor quality of debate, a poor quality of legislation, a debilitation of government in our country, and a loss to all concerned. The body itself suffers.

That is why it is important to debate. That is why it is important to have important matters debated here on the floor, among dissidents who treat each other with respect and reverence but, nevertheless, have the capacity, the ability, the guts, and the attention to these matters to stand up and dissent.

But if we take away the right of dissent on the National Labor Relations Board at this crucial juncture in our country's history, then we will hurt this country irrevocably.

We are living at a time where just in the last 4 years we have had some of the most horrendous economic calamities occur that any country has ever suffered. Just think when President Carter became President or at least won the Presidency in 1976, personal income tax revenues to the Federal Government were about $134 or $135 billion a year, the amount of money which individual taxpayers paid in this country. In calendar year 1981, just 4 or 5 years later, personal income tax revenues have jumped $315 billion and maybe more, way better than double, almost triple what they were just 4 or 5 years ago.

Just look at the Federal budget. We even have a budget process here that is supposed to help us to get spending under control, get government under control. The budget back in 1976 was a little over $400 billion. The budget for fiscal year 1981 is going to be well over $600 billion in just 4 years.

Look at the national debt. The national debt back in 1976 was something like $650 billion. By the end of fiscal year 1981 it will be just a little under or a little over $1 trillion, in 4 years, 5 years.

Look at the interest against the national debt. The interest against the national debt was $42 billion or thereabouts back in 1976 when President Carter came in. The interest in fiscal year 1981 will be somewhere near $83 billion, almost double in 4 or 5 years.

Look at what has been happening to the joint process of inflation and stagflation caused by a whole variety of programs back here, ever-alternating upwards rather than offsetting, with interest rates in April of 20 percent—yes, they have been brought down by a series of monetary manipulations and other approaches—but, nevertheless, probably will be in double digits for the next decade unless we have dissidence and dissent of viewpoint that might possibly cause us to do the right things to get inflation under control.

The problem with the economic problems in this country centers on the fact that we have had one philosophy rule in this body and in the other body for 44 of the last 50 years during which time we failed to balance the budget of the United States of America. In fact we have not balanced the budget I guess except for one time in the last 25 years.

Part of that has been because there has been an overwhelming majority, I might add in both parties, who have believed in more big Government and more Federal spending, that the Federal Government is the employer of last resort, the regulator of last resort, the governor of last resort, and the legislator of last resort running our country.

We have not had enough dissidence and enough alternative viewpoints to stop the morass of Government we are in today.

I do not care who he is in this body today, except for possibly one or two, we are all going all over this country today saying we are overrun by the Federal Government and that we have to make some changes and that we need regulatory reform and we need this and that and 101 other things which a number of us have been arguing for a long time.

In fact, there is a real concern in this body today that this country has moved more toward the center and is continually moving toward a more conservative posture, but that has been brought about because of the dissent, debate, ideas, and because people are concerned. Those are big issues, but the National Labor Relations Board happens to be one of the most important issues in this country.

If we make that Board 4 to 1 which many feel this nominee would cause the Board to be—I am not as sure as some people who are tremendously concerned—I would hope, having known Mr. Zimmerman as long as I have that he would be a tremendous addition to the Board and that he would be a fair addition and that he would be perhaps someone who would dissent when the Board tries to usurp the function of the U.S. Congress, but there are a lot of people at least in the business community today who feel otherwise, who feel that with this nomination the Board will go 4 to 1 against anything that is reasonable for business and of course against everything else that business might need and at a time which is most crucial to this country's history.

It also means to various Republicans throughout the country that there will only be one Republican on the board and at a time most crucial in this country's history, and we all know that it is important to have dissent. It is important to have alternative points of view. It is important to have the debate and the debating process to refine various rulings and decisions of almost any body in this Federal Republic.

Might I ask the chairman of the Labor and Human Resources Committee just one other question if I may? How many groups or organizations responded to the Labor Committee on the Zimmerman nomination? How many were favorable and who were they and how many were unfavorable and who were they?

Mr. WILLIAMS. This nomination did not produce the public response, at least a respone directed to our committee, that some nominations have. It was pretty close being, I would say, noncontroversial, and that is perhaps reflected in the vote in the committee in reporting the nomination of Mr. Zimmerman. It was 12 to 0 favorable on the question of reporting.

So, we did not have a volume of public input to the committee on his nomination.

So let me just recite some that we did have. It is not a long list here. I am just going to see if I can give the Senator a tabulation. Basically we had five communications here opposed to Mr. Zimmerman from those who were writing in an individual capacity. One communication came to me from an association, Associated Builders and Contractors, opposed. The Chamber of Commerce opposed. The Associated General Contractors, opposed. I have already stated Mr. Davis from the Chamber of Commerce.

So there was a paucity of reaction and response and, of course, it has been a nomination that has been before the Senate for some time. It has not come on suddenly. It has been a nomination that has been out there and publicly noted for a long period of time. There has been a minimal amount of response, six individual responses that I indicate that were negative on Zimmerman.

Mr. HATCH. Could I ask the distinguished chairman is anyone for this nomination, letters, and groups or organizations for it?

Mr. WILLIAMS. Now we go to another file.

Mr. HATCH. And please list who they are.

Mr. WILLIAMS. I will have to go through the files and bring those out. We will submit them unless we are about ready to vote on this nomination. Are we about ready to vote?

Mr. HATCH. Not quite ready.

Mr. WILLIAMS. Could I, with the comity in our committee, request that we not move immediately to a vote on this nomination so that I can get our file of those who expressed a favorable view of the nomination of Mr. Zimmerman? If I could have that little bit of time it will take I would appreciate it.

Mr. HATCH. We will be glad to give the Senator the 2 or 3 minutes needed for that purpose. But I think we can delay voting on this for at least a few minutes more.

Mr. WILLIAMS. All right.

If the Senator has other things to discuss——

Mr. HATCH. I thank my distinguished chairman and I appreciate the information he has given to us.

My colleagues ought to be made aware, if they are not already, that the construction industry throughout this country is strongly opposed to the confirmation of Don A. Zimmerman as a member of the National Labor Relations Board. Their concern is over a matter that is not new to this body. That concern is the preservation in its present form of the Board's treatment of secondary boycotts as applied to the construction industry.

I wish to read into the RECORD at this point a copy of the AGC's, Associated General Contractors of America's, opposition letter to Chairman Williams, my distinguished colleague from New Jersey, which was sent to all members of the Labor and Human Resources Committee:

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, D.C., June 11, 1980.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Senate Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Associated General Contractors of America (AGC) opposes the nomination of Don A. Zimmerman to serve as a member of the National Labor Relations Board.

AGC does not question Mr. Zimmerman's personal integrity. We believe that a person with experience as a practicing labor attorney representing management would be more appropriate as a nominee—especially considering the current composition of the Board. Such background is, in our view, a much more favorable background for a Board member who will be required to fully understand, from a practical standpoint, the legitimate interests of management in the field of labor-management relations.

An additional cause for concern is Mr. Zimmerman's close association over the years with Senator Javits who, during Senate consideration of bills dealing with Common-situs Picketing and Labor "Reform" Legislation, and also during the recent confirmation of William Lubbers as NLRB General Counsel, took positions strongly opposed by AGC. Mr. Zimmerman's role as the staff person handling labor matters for Senator Javits therefore gives AGC cause for very real concern over Mr. Zimmerman's position on issues which could come before the Board and which, like Situs-picketing Legislation and Labor Law "Reform", would, if adopted, be contrary to the best interest of the construction industry.

We are also concerned that Mr. Zimmerman's confirmation would alter the manner in which nominees to the Board traditionally are selected. Ever since the Board was made a five member Board, it has consisted of three persons who are members of the same political party as the President and two persons who are members of the party not in the White House. Mr. Zimmerman is an "independent," not registered as a member of either the Republican or Democrat party, being appointed to fill a "Republican" seat. If this precedent goes unquestioned by the Senate, it is conceivable that a future President could appoint three persons from his own party and two "independents" philosophically attuned to the President, thus setting the stage for complete domination of the Board by a single philosophy. Such imbalance would, in turn, destroy the balance needed on the Board to retain the confidence of both management and labor. President Eisenhower did appoint an independent to the Board. In that case, the nominee was nominated to fill one of the three seats reserved for the President's party; the other two seats were reserved for nominees of the party not in power. In that case, therefore, there was a 2–2–1 split (preserving balance) rather than the 3–1–1 split represented by the nomination of Mr. Zimmerman.

AGC believes that this change of the traditional manner of selecting nominees is a dangerous precedent that could undermine the Board's delicate balance which is already endangered by the Lubbers appointment. This is especially true in this case since the business community in general had virtually no impact on the recent selection of Mr. Lubbers as General Counsel and Mr. Zimmerman as the current nominee, and appears unlikely to have any voice in the likely renomination of, or replacement for Board Member Truesdale.

AGC is opposed to the confirmation of Mr. Zimmerman on the basis of insufficient experience, lack of understanding of management's legitimate interests, and the fact that his confirmation sets an unhealthy precedent in terms of maintaining balance in Board composition.

Sincerely,

HUBERT BEATTY,
Executive Director.

Most Members of the Senate will remember that common situs picketing legislation has been introduced in virtually every Congress since the Supreme Court rendered its decision in the Denver Building Trades case in 1949. The issue therefore, has been debated in both the House and Senate repeatedly during the last 30 years.

The issue of secondary boycott legislation is relevant in this debate because of the status of the issue pending at the Board wherein one more vote could enact common situs picketing. If we confirm a person who indicates a willingness to legislate a situs-picketing bill by judicial fiat by refusing to enforce the secondary boycott prohibitions of the NLRA, we would give birth to the very real fear expressed by the construction industry. For that reason I wish to share with my colleagues the following statement to remind them how devastating it could be to legalize secondary boycotts (situs-picketing) by confirming Mr. Zimmerman.

The bill to legalize secondary boycotts in the construction industry poses a very serious question for every American. That question is whether this country can afford to increase the bargaining strength, the economic strength of the building trades unions when it is as plain as the nose on your face that these unions have been very remiss in demonstrating any sense of responsibility in the exercise of the economic power they already have under the many privileges and immunities afforded to them under the Taft-Hartley Act.

There may be those who would deny that the building trades unions have any significant economic power over and above the power available to other organized groups of workers in this country—but such denials can not be substantiated. I would like to demonstrate by unimpeachable documentation that this is the case.

There may be those who would deny that the bill to legalize secondary boycotts in the construction industry does not enhance the building trades unions economic power unduly—but in the words of the unions' self-serving declarations—will merely equalize their power with those of the industrial unions. That claim also can be shown to be an empty claim, with no truth in it, and in fact, without any reasonable degree of plausibility, except for the most gullible.

Let me demonstrate to your satisfaction, which I am sure I can do, that the immense wage increases and the high wage rates in the construction industry have been forced upon the construction industry irresponsibly by the unions by means of long costly strikes, in wilful disregard to the abnormally high rates of unemployment in the industry and the abnormally high costs of construction. That is a syndrone of irresponsibility in my judgment.

The problem was well documented by a spokesman for the largest of the many construction contractors associations in the country only last June, in a news release which stated as follows:

> Wage settlements in the construction industry are averaging 9.2 percent based on reliable samples.

Frankly, he said:

> I am surprised by some of the high wage demands the building trades unions are continuing to make, particularly in view of the construction market. The union construction worker has increased his wage and fringes by 55 percent over the last five years. He has all but drained the purchasing power of the construction buyer. He has all but priced himself out of the construction market. The union construction worker in cities over 100,000 is averaging $10 an hour in wages and fringes. He is among the highest paid manual worker in the country. Indeed, restraint is in order.

This association assured Congress in public testimony that it would be more than willing to work with the Labor Department and the construction unions to try to bring some sanity to the badly fractured collective bargaining in our industry.

At this juncture, it is important for you to realize that the unreasonable reaction on the part of certain Members of the House and Senate has been to propose measures that would make the problem worse rather than better. They would add to the problem rather than to the solution. They would enhance the economic power of labor groups that have demonstrated that they cannot properly handle the power they already have. They would propose collective bargaining reforms that would leave the bulk of this serious problem untouched.

We need not content ourselves with the opinion of industry spokesmen, however, because the statistics amply support my views. An official Labor Department comparison of wage and benefit settlements in major collective bargaining units from 1969 to date indicate that construction settlements run far ahead of industry settlements. This information certainly in my judgment rebuts the building trades unions' claims of inequality of position versus the industrial unions. Let us look at the record:

The figures I am giving reflect the annual rate of the settlement increases over the life of the labor agreement, which is perhaps the broadest and fairest measure of what has been happening. These reflect averages of course.

In 1969, manufacturing settlements were 6 percent, but construction settlements were 13.1 percent.

In 1970, manufacturing settlements were 6 percent, but construction settlements were 14.9 percent.

In 1971, manufacturing settlements were 7.3 percent, but construction settlements were 10.8 percent.

In 1972, manufacturing settlements were 5.6 percent, but construction settlements were 6 percent.

In 1973, manufacturing settlements were 4.9 percent, but construction settlements were 5.1 percent.

In 1974, manufacturing settlements were 6.1 percent, but construction settlements were 9.6 percent.

In each of those years, and I believe this is a reasonable sample, construction settlements outstripped industrial settlements. On top of the statistics, is the fact that construction hourly rates are higher throughout than manufacturing rates and a percentage point means a great deal more in dollars and cents to construction than to the lower rate in manufacturing. Construction trades also receive double time for overtime work, as a rule, contracted to the usual industrial practice of paying time and a half. That fact means that construction wages are enhanced by these extra factors, over and above what the bare statistics would indicate.

Having pointed out the superior position which the construction unions are in vis-a-vis industrial unions, I am not sure that many can still visualize just what is involved in terms of the excessive dollars and cents incomes of construction workers in many areas of the country. I believe it would be necessary to drive that point home to make reference to some of the wage settlements that have been reported only in recent months, and mind you, out of areas of the country in which there are at the same time very serious unemployment problems among these very construction trades.

Plumbers in Portland, Oreg., demanded and received a 20-percent increase this year, giving them an hourly rate of $13.86 an hour in the final escalation period of the agreement. You must bear that the hourly rate for overtime work for this union would then be $27.72.

Look at California, which has a massive unemployment problem in construction. Carpenters in California demanded and received a 7.6-percent increase this year, giving them an hourly rate of $15.51 an hour in the final escalation period of the agreement. Overtime there would amount to $31.02 an hour.

Electricians in Hawaii demanded and received a 17.6-percent increase giving them an hourly rate of $13.85 an hour, and Ironworkers received a 39-percent increase over the life of the agreement, giving them an increase of $3.93 an hour, or a rate at the final escalation period of the agreement of $13.22 an hour.

Similar patterns are common throughout the country. For example, I have another report of steep increases in Alaska. In that area, electricians demanded and received a 47.5 percent increase of the old rate over the life of the agreement, bringing their hourly rate at the end of the escalation period of the agreement to a record high for the United States, and that is $19.95 an hour, or an overtime rate of $39.90 an hour.

I believe it ought to be pointed out that no one will sit in judgment against a good day's pay for a good day's work. No one would criticize a high wage in return for a highly productive performance. But the record in the construction industry's labor relations field indicates that while the rates are rising rapidly, and going into rather exhorbitant heights, there is no corresponding increases in productivity to match them.

On the contrary, you will find that many of the hours in which the $19.95 an hour are paid to electricians in Alaska will be devoted to nonproductive time on the job of one variety or another. Under these circumstances, I believe it would be a fair inference that the heights to which wage rates in the construction industry are going can have no other effect than to contribute to the inflationary problems of this country, and adding to the economic power of these construction unions who are already posing serious inflationary problems of this kind cannot, in my opinion, be reconciled with reason.

Oddly enough, the wage escalation phenomenom in construction, to which I have alluded, has not escaped the attention of the administration spokesman who has put his stamp of approval on a bill to enhance the economic power of unions that are responsible for the problem to begin with.

Quoting from Engineering News Record for May 29, 1975, it states:

> Current developments in constuction labor contract bargaining are causing concern verging on alarm among government inflation watchers.

Let me repeat, "causing concern verging on alarm," yet those alarmed officials of Government seem to turn around and propose the legalization of secondary boycotts in this industry.

The editorial continues:

> Officials who were at one time hopeful that this year's heavy round of bargaining might produce a pattern of moderation in an industry with an unemployment rate of 19.3 percent (since increased), now fear that a new round of vicious leapfrogging may be developing.

It reports further that:

> Several factors are behind the concern, one of them being an unexpected surge in strike activity following some 900 labor contracts expirations on May 1. As of May 19, there were 121 strikes involving 71,000 workers.

As far as leapfrogging is concerned, the editorial points out that:

> One example of leapfrogging just occurred in Portland, Oregon, where plumbers leapfrogged over a nearby Pasco, Washington, plumbers' 1974 settlement of $2.50 over two years and settled a three-week strike for hourly increases of $1.15 immediately, another $1.15 in November and 50 cents next May, plus a cost-of-living allowance next year, all on top of a wage-fringe scale of $11.06.

The editorial reports that:

> The national average of settlements is seesawing above and below the 10 percent level, with great disparity in individual settlements.

That alarm was sounded last May. What has happened since that time? The Secretary of Labor reported to House subcommittee on September 10, last, as follows:

> In 1974, there were 437 work stoppages, compared with 272 in 1973. First year increases in wages and benefits in major settlements averaged 10.8 percent compared with 8.8 percent in manufacturing industries.

This observation bears out my earlier observation of the building trades' superior economic position vis-a-vis the industrial unions, and it confirms the continuation of this pattern to the present time.

The Secretary of Labor continued his report:

> In particularly sensitive areas and crafts, increases of 15 to 20 percent or more created problems of wage distortion to plague other negotiators for many years.
>
> In 1975 settlements, the first year wage and benefit settlements reported thus far have averaged 9.6 percent. This figure in itself is deceptive, however, as some parts of the country experiencing high unemployment in the industry have negotiated relatively small increases . . . In contract, settlements reported in the California-Arizona-Nevada-Hawaii region averaged 12.1 percent for the first year, and 15.6 percent in the Washington-Oregon, Idaho-Alaska region. The Council on Wage and Price Stability has just held hearings on an increase of $2 or 16.6 percent, negotiated by the Plumbers in Seattle.

As to strikes in construction, the Secretary reported that the percentage of expiring collective bargaining agreements settled without work stoppages is much smaller in construction than in industry generally. He explained that:

> Not only do work stoppages occur more frequently in the construction industry, they now last longer. The average work stoppage in the construction industry in 1974 lasted 29 days, compared to less than 23 days for all industries.

The Secretary added:

> When one examines the data for certain cities in the United States for 1975, the magnitude of these averages is dwarfed. Here in Washington, D.C. 21 of the 22 construction agreements expire in 1975. Washington was afflicted with work stoppages from April 4, 1975 until August 1, a period of 119 days. For example, the Roofers went on strike on April 3, 1975 and were not settled until May 21, 1975. The Cement Masons were on strike from May 1 until June 13. The Operating Engineers were out May 12 to May 20. The Painters struck from May 19 until May 24. The Teamsters and the Laborers were on strike from June 13 until August 1. In early September, two strikes are in progress at the same time. Plumbers and Pipefitters. Agreements have been reached in 17 cases but Washington, D.C. still has the possibility of additional stoppages this year. Unlike some areas of the nation, Washington cannot expect to be stopping-free for the next two or three years, since several of the contracts are for one year.
>
> The Youngstown-Warren, Ohio, area has 20 agreements in the construction industry and 12 of those have expiration dates in 1975. On May 1, 1975 nine trades went on strike. On July 8, 1975 the Carpenters settled after a strike of 77 days. There was general belief that the rest would soon settle. However, it has been more than four months during the peak construction period of 1975.
>
> Philadelphia is another city which has experienced numerous construction strikes this year. Twenty-two of 27 construction agreements in the Philadelphia area expire in 1975. Strikes have been going on there since May 1, 1975, a period of more than four months. There was a brief period at the end of June when there was no strike in Philadelphia, but then the Ironworkers went on strike on the first of July and did not reach a settlement until August 7, 1975. Only the Asbestos Workers remain out, and they have been on strike since July 17, 1975.
>
> Dallas-Fort Worth is one area where the employers locked the unions out on May 8, 1975, and four months later, two crafts, the Sheet Metal Workers and the Glaziers, were still out. Dallas lost about one quarter of the construction year and the best part of the year.
>
> In Beaumont, Texas, the Pipefitters went on strike on April 1, 1975 and did not settle until June 24, 1975, a period of 84 days. This would be bad enough for any area. However, this is only half the story—other trades struck in April and are still out. Construction work in Beaumont has been virtually at a standstill for more than five months in 1975. It appears that it will undoubtedly go on for some time.

In explanation for this background, the Secretary explained that "These cases were handy and are used here solely to provide specific cases of underlying problems in the bargaining structure."

As we absorb this sobering picture of the strike propensity of the building trades unions, can any of us honestly come to a conclusion that here is a group of workers, constituting perhaps 40 percent of the Nation's construction force, who has earned the right to have their striking rights greatly enlarged by Federal legislation at this time?

Lest anyone come to unwarranted conclusion that the current detrimental developments of the construction unions in the excess wage area is an isolated phenomenon that can therefore be ignored, and that it will somehow go away, let me advise that this is not the case.

The long-range observations of the building trades unions' conduct in the national economy, some say, has been uniformly bad. I think they mean by that, contributory to inflation in the sense that the wage increases greatly outrun the rise in the cost of living and any possible increase in productivity, and there is apparently no significant increase in the latter item in either the short run or the long run. Such uniformly inflationary conduct, at a time when the public interest cries aloud for restraints on the part of the strong elements of the society is nothing less than irresponsibility, in the opinion of many people.

It does not matter how you slice it, it is still the same pattern in terms of the building trades excessively high wage increases. This is clearly demonstrated by taking first a 5-year sample, a 10-year sample, and an even longer sample, of 20 years. During these sample periods, let us take unimpeachable documentation, the cost-of-living statistics and the quarterly building trades survey, both issued by the U.S. Department of Labor. The cost-of-living statistics reflects the table based on 1967 as 100.

The wage data for the 5-year period includes negotiated wage and fringe benefits for seven key construction trades in 100 cities. With this information we can make the following observations:

The average building trades hourly rate in July, 1975 was $10.54. In July 1970, the comparable rate was $6.44, or an increase of $4.10, representing a percentage increase over this 5-year period of 63.7 percent.

The 1967 based consumer price index was reported as 116.3 in 1970 and 159.3 for the present period in 1975, or an increase of 37 percent.

We can therefore make the observation that the building trades wage increases amounted to 63.7 percent as against a 37-percent increase in the cost of living, the wage increases outstripping the cost-of-living rise by far.

Over a 10-year period, we note that the average building trades hourly rate in July 1965 was $4.42, in this case with fringe benefits excluded for comparison purposes. The July 1975 rate without fringe benefits was $8.91, or an average increase for the national sample of $4.49 an hour, or a percentage increase of 98 percent over this 10-year period.

The 1967 base consumer price index was reported as 94.5 in 1965, and 159.3 for the present period in 1975, or an increase of 64.8 percent.

We can therefore make the observation that the building trades wage increases amount to 98 percent as against a 64.8-percent increase in the cost of living, the wage increases outstripping the cost-of-living rise by far, again.

Over a 20-year period, we note that the average building trades hourly rate in July 1955 was $2.04. The July 1975 rate was $8.91, or an average increase for the national sample over a 20-year period of 297 percent increase.

The 1967 base consumer price index was reported as 80.2 in 1965 and 159.3 for the present period in 1975, or an increase of 98.6 percent. Again the building trades increase greatly outstripped the rise in the Cost of Living index.

The long-term comparisons indicate that the building trades percentage increases exceeded the price index increases by 27 percentage points over the last 5 years, 29 over the last 10 years, and 198 over the last 20 years.

This record surpasses any increases obtained by industrial unions. This record was obtained by ruthless strike action, leapfrogging, whipsawing, and exploiting the chronic shortages of construction workers existing in this industry under normal conditions. This record ought to privide a conclusive rebuttal to all the arguments that have been put forth so far to justify the enactment of the bill to legalize secondary boycotts in the construction industry.

There can be no question that the building trades unions enjoy the greatest wage increases of any group of workers in the United States, are extremely well-fixed in terms of medical and health insurance and retirement benefit programs. The problem for the building trades unions today is not bargaining power to further twist management's arm for greater and greater wage scales, but jobs, and the reason for the need, of course, is the very obvious observation anyone can make at this time, that the building trades unions have exerted the immense muscle they already have—and have killed the goose that laid the golden egg, they have priced themselves out of the market. The question might well be asked, as to what further damage the building trades unions would bring upon themselves were they to be handed by this Congress and this administration the added economic power to impose secondary boycotts on construction projects for still greater wage and fringe benefit gains? The answer is equivalent to giving the boy additional matches after he once set fire to the forest.

The conduct of the building trades unions need not be viewed in terms of excessive wage settlements alone. The strike conduct of these trades in the face of unusual unemployment in the construction industry adds to this picture. A national research group issued the results of studies last June on these factors. This study indicates that the demand for construction labor continued to decline through April 1975, and construction employment dropped to 3,462,000, its lowest level since February 1969. This is a decline of 665,000 since the industry achieved its peak employment in February 1974, just 14 months earlier. Aggregate man hours declined as well. The slowdown in demand occurred in almost all States. By the same token, this report indicates, unemployment continued to rise steadily during the most recent 3 months (to June). By April 1975, 832,000 workers, more than 19 percent of the construction work force, were unemployed.

(Mr. MITCHELL assumed the chair.)

Mr. HATCH. Mr. President, I have only been going through these 1975 figures, and some figures before that time, because that was a particularly volatile period, but it is nothing like today. I think today would be even more difficult.

What really is behind the concern here from a labor law standpoint is that if we provide an imbalance on the Board that would, by Board fiat, enact that which the Congress of the United States refused to enact, or enact that which the Congress rejected, common situs picketing, then we would be ignoring the deliberative bodies of this country and we would wind up in worse shape than during that particular period of time.

There has been a propensity on the part of the Board in recent years to enact labor law reform and other provisions which the Congress refuses to enact.

Mr. President, one of the major problems that really arises from the manipulation of the National Labor Relations Board is that if we continue to manipulate the Board for the benefit of any special interest group in our society, we are endangering our economy and we are endangering our society.

There are those who feel very strongly on this issue, because it is just another link in the chain of manipulation of the National Labor Relations Board. I happen to be one of those, even though my personal feelings for Mr. Zimmerman are very good and very respectful.

Again I will say that there is no question that he is a very fine person, very knowledgeable in the field of labor law. Normally, if there was a vacancy on the Democratic side, he probably would fill that vacancy with distinction—or at least, I would hope he would, especially since he has had the tremendous experience of working for one of the premiere authorities on labor-management problems in the U.S. Congress, the Senator from New York (Mr. JAVITS). As a freshman Senator, I have observed Senator JAVITS for the 4 years I have been here, and there is no question that he is without peer in many areas of the legislative process.

I have to agree that New York is to be complimented for sending him to this body for so many years, and I hope he is reelected this year. I do not know that this body would be the same in any degree without our illustrious colleague from New York. It always has been a particularly enjoyable experience for me to serve with Senator JAVITS on the Committee on Labor and Human Resources, as it is to serve with our distinguished chairman, the Senator from New Jersey (Mr. WILLIAMS), who is very fair and decent on the committee.

I believe that if these matters were handled properly, we would not have some of the problems we have in the legislative process.

Mr. President, I am prepared to yield the floor to the distinguished Senator from New Hampshire, who is here; but I ask unanimous consent that I do so without it being considered a second speech under the rules.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. HATCH. I yield the floor, under those conditions.

Mr. HUMPHREY. Mr. President, I will vote against the confirmation of the nomination of Mr. Don Zimmerman to the National Labor Relations Board. I will do so, because the position he would fill is a Republican position, and Mr. Zimmerman is not a Republican. He is a registered Independent. Before that, he was a registered Democrat.

The law does not divide the NLRB between Democrats and Republicans. But, since 1957, the five-member Board has been divided between the two parties, three members belonging to the President's party, and two members belonging to the opposition party. This bipartisan division is a worthy tradition that should be upheld.

In the early days of the National Labor Relations Board, all the members belonged to a single party. This bias was unfair and ultimately unworkable. Business/labor relations are delicate matters that are vital to our national interest. The NLRB plays a difficult and pivotal role in these relations. A balanced NLRB membership is essential to the proper exercising of this role.

In addition, I object to the way the administration has handled this nomination. Betty Murphy, who held this NLRB position with distinction, should have been reappointed. She was not, I understand, because the administration held her appointment hostage to the Lubbers' nomination. When some Members of the Senate would not agree to grease Lubbers' nomination, the President refused to reappoint Betty Murphy. Once she realized what was happening, she took the honorable course of resigning.

Thereupon, the President took 6 months to send up a nomination, leaving this vital (Republican) position vacant all those months.

But, in this time I understand that the President's people considered only one potential nominee, the Independent whom the President has since nominated, Mr. Zimmerman. There are many highly qualified Republican men and women who were and are ready and willing to be a member of the National Labor Relations Board. The President should have appointed a Republican and perhaps a woman. Betty Murphy was the only woman on the Board.

Mr. President, I have nothing personally against Mr. Zimmerman. He is a member of our committee staff, and it appears that he does fine work. But his nomination violates the bipartisan tradition of the National Labor Relations Board and, therefore, I oppose this nomination.

I repeat, Mr. President, I certainly have nothing in the world against Mr. Zimmerman on a personal basis. I am prepared to take it as an article of faith that he is the finest public servant in Washington if not in the entire country, but there is a question here of worthy tradition that should be upheld, and there is also the very important question of protecting and respecting—perhaps the latter is more important—the rights of the minority.

My good friend from New Jersey, Senator WILLIAMS, remarked to me as I came into the Chamber a moment ago that it was an element of deja vu to this situation. Indeed there is, for just a few months ago he and I and others involved in this particular struggle found ourselves in much the same situation with regards to the nomination of a Member to the Federal Elections Commission.

Perhaps I misunderstood the Senator from New Jersey, but in any case there is certainly a strong sense of deja vu in fighting against this Zimmerman nomination in the way that I and some others fought against the nomination of Mr. Frank Richie to the Federal Elections Commission. Again, through that tradition, seats on the Federal Election Commission have been apportioned among the parties, and our argument against Mr. Richie was that while he was being appointed to fill a Republican position his views on electoral matters were not within the mainstream of the Republican Party, but at least Mr. Richie had the virtue of being a registered Republican. Notwithstanding the fact that a majority of his Republican colleagues or fellow members of his party on this side of the aisle voted against his confirmation, he was in reality jammed down our throats by the majority. But at least Mr. Richie was a Republican.

Mr. Zimmerman cannot even claim that distinction and we are being asked to accept a man to fill a Republican seat on the National Labor Relations Board who is not a Republican, who is a registered Independent and before that was a registered Democrat, not that there is anything particularly wrong with being a registered Democrat. I was once a registered Democrat myself but we all have to grow up sooner or later and realize that there is not a free lunch.

Mr. ROBERT C. BYRD. We all make mistakes.

Mr. HUMPHREY. And so perhaps we can again have hope for Mr. Zimmerman and especially after he is jammed down our throats as is more than likely to be the case. Since he has to be filling a Republican seat on the National Labor Relations Board, perhaps he will have the grace to become a Republican.

In connection with the Zimmerman nomination, Mr. President, I think it might be enlightening to read into the RECORD a document which touches upon economic matters and relations between labor and management and many other things as well. It is the 1980 Republican platform text adopted July 15 at the party's national convention in Detroit:

The Republican Party convenes, presents this platform, and selects its nominees at a time of crisis. America is adrift. Our country moves agonizingly, aimlessly, almost helplessly into one of the most dangerous and disorderly periods in history.

At home, our economy careens, whiplashed from one extreme to another. Earlier this year, inflation skyrocketed to its highest levels in more than a century; weeks later, the economy plummeted, suffering its steepest slide on record. Prices escalate at more than 10 percent a year. More than eight million people seek employment. Manufacturing plants lie idle across the country. The hopes and aspirations of our people are being smothered.

Overseas, conditions already perilous, deteriorate. The Soviet Union for the first time is acquiring the means to obliterate or cripple our land-based missile system and blackmail us into submission. Marxist tyrannies spread more rapidly through the Third World and Latin America. Our alliances are frayed in Europe and elsewhere. Our energy supplies become even more dependent on uncertain foreign suppliers. In the ultimate humiliation, militant terrorists in Iran continue to toy with the lives of Americans.

These events are not isolated, or unrelated. They are signposts. They mark a continuing downward spiral in economic vitality and international influence. Should the trend continue, the 1980s promise to be our most dangerous years since World War II. History could record, if we let the drift go on, that the American experiment, so marvelously successful for 200 years, came strangely, needlessly, tragically to a dismal end early in our third century.

By far the most galling aspect of it all is that the chief architects of our decline—Democratic politicians—are without program or ideas to reverse it. Divided, leaderless, unseeing, uncomprehending, they plod on with listless offerings of pale imitations of the same policies they have pursued too long, knowing full well their futility. The Carter Administration is the uphappy and inevitable consequence of decades of increasingly outmoded Democratic domination of our national life. Over the past four years it has repeatedly demonstrated that it has no basic goals other than the perpetuation of its own rule and no guiding principle other than the fleeting insights provided by the latest opinion poll. Policies announced one day are disavowed or ignored the next, sowing confusion among Americans at home and havoc among our friends abroad.

Republicans, Democrats, and Independents have been watching and reading these signs. They have been watching incredulously as disaster and disaster unfolds. They now have had enough. They are rising up in 1980 to say that this confusion must end; this drift must end; we must pull ourselves together as a people before we slide irretrievably into the abyss.

It doesn't have to be this way; it doesn't have to stay this way. We, the Republican Party, hold ourselves forth as the Party best able to arrest and reverse the decline. We offer new ideas and candidates, from the top of our ticket to the bottom, who can bring to local and national leadership firm, steady hands and confidence and eagerness. We have unparalleled unity within our own ranks, especially between our Presidential nominee and our Congressional membership. Most important, we go forth to the people with ideas and programs for the future that are as powerful and compelling as they are fresh. Together, we offer a new beginning for America.

Our foremost goal here at home is simple: economic growth and full employment without inflation. Sweeping change in economic policy in America is needed so that Mr. Carter's promise of hard times and austerity—his one promise well kept—can be replaced with Republican policies that promise economic growth and job creation. It is our belief that the stagflation of recent years not only has consigned millions of citizens to hardship but also has bottled up the enormous ingenity and creative powers of our people. Those energies will not be released by the sterile policies of the past: we specifically reject the Carter doctrine that inflation can be reduced only by throwing people out of work. Prosperity will not be regained simply by government fiat. Rather, we must offer broad new incentives to labor and capital to stimulate a great outpouring of private goods and services and to create an abundance of jobs. From America's grassroots to the White House we will stand united as a party behind a bold program of tax rate reductions, spending restraints, and regulatory reforms that will inject new life into the economic bloodstream of this country.

Overseas, our goal is equally simple and direct: to preserve a world at peace by keeping America strong. This philosophy once occupied a hallowed place in American diplomacy, but it was casually, even cavalierly dismissed at the outset by the Carter Administration—and the results have been shattering. Never before in modern history has the United States endured as many humilitations, insults, and defeats as it has during the past four years: our ambassadors murdered, our embassies burned, our warnings ignored, our diplomacy scorned, our diplomats kidnapped. The Carter Administration has shown that it neither understands totalitarianism nor appreciates the way tyrants take advantage of weakness. The brutal invasion of Afghanistan promises to be only the forerunner of much more serious threats to the West—and to world peace—should the Carter Administration somehow cling to power.

Republicans are united in a belief that America's international humiliation and decline can be reversed only by strong Presidential leadership and a consistent, far-sighted foreign policy, supported by a major upgrading of our military forces, a strengthening of our commitments to our allies, and a resolve that our national interests be vigorously protected. Ultimately, those who practice strength and firmness truly guard the peace.

This platform addresses many concerns of our Party. We seek to restore the family, the neighborhood, the community, and the workplace as vital alternatives in our national life to ever-expanding federal power.

We affirm our deep commitment to the fulfillment of the hopes and aspirations of all Americans—blacks and whites, women and men, the young and old, rural and urban.

For too many years, the political debate in America has been conducted in terms set by the Democrats. They believe that every time new problems arise beyond the power of men and women as individuals to solve, it becomes the duty of government to solve them, as if there were never any alternative. Republicans disagree and have always taken the side of the individual, whose freedoms are threatened by the big government that Democratic idea has spawned. Our case for the individual is stronger than ever. A defense of the individual against government was never more needed. And we will continue to mount it.

But we will redefine and broaden the debate by transcending the narrow terms of government and the individual; those are not the only two realities in America. Our society consists of more than that; so should the political debate. We will reemphasize those vital communities like the family, the neighborhood, the workplace, and others which are found at the center of society, between government and the individual. We will restore and strengthen their ability to solve problems in the places where people spend their daily lives and can turn to each other for support and help.

We seek energy independence through economic policies that free up our energy production and encourage conservation. We seek improvements in health care, education, housing, and opportunities for youth. We seek new avenues for the needy to break out of the tragic cycle of dependency. All of these goals—and many others—we confidently expect to achieve through a rebirth of liberty and resurgence of private initiatives, for we believe that at the root of most of our troubles today is the misguided and discredited philosophy of an all-powerful government, ceaselessly striving to subsidize, manipulate, and control individuals. But it is the individual, not the government, who

> reigns at the center of our Republican philosophy.
>
> To those Democrats who say Americans must be content to passively accept the gradual but inexorable decline of America, we answer: The American people have hardly begun to marshal their talents and resources or realize the accomplishments and dreams that only freedom can inspire.
>
> To those Democrats who say we face an "age of limits," we ask: Who knows the limit to what Americans can do when their capacity for work, creatively, optimism, and faith is enhanced and supported by strong and responsive political leadership and ideals.

Mr. PERCY. Mr. President, I support the nomination of Don A. Zimmerman to be a member of the National Labor Relations Board.

Although I am not a member of the Committee on Labor and Human Resources, which considered the nomination, I have examined the record of its proceedings on the nomination. I have concluded—as did the committee by unanimous vote of 12 to 0—that Mr. Zimmerman is highly qualified to serve in the position to which he has been nominated.

Mr. Zimmerman's experience in the executive branch at the Office of Management and Budget; in the private sector as counsel to the trustees of the Penn Central Railroad and, most recently, as counsel to Republican members of the Human Resources Committee give him the well-rounded perspective we should look for in nominees to Federal agencies.

Of greatest importance in my own decision were two factors: His very thorough knowledge of this country's labor laws and his experience in the private sector. His service to the Penn Central Railroad involved him in the labor-management issues of that company at a most difficult period—during its reorganization. His knowledge of labor law has been tried and tested by my staff during the last few years, and I have every confidence in his competence to handle complex questions in this very complicated field of law.

I am satisfied that Mr. Zimmerman understands fully the need to balance the competing interests of labor and management. In the last few years, we have seen increased polarization of labor and management on a wide range of issues. I believe that experience in the legislative process shall prove to be excellent training for developing reasonable solutions to the difficult problems facing the NLRB in the years ahead, and for resolving conflicts between competing interests.

For these reasons, I shall vote to confirm Mr. Zimmerman's nomination and urge my colleagues to join me in that vote.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. Yes, I would be happy to yield provided, on resuming the floor, it is a question and it is not a second speech.

Mr. ROBERT C. BYRD. It is a question so it could not be.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, it would be my desire to go back to the nuclear waste bill shortly. Would the Senator yield shortly so that I may go back into legislative session and return to the nuclear waste bill? Senators who were working on the nuclear waste bill needed some time this afternoon in which to work out some problems in connection with the so-called Glenn amendment, and I understand they are about ready now to resume on that amendment, so I want to go back to legislative session. I understand they are ready at this time, if the Senator will yield for that purpose.

Mr. HUMPHREY. I do yield for that purpose.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT

The PRESIDING OFFICER. The clerk will state the pending business by title.

The assistant legislative clerk read as follows:

> A bill (S. 2189) to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, an amendment shortly will be offered on behalf of myself, Mr. JACKSON, Mr. CHURCH, Mr. MCCLURE, Mr. DOMENICI, and Messrs. GLENN and PERCY which is a compromise amendment dealing with the question of State participation and State concurrence.

One of the most difficult questions involving the location of a repository for high-level nuclear wastes has been the question of how you involve the State in the process in a meaningful way in order fully to protect their interest in health and safety, their sensibilities about location, the question of impact, economic, social, health, and safety impacts, of the location of that repository.

A number of different approaches were suggested. Senator JACKSON had one particular approach which provided for the State to be involved. If the State objected, the process would cease subject to an override by the President, who would have to declare it to be a matter of national concern.

Senator DOMENICI, who has long been a leader in this matter, had a different approach involving State concurrence and consultation.

Senators GLENN and PERCY had a very detailed and constructive procedure set forth providing for the creation of repository review panels. Still other Senators had other approaches.

As the Glenn amendment was being laid down this morning we went into consultation, into a process of consultation and concurrence, I might say, with the main players in the Senate on this question of State consultation and concurrence, and we now have a joint compromise amendment, Mr. President, which I think all Senators or almost all Senators will find to be acceptable and constructive.

It is a proper balance between the need for the Federal Government to locate proper repositories, the need for the State to be involved at all stages in that process, and the national interests fully to be protected, with particular protection respecting the question of the storage of military transuranic wastes.

Mr. President, what this amendment does is we take the Glenn amendment, and provide that, first, the Secretary shall identify potential acceptable sites for a repository, including a test proposal for high-level transuranic wastes.

Within 90 days after that identification, the Secretary shall notify the Governor of the legislature and the Indian tribe of the potentially acceptable sites. Then each affected State and Indian tribe notified shall have the right to participate in the process of consultation and concurrence.

Based on public health and safety concerns in all States of planning, siting, development, construction and operation of the repository, the Secretary is authorized and directed promptly to enter into negotiations with each repository review panel, which is described in the Glenn amendment, to establish a cooperative agreement with the repository review panel.

I might say that the repository review panel, as stated in the Glenn amendment, includes the Governor and an additional seven members identified by him which may include members of the State legislature or other parties identified in that definition.

The repository review panel shall then get together with the Secretary and confect an agreement which is called a cooperative agreement, which shall be designed to provide for the sharing of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review and the formulation of joint surveillance and monitoring arrangements to carry out the applicable Federal and State laws.

So that it is envisioned here that when the panel is created, they shall come up with a cooperative agreement which shall then become the agreement under which they proceed to provide for the full range of sharing of information, utilization of expertise, and so forth.

The cooperative agreement shall also provide procedures for the negotiating and resolving of objections by the repository review panel in each stage or in any stage of the planning, siting, development, construction, or operation of the facility, with the proviso that the agreement shall not affect the Nuclear Regulatory Commission's authority on existing law.

By this we mean if, for example, the repository review panel and the Secretary were at odds on the public health and safety implications of a particular design of the whole repository or some subsystem of the repository, then they can provide procedures which might include informal arbitration, or it might include the bringing in of experts with a view to have those experts participate in the resolution of that question.

I might add, Mr. President, that this was a procedure, a very constructive one, suggested by the distinguished Senator from New Mexico (Mr. Domenici) who, with the experience of the WIPP facility in New Mexico, suggested that we put in this procedure to provide for informal arbitration, calling in of experts, or the seeking of expertise beyond the Secretary and the review panel.

Mr. President, we make clear that the process of consultation and concurrence means a methodology by which the Secretary first keeps the repository review panel fully and currently informed about the aspects of the project related to any potential impact on health and safety that he solicits, receives, and evaluates concerning objections of the review panel with regard to such aspect of the ongoing projects, and that he works diligently and cooperatively to resolve such concerns and objections.

The Secretary and the repository review panel shall seek to conclude the agreement not later than 1 year after the date of the initial notification of the site selection.

The Secretary shall report to the Congress annually thereafter on the status of the agreement approved as stated above and any report to the Congress shall be accompanied by comments solicited by the review panel.

The repository review panel, Mr. President, shall also file any formal objections to the report before the completion of the 90-day period.

Mr. President, once this process is complete, what we envision in the process is that the repository review panel and the Secretary, following the procedures, shall hopefully confect an agreement. If they confect an agreement, then they may proceed, as under present law, to seek a license from the NRC to build and operate the facility.

If the State or the Indian tribe—the State herein meaning the review panel—do not agree, then the Secretary shall file with the Congress the report which shall lie over in the Congress for a period of at least 60 days.

In the case of civilian nuclear waste, the Secretary may not proceed if either House of Congress adopts a resolution that states, in effect: The repository development report does not sufficiently address State and local concerns to permit the Secretary to apply to the Commission for a license to construct such repository or, if such license is not required by law, to proceed with the construction of such repository.

In other words, we have a one-house veto applicable for the period of 60 days within which either House of Congress may veto the report of the repository review panel.

If this happens to be a military waste depository—military waste depository defined as one being 90 percent military in terms of curies, and which does not have more than 2 percent of the total nuclear waste of the country—then the President, upon stating that this is a matter of national security, would submit the report to the Congress and then the veto would require, in effect, a two-House veto. In other words, both Houses would have to adopt a resolution, similar to the one which I just described, stating that the repository development report does not sufficiently address State and local concerns to permit the Secretary to apply for a license or, if a license is not required, to proceed with construction of the repository.

We also provide, Mr. President, that within the first 30 days the application is amendable while it is lying before the Congress, the reason for that being that there may be ongoing negotiations with the repository review panel which would possibly remove some objections during that first 30-day period.

We also provide for the usual expedited treatment of that resolution, in effect, that veto resolution, so that either House of Congress will have the ability to get the matter up on the floor by discharge of the committee, if necessary. In any event, under the usual expedited procedures they would be able to bring the matter up on the floor.

In substance, Mr. President, what we have is a detailed system for involving the State at every stage, for fully informing the State at every stage, for State participation in every stage of this ongoing examination, and for the confection of an operating procedure between the State and the Secretary to resolve differences and to permit ready access to the information.

They are given rather free hand in confecting the terms of that operating agreement so that they, if they wish, can provide for informal arbitration, although they are not required to do so.

Mr. President, I think this answers every legitimate claim of States, who will be fully involved, who will have the right to consultation, the right to concur. It seems to me, Mr. President, that we have more than sufficient protection here for the States.

I congratulate my colleagues, Mr. President, for their ingenuity in being able to present such a compromise that everyone has been able to agree on. I say everyone. At least not every Senator, but the principal players here, the important Senators, have all agreed on this.

So, Mr. President, I hope the Senate will overwhelmingly approve this matter.

If my colleagues are ready, I am prepared to offer this amendment on behalf of myself, Mr. Jackson, Mr. Church, Mr. McClure, Mr. Domenici, Mr. Glenn, and Mr. Percy.

Mr. President, I send an amendment on behalf of those named Senators. This is in the nature of a second-degree amendment. I ask for its immediate consideration.

The PRESIDING OFFICER. Do the Senators yield back their time on the first degree amendment?

Mr. GLENN. No; we have not yielded back time yet. I want to wait until Mr. McClure and others have completed their statements.

Mr. JOHNSTON. We will have time on this amendment as well.

Mr. McCLURE. Mr. President, perhaps we can withhold the offer of the amendment and we will expedite things. Senators can make statements on the bill or on the amendment itself, and then the amendment can be offered at a later time. I hope the Senator from Louisiana will be agreeable to that.

Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. Mr. President, I yield myself such time as I may consume on the bill.

Mr. President, I have listened carefully to the presentation made by the Senator from Louisiana. As usual, it is thorough and accurate. I want to underscore that this compromise, which has been worked out this afternoon, is really the culmination of not just the hours or weeks or months but literally years of discussion of this subject matter. It involves not only the Energy and Natural Resources Committee, but also the efforts of the Environment and Public Works Committee which has spent a great deal of time with respect to this legislation and this subject matter, and have last week reported their own legislation with regard to the subject matter. So it is not simply a matter that they have thought about since this matter was reported by the Committee on Energy and Natural Resources.

Also, the Committee on Governmental Affairs, which has been discussing the subject of the State-Federal relationships and how the State concerns can best be met in an institutional fashion in this very difficult and sometimes emotional but always technically complicated question of dealing with the environmental, social, and direct and indirect effects of radioactive waste storage and disposal, has been concerned.

Mr. President, I might add that after having looked at the three committees which are involved in the Senate, it is also well to note that the National Governors Conference has a subcommittee dealing with this question. The Governor of Idaho, John Evans, is chairman of that group. He called me this afternoon to find out what was happening with respect to this particular issue. I was able to report to him only at that time that there was the process of negotiation underway. He expressed the concerns of the National Governors Conference with respect to the radioactive waste storage and disposal, and made some specific suggestions and requests on behalf of that organization, which I believe have all been accommodated in this particular compromise now brought to the floor.

One of the issues to which he addressed himself was that of the State Planning Council which the President has created and which will be codified by this proposal. Again, Governor Evans was selected by the President to serve on that State Planning Council. I think it is important to note that this proposal now before us perpetuates and codifies the functions of that State Planning Council, something which the Governors Conference thinks is important, something which the administration thinks is important, and something which I also believe is important to the success of this effort.

Before concluding my remarks, let me indicate that it has taken a tremendous amount of give and take from the various committees that are involved and the various Senators involved from those committees. I certainly commend Senator GLENN and Senator PERCY for their dedication and their work, but also their willingness to come to this agreement.

I think it has also required some constructive give and take from members of the Committee on Environment and Public Works.

I could not conclude the discussion of how we got to this point without having mentioned the contributions made by the distinguished Senator from New Mexico (Mr. DOMENICI), whose formulation has now become the description. There is no one who talks about this now who does not talk about consultation and concurrence. Those of us who have worked with Senator DOMENICI over the months on this issue must recognize that those are his terms. That terminology which we now apply to this process comes from his suggestion growing out of many, many months of work trying to achieve that balance which is necessary between the energy demands and the environmental concerns and the public health and safety concerns of this country, but also that balance which must be struck constructively between the Federal Government and the State government.

I do not think there is anybody who could honestly claim a greater imprint upon the legislation before us than the distinguished Senator from New Mexico. I think his insistence that the process can work only if there is open consultation between the Federal Government and the State government, and that there is a real contribution from the State to the decisionmaking process, not just a pro forma consultation, not just the process of going through the actions but a real opportunity on the part of the State governments to have input into the decisionmaking process at every level, has been essential to the drafting of this bill.

I think that imprint is clearly here. I think it is also the thing that makes me believe that it may be possible, indeed, before we get to the point of congressional override or Presidential decisionmaking or the opportunity for the Congress to override a Presidential decision, that there is a real opportunity for a real concurrence by the States in the conclusions that have been reached in the process.

It is a constructive proposal. I am proud to have my name on it. By that, I do not contend that it would be exactly the way I would write it, any more than I think it would be exactly the way any other of the participants would have written it had they been offered the chance of doing their own thing by themselves. But I do believe that the process can work, that it is a constructive formulation, and I hope that the Senate will, after due consideration of it and the debate concerning its finer points, accept the proposal.

I know that there are those who are dissatisfied with one portion or another, Mr. President, and there may, at times, be further amendments offered. I would say that, as any compromise, it is going to be very difficult to add something that does not subtract unduly from some other portion of the bill. Not that this balance is perfect; I would be the last in the world to say that we have reached that stage of perfection on this or any other legislative proposal. But I think that balance to assure its success has been struck. I think the managers of the bill on the floor and those who have participated in this formulation will be looking very carefully at further tinkering with the balance, not from the idea that we shall not consider it, but from the idea that the balance is so carefully struck that any changes in it may, indeed unbalance it rather than contribute further to the balance.

For all those reasons, Mr. President, I am very satisfied with the result. I think the afternoon has been a very fruitful one. I commend the staff, who, in particular, have borne the load of writing what those of us who have been sitting in have agreed upon in formulation. I think they have done a tremendous job in the time that was allotted to them and I think we can all be satisfied that the legislative process has been well served by the efforts of this afternoon.

Mr. LONG. Mr. President, the issue of nuclear waste storage has been on the minds of many people in Louisiana for some time. Some of the first tests to determine the suitability of geological formations for waste storage were conducted on salt domes in north Louisiana. Today, testing continues at two sites, one in Bienville Parish and one in Webster Parish.

In 1977, Louisiana's Governor, Edwin Edwards, and the Deputy Secretary of Energy, John O'Leary, signed a 10-point memorandum of understanding resolving several outstanding issues between the State of Louisiana and the Department of Energy. The major thrust of the plan was to allow the use of Louisiana salt domes as part of the strategic petroleum reserve program.

In return for manv concessions on the part of the State which allowed the reserve program to go forward without delay, the Federal Government agreed that nuclear wastes would not be stored in Louisiana without the State's permission.

There now seems to be some question about the validity of the nuclear waste storage portion of this agreement. Senator JOHNSTON and I want to make it clear to our colleagues that our support for this amendment and the amendment itself does not and should not have any effect on the validity of the agreement between the State of Louisiana and the Department of Energy.

Mr. President, I ask unanimous consent that the principles of understanding, signed by John O'Leary, Deputy Secretary, Department of Energy, and Edwin Edwards, Governor, State of Louisiana, dated February 22, 1978, be printed in the RECORD.

There being no objection, the principles of understanding were ordered to be printed in the RECORD, as follows:

PRINCIPLES OF UNDERSTANDING

In accordance with discussions between representatives of the Department of Energy ("DOE") and the State of Louisiana, the parties hereby agree that to the extent permitted by law, they will use their best efforts to adhere to the following policies and practices with respect to development of the Strategic Petroleum Reserve in the State of Louisiana:

1. Napoleonville Salt Dome—DOE use of this salt dome and others in Louisiana for strategic petroleum storage will be acceptable to the State, so long as no employees of industries utilizing the domes are displaced in their jobs by the Department of Energy in its storage operations.

2. Atchafalaya Pipeline—The State will support the proposed pipeline extending from St. James Terminal to Weeks Island, provided that activities in laying the line through the Atchafalaya Basin will not be undertaken until after July 1, 1978, and that applicable environmental and governmental regulations are adhered to.

3. Backup Operations—DOE will give all due consideration to barging operations as an available back up method to pipeline transportation of strategic reserves in emergencies. In particular, barging facilities at the Port of New Iberia, and the accompanying dredging and deeping of the channel there will be studied. DOE will make available immediately $300,000 to the U.S. Corps of Engineers to be spent in 1978 for the preparation of an environmental impact statement for the New Iberia project.

4. Compensation—DOE will pay the State $1,289,082 for the State's interest in the West Hackberry Salt Dome, located on 35 acres of State-owned land under Black Lake in Cameron Parish.

5. Docking Facilities: St. James Terminal—The State will support the permitting, construction and maintenance of the St. James Terminal as a docking facility.

6. Well Pad Construction: Bayou Choctaw and Hackberry—The State will support the permitting of well pad facilities at these two salt domes.

7. Sabine River/Hackberry Pipeline—The State will support the granting of permits and rights of way for the proposed pipeline extending from the Sabine River Crossing to the Hackberry Salt Dome.

8. Nuclear Storage—All Federal Government studies relating to nuclear waste disposal in the Vacherie Salt Dome in Webster Parish and the Rayburn's Salt Dome in Bienville Parish will be subject to this stipulation: The Department of Energy will not construct any nuclear waste repository for long-term disposal in Louisiana if the State objects. Studies of possible areas in Louisiana as well as in other states would continue with some test drilling which will always be preceded by complete discussions with state officials.

9. Sub-Office—The Department of Energy will open a sub-office in New Orleans, accommodating some 200 federal and contractor employees.

10. Reversionary Rights—With respect to any donations by the State of property to the Federal Government, DOE agrees that when the use to which the property was donated ceases, the State will have the right of first refusal with respect to acquisition of the property.

Mr. DOMENICI. Will the Senator yield me 5 minutes?

Mr. McCLURE. I am happy to yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. A parliamentary inquirv, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Are we working off the time on the bill?

Mr. McCLURE. It is off the bill.

Mr. DOMENICI. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. The Senator from Idaho has 65 minutes on the bill.

Mr. DOMENICI. Will the Senator yield me 5 minutes?

Mr. McCLURE. I yield the Senator 5 minutes off the bill.

Mr. DOMENICI. Mr. President, let me first thank Senator JOHNSTON and Senator McCLURE, not only for their excellent observations and summary of the agreement negotiated, but also for their kind remarks with reference to this Senator's participation. I am one of the Senators who has, for the last 3 years or so, been through the process of the Federal Government making promises that they had no authority to make, the Federal Government, through administrative and executive fiat, deciding that they are going unilaterally to change things that Congress had already put in place. I arrived at the conclusion that the technical problems with nuclear waste are no more severe than the practical political problems involving our States and the people within them.

I also arrived at the conclusion that we ought to strive to provide a mechanism for both the Federal Government acting through whoever is designated—in this case, the Secretary of Energy, acting for the President—and the States so that neither could act arbitrarily and get away with it. I think that is really the clue. That is both real and perceived arbitrariness. Real arbitrariness is dictatorial on the part of the national Government and is an absolute and, without any factual basis, veto on the part of the States. Both of those are arbitrary types of acts.

I arrived at the conclusion that we needed to provide a mechanism so that both the national Government and the State governments could say, "Congress has given us a way to make sure that the national Government is not arbitrary and also a way to make sure that we must not be arbitrary at the State level." That came out as a process of concurrence and consultation, but it had something missing. That was, how do you do that? I think the agreement that we have now struck does it.

First, I think it is imperative that we note that in this compromise, the initial notification which puts the States on notice and begins this process is a notification to any State that is identified as a potential site. That means right up front. As the National Government evaluates this process, they must notify all potential acceptable States that might be repositories.

Second, the other important aspect for this Senator is that when the report comes to Congress as to the progress between the States and Federal Government, this statute will have provided to both the State and the National Government a legal opportunity to enter into an agreement that there will be little excuse not to have entered into, because it will be a skeleton type of agreement and they may indeed provide in that agreement—in fact, if they have one, they shall provide—a mechanism for negotiating and resolving objections to the repository through the State's negotiator and the Federal negotiator.

That does not give anyone a real excuse, or it eliminates an excuse on the part of the State or the National Government that they could not enter into an agreement at all because one side or the other wanted to be arbitrary or dictatorical, because that very agreement can provide for a method of negotiating and resolving their disputes.

Mr. PERCY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator will state it.

Mr. PERCY. We have had a number of inquiries from other Senators. It is the understanding of the Senator from Illinois that when all comments have been completed, we shall have a voice vote on the pending amendment to the Glenn-Percy amendment, followed by a rollcall vote tonight on the Glenn-Percy amendment. That rollcall will come within one-half hour; is that not correct?

Mr. McCLURE. Mr. President, I might say to the Senator from Illinois that I am not certain of the timing, nor even the agreed-upon scenario with respect to the procedural votes, so I cannot confirm or deny what the Senator from Illinois has said.

Mr. PERCY. Would the Senator from Louisiana (Mr. JOHNSTON) give any kind of estimate as to what he feels might be the situation, so that we can alert Senators that there will be a rollcall vote tonight. That rollcall vote might come at what hour?

Mr. JOHNSTON. Mr. President, we have a small amendment we are seeking to work out with the distinguished Senator from Colorado (Mr. HART).

I might just inform the Senators what the concerns are. I think a short explanation might tell us how much time we need.

First, he would want to give the Indian tribes the same right to object as does the Senator; and second, he wants to provide for the right of public participation in the negotiation of the cooperative agreement between the State and the Secretary.

I believe we will be able to work that out within a period of, maybe, 10 minutes, and, from my standpoint, could accept that.

The minority staff has looked at it, but Senator McCLURE and Senator DOMENICI have not looked at it.

After that, I would be ready for a rollcall immediately. It depends on how long anyone else wants to take.

Mr. PERCY. The Senator from Illinois will attempt to speak only 3 or 4 minutes. I have already given a full statement on the amendment. So, only 3 or 4 minutes. It might be possible by 7:45.

Mr. McCLURE. The Senator from Illinois has suggested that the amendment in the second degree, which the Senator from Louisiana has sent to the desk, along with cosponsors, it has been suggested that would be adopted by voice vote and then the Glenn-Percy amendment, as amended, would then be subject to a rollcall vote, which would be taken tonight, and the suggestion was that that might be done in half an hour or 45 minutes from now.

My expectation is that the mattter the Senator from Colorado (Mr. HART) has in mind can be resolved, that that half-hour or 45 minutes is not far off the mark.

Mr. JOHNSTON. I would concur in that estimate of time.

Mr. HART. The Senator from Colorado, 5 minutes.

Mr. PERCY. I thank my distinguished colleagues.

I think that procedure will help Senators in their planning.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. I thank the Chair.

How much time does the Senator from New Mexico have remaining?

Mr. McCLURE. I yield 3 minutes to the Senator.

Mr. DOMENICI. Mr. President, I do not intend to take a lot of time. I think people have worked long and hard on this.

But I want to make the point that there have been many arguments as to what the authority of the States is, the rights of the States, the authority and rights of the Secretary of Energy, with reference to the notion of an agreement and concurrence and consultation, and without national statutory law, we are living in an arena where nobody knows what the rights are.

This will clearly indicate that the Federal Government and the States, up front, have been given the authority to enter into a cooperative agreement and that it may, indeed, provide the procedures for resolving their disputes as the project proceeds from the very beginning through operation.

I think that is the important issue.

It eliminates an argument on the part of either a State or a Federal Government at the tail end of this process that they did not have the authority to sit down and enter into an agreement that provided for participation, including the resolution of disputes.

That, to me, is the essence of concurrence and consultation. It does not mean that either side has any veto authority. It says that there is an orderly procedure for resolving the disputes, and that eliminates, as I see it, arbitrariness on either side of this question.

That is the real issue. If the States know that they have ample authority to negotiate and that they will be heard and that issues will be determined in a nonarbitrary, nondictatorial manner, and that can be agreed upon, then that is the essence of concurrence and consultation and that is what we are providing for here.

I hope that those who drafted it will agree with me that the definition of the methodology found in paragraph (d), that is, the soliciting, receiving, evaluating, working diligently, and the other admonitions, that those can be the subject matter for the agreement that is contemplated in paragraph (c).

They can provide agreements and covenants and methods of resolving disputes as to the methodology and concurrence and consultation.

I thank the Senator from Idaho for yielding. I support the proposal.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I yield myself such time as I might need on the time allotted under the unanimous-consent agreement.

1. STATE PARTICIPATION IN FEDERAL REPOSITORY DEVELOPMENT ACTIVITIES

Mr. President, at the present time, many States, concerned over past Federal highhandedness, have enacted laws or taken other action to block the possible disposal of nuclear wastes within their borders. Unfortunately, these actions would probably be declared unconstitutional if challenged in the courts and thus, in the end, are not likely to offer States the protection from arbitrary Federal action they seek. At the same time, however, these State actions have placed serious obstacles in the path of our national nuclear waste disposal efforts.

The compromise amendment, with the compromise changes to it that have been worked out by all the major parties today, attempts to address the competing concerns of the States and the Federal Government in an evenhanded, equitable fashion. First, the amendment for the first time provides the States with statutory rights to participate in the Federal (DOE) nuclear waste repository development program. Specifically, our amendment requires DOE to consult and cooperate with the States throughout the repository planning and development process pursuant to individual State agreements which would explicitly spell out first, DOE's obligation to provide notification and relevant information and second, the States' opportunities to comment on DOE activities.

Second, as work toward the development of a repository continued, DOE is required to file three key reports with the Congress for review, each accompanied by State comments: First, when DOE selects a proposed repository site from among alternatives (a crucial event for the targeted State); second, when DOE has completed its blueprint for the repository (that is when it is ready to apply for a license from the Nuclear Regulatory Commission); and a third when repository loading is about to commence, which would be at a much later date. (The reports would be made up of documents which DOE is already required to prepare; little, if any, new documentation would be necessitated.)

The key feature of the comprehensive amendment is the congressional review and approval process for the second of these reports, the "Repository Development Report." If the State objects, the repository development report cannot proceed if, after considering this report and the concerns of affected States, if either Houses of Congress passed a concurrent resolution stating that the repository proposal has not addressed State concerns sufficiently to permit the proposal to be filed with the NRC for licensing (or to permit construction, if no license is required). Thus a proposed repository would be frozen if the State persuaded either House of Congress that their grievances—including such matters as impact assistance, payments in lieu of taxes, and transport safety—were not satisfactorily addressed by DOE.

At the same time, however, the need for a one-House veto provides a preestablished mechanism for Congress to assert the national interest in having the repository go forward, if necessary. Congress would have 60 days to consider the resolution, under expedited procedures, and DOE could amend the report for the first 30 days, to include adjustments negotiated with Congress and the relevant State.

In response to concerns expressed by Senator JACKSON and others, we have included special provisions for handling military nuclear waste facilities. We have defined these so that a facility has to have 90 percent or more military waste to be considered military. This means that, initially, all "mixed" repositories will be treated as civilian. In addition, military repositories would normally be treated the same way we are treating civilian ones, unless the President found that development of the repository is essential to promote the national security, or, in other words, that failure to move forward with the repository will seriously affect our nuclear weapons program.

If a repository is designated as military and if the President wishes the national security finding, there still would be strong safeguards in Congress for the affected State, because Congress would be able to reject the repository development report by a two-House veto, under expedited procedures. In other words, Congress still would give full review to State concerns, although under procedures more favorable to the Federal, national security interest.

I stress that the current administration, which is committed to treating military and civilian nuclear repositories consistently, would be most unlikely to invoke the national security finding. This means that, as a practical matter, all repositories are likely to be treated as civilian repositories under the one-House veto procedures.

The first ("proposed site") and third ("repository loading") reports would lay over for 45 days before the appropriate congressional committees. This "layover" would permit review of the DOE decision involved, consideration of State views, and the opportunity for negotiated adjustments, but no specific congressional action would be needed for the project to proceed.

States would be represented in their dealing with DOE by "Repository Review Panels," whose membership and voting rules, and so forth, would be established by State law to allow for State-by-State variations. A number of States have already established nuclear waste committees or task forces of the kind which would be deemed to be Repository Review Panels for the purposes of the amendment. (If no State law were enacted within 4 months, the amendment specifies the membership of the Panel, with the Governor of the affected State to be the chairman.)

2. NATIONAL NUCLEAR WASTE MANAGEMENT PLAN

Because of the need for improved integration and coordination of the nuclear waste related activities of numerous Federal agencies, including DOE, EPA, DOI, DOT, and the NRC, and because of the need to give the public clear guidance on the progress and direction of Federal nuclear waste management efforts, the amendment requires DOE (in consultation with other interested agencies) to prepare an annual nuclear waste management plan for fiscal years 1982–86. Differences in agency views would be resolved by the President. After the first year, an update could be prepared instead of a complete plan.

3. STATE PLANNING COUNCIL

In February, the President accepted the recommendation of the Interagency Review Group on Radioactive Waste Management and established by Executive order an advisory State Planning Council on Nuclear Waste composed of elected State and local officials. At that time the President also recommended the enactment of legislation to give the council a more permanent and solid basis, and at its first meeting the council adopted the legislative language which is now the text of this portion of the amendment. The council will be advisory, only, and will have a 10-year life. It will provide an important and visible mechanism for States and localities, at large, to participate in all major facets of Federal nuclear waste policymaking and planning activities.

Mr. President, the changes made today will leave the bill with this status, so far as congressional action goes: All facilities, whether civilian or military, will have a one-House veto for everything. In a rare case, if the President finds that development of a repository is essential to promote national security, then it will come to Congress in the same way, but that finding will require a two-House veto to override a Presidential finding, which I believe is quite acceptable.

The congressional veto must be on the basis of the State not having had a fair hearing, or the State must feel that its representation has not been fair in this whole process.

I believe that the way this has been worked out is very fair to all concerned. We have reconciled quite a number of differences here today, and I commend the members of the staff who have worked long and hard on this.

I hope the Senate will accept this, and we can get on with other considerations of the bill.

I reserve the remainder of my time.

Mr. HART. Mr. President, will the Senator from Louisiana entertain a couple of questions with regard to the substitute?

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes on the amendment, and I yield to the distinguished Senator from Colorado for questions.

Mr. HART. I thank the Senator from Louisiana.

As the Senator from Louisiana knows.

the Committee on Environment and Public Works, in its proposal, acknowledged the rights of Indian tribes and tribal councils of the same order and magnitude as the rights of State governments in these procedures. The proposal the Senator from Louisiana has put forward as an alternative does not do so.

I wonder whether the floor manager will entertain a proposal by the Senator from Colorado that he amend or modify his amendment at the desk to include, at two points in the draft of the proposed alternative or substitute, language that would recognize the rights of tribal councils to raise objections to the disposal of nuclear waste on those tribal lands.

Mr. JOHNSTON. As the floor manager of the bill for the majority, I would be prepared to accept such a modification. As a matter of fact, the staff is working on that draft at this moment.

Mr. HART. I will suggest to the Senator from Louisiana language which is very simple and a place where it might be located.

On page 4, section (d) (3), add the following sentence:

> In the event a repository is to be sited on an Indian reservation, the tribal council may file a formal objection before completion of such 90-day period.

Mr. JOHNSTON. Mr. President, my staff has just informed me that they are attempting to achieve the same purpose, with slightly different words; and these words are now tumbling off the end of a pen. I cannot quote them to the distinguished Senator, but we want to achieve that.

I now have been handed the words, which are as follows:

> Add a new section at the end of the amendment which states as follows:
>
> "In the event that the site of a proposed repository is located on lands which are owned by an Indian tribe or held in trust for such tribe by the Federal Government and within the boundaries of the reservation of such tribe, the tribal organization, as defined in section 4(c) of the Indian Self-determination and Educational Assistance Act, exercising the powers of self-government as defined in section 201-2 of the act of April 11, 1968, shall have the same rights under this title as the repository review panel for such repository."

I ask the Senator if that quick reading appears to achieve the result.

Mr. HART. It does appear to achieve the results, presuming it would affect, in the judgment of the Senator from Louisiana, the rights of Indian tribes in the same way States rights under this proposal are affected in section (d) (3) and section 5(f)(2) on page 5 of the draft. In other words, I want to make crystal clear in the legislative history here that the Indian tribes, under this provision, would be afforded absolutely equal rights to a State government.

Mr. JOHNSTON. The Senator is correct with this observation: That the repository review panel is created by the State or, shall I say, by the Governor who has the authority to appoint that panel, and the rights that the Indian tribe would have here would be to participate in the ongoing consultation and review and to file objections, those objections to have the same dignity as the objections of the State.

We do not envision two repository review panels and two separate agreements; rather one cooperative agreement between the State and the Secretary and one repository review panel appointed by the Governor which might include members of that Indian tribe but that the Indian tribe have a right to participate, to consult, to be furnished information and ultimately to object on the same basis that the State could, keeping in mind that there is only one repository review panel.

Mr. HART. That is certainly the intent and the desire of the Senator from Colorado and if, in the judgment of the floor manager that is the result of the language proposed, that language would be acceptable and I think it would greatly add to the bill itself.

Mr. McCLURE. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes, I yield.

Mr. McCLURE. Let me say to the Senator from Colorado I am as fully insistent that the Indian tribes have rights that will be protected with respect to what happens on their lands as is the Senator from Colorado. I am satisfied that this language does do that, and for the minority I am prepared to accept this suggested language.

Mr. HART. I thank the Senator from Idaho.

Does the Senator from Louisiana then modify his amendment to that degree?

Mr. JOHNSTON. The amendment has not been laid down yet. So we will cut and paste the amendment to include that language when offered.

Mr. HART. I thank the Senator.

Is it in order to raise one other question?

Mr. JOHNSTON. Yes, indeed.

Mr. HART. I discussed with the Senator from Louisiana the issue of public participation in the negotiations of the arrangements between the States and the Federal Government. That is a key feature in the bill proposed by the Environment and Public Works Committee. The staffs have also worked on some language in connection with that proposal. I ask the Senator from Louisiana, whether that language is presently ready for consideration now. The Senator from Louisiana shares the view of the Senator from Colorado in this regard, that the public should have some right to participate in the formulation of these arrangements, at least to the degree of observing and, hopefully, to the degree of presenting points of view in the construction of the arrangements.

Mr. JOHNSTON. Mr. President, we are prepared to allow for such public participation.

The operative language, if I have it correctly, would be something like as follows:

> Public participation in the negotiation of such arrangements—

The term "such arrangements" being herein referring to the cooperative agreement between the State and the Secretary.

> Public participation in the negotiation of such arrangements shall be provided for and encouraged by the Secretary, the States and the Indian tribes. The Secretary in cooperation with the States and Indian tribes shall develop and publish minimum guidelines for public participation in such negotiations.

We must work out this next sentence, but the effect of the next sentence will be that the failure to comply with the guidelines or the failure of the guidelines to reflect someone's idea of what public participation is would be reviewable in court.

So what we would have, Mr. President, is a mandate to the Secretary, the States, and the Indian tribes to provide and encourage such public participation. We would envision that such public participation would mean the right to be heard. But we do not in any detail provide the mechanism for that. But that is what we intend.

The remedy for failure to adequately come up with guidelines that protect that right or the failure to follow the guidelines once they are perfected and published would be, in effect, reviewable in Congress because it is our intention here to provide for the public participation and provide for the full input of the State and if that is not done then we would expect Congress to probably veto the proposal of the State because it is desired here that we have full public participation.

If I may just add one more thing, we do not intend to engrave the Administrative Procedures Act or any formal arrangements on this other than the publishing of the minimum guidelines but that whole procedure, the adequacy of the guidelines, and the following of the guidelines are to be not reviewable.

Mr. HART. Mr. President, I think the Senator from Louisiana has attempted to strike a very difficult balance here to which the Senator from Colorado will subscribe, that is, of maximizing public notice, participation, and expression of points of view and, at the same time, avoiding all the delay that could be involved in the rather complicated formulas that the Administrative Procedures Act provides. To the degree this is in fact the result of the language the Senator from Louisiana will add to his bill, then I think the Senator from Colorado will certainly want to subscribe to that.

Mr. JOHNSTON. If I may I will now read this language, the final phrase to be, "but the adequacy of such guidelines and any failure to comply with these guidelines shall not be basis for judicial review."

Does that comport with the Senator's thinking?

Mr. HART. In the judgment of this Senator that is exactly the results we desire.

Mr. DOMENICI. Mr. President, if the Senator from Colorado will yield for a minute, I commend the Senator for bringing the issue up.

Senator JOHNSTON indicated that Congress could be looking at this in terms of reviewing whether or not a State really participated in the process. But I think there is another review process that will occur and that is if the local public officials who are part of this review panel were not to adequately permit the public to participate and be advised, they, too, would be reviewed. I mean they are elected officials. In the Environment and Public Works Committee bill that came out we clearly indicated that we expected them to do this. It does not have to be formal. It does not have to be the kind of thing that they can go to court over, but obviously any local elected officials who are part of this review panel that would go into hibernation for 9 months and come out and tell their people that they have an agreement would be negating the entire reason for this whole process because at that point they would never get public support for what they sought to do by way of agreement with the Federal Government.

So I would have thought they would have done it in any event, I say to Senator HART, but I am pleased that we are telling them they should do it for their own benefit, for the benefit of the process and ultimately so that Congress can pass judgment on whether or not the people of the State have really participated.

Mr. McCLURE. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. Mr. President, I have listened carefully to the exchange between the Senator from Louisiana and the Senator from Colorado with respect to the public participation question, and it is my understanding that the criteria and the establishment of the procedure is not subject to the Administrative Procedures Act. It does not trigger that administrative remedy, and it is by its own terms not subject to judicial review. Therefore, it is not subject to that kind of review in courts.

I fully concur in the statement that has been made that public participation is essential. I think that is the whole thrust of this amendment. I think we carefully avoided the pitfalls that might come from tying this thing up in the administrative and judicial review, and I am prepared to accept the language as proposed by the Senator from Louisiana and outlined in this colloquy.

Mr. JOHNSTON. Mr. President, the Senator is correct. This whole procedure not only under the language relative to public participation just discussed but, indeed, the whole procedure here is sui generis, that is to say, it does not engraft any procedures, either the Administrative Procedure Act or any judicial review provisions, on any of this amendment and, particularly, not the public participation.

The adequacy of the guidelines and the following of the guidelines really adresses itself to the Governor, the tribal council, and the Secretary and, ultimately, to the Congress in review of this matter.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I yield myself 2 minutes. I just wanted to clarify one point.

I agree completely with the colloquy that was held here between the Senator from Colorado and the Senator from Louisiana, but I wanted to clarify another point. A number of times this evening reference has been made to the Governors' appointing the panel as though that would always be the way in which this was done.

I just wanted to clarify that the panel would be established by State law in the typical case, and this might not necessarily involve the Governor. For example, if a legislative committee were given this role, that would be the way it would be.

Only if the State had not passed a law would a Governor then automatically be the appointing authority, and the panel would act along the lines we provided, the repository review panel. I just wanted to clarify that.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator for that clarification. That is correct, and all my remarks to the contrary should be corrected.

Mr. GLENN. Mine, too.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. Mr. President, I have supported the efforts of my distinguished colleague on the Energy and Natural Resources Committee (Mr. DOMENICI) to establish a process of State concurrence. I believe it is a practical political fact that it would be extremely difficult to site Federal nuclear waste facilities without such a process; but not just any process, I would hasten to add. A system for consulting with the affected State without affording the State any substantive say about whether a facility will be built or how it will be operated would not solve the problem. An affected State must be a full partner in any endeavor to store or dispose of long-lived or high-level radioactive wastes.

I have lately rejected the idea of a simple "State veto" provision, in that participation in all phases of the planning and establishment of these facilities is the key. Simply allowing the State to say "No" is simply inviting nothing but "No's."

I also have rejected a simple State participation provision, in that participation without concurrence is a hollow exercise which will lead to "No's" being expressed through the State's congressional delegation.

I believe the Senator from New Mexico has had the right approach—the full measure of State participation and concurrence—and I am pleased that he has been able to negotiate this substitute for the pending amendment. I know of the strong feelings of the proponents of other solutions to this problem of Federal-State relations—notably those of the Senator from Ohio (Mr. GLENN), the Senator from Illinois (Mr. PERCY), and the distinguished chairman of the Energy Committee (Mr. JACKSON)—so I appreciate the difficulty with which the substitute was reached. In some ways the substitute is not everything I would have asked in a concurrence process; in other ways it seems a bit much; but I intend to support it today.

I thank the Senator.

Mr. JOHNSTON. Mr. President, we now have the amendment, as amended by the two Hart amendments just discussed, ready to file and bring up on the floor at this time. I am informed that would take a waiver of all the time on the amendment, yielding back all of the time on the amendment, which I am prepared to do, Mr. President.

The PRESIDING OFFICER. Do the Senators wish to yield back all their time?

Mr. PERCY. Mr. President, I would like 4 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I would like to express a great appreciation to Senators JOHNSTON, McCLURE, DOMENICI, JACKSON, CHURCH, and HART, and everyone else who has played a role in the work that has been done today.

Senator GLENN and I have been privileged to work together for several years on this matter, and I am certainly pleased to cosponsor now the language that will provide the first guaranteed State participatory role ever in nuclear waste planning.

It was very hard for me to give in on the issue of two-House congressional approval for repository development. Senator GLENN and I worked hard to retain this process in our original bill, S. 742. We felt it was important to put the responsibility on the shoulders of DOE to convince Congress that it was finally paying attention to, and was addressing, the concerns of the State.

We have arrived at a compromise, however, that is responsible. Under our new language a majority of either House can oppose a repository plan if it does not feel the plan adequately addresses State concerns. This is an equitable, balanced proposal that I certainly can accept. I urge my friends representing State and local organizations, friends who have worked very, very closely with us over the past many months, to understand that this approach meets our primary intention, guaranteeing a real and meaningful role for States as they rightfully have insisted upon.

This amendment is indeed written to address the concerns of Senators representing a wide array of perspectives on the issue of States' rights, Senators who are extensively and primarily concerned with a responsible role for States. I include myself in this category.

Senators who are primarily concerned that States should not be able to make it unduly difficult for a good repository plan to be approved by Congress are represented here, too. I feel deeply that the compromise that has been worked out is a forward step, and I only want to add my appreciation that the compromise encompasses two other highly important provisions that Senator GLENN and I felt were highly important in our original legislation, the creation of a State Planning Council to work with the Federal Government in generic waste management planning, and the creation of an annual national nuclear waste plan to insure a steady and responsible program in the development of this national waste management policy.

These provisions from the Percy-Glenn bill have been left intact in this compromise, a decision I feel is a great tribute to the work that went into the drafting of our bill, as well as this compromise.

Speaking personally, Mr. President, I want to add that I have always placed primary emphasis in the creation of a national conservation strategy, because I feel it is the cheapest, most equitable, most readily available source of energy we have. I do not lessen my enthusiasm for moving in that direction.

I do not lessen my enthusiasm, either, for coal as an alternate source of supply that must be developed. I am pleased indeed that our Republican nominee for President, Governor Reagan, has addressed himself to this issue and has seen that coal must be pursued.

But I represent a State that is highly dependent upon nuclear energy, the State of Illinois. In northern Illinois, we are more dependent than any other State for the generation of electricity—50 percent of our electricity is generated by nuclear power. In times of a coal shortage, we had coal we could ship to other States. Nuclear energy provided an abundance of energy even in that critical period.

We must move forward in a safe and sane way for nuclear waste management, however. The lack of a plan for 38 years that offered a way to find a permanent repository for waste disposal has inhibited and held back the future development of nuclear energy.

We are making a monumental step at this particular time to remedy this problem. I certainly support the pending amendment to the Glenn-Percy amendment, and urge its adoption.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. JOHNSTON. Mr. President, I yield myself 1 minute simply to make clear with respect to Indian tribes that the tribal organization shall have the same rights under this title as the respository review panel for such repository.

What that means, Mr. President, is that the tribal organization has a right to receive the information, the right to consult, the right to negotiate, and the right to file the objections, those objections to be the trigger for the requirement of the one-house or two-house vetoes, as the case may be. So the tribal organization has full power to participate in this process when it is on tribal lands as defined in the amendment.

Mr. HART. Mr. President, I thank the Senator from Louisiana. This is a complicated question, as he knows, and it is my intent only to make sure that, as he has stated the Indian tribes have the same rights as the States where their lands are involved. If it is, in fact, the intention of the Senator from Louisiana and, in fact, the results of the language he has offered to accomplish that result, then I think his statement is very well taken and will help clarify this question.

Mr. JOHNSTON. Mr. President, that is correct.

I would make one clarification here, and that is that the Indian tribe would have the right to consult also at the stage of confecting the cooperative agreement, but since there is only one cooperative agreement it would be the one that was confected between the State and the Secretary. But the Indian tribe would have the right to participate in the confection of that agreement and thereafter fully to consult, receive information, file objections——

Mr. McCLURE. Mr. President, will the Senator from Louisiana yield? I think we need to carefully distinguish between the rights of the Indian tribe which they would have when it is not on tribal lands. They would have the same rights as any other citizen or citizen groups to participate through the State process toward the resolution of whatever concerns they have merging into that cooperative agreement filed by the State.

In the event, however, that it is located on Indian lands as defined in the amendment, I think they would have, in effect, a separate cooperative agreement and a separate triggering device which could lead to a congressional review or presidential review just as it would be if it were not on Indian lands and simply a State question.

Mr. JOHNSTON. Mr. President, my staff just points out the following language on page 2 of the amendment which states that:

> The Secretary is authorized and directed promptly to enter into negotiations with each repository review panel described in title X to establish a cooperative agreement under which a repository of the review panel may exercise such right.

That language being in the amendment, then when we state further in the amendment that the Indian tribes shall have the same rights as the repository review panel that does envisage two separate cooperative agreements with the Indian tribes having those full rights to the same extent as does the State.

So I correct my statement previously made.

Mr. HART. Mr. President, I thank the Senator from Idaho for clearing this up because I think it is a crucial question where Indian tribes are concerned. I fully agree with him.

I thank the Senator from Louisiana for making it crystal clear that that is the situation.

Mr. JOHNSTON. Mr. President, if Senators are ready, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Have all Senators yielded back their time?

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

UP AMENDMENT NO. 1450

Mr. JOHNSTON. Mr. President, I send to the desk an amendment in the second degree to the Glenn amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> The Senator from Louisiana (Mr. JOHNSTON) for himself, Mr. JACKSON, Mr. CHURCH, Mr. McCLURE, Mr. DOMENICI, Mr. GLENN, Mr. PERCY, and Mr. HATFIELD proposes an unprinted amendment numbered 1450 to unprinted amendment numbered 1449.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (1) Strike definition (20) and renumber subsequent definitions accordingly;
>
> (2) Strike section 901 and insert in lieu thereof the following—
>
> "SEC. 901(a). The Secretary shall identify the States with one or more potentially acceptable sites for a repository, including test disposal of high-level or transuranic wastes. Within 90 days of such identification, or within 90 days of enactment of this Act, the Secretary shall notify the Governor, the State legislature, and the Tribal Council of any affected Indian tribe in any affected State of the potentially acceptable sites within such State.
>
> "(b) Each affected State and affected Indian tribe notified under subsection (a) shall have the right to participate in a process of consultation and concurrence, based on public health and safety concerns, in all stages of the planning, siting, development, construction, and operation of a repository. The Secretary is authorized and directed promptly to enter into negotiations with each Repository Review Panel described in title X to establish a cooperative agreement under which the Repository Review Panel may exercise such right.
>
> "(c) The cooperative agreement may include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws.
>
> "Such cooperative agreement shall provide procedures for negotiating and resolving objections of the Repository Review Panel in any stage of the planning, siting, development, construction or operation of such a facility within the State;
>
> "*Provided, however*, That any such agreement shall not affect the Nuclear Regulatory Commission's authority under existing law.
>
> "(d) For the purpose of this part of this title—'process of consultation and concurrence' means a methodology by which the Secretary (A) keeps the Repository Review Panel fully and currently informed about the aspects of the project related to any potential impact on the public health and safety,
>
> "(B) solicits, receives, and evaluates concerns and objections of the Review Panel with regard to such aspects of the project on an ongoing basis, and
>
> "(C) works diligently and cooperatively to resolve such concerns and objections.
>
> "(e) The Secretary and the Repository Review Panel shall seek to conclude the agreement required by subsection (b) not later than 1 year after the date of notification under subsection (a). The Secretary shall report to the Congress annually thereafter on the status of the agreement approved under subsection (c). Any report to the Congress on the status of negotiations under subsection (b) or the agreement under subsection (c) by the Secretary shall be accompanied by comments solicited by the Secretary from the Review Panel."
>
> (3) Paragraph (d)(3) of subsection 903 is amended by adding at the end thereof the following—"The Repository Review Panel shall file any formal objections to the Report before the completion of such ninety-day period."
>
> (4) Subsection (e) of section 903 is amended to read as follows:
>
> "(e) The Secretary shall submit the Repository Development Report for a proposed repository to the Congress, together with the

objections of the appropriate Review Panel, if any, the comments of other interested States, including specifically those of adjacent, directly and substantially affected States, and such other comments as the Secretary has received with respect to such report."

(5) Strike subsections 903 (f) and (g) and insert in lieu thereof the following:

"(f) (1) The Secretary may not file an application with the Commission for a license to construct the main shaft of a repository, or if no such license is required by law, may not undertake site preparation work leading to the construction of the main shaft of a proposed repository, unless and until he shall have submitted a Repository Development Report for such repository to the Congress.

"(2) In addition, if the relevant Repository Review Panel has filed objections to the Report under subsection (d), the Secretary may not file such an application or undertake such site preparation work if during the 60-day period of continuous session following submittal of such Report either House of Congress passes a resolution pursuant to section 908 stating in substance that the Repository Development Report does not sufficiently address State and local concerns to permit the Secretary to apply to the Commission for a license to construct such repository or, if such a license is not required by law, to proceed with construction of such repository.

"*Provided, however*, That if (1) the aforementioned objections have been filed, (2) such repository is a repository primarily for the disposal of high-level or transuranic contaminated wastes produced through the defense activities of the Secretary, and (3) the President notifies both Houses of Congress in writing at the time of submittal of determination that development of the repository is essential to promote the national security of the United States, then the Secretary may proceed with such site preparation work and may proceed to apply to the NRC for a license to construct such repository, or if such a license is not required by law, to proceed with construction of such respitory unless both Houses of Congress shall within 60 days of continuous session pass a resolution stating that in substance that said report does not sufficiently address State and local concerns to permit the Secretary to apply to the Commission for a license to construct such repository or, if such a license is not required by law, to proceed with construction of such repository.

"For the purposes of this proviso, a repository primarily for the disposal of high-level or transuranic contaminated wastes produced through the defense activities of the Secretary is one designated by the Secretary in the Repository Development Report covering such repository to contain an amount of such high-level or transuranic wastes which is ninety per centum or more (in terms of curies) of the total amount of nuclear waste and spent fuel to be placed in the repository, and in which any nuclear wastes or spent fuel from non-defense and licensed activities is limited to 2 percentum or less (in terms of curies) of the total amount of such wastes and spent fuel in storage in the United States at the time of such designation.

"(g) In the event that either House of Congress passes a resolution as specified in paragraph (f) (or both Houses pass such a resolution pursuant to the proviso in paragraph (f)) with respect to a Repository Development Report the prohibition set forth in subsection (f) shall remain in effect until such time as—

"(1) the Secretary shall have submitted to the Congress a revised Repository Development Report with respect to such repository, and

"(2) if the relevant Repository Review Panel has filed objections to such revised Report under subsection (d) and the following 60-day period of continuous session elapses without either House or both Houses of Congress, as the case may be, passing a resolution as specified in subsection (f) with respect to such revised Repository Development Report.

"Each revised Repository Development Report shall be prepared pursuant to the procedures set forth in this section and in section 1003 pertaining to the preparation of Repository Development Reports."

"(h) The Secretary shall not allow designated limits to be breached on percentages of nuclear waste or spent fuel designated in the last sentence of subsection (g) unless specifically authorized by the Congress.

"(i) The Secretary shall report annually to the Congress on: (1) the number of curies of radioactivity in domestically stored spent fuel and in non-defense or civilian nuclear waste; (2) the percentages in each repository of nuclear waste (in curies) arising from defense activities of the Secretary in relation to all other nuclear waste or spent fuel (in curies) at such repository."

(e) Redesignate section 906 as section 914;

(f) Strike Section 905 and insert in lieu thereof the following:

"Sec. 905 (a) the Secretary shall have a Repository Development Report delivered to both Houses on the same day and to each House while it is in session.

"(b) Any time during the period of thirty calendar days of continuous session of Congress after the date on which the Report is transmitted to it, but before any resolution described in section 908 has been ordered reported in either House, the Secretary may make amendments or modifications to the report, to address any concerns raised to it by the appropriate Repository Review Panel which modifications or revisions shall thereafter be treated as a part of the Repository Development Report orginally transmitted and shall not affect in any way the time limits otherwise provided for in this Act. The President may withdraw the Repository Development Report any time prior to the conclusion of sixty calendar days of continuous session of Congress following the date on which the Report is submitted to Congress.

"Sec. 906. For the purpose of the Act (1) continuity of session is broken only by an adjournment or Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"Sec. 907. Sections 905 through 911 of this Act are enacted by Congress—(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by section 908 of this Act; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"Sec. 908. For the purposes of the 'Act 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ___________ believes that the Repository Development report relating to the proposed development of a repository at ___________ within the State of ___________ transmitted to Congress by the Secretary of Energy on ____________, 19____ (as amended by the Secretary of Energy on ____________, 19__) 'does not sufficiently address State and local concerns to permit the Secretary to apply to the Nuclear Regulatory Commission for a license to construct such repository or, if such a license is not required by law, to permit the Secretary to proceed with the construction of such repository.', the blank spaces therein being appropriately filled and the text in parentheses being included if the Secretary has amended the report pursuant to subsection 905(b).

"Sec. 909(a) No later than the first day of session following the day on which a Repository Development Report is transmitted to the House of Representatives and the Senate under section 905, a resolution, as defined in section 908, shall be introduced (by request) in the House by the chairman of the committee to which the Report is referred, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the committee to which the Report is referred, or by a Member or Members of the Senate designated by such chairman.

"(b) A resolution with respect to a Repository Development Report shall be referred to the appropriate committees of the House and Senate (and all resolutions with respect to the same report shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 45 calendar days of continuous session of Congress following the date of such resolution's introduction.

"Sec. 910. If the committee to which is referred a resolution introduced pursuant to subsection (a) of section 909 (or, in the absence of such a resolution, the first resolution introduced with respect to the same Repository Development Report) has not reported such resolution or identical resolution at the end of 45 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"Sec. 911. (a) When the committee has reported, or has been deemed to be discharged (under section 910) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(b) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

"(c) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final approval of the resolution shall occur.

"(d) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided; without debate.

"Sec. 912. In considering any Repository Development Report submitted to the Congress pursuant to this title, the Congress may obtain the views and comments of the Nuclear Regulatory Commission on such report. The provision of views by the Commission shall not be construed as binding the Commission with respect to any licensing action pertaining to the repository which is the subject of such Repository Development Report.

"Sec. 913. The passage of a resolution by the Congress pursuant to this title shall in no way be considered as binding with respect to any licensing action of the Nuclear Regulatory Commission pertaining to the repository which is the subject of such resolution."

(8) Add a new section at the end of title IX as follows:

"Sec. 915. In the event that the site of a proposed repository is located on lands which are—

(1) owned by an Indian tribe or held in trust for such tribe by the Federal Government and

(2) within the boundaries of the reservation of such tribe,

The tribal organization, as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act exercising the powers of self government as defined in section 201(2) of the Act of April 11, 1968 shall have the same rights under this title as the Repository Review Panel for such repository."

(9) At the end of section 901(b), as amended, add the following:

"Public participation in the negotiation of such agreement shall be provided for and encouraged by the Secretary, the States and and Indian tribes. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with these guidelines shall not be a basis for judicial review."

Mr. JOHNSTON. Mr. President, the amendment has been fully explained. It incorporates the two Hart amendments just discussed. I ask that the amendment be agreed to.

The PRESIDING OFFICER. Do all Senators yield back their time?

All time having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana (Mr. Johnston).

The amendment (UP No. 1450) was agreed to.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on the adoption of the Glenn amendment, as amended.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio (Mr. Glenn), as amended.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator yield me 2 minutes on the bill?

Mr. JOHNSTON. Mr. President, I yield 2 minutes on the bill to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I will ask this question of Senator Johnston and I would also appreciate Senator McClure's response.

Since this statute will give the National Government and the States the right, up front, to enter into a cooperative agreement, what happens if there is no agreement at all entered into by the parties as contemplated by this statute?

Mr. JOHNSTON. Mr. President, we, of course, contemplate such an agreement. But, in the event that, let us say, a State is totally recalcitrant, would refuse to even enter into any negotiations and, for whatever reason, such a cooperative agreement was not entered, then the Secretary would proceed with the planning and would submit the plan to Congress, giving, of course, the right to the States and the tribal councils, as the case may be, to file their objections. Then that whole question would be submitted to Congress for a one-House or two-House veto, in the case of civilian or military wastes respectively.

We do not think that that eventuality would occur, because we make it easy for such a cooperative agreement to be entered into. The failure to enter into that agreement would not preclude the submission of the plan to Congress, but would be one of those elements that Congress would consider in determining whether to veto the proposal.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. McCLURE. In the first place, Mr. President, I think the failure to enter into an agreement is the sign of one of three things: Either the State has been totally arbitrary and unwilling to arbitrate or the Federal Government has been totally arbitrary and unwilling to negotiate in good faith and, for that reason, there simply has not been an agreement, or that negotiating process, having failed to reach an agreement, would have narrowed the issues to one or two major issues which Congress would be able to see very clearly.

But I think the negotiating process is either going to bring about an agreement or define a very narrow range of issues for presentation and debate in Congress.

Mr. DOMENICI. So the Senator from Idaho would construe that to mean that either it has narrowed the issues and Congress can look at that or it would have a very significant impact on determining the good faith or bona fides of either the Secretary of Energy or the State as the facts might come out when the report and the plan is presented to Congress?

Mr. McCLURE. I agree exactly with the statement of the Senator.

Mr. DOMENICI. So we are really saying that everybody ought to act in good faith or take the consequences?

Mr. McCLURE. That is correct.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio (Mr. Glenn), as amended. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Montana (Mr. Melcher), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), the Senator from Illinois (Mr. Stevenson), the Senator from Alabama (Mr. Stewart), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. Church) would vote "yea."

Mr. STEVENS. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER (Mr. Moynihan). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—83

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—17

Armstrong
Baker
Church
Eagleton
Goldwater
Javits
Kennedy
Leahy
Mathias
Melcher
Ribicoff
Stennis
Stevenson
Stewart
Talmadge
Tower
Young

So Mr. Glenn's amendment (UP No. 1449), as amended, was agreed to.

Mr. GLENN. Mr. President, I move to

reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question.

Mr. HATFIELD. Yes.

Mr. JOHNSTON. Mr. President, I know the Senator wants to lay down an amendment. We have a budget amendment on this measure which I think is acceptable, which we should be able to put up in a second. If we can do that, adopt that amendment, then we can move to the amendment of the Senator from Oregon.

Mr. HATFIELD. I am happy to yield for that purpose, Mr. President.

AMENDMENT NO. 1905

Mr. JOHNSTON. Mr. President, the Senate earlier today adopted Senate Resolution 467, waiving provisions of the Budget Act for S. 2189. When this resolution was considered by the Budget Committee, they suggested amendments to S. 2189 to comform it to the Budget Act. Those amendments are contained in printed amendment No. 1905, introduced by Senator JACKSON on June 20. I ask for immediate consideration of this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for Mr. JACKSON, proposes an amendment numbered 1905:

On page 10, at the end of line 8, add the following new sentence: "The authority of the Secretary to enter into contracts under this section shall be limited to the extent or in such amounts as are provided in appropriations Acts.".

On page 16, strike lines 19 and 20, and insert in lieu thereof:

"(b) To the extent or in such amounts as are provided in appropriations Acts,".

On page 20, on line 4, add the following new subsection:

"(c) The provisions of this Act shall take effect on October 1, 1980.".

Mr. JOHNSTON. Mr. President, the amendment was just explained. I understand it has been concurred in on both sides. I ask for its adoption.

Mr. McCLURE. Mr. President, the Senator is correct. We accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JOHNSTON. I yield back my time.

Mr. McCLURE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1905) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1655 (AS MODIFIED)

(Purpose: To assure full cost recovery of Federal nuclear waste management activities, and for other purposes)

Mr. HATFIELD. Mr. President, I send to the desk amendment 1655 and ask that it be made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 1655.

Mr. HATFIELD. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, strike lines 10 through 18 and insert in lieu thereof:

"SEC. 501. (a) There is hereby established in the Treasury of the United States a separate account to provide for (1) the construction and operation of Federal away-from-reactor interim storage facilities for spent fuel from civilian nuclear reactors, (2) the disposal of such spent fuel or high-level radioactive waste from civilian nuclear activities, and (3) the handling and transportation of such spent fuel or waste. Amounts appropriated under section 308 or otherwise appropriated to carry out any of the purposes of this Act (except section 406 and Title VI), all charges under section 304, receipts derived from the sale of any reprocessed fuel, and the proceeds from any obligations issued pursuant to section 502 of this title shall be deposited into the account.

On page 16, strike lines 21–23 and insert in lieu thereof: "the Secretary may draw on such account to carry out the purposes of this Act except section 406 and title VI, *Provided*, That the Secretary shall not commence construction or acquisition of any major nuclear waste facility unless the specific expenditure of funds for the initiation of such construction or acquisition is explicitly approved by Act of Congress."

On page 17, lines 24 through 25, strike "for the acquisition of an interim away-from-reactor storage facility" and insert in lieu thereof "and any other appropriations made to carry out the purposes of this Act except section 406 and title VI".

On page 18, line 8, following "expenditure.", add "after the date of enactment of this Act, no appropriations are authorized to carry out the purposes of this Act except section 406 and title VI, unless the amounts appropriated are immediately deposited into the account established in section 501(a)."

On page 5, following line 21, insert "(7) 'major nuclear waste facility' means any facility for the interim storage of spent fuel from a civilian nuclear reactor, for the disposal of such spent fuel or of high-level radioactive waste from civilian nuclear activities, or for the handling and transportation of such spent fuel or waste, which facility has a total estimated cost to the Federal Government of $1,000,000 or more."

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield such time as he may desire on the Hatfield amendment to the Senator from West Virginia.

I think I can yield on the Hatfield amendment. I probably have more time on that, since it is now the pending business, than on the bill. Time is time, so I yield to the Senator from West Virginia (Mr. RANDOLPH) such time as he may desire on the Hatfield amendment.

Mr. RANDOLPH. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I have often said—perhaps too often, but I repeat—that often, our differences can become our strengths. In reference to the amendment passed by a vote of 83 to 0, there were at least six differences that were addressed in bringing that proposal to the Senate. I think it speaks well for the ability of the Senate, on crucial matters, to discuss these matters and to resolve them. In this instance, those who worked on this amendment represented the interests of three committees—the Energy and Natural Resources Committee, the Environment and Public Works Committee, of which the able Presiding Officer is a member, and the Governmental Affairs Committee, through Senator GLENN who offered the original amendment. The result was a composite, the result of the efforts of the Senator from Colorado (Mr. HART), the Senator from Ohio (Mr. GLENN), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Mexico (Mr. DOMENICI).

I only say that when this happens I acclaim the spirit of understanding which we will need as we work our way through this very important legislation.

I am grateful for the opportunity to add, not any substance to what has been discussed during the debate and decision on the amendment, but to commend the Members of this body on their ability and the desirability of working our way in agreements, where possible.

The PRESIDING OFFICER. The Chair thanks the Senator from West Virginia.

QUORUM CALL

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. STEVENS. I ask it not be charged to anyone's time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 10 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President and upon the recommendation of the majority and minority leaders, pursuant to the provisions of 22 U.S.C. 276, as amended by Public Law 95-45, appoints the following Senators to attend the Interparliamentary Union Conference, to be held in Berlin, East Germany, September 16-24, 1980: the Senator from New Jersey (Mr. Williams), chairman, and the Senator from Vermont (Mr. Stafford), vice chairman.

A RED INK RECORD

Mr. HARRY F. BYRD, JR. If all the spending of the Federal Government were included in the budget, the deficit for the current year would be the highest in history.

The official budget figures show receipts of $518 billion and outlays of $579 billion, producing a deficit of $61 billion. That is the second highest official deficit in history, the only larger one being in 1976, when the total was $66 billion.

However, over recent years there has been a marked growth in the net outlays of the so-called "off-budget entities" of the Government, the largest of which is the Federal Financing Bank.

In 1976, the net spending of these off-budget agencies was $7 billion, but in the current year it is $16 billion—more than double the total of 4 years ago.

If we add the official deficit to the deficit of off-budget entities for each of these 2 years, we find that the true total deficit of the Government was $73 billion in 1976 and is $77 billion in 1980. Thus, the grand total deficit for the current year establishes a new record in red ink.

According to present estimates, the off-budget deficit will leap upward another $5 billion next year to reach $21 billion. Thus, in 1981, the off-budget deficit will have tripled from the $7 billion level of 1976.

The rapid growth in off-budget spending was cited in testimony last week before the Senate Finance Committee by Alan Greenspan, former chairman of the Council of Economic Advisers. In earlier testimony before my Subcommittee on Taxation and Debt Management, Dr. Alice Rivlin, Director of the Congressional Budget Office, likewise pointed to the growth in off-budget outlays.

Frankly, I see no convincing reason for any spending by the Federal Government to be outside the budget.

As I see it, the budget should be a full accounting of the Government's finances.

But whether one uses the official budget figures or the true total spending figures, the Government's deficit for 1980 is appalling. It gives the lie to the claim which we have heard all year long about restraint in the Federal budget.

For next year—which was to have been the year of the balanced budget, according to claims still being made a month ago—the President now projects a deficit of $30 billion. Secretary of the Treasury Miller has now confirmed that the administration has abandoned all hope of a balanced budget in 1981.

I think two features are particularly significant in connection with the 1981 budget:

First, it will violate the law. Under the terms of Public Law 95-435, any deficit in 1981, or any subsequent year, is illegal.

Second, the deficit of $30 billion now being forecast will come in spite of the fact that the Government will take a record high proportion of national income in taxes.

There is absolutely no fiscal restraint in Washington.

What we have in Washington, instead of restraint, is business as usual: High taxes as usual, big spending as usual, and enormous deficits as usual.

In my view, the present, irresponsible fiscal policies of the Government will prevent any real progress toward putting the economy of this Nation back on a sound footing.

DAV OUTSTANDING DISABLED VETERAN AWARD

Mr. COCHRAN. Mr. President, I want to take this opportunity to commend Mr. Hilliard A. Carter, a constituent of mine living in Jackson, Miss., who has recently been named the Outstanding Disabled Veteran for 1980 by the Disabled American Veterans.

Mr. Carter has been named to receive this award because of his inspirational effort in the face of adversity. Mr. Carter was blinded and lost both of his hands in action in Vietnam. Despite this, he has exerted enormous effort to help others facing similar difficulties. He currently works in Jackson as a counselor at the Veterans' Administration's "Operation Outreach" center. He has helped many Mississippians through his leadership and his example.

Mr. President, a recent article in the DAV magazine tells Mr. Carter's story and the reasons why he so justly deserves this recognition. I ask unanimous consent that it be printed in its entirety in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

DAV Outstanding Disabled Veteran

When he came home from Vietnam in 1966, both hands and his sight were gone. Then his marriage fell apart. The temptation to let pain, bitterness, and resentment overtake him was strong. But Hilliard A. Carter was strong, too—and he fought back.

Today, the people Carter works with cite the humor, wit, confidence, and enthusiasm the disabled vet brings to work with him every morning. Those qualities are really valuable to Carter in his job, helping other Vietnam veterans overcome readjustment problems that have haunted them since their return from the war in Southeast Asia.

Carter's success in pulling his own life together following his traumatic injuries in Vietnam and his work in helping other veterans cope with their war-related problems has earned him national recognition from the 667,000-member Disabled American Veterans (DAV).

The DAV has chosen this Veterans Administration (VA) employee as the nation's Outstanding Disabled Veteran for 1980. He will receive the award from DAV National Commander Paul L. Thompson—also a black veteran of the Vietnam War—at the DAV's National Convention in Honolulu, July 25.

Carter, who has a master's degree in rehabilitation counseling and psychology from the Illinois Institute of Technology in Chicago, works as a counselor at the VA's "Operation Outreach" center in Jackson, Miss.

Operation Outreach is similar to and, to a great extent, modeled after the DAV's Vietnam Veteran Outreach Program. Both programs attempt to focus the skills of professionals from the community on the unique readjustment problems of Vietnam veterans.

The nonprofit DAV set up its program 21 months ago, following completion of an intensive, three-year DAV-funded research project, which revealed that a half million or more Vietnam era veterans still suffer readjustment problems that severely hamper their lives. The VA officially initiated its outreach effort for Vietnam veterans in October.

Both programs attempt to help Vietnam veterans cope with delayed stress that's rooted in their wartime experiences and the way they were treated when they returned to the States.

Delayed stress can crop up in any of a number of ways, including depression, alienation, anxiety, sleep disturbances, suicidal feelings, problems in relationships with other people, flashbacks, nightmares, and in some cases, drug or alcohol problems.

Describing his work with Vietnam era veterans, Carter said, "We try to establish communication right away. Sometimes it's hard for these guys to show their emotions. They've had their feelings about Vietnam bottled up inside them for so long, and so many haven't talked about the war with anybody since they came home.

"I can relate to most of the veterans I work with. I've been there, and I know where these guys are coming from. It's mostly a matter of learning how to deal with your feelings about the war and what happened over there.

"I think I went through that early," Carter said of his own readjustment after Vietnam. "Because of my disabilities, I had to go through it early. I lost a wife after the war and all that. I had to deal with problems related to the war and my disabilities back in '68 and '69.

"When the guys come into the outreach center with their problems, sometimes my mind goes back to the war," he said, "but now I can hold it in the right perspective. I'm not hostile or angry about the war, today. I think anger or bad feelings can only retard you—keep you from getting on with your life and making the best of your situation."

Carter moved to Jackson to work on the outreach program in November. Before that he worked at the Hines VA Medical Center in Chicago. There he served as a group leader in the detoxification group, conducted individual problem solving sessions with clients, lectured on health care, and dealt with such individual patient problems as housing, employment, public assistance, and outpatient care arrangements.

Fourteen years after he was wounded by the explosion of a hand-grenade booby trap while coming in from an ambush patrol near Tuy Hua, South Vietnam, life has changed a great deal for Hilliard Carter. But the veteran of the U.S. Army's 101st Airborne Division is happy.

"My wife, Ollie, and I just adopted a little boy," he said with a proud smile. "His name is Aaron Baker Carter."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 5:28 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1647. An act to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order Numbered 9066, and for other purposes;

H.R. 1198. An act to clarify the authority to establish lines of demarcation dividing the high seas and inland waters; and

H.R. 6666. An act to revise the laws relating to the Coast Guard Reserve.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4275. A communication from the Director, Program Liaison Division, Office of Legislative Liaison, Department of the Air Force, reporting, pursuant to law, on the Air Force's decision to convert to contract performance the medical facility housekeeping services function at Hill Air Force Base, Utah; to the Committee on Armed Services.

EC–4276. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the refuse collection function at U.S. Army Armament Research and Development Command (ARRADCOM), Dover, New Jersey, and a decision has been made that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC–4277. A communication from the Assistant Secretary of the Air Force, Research, Development, and Logistics, reporting, pursuant to law, that a study has been conducted with respect to converting the medical facility housekeeping services function at Hill Air Force Base, Utah, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–4278. A communication from the Assistant Secretary of the Army, Installations, Logistics and Financial Management, reporting, pursuant to law, with respect to the laundry/dry cleaning activities at Fort Carson; to the Committee on Armed Services.

EC–4279. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a listing of contract award dates for the period July 15, 1980 to October 15, 1980; to the Committee on Armed Services.

EC–4280. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Army's proposed Letter of Offer to Egypt for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4281. A communication from the Secretary of Housing and Urban Development transmitting, pursuant to law, a report on the Housing Needs of the Rural Elderly and Handicapped; to the Committee on Banking, Housing, and Urban Affairs.

EC–4282. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Federal Deposit Insurance Corporation for the year ended December 31, 1979," July 25, 1980; to the Committee on Banking, Housing, and Urban Affairs.

EC–4283. A communiction from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for May 1980 on (1) total itemized revenues and expenses, (2) revenues and expenses of each train operated, and (3) revenues and total expenses attributed to each railroad over which service is provided; to the Committee on Commerce, Science, and Transportation.

EC–4284. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report of applications to the department for refunds for excess royalty, rental, and minimum royalty payments totaling $450,177.72; to the Committee on Energy and Natural Resources.

EC–4285. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Foster-Miller Associates, Inc., Walthan, Massachusetts, for a research project entitled "Compact Service Hoist System for Underground Metal and Nonmetal Mines"; to the Committee on Energy and Natural Resources.

EC–4286. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Guidance Needed on Use of Natural Gas Price Escalator Clauses," July 25, 1980; to the Committee on Energy and Natural Resources.

EC–4287. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, (1) Petroleum Market Shares: Report on Sales of Refined Petroleum Products, April 1980, and (2) Petroleum Market Shares: Report on Sales of Retail Gasoline, April 1980; to the Committee on Energy and Natural Resources.

EC–4288. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 400 First Street N.W., Washington, D.C.; to the Committee on Environment and Public Works.

EC–4289. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 1815 North Lynn Street Arlington, Virginia; to the Committee on Environment and Public Works.

EC–4290. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into within sixty days of the execution thereof; to the Committee on Foreign Relations.

EC–4291. A communication from the Assistant Secretary for International Organization Affairs, Department of State, transmitting, pursuant to law, a report for May 1980 issued by the United Nations Joint Inspection Unit; to the Committee on Foreign Relations.

EC–4292. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the first annual report on the Civil Service Retirement System; to the Committee on Governmental Affairs.

EC–4293. A communication from the Executive Secretary, Federal Reserve Employee Benefits System, transmitting its annual report for 1979; to the Committee on Governmental Affairs.

EC–4294. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Energy Health and Safety Issues Need a Coordinated Approach," July 24, 1980; to the Committee on Government Affairs.

EC–4295. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend authorizations of appropriations for the developmental disabilities programs under the Development Disabilities Assistance and Bill of Rights Act, and for other purposes; to the Committee on Labor and Human Resources.

EC–4296. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for Instructional Media for the Handicapped; to the Committee on Labor and Human Resources.

EC–4297. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend title 38 of the United States Code to authorize the Administrator to approve the release of name and address information from VA records systems for the purpose of bona fide research; to the Committee on Veterans' Affairs.

EC–4298. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report covering those cases recommended for equitable relief under 210(c)(3)(A); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Appropriations, with amendments:

S. Res. 470. A resolution disapproving proposed deferral of budget authority for EPA grants for waste treatment works (Rept. No. 96–872).

By Mr. ROBERT C. BYRD, from the Committee on Appropriations, with amendments:

S. Res. 464. A resolution disapproving deferral of budget authority relating to the Cumberland Gap Tunnel (Rept. No. 96–873).

By Mr. BAYH, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 1790. A bill entitled the "Privacy Protection Act of 1979" (together with additional views) (Rept. No. 96–874).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER (for himself, Mr. NELSON, Mr. BAUCUS, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, and Mr. HOLLINGS):

S. 2981. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives for the issuance of small business participating debentures; to the Committee on Finance.

By Mr. LONG (for himself, Mr. GRAVEL, and Mr. STEWART):

S. 2982. A bill to amend the Internal Revenue Code of 1954 to make permanent the provisions relating to the funding of employee stock ownership plans through the investment tax credit, to provide a credit against tax for contributions to an employee stock ownership plan based upon wages as an alternative to that based on investment in equipment, and for other purposes; to the Committee on Finance.

By Mr. SCHWEIKER:

S. 2983. A bill to amend the Internal Revenue Code of 1954 to reduce the tax on capital gains; to the Committee on Finance.

By Mr. PELL:

S. 2984. A bill to amend the Federal Unemployment Tax Act with respect to the pension offset provision; to the Committee on Finance.

By Mr. TSONGAS (for himself and Mr. PROXMIRE):

S. 2985. A bill to amend the Consumer Credit Protection Act to prohibit the use of the "Rule of 78's" in credit transactions with terms greater than 51 months; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. WEICKER (for himself, Mr. NELSON, Mr. BAUCUS, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, and Mr. HOLLINGS):

S. 2981. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives for the issuance of small business participating debentures; to the Committee on Finance.

SMALL BUSINESS PARTICIPATING DEBENTURES

• Mr. WEICKER. Mr. President, I am pleased to join with Senators NELSON, BAUCUS, HATCH, HAYAKAWA, HEINZ, and HOLLINGS in introducing this legislation which provides for the creation of a small business participating debenture (SBPD) and for tax incentives for investments in these SBPD's. The SBPD would be a debt instrument which would share in the profits of the issuing enterprise but would not contain any element of control. Although the SBPD would bear a relatively low stated rate of interest, investments in it would be encouraged by tax preferences.

The legislation which we are introducing today is the product of careful examination by many parties. Last July, I introduced S. 1481, which gave for the first time legislative form to the SBPD concept. In January of this year, the nearly 1,600 delegates to the White House Conference on Small Business voted the SBPD concept as one of their top 10 recommendations. This conference and the recommendation marked culmination of a process which saw over 30,000 business people attend 57 State and regional meetings. The National Small Business Association, the National Association of Small Business Investment Companies, the Council on Small and Independent Business Associations, the Small Business Legislative Council and many other small business organizations have also endorsed the SBPD idea. The legislation also received the careful scrutiny of the participants at the Homestead Small Business Tax Conference sponsored by the American Bar Association's Small Business Committee.

The concept was further discussed at hearings held by the Finance Committee and the Select Committee on Small Business. The opinions of the Department of the Treasury, the Securities and Exchange Commission and the Comptroller of the Currency were solicited. The legislation introduced today reflects the input of all these parties.

I am extremely pleased to have the active support of the chairman of the Select Committee on Small Business, Senator NELSON, for this measure. His advocacy has been instrumental in the passage of tax legislation, and other bills, which have greatly benefited our Nation's small businesses.

This legislation is similar to S. 1481, with one major exception. The provision for a credit against tax for investment in a SBPD which was contained in S. 1481 has been deleted. This change will not appreciably diminish the incentive for investment, as the preferential capital gains tax treatment is retained, while diminishing the revenue loss. In addition, the legislation we are introducing today contains technical changes recommended by the SEC, as well as other minor changes reflecting concerns expressed by various parties.

The legislation defines the SBPD, which would be a hybrid security, as a written debt instrument, issued by a qualifying small business, which: First, is a general obligation of the company; second, bears a stated rate of interest not less than a standard imputed interest rate specified by the Secretary of the Treasury (currently 6 percent); third, has a fixed maturity date; fourth, grants no voting or conversion rights in the company; and fifth, provides for the payment of a share of the company's total earnings to the investor. The specific terms of the SBPD, such as the interest rate, maturity date and share of earnings, would be determined by the market for the security.

The stated interest received on the SBPD would be taxable to the investor as ordinary income. However, amounts paid as a distribution of a share of the company's earnings would be taxable to the investor at the preferential long-term capital gains rate. Since the SBPD would be treated as section 1244 stock, an individual investor would generally treat losses on SBPD's as ordinary losses. That portion of profits distributed to holders of SBPD's, as well as interest actually paid on the instruments would be treated as interest paid by the company, and, therefore, would be deductible.

Mr. President, the SBPD would have the status of a debt security with a stated rate of interest, but would also provide an inducement for the investor by returning to him a share of the company's earnings during the period the SBPD is outstanding. Because the SBPD would provide for a specific redemption date, the issuing company would effectively be paying a premium for the use of the capital, but only for the period of use.

The SBPD would thus differ from stock warrants and rights, which as a result of the shares issued pursuant to their terms, effectively participate in earnings long after the company has experienced its critical need for funds and repaid them.

Pursuant to this legislation, a SBPD could only be issued by a domestic trade or business, whether or not incorporated, which has a net equity of less than $25 million. The size limitation imposed on the issuing business is based on the findings made by the 1977 SBA Task Force on Venture and Equity Capital.

Because the legislation is designed to provide capital for businesses without access to the equity capital markets, only companies which do not have securities outstanding which are subject to SEC regulation would be eligible to issue SBPD's. Additionally, no company may have issued and outstanding, at one time, SBPD's with a face value in excess of $1 million. These size and dollar amount limitations are generally applied by treating the members of a controlled group as one taxpayer.

Pursuant to the legislation, a disposition would be deemed to have occurred if the SBPD is redeemed by the issuing company or if the taxpayer becomes a "related party" to the issuer.

Likewise, the SBPD will be treated as having been disposed of if it is converted into another stock or security. Thus, if the issuing company were to merge with another company, the preferential treatment would be lost. This reorganization rule would not, however, apply where the issuing company survives the regorganization or where the reorganization occurs more than 2 years after the issuance of the SBPD and the issuing company and investor have agreed—at the time of issuance of the SBPD—with respect to the manner in which the share of the earnings, after the reorganization, would be treated.

No preferential tax treatment would be afforded where the taxpayer is, or becomes, a "related party" to the company issuing the SBPD. The taxpayer would be deemed to be a "related party" if he has more than a 10-percent interest in the business.

Mr. President, this legislation would go a long way toward helping our Nation's small- and medium-sized businesses obtain the capital they need for growth. As Arthur D. Little, president of the National Association of Small Business Investment Companies (NASBIC), told the Select Committee on Small Business, the SBPD legislation would be "a most promising innovation which would make it possible for smaller firms to attract the long term equity type dollars they require to modernize and grow."

The SBPD concept recognizes the fact that an infusion of new equity into a small business is not necessarily the answer to the capital needs of a business, and provides an alternate form of financing. William C. Penick, testifying on behalf of the National Small Business Association, told the Small Business Committee that financing in the form of

SBPD's would be of tremendous assistance in solving the small business capital formation problem:

The business community typically equates capital with equity participation. For years, many have taken for granted the infusion of new equity in a small business as the logical answer to its capital needs. But, with the exception of some venture oriented businesses such as those in high technology areas, equity may be inappropriate for the following reasons:

1. Small business entrepreneurs generally look with disfavor on selling equity interests. They are independent individuals who dislike regulations at all levels of government. They wish to maintain the confidentiality of their financial positions and operating results. They do not wish to have others tell them how to operate their businesses, even though occasionally they may need outside counsel. They often view outside shareholders as a threat to their freedom of action.

2. As equity, interest in a small company is generally difficult to liquidate at a fair price. From the viewpoint of the investor, with uncertainty of dividends, little or no voice in management, and no established market for securities, the value of a minority equity interest is often only slightly higher than worthless. On the other hand, the outside shareholders of a small, publicly held company may find the market for his shares so thin that its volatility hinders prudent monitoring as well as current evaluation of its worth.

3. In what does a minority shareholder of a small business share? Though they may have "gone public" to the extent that less than 50 percent of the voting interests have been purchased by outsiders, many small companies are managed in almost the same manner as when they were privately held. Thus, policy decisions are predicated on the same criteria as before, which often are influenced by the tax and financial postures of the principal shareholders. A minority equity owner is often in an unenviable position.

Banks have traditionally provided capital needed for growth and expansion of small businesses. This is typically in the form of short-term debt secured by receivables, inventory, or plant and equipment. Term loans, for periods of five to seven years, have become increasingly difficult to negotiate particularly for a small business with an inconsistent history of profitable operations. As such loans often utilize all of the available collateral, there is little opportunity for a small business to obtain additional financing when needed, since few investors are interested in unsecured debt.

For reasons discussed above, investment in small business equity securities is similarly rare . . .

As neither debt nor equity securities have succeeded in meeting the capital needs of many small companies, it seems logical that small business may need a new investment vehicle, a new security acceptable and attractive to both the investing community and to small business . . .

The Small Business Participating Debenture proposal . . . would create an investment vehicle, not presently available, that would be attractive to both lenders and borrowers, and should channel more capital funds into small business entities.

The Chairman of the White House Commission on Small Business, Arthur Levitt, Jr., has articulately argued the case for enactment of this legislation:

SBPD's offer exciting possibilities. They are essentially debt instruments with an equity feature, but they are not convertible and do not carry an attached warrant. Rather, interest payments would be variable, keyed to a company's profits. The SBPD combines the best characteristics of debt with the best characteristics of equity.

When a company is struggling in its early years, the interest rate could be set low; when the company begins making money, it would pay additional interest from net income just as it would pay in dividends. The terms would be negotiable, allowing rates and payments of principal to vary according to different companies' needs and growth potential.

Small companies would get the advantages of a low initial interest rate and, later, dividend-type payouts that can be deducted against taxes as an interest expense—all without giving up a portion of equity to outsiders.

Investors, or lenders, would get the opportunity to participate in earnings growth, could treat the interest income as preferential capital gains, and eventually would get their money back without having to find a buyer for the security, as they would have to do if they held stock.

SBPDs offer ways around numerous roadblocks in today's debt and equity markets. They would provide a greater incentive for individual investors to provide equity capital, and large companies may find it more attractive to provide more liberal trade credit for their small business suppliers and customers.

Further, the tax changes necessary to create SBPDs could be made soon. The loss to federal tax revenue would be minuscule, and no new government red tape or bureaucracy would be required.

I strongly urge my colleagues to give their careful consideration to this legislation. If we are to shore up our economy, we must insure that the foundation—small business—is sound. At present, the small business community is starving for capital. This legislation will—at little cost to the Government—be of tremendous assistance in providing our Nation's small businesses with the growth capital they urgently need. It will, in short, help firm up the underpinnings of our economy.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD, together with copies of letters sent to me by the Comptroller of the Currency and the SEC and my remarks introducing the initial SBPD legislation.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF INCOME, GAINS, LOSSES, ETC. ON SMALL BUSINESS PARTICIPATING DEBENTURES.

(a) CAPITAL GAINS TREATMENT OF EARNINGS.—Part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (relating to special rules for determining capital gain and loss) is amended by adding at the end thereof the following new section:

"SEC. 1256. EARNINGS DISTRIBUTIONS UNDER SMALL BUSINESS PARTICIPATING DEBENTURES.

"(a) IN GENERAL.—For purposes of this subtitle amounts actually paid during the taxable year to a taxpayer in respect of a small business participating debenture which constitute the distribution of a share of the earnings of the issuer, shall be treated as long-term capital gain.

"(b) SPECIAL RULES FOR PAYMENTS.—For purposes of this section and section 163(e)—

"(1) TIME FOR PAYMENT.—Payments under subsection (a) shall be deemed to have been made on the last day of a taxable year if the payment is on account of such taxable year and is made not later than the time prescribed by law for the filing of the return for such taxable year (including extensions thereof).

"(2) ORDER OF PAYMENTS.—Any payment in respect of a small business participating debenture shall be treated first as a payment of interest until all interest required to be paid under the debenture for such taxable years is paid and then as a payment of earnings.

"(c) SMALL BUSINESS PARTICIPATING DEBENTURE DEFINED.—

"(1) IN GENERAL.—The term 'small business participating debenture' means a written debt instrument issued by a qualified small business which—

"(A) is a general obligation of the qualified small business,

"(B) bears interest at a rate not less than the rate prescribed by the Secretary under section 483(c)(1)(B),

"(C) has a fixed maturity,

"(D) grants no voting or conversion rights in the qualified small business to the purchaser, and

"(E) provides for the payment of a share of the total earnings of the issuer.

"(2) QUALIFIED SMALL BUSINESS.—

"(A) IN GENERAL.—The term 'qualified small business' means any domestic trade or business (whether or not incorporated)—

"(i) the equity capital of which does not exceed $25,000,000 immediately before the small business participating debenture is issued,

"(ii) with respect to which, at the time the small business participating debenture is issued, the face value of all outstanding small business participating debentures issued (including such debenture) does not exceed $1,000,000, and

"(iii) which has no securities outstanding which are subject to regulation by the Securities and Exchange Commission at the time of issuance of the small business participating debenture.

"(B) CONTROLLED GROUPS.—For purposes of determining under subparagraph (A) the equity capital and outstanding small business participating debentures of—

"(i) a member of the same controlled group of corporations (within the meaning of section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1)), and

"(ii) a member of a group of trades or businesses (whether or not incorporated) which are under common control, as determined under regulations prescribed by the Secretary which are based on principles similar to the principles which apply under clause (i),

the equity capital and outstanding debentures of all members of such group shall be taken in to account.

"(C) EQUITY CAPITAL.—For purposes of this paragraph—

"(i) CORPORATION.—In the case of a corporation, the term 'equity capital' means the aggregate amount of money and other property (taken into account in an amount, equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liabilities to which the property was subject of which were assumed by the corporation at such time) received by the corporation for stock, as a contribution to capital, and as paid in surplus.

"(ii) NONCORPORATE BUSINESS.—In the case of a trade or business which is not organized as a corporation, equity capital shall be determined under regulations prescribed by the Secretary which are based on principles similar to the principles which apply under clause (i).

"(D) SECURITY SUBJECT TO REGULATION BY THE SECURITIES AND EXCHANGE COMMISSION.—For purposes of this paragraph, the term 'security subject to regulation by the Securities and Exchange Commission' means a security—

"(i) registered on a national securities exchange under section 12(b) of the Securities Exchange Act of 1934;

"(ii) registered or required to be registered under section 12(g) of such Act (or which would be required to be so registered except for the exemptions in subparagraphs (B) through (H) of such section); or

"(iii) issued by a company subject to the reporting requirements of section 15(d) of such Act.

"(d) RELATED PARTIES; PERSONAL HOLDING COMPANIES.—

"(1) DEBENTURES ISSUED BY A RELATED PARTY.—Subsection (a) shall not apply to amounts paid in respect of a small business participating debenture issued by a small business in which the taxpayer has an interest.

"(2) DEBENTURES ISSUED BY PERSON HOLDING TAXPAYER'S DEBENTURES.—If—

"(A) a taxpayer acquires a small business participating debenture from a small business, and

"(B) such small business or a person with an interest in such small business acquired, before the acquisition described in subparagraph (A), any such debenture from the taxpayer or any small business in which the taxpayer has an interest,

subsection (a) shall not apply with respect to any payment in respect of a debenture or portion of a debenture which is equal to the amount of the proceeds of any such debenture acquired from the taxpayer or the small business in which the taxpayer has an interest.

"(3) INTERESTED TAXPAYER.—For purposes of this subsection, a taxpayer shall be considered as having an interest in the issuer of a small business participating debenture if—

"(A) in the case of a small business participating debenture issued by a corporation, the taxpayer is considered, under section 318, to own—

"(i) 10 percent or more in value of the stock, or

"(ii) stock which represents 10 percent or more of the voting rights;

in the corporation or in a corporation which is a member of the same controlled group of corporations (within the meaning of section 1563(a)), or

"(B) in the case of a small business participating debenture issued by a small business not organized as a corporation, the taxpayer owns, or is considered to own (under regulations prescribed by the Secretary similar to the regulations prescribed under section 318), more than 10 percent of the profits or capital in the business.".

(b) INTEREST DEDUCTIBLE AS INTEREST EXPENSE.—Section 163 of such Code (relating to interest) is amended by redesignating subsection (e) as (f) and by inserting after subsection (d) the following new subsection:

"(e) INTEREST AND OTHER AMOUNTS PAID ON SMALL BUSINESS PARTICIPATING DEBENTURE.—For purposes of this section (other than subsection (d)), amounts paid as interest, and amounts paid as a share of earnings, on a small business participating debenture (as defined in section 1256(b)) shall be treated as interest.".

(c) TREATMENT OF ORIGINAL ISSUE DISCOUNT INTEREST.—Section 1232 of such Code (relating to bonds and other evidences of indebtedness) is amended by adding at the end thereof the following new subsection:

"(h) SMALL BUSINESS PARTICIPATING DEBENTURES.—Any small business participating debenture (as defined in section 1256(b)) issued by a trade or business other than a corporation shall be treated, for purposes of this section, as if it were issued by a corporation.".

(d) LOSSES ON SMALL BUSINESS PARTICIPATING DEBENTURES TREATED AS ORDINARY LOSS.—Section 1244 of such Code (relating to losses on small business stock) is amended by adding at the end of subsection (d) the following new paragraph:

"(5) SMALL BUSINESS PARTICIPATING DEBENTURES TREATED SAME AS SECTION 1244 STOCK.—For purposes of this section, any loss on a small business participating debenture (as defined in section 1256(c)) issued to an individual shall be treated as if it were a loss on section 1244 stock issued to that individual.".

(e) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 1256. Earnings distributions under small business participating debentures.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1979, and to small business participating debentures acquired after the date of enactment of this Act. For purposes of the preceding sentence, small business participating debentures acquired after the date of the enactment of this Act and before January 1, 1980, shall be treated as acquired on the first day of the first taxable year of the taxpayer beginning after December 31, 1979.

(b) PROCEEDS USED TO REPAY LOANS.—The amendments made by this Act shall not apply to any small business participating debenture issued before or during calendar year 1980 if the proceeds of such debenture are used to repay any loan of the issuing small business other than a loan—

(1) with a stated rate of interest in excess of the prevailing rate of interest for businesses in the area in which such small business is located, and

(2) secured by the inventory or accounts receivable of such small business.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, D.C., May 21, 1980.

Hon. LOWELL P. WEICKER, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WEICKER: This is in response to your letter of March 5, 1980, requesting this Office's opinion on whether national banks would be eligible to invest in small business participating debentures issued by qualified small businesses if proposed S. 1481 is enacted.

That bill would authorize qualified businesses to issue small business participating debenture ("SBPD") subject to special tax incentives in order to assist small- and medium-sized businesses to obtain capital necessary to finance growth. The proposed legislation would provide investors with incentives to invest in small businesses by allowing a tax credit for such investments. SBPD's, as defined by the proposed legislation, are written debt instruments which are general obligations of the qualified small business issuer. SBPD's would bear a stated rate of interest, have fixed maturities, provide for the payment of a share of the total earnings of the issuer, and would not be granted voting or conversion rights in the issuer's business.

The statute governing the powers of national banks, 12 U.S.C. § 24(7), provides in relevant part that a national bank shall have power.

[t]o exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this chapter. The *Business of dealing in securities and stock* by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association *shall not underwrite any issue of securities and stock*: *Provided*, That the association *may purchase for its own account investment securities* under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe. . . . Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any *shares of stock* of any corporation. (emphasis added)

By virtue of the Glass-Steagall Act, the provisions of which are embodied in the 12 U.S.C. § 24(7) language quoted above, a national bank is generally prohibited from purchasing shares of stock of any corporation for its own account. A national bank may, however, purchase for its own account investment securities, including certain bonds and debentures, subject to such limitations and restrictions as the Comptroller may prescribe.

This Office has defined the term "investment security" as a marketable obligation in the form of a bond, note or debenture which is commonly regarded as an investment security. The term does not include investments which are predominantly speculative. The types of securities which have been generally defined as investment securities include: Type I, obligations of the United States, general obligations of any State or any political division thereof, and other obligations listed in 12 U.S.C. § 24(7); and Type II, obligations of the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the Tennessee Valley Authority, and obligations issued by any State or political subdivision for housing, university, or dormitory purposes. National banks may also make certain limited investments in Type III securities, including obligations purchased predominantly on the basis of reliable estimates. *See* 12 C.F.R. § 1 (1979).

It is not apparent from the proposed legislation, however, that SBPDs will be readily marketable. Moreover, no reliable estimate of the ultimate performance of an issuer of such obligation is likely to be possible. The debentures would appear to be predominantly speculative and unavailable for purchase as investment securities by national banks.

It is our opinion that a national bank could purchase the debentures in question, however, not as investment securities but as a means of making a loan to the issuing small business. In making such purchases, the bank would not run afoul of the prohibition against buying shares of stock of a corporation. A debenture is a security, not a share of stock. The definitional sections of the Securities Act of 1933 and the Securities Exchange Act of 1934 highlight this distinction by listing the items separately. Both statutes define the term "security" to encompass a "note, *stock*, Treasury stock, bond, *debenture* . . ." and the like. (emphasis added) *See* 15 U.S.C. §§ 77b(1) and 78c(10). Further support for the distinction in the present instance stems from the fact that the debentures are not convertible and carry no voting rights. There is thus no equity interest involved other than a potential share in earnings. The bank would be relying on the successful operation of the business enterprise in the same way that it relies on the successful operation of any corporate borrower to repay a loan.

The Comptroller's Interpretive Ruling 7.7312 (12 C.F.R. § 7.7312) provides as follows:

§ 7.7312 Loan agreement providing for share in profits, income or earnings.

A national bank may take as consideration for a loan a share in the profit, income or earnings from a business enterprise of a borrower. Such share may be in addition to or in lieu of interest. The borrower's obligation to repay principal, however, shall not be conditioned upon the profit, income or earnings of the business enterprise.

A loan or extension of credit takes many forms. The ruling merely recognizes the fact that repayment of a loan is not necessarily limited to the bank's receipt of principal and a specified amount of interest on a demand or installment basis over time.

Clearly a national bank that purchased SBPDs for its own loan portfolio would not be engaged in dealing in or underwriting securities. That dealing in or underwriting question would only arise if the bank subsequently sold SBPDs to other purchasers. Banks do often buy and sell loans, as an incidental banking power, through the use of loan participations and other vehicles. The Glass-Steagall issue that would have to be addressed in the context of the present discussion is to what extent a national bank can sell a borrower's debt—evidenced by a note, debenture or other debt instrument—without thereby being characterized as engaged in the business of dealing in securities or underwriting an issue of securities. The inquiry focuses on secondary market activity. This Office would not consider the occasional resale of SBPDs by a national bank to another lending institution, perhaps to gain better liquidity in its assets position, as rising to the level of secondary market activity that is proscribed by the Glass-Steagall Act. In any event, the subject of resales goes beyond the question you have posed concerning the authority of national banks to make loans to qualified small businesses by purchasing their nonconvertible debentures.

I trust that this reply is responsive to your inquiry.

Very truly yours,

JOHN G. HEIMANN,
Comptroller of the Currency.

SECURITIES AND
EXCHANGE COMMISSION,
Washington, D.C., July 23, 1980.

Re: S. 1481.

Hon. LOWELL P. WEICKER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WEICKER: This responds to your request for the Commission's comments on S. 1481 ("the Bill"), which would amend the Internal Revenue Code of 1954 to provide a credit against tax for investment in small business participating debentures ("debentures") and to provide additional tax incentives for the issuance of such debentures. We understand that the purpose of this Bill is to aid capital formation of privately-held small businesses, and the Commission strongly supports that goal.[1] Since the Bill does not amend the federal securities laws and embodies complex tax provisions, we have no views on whether the approach taken in the Bill to provide certain tax incentives is an appropriate one.[2]

We do, however, have a technical suggestion. An interpretive problem may be caused by the fact that the Bill uses the phrase "securities regulated by the Securities and Exchange Commission" in the context of excluding the preferential tax treatment available for investors in the debentures if issuing companies have such securities outstanding. Because this phrase is undefined, we propose a technical amendment to the Bill to remove uncertainty as to its scope.

Consistent with our understanding that the purpose of the Bill is to limit favorable tax treatment to securities of small non-public companies, we believe that "a security subject to regulation by the Securities and Exchange Commission" should be defined to include:

"any security

(A) registered on a national securities exchange under Section 12(b) of the Securities Exchange Act of 1934; or

(B) registered or required to be registered under Section 12(g) of such Act (or which would be required to be so registered except for the exemptions in subparagraphs (B) through (H) of such section); or

(C) issued by a company subject to the reporting requirements of Section 15(d) of such Act."[3]

The effect of the parenthetical phrase in clause (B) would be to exclude from the favorable tax treatment afforded by the Bill the securities of publicly held issuers which are exempt from the reporting requirements of the Securities Exchange Act because they: (a) are regulated by state and federal authorities in a manner obviating the imposition of additional requirements under the Act; or (b) are organized and operated for religious, educational, charitable or other eleemosynary purposes; or (c) are certain agricultural or other specified cooperative organizations.[4] It does not appear that those characteristics are relevant factors in determining whether an entity is the type of small non-public company whose securities should be afforded special tax treatment under the bill. Therefore, we believe it would be appropriate to include securities of those issuers in the definition of securities subject to regulation by the Commission for purposes of this Bill.

The opinions here expressed are those of the Commission, and do not necessarily reflect the view of the President. These comments are being transmitted to the Office of Management and Budget, and we will inform you of any advice received from that office concerning the relationship of our views to the program of the Administration.

Thank you for giving us the opportunity to comment on the Bill. Please let me know if we can be of any further assistance.

Sincerely,

RALPH C. FERRARA,
General Counsel.

SMALL BUSINESS PARTICIPATION DEBENTURE LEGISLATION

Mr. WEICKER. Mr. President, I am pleased to join with Senators Baucus, Hatch, and Hayakawa in introducing this legislation which provides for the creation of a small business participating debenture. (SBPD) and for tax incentives for investments in these SBPD's. This bill promises to be of assistance to small- and medium-sized businesses which are, at present, unable to obtain the capital they need for growth.

Legislation enacted by the 95th Congress will benefit small firms in their quest to raise funds. All businesses, both large and small, will be helped by the reduction of the maximum tax on capital gains from 49 to 28 percent. The new graduated corporate income tax rates, which eliminate the sudden jump in tax brackets at the $50,000 income level, will increase the incentive to finance a corporation's capital needs through internal operations.

Also, the changes in the tax laws which increased the dollar limitations on investments in certain small business stock that could be treated as ordinary losses, and which otherwise simplified and liberalized the rules relating to such stock, should encourage additional equity investments in small businesses. Additionally, by increasing the limit under which regulation A offerings may be made, Congress has enabled smaller, publicly-held corporations to raise a greater amount of equity capital by taking advantage of the reduced costs associated with these offerings.

However, much more must be done to help small businesses obtain the funds they need to finance growth. The actions of the

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[1] For a summary of the Commission's recent efforts to reduce unnecessary burdens imposed by the federal securities laws on capital raising by small businesses, *See* Testimony of Stephen J. Friedman, Commissioner, Securities and Exchange Commission, Before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs, May 16, 1980, at pp. 5–6 (copy enclosed).

[2] Because the Bill does not amend the federal securities laws, if the debentures are issued, they would be subject to registration under the Securities Act of 1933 unless some exemption were available.

[3] This definition could be inserted in proposed Section 44D(e)(3) of the Internal Revenue Code, as added by the Bill. Present Section 44D(e)(3) could be renumbered (e)(4).

[4] Section 12(b) allows a security to be registered on a national securities exchange upon application to the exchange. Each exchange sets its own listing requirements, which generally include such factors as the size of company assets and revenues and number of securities holders.

Section 12(g) requires that every issuer having assets exceeding $1,000,000 and a class of equity security (other than an exempted security) held by 500 or more shareholders, register such security with the Commission.

Section 12(g)(2)(B) exempts from Section 12(g) registration any security issued by an investment company registered pursuant to Section 8 of the Investment Company Act of 1940.

Subparagraph (C) exempts any security, other than a security evidencing nonwithdrawable capital, issued by a savings and loan association or similar institution which is supervised or examined by State or Federal authority.

Subparagraph (D) exempts any security issued by a religious, educational, charitable or other eleemosynary organization.

Subparagraph (E) exempts any security issued by a cooperative association as defined in the Agricultural Marketing Act or a federation of such cooperative associations.

Subparagraph (F) exempts any security issued by a nonprofit mutual or cooperative organization which supplies a commodity or service primarily for the benefit of its members, issued to purchasers of its commodities or services.

Subparagraph (G) exempts any security issued by an insurance company if such company is regulated by its domiciliary state and is required to file an annual statement with such regulator.

Subparagraph (H) exempts any interest or participation in any collective trust fund maintained by a bank or an insurance company issued in connection with stockbonus, pension or profitsharing plan meeting the requirements of Section 401 of the Internal Revenue Code or an annuity plan under Section 404(a)(2) of such Code.

Also, issuers who register their securities for sale to the public under the Securities Act of 1933 are subject to the reporting requirements of Section 15(d) of the Securities Exchange Act and must file periodic and other reports as the Commission requires by rule.

95th Congress were a step in the right direction, but by no means did they solve the problem.

Mr. President, the capital formation problem threatens the viability of the historical concept of a free market system, in which small corporations can compete with giants and have a fair chance of survival. Smaller businesses must be able to obtain the growth capital they need to compete in the market place. At present, they are unable to do so.

Mr. President, to help to solve the critical problem of providing equity capital for America's small businesses, I introduced the Small Business Investment Incentive Act earlier this year. This legislation, which has been cosponsored by Senators MOYNIHAN, CHAFEE, HATCH, NELSON, PRESSLER, YOUNG, and BAUCUS, would allow an investor to claim a 10 percent credit against tax for the first $7,500 invested in qualifying stock issues during a taxable year. This credit would be limited to investments where neither the offering itself, nor the equity capital of the issuing corporation immediately prior to the offering, exceed $25 million.

This size limitation on the issuing corporation will insure that the benefits of the legislation will go to the businesses which are most seriously affected by the capital formation problem. I am also giving serious attention to a series of recommendations, made by the National Association of Securities Dealers in testimony before the Small Business Committee, for improving the opportunities available for equity financing by small business.

However, the vast majority of America's small businesses are not publicly held. As William D. Barth, director of Industry Competence-Small Business for Arthur Andersen & Co. observed at a Small Business Committee hearing last year:

"Look for the moment at the typical small businessman. What kind of an individual is he? He is an independent creature who abhors regulations at all levels of government. He is not necessarily one that's looking for outside equity investors. He wants to be free to make his own decisions. He does not want to bare his financial records to the whole world. I am thinking of the real small businessman who is out there fighting in a highly competitive field to make his mark in the economy."

Mr. Barth went on to discuss the reasons why an infusion of new equity into a small business is not necessarily the answer to the company's capital needs:

"For years many have taken for granted the infusion of new equity in a small business as the logical answer to its capital needs. But this is not the form of help which small business seeks. The many studies and hearings which have recently centered around proposals for relaxation of security regulations as they pertain to small companies are, in the view of many, sheer academic exercises. They fail to recognize some very basic premises—

"1. The small business enterpreneur does not look with favor upon selling equity interests. He is an independent creature who despises regulations of all levels of government. He wishes to maintain confidentiality of his financial position and operating results. He does not wish to have others tell him how to operate his business, even though he may need some outside counsel. He views outside shareholders as a threat to his freedom of action.

"2. An equity interest in a small company is often difficult to liquidate at a fair price. Stories describing the problems of minority shareholders in small companies are legion. With no dividends, no voice in management and no established market for exchange, the value of a minority equity interest may be only one rung higher than worthless. On the other hand, the outside shareholder of a small, publicly held company may find the market for his shares so thin that its volatility hinders prudent monitoring as well as current evaluation of its worth.

"3. In what does a shareholder of a small business share? Though they may have officially 'gone public,' many such small companies are managed in exactly the same manner as when they were privately held. Thus, policy decisions are predicated on the same criteria as before, which often is influenced by the tax or financial postures of the principal shareholders. The investor in many small enterprises should recognize that he holds an interest in a de facto closely held company."

The legislation which we are introducing today recognizes the fact that equity capital may not be the solution for a company's capital needs. This bill, which is based on a proposal made by Arthur Andersen & Co. in testimony before the Small Business Committee last year, provides for the creation of a small business participating debenture (SBPD).

The SBPD would be a hybrid security. It is defined in the legislation as a written debt instrument, issued by a qualifying small business, which: First, is a general obligation of the company; second, bears a stated rate of interest not less than a standard imputed interest rate specified by the Secretary of the Treasury (currently 6 percent); third, has a fixed maturity date; fourth, grants no voting or conversion rights in the company; and fifth, provides for the payment of a share of the company's total earnings to the investor. The specific terms of the SBPD, such as the interest rate, maturity date and share of earnings, would be determined by the market for the security.

The stated interest received on the SBPD would be taxable to the investor as ordinary income. However, amounts paid as a distribution of a share of the company's earnings would be taxable to the investor at the preferential long-term capital gains rate. Since the SBPD would be treated as section 1244 stock, an individual investor would generally treat losses on SBPD's as ordinary losses.

The preferential tax treatment afforded to an investor in the SBPD would be lost if it is disposed of prematurely. The issuing company would treat both amounts paid as stated interest and as a share of earnings pursuant to the SBPD as interest.

Mr. President, the SBPD would have the status of a debt security with a stated rate of interest, but would also provide an inducement for the investor by returning to him a share of the company's earnings during the period the SBPD is outstanding. Because the SBPD would provide for a specific redemption date, the issuing company would effectively be paying a premium for the use of the capital, but only for the period of use.

The SBPD would thus differ from stock warrants and rights which, as a result of the shares issued pursuant to their terms, effectively participate in earnings long after the company has experienced its critical need for funds and repaid them.

Pursuant to this legislation, a SBPD could only be issued by a domestic trade or business, whether or not incorporated, which has a net equity of less than $25 million. The size limitation imposed on the issuing business is based on the findings made by the 1977 SBA Task Force on Venture and Equity Capital.

Because the legislation is designed to provide capital for businesses without access to the equity capital markets, only companies which do not have securities outstanding which are subject to SEC regulation would be eligible to issue SBPD's. Additionally, no company may have issued and outstanding, at one time, SBPD's with a face value in excess of $1 million. These size and dollar amount limitations are generally applied by treating the members of a controlled group as one taxpayer.

As a further incentive for investment in a SBPD, the taxpayer would be given a credit against tax for an amount equal to the lesser of first 5 percent of the proceeds of the SBPD; or second the product of one-half of 1 percent of the SBPD proceeds multiplied by the number of years before the maturity date of the security. The Secretary of the Treasury would promulgate regulations concerning whether the SBPD proceeds would be calculated net or gross of commissions for purposes of determining the credit to be allowed the taxpayers.

The credit allowed to a taxpayer for investments in SBPD's would be limited to $5,000, or $10,000 in the case of a joint return, in a taxable year. Provision is made for a carryover of any excess credit for a period of up to 7 years.

No credit would be allowed where the taxpayer is a "related party" to the company issuing the SBPD. The taxpayer would be deemed to be a "related party" if, he has more than a 10 percent interest in the business. Additionally, restrictions are placed on reciprocal arrangements.

No credit is given for that amount of SBPD's acquired by a taxpayer equal to the amount of SBPD's issued by the taxpayer to the small business in which he is acquiring a SBPD.

The credit would be recaptured if the SBPD is disposed of in any way before being held more than 1 year. If the SBPD is disposed of before the maturity date but after 1 year, the taxpayer's tax in the year of disposition would be increased by an amount proportionate to the length of time remaining to the maturity date.

Thus, if a taxpayer takes a $5,000 credit in year I for a SBPD with a 10 year (120 months) maturity date and disposes of it 6 years (72 months) later in year VII, his income tax would be increased by an amount equal to 40 percent (as 48 months of the 120 month maturity period remain) of the $5,000 credit, for a $2,000 tax increase in year VII.

As previously indicated, the tax credit allowed for an investment in, and the preferential tax treatment afforded to, a SBPD would be lost in the event of its disposition prior to its maturity date. A disposition would be deemed to have occurred if the SBPD is redeemed by the issuing company or if the taxpayer becomes a "related party" to the issuer.

Likewise, the SBPD will be treated as having been disposed of if it is converted into another stock or security. Thus, if the issuing company were to merge with another company, the credit and preferential treatment would be lost.

If within 2 years after the SBPD is issued, the issuer issues securities which are subject to SEC regulation, the taxpayer would be treated as having disposed of the SBPD. This treatment reflects the fact that the legislation is intended to benefit companies which do not have access to equity capital markets. Likewise, if the issuing company ceases to be primarily an operating company, a disposition would be deemed to have occurred.

Based on the experience that his firm has had with its small business clients, Mr. Barth of Arthur Andersen & Co. testified that he felt that the SBPD "would appeal to the owners seeking capital because the mechanism would be self-administered, thus avoiding the necessity for approvals, examinations, permits and other forms of redtape which inevitably breed another level of bureaucracy." I agree with Mr. Barth. SBPD's have the potential to greatly alleviate the financing problems experienced by our Nation's small businesses.

Mr. President, the typical entrepreneur has no desire to surrender an equity interest, and hence, control, in his business. Concomitantly, the prudent investor seldom has an interest in acquiring a minority position in a closely held company. Although there are venture capital firms which will provide equity capital to small businesses, they will do so only in exchange for a very substantial, permanent participation in the equity of the firm.

Thus for the vast majority of small businesses, which are closely held, there is simply no capital available to finance their growth. These are the companies that this legislation will help. I might add that in addition to this legislation, I am also studying the feasibility of having SBA guarantee bonds issued by these closely-held companies to enable them to compete on an equal footing with larger corporations in the debt markets. Without steps such as these, small businesses will remain unable to obtain the funds they so critically need to finance growth.

I urge my colleagues to closely study this bill. Because it embodies a novel concept, there may be "kinks" in the legislation which must be worked out. Accordingly, I look forward to receiving the constructive comments of my colleagues, small business persons, and others. However, it is my firm belief that the concepts underlying this legislation are viable and that enactment of these concepts will be of great assistance in solving the capital formation problem confronting our Nation's small businesses.

● Mr. HATCH. Mr. President, when legislation proposing small business debentures was first introduced in the Senate on July 11, 1979, I was pleased to join Senator WEICKER as an original cosponsor to his bill. The concept has been well accepted by the small business community, and was, in fact, adopted by participants to the White House Conference on Small Business as one of the top 15 priority recommendations for legislative action.

Senator WEICKER's bill, S. 1481, has revealed minor deficiencies in the last year of discussion and debate. This bill, The Small Business Participating Debenture Act of 1980, corrects those deficiencies. Again, as an advocate of small business, I am honored to join Senator WEICKER, along with Senator NELSON, chairman of the Small Business Committee, in cosponsoring his initiative.

This legislation will create the means whereby small businessmen can more easily obtain the capital that is so drastically needed by new and growing companies. Capital is the life blood of a business, and the ability to easily raise capital by existing and new businesses is fundamental to the health of these businesses, to the strength of the American economy, and to the endurance of the free enterprise system.

This bill creates the small business participating debenture (SBPD), an instrument that will open new sources of capital to the small businessman that have been traditionally limited to large and established firms.

The SBPD is a very advantageous instrument to the small businessman trying to raise capital. In the past, small businesses have been plagued with a myriad of problems in obtaining capital. Since there is a high risk involved and often times poor cash flows, many prudent investors have avoided strict debt financing, but have required some type of equity participation. Thus the typical entrepreneur has been forced to relinquish control in order to obtain the capital necesssary for growth and survival.

This legislation uniquely takes advantage of debt financing, combines it with equity advantages and tax incentives to create a marriage that will be mutually attractive to both the small business and the investor.

A small business participating debenture is self administered and void of complicated government regulations. It allows the small businessman to acquire additional capital without the complicated procedures associated with equity stock. Thus the entrepreneur has more time to worry about how to put this new money to work and concentrate on the day-to-day operations of the business.

I would strongly urge my colleagues to look closely at this new method of capital formation. We must not underestimate the value of what is at stake. The small-scale entrepreneur is one of the most important means of maintaining and transmitting the basic values of our culture: Values such as initiative, innovation, and individual responsibility. If we do not encourage this fundamental sector of our economy, we take away its primary source of constructive energies and repudiate the very qualities that made this country strong.●

By Mr. LONG (for himself, Mr. GRAVEL, and Mr. STEWART):

S. 2982. A bill to amend the Internal Revenue Code of 1954 to make permanent the provisions relating to the funding of employee stock ownership plans through the investment tax credit, to provide a credit against tax for contributions to an employee stock ownership plan based upon wages as an alternative to that based on investment in equipment, and for other purposes; to the Committee on Finance.

EMPLOYEE STOCK OWNERSHIP IMPROVEMENTS ACT OF 1980

Mr. LONG. Mr. President, over the next few months there will be much discussion and debate in the Senate over the issue of tax reform.

The approach that we take will be a primary factor in determining the direction in which this Nation will move over the next several years.

In setting that direction, I hope that we will take the time to form a clear vision of the type of society that we wish this country to become. We should set our sights to aim at the objective.

The vision that I and several of my colleagues propose is one that traces its roots to the democratic traditions of American capitalism. That tradition is one of widespread participation—both politically and economically. Participation is the heartbeat of the democratic way of life. Denial of the opportunity to participate is the denial of human dignity and democracy. Without it democracy does not work.

Politically, that participation is largely through the ballot box. There we have been fairly successful. Economically, however, for the most part we have thus far limited that participation to jobs alone. To that extent our vision of the type of democratic nation that we could have has been limited.

Certainly employment opportunities are essential. Full employment is a necessary and desirable goal and should continue to be a top priority goal for this country. Yet I believe that now is the time to offer the American people a broader vision—a vision that will both capture their imagination and enlist their enthusiastic support.

In order to do that, I am today introducing legislation designed to broaden the opportunities for participation in our economic system. The theme that permeates this legislation is one of full participation—participation not only through jobs but through ownership as well.

The strength of American capitalism—indeed, its distinguishing feature—is the opportunity to own. Yet in this, the world's most avowedly "capitalist" Nation, we have only a scanty sprinkling of such owners.

In 1976, the Joint Economic Committee, under the able leadership of my good friend Hubert Humphrey, found that 50 percent of this country's individually owned corporate stock is held by less than 1 percent of the American population. And that same privileged 1 percent receive 47 percent of the dividends. Meanwhile, the working nonprofessionals of this Nation—comprising more than 76 percent of the work force—own only 19 percent of the Nation's capital stock.

These statistics led the Joint Economic Committee to conlude thact—

> It should be made national policy to pursue the goal of broadened capital ownership.

Despite all the fine populist oratory and good intentions of great men like Franklin Delano Roosevelt, Harry Truman, John Kennedy, and Lyndon Johnson—the distribution of wealth among Americans, in relative terms, is about the same today as it was when Herbert Hoover succeeded Calvin Coolidge.

If there is any point where our democracy is in need of revision, it is in this crucial area of ownership. Now is the time to begin to correct our crippling legacy of concentrated ownership and to begin to create a constituency for American capitalism.

Years ago we recognized that ownership was important.

At one time, agricultural land was this Nation's most important form of productive capital. Thus, the Federal Government, in legislation such as the Homestead Acts, took steps to insure that the opportunity to own was within the reach of all.

However, capitalism's land frontier is long since closed, and our industrial revolution is now more than a century old. Unfortunately, at least for those of us who see capitalism as better than any of its alternatives, Americans did not finance our industrial growth of the past century to insure its broadened ownership.

We need not continue that shortsighted approach. Instead, we can plan for a type of capitalism that is true to its democratic roots. We can set our sights on a future where economic opportunity includes capital ownership. Capital ownership should serve to support more than a relative few.

We in Congress have a long-term commitment to our political system that is not being fulfilled. For our economic system to survive—and to thrive—its benefits must be extended to those who eventually must make it work. Rather than creating an ever larger constituency for capitalism, we have been steadily adding people to the welfare rolls. We have been expanding the makework rolls, and the countless other transfer programs designed to disguise the onus of welfare.

I heartily agree with the observation of my good friend Ray Marshall, the Secretary of Labor, when he aptly noted that:

> There is no more complete rejection of a human being than to give them a job you know and they know is useless.

How can we expect to tap the interest, the enthusiasm and the commitment of the American public when what is being offered as an opportunity is not the chance to own but the chance to work for those who own? Or, worse yet, the chance to be employed at a make-work job that results in a rising tax burden for others.

Let us today pledge ourselves to raising the quality of economic opportunity Let us at least acknowledge the role of the individual in this Nation's capital-intensive environment and provide him with access to ownership of the tools and equipment with which he works. Let us agree today to a shift of social gears—and to a recognition of new values. A chance to share in the ownership of productive property is clearly an appropriate opportunity to offer in a society that values individual initiative.

Capitalism is not working well enough. Its remarkable vitality and adaptability seem to be declining. There is no evidence, however, to show that the fault is in the system or that there is a better alternative. A primary problem is that there simply are not enough Americans sharing a personal stake in the system. Thus, not enough Americans are personally committed to making the system work.

This approach is meant to indicate to the taxpaying public that, yes, we in the Congress really do believe that ownership counts. And it is meant to show that rather than continuing to pay lip service and offer rhetorical homage to the idea of private property ownership, we in the Congress are finally moving to adopt a comprehensive program of tax incentives designed to enable working Americans to share in a piece of the action.

In a sense, what I am suggesting is a modern-day equivalent to those Homestead Acts. The American public deserves an opportunity to own a stake in an economy of their own making. What would be the long-range effect of transforming this troubled economy of ours into one in which the vast majority have the interest and the incentive of ownership? This is an idea that no modern U.S. Congress has ever proposed.

The growth of Federal transfer payments reveals one troublesome dimension of the problem. Since 1960, such income-generating devices have skyrocketed from $20.6 billion to a projected level of $230.9 billion for 1980, including an increase of $100 billion over the past 5 years alone. This trend must be reversed.

It is clear that unless we work to build economic independence and more net worth into the American population, we will be forced to rely more and more upon welfare, social security, and various other Government benefit programs to care for the needs of the American people.

If we are to begin to cut back our dependence on Government, if we are to begin to lessen the burden of taxation, if we are to begin to halt rampaging inflation, and if we are to set a course designed to encourage economic independence and self-sufficiency—the central spirit of the American dream—we must set the U.S. economy on a course designed to encourage the widespread use of ownership-broadening financial techniques.

A program of broadened ownership is not meant to redistribute existing wealth. What it is intended to do is to redistribute opportunity. It is intended to open stock ownership to a broadened base of Americans.

When the Government uses its power—whether to tax or to fund—it owes it to the economy that keeps it strong to begin to create a stronger foundation for private property capitalism. Our long term economic strategy should be one that strengthens this Nation's economic base. That strength comes largely from private initiative and private ownership. To date, however, we have not set our economic compass on a course well-designed to tap this Nation's reserve of human energies, resources and commitment.

The American capitalism of tomorrow will be borne out of today. A chance to own a piece of tomorrow will bring a stronger commitment to today. Commitment is dependent upon a sense of participation. This approach would provide an opportunity for commitment by providing an opportunity to participate in the ownership of the Nation's future capital growth.

We clearly cannot spend our way out of inflation. We will not make any real impact on inflation until we make a real impact on capital investment. It takes real capital growth to have any long-term effect on productivity. It also takes an enormous amount of capital to create adequate real, productive, private-sector employment.

Thus, this bill suggests that as we amend our tax incentives to encourage capital investment, that we do so in such a way as to coordinate those incentives with incentives for broadened ownership.

If we are to win in this hard-fought battle against inflation and declining national productivity, we must create a unity of interest. What better way to instill that spirit of cooperation and compromise than to restore confidence that future economic growth will be equitably shared?

Let us not repeat the mistake we have made so often in the past. This time as we move to solve the problem of capital creation let us make certain that we create more capitalists as well.

One area in which Congress can begin to make inroads on both capital formation and capital ownership is in the design and availability of investment tax credit.

In the Tax Reduction Act of 1975, the Congress enacted legislation which allowed a company to claim an additional 1-percent investment tax credit—provided the company used its tax savings to invest in employer stock for its employees. These plans were quickly dubbed tax reduction act employee stock ownership plans, or TRASOP's for short. In the Internal Revenue Code this type of plan is now referred to as a tax credit employee stock ownership plan.

Initially, tax credit employee stock ownership plans did not prove very popular, primarily because the additional investment credit was available for only 2 years. Then, in 1976, the Senate approved legislation expanding the additional investment credit to a full 2 percent. In conference, however, that was scaled back to the original 1 percent, with the availability of an additional one-half percent investment credit—provided employees contributed a matching amount of cash.

The primary objection to the expansion of the employee stock ownership plan investment credit to a full 2 percent was that the tax incentive is used to buy stock only for the employees of capital-intensive companies. Several of my colleagues here in the Senate found it inappropriate that a tax credit be utilized for such a limited purpose, particularly when there was no such tax credit available to labor-intensive companies.

The legislation before you today is designed to address that objection by providing a tax incentive to both the capital-intensive and the labor-intensive corporation. This legislation would grant a company an option of claiming either the 1½ percent employee stock ownership plan investment tax credit or an employee stock ownership plan credit equal to 1 percent of the payroll of employees covered by the plan.

This will make such plans equally attractive to those corporations whose primary investment is in the employment of machinery and equipment and those whose primary investment is in people. This legislation would also make these two options a permanent part of the Internal Revenue Code. It would also allow an employer to claim less than the full 1-percent credit if it desired to do so.

The tax credit employee stock ownership plan has been popular among the Nation's largest employers. The Committee on Finance surveyed 1,000 Fortune-listed corporations in the winter of 1978 and found that 212 of 859—about 25 percent—of responding companies now have such a plan.

Not surprisingly, they are particularly prevalent in certain capital-intensive industries, with tax credit employee stock ownership plans appearing in more than 85 percent of the Nation's largest utilities and petroleum-refining companies. Similarly, more than two-thirds of the companies in the paper, fiber, and wood products industries now have such employee stock ownership plans.

More importantly, however, 229—another 25 percent—of the responding companies which do not presently maintain such a plan stated that they would establish one if the payroll-based tax credit became a part of our tax law. It is important to note that this would also find great acceptance with smaller companies in the United States, most of which are labor intensive.

This approach has great merit. We need to rejuvenate ownership's dying spirit. We need to return a sense of community, a sense of commitment and a sense of dignity to the workplace. What better way to do all these things than to provide working Americans with access to the ownership of American business?

I support the work ethic. I support the idea of equal employment opportunity. Yet the work ethic should be coupled with an ownership ethic. The Federal Government should move to make capital ownership an opportunity that is also equally available to all. The American economy would be far stronger if the American worker were to once again be provided an opportunity to own the tools and equipment with which he works.

Our wage and welfare-based interpretation of equal economic opportunity is creating a nation of economic eunuchs, their human potential stifled in jobs too small for their spirits, their work often meaningless except as a necessary source of income. A life without work is a poor life indeed. But when the work is useless, pointless, a dead end, then that tends to be a life of poverty. It has little meaning, vitality or challenge.

A broadly based program of ownership opportunity development will improve the commitment and the morale of the American work force.

Hubert Humphrey once said that his only objection to private property was that not enough people owned some of it. That has been the principle objection to capitalism throughout history. In fact, in most parts of the world capitalism is defined simply as a system in which the productive wealth of a nation is concentrated in the hands of a privileged few.

It is a remarkably shortsighted strategy for us to expect other nations to move in the direction of private ownership when we ourselves have yet to set our economy on a sure course toward broadened capital ownership.

With an endeavor such as this we could strike at that aspect of American capitalism most subject to criticism—our poor distribution of wealth. Other countries would be challenged, perhaps inspired, to improve their systems. We would be making good on our promise of a better life for our people and challenging other nations to do likewise. And lesser developed countries would be encouraged to move our way rather than the socialist way.

Employee stock ownership represents a healthy new direction for our ailing free enterprise system. It is an appropriate course of action for the Congress to encourage companies to finance a portion of their capital growth in such a manner that their employees have an opportunity to share in its ownership. Those who would label this a "tax loophole" should keep in mind that this is one of preciously few tax expenditures designed to favor working Americans.

I regret that such legislation must, of necessity, effect some change in the Federal budget. However, having watched the Federal budget pass the $600 billion mark, and having watched transfer payments to individuals increase almost 1,000 percent in less than 20 years, I am reminded how former Budget Director James Lynn used to caution that the direction of change in the Federal budget is often more important than the size of that change.

Although the legislation before you does represent a change in the Federal budget, I hope that you join me in applauding the health direction of that change. When I weigh the potential benefit to be derived against the projected cost; and when I consider the alternative of not beginning to move our economy in this direction, I stand convinced that, in the long term we must encourage such broadened ownership devices. Nonaction on our part is a political decision in favor of continued, and indeed increased, concentrated ownership of productive capital.

In the long run, I also feel that broadened stock ownership techniques hold great promise for shrinking the burdensome size to which the Federal budget has grown. A widespread program supportive of broadened stock ownership can begin to save the Federal Government many of the direct costs associated with cash payments that might otherwise be made to individuals.

The studies done to date indicate that there is strong correlation between employee ownership and profitability, a clear indication that employee stock ownership does indeed have the potential to increase productivity. Commonsense certainly tells us that should be the case.

The merit of employee stock ownership can be easily summarized: Ownership counts. It summons up a common determination to succeed. It creates a climate wherein a unity of interest and incentive can emerge. If a company succeeds, its success is widely shared, and its eventual success or failure is placed in the hands of those upon whom its success or failure will largely depend.

However, in order to translate that increased productivity into a tangible benefit for the employees who helped to create it, the employer company needs a means through which such increased profitability can be made to reach its employee-owners. If working Americans are to learn to truly appreciate the value of capital ownership, that ownership should be designed to have some direct effect on their lives.

Thus, this bill would allow a corporation with an employee stock ownership plan to deduct the expense of dividends passed through to employees on their stock in an employee stock ownership plan. This permits a company to pay, and its employee to realize, an ownership income.

It is my hope that the payout of the fruits of corporate productivity will introduce a new dimension to capitalism. Clearly such a dividend income can lay a stronger foundation for economic growth by increasing consumer demand. But more importantly, it is to my belief that by making more working Americans dividend-receiving capitalists, they will begin to feel more a part of the system and will begin to think and act as owners.

This bill also provides that where the owner of a small business—one with $25 million or less in net worth—sells his business to his employees through an ESOP and reinvests the proceeds of the sale in the stock of another small business within 18 months, the tax on the proceeds will be deferred until the newly acquired stock is sold.

This provision would have a very minor impact on Federal revenues but a very major impact on the ability of small businesses to continue as independent enterprises. In addition, the bill will provide a new infusion of capital into smaller firms, since the proceeds from the sales covered by this bill must be reinvested in another small business.

Under current law, there is a considerable incentive for a business owner to transfer ownership of his company to a larger, more established company for an exchange of stock, since that transaction is tax free. On the other hand, when a business is sold or liquidated, the owner must pay capital gains taxes.

The effect of present law is to encourage economic concentration, and to divert funds from investment and innovation to mergers and acquisitions. For example, over three-quarters of the firms acquired over the past 5 years had assets under $1 million, while one-half of the acquiring firms had assets over $100 million. Over the same 5-year period, over $100 billion has been spent on mergers and acquisitions—at least $20 billion more than has been spent by private companies on research and development over that same span. This increased concentration can only serve to further decrease the competitiveness of the U.S. economy, and thereby further erode its vitality and creativity.

Another effect of present law is to encourage the disappearance of the small and independent business, even though these firms have been clearly shown to be the most innovative and job-creating sector of the economy. For example, a recent National Science Foundation study found that small firms are 24 times more innovative than large firms. A 1979 MIT study found that firms with under 500 employees generated 86.7 percent of all new jobs in the United States.

While the incentive to sell to established firms is one cause of the decline of independent businesses, the lack of capital is another. This bill would open up a new source of capital for existing small businesses, since, in order to take advantage of the provisions of the bill, an owner would be required to invest in another small business. Fortunately, the owner would have many choices for his or her investment as over 75 percent of all firms on the American Stock Exchange, and almost all firms on regional exchanges, have under $25 million in net worth. It is these small, independent firms that are most badly in need of a new infusion of capital.

This provision would provide a mechanism whereby a business owner could sell to his employees at no financial disadvantage when compared with a sale to an established company. By creating this alternative, the independence of many small businesses will be preserved.

Moreover, this provision could prevent some small companies from simply closing for a lack of a buyer. Many small, but profitable, companies are liquidated for just this reason. The loss of revenue implied by these business closings could well exceed the $25 million that the Treasury Department estimates as the annual cost of this provision.

Finally, this provision provides a significant incentive for employee ownership. A firm's employees are the logical people to carry on the operation of an independent business. Clearly, they have the experience and the interest to keep the company going. There can be no more logical successors to ownership of a company than the employees who helped to build and develop it. This bill would also permit an employee stockownership plan to be treated as a charity for income, estate, and gift tax purposes. This would encourage affluent taxpayers to make gifts to employee stockownership plans in order to reconnect the ownership of capital with a broader base of private individuals, most of whom would be the employees who contributed to the building of the donor's wealth.

A present, a major shareholder who has built a substantial estate is faced with a dilemma. If he tries to give it away or leave it by bequest, the Federal Government ends up with the bulk of it. Often, the only alternative is to make a donation to a public purpose foundation. Even though the shareholder may wish to leave a substantial portion of his or her estate to the employees who helped to create this wealth, our current tax laws make such an event highly unlikely.

Consequently, at a time when American capitalism desperately needs more capitalists, we find great amounts of private wealth being "socialized" in such foundations. I am the first to acknowledge that these foundations provide a valuable public service. Yet, I question the reasonableness of a private property system that has so arranged its incentives that a taxpayer wanting to leave his busines to the employees who made him wealthy is instead encouraged by our tax laws to place the bulk of that great wealth either in Uncle Sam's coffers or in a public purpose foundation. It seems to me that one of the best public purposes to which such wealth can be put is to the purpose of connecting more of our working population to productive, income-generating capital.

It would be to our long-term advantage if such charitable status were granted employee stockownership plans because such a provision would begin to lessen the likelihood of individuals being forced to rely on governmental transfer payments for their income security. Instead, an ever-increasing segment of the population would begin to have a private capital estate to which they could look for their income, security, and self-sufficiency. This provision is aimed at anticipating the need for charity by providing an incentive for the wealthy to leave their wealth to those who might otherwise someday need such charity.

As for the foundations, which I hope will enthusiastically support this provision, I am reminded of the lamentations of Henry Ford II when he retired from the Ford Foundation. As you may recall, he cautioned his successors at that great foundation that such organizations should make it a point to support the capitalism that makes their very existence possiblie.

I am not suggesting that foundations do not perform an important function. Quite the contrary; they play a crucial role and, in many cases, fill a void that might otherwise have to be filled at taxpayer expense. What I am suggesting is that the options open to a wealthy person are too limited. If he or she wishes to leave personal wealth to such a foundation, that is as it should be. I applaud that decision; and our tax laws should continue to offer an incentive to make such gifts and bequests.

But the fact that a person is not encouraged to leave a business to those who helped to build it is not as it should be. That we force the "socialization" of such wealth is not as it should be. That is a shortsighted strategy from a tax philosophy viewpoint and one that serves to further sap the already waning strength of capitalism—the same capitalism that has enabled such foundations to prosper all these years.

In addition, I remind other Senators that contributions to charitable organizations are already exempt from taxation, and assets left to a charitable organization are forever lost to our system of taxation. By permitting an individual to leave his property to an employee stock ownership plan, we are moving not only to strengthen the connection of working Americans to productive capital, we are also assuring that these amounts will remain within our Federal tax system, and will be taxable to employees who receive a distribution from the employee stock ownership plan. In an era during which most tax legislation results in a revenue loss, this provision results in a revenue gain.

This bill also exempts from taxation the first $5,000 of any lump-sum distribution from a tax credit employee stock ownership plan provided the distributee has been a participant in the plan for at least 3 calendar years prior to the date of distribution. This provision is intended to recognize the fact that far too few working Americans are able to accumulate a capital estate of any size. Employee stock ownership plans are intended to provide an opportunity for the workingman to begin to accumulate such an estate.

It does not make good tax sense for us to provide tax incentives for personal capital accumulation and then to turn around and in effect, require that a portion of this new wealth be sold to pay taxes due on the distribution. Thus, this modest tax exemption on the first $5,000 of capital accumulated through participation in an employee stock ownership plan is meant to further promote the economic self-sufficiency that such plans are intended to bring about.

In addition, because companies have been discouraged by the complicated rules and regulations relative to the matching employee and employer contributions for the 0.5 percent investment tax credit for tax credit employee stock ownership plans, this legislation would simplify this problem by permitting the employer to make the matching contribution on behalf of its employees.

The bill would permit the employer to claim the 1½-percent investment tax credit it already receives plus a tax deduction for the one-half of 1 percent it contributes on behalf of employees.

This would also resolve the Treasury Department's concerns about possible discrimination in benefits under these plans; this provision requires that the additional one-half of 1 percent amount be allocated to all participating employees, rather than, as under existing law, allocating it solely to the employees who actually make a matching contribution.

This bill also addresses a problem connected with the relationship of employee ownership to productivity. In most cases, ESOP's own only a small percentage of the sponsoring company's outstanding stock. However, the Survey Research Center at the University of Michigan found in a study of employee ownership that the most important correlation between ownership and productivity is the percentage of company stock owned by employees.

If these plans are to be effective motivators and significant contributors to productivity and profitability, certainly we should encourage companies to permit employees, through these plans, to acquire more of their employer's stock. Employees would then know that it is truly their company and that they truly do benefit directly from their increased motivation and productivity.

If it is ever to be possible, however, for employees to acquire a major ownership interest in their company, certain provisions of the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 (ERISA) need to be revised so as to be more appropriate when applied to ESOP's.

Historically, the Congress has provided tax deductions for employers which established pension, profit-sharing, and stock bonus plans a means of encouraging retirement savings. The legislative history of the ESOP indicates, however, that the ESOP is not simply another means for encouraging retirement savings. Instead, the ESOP is consistently and specifically defined as a technique of corporate finance. What Congress created with the ESOP is far more than a typical pension, profit-sharing, or stock bonus plan. The term "technique of corporate finance" applies to the "leveraged" ESOP, an ESOP that borrows money for the purchase of employer stock, with the employer itself guaranteeing repayment of the loan.

Having borrowed the money, the ESOP purchases employer stock directly from the employer or from existing shareholders. The stock is held in an escrow account in the ESOP solely for the benefit of the employees. Each year, as the employer makes annual tax-deductible contributions to the ESOP to amortize the indebtedness incurred to purchase the stock, a portion of this stock is freed from escrow and allocated to employees' ESOP accounts, based on the amount of the loan being repaid in that year. Through such a leveraged ESOP, the employees are able to acquire a block of company stock at today's prices.

Under current law, however, there is very little incentive for an employer to utilize a leveraged ESOP in order to finance either growth or transfers in ownership. This is due, in large part, to the fact that the interest expense of a leveraged ESOP loan transaction is included in determining an employer's maximum deduction limitations under Code section 404(a) and, equally importantly, in determining the amount that may annually be released from escrow and added to participants' ESOP accounts under section 415.

The effect of these provisions is to subject ESOP's to an unintended limitation on the amount of stock that can be acquired on behalf of a company's employees. This is a situation that should be remedied. One of the primary purposes of the Congress consistent encouragement of ESOP financing is to enable a company's employees to enjoy the appreciated value of employer stock acquired through a leveraged transaction. Present law undermines this purpose.

This bill, therefore, removes the limits of Internal Revenue Code sections 404(a) and 415 as they apply to the interest expense incurred in connection with an ESOP's acquisition of employer stock. By treating such interest expense as a deductible expense of financing such an employee benefit—without the inappropriate limitations imposed by these Code sections—this legislation brings these ESOP-related Code provisions into alinement with congressional intent in this important area.

As an additional encouragement for employers to share the growth element of the company with their employees, this legislation raises the deduction limitations of Internal Revenue Code section 404(a) as they apply to leveraged ESOP's.

Under current law, an employer is permitted to contribute up to 25 percent of compensation to an ESOP on an annual basis. However, this 25-percent limit applies only in the case where a money purchase pension plan is included as part of the ESOP. This pension element requires ongoing contributions by the employer, even though contributions may no longer be required to retire the ESOP loan.

This required combination of plans serves as a disincentive to employers who might otherwise be attracted to the ESOP as a technique of corporate finance. In addition, this requirement forces an employer to maintain two separate accounts for each employee, and imposes additional reporting requirements and other related administrative burdens.

To remedy this situation, this bill permits an ESOP company to contribute to the plan and deduct an amount equal to the current 25-percent limitation, but without the required inclusion of a money purchase pension plan.

In addition, amounts forfeited by departing employees under an ESOP will not, as under present law, be applied to reduce the amount that could otherwise be allocated to remaining employees. The forfeiture provisions of current law, in effect, operate to reduce the amount that an employer might otherwise be permitted to apply to the repayment of an ESOP loan. Thus, this provision will further encourage the use of ESOP's by providing greater certainty to those planning ESOP financing transactions. As under current law, such forfeitures must, of course, be allocated to remaining employees on a nondiscriminatory basis.

This legislation also permits an ESOP to acquire nonvoting common stock in certain limited cases. Although an ESOP is generally required to purchase only voting stock of the sponsoring company, there are situations in which it is appropriate for such a requirement to be waived. For example, this would be the case where there are several classes of employer stock outstanding and yet the only shareholders willing to sell their shares to the ESOP hold nonvoting common stock. To preclude the ESOP's acquisition of nonvoting stock in such a circumstance may only succeed in precluding the employees from having an opportunity to own stock in their employer.

Certainly employees should be protected, but not where such protection operates to their detriment. Thus, this bill would permit an ESOP to acquire nonvoting common stock. However, in order to prevent abuse, such stock can only be acquired from a shareholder who has held the stock for a period of at least 24 months.

If these provisions can be enacted, then this Congress will have outpaced all others in advancing the cause of democratic capitalism. It will not be the end, but it will be one of the essential areas of movement that must be achieved for our economic system to realize its potential.

My dream for an American future pictures ours as a nation where the wealth is reasonably spread among all of our people. These amendments would move us a long way in that direction.

By Mr. SCHWEIKER:

S. 2983. A bill to amend the Internal Revenue Code of 1954 to reduce the tax on capital gains; to the Committee on Finance.

● Mr. SCHWEIKER. Mr. President. I am introducing today legislation to raise the Federal tax exemption on capital gains income from 60 percent to 75 percent in order to spur additional capital investment.

For every dollar of qualified capital gains income an investor received, only 25 cents would be subject to tax instead of the present 40. The proposed "Venture and Equity Capital Revitalization Act" would take effect January 1, 1981.

With both Senate Democrats and Republicans committed to passage of tax-cut legislation later this year, we have an excellent chance to reform our capital gains laws in a climate highly favorable to encouraging new capital formation.

Under the Revenue Act of 1978, Congress raised the exemption from 50 percent to 60 percent although the Senate initially agreed to raise it to 70 percent. The Hansen-Steiger plan called for raising it to 75 percent. During debate then, proponents of a larger exemption argued it would lead to an increase in venture capital and the amount of funds raised by firms "going public" through the issuance of stock. They also predicted that an increase in the exemption would not lead to a significant reduction in Federal revenue because more investors would realize paper profits.

The advantages predicted in 1978 by raising the exemption have come true. Venture capital raised in 1979 was twice the 1978 amount. New stock offerings last year rose 230 percent to $506 million from the level of 1977. These are favorable developments and could not have come at a better time, given the gloomy economic climate. Study after study has shown that small firms, which frequently rely on venture and equity capital, create jobs and new wealth the fastest.

The loss in Federal revenue from the exemption was minimal. Information released by the Treasury Department indicates that over 75 percent of the revenue forgone by lowering the exemption was made up by an increase in the dollar size of investor capital gains. A predicted $1.25 billion reduction is now expected to amount to only $250 million. In the long run, the 1978 changes will likely mean an increase in Federal revenue. It takes just one major new discovery from one small firm to raise the tax base enough to pay the Government back. On balance, increasing the exemption in 1978 worked. I believe this favorable outcome justifies continuation of the experiment through adoption of my bill to boost the exemption from 60 to 75 percent and thereby encourage additional investment.

I ask unanimous consent that a copy of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Venture and Equity Capital Revitalization Act of 1980".

SEC. 2. INCREASE IN CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

(a) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1954 (relating to deduction for capital gains) is amended by striking out "60 percent" and inserting in lieu thereof "75 percent".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 170 (e) of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "40 percent" and inserting in lieu thereof "25 percent".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2(a) shall apply with respect to taxable years beginning after December 31, 1980. The amendment made by section 2 (b) shall apply with respect to contributions made after December 31, 1980.●

By Mr. PELL:

S. 2984. A bill to amend the Federal Unemployment Tax Act with respect to the pension offset provision; to the Committee on Finance.

● Mr. PELL. Mr. President, I am introducing legislation today that I consider to be an equitable solution to a difficult situation involving the unemployment compensation pension income "offset" provision that recently became law on April 1, 1980.

This "offset" law requires that individuals who lose their jobs and are eligible for unemployment compensation must have their benefits reduced for every dollar they receive in pension income, including social security benefits. This provision was adopted by the Congress 4 years ago and was considered to be an essential step in preventing the financial collapse of the pay system for unemployed workers, but it only recently became effective after being postponed once.

The unemployment insurance system was originally created to provide income to workers who were temporarily without jobs. Later, a provision was added allowing retiring workers to collect unemployment compensation to ease their transition into retirement.

High jobless rates over the past decade have forced the unemployment insurance system into the red. In fact, the unemployment compensation debt in my own State of Rhode Island, the smallest State, amounts to approximately $120 million.

Despite higher taxes paid by employers, the continuation of the unemployment compensation program is in jeopardy, because the fund has been insolvent for the past few years.

Faced with the need to reduce the financial strain on the unemployment fund, Congress decided that the first priority must be given to workers who are temporarily unemployed and who need financial assistance to meet family obligations until they find new employment.

However, Mr. President, at the time the vote occurred on the "offset" provision no one anticipated the level of inflation and the extent of joblessness that we are experiencing today.

The latest Department of Labor figures show that the national unemployment rate is 8.5 percent. Workers young and old, black and white, blue collar and white collar, and urban and rural are losing their jobs.

Many senior citizens who are eligible for retirement, but prefer to continue to work are being laid off. This is not a voluntary decision on their part. Indeed, many senior citizens are most reluctant to retire knowing in many cases they will have to live on pensions with declining purchasing power due to the high rate of inflation.

In view of the fact that our elderly citizens are hardest hit by inflation, Mr. President, I am sorry that the unemployment compensation pension income "offset" provision was allowed to become effective. It was thought to be necessary because of the increased strain on the Unemployment Insurance Trust Fund. In my view, however, we should not allow laws to remain on the books that prove to unfairly penalize certain individuals.

I suggest that the "offset" provision falls into this category. As the Senate Finance Committee noted in its report on H.R. 4612, the Senate never intended to prevent workers who were laid off and actively seeking employment from receiving unemployment compensation simply because they are also receiving an early retirement pension from a previous employer.

The intent of the unemployment "offset" provision was to end the practice of allowing retiring workers to collect unemployment compensation benefits. If workers are looking for jobs, it is inequitable to reduce their jobless benefits simply because they receive a pension from a previous employer. These workers have not retired and have every intention of finding new work.

I am pleased that the Senate recently recognized the inequity in the current law and passed H.R. 4612, which among other provisions would have exempted the individual receiving an early retirement pension from a previous employer from the unemployment compensation pension income "offset" provision.

Unfortunately, the conference with the House of Representatives has not been held on this bill, because of controversy involving a number of unrelated issues.

I am introducing today, therefore, a separate bill that will allow these individuals to be exempt from the "offset" provision. In addition, my legislation would also give States the flexibility to eliminate from the amount of pension income to be offset under current law, contributions made by individuals to their pensions. This will give States the authority to take into consideration contributions that workers paid into their private pension plans and social security and, thus, give them the ability to reduce the amount of pension income to be offset. This, too, will preserve the intent of the original legislation without unfairly penalizing retired senior citizens.

For example, in the case of an individual that has been laid off and is receiving social security benefits, a State would have the option to take into account the fact that the worker has contributed one-half of the contribution toward his benefits and, therefore, reduce up to one-half of his benefits to be offset against his unemployment compensation.

It is my hope that introducing this bill separately will prove helpful in resolving this issue and easing the burden of the unemployment offset law on retirees.●

By Mr. TSONGAS (for himself and Mr. PROXMIRE):

S. 2985. A bill to amend the Consumer Credit Protection Act to prohibit the use of the rule of 78's in credit transactions with terms greater than 51 months; to the Committee on Banking, Housing, and Urban Affairs.

Mr. TSONGAS. Mr. President, today I am introducing a bill that has important economic implications for tens of thousands of American families who will obtain second mortgage, home improvement, mobile home, and recreational vehicle loans over the next few years.

This legislation will prohibit lenders from imposing hidden penalties—presently running at between $300 and $600 million annually—upon unsuspecting borrowers who prepay or refinance longer term consumer loans. Presently lenders in 34 States are permitted to employ the rule of 78's. This device is an alternative method for calculating the payoff balance on an installment loan which is prepaid or refinanced. The other, far more equitable, method is known as the actuarial or simple interest method.

While the rule of 78's may sound innocuous enough, its end result can be highly abusive.

Imagine the shock of John and Gloria Pennington, a Midwest family who recently went to their bank to prepay a 12-year note. The note for $13,000 called for payments of $182 a month. The Penningtons had been making their monthly payments regularly for 17 months when they asked the bank for the payout figure to close the loan in February of 1980.

The bank demanded $12,997. The Penningtons' 17 monthly payments, totaling $2,094, had reduced the principal on their loan by the grand sum of $2.62.

When they asked bank officials how this could have happened, they learned for the first time that the prepayment of their loan was subject to something called the rule of 78's.

The Pennington's had mistakenly assumed that their bank loan was a simple interest loan similar to a first mortgage loan on a home. In fact, if their loan agreement had required an actuarial payoff upon prepayment, this family would have had to pay only $12,456.

The prepayment penalty imposed upon these borrowers amounted to $541. When he complained about this practice to the Comptroller of the Currency, Mr. Pennington was informed that the rule of 78's was a perfectly legal practice which was permitted under his State law.

Perhaps the outrage of unsuspecting borrowers like the Penningtons who have been "burned" by lenders seeking to increase their earnings through the rule of 78's was best stated by Mr. Robert Brown who complained to the Federal Reserve Board in February of this year concerning the hidden penalty he had been forced to pay under the rule of 78's.

Mr. Brown wrote:

> If this is part of the Truth-In-Lending law, it's the saddest joke ever pulled on the working man. At least with a loan shark, you know what to expect.

Within the banking industry itself you would be hard pressed to find many defenders of this practice. A recent issue of the Community Banker Newsletter described the rule as follows:

> The 78's rule, a simple method of calculating the refund when a loan is paid off early, leads to inequities where larger, longer-term loans are paid off at mid-maturity. *Even die-hards agree it is indefensible on long term loans.* (Emphasis my own.)

The rule of 78's was first permitted by most States beginning in the early 1930's as a shorthand method of calculating the amount necessary to prepay precomputed loans—most installment loans are precomputed. When paid to term, there is virtually no difference between a simple interest loan and a rule of 78's loan. However, a recent American Bankers Association rule of 78's survey stated that an average of 46 percent of longer term loans—loans having stated maturities in excess of 61 months—were prepaid prior to maturity. The rule's name is derived from the fact that if you add up the 12 months $(1+2+3 \ldots +12)$ the sum equals 78. In the 1930's it was used mostly in connection with 1 year "wage earner" loan.

Applied to short term loans it continued to offer a rough approximation of the payout figure required by the actuarial, simple interest, method. As the examples above indicate, however, its application in longer term loans can often result in a substantial prepayment penalty.

The application of the rule of 78's to many longer term loans will actually result in the principal amount of a loan actually increasing over the first few years of the loan. A classic example of how this can occur was documented at the subcommittee hearings in December when a witness tried to describe the frustration and anger that remains with her family to this day as a result of having been forced to pay a loan company over $19,000 to prepay an $18,000 loan on which the family had been making monthly payments of $297 for over 3 years. As outrageous as this case appears—there are numerous other similar cases which have been dug out of the complaint files of various Federal banking agencies.

During the 2 days of subcommittee hearings in December, none of the industry or regulatory witnesses attempted to justify the use of the rule of 78's on longer term loans.

All of the witnesses agreed that the rule of 78's produces inequitable results for the consumer in these longer term loans. Yet today, the rule remains the predominant method employed by lenders in 34 States to determine rebates upon prepayment of consumers debts. Recent tendencies to increase loan amounts, APR's, and the length of loan maturities, only exacerbate the magnitude of errors necessarily produced by the rule of 78's.

Unfortunately, truth-in-lending does not afford even the most cautious borrower any warning of the severe economic penalty that may be imposed if a loan is prepaid or refinanced. More and more families are seeking to fight off inflation by drawing upon their home ownership equity through second mortgages and many other families will have to refinance their loan agreements as the recession deepens.

The hearings in December produced the following statement from the spokesperson for the Comptroller of the Currency:

> It is particularly timely to consider legislation which proposes to restrict the use of the Rule of 78's because, as I indicated earlier, it appears that the Rule is being used with increasing frequency on longer term loans.
>
> Of particular concern to us is the use of the Rule of 78's in connection with home improvement and mobile home loans, which often have maturities of 10 years or more, and which are frequently prepaid. We believe that it is appropriate to consider methods for restricting the use of the Rule of 78's on these longer-term loans, before the practice has become well established.

The spokesperson cited an example of a $10,000, 15-year mobile home loan with a 15-percent rate of interest where the rule of 78's hidden penalty would result in a penalty of near $1,000 if the loan was prepaid in full after 30 months.

Again, permit me to restate that according to the recent ABA study better than 40 percent of longer term—over 60 months—consumer loans are prepaid or refinanced.

Why then is this practice still allowed to flourish in 34 States? The answer lies in the fact that for each borrower like the Penningtons and Mr. Brown, banking regulatory officials readily concede that there are thousands of borrowers who end up paying substantial hidden prepayment penalties without even realizing what has occurred.

When you are quoted a payoff figure for the principal on a note which is in excess of the principal amount you originally borrowed—it is hard to avoid the conclusion that the lender is seeking to take advantage of you.

If, however, the principal has been reduced by a lessser amount than you had anticipated, most consumer borrowers assume they are powerless to challenge the lender's calculations.

I was surprised and disappointed to learn that even in my own home State, our lenders are still permitted to take advantage of borrowers by using this indefensible lending practice. We received testimony during the hearings relating to two Massachusetts families who were forced to pay hidden penalties of between $400 and $500 in connection with the prepayment of their mobile home loans.

Both families had been upset to learn that the principal amount of the loan had not been reduced by a greater amount by their years of monthly payments. Assuming that it was hopeless to challenge the system, neither family challenged the bank's payoff request. They reluctantly paid the amount demanded by the lender.

It was only after they had raised the issue at a Homeowners Association meeting that they were informed of the magnitude of the hidden prepayment penalty in each of their cases by the attorney for the association.

With this in mind, I ask unanimous consent to have printed in the RECORD a chart setting out the maximum dollar penalty for a variety of loans which may occur when a consumer loan is subject to the rule of 78's:

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MAXIMUM DOLLAR PENALTY RESULTING FROM THE RULE OF 78

Amount financed	APR (percent) 12	14	18
4-yr loan:			
$6,000	$36	$49	$82
$10,000	$60	$82	$137
Month of maximum penalty	17	17	17
5-yr loan:			
$5,000	$47	$65	$108
$10,000	$94	$129	$215
$15,000	$142	$194	$323
Month of maximum penalty	21	21	21
10-yr loan:			
$10,000	$384	$525	$872
$15,000	$575	$787	$1, 308
Month of maximum penalty	43	43	44
12-yr loan:			
$10,000	$555	$758	$1, 256
$20,000	$1, 110	$1, 517	$2, 512
Month of maximum penalty	52	52	54
15-yr loan:			
$10,000	$871	$1, 187	$1, 951
$20,000	$1, 743	$2, 375	$3, 901
Month of maximum penalty	66	67	69

Mr. TSONGAS. On behalf of Senator PROXMIRE and myself, Mr. President, I introduce at this time the "Rule of 78's Prohibition Act."

The bill is designed to prohibit the use of the rule of 78's in precomputed credit transactions with terms greater than 61 months through an amendment to the Consumer Credit Protection Act. In precomputed loans over 61 months, the creditor would be required to calculate the rebate of unearned interest, when prepayment occurs, by using a method which is at least as favorable to the consumer as the actuarial method.

The bill proceeds to define prepayment, actuarial method and precomputed finance charge. The original bill, S. 2002, required actuarial rebates for all precomputed loans over 36 months. I have changed this factor to 61 months in the hope that by so doing we would balance the interests of both consumer and creditor.

Mr. President, on behalf of Senator PROXMIRE, I welcome any of my colleagues to support this bill.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 2 of title I of the Consumer Credit

Protection Act is amended by adding at the end thereof the following:

"§ 137. Rebate of unearned finance charge

"(a) If a consumer prepays in full a consumer credit transaction, the creditor or any assignee shall promptly refund any unearned portion of the precomputed finance charge, except that this subsection does not require a refund of a finance charge of less than $1 to be made.

"(b) In the case of any precomputed consumer credit transaction which has a scheduled amortization according to its contractual terms of more than 61 months, or in the case of any other transaction where the parties so agree, the creditor or any assignee shall calculate the amount of the unearned portion of the precomputed finance charge to be refunded as required by this section by using a method which is at least as favorable to the consumer as the actuarial method in accordance with regulations of the Board.

"(c) Except as provided in subsection (d), in the case of any precomputed credit transaction which has a scheduled amortization according to its contractual terms of more than 61 months or in the case of any other transaction to which subsection (b) applies, the creditor or any assignee may collect or retain a minimum charge—

"(1) not exceeding $20 if (A) the minimum charge was contracted for, (B) the finance charge earned at the time of prepayment is less than the minimum charge contracted for, and (C) the transaction is repayable according to its terms over a period of more than 61 months; and

"(2) higher than $20 if such higher minimum charge was contracted for and is permitted by State law.

"(d) The creditor or any assignee may not collect or retain a minimum charge described in subsection (c) in connection with a prepayment arising from a refinancing or consolidation of any indebtedness or where the creditor has charged the consumer points or a loan origination fee or similar charges in connection with the transaction.

"(e) For the purpose of this section—

"(1) a 'prepayment' occurs upon—

"(A) the refinancing or consolidation of the indebtedness;

"(B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

"(C) the entry of a judgment for the indebtedness in favor of the creditor;

"(2) the term 'actuarial method' means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation; and

"(3) the term 'precomputed finance charge' means interest or a time price differential within the meaning of sections 106 (a) (1) and (2) as computed by an add-on or discount method, but does not include prepaid items such as points or origination fees.

"(f) This section does not annul, alter, or affect the laws of any State relating to the rebate of unearned finance charges and minimum charges in connection with credit transactions, except to the extent that those laws are inconsistent with any provision of this section, and then only to the extent of the inconsistency. Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection to the consumer.".

(b) The table of sections of chapter 2 of title I of the Consumer Credit Protection Act is amended by adding at the end thereof the following new item:

"137. Rebate of unearned interest.".

(c) Section 111 (b) of such Act is amended by striking out "This" and inserting in lieu thereof "Except as provided in section 137, this".

(d) The amendments made by this Act shall take effect upon the expiration of one year after the date of enactment of this Act.

ADDITIONAL COSPONSORS

S. 681

At the request of of Mr. Cohen, the Senator from Florida (Mr. Stone) was added as a cosponsor of S. 681. A bill to amend title XVIII of the Social Security Act to provide for reciprocal agreements for services covered outside the United States.

S. 1758

At the request of Mr. Levin, the Senator from Missouri (Mr. Eagleton) was added as a cosponsor of S. 1758, a bill to amend title 39, United States Code, to restore to Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 2074

At the request of Mr. Levin, the Senator from Minnesota (Mr. Durenberger) and the Senator from New York (Mr. Javits) were added as cosponsors of S. 2074, a bill to amend title 39 of the United States Code to provide for the postage-free mailing of absentee ballots and other materials pertaining to absentee ballots.

S. 2636

At the request of Mr. Pryor, the Senator from Michigan (Mr. Riegle) was added as a cosponsor of S. 2636, a bill to prohibit the drugging or numbing of race horses and related practices, and to amend title 18, United States Code, to prohibit certain activities conducted in interstate or foreign commerce relating to such practices.

S. 2655

At the request of Mr. McClure, the Senator from Wyoming (Mr. Wallop) was added as a cosponsor of S. 2655, a bill to approve dimethyl sulfoxide for the treatment of acute brain and spinal cord injuries.

S. 2656

At the request of Mr. McClure, the Senator from Wyoming (Mr. Wallop) was added as a cosponsor of S. 2656, a bill to approve dimethyl sulfoxide for the treatment of scleroderma.

S. 2657

At the request of Mr. McClure, the Senator from Wyoming (Mr. Wallop) was added as a cosponsor of S. 2657, a bill to approve dimethyl sulfoxide for the relief of inflammation from arthritis, bursitis, rheumatism, and other disorders of the musculoskeletal system.

S. 2718

At the request of Mr. Stevenson, the Senator from West Virginia (Mr. Randolph) and the Senator from Alabama (Mr. Heflin) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade service generally.

S. 2722

At the request of Mr. Wallop, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 2722, a bill to amend title II of the Social Security Act to provide that disability insurance benefits may not be paid to inmates of penal institutions or facilities for the criminally insane.

S. 2798

At the request of Mr. Culver, the Senator from Indiana (Mr. Bayh), and the Senator from Wisconsin (Mr. Nelson) were added as cosponsors of S. 2798, a bill to amend the Small Business Act to provide special loan guarantees to small business concerns for the acquisition of motor fuel service stations, to require the divorcement of motor fuel service stations from operation by certain producers and refiners of motor fuels, to control sales by producers and refiners of motor fuels, and for other purposes.

S. 2800

At the request of Mr. Magnuson, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 2800, a bill to provide for full insurance for deposits of public funds in insured banks, thrift institutions, and credit unions.

S. 2881

At the request of Mr. Bentsen, the Senator from New Hampshire (Mr. Durkin), the Senator from Louisiana (Mr. Long), and the Senator from Delaware (Mr. Roth) were added as cosponsors of S. 2881, a bill to amend the Internal Revenue Code of 1954 to extend the historic preservation tax incentives.

S. 2890

At the request of Mr. Levin, the Senator from Alabama (Mr. Stewart), the Senator from Utah (Mr. Garn), the Senator from West Virginia (Mr. Randolph), the Senator from New York (Mr. Moynihan), the Senator from Arkansas (Mr. Pryor), the Senator from Indiana (Mr. Bayh), the Senator from Minnesota (Mr. Durenberger), the Senator from Florida (Mr. Stone), the Senator from New Hampshire (Mr. Humphrey), the Senator from Alabama (Mr. Heflin), and the Senator from Colorado (Mr. Armstrong) were added as cosponsors of S. 2890, a bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia and Augustina Vashchenko.

S. 2934

At the request of Mr. Nelson, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 2934, a bill to amend the Federal Water Pollution Control Act to provide additional funds for metropolitan areas which are under court order to construct treatment works.

S. 2962

At the request of Mr. Culver, the Senator from Nebraska (Mr. Exon) was added as a cosponsor of S. 2962, a bill to amend the "Rock Island Transition and Employees Assistance Act."

S. 2976

At the request of Mr. Bentsen, the Senator from Georgia (Mr. Nunn) was added as a cosponsor of S. 2976, a bill to eliminate restriction on funds appropriated for certain community services.

S. 2978

At the request of Mr. Bentsen, the Senator from Georgia (Mr. Nunn) was added as a cosponsor of S. 2978, a bill to revise certain provisions of the Home Energy Assistance Act of 1980.

SENATE CONCURRENT RESOLUTION 110—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO RAOUL WALLENBERG

Mr. BOSCHWITZ submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 110

Whereas in January 1944 the War Refugee Board was established by the United States to organize rescue operations to free persons being persecuted during World War II;

Whereas the War Refugee Board requested Sweden to send a representative to Hungary;

Whereas the Swedish representative, Raoul Wallenberg, is considered responsible for directly saving the lives of twenty thousand Jewish citizens in Hungary through issuance of protective Swedish passports beginning in July 1944;

Whereas Raoul Wallenberg is recognized as saving indirectly the lives of an additional seventy thousand Jewish citizens in Hungary through collaborative efforts in the latter half of 1944 with neutralist representatives in Budapest and the Jewish community in Hungary;

Whereas Raoul Wallenberg was taken into Soviet "protective custody" on January 13, 1945, and later imprisoned in Moscow at least until July 17, 1947, the date of the last official notice of his whereabouts;

Whereas in 1949 he was nominated by Albert Einstein for the Nobel Peace Prize;

Whereas reports from the Soviet Union, as recent as May 1, 1978, suggest that Raoul Wallenberg is alive;

Whereas documents released by the Swedish Foreign Ministry in January 1980 indicate diplomatic efforts by the Swedish Government have not fully clarified the status of Raoul Wallenberg: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress honors Raoul Wallenberg for his outstanding work on behalf of those persecuted in Hungary during World War II, and requests the Department of State to take all possible steps to discern from the Soviet Union the whereabouts of Raoul Wallenberg and, if he is alive, to secure his return to his native country.

Mr. BOSCHWITZ. Mr. President, recent reports to the effect that Raoul Wallenberg may still be alive make it imperative that we strive to utilize any and all influence we have, in order to discover the fate of one of the great heroes of this century. It is with the fervent hope that we obtain all information regarding this great humanitarian, and, as we all pray, that if he is alive, we secure his release from captivity in the Soviet Union. I submit the foregoing resolution, in conjunction with House Concurrent Resolution 341, submitted by Congressman Ted Weiss of New York.

SENATE RESOLUTION 491—SUBMISSION OF A RESOLUTION TO DESIGNATE "NATIONAL JOGGING DAY"

Mr. THURMOND (for himself, Mr. Cochran, Mr. Chafee, Mr. Dole, Mr. Hatch, Mr. Stevens, Mr. Lugar, Mr. Goldwater, Mr. Schmitt, Mr. Laxalt, Mr. Hollings, Mr. Kennedy, Mr. Bayh, Mr. Baucus, Mr. DeConcini, Mr. Heflin, Mr. Morgan, Mr. Stone, Mr. Talmadge, Mr. Moynihan, Mr. Cranston, Mr. Williams, Mr. Johnston, Mr. Proxmire, and Mr. Helms) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. Res. 491

Whereas the public awareness of the need for maintaining physical fitness is becoming increasingly eveident; and

Whereas jogging is an excellent, convenient, and inexpensive form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex, or level of fitness; and

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of the cardiovascular system, reduces coronary risk factors, and serves as an advisable supplement to a weight-reducing or weight-control program; and

Whereas a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life; and

Whereas an estimated twenty-five million persons all across America jog or run as a recreational activity which is beneficial and enjoyable; Now, therefore, be it

Resolved, That the President is authorized and requested to issue a proclamation declaring October 11, 1980, as "National Jogging Day", and calling upon the people of the United States and interested groups to celebrate such day by participating in fitness-related sports, seminars, and other events throughout the United States and to incorporate regular exercise into their everyday life.

NATIONAL JOGGING DAY

Mr. THURMOND. Mr. President, I am offering today a Senate resolution which would request the President to declare October 11, 1980, National Jogging Day.

National Jogging Day was begun in 1971, in an effort to encourage Americans to actively pursue some form of exercise and to especially encourage jogging as a method to stay physically fit. The purpose of National Jogging Day is to encourage people to make safe, enjoyable exercise a part of their daily activity. Last year's events on National Jogging Day involved more than 500,000 people nationwide in such events as races, walk-a-thons, bicycle races, and picnics.

The sponsor of these annual events held throughout the country is the National Jogging Association and it is done in cooperation with the President's Council on Physical Fitness and Sports. The members of this nonprofit educational organization numbers more than 35,000 people, all of whom are aware that physical fitness and good health go hand-in-hand. A balanced program of exercise is one of the best preventive health care measures available, and we should do all that we can to encourage the American people to get personally involved in their own health care.

For many years I have been a jogger and a believer in the benefits of a complete program of physical fitness. In fact, I presently jog about 3 miles a day.

National Jogging Day is a proven success in getting people involved and active, and so I urge my fellow Senators to give this resolution, which requires no expenditure of Government funds, their full support.

SENATE RESOLUTION 492—SUBMISSION OF THE LEE METCALF FAIR EMPLOYMENT RELATIONS RESOLUTION

Mr. HATFIELD (for himself, Mr. Ribicoff, Mr. Durenberger, Mr. Glenn, Mr. Levin, Mr. Percy, Mr. Metzenbaum, Mr. Mathias, Mr. Chafee, Mr. Stone, Mr. Proxmire, and Mr. Leahy) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 492

Resolved, That this resolution may be cited as the "Lee Metcalf Fair Employment Relations Resolution".

PURPOSE

Sec. 2. It is the purpose of this resolution to amend and implement the provisions of rule XLII of the Standing Rules of the Senate, by establishing a Senate Fair Employment Relations Board, a Senate Fair Employment Relations Office, and procedures for hearing and settling complaints alleging violations of rule XLII by Members, officers, and employees of the Senate.

DEFINITIONS

Sec. 3. For purposes of this resolution, the term—

(1) "Board" means the Senate Fair Employment Relations Board established by section 101;

(2) "Office" means the Senate Fair Employment Relations Office established by section 201;

(3) "Director" means the Director of the Senate Fair Employment Relations Office established by section 201;

(4) "employee of the Senate" means any individual who is an employee of the Senate, or is treated as an employee of the Senate, for purposes of the Senate Code of Official Conduct;

(5) "complainant" means an employee of the Senate or other individual who applies for a position in the Senate and who files a complaint under section 302;

(6) "respondent" means a Member, officer, or employee of the Senate against whom a complaint is filed under section 302;

(7) "office of the Senate" includes the office of a Senator;

(8) "rule XLII" means rule XLII of the Standing Rules of the Senate; and

(9) "supervisor" has the meaning given to it by paragraph 11 of rule XXXVII of the Standing Rules of the Senate.

TITLE I—FAIR EMPLOYMENT RELATIONS BOARD

ESTABLISHMENT

Sec. 101. (a) There is established an office of the Senate to be known as the Senate Fair Employment Relations Board. The Board shall consist of six members, selected from among individuals in the private sector, who have a demonstrated commitment to fair employment relations—

(1) three of whom shall be appointed by, and may be removed by, the Majority Leader of the Senate with the approval, by majority vote, of the Conference of the Majority; and

(2) three of whom shall be appointed by, and may be removed by, the Minority Leader of the Senate with the approval, by majority vote, of the Conference of the Minority.

No individual who has servved as a Member, officer, or employee of the Senate or the House of Representatives or as an officer or employee of the Congress may be appointed as a member of the Board during the three-year period following the termination of his or her service as such a Member, officer, or employee.

(b) Each member of the Board shall be appointed for a term of four years commencing with the day after the expiration of the term of his or her predecessor, except that of the members first appointed—

(1) one member appointed by the Majority Leader and one member appointed by the Minority Leader (as designated by the respective Leaders) shall be appointed for a term of two years commencing on the day on which this resolution is agreed to; and

(2) two members appointed by the Majority Leader and two members appointed by the Minority Leader (as designated by the respective Leaders) shall be appointed for a term of four years commencing on such day.

Any member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed only for the unexpired portion of such term. Any member serving at the expiration of a term may continue to serve until his or her successor is appointed.

(c) The Board shall elect one of its members to serve as Chairperson.

(d) A quorum of the Board shall consist of four members, but no action of the Board in performing the functions and duties specified in paragraphs (1) and (3) of section 104(a) or in appointing or removing the Director under section 201 may be taken except with the concurrence of a majority of the members holding office.

(e) The Board is authorized to delegate to the Chairperson or any other member of the Board the authority to approve on behalf of the Board those actions of the Director which require approval of the Board under sections 201, 202, and 203.

COMPENSATION

SEC. 102. Each member of the Board shall receive compensation equal to the daily equivalent of the salary of the Secretary of the Senate for each day on which the member is engaged in performing his or her duties as a member of the Board and in traveling from or to his or her home to attend meetings of the Board. Each member shall also be entitled to reimbursement for transportation costs and actual travel expenses while so traveling in the same amounts as are payable to employees of the Senate.

MEETINGS; ADMINISTRATIVE SERVICES

SEC. 103. (a) The Board shall meet at least once every three months and shall also meet upon call of the Chairperson or of a majority of the members holding office. Notice of any meeting of the Board shall be given to all members at least three days prior to such meeting.

(b) All necessary administrative services required by the Board shall be furnished by the Office.

FUNCTIONS AND DUTIES

SEC. 104. (a) It shall be the function and duty of the Board—

(1) to establish and publish policies and guidelines for the implementation and enforcement of rule XLII;

(2) to supervise the actions of the Director and the operations of the Office through the Director; and

(3) to hear and determine complaints alleging violations of rule XLII in accordance with title III.

(b) In order to carry out its functions and duties under title III, the Board is authorized to appoint and fix the compensation (subject to applicable limitations imposed by or pursuant to law on the salaries of employees of the Senate) of such number of hearing examiners as may be necessary. Any such hearing examiner may be appointed on a temporary (not to exceed one year) or intermittent basis and any hearing examiner so appointed may be paid, for each day on which he or she performs services, not in excess of the daily equivalent of the highest salary which may be paid to a hearing examiner appointed on a permanent basis.

(c) The Board may adopt such regulations as it determines necessary to carry out its duties and functions.

PAYMENT OF EXPENSES

SEC. 105. The expenses of the Board (including compensation of members of the Board and hearing examiners) shall be paid from the contingent fund of the Senate pursuant to appropriations made to the contingent fund for such purpose. Until funds are first so appropriated, such salaries and expenses shall be paid from the contingent fund out of funds appropriated for "Miscellaneous Items". Such salaries and expenses shall be paid out of the contingent fund upon vouchers approved by the Chairperson, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

TITLE II—SENATE FAIR EMPLOYMENT RELATIONS OFFICE

ESTABLISHMENT

SEC. 201. (a) There is established an office of the Senate to be known as the Senate Fair Employment Relations Office. The Office shall be headed by a Director who shall be appointed by, and shall serve at the pleasure of, the Board. The Director shall receive compensation at an annual rate fixed by the Board but not in excess of the highest rate of compensation which may be paid to an employee of a committee of the Senate under section 105(a)(3)(A) of the Legislative Branch Appropriations Act, 1968, as amended and modified (2 U.S.C. 61–1).

(b) The Director, with the approval of the Board shall appoint and fix the compensation (subject to applicable salary limitations imposed by or pursuant to law on the salaries of employees of the Senate) of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fiitness to perform their duties.

(c) In carrying out the functions and duties of the Office, the Director, with the approval of the Board, may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of compensation which may be paid to employees of the Office appointed on a permanent basis.

(d) The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate to them authority to perform any of the functions and duties imposed on the Office or on the Director, with the exception of the submission of reports under section 302 (b) and (c).

FUNCTIONS AND DUTIES

SEC. 202. (a) In addition to the functions and duties imposed on it by title III, the Office shall (1) develop procedures to implement the policies and guidelines of the Board to encourage full compliance with rule XLII by all Members, officers, and employees of the Senate and (2) perform such other functions as may be prescribed by the Board.

(b) The Office shall gather and maintain information with respect to each category of employees and individuals who are afforded equal employment opportunity by rule XLII, including, to the extent possible, information relating to individuals who apply for positions on the staffs of committees and offices of the Senate. The Office shall also gather and maintain information with respect to the employment practices of committees and offices of the Senate. Each year the Director, with the approval of the Board, shall submit to the Senate a report with respect to the information gathered under this subsection. Each report after the first report shall contain a comparison and evaluation of the data contained in such report with the data contained in prior reports.

(c) Upon the request of any committee or office of the Senate, the Office shall submit to such committee or office its recommendations for improvements in the employment practices of such committee or office. The Office shall assist the placement office with the development of procedures to collect and disseminate applications submitted by individuals from categories which are afforded equal employment opportunity by rule XLII.

(d) The Office shall review the procedures and practices for receiving, hearing, and settling complaints of alleged violations of rule XLII under title III and make recommendations regarding the continuation or improvement of such procedures. Not later than January 3, 1981, the Director, with the approval of the Board, shall submit to the Senate the results of such review, together with his or her recommendations. Such report shall be referred to the appropriate committee or committees of the Senate which, within one hundred and eighty days after the date of referral, shall submit their recommendations on the report to the Senate.

SUPPLIES; PAYMENT OF EXPENSES

SEC. 203. (a) The Director is authorized to procure such books, stationery, and other supplies as may be necessary for the proper performance of the functions and duties of the Office. The Architect of the Capitol and the Sergeant at Arms of the Senate shall furnish the Office such furniture and office equipment as may be necessary.

(b) The expenses of the Office (including salaries) shall be paid from the contingent fund of the Senate pursuant to appropriations made to the contingent fund for such purpose. Until funds are first so appropriated, such salaries and expenses shall be paid from the contingent fund out of funds appropriated for "Miscellaneous Items". Such salaries and expenses shall be paid out of the contingent fund upon vouchers signed by the Director, and approved by the Board, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

TITLE III—COMPLAINTS OF VIOLATIONS OF EQUAL EMPLOYMENT OPPORTUNITY

Part A—COUNSELING AND CONCILATION

COUNSELING AND ASSISTANCE

SEC. 301. (a) Any employee of the Senate, or other individual who applies for a position in the Senate, who believes that he or she is being or has been discriminated against in violation of rule XLII may make a request to the Office for counseling and assistance. The Director shall designate employees of the Office to serve as counselors. Counselors shall advise employees and other individuals as to their rights under rule XLII and furnish such other advice and assistance as may be requested with respect to the application of rule XLII. No written statement shall be required for an employee or other individual to receive counseling and assistance under this section.

(b) Counseling under this section must be requested within sixty days of the action giving rise to the alleged discrimination, unless the Director authorizes counseling after such sixty-day period or unless the alleged discrimination is based upon a continuing practice or policy.

INFORMAL COMPLAINTS AND CONCILIATION

SEC. 302. (a) Any employee of the Senate, or other individual who applies for a position in the Senate, who believes that he or she is being or has been discriminated against in violation of rule XLII may, within twenty days after counseling is requested under section 301, file an informal complaint with the Director. Such an informal complaint may be filed only against an individual whom the complainant believes actually participated in the alleged violation or the individual who has authority to remedy the alleged violation, or both. Such an informal complaint shall consist of a brief written statement of the alleged violation. The Director shall furnish a copy of such informal complaint to the respondent and, if the respondent is an officer or employee, shall furnish a copy of such informal complaint to the respondent's supervisor.

(b) Upon the filing of an informal complaint under subsection (a), the Director shall collect information concerning the alleged violation. Within forty-five days after the date of filing, the Director shall submit a report to the Board with respect to such informal complaint and shall furnish copies of such report to the complainant and respondent and, if the respondent is an officer or employee, shall furnish a copy of such report to the respondent's supervisor.

(c)(1) If as a result of the information collected under subsection (b), the Director determines that there is no reason to believe that a violation of rule XLII may have occurred, he or she shall so state in the report submitted pursuant to such subsection, together with his or her reasons for such determination.

(2) If as a result of the information collected under subsection (b), the Director determines that there is reason to believe a violation of rule XLII may have occurred, he or she shall attempt to resolve such violation by informal means. If an informal agreement between the complainant and respondent is reached, the Director shall so state in the report submitted pursuant to such subsection. If an informal agreement between the complainant and the respondent is not reached, the Director shall include his or her findings in the report submitted pursuant to such subsection.

Part B—FORMAL COMPLAINTS AND HEARINGS

FILING OF FORMAL COMPLAINTS

SEC. 311. (a) If the report of the Director under section 302 with respect to an informal complaint sets forth the Director's determination that there is reason to believe that a violation of rule XLII may have occurred but no agreement has been reached between the complainant and the respondent, then the complainant may, within thirty days after the date on which such report is submitted to the Board, file a formal complaint with the Board. A formal complaint shall be under oath and shall be in such form and set forth the basis of the complaint in such detail as the Board may prescribe by rule or regulation.

(b) If the report of the Director under section 302 sets forth the Director's determination that there is no reason to believe that a violation of rule XLII may have occurred, the complainant may request the Board to review such determination. Such request shall be in writing and shall be made within thirty days after the date on which such report is submitted to the Board. The Board shall complete its review within thirty days after such request is made and if it determines that there is reason to believe that a violation of rule XLII may have occurred, the complainant may, within thirty days after the date of the Board's determination, file a formal complaint under subsection (a).

HEARINGS

SEC. 312. (a) Each complaint filed under section 311 shall be assigned by the Board (or by such individual as the Board may designate) for a hearing by a hearing examiner appointed under section 104(b). The hearing examiner shall cause a copy of the complaint to be served on the respondent and, if the respondent is an officer or employee, shall furnish a copy of the complaint to the respondent's supervisor. The respondent shall be entitled to file, within ten days after such service, or within such longer time as the Board may permit, a formal answer to such complaint. A formal answer shall be under oath and shall be in such form as the Board may prescribe by rule or regulation.

(b) The hearing on a complaint shall be conducted expeditiously with a record in transcript form. Upon conclusion of the hearing, the hearing examiner shall submit to the Board a report containing his or her findings and recommendations (if any) for remedial action.

DECISIONS BY THE BOARD

SEC. 313. (a) The Board shall review the transcript and the findings and recommendations of the hearing examiner with respect to each complaint filed under section 311. If the Board finds that the hearing is incomplete, it may remand the case to the hearing examiner. The Board shall render a decision in each case within sixty days after the filing of the formal complaint, unless prior thereto the complainant and the respondent reach an agreement disposing of such case.

(b) If the Board determines in any case that there is or has been a violation of rule XLII, its decision shall include an order for such remedial action as it determines appropriate, except that no remedy may be ordered which the Board determines would result in undue benefit or undue hardship to the complaintant or the respondent.

RULES; PROCEDURE

SEC. 314. The Board shall prescribe such rules or regulations as it determines proper to carry out the provisions of this part, including rules or regulations relating to the conduct of hearings and proceedings under this part and the rights and privileges of complainants and respondents in such hearings and proceedings. The Board shall publish all rules and regulations which it proposes to prescribe under this section and shall give interested persons an opportunity to comment thereon.

Part C—APPEALS TO SELECT COMMITTEE ON ETHICS

APPEALS

SEC. 321. (a) A complainant or respondent who is aggrieved by a decision or order of the Board under section 313 may, within thirty days after the decision or order is issued, appeal the decision or order to the Select Committee on Ethics.

(b) Within sixty days after an appeal is filed under subsection (a), the Select Committee on Ethics shall render its decision with respect to such appeal. Such decision may affirm the decision or order of the Board, reverse such decision or order in whole or in part, or remand the case to the Board for further proceedings. In any case in which the select committee reverses a decision or order of the Board in whole or in part, if the select committee determines that there is or has been a violation of rule XLII, it may order such remedial action as it determines appropriate, except that no remedy may be ordered which the select committee determines would result in undue benefit or undue hardship to the complainant or the respondent.

PROCEDURE

SEC. 322. The Select Committee on Ethics shall prescribe such rules or regulations as it determines proper to carry out the provisions of section 321.

Part D—MISCELLANEOUS

REMEDIES

SEC. 331. (a) The remedial actions which may be specified in an order issued by the Board under section 313 or by the Select Committee on Ethics under section 321 include, but are not limited to—

(1) if the discrimination is failure or refusal to hire an individual, a requirement that such individual be employed within a specified period of time, or the payment of a specified sum to such individual, or both;

(2) if the discrimination is discharging an individual, a requirement that such individual be reemployed within a specified period of time, or the payment of a specified sum to such individual, or both;

(3) if the discrimination is with respect to the promotion or compensation of an individual, a requirement that such individual be promoted to or compensated at a specified level within a specified period of time, or the payment of a specified sum to such individual, or both; and

(4) if the discrimination is with respect to terms, conditions, or privileges of employment of an individual, a requirement that such terms, conditions, or privileges be changed with a specified period of time, or the payment of a specified sum to such individual, or both.

(b) Any payment ordered to be made to an individual under an order issued by the Board or the Select Committee on Ethics shall be made out of the contingent fund of the Senate upon a voucher signed by the Chairperson of the Board or the chairman of the select committee, as the case may be.

(c) No complainant or witness in a proceeding under this title shall be subject to any reprisal, interference, intimidation, or coercion by any Member, officer, or employee of the Senate as a result of filing such complaint or appearing as such a witness.

RECORDS; CONFIDENTIALITY OF INFORMATION

SEC. 332. (a) The records, files, and papers relating to each informal complaint filed under section 302, each formal complaint filed under section 311, and each appeal taken under section 321 shall constitute papers of the Senate and shall be retained for at least five years. All such information, including the existence of a case, shall be maintained on a confidential basis, and, except as provided in subsection (b) or as otherwise ordered by the Senate, such information shall not be disclosed to any person (other than the complainant and the respondent) and shall not be available for inspection other than by the Board, the Director and employees of the Office, and, with respect to any appeal taken under section 321, the Select Committee on Ethics.

(b) Decisions and orders of the Board under section 313 and decisions and orders of the Select Committee on Ethics under section 321 shall be made public.

COOPERATION BY COMMITTEES AND OFFICES

SEC. 333. Each committee and office of the Senate shall cooperate with the Board, the Office, and the Select Committee on Ethics in order that the functions and duties imposed on them by this resolution may be properly and effectively carried out.

TITLE IV—AMENDMENTS TO STANDING RULES OF THE SENATE AMENDMENTS TO RULE XLII

SEC. 401. Rule XLII of the Standing Rules of the Senate is amended by inserting "1." before "No Member" and by adding at the end thereof the following:

"2. Any complaint alleging a violation of this rule by any Member, officer, or employee of the Senate shall be heard and settled by the Senate Fair Employment Relations Board in accordance with the provisions of the

Lee Metcalf Fair Employment Relations Resolution.

"3. A complainant or respondent who is aggrieved by a final decision of the Board may, within thirty days after the decision is issued, appeal the decision to the Select Committee on Ethics.".

● Mr. HATFIELD. Mr. President, nearly two decades have passed since Congress saw fit to exempt itself from some of the most significant civil rights protections ever enacted. These safeguards, the Equal Pay Act, the Civil Rights Act of 1964, and the Equal Employment Opportunity Act of 1972, apply to the bulk of American private businesses and Government operations and help guarantee full civil and constitutional rights for all citizens. Or, more precisely, nearly all citizens.

By excluding itself from these laws, Congress relied on the separation of powers doctrine. Proponents claimed that because of its unique national legislative role, Congress alone must manage its own internal affairs. I have no quarrel with this, Mr. President. Certainly, the role and responsibilities of an elected Federal official are in many ways unique. The importance of loyalty and ideological compatibility with one's staff is more pronounced here. Certainly, the courts, as well as the executive branch, have attempted to avoid involvement in areas long held to be within the exclusive purview of Congress. And rightfully so.

Today, the exemption of the Nation's most powerful lawmaking body from particular civil rights provisions enacted for other branches of Government and the private sector is under increasing criticism. But, Mr. President, even if such criticism were absent, the Senate would still have the responsibility to provide similar guarantees to our own employees.

One of the most influential and able civil rights leaders in the Senate, my former colleague and very good friend, Senator Edward Brooke, expressed this sentiment most eloquently 2 years ago. He said:

> Congress should be setting the example for the country, not making itself the exception. Our system of government rests in the end on the trust between the Government and the governed. The very least that our females and older citizens and the members of minority groups should expect, if they are to be asked to remain faithful to the principles of a free society, is that our leaders show themselves to be faithful to those same principles. . . . Just because a person accepts employment on Capitol Hill does not mean that individual accepts second class citizenship.

Without comparable protections as those afforded in the legislation discussed, congressional staff and job applicants are indeed second-class citizens. That is why today, Mr. President, I submit the Lee Metcalf Fair Employment Relations Resolution. This resolution attempts to put our own house in order with respect to civil rights in employment. It is not a new idea; neither is it without extensive legislative history. Named after former Senator Lee Metcalf, who worked tirelessly on this issue, the resolution was developed in the Governmental Affairs Committee during the last Congress, at the direction of the Senate. The Senate mandated that body to make recommendations concerning its rule L (now rule XLII) regarding employment discrimination in the Senate.

This rule prohibits such discrmination based on an individual's race, color, religion, sex, national origin, age or state of physical handicap. After extensive hearings and a year of study, the committee concluded that rule L could not be an effective deterrent to employment discrimination unless formal procedures were established to resolve complaints. They developed a procedure which provides Senate employees with a fair and effective method of obtaining due process against discriminatory employment practices. At the same time, the proposal protects Senators from frivolous or politically inspired complaints. Both the Governmental Affairs and Labor and Human Resources Committees reported this resolution. Unfortunately, it did not come before the full Senate for a vote.

I would like to remind my colleagues of the increased involvement by the courts in the status of congressional employees. On June 5, 1979, the U.S. Supreme Court, in Davis against Passman, held that the fifth amendment affords congressional employees the right to sue in Federal court for damages resulting from discrimination by their employers. The Court also held that monetary damages would be a proper remedy in such cases. Justice William Brennan's opinion in the case is worthy of note:

> No man in this country is so high that he is above the law.

An instrumental factor in the decision of the Court was that Congress does not have a mechanism through which to implement its antidiscrimination rule, in this case, rule L. Thus, when former congressional employee Shirley Davis believed her constitutional rights had been violated, she had no form of redress other than the Federal courts. This resolution attempts to fill that void in the Senate.

In practical terms, then, this issue will not be resolved until and unless Congress addresses it appropriately.

Indeed, there are problems which must be addressed. Although no official statistics are kept, there is evidence that Congress does, in fact, discriminate against women and minorities. According to one study, women in professional jobs in the Senate make 81 percent of the salaries of men in comparable jobs. Of the 50 committee staff directors in Congress, only one is a woman. As of 1978, the Senate employed only 23 black professionals out of 1,100 staff members.

Mr. President, I do not believe that anyone here consciously practices discrimination. I agree with colleagues who have claimed that discrimination in employment is a subtle activity that few people who are not targets can recognize. Rather, most discrimination is the product of a system which has operated under the "old boy's network" since its beginning. In some ways, Congress resembles the marketplace when it comes to employment, where people are absorbed in stereotypical fashion. "It is not because the marketplace is evil, but because it operates like a machine and does business the way it has always done," says Eleanor Holmes Norton, Chairman of the Equal Employment Opportunity Commission.

While most private enterprises and Government institutions have been required to establish a procedure to prevent such discrimination, Congress has no such mechanism. Only in Congress can an employer tout "we are exempt" to the charge of discrimination.

This is the congressional double standard which reinforces public skepticism and mistrust of the institution. At a time when public frustration with Government and its programs is intensifying, it is an attitude we can ill afford. Prominent newspapers from throughout the country chastise this situation as the most blatant of congressional privileges—exempting itself from the protective measures we insist that others obey. The congressional message of "do as I say, not as I do," should no longer be tolerated. I urge my colleagues to join in an effort which is long overdue.

Mr. President, this resolution completes an important task relating to the civil rights of congressional employees. It recognizes the unique characteristics of the Senate as an institution. It does not infringe upon the rights of Senators to select staff based upon legitimate criteria related to job performance such as geographical or political considerations.

In addition, the resolution includes the following points which are specifically designed to protect the rights of the Members of the Senate:

Heavy emphasis on the informal resolution of complaints;

Provision for early dismissal of groundless complaints;

Prohibition on disclosure of case information prior to the resolution of complaints;

Establishment of strict time limits to insure prompt consideration of complaints; and

Provision for a final appeal by either party to the Senate Ethics Committee.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the Lee Metcalf Fair Employment Resolution as well as the resolution itself. My colleagues and I hope it will gain the support and attention required for passage, and the dispelling of the common label of Congress as "The Last Plantation."

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

LEE METCALF FAIR EMPLOYMENT RELATIONS RESOLUTION

S. Res. 492 establishes a mechanism to give employees an opportunity for due process with respect to discrimination complaints. The resolution is designed to insulate this procedure from political abuse. It does not impinge in any way upon a Senator's flexibility to hire an employee for geographical or political reasons or other nondiscriminatory criteria.

Its main provisions are:

1. Fair Employment Relations Board: The Board would consist of six members appointed from the private sector by the Senate Majority and Minority Leaders, with the approval of the respective conferences. The

Board would decide any discrimination complaints which could not be resolved informally, and would supervise the Fair Employment Relations Office.

2. Fair Employment Relations Office: The Office would investigate and seek the informal resolution of discrimination complaints. The Office would also study Senate personnel practices, including the compilation of a statistical data, and work with any Senate offices which requested assistance in improving their personnel policies.

3. Complaints Procedure:

a. Counseling: The Office would provide counseling to any employee or job applicant who felt that he or she had been discriminated against.

b. Informal Complaint: If a resolution could not be achieved through counseling, an informal complaint could be filed. The Director would investigate the complaint and prepare a report.

If the Director found no evidence of discrimination, the case could be closed unless the Board determined that the Director should be allowed to file a formal complaint.

c. Formal Complaint: A hearing examiner would be assigned to hear the case and submit recommendations to the Board. The Board would then render a decision including appropriate remedial action.

d. Appeal to the Ethics Committee: Either party could appeal the Board's decision to the Ethics Committee.

4. Time Limits: Cases of alleged discrimination would generally not be eligible for consideration under the above procedure unless the individual sought counselling within 60 days of the alleged discriminatory act or unless the alleged abuse were of a continuing nature. Specific time limits are established for each state of the complaint handling process.

5. Remedies: The Board would be authorized to order remedies whenever it determined that discrimination had occured. The remedies could include actions such as hiring or reinstatement, as well as monetary awards to be paid by the Senate. No remedy would be ordered which would cause undue hardship or benefit to either party.

6. Confidentiality: The Board and Office could not release any information concerning the existence or status of a case other than final decisions of the Board and the Ethics Committee on formal complaints and appeals.●

● Mr. DURENBERGER. Mr. President, I am pleased and proud to join Senator HATFIELD as a principal sponsor of the Senate Fair Employment Resolution. The introduction of this measure is one more step forward in our continuing effort to guarantee equality of opportunity for every American.

The need for providing equal employment opportunity in the Senate has been well documented over the past several years. A 1977 study by the Capitol Hill Women's Political Caucus showed that the median salary for females in the Senate was $12,755 and that of males $22,879. Another study by Harrison W. Fox and Susan Webb Hammond showed that in a sampling of House and Senate professionals over 75 percent were men. And in 1977 representatives of the ad hoc committee of black Senate legislative staff testified that less than 3 percent of the approximately 1,100 professional employees in the Senate were black.

The Senate recognized the legitimacy of this concerns when it passed 3 years ago Senate Rule 50 (now rule 42) as part of Senate Resolution 110, the legislation which established a new Code of Official Conduct for Members, officers, and employees of the Senate. The new Senate rule provides that:

> No Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—
>
> a. Fail or refuse to hire an individual;
>
> b. Discharge an individual; or
>
> c. Otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.

Senate Resolution 110 also directed the Governmental Affairs Committee to study "the subject of handling employment discrimination complaints," marking the first attempt to establish a mechanism to insure compliance with the prohibition of discrimination.

Pursuant to this directive the Senate Governmental Affairs Committee held hearings, debated, and then unanimously reported out Senate Resolution 431, the Senate Fair Employment Resolution. The Health and Human Resources Committee also considered and reported out the measure.

Regrettably, the Senate did not act on the fair employment resolution in 1978, and to date, no further action has been undertaken.

Today we hope to rectify this situation. The time has come for the Senate to pass promptly this important resolution. For we all know that it is not enough to simply declare the existence of a right without establishing a remedy if that right is ever abridged. Indeed, a right without a remedy is like a bell without a clapper—hollow and empty.

The resolution we introduce today is virtually the same measure reported out in 1978. The principal provisions are:

1. Establishment of Fair Employment Relations Board.—The Board consists of members appointed from the private sector by the Senate majority and minority leaders, with the approval of the majority and minority parties. The main purpose of the Board is to decide discrimination complaints and to supervise the Fair Employment Relations Office.

2. The Fair Employment Relations Office.—The Office, which the Board oversees, is headed by a Director who is appointed by the Board. The purpose of the Office is to process discrimination complaints and to study present Senate personnel practices, publish statistical data on salaries, et cetera, and make recommendations for the improvement of hiring and recruitment practices.

3. Complaint handling procedure.—The procedure for handling complaints consist of four basic stages:

a. Counseing—If an empoyee or job applicant feels he or she has been recently discriminated against, the individual must request counseling, which would be a necessary pre-condition to the filing of an informal complaint (20 day time limit).

b. Informal complaint.—After counseling, an individual may file an informal complaint. The Director then looks into the complaint in order to make a determination as to whether or not he or she feels there might have been discrimination. If the Director's report states there is no evidence of discrimination the case is closed unless the complainant appeals to the Board to overturn the Director's report (45 day time limit). If the Director's report states that discrimination was probable, and the Director's efforts to resolve the complaint have failed, or the Board has ruled contrary to the Director's report, the individual may file a formal complaint (30 day time limit).

C. Formal Complaint.—Once a formal complaint is filed, a hearing examiner hears the case and makes a determination as to the disposition of the complaint, includng remedies (60 days).

D. Appeal to the Ethics Committee.—Either party may appeal to the Ethics Committee beyond the Board's recommendations (60 day time limit).

The fair employment resolution has been carefully drafted. It strikes a balance between providing due process for job applicants and Senate employees and protecting Senators from frivolous complaints. In fact, the resolution places a heavy emphasis on the informal resolution of complaints, permits early dismissal of groundless complaints, and prohibits the disclosure of case information prior to a Board decision.

In addition, and very importantly, the resolution explicitly provides that there is no infringement upon the rights of Senators to select staff based upon legitimate job-related criteria such as geographical or political considerations.

The resolution also recognizes that much of the discrimination in the Senate is unintentional. It is the result of Senate offices continuing to use the same ineffective hiring and employment practices that have been used for generations. Such practices perpetuate the exclusion of women, minorities, the physically handicapped, the elderly, and others.

Therefore, in addition to establishing procedures for handling specific discrimination complaints, the resolution directs the Fair Employment Office to make a continuing study of the categories of individuals who are afforded equal employment opportunities by rule 42 and of the employment practices of Senate offices and committees. This resolution will enable the Senate to obtain reliable information and expert assistance in improving employment practices. Once these procedures are working, we are confident that the Senate will offer the same equality of employment opportunity mandated for other public and private employees.

Mr. President, I cannot overstate the importance and the necessity for the passage of this measure. History demands enactment. Equity demands enactment. And our concept of leadership demands enactment.

This last point deserves special consideration. For Congress, over the past two decades, has passed many laws to enforce and promote equal opportunity in the United States. But each time it has exempted itself from the coverage of these laws. This is not the example that we should be setting for the country. Indeed, the very least that our females and older citizens and the members of minority groups should expect, if they are to be asked to remain faithful to the principles of a free society, is that our leaders show themselves to be faithful to those same principles.

Mr. President, I ask my colleagues to expeditiously consider and pass this resolution.●

● Mr. CHAFEE. Mr. President, I am

pleased to once again cosponsor the Lee Metcalf Fair Employment Relations Resolution. As an original cosponsor of the legislation when it was initially introduced in the 95th Congress, I am hopeful that the legislation will be enacted this year.

The need for this resolution is simple. As my colleagues know, the Congress is exempt from the laws which govern other Americans. There is a constitutional problem with maintaining separation of powers if the Congress is subject to enforcement by an executive agency of the laws it makes. To sidestep this potential problem, we have exempted ourselves all laws, including those dealing with employment discrimination. As an alternative, the Senate adopted rule L (now rule XLII) which prohibits employment discrimination on the basis of an individual's race, color, religion, sex, national origin, age, or state of physical handicap.

During the 95th Congress, the Government Affairs Committee was instructed by the Senate to make recommendations concerning implementation of rule L. After extensive hearings and a year of study, the committee concluded that rule L could not be an effective deterrent to employment discrimination unless a grievance procedure was established to resolve complaints. In other words, Mr. President, without a formal process which allows grievances to be heard and worked out, rule I is meaningless.

The resolution we submit today establishes a procedure for due process with respect to discrimination complaints. The procedure recognizes the unique characteristics of the Senate and does not infringe on a Senator's right to hire staff according to political or geographical preferences. Employees are provided a process by which grievances can be worked out while Senators are protected from frivilous or politically-motivated accusations.

Mr. President, we need to show the American people that we are 100 percent committed to wiping out employment discrimination. One of the surest ways to demonstrate this is to use ourselves as the best example. The grievance procedure established in Senate Resolution 431 should not pose a problem for any Senator or staff member who respects rule L or the basic laws of our country.

I urge my colleageus to adopt this resolution.●

AMENDMENTS SUBMITTED FOR PRINTING

NATIONAL SMALL HYDROELECTRIC POWER DEVELOPMENT ACT—S. 1641

AMENDMENT NO. 1949

(Ordered to be printed and to lie on the table.)

Mr. CULVER submitted an amendment intended to be proposed by him to S. 1641, a bill authorizing the Secretary of the Army, acting through the Chief of Engineers, to plan, design, and construct small hydroelectric power projects not specifically authorized by the Congress.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Friday, August 1, 1980, at 10 a.m. in room 4232, Dirksen Senate Office Building, on the nominations of John Slaughter to be Director of the National Science Foundation and James Jones to be Chairman of the Special Panel on Appeals.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, the Select Committee on Small Business will hold a hearing on H.R. 5612, to amend the Small Business Act to extent the current SBA 8(a) pilot program on August 4, 1980.

The hearing will begin at 10 a.m., in room 424 of the Russell Senate Office Building.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, of which I am chairman, will conduct oversight hearings on the Internal Revenue Service's collection policy and its impact on small businesses on Thursday, July 31, 1980, at 9:30 a.m. in room 1318 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to consider pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold hearings on coal transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 29, to mark up the Foreign Service Act of 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Environment, Soil Conservation, and Forestry Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, July 29, 1980, to hold a hearing on S. 1942, legislation which provides for resource conservation development programs in USDA.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECRUITMENT INCENTIVES FOR THE NATIONAL GUARD AND RESERVES

● Mr. McGOVERN. Mr. President, during the recess I received letters from a number of adjutant generals of State National Guard headquarters and from the presidents of National Guard associations around the country expressing support for the amendment I offered to the fiscal year 1981 Defense Authorization Act. The amendment, which passed the Senate unanimously, will double the size of the educational enlistment bonuses offered to young people who enlist directly into the Selected Reserves, which includes the National Guard and the Army Reserve.

I deeply appreciate this support from guardsmen all across the country. I am especially grateful for the support offered by my good friends, Maj. Gen. Duke Corning, the adjutant general of the South Dakota National Guard, and LTC Harold Sykora, president of the South Dakota National Guard Association.

Mr. President, I would like to share these warm letters with my colleagues and thank guardsmen for their help in passing this amendment. I ask to insert the texts of the letters in the RECORD at this point.

The texts of the letters follow:

NATIONAL GUARD ASSOCIATION
OF SOUTH DAKOTA,
Rapid City, S. Dak., July 10, 1980.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: On behalf of this Association, I wish to thank you for sponsorship of the McGovern Amendment to the FY 81 Defense Procurement Authorization Bill. We also appreciate your support of S. 1858, the National Guard Federal Federal Tort Claims Act.

We, the officers of the National Guard, are truly proud of the men and women who serve in the Guard. Increasing Educational Assistance from $500 to $1,000 per year and the total benefit from $2,000 to $4,000 will assist in attracting even more young people who are capable of meeting the great challenges facing the Guard.

I am pleased that, following the reassurance you gave the Association in conference at Sioux Falls on May 3rd, you are following through with support for increased funding for military manpower.

Again, thank you for your continued support.

HAROLD J. SYKORA,
President.

DEPARTMENT OF MILITARY AND
VETERANS AFFAIRS,
STATE OF SOUTH DAKOTA,
Rapid City, S. Dak., July 9, 1980.

Hon. GEORGE MCGOVERN,
4239 New Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGOVERN: I just want to take this opportunity to thank you personally for your efforts and continued support of the National Guard. Your amendment to the FY 81 Defense Procurement Authorization Bill will double the educational assistance incentive to many needed young men and women.

Your continued support will assure a

strong Guard in South Dakota and the Nation.

Sincerely,

DUANE L. CORNING,
The Adjutant General.

DEPARTMENT OF DEFENSE,
STATE OF HAWAII,
Honolulu, Hawaii, July 14, 1980.
Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: On behalf of the Hawaii National Guard, I want to thank you for your sponsorship of the McGovern Amendment to the FY 81 Defense Procurement Authorization Bill.

The added benefit to the Educational Assistance incentive to recruit young men and women into the Hawaii National Guard will certainly assist in attracting the caliber of personnel needed to raise the standards and develop our future leaders in our community and the Guard.

Your support in giving new life to our recruiting efforts is greatly appreciated.

Sincerely,

VALENTINE A. SIEFERMANN,
Adjutant General.

STATE OF MARYLAND,
MILITARY DEPARTMENT,
Baltimore, Md., July 7, 1980.
Hon. GEORGE M. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: On behalf of the Maryland National Guard, I would like to thank you for your sponsorship of the McGovern Amendment to the FY 81 Defense Procurement Authorization Bill.

By increasing the annual benefit provided by the Educational Assistance incentive from $500 to $1,000 per year and the total benefit from $2,000 to $4,000 will significantly help the Guard and Reserve in attracting more of those young men and women with the higher mental potential needed to operate and maintain modern, sophisticated weapons systems.

As such, this amendment is of great importance to not only the Maryland National Guard but to all National Guardsmen all across the Nation.

Respectfully,

WARREN D. HODGES,
Adjutant General.

THE NATIONAL GUARD ASSOCIATION,
OF SOUTH CAROLINA,
Columbia, S.C., July 9, 1980.
Hon. GEORGE M. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: Your sponsorship of the McGovern Amendment to the 1981 Defense Procurement Authorization Bill will accomplish two very worthwhile objectives: (1) attraction of a more educationally qualified cadre of young men to the Guard and Reserve Forces and (2) elevating the level of education of a great many young Americans.

As President of the South Carolina Chapter of the National Guard Association I express to you the appreciation of thousands of National Guardsmen and Reservists in the state.

Sincerely,

EARLE E. MORRIS, Jr.,
President.

MILITARY DEPARTMENT OF TENNESSEE,
Nashville, Tenn., July 11, 1980.
Hon. GEORGE M. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: Please accept my thanks on behalf of Tennessee Guardsmen for your sponsorship of the McGovern Amendment to the FY 81 Defense Procurement Authorization Bill.

This amendment is important to Guardsmen everywhere. Increasing the Educational Assistance incentive will enhance our ability to retain and recruit the caliber of men and women we need to provide a ready reserve force.

Sincerely,

CARL W. WALLACE,
Adjutant General.

STATE OF OKLAHOMA
MILITARY DEPARTMENT,
Oklahoma City, July 9, 1980.
Hon. GEORGE M. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: I wish to thank you on behalf of the Oklahoma National Guard and Oklahoma National Guard Association for your sponsorship of the McGovern Amendment to the FY-81 Defense Procurement Authorization Bill.

The McGovern Amendment is of great importance to National Guardsmen, not only in Oklahoma but across the nation. It is my opinion that many more higher educationally qualified, young men and women will be attracted to Guard service by increasing the annual benefit provided by the Educational Assistance incentive as outlined in the Amendment.

Your work and concern on behalf of the National Guard is greatly appreciated.

Sincerely yours,

ROBERT M. MORGAN,
Adjutant General.

STATE OF KANSAS,
Topeka, Kans., July 11, 1980.
Hon. GEORGE M. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: Thank you on behalf of the 7,000 members of the Kansas National Guard for your sponsorship of the McGovern Amendment to the FY 81 Defense Procurement Authorization Bill.

The McGovern Amendment is of great significance to our National Guard members who serve in 61 Kansas communities across this great State. By increasing the annual benefit provided by the educational assistance, we believe those young Kansans needed to operate and maintain modern, sophisticated weapons systems or perform in leadership positions, will be attracted to our Guard in greater numbers than previous years.

Your leadership on behalf of the National Guard is most appreciated.

Sincerely,

EDWARD R. FRY,
Adjutant General.

COMMONWEALTH OF VIRGINIA,
July 8, 1980.
Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: The McGovern Amendment to the Defense Procurement Authorization Act is of great importance to National Guard members throughout the nation. I believe the McGovern Amendment will significantly enhance our recruiting efforts, and I thank you for your efforts on our behalf.

Your development and introduction of the McGovern Amendment is very much appreciated and I look forward to your continued support of a strong National Guard.

Sincerely yours,

WILLIAM J. MCCADDIN,
Adjutant General.

DEPARTMENT OF MILITARY
AFFAIRS OF PENNSYLVANIA,
Annville, Pa., July 15, 1980.
Hon. GEORGE MCGOVERN,
Washington, D.C.

DEAR SENATOR MCGOVERN: We wish to take this opportunity to express our sincere appreciation for your introduction of the McGovern Amendment to the 1981 Defense Procurement Authorization Act to increase the Education Assistance incentive for Guard and Reserve non-prior service enlistees.

As you are aware, the most critical problem facing the armed forces today is the inability to attract adequate numbers of capable people. The improved incentive provided by the McGovern Amendment should appeal to young personnel who are interested in a college education and encourage their enlistment into the Guard and Reserve.

Again, our thanks for your support to improve the readiness of our Guard forces.

Sincerely,

RICHARD M. SCOTT,
Adjutant General.

MILITARY DEPARTMENT OF ARKANSAS,
North Little Rock, July 14, 1980.
Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: I wish to thank you on behalf of the Arkansas National Guard for your sponsorship of the McGovern Amendment to the FY 81 Defense Procurement Authorization Bill.

The McGovern Amendment is of great importance to National Guardsmen all across this nation. By increasing the annual benefit provided by the Educational Assistance incentive from $500 to $1,000 per year and the total benefit from $2,000 to $4,000, I feel that those young men and women with higher mental potential who are needed so badly in today's environment, will be attracted to Guard and Reserve services in greater number.

Your work on behalf of the National Guard is greatly appreciated.

Sincerely,

JAMES H. JONES,
Adjutant General.

NATIONAL GUARD ASSSOCIATION
OF WEST VIRGINIA,
Martinsburg, W. Va., July 15, 1980.
Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: The members of the National Guard Association of West Virginia applaud your sponsorship of the McGovern Amendment to the FY81 Defense Procurement Authorization Bill.

The increases obtained in the benefits provided by the Educational Assistance incentive should enable us to attract more high-quality young people into the National Guard.

Thank you for your interest and efforts in helping to strengthen the Guard so that we can continue to fulfill our vital role in the defense of our country.

We shall look forward to your continued support for legislation that improves and strengthens our Guard forces.

Sincerely Yours,

RONALD W. TAYLOR,
President.

MILITARY DEPARTMENT,
STATE OF SOUTH CAROLINA,
Columbia, S.C., July 14, 1980.
Hon. GEORGE S. MCGOVERN,
U. S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: Thank you for sponsorship of the McGovern amendment to the FY-81 Defense Procurement Authorization Bill.

The increase in educational benefits provided in this amendment will assist National Guard units all across our country to attract better quality young men and women.

Your continuing support of the National Guard is gratefully appreciated.

Sincerely,

T. ESTON MARCHANT,
Adjutant General.

NATIONAL GUARD ASSOCIATION,
OF PENNSYLVANIA,
Denver, Pa., July 15, 1980.

Hon. GEORGE MCGOVERN,
Washington, D.C.

DEAR SENATOR MCGOVERN: The Officers and general membership of this Association wish to express our appreciation for your introduction of the amendment to the Defense Procurement Authorization Act which would substantially increase the education assistance incentive for Guard and Reserve enlistees.

We have been deeply concerned for the past several years over the consistent military manpower deficiencies confronting our Armed Services and we are convinced that incentives such as you have provided in this amendment, will go a long way to correct them.

Please accept our thanks for your efforts to improve the combat readiness of the Pennsylvania National Guard.

Sincerely,

GEORGE L. SPUHLER,
Executive Director.

STATE OF NEW YORK,
DIVISION OF MILITARY AND
NAVAL AFFAIRS,
Albany, N.Y., July 18, 1980.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: On behalf of the Governor of New York and the men and women of the New York State Army National Guard I would like to express our gratitude for your legislative initiatives in support of the Guard.

The McGovern Amendment to the FY '81 Defense Procurement Authorization Bill increasing educational assistance incentives will be a significant benefit to many of our members who seek to further their higher education.

It will also be an attractive incentive to enlistment in the National Guard at a time when our nation's need for high caliber volunteers is critical.

I congratulate you on your demonstrated appreciation for the need to support and encourage our men and women in uniform and I trust that your leadership in this area will continue.

Sincerely,

VITO J CASTELLANO.●

ARREST OF PARAGUAYAN JOURNALIST

● Mr. KENNEDY. Mr. President, I want to express my own protest at the recent arrest of a highly respected Paraguayan journalist, Alcibiades Gonzales Delvalle, only the morning after his return from a tour of the United States as a guest of the Department of State visitors' program. As an outstanding reporter and editorial writer for Paraguay's leading newspaper and as head of the Paraguayan Journalists' Union, Gonzales Delvalle has been a distinguished and compelling critic of government corruption and the systematic abuse of human rights under the Stroessner regime. His arrest and detention under a catch-all antisubversion law not only flies in the face of international guarantees of free speech and press but also reflects the continuing disregard for basic human rights by the Paraguayan authorities.

This latest violation merely adds to the long list of abuses which has characterized the repressive rule by siege of the Stroessner government. For 26 years, a state of siege has been in effect in Paraguay, and the Paraguayan regime has maintained itself in power through widespread intimidation, brutality, and corruption.

In recent years, however, the Paraguayan Government appeared to be moderating the worst excesses of human rights abuse in response to persistent international criticism. State of siege provisions were lifted for the first time in three provinces in May 1978, the majority of long-term political prisoners were released, and severe constraints on press freedom were significantly relaxed.

These encouraging and positive developments have been tragically reversed in a harsh Government crackdown in recent months. In March of this year, Government security forces launched brutal raids against peasant communities organizing in defense of their lands, killing over 20 persons and rounding up hundreds more. The official repression has extended to renewed harassment of democratic opposition political figures, and to clear attempts to stifle press freedom and reimpose censorship. Only last year, on November 9, 1979, Gonzales Delvalle was first arrested and held incommunicado for a period of 6 weeks, in complete violation of his legal rights.

Gonzalez Delvalle's current confinement—in retaliation for a series of articles highlighting corruption and political interference in the judicial system—represents another severe setback for the human rights situation and for freedom of the press in Paraguay. His arrest has drawn the protest of the AFL–CIO and other national and international organizations concerned with press freedom. I would urge that the strongest protest be lodged by our Government at this gross violation of individual liberty.

It is important that we strongly encourage the Government of Paraguay to relax its official repression and move again toward a more open political environment. In this regard, any new Ambassador to be appointed by the Carter administration to fill the current vacancy in Asuncion, should play as positive a role in encouraging democratic change in Paraguay as did Robert White during his recent tenure there.

I submit for the RECORD, articles by Jack Anderson and from the New York Times on Gonzalez Delvalle's visit to the United States and his arrest.

The articles follow:

A CRITIC IS SILENCED IN PARAGUAY

(By Jack Anderson)

It takes no great personal courage for an American writer to stand up to the government and to give the people an unauthorized, contradicting version of things. But elsewhere, even the mildest deviation from the official line constitutes an act of extraordinary heroism.

Alcibiades Gonzalez Delvalle is such a hero.

For the past 24 years, Gonzalez has been a journalist in Paraguay—the tiny, landlocked South American country that, since 1954, has been the personal fiefdom of Gen. Alfredo Stroessner. Just 12 days ago, Gonzalez, who had been visiting here, flew back to Paraguay, trading a safe haven in the United States for certain arrest in his homeland. Sure enough, within hours after he arrived in Asuncion, Gonzalez was dragged off the street by Stroessner's men. He has disappeared.

Lacking the international stature that gave some measure of protection to Soviet dissidents like Alexander Solzhenitsyn and Andrei Sakharov, Gonzalez still chose to risk his freedom, and perhaps his life, by returning home.

Why? A few days before he left Washington, Gonzalez came to my office. He wanted to explain what the Paraguayan military dictator was doing to silence his critics.

"They are trying to use me to shut down all freedom of expression in Paraguay," he told my associate Bob Sherman. "Other journalists have been critical of the government there lately and Stroessner wants it stopped."

Gonzalez had been a particularly aggravating burr under Stroessner's saddle. Most unforgivably, he had stung the regime with sly ridicule. Commenting on the suicide of a French cabinet minister in the wake of corruption charges, Gonzalez wrote that he hoped the example would not be followed by Paraguayan officials because "we wouldn't have enough space to bury all the dead."

This caused Gonzalez' arrest and solitary confinement for 45 days. "The government obviously didn't have a sense of humor," he remarked later. But Gonzalez persisted in his gadfly activities after he was released.

Unfortunately, his plight is not unique among Latin American journalists. Two years ago, another courageous Paraguayan, Domingo Laino, visited my office with a similar prediction of impending arrest when he returned home. Laino not only had criticized Stroessner openly during a trip to the United States, but had also lobbied effectively against international loans to the regime until it improved its human rights record.

As he foretold, Laino was imprisoned by Stroessner. In messages smuggled to me from his cell, Laino wrote that he feared for his life. A worldwide protest eventually forced Stroessner to release Laino, who reported that he had been physically abused and starved in prison.

Another critic of a Latin American tyrant was not so fortunate. Pedro Joaquin Chamarro, crusading editor of Nicaragua's La Prensa, sent me information he could not publish in his own country. As the ultimate reward for his courage, he was gunned down by then-president Anastasio Somoza's men in January 1978. That attitude toward a free press filtered down, as millions of Americans learned, when ABC newsman Bill Stewart was shot to death on camera by a Nicaraguan National Guardsman.

Not surprisingly, ousted dictator Somoza now lives in luxurious exile—in Paraguay.

The suffocating effect of Stroessner's press policy was described to us by Gonzalez. "There are certain things that you know you are just not permitted to write about," he said. "Stroessner's press secretary will let you know when the government is displeased. He will threaten you and inform you that journalists should be objective and make constructive criticisms."

If this sounds like nothing worse than a Ron Ziegler or Jody Powell complaining about criticism, the difference is that, in

Paraguay, journalists who don't take the hint wind up in prison.

Gonzalez was worried about his arrest on one score. "If I go to jail, my other journalist friends will be afraid the same thing will happen to them."

Gonzalez also realized that his only hope for eventual release would be international pressure, particularly from the United States. Until Stroessner feels that pressure and decides he must give in to it, Alcibiades Gonzalez Devalle will be a voiceless critic of tyranny.

PARAGUAY IMPRISONS COLUMNIST, CRITIC OF REGIME, FOR SECOND TIME

(By Warren Hoge)

Asuncion, Paraguay, June 26.—The Government of Gen. Alfredo Stroessner has arrested a prominent Paraguayan journalist here just hours after he returned from a visit to the United States sponsored by the United States Government.

Alcibiades Gonzalez Valle, a 43-year-old columnist for the country's largest paper, ABC Color, the head of the Newswriters' Union and, according to a recent survey, the most "credible" journalist in Paraguay, was grabbed by the belt by plainclothes policemen on a downtown street here yesterday, hustled into a car and driven to police headquarters.

Later in the day he was transferred to the National Pentitentiary on the outskirts of the capital and held under a national security statute aimed at whose who "incite violence against authorities or institutions of the country."

The offense cited was an article Mr. Gonzalez Valle wrote on May 14 in which he deplored the "Kafkaesque" denial of due process to a man already in jail for seven years and still not formally charged and the court's refusal in another incident to take testimony from a witness to the killing of a 16-year-old youth by a man with close ties to the Government.

ARRESTED OUTSIDE COURT

The accusation had been logged against Mr. Gonzales Valle by Attorney General Clotildo Jimenez Benitez while he was on a month-long tour of the United States sponsored by the International Communications Agency, a Government agency. On his return here Tuesday, the journalist announced he would go before a judge the following day. His arrest occurred 10 feet from the entrance to the court building as he was on the way to make his promised appearance.

It was the second time that the Stroessner administration had cracked down on Mr. Gonzalez Valle. In November, Mr. Gonzalez Valle was jailed under the state of seige law under which this country has been administered for the past half-century, and held incommunicado for 44 days.

In that episode Mr. Gonzalez Valle had written an attack on government corruption in which he noted that the French Labor Minister, Robert Boulin, had committed suicide because "doubt had been cast on his honesty."

"Pray God that this custom doesn't come here," Mr. Gonzalez Valle concluded, "because there aren't enough funeral homes or cemetery space to satisfy the demand."

An international campaign, spurred by the A.F.L.-C.I.O., which helped him organize the journalists' union here, was credited with obtaining Mr Gonzalez Valle's release the first time "Pressure from abroad is the only power the dictatorship respects," said Fransisco Jose de Vargas, the Columnist's lawyer. "Big countries like Argentina and Chile can resist, but this is a small country."

Political prisoners he had defended had often spent two to three years in prision before being freed, he said.

Asked what could happen to Mr. Gonzalez Valle, Aldo Zucollilo, the publisher of ABC Color, said: "In this country you never know. It could be tomorrow. It could be a year from now. It could be never.

"The moment that one journalist gives the most remote possible reason for whatever functionary to jail him, it happens. As they apply the law as they like, it's not hard to do."

Mr. Zucollilo said he felt the Government thought it could intimidate reporters by jailing colleagues of Mr. Gonzalez Valle's prominence, "but," the publisher said, "I think the contrary will occur." ●

THE BILLY CARTER AFFAIR AND MR. CIVILETTI

● Mr. GOLDWATER. Mr. President, on July 25, the Attorney General of the United States, Mr. Civiletti, admitted that he had discussed the Billy Carter case with the President. Now, I realize the Attorney General claims he did not discuss the investigation with the President. The self-serving and narrow interpretation of the word "investigation" belittles the Attorney General. Perhaps he did not discuss certain aspects of the investigation with the President, but he admits to having discussed the person who is the subject of the investigation and the very important question of the likely outcome of the investigation. These are aspects of the investigation he definitely discussed with the President.

In Mr. Civiletti's words, he assured the President, and I quote:

> Based on my understanding of department practice . . . if a person tells the truth and registers, the previous failure to register has not been prosecutable.

Whether or not this astounding statement amounted to a form of plea bargaining for the President's brother, it does reveal an ignorance of the law itself which reflects poorly on the professional competence of the Attorney General.

Whatever the practice of the Justice Department may be, the Foreign Agent Registration Act is specific that late filing gives no immunity from either civil or criminal prosecution. There would be little use to the law if it is enforced so that the only people who have to register are those who are uncovered by the FBI. It is not a hide-and-seek game.

If everyone is automatically relieved from any future penalty, after being discovered, regardless of how late or deliberate his failure may have been, this seriously undermines the basic purpose of the law to obtain prompt, open disclosure by all who are foreign agents.

The intent of Congress is obvious on the face of the statute. Language was specifically included in the law making it as clear as possible that evaders cannot get away scot-free simply by registering after the statutory deadline.

Subsection (d) of the law states:

> The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this subchapter and the regulations thereunder on the part of the registrant; not shall it indicate that the Attorney General has in any way passed upon the merits of such registration statement or supplement thereto; not shall it preclude prosecution, as provided for this subchapter; for willful failure to file a registration statement or supplement thereto when due . . .

True, a civil complaint was filed in court against Billy Carter. But if this is all, if a late registrant, who is discovered by the FBI, can expect to be free of any real threat of fine or imprisonment, the result is the same. The violator always escapes without suffering any penalty and, in effect, the Justice Department is telling the world that none need register unless and until he is found out.

For all practical purposes, the law would lack any meaning in its general application, but would merely stand as authority for the FBI to seek out nonregistrants. This practice, if it exists, seems to me to be in violation of the express constitutional requirement in article II, section 3, that the President "shall take care that the laws be faithfully executed." ●

MILITARY REPRESSION IN BOLIVIA

● Mr. KENNEDY. Mr. President, I wish to express my deep dismay at the July 17th military coup in Bolivia, which tragically thwarted the progress towards democracy and constitutional rule being achieved in that nation. This is the third time in 3 years since the end of Hugo Banzer's 7-year dictatorship that the military has sabotaged the persistent efforts of the Bolivian people to elect their own government.

The brutal intervention by the armed forces into the democratic process in Bolivia is cause for special concern and disappointment. Bolivia stands at a critical point in its recent history—where either the forces of dictatorship and repression can become firmly re-established, or where there is determined movement toward democratic institutions and individual liberties. Over 80 percent of eligible voters in Bolivia participated in national elections last month. On August 6, the Bolivian Congress was scheduled to select among the leading presidential candidates, since none had received a majority of the popular vote. However, the new three-man military junta staged the coup against the interim civilian government of President Lydia Gueiler, when it became apparent Congress would select front-runner and former President Hernan Siles Zuazo of the center-left Popular Democratic Unity (UDP) as head of state. That intervention deserves the firm censure of the hemispheric community.

I want to express my concern as well over the widespread repression and abandonment of constitutional law which has accompanied the coup. Martial law has been imposed nationwide, and among the hundreds of union leaders, politicians, journalists, and priests abducted by plainclothes gunmen on the day of the coup, is the ex-Vice President and head of the Bolivian Workers' Central (COB) Juan Lechin Oquendo. At least two important political figures are known to have been killed by the military forces, Socialist presidential candidate Marcelo Quiroga Santa Cruz and COB member Simon Reyes. The newspapers, seized by troops, have not resumed publication, and radio stations are now broadcasting under military control.

There are also disturbing reports of numerous army-inflicted casualties in southern mining districts which have organized themselves to resist the overthrow of democratic government. Labor and civic resistance to a similar coup last November, in which more than 200 were killed, was instrumental in installing the Gueiler Government. This time, however, there are strong fears that prolonged civil war between civilians and the military might break out, if the army remains intransigent in its opposition to democratic rule.

I welcome and support the recall of Ambassador Marvin Weissman, the withdrawal of U.S. military advisers and cutback in U.S. Embassy staff, and the termination of all U.S. military and economic assistance except for food and other humanitarian projects. I am also pleased that the admiinstration is working with other governments in the Hemisphere, especially those of the Andean Group, and with the Organization of American States to oppose military dictatorship and to help restore Bolivia to the path of democracy and freedom.

The OAS has voted overwhelmingly to deplore the military coup and to call for an investigation by the Inter-American Commission on Human Rights. But there should be much more multilateral pressure for democracy and human rights in Bolivia, from the United States, the Andean nations and other members of the OAS and the international community. Moreover, we should be prepared to oppose any international loans, except for humanitarian purposes, which aid the military regime. There should be no question that the destruction of democratic process—a clear violation of hemispheric and international standards of human rights—will affect a government's standing in the international economic community.

Mr. President, in a timely letter to Secretary of State Muskie shortly after the coup, the Washington Office on Latin America—a respected organization dedicated to human rights and democracy in Latin America—called on the administration to follow through on its strong condemnation of the coup. "The United States," WOLA stressed, "can best forestall an even more tragic conclusion by acting in conjunction with the Andean democracies and other Latin American nations to condemn this action." I request that the full text of its letter to Secretary Muskie, and in editorial in the New York Times, be inserted at this point in the RECORD.

The material follows:

WASHINGTON OFFICE
ON LATIN AMERICA,
Washington, D.C., July 18, 1980.

Secretary of State EDMUND S. MUSKIE,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: In light of the violent military interruption of Bolivia's painstaking democratization process yesterday, we urge the United States State Department to be steadfast in its condemnation of such actions.

The Washington Office on Latin America (WOLA) is a broad coalition of church persons and individuals committed to U.S. policys in Latin America that foster a respect for basic human rights and encourage independent democratic rule. We have been greatly encouraged by the Carter Administration's consistent efforts to facilitate a return to civilian rule in Bolivia and in the rest of the Andean Region. Furthermore, we applaud today's decision to cut off all security assistance to that country in condemnation of the coup attempt. However, at a moment when Bolivia's president, cabinet ministers and politicians are under arrest and the military continues on its rampage, the United States can best forestall an even more tragic conclusion by acting in conjunction with the Andean democracies and other Latin American nations to condemn this action. We therefore urge you to recommend that an OAS Foreign Ministers Consultation Meeting be convened as expeditiously as possible to discuss Bolivia.

Over 80 percent of the eligible Bolivians voted in the June 29 elections, affirming once again their dedication to the democratic process. This reprehensible action by the military will only postpone the quest of the people to fashion their own destiny. As peaceful efforts to create democratic government are consistently thwarted, the people will be compelled to use other methods. It is incumbent on the U.S. government and other Latin American democracies to join together and issue a strong condemnation of this ruthless coup d'etat.

We do appreciate the human rights record of this administration, and especially its vigorous Bolivian application. We look forward to your continued support for democracy in Bolivia.

Most sincerely yours,
REV. JOSEPH P. ELDRIDGE,
Director.

FOR THE DIGNITY OF BOLIVIA

Bolivia's armed forces don't brag about their record against foreign enemies. They have suffered historic defeats at the hands of Chile and Paraguay, shrinking the nation's borders and cutting off its outlet to the Pacific. But Bolivia's generals and lakebound admirals have found their true calling at home, in the repeated overthrow of Bolivian goverments. In 150 years they have perpetrated many of the nearly 200 changes of government. In recent years they have seemed intent on quickening even that astonishing pace. Their coup last week was the fourth, and most brutal, in two years.

The military remains blatantly opposed to the democratic process. The coup-makers last week said they acted "for the dignity of Bolivia, to reject the results of the general elections and to declare the Congress and its actions unconstitutional." Those elections were leading to the imminent installation of former President Hernán Siles Suazo for a new term at the head of a leftist coalition. Whatever one thinks of his political bedfellows, Mr. Siles's repeated election successes gave him legitimacy. That cannot be said for the new junta. Many Bolivians, including those in the powerful tin miners' union, have refused to resign themselves to democracy's defeat and have taken up arms against the military.

The latest coup stands out because it is so much like the crude, indeed fascist undertakings associated with the neighboring dictatorships of Argentina, Chile and Uruguay. The shooting of one leftist leader has been confirmed and a campaign of intimidation seems to have begun against leftists, centrists and foreign exiles and journalists. For such reasons alone, the coup deserves the rebuke that Washington has given by suspending military assistance.

Americans have a wider stake in the fate of Bolivian democracy. Bolivia lies between the democratic Andean nations and the dictatorships of the Southern Cone. The United States, eager to promote the political values of the north, has directly involved itself in efforts to keep Bolivia's democratic hopes alive. Last fall, Washington's sanctions helped reverse a military coup after just two weeks. Those who find dignity in democracy will hope that more forceful pressure—again including the suspension of economic as well as military aid—can still save the situation.●

CYPRUS

● Mr. TSONGAS. Mr. President, I find it sad but necessary to point out to the Senate that this summer of 1980 marks the sixth anniversary of the Turkish invasion of Cyprus. For 6 difficult years the status of this formerly free and independent island has been a threat to the stability of the Eastern Mediterranean. It remains a threat today. A settlement on Cyprus should rank high in the immediate goals of U.S. foreign policy.

The facts of the situation since 1974 are as familiar as they are dismal. However, they need to be repeated: Forty percent of Cyprus still is occupied by Turkish troops. The 200,000 Greek Cypriots forced from their homes, farms, and businesses still cannot return to the area which once produced 70 percent of the island's wealth. In addition to the 4,000 Greek Cypriots who were killed during the invasion, 2,100 still are missing. And in the past 6 years Turkey has exported 60,000 of its own citizens to illegally "colonize" Cyprus, in an effort to change the cultural and political character of the island.

My colleagues know just as well that the Republic of Cyprus, the legitimate government, has led a remarkable recovery of that part of the island still under its control. But even that limited success may not last unless the United States and other nations act soon to promote a lasting settlement. Cyprus as an independent republic demonstrated—before the Turkish invasion—its capacity to function well politically and economically. It deserves the opportunity to do so again.

The United Nations cannot be faulted for its efforts to find a Cyprus solution. Secretary-General Dr. Kurt Waldheim repeatedly has led the search for peace in person. Yet attempts to reactivate the intercommunal talks between the Republic of Cyprus and the Turkish Cypriots have falied. The two sides have not met formally since June 1979.

Only last month U.N. Undersecretary-General Xavier Perez de Cuellar, after personal consultations, offered a new proposal for resuming the talks. Both sides had seemed to agree. Then the Turkish Cypriot leader, Rauf Denktash, suddenly rejected the plan and the talks did not begin. Mr. Perez de Cuellar, frustrated again, put the blame for the failure squarely on the Turkish Cypriots. He was reported in a Reuters news dispatch as saying:

> I have to say that the Greek Cypriots accepted the ideas and the Turkish Cypriot side, for reasons which of course I respect, rejected them.

In the meantime, the U.N. Security Council has had to give another 6-month extension to the 2,500-man peacekeeping force on Cyprus.

In the near background of all that happens on Cyprus, of course, stand two American allies—Greece and Turkey. Our Nation has tried throughout the past 6 years to be evenhanded, for we do indeed need the support of both Greece and Turkey for so many U.S. policies in Europe, the Mediterranean, and the Middle East. Unfortunately, this policy has done little to end the stalemate on Cyprus.

Our best hope is that it is in the interest of Greece, in the interest of Turkey, certainly in the interest of all Cypriots, and in the American interest that a solution be found. The sooner the better, I might add. The obvious question is how to find that solution.

The United States might start by applying more pressure on its allies, particularly on Turkey, which has just received large amounts of U.S. aid. It was Turkey, after all, that launched the invasion 6 years ago. It is Turkey that still has 40,000 of its troops in Cyprus. It is Turkey that has begun the outrageous play to "colonize" Cyprus.

Six years is far too long for the situation on Cyprus to have continued. Although the situation is by no means under U.S. control, our Nation does have the power to influence a solution. I think it is time for the United States to use some of that power.

I submit for the Record an editorial which was published in the Baltimore News-American on July 15, 1980.

The editorial follows:

Six Years After the Invasion, the Turks Are Still in Cyprus

Six years ago today, Turkey invaded the island of Cyprus with the flimsy excuse that Turkish Cypriots were being oppressed. For the Greek Cypriots, the invasion was a disaster. It still is.

The Turks still occupy 40 percent of the Connecticut-sized Mediterranean island, still maintain 30,000 troops there and still are moving in settlers from mainland Turkey. The 200,000 Greek Cypriots who were forced to flee their homes, located in what is now the Turkish enclave, still are refugees in their own country. And there is still no explanation of what happened to the still-missing 4,000 Greek Cypriots—although in Cyprus there seems little doubt that they were killed by the Turkish army.

Time and time again the United Nations has tried to get the indigenous Turks and Greeks to sit down together and work out a future for the country; if that could be achieved, the wisdom goes, the Turkish government might be more inclined to pull out.

Time and time again the Greeks have said they're willing to see a Cyprus in which both Cypriot-born Turks and Greeks are represented in the central government, and they see no reason why both populations, which have been Cypriot for generations, can't live in mutual respect.

And time and time again the island's Turks, who apparently make no move without the blessings of Ankara, have waffled and obfuscated and backed away.

After the invasion, the United States cut off military aid to Turkey, but the fractious Turks in effect said: so what? Finally the United States gave in, restoring the aid because of Turkey's importance as the southern anchor of the North Atlantic Treaty Organization. There was some mild cluck-clucking from Washington about the Turkish presence on Cyprus, but the Turks simply ignored it. Since then there has been no real pressure from Washington or the NATO nations, and no conditions were imposed this past April when the International Monetary Fund gave the Turks $1.6 billion in economic aid.

Right now, we think, would be the time for the United States to turn the screws. Turkey is in wretched shape, her economy in shambles, her people divided. Terrorism and violence are prevalent: 200 people are killed every month, and 20 provinces are under martial law. The military is threatening to take over unless the civilian government can achieve some order. There are strong doubts that the nation can survive without more massive infusions of outside aid.

Surely the admistration, not to mention the rest of western Europe, is in a position to demand some concessions. Why should military aid be forthcoming, for example, when 30,000 Turkish soliders are illegally occupying part of another country? Why should the American taxpayer bear that cost? (That's what it boils down to.) How can economic aid be justified to help the Turks when they resettle their own people in a foreign country against that country's wishes?

The Turks aren't stupid. They perceived long ago that they could have their way in the west by playing tough and hard to get. But unless and until some nation gets just as tough, the Turks are likely to sink their roots even deeper into the soil of Cyprus.●

SUPPORT FOR UNITED STATES-TAIWAN FX DISCUSSIONS

● Mr. STONE. Mr. President, for many years the United States has been a supplier of fighter aircraft of intermediate capability to friendly and allied nations whose defense needs did not require first-line aircraft. The opportunity to modify or develop new aircraft for this purpose was effectively stopped with the promulgation of the President's arms transfer policy (PD–13) on May 19, 1977.

As obsolescence overtook existing designs, potential customers were left with the option of relying on inadequate equipment or turning to non-U.S. sources for their needs, often selecting sophisticated modern aircraft where planes of more limited capability were perfectly adequate. Understandably, the administration was reluctant to satisfy the needs for modernization by authorizing the sale of first-line aircraft to such countries because of the inflationary impact on the arms race and destabilization of critical areas of the world.

Recognizing the deleterious impact of this policy, President Jimmy Carter in January of this year announced a change in this policy which would allow the sale of an intermediate fighter developed or modified solely for export. A central element of this waiver is that the aircraft should be a multirole fighter with strong air defense characteristics and somewhat restricted ground attack capabilities. Importantly, the U.S. Government will not provide any funds for the development of such aircraft, and companies wishing to participate must assume all financial and market risks. There is to be neither an implicit nor explicit U.S. Government minimum guaranteed market.

After careful review by an interagency group of experts, the State Department determined in February that the FX candidate aircraft proposed by General Dynamics and Northrop reflected the criteria envisioned in the President's FX decision, and invited application for approval to market these aircraft in specific countries. Since that time, approval to market and to export descriptive material to over 20 countries including such countries as Austria, Egypt, Taiwan, and Switzerland has been granted.

I have been particularly interested in this matter as it relates to U.S. policy toward the Republic of China on Taiwan. As a member of the Senate Foreign Relations Committee, I participated actively in the development of the Taiwan Relations Act, establishing the framework for the new relationship between the United States and the Republic of China on Taiwan. That act requires that the United States supply Taiwan with military assistance sufficient for its self-defense. Section 3(a) of this act states:

> The United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

The President's decision to permit preliminary discussions between American aircraft manufacturers and Taiwan and other countries concerning the FX is consistent with our Government's commitment in the Taiwan Relations Act. I commend the President for authorizing these preliminary discussions to take place.

On May 7, 1980, I joined several other Senators in a letter to the President urging that he authorize these preliminary discussions. Mr. President, I ask that the text of this letter be printed in the Record.

The letter follows:

Committee on Foreign Relations,
Washington, D.C., May 7, 1980.

The President,
The White House.

Dear Mr. President: During the past year our new unofficial relationship with Taiwan has worked remarkably well. The private institutes established by both sides have proven beyond doubt that they can be the basis for our continuing "close and friendly relations" with the island. But we believe that this country's policy cannot neglect psychological and material security needs of the Taiwan portion of the equation without jeopardizing our overall China policy. In this regard, it is essential that the U.S. willingly stand behind its commitments outlined in the Taiwan Relations Act to: ". . . make available to Taiwan such defense articles and defense services in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

Pursuant to this Act, on January 3, 1980, the Administration released a list of arms which it proposed to make available to Taiwan. The list did not provide for an improved fighter aircraft, although a replacement for the aging F–104's has been at the top of Taiwan's request list for several years. The Joint Chiefs of Staff acknowledge the military need for all the items on Taiwan's list including a follow-on aircraft.

On January 4 you approved the development of the FX intermediate fighter for sale to appropriate foreign governments by companies proposing aircraft that are non-provocative and having capabilities and cost lying between an F–16 and the F–5E. In fact much of the impetus over the years for developing the FX has been Taiwan's requirement for a new aircraft—a requirement we believe is valid. The Defense Department, however, informed the Foreign Relations Committee on March 12, that it was refusing contractors' requests to begin preliminary FX discussions with Taiwan until it completes a study of the proposals' logistic sections, and had assessed the impact of the overall FX program on U.S. military procurement plans. Although an exact time schedule was not announced, Defense spokesmen suggested that the studies would be completed by early summer. Given the long genesis of the FX program we ask that they be finished expeditiously.

Moreover, we respectfully urge that you promptly assure Taiwan—through appropriate channels—of our intentions to continue to provide for the island's long-term security needs and:

To permit preliminary discussions to proceed between Taiwan and U.S. contractors interested in developing an FX; and

To develop an informal 5-year plan for presentation to Taiwan that outlines an approximate timetable for transferring major items of approved equipment.

It is our view that these are the minimum essential steps required to meet Taiwan's legitimate defensive needs and to meet the assurances provided for in the Taiwan Relations Act.

Sincerely,

FRANK CHURCH,
Chairman.
RICHARD (DICK) STONE.
JOHN GLENN.
JACOB K. JAVITS.
HOWARD K. BAKER.
S. I. HAYAKAWA.
RICHARD G. LUGAR.●

A STORY OF TAX DOLLARS WELL SPENT

● Mr. SASSER. Mr. President, during these times of budget constraints and high inflation, we are compelled to scrutinize all Federal programs and look for ways to reduce spending, cut the Federal budget, and decrease Federal involvement. However, we rarely stop to listen to a story of success; a story of Federal tax dollars well spent.

Mr. President, there are two children in my own State of Tennessee who would be glad to say thanks for the support given to them by a Federal program. They cannot say "thank you" directly because both of these youngsters are severely handicapped. But I am willing to bet that if any of us spent an afternoon with these two children, Jamie Hargrove or Bobby Thompson, we would walk away with a feeling of satisfaction—a feeling of accomplishment.

Through the support of Public Law 94–142, the Education of the Handicapped Act, these children have been able to receive the necessary services which have started them on the road to a better life. Through the compassion, love and patience of their teachers, these children are learning to feed, bathe, and clothe themselves. I find the progress of Jamie and Bobby remarkable. They have made this progress on account of a determination of their own, but this success story has many authors. It is a marked example of a Federal effort carefully and conscientiously administered with the cooperation and support of concerned individuals at the Jones Elementary School and the Marshall County community.

I ask that a letter sent to me by the principal of Jones Elementary School and newspaper article appearing in the Lewisburg Tribune be printed in the RECORD.

The material follows:

JONES SCHOOL,
Lewisburg, Tenn.

Senator JIM SASSER,
Senate Office Building,
Washington, D.C.

DEAR SENATOR JIM SASSER: I thought you might like a copy of a recent newspaper article that appeared in our local newspaper, the Lewisburg Tribune. This article highlighted the progress of two Marshall County students who enrolled in a class for the severely handicapped at Jones Elementary School.

Sometimes it may not be possible to see exactly how federal money can actually benefit people directly in a positive way. Through the Title IV–C Education of the Handicapped Act—part B (EHA–B); these children and 19 others have received so much in the way of adequate, trained teachers, aides, and much needed equipment and materials. These are essential in working with the severely handicapped student. The Marshall County School System would not have been able to fund this program so adequately.

I would like to thank you on behalf of my students for this legislation and the support you have given educational concerns in the past. Please let me urge you to continue to support educational legislation that will help improve the quality of life for all our students.

Sincerely,

MARY JAMES ADAMS,
Principal.

JAMIE AND BOBBY ARE ONE ON THE MOVE

Where are you going, Jamie? Where are you going, Bobby?

Seven year old Jamie Hargrove rocks her body back and forth on the couch until her feet touch the floor. She then leans forward to stand. She walks across the room until she reaches the voice of one of her teachers. Ten months ago Jamie could not walk. She could not stand or sit in a straight chair without assistance. Due to a car accident six years ago, Jamie is now visually impaired, spastic on the right side and mentally retarded.

Bobby Thompson was born a healthy, normal child. At the age of two weeks he had meningitis. This disease left him visually impaired and mentally retarded. Because of his disabilities, one of his main problems was the use of inappropriate behavior, self stimulation, and aggressive behavior toward others. Bobby is now 13 years old.

Bobby and Jamie are enrolled at the Jones School Comprehensive Development School System serving the educable and trainable mentally retarded and severely handicapped. Each student in the program is treated as an individual with certain needs that must be met in order to help the child become as independent in the home, school, and community as his abilities will allow.

Seldom do we hear about the progress of the severely handicapped. The view many people take is: "These children cannot learn, they are completely dependent on others, and progress is too small and slow; so why bother." "Why bother?", is a question the people at the Jones CDC in Lewisburg answer with pride, because we care. Progress for the severely handicapped can be made when the appropriate services are provided. Progress for Bobby and Jamie has been made because of the care and concern of many people. Clover Bottom Developmental Center in Nashville has been very instrumental in helping us set up a program for these students. Katie Wilson, Clover Bottom social service worker, has been involved with coordinating between home and school. Helen Howard, parent-teacher trainer from Clover Bottom, has helped design a behavior management program for Bobby and a feeding program for Jamie. Vera R. Ford, a retired physical therapist, is hired under contract with the Marshall County School System to work with Jamie under a doctor's prescription. She also instructs the teachers and aides in the proper procedures for carrying out the physical therapy for Jamie. Support and guidance for the program has come from Jack M. Keny, Superintendent of Marshall County Schools, Mary James Adams, Principal of Jones School, and Margaret A. Jordan, Supervisor of Special Education.

The Marshall County School System has applied and received federal funds through Title IV–C of the Education of the Handicapped Act—Part B (EHA–B) for the last three years. These federal dollars have been used to purchase much needed materials and equipment that can be used with the visually impaired and severely handicapped students. The teachers, Nancy B. Overton and LaDelle Smith, and Aides, Pat Byrd and Jewell Wiles, are the day-to-day instructors who work individually with these students to encourage, support, and repeat learning tasks over and over to help these students grow and progress. The teachers and aides work patiently in helping Bobby and Jamie accomplish and exceed the objectives made for them. Mary Rozelle, a nurse with the Marshall County Health Department, has been of invaluable assistance in helping the parents of the students receive services for their children and in helping Jones School provide better health services for the students. Judy Davis, project manager of FIT, (Family-Infant-Toddler) Project of George Peabody College of Vanderbilt University has been most helpful in guiding the staff in the purchase of appropriate materials for the severely handicapped and in training the staff.

What progress has Jamie and Bobby made in just nine months time? Bobby's inappropriate behavior has been decreased from a long list to just a few minor problems. He can now follow simple commands. He has learned to ride in the school bus for 15 miles one way, twice each day. He has also been involved in a bathing program—learning how to be as independent as possible in the area of self-help skills. Jamie can now walk. To watch her take a step forward is a thrilling experience that words can not describe. In a few months, she will be eating independently. She can already distinguish some foods on her plate, drink from a straw, and with a little physical assistance, scoop with a spoon.

Severely handicapped children can learn! Sure, it takes time. effort, and patience. Progress may be slow, but not impossible. These children may always be dependent on others, but isn't everyone, to some extent?

Where are you going, Jamie and Bobby? Only forward. As long as teachers, aides, and other interested community persons continue to care and believe in each child as a person with a right to live and a right to be given a chance to try, you will go forward.●

AMTRAK'S NEW INTERMODAL ROUTE IN FLORIDA

● Mr. STONE. Mr. President, I am pleased to announce that Amtrak and Trailways Bus Co. will initiate a new intermodal route in Florida on August 3. Trailways will be providing a bus link from the Tampa rail station to Bradenton, Sarasota, Venice, Punta Gorda, Fort Myers, and Naples. The bus schedule will serve passengers arriving or departing Tampa on Amtrak's Silver Meteor and Silver Star trains—New York-Florida.

A new interline agreement between Amtrak and Trailways will enbale passengers to buy through-tickets for the combined rail-bus service at ticket counters for either carrier.

Mr. President, I am delighted that Amtrak is pursuing connecting bus service for its trains. Close cooperation between Amtrak and the bus companies can serve both well. By working together, a nationwide system of bus-to-rail feeder lines could be formed which would provide the bus companies with business and encourage people who are planning longer trips to consider a bus-train alternative to flying or driving themselves.

The development of intermodal centers throughout the country should be encouraged. They can bring together in one convenient place different modes of transportation, serving different transportation needs. We need to adopt a national transportation policy which fosters the efficient and coordinated use of all our transportation modes. Amtrak, Trailways—and Greyhound, which also has intermodal routes—are moving in that direction and I hope to see more agreements of this type.●

NUCLEAR EXPORTS TO INDIA

● Mr. COHEN. Mr. President, I am pleased to join with Senator GLENN in cosponsoring a resolution of disapproval of the uranium sale for the nuclear reactors at Tarapur, India.

After carefully evaluating the complexities of this issue, I have concluded that the sale of nuclear fuel to India would be a grievous error that would jeopardize our goal of limiting the availability of nuclear weapons. My principal concern is the lack of consistency in American foreign policy. I believe that if the United States proceeds with the sales, this action will be perceived, by our adversaries and allies alike, as just another example of U.S. weakness and lack of direction.

Congress passed the Nuclear Non-Proliferation Act of 1978 to define our nonproliferation goals. This legislation, which is the cornerstone of U.S. policy in this area, clearly states that U.S. nuclear sales be contingent on the recipient's accepting inspection of its nuclear facilities to insure that the fuel provided is used safety and for peaceful purposes.

While it is true that the United States is required by a 1963 agreement to supply fuel for the Tarapur reactors, India has broken the contract by its own actions. India has not signed the Nuclear Non-Proliferation Treaty, which has some 110 signatories, nor has the Indian Government agreed to repeated requests to allow international inspection as required by U.S. law. The Indians conducted a "peaceful" nuclear experiment in 1974, using plutonium from a Canadian research reactors and U.S. heavy water. What is more, the Indian Government has asserted its right to conduct similar tests in the future. Indeed, a New York Times editorial of May 12, 1980, called India, "the most flagrant violator of international agreements against secretly diverting nuclear material for military purposes."

In the past, President Carter claimed that he supported a strong nonproliferation policy. In April of 1977, for example, in requesting legislation on nonproliferation from the Congress, he said, "The need to halt nuclear nonproliferation is one of mankind's most pressing challenges." Now the President, rejecting the unanimous decision by the Nuclear Regulatory Commission, has determined that, in the case of India, short-term interests in the region resulting from recent events in Iran and Afghanistan outweigh our long-term nonproliferation goals.

It seems to me that we all must be aware of the serious implications of the action recommended by the President. If we make an exception for India, a country which has already stated its intention to undertake further nuclear experimentation, we will certainly have no leverage to discourage nuclear weapons development in other countries. Pakistan, for example, is a country whose nuclear policy we have been trying to influence for years. Furthermore, we will have no leverage in discouraging our allies from proceeding with their own nuclear sales. President Carter has criticized previous French sales to Pakistan and German sales to Brazil, but his decision to permit our country to export nuclear fuel to Indian would undermine American efforts to convince our allies to refrain from similar sales in the future.

The implications of this sale go far beyond the non-proliferation considerations. In a time in which the United States is perceived as weak, we must reassert our commitment to our own foreign policy goals, rather than sacrifice those goals to political expediency.●

FREEDOM IN AMERICA

● Mr. McCLURE. Mr. President, it is my pleasure to share with my colleagues a most inspirational essay a citizen of Rupert, Idaho, has written to express her opinion on freedom in America.

Charlene Quilantan was declared the winner of the Rupert Chamber of Commerce Fourth of July "Freedom in America" essay contest. In this brief message Mrs. Quilantan quantifies privileges our country allows us to enjoy every day.

I ask that Mrs. Quilantan's essay be printed in the RECORD.

The essay follows:

FREEDOM IN AMERICA

Thousands upon thousands have died for their believed rights of freedom. I believe strongly in our freedom of choice. It is the duty of each and every American to respect, protect, and project this acquired birthright.

Through the determination, sweat of brow, and blood of others that we behold the freedom of America.

We have the freedom of religious preference. Our educational system has been established, developed, and implemented through the efforts and beliefs of Free Americans.

We, as Free Americans, are able to choose our vocation with equal considerations and opportunities.

Numerous statements by observation, knowledge and experiences from history can be proclaimed to be Freedom In America.

I feel the realization that practically every movement and event in one day has been derived and in some areas perfected by freedom actions.

Let your mind return to this morning's events. Your day began, by choice, at a time predetermined by you. The days events have been arranged or planned through freedom. Children are attending school or activities through choices. Necessities and luxury items are available to you by purchase to be used as you feel is in your best interest. The minute details of your dress is possibly the simplest freedom we possess.

We Americans possess the priceless freedom of speech. Our thoughts and opinions can be stated in the hopes that someone can consider them to derive knowledge and experience that will give them strength, pride and freedom.●

CONGRESSIONAL SENIOR CITIZEN INTERNSHIP PROGRAM

● Mr. HAYAKAWA. Mr. President, I would like to add my support for the congressional senior citizen internship program. It was a great privilege for me to serve as a sponsor. I feel that this is an excellent program because it brings to Washington active elderly individuals to join in a unique learning experience.

There can be no doubt that older Americans are this Nation's greatest natural resource. We must recognize and take advantage of experience and knowledge gained through life. All to often, however, senior citizens are pushed into the background and forgotten. We must not let this happen. We must continue to be sensitive to the needs of our senior citizens.

I believe that the benefit and worth of this program is expressed in statements from the interns themselves. I am including two statements sent to me by Mrs. Anne Fabrick of Chula Vista, Calif., and Mr. W. Craig Chambers of Rancho Bernado, Calif., both of whom were chosen to work in my office during this program.

The statements follow:

In the minds of many Americans, Washington, D.C. is a great bureaucratic puzzle, that mystical place on the Potomac where another language is spoken. After having served in the 1980 Congressional Senior Citizen Intern Program, under the sponsoring of Senator S. I. Hayakwa of California, I find that I am able to bring to the many people with whom I have association, a clearer and more realistic view of our government and its' workings. Not a day passes but that the opportunity occurs to share some of the insight and knowledge gained from this program.

Since older Americans, through advances in medicine and nutrition are enjoying longer and more productive senorities and surpass the majority of the population in the exercise of their responsibilities of citizenship, it is my belief that there are many, many more capable and dedicated people of that age group who would benefit their peers and the country by experiencing the Senior Citizen Congressional Intern Program. It is my belief that there should be a vast increase in both the representation and numbers of occurrance. To my mind, that should become a basic part of government and should be budgeted for on a national scale.—ANNE H. FABRICK.

My net reaction to the Senior Citizen Internship program is that it is valid, timely and a great privilege for anyone who can secure an appointment to internship through his senator or representative. I am teeming with ideas, and I'm sure the contacts I made in Washington will be of significant help in the great opportunities we have ahead of us.

Seniors have learned the three great essentials of a satisfying life, a study of self, the importance of having a purpose in life, and having a faith to live by. Washington makes a mistake in thinking all old folks want to be placed in a play pen and warehoused until the funeral director calls. This could not be further from the truth. We are happiest when working and fully used. Give us work and respect for we have the need to be needed.—W. Craig Chambers.●

ATLANTIC TUNAS CONVENTION ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2549.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2549) entitled "An Act to authorize appropriations for fiscal years 1981, 1982, and 1983 to carry out the Atlantic Tunas Convention Act of 1975", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

Section 1. Amendments to Atlantic Tunas Convention Act of 1975.

The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended as follows:

(1) Section 4 is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking out "paragraph (1)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "subparagraph (A)"; and

(C) by amending the first and second sentences to read as follows:

"There is established an advisory committee which shall be composed of—

"(1) not less than five nor more than twenty individuals appointed by the United States Commissioners who shall select such individuals from the various groups concerned with the fisheries covered by the Convention; and

"(2) the chairmen (or their designees) of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Regional Fishery Management Councils established under section 302(a) of the Fishery Conservation and Management Act of 1976 (19 U.S.C. 1852(a)). Each member of the advisory committee appointed under paragraph (1) shall serve for a term of two years and shall be eligible for reappointment.".

(2) Section 10 is amended by striking out "and 1980" and inserting in lieu thereof "1980 and 1981".

Sec. 2. Observer Program Regarding Certain Foreign Fishing.

(a) Definitions.—As used in this section—

(1) The term "Act of 1976" means the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(2) The term "billfish" means any species of marlin, spearfish, sailfish or swordfish.

(3) The term "Secretary" means the Secretary of Commerce.

(b) Observer Program.—The Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel—

(1) is in waters that are within—

(A) the fishery conservation zone established under section 101 of the Act of 1976, and

(B) the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas; and

(2) is taking or attempting to take any species of fish if such taking or attempting to take may result in the incidental taking of billfish.

The Secretary may acquire observers for such program through contract with qualified private persons.

(c) Functions of Observers.—United States observers, while aboard foreign fishing vessels as required under subsection (b), shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out this section.

(d) Fees.—There is imposed for each year after 1980 on the owner or operator of each foreign fishing vessel that, in the judgment of the Secretary, will engage in fishing in waters described in subsection (b)(1) during that year which may result in the incidental taking of billfish a fee in an amount sufficient to cover all of the costs of providing an observer aboard that vessel under the program established under subsection (a). The fees imposed under this subsection for any year shall be paid to the Secretary before that year begins. All fees collected by the Secretary under this subsection shall be deposited in the Fund established by subsection (e).

(e) Fund.—There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this section. The Fund shall consist of the fees deposited into it as required under subsection (d). All payments made by the Secretary to carry out this section shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(f) Prohibited Acts.—(1) It is unlawful for any person who is the owner or operator of a foreign fishing vessel to which this section applies—

(A) to violate any regulation issued under subsection (g);

(B) to refuse to pay the fee imposed under subsection (d) after being requested to do so by the Secretary; or

(C) to refuse to permit an individual who is authorized to act as an observer under this section with respect to that vessel to board the vessel for purposes of carrying out observer functions.

(2) Section 308 of the Act of 1976 (relating to civil penalties) applies to any act that is unlawful under paragraph (1), and for purposes of such application the commission of any such act shall be treated as an act the commission of which is unlawful under section 307 of the Act of 1976.

(g) Regulations.—The Secretary shall issue such regulations as are necessary or appropriate to carry out this section.

Sec. 3. Reports Regarding Bluefin Tuna.

The Secretary of Commerce shall prepare, for each biennial period commencing with the period covering calendar years 1981 and 1982, and submit to the Congress a report setting forth, with respect to such biennial period—

(1) the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in article I of the International Convention for the Conservation of Atlantic Tunas;

(2) the status of bluefin tuna stocks within such Convention area and the trends in their population level; and

(3) related information resulting from the implementation of the observer program under section 2 of this Act.

The report required under this section shall be submitted to the Congress within sixty days after the close of the biennial period covered by the report. There are authorized to be appropriated such sums as may be necessary to carry out this section.

Amend the title so as to read: "A bill to authorize appropriations for fiscal year 1981 for the Atlantic Tunas Convention Act of 1975, and for other purposes.".

UP AMENDMENT NO. 1451

(Purpose: To make technical amendments and other amendments relating to authorizations for appropriations)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Magnuson, I move that the Senate concur in the House amendments with a further amendment which I send to the desk on behalf of Mr. Magnuson.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), on behalf of Mr. Magnuson, proposes an unprinted amendment numbered 1451.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendments of the House to the Senate-passed version of S. 2549:

In section 1(1)(C), in the amendments to section 4 of the Atlantic Tunas Convention Act of 1975—

(1) strike "Regional"; and

(2) strike "19" and insert in lieu thereof "16".

In section 1(2), in the amendments to section 10 of the Atlantic Tunas Convention Act of 1975, strike " '1980 and 1981' ", and insert in lieu thereof " '1980, 1981, 1982 and 1983' ".

Amend the title so as to read as follows: "A bill to authorize appropriations for fiscal years 1981, 1982 and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.".

● Mr. MAGNUSON. Mr. President, the purpose of this legislation is to extend the authorization of appropriations for the Atlantic Tunas Convention Act of 1975.

The House amended this bill by adding five new positions to the existing advisory committee to the U.S. ICCAT Commissioners which would consist of the five chairmen or their designees of the New England, mid-Atlantic, South Atlantic, Caribbean, and gulf fishery management councils. The addition of the chairmen of these various councils is in recognition of each council's responsibility to manage billfish, species which traverse the coastal water of the designated regional management councils. The Senate acceptance of this change to the advisory committee is in recognition of the deep interest the House Members have shown in proper billfish and tuna management—particularly Congressmen Studds and Murphy. It is my understanding that the House Members have made commitments to conduct oversight hearings on the operation of ICCAT and the advisory committee structure. I believe that their intent to insure that this system works is commendable.

Finally, Mr. President, this bill, as amended, will keep the Senate version's 3-year reauthorization.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1451) was agreed to.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

AUTHORIZATION FOR ENGROSSMENT OF H.R. 7664

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of H.R. 7664, to make the following corrections which I send to the desk.

Mr. President, I ask unanimous consent that the reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The corrections are as follows:

(1) on page 1, line 24, of the amendment of the Senator from South Dakota (Mr. McGovern) (Amendment No. 1440), strike "are enacted" and insert in lieu thereof "can be implemented".

(2) on page 2, line 1, of the amendment of the Senator from South Dakota (Mr. McGovern) (Amendment No. 1442), insert "relating to price support loan levels" immediately after "section".

(3) that the language proposed to be inserted by the amendment of the Senator from Indiana (Mr. Bayh) (Amendment No. 1445) to the amendment of the Senator from South Dakota (Mr. McGovern) (Amendment No. 1442) be set out in the bill at an appropriate place as a new section with the center head "Alcohol Processor Grain Reserve" and the language of the McGovern amendment stricken by the Bayh amendment be restored.

Mr. ROBERT C. BYRD. Mr. President, all of the amendments are technical and conforming in nature, and I present the following explanation:

EXPLANATION

All of the amendments are technical and conforming in nature.

The first amendment relates to the revision in the income eligibility guidelines for free and reduced price meals made by the bill. The McGovern amendment (Amendment No. 1440) clarified the methods for implementing the new eligibility guidelines. This amendment changing "are enacted" to "can be implemented" is a conforming change consistent with the effective date of the new income eligibility guidelines contained in the bill.

The second amendment relates to the effective date of the increases in minimum price support loan levels made by the McGovern amendment. This is a technical amendment making it clear that the effective date of the increases—October 1, 1980—is not applicable to the changes in dates for proclaiming wheat and feed grain set-asides. The changes in those dates (from August 15 to August 1 in the case of wheat, and from November 15 to November 1 in the case of feed grains) are to be effective on the enactment of the bill.

The third amendment sets out the Bayh amendment creating an "Alcohol Processor Grain Reserve" as a separate section of the bill and restores to the bill that part of the McGovern amendment creating "Trade Suspension Reserves" that was inadvertently stricken by the Bayh amendment.

Mr. STEVENS. Mr. President, we have concurred in those amendments and the explanation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7664 be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR WEDNESDAY, JULY 30, 1980

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on Wednesday?

The PRESIDING OFFICER. Did the Senator say Wednesday?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. There is a 15-minute order for the Senator from New Mexico (Mr. Schmitt).

Mr. ROBERT C. BYRD. Would there be any objection? I have a request for Mr. Proxmire to be first on Wednesday, 15 minutes.

Mr. STEVENS. There is no objection. I would like to request that Mr. McClure also have 15 minutes that morning.

Mr. ROBERT C. BYRD. All right.

Mr. President, I ask unanimous consent that on Wednesday, after the two leaders or their designees have been recognized under the standing order, Mr. Proxmire be recognized for 15 minutes, after which Mr. Schmitt be recognized for 15 minutes, under the order that was previously entered, following which Mr. McClure be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE TWO LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at 9 a.m.

I ask unanimous consent that the orders for the two leaders or their designees be reduced to 2 minutes each on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I believe that the orders already have been entered for the recognition of the following Senators, each for not to exceed 15 minutes, on tomorrow: Messrs. Schmitt, Baker, Stevens, and Tower.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, following the recognition of the Senators aforementioned on tomorrow, the Senate will resume consideration of the nuclear waste legislation, Calendar No. 582, S. 2189, and there will be rollcall votes during the day.

Other measures may come before the Senate tomorrow.

The Alaska lands bill, at some point, will be ready to be brought back before the Senate. I believe that under the order previously entered, the Alaska lands bill is in a temporarily set-aside status, pending final action on the nuclear waste legislation or pending callup of the Alaska lands legislation by the majority leader, after consultation with the minority leader.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. It is conceivable, Mr. President, that on tomorrow, the Senate could have before it the nuclear waste legislation. It could have before it the Alaska lands legislation. The nomination of Mr. Zimmerman, I believe, has been left in a pending status, until such time as the Senate returns to executive session. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. There will be rollcall votes tomorrow, I say again. I suggest that Senators be prepared for long daily sessions throughout this week, including Saturday and through Wednesday of next week.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and at 8:30 p.m. the Senate recessed until tomorrow, Tuesday, July 29, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1980:

COMMUNITY SERVICES ADMINISTRATION

Harold Lafayette Thomas, of the District of Columbia, to be an Assistant Director of the Community Services Administration, vice John B. Gabusi, resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert Joseph Lunn, xxx-xx-xxxx [redacted] U.S. Army.

IN THE NAVY

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps, as indicated, pursuant to title 10, sections 5769 (line), 5773 (staff corps), 5572 and 5791, subject to qualifications therefor as provided by law:

LINE

Akerman, Russell S.
Demining, Andrew M.
Gershon, Robert M.
Gliniak, Richard M.
Honey, Robert M.
Janca, Larry L.
Kelley, Douglas M.
Marsh, Daniel W.
Martin, Kevin O.
Martin, Ronald W.
Montgomery, George A. III
Morton, Eric E.
Noell, John
Palmer, Ralph A., III
Putnam, Robert K.
Reidy, Thomas M.
Santez, Stephen F., Jr.
Schluckebier, Daniel C.
Sherry, Thomas E.
Theofel, Robert N.
Wheeler, Mark M.

SUPPLY CORPS

Bucholtz, Marvin D.

CIVIL ENGINEER CORPS

McCracken, Courtney Jr.

MEDICAL SERVICE CORPS

Meredith, Herbert K.

NURSE CORPS

Ackley, Rance J.
Boutin, Denise F.
Schetter, Mary A.
Zukunet, Gay A.

Comdr. Lawrence R. Malopy, U.S. Navy, for permanent promotion to the grade of commander, in the line of the U.S. Navy, pursuant to the provisions of title 10, United States Code, sections 5780 and 5791, subject to qualifications therefor as provided by law.

Comdr. Larry D. Myers, Civil Engineer Corps, U.S. Navy, for permanent promotion to the grade of commander, in the Civil Engineer Corps of the U.S. Navy, pursuant to the provisions of title 10, United States Code, sections 5782 and 5791, subject to qualifications therefor as provided by law.

Lt. Comdr. Robert S. Cunningham, Medical Service Corps, U.S. Navy, for permanent promotion to the grade of lieutenant commander, in the Medical Service Corps of the U.S. Navy, pursuant to title 10, United States Code, sections 5782 and 5791, subject to qualifications therefor as provided by law.

The following-named ensign of the line of the U.S. Navy, for appointment in the Supply Corps as permanent ensign, pursuant to title 10, United States Code, sections 5582(b) and 5572, subject to qualifications therefor as provided by law:

Showalter, James M.

The following-named women lieutenants (junior grade) of the U.S. Navy for permanent promotions to the grade of lieutenant in the line, pursuant to title 10, United States Code, sections 5771 and 5791, subject to qualifications therefor as provided by law:

Elliott, Tomi E.
Garner, Janice P.
Hale, Cheryl E.

EXTENSIONS OF REMARKS

SAVING THE CHESAPEAKE BAY; THE BAUMAN-MATHIAS BILL

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. BAUMAN. Mr. Speaker, the Chesapeake Bay is a natural resource beyond compare. Most of the east coast's seafood is harvested there, and for years Americans have enjoyed the bay's bounty—hard-shelled crabs, rockfish, oysters, and clams. We want to keep it that way.

The full reasons for the bay's problems in recent years is unclear, even to the scores of eminent scientists who have studied the problem in its many facets. The research has been, and continues to be, abundant on virtually every question concerned with the bay. The coordination of that research is now the main concern for all those involved. With over 18 separate federally funded data collections dealing with the bay currently, it is now a question of marshaling the significant academic resources at hand.

The Chesapeake Bay Research Coordination Act, which I introduced and which recently unanimously passed the House of Representatives, is a well-considered approach to the plethora of research projects on the bay. Recently two editorials appeared dealing with the issue of the Chesapeake Bay's problems and the efforts to stem that demise. One, from the June 8, 1980, Baltimore Sun, entitled "A Start on Saving the Bay," outlines the Chesapeake Bay Research Coordination Act's intentions and supports them. The other appeared in the July 16, 1980, Washington Star, and is entitled "The Chesapeake Constituencies." It, too, lends support to the idea of a coordinating Federal agency as outlined in the Chesapeake Bay Research Coordination Act.

I enter both editorials for the RECORD at this point. Both are well-taken arguments in favor of the Chesapeake Bay which the other body will consider shortly. As the Sun points out, "The bay is too valuable a resource for us to take for granted."

[From the Baltimore Sun, June 8, 1980]

A START ON SAVING THE BAY

The Chesapeake Bay is one of the world's great estuaries. It is the main source of oysters, clams and other varieties of seafood for most of the East Coast. It has provided more crabs for human consumption than any other body of water in the world, oceans included. It is this state's most bountiful resource.

But recently there have been danger signals—lots of them—that the Bay is threatened by the byproducts of our modern, urban society: toxic chemicals flowing into streams; sewage discharges and agricultural runoffs, and a rush to harvest too much of the Bay's edibles too soon.

The results of these developments can be seen in restaurants and markets, where Bay seafood is no longer cheap. Rockfish is now an elusive catch; shad roe was scarce this year, the oyster harvest has been in steady decline, and the Bay's most renowned crustacean, the blue crab, is in short supply.

What to do is not clear. Politicians are reluctant to take the Bay's problems seriously because that might mean unpopular legislation and a major commitment of money at a time when fiscal austerity is in vogue.

A more likely area for progress is among Bay scientists, who need to get their studies in order. Representative Robert E. Bauman, that hard-shell Republican conservative from the Eastern Shore, says there are at least 18 different sources of information on the Bay within the federal government. There are also scores of private and government agencies probing the Bay. But no one is collating these volumes of Bay data.

It thus is encouraging that a Bauman-sponsored bill creating an agency to coordinate Cheseapeake Bay research has been passed by the House. Senator Charles McC. Mathias, Maryland's soft-shell liberal Republican, is backing an identical measure in the upper chamber. With strong support from two politicians usually poles apart, the bill's prospects are good.

This coordinating agency would not assume control of the Bay. It would not be given, in the words of one scientist, "czar-like control." But it would try to make sense out of the diverse studies on the Bay, putting things in perspective and deciding what areas need additional research. Given the import of the Bay, such an effort should be encouraged at all levels of government. It is a welcome start, but it is only a start. The problems of the Chesapeake Bay must be tackled if this great estuary is to be preserved. The Bay is too valuable a resource for us to take for granted.

[From the Washington Star, July 16, 1980]

THE CHESAPEAKE CONSTITUENCIES

A roster of the Maryland, Virginia and federal agencies that have authority over, or share responsibilities for, the health of the Chesapeake Bay is long enough to unnerve the most imperious bureaucrat.

There have been efforts from time to time to link these fiefdoms in a more cohesive fashion. Cooperation among those with jurisdiction over the vastly diverse affairs of the Bay probably is better than a decade ago. But as population around the Chesapeake continues to increase and that population increases its demands and pressures, there remains a desperate need for smoothing the blend of these public bodies and the private organizations devoted to research and protection of the Chesapeake.

The diffusion of scientific and research information has resulted in what the Baltimore Sun's C. Fraser Smith neatly described as the Bay's "own malfunctioning ecosystem, a complex public and private universe in which the knowledge is collected but often hidden from those who need its potential sustenance."

Dr. L. Eugene Cronin, director of the Chesapeake Bay Research Consortium and one of the most respected scientists with a foot in the estuarine waters, says, "The data files in the Chesapeake Bay region are among the most completely documented in the world. But because of the diversity and stubborn independence of management and research entities, there is no universally accepted system for . . . storage, retrieval and analysis." Or, one might say, it's a wonderful pea-green boat if somehow it could be got to float.

Rep. Robert Bauman, Maryland's first district Republican congressman, notes another deficiency of the present unsystem, the waste of public money. Crucial Chesapeake Bay research is "floundering in a sea of federal dollars," he says—disbursed from different sources to various laboratories and institutions, occasionally duplicating the same goals.

A resolution of this fragmented apparatus, Mr. Bauman thinks, could be an Office of Chesapeake Bay Research Coordination to be set up in the U.S. Department of Commerce. A bill to create the new office has been approved by the House.

The idea has been debated before. Indeed, the Bauman proposal two years ago was approved by the House but sunk in the Senate. Prospects seem now to have improved as both scientific and political support has grown—including in the later category, that of Sen. Charles McC. Mathias this year.

There has been an understandable reluctance within the Chesapeake Bay's constituencies to see their particular interests herded into one shed. Administrative and scientific prerogatives, too, can be jealously guarded. Dr. Cronin makes the crucial distinction: The research community does not wish to see a bureaucratic office that has czar-like control. It wants intelligent control and planning.

There often is a temptation to integrate a variety of interests sharing the same focus by imposing a fresh layer of authority; too often, the result is awful. But in the case of Chesapeake Bay, a centralized coordinating body strikes us as reasonable and necessary. It is worth the risk.

The Bauman plan would have the new Commerce Department office share coordinating responsibility with a committee of 15—the governors of Maryland and Virginia would name four members each, and the remainder would be appointed by the Secretary of Commerce to represent business and local government and the public. Though that seems on the cumbersome side, such a dual structure may be necessary to gain local support for a bill. On a more positive tack, the board committee representation could also serve to extend the new office's perspective, to include such intrinsic matters as land-use policies around the Chesapeake.

Senator Mathias has scheduled hearings on the proposal for the end of the month. We hope the testimony will confirm his support of the idea and speed it along.●

SUPREME COURT ABORTION DECISIONS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. MOAKLEY. Mr. Speaker, Boston City Councilor Raymond L. Flynn has written a brief analysis of the recent Supreme Court rulings on abortion which I think are very lucid and constitutionally sound. I would like to share Mr. Flynn's remarks with my colleagues:

A DEEPER LOOK INTO THE SUPREME COURT ABORTION DECISIONS

The United States Supreme Court decisions of June 30, 1980 upholding the constitutionality of Federal and state laws which restrict public funding for abortions underscore the growing feeling all across our country that the conscience of the American people firmly rejects the policy of publicly funded abortion on demand. Whether liberal or conservative, rich or poor, black or white, male or female the American people only want their tax dollars used for meaningful programs to assist the human needs of poor people.

The funding decisions (*Harris* v *McRae* and *Williams* v *Zbaraz*) affirm the actions of the United States Congress and 39 state legislatures, including Massachusetts, which have repeatedly stated their opposition to the use of government funds for abortion. By allowing full implementation of the Hyde Amendment, and the "Doyle/Flynn" bill on the state level in Massachusetts, the decisions will mean that many thousands of children who otherwise would have been aborted will now have the chance to be born.

In addition to upholding the principle that tax funds should be used to help the poor and not to eliminate poor people, the Supreme Court's action rejects the utilitarian cost-benefit analysis which says that abortion is cheaper than allowing children to be born and that because someone is poor, then he or she is not worthy of legal protection and basic human rights.

U.S. government statistics demonstrate that each year more than one million abortions are performed in our country. Until passage of the Hyde Amendment, approximately one-third of these abortions (more than 300,000) were being funded under the Medicaid program at a cost of about $87 million. Ironically, despite the massive involvement of the federal government in supporting publicly financed abortions, at no time did Congress ever vote to appropriate money for this purpose. Rather, funding for abortions was accomplished as a result of administrative and court decisions over which the American public had no input.

Not only does this expenditure of public funds for abortion violate the consciences of millions of taxpayers, it overlooks the primary obligation of government to protect the most fundamental of all human rights—the right to life of all persons, whether rich or poor, wanted or unwanted, born and unborn.

Since the Supreme Court decision of January 22, 1973 legalizing abortion on demand, dedicated and concerned people of all religions, races and ethnic backgrounds from across the country have worked diligently to restore legal protection for the unborn. The fight has been a long and frustrating one with many difficult and trying setbacks. Gradually, however, the awareness of the American public about the enormity and the importance of the abortion issue has been growing.

Pro-abortion supporters have tried to claim that abortion is just a "Catholic issue". Nothing could be further from the truth. Catholics do not hold a monopoly of concern for the unborn. Among the religious groups which have gone officially on record in opposition to abortion are American Orthodox Judaism, the Greek Orthodox Church, the Reformed Baptist Church, the Church of Christ, the Evangelical Church of North America, the Lutheran Church (Missouri Synod), the Evangelical Methodist Church, the Free Methodist Church, the Reformed Presbyterian Church of North America and the Church of Latter Day Saints (Mormons).

As a further example of the ecumenical dimension of the pro-life life movement, just recently on June 26, 1980 the nation's largest Protestant denomination, the Southern Baptist Convention, voted to go officially on record in support of a constitutional amendment overturning the Supreme Court's 1973 decision legalizing abortion.

As important as the recent McRae and Zbaraz funding cases are for protecting the rights of the unborn, it should be kept in mind that these decisions only ruled on the constitutionality of the Hyde Amendment. Because the amendment was attached to a yearly appropriations bill, Congress will once again take up the Hyde Amendment this year when the Medicaid budget is debated later in the summer, probably at the end of July.

The vote taken by Congress on the Hyde Amendment this year will be even more important than in the past because there is now no legal question as to its constitutionality. The Hyde Amendment will literally mean life or death to hundreds of thousands of unborn children and the pressures placed on members of the U.S. House and Senate from pro-abortion advocates will be enormous.

In the debate that has surrounded the efforts to stop the use of public funds for abortions, the central issue—the obligation of the state to protect the most basic of all human rights, the right to life—has frequently been obscured. Instead, the issue has been made into an argument about discrimination against the poor. Most simply stated, the argument is raised: since abortion is legal, shouldn't tax funds be used to let poor women have what rich women can already obtain?

In writing the majority opinion in the abortion funding cases, Justice Potter Stewart addressed the discrimination issue when he stated, "Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life."

Abortion is indeed different from any other medical procedure. Regardless of how euphemistically it is described ("freedom of choice", "a woman's right", "termination of pregnancy", etc.) abortion is still the destruction of an innocent human life. There may be many reasons why a woman may feel she is pressured to have an abortion, but in an enlightened society those are the problems which government should be trying to alleviate, rather than advocating an inhumane policy of using tax dollars to destroy the children of the poor.

Last October the American people were deeply moved by the presence and message of Pope John Paul II who will go down in the annals of world history as one of the staunchest proclaimers of social justice and human rights for poor people, whether in South America, Africa, Asia or the United States. It is significant that during his visit to America, the Pope chose the nation's capital as the site for his most moving defense of the rights of the unborn when he stated at the Washington Mall:

I do not hesitate to proclaim before you and before the world that all human life—from the moment of conception through all subsequent stages—is sacred, because human life is created in the image and likeness of God.

The Pope's eloquent plea for the rights of the unborn, like the remarks of Mother Teresa of Calcutta upon receiving the 1979 Nobel Peace Prize when she urged a greater respect for the value of the life of the unborn, are a source of inspiration for those who are continuing to work in defense of those who cannot speak for themselves. By continuing to educate the public and petition their elected officials on matters like the Hyde Amendment or other pro-life legislation such as the recently enacted Massachusetts parental consent law, those concerned about the unborn will make a lasting contribution toward reversing the infamous *Roe* v *Wade* and *Doe* v *Bolton* decisions which stripped away all legal protection from the unborn. A vital part of that ongoing public policy effort has and must continue to include a commitment to promoting social and medical programs which provide alternatives to abortion such as prenatal care, access to health services, financial and employment assistance and adoption services.

Without legal protection for the right to life, all other rights are rendered meaningless. The reasons why abortion and all it represents was allowed to become a way of life in the United States may never be fully known. But one thing is certain. The voice of the American people, speaking through their elected officials, has repeatedly requested an end to a public policy of abortion on demand. By continuing that effort—despite the setbacks and disappointments—the American people can succeed in reversing the tragedy which has plagued the country since January 22, 1973.

As in prior efforts, that task will be difficult and, at times seemingly endless, but its outcome is of vital lasting significance both to those yet to be born and to the future of our country.

[Raymond L. Flynn is presently a member of the Boston City Council and formerly served as a state representative in the Massachusetts legislature where he co-sponsored the "Doyle/Flynn" law restricting state funds for abortions and several other pieces of pro-life legislation.]●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. DERWINSKI. Mr. Speaker, Captive Nations Week was appropriately observed in Taipei, Taiwan, Republic of China, by rallies, proclamations, and other activities in support of freedom for all people who are held captive by Communist rule. As reported in the July 13 China Post, these events were attended by over 120 officials of other nations, including our distinguished colleague, MARIO BIAGGI. I wish to insert this editorial which reflects the spiritual support of Captive Nations Week in the Republic of China:

[From the China Post, Taipei, Taiwan, Republic of China, July 13, 1980]

CAPTIVE NATIONS WEEK OBSERVANCE

The people of the Republic of China will observe beginning today until July 19 Captive Nations Week which was sponsored by both houses of the U.S. Congress in 1959 by a joint resolution designating the third week of July as Captive Nations Week.

Since then, many free nations have joined in the crusade for the liberation of the captive people behind the iron curtains and the overthrow of the despotic Communist regimes in Eastern Europe, Africa and Asia.

The Republic of China was one of the first free nations to join in this anti-Communist crusade by holding a meaningful observance in that week in 1961. As this nation has been commemorating January 23 Freedom Day since 1955 which has become the World Freedom Day, marking the heroic choice for freedom by the 14,000 Prisoners of War at the end of the Korean War, the commemoration of Captive Nations Week has reinforced our determined struggle against Communist aggression and enslavement.

The Captive Nations Week observance for 1980 marks the first such observance in the 80s. It has, therefore, unusual significance and implications as this decade of epic fight against Communist tyranny and oppression has been rendered ever more urgent by the Soviet invasion of Afghanistan and by the threatening aggression by the Chinese Communist regime against Vietnam and other Southeast Asian nations. Meanwhile the increased oppression of the innocent people by the Peiping regime and the Soviets has also made their liberation from Communist enslavement a matter of greater urgency.

For the people on the Chinese mainland have seen through the trickery and deceit of the Peiping regime and refused to remain silent and passive in their sufferings. They have risen en masse to demand freedom, democracy and human rights as existing in the Republic of China under the guidance of the Three Principles of the People. The people on the mainland are demanding to learn from Taiwan and practice the Three Principles of the People on the one hand and the abandonment of the oppressive Communism and Maoism on the other hand. They are resisting Peiping's oppressive rule under oppression and are launching their liberation drive from the iron curtain within the iron curtain.

The rising opposition to Soviet aggression in Afghanistan and expansionist activities in the Indian Ocean and Persian Gulf region has also rendered this year's Captive Nations Week activities more meaningful and urgent. Democratic nations all over the world are opposing and resisting Soviet aggression with concrete measures besides words of condemnation.

The unprecedented warm responses by 121 parliamentarians and anti-Communist leaders of 29 nations to the invitation of the Captive Nations Week Committee of the Republic of China constitute a definite and enthusiastic support of this significant movement. The distinguished guests to participate in this week's activities include the Speaker of the Panamanian Parliament Blas Celis, Speaker of the Swazi lower house Jetro M. Mamba, Costa Rican parliament's majority leader Mario Romero Arredondo who is also the secretary general of the government party, Belgian Congressman and CEPIC leader Jean-Pierre Grafe, French parliamentarian and one of the leaders of De Gaulle faction in the French parliament H. Rolland and U.S. Congressman M. Biaggi, Democrat-New York. Other anti-Communists leaders from Australia, Brazil, Canada, West Germany, Indonesia, India, Italy, South Korea, Malaysia, the Netherlands, New Zealand, Paraguay, Switzerland, Japan, Turkey, the Philippines, Nigeria, Argentina, Singapore, Jordan and Cuba will also be on hand to commemorate this occasion. Their presence truly signifies their staunch support of the cause of the Republic of China even though some of those nations do not have official relations with the Republic of China. They realized that we are all in the same boat riding through a rough storm created by Communist aggression and expansion. We must effectively defend ourselves against Communist rampancy or we shall perish together or become Communist slaves.●

MAJ. ROBERT A. HEYART

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. FORD of Michigan. Mr. Speaker, I rise today in recognition of the outstanding work and dedication Maj. Robert A. Heyart has displayed not only in serving his country but also, on behalf of his fellow reservists, in promoting and publicizing the Community College of the Air Force.

Major Heyart, of the Michigan Air National Guard, has demonstrated extraordinary insight by recognizing that the Community College of the Air Force would not only serve as a medium for individual and educational development but also as a recruiting and retention device.

In recognition of this outstanding achievement, Major Heyart has been awarded the Air Force Association's Citation of Honor, 1979; the Michigan Air National Guard's Richard D. Long Award, 1978; and an honorary membership into the ANG NCO Academy Graduate Association, 1978, to name but a few.

I need add no further details to the following summary, which so genuinely describes Major Heyart's efforts in promoting and stimulating enrollment in the Community College of the Air Force. The summary was written by Mr. Newton Smith, a former colleague of Major Heyart.

Major Robert A. Heyart distinguished himself by exceptionally meritorious conduct in the performance of outstanding services to the United States while assigned to the 191st Fighter Interceptor Group Headquarters, Michigan Air National Guard, from March 1976 through August 1978. During this time, his foresight, dedication, exceptional display of initiative, and tireless efforts generated a movement within the Air National Guard and the Air Force Reserve that has greatly enhanced the program of the Community College of the Air Force (CCAF), and benefited literally hundreds of reservists.

After attending a February 1976 briefing concerning the CCAF, Major Heyart immediately recognized the opportunity to stimulate college-level growth for the enlisted men and women in the Air Reserve Forces. In March 1976 he began a campaign within the 191st Fighter Interceptor Group and the 127th Tactical Fighter Wing of counseling and providing enrollment assistance for Air National Guard members interested in furthering their education through the CCAF. Less than one month later, by enrolling 191st and 127th personnel, he had doubled the nationwide ANG enrollment in the CCAF.

In addition to the opportunity it presented for individual development, Major Heyart also correctly surmised that CCAF had the potential to become an excellent nationwide recruiting and retention device for the air reserve components. Based upon this conviction he contacted numerous colleges and universities and was able to negotiate agreements with these institutions whereby they would work hand-in-hand with the Air National Guard, the Air Force Reserve and the CCAF to move enlisted members toward their Associates Degree.

At this point in mid-1976, CCAF had begun to receive requests for information from reserve components in such places as Minot, N.D. and Torrejon, Spain, and Major Heyart's name was mentioned as the contact through which these units became aware of this educational opportunity.

In June 1976 Major Heyart arranged a meeting with personnel representatives of Chrysler Corporation, Ford Motor Company and General Motors Corporation. His objective was to explain just how CCAF students and graduates could be sources of skilled workers for these corporations. As a result, CCAF educational credits and degrees are now accepted by these firms among others such as General Electric and Detroit Edison.

It is solely through this officer's efforts that the acceptability of CCAF by the corporate ranks was achieved. The impact of these efforts is that ANG and AFRES recruiting and retention of employees of such firms is enhanced, and further, that guardsmen and reservists have also become more attractive as prospective employees for businesses and industry. Following a CCAF briefing by Major Heyart to the Chiefs of the National Guard Bureau and Air Force Reserve, it was then decided that the time had come to develop a model base-level CCAF program and the Selfridge ANG Base methods used by Major Heyart were analyzed to this end.

The test showed that the ratio of persons contacted for enlistment into the ANG and AFRES to persons actually recruited had increased by 13 percent using CCAF as a recruiting tool. Further, recruitment of both prior and non-prior service people had improved using CCAF as the incentive, and 80 percent of all enlistees were enrolling in CCAF.

Finally, one-half of all registrants in the CCAF were now from Selfridge ANG and AFRES units-motivated and processed totally by Major Heyart. After aggressive efforts by CCAF adminstrators to gain legislative support for accreditation, in January 1977 the authority to grant degrees was received and the CCAF became the first military college to confer degrees upon enlisted men and women. In great part, Major Heyart's success in achieving industry cooperation, and support from colleges and universities, combined with the growing number of Michigan reservists enrolling in the program, added to the momentum necessary to have this legislation passed by Congress and accepted by the Department of Health, Education, and Welfare.

As a result of Major Heyart's encouragement and motivation, the Michigan Air National Guard had two of the first four Air National Guard CCAF graduates in the class of April 1977—14 months after the program began. By February 1978, Major Heyart had processed over 600 Michigan Air Guardsmen into the program.

Since instituting the CCAF program in mid-1976, Major Heyart has been continually contacted by Air National Guard and Air Force Reserve units throughout the country concerning the CCAF and how to start viable programs within their units. The tie to recruiting and retention has been particularly attractive to them. In 1978 National Guard Bureau personnel requested that he appear on the programs of its two regional recruiting workshops so that all Air National Guard recruiters could be fully apprised of the CCAF as an enlistment incentive.

Further, as a result of the recruiting workshop discussions, some USAF recruiting brochures have been modified to incorporate Air National Guard oriented information on the CCAF.

There can be no question that Major Heyart's aggressive support of an Air National Guard and Air Force Reserve thrust toward acceptance of the CCAF has enhanced the recruiting and retention posture of both military reserve components and has inspired many reservists to strive for further educational and professional growth. He has opened the door to a greater educational future for literally thousands of reservists in years to come.

Major Heyart has demonstrated uncommon foresight and outstanding initiative, and these traits, combined with his personal dedication to the educational development of his fellow reservists, have produced a singularly distinctive accomplishment which reflects great credit upon himself, the Michigan Air National Guard and the United States Air Force.●

CALIFORNIA PAYS TRIBUTE TO JOSEPH C. SPRINGER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. BROWN of California. Mr. Speaker, we have seen a number of reports recently that point to a need to better use our natural resources. To accomplish this will require the efforts of skilled people on the Federal, State, and local levels. Unfortunately, we in California seeking to better use our forest lands will be without the services of Joseph C. Springer, recently retired chief administrator of region IV of the California Department of Forestry.

Mr. Springer has had a long and distinguished service in the forest resources area and was honored by the Society of American Foresters as the "Forester of the Year" in 1979. The award was made for his work in the field of "Cooperative Inter-Agency Fire Control and Land Management Operations," a key area in fire control in southern California where so many levels of government are involved in land use and protection.

He played a key role in the development of Firescope, an advanced fire-fighting system that uses remote sensing, communications and information systems, and weather information to predict the progress of a fire. This highly sophisticated system has proven itself effective in fighting the devastating fires that occur in southern California and has application nationwide for a number of emergency situations. All of us owe a great deal to Mr. Springer's efforts in developing this joint State-Federal program.

Joe's retirement from the California Department of Forestry brings regret at losing such a valuable asset. However, the quality of his work over 30 years will be with us in the Firescope program and the number of other initiatives that he started. I wish Joe the best in his well-deserved years of rest and reflection following such a distinguished career.●

AIR SAFETY REORGANIZATION ACT OF 1980

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. MATSUI. Mr. Speaker, I am today introducing the Air Safety Reorganization Act of 1980, a bill which I believe will do much to improve Federal regulation of air safety in this country.

Just over a year ago, 273 people died when a fully loaded DC-10 crashed on takeoff at O'Hare Airport in Chicago. It was the worst air disaster in U.S. history, only 8 months after the tragic midair collision over San Diego in which 144 people were killed.

In light of these major accidents, it is not surprising that the public and the Congress have been demanding improved safety in air travel and have been asking whether the Federal Aviation Administration is doing all it should to improve air safety.

For example, the Government Activities and Transportation Subcommittee, on which I serve, recently concluded an 18-month investigation into the shortcomings of the FAA's certification of aircraft design, production, and maintenance. The report makes a series of recommendations which should build safety in from the start, and I look forward with interest to the FAA's reaction to the recommendations we have made. We have also been looking into deficiencies in the Nation's air traffic control system. The subcommittee has held hearings on collision avoidance systems and, just recently, on computer breakdowns and outages which endanger air traffic control operations.

Over the past few months, criticism of the FAA's regulation of air safety has come from several other sources as well. At the request of Congressmen BIZZ JOHNSON and ELLIOTT LEVITAS, the General Accounting Office undertook a year-long investigation into how the FAA responds to safety needs. The GAO conclusions are disturbing, for they were that the FAA has not been effective or timely in developing systems to identify safety hazards. Also, because the FAA has no overall planning process, its actions in dealing with individual safety problems are perceived to be reactive rather than anticipatory. The agency has not adequately marshaled its forces to deal with safety problems quickly and effectively.

Earlier this month, additional criticism came from a blue-ribbon panel of aviation experts assembled at the request of Transportation Secretary Neil Goldschmidt to investigate the FAA's role in the aircraft certification process. The blue-ribbon committee's report, "Improving Air Safety," pointed to an alarming decline in FAA technical expertise in the certification area and made a series of recommendations on how to improve the process.

As should by now be obvious, a number of groups have been asking a lot of hard questions about aviation safety and have been making a number of suggestions about how air travel can be made even safer. A key question is whether these reports I have mentioned will, like their predecessors, gather dust on the library shelf or whether they will be translated into positive action.

There is another important question, I believe, and that is what role will Congress play in improving air safety. I think it is critical that we move beyond the investigations stage and try to pass legislation which will address the fundamental issues which have been raised in hearings, investigations, and studies. Congress, after all, set up the FAA in its current form, and Congress bears the responsibility to insure that the agency is doing the job we intended.

As I consider the various responsibilities which we have entrusted to the FAA, I see that the duties are many and important: operating the Nation's air traffic control system; managing the airport trust fund, which pays for many safety improvements at airports around the country; certifying that airplanes are airworthy; certifying the abilities of airmen; setting standards for air safety; promoting the aviation industry; noise abatement, and many others.

I am convinced that air safety would be improved if we could split those functions and create a separate agency which would be responsible for certification, the issuance of safety standards and regulations, as well as the critical research and development work which advances the state of the art in aviation safety. These functions would be transferred to a new independent agency, the Air Safety Administration, which would be an arm of Congress and report directly to us. As I examine the FAA's air safety record, I become convinced that important regulatory and research activities are now buried within the FAA and are further buried by the fact that the FAA is but a component of the Department of Transportation. If we break these important functions out of the FAA and DOT and set them up in a new agency, this vital work will be able to proceed in an expeditious manner.

My bill would not require the Air Safety Administration to be responsible for promoting aviation commerce. A number of parties have argued that the FAA currently has a dual mission—insuring public safety while simultaneously promoting the industry—and that these goals can conflict to the detriment of the traveling public. This issue is one which I think could be profitably explored in hearings on this reorganization legislation.

A number of important functions pertaining to running the air traffic-control system and administering the airport trust fund could remain within DOT under a new Aviation Operations Administration. It is my intention that the Air Safety Administration be more regulatory and research oriented in nature, while the Aviation Operations Administration be charged with the day-to-day responsibilities for the Nation's air traffic control system and the national airport system.

I want to emphasize, Mr. Speaker, that I am not offering this bill as a "sure cure" for all the FAA's shortcomings. I note that some of my colleagues have introduced bills which take different approaches to this difficult problem. Mr. GOLDWATER, for instance, has introduced H.R. 351, which would make the FAA an independent agency. Mr. LEVITAS has introduced H.R. 6771, which would make the FAA responsible solely for safety and not industry promotion.

The important point is that Congress should move from investigating air safety to legislating in this area. My bill, along with those of Messrs. GOLDWATER and LEVITAS, suggests a variety of approaches which should be considered by the Public Works and Transportation Committee, which has jurisdiction over aviation. From such hearings, I think that Congress will be able to devise a workable, effective means of improving the regulation of air safety in this country.●

RESOLUTION ON THE MADRID CONFERENCE ON SECURITY AND COOPERATION IN EUROPE

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mrs. FENWICK. Mr. Speaker, this Friday, August 1, will mark the fifth anniversary of the signing of the Helsinki accords, more formally known as the Final Act of the Conference on Security and Cooperation in Europe.

Today, on behalf of myself, Chairman FASCELL, and the other four House Members of the U.S. Helsinki Commission, I am introducing a resolution to serve as a reminder of the continued need to monitor and counter the violations of the human rights pledges which the Soviet Union and other signators signed in Helsinki on August 1, 1975.

The resolution also is being circulated for cosponsorship and we hope that as many Members as possible will join as cosponsors. The resolution also is being introduced in the other body by Senator PELL, the cochairman of the Helsinki Commission.

In the resolution, we are not merely marking an anniversary. The main intention is to look ahead, to the forthcoming conference in Madrid this November to review the implementation of the Helsinki accords and to discuss new measures to advance security and cooperation in Europe.

Unfortunately, some of the 35 signatory nations apparently wish to deflect attention away from human rights issues. The Soviet Union and some of the other eastern European countries continue to violate some of the basic human rights provisions of the Helsinki document. A detailed and documented report on this will be issued later this week by the U.S. Helsinki Commission.

Thus, the resolution declares that human rights concerns should be given serious and prominent attention during the Madrid Conference, both in reviewing implementation to date of the Helsinki accords and in the consideration of any new proposals.

A second important part of the resolution refers to the concern that some countries, including the Soviet Union and France, may be seeking to minimize and perhaps even brush aside human rights concerns during suggested post-Madrid meetings on various confidence building measures.

We feel this would be a mistake and we support the U.S. position that there should be a balance which would fully take into account human rights concerns. Thus, the resolution states that:

> * * * to preserve the integrity of the CSCE process and to insure future consideration of human rights issues, any new measures agreed upon at Madrid, including post-Madrid experts' meetings, should be balanced among all sections of the Final Act.

The key word, Mr. Speaker, is "balanced."

This resolution reaffirms our support for compliance with the human rights provisions of the Helsinki accords and makes clear to the U.S. delegation and those of other nations that we support the U.S. delegation in taking a strong position on human rights at Madrid.

Mr. Speaker, I include in the RECORD a Washington Star article on the forthcoming Madrid Conference:

[From the Washington Star, July 27, 1980]

U.S., ALLIES DIFFER ON HOW HARD TO PRESS SOVIETS ON RIGHTS VIOLATIONS

(By Henry S. Bradsher)

Differences are developing between the United States and many of its European allies over a forthcoming review of the way the Helsinki agreement on European security and cooperation has worked in the five years since its signing.

The agreement was signed by almost all European nations, the United States and Canada. It promised more trade and cultural exchanges, respect for human rights, efforts to relax military tensions, and other high-sounding goals.

Few of them have been attained. In some areas the movements has been away from the ideals proclaimed by 35 states on Aug. 1, 1975.

The most sensitive area has been human rights. While there seems to have been some improvement in Poland and Romania, the Soviet Union has imprisoned citizens who tried to insist on its adherence to the agreement signed by Leonid I. Brezhnev and has cracked down on other dissidents, such as physicist Andrei Sakharov.

The United States intends to accuse the Soviet Union of specific human rights violations when a review of the agreement begins in Madrid Nov. 11, following a preparatory meeting from Sept. 9 to Oct. 15. Former Attorney General Griffin Bell will head the American delegation in the Spanish capital, with Max M. Kampelman as deputy head.

President Carter and Secretary of State Edmund S. Muskie plus Bell, Kampelman and other officials will speak on Tuesday to meetings here about the Helsinki agreement's fifth anniversary and the coming Madrid review. Representatives of East European, Jewish, religious and human rights organizations have been invited to day-long meetings at the State Department and the White House.

Some of America's Western cosigners are reluctant to take as hard a stand in reviewing Soviet performance as U.S. officials indicate they will take. In preliminary talks in Europe, Americans have sensed a strong desire to use the Helsinki agreement mechanism as a way of bridging East-West differences and thus trying to keep alive the idea of détente.

The agreement was completed, after more than a decade of Soviet efforts to have a substitute for a post-World War II peace treaty that would recognize post-war borders, as part of détente. The Ford administration signed it despite criticism here that the Kremlin would not respect its human rights provisions.

"The neutrals want to use the Madrid review as a rescue operation for détente," one U.S. official says. "So they're reluctant to focus too hard on holding the Soviet bloc to account for the things it promised in Helsinki."

Instead of looking backward at what has not worked, some European nations want to look forward to new ways of trying to relax tensions. But officials here are worried that too much talk about future steps suggested by the French or the Soviet-led Warsaw Pact will obscure the need for continued monitoring of respect for human rights.

One point about the Madrid review on which the United States can agree with its allies is condemnation of the Soviet Union for its military occupation of Afghanistan. "Some of the allies might be even rougher than we are," a Capitol Hill specialist says.

In its latest semiannual report to a congressional commission that watches Helsinki agreement implementation, the Carter administration charged that the Soviet invasion violated eight of the agreement's 10 principles on relations with signatory countries. The signers promised to apply the principles to all other nations.

The eight principles are: sovereign equality; refraining from the threat or use of force; inviolability of frontiers; territorial integrity of states; peaceful settlement of disputes; non-intervention in internal affairs, equal rights and self-determination of peoples; fulfillment in good faith of obligations under international law.

"Soviet aggression in Afghanistan has heightened tension in Europe and weakened the foundation for improved East-West relations," the report said. It took a defensive position about U.S. restrictions on trade with Moscow as retaliation for the invasion, since the Soviets are likely to charge in Madrid that the restrictions violated the Helsinki provision for free trade.

The NATO allies said at their recent meeting in Ankara that the Soviet invasion "had seriously affected the confidence necessary for progress" under the Helsinki agreement. They also "deplored the increased suppression in certain countries of human rights and fundamental freedoms and the harassment, imprisonment, internal exile and banishment of those who strive for implementation" of the agreement.

The use of the phrase "certain countries," instead of naming the Soviets on anything except Afghanistan, showed the reluctance of some allies to take too strong a stand. So did the use of the word "measured" in the NATO communique's statement that "allied representatives at Madrid will engage in a thorough, frank and measured review of implementation with a view to stimulating improvement."

According to officials here who have been working on preparations for Madrid, the important allied discussions are being held by the European Community's nine members at their regular meetings. Only the British and Dutch among the nine are in favor of trying to call the Soviets to account for human rights violations, as are the Canadians and Americans among non-members of the community.

Since the community works as a whole, and the nine dominate NATO, the caution among its members affects alliance decisions on Madrid before the United States even has a chance to argue its tougher line.

In addition to reviewing how the Helsinki agreement has been observed, the Madrid meeting will also consider further development of what are known as confidence-building measures, or "CBMs."●

ZIMMERMAN, 82, HIKES 185 MILES

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mrs. BOUQUARD. Mr. Speaker, the following article by Mr. Buck Johnson appeared in the Chattanooga Times, July 4. As we enter the decade of the eighties, the elderly will become an ever larger proportion of our population. As a member of the House Select Committee on Aging, I recognize that solutions to the problems of the elderly will have to be found. I would like to commend Mr. Zimmerman who, at age 82, has found a "fountain of youth" and done something that few of us would attempt at a much younger age. The article follows:

Zimmerman, 82, Hikes 185 Miles

George Zimmerman, the ageless wonder of Forrest Avenue, has discovered the Fountain of Youth. No doubt about it.

To an octogenarian, an exciting vacation would be visiting the grandchildren for a couple of days or, if he feels up to it, riding out into the country, renewing old acquaintances and coming home too pooped to talk about it.

But, not George Zimmerman. On his vacation, he took a walk. A 185-mile walk that covers the entire length of the Chesapeake and Ohio Canal Towpath. He's going on 83 and is thought to be the oldest man in history to have made a continuous hike of the towpath.

"I had been dreaming of that trip for over two years," he said Thursday as a boyish gleam shot out of his blue-grey eyes, "because I had been thinking of the canal since I was a boy."

Zimmerman grew up on that canal, but it had been 66 years since he walked the towpath. Going to work at the age of 10 for his father, he worked mainly as a mule driver for seven years before becoming a canal boat captain. It is believed that he and Lester Mose, of Sharpsburg, Md., are the only two surviving canal boat captains of that era. He agrees that his hike along the canal will probably be the last time either will walk it.

Born on a farm along Licking Creek near Parkhead, Md., Zimmerman and his brothers answered the call of the canal, a family tradition and went to work in a wholesale store until enlisting in the Army during World War I. After his discharge, he began a 41-year YMCA career that ended with his retirement here in 1963.

Zimmerman has always been an advocate of physical fitness. Even at the age of 82 he still follows a six-day workout schedule. "Three mornings a week I go through a series of 27 exercises and that takes about 45 minutes," he said. "The other three I go to the YMCA to lift weights and jog three miles." The exercises include 20 push-ups, a dozen chin-ups and six full-extension press-ups.

Through the cooperation of his daughters, who cared for Mr. Zimmerman while he was away, Zimmerman got the time to realize the dream of hiking the towpath. He began his preparation by taking an eight-week course in backpacking. Last February he started walking eight miles a day for a few days and increased the distance to 15 miles a day before starting all over with a 40-pound pack on his back.

During a visit to Great Falls Park, Va., he met Jim Putman, a ranger who was in the process of writing a book about the towpath. Zimmerman revealed his plans to Putman and the ranger, amazed, said, "If you walk it, I'll walk it with you." He did and they were joined by Ken Rollins, a member of the C&O Canal Commission; Lee Johnson, a volunteer at Crest Falls Park, and Karen Creuziger, who chose the story of the canal for her thesis at the University of Pennsylvania.

"We had a wonderful time," exclaimed Zimmerman who could recount many memories of the canal from long ago. "The people along the way were so helpful and pleasant."

The 18-day trip was called by Putman, "the most intensive research hike ever done along the canal, especially with a bona fide canal captain along."

The group uncovered three stone burial markers where original canal workers were buried when the canal was under construction. "We also found places where beavers were very active—in the canal," said Zimmerman.

The only aches he encountered along the trip were sore feet at the outset, but said the application of the moleskin at the first sign of a "hotspot" took care of that. He also acquired a taste for freeze-dried food which is nutritious when mixed with water.

Zimmerman is a living testimony to the result of good physical fitness habits and clean living. "Yes," he said, "I guess I have found the Fountain of Youth and I can tell you where to find it," Eager ears listened.

"There are five places," he said. "First, you can find it outside the door of a liquor store. Second, you can find it outside the door of a tobacco store. Third, you can find it in a gymnasium or some other such place after a very strenuous workout for at least a half-hour three times a week. Fourth, you can find it at the dinner table when you push away after you've had enough. Fifth, you can find it in the bedroom after seven or eight hours sleep without taking a sleeping pill.

"Now, with the first two, a little bit does a little harm. More does more harm, but when it's out of control, it will kill you.

"A man, pretty much, makes his own destiny."

And few, at any age, can walk 185 miles.●

FOR THE REIMBURSEMENT OF THE CITY OF BALTIMORE FOR EXPENSES INCURRED IN I-170, THE ROSEMONT PROJECT

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, I have introduced a bill (H.R. 7835), to provide financial relief for the city of Baltimore. On June 21, 1969, the city government, acting in good faith and in conjunction with the Federal Highway Administration (FHWA), enacted an ordinance to implement construction of Interstate 170 through a section of the city known as Rosemont.

Concurrently, an alternative route was proposed which would have bypassed the Rosemont community. In August 1969, public hearings on bypass alternatives were held. The public advisory board, which was composed of city, State, and Federal officials, announced their desire to substitute another route. Meanwhile, pursuant to the ordinance—and at the behest of the FHWA—properties in the Rosemont corridor were being acquired.

Subsequently, the public outcry against the further disintegration of this neighborhood was so great that the Rosemont corridor route was abandoned. Meanwhile, the city had expended well over $5 million on property acquisition.

The result of this process of acquisition had been condemnation blight; the property values in the Rosemont area plummeted in anticipation of new highway construction. What was once a thriving community has now been all but abandoned. It may take a generation before the city of Baltimore can establish growth in the Rosemont area.

Mr. Speaker, I contend that the FHWA has been unreasonably intransigent to the attempts of the Maryland delegation and State and local officials in equitably resolving this dispute. It is for this reason that I seek relief for my city with the introduction of H.R. 7835.●

CONTROL INFLATION BY CONTROLLING THE MONEY SUPPLY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. DORNAN. Mr. Speaker, on July 23, I had the satisfaction of testifying before the House Ways and Means Committee on the subject of the American Tax Reduction Act of 1980, H.R. 7777. I now take this opportunity to call my colleagues' attention to a second, equally significant, piece of legislation, H.R. 3833, the Money Supply Control Act of 1979, which I introduced on May 1 of that year.

If we are to defeat inflation once and for all, we must put the money supply back in touch with reality. The Money Supply Control Act decelerates the growth of the national money supply, know as M-2, over a gradual and responsible 6-year period with a view to maintaining a constant general level of domestic prices and avoiding destabilizing changes in total purchasing power and employment.

The economic principles embodied in H.R. 3833 have been validated again and again by many of our Nation's leading economists. Nobel laureate Milton Friedman, who has previously described the Money Supply Control Act as an "excellent guide" for the establishment of noninflationary growth, again points out the necessity of this type of program in an article appearing in the current issue of Newsweek magazine. This article, dated July 28, 1980, is submitted for the RECORD.

IMPROVING MONETARY POLICY

(By Milton Friedman)

The Federal Reserve System has long displayed a propensity to swing erratically from one extreme to the other, from excessively rapid to excessively slow monetary growth. The propensity has seldom been more dramatically evident than in recent months, which have seen the sharpest swings in monetary growth in decades.

The Fed's repeated failure to achieve its own targets has produced an impression that it cannot do so, that it is a helpless giant buffeted by events over which it has no control. That impression is false. The Fed's failure does not reflect a lack of means. It reflects the Fed's tardiness in adjusting its operating procedures to the change in its announced objectives.

Its operating procedures were developed many years ago to achieve an objective that the Fed no longer profess: control of credit conditions—which is to say, of interest rates. Those same procedures are clumsy and inefficient for achieving the objective that the Fed now professes: control of the quantity of money.

The discrepancy between objective and procedures has attracted little attention and has survived as long as it has largely because the issues involved are highly technical and not widely understood. Yet a high degree of agreement has developed among specialists in monetary policy on the key changes that the Fed should make. And, to the credit of the present leadership of the Fed, there are some signs of change.

The major changes needed are:

1. Targets should be expressed in terms of dollar levels of monetary aggregates rather than, or in addition to, growth rates. In 1975, Congress required the Fed for the first time to specify targets a year in advance. However, the Fed has evaded the intended discipline by stating targets in terms of growth rates applied to a shifting level of actual monetary totals. This device buried past mistakes and enabled the Fed to start fresh each quarter.

2. The targets should be announced in advance for several years and strictly adhered to.

3. Setting a target range for the Federal Funds interest rate should be ended. That rate, and all other interest rates, should be determined entirely by the market and abandoned as instruments of policy. The Fed's task, as it now recognizes, is to control the quantity of money, not interest rates.

4. As part of this reform, the discount rate should be linked to a market rate such as the Treasury-bill rate, so that it becomes a floating rate which changes continually rather than, as now, at discrete intervals.

5. The Fed should operate entirely by deciding (and announcing) in advance the changes in the monetary base (currency plus deposits at Federal Reserve Banks) required to achieve its monetary targets. If it wishes to do so, the Fed can control the base almost precisely from week to week through purchases and sales of government securities.

6. Lagged reserve accounting (calculation of this week's reserve requirement on the basis of deposits two weeks earlier) should be replaced by contemporaneous reserve accounting. The current practice, adopted twelve years ago in the vain hope of stemming the loss of Fed member banks, impedes effective control of the money supply. (On June 4, 1980, the Fed announced its intention of adopting this change.)

Other changes in the Fed's rules and regulations would be desirable, but these are the crucial ones. All are measures that the Fed has the legal authority to take.

Support for the Changes: A near-consensus on the essential features of these suggestions exists among specialists both inside and outside the Federal Reserve System. The suggestions parallel recommendations made repeatedly by the Shadow Open Market Committee, a group of monetary and banking experts (of which I am not a member) that meets regularly to evaluate Federal Reserve policy. The suggestions parallel recommendations made repeatedly by committees of Congress. They are supported by extensive and detailed research that has been done during the past decade and more, much of it within the System itself, and that has been reported in scores of technical publications, including Federal Reserve publications.

The Fed's proposal to terminate lagged reserve requirements is a welcome and important step in the direction of implementing these suggestions. Let us hope that it proves to be the beginning of a thorough-going adjustment of the Fed's operating procedures to its own stated objectives.●

COMMENCEMENT ADDRESS

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. CLAUSEN. Mr. Speaker, last June I had the privilege of attending the graduation exercise at South Fork High School in Miranda, Calif. On that occasion Sandra Luzzi Hogan, an English teacher at South Fork High School from 1975 until 1980, delivered one of the most inspirational commencement addresses that I have ever heard.

Ms. Hogan offered to the graduating class some astute insights on life and a number of stimulating challenges concerning what can be made of life. I know that I profited from her comments, would like to share them with my colleagues, and record them permanently in the official records of the U.S. Congress.

Sandra is truly an outstanding educator and was selected by the graduating class to deliver this outstanding commencement address—in recognition of her dedication and professionalism in education.

The address follows:

COMMENCEMENT ADDRESS: GRADUATING CLASS OF 1980, SOUTH FORK HIGH SCHOOL, MIRANDA, CALIF.

Members of the faculty, graduates, parents and friends. I am deeply honored to have been asked to deliver this commencement address. My affiliation with these special young people sitting before you began five years ago when they were my first eighth grade class. Since that time, they have grown, learned, developed, and matured. It seems like only yesterday they were sitting on this very stage nervously awaiting graduation from junior high.

However, this ceremony marks an even greater milestone in your young lives, graduates. The way you were just five years ago is different from the way you are tonight. Just as the way you are now has little to do with the way you will be. And it is what you will be that brings us here tonight.

Change is a certainty. There is no way to avoid it. Consider your futures, each of you. Whether your choice is physicist, homemaker, artist, executive, or a combination of many life styles, the journey of a thousand miles begins with one step. And here, tonight, you are taking that step, whether consciously or not, into your potential lives. Welcome it as an opportunity to learn, to contribute, to help, and thereby to become a happier individual.

We humans are constrained only by the limits of time and space. We are never restricted by imagination. And because I know each of you, I know that you each possess unique and special gifts, gifts granted only to you, intended to be used for your good, and for the greater good of all of us. You each possess the potential to become whatever you choose to become. Marcus Arelius, the Roman stoic, said, "You are what you think." So think great thoughts and you will be great. Think loving thoughts and you will be loved. There are no limits to your potential save those which you place upon yourself. The world is most compliant.

And even when you meet seemingly insurmountable odds, and you will, you will also discover that you have been granted all of the strength and perseverance you need. You are never tested beyond your means. Similarly, you are never given a wish without the potential to make it come true; you may have to work at it though.

Regard each of the events of your life, whether painful or joyful, as though they were the lessons you learned in school: a chance to grow, to learn, to define yourself, because experience is one thing you can't get for nothing. The more quickly we accept and respond to life's challenges, the less time we waste in perfecting our own humanity.

Learn to make decisions and to accept the consequences of those decisions. But also learn to forgive yourself your errors. For if you are the very best that you can be, no one can expect more of you, not even yourself. And errors can lead to success rather than defeat if they are heeded.

Do not gauge the worth of your life by tangibles. The intangibles are the more precious: knowledge, generosity, commitment, justice. The true worth of an individual is measured by the objects he or she pursues.

And hopefully, when we have ultimately graduated from this life, we will be rewarded for having lived a growing, loving, and meaningful existence. The choice is yours. Live up to your potential.

And those of you who also love and support these young men and women, accept them "just the way they are" and by your example, show them just what they may become. For the virtue which we most appreciate, we to some extent, appropriate. It is not enough simply to give them life. Give them life and they live for a lifetime, but TEACH them to live, and they live for an eternity.

And as Shakespeare does at the end of "A Midsummer Night's Dream," I wish you "Joy gentle friends! Joy and fresh days of love accompany your hearts!"●

HUNGARIAN LIBERTY AND THE 60TH ANNIVERSARY OF THE PEACE TREATY OF TRIANON

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. DORNAN. Mr. Speaker, the 60th anniversary of the Peace Treaty of Trianon—June 1920—is the occasion of a somber memory among my Hungarian American constitutents. Because of the distorted application of national self-determination, that peace treaty, without any plebiscites, deprived Hungary of about 70 percent of her territory and two-thirds of her population. I am calling your attention to a national historical mistake. It was a diplomatic error which the United States has never ratified. The consequences of the treaty are still with us in the mistreatment of the Hungarian national minorities, particularly the 2.5 million Hungarians in Romania, and also in the oppression of Hungarians in Czechoslovakia, in the U.S.S.R., and, to a lesser extent, in Yugoslavia. We should also remember that Hungarians in what's left of Hungary cannot exercise full national independence and are condemned to live under a strict Soviet regimen.

I insert into the RECORD a thoughtful and scholarly analysis of the treaty by Prof. Edward Chaszar, Ph. D., Department of Political Science, Indiana State University:

THE TRAGIC FATE OF HUNGARY—RECALLED ON THE 60TH ANNIVERSARY OF THE TREATY OF TRIANON

For the last sixty years Hungarians have been painfully aware of the tragic fate which befell their country in June 1920, when the Peace Treaty ending World War I was forced on them in the Trianon Palace near Paris. Americans at the time were utterly unaware of what was happening to that small but valiant country which had served as Western Europe's outpost for centuries, a first line of defense against the onslaught of invaders from the East. It is the lack of information of Americans about the process of making that treaty, and the silence surrounding the event once it happened, which prompts the American Hungarian Federation to raise its voice on the Anniversary.

WHAT HAPPENED AT TRIANON?

Supposedly applying the principle of national self-determination, the victorious Allied and Associated powers dismembered the Austro-Hungarian monarchy by creating a number of so-called "successor states." The idea was to replace the multi-national monarchy with smaller national states, each of which would guard its newly won independence jealously and prevent, in this manner, a possible future expansion of Germany into the East-Central European region. History had proved twenty years later that the planners deluded themselves. Instead of insuring peace for generations to come, they created a settlement that bore within itself the seeds of a new world war. The "successor states" themselves were multi-national states, that is, states containing an inordinately large percentage of national minorities.

Consequently, they did not satisfy the aspirations of the peoples involved any better than did the old monarchy. Lacking national unity and concerned with preserving their territory gained as spoils of war, they fell an easy prey to Hitler's divide and conquer strategy, offering little or no resistance. Together with the greatly weakened, and separated, Austria and Hungary, the "successor states" became pawns on the chessboard of Nazi Germany and the Soviet Union.

HOW HUNGARY WAS MUTILATED AT TRIANON?

The Treaty of Trianon was, beyond doubt, the most severe of all post-War treaties. Before the war Hungary had a territory of 125,600 square miles. According to the terms of the treaty she lost 17.4 per cent of it, or 89,700 square miles. Of her population of almost 21 million, 63.6 per cent was detached, including 3.5 million Hungarians (Magyars). The inhabitants of dismembered Hungary numbered only 7.6 million on a territory of 35,900 square miles. Rumania alone received 39,800 square miles, or more than what was left to Hungary. Czechoslovakia was presented with 23,800 square miles and Yugoslavia with a similar slice, including Croatia—which for 800 years stood in a federal relation with Hungary. Of Western Hungary, 1,500 square miles were allotted to Austria.

By comparison, the Treaty of Versailles took away from Germany no more than 13 per cent of its territory and 9.5 per cent of its population. (The Peace of Frankfurt ending the Franco-Prussian War in 1871, had cost France a mere 2.6 per cent of her territory and 4.1 per cent of her population.) Having decreed—at the instigation of a few power-hungry nationalists—that a multi-national state such as Austrian-Hungary was not worthy of having a life of its own, the victors of World War I set up states such as Czechoslovakia, Yugoslavia, and Rumania, which were as many reproductions of the old Empire, embracing as many mixed nationalities.

Thus, in order to "liberate" 2 million Slovaks from alleged Hungarian oppression, nearly 2 million other ethnic minorities were subjected to Czech rule. In order to "liberate" 2.5 million Rumanians, the same number of non-Rumanians were subordinated to Rumanian rule. In order to "liberate" 1 million Serbs (who provided the spark for World War I), 3 million non-Serbs were put under the supreme authority of Yugoslavia. "It was ironic that a settlement supposed to have been largely determined by the principle of nationality should have produced a state like Czechoslovakia, with minorities amounting to 34.7 per cent of its population, quite apart from the question of the doubtful identity of nationality between Czechs and Slovaks. Poland was not much better off, with minorities amounting to 30.4 per cent, or Rumania, with 25 per cent," said the British historian Alfred Cobban in his book National Self-Determination (1945).

Adding it all up, the "successor states" found themselves with 16 million persons belonging to national minorities, out of a total population of 42 million. And compared to the situation prevalent in the old Austro-Hungarian monarchy, the lot of the new national minorities was miserable. "Is it not scandalous—exclaimed Sir Robert Gower, Member of the House of Commons in Britain some 15 years after the peace settlement—that an European reconstruction, loudly hailed as one that was going to liberate the national minorities, should have resulted in their persecution, the severity of which is such that there is no parrallel to it to be found in the ancient Kingdom of Hungary, where the nationalities had been treated with infinitely more benevolence!"

WHY HUNGARY WAS MUTILATED AT TRIANON?

Hardly did the ink dry on the Paris Peace Treaties when a number of publications began to appear revealing the truth of how and why the conditions of peace were imposed on the defeated Central Powers. Propaganda made the public believe that the Central Powers, and they alone, bore all the "war guilt," furthermore, that they oppressed their nationalities. In the case of Austria-Hungary, the latter was singled out for punishment and dismemberment. How was this possible?

Soon after the war it was established from documents that no European statesman at the time had done as much to prevent the war as the Prime Minister of Hungary Count Stephen Tioza. In fact, he was the only member of the Austro-Hungarian Joint Ministerial Council for Common Affairs who from the first day of the crisis had consistently opposed the war.

As for the contention that the nationalities were oppressed and therefore called for the dismemberment of the dual monarchy, there were plenty of facts contradicting this. When the Hungarian Peace Delegation was handed the text of the treaty to be signed, with its terms dictated, not negotiated, the chief of the delegation suggested that in accordance with the principle of self-determination the population affected by the treaty ought to be consulted through plebiscites. "Ask the peoples themselves," exclaimed Count Albert Apponyi to the assembled delegates of the victors, "we will accept their verdict." This, indeed, would have been entirely consistent with the Wilsonian idea of self-determination. Why was it then not employed? André Tardieu—who was to become twice Prime Minister of France between the wars—revealed the truth bluntly in his book entitled La Paix (Peace) in the following terms: "We had to choose between organizing plebiscites or creating Czechoslovakia."

It is all the more important, therefore, to acknowledge the attitude of the Chief Delegate of the Union of South Africa, General Ian Smuts (later Prime Minister), who demanded that in connection with the proposed dismemberment of Hungary plebiscites be held in Transylvania, Slovakia, Ruthenia, and Croatia-Slavonia, on the strength of the argument that Germany had been accorded the same right with regard to Schleswig-Holstein, Silesia, East Prussia, and the Saarland. At first a lone voice, later he was supported by the other British Dominions, as well as by Japan, Poland, and Italy. The fear of the plebiscite, however, prevailed against them, and the plebiscites were denied. An ominous denial, because some years later the Swiss historian and expert of minority affairs, Aldo-Dami pronounced a brilliant formulation of the truth by saying: "A plebiscite refused is a plebiscite taken in fact."

The Treaty of Trianon was signed on June 4, 1920. One year later, on June 7, 1921, the Reverend Father Weterle (for many years the protesting voice of Alsace in the German Imperial Parliament) declared in the French National Assembly: "I am profoundly convinced that had plebiscites been held, neither the serbs nor the rumanians would have received more than one-third of the votes cast . . . People have been pushed against their will. There can be no doubt about that." Father Weterle spoke from experience; after all, the Alsatians, although of germanic race and language, desired to be French. The sentiment was similar to that of the Wends and Slovenes of Hungary's Murakoz region. Despite of being Slavs by race and language, these two ethnic groups requested—without success—to be allowed to remain with Hungary in 1919. As events proved it later, it would have been advantageous also for the Croats and Slovaks to be consulted before they were made to merge in one state with the serbs and Czechs, respectively. That they were unhappy with the new arrangement became evident when in the course of World War II both nationalities were quick to declare independence from the artificially created "successor state" when the opportunity presented itself.

JUSTICE FOR HUNGARY

The Paris Peace Conference mixed up the peoples' right to self-determination with the principle of defining nationality on a linguistic basis. The two are by no means identical, because an ethnic group may well decide to prefer belonging to a national sovereignty linguistically different from its own. The Treaty of Trianon did in fact flout both by cutting off large blocs of purely Magyar-inhabited territories and awarding them to Hungary's neighbors for economic or strategic considerations. "The borders drawn at Trianon," asserts Aldo Dami, "excluded from Hungary a first zone of Hungarian territories, plus a second zone inhabited by non-Magyars whose interests were, however, so closely entwined with those of Hungary that there could have been no doubt of their decision, had they been consulted. Hence, the Peace of Trianon is based neither on ethnography nor on popular sentiment, nor even on the interests of the populations concerned—which the latter are sure to know best."

Why? Why was it done in such a manner? Why did the Treaty of Trianon endorse and legalize the occupations by conquest, achieved after the cessation of hostilities by the armed forces of the "successor states", in stark violation of the armistice agreements concluded with the Allied and Associated Powers? Why was all this injustice sanctioned for the benefit of three countries whose leaders, in order to better divide among themselves the prospective spoils of Austria-Hungary, had in 1917 formed a conspiracy of intrigues to achieve their goal?

The answer may lie in the then French Premier Clemenceau's cynical words: "The peace treaties are yet another means to continue the war."

What shortsightedness! And what a peace!

Let it be recorded here that the United States Congress refused, pure and simple, to recognize and sign the Treaty of Trianon. In fact, America, in order to signify its disapproval more markedly, concluded a separate peace with Hungary on August 29, 1920.

Yet, even now, 60 years later, justice has not yet been done to Hungary. Attempts to revise the borders drawn at Trianon and redraw them on a more equitable basis, have been in vain. The only frontier revisions, performed by the Axis powers during World War II when they were still in ascendance in Eastern Europe, were later annulled by the new peace treaties. And unlike those in 1919-1920, the Paris Peace Treaties of 1947 did not even stipulate the protection of national minorities. Hundreds of thousands of Hungarians have been expelled already from the land where they were born and where they lived. Millions of others are suffering the fate of oppressed minorities. Their case has been presented to the United Nations repeatedly. Documents, letters, memoranda smuggled out from Czechoslovakia, Rumania, and Yugoslavia tell of the wholesale violations of human rights of the national minorities.

A PLEA FOR HUMAN RIGHTS AND PROTECTION OF NATIONAL MINORITIES

Deeply moved by the plight of the oppressed East European national minorities, and in possession of overwhelming documentation to plead their case, the American-Hungarian Federation calls on the President and Congress of the United States to do all that is possible for the protection of human rights and the rights of national or ethnic minorities in Czechoslovakia, Rumania, Yugoslavia, as well as in the Soviet Union. Let the United States continue to be the champion of freedom and human dignity in the world, so as to maintain in high esteem the country and the ideals admired by the oppressed everywhere.●

SUPPORT FOR THE AGRICULTURAL CONSERVATION PROGRAM

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. GUYER. Mr. Speaker, I rise to make a special statement today in support for the agricultural conservation program. From its inception under the Soil Conservation and Domestic Allotment Act of 1936 this has been an extremely effective Government program. This program is administered by local county ASC committees under ASCS in the U.S. Department of Agriculture. These nonpartisan farmer elected committees have the local knowledge to make decisions on needed conservation practices in their respective counties. This program is a partnership between a farmer and the Federal Government, each sharing a part of the cost of the conservation burden. It is one of the best examples of how our people and our Government work together to protect and conserve the quality of our soil and water.

This year we are attempting to make the program more responsive to the local needs of county ASC committees and the conservation problems in their respective county. Consequently, the language in the appropriation bill this year must give the county ASC committees the authority to select the most needed conservation practices within their county. It is hoped that the 1981 ACP will permit county ASC committees to again have the authority to select the practices most needed in their respective counties.

Chairman WHITTEN and the Agriculture Appropriations Subcommittee are to be commended for restoring this important program in past years and encourage Members of Congress to authorize this much needed conservation program at $190 million for fiscal year 1981; the same level of funding as authorized for the program during the 1980 fiscal year. I only hope this Congress can look at this program in future years with the idea of increasing the level of funding to $500 million as it was in its inception.●

U.S. RELIANCE ON IMPORTED MINERALS

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mrs. BYRON. Mr. Speaker, our Nation must take steps to reduce our dangerous dependency on imported minerals and materials, and I am today introducing legislation that is designed to help coordinate Federal policy in this area and to give a higher priority to this vital subject. Specifically, the legislation I am introducing would express congressional concern over our dependency on potentially insecure sources of supply for many essential minerals and the lack of a coordinated Federal policy to overcome this problem. The legislation would direct the President to formulate a long-range comprehensive plan to deal with this problem and report to Congress annually on the steps that have been taken to implement the plan and alleviate this problem.

Mr. Speaker, the experience of our country with the Organization for Petroleum Exporting Countries illustrates the danger of American dependence on insecure foreign sources for important raw materials. During the last 7 years our dependence on imported sources for almost half of our oil supply has produced profound effects on every aspect of American life. Our economy and standard of living have been damaged by the massive price increases and our national security is threatened by the problems of assuring access to an oil supply that is located halfway around the world.

The United States is extremely vulnerable to OPEC even though we still produce half of our own petroleum. The situation facing us in necessary minerals is much worse. Printed below is a table showing the comparative import dependency of the United States, the U.S.S.R., the European Economic Community, and Japan for important minerals and metals. This information comes from data supplied by the Bureau of Mines of the U.S. Department of the Interior and reflects 1978 statistics, except for the figures for the United States, which are from 1979.

NET IMPORT RELIANCE OF SELECTED MINERALS AND METALS

[Minus numbers show net exports]

Minerals and metals	U.S.S.R.	United States	Europe	Japan
Columbium	0	100	100	100
Mica	10	100	100	100
Strontium	0	100		
Cobalt	0	90	100	100
Manganese	−20	98	100	95
Tantalum	0	96		100
Bauxite and alumina	52	93	83	100/27
Chromium	−44	90	100	99
Platinum—group metals	−45	89	100	98
Asbestos	−32	85	83	97
Fluorine	50	82	8	100
Tin	21	81	96	98
Nickle	−9	77	100	100
Cadmium	−29	66	70	−5
Zinc	−6	62	71	61
Potassium	−42	66		
Selenium	0	40	83	−123
Mercury	0	62	79	0
Gold	−145	56	99	95
Tungsten	12	59	93	51
Antimony	19	43	95	100
Silver	−10	45	85	60
Barium	51	40	−19	20
Titanium (ilmenite)	−9	46		100
Gypsum	0	33	1	2
Iron ore	−20	28	70	99
Vanadium	−31	25		100
Copper	−3	13	100	91
Lead	−17	11	39	76
Aluminum	−44	8	76	28

Source: Bureau of Mines, U.S. Department of the Interior.

The minerals and metals listed above are essential for virtually every aspect of modern American life. Without just a few critical materials, such as cobalt, manganese, chromium, and platinum, it would be virtually impossible to produce certain types of jet engines, missile components, electrical equipment, machine tools, chemicals, stainless steel, electrical and electronic equipment, pipelines, refineries, batteries, iron, steel, aluminum, and so forth. Despite the importance of these minerals, we now rely on imports for more than 90 percent of our requirements of cobalt, manganese, chromium, platinum, columbium, mica, strontium, tantalum, and bauxite and alumina.

In addition to our severe dependence on imported minerals, an equal cause for concern is the potential insecurity of many of our sources of supply for these materials. In many cases critical mineral resources are concentrated in just a few countries and some of these are countries with unstable political and economic conditions or countries that are hostile to the United States.

The national security implications of our mineral dependency are obvious. The table listed above shows the enormous difference in mineral resources between the United States and our Western allies and the Soviet Union. The U.S.S.R. has more than ample resources to be self-sufficient, while the industrialized West must rely on distant and insecure sources of supply that could cease to be available in the future or be impossible to defend in times of crisis.

The U.S.S.R. is, of course, an unreliable source of supply in times of crisis. Furthermore, even in normal times the Soviet Union has proved itself to be manipulative in a way that demonstrates that the Russians understand the strategic importance of raw materials. For example, Zaire is a major supplier of cobalt and during the 1978 civil war in the Shaba Province the supply of cobalt from Zaire was disrupted. The price of cobalt then rose from $6.85 per pound to $25 per pound and even hit $50 per pound on the spot market. It is extremely interesting to note that the Soviet Union was purchasing a substantial amount of the stockpiled cobalt on the market during the 6 months prior to the Cuban-led conflict in Zaire.

Titanium provides another example of Soviet market manipulations in critical minerals. The U.S.S.R. has traditionally supplied Europe with over half of its requirements of titanium. Last year the Soviets suddenly stopped exporting titanium and caused the price of titanium in Europe to jump to triple the U.S. price. This caused other international suppliers of titanium to seek to divert supplies from the U.S. market to Europe because of the high demand and price there. It has been speculated that the Russians stopped exporting titanium because of the production of their new *Alpha* class of attack submarine, each of which requires an estimated 6,000 tons of titanium. There were also widespread reports of Soviet manipulations in the chromium market during the time when the United States was not importing chromium from Rhodesia.

Despite the importance of our mineral import dependency, the United States lacks a coherent and coordinated policy to address this problem. As early as 1952, the President's Materials Policy Commission warned of the lack of coordination in this field. It is now 28 years and several reports later, and minerals policy is dispersed among more than 20 different Federal departments, agencies, councils, and commissions which administer 80 different laws, Executive orders, and regulations on this subject.

Congress has recognized the implications of our import dependency and lack of an effective national policy to deal with this situation. During the 96th Congress there have been initiatives on such subjects as the national defense stockpile, materials research and development, Federal land policy, deep seabed mining, and so forth. The leadership of Congressmen BENNETT, FUQUA, SANTINI, and others is to be commended in this regard.

Last year Congress enacted the Strategic and Critical Materials Stock Piling Revision Act of 1979. I am a member of the Armed Services Committee's Subcommittee on Seapower and Strategic and Critical Materials, which reported this legislation. This bill is designed to solve the deficiencies that currently exist in our national defense stockpile. Of the 93 materials in the stockpile, 43 are below the recommended levels—including 27 materials which are below 40 percent of the needed amounts.

On December 4, 1979, the House passed H.R. 2743, the Materials Policy, Research, and Development Act, by a vote of 398 to 8. Like the stockpile revision legislation, this bill contains many constructive provisions and it is encouraging that the Senate Committee on Commerce, Science, and Transportation and the Senate Committee on Energy and Natural Resources are giving serious consideration to this legislation. It is my hope that the Senate will amend H.R. 2743 to make it broader in scope than the version of the bill that was drafted by the House Committee on Science and Technology and approved by the House.

In order to show support for addressing our materials problems on a wider scale than included in H.R. 2743, I am introducing legislation today that calls for a comprehensive national strategy on materials policy and provides for an annual report that would assist Congress and the public in monitoring our progress in implementing such a policy. A copy of this legislation is included for printing in the RECORD following these remarks.

Mr. Speaker, clearly materials policy deserves a higher priority than it has received. I know we have all heard our constituents justifiably remark about the failure of Government to anticipate our energy crisis and respond in a comprehensive and timely way in order to prevent the problems which we are now experiencing. Our constituents deserve foresight, leadership, and competence from the Federal Government and materials policy is a critical area where, so far, Government has failed to achieve a solution to a potentially severe national problem. While there has been a great deal of concern over this matter expressed by the mining, aerospace, and defense communities, this issue has not received a great deal of publicity from the mass media so far. I hope that my legislation will help increase the awareness of this problem on the part of Members of Congress and the public and will help encourage support for other initiatives in the field of minerals policy.

H. Con. Res. 392

Concurrent resolution expressing the sense of the Congress that the President should establish a long-range plan for the acquisition of essential minerals from foreign sources and report to the Congress with respect to such plan

Whereas the United States imports more than 50 percent of its requirements of more than 20 minerals;

Whereas the United States imports more than 90 percent of its requirements of columbium, mica, strontium, manganese, tantalum, cobalt, bauxite, chromium, and platinum;

Whereas many of these minerals are essential to the defense, economy, and quality of life of the United States;

Whereas the dependence of the United States on foreign sources to supply many of these minerals is reasonably expected to increase in the future;

Whereas the United States cannot be assured that such foreign sources will continuously and indefinitely supply these minerals;

Whereas the danger to the United States of relying on foreign sources to suppy essential minerals is demonstrated by the practices of Organization of Petroleum Exporting Countries which has drastically increased the price, and restricted the supply, of its petroleum exports; and

Whereas there is a lack of coordination among the 20 Federal departments, agencies, councils, and commissions which share responsibility for administering more than 80 laws, executive orders, and regulations regarding the acquisition of these minerals: Now, therefore, be it

Resolved by the House of Representatives (*the Senate concurring*), That it is the sense of the Congress that the President should—

(1) provide to the Congress, not later than one year after the adoption of this resolution, a comprehensive, long-range plan to ensure that adequate supplies of minerals essential to the defense, economy, and quality of life of the United States remain available in the future, and

(2) transmit to the Congress annually a report describing the extent to which such plan has been implemented and modified, and containing recommendations regarding any legislation necessary to achieve the objectives of such plan.●

A VOICE OF SANITY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. CARR. Mr. Speaker, this decade has not gotten off to a good start. Shortly before it began, events beyond our control in Iran and Afghanistan created substantial problems we have been unable to resolve, and it has been downhill from there.

Kipling's words about the value of keeping your head when all around you are losing theirs was never more true than today, when we seem to be losing our heads in a big way. Clearly, if today's polls are translated into November's elections we will make problems for ourselves dwarfing anything the Soviets will do to us.

One of those who has kept his feet firmly on the ground is Joe H. Stroud, editor of the Detroit Free Press. His editorial of July 27, 1980, on arms control and related matters is the best statement on the subject these troubled times have seen.

Unfortunately, the accompanying cartoon, which is equally well done, will not reproduce in the Record, so I will described it. It shows Uncle Sam and the Russian bear sitting side by side on a small rock fragment, one of a belt of fragments that is all that is left of our now-green planet. Uncle Sam, looking dejected, is saying to himself:

"Last thing I remember was setting the stage * * * Who'd a thought somebody'd act out the damn play."

Believe me, ladies and gentlemen: It can happen.

The article follows:

How To Control Arms? That's the Real Question

(By Joe H. Stroud)

"Registration for the draft," he said, "isn't really the main question. What we can do about arms control is."

Since he is 20 now, and we have been thinking a lot about the draft, his words plunged deep in my heart.

In this political year, after the invasion of Afghanistan by the Soviet Union, given the controversy over the Olympics, given the buildup in the Persian Gulf, the subject of arms control has not exactly been on the front-burner.

The Republican Convention emphasized defense spending, but it is not alone in that pre-occupation. Much of the weight of public opinion now seems to be coming down on the side of increased defense spending. A gap is perceived in American security. Despite the scattered protests about draft registration, the prevailing opinion seems to be that such measures are necessary.

I cannot say I disagree entirely with that emphasis. The all-volunteer army seems to have many shortcomings. The Soviet Union is exposed once again as an aggressive and fundamentally hostile force in the world. The diversions of ending the Vietnam war and dealing with Watergate did leave the country adrift, in a period when its defenses were permitted to deteriorate in some respects.

The world is a dangerous place, and it is going to be particularly unstable and dangerous for the next five to 10 years, given the energy and defense vulnerability of the Western allies. I am not a believer in unilateral disarmament, and I thought detente was often defined in the '70s in a way that was silly and naive rather than being based on a clear-eyed understanding of our interests and of the realities about the Soviet Union's intentions.

Trying to negotiate to protect our interests is unquestionably more difficult in the short run than trying to arm to protect our interests.

This political campaign, moreover, is not going to invite a renewal of the effort to enact the Strategic Arms Limitation Treaty. And certainly, with the Soviet troops grinding on in Afghanistan, this is not a propitious moment for trying to go beyond the modest goals of SALT II. Even a column such as this one is akin to standing on the beach in the face of a hurricane, shouting for calm and knowing that the wind and the rain make it almost impossible for anyone or any force even to hear you.

Indeed, what seems incredibly, deeply, frighteningly sad—to me at least—about this election year is how impossible it is to find ways to relate it to my deepest concerns: to the dangers in the arms race and the competition between ourselves and the Soviet Union; to gathering storm in the Third World; to the need to face even more forthrightly than we have the new energy realities in the world; to the rising frustration again now in many of the nation's ghettos; to the long-term displacement of thousands upon thousands of workers, not just for the duration of a recession but perhaps for far longer, in the heavy industry of the country; to the loss of self-discipline and efficiency in so much of our lives.

The Republican Convention seemed to me in many ways not to address such issues but to deny that at least some of them exist. The president's campaign seems distracted thus far and haphazard. The Anderson campaign seems to me to be almost beside the point and futile in any case.

Meanwhile, there is the sense, at least in my head, of time and opportunity slipping away. The search for means to control strategic arms, for instance, has always been a chancy thing. If SALT II is lost, will there ever be a SALT III? Or will we and the Soviets be launched anew on a desperate attempt to outspend each other?

A few days ago, the former chairman of the Senate Foreign Relations Committee, J. William Fulbright of Arkansas, co-authored (with the former chief of the Foreign Relations Committee staff) an article on the New York Times opinon page that was a plea for one last try to revive SALT. After the election, they wrote, regardless of the outcome, the Senate ought to be called into special session to try to enact the treaty.

It was a plaintive plea to Sen. Robert Byrd, the majority leader, to seize the moment and to bring SALT to a vote. A plaintive plea, and probably futile. Sen. Byrd is not a strong champion. The administration is distracted. The country is not united around any sense of what is possible and what is necessary. And the tides running now in our politics seem not likely to lift such a cause and bring it home.

Sad, it seems to me. Sad and dangerous. We will try to find our security in weapons and peace in aggressive words. Maybe we will be right, maybe not. Strength is a key element of security. Acts of naked aggression, such as Afghanistan, have to be challenged, and we cannot be naive about the Soviet Union's intentions.

Still, I wish I could say to him at 20 that I knew how the country could get the effort to check the arms race on the track again. I wish I did not have the feeling that we are back again to the darkling plain, back where ignorant armies clash by night.

That isn't good enough for a father to hold out for a son.●

TRIBUTE TO DOMINIC BIANCULLI

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. DONNELLY. Mr. Speaker, it was with great sorrow that I noted the passing on Sunday of a good man and a good friend, Dominic Bianculli of Dorchester, Mass. For 28 years, and through the administrations of 10 Governors, Dom served as the administrative secretary for the Massachusetts Governor's Council. In my years in the State legislature, I came to know him as a warm and sincere man who would go out of his way to help anyone. There are countless others in his community and his church who would attest to these qualities and more.

Dom participated actively in many organizations, both civic and religious. Among them: the Holy Name Society of St. William's Parish, Dorchester; the Boston Archdiocesan CYO Music Circuit Advisory Board; the Italian-American Charitable Society; and charter member of the South Boston Boys Club. He was also the director and drill instructor for many years for the St. William's CYO class A band which won the CYO circuit championship 19 times.

Through his work with these and other organizations, he received awards and distinctions almost too numerous to list. Some, however, must be noted: Community Meritorious Service Award by the American Legion; Man of the Year Award, St. Kevin's Drum & Bugle Corps; Man of the Year, Post Gazette Award for outstanding work with youth; the Bob Hope Humanitarian Award; National Dr. Enrico Fermi Award Man of the Year, by the Italian American Civic League, and Man of the Year Award, Savin Hill Association Civic Award.

It should be enough to say that, above all else, Dom Bianculli was a truly good man. He will be missed, and I extend my sincere sympathy to his wife and his family.●

PROBLEMS WITH ARMY GAS MASKS

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. BEARD of Tennessee. Mr. Speaker, my duties on the Armed Services Committee have directed my attention to a problem that could become a tragic nightmare for our troops, should they ever have to encounter Soviet, or Soviet-trained and equipped forces. Our own soldiers are still relying on a 23-year-old gas mask as their primary defense against chemical warfare. While recent experience in Afghanistan has taught us the contrary, our policy is still dictated by a naive belief that the 1925 Geneva Protocol agreement will somehow deter the Soviets from engaging in the unthinkable.

For the further enlightenment of my colleagues, I submit a fine article written by Richard Barnard for the July 28 edition of Defense Week:

PROBLEMS WITH ARMY GAS MASK

The Soviet Union's apparent willingness to employ chemical weapons against the Afghan rebels is taken as firm proof by military strategists, including Defense Secretary Harold Brown, that the U.S. should resurrect its own chemical warfare capability. Contrary to popular belief, the Geneva Protocol of 1925 does not prohibit the manufacture of chemical weapons, but merely limits them to retaliatory use.

The Soviets have 60,000-80,000 chemical warfare troops and an array of mustard and nerve gases such as tuban and soman. They are rumored to have developed a nonlethal "X-gas", said to be the military equivalent of the age-old knockout drop. In contrast, the U.S. can muster about 3,000 chemical warfare troops, piles of Sarin canisters (some of which leak) and other chemical weapons, including weteye nerve bombs stored at the Rocky Mountain Arsenal in Colorado.

But almost overlooked in the debate over which side has the nastiest chemicals is the U.S. foot soldier's first defense against lethal Soviet gases: the U.S. Army's M17A1 standard issue gas mask.

The M17A1 is to modern warfare what the cotillion chaperone is to the disco club. First fielded in 1956, the mask is now antiquated and, in many circumstances, would be virtually useless on the battlefield. Clad in the mask, the infantryman would find it impossible to effectively use such basic weapons as the M16 rifle, because the eyepieces in the mask are not compatible with the rifle sights. The same is true for such other weapons as the M72 rocket launcher and the *Redeye, TOW, Dragon,* and *Stinger* missiles, not to mention the M17 binoculars or the Army's night vision goggles. Any hapless soldier engulfed in a cloud of, say, hydrogen cyanide while under attack would be faced with a cold choice: he could protect himself or aim his weapon. He could not do both at once.

Alarmed by the reports from Afghanistan, some congressional and Army officials have been looking closely at the M17A1 gas mask. A House aide said he was "driven into depression" by his assignment to evaluate possible U.S. defenses against a chemical attack. An Army spokesman damned the mask with faint praise, saying, "It wouldn't be impossible to aim the M16 while wearing the mask, but it would be very difficult." Rep. Robin Beard (R-Tenn.), a member of the House Armed Services Committee, says with commendable understatement that the faulty mask is "a big area which has been overlooked." Beard's recent efforts to focus public attention on the mask's faults have met with limited success. "Chemical warfare has a bad name and a lot of people don't want to talk about it or think about it," he says, "but we've got to be responsive to what the Soviets can do."

Even when originally issued, the effectiveness of the M17A1 was open to question since it provided a tight fit only to clean-shaven soldiers with perfect vision. Beards—even three-day beards—and glasses interfere with the facial contours that the mask's designers had in mind, and permit gases to seep around the mask and into the wearer's lungs. Changing filters on the M17A1 is a burdensome, time-consuming task.

William Perry, Undersecretary of Defense for Research and Engineering, says part of the $113.8 million budgeted for chemical warfare next year will be spent on "continued development" of a new mask. Left unsaid in Perry's fiscal year 1981 research and procurement report is the fact that the new protective mask, the M30, has been under development for at least 12 years.

John Weisz, director of the Army's Human Engineering Laboratory at Aberdeen Proving Ground, Maryland, told *Defense Week:* "We've tested [the M30] on hundreds of soldiers and it's looking very, very good." The new mask's contours are compatible with every Army weapon and a special fitting will be available to soldiers who wear glasses, Weisz said. In addition, the new mask can be contoured to tightly fit even the smaller skeletal structure of women soldiers. Also, said Weisz, the filters can be changed in seconds.

There is one final problem still to be resolved. During manufacturing, the mask is dipped into an agent which is supposed to make it impermeable to chemicals. But air bubbles sometimes develop on the surface of the mask which, in effect, creates a break in the mask's chemical shield.

When will the new mask be produced and fielded? Weisz directed a reporter to the Chemical Systems Laboratory at nearby Edgewood Arsenal, which has chief responsibility for the M30. Authorities there referred all inquiries to Edgewood's public affairs officer, Frank Bender, who was asked if, after 12 years of development, the mask would be issued soon to U.S. troops. Bender replied: "You want to know when this thing is going to go into production? I haven't got the faintest idea. We haven't even gotten the mask into final engineering yet."●

ANIMAL WELFARE AMENDMENT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mrs. SCHROEDER. Mr. Speaker, on March 18 I introduced a bill, H.R. 6847, that amends the Animal Welfare Act to insure the humane treatment of laboratory animals. I would like to share with you an article that appeared in the summer issue of the Humane Society News.

The goal of humane treatment of animals will not be achieved until present statute is amended to establish more meaningful criteria to prohibit unnecessarily painful experiments. I hope the following article will open the eyes of many as to the inadequacies of the present statute:

LABORATORY ANIMALS

(By Representative PAT SCHROEDER)

American researchers sacrifice approximately 65 to 100 million animals annually in experiments that often involve intense suffering. There was legislation passed in 1966 and amended in 1970 and 1976 to protect laboratory animals. But in this legislation, the Animal Welfare Act provision regarding research, deals mainly with the housing and care of animals in laboratories and at the dealers' facilities. There is no language concerning how experimentation is to be done or what kinds of experiments animals may be subjected to. The current law contains a weak directive to use painkillers, but this provision is not enforced. Furthermore, rats and mice, which compose 75% of the total laboratory animal population, are excluded from the act altogether. In fact, it has been estimated the Animal Welfare Act covers only about 5% of all laboratory animals.

Pultarch put it simply, "Hurt not animals." However, such a simple concept is difficult to legislate. On March 18, 1980, I proposed putting into law Plutarch's concept. I introduced legislation that attempts to get at the problem of needless painful experimentation on all animals. My bill, H.R. 6847, amends the Animal Welfare Act to further ensure the humane treatment of laboratory animals.

H.R. 6847 covers the actual use of all animals used for the research, testing, teaching, experimentation, and production of certain scientific, medical, commercial, or veterinary products. It states that any animal to be used in experimentation, rats and mice included, shall be humanely treated, properly fed, and suitably housed and cared for without pain under the supervision of personnel trained in animal care. An animal can be used in research involving pain only after being adequately anesthetized to preclude pain, except if exempted by the animal care committee described below.

A key feature of the bill is a provision establishing an Animal Care Committee in any research facility engaged in the use of animals for research, testing, or teaching. All members of this committee shall be knowledgeable in animal welfare; at least one member must be a doctor of veterinary medicine. The Animal Care Committee would be responsible for the adequate care and use of the research facility's animals. Any proposed project involving the use of animals in a research facility that might inflict pain would be reviewed by the Animal Care Committee. The project would only be conducted if the Animal Care Committee approved it.

H.R. 6847 in no way attempts to eliminate research or testing on animals. Animals have been and will continue to be essential for scientific research. Many important discoveries have been made through the use of animals. The intent of this bill is simply to prevent the unnecessary and avoidable, physical and psychological suffering inflicted on animals in experimentation.

The justification for subjecting animals to these painful experiments is that the use of animals is the only way of conducting reliable and valid experiments. Yet, it's been found that many of the experiments performed are not valid and often needlessly repetitive. An example of such an experiment is the Draize Ophthalmic Irritancy Test. The Draize test is used to determine the effect of household products, shampoos, and cosmetics on the eye. Rabbits, used because their eyes cannot dissolve irritants, are bound in stocks and their eyes are exposed to substances which may cause inflammation. Studies have shown that the Draize test is unreliable. Yet the Draize test has become routine. An alternative needs to be developed that will replace the Draize test.

I am also a co-sponsor of H.R. 282, a bill that would fund research into the development of alternative methods of research. My bill would not be detrimental to biomedical research, nor would the enforcement of the provisions of the bill threaten academic and scientific freedom. It would simply require three things of experiments: that they be based on knowledge of the disease or problem to be investigated, that they be designed so that the anticipated results justify their performance, and that they be conducted so as to avoid all unnecessary suffering and injury to animals.

The bill will also bring under the Animal Welfare Act many animals housed in zoos and wild animal dealers' premises that are not currently protected. H.R. 6847 will also require that the Animal Welfare Act standard be strengthened to be made more humane to the animals covered by the Act.

I think my bill strikes a balance between the scientific research community and the animal welfare community. The bill is patterned after a similar bill introduced in the Colorado State Legislature last year, which had the support of the Assistant Dean of the College of Veterinary Medicine at Colorado State University and by the Chancellor of the University of Colorado Medical School. The bill was drafted by a committee that included Robert F. Welborn, a former member of the HSUS Board of Directors. The bill has been referred to the House Committees on Agriculture, Interstate and Foreign Commerce, and Science and Technology. I'm confident that members of the committees will take notice of the bill. It is a bill whose time has come.●

SOVIET DAY OF SHAME

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mrs. HOLT. Mr. Speaker, August 21 is the 12th anniversary of the date when Soviet troops invaded the small, peace-loving country of Czechoslovakia. This occupation, violating the sovereignty of a member state of the United Nations, continues today—another of a long series of crimes by the Soviet Union, which is bent on world conquest, as is witnessed by its similarly brutal occupation of Afghanistan in December 1979.

However, the courageous people of Czechoslovakia do not bow meekly under the Soviet yoke, and this day will be commemorated in Czechoslovakia as a "Day of Soviet Shame," in which the people will mount a tremendous disciplined resistance against Soviet pressure.

Mr. Speaker, all the people of the free world salute the brave people of Czechoslovakia who will not admit defeat as they continue to struggle for freedom and self-determination.●

RAY LIVESAY—RADIO PIONEER

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. FINDLEY. Mr. Speaker, few men have done as much to foster radio communication in rural America as Ray Livesay of Mattoon, Ill. For the past 30 years, Mr. Livesay has devoted almost every working hour to expanding radio service to all Americans, including the millions who live in small towns and rural areas. As president of the Daytime Broadcasters Association, he has constantly fought for a national radio broadcast policy which emphasizes local community service.

In addition, Mr. Livesay has brought keen insight and fresh ideas to his listeners. A brilliant radio editorialist, he provides important original thinking on public policy questions.

This year Mr. Livesay is celebrating his 30th year as a radio editorialist. Following is a summary of his remarkable career:

Ray Livesay was born October 1, 1916, in Southern Illinois. He grew up a farm boy with a great interest in radio and electronics. He opened a radio sales and repair store in Villa Grove, Illinois, at the age of 18. At 20 he became a radio advertising time salesman for a small radio station in Tuscola, Illinois.

On December 10, 1937, he married Miss Leffel Elmore at Hartsville, Tennessee. They first lived in Effingham, Illinois, where Ray managed a branch broadcast studio and later resided in Tuscola until joining the U.S. Navy during World War II.

After two years in the Navy teaching Radar and Electronics, he returned to Illinois in January, 1946, and immediately set out to get a Federal Communications Commission permit to build a radio station in Mattoon. The FCC approved and WLBH was put on the air November 26, 1946. WLBH-FM was added in August, 1949.

The Livesays had a daughter (Shirley) before Ray's tour of duty during World War II and Jim was born about two years after the war. Shirley and Jim are both active in the ownership and operation of the Livesay stations, which are: WLBH AM & FM Mattoon, Ill.; WHOW AM & FM Clinton, Ill.; WERT AM & FM Van Wert, Ohio; and WBAR Bartow, Florida.

For more than 20 years, Ray has served as President of the Daytime Broadcasters Association, a national organization made up of AM radio stations permitted by the FCC to only operate during daylight hours. There are 2,300 of them which have to operate under this handicap in the USA.

Ray is the originator of a nine kilohertz plan for "AM" broadcasting in North and South America. This will create 12 additional broadcast channels so that most of the daytime stations may become full-time. His basic plan became the official position of the U.S. Government in December, 1979. In March of 1980, he was asked to go to an International Radio Conference in Buenos Aires, Argentina as an advisor to the U.S. State Department and the FCC. Twenty-eight countries of North and South America were involved in this conference. His advice is often sought by the FCC and the U.S. Congress. He has given testimony on radio and television matters before Congressional Committees many times.

In 1957 he made application for a television station in Terre Haute, Indiana. Three applicants merged in 1964, and WTWO-TV (Channel 2) went on the air September 1, 1965, with Ray as president of the corporation. It was sold in 1971 to Booth Newspapers of Michigan, and Ray returned to his "first love" . . . Radio.

Travel has not been overlooked in the busy life of this outstanding Mattoon Broadcaster. The Livesays have traveled to all 50 states in the USA, plus, Canada, Mexico, Europe, Africa and South America. They hope to tour Australia and the Orient in the near future.

Ray is an accomplished private pilot with some 4,500 flight hours in his log book. He has owned an airplane since 1948 and is presently flying a K-35 Beech Bonanza. He feels that an airplane is an instrument of his generation and necessary in his business. He has piloted his plane throughout the USA plus Canada and Mexico.

He has always had a great interest in photography, now as a hobby. In his younger years he did his own darkroom developing and did commercial photography.

Ray has always devoted as much time as possible to his family. Daughter Shirley L. Herrington was married in 1961 and has two children, David and Angie. Needless to say, they are favorites of their Grand-dad.

The FCC Mayflower Decision was rescinded in June of 1949, making it possible for radio stations to broadcast editorials. Ray Livesay realized the importance of having more than a single editorial presentation in the local area. He rose to the occasion and accepted the responsibility. Radio Editorials were a new frontier . . . new furrows to plow.

The first editorial broadcast was launched at 7:15 a.m. in May of 1950 on WLBH and WLBH-FM. There were new editorials daily, Monday through Friday . . . month after month . . . year after year . . . and here we are 7,800 editorials and 30 years later.

For the first few years, many efforts were made and pressures brought to bear on this man with the hope of getting favorable editorial support for pet ideas and special favors. These efforts slowly disappeared as people learned that Ray Livesay's editorials were not for sale. He is and always has been an independent thinker. Politically . . . he commends or criticizes Democrats and Republicans alike, regardless of politics. Just before elections he is usually cussed and discussed by both parties.

Ray is a conservative. His Editorial Voice is familiar to thousands of people in Coles and ten surrounding counties.

We honor a giant among men on this occasion. A man whose daily editorials have throbbed with the heartbeat of this community. A man who has had the courage to stand for something . . . who is willing to speak out for what he thinks is right. He has always spoken out strongly for the good things about America and damned the bad things with the hope and prayer that we can do better next time.

Yes, Ray Livesay is a patriot . . . a broadcasting legend in his own time . . . and Mattoon as well as this entire area is a better place because of men like Ray Livesay.●

THE BILL TO DEREGULATE THE PHONE COMPANY: HOW MUCH DO YOU KNOW?

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. MAGUIRE. Mr. Speaker, our colleague Ed Markey, Democrat of Massachusetts, has written some important comments which appeared today in the Washington Star regarding H.R. 6121, the Telecommunications Act of 1980.

If the Commerce Committee reports out this landmark legislation this week without careful deliberation, all Members then will be faced on the floor with the responsibility of sorting out the dozens of policy implications this bill has, not only for the residential users of basic telephone service in their districts, but for computer firms, broadcasters, data processors, and others.

Make no mistake. This bill, if enacted, could be very far reaching indeed.

The gentleman from Massachusetts is not the only skeptic about the bill. The distinguished chairman of the House Judiciary Committee, Peter Rodino, has called for sequential referral of the bill to his committee in the event that significant portions of the legislation remain intact. He fears that a 6-year effort by the Anti-Trust Division of the Justice Department, in its civil suit against A.T. & T., will be undermined if this legislation passes.

Admittedly, this legislation is a major deregulation proposal—although the administration, which was the champion of the bill, has now pulled back its support. The key issue before the committee and soon the Congress is whether the bill does what is advertised; that is, deregulate and promote true competition in the marketplace. As Mr. Markey contends, the bill fails in that regard and could spell the death knell for a competitive, vibrant, and innovative industry, leaving A.T. & T. alone to dominate.

The comments follow:

The Life and Times of A.T. & T.

Opponents call it the "private relief bill of 1980" for American Telephone and Telegraph, the world's largest corporation. Others simply call it the "Telecommunications Act of 1980." It is the sleeper issue of the 96th Congress—a bill that could shackle the Federal Communications Commission, reshape anti-trust and communications law, bankrupt hundreds of companies, effect nearly every American and pass the Congress—without benefit of a single public hearing.

At issue is AT&T—a huge monopoly which is carefully regulated by the federal government. Ma Bell employs almost 1 million people and has financial assets of $142 billion—larger than most countries and greater than the five biggest U.S. oil companies combined. It has been described as the "800-pound gorilla" of the American corporate community.

The questions before Congress is whether to unleash AT&T and allow it, through a subsidiary, to compete in the unregulated area of data processing. Telecommunications which is regulated by the FCC, involves telephones. Data processing, which is unregulated, involves computers.

The financial stakes are astronomical. Experts predict that the information market which includes telecommunications and data processing will be worth $300 billion annually by 1990. Should AT&T be allowed to plunge into this new market?

Critics of the legislation say "no." They claim AT&T has a track record of anti-trust violations in which they have used their huge size illegally to crush competitors in the telecommunications field. Observers fear that AT&T, if given the green light, will litter the landscape with the corpses of hundreds of small- and medium-sized data communications companies.

It is important to understand the background for the Telecommunications Act of 1980. As part of a 1956 consent decree with the Justice Department, Ma Bell agreed to stay out of data processing and restrict its business to telecommunications. In return, Justice agreed to drop a massive antitrust suit designed to break up AT&T into its functional categories—research, manufacturing and telephone service.

At the time of the consent decree, Ma Bell's corporate management declared they would happily remain a regulated monopoly with no involvement in data processing for perpetuity, or in the words of one AT&T executive, "as long as the grass grows and the rivers run." In the ensuing years, however, the distinction between telecommunications and computer technology became blurred and Ma Bell came to rue the day it agreed to stay out of the lucrative area of data processing.

As a result they have unloosed a lobbying blitz—almost unprecedented in its sophistication and ferocity—to get Congress to pass legislation to override the 1956 consent agreement. The central provision of the Act would permit Ma Bell to establish a "separate" subsidiary within its organization to compete in the field of data communications. The legislation will be voted on soon by the House and Senate Commerce Committees.

Opponents argue that Ma Bell would transfer information assets, personnel and services between the parents and its giant new clone—thereby achieving an unchallengeable advantage over smaller competitors. Publishers fear that Bell could become a monopoly information service restricting the flow of information the public now receives from a variety of sources.

Supporters claim that a government-monitored accounting system would protect against abuse, but critics say that Ma Bell is too big for even the government to supervise adequately if unleashed into data processing. The Justice Department says that even if "legions of accountants" were used, it would be "extremely difficult" to oversee Bell's massive operations.

Ma Bell's current business practices have been severely criticized. Recently she was socked for the largest antitrust fine in history, $1.8 billion, for trying to choke off a small, long-distance telephone competitor, MCI Corporation, by using illegal business actions. Approximately 30 other antitrust suits from private competitors are still pending against Bell.

Ma Bell's greatest fear, however, is a devastating antitrust suit that the Justice Department has been researching for years. It will go to trial this October. As in 1956, Justice is again recommending that Bell be broken into smaller companies—a result that Bell is trying to fend off in part by passing the Act. To the extent that the Act restructures AT&T with a congressional stamp of approval—and explicitly instructs the FCC not to touch Bell's structure—judges and juries will receive clear signals not to order divestiture.

Another victim of the legislation is the FCC, whose discretionary authority to regulate Ma Bell is severely hamstrung. The FCC's authority to regulate any portion of the restructured Bell System is stripped away. Only Congress will be able to make the needed changes.

The final jolt is that the legislation may be enacted into law without benefit of a single public hearing. Such is the proof of Ma Bell's awesome lobbying power. In past years there have been hearings on some of the issues raised in the bill, but in 1980 the affected parties were walled out of any reasonable opportunity to comment publicly on the legislation. The details were hammered out behind closed doors.

Deregulation of telecommunications may be a worthwhile goal, but the current bill is a disgrace—procedurally and substantively. Congressional scrutiny and safeguards are absent. Instead of an inch-by-inch entry of AT&T into data processing—under close FCC supervision—the Bell System is permitted to plunge in almost overnight.

That is why the Act is opposed by nearly all computer, data processing and equipment manufacturers along with publishers, consumer and citizens groups. The list of opponents is growing, but the realization is sinking in that Ma Bell wants this legislation—and what Ma Bell wants on Capitol Hill this year she gets.●

PENSION PLAN LEGISLATION

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. MARTIN. Mr. Speaker, I am today introducing legislation easing the rollover restrictions on discontinuing pension plans. This is companion legislation to the bill S. 2751, introduced on May 22, 1980, by Senator MORGAN of North Carolina. I associate myself with his comments of that date in the CONGRESSIONAL RECORD.

The rules governing rollovers of pensions into individual retirement accounts are quite complex. All too often we here find how needlessly complex these rules are when we get complaints. Here we see that the rule designed to prevent an abuse—requiring that all distributions be made within a time period but also in 1 taxable year—is overkill. Terminations near a yearend can be most effectively carried out in several transactions, to the benefit of the pension beneficiary. The 60-day rule prevents abuses. Keeping that rule but letting the series of transactions spread out within that period over 2 taxable years will cost no appreciable revenue and allow the most efficient and economical winding up of the plan being discontinued. That is what this legislation would permit.●

REV. HENRY J. McANULTY OF DUQUESNE UNIVERSITY

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, one of the institutions in Pittsburgh—a city of champions—of which we are proudest is Duquesne University. And the reason we are proud of Duquesne is because of the great leadership it has enjoyed over the past 22 years. Father Henry J. McAnulty will retire this summer after a remarkable career that has seen Duquesne grow from a small community college to a nationally recognized university.

The average term of a college president is 7 years.

Usually, that's either how long he can stand the job or how long the job can stand him.

During that term, the average president manages to raise the ire of faculty, staff, students, alumni, trustees, and civic leaders. At the rate of one constituency per year, that means he gets 1 year without any headaches.

By national standards, Rev. Henry J. McAnulty, C.S. Sp., has had three times the headaches of the average college president. When he leaves the chief executive office of Duquesne University at the end of August this year, he will have completed a 21-year term. That's the second longest in Duquesne history, and one of the longest ever in American higher education.

But "Father Mac" doesn't often complain about the headaches, because that longevity has given him some great opportunities. His list of friends includes dignitaries and celebrities from all over the world. He enjoys such popularity in Pittsburgh that he was once nearly drafted as a mayoral candidate. He is identified so strongly with his institution that, in a city of natural name associations, the litany now goes: Mellon and banking, Carnegie and steel, Rooney and football, and McAnulty and Duquesne.

A large part of his legacy is in bricks and mortar because when he returned to his alma mater in the late 1950's, it amounted to an aging central building and some borrowed tenements nudged against the edge of a bluff by a sprawling ethnic ghetto.

In those days, no one was taking bets that Americans would stop having babies. The Nation's educators were feeling the first tremors of the post-World War II baby boom. In a short time, the offspring of those homecoming years would be standing in the schoolhouse door, waiting in line for seats. Everyone was scrambling for more seats.

Looking over the options at Duquesne, McAnulty realized from 15 years in the military that he was facing a classic catch-22.

> Either we left things as they were and let the university die a slow death, or we developed the campus and went into heavy debt.

The promise of enlarging enrollment made physical expansion the most logical step. For the next two decades, the standard campus publicity shot had "Mac" aboard a giant bulldozer, in black fedora and cassock, launching a new building project. Today, Duquesne's campus consists of 25 buildings on 39 acres, with 17 of those buildings either constructed, renovated, or acquired during the McAnulty years. They provide classrooms, living space, and administrative support for 7,000 students, nearly three times the number enrolled when McAnulty became president.

More than 25,000 men and women have graduated from Duquesne since 1959, his first year in office. That is 75 percent of all the Duquesne alumni alive today.

Most of those alumni would tell you that "Father Mac" is a personal friend, even if they never had spoken a word to him during their college days. The reason is his demeanor, which is an agreeable composite of Barry Fitzgerald and Bing Crosby in the film classic "Going My Way." McAnulty sees himself as an Irish parish priest who keeps his door open to all.

> Of all the titles I've had—priest, president, brigadier general—the only one I really treasure is that of priest. It's always been my source of strength.

Duquesne was spared from most of the campus unrest of the late 1960's, and part of the reason was "Mac's" demeanor. His office was the escape valve when pressures built up. He maintained very high visibility across campus and, above all, he listened.

In the spring of 1970, when campuses across the Nation were closed by student riots following the killings of four students at Kent State University, the students at Duquesne found a way to pay McAnulty back for his understanding. They launched "The Third Alternative," a volunteer effort to raise $1 million in order to help offset a severe university deficit. Over 2,000 students took apart in a nearly year-long fundraising drive which involved door-to-door canvassing, dinners, phonathons, and corporate solicitations. Their enthusiasm and hard work helped put Duquesne in the black, where it has remained throughout the 1970's.

But "The Third Alternative" didn't end Duquesne's financial plight. McAnulty had to redirect his efforts from the university's master plan of physical expansion to a master plan for fiscal independence. In the long run, it has been his most challenging battle.

> It gets tough sometimes. You begin to realize that the buck really does stop with you and that often there really is no one you can turn to for advice.
>
> So what happens, you see, is that Himself and I just sit here together in the evenings and talk things out. If I just trust in Him, things are all right.
>
> Sometimes it seems to me that the only time I really get off track is when I try to take things into my own hands.

McAnulty cannot remember when he first wanted to become a priest. His father was a conductor on a Pennsylvania Railroad commuter line which traveled east out of Pittsburgh. He loved to ride that line so much that he can still call out the stops: Pittsburgh, Shadyside, Roup, East Liberty, Wilkinsburg, East Pittsburgh * * *.

Perhaps it was his mother's influence. She was a strikingly handsome woman with the strong religious convictions of the Irish Catholics. Her faith and inspiration outshined everything, even the clamor and the glamour of the railroad. She prodded her children along, convincing them that anything was possible if they just believed in themselves.

So Harry, as his closest friends call him, went to Pittsburgh's Central Catholic High School, graduated from Duquesne in 1936 and entered St. Mary's Seminary of the Holy Ghost Order in Norwalk, Conn.

> It's a funny thing, I felt drawn to the priesthood all my life, but up until the day I professed, I still kept thinking I'd back out.

He was ordained in 1940 and worked as national secretary of the Pontifical Association of the Holy Childhood until 1944, when be became an Air Force chaplain. He toured Germany, Japan, and several U.S. bases before being named Deputy Director at the Air Force School for Chaplains in 1956. In 1958, after becoming a lieutenant colonel, he came to Duquesne as special assistant to the university president and remained active in the Air Force Reserve. He retired as a brigadier general in 1968.

Now, after two decades and more headaches than 989 Excedrin commercials, he is leaving the Duquesne presidency to become its chancellor. That means he relinquishes the reins of authority to Rev. Donald S. Nesti, C.S. Sp., the new president, but it does not mean that "Father Mac" will ease up on his intense involvement with the university. He will be free from the daily routine to work on long-range projects, especially development, where his personality and contacts should prove invaluable.

Sometimes, when he's thinking about stepping aside, that Barry Fitzgerald twinkle leaves his eyes for a moment.

Occasionally, he needs to be reminded of all that he has accomplished for Duquesne.

> I took a friend around campus recently. It had been a long time since I'd walked the entire campus at one stretch. As we walked he looked at me and said, "Harry, I don't think you people really understand what a beautiful place you have here."
>
> I got a chill up my spine because I realized he was right. The river was brilliant that night, the sky still streaked with sunset and the campus was like a painting with the outlines of the buildings starting to darken into the sky. We really do have so much at Duquesne.
>
> I think we've shown people that we can survive, but more important, we've shown them that we are respectable, that we offer important values and ideals to our students.

Is he satisfied with that?

> With God's help, I've been content—no, serene is really the word I mean—in what I've been able to do at Duquesne.

As for the future, McAnulty says he will always be working as long as his health remains good because there is always a job for a priest waiting somewhere.

Mr. Speaker, we wish Father McAnulty well in his retirement.●

EUGENE VALENTINE ENDRES

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. APPLEGATE. Mr. Speaker, this past Saturday evening, July 26, 1980, a constituent and dear friend of mine, Eugene V. Endres of New Philadelphia, Ohio, had bestowed upon him an honor that few in their chosen profession achieve. In recognition of his outstanding contributions to the advancement and improvement of floriculture in America, the Society of American Florists elected Mr. Endres to the Floricultural Hall of Fame.

A man beloved by his peers, the name Eugene Valentine Endres is synonymous with enthusiasm, generosity, and self-sacrificing dedication to the floral industry. His positive and optimistic thinking has added greatly to the advancement and promotion of the floral industry. He has demonstrated his leadership abilities by his active participation in several floral associations. He has held the position of president of both Roses, Inc., and the Ohio Florists' Association. He has also held the position of president of the New Philadelphia Chamber of Commerce, Tuscarawas County Philharmonic Society, and Tuscarawas County United Way and Chamber of Commerce.

Unselfishly, Gene has accepted responsibility for his profession as a florist. He has dedicated 50 years of his life in pursuing the goal of improving floriculture. A man of boundless energy and extraordinary talents, Gene Endres has inspired others in the industry to achieve a greater degree of excellence in their field while furthering the advancement of the floral industry as a whole.

Known as Mr. Rose throughout the floricultural industry of the United States because he always has a pocket full of roses for those he meets, Gene is a warm and generous man. His honest enthusiasm for people and for his profession has gained him respect and admiration from his industry associates.

Gene's selection into the hall of fame is the highest honor that can be given to an individual in the floral industry. His acceptance speech was marked with humility as that is the type or person he is; but he is truly deserving of this award.

Mr. Speaker, on behalf of Ohio's 18th Congressional District and my colleagues in the House of Representatives, I congratulate Gene Endres on this most rewarding achievement.●

PCB'S IN WAUKEGAN HARBOR

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. McCLORY. Mr. Speaker, I would like to call the attention of my colleagues to two recent editorials on the subject of PCB's in Waukegan Harbor. The lead editorial in the Chicago Sun-Times on Saturday, July 26, 1980, talked about this matter, and the editorial by WBBM Newsradio 78 was broadcast throughout the day on July 22, 1980.

HELP TO CLEAN GREAT LAKES

As Chicagoans, we know how vital Lake Michigan is, and how abused it's been.

So we rejoice that the U.S. House heeded Rep. Robert McClory (R-Ill.) and Rep. Sidney R. Yates (D-Ill.) this week and added $1.5 million to the Environmental Protection Agency's budget to begin clearing Waukegan Harbor and the lake of PCB contamination.

There's more at stake than parochial Chicago area concerns, important as they are.

A three-year government study just out concludes that threats to the Earth's water supplies and other resources are increasing. The "Global 2000 Report to the President" says civilization has only about 20 years to reverse the deterioration or face disaster.

Lake Michigan and its sisters (94,710 square miles of water) supply drinking water, recreation, transportation and an industrial base to about one-fifth of all Americans and more than one-third of Canada's population.

That alone justifies greater federal spending to clean up the harbor and the lake. But the McClory-Yates proposal, a modest investment in environmental health, is needed for another reason. As Yates said:

"The level of PCBs [in busy Waukegan Harbor] . . . is the highest ever found in the U.S. and perhaps in the world."

And the toxic chemical (polychlorinated biphenyl) won't stay put. Said Yates, "The entire lake is threatened by the unrestricted movement of the contaminated sediments . . . spread by Lake Michigan's plentiful fish"—eventually finding their way into humans.

The International Joint Commission of the United States and Canada recently called "the disposal of hazardous or toxic liquid and solid wastes" in the Great Lakes basin "a matter of urgent and immediate concern."

Outboard Marine Corp., the company that dumped the PCBs into the harbor and into a tributary of the lake, is being sued to help pay for the cleanup. That's fine, but slow.

The fish contaminated by PCBs aren't waiting for the outcome of the lawsuit. And delay can be dangerous.

Congress has been told—rightly—to stop its wasteful spending. But the Senate should echo the House vote to help clean up vital waters. That isn't wasteful. The effort will cost more later—if there's still time later.

WBBM NEWSRADIO 78—EDITORIAL

Two million pounds of toxic PCBs, by U.S. EPA estimate, are lying in the Waukegan Harbor area on Lake Michigan, 40 miles north of Chicago.

PCBs are linked to cancer, birth defects and a host of other diseases. They should be removed as soon as possible. But that doesn't look very likely because of a frustrating Catch 22 situation.

Outboard Marine Corporation is being sued by the U.S. EPA, Illinois EPA and the Illinois Attorney General. The suit asks that Outboard Marine Corporation clean up its pollution and halt all future dumping of PCBs. The case may drag on 4 to 8 years before the courts render any decisions. In the meantime, PCBs are still moving unrestricted into Lake Michigan.

WBBM believes that there are two different, though interrelated issues at stake: clean-up and liability. Divided in this manner, the harmful PCBs can be removed from the lake while the case moves through the courts.

Two Congressmen, Sidney Yates and Robert McClory and the Lake Michigan Federation currently are working toward that end. The catch is that although half a million dollars in taxpayer funds have been spent on Lake Michigan PCB studies, some of the studies aren't finished and all of them are being held hostage under a judicial gag order.

It's awfully hard to appropriate funds for a project when information not only is incomplete, but withheld, too.

WBBM calls for the EPA to conclude its studies as soon as possible. Then, we think the gag order should be lifted and the studies made public. In this way, while the courts decide on liability, we can start ridding Lake Michigan of those poisonous PCBs before they cause more harm.●

REPUBLICAN TAX CUT GAINS SUPPORT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. GINGRICH. Mr. Speaker, America's economy continues to decline. Working Americans are bracing themselves for another leap upward in joblessness when the figures come out this Friday. The administration tells us that the deficit for fiscal 1980 has risen from $39 billion to over $60 billion since the last estimates were made only 4 months ago. That would make it the second biggest deficit in history, and if unemployment goes over 9 percent, the 1980 deficit will be the biggest in American history.

That huge deficit is the result of a planned recession. That huge deficit is given us by an administration and congressional leadership that claim to be making progress against inflation. The same people whose policies have driven the deficit up $23 billion in 4 months by throwing people out of work say that a $20 billion tax cut, such as has been proposed by Governor Reagan and congressional Republicans, would be irresponsible. Democratic economic theory seems to say that it is OK to widen the budget deficit by throwing people out of work, but not by giving people a tax cut that will preserve jobs and ultimately do away with the budget deficit.

Observers not usually receptive to Republican tax ideas are being driven toward them by the absurdity of the present policy and its disastrous results. Mr. Hobart Rowen is an economic writer who leans toward orthodox Keynesianism. Yet he was able to write in a column last week:

> Ronald Reagan's proposal for a 10 percent, one-year tax cut across the board right now is feasible, desirable, and politically astute.

I predict that a consensus in favor of the Reagan tax position, officially known as H.R. 7566, will develop. You do not have to be enamored of an across-the-board income tax rate reduction to decide that it is far preferable to the Democratic program of recession and continued double-digit inflation. Of course, many of us are enthusiastically supportive of H.R. 7566, and we welcome any converts, even if they are grudging and reluctant, to our cause.

Mr. Rowan's critically important column on taxes and the economy, which appeared in the July 24 Washington Post, follows:

REAGAN ON TAXES: THE GREAT PARTY SWITCH

The Democrats and Republicans have engaged in a mind-boggling switch of their traditional positions on an anti-recession tax cut. The Carter White House says, in effect, "Go slow, or you'll regenerate inflation in a few years. And don't forget the budget deficit."

But the Republicans counter: "At a time of deep recession, you'd better stimulate the economy first and worry about the deficit later." In effect, the GOP assigns top priority to reducing an oppressive tax burden.

President Carter's chief economic aides now concede that while "it is quite likely" a tax cut will be needed next year, this is not the time to propose it or act on it. In the last few weeks of a congressional session, in an election year, they contend, a careful tax cut focusing on investment incentives could not be constructed.

This highly conservative approach has divided Democratic liberals. Joseph A. Pechman, research director of the Brookings Institution, told me that a tax cut would now be too late as an anti-recession tactic, "and in any event, I'm not sure there's a lot of elbowroom for tax-cutting."

Pechman's Brookings colleague, George Perry, disagrees. "The economy just cries out for a tax cut," he insists. Lester Thurow of MIT and Walter Heller, former chairman of the Council of Economic Advisers, join with Perry in demanding that the tax-cut question be addressed and settled now.

It seems clear that even if Pechman (and others) are right in suggesting that an immediate tax cut would not check the recession, a tax cut (or increased spending) would speed the recovery from recession in 1981. The Congressional Budget Office makes a good case for this approach in a new report.

At the very minimum, having helped to throw the nation into the economic stew that has now boiled over, Carter should have made a commitment in the mid-year budget review that tax action will be taken next year. Without some relief, taxes are scheduled to jump, in total by more than $80 billion in 1981.

That's why the Republicans are making economic as well as political sense with their proposals. To be sure, the Kemp-Roth bill, calling for a 30 percent income-tax cut over three years, coupled with excessively generous depreciation allowances, amounts to a risky, inflationary giveaway.

On the other hand, candidate Ronald Reagan's proposal for a 10 percent, one-year tax cut across the board right now is feasible, desirable and politically astute.

It is hard to believe that the nation can be served up a forecast for unemployment rising to 8.5 percent by the end of 1980 and staying there all of 1981 (as the administration now predicts) and expect Congress to sit by complacently and do nothing about it. The influential chairman of the Senate Finance Committee, Sen. Russell Long (D-La.), indicated yesterday that Senate Democrats will ignore Carter and press ahead to a tax-cut vote this year.

A tax cut (more accurately, a reduction of scheduled increases) ought to go into effect Jan. 1, 1981. If the administration's overcautious prescription is followed, no reduction of the tax burden is likely prior to next July 1.

But Carter's chief economic adviser, Charles L. Schultze, is stubborn. He told a group of economists the other day that "a standard short-run attack on recession is not what we need. We have to be very careful about the long-run consequence of actions we take, so as not to build in major inflationary problems several years down the road.

True enough. But as Thurow deftly reminded Schultze on the MacNeil-Lehrer Report the other night, one should assume that after nearly four years in office, the administration ought to be able to offer an investment-oriented tax cut right now.

The Carter administration could also, as the late Art Okun suggested in a piece just published posthumously by Brookings, head off all or part of a scheduled $23 billion increase in Social Security taxes next year. At one stroke, that would reduce the pressures for further wage acceleration.

On balance, Carter's non-program is better than the radical Kemp-Roth bill, which approaches the level of being quite nutty. But Carter's plan is not necessarily better than the Reagan one-year proposal, and certainly not better than a variation that would emphasize modest investment incentives and some kind of abatement of the scheduled 1981 Social Security tax boost.

Why doesn't Carter move this way? One does not have to be much of a cynic to find the answer in politics. Not only do the polls verify a switch to fiscal conservation, but Carter is hypersensitive to the charge that he flip-flops on issues:

To match the Reagan proposal so soon after the March austerity program must have appeared to the president as a clear political risk. As a consequence, the economy will suffer, if Carter were to have his way.●

THE DETERIORATING U.S. ECONOMY: MISGUIDED TALK AND STILL NO ACTION—PART I

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. HAWKINS. Mr. Speaker, never has an economic recession been talked about more than this one—in the Congress and the executive branch, in the media, among specialists and pundits, among people in various economic groupings, and among the general public.

But all of this talk is not getting us very far, because so much of it is misguided instead of being directed toward the hard issues. One hard issue is to decide what to do about the recession, and do it now. Instead of that, we are behaving like a fire company which looks at a blaze and debates how long it is going to last, or whether it will be bigger or smaller than the last blaze, instead of turning on the water pumps.

This analogy will do, but it is not perfect. The fire company did not start the latest fire. But, the current recession was deliberately and explicitly contrived by those in the executive branch and the Federal Reserve, with the sad concurrence of the Congress, acting under the already discredited proposition that the fire of recession would burn out the inflation instead of burning the people in the building.

To take an even more important analogy, we are approaching this sixth recession in little more than a quarter century as a doctor who examines a patient for a serious current upset without remembering that the patient had the same upset five times before since 1953, and without asking whether there are any causal factors common to all six of them. An analysis of such repeated and similar causal factors would help in remedying the current situation. Moreover, it is not enough for the doctor to look at the current upset without tracing the lingering effects of six of them in a row, while trusting largely to luck that the patient will get over the sixth without considering how likely he or she is to run into a seventh in due course unless the doctor learns from experience.

For these reasons, I have long insisted that we cannot deal effectively with where we are at the moment, except in the longer range perspective of the deteriorating condition of our economy for a long time; the reasons for it; and the cumulative adverse effects upon the lives and well-being of our people. This becomes of even greater importance, because recently the erroneous sentiment has gained added weight that the United States does not have the resources or potentials for high achievement which we used to have; that we must resign ourselves to a bleak and sparce future; that what we must do without should take precedence over what we can do; and that we must continue to be outdone by other nations with far fewer endowments when measured as a whole. This, in turn, is imperiling our capacity to lead, in assuring the adequate defense of the free world and in obtaining the cooperation of other free nations in many aspects of needed international arrangements.

To begin to remedy this most undesirable situation, we are too great a Nation and people, have too long a history, and should have too much saving commonsense, to think that America got to the top in the past in only 1 year, or has now been deteriorating in strength and influence in only the current year.

In taking the longer range view which seems so imperative at this time, the first matter to view is the picture of our deteriorating rate of real economic growth. Adequate or optimum real economic growth does not solve all of our problems, but without it we cannot meet any of them. The production and distribution of goods and services is the basis of our standard of living, and the source-support of all that we do domestically or in our national defense and other international operations. We may use imprudently much of what we produce and distribute, but we cannot use at all what is not produced and distributed. The problem of inflation, to which I shall come in due course, is significant because it puts brakes upon production and distribution in the long run, or redistributes goods and services in a manner inconsistent with adequate or optimum real economic growth and in a manner inconsistent with our established sense of economic and social justice. Price stability with economic atrophy does no good. And prices fell during the Great Depression. But where were we all?

During 1922-29, the average annual rate of real economic growth was 4.6 percent. This was a fair measurement of our potentials, even more than half a century ago, although we allowed imbalances to infiltrate the progress and ultimately to bring on the Great Depression. Our potentials are much greater now.

The 1933-39 recovery from the Great Depression has come to be much disparaged, in a systematic and potent effort to discredit some New Deal programs which we still need. Considering the economic situation in early 1933, and the state of our economic tools and know-how at that time, it is remarkable that, from 1933 to 1939, unemployment was reduced more in percentage terms than in any comparable period since. In addition, the foundations were laid for permanent reforms and countercyclical or compensating measures which, ever since, have been the main bulwark of our protection against downturns of depressionary magnitude since World War II.

During World War II, the years 1941-45 registered a rate of average real economic growth of about 9 percent, despite the fact that 15 million of those ordinarily available for production—about twice the number unemployed in 1939—were diverted into the Armed Forces. To be sure, the prodigies of economic performance during World War II required measures more stringent and far-reaching than any we should now attempt, or that the public would now accept. Nonetheless, the achievements of those war years, and the methods by which they were called forth, should be instructive rather than neglected now.

During 1947-53, the average annual rate of real economic growth was 4.8 percent, during a mixed peace and limited war now very dissimilar in its basic contours to the high national defense economy which have characterized the more recent years. And during 1961-66, before the Vietnam war was really burdensome in an economic sense, the average annual rate of real economic growth was 5.4 percent.

The foregoing high growth rates, all accomplished when our labor force and management were far less skilled than now, and when fundamental technology and science were advancing less rapidly than now, led most economists and other analysts to conclude that the minimum conservative target for average annual real economic growth could not be less than 4.4 percent. Indeed, some inquiries as competent and prestigious as the examination of national goals during the Eisenhower years and the Rockefeller brothers' studies concluded that a real average annual economic growth rate of about 5 percent was a sound measurement of our capabilities and needs.

But increasingly, beginning around the end of the Korean war, we experienced a very inferior record of real economic growth, which has persisted with only one exception during 1961-66.

During 1953-61, the average annual rate of real economic growth was only 2.5 percent. During 1966-69, it was only 3.2 percent. During the 10 years 1969-79, it was only 2.9 percent. And during the entire period 1953-79, despite the good years 1961-66, it was only 3.3 percent. From fourth quarter 1978 to fourth quarter 1979 it was only 0.8 percent.

The practical impacts of the deteriorating rate of real economic growth can be appreciated only by looking at some additional data. Comparing actual economic performance during 1953-79 with projections of the very conservative 4.4 percent average annual rate of real economic growth already explained, we forfeited more than 7.7 trillion 1979 dollars of total national production, or an average of about $285 billion a year. Consequently and concurrently, we forfeited about 80.5 million years of civilian employment opportunity, this representing levels of unemployment above the levels consistent with full employment as we enjoyed it in 1953, this meant excess unemployment averaging about 3 million a year.

The forfeitures of total national production are still more forcefully revealed when we consider the major components. During the period 1953-79 as a whole, and using a sustainable relationship among the components, we forfeited about 4.5 trillion 1979 dollars worth of total consumer expenditures, which reflect the trends in the standard of living, for an average of about $167 billion a year. We forfeited about $1.3 trillion worth of opportunity for private business investment, for an average of about $48 billion a year. In consequence of the forfeitures in total national production or GNP, and the impact upon public revenues at all levels, public outlays for goods and services at all levels during the period as a whole were about $1.9 trillion too low, for an average of about $70 billion a year, with grave and progressive impact upon some of our most important national priorities which require direct public outlays or public aid to private endeavor.

Consistently, wages and salaries during 1953-79 as a whole were $2.9 trillion too low, in terms of balanced economic development at reasonably full use of resources, for an average of about $107 billion per year. And median family income for the period as a whole was about $61,900 too low, for an average of about $2,293 per year.

In 1979 alone, even with no actual recession for the year as a whole but a very low rate of real economic growth, the GNP forfeiture was in the neighborhood of $500 billion, in terms of where we were in 1979 compared with where we would have been if we had grown at a real average annual economic growth rate of 4.4 percent from 1953 forward. In 1979 alone, the deficiency in private consumer spending for the maintenance and advancement of standards of living was about $290 billion, the deficiency in private investment including net foreign was about $85 billion, and the deficiency in public outlays at all levels for goods and services was about $125 billion. Wages and salaries were $325 billion too low, again measured by projections from 1953 forward, and median family income was almost $6,900 too low. Now at mid-1980, the annual rate of these forfeitures is about 20 percent higher than in 1979.

All of these shortfalls have been doubly serious, because they have been accompanied by, and also caused by, regressive trends in the distribution of income and consequent misallocations of resource use in terms of economic balance.

To take but one example, during 1961-69, when the average annual rate of real economic growth was 5.4 percent and when unemployment was reduced from 6.7 percent to 3.5 percent, the number of individuals in the United States living in poverty was reduced 39.4 percent, the number of families living in poverty was reduced 40.3 percent, and the number of nonwhite families living in poverty was reduced 39.1 percent. Meanwhile, measured in constant dollars, the median income of our families was increased 32.4 percent.

In vivid contrast, during later years and especially the most recent 10 years, marked by low and deteriorating rates of average annual real economic growth, the number of families living in poverty has increased, due to regressive trends in the distribution of income, the decline in the real purchasing power of wages, and the adverse impact of chronically rising unemployment.

We hear much talk today about the dangerous decline in the rate of productivity growth. But it turns the analysis upside down when one attributes the deteriorating rate of real economic growth to the deterioration in productivity growth. The facts of the matter are that the declining rate of productivity growth has been predominantly the result of the declining rate of real economic growth, with very slack use of plant capacity and consequent underutilization of employed people.

When the rates of real economic growth average high during 1947-53, 1960-66, and 1970-72, the average annual rates of productivity growth in the private economy were 3.8 percent, 3.8 percent, and 3.1 percent respectively. But a very low average rate of real economic growth during 1953-60 was reflected in an average productivity growth rate of only 2.6 percent. And during 1966-70, 1972-79, and fourth quarter 1978-fourth quarter of 1979, with the real rate of economic growth averaging 2.8 percent in the first two periods and only 0.8 percent in the last, the average annual rates of productivity growth were 1.7 percent, 0.7 percent, and minus 2.1 percent.

In the face of the current recession, there is a great deal of talk about the crisis or near crisis in the production of housing and automobiles, and this indeed is the case. But there has been too strong a tendency to attribute the housing crisis to a few special factors, important though these are, and in the case of automobiles there has been too strong a tendency to attribute all of the trouble to foreign competition, serious though this is. There is now increasing recognition that the trouble in these two industries is due more largely to the central problem of low average real economic growth. Both automobiles and housing have for a long time been so-called feast and famine industries, and each succeeding recession has tended to impact upon them with extraordinarily high severity. And it should be emphasized that this happened even during those recessions when there was no significant energy shortage, and no significant misdeeds by OPEC in its pricing practices.

Further, there is now increasing recognition that our economic troubles are not limited to a few sectors of the economy, but instead extend throughout. In this connection, we have made some careful estimates of what has been happening across the board during 1953-79. These estimates are by no means of great precision, but they do tell the essential story.

Viewing the period 1953-79 as a whole, the more than $7.7 trillion shortfall in total national production of GNP has had among its components the following: In wholesale the retail trade, the shortfall, in output, measured against what would have occurred under conditions or 4.4 percent average annual real economic growth, was about 1.3 trillion 1978 dollars, and the shortfall in employment opportunity was almost 14.5 million years. In new construction, the output shortfall totaled more than $777 billion dollars and the employment shortfall was more than 3.8 million years of civilian employment. In food and kindred products, the respective figures were more than $723 billion and more than 2 million. In real estate and rental, they were more than $1 trillion and more than 617 million. In motor vehicles and equipment, auto repairs and services, and aircraft, they were more than $713 billion, and almost 2.6 million. In agriculture, excluding livestock, they were more than $449 billion and more than 1.3 million.

Next, it is desirable to look at the 1953-79 adverse impacts upon some of our major urban areas. In New York City, the total forfeiture of output was more than 213 billion 1978 dollars; of personal income more than $141 billion, and of employment opportunity more than 4.8 million years. In Los Angeles, Chicago, and Philadelphia, the respective figures were 94.6 billion, 81.6 billion, and 136.6 billion for total output in 1978 dollars; $62.5 billion, $56.9 billion, and $90.3 billion in personal income, and more than 3.8 million, more than 1.5 million, and almost 2.4 million, in loss of employment opportunity. In Detroit, the respective figures were more than $54 billion, almost $34 billion, and more than 2.8 million. In Boston, they were $131 billion, $87 billion, and about 1.2 million. And in Houston, they were almost $43 billion, more than $28 billion, and more than 460,000.

The condition of the Federal budget is a matter of much talk and legitimate concern. I shall pass over the important question of how important the condition of the Federal budget is to the condition of the national economy, and the question of when the budget should be in surplus and when in deficit at this time. But, it is crystal clear, although not sufficiently recognized, that the condition of the Federal budget is almost entirely a reflection of the condition of the national economy. During the calendar years 1947-53, the rate of annual real economic growth averaged very high, and the average annual surplus in the Federal budget during fiscal 1948-54 was only $0.9 billion. During fiscal 1955-62, again a period of high average annual real economic growth, the average annual Federal deficit was only $2.7 billion. But in consequence of low and deteriorating average annual real economic growth, the average annual deficit in the Federal budget during 1963-71 was $8.1 billion, during fiscal 1972-80 it appears to be $36.7 billion, and during 1980 alone it appears to be $60 billion. In fiscal 1981, despite erroneous efforts to balance the budget by the wrong methods, there is universal recognition today that the deficit will be very large, at least $40 billion without tax reduction.

All of the adverse trends which have been in process for more than a quarter century take on even more serious import when it is recognized that, despite some relatively insignificant undulations, conditions have become chronically worse and worse. The deficiency in total national production, hardly existent in 1953 was, as already stated, about 500 billion 1979 dollars in 1979 alone, and about 20 percent higher at an annual rate as of mid-1980.

The deficiencies in the components of total national production or GNP have similarly been rising chronically. And so have the adverse impacts upon the real incomes and living standards of the people at large, although a relatively few, abetted by national economic policies, have improved their relative position and in some cases advanced it inordinately in absolute terms.

Chronically, unemployment has also been on the rise, with unemployment at the trough of each successive recession and the peak of each successive recovery period tending to be higher than at the previous troughs and peaks.

Officially measured full-time unemployment at the trough of the 1973-75 recession was 8.9 percent, or almost 50-percent higher than at the trough of the 1969-70 downturn. The lowest monthly unemployment during recovery periods before recessions followed was 3.3 percent after the 1957-58 recession, 4.8 percent after the 1969-70 downturn, and 5.7 percent after the 1973-75 downturn. We do not yet know what unemployment will be at its lowest in the recovery period following the current recession, but the signs are not good, with unemployment estimated to rise to 8 to 10 percent before the current recession ends.

I now come to a consideration of developments during the recession now in process. This recession is the worse on record since the Great Depression. For example, in the first 6 months of the 1969-70 downturn, unemployment rose only 16 percent. In the first 6 months of the 1973-75 recession, the most protracted and serious since the Great Depression, the rise in unemployment was only 8.1 percent. But in the first 6 months of the current recession, the rise in unemployment was about 31 percent.

All of the measurements of unemployment which I have thus far cited relate to full-time unemployment as officially reported, but take no account of the full-time value of part-time unemployment or of unemployment in the form of discouraged persons who are not actively seeking work, and therefore, not counted as unemployed. Taking account of these two factors, the true level of unemployment in 1979 as a whole was in the neighborhood of 8 percent, or more than 33 percent higher than the rate of full-time unemployment averaged during 1979.

The differences between the two measurements were very important also in earlier years. In June 1980, with officially reported unemployment at 7.7 percent, the true level was in the neighborhood of 10 percent.

Nor do the overall figures which I have thus far cited take account of the immensely disparate rates of unemployment among different groups. In 1954, when total officially measured unemployment was 5.5 percent, the rate among black and other teenagers was 16.5 percent, or three times as high. But, 1979, when the overall rate of officially measured unemployment was 5.8 percent, the rate among black and other teenagers was 33.5 percent, or almost six times as high. Although 1979 was not a recession year, the 33.5-percent rate of unemployment among black and other teenagers was almost as high as in 1975 despite the 1973-75 recession—the worse downturn since the Great Depression—and was far higher than the 27.4-percent rate among black and other teenagers in 1958 despite the 1957-58 recession.

Further still, none of these figures on unemployment take account of the cumulative effect upon human beings of repeated recessions and chronically rising unemployment since 1953. A vast preponderance of the families who were living in 1979 and now live in 1980 were living during the 1973-75 recession and huge numbers of them were living during the recession of 1953-54 or 1957-58. As we have all learned, the injuries inflicted by unemployment do not disappear quickly, and sometimes linger through the balance of a lifetime.

For these reasons, the recession of 1980 is harder upon most of the unemployed than earlier recessions even if not as severe. An area visited by floods six times in a quarter century is much worse off than an area visited only once or twice, even if it is predicted without proof that the sixth flood will not be as severe as the second or fourth. We simply cannot afford to tolerate a roller coaster prosperity, with recessions following again and again in what some people call a natural course of events.

Beyond all this, less and less credence should be given to the observations that the current recession is likely to be less severe than that of 1973-75, even though worse than any of the others—the observation that the current recession will turn out to be only the second worst since the Great Depression when it finally comes to an end at some unpredictable time in the future.

I have already pointed out that the rise in unemployment during the first 6 months of the current recession was almost four times as great percentage wise as during the first 6 months of the 1973-75 recession, and there is a growing body of responsible opinion that the current recession may well turn out to be even worse than that of 1973-75. To cite only one very recent observation among many, Business Week of June 23, 1980, said this:

> The economy is still tumbling with startling swiftness and intensity. The decline in housing and autos has now fanned out into the entire economy. While homebuilding and autos, which have been in a prolonged recession are coming close to their low points, most other industries have a long way to go before reaching their troughs. Layoffs have spread throughout all industries, and further large cutbacks, accompanied by stretched-out vacations, have already been scheduled. Conventional wisdom continues to say that the recession will not be as bad as in 1974-1975. This assessment should be viewed with a jaundiced eye, however. The speed and magnitude of the decline in business conform to the pattern of a recession as serious as the last time around. And there remains the uncomfortable possibility that this downturn could be worse. After all, the economy is almost five months into recession, and neither fiscal nor monetary policy has yet turned expansive. Moreover, downward momentum is still building. In a remarkably short period, inflationary expectations have given way to a widespread belief that rough times are ahead. This can only reinforce the contraction in demand that has already begun.

This Business Week commentary is confirmed by many recent developments. In real terms, consumer incomes and spending have continued to decline in 1980, and reliance upon consumer credit at tremendously high interest rates remains dangerous although necessary for millions of families. Real GNP declined at an annual rate of almost 7 percent, and industrial production at an annual rate of about 7 percent during the first 6 months of 1980, compared with less than 2 percent and hardly at all, respectively, during the first 6 months of the 1973-75 recession.

The officially recorded unemployment rate rose with unique rapidity to 7.7 percent in June 1980, compared with 6.2 percent in March 1980 and 5.9 percent in December 1979. The reduction in the full time or officially reported unemployment rate from 7.8 percent in May 1980 to 7.7 percent in June 1980 is too small to be meaningful, and may be due to statistical defects.

In any event, the true level of unemployment in June 1980 was considerably higher than in May 1980, not to speak of the earlier periods mentioned because employment in June was 451,000 lower than in May 1980, a reflection of discouraged workers who are not officially counted as unemployed. And in June 1980, with the unemployment among black and other youth being 34.4 percent, as against 29.8 percent in April 1980, the intolerable disparity in rates of unemployment has not been remedied at all.

My review of what has been happening in the United States for so long, and continues to happen with a vengeance, cannot be completed without an account of our deteriorating position in the world economy.

During 1950-79, the average annual real economic growth rate in the United States was only 3.5 percent, and during 1967-79 it was only 3 percent. The respective figures were 8.6 percent and 7.4 percent in Japan, and 5.4 percent and 3.8 percent in West Germany, our two main competitors. The respective rates were 8.4 percent and 7 percent in Israel, 7.5 percent and 9.8 percent in Brazil, and 4.8 percent and 3.6 percent in Italy. In 1979, the rate of real economic growth in West Germany was 4.7 percent, with 3.8 percent unemployment and 4.1 percent inflation; while the United States had practically no economic growth, 5.8 percent average unemployment, and double-digit inflation rising to 13 percent for consumer prices at times within the year.

In Japan during 1979, the rate of inflation was only 3.5 percent, and its overall economic record, so far surpassing ours, is well known. Japan by now has accomplished the unthinkable of producing more than 10 million automobiles a year, far better than we were doing even before our auto industry suffered the current debacle.

Now that I have compared the records of our main competitors on real economic growth and inflation with our own, I must wind up part I of my discussion with some reference to our inflation record in a long-term perspective. The figures are so well known that my relatively brief treatment of the subject at this point does not indicate any down playing of the inflation problem. Briefly, it is now increasingly recognized that, despite the repeated tradeoff effort to reduce inflation by increasing unemployment, the actual situation in the long-term view has been just the reverse.

Very high real average annual economic growth rates during 1947-53 and 1961-66 resulted in unemployment rates during the last years of the two periods at only 2.9 percent and 3.8 percent respectively, with inflation rates in these last years of only 0.8 percent and 2.9 percent, respectively. But the chronically deteriorating real economic growth rates and chronically rising unemployment rates from 1969 forward have resulted in annual average inflation rates of 10 percent for 1969-79, and also during 1978-79.

From fourth quarter 1978 to fourth quarter 1979, with a real economic growth rate of only 0.8 percent, consumer prices rose 12.7 percent, producer prices for all finished goods rose 12.5 percent, and producer prices for consumer finished goods, excluding food, rose 17.1 percent.

There is slight comfort to be found in the reduction of consumer price inflation to the neighborhood of 10 percent by the end of the first half of 1980. A 10-percent inflation rate, coming on top of double-digit inflation on top of very high inflation for many preceding years is worse than a 13-percent rate of inflation would have been some years ago.

A 10-percent rate of consumer price inflation is three to four or more times as high as it was when the economy was performing near the optimum in terms of real growth and when unemployment was very low. And if the perpetrators of the trade-off are correct in their view that less unemployment brings more inflation—which they are not—the inflation threat which now is so much higher than it was during most of the previous recessions will augment further when the economy commences a substantial recovery. And then, if present policy attitudes continue, we will again try to reduce the inflation by another deliberately contrived recession and further rising unemployment.

This entire seesaw policy is economically and morally bankrupt. Moreover, the chronic rise in inflation for so many years commenced long before serious OPEC price actions, and it is now readily admitted that 60 to 70 percent of the current inflation is substantially independent of OPEC actions. In housing, food, and medical care, when the price increases have been the greatest—except for energy—the serious impacts of OPEC actions are hard to find. But even if the OPEC actions have had far more effect than seems to be the case, how do we know that OPEC will not jack up its prices again in the near future, and can we resign ourselves forever to the kind of domestic economic record we have recently been making because of the determinations of OPEC? At times in the more-distant past, as in the case of the rubber shortage in World War II, we were confronted by more serious scarcities of critical commodities than during recent years, and we overcame the rubber problem within 2 years by action instead of resignation.

This concludes part I of my analysis of the deteriorating U.S. economy. Part II will discuss the appropriate remedies.●

EULOGY OF ANDY FLYNN

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. CLAUSEN. Mr. Speaker, on June 25 one of the foremost citizens of the Redwood Empire passed to his rest. Andy Flynn will long be remembered as a man who gave his all in the service of his community, and he will be sorely missed by everyone who knew him.

I know that I will miss Andy, for he was one of my closest friends. Andy was the type of friend who always told you what he really thought, and then went on being your friend. But he was more than a friend—he was the one who, more than any other, encouraged me to become involved in politics. It was Andy Flynn who first urged me to run for public office, and it is to Andy Flynn that I owe the primary debt for the humble honor of standing on this floor.

As Abraham Lincoln realized as he dedicated the Gettysburg memorial, I too know that nothing I can say will pay adequate tribute to this great man, but it is altogether fitting and proper that we should pause to remember Andy Flynn, for my district in particular, and the country as a whole, has suffered a sad loss with his passing.

Nor will what I say today be long remembered, but in one sense Andy has already taken care of that problem, for the record of his life will forever be remembered by all who knew him.

Andrew Lee Flynn lived in Del Norte County for 50 years, and had been the owner and president of the Del Norte Title Co. for 20 years. But Andy's contribution to his community extended beyond his profession. He was universally recognized as one of the most civic minded persons to ever serve the county. He was always eager to help promote anything that was in the best interests of the area, and took a special interest in community betterment projects.

One of Andy's proudest moments came in September 1974, when he was honored at the Redwood Empire Convention's annual banquet in Crescent City. Andy had served as the president of the Redwood Empire Association for 2 years, and when he retired local and State dignitaries were quick to applaud his fine work for the region.

In 1963 Andy was named man of the year, and 12 years later his reputation in the community had only grown greater. It was in 1975 that he was again honored, this time with a "Friends of Andy Flynn Night" that was held to pay tribute to his many years of work for the county and its citizens.

As founder of the Del Norte Arabs, Andy Flynn carried his work for the promotion of the area and its residents throughout the State, and often gave of his time and energy on extended trips. A president of the Del Norte Chamber of Commerce, Andy was active in the betterment of the economic health of the county. He was also a master of the Crescent City Masonic Lodge, and spent many long hours helping his neighbors in that capacity.

Mr. Speaker, this country was built by men like Andy Flynn, and his example can only serve as an ideal that we should all strive to emulate.

So that my colleagues and people across the United States may appreciate the high esteem in which he was held by the people of Crescent City, I am enclosing an obituary article which appeared in the Del Norte Triplicate, the principal newspaper of Del Norte County:

ANDREW LEE FLYNN IS DEAD AT 76

Andrew Lee Flynn, owner and president of the Del Norte Title Company for 20 years, died Wednesday in a Cresent City hospital at the age of 76. He was born in Chehalis, Wash., and lived in Del Norte for the past 50 years.

Flynn was recognized as one of the most civic-minded persons to ever serve the county, eager to help promote anything that was in the best interests of the area. He particularly liked to serve those in need or special community betterment projects.

One of Flynn's proudest moments came in September 1974 when he was honored at the Redwood Empire Convention's annual banquet in Crecent City. Flynn, who retired as president of REA after a two-year term, was cited by local and state dignitaries proclaiming his achievements in public service for his community and the Redwod Empire.

One of the speakers was State Sen. Randolph Collier, who spent most of his years as dean of the State Senate on the Democratic side. Flynn was a staunch Republican but crossed party lines to support his long-time friend.

Among the congratulatory telegrams Flynn received that night was one from then Gov. Ronald Reagan, the apparent GOP nominee for President this year.

In March 1975, Flynn was honored at a Friends of Andy Flynn Night to show appreciation for his half century of working for the county and its citizens.

Flynn was also named Man of the Year, founded the Del Norte Arabs, was a past president of the Del Norte Chamber of Commerce and past master of Crescent City Masonic Lodge 145, F&M.

Survivors include widow Luella Cadra; and cousins Maurice Swigert, Mossy Rock, Wash., Tom Swofford, Georgia; and Louise Martin, Tacoma, Wash. He was the brother-in-law of Bertha and Edna Cadra, Crescent City.

Services will be today at 1 p.m. at Wier's Mortuary with Masonic Lodge officiating. Cremation will be at the Oceanview Crematorium, Eureka. Honorary pallbearers will be members of the Del Norte Arabs. The eulogy will be delivered by James J. Yarbrough.

Memorial contributions may be made to the American Cancer Society, P.O. Box 23, Crescent City, California 95531.●

AUTO EMISSIONS MODIFIED

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. COLLINS of Texas. Mr. Speaker, new automobiles are priced higher and higher because of excessive Government regulation. Recently, I studied the manufacturing cost increase due to regulations and found they increased the car sticker price by $1,000.

Many of these new regulations are not essential, and most seem over excessive. Let us reduce bumpers from 5 mile per hour impact to 2.5 mile per hour impact. Let us eliminate this airbag rule.

Let us postpone considering this soft face design that would be so expensive.

I read some interesting comments in a GM Newsletter. They summed up their views on automotive emissions regulation. These statements seem sound to me. We should keep cars at a reasonable price and not have so much regulatory control that only the rich could afford to buy a car. Let us review present regulations.

Here is a General Motors statement. It seems logical to me and I know you will want to evaluate these regulations:

AUTOMOTIVE EMISSIONS REGULATION

NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS)

The ozone air-quality standard of 0.12 ppm, with only one allowable "excursion" (day when ozone exceeds the standard) per year, is far more stringent than necessary to protect public health.

Only Los Angeles and possibly 2-3 other metropolitan areas would be out of compliance if the criterion for "attainment" permitted up to five ozone "excursions" per year. This more lenient standard is probably justified since scientists currently are unable to distinguish between air quality at one and at five excursions per year.

GM recommends use of the "five day" approach because it would:

Permit drastic curtailment of vehicle inspection and maintenance programs, saving consumers $1 billion per year during 1982-1987;

Remove the need to retrofit hydrocarbon controls in all but a few localities, saving industry some $15 billion;

Allow transportation control measures to be based on socioeconomic shifts and long-term energy-conservation goals, rather than pollution-control objectives.

CO EMISSION STANDARDS

The Clean Air Act requires automotive carbon monoxide (CO) emissions to be reduced to 3.4 grams per mile (gpm) in 1981. (The current standard is set at 7.0 gpm.) Virtually all analyses show that 3.4 gpm is more stringent than needed for public health.

The Clean Air Act provides for a possible 2-year waiver (1981-1982) to 7.0 gpm. GM recommends that EPA adopt an industry-wide waiver for the 2 years, allowing development of less costly technology to meet the stringent 3.4 standard in 1983.

NO_x EMISSION STANDARDS

The Clean Air Act Amendments of 1977 set the 1981 automotive oxides of nitrogen (NO_x) standard at 1.0 gpm. (The current standard is set at 2.0 gpm.)

This standard may elminate the fuel-efficient diesel from the marketplace since technology does not exist to meet the NO_x standard of 1.0 gpm for light-duty diesel engines—especially in conjunction with particulate and altitude standards.●

REMARKS UPON COSIGNING H.R. 5225

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. GUDGER. Mr. Speaker, today I add my name to a long list of sponsors of H.R. 5225. In so doing I want to express my support for the primary purpose of this legislation, to improve the administration of our Federal firearms laws as they relate to the sale of firearms by dealers, licensing, restrictions on confiscation, modification of the laws concerning transportation of firearms, and congressional oversight of rulemaking by the Bureau of Alcohol, Tobacco, and Firearms.

However, I do want to record my strong opposition to one aspect of the bill which eliminates parole for persons convicted of using or unlawfully possessing a firearm during the commission of one of 23 offenses defined as disabling crimes—see section 104(c), page 10, lines 21-24 of H.R. 5225.

Current law already mandates 1-year sentences for first offenders and 2-year sentences for repeated violations of this law. In over 30 years of practicing criminal law, including several years as a solicitor representing the State of North Carolina, I have encountered few criminals who thought they were going to be caught when they were planning criminal acts. If the mandatory sentence does not deter prospective violators, I do not believe the abolition of parole will. On the other hand, if parole is abolished, the few persons who would otherwise benefit from early release would be disadvantaged.

I would have introduced a bill identical in all respects to H.R. 5225 but deleting the parole provision, but according to the Printing Office, it would cost the taxpayers $1,139 to print such a bill. Instead I will offer an amendment to the bill at the first opportunity to delete the parole provision.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. DERWINSKI. Mr. Speaker, reports on the 22d observance of Captive Nations Week are flowing in and indicate that another successful, annual week was held this past July 13-19. Both here and abroad, the week was marked by assemblies, parades, church services, publications, radio and TV coverage. It was not just another week reminding ourselves of the captive nations in central and eastern Europe; within the Soviet Union; in Asia and in Cuba; their loss of freedom and independence and their presistent struggle for liberation. It was a week that highlighted Afghanistan and the need of a new foreign policy toward the Soviet Union.

These reports of the week, as prepared by the National Captive Nations Committee in Washington, show the scope and breadth of the application of Public Law 86-90, the Captive Nations Week resolution. I submit for the RECORD the following selected examples: First, a proclamation by Hon. William P. Clements, Jr., Governor of the State of Texas; second, a proclamation by Mayor Phillip L. Iseberg of Sacramento; third, a newspaper account from the publication America, of Philadelphia, Pa.; fourth, an editorial on the week that appeared in the Free China Weekly, of July 20; and fifth, an article that appeared in the Detroit News on the week's observance in Detroit:

OFFICIAL MEMORANDUM BY WILLIAM P CLEMENTS, JR., GOVERNOR OF TEXAS

Greetings:

The imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the people of many lands.

The freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence.

The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations.

Therefore, I, as Governor of Texas, do hereby designate the week of July 13-19, 1980, as Captive Nations Week in Texas, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated people all over the world.

PROCLAMATION BY PHILLIP L. ISENBERG, MAYOR, CITY OF SACRAMENTO

CAPTIVE NATIONS WEEK

Whereas, the republican form of government—based upon "the consent of the governed"—which has existed in the United States of America for 192 years, has resulted in the development of a warm understanding and sympathy for the aspirations for freedom of the peoples everywhere and in the recognition of the natural interdependency of the peoples and nations of the world; and

Whereas, the enslavement of a substantial part of the world's population makes a mockery of the idea of peaceful co-existence between nations and constitutes an impediment to the natural bonds of understanding between the people of the United States and other people; and

Whereas, it is vital to the national security of the United States and the other free nations of the world that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive;

Now, therefore, I, Phillip L. Isenberg, Mayor of the City of Sacramento do hereby proclaim the week of July 13-19, 1980 as Captive Nations Week.

Issued: This 2nd day of July, 1980.

[From the Philadelphia (Pa.) American, July 24, 1980]

GOP PLATFORM PLEDGES SUPPORT FOR CAPTIVE NATIONS

Detroit.—With the Republican National Convention meeting in Detroit during National Captive Nations Week (July 13-19), the GOP Platform Committee has adopted a strong plank that calls for "continued support for the people of Cuba and the captive nations of Central and Eastern Europe in their hope to achieve self-determination." The platform was adopted overwhelmingly by the delegates.

Criticizing the disastrous foreign policy of the Carter Administration, the platform notes that a "Republican Administration will end the sustained Carter policy of misleading the American people about Soviet policies and behavior." And to ensure that the world fully understands the dimensions of Soviet aggression, the platform states, "We will spare no efforts to publicize to the world the fundamental differences in the two systems and will strengthen such means as the International Communications Agency, the Voice of America, Radio Free Europe, and Radio Liberty actively to articulate U.S. values and policies, and to highlight the weaknesses of totalitarianism."

Commenting on the platform draft, Dr. Lev E. Dobriansky, U.C.C.A. President, Chairman of the National Captive Nations Committee and a foreign policy advisor to Republican Presidential candidate Ronald Reagan, said, "The platform has raised solid points which reflect the convictions of Americans regarding U.S. foreign policy toward our natural allies—the Captive Nations of the world." He added, "Regarding human rights, the points of the platform are well taken and should become one of the focal points of debate in the Presidential campaign."

The platform reaffirms the GOP's commitment to press the Soviet Union on implementing the U.N. Declaration on Human Rights and the Helsinki Agreements. And, it states, "A Republican Administration will press the Soviet Union to end its harassment and imprisonment of those who speak in opposition to official policy, (and) who seek to worship according to their religious beliefs."

In Detroit, several thousand people rallied and paraded in support of the Captive Nations at the start of the GOP Convention. Speakers included Mike and Maureen Reagan, the son and daughter of the GOP candidate, Dr. Lev Dobriansky, and Mrs. Anna Chennault, chairman of the National Republican Heritage Groups Council.

Captive Nations Week, which is proclaimed annually and occurs during the third week of July, was signed into law by President Dwight D. Eisenhower in 1959.

[From the Free China Weekly, July 20, 1980]

CHINESE PRESS OPINION

MORE THAN AFGHANISTAN

The English-language *China News* of July 14 said that "if the Captive Nations movement still has validity, it is a reminder that aggression is still with us and that tyranny continues to expand."

The paper said: Captive Nations Week is here again, and the cynical may well ask to what avail.

"More than 20 years after the start of this well-intentioned movement, we have more captive nations than ever.

"Afghanistan was recently added to the list as a consequence of Soviet aggression.

"That seems to have rekindled some American interest in Captive Nations Week.

"On the other hand, less than two years ago, the president of the United States placed the stamp of approval on Communist capture of the Chinese mainland.

"The nations of Cambodia and Laos are now the captives of a Hanoi regime that had already swallowed up South Vietnam.

"Is Captive Nations Week then to be construed as an exercise in hypocrisy?

"When President Carter proclaimed Captive Nations Week, which nations did he have in mind besides Afghanistan?

"Did he include Eastern Europe and the captive peoples of the Soviet Union itself?

"If the Captive Nations movement is to be more than propaganda vehicle, it must have the support of those who are prepared to fight for the right of people to choose their national identity and then freely elect their governments.

"This is the case in any country behind the Iron Curtain. The Communists do not allow free elections. They do not permit self-determination of peoples.

"The Republic of China's backing of the Captive Nations movement is not a grinding of an anti-Communist ax.

"This country opposes Communism not out of political considerations or as a rejection of socialism, but because our own Communists (and all others we are aware of) reject the people's freedom of choice.

"If the Captive Nations movement still has validity, it is as a reminder that aggression is still with us and that tyranny continues to expand.

"While so many are slaves, how can so few expect to remain free?

"Most of the world has forgotten or deliberately suppresses the fact that the mainland is captive.

"The same is true of Eastern Europe and the republics of the Soviet Union. How many Ukrainians, Georgians, Estonians, Latvians, Lithuanians, etc., wish to be ruled from Moscow?

"Advocates of liberation for captive nations need to get back to the fundamentals of who is enslaved by whom and the reasons why."

ANTI-ENSLAVEMENT MAINSTREAM

The *Lien Ho Pao* (United Daily News) of July 17 said support for the Captive Nations Movement in the Republic of China will rally anti-Communist forces around the world.

The paper said: "The Captive Nations Movement rally demonstrated the firm anti-Communist policy of the Republic of China in the face of the current tide of appointment.

"The United States initiated Captive Nations Week but since has abandoned Vietnam and played the Red China card.

"The theme of Captive Nations Week is 'Support the mainland people's struggle for freedom and democracy.'

"The Chinese mainland is on the eve of a great storm. The Communists have vainly attempted to use the 'four modernizations' to divert people's attention.

"We are convinced that the anti-enslavement movement of the world will join force with those of the ROC anti-Communist struggle because:

"—The United States will finally realize that the policy of 'uniting with the Chinese Communists against the Soviet Union' is a failure.

"—All free countries will awaken to the fact that appeasement and neutrality cannot halt Communist expansionism.

"—The 900 million mainland people will become an irresistible force of struggle for freedom, democracy and human rights.

"—The anti-enslavement movement will become the mainstream of the world in combination with the anti-Communist struggle of the Republic of China."

[From the Detroit Times, July 14, 1980]

PROTESTERS PLAY FOR SPOTLIGHT

Crowds of Detroit's Poles, Latvians, Ukrainians, Lithuanians, and Estonians—and plenty more—paraded through downtown yesterday, pushing for their piece of the national media spotlight that focuses on Detroit this week.

While Detroiters decked out in ethnic regalia demonstrated for the cause of "captive nations" in Eastern Europe, other demonstrators championed the cause of the Equal Rights Amendment.

The biggest event of the day was a rally in Kennedy Square observing the 21st annual Captive Nations Week. Nearly 3,000 persons marched from the square down Woodward to Jefferson, passing crowds of GOP delegates outside Cobo Arena and the Pontchartrain Hotel, before returning to the square by way of Washington Boulevard and Lafayette.

Michael and Maureen Reagan, two of the Republican nominee-to-be's four children, charmed the crowds from Detroit's sizable ethnic populations at the Kennedy Square rally.

"I've worked with groups such as yours and know your plights," Michael Reagan told the Kennedy Square audience.

"America has always been the guarantor of liberty throughout the world," said Maureen. "We do it because we're reminded by those who come to our shores and remind us of their fights for freedom. We need your help. We promise you our support. We're so proud of your activity that we promise you'll be proud of ours."

A champagne brunch given by the Century Club of the National Republican Heritage Groups Council attracted about 500 people, representing 28 different nationalities, to the Detroit Golf Club.

Many were dressed in ethnic costumes ranging from Albanian to Ukrainian.●

NATIONAL JOGGING DAY—OCTOBER 11, 1980

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mrs. BYRON. Mr. Speaker, I take great pleasure in introducing a resolution to proclaim October 11, 1980, as "National Jogging Day." National Jogging Day was begun in 1971 as a means of encouraging participation in fitness-related activities.

Sponsored by the National Jogging Association and the President's Commission on Physical Fitness and Sports, National Jogging Day has grown from a small gathering of a couple of dozen fitness activists to an event that in 1979 involved over 500,000 Americans. National Jogging Day seeks to encourage Americans to make safe, enjoyable exercise a part of their daily activity. While the events of National Jogging Day are fun—races, fun-runs, bicycle races, rides, walk-a-thons, and picnics—the results for the Nation's health can be tremendous.

The advantages of cardiovascular exercise have received extensive attention and documentation. An estimated 40 million Americans jog or run as a recreational activity. What is behind this sudden explosion of interest in fitness? It is my belief that many of the major diseases of our Nation—heart attack, stroke, even many forms of cancer—can be dealt with more effectively by changes in personal lifestyles than with complicated medical equipment and costly government programs. In a period of creeping government restriction and control, exercise allows us an opportunity to establish a measure of independence and self-sufficiency.

In addition, many citizens have come to recognize the simple pleasure of physical exertion. Sir Roger Bannister, the first man to run a mile in less than 4 minutes and now a leading neurologist, summarized this feeling:

> Nothing can detract from this remarkable revolution in approach to physical activity, perhaps stemming at first from fear of coronary heart disease but now mainly sustained—and this is the important part—because it is enjoyable for its own sake. The heartwarming spontaneity with which Americans grip a good new idea and put it into practice should be a lesson to the rest of the world.

It is my sincere hope that my colleagues will join me in endorsing the concept of national jogging. It is my additional desire that programs such as this will encourage a national ethic of physical well being and independence.●

IS BLACK COLLEGE CHANGE REALLY FOR THE BETTER?

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. CLAY. Mr. Speaker, as many of my colleagues are aware, there is a growing controversy about the future of our Nation's historically black colleges. This morning's Washington Post carries a column by Dorothy Gilliam which addresses the historic importance of these schools and highlights some of the invaluable contributions black colleges have made to American culture. I commend this article to my colleagues and urge them to consider the changes Ms. Gilliam describes and the ramifications that are likely to occur:

Is Black College Change Really for the Better?

I went back to school the other day—actually it was an alumni convention held a hundred miles south of my old hilltop campus. Lincoln University in Jefferson City, Mo. It was like a family reunion—a coming together of siblings from far-flung places who had grown up in a community where our development was carefully nurtured. But Lincoln had changed a lot, and it left me uneasy. I'm not sure I like it.

Once all-black, its student body now is more than one-half white, as are its faculty and staff. I'm not arguing against its integration. I just don't want it disintegrated. Colleges like Lincoln are worth preserving, but that effort is in trouble. Lincoln's total desegregation is a unique answer to the hotly debated question of the future of predominantly black colleges.

Thousands of men and women in Washington today owe their success to a black college somewhere in their past, and these institutions have spawned much of the country's black leadership. Had Martin Luther King not attended Morehouse as well as Boston University, he might be alive and mediocre today.

More than 40 percent of this nation's black bachelor's degree holders got their degrees from historically black colleges. And although only one-fourth of black students were enrolled in black institutions in 1978, half the college degrees they earned were granted by black colleges.

That's in part because the dropout rate among black students at predominantly white schools is 60 percent. It isn't that the standards at black colleges are lower, it's that many blacks come from systems that ill prepare them, so a student may be bright but academically inadequate. The black college takes him where he is and tries to move him to where he should go. These schools are great for what they do with what they get.

Lincoln's existence is owed to the soldiers and officers of the Civil War-era 62nd and 65th U.S. Colored Infantry who gathered $6,000 to begin school to train and educate blacks in Missouri. Its history is tied to preserving black heritage and achievement. There is a story like that behind nearly any black college in the country.

When I transferred to Lincoln as a junior to study journalism because my predominantly white Catholic all-girl school did not offer it, that heritage and tradition socked me in the eye. Scholarly professors, most of them black, from Ivy League colleges and other top schools around the country, were there, bent on making Lincoln a "black Amherst." They were role models of excellence, preparing us academically and pyschologically to enter the mainstream.

We weren't from the country's black elite but from average black working families of ministers and teachers and day workers, where the spending money often came $2 at a time folded inside envelopes addressed in awkward script.

While black colleges thus are far from perfect, you must credit their educating many people who would not otherwise get within a stone's throw of a college. They'd have no chance at shedding second class citizenship or contributing to the diversity that distinguishes America today.

All that heritage is today being threatened. "What I'm trying to do is hold the line," says James Frank, the reedy, youngish president of Lincoln and a Lincoln alumnus. "Whites would like us to forget . . . what Lincoln meant to blacks for over 100 years."

He faces an almost classic dilemma of maintaining some semblance of black continuity in a time when racial integration is the official watchword in education. Even unofficial attempts to keep traditionally black colleges going are now being thwarted by budget restrictions that make it hard to justify funding two separate schools or systems that are supposed to do essentially the same thing.

Frank has felt the pulls and tugs of the dilemma in many ways:

He recently sat through a long trial brought about when a white professor sued the university, charging it discriminated against him when the university tried to hire one black professional in an all-white sociology department. "At times I felt like crying," said Frank, "at times I felt extreme anger." The professor lost the case.

For years, reporters regularly have asked if he felt it was time for Lincoln to have a white president, given the changed character of the school. "Why don't you ask the University of Missouri if it isn't time for a black president," he'd snap. Until recently, Lincoln was the only institution of higher learning in Missouri where blacks served in administrative positions. "They wanted to take that away from us, too," he said.

The brain drain all black colleges have felt stings deeply, for Lincoln is neither fish nor fowl—all white or all black, and it cannot compete with higher salaries offered by larger, more prestigious institutions.

White alumni lack the pride in the institution that blacks have. Many are older commuters or state workers and do not involve themselves in campus life. Some even deny they are Lincoln graduates.

Alumnus Thomas B. Shrophire, who now is senior vice president and treasurer of Miller Brewing Company, told the group the historically black colleges are a key to helping blacks achieve 1980 style economic parity. "If we do not see that our young people receive the skills they will need to compete in the world of the future, by the year 2000, fully half of those born in 1979 can expect to be unemployed."

It may be hard to understand just where we are coming from. But like the black church, the black college transmits an atmosphere, a heritage, a culture, an anguished/joyful past. They're not for everybody, but there'll be a need for them as long as there's a need for Notre Dame or Brandeis University.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 29, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 30

9:00 a.m.

Governmental Affairs

To hold hearings on S. 2958, insuring the development and implementation of policies and procedures to encourage the Veterans' Administration and the Department of Defense to cooperate in the effective use of Federal medical resources.

3302 Dirksen Building

Select on Intelligence

Closed business meeting.

S-407, Capitol

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue joint hearings with the Select Committee on Small Business to encourage regulatory negotiation by the Federal Government.

424 Russell Building

Judiciary

Business meeting, to consider pending legislation and nominations.

2228 Dirksen Building

Veterans' Affairs

Business meeting, to consider S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors, and amendment No. 1888, to provide for limited specially adapted housing benefits for certain severely disabled veterans to S. 2649, aforementioned.

412 Russell Building

Select on Small Business

To continue joint hearings with the Governmental Affairs' Subcommittee on Oversight of Government Management to encourage Federal regulatory negotiation by the Federal Government.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to mark up S. 2236, to provide Federal law enforcement agencies full authority to investigate certain criminal activities relating to the illegal movement of currency; S. 2002, to restrict the use of the "Rule of 78," a lending practice used in the computation of rebates of unearned interest in long-term consumer loans; H.R. 7340, to encourage payment in cash by providing certain discounts; H.R. 2255, S. 380, and S. 39, bills limiting bank holding companies in selling insurance as principals, agents, and brokers; S. 1533 and 1940, bills to provide an exemption for qualified small business venture capital companies to reduce the paperwork and regulatory burdens of small businesses which sell their securities to institutional investors and to encourage large investors to make a portion of their capital resources available to small business; and Senate Concurrent Resolution 106, expressing the sense of the Congress that the Board of Governors of the Federal Reserve System should pursue monetary policies to reduce inflation, and facilitate economic growth.

5302 Dirksen Building

Commerce, Science, and Transportation

To resume hearings on S. 1789, to improve the ability of products' manufacturers and sellers to obtain product liability insurance coverage at reduced rates, focusing on a revised draft version of the bill.

235 Russell Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen building

Finance

To continue hearings on tax reduction proposals.

2221 Dirksen Building

Joint Economic

To hold hearings to examine the decline in personal savings, and its impact on economic growth.

5110 Dirksen Building

1:30 p.m.

Conferees

On S. 914, authorizing funds for each of the next 4 fiscal years, through fiscal year 1983, for public works and economic development programs of the Economic Development Administration.

H-310, Capitol

3:30 p.m.

Select on Ethics

To hold an open and closed business meeting.

154 Russell Building

JULY 31

9:00 a.m.

Governmental Affairs

Governmental Efficiency and the District of Columbia Subcommittee

To hold hearings on S. 1316 and H.R. 4417, bills providing for the coordination of federally supported research efforts regarding the Chesapeake Bay.

6226 Dirksen Building

Judiciary

To hold joint hearings with the Labor and Human Resources' Subcommittee on Health and Scientific Research to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

Select on Intelligence

Closed business meeting.

S-407, Capitol

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on an Internal Revenue Service policy of stepped-up seizures of small business because of tax delinquency.

1318 Dirksen Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).

5110 Dirksen Building

Select on Small Business

Taxation, Financing, and Investment Subcommittee

To hold hearings on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to continue markup of S. 2236, to provide Federal law enforcement agencies full authority to investigate certain criminal activities, relating to the illegal movement of currency; S. 2002, to restrict the use of the "Rule of 78," a lending practice use in the computation of rebates of unearned interest in long-term consumer loans; H.R. 7340, to encourage payment in cash by providing certain discounts; H.R. 2255, S. 380, and S. 39, bills limiting bank holding companies in selling insurance as principals, agents, and brokers; S. 1533 and 1940, bills to provide an exemption for qualified small business venture capital companies to reduce the paperwork and regulatory burdens of small businesses which sell their securities to institutional investors and to encourage large investors to make a portion of their capital resources available to small business; and Senate Concurrent Resolution 106, expressing the sense of the Congress that the Board of Governors of the Federal Reserve System should pursue monetary policies to reduce inflation, and facilitate economic growth.

5302 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on S. 2774, proposed Underground Coal Gasification and Unconventional Gas Research, Development, and Demonstration Act.

Room to be announced.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To resume hearings on the substance of H.R. 2743, to provide for a national policy for materials research and development capability and performance of the United States.

3110 Dirksen Building

Finance

To continue hearings on miscellaneous tax reduction proposals.

2221 Dirksen Building

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold closed hearings on East Asian security implications of recent changes in U.S. military force deployments and commitments.

S-116, Capitol

Judiciary Subcommittee

Meeting to discuss procedural matters and issues to be considered in its investigation of the Department of Justice concerning Billy Carter's registration as an agent of the Libyan Government.

2228 Dirksen Building

2:00 p.m.

Appropriations

Defense Subcommittee

To resume closed hearings on proposed budget estimates for fiscal year 1981 for defense intelligence programs.

1223 Dirksen Building

Energy and Natural Resources

To resume hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade, focusing on the role of U.S. foreign policy in assuring adequate supply of oil for the United States at a reasonable price.

318 Russell Building

Foreign Relations

To hold hearings on the nominations of Lyle F. Lane, of Washington, to be Ambassador to Paraguay; Barbara M. Watson, of New York, to be Ambassador to Malaysia; Robert S. Gershenson, of Pennsylvania, to be Ambassador to Uruguay; Theresa A. Healy, of Virginia, to be Ambassador to Sierra Leone; Allen C. Davis, of Tennessee, to be Ambassador to the People's Revolutionary Republic of Guinea; Henry Precht, of Georgia, to be Ambassador to the Islamic Republic of Mauritania; Walter C. Carrington, of New York, to be Ambassador to the Republic of Senegal; and Charles E. Fraser, of South Carolina, to be U.S. Commissioner General for Energy-Expo 82.

4221 Dirksen Building

3:00 p.m.

Select on Indian Affairs

Business meeting, to resume consideration of S. 2126, relating to certain coal leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation, and to consider the nomination of Thomas W. Fredericks, of Colorado, to be an Assistant Secretary of the Interior.

5110 Dirksen Building

AUGUST 1

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to continue markup of S. 2236, to provide Federal law enforcement agencies full authority to investigate certain criminal activities, relating to the illegal movement of currency; S. 2002, to restrict the use of the "Rule of 78," a lending practice used in the computation of rebates of unearned interest in long-term consumer loans; H.R. 7340, to encourage payment in cash by providing certain discounts; H.R. 2255, S. 380, and S. 39, bills limiting bank holding companies in selling insurance as principals, agents, and brokers; S. 1533 and 1940, bills to provide an exemption for qualified small business venture capital companies to reduce the paperwork and regulatory burdens of small businesses which sell their securities to institutional investors and to encourage large investors to make a portion of their capital resources available to small business; and Senate Concurrent Resolution 106, expressing the sense of the Congress that the Board of Governors of the Federal Reserve System should pursue monetary policies to reduce inflation, and facilitate economic growth.

5302 Dirksen Building

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 2734, to provide for the transfer of certain land and facilities used by the Bureau of Mines located at Carnegie-Mellon University in Pittsburgh, Pennsylvania.

3110 Dirksen Building

Finance

International Trade Subcommittee

To resume hearings on the trade and economic issues confronting the United States, and on an international trade strategy for the United States

2221 Dirksen Building

Foreign Relations

European Affairs, and Arms Control, Oceans, International Operations and Environment Subcommittees

To hold closed joint hearings on developments in theater nuclear arms control.

S-116, Capitol

Labor and Human Resources

To hold hearings on the nominations of John B. Slaughter, of Washington, to be Director of the National Science Foundation, and James E. Jones, Jr., of Wisconsin, to be Chairman of the Special Panel on Appeals.

4232 Dirksen Building

AUGUST 4

9:00 a.m.

Energy and Natural Resources

To hold hearings on the nominations of Lindsay D. Norman, Jr., of Maryland, to be Director of the Bureau of Mines, and John D. Hughes, of Texas, to be a member of the Federal Energy Regulatory Commission.

3110 Dirksen Building

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 2967, to provide for equitable Federal estate and gift tax laws in an effort to preserve family-owned businesses; and other miscellaneous tax bills, S. 2775, 2805, 2818, 2904, and H.R. 7171.

2221 Dirksen Building

AUGUST 5

9:00 a.m.

Finance

Taxation and Debt Managment Generally Subcommittee

To hold hearings on S. 336, 1247, and 1877, bills providing special tax treatment for married couples and single persons.

2221 Dirksen Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Environment, Soil Conservation, and Forestry Subcommittee

To hold hearings on S. 2861, designating certain lands in the State of North Carolina for inclusion in the National Wilderness Preservation System.

324 Russell Building

10:00 a.m.

Energy and Natural Resources

*Energy Research and Development Subcommittee

To resume hearings on S. 2926, proposed Magnetic Fusion Energy Engineering Act.

3110 Dirksen Building

Governmental Affairs

To hold hearings on the nomination of James B. Thomas, Jr., of Virginia, to be Inspector General, Department of Education.

3302 Dirksen Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 19

10:00 a.m.

Select on Indian Affairs

To hold oversight hearings on the implementation of Indian housing programs.

5110 Dirksen Building

AUGUST 20

9:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings to examine the proposed Federal Trade Commission's rule on mobile home warranty service.

235 Russell Building

AUGUST 26

8:00 a.m.

Agriculture, Nutrition, and Forestry

Rural Development Subcommittee

To hold oversight hearings on the socioeconomic effects of nuclear waste sites on nearby rural areas and small communities.

324 Russell Building

0:00 a.m.

*Veterans' Affairs

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

CANCELLATIONS

AUGUST 1

9:30 a.m.

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, July 29, 1980*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

The Reverend David J. Dodson, Church of St. Columba, Johnstown, Pa., offered the following prayer:

PRAYER OF BLESSING FOR OUR NATION'S LAWMAKERS

O divine Father and Lord of all the universe, as we are conscious of Your wondrous power, we confidently beseech Your blessing and assistance this day. We give You thanks for Your guidance of our Nation in times past through many dark and uncertain moments. We are especially grateful of Your gifts to man of unity and love which enable us to be willing to give assistance to others in their time of need when trouble and calamity strike and to be able to receive as our needs dictate. In special and grateful remembrance, the people of Pennsylvania recall in close proximity the anniversary of the great Johnstown flood of 1977 and the ensuing and continuing recovery which is indeed the fruit of Your blessing. As You have so blessed us in our past, so now continue to bless our contemporary life and the future we await. Bless, especially, this gathering of our elected representatives that they will be filled with reverence for You and with compassion and love for the people they serve. Let the activity and deliberations of Your servants be that which has Your favor. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1177. An act to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 2549. An act to authorize appropriations for fiscal years 1981, 1982, and 1983 to carry out the Atlantic Tunas Convention Act of 1975.

The message also announced that the Vice President and upon the recommendation of the majority and minority leaders, pursuant to the provisions of section 276 of title 22, United States Code, appointed Mr. WILLIAMS (chairman), and Mr. STAFFORD (vice chairman) to attend the Interparliamentary Union Conference, to be held in Berlin, East Germany, September 16–24, 1980.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce its intention to recognize Members under the 1-minute rule, first recognizing the gentleman from Pennsylvania (Mr. MURTHA) who is the host of our guest chaplain today, and as on yesterday will alternate between the Democratic and Republican sides. Presuming that there is no greater influx of Members desiring to be heard, there will be no need to establish a cutoff time; but the Chair would suggest that 1-minute speeches might be concluded by 20 minutes after the hour.

The Chair recognizes the gentleman from Pennsylvania (Mr. MURTHA) for 1 minute.

REV. DAVID DODSON

(Mr. MURTHA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURTHA. Mr. Speaker, Rev. David Dodson serves at the Church of St. Columba in Johnstown. He also heads the Johnstown Clergy Association.

I asked for the privilege of a guest chaplain from our area to commemorate the tragic flood that hit Johnstown and the surrounding seven-county area 3 years ago. That disaster killed 76 people, injured or sickened 2,700, and caused an estimated $330 million in damage.

Today's appearance by Father Dodson was arranged to add a special remembrance of the persons who died, a special commemoration for the thousands of affected families who suffered through the tragedy, and a special celebration for the community spirit that has helped to rebuild the flooded areas.

On behalf of the House of Representatives I welcome Father Dodson to the Chamber, and thank him on helping us to commemorate for the Nation the spirit and dedication of the American people typified by rebuilding in the Johnstown area.

DEMOCRATS' DIRTY TRICKS

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I was shocked to recently learn that the Democratic National Committee and the Carter Campaign Committee have engaged in a dirty tricks campaign against our fallen colleague, Presidential candidate JOHN ANDERSON.

I understand that the Democratic National Committee has admitted, when confronted with the charge by the AP, that they and President Carter's election team violated the Federal campaign law by financing and distributing information against ANDERSON while hiding the fact that they were the source of the material.

Make no mistake about it, I am not here to plead the cause of Mr. ANDERSON. My praise for his activity would consist of a mighty roar of silence. But the American people should be deeply concerned that the official campaign organizations of the Democratic Party and of Jimmy Carter—two groups which have piously proclaimed their special claim to virtue—are already engaged in a blatant, illegal smear campaign against a poor soul who could not even win a single primary.

The message, I suppose, is that the real opposition, Ronald Reagan, should brace himself, as should the American people, for a bitter, personal, vicious attack from a failing President who would rather smear his opponents than run on his record.

EAST COOPER REACT PROVIDES VITAL SERVICE FOR CHARLESTON HARBOR

(Mr. DAVIS of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of South Carolina. Mr. Speaker, many people have formed opinions about citizens band radio operators that depict these operators as talkative sorts who spend their time driving above the speed limits and using their radios to dodge the police. Now this may well be true in many cases, but this view ignores the vital services performed by CB operators and their organizations all around the country.

From personal experience, I am familiar with the good works of one such organization, East Cooper REACT of Sullivan's Island, S.C. East Cooper REACT provides as a community service a small craft logging operation for Charleston Harbor. Any boats leaving the harbor may contact East Cooper REACT on channel 3 on their CB radios; East Cooper REACT will then log the name of the craft, number of people aboard, and estimated return time. If REACT does not hear from the craft at its estimated return time, it attempts to initiate radio contact; if not successful in a reasonable time, the Coast Guard is notified of the missing boat. Of course, there are some false alarms because of forgetful or inconsiderate boat operators, but on the whole the system works well.

I believe that East Cooper REACT deserves recognition for the valuable role they play in marine safety, especially so because all of this is done by volunteers. I hope that my colleagues here will take note of these good works, done without cost to the Government or to those who utilize the service.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

NEW RECORD FOR ARBITRARY BUREAUCRATIC ACTION

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, the Federal Government set a new record for arbitrary bureaucratic action yesterday when the Labor Department ordered an end to all Government business with the Prudential Insurance Co., a major employer in my State.

The Labor Department is investigating whether Prudential's employment practices involve discrimination, and it sought computer tapes detailing employee information. But the Labor Department did not approve of the company's decision for the release of this data.

So, rather than negotiate an arrangement acceptable to both parties, and rather than go to court to get the data, the Labor Department simply rendered an early judgment on the whole matter by cutting off all of Prudential's Government business.

The reputation of this company has been harmed, and some of its employees in my State may now suffer because of the Labor Department's lack of commitment to the due process of law. I wish the company luck in court as it seeks to block this capricious, punitive, and arrogant action of Big Brother Government.

GRACE PERIOD FOR REINVESTING HOMEOWNER

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, the Federal tax law has long allowed a taxpayer to reinvest tax free, or "rollover," the gain on the sale of his old residence, provided that he reinvests in a new residence within 18 months.

Recent high interest rates have driven mortgage payments beyond the reach of many Americans who, as a result, have deferred purchase of a replacement residence in the hope that payments will soon return to a manageable portion of their income.

Many, however, will be trapped: By delaying purchase, they subject themselves to a capital gains tax. This tax will dilute the funds available for a downpayment. Furthermore, this tax will be a windfall to the Treasury because it will result not from a voluntary choice by the taxpayer, but rather, from his inability to cope with the mortgage rates that have characterized 1980.

I am today introducing a bill that remedies this situation by providing, on a one-time basis, an extension of the period of reinvestment to 36 months for homes sold in 1980 and 24 months for homes sold in 1981. This will give the reinvesting homeowner a brief, nonrecurring grace period and it will not deny to the Treasury anything it would have had if the economy had been more stable.

STUDENT INTERNS

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, currently there are about 3,000 student interns on the Hill, working in various Members' offices. This program has blossomed as indicated by the number of students and offices participating. As its size has increased, so has it quality.

Some young people are part of the problem and cannot seem to stay out of trouble. But those participating in the intern program, many of whom come to work at their own expense, are part of the solution and will be the leaders of tomorrow in their chosen professions. They are interested in the future of their country and want to make it better.

The intern program, Mr. Speaker, can be meaningful to the students and for those Members who participate. It provides firsthand experience with the strengths and weaknesses of our governmental system for the young people, so that they can work in later life to enhance the strengths and correct the weaknesses.

The program provides congressional offices with additional help to better serve constituents. In my own office, for example, we try to give each student a broad range of assignments, from filing to case work, from constituent correspondence to legislative analysis. This gives them a better appreciation for our job and provides us with new ideas and fresh approaches to solving problems.

In summary, Mr. Speaker, student interns, representatives of the youth of today, have a lot to offer us. I urge my fellow Members to take advantage of this program, to challenge the students with responsible work assignments, to talk, listen, and learn.

These young people are a valuable resource in our society. We can help them reach their fullest potential, for the good of us all.

☐ 1210

RICHARD QUEEN'S RELEASE FROM CAPTIVITY MAY INDICATE HOPE FOR AMERICAN HOSTAGES

(Mr. EMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERY. Mr. Speaker, this past weekend I had an opportunity to visit briefly with Richard Queen, our repatriated American hostage who is now relaxing with his family at home in Maine. I am pleased to report that he is adjusting very well indeed after several months of cruel captivity and is in excellent spirits.

Although we must not be too anxious to read too much into his release, I think it is a very good sign indeed that Mr. Queen's health was considered to be important by his captors. This act of concern may be an indication that there is, indeed, hope for the safe return of the remaining 52 Americans held in captivity in Iran.

IF CONGRESS GAVE AS MUCH ATTENTION TO ECONOMY AS ESCAPADES OF BILLY CARTER, CONDITIONS WOULD IMPROVE

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, we have in the country today unemployment rising and an inflation rate that is skyrocketing, energy costs continuing to go up, trade deficits continuing to widen, interest rates going up. We have problems in our steel plants, in our coalfields, with our automobile industry, pottery industry, leather, and yet Congress is not driven to outrage because of any of these economic problems, but because of the escapades of a very irresponsible Billy Carter.

Just think what this Congress could do to help our declining economy if we put the same effort into it.

THE REAGAN-GOP TAX CUT IS THE WAY BACK TO PROSPERITY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, last month Ronald Reagan and congressional Republicans introduced H.R. 7655, a bill to reduce Federal income tax rates across-the-board by 10 percent. The top rate drops from 70 to 63 percent, the bottom from 14 to 12 percent. This bill is precisely what the country needs, and I support it wholeheartedly.

Our tax rate reductions, followed by future reductions in which we completely undo the damage inflation has done to our tax system, will permit a return to economic growth and full employment without inflation. In short, H.R. 7655 is the first step on the road back to American prosperity. Anyone opposing it is voting for the misery we have now.

It is ironic to hear people like Treasury Secretary Miller attack H.R. 7655 because it may increase the 1981 deficit. The thing that is driving that deficit sky high is the recession—planned and executed by Mr. Miller and the majority party.

The way to end budget deficits is to put Americans back to work. H.R. 7655 will create jobs, improve productivity, and fight inflation. That is more than you get from the White House and the people who run this Congress, whose preference seems to be for years of economic decay.

CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 438]

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Applegate
Ashbrook
Ashley

AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dixon
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1230

The SPEAKER pro tempore. On this rollcall, 367 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

UNITED NATIONS MID-DECADE CONFERENCE FOR WOMEN

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 748) relating to the United Nations Mid-Decade Conference for Women.

The Clerk read as follows:

H. Res. 748

Whereas the World Conference of the United Nations Decade for Women: Equality, Development and Peace, is currently meeting in Copenhagen, Denmark;

Whereas the principal aims of the Conference are to review and evaluate the progress made and obstacles faced by women in member states of the United Nations in improving their access to health, educational opportunities, and employment;

Whereas the agenda of the Conference also includes items on women refugees, the effect of apartheid on women, and the situation of Palestinian women in the occupied territories;

Whereas a document drafted by the Economic Commission for West Asia on the subject of Palestinian women for discussion in relation to agenda items on the same subject threatens to detract from the positive results that could emerge in achieving the principal aims of the Conference and of the United Nations Decade for Women; and

Whereas United States foreign policy interests are best served by the positive results of constructive resolutions that could emerge from the Conference including a reaffirmation of the World Plan of Action for the Integration of Women in societies throughout the world: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the United States delegation to the Copenhagen Conference on the United Nations Decade for Women should support appropriate resolutions on the principal agenda items relating to health, education, and employment;

(2) the United States delegation should oppose any resolutions or amendments introduced at the Copenhagen Conference on issues which do not directly relate to the goals of the Conference, such as the separate issue of Palestinian women, and should work actively with other delegations to ensure that they voice similar opposition; and

(3) the United States delegation should report to the Congress on the results of the Conference.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the resolution being considered (H. Res. 748).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Resolution 748 relating to the United Nations Mid-Decade Conference for Women. The text of the resolution, which has 15 cosponsors, was approved unanimously in a slightly different form by a voice vote by the Committee on Foreign Affairs.

There are two reasons for this resolution:

First, it emphasizes that the main purposes of the U.N. Mid-Decade Conference for Women are to review and appraise the progress and obstacles to women's access to health services, employment and educational opportunities and to urge the U.S. delegation to the Conference to support these objectives; and

Second, it recognizes that the Conference may be distracted from consideration of its main objectives by purely political debate on the subject of Palestine. It urges the U.S. delegation to oppose any resolutions dealing with this or other issues not directly related to the main goals of the Conference.

Mr. Speaker, it is important that the House consider this resolution immediately because the Copenhagen Conference will end on July 30. I, therefore, urge the adoption of the resolution.

Let me recall that the first U.N. World Conference on Women took place in Mexico City in 1975. That Conference adopted a world plan of action for the integration of women in development as well as a number of other resolutions. Subsequently, the General Assembly reaffirmed the world plan of action, and various other resolutions, called for a U.N. Decade for Women, to take place between 1976 and 1985, endorsed the preparation of a Convention on the Elimination of Discrimination Against Women and called for a Conference in 1980 at the Mid-Point of the U.N. Decade for Women to review and evaluate progress achieved in societies throughout the world in meeting the targets set forth in the World Plan of Action.

In preparation for the Copenhagen Conference, the U.N. General Assembly appointed a 23-member preparatory committee which has held three meetings to discuss the agenda of the Conference. During these meetings, it was decided that the Conference should emphasize three themes—health, education and employment. In addition, the U.N. also sponsored regional conferences in Latin America, Europe, Africa and Asia to help review and appraise the progress achieved and obstacles women face in achieving access to health, education, and employment opportunities. The World Conference in Copenhagen provides the opportunity for 152 U.N. member governments to review and assess progress and prospects on a global basis on these three substantive areas.

Mr. Speaker, the preparatory committee also added other items to the agenda, including the question of women as refugees, the effects of apartheid on women and the situation of Palestinian women in the occupied territories. In addition, since the General Assembly adopted the Convention on the Elimination of Discrimination Against Women last fall, the preparatory committee decided that there should be a special signing ceremony at Copenhagen to encourage U.N. members to sign the convention.

Recognizing the potential that the item on Palestine in particular may well have for politicizing the Copenhagen Conference, I and 13 colleagues from the House Foreign Affairs Committee sent a letter to Secretary of State Muskie urging him to instruct the U.S. delegation to oppose any resolutions or amendments that were of a purely political nature and not directly related to the Conference goals. I will insert a copy of that letter in the Record. The serious concern on the issue of Palestine, which is reflected in that letter, is referred to in this resolution.

Cosponsors of the resolution recognize that U.S. foreign policy interests are best served by positive results of constructive resolutions that could emerge from the Conference, including a reaffirmation of the targets set forth in the World Plan of Action.

I urge unanimous endorsement of this resolution today as a demonstration of our support for the U.S. delegation at the World Conference on Women and I include the list of that delegation in the Record at this point:

U.S. Delegation to the World Conference of the U.N. Decade for Women, Copenhagen, July 14–30, 1980

CO-EDS OF DELEGATION

The Honorable Donald F. McHenry, Ambassador, Permanent U.S. Representative to the U.N.

The Honorable Sarah Weddington, Assistant to the President.

REPRESENTATIVES

Vivian Lowery Derryck, Director, U.S. Secretariat for the World Conference of the U.N. Decade for Women, Department of State.

Arvonne Fraser, Coordinator, Women in Development, Agency for International Development.

Alexis Herman, Director, Women's Bureau, Department of Labor.

Koryne Horbal, U.S. Commissioner to the U.N., Commission on the Status of Women.

Sarah Power, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State.

SPECIAL AMBASSADORIAL ADVISER

The Honorable Warren D. Manshel, Ambassador to Denmark.

CONGRESSIONAL ADVISERS

The Honorable Barbara Mikulski, U.S. House of Representatives.

The Honorable Mary Rose Oakar, U.S. House of Representatives.

CONGRESSIONAL STAFF ADVISERS

Margaret E. Galey, Staff Consultant, Committee on Foreign Affairs, U.S. House of Representatives.

Margaret Goodman, Staff Consultant, Committee on Foreign Affairs, U.S. House of Representatives.

ADVISERS

Virginia Allan, Special Assistant for Women's Studies, Dean of the Graduate School of Arts and Sciences, George Washington University, Washington, D.C.

Ingrid Fabbe Bauer, Clerk-Typist, Department of Social and Health Services, Friday Harbor, Washington.

Joan Zeldes Bernstein, General Counsel, Department of Health and Human Services.

Mary Bitterman, Director, Voice of America, U.S. International Communications Agency.

Barbara Blum, Deputy Administrator, Environmental Protection Agency.

Kathy Cade, Special Assistant to Ms. Carter.

Blandina Cardenes-Ramirez, Member-Designate, U.S. Commission on Civil Rights.

David Cardwell, U.S. Mission to the U.N.

Liz Carpenter, Assistant Secretary for Public Affairs, Department of Education.

Judy Carter, Writer.

Marjorie Bell Chambers, President's Advisory Committee on Women.

Nicholas W. Danforth, Education and Training Specialist, Westinghouse Health Systems.

Susan Kunitomi Embrey, Chairperson, Los Angeles City Commission on the Status of Women.

Sister Isolina Ferre, Social Worker, Puerto Rico.

Eunice Fiorito, Special Assistant to the Commissioner, Rehabilitation Services Administration, Department of Health and Human Services.

Barbara Good, Director, International Women's Programs, Department of State.

Mary A. Grefe, President, American Association of University Women.

Abigal Havens, Assistant to Ms. Weddington.

Dorothy Height, President, National Council of Negro Women.

Barbara Herz, Senior Advisor for Human Resources, International Development Cooperation Agency.

Ruth J. Hinerfeld, President, League of Women Voters.

Perdita Huston, Regional Director, Peace Corps.

Mary King, Deputy Director, ACTION.

Odessa Komer, International Vice-President, United Auto Workers.

Esther R. Landa, Immediate Past President, National Council of Jewish Women.

Lillian Levy, Press Officer, U.S. Secretariat for the World Conference of the U.N. Decade for Women.

Mary W. E. Natani, President, North American Indian Women's Association.

Bea Peterson, Journalist.

Dan Phillips, Political Officer, U.S. Secretariat for the World Conference of the U.N. Decade for Women.

Vel Phillips, Secretary of State, Wisconsin.

Maureen Rafferty, Health Education Associates, Public Health Center No. 5, California.

Lynda Johnson Robb, Chairperson, President's Advisory Committee on Women.

Deirdre Ryan, Public Affairs Counselor, American Embassy, Copenhagen.

Sana Shtasel, Department of Justice.

Csanad Toth, Bureau of International Organization Affairs, Department of State.

Anne B. Turpeau, Co-Chairperson, Continuing Committee of the National Women's Conference.

Maureen Whalen, Deputy Director, U.S. Secretariat for the World Conference of the U.N. Decade for Women.

Mr. Speaker, I include at this point in the Record correspondence between the House Committee on Foreign Affairs and the Department of State having to do with the subject of this resolution:

Committee on Foreign Affairs,
House of Representatives,
Washington, D.C., May 29, 1980.
Hon. Edmund S. Muskie,
Secretary of State,
Department of State,
Washington, D.C.

Dear Mr. Secretary: We are writing to express to you our deep concern over the agenda of the United Nations Mid-Decade Conference on Women, to be convened in Copenhagen from July 14 to July 30, 1980. It is likely that the Conference will be politicized as a result of possible action on agenda item number ten, entitled, "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories."

The agenda item on Palestinian women has been documented, as required by U.N. procedures, in a report prepared by the U.N. Economic Commission for Western Asia—a body which excludes Israel. This sixty-six page report, in our view, grossly misrepresents the socio-economic conditions of Palestinians and distorts the political context in which Palestinian women live. Furthermore, we believe that a lengthy discussion of this report in Copenhagen would not contribute in any constructive fashion to the enhancement of the status of Palestinian women.

We witnessed five years ago the way in which the adoption of a resolution equating Zionism with racism and condemning the State of Israel by the U.N. Conference on International Women's Year in Mexico City resulted in bitterness and divisiveness. Those attempting to focus attention on the status of Palestinian women undoubtedly are seeking the adoption of a similar resolution at the Copenhagen Conference.

The politicization of international conferences does not serve U.S. interests, nor does it serve the interests of the majority of states participating. In the case of the upcoming Mid-Decade Conference, such politicization would only work against the promotion of the rights of women worldwide.

Therefore, we urge you to instruct the U.S. delegation to the U.N. Mid-Decade Conference on Women to oppose amendments or resolutions whose motivation is strictly political and that do not relate directly to the substance of the Conference.

With best wishes,
Sincerely yours,
William S. Broomfield, Edward J. Derwinski, John Buchanan, Benjamin A. Gilman, Millicent Fenwick, Clement J. Zablocki, Dante B. Fascell, Charles C. Diggs, Jr., Benjamin S. Rosenthal, Jonathan B. Bingham, Stephen J. Solarz, Don Bonker, Michael D. Barnes, Tony P. Hall.

Department of State,
Washington, D.C., July 2, 1980.
Hon. Clement J. Zablocki,
Chairman, Committee on Foreign Affairs,
House of Representatives.

Dear Mr. Chairman: Secretary Muskie asked me to reply on his behalf to your letter of May 28 on the Palestinian Women's item on the agenda of the United Nations Mid-Decade Conference for Women. I am sending a copy of my reply to each of the Members of Congress who joined you in signing the letter. I share your concern completely about the effect the Palestinian Women's item could have on the Copenhagen Conference. As you may know, the United States vigorously opposed adding this item to the agenda. We also opposed making the United Nations Economic Commission for Western Asia (ECWA) report an official Conference document.

I can assure you that a major goal of the United States delegation to the Copenhagen Conference will be to keep the focus of the Conference on issues of larger concern to women. The delegation will be instructed to work with other delegations to oppose resolutions which are critical of Israel. They will be instructed in particular to oppose any resolution that is unfairly critical of Israel based on the objectionable language and analyses in the ECWA document.

Mindful of the effort to equate Zionism with racism at the 1975 Mexico City Conference and the bitterness and divisiveness that this generated, the State Department recently instructed a number of our Missions abroad to explain our position to their host Governments and to seek their support in opposing the politicization of the World Conference. As the Conference approaches, we will continue consulting with other countries on how we might best achieve this goal.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman from New Jersey (Mr. MAGUIRE) who originally circulated this resolution, and the chairman of the full Committee on Foreign Affairs who has endorsed the basic resolution.

I support House Resolution 748.

Last year the House passed the Wolff-Moynihan amendment in the State Department authorization bill for 1980 and 1981. This is now law and provides for a reduction in the U.S. contribution to the U.N. by the amount which represents our share (25 percent) of the budgets of the two PLO committees at the U.N. The legislation allows the United States a way to protest the legitimizing the PLO, and of its efforts to undermine U.S. foreign policy objectives. When I heard of the intent of this conference, I wrote to Secretary of State Muskie and asked for a financial accounting of the Conference in terms of the Wolff-Moynihan amendment. The State Department is investigating the funds for Conference servicing for this agenda item at the Copenhagen Conference. According to the law, 25 percent of the Conference costs relating to the agenda item spent by the U.N. Palestinian Committees will be withheld from the U.S. contribution as a protest. It is unfortunate that we are forced to cut back on our contribution, even by a small amount, but we must continue to let the U.N. know that we will not stand for the U.S. contribution to be channeled to the PLO to support the PLO objectives which undermine U.S. national interests and foreign policy goals. The United States must put the U.N. on notice that we will not stand for the increased or continued funneling of U.N. funds to the PLO.

The tragedy of this Conference is that the gratuitous politicizing of the Conference has hurt its very objectives of examining the problems of women throughout the world. The U.N. has made another missed opportunity out of this Conference and has insulted the problems of women by pushing their consideration aside in favor of PLO propaganda. How much can the U.N. as a body really care about the problems of women when they take the special Conference devoted to these problems and eclipse it with unconstructive discussions about the Middle East situation. This Conference was to address the overwhelming problems of the women of the underdeveloped and developing world which transcend the question of rights and opportunity and get down to the very basic issues of survival and the development of their countries. The Conference was to address questions of equality and opportunity throughout the world. I find it an insult that these pressing, often vital, problems were put aside for polemics, especially in light of the fact that there is an emergency session going on in New York to provide a polemical platform. The PLO delegation must be spread very thinly this July.

I commend the gentleman from Wisconsin (Mr. ZABLOCKI) for introducing this statesmanlike resolution, and I commend the gentleman from New Jersey (Mr. MAGUIRE) for introducing an earlier version of this resolution which he and I cosponsored. I hope that this resolution will send a message to Copenhagen in the last days of the Conference that the United States cares about the real problems of women, and objects to this effort to put those problems on the back burner in favor of international politics.

□ 1240

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the House resolution concerning the United Nations Mid-Decade Conference for Women which is currently meeting in Cophenhagen, Denmark.

This resolution is needed to address certain distressing elements in the agenda for this partially U.S.-funded Conference, elements which clearly establish the danger that this Conference will be politicized on the subject of Palestinians. In particular, may I bring to the attention of my colleagues agenda item No. 10, entitled "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories." This report, in my view, grossly distorts the social and economic status of Palestinian women and contains malicious anti-Israel rhetoric that is both unjustifiable and irrelevant to the stated purposes of the Conference.

This simple and direct resolution essentially makes three points:

First, it recognizes that the principal purposes of the U.N. Mid-Decade Conference for Women relate to the progress made and obstacles faced by women in improving their access to health, educational opportunities, and employment, and urges that the U.S. delegation to the Conference support these goals.

Second, it identifies the danger of politicization of the Conference on the subject of Palestinians and instructs the U.S. delegation to oppose all resolutions pertaining to any issue that is not directly related to the principal objectives of the Conference and to actively seek to insure that the other delegations to the Conference voice similar opposition.

Third, it declares that the U.S. delegation should report the results of the Conference to the Congress.

I strongly urge my colleagues in the House to approve this resolution which properly addresses those elements in the agenda which may undermine this potentially constructive world forum for women.

Mr. Speaker, I am happy to yield to my colleague from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding. I would like to associate myself with the remarks of our ranking minority member, the gentleman from Michigan, and say that we are serving notice, I hope, on the United Nations that they cannot pervert the committees and organizations of the United Nations to ends other than those for which they were designed.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I would like to point out that this is a bipartisan resolution; and as with all the items coming to the House from the House Foreign Affairs Committee, the fine hand of Dr. Jack Brady is seen in the diplomatic language of this resolution.

I support House Resolution 748, the resolution on United Nations Mid-Decade Conference for Women. I cosponsored this measure, in the hope that U.N. Conference for Women would be persuaded to work toward the original purposes for which the conference was designed—health, education, employment, and other matters of importance to women. The Conference should not be sidetracked by political issues which threaten to detract from positive achievement in these important areas.

The U.S. delegation to the Copenhagen Conference on the U.N. Decade for Women should support resolutions on the principal agenda items and oppose those on unrelated issues. House Resolution 748 calls upon our delegation to do so; I recommend that it be supported.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I will be happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the distinguished ranking minority member of the committee for yielding. I want to support the resolution. I also want to apologize to the chairman of the committee for the inconvenience I may have caused on Friday when I objected to consideration of this resolution. At the time, as the chairman knows, the House was involved in a dispute about the permission for 1-minute speeches, and all unanimous-consent requests were objected to. Unfortunately, this very worthy resolution expressing sentiments which I share was caught in that situation.

So, I today want to make the record clear that I support it, and I appreciate the gentleman yielding.

Mr. BROOMFIELD. Mr. Speaker, I reserve the balance of my time.

Mr. ZABLOCKI. Mr. Speaker, I yield for a unanimous-consent request to the gentleman from Missouri (Mr. BOLLING), chairman of the Rules Committee.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. BOLLING. Mr. Speaker, I thank the gentleman for yielding.

I ask unanimous consent that the Rules Committee may have until midnight tonight to file a privileged report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I am pleased to rise in support of this resolution, the Zablocki resolution. I am a cosponsor of it, and I also rise as the author of the first House resolution (H. Res. 735) which called on the U.S. delegation at the Mid-Decade Women's Conference not to participate in extraneous issues under discussion. I rise also as a longtime Middle East observer who has hoped for peace in that troubled region for many years.

When I first introduced House Resolution 735 with the cosponsorship of Representatives SCHROEDER, WOLFF, BINGHAM, DERWINSKI, and BONKER, we anticipated the deep and divisive politicization of the Conference which, in fact, has now occurred.

Although the desire of women for progress in dealing with the problems of health, welfare, employment, and education were the stated goals of the Conference, extraneous issues which would inevitably divert attention from these vital concerns were added to the agenda. Indeed, the arrangement of the agenda and material circulated made it certain that the Conference would occupy itself with one or more agenda items concerning issues far removed from the general and generic topics of the Conference. Our fears have been confirmed. And the Conference, which will be in session until July 30, has already been marred by the shameful treatment of Israel and numerous broadsides against the Camp David accords, the first positive development in that area in over 30 years.

Documentation of the anti-Israel behavior can be found in reports coming from the Conference in the newspapers and directly off the wire services. I include two AP wire service stories at this point documenting an orchestrated walkout against Israel and Egypt.

WOMEN'S CONFERENCE

COPENHAGEN, DENMARK.—At least 40 delegations, led by the Palestinians, walked out of the U.N. Conference on the Decade for Women today when the Israeli Representative rose to speak.

It was the second walkout in three days. On Monday, a similar group left the hall when Egyptian first lady Jihan Sadat addressed the conference.

Both demonstrations were staged in protest of the Israeli-Egyptian peace accords.

The Palestinian delegation, which included Leila Khaled, who gained international notoriety as an air hijacker in the early 1970s, marched silently out of the assembly hall behind a Palestinian flag. They were followed by Soviet and other east-bloc delegates—except the Romanians—and the representatives of many third world countries.

The Israeli delegate, Ambassador Hava Hareli, said she was "deeply distressed to hear several delegates attack this peace (the Camp David accords) we have achieved—the first peace in the region."

To loud applause from the remaining 100 delegations, she declared that "several delegations have abused this rostrum with vicious attacks" but she did not intend to respond in the same way.

On Wednesday, the leader of the U.S. delegation, Sarah Weddington, drew applause when she said some delegates were jeopardizing the work of the conference "by rank polemics unrelated to our purpose here."

U.N. WOMEN'S CONFERENCE

COPENHAGEN, DENMARK.—The four-day-old U.N. Women's Conference became further embroiled in political controversy Thursday when a confrontation over Zionism threatened to sidetrack the group's "world plan" for the betterment of women.

Five years after the start of the United Nations Decade for Women the delegates are meeting to draft a plan of action for the next five years.

Conference sources who asked not to be identified said U.S. delegates were seeking support from "western and like-minded countries" to kill an amendment to the plan of action. The controversial amendment would equate Zionism—the movement supporting Israel as a Jewish state—with racism.

The Israeli delegation, according to other sources, already was angry about PLO-led demonstrations against them in the assembly.

One source predicted the Israelis probably would quit the conference if anti-Zionism amendment were incorporated in the official world plan.

The latest anti-Israel demonstration took place Thursday morning when the leader of the Israeli delegation began to speak and some 40 delegations followed a Palestine Liberation Organization observer out of the hall behind a Palestinian flag.

The amendment was proposed by India with the support of the "77 Group" of Communist and Third World nations. Part of it called for elimination of "colonialism, neocolonialsim, Zionism, racism, race discrimination, apartheid and hegemony."

A milder U.S. amendment called for equal and friendly cooperation to strengthen women's own development, fundamental rights and human rights.

Several speakers, including Sarah Weddington of the United States and Lise Oestergaard, the Danish Conference president, have complained that injection of unrelated polemics was endangering the purpose of the conference. Some 1,500 government delegates from 140 countries have been debating since Monday.

Arab and Latin American countries held separate strategy meetings behind closed doors.

The PLO also appeared to be trying to stir up controversy at a parallel conference nearby, where 5,000 women not representing governments were registered. At that meeting Thursday there was a strong move for a march on the U.N. Conference to demonstrate anger at time being wasted on politics instead of used for business.

Toward the end of day's session, the Soviet Union led more than 35 delegations off the floor after failing to block a delegate of the Pol Pot regime from speaking for Cambodia. Pol Pot was ousted by a Vietnamese invasion in January 1979 and his supporters have been fighting ever since against the new Phnom Penh regime of Heng Samrin.

After order was restored, the Pol Pot delegate delivered an attack on the Vietnames invasion, charging the Vietnamese with mass murders and atrocities.

At the end of the main session 52 delegations signed the U.N. Convention on Elimination of All Forms of Discrimination Against Women—a document that is expected to be known as the Copenhagen Convention.

Sarah Weddington, co-chairwoman of the U.S. delegation, said the convention contained "certain language" with which the United States was not satisfied. She also said some passages were "objectionable" because they contained "political rhetoric" she said was inappropriate to an international convention of this type.

If there can be a bright spot in this sorry episode, it is the report that Sarah Weddington, the leader of the U.S. delegation, has condemned the organized activity aimed at subverting meaningful discussion by the Conference of real women's issues. As the wire story points out, Ms. Weddington said delegates jeopardized the work of the Conference by "rank polemics unrelated to our purpose here."

Let us resolve, then, in the Zablocki resolution, that the U.S. delegation should support only those resolutions germane to the subjects underlying the purpose of the Conference. Let us resolve that the U.S. delegation should resist those amendments of a blatantly political nature which are designed to embarrass Israel and confound the peace process. And, let us resolve to use the influence of the United States to restore order, dignity, and a sense of propriety to the international convocations of nations which, unfortunately, all too often increase our sense of disequilibrium and dispair in a turbulent world when they are treated as pawns in some of these other struggles.

I urge support of the resolution.

Mr. ZABLOCKI. Mr. Speaker, I yield 5 minutes to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I thank the gentleman from Wisconsin for yielding time to me. I support his resolution, but I do want to make a few points.

I was privileged to have been appointed by the Speaker, along with Congresswoman MIKULSKI, to serve as the congressional adviser. It was disappointing to note that the Senate did not appoint anyone. Newsweek has indicated that "most vocal delegations parrotted the unisex politics of their male-dominatd governments." That may be true if one focuses on the so-called political issues, but it is not true if one is talking about issues related to equally important topics such as women as prisoners, sexual slavery, female abuse, economic security for older women, and so forth.

While this resolution attempts to instruct our U.S. delegation, it is indeed after the fact. The United States made its position known with respect to the instructions in this resolution last week. None of us wanted the Conference politicized. What is regretfully missing from this resolution is the soul of what the U.S. delegation did, and indeed in terms of importance, in my view, one of the most important aspects of our participation—the signing of the Convention on the Elimination of All Forms of Discrimination Against Women. More than 50 nations have signed this document, including our own.

I was also very proud when the leader of our delegation signed this document, because this 30-article convention sets out in legally binding form internationally accepted principles and measures to achieve equal rights for women everywhere.

□ 1250

The theme of this document is the full and complete development of a country, the welfare of the world, and the cause of peace, which require the maximum participation of women on equal terms with men in all fields.

Some of the measures provide for equal rights for women in political and public life; equal access to education; nondiscrimination in employment and pay; and guarantees of job security in the event of marriage and maternity. The Convention underlines the equal responsibilities of men with women in the context of family life.

Proudly, our delegation leader signed this document, but the Senate must still ratify the document. What this resolution should have included was a statement urging the Senate to ratify the document, and I understand at one point that was in the original resolution.

In addition, since this resolution is being brought up after most of the Conference is over, I would have hoped that there could have been a commendation to the U.S. delegation for the resolutions the United States introduced: The resolutions included the following issues. First, women and discrimination based on race. Another resolution introduced related to the international drinking water supply and sanitation and its effects on women. The third resolution related to family violence. The fourth resolution, one that was a real priority with us, had to do with women as refugees. Another resolution which I worked many long hours on had to do with elderly women and economic security. And, finally, there was a resolution on women in the United Nations system.

Mr. Speaker, I am going to support the resolution. But it says too little, and, frankly, it is somewhat paternalistic. The U.S. delegation, made up of excellent women and men, was quite able to match the challenges of the United Nations Decade for Women. I for one was very proud to have been able to take part in the conference.

Mr. Speaker, I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I appreciate the gentleman's yielding this time to me.

I rise only to ask a question on the first resolve, which says: "should support appropriate resolutions on the principal agenda items relating to health, education, and employment."

Some reading of this might be taken to mean that we support all resolutions as long as they deal with the agenda items of health, education, and employment.

The gentleman does not mean that, does he?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. Yes; I would be happy to yield to the chairman of the committee.

Mr. ZABLOCKI. Of course not. I want to reemphasize that we are urging the U.S. delegation to support appropriate resolutions which would be in our country's interest, not all resolutions.

Mr. DE LA GARZA. Mr. Speaker, I appreciate the gentleman's clarifying that point.

Mr. ZABLOCKI. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, 2 weeks ago, I was in Copenhagen, serving as a congressional adviser to the U.S. delegation to the U.N. World Conference for Women. I was working with members of our delegation, led by Sarah Weddington and Donald McHenry, and with women from other countries. We were examining the status and the progress made by women all over the world, especially in the vital areas of health, education, and employment. I am proud to say that the U.S. delegation was taking the lead in working for a resolution on the special plight of women refugees which would emphasize the fact that most refugees are women and children. And while I had to return early because of the congressional calendar, I left with the assurance that our delegation was continuing its efforts to assist women refugees, to halt family violence, and to work on a wide range of other issues of concern to women all over the world.

Unfortunately, while the overwhelming majority of delegates were trying to work on the true agenda of the conference, a small but highly determined minority were trying to disrupt it. They were more concerned with their own, single issue agenda—which was not even a women's issue—and their tactics ranged from bullying speakers in the forum to walking out on the speech by Mrs. Jehan Sadat. They insisted the conference deliberations include a document supposedly concerned with Palestinian women which was produced by the Economic Commission for West Asia—a body that does not admit the State of Israel, which is a U.N. member, but does include the PLO.

I spoke to many delegates who were disturbed by what was happening. I talked to nongovernment observers, women who were traveling at their own expense, who were heartsick at the attempt to exploit this conference. I was personally very concerned to see an amendment introduced which would actually have designated the PLO as the official conduit for certain funds—supposedly in the name of Palestinian women. Since returning home, I have been told that this language was changed to include "consultation" with the PLO.

Mr. Speaker, I believe we must object to these tactics and we must object in a clear, unmistakable way. We cannot agree to channel humanitarian funds meant to help refugees through or with an organization devoted to terrorism.

We cannot tolerate efforts to disrupt or subvert this conference. In a world in which two-thirds of the illiterates are women; in which 70 percent of the refugees are women and girls; in which women suffer every day from physical abuse and economic inequality; we cannot permit a small group to manipulate the U.N. Conference for Women for their own ends.

I am pleased to support this resolution and I want to commend the chairman of the Foreign Relations Committee for his leadership in bringing this issue to the floor.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I protest the direction which the United Nations Decade for Women World Conference is taking, and rise in support of this resolution.

The objective of the Mid-Decade Conference, which is being held in Copenhagen until July 30, is to take stock of what has been achieved in the first 5 years of the decade by reviewing progress made and obstacles encountered in carrying out the objectives set forth in Mexico. The Conference is supposed to, where necessary, adjust existing programs in light of new data and research, and design specific action-oriented measures for the remainder of the decade with special emphasis in the areas of employment, helath, and education.

The conference preparatory committee recently introduced the effects of Israeli occupation on Palestinian women as an additional agend item. Mr. Speaker, this should be strongly opposed. The preparatory committee decided after considerable discussion that a report on the social and economic conditions of Palestinian women prepared by the Economic Commission for Western Asia (ECWA) should be an official conference document, rather than a background paper, as Western countries suggested.

ECWA also prepared a report on the "Effects of the Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories: Special Measures of Assistance to the Palestinian Women." The General Assembly decided that this subject should be a separate item on the agenda.

The Conference should not be allowed to become a political backdrop for PLO propaganda. All Americans were appalled when the 1975 conference in Mexico paved the way for the U.N. General Assembly to declare Zionism a form of racism, which it obviously is not. The 1980 conference must not be allowed to pave the way for further anti-Israel General Assembly confrontations.

Jehan el-Sadat, wife of Egyptian President Anwar el-Sadat, has already proclaimed that—

> This conference should issue a resolution demanding that Israel withdraw from Arab lands which she occupied in 1967.

Politics should not obscure the larger issues at the World Conference for Women—problems faced by women throughout the world. It is inappropriate to single out Palestinian women for special consideration and to wrongly imply that their problems as women are those caused by Zionism.

Mr. Speaker, the purpose of the World Conference for Women is not to provide a platform to propagandize the pro-Palestinian cause. Our conferees must do everything in their power to prevent the conference from being misused in this way.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I want to commend the distinguished chairman of our Committee on Foreign Affairs and the ranking minority member of our committee for bringing this resolution to the floor at this time. I am a cosponsor of the resolution.

Mr. Speaker, I rise in strong support of House Resolution 748.

Throughout the world many nations and peoples are struggling in a joint effort to help women of the world overcome the various obstacles they face in their access to health, educational opportunities, and employment. Under the banner of equality, development, and peace, the United Nations Mid-Decade Conference for Women, has convened in Copenhagen, Denmark, to focus attention on this important issue.

Unfortunately, this Third World dominated Conference has chosen not to concentrate on developing a world plan of action for women for the next 5 years, but has instead allowed itself to be manipulated and sidetracked in political controversy. Led by the Palestine Liberation Organization and its Soviet-Arab bloc supporters, the Conference has included on its agenda such items as the effect of apartheid on women and the situation of Palestinian women in the occupied territories.

The net effect of this political effort will not only divert attention from the positive results that could emerge in efforts to achieve the stated goals of the Conference, but would condemn Zionism along with racism, apartheid, neocolonialism, and imperialism. Furthermore, passage of one proposed amendment regarding Palestinian women would make possible the granting of U.N. funds to the PLO. It would be an outrageous act to allow the use of American taxpayers' dollars to support that terrorist group and its efforts to undermine the Arab-Israeli peace process and the security of Israel.

As stated in our resolution (H. Res. 748), the U.S. delegation to the Copenhagen Conference should fully support the appropriate resolution on the principal agenda items relating to health, education, and employment. They should oppose, however, any and all resolutions which do not directly relate to those goals, such as the issue of Palestinian women.

On June 26 the Senate unanimously passed the Javits resolution deploring the politicization of the Conference. In addition, more than 100 Members of Congress, including myself, have written President Carter and Secretary of State Muskie on this issue. As a cosponsor of House Resolution 748, I urge my colleagues to strongly support its passage in order to officially record this body's opposition to this attack on U.S. interests, the attack on the Middle East peace process and our allies in the region.

● Mr. WAXMAN. Mr. Speaker, I rise in support of this resolution, and want to commend the chairman of the Foreign Affairs Committee, and the chairman of the Subcommittee on International Organizations for their support for this initiative.

This resolution expresses our deep concern over an issue of growing importance to the impending World Conference of the U.N. Decade for Women to be held in Copenhagen from July 14–30: the listing of "Palestinian women" as an agenda item for the Conference.

None need to be reminded of the bitterness and divisiveness which accompanied the injection of a resolution condemning Zionism and Israel at the 1975 International Women's Year Conference in Mexico City. Indeed, later events demonstrated that this insidious measure was a precursor for the further politicization of various United Nations organs on this issue—a trend which has continued unabated.

The agenda item to discuss Palestinian women has been "documented," as required by U.N. procedures, in a vitriolic report prepared by the PLO. One cannot but objectively conclude, after reading this paper, that the question of Palestinian women is being raised solely to provide an opportunity to further isolate, intimidate, and ostracize the State of Israel.

As a general matter, such political issues are an illegitimate intrusion in an international forum whose purpose is to discuss the human needs and rights of women throughout the world. The issue of Palestinian women, as it is to be presented in Copenhagen, is utterly irrelevant to the Conference. Its very presence as an agenda item again demonstrates the wholly anti-Israel bias of the United Nations, and the moral bankruptcy of that organization.

This resolution condemns the raising of this issue in this manner before the conference, and urges that the U.S. delegation be instructed to oppose and work to defeat any such resolutions or amendments.

I very much hope, and fully expect, that President Carter and Secretary of State Muskie will do everything possible to implement our expression of concern today.

I urge the adoption of this resolution.●

● Mrs. HECKLER. Mr. Speaker, I strongly support House Resolution 748, an expression of commitment to equality, development, and peace throughout the world. These are the core values of the Mid-Decade Conference for Women which convened in Copenhagen recently. The goals of the Conference are clearly concerned with the quality of life for women in member states of the United Nations. But these goals are being shamelessly shunned by those members who seek to exploit and politicize the Conference.

To include the Palestinian issue on the Conference agenda in this way is only a blatant attempt by the U.N. to again attack the existence and beliefs of the people of Israel. Such an inclusion in no way relates to the improvement of life for women. As in the past, the U.N. is abusing the objectives of the Conference and seeking a forum for views that are alien to American ideals and totally at odds with the point of the Mid-Decade Conference. However, these disruptive tactics should further our resolve and deepen our commitment to the basic principles of the Conference, where the central issue is equality for women. Equality must never be held ransom by any nation for any reason, and I deplore the efforts of those who would do so.●

● Mr. HALL of Ohio. Mr. Speaker, I rise in support of House Resolution 748. In Copenhagen, Denmark, women from all parts of the world have been meeting for the past 2 weeks at the United Nations Mid-Decade Conference for Women. The stated purpose of this Conference was to review, at the halfway point, the progress of the U.N. Decade for Women as it seeks to address the health, education, and employment opportunities of women the world over. The Conference is a historic opportunity to focus worldwide attention upon the urgent concerns of women.

The U.N. launched its Decade for Women in the summer of 1975 with its worldwide meeting in Mexico City. The goals of that Conference were diverted by factions which sought to politicize the event. The delegates at this Mexico City Conference were the first to link Zionism with "racism and apartheid." This perversion served the purposes of those hostile to Israel and acted to trivialize the important advances of the Conference.

The goal of the Mid-Decade Conference is to alleviate the serious difficulties which face women in the areas of health, education, and employment. Yet, U.N. preparatory meetings, documents already distributed, and recent reports from Copenhagen indicate that the Conference is again being politicized, relegating social issues and concerns to a secondary position.

The document drafted by the Economic Committee for Western Asia—an organization which includes the PLO, but not Israel—on the subject of Palestinian women does not assess the position of those women with reference to the overall international socioeconomic and political structure. Instead, it seeks to define these women's problems in narrow terms, relating solely to aspects of the political dispute in the Middle East. This document is a thinly veiled attack on Israel and detracts from the ideals of the Conference.

It is for these reasons that I signed a letter expressing my concern about the

Conference to Secretary of State Edmund S. Muskie and I have cosponsored House Resolution 748. This resolution expresses the sense of the House that the U.S. delegation to the Conference actively oppose any resolutions or amendments which do not directly relate to the goals of the Conference. In this manner, the U.S. delegation will act to focus the attention of the Conference on the appropriate agenda items concerning the progress made and obstacles faced by women in member states of the United Nations in improving their access to better health, education, and employment opportunities.

It is my hope that this resolution will act to effectively bar deviations from the noble and important purposes of the Conference. I urge my colleagues to vote in favor of the resolution.●

● Mr. AMBRO. Mr Speaker, I rise in support of House Resolution 748. Once again it seems that the vituperative policies of the militant Arabs in general, and the PLO in particular, have infringed upon areas in which they have no real standing. It seems as if there is no matter, even one of purely humanitarian or social concern that is not tainted by such politicization. It is truly a shame that the worthy ends of such efforts as the World Conference of the U.N. Decade for Women, currently meeting in Copenhagen, are in danger of being obscured and subverted by the political shenanigans of the U.N.

Once again, in a most inappropriate forum, the PLO has shown its true face, operating with only one goal in mind, that of preventing a peaceful settlement of the situation in the Middle East. The actions of this band of terrorist murderers, both within and outside of the U.N., have been truly reprehensible. It is indeed ironic to find representatives of such an organization seated in an institution originally formed to promote peace. It is far more disturbing to realize the tremendous impact and influence that they seem to have gained in the court of world opinion.

It is in this regard that they have now brought their warped political weapons to the forefront of an international conference intended to deal solely with the review of the progress made and obstacles faced by women in terms of health, education, and employment. The documentation prepared by the Economic Commission on West Asia—ECWA—for the agenda item, "Effects of Israeli occupation on Palestinian women, inside and outside the occupied territories" is, in essence, a piece of PLO propaganda: severely biased, inaccurate, and discriminatory. This should come as no surprise as the PLO, an observer group at the U.N. is admitted to ECWA while Israel, a member state, is not.

Moreover, the report neglects to deal with the questions at hand, those dealing with the lives of women in general. While the supporting documentation for other agenda items does not steer clear of politics either, it is able to present an assessment of each problem's impact on women as well. This is in direct contrast to the ECWA report which serves rather to divert world attention from such matters and, in doing so, hinders and scars the efforts of the conference as a whole.

Such conferences are intended to benefit mankind and, in order to do so, they must remain open, free of any bias. We should not allow the nations of the world to be denied access to any positive results these conferences may yield by allowing discussion on issues not directly related to the immediate question or by allowing the self-interest of one group to guide the conference toward its own specific ends. It is my hope that these conferences may be able to fulfill their promise for the future. I trust that the U.S. representatives are aware of this situation and will take every opportunity available to them to diffuse the Palestinian rhetoric and prevent the conference from becoming a total travesty as well as a showcase for Arab histrionics. Let us not jeopardize this future by allowing such politicization to continue.●

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. MINETA). The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the resolution (H. Res. 748).

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 9, answered "present" 1, not voting 41, as follows:

[Roll No. 439]

YEAS—382

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—9

Crane, Daniel
Findley
Hansen
Kelly
Leath, Tex.
McDonald
McKay
Paul
Stump

ANSWERED "PRESENT"—1

Gramm

NOT VOTING—41

Anderson, Ill.
Anthony
Baldus
Boggs
Boner
Bonior
Bonker
Brown, Ohio
Collins, Ill.

Davis, S.C.
Dickinson
Dodd
Erdahl
Ford, Mich.
Ford, Tenn.
Holtzman
Hyde
Jacobs
Jeffords
Jenrette
Leland
McCloskey
Madigan
Martin
Mathis
Mavroules
Murphy, N.Y.
Obey
Rodino
Rose
Rostenkowski
Runnels
Santini
Sebelius
Seiberling
Simon
Stark
Steed
Symms
Wilson, C. H.
Winn

☐ 1310

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Brown of Ohio.
Mr. Santini with Mr. Hyde.
Mr. Rodino with Mr. Winn.
Mr. Rostenkowski with Mr. McCloskey.
Mr. Mavroules with Mr. Martin.
Mr. Murphy of New York with Mr. Jeffords.
Mr. Obey with Mr. Anderson of Illinois.
Mr. Jenrette with Mr. Dickinson.
Mr. Dodd with Mr. Leach of Iowa.
Mr. Bonior of Michigan with Mr. Madigan.
Mrs. Collins of Illinois with Mr. Seiberling.
Mr. Stark with Mr. Runnels.
Mr. Steed with Mr. Sebelius.
Mr. Charles H. Wilson of California with Mr. Leland.
Mr. Mathis with Mr. Bonker.
Mr. Davis of South Carolina with Mr. Boner of Tennessee.
Mr. Ford of Tennessee with Mr. Anthony.
Mr. Ford of Michigan with Mr. Jacobs.
Ms. Holtzman with Mr. Rose.
Mr. Ertel with Mr. Simon.
Mr. Baldus with Mr. Symms.

Mr. KELLY and Mr. HANSEN changed their votes from "yea" to "nay."

Mr. LENT changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL STATEMENT

Mr. WINN. Mr. Speaker, on rollcall No. 439 I was off of the Hill, and our communications systems did not work in a certain hotel. However, on the passage of House Resolution 748 had I been present, I would have voted "yea."

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be permitted to sit during the proceedings under the 5-minute rule in the House on Wednesday, July 30, 1980, for the consideration of the bill, H.R. 7668, a bill dealing with intelligence oversight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the bill, H.R. 7591, Agriculture, rural development, and related agencies appropriation bill, which will be considered today, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the While House on the State of the Union for the consideration of the bill (H.R. 7591) making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from North Dakota (Mr. Andrews) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. Whitten).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7591, with Mr. Corman in the chair.

☐ 1320

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Mississippi (Mr. Whitten) will be recognized for 1 hour, and the gentleman from North Dakota (Mr. Andrews) will be recognized for 1 hour.

The Chair recognizes the gentleman from Mississippi (Mr. Whitten).

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, we bring to you today a bill which I think is the basis for the well-being of the people of this Nation.

IMPORTANCE OF AGRICULTURE

Now, first, I would like to say as we deal with this subject matter of agriculture, that you may wonder why—with the length of service that I have here—that I have continued to serve as chairman of this subcommittee. I will tell you, frankly, it is because I consider it the key to all the rest of it. Not only that, but as the total number of those engaged in argriculture become less and less, their number of political representatives become less and less and we find more and more people with nonfarm backgrounds.

Let me also say before we get started, that I think the country owes a debt of gratitude to my colleagues on this committee: the gentleman from Missouri, Bill Burlison, from the Bootheel area of Missouri has continued to realize that agriculture is basic not only to his district, but to the rest of the country.

The same thing can be said about the gentleman from Michigan (Mr. Traxler), the gentleman from Arkansas (Mr. Alexander), the gentleman from New York (Mr. McHugh), the gentleman from Kentucky (Mr. Natcher), the gentleman from Texas (Mr. Hightower), the gentleman from South Carolina (Mr. Jenrette), and on the Republican side, may I say that it has been a pleasure for me to work through the years because this has been a bipartisan committee. The gentleman from North Dakota (Mr. Andrews), the gentleman from Virginia (Mr. Robinson), and the gentleman from Indiana (Mr. Myers) and the gentleman from Massachusetts (Mr. Conte), the ranking minority member of our full committee. Each and all have been most helpful. I could spend a reasonable length of time telling you the great contributions that each of these Members have made to the Nation's welfare; but at this time I would like to point out two or three specific things.

May I also thank the membership of the Congress. Many of them come from nonfarm areas or from the cities. It is a source of gratification to realize that we on this subcommittee have had the support of all colleagues from the cities as well as from the rural areas. That is as it should be.

It has been said, and I have used it many times, that the standard of living of most any nation is determined by how small a percentage of the time goes into providing food, clothing and shelter. In Russia, it takes almost 50 percent of their time. In our country, I believe it took 16.5 percent of the time, which means that the other 83.5 percent is available to do all the other thousand and one things that make for our high standard of living.

Perhaps someone wonders why it is that we have to have price supports payable to those engaged in agriculture. It is very simple. Under the law we have provided that industry and labor get a bigger and bigger share of the consumer dollar and that leaves less and less for agriculture. So the farmer, who has had his share taken away from him by law, has to come to the Treasury to offset that portion which went to industry and labor under the law.

So I say to you here that we are not only dealing with less than 5 percent of our people, but that 5 percent constitutes the biggest market that industry and labor has. Not only that, but when farmers buy from industry and labor they have to pay all these extraordinary prices, which industry and labor, because of other laws, can pass on in the way of higher prices.

Not only that, but the man engaged in agriculture may find that the farm chemicals or farm fertilizer that has been economical and cheap has been restricted by his Government and he is then required to use something far more expensive and often much more dangerous.

Not only is that true, but we are living in an age where the man who buys farm machinery has to have all sorts of attachments which are required by law and which are very expensive and which frequently they take off just as soon as they get home.

I say to you as we come before you today that we are representing the key to our domestic prosperity and our chief source of foreign dollars to keep up our balance of trade. We are representing American Agriculture.

NEED TO MOVE U.S. COMMODITIES

Now, I have been on this committee long enough to have firm convictions about some things. I think there are a number of weaknesses that we have under our system. It is based on the fact that for many years we could not get American products sold in world markets. We could not get a former Secretary of Agriculture to offer U.S. products at world prices. Of course, you cannot sell anything if you do not make the price right. We finally got over that hump.

Today we are dependent upon the big international companies to move American produce and products or commodities and frequently it is to their interest, being international in makeup, to deliver it from somewhere else other than the United States.

Not only do I consider that a weakness, but I think it is a mistake to pay our farmers to store their commodities instead of paying them for their commodities and moving their commodities in world trade in a hungry world. To pay them to store it on their farms instead of selling in world trade is a mistake. History shows that when you store it, much of its goes out of condition. It is not easy to move into trade. It gets many people into trouble because the stored commodities are not inspected properly. I thought that was a shortsighted policy when it was passed and I think so today; but we still have it.

As I noted in today's paper, the President, and he had the authority already, has increased the price support or the size of the loan which could be made against a number of farm commodities.

COMMODITY CREDIT CORPORATION

Now, may I describe to you that at the moment, according to the press, and I have not had a chance to study the figures, there is a question whether or not the price is not higher now than the increased level at which the loan may be made.

Under the present system of the Congress, of establishing a fixed budget ceiling, luckily this order of the President can be carried out. It is not limited by the budget ceiling because of the Commodity Credit Corporation. Many of you may not realize it, but the Commodity Credit Corporation was created, I believe, in 1934 and was incorporated under the laws of Delaware. The Corporation was set up with the right to buy and sell agricultural commodities, to store and to do all those things that a corporation could normally do plus some others. With time that Delaware corporation was made a U.S. corporation, with the right to buy and to sell and do all these many things that have to do with a corporation engaged in agricultural price supports and purchases. The Corporation has really been given about every authority imaginable.

But the point to be made here is that the President's order can be financed because of the corporation, which has been incorporated for $20 billion, has something in excess of $5 billion that is not at the moment committed.

☐ 1330

So there is money available to carry out the orders of the President due to the Commodity Credit Corporation, which we fund in this bill.

NEED FOR SOIL CONSERVATION

So, as I come to this bill, may I say that we on the committee have recognized that those engaged in agriculture are the caretakers of the land. I intended to bring with me, and I will quote it later, what is termed the 11th commandment, "thou shalt take care of the land," in effect. Look at the topographical map of India and of China and all of these wornout countries today, and you will see that those in charge of the land, either because they did not get enough income to take care of it, or for other reasons, have let it waste away. In Italy the old Appian Way is many, many feet above the surrounding land. Cities that used to be on the main waterways of the world are now 40 miles inland from the coast. Many places that were rich in biblical days no longer will produce food or fiber.

In this country, and I am going to claim for this Congress, including myself and the members of this subcommittee, we have seen to it that we have a rich land through this bill over the years. We have reforested our land. We have provided for soil conservation. We have provided for watershed protection and flood control. May I say to my colleagues that 28 times out of 28 the Congress has overridden the recommendations of the President and saved the soil conservation programs which we have in this country. Today, with all of our financial problems, the one saving grace is the fact that behind it we have a country rich in physical resources.

I know you hear about changing the environment. The history of mankind shows throughout history that man has changed his environment to suit his needs. May I pay tribute to those relatively few engaged in agriculture, less than 5 percent of our population, who do not own the land but are the trustees of the land for the people of the Nation during their lifetime. They have done a wonderful job of putting back into it a fair share of what was taken out. The relatively small amount of money that the rest of us pay through the soil conservation programs is small indeed as compared to what those few pay out to preserve the land for the present and the future.

URBAN GARDENING

There are so many things we do on this committee. I know our cities are important to all of us. One of the things we need to do is to keep those in our cities conscious that we are all in this thing together. Yet for the last 4 years we have had to restore the urban gardening program. According to the U.S. News & World Report, over 51 percent of our people are producing vegetables of one kind or another. Is it not wonderful that they are doing that? Everybody cannot play golf. Not everybody can go to some of these places where Congress has set up wilderness areas, places where you would have to be a rich man to get there and have to be even richer to get out.

But faced with the budget cuts in urban gardening every year we have to put the money back. Would you not think that a Budget Bureau, when you had overridden them in the Congress, the people's branch—this is where you make the laws, this is where you appropriate the money, not the President's Office, not at the White House, not at the Budget Bureau—would you not think that when we had overridden them 28 times out of 28 that they would wake up and leave the soil conservation programs alone? I should think so.

Mr. Chairman, I would now like to turn to the state of agriculture, an obvious primary concern of this committee.

THE STATE OF AGRICULTURE

During recent years, Mr. Chairman, gross farm income has continued to rise, but farm production costs have increased at an even greater rate. In 1979, returns to equity from farming were 4.1 percent compared with 16.7 percent for all manufacturers. Off-farm income last year accounted for 58 percent of total farm income. During 1979, the farmer's share of the total food dollar continued to drop. Prices paid by farmers have continued to increase at a more rapid rate than prices received for their crops. Fuel costs have led the upward spiral with an increase of 46 percent last year, followed closely by the cost of farmland. At the end of the year, farm debt was $158 billion, up 15 percent in one year. The number of farms continued to decline. On top of all this, the farmer was faced with the highest rate of inflation in history and the Soviet embargo.

Mr. Chairman, the state of agriculture is in jeopardy.

AGRICULTURE ESSENTIAL

With the state of agriculture in mind, Mr. Chairman, the Committee presents herewith the one annual appropriation bill which funds programs in which producers, consumers, labor and industry, all have a close mutual interest. Agriculture produces the food and fiber needed by consumers and provides the biggest market for industry and labor, while consumers provide the market needed by agricultural producers.

FOOD PRODUCTION BASIC

Food production must be the first order of business, since an economically prosperous agriculture remains the basis for and the foundation for all other segments of the Nation's economy. The great contributions throughout the years by those engaged in food and fiber production, with about 4 percent of the American people now on the farm, makes it possible for the other 96 percent to engage in other pursuits which provide the many things that make for our high standard of living in the United States.

Mr. Chairman, the Committee has been gratified by the increasing recognition of these facts by colleagues in the Congress and by an increasing number of the urban consumers in the Nation. It has greatly appreciated the valuable assistance, support and counsel received from urban members of Congress in handling the annual appropriation bills for the Department of Agriculture.

Together, producers and consumers benefit from all programs in the bill and have a mutual interest in its passage. It is essential, therefore, that agriculturalists continue to seek the support of urban consumers through their Representatives in Congress and through the media for the funds necessary to carry out the Nation's farm programs.

FARM INCOME

Gross farm income has continued to rise in recent years, Mr. Chairman, but net income has gone down, because farm production costs have increased at a greater rate during this period. USDA figures show that gross farm income increased from $70.1 billion in 1972 to $146.8 billion in 1979, an increase of $76.7 billion or 109 percent. During this same period, farm production expenses more than doubled, from $52.3 billion to $113.5 billion, an increase of $61.2 billion or 117 percent. The result, therefore, has been that the net income of American farmers has deteriorated in the past 8 years, during a period when inflation has reduced the value of the dollar nearly 50 percent.

USDA estimates that gross farm income in 1980 will increase by $4–$8 billion, while production expenses will increase by $10–$15 billion. This means that net farm income will decrease from $6–$9 billion (in current dollars) and $4–$5 billion, in 1967 dollars, below the 1979 level.

USDA figures show that the farm value of corn in a 52-cent package of cornflakes is around 4.5 cents. They show that while the retail price of bread went up over 50 percent in the past 10 years, the price of wheat at the farm went down 4 percent during the same period.

PRICES RECEIVED AND PAID BY FARMERS

Mr. Chairman, the farmer continues to lose ground in meeting production expenses. Since 1972, he has lost 7 percent in prices received as compared to prices paid. Between 1972 and 1979, prices paid have increased an accumulated 100 percent, while prices received have increased only 93 percent.

The major increases have been in fuel, which has increased 155 percent, and machinery, which has increased 126 percent. For example, the cost of a 7700 John Deere combine was about $26,600 in January 1974. In early 1979, the cost of a comparable model was $62,800, an increase of $36,200 or 136 percent. Today, a slightly modified model costs $72,700, a further increase of 16 percent.

SOURCE OF FARM INCOME

Net income from farming has had to be augmented by off-farm income, which accounted for 58 percent of total income to farm operators in 1979. Smaller farms are much more dependent on off-farm income today than ever before. In 1978, off-farm sources accounted for 85 percent of income to families on small farms compared with 24 percent for those on larger farms.

The smaller farmers, who represent nearly 70 percent of total farm operators, account for around 10 percent of farm products sold. The larger farms, some 31 percent of all farms, account for about 90 percent of all farm sales.

Mr. Chairman, figures from USDA indicate that small farmers are having to depend more and more on off-farm income to cover their operating expenses, their taxes, and provide a meager living for their families. Their net farm earnings have remained virtually constant since 1965, while their off-farm earnings have increased by nearly 300 percent.

FARMER'S SHARE OF FOOD DOLLAR

The farmer's share of the consumers' food dollar is projected at 37–39 percent in 1980. This compares with 47 percent back in 1950.

USDA statistics show that consumers spent $239 billion for food grown on U.S. farms in 1979. About $77 billion went to farmers. Of the remaining $162 billion, $74 billion went to labor, $20 billion went to packaging, $12 billion went to transportation, and $56 billion went to other costs associated with getting food from the producer to the consumer.

Non-farm costs have taken an increasing share of consumer outlays for food since 1973. Labor costs, the largest component of the marketing bill, exceeded the farm value in 1977 and nearly equaled it in 1978 and 1979. A further sharp rise is expected in the marketing bill in 1930, especially for energy-related components and labor.

FARM PRODUCTION EXPENSES

One of the major problems facing the farmers during the past decade has been the constant increase in production costs, far beyond the gradual rise in gross farm income.

Mr. Chairman, production expenses more than doubled in the 1970's from $44.4 billion in 1970 to $113.5 billion in 1979, an increase of $69.1 billion or 156 percent. They are expected to increase to $124–$130 billion in 1980, another $10–$16 billion increase.

During the period 1970 to 1979, feed and livestock purchase prices have increased about 135 percent, seed and fertilized costs have risen some 212 percent, interest costs have gone up around 256 percent, taxes and rent have increased about 108 percent, and depreciation has risen some 173 percent.

Total production inputs used in farming have not increased significantly in recent years. However, the mixture of inputs had shifted to meet changing conditions. Crop farmers have expanded the use of fertilizers and pesticides to increase yields. Increases in feed and livestock result from more specialization and expansion of domestic meat consumption.

INCREASED FUEL COSTS

Mr. Chairman, the cost of petroleum products has led the farm cost spiral. An average annual increase of 30 percent occurred during the 1970's, compared with an average annual increase of 5 percent in the 1960's.

Farm expenditures for petroleum fuel and oil were $3.3 billion in 1975. They rose to $4.6 billion in 1978, an increase of 39 percent. The 1970 fuel cost is expected to reach $6.7 billion, an increase of 46 percent over 1978 and more than double the 1975 expenditure. Further large increases in farm fuel costs are a certainty for 1980.

It is interesting to note, Mr. Chairman, that these increased fuel costs have had only a limited effect on retail food prices. Testimony presented to the Committee shows that, while energy prices in the farm production sector have increased sharply, the impact on consumer prices has been minimal.

It also indicates that the greatest impact on consumer food prices would result not from the pass-through of energy prices, but from possible energy curtailments to the agricultural sector. Since the United States imports 60 percent of its crude oil requirements, even a short-term interruption of fuel supplies could have a serious effect on consumer prices and food supplies.

FARM DEBT

Mr. Chairman, total farm debt reached nearly $158 billion on January 1, 1980, over 15 percent above one year ago. Farm real estate debt rose by 15 percent due largely to higher land prices. Non-real estate debt of farmers rose 17 percent due to higher production costs.

One economic indicator of conditions in the farm sector is the repayment capacity of farm units; i.e. the ratio of income to debt, which measures the number of years required to pay back existing farm debt at current income levels. According to recent testimony, this ratio rose rapidly in the mid-1970's to between 5 and 6 years. It declined to 4.7 years in 1978 and went up slightly to 4.9 years in 1979. With a projected drop in farm income and continued debt expansion in 1980, this ratio should rise once again. It is expected that off-farm income, which has been an important debt repayment source in recent years, will help again in 1980, although this is not expected to fully offset the projected increase in the debt outstanding-farm income ratio.

INFLATED LAND COSTS

Land costs in the United States have increased steadily during the last two decades. In most areas of the country, they have gone up far beyond their value as income producing assets. USDA figures show that since 1969, land values have increased over 200 percent nationally. In parts of the midwest, land values have greatly exceeded the national average. For the States of Iowa and Wisconsin, the increase has reached over 300 percent since 1969.

Mr. Chairman, over half of the heavy farm debt now carried by farmers is for highly inflated farm land. Much of this debt was incurred in recent years by younger people who were encouraged to go into farming or to expand existing farming ventures, in an effort to meet ever-increasing production costs with inadequate increases in income.

Also, in recent years there has been a

growing demand for farm land, as pressures for farm acquisition and farm enlargement have increased as a hedge against inflation.

Foreign investors with large holdings of deflated dollars have also had a strong influence on farm real estate values in the United States. Increasing pressure on the dollar has encouraged overseas purchasers to invest their large dollar holdings in land, farms, buildings and other assets in this country as a means of getting something tangible for their money.

While some agricultural producers are considered wealthy because of the large value of their land holdings, such wealth can only be realized if the farm owners sell their land and stop farming. As long as they stay in the business of farming, they must retain such land for farm production use and must attempt to earn enough income to pay the increased taxes, interest and other necessary production expenses—and hope to have a small amount left over to house, feed and clothe their families. In essence, such farmers suffer from "a cash-flow problem," regardless of the paper value of their holdings.

DECLINE IN FARMS AND FARMERS

The number of farms has decreased steadily during the past two decades as shown by USDA data which I will provide for the record:

1961	3,825,000
1966	3,257,000
1971	2,909,000
1976	2,778,000
1977 [1]	2,409,000
1978 [1]	2,370,000
1979 [1]	2,330,000

[1] New definition—Farms with annual sales of $1,000 or more.

Testimony from USDA officials indicates that the decrease has been entirely in the smaller-sized operations, those with agricultural sales of less than $20,000 per year. They attribute this steady decline to the "aging process"—i.e. the fact that farms sold or abandoned by older farmers are not being taken over and continued by younger people. Estimates provided by USDA several years ago indicate that, from 1965 to 1974, some 930,000 farm operators over 55 years of age stopped farming, while only 475,000 farmers under 35 years entered farming—approximately a 50 percent replacement rate.

Department of Agriculture statistics indicate that land in farms continues to decline slowly from 1.055 billion acres in 1977, to 1.052 billion acres in 1978, and to 1.049 billion acres in 1979. Farms continue to increase in size, from a nationwide average of 438 acres in 1977 to 444 acres in 1978 and 450 acres in 1979. Over the last decade, total land in farms has declined 4 percent, due in large part to losses resulting from urbanization and highway construction.

Mr. Chairman, the level of farm workers and farm population has dropped steadily in the past three decades. Agricultural employment fell from 7.1 million workers in 1950, 12.1 percent of total civilian work force, to 3.3 million in 1979, 3.4 percent of all civilian workers. Nonagricultural employment increased during this period from 51.7 million in 1950 to 93.6 million in 1979, an 80 percent increase.

Farm population has gone down from 23 million in 1950 to 6.2 million in 1979. The farm population's share of total population dropped from 15.2 percent in 1950 to 3.4 percent in 1979.

This decrease in farmworkers has added greatly to the financial problems of farmers. They have had to replace such labor with expensive mechanical equipment. For most farmers, this has necessitated a further increase in their debt load. With today's high interest rates and inflated machinery prices, this adds greatly to the farmer's cost of production and to his financial risk.

INFLATION AND THE ECONOMY

Mr. Chairman, the first and foremost problem facing the Nation today is inflation. With inflation at 20 percent, and with a prime lending rate that reached 19 percent, the United States is faced with a serious financial crisis.

The dollar has depreciated 50 percent during the past decade. This country has taken the gold from behind its currency and the silver out of its coinage. It has allowed its money to become nothing more than a promise to pay. It has continued to run substantial foreign trade deficits which have greatly weakened the dollar.

The Federal debt has reached nearly $900 billion and the President's budget projects an increase to $897 billion by the end of the 1981 fiscal year—about $4200 for every man, woman and child in this country.

The sale of government securities recently brought 16 percent interest, the highest in the history of this country. Interest on the public debt will cost the taxpayers over $73 billion in 1980 and over $79 billion in 1981—about $214 million per day or $9 million per hour.

State, local and private debt is now estimated to be approximately $3 trillion. In addition, the Federal government has net contingent liabilities of about $4 trillion for loan guarantees, insurance liabilities, Social Security, and other pension obligations, and international commitments. Government lending agencies are operating at an all-time high.

Mr. Chairman, at the present time about 58 percent of the funds in the Federal budget are indexed by basic law to guarantee increases to meet inflation. An additional 21 percent of the Federal budget is needed to meet "entitlements" established by basic law. Adding funds to meet such cost-of-living adjustments and guaranteed entitlements merely brings on additional inflation. It is like trying to put out a fire with gasoline. Fortunately, the United States is a strong country—one that is rich in human and natural resources. Its people and their representatives can, if they have the will, restore the economic health of this Nation.

INFLATION IN GERMANY

Mr. Chairman, many people are unaware of what inflation did to Germany after World War I. Studies show that rampant inflation in that country destroyed the workingclass and created a situation which facilitated the eventual takeover by Hitler. Yet, few people are actually aware of how that inflation happened.

According to material prepared by the Congressional Research Service, in July 1914 the mark was valued at 4.2 to the American dollar. In July 1921 it was valued at 76.7 to the dollar. In January 1922 the value had dropped to 191.8 to the dollar. Inflation had been steady but gradual for eight years until July 1921, when it exploded into a classic currency inflation that led to the collapse of the entire German financial system in 1923. On November 15, 1923, the mark was valued at 4.2 trillion to the dollar. It had fallen to one-one-trillionth of its previous value.

All the marks that existed in the world in the summer of 1922—190 billion were not worth enough by November 1923 to buy a newspaper. Legal interest rates reached 22 percent per day. The money printing industry was one of the largest businesses in the country, employing thousands of people.

SERIOUS IMPACT ON AGRICULTURE

Since agriculture is at the lower end of the economic ladder—the starting point for the generation of food and fiber to support the Nation's economy—farmers have traditionally been more severely affected than others by the ups and downs of the economy. Through the years, as the farm share of the consumer dollar has decreased or leveled off, and as farm production costs have continued to go up due to inflationary pressure, net farm income has suffered.

In addition to the rapid increase in the cost of the many things the farmer must buy to produce a crop each year, the very large expansion in the cost of two items—fuel and interest—has created a serious "credit crunch" for the average farmer.

The cost of petroleum products has increased $5 billion, or about 300 percent, between 1970 and 1979. A further increase of up to $3 billion appears certain for 1980.

During this same period interest costs have risen about 256 percent, with a prime lending rate of nearly 20 percent in April 1980. The prospects for further increases in interest costs to farmers appear probable for 1980 and perhaps 1981.

Interest rates of over 12 percent were charged by Production Credit Associations on non-real estate farm loans in early 1980, amount 2.5 percentage points higher than a year before. Interest rates charged by private lenders in early 1980 were considerably above PCA rates, running as high as 16 to 17 percent in some areas.

Farmers have no choice but to depend on short-term credit to provide the operating capital needed to continue farming year-to-year. Unfortunately, the demand for operating loans and farm the demand for operating loans and farm ownership loans is outpacing the amount of funds available from both governmental and private lending sources.

According to FCA testimony, loans made by PCA's in 1979, which serve short- and intermediate-term credit needs of farmers, increased 25.7 percent—one of the fastest growth rates in the decade. PCA loans outstanding increased by 21.9 percent to $18.4 billion, the fastest annual growth rate since early 1975.

The Administrator of the Farmers Home Administration testified that in fiscal year 1979, FHA experienced another all-time record for 1 year's volume of business—$14.6 billion—twice the level of just two years ago. He noted that Disaster Emergency and Economic Emergency Loans had reached a 1-year level of $3 billion during this period.

This further compounds the credit problem of many farmers, who are having difficulties in finding adequate credit to plan their crops during the spring planting season. The problem is especially desperate in the southern part of the country this spring, where the planting season comes earlier in the year—right at the time when 20 percent inflation and 20 percent interest are causing severe damage to the farm credit system.

Mr. Chairman, unlike an urban consumer who can forego or postpone the purchase of a new car or a new television set, a farmer must have money to plant his crop when planting time comes or go out of business. He must have an estimated average of $50,000 for equipment, fuel, seed, fertilizers and other essentials of production. Since few farmers have this kind of financial reserve, most have to depend on credit to continue from year to year.

As noted earlier, figures supplied by the Department of Agriculture show that net farm income in 1980 is expected to fall by more than 20 percent from the 1979 level of $33.3 billion to between $24 and $27 billion in 1980. When adjusted to 1967 dollars to remove inflation, net farm income is estimated by USDA to drop by better than 30 percent—from $15.3 billion in 1979 to between $10 and $11 billion in 1980.

Mr. Chairman, in view of the present inflationary spiral and credit squeeze, it is more essential to the economic health of this Nation today than ever before that the Department of Agriculture direct its primary attention to those basic programs of agriculture which directly affect farmers and farm production. It must not divert its attention from the basic purpose for which the Department was created back in 1862—to strengthen agriculture.

The state of the Nation's economy makes it imperative that the Department emphasize those USDA activities which enable farm producers to obtain the financing necessary to stay on the farm; provide farmers with the most advanced materials and techniques to produce the food and fiber needed by the consumers of this country and the world; assist the present custodians of rural acreage to continue to protect and preserve the soil, water and timber resources for future generations of Americans; and assure the farmer of sufficient income through stable markets and adequate prices to meet his ever-increasing production expenses and house, feed and clothe his family.

Mr. Chairman, the American farmer must depend upon the Department of Agriculture to represent him in the competitive economic system of this country. Other segments of this Nation's society have their own representatives in other Departments of the Federal Government.

Maintaining purchasing power at the farm base, plus developing and conserving the land, are the keys to the preservation of a sound and healthy economy in America. The Department of Agriculture bears a major responsibility in both areas.

NEEDS TO PRESERVE RESOURCES BASE

As the ravages of inflation become increasingly damaging to the Nation's economy, the need to preserve the productive resource base of the country upon which all else depends becomes increasingly important. As the value of the dollar declines, the need for a sound and productive agricultural resource base increases. Present and future generations could continue to exist, even though their highly developed economic system might fail and their material wealth might be gone, as long as they have fertile land and good water to grow food to eat and produce ample supplies of fiber to provide shelter and clothing.

History clearly shows, Mr. Chairman, what has happened to those civilizations of the past which failed to preserve and protect their land and water resources needed to provide their essentials of life—food, clothing and shelter. It creates a realization of the importance of the valuable contribution to conservation made by American agriculture through the years and the ever greater need to continue and strengthen such efforts today and in the future.

Under the Agricultural Conservation Program (ACP), established in 1936, farmers have put up their own money and their labor, supplemented by Federal funds, to carry out the basic conservation practices so essential to the Nation's conservation effort. I will provide for the record the conservation accomplishments since the inception of this program:

ACCOMPLISHMENTS OF AGRICULTURAL CONSERVATION PROGRAM

Practice	Unit	Extent under 1979 program[1]	Total accomplishments 1936-79
Water impoundment reservoirs constructed to reduce erosion, distribute grazing, conserve vegetative cover and wildlife, or provide fire protection and other agricultural uses.	Structures	33,000	2,450,000
Terraces constructed to reduce erosion, conserve water, or prevent or abate pollution.	Acres	574,000	36,352,000
Stripcropping systems established to reduce wind or water erosion or prevent or abate pollution.	do	268,000	115,170,000
Trees or shrubs planted for forestry purposes, erosion control or environment enhancement.	do	467,000	6,976,000
Forest tree stands improved for forestry purpose or environmental enhancement.	do	66,000	4,865,000
Wildlife conservation	do	127,000	[2]14,539,000
Sediment pollution-abatement structures or runoff control measures.	do	1,570,000	[3]15,794,000

[1] Includes regular and LTA.

[2] From 1962 with certain data estimated.

[3] From 1970.

In addition to the accomplishments of ACP, various programs of the Soil Conservation Service, together with related research and extension activities, have made a major contribution to the preservation of our soil and water resources. Nearly 3,000 soil conservation districts covering 2.2 billion acres have been formed to assist farmers, ranchers, rural communities and others to conserve and improve land and water resources. Technical assistance was provided to 851,900 individual land users during 1979.

Also, under the coordinated conservation programs of USDA, the major river basins and watersheds of the Nation have been studied, planned, treated and equipped with water retarding structures and other measures to keep the soil from eroding and filling up our waterways and our dams, and extending the delta areas of our major rivers.

These conservation programs have prevented billions of dollars in damages to the Nation's food and fiber production capacity. More than 50 million acres of prime farmland are subject to flooding and erosion. In 1975, damages to cropland and pastures amounted to over $1 billion. By the year 2000, this damage to the Nation's farms will more than double, if soil and water conservation programs of USDA are not vigorously pursued.

It must be remembered that present landowners are only temporary custodians of the land and its resources. They must preserve these resources for productive use during their tenure. They also carry a heavy responsibility—placed on them by the future of mankind—to pass along such resources to future generations of producers who will be required to meet the needs of an ever-increasing number of consumers at home and abroad.

Mr. Chairman, a former official of the Department of Agriculture expressed it well in an "Eleventh Commandment" which reads as follows:

> Thou shall inherit the Holy Earth as a faithful steward, conserving its resources and productivity from generation to generation. Thou shalt safeguard thy fields from erosion, thy living waters from drying up, thy forests from desolation, and protect thy hills from overgrazing by the herds, that thy descendants may have abundance forever. If any shall fail in this stewardship of the land, thy fruitful fields shall become sterile stony ground and wasting gullies, and thy descendants shall decrease and live in poverty or perish from the face of the Earth.

FARM PRODUCTION AND PRODUCTIVITY

Mr. Chairman, the efficiency and productivity of American agriculture have made a significant contribution to the Nation's economic growth throughout the years. Despite a steady increase in production costs, the farm economy has produced ample quantities of wholesome and inexpensive food and fiber for consumers at home and abroad. Food is still the consumer's best buy in America.

It is generally recognized that one of the most effective means of combatting our present inflationary spiral in the United States is to restore production and productivity to the levels which made this country economically strong in the past. Here, given the chance to prosper, the American farmers can continue to make a major contribution to economic recovery and perhaps can lead the way to the elimination of the double-digit inflation now threatening our economy.

Information provided by USDA for the last half of the 1970's shows the steady rise in farm output, particularly for crops, with virtually no change in volume of farm inputs. Such data also shows the rapid rise in output per man-hour on the farm, compared with output per man-hour in non-farm business.

Farm output in 1979 rose some 6.6 percent over 1978 due in large part to record crop yields, while total farm inputs remained at the 1978 level. Farm output per man-hour in 1979 rose 4 percent over 1978, while per man-hour output for the non-farm sector declined slightly.

Since 1975, farm output has increased 15 percentage points while farm inputs have increased only 3 percentage points—a net 12 percent gain in productivity. Output per man-hour on the farm has increased about 16 percentage points between 1975 and 1979, compared with 5 percentage points for non-farm workers.

Since 1967, the substitution of machinery and chemicals for labor has increased output per man-hour in farming by nearly 4 percent per year, compared with about 1 percent for the non-farm sector.

NATION OF PLENTY

Mr. Chairman, this country is blessed with vast acreage of rich cropland and a favorable climate for food and fiber production, as well as highly productive farm producers. This makes it possible for the U.S. to provide a significant portion of the world's food and fiber needs.

The Committee continues to maintain, as it has through the years, that the United States must always be a land of plenty. It feels that ample supplies of food and fiber in the marketplaces of the world are important not only to American producers and consumers, but also to those food-deficient countries which depend on American-grown commodities to feed their people.

Members of the Committee have found first-hand that agricultural importers of other countries prefer U.S. commodities, when assured that this country will be a dependable supplier at competitive prices. The Committee feels, therefore, that production in the U.S. should never be restricted in order to create a scarcity of supply, since commodities not needed domestically are always needed in other parts of the world to feed those who are hungry.

One of the most unwise agricultural policies ever followed by this country occurred in the mid-1950's when the then Secretary of Agriculture held some $8 to $10 billion of CCC-owned commodities off world markets. This not only drove down farm prices, and virtually destroyed the farm program of that period, but it denied food to those in other areas of the world who needed U.S. food to stay alive.

Present law provides the authority and the funds, through the Commodity Credit Corporation, to buy and sell commodities as needed to provide stable markets and prices. It also provides the means to move U.S.-produced products into world markets as necessary to enable this country to retain its fair share of world markets and to meet the needs of hungry people abroad.

This country has a private economy, which provides for the handling of exports through large international traders who have extensive commercial interests throughout the world. The Committee agrees that these companies should handle U.S. exports abroad, provided they do not subjugate American agricultural interests to those of other countries in which they operate. If they do, the Committee feels that the Secretary of Agriculture should step in and, using the Commodity Credit Corporation, should move U.S. commodities into world markets on a fair and equitable basis. It is to be noted that 20 international traders account for about 85 percent of U.S. grain exports, and that 5 major firms handle the major portion of this amount.

The Secretary has assured the Committee that he will use CCC to protect U.S. agriculture. Since most countries of the world use a central governmental arm to handle world trade transactions, it is important that the Secretary have the CCC mechanism to fill such a need in this country, where necessary.

HUNGRY WORLD NEEDS OUR FOOD

Mr. Chairman, aside from the possibility of nuclear conflict, probably the foremost problem in the world today is hunger. A former Member of the U.S. Senate once said:

> Two grim specters beckon mankind toward oblivion today. One offers instant and wholesale death by nuclear means. The alternative guarantees eventual starvation when the human population exceeds the food supply.

With an estimated one-half billion of the world's people suffering from undernourishment, with many people dying from starvation in food-deficient areas, and with world population expected to reach 6 billion people by the year 2000—double the 1960 level—there will always be a demand for that portion of the U.S. food production which is surplus to domestic needs. For humanitarian as well as economic reasons, this country should always produce ample supplies of food and fiber to meet this urgent worldwide demand. One prominent research expert estimates that one-half million people died of starvation in 1974 and 1975, a period when severe food shortages occurred in certain underdeveloped areas.

The United States has maintained a major role in the area of food assistance abroad, through commercial channels as well as through food aid programs. It exports a large portion of its agricultural production to all parts of the world and it supplies a large share of the world's import needs each year.

Exports of U.S. farm products are projected at a record level of $37 billion in 1980, compared with approximately $32 billion last year and $8 billion in 1971 and 1972. They account for about one-fifth of gross farm income.

Mr. Chairman, the United States continues to be the world's major export nation. Nearly half of the world's trade in agricultural commodities is in commodities grown by U.S. farmers.

EARNER OF FOREIGN EXCHANGE

American agriculture has contributed significantly to the U.S. balance of payments since the period when agricultural commodities were deliberately held off world markets at competitive prices. I will submit for the record figures from USDA which illustrate the dramatic role played by U.S. Agriculture in the 1970's when the non-agricultural trade balance started to slip deeper and deeper into the red:

AGRICULTURAL AND NONAGRICULTURAL TRADE BALANCES, 1950–79

[In billions of dollars]

	Agricultural			Nonagricultural balance	Total balance
	Exports	Imports	Balance		
Calendar year:					
1950	2.9	4.0	−1.1	+2.5	+1.4
1955	3.2	4.0	−.8	+4.9	+4.1
1960	4.8	3.8	+1.0	+4.4	+5.4
1965	6.2	4.1	+2.1	+3.7	+5.8
1970	7.3	5.8	+1.5	+1.3	+2.8
1972	9.4	6.5	+2.9	−9.3	−6.4
1973	17.7	8.4	+9.3	−8.0	+1.3
1974	22.0	10.3	+11.7	−14.8	−3.1
1975	21.9	9.3	+12.6	−2.8	+9.8
1976	23.0	11.0	+12.0	−20.7	−8.7
1977	23.7	13.5	+10.2	−40.0	−29.8
1978	29.4	14.8	+14.6	−45.4	−31.8
1979	34.7	16.7	+18.0	−46.7	−28.7

Agricultural exports are a major means of offsetting the large U.S. trade deficit of recent years. Without the favorable trade balance for agricultural commodities, it would have been virtually impossible for this country to finance its tremendously large oil imports, estimated to run around $80 to $90 billion in 1980.

Agricultural exports also are of great economic benefit to the Nation's farm economy—the one segment of our people which is helping to combat inflation through increasing production and productivity. USDA has estimated that as many as half-a-million farmers are enabled to stay on the land to produce for export markets.

Of total U.S. grain production, about two-thirds was exported in 1978–1979. About 58 percent of U.S. rice in 1978–1979 was exported, some 55 percent of the 1978–1979 soybean crop was exported, and 57 percent of the 1978–1979 cotton crop was exported.

And of course, Mr. Chairman, the urban and industrial interests of the United States also benefit greatly from this sizable export volume. It is estimated that more than a half million urban Americans are employed directly in the processing, marketing and transportation of farm products exported in world markets.

MARKET DEVELOPMENT PROGRAM

To move U.S. agricultural commodities into world markets, the Department of

Agriculture is strengthening its market development program and expanding it into additional market areas. It is working with U.S. market development cooperators representing the major U.S. export commodities to reach new markets throughout the world for these products.

In addition, USDA is establishing new trade offices in many countries. Six such offices now exist in London, England; Hamburg, West Germany; Panama, Bahrain; Seoul, Korea; Singapore; and Miami, serving Latin America. An additional office is being opened in Warsaw, Poland.

Efforts to begin market development activities in China have been underway since early 1979, when the establishment of a model bakery was proposed. The cracker and biscuit industry in Korea has grown eightfold in the past seven years and wheat imports, largely from the United States, have increased from 16,000 to 140,000 tons.

The U.S. peanut industry is steadily moving into export markets, with West Germany as the key target country. Exports of U.S. canned peaches and avocadoes to Japan have reached record levels. U.S. exports of feed grains, seed corn and cotton are also being increased through similar efforts. Food exhibits have been held in Hong Kong, Aruba, Bahrain and other markets. Buying missions in the United States, trade shows and monthly trade letters are also used to attract foreign buyers.

SOVIET EMBARGO

In response to the Soviet invasion of Afghanistan in December, the President announced a number of counter measures on January 4, 1980, including the suspension of grain shipments to the U.S.S.R. in excess of the 8 million metric tons previously committed under the five-year contract with Russia currently in effect. This embargo involved a total of 17 million metric tons of grain—13 million tons of corn and 4 million tons of wheat. In addition, seeds, soybeans, animal feeds, meat, poultry, dairy products, and some animal fats were also embargoed.

Representatives from the United States, Canada, Australia, Argentina and the European Community met in Washington a few days later to discuss this sales suspension. All countries participating agreed that they would not directly or indirectly replace the 17 million metric tons of grain blocked from shipment to the U.S.S.R. Representatives from the United States, Argentina and Brazil also met to discuss the embargo on soybeans.

In early February 1980, USDA officials testified that while as much as 5 million tons of the Russian shortfall in grain might be obtained by the U.S.S.R. from other suppliers, this would leave an estimated net shortage of 12 million tons to U.S.S.R. meat producers. At that time, they felt that the European Economic Community (EEC) and others would honor the U.S. embargo, using a recently developed system of monitoring to prevent diversion of grain to the U.S.S.R.

Subsequent press articles, however, have indicated that Argentina, and perhaps several other countries, might sell larger than agreed amounts of grain to Russia. Some news sources estimated that as much as 10 million tons of U.S. grain might be illicitly sold to the U.S.S.R., leaving a shortfall of 5–6 million tons. In mid-March, a Department official agreed that Argentine grain sales to the Soviet Union would be above the agreed pre-U.S. embargo level. He pointed out, however, that Argentina has had a dry spell during the present growing season and their export potential has been reduced somewhat.

ENERGY AND AGRICULTURE

Mr. Chairman, one of the most pervasive and difficult problems this Nation faces today is the cost and supply of energy. The immediate problem is not so much one of shortages, but rather that the United States is running out of cheap fuel. The longer range problem is the development of alternatives as supplies of fossil fuel are used up.

In 1950, this country began to import large quantities of cheap oil and gas from abroad. As a result, an energy structure was created which constrained domestic supplies of oil and left America dependent on other countries. In the 1960's and 1970's, environmental concerns in this country contributed heavily to dependence on imports of cheaper and cleaner burning oil and gas.

Thus in 1973, when the OPEC oil embargo hit this country, the economy was ill-prepared to withstand the shock of facing up to a wasteful use of cheap energy and to make the transition necessary to sustain the growth of the Nation.

Fortunately, the United States has large reserves of unused coal and a large domestic petroleum resource in unrecovered oils, heavy oils, oil shales and natural gas. Also, American scientific capabilities give this country the ability to harness the atom, to use the energy from the sun, to tap the vast geothermal energy stored in the earth, and to convert biomass to usable energy forms.

Mr. Chairman, one of the brightest and more immediate prospects for the development of alternative sources of fuel is offered by agriculture. In the long run, the future of mankind may well depend on the use of agricultural products, which are indefinitely renewable by nature, for fuel—as fossil fuels become increasingly costly and as supplies are eventually exhausted.

USE OF AGRICULTURAL CROPS FOR FUEL

There are many agricultural crops which can be used for production of alcohol for use as fuel. Fortunately, such crops are a natural renewable source of fuel which will be available indefinitely—long after the finite supplies of other fuels are gone—as long as we maintain the productivity of our agricultural establishment.

Cereal grains produced in great quantity in the United States are the most abundant raw materials ever produced by man. Corn, for one, is especially well adapted to production of ethanol for fuel. It is estimated by officials of USDA that about 2.6 gallons of ethanol can be produced from a bushel of corn. Research also shows that wheat, sweet sorghum, fodder, beets, rice, and many other crops are very useful for ethanol production.

Testimony presented to the Committee indicates that there are potentially an unlimited number of new crops that are usable for energy production, such as fast-growing crops of kenaf, roselle, and crotalaria. Also, the manufacture of ethyl alcohol from lower quality grains, surplus grains or grain process byproducts is a promising source of alternate motor fuels for the next 5 to 10 years.

The Assistant Director of the Peoria Research Center has said:

> It is technically feasible to use or develop renewable raw materials for practically any fuel, chemical, and industrial use. It is primarily a question of economics. The future of natural renewable raw materials from the farm as energy and chemical raw materials is excellent.

Already, the pulp and paper industry of the Nation is moving back to wood for fuel. The use of fuelwood for residential heating and for other small industries and utilities is also increasing significantly, especially in the colder regions of the country.

The Forest Products Research Laboratory at Madison, Wisconsin, is developing petrochemical substitutes and other chemicals from wood. At Athens, Georgia, the Forest Service is developing various wood residues for energy potential. The Secretary of Agriculture points out that these efforts should lead to more and better crops for alternative sources of fuel production and improved on-farm biomass systems that may enable the farmer to become fuel self-sufficient and to improve farm income. Appropriations of about $4.5 million have been provided to the Forest Service to conduct this biomass research in FY 1980.

GASOHOL PRODUCTION

Mr. Chairman, the techniques for production of alcohol for fuel have been known for centuries. A review of history tells us that the production of alcohol by fermentation was developed by the Chinese approximately three centuries B.C. History also records that shortages of whale oil for lamps in the United States led to production of alcohol for fuel, but the discovery of petroleum in Pennsylvania ended that practice.

According to literature on the subject, systems were developed as early as 1911 to start a cold automobile engine with gasoline and then switch to pure alcohol when the engine had warmed up. By 1937, 510,000 metric tons of alcohol were produced annually in Europe for motor fuel use. In World War II, Germany developed blends which increased alcohol to 70 percent. The French Government developed a 50/50 mix shortly after World War I, although 25 percent is the maximum alcohol that can be blended with gasoline today.

USDA RESEARCH ON ALCOHOL FOR FUEL

The Department of Agriculture has been carrying on research on alcohol fuels since the establishment of the Peoria Research Center in 1938. The use of alcohol as a fuel was largely discontinued during the second World War because ethyl alcohol was more vital to the production of synthetic rubber. After 1950, the low cost of oil and natural gas resulted in the discontinuance of these experimental programs. Expertise and facilities were maintained, however, and the possible need for alcohol fuels in the future remained under continuous review.

The oil embargoes in the 1970's renewed this work at the Peoria Research Center and elsewhere in the Department. Research on new approaches to fermentation was begun and an expanded research effort was undertaken, which exists today. An appropriation of $1 million was added by Congress in fiscal year 1979 to speed up this work. Approximately $3 million was provided for fiscal year 1980 for this and related research work.

In addition, $12 million has been provided for fiscal year 1980 by the Department of Energy for research on alcohol for fuel by USDA.

GASOHOL BECOMING ECONOMICALLY FEASIBLE

Secretary Bergland testified at this year's hearings that:

> The economics of ethanol production have improved sharply over the past year. Oil prices have more than doubled while prices of agricultural feedstocks have remained relatively stable.

In April 1979, the President announced a governmentwide program to provide assistance for the construction of up to 100 small-scale plants by the end of fiscal year 1981 to produce alcohol for gasohol. He proposed new incentives for such production, including an investment tax credit of 10 percent and an exemption from the 4 cent motor fuels excise tax. He also announced that alcohol for motor fuel is expected to reach 300 million gallons per year by 1982 and approach 600 million gallons by 1985.

Mr. Chairman, research by USDA on gasohol has been renewed and expanded and great progress has been made in technology of production, While gasohol production is not yet fully economically competitive with petroleum based gasoline without Federal subsidies, the efforts of Department of Energy, USDA and other Federal agencies—together with increasing gasoline prices—are bringing the cost of production for oil and ethanol closer together. With the proposed Federal subsidy, the competitive position of ethanol is expected to be favorable enough to encourage large and small producers to establish plants and to expand production rapidly to meet the production goals established. The main thing holding up alcohol production at present is lack of adequate plant capacity.

For this purpose, $100 million in loan funds is available in FY 1980 under the business and industrial loan program of FHA and $10 million is available under other FHA loan funds. Also large amounts are available to DOE and EDA to stimulate alternate fuel production, including gasohol.

In a Department of Energy press release of July 11, 1979, it was reported that public hearings in Chicago and Washington, D.C. in November and December 1978, conducted by the Alcohol Fuels Policy Review Group, had shown that a "genuine grass roots movement had developed." It was stated that in one year the number of retail outlets for gasohol had increased to well over 700 in 16 States.

In January 1980, DOE reported that production of ethanol for gasoline had increased "from nothing 18 months ago to almost 80 million gallons per year." It stated further that "in December 1979, enough ethanol was produced to run about 1.5 million automobiles."

The Committee urges the Department of Agriculture, and other Federal agencies involved, to move ahead rapidly on this program. They should coordinate their efforts to provide advice, assistance and financial support to enable farm cooperatives and other small producers to plan and construct the ethanol production plants envisioned by the President last year and needed so badly to help alleviate the Nation's energy problem.

ENERGY CONSERVATION

Mr. Chairman, the Department of Agriculture is also taking an active role in the Nation's energy conservation efforts. Under the Weatherization program of FHA, loans are available to rural residents through REA cooperatives for such things as insulating their homes, adding storm windows and doors, and similar conservation measures.

In addition, USDA is giving attention to energy conservation through its research and extension activities and in working with rural people in other programs of the Department. REA is making loans for load control mechanisms aimed at making more efficient use of present generating facilities.

Mr. Chairman, we urge USDA to expand its efforts to promote energy conservation in rural areas. Conservation is an important alternative energy source. It is a saving to the consumers and, therefore, is anti-inflationary in effect. It is a contribution to the need to conserve world supplies of fuel for future generations.

URBAN-RURAL PARTNERSHIP

Mr. Chairman, the close partnership between urban and rural Americans, and the close mutual interest of both consumers and producers in the programs funded in this annual appropriation bill, continues to grow. This is increasingly important in these times of rapid inflation and national economic distress.

The need to maintain a strong and healthy farm economy is essential to the production of ample supplies of good food at reasonable prices. Stable consumer food prices can have an important effect on efforts to curb inflation.

It is essential that parity of income be assured to farm producers, as it is for other segments of the economy. Labor, industry and agriculture are completely interdependent upon each other for their own economic survival. The need for all segments of the economy to work closely together to counter inflationary pressures was never more urgent than it is today.

To strengthen this urban-rural partnership, in past years the Committee has initiated and the Congress has adopted a number of programs of direct and immediate benefit to urban people and their living conditions. These include:

Relocation and modernization of wholesale food markets in major cities.

Encouraging of urban gardening projects in larger cities.

Strengthening of 4-H Clubs and nutritional programs in urban areas.

In addition, this bill includes a number of other programs of great benefit to urban consumers, such as:

Child nutrition and other feeding programs, which represent over 50 percent of the Department's total budget—over $10 billion in FY 1980. Food stamps and other food assistance programs are provided for over 20 million people in the U.S. today. The school lunch program reaches around 27 million children at lunch and about 3 million children at breakfast.

Animal and plant disease control activities protect the Nation's food supply from insects and diseases. Programs are conducted to keep communicable plant and animal diseases of foreign origin from entering this country and to prevent the spread of disease through interstate shipments of plants and livestock.

Inspection of meat, poultry and other food products provides the most wholesome and healthful food ever enjoyed by the American consumer. In a single year, about 75 million pounds of meat and poultry products are certified in some 5,200 plants. About 778 million pounds of eggs and egg products produced in 144 plants are certified each year as to wholesomeness. Some 124 million pounds of other foods are graded to assure high quality of about 400 different food and farm products.

WHOLESALE MARKET DEVELOPMENT

The Department has made a very valuable contribution to urban consumers through its program for the modernization and improvement—and frequently relocation—of the antiquated and inefficient wholesale food markets in many of our larger cities. As a result of this work, modern facilities have been built in many of the largest cities.

The Committee understands that there are numerous additional metropolitan areas in the United States which would like to receive USDA assistance in the relocation and modernization of their wholesale food markets. Accordingly, it calls on the Department to strengthen this work and expand it to areas needing such studies. This is a positive way to further the mutual interests of urban and rural people.

4-H CLUBS AND NUTRITION EDUCATION

In 1970, $7.5 million was earmarked by this Committee and the Congress to establish rural-type 4-H Clubs in the cities and provide Nutrition Aides to assist urban dwellers in dietary matters.

The results of this effort have been gratifying. More than 1.7 million low-income families representing 7.5 million family members, have been enrolled in Extension's Expanded Food and Nutrition Education Program. Currently 5.215 program aides trained by home economists are employed to reach families in about 1,200 program areas. In 1978, about 70 percent of these families had an annual income of less than $5,000; approximately 35 percent of EFNEP homemakers had an 8th grade education or less. Sixty percent of the participating families were minorities.

USDA reports that about 650,000 youth are currently participating in the EFNEP program. About half of these youth come from minority and ethnic groups. Last year, about 45,000 volunteer leaders, many of them from low-income, minority groups, worked with 4-H EFNEP.

Since 1970, participation in 4-H has doubled. Farm and rural youth enrollments have increased by 33 percent, urban youth participation has tripled, and minority youth involvement has increased from 18 percent to 24 percent in 1978. A total of over 5 million youth took part in 4-H programs in 1978.

In 1978, 579,624 volunteers assisted 4-H youth. In addition, there was a substantial involvement of resource people, business, industry, agricultural and civic groups who support 4-H in their local communities. For every hour spent by a professional Extension worker, volunteers spend 10 hours, valued at over $600 million in 1978.

The Department should continue to give the urban 4-H Club and nutritional education activities strong support. The need for both is great.

FOOD—CONSUMERS' BEST BUY

Mr. Chairman, American consumers continue to enjoy the highest quality, most wholesome and most healthful food ever available to mankind. They continue to spend a smaller share of their income for food than their counterparts in other major countries. I will provide for the RECORD a table showing that, while U.S. consumers spend a larger amount for food than other selected countries, the percentage of their income spent for this item of expense is less than in other countries:

SHARE OF TOTAL PRIVATE CONSUMPTION EXPENDITURES OF FOOD, BEVERAGES, AND TOBACCO 1977[1]

	Food expenditures[2] (millions)	Share of total expenditures (percent)
Country:		
United States	$199,930	16.4
Canada	22,818	20.7
Japan	124,129	27.8
France	58,028	23.5
Netherlands	15,022	22.5
Belgium	13,916	26.0
West Germany	84,907	26.7
Sweden	11,071	27.2
Denmark	7,421	27.6
United Kingdom[3]	50,393	31.9
Spain[4]	23,572	34.9
Portugal[5]	5,948	50.1
U.S.S.R.	NA	[6]45.0

[1] Excludes food, beverages, and tobacco purchased in restaurants and hotels as well as most institutional purchases unless otherwise indicated.

[2] Converted from local currencies at 1977 exchange rate as quoted by the International Monetary Fund, except Spain (1975 rate) and Portugal (1976 rate).

[3] Includes purchases of alcoholic beverages and tobacco in restaurants and hotels.

[4] 1975.

[5] 1976.

[6] ESCS estimate.

Source: Organization for Economic Cooperation and Development.

Also, U.S. factory workers spend less time to earn the value of the food they consume than in many other countries of the world. I will provide for the record a USDA chart which compares Washington, D.C. with other selected capitals of Europe, South America, Australia and Japan:

TIME SPENT BY WORKERS TO EARN RETAIL VALUE OF FOOD PRODUCTS IN SELECTED CITIES, MID-1979[1]

[Hours and minutes required to purchase 1 lb except where other unit of measure is indicated]

	Paris	Rome	London	Buenos Aires	Canberra	Tokyo	Washington, D.C.
Steak, sirloin, boneless	0.59	1.02	1.40	0.47	0.47	3.33	0.30
Pork chops	.35	.33	.32	.64	.32	.48	.21
Bacon, sliced, packaged	1.05	.34	.42	1.30	.49	.49	.15
Eggs, dozen	.27	.17	.20	.46	.14	.10	.08
Butter	.30	.27	.21	1.21	.14	.35	.16
Milk, whole, gallon	.26	.26	.30	1.45	.22	.41	.19
Potatoes	.01	.02	.03	.06	.03	.07	.02
Oranges, dozen	.20	.14	.14	.29	.09	.28	.10
Bread, white, packaged	.14	.12	.05	.16	.06	.08	.02

[1] Mid-1979 national average for production workers, calculated in local currencies.

Despite recent rises in food prices, today's family income buys considerably more food than it did 25 years ago. I will provide for the record USDA figures which compare what a U.S. factory worker could buy with an hour's pay in 1950 and in 1977 for certain selected items:

WHAT 1 HR. PAY WILL BUY

Food item	1950	1977
White bread	10.1 lb	15.9 lb.
Frying chickens	2.4 lb	9.4 lb.
Milk	7.5 qt	13.4 qt.
Butter	2 lb	4.2 lb.
Eggs	2.4 doz	6.8 doz.
Pork chops	1.9 lb	3.1 lb.

FARMERS ALSO CONSUMERS

The American farmer is a consumer and a taxpayer like everyone else in this country. According to a recent release by USDA, each year farmers have to meet tax costs of nearly $10 billion—$3.5 billion in farm real estate taxes, $742 million in personal property taxes, $5.1 billion in Federal and State income taxes, and $252 million in sales taxes.

In addition, USDA estimates that farm operators spend about $98 billion each year for goods and services to produce crops and livestock. These include $11.9 billion for farm tractors and other vehicles, machinery and equipment. They include $10.8 billion for fuel, lubricants and maintenance for farm machinery and motor vehicles—farming uses more petroluem than any other single industry.

Farmers' annual purchases also include $17.5 billion for feed and seed and $6.3 billion for fertilizer. Farm producers buy about 5 percent of the total supply of rubber used in the United States—enough to put tires on nearly 7 million automobiles.

According to USDA figures, farmers use 33 billion kilowatt-hours of electricity each year—more than the total used in all of the New England States plus Maryland, Kentucky and Washington, D.C. They also buy 6½ million tons of steel annually in the form of farm machinery, trucks, cars, fencing and building materials.

It can be seen that the farm establishment is a major segment of our economy—one which labor and industry must depend upon as an important market for its goods and services. In addition to those on the Nation's farms, USDA estimates that another 13 million people work in some phase of agriculture between the farmer and the consumer. These include some 8 to 10 million people to store, transport, process and merchandise the output of the Nation's farms and another 3 million people to provide the seeds, fertizers, and other supplies farmers use for production and family living. Farm use of steel accounts for 40,000 jobs in the steel industry. Approximately one out of every five jobs in private industry is invloved in these agricultural related activities.

SUMMARY OF BILL

Mr. Chairman, a summary of the new obligational authority, loan authorizations, and Section 32 transfers included in the titles and subtitles of the bill, as compared to amounts approved for 1980 and the 1981 budget will be provided for the record:

[In millions of dollars, rounded]

Titles and subtitles	Approved 1980	Budget 1981	Bill 1981	Comparison: Approved 1980	Comparison: Budget 1981
Title I—Agricultural programs:					
Production, processing, and marketing	$1, 605	$1, 696	$1, 671	+$66	−$25
Farm income stabilization	3, 258	3, 508	3, 508	+250	....
Total, title I	4, 863	5, 204	5, 179	+316	−25
Title II—Rural development programs:					
Rural development assistance	1, 394	1, 488	1, 494	+100	+6
Conservation	790	706	773	−17	+67
Total, title II	2, 184	2, 194	2, 267	+83	+73
Loan and program authorizations	(12, 406)	(10, 460)	(11, 224)	(−1, 182)	(+764)
Combined total	(14, 590)	(12, 654)	(13, 491)	(−1, 099)	(+837)
Title III—Domestic food programs	8, 540	12, 978	12, 810	+4, 270	−168
Transfer from sec. 32	1, 831	1, 880	1, 880	+49	....
Combined total	10, 371	14, 858	14, 690	+4, 319	−168
Title IV—International programs	802	1, 296	1, 291	+489	−5
Title V—Related agencies	333	371	364	+31	−7
Total in bill:					
New obligational authority	16, 722	22, 043	21, 911	+5, 189	−132
Loan and program authorization	(12, 406)	(10, 460)	(11, 224)	(−1, 182)	(+764)
Transfer from sec. 32	(1, 831)	(1, 880)	(1, 880)	(+49)	(............)
Grand total in bill	(30, 959)	(34, 383)	(35, 015)	(+4, 056)	(+632)

These summary figures show that $14,689 million—62 percent—of total obligational authority in the bill is recommended for the Domestic Food Programs under Title III. An additional $1,291 million—5 percent—is provided in the bill for Title IV—International Programs, including Public Law 480.

The balance of the bill includes $5,179 million—22 percent—for Title I—Agricultural Programs $2,266 million—9 percent—for Title II—Rural Development Programs, and $364 million—2 percent—for Title V—Related Agencies.

Thus, the domestic and international feeding programs of USDA take 67 percent of all funds recommended in the accompanying bill. The programs directly related to the production of the Nation's supply of food and fiber receive 31 percent of the total.

As these figures indicate, among the factors with which the Committee had to contend was the result of the indexed acceleration built into existing law to reflect increased inflation and unemployment. Thus 82 percent of the increase in the bill over last year is required for the domestic feeding programs.

Mr. Chairman, the Committee found it necessary again this year to restore funds for essential research, extension, conservation, marketing and insect control activities under Titles I and II of the bill to provide a proper balance between agricultural production and domestic and overseas feeding programs.

WORKING TO PUT PRIORITIES IN ORDER

So we bring you a bill today that is under the budget request, but we put first things first. We have been spending our money on productive enterprises and investments. We have brought you a bill that is below the ceiling imposed by our congressional budget. We have brought you a bill that does have many, many consumer programs in it: the food programs. May I say that in the last supplemental, when we had 13 chapters from 13 subcommittees, 600 different programs, and 344 amendments, we stayed here from 2:30 in the afternoon to 2:45 the next morning, but we wrote it together. But because the food programs were going to have to stop, because of lack of funds we took that one item out and handled it separately on an emergency basis.

So I say that here we are dealing with the basis of all of it, the biggest earner of dollars in world trade, the biggest bargain the consumer has, the biggest market that industry and labor has, and we are proud to have a part here.

We must not forget our raising nor our background. The United States will come back from its financial problems. Why? Because the Congress has seen to it that we have protected the land and the physical resources, developed our properties, navigation projects, and flood control. I urge all Members to support our bill.

Mr. Chairman, we have spent 2 months in hearings. Our 6 hearing volumes contain 5,582 pages of testimony from 275 witnesses.

A great many of our colleges have taken up with me, as chairman of this committee, the items that were of great interest to them and which they had heard about from home that needed to be taken care of.

I am truly proud to present this bill to my colleagues. It is essential to the well-being of our country and merits the full support of all the Members.

Mr. SKELTON. Mr. Chairman, may the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I want to commend the gentleman and commend the committee on the strong stand they have taken for the Soil Conservation Service. We are but stewards of the land that we have. We must take care of it. We must make sure that subsequent generations are able to grow the food and the fiber for this Nation and for the world, as the case may be, with good land and without it being eroded and wasted away.

I wish to commend the gentleman and to join with the committee in standing strong for the Soil Conservation Service.

I commend the House Appropriations Committee for its continued support of the agricultural conservation program (ACP). Once again, there have been attempts to severely cut the funding for this valuable program. And once again, the committee has wisely recommended that ACP be fully funded at the level of $190 million. I urge my colleagues in the House to support the committee's recommendation.

Our Nation's soil and water are our greatest natural resources. Since it came into existence, ACP has been successful in restoring and improving soil fertility, reducing erosion caused by wind and water, and in conserving water on land. It has been a first line of protection against a return to the "dust bowl" days of the 1930's, through the planting of over 8 billion trees, the construction of over 2 million water impoundment structures, and the terracing of nearly 35 million acres of land. Moreover, a great strength of ACP is its reliance on conservation practices developed initially at the local level by ASC State and county committees and others. This has assured that the national program has solid grass roots support, and has served to increase participation.

Even this year of tight budgets is not the time to cut back on vital conservation programs. Indeed, ACP returns benefits to the Nation which far exceed in value the amount spent on the program. I urge approval of the committee's recommendation for ACP funding.

Mr. WHITTEN. I thank my colleague who contributes so much to this program and many other programs in his service in the Congress.

May I say again we on the committee in turn have tried to see that this is not merely a farmer's program as such. I have started using the words "those engaged in agriculture" because today you have to have more money to farm than you do to start a business. Yet your return is much less on your investment. As I have said a number of times today, in order to farm you must have enough money to start a bank and enough nerve to rob one.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to join with our chairman and the other distinguished members of the committee in recommending this bill.

This is now the 10th time that I have stood in this well with the bill that balances the concerns of our consumers and farmers. It has been a privilege for me to be able to work with our chairman, JAMIE WHITTEN, and the other members of the committee in bringing to you a bill that provides for the best interests of our Nation.

In these times of ever-increasing inflation, with our consumers finding their dollar buying less and less, we have to protect their needs for an adequate food supply at reasonable prices. But farmers are consumers, too, and as stated in our report, which I hope my colleagues will read, in 1979 returns on investments in farming were 4.1 percent as compared with 16.7 percent for all manufacturers and businesses.

If my colleagues are looking for a yardstick to compare how they are doing on the farm with how they are doing in the city, this is the most striking yardstick one can use. Think of it, a little over 4 percent return on equity in agriculture compared with the norm in this country of 16.7 percent in small business and manufacturing. There is no way one can break even with interest costs far above 10 percent when one is only getting 4 percent return in the marketplace.

During that year the farmers' share of the total food dollar continued to drop. Prices paid by our farmers, on the other hand, have continued to increase at a more rapid rate than prices received for their crops. Therefore, farm families continue to lose ground in meeting production expenses.

□ 1340

Since 1972 our farmers have lost 9 percentage points in prices received as compared to prices paid. We have to address the concerns of both consumers and farmers, and I think you will find that this bill goes a long way toward protecting both groups. Once again, we accomplished this by reporting out a bill that is below the President's budget, $132 million in obligational authority below the President's request. True, we have made some shifts. We have shifted into areas that we think are far more responsive in addressing the needs of the farmer and the consumers than some of the original requests that were sent up, but overall, at a time when we are concerned about the size of the budget, we can point to our bill with pride saying we came in under the budget figures with a responsible piece of legislation.

Inflation, the recession, and the need to balance the budget are all concerns that are reflected in our actions.

As I pointed out last year, most of the people of our Nation think of any agriculture bill as merely for the benefit of farming and farmers. In the fiscal year 1980 agriculture appropriations bill, only 37 percent of those funds in the bill were directed at farmers and rural areas. That was last year. This year in the bill we present to you today, only 31 percent of the total funds are for programs directly related to the production of food and fiber. Sixty-two percent of the money in this bill, it should be pointed out, is for the domestic food programs, such as child nutrition, special milk, food stamps, and women, infants, and children—or the WIC program. We have recommended increases in all of the domestic food programs to enable us to utilize America's food abundance to improve the nutrition of our Nation's children. And why not? They are our greatest resource of the future.

The President has proposed authorizing legislation to reduce certain benefits and change the eligibility standards for our domestic food programs. However, this legislation has not been enacted into law, and we have, therefore, funded these programs based on their present authorization. It is a sad commentary, too, in the United States that we know more about pig nutrition than people nutrition. Yes, farmers can feed their hogs more scientifically a more balanced ration to provide for a healthier animal than mothers can feed their children, at least with present knowledge. This bill provides funding to increase human nutrition, research, and education in this country. We think that is extremely important. It is important that our people are provided with better learning opportunities regarding food and nutrition and the relationship of nutrition itself to long-range health. Actually, this is also a pretty good investment of the taxpayers' dollar because if we succeed through better nutrition in promoting better health, we have less cost to the Federal Government and to the local governments in health care costs.

There is a story going around that I think they send in a birthday card when you reach your 50th year. It goes something like this: "If I had known I was going to live so long, I would have taken better care of myself."

Research into human nutrition, research into how to nourish the body and keep us healthy can pay great dividends in saving taxpayer dollars later on that would otherwise have to be spent to recover from illnesses.

Mr SKELTON. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentleman for yielding. I am intrigued with what the gentleman says about the lack of understanding of human nutrition as of today. There is a nutrition booklet that has been prepared at the expense of the taxpayer through the Department of Agriculture, and other various funds, which has some questionable items in it as to just what is good nutrition and what is not good nutrition. We find among various medical scholars, including the American Medical Association, questions raised along this line, and I think what the gentleman is aiming at is good—that he wants to wait until we have all the facts in and then we can help solve the nutrition problems of this country, rather than shooting from the hip as of this moment.

Mr. ANDREWS of North Dakota. Not only that, but we want to get on line as much information as we can, as rapidly as we can, and this information can then begin to be made available to the general public. For instance, one of the human nutrition labs that happens to be in my State was doing work on fiber, and they found out that in the case of fiber from hard spring wheat, not from soft winter wheat but from hard spring wheat, we not only got all the benefits of the fiber but also for some strange reason we lowered cholesterol. Just a couple of bran muffins a day lowers cholesterol by 35 or 40 points in an otherwise normal, healthy person. So the faster we can disseminate that information to the general American public, the better their health level is going to become, and that is just one example of what human nutrition can do.

Mr. SKELTON. My point is this, that at the present time in some areas there is a sincere disagreement as to what is good nutrition and what is not good nutrition.

Mr. ANDREWS of North Dakota. That is right.

Mr. SKELTON. And I think we should guard against misleading the public and saying something is when we really do not know; is that not correct?

Mr. ANDREWS of North Dakota. That is right. We need the facts, and that is what these nutrition labs are directed to find. The faster we get those facts developed and out to the medical community and the general public, the better we are going to be.

Mr. SKELTON. I will have an amendment a little later which I hope the gentleman will look favorably upon in that light.

Mr. ANDREWS of North Dakota. Other programs funded in this bill will enable us to meet the nutritional needs of our millions of schoolchildren and improve the diets of low-income Americans.

The drought in the Midwest, coupled with the floods in the South, have pointed out the ever greater need to continue and strengthen our conservation programs to preserve our most precious resource—our land. If it had not been for conservation practices most of our farmers have used in the past, we would have lost even more precious topsoil to the dry winds that have been whipping across the Upper Midwest.

The various programs of the SCS, together with related research and extension activities, have made a major contribution to the preservation of our soil and water resources.

In my home State of North Dakota, because of the drought this spring, SCS has indicated that 53 counties—all the counties in the State have reported wind damage. Over 600,000 acres of farm land in North Dakota have suffered erosion because of the drought. The planting of trees and cover crops, encouraged by programs funded in this bill, goes a long way toward alleviating that type of loss for future generations.

When land is scarce, people often go hungry. We have to be good managers of our land by wisely planning it use.

For years it was believed in this country that cheap raw materials made the United States a great Nation. However, we have to remember that during the early years of our country's existence we wore out, used up, and destroyed vast amounts of this plentiful supply of natural resources. The continuation of such abuse eventually reduce this country to a barren wasteland, incapable of feeding ourselves, much less a great portion of the rest of the world.

Aware of the importance of this task, the committee has recommended restoring full funding for the agricultural conservation program, which had been cut by $30 million in the President's budget request. We felt that cut was a cut in the basic fundamental base line of production in American agriculture. It cut our soil's productivity and our ability to keep it there, so we restore that full funding.

We also supported full funding for the Great Plains conservation program. Both programs are cost-sharing programs and have enabled well over 1 million farmers to protect our soil.

We have also included full funding for the resource conservation and development program, a program designed to help local governments and nonprofit organizations serve our rural areas. The R.C. & D.'s help the rural areas conserve natural resources and provide for their continuing wise and sustained use, thereby achieving better employment opportunities, improved levels of economic activity, and the enhancement of the environment.

All of these conservation programs in this bill will assure that our Nation continues to invest a portion of its wealth in the protection of our food production capacity and its preservation for future generations.

Under the Farmers Home Administration we have recommended restoring $353 million, a third of a billion dollars, in moderate-income housing loans. Yes, Mr. Chairman, there is nothing more important than to fund the ability of Americans in small towns in rural American to live in their own homes. This restoration of a third of a billion dollars is going to go a long way toward helping out. In spite of the fact that virtually every State is out of loan funds, with hundreds of our rural residents unable to obtain financing to build or purchase homes, the administration had called for this drastic cut. These funds are not part of a giveaway program but, rather, enable rural residents who would otherwise be unable to get financing to borrow the funds to purchase their own homes. The committee did not feel that this was the time to turn our backs on people, forcing them into already overcrowded cities where they would add to the unemployment rolls or take jobs away from others. So we restore that cut.

☐ 1350

We also recommend restoring the cuts for the Farmers Home Administration water and waste disposal program. Our small towns depend on these funds to establish clean water systems. The cuts would have come at a time when small rural communities are being required to meet Federal minimum drinking water standards and the cuts would have effectively denied them the resources to do it.

Farmers Home Administration is the only Federal agency in the water/sewer business that does not discriminate against rural communities because they are small. Think of it. Every other program in this vast multitude of Federal programs that has to do with water and sewer financing discriminates against a small town.

Farmers Home Administration is the only program that does not discriminate against small towns, where basic America is really at. We are proud that our committee put back the money for Farmers Home to do just that. Farmers' Home is the only Federal agency also that will fund nonprofit organizations when public agencies cannot provide the needed services and it is the only Federal agency, I might point out, with the staff in these rural areas so that they can carry on these programs.

The water and waste disposal systems of millions of rural citizens are deplorable. Certainly, this is not the time to drastically cut a program which deals with such basic needs. With world demands for food expanding and with ever-increasing inflation and other serious threats to our ability to produce an adequate food supply in the future, it is essential that we continue to emphasize those programs that will strengthen food production and we have done that.

Mr. Chairman, agricultural research plays an integral part in assuring we can continue to keep up with the demands placed on our agricultural productivity and the most dramatic, of course, of America's achievements has been its agriculture production.

If you go back—and there are many people who take the well of this House and talk about the history of this Nation—200 years ago when the first block of sandstone was laid in this Capitol Building, America was an agricultural nation. Eighty percent to 90 percent of all our people were on the farms. We did not have too many people to develop things like television, automobiles, and the rest. Too many of them were busy producing that basic necessity: Food. It is only when we have increased productivity on the farm that we bring about the high standard of living that we now take for granted.

Mr. Chairman, think of it. At the beginning of this country it took eight to nine people working full time, 12 to 16 hours a day, to feed themselves, their families, and perhaps one other person. Today fewer than 5 percent of the American people are on the farms. One person can feed himself, his family and 19 others with their families and have a great deal left to export abroad. We owe this to agricultural research and scientific advancement and we have to keep this momentum going.

Mr. Chairman, contrast the success of America's farmers with the fact that in countries such as Bangladesh, India, and Pakistan, 70 to 75 percent of the population is still in agriculture. In many of the new African countries 80 to 90 percent of the population is engaged in subsistence agriculture. These conditions continue to exist because those countries do not have the scientific know-how to increase their production, freeing up their people for other occupations. So we have to continue to expand our scientific knowledge and the committee has recommended—and I am proud that they have, increases in research funds for our State agriculture experiment stations, our land-grant institutions and our Federal laboratories. These increases will help us meet the challenges of the future and enable us to keep pace with the ever-increasing world population by helping our farmers develop higher quality products more efficiently.

Mr. Chairman, 5 percent of the funds in this bill are earmarked for international programs. This is a small price to pay when you consider that the only bright spot in our balance of payments and our balance of trade is our agricultural exports. It is estimated that in 1980 we will export some $40 billion worth of agricultural commodities, an increase of 15 percent over the previous year. At the same time, however, we will be importing $85 billion worth of petroleum products, leaving us with a deficit of about $40 billion.

Mr. Chairman, the imbalance in world trade is ominously about the same amount as our fiscal deficit. Without these agricultural exports, our balance of trade would be even more disastrous.

Mr. Chairman, I think we ought to point out to our city cousins that the productivity of America's family farms provides job opportunities off the farm. The Department of Commerce estimates, I think we ought to point out, that for every billion dollars worth of farm exports, we create 50,000 new jobs off the farm in this Nation of ours. And at a time when we move into a national election and people are concerned about rising unemployment and the lack of job opportunities, they ought to begin to realize that one of the biggest potentials for job opportuniies lies in the export marketing of farm products. Fifty thousand new jobs for each billion dollars in additional farm exports. I have long felt it was important we do everything possible to increase our foreign markets, using our ability to produce an abundance of food to pay for the oil we must import to keep our schools and factories running. Our farmers have a lot to lose if we do not continue these efforts but not nearly as much as the American consumer who is concerned about inflation. inflation caused by this imbalance of payments, concern about inflation and a lack of job opportunities, a situation that can be remedied by increasing agricultural exports. It is a good bargain for any country to trade a renewable resource of food energy for a nonrenewable resource of fuel energy, and that is what we do when we swap farm products for oil.

Mr. Chairman, we have already opened six trade offices overseas in an effort to increase our agricultural exports and I am proud that this subcommittee, the Members on both sides of the political aisle in this subcommittee, have been continuing to impress on Secretaries of Agriculture, whether they happen to be of the Republican brand or the Democratic brand, how important this increase in agricultural export sales is to the Nation as a whole. These trade offices were authorized in the Agricultural Trade Act of 1978 and because of the initiative of our subcommittee we are going to be opening additional offices in fiscal year 1981.

Mr. Chairman, the committee has recommended increases in all of our foreign development programs to help American agriculture maintain and expand foreign markets so vital to the economic well-being of the Nation.

I hope that my colleagues will take time to study this bill and its report. As we pointed out, "The bill is basic to our economy and our way of life. Our entire economy is dependent upon a financially healthy American agriculture for it is the foundation of our Nation's economic well-being. A financially healthy agriculture is extremely important to the national economy. It helps provide for a financially healthy industry and labor, for agriculture is the base on which all else depends."

Mr. Chairman, I urge the support of all of my colleagues for this appropriations bill, not as a spending bill but rather as an investment in the future of the food production capability of this Nation which is so important to what happens to our country and what happens to peace in a troubled world in the decades yet to come.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I will be happy to yield to my friend, the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I appreciate my colleague yielding.

Mr. Chairman, I would like to join my colleagues and the gentleman in the well for commending the members of the Agriculture Subcommittee of the Committee on Appropriations. I had the distinct honor of appearing before the subcommittee in reference to a product raised in our State which means much to many of our farmers there. The subcommittee individually and collectively, I think, showed great judgment and sensitivity to the American farmer in each State.

If I may, allow me to commend particularly our colleagues from the subcommittee, the gentleman from Indiana, and my good friend from western Kentucky (Mr. NATCHER). The gentleman once again demonstrated his concern, not just for his district but for all the districts of Kentucky as well as districts all over the country.

I took the opportunity to discuss agricultural research earlier in the year when I testified before the Agriculture Appropriations Subcommittee. During my testimony, I expressed my concern that the administration had deleted some important budget requests in the tobacco area. The committee was kind enough to heed my suggestions, and included funding for tobacco production research, as well as tobacco insect research in the legislation we are considering this afternoon.

The support I gave for my requests remains the same as it was in March. As I am sure you are aware, my voting record reflects my priorities to fight rising inflation and reduce wasteful Government spending. In conjunction with efforts to trim the budget, we need to boost our Nation's productivity.

Agriculture is the one positive segment of our economy which can still boast of increasing productivity. The key to this success is technological advancements which are due to the continued efforts of research. I feel that continued investment in agricultural research is absolutely critical to our fight against inflation and improving our economy.

In addition to boosting our productivity, agriculture products are worth more than $30 billion in exports, and were the largest single positive contribution to our critical international balance-of-payment position.

Clearly, tobacco production research is an important investment for the American taxpayer. How else can you describe a situation in which, for example, Federal appropriations for this purpose were slightly more than $1 million in 1979, while tobacco-related revenues at the Federal, State, and local levels during the same period exceeded $6 billion.

In closing, Mr. Speaker, I want to thank the committee again for considering my request in their legislation. The bill includes $1,048,000 for tobacco production research, and $797,000 for tobacco insect research, and I want to urge my colleagues to support a worthwhile investment for the American taxpayers.

Mr. ANDREWS of North Dakota. Mr. Chairman, I appreciate the comments of my colleague. The gentleman has noted something many of us know full well, the great contributions of the senior Member of the House from the wonderful State of Kentucky. This applies not only to matters affecting Kentucky but matters affecting the entire Nation. The gentleman from Kentucky (Mr. NATCHER) has been a great adviser, a great supporter, and a fantastically wonderful Member of this House. It has been a privilege to work with him. I know the gentleman from Kentucky was pleased to see some good sense and good judgment displayed by his colleague, the gentleman from the Sixth District of Kentucky (Mr. HOPKINS) when he came before our subcommittee to preach the gospel that has been preached by the gentleman from the Second District of Kentucky (Mr. NATCHER) for lo these many years. The gentleman from the Sixth District of Kentucky made a significant contribution in his appearance before our subcommittee. The subcommittee appreciated it and responded to it.

□ 1400

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I will be glad to yield to my colleague from Indiana, a member of the subcommittee.

Mr. MYERS of Indiana. Mr. Chairman, while we are paying tribute to a very fine Member of Congress, the gentleman from Kentucky (Mr. NATCHER), who has made a great number of significant contributions to legislation through the many years, the gentleman in the well made mention of the fact that for 10 years he has been bringing this bill to the floor as a Member of the minority.

It has come to our attention that this will be the last time, the 10th year and last time the gentleman in the well will be presenting this agriculture bill and be a Member of the House of Representatives. As we all know, he has announced his intention to run for the other body, and I am quite sure that next year at this time he will be in the other body. We are sorry to lose him as a member of this committee, and certainly as a Member of the House of Representatives, but the other body needs good Members also.

So, we wish him well in his endeavors in the other body. He has a great job to do over there. It is a yeoman's job, but if anyone can do it, the gentleman from North Dakota can do it. So, we thank him for his contributions in the cause of agriculture and wish him well in the other body.

Mr. ANDREWS of North Dakota. I appreciate the comments of my colleague, and I hope that we will be working together in the cause of agriculture and the Nation for a good many years to come.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I thank the gentleman, and I want to join with the remarks of the distinguished gentleman from Indiana in wishing the gentleman from North Dakota very well and the very best as he goes to the other body. He has always been on the same side of the table with us, and he will be moving across to the other side of the table. But I know we are going to have the same position on agriculture issues.

I just have been delighted to have served with the gentleman on this subcommittee, and I have treasured and valued his judgment and the knowledge that he has given me in matters coming before our committee. We come from similar districts, with similar crops. We share beets and beans commonly. The gentleman's support for the concerns that I have, and my support for the concerns the gentleman has, I am sure will continue during the gentleman's years in the Senate.

We wish you success. We are going to miss you in the House, but we know they need you in the Senate.

Mr. ANDREWS of North Dakota. I appreciate that very much, coming from my good friend and strong fighter for agriculture.

Mr. Chairman, I reserve the balance of my time.

Mr. BURLISON. Mr. Chairman, I yield myself 12 minutes.

Mr. Chairman, I would like to join my other colleagues in offering our condolences or congratulations, as the case may be, to our distinguished gentleman from North Dakota on his decision to go over to the other body. I am not sure whether that is a promotion or a demotion in view of the fact that the gentleman now, as the Member from North Dakota, represents an entire State himself. When he moves over to the other body, there will be two of them representing North Dakota there. So, again I am not sure whether that is a promotion or demotion, but certainly I join my colleagues in wishing our very distinguished expert on agricultural matters best wishes in his career in the U.S. Senate.

Mr. Chairman, I would like to join our chairman and the other distinguished members of our committee in recommending the fiscal year 1981 Agriculture appropriations bill. I think you will find this bill provides for the best interests of our Nation. The new budget authority of $21.9 billion is $133 million below the administration's request and meets the ever increasing concerns of inflation and excessive Government spending which prevails in our Nation.

There is one major misconception, however, in that most of the people of our Nation think of any "ag" bill as merely for the benefit of farming and farmers. As a matter of fact only 31 percent of the funds in this bill are directed at farmers and rural areas. Sixty-seven percent of the funds will go for domestic and international food programs—such as school lunch and breakfast programs, women, infants, and children funding programs and food stamps. Only 4 percent of the people of this country are engaged in agriculture and feed and clothe the other 96 percent of our population.

The committee strives to preserve our agricultural system and to protect our way of life through maintaining a farm system which will provide a reasonable return above necessary costs to the farmer through the orderly marketing of his products at stable prices. Above all, we must continue our goal to establish a full parity price relationship which will enable the farmer to achieve a comparable level of return as is assured to his counterparts in industry and labor. The American farmer is entitled to a fair share of our Nation's income and does not now receive it.

Through the years, as the farm share of the consumer dollar has decreased, and as farm production costs have continued to go up due to inflationary pressure, net farm income has suffered. Testimony from USDA officials at our hearings this year indicates that the number of farms has decreased steadily during the past two decades. In 1961, statistics show 3,825,000 farms in comparison to 2,330,000 in 1979. The farm population's share of total population dropped from 15.2 percent in 1950 to 3.4 percent in 1979.

The decrease in farmworkers has added greatly to the financial problems of farmers. They have had to replace laborers with expensive mechanical equipment. For most farmers, this has necessitated a further increase in their debt. With today's high interest rates and inflated machinery prices, this adds greatly to the farmer's cost of production and to his financial risk.

Our committee took a careful look at the Soviet embargo in our hearings this year and extensively questioned the Secretary, and other Department officials as well as the Director of OMB and others. Some of my colleagues have noticed that I have been just as hard on President Carter as I was on President Nixon in 1973, 1974, and 1975.

Secretary Bergland and I argued in our subcommittee hearings about the workability of the embargo. I insisted that grain would continue to move to the Soviets via Argentina, Brazil, and others. He insisted that this was not true. The record is unequivocal that I was right and the Secretary wrong, and the Department seems now to agree. Quoting United Press International in a release:

> True, the Russians have been required to pay a premium for this supply.

But there is more, listen—

> There are indications Australia increased its grain sales to Russia in the last nine months eleven fold over last year's comparable period. Also, there is increasing concern that the Canadians will cave in also. Finally, the American Soybean Association claims that European soybean processors are taking advantage of depressed U.S. prices to fill Soviet orders that otherwise would have gone to the United States.

Mr. Chairman, I beg the indulgence of my colleagues for just a few minutes to highlight a few provisions of the bill which are of particular significance to my constituents.

For the cooperative research program we recommend $175,592,000. The committee recommends deleting the competitive research grants. After carefully looking at this program for the past 3 years, we are increasingly convinced that better research results are produced at a lower cost through the use of the special grants and Hatch Act matching funds programs where funds can be targeted to meet a specific problem and the contract can be performance-oriented toward the solution of that specific problem. Thus, the committee restored virtually all cuts in SEA–AR and SEA–CR programs.

One very special project of interest to my constituents is the soybean cyst nematode research program conducted at the Portageville Delta Center. The committee recommended continuation of this work in the amount of $250,000. There is also $100,000 to continue the soybean honeybee pollination project in joint cooperation between the University of Wisconsin and the Delta Center. The beekeeping industry plays an essential role in our food supply, not only directly but indirectly as well through pollination of soybeans and other crops.

Title II deals with rural development programs and most notably the Farmers Home Administration. The programs contained within this rural branch of credit are vital to the farming industry. The committee has increased the 1981 budget request by approximately $6 million, which is also above last year's spending level. The committee also carefully looked at the increasingly popular subject of "gasohol" and has encouraged continued research by USDA. The Farmers Home Administration is the agency having loan funds available within USDA for this program.

The Soil Conservation Service plays an important role across the Nation with watershed programs and resource, conservation, and development programs. Our committtee has documented the need to keep funding these programs.

The Department has continued to recommend the phaseout of R.C. & D. programs, but the committee is convinced that the resource conservation and development program could well be the leading rural development program in the country today if properly utilized by the Department. For that reason, we recommend funds and new start language for R.C. & D. areas. The budget request for watershed planning each year is also at a low level. The bill recommends $10,660,000, an increase of $4,000,000 over the request. Again the committee continues to be convinced of the value of watershed planning. While some projects may never receive Federal funding, testimony has indicated that in many cases local project sponsors will take the federally developed plan, and with local money, initiate and complete the project.

Missouri's 10th District has two watershed programs which have received funding the past couple of years, to wit: Upper and Lower Little Black and Fourche Creek. In 1979, Little Black received total technical and financial assistance in the amount of $197,000; in 1980, $363,000; and projected in 1981, $1,651,000. Fourche Creek received total technical and financial assistance in fiscal year 1979 in the amount of $325,600; in 1980, $1,262,800; and projected for fiscal year 1981, $2,968,000. These two programs have the full support of the local people and they constantly work together to achieve completion of these two vital watershed programs.

My district also has two resource conservation and development programs of which I am proud—to wit: Big Springs and Bootheel. Work is just getting underway for these two projects, and in 1980 fiscal year, Big Springs received $49,000. The projected amount for fiscal year 1981 is $27,500. The Bootheel R.C. & D. program received $33,000 in fiscal year 1980, and is projected to receive $232,000 in fiscal year 1981.

Within the agricultural stabilization and conservation program is the ACP (agricultural conservation program). In view of the need to conserve the soil, and contributions to that goal made by the program, one might guess that it has had smooth sailing through the years. Unfortunately, that is not the case. For 23 years this Subcommittee on Agriculture Appropriations has restored or increased the funds. This year we restored the ACP program to $190 million. This program provides the best means of meeting local conservation needs in all areas of the country.

Mr. Chairman, there is a devastating drought that has engulfed the Southwest and the Midwest within which lies my district. Our colleagues should realize that there probably are not sufficient moneys contained in this bill to fund and finance the various programs within the perview of an agriculture disaster. One good reason for this is that at this point we do not know the magnitude of the damages. We may require a supplemental very early in the next fiscal year to respond to this problem.

Time does not allow me, Mr. Chairman, to touch on each and every one of the important programs contained in H.R. 7591. This bill is a good one for American farmers and American consumers. I urge the support of my colleagues for this legislation.

☐ 1410

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield 9 minutes to our colleague, the gentleman from Virginia (Mr. ROBINSON), a member of the subcommittee.

Mr. ROBINSON. Mr. Chairman, I thank the minority Member for yielding this time to me.

Mr. Chairman, initially, I would join with my other colleagues in paying tribute the gentleman from North Dakota (Mr. ANDREWS) by saying what a privilege it has been for me to serve with him and to learn at his elbow, so to speak, and to absorb, I hope, the wisdom he has garnered in bringing this bill to the floor for 10 years.

I can assure the gentleman that I will miss him, and the committee will miss him. I am sure also that agriculture, as represented in the House of Representatives, is going to miss him. I know that he will have many happy years in the U.S. Senate, and I look forward to working with him for agriculture as I have in the past.

Mr. Chairman, I rise in support of the bill, H.R. 7591, making appropriations for the agriculture, rural development and related agencies. While I have some reservations, which I will mention, I feel that we have presented a realistic and cohesive bill.

Not since the depression has the cost-price squeeze so threatened farmers and those who supply them. Profits for many farmers this year are only dreams. In my own State of Virginia, about 10 percent of more than 50,000 farmers are estimated to be in crucial financial trouble.

Prices paid by farmers have continued to increase at a more rapid rate than prices received for their crops. Fuel costs have led the upward spiral with an increase of 46 percent last year, followed closely by the cost of farmland.

Adding to the bleak outlook for the producers of our food is the projection of the consumer's food dollar at only 37 to 39 percent in 1980. This compares with 47 percent back in 1950. In light of these figures, I am sorry to report that 67 percent of all the funds in this bill are directed to the domestic and international feeding programs of the USDA—not the farmer. The programs directly related to the production of the Nation's supply of food and fiber received only 31 percent of the total.

Food production must, it seems to me, be the first order of business. Four percent of the American people now on the farm supply the food for 96 percent of the population, making it possible for most to engage in other pursuits. It would be wise too, to remember that agriculture provides us with the major means of offsetting the large U.S. trade deficit of recent years.

A dramatic illustration of this contribution lies in the following figures: In calendar year 1979, the nonagricultural trade balance was negative $46.7 billlion. With the agricultural export balance at $18 billion, our trade deficit balance was brought to negative $28.7 billion. Without this trade balance for agricultural commodities, it would have been virtually impossible for this country to finance its tremendously large oil imports, estimated to run around $80 billlion to $90 billlion in 1980. It can be seen that the farm establishment is a critically important segment of our economy.

In spite of the tremendous rate of inflation, American consumers continue to enjoy the highest quality, most wholesome and most healthful food ever available to mankind. While U.S. consumers spend a larger amount of money for food than those of a number of developed countries, the percentage of their income spent for this category of expense is less than in most countries. Despite recent rises in food prices, today's family income buys considerably more food than it did 25 years ago. In 1950 a U.S. factory worker's hour of pay could buy 10.1 pounds of white bread while he could buy 15.9 pounds in 1977, 2.4 pounds frying chicken in 1950 and 9.4 pounds in 1977, 7.5 quarts of milk in 1950, 13.4 quarts in 1977, 2 pounds of butter in 1950, 4.2 pounds in 1977, 2.4 dozen eggs in 1950, and 6.8 dozen in 1977, 1.9 pounds of pork chops in 1950, and 3.1 pounds in 1977. I will take time to mention just one of my concerns. It pertains to the Farmers Home Administration whose soaring annual volume of programs has made it the largest Federal loan agency dealing with borrowers. More than $61.7 billion—nearly 84 percent—of the FmHA's alltime outlay has moved through its programs since 1966; more than $58.7 billion from fiscal year 1969 through fiscal year 1979.

FmHA has open-ended authority to make loans, which accounts for some of this increase, however, there are cases where the agency has been hampered by a lack of training for its people at the local level. Due to the personnel ceilings imposed by the OMB, there has been little or no consideration to the need for proper planning and supervision of the borrowers so as to improve the chances for repayment of the Government loans in the rapidly expanding program.

In the bill, we provide funding to help meet the need for credit counseling, debt collection and loan servicing with a provision for 200 additional people at the county office level. The committee also made provision for one additional top-level deputy within the FmHA with a practical background in modern farming and agricultural financing. This person will be charged with the responsibility of redirecting the FmHA so that it can once again become an organization whose primary purpose is to assist farmers.

I am pleased to report that there is some relief included in the bill for moderate-income housing loans, an increase of $350,000,000 over the President's budget request.

The committee also recommends $200,000,000, an increase of $100,000,000 over the budget request for rural water and waste disposal grants. Since rural communities are compelled to meet stringent requirements of the Safe Drinking Water Act, many communities are in jeopardy of losing their water supply system, and these grants are necessary to deal with such serious situations. This measure contains an appropriation of $1,854,600,000 for agricultural credit available to farmers through the Farmers Home Administration. These funds are intended primarily to cover loans to individuals to meet farm needs arising from farm ownership, farm operating expenses, soil and water conservation activities and emergencies.

The amount we are recommending is the same as that provided in 1980, but is $6 million more than would have been provided under the President's 1981 budget estimate.

It is important to note, in connection with this funding, that our committee has again recommended that the authority of the Farmers Home Administration to make emergency loans be unlimited, since natural disasters, and therefore the need for disaster loans, cannot be predicted.

In view of developing drought conditions on the farmlands of Virginia and elsewhere in the Nation, I regard this reservation as to the funding that may be required as extremely important, and I wish to call attention to it.

The primary objective today must be to restore production and productivity to the levels which have made this country economically strong in the past. Once again, the committee has had to restore funds for essential research, extension, conservation, marketing and insect control activities which provide direct help to agriculture production.

Agriculture production should be emphasized as one of the most effective means of combatting our present inflationary spiral in the United States. Given the chance to prosper, the American farmers can continue to make a major contribution to economic recovery and perhaps lead the way to the elimination of the double-diget inflation now threatening our economy. To demonstrate our efficiency and production, it is interesting to note that farm output in 1979 rose some 6.6 percent over 1978, while total farm inputs remained at the 1978 level. Farm output per man-hour in 1979 rose 4 percent over 1978, while per-man output for the nonfarm declined slightly.

In closing, I repeat—American agriculture has demonstrated through its productivity and efficiency that it is a wise investment of American taxpayer dollars. I regret that a bill purporting to fund its needs designates only 31 percent of its funds to the programs directly related to the Nation's supply of food and fiber.

□ 1420

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to my colleague, the gentleman from Iowa.

Mr. GRASSLEY. I am concerned about some of the publicity I have seen recently on food stamp "dine out" projects in which elderly, blind and disabled food stamp recipients are permitted to redeem their stamps in restaurants. Did the Appropriations Committee focus on this somewhat unique food stamp redemption process?

Mr. ROBINSON. We did go over this project, but not in great detail. It was our hope that the authorizing committee would look into this matter in the Food Stamp Act Amendments of 1980. I have joined with my colleagues on the subcommittee, the gentleman from North Dakota (Mr. ANDREWS) and the gentleman from Indiana (Mr. MYERS) in requesting the General Accounting Office to do a feasibility study on the project, addressing the issue of cost effectiveness in this type of redemption procedure.

Mr. GRASSLEY. In addition to the cost ineffectiveness of this redemption procedure, I wonder whether this kind of special accommodation is really necessary. As you know, with regard to the elderly and disabled, food stamps may be used in a variety of settings whether in or away from home. The most common kinds of meals provided for the elderly are Meals on Wheels, meals at senior citizens' centers, apartment buildings occupied primarily by those over 60, federally subsidized housing for the elderly, or meals from public or nonprofit organizations, including schools, eating establishments and other groups created for other purposes but which offer meals for persons over 60. In view of these many kinds of redemption alternatives available, I seriously question the wisdom of permitting private establishments—that is, restaurants which contract with the State—to enter the stage, regardless of the fact they may offer "cheap or reduced price meals." Even if discounted, the restaurant meal is still likely to be much more costly than the home-prepared meal.

I can respect the social objective of "getting the elderly out," but the other means available are less costly than the dine out alternative.

Additionally, to accommodate the transportation problems often associated with the elderly, it appears the meals-on-wheels alternative is preferable. In short, dine out is not cost effective, is not needed to meet social objectives and will not ease health or disability problems unique to the elderly.

Mr. ROBINSON. I agree wholeheartedly with you, and believe that the General Accounting Office report will back up our views.

It seems to me that this program has the potential to explode into a greatly expanded Federal project, and I believe that we should look into it promptly before this expansion occurs.

I believe that persons who use their food stamps for dining out during the month would find themselves short of food stamps for purchasing food by the end of the month. At this point, Congress would be called upon to come to the aid of these people by working out a more generous allotment of food stamps. Therein lies the possibility for growth in the program.

I want to emphasize the point that this project does not effectively meet the needs of senior citizens social objectives. I feel that the community centers which target efforts for senior citizens provide an opportunity for these citizens to "get out" while also providing more importantly, a communal atmosphere geared toward senior citizens' nutritional and social needs. It seems difficult for me to believe that a restaurant could meet this objective.

Perhaps we could look into the possibility of allowing this group to redeem their food stamps at the communal dining facilities, thereby meeting social and nutritional objectives at a far less cost than dining out. In this way, funds for dining out could be cut off completely.

Mr. GRASSLEY. When do you expect to have the results of the GAO study?

Mr. ROBINSON. They have already begun studying the program and the report should be completed in a few months.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I want to compliment the distinguished gentleman from Virginia for his very fine statement and associate myself with his remarks made earlier.

Mr. Chairman, one of the important items in this bill today is the agricultural conservation program. Chairman WHITTEN and the Appropriations Committee are to be commended for recommending funding of this significant conservation program at the same level as last year, despite the administration's insistence that it be cut by $30 million. I would urge my colleagues to look at the discussion of this program in the committee report.

Over the years ACP has proven itself a very effective tool in our national conservation effort. The program has resulted in the planting of over 8 billion trees, the construction of over 2 million water impoundment structures, and the terracing of nearly 35 million acres of land. As the committee points out, it has been our first line of protection through the years against floods, drought, duststorms, soil erosion, and other recurring onslaughts against our natural resources.

The conservation practices implemented through this program are first developed at the local level by ASC State and county committees, the Soil Conservation Service, the Forest Service, land-grant colleges, Farmers Home Administration, State conservation committees, and others. Upon their recommendations a national program is developed which serves as the framework for local programs. The real strength of ACP is that it is a working partnership between the Federal Government and local communities. The program is administered locally, and the decisions on which practices should be put into effect are made within the community and locality that will be affected.

In the area of research, I want to express some concern about some things I see developing that may have serious long-term effects on U.S. farmers and consumers as well. Agricultural research is a critical element in U.S. agricultural production. It is through research that improvements in such things as new crop varieties and efficiencies in production, harvesting, processing, and handling technologies have helped make the United States the best fed and best clothed country in the world, at a lower relative cost to consumers than anywhere else.

For this reason it is essential that we maintain a high level of public support for agricultural research and keep the research community free from philosophical or ideological restrictions on the directions in which their work can be focused. I am concerned, and I believe the American people should be, about the questions that have been raised by Secretary Bergland and others with regard to what degree publically supported agricultural research should be concentrating on technological improvements. We cannot be blind to the needs of people in the agricultural community, but neither can we move backward in time to the era of "40 acres and a mule." A productive and efficient agriculture is the keystone of the U.S. economy, and if we allow reductions in public financial support or restrictions on the scope of agricultural research, the effects will eventually be felt by every consumer, every U.S. citizen as a reduction—real or potential—in living standards.

Furthermore, the American farmer simply can no longer survive the piecemeal actions of the Carter administration in dealing with the Soviet grain embargo. While I opposed the embargo from the beginning, its negative effects could have been offset had the administration and Congress adopted appropriate remedies. Because of the failure to do so, American farmers are singlehandely shouldering the burden of President Carter's grain embargo.

The decision by the Carter administration to raise loan rates on the 1980 wheat and corn crops comes "better late than never" for a few American farmers. Unfortunately for many farmers, the administration's decision is like calling the fire department after the fire has been put out inasmuch as these farmers have been forced by hard times to sell their crops at low price levels.

This news, however, must be recognized as the political decision that it is. Had this much-needed action been made out of real concern for farmers, it would have been made long ago.

Mr. ROBINSON. I thank the gentleman.

Mr. WHITTEN. Mr. Chairman, I yield

3 minutes to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I rise in complete support of H.R. 7591, a bill making appropriations for the Department of Agriculture and related agencies for fiscal year 1981. I hope that all of our colleagues can give this measure unquestioned support.

I want to commend our chairman, JAMIE WHITTEN from Mississippi, for his skillful leadership in bringing this measure to the floor. This is a very tight budget year, as we all know. Our chairman has seen to it that every single vital agricultural program receives the attention that it deserves. This is not to say that he and the members of our Subcommittee on Agricultural Appropriations would not have preferred to provide higher funding levels, particularly in the area of research, but the bill does reflect a responsible spending program for the year ahead.

I also want to take this opportunity to express my personal appreciation to Mr. ANDREWS from North Dakota, our ranking minority member on the subcommittee. His knowledgeable views of USDA programs are reflected in this bill, and his assistance over the years to the subcommittee is deeply appreciated. As you know, Mr. ANDREWS will be leaving us at the end of this term for a position in the U.S. Senate. We here in the House will be losing a superb advocate for American agriculture, but I am sure that he will maintain his vigilance for these programs as a Member of the Senate, and I look forward to continuing to work with him from the opposite side of the conference table in the years to come.

Mr. Chairman, as I said earlier, this is a very tight budget year. Many in the farming community may not be satisfied with what we have in this bill. There are some notable increases over fiscal 1980, but the villain of inflation has already stolen away these increases and more.

The bill before us provides $21.9 billion in new obligational authority for fiscal 1981, an amount that is $2.6 billion above what we provided in fiscal 1980, but still nearly $133 million below the President's budget request. Our priorities differ in many respects from those presented to us in the President's budget, but I want to emphasize that those priorities were changed after 2 months of hearings in which we heard from every major official within the Department of Agriculture, and literally scores of witnesses who represented every type of group conceivable which may be interested in this bill.

This bill is for every American. While some may believe that we are providing money here only for the American farmer, we are providing funds for those in need in this country with the various USDA feeding programs like food stamps, school lunch and the commodity supplemental feeding program. We are providing funds to assist those who are less fortunate around the world with our funding for the Public Law 480 food for peace program. We provide funds for promoting agricultural exports which continue to increase each year and are the single most important positive factor in our balance of trade accounts. If there is any criticism that is leveled at this bill, it is that in the opinion of some it does not do enough for the farmer. We have provided responsible increases in programs for farmers, and I know that we will do whatever we can within the constraints of our budget ceiling.

The ultimate beneficiary of any agricultural program is the consumer. The only reason farmers produce is to supply the needs of consumers. Agricultural research guarantees that we will continue to have viable plant varieties in the future. Without this research, our food supply would be in terrible jeopardy. Agricultural conservation programs, and in particular the ACP program, are geared toward saving the productive quality of our farmland. As our chairman has pointed out so eloquently, unless we protect our farmlands today, we may have no food supplies tomorrow.

I commend our committee report to our colleagues. I especially suggest that those of you who are not as familiar with the problems faced by the American farmer as those of us who have the privilege of representing these most unselfish Americans read the first 33 pages of this report. It very clearly points out that the state of agriculture is not as strong as we might like, and that we need to protect American agriculture in the future.

Probably the biggest shock to our agricultural economy this year has been the Soviet grain embargo. I said at the time that the grain embargo was a bad decision. I have said it since January, and I say it again now. One of the real tragedies in agriculture this year is that so many farmers needed to obtain loan assistance in order to plant their crops, and this assistance was made necessary by the fact that farmers were not able to market their products in an orderly fashion and at reasonable prices because of an embargo which has hurt the American farmer much more than it has the Soviets. The embargo has not resulted in the removal of a single Russian soldier from Afghanistan, but I do fear that it may result in some farmers going out of business this year.

Our governmental policies need to take note of their impact on the American farmer. Unless they do, we may soon regret the fact that we never paid enough attention to the problems faced by farmers.

I want to take some time now to point out certain features of this bill which I believe to be particularly important.

One of the biggest problems facing many of the farmers I represent is what appears to be the bureaucratic steamroller we established a few years ago: the Federal Grain Inspection Service. While the Service has done a generally commendable job in attempting to demonstrate to our foreign customers that the United States will ship only wholesome grain and will stand by our shipments, the agency has taken action beyond boundaries which I consider reasonable. Certain legislative changes are needed in the FGIS authorizing legislation, particularly with respect to the inbound weighing of grain, especially when shipments are intra-company shipments.

The problem that the people I represent are facing is that we seem to have an agency which has too many people in Saginaw, Mich., with not enough to do. This has resulted in situations which grain elevator operators in my district characterize as "intrusions upon good business practices."

The FGIS office in Saginaw, Mich., has 14½ employees. These 14½ employees have to certify operations at two export points. FGIS recently contracted with two grain inspection firms to provide interior point service across the State of Michigan, reducing its own office workload, but has not announced any reduction in its staff level. This means that 14½ people will be doing less work than they were previously.

At a time when we need to reduce any unnecessary Federal employment, it is important to review the operations of offices with reduced workloads. Accordingly, our report directs the Inspector General to audit the Saginaw office in order to determine if some changes should be made in its operations. We expect the Inspector General to report back to the committee with his findings, and then we will closely review what further action needs to be taken.

We gave some very close scrutiny to the operations of the Science and Education Administration. The reason for the special scrutiny was that this agency is most deserving of getting the funding that it requests and more. Research is the key to our future and the implementation of the results of such research by agencies like the Extension Service is the way that we can guarantee ourselves of a continuingly abundant food supply.

In the SEA division on agricultural research the subcommittee restored many cuts that the President would have made in on-going programs. It is the attitude of our subcommittee that these programs have real value for America and that to eliminate them before they have seen the end of their work would be a mistake almost as tragic as the Soviet grain embargo.

Most notably, we were able to restore $50,000 in mint research money to be spent in the State of Oregon. Let me emphasize that while this research is location specific, its value transcends our entire Nation. For example, mint is an important crop in the State of Michigan, and the varietal research conducted in the State of Oregon will play a very large role in the continued viability of mint producers in Michigan.

We also restored $30,000 for pickle research which will be used in Raleigh, N.C. This is part of an ongoing fermentation project which holds great promise for the continued use of pickling as a method of food preservation. There was some confusion on the part of the Department in the current fiscal year regarding the subcommittee's intentions with respect to this project in North Carolina. While this problem appears to have been cleared up for fiscal 1980, I want there to be no mistake in understanding the fact that this bill provides $30,000 to continue work in the State of Wisconsin and $30,000 to continue work in North Carolina in conjunction with the Wisconsin project as had been the case previously. This project again has implications beyond its location. The pickling industry is very important in the State of Michigan, and pickle producers and packers in Michigan were instrumental in bringing the problem with funding needs to the subcommittee's attention.

I am personally disappointed that we were not able to provide a greater increase for the Cooperative Research Division which provides essential research funds to our various colleges of agriculture, but the fact that we are able to provide an increase at all demonstrates how important we consider this program to be. There is a total increase of $8 million in Hatch Act funding for fiscal year 1981, $1.5 million of which is made up by transferring $1.5 million from the title V rural development program. We expect that this transfer will provide greater flexibility to each experiment station.

We have once again deleted all funds for the competitive grant program. The Department has once again failed to provide the subcommittee with any clear reason why the competitive grant approach is better than a contract approach. The research product is the same regardless of the funding method, and I personally believe that the administrative cost is lower in a contract program than in the competitive program.

We have again provided $2.5 million for a high-priority agricultural research contract grant program. This follows an initial effort to provide these funds in fiscal 1980, only to have the Department administer the program in a method contrary to the committee's intentions. We do not want the money split up on a regional basis. We do not want the money restricted exclusively to multi-State or multiinstitution applicants.

We want this program to track with the competitive grant program, which we fully expect the Senate to restore. We want to develop answers to our questions regarding the administration of a contract and competitive grant program. We want there to be a pool of research funds available to meet those needs that develop during the year which do not lend themselves toward the normal process for obtaining research funds. Certain problems cannot be anticipated, and that is why we want these funds available. If we have a critical varietal research problem come up, we want to be able to have a source of funds that can address that problem immediately. If we have a critical need for finding out more about problems associated with toxic substances in food, then we should have a source of funding to help develop a food toxicology research project.

We have also provided certain other restorations which are essential to farmers in Michigan. First of all, we provide $75,000 for the Saginaw Valley Bean and Beet Research Farm. This level represents an increase of $25,000 over the current year's level, with the intention that this increase be targeted for research efforts associated with colored dry beans. The farmers in Michigan are involved in an historic dry bean sale to Mexico, and in order to be prepared for problems associated with colored dry bean varieties we need to improve our research capabilities in that immediate area.

We provide for $103,000 for bean flour research in fiscal 1981. This is an increase of only $3,000, and is provided only to cover the withholding of Federal administrative funds by SEA–CR. The project is already underway at both Michigan State University and Texas A. & M., and holds promise for finding a new market for dry beans which hold considerable nutrition value for consumers.

We have also restored $35,000 for the dairy photoperiod research project at Michigan State University, which the administration had proposed to terminate. This is a 5-year program which will provide important insights into both the health of dairy animals and in ways that production levels can be modified in the short run.

The Extension Service has again been the beneficiary of certain important restorations, notably the farm safety and urban gardening programs. The basic Smith-Lever formula funding program has been granted about a 6 percent increase, and $2.5 million formally available under title V rural development has been transferred to increase the flexibility that State extension directors have in the administration of their programs.

As I said earlier, extension is the agency that sees to it that the American farmer knows what is the latest in research developments. The agency helps farmers obtain information about ways to improve farming operations utilizing the results of this research. While other USDA agencies do an admirable job of helping our farmers with the basic "nuts and bolts" of farming, this agency is the one that tells farmers where they can get better "nuts and bolts".

My personal preference would be to provide an even greater increase for this agency, but again we are constrained by a tight budget, and the increase here is an indication of our support for this program.

We have provided some modest increases in the food safety and quality service which are geared toward providing continued assistance to the State meat inspection program. With the meat inspection program we continue to safeguard the health of consumers by seeing to it that any meat which has intolerable impurities is kept from the market.

I am sure that we will have some controversy over the subcommittee's recommendation to have the Office of Transportation absorbed by the Agricultural Marketing Service. Our reasoning is based on economies of scale within a large agency compared to a small office. It in no way means that we continue the functions less important. I want to emphasize this point in light of the consideration that we are giving to railroad deregulation.

I am concerned that deregulation will result in the inability of small shippers to obtain sufficient rail cars to move grain. I have not been pleased with the answers that I have been given when I raise the problems associated with the difficulty of a small shipper contesting rail contracts, and with the likelihood that the railroad as a business enterprise will be more interested in big contracts than little contracts. This point brings us to the very essential argument of when does a railroad have the obligation to operate for the public convenience and necessity, noting fully that such operation may very well conflict with the decisions that a railroad may make when operating as a for-profit business. The fact of the matter is that grain shipment is highly dependent on railroads, and the bulk of agricultural communities do not attract the attention of railroads that communities that contain the Cargills and Bungees of the world do.

I would hope that AMS in conducting transportation functions would devote significant portions of its time to the review of the problem I have just raised. I must confess that I am personally disturbed by the absence of public comment by officials of the Department of Agriculture with respect to the Rail Act of 1980, and I believe that this silence is indicative of the Department's position on the legislation.

We have provided sizable increases for the Agricultural Stabilization and Conservation Service, an agency which is in the forefront of helping farmers. Operating under a county committee system, this agency brings together governmental farm programs with farmers in a format of neighbor dealing with neighbor. It has been most successful, and will continue to receive the support of myself and I expect my colleagues on the subcommittee.

Title II of our bill provides for the rural development programs. Our rural areas have just as many important needs as our urban areas, and frequently these needs are greater because it is much harder for small communities to get the attention that we may give to major cities like New York, Los Angeles, or Detroit.

This title also provides for the individual farmer loan programs administered by the Farmers Home Administration, which have been so much in demand this year. Let me point out to my colleagues again that farmers—despite some early trends of rising farm prices that were more in line with production costs—have had to call upon FmHA once again in order to stay in business as a result of the President's Russian grain embargo. Many farmers have begun to wonder whether or not we support them, and I just want them to know that it was not the Congress which called for the embargo. Our colleagues on the House Agriculture Committee, led by its very able Chairman TOM FOLEY from Washington, have spent many days reviewing the problem. The committee has recommended several legislative measures to the full House, and I hope our schedule will permit us to take up some of those proposals in the near future.

Within this title, we have also once again restored full funding for the agricultural conservation program. This program is a favorite of budget-cutters at the Office of Management and Budget. They know that we will always restore it, because it has proven itself to be the single most effective conservation program in the arsenal of the Federal Government. This program has been in operation since long before conservation became fashionable, and it has helped to insure ample food supplies by seeing to it that our productive farmland was protected. It has operated again on a local need basis under which those who live the closest to the problem develop the solutions to the problem. Our report makes clear that we respect that record, and we want to see the program continue.

Title III contains the funds for the various feeding programs operated by the Department of Agriculture. This is certainly the most controversial title, and the most expensive portion of our bill. It is the most expensive because the needs of people in this Nation are so great, and we have recognized our moral obligation to help those less fortunate meet those needs.

I dare say right now that we will receive supplemental requests for these programs during fiscal 1981. I say this because this budget request was developed over a year ago when the administration expected much different unemployment figures.

For example, the food stamp budget was developed wth the expectation of 12–13 percent food inflation, and with unemployment for all of fiscal 1981 at a level of about 7.5 percent. Unemployment figures already encountered are at that level, and in the State of Michigan are twice that number. USDA now believes that unemployment will be at a level of 8.5 percent for fiscal 1981, a figure which I must remind you we cannot accept as true because of the administration's track record of constantly underestimating our economic problems.

But with respect to the food stamp appropriation, let me point out to you that every 1 percent in unemployment adds 1.2 million people to the food stamp roles. The dollar amount that we have provided in this bill is the maximum currently authorized by law. It is for this reason that our report states on page 96 that we expect the Department to continue to operate the program at traditional benefit levels. Some of my colleagues have and will argue that we should take advantage of provisions of law that demand that if there is not enough money, benefits should be reduced to live within that dollar figure. That provision was adopted in a far different time. It was adopted when we expected a much lower inflation rate and a much lower demand for the program. Under today's conditions it would never be accepted, in my opinion. To say to poor people that they have to give up some level of benefits because it costs too much is morally repugnant. Do you toss a drowning man 7 feet away from you a 2-foot rope and say "Sorry, a longer rope was too expensive. I guess you'll just have to drown."?

We never expected that our appropriation would constantly hit the authorization ceiling. But we have tried in this body to be responsible. That is why in S. 1309 we voted to change cost-of-living adjustments from twice a year to once a year. We will need to make adjustments in the benefit level come January, as we did this past year. We cannot expect those in need to forego this benefit modification any longer than January.

This is exactly why the conference report accompanying what is now Public Law 96–249 notes that the authorization level may be insufficient, especially in light of uncertain economic conditions, and directs the Secretary of Agriculture not to reduce benefits under section 18 (b) of the Food Stamp Act. The conferferees took this action in light of the fact that the Congress can review and adjust the fiscal year 1981 authorization ceiling in conjunction with consideration of next year's farm bill and food stamp reauthorization. Chairman FOLEY, as the floor manager for the conference report stated, and I quote from page H3675 of the CONGRESSIONAL RECORD for May 15 of this year:

> The Committee on Appropriations in its committee report has directed the Secretary to follow the same course of action. As the report states, the Committee expects to undertake timely review and disposition of additional funding requirements under enactment of further authorizing legislation, if needed. In the interim, the Committee has directed the Secretary to maintain the normal level of benefits as prescribed under the Food Stamp Act, and not to reduce benefits (either through cutting benefits for some or all participants or eliminating benefits for some participants) under section 18(b) of the Act.

The authorizing and appropriating committees are firmly together on this one point: Benefit levels should not be reduced, and cost-of-living adjustments should be made with the January benefit as they were this year. We expect OMB to heed our views.

Over the past few years I have been critical of the Department in not providing sufficient attention to the commodity supplemental feeding program, one of the lowest cost feeding programs in operation. Just as I have criticized in the past, I want to in this record compliment the Department and specifically the Food and Nutrition Service on the marvelous job that has been done in the past year to promote this program.

Our report notes this welcomed attitude, and we encourage the Department to continue to provide assistance to eligible recipient groups. This does not mean, however, that the program is free from problems. These problems for the moment center around the fact that the demand for the program is increasing so rapidly that the funds for the CSFP may be insufficient. This Member is mindful of that fact and supportive of efforts to increase funding for the project.

The problems in recent weeks have been most acute in New Orleans, where the program has had a resurgence in recent months, and potentially even stronger problems could have come about in Detroit as a result of the Department's inability to fully fund its authorized caseload. We provided $250,000 in the supplemental bill which the President signed on July 8, and there is interest in providing an increase in the fiscal 1981 appropriation so that no local program is forced to either reduce its actual caseload or forgo adding any more recipients within its authorized caseload.

There is also the possibility that the program will expand over the next year, possibly with certain pilot projects involving commodities for senior citizens to the extent allowed by law in the recognition of senior citizens as eligible recipients. This eligibility findng will then track with our report language calling for assistance to all eligible recipient groups.

We have provided full funding for the requests given us for the school feeding programs, including the special milk program. Legislative changes are proposed for the coming year which are represented as ways to save money in the program. We have funded these programs anticipating only the actual law. It is not our place to impose these legislative changes within the context of the appropriation bill.

Mr. Chairman, there are other features to this bill which are equally important, and I trust that my colleagues will take this opportunity to point out those provisions with which they are personally impressed.

This bill is for every American, and represents what we on the Agricultural Appropriations Subcommittee believe to be the best package feasible given our budget constraints. Our Nation started with farmers, and it continues to prosper because of the farmer. This is a point which our chairman has made so effectively time and time again, and a point which deserves to be repeated because it is true.

I urge all of my colleagues to support the passage of H.R. 7591, the fiscal 1981 agricultural appropriations bill.

In closing, Mr. Chairman, I would like to say that it has been again a pleasure to have worked closely with the distinguished chairman, the gentleman from Mississippi (Mr. WHITTEN), who is now in his 31st year of chairing the subcommittee. I am not sure that all of the Members of this House were alive when the gentleman assumed the chairmanship of this subcommittee. American agriculture and the American farmer are that much better off because of the dedication he has shown to their concerns.

In addition, I would like to extend our very best wishes and almost sympathy to our distinguished colleague, the gentleman from North Dakota (Mr. ANDREWS), who is the at-large Representative of that State, and who will soon join another Senator in the U.S. Senate in representing that State. We are truly appreciative of his service in the House on behalf of agriculture, and we are going to miss him.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield 5 minutes to our colleague, the gentleman from Indiana (Mr. MYERS), a member of the subcommittee.

(Mr. MYERS of Indiana asked and was given permission to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Chairman, I join my colleagues in the appreciation to the other members of this subcommittee, as well as the staff, for the consideration that they give to each of us and the hard-working staff who have worked so hard to bring this bill to the floor. I do not think enough appreciation is given to the staffs of our committees and our personal staffs who do the hard work here.

Mr. Chairman, this bill is basic to our national economy, since a financially healthy agriculture is the foundation of our overall economic well-being. The need to maintain a strong and healthy farm economy is essential to the production of ample supplies of quality food at a reasonable price. There is a close relationship between urban and rural Americans, and a close mutual interest of both consumers and producers in the programs funded in this annual appropriations bill, American consumers continue to enjoy the highest quality, most wholesome and healthful food available and at a smaller share of their income than their counterparts in most countries of the world.

Last week, we learned from a Government report that productivity in our country had dropped more than 3 percent during the last year. The farm sector is the most productive side of our economy, but this administration seems content to allow the farmer to shoulder more than his share of the burden of our current economic woes. Costs are soaring for everything from fuel and fertilizer to labor and borrowed money. President Carter's decision to embargo 17 million metric tons of grain bound for sale to the Soviet Union had a serious and disproportionate economic impact on the American farmer. Recent estimates show total farm costs will increase by as much as 20 to 25 percent this year. But unlike other business operators, farmers cannot automatically pass these increases on to the American consumer. The latest estimates show net farm income in 1980 could drop by between 20 to 33 percent from 1979's total of $33 billion. Farmers are major purchasers, and when the farmer does not have money, it has a domino effect on the whole economy from local retailers and manufacturers of farm equipment to the major steel and rubber industries.

This year, as in past years, the Appropriations Committee found it necessary to restore funds for essential research, conservation, and extension programs, as well as other areas important to farmers, the research gives the American farmer the tools to maintain his high level of productivity of quality food which the American consumer takes for granted. Agricultural extension activities serve as the primary delivery system of agricultural research and enable the USDA to perform its partnership role with its State and county counterparts in a nationwide educational delivery system for farmers, businessmen, families, youth, consumers, and community leaders. The committee has shown its concern for the problems of frequent floods in rural America by restoring funds for the watershed program. The controversy between the administration and Congress on the funding of ACP is an annual affair, and again the committee has restored the administration's proposed cuts. Last year, 361,000 farms participated in the ACP cost-sharing and established a variety of conservation practices, erosion problems that reduce productivity of the land and the continuing loss of agricultural land are contributing to higher costs for farmers. If the productivity of the land is depleted, costs of agricultural production will increase, and add to inflation. Appropriations for ACP and other conservation programs provide for reinvestments in the land and prevent the loss of the productive capacity of our farmland.

The restoration and increase in agricultural production budget items are largely noninflationary since they will provide additional employment, help protect our Nation's land and water resources, and encourage food and fiber production to meet domestic and overseas needs. Agricultural exports are a major means of offsetting the large U.S. trade deficits. This bill is one that all of us can support—whether we represent an agricultural or an urban area. About one in five jobs in private industry are involved in agricultural related activities. Maintaining purchasing power at the farm level and conserving the resource base are keys to the preservation of a sound and healthy economy in America. I urge my colleagues to support H.R. 7591.

□ 1430

Mr. Chairman, I yield back the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas (Mr. ALEXANDER), a member of the subcommittee.

Mr. ALEXANDER. Mr. Chairman, the devastating heat wave that tormented Arkansas for 4 weeks has been interrupted. At this time, however, our weather experts are not prepared to say that the heat wave has ended.

Even if the worst is over, the damage to Arkansas' economy generally, and to our crops, livestock, and poultry industries in particular, has been done. Cotton is not fruiting properly. Soybeans are dropping their blooms. Rice is heading prematurely. Livestock weight losses are extensive. Hundreds of thousands of broiler, breeder, and laying chickens are dead. Pastures are seared.

Crop production recovery cannot begin until the next planting season. Months will elapse before some parts of the livestock and poultry industry can show real evidence of recovery.

On Tuesday of last week, I talked to you about the other segments of our economy that have been directly damaged by this history-making heat wave. I will not go into those details again now.

Arkansas' economy has an agricultural core. The direct cost to our State's agricultural sector is already estimated to be more than $650 million and the final data is not yet available. Although the ripple effect of the shock waves of these farm producer losses, alone, on other segments of Arkansas' economy can not yet be determined experts monitoring the situation expect it to be substantial. Arkansas Industrial Research and Extension Center estimates that personal income across the State will be down 4 percent in the constant dollars this year as a result of the heat wave.

The damage to the agricultural sector, and through it to others, can be mitigated by prompt, efficient and effective operation of three Federal programs which can assist our farmers. Two of these are operated by the U.S. Department of Agriculture which is funded under the bill before us today. The third, we began to address last week when the House adopted my amendment to add $100 million to the Small Business Administration disaster fund loan program.

Because the heat wave disaster began before the new authorization for the Small Business Administration became law, I am advised by the SBA Administrator, Vernon Weaver, that farmers can go directly to SBA for assistance. Mr. Weaver has already made a disaster declation for Arkansas based on estimates of damage caused by the heat wave.

The disaster assistance programs operated by USDA, and referred to under the appropriations bill before us, are the Farmers Home Administration emergency loan program and the Agricultural Stabilization and Conservation Service crop disaster payments program. Both these programs are specifically designed to provide farmers with relief from crop, livestock and poultry losses resulting from natural disasters such as the history-making heat wave that seared the harvest hopes of our producers.

Experience has taught us that we do not yet have sufficient understanding of the natural phenomena that produce heat waves, floods, droughts, and other disasters to accurately estimate in advance what losses we will experience.

It is for that reason that this bill does not carry set dollar amounts to be made available under either the FmHA emergency loan or the ASCS disaster payments programs.

The language in the bill with regard to the FmHA emergency loan program says funding will be "in amounts necessary to meet the needs resulting from natural disasters." The ASCS disaster payments are made with the funding resources of the Commodity Credit Corporation on the basis of a formula established by the Congress in the authorizing law.

With the assurances we have been given that the administration will request additional disaster relief funds for SBA, which has exhausted its supply six times since 1977, and the resources of the FmHA emergency loan and the ASCS disaster payments program, there should be available sufficient funding to meet the disaster relief needs of our farmers.

But, disaster funds are not the only response we need from these agencies.

USDA has had ample notification of the heat wave disaster. USDA's experience should be sufficient to alert it to the fact that the work load in Arkansas and the other affected States will escalate sharply. Farming is not an activity that can reasonably be expected to be delayed while Government workers ponder over disaster assistance applications, or while too few FmHA or ASCS employees struggle with too heavy a burden of assistance applications. USDA, like SBA, needs to mobilize its personnel to insure that sufficient, trained and motivated staff is in place to quickly, efficiently and effectively process farmer disaster assistance applications.

Further, as a guard against penalizing farmers needing assistance from SBA, should SBA's disaster assistance funds be exhausted, FmHA should promptly undertake establishment of the needed regulations under the amended authorization for its emergency loan program to insure that interest and other repayment terms are comparable to those of SBA and apply those terms to emergency loans made in connection with the heat wave disaster.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield 5 minutes to our colleague from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, as most of the active Members of this congressional beehive know, I have been the watchdog for the "honey-coated" beekeeper indemnity payment program. For years, I have been making "stinging" speeches on this floor against this subsidy program. Since its inception in 1970, this program has paid for the burial of bees allegedly destroyed through the use of federally registered pesticides.

As I have stated in the past, I recognize that when the program was originally designed, there existed a crisis in the industry. However, the crisis has long since passed.

During the debate last year on this provision, I withdrew my annual amendment to dramatically reduce funding for this program where the beleagured taxpayers of the Nation continue to be "stung" by a bunch of "deceased pollinators." The reason for the withdrawal was a promise by the able chairman of the full Appropriations Committee that a thorough investigation would be conducted by the surveys and investigations staff of the House Appropriations Committee. The investigation has been conducted and I commend the staff for its probing and enlightening report which can be found on pages 824 to 892 or part II of the Agriculture Appropriations Subcommittee hearings for fiscal year 1981.

If I may cite a few of the interesting findings and observations of the staff, I think that you will agree that my worst fears had been warranted. I am surprised that "60 Minutes" never grabbed hold of this thing.

On page 825, staff reports that—

> Because of the expense and difficulty of wintering bees, it is economical for some northern beekeepers to deliberately kill the colony in the fall.

Remember, that this is a subsidy program theoretically designed to pay for those bees destroyed due to federally approved pesticides, not for those bees brought to their death by hired, federally funded assassins.

On page 828, staff reports that "hard data on specific bee kills in the field is extremely difficult to develop."

On page 831, staff report states that—

> The probability in intensively farmed areas of several succeeding moves to avoid other pesticide applications is such that beekeepers look to the indemnity program rather than the alternative of moving the colonies.

The most succinct indictment of the beekeepers indemnity payment program can be found on page 833 where it states without equivocation:

> The investigative staff found the bee colony inspections performed under the program to be inconsistent, inequitable and inaccurate in many cases.

In addition, it is reported that—

> Failure to follow inspection guidelines, incomplete or improper sampling, and other discrepancies in inspection procedures has resulted in excessive claims and encouraged poor management techniques by some beekeepers.

Mr. Chairman, the investigative report is rife with pages of similar language.

However, it must be said that as a result of this study, the program has been tightened up with three new program changes and the subcommittee has seen fit to reduce the appropriations for it from the fiscal year 1980 level of $2.89 million to $1.5 million for fiscal year 1981. But without these changes the program would continue to be one of the "sweetest" deals these beekeepers have ever known, resulting in a bad case of economic "hives" for the country. I do not want to "drone" on and on about this proposal, but I do not wish to say that I am very appreciative of the chairman's efforts in this matter. However, I must say that I will continue to perform the laborious watchdog duties for this once-abused program which placed a Federal bounty on the heads of our little pollination friends.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

As a freshman in this body, I know a lot of traditions are rapidly leaving us. I would just like to say I was fortunate enough to see one of the full-blown bee speeches. Perhaps I will not have that opportunity in the future.

So it is a fond buzz off.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

We have just fondly bid our colleague from North Dakota a farewell. Does this mean we are going to hear the last of the honeys that we have heard through the years, the bee speeches, at the conclusion of the gentleman's remarks?

Mr. CONTE. As I have said on this subject many times, I do not object paying for dead bees, but they never had an autopsy on a bee, and they never knew whether they died of a heart attack or love affair or pesticide. I am glad this issue is finally buzzing off.

Mr. MYERS of Indiana. I can well unstand why "60 Minutes" did not look fondly upon this approach, but has the gentleman tried "Laugh In"?

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. NATCHER), a long-time member of the subcommittee, a very effective gentleman.

☐ 1440

Mr. NATCHER. Mr. Chairman, the Subcommittee on Agriculture, Rural Development and Related Agencies appropriations once again brings to the floor of the House for your approval the annual appropriations bill for fiscal year 1981.

If our country is to survive and prosper, we must continue to be interested in and to assist when necessary the custodians of the natural resources of our country.

The American farmer knows how to produce and today our country is the world's largest exporter of food to other nations of the world. It is imperative that we reforest our lands, protect our watersheds, and conserve the soil and water in this country. We must leave to the future generations a fertile land and a land sufficient to produce food for our people.

Farm income has continued to rise during the past few years, but farm productions costs have increased at an even greater rate. Farm debt is now up to about $158 billion, which is a 15-percent increase over last year. As farm debt increases, the number of farms continue to decline. In 1961, we had 3,825,000 farms and in 1979, we had 2,330,000 farms. Over half of the farm debt was brought about as the result of the purchase of highly inflated farmland. A great portion of this debt was incurred by young people who were encouraged to go into farming and to expand their farms.

The assets invested in agriculture today exceed those of many of the next 10 largest industries. Agriculture employs more workers than any other major industry. Twenty-three times the number of people are employed in agriculture than those employed in the coal and oil industry and five times more than the number of those employed in the automobile industry. All down through the years, agriculture has been one of the major markets for the products of labor and industry. Agriculture spends more for equipment than any of the large industries. It uses more steel in a year than is used for a year's output of passenger cars. Agriculture uses more petroleum products than any other industry in this country. It uses more rubber each year than is required to produce tires for 6 million automobiles. Its inventory of machinery and equipment exceeds the assets of the steel industry and is five times that of the automobile industry.

I have always believed that the American farmer is entitled to a fair share of our Nation's income. In this country today crop productivity per acre has doubled and livestock output increased 130 percent in the past 4½ decades. One hour's farm labor today produces eight times more than in 1929. Man hours needed to produce 100 bushels of wheat declined from 106 hours in 1914 to 6 hours today. Research and development in agriculture have contributed directly to a 50-percent increase in farm output over the last 20 years and to a 25-percent decrease in the real cost of food and fiber over the past 15 years.

Farm gross income has continued to increase in recent years but net income has gone down. In 1972, farm income totaled $70.1 billion and in 1979, it totaled $146.8 billion. This is a 109-percent increase. The small farms represent 70 percent of the total farm operators in this country, and they produce 10 percent of the total farm products sold. The larger farms account for 90 percent of all of the farm sales. In the year 1950, the farmer received 47 percent of the consumer's food dollar and today receives about 37 percent.

Consumers spent $239 billion for food grown on the farms in this country in 1979 and about $77 billion of this amount went to the American farmer. The remainder of $162 billion went to labor, for packaging, for transportation and for costs associated with moving the food from the producer to the consumer.

Increased fuel costs have brought about a serious problem to the American farmer. In the year 1975, fuel costs totaled $3.3 billion and in 1979 fuel costs are expected to reach $6.7 billion.

For agriculture programs in this bill we have a total of $5,178,574,000.

For rural development programs we have $2,266,695,000.

For domestic food programs in this bill we have $12,809,799,000.

For international programs we have $1,291,465,000.

For the related agencies such as Food and Drug Administration, Commodity Futures Trading Commission, and Farm Credit Administration, we have $364,154,000.

For agriculture research, Mr. Chairman, we recommend $398,234,000. Tobacco production is one of the items under research and this is one of the important items. Tobacco is produced in 118 counties of the 120 counties in Kentucky. This is the major cash crop of the Kentucky farmer. Mr. Chairman, the Department of Agriculture again attempted to reduce crop production research for tobacco and our subcommittee restored the $1,048,000 which the Department recommended be deleted. Last year the Department recommended a reduction of $1,229,600 and at my request, this amount was restored. Two years ago, the Department recommended a reduction of $3,106,000 and we restored this amount. There should be no reduction in crop production research for tobacco. In addition to crop production research, a small item for research on tobacco insects was deleted and the amount in this bill totals $797,000, the same as the amount available for fiscal year 1980. This is $182,000 more than the budget requested.

Extension service means more to the American farmer today than at any time in the history of agriculture. We recommend in this bill the sum of $299,029,000 for extension. This is $13,492,000 over the 1980 fiscal year level and $17,012,000 over the amount requested.

For animal and plant health inspection service we recommend $250,138,000.

For marketing service we recommend $49,109,000.

Mr. Chairman, this bill carries the sum of $3,299,887,000 for restoration of funds to the Commodity Credit Corporation.

For Rural Electrification Administration, we recommend loan authorization totaling $1,100,000,000. For the rural telephone bank we recommend authorization of $22,500,000.

Mr. Chairman, the Soil Conservation Service was established in this country in 1935. This is one of the great services in the Department of Agriculture. For conservation operations under this service we recommend $283,001,000. For watershed planning we recommend $10,660,000 for watershed and flood prevention operations, we recommend $167,524,000.

In our report, Mr. Chairman, on page 85, we find the following:

> Elizabethtown, Kentucky, and surrounding farmland, is protected from flooding by four upstream dams completed in 1976. In addition, one of the dams contains a supply of water for use by the town and industry. The water supply has been doubled. This has enabled seven new industries to locate in Elizabethtown and provided for expansion of six others, creating at least 1,600 new jobs. In fact, about 15 percent of all of these projects involve the storage of water for municipal or industrial uses, an important part of rural development.

Shortly after Hardin County was placed in the Second Congressional District, we proceeded under Public Law 566 to develop a watershed which produced the results set forth in the above paragraph. Today Elizabethtown has an adequate water supply.

For Agricultural Stabilization and Conservation Service we recommend in this bill the sum of $190,000,000.

For our special milk program we recommend $176,200,000. The food stamp program calls for appropriations totaling $9,739,276,000.

For Foreign Agriculture Service, we recommend $60,535,000 and for Public Law 480, we recommend $1,228,930,000.

The programs of the Food and Drug Administration call for the sum of $319,535,000 in this bill.

Mr. Chairman, if our country is to survive and prosper, agriculture must be protected. This is a good bill and our Committee on Appropriations recommends it to the Members of the House.

Mr. Chairman, one of the nicest things that has happened to me since I have been a Member of Congress is the opportunity that I have had for a period of 26 years to serve on the Subcommittee on Agricultural Appropriations. On both sides of the aisle on this subcommittee, we have hard-working, able Members of the Congress. Especially does this statement apply to the chairman of our subcommittee, the distinguished gentleman from Mississippi (Mr. WHITTEN), who is the dean of the House of Representatives and one of the able Members of the House, Mr. Chairman.

All down through the years as a Member of the Congress he has said to every Secretary of Agriculture, regardless of who occupied the White House, "I want you to stand up and defend the American farmer."

The same statement applies to my friend, the gentleman from North Dakota MARK ANDREWS, the ranking minority member on our subcommittee.

Mr. Chairman, I have never served on a subcommittee, with an abler man than my friend, MARK ANDREWS. We are going to miss MARK ANDREWS.

One of the nicest things that has happened to me, Mr. Chairman, is the opportunity that I have had to serve with these two distinguished gentlemen and other members of this subcommittee.

Mr. Chairman, for your information, I was sworn in on January 6, 1954 as a Member of Congress and since that time I have kept a journal. I have 40 bound volumes. I am now on volume 41. I want the members of this committee to know, that my friends, JAMIE WHITTEN and MARK ANDREWS, come out good in my journal.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield 5 minutes to our colleague, the gentleman from Virginia (Mr. WAMPLER), the ranking member of the Agriculture Committee.

Mr. WAMPLER. Mr. Chairman, I wish to commend the distinguished chairman of the Appropriations Committee, the members of that committee, and particularly the members who serve on the Agricultural Appropriations Subcommittee. In this most trying and difficult year, I believe the Appropriations Committee has done an outstanding job in rationalizing the various needs and requirements of the agriculture community. While I, and probably many of them, would like to have seen certain individual items be funded more generously, we all realize that, if we are to deal with the enormous economic problems our Nation currently faces, we must exercise a good deal of restraint.

Mr. Chairman, there are several areas of this pending appropriations bill that I should like to comment on briefly. My comments are not in the way of petty complaint or violent disagreement with the solutions proposed by the members of the Appropriations Committee. My remarks instead should be taken more as a caution, not only to them, but to all of us involved in this great industry of agriculture, that we may be headed for trouble if we keep coasting on our past triumphs in agricultural productivity.

The areas which concern me can be found in this bill by comparing the degree we are funding our traditional agricultural basic research and related programs with all other research and development programs in the Federal Government. Moreover, I am concerned by the actions in this appropriations bill to dismiss the development of new, long-range basic research programs, through such devices as the competitive research grants program and the new animal disease research formula grants which were developed and enacted in title XIV of

Public Law 95-113, commonly called the 1977 farm bill.

The American farmers and the related agribusiness that processes, handles, stores, transports, and sells the commodities produced on our farms are the envy of the world. Their contribution to our society is tremendous. One out of every five jobs in the United States is involved in the food and fiber business. Exports of more than $30 billion in farm products are the largest single positive contribution to our international balance of payments.

On the inflation-fighting front, agriculture has a major role. Food accounts for some 17 percent of the family budget for our citizens. Only recently we have seen how sharp declines in agricultural prices have contributed to a lessening of our inflation spiral.

Ten years ago few, if any of us could have predicted the virtual collapse we are witnessing today of our automobile industries, our steel industries, and, to some extent, our vast energy industries. As we remember, these vast industries at that time formed with American agriculture the awesome power of our Nation's economic strength, envied by the world.

Mr. Chairman, for these reasons it is essential—and I emphasize the word "essential"—that the productivity of American farmers and ranchers continues to grow. There are some disturbing signs that point to a slowdown in the rate of growth in productivity of American agriculture. We must not allow that trend to continue.

It is for this reason that I would urge not only the members of the Appropriations Committee, not only my fellow members of the Agriculture Committee, but all of my colleagues to take a careful look at the Federal funding levels for this basic agricultural research, the related extension of that research to the users and the replenishment of the pool of expertise through teaching assistance. The levels of funding in the bill we are considering today need to be sharply increased in the immediate years ahead if we are to correct this situation. In the current legislation, the increase for agricultural research within the USDA is less than half the rate of inflation, and the formula-funded programs operated through the land grant colleges are only 5 percent above last year's level—even further below the rate of inflation.

Federal sharing of basic research, extension, and teaching is an investment in reduced inflation in the years ahead. It is an investment in increased export earnings in the years ahead. It is an investment that we cannot afford to delay. The research, extension, and teaching so necessary to our agricultural economy cannot be turned on and off like a spigot. It is instead a cumulative building process essential to the long-range benefits.

For the last several years I have supported the action of the Appropriations Committee to limit the so-called competitive research grant provisions of title XIV, Public Law 95-113. It was my understanding that past disagreements with the Department of Agriculture over the implementation of the competitive research grants program stemmed from the fact that the Department attempted to use this program as a device to cut the Hatch formula grants program. I concurred fully with the Appropriations Committee's successful efforts to curb that abuse. I would still support that effort. But, I draw the line at abolishing the program. In this regard we need a competitive device to get the best scientists available to undertake basic research into certain critical areas, such as photosynthesis and nitrogen fixation.

This is not to say that Dr. John Doe, plant pathologist at Auburn University is not equipped to do the job as Dr. Richard Row, plant microbiologist at Harvard. Maybe both of them have presented proposals that have already been worked on. Someone has to look at these proposals who is a scientist or, better still, who are scientists and award the grant to the best proposal. Basic scientific research projects do not ordinarily pertain to commodities, such as improving yields in beets or beans or blights in rutabagas. Instead, basic science cuts across the whole spectrum and deals with making all plants more efficient or more productive. Most recently we have seen the whole new science of gene manipulation that promises to give us breakthroughs in agriculture that will maintain the supremacy of American agriculture and give our people a needed economic uplift. Perhaps in this respect we need to transfer some of the ingenuity of American agriculture to our automobile industry.

I was also perturbed by the announcement of the Appropriations Committee that it would agree with USDA's position and would not fund the animal disease research formula funds under section 1433, title XIV, Public Law 95-113. As I understand it, the amount of money which had been previously appropriated was said by USDA to be too small to be effective. I recognize that the money which has been provided is less than could be used effectively, but I have been assured by the veterinarians of this country that it is being used to address the major disease problems that we find in the Nation's herds and flocks, and given a bit more time and support, this program will produce tangible results which will represent the dividends one expects from any sound and worthwhile investment.

No one espouses the thesis that research on the important diseases of food animals is inexpensive, as the costs of maintaining suitable numbers of cattle, swine, sheep, and poultry for investigative purposes are not insignificant. But the chance of preserving the life of half of 20 percent of the Nation's food animals born every year which now succumb to one of a variety of diseases and never enter the human food chain—equates to $2½ billion. To accomplish this seems to be a worthwhile goal. Likewise, the cadre of scientists and support personnel and the general laboratory capability of all must be available and operational because the system must have continuous support if it is to be available and productive. All of this, coupled with the great number of significantly important animal diseases, the multiple causation factors of disease, and the importance of sound environmental management, translates into a highly complex set of circumstances to be faced by the researcher, and any one of these factors can be the key. Despite this complex situation, the potential for payoff in the form of a continued reasonable abundance of wholesome and necessary animal protein at affordable prices more than justifies the expenditures for the research investment. As the key to improved animal production is animal health, the key to improved animal health is research.

There was a recent study reported in the September 1979 Science magazine that bears on this point. Independent scientists looked at all of the evaluation studies conducted during the past 20 years on the benefits of agricultural research. After reviewing this material, they concluded that annual rates of return on agricultural research are on the order of 50 percent. That is the kind of return on investment in agricultural reseach that I am referring to. Those scientists particularly pointed out that the close tie between basic science and technical application in the agricultural industry was the reason for this phenomenal success rate, and particularly cited the decentralized land grant college system with its extension and teaching programs as the basic ingredient in this success story.

Mr. Chairman, I would urge all of my colleagues, and particularly those who have a direct responsibility for agricultural legislation and appropriations matters, to give careful consideration to this matter in the weeks and months ahead. I would hope that in the future we would give greater emphasis to, and place a higher priority on, adequate investment in basic agricultural research and its allied extension and teaching programs. By doing so, we will be taking positive steps toward a stronger economy, toward lessening inflation, toward increasing production, and a better way of life for all.

A few days ago, Mr. Chairman, amendments were offered to H.R. 7584 to prohibit funds from being expended to enforce the embargo of grain to the U.S.S.R. Although I would prefer to see the President recognize the ineffectiveness and futility of the embargo and move to end it himself, in the absence of any indications that he would take such action I supported the legislative attempt to do so.

Yesterday the administration moved to raise loan rates for wheat feed grains and soybeans. This long overdue action should provide some additional help to U.S. farmers who have been hard pressed financially because of the embargo, inflation and other factors that have pushed prices down and costs up. This is a step in the right direction, but it is regrettable that President Carter did not see fit to take that step when producers first needed it early this year. I hope the President's next action will be to lift the embargo and find some more effective way of punishing the Soviet Union for its action in Afghanistan.

Many of us disagreed publicly with the President when he imposed the embargo in January. I would like to back the President of either party when he embarks on foreign policy initiatives such as this. The Afghanistan invasion called for an American response that embodied a well-thought-out strategy designed to muster the support of the free world countries and to force the U.S.S.R. to forestall, if not retreat from, whatever strategy it had embarked upon in its invasion of Afghanistan.

Whatever the U.S. strategy—the grain embargo was but a tactic as I view it, within what I presume to be the administration's overall plan or strategy. It was the wrong tactic. It was a mistake, and I so labeled it at the time.

Why did I view the embargo as an error? For the following reasons:

First. It is difficult for a country to impose an effective embargo upon another. Embargoes are generally ineffective unless the country it is imposed against can be isolated by a device such as a blockade.

During the Cuban combat brigade imbroglio last fall, even National Security Adviser Brzezinski, in response to a question about a grain embargo against the U.S.S.R., characterized it as akin to the United States "shooting itself in the foot."

Second. Selective embargoes—such as the grain embargo—are more likely to be ineffective and unfair and burdensome to one sector or element in the economy. This was the case with farmers in this embargo.

Third. From the beginning, the administration's grain embargo appeared to be designed for long-term effect in a situation that appeared to call for prompt action that would show immediate cause and effect. Eight million tons of mainly food grains were exempt from embargo. What was embargoed were about 17 million tons of mainly feed grains which the administration hoped would affect the Soviet meat diet this summer or next fall.

The embargo as designed was big enough to hurt the U.S. producer but not so large as to affect the U.S.S.R. cereal diet.

Fourth. The imposition of the embargo appeared to be abrupt with insufficient knowledge of its effect. The cost has been placed at $3 billion by the administration, and one wonders if a large part of that will not go to large grain companies whose $14 billion in contracts the administration was forced to assume by January 7, 1980, because of failure to forecast the effect of the embargo on the market.

Where are we now? Well, let me recapitulate as I see it.

First, farm prices have been adversely affected since the January embargo.

Second, an unfair portion of the burden of the selective embargo has fallen on farmers. Moreover, despite recent modest commodity price increases, prospects into 1981 are bleak, inasmuch as the administration imposed no set-aside and no land diversion programs for the 1980 crops. Economists are still projecting large carryovers and low prices into 1981 for farmers, although the damage from the heat wave could change that picture somewhat.

Third, the U.S.S.R. is getting mainly food grains from the United States and feed grains from Brazil, Argentina and others. The embargo from all available evidence appears a failure.

Fourth, the U.S.S.R. meat shortage has not materialized or at least proof of it is not evident.

Fifth, free world cooperation on the embargo has been spotty at best.

Sixth, the United States last month initiated what appears to be a change in policy by "softening, easing, or lifting" an already ineffective embargo by permitting sales of foreign grain by foreign subsidiaries of U.S. grain companies to the U.S.S.R. This has been claimed by some to have the appearance and may be designed by the administration to be a de facto repeal of the embargo by permitting or inviting further circumvention of the embargo.

It is clear that U.S. farmers and taxpayers have been the principal victims of the grain embargo, rather than the Soviet Union. It is time for the administration to either declare it a victory or admit its failure and concentrate instead on a U.S. strategy that will emphasize positive and attainable goals for a unified free world approach to the issue of the U.S.S.R. invasion of Afghanistan. I do not want to see farm policy entangled in any foreign "appeasement" policy of the United States toward the Soviet Union.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Chairman, first, I would like to join our colleagues in a salute to the gentleman from North Dakota. As a Member from a sugar producing State, I would especially like to thank him for his understanding and for his help throughout the years in this regard.

While speaking of things that are sweet, I would also like to say to the gentleman from Massachusetts that I am very pleased that the gentleman did not use an antifeminist approach and assume that some of those bees had died by the actions of the queen bee.

But Mr. Chairman, I have a serious problem with the New Orleans commodity supplemental feeding program. It is in desperate need of some additional funds. With the inclusion of infant formula into the women and children's feeding program, the participation in the program has risen dramatically. As a matter of fact, it rose 500 percent between December of 1979 and the end of May of this year.

Then on the second of June of this year, the USDA Southwest Regional Office told the New Orleans office that it would be frozen in at 15,250 slots. Those numbers were exceeded by the end of the second week in June, Mr. Chairman. In view of this desperate situation in the area of New Orleans, it may be, of course, added on to by the other areas of the country. I would like to pose this question to the gentleman, if I may.

□ 1450

Mr. Chairman, the bill includes $924,540,000 for the special supplemental food program, WIC, and the commodity supplemental food program, and makes no specific allocation between these programs. The report states that of that total amount, $24,540,000 is recommended for the commodity supplemental food program. In view of the urgent situation I have described, may I ask the chairman if it is the intention of the committee that up to $27,040,000—$2.5 million more than the previously recognized need—may be available, if needed, for the commodity supplemental food program?

Mr. WHITTEN. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the chairman.

Mr. WHITTEN. In answer to my colleague and member of the Committee on Appropriations, the reason we provided these funds in the way that we did is so that essential needs could be met. Should the need be existent, as the gentlewoman says, we would expect that up to that amount be applied to that use. That is our intent.

Mrs. BOGGS. I thank the chairman very much.

Mr. TRAXLER. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman.

Mr. TRAXLER. I want to commend the gentlewoman for raising the issue, one for which I have a great deal of concern and support. I also appreciate the chairman's response.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I rise in support of this bill.

Mr. Chairman, as we begin consideration of this legislation making appropriations for Agriculture, rural development and related agencies for fiscal year 1981, the agricultural community in this country is suffering an economic crisis the likes of which we have not seen in years. Inflation has pushed production costs to record highs. Returns on most agricultural products are low or marginal at best. Net farm income may be 40 percent below last year. The purchasing power of U.S. farmers has plunged to the levels of the mid-1920's when agriculture was in the depths of a major depression.

The current state of the U.S. agricultural economy is stark testimony to the bankruptcy of the Carter administration's farm policies. The embargo of grain to the Soviet Union is an example of the mixing of farm and foreign policy, to the detriment of both. It has been an expensive way to prove once again that an embargo is not an effective foreign policy tool.

I would call the attention of my colleagues to the discussion of the embargo beginning on page 19 of the committee report on H.R. 7591. The following excerpts from that discusssion help put the issue in perspective:

> Whatever the ultimate effect on Soviet consumers, the Administration is pledged to protect U.S. farmers from any undue damage from the embargo. . . . Despite these announced measures to protect farm prices and markets, evidence in the press and elsewhere tends to indicate that the embargo is having an adverse effect on the American farmer, especially the corn producer. Corn prices weakened in some areas in early April

and CCC purchases to remove extra supplies from the market have been inadequate. USDA efforts to keep prices of other commodities from sagging may also prove to be "to little and too slow."

The Committee is firmly of the opinion that the American farmer must not be expected to bear more than his fair share of any sacrifices that may be necessary due to the Soviet embargo.

Last week we debated the pros and cons of the embargo on another appropriation bill. Unfortunately, the effort to prohibit use of funds for its enforcement did not succeed. I hope, however, that the exercise will not be lost on President Carter. I hope it will stir him to look again at the foreign policy options with respect to Afghanistan, and admit the failure of using food as a foreign policy weapon in this case. It has been amply pointed out why limited embargoes generally do not work, and why this one in particular did not.

Yesterday the administration announced an increase in farm support prices. It will be welcome, I believe, to most producers, but it would have been more welcome 6 months or so ago. Farmers facing depression conditions with a 40-percent slump in farm income needed this boost long ago. It is a sluggish response to desperate conditions, but should still offer some comfort to credit-crunched producers.

The administration's crisis management of agriculture offers little consolation to farmers battered by the Soviet grain embargo, tight credit, depressed prices, and bungled leadership in Washington. This may be an attempt to bolster sagging political support, but if the President is really committed to American farmers he should aggressively pursue profit-oriented farm policies rooted in a strong marketplace.

At a time like this it is interesting and instructive to reflect on the promises candidates Carter and Mondale were making to farmers back in October of 1976. In an interview with a Kansas radio station at that time, Vice-Presidential candidate Mondale made some statements that sound awfully hollow when compared with the subsequent performance of the Carter-Mondale administration. I wish at this point to revise and extend my remarks and include the text of that interview:

INTERVIEW: VICE PRESIDENTIAL CANDIDATE WALTER F. MONDALE WITH LARRY STECKLINE, RADIO STATION KFRM FARM DIRECTOR, OCTOBER 1976, WICHITA, KANS.

Mr. Steckline. Well, Senator, first of all, I want to thank you for granting me this private interview. I know you can't do that with everybody. I really appreciate it.

The reason for our asking you to do this is the fact that we have not had a chance to talk to you or Mr. Carter, either one, about the specific issues of agriculture. We have been hearing a lot of things but no specific items with regard to answers for farm problems. By golly, we have got some farm problems.

Senator Mondale. It is terrible.

Mr. Steckline. We need a little help.

Senator Mondale. I grew up in rural America. I spent most of my young days working on or near a farm. I have a strong family farm voting record in the Senate, and, as you know, my running mate, Jimmy Carter, is a farmer. We want to turn this thing around.

We think two things are basically wrong. Number one, the farm programs are not nearly adequate. Secondly, those four embargoes destroyed what we should have had in terms of a firm strong international trade posture. Also, the Republicans and Mr. Ford and that administration has done it to us through vetoes and embargoes. They are now trying to come back and through some mickey mouse actions just before the election they are insulting the intelligence of the farmers by, for example, raising loan levels which are fifty cents below the levels established for wheat in the bill that he vetoed. Even those at $2.75 are too low. The production costs in Kansas here, we estimate, are at least $3.00, depending on your costs.

Mr. Steckline. Does that mean that you would have gone for about a three-dollar loan rate?

Senator Mondale. Our position is that the loan levels ought to be at production levels. As you know, there is some dispute and some differences in production costs, but we would work out a generalized figure for production and would try to set the loan level at that level. Then, we would give the farmer a longer loan period so that he can afford to wait out the market longer and get a better price. That gives all farmers a better bargaining position.

Such reserves as are held would then be held by the farmer and not by someone else. That is the first thing we would do.

Mr. Steckline. Okay. But what happens, though, if we get to reality? Supply and demand, of course, does set our market to a certain extent. We are planting fencerow to fencerow out here. We are kicking ourselves a little bit for that right now.

What happens if we oversupply? What happens if all foreign countries have a good year again next year? What happens if we get our wheat down to $2 a bushel, and the Government ends up taking over a good supply of wheat?

Senator Mondale. We wouldn't want to do that. In other words, we think that if we set the loan level at production prices and hold it there, then if the prices fall below the farmer can hold it. We think those prices would firm up.

One of the problems now is that with wheat at loan, those can be called within a year. He only has a certain window there in which he has to sell. That forces him to sell when maybe the market is not as strong as it should be.

By having a longer term loan, let's say maybe three years, it would give him a much longer period. And you know that one of the things that happens with the international grain situation is that we are pretty steady producers in this country. But a lot of other places in the world, like Russia particularly, are very erratic producers. One year they will have a pretty good crop; the next year it will stink.

So, if our farmers would have a longer interval and if they can get their production costs, then we think that will do a lot to help them out of this crisis. In other words, we don't think that we can guarantee profit, but we do—and I don't think the farmers want that guarantee. What they do want is to be prevented from having disaster.

With more and more people around the world feeding livestock with protein levels going up and the rest, we don't think that the longterm picture will ever get us back into those situations where we needed high reserves and production controls. We don't think we will have to go through that again.

Mr. Steckline. Something that bothers us just a little bit is this. We feel—and I am speaking as a farmer because I am one also—that one of the prime reasons the embargo was thrown on by the President a few months back was because of Mr. George Meany.

Mr. George Meany, or course, is supporting your ticket.

Senator Mondale. That is right.

Mr. Steckline. What are you going to do with him when those prices start to go to $4 and when he talks about a $1 loaf of bread?

Senator Mondale. I am glad you asked about that.

First, I would tell George Meany that the price of wheat has practically nothing to do with the price of a loaf of bread. The farmer gets a couple of pennies. People ought to understand that. The farmer can get a good return and can have profit, and that has practically nothing to do with the price of bread.

The second we would tell him is this. We will not support an embargo. There were four Government embargoes, and there was one shortrun where they refused to load for awhile. Whether it was put on by the union or by the Government. I announced at the time that I was opposed to it. That would be our position. We don't agree with any kind of embargo.

The difference is that the Republicans put on four embargoes. They did it. Secretary of Agriculture Butz testified saying, "The idea of the embargo came from my office."

Secondly, what kind of President is it who would knuckle under to an outside interest? The President is supposed to represent the public.

So, that is our position—we are opposed to any embargoes.

Mr. Steckline. Okay. You mentioned something about the Secretary of Agriculture there. We don't have one now.

Senator Mondale. We have an acting secretary.

Mr. Steckline. Yes; we have an acting secretary.

What kind of a Secretary of Agriculture would you like to see?

Senator Mondale. We want one who is pro family farmer; pro marketing; pro strong farm programs; and one who will make these existing farm programs work.

For example, we have a big drought in Minnesota. They have done practically nothing to help our farmers, many of whom are going to be wiped out if we are not careful.

We would like to get such things as the Federal Crop Insurance program going again and strong soil conservation programs. We want a person who is strongly committed to those programs.

But let me say one other thing. I will tell you who runs the Department of Agriculture fundamentally—It is the President. We shouldn't put all of our eggs in the basket of who is going to be named Secretary of Agriculture. I don't know who we are going to name. I don't have the slightest idea. But I know he will be that kind of person—firmly committed to family farming.

Mr. Steckline. Will he be off the farm?

Senator Mondale. I think that would be a good idea. You understand, I am not in a position to commit.

Mr. Steckline. Right.

Senator Mondale. But he will strongly pro family farmer. He should have a strong family farm background, and he should be a person who is going to really push strong agricultural exports.

Mr. Steckline. Senator, I think we as farmers are tired of the big agri-business-type representative.

Senator Mondale. I can absolutely guaranty that I understand the difference. Our Secretary is going to be farmer first. And, you know, if the farmer is doing alright, then everybody else is going to do okay.

Mr. Steckline. That is exactly right. That is a good point.

Senator Mondale. If we have the time, I want to talk about other parts of this. Take beef, for example. For two years we have been trying to pressure this administration into establishing a beef import program that makes sense. The one now is upside down. In other words, the more standing beef there is, the more imports there are that can come in. In other words, when we need it the most, we get the least help; or we don't get any help.

They refused to do anything even though with a stroke of the pen they could stop some of this mickey mouse like this beef coming through Puerto Rico and so on. They didn't do that.

Mr. STECKLINE. What about the courts, Senator?

Senator MONDALE. What's that?

Mr. STECKLINE. The courts—they interfered with the President.

Senator MONDALE. I don't believe that has been a strong factor. My understanding is this. You see, under their regulation—and a regulation is not a law—they can change it. Processed beef is defined in a certain way. You cube it or chill it or something like that. Then you get around the import quotas. But they bring in a lot of imported beef through Puerto Rico. They do something little with it. It becomes processed beef under the Department's regulations, and you can bring in any amount. So, it is a technical avoidance of the import program.

They can change that and close that loophole with the stroke of the pen. They haven't done it.

Now they are trying to get back with the cattlemen on the eve of the election by announcing a beef import program, which sounds good in the large print, but if you read it carefully, it does not do anything. They can bring in as much beef as they brought in last year.

In other words, it is trying to deal with the politics of the problem and not the fundamental problem.

Mr. STECKLINE. May we turn to dairy products for just a moment?

Senator MONDALE. You bet.

I come from a strong dairy area. We have tried to get dairy price supports up to at least 85 percent. Our figures show that at 85 percent the dairy farmer makes less than the minimum wage. A lot of the dairy farmers are getting out of the business because they just can't make it.

Mr. Ford vetoed two bills that we passed at 85 percent of parity. Mr. Dole voted to sustain that last veto. So, you have this program where they have let wheat prices go through the floor. They have vetoed bills that would keep those levels up to production costs. They have banged on four embargoes. They have vetoed two dairy price support bills. They have refused to do anything about the beef import program. And, wherever you turn in rural America farmers are in trouble.

Cattlemen are losing $100 a head. Wheat farmers, what—fifty cents a bushel, sixty cents a bushel? They are going broke. They are doing nothing.

We have got to turn it around.

Mr. STECKLINE. Senator, we are at the airport, and I have a thousand more questions. But there is one thing that I can't figure out. Of course, I am not a politician, so maybe I can't ever figure it out.

We talk on one side about lowering inflation and at the same time raising farm prices. You know for a fact that when you raise beef ten cents a pound, it goes up twenty cents in the store. How do we do that?

Senator MONDALE. This is one of the things that really burns me up.

The farmer's share of the consumer dollar spent for food has dropped, I think, three or four percent in the last two years. When the wheat prices go down, the consumer is not getting the difference. When beef prices are as low as they are now, the consumer is not getting that break. It is that middle process that seems to absorb the difference.

Mr. STECKLINE. What can we do about that?

Senator MONDALE. Let's be frank about it. It has been tough. A lot of people have tried to do something about it.

One thing we can do is to help to explain to the American consumer that the best longterm guaranty for the consumer is a strong family farm system where a farmer can produce what we need—full production—and can be guaranteed against disaster.

Right now, he has produced at our request fully, and we are giving him disastrous payments. In other words, we are punishing him for doing what the country asked him to do. The least we can do is to get those loan levels up to production costs and get minimum dairy price supports up to some kind of reasonable level and, if there are any reserves, have them farmer-held and really push the international agricultural market and have a Secretary and a President who help explain to the American people that it is in this way that we really strengthen our country's economy.

Mr. STECKLINE. If you become Vice President, do you have any assurance from Mr. Carter that you will have a real input in agriculture?

Senator MONDALE. Absolutely. As a matter of fact, Governor Carter and I have talked more about agriculture policy than anything else. He feels very deeply about it. I do.

If you know my record in the Senate, I have had a solid pro-farm record: REA, Soil Conservation, Federal Crop Insurance, the Commodity Credit Corporation, agriculture research, Extension Service, the rural telephone—the whole gambit. You check my record. I have always been with the farmer. And that is where we intend to be.

Mr. STECKLINE. Okay; one final question. The airplane is coming up here, Senator.

What about immediate help for farmers? When you take over, if wheat is $2.10 a bushel, can you do something?

Senator MONDALE. Let me call you on that. I would think that one of the first things we could do would be to lift those minimum price supports under the authority that now exists with the President. I would anticipate that we would do that. We can do the same with minimum dairy price supports.

But I have not asked that specific question of the Governor, so I don't think I should answer until I am sure.

Mr. STECKLINE. Okay. Real fine.

Senator, thank you.

Senator MONDALE. Thank you so much.

[Unexplained continuation.]

You see, a person who understands farming can help explain to the rest of America, who might not know too much about farming, what it means to get $2.30 a bushel.

The other day I gave a strong speech before a city audience for a good farm program. One of them said, "Well, what is wrong with $2.30?" I said, "I will tell you what it is like. It is like going to a meeting of machinists and announcing, 'You are making $6.50 an hour and we hope you won't mind if tomorrow you are going to start making $1.25 an hour.'" I said, "What do you think would happen?"

Well, he said, "They would kill me."

I said, "That's right: and that is what they are going to do to these politicians who won't start supporting good farm legislation. They can't live with it. We have to change it around."

Mr. STECKLINE. Do you think the agricultural states will have a big role to play in electing you folks?

Senator MONDALE. I am convinced of it.

And, they are getting worried. Ford and these guys are getting worried because they wouldn't do these phoney things—

[Unexplained discontinuance.]

Mr. Chairman, I want to commend Mr. WHITTEN and the Appropriations Committee for producing what is basically a strong agriculture appropriation bill. There are areas, of course, where there could have been improvement, but this occurs under the best of circumstances, and we are under serious budgetary constraints this year.

Specifically, I am pleased that the funding for the agricultural conservation program has been restored at least to the level of last year—$190 million, instead of the $160 million recommended by the administration. The committee's treatment of the other conservation programs reflects the importance of conservation to a strong agriculture in this country. We must continue and improve our conservation efforts if we hope to maintain agricultural production at high levels in the future. The rate of loss of topsoil from U.S. farms is alarming, and must be reduced to protect the future food and fiber security of the United States.

Agricultural research is another area that must be treated as a long-term investment in our country's future. I am concerned about any reduction in research efforts as well as any attempts to restrict agricultural research on improvements in technology. Such restrictions, depending on their type and extent, could prove costly in the long run to U.S. consumers, our economy, and to hungry people throughout the world.

Overseas market development efforts must receive increased attention and support, for it is clear that U.S. producers must have good export markets to survive. The importance of agricultural exports to our economy has been amply demonstrated, especially since the beginning of the steep rise in the cost of imported oil.

Mr. Chairman, I again commend Chairman WHITTEN and the Agriculture Appropriations Subcommittee and urge my colleagues to read the first 33 pages of the committee report.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield 3 minutes to our colleague, the Delegate from the Virgin Islands (Mr. EVANS).

Mr. EVANS of the Virgin Islands. Mr. Chairman, today I rise in support of passage of H.R. 7591, the fiscal year 1981 agriculture, rural development, and related agencies appropriation bill.

I wish to commend both the chairman of the subcommittee, Congressman JAMIE L. WHITTEN, and the ranking minority member, Congressman MARK ANDREWS, who put forth bipartisan efforts in getting this bill reported to the floor.

Mr. Chairman, I want to bring to the attention of my colleagues the precarious situation which we currently face in the U.S. Virgin Islands, and the urgent need that exists for serious attention by the Soil Conservation Service to the Virgin Island's hazard mitigation plan.

As you may recall, Mr. Chairman, St. Croix, St. Thomas, and St. John were hit extremely hard by the effects of Hurricane David and Tropical Storm Frederick, which caused extensive water and wind damage last August. That there were no casualties was mainly attributable to adequate warning and a healthy respect in the islands for hurricanes, which prompted the necessary precautions.

An assessment of the severity and magnitude of damage showed almost 3,000 homes which suffered some degree of damage, with a small number completely destroyed.

School buildings suffered almost $3.5 million damage, and while the road damage on St. Thomas and St. John was not very extensive, there was over $1,000,000 damage to the roads on St. Croix. Additionally, about $300,000 damage was done to the small dams on St. Croix, which are very essential in raising the water table and providing some water for livestock and limited irrigation. The total estimate of the cost for clearance and restoration of road systems, public buildings, and public utilities is $3,548,562.

At this point, Mr. Chairman, it is important to make the point that simply restoring things as they were before is to set the stage for a repetition every time there are storms. It seems very clear that the Federal flood insurance program analysis of what they term, "hundred-year storms" is in urgent need of revision since the Islands within the past 20 years have had four such storms which were supposed to occur only once per 100 years and actually have had three within the past 10 years. Under these conditions, it is necessary to restore in such a way that the likelihood of a repeat occurrence is minimized. This comes under the provision of hazard mitigation. Any other approach is merely a waste of money.

Of much concern to me and to all Virgin Islanders is the fact that the Virgin Islands experience a hurricane season annually between the months of July and December. Even in the absence of severe storms, this period is the period of heaviest rainfall. Because this is unpredictable, an acute need exists for the expeditious approval by this Congress of funding for the Virgin Islands hazard mitigation plan in order that sufficient steps can be taken immediately to lessen the probable impact of severe flooding which may occur this year.

In the Virgin Islands hazard mitigation plan, only the 10 most critically damaged areas of St. Croix and St. Thomas were selected for mitigation and priority. Seven of these areas are residential communities, which are exposed to significant hazards to life and property.

Mr. Chairman, this matter is extremely serious, and in urgent need of attention. In light of the present situation, I hope that you will agree that my request is both reasonable and necessary.

As I am certain you will agree, it would be much wiser to implement flood control measures than to rebuild these homes repeatedly should they become uninhabitable from the effects of flooding, and I urge the Soil Conservation Service to take whatever steps are necessary to remedy the flooding predicament we now face in the Virgin Islands.

Mr. WHITTEN. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO. Mr. Chairman, first of all I would like to also offer my support for this fine piece of legislation and my congratulations to the members of the Agriculture Subcommittee who have been so kind to me during the deliberations during the first part of this year. I would also like to offer my accolades to the perhaps Senator from North Dakota who has been so kind to my sugar beet growers. I am sure they are glad to know that he will still be around and helping in the future if need be.

Mr. Chairman, two infestations of the Mediterranean fruit fly have recently been discovered on the continental United States, 300 miles apart in California. The Med fly poses a tremendously potent threat to the nearly 200 varieties of soft-skinned fruits and vegetables which it attacks. It poses a threat of the same magnitude to the national economy because we depend on our millions and millions of dollars of agricultural exports to redress our imbalance of payments. Mexico imposed an embargo on all California soft-skinned fruits, which it only recently reduced to a quarantine on produce from the affected areas; Japan is still considering an embargo. Hopefully other nations will apply any conditions as narrowly as possible, but we still run the risk of substantial losses. Because of the voraciousness of its appetite and because of the significance of the potential losses we might suffer, the Med fly should be a matter of intense concern to most if not all the Members of this House.

I raise this issue to alert the Members to an effort to begin a campaign that will permanently eradicate the Med fly and two related pests—the Oriental fruit fly and the melon fly—from the United States. The Senate Agricultural Appropriations Subcommittee will be asked to include in its 1981 budget bill the small sum of $850,000, part of a Federal contribution toward the construction of a laboratory in Hawaii. The lab is to be of sufficient size to produce sterile males by which the fly populations in Hawaii and wherever else they appear would be overwhelmed and eliminated. The primary need is to eradicate the flies from Hawaii itself, where they have thrived since 1912. Since the continental infestations have come from Hawaii, however, we would be destroying the basis of the threat to continental agriculture.

I am hopeful the Senate will be receptive to this effort, and that the House will be likewise agreeable in conference on this agricultural appropriations bill. The investment is certainly worth it. The U.S. Department of Agriculture is contributing about $1.4 million to the battle against the present west coast infestations; California and the two counties involved are contributing a like share. We are buying what sterile males we can from a small Hawaii facility, plus more from Mexico and Costa Rica. Similar sums had to be spent and arrangements made 4 years ago when the last outbreak occurred. It does not make sense to respond belatedly and expensively to crises we could avoid to begin with.

Congress included $424,000 in the 1980 budget for a tri-fly program, but there was some uncertainty as to the requirements for State participation with the Federal Government. An effort will be made to straighten this confusion out this year, so that the Department will proceed expeditiously.

Any State where apples, oranges, lemons, almonds, tomatoes, melons, cherries, plums, peaches, grapes, berries, and similar crops are grown has an interest in eliminating these three flies from American fields and orchards. Warm weather States are particularly vulnerable, from California through the Deep South, but cold weather States may be easily infected on annual basis by average tourist who imports larvae-bearing fruit in an automobile. Many Members in this room represent States directly endangered by the contagion. However, all Members should take seriously the fact that Mexico for a time embargoed all California soft-skinned produce, and that Japan may still do so.

We need to resolve this problem.

In addition, Mr. Chairman, this bill makes appropriations for the Foreign Agricultural Service in the Department of Agriculture, and, as you know the FAS will be taking steps next year to develop potential markets for U.S. agricultural exports in the emerging countries of the world. Specifically, the FAS has proposed that all fruit and vegetable cooperators, along with others involved in export incentive programs, should reduce by 5 percent their 1981 budget submissions for market development in Japan and Western Europe, to make that money available for market developments in emerging countries.

I would agree that it is wise that we continue to explore new markets throughout the world. However, I do have one question on this new policy within the Department, which I would like to ask Mr. WHITTEN, the chairman of the Appropriations Committee to comment on. In some cases, particularly in the case of certain specialty crops such as almonds and citrus, there may be the need for flexibility in implementing this 5-percent cutback policy. I come from a State where specialty crops are our main trade items. For the Department to require cutbacks on market promotion for specialty or consumer items where markets are established would mean the loss of retail contact with the actual customers. Loss of retail contact means loss of sales.

Now, I understand that the Department is prepared to be flexible on this issue by distinguishing between types of crops with differing promotional needs, so that it would not be necessary to reduce promotions in established countries in order to develop markets in new ones where such a reduction would mean the loss of clear market potential or even the loss of existing sales.

My question to my chairman is this: Is it his impression that the more flexible approach by the Department would be advisable, and that the Congress should be supportive of such an approach?

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the chairman.

Mr. WHITTEN. Developing new markets for our agricultural goods is a wise investment for this country. However, harming existing markets in order to do so would not make sense. So I agree with the gentleman that flexibility on the Department's part would be better.

Mr. FAZIO. I thank the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield 4 minutes to our colleague from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I wish to associate myself with the remarks of my colleagues who already have offered high praise of the chairman of the Appropriations Committee, the gentleman from Mississippi (Mr. Whitten), and of the ranking minority member, the gentleman from North Dakota (Mr. Andrews) of the Agriculture Appropriations Subcommittee.

I support this bill because the subcommittee members have toiled many hours in putting together a bill tailored to fit the needs of American agriculture and to preserve our vital food-producing capacity. This capacity quite possibly is our greatest national strength at this time. This bill underlines this strength and makes certain that we continue to be the agricultural superpower of the planet Earth.

I would like to take this opportunity also to recognize the enormous contribution to the preservation of our land and natural resources of the gentleman of North Dakota, who I am sure will certainly be a Member of the other body after this election.

From the moment of his special election to the House in 1963 to this moment, the gentleman has demonstrated over and over his devotion to the well-being of our precious and under-appreciated agricultural sector. He knows full well the incomparable satisfaction of good yields, good prices, and good economic conditions. He is equally familiar with all the agonies and frustrations of farm people—of seeing their assets inflate and their incomes shrink under the impact, usually, of misguided Government policies. We will miss the gentleman's wisdom, his experiences, and his support.

I am particularly pleased with the committee's action to restore $30 million to the President's recommended appropriation for the agricultural conservation program (ACP). History clearly shows what has happened to those civilizations in the past which have failed to preserve their land and water resources needed to provide the essentials of life. Continued commitment to ACP will help make sure that America does not follow down the same path.

The agricultural conservation program has a threefold purpose: First, to restore and improve soil fertility; second, reduce erosion by wind and water; and third, conserve water on land. Cost-sharing assistance is furnished to farmers and ranchers in all 50 States as well as Puerto Rico and the Virgin Islands for carrying out approved soil-building and soil and water-conserving practices on their farms. This assistance represents only a part of the cost of performing the practices. The farmer bears the balance of the cost, and also supplies the labor and management necessary to carry out practices.

An admirable feature of the ACP is that conservation practices under this program are developed initially at the local level by ASC State and county committees, the Soil Conservation Service, and the Federal Forest Service. Representatives of the land-grant colleges, the Farmers Home Administration, State conservation committees, and other State and Federal agricultural agencies also participate in these determinations. In addition, no practices in the ACP are adopted and put into effect in any State or county unless they are approved by the local conservation groups. This insures that ACP programs are suited to local needs and are reviewed by people who understand the land and how it can be best improved.

Many times in the past, administrations have attempted to cut appropriations for the agricultural conservation program. Yet, again and again Congress has restored money to this program, realizing the virtues of continuing the fight for conservation. Had Congress not insisted on maintaining this valuable program, the United States would now be like the other eroded and soil-deficient countries of the world. My colleague, Mr. Dent, pointed out effectively details of this program.

Just a sampling of ACP's accomplishments include: Building 33,000 water impoundment reservoirs to reduce erosion, distribute grazing, conserve vegetative cover and wildlife, and provide fire protection; and terracing 574,000 acres of land in 1979 to reduce erosion, conserve water, and prevent or abate pollution. Since 1936 the agricultural conservation program has planted over 8 billion trees, constructed 2 million water-impoundment structures and terraced nearly 35 million acres of land.

The ACP has touched my own State of Nebraska, too, providing benefits for thousands of people. For example, the grazing land protection program serves 1,033 ranchers and 378,441 acres of land, and the irrigation conservation program serves 782 farmers and 60,399 acres of land.

But, the benefits accrued by the ACP are not confined to any single State or county. These programs reach out to everyone in the country because they assure that our land is being used to its fullest extent without jeopardizing its future productivity. Thus, America can continue to provide essentials to its people now and in the future.

The agricultural conservation program is needed lest we return to the dust bowl days of the thirties. The House's action in this regard to continue the program, and the committee's decision to boost its appropriation by $30 million over the President's request is commendable and will enable future generations to continue to reap a host of benefits from our rich land.

Again, I strongly support the Appropriation Committee's agricultural bill and urge its approval.

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Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. Mr. Chairman, this summer's drought has exacerbated problems which have long existed in the Nation's rural water systems. Drought conditions have overextended the systems, many of which are not adequate to cope with the extreme dryness that has plagued the rural areas for much of this crop season.

The rural water systems are used not only for our citizens in farm areas, but to augment irrigation capacity. Without irrigation, millions of acres of land would be barren and America's bountiful farm production could not have become a reality.

Estimates of the drought damage on water systems in the sun-scorched Great Plains and Western States are soaring. In my State of Kansas alone, State authorities estimate that over $2 million will be needed just to meet short-term emergency water supply needs. Work to be done includes emergency pumping facilities, pipeline repair, and emergency pipeline connections. I am sure that other States are facing equally distressing predicaments.

We must make sure that our funding commitment to enhancing the Nation's rural water systems is flexible enough to insure that their needs can be effectively addressed. These are, after all, the life lines and essential ingredients to maintaining the productive rural sector of America.

I was particularly glad to note in the committee report to this appropriations bill states that not less than 30 percent of funds allocated under the FmHA water program shall be used for expansion of existing systems. Am I correct in assuming that that set aside involving expansion of existing systems would apply to necessary repairs on existing systems as well?

Mr. WHITTEN. If the gentleman will yield, may I say to my colleague, the gentleman from Kansas, that he has raised a very good point and one with which I thoroughly agree. That is the need for expansion of size as well as territory. This language was written into the report so that we could see some commonsense and integrity. Through the years we have had trouble getting area coverage, and certainly we want territorial coverage. The committee intention was that expansion should also include enlargement as well as repairs of all of the systems that may be necessary to serve all of the people and serve the same people better.

Mr. GLICKMAN. I thank the chairman of the committee.

Mr. WHITTEN. Mr. Chairman, I yield myself 1 minute.

Mr. BALDUS. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Wisconsin.

Mr. BALDUS. I thank the gentleman for yielding.

Mr. Chairman, as I discussed with the chairman, three flocks of sheep in Wisconsin have been inspected, quarantined, scheduled for slaughter, and appraised by Federal veterinarians under the terms of the scrapie eradication program.

The problem is that of the $500,000 appropriated for the program, $300,000 was used for administrative and research purposes. The remaining $200,000 has been paid out in claims. Thus, there are no funds remaining for reimbursement for sheep which must be slaughtered.

As a result, the affected farmers in Wisconsin are being told that no funds will be available until October 1. Further, they cannot slaughter their flocks without Federal supervision, and such supervision will not be available until the program is given further funding.

Frankly, it is rather embarrassing to have these farmers be told that they must continue to feed and tend their flocks until October 1 because of Federal redtape. They would understandably like to get this done with as soon as possibile so that they can start new flocks next spring.

If we cannot free up such funding, can the Secretary at least make emergency provision to allow the flocks to be slaughtered now and have the compensation issue settled later?

I would ask the chairman if it is the intent of the committee that the Secretary make every proper and reasonable effort to promptly resolve this situation?

Mr. WHITTEN. Mr. Chairman, may I say to my colleague, I have not had a chance to study the authority fully, but we are familiar with the problem. I would, at this time, urge the Secretary to go as far as he is permitted under existing law to meet the problem in both Wisconsin and Oklahoma that the gentleman has raised, and if additional authority is required, to so advise the committee.

Mr. BALDUS. I thank the chairman very much.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Chairman, I rise to express my support for the agriculture conservation program. I commend the House Agriculture Appropriations Subcommittee for recognizing the great importance of this program and for restoring funding for it to the fiscal year 1980 level of $190 million.

The aim of the agriculture conservation program is to reduce wind and water erosion, restore the vitality of our soil and to carry out other needed conservation and environmental measures through cost-sharing agreements with farmers. There exists no finer program to help preserve our soil resources through the joint efforts of the government and farmers.

As a Congressman from Iowa, I clearly understand the need for this program. Iowa's most important natural resource is its land. Our farmers produce 10 percent of the Nation's food supply. Moreover, agriculture is the foundation of Iowa's economy. Therefore, it is not surprising to note that insuring that our land retain its productivity is Iowa's top resource priority.

Unfortunately, Iowans have reason for real concern. Iowa has more cropland sustaining unacceptable levels of soil erosion than any other State in our country. We lose an average of 9.9 tons of soil per acre of cropland each year. The average soil loss tolerance on cropland, pasture, and forest land is 5 tons per acre per year—erosion above this level jeopardizes the productivity of the land and could eventually ruin its ability to produce crops.

To help you visualize more clearly our dilemma, about a hundred years ago, Iowa enjoyed a thick, rich covering of topsoil averaging about 14 to 16 inches in depth. Today, nearly half of this topsoil has disappeared leaving an average of only 6 to 8 inches. It takes nature anywhere from 250 to 1,000 years to replace an inch of soil. As you can see, Iowa's topsoil is clearly in jeopardy.

Therefore, we clearly need to work to halt further erosion in order to save our precious soil for our future generations. Farmers, however, would find it extremely difficult, if not impossible, to finance soil conservation work on their own. And since erosion is a problem with ramifications affecting the whole Nation the farmer should not be expected to shoulder the entire burden of soil conservation by paying all the costs.

The agriculture conservation program represents an appropriate response to our goals of preserving our vital natural resources by sharing this burden with the farmer. Since it is a program administered by locally elected county agriculture, stabilization, and conservation committees, it draws from the expertise of those who are closest to the local conservation problems and therefore better qualified to make sound program decisions.

Our Nation needs the agriculture conservation program. Congress will definitely make a great investment in the future by restoring this program in the 1981 agriculture appropriations legislation.

Mr. ANDREWS of North Dakota. Mr. Chairman, I yield the remainder of my time to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, no one has achieved the high degree of ability and laudatory performance on the floor of the House than our able colleague, the gentleman from Kentucky (Mr. NATCHER) whose eloquence is unmatched. I would simply take this opportunity to add to his remarks relating to the Dean of the House (Mr. WHITTEN), and the distinguished ranking minority member, the gentleman from North Dakota (Mr. ANDREWS).

It is unfortunate, Mr. Chairman, that throughout the statements made here that no statement has been made about some of the aspects of this legislation that are not desirable. But in any case, I certainly commend the members of the committee: the chairman and Dean of the House (Mr. WHITTEN); the gentleman from Kentucky (Mr. NATCHER); and the ranking minority member from North Dakota (Mr. ANDREWS), for their diligence in preparing this piece of legislation.

But I do oppose certain areas of this bill.

A substantial portion of this appropriation funds programs that are in need of fundamental reforms which have not been forthcoming from the administration or the Congress.

I think it important to note, Mr. Chairman, that over half of the agriculture budget, $12.8 billion, is designated for domestic food programs.

The largest of these programs is the food stamp program with a recommended appropriation of $9.7 billion.

The budget estimates prepared by the Congressional Budget Office last week indicated that the projected cost of the program could actually reach $10.8 billion in fiscal year 1981.

Everyday experience with this program for millions of taxpaying Americans reinforces to them the need for reforms which would reduce the overall cost of the program and target assistance to those Americans most truly in need.

I simply cannot believe that 21.8 million citizens—1 out of every 10 Americans—are unable to provide for themselves and must rely on food stamps.

Countless working Americans have witnessed firsthand the program's abuses in grocery stores across this country. They have observed their fellow citizens—many of whom are not much, if any, financially worse off than they—making grocery purchases at no cost to themselves with food stamps supplied by the Federal Government, at taxpayers' expense.

One of the most obvious problems with the food stamp program is the overlap with other programs administered by the Food and Nutrition Service of the Department of Agriculture.

Under present practice, no assessment is made when determining eligibility for the food stamp or other nutrition programs of whether the household is participating in more than one nutrition program.

What we have is a situation in which some families are receiving multiple benefits.

For instance, some schoolchildren are eligible to receive free lunches and/or free breakfasts and possibly receive free milk as well. Yet the family collects food stamps based on the assumption that the stamps are buying three meals a day for each family member.

In reality, households with children participating in these other nutrition programs are being overcompensated in food stamp benefits at a great cost to the American taxpayer.

Indeed, the Department of Agriculture's most recent statistics about the food stamp program, published in February of this year, indicated that 42 percent of all households are receiving at least one other form of public assistance, not necessarily restricted to other nutritional assistance.

According to the Department's own figures, almost half of the children in school between the ages of 4 and 18 who are receiving free or reduced-price school lunches are in families which also receive food stamps.

Both the Congressional Budget Office and the General Accounting Office have called attention to this expensive duplication which the CBO estimates to cost $630 million annually.

While this duplication between the two largest Agriculture Department programs is most noticeable, other areas of duplication with smaller programs and the food stamp program also exist.

For instance, many of the 3.4 million children participating in the school breakfast program as well as those in the summer food service program and child care food program are also members of families which are receiving food stamps.

Additionally, we have seen a rapid enlargement in the scope of the special supplemental food program for women, infants, and children—many recipients in which are also receiving food stamps.

What we see developing, Mr. Chairman, is a situation in which there is emerging in this country a sort of "recipient class"—families who are participating in numerous assistance programs. They are able to do so legally, because the benefits of one program are not being taken into consideration for participation in other programs.

The maze of conflicting eligibility standards add to the confusion and bureaucracy—all of which add to the costs of these programs which is ultimately borne by the taxpayers.

Let us help those families who really need help once—not pile up program on top of program.

Congress should adopt a policy of considering total food benefits available to multiple-program participants when determining benefits in any program, or simply reducing multiple-program participation.

Duplication can and must be reduced. One of the main responsibilities of the Congress must be in oversight. The reduction of such costly multiple-program participation should be a priority—especially in view of pressing budgetary constraints.

But until the Congress acts to tighten the administration of programs such as food stamps, however, we cannot in good conscience support the perpetuation of this expensive duplication which comes at the expense of our Nation's taxpayers—many of whom are only slightly, if any, better able to shoulder the burden than those participating in these programs.

In my view, Congress also needs to adopt a policy in the food stamp program—and other assistance programs, for that matter—of targeting assistance to those with gross incomes below the poverty line.

Under the present law, a formula of deductions and exemptions is permitted which effectively allows families with gross incomes substantially above the poverty line to participate in the food stamp program—and other food and nutrition programs as well.

Few Americans begrudge assistance to those who are unable to care for themselves. But they do not approve when 13 percent of all food stamp benefits are paid to families with gross incomes above the poverty line.

They also do not approve when families fail to work. I would urge that another key area for reform in the next year needs to be in the area of work registration.

Congress should consider a comprehensive workfare program for the food stamp program in particular, and possibly other public assistance programs as well.

Under the concept of workfare, able-bodied recipients would be required to work in community work projects as a condition for their Federal benefits.

The community work experience program, initiated in California during former Gov. Ronald Reagan's administration required certain able-bodied adults to work 20 hours a week for their welfare grants. This principle could be adopted to the Federal food stamp program as well.

This principle of workfare has been widely heralded by many Americans who believe that simple equity requires beneficiaries of Federal assistance to perform useful tasks in exchange for these benefits.

These are just some of the items which should be high on the agenda for this Congress. The American people are demanding responsible action.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COELHO).

Mr. COELHO. Mr. Chairman, I would, first of all, like to join in the laudatory comments regarding our colleague, the gentleman from North Dakota (Mr. ANDREWS). He will be dearly missed on our side, but I am sure he will provide some sense and balance to the other side and be extremely valuable to us over there.

Mr. Chairman, I rise in support of the bill, and commend the chairman and members of the committee on their fine work. I am especially pleased that the committee, in its report, has directed the Department of Agriculture to "study the feasibility of establishing a Far East market research facility" and to report its findings to the Congress. As some of my colleagues know, the Department has maintained a similar facility in Rotterdam that has proven of invaluable assistance in the export of U.S. commodities to Europe. There is every reason to believe that a Far East facility would meet with similar success in generating increased agricultural exports which are so critical to our balance of payments.

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Many of us were hopeful that specific funding could be provided for this feasibility study which will require the joint input and expertise of the Department's Science and Education Administration and Transportation Office. I recognize the budget constraints that precluded this. However, inasmuch as the committee has recommended a nearly 25-percent reduction in the Transportation Office's appropriation and an increase of over $25 million for the Science and Education Administration, it would seem to me that the cost of the feasibility study should be borne by SEA even to the point, should it prove necessary, of reimbursing the Transportation Office for its participation and contributions directly related to the Far East market research facility study. The input of both offices is essential and I would not want to see the value of the study diminished by an inter-department debate over who should pay for what.

I would like to ask the chairman a question in view of the fact they have placed this language in the committee report. Is there every indication, as far as the chairman is concerned, that he intends for the Department to go ahead and conduct this study to determine the feasibility of this Far East lab?

Mr. WHITTEN. May I say to my colleague, in answer to the gentleman's question, we certainly contemplate that they would move ahead. I do think that prior to telling the Department to do this or that, there should be a feasibility study and recommendations made, so that they may in turn justify it to us and us to the Congress. We contemplate they will move ahead expeditiously.

Mr. COELHO. Mr. Chairman, one more question if I can: Does the gentleman anticipate this study would be done within this fiscal year or is it something that would take longer?

Mr. WHITTEN. This fiscal year ends October 1. I would probably be optimistic if I said we could move very far during the current fiscal year. Hopefully, if we can get our bill through here and get it through the Senate, they might get started.

Mr. COELHO. In other words, the gentleman says he feels it should be done expeditiously and as soon as possible?

Mr. WHITTEN. The gentleman is correct.

Mr. COELHO. I thank the chairman.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Chairman, I rise in unqualified support of this agricultural legislation. Given the budget restraints under which the Members had to operate, I think the committee has done an outstanding job. I sincerely hope there will be no major crippling amendments. I agree with the gentleman about food stamps. That situation is getting out of hand, but certainly this is not the place to correct that evil, if indeed it is an evil.

At this time I would like to commend the longtime chairman of this subcommittee. It is not easy to please everybody, but the gentleman from Mississippi (Mr. WHITTEN) comes about as near doing so as anybody I know.

Mr. Chairman, to the minority leader whom today we call Representative ANDREWS and who next year we will probably have to refer to as Senator ANDREWS, I want to pay my compliments.

In conclusion, Mr. Chairman, as a member of the House Committee on Agriculture, I simply wanted to say that I think this is the best possible bill in behalf of agriculture. Heaven knows the farmers are suffering.

I am well aware of the unemployment in the major cities and in industry, but let me assure the House there are large numbers of farmers who are just as much in debt, in hock if you will, as any of the residents of the major cities of this country. This legislation does not solve all the problems, but it goes a long way.

I want to commend President Jimmy Carter and Secretary Bergland for their courage yesterday in increasing slightly the support and loan prices on certain commodities such as corn and soybeans. I am sure the farmers of this country are grateful for this action.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WHITTEN. Mr. Chairman, I yield 1 additional minute to the gentleman from North Carolina.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I am sorry I did not have more time to discuss in more detail what is being done with the food stamp program. Not everyone in America realizes that we cannot survive without the farmer. We do not pay enough attention to the farmer. I am first to join with the gentleman in agreeing on that statement.

I also recognize that this appropriations bill is probably not the best place to try to do something about the food stamp program, which is out of control, a real drag on the economy of our Nation and certainly on the taxpayers. However, I think I would be remiss if I did not bring up the point that it is a bad part of this bill, and at least make my position clear on it.

Mr. JONES of North Carolina. Mr. Chairman, I commend the gentleman. I think this is something that should be brought to the attention of this House, the phenomenal growth of the food stamp program which is apparently getting completely out of hand. I agree with the gentleman in that respect but I repeat this is not the place for reform.

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding.

Mr. JONES of North Carolina. Mr. Chairman, I yield back the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Chairman, I rise in support of H.R. 7591, the Agriculture appropriations bill for 1981. Mr. Chairman, I am concerned about one particular program which is the forest management section as administered by the Department of Agriculture in cooperation with private landowners.

Mr. Chairman, it has come to my attention there is the need for more technicians within the Department of Agriculture Stabilization and Conservation Service to work with private landowners. Proper management of our Nation's forests and as wood energy becomes even more important in years to come, it is extremely important that our forest land be managed properly to the benefit of everyone.

Mr. Chairman, I believe, if a qualified person is working for a private company involved in the utilization of wood for energy and providing technicians for this purpose, then ASCS should certify these technicians so that the farmer can collect his payments under the ACP program. This type of arrangement would be very beneficial for the administration of this program until USDA commits enough of their resources to fully staff this program.

Mr. Chairman, I would, therefore, like to ask the distinguished chairman of the Committee on Appropriations whether it is the intention of the committee that this forest management program operated by ASCS be properly staffed and that, if necessary, the Department of Agriculture should allocate the necessary personnel to this ASCS program to make sure it is being run effectively in cooperation with private landowners in the country.

In the meantime, Mr. Chairman, I would hope this committee would approve a private certification of technicians worked out by the Department of Agriculture as I have just mentioned.

Mr. WHITTEN. In answer to the question, it is my judgment that the existing law is sufficiently broad for them to perform the duties mentioned by the gentleman.

May I say that over the years we had a real problem in this committee, as well as in other subcommittees, in that where we have provided funds and personnel, the personnel had been frozen by the establishment of ceilings. We are certainly in accord with the gentleman that there should be ample manpower and it is my belief that the manpower should be directed to make the certification that the gentleman describes.

Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I am happy to rise in support of H.R. 7591, the Agriculture Appropriations Act for fiscal year 1981. My district has a self-interest in this measure, but it is an interest shared by other Members and other communities around the Nation.

This bill would fund some 25 new construction starts for the Public Law 566 small watershed program in the Soil Conservation Service. Originally, the budget would not have allowed any new starts, so I compliment the committee for restoring some funding, even at the reduced level of $39 million, to this vital Government function.

The small watershed program is not a Federal boondoggle. It does not entail damming up scenic rivers and destroying ecosystems. It does involve the improvement of water flows, conservation, and community preservation.

A large portion of the city of San Marcos, Tex., rests in flood prone areas. San Marcos residents have voted to establish a district to build and maintain the Upper San Marcos Watershed project, five holding structures that would capture the water of the San Marcos River during rains and heavy flooding. On at least three occasions in the last decade, downpours have caused widespread flooding in the city of San Marcos. In 1970, a disastrous flood killed two small children who could not escape from their waterlogged home.

Clearly, the need exists in this community and others for relief. For over 6 years, the city and the SCS have planned for this small watershed project. It would be economically illogical that after 2 years of money spent, plans drawn, and arrangements made, that this project would be cut off without construction. It would be like building a super highway from point A, stopping a mile short of point B without completion.

The Appropriations Committee voted, in effect, to complete this highway. We all must cut back spending where possible, and the funding of just 25 new projects in fiscal year 1981 represents a logical compromise. This reduced amount will make it a bit harder to compete, but all of us realize we have to scramble a little more for the scarce Federal dollar.

Clearly, these projects are designed to save lives and property. I compliment the committee on its work and urge the House to concur.

Mr. WHITTEN. I yield 2 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, once again the distinguished gentleman from Mississippi, as chairman of the full Appropriations Committee and the Agriculture Subcommittee, has performed admirably in putting together the fiscal year 1981 agricultural appropriations bill. His long-standing support for agriculture in this country and for rural development has been a constant force through the years.

I am pleased to see the large increase in the appropriations for USDA's guayule program. For those who may not be familiar with this plant, it is a semiarid plant that has been, and with some effort will again be, a commercial source of rubber. Growing in large areas of the American Southwest, the plant is a point of great interest by rubber companies and southwestern farmers alike. With the inclusion of research and commercialization money in fiscal year 1981, the establishment of an industry around this plant is very likely in the near term.

I am likewise pleased to see Mr. WHITTEN's continued support for the urban gardening program. Zeroed out by USDA, this program has been restored to the level of last year's funding, allowing this valuable program to continue. There are 33 million gardeners in this country raising food worth many millions of dollars. Anything that the Federal Government can do to support and encourage this self-help effort should be done.

The report accompanying H.R. 7591 makes mention of a valuable program being jointly conducted by USDA and the National Weather Service called the green thumb program. Briefly, this program seeks to establish a weather information network that will allow a farmer, using his home television set and an inexpensive "black box" to get weather information displayed via a telephone link. Although still at early stages in development, this program has applications beyond the transmittal of weather information. Using this technology, it is possible to set up an electronic agricultural extension network providing information to rural residents and farmers about everything from pest infestations to market information and the monthly cooperative extension newsletter. Such a system would free up extension personnel from routine tasks with no delivery of service loss. I hope that Congress will push for more support for this effort. Commercial electronics manufacturers have already begun production of the "black boxes," seeing a large market potential.

One issue that has emerged too late for action during the House deliberations on the fiscal year 1981 appropriations is the discovery of an infestation of the Mediterranean fruit fly in California. This pest has been kept out of California successfully in the past and the extent of the present limited infestation is unknown. But the fact that these pests have been found is a cause for great concern. In the fiscal year 1980 agricultural appropriations bill money was made available for control and eradication of fly pests—the tri-fly program. Matching funds were made available but there was some confusion over which States were to set up cooperative programs to secure the funding. This year, USDA requested no funding, given the inability of the States to develop a program to provide the matching funds.

The elimination of these fly pests requires an initial investment to establish sterile fly rearing facilities and then requires a multiyear effort to continue the work. It will cost $2 to $3 million to combat the present fly infestation and sources of sterile male flies are limited. I hope that there will be time to include this funding in the Senate deliberations and that the House conferees will recognize the need for a tri-fly program for many of the Sunbelt States.

My praise of this bill must be tempered, as in years past with an expression of disappointment over the elimination of funding for the competitive grants program. This program is a supplement to existing USDA formula funding and allows land-grant colleges and universities, as well as other institutions, to bridge into other research going on outside of traditional agricultural research institutions. It does not make sense in a time when many are complaining about the low levels of funding for agricultural research compared to other Federal research programs, for this program to be eliminated.

I hope that my colleagues will take the time to examine the many pressing needs in the agricultural sector and support this legislation.

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Mr. WHITTEN. Mr. Chairman, I yield myself 1 minute.

As I said at the outset, those of us who deal directly with appropriations, and who are on this subcommittee particularly, are deeply indebted to our colleagues who perhaps do not have the same rural background that we do. I want to say about the gentleman from California, who just addressed the House, that his help has meant a whole lot to us. He is one of the original sponsors of urban gardening.

I repeat again, if the American people understand the place agriculture fills—not only in the well being of those who deal in agriculture but in the economic welfare of the whole Nation—they too would agree with the gentleman from California. I just want to say thank you to those of my colleagues who, I may say, take this bill almost on trust and confidence, and assure them that I do not believe there is a subcommittee member who would let them down in so far as presenting to them that which they firmly believe in.

I repeat again, I personally thank each member of the subcommittee, each member of the staff, and my colleagues of the Congress in recognizing this and putting first things first, which is what we do here today.

Mr. Chairman, I yield back the balance of my time.

● Mr. JONES of Tennessee. Mr. Chairman, I appreciate the opportunity to speak in support of H.R. 7591. In my opinion, the distinguished chairman of the Appropriations Committee, Mr. WHITTEN, has brought before us an agricultural appropriations bill for fiscal year 1981 which is evenhanded and objectively arrived at.

As a lifelong farmer, and a member of the Committee on Agriculture since coming to Congress, I often question whether agricultural programs receive their just share of Federal expenditures. I doubt there is a Member of this body who does not at times believe that one agency or another is overlooked or underfunded. Certainly, there are items in this appropriations bill which I wish could be funded at higher levels.

But true to his nature and conscience, the gentleman from Mississippi has recognized the inescapable fact that we face sure economic disaster if Federal spending is not brought under control. This legislation which he and his colleagues of the Appropriations Committee have hammered out has not been simple to resolve. Naturally, the budget amounts are less than hoped for in most areas, but almost without exception, this will be the case in all fiscal year 1981 appropriations bills.

The important accomplishment to acknowledge about this appropriations bill is that the budget decisions have been rationally and equitably made. While some programs face little potential for growth, the significance lies in continued ability to hold the line on the progress we have made in securing a financially healthy American agriculture.

This is not to say that American agriculture is without problems. There is deep concern—concern which I share—that the state of agriculture is in jeopardy. Statistics bear out this concern: The farmer's share of the consumer's dollar in 1980 is projected to be 10 percent less than in 1950; since 1972, the farmer has lost 9 percentage points in prices received as compared to prices paid; production expenses increased more than 150 percent during the decade of the 1970's; the number of farms has decreased by over one-third during the past two decades; and the level of farm population continues its steady decline.

These concerns and disturbing facts should serve as warning signals to us all that we cannot allow the gains made since the 1930's to deteriorate. Our entire national economy is conditional on our establishing and preserving a farm system which can provide a reasonable economic return to the farmer.

I believe this legislation has the forethought and capacity to maintain a healthy agricultural base, even in these times of tight budgetary restraint.

For this reason, I urge my colleagues to support the efforts of the distinguished chairman of the Appropriations Committee. This legislation deserves our gratitude and support.●

● Mrs. HECKLER. Mr. Chairman, H.R. 7591 and the funding therein foreshadows a crossroads for the future of the irradiated food program. As a long-time proponent of the potential irradiated food holds for food storage and preservation, I am delighted that the program has just been transferred to the U.S. Department of Agriculture. I have long felt that a bright future would have to be realized within the U.S. Department of Agriculture rather than in the Department of Defense/Army. The technology developed while the program was under the tutelage of the U.S. Army has the potential for widespread applicability in the American food marketplace. Thus, food irradiation has found its rightful departmental home.

However, the outlook of irradiated food is clouded—not by the promise it holds for an indefinite shelflife for chicken or the process of deinfestation of fruits and vegetables or the reduction in salmonella counts in chicken or a possible replacement for bacon treated with nitrites—but by that crucial transition period the program is undergoing in the transfer from one agency to another.

Historically, it is often the case that in the budget year of the transfer the program in question is viewed as a stepchild by the agency from which it is being transferred and as an unwelcome guest by the agency to which it is going. The result is inadequate and uneven funding with little recognition of the long-term effects of budgetary decisions made in that crucial year. Unfortunately, the funding impact could not come at a worse time for the program.

I urge the Department of Agriculture to review its fiscal year 1981 funding with an eye on reprograming and adding to the $500,000 transferred with the program from the Department of Defense. While that money is sufficient to complete the contract work on sterilized chicken, it does not address the issue of keeping the nucleus of the expert team at Natick Laboratories intact until fiscal year 1982 when USDA has assured it will carry forward the program with appropriate funding. The dispersement of the irradiated food team coupled with the possible disassembling of the irradiation facility during fiscal year 1981 could well prove to be poor judgment calls in the long run.

Future program decisions should take their natural course based on the outlook for the program. To take actions which result in dispersing the expert team and closing down the facility now would, in effect, foreclose numerous options USDA may want to pursue in fiscal year 1982. The easy road in the short term narrows the possibility of bringing the irradiated food program to successfull fruition in the long run.

Any reprograming of funds by USDA which would prevent one or both of the above outcomes would, in the long term, prove to be the best decision. I urge USDA to look upon the decisions to be made and implemented in the coming weeks as decisions which will define the long-term future of the program.●

● Mr. DECKARD. Mr. Chairman, I would like to speak in support of the agriculture conservation program (ACP) and the importance of Federal funding to maintain this program and its value to localities in my Eighth District of Indiana.

I compliment the efforts of the Agriculture Appropriation Subcommittee for restoring funding for ACP in past years and encourage my colleagues to authorize the 1980 funding of $190 million for fiscal year 1981. Maintenance of these funds indicates Federal recognition of the unique soil conservation cost-sharing program which allows joint, and financially equal, conservation efforts by farmers and the Government. Administered by the locally elected county agriculture stabilization and conservation service

(ASCS) committees, the ACP fosters a responsible attitude by all parties toward the increasing importance of conscientious resource conservation. To emphasize the intentions of the program, the language in the appropriations bill provides that the county ASC committees may designate the areas of greatest need within their county.

I ask favorable consideration by my colleagues in this funding measure. Not only would it fill a definite need, but would exhibit the interest of our Government in aiding and encouraging worthwhile locally supported efforts.●

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c) necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $250,138,000, of which $2,500,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency condition: *Provided*, That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten the livestock or poultry industries of the country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or other contagious or infectious diseases of animals, or European fowl pest and similar diseases in poultry, and for expenses in accordance with the Act of February 28, 1947, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

Mr. VANIK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask our distinguished chairman of the Agriculture Committee, Mr. WHITTEN, some questions. I have been going through the list of loan note guarantees and conditional commitments on business and industry loans made by the Farmers Home Administration, and I think that what is going on is jeopardizing the whole agricultural program.

Just a year or so into the last year, we had the report of a television study of the abuses that occurred. Look at the loans that are made in my State:

BUSINESS AND INDUSTRY

LOAN NOTE GUARANTEES AND CONDITIONAL COMMITMENTS, JULY 1980

Borrower	Congressional District	Jobs	Amount
1. Archbold Equipment Co. (Archbold)	5	8	$300,000
2. Athens Livestock (Athens)	10	5	120,000
3. Best Western Tanglewood Inn (Alliance)	16	15	801,600
4. Bells Dixie Markets, Inc. (New Lebanon)	8	12	765,000
5. Blanchard River Village (Gilboa)	5	42	470,000
6. Blossom Center (Alliance)	16	50	1,176,000
7. Bornhorst, Meyer & Grimm Development (Minister)	4	40	560,600
8. Brenneman Lumber Co. (Mount Vernon)	17	14	448,000
9. Wm. Brooks Shoe Co. (Nelsonville)	10	70	610,000
10. Bry-Air (Sunbury)	12	51	550,000
11. Buckingham Equipment (Willard)	17	2	150,000
12. Bunker Hill Cheese Co. (Millersburg)	17	6	400,000
13. Burlington Enterprises (Sybene)	10	75	300,000
14. Butler Co-operative (Butler)	17	8	260,000
15. Carrollton Graphics (Carrollton)	18	105	1,780,000
16. Chesapeake Enterprises (Chesapeake)	10	85	325,000
17. Kenneth E. Clipse (Mount Vernon)	17	4	70,000
18. Country Acres Golf Club (Ottawa)	5	7	500,000
19. Courtship Racquetball Club (Lancaster)	10	8	460,000
20. Dayton Court Development (Dayton)	3	18	995,000
21. Delta Shores Development (Port Clinton)	5	18	1,000,000
22. Dick's Packing Plant (New Lexington)	10	4	85,000
23. Scott Duffield (Mount Vernon)	17	8	130,000
24. Ekleberry Poultry (Bucyrus)	17	6	581,600
25. Empire Family Restaurants (Napoleon)	5	55	513,000
26. Englefield Oil Co., (Newark)	17	277	1,000,000
27. Evans Potato Co., (New Carlisle)	7	20	300,000
28. Faithway Industries (Andover)	11	19	100,000
29. Farm Service Center (Spencerville)	4	21	1,000,000
30. Floater Vehicle (Hallsville)	6	50	600,000
31. Flolizer, Inc. (Kingston)	6	84	3,000,000
32. Michael C. Florio (Flushing)	18	3	90,000
33. Four Keys Inn & Motel (Portsmouth)	6	7	280,000
34. Fowler Products, Inc. (Crestline)	17	50	465,000
35. Fox Hollow Racquet Club (Brunswick)	13	18	1,000,000
36. Fyrepel Products, Inc. (Newark)	17	8	500,000
37. A. M. Gilardi & Sons (Sidney)	4	44	700,000
38. Gossett Nutrition (Marion)	7	17	30,000
39. Gradolph/Howell (Bremen)	10	236	1,000,000
40. Groovfold (Newcomerstown)	18	95	700,000
41. H. J. Foods, Inc. (Crestline)	17	42	265,000
42. Charles Hardin, DVM (Circleville)	6	4	120,000
43. Harley's Shoes, Inc. (Racine)	10	2	10,000
44. Hartwig Poultry, Inc. (Fort Recovery)	4	115	850,000
45. R. M. Henning, Inc. (New Philadelphia)	18	100	2,200,000
46. Edward & Luella Hermanson (Navarre)	16	45	940,000
47. Hollandia Gardens (South Vienna)	7	5	100,000
48. Honey Creek Provisions (Nevada)	4	109	2,600,000
49. Hubbard Co. (Defiance)	5	7	375,000
50. Billy R. Inmon (Greenwich)	17	14	340,000
51. Jackson Tube Service (Piqua)	4	31	950,000
52. Jerles-Trembly Co. (Athens)	10	11	616,000
53. KKK Enterprises (Athens)	10	10	175,000
54. Kah & Co. (Wapakoneta)	4	8	282,000
55. Tom W. Kaufman Co. (Carrollton)	18	20	$1,475,000
56. Kindell Tool & Die Co. (Laura)	4	15	550,000
57. Koenig Equipment (Botkins)	4	36	1,786,000
58. Kokosing Construction (Fredericktown)	17	8	500,000
59. Koy-Yan (West Jefferson) (Circleville, Chillicothe)	15 6	10	150,000
60. Krakauer Bros., Inc. (Berlin)	17	36	450,000
61. Lakeview Hardware (Lakeview)	4	15	600,000
62. The Hattie Larlham Foundation (Mantua)	11	35	1,075,000
63. LePore Enterprises (Mount Vernon, Johnstown)	17	14	250,000
64. Longaberger Baskets (Dresden)	10	92	417,500
65. Lumber Wholesalers (Cadiz)	18	7	1,000,000
66. Harvey B. Hole Mack (Versailles)	8	6	500,000
67. Magnode Corp. (Trenton)	8	99	1,000,000
68. Maria Stein Grain Co. (Maria Stein)	4	3	95,000
69. Mark-It-Place Foods (New Boston)	6	6	888,000
70. Martel, Inc. (Marietta)	10	20	315,000
71. Charles V. May (Greenwich)	17	4	200,000
72. Meridan Plastics, Inc. (Byersville)	18	65	3,600,000
73. Merrill Bros. Gravel, Inc. (Marietta)	10	10	600,000
74. Mike's Roofing (Prospect)	7	3	30,000
75. Clyde J. Morlan (Tuppers Plains)	10	2	230,000
76. Kenneth E. McCombs (Cadiz)	18	25	850,000
77. McSweeney's Mill & Mine (South Point)	10	20	150,000
78. Neal House Furniture Co. (Wintersville)	18	4	34,300
79. Ney Oil Co. (Ney)	5	5	400,000
80. Norwalk Bowling Center (Norwalk)	17	47	650,000
81. Luther & Cindy Oberhaus (Defiance)	5	20	130,000
82. Ohio A.R.C. Corp. (Genoa)	5	30	750,000
83. Olde Jail, Ltd. (Wooster)	16	32	350,000
84. Orange Village Nursing Home (Masury)	11	80	1,590,400
85. Peabody-Galion (Mount Vernon, Winesburg)	17	85	6,000,000
86. Pentajay Co., (The Plains)	10	130	625,000
87. Porter Funeral Home (Mount Sterling)	15	4	85,000
88. Proprietor's Corp. (Delaware)	12	267	3,500,000
89. Lyle & Jeanette Ranson (Washington C.H.)	6	20	246,000
90. Rego Manufacturing (Bucyrus)	17	7	225,000
91. Rodhe's Market (Millersburg)	17	10	700,000
92. Rolling Hills Egg Co. (Granville)	17	16	300,000
93. Royal Plantation Nursing Home (Bowerston)	18	4	90,000
94. Ruger Equipment (Uhrichsville)	18	41	1,000,000
95. Rushville Feed & Supply (Rushville)	10	8	250,000
96. Mary Rutan Hospital (Bellefontaine)	7	12	450,000
97. S & R Products, Inc. (Xenia)	7	25	375,000
98. Sabina Farmers Exchange (Sabina)	6	12	700,000
99. Theodore P. Sauber (Gallipolis)	10	50	225,000
100. Schlenker Development (Wapakoneta)	4	20	250,000
101. Sharrock Elevator (Edison)	12	13	5,000,000
102. Sheltering Arms Hospital (Athens)	10	100	600,000
103. Phillip E. Shook (Spencer)	13	5	33,000
104. Somers Corporation (Celina)	4	280	6,600,000
105. Southern Health Facilities (Wheelersburg)	6	65	1,192,500
106. Southeastern Ohio Truss (Rutland)	10	4	65,000
107. Specialty Foods Co. (Versailles)	8	35	600,000
108. Summit Acres (Caldwell)	18	50	600,000

Here is a group of automobile dealers. The President talked about helping the automobile dealers in the country, but under the Farmers Home Administration, we are sure to sell more Datsuns in America, we have the following:

BUSINESS AND INDUSTRY
LOAN NOTE GUARANTEES AND CONDITIONAL COMMITMENTS, JULY 1980

Borrower	Congressional District	Jobs	Amount
109. Bill Swad (Van Wert)	5	3	$200,000
110. Jerry Swintek Datsun (Athens)	10	12	135,000
111. Don Tester Ford (Norwalk)	17	7	310,000
Then, we have the following:			
112. Tinsley's IGA (Russells Point)	4	12	570,000
113. Travelair Taxi (Port Clinton)	5	8	650,000
We even have got an airline here. Then, we have the following:			
114. Tri-Mark Associates (Piqua)	4	14	900,000
115. Tri-Mark Inc. (Piqua)	4	14	900,000
116. Tri-State Moulded Plastics (Urbana)	7	61	1,610,000
117. Twin Maples Nursing Home (McArthur)	10	52	$350,000
118. Valor Enterprises (West Milton)	4	20	850,000
119. William C. Walker (Mount Vernon)	17	9	200,000
120. Wallace's, Inc. (Mount Orab)	6	20	870,600
121. Wharton Elevator (Wharton)	4	9	700,000
122. Wheeling-Pittsburgh Steel (Martins Ferry) (Yorkville) (Steubenville)	18	1,014	34,500,000
123. Xenia-Greene Co. YMCA (Xenia)	7	12	600,000
124. Yoder Equipment (New Hampshire)	4	11	150,000
125. Yorde Machine Products (Nelsonville)	10	32	866,000
126. Youmans Elevator (Plain City)	15	2	160,000

Mr. Chairman, I would like to ask the chairman of the committee if he can tell me why this extensive kind of abuse goes on. These are small businesses, and they can get loans, but they should not have two banks to go to. In an urban area you can only go to SBA, and then you have to have three rejections from other lenders. They run the borrower around Robin's barn three times. Under Farmers Home Administration, you just walk in. You do not have any of these conditions. You do not have better interest rates. You can come in and get these nice, dandy loans.

I asked the Department to give me the same kind of analysis for the 50 States. They told me that the list was so big and so long that they could not put it together. But, I think it is a big abuse. I think it is terrible that we should have this tremendous involvement in business and industry by the Farmers Home Administration, which was designed to help farmers. Will the chairman tell me what we can do about this problem?

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, may I say, in the first place, that I agree with the gentleman in the well. These loans come because the Congress passed the Rural Development Act, which specifically provides for loans to companies organized for profit in rural areas. I say that, with the best of intentions, the legislative committee sponsored, and Congress passed, the Rural Development Act. It provided—and we have had some experience in housing, where I had some experience years ago, where we had the Housing Act and they put $500 million in that for farm housing, but when I came here it never had been implemented. They got the farm vote to pass it and forgot about the rural areas.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. Whitten and by unanimous consent, Mr. Vanik was allowed to proceed for 5 additional minutes.)

Mr. WHITTEN. In rural areas, under the housing program, they had no question—nobody was interested in buying farm home mortgages. After I came here, I found the problem was that too few people were actually engaged in farming, so we took out the word "farming" and put in the word "rural." That is when we began to see rural housing all over the country.

The legislative committee—and they have a fine chairman and fine members—passed the Rural Development Act of 1972.

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That was under the belief that our rural areas could not get loans for small businesses, so they gave that authority to the Farmers Home Administration.

May I say that when I learned about the program that the gentleman mentioned—I did not happen to hear it, but I sent and got the tapes—I was as shocked as the gentleman is. At that time, I asked the chairmen of the legislative committees, key members consulted at their selection, and members of the Department to come up and meet with us. We found that loan limits had not been fixed in existing law.

We found further that while they had authority to pay for disasters, one man over here might have a disaster on this farm, but he might have four or five other farms over here on which he made a whole lot of money.

So we met with them and we addressed the matter. We just appropriate; we cannot write the law. We attempted to get them to set regulations on what they do in the Farmers Home Administration.

I raised the question, and I have repeatedly, that many times those in rural areas and those engaged in agriculture are not particularly trained in looking after certain business interests, as the gentleman says. They are not the best prepared as a group, though they had many special talents.

I might call the attention of the Members to what we put in the report this year along the line the gentleman is addressing. This is what we say in the report:

> The Farmers Home Administration now carries out 27 basic farm and rural development programs. These programs are discussed on pages 64 through 67 of this report. In many of these programs, the agency has apparently done a good job. However, in the process, the primary purposes of the agency seem to have been sidetracked. They have moved away from the farm borrowers of operating funds whose assets must be appraised, whose prospects of being able to repay judged, and assistance and guidance provided.

So we condemn the practice that they had where they wanted to get rid of certain offices and phase them out. We addressed the issue so the fellow in the field and the Congress could be directed to the subject and we could have it broken down to the talking point.

I agree with the gentleman from Ohio (Mr. Vanik) in many of the things he said. I think that if he would read our hearings, he would find that we developed it in the hearings to the point where our legislative friends could easily go in and set some guidelines, and in many cases give to the Small Business Administration some of the things that now are, under the law, set up with the Farmers Home Administration. I think they have become so big on that side that they are perhaps forgetting the side here where they are supposed to supervise the farmers in getting the loans and seeing that they recover financially and get straightened out.

I hate to say it, but because they could not get the personnel from OMB that we approved each year, the programs have not had the proper supervision. We have had a whole lot of risky loans that we would not have had—and I am speaking here about farm loans—if we had proper inspection and proper supervision.

I cannot leave it there, though, because we have a lot of fine people in the Farmers Home Administration who are doing a good job, but they have been given too many jobs and in some cases too big a job to do without having the proper training to do the job right.

Mr. VANIK. Mr. Chairman, I want to express my gratitude to the committee chairman and to the committee for its effort to deal with the problem.

But what the Appropriations Committee has recommended, with the admonition given by the committee, does not in any way put any restraint on business loans, does it? It does not specifically deal with restraints on business loans? As far as business and industry loans in rural areas are concerned, the gentleman has not suggested any restraint in the area of business loans, has he?

Mr. WHITTEN. Mr. Chairman, in meeting with the legislative committee, which has the authority to do that, I certainly did. We have tried to get them to adopt regulations which would restrict their activities.

But, as the gentleman knows, the Members all complain from time to time about us writing legislation in appropriation bills. So until the legislative committee had a chance to do that and say that no loan shall exceed so-and-so, we would be doing it out of the clear sky and stepping out of our domain, although it has been done on occasion where it has been necessary.

So the first step was taken, as I said, last year when we met with the legislative committee leaders and the Department and urged them to correct the situation, because it is one that certainly needs to be corrected.

At the same time, I am going to say that unless we give special attention to the rural areas, they are likely to be forgotten by the big operations that we have in the cities.

Mr. VANIK. Mr. Chairman, I thank the gentleman from Mississippi (Mr. Whitten).

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, $11,195,000.

AMENDMENT OFFERED BY MR. COLEMAN

Mr. COLEMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Coleman: Page 22, line 4, strike out "$11,195,000" and insert in lieu thereof the following: "$10,695,000".

Mr. COLEMAN. Mr. Chairman, my amendment deletes $500,000 from the Federal Crop Insurance Corporation because there have been disturbing disclosures of alleged corruption and abuse in that agency.

The allegations are that the administration of the FCIC spent $500,000 to create a bureaucratic "Siberia" or "bone pile" or "turkey farm" in the Kansas City office for employees who did not go along with their schemes or did not share their political affiliations. Persons banished to the Kansas City office were assigned meaningless tasks, apparently with the expectation that boredom would prompt them to resign or retire.

There is presently an investigation being conducted by the Office of the Inspector General of the USDA, but no report has been made public or filed.

Among the allegations being investigated are that an administrator promoted a female employee in violation of Federal employment policies and civil service regulations, and that administrators' political appointees created a so-called "bone pile" or "turkey farm" in the Kansas City office where employees of different political convictions were exiled.

There is an allegation that, under the guise of business trips, FCIC administrators took hunting and fishing trips where drinking was so heavy that, according to one media report, one of them said, "We couldn't remember what we said afterward."

It was reported that the FCIC officials established a slush fund to provide liquor and entertainment for trips. Indeed one office, it has been alleged, had all employees contribute to a fund in order to entertain FCIC clients.

Mr. Chairman, the allegations go on and on. In fact, one banished employee in the Kansas City "bone pile" kept a diary. This employee cataloged a disturbing waste of manpower and tax money. Being deliberately deprived of productive work, the employee writes of counting cars in the parking lot, counting the 104,386 holes in the acoustical title ceiling in his office, and developing his skills as a doodler. Other reports in newspapers have indicated that for 3 days an employee of the Federal Crop Insurance Corporation, being paid $40,000 a year as a GS-14, worked on an elaborate baseball puzzle, which was the only piece of work that crossed his desk that week in the Kansas City FCIC office.

Mr. Chairman, all of this might seem humorous, except for the fact that these employees were being paid between $22,000 and $40,000 a year.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to my friend, the gentleman from Missouri.

□ 1540

Mr. SKELTON. I am well aware of the allegations that have been made and the situation that has been reported in the news media regarding this, and I appreciate the gentleman's approach to it.

Would the gentleman tell us just how that so-called turkey farm got initiated or originated?

Mr. COLEMAN. I do not know the historical context, except that certain persons who did not either agree with or support within the Department and within the agency the personalities of the people involved in running the administration were in fact sent to Kansas City, as kind of a dead-end situation. That is really all that we know at this time.

Mr. SKELTON. Were they sent there from all over the country?

Mr. COLEMAN. Yes, they were. They were sent there from other parts of the country.

Mr. SKELTON. To the gentleman's knowledge, did any of them actually retire or resign, as they had hoped they would?

Mr. COLEMAN. I do not believe so. They continued on the job.

I thank the gentleman for his contribution, and I would like to make this point: The $500,000 figure that I am cutting here today does not take any money away from farmers or any money that they would have available for them. It cuts from the administrative and operating expenses only—that is, the bureaucrats that run the agency—the $500,000, since this agency got along without them doing anything except counting tiles and the holes in the ceiling before, that they could get along without them now. And also the travel expenses, bringing these people, as the gentleman indicated, from all over the country in and out of Kansas City, the airplane flights, the traveltime, even the moving expenses of these people, so that they could go there and count cars in the parking lot.

Mr. SKELTON. If the gentleman will yield further, so far as the gentleman knows, what positive production did that office do, to the gentleman's knowledge?

Mr. COLEMAN. Positive production?

Mr. SKELTON. Yes. What contribution did it make toward the FCIC?

Mr. COLEMAN. I am not sure I understand the gentleman's question.

Mr. SKELTON. Did it do anything positive in the field of insurance, Federal crop insurance, to the gentleman's knowledge?

Mr. COLEMAN. I am sure that it did. But the fact is that they had people in there who were being paid to perform services, and they were assigned no tasks. The agency was getting along, even, without them. They were paid, they were on the payroll.

What I am complaining about is the people who were not doing anything and were being given $40,000 a year for doing it.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. Coleman) has expired.

(By unanimous consent, Mr. Coleman was allowed to proceed for 2 additional minutes.)

Mr. COLEMAN. Mr. Chairman, as I indicated, I do not wish to penalize anybody except the agency heads who have indicated that they can run their offices without these employees doing a lick of work. And I would just point out that last month we passed a code of ethics for Government service. It passed without a rollcall vote. We know what that means. It was pretty unanimously supported. It is now law today. Let me read to the Members paragraph 3 of the Code of Ethics for Government Service:

> Any person in Government service should: Give a day's labor for a full day's pay, giving earnest effort and best thought to the performance of duties.

I think that flies in the face of what people have been doing and the administrators of the FCIC have been doing with the so-called bone pile or turkey farm, the Siberia that they created in the Kansas City regional office. That is the reason I am offering this amendment to strike $500,000 from the agency appropriation here today.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I cannot differ with the desire of the author of the amendment in any way, but I am familiar with the Federal crop insurance program. The Federal Crop Insurance Corporation was set up because the private companies would not insure agricultural crops. The original corporation went bankrupt because we had too many folks who had lands in high-risk areas who got into the program and planted when they knew they would not get a crop. So the corporation went bankrupt.

We had a long, drawn-out effort to experiment with counties that we knew were actuarily sound, trying to get the Federal crop insurance to again operate. The stories that appeared in the paper, which, so far as I know, may be true, certainly are no credit to the people involved nor to the administration. But, Mr. Chairman, it is somewhat like some years ago, a judge I knew quite well was giving a severe penalty to someone, and I knew him well enough socially to talk to him, and I asked him why he gave him such a severe penalty. He said, "He did not tell me the truth." Well, that was not what he was trying him for. So we are dealing here with the administrative funds to supervise a Federal program where the Federal obligation is $2,700,000,000.

So I say, Mr. Chairman, if several individuals have been guilty, as perhaps they have been here, where we are having the forces of the Inspector General and the Justice Department investigate this, to cut down the administrative money available to the Federal Crop Insurance Corporation lessens the opportunity to straighten things out.

So I would say that, while I agree with the purpose the gentleman has in mind, his action would enable him, inferentially, to have less funds to correct a bad situation which, so far as I know, is isolated. Certainly we should not permit that to go on. But the proper penalty is to continue the investigation, recover the money from them, if you can, take them to court, and do whatever the courts may determine. But let us not restrict administrative funds so that they cannot supervise the entering into of an insurance contract where it may not be properly inspected in advance, or where, if they do not check after the fact to see that the loss is incurred we would lose many times the amount of money that the gentleman would save by his amendment. I think the amendment is headed in the wrong direction: it will have the opposite effect. I agree with him that we need to pursue what we are doing now and correct a bad situation.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Missouri.

Mr. COLEMAN. As the chairman stated, I am trying to cut $500,000 from the administrative expense of this program, but I am not touching at all any moneys for the Inspector General, which are back on page 4. My amendment is on page 22. I agree this investigation has to go forward, but I do not cut any funds whatsoever from the Office of the Inspector General.

Mr. WHITTEN. We have cut the administrative funds by $663,000 in an effort to tighten their belts, and make them work harder and do a better job. Maybe we were running too much risk there. It may or may not be that they could stand this. But I do say that with this evidence of what has been going on, we do not need to cut down on the money that might help them to correct the problem and let the rest of them do a good job of protecting the Government's outstanding policies totaling $2,700,000,000. That has to be supervised. I hate to see the gentleman attempt to limit the money available even further than the committee has already done.

Mr. COLEMAN. If the gentleman will yield, what I am saying is that this agency got along without the utilization of the personnel involved, to the extent of $500,000, because they were doing nothing. The people who are actually administering the program we are not touching. They are going to continue to administer the program. I am trying to knock out the guy who is counting 104,386 holes in the ceiling tile. Those are the ones who are not contributing to the program.

Mr. WHITTEN. I have read stories in the paper. I did not happen to read the same one the gentleman did, and I do not know whether I read it as closely as he did, it coming from his hometown. But I will say that they probably went through the motions, because they did not have their minds on the Government's business: they may have approved contracts where they should not have. They may have made payments when they should not have. I say that instead of less supervision and less inspection to be sure that the crop qualifies and that the loss is incurred, we probably better, in view of that trouble inside, make sure that they have proper funds where they will have no excuse not to look after a $2,700,000,000 program.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. WHITTEN) has expired.

(On request of Mr. BURLISON and by unanimous consent, Mr. WHITTEN was allowed to proceed for 3 additional minutes.)

Mr. BURLISON. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague, the gentleman from Missouri.

Mr. BURLISON. Mr. Chairman, I want to commend the gentleman from Missouri for bringing this very flagrant case to the attention of the House. Many of us have some familiarity with it from the press. It is an obvious abuse and lack of leadership in this important Government agency. But I want to associate myself with the remarks of the chairman in his rationale that perhaps what we need is more and better supervision and what we need is investigation and prosecution of these individuals who have run amiss.

Mr. Chairman, historically—and I think the gentleman from Missouri is probably familiar with this—the Federal Crop Insurance Corporation has been funded in the amount of about $12 million a year. This year the request was substantially below that. But not only that, our subcommittee cut the administration's request by $600,000. So I would say to the gentleman that perhaps our subcommittee anticipated the need that the gentleman from Missouri has just today brought to our attention.

In conclusion, Mr. Chairman, it seems to me that our subcommittee has already sought to take care of the problem, and I have some trepidation that we may be cutting the program too deeply and will be impacting on the contribution that the agency can make in the protection of farmers. I think we should be very careful about this additional cut.

Mr. WHITTEN. Mr. Chairman, I appreciate the gentleman's statement.

May I say to my colleague, the gentleman from Missouri, this is not an exact science. The figure we do have is a composite of the views of the members of the subcommittee, and we, too, would like to break this up. I do not think we should let it get by without calling attention to it. But I do hope the gentleman will withdraw his amendment and go along with the committee, because we do feel we have gone as far as we can. But, again, this is a matter of judgment and a matter of opinion. I cannot say that I am right. I can only explain what we have in mind.

☐ 1550

Mr. COLEMAN. Mr. Chairman, I appreciate the anticipation of this problem before it became public, and the fact that the gentleman has whittled down the Federal Crop Insurance Corporation's funds in the first place. The fact of the matter is, though, that if we do not pass this amendment today, I think we are telling the people who are in the Federal Crop Insurance Corporation, "Go on, because we are going to reward you tomorrow with even more money and more employees," which is the basic argument that the gentleman and his colleagues are making.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. WHITTEN) has expired.

(By unanimous consent, Mr. WHITTEN was allowed to proceed for 1 additional minute.)

Mr. WHITTEN. May I say to the gentleman that everybody works in his own way. As I would describe it, we would run more risk in view of the outstanding obligations we have, and we have gone about far enough. I would hope for that reason the amendment would be defeated.

It is a matter of expressing it the way one honestly sees it. That is the way this gentleman sees it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. COLEMAN).

The question was taken and on a division (demanded by Mr. COLEMAN) there were—ayes 3, nays 6.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained in prior years, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $3,299,887,000.

Mr. WAMPLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of engaging my distinguished colleague from North Dakota (Mr. ANDREWS) in a colloquy.

I would say to the gentleman from North Dakota, on page 52 of the Report No. 96-1095, which accompanies the bill H.R. 7591, is a discussion of food labeling. I presume that this refers to the joint notice of proposed rulemaking published in the Federal Register of December 21, 1979, by the Department of Agriculture, the Food and Drug Administration and the Federal Trade Commission to begin implementing new regulations and drafting new laws to institute a new comprehensive strategy for informing the public about food and nutrition by changing the labels on food products. Is this correct?

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. That is correct. The committee was approached by a number of people from consumer groups, from production groups and the rest, expressing their concern on this material as it appeared in the Federal Register.

Mr. WAMPLER. The language contained in the committee report on food labeling states as follows, and I quote:

> Any label changes should first be on a trial and limited basis, the results of which should be made available to the appropriate committee of the Congress.

I take this to mean that before USDA or FDA or FTC issues any new food labeling regulations that the gentleman's subcommittee expects fairly extensive product trials containing proposed product label changes to be conducted with the American consumers and that the gentleman's committee wants this to be a cooperative effort with the American food industry.

Am I correct in my interpretation of the report language?

Mr. ANDREWS of North Dakota. The gentleman from Virginia (Mr. Wampler) is entirely correct. Frankly, our committee has been interested in this whole concept of food labeling for a good long time. We have impressed on the members of the Department of Agriculture how important it is to protect the consumers' right to know, but it has to be done in a sensible way. It has to be done in a way that is meaningful.

Frankly, I might add also that similar report language, page 104 of the report, places the same charge on any action on food labeling by the Food and Drug Administration. So it is not just the Department of Agriculture. It is also the Food and Drug Administration that the committee is concerned with.

Mr. WAMPLER. May I say to my distinguished colleague from North Dakota, on Wednesday, June 25 of this year, I inserted in the Congressional Record a letter from the Comptroller General, Mr. Staats, to the Secretary of Agriculture, Mr. Bergland, dated May 28, containing an enclosure, the subject of which was: "Comments on Proposed Food-Labeling Regulations (CED–80–89)". It is my interpretation that the General Accounting Office is recommending a similar position as that taken by the gentleman's committee in its report on this bill. Am I correct in my assumption?

Mr. ANDREWS of North Dakota. I have seen the GAO report. I concur with the gentleman's position. We welcome the support of the GAO and backing up in this matter.

Mr. WAMPLER. One final question. In the gentleman's report on the food labeling subject, the report states with respect to food labeling:

> The agency will be expected to notify the appropriate committees of the Congress prior to taking any action on food labeling.

In using the phrase, "appropriate committees," the gentleman includes the House Committee on Agriculture. Is this correct?

Mr. ANDREWS of North Dakota. The gentleman from Virginia is again correct. There is no way any of us on the Committee on Appropriations wants to deny any overview ability to our great and industrious colleagues on the Committee on Agriculture.

Mr. WAMPLER. I thank the gentleman and I commend the committee for its astuteness and sensitivity to this important matter.

Mr. Chairman, so the record may be abundantly clear, I would hope that the good people of the great State of North Dakota will continue the services of our distinguished colleague from North Dakota, if not in this body, then in the other body. I wish him well.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $52,750,000 shall be available for administrative expenses of the Commodity Credit Corporation: *Provided*, That this authorization shall be available to support the General Sales Manager who shall work to expand and strengthen sales of U.S. commodities in world markets (including those of the Corporation) pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered and shall submit quarterly reports to the appropriate committees of Congress concerning such developments: *Provided further*, That none of the funds in this Act may be used to carry out an Export Credit Sales program in excess of $2,200,000,000 in fiscal year 1981: *Provided further*, That not less than 7 per centum of this authorization shall be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That all necessary expenses (including legal and special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Corporation or in which it has an interest, including expenses of collections of pledged collateral, shall be considered as nonadministrative expenses for the purposes hereof: *Provided further*, That none of the funds in this Act may be used to carry out a program of loan guarantees by the Corporation for the production and marketing of individual hydrocarbons and alcohols from agricultural commodities and forest products in excess of $500,000,000.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 23, line 4, after the word "delivered" insert the following: ", including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95–501".

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, this subcommittee recommended many years ago, and Congress provided in the bill, for the position of Sales Manager. At that time I believe we had about a $10 billion inventory and nobody had a sales plan. So to point up the fact that we had a $14.5 billion corporation, with no sales policy and no management, we created the position of Sales Manager. It never has worked as effectively as we hoped. We did get the Department to sell these commodities. They sold them, I believe, in 15 months once they put them up for sale.

I personally have not had a chance to discuss this with the subcommittee members, or with my colleague from North Dakota, and I do not know how much benefit there will be; but I can see no harm in the amendment, and it might do some good. I personally would have no objection to it.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. We certainly have no objection to it on our side. I appreciate the contribution of our colleague and good friend from Vermont (Mr. Jeffords).

Mr. JEFFORDS. I thank both gentlemen.

I would like to say I do not know how significant it is, but I do know that one business in our State which does a substantial amount of exporting feels this is important and that we may find that the trend toward guaranteed loans versus direct loans, and I understand the budget implication and the reasons for it may be counterproductive. So this is just an insurance, one, to investigate what he feels is going to be important, and second, if we are doing something which may be counterproductive, we ought to know about it and there ought to be a way to find out.

I appreciate very much the support of the gentlemen.

☐ 1600

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. Jeffords).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. ALEXANDER

Mr. ALEXANDER. Mr. Chairman, I offer two amendments, both of which are related, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ALEXANDER: Page 24, after line 2, insert the following:

RECOMMENDATIONS REGARDING EMBARGOES

Sufficient funds shall be available to the Secretary of Agriculture to prepare and submit to the Congress no later than January 15, 1981, recommendations for stabilizing, supporting, and protecting farm incomes and prices adversely affected by embargoes by the Federal Government on sales of food or agricultural products.

Page 46, line 18, strike out the period and insert in lieu thereof the following: ": *Provided further*, That sufficient funds shall be available to the Secretary of Agriculture to prepare and submit to the Congress no later than January 15, 1981, recommendations including a plan for monitoring, investigating, and reporting to the Congress on the factors affecting and influencing the export of United States agricultural products as they relate to embargoes by the Federal Government with respect to such products.".

Mr. WHITTEN. Mr. Chairman, I reserve a point of order against both amendments.

The CHAIRMAN. The gentleman from Mississippi reserves a point of order on both amendments.

Mr. ALEXANDER. Mr. Chairman, we have just passed through a decade of turbulence for American agricultural exports.

On the one hand, we expanded exports to meet our growing balance-of-payments deficits. On the other, we began to adopt a national policy of using food exports as a foreign policy tool.

We asked farmers to plant "fence row to fence row," heightening their economic vulnerability by creating the need for greater investment and more credit. But we did little or nothing to ameliorate the increased risks.

Three times, in 1973, 1975, and 1980 we imposed embargoes of farm commodities and in each instance, the major impacts were felt by the farmer.

The farmer deserves better treatment. The agricultural sector has risen to the challenge of growing more for export in the national effort to offset the disabling trade deficits which result from our insatiable appetite for foreign oil.

At the same time, the United States has been subjected to demands of food-short nations for assurances that our fertile fields would be tilled to help soften the destabilizing political impact of hunger among their proliferating populations.

All told, the 1970's was a decade marked by inflation in the manufacturing and energy sectors which sent agricultural production costs soaring skyward while consumer protests over increasing food costs made Government timid about helping farmers weather the economic turbulence that threatened many with bankruptcy brought on by the price-cost squeeze.

Mr. Chairman, what I have been urging for several years in the Congress, is a recognition that if food embargoes are to be used as a tool of foreign policy, they must be effective in attaining foreign policy goals. If they are effective, then they are in the national interest. If they are in the national interest, then the costs ought to be borne by all citizens.

To date, there is still no well defined and clearly understandable policy which articulates what obligations and responsibilities the Government possesses to manage the effects and consequences of food embargoes.

On January 4, 1980, and I quote the President:

> For urgent reasons of national security and foreign policy, the Secretary of Commerce has been directed to suspend all grain shipments to the Soviet Union in excess of the 8 million tons per year which we were committed to sell under the existent sales agreement.

On that date, corn was selling for $2.40 per bushel, wheat for $3.87. The market reacted violently and predictably after a 2-day moratorium on trading. More than 600,000 bushels of corn were offered for sale but there were few buyers. Wheat, corn and soybeans slipped to their maximum daily limits permitted under exchange rules. The Government moved to prop up prices by increasing loan rates, but the slow process of market depression had begun. Three months later corn was still selling at an average of 19 cents a bushel below January 4 levels. Wheat was down 34 cents a bushel. The estimated loss in farm income is about $3 billion—fully 9 percent of 1979's record income level of $33 billion.

These figures are illustrative of the damaging effects on farmers of embargoes of food. But they do not tell the whole story. When our customers come to believe we are not reliable suppliers, they will turn elsewhere to buy their goods. Thus, we are not talking about sales lost from a single crop year but long-term loss of markets, with a commensurate increase in competition as buyers seek to develop reliable and controllable supplies, not subject to interruption.

The embargo exercises of the 1970's and the current embargo of grain to the Soviet Union created panic in the marketplace. Although this administration attempted to allay the panic by a number of measures, the damage has been done. Therefore, in my view, we need new, permanent programs that will automatically take effect to protect farmers from the economic shock waves caused by politically inspired embargoes.

Let there be no confusion about my position. I recognize that it may be in the national interest to pick and choose between those foreign customers we will allow to benefit from our agricultural bounty. At the same time, since food embargoes may be in the national interest, I insist that it is the Nation as a whole, not merely farmers alone, which must pay the price of turning our farm production into a foreign policy tool.

We need to enact laws that will insure that the cost of food embargoes becomes a national obligation—not one to be loaded on the already overburdened shoulders of our farmers. No administration has yet offered policy recommendations for dealing with the consequences and impacts of food embargoes.

The amendments I am offering will do two things:

The first will provide funding for the Secretary of Agriculture to discharge his responsibility under existent authority to provide the Congress with econometric and other data relating to the effects and consequences of food embargoes on export trade. The data might then be used by the appropriate committees of Congress to formulate policy for improved enforcement and effectiveness of embargoes.

The second amendment will provide funding for the Secretary of Agriculture to discharge his responsibility under existing authority to report upon the means and measures for stabilizing, supporting and protecting farm income and prices in an embargo environment. This information can be then used to develop systematic and well-defined farm support policy which will prevent wild market fluctuations and erosion of farm income.

The timing, it seems to me, is right.

Next year, the Congress will be dealing with a new round of omnibus farm program legislation. It would be logical and rational to deal at the same time with the need for a permanent program to spread the burden of agricultural embargoes across all sectors of national economic activity. These amendments will insure that comprehensive information is available upon which sound policy can be based.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

(At the request of Mr. BURLISON, and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 3 additional minutes.)

Mr. BURLISON. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Missouri.

Mr. BURLISON. Mr. Chairman, I appreciate my friend yielding. I want to commend my colleague and my neighbor from northeast Arkansas for the contribution he has made in directing the attention of the House and the country to this problem.

The gentleman recalls that I was violently opposed to the embargoes of the midseventies that the gentleman has referred to, the soybean embargo of 1973 and the wheat and feed grain embargoes of 1974 and 1975.

We thought when we had the farm bill of 1977 that we had cured the problems that we found in those years by specifying that if an embargo were invoked for a shortage of domestic supply, that automatically 90 percent of parity would be invoked on those embargoed products; but now we find in 1980 with the embargo of January 4 that the gentleman has referred to, we came in under a loophole. The President came in under a loophole in that 1977 law and said that this embargo was for foreign policy purposes and, therefore, it was not covered by the 1977 law.

Mr. Chairman, I have never seen an embargo that worked. I have never seen an embargo that was not counterproductive to the purposes for which it was put in place; so it seems to me that our proper direction ought to be to prohibit embargoes. Then if a special situation comes along to require that we react in a different fashion, we can pass a law to permit an embargo in a specific situation under specified circumstances.

So, Mr. Chairman, Mr. Nixon and Mr. Ford were wrong in 1973, 1974, and 1975, and the record has proved that. We lost our soybean market to Japan. We saw Japan go with its capital investment into Brazil and start a new soybean industry there.

□ 1610

Now we find that Brazil is our top competitor in soybeans in the world and at an enormous loss to our economy and to soybean farmers in this country. I submit we will see a similar thing happen in Argentina now with the Soviets running in with their capital investment and developing wheat and feed grain programs over and above what now exists.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

(At the request of Mr. BURLISON and by unanimous consent, Mr. ALEXANDER was allowed to proced for 1 additional minute.)

Mr. ALEXANDER. I yield to the gentleman.

Mr. WHITTEN. Mr. Chairman, may I say we debated this matter for 4 hours the other day, so I hope that we might go ahead and get rid of this matter. I will have to renew my point of order as soon as this is over.

Mr. BURLISON. I appreciate the gentleman's position.

In conclusion, Mr. Chairman, I think the gentleman from Arkansas is to be commended for bringing to our attention this problem. I think it deserves perhaps more attention from this body than it has received in the past, and I hope we can discourage this type of activity by this President or Presidents in the future.

Mr. WHITTEN. Mr. Chairman, I thoroughly agree with my colleague across the river, the gentleman from Arkansas (Mr. ALEXANDER), but I do have to insist on the point of order.

The CHAIRMAN. Does the gentleman from Mississippi insist on his point of order?

POINT OF ORDER

Mr. WHITTEN. Mr. Chairman, I make a point of order against the amendment on the grounds it proposes to change existing law and is legislation on a general appropriation bill and, therefore, violates clause 2 of rule XXI.

The gentleman's amendment places additional duties and determinations on the executive not now required by law.

Therefore, Mr. Chairman, I ask that the point of order be sustained.

The CHAIRMAN. Does the gentleman from Arkansas wish to be heard further on the point of order?

Mr. ALEXANDER. Yes, Mr. Chairman. The gentleman from Mississippi is precisely correct. His point of order should be sustained.

I take this time only to point out the seriousness of the matter and the need now to begin to develop and formulate a policy which would result in the establishment by law of a permanent program next year when we consider the farm legislation to help spread the burden of embargoes across this land, so that every American citizen would benefit from the foreign policy objectives which necessitate the use of food as a tool of diplomacy and will help bear the burden that is now borne almost exclusively by the American farmer.

The CHAIRMAN. The Chair is ready to rule. The point of order is sustained.

The Clerk will read.

The Clerk read as follows:

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

For direct loans and related advances pursuant to section 517(m) of the Housing Act of 1949, as amended, $24,000,000 shall be available from funds in the rural housing insurance fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $4,125,600,000, of which not less than $3,245,600,000 shall be available for subsidized interest loans to low-income borrowers as determined by the Secretary; and not to exceed $5,000,000 for advances as authorized by section 501(e) of such Act and not to exceed $2,000,000 for compensation of construction defects as authorized by section 509(c) of such Act.

During fiscal year 1981, no more than 17,230 units may be assisted under rental assistance agreements entered into during the year pursuant to authority under section 521(a)(2) of the Housing Act of 1949, as amended, and the total obligation incurred over the life of these agreements shall not exceed $393,000,000 to be added to and merged with authority provided for this purpose in prior fiscal years.

For an additional amount to reimburse the rural housing insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487e, and 1490a(e)), including $8,712,000, as authorized by section 521(c) of the Act, $504,318,000, and for an additional amount as authorized by section 521(c) of the Act as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

AMENDMENT OFFERED BY MR. LUNDINE

Mr. LUNDINE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNDINE: On page 24, line 19, strike "17,230 units" and insert in lieu thereof "21,620 units".

On page 24, line 24, strike "$393,000,000" and insert in lieu thereof "$493,000,000".

Mr. LUNDINE. Mr. Chairman, this amendment alters title II of the bill to provide an additional $100 million to the appropriation for rental assistance under section 521(a)(2) of the Housing Act of 1949. The amendment would raise the number of units assisted under rental assistance agreements during fiscal year 1981 from 17,230 to 21,620 units based on administration figures of average per unit cost.

I offer this amendment for several reasons: First, there exists a significant unmet need for rental assistance in rural communities throughout the Nation, not only to permit the construction of new low-income housing, but to permit existing to be targeted to persons most in need of assistance. Second, the increased appropriation is already provided for in the authorization bill approved by the Banking Committee in this year's Housing and Community Development Act amendments, and is consistent with the administration's budget request and the Budget Committee's first budget resolution. Finally, the proposed increase in rental assistance is necessary to permit the expansion of section 515 rental housing loans provided in the appropriation bill.

UNMET NEED

When the rental assistance program was implemented at the beginning of fiscal year 1978, the Farmers Home Administration estimated that there existed more than 85,000 units of section 515 and other FmHA-assisted housing units which required rental assistance. During fiscal years 1978–80, an average of 20,000 units of rental housing have been assisted under the program each year. More than a quarter of these units, however, were new 515 units, which means that rental assistance has been provided for approximately 45,000 units of existing housing. After 3 years of implementation, the program has provided rental assistance for only half of the units requiring such assistance in 1977.

Current demand for rental assistance is also significant. The Farmers Home Administration has sufficient funding for rental assistance to meet only a small percentage of proposed low-income housing projects. The Housing Assistance Council reports that the backlog of unmet rental assistance applications is so great that there is now a 2-to-3 year waiting period between the time they provide predevelopment loans for low-income projects and the time these projects receive final approval. The reason for this delay, in most instances, is the unavailability of rental assistance for the projects either through section 8 or rural rental assistance.

The 17,000 units now provided in the bill is more than 3,000 units below the current level of units assisted under the program. At a time when inflation is rapidly eroding the incomes of the rural poor, and when rising housing costs are forcing many poor families into substandard housing, it is unjustifiable to continue to provide funding to build low-income housing but not provide the means by which low-income families can utilize the units provided. Rental assistance is the only tool that Farmers Home now has to target rental housing to persons most in need. Without such assistance, more and more housing will be either not be built or will be provided for higher income families.

NO NEW FUNDING

I must emphasize, Mr. Chairman, that this amendment does not add funding to the appropriation bill that is not already accommodated either in the authorization. The $100 million increase is consistent with the overall figures in the Adtent with the overall figures in the Administration's budget request and in the budget resolution approved by the House last month.

Earlier this year, the administration submitted a budget request for the Farmers Home Administration which included $100 million in assistance for a home ownership assistance program, or HOAP. The program, which I sponsored in 1978, provides deep subsidies for low-income families to permit home ownership in rural areas where other forms of housing assistance is either unavailable or unfeasible. This program has now been authorized for several years, but has yet to be funded.

This year, as last year, the administration included $100 million for HOAP in its fiscal year 1981 budget. This $100 million has also been included in the first budget resolution reported by the Budget Committee and approved by the House membership. Unfortunately, the current appropriation bill does not include funding for this program. This releases $100 million in assistance payments which are included in the budget, but not accounted for in the appropriation. This amendment would permit this funding to be used for FmHA's rental assistance program.

Recognizing that funding might not be provided for the HOAP program by the Appropriation Committee, the Housing Subcommittee approved a carefully drafted compromise provision that permits the $100 million requested for HOAP to be used for rental assistance. The provision provides the Secretary of Agriculture with discretionary authority to use up to $100 million authorized under the rental assistance program for a HOAP demonstration effort. In the specific event that funding is not provided for HOAP, however, the provision permits the $100 million to revert back for use under rental assistance. The provision reflects the committee's recognition of the need to target additional funding to meet low-income housing needs in rural communities either through HOAP or rental assistance.

This amendment therefore reflects the intent of the authorization legislation and is consistent with the funding levels provided in both the administration's and the House budgets.

PERMIT NEW 515 LOANS

Let me also point out that additional rental assistance is required to permit an expansion of section 515 loans for rural multifamily housing, as provided in the appropriations bill.

The Appropriations Committee has provided $100 million in budget authority for section 515 rental housing loans beyond the level included in the authorization legislation. I am informed that, technically, the overall appropriation figure for insured loans under the rural housing insurance fund does permit such an increase in section 515 loans. And, I must add, I do not oppose the Appropriations Committee effort to increase the amount of such loans.

I should point out, however, that it is unlikely that Farmers Home will be able to use this increased loan authority without an increase in funding for rental assistance. Current policy requires that 60 percent of all rental housing provided by Farmers Home go to low-income people. Given the high cost of providing housing in most rural areas, the rental assistance program has provided the only means by which the Agency has been able to insure that low-income people can be provided with housing assistance. Currently more than 70 percent of new 515 units are provided with rental assistance to permit rent levels that lower-income families can afford.

Given the level of rental assistance provided in the appropriations bill, it is unlikely that there will be sufficient rental assistance available for the section 515 units already provided in the authorization bill, not to mention the additional 3,000 units that will require assistance under the $100 million in increased loan authority in the appropriation. To provide additional funding for 515 loans without a comparable increase in rental assistance would, therefore, not only run counter to the intent of the original authorizing legislation, but would effectively take from Farmers Home its only means of insuring that assisted housing is directed to persons most in need.

I urge the adoption of this amendment.

□ 1620

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is no way for anyone to argue against the reasoning of the gentleman about the need for this program. I call attention to the fact that in this program in fiscal year 1979 there were 23,000 units, and in fiscal year 1980, this year, there are 20,000 units. The gentleman's amendment would increase this year's number to 21,620 units. All told, this means perhaps three or four families per county. I do not know how in the world you would go about selecting them, to start with. But we are just now waking up to the fact that Congress imposed an overall budgetary ceiling, and we are presenting a bill which we have very carefully tried to tailor to fit into the allocations for this area under the budget limitations imposed by the Congress. Since the number here would be an increase at a time when we are having to hold back, as much as I agree with the need and desire for this program, I hope the House would stay with the committee, the Members of the House, and hold the line. May I say we did not reduce the budget in the least? The amount we provided is the budget request for this program. If each of us increases that in which we have great interest or in which we were the author of the bill, we would have the whole bill thrown out, at least lie on the Speaker's desk and not be brought up until we could make some readjustment.

So I hope you will stay with the committee on this item. It will not cure the problem, and the problem does exist, but the program is such that if we can go along at the level recommended in the President's budget, we will do well, all things considered. So I hope you will stay with the committee and defeat this amendment.

Mr. LUNDINE. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from New York.

Mr. LUNDINE. I thank the gentleman for yielding.

I want to commend the committee and the distinguished chairman for the work they have done on it not only this year but over several years. But I think there is a misunderstanding here. Is it not true that this budget for rental assistance is $100 million less than the Budget Committee approved and $100 million less than the administration requested? I am not talking about section 515.

Mr. WHITTEN. When we get to arguing about the overall budget, it is difficult to compare one man's idea about it with the other. I was on the study group that helped to recommend the overall ceiling. The ceiling, as I understand it, cannot be raised for a line item. They can raise it in different functional categories. So I think the gentleman is likely right in that if you take the overall housing situation, there is a sufficient gap there to take care of the $100 million, but who knows what is going to happen when we get to the other side? Who knows what is going to happen to the other items in the bill? I do think my information is correct, and I asked the staff, that the amount made available by the budget resolution proposal is $100 million more, but proposals and actuality are two different things. We will find that out tomorrow when we take up this reconciliation bill.

Mr. LUNDINE. If the gentleman will yield, I understand the gentleman's point. I would just also like to point out to him, though, with respect to the administration's budget request, there is no doubt not only that this amendment could be accommodated within the House's first concurrent budget resolution but that the administration specifically requested this $100 million, and I think the gentleman would agree with that.

Mr. WHITTEN. I will not agree because I do not know, so I do not agree with the gentleman. May I say again that doubtlessly there is more than one amendment we can think of, but if we go through this bill and raise the amount on each amendment that some Member is interested in, the gentleman can see where we would end up. I hope the gentleman will go along and realize that when we gave the full budget amount, we did the best we could.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LUNDINE).

The question was taken; and on a division (demanded by Mr. LUNDINE) there were—ayes 7, noes 10.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RURAL DEVELOPMENT INSURANCE FUND

For an additional amount to reimburse the rural development insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $143,282,000.

For loans to be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928 and 86 Stat. 661–664, as follows: insured water and sewer facility loans, $700,000,000; industrial development loans, $751,000,000 of which $10,000,000 shall be for insured loans and $741,000,000 shall be for guaranteed loans; and insured community facility loans, $240,000,000.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: Page 26, line 21, strike out the period and insert in lieu thereof the following: ": *Provided,* That none of the funds made available by this paragraph shall be for making or insuring loans to private or cooperative organizations organized for profit.".

Mr. VANIK. Mr. Chairman, a few moments ago in colloquy with the distinguished chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies, the gentleman from Mississippi (Mr. WHITTEN), I raised a question about the very extensive loan program of the Farmers Home Administration for industrial and business loans to individuals. That litany included loans to funeral homes and motels, golf courses and racquet clubs, and things of this type that are clearly beyond propriety.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I will be happy to yield to the gentleman.

Mr. WHITTEN. I thank the gentleman for yielding. I think the gentleman's description goes far afield of the program as it is at the moment. Insofar as I know, golf courses and things of that sort, I do not know of any examples in recent years. But as far as the reasoning for some of those things back then, they may have been much bettter than some of the things that they are doing now. You cannot get industry to locate if you do not have the usual facilities for recreation that you have in cities. If you do not have a landing strip, you do not get industry interested in that area. The rules are clear on that point. That is one thing I want to point out. I agree with the gentleman, but I think that has probably been the best investment we have had. If the gentleman will look at them, he will find that they are not the ones in arrears; they are paid up. So I want to make that distinction.

Mr. VANIK. I have no question about the loans being good loans. The list I read from for the State of Ohio was dated July 1980. Now we are talking about today. We are talking about right now. Here we have got a Courtship Racquet Ball Club in Lancaster. We have another racquet club just outside my city of Cleveland. There are loans to funeral homes and restaurants.

My point is that these loans are available under the Small Business Administration, and every farmer, everyone in a rural area, can go to the Small Business Administration and get this kind of a loan. The people in rural areas have two options, the urban citizen has only one.

□ 1630

Let me point out that Farmers Home Administration loans to business are to private people who have eligibility under the law to SBA under more stringent terms. SBA says you have to be rejected by three lending institutions. SBA has a high-interest rate. SBA has all kinds of qualifying procedures. None of that is involved in these loans with the Farmers Home Administration.

Mr. Chairman, I want to help farmers. I know that the distinguished chairman of the committee wants to help farmers but here you have 758 loans and guarantees—that is the total I received as of today—for a total of $552,427,795. This is a half billion dollars of loan power which is not going to farmers but it is going to country clubs and nursing homes, funeral homes and restaurants. I think this goes far afield. I think it is an abuse to have this tremendous authority granted to an Administration that does not seem to reconcile itself to practices in the SBA.

Mr. Chairman, they have been admonished, they have been carefully studied and in spite of that, this is July, 1980, and I have this report of today which indicates a wide adventure into all sorts of loans that are not at all related to prosperity on the farm, to developing an agricultural sector that is going to be competitive in rural markets, to producing food of quality for the people of America at a decent price.

I will agree that these loans may not be as risky as the other loans, but I think they are loans that ought to be made through the SBA, they have that eligibility. Earlier this year, we gave SBA full authority to take over this full responsibility and I just do not believe that rural industrial America should have two banks while we in the urban centers are limited to one.

Mr. Chairman, in my community we are very rapidly going to become a rural area. There is almost as much vacant space in my populated community as there is in many of the counties in certain sectors, as industry is abandoning the place, settling around in other parts of America where low-cost loans are offered.

I think that the whole farm program is in jeopardy, is in serious jeopardy, Mr. Chairman, if 758 loans of this type are made at a cost of a half billion dollars for special comfortable purposes, purposes of convenience, but certainly things that are far afield from agriculture.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BURLISON and by unanimous consent, Mr. VANIK was allowed to proceed for 2 additional minutes.)

Mr. VANIK. I yield to the gentleman from Missouri.

Mr. BURLISON. Mr. Chairman, I sympathize with the point the gentleman is making obviously. Perhaps, some of the loans the gentleman mentions should not have been made.

The gentleman has said, however, that the cities have but one bank and the rural areas have two banks. I submit to the gentleman that the cities have basically the SBA and the housing and urban development programs. The rural areas in most instances do not qualify for the HUD programs. They have in its stead in many instances the Farmers Home Administration.

Mr. VANIK. I want to say to the gentleman I have no objection to that and I have no objection to loans that are made to governmental bodies. A few miles from here we will find the Farmers Home Administration loaning funds to a town for the building of a detention center. A loan of $480,000. This is not available to urban areas. That is all right. I do not object to that. However, I do object to loans that are made at preferential rates without the SBA rules, without the need to try to get private capital, going directly to the Farmers Home Administration and getting a loan to build a big motel or a big golf course or a big restaurant. I think that is an abuse of the Farmers Home program.

If you love the program you ought to vote for my amendment to take this out and use this half billion dollars to really help the farmers in America who desperately need help.

Mr. Chairman, if there is an amendment to transfer these resources entirely to farm home loans or to farmers loans, I have no objection to that. I just object to small businesses in rural areas having a special privilege of getting Government money at preferential rates not available to anyone else without any real need or without any relationship to the development of an agriculture, to make it more prosperous and productive in this country.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. VANIK was allowed to proceed for 2 additional minutes.)

Mr. VANIK. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I asked that the gentleman have additional time that I might put one or two questions to him. I think I am supportive of the thrust of the gentleman's amendment.

Did the committee have hearings on this issue or was this an investigation done by the gentleman independently?

Mr. VANIK. The committee had hearings. The authorizing committee had hearings on the housing program. The information that I have was provided to me by the State's representative on the Farmers Home Administration and the figures that I submitted and the record that I submitted comes from the Department's own records.

Mr. MITCHELL of Maryland. These are all business and development?

Mr. VANIK. These are all business and industrial development loans to private people. Funeral homes, motels, golf courses, racket ball—racket ball rates high as a good lender.

Mr. MITCHELL of Maryland. Mr. Chairman, I would refer the gentleman to a discussion we had yesterday. I examined some of the busineses who had received those loans. Does the gentleman recall an enterprise named KKK Enterprise receiving such a loan?

Mr. VANIK. Yes, there is such a loan granted in Ohio, in Athens, Ohio. The KKK Enterprise. A loan of $175,000.

Mr. MITCHELL of Maryland. And, per chance, what does KKK Enterprise produce?

Mr. VANIK. Well, at the time I raised the question, when I first discovered the loan, the Federal official facetiously told me he thought they manufactured bed sheets but since then I discovered that to be a facetious answer.

Mr. MITCHELL of Maryland. Have we discovered what they do manufacture?

Mr. VANIK. I cannot tell the gentleman that but I can get the information.

Mr. MITCHELL of Maryland. Does the gentleman know anything about the structure of this business, KKK Enterprise?

Mr. VANIK. I do not.

Mr. MITCHELL of Maryland. Quite apart from that issue, Mr. Chairman, when I look at some of the difficulties that legitimate small businesses are having in obtaining money in urban areas—I am not necessarily talking about disadvantaged minority businesses, I am talking about small businesses in general—I think the gentleman does this House a service by proposing this amendment and I support the amendment.

Mr. VANIK. I will say to the gentleman the loan procedure is entirely different in SBA. Rural borrowers do not have to check private sources, they do not have to get rejections. They get a much better interest rate. They get a much better deal all the way around. I think a great many people in urban areas are in there getting loans and establishing businesses in rural America with the special advantages of this program.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I am happy to yield to my friend from Illinois.

Mr. YATES. Mr. Chairman, the Chicago Sun Times had a series of exposés on this subject.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Yates and by unanimous consent, Mr. Vanik was allowed to proceed for 2 additional minutes.)

Mr. VANIK. I yield to the gentleman from Illinois.

Mr. YATES. That paper had a series of articles which in a sense exposed the kind of loans this agency was making. They were making loans for miniature golf courses, for ski resorts. Certainly it would appear to me those loans were far distant from the original intent of Congress in setting up the loaning authority of this agency. It seems to me that the gentleman's arguments have great weight and I think the gentleman's amendment is certainly one that ought to be supported and I shall support it.

Mr. VANIK. I want to thank the gentleman.

Mr. Chairman, I want to point out that the television disclosure, the disclosure in the Chicago newspapers, did not stop the loan policy because the list that I put into the Record is dated July 1980. It is a list of loan note guarantees and conditional commitments as of that date. It indicates quite obviously that they are indifferent to the criticisms that were very properly voiced by the newspapers in the gentleman's community and which were very properly brought to our attention.

Mr. YATES. Mr. Chairman, I also want to commend the chairman of the committee, the gentleman from Mississippi (Mr. Whitten). During the course of the hearings, the gentleman went into these items quite extensively. However, I think in order to validate the things the chairman found out from the administration which things appeared in the hearings, the gentleman's amendment ought to be accepted.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was at that meeting with the Farmers Home Administration, and the gentleman from Ohio (Mr. Stokes) was there also. He brought up the very question that the gentleman from Maryland asked of why the KKK organization had a guaranteed loan from the Farmers Home Administration.

☐ 1640

Since it happens to be in my congressional district, I checked on it to find out just what it was about. I learned that this was a guaranteed loan to a grocery store that would employ 40 to 60 people.

I do not agree with a lot of the guaranteed loans that are made through the Farmers Home Administration.

The Chairman. The time of the gentleman from Ohio has again expired.

(At the request of Mr. Miller of Ohio and by unanimous consent, Mr. Vanik was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Ohio. But we must keep in mind that they are guaranteed loans, not outright loans of the taxpayers' dollars. As I understand it, in the State of Ohio they have had a loss of only around 4.5 percent, which is fairly good for a rural area.

I believe that will clear up one of the questions that the gentleman from Maryland had. That particular loan was a guaranteed loan for a grocery store. The main thing that FHA wants to do, I want to reiterate, is to produce jobs. They make loan guarantees to produce the jobs in the rural areas. I thank the gentleman.

Mr. VANIK. I want to thank the gentleman for his explanation on that loan, but I think the gentleman will recall a rather facetious answer that was given by a representative of the Agency. I was there, and I thought I overheard him describe it as something else. I do not think he knew at the time. I am glad the gentleman clarified the matter of that report.

The point I make is that loans of this type ought to be obtained through the Small Business Administration so that there is a uniform policy on small business loans throughout America—for rural America, for urban America. To have a difference simply means that a lot of urban people are going to make adventures into the rural community and take advantage of this wide-open bank in which they can get credit; in which they can get loans; in which they can get resources that are not available to people in urban areas.

I think we ought to be fair. I think the program as it is presently administered is a serious threat to the rest of the farm loan program, which I support and which needs to be supported. This is a distractive element in the program which ought to be eliminated. I would hope that the gentleman would offer another amendment which might eliminate the golf courses and racquet ball businesses which we find offensive. I do not think we can call on the administration to handle it with better discretion. They have indicated their indifference to public reaction.

Mr. ANDREWS of North Dakota. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have had an interesting discussion here, but let us get down to basics. We have bandied around a name known as the KKK, and it bothers me just as much as it bothers my friend from Maryland. But if we accept the amendment of the gentleman from Ohio, we would undo the business and industrial loan program of FmHA that has been put together by a legislative committee to meet the needs of rural areas.

Now, why did the Congress put it into effect? They set it up to loan money to the implement dealers that serve the farmers and to loan money to the fertilizer distributors who serve the farmers. With the cost of fertilizer, the cost of gasoline, and the cost of farm supplies, these farm service companies simply cannot get adequate working capital from the small banks in rural areas.

The Farmers Home Administration is already in those areas. They have the expertise. It is not a subsidized loan. It is a loan guarantee at going interest rates. I do not countenance, nor does my friend from Maryland or my friend from Ohio, using this business and industrial development loan window to build country clubs and bowling alleys and that kind of thing. But this amendment would cut out a chance for a business to be located in a rural area, to give a sharecropper's son a job off the farm because he cannot make enough working on the farm.

As I read this amendment, it cuts out the entire program. I am willing to vote against country club loans and against the other things. I am concerned about some fancy-named place called KKK, but it was a grocery store in that area and probably they could not get the funding to serve those rural, small town residents anyplace else, and they had to go to Farmers Home Administration. I do not think my colleagues want to vote to cut out the opportunity for rural areas to be served by the facilities that we have come to expect and take for granted in the major towns.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I am very sympathetic to the argument the gentleman is making, but I would like to ask the gentleman what measures, if any, are being taken or contemplated to eliminate what appears to be a misuse, really, of the intent of the program?

Mr. ANDREWS of North Dakota. This subcommittee, and I will yield to my chairman in just a moment, but this subcommittee interrogated the witnesses from the Department of Agriculture very thoroughly, and pointed out the abuses that we were concerned about. Our former colleague, Bob Bergland, is as decent, concerned, thoughtful, and hard working as any man we have ever been blessed with to serve as Secretary of Agriculture. We leave it to his discretion to clean it up.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I say to my colleague that this whole matter is an issue of great concern to this subcommittee, as shown by the hearings and shown by the report which I read earlier. In addition to that, the Inspector General of the Department is making an investigation of this whole matter, and the Appropriations Committee has directed its investigative staff to go into it. I would like to find the facts first and make the recommendations secondly.

I agree with my colleague from North Dakota that this provides that you cannot get the money elsewhere. It guarantees a bank that will lend the money, and we have found from the Small Business Administration in the big cities, you cannot get them out in the rural areas. They have to say that they cannot get the money from a bank, and it is a fund; a bank puts up the money and it is guaranteed.

What I am pointing out is that the gentleman's amendment kills the whole program. It says "none." We have got an investigation going right now, and I hope we can recommend to the appropriate legislative committees a correction, but let us not kill the program until we have a chance to correct it, because this is vital to the economic well-being of this country right now. Talk about putting people out of jobs, the amendment would do it.

Mr. MITCHELL of Maryland. Based on the chairman's statement, obviously no one wants to see people out of work, but then can I infer that the gentleman is contemplating some sort of legislative action?

Mr. ANDREWS of North Dakota. We are, and the gentleman has the assurances from the officials in the Department of Agriculture that they will conduct forthwith a thorough investigation of these abuses. I have confidence in our former colleague, Bob Bergland, and his people. I would hope the gentlemen on the other side of the aisle would have that same kind of confidence, to clean up this program.

The CHAIRMAN. The time of the gentleman from North Dakota has expired.

(By unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 1 additional minute.)

Mr. WHITTEN. Mr. Chairman, will the gentleman yield further?

Mr. ANDREWS of North Dakota. I yield.

Mr. WHITTEN. Certainly, within the limits of what the Appropriations Committee can do, we expect to take action. Other than that, we have to recommend it to the appropriate legislative committees.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Ohio.

Mr. VANIK. I would like to ask the distinguished Agriculture Appropriations Subcommittee chairman a question. He stated that loan requests had to be rejected. As I understand the procedure, they do not have to have a record of rejections by other lending agencies. They can go in directly and get these guarantees without—without—having a record of being rejected by a regular lending institution.

Mr. WHITTEN. My information is otherwise. I would not care to act without checking.

Mr. VANIK. I just want to have these loans subjected to the same rules and requirements required by urban dwellers under the Small Business Administration. Our distinguished colleague from Iowa (Mr. SMITH) made a great effort and succeeded in making all of rural America eligible for all the benefits of the Small Business Administration program.

□ 1650

I just do not believe there ought to be two separate banks. We ought to do it under one system, with uniform rules in effect, so that small business and rural areas and urban areas will be treated exactly the same.

The CHAIRMAN. The time of the gentleman from North Dakota (Mr. ANDREWS) has expired.

(On request of Mr. YATES, and by unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 2 additional minutes.)

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I am glad to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I had known about the very intensive and careful investigation that was made by the committee chairman, the gentleman from Mississippi (Mr. WHITTEN), and by the gentleman from North Dakota (Mr. ANDREWS) into this subject, and in view of the explanation as to what the Committee on Appropriations has done and intends to do and the intensive investigation that it proposes to be made in order to insure that the worst part of this program that has occurred in the past will not occur in the future, I am inclined to think that perhaps the gentleman from Ohio (Mr. VANIK) may want to withdraw his amendment and give an opportunity to the Committee on Appropriations to clean up this mess and bring in a good bill the next time.

Mr. VANIK. Mr. Chairman, I wish I could withdraw my amendment, but this is my last chance.

I hope that the gentleman from Illinois (Mr. YATES) will pick it up where I leave it and follow through next year.

Mr. YATES. I intend to do that.

Mr. VANIK. But I think this record of indiscretion in loan commitments is a detriment and is a situation that is harmful to the rest of the agricultural program, and I think it is important to adopt this amendment.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

May I say, Mr. Chairman, that I certainly agree with what the gentleman from Ohio (Mr. VANIK) is attempting to do. May I say that I think we are all in agreement as to what we should do, and I would like to have enough elbow room in which to do it.

I think it would be a serious mistake to kill the whole program at this time, in view of the economic situation and for many other reasons.

Mr. Chairman, I hope the amendment will be defeated, and I assure the gentleman it will be my purpose, as well as those with whom I am associated, to see what we all can do and what we can ask the legislative committee to do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The question was taken, and on a division (demanded by Mr. MOTTL) there were—ayes 6, noes 13.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk continued to read title II.

Mr. ROSENTHAL (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read and open to amendment at any point.

The CHAIRMAN pro tempore (Mr. VANIK). Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title II?

If not, are there any amendments to title II?

The Chair hears none.

Mr. ROSENTHAL. Mr. Chairman, I

ask unanimous consent that title III be considered as read and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title III?

Are there any amendments to title III?

The Chair hears none.

The Clerk will read.

The Clerk proceeded to read title IV.

PARLIAMENTARY INQUIRY

Mr. BAUMAN (during the reading). Mr. Chairman, may I inquire, have we passed page 44 of the bill?

The CHAIRMAN pro tempore. The Chair will state to the gentleman that we have. The Clerk is reading title IV.

Mr. BAUMAN. Mr. Chairman, the gentleman had risen since coming to the microphone, and I rise now to point out what I think is a technical mistake on page 44 of the bill.

The CHAIRMAN. Does the gentleman ask unanimous consent to return to title III?

Mr. BAUMAN. No. Mr. Chairman, I will just move to strike the last word at this point.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

The portion of the bill to which the pro forma amendment relates is as follows:

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2027), $9,451,276,000: *Provided*, That funds provided herein shall remain available until September 30, 1981, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3697 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That no part of the funds appropriated by this Act shall be used during the fiscal year ending September 30, 1980, to make food stamps available to any household, to the extent that the amount otherwise available to such household is attributable to an individual who: (i) has reached his eighteenth birthday; (ii) is enrolled in an institution of higher education; and (iii) is properly claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act.

For an additional amount to carry out the Food Stamp Act (7 U.S.C. 2011–2027), $288,000,000, should it become necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided*, That funds provided herein shall remain available until September 30, 1981.

Mr. BAUMAN. Mr. Chairman, I take this time to call the attention of the chairman of the committee to the fact that on page 44, at line 19, there is reference to restrictions placed on the food stamp program, and the phrase used is "during the fiscal year ending September 30, 1980."

Mr. Chairman, I would assume that the committee meant "1981."

Mr. WHITTEN. Mr. Chairman, we did, and if the gentleman from Maryland will yield, I will ask unanimous consent that "1980" be changed to read "1981" because that is the intent of the Committee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. BAUMAN. I thank the Chair.

The CHAIRMAN. The Clerk will continue to read paragraphs in title IV.

The Clerk will read.

The Clerk read as follows:

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.) including the purchase and hire of passenger motor vehicles; the rental of space in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109, $16,366,000 to be available as authorized by law: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses.

AMENDMENT OFFERED BY MR. ROSENTHAL

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL: On page 49, line 9, after the "period" add the following:

"No part of the funds appropriated herein shall be used by the Commission to deny to committees and subcommittees of the House of Representatievs or of the Senate, acting within the scope of their jurisdiction, any information and data in the Commission's possession (including that described in section 8 of the Commodity Exchange Act) requested by such committee or subcommittee."

□ 1700

Mr. WHITTEN. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Mississippi reserves a point of order against the amendment.

(By unanimous consent, Mr. ROSENTHAL was allowed to proceed for an additional 5 minutes.)

The CHAIRMAN. The gentleman from New York (Mr. ROSENTHAL) is recognized for 10 minutes in support of his amendment.

Mr. ROSENTHAL. Mr. Chairman, this amendment is offered somewhat reluctantly, because, very frankly and candidly, I hate to use the appropriation mechanism for this kind of a purpose. But our subcommittee, the subcommittee that I chair on the Committee on Government Operations, the Subcommittee on Commerce, Consumer, and Monetary Affairs, has been thwarted in its investigative purposes and mandate by actions of the Commodity Futures Trading Commission. I will tell the Members as precisely and briefly as I can how that comes about.

Section 8 of the enabling legislation mandates that the Commission furnish the congressional committees and subcommittees acting within the scope of their jurisdiction all information and data necessary to the legislative and oversight functioning of the Congress. The amendment not only enforces an existing statutory right of subcommittee access to information from a regulatory agency, it upholds the broad constitutional right of Congress to gather information essential to the performance of its oversight responsibility.

Under the rules of the Government Operations Committee, the Commerce, Consumer, and Monetary Affairs Subcommittee is assigned oversight responsibility for the operations and activities of the Commodity Futures Trading Commission. This oversight responsibility, I might say, is shared with other subcommittees of the Congress.

During the 96th Congress, the subcommittee was denied CFTC data essential to the conduct of two investigations. The first involved allegations of the manipulation of the cattle futures market. The second involved the CFTC response to events surrounding the collapse of the silver markets.

On both occasions, the Commission declined to furnish the requested information absent a subpena, even though section 8(e) of the Commodity Exchange Act requires them to do so. Section 8(e) states:

> Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to such committee the names and addresses of all traders . . . and any other information in the possession of the Commission relating to the amount of any commodity purchased or sold by each such trader.

On a 3 to 1 vote, the chairman of the committee dissenting, the CFTC Commissioners stated as follows: The disclosure mandate of section 8(e) extends only to a full committee and bars disclosure to a subcommittee, even when the full committee, by formal vote, delegated to the subcommittee jurisdiction over the Commission, such as happened in the case I talked to the Members about. And, secondly, information and data will be furnished to a subcommittee only upon the issuance of a subpena.

Mr. Chairman, this interpretation, I believe, is contrary to law, it defeats the purpose of section 8(e) of the Commission's enabling statute, and negates the broad powers of congressional committees and subcommittees. And that power is to have access to the information necessary to the legislative function, including oversight.

Moreover, it forces congressional subcommittees to utilize and, in my judgment, wastes subcommittee members' time and effort, to subpena information from a Federal agency whose existence and powers derive exclusively from the Congress. It is the firmly held position of the members of the Commerce, Consumer, and Monetary Affairs Subcommittee, a position expressed in letters to the CFTC and to the members of the

Appropriations Committee in support of this amendment, that congressional subpenas should be issued only as a last resort, reserved for situations where the production of information cannot be secured voluntarily and where no other authority exists for obtaining such information. Clearly, none of these conditions apply in this case.

The positive advanced by a majority of the members of the CFTC that section 8 bars disclosure to a subcommittee runs contrary to a long line of judicial decisions and congressional practices. Section 8 of the Commodity Exchange Act was enacted to enhance the ability of the Congress to investigate, a function almost always performed by subcommittees. It makes no sense to create subcommittees, invest them with investigatory responsibility for particular Federal agencies, and then permit those agencies to deny them information under a statute mandating disclosure of information to committees.

The courts have long recognized that the term "committee" is frequently used generically in statutes to encompass "subcommittees." In *Barenblatt* v. *United States* (240 F. 2d 75, 1957), the U.S. Court of Appeals for the District of Columbia decided that a witness' refusal to answer questions before a subcommittee and pertinent to a subcommittee investigation violated title 2, United States Code, section 192, which provides for criminal sanctions against persons who have been summoned to refuse to answer questions before any committee of either House of Congress.

There is a long list of other decisions and a legal memorandum from the Department of Justice which I shall submit into the RECORD.

Mr. Chairman, we are urging adoption of this amendment not only because of our belief that CFTC is misreading the law. We believe there is an important principle at stake here involving the integrity and smooth functioning of the legislative branches. Federal agencies are created by and derive their powers from the Congress. Congressional oversight is a vital function of the Congress, essential to legislating. Unless there is an explicit statutory provision which bars or limits congressional access to data from a Federal agency, or unless a claim of Executive privilege is alleged and can be sustained, these Federal agencies must be fully responsive to official requests by the committees and subcommittees of Congress for all information essential to the investigatory process.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the distinguished gentleman from Georgia.

Mr. LEVITAS. I thank my colleague, the gentleman from New York, for yielding, the chairman of our subcommittee, and I would like to commend him for offering this amendment. I think it is a very important amendment. The fact of the matter is that the law in this case is very clear. It says that the Commodity Futures Trading Commission shall provide the necessary information to the committees of the Congress.

On two occasions—on two occasions—this committee has arrogantly refused to comply with the request validly tendered by the committee and forced the committee to subpena the documents rather than having the bureaucrats at CFTC obey the law.

It is a simple question of whether they are going to follow the law or not. And if they will thumb their noses and reject legitimate requests required by law from one of the most important oversight committees in the Congress, then I think we have just turned over the whole operation to these unelected bureaucrats.

In the most recent situation in which this occurred, the subcommittee of the gentleman from New York (Mr. ROSENTHAL) was electing the Hunt brothers alleged manipuatien of the silver market, and it was quite clear that most of the relevant information that was necessary for this subcommittee to deal with a major financial situation in this country was being denied under the law by the CFTC, and the subcommittee was required to issue subpenas. I voted against the subpenas in that case, not because I did not think we needed the information, but why should we have to subpena information which the law says shall be provided? There is only one way to get to these people, that I know of, and that is to cut the money off.

Therefore, Mr. Chairman, I strongly support this, and I suggest to the members of this committee that you either have a choice of supporting the arrogance of the CFTC refusing to obey the law, or to support the amendment offered by the gentleman from New York, which I think is altogether proper.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Illinois.

Mr. YATES. What happens if the Commission obtains the information on a confidential basis? Would the gentleman's amendment go to that kind of information?

Mr. ROSENTHAL. The issue is that section 8(e) of the CFTC Act requires them. It uses the word "shall." So they must turn the information over to a committee of the Congress. There is no discretion.

The only issue that came before us was that they said, a 3-to-1 vote in the Commission, that they would turn it over to a committee and not to a subcommittee. Thus, twice we had to issue a subpena, and the gentleman from Georgia objected to it because he felt that it was an offense to the integrity of this institution and demeaned our committee and our subcommittee. That is the whole issue, whether they have the right, the arrogant right, to decide for themselves how to interpret the law.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I think there are two points that should be made. No. 1, the CFTC has not even followed a consistent policy in this regard. They decide when they are going to turn over the information. This same information which our Subcommittee on Government Operations requested, and which they refused to turn over in the absence of a subpena, they turned over to a committee of the other body which they felt was a friendly committee. They are afraid of the gentleman from New York (Mr. ROSENTHAL), and rightly so, because he is diligent in his oversight.

The CHAIRMAN. The time of the gentleman from New York (Mr. ROSENTHAL) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. ROSENTHAL was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, for the benefit of the members of this Committee, let me point out one thing. The section of the law that is involved here starts off by saying:

> The Commission may disclose and make public, where such information has previously been disclosed, certain information.

But it then goes on to say:

> But the Commission shall furnish to such committees of the Congress the relevant information.

That is what they refuse to follow. That is why this amendment is so important.

□ 1710

Mr. ROSENTHAL. Mr. Chairman, I urge adoption of the amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Mississippi (Mr. WHITTEN) insist on his point of order?

Mr. WHITTEN. I do insist on my point of order.

Mr. Chairman, I do not know anyone for whom I have higher regard than the gentleman from New York and the gentleman from Georgia. As a former district attorney and lawyer, I think I have an appreciation of their feelings about this matter.

Furthermore, I could agree that it would be well if the law was different from what it is. May I say I dealt with the Federal Trade Commission for many years where I had many occasions to have a feeling as the gentleman has now. But we cannot get away, as I see it, from the fact that what is sought here seems to go somewhat beyond the basic law.

Here is what the law says, if I may read it:

> Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction . . .

So the law clearly says "any committee."

I turn to Webster's dictionary where it says that a subcommittee is, by definition, "an under committee," "a part or a division of a committee."

So while the subcommittee may have a great desire, a great need, to have the information, the law makes it available to the committee, and a subcommittee frequently is—and even usually is—greatly outnumbered by the full committee.

I respectfully submit that this provision would be subject to a point of order because it gives authority that does not exist in law or prohibits the use of that which is preempted by law.

As much as I would like to agree with my friend from New York, I do not believe that we could tie the hands of the Commission from doing its other duties with this amendment when the authorizing law limits the release of such information to the committee; and this admittedly is a subcommittee, which means a minor part of the full committee.

Perhaps, speaking only for myself now, if the committee authorizes the subcommittee on behalf of the committee to get this information where you are an arm of the committee acting for the committee, it strikes me that it would probably come within the law. But as long as it is acting independent of and without any showing that it is the committee acting through the subcommittee, I would respectfully submit that this would be subject to a point of order.

The CHAIRMAN. Does that conclude the statement of the gentleman from Mississippi?

Mr. WHITTEN. Yes, sir.

The CHAIRMAN. Does the gentleman from New York (Mr. ROSENTHAL) wish to be heard on the gentleman's point of order?

Mr. ROSENTHAL. I do, indeed.

If that is the burden of the distinguished chairman's argument, I would respond to that limited portion of the point of order.

I think, in practical terms, the position espoused by the distinguished chairman of the committee would make it totally unworkable for any investigative committee albeit any subcommittee here in the Congress, to do its work.

What happens in the beginning in the Committee on Government Operations, the committee meets and assigns general areas and investigative jurisdiction to each of the subcommittees, covering four, five, six or seven various agencies, and in those rules of the Committee on Government Operations it invests the subcommittee with the full authority that the House has given to the full committee.

During the course of a session of Congress, there are dozens and dozens and dozens of investigations. If each time we wanted to pursue an avenue of investigatory questioning and direction we would have to come back to the subcommittee, we would be having meetings 7½ days a week. It simply would not work. What we do is follow the statute.

Now, the statute clearly says, section 11:

> The CFTC shall give to the committee all the information they have.

So the only question, the narrowly defined question, is whether the subcommittee is the repository of any statutory authority that the full committee has.

Let me read to this body, and I really reluctantly burden my colleagues with this, but I think it is relevant and important to read what the court held in *Barenblatt* v. *United States* (240 F. 2d 75, 1957): The U.S. Court of Appeals for the District of Columbia decided that a witness' refusal to answer questions before a subcommittee and pertinent to a subcommittee's investigation, violated the title 2, United States Code, section 192, which provides for criminal sanction against persons who, having been summoned, "refuse to answer questions before * * * any committee of either House of Congress."

We have the exact language—"before * * * any committee of either House of Congress."

A unanimous court held as follows:

> It is also contended that the indictment is fatally defective in that it alleges a refusal to answer questions before a subcommittee of a committee, and that Congress did not intend to make it a crime to refuse to answer questions of a subcommittee . . . We disagree. Nothing has been shown which reflects that Congress has indicated such belief. We only construe the statute in light of the obvious purpose for its enactment. That purpose was to discourage the impairment of the vital investigative function of Congress. The function Congress sought to protect is as often committed to subcommittees as it is to full committees of Congress, as indeed it must be. Construing the statute in a manner consistent with its obvious purpose . . . we hold that Congress intended the word "committee" in its generic sense, which would include subcommittees.

There are dozens of decisions along the very same lines.

I would urge that the Chair overrule the point of order.

Mr. WHITTEN. Mr. Chairman, if I may be heard further. Be it far from me to advise my colleague from New York. I meant every word about my feelings toward him, the work he does and that his subcommittee does. When I was district attorney, I never had an indictment dismissed. If somebody raised an objection, I dismissed it and wrote a new one.

So, if in this instance the subcommittee said, "acting on behalf and at the direction of the committee," I personally think it would bring the action within the provision of the law. The subcommittee, according to the dictionary, is different from the committee. The law says, "committee," so it therefore does not say subcommittee; but if the subcommittee is acting at the direction of and on behalf of the committee, it probably would bring it within the law.

The CHAIRMAN. Does the gentleman from New York (Mr. ROSENTHAL) wish to be heard further?

Mr. ROSENTHAL. No, Mr. Chairman.

The CHAIRMAN. The Chair believes, both as to the point of the use of funds to deny submission of information to the subcommittee, but more importantly that the information to be submitted in the amendment is much broader than the information defined in the statute 7 U.S.C. section 12(e). The point of order is sustained.

□ 1720

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. LEVITAS: On page 49, line 9, after the "period" add the following:
>
> "No part of the funds appropriated herein shall be used by the Commission to deny to committees of the House of Representatives or of the Senate, acting within the scope of their jurisdiction, any information and data in the Commission's possession (including that described in section 8 of the Commodity Exchange Act) requested by such committee."

Mr. WHITTEN. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Mississippi reserves a point of order against the amendment.

Mr. LEVITAS. Mr. Chairman, the wording of the amendment is to eliminate the words "and subcommittee or subcommittee" where they appear in the amendment previously offered by the gentleman from New York (Mr. ROSENTHAL).

Mr. WHITTEN. Mr. Chairman, pursuing the matter further, may I be recognized?

The CHAIRMAN. Does the gentleman press his point of order at this time?

Mr. WHITTEN. Could I be heard on the point of order, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. WHITTEN. Mr. Chairman, as I see it, the question is whether the existing law in any way prohibits this information.

Now, let me review just a bit. Although I have studied this, I have not dealt with it in the same way. With the Federal Trade Commission, certain information was required by statute and our committee raised the point for the purpose of information only on the order of a census. In that instance, we provided that anybody releasing the information for a different purpose would be in violation of the law and subject to having the pay withheld of those who conduct the census.

I am trying to find out what is meant by this, so that I may be able to determine whether to press the point of order, based on the belief that the law does not permit this as of now. If it does, I would not object. If this is in contravention of existing law, which I have not had a chance to thoroughly study, I would have to insist.

Can the gentleman tell me what he means by the language? It says here, "any information received."

The CHAIRMAN. Well, if the Chair can clarify the parliamentary procedure at this point, does the gentleman from Mississippi make his point of order at this time or merely reserve it?

Mr. WHITTEN. I had reserved the point of order, Mr. Chairman.

The CHAIRMAN. Well, then the gentleman from Georgia is recognized for 5 minutes in support of his amendment.

The point of order is reserved.

Mr. LEVITAS. Mr. Chairman, as the gentleman from Georgia understood the concerns of the chairman of the Agriculture Subcommittee with respect to the last amendment offered by the gentleman from New York (Mr. ROSENTHAL), it was that the subcommittee was not the appropriate group under the law authorized to obtain the information which was thought to be obtained.

The Chair sustained the point of order.

I have taken the amendment offered by the gentleman from New York and stricken the words "and subcommittee or subcommittee" and have left it to "committee," on the basis that that is covered by the statutory language specifically.

Furthermore, as the gentleman from Mississippi so accurately pointed out, that where it can be shown that the subcommittee is acting as the agent of or a part of the full committee, then whatever requests it makes would, therefore, have to be honored.

I would like to make this point so that my good friend, the gentleman from Mississippi, will understand why it is so important that this amendment be adopted by this body.

The Commodity Futures Trading Commission turned over the information to a subcommittee of the other body without a subpena. It was only in dealing with a subcommittee of the House of Representatives that the Commodity Futures Trading Commission thumbed its nose at the Congress.

Now, are we prepared to say that it is OK for the House subcommittee to be ignored in their vital oversight function on something as important as the silver manipulation scandal and that the other body's subcommittees can receive this information or not?

I think in deference to the integrity of this body, in deference to the vital purpose to be served by an oversight committee looking into and investigating these matters, it is absolutely essential that we cut off funds from any body, any organization, any agency, any commission that refuses to turn over the important data which is required.

Mr. WHITTEN. Mr Chairman, will the gentleman yield to me?

Mr. LEVITAS. I will be happy to yield to my friend.

Mr. WHITTEN. Mr. Chairman, in a rereading of the language of the statute, it does not say "any information or data." Let me read what it says:

> And any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader.

So the statute does not say, "any information or data in the control of the Commission," but is restrictive in the sense of relating to the amount of commodities purchased or sold by each such trader.

I can speak only for myself, but if the gentleman has language where he restricts that information as is referred to in the statute relating to the amount of commodities purchased or sold by each trader, I personally would have no objection.

Mr. LEVITAS. Mr. Chairman, trusting that this brief rain delay has given my colleague, the gentleman from New York, an opportunity to redraft the amendment. I will concede the point of order in anticipation that another amendment now may be presented.

The CHAIRMAN. The point of order is sustained.

The Chair recognizes the gentleman from New York (Mr. ROSENTHAL).

AMENDMENT OFFERED BY MR. ROSENTHAL

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ROSENTHAL: On page 49, line 9, after the "period" add the following:
>
> "No part of the funds appropriated herein shall be used by the Commission to deny to committees and subcommittees of the House of Representatives or of the Senate, acting within the scope of their jurisdiction, any information referred to in section 8 of the Commodity Exchange Act, requested by such committee or subcommittee."

Mr. WHITTEN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Mississippi (Mr. WHITTEN) reserves a point of order on the amendment.

Mr. WHITTEN. Mr. Chairman, at this time I move the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROE) having assumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7591) making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 589, PROVIDING ADDITIONAL PROGRAM AUTHORITY FOR THE EXPORT-IMPORT BANK

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1205) on the resolution (H. Res. 757) providing for consideration of the joint resolution (H.J. Res. 589) providing additional program authority for the Export-Import Bank, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7831, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1206) waiving certain points of order against the bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

☐ 1730

CALLING FOR QUICK ACTION ON ECONOMIC DEVELOPMENT LEGISLATION

(Mr. ROE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, the increasing threat of foreign competition has caused enormous job losses in critical industries. These shock waves have skyrocketed national employment to the degree that we are fast approaching an economic crisis. To halt this erosion, the National Public Works and Economic Development legislation must be enacted swiftly. This legislation will create jobs quickly and provide relief to many hard hit communities. Committed to this goal, I am calling for the immediate resumption of the House-Senate conference committee.

The deteriorating economic situation which I have attempted to pinpoint demands that the conferees compromise, reach agreement, and act without further delay.

Last week, the senior economist for Data Resources, Inc., Allen Sinai, in testimony before the Senate Banking Committee, described the economy as follows:

> The U.S. economy has abruptly slid into the deepest downturn for the first quarter of a recession since the 1930's. . . . The unemployment rate has soared to 7.7 percent from 6 percent in just four months, with an additional 1.5 million persons unemployed since January. The volatility of U.S. financial markets has been without precedent, with interest rates moving up and down by a range of 4 to 11 percentage points since the end of 1979. Growth in productivity has slowed to .5 percent per annum over the last six years and was down a large 1.7 percent during the first quarter. These statistics show a dismal performance for the once proud U.S. economic machine; indeed a combination of austerity and stagflation that is a cause for great concern and which constitutes a "national crisis."

Simultaneously, some of the most noted economists in the country unanimously agreed that this country is facing a recession, with projected national unemployment ranging between 8.5 to 9.4 percent. Their only disagreement centered around how long it would last, when it would peak or the best course of action to restore economic growth and stability.

The economic dilemma facing the Nation is intensified when we examine the latest State unemployment figures. In May, unemployment rates mounted, particularly in industrial States—Michigan climbed to 14 percent, Alaska 9.4 percent, Indiana 10.5 percent, Ohio 8.7 percent, and New Jersey 8.1 percent. However, the recession is not limited to one section of the country.

Unemployment rates were higher than a year ago in all but two States. For example, West Virginia reached 8.5 percent, Alabama 8.2 percent, and Oregon 8.4 percent.

An immediate reduction in unemployment appears unlikely as plant closings continue leaving thousands of workers jobless. In my own State of New Jersey, the 8.1 percent figure does not include the 3,700 workers who lost their jobs as Ford Co.'s assembly plant in Mahwah, N.J., permanently shut its doors.

Without confining our examination of the economy to the projection of economists, let me mention some more concrete evidence. Financial statements show that the largest and smallest U.S. automakers suffered record losses for the latest quarter. The financial plight of auto manufacturers, the steel industry, construction trades, electronics, and textile businesses are all too glaring reminders that foreign competition has destroyed our economic viability. These trends, coupled with our gradual demise from a position of world leadership in productivity and economic growth through technology an innovation, are additional indicators for concern.

Perhaps we have become immune to statistics—as there always seems to be someone who can dispute the figures and revamp the statistics to make the opposite point. But for one who has seen the despair of the autoworker who has lost his job after months of struggling to meet the basic cost of living being eroded by inflation, no statistics are needed to determine that now we must take steps to bring about economic recovery.

I am somewhat perplexed by the ongoing congressional debate on whether to offer an economic stimulus to speed up our Nation's recovery. The presence of a serious recession should be apparent. Indefinite layoffs in the auto industry have surpassed 239,000 and these figures do not take into account the peripheral impact which is likely to bring the number of job losses in this field alone to between 700,000 and 800,000. Additional debate or prolonged deliberations on this question seem superfluous. A further delay is unconscionable recognizing that the auto industry is such a key part of this Nation's economy. In 1979, that industry and its auxiliary industries contributed 3.8 percent to the GNP and employed somewhere around 14 million workers. Thus a slump in the auto industry can only have a negative effect on the economy as a whole.

While reducing Federal spending and providing long-term economic direction through tax changes that stimulate investment and increase productivity are laudable goals which must be pursued—neither of these policies can arrest inflation or put people back to work immediately. As a matter of fact, rising unemployment adds to the Government's financial burden and hinders budget-balancing efforts. The general rule of thumb is that for every 1 percent in rise in national unemployment, the cost to the Federal Government is $25 billion in loss of revenues and additional income maintenance programs. One such additional expense is the increasing number of States which must borrow funds from the Federal Treasury to meet the immense demand for unemployment compensation payments in their respective States. Already 15 States, including New Jersey, Michigan, Pennsylvania, Illinois, and Connecticut have borrowed more than $4.3 billion from the Federal unemployment account. The number of States seeking Federal loans for this purpose is expected to grow as the recession worsens. This enormous financial drain will continue until unemployment can be brought under control. However, at the present time, the number of States experiencing job losses considerably above the national average, is rising each month and many States are still trying to repay loans from the last recession.

I believe it is the propitious time to act to get our economy back on track. Major economic improvement requires prudent and swift action by the Congress. In this regard, I have called for the reconvening of the House-Senate conference on the National Economic Development and Public Works legislation. The Public Works and Economic Development program has been a critical aid in fostering economic recovery, creating jobs, and stabilizing local economies for the past 15 years. Through construction grants, loans for business development and planning and technical assistance funds—economically depressed communities have been revitalized. Countless rural and urban areas have new economic hope because of the efforts made possible by EDA moneys.

The merit of this program can be attested to in the resounding 3-to-1 vote on the reauthorization legislation here in the House last November. Unfortunately, differences in the House and Senate versions of this bill have not been easily or quickly resolved. During conference meetings last December, differing views on who should be served by this program or the need for standby local public works which could have been triggered during periods of high unemployment, were among some of the areas unsettled. These legislative delays have created additional problems for hundreds of local communities awaiting the approval of EDA projects. These projects are aimed at creating jobs, constructing needed public facilities, or providing relief to businesses adversely affected by foreign competition.

Also halted by the legislative stalemate have been local projects which are planned to use EDA funds in tandem with UDAG, SBA, or FmHA grant and loan programs to obtain the maximum leverage of private sector funds. These types of projects insure the optimum value for Federal dollars. Had this legislation been acted on earlier—many local communities might have been less severely impacted by the recession, and the construction downswing could have been responded to in a timely and thereby effective countercyclical manner.

While I am disappointed that the previous negotiations and the trade of offers for compromise have not been fruitful, it is time to move forward with a new commitment to reach an agreement that will result in the passage of the national public works and economic development legislation. Aside from the continuation of the traditional EDA public works grants program, this legislation includes a number of new initiatives designed to tackle such hardcore economic problems as trade adjustment, improving industrial productivity, and creating long-term job opportunities.

New initiatives in this legislation establish an expanded development financing program to offer greater incentives for businesses to locate in economically depressed areas, and strengthen sources of funding for communities and businesses whose vitality is being threatened by foreign competition. The auto, steel, footwear, and electronics industries must obtain a new capital infusion to replacing obsolete equipment and make them more competitive in the marketplace. Realizing the role energy independence plays in economic development, funds are provided to encourage the production of gasohol and other fuel sources. Greater equity financing is essential for small and medium size businesses, and experimentation in this field is also possible through the EDA Act.

Improved assistance to defense-dependent communities is perceived, and job retention through employee stock ownership purchases is encouraged. These initiatives will provide EDA with greater flexibility and resources to act as a catalyst to economic development.

The economic development legislation establishes a secure framework to foster local economic revivals. It can put people back to work now. It can start the machinery moving to strengthen deteriorating segments of our economy. Other economic stimulus must be forthcoming—policy changes that encourage business expansion and investment, such as accelerated depreciation changes, increased tax credit investments, and changes in capital gains laws, are needed. Yet to postpone action until these complicated and longer range decisions can be made is a failure to recognize peoples' needs and the immediate task of job creation.

We cannot afford further delay. Swift enactment of the EDA legislation is a positive first step. It emphasizes our concern and compassion for the unemployed without destroying the economy or hindering the necessity of bringing inflation under control.

SIGNIFICANCE OF BILLY CARTER'S LIBYAN CONNECTION

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, yesterday, because of the press of business, a more than fair limit on the overall period for 1-minute speeches precluded me from saying orally something further about the case of Mr. William Carter, the President's brother. Though yesterday's arrangement was eminently fair, I wanted to directly address this issue. I know that we all loathe that black dot, although we voted for it, in front of our names.

I did want to say—orally—that one of the reasons why the Libyan connection is so frightening is that we are not talking about the only brother of the President receiving foreign remuneration for some vague services from a Switzerland, a New Zealand, a Norway, or the Republic of Ireland, the principality of Monaco, or little Luxembourg. We are talking about Libya, the nation that regularly gives asylum and a hero's welcome to international terrorists. Libya welcomed the murderers that killed the 11 Israeli athletes and their coaches at the Munich Olympics. This is the nation that gave asylum to the genocidal maniac of Uganda, Idi Amin, who is now in another Arab country. This is the nation that organized and supported the slaughter of 35 people, 10 of them American children, on a Pan American airliner at the Rome Airport. This is the nation that engineered the murder of four civilians at an airport in Athens.

It was Libya that attacked a U.S. reconnaissance plane in international airspace. It was Libya that supported the genocide of hundreds of thousands in Sudan. It was Libya that supported the kidnaping of the oil minister at the OPEC meeting in Vienna. It was Libya that supported a terrorist attack on four innocent people in Istanbul, including one of our own congressional aides.

And the distinguished list of terror goes on and on. Libya's dictator Moammar Qaddafi has assisted virtually every terrorist operation in the Middle East, at a time when Arab leaders in Jordan, Saudi Arabia, and Egypt have been trying desperately to achive a workable peace, a goal so earnestly sought by all of us, and notably by Mr. William Carter's brother.

In July of 1976, Qaddafi admitted that thousands of Libyans were receiving training in the U.S.S.R. At the very time of that remarkable admission, Sudan told the United Nations Security Council that Libya was behind an abortive coup to overthrow Sudanese President Jaafar Numeiry, presenting proof from mercenaries trained in Libya.

In 1975, Qaddafi signed a $2 billion arms agreement with the Russians for 24 Mig fighters, 1,100 tanks, and 50 batteries of antiaircraft missiles. Much more than this has been delivered. Much still sits on the docks in Tripoli. Many of the small arms that the Russians ship to Libya are used for the hundreds of terrorist operatives that Qaddafi trains and finances each and every year.

West German sources have claimed that Qaddafi has been spending millions of dollars each year on terrorist activities.

The gravity of Mr. William Carter's loathsome taste in friends cannot be obscured by a mask of buffoonery on the part of "lil' brother Billy," an innocent, small-time, small-town hayseed comic.

REPORT ON H.R. 7854, FOREIGN ASSISTANCE APPROPRIATIONS, FISCAL YEAR 1981

Mr. LONG of Maryland, from the Committee on Appropriations, submitted a privileged report (Rept. No. 96-1207) on the bill (H.R. 7854) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. YOUNG of Florida reserved all points of order on the bill.

ON INTRODUCTION OF RESOLUTION EXTENDING APPRECIATION TO FOREST SERVICE ON ITS 75TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. FOLEY) is recognized for 5 minutes.

● Mr. FOLEY. Mr. Speaker, I rise today to bring to the attention of my colleagues a milestone in the Nation's efforts to use its forests wisely while preserving and improving them for future generations. The year 1980 marks the 75th anniversary of the Forest Service, the Department of Agriculture agency which manages our national forests and allied lands, and which provides national leadership in the management and conservation of forest resources on both public and private lands.

The creation of the Forest Service in 1905, and the installation of Gifford Pinchot as its first chief, marked the beginning of a long history of service to the public through wise management of the national forests and grasslands which now cover approximately 188 million acres in 44 States of the Union and Puerto Rico and the Virgin Islands. This great heritage and source of vast environmental and economic wealth is essential to our Nation's strength and wellbeing. The national forests provide a vital source of timber for the national economy, recreation for millions of Americans, untouched wild areas, and protected wilderness regions for the benefit of the present and future generations and mineral, wildlife, grazing, and water resources which are important to our food supply. The management of these resources, shaped by the conservation and multiple-use philosophy first set forth in 1905 and now strengthened by 75 years of experience, assures us that these resources will be available for future generations.

As a Member of Congress from a State whose forests cover 55 percent of the land area, I am especially mindful of their value. For this reason, and because of my own knowledge of that agency and its people, I take personal pride in acknowledging this 75th anniversary of the Forest Service. I am pleased to join with my colleagues, Mr. WAMPLER, Mr. WEAVER, and Mr. JOHNSON of Colorado, in sponsoring a resolution in recognition of this long period of excellent leadership and performance by a Federal agency.●

GASOLINE RETAIL MARKETING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, the Small Business Committee recently approved the Small Business Motor Fuel Marketer Preservation Act (H.R. 6722) as amended. The vote to report the bill was 25 to 1. Now the measure is pending in the Interstate and Foreign Commerce Committee, which has joint jurisdiction.

The key provision of H.R. 6722 is a requirement that the major, integrated oil companies cease direct operation of motor fuel service stations. While these 16 companies would be permitted to retain ownership of gas stations, they could operate them only through lessee dealers or other independent marketers. Small and independent refiners would be permitted to continue their direct marketing operations.

The problem this legislation seeks to remedy is one with which most Members are well acquainted. We see the major oil companies selling an increasing amount of gasoline at retail through their own company-run outlets, competing directly with the independent dealers and jobbers those same companies previously had encouraged to enter and serve the market.

The chief cause for concern is that the refiner frequently is the owner of the station in which the dealer operates, as well as the owner-operator of the newly opened stations from which the independent dealers are excluded. With the coming decontrol of gasoline marketing, the refiner has the potential to control the dealer's rental, the price and availability of the products the dealer sells, the maintenance of the property, advertising and credit policies, and so forth. In short, the refiner is positioned to control virtually all of the conditions essential to the dealer's survival in the marketplace.

FAIR COMPETITION

The Small Business Subcommittee on Antitrust and Restraint of Trade, which I chair, has heard testimony from oil company marketing executives who candidly state they are opening refiner-operated outlets in direct competition with dealers who are affiliated with the same oil company. Their attitude is, "If they can't compete, they can't compete."

The problem is that it is impossible to expect the small businessman to compete with his own supplier/landlord. Where one company controls all of the factors necessary to the other company's success in the marketplace, we can hardly expect to find fair and equal competition.

The figures seem to bear out this suspicion. Between 1973 and 1978 there was a net loss of approximately 80,000 independent dealers—about one-third of the total in the country—while sales of gasoline at refiner-operated outlets doubled.

Clearly, it is in the public's interest to maintain a healthy, competitive marketplace of as many independent marketers as possible, and to see that they all have the opportunity to compete on a fair and equal basis. Nonetheless, the trend has been toward fewer and fewer competitors, with an increasing concentration of economic power into the hands of the big oil companies. Hence, we see the need for enactment of so-called divorcement legislation to bar the integrated major oil companies from the retail market where they are wreaking havoc with the independent marketers.

CLOUDING THE ISSUE

Recently, some questionable information has been circulated, having the effect of clouding the issue somewhat. The Heritage Foundation, a Washington-based research organization, has produced a paper that purports to show that divorcement legislation would be contrary to consumer interests.

Milton Copulos, a policy analyst for the Heritage Foundation, authored a report stating that enactment of retail divorcement legislation would add between $250 million and $1.2 billion to the cost of gasoline each year. Intrigued by that remarkable set of numbers, the Antitrust Subcommittee spent some time talking with Mr. Copulos when he appeared as a witness at our hearings on H.R. 6722.

It quickly became apparent that the Heritage Foundation study has little relevance to the legislation under consideration. However, because there are those who continue to circulate the report, I think it would be useful to discuss it here.

Mr. Speaker, Mr. Copulos told us that he arrived at his estimate of the cost of gasoline retail divorcement by taking the average cost of gasoline sold in dealer-operated outlets, subtracting the average cost of gasoline sold in company-operated stations, and multiplying the difference by the total volume of gasoline sold in all refiner-operated outlets. This methodology is certain to produce almost totally irrelevant information, because it is based upon a series of false assumptions.

FOUR FALLACIES

First, the formula used presumes that every refiner-operated gas station would be divorced. In fact, the divorcement provisions of H.R. 6722 apply only to the 16 integrated, major companies. Thus, it affects only 8,000 of the roughly 14,500 refiner-operated stations in the United States.

Second, the price spread between company stores and dealer-operated stations currently is artificially maintained by the Federal energy regulations. In fact, shortly after Mr. Copulos wrote his report, the Department of Energy unveiled a proposal that would substantially close the gap between dealer and refiner prices at retail. As H.R. 6722 is designed for a deregulated environment, which will come about in October 1981, the figures obtained by Government-mandated pricing can be rather misleading.

At this point in the RECORD, Mr. Speaker, I wish to insert a portion of the dialog we had with the Heritage Foundation witness:

> Mr. BEDELL. The company operated stations are selling gasoline for less than the dealer operated stations are?
>
> Mr. COPULOS. Yes.
>
> Mr. BEDELL. With deregulation would you expect that to continue?
>
> Mr. COPULOS. I would expect there to be an evening of prices.
>
> Mr. BEDELL. So your $247 million estimate has to do with what the situation would be under regulations, which is what we have now, and you are not making such a statement under deregulation, which is what we will have in the future.
>
> Mr. COPULOS. Hopefully, if we do have deregulation, I think the figures would be different. To the extent deregulation takes place, you will find a break on prices. There are a number of very unusual situations which have evolved through our current convoluted system of pricing.

Third, the Heritage Foundation calculations are based on the assumption that a dealer taking over a divorced station automatically would raise prices to the level charged by other dealers in the area. This ignores the fact that most refiner-run stations are so-called pumpers, offering no services, and remaining profitable only by selling large volumes of gasoline at relatively low prices. Anyone taking over such a station would have to continue pricing gasoline lower than what is charged at full-service stations in order to attract customers.

Fourth, and finally, Mr. Copulos told us he believes consumers would suffer because, in his opinion, dealers cannot run service stations as efficiently as the major refiners can. This directly contradicts what we had been told earlier that same day by H. Laurence Fuller, president of Amoco Oil Co., who appeared as a witness on behalf of the American Petroleum Institute. With reference back to Mr. Fuller's testimony, the following dialog occurred:

> Mr. BEDELL. The previous witness we had from the American Petroleum Institute has testified he cannot run a station as efficiently as the dealers can. You come and tell us that he will run it more efficiently than the dealers. We have to determine who to believe. Your whole argument turns on who is more efficient . . .
>
> Mr. COPULOS. As I noted in my testimony, the trend among major refiners, the large integrated oil firms, is away from company operated stations. The very, very large refiner has discovered this is not a business he should be in.
>
> Mr. BEDELL. Is that because he can do it more efficiently?
>
> Mr. COPULOS. No. He did not operate the retail outlet as efficiently. However, the segment that does is the middle sized refiner. These are the people divorcement will hurt.
>
> Mr. BEDELL. They are not affected by the bill. Only if they have substantial crude oil production——
>
> Mr. COPULOS. How much?
>
> Mr. BEDELL. 30 percent. The top 16 companies. Apparently, you were not aware of that.
>
> Mr. COPULOS. That is something I am not aware of. That is a large part of the competitive part of the industry. . . .

CONCLUSION

Mr. Speaker, the Small Business Committee could not find any adverse effect on the consumer from passage of gasoline retail divorcement legislation. All that we find is the prospect of enhanced competition and improved customer service. As you can see, efforts to portray H.R. 6722 as being anticonsumer do not hold up under close scrutiny.

To their credit, it should be noted that the Heritage Foundation appears to have stopped distributing the Copulos study. However, copies of it do remain in circulation, and I urge my colleagues to consider the report with appropriate skepticism.●

GENERAL SITUATION IN THE STEEL INDUSTRY AND IMPORT PENETRATION

The SPEAKER pro tempore (Mr. VANIK). Under a previous order of the House, the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, today, the industrial sector of our economy is being hit by severe recession. The effects of this critical economic situation are clearly visible in our domestic steel industry. Thousands of steelworkers are losing their jobs as the industry's competitive position declines. The industry's ability to compete has been adversely affected by the penetration of foreign steel producers into our domestic market.

The financial decline of our domestic steel industry and the parallel rise in imports is reflected in the following statistics:

	Net income as percent of sales	Imports as percent of apparent supply
Decade of:		
1950's	6.6	2.3
1960's	5.4	9.3
1970's	3.2	15.3
3 yr 1977-79	1.7	17.0

These statistics show that as steel imports have increased, industry net income has steadily decreased, restricting the ability of the industry to generate the capital necessary for modernization and expansion.

The present operating rate of the industry is about 55 percent of production capability. This rate declines on a weekly basis. At this time last year, operating rate was 90 percent.

At a time when raw steel production has drastically dropped to a 5-year low, steel imports continue to increase significantly. Based on recent statistics from the American Iron & Steel Institute, steel imports for April 1980 had increased by 16.6 percent over April 1979. For the first 4 months of 1980, steel imports had increased by 11.4 percent over the same period in 1979. This penetration of our domestic steel market for the first 4 months of 1980 represents 15.2 percent of the apparent domestic supply.

Declining production and the alarming rise in steel imports has led to thousands of layoffs of hard working steelworkers. As of July 21, 1980, the American metal market had reported that there had been 75,000 hourly employees laid off in the domestic steel industry over the past several months. This figure represents a shocking 23.4 percent of the total hourly work force within the industry. In June of this year, the American Iron and Steel Institute analyzed the employment figures for April 1980. According to the Institute, the average number of hourly employees in the domestic steel industry fell in April to the lowest level since June 1933. Furthermore, the April total for "all employees" was the lowest since July 1939. This situation is truly alarming and it is resulting in unfair hardships for so many families.

The crisis situation in our domestic steel industry is a result of years of our Government's failure to fairly and vigorously enforce our international trade laws, which are designed to remedy unfair trade practices. The Congressional Steel Caucus emphatically urged the present administration to fairly and effectively administer and enforce our international trade statutes.

Prior to the enactment of the Trade Agreements Act of 1979, the officers of the Congressional Steel Caucus presented testimony before the House Trade Subcommittee concerning the multilateral trade pact and its implementing legislation. At that time, we strongly articulated our positions on the proposed pact and legislation, and we analyzed its impact upon the domestic steel industry. While we recognized that wholesale dumping, various forms of Government subsidization and other unfair trade practices would never be completely eliminated, we believed that the ability of our domestic laws to offset the effects of unfair trade practices should not be impeded.

During the floor debate, I joined my colleagues in support of this legislation particularly with regard to a number of provisions to tighten administration of the antidumping and countervailing duty laws, to restrict authority to resolve cases "politically" and to better insure that cases are resolved strictly on their merits. However, I qualified my support by cautioning my colleagues that the trade pact, together with the necessary changes contained in the implementing legislation, was not a complete solution to all our international trade problems.

At that time, I also expressed the view that our expectations must be governed by the economic realities of a threatening worldwide recession and its impact on our domestic steel industry. In previous discussions, my colleagues in the caucus concurred that it would be unwise to lift the trigger price mechanism prematurely. Therefore, we recommended its retention to allow sufficient time for the multilateral trade pact and the implementing legislation to take effect.

Finally, we observed that the effectiveness of this legislation required a firm commitment from the administration to administer and support our trade laws fairly.

The Trade Agreements Act passed the House by an overwhelming margin. However, today, it is apparent that our worst expectations may be coming true concerning the impact of a worldwide recession on the domestic steel industry, the life expectancy of the TPM and certain potentially harmful events related to the administration of the new trade law.

On March 21, 1980, United States Steel Corp. filed a series of antidumping petitions against seven European nations, prompting the Commerce Department to suspend the trigger price mechanism for monitoring prices of imported steel.

The caucus is convinced that the Commerce Department's decision to suspend the TPM is having a negative, long-term impact on the health of the domestic steel industry and the general economy, contributing to further plant closings, job losses, and community dislocations. Two and a half years of progress will be quickly eroded as domestic producers begin to take lengthy and costly legal steps against foreign steel producers with no guarantee of success in stopping the flow of unfairly priced imports.

In particular, the smaller steel producers will be unable to compete against Government-owned or subsidized foreign steel producers who are certain to continue to unload their excess steel inventories in this country at prices below their production costs.

The trigger price mechanism was originally designed as a supplementary technique to provide the industry with quicker, more comprehensive relief from unfair trade practices than existed. It was never intended to act as a substitute for traditional procedures under our trade laws. In this regard, it has provided limited benefit for the industry by offering a partial method for insuring that imports represent fair competition in the domestic market.

It makes no sense to eliminate a useful trade enforcement tool and thereby penalize an entire industry because a corporation justifiably wishes to exercise its legal prerogatives. Accordingly, we firmly believe that the TPM, in conjunction with recent refinements in the trade laws, can effectively deal with unfairly priced steel imports if proper adjustments are made to acount for its deficiencies.

Accordingly, we have recommended that the trigger price mechanism be retained, that the program be refined to account for steel imports from the EEC, and that the administration coordinate the TPM with the enforcement of our newly enacted trade laws.

Concerning the U.S. Steel case, these petitions are the first ones to be filed under the recently enacted Trade Agreements Act. They are the first real test of that statute and the intent of Congress, that the law provide an efficient and fair remedy from the effects of dumping in the American market.

On May 1, 1980, the U.S. International Trade Commission voted in the affirmative ruling that it found a reasonable indication that the U.S. steel industry is being injured by low-priced European steel imports. The next stage of the investigation will involve the Commerce Department's preliminary decision about whether sales of steel imports at less than fair value have taken place. This decision is due August 28, 1980.

However, in an exceptionally complicated case, the Commerce Department can extend the deadline for 50 days, and the Department has made this extension. Since this case represents the first real test under the Trade Agreements Act, it is our hope that it will be resolved fairly and objectively on the merits.

The present buildup of foreign capacity and the current recession have created a reasonable and legitimate concern that the United States would again be a target for massive imports of specialty steel. Presently, there are indications that foreign producers are selling their products in this country at prices below their costs of production. Although remedies are available under U.S. trade laws, the establishment of trigger prices for specialty steel would offer a more immediate method for insuring that imports represent fair competition under U.S. laws. We urge the administration to establish such trigger prices for specialty steel.

Due to the critical financial decline of our steel industry, thousands of workers are being laid off causing severe personal harm to steelworkers and their families. These workers are suffering not only from the rise in steel imports, but they are also adversely affected by increased imports of automobiles and other products which contain foreign-made steel, much of it subsidized both by foreign government subsidies and by U.S. foreign aid to steel-making nations.

As a consequence, we strongly urge the enactment of H.R. 1543, a bill enlarging eligibility for trade adjustment assistance to cover workers who produce component parts for products which are currently identified as being adversely affected by foreign imports. This bill passed the House on May 30, 1979.

Recently, dramatic increases have occurred in export demand for U.S. ferrous scrap, creating a serious impact on the availability and price of domestic scrap. Over a 15-month period ending December 31, 1979, scrap exports averaged 929,000 net tons/month. Net exports in 1979 were 10.2 million net tons, only 1.8 percent below the record year of 1973. The average price of ferrous scrap during 1979 increased 31 percent compared to 1978, from $75/gross ton to $99/gross ton. Caucus members have conveyed their concern to the Commerce Department urging the establishment of systematic monitoring of scrap exports.

If a serious shortage of scrap develops, such action would eliminate delays in implementing export controls on ferrous scrap. Unfortunately, the Department of Commerce has decided not to start formal monitoring of ferrous scrap exports. We intend to closely watch this situation.

Another matter of concern is the Foreign Trade Zones Act of 1934. This law should be subject to the same review and oversight applicable to our other international trade laws. Thus, this statute should be comprehensively reassessed in order to guarantee that domestic producers of import-sensitive products will not be adversely affected by the rapid increase of such zones.

With regard to fostering a better understanding among other nations of our steel problems with the hope of reaching a fair trade result for all producers, our Government should agree upon a national steel trade policy and then make greater use of the Organization for Economic Cooperation and Development Steel Committee (OECD). This committee was set up to offer an international forum for discussing and solving steel trade problems.

In conclusion, the international economic situation as it affects our domestic steel industry is not encouraging. Our Government must establish a coherent and effective national steel policy that will result in the fair and effective administration and enforcement of our international trade statutes and provide assistance to our numerous hardworking steelworkers and their families who are suffering from this crisis.

□ 1740

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to a member of our executive committee, the gentleman from Illinois (Mr. O'Brien).

Mr. O'BRIEN. I thank the gentleman for yielding.

Mr. Speaker, I rise today to join with my colleagues, members of the House Steel Caucus, in the first day of a 3-day colloquy on problems of and remedies for the domestic steel industry. Many of us have known for quite some time the Federal Government's role in bringing the steel industry to its knees, begging for relief in whatever little legislative tidbits we are willing to deal out. Well, our continuance of a teaspoon of legislative relief for severe emergencies on an irregular basis has caused this once healthy giant to shrink in capacity and viability to the point of a chronic, and possibly terminal, condition. We must act immediately to administer regular and adequate doses of fiscal and regulatory relief.

As our chairman recently reported, the American production of steel fell from 2.7 million tons 1 year ago to 1.6 million tons 1 week ago. That is a 40-percent drop in 1 year. The ramifications of a reduction that large and rapid are catastrophic in terms of work force layoffs, increased Federal expenditures for unemployment, and the lowering of our gross national product which affects every American.

Although this drastic reduction has resulted from several factors, today I will address the problem of foreign imports on the domestic industry. From April 1978 until March 1980, the import market for steel in the United States operated under the trigger price mechanism (TPM). Although the implementation of the TPM provided a minimal amount of much needed relief, the failure of the administration to properly administer its own program, resulted in a continued high level of imports by merely shifting the biggest exporter from Japan to the European nations.

After a reasonable period of time had elapsed demonstrating this loophole in the program, industry brought it to the attention of administration officials. Their response was to do nothing but offer undocumented explanations on the need to continue the TPM as is until more time had elapsed. More time would eliminate this shifting of import levels and result in an import reduction, they told us. Well, after 2 years, United States Steel decided it could not wait any longer and filed its formal dumping complaint based on the increased imports of the European nations directly resulting from the improper administration of the TPM. In short, a Government teaspoon of remedy, administered on an irregular basis, caused the illness to fester and now only massive doses of relief will wipe out the illness.

But, to do this, we do not need any new legislative initiatives. If we enforce our present laws, imports will either be reduced or their price will accurately reflect the cost of production. Under those conditions, American steel can compete with foreign steel and in competing begin the first phase of a total recovery of being a healthy industry once again. Other nations fearlessly enforce their trade laws. In fact, some have refused to sign the new safeguards code contained in the Tokyo round of the MTN because to do so means that they would not legally be able to pursue some of their current policies restricting imports in their own countries in order to protect their own industry and economy.

The United States should follow a basic principle of democracy in dealing with increasing foreign steel imports and a declining domestic steel industry: enforce the law, fairly and with all due haste.

□ 1750

Mr. GAYDOS. Before I yield to my friend on the Steel Caucus, let me make some general observations about the situation.

My good friend, the gentleman from Pennsylvania (Mr. Bailey), replaced a man who had knowledge of this situation 10 or 12 years ago. I refer to former Congressman John Dent. Mr. Dent stood many times in the well of this House and whenever he had the opportunity, offered "Buy American."

Mr. Speaker, at the present time I have staff working upon a compilation of everything Mr. Dent said on this subject over the last 15 years in order to demonstrate the validity of Mr. Dent's views and the accuracy of his predictions.

At that time, Mr. Dent warned that this country would end up being a nation of consumers, producing nothing. He predicted what we experience today: mass unemployment and this country's inability to defend itself.

Where we would be if we entered into a conflict tomorrow when we now depend on approximately 20 million tons a year imported steel projected to be 30 million tons a year by the year 1985? Those are imports in raw carbon steel. Forget about the rise in specialty steel imports with all of its implications. Concerning another matter, ours is one of the few countries today that does not have some type of export control over its ferrous scrap—an essential steelmaking ingredient. Of all the major industrial countries ours is one of the few which allows its scrap to vanish, to be exported. The time will come when we will have the situation we had in 1941 and 1942. We will find all our scrap coming back to us in the form of bombs, and shrapnel. It will probably be our children who will suffer.

Mr. Speaker, this is the situation which we discuss today. Concerning the situation with coke, we have the greatest coal reserves in the world. We are exporting coal and importing coke. Five million tons shortage last year, 10 million tons projected this year. There is no rhyme or reason to that. It is self-contradictory.

My good friend John Dent made all these predictions repeatedly in this very well, at this very rostrum at which I stand. His predictions were accurate.

I yield to my good friend from Alabama (Mr. Bevill).

Mr. BEVILL. I thank my good friend and colleague for yielding.

Mr. Speaker, the Office of Technology Assessment study on the steel industry, released this month, indicated that some very bleak days could lie ahead for our domestic steel industry.

The study predicted that if current industry profits do not improve, and strict governmental controls on the steel industry are not relaxed, we face the prospect of a significant reduction in the size of the country's domestic steel industry.

The United States could find itself importing up to 40 percent of its steel by the year 1990. The imported steel would, most likely, be high priced and possibly even scarce.

If we ever got to the point where we imported that much of our steel, we would risk placing ourselves in an even worse situation than we currently face due to foreign oil.

This study also pointed out that importing that much of our steel would eliminated 90,000 jobs for American steelworkers. We all know that our economy cannot tolerate that.

Labor, industry, and Government all share in the blame for the current situation the steel industry is in. Our steel industry can be revitalized. It is time to go forward to deal with these problems now.

This essential industry must invest massive amounts of capital in research and development and in adopting a new technology.

The congressional study indicated that if the industry is going to be successful in implementing this new technology it would have to invest approximately $3 billion a year for the next 10 years on productive facilities to modernize steel production.

If this revitalization is to be successful, it will require long-range technology planning, which the industry has neglected in the past.

It will also require cooperation from the Government, including support of basic research in steelmaking, which barely exists today, enforcement of the new multilateral trade agreement, and reasonable Government policies.

In the past, Government policies affecting the steel industry often have been uncoordinated, contradictory, and inattentive to critical issues.

Costly environmental regulations have severely limited the capital that steel companies have had available for productive expansion. These controls must be severely reduced.

As a member of the executive committee of the Steel Caucus, I strongly recommend to the Environmental Protection Agency that they reexamine their pollution regulations governing the steel industry, and make them more economically feasible. We cannot let bureaucrats drive American industry out of business by needlessly complex and expensive regulations.

The Government of Japan and many European countries have used their steel industries as tools to improve their economies. Many of these countries have injected billions of dollars into their steel industries, during the past few years, permitting them to operate at a loss, and sell their steel to foreign countries below the cost of production. This strategy provides their workers jobs, and is beneficial to their country's balance of trade.

We must take measures to stop the decline of the American steel industry. Dumping of artificially priced foreign steel must be eliminated. Tax laws affecting capital investments must be made more favorable.

We cannot afford to lose our steel industry. American jobs must be saved.

I will continue to support the American steel industry and its workers in Congress and work for measures which could help revitalize this vital industry. I urge my colleagues to join in this crucial undertaking.

□ 1800

Mr. GAYDOS. Mr. Speaker, I wish to thank my colleague, Mr. Bevill, for his past dedicated work, cooperation, and his effectiveness on the Steel Caucus. He was there when we first put that committee together, found a president, and talked about TPM. He was there when the caucus was successful. I am so happy and glad to have him. It has been my pleasure to work with him.

We are going to effect those changes. We are going to make the necessary responses to the administration, because that executive committee is hard working, knowledgeable, and persistent. So, I look to us making some changes and, hopefully, curing the problem.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I want to compliment the gentleman from Pennsylvania, the distinguished chairman of the Steel Caucus. I very much concur in his reaction to the withdrawal of the trigger price mechanism simply because one company in the United States decided it was going to file some antidumping cases. My feeling was and always has been that the people that were in industry and labor had alternate procedures. They have the right to have trigger price mechanism; they have the right to file antidumping cases. I certainly hope there will be some order restored to the industry by a reinstitution of this procedure which I thought was working quite satisfactorily.

I want to point out to the gentleman, the big argument we hear today is for increased depreciation, the so-called 10-5-3. I think the steel industry uniquely makes a special case for expanded depreciation allowances in order to be profitable and competitive. However, I do not feel, and I never have felt, that that should be given to the whole spectrum of American business. That would permit some industries to use these resources to invest in foreign countries. There is no restriction on what they could do. They could buy silver futures or sugar futures or engage in other kinds of economically profitable activity instead of plowing these resources back into the industry.

I want to point out to the gentleman that earlier this week I supported legislation before the Ways and Means Committee which was a combination proposal. First of all, I sought to reduce a loophole in commodity trading, along with my colleague from New York (Mr. Rosenthal). It is a $2 trillion industry in America that practically completely escapes taxation. A quarter of the transactions are solely designed to create tax shelters which costs the Treasury about a billion dollars. I was offering legislation that would close that loophole and use the resources, to put some portion of that money into research and development.

One of the things the steel report prepared by the congressional office indicates is that smaller mills were using newer technology than the older, established ones. I think this is a sign that there is some willingness in America to move forward in technology, but in any event I wanted a portion of the resources that were saved by closing the commodity loophole to be used for providing research and development funds.

And then, I wanted three-quarters of the balance of the fund to be used to provide for immediate costing-out of the costs that are mandated by Government in air pollution, water pollution, and in compliance with OSHA. This is something that could be done this year, something that could be done now in order to enhance principally the steel industry, which faces probably more difficult burdens in these three categories that are mandated by the Government of the United States than perhaps any other sector of the country.

I would hope the gentleman and the Steel Caucus might look at this legislation and see if they might support it as something that can be done now, this year, in order to help make the steel industry more competitive by permitting it to cost out in 1 year, the year of expenditure, the tremendous costs that are involved in air pollution control, water pollution control, and in compliance with OSHA standards. I think this is a step in the right direction, and I would hope that the caucus might review this legislation and come down on the side of supporting it, because I think there is a possibility that we could get this legislation through the Congress this year in some program.

There would be no budgetary impact. It would not be adverse because we would be using resources created out of the closing of a tax loophole, and applying those resources to those industries that faced tremendous burdens in complying with mandated programs.

Mr. GAYDOS. I wish to thank my colleague from Ohio for his wise advice, and he knows that we will respond to the resolution. I feel most regretful at this time, personally and on behalf of the Steel Caucus. I know that Mr. Benjamin, chairman of the executive committee, joins me at this time in the knowledge and realization that our friend and colleague, after 26 years in this House, has decided to retire. We are going to be the loser, obviously, because of the complex nature of the problem and his years of experience on the Subcommittee on Trade of the Ways and Means Committee, which he has chaired over the past years. His assistance, his wise advice, and leadership are going to be missed.

I hope we can replace him. I really appreciate his very close and personal cooperation. I just wish he were going to be here next year.

With that, Mr. Speaker, I yield to the chairman of the executive committee, Mr. Benjamin, who has led so fearlessly in the past, who has been so dedicated to this problem and, hopefully, will be part of the team on board when we ultimately solve it.

Mr. BENJAMIN. Mr. Speaker, I thank the chairman for yielding to me. I certainly share the accolades he bestowed upon our retiring friend, Mr. Vanik, from the State of Ohio, for his dedication and devotion to this body; and particularly to the revitalization of the industry in these United States. I also commend the gentleman upon his articulation and eloquence in discussing the difficulties which are confronting the U.S. steel industry today, and share with him the same concern. I realize that his remarks are quite prophetic, and that the thoughts I might share with this body may be repetitive in a sense, but certainly if so, I would ask the Members' indulgence and hope that they would reinforce the thoughts the gentleman has already reflected upon.

Steel is the most important engineering material in American society. There is literally no aspect of private or public life that does not depend on steel in some way. It is technology-intensive, changing in nature, and critical to U.S. economic and military security. It is pervasive and vital to all primary manufacturing and construction. It is and will continue to be a vital national strategic material. The use of aluminum and plastics has increased substantially in the past several decades, but the per capita consumption of these materials is only about 60 and 140 pounds, respectively, compared to steel consumption of approximately 1,000 pounds per capita.

Steel is able to compete favorably in the materials market because projected changes in energy and raw material costs may have stronger adverse impacts on aluminum and plastics. Although it may appear that the use and role of steel are declining, there are no cost-competitive performance substitutes for steel in many applications. Steel is essential to bridges, buildings, railroads, primary manufacturing facilities, and other physical structures.

The steel industry normally:

Employs 449,197 persons in the domestic work force;

Produces $47 billion of manufacturing output;

Consumes 13 percent of energy used by industry; and

Is the basic structural material in 44 percent of exported goods.

However, today, the steel operating rate is barely above 50 percent. More than 70,000 steelworkers are laid off while tens of thousands of others are on short workweeks. There are less steelworkers now than there were in 1933. Unfortunately, this is not a problem of the moment. The third quarter outlook for steel is dismal. Domestic shipments for the entire year will be dramatically below last year's total, probably a 20-million-ton drop. Since 1981 is expected to be a year of only gradual improvement, steel will be subjected to 2 very weak years in succession. This follows a 3-year period of relatively strong business when the steel industry netted only a bare 1.7 percent on sales.

Cash flow contrasts drastically in such a grinding economic environment and any surviving financing capability is heavily preempted for environmental compliance. Consequently, the longer term result is to jeopardize productive improvements needed for national security and the employment and investment of many Americans who are directly or indirectly dependent upon the steel industry. Without question, the present and projected situations demand definitive action to enable rebuilding of the steel industry.

Positive movement and results are needed now. The plight of the steel industry attracts imports. For instance, the May import penetration was 21 percent compared to 13 percent for the first 5 months of 1979. The productivity is declining. The environmental costs are rising. The U.S. competitiveness is losing ground. Obviously, this scenario is not new—the studies have ensued for more than 3 years and the results have generally been the same, whether initiated by the private or public sectors.

Today, in attempting to analyze the steel dilemma, the concentration is on technology research and development, modernization and capital formation, environmental protection and costs, community and labor assistance, and international trade. However, the focus began with the sole issue of international trade in May 1977.

In 1976, over 14 million tons of steel were imported, accounting for over $4 billion of trade flow and representing 14 percent of the consumption of steel in the United States. The increasing market share of steel imports concerned the American steel industry. The imports represented lost sales for the producing companies and lost jobs for steelworkers.

An American Iron and Steel Institute study showed that foreign producers were able to maintain protected prices in their home market while using lower prices to displace competition in the export market. Specfically, if imported steel was sold in the United States at less than average costs during periods of excess capacity and a substantial market share was obtained by foreign producers, two outcomes could be expected in periods of tight supply: Prices would substantially increase and the amount of steel provided by foreign producers would be reduced. Both of these outcomes occured in the 1973–74 steel market.

Between 1940 and 1976, there was a significant shift in the relative share of production among the world's large producing regions. In 1950 the United States accounted for more than half of the free world's steel production. By 1976, both Japan and the European economic community (EEC) were equal to or larger than the United States in total output, and both were growing more rapidly.

Although Japan and Europe experienced rapid growth in their home markets during the postwar period, both used steel exports to increase their rate of growth in total output. In the United States, by contrast, steel imports have constrained the growth of total output. Exports accounted for almost two-thirds of the EEC's growth. Since the 1959–60 period, when the United States became a net importer of steel products for the first time, imports have captured more than one-third of the growth in U.S. consumption which otherwise would have provided greater expansion opportunities for domestic producers.

Steel producers in Japan and Europe entered 1977 with considerably more capacity than they needed. Foreign producers faced a basic confrontation between unprofitable operations, early retirements, or increased export shipments to the United States. While it is impossible to predict the degree to which each of these alternatves will finally be followed, the prognosis of substantially increased imports into the United States is unavoidable because of the historic practice of foreign producers of exporting at any price.

Substantially increased import penetration—which could conceivably increase to 44 percent of the U.S. market—will further impair the profitability of domestic producers and curtail the addition of capacity which the U.S. economy will need in the future.

As a result, the U.S. economy will be extremely vulnerable to a future steel shortage. In fact, if domestic capacity is not built, the United States can be virtually certain of a major shortage before 1985.

The AISI report and the activity of the House Steel Caucus precipitated a report to the President on prices and costs in the U.S. steel industry by the Council on Wage and Price Stability in October 1977. That report found that the U.S. steel industry:

Was highly vulnerable to future fluctuations in general economic conditions,

Suffered from weak competitive position in world markets, and

Remained a source of serious inflationary pressures because of larger than average price and cost increases.

While this report discussed domestic prices and costs, role of environmental standards, steel industry profits, foreign competition, and the economics of modernization, it focused on the import question and concluded that the financial position of the steel industry could only be strengthened if the import competition was reduced to allow increased prices.

By early December, another report to the President, written by a task force chaired by Anthony M. Solomon, echoed the problems identified by COWPS.

The Solomon report indicated:

The U.S. steel industry faced a number of serious problems:

Its competitive position had eroded over time, and its traditional market was being encroached upon by substitute materials and by imports of steel;

Its competition from imports, often at dramatically reduced prices, had increased as the world steel industry stagnated;

Its earnings had dropped sharply and were considerably below historic levels;

It had to invest heavily to modernize and increase efficiency in order to remain competitive;

It had to make substantial expenditures to meet environmental regulations; but

It had difficulty in raising the necessary capital for these expenditures under market conditions.

The industry's gnanial condition led to several plant closings and cutbacks during 1977. One medium-sized producer was in bankruptcy, and several other firms were in financial difficulties. Unemployment among steel workers was high and continued to rise. Several communities which had depended on the steel industry for their economic livelihood were suffering severe adverse consequences.

The Solomon Task Force established a number of objectives for a steel program to provide reasonable goals for its policies and limit Government involvement in industry affairs.

Its primary objective was to assist the steel industry in a manner which would stimulate efficiency and enable the industry to compete fairly. This required an increased pace of investment in modern, efficient facilities and an assurance that U.S. production would not be artificially disadvantaged by imports due to unfair foreign trade practices.

The second objective was to help ease the burden of adjustment to market trends for both industry and labor. Massive worker layoffs represented a serious human tragedy for many families and caused severe disruptions for whole communities.

The third objective was to provide meaningful incentives for plant and equipment modernization through appropriate tax, investment, and financial assistance. Continual modernization was required if the industry was to operate at peak efficiency.

The fourth objective was to expedite relief from unfair import competition in a manner which would not preclude healthy competition in the U.S. market.

It recommended that the Department of Treasury set up a system of trigger prices based on the full costs of production including appropriate capital charges of steel mill products by the most efficient foreign steel producers which would be used as a basis for monitoring imports of steel into the United States and for initiating accelerated antidumping investigations with respect to imports priced below the trigger prices.

The steel industry was facing another serious problem—the industry needed to modernize to compete effectively.

The industry estimated that it had to spend between $2 and $2.5 billion to maintain and refurbish its existing plant and equipment. These expenditures included some modernization through replacement. Capital expenditures necessary to comply with environmental regulations were also substantial and rising. Studies in 1977 on the industry's capital requirements for pollution control revealed that the industry would have to spend a minimum of $6 billion from 1977 to 1983 to comply with environmental standards.

With the exception of the boom years 1973 and 1974, the steel industry's profitability from 1967–77 had been substantially below the average for all manufacturing industries. Since 1973 the industry's earnings had declined sharply from a 6.4 percent return on sales in 1973, to 3.6 percent in 1976, and a record low of 1.4 percent in the first half of 1977.

The decline in earnings had reduced the industry's cash flow (net income plus allowances for capital consumption) by 23 percent from $3.8 billion in 1973 to $3 billion in 1976. Forecasts indicated it would decline further to between $2 and $2.2 billion in 1977.

Assuming that the industry spent $2.5 billion per year on maintenance and replacement, $1 billion on pollution control equipment, and $0.5 billion on additional modernization projects, its annual capital requirements would average $4 billion (in 1977 dollars) in the following several years. Given that 1977 cash flow was less than $2.2 billion, there was a $1.8 billion gap between industry cash flow and investment requirements. The combination of the trigger price antidumping system and general tax reform would not completely close this gap.

In addition to general tax package measures, the Solomon report recommended that the Treasury Department investigate the feasibility of reducing the guideline life for depreciation of new steel industry machinery and equipment from 18 years to 15 years.

The task force also recommended loan guarantees and rationalization of enviromnental policies.

It finally recommended the establishment of a tripartite committee of industry, labor, and Government representation as a mechanism to insure a continuing cooperative approach to the problem and progress of the steel industry.

The Steel Tripartite Committee was formally established months later in Janury 1979, and was chartered under the Federal Advisory Committee Act.

The purpose of the committee, which has formally met on three occasions, is to monitor the long-term future of the American steel industry and labor. Its mission is to review and evaluate the steel problems confronting the industry, labor, and the public, and make recommendations for possible solutions. The Steel Tripartite Committee was to provide a forum where the U.S. steel industry, labor, and the U.S. Government could engage in a three-way, tripartite discussion of steel problems affecting management, labor, and the American public.

The Steel Tripartite Committee is co-chaired by the Secretary of Labor and the Secretary of Commerce. It also includes representation from the Department of the Treasury, Office of the Special Trade Representative, and the Environmental Protection Agency. Steel labor and management are equally represented on the committee.

Unfortunately, as of this evening, a new steel policy has not evolved from this prestigious group although several of its working groups, namely the groups on community and labor adjustment assistance, technological research and development, and environmental protection have identified objectives and are working on recommendations.

In August 1978, a Putnam, Hayes & Bartlett report estimated dumping of steel in American markets enabled foreign producers to increase their volume by 622,000 net tons in 1976 and 4,666,000 net tons in 1977. The cost of increased import tonnage to the domestic industry—based on contribution to employment costs, fixed costs, and profit—was estimated at $200 per net ton. The total quantity impact of dumping was calculated to be $124 million in 1976 and $933 million in 1977.

The report stated that the simplest and most direct way to avoid the undesirable consequences of dumping is to enforce the antidumping provisions in the U.S. trade statutes. The experience of the 1976–77 period, however, suggested that the existing statutes and/or enforcement mechanisms entailed at least three distinct problems. First, antidumping petitions were time consuming and expensive, and they required data which were frequently not accessible to U.S. companies. Second, the investigative process of the U.S. Government was too slow. Third, the remedies for dumping—even when duties are applied retroactively—were often insufficient to take away the economic incentive to dump in the first place.

The report also found fault with the TPM. The deficiencies were reemphasized in the July 1980 GAO report which found that a large volume of potential dumping may have been overlooked and that the Department of Treasury probably did not exercise sufficient care in the TPM program.

AISI published another report in January 1980, which found that the American steel industry had lost its competitive edge because of:

Persistently low rates of return coupled with outdated tax measures that fail to provide adequate capital recovery;

Capture of a significant portion of the domestic market by steel imports at "dumping prices";

Excessive Government control and regulation, which significantly increase steelmaking costs and mandate the spending of funds that would otherwise be available for replacement and modernization of productive equipment:

Reduced earnings as a result of unwarranted Government interference in the marketplace determination of steel prices, which has restricted the recovery of cost increases; and

Escalation of steelmaking costs at a rate in excess of increases in steel prices.

The AISI recommended that Government act to implement:

Policies that would encourage and permit steel companies to achieve competitive rates of return, accompanied by provisions for accelerated capital recovery.

Modifications of Government mandated regulatory programs (notably environmental) that would reduce non-income-producing capital demands.

Firm assurances that imported steels, either by excessive volumes or unfair pricing, will not disrupt the domestic steel market, particularly during the industry's revitalization effort.

The Office of Technology Assessment followed with its report in June 1980, which found:

The U.S. steel industry can be revitalized through increased investment in research and development and the adoption of new technology. For that to happen, however, steelmakers must increase their capital spending on production facilities by at least 50 percent during the next decade, to approximately $3 billion per year (1978 dollars), in order to modernize existing mills, expand capacity modestly, and bring profitability up to the level of most other domestic manufacturing industries. Supportive Federal policies are needed to generate at least $600 million of this additional capital per year. The industry estimate for modernization and capacity expansion is $4.9 billion per year.

A well designed and vigorously implemented Government policy has nurtured the Japanese steel industry's expansion and adoption of new technology. The U.S. steel industry, on the other hand, has been hurt by a long series of Federal Government policies that have frequently been uncoordinated, contradictory, and inattentive to critical issues. A Federal policy that coordinates the industry's needs, the Nation's interests, and specific technical concerns is an important option.

Neither technology nor capital, alone, will solve the steel industry's problems. New technologies could be adopted by the domestic industry if problems of insufficient capital and uncertain levels of imports are resolved.

Another Government report is due in the near future from the Department of Commerce. There may be many other reports in the offing. Regardless, the reports will undoubtedly reconfirm what the industry has been saying all along—

that the industry cannot continue to exist in the face of the unbridled import penetration, excessive regulatory costs, and inability to recapitalize.

The Government, in the COWPS, Solomon, and OTA reports has reemphasized repeatedly that the original AISI report of May 1977 was correct and should have received responsive, comprehensive, and practical Government attention. Instead, the Government has failed to develop a viable and lasting steel sector policy.

Consequently, the members of the House Steel Caucus, joined by its respected colleagues, is sponsoring three special orders to outline the following areas of concern:

GENERAL AND IMPORT PENETRATION

The problem of import penetration as it impacts on the basic and specialty steel industries. Also, trade issues related to the export of ferrous scrap.

Piecemeal efforts to deal with steel trade problem; that is, VRA, specialty steel quotas, TAA, TPM, MTN, Trade Act agreements.

Establishment of an integrated steel policy with respect to trade.

CAPITAL FORMATION, MODERNIZATION, AND PRODUCTIVITY

Capital formation needs for the 1980's and the current shortfall.

The impact of faster capital recovery on the ability of the industry to modernize and improve productivity; that is, Capital Cost Recovery Act "10-5-3," reduction in regulatory costs through faster writeoffs, 10 percent refundable investment tax credits.

The development of new technology through coordinated industry-labor-Government effort including Federal assistance in demonstration projects.

ENVIRONMENT, ABATEMENT, AND COSTS

The impact of environmental costs on the domestic steel industry.

The need to reduce such costs without retreating from environmental goals.

Current efforts to resolve environmental issues.

American steel companies produced 1.6 million tons of steel per week last week compared to 1.8 million tons in the previous month, 2.7 million tons a year ago, and 2.4 million tons in 1967.

Inland Steel suffered a second quarter loss of $22.4 million, its first since 1971. Jones & Laughlin's second quarter earnings fell from $51.9 million in 1979 to $6.7 million in 1980. National Steel's earnings fell 92.7 percent to $3.3 million in the second quarter.

U.S. Steel's Gary works normally operates six blast furnaces and employs 17,000. It now has one operating and 6,200 steelworkers are laid off. Inland Steel has laid off 2,800 of its 23,500 hourly workers, placed 2,000 technical and clerical workers on a 4-day workweek, and suspended cost-of-living adjustments for managerial and professional employees. This sad story can be repeated for every steel community.

The steelworkers intend to debate nationalization of the industry at their annual convention next week.

In short—steel is at a crossroads. Unless a steel strategy is developed to bring about a reindustrialization—foreign competitors may very well destroy the American steel industry.

The House Steel Caucus intends to focus on the development of a strategy which will help reindustrialize America by saving and making the American steel industry competitive. It urges that the administration, through the tripartite committee, develop a strategy before Labor Day. If it appears that this avenue will not produce the needed results to assure the reindustrialization of the steel industry and the protection of steelworker jobs in the communities, be assured that the House Steel Caucus will act, even if unilaterally, to protect our steelworkers, steel communities, and Nation which depends on a viable industry.

□ 1820

Mr. GAYDOS. I wish to thank my colleague and the chairman of the executive committee for his usual technical background. That is necessary to understand the problem. I think the job has been done effectively and efficiently, and I hope that the Members will avail themselves of all of that matter that is so important in the RECORD tomorrow and the succeeding days.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to my colleague on the executive committee, the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. I thank the chairman of the Steel Caucus for yielding and for taking these special orders, the first of three, to discuss the critical problems of the steel industry.

I also would like to associate myself with the remarks of the distinguished chairman of our executive committee, who has well outlined the problems that we face and given a hint as to the solutions we need to solve those problems.

Mr. Speaker, 3 years ago, we formed the Congressional Steel Caucus and began to speak out on the problems facing the American steel industry and its workers in order to gain recognition in the administration and in the Congress of a situation which we view as critical. Today, 36 months later, these same problems remain and are greatly intensified.

The American steel industry is in grave trouble. In my own city of Birmingham, over 5,000 workers have been laid off at one United States Steel facility. Indeed, there are those who question whether the company will continue its operations at the Fairfield Works—the largest and most diversified steelmaking facility in the South.

There is no single cause of the problems facing the American steel industry and its workers and, of course, there are no simple solutions. But it is time for our Government to accept one fact: that if we do not act decisively now to deal with the basic problems facing the steel industry we may suffer irreparable harm in this industry which is so fundamental to the operation and security of our economy as well as to the livelihoods of many thousands of American citizens.

Mr. Speaker, I must confess that over the past 3 years I have seen far too little commitment, policy, or action on the part of our Government to aid this very beleaguered industry. Instead, we are given heavy doses of rhetoric, promises, and politics.

For example, the administration last summer brought to this legislative body for approval a comprehensive trade package which was a product of the multilateral trade negotiations (MTN) in Geneva. I reluctantly agreed to support this MTN package on two conditions: First, that our Government would aggressively enforce our fair trade laws to prevent unfair foreign competition; and second, that our Government would initiate a comprehensive program of increasing exports of American goods and services so that we could take advantage of opportunities in foreign markets.

I regret very deeply that these conditions have not been satisfied. Let us look at just one area—steel imports.

This year to date, steel imports have accounted for almost 7 million tons. Much of this steel, I am firmly convinced, is dumped into our markets at unfair prices below the true cost of production. In response to this flow of foreign imports, our Government has done far too little at any time and is doing precisely nothing at the present moment.

Earlier this year, United States Steel Corp. announced that it would seek relief from dumped imports pressing charges under the antidumping statute. In response, our Government discontinued the trigger price mechanism (TPM), which was designed to help identify and stop dumped steel imports. In essence, our Government has penalized the entire steel industry and all its workers because one corporation justifiably wishes to exercise its prerogatives as afforded by law.

Admittedly, the TPM is an imperfect mechanism. It has, however, provided limited benefit for the industry by offering a partial method for insuring that imports represent fair competition in our domestic market.

By discontinuing the TPM, our Government has abandoned its responsibility to enforce the fair trade laws as passed by the Congress. Ironically and tragically, this has been done at a time of very high levels of import penetration.

As of May, the latest month for which we have statistics, employment levels in the steel industry dropped to dramatic levels. Hourly workers totalled 237,824 in May, compared to 314,826 in April and 349,621 in May of 1979. These are the lowest employment figures since the American Iron and Steel Institute began tracking employment on monthly basis—in June of 1933.

Clearly, what we have today is a depression in the American steel industry. For those families without an income, this depression is no less devastating than the one which we faced throughout this country in the 1930's. The only difference is that this is a depression which our Government has failed to recognize and for which it refuses to take corrective action.

Mr. Speaker, if the administration continues to refuse to address this critical situation, it becomes incumbent upon those of us in the Congress to take action. It is up to us to show leadership where there has been no leadership. We must now act where there has been only inaction.

Over the next few days, members of the Congressional Steel Caucus will attempt to outline a series of corrective actions designed to put the American steel industry back on its feet again. I strongly urge my colleagues in the House to participate so that we can develop a comprehensive program to revitalize this essential industry.

☐ 1830

Mr. GAYDOS. I wish to thank my colleague on the House floor for his fearless and persistent, effective leadership, and looking forward to many more months, hopefully years, of service in the steel caucus by the gentleman from Alabama.

I want to close by hoping that my colleagues would respond to the accumulation of material which we have now made available on this first day of a 3-day session, to inform our colleagues in and out of the Steel Caucus, the press and people generally, about the very complicated nature of the problem confronting this country in its domestic steel industry.

I hope that our participation tomorrow and the day after will be even more meaningful. And that more members of the Steel Caucus will participate.

THE 150TH ANNIVERSARY OF INCORPORATION OF LIVERPOOL, N.Y.

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD).

● Mr. HANLEY. Mr. Speaker, a community in central New York is this year celebrating a history both fascinating and colorful. Liverpool, N.Y., a village on the eastern shore of Onondaga Lake in Onondaga County, is celebrating its sesquicentennial—the 150th anniversary of its incorporation. It lies in ancient Iroquois land, in the territory of the Onondagas of that Indian confederacy. It remained for the white man to exploit Liverpool's most famous natural resource—the salt that welled from the springs near Onondaga Lake.

The source of the village's name is the English port city of Liverpool, which was a renowned exporter of salt. Merchants thought highly of barrels of salt marked "Liverpool" and perhaps this influenced the early capitalists who were struggling to establish the salt industry in central New York.

One of the first white men in the area was Father Simon LeMoyne, a French Jesuit who came in 1654 to negotiate closer French ties with the Iroquois. As a result of his visit, a mission was built on the shore of Onondaga Lake in 1656, just south of what is now the main village of Liverpool. The mission of Sainte Marie de Gannentaha was the first white settlement in the area and at the time was nearly as large as Montreal. It was abandoned in 1658 as a result of Indian wars.

In 1788, the State of New York negotiated a treaty with the Indians to obtain the land around the lake including the salt springs, to be known as the Salt Springs Reservation.

Salt provided a means to preserve and season food and tan hides. Asa Danforth and Comfort Tyler, two of the earliest white settlers in the area, began the salt industry in earnest in the late 18th century. At first, the brine was boiled in cauldrons hung over wood fires. In these early years of the republic, the crude, unrefined product sold for as much as $6.50 a barrel in Albany and Montreal.

For more than 70 years the Salt Springs Reservation was the only domestic salt supplier, and the product was shipped to all parts of the Nation.

The real boom in the salt industry began with the opening of the Erie Canal in 1825. While the canal benefitted the salt works, the Onondaga salt manufacturers were in large part responsible for the building of the canal. They supported the canal concept from the beginning, but most importantly, a 12½-cent tax on each bushel of Onondaga salt paid off State bonds issued to cover the cost of construction. Ultimately over half the cost of the Erie Canal was paid by the special salt tax, resulting in the canal's nickname: "The Ditch That Salt Built."

According to one Confederate general, it was Onondaga salt, not Union arms, that won the Civil War for the North. The South's main salt works were destroyed by the Union Army, leaving the Confederates unable to supply their troops with meat. The North could depend on the Onondaga works to keep their troops supplied with salt pork, fish, and other staples. The Confederate general was no doubt exaggerating when he attributed the North's victory to Onondaga salt, but there is no doubt Onondaga and Liverpool salt manufacturers had an impact on the outcome.

The same conditions that spurred Onondaga's salt industry to its peak also hastened its downfall. The Civil War opened new markets to local salt and a protective tariff allowed it to compete with imported British salt. These factors also led to the exploitation of other salt deposits in Michigan and western New York. The technology employed in Michigan that made Onondaga's methods obsolete had been pioneered in many cases by former Liverpool saltmakers. Salt producers of Liverpool remained in business until 1926 when the last batch of solar salt was produced. In this method brine was reduced to coarse salt by evaporation. This salt product was sold to Chicago meatpackers, eastern industries, Gloucester fisherman, and local dairies.

In addition to its enterprising saltmakers, the village also boasted a thriving willow basket industry. Liverpool has been known as a leader in willowcraft. German immigrants began this industry in Liverpool, weaving fine baskets and furniture from wild willow.

Today greater Liverpool is home to 50,000 and Liverpool High School, one of the largest in the State, fields many championship sports teams.

No mention of Liverpool would be complete without a mention of Heid's of Liverpool. Known all over New York State for its savory franks and coneys, Heid's is the oldest family owned business in the village. It began as a meat market in 1886. In 1916, the now-famous hot dog stand opened. Featuring coneys and franks, the business moved to Liverpool's crossroads in 1931. Heid's Stand is still prospering after 64 years.

The population of the village itself has grown to 3,465. While many of the residents find employment outside the village in nearby Syracuse, they return each day to tree-lined streets and tranquil parks.

Mr. Speaker, I salute the village of Liverpool and its residents who enjoy life today and have the perspective to enjoy life as it was for their predecessors. Their sesquicentennial celebration has been and will be a superb success.●

ANOTHER RAISE IN THE NEW YORK STATE THRUWAY TOLL RATES

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, the New York State Thruway Authority has increased tolls 25 percent for passenger cars and 30 percent for commercial vehicles. Such action, may well mark the death knell for toll bonding authorities in the 20 States with toll roads incorporated into the Interstate Highway System.

Interstate toll roads are victims of the energy crisis and of their own inherent inefficiency. Higher gas prices and energy conservation on the part of the American people mean less driving. The result is less money at the toll booth, necessitating price hikes, which in turn further discourage the public from using the toll roads.

This vicious cycle will not be broken, because the bonding authorities need constant revenue to finance existing debt and upkeep. With over $8 billion in current indebtedness, some 20 States could end up facing catastrophic defaults, which then would be dumped on the taxpayers of those States. That this situation was foreseeable and avoidable is a sad commentary on Government transportation policy.

Originally, toll roads were a marvelous idea. Most were built or underway before creation of the Interstate Highway System, and they represented an anticipation of strong post-World War II need for improved interstate transportation, demanded by a more mobile America and industries built around trucking.

Congress acknowledged this contribution to the development of a national transportation system by including language in the 1956 Federal Aid Highway Act providing for eventual retirement of toll bonds through disbursements from the Highway Trust Fund. However, paying off the toll roads would have drained money from new construction, and, thus, the actual disbursements never were made. This left the taxpayers of the toll road States holding the bag.

Not only is toll road bonding the most expensive means of carrying out highway construction, but the taxpayers in affected States have been subjected to a bizarre form of double taxation. Their Federal taxes were used to build the rest of the toll-free interstate system, while they have had to pay to ride the toll road and face a financial obligation if something goes wrong with the bonding authority. This situation led me, in 1965, to introduce legislation to retire the bonds and end tolls through disbursements from the Highway Trust Fund. I became something of a lone wolf on this issue and, despite efforts in each subsequent Congress, the legislation was not enacted.

There were several important reasons for this failure. Our course, we could have expected those States receiving generous allotments from the Highway Trust Fund for new construction to block this type of disbursement, and it would have been surprising indeed for those running toll roads to willingly support an end to their jobs. However, what was most surprising was the indifference of the Governors of toll road States to any effective effort to remove this albatross from around the necks of their taxpayers.

This attitude from the Governors, including all three New York State Governors who have held office during my tenure in Congress, has puzzled me. Of course, there have been charges, over the years, that the toll road system has offered Governors in all States opportunities for political advantage, and one cannot ignore the potential for abuse in this type of system. But probably the strongest reason for the gubernatorial opposition stemmed from other demands within these States for moneys from the Highway Trust Fund to be used for current interstate construction. This, in turn, caused reluctance to support legislation which would limit the funding available.

Certainly, if this has been the reason, there can be no question that the goal has been a shortsighted one. It should be the job of any enlightened public and concerned legislators to continue to press for retirement of these funds through disbursements from the Highway Trust Fund.

In summary, the purpose of my remarks is to once again alert the public and our elected officials to a problem that will not simply go away. It can be ignored but not forgotten, for the time of reckoning is near, and the time for effective action in anticipation of the crisis may soon be lost.●

ALASKA LANDS: A TIME OF DECISION FOR THE SENATE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, yesterday, as part of a progress report on the Alaska lands bill, I referred to the large body of editorial opinion across the country in support of a strong Alaska lands bill. Following my remarks yesterday, I placed in the record recent editorials from the Akron Beacon Journal, Los Angeles Times, Sarasota Herald-Tribune, St. Paul Dispatch, and the Dallas Times Herald.

In order to give our colleagues a further sense of the widespread support for protecting the Nation's magnificent Alaska heritage, I am offering for inclusion in the Record today editorial comment from the following: The Columbia (S.C.) Record, Omaha World-Herald, the Boston Globe, the Baltimore Sun, the Louisville Courier-Journal, the Wichita Eagle, and the Hammond Times.

Mr. Speaker, in all probability, this will be the last chance for Congress to enact comprehensive Alaska lands legislation. The interests of the State and Nation both demand a final decision on the status of these lands, so that the orderly development of Alaska can proceed. Although the action of President Carter and Secretary of Interior Cecil Andrus has already achieved most of the protection needed for the national interest lands, it is desirable, particularly from the standpoint of the residents of Alaska, to make suitable provisions for access, the protection of subsistence and sport hunting, the acceleration of State and native land titles and other provisions that can only be effectively accomplished by legislative action.

Gov. Jay Hammond himself has repeatedly confirmed that the most serious obstacle to more rapid development of Alaska's resources is the uncertainty created by the lack of a final decision with respect to the Alaska lands issue.

Finally, it is important that Congress exercise its proper role in decisions of such significance for the future, and not abdicate its responsibilities to the executive branch. The House has twice spoken with overwhelming votes in favor of strong, balanced Alaska lands legislation. It is now time for the Senate to act with equal wisdom and dispatch.

[From the Columbia (S.C.) Record, July 7, 1980]

BATTLE LINES DRAWN

Environmentalists are gearing up for what they understandably believe is a major battle to protect that vast and wondrous wilderness in Alaska from random and indiscriminate development.

D-Day is July 21. That's the date when full debate is scheduled to begin in the Senate on what the Alaska Coalition calls "the most important conservation and wildlife legislation of our time."

Energy and development interests are pushing a bill reported out of the Senate Energy and Natural Resources Committee. Its backers have played on legitimate concerns over this country's dwindling energy resources.

Opponents of the committee bill, including the Alaska Coalition, favor a substitute drafted by Sens. Paul Tsongas, D-Mass., and William Roth, R-Del. They contend that energy is not the crucial issue. They explain that the Tsongas-Roth legislation leaves 95 percent of Alaska's high and favorable onshore oil and gas lands available for development.

None of Alaska's offshore reserves—where about two-thirds of Alaska's oil potential is estimated to be—nor its proven reserves is in any way affected by the Tsongas-Roth bill.

The committee bill, says the coalition, is bad on at least four specific counts:

Overall, it deletes 37 million acres of essential habitat from national wildlife refuges and 30 million acres of wilderness.

Mandates oil exploration in famed Arctic National Wildlife Range, a critical habitat for Porcupine caribou.

Allow mining in portions of Gates of the Arctic and Wrangell-St. Elias National Parks through boundary changes.

Cuts in half existing Admiralty Island and Misty Fjords National Monuments, opening them to potential clear-cut logging.

Two years ago when the issue surfaced, South Carolina's Fritz Hollings thought it of sufficient importance to devote an entire newsletter to it.

"The issue now," wrote Sen. Hollings, "is the future use of the public lands . . . Remember this is federal land which is being held in trust for all of us and our children . . . If the country ends up needing the minerals there, we can always go in and get them later. But right now . . . there is no reason to go in and plunder and upset the delicate balance of nature's ecosystems."

Surely what Fritz Hollings said so persuasively in 1978 applies in 1980.

[From the Omaha World-Herald, July 21, 1980]

BY YEAR 2000, ALASKA EXPECTS SURPLUS OF $469,325 PER PERSON

Texans are known for their tall talk. And sometimes they can back it up with millions that have come from oil.

Now it looks as if they will have some formidable rivals: Alaskans.

In a recent editorial in the Anchorage Times, the state with the highest per capita income in the world, Sharjah, is warned that by 1984 it will be in second place. Sharjah is an autonomous United Arab Emirate on the shore of the Persian Gulf that has an annual per capita income of $15,750, due largely to its oil.

For the fiscal year 1981, Alaska has a per capita income of $8,210. The state's official estimate, according to the Times, is that by 1983 its per capita income will be $15,982, thereby toppling Sharjah.

But this is only a teaser for the story the Times goes on to tell.

It says the official state forecast has Alaska's general fund accumulating to a surplus of $184.1 billion in the year 2000.

Take a deep breath! That total would equal $469,325 for each man, woman and child now in Alaska. For a family of five make the total $2,301,625. Another 13 billion, it is estimated, would be available in the state's permanent fund.

Just the thoughts of such wealth coming to the state from its vast resources is already causing heated debates in Alaska's Legislature. Governor Hammond wants to put money away and accumulate it. Others want to spend it. Others want to do away with state taxation.

One suggestion mentioned in the editorial: After building every needed facility to improve living conditions in Alaska and buying back some land from the federal government, use the surplus billions to help pay off the national debt.

That last part is a thought we in the other 49 states would more than welcome.

Is there that much wealth in Alaska's future? Or are the projections in the Executive Budget for 1981, a two-inch-thick volume presented to the Alaska Legislature, mostly tall talk?

The rest of the nation, as well as Alaskans, will watch with more than passing interest.

[From the Boston Globe, July 17, 1980]

INTO THE ALASKAN WILDERNESS AGAIN

Next Monday, the Senate is scheduled to consider the Alaska Lands Act, the legislation that would provide statutory protection for America's last, vast wilderness. Proponents of a strong bill have very little to lose and much to gain by insisting on the strongest possible measure.

This is the second time that the bill has come up for full Senate consideration. In 1978, delaying tactics barred final action. But as a result, President Carter and Secretary of the Interior Andrus took strong administrative steps to protect the Alaskan wilderness. In fact, 93 million acres of federally owned wilderness land there have received one or another protective designation from the Executive branch.

A legislative commitment to such protection would, both legally and symbolically, enhance the value of that protection. But the fact that it exists gives those in the Senate pushing for a strong bill the upper hand. They need not accept half a loaf.

A strong measure has passed the House. The version reported out by the Senate Energy Committee is considerably weaker. Three million acres of proposed National Park Service land would be downgraded to a status open to mining; 37 million acres of National Wilderness Refuge would be eliminated altogether from the package; on another 29 million acres of wilderness the degree of protection is reduced by the proposal in the Senate.

The principal effort to strengthen the Senate bill will be led by Massachusetts Sen. Paul Tsongas, the only member of the Energy Committee to vote against the committee bill. His amendment would essentially substitute the House bill for that reported by the committee. In addition, five less-sweeping amendments have also been proposed. Unless either the Tsongas amendment or virtually all the others are enacted, proponents of Alaska lands protection ought to reject the bill and rely for now on the executive actions to protect the Alaskan wilderness.

While the acreage involved in a full package of protections is vast, it is not unreasonable. The federal grant of land to the state of Alaska is without precedent in American history. And unless whole ecological systems in the Alaskan wilderness are protected, conservation efforts will be less than successful. The argument most often used against sweeping protections of the Alaskan wilderness is that they will bar oil and mineral exploration. The fact is that 90 percent of the land judged to be of high natural resource value would be exempted from use restrictions. Further, of course, if resource recovery on that 10 percent is ever thought to be in the national interest, the law can be changed. Conversely, if the Alaskan wilderness is allowed to be developed, it can never be reclaimed.

[From the Baltimore Sun, July 21, 1980]

A Pristine Wilderness

Just why is it in the interests of mankind to maintain a few large areas of the earth in a pristine condition? The answer to that question is at the heart of the controversy over how much of the state of Alaska should be preserved free of human development and how much should be kept open for exploitation of major mineral reserves.

A recent publication of the World Future Society gives one reason. It says that the earth may lose a fifth of its remaining plant and animal species to extinction before the year 2000. The publication points out that fully half of all prescriptions written by doctors today contain materials first found in plants and animals—and thus a source of potential future pharmaceuticals will be reduced as species diversity is reduced.

Other industries besides pharmaceuticals depend on the existence of a large diversity of living creatures; an increasing number of scientists believe that one day it may be essential to have large selections of alternative plans species available in case disease, or climatological shifts, wipe out standard agricultural strains. Keeping much of Alaska free from disruptive human intrusions would assure preservation of the plant and animal species of that state.

There are other reasons for protecting Alaska—the need for man, finally, to begin showing some reverence for the earth which is his heritage, instead of manifesting a willingness to destroy everything in his path if destruction will yield short-term gains. Man needs to leave for his grandchildren pristine wilderness places where they can go and see nature free of housing developments, mine tipples, power lines, oil well derricks and highways.

Thus we largely support conservationist proposals for Alaska lands legislation when this issue is considered by the Senate today. The conservationist proposals—which also are supported by the Carter administration—although they would limit use of a larger proportion of federal lands in Alaska than counter-proposals by proponents of development, still would leave open for exploitation 95 percent of promising onshore gas and oil areas and 60 percent of promising hardrock mineral areas. The Senate energy committee bill as it currently is written yields far too much to development interests. But if five strengthening amendments being offered by conservationists—which would add more wilderness, wildlife and wild rivers areas—are passed, then the bill would be acceptable.

[From the Louisville Courier-Journal, July 15, 1980]

Editorial

Another key battle in what has been justly called "the conservation and wildlife decision of the century" is scheduled to begin next week when the Senate takes up a proposal to create national parks and wildlife refuges on a third of the remaining federally owned land in Alaska.

The decision already is long overdue. In each of the past two years, the House has passed carefully designed bills to complete settlement of the land questions that arose when Alaska became a state in 1958. Both times, action was thwarted in the Senate as lumber, mining, and other commercial interests battled to a draw with conservationists.

The late start on Senate debate raises the threat of another fiasco this year. The Senate will consider a bill passed by its Energy Committee that deletes 37 million acres of habitat from national wildlife refuges and 30 million acres of wilderness from a House-passed bill that offers a balance between preservation and economic development.

The bill mandates oil exploration in the William O. Douglas Arctic Wildife Refuge, which would endanger the nation's largest caribou herd. Most conservationists believe the Douglas refuge should be the last area in North America opened for oil exploitation. The House bill leaves 95 percent of Alaskan land with a favorable potential for oil open for drilling.

Perhaps worst of all, the committee bill includes what Secretary of Agriculture Bergland calls "a congressional mandate to overcut" Alaska's forests. For example, the existing Admiralty Island and Misty Fjords National Monuments would be cut in half, opening them to clear-cut logging.

The Senate will vote on a series of strengthening amendments that would make the committee bill reasonably compatible with the House-passed bill. Such a result would open the way for orderly development in Alaska, side by side with preservation of wilderness and wildlife that will be lost forever if it isn't protected. An area the size of Texas and Montana combined would be left open for development.

The outcome seems very much in doubt since commercial interests and Alaskan politicians, bolstered by a $3 billion state surplus that has allowed the state to abolish its income tax, have mounted a heavier lobbying campaign than ever before. Many Alaskans support a strong conservation measure. But others have forgotten that Alaska's federal lands belong to all the people of the United States, not just those who have migrated there.

In fact, the gifts of federally owned resources already made to Alaska are expected to help swell the state surplus to $53 billion over the current decade. Alaskans previously have been allowed the right to select 150 million acres of U.S. land for their ownership and use. This time, the issue should be what's right for America.

[From the Wichita (Kans.) Eagle, July 3, 1980]

Kassebaum Says "Yes" to Alaska

Sen. Nancy Landon Kassebaum's statement of support for a strong Alaska national-interest lands bill is a shot in the arm for the years-long effort to save a representative chunk of wild Alaska for this and future generations. We hope Sen. Bob Dole now will join that effort, and add his influential voice to that of his Kansas colleague.

As a letter-writer from Alaska said on this page recently, Alaska belongs to Kansans, too. And as Sen. Kassebaum says in a letter to a Salina constituent, "Alaska presents a unique opportunity for balanced conservation, in that it is (almost) entirely federally owned and not in private hands."

That's why she is supporting the Tsongas-Roth substitute legislation that will be offered in place of the disastrous Senate Energy Committee bill that would eviscerate the Alaskan wildlands for the benefit of private industry. The debate gets underway on July 21, and its outcome is important to every American who wants to leave something of this country's wild heritage for his or her children and grandchildren.

Calling the Alaska national lands issue "one of the most important conservation measures Congress has faced in this decade," Sen. Kassebaum says "the Tsongas-Roth bill, rather than the Senate Energy Committee's bill . . . carves the best balance between the need to develop our energy reserves and the need to preserve our wilderness."

The senator correctly points out that 95 percent of Alaska's land having high oil and gas potential would not be affected by the legislation, and would remain open for exploration and development, as would the majority of the state's land having high mineral potential. "The combination of these factors (with the protective legislation) will protect and strengthen the economy of the State of Alaska, as well as bolster our nation's energy reserves."

The Kassebaum statement preceded another fortunate development: the federal district court ruling in Anchorage affirming President Carter's declaration of at least some—and by implication, all—of 17 national monuments in Alaska under the 1906 Antiquities Act. When the president realized that legislative stalling, engineered by Alaska's congressional delegation, was going to subject the Alaskan wildlands to plunder when a congressionally imposed deadline expired, he used his executive powers to place almost 56 million acres in the National Park System, as monuments.

Secretary of Interior Cecil Andrus later followed that up by declaring another vital 40 million acres as national wildlife refuges and "natural resource areas." The acreages sound large, but they must be considered against the scale, and the grandeur, of "America's last frontier."

That frontier is a little more secure now, with Sen. Kassebaum's assurance of her support for saving a portion of it, in the form of the congressional authorization that still is needed. Sen. Dole now should add his shoulder to the wheel.

[From the Hammond (Ind.), Times, June 30, 1980]

LICENSE TO PLUNDER

In about a month the Senate is scheduled to debate the controversial issue of exploitation vs. balanced land-use in Alaska.

At stake is the exploiting of portions of national parks, national monuments, wildlife refuges and wilderness areas for commerical purposes—mining, timber-cutting and roadbuilding.

Alaskans and non-Alaskans who would profit monetarily favor the exploitation. More than 1,500 organizations representing 10 million persons oppose it, as do untold millions of other individuals aware of the irreplaceable value of Alaska's awesome and unique beauty. The opponents contend that Alaska has plenty of area to mine and timber without having to open more.

The more that would be opened, for example, are 37 million acres of essential habitat from national wildlife refuges and 30 million acres of wilderness. Mining would be allowed in two national parks. Two national monuments would be downsized 50 percent for clear-cut logging. Oil exploration would be allowed in the Arctic National Wildlife Range, critical habitat for the nation's largest caribou herd.

The bill's proposals for enlarging the timbering areas in the national forest system is called by Agriculture Secretary Bergland, "a Congressional mandate to overcut".

Such plunder, contemplated in the Senate Energy and Natural Resources Bill, is not necessary. It might be if it meant saving the nation from extinction. That point is not in even the unforseeable future.

The committee bill's license to plunder can be blocked by passage of the Tsongas-Roth Substitute Bill, that incidentally still allows balanced land-use in Alaska. It leaves for example, more than 95 percent of the state's onshore oil and gas lands available for development.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. Collins of Illinois (at the request of Mr. Wright), for July 28 and 29, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Donnelly) to revise and extend their remarks and include extraneous material:)

Mr. Gaydos, for 60 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Foley, for 5 minutes, today.
Mr. Bedell, for 5 minutes, today.
Mr. Mica, for 10 minutes, today.
Mr. Gaydos, for 60 minutes, on July 30 and 31.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Gingrich) and to include extraneous matter:)

Mr. Rudd.
Mr. Paul.
Mr. Derwinski in three instances.
Mr. Philip M. Crane.
Mr. Dornan.

(The following Members (at the request of Mr. Donnelly) and to include extraneous matter:)

Mr. Studds.
Mr. Hance.
Mr. Waxman.
Mr. Skelton.
Mr. Thompson.
Mr. Vento.
Mr. McDonald.
Mr. Brodhead.
Mr. Seiberling.
Mr. Dan Daniel.
Mr. Ford of Michigan.
Mr. Boland.
Mr. Dixon.
Mr. Weiss.
Mr. Edwards of California.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1280. An act to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes; to the Committee on Interstate and Foreign Commerce and the Committee on Science and Technology.

ADJOURNMENT

Mr. BENJAMIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 35 minutes p.m.) the House adjourned until tomorrow, Wednesday, July 30, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4929. A letter from the Secretary of Labor, transmitting a report on the private sector initiative program, pursuant to section 706 (a) of the Comprehensive Employment and Training Act of 1973, as amended; to the Committee on Education and Labor.

4930. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Henry Precht, Ambassador-designate to Mauritania, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

4931. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Barbara M. Watson, Ambassador-designate to Malaysia, and by members of her family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

4932. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Lyle Franklin Lane, Ambassador-designate to Paraguay, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

4933. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Robert S. Gershenson, Ambassador-designate to Uruguay, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

4934. A letter from the Secretary of Energy, transmitting the first annual report on energy efficiency in Federal buildings, pursuant to section 550 of Public Law 95–619; to the Committee on Interstate and Foreign Commerce.

4935. A letter from the Executive Director, Administrative Conference of the United States, transmitting a further supplementary report on the Conference's study and evaluation of the rulemaking procedures under section 18 of the Federal Trade Commission Act, as amended, pursuant to section 202(d) of Public Law 93–637, as amended (90 Stat. 588, 92 Stat. 2130); to the Committee on Interstate and Foreign Commerce.

4936. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

4937. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting notice of the proposed transfer of funds between categories of appropriations for environment research, development, and demonstration, pursuant to section 2(c) of Public Law 96–229; to the Committee on Science and Technology.

4938. A letter from the Comptroller General of the United States, transmitting a report on the development of domestic aluminum resources (EMD–80–63, July 17, 1980); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FUQUA: Committee on Science and Technology. S. 1250. A bill to promote U.S. technological innovation for the achievement of national economic, environmental, and social goals, and for other purposes; with amendments (Rept. No. 96–1199). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6816. A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes; with amendments (Rept. No. 96–1200). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6258. A bill providing for reinstatement and validation of U.S. oil and gas leases Nos. C–9496, C–9711, C–11600, C–11621, C–11622, C–11630, C–11631, C–11597, C–11599, C–13774, C–14197, C–17049, C–18262, C–26048, C–13532, C–11581, C–11585, C–11590, C–11591, and C–11595 (Rept. No. 96–1201). Referred to the Committee of the Whole House.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6538. A bill authorizing and directing the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955; with amendment (Rept. 96–1202). Referred to the Committee of the Whole House.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 757. Resolution providing for the consideration of House Joint

Resolution 589, providing additional program authority for the Export-Import Bank (Rept. No. 96–1205). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 758. Resolution waiving certain points of order against H.R. 7831. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1206). Referred to the House Calendar.

Mr. LONG of Maryland: Committee on Appropriations. H.R. 7854. A bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1207). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7698. A bill for the relief of two mining claimants (Rept. No. 96–1203). Referred to the Committee of the Whole House.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1626. A bill for the relief of H. F. Mulholland and the estate of John Oakason (Rept. No. 96–1204). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LONG of Maryland:

H.R. 7854. A bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. CLAUSEN:

H.R. 7855. A bill authorizing the Secretary of the Interior to retain as a national reserve, lands of the Outer Continental Shelf included in the proposed lease sale No. 53, and prohibiting the Secretary from leasing such lands for oil or gas production or development, except as recommended by the President of the United States and not disapproved by the Congress, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEE:

H.R. 7856. A bill to amend title 5 of the United States Code to provide that a Member of the Congress may not be paid annuity under the civil service retirement system for service as a Member if the Member has been convicted of violating while serving as a Member certain provisions relating to bribery, graft, and conflicts of interest; to the Committee on Post Office and Civil Service.

By Mr. McKAY (for himself and Mr. Marriott):

H.R. 7857. A bill to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD of Pennsylvania:

H.R. 7858. A bill to provide interim loans and loan guarantees to assist local governments to provide the additional public infrastructure and services which are required as a result of the rapid increase in population due to the construction and operation of a synthetic fuel facility; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STACK (for himself and Mr. Perkins):

H.R. 7859. A bill to provide general assistance and special impact aid to local educational agencies for the education of Cuban and Haitian refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults; to the Committee on Education and Labor.

By Mr. THOMAS:

H.R. 7860. A bill to amend the Internal Revenue Code of 1954 to extend the rollover period for nonrecognition of gain on the sale of principal residences sold during 1980 or 1981; to the Committee on Ways and Means.

By Mr. WINN:

H.R. 7861. A bill to establish a severe storms forecasting advisory committee to review, on an annual basis, the severe storms forecasting research activities of the Federal Government; to the Committee on Science and Technology.

By Mr. FOLEY (for himself, Mr. Wampler, Mr. Weaver, and Mr. Johnson of Colorado):

H. Con. Res. 393. Concurrent resolution extending to the Forest Service, U.S. Department of Agriculture, the appreciation of the Congress on the 75th anniversary of the founding of the agency; to the Committee on Agriculture.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

514. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to financial eligibility requirements for medicaid; to the Committee on Interstate and Foreign Commerce.

515. Also, memorial of the Legislature of the State of Louisiana, relative to Federal assumption of liability for damages caused by piledriving in construction of floodwalls in the Morgan City-Berwick area of Louisiana; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AuCOIN:

H.R. 7862. A bill for the relief of Celia Maarit Halle; to the Committee on the Judiciary.

By Mr. DORNAN:

H.R. 7863. A bill for the relief of Christiaan F. R. Kunstt; to the Committee on the Judiciary.

By Ms. MIKULSKI:

H.R. 7864. A bill for the relief of Michael Whitlock; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 628: Mr. Rousselot.

H.R. 1918: Mr. Matsui.

H.R. 2570: Mr. Mattox.

H.R. 5303: Mr. O'Brien, Mr. Railsback, and Mr. Seiberling.

H.R. 5610: Mr. Leach of Iowa and Mr. Udall.

H.R. 5858: Mr. Bowen.

H.R. 6372: Mr. Fisher.

H.R. 6479: Mr. Cheney.

H.R. 6542: Mr. Daniel B. Crane.

H.R. 6595: Mr. Collins of Texas.

H.R. 6596: Mr. Collins of Texas.

H.R. 6637: Mr. Martin.

H.R. 6866: Mr. Applegate and Mr. Bailey.

H.R. 6867: Mr. Applegate and Mr. Bailey.

H.R. 6941: Mr. Guyer.

H.R. 7287: Mr. Carr.

H.R. 7390: Mr. Daniel B. Crane.

H.R. 7433: Mr. Murphy of Pennsylvania.

H.R. 7505: Mr. Fazio.

H.R. 7533: Mr. Goldwater, Mr. Robinson, and Mr. Roe.

H.R. 7548: Mr. Preyer and Mr. Fazio.

H.R. 7555: Mr. Lundine.

H.R. 7632: Mr. Bowen.

H.R. 7646: Mr. Addabbo, Mr. Lederer, Mr. Richmond, Mr. Weiss, Mr. Mitchell of Maryland, Mr. Bonior of Michigan, Mr. Brown of California, Mr. Downey, Mr. Kildee, Mrs. Schroeder, Mr. Ford of Michigan, Mr. Clay, and Mr. Nowak.

H.R. 7647: Mr. Rodino, Mr. Patten, Mr. Roe, and Mr. Thompson.

H.R. 7649: Mr. Dannemeyer, Mr. Fazio, Mr. Grisham, Mr. Johnson of California, Mr. Lloyd, Mr. Matsui, Mr. Rousselot, Mr. Royer, Mr. Thomas, Mr. Van Deerlin, and Mr. Bob Wilson.

H.R. 7796: Mr. Montgomery.

H.J. Res. 488: Mr. Quillen.

H.J. Res. 511: Mr. Marriott and Mr. Leach of Louisiana.

H.J. Res. 575: Mr. Rousselot, Mr. Andrews of North Dakota, Mr. Dannemeyer, Mr. Frenzel, and Mr. Young of Alaska.

H. Con. Res. 86: Mr. Cheney.

H. Con. Res. 376: Mr. Pepper, Mr. Bennett, Mr. Fuqua, Mr. Lehman, and Mr. Fazio.

H. Res. 525: Mr. Bauman, Mr. Bereuter, Mr. Cavanaugh, Mr. Coleman, Mr. Philip M. Crane, Mr. Hammerschmidt, Mr. Hutchinson, Mr. Hyde, Mr. Leach of Iowa, Mr. Loeffler, Mr. McKay, Mr. Ritter, Mr. Sebelius, Mr. Skelton, Mr. Taylor, Mr. Wydler, and Mr. Wylie.

H. Res. 745: Mr. Spence.

H. Res. 748: Mr. Porter and Mr. Oberstar.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7765

By Mr. BAUMAN:

—Beginning on page 2, line 14, strike all through page 4, line 2.

Beginning on page 45, line 8, strike all through page 46, line 7.

Beginning on page 47, line 14, strike all through page 47, line 22.

By Mr. CONABLE:

—Page 420, after line 23, insert the following title X:

TITLE X—TAX REDUCTION—JOB CREATION

Subtitle A—Individual Tax Rates

Sec. 1001. Amendment of 1954 Code.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Sec. 1002. Reduction in Rates.

(a) Rate Reduction.—Section 1 (relating to tax imposed) is amended to read as follows:

"Section 1. Tax Imposed.

"(a) Married Individuals Filing Joint Returns and Surviving Spouses.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400, but not over $5,500	$0, plus 12.0% of excess over $3,400.
Over $5,500, but not over $7,600	$252, plus 14.0% of excess over $5,500.
Over $7,600, but not over $11,900	$546, plus 16.0% of excess over $7,600.
Over $11,900, but not over $16,000	$1,234, plus 19.0% of excess over $11,900.
Over $16,000, but not over $20,200	$2,013, plus 22.0% of excess over $16,000.
Over $20,200, but not over $24,600	$2,937, plus 25.0% of excess over $20,200.
Over $24,600, but not over $29,900	$4,037. plus 28.0% of excess over $24,600.
Over $29,900, but not over $35,200	$5,521, plus 33.0% of excess over $29,900.
Over $35,200, but not over $45,800	$7,270. plus 39.0% of excess over $35,200.
Over $45,800, but not over $60,000	$11,404, plus 44.0% of excess over $45,800.
Over $60,000, but not over $85,600	$17,652, plus 49.0% of excess over $60,000.
Over $85,600, but not over $109,400	$30,196, plus 53.0% of excess over $85,600.
Over $109,400, but not over $162,400	$42,810, plus 58.0% of excess over $109,400.
Over $162,400, but not over $215,400	$73,550, plus 61.0% of excess over $162,400.
Over $215,400	$105,880. plus 63.0% of excess over $215,400.

"(b) Heads of Household.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,300	No tax
Over $2,300, but not over $4,400	$0, plus 12.0% of excess over $2,300.
Over $4,400, but not over $6,500	$252, plus 14.0% of excess over $4,400.
Over $6,500, but not over $8,700	$546, plus 16.0% of excess over $6,500.
Over $8,700, but not over $11,800	$898, plus 20.0% of excess over $8,700.
Over $11,800, but not over $15,000	$1,518, plus 22.0% of excess over $11,800.
Over $15,000, but not over $18,200	$2,222, plus 23.0% of excess over $15,000.
Over $18,200, but not over $23,500	$2,958, plus 28.0% of excess over $18,200.
Over $23,500, but not over $28,800	$4,442, plus 32.0% of excess over $23,500.
Over $28,100, but not over $34,100	$6,138, plus 38.0% of excess over $28,800.
Over $34,100, but not over $44,700	$8,152, plus 41.0% of excess over $34,100.
Over $44,700, but not over $60,600	$12,498, plus 49.0%of excess over $44,700.
Over $60,600, but not over $81,800	$20,289, plus 54.0% of excess over $60,600.
Over $81,800, but not over $108,300	$31,737, plus 57.0% of excess ovre $81,800.
Over $108,300, but not over $161,300	$46,842, plus 61.0% of excess over $108,300.
Over $161,300	$79,172, plus 63.0% of excess over $161,300.

"(c) Unmarried Individuals (Other Than Surviving Spouses and Heads of Households).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,300	No tax
Over $2,300, but not over $3,400	$0, plus 12.0% of excess over $2,300.
Over $3,400, but not over $4,400	$132, plus 14.0% of excess over $3,400.
Over $4,400, but not over $6,500	$272, plus 16.0% of excess over $4,400.
Over $6,500, but not over $8,500	$608, plus 17.0% of excess over $6,500.
Over $8,500, but not over $10,800	$948, plus 19.0% of excess over $8,500.
Over $10,800, but not over $12,900	$1,385, plus 21.0% of excess over $10,800.
Over $12,900, but not over $15,000	$1,826, plus 23.0% of excess over $12,000.
Over $15,000, but not over $18,200	$2,309, plus 27.0% of excess over $15,000.
Over $18,200, but not over $23,500	$3,173, plus 30.0% of excess over $18,200.
Over $23,500, but not over $28,800	$4,763, plus 35.0% of excess over $23,500.
Over $28,800, but not over $34,100	$6,618, plus 39.0% of excess over $28,800.
Over $34,100, but not over $41,500	$8,685, plus 44.0% of excess over $34,100.
Over $41,500, but not over $55,300	$11,941, plus 50.0% of excess over $41,500.
Over $55,300, but not over $81,800	$18,841, plus 57.0% of excess over $55,300.
Over $81,800, but not over $108,300	$33,946, plus 61.0% of excess over $81.800.
Over $108,300	$50,111, plus 63.0% of excess over $108,300.

"(d) Married Individuals Filing Separate Returns.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700, but not over $2,750	$0, plus 12.0% of excess over $1,700.
Over $2,750, but not over $3,800	$126, plus 14.0% of excess over $2,750.
Over $3,800, but not over $5,950	$273, plus 16.0% of excess over $3,800.
Over $5,950, but not over $8,000	$617, plus 19.0% of excess over $5,950.
Over $8,000, but not over $10,100	$1,006, plus 22.0% of excess over $8,000.
Over $10,100, but not over $12,300	$1,468, plus 25.0% of excess over $10,100.
Over $12,300, but not over $14,950	$2,018, plus 28.0% of excess over $12,300.
Over $14,950, but not over $17,600	$2,760, plus 33.0% of excess over $14,950.
Over $17,600, but not over $22,900	$3,635, plus 39.0% of excess over $17,600.
Over $22,900, but not over $30,000	$5,702, plus 44.0% of excess over $22,900.
Over $30,000, but not over $42,800	$8,826, plus 49.0% of excess over $30,000.
Over $42,800, but not over $54,700	$15,098, plus 53.0% of excess over $42,800.
Over $54,700, but not over $81,200	$21,405, plus 58.0% of excess over $54,700.
Over $81,200, but not over $107,700	$36,775, plus 61.0% of excess over $81,200.
Over $107,700	$52,940, plus 63.0% of excess over $107,700.

"(e) Estates and Trusts.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,050	12.0% of taxable income.
Over $1,050, but not over $2,100	$120, plus 14.0% of excess over $1,050.
Over $2,100, but not over $4,250	$273, plus 16.0% of excess over $2,100.
Over $4,250, but not over $6,300	$617, plus 19.0% of excess over $4,250.
Over $6,300, but not over $8,400	$1,006, plus 22.0% of excess over $6,300.
Over $8,400, but not over $10,600	$1,462, plus 25.0% of excess over $8,400.
Over $10,600, but not over $13,250	$2,018, plus 28.0% of excess over $10,600.
Over $13,250, but not over $15,900	$2,760, plus 33.0% of excess over $13,250.
Over $15,900, but not over $21,200	$3,635, plus 39.0% of excess over $15,900.
Over $21,200, but not over $28,300	$5,702, plus 44.0% of excess over $21,200.
Over $28,300, but not over $41,100	$8,826, plus 49.0% of excess over $28,300.
Over $41,100, but not over $53,000	$15,098, plus 53.0% of excess over $41,100.
Over $53,000, but not over $79,500	$21,105, plus 58.0% of excess over $53,000.
Over $79.500, but not over $106,000	$36,775, plus 61.0% of excess over $79.500.
Over $106,000	$52,940, plus 63.0% of excess over $106,000."

Subtitle B—Incentive for New Plant and Equipment

Sec. 1003. Capital Cost Recovery Deduction.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 167 the following new section:

"Sec. 168. Capital Cost Recovery Deduction.

"(a) Allowance of Deduction.—In the case of recovery property, there shall be allowed the recovery deduction provided by this section.

"(b) Amount of Deduction.—

"(1) In general.—The recovery deduction for the taxable year shall be the aggregate amount determined by applying to the capital cost of recovery property the applicable percentage determined in accordance with the following table:

"CAPITAL COST RECOVERY TABLE

	The applicable percentage for the class of property is:		
	Class 1	Class 2	Class 3
"If the recovery year is—			
1	10	20	33
2	18	32	45
3	16	24	22
4	14	16	
5	12	8	
6	10		
7	8		
8	6		
9	4		
10	2		

"(2) Transitional applicable percentages.—

"(A) For transitional applicable percentages for additions to capital account of class 1 property before 1985, see subsection (h)(2).

"(B) For transitional applicable percentages for additions to capital account of certain class 2 property before 1985, see subsection (h)(3).

"(c) Recovery Property.—For purposes of this title—

"(1) Recovery property defined.—Except as otherwise provided in subsection (g), the term 'recovery property' means tangible property (other than land)—

"(A) used in a trade or business, or

"(B) held for the production of income.

"(2) Classes of recovery property.—

"(A) Classification table.—The classification of recovery property shall be determined in accordance with following table:

"CLASSIFICATION OF RECOVERY PROPERTY

"Class 1	Class 2	Class 3
Buildings and structural components of buildings.	Recovery property not taken into account under class 1 or class 3.	Automobiles, taxis, and light-duty trucks.

"(B) $100,000 limit for class 3.—In the case of any taxpayer for any taxable year, the capital cost (for which such year is recovery year 1) taken into account under class 3 shall not exceed $100,000.

"(C) Special rules for applying the $100,000 limit.—

"For special rules relating to the $100,000 limit, see subsection (i)(2).

"(d) Capital Cost.—

"(1) In general.—For purposes of this section, the term 'capital cost' means, with respect to any property, the net addition to capital account for the taxable year (determined without regard to the section 1016(a)(2) adjustment for such year).

"(2) Special rules for property not yet placed in service.—In the case of property which has not been placed in service before the close of the taxable year—

"(A) Payment rule.—Except as provided in subparagraph (B), the addition to capital account shall be treated as made when payment of an amount is made.

"(B) Self-constructed property.—If the property is constructed (in whole or in part) by the taxpayer, capital cost shall be determined under paragraph (1) without regard to subparagraph (A) of this paragraph.

"(3) Amounts must be for period after 1980.—For purposes of this section, capital cost does not include any amount paid or properly charged to capital account for any period before January 1, 1981.

"(4) Special rules.—

"(A) Public utility property election.—For election to determine capital cost of public utility property by treating advance payments as made when property is placed in service, see subsection (i)(3).

"(B) Transitional rule for fiscal year taxpayers.—For special transitional rule for determining capital cost of fiscal year taxpayers, see subsection (i)(5).

"(e) Taxpayer May Deduct Less Than Full Allowance.—

"(1) In general.—For any taxable year the taxpayer may deduct all or any portion of the amount allowable under subsection (a). The deduction for any taxable year may be increased or decreased at any time before the expiration of the period prescribed for making a claim for refund of the tax imposed by this chapter for such taxable year.

"(2) Carryover of unused deductions.—Any amount allowable for the taxable year by subsection (a) but not deducted for such taxable year shall be carried forward and may be claimed as a deduction for any succeeding taxable year. Any deduction so claimed shall be treated as an addition to the capital cost recovery deduction allowable under subsection (a) for such succeeding taxable year.

"(3) Allocation of deductions.—If by reason of paragraph (1) the taxpayer deducts less than the amount allowable for any taxable year, the amount deducted shall be apportioned among the taxpayer's recovery property in the same proportion as the amount allowable in respect of the recovery property bears to the total amount allowable in respect of recovery property. A similar rule shall be applied in the case of the allowance of a deduction in a succeeding taxable year under paragraph (2).

"(4) Adjustments to basis.—For purposes of section 1016(a)(2), in the case of recovery property the amount allowable under this subtitle for exhaustion, wear and tear, and obsolescence shall be the amount allowable by subsection (a) of this section.

"(f) Recognition of Gain or Loss and Adjustment to Capital Costs on Retirement or Other Disposition.—

"(1) General rule.—Gain or loss shall be recognized on the disposition of recovery property, unless nonrecognition is specifically required or permitted by another provision of this chapter.

"(2) Mass asset account.—In lieu of recognizing gain or loss, a taxpayer who maintains mass asset accounts of recovery property may, under regulations prescribed by the Secretary, elect to include in income all proceeds realized on the disposition of such property.

"(3) Adjustment to capital cost.—For purposes of this section, if gain or loss is recognized on the disposition of recovery property, the capital cost of such property shall cease to be capital cost as of the beginning of the taxable year in which such disposition occurs.

"(4) Disposition includes retirement.—For purposes of this subsection, the term 'disposition' includes retirement.

"(g) Property Excluded From Application of Section.—

"(1) Certain property excluded.—The term 'recovery property' does not include—

"(A) property placed in service by the taxpayer before January 1, 1981,

"(B) residential rental property (within the meaning of section 167(j)); and

"(C) property with respect to which the taxpayer—

"(i) is entitled to elect amortization (in lieu of depreciation), and

"(ii) elects such amortization.

"(2) Certain methods of depreciation.—The term 'recovery property' does not include property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the first taxable year for which a deduction would be allowable under this section with respect to such property—

"(i) the property is properly depreciated under the unit-of-production method, the retirement-replacement method, or any other method of depreciation not expressed in a term of years, or

"(ii) the property is a leasehold improvement which is properly depreciated over the term of the leasehold.

"(3) Special rule for certain public utility property.—

"(A) In general.—In the case of public utility property (within the meaning of section 167(l)(3)(A)), such property shall be treated as recovery property only if the taxpayer uses a normalization method of accounting.

"(B) Use of normalization method defined.—For purposes of subparagraph (A), a taxpayer uses a normalization method of accounting with respect to any public utility property if both the taxpayer's rates and its operating results on its regulated books of account reflect a tax expense determined by—

"(i) a method of depreciation on the property which is the same as, and

"(ii) a depreciation period for the property which is no shorter than,

the method and period used to determine its depreciation expense on the property for purposes of establishing its cost of service for ratemaking purposes.

"(C) Secretary to prescribe regulations.—The Secretary shall provide such regulations as may be necessary or appropriate to prevent the reflection (directly or indirectly) in rates or operating results of an amount of tax expense which is inconsistent with either the depreciation method described in subparagraph (B)(i) or the depreciation period described in subparagraph (B)(ii).

"(4) Certain sales, leases, and other transactions in property placed in service before 1981.—The term 'recovery property' does not include property acquired directly or indirectly from a person who used such property before January 1, 1981, if—

"(A) within 1 year after the property is so acquired, the property is leased back to such person, or

"(B) the person on acquiring the property bears a relationship specified in section 267(b) to the person using such property before January 1, 1981.

"(h) Transitional Applicable Percentages for Class 1 Property and Class 2 Property.—

"(1) In general.—The Secretary shall prescribe tables setting forth transitional applicable percentages—

"(A) for additions to capital account of class 1 property before January 1, 1985, and

"(B) for additions to capital account of class 2 property before January 1, 1985.

If for any taxable year for any property there is a transitional applicable percentage, such transitional percentage shall be substituted for the applicable percentage set forth in subsection (b).

"(2) Transitional applicable percentages for class 1 property.—The transitional applicable percentages for class 1 property shall be determined in accordance with the following assigned recovery periods:

"TRANSITIONAL RECOVERY PERIODS FOR CLASS 1 PROPERTY

"For additions to capital account in—	The transitional applicable percentage shall be based on a capital cost recovery period of the following number of years:
1981	18
1982	16
1983	14
1984	12

"(3) Transitional applicable percentages for certain class 2 property.—The transitional applicable percentages for class 2 property shall be determined in accordance with the following assigned recovery periods:

"TRANSITIONAL RECOVERY PERIODS FOR CERTAIN CLASS 2 PROPERTY

"For additions to capital account in—	The transitional applicable percentage shall be based on a capital cost recovery period of the following number of years:
1981	ADR lower limil.
1982	ADR lower limit minus 1 year.
1983	ADR lower limit minus 2 years.
1984	ADR lower limit minus 3 years.

The capital cost recovery period determined under this paragraph shall in no case be less than 5 years.

"(4) ADR lower limit defined.—For purposes of paragraph (3), the ADR lower limit for any class of property is the lower limit of the asset depreciation range in effect on June 27, 1979, for such class of property under section 167(m). For purposes of the preceding sentence, lower limits in excess of 9 years shall be treated as equal to 9 years, and any lower limit which is not a whole number of years shall be rounded down to the next lower whole number of years.

"(5) Tables to be similar to subsection (b) table.—The tables prescribed under paragraph (1) for any class of property for any assigned recovery period shall be based on principles similar to those used in the construction of the table under subsection (b) for that class of property.

"(i) Definitions and Special Rules.—For purposes of this section—

"(1) Recovery year 1, etc.—The term 'recovery year 1' means, with respect to any capital cost, the first taxable year for which a deduction with respect to such cost is allowable under subsection (a). The immediately following year shall be recovery year 2, and the taxable years which follow shall be numbered accordingly.

"(2) Special rules for applying the $100,000, limit for class 3 property.—

"(A) In general.—If for any taxable year the capital cost (for which such year is recovery year 1) of automobiles, taxis, and light-duty trucks exceeds $100,000, the taxpayer shall select the items to be treated as class 3 property, but only to the extent of an aggregate capital cost of $100,000. Such a selection, once made, may be changed only in the manner, and to the extent, provided by such regulations.

"(B) Married individuals.—In the case of a husband or wife who files a separate return, the limitation under subparagraph (A) and under subsection (c)(2)(B) shall be $50,000 in lieu of $100,000. This subparagraph shall not apply if the spouse of the taxpayer has no property which may be taken into account as class 3 property (for which this is recovery year 1) for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(C) Controlled groups.—In the case of a controlled group, the $100,000 amount specified under subparagraph (A) and under subsection (c)(2)(B) shall be reduced for each component member of the group by apportioning $100,000 among the component members of such group in accordance with their respective amounts of capital cost of automobiles, taxis, and light-duty trucks.

"(D) Partnerships.—In the case of a partnership, the limitation contained in subparagraph (A) and in subsection (c)(2)(B) shall apply with respect to the partnership and with respect to each partner.

"(E) Controlled group.—For purposes of this paragraph, the term 'controlled group' has the meaning assigned to such term by section 1563(a), except that the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).

"(3) Public utility may elect not to take into account advance payments.—

"(A) In general.—In the case of public utility property (within the meaning of section 167(l)(3)), the taxpayer may elect to treat all additions to capital account for the period before property is placed in service as made during the taxable year in which the property is placed in service.

"(B) Effect of election.—An election under subparagraph (A) shall apply to all public utility property of the taxpayer for the taxable year for which the election is made and all subsequent taxable years unless the Secretary consents to a revocation of such election.

"(4) Making of elections.—Any election (or selection) under this section shall be made at such time and in such manner as the Secretary may by regulations prescribe.

"(5) Transitional rule for determining capital cost of fiscal year taxpayers.—If—

"(A) the taxpayer's taxable year is a period other than the calendar year, and

"(B) a transitional applicable percentage applies to additions to capital account in any portion of the taxable year.

then the capital cost for such taxable year shall be separately computed for each portion of a calendar year included within the taxable year

"(j) Cross Reference.—

"For special rule with respect to certain gain derived from disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

SEC. 1004. CHANGES IN INVESTMENT TAX CREDIT.

(a) Applicable Percentage.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) Applicable percentage for recovery property.—Notwithstanding paragraph (2), the applicable percentage for purposes of paragraph (1) shall be—

"(A) in the case of class 1 or class 2 recovery property (within the meaning of section 168), 100 percent, or

"(B) in the case of class 3 recovery property (within the meaning of section 168), 60 percent."

(b) Credit for Expenditures Before Property Is Placed in Service.—Subsection (d) of section 46 is amended to read as follows:

"(d) Qualified Progress Expenditures.—

"(1) In general.—The amount of the qualified investment of any taxpayer for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by the aggregate of the applicable percentage of each qualified capital cost of the taxpayer for the taxable year.

"(2) Qualified capital cost.—For purposes of paragraph (2), the term 'qualified capital cost' means the capital cost described in section 168(d)(1) for the taxable year with respect to any property which has not been placed in service before the close of such taxable year if such property, when placed in service, can reasonably be expected to be recovery property which is section 38 property.

"(3) Applicable percentage.—For purposes of paragraph (1), the term 'applicable percentage' has the meaning given to such term by subsection (c)(7).

"(4) No qualified progress expenditures for property for year of recapture.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the first taxable year for which recapture is required under section 47(a)(3) with respect to such property, or for any taxable year thereafter."

(c) Amendment of Recapture Rules.—

(1) In general.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Special rules for recovery-property.—

"(A) General rule.—If during any taxable year section 38 recovery property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the recapture period, then the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) Recapture percentage.—For purposes of subparagraph (A), the recapture percentage shall be determined in accordance with the following table:

"If the taxable year in which the recovery property ceases to be section 38 property is:	The recovery percentage for each class of property is: Class 1 and Class 2	Class 3
The taxable year in which placed in service	100	100
The first taxable year after the year in which placed in service	80	66
The second taxable year after the year in which placed in service	60	33
The third taxable year after the year in which placed in service	40	0
The fourth taxable year after the year in which placed in service	20	0

"(C) Definitions and special rules.—

"(i) Section 38 recovery property.—For purposes of this paragraph, the term 'section 38 recovery property' means any section 38 property which is recovery property (within the meaning of section 168).

"(ii) Recapture period.—For purposes of this paragraph, the term 'recapture period' means, with respect to any property, the period consisting of the taxable year in which such property is placed in service and the 4 succeeding taxable years (the 2 succeeding taxable years in the case of class 3 property).

"(iii) Classification of property.—For purposes of this paragraph, property shall be classified as provided in section 168.

"(iv) Paragraph (1) not to apply.—Paragraph (1) shall not apply with respect to any recovered property."

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (D) of section 47(a)(3) is amended—

(i) by striking out "paragraph (1), paragraph (1)" and inserting in lieu thereof "paragraph (1) or (5), as the case may be, such paragraph", and

(ii) by striking out "PARAGRAPH (1)" in the subparagraph heading and inserting in lieu thereof "PARAGRAPH (1) OR (5)".

(B) Paragraph (6) of section 47(a) (as redesignated by paragraph (1)) is amended by striking out "paragraph (1) or (3)" and inserting in lieu thereof "paragraph (1), (3), or (5)".

(C) Subparagraph (B) of section 47(a)(7) (as redesignated by paragraph (1)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

(d) AMENDMENT OF SECTION 48.—The last sentence of section 48(a)(1) (defining section 38 property) is amended by striking out "includes only property" and inserting in lieu thereof "includes only recovery property and any other property".

SEC. 1005. AMENDMENTS RELATED TO DEPRECIATION.

(a) RECOVERY DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of recovery property (within the meaning of section 168), the recovery deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section, and such property shall be considered for purposes of this title as property of a character subject to the allowance provided under this section."

(b) NO ADDITIONAL FIRST-YEAR DEPRECIATION FOR RECOVERY PROPERTY.—Paragraph (1) of section 179(d) (defining section 179 property) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) which is not recovery property (within the meaning of section 168)."

(c) TERMINATION OF CLASS LIFE SYSTEM.—Subsection (m) of section 167 (relating to class lives) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—This subsection shall not apply with respect to property placed in service after December 31, 1979."

SEC. 1006. DISPOSITION OF RECOVERY PROPERTY SUBJECT TO RECAPTURE UNDER SECTION 1245.

Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) recovery property (within the meaning of section 168)."

SEC. 1007. MINIMUM TAX AMENDMENT.

Subsection (a) of section 57 (defining items of tax preference) is amended by inserting after paragraph (11) the following new paragraph:

"(12) CAPITAL COST RECOVERY DEDUCTION.—

"(A) IN GENERAL.—With respect to each property which is class 1 and class 2 recovery property (as determined under section 168) and which is subject to a lease, the amount (if any) by which the recovery deduction allowed for the taxable year is greater than the straight-line capital cost recovery amount determined in accordance with subparagraph (B).

"(B) STRAIGHT-LINE CAPITAL COST RECOVERY AMOUNT.—For purposes of this paragraph, the straight-line capital cost recovery amount shall be the amount of the depreciation deduction which would have been allowed for the taxable year had the taxpayer depreciated the property, beginning with the middle of the taxable year in which placed in service, under the straight-line method for each year of its useful life assuming—

"(i) a useful life of 10 years in the case of class 1 recovery property, and

"(ii) a useful life of 5 years in the case of class 2 recovery property.

"(C) LIMITATIONS.—

"(i) CORPORATIONS.—This paragraph shall not apply to any taxpayer which is a corporation (other than an electing small business corporation as defined in section 1371 (b)) and a personal holding company (as defined in section 542).

"(ii) PROPERTY MANUFACTURED OR PRODUCED BY TAXPAYER.—This paragraph shall not apply with respect to any property which is manufactured or produced by the taxpayer.

"(D) PARAGRAPHS (2) AND (3) DO NOT APPLY TO RECOVERY PROPERTY.—Paragraphs (2) and (3) shall not apply to recovery property (within the meaning of section 168)."

SEC. 1008. TECHNICAL AMENDMENTS.

(a) EARNINGS AND PROFITS.—

(1) Subsection (k) of section 312 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXCEPTION FOR RECOVERY DEDUCTION.—If for any taxable year a recovery deduction is allowable under section 168 with respect to any recovery property, then the adjustment to earnings and profits for depreciation of such property for such year shall be the amount so allowable (but not in excess of the straight-line capital cost recovery amount determined under section 57(a)(12)(B))."

(2) The paragraph heading of paragraph (2) of section 312(k) is amended to read as follows:

"(2) EXCEPTION FOR CERTAIN METHODS OF DEPRECIATION.—".

(b) AMENDMENT OF SECTION 381.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(27) UNUSED DEDUCTIONS UNDER SECTION 168.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 168, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 168 in respect of the distributor or transferor corporation."

(c) AMENDMENT OF SECTION 383.—Section 383 (relating to special limitations on certain carryovers) is amended by striking out "and to any net capital loss" and inserting in lieu thereof "to any unused deductions under section 168(e), and to any net capital loss".

SEC. 1009. EFFECTIVE DATE.

The amendment made by this title shall apply to taxable years ending after December 31, 1980.

By Mr. FISHER:

—Strike out title I (relating to elimination of September 1980 cost-of-living increase in military retired pay), which begins on page 2, line 14, and ends on page 4, line 2.

Strike out section 401 (relating to limitation on annuity cost-of-living adjustments in fiscal year 1981), which begins on page 45, line 8, and ends on page 46, line 7.

And redesignate the succeeding titles and sections accordingly.

By Mr. HANCE:

—Page 306, after line 19, add the following new subtitle:

Subtitle E—Suspension of Federal Day Care Regulations

SEC. 897. SUSPENSION OF FEDERAL DAY CARE REGULATIONS.

(a) SOCIAL SERVICES PROGRAM.—Section 2002(a)(9) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The requirements imposed by this paragraph or by any regulations promulgated by the Department of Health and Human Services to carry out this paragraph shall be inapplicable to child day care services provided after June 30, 1980, and prior to October 1, 1981, which meet applicable standards of State and local law.".

(b) AFDC AND CHILD WELFARE SERVICES PROGRAMS.—The provisions of section 3(f) of Public Law 93-647 shall not apply with respect to child day care services provided after June 30, 1980, and prior to October 1, 1981, which meet applicable standards of State and local law.

By Mr. LATTA:

—In title II (relating to Committee on Education and Labor), strike out section 207 (page 8).

In title III (relating to Committee on Interstate and Foreign Commerce), strike out the following sections:

331 (page 25).
332 (page 28).
334 (page 35).
335 (page 38).
336 (page 39).
337 (page 39).

In title VIII (relating to Committee on Ways and Means; expenditure reductions), strike out the following sections:

802 (page 166).
804 (page 175).
805 (page 176).
806 (page 176).
807 (page 182).
808 (page 187).
809 (page 187).
817 (page 196).
819 (page 197).
820 (page 197).
823 (page 201).
824 (page 202).
830 (page 208).
833 (page 213).
846 (page 218).
850 (page 224).
851 (page 224).
853 (page 226).
866 (page 268).
868 (page 282).

(c) (1) Reservations made to carry out the provisions of subsection (a) shall be subject to the provisions of the Impoundment Control Act (Public Law 93-344) unless made in accordance with the proportional reservation and percentage requirements of subsection (b).

(2) In order to assist the Congress in the exercise of its function under this title with respect to reservations made to carry out the provisions of subsection (a), the Comptroller General shall review each such reservation and inform the House of Representatives and the Senate as promptly as possible whether or not, in his judgment, such reservation was made in accordance with the requirements of subsection (b).

(d) In no event shall the authority conferred by this section be used to impound funds, appropriated or otherwise made available by Congress, for the purpose of eliminating a program the creation or continuation of which has been authorized by Congress.

SEC. 1003. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this title, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expediture (after application of this title) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

By Mr. MICHEL:

—On page 420, after line 23, insert the following new title:

TITLE X—CEILING ON FISCAL YEAR 1981 EXPENDITURES

SEC. 1001. Expenditures and net lending during the fiscal year ending September 30, 1981, under the budget of the United States Government shall not exceed the total outlays as finally agreed upon by Congress in the second concurrent resolution on the budget, as defined by section 310(a) of Public Law 93-344, for fiscal year 1981.

SEC. 1002. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, reserve from expenditures and net lending, from appropriations or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending September 30, 1981, within the limitation specified in section 1.

(b) In carrying out the provisions of subsection (a) the President shall reserve amounts proportionately from appropriations and other obligational authority available for each functional category, and to the extent practicable, subfunctional category (as set out in the United States Budget), except that—

(1) no reservations shall be made from amounts available for interest, and payments from social insurance trust funds, and

(2) no reservations from authority available for any functional category or subfunctional category shall have the effect of reducing the total amount available for any specific program or activity within that particular category by a percentage which is more than 10 percentage points higher than the net percentage of the overall reduction in expenditures and net lending resulting from all reservations made as required by subsection (a).

By Mr. OTTINGER:

—Beginning on page 52, strike out line 17 and all that follows through line 4 on page 53.

SENATE—*Tuesday, July 29, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who at creation brought order out of chaos and revealed beauty and goodness and truth to man, brood over Thy creation in these chaotic times and help us to find in the march of history the movement of Thy sovereign spirit. Take from our souls the strain and stress, and let our ordered lives confess the beauty of Thy peace. Sharpen our minds, quicken our hearts that in tasks great and small we may help shape the future in the pattern of Thy kingdom. Keep us close to Thee, that guided by Thy higher wisdom, great burdens may be lightened, the difficult become the possible and Thy kingdom set forward. And finally give us the peace of those whose minds are stayed on Thee.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 29, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 2 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE TO CONVENE AT 9 A.M. DAILY THROUGH SATURDAY

Mr. ROBERT C. BYRD. Mr. President, the Senate will meet at 9 a.m. through Saturday, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

ORDER FOR THE SENATE TO CONVENE AT 9 A.M. MONDAY, TUESDAY, AND WEDNESDAY OF NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate meet at 9 a.m. Monday, Tuesday, and Wednesday of next week.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield my time to Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

AN OPEN CONVENTION FOR THE DEMOCRATIC PARTY

Mr. PROXMIRE. Mr. President, a so-called open convention for the Democratic Party would have as its sole purpose the direct, explicit repudiation of the will of the people. Delegates elected to that convention are elected not because of who the delegate is, his or her judgment. Not one person in a thousand who voted in a primary election for KENNEDY, Carter, or Brown could tell you even the name of the delegate who will be representing him at the convention. The delegate has an absolute duty to vote, until released by the candidate, for the candidate he was elected to support.

The Presidential primary voter is not electing an Edmund Burke or a Congressman or Senator to represent him on a variety of issues where the judgment of the representative must be exercised, because there is no way of ascertaining the judgment of the electorate. The primary voter had a choice in most states between the President, Jimmy Carter; Senator TED KENNEDY who, at the time he entered the primaries, was by all odds the most popular figure in the country; and Gov. Jerry Brown, the Governor of the biggest State in the Nation, who had been elected twice by resounding majorities to that position and who had won five State Presidential primary elections in 1976. President Carter had tough primary opposition. He defeated that opposition convincingly. There is no way to justify repudiating the President, if Presidential primaries are to have any meaning whatsoever.

And from a practical standpoint it is probably a mistake. With all his liabilities, and he has plenty, in spite of the weakness in the polls, President Carter may well represent the best chance Democrats have of winning the Presidency in 1980.

We should not forget what happened with Harry Truman in 1948. We should not forget that his incumbency gives the President by all odds the strongest position from which to run in a Presidential election. In the event of any dramatic international development that may occur in the next 3½ months, the President would become the focus of decision and of broad national support. This country of ours loves an embattled, gutsy, Harry Truman-type underdog. The chances of a Democratic victory in November may not be good in any event. But under all the circumstances they will be better with Carter as the Democratic candidate.

JOINING THE WORLD IN THE FIGHT AGAINST GENOCIDE

Mr. PROXMIRE. Mr. President, a report prepared by the State Department and the Council on Environmental Quality warned President Carter last Thursday that:

> Time is running out for international action to prevent a starving, overcrowded, polluted, resource-poor world.

This dismal view of the future bodes ill for mankind. But the report holds out the hope that through unified, international action, man can postpone his doom, if not avoid it entirely.

I agree with the people who wrote that report. Through international efforts we can make the world a better place to live. And that is why I support the International Convention on the Prevention and Punishment of Genocide.

This treaty, which was drafted by the United Nations in 1949, sets up measures for halting the slaughter of racial, religious, and ethnic minorities. It also provides for legal means of extraditing and punishing those who commit genocide.

The treaty will not solve the problems raised in the report to President Carter. But it is a step toward uniting the nations of the world in an effort to improve the condition and quality of life for all human beings.

More than 80 other countries have already ratified the Genocide Convention. They believe in the value of international cooperation, which is essential to combating a problem such as genocide. We too have shown enthusiastic support for international cooperation in the past. That is why I am surprised that for 31 years we have refused to become a party to the Genocide Convention.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Our reluctance to ratify the treaty is an embarrassment, and it contradicts our past record of joining the world community to solve the world's pressing problems.

The problems of famine, pollution, overcrowding, and energy will also require a concerted effort by all nations if life is to continue on planet Earth as we know it.

Let us ratify the Genocide Convention right now and prove to the world that we are ready to join the community of nations in solving the problem of genocide.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized for not to exceed 2 minutes. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no requirements for the time allocated to me under the standing order, and I am prepared to yield it back.

Before I do so, however, might I inquire of the Chair are there special orders this morning?

The ACTING PRESIDENT pro tempore. There are orders for Senators SCHMITT, BAKER, STEVENS, and TOWER.

Mr. BAKER. Mr. President, I ask unanimous consent that all four special orders may be consolidated under the control as to time to the Senator from New Mexico (Mr. SCHMITT).

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. SCHMITT) is recognized for not to exceed 60 minutes.

ISSUES OF SIGNIFICANCE—THE LOVE CANAL SITUATION AND MOUNT ST. HELENS

Mr. SCHMITT. Mr. President, I thank the distinguished minority leader for his request, and I will try to make good use of the time.

Mr. President, Senator MOYNIHAN, the distinguished Senator from New York, and I sometime ago discussed the basic probem that we have in the U.S. Senate, and that is not enough time to be the great deliberative body we are supposed to be.

We and others with whom we discussed this issue decided we would experiment on occasion with a request for significant special orders time so that an issue of particular significance to the detailed or general deliberations of Congress could be discussed in an off-the-cuff, candid way with our colleagues.

A week or so ago we distributed a "Dear Colleague" letter suggesting that today the first issue to be so deliberated would be one which has just recently coincidentally come before Congress in several ways, first, by means of great publicity; second, by means of the appropriations process and the need for disaster relief funds of various kinds in two widely separate portions of the country dealing with two very different types of adverse situations inflicted on large numbers of Americans.

The first, and one which has been around the longest as far as politics are concerned, is that which deals with the Love Canal situation and similar types of situations in this country.

Love Canal represents a problem where, due to unforeseen consquences of the disposal of hazardous materials, a large area of land has become basically uninhabitable. It is not a disaster in the classic sense where there may have been a chemical spill of some kind that can be cleaned up at relatively low cost and then the land and the area become useful again. It is a situation where, unless we are willing to pay extraordinary amounts of money, we cannot deal with that land in the same way as we dealt with it in the past; namely, live on it, raise our children there, conduct productive activities in the vicinity of the Love Canal.

Another situation which geologically has been around far longer, of course, than the Love Canal is that represented by the eruption of Mount St. Helens in the State of Washington.

What is the similarity between these two situations? In both instances large areas of land previously useful to the American people are no longer useful or no longer useful in the same way as they were previously.

We still, under the present structure of our Government and our laws, are forced to deal with these two situations on an ad hoc basis, utilizing the normal chain of disaster, disaster relief, appropriations and then distribution of appropriate disaster funds by the Federal Government.

Mr. President, I submit to the Senate and to the Congress that we cannot continue to deal with situations of this kind in the same way as we have in the past. I am not sure how we can deal with them, but we must at least recognize that if we continue on an ad hoc basis to deal with situations where there is an indefinite change in the habitability and the usefulness of land and the area including that land, we are doomed not only to failure but to a vast expenditure of taxpayer resources for which the taxpayer can see no relief.

It could be that in these situations, as we now are contemplating in the case of the Love Canal, that a short-term expenditure of funds must be made in order to prevent this long-term, cumulative expenditure for which there is no foreseeable end.

Mr. President, let me discuss somewhat more specifically the situation that we are faced with in the case of the eruption of Mount St. Helens. Mount St. Helens is one of a chain of large volcanoes, running roughly north-south, in Washington, Oregon, and California. These volcanoes have, in part, been active in historic times prior to this most recent eruption. They have been known to geologists to be the types of volcanoes that have extremely violent and very broad-scale effects.

Throughout the Midwestern United States, if one does borings into the soils in what geologists call the stratigraphy, the layered rocks and soils of that area, we find extensive deposits of volcanic ash, some of which are up to 18 inches thick, that appear to be the result of eruptions much larger than the one we have experienced in the case of Mount St. Helens. Even though these eruptions are rare—the last historic eruption of Mount St. Helens being in the mid-1800's—nevertheless they are very pervasive in their impact, not only on the land but on the atmosphere and potentially on weather patterns, not only for the United States but for the entire Northern Hemisphere.

We are seeing in the case of Mount St. Helens an introduction of thousands of tons of sulfur per day, as an example of the kind of impact that we are seeing. Clearly, Mount St. Helens did not file an environmental impact statement and, to my knowledge, it has not done so yet today. It is one of those things over which man does not yet have any control nor can we expect man to have any control in the foreseeable future.

The picture that I have on the support here is one that just merely illustrates the vast character of the eruption of Mount St. Helens. Behind it is an indication of the kinds of effects that we have seen in this particular eruption. Fortunately for the people of that area and for the taxpayer of the country, the winds at the time of the eruption were such that the major deposits of ash were to the north and east of the mountain itself. Had the winds been, unfortunately, directed in a south or southwesterly direction, one can see from this map, where Vancouver, Wash., and Portland, Oreg., lie, that the consequences to the inhabitants of that part of the United States and to the taxpayer in general would have been far greater than even what we have experienced to date.

Vast amounts of timber were destroyed by the blast effects of the eruption on May 18. There were large deposits of ash throughout the Washington-Idaho-Montana area. In some cases, that ash may turn out to be beneficial to the farming of that area, but in others it will be some time before it is useful again.

There also were mud flows that have caused significant and serious alteration of the river systems in the Longview-Kelso area.

First of all, the ash deposits, as can be seen from this map, are very extensive in the eastern Washington-Oregon-Montana area. And some ash was deposited throughout the northern Midwest and even, contrary to this map, a few specks of ash appeared in Albuquerque, N. Mex., according to reliable sources in that area.

But in the eastern Washington area, as has happened many times in geologic history, there were large thicknesses of ash deposited, in the central portion of this diagram up to over a hundred millimeters of ash deposited not too far from the Idaho-Washington border.

Again, Mr. President, I emphasize these points, because of the fundamental change in the nature of the land and in what can be done with that land and in the consequences of treating it as a single disaster situation.

Another case in point with respect to Mount St. Helens is what has happened to the Cowlitz-Toutle River System, where the original base level or the original bed of the river was capable of taking fairly extensive flows in the periods of floods, principally in the spring of the year. Now we have, as a result of the mud flows and debris flows resulting from this volcanic event, riverbeds that are essentially filled up, filled up above what is flood stage, and even at the present time with a relatively low flow in some portion of that river we are above flood stage.

Now what are we going to do about it? Well, the obvious knee-jerk answer is "Let's dredge the river out." What are the economic consequences of doing that and maybe doing it several times over the next 20 years? The last time Mount St. Helens was in an eruptive phase it appeared to have lasted for over 20 years. There has been a fundamental change in what has happened in that area.

We must face, as representatives of the taxpayer as well as representatives of the people of that area, what are we going to do about it? How are we going to protect the vast investments these people have in that area and at the same time not expose the taxpayer unnecessarily to an indefinite period of high levels of expenditures which are going to be controlled by nature and not by man?

Mr. MOYNIHAN. Mr. President, I wonder if my friend would allow me to interrupt at this point.

Mr. SCHMITT. I am more than happy to yield to the distinguished junior Senator from the State of New York, who has his own problem that I referred to earlier in an analogy to this, the Love Canal situation.

Mr. MOYNIHAN. I wanted to bring in another analogy to add to the one that the Senator from New Mexico has just presented. But before proceeding with that, Mr President, may I make the observation, as I have done before, that the Senator from New Mexico is the first scientist to serve in the Senate since Thomas Jefferson presided as Vice President. It speaks something of the nature of our political processes and selection processes that this body should have lacked scientists for so long. But, thank Heaven, at last we have one. Thank heaven for a man who has explored many distant realms and returned to share his wisdom with us here in the Senate.

The Senator is, of course, a geologist, and it is a great pleasure for me to be discussing geology here on the Senate floor with him.

I wish to state, with respect to the Toutle River and the change in the riverbed and the flow capacity, if that is the term——

Mr. SCHMITT. Perfectly adequate.

Mr. MOYNIHAN (continuing). That the American Government has, for well over a half century now, been dealing with the problem of the protection of inhabitants on flood plains; flooding being both a natural phenomenon and, as we have developed the American Continent, increasingly a man-induced or man-facilitated phenomenon. Across the continent we have settled on the flood plains, we have cut down the forests and then the floods have come. They would have come anyway; they came in geologic times. But they have come more often and with greater destructiveness because we were there.

We have, for 50 years, been rebuilding the buildings that have been swept away by floods. I think it is one of the greatest lessons of our public administration that at no time did we observe the conditions to which the Senator is drawing attention, that the nature of the habitation does change in the aftermath of certain kinds of disasters, requiring a very different response to a drought, than, say, to a snowstorm, or a tornado. When the environment changes, the human settlement pattern has to change. To avoid this fact is to avoid the fundamental principle. For at least a half a century, and if I am not mistaken, even today, we have simply waited until the water went down and then rebuilt.

Of course, people built on the slopes of Mount Vesuvius for a long time, and public policy did not represent the most advanced judgment about the geological facts.

Mr. SCHMITT. I believe the Senator is correct in all of his statements. Hopefully we are a little more knowledgeable or have better communications than they did in the days of Pompeii, and we can learn from experience. That is one of the inherent differences between man, hopefully, and other animals, that we learn from experience and react from that learning.

Mr. MOYNIHAN. The Senator reveals the scientist in himself in some of his other activities in this body.

Mr. SCHMITT. I would say that the Senator bringing up the issue of flood plain management, if you will, is a very important thing, because even in the case of floods nature is renewing itself. The land after a flood is fundamentally better than it was before the flood. That is generally the consequence of a major flood. It may have cost us a great deal in the loss of buildings and property and maybe even lives, although we are minimizing that now through, again, learning how to predict and how to alert populations to these kinds of consequences. So we have reached some kind of an accommodation with nature and our impact on nature, which is so correctly emphasized, has exacerbated the consequences of flooding. Nevertheless, we have reached that accommodation to where we apparently, as a society, are willing to bear that expense, not exactly on an annual basis but on a periodic basis as these floods of the Mississippi and other major river systems occur.

We might want to question whether we have done the right thing there, but it would be maybe not as great an issue as what we do when the land is not rejuvenated at least within the time frame of human habitation and usefulness to the existing population.

As I indicated earlier, basically, Mount St. Helens has rejuvenated the land of the area exposed to the ash fall. There is no question about that geologically. But there is a question about somebody actually farming over the next few years and productively farming an area that now has over 100 millimeters of new ash on it.

Once that ash becomes soil and is worked into the existing soil and other natural processes take effect, clearly that land will be productive again. The reason this part of the United States, the eastern Washington portion and surrounding areas, has such productive agriculture is exactly because of these eruptions through time. But the point is over the next 20 years we just do not know whether that land is going to be productive, and the evidence indicates that we may well be exposed to these kinds of periodic eruptions now for many years.

Certainly, the volcanoes are relatively predictable once they start erupting. We know what the history of Mount St. Helens was in the last eruption. We know what its trends are in terms of geological evolution. It is slightly different in geological terms than was the previous one. It is a fairly predictable change once you have seen it occur. We know we are dealing now with a period of time, geologically, where the eruptions on Mount St. Helens will tend to be more violent than they were in the last century because of the change in the nature of the rock being formed, by the nature of the magmas being formed below. So we have to deal with those kinds of things.

These are speculative. Geology is not an exact science, nor is medicine or other sciences. You have to deal with reality as it occurs and try to make as good a judgment on the predictions of what the reality will be in the future as you can.

The issue, of course, that we are raising, is what do we do about this situation? Do we every year, or after every eruption, appropriate money to rebuild the roads, to rebuild the bridges, to provide for small business relief, for all the other types of disaster related loans that we have within our governmental structure? Or do we search for some other way of handling this kind of problem? What kind of certainty do we have to deal with in order to handle that problem?

Mr. MOYNIHAN. If the Senator will yield, how would we best go about making such a judgment? We have two situations to which the Senator has referred. First, the man-made situation at the Love Canal, where, for an extended but not indefinite period, the environment is toxic and uninhabitable, but the area affected is very small, measurable in square blocks.

We have at the other end of the country a situation where a basically benign event occurs to the long-term viability of the region, but which is by no means benign at the moment in the form of a red hot volcano.

Clearly, I believe our first emergency disaster legislation goes back to about 1950. Then it was tornado and flood legislation. Only gradually has it been extended to include refugee relief and other nonphysical disasters.

We have in the Federal Emergency Management Administration, with Mr. John Macy, formerly of Civil Service, a public servant of great achievement and spirit, whose service goes back to his direction of the Atomic Energy Agency in its early, crucial days. Few men in Government have had such a wide range of experience as he.

How would we speak to him of redefining this program, thinking about it in larger terms? If we were to read the legislative history of 1950 we probably would find that there was a tornado in the Middle West and the congressional chairman said, "Let us have a program."

Well, it has become a program that does not have good definitions, does not have adequate resources. We have been attempting to correctly spend what money there is but it is usually not enough. It does not have elasticity. We cannot say there will be *x* amount of disasters every year. It will be a curve that fluctuates wildly.

How would the Senator think we should organize this?

Mr. SCHMITT. I certainly think we should have a broad-based set of hearings in the Congress, maybe under the jurisdiction of the Appropriations Committee. I made that suggestion to the Appropriations, based on our experience this year. We have to get smarter than we are today. We have to examine what the various alternatives may be. Although it is against my general principles, I am participating here today in raising a problem without suggesting a solution to it. That normally is not what we have allowed in the space program or other endeavors in which I have been involved. I certainly do not like it in my office when someone only says, "We have a problem," because I would like to hear some suggested solutions.

We can suggest some this morning. We might suggest, for example, that instead of trying to develop a set of criteria based on the natural science of the situation as well as the politics of it, in the best sense of that word, we provide the opportunity for relocation.

Mr. MOYNIHAN. Surely, we have begun a process of rudimentary quantification of these matters. We speak of 100-year floods, 50-year floods. I think geologists speak of eruptions in such terms. It becomes possible to quantify some exposure, does it not?

Mr. SCHMITT. I think it becomes possible on historical grounds to quantify the length of time that the effect will linger.

Mr. MOYNIHAN. I think it is possible to quantify the probable incidence over times of these events in a large universe.

Mr. SCHMITT. That is much more difficult. I am not sure the Senator or I could ever convince our colleagues, the Congress, or even the American people that we are knowledgeable enough to make some prediction of the cost of these kinds of events on a statistical basis.

What we can do—I believe—is set up criteria for the kinds of occurrences where there clearly will be a long-term degradation in the usefulness of the land for the purposes for which it was used previously, and being able to do that is very important.

The flood, for example, we know. It is a one-shot affair each year. The land can, in most cases, begin to be reused as soon as the waters recede and things dry out.

On the other spectrum is the Love Canal, where we do not know how long yet that land will have to be isolated and not used. Here is one where we also do not know, but, based on one other occurrence, it may be 20 years before we can start to say that we have no further fear, statistically, of an eruption from Mount St. Helens; therefore, you can start to use this land, begin the process of using that land for whatever purposes it may be useful.

We do already know that we have a tremendous tourist attraction at Mount St. Helens. The United States has not been exposed to this kind of activity, nor is the world exposed to it very often. It is going to be of tremendous interest to tourists, but the area immediately surrounding the volcano no longer can be used for lumbering operations or harvesting of timber. Planting and harvesting of timber has to be delayed at least for 20 years, I am sure, before one would be willing to go in there and begin that process again. It will probably be more like 50 years in that case.

If the Senator will pardon me for continuing to interrupt, I think we have to distinguish between the uncertainty of the duration of an event and the consequences of that event versus those like tornadoes or like floods, where we have a great deal of certainty on how long the consequences will linger and we can make short-term plans to deal with it. We can handle that in an annual appropriations cycle. We cannot handle these kinds of events, in my opinion, in any businesslike way, any realistic way, any way that takes into account the limitations on the taxpayer, because of the essential difference in time scale that we are dealing with.

Mr. MOYNIHAN. And we also have some general notion about the incidence of annual events. We can speak of a 40-year cycle and so forth.

Mr. SCHMITT. Yes, we know that there are 700 tornadoes of major consequence in the Midwest every year. That is a good statistical number—although the population growth is making the consequences of those more expensive than they used to be.

That is another example I want to get to later, the question of earthquakes in southern California, for example. Where they were of no consequence 100 years ago, now, an earthquake could give a million casualties in a place where, 100 years ago, there would have been no casualties. It is that kind of situation. That is where man, as the Senator correctly pointed out earlier, is beginning to interact with these natural phenomena and exacerbating the consequences of them.

Mr. MOYNIHAN. I point to the Andreas Fault as an example.

I was beginning to point out how we might organize an inquiry on our part. We can certainly speak to Mr. Macy who, I think, would be responsive. We can have hearings within the Senate. The Appropriations Committee is a possibility. I have often thought the Committee on Environment and Public Works may be the more logical choice. How shall we proceed?

I sometimes wonder here about how do we address our respective policy committees and ask their judgment. We can always ask the Parliamentarian if there is a conflict or problem about procedure on the floor. But we do not have a Parliamentarian to determine jurisdiction in an undefined area. I certainly would be prepared to raise this question with the Committee on Environment and Public Works.

What does the Senator think?

Mr. SCHMITT. I would suggest, and my approach has been initially, to raise the issue in front of the full Appropriations Committee, to suggest to its chairman and ranking member that we look at the possibility of an extensive set of hearings by this committee.

Mr. MOYNIHAN. An ad hoc committee is perfectly possible.

Mr. SCHMITT. It may be that an ad hoc committee or a joint endeavor on the part of the Environment and Public Works Committee, upon which the distinguished Senator sits, in cooperation with the Appropriations Committee, which eventually must make the decisions on the funding, might be an appropriate way.

Mr. MOYNIHAN. The Senator has raised the central point of the differences in the duration of response and we are, God help us, still an agricultural body. We fund our operations in terms of the corn crop coming in every October and being sold downriver. The idea of a more than 12-month fiscal cycle has still escaped us.

Mr. SCHMITT. Within a 12-month fiscal cycle, I can certainly agree with the sentiments of the Committee on Appropriations that probably a billion dollars worth of disaster relief requirements have been generated as a result of Mount St. Helens.

But in the process by which we arrived at a number like $1 billion, I become very disturbed, because we were arriving at that number without any basic strong information on how that money was going to be used, what the requirements were going to be for it, and what were going to be the requirements next year and the next year and the next year.

We just do not have a process to deal with that kind of situation. That is what the Senator and I, I believe, are trying to get to. That is, how do we develop a process by which we can handle these kinds of events? Second, of course, how do we decide what that process is?

I think either an ad hoc group of the Senate, or, maybe, a joint operation between the committee of primary authorization jurisdiction for these kinds of affairs—which is the Committee on Environment and Public Works—and the committee then that has primary responsibility for finally disbursing the funds, which is the Appropriations Committee, might be the simpliest mechanism if we can get the chairmen of those two committees and the ranking members of those two committees to agree to that process.

We are fortunate today to be joined by the ranking member-to-be, I believe, and maybe—who knows—the chairman of the Committee on Appropriations.

Mr. MOYNIHAN. Who knows?

Mr. SCHMITT. Whether he has any thoughts on this matter or not that he wants to share is entirely up to him. We are happy to have him on the floor.

Mr. HATFIELD. Will the Senator yield?

Mr. SCHMITT. I am delighted to yield to the distinguished Senator from Oregon.

Mr. HATFIELD. Mr. President, I am sorry not to have gotten in on the beginning of this colloquy since it is of such vital interest to my State. As the Senator knows, I raised a question in the Appropriations Committee during the markup session dealing with the appropriation for Mount Helens, to set up a team of monitors to study the long-term health impact upon the people of the region. This is the only long-term commitment that was made in this appropriation action. It concerned me, because the Center for Disease Control had made some initial analysis of the ash. In that analysis, they did not find anything of immediate threat to the health of the people.

At the same time, they did find in certain areas some evidence of fluorides. Since so many communities, including the major city of Portland, have an open water system—that is, a reservoir system whereby the ash can fall into that water—any long-term impact, especially on youngsters—perhaps not adults, but youngsters—of saturated fluoridation could have possible consequences.

I am not attempting to make the evaluation, because no one knows at this point.

I think at the same time that I raised this, the Senator from New Mexico raised the question, very legitimately, as to these other matters of studying and coming to grips with these phenomena in terms of man and his environment. As a professional geologist, he spoke and speaks today with good authority, which I respect.

I only make one further suggestion. That is that to keep this ad hoc, if we go the ad hoc route, I think it might be well to consider the Energy and Natural Resources Committee, because in that committee we have a great deal of expertise in the raw material field, the natural resources of the area that existed prior to the eruption and which still characterizes that basic region.

Forestry—the Senator mentioned, a while ago, forestry.

An interesting thing happened, having flown over this and seen it firsthand, in fact, having seen the eruption itself, the May 18 eruption, I was taken off the Portland air base at 8:30, the eruption was at 8:32. We had a vantage point about 5,000 feet up to watch the entrie eruption.

The 150,000 square miles of utter destruction looked like moonscape. I am sure the Senator from New Mexico would have felt very much at home had he been on this trip, having been on the Moon. It looked like total and complete devastation.

Now, as the summer has arrived, we find in the deeper snows that they had covered the little fir trees that were then growing, and that as the snow melts away into this bleak landscape, the greenery is coming again in the patches—not throughout, but patches—of these fir trees, protected from that initial blast. It is an interesting phenomenon of Mother Nature preserving the remnants of life in these various forms.

I think the Senator from New York and the Senator from New Mexico raise today a very legitimate concern, because I have been reared, I was born and reared, in that area and taught as a school boy on, that there was only one active volcano, Mount St. Helens. Now we hear rumblings on Mount Hood and Mount Baker, and that whole area, perhaps, of what we thought prior would be inactive, dead, dormant volcanoes, however they describe them.

However, they are beginning to realize there is a possibility of eruption on any one of these mountains.

I think it is all the more evidence of what the Senator raises, that we need take a hard look at this, a long term look, as we have in other things, like the 100-year floods, and try to adapt to it so we do not build on the flood plains, and things of that kind. That is only one aspect of this very complex issue .

But I would be very happy to join with the Senator from New Mexico and the Senator from New York in working out some kind of a feasible framework within which to make this study.

As I say, I only raise a possibility of the Energy and Natural Resources Committee as an authorizing committee that has a great deal of involvement with the management and development of these raw materials and natural resources that are characteristic of this region.

Mr. SCHMITT. The Senator from Oregon makes an excellent statement. I must congratulate him, first of all, on his advocacy in the Appropriations Committee for a look at these long-term, what one might call secondary health effects on population as a result of large-scale natural events, or large-scale unnatural events, such as Love Canal.

I keep coming back to the two, not because I have anything against the two phenomena, but I think they both illustrate the fundamental problem with which the Congress has really never dealt.

Mr. MOYNIHAN. The problem of duration.

Mr. SCHMITT. The problem of duration.

Even the 100-year flood cycle is one where we say that within a period of time there will be one flood of short duration, consequences of short duration, in that period which will have disastrous consequences.

Here we are saying, and geologists can predict, it has been borne out, at least this Senator's opinion as a geologist, that Mount St. Helens is in that period; whether a few months or a few years, only time will tell.

Our one other example in this regard is that it will be a period of years, but it has not shown any sign as late as July 22 of letting up.

Again, I do not want to scare the Senator from Oregon, but it only takes direction of winds for the city of Vancouver to have as much ash as we see here in eastern Washington, which was over 100 millimeters.

I ask the Senator from Oregon, what are the consequences to the city of Portland if it gets that much ash deposited on it in terms of the human consequences, the economic consequences?

They are incalculable right now, but we know they will be of very great consequence.

We are not, really, prepared to handle those kinds of situations, not prepared to handle them in the Congress, in the authorization process, or the appropriations process. There is just no precedent for this.

The basic reason is that we are getting such concentrations of population that what before was a benign event, exciting, but benign, with respect to Mount St. Helens in the 1850's, is now something of major, major consequence to human beings who are clearly part of the environment.

Mr. HATFIELD. Will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. HATFIELD. The Senator makes a very interesting point, because as I indicated, when I left Portland, I ended up in Spokane that afternoon, one of the cities that had a major fall of this ash. The city was paralyzed. I may not try to reenact here the utter and total sense of helplessness that one had in that circumstance. I only say that as this ash fell, at 3 o'clock in the afternoon it was like midnight. The cloud had come across the 200-mile distance from Mount St. Helens, blocking out the Sun, dropping this ash like a light snowfall.

Then as they attempted to wash it from the streets, it formed into a gooey kind of mud, and they realized it would eventually plug the sewage system and they could not do that. Then they came along with other equipment that represented an internal combustion engine, and pretty soon the ash had filtered into this machinery, to stop the machinery.

Here again, with all our modern technology, they had not been able to deal with this particular phenomenon and, again, the sense of helplessness.

The highways were closed. The railroad was stopped. The airport was closed. We felt like we were a prisoner within the city. We could not leave.

That only lasted about 3 days. But there was a psychological impact on the people, I am sure, because I felt it just being there for 24 hours, not being able to escape. People were talking about escaping. It was not a matter of leaving, it was how they would escape the city.

There were smaller communities that did not have the resources that even the larger city of Spokane had, and they were really locked in, really isolated.

All these things have a tremendous impact.

The Senator mentioned the 100-year cycle on floods. What we have been able to evaluate in the past will no longer be predictable because of the interdiction of man into this environment, building dams, cutting off the watersheds, so that what might have been a short duration of a flood 100 years ago, we have to evaluate what we could expect for its coming near now to that 100-year cycle, what it would be with all these developments and all these changes in the environment that occurred since the last 100-year flood.

There are so many aspects of this that we have not really addressed.

I believe the Senator's idea should certainly be given hands and feet and some support here as soon as possible.

Mr. SCHMITT. I thank the Senator.

I wish to summarize and make a number of points.

One is the belief that the 100-year flood is a statistical idea. It does not necessarily mean there is a cycle of 100 years.

You may get 200-year floods in two separate adjoining years. Statistically, you will get a flood of that magnitude every 100 years. It is not as if there is a cycle. But there are cycles within nature.

There are weather cycles in my part of New Mexico. My father and I, for decades, at the insistence of my mother and others, have monitored the rainfall of that area, and we have records going back to 1876. Old Fort Bayard kept rain records most of that time.

You will find that there is a predictable 11-year rainfall cycle coincident with the sunspot signs. If you are willing to use that information, believe in it, over a 5-year period, I can tell you that this is going to be above average in rainfall and that if you are going to have flooding, it is going to appear in that period of time.

As we become more knowledgeable about nature, we are going to be able to make predictions of a statistical nature. Then you come to the question, what do you do about it?

Let us assume we can make those predictions. Let us look at the earthquake situation in southern California.

This area, part of which includes the volcanic chain of Washington, Oregon, and northern California—Lassen Peak was active until the 1920's—and this circle of fire around the Pacific is what we are dealing with. In western Texas and down in central northern California, we are dealing with very large population centers that are sitting on top of a portion of that circle of fire, a portion of which is very active in terms of earthquakes.

We are approaching a time when, if we would just go to work, we could approach it faster than we are today, so that we could make predictions about earthquakes of sizable magnitude in the areas of concern here.

Unfortunately, the administration has avoided advocating those kinds of expenditures, and Congress has not seen fit to create that kind of policy on its own.

We know from the China experience, from the Russian experience, and from our own experience, with the kind of technology this country has developed, that we could approach a time when we could make predictions with reasonable accuracy of events such as along the San Andreas Fault system. We have not done that, partly because we do not know what to do with the information.

Let us say we can predict an earthquake and that it has a potential of a million casualties, in some part of California, and that is not an exaggeration. There are places in southern California and around the San Francisco Bay area where an earthquake in the right place and of the right size, along that fault system, could give you something like a million casualties, plus vast destruction of property.

What are you going to do with that information? Let us say that you can give people a day or two notice, or a few hours' notice, of an earthquake. I do not know, because I do not know the answer, either.

The first time you are wrong, you are going to have trouble in this country having people believe you the second time. In China and the Soviet Union, you may not have that problem because of a different government structure and different social attitudes. I do not know that that means we should not try to predict. It just means that we have to deal with that issue here in Congress and in the State governments and in local governments at the same time we are developing the capability to make predictions—whether they are predictions of earthquakes, volcanic activity, drought, or other natural phenomena.

Long-term drought has the same general consequences the three of us have been talking about this morning. The Sahili, in Africa, is an example that we should take note of, and that is why we should have a more aggressive research program into climatic variables, in order to predict long-term climatic changes.

It is important to be able to predict tornadoes and floods. More important to the long-term future of this country and our children is whether we can predict the long-term cycles. They may last only a few decades, but in that period of time, they could cause tremendous consequences to the economy and vitality of this country.

The Senator from New York, the Senator from Oregon, and I have been raising the problem without giving any good solutions. I am not sure what the solutions are. I am not here this morning to lecture in geology. I am here to show that there is an interrelationship in what is happening on this Earth and the politics in the U.S. Senate, and the responsibilities and duties we have to protect individuals from the consequences of natural events—or unnatural events, in the case of the Love Canal.

I hope the Senate is willing to take on this process. It is not going to be easy. There are no experts in this. There are experts on various sides of it. Experts can tell you what may happen geologically. Experts can tell you what you can do with disaster relief money, if it is there. But how do you integrate these things? Nobody has done that, to my knowledge. It may turn out in our hearings that there is an analogy or a model we can use. This Senator is not aware of it.

It is a modern-day phenomenon. It has only been in the last few decades that we started to see this concentration of population in the areas where there is potential for natural or human-caused disaster that is beyond anything this country has been exposed to. It is not beyond human experience, but it is beyond anything this country has been forced to consider as a matter of public policy.

Mr. JAVITS. Mr. President, I commend Senator SCHMITT and Senator MOYNIHAN for initiating this discussion on disaster relief policy. As was poignantly illustrated during the floor debate on my amendment to the 1980 supplemental appropriations bill authorizing the President to relocate the affected families at Love Canal in New York, existing law does not adequately address those disasters which result in a permanent change in the habitability of the land.

The conference committee on the supplemental appropriations bill, in adopting the Senate amendment, also acknowledged the need for Federal action outside the scope of current Federal disaster policy. The report stated:

> The language proposed by the Senate and agreed to by the conferees acknowledges that the Love Canal situation, due to its severity, may require extraordinary measures to resolve. By permitting relocation for families living near Love Canal, the conferees are enabling the President, if he so chooses, to provide special relief to families adversely affected by the chemical wastes.

Current law authorizes the President to provide for temporary relocation only. Thus, Love Canal is an enigma to the provisions of Federal disaster assistance which is based on the premise that residents want to rebuild and return to their homes. While the homes at Love Canal have not been physically destroyed. they are inhabitable but economically worthless.

To date, over 500 families have applied for relocation assistance; however, only 300 have actually been given temporary housing. The cost to the Federal Government is in excess of $1 million a month. These families are living in motels, uncertain of their future and, most important, uncertain of their health.

The initial findings of Dr. Picciano of chromosome damage to 36 residents, which led to the emergency declaration last May, were subsequently criticized and essentially deemed invalid. Now, another review of the study confirms Dr. Picciano's original findings. A recent article in the Washington Post accurately describes the lives of the residents as an "emotional roller coaster." I ask unanimous consent that the article entitled "Love Canal Residents Get Joyless Ride" be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. Mr. President, I urge my colleagues on the Environment and Public Works Committee to commence a comprehensive study of disaster relief policy with a view toward addressing the problem of manmade toxic disasters. At the same time, I also call upon the President to use the authority given to him in the supplemental appropriations act to resettle the families at Love Canal and alleviate this grave and dangerous peril.

Exhibit 1

[From the Washington Post, July 26. 1980]

Love Canal Residents Get Joyless Ride

(By Joanne Omang)

Life has been an emotional roller coaster for the people of the Love Canal toxic waste dump area in New York, and it is not over yet.

First, a government study told them in May that they might have suffered chromosome damage. Then reviews of that study told them to relax, that the study was not worth much. Now another review is about to tell them that the initial report was correct.

The residents can hardly be blamed for their lack of faith in government, and it is all very embarrassing to the bureaucrats and scientists who, after two years of agonizing about the situation at Love Canal, finally seem to be acting on what they have learned.

The story of how it all happened is a classic Washington tale of turf struggles mixed with questions of deadlines, professional ethics, ineptitude and things just falling through the cracks.

The original chromosome study was done by Dr. Dante Picciano of Biogenics Corp. in Houston. Picciano's work was immediately attacked by other scientists as poorly done and incorrect. Now, a new review by the respected cell geneticist Dr. Margery Shaw, director of the University of Texas Medical Genetics Center in Houston, concludes that Picciano was right after all.

In addition, Dr. Marvin Legator, an environmental toxicologist hired by Hooker Chemical Co. to review Picciano's findings, said the results "will stand up to any scrutiny." Hooker is the company that put the waste in the dump during the 1940s and 1950s.

In a letter to be published soon in Science magazine, Shaw affirms the findings Picciano announced in May: there are fragmented and damaged chromosomes in some of the blood samples taken in January from 36 residents of the Love Canal area. "The abnormalities are there," she said in an interview. "I would call it a very high frequency."

Shaw, whom several scientists called an outstanding professional, joined Picciano in cautioning that neither the cause nor the effect of the damaged genetic material can be known now, and that much more study is needed.

But her defense of Picciano's work in Science is important because the influential magazine said in its June news section that the report had been "discredited" and had "close to zero scientific significance."

Editors there refused to comment, but it is understood that the entire issue will be discussed again in the news pages when Shaw's letter appears.

Shaw stressed that chromosome breaks by themselves mean nothing. "One will never be able to equate them in a blood cell with a clubfoot in a child. One cannot make leaps like that," she said.

But that is just the sort of leap the residents of Love Canal made in May after learning of Picciano's results. Their fright and outrage ended two years of government dithering. A state of emergency was declared, and they were moved out, but the government agonizing was not over yet.

Picciano's firm was only 5 months old when the call came in January asking him to do a pilot study on the chromosomes of Love Canal residents.

The call was from the Environmental Protection Agency. Concerned that people were still living over Love Canal two years after its dangers had become known, the EPA's enforcement division was looking for a way to get the courts to order Hooker Chemical to move the residents out.

Justice Department attorneys looked over EPA's reports on the place and decided more evidence was needed on possible danger to people at the site. Neither EPA nor Justice was aware that just such evidence had been reported the previous year.

In 1978, the New York State Health Department had taken a 22-page health questionnaire from 2,600 Love Canal area residents, getting consent from them to let the results—but not the raw data—be evaluated by other officials.

A panel of scientists headed by Dr. David Rall, director of the National Institute of Environmental Health Sciences (NIEHS), part of the old Department of Health, Education and Welfare, had found the results so impressive that HEW put out a news release on it.

Dated July 26, 1979, the release said Rall's group had found increased miscarriages, birth defects and various chronic diseases among the Love Canal residents "as a consequence of exposure to a chemically contaminated environment."

It recommended "that these exposures be minimized to the extent feasible" while study continued. Comparison with "control groups," persons not exposed to the chemicals, should be made at once, it said.

EPA and Justice knew about the questionnaires, but the right people did not know about the Rall review, according to sources in both places. "This whole thing might have turned out differently if we'd had that," one said.

But they didn't. EPA therefore reached again for health effects evidence that HEW already had, asking through a standing research contract at Texas Tech University in Lubbock for Picciano, who had worked before on EPA studies.

"He was our first choice," said Charles Morgan of EPA's hazardous waste enforcement task force. The idea, Morgan said, was to get a pilot analysis of blood chromosomes to see whether that area would be fruitful for a larger study and more conclusive evidence later.

"They told me they wanted results as soon as possible. That was their prime interest. They wanted a preliminary study on whether the people at Love Canal had chromosome damage."

Picciano suggested in a series of telephone conferences that he test 25 area residents and 25 control subjects who had not been exposed to the Love Canal wastes. The use of controls, who are treated exactly the same as test subjects except in regard to the area under study, is considered crucial to exactness in science.

There was resistance to testing a control group, Picciano said. "They said it would take twice as long." He also got the impression, he said, that the EPA negotiators were also concerned about the cost, although it was not mentioned directly.

Morgan and three other EPA officials agree that they wanted the study done as quickly as possible, but insist that there was no opposition to having a control group. They told Picciano to go ahead.

Under the impression that he would be studying controls later, Picciano said, he and Beverly Paigen of Roswell Park Memorial Institute of New York selected 36 Love Canal subjects and took blood samples in January. EPA asked him to do those slides right away "and if you see any aberrations then come up and do the controls," Picciano said.

He went back to Houston with the slides, thinking EPA would call him back with authorization for the controls, which would double his $11,000 contract. "I never heard back from them until a month later," Picciano said.

At EPA, meanwhile, officials thought controls had already been authorized: "It was assumed . . . but there was a breakdown in communications, and that is not the way the work documents actually placing the order finally read," said Dr. Vilma Hunt, EPA's deputy assistant administrator for research and development. "It fell through the cracks."

The work order called for comparing Love Canal results with other test subjects from previous Picciano reports, and that was what Picciano finally did. In the meantime, he assumed that EPA had lost interest, since he hadn't heard from anyone. When his technician gave him the final results, he recalled, "I let it sit in my desk for three weeks before I looked at it . . . then I said, Oh my God, we've got problems!"

He sent summaries to EPA May 5 and 14. There were eight samples with "supernumerary acentric chromosomes," extra chromosomes without centers, where only one in 100 normal people would show that, he said. The summary noted that it was a pilot study and that there were no controls. "I knew how it would be attacked," Picciano said.

The report was leaked to The New York Times on May 17, spurring EPA to inform Love Canal residents that day about the study results. The scientific community began to criticize it almost immediately.

Without controls, said New York Gov. Hugh L. Carey and state Health Commissioner David Axelrod, the report was highly questionable. National Institute of Health official Dr. Robert S. Gordon deplored the lack of controls, and said testing the most severely exposed Love Canal residents had biased the study toward finding problems.

Hall of NIEHS organized a panel of eight scientists to give Picciano's study the customary peer review, but Picciano and Rall were unable to agree on the composition of the panel, and the group never saw Picciano's slides. It reported that the study does not provide definitive evidence for health damage.

Picciano produced a favorable review by his friend and former boss, cytogeneticist Jack Kilian of the University of Texas Health Science Center in Houston, but more attention was paid to an EPA panel which reported June 12 that it found no evidence of damage.

That panel, headed by Dr. Roy E. Albert, chairman of the New York University Medical Center, did not see the slides either, but relied on photocopies of a photocopy of pictures of the preparations. Albert's report said the panel "did not think it useful" to see the slides, since the absence of controls would make further checks meaningless.

All the while, Legator's report to Hooker Chemical supporting Picciano had not been made public, though, as director of environmental toxicology at the University of Texas' medical branch at Galveston, he is regarded as well-qualified.

Hooker will say little about Love Canal, contending that the issue will have to be settled in court. Legator only recently broke his silence. Criticisms of Picciano's technique, he said, are "a lot of bunk."

The overall public reaction, echoed in Science, was that EPA and Justice, trying for quick results, had gone after a quick and dirty study outside EPA's field and had scared people needlessly, hurt the case against Hooker Chemical and given the entire government a black eye.

In the view of several people at EPA and Justice, the government already had a black eye from not moving sooner. "Nobody wanted to get involved in it, but when the pressure got heavy there was a big turf battle," said an EPA source who was involved from the beginning. "Nobody wanted to do it, but they didn't want us to do anything either."

Rall of NIEHS said in an interview that regulatory agencies like EPA have "a seeming conflict of interest" in doing research on which they then base regulations. Dr. Gilbert S. Omenn, a geneticist in charge of health and human services at the Office of Management and Budget, said EPA had responsibility for environment work and the Health and Human Services Department for health work, "and I think that's an appropriate division of labor."

HHS Secretary Patricia Roberts Harris denied that there were any turf problems, but met with EPA Administrator Douglas Costle yesterday to work out "an overall operational arrangement." Reports that HHS (formerly HEW) had been reluctant in the past to do health studies on the waste dumps EPA was finding every day were exaggerated, she said.

"One of the things we talked about today is how we can be more responsive to his regulatory needs," she said.

The overall difference in approach was summed up by Justice's James Moorman, head of the land and natural resources division, which is prosecuting Hooker Chemical:

"When you get an answer to the question you ask, the government has to act because it has to govern. It can't wait 10 years, if that's what's required to get the final answer that the scientists want."

And back at Love Canal, homeowners' association president Lois Gibbs was bitter. "We have really been jerked around on this," she said. "We no longer trust the government."

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 10 a.m., and that Senators may speak during that period.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

NUCLEAR WASTE POLICY

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, which will be stated by title.

The bill clerk read as follows:

> A bill (S. 2189) to establish a program for Federal storage of spent fuel from civilian nuclear power plants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2189, and the pending question is the amendment of the Senator from Oregon.

AMENDMENT NO. 1655 (AS MODIFIED)

Mr. HATFIELD. Mr. President, the purpose of my amendment 1655, as modified, remains as I stated it on February 6 when I introduced it. It provides that all obligations of the special account established in this bill will be covered by charges to the generators of the nuclear waste; that the expenditures from the account and, therefore, the charges to the generators will cover all civilian waste management activities undertaken by the Government, including all handling and transportation and the construction, operation, and maintenance of all facilities for storage or ultimate disposal; that any appropriations made for such activities will go directly into the account and be completely reimbursable to the Treasury with interest, and that expenditures from the account will be subject to congressional controls through approval in annual appropriations acts.

In that Congress may decide to make such approval in very general or very specific fashion, I have left no doubt as to the explicit approval necessary for an expenditure of funds specifically to initiate construction of any major waste handling or storage facility. "Major" is defined as costing $1 million or more.

Mr. President, I think the theory of full-cost recovery principle is a sound one which this amendment embraces. I would like to go into now some of the comparisons and differences with the existing bill to which this amendment would apply.

The bill states the account will cover operation of spent fuel storage, transportation and disposal. My amendment clarifies that this includes construction and operation as well as AFR's, and all costs of transportation, handling, long-term storage, and ultimate disposal of wastes.

Another contrast or modification to the bill that this amendment would make is that the bill would permit nonreimbursable appropriations to be made to carry out any purposes of the act except those made under section 308 which must be deposited into the account.

My amendment prohibits appropriations from being made to carry out the purposes of the act, except for R. & D. and the low-level waste study of title VI, unless such appropriations are immediately deposited into the account, making them subject to the conditions of the account, including the fact that they would then be completely reimbursable to the Treasury with interest.

The third difference and implication of this amendment is the bill allows the Secretary to draw on the account for whatever he deems necessary to carry out the purposes of the act. In that the act provides broad-brush authority for the Secretary to take actions to transport, store and dispose of wastes, which would include, I presume, construction of major facilities and systems costing millions of dollars, I believe there should be a congressional check at the point of initiation of any major construction or acquisition, and this check will be an explicit approval of an expenditure of funds for such initiation in an appropriations act.

Now, in effect, Mr. President, my amendment seeks to clarify not only the authority of the Secretary as granted in the bill which, I believe, such broad-based authority could include and incorporate the specifics of my amendment but do not necessarily require it or address that point, but my amendment clarifies that the operation should include construction and the operation of the AFR's.

Again, I believe, Mr. President, that the basic principle in this amendment is a sound one. I would remind my colleagues on the committee, the Senator from Louisiana and the Senator from Idaho, that in effect we adopted this very principle in the Northwest energy bill.

In that bill, if the Senators recall when we were making a determination on how to set a priority of energy development for the Pacific Northwest under a 5-year proposal made by the council in that bill, we set the priorities in such a way that they would have to go through a cost analysis. In that cost analysis as it related to nuclear power, it had to incorporate all of the costs, the true costs, of that operation which included the handling of waste disposal, transportation, storage, and so forth, and the dismantling cost of such reactors when their life term expired. And that was incorporated as a basic principle in a fair cost analysis of what energy really was going to ultimately be priced at for comparative bases there with other sources of energy.

So this is not a new principle. This committee has studied this principle before and acted upon it in an affirmative way in the Northwest power base.

So I think it is a sound principle that would be just as applicable to this bill that we have under consideration and I would urge its adoption. Mr. President, I reserve the remainder of my time.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, with the principle that the Senator from Oregon enunciates, we have no difficulty. As a matter of fact, the principle of full-cost recovery is one that we thought was incorporated in the bill. The language which we have provides for the one-time payment of cost sufficient to cover transportation, AFR storage, as well as any permanent or long-term storage. So it is certainly our intent to incorporate that concept, and I believe it is incorporated in the bill.

Now, to the extent that we have imperfectly achieved that goal, we are more than willing to talk about how to get it done.

I must say that there are some problems, though, with this amendment which I might discuss with the Senator. I would like to be able to work it out with him so that we can have an agreed amendment.

Let me tell the Senator what some of our problems are. First of all, it provides congressional approval of any expenditure of funds to acquire or construct any major nuclear waste facility, that being defined as over $1 million.

Now, this could be subsystems. It could be handling facilities. It seems to me that what the Senator wants here with respect to a nuclear waste disposal site is an authorization and an appropriation for the site, but not with every little subsystem.

Mr. HATFIELD. Yes. Will the Senator yield at that point?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. The Senator makes a very excellent point. I am not locked in at all to that million-dollar figure. We were trying to get a criterion established. Maybe $5 million would be more appropriate. I do not want to get into the things the Senator brought up. That is not the purpose behind the amendment.

Mr. JOHNSTON. Second, with respect to AFR's, as the Senator knows, there are three principal existing sites which are being proposed for AFR. These are Barnwell, S.C., Morris, Ill., and West Valley, N.Y. The contractors in each area are most anxious to get the Government to take over these sites for the purposes of AFR facilities. The people at Barnwell think their site is particularly suitable.

If we come in at this point and specifically authorize the acquisition of one of those named sites, if we make the decision, the first thing we have done, I think, is to make a political decision out of something that ought to be a scientific decision.

Second, and perhaps most important, we take away any negotiating power of DOE. If we give to DOE, as we have in this bill, the mandate and the authority to go out and acquire an AFR site and allow them to bid among these three, they can get a much better deal for the Government.

So if we could exempt this first AFR from that requirement of specific authorization and appropriation, I think it would be most helpful.

Mr. HATFIELD. I, perhaps, have a little different reading of the bill than the Senator. I do not believe that the bill specifies, other than it may acquire one of these existing facilities. The power, the flexibility of negotiation, is still within the DOE. The bill does not specify, does it? It merely indicates that it is authorized. There is authorization granted in the bill to acquire such an existing facility, but it does not designate that facility.

Mr. JOHNSTON. Well, the Appropriation Act would have to do so.

Mr. HATFIELD. Yes, the Appropriation Act. But that would come after the DOE had made its negotiations and had made its justification before the appropriation for such moneys, would it not?

Mr. JOHNSTON. In the case of the AFR, it was our hope, in the Appropriations Committee, to include money for the acquisition of an AFR site but not to name the location, in order to give them that flexibility to acquire whichever one they could work out the best deal with.

If we could exempt AFR from that and be sure that what we are really talking about is anything beyond the first AFR and, thereafter, any long-term money toward retrievable or a geologic site would require authorization and appropriation, I believe we could put this amendment together on that point.

Mr. HATFIELD. I want to work with the Senator to modify this to be acceptable.

Let me point out, if I understood the Senator correctly, I think we are dealing here with the basic principle of legislative process. I really am not sure that I can go along with the Senator. It seems to me that what we want to do is to give authorization, as this bill does, to the DOE to go out and negotiate. But I believe the DOE ought to then be required to come to Congress with a specific proposal that they have negotiated in order to get the appropriation to make the purchase.

I do not believe that we ought to fund that purchase before we have had a full review in the appropriations process and had the full justification of that purchase.

Does the Senator agree or does he disagree with that basic idea of legislative procedure?

If I understood the Senator a while ago, he wanted to make a lump-sum money or appropriation of some money for the DOE to go out and make the negotiated arrangement to make a purchase. I am suggesting that we authorize the DOE to make such negotiation, but then require the DOE to justify the amount of money for that purchase through the appropriations process.

Mr. JOHNSTON. Frankly, we have not worked out all of our language in the Appropriations Committee, as the Senator knows, since he is on the subcommittee. We do not know what Congress is going to do on this bill yet and this may affect it.

But our tentative intention is to put in some money, not the full amount for construction for AFR, but put in some money this year necessary to get the process started so that the site can be selected this year. We want to give the DOE the mandate and the authority to go out and negotiate. Unless they have that authority, it is going to go on as it has year after year with no sites selected.

So if the Senator would give us the authority to go out and acquire the sites without coming back, if the Senator desires, we can name these three sites.

Mr. HATFIELD. May I suggest that we have the call of the quorum and get together for a moment, because I think we can iron out some of these problems, what I do not think are insurmountable problems, and get this amendment taken care of very quickly that way.

Mr. JOHNSTON. I thank the Senator. I hope that we could.

Mr. HATFIELD. Are there any other problems the Senator has with the amendment, other than the ones we have already discussed?

Mr. JOHNSTON. We have some other small things.

Our problem would mainly be, for example, where it says we must have a one-time payment to carry out all the costs associated with this act. We now have military waste referred to in the act. We want to be sure what the Senator is talking about there before we say all purposes of the act. I do not think the Senator means to carry the cost of military waste in the civilian program.

Mr. HATFIELD. No, we do not.

Mr. JOHNSTON. I think there is mainly a sort of drafting problem.

Mr. HATFIELD. All right.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I think the suggestion of the Senator from Oregon that we perhaps have a brief quorum call and try to work out some of these language problems we have received is valuable, and I think we can perhaps do that. However, before doing that, I might express a couple of points now, so the Senator from Oregon can understand where I am coming from.

First, I want to agree with the Senator from Louisiana that we hoped we could, by some means in this bill, authorize enough so that the Appropriations Committee this year could make the start on the AFR. We are already too late to meet our needs. We are going to run into some trouble. I think we need to expedite that even to the extent of perhaps doing something in a different context we might do differently because of the urgency of getting it done now.

We all know we are going to have to do some reracking at commercial reactors in order to get the fuel changes made that are already required by the operating schedules. I do not imply that there is anything dangerous in what will be done. I do not mean that at all. But I do suggest that what we are trying to do is not economically efficient, and in some instances, before we complete an AFR, we may well run into the necessity of either doing something that is not as safe as we would desire it to be, or that we close down nuclear operating plants. I do not think that is the desire of the Senator from Oregon. It is certainly not the desire of the Senator from Idaho.

So we do need to get started. I think in that context I have these suggestions concerning the language of the amendment.

As I understand it, under the amendment no money could be expended unless it had first been paid into the fund and then appropriated out of the fund by specific authorization and specific appropriation.

The Senator has already responded to the question the Senator from Louisiana asked about military expenditures, but there are others, too, because the amendment in its terms is broad enough to include all funds of all Federal agencies that might deal with this question. That would include the Nuclear Regulatory Commission, EPA, CEQ, DOE, and moneys that might go to State planning councils under this legislation. I do not think that is the thought of the Senator from Oregon.

Mr. HATFIELD. If the Senator will yield on those two points——

Mr. McCLURE. I am happy to.

Mr. HATFIELD. On the first point, the Senator is quite right. We do not intend to put this whole operation into a straitjacket.

The Secretary could borrow from the fund. There is that flexibility that we want to preserve, so that the Secretary has the opportunity to borrow from the fund and to make those decisions.

The second is no, the Senator is quite right, we do not intend to make this that broad, that we include military or make this all encompassing. What we are trying to do is to put in some parameters or some clarification as to how we felt about it, some clarification as to the extent of the operation involved here. I do not think there is a real conflict between the Senator from Idaho and myself at least on those two points.

Mr. McCLURE. I appreciate the statement of the Senator from Oregon. I think we can work those out. I think we understand each other and I think these problems can be worked out.

I might make reference back to the Pacific Northwest power bill. The Senator may recall that at the time that amendment was debated and adopted I raised the question that it seemed to me we were prejudging an issue which had not yet been before the Congress, which had not yet been decided. That is the question of what kind of a fuel charge is going to be made to the commercial entities. There is a debate about that, and I think that debate is not going to be resolved in this legislation and should not be. But whatever that charge is, it is certainly going to be fully recovered, and I think the Senator from Oregon and the Senator from Idaho are in agreement about that. But there is a debate going on as to how that charge should be computed.

I believe there can be no doubt that the method by which the computation is carried out and completed has a bearing on how this would be applied.

Because I think it is premature for us to be able to determine what that charge would be, we have to be careful in what we do both legislatively in the language of the legislation and in the legislative history, that we do not imply that we have prejudged that question, and that the charge will be whatever the charge is later determined to be.

Mr. HATFIELD. If the Senator will yield, the Senator is precisely correct about that as far as what my intent is. We are not trying to set up the ultimate or final criteria on what that should be based upon, but we are talking about the final costs, whatever they may be. That is basically what we are trying to cover.

Mr. McCLURE. And if we go one way the debate is going on one side of that issue. If that is what Congress should ultimately decide, that there be a single charge, if that is what Congress ultimately decides to do, that single charge would be the only charge that the Senator intends to be covered by this.

Finally, I am not quite sure what the term in the amendment means when it says explicitly approved by act of Congress. Explicit approval could require another authorization as well as another appropriation. It also could be either authorization or an appropriation line item. I think we need to be certain what we mean by that term.

Mr. HATFIELD. The Senator raises a very valid point on that issue as well. I would say that it would be the intent to make that a line item in the appropriation, rather than having to go through both the authorization process and the appropriation process, to simplify it and keep this as efficient an operation as possible.

I merely want a congressional involvement here, periodically, at least, in order to have a review and have that vehicle provided in the appropriation process. So it would be a line item in the appropriations.

Mr. McCLURE. I thank the Senator. I have one final question. I think the suggestion of the Senator from Louisiana could be expedited at this point by having a quorum call, getting our heads together, and seeing if we can work out the language.

Some of these facilities are going to be jointly used. Particularly, materials handling may well be used to handle high-level military and also commercial waste. I think we are going to have some problem either in definition terms or in dollar amounts or in separating out what allocation should be made. That is not insuperable but I think perhaps we should address that, too, as we are discussing this amendment.

I thank the Senator from Louisiana.

Mr. HATFIELD. Will the Senator yield on that one point?

Mr. McCLURE. I yield.

Mr. HATFIELD. This would have to be done anyway under the cost calculation procedure. It seems to me that within that procedure we could extrapolate that pertinent information that might apply to these other groups or such other entities.

Mr. McCLURE. If the Senator will yield further my earnest concern is this: The Senator said it was not his intention to apply this requirement in this legislation to that which might be a military program. I agree with that aim. But if it handles commercial waste on which there would be a cost recovery, even if there is such a calculation, this amendment, by its terms, would require specific authorization before the military activity could be undertaken because it might end up being a portion of the cost recovery. I do not think that is the intention of the Senator from Oregon.

Mr. HATFIELD. Mr. President, what is the time factor?

The PRESIDING OFFICER. The Senator from Oregon has a little less than 38 minutes remaining. The Senator from Louisiana has 25 minutes remaining.

Mr. HATFIELD. Mr. President, if it is agreeable to the managers of the bill, I suggest that the call for the quorum be charged equally to both sides at this point.

Mr. JOHNSTON. Mr. President, I am wondering if the Senator from Oregon would agree—as far as I am concerned, I am willing to let staff go ahead and work out our arrangements and perhaps go to the next Hatfield amendment. There are some of the other Hatfield amendments that we hope to be able to accept and work out. If the Senator prefers that, we can proceed with those.

Mr. HATFIELD. I think that is an excellent suggestion. Then we can expedite the whole procedure here this morning.

Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

AMENDMENT NO. 1656 (AS MODIFIED)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read as follows:

> The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 1656, as modified.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 11, lines 23 and 24, strike "produced from the reprocessing of spent fuel or" and ";", and insert at the end of line 24 ", including reprocessing of such spent fuel if such reprocessing is undertaken in the United States;".

Mr. HATFIELD. Mr. President, this amendment simply clarifies that we should not have to design or build a storage facility to accommodate civilian reprocessing wastes if reprocessing of powerplant spent reactor fuel is not undertaken in the United States.

Mr. President, in order to make the intent of this amendment more clear, I modify it by inserting the word "such" following the word "if" in line 3. I further make a technical change by making the first period in line 4 a semicolon.

The amendment was so modified.

The modified amendment is as follows:

> On page 11, lines 23 and 24, strike "produced from the reprocessing of spent fuel

or" and ";", and insert at the end of line 24 ", including reprocessing of such spent fuel if such reprocessing is undertaken in the United States;".

Mr. JOHNSTON. Mr. President, we have some difficulty seeing what changes this makes in the bill. Could the Senator explain what the change really is?

My question is, Is the only intent of this amendment to provide that the nuclear waste disposal facility can accommodate only reprocessed fuel if reprocessed in the United States?

Mr. HATFIELD. Exactly. Otherwise, we do not feel the reason to add the economic factors there to design it for that if that is not undertaken.

Mr. JOHNSTON. I am informed by staff that there is a small amount of reprocessed fuel from civilian activities from inside the United States in existence now and this amendment, of course, would not prevent that from being sold?

Mr. HATFIELD. No; because that would be—if the processing is occurring, that is different. But why design these if reprocessing is not in progress?

Mr. JOHNSTON. Mr. President, subject to the comments of my distinguished colleague from Idaho, I am willing to accept this modification.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. McCLURE. My concern is this, Mr. President: If the thrust is to get at the reprocessing of commercial fuels, I have no question concerning it particularly. But we do have some nuclear materials from outside the United States that are associated with research activities, which would seem to be covered by the language in this amendment.

Mr. HATFIELD. That is just what we were commenting on with the majority manager; that is, that reprocessing that is occurring now would, of course, continue to occur. But the point we are trying to make here is why require—why impose this upon other facilities if they are not in the process of reprocessing?

Mr. McCLURE. If the intent of the amendment is to leave the question of the decision on reprocessing in the United States neutral, I share that.

Second, if it is designed to preserve the effect of what has become known as the McClure amendment with respect to the return of nuclear materials from overseas for storage in the United States, I also support that, of course.

Mr. HATFIELD. I think that the neutrality to which the Senator refers is precisely what we are doing here. We are not prejudging it in favor of reprocessing, nor are we prejudging against reprocessing.

Mr. McCLURE. We are really talking here not about the peripheral associated waste materials that may come from other activities, but not reprocessing of commercial fuels?

Mr. HATFIELD. Exactly.

Mr. McCLURE. What we really are talking about here is the commercial fuels question?

Mr. HATFIELD. Precisely.

Mr. McCLURE. I think with that history, and maybe with a word change or something, we can accommodate that. I certainly agree with the thrust of the amendment of the Senator from Oregon.

Mr. HATFIELD. I thank the Senator from Idaho.

Mr. President, I am ready to yield back the time on the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I have a question or two for the distinguished Senator from Oregon.

My question is this: The language seems to talk about the design of the facility. Such facility shall be designed for, and then we speak of what they are designed for.

Now, is this intended to be a limitation on use or a limitation on the design?

Mr. HATFIELD. The design. We are not reprocessing before we actually make that determination, but requiring it to be incorporated on design. It is under the design section.

Mr. JOHNSTON. So that, really, what the Senator is talking about, it is the size of the reactor, since there would be no difference in the design of reprocessed waste, whether reprocessed within or without the United States, that would not really affect the design?

Mr. HATFIELD. Not affect that which is already in operation.

What I am trying to do, as I read the wording of the bill today, we are prejudging the question of reprocessing in the design section of the bill. I am, really, wanting to remove that prejudgment, that that remain open until we make that determination, and if there is already that determination for reprocessing, as we are doing in certain areas that continues.

There is no implication there at all.

Mr. JOHNSTON. Let me say that I am very much in accord with the Senator from Oregon on the question of reprocessing.

The advice I received at this point is that it is probably not economical, aside from other considerations, to reprocess at this time.

But I believe it ought to be an open question and we do not want to prejudge that question in this.

Second, on military waste, it is not the intent to preclude the storage of military waste in such facility, is it?

Mr. HATFIELD. No. This only covers the civilian nuclear plants. Consequently, we are not addressing the question of military at all.

Mr. JOHNSTON. I do not believe we had a prohibition in the statute as to the storage of military waste and maybe we have a first-rate civilian nuclear repository where they would want to put in some military waste. We do not preclude that.

Mr. HATFIELD. We do not preclude it in this amendment either. We have no intent to address that issue because that is a part of the cost factor. Then it would be, of course, found in the cost analysis, I suppose, as to what they are going to allocate that additional cost factor to the military. But that does not involve itself here in the design of the facility.

Mr. JOHNSTON. Let me ask one more question, and then I will yield to my friend from Idaho.

So that the only effect of this amendment is that when the facility is designed, they shall design it in mind for the reprocessed waste, if any, stored in the facility, shall be reprocessed in the United States as opposed to reprocessing abroad?

Mr. HATFIELD. I wonder if the Senator would repeat his statement.

Mr. JOHNSTON. Yes.

First of all, the only effect of the amendment relates to design and not to the use.

Mr. HATFIELD. That is correct.

Mr. JOHNSTON. And, second, the Senator does not preclude the storage of either military or reprocessed waste in the facility. It is simply that he wants to design it so that if reprocessed wastes are stored in the facility, that they be U.S. reprocessed waste.

Mr. HATFIELD. The Senator is correct.

What we are really trying to do here is require the decision on reprocessing to be made prior to the design, that if that is part of the program, if we want to, that is fine.

But I do not think we should have to prejudge the question of reprocessing across the board as if it would be applied in every case.

Mr. JOHNSTON. I might say that we have language in the amendment to the effect that the facility should be designed to accommodate both spent fuel rods and reprocessed wastes interchangeably. This would not affect that provision?

Mr. HATFIELD. I think I can, maybe, clarify again

Let me start on page 11, if the Senator would follow me on page 11, beginning at line 19:

> Such facilities shall be designed to—
>
> (a) accommodate spent fuel from civilian nuclear activities without reprocessing, as well as the high-level radioactive waste—

Then we cross out:

> produced from the reprocessing of spent fuel or—

And then it would then read:

> As well as the high-level radioactive wastes from all civilian nuclear activities, including reprocessing of such spent fuel if such reprocessing is undertaken in the United States.

Mr. JOHNSTON. My confusion is that I do not see how the designer would take this into consideration. Would it be larger or smaller?

I mean, we are going to design it for both reprocessed and nonreprocessed waste; am I correct on that last statement?

If we are going to design it for both, I do not see what directions this would give to the designer.

I mean, how is that design going to be different if the reprocessed wastes stored there are reprocessed in the United States or in Germany?

Mr. HATFIELD. We are designing it only for reprocessed wastes if that has been a decision. We are not prejudging the reprocessing now. Otherwise, what we are doing in this bill, and correct me if I am wrong, as I read the bill in its present wording, we are prejudging the whole issue of reprocessing and we are incorporating it in the design of this whole operation.

Mr. JOHNSTON. No.

Mr. HATFIELD. I would much rather let that issue remain moot and neutral until we get to that point.

Mr. JOHNSTON. I am very much in accord with the Senator. We do not know whether we are going to reprocess, or not. We do not want to prejudge that issue. We want facilities to be designed to be interchangeable, can use reprocessed waste or nonreprocessed waste.

I do not think there is, basically, any difference in the design of a facility that contains reprocessed wastes or nonreprocessed wastes. We still have the same. It may be a little easier to dispose of reprocessed wastes if, particularly, they are in vitrified classified form.

Mr. HATFIELD. The Senator, if I understand correctly, wants to design these facilities to accommodate reprocessed waste when we have not even determined if we are going to have reprocessed waste.

Mr. JOHNSTON. It would be either/or.

Mr. HATFIELD. Then, he has prejudged the whole proposition of reprocessing.

Mr. JOHNSTON. I do not know what you would add to a facility to handle reprocessed waste that you do not have with spent fuel rods. I believe the difference would be with respect to the kind of container you would put it in.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. I thank the Senator for yielding.

My difficulty is this: I understand what the Senator from Oregon wants to do, and I do not disagree that we should be as neutral on this issue in this bill as is possible to be. But our problem is this: There is a deferral on the decision of reprocessing. That is a deferral that has been announced by the administration. It is an action that has been acceded to in Congress. There is a deferral now, but it is not a decision not to, and it is not a decision to go forward. So we are in a kind of neutral limbo on the issue of reprocessing.

What the Senator's amendment indicates is that, even though we might make a decision 2, 3, or 4 years from now that the storage facility cannot even be designed to accommodate that decision when it was made, if it should be made in that direction—and I believe that is not neutral on that side of the issue, either. But certainly it should not be designed just to take care of reprocessed fuel, because that would not be neutral on that issue.

So we are designing a facility that is going to be used over a good many years in the future. But if we exercise the reprocessing option at some time in the near future, we will then have to design and build an entirely new and separate structure, perhaps, if the design has to go that way.

I do not want to prejudice this decision about reprocessing, and I do not believe that what we are trying to do here is designed to do that; but it seems to me that we should be given all the latitude to design a facility which is appropriate to the uses we now have. To the extent they could do so, without changing the design, increasing the cost, or prejudging the issue, they should be able to incorporate into that design whatever might be necessary if we exercise a reprocessing option during the lifetime of this facility.

It does not seem to me that it would make good sense to go ahead and build a facility that could not be used if, as a matter of fact, this technology was physically necessary—if there is that distinction—that could not be used to store reprocessed wastes if that decision is made.

If we freeze the design so that it cannot be designed to take that into consideration, we are not being neutral, either.

I do not want to prejudge this. I believe that decision will have to stand on its own. What we do or do not do here may not affect the debate, but it is going to determine the decision. It does not strike me as good sense for us to design a facility now and say you cannot consider the possibility that we might exercise the other option during the lifetime of this facility.

Mr. JOHNSTON. As I read this amendment, it does not preclude designing space for handling the reprocessing of of wastes, provided such wastes are reprocessed in the United States. Under this amendment, you cannot design a facility to accommodate foreign reprocessed wastes, but you can provide space for domestic reprocessed waste.

Mr. McCLURE. I cannot read it that way. It says:

> Such facility shall be designed to accommodate spent fuel from civilian nuclear activities without reprocessing as well as the high level radioactive wastes from other civilian nuclear activities, including reprocessing of such spent fuel if such reprocessing is undertaken in the United States.

Mr. JOHNSTON. The question is, what does "if" mean? "If" means that provided the reprocessing is undertaken in the United States, you can store them there.

Mr. McCLURE. We are not talking about storage. We are talking about the design of the facility.

Mr. JOHNSTON. You design it for domestically reprocessed wastes.

Mr. McCLURE. If that is what it means, that the design can predate the decision on the reprocessing, I have no quarrel with the amendment.

Mr. HATFIELD. There is no problem. I thought we made it as clear in the Queen's English as one could make it. Not being a lawyer, I suppose I do not mutilate the language as much in its processing or reprocessing.

Let me read it again, because I think the Senator from Louisiana has caught the whole essence of this:

> Such facility shall be designed to accommodate spent fuel from civilian nuclear activities without reprocessing as well as the high level radioactive wastes from other civilian nuclear activities, including reprocessing of such spent fuel if such reprocessing is undertaken in the United States.

I do not believe we are prejudging, and we are leaving neutral and moot the question of reprocessing. But if it is being undertaken, then we design it for that. It says "in the United States."

I do not want to get this into the business of trying to become the center for the whole world in this matter.

Mr. McCLURE. I agree.

Mr. HATFIELD. We may have to, in parts of the friendly world, later on, and that is fine. Let us face that issue at that time, as a separate issue.

Mr. JOHNSTON. Mr. President, with that expiration, I believe we are prepared to accept the amendment.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. The Senator knows that the amendment I offered earlier, on other legislation, requires express congressional approval for the return of radioactive wastes for storage in this country from outside the United States. I believe the Senator from Oregon knows that I am very much in agreement with him on that issue.

If I understand it, as the colloquy now has evolved, the design can take into consideration that possibility; but there is not going to be any storage until such time as the reprocessing decision is made by Congress.

Mr. HATFIELD. Exactly.

Mr. McCLURE. With that understanding, I have no objection to the amendment, and I am prepared to accept it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1656), as modified, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1657

Mr. HATFIELD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to setting aside the previous amendment of the Senator from Oregon?

Mr. HATFIELD. Mr. President, I ask unanimous consent that it continue to be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 1657:

On page 10, line 8, following "services", insert "at reasonable cost".

Mr. HATFIELD. Mr. President, this is a simple clarification. I hope it remains simple.

This amendment simply clarifies in the bill what is stated to be the intent in the report, and I refer back to the language of the committee report, that "private industry will be utilized to transport spent fuel unless it is unable or unwilling to do so." Then there is a period.

I want to add the words "at reasonable cost." My amendment simply adds the words "at reasonable cost," and I refer back to the committee report, on page 20, where it says:

> The committee does not intend by this subsection to require the Secretary to enter into contracts involving unreasonable prices or terms.

Basically, what we are trying to do is to protect ourselves against a one-carrier situation, with respect to the possibilities of excessive profits, and so forth. We provide ourselves with what the committee, I believe, intended very clearly in the report—to put a reasonable cost consideration, without mandating the Secretary to use private industry if unreasonable cost factors prevail. That is all we are intending to do in this rather simple amendment.

Mr. McCLURE. Mr. President, will the Senator from Oregon yield for a question?

Mr. HATFIELD. Yes.

Mr. McCLURE. Mr. President, I think the Senator has spotted a possible weakness in the language of the bill, and I think the amendment is an improvement. I understand this is not intended to give the Secretary a regulatory function over the pricing of transportation.

Mr. HATFIELD. No.

Mr. McCLURE. But it is intended to say that he has the authority to negotiate contracts at reasonable cost, and if they are not reasonable costs, he is not forced to sign the contract for transportation.

Mr. HATFIELD. Exactly. The Senator has complete and full understanding.

As I say, I refer back to the committee report where we had undertaken to set that forth in language expressing the intent of the committee on page 20. But when you read this language in the bill it seems to me we have put the Secretary into a straitjacket on this.

All I am suggesting is that he have some flexibility for negotiating so that he does not have to take the first and only price that may come along.

Mr. JOHNSTON. Mr. President, I think this is a good amendment. I think it improves the situation, and on behalf of the majority of the committee we accept it and we yield back the remainder of our time.

Mr. McCLURE. We are prepared to accept it.

Mr. HATFIELD. We yield back the time.

The PRESIDING OFFICER (Mr. BOREN). The question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 1657) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. I would like to inquire of the leadership whether we are ready to call for a quorum or do we have some language clarification?

Mr. JOHNSTON. Does the Senator have any more amendments?

Mr. HATFIELD. There is one additional amendment that the Senator from New Jersey (Mr. BRADLEY) and I have cosponsored, but I would prefer to put that off for the time being until we dispose of the pending amendment.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum with the time to be equally divided on the pending amendment which was previously temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1655, AS MODIFIED

Mr. HATFIELD Mr. President, I send to the desk a modification of the pending amendment.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes a modification to amendment numbered 1655 as modified.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment, as further modified, is as follows:

On page 16, strike lines 10 through 18 and insert in lieu thereof:

"SEC. 501. (a) There is hereby established in the Treasury of the United States a separate account to provide for (1) the construction and operation of Federal away-from-reactor interim storage facilities for spent fuel, (2) the disposal of such spent fuel or high-level radioactive waste from civilian nuclear activities, and (3) the handling and transportation of such spent fuel or waste. Amounts appropriated under section 308 or otherwise appropriated to the Secretary to carry out any of the purposes of Titles III, IV and V of this Act (except section 406) all charges under section 304, receipts derived from the sale of any reprocessed fuel, and the proceeds from any obligations issued pursuant to section 502 of this title shall be deposited into the account.

On page 16, strike lines 21–23, and insert in lieu thereof:

(b) To the extent or in such amounts as are provided in appropriations acts, "the Secretary may draw on such account to carry out the purposes of Titles III, IV and V of this Act (except section 406): *provided*, That the Secretary shall not construct or acquire any major nuclear waste facility unless the specific expenditure of funds for the initiation of such construction or acquisition is explicitly approved in an appropriation Act."

On page 17, lines 24 through 25, strike "for the acquisition of an interim away-from reactor storage facility" and insert in lieu thereof "and any other appropriations made to the Secretary to carry out the purposes of Titles III, IV and V of this Act (except section 406)".

On page 18, line 8, following "expenditure.", add "after the date of enactment of this Act, no appropriations to the Secretary are authorized to carry out the purposes of Titles III, IV and V of this Act (except section 406), unless the amounts appropriated are deposited into the account established in section 501(a)."

On page 5, following line 21, insert "(7) 'major nuclear waste facility' means any facility in which will occur the interim storage of spent fuel from a civilian nuclear reactor, the disposal of such spent fuel or of high-level radioactive waste from civilian nuclear activities, or the transportation of such spent fuel or waste, and which will have a total estimated cost to the Federal Government of $5,000,000 or more."

Mr. HATFIELD. Mr. President, I think what we have here is a clarification of the language of the original intent of the amendment to the satisfaction of the managers of the bill, the Senator from Louisiana and the Senator from Idaho. These are technical amendments that more precisely identify the intent and the purpose and scope of the amendment. I only comment that way in describing the changes that have occurred during this call of the quorum.

Mr. McCLURE. Will the Senator yield?

Mr. HATFIELD. I am very happy to yield.

Mr. McCLURE. Mr. President, I say to the Senator from Oregon that I think the amendment as now modified accomplishes what he is after. It is certainly acceptable to the minority. I think the Senator from Oregon has done the Congress and the country a service in tidying it up and making certain that Congress does have that kind of oversight over this program that ought to be required in the ordinary authorization and appropriation process. I think it is a constructive addition to the bill.

Mr. HATFIELD. I thank the Senator.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Oregon. As usual, it is a pleasure to do business with him and his competent staff, who have accommodated, as I read this, to all of the objections we have. We achieved that purpose which we both wanted to achieve; that is, full cost recovery.

We provide in this amended amendment that there will be no expenditure of funds for the initiation of the construction or acquisition of a waste facility unless it is approved in an appropriation act. That would prevent the Secretary, for example, from reprogramming funds or taking funds out of some account that has not been identified with a nuclear waste activity.

In effect, it means the Congress shall be involved in the decisionmaking to build a waste site, and that is as it should be.

I thank the distinguished Senator

from Oregon, and, for the majority, we will accept the amendment.

Mr. HATFIELD. Mr. President, I thank both the Senator from Louisiana and the Senator from Idaho for their cooperation on this. I am very grateful to them to have this clarified.

Mr. President, I am ready to yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment, No. 1655, as further modified, was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1452

(Purpose: To provide for environmental assessment of proposed waste disposal facilities)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. HATFIELD, proposes an unprinted amendment numbered 1452.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The bill shall be amended as follows:

(1) On page 13, strike lines 14 and 15 and insert instead the following: "(83 Stat. 852) but an environmental assessment shall be prepared on the proposal to accompany such transmittal based upon available information regarding alternative technologies for waste disposal".

(2) On page 13, line 19, strike the word "shall" and insert instead the word "need".

(3) On page 13, line 20, strike the phrase "to the statutorily-approved site selection".

(4) On page 13, line 21, strike the period and add the phrase "as may have been amended by such subsequent Congressional authorization".

Mr. BRADLEY. Mr. President, I offer this amendment on behalf of myself and Senator HATFIELD.

Mr. President, S. 2189 is intended to establish Federal policy for interim and long-term storage of civilian nuclear waste. Title IV of the bill provides for Congress to authorize construction of a surface facility for the long-term retrievable storage of high-level radioactive waste, pending the adoption of permanent disposal methods.

It also requires the Secretary of Energy to provide Congress with a proposal for site-specific design specifications and cost estimates for such a facility.

As reported by the Committee on Energy and Natural Resources, section 405 (a) of the bill contains an explicit waiver of the usual NEPA requirements.

If passed, this would mean DOE would defer the proposal, without the benefit of an environmental impact statement.

Mr. President, the first thing that my amendment does is to require an environmental assessment be prepared on the proposal to accompany such transmittal, based upon available information regarding ultimate technologies of waste disposal.

The purpose of this part of the amendment is to give the Congress, when it makes its ultimate decision on long-term storage for nuclear wastes, that the Congress will have available to it the information as to the particular site and design and how it would affect the environment, so we can make that judgment with some understanding of its effect on the environment.

It would be my assumption that this assessment would have information that would also be in the environmental impact statement, if one were required, in fact, all of the environmental information that would be required from an environmental impact statement.

Mr. President, in addition, section 405(b) of the Energy Committee bill also contains a NEPA waiver.

The effect of this provision is that if Congress were to adopt the Secretary's proposal for a storage facility, it would be constructed without there having been an EIS on the question of site.

Mr. President, the second thing my amendment does is to strike from section 405(b) the requirement or the exemption from the EIS for a site selection.

That would now be subject to an EIS, when Congress authorizes construction of such a nuclear waste disposal site.

The third thing that my amendment does is that it says in section 405(b) that in connection with such facility, the Congress need not consider any alternative to design criteria.

Mr. President, the amendment under question, I think, addresses two of the areas of weakness in the Energy Committee bill, tries to provide the Senate with the maximum amount of information as to the environmental effect of a long-term storage site, and also makes sure that the information would be site specific.

I suggest that my colleague from Oregon may want to make a few comments.

Mr. HATFIELD. Will the Senator yield?

Mr. BRADLEY. Certainly.

Mr. HATFIELD. Mr. President, I am delighted to join with my very able colleague from New Jersey (Mr. BRADLEY) in sponsoring this amendment because I believe, now that we have worked out some of the wording of the amendment with the managers of the bill, that we offered very reasonable environmental impact assessments of alternative retrievable surface storage systems and sites and yet we have not forgone in our haste to solve the immediate waste management problem in so doing.

The sponsors of this bill make an excellent point and I think a good case for moving expeditiously. The Senator from New Jersey (Mr. BRADLEY) and myself, I am sure along with the managers of the bill, do not want to move so expeditiously that we abandon our concerns for the environmental procedures.

In view of the bill's specificity about several parameters of the long-term storage system—that it shall be a monitored, surface system which will store the waste in a retrievable fashion, the Senator from New Jersey and I have narrowed the focus of the required EIS to those systems and sites which would satisfy the congressional directive. This should help assure the fastest reasonable satisfaction of our need to continue to respect environmental considerations in all this.

As I say, I believe it is a reasonable proposal. I think it states the situation clearly, concisely, and compellingly. I would urge the distinguished managers of the bill to accept this amendment.

Mr. JOHNSTON. Mr. President, I congratulate my two friends from New Jersey and Oregon for what I think is an excellent amendment. I think it improves the bill.

There is a recent case which states that it is not a major Federal action, as that term is used in the National Environmental Policy Act, to make a transmittal from the executive to the Congress.

I am advised that that is recent enough and authoritative enough that it probably means it does not have to be done.

We are willing and anxious to accept this amendment, even though it goes beyond that requirement and requires an environmental assessment, because we think that information is helpful, helpful to the Congress, helpful to the Executive, in going through the process of assessing the characteristics of the site, in assessing the alternative technologies which should be examined in a monitored, retrievable storage, and, in effect, assessing all of the available information on the best way to store nuclear waste, the best technology to use, to look at alternative sites.

In effect, what this gives us is virtually all the information that the National Environmental Policy Act requires, other than some of the procedural baggage—the lawsuits and some of the required information not now available on the geological characteristics of salt domes, and so forth, for the next million years. That would not be required under this assessment.

So I believe it greatly strengthens this bill, and we accept it, with thanks to the authors of the amendment.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. I wonder whether the Senator from New Jersey will look at paragraph No. 3 in the amendment. I believe that one word should be striken. It would read "to the statutorily approved site selection or." The word "or" also should be stricken, I believe.

Mr. BRADLEY. I will so modify the amendment, and I ask unanimous consent to do so.

I thank my colleague, whose legal skills are apparent every day.

Mr. McCLURE. I thank the Senator from New Jersey.

I share the sentiments of the Senator from Louisiana. We are prepared to accept the amendment.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

The bill shall be amended as follows:

(1) On page 13, strike lines 14 and 15 and insert instead the following: "(83 Stat. 852) but an environmental assessment shall be prepared on the proposal to accompany such transmittal based upon available information regarding alternative technologies for waste disposal".

(2) On page 13, line 19, strike the word "shall" and insert instead the word "need".

(3) On page 13, line 20, strike the phrase "to the statutorily-approved site selection or".

(4) On page 13, line 21, strike the period and add the phrase "as may have been amended by such subsequent Congressional authorization".

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. BRADLEY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1452), as modified, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I believe that the next amendment in line will be the Hart amendment. Senator HART has asked for a short period of time before he brings up his amendments. Unless someone else is ready to bring up an amendment, I will ask for a quorum call, which I think will last 30 to 40 minutes, and it is hoped that we will be able to go back on the bill at 20 or a quarter to 1.

The PRESIDENT OFFICER. On whose time is the quorum call to be charged?

Mr. JOHNSTON. Mr. President, how much time is available for all the players who remain?

The PRESIDING OFFICER. The Senator from Louisiana has 76 minutes.

Mr. JOHNSTON. On the bill?

The PRESIDING OFFICER. On the bill.

The Senator from Idaho has 55 minutes. The Senator from Ohio (Mr. GLENN) has 101 minutes.

Mr. JOHNSTON. Mr. President, since the Glenn amendment has now been approved, would that time not fall? Is that on the bill itself?

The PRESIDING OFFICER. It is on the bill itself.

The Senators from Colorado and Wyoming, Messrs. HART and SIMPSON, have 39 minutes total, between the two.

Mr. JOHNSTON. That is all the time?

The PRESIDING OFFICER. That is the total time on the bill.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged to the Senator from Ohio (Mr. GLENN), since he is not here.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators who have amendments to this bill will come to the floor, call them up, and be prepared to discuss them. We are wasting a lot of very precious time. Perhaps I should not say it is being wasted, but at least precious time is passing. Along about this hour next Tuesday it will become all the more obvious that time is precious, and along about this hour on Saturday it will be obvious, as it will be on next Wednesday, a week from tomorrow.

Now is the time to get the work done so the Senate will not be under too much pressure as the days come on the rest of this week and next week.

I will protect those who have amendments by suggesting the absence of a quorum at this time so the Chair will not put the question on the bill.

Mr. President, I suggest the absence of a quorum and ask that the time be charged equally on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

UP AMENDMENT NO. 1453

(Purpose: Establish policy for disposal of low-level nuclear waste)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask unanimous consent that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Mr. HOLLINGS, proposes an unprinted amendment numbered 1453:

(a) On page 18, after line 9, insert a new section 601 to read as follows:

"SEC. 601. (a) It is the policy of the Federal Government that—

(1) each State is responsible for the disposal of low-level radioactive waste generated by non-Federal related activities within its borders;

(2) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(b) To carry out the policy set forth in subsection (a), each of the several States, the territories, and possessions of the United States and the District of Columbia, are authorized and encouraged to develop and submit to the Congress, for subsequent review and consent, agreements or compacts with any other State or States relating to the management and disposal of low-level radioactive waste on a regional basis. Compacts or agreements made pursuant to this Act may restrict the use of regional disposal facilities to the disposal of non-Federal low-level radioactive waste generated within the region.

(b) On page 18, strike lines 10 and 11, and insert in lieu thereof the following:

"SEC. 602. (a) In order to assist the States in carrying out the policy set forth in section 601 of this Act, the President shall prepare and submit to Congress and to each of the fifty States within one hundred and twenty days after the date"

(c) On page 20, after line 3, add the following new section:

"SEC. 603. The Secretary of Energy is authorized and directed to provide to the several States financial and technical assistance to carry out the policy set forth in section 601 of this Act."

The PRESIDING OFFICER. Will the Senator from South Carolina inform the Chair as to whether this is the amendment on which the Senator requested 80 minutes?

Mr. THURMOND. Yes. Mr. President.

Mr. President, this amendment, which I offer for myself and Senator HOLLINGS takes a long overdue step toward resolving the problem of low-level radioactive waste disposal in this country.

Our amendment builds on the existing title VI of S. 2189 dealing with low-level waste, making three additions to this title of the bill. The first addition is a provision stating that it is the policy of the Federal Government that each State is responsible for the disposal of the low-level radioactive waste generated by nondefense related activities within its boundaries and that such waste can be most safely and efficiently managed on a regional basis. A second addition would authorize the States, subject to congressional ratification, to enter into interstate compacts or agreements for the purpose of carrying out their responsibilities regarding management and disposal of low-level waste. This compacting authority would include the authority to restrict the use of a regional disposal site to waste generated within the region. Because of this express congressional authorization of exclusionary authority, such restrictions would not be construed as an improper burden on interstate commerce. The third modification to this section of the bill would authorize the Secretary of Energy to provide financial and technical assistance to the States in carrying out plans for the proper disposal of low-level nuclear waste consistent with this policy.

These three changes would implement recommendations made by "The State Planning Council on Radioactive Waste Management" to President Carter. In a letter to the President dated May 19, 1980, Governor Riley, chairman of that body, stated that the council had unanimously adopted the following resolution:

> The national policy of the United States on low-level radioactive waste shall be that every State is responsible for the disposal of the low-level radioactive waste generated by nondefense related activities within its boundaries and that States are authorized to enter into interstate compacts, as necessary, for the purpose of carrying out this responsibility.

This policy statement and compacting authority are among the recommendations made by the National Governors' Association Task Force on Low-Level Radioactive Waste Disposal in its final report to the NGA dated August, 1980. This report will be considered and voted on by the NGA at its meeting on August 3 through 5.

As I am sure our colleagues are aware, the issue of low-level waste disposal rose to national prominence last fall when two of three commercially operated burial sites were closed by the Governors of the States in which those sites were located. Pointing to their concerns about careless practices in packaging, transportation and disposal of low-level waste material, Governor Ray of Washington and Governor List of Nevada both closed their sites in October of last year. Their actions left the State of South Carolina in the position of hosting the only commercial low-level waste site in the entire country.

Since Governor Riley of South Carolina had, in the spring of 1979, announced that South Carolina would accept no more liquid waste material, the combined actions of these three Governors produced a near crisis situation in the biomedical research community and aroused great concern among other producers of low-level waste material. A more serious crisis was subsequently avoided by the reopening of both the Washington and Nevada sites.

As late as 1975, there were six commercial burial sites in operation in the United States. In addition to three sites which I just mentioned, there were disposal sites located at West Valley, N.Y.; Maxey Flats, Ky.; and Sheffield, Ill. These sites were shut down for various reasons in 1975, 1977, and 1979, respectively.

Mr. President, a great deal of attention has been given to the problems of disposal of high-level waste and the interim storage of spent-fuel, almost to the preclusion of addressing the problem of the disposal of low-level waste material. To a certain extent, this reaction is understandable. The basic technology of low-level waste disposal is well understood, and there are currently three commercial sites adequately handling the problem.

I suppose one might say that the matter of low-level waste disposal is no immediate problem, unless one lives in or represents, as we do, one of the three States serving as a "dumping ground" for the rest of the Nation. In light of recent actions of Governors Ray, List, and Riley, however, I would urge other States not to become too complacent about the status quo. In addition to closing the Hanford site last fall, Governor Ray announced in her state of the State address earlier this year that unless there is meaningful progress toward a regional system of disposal sites by December 31, 1982, she will begin to close Hanford to all out-of-State wastes.

There is currently a State initiative underway in Washington which, if successful, would close the Hanford site on July 1, 1981 to all out-of-State, nonmedical waste. On October 31 of last year, Governor Riley announced that South Carolina would begin scaling down the amount of waste it will accept over the next 2 years so that by 1981 it will accept only one-half as much as it received in 1979.

As I mentioned earlier, South Carolina also refuses to accept, because it is geologically unacceptable, organic chemical wastes such as are largely generated by hospitals, medical schools, and universities. Legislators in Washington, as well as the Governors of other States, are being sent a very clear message from these Governors. That message is that these States will not continue indefinitely to serve as a nuclear waste dump for the rest of the country.

I have received a great deal of correspondence from my constituents on this issue, and there can be no doubt that the people of South Carolina are becoming increasingly fed up with the lack of action by other States and the Federal Government with respect to this issue.

Mr. President, it would be irresponsible for the Members of this legislative body and of the House of Representatives to wait until a crisis situation develops once again before taking definitive action on this issue. It is our firm belief, and one which is obviously shared by the members of the State Planning Council and the NGA task force on low-level waste that the States can and should assume primary responsibility for disposal of low-level waste generated within their boundaries. It is extremely unfair to allow three States to become "dumping grounds" for waste which all 50 States generate. If other States are to share in the benefits of nuclear power production and nuclear medicine, they must begin to share in the responsibilities which include the unpleasant task of waste disposal.

This is not to say that each State must establish its own burial site. Each State should, however, either dispose of its low-level waste within its own borders or make arrangements with another State which is willing to accept that waste. I would hope that such agreements between States could be reached promptly. We do not need 50 low-level waste sites, but could eventually utilize 6 to 8 such sites located on a regional basis. Technical and financial assistance by the Department of Energy would certainly facilitate the establishment of a regional system.

With the idea of eventually establishing an efficient, safe system of regional disposal sites for low-level waste, this amendment encourages the formation of compacts among States on a regional basis, subject to ratification by Congress at a later date. For the benefit of those who are not familiar with the interstate compact concept, I would point out that article 1, section 10, clause 3 of the U.S. Constitution requires that compacts among States be approved by Congress.

While congressional consent for compacts may be given in advance, this amendment does not go that far. There is some feeling among Senators with whom we have discussed this idea that Congress may wish to examine any agreements that may be developed pursuant to this process.

Mr. President, the amendment does, however, give advance consent for exclusionary authority as a feature of such compacts. It is felt that the authority to exclude low-level waste generated in States outside the boundaries of a region is necessary to induce State participation in such compacts. Also, case law, including a decision by the U.S. Supreme Court in the case of *City of Philadelphia v. New Jersey*, 437 U.S. 617 (1978), indicates that an express congressional grant of exclusivity authority may be a necessary legal prerequisite to a host State's ability to exclude waste generated beyond the boundaries encompassed in a regional compact. Mr. President, in order to further explain the concept of interstate compacts and the exclusivity feature, I ask unanimous consent to have printed in the RECORD at the end of my remarks an analysis prepared for the National Governors' Association Task Force on Low-Level Radioactive Waste Disposal.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, once the Federal Government has clarified who has basic responsibility for such disposal and has authorized interstate compacts among the States, we believe that threatened closure or gradual reduction of intake at one or more of the existing commercial sites can be used as an effective mechanism to encourage cooperative action by other States. As I explained earlier, I believe that the Governors of State in which existing sites are located have demonstrated their willingness to take action.

Mr. President, there are no technological mysteries involved in the disposal of low-level waste. South Carolina has been involved in this business for several years. The Nuclear Regulatory Commission has already developed the criteria to be used in site selection and operation of low-level waste facilities. We should, of course, continue R. & D. efforts to improve our methods of waste disposal and monitoring of burial sites; but the basic technology is and has been available for the construction and operation of these sites. What is needed now is Federal legislation clearly assigning the responsibilities involved, while authorizing and encouraging State action. That is what our amendment is designed to accomplish. I hope other Senators will support this amendment, which would result in a more equitable sharing of the burden of low-level waste disposal.

EXHIBIT 1

INTERSTATE AGREEMENT TO FORM REGIONAL LOW-LEVEL WASTE DISPOSAL SITES

I. Formal Compact or Informal Agreement:

There is no legal obstacle which would prevent a group of states from informally agreeing to establish and operate a disposal site in their region. This could be accomplished by an exchange of Executive Orders among the governors.

The advantage to this approach would be that an agreement could be executed rather quickly. The disadvantage would be that such an agreement would not be legally enforceable. A state could unilaterally repudiate the agreement as soon as the governor had a change of heart, or the state had a change of governors. Since the objective is to license and operate a site over a period of many years, this instability is probably unacceptable.

In addition, a regional site established through informal agreement probably could not legally refuse to accept waste generated in states outside the region.[1] Therefore, the regional objective would be defeated.

A formal Interstate Compact, on the other hand, is a binding contract, which can only be modified or terminated by its terms, or with the consent of all the parties to it.

By this means, the states could provide a stable framework to manage the site from licensing through decommissioning. Also, with the consent of Congress, the party states could exclude waste from outside the region.

II. Consent of Congress:

Although the U.S. Constitution,[2] requires Congressional consent for any interstate compact or agreement compact or agreement, the U.S. Supreme Court has held that this requirement does not apply to all compacts. Congressional consent is only required if the compact "is directed at the formation of any combination tending to the increase of political power in the states, which may encroach upon or interfere with the just supremacy of the United States."[3] Although it may be arguable whether a regional low-level waste disposal compact would require Congressional consent under this test, it is highly probable that such a compact would require Congressional consent if it purported to exclude out-of-region waste.[4]

The manner in which Congress may give its consent is not spelled out in the Constitution. Historically, consent has taken a variety of forms. The usual method is by passing a statute or joint resolution embodying a compact which has already been negotiated by the states. On occasion, however, Congress has given general consent in advance to the states to compact in a given subject area.[5] And there have even been instances when tacit consent was implied.

A. Advance Consent vs. Individual Consent:

Advance consent is desirable because it obviates the need to run each individual compact through Congress. Not only is advance consent more efficient, but it would discourage the temptation to re-draw the regions formed by states when the compacts were submitted to Congress. However, there is a liability: each individual compact would be subject to legal attack on the grounds that some provision in it was beyond the scope of the original consent.

B. Permissive vs. Coercive Consent:

Historically, Congress has never mandated interstate compacts. However, most of the regional low-level waste bills that have surfaced so far are coercive. Two would cancel generator licenses after a certain date, and only allow new licenses to issue in states with compacts or disposal sites.[6] One would forbid interstate transport of low-level waste unless done pursuant to a compact between the generator state and the disposal state.[7] One bill has been introduced thus far which is purely permissive compact consent. Whether this approach is preferred would seem to be another issue to be addressed by the Task Force.

C. Authority to Exclude:

City of Philadelphia vs. New Jersey[9] held invalid a state prohibition on the disposal of ordinary waste from out-of-state in in-state land fills. The court distinguished earlier quarantine cases (involving diseased cattle and contaminated rags) on the basis that the danger posed in those cases arose from the mere transportation of the banned objects, while there was no showing in the New Jersey case that transport of the waste to the sites posed any danger. While the Court might view the disposal of low-level waste as posing more of a transportation risk, the host state's authority to exclude out-of-state waste from its site is in considerable doubt. This doubt could be dispelled if Congress expressly gave the states such authority.[8] For that reason, an exclusivity provision should probably be included in any Compact Consent legislation. None of the bills pending in the House contain such a provision, although it might fairly be implied from the existing language.[10]

III. Compact Formation:

A. Existing Compacts:

The simplest way to form a regional low-level waste compact would be to use an existing compact as the vehicle for the new compact. This would obviate the necessity of Congressional consent and state legislative enactment. Two existing compacts may lend themselves to this approach. They are the Western Interstate Energy Compact[11] and the Southern States Energy Compact.[12] Each of these compacts gives the governing board broad powers in the area of nuclear energy. Each has a provision that two or more members may enter into Supplemental Agreements covering anything the board has the power to do. The two boards are both considering the advisability of using the Supplemental Agreements provisions of W.I.E.B. and S.S.E.B.[13] as vehicles for regional low-level waste compacts. Thirty-one states (and Puerto Rico) are eligible for membership in these two compacts.

One disadvantage to using existing compacts would be that the exclusivity question would remain unresolved.

B. New Compacts.

The steps required to form a new compact are: negotiation, state legislative enactment, and (advance or subsequent) Congressional consent.

IV. Contents.

The contents of each compact, will, of course, be determined by negotiations among the affected states.

These provisions are typically found in other compacts: a Statement of Purpose or Policy; composition of a governing board, voting rights and financing provisions. Additional subjects for regional low-level waste compact negotiations might include:

The Region (whether other states could be added later).

Site selection mechanics.

Host state rights (veto?)

Incentives to host state from beneficiary states.

Five midwestern states[14] have begun preliminary discussions on forming a compact. A model draft prepared for them by E.G. & G.—Idaho is included in the Appendix.

FOOTNOTES

[1] *City of Philadelphia* v. *New Jersey*, 437 U.S. 617, 98 S. Ct. 2531, 57 L. Ed. 2d 475 (1978), discussed in more detail in Section II–C below

[2] Art. 1 Section 10 Clause 3: "No State shall, without the consent of Congress. . . ., enter into any Agreement or Compact with another State, or with a foreign power."

[3] *U.S. Steel Corp.* v. *Multistate Tax Commission* 434 U.S. 452, 98 S. Ct. 799, 54 L. Ed. 2d 682 (1978).

[4] Under the Compact Clause cases, such discrimination against non-party states would seem to be a prime example of enhancement of the states' power at the expense of the federal government. In addition, since *City of Philadelphia* v. *New Jersey* (Supra, Note indicates the exclusion of out-of-state waste from the host state's disposal site is an unconstitutional discrimination against Interstate Commerce, such a compact would run afoul of the Commerce Clause as well, absent Congressional authorization.

[5] See, eg., Highway Safety compact, 72 Stat. 635 (1958), Airport compacts, 73 Stat. 333 (1959) and Crime Control Compact of 1934, 48 Stat. 909.

[6] H.R. 6390 (Udall), H.R. 6212 (Lujan).

[7] D.O.E. bill submitted to State Planning Council.

[8] H.R. 5809 (Derrick).

[9] Supra., Note 1.

[10] For example, "each State is hereby authorized to enter into such agreements and compacts with other States as may be necessary to establish a system of regional disposal sites." (H.R. 5809.) It could be argued that exclusivity is necessary to the formation of a regional system.

[11] W.I.E.B. members: Alaska, Arizona, California, Colorado, Montana, Nebraska, Nevada, New Mexico, North Dakota, Utah, Washington, and Wyoming. Hawaii and Idaho are eligible for membership, but do not currently belong.

[12] Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, Puerto Rico.

[13] Prudential Insurance Company v. Benjamin, 328 U.S. 408, 66 S. Ct. 1142, 90 L. Ed. 1342 (1946). See discussion of this case in footnote 1 of Section by Section Analysis, Appendix III, NGA Low-Level Radioactive Waste Disposal Task Force Model Congressional Consent Compact Bill.

[14] Michigan, Wisconsin, Illinois, Indiana and Ohio.

Mr. JOHNSTON. Mr. President, I have just a question or two on this. I believe we will be able to accept this amendment.

First of all, where the Senator refers to the word "agreement"—he talks about compacts or agreements—the term "agreement" here means really the same thing as compact; and the agreement would not be in effect until and unless approved by Congress, pursuant to this amendment. Am I correct on that?

Mr. THURMOND. Yes.

Mr. JOHNSTON. So that, in effect, States could not get together and effect a binding agreement until Congress had approved that?

Mr. THURMOND. That is correct.

Mr. JOHNSTON. Of course, nothing in the act would give life or endorsement to any terms of that agreement until approved by Congress.

Mr. THURMOND. As I stated, for the benefit of those who are not familiar with the interstate concept, I point out that article I, section 10, clause 3 of the U.S. Constitution requires that compacts among States be approved by Congress. While congressional consent for compacts may be given in advance, this amendment does not go that far. There is some feeling among Senators with whom we have discussed this idea that Congress may wish to examine any agreements that may be developed pursuant to this process.

Mr. JOHNSTON. The Senator says that Congress may wish to. As I understand it, the term "agreement" as used here has the same effect as the term "compact" is used in the Constitution.

Mr. THURMOND. That is correct.

Mr. JOHNSTON. So that the agreement between the States, if it is an agreement and not a compact—and the Senator says there is no real difference between the two terms—the agreement does not come into force and effect unless and until approval by Congress.

Mr. THURMOND. In other words, whatever compact or agreement is entered into by the States would have to be approved by Congress.

Mr. JOHNSTON. And they are not in effect until approved by Congress.

Mr. THURMOND. That is correct.

Mr. JOHNSTON. Whether it is an agreement or a compact, and the Senator says there is no difference in the terms.

Mr. THURMOND. We use the words synonymously or interchangeably.

Mr. JOHNSTON. Mr. President, in view of the fact that the distinguished Senator from North Carolina—South Carolina—and there is a difference in those terms.

Mr. THURMOND. My grandfather was born in New Orleans, so be sure to get the connection between South Carolina and Louisiana.

Mr. JOHNSTON. There is a very strong affinity; we might even say a brotherhood.

Mr. President, in view of the fact that Congress would have the last word on the matter of national concern, and in view of the fact that neither a compact nor an agreement—the two terms are used interchangeably here—would come into effect until approved by Congress, I will accept the amendment on behalf of the majority.

Mr. HATFIELD. Mr. President, I commend the Senator from South Carolina for offering this amendment, to indicate again the fact that there is great ingenuity and creativity on the part of the States. To provide this opportunity for the States to take leadership to solve their problems within the States is a very constructive step to add to this bill.

Therefore, on behalf of the minority, I am delighted to accept the amendment.

Mr. THURMOND. Mr. President, I express my appreciation to the able and distinguished managers of the bill for accepting this amendment. I am certain that this vital amendment will be of great benefit to all the States of the Nation.

I also express my appreciation to the able Senator from Wyoming for his fine cooperation and work with us on this matter. We deeply appreciate his interest and support.

Mr. SIMPSON. Mr. President, having come to the Senate some 18 months ago and being involved with Senator THURMOND on the Judiciary Committee, where I serve as a member, and finding him to be a very able Senator and a very fine friend, I was pleased to work with him in regard to this amendment and to work with his very capable staff.

I had the same concern that the Senator from Louisiana had about this, and that is the issue of entering into a compact before approval of Congress. I believe that has been corrected, and I support the amendment offered by Senator THURMOND.

I believe the amendment recognizes that the management and disposal of low-level nuclear waste is a State responsibility, and it would continue to preserve the State's jurisdiction in that area.

Of course, the amendment would encourage the States to develop and enter into these interstate compact agreements, subject to the review and approval of Congress, to provide for these regional low-level waste disposal sites.

I believe we all recognize the critical need for additional low-level waste disposal sites in order to relieve three States from bearing an inordinate portion of the burden of having those sites.

The amendment also references the low-level waste study required by S. 2189 and assures that the information from that study will be useful in assisting all 50 States with the management of low-level wastes.

Finally, the amendment offered by my distinguished colleague would authorize the Department of Energy to provide some financial and technical assistance to the States, and I believe that is critical.

I believe that my colleague's approach to the problem is very useful and commendable. It is typical of his enterprise and effort to craft, and the amendment is quite acceptable. I appreciate working with him.

Mr. HOLLINGS. Mr. President, the situation regarding the management of low-level waste has become acute due to a lack of a clear national policy. Recent events, which temporarily placed South Carolina in a position of being the only State in the entire country with a commercial low-level burial site in operation, have demonstrated the need to act promptly and effectively on this issue. It has become clear that a national solution to low-level waste storage must be worked out.

The amendment offered today by Senator THURMOND and myself is a step in the right direction. It makes it clear that every State is responsible for the disposal of low-level radioactive waste generated by nondefense-related activities within its borders. This amendment would encourage positive action on the part of the States in selecting and establishing new burial sites.

In addition to this legislative action, the Department of Energy should work with and encourage States to develop their own low-level disposal capability. Encouragement from the Department should include technical and financial assistance to resolve our low-level waste dilemma. Federal assistance is necessary to encourage State action—the States should not be left to do the job alone.

Finally, Mr. President, the Congress must proceed immediately to enact a clear national policy placing primary responsibilities for the management and disposal of low-level wastes on the States themselves. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1453) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

The bill is open to further amendment. If there be no further amendment, we will go to third reading of the bill.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HATFIELD. On the Chair's time.

The PRESIDING OFFICER. The Chair has no time.

Mr. HATFIELD. I suggest the absence of a quroum on the time on the bill, equally divided.

The PRESIDING OFFICER. With the time to be charged equally to both sides?

Mr. JOHNSTON. Mr. President, the time to be equally divided among the majority, the minority, and Senator GLENN, since he is not here to protect himself. [Laughter.]

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

UP AMENDMENT NO. 1454

(Purpose: To provide consultation with State officials with respect to siting of temporary, away-from-reactor storage of civilian nuclear powerplant wastes)

Mr. THURMOND. Mr. President, I send to the desk an amendment for myself, Senator HOLLINGS, Senator JOHNSTON, and Senator HATFIELD, and I ask the clerk to state the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Mr. HOLLINGS, Mr. JOHNSTON, and Mr. HATFIELD, proposes an unprinted amendment numbered 1454.

Mr. THURMOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, after line 7, insert a new section as follows:

"SEC. 309(a). In carrying out the provisions of sections 301 through 308 with regard to any facility for the interim storage of spent fuel from civilian nuclear powerplants which the Secretary is authorized by section 306(a) to construct or acquire, the Secretary shall:

(1) as soon as practicable, but not later than 90 days after enactment of this section, notify in writing the Governor and the legislature of any state in which is located a potentially acceptable site for such a facility or an existing facility potentially suitable for interim storage of spent fuel of his intention to investigate that site or facility;

(2) during the course of investigation of such site or facility, keep the Governor and the legislature currently informed of the

progress of work and results of the investigation;

(3) at the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, promptly notify the Governor and the legislature in writing of such selection;

(4) throughout the course of any subsequent work on that site or existing facility, furnish the Governor all relevant information on a current basis and provide him with the opportunity for review and comment from time to time;

(b) If within a reasonable time after the Governor has received notice of selection required by subsection (a)(3), the Governor notifies the Secretary in writing of his objections to the facility, the Secretary shall suspend further work on such facility and promptly transmit the Governor's objections together with the Secretary's comments and recommendations to the President.

(c) Unless within 90 day after receipt of the Secretary's notification under subsection (b) the President determines that such facility is essential to the national interest, the Secretary shall terminate activities specific to the facility. Such determination shall not be subject to judicial or administrative review.

(d) During the regulation and monitoring of the facility, the Governor or his designee shall have the right to be currently informed of all relevant facts and matters, and shall have access to all relevant documents, and have the right to review and comment on such matters from time to time.

Mr. THURMOND. Mr. President, this amendment will provide the governing officials of those States which will be candidates for siting of temporary, away-from-reactor (AFR) storage facilities with a role in the decisionmaking process regarding such facilities.

Over the past several months, three Senate committees have been studying the proper role to be assigned to State and local governments in making decisions concerning nuclear waste disposal facilities. Various proposals have been put forth dealing with this issue. These legislative proposals vary significantly, but all suffer from what is, in my opinion, a serious deficiency. They have not accorded the States a specific role in decisions to be made regarding AFR storage, but instead have simply dealt with the issue of the States' role in decisions pertaining to permanent disposal facilities.

I realize that there is a particularly compelling need for the States to have a role in the establishment of permanent waste repositories, since nuclear waste may be contained within their borders for hundreds of years.

I do not believe, however, that the fact that AFR storage is intended to be temporary, means that States should not have a specific role in the decisionmaking process.

My reasons for attempting to correct this deficiency are, I am sure, obvious to everyone here. It is well known at this point in time that the Barnwell Nuclear Fuel Plant located in South Carolina is a prime candidate to serve as one of the Nation's first AFR storage facilities. The decision to utilize that facility should not be made without giving careful and thorough consideration to the concerns of the people of South Carolina.

Mr. President, the citizens of my State have, for a number of years, borne a disproportionately large share of the burden of disposing of nuclear waste of all kinds. We have one of three commercially operated, low-level waste burial sites in the country, and have at times received up to 85 percent of all low-level waste produced in the United States. The federally owned Savannah River plant produces and stores large quantities of defense-related, high-level radioactive wastes. Now we find ourselves at the top of the list of likely candidates for temporary, AFR storage of civilian nuclear powerplant waste. In light of the fact that South Carolina has never shirked its responsibilities in the nuclear waste area, I think it would be highly unfair to utilize the Allied General Nuclear Services facility at Barnwell, S.C. for AFR storage without consulting with and obtaining the concurrence of the people of my State.

My amendment, which would provide such a State role, is patterned after Senator JACKSON's printed amendment to S. 2189 which deals with consultation and concurrence in the siting of permanent disposal facilities for nuclear waste. My amendment would require an ongoing consultation process between the Secretary of Energy and the Governor and legislature of the particular State involved. Subsection (a) mandates that both the Governor and the legislature receive timely notice that their State is being considered as a host State for an AFR storage facility and a second notice if their State is actually selected.

This subsection also requires that the Governor and legislature be kept currently informed of any work or activities regarding such facility and that the Governor be given access to all relevant information. The Governor would also periodically be given the opportunity to review and comment on activities regarding the AFR storage facility.

Subsection (b) of my amendment provides a mechanism for the Governor of the affected State to object to the facility or to decisions made regarding the facility.

The Governor, however, must notify in writing the Secretary of such objections within a reasonable time after receiving notice that his State has been selected as a host State for an AFR facility.

If the Governor does notify the Secretary of any objections the Secretary must forward those objections to the President and must suspend further activities at the facilities. If the President determines within 90 days that the contemplated AFR storage facility is essential to the national interest and resolves any specific differences between the Governor and the Secretary, the Secretary may resume activities specific to the facility. The amendment also provides for further consultation with the Governor of any State selected as a site for AFR storage during the licensing, regulation, and monitoring of any such facility.

Mr. President, this amendment strikes what I believe to be a reasonable balance between the national interest of having AFR storage facilities and the State interest of having some control over what goes on within the boundaries of that State.

Final authority is given to the President to go forward with the facility, if he determines it to be essential to the national interest and, insofar as possible, resolves any conflicts between the Governor of the affected State and the Secretary of Energy. This "consultation and concurrence" mechanism is not unduly burdensome, and it does not provide the Governor of any State with absolute veto over having an AFR storage facility located within the State.

I hope the distinguished floor managers of the bill will agree to this amendment, especially since their committee is on record in its Department of Energy authorization bills as supporting an absolute veto for the Governor of any State in which an AFR facility is to be located. This veto power was originally adopted by the Senate Energy Committee as a Melcher amendment to S. 2692, the DOE authorization bill for fiscal year 1979.

That amendment granted the Governor of any State within which there was a facility under consideration with the opportunity to veto the use of the site in his State. Interestingly enough, there was originally an explicit exemption from this veto provision for the Governor of South Carolina regarding the Barnwell facility.

This discrepancy was later corrected at my suggestion following a colloquy on the Senate floor between the distinguished chairman of the Energy Committee, Senator JACKSON, and myself on September 30, 1978.

At that time, Senator JACKSON assured me of his support for such a veto power being given to the Governor of South Carolina, as it had been given to the other 49 Governors. In light of the fact that the amendment which I am now offering is less stringent than the stated position of the Energy Committee on this issue and is patterned after Senator JACKSON's own consultation and concurrence amendment regarding permanent repositories, I hope it will be accepted.

Mr. President, I ask unanimous consent to have printed in the RECORD a concurrent resolution passed by the General Assembly of South Carolina on this subject.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION

Whereas, the federal government is considering Allied General Nuclear Services in Barnwell for an away from reactor (AFR) storage facility to be owned and operated by the federal government; and

Whereas, such consideration is based solely on economic considerations; and

Whereas, the question of site location for the storage or disposal of radioactive waste should be decided on technical considerations; and

Whereas, interim water pool storage has not been demonstrated to be a reliable process for the storage of spent fuel for more than a few decades; and

Whereas, no decisions have yet been made by the federal government regarding the permanent disposal of spent fuel or high-level radioactive waste; and

Whereas, there is no permanent federal repository for safe disposal of high-level radioactive waste; and

Whereas, there are many technical, legal, environmental and political issues that must be resolved before such a permanent repository can be established; and

Whereas, neither the federal government nor the nuclear industry has prepared reliable cost estimates for the ultimate disposal and perpetual care of high-level radioactive waste and spent fuel; and

Whereas, the establishment of a permanent federal nuclear waste repository raises vital questions of public policy of such importance to present and future generations as to preclude the establishment of such a repository well after the year two thousand; and

Whereas, twenty-five million gallons or one-third of the nation's high-level defense waste is stored at the Savannah River Plant in Aiken, South Carolina; and

Whereas, the State of South Carolina currently stores eighty-five percent of the nation's low-level radioactive waste; and

Whereas, a lack of policy and action by the federal government to designate other low-level nuclear waste sites in the United States has placed an inequitable burden upon our citizens and future generations; and

Whereas, experience has indicated that long-term guarantees from the federal government on radiological matters may not be possible because of the current and probably the future emotional environment surrounding nuclear power.

Now, therefore, *be it resolved* by the House of Representatives, the Senate concurring:

That the General Assembly by this resolution hereby memorializes the President of the United States and the United States Congress to abstain from considering the State of South Carolina as a site for the establishment of an interim storage facility for commercial spent nuclear fuel and other high-level radioactive waste produced outside the State until official consultation has taken place between the federal government and the State, such consultation to be conducted by an appropriate committee designated by the members of the General Assembly and the Governor and that the establishment of such an interim storage facility must obtain prior approval by Joint Resolution of the majority of the membership of the General Assembly and also approved by the Governor.

Be it further resolved that copies of this resolution be forwarded to the President, Vice President, Speaker of the House of Representatives and each member of the South Carolina Congressional Delegation in Washington, D.C.

Mr. THURMOND. Mr. President, I wish to make a few observations and general comments in connection with the legislation under consideration regarding appropriate policies governing away-from-reactor (AFR) storage of civilian nuclear powerplant wastes.

After studying the AFR storage issue at some length, I am reluctantly forced to admit to the need for Federal establishment of AFR facilities. The legislation which we are presently considering would authorize the Secretary of Energy to construct or acquire at least one AFR facility for interim storage of spent fuel from civilian nuclear powerplants. The fact that we are today faced with the AFR storage issue at all is due to the failure of yet another Carter administration policy in the nuclear energy area.

In April of 1977, President Carter announced that it would be the policy of his administration to "indefinitely postpone" the use of commercial reprocessing. The immediate impact on the nuclear power industry of President Carter's 1977 decision has been the stockpiling of spent fuel rods at the reactor sites. Obviously this "solution" to the problem is adequate only so long as on-site storage space is available. Utilities around the country, however, are running out of such space, even with conscientious efforts to utilize pool space more efficiently and to transfer spent fuel to pools at new powerplants. If no additional storage space is available at AFR sites by the early to mid-1980's, nuclear powerplant shutdowns could occur, a scenario which I am sure that all responsible officials are committed to avoiding. Among those utilities which will soon be in need of AFR storage are two which serve my constituents in South Carolina, the Duke Power Co. and the Carolina Power and Light Co. I would obviously like to avoid shutdowns by these two companies because any such curtailments in electric power generation would have a severe impact on the citizens of my State.

While there is admittedly a need for some AFR storage to be provided by the Federal Government, I believe there are certain basic principles which should govern the actions of Federal officials in providing such storage. Some of the principles which I am about to suggest are among those which have been offered by Governor Richard Riley of our State, who also serves as Chairman of the President's recently established State Planning Council. The primary principle is that of consultation and concurrence with affected States. No Federal action in this area should be forced down the throats of the citizens of any State.

Second, as much of the spent fuel as possible should be stored at the reactor site where it was generated, a principle endorsed by the President's Interagency Review Group (IRG) on Nuclear Waste Management and by the Department of Energy. Doing so would obviously reduce the amount of spent fuel being transported on our highways, thereby reducing the dangers associated with such transportation. S. 2189 contains a provision stating that it is the policy of the Federal Government to maximize the storage of spent fuel at the site of each civilian nuclear powerplant. I sincerely hope that Federal officials will pay close attention to and will carry out that important statement of policy. AFR storage space in a Federal facility should be made available only to those utilities who have done their utmost to utilize existing on-site space as efficiently as possible and to expand existing space where feasible to do so.

Third, AFR storage facilities should be located on a regional basis, and approach supported by the IRG report and a number of leaders in the nuclear industry field. I cannot emphasize this principle too strongly. It is very important that any spent fuel program focus on regional AFR storage sites, and not just dump spent fuel from all over the country on a single State. No State should be expected to assume a disproportionate share of this national responsibility. Safety considerations, apart from the greater equity of having a regional system of storage sites, would seem to suggest such an approach. Regionally-located sites would obviously reduce the danger and cost involved in transporting spent fuel over long distances.

Finally, Mr. President, I believe that President Carter should reevaluate his indefinite deferral of commercial reprocessing. As I explained earlier, it was that particular decision which produced the need for interim storage facilities for spent fuel. It should be obvious by now that this approach to reducing proliferation risks is simply not working. Other countries are going ahead with commercial reprocessing, and the 66-nation nuclear conference organized by President Carter in 1977 released its report this spring, generally endorsing both reprocessing and the breeder reactor. By deferring commercial reprocessing, the United States is losing its leadership role in this area of nuclear technology and is wasting a tremendous amount of badly needed energy. Thus, I hope that this unwise administration policy will be reversed in order that commercial reprocessing can go forward.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senators from South Carolina for working out what I think is an excellent amendment. It provides with respect to AFR that the Governor, or his designee, shall be fully informed throughout the process of site selection, construction, and even during the monitoring after the licensing procedure.

He shall be given all relevant information, all relevant facts, all relevant documents, subject only, of course, to the usual restrictions on proprietary documents and that sort of thing. But other than those restrictions in law he is to get everything that is pertinent and be fully informed.

Part of our problem throughout this whole question of nuclear waste is that State officials have not been kept currently informed. That was one of the problems in the WIPP facility in New Mexico and, by the way, I think they are about to get that worked out between the State and Federal Government.

What we have done here is to institutionalize the right of the Governor or his designee to be fully informed. Of course, we also give the Governor the right to formally object and to file those objections, and in the institutionalizing of that process of being able to object and file those objections, we feel they will be very seriously considered.

The President, of course, in the national interest, within a period of 90 days, will have the right to override that objection based upon the national interest. But it does give a real substantive right to the Governor or his designee to be involved in that process.

We think it is a healthy addition to this bill, and for the majority on the committee we accept the amendment.

Mr. HOLLINGS. Mr. President, I want to thank my senior colleague and the distinguished managers of the bill for their help in formulating this amendment.

Fundamental to good public policy and effective public policy is that the policy be understood, that it be appreciated and be supported by the public.

In the field of nuclear endeavor, particularly nuclear waste, the Governors started in their conferences 25 years ago at the beginning of the nuclear age by instituting what they called RACNE, Regional Advisory Council on Nuclear Energy, and had a liaison between the Atomic Energy Commission and the Federal Government, and we kept it current and informative. Actually it was the feeding in of information of concerns and requirements for safety that have had a good part in the formulation of the Federal policy itself.

More recently in the MX missile dispersal problem there was a tremendous gap between the understanding and appreciation, the counting in of Governors on this particular defense policy, which caused a veritable hiatus out in the West, tremendous misunderstanding and, as a result, an opposition.

In order to have the policy supported, in order to have it appreciated, in order to have the Governors of the several States actually be a part of the execution, because they have got the divisions within their States and their concerns, and they have got to help in the administration of this policy, we have got to count them in, as they say, on the takeoff as well as the landing when there are things that do go wrong as at Three Mile Island.

So this particular amendment puts us in lockstep where we do not have the outright veto but we certainly have, as we move down step by step, the Governor receiving all the relevant information on a current basis with a procedural provision in here for him to institute at any particular time his objections and to have them properly reviewed.

In order to have this same approach employed, the President has appointed a State planning commission. The Governor of South Carolina, Governor Richard W. Riley, has been a leader in this commission with respect to the thoughts and concerns we have as we try to adopt a Federal waste policy and a Federal nuclear policy.

I ask unanimous consent to have printed in the RECORD a letter from Governor Riley on this measure.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF SOUTH CAROLINA,
July 28, 1980.

Hon. ERNEST FRITZ HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR FRITZ: I am of the understanding that Senate Bill 2189, titled "The Nuclear Waste Policy Act", is to reach the floor of the Senate today. The bill is a very important first step in providing vital federal commitments to a policy and a program for the proper management of radioactive waste. There are several elements of the Bill, however, that should receive close scrutiny.

I have stated on many occasions my opposition to away-from-reactor storage of spent nuclear fuel, unless there is the following: (1) demonstrated commitment to the permanent disposal of high-level waste (including spent fuel in lieu of reprocessing); (2) absolute maximum utilization of at-the-reactor and intral-utility storage; and (3) a system of away-from-reactor storage sites regionally located.

A demonstrated commitment does not now exist. How such a commitment, what is proposed as interim-storage could well become, for all intents and purposes, permanent storage.

I realize that S. 2189 attempts to provide Congressional direction for achieving such a commitment. However, the short time schedule, the inadequate budget authorization and lack of any provision for prticipation by state and local governments in the siting process create a less than desirable direction.

Regarding that portion of the Bill that addresses away-from-reactor storage of spent nuclear fuel, I am pleased that there is a stated policy of ". . . maximizing the storage of such spent fuel at the site of each civilian nuclear power plant . . ." However, the actions to encourage and expedite such maximum utilization should be based solely on the protection of public health and safety and not, as stated in Section 305, "economic considerations" or "the sensibilities (sensitivities?) of the purpose surrounding such power plants."

It is clear to me that Allied General's Barnwell Nuclear Fuel Plant is the prime candidate for away-from-reactor storage of spent nuclear fuel. There is no advantage to South Carolina for such fuel from out-of-state to be stored here unless all on-site and intra-utility storage possibilities have been used to their maximum.

The Bill also includes a provision regarding low-level radioactive waste. I understand that you will be offering an amendment to provide Congressional authorization for states to create interstate compacts for the management and disposal of low-level radioactive waste. I support your efforts in that regard because, first and foremost, State Governments need the authority to determine for themselves where and how such wastes are to be disposed of.

The staffs have been and will continue to communicate on the specifics of the Bill's language and any subsequent amendments offered by other Senators. I would be happy, however, to discuss the matter with you at any time.

Sincerely,

RICHARD W. RILEY.

Mr. HOLLINGS. This shows how, as a result of this particular letter and the amendment we are now offering in supporting, we have taken into consideration the things he is concerned with and that the State planning councils are concerned with.

Again I want to thank Senator JOHNSTON and Senator HATFIELD for their understanding and support of this measure.

Mr. HATFIELD. Mr. President, I am happy to join my colleagues in submitting the amendment and, on behalf of the minority, I would accept it.

I would like to add one further example to what the Senator from South Carolina (Mr. HOLLINGS) has stated. I do not think it is without particular coincidence that three of the four sponsors of this particular amendment are former Governors, and I think it is vital to have that kind of public support for any policy, but particularly a policy that is so controversial.

It reminds me of my own State where we were a depository for nerve gas, and over a period of time there was leakage that occurred in those canisters.

The Governor and other public officials had to find this out by actually digging into the bureaucracy of the Federal Government to inquire, taking public rumor and trying to nail it down to clarify and to assure the public that everything was being done that should be done and, therefore, we have had some prime examples of what happens when the Feds operate in a vacuum unrelated to the role of leadership at the State level that can be so helpful in implementing and furthering a public policy.

I might amend my previous comment to observe that even the Presiding Officer at this time (Mr. EXON) is a former Governor, so I guess we are in the majority at this moment.

I think it should be clearly understood, and I would like to say to the Senator from South Carolina (Mr. THURMOND) and to the Senator from Louisiana that it is my understanding, when we speak of the Governors having the right to this information that the initiatitve should not have to be upon the Governors. In other words, this information is made available and the Governors are not—you do not have to wait for the Governors to find out the questions they should ask or the data they should ask about because sometimes we do not know enough about the material in order to ask the right questions. So I want to clear here in the legislative record that this role that is to be played about keeping the Governors informed, that the initiative is on the part of the Federal Government itself, not on the part of the State; is that correct?

Mr. JOHNSTON. The Senator is correct. It is expected that the Governor—well, the Governor has the right to all the information, and it is expected that the Governor—does not have to ask for every little bit and scrap of information, but rather that it is a cooperative process where the Governor is brought in and kept advised from time to time from day to day, and it is as much by the terms of the amendment as by the spirit of cooperation which is implicit in the amendment that we would expect the Governor fully to be informed of all relevant matters.

Mr. THURMOND. Mr. President, I am in full accord with the statement made by the able Senator from Oregon. I think what he said is very pertinent and very reasonable. That is the way I would like to see it handled.

Mr. HATFIELD. Mr. President, I am glad to see the Senator from Louisiana make this legislative record, because I would hate to think all the information is withheld until the Governors make some kind of demand, or their designee; that this is the spirit of cooperation between the Federal and State officials so that the burden is not on the Governor to know what kind of question to ask or what kind of information to request, but it is a spirit of cooperation where this information is available on an ongoing basis.

Mr. JOHNSTON. The Senator is correct.

Mr. President, there is no other debate. I am prepared to yield back the remainder of my time.

Mr. HATFIELD. I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina (Mr. THURMOND).

The amendment (UP No. 1454) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum to be equally divided between Senators HART, JOHNSTON, and GLENN.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. JOHNSTON. Mr. President, I called off the quorum in order to enter into a short colloquy with the distinguished Senator from Ohio, to whom I now yield.

Mr. METZENBAUM. Mr. President, I appreciate the cooperation of the manager of the bill, my good friend from Louisiana.

I am concerned about the problem of locating nuclear waste disposal facilities in areas of high density. I have given some consideration to offering an amendment to preclude that, or perhaps to provide some definition of the high density area, as to what it is, by the Nuclear Regulatory Commission.

Would the Senator be good enough to indicate whether that protection is already provided in the legislation and whether or not such an amendment would be necessary?

Mr. JOHNSTON. Mr. President, I am happy to respond to the Senator.

The present licensing process requires that concerns of health and safety are absolute, so that the Nuclear Regulatory Commission must provide for health and safety.

Beyond that, it is essential in locating any nuclear waste facility that we be able to fully isolate the facility, the mouth of the facility if it is underground, or the entrance, from any external events, whether a crashing airplane, or individuals accidentally intruding upon it, or indeed, terrorists who might want to come into the facility.

So that would, by the very nature of it, by the nature of the requirement to exclude access of the population to it, exclude the area from a place of high population density. Of that I am totally satisfied, convinced, and certain.

The problem would be if we tried to define high population density. It would be very difficult to do so. I think the Senator has greater protection by relying on the present law which deals with health and safety.

One of the problems might be if we tried to define the number of persons per square mile within such and such a distance from the fence, the mine mouth, from whatever. Then, if we could ever appropriately define it, we would tend to say it is OK to have such facilities if they are not located within such population density, and, actually, the Nuclear Regulatory Commission may want to be much more strict than any definition we might want to effect.

So, in sum, I believe the real concern of the Senator from Ohio is more than adequately taken care of within the terms of this legislation and other licensing legislation incorporated herein by reference.

Mr. METZENBAUM. I appreciate the response from my friend from Louisiana.

But I must confess my concern arises from the fact that the Department of Energy has spent over $2 million, to date, to investigate the Salina Basin salt domes which underlie the Cleveland-Akron area, despite the fact that more than 4 million live within a close geological proximity.

I am concerned that absent some legislative prohibition, that the Nuclear Regulatory Commission, DOE, may see fit to locate one of the disposal sites in a heavily populated area, such as the one I have just mentioned.

Mr. JOHNSTON. Mr. President, I do not believe that would be possible under the bill. The bill provides for monitored retrievable storage.

One of the advantages of monitored retrievable storage is that we are not restricted to geologic formations.

It seems to me, the ideal kinds of places to store nuclear waste for monitored detrievable are in areas where we already have a large Federal reservation, totally sealed off from public access.

My own personal choice at this time, which has not been engrafted on the bill, would be an area like the Nevada atomic bomb test site, where we have tens of thousands of acres of Federal reservation, totally sealed off from public access, with tunnels actually already built. It is that kind of reservation to which monitored retrievable storage is best adapted.

That, frankly, is one of the biggest reasons for going to monitored retrievable—that we are not restricted to these geological formations. Geologic formations, as the Senator's question suggests, do not occur at the places where we would like them to occur. They do not occur on Federal reservations, necessarily. They occur in populated areas and elsewhere.

For that reason, this bill makes it inappropriate to store the waste in the kind of geological formation the Senator describes.

Mr. METZENBAUM. I thank the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, on the same time as previously in effect.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the majority leader will soon ask for a unanimous-consent request, but if I may explain to Senators what we intend to do then, perhaps, the cloakroom can be putting out a notice to Senators. What we would like to do on the majority side is to proceed with the bill and then finish it today.

However, our friends on the Environment and Public Works Committee have asked for additional time to do preparation on the question of AFR and also to negotiate on other matters, which we have agreed to do, but we want to do that on condition that we be able to get all the other amendments out of the way other than those which have previously been identified in the unanimous-consent request. Those are amendments by Senators MCCLURE, SCHMITT, and DURKIN, and a second-degree amendment by Senator SIMPSON. Other than those we wish to take up all other amendments now and then foreclose those amendments, and then go to the ERISA bill, and when ERISA is finished, not later than 10 a.m. tomorrow, we return to the bill for the purpose of dealing with those amendments to be offered by the Environment and Public Works Committee.

So I would ask all of our colleagues—and not to exceed eight amendments from the Environment and Public Works Committee.

So we would ask for our colleagues if they have amendments to the bill to come to the floor now. Now is the time to proceed and, hopefully, forever hold your peace if you do not have any now.

Mr. PERCY. Mr. President, will the Senator yield just to inquire once again is there any determination as to how late the leadership might wish to keep the Senate in this evening?

Mr. ROBERT C. BYRD. I would hope to stay until action on ERISA is completed, and if that is completed, if action on ERISA is completed, at a reasonably early hour, meaning 6 o'clock give or take a little bit, that we go back to this bill and continue to make progress on it.

So I am saying that the Senate ought to be prepared to stay in until 8 or 9 o'clock tonight in order to complete action on ERISA and make all progress possible on the pending business.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Can someone yield time to the Senator from New Mexico, 2 minutes?

Mr. JOHNSTON. Mr. President, I will yield to the Senator from New Mexico such time as he may desire.

Mr. DOMENICI. Let me say to the leader and to my friends from Louisiana and Idaho that I do not have any amendments unless certain portions of the Environment and Public Works waste disposal bill, which are not now part of the bill pending, are in fact offered or adopted.

Mr. JOHNSTON. Let me say to my friend second-degree amendments to the Environment and Public Works amendments would be in order under the unanimous-consent request we would seek to get. We want to make clear that after we finish this session here in the next few minutes if no amendments are offered, then the only ones in order tomorrow are those offered by the Environment and Public Works Committee or second-degree amendments to those amendments or those specifically referred to in the unanimous-consent request, which are from Senators SCHMITT, McCLURE, and DURKIN.

The unanimous-consent request will also refer to Senator SIMPSON's second-degree amendment to the Hart amendments, but that would be in order in any event. We would expect that the time agreement on both Hart amendments in the first degree and also the second-degree amendments, that those amendments would be under the same time strictures as already agreed upon.

Mr. DOMENICI. I would say to my friend that the original unanimous-consent agreement had 3 hours for a Domenici amendment. At that point, when I entered into the agreement, I did not know whether it would be a second-degree amendment or an amendment, because, had the Environment and Public Works Committee bill been in some way the text before the Senate, my 3-hour amendment would have been a first-degree amendment to it.

All I ask is that I be protected on 3 hours even if it is a second-degree amendment. Other than that, I will not have any objection.

Mr. JOHNSTON. We will certainly protect the Senator.

I must say, I thought the Senator had the consultation and concurrence which had already been agreed to. But, in any event, we will protect him on that.

Mr. DOMENICI. I say to the Senator that I think it was either that or the pilot regulation of R. & D. waste military that is in the bill.

Mr. JOHNSTON. Mr. President, I might say that we are most pleased with the progress on this bill so far. There are three really difficult parts of the bill, two of which have been dealt with already. One is the effect of the environmental impact statement. The Bradley-Hatfield amendment has, I think, very constructively dealt with that and satisfied virtually all sides in this matter.

Also, the question of State consultation and concurrence is a very knotty issue that has been evading our grasp both in committee and other committees, as well, for months and months. We have settled that. We settled it by a vote of 83 to nothing.

The next really big thing is the away-from-reactor storage, which will be a Hart amendment, which will be in order tomorrow if this unanimous-consent agreement is agreed upon. That is, really, the biggest remaining amendment. The other amendments I am sure will be important but not as critical as that.

UP AMENDMENT NO. 1455

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1455.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 10, after line 8, insert a new subsection 306(c) as follows:

"(c) The Secretary and the Commission, on a continuing basis, shall analyze and make projections of the availability when needed of spent fuel transportation casks required to support Federal transportation requirements pursuant to subsection (b). The Secretary and the Commission are authorized and directed to take such actions as the Secretary and the Commission, respectively deem necessary and appropriate to ensure the timely availability when needed of such spent fuel transportation casks.

Mr. McCLURE. Mr. President, the amendment is on page 10, after line 8, to insert a new subsection 306(c).

The timely availability of spent fuel transportation casks continues to be a critical path item essential and critical to the early and successful implementation of the AFR program, particularly for reactor plants which will be in the most extreme need in the next 2 to 3 years. Because of the several false starts for this program since first announced in October 1977, industry has been reluctant to commit capital funds for the industrial capacity to provide the required number of casks. The amendment will require affirmative action on the part of the DOE and NRC to insure that this element of the program is closely monitored and appropriate action is taken to insure that required casks are available.

Mr. President, this amendment has been discussed with the majority. I think we could adopt it and move on to the next one.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Idaho correctly and succinctly states the amendment. We concur with it.

I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho (Mr. McCLURE).

The amendment (UP No. 1455) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1456

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk reads as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1456:

Page 6, line 4, insert after "maximizing" the following: ", by utilization of available spent fuel pools to the maximum practical extent,"

Mr. McCLURE. Mr. President, the insertion of this phrase will conform the policy statement in section 301(b)(1), regarding maximizing on site storage of spent fuel to the direction in section 302 to Federal officials to encourage and expedite the use of available storage at the site of each civilian nuclear powerplant. The clarification is consistent with the committee's intent, as indicated by section 302, and it will avoid a potential ambiguity in section 301(b) leading to a contrary interpretation requiring construction of additional spent fuel pools at nuclear powerplants.

Mr. President, this again has been discussed with the majority. I think we are ready to act on the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the amendment does, in fact, clear up a potential ambiguity and conforms the section to the Energy Committee's intent. We accept it. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (Mr. McCLURE).

The amendment (UP No. 1456) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, again for the benefit of all Senators, we are now waiting for any amendments that anyone may have. We hope they will come promptly, because we hope to ask unanimous consent, after the expiration of a few more minutes, that no more amendments be in order except those that previously were identified.

Mr. MATSUNAGA. Mr. President, I do have an amendment, but I will have to go and get it. It is at the office. If the Senator would withhold on that request.

Mr. JOHNSTON. Yes; we will withhold until the Senator from Hawaii returns.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum and ask that it be charged equally to all available time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF SENATOR PELL TO THE SPECIAL JUDICIARY SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, in accordance with the order of the Senate previously entered, under the authority reposed in me by that order I hereby announce the appointment of Mr. CLAIBORNE PELL to serve on the ad hoc subcommittee of the Judiciary Committee which is to conduct an investigation of the actions, if any, of individuals in the representation of foreign powers.

I yield to the distinguished minority leader.

APPOINTMENT OF SENATOR LUGAR TO THE SPECIAL JUDICIARY SUBCOMMITTEE

Mr. BAKER. Mr. President, I am pleased to inform my colleagues that the distinguished Senator from Indiana (Mr. LUGAR) has consented to serve on the special Judiciary Subcommittee charged by the Senate last week to investigate the activities of agents of foreign governments in this country.

Senator LUGAR's willingness to assume this onerous duty is greatly appreciated, both by myself and by the vice chairman of the committee, the able Senator from South Carolina (Mr. THURMOND). Further, it is indicative of his leadership and his devotion to his responsibilities to the Foreign Relations Committee, the Senate, and the Nation.

This appointment fills the Republican membership on the special committee.

I thank the distinguished majority leader for yielding to me at this time so I could make this announcement.

I would urge the committee to begin its deliberations forthwith.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, while I have the floor, I hope the Senate will be able to make progress. We are operating on about three tracks at the moment. We have the Alaska lands legislation on which Senators are working and consulting with reference to certain areas of disagreement. The nuclear waste legislation is pending, but at the present time no amendments are ready to be called up pending a later time today, at which time Senator HART, Senator RANDOLPH, Senator GLENN, and others will be ready to call up their amendments.

The nomination of Mr. Zimmerman is pending in executive session.

It is important that the Senate act on the ERISA legislation in view of the approaching deadline in connection therewith.

It was my hope that we could move to ERISA for a while this afternoon so as to allow Senators time to prepare their amendments on nuclear waste, and then come back to nuclear waste.

I would hope that it would be possible to go to ERISA a little later. The managers on our side of the aisle are ready, and I understand that the managers on the other side of the aisle are ready. There seems to be a problem in connection with one Senator, but I would hope that we could meet and discuss the matter and resolve it in such a way that the Senate could proceed to take action on ERISA while we are awaiting settlement of problems on nuclear waste.

Mr. BAKER. Mr. President, in connection with the statement by the majority leader in respect to ERISA, I wish to state, as I previously advised the majority leader privately, that we do now have an objection lodged on this side from one Member to the immediate consideration of that measure.

I am afraid I do not know any more about the disagreements at this moment. I am willing to meet with the involved Senators and see if we can identify the problem or if we can devise an alternative. I understand the majority leader is willing to discuss that with us a little later this afternoon.

Mr. ROBERT C. BYRD. The Senator is correct. I would anticipate our meeting at 3 p.m.

I would again say to all Senators present on the floor and to those who are in their offices who may be listening, there is considerable work to be done by the Senate before the Senate adjourns for the August recess. I would hope we could utilize the hours to the best advantage.

RETIREMENT OF ROBERT A. MALSTROM

Mr. ROBERT C. BYRD. Mr. President, I have a resolution which I offer on behalf of myself, Mr. BAKER, and Mr. STEVENS. I send it to the desk and ask unanimous consent to speak for not to exceed 1 minute on that resolution, and then I will yield to the Senator from Hawaii.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 493) to commend Robert A. Malstrom upon his retirement as Financial Clerk of the Senate.

Mr. ROBERT C. BYRD. Mr. President, on July 31, the Senate will lose another of its longtime, dedicated, responsible, and valuable servants. Robert Malstrom, who has served for the past 3 years as the financial clerk of the Senate, has elected to retire after 30 years and 3 months of service in the disbursing office of the Senate and an additional 5 years of public service in the U.S. Army during World War II.

Born in Escanaba, Mich., Mr. Malstrom entered military service from there on October 15, 1940, and by the time of his discharge on December 21, 1945, his service in the Pacific theatre had included the battles of New Guinea and Luzon and a battlefield commission.

When he was discharged, Mr. Malstrom attended George Washington University, and on May 1, 1950, was first appointed to the staff of the Senate disbursing office.

I know that I voice the sentiments of all of my colleagues when I express to Mr. Malstrom our deep thanks for the service he has given to each of us and to the Senate, and I know I speak for all of us when I wish him and his wife, Pearl, a constructive, healthy, and happy retirement.

And now, Mr. President, I ask unanimous consent that the resolution at the desk be made the order of business of the Senate.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, throughout its history, the U.S. Senate has been blessed with employees who exemplify that which is the very best of public service.

We are losing just such an employee Thursday when Bob Malstrom, the Senate financial clerk, will retire after more than 30 years of distinguished and devoted service to this body.

During the three decades in which he has served in the disbursing office—as a clerk, the chief bookkeeper, the assistant financial clerk, and, for the past 4 years, as the financial clerk—Bob Malstrom has witnessed, and mastered, an unparalleled increase in responsibilities.

From the days of "over-the-counter," cash salary payments to less than 2,000 Senate employees in 1950, the disbursing office has become a sophisticated, computerized financial center which administers a monthly payroll of more than $12 million to more than 7,000 employees.

Furthermore, Mr. Malstrom and the members of his staff have been of invaluable assistance to me and members of my staff in making certain that the various guidelines and requirements for the financial management of a Senate office have been adhered to. I am certain each Member of the Senate has come, as I have, to rely greatly on the advice and recommendations of the disbursing office and, in particular, of Bob Malstrom. His service has been truly exemplary.

Indeed, as an advocate of a return to a "citizen Congress," I would lightheartedly interject that I fear Bob has performed entirely all too well. Because of the efficient service and courtesy that has become the hallmark of the disbursing office, it will be all the more difficult to ever get the Senate to spend much time outside these Halls.

Mr. President, in behalf of every Member from this side of the aisle, I want to thank Bob Malstrom for his unwavering devotion and service to this grand institution; express our congratulations both to him and to his successor, Stuart Balderson; and, finally, wish Bob and charming wife, Pearl, every happiness and pleasure in the coming years.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 493) was agreed to.

The preamble was agreed to.

The resolution with its preamble reads as follows:

S. RES. 493

> Whereas upon the retirement of Robert A. Malstrom, the Senate wishes to express its appreciation for his over 30 years of service as an employee of the Senate, including 3 years as the Financial Clerk of the Senate;
>
> Whereas the said Robert A. Malstrom at all times has discharged the important duties and responsibilities of his Office with great efficiency and dilligence; and
>
> Whereas his exceptional service and his continuous dedication to duty have earned for him our respect, esteem and our affection: Now, therefore, be it
>
> *Resolved,* That Robert A. Malstrom is hereby commended for his lengthy, faithful, and outstanding service to the Senate.
>
> SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to Robert A. Malstrom.

NUCLEAR WASTE POLICY ACT

The Senate continued with the consideration of the bill, S. 2189.

Mr. MATSUNAGA. Mr. President, I rise in support of S. 2189, the Nuclear Waste Policy Act. In so doing, I wish to commend the Senator from Louisiana for the leadership he has displayed and demonstrated in this matter.

I also commend the Senator from Ohio for having initiated a compromise amendment, which I think makes the bill entirely acceptable.

Mr. JOHNSTON. Mr. President, I thank the Senator from Hawaii. I thank him for his help on the bill as well.

Mr. PRYOR. Mr. President, I ask unanimous consent at this time that Mr. John Tull of my staff be granted the privileges of the floor during the debate on this particular legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1457

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. MCCLURE) proposes an unprinted amendment numbered 1457.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 5, after line 21 insert the following:
>
> (7) "test disposal" means the enplacement in a repository of an amount in excess of 100 canisters of spent nuclear fuel, high-level wastes or transuranic contaminated waste;

Mr. McCLURE. Mr. President, this amendment is intended to remove an ambiguity that might attend the action we took earlier with respect to this bill on State concurrence.

This deals with small scale test facilities that are not related to the national program.

Again, this amendment has been discussed with the manager for the majority. I do not think there is any problem with the amendment. I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, the Senator correctly states the amendment. It is a good amendment. We accept it. I yield back the remainder of my time.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1457) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GLENN AMENDMENT TO S. 2189

● Mr. STENNIS. Mr. President, on yesterday, Monday, July 28, the Senate adopted, by a unanimous vote of 83 yeas, an amendment by Senator GLENN to S. 2189, the Nuclear Waste Policy Act.

Among other things this amendment for the first time provides the States with statutory rights to participate in the Federal nuclear waste repository development program. Specifically, it requires the Department of Energy to consult and cooperate with the individual States throughout the repository planning and development process.

This amendment has great merit and I strongly support it. However, for reasons beyond my control, it was not possible for me to be present at the time the vote was taken. Had I been present I would have certainly voted for the amendment. I had already informed my colleagues of my position before the vote. As chairman of our Armed Services Committee, as well as a Senator from Mississippi and a member of the Senate as a body I have a many sided responsibility in this field and am pleased we are moving on this highly important problem.●

● Mr. CHURCH. Mr. President, I support S. 2189, the Nuclear Waste Policy Act, which is intended to move toward the solution of pressing problems in spent fuel storage and high-level waste disposal. This bill is an outgrowth of S. 685, on which I was an original cosponsor with Senators JOHNSTON and JACKSON.

Under the administration's proposed schedule for achieving geologic disposal of high-level waste, the year 2000 will already be history before the first geologic repository is in operation. I am convinced that the American people will not wait that long for a resolution to the nuclear waste question and still support the construction and operation of additional nuclear reactors. While I support the development and use of renewable energy technologies, such as gasohol and geothermal energy, I am not deluded into thinking that the development of these options means that we can lessen our reliance on nuclear energy. To the contrary, I am convinced that we will need to continue to expand the use of nuclear energy well into the next century if we are serious about overcoming our national dependence on imported oil.

Moreover, as the natural uranium resources of the United States are depleted, we will need to turn to the use of the breeder reactor, which has the feature of producing more fuel that it consumes and thus constitutes a virtually inexhaustible source for generating electricity and potentially other uses.

I believe that the provisions of S. 2189 constitute a carefully conceived approach of dealing with the spent fuel storage and nuclear waste disposal questions, while still permitting us to take action within the next few years instead of postponing everything for two more decades.

The provisions of title III of S. 2189 provide for the Department of Energy to establish a limited amount of away-from-reactor storage capacity for spent fuel from civilian nuclear powerplants to serve as a safety valve for those utilities which are unable or are prevented from expanding spent fuel storage capacity on site at their reactors.

With the indefinite postponement of reprocessing in this country, this approach seems to be a responsible Federal action to prevent existing reactors from being shut down. This seems particularly important with the uncertainties in the world energy supply. We can hardly afford to shut down any of our nuclear powerplants as long as they are safely operating, since they currently supply 13 percent of the Nation's electricity and will, over the next decade, provide an ever-increasing percentage of our Nation's electricial needs.

The provisions of title IV of S. 2189, while calling for action on a facility designed to permit retrieval of spent fuel or high-level waste, also continues an aggressive program to find a geologic disposal technology or other technologies which may prove to be better than the retrievable disposal system. However, there is also recognition that action is needed prior to the time that every question about the irretrievable disposal of high-level waste can be answered.

I believe, along with many of my colleagues on the Energy and Natural Resources Committee, that this bill constitutes a responsible and sensible approach to dealing with the spent fuel and high-level waste disposal issues both in the near future and in the long term.

There is other legislation in the Senate which is of concern to me because it offers only the prospect of continued delay, inaction, and entangled methodologies for dealing with the spent fuel and nuclear waste questions. I hope my colleagues will be able to see the debilitating effects that many of the provisions of this legislation would have if it were offered as amendments to S. 2189; it will forestall action at a time when it has become clear that action is needed to deal with the public's concerns about the storage of spent fuel and the disposal of high-level waste, and at a time when nuclear power has never been more urgently needed.

I, therefore, urge my colleagues to vote along with the Senate Energy Committee in opposing such counterproductive amendments.●

Mr. BAKER. Mr. President, I want to take a moment to comment on the Nuclear Waste Policy Act which we will shortly take up again today. Yesterday, while I was required to be away, the Senate began consideration of this legislation, and it did so with a resolve, indeed a unanimity that I believe demonstrates we are on the threshold of a national policy for dealing with this most complex and controversial problem.

I am delighted, Mr. President, that the Senate began its consideration of the nuclear waste legislation by reaching a compromise solution to one of the most sensitive of all problems we are likely to encounter in the course of our debate on this measure. The question of State "consultation and concurrence," as my good friend, the Senator from New Mexico (Mr. Domenici) so appropriately conceived it—State consultation and concurrence in the planning, siting, development, construction, and operation of nuclear waste repositories has now been satisfactorily resolved.

And I especially wish to commend my other colleagues on this side of the aisle, the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), and the Senator from Wyoming (Mr. Simpson) who worked diligently with our distinguished colleagues, the Senators from Louisiana (Mr. Johnston), Ohio (Mr. Glenn), and Colorado (Mr. Hart), and with the chairman (Mr. Jackson), and ranking Republican member (Mr. Hatfield) of the Energy Committee in reaching the compromise agreement on this issue. I believe that the Percy-Glenn amendment, as modified, provides essential assurances to the States and to native Americans that they will act as partners with, not subjects of, the Federal Government in providing for the safe, long-term disposal of nuclear wastes.

Finally, Mr. President, I would observe that once again we are considering a vitally important piece of energy legislation. With all the deferrals, with all the discussion, with all the studies that have characterized the halting attempts at all levels of government to deal with the nuclear waste problem, it is perhaps easy to forget that this bill, when it is finally passed by the Senate, will do much to restore confidence that the waste products from the generation of nuclear energy, like other waste products from other energy sources, can be handled in a safe, environmentally sound, responsible manner.

Mr. President, I again congratulate my distinguished colleagues for the statesmanlike and expeditious way in which they have begun work on S. 2189, the Nuclear Waste Policy Act, and I look forward to joining their further deliberations today.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, the time to be charged equally to all Senators who have time remaining.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Heflin). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the Senator from Ohio (Mr. Metzenbaum) has indicated that he does not wish to call up any amendments. Therefore, we are at the point previously discussed, where we should ask for unanimous consent, and I will talk for a moment about the scope of that while we wait for the majority leader.

What we would propose is that we temporarily lay aside this bill in order to take up other matters at the pleasure of the Senate; that the bill be laid aside until not later than 10 a.m. tomorrow; that no further amendments to be in order, other than amendments to be offered by the Committee on Environment and Public Works, no more than eight in number, time agreements on those to be covered by the previous time agreements; that amendments in the second degree be in order according to previous time agreements; that amendments agreeable to or offered on behalf of the Energy Committee be in order; that two amendments by Senator Glenn, an amendment by Senator Domenici previously outlined in the time agreement, an amendment by Senator McClure, and an amendment by Senator Schmitt be in order; that the second-degree amendment by Senator Simpson be governed as to time according to the previous time agreement; that no other amendments be in order.

I hope the majority leader will make that request as soon as he comes to the floor.

I ask the Senator from Idaho, have I correctly stated that?

Mr. McCLURE. I say to my friend from Louisiana that that is our understanding of where we stand now.

The two amendments to be offered by Senator Glenn were not covered by the previous order. They may need some further identification in the unanimous-consent agreement when propounded. Other than that I have no further addition to the statement made by the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senate presently is operating under an order which temporarily lays aside the Alaska lands bill until the disposition of the nuclear waste legislation or until such time as the majority leader, after consultation with the minority leader, calls the Alaska lands bill back before the Senate; am I correct?

The PRESIDING OFFICER. The Senator is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that the Alaska lands legislation continue to be laid temporarily aside under those same conditions; provided further that the nuclear waste legislation be temporarily laid aside until no later than 10 o'clock tomorrow morning, and that in the meantime the Senate proceed immediately to the consideration of calendar order No. 952, S. 1076, the ERISA legislation; provided further that when the Senate returns to the consideration of nuclear waste, S. 2189, either later today upon the disposition of the ERISA legislation or no later than 10 o'clock tomorrow morning, the only amendments to S. 2189 that would be in order would be not to exceed eight amendments by Mr. Hart from the Committee on Environment and Public Works, two amendments by Mr. Glenn, one dealing with AFR, the other dealing with licensing of long-term monitored storage facilities; one amendment by Mr. McClure identified in the time agreement previously entered into; one amendment by Mr. Schmitt; one amendment by Mr. Durkin; one amendment by Mr. Domenici; one amendment in the second degree by Mr. Simpson, all of which amendments are identified in the time agreement, and one amendment by Mr. Javits in the second degree to the Hart amendments; provided further, that any amendments offered on behalf of the Energy Committee will be in order; provided further, that the second-degree amendments, of course, will be in order; and, provided, finally, that time on amendments would be governed by the original time agreement.

Mr. BAKER. Mr. President, reserving

the right to object—and I will not, and I wish to put two questions under the reservation and then yield to the distinguished Senator from Idaho who is managing the bill on the part of this side of aisle—it is my understanding, Mr. President, that as and when this order is granted and we lay aside nuclear waste and proceed to the consideration of ERISA, that ERISA would not be finally disposed of this evening, pending further examination of that bill by certain Members who have erpressed a particular interest in it.

Mr. ROBERT C. BYRD. That is correct, with respect to Mr. ARMSTRONG.

Mr. BAKER. That is the Member I am referring to.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, beyond that I know of no other amendments.

It is my understanding, however, that under the order second degree amendments in general would be in order and any amendment by the Energy Committee would be in order.

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. On that basis I have no objection. I know of no objection on this side. I yield now, if I may, to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding. We know of no amendments of this side that have not been specifically identified in the unanimous-consent agreement already.

Mr. JOHNSTON. Mr. President, reserving the right to object, it is clear here that all these must be germane amendments.

Mr. ROBERT C. BYRD. Well, it is clear only that the amendments which have been specified would be in order.

Mr. JOHNSTON. Would the majority leader—since the original time agreement did have that stipulation could the majority leader—add that stipulation? Other than that the request——

Mr. McCLURE. Reserving the right to object, Mr. President—and I do not intend to object—let me say to the Senator from Louisiana that the amendments that are specified in the original agreement are subject to whatever conditions were laid upon those amendments in the original agreement but no other.

Mr. JOHNSTON. That is correct.

Mr. McCLURE. The only other amendments that are available at all under the agreement would be those emanating from the Environment and Public Works Committee or from the Energy and Natural Resources Committee, plus amendments in the second degree to any of the above-mentioned amendments.

Mr. JOHNSTON. Mr. President, if the majority leader would amend the request to state that all amendments would have to be germane except those identified in the original time agreement, those to be subject to those conditions on germaneness——

Mr. JAVITS. Mr. President, reserving the right to object, I just want to be sure my amendment would qualify.

Mr. BAKER. Mr. President, if the Senator will yield, the Senator from New York's amendment was set out in the revised request and does qualify as it was just put by the majority leader. It is identified as a second-degree amendment to Hart amendments.

Mr. JAVITS. That is correct, except it was not in the original request.

Mr. BAKER. But it is in the request just put by the leader at my request.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Did the majority leader make the request on the germaneness?

Mr. ROBERT C. BYRD. What is the wish of the two managers in that respect?

Mr. JOHNSTON. That all amendments be germane, except those identified in the original time agreement, it being understood that the Javits amendment is germane.

Mr. McCLURE. Mr. President, the germaneness requirement for those specified in the original time agreement would be as specified in the original time agreement. All other amendments except those would have to be germane.

Mr. BAKER. Mr. President, reserving the right to object, would it be equally clear and satisfactory to say that amendments must be germane except those specified in this revised request? Because I want to make sure that the Senator from New York and others who are included in this request are not subject to a challenge on the question of germaneness.

Mr. McCLURE. With one exception, that would be with respect to amendments in the second degree.

Mr. ROBERT C. BYRD. Just to be clear, in the original agreement, it was provided that no amendment that is not germane to the provisions of the said bill shall be received.

It would seem to me, if we stick to that agreement, with the proviso that the amendment by Mr. JAVITS in the second degree would be in order and that all other amendments that have been identified would be in order, that that would resolve it.

Mr. McCLURE. Yes.

Mr. JOHNSTON. Second-degree amendments have not been identified in that sense, so that they would have to be germane.

Mr. ROBERT C. BYRD. According to the original agreement, no amendment not germane to the provisions of the said bill shall be received. It would be understood that amendments in the second degree would have to be germane to the amendments in the first degree with the exception of Mr. JAVITS' amendment, which is taken care of.

Mr. JAVITS. Will the leader yield on the ERISA bill?

Mr. ROBERT C. BYRD. Could we get the agreement on the nuclear waste bill?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate resumes consideration of S. 2189 (Order No. 582), a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes, only the following amendments shall be in order: 8 Hart amendments, offered on behalf of the Committee on Environment and Public Works, on which there shall be 1½ hours each; 2 Glenn amendments, relative to AFR and licensing of long-term monitored storage facility, on each of which there shall be 1½ hours; a Simpson amendment in the second degree, on which there shall be 1½ hours; a Domenici amendment, which has to be germane, on which there shall be 3 hours; a Schmitt amendment, relative to transportation of nuclear waste, on which there shall be 2 hours; a McClure amendment, relative to mixed oxide fuel, on which there shall be 1 hour; a Durkin amendment, relative to nuclear waste, on which there shall be 1 hour; a Javits amendment in the second degree to a Hart amendment, on which there shall be 40 minutes; and any amendment offered on behalf of the Committee on Energy and Natural Resources, and second degree amendments which shall be limited to 40 minutes each with the time to be equally divided and controlled by the mover of such and the manager of the bill; with time for debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate to be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. Johnston) and the Senator from Oregon (Mr. Hatfield): *Provided*, That there be 2 additional hours on the bill under the control of the Senator from Ohio (Mr. Glenn): *Provided further*, That there be 2 additional hours on the bill under the control of the Senator frod Colorado (Mr. Hart) and the Senator from Wyoming (Mr. Simpson): *Provided further*, That the said Senators, or any one of them, may from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. JAVITS. If the leader would yield, I am pleased that Senator ARMSTRONG is here. First, I would like to say that he has been extraordinarily helpful and cooperative as a colleague in allowing us to proceed with a very complex bill which has a very serious deadline. Second, I would like to record the fact that he has given us his assurance that he will give us his word on the subject by tomorrow morning.

Mr. ROBERT C. BYRD. Yes, he did. He is here to speak for himself. He indicated he would like to do that even this afternoon.

Mr. ARMSTRONG. Mr. President, if the majority leader will yield, I am prepared to express my views on ERISA. I am not clear on the nature of the pending business.

Have we agreed to take up the bill? Is that the pending business?

Mr. JAVITS. I think the leader has not yet asked for that.

Mr. ARMSTRONG. It is my understanding that the majority leader will soon ask to take that up.

Mr. ROBERT C. BYRD. Mr. President,

I thought that was included in the request. Let me say it this way: I included that in the original request, with the understanding that final action would not occur on ERISA until the Senator from Colorado (Mr. ARMSTRONG), had given his clearance. I think I stated, or I will state now that it was my understanding that that would be today, perhaps—not necessarily—but that it could be within the next hour or so.

Mr. ARMSTRONG. Mr. President, I appreciate the majority leader's courtesy and I am prepared to give my clearance for whatever it is worth at this time.

Let me just explain to the Senate that the concern I feel is that we have a bill which is very complex and which affects, in a very material way, the rights of millions of employees and hundreds of thousands of employers. It is a terribly complex bill in which there have been literally hundreds of changes made in the last month or so and which comes to the floor without a committee report.

For that reason, I expressed to the managers of the bill my concern, first, that that was not a good practice to bring an important piece of legislation or, for that matter, any legislation to the floor without a report; and, second, that in this particular case, I was distressed that a bill which had so much potential for technical error and mischief might be enacted without giving Senators the benefit of that kind of scholarship and information.

I am mindful, Mr. President, of what happened when we passed RESPA a few years ago, and I am mindful of the decedents' carryover basis in the tax code and other matters which have crept into law without anybody really knowing about it.

Upon checking, I have decided that my misgivings are substantial, that the misgivings have foundation, that there are reasons to be concerned, and yet, under the circumstances, I am not going to present any objection.

Rather than delay the Senate further, let me just again thank both the majority and minority leaders for their courtesy. But let me say, just as a matter of practice, I do not think the Senate should consider legislation without having before it, under the 3-day rule, a published committee report.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for stating his position and also indicating his clearance of the matter.

May I say, however, for the record, that Mr. LONG, on last Thursday, did place into the RECORD, by unanimous consent, a summary of the bill. I say that so that any Senators who may wish to study the RECORD of that date may find therein a printed summary of the bill. I believe the summary includes some views by Mr. JAVITS.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER (Mr. RIEGLE). The Senator from Tennessee.

Mr. BAKER. Mr. President, I wish to express my thanks to the Senator from Colorado for his agreement to proceed in this matter. I am fully aware of his concerns. He has often, and properly, expressed his concerns for consideration of bills and measures on the floor absent the requirement of the 3-day rule with respect to reports.

This is a little different situation. I would like to call the attention of our colleagues to the way this came about. There is no report in this case. Instead, the distinguished chairman of the Finance Committee, Mr. LONG, placed what otherwise might have been in a report in the RECORD on last Thursday, which the majority leader just pointed out. That is a source of information that Members interested in this bill—and I am sure every Member is interested in this bill—may utilize to try to make their valued judgments on its desirability.

But I am concerned that that procedure should not displace, it should not take the place of the regular reporting requirements or the regular reporting opportunity by committees.

Once again, I thank the Senator from Colorado for his statement and clearance. I thank the majority leader for working this out and giving the Senator from Colorado time to express his concerns.

But I would like to state that I hope in the future we do not engage in the policy of putting a statement in the record to serve as a substitute for a formal report to the Senate.

MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1076) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954, as amended, for the purpose of improving retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, authorizing plan preservation measures for financially troubled multiemployer pension plans, and revising the manner in which the pension plan termination insurance provisions apply to multiemployer plans.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources and the Committee on Finance, jointly, with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiemployer Pension Plan Amendments Act of 1980".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and declaration of policy.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 101. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 102. Multiemployer guarantees; aggregate limit on guarantees.
Sec. 103. Termination for multiemployer plans.
Sec. 104. Employer withdrawals; merger or transfer of plan assets or liabilities; reorganization; minimum contribution requirement for multiemployer plans; financial assistance; benefits after termination; enforcement.
Sec. 105. Premiums.
Sec. 106. Annual report of plan administrator.
Sec. 107. Contingent employer liability insurance.
Sec. 108. Transition rules and effective dates.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Sec. 201. Amendments of the Internal Revenue Code of 1954.
Sec. 202. Multiemployer plans in reorganization.
Sec. 203. Minimum funding requirements.
Sec. 204. Excise taxes.
Sec. 205. Deductibility of employer liability payments.
Sec. 206. Minimum vesting requirements.
Sec. 207. Definition of multiemployer plan.
Sec. 208. Related technical amendments.
Sec. 209. Tax exemption for withdrawal liability payment funds.
Sec. 210. Effective date.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 302. Definition of multiemployer plan.
Sec. 303. Minimum vesting requirements.
Sec. 304. Minimum funding requirements.
Sec. 305. Application of interested party rules to withdrawal liability payment funds.
Sec. 306. Liquidated damages with respect to delinquent contributions.
Sec. 307. Actuarial standards.
Sec. 308. Exemptions from prohibited transactions.
Sec. 309. Fiduciary duties.
Sec. 310. Refund of certain withdrawal liability payments.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 402. Related technical amendments.
Sec. 403. Conforming amendments.
Sec. 404. Clerical amendments.
Sec. 405. Action taken before regulations are prescribed.
Sec. 406. Pension Benefit Guaranty Corporation put on budget.
Sec. 407. Church plans.
Sec. 408. Deductibility of payments to plan by a corporation operating public transportation system acquired by a State.
Sec. 409. Waiver of preemption in case of Hawaiian health care plan.
Sec. 410. Treatment of certain severance pay and supplemental retirement income arrangements as welfare plans.
Sec. 411. Refund of mistaken contributions.
Sec. 412. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.
Sec. 413. Study by General Accounting Office; hearings required.

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that—

(1) multiemployer pension plans have a substantial impact on interstate commerce and are affected with a national public interest;

(2) multiemployer pension plans have accounted for a substantial portion of the in-

crease in private pension plan coverage over the past three decades;

(3) the continued well-being and security of millions of employees, retirees, and their dependents are directly affected by multiemployer pension plans; and

(4)(A) withdrawals of contributing employers from a multiemployer pension plan frequently result in substantially increased funding obligations for employers who continue to contribute to the plan, adversely affecting the plan, its participants and beneficiaries, and labor-management relations, and

(B) in a declining industry, the incidence of employer withdrawals is higher and the adverse effects described in subparagraph (A) are exacerbated.

(b) The Congress further finds that—

(1) it is desirable to modify the current multiemployer plan termination insurance provisions in order to increase the likelihood of protecting plan participants against benefit losses; and

(2) it is desirable to replace the termination insurance program for multiemployer pension plans with an insolvency-based benefit protection program that will enhance the financial soundness of such plans, place primary emphasis on plan continuation, and contain program costs within reasonable limits.

(c) It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to alleviate certain problems which tend to discourage the maintenance and growth of multiemployer pension plans,

(3) to provide reasonable protection for the interests of participants and beneficiaries of financially distressed multiemployer pension plans, and

(4) to provide a financial self-sufficient program for the guarantee of employee benefits under multiemployer plans.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 101. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 102. MULTIEMPLOYER GUARANTEES; AGGREGATE LIMIT ON GUARANTEES.

Subtitle B of title IV is amended by inserting at the end thereof the following new sections:

"MULTIEMPLOYER PLAN BENEFITS GUARANTEED

"SEC. 4022A. (a) The corporation shall guarantee, in accordance with this section, the payment of nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under the terms of a multiemployer plan—

"(1) to which section 4021 applies, and

"(2) which is insolvent under section 4245(b) or 4281(d)(2).

"(b)(1) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months is not eligible for the corporation's guarantee. For purposes of this paragraph, any month of any plan year during which the plan was insolvent or terminated (within the meaning of section 4041A(a)(2)) shall not be taken into account.

"(2) For purposes of this section—

"(A) the date on which a benefit or a benefit increase under a plan is first in effect is the later of—

"(i) the date on which the documents establishing or increasing the benefit were executed, or

"(ii) the effective date of the benefit or benefit increase;

"(B) the period of time for which a benefit or a benefit increase has been in effect under a successor plan includes the period of time for which the benefit or benefit increase was in effect under a previously established plan; and

"(C) in the case of a plan to which section 4021 did not apply on September 3, 1974, the time periods referred to in this section are computed beginning on the date on which section 4021 first applies to the plan.

"(c)(1) Except as provided in subsection (g), the monthly benefit of a participant or a beneficiary which is guaranteed under this section by the corporation with respect to a plan is the product of—

"(A) 100 percent of the accrual rate up to $5, plus 75 percent of the lesser of—

"(i) $15, or

"(ii) the accrual rate, if any, in excess of $5, and

"(B) the number of the participant's years of credited service.

"(2) Except as provided in paragraph (6) of this subsection and in subsection (g), in applying paragraph (1) with respect to a plan described in paragraph (5)(A), the term '65 percent' shall be substituted in paragraph (1)(A) for the term '75 percent'.

"(3) For purposes of this section, the accrual rate is—

"(A) the monthly benefit of the participant or beneficiary which is described in subsection (a) and which is eligible for the corporation's guarantee under subsection (b), except that such benefit shall be—

"(i) no greater than the monthly benefit which would be payable under the plan at normal retirement age in the form of a single life annuity, and

"(ii) determined without regard to any reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954; divided by

"(B) the participant's years of credited service.

"(4) For purposes of this subsection—

"(A) a year of credited service is a year in which the participant completed—

"(i) a full year of participation in the plan, or

"(ii) any period of service before participation which is credited for purposes of benefit accrual as the equivalent of a full year of participation;

"(B) any year for which the participant is credited for purposes of benefit accrual with a fraction of the equivalent of a full year of participation shall be counted as such a fraction of a year of credited service; and

"(C) years of credited service shall be determined by including service which may otherwise be disregarded by the plan under section 411(a)(3)(E) of the Internal Revenue Code of 1954.

"(5)(A) A plan is described in this subparagraph if—

"(i) the first plan year—

"(I) in which the plan is insolvent under section 4245(b) or 4281(d)(2), and

"(II) for which benefits are required to be suspended under section 4245, or reduced or suspended under section 4281, until they do not exceed the levels provided in this subsection, begins before the year 2000; and

"(ii) the plan sponsor has not established to the satisfaction of the corporation that, during the period of 10 consecutive plan years (or of such lesser number of plan years for which the plan was maintained) immediately preceding the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the total amount of the contributions required under the plan for each plan year was at least equal to the sum of—

"(I) the normal cost for that plan year, and

"(II) the interest for the plan year (determined under the plan) on the unfunded past service liability for that plan year, determined as of the beginning of that plan year.

"(B) A plan shall not be considered to be described in subparagraph (A) if—

"(i) it is established to the satisfaction of the corporation that—

"(I) the total amount of the contributions received under the plan for the plan years for which the actuarial valuations (performed during the period described in subparagraph (A)(ii)) were performed was at least equal to the sum described in subparagraph (A)(ii); or

"(II) the rates of contribution to the plan under the collective bargaining agreements negotiated when the findings of such valuations were available were reasonably expected to provide such contributions;

"(ii) the number of actuarial valuations performed during the period described in subparagraph (A)(ii) is—

"(I) at least 2, in any case in which such period consists of more than 6 plan years, and

"(II) at least 1, in any case in which such period consists of 6 or fewer plan years; and

"(iii) the plan sponsor certifies that to the best of the plan sponsor's knowledge there is no information available which establishes that the total amount of the contributions received under the plan for any plan year during the period described in subparagraph (A)(ii) for which no valuation was performed is less than the sum described in subparagraph (A)(ii).

"(6) Notwithstanding paragraph (2), in the case of a plan described in paragraph (5)(A), if for any period of 3 consecutive plan years beginning with the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the value of the assets of the plan for each such plan year is an amount equal to at least 8 times the benefit payments for such plan year—

"(A) paragraph (2) shall not apply to such plan; and

"(B) the benefit of a participant or beneficiary guaranteed by the corporation with respect to the plan shall be an amount determined under paragraph (1).

"(d) In the case of a benefit which has been reduced under section 411(a)(3)(E) of the Internal Revenue Code of 1954, the corporation shall guarantee the lesser of—

"(1) the reduced benefit, or

"(2) the amount determined under subsection (c).

"(e) The corporation shall not guarantee benefits under a multiemployer plan which, under section 4022(b)(6), would not be guaranteed under a single-employer plan.

"(f)(1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

"(A) conduct a study to determine—

"(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployer plans described in subsection (c), and

"(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

"(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

"(2)(A) If the report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the

Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested—

"(i) a revised schedule of basic-benefit guarantees for multiemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b),

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) A revised schedule referred to in subparagraph (A) shall go into effect as approved by the Congress by concurrent resolution.

"(3)(A) If the report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested—

"(i) a revised schedule of increases in the basic-benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) A revised schedule referred to in subparagraph (A)(i) or subparagraph (A)(ii) shall go into effect as approved by the Congress by a concurrent resolution.

"(4)(A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress favors the proposed schedule described in ———— transmitted to the Congress by the Pension Benefit Guaranty Corporation on ————.', the first blank space therein being filled with 'section 4022A(f)(2)(A)(i) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(iii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(3)(A)(i) of the Employee Retirement Income Security Act of 1974', or 'section 4022A(f)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974' (whichever is applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b)(4) through (7).

"(g)(1) The corporation may guarantee the payment of such other classes of benefits under multiemployer plans, and establish the terms and conditions under which those other classes of benefits are guaranteed, as it determines to be appropriate.

"(2)(A) The corporation shall prescribe regulations to establish a supplemental program to guarantee benefits under multiemployer plans which would be guaranteed under this section but for the limitations in subsection (c). Such regulations shall be proposed by the corporation no later than the end of the 18th calendar month following the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980. The regulations shall make coverage under the supplemental program available no later than January 1, 1983. Any election to participate in the supplemental program shall be on a voluntary basis, and a plan electing such coverage shall continue to pay the premiums required under section 4006(a)(2)(B) to the revolving fund used pursuant to section 4005 in connection with benefits otherwise guaranteed under this section. Any such election shall be irrevocable, except to the extent otherwise provided by regulations prescribed by the corporation.

"(B) The regulations prescribed under this paragraph shall provide such reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines to be necessary and appropriate for a feasible supplemental program consistent with the purposes of this title.

"(3) Any benefits guaranteed under this subsection shall be considered nonbasic benefits for purposes of this title.

"(4)(A) No revised schedule of premiums under this subsection, after the initial schedule, shall go into effect unless—

"(i) the revised schedule is submitted to the Congress, and

"(ii) a concurrent resolution described in subparagraph (B) is not adopted before the close of the 60th legislative day after such schedule is submitted to the Congress.

"(B) For purposes of subparagraph (A), a concurrent resolution described in this subparagraph is a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the revised premium schedule transmitted to the Congress by the Pension Benefit Guaranty Corporation under section 4022A(g)(4) of the Employee Retirement Income Security Act of 1974 on————.', the blank space therein being filled with the date on which the revised schedule was submitted.

"(C) For purposes of subparagraph (A), the term 'legislative day' means any calendar day other than a day on which either House is not in session because of a sine die adjournment or an adjournment of more than 3 days to a day certain.

"(D) The procedure for disposition of a concurrent resolution described in subparagraph (B) shall be the procedure described in paragraphs (4) through (7) of section 4006(b).

"(5) Regulations prescribed by the corporation to carry out the provisions of this subsection, may, to the extent provided therein, supersede the requirements of sections 4245, 4261, and 4281, and the requirements of section 418D of the Internal Revenue Code of 1954, but only with respect to benefits guaranteed under this subsection.

"AGGREGATE LIMIT ON BENEFITS GUARANTEED

"SEC. 4022B. (a) Notwithstanding sections 4022 and 4022A, no person shall receive from the corporation pursuant to a guarantee by the corporation of basic benefits with respect to a participant under all multiemployer and single employer plans an amount, or amounts, with an actuarial value which exceeds the actuarial value of a monthly benefit in the form of a life annuity commencing at age 65 equal to the amount determined under section 4022(b)(3)(B) as of the date of the last plan termination.

"(b) For purposes of this section—

"(1) the receipt of benefits under a multiemployer plan receiving financial assistance from the corporation shall be considered the receipt of amounts from the corporation pursuant to a guarantee by the corporation of basic benefits except to the extent provided in regulations prescribed by the corporation, and

"(2) the date on which a multiemployer plan, whether or not terminated, begins receiving financial assistance from the corporation shall be considered a date of plan termination.".

SEC. 103. TERMINATION FOR MULTIEMPLOYER PLANS.

Subtitle C of title IV is amended by inserting after section 4041 the following new section:

"TERMINATION OF MULTIEMPLOYER PLANS

"SEC. 4041A. (a) Termination of a multiemployer plan under this section occurs as a result of—

"(1) the adoption after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 of a plan amendment which provides that participants will receive no credit for any purpose under the plan for service with any employer after the date specified by such amendment;

"(2) the withdrawal of every employer from the plan, within the meaning of section 4041A(a)(2), or the cessation of the obligation of all employers to contribute under the plan; or

"(3) the adoption of an amendment to the plan which causes the plan to become a plan described in section 4021(b)(1).

"(b)(1) The date on which a plan terminates under paragraph (1) or (3) of subsection (a) is the later of—

"(A) the date on which the amendment is adopted, or

"(B) the date on which the amendment takes effect.

"(2) The date on which a plan terminates under paragraph (2) of subsection (a) is the earlier of—

"(A) the date on which the last employer withdraws, or

"(B) the first day of the first plan year for which no employer contributions were required under the plan.

"(c) Except as provided in subsection (f)(1), the plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall—

"(1) limit the payment of benefits to benefits which are nonforfeitable under the plan as of the date of the termination, and

"(2) pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity, unless the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan.

"(d) The plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall reduce benefits and suspend benefit payments in accordance with section 4281.

"(e) In the case of a plan which terminates under paragraph (1) or (3) of subsection (a), the rate of employer contributions under the plan for each plan year beginning on or after the plan termination date shall equal or exceed the highest rate of employer contributions at which the employer had an obligation to contribute under the plan in the 5 preceding plan years ending on or before the plan termination date, unless the corporation approves a reduction in the rate based on a finding that the plan is or soon will be fully funded.

"(f)(1) The plan sponsor of a terminated plan may authorize the payment other than in the form of an annuity of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, if the value of the entire nonforfeitable benefit does not exceed $1,750. The corporation may authorize the payment of benefits under the terms of a terminated plan other than nonforfeitable benefits, or the payment other than in the form of an annuity of benefits having a value greater than $1,750, if the corporation determines that such payment is not adverse to the interest of the plan's participants and beneficiaries generally and does not unreasonably increase the corporation's risk of loss with respect to the plan.

"(2) The corporation may prescribe reporting requirements for terminated plans, and rules and standards for the administration of such plans, which the corporation considers appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the corporation.".

SEC. 104. EMPLOYER WITHDRAWALS; MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES; REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS; FINANCIAL ASSISTANCE; BENEFITS AFTER TERMINATION; ENFORCEMENT.

Title IV is amended—

(1) by striking out the heading for subtitle E and inserting in lieu thereof the following:

"Subtitle F—Transition Rules and Effective Dates";

and

(2) by inserting after subtitle D the following new subtitle:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"WITHDRAWAL LIABILITY ESTABLISHED

"SEC. 4201. If an employer withdraws from a multiemployer plan in a complete withdrawal or a partial withdrawal, then the employer is liable to the plan in the amount determined under this part to be the withdrawal liability.

"DETERMINATION AND COLLECTION OF LIABILITY NOTIFICATION OF EMPLOYER

"SEC. 4202. When an employer withdraws from a multiemployer plan, the plan sponsor, in accordance with this part, shall—

"(1) determine the amount of the employer's withdrawal liability,

"(2) notify the employer of the amount of the withdrawal liability, and

"(3) collect the amount of the withdrawal liability from the employer.

"COMPLETE WITHDRAWAL

"SEC. 4203. (a) For purposes of this part, a complete withdrawal from a multiemployer plan occurs when an employer—

"(1) permanently ceases to have an obligation to contribute under the plan, or

"(2) permanently ceases all covered operations under the plan.

"(b)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the building and construction industry, a complete withdrawal occurs only as described in paragraph (2), if—

"(A) substantially all the employees with respect to whom the employer has an obligation to contribute under the plan perform work in the building and construction industry, and

"(B) the plan—

"(i) primarily covers employees in the building and construction industry, or

"(ii) is amended to provide that this subsection applies to employers described in this paragraph.

"(2) A withdrawal occurs under this paragraph if—

"(A) an employer ceases to have an obligation to contribute under the plan, and

"(B) the employer—

"(i) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

"(ii) resumes such work within 5 years after the date on which the obligation to contribute under the plan ceases, and does not renew the obligation at the time of the resumption.

"(3) In the case of a plan terminated by mass withdrawal (within the meaning of section 4041A(a)(2)), paragraph (2) shall be applied by substituting '3 years' for '5 years' in subparagraph (B)(ii).

"(c)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, if the plan primarily covers employees in the entertainment industry, a complete withdrawal occurs only as described in subsection (b)(2) applied by substituting 'plan' for 'collective bargaining agreement' in subparagraph (B)(i) thereof.

"(2) For purposes of this subsection, the term 'entertainment industry' means—

"(A) theater, motion picture, radio, television, sound or visual recording, film processing, music, and dance, and

"(B) such other entertainment activities as the corporation may determine to be appropriate.

"(3) The corporation may by regulation exclude a class of employers described in the preceding sentence from the application of this subsection if the corporation determines that such exclusion is necessary—

"(A) to protect the interest of the plan's participants and beneficiaries, or

"(B) to prevent a significant risk of loss to the corporation with respect to the plan.

"(4) A plan may be amended to provide that this subsection shall not apply to a class of employers under the plan.

"(d)(1) Notwithstanding subsection (a), in the case of an employer who—

"(A) has an obligation to contribute under a plan described in paragraph (2) primarily for work described in such paragraph, and

"(B) does not continue to perform work within the jurisdiction of the plan,

a complete withdrawal occurs only as described in paragraph (3).

"(2) A plan is described in this paragraph if substantially all of the contributions required under the plan are made by employers primarily engaged in the long and short haul trucking industry, the household goods moving industry, or the public warehousing industry.

"(3) A withdrawal occurs under this paragraph if—

"(A) an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan, and

"(B) either—

"(i) the corporation determines that the plan has suffered substantial damage to its contribution base as a result of such cessation, or

"(ii) the employer fails to furnish a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to 50 percent of the withdrawal liability of the employer.

"(4) If, after an employer furnishes a bond or escrow to a plan under paragraph (3)(B)(ii), the corporation determines that the cessation of the employer's obligation to contribute under the plan (considered together with any cessations by other employers), or cessation of covered operations under the plan, has resulted in substantial damage to the contribution base of the plan, the employer shall be treated as having withdrawn from the plan on the date on which the obligation to contribute or covered operations ceased, and such bond or escrow shall be paid to the plan. The corporation shall not make a determination under this paragraph more than 60 months after the date on which such obligation to contribute or covered operations ceased.

"(5) If the corporation determines that the employer has no further liability under the plan either—

"(A) because it determines that the contribution base of the plan has not suffered substantial damage as a result of the cessation of the employer's obligation to contribute or cessation of covered operations, or

"(B) because it may not make a determination under paragraph (4) because of the last sentence thereof,

then the bond shall be cancelled or the escrow refunded.

"(6) Nothing in this subsection shall be construed as a limitation on the amount of the withdrawal liability of any employer.

"(e) For purposes of this part, the date of a complete withdrawal is—

"(1) for the purpose of determining whether a withdrawal has occurred, the date of the cessation of the obligation to contribute or the cessation of covered operations, and

"(2) for the purpose of determining the amount of withdrawal liability, the last day of the plan year in which the cessation occurs.

"(f)(1) The corporation may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules similar to the rules described in subsections (b) and (c).

"(2) Regulations under paragraph (1) shall permit use of special withdrawal liability rules—

"(A) only in industries (or portions thereof) in which, as determined by the corporation, the characteristics that would make use of such rules appropriate are clearly shown, and

"(B) only if the corporation determines, in each instance in which special withdrawal liability rules are permitted, that use of such rules will not pose a significant risk to the corporation under this title.

"SALE OF ASSETS

"SEC. 4204. (a)(1) A complete or partial withdrawal of an employer (hereinafter in this section referred to as the 'seller') under this section does not occur solely because, as a result of a bona fide, arm's-length sale of assets to an unrelated party (hereinafter in this section referred to as the 'purchaser'), the seller ceases covered operations or ceases to have an obligation to contribute for such operations, if—

"(A) the purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller had an obligation to contribute to the plan;

"(B) the purchaser provides to the plan for a period of 5 plan years commencing with the first plan year beginning after the sale of assets, a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to the greater of—

"(i) the average annual contribution required to be made by the seller with respect to the operations under the plan for the 3 plan years preceding the plan year in which the sale of the employer's assets occurs, or

"(ii) the annual contribution that the seller was required to make with respect to the operations under the plan for the last plan year before the plan year in which the sale of the assets occurs,

which bond or escrow shall be paid to the plan if the purchaser withdraws from the plan, or fails to make a contribution to the plan when due, at any time during the first 5 plan years beginning after the sale; and

"(C) the contract for sale provides that, if the purchaser withdraws in a complete or partial withdrawal during such first 5 plan years, the seller is secondarily liable for any withdrawal liability it would have had to the plan with respect to the operations (but for this section) if the liability of the purchaser with respect to the plan is not paid.

"(2) If the purchaser—

"(A) withdraws before the last day of the fifth plan year beginning after the sale, and

"(B) fails to make any withdrawal liability payment when due,

then the seller shall pay to the plan an amount equal to the payment that would have been due from the seller but for this section.

"(3)(A) If all, or substantially all, of such assets are liquidated or distributed before the end of the 5 plan year period described in paragraph (1)(C), then the seller shall provide a bond or amount in escrow equal to the present value of the withdrawal liability the seller would have had but for this subsection.

"(B) If only a portion of the seller's assets are sold during such period, then rules similar to the rules of subparagraph (A) shall be applied pro tanto the seller's liability, if such sale would constitute a partial withdrawal but for the application of paragraph (1).

"(4) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon payment of the bond or escrow to the plan, by the amount thereof.

"(b)(1) For the purposes of this part, the liability of the purchaser shall be determined as if the purchaser had been required to contribute to the plan in the year of the sale and the 4 plan years preceding the sale the amount the seller was required to contribute for such operations for such 5 plan years.

"(2) If the plan is in reorganization in the plan year in which the sale of assets occurs, the purchaser shall furnish a bond or escrow in an amount equal to 200 percent of the amount described in subsection (a)(1)(B).

"(c) The corporation may by regulation vary the standards in subparagraphs (B) and (C) of subsection (a)(1) if the variance would more effectively or equitably carry out the purposes of this title. Before it promulgates such regulations, the corporation may grant individual or class variances or exemptions from the requirements of such subparagraphs if the particular case warrants it. Before granting such an individual or class variance or exemption, the corporation—

"(1) shall publish notice in the Federal Register of the pendency of the variance or exemption,

"(2) shall require that adequate notice be given to interested persons, and

"(3) shall afford interested persons an opportunity to present their views.

"(d) For purposes of this section, the term 'unrelated party' means a purchaser or seller who does not bear a relationship to the seller or purchaser, as the case may be, that is described in section 267(b) of the Internal Revenue Code of 1954, or that is described in regulations prescribed by the corporation applying principles similar to the principles of such section.

"PARTIAL WITHDRAWALS

"SEC. 4205. (a) Except as otherwise provided in this section, there is a partial withdrawal by an employer from a plan on the last day of a plan year if such plan year—

"(1) there is a 70-percent contribution decline, or

"(2) there is a partial cessation of the employer's contribution obligation.

"(b) For purposes of subsection (a)—

"(1)(A) There is a 70-percent contribution decline for any plan year if during each plan year in the 3-year testing period the employer's contribution base units do not exceed 30 percent of the employer's contribution base units for the high base year.

"(B) For purposes of subparagraph (A)—

"(i) The term '3-year testing period' means the period consisting of the plan year and the immediately preceding 2 plan years.

"(ii) The term 'high base year' means the average of the 2 plan years for which the employer's contribution base units were the highest within the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(2)(A) There is a partial cessation of the employer's contribution for the plan year if, during such year—

"(i) the employer permanently ceases to have an obligation to contribute under one or more but less than all collective bargaining agreements under which the employer has been obligated to contribute under the plan but continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location, or

"(ii) an employer permanently ceases to have an obligation to contribute under the plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

"(B) For purposes of subparagraph (A), cessation of obligations under a collective bargaining agreement shall not be considered to have occurred solely because, with respect to the same plan, one agreement that requires contributions to the plan has been substitued for another agreement.

"(c)(1) In the case of a plan in which a majority of the covered employees are employed in the retail food industry, the plan may be amended to provide that this section shall be applied with respect to such plan—

"(A) by substituting '35 percent' for '70 percent' in subsections (a) and (b), and

"(B) by substituting '65 percent' for '30 percent' in subsection (b).

"(2) Any amendment adopted under paragraph (1) shall provide rules for the equitable reduction of withdrawal liability in any case in which the number of the plan's contribution base units, in the 2 plan years following the plan year of withdrawal of the employer, is higher than such number immediately after withdrawals.

"(3) Section 4208 shall not apply to a plan which has been amended under paragraph (1).

"(d) In the case of a plan described in section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, the plan may be amended to provide rules setting forth other conditions consistent with the purposes of this Act under which an employer has liability for partial withdrawal.

"DETERMINATION OF PARTIAL WITHDRAWAL LIABILITY

"SEC. 4206. (a) the amount of an employer's liability for partial withdrawal is equal to the product of—

"(1) the amount determined under this part for which the employer would be liable had the employer withdrawn from the plan (in a complete withdrawal)—

"(A) on the date of the partial withdrawal, or

"(B) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), on the last day of the first plan year in the 3-year testing period,

multiplied by

"(2) a fraction which is 1 minus a fraction—

"(A) the numerator of which is the employer's contribution base units for the plan year following the plan year in which the partial withdrawal occurs, and

"(B) the denominator of which is the average of the employer's contribution base units for—

"(i) except as provided in clause (ii), the 5 plan years immediately preceding the plan year in which the partial withdrawal occurs, or

"(ii) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(b)(1) In the case of an employer that has withdrawal liability for a partial withdrawal from a plan in more than one plan year, any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent plan year shall be reduced by the amount of any partial withdrawal liability (reduced by any abatement or reduction of such liability) of the employer with respect to the plan for a previous plan year.

"(2) The corporation shall prescribe such regulations as may be necessary to provide for proper adjustments in the reduction provided by paragraph (1) for—

"(A) changes in unfunded vested benefits arising after the close of the prior year for which partial withdrawal liability was determined,

"(B) changes in contribution base units occurring after the close of the prior year for which partial withdrawal liability was determined, and

"(C) any other factors for which it determines adjustment to be appropriate,

so that the liability for any complete or partial withdrawal in any subsequent year (after the application of the reduction) properly reflects the employer's share of liability with respect to the plan.

"REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

"SEC. 4207. (a) The corporation shall provide by regulation for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent that the corporation determines that reduction or waiver of withdrawal liability is consistent with the purposes of this Act.

"(b) The corporation shall prescribe by regulation a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from the plan subsequently resumes covered operations or renews an obligation to contribute under the plan. The rules may apply only to the extent that the rules are consistent with the purposes of this Act.

"REDUCTION OR ABATEMENT OF PARTIAL WITHDRAWAL LIABILITY

"SEC. 4208. (a)(1) If, for any 2 consecutive plan years following the plan year in which an employer has partially withdrawn from a plan (referred to elsewhere in this section as the 'partial withdrawal year'), the number of contribution base units with respect to which the employer has an obligation to contribute under the plan for each such year is not less than 90 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute under the plan for—

"(A) the high base year (as defined in section 4205(b)(1)(B)(ii)), in the case of a partial withdrawal described in section 4205(a)(1), or

"(B) the average of the 2 plan years for which the employer's contribution base units were the highest within the 5 plan years immediately preceding the beginning of the partial withdrawal year, in the case of a partial withdrawal described in section 4205(a)(2),

then the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second consecutive plan year following the partial withdrawal year.

"(2)(A) For any plan year for which the number of contribution base units with respect to which an employer who has partially withdrawn has an obligation to contribute under the plan equals or exceeds the number of units for the highest year determined under paragraph (1) without regard to '90 percent of', the employer may furnish (in lieu of payment of the partial withdrawal liability determined under section 4206) a bond to the plan in the amount determined by the plan sponsor (not exceeding 50 percent of the annual payment otherwise required).

"(B) If the plan sponsor determines under paragraph (1) that the employer has no further liability to the plan for the partial withdrawal, then the bond shall be cancelled.

"(C) If the plan sponsor determines under paragraph (1) that the employer continues to have liability to the plan for the partial withdrawal, then—

"(i) the bond shall be paid to the plan,

"(ii) the employer shall immediately be liable for the outstanding amount of liability due with respect to the plan year for which the bond was posted, and

"(iii) the employer shall continue to make the partial withdrawal liability payments as they are due. "(b) if—

"(1) for any 2 consecutive plan years following a partial withdrawal, the number of contribution base units with respect to which the employer has an obligation to contribute for each such year exceeds—

"(A) in the case of a partial withdrawal under section 4205(a)(1) (relating to 70-percent contribution decline), 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute for the high base year (as defined in section 4205(b)(1)(B)(ii)), or

"(B) with respect to a partial withdrawal under section 4205(a)(2) (relating to cessation of contribution obligations), a percentage of a number of contribution base units prescribed by the corporation by regulation; and

"(2) the total number of contribution base units with respect to which all employers under the plan have obligations to contribute in each of such 2 consecutive years is not less than 90 percent of the total number of contribution base units for which all employers had obligations to contribute in the partial withdrawal plan year;

then, the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second such consecutive plan year.

"(c) In any case in which, in any plan year following a partial withdrawal, the number of contribution base units with respect to which the employer has an obligation to contribute for such year equals or exceeds 110 percent (or such other percentage as the plan may provide by amendment and which is not prohibited under regulations prescribed by the corporation) of the number of contribution base units with respect to which the employer had an obligation to contribute in the partial withdrawal year, then the amount of the employer's partial withdrawal liability payment for such year shall be reduced pro rata, in accordance with regulations prescribed by the corporation.

"(d)(1) An employer to whom section 4202(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.

"(2) An employer to whom section 4202(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the corporation by regulation.

"(e)(1) The corporation may prescribe regulations providing for the reduction or elimination of partial withdrawal liability under any conditions with respect to which the corporation determines that reduction or elimination of partial withdrawal liability is consistent with the purposes of this Act.

"(2) The corporation shall prescribe by regulation a procedure by which a plan may by amendment adopt rules for the reduction or elimination of partial withdrawal liability under any other conditions, subject to the approval of the corporation based on its determination that adoption of such rules by the plan is consistent with the purposes of this Act.

"REDUCTION OF WITHDRAWAL LIABILITY BY DE MINIMIS AMOUNT

"SEC. 4209. (a) Except in the case of a plan amended under subsection (b), the withdrawal liability of an employer who withdraws from a plan in a complete or partial withdrawal shall be reduced by the smaller of—

"(1) ¾ of 1 percent of the plan's unfunded vested obligations (determined as of the end of the plan year ending before the date of withdrawal), or

"(2) $50,000.

reduced by the amount, if any, by which the withdrawal liability of the employer, determined without regard to this subsection, exceeds $100,000.

"(b) A plan may be amended to provide for the reduction of such liability by not more than the greater of—

"(1) the amount determined under subsection (a), or

"(2) the lesser of—

"(A) the amount determined under subsection (a)(1), or

"(B) $100,000,

reduced by the amount, if any, by which the withdrawal liability of the employer, determined without regard to this subsection, exceeds $150,000.

"(c) This section does not apply—

"(1) to an employer who withdraws in a plan year in which substantially all employers withdraw from the plan, or

"(2) in any case in which substantially all employers withdraw from the plan during a period of one or more plan years pursuant to an agreement or arrangement to withdraw, to an employer who withdraws pursuant to such agreement or arrangement.

"(d) In any action or proceeding to determine or collect withdrawal liability, if substantially all employers have withdrawn from a plan within a period of 3 plan years, an employer who has withdrawn from such plan during such period shall be presumed to have withdrawn from the plan pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"NO WITHDRAWAL LIABILITY FOR CERTAIN TEMPORARY CONTRIBUTION OBLIGATION PERIODS

"SEC. 4210. (a) An employer who withdraws from a plan in complete or partial withdrawal is not liable to the plan if the employer—

"(1) first had an obligation to contribute to the plan after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980,

"(2) had an obligation to contribute to the plan for no more than the lesser of—

"(A) 6 consecutive plan years preceding the date on which the employer withdraws, or

"(B) the number of years required for vesting under the plan,

"(3) was required to make contributions to the plan for each such plan year in an amount equal to less than 2 percent of the sum of all employer contributions made to the plan for each such year, and

"(4) has never avoided withdrawal liability because of the application of this section with respect to the plan.

"(b) Subsection (a) shall apply to an employer with respect to a plan only if—

"(1) the plan is not a plan which primarily covers employees in the building and construction industry;

"(2) the plan is amended to provide that subsection (a) applies;

"(3) the plan provides, or is amended to provide, that the reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954 applies with respect to the employees of the employer; and

"(4) the ratio of the assets of the plan for the plan year preceding the first plan year for which the employer was required to contribute to the plan to the benefit payments made during that plan year was at least 8 to 1.

"METHODS FOR COMPUTING WITHDRAWAL LIABILITY

"SEC. 4211. (a) The amount of an employer's withdrawal liability shall be determined in accordance with subsection (b), (c), or (d) of this section.

"(b)(1) Except as provided in subsections (c) and (d), the amount of an employer's withdrawal liability is—

"(A) the employer's proportional share of the unamortized amount of the increase in the plan's unfunded vested benefits for plan years ending after April 28, 1980, in which the employer has an obligation to contribute under the plan, as determined under paragraph (2), plus

"(B) the employer's proportional share, if any, of the unamortized amount of the plan's unfunded vested benefits at the end of the plan year ending before April 29, 1980, as determined under paragraph (3).

"(2)(A) An employer's proportional share of the unamortized amount of the increase in the plan's unfunded vested benefits for plan years ending after April 28, 1980, is the sum of the employer's proportional shares of the unamortized amount of the increase in unfunded vested benefits for each plan year ending on or after such date in which the employer has an obligation to contribute under the plan.

"(B) The increase in a plan's unfunded vested benefits for a plan year is the amount by which—

"(i) the unfunded vested benefits at the end of the plan year; exceeds

"(ii) the sum of—

"(I) the unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, and

"(II) the sum of the unamortized amount of the increase in unfunded vested benefits for each plan year ending after April 28, 1980, and preceding the plan year for which the increase is determined.

"(C) The unamortized amount of the increase in a plan's unfunded vested benefits with respect to a plan year is the increase in unfunded vested benefits for the plan year, reduced by 5 percent of such increase for each succeeding plan year.

"(D) The unamortized amount of the unfunded vested benefits for the plan year ending before April 29, 1980, is the amount of the unfunded vested benefits as of the end of that plan year reduced by 5 percent of such amount for each succeeding plan year.

"(E) An employer's proportional share of the unamortized amount of an increase in unfunded vested benefits is the product of—

"(i) the unamortized amount of such increase (as of the end of the plan year in which the employer withdraws); multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of the contributions required to be made under the plan by the employer for the year in which such increase arose and for the 4 preceding plan years, and

"(II) the denominator of which is the sum for the plan year in which such increase arose and the 4 preceding plan years of all contributions made by employers who had an obligation to contribute under the plan for the plan year in which such increase arose.

"(3) An employer's proportional share of the unamortized amount of the plan's unfunded vested benefits for the last plan year ending before April 29, 1980, is the product of—

"(A) such unamortized amount; multiplied by—

"(B) a fraction—

"(i) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the most recent 5 plan years ending before April 29, 1980, and

"(ii) the denominator of which is the sum of all contributions made for the most recent 5 plan years ending before April 29, 1980, by all employers—

"(I) who had an obligation to contribute under the plan for the first plan year ending on or after such date, and

"(II) who had not withdrawn from the plan before such date.

"(4) Except as otherwise provided in regulations prescribed by the corporation, if the plan sponsor determines that the withdrawal liability of a withdrawn employer is uncollectible, the present value of such uncollectible liability shall be added to the plan's unfunded vested benefits as of the end of the plan year in which the determination is made.

"(5) For purposes of this subsection, withdrawal liability is uncollectible if—

"(A) a notice was issued under section 4219, and

"(B) the plan sponsor determines that part or all of the liability determined under this section will not be paid—

"(i) for reasons arising out of cases or proceedings under title 11, United States Code, or similar proceedings,

"(ii) because such amount will not be collected because of subsection (d) of this section, section 4202(c)(1)(B), or section 4208, or

"(iii) for other reasons under standards not inconsistent with regulations prescribed by the corporation.

"(c)(1) A multiemployer plan, other than a plan which primarily covers employees in the building and construction industry, may be amended to provide that the liability of an employer who withdraws from the plan is an amount determined under paragraph (2), (3), (4), or (5) of this subsection, rather than under subsection (b) or (d). A plan described in section 4203(b)(1)(B)(i) (relating to the building and construction industry) may be amended, in accordance with regulations prescribed by the corporation, to provide that the liability of an employer not described in section 4203(b)(1)(A) may be determined in accordance with subsection (b)(5).

"(2)(A) The amount of an employer's liability under this paragraph is the sum of the amounts determined under subparagraphs (B) and (C).

"(B) The amount determined under this subparagraph is the product of—

"(i) the plan's unfunded vested benefits as of the end of the last plan year ending before April 29, 1980, reduced as if those obligations were being fully amortized in level annual installments over 15 years beginning with the first plan year ending on or after such date; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the last 5 plan years ending before April 29, 1980, and

"(II) the denominator of which is the sum of all contributions made for the last 5 plan years ending before April 29, 1980, by all employers who had an obligation to contribute under the plan for the first plan year ending after April 28, 1980, and who had not withdrawn from the plan before such date.

"(C) The amount determined under this subparagraph is the product of—

"(i) an amount equal to—

"(I) the plan's unfunded vested benefits as of the end of the plan year in which the employer withdraws, less

"(II) the sum of the value as of such date of all outstanding claims for withdrawal liability which can reasonably be expected to be collected, with respect to employers withdrawing before such plan year, and that portion of the amount determined under subparagraph (B)(i) which is allocable to employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws and who also had an obligation to contribute under the plan for the first plan year ending after April 28, 1980; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the total amount required to be contributed under the plan by the employer for the last 5 plan years ending before the date on which the employer withdraws, and

"(II) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed by an employer who withdrew from the plan under this section during those plan years.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens or plan sponsors in calculating such denominators.

"(3) The amount of an employer's liability under this paragraph is the product of—

"(A) the plan's unfunded vested benefits as of the end of the plan year in which the employer withdraws, less the value as of the end of such year of all outstanding claims for withdrawal liability which can reasonably be expected to be collected from employers withdrawing before such year; multiplied by

"(B) a fraction—

"(i) the numerator of which is the total amount required to be contributed by the employer under the plan for the last 5 plan years ending before the withdrawal, and

"(ii) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the withdrawal, increased by any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed to the plan during those plan years by employers who withdrew from the plan under this section during those plan years.

"(4)(A) The amount of an employer's liability determined under this paragraph is equal to the sum of—

"(i) the plan's unfunded vested benefits which are attributable to participants' service with the employer (determined as of the end of the plan year in which the employer withdraws), and

"(ii) the employer's proportional share of any unfunded vested benefits which are not attributable to service with the employer or other employers who are obligated to contribute under the plan in the plan year in which the employer withdraws (determined as of the end of the plan year in which the employer withdraws).

"(B) The plan's unfunded vested benefits which are attributable to participants' service with the employer is the amount (determined in a manner not inconsistent with regulations of the corporation) equal to the value of nonforfeitable benefits under the plan which are attributable to participants' service with such employer, decreased by the share of plan assets determined under subparagraph (C) which is allocated to the employer as provided under subparagraph (D).

"(C) The value of plan assets determined under this subparagraph is the value of plan assets allocated to nonforfeitable benefits which are attributable to service with the employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws, which is determined by multiplying—

"(i) the value of the plan assets as of the end of the plan year in which the employer withdraws, by

"(ii) a fraction—

"(I) the numerator of which is the value of nonforfeitable benefits which are attributable to service with such employers, and

"(II) the denominator of which is the value of all nonforfeitable benefits under the plan as of the end of the plan year.

"(D) The share of plan assets, determined under subparagraph (C), which is allocated to the employer shall be determined in accordance with one of the following methods which shall be adopted by the plan by amendment:

"(i) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the value of the nonforfeitable benefits which are attributable to service with the employer, and

"(II) the denominator of which is the value of the nonforfeitable benefits which are attributable to service with all employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws;

"(ii) by multiolying the value of plan assests determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the sum of all contributions (accumulated with interest) which have been made to the plan by the employer for the plan year in which the employer withdraws and all preceding plan years; and

"(II) the denominator of which is the sum of all contributions (accumulated with interest) which have been made to the plan (for the plan year in which the employer withdraws and all preceding plan years) by all employers who have an obligation to contribute to the plan for the plan year in which which the employer withdraws; or

"(iii) by multiplying the value of plan assets under subparagraph (C) by a fraction—

"(I) the numerator of which is the amount determined under clause (ii) (I) of this subparagraph, less the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii) (I) which are attributable to service with the employer; and

"(II) the denominator of which is the amount determined under clause (ii) (II) of this subparagraph, reduced by the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii) (II) which are attributable to service with respect to the employers described in such clause (ii) (II).

"(E) The amount of the plan's unfunded vested benefits for a plan year in which an employer withdraws, which is not attributable to service with employers who have an obligation to contribute under the plan year in which such employer withdraws, is equal to—

"(i) an amount equal to—

"(I) the value of all nonforfeitable benefits under the plan at the end of such plan year, reduced by

"(II) the value of nonforfeitable benefits under the plan at the end of such plan year which are attributable to participants' service with employers who have an obligation to contribute under the plan for such year; reduced by

"(ii) an amount equal to—

"(I) the value of the plan assets as of the end of such plan year, reduced by

"(II) the value of plan assets as of the end of such plan year as determined under subparagraph (C); reduced by

"(iii) the value of all outstanding claims for withdrawal liability which can reasonably be expected to be collected with respect to employers withdrawing before the year in which the employer withdraws.

"(F) The employer's proportional share described in subparagraph (A) (ii) for a plan year is the amount determined under subparagraph (E) for the employer, but not in excess of an amount which bears the same ratio to the sum of the amounts determined under subparagraph (E) for all employers under the plan as the amount determined under subparagraph (C) for the employer bears to the sum of the amounts determined under subparagraph (C) for all employers under the plan.

"(G) The corporation may prescribe by regulation other methods which a plan may adopt for allocating assets to determine the employer's withdrawal liability for unfunded vested benefits attributable to service with the employer and to determine the employer's share of unfunded vested benefits not attributable to service with employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws.

"(5) (A) The corporation shall prescribe by regulation a procedure by which a plan may, by amendment, adopt any other alternative method for determining an employer's liability under this section, subject to the approval of the corporation based on its determination that adoption of the method by the plan would not significantly increase the risk of loss to plan participants and the beneficiaries or to the corporation.

"(B) The corporation may prescribe by regulation standard approaches for alternative methods, other than those set forth in the preceding paragraphs of this subsection, which a plan may adopt under subparagraph (A), for which the corporation may waive or modify the approval requirements of subparagraph (A). Any alternative method shall provide for the allocation of substantially all of a plan's unfunded vested benefits among employers who have an obligation to contribute under the plan.

"(C) Unless the corporation by regulation provides otherwise, a plan may be amended to provide that a period of more than 5 but not more than 10 plan years may be used for determining the numerator and denominator of any fraction which is used under any method authorized under this section for determining an employer's liability under this section.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(d) (1) The method of calculating withdrawal liability set forth in subsection (c) (3) shall be the method for calculating withdrawal liability under a plan to which section 404(c) of the Internal Revenue Code of 1954, or a continuation of such a plan, applies, unless the plan is amended to adopt another method authorized under subsection (b) or (c).

"(2) Sections 4204, 4209, 4219(c) (1) (B), and 4225 shall not apply with respect to the withdrawal of an employer from a plan described in paragraph (1) unless the plan is amended to provide that such sections apply.

"(e) In the case of a transfer of liabilities to another plan incident to an employer's withdrawal or partial withdrawal, the withdrawn employer's liability under this part shall be reduced in an amount equal to the value, as of the end of the last plan year ending on or before the date of the withdrawal, of the transferred unfunded vested benefits.

"(f) In the case of a withdrawal following a merger of multiemployer plans, subsection (b), (c), or (d) shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, liability under this section shall be determined as if each of the multiemployer plans had remained separate plans.

"OBLIGATION TO CONTRIBUTE; SPECIAL RULES

"SEC. 4212. (a) For purposes of this part, the term 'obligation to contribute' means an obligation to contribute arising—

"(1) under one or more collective bargaining (or related) agreements, or

"(2) as a result of a duty under applicable labor-management relations law, but does not include an obligation to pay withdrawal liability under this section or to pay delinquent contributions.

"(b) Payments of withdrawal liability under this part shall not be considered contributions for purposes of this part.

"(c) If a principal purpose of any transaction is to evade or avoid liability under this part, this part shall be applied (and liability shall be determined) without regard to such transaction.

"ACTUARIAL ASSUMPTIONS, ETC.

"SEC. 4213. (a) The corporation may prescribe by regulation actuarial assumptions which may be used by a plan actuary in determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part. A plan may provide that the determination of withdrawal liability under this part is to be based on the plan's actuarial assumptions which are reasonable in the aggregate (within the meaning of section 412(c)(3) of the Internal Revenue Code of 1954) or the actuarial assumptions set forth in the corporation's regulations for purposes of determining an employer's withdrawal liability.

"(b) In determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability.

"(b) In determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part, the plan actuary may—

"(1) rely on the most recent complete actuarial valuation used for purposes of section 412 of the Internal Revenue Code of 1954 and reasonable estimates for the interim years of the unfunded vested benefits, and

"(2) in the absence of complete data, rely on the data available or on data secured by a sampling which can reasonably be expected to be representative of the status of the entire plan.

"(c) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount equal to—

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of the assets of the plan.

"APPLICATION OF PLAN AMENDMENTS

"SEC. 4214. (a) No plan rule or amendment adopted under section 4209 or 4211(c) may be applied without the emloyer's consent with respect to liability for a withdrawal or partial withdrawal which occurred before the date on which the rule or amendment was adopted.

"(b) All plan rules and amendments authorized under this part shall operate and be applied uniformly with respect to each employer, except that special provisions may be made to take into account the creditworthiness of an employer. The plan sponsor shall give notice to all employers who have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan of any plan rules or amendments adopted pursuant to this section.

"PLAN NOTIFICATION TO CORPORATION OF POTENTIALLY SIGNIFICANT WITHDRAWALS

"SEC. 4215. The corporation may, by regulation, require the plan sponsor of a multiemployer plan to provide notice to the corporation when the withdrawal from the plan by any employer has resulted, or will result, in a significant reduction in the amount of aggregate contributions under the plan made by employers.

"SPECIAL RULES FOR SECTION 404(C) PLANS

"SEC. 4216. (a) In the case of a plan described in subsection (b)—

"(1) if an employer withdraws prior to a termination described in section 4041A(a) (2), the amount of withdrawal liability to be paid in any year by such employer shall be an amount equal to the greater of—

"(A) the amount determined under section 4219(c) (1) (C) (i), or

"(B) the product of—

"(i) the number of contribution base units for which the employer would have been required to make contributions for the prior plan year if the employer had not withdrawn, multiplied by

"(ii) the contribution rate for the plan year which would be required to meet the amortization schedules contained in section 4243(d) (3) (determined without regard to any limitation on such rate otherwise provided by this title)

except that an employer shall not be required to pay an amount in excess of the withdrawal liability computed with interest; and

"(2) the withdrawal liability of an employer who withdraws after December 31, 1983, as a result of a termination described in section 4041(A)(a)(2) which is agreed to by the employee organization sponsoring the plan, shall be determined under subsection (c) if—

"(A) as a result of prior employer withdrawals in any plan year commencing after January 1, 1980, the number of contribution base units is reduced to less than 67 percent of the average number of such units for the calendar years 1974 through 1979; and

"(B) at least 50 percent of the withdrawal liability attributable to the first 33 percent decline described in subparagraph (A) has been determined by the plan sponsor to be uncollectible within the meaning of regulations of the corporation of general applicability; and

"(C) the rate of employer contributions under the plan for each plan year following the first plan year beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 and preceding the termination date equals or exceeds the rate described in section 4243(d)(3).

"(b) A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) of the Internal Revenue Code of 1954 or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(c)(1) The amount of an employer's liability under this paragraph is the product of—

"(A) the amount of the employer's withdrawal liability determined without regard to this section, and

"(B) the greater of 90 percent, or a fraction—

"(i) the numerator of which is an amount equal to the portion of the plan's unfunded vested benefits that is attributable to plan participants who have a total of 10 or more years of signatory service, and

"(ii) the denominator of which is an amount equal to the total unfunded vested benefits of the plan.

"(2) For purposes of paragraph (1), the term 'a year of signatory service' means a year during any portion of which a participant was employed for an employer who was obligated to contribute in that year, or who was subsequently obligated to contribute.

"APPLICATION OF PART IN CASE OF CERTAIN PRE-1980 WITHDRAWALS

"SEC. 4217. (a) For the purpose of determining the withdrawal liability of an employer for a partial or complete withdrawal from a plan which occurs after April 28, 1980, and for the purpose of determining whether there has been a partial withdrawal after such date, the amount of contributions, and the number of contribution base units, of such employer properly allocable—

"(1) to work performed under a collective bargaining agreement for which there was a cessation of contribution obligations before April 29, 1980, or

"(2) to work performed at a facility at which all covered operations permanently ceased before April 29, 1980, or for which there was a permanent cessation of the obligation to contribute before that date,

shall not be taken into account.

"(b) The corporation may prescribe by regulation the method for adjusting the withdrawal liability of other employers under a plan maintained by an employer described in subsection (a).

"WITHDRAWAL NOT TO OCCUR MERELY BECAUSE OF CHANGE IN BUSINESS FORM OR SUSPENSION OF CONTRIBUTIONS DURING LABOR DISPUTE

"SEC. 4218. Notwithstanding any other provision of this part, an employer shall not be considered to have withdrawn from a plan solely because—

"(1) an employer ceases to exist by reason of—

"(A) a change in corporate structure described in section 4062(d), or

"(B) a change to an unincorporated form of business enterprise,

if the change causes no interruption in employer contributions or obligations to contribute under the plan, or

"(2) an employer suspends contributions under the plan during a labor dispute involving its employees.

For purposes of this part, a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

"NOTICE, COLLECTION, ETC., OF WITHDRAWAL LIABILITY

"SEC. 4219. (a)(1) An employer shall, within 30 days after a written request from the plan sponsor, furnish such information as the plan sponsor reasonably determines to be necessary to enable the plan sponsor to comply with the requirements of this part.

"(2) Before the plan sponsor demands payment under subsection (b), the plan sponsor shall give the employer a reasonable opportunity—

"(A) to identify any inaccuracy in the determination of the employer's withdrawal liability, and

"(B) to furnish any additional relevant information.

The plan sponsor shall, upon request, make relevant plan records reasonably available to the employer for inspection and copying.

"(b)(1) As soon as practicable after an employer's complete or partial withdrawal, the plan sponsor shall—

"(A) notify the employer of—

"(i) the amount of the liability, and

"(ii) the schedule for liability payments, and

"(B) demand payment in accordance with the schedule.

"(2)(A) No later than 90 days after the employer receives the notice described in paragraph (1), the employer may request the plan sponsor to review any specific matter relating to the determination of the employer's liability and the schedule of payments.

"(B) After a reasonable review of any matter raised, the plan sponsor shall notify the employer of—

"(i) the plan sponsor's decision,

"(ii) the basis for the decision, and

"(iii) the reason for any change in the determination of the employer's liability or schedule of liability payments.

"(c)(1)(A)(i) Except as provided in subparagraphs (B) and (D) of this paragraph and in paragraphs (4) and (5), an employer shall pay the liability determined under this part over the period of years necessary to amortize the liability in level annual payments determined under subparagraph (C), calculated as if the first payment were made on the first day of the plan year following the plan year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent plan year. Actual payment shall commence in accordance with paragraph (2).

"(ii) The determination of the amortization period described in clause (i) shall be based on the assumptions used for the most recent actuarial valuation for the plan.

"(B) In any case in which the amortization period described in subparagraph (A) exceeds 20 years, the employer's liability shall be limited to the first 20 annual payments determined under subparagraph (C).

"(C)(i) The amount of each annual payment shall be the product of—

"(I) the average annual number of contribution base units for the period of 2 consecutive plan years, during the period of 5 consecutive plan years ending with the plan year in which the withdrawal occurs, in which the number of contribution base units for which the employer had an obligation to contribute under the plan is the highest, and

"(II) the highest contribution rate at which the employer had an obligation to contribute under the plan in effect during the 5 plan years ending with the plan year in which the withdrawal occurs.

For purposes of the preceding sentence, a partial withdrawal described in section 4205(a)(1) shall be deemed to occur on the last day of the first year of the 3-year testing period described in section 4205(b)(1)(B)(i).

"(ii)(I) A plan may be amended to provide that for any plan year ending before 1986 the amount of each annual payment shall be (in lieu of the amount determined under clause (i)) the average of the required employer contributions under the plan for the period of 2 consecutive plan years (during the period of 5 consecutive plan years ending with the plan year in which the withdrawal occurs) for which such required contributions were the highest.

"(II) Subparagraph (B) shall not apply to any plan year to which this clause applies.

"(III) This clause shall not apply in the case of any withdrawal described in subparagraph (D).

"(IV) If under a plan this clause applies to any plan year but does not apply to the next plan year, this clause shall not apply to any plan year after such next plan year.

"(V) For purposes of this clause, the term 'required contributions' means, for any period, the amounts which the employer was obligated to contribute for such period (not taking into account any delinquent contribution for any other period).

"(D) In any case in which a multiemployer plan terminates by the withdrawal of every employer from the plan, or in which substantially all the employers withdraw from a plan pursuant to an agreement or arrangement to withdraw from the plan—

"(i) the liability of each such employer who has withdrawn shall be determined (or redetermined) under this paragraph without regard to subparagraph (B), and

"(ii) the total unfunded vested benefits of the plan shall be allocated to all such employers liable under this part pursuant to regulations which shall be prescribed by the corporation.

Withdrawal by an employer from a plan, during a period of 3 consecutive plan years within which substantially all the employers who have an obligation to contribute under the plan withdraw, shall be presumed to be a withdrawal pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"(E) An employer shall pay the liability for partial withdrawal, determined under sections 4205, 4206, and 4207, in annual amounts equal to a pro rata share of the amounts calculated under subparagraph (C) which are payable under subparagraph (A) or (B), whichever applies.

"(2) Withdrawal liability shall be payable in accordance with the schedule set forth by the plan sponsor under subsection (b)(1) beginning no later than 60 days after the date of the demand notwithstanding any request for review or appeal of determinations of the amount of such liability or of the schedule.

"(3) Each annual payment determined under paragraph (1)(C) shall be payable in 4 equal installments due quarterly, or at other intervals specified by plan rules. If a payment is not made when due, interest on the payment shall accrue from the due date until the date on which the payment is made.

"(4) The employer shall be entitled to prepay the outstanding amount of the unpaid annual withdrawal liability payments determined under paragraph (1)(C), plus accrued interest, if any, in whole or in part, without penalty. If the prepayment is made pursuant to a withdrawal which is later determined to be part of a withdrawal described in paragraph (1)(D), the withdrawal liability of the employer shall not be limited to the amount of the prepayment.

"(5) In the event of a default, a plan sponsor may require immediate payment of the outstanding amount of an employer's withdrawal liability, plus accrued interest on the total outstanding liability from the due date of the first payment which was not timely made. For purposes of this section, the term 'default' means—

"(A) the failure of an employer to make, when due, any payment under this section, if the failure is not cured within 60 days after the employer receives written notification from the plan sponsor of such failure, and

"(B) any other event defined in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability.

"(6) Except as provided in paragraph (1)(A)(ii), interest under this subsection shall be charged at rates based on prevailing market rates for comparable obligations, in accordance with regulations prescribed by the corporation.

"(7) A multiemployer plan may adopt rules for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules—

"(A) are consistent with this Act, and

"(B) are not inconsistent with regulations of the corporation.

"(8) In the case of a terminated multiemployer plan, an employer's obligation to make payments under this section ceases at the end of the plan year in which the assets of the plan (exclusive of withdrawal liability claims) are sufficient to meet all obligations of the plan, as determined by the corporation.

"(d) The prohibitions provided in section 406(a) do not apply to any action required or permitted under this section or any preceding section of this part.

"APPROVAL OF AMENDMENTS

"SEC. 4220. (a) Except as provided in subsection (b), if an amendment to a multiemployer plan authorized by any preceding section of this part is adopted more than 36 months after the effective date of this section, the amendment shall be effective only if the corporation approves the amendment, or, within 90 days after the corporation receives notice of the amendment from the plan sponsor, fails to disapprove the amendment.

"(b) An amendment permitted by section 4211(c)(5) may be adopted only in accordance with that section.

"(c) The corporation shall disapprove an amendment referred to in subsection (a) or (b) only if the corporation determines that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to the corporation.

"RESOLUTION OF DISPUTES

"SEC. 4221. (a)(1) Any dispute between an employer and the plan sponsor of a multiemployer plan concerning a determination made under sections 4201 through 4219 shall be resolved through arbitration. Either party may initiate the arbitration proceeding within a 60-day period after the earlier of—

"(A) the date of notification to the employer under section 4219(b)(2)(B), or

"(B) 120 days after the date of the employer's request under section 4219(b)(2)(A).

The parties may jointly initiate arbitration within the 180-day period after the date of the plan sponsor's demand under section 4219(b)(1).

"(2) An arbitration proceeding under this section shall be conducted in accordance with fair and equitable procedures to be promulgated by the corporation. The plan sponsor may purchase insurance to cover potential liability of the arbitrator. If the parties have not provided for the cost of the arbitration, including arbitrator's fees, by agreement, the arbitrator shall assess such fees. The arbitrator may also award reasonable attorney's fees.

"(3) For purposes of any proceeding under this section, a plan shall be treated as having met its burden of proof with respect to a determination of its unfunded vested benefits if—

"(A) the determination of employer liability was made in accordance with the same actuarial assumptions prescribed by the corporation under section 4213(a), or the same actuarial assumptions as those used by the plan for the purpose of meeting the requirements of section 412 of the Internal Revenue Code of 1954,

"(B) the interest assumptions used are reasonable,

"(C) the plan treats all employers with reasonable consistency in making such determinations, and

"(D) the plan has not had a pattern of experience gains.

"(b)(1) If no arbitration proceeding has been initiated pursuant to subsection (a), the amounts demanded by the plan sponsor under section 4219(b)(1) shall be due and owing on the schedule set forth by the plan sponsor. The plan sponsor may bring an action in a State or Federal court of competent jurisdiction for collection.

"(2) Any party to the arbitration proceeding may, no later than 30 days after the issuance of an arbitrator's award, bring an action in an appropriate United States district court in accordance with section 4301 to enforce, vacate, or modify the arbitrator's award.

"(3) Any arbitration proceedings under this section shall, to the extent consistent with this title, be conducted in the same manner, subject to the same limitations, carried out with the same powers (including subpena power), and enforced in United States courts as an arbitration proceeding carried out under title 9, United States Code.

"(c) In any proceeding under subsection (b), there shall be a presumption, rebuttable only by a clear preponderance of the evidence, that the findings of fact made by the arbitrator were correct.

"(d) Payments shall be made by an employer in accordance with the determinations made under the preceding sections of this part until the arbitrator issues a final decision with respect to the determination submitted for arbitration, with any necessary adjustments in subsequent payments for overpayments or underpayments arising out of the decision of the arbitrator with respect to the determination. If the employer fails to make timely payment in accordance with such final decision, the employer shall be treated as being delinquent in the making of a contribution required under the plan (within the meaning of section 515).

"(e) If any employer requests in writing that the plan sponsor make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the plan (other than information which is unique to that employer), the plan sponsor shall furnish the information to the employer without charge. If any employer requests in writing that the plan sponsor make an estimate of such employer's potential withdrawal liability with respect to the plan or to provide information unique to that employer, the plan sponsor may require the employer to pay the reasonable cost of making such estimate or providing such information.

"REIMBURSEMENTS FOR UNCOLLECTIBLE WITHDRAWAL LIABILITY

"SEC. 4222. (a) By May 1, 1982, the corporation shall establish by regulation a supplemental program to reimburse multiemployer plans for withdrawal liability payments which are due from employers and which are determined to be uncollectible for reasons arising out of cases or proceedings involving the employers under title 11, United States Code, or similar cases of proceedings. Participation in the supplemental program shall be on a voluntary basis, and a plan which elects coverage under the program shall pay premiums to the corporation in accordance with a premium schedule which shall be prescribed from time to time by the corporation. The premium schedule shall contain such rates and bases for the application of such rates as the corporation considers to be appropriate.

"(b) The corporation may provide under the program for reimbursement of amounts of withdrawal liability determined to be uncollectible for any other reasons the corporation considers appropriate.

"(c) The cost of the program (including such administrative and legal costs as the corporation considers appropriate) may be paid only out of premiums collected under such program.

"(d) The supplemental program may be offered to eligible plans on such terms and conditions, and with such limitations with respect to the payment of reimbursements (including the exclusion of de minimis amounts of uncollectible employer liability, and the reduction or elimination of reimbursements which cannot be paid from collected premiums) and such restrictions on withdrawal from the program, as the corporation considers necessary and appropriate.

"(e) The corporation may enter into arrangements with private insurers to carry out in whole or in part the program authorized by this section and may require plans which elect coverage under the program to elect coverage by those private insurers.

"WITHDRAWAL LIABILITY PAYMENT FUND

"SEC. 4223. (a) The plan sponsors of multiemployer plans may establish or participate in a withdrawal liability payment fund.

"(b) For purposes of this section, the term 'withdrawal liability payment fund', and the term 'fund', mean a trust which—

"(1) is established and maintained under section 501(c)(22) of the Internal Revenue Code of 1954,

"(2) maintains agreements which cover a substantial portion of the participants who are in multiemployer plans which (under the rules of the trust instrument) are eligible to participate in the fund,

"(3) is funded by amounts paid by the plans which participate in the fund, and

"(4) is administered by a Board of Trustees, and in the administration of the fund there is equal representation of—

"(A) trustees representing employers who are obligated to contribute to the plans participating in the fund, and

"(B) trustees representing employees who are participants in plans which participate in the fund.

"(c)(1) If an employer withdraws from a plan which participates in a withdrawal liability payment fund, then, to the extent provided in the trust, the fund shall pay to that plan—

"(A) the employer's unattributable liability,

"(B) the employer's withdrawal liability payments which would have been due but for section 4208, 4209, or 4219, and

"(C) the employer's withdrawal liability payments to the extent they are uncollectible.

"(2) The fund may provide for the payment of the employer's attributable liability of the fund—

"(A) provides for the payment of both the attributable and the unattributable liability of the employer in a single payment, and

"(B) is subrogated to all rights of the plan against the employer.

"(3) For the purposes of this section, the term—

"(A) 'attributable liability' means the excess, if any, determined under the provisions of a plan not inconsistent with regulations of the corporation, of—

"(i) the value of vested benefits accrued as a result of service with the employer, over

"(ii) the value of plan assets attributed to the employer, and

"(B) 'unattributable liability' means the excess of withdrawal liability over attributable liability.

Such terms may be further defined, and the manner in which they shall be applied may be prescribed, by the corporation by regulation.

"(5) (A) The trust of a fund shall be maintained for the exclusive purpose of paying—

"(i) any amount described in paragraph (1) and paragraph (2), and

"(ii) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund.

"(B) The amounts paid by a plan to a fund shall be deemed a reasonable expense of administering the plan under sections 403(c) (1) and 404(a) (1) (A) (ii), and the payments made by a fund to a participating plan shall be deemed services necessary for the operation of the plan within the meaning of section 408(b) (2) or within the meaning of section 4975(d) (2) of the Internal Revenue Code of 1954.

"(d) (1) For purposes of this part—

"(A) only amounts paid by the fund to a plan under subsection (c) (1) (A) shall be credited to withdrawal liability otherwise payable by the employer, unless the plan otherwise provides, and

"(B) any amounts paid by the fund under subsection (c) to a plan shall be treated by the plan as a payment of withdrawal liability to such plan.

"(2) For purposes of applying provisions relating to the funding standard accounts (and minimum contribution requirements), amounts paid from the plan to the fund shall be applied to reduce the amount treated as contributed to the plan.

"(e) The fund shall be subrogated to the rights of the plan against withdrawn employer for amounts paid by a fund to a plan under—

"(1) subsection (c) (1) (A), to the extent not credited under subsection (d) (1) (A), and

"(2) subsection (c) (1) (C).

"(f) Notwithstanding any other provision of this Act, a fiduciary of the fund shall discharge the fiduciary's duties with respect to the fund in accordance with the standards for fiduciaries prescribed by this Act (to the extent not inconsistent with the purposes of this section), and in accordance with the documents and instruments governing the fund insofar as such documents and instruments are consistent with the provisions of this Act (to the extent not inconsistent with the purposes of this section). The provisions of the preceding sentence shall supersede any and all State laws relating to fiduciaries insofar as they may now or hereafter relate to a fund to which this section applies.

"(g) No payments shall be made from a fund to a plan on the occasion of a withdrawal or partial withdrawal of an employer from such plan if the employees representing the withdrawn contribution base units continue, after such withdrawal, to be represented under section 9 of the National Labor Relations Act (or other applicable labor laws) in negotiations with such employer by the labor organization which represented such employees immediately preceding such withdrawal.

"(h) (1) A withdrawal liability payment fund established by plan sponsors of a multiemployer plan for work performed in the building and construction industry which does not meet the requirements of subsection (b) shall be treated, for purposes of this Act and of the Internal Revenue Code of 1954, as a fund described in subsection (b) if—

"(A) substantially all of the employees with respect to whom employers have an obligation to contribute under the plan perform work in the building and construction industry,

"(B) the plan primarily covers employees in the building and construction industry, and

"(C) the fund is a trust which—

"(i) meets the requirements of subsections (b) (1) and (2) and (c) (5).

"(ii) is funded exclusively by amounts paid by employers under the plan and more than one employer under the plan makes such payments,

"(iii) provides for payments, in accordance with the preceding subsections of this section, only to plans which participate in the fund and not to participants or beneficiaries under such plans or to employers who maintain such plans,

"(iv) provides that the right of a plan to receive payments from the fund on account of the withdrawal liability of an employer making payments to the fund may not be transferred to any other plan. and

"(v) meets all requirements of this section other than the requirements of paragraphs (3) and (4) of subsection (b).

"(i) The corporation may provide by regulation rules not inconsistent with this section governing the establishment and maintenance of funds, but only to the extent necessary to carry out the purposes of this part (other than section 4222).

"ALTERNATIVE METHOD OF WITHDRAWAL LIABILITY PAYMENTS

"SEC. 4224. (a) Under such regulations as the corporation may prescribe, a plan may provide an alternative method of payment which permits a temporary reduction in the payment of withdrawal liability of an employer in financial distress.

"(b) If, upon application made by a plan or an employer in a proceeding under section 4221, the arbitrator determine that an alternative method of withdrawal liability payments by an employer in financial distress is in the best interest of participants and beneficiaries under the plan, then the plan shall grant such an alternative method to the employer. The determination shall be made in accordance with standards set forth in section 303(b) of this Act or in accordance with regulations prescribed by the corporation.

"LIMITATION ON WITHDRAWAL LIABILITY

"SEC. 4225. (a) (1) In the case of bona fide sale of all or substantially all of the employer's assets in an arm's-length transaction to an unrelated party (within the meaning of section 4204(d)), the withdrawal liability of an employer (after the application of all sections of this part having a lower number designation than this section), other than an employer undergoing reorganization under title 11, United States Code, or similar provisions of State law, shall not exceed—

"(A) if the amount of the liquidation or dissolution value of the employer after the sale or exchange does not exceed $2,000,000, the greater of—

"(i) a portion (determined under paragraph (2)) of such value, or

"(ii) the withdrawal liability attributable to employees of that employer, or

"(B) if the amount of the liquidation or dissolution value of the employer after the sale or exchange exceeds $2,000,000, a portion (determined under paragraph (2)) of such value.

"(2) For purposes of paragraph (1), the portion shall be determined in accordance with the following table:

"If the liquidation or dissolution value of the employer after the sale or exchange is—	The portion is—
Not more than $2.000.000	30 percent of the amount
More than $2,000,000, but not more than $4,000,000	$600,000, plus 35 percent of the amount in excess of $2,000,000
More than $4,000,000, but not more than $6,000,000	$1,300,000, plus 40 percent of the amount in excess of $4,000,000.
More than $6,000,000, but not more than $7,000,000	$2,100.000, plus 45 percent of the amount in excess of $6,000,000.
More than $7,000,000, but not more than $8,000,000	$2.550,000, plus 50 percent of the amount in excess of $7,000,000.
More than $8,000,000, but not more than $9,000,000	$3,050,000, plus 60 percent of the amount in excess of $8,000,000.
More than $9,000,000, but not more than $10,000,000	$3,650,000, plus 70 percent of the amount in excess of $9,000,000.
More than $10,000,000	$4.350,000, plus 80 percent of the amount in excess of $10,000.000.

"(b) In the case of an insolvent employer undergoing liquidation or dissolution, the withdrawal liability of that employer shall not exceed an amount equal to the sum of—

"(1) 50 percent of the withdrawal liability of the employer (determined without regard to this section), and

"(2) that portion of 50 percent of the withdrawal liability of the employer (as determined under paragraph (1)) which does not exceed the liquidation or dissolution value of the employer determined—

"(A) as of the commencement of liquidation or dissolution, and

"(B) after reducing the liquidation or dissolution value of the employer by the amount determined under paragraph (1).

"(c) To the extent that the withdrawal liability of an employer is attributable to his obligation to contribute to or under a plan as an individual (whether as a sole proprietor or as a member of a partnership), property which may be exempt from the estate under section 522 of title 11, United States Code, or under similar provisions of law, shall not be subject to enforcement of such liability.

"(d) For purposes of this section—

"(1) an employer is insolvent if the liabilities of the employer, including withdrawal liability under the plan, exceed the assets of the employer (determined as of the commencement of the liquidation or dissolution), and

"(2) the liquidation or dissolution value of the employer shall be determined without regard to such withdrawal liability.

"(e) In the case of one or more withdrawals of an employer attributable to the same liquidation or dissolution, under, regulations prescribed by the corporation—

"(1) all such withdrawals shall be treated as a single withdrawal for the purpose of applying this section, and

"(2) the withdrawal liability of the employer to each plan shall be an amount which bears the same ratio to the present value of the withdrawal liability payments to all plans (after the application of the preceding provisions of this section) as the withdrawal liability of the employer to such plan (determined without regard to this section) bears to the withdrawal liability of the employer to all such plans (determined without regard to this section).

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

"SEC. 4231. (a) Unless otherwise provided in regulations prescribed by the corporation, a plan sponsor may not cause a multiemployer plan to merge with one or more multiemployer plans, or engage in a transfer of assets and liabilities to or from another multiemployer plan, unless such merger or transfer satisfies the requirements of subsection (b).

"(b) A merger or transfer satisfies the requirements of this section if—

"(1) in accordance with regulations of the corporation, the plan sponsor of a multiemployer plan notifies the corporation of a merger with or transfer of plan assets or liabilities to another multiemployer plan at least 120 days before the effective date of the merger or transfer;

"(2) no participant's or beneficiary's accrued benefit will be lower immediately after the effective date of the merger or transfer than the benefit immediately before that date;

"(3) the benefits of participants and beneficiaries are not reasonably expected to be subject to suspension under section 4245; and

"(4) an actuarial valuation of the assets and liabilities of each of the affected plans has been performed during the plan year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the start of that plan year, or other variation of such assets and liabilities performed under such standards and procedures as the corporation may prescribe by regulation.

"(c) The merger of multiemployer plans or the transfer of assets or liabilities between multiemployer plans, shall be deemed not to constitute a violation of the provisions of section 406(a) or section 406(b)(2) if the corporation determines that the merger or transfer otherwise satisfies the requirements of this section.

"(d) A plan to which liabilities are transferred under this section is a successor plan for purposes of section 4022A(b)(2)(B).

"TRANSFERS BETWEEN A MULTIEMPLOYER PLAN AND A SINGLE-EMPLOYER PLAN

"SEC. 4232. (a) A transfer of assets or liabilities between, or a merger of, a multiemployer plan and a single-employer plan shall satisfy the requirements of this section.

"(b) No accrued benefit of a participant or beneficiary may be lower immediately after the effective date of a transfer or merger described in subsection (a) than the benefit immediately before that date.

"(c)(1) Except as provided in paragraphs (2) and (3), a multiemployer plan which transfers liabilities to a single-employer plan shall be liable to the corporation if the single-employer plan terminates within 60 months after the effective date of the transfer. The amount of liability shall be the lesser of—

"(A) the amount of the plan asset insufficiency of the terminated single-employer plan, less 30 percent of the net worth of the employer who maintained the single-employer plan, determined in accordance with section 4062 or 4064, or

"(B) the value, on the effective date of the transfer, of the unfunded benefits transferred to the single-employer plan which are guaranteed under section 4022.

"(2) A multiemployer plan shall be liable to the corporation as provided in paragraph (1) unless, within 180 days after the corporation receives an application (together with such information as the corporation may reasonably require for purposes of such application) from the multiemployer plan sponsor for a determination under this paragraph—

"(A) the corporation determines that the interests of the plan participants and beneficiaries and of the corporation are adequately protected, or

"(B) fails to make any determination regarding the adequacy with which such interests are protected with respect to such transfer of liabilities.

If, after the receipt of such application, the corporation requests from the plan sponsor additional information necessary for the determination, the running of the 180-day period shall be suspended from the date of such request until the receipt by the corporation of the additional information requested. The corporation may by regulation prescribe procedures and standards for the issuance of determinations under this paragraph. This paragraph shall not apply to any application submitted less than 180 days after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(3) A multiemployer plan shall not be liable to the corporation as provided in paragraph (1) in the case of a transfer from the multiemployer plan to a single-employer plan of liabilities which accrued under a single-employer plan which merged with the multiemployer plan, if, the value of liabilities transferred to the single-employer plan does not exceed the value of the liabilities for benefits which accrued before the merger, and the value of the assets transferred to the single-employer plan is substantially equal to the value of the assets which would have been in the single-employer plan if the employer had maintained and funded it as a separate plan under which no benefits accrued after the date of the merger.

"(4) The corporation may make equitable arrangements with multiemployer plans which are liable under this subsection for satisfaction of their liability.

"(d) Benefits under a single-employer plan to which liabilities are transferred in accordance with this section are guaranteed under section 4022 to the extent provided in that section as of the effective date of the transfer and the plan is a successor plan.

"(e)(1) Except as provided in paragraph (2), a multiemployer plan may not transfer liabilities to a single-employer plan unless the plan sponsor of the plan to which the liabilities would be transferred agrees to the transfer.

"(2) In the case of a transfer described in subsection (c)(3), paragraph (1) of this subsection is satisfied by the advance agreement to the transfer by the employer who will be obligated to contribute to the single-employer plan.

"(f)(1) The corporation may prescribe by regulation such additional requirements with respect to the transfer of assets or liabilities as may be necessary to protect the interests of plan participants and beneficiaries and the corporation.

"(2) Except as otherwise determined by the corporation, a transfer of assets or liabilities to a single-employer plan from a plan in reorganization under section 4241 is not effective unless the corporation approves such transfer.

"(3) No transfer to which this section applies, in connection with a termination described in section 4041A(a)(2) shall be effective unless the transfer meets such requirements as may be established by the corporation to prevent an increase in the risk of loss to the corporation.

"PARTITION

"SEC. 4233. (a) The corporation may order the partition of a multiemployer plan in accordance with this section.

"(b) A plan sponsor may apply to the corporation for an order partitioning a plan. The corporation may not order the partition of a plan except upon notice to the plan sponsor and the participants and beneficiaries whose vested benefits will be affected by the partition of the plan, and upon finding that—

"(1) a substantial reduction in the amount of aggregate contributions under the plan has resulted or will result from a case or proceeding under title 11, United States Code, with respect to an employer;

"(2) the plan is likely to become insolvent;

"(3) contributions will have to be increased significantly in reorganization to meet the minimum contribution requirement and prevent insolvency; and

"(4) partition would significantly reduce the likelihood that the plan will become insolvent.

"(c) The corporation may order the partition of a plan notwithstanding the pendency of a proceeding described in subsection (b)(1).

"(d) The corporation's partition order shall provide for a transfer of no more than the nonforfeitable benefits directly attributable to service with the employer referred to in subsection (b)(1) and an equitable share of assets.

"(e) The plan created by the partition is—

"(1) a succesor plan to which section 4022A applies, and

"(2) a terminated multiemployer plan to which section 4041A(d) applies, with respect to which only the employer described in subsection (b)(1) has withdrawal liability, and to which section 4068 applies.

"(f) The corporation may proceed under section 4042 (c) through (h) for a decree partitioning a plan and appointing a trustee for the terminated portion of a partitioned plan. The court may order the partition of a plan upon making the findings described in subsection (b)(1) through (4), and subject to the conditions set forth in subsections (c) through (e).

"ASSET TRANSFER RULES

"SEC. 4234. (a) A transfer of assets from a multiemployer plan to another plan shall comply with asset-transfer rules which shall be adopted by the multiemployer plan and which—

"(1) do not unreasonably restrict the transfer of plan assets in connection with the transfer of plan liabilities, and

"(2) operate and are applied uniformly with respect to each proposed transfer, except that the rules may provide for reasonable variations taking into account the potential financial impact of a proposed transfer on the multiemployer plan.

Plan rules authorizing asset transfers consistent with the requirements of section 4232 (c)(3) shall be considered to satisfy the requirements of this subsection.

"(b) The corporation shall prescribe regulations which exempt de minimis transfers of assets from the requirements of this part.

"(c) This part shall not apply to transfers of assets pursuant to written reciprocity agreements, except to the extent provided in regulations prescribed by the corporation.

"TRANSFERS PURSUANT TO CHANGE IN BARGAINING REPRESENTATIVE

"SEC. 4235. (a) In the case of a complete or partial withdrawal from a plan (referred to elsewhere in this section as the 'old plan') attributable to a certified change of collective bargaining agent, if—

"(1) within 180 days after the date on which the employer receives notice under section 4219 of withdrawal liability with respect to such withdrawal, the plan sponsor of a multiemployer plan (referred to elsewhere in this section as the 'new plan') asks the plan sponsor of the old plan to transfer the nonforfeitable benefits of the employees who are no longer working in covered service under the old plan as a result of the change of bargaining agent to the new plan, and

"(2) the employer consents to the transfer, then the plan sponsor of the old plan shall transfer the appropriate amount of assets and liabilities to the new plan.

"(b) If the employer is making interim payments of withdrawal liability in connection with such withdrawal under section 4219, any such payments made after the date on which the employer receives a written notice from the plan sponsor of the new plan that a request for a transfer of assets and liabilities is going to be made under subsection (a) shall be paid into an escrow account until such time as the employer can determine whether such transfer will be made. If the transfer is made, amounts paid into the escrow shall be transferred to the new plan and treated as part of the assets of the old plan transferred to it (and the assets required to be transferred by the old plan shall be reduced by the amount so paid). If the transfer is not made, the amounts paid into the escrow shall be paid to the old plan and credited against the employer's withdrawal liability.

"(c)(1) Notwithstanding subsection (a), the plan sponsor of the old plan shall not transfer any assets to the new plan if—

"(A) the old plan is in reorganization, or

"(B) the transfer of assets would cause the old plan to go into reorganization.

"(2) In any case in which a transfer of assets from the old plan to the new plan is prohibited by paragraph (1), the plan sponsor of the old plan shall transfer—

"(A) all nonforfeitable benefits described in subsection (a)(1), if the value of such benefits does not exceed the withdrawal liability of the employer with respect to such withdrawal, or

"(B) such nonforfeitable benefits having a value equal to the withdrawal liability of the employer if the value of such benefits exceeds the withdrawal liability of the employer.

"(d) For purposes of subsection (a), the term—

"(1) 'appropriate amount of assets' means the amount by which the value of the nonforfeitable benefits to be transferred exceeds the amount of the employer's withdrawal liability to the old plan (determined under part I without regard to section 4211(e)), and

"(2) 'certified change of collective bargainning representative' means a change of collective bargaining representative certified under the Labor-Management Relations Act, 1947 or the Railway Labor Act.

"(e) The plan sponsor of the old plan shall not transfer any assets to the new plan if—

"(1) the old plan is in reorganization, or

"(2) the transfer of the appropriate amount of assets would cause the old plan to go into reorganization.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"REORGANIZATION STATUS

"SEC. 4241. (a) A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b)(1) A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) For purposes of this part, the net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2) of the Internal Revenue Code of 1954, over

"(B) the credits to the funding standard account under section 412(b)(3)(B) of such Code.

"(3) For purposes of this part, the vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4)(A) The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B)(i) In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary of the Treasury.

"(ii) Except as otherwise determined by the Secretary of the Treasury, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary of the Treasury,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5)(A) For purposes of this part, the base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) For purposes of this part, a relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) For purposes of this part, the relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) For purposes of this part, the adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) For purposes of this part, the term 'person in pay status' means—

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary of the Treasury, any other person who is entitled to such a benefit under the plan.

"(7) For purposes of paragraph (3), in determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(8) For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary of the Treasury.

"(9) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount (determined in accordance with regulations prescribed by the Secretary of the Treasury) equal to—

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of assets of the plan.

"(c) Except as provided in regulations prescribed by the corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) Any multiemployer plan which terminates under section 4041A(a)(2) shall not be considered in reorganization after the date on which the plan is treated as having terminated under section 4041A(b)(2).

"NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS

"SEC. 4242. (a)(1) If—

"(A) a multiemployer plan is in reorganization for a plan year, and

"(B) section 4243 would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, an excise tax may be imposed.

"(2) The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4201(h)(5)), and

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 4244.

"(b) The corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"'MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4243. (a)(1) For any plan year for which a plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account while it is in reorganization, and

"(B) the plan's accumulated funding deficiency under section 302(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 4244(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such year or under section 302(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

"(2) For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b)(1) Except as otherwise provided in this section, for purposes of this part the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year, and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization and first effective in the plan year or in any of the 2 preceding plan years (if the plan was in reorganization in such preceding year), over

"(B) the amount of the overburden credit (if any) determined under section 4244 for the plan year.

"(2) If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this part other than this paragraph) and a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3)(A) If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary of the Treasury.

adjusted in a manner consistent with section 4241(b)(4).

"(c)(1) For purposes of this part, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary of the Treasury.

"(2)(A) Except as provided in subparagraph (B), for purposes of this part a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary of the Treasury) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary of the Treasury) for reductions in the contribution base resulting from transfers of liabilities.

"(B) For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 4245(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(d)(1) Under regulations prescribed by the Secretary of the Treasury, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the changes under section 412(b)(2)(A) or (B) of the Internal Revenue Code of 1954, the sum of—

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits as described in section 4241(b)(4)(A)(ii) (determined without regard to section 4241(b)(4)(B)(i)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits as described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 4241(b)(2)).

"(3)(A) In the case of a plan described in section 4216(b), if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to subparagraph (B).

"(B) A plan is described in this subparagraph if—

"(i) the plan is a plan described in section 4216(b);

"(ii) the rate of employer contributions under the plan for a plan year in which an amendment increasing benefits is effective, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits determined as of the first day of the plan year in which the amendment increasing benefits is effective, arising from plan provisions as in effect on July 1, 1977; and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, beginning with the first day of the plan year in which such liabilities first arose, the increase in accrued liabilities arising from each plan amendment after July 1, 1977, over the period determined under subparagraph (C); and

"(iii) the rate of employer contributions in any plan year subsequent to the plan year in which an amendment increasing benefits becomes effective is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that plan year produces the amount that would be necessary to complete the amortization schedule described in clause (ii), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(e) In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8) of the Internal Revenue Code of 1954.

"(f)(1) The Secretary of the Treasury may waive any accumulated funding deficiency under this section in accordance with the provisions of section 303(a).

"(2) Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 303(c)).

"(g) For purposes of making any determination under this part, the requirements of section 302(c)(3) shall apply.

"OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4244. (a) For purposes of determining the minimum contribution requirement under section 4243 (before the application of section 4243 (b)(2) or (d)) the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 4243 (b)(2) or (d) and without regard to this section).

"(b) A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) For purposes of this section—

"(1) The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan.

"(2) The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan, unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to section 4201, determined by dividing—

"(i) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary of the Treasury shall by regulation provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A (c)(1) determined under the provisions of the plan in effect at the beginning of the first plan year of reorganization and without regard to section 4022A(c)(2).

"(5) The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization piror to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f)(1) Notwithstanding any other provision of this section a plan is not eligible for an overburden credit for a plan year if the Secretary of the Treasury finds that the plan's current contribution base for the plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1) does not impair a plan's eligibility for an overburden credit, unless the Secretary of the Treasury finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) Notwithstanding any other provision, of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement (determined without regard to any overburden requirement under this section) over the employer contributions required under the plan.

"INSOLVENT PLANS

"SEC. 4245. (a) Notwithstanding sections 203 and 204, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation under section 4022A(g)(5).

"(b) For purposes of this section, for a plan year—

"(1) a multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d);

"(2) 'resource benefit level' means the level of monthly benefits determined under subsection (c)(1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources;

"(3) 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the corporation under section 4261(b)(2); and

"(4) 'insolvency year' means a plan year in which a plan is insolvent.

"(c)(1) The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary of the Treasury, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 4241(b)(6)) under the plan, except that the Secretary of the Treasury may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits must be suspended for that plan year.

"(4)(A) If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary of the Treasury.

"(B) For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary of the Treasury, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d)(1) As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 4243(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) If, any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination avilable to interested parties.

"(3) The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

"(e)(1) If the plan sponsor of a plan in reorganization determines under subsection (d)(1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary of the Treasury, the corporation, the parties described in section 4242(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 4242(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary of the Treasury, the corporation, and the parties described in paragraph (1)(B) of the resource benefit level determined in writing for that insolvency year.

"(3) In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the corporation.

"(4) Notice required by this subsection shall be given in accordance with regulations prescribed by the corporation, except that notice to the Secretary of the Treasury shall be given in accordance with regulations prescribed by the Secretary of the Treasury.

"(5) The corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f)(1) If the plan sponsor of an insolvent plan, for which the resource benefit level is above the level of basic benefits, anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the corporation under section 4261.

"(2) A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the corporation under section 4261.

"PART 4—FINANCIAL ASSISTANCE

"FINANCIAL ASSISTANCE

"SEC. 4261. (a) If, upon receipt of an application for financial assistance under section 4245(f) or section 4281(d), the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.

"(b)(1) Financial assistance shall be provided under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

"(2) A plan which has received financial assistance shall repay the amount of such assistance to the corporation on reasonable terms consistent with regulations prescribed by the corporation.

"(c) Pending determination of the amount described in subsection (a), the corporation may provide financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

"PART 5—BENEFITS AFTER TERMINATION

"BENEFITS UNDER CERTAIN TERMINATED PLANS

"SEC. 4281. (a) Notwithstanding sections 203 and 204, the plan sponsor of a terminated multiemployer plan to which section 4041A (d) applies shall amend the plan to reduce benefits, and shall suspend benefit payments, as required by this section.

"(b)(1) The value of nonforfeitable benefits under a terminated plan referred to in subsection (a), and the value of the plan's assets, shall be determined in writing, in accordance with regulations prescribed by the corporation, as the end of the plan year during which section 4041A(d) becomes applicable to the plan, and each plan year thereafter.

"(2) For purposes of this section, plan assets include outstanding claims for withdrawal liability (within the meaning of section 4001(a)(16)).

"(c)(1) If, according to the determination made under subsection (b), the value of nonforfeitable benefits exceeds the value of the plan's assets, the plan sponsor shall amend the plan to reduce benefits under the plan to the extent necessary to ensure that the plan's assets are sufficient, as determined and certified in accordance with regulations prescribed by the corporation, to discharge when due all of the plan's obligations with respect to nonforfeitable benefits.

"(2) Any plan amendment required by this subsection shall, in accordance with regulations prescribed by the Secretary of the Treasury—

"(A) reduce benefits only to the extent necessary to comply with paragraph (1);

"(B) reduce accrued benefits only to the extent that those benefits are not eligible for the corporation's guarantee under section 4022A(b); and

"(C) take effect no later than 6 months after the end of the plan year for which it is determined that the value of nonforfeitable benefits exceeds the value of the plan's assets.

"(d)(1) In any case in which benefit payments under a plan which is insolvent under paragraph (2)(A) exceed the resource benefit level, any such payments which are not basic benefits shall be suspended, in accordance with this subsection, to the extent necessary to reduce the sum of such payments and such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation in connection with a supplemental guarantee program established under section 4022A(g)(2).

"(2) For purposes of this subsection, for a plan year—

"(A) a plan is insolvent if—

"(i) the plan has been amended to reduce benefits to the extent permitted by subsection (c), and

"(ii) the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year; and

"(B) 'resource benefit level' and 'available resources' have the meanings set forth in paragraphs (2) and (3), respectively, of section 4245(b).

"(3) The plan sponsor of a plan which is insolvent (within the meaning of paragraph (2)(A)) shall have the powers and duties of the plan sponsor of a plan in reorganization which is insolvent (within the meaning of section 4245(b)(1)), except that regulations governing the plan sponsor's exercise of those powers and duties under this section shall be prescribed by the corporation, and the corporation shall prescribe by regulation notice requirements which assure that plan participants and beneficiaries receive adequate notice of benefit suspensions.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this subsection, except that the provisions of section 4245(c) (4) and (5) shall apply in the case of plans which are insolvent under paragraph (2)(A), in connection with the plan year during which such section 4041A(d) first became applicable to the plan and every year thereafter, in the same manner and to the same extent as such provisions apply to insolvent plans in reorganization under section 4245, in connection with insolvency years under such section 4245.

"PART 6—ENFORCEMENT

"CIVIL ACTIONS

"SEC. 4301. (a)(1) A plan fiduciary, employer, plan participant, or beneficiary, who is adversely affected by the act or omission of any party under this subtitle with respect to a multiemployer plan, or an employee organization which represents such a plan participant or beneficiary for purposes of collective bargaining, may bring an action for appropriate legal or equitable relief, or both.

"(2) Notwithstanding paragraph (1), this section does not authorize an action against the Secretary of the Treasury, the Secretary of Labor, or the corporation.

"(b) In any action under this section to compel an employer to pay withdrawal liability, any failure of the employer to make any withdrawal liability payment within the time prescribed shall be treated in the same manner as a delinquent contribution (within the meaning of section 515).

"(c) The district courts of the United States shall have exclusive jurisdiction of an action under this section without regard to the amount in controversy, except that State courts of competent jurisdiction shall have concurrent jurisdiction over an action brought by a plan fiduciary to collect withdrawal liability.

"(d) An action under this section may be brought in the district where the plan is administered or where a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

"(e) In any action under this section, the court may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to the prevailing party.

"(f) An action under this section may not be brought after the later of—

"(1) 6 years after the date on which the cause of action arose, or

"(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.

"(g) A copy of the complaint in any action under this section or section 4204 shall be served upon the corporation by certified mail. The corporation may intervene in any such action.

"PENALTY FOR FAILURE TO PROVIDE NOTICE

"SEC. 4302. Any person who fails, without reasonable cause, to provide a notice required under this subtitle or any implementing regulations shall be liable to the corporation in an amount up to $100 for each day for which such failure continues. The corporation may bring a civil action against any such person in the United States District Court for the District of Columbia or in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.".

Sec. 105. Premiums.

(a) Section 4006(a) is amended to read as follows:

"(a)(1) The corporation shall prescribe such schedules of premium rates and bases for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title. The premium rates charged by the corporation for any period shall be uniform for all plans, other than multiemployer plans, insured by the corporation with respect to basic benefits guaranteed by it under section 4022, and shall be unifom for all multiemployer plans with respect to basic benefits guaranteed by it under section 4022A. In establishing annual premiums with respect to plans, other than multiemployer plans, paragraphs (5) and (6) of this subsection (as in effect before the enactment of the Multiemployer Pension Plan Amendments Act of 1980) shall continue to apply.

"(2) The corporation shall maintain separate schedules of premium rates, and bases for the application of those rates, for—

"(A) basic benefits guaranteed by it under section 4022 for single-employer plans,

"(B) basic benefits guaranteed by it under section 4022A for multiemployer plans,

"(C) nonbasic benefits guaranteed by it under section 4022 for single-employer plans,

"(D) nonbasic benefits guaranteed by it under section 4022A for multiemployer plans, and

"(E) reimbursements of uncollectible withdrawal liability under section 4205.

The corporation may revise such schedules whenever it determines that revised schedules are necessary. Except as provided in section 4022A(f), in order to place a revised schedule described in subparagraph (A) or (B) in effect, the corporation shall proceed in accordance with subsection (b)(1), and such schedule shall apply only to plan years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution.

"(3)(A) Except as provided in subparagraph (C), the annual premium rate payable to the corporation by all plans for basic benefits guaranteed under this title is—

"(i) in the case of a single-employer plan, for plan years beginning after December 31, 1977, an amount equal to $2.60 for each individual who is a participant equal to $2.60 for each individual who is a participant in such plan during the plan year;

"(ii) in the case of a multiemployer plan, for the plan year within which the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 falls, an amount for each individual who is a participant in such plan for such plan year equal to the sum of—

"(I) 50 cents, multiplied by a fraction the numerator of which is the number of months in such year ending on or before such date and the denominator of which is 12, and

"(II) $1.00, multiplied by a fraction equal to 1 minus the fraction determined under clause (i),

"(iii) in the case of a multiemployer plan, for plan years beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, an amount equal to—

"(I) $1.40 for each participant, for the first, second, third, and fourth plan years,

"(II) $1.80 for each participant, for the fifth and sixth plan years,

"(III) $2.20 for each participant, for the seventh and eighth plan years, and

"(IV) $2.60 for each participant, for the ninth plan year, and for each succeeding plan year.

"(B) The corporation may prescribe by regulation the extent to which the rate described in subparagraph (A)(i) applies more than once for any plan year to an individual participating in more than one plan maintained by the same employer, and the corporation may prescribe regulations under which the rate described in subparagraph (A)(iii) will not apply to the same participant in any multiemployer plan more than once for any plan year.

"(C)(i) If the sum of—

"(I) the amounts in any fund for basic benefits guaranteed for multiemployer plans, and

"(II) the value of any assets held by the corporation for payment of basic benefits guaranteed for multiemployer plans,

is for any calendar year less than 2 times the amount of basic benefits guaranteed by the corporation under this title for multiemployer plans which were paid out of any such fund or assets during the preceding calendar year, the annual premium rates under subparagraph (A) shall be increased to the next highest premium level necessary to insure that such sum will be at least 2 times greater than such amount during the following calendar year.

"(ii) If the board of directors of the corporation determines that an increase in the premium rates under subparagraph (A) is necessary to provide assistance to plans which are receiving assistance under section 4261 and to plans the board finds are reasonably likely to require such assistance, the board may order such increase in the premium rates.

"(iii) The maximum annual premium rate which may be established under this subparagraph is $2.60 for each participant.

"(iv) The provisions of this subparagraph shall not apply if the annual premium rate is increased to a level in excess of $2.60 per participant under any other provisions of this title.

"(D)(i) Not later than 120 days before the date on which an increase under subparagraph (C)(ii) is to become effective, the corporation shall publish in the Federal Register a notice of the determination described in subparagraph (C)(ii), the basis for the determination, the amount of the increase in the premium, and the anticipated increase in premium income that would result from the increase in the premium rate. The notice shall invite public comment, and shall provide for a public hearing if one is requested. Any such hearing shall be commenced not later than 60 days before the date on which the increase is to become effective.

"(ii) The board of directors shall review the hearing record established under clause (i) and shall, not later than 30 days before the date on which the increase is to become effective, determine (after consideration of the comments received) whether the amount of the increase should be changed and shall publish its determination in the Federal Register.

"(4) The corporation may prescribe, subject to approval by the Congress in accordance with this section or section 4022A(f), alternative schedules of premium rates, and bases for the application of those rates, for basic benefits guaranteed by it under sections 4022 and 4022A based, in whole or in part, on the risks insured by the corporation in each plan.

"(5)(A) In carrying out its authority under paragraph (1) to establish schedules of premium rates, and bases for the application of those rates, for nonbasic benefits guaranteed under sections 4022 and 4022A, the premium rates charged by the corporation for any period for nonbasic benefits guaranteed shall—

"(i) be uniform by category of nonbasic benefits guaranteed,

"(ii) be based on the risks insured in each category, and

"(iii) reflect the experience of the corporation (including experience which may be reasonably anticipated) in guaranteeing such benefits.

"(B) Notwithstanding subparagraph (A), premium rates charged to any multiemployer plan by the corporation for any period for supplemental guarantees under section 4022 A(g)(2) may reflect any reasonable consideration which the corporation determines to be appropriate.".

(b) Section 4006(b) is amended—

(1) by striking out "Committee on Labor and Public Welfare" each place it appears and inserting in lieu thereof "Committee on Labor and Human Resources";

(2) in paragraph (1)—

(A) by striking out "coverage"; and

(B) by striking out "(B) or (C)" and inserting in lieu thereof "(C), (D), or (E)"; and

(3) in paragraph (3), by striking out "coverage".

(c) Section 4006 is further amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subsection (a)(3), and subject to paragraph (2), the rate for all plans for basic benefits guaranteed under this title with respect to plan years ending after September 2, 1974, is—

"(A) in the case of each plan which was not a multiemployer plan in a plan year, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(B) in the case of each plan which was a multiemployer plan in a plan year, an amount equal to 50 cents for each individual who was a participant in such plan during the plan year.

"(2) The rate applicable under this subsection for the plan year preceding September 1, 1975, is the product of—

"(A) the rate described in the preceding sentence; and

"(B) a fraction—

"(i) the numerator of which is the number of calendar months in the plan year which ends after September 2, 1974, and before the date on which the new plan year commences, and

"(ii) the denominator of which is 12.".

Sec. 106. Annual Report of Plan Administrator.

Section 4065 is amended—

(1) in paragraph (1), by striking out "and"; and

(2) in paragraph (2), by striking out the period and inserting in lieu thereof "except to the extent the corporation waives such requirement, and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) in the case of a multiemployer plan, information with respect to such plan which the corporation determines is necessary for the enforcement of subtitle E and requires by regulation, which may include—

"(A) a statement certified by the plan's enrolled actuary of—

"(i) the value of all vested benefits under the plan as of the end of the plan year, and

"(ii) the value of the plan's assets as of the end of the plan year;

"(B) a statement certified by the plan sponsor of each claim for outstanding withdrawal liability (within the meaning of section 4001(a)(16) and its value as of the end of that plan year and as of the end of the preceding plan year; and

"(C) the number of employers having an obligation to contribute to the plan and the number of employers required to make withdrawal liability payments.".

Sec. 107. Contingent Employer Liability Insurance.

Section 4023 (as in effect immediately before the date of the enactment of this Act) is repealed.

Sec. 108. Transition Rules and Effective Dates.

(a) Sections 4081 and 4082 are redesignated as sections 4401 and 4402, respectively.

(b) Section 4402 (as redesignated) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

“(d) Notwithstanding any other provision of this title, guaranteed benefits payable by the corporation pursuant to its discretionary authority under this section shall continue to be paid at the level guaranteed under section 4022, without regard to any limitation on payment under subparagraph (C) or (D) of subsection (c) (4).”.

(c) (1) Section 4402 (as redesignated is further amended by striking out subsection (e) and adding in lieu thereof the following new subsections:

“(e) (1) Except as provided in paragraphs (2) and (3), the amendments to this Act made by the Multiemployer Pension Plan Amendments Act of 1980 shall take effect on the date of the enactment of that Act.

“(2) (A) Except as provided in this paragraph, section 4201, relating to withdrawal liability, takes effect on April 29, 1980.

“(B) For purposes of determining withdrawal liability under section 4201, an employer who has withdrawn from a plan shall be considered to have withdrawn from a multiemployer plan if, at the time of the withdrawal, the plan was a multiemployer plan as defined in section 4001(a) (3) as in effect at the time of the withdrawal.

“(3) Sections 4241 through 4245, relating to multiemployer plan reorganization, shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

“(A) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, expires, without regard to extensions agreed to on or after the date of the enactment of that Act, or

“(B) 3 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

“(f) (1) In the event that before the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, the corporation has determined that—

“(A) an employer has withdrawn from a multiemployer plan under section 4063, and

“(B) the employer is liable to the corporation under such section,

the corporation shall retain the amount of liability paid to it or furnished in the form of a bond and shall pay such liability to the plan in the event the plan terminates in accordance with section 4041(a) (2) before the earlier of April 29, 1985, or the day after the 5-year period commencing on the date of such withdrawal.

“(2) In any case in which the plan is not so terminated within the period described in paragraph (1), the liability of the employer is abated and any payment held in escrow shall be refunded without interest to the employer or the employer's bond shall be cancelled.

“(g) (1) In any case in which an employer or employers withdrew from a multiemployer plan before the effective date of section 4201, the corporation may—

“(A) apply section 4063(d), as in effect before the amendments made by the Multiemployer Pension Plan Amendments Act of 1980, to such plan,

“(B) assess liability against the withdrawn employer with respect to the resulting terminated plan,

“(C) guarantee benefits under the terminated plan under section 4022, as in effect before such amendments, and

“(D) if necessary, enforce such action through suit brought under section 4003.

“(2) The corporation shall use the revolving fund used by the corporation with respect to basic benefits guaranteed under section 4022A in guaranteeing benefits under a terminated plan described in this subsection.”.

(2) (A) For the purpose of applying section 4205 of the Employee Retirement Income Security Act of 1974 in the case of an employer described in subparagraph (B)—

(i) “more than 75 percent” shall be substituted for “70 percent” in paragraphs (1) (A) and (2) (A) of such section,

(ii) “25 percent or less” shall be substituted for “30 percent” in paragraph (2) (A) of such section, and

(iii) the number of contribution units for the high base year shall be the average annual number of such units for calendar years 1970 and 1971.

(B) An employer is described in this subparagraph if—

(i) the employer is engaged in the trade or business of shipping bulk cargoes in the Great Lakes Maritime Industry, and whose fleet consists of vessels the gross registered tonnage of which was at least 7,800, as stated in the American Bureau of Shipping Record, and

(ii) whose fleet during any 5 years from the period 1970 through and including 1979 has experienced a 33 percent or more increase in the contribution units as measured from the average annual contribution units for the calendar years 1970 and 1971.

(3) (A) For the purpose of determining the withdrawal liability of an employer under title IV of the Employee Retirement Income Security Act of 1974 from a plan that terminates while the plan is insolvent (within the meaning of section 4245 of such Act), the plan's unfunded vested benefits shall be reduced by an amount equal to the sum of all overburden credits that were applied in determining the plan's accumulated funding deficiency for all plan years preceding the first plan year in which the plan is insolvent, plus interest thereon.

(B) The provisions of subparagraph (A) apply only if—

(i) the plan would have been eligible for the overburden credit in the last plan year beginning before April 29, 1980, if section 4243 of the Employee Retirement Income Security Act of 1974 had been in effect for that plan year, and

(ii) the Pension Benefit Guaranty Corporation determines that the reduction of unfunded vested benefits under subparagraph (A) would not significantly increase the risk of loss to the corporation.

(4) In the case of an employer who withdrew before the date of enactment of this Act from a multiemployer plan covering employees in the seagoing industry (as determined by the corporation), sections 4201 through 4219 of the Employee Retirement Income Security Act of 1974, as added by this Act, are effective as of May 3, 1979. For purposes of this paragraph, terms which are used in title IV of the Employee Retirement Income Security Act of 1974, or in regulations prescribed under that title, and which are used in the preceding sentence have the same meaning as when used in that Act or those regulations.

(d) For purposes of section 4205 of the Employee Retirement Income Security Act of 1974—

(1) subsection (a) (1) of such section shall not apply to any plan year beginning before April 29, 1982,

(2) subsection (a) (2) of such section shall not apply with respect to any cessation of contribution obligations occurring before April 29, 1980, and

(3) in applying subsection (b) of such section, the employer's contribution base units for any plan year ending before April 29, 1980, shall be deemed to be equal to the employer's contribution base units for the last plan year ending before such date.

(e) (1) In the case of a partial withdrawal under section 4205 of the Employee Retirement Income Security Act of 1974, an employer who—

(A) before December 13, 1979, had publicly announced the total cessation of covered operations at a facility in a State (and such cessation occurred within 12 months after the announcement),

(B) had not been obligated to make contributions to the plan on behalf of the employees at such facility for more than 8 years before the discontinuance of contributions, and

(C) after the discontinuance of contributions does not within 1 year of the date of the partial withdrawal perform work in the same State of the type for which contributions were previously required,

shall be liable under such section with respect to such partial withdrawal in an amount not greater than the amount determined under paragraph (2).

(2) The amount determined under this paragraph is the excess (if any) of—

(A) the present value (on the withdrawal date) of the benefits under the plan which—

(i) were vested on the withdrawal date (or, if earlier, at the time of separation from service with the employer at the facility),

(ii) were accrued by employees who on December 13, 1979 (or, if earlier, at the time of separation from service with the employer at the facility), were employed at the facility, and

(iii) are attributable to service with the withdrawing employer, over

(B) (i) the sum of—

(I) all employer contributions to the plan on behalf of employees at the facility before the withdrawal date,

(II) interest (to the withdrawal date) on amounts described in subclause (I), and

(III) $100,000 reduced by

(ii) the sum of—

(I) the benefits paid under the plan on or before the withdrawal date with respect to former employees who separated from employment at the facility, and

(II) interest (to the withdrawal date) on amounts described in subclause (I).

(3) For purposes of paragraph (2)—

(A) actuarial assumptions shall be those used in the last actuarial report completed before December 13, 1979,

(B) the term “withdrawal date” means the date on which the employer ceased work at the facility of the type for which contributions were previously required, and

(C) the term “facility” means the facility referred to in paragraph (1).

(f) Title IV is amended by adding at the end thereof the following new section:

“ELECTION OF PLAN STATUS

“SEC. 4303. (a) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this Act or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

“(1) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37) (A) (iii) of this Act and section 414(f) (1) (C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

“(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

“(b) An election described in subsection (a) shall be effective only if—

“(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this Act and the Internal Revenue Code of 1954, and

"(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

"(c) An election described in subsection (a) shall be treated as being effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.".

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954

SEC. 202. MULTIEMPLOYER PLANS IN REORGANIZATION.

(a) GENERAL RULE.—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting at the end thereof the following new subpart:

"Subpart C—Special Rules for Multiemployer Plans

"Sec. 418. Reorganization status.
"Sec. 418A. Notice of reorganization and funding requirements.
"Sec. 418B. Minimum contribution requirement.
"Sec. 418C. Overburden credit against minimum contribution requirement.
"Sec. 418D. Insolvent plans.

"SEC. 418. REORGANIZATION STATUS.

"(a) GENERAL RULE.—A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b) REORGANIZATION INDEX.—For purposes of this subpart—

"(1) IN GENERAL.—A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) NET CHARGE TO FUNDING STANDARD ACCOUNT.—The net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2), over

"(B) the credits to the funding standard account under section 412(b)(3)(B).

"(3) VESTED BENEFITS CHARGE.—The vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4) DETERMINATION OF VESTED BENEFITS CHARGE.—

"(A) IN GENERAL.—The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B) CERTAIN CHANGES IN BENEFIT LEVELS.—

"(i) IN GENERAL.—In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary.

"(ii) PLAN IN REORGANIZATION.—Except as otherwise determined by the Secretary, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the secretary,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5) BASE PLAN YEAR.—

"(A) IN GENERAL.—The base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) RELEVANT COLLECTIVE BARGAINING AGREEMENT.—A relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) RELEVANT EFFECTIVE DATE.—The relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) ADJUSTMENT DATE.—The adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) PERSON IN PAY STATUS.—The term 'person in pay status' means—

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary, any other person who is entitled to such a benefit under the plan.

"(7) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) UNFUNDED VESTED BENEFITS.—The term 'unfunded vested benefits' means, in connection with a plan, an amount (determined in accordance with regulations prescribed by the Secretary) equal to—

"(i) the value of vested benefits under the plan, less

"(ii) the value of the assets of the plan.

"(B) VESTED BENEFITS.—The term 'vested benefits' means any nonforfeitable benefit (within the meaning of section 4001(a)(8) of the Employee Retirement Income Security Act of 1974).

"(C) ALLOCATION OF ASSETS.—In determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(D) WITHDRAWAL LIABILITY.—For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary.

"(c) PROHIBITION OF NONANNUITY PAYMENTS.—Except as provided in regulations prescribed by the Pension Benefit Guaranty Corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) TERMINATED PLANS.—Any multiemployer plan which terminates under section 4041(a)(2) of the Employee Retirement Income Security Act of 1974 shall not be considered in reorganization after the last day of the plan year in which the plan terminates, within the meaning of section 4041(a)(2) of such Act.

"SEC. 418A. NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS.

"(a) NOTICE REQUIREMENT.—

"(1) IN GENERAL.—If—

"(A) a multiemployer plan is in reorganization for a plan year, and

"(B) section 418B would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, an excise tax may be imposed.

"(2) PERSONS TO WHOM NOTICE IS TO BE GIVEN.—The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4212(a) of the Employee Retirement Income Security Act of 1974), and

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) OVERBURDEN CREDIT NOT TAKEN INTO ACCOUNT.—The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 418C.

"(b) ADDITIONAL REQUIREMENTS.—The Pension Benefit Guaranty Corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"SEC. 418B. MINIMUM CONTRIBUTION REQUIREMENT.

"(a) ACCUMULATED FUNDING DEFICIENCY IN REORGANIZATION.—

"(1) IN GENERAL.—For any plan year in which a multiemployer plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account, and

"(B) the plan's accumulated funding deficiency under section 412(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 418C(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such plan year or under section 412(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

"(2) Treatment of withdrawal liability payments.—For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b) Minimum Contribution Requirement.—

"(1) In general.—Except as otherwise provided in this section for purposes of this subpart the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year; and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization and first effective in the plan year or in any of the 2 preceding plan years (if the plan was in reorganization in such preceding year), over

"(B) the amount of the overburden credit (if any) determined under section 418C for the plan year.

"(2) Adjustment for reductions in contribution base units.—If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this subpart other than this paragraph) multiplied by a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3) Special rule where cash-flow amount exceeds vested benefits charge.—

"(A) In general.—If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) Cash-flow amount.—For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary,

adjusted in a manner consistent with section 418(b)(4).

"(c) Current Contribution Base: Valuation Contribution Base.—

"(1) Current contribution base.—For purposes of this subject, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary.

"(2) Valuation contribution base.—

"(A) In general.—Except as provided in subparagraph (B), for purposes of this subpart a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary) for reductions in the contribution base resulting from transfers of liabilities.

"(B) Insolvent plans.—For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 418D(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(3) Contribution base unit.—For purposes of this subpart, the term 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan (as defined in regulations prescribed by the Secretary).

"(d) Limitation on Required Increases in Rate of Employer Contributions.—

"(1) In general.—Under regulations prescribed by the Secretary, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2)(A) or (B), the sum of—

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits as described in section 418(b)(4)(A)(ii) (determined without regard to section 418(b)(4)(B)(ii)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits as described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) Funding standard requirement.—For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 418(b)(2)).

"(3) Special rule for certain plans.—

"(A) In general.—In the case of a plan described in section 4216(b) of the Employee Retirement Income Security Act of 1974, if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to subparagraph (B).

"(B) Eligible plans.—A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for a plan year in which an amendment increasing benefits is effective, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits determined as of the first day of the plan year in which the amendment increasing benefits is effective, arising from plan provisions as in effect on July 1, 1977; and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, beginning with the first day of the plan year in which such liabilities first arose, the increase in accrued liabilities arising from each plan amendment after July 1, 1977, over the period determined under subparagraph (C); and

"(ii) the rate of employer contributions in any plan year subsequent to the plan year in which an amendment increasing benefits becomes effective is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that plan year produces the amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) Period.—The period determined under this subparagraph is the lesser of—

"(ii) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(e) Certain Retroactive Plan Amendments.—In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8).

"(f) Waiver of Accumulated Funding Deficiency.—

"(1) In general.—The Secretary may waive any accumulated funding deficiency under this section in accordance with the provisions of section 412(d)(1).

"(2) Treatment of waiver.—Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 412(d)(3).

"(g) Actuarial Assumptions Must Be Reasonable.—For purposes of making any determination under this subpart, the requirements of section 412(c)(3) shall apply.

"SEC. 418C. OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT.

"(a) GENERAL RULE.—For purposes of determining the contribution under section 418B (before the application of section 418 B (b) (2) or (d)), the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 418B (b) (2) or (d) and without regard to this section).

"(b) DEFINITION OF OVERBURDENED PLAN.—A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) AMOUNT OF OVERBURDEN CREDIT.—The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) OVERBURDEN FACTOR.—For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) PAY STATUS PARTICIPANT.—The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan

"(2) NUMBER OF ACTIVE PARTICIPANTS.—The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year; or

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to sections 4201 through 4219 of the Employee Retirement Income Security Act of 1974, determined by dividing—

"(i) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary shall by regulation provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) AVERAGE NUMBER.—The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) AVERAGE GUARANTEED BENEFIT.—The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c) (1) of the Employee Retirement Income Security Act of 1974 determined under the provisions of the plan in effect at the beginning of the first plan year of reorganization and without regard to section 4022A(c) (2).

"(5) FIRST YEAR IN REORGANIZATION.—The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f) NO OVERBURDEN CREDIT IN CASE OF CERTAIN REDUCTIONS IN CONTRIBUTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary finds that the plan's current contribution base for any plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) TREATMENT OF CERTAIN WITHDRAWALS.—For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974) does not impair a plan's eligibility for an overburden credit, unless the Secretary finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) MERGERS.—Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement determined without regard to any overburden credit under this section over the employer contributions required under the plan.

"SEC. 418D. INSOLVENT PLANS.

"(a) SUSPENSION OF CERTAIN BENEFIT PAYMENTS.—Notwithstanding section 411, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the Pension Benefit Guaranty Corporation under section 4022A(g) (5) of the Employee Retirement Income Security Act of 1974.

"(b) DEFINITIONS.—For purposes of this section, for a plan year—

"(1) INSOLVENCY.—A multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d).

"(2) RESOURCE BENEFIT LEVEL.—The term 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d) (3) to be the highest level which can be paid out of the plan's available resources.

"(3) AVAILABLE RESOURCES.—The term 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the Pension Benefit Guaranty Corporation under section 4261 (b) (2) of the Employee Retirement Income Security Act of 1974.

"(4) INSOLVENCY YEAR.—The term 'insolvency year' means a plan year in which a plan is insolvent.

"(c) BENEFIT PAYMENTS UNDER INSOLVENT PLANS.—

"(1) DETERMINATION OF RESOURCE BENEFIT LEVEL.—The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) UNIFORMITY OF THE BENEFIT SUSPENSION.—The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 418(b) (6)) under the plan, except that the Secretary may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and the relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) RESOURCE BENEFIT LEVEL BELOW LEVEL OF BASIC BENEFITS.—Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits shall be suspended for that plan year.

"(4) EXCESS RESOURCES.—

"(A) IN GENERAL.—If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary.

"(B) EXCESS RESOURCES.—For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5)—UNPAID BENEFITS.—If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) RETROACTIVE PAYMENTS.—Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d) Plan Sponsor Determination.—

"(1) Triennial test.—As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 418B(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall deermine whether the plan will be insolvent in any of the next 3 plan years.

"(2) Determination of insolvency.—If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) Determination of resource benefit level.—The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

"(e) Notice Requirements.—

"(1) Impending insolvency.—If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 418A(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) Resource benefit level.—No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of the resource benefit level determined in writing for that insolvency year.

"(3) Potential need for financial assistance.—In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the Pension Benefit Guaranty Corporation.

"(4) Regulations.—Notice required by this subsection shall be given in accordance with regulations prescribed by the Pension Benefit Guaranty Corporation, except that notice to the Secretary shall be given in accordance with regulations prescribed by the Secretary.

"(5) Corporation may prescribe time.—The Pension Benefit Guaranty Corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f) Financial Assistance.—

"(1) Permissive application.—If the plan sponsor of an insolvent plan for which the resource benefit level is above the level of basic benefits anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(2) Mandatory application.—A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(g) Financial Assistance.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this part in such manner as determined by the Secretary.".

(b) Clerical Amendment.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart C. Special rules for multiemployer plans.".

Sec. 203. Minimum Funding Requirements.

Section 412 (relating to minimum funding standards) is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by adding at the end of subsection (b) the following new paragraphs:

"(6) Certain amortization charges and credits.—In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

"(7) Special rules for multiemployer plans.—For purposes of this section—

"(A) Withdrawal liability.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan s funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) Adjustments when a multiemployer plan leaves reorganization.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) as of the end of the last plan year that the plan was in reorganization.

"(C) Plan payments to supplemental program or withdrawal liability payment fund.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) Interim withdrawal liability payments.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3)).''; and

(3) by adding at the end thereof the following new subsection:

"(j) Certain Terminated Multiemployer Plans.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2) of that Act.

"(k) Financial Assistance.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary.".

Sec. 204. Excise Taxes.

Section 4971 (relating to taxes on failure to meet minimum funding standard) is amended—

(1) by striking out "last sentence" in subsection (c) and inserting in lieu thereof "last two sentences"; and

(2) by adding at the end of subsection (d) the following new sentence: "In the case of a multiemployer plan which is in reorganization under section 418, the same notice and opportunity shall be provided to the Pension Benefit Guaranty Corporation.".

Sec. 205. Deductibility of Employer Liability Payments.

Subsection (g) of section 404 (relating to certain employer liability payments considered as contributions) is amended to read as follows:

"(g) Certain Employer Liability Payments Considered as Contributions.—

"(1) In general.—For purposes of this section, any amount paid by an employer under section 4062, 4063, or 4064, or part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be treated as a contribution to which this section applies by such employer to or under a stock bonus, pension, profit-sharing, or annuity plan.

"(2) Controlled group deductions.—In the case of a payment described in paragraph (1) made by an entity which is liable because it is a member of a commonly controlled group of corporations, trades, or businesses, within the meaning of subsection (b) or (c) of section 414, the fact that the entity did not directly employ participants of the plan with respect to which the liability payment was made shall not affect the deductibility of a payment which otherwise satisfies the conditions of section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income).

"(3) Coordination with subsection (a).—Any payment described in paragraph (1) shall (subject to the last sentence of subsection (a) (1) (A)) be deductible under this section when paid.".

Sec. 206. Minimum Vesting Requirements.

Section 411 (relating to minimum vesting standards) is amended—

(1) by adding at the end of subsection (a) (3) the following new subparagraphs:

"(E) Cessation of contributions under a multiemployer plan.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(F) Reduction and suspension of benefits by a multiemployer plan.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because benefit payments under the plan may be suspended under section 418D or reduced or suspended under section 4281 of the Employee Retirement Income Security Act of 1974.";

(2) in subsection (a) (4) (E), by striking out "and";

(3) in subsection (a) (4) (F), by striking out the period and inserting in lieu thereof "; and ";

(4) by adding at the end of subsection (a) (4) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after that employer has withdrawn from the plan, or, to the extent permitted by regulations prescribed by the Secretary, after a partial withdrawal (within the meaning of section 4205(b) (2) of the Employee Retirement Income Security Act of 1974), and

"(ii) with any employer under the plan after the termination date of the plan under section 4048 of such Act."; and

(5) in subsection (d) (6), by striking out "section 412(c) (8)" and inserting in lieu thereof "section 412(c) (8), or section 4281 of the Employee Retirement Income Security Act of 1974".

Sec. 207. Definition of Multiemployer Plan.

(a) Section 414 (relating to definitions and special rules) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) Multiemployer Plan.—

"(1) Definition.—For purposes of this part, the term 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation.

"(2) Cases of common control.—For purposes of this subsection, all trades or businesses (whether or not incorporated) which are under common control within the meaning of subsection (c) are considered a single employer.

"(3) Continuation of status after termination.—Notwithstanding paragraph (1), a plan is a multiemployer plan on and after its termination date under title IV of the Employee Retirement Income Security Act of 1974 if the plan was a multiemployer plan under this subsection for the plan year preceding its termination date.

"(4) Transitional rule.—For any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in this subsection as in effect immediately before that date.

"(5) Special election.—Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the Pension Benefit Guaranty Corporation and subject to the provisions of section 4403 (b) and (c) of the Employee Retirement Income Security Act of 1974, that the plan shall not be treated as a multiemployer plan for any purpose under such Act or this title, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(A) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37) (A) (iii) of the Employee Retirement Income Security Act of 1974 and section 414(f) (1) (C) (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(B) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the Pension Benefit Guaranty Corporation, the Secretary of Labor and the Secretary.".

Sec. 208. Related Technical Amendments.

(a) Sections 401(a) (12) and 414(l) are each amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies."

(b) Subsection (d) of section 4975 is amended—

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (13) the following new paragraphs:

"(14) any transaction required or permitted under sections 4201 through 4219 or section 4223 of the Employee Retirement Income Security Act of 1974, but this paragraph shall not apply with respect to the application of subsection (c) (1) (E) or (F); or

"(15) a merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231 of such Act, but this paragraph shall not apply with respect to the application of subsection (c) (1) (E) or (F).".

(c) Section 412(a) is amended by adding at the end thereof the following new sentence: "In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 418B.".

(d) Section 413(b) (6) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection and the last sentence of section 4971(a), an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall not be treated as a liability for contributions under the plan.".

(e) Section 401(a) (2), as amended by section 411(b) of this Act, is amended by inserting ", or the return of any withdrawal liability payment determined under section 4231(d) of the Employee Retirement Income Security Act of 1974 to be an overpayment within 6 months of such determination" after "501(a)".

Sec. 209. Tax Exemption for Withdrawal Liability Payment Funds.

(a) Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

"(A) the purpose of such trust is exclusively—

"(i) to pay any amount described in section 4223(c) of the Employee Retirement Income Security Act of 1974, and

"(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

"(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(i) the purposes described in subparagraph (A), or

"(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (212(B),

"(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b) of the Employee Retirement Income Security Act of 1974, and

"(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan.".

(b) Subsection (e) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end thereof the following new paragraph:

"(9) Section made applicable to withdrawal liability payment funds.—For purposes of this section—

"(A) In general.—The term 'plan' includes a trust described in section 501(c) (22).

"(B) Disqualified person.—In the case of any trust to which this section applies by reason of subparagraph (A), the term 'disqualified person' includes any person who is a disqualified person with respect to any plan which is a member of such trust.".

(c) The amendments made by this section apply to taxable years ending after the date of the enactment of this Act.

Sec. 210. Effective Date.

(a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) Subpart C of part I of subchapter D of chapter 1 of such Code (as added by this Act) shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

(1) the date on which the last collective-bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of this Act, expires, without regard to extensions agreed to after such date of enactment, or

(2) 3 years after the date of the enactment of this Act.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Amendment of the Employee Retirement Income Security Act of 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

Sec. 302. Definition of Multiemployer Plan.

(a) Section 3 is amended by striking out paragraph (37) and inserting in lieu thereof the following:

"(37)(A) The term 'multiemployer plan' means a plan—

"(i) to which more than one employer is required to contribute,

"(ii) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(iii) which satisfies such other requirements as the Secretary may prescribe by regulation.

"(B) For purposes of this paragraph, all trades or businesses (whether or not incorporated) which are under common control within the meaning of section 4001(c)(1) are considered a single employer.

"(C) Notwithstanding subparagraph (A), a plan is a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding its termination date.

"(D) For purposes of this title, notwithstanding the preceding provisions of this paragraph, for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 3(37) of this Act as in effect immediately before such date.".

"(E) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation and subject to the provisions of sections 4403 (b) and (c), that the plan shall not be treated as a multiemployer plan for all purposes under this Act or the Internal Revenue Code of 1954 if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(i) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(ii) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.".

Sec. 303. Minimum Vesting Requirements.

Section 203 is amended—

(1) by inserting after subsection (a)(3)(D) the following new subparagraph:

"(E)(i) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(ii) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because benefit payments under the plan may be reduced or suspended under section 4281 or suspended under section 4245.";

(2) in subsection (b)(1)(E), by striking out "and";

(3) in subsection (b)(1)(F), by striking out the period and inserting in lieu thereof "; and"; and

(4) by inserting after subsection (b)(1)(F) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after that employer has withdrawn from the plan, or, to the extent permitted by regulations prescribed by the Secretary of the Treasury, after a partial withdrawal (described in section 4205(b)(2)); and

"(ii) with any employer under the plan after the termination date of the plan under section 4048.".

Sec. 304. Minimum Funding Requirements.

(a) Section 301 is amended by adding at the end thereof the following new subsection:

"(c) This part applies, with respect to a terminated multiemployer plan to which section 4021 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2).".

(b) Section 302 is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by inserting at the end of subsection (b) the following new paragraphs:

"(6) In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 3(37) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the increase arises.

"(7) For purposes of this part—

"(A) Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) If a plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) of the Internal Revenue Code of 1954 as of the end of the last plan year that the plan was in reorganization.

"(C) Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 or to a fund exempt under section 501(c)(22) of such Code pursuant to section 4223 shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1954)."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 4243.".

Sec. 305. Application of Interested Party Rules to Withdrawal Liability Payment Funds.

Paragraph (14) of section 3 is amended by adding at the end thereof the following new sentence: "Any person who is a party in interest with respect to a plan which is a member of a trust described in section 501(c)(22) of the Internal Revenue Code of 1954 shall be treated as a party in interest with respect to such trust.".

Sec. 306. Liquidated Damages With Respect to Delinquent Contributions.

(a) Part 5 of subtitle B of title I is amended by adding after section 514 the following new section:

"DELINQUENT CONTRIBUTIONS

"Sec. 515. Every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement.".

(b) Section 502 is amended by—

(1) redesignating subsection (b) (1) and (2) as subsection (b)(1) (A) and (B), and adding at the end thereof the following new paragraph:

"(2) The Secretary shall not initiate an action to enforce section 515.";

(2) redesignating subsection (g) as paragraph (1) of such subsection and inserting "(other than an action described in paragraph (2))" between "title" and "by" in such redesignated paragraph (1), and adding at the end thereof the following new paragraph:

"(2) In any action under this title by a fiduciary for or on behalf of a plan to enforce section 515 in which a judgment in favor of the plan is awarded, the court shall award the plan—

"(A) the unpaid contributions,

"(B) interest on the unpaid contributions,

"(C) an amount equal to the greater of—

"(i) interest on the unpaid contributions, or

"(ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (A),

"(D) reasonable attorney's fees and costs of the action, to be paid by the defendant, and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid contributions shall be determined by using the rate provided under the plan, or, if none, the rate prescribed under section 6621 of the Internal Revenue Code of 1954.".

Sec. 307. Actuarial Standards.

Section 103(d) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12) and by adding after paragraph (9) the following new paragraph:

"(10) A statement by the actuary which discloses—

"(A) any event which the actuary has not taken into account, and

"(B) any trend which, for purposes of the actuarial assumptions used, was not assumed to continue in the future,

but only if, to the best of the actuary's knowledge, such event or trend may require a material increase in plan costs or required contribution rates.".

Sec. 308. Exemptions From Prohibited Transactions.

Section 408(b) is amended by adding at the end thereof the following:

"(10) any transaction required or permitted under sections 4201 through 4219 or 4223; or

"(11) a merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231.

Section 406(b)(2) shall not apply to any merger or transfer described in paragraph (11).".

Sec. 309. Fiduciary Duties.

Section 404(a)(1)(D) is amended by inserting "or title IV" after "this title".

Sec. 310. Refund of Certain Withdrawal Liability Payments.

Section 403(c) is amended—

(1) by striking out "or (3)" in paragraph (1) and inserting in lieu thereof ", (3), or (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) In the case of a withdrawal liability payment which has been determined under section 4221(d) to be an overpayment, paragraph (1) shall not prohibit the return of such payment to the employer within 6 months after the date of such determination.".

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Amendment of the Employee Retirement Income Security Act of 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

Sec. 402. Related Technical Amendments.

(a) (1) Section 4001 is amended—

(A) in subsection (a)(2), by inserting "(other than a multiemployer plan)" after "more than one employer";

(B) by striking out subsection (a)(3) and inserting in lieu thereof the following:

"(3) 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation,

except that, in applying this paragraph—

"(i) a plan shall be considered a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding such termination, and

"(ii) for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 414(f) of the Internal Revenue Code of 1954 as in effect immediately before such date;";

(C) by striking out subsection (a)(6) and inserting in lieu thereof the following:

"(6) 'basic benefits' means benefits guaranteed under section 4022 (other than under section 4022(c)), or under section 4022A (other than under section 4022A(g));";

(D) in subsection (a)(7), by striking out the period and inserting in lieu thereof "or 4022A(g);";

(E) by inserting at the end of subsection (a) the following new paragraphs:

"(8) 'nonforfeitable benefit' means, with respect to a plan, a benefit for which a participant has satisfied the conditions for entitlement under the plan or the requirements of this Act (other than submission of a formal application, retirement, completion of a required waiting period, or death in the case of a benefit which returns all or a portion of a participant's accumulated mandatory employee contributions upon the participant's death), whether or not the benefit may subsequently be reduced or suspended by a plan amendment, an occurrence of any condition, or operation of this Act or the Internal Revenue Code of 1954;

"(9) 'reorganization index' means the amount determined under section 4241(b);

"(10) 'plan sponsor' means, with respect to a multiemployer plan—

"(A) the plan's joint board of trustees, or

"(B) if the plan has no joint board of trustees, the plan administrator;

"(11) 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan, as defined in regulations prescribed by the Secretary of the Treasury;

"(12) 'outstanding claim for withdrawal liability' means a plan's claim for the unpaid balance of the liability determined under part 1 of subtitle E for which demand has been made, valued in accordance with regulations prescribed by the corporation.";

(F) by adding the following new paragraphs at the end of subsection (c)(1) (as redesignated):

"(2) For purposes of this title, 'single-employer plan' means, except as otherwise specifically provided in this title, any plan which is not a multiemployer plan.

"(3) For purposes of this title, except as otherwise provided in this title, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954.

"(4) For purposes of subtitle E, 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.".

(2) Section 4003 is amended—

(A) in subsection (a), by striking out "determine whether any person has violated or is about to violate" and inserting in lieu thereof "enforce";

(B) in subsection (e)(1), by striking out "redress violations of" and inserting in lieu thereof "enforce", and

(C) in subsection (f) by inserting at the end thereof the following new sentence: "In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the State court to the United States District Court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect."

(3) Section 4007(a) is amended by inserting at the end thereof the following new sentence: 'The corporation may waive or reduce premiums for a multiemployer plan for any plan year during which such plan receives financial assistance from the corporation under section 4261, except that any amount so waived or reduced shall be treated as financial assistance under such section.".

(4) Section 4021(a) is amended by inserting in the last sentence "unless otherwise specifically indicated in this title," before "a successor plan".

(5) Subtitle B of title IV is amended by inserting after section 4022B (as added by section 102 of this Act) the following new section:

"PLAN FIDUCIARIES

"Sec. 4023. Notwithstanding any other provision of this Act, a fiduciary of a plan to which section 4021 applies is not in violation of the fiduciary's duties as a result of any act or of any withholding of action required by this title.".

(6) Section 4042 is amended—

(A) in the last sentence of subsection (a), by striking out "such small" and inserting in lieu thereof "terminated";

(B) by redesignating subsection (b) as subsection (b)(1) and inserting at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of this title—

"(A) upon the petition of a plan administrator or the corporation, the appropriate United States district court may appoint a trustee in accordance with the provisions of this section if the interests of the plan participants would be better served by the appointment of the trustee, and

"(B) upon the petition of the corporation, the appropriate United States district court shall appoint a trustee proposed by the corporation for a multiemployer plan which is in reorganization or to which section 4041A

(d) applies, unless such appointment would be adverse to the interests of the plan participants and beneficiaries in the aggregate.

"(3) The corporation and plan administrator may agree to the appointment of a trustee without proceeding in accordance with the requirements of paragraphs (1) and (2).";

(C) in the first sentence of subsection (c), by striking out "and" after "interests of the participants" and inserting in lieu thereof "or";

(D) in subsection (c), by striking out "further" each place it appears and inserting in lieu thereof "unreasonable";

(E) in subsection (d) (1) (A)—

(i) by striking out "and" in clause (iv);

(ii) by redesignating clause (v) as clause (vi) and by striking out the period at the end of such clause and inserting in lieu thereof "; and";

(iii) by inserting after clause (iv) the following new clause:

"(v) in the case of a multiemployer plan, to reduce benefits or suspend benefit payments under the plan, give appropriate notices, amend the plan, and perform other acts required or authorized by subtitle (E) to be performed by the plan sponsor or administrator;"; and

(iv) by inserting after clause (vi) (as redesignated) the following new clause:

"(vii) to require the plan sponsor, the plan administrator, any contributing or withdrawn employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the trustee may reasonably need in order to administer the plan.";

(F) in subsection (d) (1) (B) (i), by striking out "allocation requirements of section 4044" and inserting in lieu thereof "requirements of this title";

(G) in subsection (d) (1) (B) (iv), by striking out ", except to the extent that the corporation is an adverse party in a suit or proceeding";

(H) in subsection (d) (2) (B), by striking out "and";

(I) in subsection (d) (2) (C), by striking out the period and inserting in lieu thereof a comma; and

(J) by inserting after subsection (d) (2) (C) the following new subparagraphs;

"(D) each employer who is or may be liable to the plan under section 4201,

"(E) each employer who has an obligation to contribute, within the meaning of section 4201(b) (6), under a multiemployer plan, and

"(F) each employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer described in subparagraph (C), (D), or (E).".

(7) Section 4044 is amended—

(A) in subsection (a), by inserting "single-employer" before "defined benefit plan";

(B) in subsection (c), by inserting "single-employer" before "plan occurring during" and before "plan occurring after"; and

(C) in subsection (d) (1), by inserting "single-employer" before "plan may be distributed".

(8) Section 4048 is amended—

(A) by inserting "(a)" before "For";

(B) by inserting "of a single-employer plan" after "date of termination"; and

(C) by adding at the end thereof the following new subsection:

"(b) For purposes of this title, the date of termination of a multiemployer plan is—

"(1) in the case of a plan terminated in accordance with the provisions of section 4041A, the date determined under subsection (b) of that section; or

"(2) in the case of a plan terminated in accordance with the provisions of section 4042, the date agreed to between the plan administrator and the corporation (or the trustee appointed under section 4042(b) (2), if any), or, if no agreement is reached, the date established by the court.".

(b) (1) Section 208 is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of this Act applies.".

(2) Section 403 is amended—

(A) in subsection (a) (1), by striking out "title" and inserting in lieu thereof "Act"; and

(B) in subsection (c) (2) (A), by inserting "or a payment of withdrawal liability under part 1 of subtitle E of title IV" after "In the case of a contribution".

(3) Section 3002 is amended by adding at the end thereof the following new subsection:

"(e) The Secretary of the Treasury shall consult with the Pension Benefit Guaranty Corporation with respect to any proposed or final regulation authorized by subpart C of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954, or by sections 4241 through 4246 of this Act, before publishing any such proposed or final regulation.".

SEC. 403. CONFORMING AMENDMENTS.

(a) Section 4005 is amended—

(1) by striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "One of the funds shall be used with respect to basic benefits guaranteed under section 4022, one of the funds shall be used with respect to basic benefits guaranteed under section 4022A, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 4022 (if any), and the remaining fund shall be used with respect to nonbasic benefits guaranteed under section 4022A, other than subsection (g) (2) thereof (if any).";

(2) in subsection (b) (2) (A), by inserting "or 4022A" after "4022";

(3) by striking out subparagraph (B) of subsection (b) (2) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(4) by adding at the end thereof the following new subsections:

"(d) (1) A fifth fund shall be established for the reimbursement of uncollectible withdrawal liability under section 4222, and shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under this title, and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available to make payments pursuant to the supplemental program established under section 4222, including those expenses and other charges determined to be appropriate by the corporation.

"(2) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(e) (1) A sixth fund shall be established for the supplemental benefit guarantee program provided under section 4022A(g) (2).

"(2) Such fund shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under section 4022A(g) (2), and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available for making payments pursuant to the supplemental benefit guarantee program established under section 4022A(g) (2), including those expenses and other charges determined to be appropriate by the corporation.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(f) (1) Amounts in any fund established under this section may be used only for the purposes for which such fund was established and may not be used to make loans to (or on behalf of) any other fund or to finance any other activity of the corporation.

"(2) None of the funds borrowed under subsection (c) may be used to make loans to (or on behalf of) any fund other than a fund described in the second sentence of subsection (a).

"(3) Any repayment to the corporation of any amount paid out of any fund in connection with a multiemployer plan shall be deposited in such fund.".

(b) Section 4007(a) is amended by striking out the second sentence.

(c) Section 4022 is amended—

(1) in the section heading, by inserting "SINGLE-EMPLOYER PLAN" before "BENEFITS GUARANTEED";

(2) in subsection (a)—

(A) by inserting ", in accordance with this section," after "guarantee"; and

(B) by inserting "single-employer" before "plan which terminates"; and

(C) by striking out the words "the terms of";

(3) in subsection (b) (1), by striking out "(8)" and inserting in lieu thereof "(7)"; and

(4) by striking out paragraph (5) of subsection (b) and redesignating paragraphs (6), (7), and (8) of such subsection as paragraphs (5), (6), and (7), respectively.

(d) Section 4041 is amended—

(1) in the section heading, by striking out "TERMINATION BY PLAN ADMINISTRATOR" and inserting in lieu thereof "TERMINATION OF SINGLE-EMPLOYER PLANS";

(2) in subsection (a), by inserting "single-employer" after "termination of a"; and

(3) by striking out subsection (g).

(e) Section 4046 is amended—

(1) in paragraphs (2) and (3)—

(A) by inserting "or 4022A" after "4022"; and

(B) by inserting "basic" before "benefits"; and

(2) in paragraph (3), by striking out "4022(b) (5)" and inserting in lieu thereof "4022B".

(f) Section 4061 is amended to read as follows:

"AMOUNTS PAYABLE BY THE CORPORATION

"SEC. 4061. The corporation shall pay benefits under a single-employer plan terminated under this title subject to the limitations and requirements of subtitle B of this title. The corporation shall provide financial assistance to pay benefits under a multiemployer plan which is insolvent under section 4245 or 4282(d) (2) (A), subject to the limitations and requirements of subtitles B, C, and E of this title. Amounts guaranteed by the corporation under sections 4022 and 4022A shall be paid by the corporation only out of the appropriate fund. The corporation shall make payments under the supplemental program to reimburse multiemployer plans for uncollectible withdrawal liability only out of the fund established under section 4005(d).".

(g) Section 4062(a) is amended by striking out "plan (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan".

(h) Section 4063 is amended—

(1) in the first sentence of subsection (a), by inserting "(other than a multiemployer plan)" after "makes contributions"; and

(2) in the second sentence of subsection (d), by inserting "(other than a multiemployer plan)" after "of a plan".

(i) Section 4064(a) is amended by inserting "(other than a multiemployer plan)" after "plan under which more than one employer makes contributions".

(j) Section 4066 is amended by inserting "(other than a multiemployer plan)" after "more than one employer".

(k) Subsection (f) of section 4003 is amended by striking out "Any" and inserting in lieu thereof "Except as provided in section 4301(a)(2), any".

(l) Section 4002(b)(3) is amended by inserting "and such other bylaws, rules, and regulations as may be necessary to carry out the purposes of this title" after "Act".

Sec. 404. Clerical Amendments.

The table of contents in section 1 is amended—

(1) by striking out the items relating to sections 4022 and 4023 and inserting in lieu thereof the following new items:

"Sec. 4022. Single-employer plan benefits guaranteed.
"Sec. 4022A. Multiemployer plan benefits guaranteed.
"Sec. 4022B. Aggregate limit on benefits guaranteed.
"Sec. 4023. Plan fiduciaries.";

(2) by striking out the item relating to section 4041 and inserting in lieu thereof the following new items:

"Sec. 4041. Termination of single-employer plans.
"Sec. 4041A. Termination of multiemployer plans.";

and

(3) by striking out all after the item relating to section 4068 and inserting in lieu thereof the following new items:

"Subtitle E—Special Provisions for Multiemployer Plans

"Part 1—Employer Withdrawals

"Sec. 4201. Withdrawal liability established.
"Sec. 4202. Determination and collection of liability; notification of employer.
"Sec. 4203. Complete withdrawal.
"Sec. 4204. Sale of assets.
"Sec. 4205. Partial withdrawals.
"Sec. 4206. Determination of partial withdrawal liability.
"Sec. 4207. Reduction or waiver of complete withdrawal liability.
"Sec. 4208. Reduction or abatement of partial withdrawal liability.
"Sec. 4209. Reduction of withdrawal liability by de minimis amount.
"Sec. 4210. No withdrawal liability for certain temporary contribution obligation periods.
"Sec. 4211. Methods for computing withdrawal liability.
"Sec. 4212. Obligation to contribute; special rules.
"Sec. 4213. Actuarial assumptions, etc.
"Sec. 4214. Application of plan amendments.
"Sec. 4215. Plan notification to corporation of potentially significant withdrawals.
"Sec. 4216. Special rules for section 404(c) plans.
"Sec. 4217. Application of part in case of certain pre-1980 withdrawals.
"Sec 4218. Withdrawal not to occur merely because of change in business form or suspension of contributions during labor dispute.
"Sec. 4219. Notice, collection, etc., of withdrawal liability.
"Sec. 4220. Approval of amendments.
"Sec. 4221. Resolution of disputes.
"Sec. 4222. Reimbursements for uncollectible withdrawal liability.
"Sec. 4223. Withdrawal liability payment fund.
"Sec. 4224. Alternative method of withdrawal liability payments.
"Sec. 4225. Limitation on withdrawal liability.

"Part 2—Merger of Transfer of Plan Assets or Liabilities

"Sec. 4231. Mergers and transfers to multiemployer plans.
"Sec. 4232. Transfers between a multiemployer plan and a single-employer plan.
"Sec. 4233. Partition.
"Sec. 4234. Asset transfer rules.

"Part 3—Reorganization; Minimum Contribution Requirement for Multiemployer Plans

"Sec. 4241. Reorganization status.
"Sec. 4242. Notice of reorganization and funding requirements.
"Sec. 4243. Minimum contribution requirement.
"Sec. 4244. Overburden credit against minimum contribution requirement.
"Sec. 4245. Insolvent plans.

"Part 4—Financial Assistance

"Sec. 4261. Financial assistance.

"Part 5—Benefits After Termination

"Sec. 4281. Benefits under certain terminated plans.

"Part 6—Enforcement

"Sec. 4301. Civil actions.
"Sec. 4302. Penalty for failure to provide notice.

"Subtitle F—Transition Rules and Effective Dates

"Sec. 4401. Amendment to Internal Revenue Code of 1954.
"Sec. 4402. Transition rules and effective dates.
"Sec. 4403. Election of plan status.".

Sec. 405. Action Taken Before Regulations Are Prescribed.

(a) Except as otherwise provided in the amendments made by this Act and in subsection (b), if the way in which any such amendment will apply to a particular circumstance is to be set forth in regulations, any reasonable action during the period before such regulations take effect shall be treated as complying with such regulations for such period.

(b) Subsection (a) shall not apply to any action which violates any instruction issued, or temporary rule prescribed, before such action is taken by an officer having authority to prescribe regulations relating to such action.

"Sec. 406. Pension Benefit Guaranty Corporation Put on Budget.

(a) Paragraph (2) of section 4002(g) is amended to read as follows:

"(2) The receipts and disbursements of the corporation in the discharge of its functions shall be included in the totals of the budget of the United States Government. The United States is not liable for any obligation or liability incurred by the corporation.".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1980.

"Sec. 407. Church Plans.

(a) Section 3(33) is amended to read as follows:

"(33)(A) The term 'church plan' means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954.

"(B) The term 'church plan' does not include a plan—

"(i) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Internal Revenue Code of 1954), or

"(ii) if less than substantially all of the individuals included in the plan are individuals described in subparagraph (A) or in clause (ii) of subparagraph (C) (or their beneficiaries).

"(C) For purposes of this paragraph—

"(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(ii) The term 'employee' of a church or a convention or association of churches includes—

"(I) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches; and

"(III) an individual described in clause (v).

"(iii) A church or a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 shall be deemed the employer of any individual included as an employee under clause (ii).

"(iv) An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(v) If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches, the church plan shall not fail to meet the requirements of this paragraph merely because the plan—

"(I) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(II) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7) of the Internal Revenue Code of 1954) at the time of such separation from service.

"(D)(i) If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 fails to meet one or more of the requirements of this paragraph and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this paragraph for the year in which the correction was made and for all prior years.

"(ii) If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this paragraph beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(iii) For purposes of this subparagraph, the term 'correction period' means—

"(I) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this paragraph; or

"(II) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(III) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(b) Section 414(e) of the Internal Revenue Code of 1954 (defining church plan) is amended to read as follows:

"(e) Church Plan.—

"(1) In general.—For purposes of this part, the term 'church plan' means a plan established and maintained (to the extent required in paragraph (2)(B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501.

"(2) Certain plans excluded.—The term 'church plan' does not include a plan—

"(A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or

"(B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

"(3) Definitions and other provisions.—For purposes of this subsection—

"(A) Treatment as church plan.—A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(B) Employee defined.—The term 'employee' of a church or a convention or association of churches shall include—

"(i) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(ii) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches; and

"(iii) an individual described in subparagraph (E).

"(C) Church treated as employer.—A church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

"(D) Association with church.—An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(E) Special rule in case of separation from plan.—If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organizaiton described in clause (ii) of paragraph (3)(B), the church plan shall not fail to meet the requirements of this subsection merely because the plan—

"(i) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(ii) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7)) at the time of such separation from service.

"(4) Correction of failure to meet church plan requirements.—

"(A) In general.—If a plan established and maintained for its employees (or their beneficaries) by a church or by a convention or association of churches which is exempt from tax under section 501 fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years.

"(B) Failure to correct.—If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this subsection beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(C) Correction period defined.—The term 'correction period' means—

"(i) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this subsection;

"(ii) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(iii) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(c) The amendments made by this section shall be effective as of January 1, 1974.

Sec. 408. Deductibility of Payments to Plan by a Corporation Operating Public Transportation System Acquired by a State.

(a) For purposes of subsection (g) of section 404 of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions), as amended by section 205 of this Act, any payment made to a plan covering employees of a corporation operating a public transportation system shall be treated as a payment described in paragraph (1) of such subsection if—

(1) such payment is made to fund accrued benefits under the plan in conjunction with an acquisition by a State (or agency or instrumentality thereof) of the stock or assets of such corporation, and

(2) such acquisition is pursuant to a State public transportation law enacted after June 30, 1979, and before January 1, 1980.

(b) The provisions of this section shall apply to payments made after June 29, 1980.

Sec. 409. Waiver of Preemption in Case of Hawaiian Health Care Plan.

(a) Section 514(b) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B), subsection (a) shall not apply to the Hawaii Prepaid Health Care Law (Haw. Rev. Stat. 393–1 through 51), as in effect on January 1, 1979.

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

"(C) Notwithstanding subparagraph (A), parts (1), (4), and (5) of this subtitle shall supersede the State law described in such subparagraph, but the Secretary may enter into cooperative arrangements under this paragraph and section 506 with officials of Hawaii to assist them in effectuating the policies of provisions of such laws which are superseded by such parts.".

(b) The Secretary of Labor shall conduct a study on the feasibility of extending the exemption from section 514(a) of the Employee Retirement Income Security Act of 1974 to include other State laws which establish health care plans and report to the Congress within 2 years after the date of the enactment of this Act.

(c) The amendment made by this section shall take effect on the date of the enactment of this Act.

Sec. 410. Treatment of Certain Severance Pay and Supplemental Retirement Income Arrangements as Welfare Plans.

Paragraph (2) of section 3 is amended—

(1) by striking out "The" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the",

(2) by striking out "(A)" and inserting in lieu thereof "(i)",

(3) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(4) by adding at the end thereof the following new subparagraph:

"(B) The Secretary may by regulation prescribe rules consistent with the standards and purposes of this Act providing one or more exempt categories under which—

"(i) severance pay arrangements, and

"(ii) supplemental retirement income arrangements, under which the pension benefits of retirees or their beneficiaries are supplemented to take into account some portion or all of the increases in the cost of living (as determined by the Secretary of Labor) since retirement,

shall, for purposes of this title, be treated as welfare plans rather than pension plans. In the case of any arrangement a principal effect of which is the evasion of the standards or purposes of this Act applicable to pension plans, such arrangement shall be treated as a pension plan.".

Sec. 411. Refund of Mistaken Contributions.

(a) Paragraph (2)(A) of section 403(c) is amended to read as follows:

"(2)(A) In the case of a contribution—

"(i) made by an employer to a plan (other than a multiemployer plan) by a mistake of fact, paragraph (1) shall not prohibit the return of such contribution to the employer within one year after the payment of the contribution, and

"(ii) made by an employer to a multiemployer plan by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) of the Internal Revenue Code of 1954 or the trust which is part of such plan is exempt from taxation under section 501(a) of such Code), paragraph (1) shall not prohibit the return of such contribution to the employer within 6 months after the plan administrator determines that the contribution was made by such a mistake.".

(b) Paragraph (2) of section 401(a) of the Internal Revenue Code of 1954 (relating to exclusive benefit of employees and beneficiaries) is amended by inserting before the semicolon at the end thereof the following: "(but this paragraph shall not be construed, in the case of a multiemployer plan, to prohibit the return of a contribution within 6 months after the plan administrator determines that the contribution was made by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401 (a) or the trust which is part of such plan is exempt from taxation under section 501 (a)).".

(c) The amendment made by this section shall take effect on January 1, 1975, except that in the case of contributions received by a collectively bargained plan maintained by more than one employer before the date of enactment of this Act, any determination by the plan administrator that any such contribution was made by mistake of fact or law before such date shall be deemed to have been made on such date of enactment.

SEC. 412. STUDIES BY PENSION BENEFIT GUARANTY CORPORATION AND SECRETARY OF LABOR.

(a) (1) The Pension Benefit Guaranty Corporation shall conduct a separate study with respect to—

(A) the advantages and disadvantages of establishing a graduated premium rate schedule under section 4006 of the Employee Retirement Income and Security Act of 1974 which is based on risk, and

(B) the necessity of adopting special rules in cases of union-mandated withdrawal from multiemployer pension plans.

(2) The Corporation shall report to the Congress the results of the studies conducted under paragraph (1), including its recommendations with respect thereto.

(b) (1) The Secretary of Labor shall study the feasibility of requiring collective bargaining on both the issues of contributions to, and benefits from, multiemployer plans.

(2) The Secretary shall submit a report on the study conducted under paragraph (1) to the Congress within 3 years of the date of the enactment of this Act.

SEC. 413. STUDY BY GENERAL ACCOUNTING OFFICE; HEARINGS REQUIRED.

(a) (1) The Comptroller General of the United States shall conduct a study of the effects of the amendments made by, and the provisions of, this Act on—

(A) participants, beneficiaries, employers, employee organizations, and other parties affected by this Act, and

(B) the self-sufficiency of the fund established under section 4005 of the Employee Retirement Income Security Act of 1974 with respect to benefits guaranteed under section 4022A of such Act, taking into account the financial conditions of multiemployer plans and employers.

(2) (A) The Comptroller General shall report to the Congress no later than June 30, 1985, the results of the study conducted under paragraph (1), including his recommendations with respect thereto.

(B) The report submitted under subparagraph (A) shall be made available to the public.

(b) In conducting the study under subsection (a) (1) the Comptroller General shall consult with the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Education and Labor and Ways and Means of the House of Representatives.

(c) The committees described in subsection (b) shall conduct hearings on the report and recommendations submitted under subsection (a) (2).

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following staff be granted the privilege of the floor during the consideration of this measure and during all rollcall votes therein: Steve Sacher, Gary Ford, Peter Turza, Mike Goldberg, Irene Linton, Mildred Dunmore, Susan Painter, Luther Washington, Letitia Chambers, Joan Wilson, Denniese Medlin, Darryl Anderson, Harriet Bramble, Gerald Lindrew, and Tom Altmeyer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, the legislation we are about to consider, the Multiemployer Pension Plan Amendments Act of 1980, enjoys extremely broad support. The legislation was jointly referred to the Labor and Human Resources Committee and the Finance Committee, and in each committee the vote to report the bill favorably was unanimous. In the Labor and Human Resources Committee, those voting in favor of reporting the bill, in addition to myself, included Senators RANDOLPH, PELL, KENNEDY, CRANSTON, RIEGLE, METZENBAUM, SCHWEIKER, JAVITS, HATCH, and HUMPHREY.

The bills approved by the Finance Committee and our committee were fundamentally the same.

Following the markups in our committees, we and our staffs worked together to resolve the differences between our two bills. The Labor and Human Resources Committee and the Finance Committee have now coalesced around a compromise bill, and we offer that bill jointly for consideration by the Senate.

Before discussing the pressing need for this legislation and its key provisions, I want to mention the contributions of those Members who have been so helpful in bringing this measure to fruition.

I pay special tribute to Senator JAVITS, whose dedication to the objective of pension reform and creative approach to solving problems has had a major impact on this legislation. Senator SCHWEIKER also played a vital role in producing a fair and workable bill.

Great credit is also due Senator LONG and his colleagues on the Finance Committee, especially Senator BENTSEN.

The Employee Retirement Income Security Act of 1974, known as ERISA, established a program to guarantee the payment of pension benefits under private pension plans. The Pension Benefit Guaranty Corporation was created to administer this program. When Congress passed ERISA, it deferred mandatory insurance coverage of multiemployer pension plans because we felt that not enough was known about the plans to design a fair and workable guarantee program.

The PBGC was given discretionary authority to guarantee benefits under multiemployer plans so that it could accumulate experience and expertise in dealing with multiemployer plans. However, the PBGC's experience in the past 5 years indicates that the provisions of current laws relating to multiemployer plans are not workable. Current law creates an incentive for employers to withdraw from multiemployer plans, shifting the burden of funding the plans to other employers or the PBGC.

Multiemployer plans usually cover employees working in an industry in a specific geographic area. Such plans are advantageous to employees because, unlike most single employer plans, employees retain pension credit when moving from one participating employer to another.

In addition, they usually provide benefits to employees even though their employer withdraws from the plan.

However, the decline of the industry covered by a plan can pose a serious threat to the solvency of multiemployer plans. Industry decline, whether caused by technological change, foreign competition, or changes in patterns of consumption, can cause the insolvency of a multiemployer plan just as it can cause the insolvency of employers that contribute to the plan.

There is a common belief that multiemployer plans are in serious financial trouble because the plan trustees have acted irresponsibly, or have promised excessively high benefits. This is simply not true. The PBGC made an in-depth study of multiemployer plans in 1978 and the results are instructive. The truth is that financially troubled plans do not offer high benefits—they usually offer very low benefits. Further, these troubled plans have usually not granted any benefit increases in the recent past. For example, there is one plan which offers a retirement benefit of only $30 a month—which can hardly be called excessive. Unfortunately, employment in the industry has decreased so much that employers who contribute to the plan must pay $2,500 per year for each active employee.

I think this case illustrates the nature and extent of the problems facing multiemployer plans in declining industries. Nobody is trying to avoid responsibility for funding benefits or plotting how to dump their plans onto the PBGC. The trustees have held the line on benefits, the employers are shouldering an enormous financial burden, and active workers see a large portion of the compensation package directed to a pension plan that promises very low benefits. But the parties' efforts are not enough to solve these problems.

We passed ERISA in order to encourage the growth and maintenance of private pension plans. Six years of experience demonstrates that the provisions of current law encourage plan termination. For example, employers who withdraw from a multiemployer plan more than 5 years before the plan terminates, escape any liability for unfunded benefits. But employers who remain with plans are forced to pay not only for the benefits of their own employees, but also for the retirees who worked for employers who withdrew. Obviously, the present system encourages employers to abandon a weak plan at the first sign that the industry is in trouble.

In order to carry out the policy of protecting the interests of participants and beneficiaries and encouraging the growth and maintenance of multiemployer plans, the bill makes some important changes in current law. Unavoidable insolvency will be the only insurable event, rather than plan termination. Plan termination will still be possible, but employers must continue to fund the plan.

In addition, in order to remove incentives for employers to withdraw from multiemployer plans, the bill imposes withdrawal liability on withdrawing employers. There are special withdrawal provisions that address the specific problems of plans in the construction industry and the entertainment industry.

The bill includes a presumptive rule for determining the share of a plan's unfunded liabilities that is allocated to a withdrawn employer, but allows a plan, within limits, to adopt a different rule. The committees have also provided rules which will insure that plans treat all employers in an evenhanded fashion.

In order to balance the needs of employers and the plan, this compromise bill limits the liability of employers that are bankrupt or undergoing liquidation. Also, the compromise provides a special "deductible" rule that benefits employers whose withdrawal liability is relatively small.

As a final relief measure, the bill provides a 20-year cap on employer withdrawal liability payments. However, relief measures are not available when all the employers have abandoned the plan in a "mass withdrawal."

As I have stated, the committees wish to promote the financial health of all multiemployer plans. The bill generally requires multiemployer plans to fund benefit increases over 30 years. These are the same requirements that apply to single-employer plans. Also, the bill identifies plans that are headed for financial trouble and places them in "reorganization." These plans must satisfy tougher funding requirements designed to keep the plan solvent.

Of course, the committees realize that increased funding requirements can burden the employers. A special provision phases-in the stricter funding rules, and plans with large numbers of retirees are given a special credit against funding requirements.

All of these elements of this legislation—faster funding of benefits, a process of "reorganization" for financially troubled plans, withdrawal liability for employers that leave plans, and the change of the insurable event from plan termination to plan insolvency—are essential to the success of the program. However, the most important aspect of this legislation is that it provides a substantial guarantee of the pension benefits of American workers covered by multiemployer plans. I emphasize in this regard that the premium payments that support this guarantee are raised entirely from the pension plans that benefits from the program. No general revenues are used to finance the program.

Mr. President, the provisions of current law will automatically go into effect in the very near future, and mandatory coverage under current law will seriously injure the stability of the multiemployer pension plan system. It is therefore imperative that we enact this long overdue reform legislation before this threat becomes reality. The 8 million workers covered under multiemployer plans are entitled to an effective, workable pension insurance system.

Mr. President, Mr. JAVITS, whom I mentioned earlier, has been certainly one of the most creative forces here and one of the most productive forces behind ERISA and our response to this situation that involves multiemployer plans. It is a pleasure to work with the Senator on these plans.

(Mr. BUMPERS assumed the chair.)

Mr. JAVITS. Mr. President, I reciprocate exactly as Senator WILLIAMS said, that our original creative partnership brought ERISA into being. I think succeeding generations will view it to be a blessing to millions upon millions of workers. It now covers some 30 million workers and the plan assets involved are estimated at close to $300 billion—a colossal investment fund. I thank him for the cooperation which he has now extended over all of these years—about 7 years, taking into consideration this bill.

I also express my appreciation to Senator BENTSEN of Texas and Senator NELSON of Wisconsin for their distinguished and invaluable cooperation as members of the Committee on Finance.

I thank Senator LONG for his cooperation and participation as chairman of the Committee on Finance, and Senator DOLE for comparable cooperation as ranking member. I also thank both of them for having expressed a certain confidence in us whom I have already named to work out the finite details of this highly complex legislation.

Mr. President, also, because our staffs are so important and I would rather do this at the beginning than at the end, I express my appreciation for the work of Senator WILLIAMS' staff, Steve Sacher and Gary Ford, and of my staff, Peter Turza, and our labor counsel, Don Zimmerman, now also having an assistant in David Dunn.

We now come to the Senate, Mr. President, with a single ERISA bill, jointly approved by the Senate Labor and Human Resources Committee, chaired by Senator WILLIAMS, and by the Senate Finance Committee, chaired by Senator LONG. I also express my appreciation to Senator SCHWEIKER, who took my place as ranking member of the Senate Labor and Human Resources Committee, for his cooperation in bringing out this bill and for his confidence in Senator WILLIAMS and myself in respect thereof.

The bill before us, the Multiemployer Pension Plan Amendments Act of 1980, was approved by the Senate Labor Committee on March 24 and June 27 of this year and by the Committee on Finance on June 12 and July 24, and is the product of almost 3 years of hard work and close interaction among the administration, the Congress, and numerous interested groups from the private sector.

When, with Senator WILLIAMS, I developed ERISA, enacted by Congress in 1974, we realized that there was some uncertainty about the impact of title IV of the original bill, which dealt with plan termination insurance for multiemployer plans. Because we realized what a difficult problem that was, where the liability of one group of employers could, for reasons often beyond the control of any one of those employers, be imposed upon other employers in a multiemployer plan, and we realized that certain types of business had to have multiemployer plans—a very striking example, of course, being the building industry—we deferred the mandatory insurance coverage for this type of plan—to wit, the effective date of such coverage—until January 1, 1978. During the interim period, the Pension Benefit Guaranty Corporation (PBGC) was to use its discretion to cover terminations that occurred prior to that date.

On August 4, 1977, I announced that I had information that a number of multiemployer plans intended to terminate on or about January 1, 1978, thereby shifting possibly hundreds of millions of dollars of liability to the PBGC insurance system. On that day, I introduced S. 2019 which would have postponed the mandatory coverage date for 1 year until January 1, 1979. The legislation which was eventually enacted in late 1977 (Public Law 95–214) delayed the effective date until July 1, 1979 (see Oversight of ERISA, 1977: Hearings on S. 2125 before the Subcommittee on Labor of the Senate Human Resources Committee, 95th Cong., 1st sess. (1977)). It also directed the PBGC to prepare a comprehensive study of multiemployer plan termination insurance by July 1, 1978.

The PBGC engaged in a full-scale reappraisal of title IV's applicability to multiemployer plans and after extensive discussions and interaction with interested parties across the country, issued a report on July 1, 1978 containing new ideas and options for redesigning the multiemployer plan termination insurance program. On that date, the PBGC also released a status report on contingent employer liability insurance.

On February 27, 1979, the PBGC issued legislative policy recommendations for consideration by the Congress. These recommendations were later embodied in Senate legislative text on May 3, 1979, when, at the request of the administration, Senators WILLIAMS, LONG, and I introduced S. 1076 (H.R. 3904). Hearings on this administration bill were held by the Senate Labor Committee on June 26 and 27, 1979 (see Multiemployer Pension Plan Amendments Act of 1979: Hearings on S. 1076 before the Senate Committee on Labor and Human Resources, 96th Cong., 1st sess. (1979)). In order to give the Congress additional time to study and shape the legislation, H.R. 3915 was enacted to delay the mandatory coverage date from July 1, 1979 to May 1, 1980. Two additional delay bills were subsequently enacted.

Now, it has been properly said that this is a very complicated bill and, indeed, the subject of pensions and pension law, as well as pension agreements, is extremely complicated. But that should not make us shrink from undertaking the responsibility of dealing with it, and we have not backed away from it.

We have sought to have a consensus of the administration, the Congress, and private interests including employers and employees.

The organizations which we have brought into agreement on this legislation become a very significant part of commending this legislation to the Senate.

In other words, the quality of those organizations, their capacities for judging what is just and unjust, and their constituencies, all are critical in an evaluation by Senators as to the passage of this legislation.

I am very pleased to say that that consensus has been very well arrived at.

The amendments which the Senate Labor Committee and the Senate Finance Committee have agreed upon are essentially the original administration bill with the addition of a number of improvements which the committees thought necessary. Both the administration's bill and the Senate committees' bill reflect the extensive input of many diverse organizations in the private sector.

Groups which have had a significant impact on and generally support the plan termination insurance amendments include the National Coordinating Committee for Multiemployer Plans, the National Construction Employers Council, the United Food and Commercial Workers International Union, the Western Conference of Teamsters Pension Trust Fund, the United Mine Workers of America, the Food Marketing Institute, the Bituminous Coal Operators Association, and the AFL–CIO.

In addition to the foregoing groups, other organizations which have had an impact on S. 1076 include the American Association of Retired Persons, the Graphic Arts Supplemental Retirement and Disabilities Fund, and the Associated General Contractors of America. The general plan termination insurance principles of the bill are supported by the ERISA Industry Committee, the American Bankers Association, the American Council on Life Insurance, the National Association of Manufacturers, and the U.S. Chamber of Commerce.

S. 1076 is necessarily a complex bill, both substantively and politically, and in order to develop a consensus in support of the legislation, it was necessary to make compromises. I doubt that any one group that had an impact on this legislation is pleased with all of it. Personally, I have reservations about certain provisions of the bill, but I believe that as the Nation needs this legislation, it should be enacted, and I commend it to the Senate.

The establishment and implementation of plan termination insurance, which we championed in the 1974 ERISA legislation, was and still is the right thing to do. Its purpose is to assure that working men and women receive the pensions for which they worked over a long span of years even if their plan terminates. All of us know about the disappointment and hardships endured by thousands who lost their jobs, or who were fired, or who were the subject of other exigencies, thereby losing all or much of their pensions.

Indeed, the most striking horror story is that of Studebaker Motors, which closed its doors before ERISA's passage. The plan termination insurance is, of course, the key to the fact that the promise of a pension benefit will be kept.

If the plan (and the employer or related industry) is hit by hard times, the PBGC insurance system will be there to guarantee that plan participants and beneficiaries receive what they earned—their pension benefits.

It appears that the single-employer plan termination insurance program is working quite well. I think, however, there is general agreement that ERISA's present scheme for multiemployer plan termination insurance is not doing well and that it must be redesigned. Unlike some who have proposed in one way or another, to abolish multiemployer termination insurance, I am firmly committed to protecting workers and retirees covered by pension plans through the pension insurance system. I believe that we must try our best, in the face of limited resources and large unfunded liabilities, to develop an insurance system that will be as protective and yet as fair as our social system can carry. I believe that the bill approved by the Senate Labor Committee and the Senate Finance Committee is such an effort to do the best we can under difficult circumstances.

Two basic purposes of the bill are to protect participants and beneficiaries in multiemployer plans and to eliminate problems that impede the maintenance and growth of such plans. To carry out these purposes, the bill contains a number of provisions of general applicability to multiemployer plans.

For example, the bill would require 30-year, rather than the present 40-year amortization of certain unfunded past service liabilities. It would also speed up the present 20-year amortization of net experience gains or losses to 15 years. These faster funding requirements, which are the present norms for single-employer plans, will help assure that plan assets are sufficient to cover emerging liabilities.

Under the bill, an employer who withdraws from a multiemployer plan would be liable to the plan for a proportionate share of the unamortized amount of the plan's unfunded vested benefits. In the absence of effective withdrawal liability, an employer could withdraw from a plan leaving unfunded benefit obligations for his employees which must be paid by the remaining employers in the plan. If the plan, or related industry in which it is located, is experiencing or in the foreseeable future will experience financial difficulty, the absence of effective withdrawal liability would encourage a "last man out" mentality, with employers withdrawing from plans to avoid possible plans termination liability.

So we provide, as a very important element of this bill, certain definitions of withdrawal; and in particular industries, those definitions are especially designed to deal with the problems of the industry.

A withdrawal would generally occur when an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan. A special definition of withdrawal is provided for certain employees in the building and construction industry as well as in certain segments of the entertainment industry, where we believe there is a comparable situation. In such industries, a withdrawal occurs if an employer ceases to have an obligation to contribute under the plan and the employer continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required.

This special definition is justified on the grounds that in both industries an employer's leaving the plan jurisdiction or going out of business does not typically reduce the contribution base. An employer would reduce the contribution base if it continued the same kind of work in the bargaining agreement's jurisdiction without having an obligation to contribute to the plan.

The bill would also provide another special definition of withdrawal, under certain circumstances, for employers in the trucking industry. I will not go into the details of that, because they are fully set forth in the bill.

S. 1076 also imposes liability for an employer's partial withdrawal from a plan in two circumstances. The first is where, as a result of a decline in an employer's covered operations, the number of the employer's contribution base units has for 3 consecutive plan years declined by at least 70 percent from previous levels.

The second circumstance is where there is a partial cessation of the employer's contribution obligation. At the request of labor and management in the retail food industry, a stricter partial withdrawal rule with abatement protections is permitted for that industry.

To impose withdrawal liability in an equitable and feasible manner, the bill contains a number of "employer relief" provisions. To help small employers, the bill provides a mandatory de minimis rule under which a plan must provide that the employer's liability is reduced by a computed amount.

In addition, a discretionary de minimis rule permits a plan to provide for the reduction of employer liability by an amount larger than that required under the mandatory rule. The bill establishes certain objective criteria for permitting an employer who engages in a bona fide, arm's-length sale of assets to an unrelated party to be relieved of his liability.

In order to encourage new employers to join multiemployer plans, a "free look" rule is provided under which a new employer who does not contribute for more than 6 consecutive plan years may leave a plan without incurring liability when several conditions are satisfied.

The bill imposes a periodic payment cap on the amount of withdrawal liability of 20 annual payments of an amount determined on the basis of the employer's contributions over the 5 years preceding the withdrawal. Additionally, liability limitations are provided as follows: First, the liability of an insolvent employer undergoing liquidation or dissolution would be limited to the sum of 50 percent of the liability plus that portion of 50 percent of the liability which does not exceed the liquidation or dissolution value; second, the liability of an individual (sole proprietor or partner) would not reach personal assets exempt under bankruptcy law; and third, where all or substantially all of an employer's assets are transferred in a bona fide sale in an arm's-length transaction to an unrelated party, the liability would not exceed, where the liquidation or dissolution value of the employer does not exceed $2 million, the greater of first, 30 percent of the liquidation or dissolution value or second, the liability attributable to the employer's employees.

For sales in which the liquidation value exceeds $2 million, the 30-percent limitation would be incrementally increased as in a tax table so that it would reach 80 percent for a liquidation value exceeding $10 million. Any dispute over an employer's withdrawal liability must be resolved through arbitration.

The bill provides for three types of withdrawal liability—related funds in which a multiemployer may voluntarily participate. The first is a PBGC fund to reimburse plans for withdrawal liability that is uncollectible because an employer is involved in bankruptcy or insolvency proceedings. The second is a reinsurance fund which may be established by plan sponsors to relieve employers of portions of withdrawal liability that would have been paid by other employers had it not been forgiven, by the 20-year periodic payment cap, de minimus rule, and so forth, or which are unattributable, uncollectible, or attributable to the employer. The bill also permits the establishment of a third type of reinsurance fund in which employers in the construction industry may participate.

The effective date for the imposition of withdrawal liability is April 29, 1980. The committees decided in part to move up the date from February 27, 1979, the date contained in earlier versions of the bill, because the original purpose of a retroactive effective date—namely, to avoid encouragement of employer withdrawals while the bill was being considered—has been achieved. It should also be noted that the April 29 effective date is the product of strong political pressures by certain withdrawing employers who were caught by the earlier date. I realize that permitting these employers to avoid liability only increases the burdens of those employers remaining with the plans in question, but it appears necessary to accept the April 29 date in order to enact the bill before the August 1 deadline for action.

The bill also contains provisions dealing with mergers and transfers of assets and liabilities as well as with plan partitions. In those cases where an employer withdrew from a multiemployer plan prior to the effective date of withdrawal liability, the PBGC would continue to have its partition authority under ERISA section 4063(d) and its authority to guarantee benefits under the terminated plan under the full ERISA section 4022 single-employer plan guarantee.

For multiemployer plans experiencing financial difficulty, the bill provides mandatory reorganization under which plans are required to meet a special faster funding requirement called the minimum contribution requirement (MCR). Employers who remain with a plan in reorganization are protected from too rapid increases in funding under the MCR through an overburden credit and a safe harbor provision. The overburden credit, which is applied to reduce a plan's accumulated funding deficiency, is available to plans with more retirees than active participants for a plan year. I am pleased to note that the permissive reduction of certain recently granted benefits by plans in reorganization has been deleted in the compromise bill.

If, despite reorganization, a plan becomes unable to meet benefit payments, those payments would have to be suspended until they are supportable by employer contributions and other plan assets. If such an insolvent plan is unable to pay benefits at the levels guaranteed under the bill, the PBGC would make up the difference through financial assistance insolvency insurance.

The level of guarantee provided by the bill has been a subject of much debate. The original administration proposal was to guarantee 100 percent of the first $5 of pension accrual per month per year of service and 60 percent of the next $15 per month per year of service. The original proposal at the March 24 Senate Labor Committee markup of S. 1076 was 100 percent of the first $5 and 75 percent of the next $15. The 75 percent figure would be reduced to 65 percent for those plans which did not meet certain minimal pre-ERISA funding requirements.

At the markup, I opposed both the administration and the committee proposals and offered an amendment to raise the guarantee to 100 percent of the first $5 and 85 percent of the next $15. The 85 percent would be reduced to 80 percent for those plans which did not meet certain nominal pre-ERISA funding requirements.

My efforts to raise the guarantee were supported by the American Association of Retired Persons, the United Food and Commercial Workers International Union, and the United Mine Workers of America. With the assistance of the Senator from Rhode Island (Mr. PELL) a compromise guarantee was approved which was 100 percent of the first $5 and 80 percent of the next $15, with certain modifications in meeting special situations.

For those plans not meeting the specific pre-ERISA funding requirements, the 80-percent figure would be reduced to 70 percent. As with all compromises I was not fully satisfied with the 80–70 percent figure we settled on, but it was better than the original proposal. Subsequently, in order to get a joint bill to the Senate floor, it was unfortunately necessary to reduce the guarantee to 100 percent of the first $5 and 75 percent/65 percent of the next $15. This guarantee reduction was ameliorated somewhat by the elimination of the permissive authority of plans in reorganization to eliminate certain accrued benefits.

Even though I believe that the bill's provisions on lower guarantee levels are too severe, I believe they are the best that are possible of agreement. I urge my Senate colleagues and affected workers and retirees to join in opposing proposals for guarantees lower than the Senate committee's guarantee level, as already approved by the House of Representatives.

I should add that the bill requires the PBGC to propose a feasible supplemental guarantee program for that portion of a participant's benefit that is not guaranteed because of the partial guarantee of the accrual rate in excess of $5.

In order to pay for the proposed termination insurance program, the bill would raise the present premium of 50 cents per participant per year to $2.60 over 9 years. The PBGC would be required to increase the premium automatically if it projects that for any year its assets are less than twice what it paid out in the preceding year. The PBGC would have discretion to accelerate the premium if the board of directors determines that increased premium income is necessary to provide assistance to plans which are receiving assistance and to plans the board finds are reasonably likely to require assistance.

The premium in S. 1076 is less than the premium permitted in the Senate Labor Committee bill which could have risen to $3.40 in the 10th year. Without actual experience under a mandatory program, it is not possible to say with assurance what the premium should be. I believe that the premium settled on in the joint bill is on the low side, but only experience will tell what the appropriate premium level should be.

The bill also contains a number of proposals based upon certain provisions of S. 209, the Williams-Javits ERISA Improvements Act of 1979. These proposals treat delinquent contributions, return of mistaken contributions, the preemption of the Hawaii prepaid health care law, and severance pay and supplemental retirement income arrangements. The bill also contains proposals on church plans and program oversight. As to the church pension plans, I might say that I am not too happy about those as it exempts those who work for schools and similar institutions which are church-related. Nonetheless, if we want a bill there where some things we had to give and that was one of them and I was very unhappy with it.

S. 1076 represents years of hard work and debate by interested parties across the country and four committees of Congress. There may be areas where the legislation can be improved, but I believe that is the best that can be produced at this time.

Multiemployer plan insurance protection in my judgment is a vital element of ERISA's basic objectives affecting over 8 million plan participants. The time has come while we still remain in balance among the many diverse interests to adopt these amendments and to enact them into law, and I am satisfied that it is best to do that to insure a pension guarantee program which provides mandatory benefit guarantees to the millions of workers who are affected.

Mr. President, that completes my statement.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MATSUNAGA. Mr. President, I rise in support of the pending measure and I wish to commend and congratulate both the Senator from New Jersey (Mr. Williams) and the Senator from New York (Mr. Javits). They have put in a tremendous amount of work into this bill with so much understanding, with so much yielding here and yielding there to the wishes of others Senators, but always with judiciousness.

I, for one, with Hawaii particularly in mind had the occasion to appear before their committee and also to deal with them on a personal basis outside of committee meetings. I must say that I was met with only understanding and with a cooperative spirit of trying to do what was right, and for this I am truly grateful to both the Senator from New Jersey and the Senator from New York and I express on behalf of the people of Hawaii my deepest gratitude and mahalo.

I wish also to commend the chairman of the Finance Committee, the distinguished Senator from Louisiana (Mr. Long), the ranking minority member of the committee, the distinguished Senator from Kansas (Mr. Dole), and the chairman of the Finance Subcommittee on Pensions, the distinguished Senator from Texas (Mr. Bentsen) for their Herculean effort in bringing to this floor a sensible, acceptable measure. To them also I extend the appreciation and thanks they so well deserve.

If the floor manager will yield further, the recourse available to multiemployer pension plans under current law for collecting delinquent contributions is insufficient and unnecessarily cumbersome and costly.

May I inquire of the floor manager, does the bill improve the legal recourse available to plans against delinquent employers?

Mr. WILLIAMS. Yes, it does. We have appreciated the opportunity to work with the Senator in connection with a situation that arose in Hawaii that had a great deal of appeal to those of us who are on the Labor and Human Resources Committee. We, of course, had the Hawaiian preemption question before us. In the process of considering it we have had the pleasure of discussion with our good friend from Hawaii and his ideas were so well received that others wanted to join in, as a matter of fact, but it was so unique and so good that we wanted to make sure it was preserved. We deal with it that way, as exclusive to Hawaii.

Mr. MATSUNAGA. Again I express my appreciation.

Mr. WILLIAMS. On this whole question of delinquent contributions and the withdrawal liability collection, the bill provides a direct and I suggest unambiguous cause of action under ERISA to a plan against a delinquent employer.

Mr. MATSUNAGA. If I may pose a further question, in some recent cases such as the Washington Area Carpenters Fund Overhead Door Co. case, a simple collection action brought by plan trustees has been converted into lengthy, costly, and complex litigation concerning claims and defenses unrelated to the employer's promise of contributions and the plan's entitlement to the contributions. Would the bill correct this situation?

Mr. WILLIAMS. I feel that it would correct the situation. It is essential to the financial health of multiemployer plans that they and their actuaries be able to rely on an employer's contribution promises.

Further, plan participants for whom the employer promises to make pension contributions to the plan in exchange for their labor are entitled to rely on their employer's promises. The bill clarifiies the law in this regard by providing a direct ERISA cause of action against a delinquent employer without regard to extraneous claims or defenses.

Mr. MATSUNAGA. The Senator, of course, will agree that the provisions for employer withdrawal liability are central to this legislation. Will these same principles apply to claims by a plan for withdrawal liability?

Mr. WILLIAMS. Affirmative. Like suits to collect delinquent contributions, it is intended that a plan's claim for withdrawal liability not be subject to extraneous claims and defenses.

Mr. MATSUNAGA. One final question, if the Senator will yield further.

The bill directs the courts in delinquency cases to award a plan which wins judgment not only the delinquent contributions, but other costs and damages as well. Do those provisions constitute a maximum as well as a minimum restriction on the relief available to plans?

Mr. WILLIAMS. Those provisions, as we drafted and intended them, are a minimum but not a maximum.

Mr. MATSUNAGA. I do appreciate the response of the floor manager. May I enter into a colloquy with the floor manager on another matter relative to the withdrawal and partial withdrawal rules as applied to the shipbuilding industry.

Mr. WILLIAMS. I would be happy to proceed with the colloquy on this part, on this impact of the legislation.

Mr. MATSUNAGA. Will the floor manager of the bill clarify the substitute provisions for withdrawal and partial withdrawal liability?

Mr. WILLIAMS. Yes.

Mr. MATSUNAGA. The original measure considered by the Senate Finance Committee contained a special rule for the construction industry. In committee, I raised the shipbuilding industry's concern with the general withdrawal and partial withdrawal provisions.

The shipbuilding industry is cyclical and has problems of intermittent employment as does the construction industry. For example, in good times with new ships being built, a shipyard will hire a number of workers; the shipyard's work force will be greatly increased. But in bad times, once the shipyard completes its existing contracts for new ships, it will begin to lay off workers; there is no work to maintain the work force.

As soon as a new order is received, the shipyard will rehire the workers. The shipyard, unlike construction sites in the building trades, will remain. The investment in docks, dock cranes, and shipbuilding equipment is not easily moved. Once shipbuilding resumes, the shipyard will increase the number of its workers, but until that time, the shipyard workers will be laid off.

Since the shipbuilding industry faces the same cyclical problem as the construction industry, I suggested that the committee broaden the construction industry rule to include ship building. Various committee members had similar concerns for other industries. Rather than specifically providing for these industries and unintentionally neglecting other industries not mentioned in committee, the staff recommended a general provision to cover all industries similarly situated.

I note that the substitute bill establishes a special withdrawal liability rule for the construction industry as an exception to the general withdrawal and partial withdrawal rules. The substitute bill in section 104 allows the Pension Benefits Guaranty Corporation to extend the special withdrawal liability rule to other industries whose characteristics make the special rule appropriate. Is it the floor manager's understanding that this provision will permit the shipbuilding industry to seek such relief from the Pension Benefit Guaranty Corporation? In other words, the Pension Benefits Guaranty Corporation may extend the special withdrawal liability rule to the shipbuilding industry upon review of the facts presented by that industry?

Am I correct?

Mr. WILLIAMS. Yes, these relief provisions permit the special withdrawal liability rules to be applied to other industries such as the shipbuilding industry.

Mr. MATSUNAGA. I thank the Senator.

Will the Pension Benefit Guaranty

Corporation issue regulations pursuant to these provisions as soon as possible to implement these relief provisions?

Mr. WILLIAMS. That is certainly the intent of the substitute bill before us.

Mr. MATSUNAGA. I thank the Senator from New Jersey for his responses. I am hopeful that in coming forth with such regulatory provisions the Pension Benefits Guaranty Corporation will take into consideration the colloquy that has taken place on this floor.

Mr. WILLIAMS. I am sure it is a very important colloquy. These matters that were raised by the Senator from Hawaii are very important to a clear understanding of intention here in this legislation. It has been very helpful to the whole record of our discussions on this bill.

I thank the Senator from Hawaii.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I first commend the distinguished Senator from New Jersey, Senator WILLIAMS, and my colleague from New York, Senator JAVITS, for their leadership in this legislation, and also my chairman of the Senate Finance Committee, Senator LONG, Senator BENTSEN, and others who played a prominent role.

I would just summarize by suggesting that the most controversial aspect of this bill is determining who should be forced to pay amounts necessary to fund pension benefits which employers have not yet contributed to a multiemployer pension plan. Generally the question is whether an employer withdrawing from the plan pays a share of the total unfunded benefits or whether the employer who stay in the plan pick up this liability.

Current law provides that the remaining employers pick up the liability and, generally, the bill forces withdrawing employers to pay their share.

There are, perhaps, a number of potential controversial amendments to be offered. I would just say that I hope that some of those can be resolved. Perhaps some can be agreed to; others I doubt we can agree to.

The subject of termination insurance to guarantee benefits to participants in multiemployer pension plans has been a troublesome one ever since ERISA was enacted in 1974.

We have a real and understandable interest in assuring that the system provides a mechanism to guarantee employees that they will receive the retirement benefits upon which they have relied. However, we also have a major concern that the multiemployer benefit guarantee system is self-sufficient and will not, at any time, require reliance on general revenues for funding.

These dual concerns have led to an effort to assure that each employer who agrees to provide retirement benefits for his employees through a multiemployer plan will, in fact, pay his fair share of the plan's liabilities.

For this reason, S. 1076 would impose a liability where an employee ceases to make contributions to a plan. The amount of this liability is his share of the amount which is necessary to fund retirement benefits but which has not yet been contributed.

In a single employer plan, it is relatively easy to determine what an employer must contribute in order to fund the benefits he has promised to pay. This determination is not so easy to make for a multiemployer plan.

The problem with determining withdrawal liability under this bill is that each employer's share of the plan's unfunded liability includes the amount that is directly attributable to his employees, but also includes a share of the liabilities that cannot be attributed to any one employer. An example of this is the liability left when another employer becomes insolvent and ceases contributions.

Furthermore, under the collective bargaining process, employers commonly negotiate only the rate of their contributions not the amount of the retirement benefit that the plan's trustees promise employees will result from the employer's contribution. If the plan's actuary is overly optimistic, further unfunded liability results.

This Senator recognizes that in many multiemployer plans it is impossible to trace the unfunded liability attributable to each employer. As a result, it is imperative that this bill provide protections for employers, especially smaller employers, so that they will not be irreparably damaged by events over which they have no control. This Senator is not convinced that the bill has provided sufficient safeguards, but, the concept of the mandatory de minimis rule and the percentage of net worth rules which originated in the Finance Committee and have been accepted as part of the compromise package is an effort to address this issue.

It must be emphasized that providing certain minimal standards to protect employers is not inconsistent with the interest of employees. If sufficient employers are overburdened to the point where they cannot continue in these plans, or fear entering these plans because of the potential liabilities, plans will be forced to terminate. This could cause current premiums for termination insurance to be insufficient to fund guaranteed benefits. Either premiums will have to be increased substantially or the system will be forced into bankruptcy.

These concerns led to the Finance Committee's decision to adopt this Senator's proposal to sunset the multiemployer termination insurance provisions. It should be emphasized that this was not an attempt to destroy the possibility of the program's success. It was intended simply to require the Congress to review how the program was operating. If the program was causing unbearable hardship on employers which could result in plan instability and jeopardy to the system, we wanted to assure that we would know about it and could act before it was too late.

This Senator is less confident that the compromise solution of a GAU study followed by congressional hearings will assure that we will act in time if it becomes necessary. However, if the system becomes jeopardized, the affected parties will at least have the opportunity to bring the problems to the attention of Congress.

Again, in the spirit of compromise and in an effort to work out some of the controversial provisions, this Senator agreed to a compromise bill and has no regrets about it.

I just suggested, as I look at this complicated, technical bill, that the sunset provision itself is not a bad idea.

The Senator from Kansas also originated the provision to study the feasibility and desirability requiring unions and employers participating in multiemployer plans to bargain over pension benefit levels as well as the employer's contributions to fund benefits. A requirement such as this would not alter relative bargaining power. It would, however, put employers on notice of potential increased withdrawal liability if a plan's actuary is overly optimistic as to the benefits which can be supported by a given contribution level.

It may be that imposition of withdrawal liability will, of itself, cause employers to demand that benefit levels be a subject of bargaining. However, we cannot be sure that it will. If this bill does not result in sufficient discipline over increased unfunded liabilities, more multiemployer plans may become financially distressed and the termination insurance system may not remain self-sufficient for long.

I just suggest that what we have—and I hope there can be some resolution—is a compromise. It may not satisfy everyone completely, but it seems to this Senator that this bill is an effort to work out a very, very difficult set of problems. I hope that it will be adopted.

Mr. President, I yield the floor.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the measure pending in the Senate has my strong support. Passage of the Multiemployer Pension Plan Amendments Act of 1980 is critical to industrial relations harmony and sound collective bargaining in many of our Nation's industries.

Perhaps more importantly, it is necessary in a sense, certainly a very strong sense, to fulfill the promise made in the Senate in 1974 to provide security to millions of American workers who are the beneficiaries of the multiemployer plans. The bipartisan leadership on this legislation in the Senate by Senators WILLIAMS and JAVITS in the Labor and Human Resources Committee and Senators LONG, BENTSEN, and DOLE in the Finance Committee has helped strengthen this legislation. They have worked to resolve many intricate problems associated with this complex bill, and have produced, as I see it, a workable and a realistic measure. I commend all of those who have been a part of this process, a consultative and productive effort.

Mr. President, in 1974, I cosponsored the landmark legislation known as ERISA, the Employee Retirement Income Security Act.

What did we seek to do at that time? We sought to assure the financial integrity of the pension plans which provide retirement income and security not just to a few hundred or a few thousand, but to many millions of American citizens.

I was committed to the purpose then, and I continue my support today.

Title IV of that act, covering multiemployer pension plans did not provide automatic insurance for the beneficiaries of such plans. Although the act gave discretion to the Pension Benefits Guaranty Corporation to cover the benefits of terminated multiemployer plans, that authority has only been sparingly used.

For the past 6 years problems associated with fulfilling the promise that we made here in the Senate in 1974 have been studied. All interested parties have had substantial input in the development of this legislation over the period.

Although I am disappointed that we have been unable to act more expeditiously, I am encouraged that a workable bill has evolved from this rather extensive process.

The level of benefit guarantee in the measure as compared to that adopted by the Labor and Human Resources Committee is less than I had hoped for, and, I believe, a diminution of our promise in 1974.

Though the lower guarantee levels are too severe, I support this legislation which, as I have said, is the best that we could bring to the Senate. It is urgently needed.

Mr. President, this bill reflects the shared concern, and I want to stress this, of the United Mine Workers of America and the Bituminous Coal Operators Association for the continued viability of the 1950 and 1974 UMWA-BCOA pension plans. These two groups, although not always in agreement, have worked to develop joint positions on the application of the provisions of this legislation to those plans. We have provided a framework for security of the pensions for thousands of retired miners throughout our coal-producing regions in many areas of this country.

Mr. President, the assistance of the staffs of the Labor and Human Resources Committee and the Pension Benefit Guaranty Corporation were invaluable to this effort. Security to retired and current miners is provided. The possibility for plan insolvency has practically been eliminated.

Mr. President, the record should note the high level of professional competence and expertise on these matters contributed by Steve Sacher, Gary Ford, and Peter Turza, on the Labor and Human Resources staff, and Bob Nagle and his staff at the Pension Benefit Guarantee Corporation. Through their efforts, workable solutions were found to many complex and vexing problems.

I express my particular gratitude to the careful and reasoned consideration that the Labor and Human Resources Committee chairman, Senator WILLIAMS, has given to this legislation's effect on the 1950 plan and the coal industry. As with his efforts over many years in mine health and safety, he has proven himself again and again, and here in this bill as its leader, to be concerned with the problems of all coal miners, whether of those miners are working in the production of coal to supply energy for this Nation and export abroad, or of those miners who are retired.

Finally, Mr. President, labor and management in coal have often been—well, I would say—attacked by those outside the industry, both in the public and the private sectors, who have decried their sometimes contentious relations. Their relationship is improving and maturing, in a sense, and there is nothing wrong to use that word, maturing in these labor-management areas. I believe that this spirit of cooperation and goodwill in labor-management relations in the coal industry will continue to be strengthened.

It is against this foundation, now emerging in the coal fields, that the positions of the UMWA and the BCOA must be viewed.

By responding to their request to establish a legislative framework within which they can work, to build together for America's security and strength, and, at the same time, resolving once and for all the problems of the 1950 pension fund. Problems rooted in the past of the coal industry.

This body, the Senate, can facilitate, with the aid of parties I have mentioned, a better and stronger America in the years ahead.

If the chairman of the committee is agreeable, I wonder if I might address him to clarify a point which concerns me. Although this bill has added new and additional responsibilities of plan trustees, particularly under the reorganization provisions of the bill, is it not correct that this legislation reaffirms the present law, that these plan trustees as fiduciaries still have the sole responsibility, as I understand it, to the beneficiaries of the plan? My concern is based partly on a recent Court of Appeals decision, which I believe will be overturned on appeal, that apparently suggests that the trustee have some obligations to the parties who appoint them. I do not believe that we in the Congress have ever expressed an intent under ERISA or any other Federal law that an agency status should or does exist between trustees and their appointers.

(Mr. MATSUNAGA assumed the chair.)

Mr. WILLIAMS. I am happy to respond to the Senator from West Virginia that that is the situation and that is correct. In all instances the actions of the trustees must be made with the sole interest of the plan's beneficiaries in mind. That was, that is, and that will be.

Mr. RANDOLPH. I thank the knowledgeable Senator.

Mr. President, the UMWA 1950 pension plan is unique in the history of American labor-management relations. This fund was the first major multiemployer plan created in this country. Its creation occurred under highly unique circumstances involving governmental seizure of a major part of the coal industry. Its long history since the late 1940's has been marked by continued governmental intervention, judicial controversy, and labor-management discord—discord so great that it has affected the entire Nation. I know its history well, having been a Member of Congress at the time of its creation and having followed the successes and problems of this plan ever since.

The original UMWA welfare and retirement fund was created during Government seizure of coal mines, by the Krug-Lewis agreement. As President Truman watched over the proceedings, this agreement was signed on behalf of the coal industry by the Secretary of Interior, J. A. Krug, coal mines administrator, and John L. Lewis, in the White House on May 29, 1946.

The agreement provided that a royalty of 5 cents per ton of coal mined be paid into the fund—at a time when 76 percent of the coal mined was under UMWA contract—and that the Fund would be used for pension, medical, disability, death, rehabilitative and other benefits for the miners and their families. This structure was unlike many future multiemployer plans that usually separate pension funds from medical funds. Allocation of benefits would be determined by the fund's three trustees—one appointed by the operators, one by the union, and a third neutral appointed by the other two trustees.

While collection of royalties began in July 1946, disbursements were held up until April 1947 because of the Government's refusal to agree on a third neutral trustee. Only token payments were made during 1946–48, in part due to John L. Lewis' and the operators' trustee, Ezra Van Horn's disagreement regarding the administration of the fund and eligibility requirements.

Lewis, faced with countless lawsuits resulting from the UMWA's efforts to win creation of the funds, as well as a membership who had made major sacrifices to win this long struggle, wanted to maximize benefit payments. During the first half of the century over 66,000 miners had been killed, leaving 211,648 widows and orphans. During the 10 months of Government seizure 841 men were killed. A means by which adequate benefits could be provided for these miners or the survivors was to put the plan on a "pay-as-you-go" basis.

The operators initially resisted this concept and the neutral trustee refused to break the deadlock. In fact, Van Horn filed four suits, claiming the funds were actuarily unsound, resulting in the freezing of benefit payments.

Finally, Speaker of the House, Joseph W. Martin, Jr., Republican of Massachusetts, summoned Lewis and Van Horn to his office and proposed Senator H. Styles

Bridges, Republican, of New Hampshire, as the new neutral trustee. Two days later, Bridges broke the deadlock by proposing eligibility requirements acceptable to Lewis, which effectively established the "pay-as-you-go" concept that continued until passage of ERISA in 1974.

It was anticipated that the funds would take care of the older and many disabled miners, while the industry's efforts toward mechanization and increased productivity would lead to an increased standard of living for the working miners. By basing the funding of the plan on coal produced, rather than on man-hours worked, it was hoped that there would be adequate revenues for the plan, even with mechanization.

The recession of the mid-1950's and the shift to gas and oil and away from coal laid these dreams to rest forever. In less than 10 years, the number of working miners dropped from 400,000 in 1950 to less than 90,000 in 1960. Throughout that decade, while the rest of the country was in a boom period, fueled by cheap oil and gas, the coal industry was in the midst of its deepest depression. To keep the funds from insolvency, the trustees had little choice but to restrict eligibility requirements or to reduce benefits. Even if the funds had not been put on a "pay-as-you-go" basis, it is questionable that with such a steep decline in working miners and such a sharp increase in inactive miners, these hard decisions by the trustees could have been fully avoided.

These decisions led to numerous actions by miners against the fund. Although the plan gave full authority to the trustees to set and change eligibility requirements, court decisions during the 1970's had a great impact on the number of eligible beneficiaries. Presently, there are about 70,000 retirees receiving pensions from the 1950 fund. At least 16,000, and probably more, retirees became beneficiaries of the fund under the Blakenship and Roark cases.

Settlement of these cases required a change in the plan's eligibility standards. Thereafter, anyone who had 20 years of service in the coal mines, with as little as 5 of those years being with an employer who contributed to the plan, was eligible. The other 15 years of service could have, and in many cases were, with nonunionized employers who made no contributions to the fund.

In 1974, partly in response to ERISA, the 1950 plan was divided into one fund for pensions and one for medical benefits. Benefit levels were set by the 1974 contract rather than by the trustees. The 1974 pension and benefit plans were created to cover future retired miners and were financed on a cents-per-hour basis, rather than a cents-per-ton basis, as the 1950 pension and benefit plans.

As described by the UMWA at our committee hearings, the extension of PBGC's discretionary coverage in the midst of the 1977–78 national bituminous negotiations, as well as uncertainty as to each particular employer's liability under ERISA upon withdrawal or termination, inflamed an already difficult situation, perhaps unnecessarily extending the length of the contract work-stoppage to an unprecedented 111 days.

Unfortunately this lengthy dispute resulted in great hardships for many, including the delinquent payment of 1950 retirees' pension by several months. We must take strong action now, before the next negotiations, to assure that the issue of whether to continue the 1950 plan—an issue that caused this country great concerns in both the late 1940's and the late 1970's—will never again cause such disruptions and raise such fears. As PBGC itself has indicated, termination of the 1950 UMWA Plan is the single, largest threat to the Government's pension guarantee system. The President's Coal Commission, on which I served as an ex-officio member, in its final report this past February, recognized the unique problems of this plan.

As a consequence, we have provided strong incentives in this bill to encourage employers to maintain their commitments to the 1950 fund through potential—though highly unlikely—future economic instability in the coal industry. At the same time, while restricting relief on withdrawal liability which might encourage withdrawals, the bill provides limited relief to responsible employers who attempt to weather any severe economic difficulties the plan might face. By encouraging all employers to continue their obligations and bear their fair share of the plan's responsibilities, the likelihood is significantly lessened that the severe economic pressures envisioned in the bill will ever be reached.

The bill's general formula for determining annual withdrawal liability payments is designed to discourage withdrawals in a declining industry. It would look backward at past coal production, instead of future, expected growth. This, in turn, could produce an incentive to withdraw from the Plan, set one's liability, and pay annual liability amounts that could be less than the annual contractual contribution requirements. The special rule for determining annual withdrawal liability payments for the 1950 fund addresses this paradox by taking into account the future outlook for bituminous coal, which is quite promising.

Considering the vicissitudes of the coal industry, neither did we want to encourage operators to close mines for the purpose of escaping all or partial liability, and then reconstitute themselves as new employer entities, which open new or reopen old mines under more liberal withdrawal rules. Interestingly enough, it was the coal operators that first expressed such fear in response to the UMWA's original position on the bill before Representative THOMPSON's subcommittee. With a large number of small contributors to the fund, the de minimis rules could shift a large portion of financial responsibilities to larger contributors, the very concern that inflamed the 1977–78 negotiations.

In response, the bill designates a formula for determining withdrawal liability that is least likely to encourage instability in the coal industry, while permitting plan sponsors to vary this rule, if experience so justifies. The bill's presumption of no de minimis rule in the coal industry, unless provided by the sponsors, likewise is designed so as not to encourage unnecessary corporate restructuring. These special rules were designed with the view that our Nation must develop a stable coal industry, with stable management teams, and a stable labor force. This will facilitate improved safety and yield increased productivity. Had this legislation left loopholes, it would probably have encouraged corporate restructuring that otherwise would not occur and thereby unwittingly undercut the growing stability in the coal industry. The relief from liability provisions has been designed to encourage employers to remain with the plan by giving relief to the "last man's club," and to provide temporary relief for companies in economic distress.

The withdrawal liability provisions for the 1950 Fund are the strongest in the bill. The history of the plan necessitates such action to protect both the interest of the public, as well as the retirees, particularly in light of the Government's longstanding involvement and potential liability.

Furthermore, under these special provisions, the fund, being an essentially closed plan, should be nearly fully funded by 1986. As the plan nears full funding, the employers' potential liabilities, regardless of the strict rules in the bill, will automatically decrease, as will the Government's potential liability. These strong requirements, whose effect will only be basically felt through the early to mid-1980's, are certainly worth their return. Stronger retirees' protections, a reduced likelihood of governmental reintervention, and greater industry and labor stability will be a positive result.

The companies signatory to the 1978 UMWA contract recognized the need for strong protections for retirees by providing contractually guaranteed benefits and contributions. The U.S. Government, I believe, as a cocreator of this plan's predecessor, also has an obligation to the 1950 retirees. Employers will continue to fund their fair share of retirees' benefits through legal encouragements, not the disruptive threat of a prolonged work stoppage.

The coal industry of this country represents America's best opportunity to end our dangerous reliance upon foreign fuel sources. Thousands of new coal miners must be trained. Hundreds of new mines opened. Billions of dollars of capital investment must be attracted. It would be a supreme irony if the fund established by the Government were to impair the expanded growth of the coal industry. It would be even more ironic, if those operators who over the years have continued to contribute to the funds, would be faced with a severe competitive handicap because of their responsibility.

Given the apparent and sincere effort on the part of both the industry and the union in the matter of the 1950 fund; given the character and history of the fund; and given the need for equity to both the beneficiaries of that fund and the industry which supports it, I suggest that it is appropriate for a governmental response to this unique fund that is commensurate with needs and with the action taken by both the UMWA and the coal industry. The 1950 retirees, 76 percent of whom are 65 years of age or older and 50 percent of whom are over 70 years old, deserve this special protection.

I was also pleased that we were able to consider the somewhat different problems plaguing the UMWA anthracite plan. The peculiar problems of anthracite mining resulted in a much steeper decline during the past 15 to 20 years than in the bituminous industry. As a result, there are nearly 12 retirees to every active worker covered by this plan.

Fortunately, PBGC's proposals regarding overburden credits and their discretion to waive premiums under certain conditions respond to the plight of the anthracite fund. While this fund has been forced to cut benefits from $100/month to $20 to $30/month and to increase contribution rates to an almost prohibitive $1.50/ton royalty, it still has had to continue paying premiums to PBGC even though the corporation exercised its discretion several years ago in denying potential assistance to this plan.

I want to express my particular gratitude to the careful and reasoned consideration that the Labor and Human Resources Committee's chairman, Senator Williams, has given to this legislation's effect on the 1950 plan and the coal industry. As with his efforts over many years in mine health and safety, he has shown himself again to be genuinely concerned with the problems of all coal miners, whether working or retired.

Finally, Mr. Chairman, labor and management in coal have often been pilloried by those outside the industry, both in the public and private sectors, who have decried their sometimes contentious relations. Their relationship is improving and maturing and, I believe, will continue to do so. It is, therefore, against this foundation, now emerging in the Nation's coal fields that the positions of the UMWA and BCOA must be viewed. By responding to their request to establish a legislative framework within which they can continue to build for the Nation's future, and, at the same time, resolving once and for all the problems of the 1950 pension fund—problems rooted firmly in coal's past, this body can facilitate a better, stronger America in the future.

Mr. WILLIAMS. Mr. President, before the Senator yields the floor, I should like to say that, over the years, the Senator from West Virginia (Mr. Randolph) has, within our committee, been in the forefront advancing the interests of those who would be the beneficiaries under these plans. It is in the character of the Senator from West Virginia (Mr. Randolph), that we know so well, that one of the reservations we did have about this measure is some degree of diminution of benefits guarantee. We do all regret that, but in the exigencies of the total situation, it was necessary. We had to work, of course, with the other committee, and in order to fashion a final product, we were not able, as those who first advanced the cause of working Americans to income security through private pension plans, to protect to the degree that we had hoped for initially.

Yet, with it all, all the complexities, all of the demands that have to be met through this legislation, I think our end product is a worthy product. The Senator from West Virginia (Mr. Randolph) has been a key in that committee in coming to this result.

Mr. RANDOLPH. I thank the Senator. I agree with the chairman of the Committee on Labor and Human Resources. What he said is true. We regret it, but that is not sufficient reason to not act today. This measure which has within it the substance of progress and understanding and must be signed into law by August 2.

We know we were present at the formation of this program, but we recognize that we are dependent also, Mr. President, upon the cooperation of those who serve on other committees, to do the job that had to be done. I think we have done it in a way that the end product is well reasoned, and that is important.

Mr. WILLIAMS. Mr. President, I appreciate that statement of the Senator from West Virginia (Mr. Randolph). May I say that before we finish with this debate on this bill, there will be subjects brought in through amendments that are areas of sole jurisdiction for the Committee on Labor and Human Resources.

There will be an amendment, as I understand it, dealing with mining, particularly stone and sand gravel mining. There will be another, which is, of course, OSHA and MSHA, the Mine Safety and Health Administration and the Occupational Safety and Health Administration. These are solely within the jurisdiction of the Committee on Labor and Human Resources, of which the Senator from West Virginia (Mr. Randolph) is such a valuable and strong member. It is my hope that he will be here to add his warmth and humanity, wisdom, and strength as we talk about those subjects when they arrive. Equal employment opportunity and discrimination might be another amendment within our jurisdiction.

Mr. RANDOLPH. The Senator is talking about amendments that are not germane to the legislation we are considering.

Mr. WILLIAMS. The only problem is that, within the rules and without an agreement, anything is possible here. They could be raised and even the Senator from Hawaii, who dignifies the Presiding Officer's chair at this moment, would be powerless to rule them not germane effectively. So they might be raised—they will be raised, I believe, some of these. I just hope the Senator from West Virginia (Mr. Randolph) will be strong in the front line, as he has always been, when anybody might suggest that it would be a detriment to the working people of this country. I look forward to the afternoon and evening with the Senator from West Virginia.

Mr. RANDOLPH. It sounds like we are going to be here late at night.

Mr. WILLIAMS. When the Senator's eloquence is added, those who might have an amendment will retreat into the walls. The effort will be a losing effort.

I know that there is one amendment that does say that a mining operation in the sand and gravel pits of our country should be taken from the Mine Safety and Health Administration and transferred to the Industrial Safety and Health Administration of OSHA. I know this will be of particular interest to the Senator from West Virginia (Mr. Randolph).

Mr. RANDOLPH. Mr. President, I recall that we have had hearings on this subject matter, is that not correct?

Mr. WILLIAMS. We have had hearings, and the process of legislative oversight review hearings can be such a constructive legislative act. Out of the hearings we had on MSHA, we discovered that the administrative procedures might have been too burdensome, might have been, in a degree, overbearing. Out of those hearings came an enlightenment within the administration and very substantial important corrections were made to the point where I hope those who, long ago, had an idea that the administration of MSHA in sand and gravel was not good, was overly burdensome, might realize that their earlier fears are now not founded because substantial corrections have been made. This is a forerunner of discussions later to come.

We have had this problem with OSHA. We had it with MSHA. There have been those, particularly smaller industries, smaller operators, who want to comply with health and safety standards, but need some consultation. All they want to know is, what do they have to do? Through our oversight hearings, I think we have brought to the administration the wisdom of an effective consultation program.

The same thing, Mine Safety and Health Administration, where they have now an effective compliance assistance program, again, coming to those with on-site consultation, because most everybody wants to conform to law and standards of behavior, but when they are in a quandary over what is expected, they want to be told.

We have it in OSHA. We now have it in MSHA, consultation compliance assistance.

So these are some things before us yet this afternoon, and this evening.

I conclude by advising my good friend and colleague managing this, that the Senator from West Virginia (Mr. Randolph) appropriately made a great statement on behalf of the participants of pension plans and the beneficiaries of pension plans.

I recognize how much he has meant over the years to our developing this income protection through private pension plans.

Mr. JAVITS. Mr. President, that does not surprise me a bit. That is what I would expect from our colleague from West Virginia whose whole lifetime has been devoted to the best interests of the working man and the working woman.

He realizes, as I do, long after all of us are gone, how this will, hopefully, be the way in which the retirement system can take proper account of what it costs to live in dignity, without being the kind of burden against which younger workers will revolt, which we easily could have if social security went through the roof.

But we cannot do anything else until the private pension system and the health system, really, measure up.

I join my colleague from New Jersey in thanking, as always, the Senator from West Virginia for the depth of his concern and for the depth of his understanding of this kind of problem.

Mr. RANDOLPH. I am very appreciative of the further comment by Senator JAVITS. This has been work which many of us have stood side by side on, notably the able, articulate Senator from New York (Mr. JAVITS).

Having worked, perhaps, on this subject matter, one way or another, for a considerable time, I wish to place in the RECORD one fact. That is, that I am the only Member of the Congress of the United States serving today in either the House or the Senate that contributed to the formulation and support, and voted for, the Social Security Act.

How many years ago was it that Social Security Act was enacted? What was the year, I ask my colleague?

Mr. JAVITS. As I recall, it would be 45 years.

Mr. RANDOLPH. That is right. Forty-five years ago. That is a considerable length of time.

It is a joy to be here now facing up to the continuing problems.

We must always be understanding of those who bring us problems that they face in the operation of their businesses, large or small. Agencies certainly, and sometimes those in the field, fail to understand that the industries, workers as well as operators, bear the brunt of the cost of the programs. We must always be responsive to the American people—service to the American people. That also, as I recall, was the spirit in which the Labor Relations Act was passed.

I recall very well when we worked on it. It gave labor the opportunity to negotiate with management for the first time in the history of this country, a Magna Carta, as it were. Our Nation has benefited from it.

We did not give a go signal to violence or disruptions in labor and management, but to a counseling process.

I think, by and large, it has been successful. Some now attempt to tear down the fabric of, let us say, the act of 1938, the Fair Labor Standards Act. It was a good measure.

Very frankly, I say to those in the gallery, rather than those on the floor, we were only attempting at that time to place a wage at 25 cents an hour.

So, it has been a long, tortuous road. Yet, I am one who constantly is a believer that we must work with those that take a varying viewpoint, or viewpoints, from that which we have taken.

We must realize the framework of our country is dependent upon all the ingredients and factors which comprise America. I am a believer in a productive America. America at work.

Mr. JAVITS. I thank my colleague.

● Mr. LONG. Mr. President, the Multiemployer Pension Plan Amendments Act of 1980 (S. 1076) represents a joint effort between the Senate Committee on Finance and the Senate Committee on Labor and Human Resources to restructure the multiemployer pension plan provisions of the Employee Retirement Income Security Act of 1974 (ERISA) to protect the interests of plan participants and beneficiaries.

In 1974, when the Congress enacted ERISA, we realized that there was a great deal of uncertainty about the impact of the plan termination provisions of ERISA as they applied to multiemployer plans. Consequently, the Congress delayed mandatory coverage of such plans pending further study.

S. 1076 represents a compromise approach to the many competing concerns impacting the establishment, operation, and funding of multiemployer pension plans. The major goal of restructuring the multiemployer pension plan provisions of ERISA is to protect the interests of plan participants and beneficiaries. This concern must, however, be balanced against the effect of these changes both on employers and on the insurance program itself. In addition, there is great concern that the multiemployer pension plan insurance system be a financially self-sufficient program for the guarantee of employee benefits.

This is a complex area, and an area deserving of further study. Thus, under the bill, the General Accounting Office (GAO) is to report to the Congress no later than June 30, 1985, on the effects of this program on participants, beneficiaries, employers, employee organizations, and other affected parties. In addition, the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives are directed to conduct hearings on the GAO report and recommendations.

The Committee on Finance approves the bill as reported.●

UP AMENDMENT NO. 1458

Mr. WILLIAMS. Mr. President, on behalf of myself and the Senator from Louisiana (Mr. LONG), I send to the desk an amendment in the nature of technical and conforming changes to the committee bill and I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and Mr. LONG, proposes an unprinted amendment numbered 1458.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, in the table of contents—

(1) strike out the item relating to section 209 and insert in lieu thereof the following new item:

"SEC. 209. WITHDRAWAL LIABILITY PAYMENT FUNDS.", and

(2) strike out the item relating to section 410 and insert in lieu thereof the following new item:

"SEC. 410. TREATMENT OF CERTAIN SEVERANCE PAY ARRANGEMENTS AND SUPPLEMENTAL RETIREMENT INCOME PAYMENTS AS WELFARE PLANS.".

On page 115, line 7, before "nonforfeitable" insert "all".

On page 115, line 9, strike out "the terms of".

On page 120, line 1, before "the plan sponsor" insert "if the proposition described in clause (i) (I) is to be established,".

On page 129, line 2, strike out "section 4041A (a) (2)" and insert in lieu thereof "section 4203".

On page 130, line 13, strike out "employer" and insert in lieu thereof "an employer's".

On page 132, line 10, after "Sec. 4201." insert "(a)".

On page 132, between lines 13 and 14, insert the following new subsection:

"(b) For purposes of subsection (a)—

"(1) The withdrawal liability of an employer to a plan is the amount determined under section 4211 to be the allocable amount of unfunded vested benefits, adjusted—

"(A) first, by any de minimis reduction applicable under section 4209,

"(B) next, in the case of a partial withdrawal, in accordance with section 4206,

"(C) then, to the extent necessary to reflect the limitation on annual payments under section 4219(c) (1) (B), and

"(D) finally, in accordance with section 4225.

"(2) The term 'complete withdrawal' means a complete withdrawal described in section 4203.

"(3) The term 'partial withdrawal' means a partial withdrawal described in section 4205.

On page 135, line 2, strike out "film processing,".

On page 135, line 6, insert "group or" before "class".

On page 135, line 15, insert "group or" before "class".

On page 137, line 14, after "operations" insert "(considered together with any cessation of contribution obligation, or of covered operations, with respect to other employers)".

On page 137, beginning with line 22, strike out through line 5 on page 138 and insert in lieu thereof the following:

"(e) For purposes of this part, the date of a complete withdrawal is the date of the cessation of the obligation to contribute or the cessation of covered operations.

On page 140, lines 8 and 9, strike out "complete or partial withdrawal" and insert in lieu thereof "complete withdrawal, or a partial withdrawal with respect to operations,".

On page 140, lines 22 and 23, strike out "such assets are liquidated or distributed" and insert in lieu thereof "the seller's assets are distributed, or if the seller is liquidated".

On page 141, strike out lines 3 through 7 and insert in lieu thereof the following:

"(B) If only a portion of the seller's assets are distributed during such period, then a bond or escrow shall be required, in accordance with regulations prescribed by the corporation, in a manner consistent with subparagraph (A).

On page 143, lines 10 and 11, strike out "The term 'high base year' means the average of" and insert in lieu thereof "The number of contribution base units for the high base year is the average number of such units for".

On page 143, line 20, strike out "less" and insert in lieu thereof "fewer".

On page 145, line 3, strike out "withdrawals" and insert in lieu thereof "the withdrawal".

On page 145, strike out lines 12 through 17, and insert in lieu thereof the following:

"ADJUSTMENT FOR PARTIAL WITHDRAWAL

"SEC. 4206. (a) The amount of an employer's liability for a partial withdrawal, before the application of sections 4219(c)(1) and 4225, is equal to the product of—

"(1) the amount determined under section 4211, and adjusted under section 4269 if appropriate, determined as if the employer had withdrawn from the plan in a complete withdrawal—

On page 146, lines 17 and 18, strike out "in more than one plan year".

On page 148, line 9, strike out "OR ABATEMENT".

On page 148, line 13, after "plan" insert "under section 4205(a)(1)".

On page 148, beginning with "for" in line 19, strike out through line 2 on page 149 and insert in lieu thereof the following: "for the high base year (within the meaning of section 4205(b)(1)(B)(ii)),".

On page 149, line 9, after "withdrawn" insert "under section 4205(a)(1)".

On page 150, line 8, after "withdrawal" insert "under section 4205(a)(1)".

On page 150, beginning with "exceeds" in line 10, strike out through line 22 and insert in lieu thereof the following: "exceeds 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute for the high base year (within the meaning of section 4205(b)(1)(B)(ii), and".

On page 151, line 10, after "withdrawal" insert "under section 4205(a)(1)".

On page 152, between lines 12 and 13, insert the following new paragraph:

"(2) The corporation shall prescribe regulations providing for the reduction of withdrawal liability for partial withdrawals under section 4205(a)(2) under principles similar to those of subsections (a), (b), and (c). Under such regulations, only those changes in the employer's operations at a facility or under a collective bargaining agreement which resulted in such liability.

On page 152, line 13, strike out "(2)" and insert in lieu thereof "(3)".

On page 152, strike out lines 19 and 20 and insert in lieu thereof the following:

"DE MINIMIS RULE

On page 152, beginning in line 22, strike out "withdrawal liability of an employer who withdraws from a plan in a complete or partial wihtdrawal" and insert in lieu thereof "amount of the unfunded vested benefits allocable under section 4211 to an employer who withdraws from a plan".

On page 153, lines 5 and 6, strike out "withdrawal liability of" and insert in lieu thereof "unfunded vested benefits allocable to".

On page 153, line 9, strike out "such liability" and insert in lieu thereof "the amount determined under section 4211".

On page 153, lines 16 and 17, strike out "withdrawal liability of" and insert in lieu thereof "amount determined under section 4211 for".

On page 155, lines 23 and 24, strike out "an employer's withdrawal liability" and insert in lieu thereof "the unfunded vested benefits allocable to an employer that withdraws from a plan".

On page 156, line 2, strike out "an employer's withdrawal liability is" and insert in lieu thereof "the unfunded vested benefits allocable to an employer that withdraws is the sum of".

On page 156, line 4, strike out "increase" and insert in lieu thereof "change".

On page 156, lines 6 and 7, strike out "in which the employer has an obligation to contribute under the plan,".

On page 156, line 8, strike out "plus".

On page 156, line 12, strike out the period and insert in lieu thereof ", and".

On page 156, between lines 12 and 13, insert the following new subparagraph:

"(C) the employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (4).

If the sum of the amounts determined with respect to an employer under paragraphs (2), (3), and (4) is negative, the unfunded vested benefits allocable to the employer shall be zero.

On page 156, line 14, strike out "increase" and insert in lieu thereof "change".

On page 156, line 17, strike out "increase" and insert in lieu thereof "change".

On page 156, line 18, strike out "ending on or after such date".

On page 156, line 19, strike out "plan." and insert in lieu thereof "plan ending—

"(i) after such date, and

"(ii) before the plan year in which the withdrawal of the employer occurs.

On page 156, line 20, strike out "increase" and insert in lieu thereof "change".

On page 157, line 4, strike out "amount" and insert in lieu thereof "amounts".

On page 157, line 5, strike out 'increase" and insert in lieu thereof "change".

On page 157, line 7, strike out "increase" and insert in lieu thereof "change".

On page 157, line 9, strike out "increase" and insert in lieu thereof "change".

On page 157, line 11, strike out "increase" and insert in lieu thereof "change".

On page 157, line 12, strike out "increase" and insert in lieu thereof "change".

On page 157, line 15, before "plan year" insert "last".

On page 157, line 20, strike out "an increase" and insert in lieu thereof "a change".

On page 157, line 22, strike out "increase" and insert in lieu thereof "change".

On page 157, line 23, after "year" insert "preceding the plan year".

On page 158, line 4, strike out "increase" and insert in lieu thereof "change".

On page 158, line 7, strike out "increase" and insert in lieu thereof "change".

On page 158, line 11, strike out "increase" and insert in lieu thereof "change".

On page 158, line 11, before the period insert "reduced by the contributions made in such years by employees who had withdrawn from the plan in the year in which the change arose".

On page 159, beginning with line 6, strike out through line 3 on page 160 and 'insert in lieu thereof the following new paragraph:

"(4)(A) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits is the sum of the employer's proportional shares of the unamortized amount of the reallocated unfunded vested benefits for each plan year ending before the plan year in which the employer withdrew from the plan.

"(B) Except as otherwise provided in regulations prescribed by the corporation, the reallocated unfunded vested benefits for a plan year is the sum of—

"(i) any amount which the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under title 11, United States Code, or similar proceedings,

"(ii) any amount which the plan sponsor determines in that plan year will not be assessed as a result of the operation of section 4239, 4219(c)(1)(B), or section 4225 against an employer to whom a notice described in section 4219 has been sent, and

"(iii) any amount which the plan sponsor determines to be uncollectible or unassessable in that plan year for other reasons under standards not inconsistent with regulations prescribed by the corporation.

"(C) The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the reallocated unfunded vested benefits for the plan year, reduced by 5 percent of such reallocated unfunded vested benefits for each succeeding plan year.

(D) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the product of—

"(i) the unamortized amount of the reallocated unfunded vested benefits (as of the end of the plan year preceding the plan year in which the employer withdraws); multiplied by

"(ii) the fraction defined in paragraph (2)(E)(ii).

On page 160, lines 6 and 7, strike out "liability of an employer who" and insert in lieu thereof "amount of unfunded vested benefits allocable to an employer that".

On page 160, beginning with "in" in line 11, strike out through line 14 and insert in lieu thereof the following: "to the extent provided in regulations prescribed by the corporation, to provide that the amount of the unfunded vested benefits allocable to an employer not described in section 4203 (b)(1)(A) shall be determined in a manner different from that provided in subsection (b).".

On page 160, line 15, strike out "an employer's liability" and insert in lieu thereof "the unfunded vested benefits allocable to any employer".

On page 161, line 17, after "year" insert "preceding the plan year".

On page 162, line 1, after "year" insert "preceding the plan year".

On page 163, line 3, strike out "an employer's liability" and insert in lieu thereof "the unfunded vested benefits allocable to an employer".

On page 163, line 6, after "year" insert "preceding plan year".

On page 164, lines 1 and 2, strike out "an employer's liability determined" and insert in lieu thereof "the unfunded vested benefits allocable to an employer".

On page 164, line 5, after "year" insert "preceding the plan year".

On page 164, line 10, after "year" insert "preceding the plan year".

On page 164, line 12, after "year" insert "preceding the plan year".

On page 165, line 1, after "year" insert "preceding the plan year".

On page 165, line 4, after "year" insert "preceding the plan year".

On page 165, line 25, after "year" insert "preceding the plan year".

On page 166, line 6, after "year" insert "preceding the plan year".

On page 166, line 11, after "year" insert "preceding the plan year".

On page 166, line 14, after "year" insert "preceding the plan year".

On page 167, line 8, after "year" insert "preceding the plan year".

On page 167, line 10, after "year" insert "preceding the plan year".

On page 168, line 7, after "year" insert "preceding the plan year".

On page 168, line 19, strike out "employer's withdrawal liability" and insert in lieu thereof "amount of the".

On page 169, lines 3 and 4, strike out "liability" and insert in lieu thereof "allocable share of unfunded vested benefits".

On page 169, line 22, strike out "liability" and insert in lieu thereof "allocable share of unfunded vested benefits".

On page 170, line 4. strike out "withdrawal liability" and insert in lieu thereof "an employer's allocable share of unfunded vested benefits".

On page 170, line 6, strike out "withdrawal liability" and insert in lieu thereof "an employer's allocable share of unfunded vested benefits".

On page 170, line 13, after "that" insert "any of".

On page 170, beginning with the comma in line 24, strike out through line 2 on page

171 and insert in lieu thereof ", the determination under this section shall be made as if each of the multiemployer plans had remained separate plans.".

On page 171, line 17, after "determined" insert "and collected".

On page 172, line 24 after "adopted" insert "after January 31 1981,".

On page 174, line 14, after "4243(d)(3)" insert "(B)(ii)".

On page 174, line 23, strike out "employee organization sponsoring" and insert in lieu thereof "labor organization that appoints the employee representative on the joint board of trustees which sponsors".

On page 176, line 25, strike out "withdrawal liability of" and insert in lieu thereof "amount of unfunded vested benefits allocable to".

On page 177, line 7, before "cessation" insert "permanent".

On page 177, lines 7 and 8, strike out "contribution obligations" and insert in lieu thereof "the obligation to contribute".

On page 177, strike out lines 14 through 17 and insert in lieu thereof the following:

"(b) A plan may, in a manner not inconsistent with regulations of the corporation, adjust the amount of unfunded vested benefits allocable to other employers under a plan maintained by an employer described in subsection (a).

On page 178, line 15, strike out "(1)".

On page 178, beginning with line 20, strike out through line 5 on page 179.

On page 179, strike out lines 13 through 17 and insert in lieu thereof the following:

"(2)(A) No later than 90 days after the employer receives the notice described in paragraph (1), the employer—

"(i) may ask the plan sponsor to review any specific matter relating to the determination of the employer's liability and the schedule of payments,

"(ii) may identify any inaccuracy in the determination of the amount of the unfunded vested benefits allocable to the employer, and

"(iii) may furnish any additional relevant information to the plan sponsor.

On page 190, line 3, strike out "liability determined under this part" and insert in lieu thereof "amount determined under section 4211, adjusted if appropriate first under section 4209 and then under section 4206".

On page 130, line 4, strike out "liability" and insert in lieu thereof "amount".

On page 180, line 18, strike out "The" and insert in lieu thereof "Except as provided in subparagraph (E), the".

On page 180, line 23, strike out "with" and insert in lieu thereof "before".

On page 131, line 5, strike out "in effect".

On page 181, line 17, after "year" insert "preceding the plan year".

On page 183, strike out lines 1 through 5 and insert in lieu thereof the following:

"(E) In the case of a partial withdrawal described in section 4205(a), the amount of each annual payment shall be the product of—

"(i) the amount determined under subparagraph (C) (determined without regard to this subparagraph), multiplied by

"(ii) the fraction determined under section 4206(a)(2).

On page 185, lines 8 and 9, strike out "this section or any preceding section of this".

On page 185, line 16, after "notice" insert "and a copy".

On page 187, line 4, strike out "the same actuarial assumptions as those" and insert in lieu thereof "which are reasonable in the aggregate and, to the extent not inappropriate, not inconsistent with the actuarial assumptions".

On page 188, lines 10 and 11, strike out "the preceding sections of".

On page 193, line 1, strike out "(5)" and insert in lieu thereof "(4)".

On page 194, line 5, strike out "withdrawn employer" and insert in lieu thereof "the employer that has withdrawn from the plan".

On page 195, beginning with line 6, strike out through line 11 on page 196 and insert in lieu thereof the following:

"(h)(1) A withdrawal liability payment fund established by employers having an obligation to contribute to a multiemployer plan for work performed in the building and construction industry which does not meet the requirements of subsection (b) shall be treated, for purposes of this Act and of the Internal Revenue Code of 1954, as a fund which meets the requirements of subsection (b) if it meets the requirements of paragraph (2) of this subsection.

"(2) A withdrawal liability payment fund described in paragraph (1) meets the requirements of this paragraph if—

"(A) substantially all of the employees with respect to whom employers have an obligation to contribute under the plan perform work in the building and construction industry,

"(B) the plan covers primarily employees in the building and construction industry; and

"(C) the fund is a trust which—

"(i) is maintained for the exclusive purpose of making payments, to a plan to which a contributing employer has an obligation to contribute, of—

"(I) amounts described in paragraphs (1) and (2) of subsection (c),

"(II) increases in contributions required because of a decline in the plan's contribution base (determined without regard to benefit increases adopted or effective within the past 5 years),

"(III) such other liabilities of an employer as may be described in regulations prescribed by the corporation, and

"(IV) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund;

"(ii) is funded—

"(I) exclusively by amounts paid by employers under the plan, and

"(II) by payments made by more than one employer under the plan;

"(iii) provides for payments, in accordance with clause (i), only to plans with respect to which employers participate in the fund;

"(iv) provides that the right of a plan to receive payments from the fund may not be transferred to any other plan; and

"(v) meets all requirements of this section other than the requirements of paragraphs (2) (3), and (4) of subsection (b), subsection (c)(4)(B), and subsection (d)(2).

"(i) Nothing in this section shall be construed to prohibit the purchase of insurance by an employer from any other person, to limit the circumstances under which such insurance would be payable, or to limit in any way the terms and conditions of such insurance.

On page 196, line 12, strike out "(i)" and insert in lieu thereof "(j)".

On page 196, lines 20 and 21, strike out "of payment which permits a temporary reduction in the payment of withdrawal liability of" and inserting in lieu thereof "for payment of withdrawal liability by"

On page 196, beginning in line 25, strike out "of withdrawal liability payments" and insert in lieu thereof "for the payment of withdrawal liability".

On page 197, lines 5 and 6, strike out "or in accordance with" and insert in lieu thereof "and".

On page 197, line 11, strike out "withdrawal liability of" and insert in lieu thereof "unfunded vested benefits allocable to".

On page 197, beginning with line 16, strike out through line 2 on page 198 and insert in lieu thereof the following: "exceed the greater of—

"(A) a portion (determined under paragraph (2)) of the liquidation or dissolution value of the employer (determined after the sale or exchange of such assets), or

"(B) the unfunded vested benefits attributable to employees of the employer.

On page 198, in lines 6, 8, and 11 and 12, strike out "withdrawal liability of" and insert in lieu thereof "unfunded vested benefits allocable to".

On page 199, line 14, after "plan" insert "(determined without regard to subsection (b))".

On page 199, line 21, strike out "liquidation or" and insert in lieu thereof "sale, liquidation, or".

On page 208, line 12, strike out "agent" and insert in lieu thereof "representative".

On page 208, beginning with line 9, strike out through line 15 on page 209, and insert in lieu thereof the following:

"SEC. 4235. (a)(1) Whenever an employer completely or partially withdraws from a multiemployer plan (referred to elsewhere in this section as the 'old plan') as a result of a certified change of collective bargaining representative, the plan sponsor of the old plan—

"(A) shall notify the employer of—

"(i) the amount of the employer's withdrawal liability under part 1 with respect to such withdrawal,

"(ii) the old plan's intent to transfer the nonforfeitable benefits of the employees who are no longer working in covered service under the old plan as a result of the change of bargaining representative to another multiemployer plan (referred to elsewhere in this section as the 'new plan'), and

"(iii) the amount of assets and liabilities which are to be transferred to the new plan, and

"(B) shall notify the new plan of the intent to transfer such benefits, assets, and liabilities to the new plan.

"(2) Upon notification of the employer and the new plan under paragraph (1), if—

"(A) the employer fails to object to the transfer within 60 days after receipt of the notice described in paragraph (1)(A), and

"(B) the new plan either—

"(i) fails to file an appeal with the corporation within 60 days after receipt of the notice described in paragraph (1)(B) to prevent the transfer because the new plan would suffer substantial financial harm as a result of the transfer, or

"(ii) the corporation, pursuant to such an appeal, fails to find that the new plan would suffer substantial financial harm as a result of the transfer within 180 days after the date on which the appeal is filed,

then the plan sponsor of the old plan shall transfer the appropriate amount of assets and liabilities to the new plan.

"(b) If the plan sponsor of the old plan transfers the appropriate amount of assets and liabilities under this section to the new plan, then the amount of the employer's withdrawal liability (as determined under section 4201(b) without regard to such transfer and this section) with respect to the old plan shall be reduced by the amount by which—

"(1) the value of the unfunded vested benefits allocable to the employer which were transferred by the plan sponsor of the old plan to the new plan, exceeds

"(2) the value of the assets transferred.

"(c) Whenever there is a complete or partial withdrawal described is subsection (a), if—

"(1) the new plan files an appeal with the corporation under subsection (a)(2)(B) within 60 days after receipt of the notice described in subsection (a)(1)(B), and

"(2) the employer is required by section 4219 to begin making payments of withdrawal liability before the earlier of—

"(A) the date on which the corporation finds that the new plan would not suffer substantial financial harm as a result of the transfer, or

"(B) the last day of the 180-day period beginning on the date on which the new plan files its appeal.

then the employer shall make such payments into an escrow held by a bank or similar financial institution satisfactory to the old plan. If the transfer is made, the amounts paid into the escrow shall be returned to the employer. If the transfer is not made, the amounts paid into the escrow shall be paid to the old plan and credited against the employer's withdrawal liability.

On page 210, line 14, strike out "part I" and insert in lieu thereof "part 1".

On page 210, strike out lines 19 through 24.

On page 213, line 1, insert "(including an event described in subparagraph (B) (1) (I))" after "event".

On page 216, strike out lines 12 and 13, and insert in lieu thereof "after the last day of the plan year in which the plan is treated as having terminated.".

On page 219, strike out lines 10 through 12 and insert in lieu thereof "tion, over".

On page 223, line 5, strike out "as".

On page 223, line 11, strike out "as".

On page 223, line 24, strike out "increases" and insert in lieu thereof "increases".

On page 224, line 4, strike out "subparagraph (B)" and insert in lieu thereof "paragraph (1) (B)".

On page 224, strike out lines 5 through 7.

On page 224, line 8, strike out "(ii)" and insert in lieu thereof "(i)".

On page 224, lines 9 and 10, strike out "a plan year in which an amendment increasing benefits is effective" and insert in lieu thereof "the first plan year beginning on or after the date on which an amendment increasing benefits is adopted".

On page 224, beginning with line 13, strike out all through page 225, line 6, and insert in lieu thereof the following:

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

On page 225, line 8, insert "subsequent" before "plan year".

On page 225, line 9, insert "annual" before "amount".

On page 225, line 11, strike out "(ii)" and insert in lieu thereof "(i)".

On page 228, line 20, strike out "section 4201" and insert in lieu thereof "part 1".

On page 229, line 20, strike out "of" and insert in lieu thereof "in which the plan is in".

On page 238, line 5, strike out "section 4001(a) (16)" and insert in lieu thereof "section 4001(a) (12)".

On page 242, line 13, strike out "4204" and insert in lieu thereof "4221".

On page 244, line 6, strike out "4205" and insert in lieu thereof "4222".

On page 251, lines 5 and 6, strike out "section 4001(a) (16)" and insert in lieu thereof "section 4001(a) (12)".

On page 252, lines 10 and 11, strike out "section 4201" and insert in lieu thereof "part 1 of subtitle E".

On page 252, line 14, strike out "section 4201" and insert in lieu thereof "part 1 of subtitle E".

On page 254, line 3, strike out "section 4201" and insert in lieu thereof "part 1 of subtitle E".

On page 254, line 22, strike out "paragraphs (1) (A) and (2) (A)" and insert in lieu thereof "subsections (a) and (b)".

On page 254, line 25, strike out "paragraph (2) (A)" and insert in lieu thereof "subsection (b)".

On page 256, line 4, strike out "April 29, 1980" and insert in lieu thereof "the date of the enactment of this Act".

On page 256, line 16, after the period insert the following: "For the purpose of applying section 4217 for purposes of the preceding sentence, the date 'May 2, 1979,' shall be substituted for 'April 28, 1980,' and the date 'May 3, 1979' shall be substituted for 'April 29, 1980'."

On page 256, line 21, after the period insert "For purposes of this paragraph, the term 'employer' includes only a substantial employer covering employees in the seagoing industry (as so determined) in connection with ports on the West Coast of the United States but does not include an employer who withdrew from a plan because of a change in the collective bargaining representative.".

On page 257, line 24, strike out "of" the first place it appears and insert in lieu thereof "after".

On page 264, line 8, insert "(including an event described in subparagraph (B) (i) (I))" after "event".

On page 268, strike out lines 24 and 25, and insert in lieu thereof "which the plan is treated as having terminated.".

On page 272, strike out lines 7 through 10, and insert in lieu thereof "was in reorganization, over".

On page 277, line 10, strike out "as".

On page 277, line 16, strike out "as".

On page 278, lines 14 and 15, strike out "subparagraph (B)" and insert in lieu thereof "paragraph (1) (B)".

On page 278, lines 19 and 20, strike out "a plan year in which an amendment increasing benefits is effective" and insert in lieu thereof "the first plan year beginning on or after the date on which an amendment increasing benefits is adopted".

On page 278, beginning with line 24, strike out all through page 279, line 20, and insert in lieu thereof the following:

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(iii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

On page 279, line 23, insert "subsequent" before "plan year".

On page 279, line 23, insert "annual" before "amount".

On page 281, line 2, strike out "delimination" and insert in lieu thereof "determination".

On page 283, line 7, strike out "or".

On page 283, line 18, strike out "sections 4201 through 4219" and insert in lieu thereof "part I of subtitle E of title IV".

On page 284, line 22, strike out "of" and insert in lieu thereof "in which the plan is in".

On page 293, line 21, strike out "part" and insert in lieu thereof "subpart".

On page 301, beginning with line 20, strike out all through page 302, line 2, and insert in lieu thereof the following:

"(i) with an employer after—

"(I) a complete withdrawal of that employer from the plan (within the meaning of section 4203 of the Employee Retirement Income Security Act of 1974), or

"(II) to the extent permitted in regulations prescribed by the Secretary, a partial withdrawal described in section 4205(b) (2) (A) (i) of such Act in conjunction with the decertification of the collective bargaining representative, and

On page 305, line 12, strike out "sections 4201 through 4219" and insert in lieu thereof "part 1 of subtitle E of title IV".

On page 306, line 16, strike out "TAX EXEMPTION FOR".

On page 307, line 2, insert "or (h)" after "section 4223(c))".

On page 307, line 17, after "4223(b)" insert ", 4223(h), or, if applicable, section 4223(c)".

On page 307, line 23, after "plan" insert "or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund".

On page 308, lines 13 and 14, strike out "which is a member of such trust" and insert in lieu thereof "to which such trust is permitted to make payments under section 4223 of the Employee Retirement Income Security Act of 1974".

On page 308, strike out lines 15 through 17, and insert in lieu thereof the following:

(c) (1) Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 194. CONTRIBUTIONS TO EMPLOYER LIABILITY TRUSTS.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the amount—

"(1) which is contributed by an employer to a trust described in section 501(c) (22) (relating to withdrawal liability payment fund) which meets the requirements of section 4223(h) of the Employee Retirement Income Security Act of 1974, and

"(2) which is properly allocable to such taxable year.

(b) ALLOCATION TO TAXABLE YEAR.—In the case of a contribution described in subsection (a) which relates to any specified period of time which includes more than one taxable year, the amount properly allocable to any taxable year in such period shall be determined by prorating such amounts to such taxable years under regulations prescribed by the Secretary.

"(c) Disallowance of Deduction.—No deduction shall be allowed under subsection (a) with respect to any contribution described in subsection (a) which does not relate to any specified period of time.".

(2) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 194. Contributions to employer liability trusts.".

On page 309, between lines 7 and 8, insert the following:

(c) The amendments made by section 209 shall apply to taxable years ending after the date of the enactment of this Act.

On page 312, strike out lines 14 through 18, and insert in lieu thereof the following:

"(i) with an employer after—

"(I) a complete withdrawal of such employer from the plan (within the meaning of section 4203), or

"(II) to the extent permitted by regulations prescribed by the Secretary of the Treasury, a partial withdrawal described in section 4205(b) (2) (A) (i) in connection with the decertification of the collective bargaining representative; and

On page 312, line 24, strike out "subsection" and insert in lieu thereof "subsections".

On page 313, line 4, strike out the end quotation marks and the end period.

On page 313, between lines 4 and 5, insert the following:

"(d) Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary of the Treasury.".

On page 317, lines 5 through 7, strike out "which is a member of a trust described in section 501(c)(22) of the Internal Revenue Code of 1954" and insert in lieu thereof "to which a trust described in section 501(c)(22) of the Internal Revenue Code of 1954 is permitted to make payments under section 4223".

On page 319, line 21, insert "(a)" before "Section".

On page 319, line 23, strike out "any" and insert in lieu thereof "Any".

On page 319, strike out line 24, and insert in lieu thereof the following: "part I of subtitle E of title IV.".

On page 320, line 1, strike out "a" and insert in lieu thereof "A".

On page 320, line 4, insert end quotation marks and an end period after the end period.

On page 320, strike out lines 5 and 6, and insert in lieu thereof the following:

(b) Section 408 is amended by adding at the end thereof the following new subsection:

"(f) Section 408(b)(2) shall not apply to any merger or transfer described in subsection (b)(11).".

On page 323, line 19, insert "and" after the semicolon.

On page 328, line 16, strike out "section 4201" and insert in lieu thereof "part I of subtitle E".

On page 328, line 18, strike out "4201(b)(6)" and insert in lieu thereof "4212(a)".

On page 330, strike out lines 7 through 12 and insert in lieu thereof the following:

(2) Section 403(a)(1) is amended by striking out "title" and inserting in lieu thereof "Act".

On page 330, line 19, strike out "4246" and insert in lieu thereof "4245".

On page 331, line 7, insert "(if any)" after "4022A".

On page 335, line 3, strike out "4005(d)" and insert in lieu thereof "4005(e)".

On page 336, in the matter appearing after line 12—

(1) strike out the item relating to section 4206 and insert in lieu thereof the following new item:

"SEC. 4206. ADJUSTMENT FOR PARTIAL WITHDRAWAL.".

(2) strike out the item relating to section 4209 and insert in lieu thereof the following new item:

"SEC. 4209. DE MINIMIS RULE.".

On page 338, strike out lines 11 and 12, and insert in lieu thereof the following: "by the agency having jurisdiction but only if such instruction or rule was published, or furnished to the party taking the action, before such action was taken.".

On page 340, line 5, strike out the single quotation marks.

On page 344, lines 18 and 19, strike out the single quotation marks.

On page 349, line 7, strike out "subparagraph (B)" and insert in lieu thereof "subparagraph (C)".

On page 349, strike out line 14, and insert in lieu thereof:

"(C) Parts (1), (4),"

On page 349, line 16, strike out "such subparagraph" and insert in lieu thereof "subparagraph (A)".

On page 349, beginning with line 21, strike out all through page 350, line 2, and insert in lieu thereof the following:

(b) The Secretary shall—

(1) conduct a study on the effects of paragraph (5) of section 514(b) of the Employee Retirement Income Security Act of 1974, as added by subsection (a), and the effects of extending the exemption from section 514(a) of such Act provided by such paragraph to include other State laws which impose requirements with respect to employer provided health care plans, and

(2) report to the Congress on the results of such study within 2 years after the date of the enactment of this Act.

On page 350, line 5, insert "ARRANGEMENTS" after "PAY".

On page 350, lines 6 and 7, strike out "ARRANGEMENTS" and insert in lieu thereof "PAYMENTS".

On page 350, line 24, strike out "arrangements" and insert in lieu thereof "payments".

On page 351, lines 6 and 7, insert "or payment" after "arrangement".

On page 351, line 9, insert "or payment" after "arrangement".

On page 351, strike out line 14, and insert in lieu thereof:

"(2)(A) In the case of a contribution or a payment of withdrawal liability under part 1 of subtitle E of part IV—

On page 354, after line 23, insert the following:

(d) For purposes of conducting the study required by this section, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(1) within the possession or control of the administrator, the sponsor, any contributing employer, or any employee organization representing participants of any plan, and

(2) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual in making any information obtained under this subsection available to the public.

Mr. WILLIAMS. Mr. President, when S. 1076 was reported on July 24, 1980, Senator Long entered into the Record on his behalf and mine a detailed summary of the bill and other explanatory material on the bill.

I ask, for myself and Senator Long, unanimous consent that this additional material be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

JOINT EXPLANATION OF S. 1076: MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980

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I. OVERVIEW

A. Background

The Employee Retirement Income Security Act of 1974 (ERISA) established a program of insurance for employee benefits under most tax-qualified, private, domestic, defined benefit pension plans.[1] The program is administered by the Pension Benefit Guaranty Corporation (PBGC), a corporation within the Department of Labor. The Board of Directors of the PBGC consists of the Secretary of Labor (Chairman), the Secretary of the Treasury, and the Secretary of Commerce.

The PBGC maintains a trust fund and a revolving fund for insurance of benefits under terminated multiemployer defined benefit pension plans (multiemployer plans), as well as a trust fund and a revolving fund for insurance of benefits under all other terminated defined benefit pension plans (referred to as "single-employer plans"). The PBGC presently is not "on budget" and the United States is not liable for debts of the PBGC.

The insurance program (referred to as "termination insurance") is supported by (1) premiums paid by plans, (2) assets of plans that have terminated with insufficient funds to provide guaranteed benefits, (3) payments by employers who maintained plans which terminated with insufficient funds to provide guaranteed benefits, and (4) earnings on investments. The funds maintained for multiemployer plans are the sole source of guaranteed benefits under terminated multiemployer plans. Similarly, the funds maintained for single-employer plans are the sole source of guaranteed benefits under single-employer plans.

Under present law, the guarantee by the PBGC of benefits under a multiemployer plan is within the discretion of the PBGC until August 1, 1980. Beginning on August 1, 1980, the guarantee of these benefits becomes mandatory. To date, the PBGC has extended discretionary coverage in three instances, and

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[1] See ERISA sec. 4021. A defined benefit pension plan provides a specified level of benefits for participants. A church pension plan is generally exempt from the insurance program unless the plan has elected to be subject to ERISA standards. (If a church plan covers employees of a church agency, the exemption expires for plan years beginning after 1982.) Also, plans of certain professional service employers are excluded from the program.

PBGC's estimated cost for guaranteed benefits under those plans after collection of employer liability payments is $22 million. Employer payments covered less than 25 percent of the unfunded guaranteed benefits.

B. Committee review

Committee on Labor and Human Resources

S. 1076 was introduced on May 3, 1979, and was referred to the Committee on Labor and Human Resources and the Committee on Finance jointly, by unanimous consent.

The Committee on Labor and Human Resources held hearings on S. 1076 in Washington, D.C., on June 26 and 27, 1979. In the course of these hearings, testimony was heard and written comments were received from a wide range of persons, including representatives of the PBGC and the Department of Labor.

On March 24, 1980 the Committee amended the bill in certain respects and approved the bill.

On June 27, 1980 the Committee approved compromise amendments worked out with the Senate Committee on Finance.

Committee on Finance

The Subcommittee on Private Pension Plans and Employee Fringe Benefits of the Committee on Finance held a public hearing on the bill on March 18, 1980.

The Committee on Finance amended the bill on June 10 and 12, 1980, and approved the bill with amendments. On June 27, 1980, and July 24, 1980, the Committee approved further amendments to the bill.

II. SUMMARY OF THE BILL

1. Findings and declaration of policy.

The general statement of policy included in ERISA does not specifically refer to multiemployer plans.

The policy of the bill, as declared therein, is (1) to foster and facilitate interstate commerce, (2) to alleviate certain problems which tend to discourage the maintenance and growth of multiemployer plans, (3) to provide reasonable protection for the interests of participants and beneficiaries of financially distressed multiemployer plans, and (4) to provide a financially self-sufficient program for the guarantee of benefits under multiemployer plans.

2. Definition of multiemployer plan.

Under present law, a plan is a multiemployer plan for a year if it is maintained by more than one unrelated employer under a collective bargaining agreement, if the plan meets Labor Department requirements, and if (1) no employer makes 50 percent or more of the aggregate employer contributions for the year (unless a special rule is satisfied), and (2) benefits for a participant's service while the employer maintains the plan are payable without regard to the cessation of plan contributions by the employer. All corporations that are members of a controlled group are treated as a single employer.

Under the bill, the test relating to proportionate employer contributions (the 50-percent test) and the test relating to continuity of benefits in the event of a cessation of employer contributions are to be deleted from the definition. The bill provides that all trades and businesses (whether or not incorporated) under common control are to be considered a single employer for purposes of counting the number of employers maintaining a plan. This aggregation rule is the same as the rule for aggregation of employers generally applicable under ERISA and related Code provisions. In addition, the bill provides that a plan continues to be a multiemployer plan after its termination if it was a multiemployer plan for the plan year ending before its termination date.

Certain plans which are single-employer plans under present law and which would otherwise be multiemployer plans under the bill are permitted to elect to continue to be considered single-employer plans.

The provision applies upon enactment except that the present-law definition is continued for plan years beginning before enactment.

3. Employer withdrawal liability, mergers, etc.

a. Withdrawal liability.

Under present law, the liability of an employer under a multiemployer plan ends when the employer withdraws from the plan unless within 5 years after the withdrawal, the plan terminates with insufficient assets to provide benefits at the level guaranteed by the PBGC. In the event of such a termination, each employer who maintained the plan during the 5-year period preceding the termination is liable to the PBGC for a share of the insufficiency. An employer's liability is limited, however, to 30 percent of its net worth.

Under the bill, an employer who totally or partially withdraws from a multiemployer pension plan after April 28, 1980, is generally to be liable for a portion of the plan's unfunded vested benefits determined as of the year of withdrawal (computed without regard to certain events occurring prior to April 29, 1980, which reduced the employer's contribution base). A special definition of withdrawal liability is included for certain employers in the building and construction industry, the entertainment industry and, under certain circumstances, employers in the trucking industry. The construction provisions may be extended by the PBGC in other cases. A *de minimis* rule which reduces or eliminates small liabilities is also provided. The bill has a basic method for computing withdrawal liability as well as several alternative methods which a plan may adopt. Under the basic method, a plan's unfunded vested benefits accumulated in years ending before April 29, 1980, are to be allocated to the employers who maintained the plan before that date and continued to maintain the plan after April 28, 1980. The share of these unfunded vested benefits for which an employer is liable generally depends upon the employer's proportionate share of total contributions to the plan during the five plan years preceding April 29, 1980. A change in unfunded vested benefits for a year ending after April 28, 1980, is generally to be allocated to withdrawing employers in proportion to their plan contributions for the five plan years preceding the year of the withdrawal. The bill also limits the liability of an employer in the event of insolvency or the sale of all (or substantially all) of the employer's assets, and permits the use of certain reinsurance funds.

With respect to certain employers who withdrew from multiemployer plans covering employees in the seagoing industry, the withdrawal liability provisions of the bill are effective May 3, 1979.

b. Merger or transfer of plan assets or liabilities.

Under present law, the rules relating to the merger or consolidation of pension plans, or the transfer of assets or liabilities between plans, apply to multiemployer plans only to the extent prescribed by the PBGC. To date the PBGC has not prescribed such rules.

The bill requires that a merger, etc., involving a multiemployer plan meet certain standards designed to protect participants' benefits and the PBGC.

c. Plan reorganization.

Under present law, financially troubled plans are generally subject to the same minimum funding standard as other plans.

Under the bill, certain financially troubled multiemployer pension plans are in a status of "reorganization." Once a plan enters reorganization, a minimum contribution requirement, which usually requires an increase in employer contributions, applies to the plan. The minimum contribution requirement is phased in to protect employers against very large increases in contributions for a plan year. In the case of a plan which is considered overburdened because it has a high proportion of retirees, the additional funding required under the minimum contribution requirement is reduced by an overburden credit. The bill requires that employers and employee organizations representing plan participants be notified that contributions may have to be increased to avoid excise taxes on funding deficiencies.

d. Financial assistance.

Under present law, guaranteed benefits are paid by the PBGC with respect to a multiemployer pension plan only upon plan termination and until August 1, 1980, only at the discretion of the PBGC.

Under the bill, the PBGC is required to provide financial assistance to insolvent multiemployer plans (whether or not terminated) where the assistance is needed to enable the plans to pay basic benefits.

e. Enforcement.

The bill includes provisions for appropriate legal remedies, equitable relief, or both. In addition, the bill provides a civil penalty of up to $100 per day for failure to provide any notice required under the bill.

4. Termination of multiemployer plans.

Under present law, officials of a plan generally initiate the plan termination process by filing a notice with the PBGC. However, ERISA provides a procedure under which the PBGC may institute proceedings to terminate a plan. If a multiemployer plan terminates with insufficient assets to provide benefits at the level guaranteed by the PBGC, the employers who contributed to the plan during the five years preceding termination are each liable to the PBGC for a proportionate share of the insufficiency. An employer's liability is limited to 30 percent of its net worth.

The bill provides new rules for determining the date on which a multiemployer plan terminates.

In the case of a terminated plan from which all employers have not withdrawn, the bill requires that employers who continue to maintain the plan continue to fund the plan in accordance with the minimum funding standards of ERISA and also requires that plan contributions continue at not less than the highest rate applicable during the last five plan years ending on or before the date of termination. A reduction of contributions is permitted, with the approval of the PBGC, where the plan is becoming fully funded.

The bill authorizes the PBGC to prescribe reporting requirements and rules for the administration of terminated multiemployer plans where such reports or rules are needed to protect the interests of plan participants or to protect the PBGC against unreasonable losses.

5. Termination insurance premiums.

Under present law, a multiemployer plan which is subject to the termination insurance program is required to pay annual premiums to the PBGC at the rate of $.50 per plan participant. The premium rate may be changed by the PBGC with the approval of the Congress by a concurrent resolution. (Such a resolution is required to be referred to the tax committees and labor committees of the Senate and of the House of Representatives.) Also, the PBGC is authorized to set premium rates for insurance of nonbasic benefits and to develop a risk-related premium schedule.

The bill provides that the annual per-participant premium for multiemployer plans is to increase from the present $.50 rate to $2.60 over a 9-year period. However, under standards set forth in the bill, the PBGC may increase the premium at a more rapid rate, but not to an amount in excess of $2.60. The premium may also be increased automatically, under a formula provided by the bill, to a rate not in excess of $2.60 per year, per participant. Also, the bill continues the authority of the PBGC to prescribe regulations under which the premium rate for multiemployer plans will not apply to the same participant in a multiemployer plan more than once for any plan year.

In addition, the bill modifies the authority of the PBGC to establish alternative premium rates and bases for basic benefits (subject to Congressional approval) by deleting specific restrictions on the computation of such premiums. Generally, basic benefits consist of certain vested retirement benefits.

With respect to nonbasic benefits guaranteed under a multiemployer plan, the bill provides that premium rates prescribed by the PBGC may reflect any reasonable consideration that the PBGC determines to be relevant. Supplemental benefits (retirement benefits in excess of basic benefits) are required to be guaranteed by the PBGC only at the election of a plan. The bill provides for Congressional review of premiums for supplemental benefit guarantees. The separate funds of the PBGC for the guarantee of supplemental benefits and for reimbursement of withdrawal liability are not to borrow from, or lend to, the PBGC or any fund maintained by the PBGC.

The bill does not affect premium rates for single-employer plans. Also, receipts and disbursements of the PBGC will be included in the budget of the United States Government (i.e., PBGC would be "on budget").

6. Multiemployer guarantees.

Since ERISA was enacted in 1974, the payment of guaranteed benefits under terminated multiemployer plans has been within the discretion of the PBGC, subject to statutory standards. The guarantee of benefits under single-employer plans is not discretionary. The guarantees, which are subject to the same maximum limits under multiemployer and single-employer plans, extend only to basic benefits, determined before plan termination. Basic benefits are insured by the PBGC to the extent of the lesser of $750, adjusted for inflation since 1974 ($1,159.09 for 1980) or a participant's average high 5-year compensation. The insurance of benefits is generally phased in over a 5-year period. The insurance for multiemployer plans would be mandatory for the plans and for the PBGC beginning August 1, 1980, and would be provided whether or not premiums are paid.

Under the bill, benefits eliminated or cancelled because of the cessation of an employer's contributions to the plan are not guaranteed by the PBGC.

Under the bill, the first $5 of monthly basic benefits earned per year of a participant's service is generally fully guaranteed and 75 percent of the next $15 of monthly basic benefits is generally guaranteed. The 75-percent guarantee is reduced to 65 percent under plans which did not meet specified funding requirements. Payments under the guarantees are made by the PBGC only in the event of the insolvency of a multiemployer plan. As under present law, the bill does not extend guarantees to plan benefits of certain substantial owners of an employer.

The bill continues the requirement of present law that PBGC premium increases beyond $2.60 must be approved by the Congress. However, the bill adds a new procedure for periodic Congressional review of premium and guarantee levels.

The bill authorizes the PBGC to guarantee non-basic benefits subject to terms and conditions imposed by the PBGC. Supplemental benefits under a plan are guaranteed if the plan elects such coverage.

The bill limits the aggregate benefit provided by the PBGC with respect to any participant to the same level provided by present law except that, under PBGC regulations financial assistance provided by the PBGC to a plan is considered the provision of guaranteed benefits.

7. Annual report of plan administrator.

Under ERISA, a plan administrator is required to report the occurrence of specified reportable events to the PBGC. Also, the plan administrator of a plan to which more than one employer contributes is required to notify each substantial employer annually that it is a substantial employer. In addition, reports are required to be filed with the payment of premiums (Form PBGC-1).

The bill adds a requirement that the annual report of a plan administrator, with respect to a plan subject to termination insurance, include such information with respect to the plan as the PBGC determines is necessary for enforcement purposes and that is required by PBGC regulations. The bill provides that the information required may include: (1) a statement by the plan's enrolled actuary relating to the value of plan assets and liabilities, and (2) a statement by the plan administrator relating to withdrawal liability.

8. Contingent employer liability insurance.

ERISA provides for a program designed to permit an employer to insure against the contingent employer liability (up to 30 percent of the employer's net worth) arising out of the termination of a plan with insufficient assets to provide benefits at the level guaranteed by the PBGC. Under ERISA, the contingent employer liability insurance (CELI) may be developed by the PBGC in conjunction with private insurers. The PBGC is authorized to provide premium rates and collect premiums under the CELI program. The CELI program has not been implemented by the PBGC for lack of feasibility.

The bill repeals the contingent employer liability insurance provisions of ERISA for multiemployer plans and single-employer plans.

9. Miscellaneous multiemployer plan provisions.

Under the bill, the PBGC is required to study the subject of union-mandated withdrawals from multiemployer plans to determine whether special rules are necessary and, if the PBGC determines that they are needed, to make recommendations with respect to such rules.

In addition, the Department of Labor is required by the bill to study the feasibility and desirability of requiring employers and unions to bargain over both benefits and contributions and to provide the Congress with recommendations within three years.

The General Accounting Office is required to conduct a study and report to Congress no later than June 30, 1985, on the effects of the bill on parties affected by the bill (e.g. participants, employers, and unions) and the self-sufficiency of the PBGC insurance fund. Congressional hearings are required on the study and GAO recommendations.

10. Miscellaneous ERISA provisions.

The present-law definition of the term "church plan" is continued without reference to dates, so that a church plan which covers the employees of a church agency generally would be exempt from the provisions of ERISA. In addition, certain definitions relating to church plans are clarified.

An employer that sells its business to a State government can claim a current tax deduction under the bill for contributing the amount necessary to avoid PBGC liability to its single-employer plan.

The Secretary of Labor is authorized by the bill to treat certain severance pay plans and supplemental income plans as welfare plans rather than as pension plans under ERISA, so long as such treatment is consistent with the purposes and standards of ERISA.

The bill provides that the laws of the State of Hawaii with regard to health insurance plans maintained by employers generally would not be preempted by ERISA.

III. GENERAL REASONS FOR THE BILL

Multiemployer plans usually cover employees working within an industry or craft in a specified geographic area. They can provide workers with greater retirement income security than single-employer plans, for two reasons: First, they provide workers with pension portability because employees retain their pension credits as they move from one covered employer to another. Second, they usually provide benefits to an employee even though the employer leaves the plan.

Thustees are required to set benefit levels on the basis of the expected resources and experience of the plan. The cost of benefits is generally estimated on the basis of actuarial assumptions as to the level of benefits to be paid to employees who retire with vested benefits and the period for which benefits will be paid. These assumptions require projections of future experience for an extended period. The resources of a plan available to pay those benefits consist of assets held by the plan. Future contributions expected by the plan and income expected to be earned on plan investments for the future.

Contributions to a multiemployer plan generally depend upon the number of hours of service completed by employees who participate in the plan. Accordingly, the estimate of future plan contributions depends upon an estimate of future employment levels for an extended period. One of the most serious threats to the security of benefits under a multiemployer plan is an unanticipated decline in employment covered by the plan. Where this occurs, the plan is unlikely to have the resources necessary to provide benefits promised to employees. Industry decline, whether caused by technological change, foreign competition or other unanticipated changes, can cause plan insolvency unless the rate of employer contributions is increased. Where an industry has suffered a substantial decline, however, employers may be unable to increase the rate of contributions.

In the more than five years since the enactment of ERISA, the Committees and the PBGC have had an opportunity to study and observe multiemployer plans. The Committee's conclusion, based upon these years of experience, is that certain of the ERISA provisions applicable to multiemployer plans urgently need to be amended. The Multiemployer Pension Plan Amendments Act of 1980 (S. 1076) is offered in response to that need for change.

The termination insurance program was established by ERISA because of concern that the Act could not otherwise secure employee pension benefits against loss due to premature plan termination. The program was designed, in part, on the basis of an Administration study[1] that considered the effects of the termination of single-employer and multiemployer pension plans during a period preceding the enactment of ERISA. Because of substantial uncertainty as to the need for the insurance in the case of multiemployer plans and the effects of insuring such plans, the insurance of benefits under multiemployer plans was generally left to the discretion of the PBGC until January 1,

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[1] Department of the Treasury and Department of Labor, *Study of Pension Plan Termination, 1972—Interim Report* February 1973.

1978. The date of nondiscretionary insurance of benefits under multiemployer plans was subsequently delayed until August 1, 1980, because of concern that the program, if nondiscretionary, might encourage the premature termination of multiemployer plans.

The requirements of ERISA have contributed to a substantial improvement in the operation of private defined benefit pension plans and the benefit security of plan participants. For example, vesting standards now protect participants against unduly restrictive forfeiture provisions, and stricter funding standards help assure that plans will actually have the assets required to pay benefit obligations.

Unfortunately, these requirements have placed added pressures on multiemployer plans in declining industries. ERISA has restricted the powers that plan trustees once had to defer funding, reduce benefits, or restrict vesting under a plan. In financially distressed plans, a shrinking number of employers may be required to pay increased contributions in order to sustain in a very modest level of benefits. Active employees may have little reason to support a financially troubled plan that absorbs an increasing portion of their pay package but that offers them very little in return. Under these circumstances, employers have great incentives to terminate the plan.

Under ERISA, an employer who has paid all required contributions to a multiemployer can withdraw from the plan and, if the plan does not terminate within 5 years after the withdrawal, the employer will have no further responsibility for any part of the unfunded liabilities of the plan. Where this occurs, employers who continue to maintain the plan "inherit" the liability which would have been satisfied by the withdrawing employer. The Committees believe that, in this regard, present law provides an undesirable incentive for employers to withdraw from plans and an unfair burden on the employers who continue to maintain the plans.

Under present law, after July 31, 1980, PBGC guarantees will extend to substantially all benefits provided by multiemployer plans. As a result, employees cannot be expected to resist employer efforts to terminate a distressed plan after that date.

The Committees are concerned that the combined effect of the present-law incentives for employees and employers to abandon distressed plans will result in an accumulation of liabilities that cannot be satisfied by the PBGC. S. 1076 deals with these problems of multiemployer plans by (1) increasing the funding requirements for multiemployer plans in most cases, (2) requiring further accelerated funding of plans in financial distress, subject to restrictions designed to avoid undue financial strain on employers maintaining seriously overburdened plans, (3) relaxing the vesting rules of ERISA to permit benefit suspensions in insolvency, (4) modifying the level of benefits guaranteed so that, in most cases, continuation of a plan will be more beneficial to employees than plan termination, (5) requiring continued funding of terminated plans, and (6) making plan insolvency the only insurable event. The bill also provides for increased termination insurance premiums, additional reporting requirements, and enforcement authority.

IV. EXPLANATION OF PROVISIONS

A. Findings and Declaration of Policy (Sec. 3 of the Bill).

The statement of policy included in ERISA does not specifically refer to multiemployer plans.

The policy of the bill, as declared therein is (1) to foster and facilitate interstate commerce, (2) to alleviate certain problems which tend to discourage maintenance and growth of multiemployer plans, (3) to provide reasonable protection for the interests of participants and beneficiaries of financially distressed multiemployer plans, and (4) to provide a financially self-sufficient program for the guarantee of benefits under multiemployer plans.

Section 3 of the bill enumerates the Congressional findings on which the bill is predicated and the policy that the bill is designed to further. The Committees note the national importance of multiemployer pension plans, their origins in collective bargaining, and the threats posed to these plans, particularly the threat of employer withdrawals in declining industries.

B. Definition of Multiemployer Plan (Secs. 108(d), 207, and 302 of the Bill and Sec. 414(f) of the Code, and Secs. 3(37) and 4403 of ERISA.

Present law.

Under present law, a plan is a multiemployer plan for a year if (1) more than one employer is required to contribute to the plan, (2) the plan is maintained pursuant to a collective bargaining agreement between employee representatives and more than one employer, (3) the amount of contributions made under the plan for the year by each employer is less than 50 percent of the aggregate employer contributions for that year (unless a special rule is satisfied), (4) benefits under the plan are payable to each participant without regard to the cessation of contributions by the employer of the participant except to the extent the benefits accrued because of service with the employer before the employer was required to contribute to the plan, and (5) the plan satisfies other requirements imposed by Labor Department regulations.[1]

All corporations, which are members of a controlled group of corporations, are treated as a single employer in determining the status of a plan as a multiemployer plan for purposes of the tax law.

Reasons for Change.

The Commitees believe that the definition of a multiemployer plan under ERISA which is limited to a plan in which (1) no employer contributes more than 50 percent of the total employer contributions for the year and (2) employers share liability for participants' benefits accrued for service while the employer maintained the plan creates two major problems. First, not all plans that share the basic characteristics of multiemployer plans (i.e., plans to which more than one employer is required to contribute and which are maintained pursuant to a collective bargaining agreement) are considered multiemployer plans under the definition presently in ERISA. Second, a plan could move in and out of multiemployer plan status from year to year. The Committees have determined to remove these limitations from the definition of multiemployer plan so that generally plans which share the basic characteristics of multiemployer plans are treated consistently under the law.

Explanation of Provisions.

Under the bill, the test relating to proportionate employer contributions (the 50-percent test) is deleted, and the test relating to continuity of benefits in the event of a cessation of employer contributions is preserved in the minimum vesting standard of ERISA. The bil provides that all trades and businesses (whether or not incorporated) under common control are considered a single employer for purposes of testing the status of a plan as a multiemployer plan. In addition, the bill provides that a plan continues to be a multiemployer plan after its termination if it was a multiemployer plan for the plan year ending before its termination date.

A plan which is a single-employer plan under present law (even though more than one employer maintains the plan) and which has paid PBGC premiums for the three plan years preceding the date of enactment as a single-employer plan is permitted to irrevocably elect to be considered a single-employer plan where the plan would otherwise be a multiemployer plan under the bill.

Effective date.

The provision will apply upon enactment, except that the present law definition will continue for plan years beginning before enactment.

C. Employer Withdrawal Liability (Secs. 104 and 1068 of the Bill, and Secs, 4201–4225 of ERISA).

Present Law.

Under present law, if an employer maintained or contributed to a multiemployer plan (or a single-employer plan to which more than one employer contributes) during the 5-year period preceding the termination of the plan, and if the plan terminates with insufficient assets to provide benefits at the level guaranteed by the PBGC, the employer is liable to the PBGC for a share of the insufficiency. The insufficiency is generally allocated to employers on the basis of each employer's proportionate share of the total contributions required under the plan during the 5-year period. The liability of any particular employer however, is limited to 30 percent of that employer's net worth (before taking the liability to the PBGC into account.[1] In addition, if a substantial employer" withdraws from a plan to which more than one employer contributes, the employer is required to pay to the PBGC (or to post a bond for payment of) an amount equal to the employer's share of the insufficiency which would arise if the plan were to terminate. The payment is returned to the employer (or the bond is cancelled) if the plan does not terminate within 5 years after the withdrawal. Under present law, an employer is a substantial employer for a plan year if the employer's contributions during (1) each of the two preceding plan years, or (2) both the second and third preceding plan years were at least equal to 10 percent of the total contributions paid to the plan for each of such years.[2]

In the case of a single-employer plan to which only one employer contributes, liability for an insufficiency is allocated in full to that employer, subject to the "30 percent of net worth" limit. The substantial employer rules do not apply in such a case.[3]

Reasons for Change.

The Committees believe that the current rules governing an employer's liability upon withdrawal from a multiemployer plan fail adequately to protect plan participants, the employers who remain in the plan, and the PBGC premium payers. The present-law rules have the effect of increasing the liabilities of employers who remain with a plan until it terminates and rewarding those employers who leave the plan early. When an employer withdraws from a multiemployer plan, the remaining employers must assume the burden for funding benefit liabilities left by the withdrawing employer. In addition, a withdrawal may reduce the plan's contribution base and necessitate an increase in the rate of contributions to the plan.

The cessation of contributions by an employer to a multiemployer plan can seriously harm the plan. The plan is often obligated to pay benefits to that employer's employees, yet, because benefit promises may be funded over many years after they are made, the withdrawing employer may not have made sufficient contributions to the plan to fund a fair share of the cost of those benefit promises. Before ERISA, the plan

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[1] See DOL Regs. § 2510.3–37.

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[1] See ERISA secs. 4062 and 4064.

[2] See ERISA secs. 4001(a)(2) and 4063.

[3] See ERISA sec. 4062.

could simply reduce the benefits of the withdrawn employer's employees or of all participants in order to make up for the lost contribution base. ERISA's vesting and accrual provisions, however, now restrict this practice. Under ERISA's current provisions, other employers or the termination insurance system must often absorb the costs associated with an employer's withdrawal.

The exemption from withdrawal liability of all but substantial employers discourages large employers from joining multiemployer plans. The final imposition of liability only when a plan terminates within five years after the withdrawal encourages an employer to withdraw at the first indication that the plan may terminate and hope that the plan continues for five years, so that other employers or the insurance system will bear its share of the costs. At the same time, the present withdrawal liability rule creates incentives for remaining employers to terminate the plan so that they will not inherit the withdrawn employer's liabilities. Finally, the current law's 30 percent of net worth limitation on employer liability sometimes makes termination less expensive than continuing the plan.

Explanation of Provisions.

1. Overview.

In response to these problems in the current law, the bill generally requires that all withdrawing employers fund a share of the plan's unfunded liabilities when they withdraw. This withdrawal liability is payable regardless of whether the plan later terminates and regardless of whether the employer is a 10 percent or greater contributor. This withdrawal liability, subject to certain limitations, is determined without regard to net worth. The Committees support the proposed withdrawal liability rule as a way of better assuring equity among employers and the sound financing and continuation of multiemployer plans.

2. Definition of withdrawal.

a. Complete withdrawal.

The bill treats an employer as withdrawing from a multiemployer plan when the employer (1) permanently ceases to have an obligation to contribute under the plan, or (2) permanently ceases all covered operations under the plan. A withdrawal does not occur, however, where an employer ceases to exist merely by reason of a change in form or structure, as long as the employer is replaced by a successor employer and there is no interruption in the successor employer's contributions to the plan or obligation to contribute under the plan. A group of trades or businesses under common control is treated as a single employer. For example, if P Corporation owns 100 percent of the stock of S Corporation, a subsidiary that has an obligation to contribute to a multiemployer plan on behalf of its employees, the controlled group consisting of P and S would be considered an employer with an obligation to contribute to the plan. If P sells all of its interest in S to an unrelated party, the controlled group consisting of P and S would cease to exist. However, if S continues to have an obligation to contribute to the plan, no withdrawal would be considered to have taken place merely because of the change in ownership of S. (But see 6. Disregard of certain transactions.)

In addition, a withdrawal does not take place merely because an employer suspends making plan contributions during a labor dispute which involves its employees.

With respect to an employer who has completely withdrawn from a multiemployer plan and who subsequently resumes covered operations under the plan or renews an obligation to contribute to the plan, the PBGC is to prescribe regulations regarding the reduction or waiver of the employer's withdrawal liability to the extent consistent with the policy of protecting remaining employers, beneficiaries, and other participants. In addition, the PBGC is to prescribe regulations or a procedure under which a plan can provide rules for the reduction or waiver of withdrawal liability with respect to such an employer in appropriate circumstances.

b. Partial withdrawal.

Under the bill, an employer becomes subject to withdrawal liability in some cases in the event of a partial withdrawal, that is, where the employer neither completely ceases to have an obligation to contribute under the plan nor permanently ceases all covered operations under the plan. Under the bill, a partial withdrawal arises because of the occurrence of any of three specified events which could significantly decrease the employer's obligations for contributions under the plan. Under the bill, a partial withdrawal occurs—

(1) if the number of contribution base units (e.g., hours worked) with respect to which the employer is required to contribute for each of three consecutive plan years (the three-year testing period) does not exceed 30 percent (25 percent in the case of an employer contributing to a plan for employees in the Great Lakes maritime industry) of the number of contribution base units with respect to which the employer was obligated to contribute under the plan for the average of the two highest years in the five plan years preceding the three-year period (a 70-percent decline in contribution base units);

(2) if an employer who is required to contribute to a plan under two or more collective bargaining agreements ceases to have an obligation to contribute under at least one but not all of the agreements, but continues work in the jurisdiction of the agreement of the type for which contributions were previously required or transfers such work to another location; or

(3) if an employer permanently ceases to have an obligation to contribute under the plan for work performed at one or more but fewer than all of its facilities covered under the plan, but continues to perform work at the facility.

A more restrictive partial withdrawal rule is provided for the retail food industry at the request of representatives of both labor and management in that industry. This rule would treat as a partial withdrawal a diminution of the contribution base of 35 percent, rather than 70 percent, computed in the same manner as under the general rule. Because this rule would impose partial withdrawal liability more frequently than the general rule in the bill, the Committees require that it be accompanied by plan rules providing for proportional reduction of liability if the plan's contribution base does not decline by as many base units as the partially withdrawn employer's. A 70-percent decline in contribution base units is illustrated by the following example:

Assume a determination is to be made as to whether a partial withdrawal takes place for the plan year which is the calendar year 1987. Assume that the employer's contribution base units for 1985, 1986 and 1987 are 25,000 hours, 26,000 hours, and 27,000 hours respectively, and that the employer's contribution base units for 1980, 1981, 1982, 1983 and 1984 are 102,000 hours, 98,000 hours, 95,000 hours, 91,000 hours, and 85,000 hours respectively.

Contribution base units are the highest in 1980 and 1981 when such units are 102,000 hours and 98,000 hours, respectively. Accordingly, to determine if a partial withdrawal occurs in 1987, it must be determined whether the number of contribution base units in each of 1985, 1986 and 1987 are at least 30 percent of the average number of contribution base units in 1980 and 1981. Because such average contribution base units are 100,000 hours, a withdrawal does not occur unless contribution base units are fewer than 30,000 hours in each of 1985, 1986, and 1987. In this case, contribution base units are fewer than 30,000 hours in each year during the three-year testing period. Accordingly, a partial withdrawal in this case would be considered to take place as of the close of 1987.

A cessation of an employer's obligation to contribute to a plan under one but not all the collective bargaining agreements obligating the employer to contribute to the plan will not be considered to take place in any case where there is a mere substitution of an agreement with one collective bargaining agent for an agreement with another collective bargaining agent under the same plan.

Once it has been determined that a partial withdrawal has occurred, the amount of withdrawal liability is determined by multiplying the amount of withdrawal liability which would have applied in the case of a complete withdrawal (determined after application of the de minimis rules but before the application of the 20-year payment cap or the dollar limitations on withdrawal liability) by (1) one minus (2) a fraction. The numerator of the fraction is the employer's contribution base units for the plan year following the plan year of the partial withdrawal. The denominator of the fraction is the average of the employer's contribution base units for the five plan years immediately preceding the plan year for the partial withdrawal. However, in the case of a partial withdrawal because of a 70-percent decline in contributions the denominator of the fraction is the average of the employer's contribution base units for the five plan years immediately preceding the three-year testing period.

Under the bill, if withdrawal liability is determined on account of a partial withdrawal, the amount of the liability (adjusted for any abatement or other reduction) is applied as an offset against withdrawal liability for any future withdrawal from the plan, whether partial or complete. In addition, the future withdrawal will not relieve the employer from continuing to make its payments for withdrawal liability with respect to the earlier partial withdrawal. The PBGC is authorized to prescribe regulations necessary to make appropriate adjustments in the offset for future events so that withdrawal liability in the event of a future withdrawal properly reflects the employer's proper share of the plan's unfunded vested benefits.

The bill provides that a plan may be amended to eliminate partial withdrawal liability, in whole or in part, to the extent permitted by PBGC regulations.

The bill provides for abatement of all or part of an employer's partial withdrawal liability in the event of (1) a two-year 90 percent restoration of contributions, (2) a one-year complete restoration of contributions, (3) a "two-year reversal" of the reduction of contributions which triggered the liability, or (4) a ten percent contribution increase. In addition, the PBGC is authorized to prescribe regulations providing for the reduction or elimination of partial withdrawal liability under conditions where the PBGC determines that such an abatement is consistent with the policy of protecting remaining employers. Also, under a PBGC regulatory procedure, a plan may adopt rules for abatement of partial withdrawal liability under any other conditions, subject to PBGC approval to be based on a determination that the rules are consistent with the policy of protecting remaining employers.

An abatement under a 90-percent restoration of contributions rule completely eliminates the employer's partial withdrawal liability for plan years following the two consecutive plan years in which the 90-percent restoration of contributions takes place.

A one-year complete restoration of contributions occurs where the number of contribution base units used to determine the employer's required contributions for a plan year equals or exceeds the number of such units for a specified testing period. Where such a restoration takes place, the employer may, in lieu of continuing to pay partial withdrawal liability, post a bond to the plan for an amount determined by the plan sponsor not exceeding 50 percent of the otherwise required annual partial withdrawal liability payment. If the plan sponsor determines that the employer has no further partial withdrawal liability, the liability is completely eliminated and the bond is cancelled. If the plan sponsor determines that the employer continues to have partial withdrawal liability, (1) the plan may realize on the bond, (2) the employer remains liable for the amount of the year's liability not covered by the bond, and (3) no abatement takes place.

An abatement under a "two-year reversal" completely eliminates the employer's partial wtihdrawal liability for plan years following the two consecutive years in which the reversal of the reduction in contributions takes place.

A 10-percent contribution increase occurs where, for a plan year following the partial withdrawal, the number of contribution base units applied to determine the employer's required plan contributions exceeds the number of such units for the year of the partial withdrawal by at least 10 percent. In the case of an abatement under this rule, the employer's partial withdrawal liability payment for the year of the abatement is reduced pro rata under PBGC regulations. A plan may use a percentage other than 10 percent in applying this rule, except for a percentage prohibited by PBGC regulations.

The bill provides that the PBGC, by regulation, shall promulgate abatement rules for partial withdrawal liability arising from a partial withdrawal other than a 70-percent decline in contributions. These abatement rules are to be based upon principles similar to those governing abatement of partial withrawal liability in the case of a 70-percent decline in contributions. However, the tests prescribed are to be applied not with respect to an employer's entire contribution base, but only with respect to that portion of the contribution base (e.g., the facility) with respect to which the partial withdrawal occurred. If partial withdrawal liability arises both under the 70-percent decline rule and under another partial withdrawal rule, the abatement rules for the 70-percent decline in contributions are to apply.

The bill provides a special partial withdrawal rule for the building and construction industry. Under this rule, partial withdrawal occurs only where an employer continues its obligation to contribute for only an insubstantial amount of the work it does that is of the type that would otherwise be covered work and is performed in the jurisdiction of the collective bargaining agreement. It is the intent of the Committees that a partial withdrawal occurs only when an employer has substantially shifted its work mix (in the jurisdiction) so that only an insubstantial portion of such work in the jurisdiction is covered. The Committees intends that this be the exclusive partial withdrawal rule for the building and construction industry. Employers in certain segments of the entertainment industry will have liability for a partial withdrawal only to the extent provided in PBGC regulations.

(c) Construction etc., industry exception.

The bill includes a special definition of withdrawal for the building and construction industry. The Committees believe that this special definition is warranted because, in view of the nature of the industry, it provides substantial protection for the affected plans. For instance. an employer's leaving the jurisdiction of the plan or going out of business does not typically reduce the plan's contribution base. Rather, an employer reduces the plan's contribution base only if it continues to do what would have been covered work but does not have an obligation to contribute to the plan for that work. In order to protect the plan, that continuation of work without contributions is treated as a withdrawal in these industries. Other characteristics of the industries, including the mobility of both employers and employees and the intermittent nature of employment also persuade the Committees that this special rule is needed.

In the case of certain plans under which an employer has an obligation to contribute for work performed in the building and construction industry, a withdrawal is considered to take place only if an employer ceases to have an obligation to contribute under the plan, and (1) continues to perform work in the jurisdiction of the collective bargaining agreement, of the type for which contributions were previously required, or (2) resumes work in the jurisdiction within five years after the date the employer's obligation to contribute under the plan ceased and certain other conditions are satisfied.

An employer contributing to a plan is subject to these special rules only if substantially all of the employees for whom the employer has an obligation to contribute perform work in the building and construction industry, and (1) the plan covers primarily employees in the building and construction industry, or (2) the plan is amended to provide that the rules apply to employers with an obligation to contribute for work performed in the building and construction industry.

The Committees intend that an employer not be treated at having withdrawn simply because the jurisdiction of the plan expands after the employer has ceased its obligation to contribute to the plan.

In the case of plans that terminate through mass withdrawal, an employer who returns to the area covered under the plan within 3 years after its cessation will incur withdrawal liability.

The Committees understand that certain segments of the entertainment industry have characteristics similar to the building and construction industry in that work is performed on a project basis with little continuity of employment or employers. For example, the theatrical production companies typically exist only for the duration of the play. The bill provides that the construction industry definition of withdrawal applies to certain segments of the entertainment industry. Of course, it is not intended that the construction industry exception apply to plans covering segments of the entertainment industry which do not have the characteristics of the construction industry. Thus, for example, a plan covering stable companies would not be eligible for the exception. Further, the PBGC could prescribe definitional regulations extending the special rule, if appropriate, to certain other segments of the entertainment industry.

The Committees have adopted special rules governing withdrawals from plans under which substantially all the contributions are made by employers in the long- and short-haul trucking industry, the household moving industry, or the public warehousing industry. Under the bill, an employer primarily engaged in such work that ceases to perform work within the geographical area covered by the plan is considered to have withdrawn only if the PBGC determines that the cessation has caused substantial damage to the contribution base of the plan, or if, absent such a determination, the employer fails to post a bond or put an amount in escrow equal to 50 percent of its potential withdrawal liability.

If the employer posts the bond or escrow and the PBGC subsequently determines that the employer's cessation has substantially damaged the plan, the entire bond or escrow shall be paid to the plan, and the employer is liable for the remainder of the withdrawal liability in accordance with the usual withdrawal rules. In making the determination, the PBGC shall consider the cumulative or aggregate effect of all employer withdrawals from the plan.

The bond or escrow requirement will normally remain in effect for 60 months. After that time, the bond will be cancelled or the escrow returned, and the employer will have no further liability. However, the Committees emphasize that the employer will remain subject to a PBGC determination during the entire 60-month period. In addition, the bill provides the PBGC with authority to order the bond cancelled or the escrow returned at any time within the 60-month period upon a determination that the employer's cessation of contributions (considered with such cessations of other employers) has not damaged the plan in a substantial manner, and is not likely to so damage the plan in the future. Because the bond or escrow requirement is designed to protect plan participants and remaining employers, the Committees intend that the PBGC use this power sparingly.

In addition the bill authorizes the PBGC to extend the construction industry definition of withdrawal to other industries or parts of industries where there are clearly displayed the characteristics that would make use of such rules appropriate and where the extension would not pose an appreciable risk to the insurance system.

3. De minimis rules.

a. Mandatory de minimis rule.

Under the bill, an employer's withdrawal liability would be reduced but not below zero by an amount computed under a mandatory de minimis rule. The mandatory amount would be the lesser of (a) $50,000 or (b) .75 percent of the plan's unfunded vested benefits determined as of the close of the plan year immediately preceding the withdrawal. The de minimis amount would be phased out dollar-for-dollar to the extent that the employer's withdrawal liability (computed without regard to the de minimis rule) exceeds $100,000. The mandatory de minimis rule is to be applied to withdrawal liability determined before the application of any pro rata reduction on account of a partial withdrawal, any reduction as a result of the 20-year payment cap and any reduction because of the dollar limitations on withdrawal liability.

b. Discretionary de minimis rule.

Under the bill, plans may provide for a reduction but not below zero in liability equal to the greater of (1) the amount of the reduction determined under the mandatory rule, or (2) the lesser of .75 percent of the plan's unfunded vested benefits determined as of the close of the plan year immediately preceding the withdrawal, or $100,000. The de minimis amount would be phased out dollar-for-dollar to the extent that the employer's withdrawal liability (computed without regard to the de minimis rule) exceeds $150,000. The discretionary de minimis rule is to be applied to withdrawal liability determined before the application of any pro rata reduction on account of a partial withdrawal, any reduction as a result of the 20-year payment cap and any reduction because of the dollar limitations on withdrawal liability. Because the discretionary de minimis rule contains the amount determined under the mandatory de minimis rule as an alternative within its formula, the actual de minimis amount applied against withdrawal liability in the case of a plan using the discretionary rule would be only the discretionary de minimis amount and the mandatory rule would not be separately applied.

c. De minimis rules not applicable in the case of a mass withdrawal.

The de minimis rules under the bill do not apply in the case of a mass withdrawal from a plan. Thus, the rules do not apply to an employer who withdraws from a plan in a plan year in which substantially all employers withdraw, or to an employer who withdraws under an agreement or arrangement under which substantially all employers withdraw from the plan in one or more plan years. Where substantially all employers withdraw from a plan within a period of three plan years, it is presumed that such an agreement or arrangement exists unless the contrary is shown by a preponderance of the evidence.

3. Exception for new employers.

The bill provides a rule under which an employer first entering a plan would not be subject to withdrawal liability, either in the case of a complete withdrawal or of a partial withdrawal, if certain conditions are met. The applicable conditions are as follows:

(a) the employer was first obligated to make plan contributions after the date of enactment of the bill;

(b) the employer was not required to make plan contributions for more than the lesser of (1) six consecutive plan years preceding the date of withdrawal or (2) the number of years required for vesting under the plan;

(c) for each plan year for which contributions by the employer were required, the employer's contributions were less than 2 percent of all employer contributions to the plan for the plan year;

(d) the plan does not primarily cover employees in the building and construction industry; and

(e) the employer did not previously have the benefit of this exception with respect to the plan.

In addition, the exception applies only if (1) the plan provides for its application; (2) the plan provides that benefits of participants accrued on the basis of service for the employer before the employer was required to contribute to the plan may not be payable if the employer ceases contributions to the plan and (3) the ratio of plan assets to benefit payments during the plan year preceding the first plan year for which the employer was required to make plan contributions was at least 8 to 1. Of course, the rule requiring that a plan provide for cancellation of benefits where the employer ceases contributions to the plan would not require any reduction of benefits to participants or beneficiaries whose benefits are in pay-status at the time of the cessation and who are not working in employment covered by the plan.

This "free look" rule does not apply in the case of a mass withdrawal from the multiemployer plan, as defined in the bill.

4. Liability of transferor in case of transfer of corporate assets.

Under the bill, an employer would not have partial or complete withdrawal liability solely because covered operations of the employer have been transferred to another employer in connection with a sale of the employer's assets, if certain specified conditions are satisfied.

The Corporation is given the authority to vary these rules by regulation either if it should become necessary to protect plans or if the Corporation determines that lesser safeguards are adequate. In addition, the Corporation is given the authority to grant individual or class exemptions from the sale rules in the bill, in whole or in part, for the period before it issues regulations. The Corporation may grant any such exemption or variance only after a notice of the proposed exemption or variance is published in the Federal Register, separate steps adequate to provide notice to plan participants, the joint board of trustees, and the employers and unions sponsoring the plan have been taken, and the Corporation has afforded such interested persons the opportunity to present their views as to the appropriateness and effect of the proposed exemption or variance.

To prevent the sale rule from being used to escape withdrawal liability simply by substituting one employer for another, the bill only extends the rule to bona fide, arms-length transactions between unrelated parties.

5. Limitations on withdrawal liability.

a. Overview.

As noted above, employer withdrawal liability is necessary to insure that employers that remain in the plan are not burdened with funding liabilities that should have been funded by the withdrawn employer. However, the Committees recognize that under some circumstances it is appropriate to balance the needs of these employers against those of the withdrawn employer. Accordingly, special relief rules are provided for (1) insolvency, (2) individual employers, and (3) asset sales. These relief provisions are applied to withdrawal liability determined after the application of (1) the deminimis rules, (2) any pro rata reduction of liability on account of a partial withdrawal, and (3) the 20-year payment cap.

b. Insolvency.

Under the bill, an insolvent employer undergoing a liquidation or dissolution is always liable for an amount equal to 50 percent of his normal withdrawal liability. However, the employer's exposure for the next 50 percent of his normal withdrawal liability is limited to the employer's liquidation or dissolution value. This value is determined by taking the employer's value as of the beginning of the liquidation or dissolution, and reducing that value by an amount equal to the first 50 percent of the employer's normal withdrawal liability. To qualify for this rule, an insolvent employer need not undergo a formal liquidation or dissolution. It must, however, be insolvent and wind up its business affairs. The insolvency limitation applies in the aggregate to total withdrawal liability at the time of insolvency. Thus, where liabilities arise because of withdrawals from several plans, the 50-percent insolvency rule would be applicable to each such liability.

c. Individual employers.

The Committees recognize that some employers that are obligated to contribute to multiemployer plans are individuals, i.e., sole proprietors, or partners. The Committees believe that if such an employer withdraws from a multiemployer plan, some of the employer's personal assets, such as his residence, should be shielded from employer liability. A special rule provides that where the withdrawn employer is an individual, the employer's personal assets that would be exempt under bankruptcy law will be protected from employer liability.

d. Assets sales.

In addition, certain rules apply if an employer withdraws in connection with the sale of all or substantially all of its business assets. In this case, if the liquidation value of the employer (determined without regard to withdrawal liability) does not exceed $2 million, the employer's liability is limited to the greater of (1) 30 percent of liquidation value, or (2) the liability attributable to the employer. For employers with liquidation values which exceed $2 million, this rule applies, except that the 30-percent limit (in (1) above) is gradually increased. Thus, to the extent liquidation value exceeds $10 million, 80 percent of the excess liquidation value may be used to determine withdrawal liability. The percentage limitation applies in the aggregate to all withdrawals in connection with a sale of assets. Thus, where withdrawals from several plans take place, the limitation must be approtioned among the plans.

6. Disregard of certain transactions.

The bill provides specific rules governing the imposition of employer liability under multiemployer plans. However, the Committees expect that effective enforcement of these rules will require plan sponsors, employers, and courts to disregard sham transactions, or transactions structured to avoid or evade liability, just as the PBGC is expected to disregard sham transactions in the enforcement of current law. Accordingly, the bill provides that where a principal purpose of any transaction (or series of transactions) is to evade or avoid employer liability, the transaction will be disregarded, and employer liability will be assessed and collected according to the substance of the transaction. The Committees believe that this provision will help plans to disregard transactions that were structured to avoid possible withdrawal liability.

7. Phase-in of withdrawal liability.

The bill provides a special rule which prevents certain events which occurred before April 29, 1980, from triggering withdrawals, and from increasing the liability for a partial withdrawal, on or after that date. Under the bill, for the purpose of determining withdrawal liability, for a complete or a partial withdrawal after April 28, 1980, and for the purpose of determining whether a partial withdrawal has occurred after that date, the amount of contributions and the number of contribution base units of the affected employer which are properly allocable to (1) work performed under a collective bargaining agreement for which there was a cessation of contributions before April 29, 1980, or (2) work performed at a facility for which there was a cessation of contributions before April 29, 1980, are not to be taken into account.

The PBGC is authorized to prescribe regulations setting forth the method by which the withdrawal liability of other employers in a plan is to be adjusted where an employer receives the relief provided by this rule.

8. Computation of withdrawal liability.

a. Presumptive method.

The bill, in its presumptive method for computing withdrawal liability, draws a distinction between employers who contributed to a plan for a plan year ending before April 29, 1980, and employers who did not contribute to the plan for such a year. As to employers who contributed to a plan for such a year, the computation of withdrawal liability is based on (1) the unfunded vested benefits of the plan attributable to those years, as well as on (2) changes in the unfunded vested benefits of the plan for plan years ending on or after April 29, 1980, in which the employer was required to contribute to the plan. In the case of an employer who was not required to contribute to the plan for a plan year ending before April 29, 1980, the employer's withdrawal liability is computed solely with reference to changes in the unfunded vested benefits under the plan for plan years ending on or after April 29, 1980, in which the employer was required to contribute to the plan. Under the bill, the presumptive method generally applies unless a plan adopts one of the alternative methods.

In particular, withdrawal liability under the presumptive method is divided into three parts, as follows:

(1) liability with respect to changes in unfunded vested benefits for plan years ending on or after April 29, 1980, but not after the date of withdrawal, in which the employer was obligated to contribute under the plan;

(2) liability with respect to unfunded vested benefits for plan years ending before April 29, 1980; and

(3) liability with respect to unfunded vested benefits which are reallocated under the plan because they are uncollectible or not assigned to an employer under one of the bill's relief provisions.

In the case of an employer who was not required to contribute to a plan until a plan year ending on or after April 29, 1980, the second component of withdrawal liability does not apply.

The portion of an employer's withdrawal liability attributable to plan years ending after April 29, 1980, is computed in four steps, as follows:

(1) The first step is to determine what is known as the "change in a plan's unfunded vested benefits" for each plan year ending on or after April 28, 1980. Under the bill, this amount is calculated for each plan year as the difference between (a) the unfunded vested benefits as of the end of the plan year, and (b) the sum of (i) the unfunded vested benefits on the last day of the last plan year ending before April 28, 1980, reduced by five percent for each succeeding plan year which precedes the plan year, and (ii) the sum of the changes in unfunded vested benefits for each plan year ending on or after April 29, 1980, and preceding the plan year (computed with each such change reduced by five percent for each succeeding plan year preceding the plan year).

(2) The second step is to determine what is known as "the unamortized amount of the change in a plan's unfunded vested benefits with respect to a plan year". This amount is determined by reducing the change in a plan's unfunded vested benefits for a plan year (determined under step (1)) by five percent for each succeeding plan year.

(3) The third step is to calculate the employer's "proportional share" of the unamortized amount of the change in the plan's unfunded vested benefits for each plan year involved. This is accomplished by multiplying the unamortized amount of the change for each plan year, determined as of the end of the plan year in which the employer withdraws from the plan, by a fraction. The numerator of the fraction is the sum of contributions which the employer was required to make to the plan for the year of the change and for the preceding four plan years. The denominator of the fraction is the sum of contributions which all employers made to the plan for the year of the change and for the preceding four plan years.

(4) The final step is to add up the employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for each of the plan years. This total is the employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for all plan years ending on or after April 29, 1980.

The portion of an employer's withdrawal liability with respect to plan years ending before April 29, 1980, is determined by multiplying (1) the amount of the unfunded vested benefits under the plan at the close of the last plan year ending before April 29, 1980 (reduced by five percent for each succeeding plan year), by (2) a fraction. The numerator of the fraction is the sum of contributions which the employer was required to make the plan for the last five plan years ending before April 29, 1980. The denominator of the fraction is the sum, for the same five years, of plan contributions made by all employers who (a) had an obligation to contribute under the plan for the first plan year ending on or after April 29, 1980, and (b) had not withdrawn from the plan before April 29, 1980.

b. First alternative method.

The first alternative method also draws a distinction between employers who contributed to a plan for plan years ending before April 29, 1980, and employers who did not contribute to the plan for such years. As in the case of the presumptive method, only employers who contributed for years ending before April 29, 1980, are to have their withdrawal liability computed with reference to unfunded vested benefits under the plan attributable to such years. Other employers are to have their withdrawal liability computed solely with reference to the plan's unfunded vested benefits attributable to plan years ending on or after April 29, 1980. However, unlike the presumptive method, under the first alternative method, an employer's withdrawal liability is to be based on the aggregate change in unfunded vested benefits with respect to all plan years ending on or after April 29, 1980, rather than on the changes in unfunded vested benefits for each separate plan year for which the employer was required to contribute to the plan.

In particular, the first component of withdrawal liability under the first alternative method is to be obtained by multiplying (1) the plan's unfunded vested benefits as of the end of the last plan year ending before April 29, 1980, reduced as if that amount were being amortized thereafter in level annual installments over 15 years, by (2) a fraction. The numerator of the fraction is the sum of the plan contributions required of the employer for the last plan year ending before April 29, 1920, and for the preceding four plan years. The denominator of the fraction is the sum of the contributions made by included employers for that period of five plan years. An employer is included if (1) the employer was required to contribute to the plan for the first plan year ending on or after April 28, 1980, and (2) the employer had not withdrawn from the plan before that date.

The second component of withdrawal liability under the first alternative method is to be obtained by computing the excess of the plan's unfunded vested benefits (as of the last day of the plan year preceding the plan year in which the employer withdraws) over the sum of (1) the value on such date of all outstanding claims for withdrawal liability (with respect to employers withdrawing before the plan year) which can reasonably be expected to be collected and (2) the portion of the plan's unfunded vested benefits as of the last day of the last plan year ending before April 29, 1980 (as reduced by 15-year amortization), which is allocable to remaining included employers and multiplying such excess by a fraction. The numerator of the fraction is the total amount required to be contributed by the employer for the last plan year ending before withdrawal and for the four preceding four plan years. The denominator of the fraction is the total amount contributed by all employers for those five plan years, increased by employer contribution for earlier periods that are collected during the five plan years, and reduced by the contributions made by any employer who withdrew from the plan during any of the five plan years. An employer is included in this case if the employer was required to contribute to the plan for the first plan year ending on or after April 29, 1980, as well as for the plan year preceding the withdrawal.

c. Second alternative method.

The second alternative method for computing withdrawal liability draws no distinction between employers who were required to contribute to a plan for plan years ending before April 29, 1980, and employers who were required to contribute only for plan years ending on or after April 29, 1980. Accordingly, employers in both categories are to have their withdrawal liability computed with reference to all of a plan's unfunded vested benefits.

Under this method, withdrawal liability is to be determined by multiplying (1) the plan's unfunded vested benefits as of the end of the plan year preceding the withdrawal, reduced by the value as of such date of outstanding claims for withdrawal liability (with respect to employers withdrawing before the plan year) which can reasonably be expected to be collected by (2) a fraction. The numerator of the fraction is the amount which the employer was required to contribute to the plan for the five plan years preceding the plan year of the withdrawal. The denominator of the fraction is the total amount contributed by all employers for those five plan years, increased by employer contributions for earlier periods that are collected during the five plan years, and reduced by the contributions made by any employer who withdrew from the plan during any of the five plan years.

d. Third alternative method.

The alternative method takes a substantially different approach to computing withdrawal liability. Rather than determining the liability based upon the employer's share of plan contributions during a five-year period, the method is intended to compute the portion of the plan's unfunded vested benefits which are attributable to service of plan participants with the employer. This is generally to be done by attributing portions of the unfunded vested benefits to each employer in accordance with specified rules. In addition, the plan's unfunded vested benefits which are not attributable to any present employer is also to be computed. A portion of those "unattributable benefits" is then to be allocated to the employer. An employer's withdrawal liability is then to be determined as the sum of (1) the portion of the plan's unfunded vested benefits which are attributable to plan participants' service with the employer, and (2) the portion of "unattributable benefits" which is allocated to the employer. All determinations are to be made as of the end of the plan year preceding the plan year of the withdrawal.

e. Other methods.

The bill authorizes the PBGC to prescribe by regulations a procedure by which a plan may adopt other methods for determining withdrawal liability. The PBGC, before approving any such method, is to be required to determine that the method would not significantly increase the risk of loss to plan participants, beneficiaries, or the PBGC. In addition, the PBGC is to be authorized to prescribe standard approaches for alternative methods for which approval would either not be necessary or would be necessary only under a modified procedure. Any such alternative method is to be required to allocate to employers all of the plan's unfunded vested benefits.

In determining an employer's withdrawal liability under the presumptive method or any of the alternative methods, if the method specifies the use of a five plan year period in the numerator or denominator of a fraction, the plan could provide instead for the use of a period of more than five, but not more than 10, plan years, unless PBGC regulations provide otherwise.

f. Other rules.

The PBGC is authorized by regulation to permit adjustments in any denominator used in a fraction for calculating withdrawal liability where the adjustment would (1) be consistent with the purposes of title IV of ERISA and (2) be appropriate to ease administrative burdens of plan sponsors in making their calculations. Under the bill, in the event of a transfer of liabilities from the plan from which a withdrawal takes place to another plan in connection with a withdrawal, withdrawal liability is to be reduced by an amount equal to the value, determined at the end of the last plan year ending on or before the date of the withdrawal, of the transferred unfunded vested benefits.

In the case of a withdrawal by an employer following a merger of multiemployer plans, withdrawal liability is to be computed under the applicable method in accordance with PBGC regulations. However, in the case of a withdrawal in the first year beginning after the merger, withdrawal liability is determined as if the plans had remained separate.

In the case of certain plans established prior to January 1, 1954, as a result of an agreement between employee representatives and the Government of the United States during a period of government operation, under seizure powers, of a major part of the productive facilities of an industry (Code sec. 404 (c)), the presumptive method for determining withdrawal liability is the second alternative method for computing such liability. In addition, the exception for new employers, and other relief provisions do not apply to such a plan unless the plan is amended to provide for their application.

9. Payment of withdrawal liability.

a. In general.

An employer who withdraws from a multiemployer plan is to be required to pay its withdrawal liability to the plan in accordance with a payment schedule to be determined by the plan sponsor under standards set forth in the bill.[5] As soon as practicable after a withdrawal, the plan sponsor is to be required to notify the employer of (1) the amount of withdrawal liability, and (2) the payment schedule. In addition, the plan sponsor is to be required to demand that the employer make payment of withdrawal liability in accordance with the payment schedule.

In calculating the payment schedule, the plan is to compute the annual payment under a formula set forth in the bill. The employer is generally to be required to make this payment to the plan for the lesser of (1) the number of years it would take to amortize its withdrawal liability (determined under the assumptions used for the most recent actuarial valuation for the plan) or (2) 20 years. The amount of each annual payment under the formula is to be determined as the product of two amounts. The first amount is the average number of contribution base units (e.g., hours worked, tons of coal mined) for the two consecutive plan years, during the period of five plan years ending with the plan year preceding the plan year in which withdrawal occurs, in which the number of units was the highest. The second amount is the average contribution rate (e.g., cents per hour) for the two consecutive plan years, during the period of five plan years ending with the plan year in which the withdrawal occurs, in which the contribution rate was the highest. In the case of a partial withdrawal, the annual payment is to be a pro rata portion of the annual payment which would apply for a complete withdrawal.

For example, assume that an employer's withdrawal liability is 1 million and that the plan's valuation rate of interest is 6 percent. Assume that in the 2 years for which the contribution base units were the highest during the 5 most recent plan years preceding the withdrawal during which the employer was obligated to contribute to the plan, the number of such units were 80,000 hours and 90,000 hours respectively. Also, assume that in the 2 years for which the contribution rate was the highest during the 5 most recent plan years during which the employer was obligated to contribute to the plan, the rates were 70 cents per hour and 80 cents per hour, respectively.

The product of 85,000 hours (the average of 80,000 and 90,000) and 75 cents an hour (the average of 70 cents and 80 cents) is $63,750. This would result in the amortization of the liability over approximately 49 years. Because the 49-year schedule is longer than 20 years, the employer would be liable to the plan for 20 annual payments of $63,750.

As an alternative, a plan could provide that for any plan year ending before 1986, the amount of an employer's annual withdrawal liability payment would be the average of the required employer contributions under the plan for the period of two consecutive plan years for which such contributions were the highest during the period of five consecutive plan years ending with the plan year preceding the plan year in which the withdrawal occurs. This method may not be used by a plan for determining withdrawal liability payments in any case in which the plan terminates because of mass withdrawal. If a plan provides for this computation method and then is amended to provide for use of the regular method provided under the bill, the plan must use the regular method thereafter.

In the event that a multiemployer plan terminates upon (1) withdrawal of all employers in the plan or (2) withdrawal of substantially all employers in the plan pursuant to an agreement or arrangement to withdraw (a "mass withdrawal"), the annual amount of withdrawal liability payable by each employer is to be computed without regard to the 20-year limit and total unfunded vested benefits of the plan are allocated to all employers under PBGC regulations. Thus in the above example, if all employers were to withdraw, the liability of the employer would be $63,750 a year for approximately 49 years, unless the amount or payment period were to differ because of PBGC regulations which allocate unfunded vested benefits. The 20-year cap is one of several employer relief provisions contained in the bill. The cap is to be applied to withdrawal liability determined after application of the *de minimis* rules and after any pro rata reduction on account of a partial withdrawal, but before the application of the dollar limitations on withdrawal liability.

b. Time for payment.

Payment of withdrawal liability is to begin no later than 60 days after the date on which a demand for payment is made by the plan sponsor. Under the bill, payments are generally to be made in four equal quarterly installments unless a particular plan provides for payment at other intervals. In any case where payment is not made when due, the bill requires interest to accrue with respect to the unpaid amount based on the prevailing market rate.

An employer is to be permitted to prepay its withdrawal liability obligations plus accrued interest, if any, in whole or in part without penalty.

In the event of default by an employer in payment of its withdrawal liability, other than a default occurring while an employer is challenging a plan's determination of withdrawal liability, the plan sponsor is to be permitted to require immediate payment of the balance of the employer's withdrawal liability plus any accrued interest thereon. Default is generally considered to occur where an employer fails to make any payment with respect to withdrawal liability when due, and further fails to make payment within 60 days after receiving written notice from the plan sponsor that payment of withdrawal liability is due but unpaid. In addition, the plan is to be permitted to adopt rules which would provide for other instances of default where it is indicated that there is a substantial likelihood that an employer will be unable to pay its withdrawal liability.

A multiemployer plan may adopt rules consistent with the bill which set forth other terms and conditions for the satisfaction of an employer's withdrawal liability. In addition, the bill permits a multiemployer plan to enter into a settlement with an employer regarding a disputed amount of withdrawal liability.

In the case of a multiemployer plan which terminates, each employer's obligation to make withdrawal liability payments for the future is to cease at the end of the plan year in which the plan's assets, exclusive of outstanding withdrawal liability claims, are sufficient to meet all of its obligations. This detrmination of sufficiency is to be made by the PBGC.

c. Notice requirements and furnishing of information.

The bill requires that certain procedures be observed in the determination and collection of withdrawal liability. The Committees include these requirements not to impede the determination and collection of liabilitiy but rather to assure that the rights of all parties to a fair determination are protected. The Committees are mindful of their responsibility to provide a reasonable and fair scheme for assessment of this statutory liability and believe that the prescribed procedures will result in reasonable determinations, ample opportunity for affected parties to challenge the plan's determination of liability, and payments terms that are predictable and reasonable. In particular, an employer that a plan determines has withdrawal or partial withdrawal liability has stationary right to review the plan's determination or proposed schedule of payments as well as relevant plan records, to submit additional information, and to contest any relevant specific matter and obtain a written disposition of the matter. In addition, employers generally have a right to prospective and uniform application of general plan rules.

Withdrawal liability is to be collectible upon notice and demand to the withdrawn employer by the plan sponsor. In order for the plan sponsor to be in a position to accurately determine liability, the bill requires the employer to furnish information to the plan sponsor. After an employer withdraws from a plan, the plan sponsor is to request in writing that the employer furnish such information as the plan sponsor reasonably considers necessary for it to fulfill its duties in computing and collecting withdrawal liability. The bill requires an employer to furnish the requested information within 30 days after such a written request from the plan sponsor.

The actual demand for payment of liability in accordance with the payment schedule is to be made by the plan sponsor. The bill requires that when the plan sponsor demands payment the plan must afford the employer 90 days (1) to identify errors and review specific matters in the determination of withdrawal liability, (2) to identify errors in the payment schedule, and (3) to furnish to the plan sponsor any additional pertinent information. The plan sponsor also is required, if requested, to make relevant plan records reasonably available to the employer for review and duplication. In response to a request by an employer, the plan sponsor is required to conduct a reasonable review of any matter questioned and to notify the employer of (1) its decision (2) the grounds for its decision, and (3) the reason for any modification in the employer's withdrawal liability or of the payments schedule.

10. Determination of actuarial assumptions, etc.

The PBGC is authorized to prescribe regulations setting forth actuarial assumptions which a plan may use in calculating withdrawal liability. However, plan may provide instead that its own assumptions will be used to determine withdrawal liability rather than those developed by the PBGC provided such assumptions are reasonable in the aggregate.

In determining the unfunded vested benefits under a plan, the plan's actuary is permitted to rely on data available or on data secured by certain sampling techniques in situations where complete and definite data is absent, provided such data can reasonably be expected to be representative of the status of the entire plan. In addition, the actuary is permitted to rely on the most recent actuarial valuation used for funding purposes and to make reasonable estimates for interim years of unfunded vested benefits. However, the bill continues the authority of the Internal Revenue Service to require more frequent valuations in appropriate cases.

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[5] The plan sponsor of a multiemployer plan is generally a Joint Board of Trustees which administers the plan.

11. Plan rules and amendments.

There are several situations where plans, in the application of their own rules, either initially or by amendment, are permitted a wide degree of latitude in allocating and calculating withdrawal liability. In order to protect an employer from certain retroactive changes in a plan's rules, the bill prohibits the retroactive application of a plan rule or amendment relating to withdrawal liability, that is adopted after January 31, 1981, from applying to a withdrawal occurring before its date of adoption, unless the employer consents to its earlier application.

The bill also requires that plan rules and amendments operate and be applied uniformly with respect to all employers except to the extent that lack of uniformity would be required to take into account employers' credit ratings.

Under the bill, when a plan rule or amendment affects withdrawal liability, the plan sponsor is required to give notice of the adoption of the rule or amendment to all employers required to contribute to the plan and to all employee organizations representing employees covered by the plan.

12. Notice to the PBGC.

Under regulations the PBGC is permitted to require a plan sponsor to notify the PBGC in any case where the withdrawal from a plan of an employer has resulted, or will result, in a significant reduction in total contributions to the plan.

13. Relationship to other rules.

Actions taken under the bill pursuant to the withdrawal liability rules are not to be considered prohibited self-dealing transactions.

In addition, payments of withdrawal liability are not to be considered employer contributions for purposes of calculating withdrawal liability.

14. Approval of amendments.

If an amendment to a multiemployer plan authorized under the withdrawal liability provisions is adopted more than 36 months after the effective date of the bill, the amendment will be effective only if (1) the PBGC approves the amendment, or (2) within 90 days after it receives notice of the amendment from the plan sponsor, the PBGC fails to disapprove the amendment. However, certain amendments regarding methods for computing withdrawal liability could be adopted only in accordance with the section of the bill authorizing the amendments. The PBGC is to disapprove of a plan amendment only where it determines that the amendment creates an unreasonable risk of loss to plan participants, beneficiaries, or the PBGC.

15. Employer challenge to a plan's determination of withdrawal liability or unfunded vested benefits.

Under the bill, an employer is permitted to challenge a plan's determination of withdrawal liability or of unfunded vested benefits. Such disputes are subject to compulsory arbitration. In the resolution of the dispute, the plan is treated as having met its burden of proof with respect to its unfunded vested benefits if certain standards are satisfied. Pending the resolution of the dispute, the employer is required to pay withdrawal liability as originally determined by the plan, but the failure to pay an installment before the arbitration is concluded would not accelerate payment of future installments. Any party to the arbitration may bring an action in the United States district court to enforce, vacate or modify the arbitrator's award. In the court proceeding, there is to be a rebuttable presumption that the arbitrator's findings of fact were correct.

16. Supplemental fund for reimbursement for uncollectible withdrawal liability.

Under the bill, the PBGC is required to establish a supplemental program by May 1, 1982, to reimburse multiemployer plans for withdrawal liability payments which are uncollectible because of bankruptcy or similar proceedings involving the employer. Under the program, the PBGC could also provide for the reimbursement of a plan for withdrawal liability which is uncollectible for any other appropriate reason. A plan could elect coverage under the supplemental program and, if it did so, would be charged a premium for such coverage. The cost of the program (including appropriate administrative and legal costs) could be paid only out of premiums collected under the program. The PBGC could carry out the program in whole or in part under an arrangement with private insurers.

17. Withdrawal liability payment fund.

The bill permits plan sponsors of multiemployer plans to establish and participate in private funds for the purpose of paying withdrawal liabilities under certain circumstances. Any such fund which meets the applicable requirements is to be a tax-exempt organization. The fund would be required to maintain agreements for collection of premiums and payment of withdrawal liability with respect to a substantial portion of the participants in the multiemployer plan eligible to participate in the fund. The fund is to be administered by a board of trustees on which there is equal representation of employers and employees.

The fund would receive contributions from participating plans. Contributions by a plan to the fund during a plan year are to reduce the amount considered contributed to the plan for the year for purposes of the minimum funding standard and the minimum contribution requirement. The Committees expect that, in considering whether to approve a waiver of the funding requirements for a plan under section 412(d) of the Code for a plan year during which the plan has made a contribution to a withdrawal liability payment fund, the amount and nature of the payment will be taken into account.

The eligibility of a plan to participate in a fund is to be determined by the rules of the fund. Where an employer has withdrawn from a participating multiemployer plan and has incurred withdrawal liability, the fund, subject to strict statutory conditions, could pay to the plan certain specified amounts.

The PBGC is authorized to prescribe regulations with respect to withdrawal liability payment funds. The Committees expect that such regulations will assure that the funds do not have the effect of undermining the purposes of the withdrawal liability rules. For example, the Committees expect that PBGC regulations will assure that payments by a fund with respect to unattributable liability are not in excess of appropriate levels. Of course, PBGC rules with respect to the withdrawal liability payment fund and with respect to the PBGC-administered fund are not to be designed or administered for the purpose of providing either of the arrangements a competitive advantage over the other.

The bill provides fiduciary standards with respect to withdrawal liability payment funds and supersedes all State laws providing for such standards.

18. Withdrawal liability payment fund maintained by certain employers.

The bill permits employers in the building and construction industry that contributes to multiemployer plans to establish and participate in private funds for the purpose of paying plan-related liabilities in certain circumstances. These funds are not to be confused with the trusts which groups of plans in an industry may maintain for payment of withdrawal liability. Accordingly, it is expected that regulatory rules applicable to employer-maintained funds will not automatically apply to the plan-maintained funds. Rather, they will apply only where it is determined that their application is appropriate.

19. Definition of obligation to contribute.

For purposes of the withdrawal liability rules, an employer has an obligation to contribute if its obligation arises under one or more collective bargaining (or related) agreements or as a result of a duty under applicable labor-management relations law. An obligation to pay withdrawal liability or delinquent contributions is not considered an obligation to contribute.

20. Union-mandated withdrawals.

The bill requires the PBGC to study the subject of union-mandated withdrawals from multiemployer plans and to determine whether special rules are necessary in the case of such withdrawals. Should the PBGC determine that such rules are necessary, it is to make appropriate recommendations to the Congress.

21. Study on collective bargaining on pension benefits.

The bill requires the Department of Labor to study the feasibility of requiring employers and unions to bargain over both benefits and contributions. The Department of Labor is to provide the Congress with findings and recommendations on this issue within three years after date of enactment.

D. Merger or Transfer of Plan Assets or Liabilities.

Present Law.

Under the Code and under the nontax provisions of ERISA, a plan is not permitted to merge or consolidate with, or transfer its assets or liabilities to, another plan unless certain conditions are met. The applicable conditions require that the benefits which each participant in the plan would receive if the plan were to terminate immediately after the merger, etc., will not be less than the benefits the participant would receive under the merged plan if that plan terminated immediately before the merger, etc.

In the case of a single-employer plan to which only one employer contributes, liability for an insufficiency is allocated in full to that employer, subject to the "30 percent of net worth" limit. The substantial employer rules do not apply in such a case.[3]

Reasons for Change.

Under present law, the PBGC is authorized to determine the extent to which the statutory rules governing mergers and transfers of assets and liabilities apply to multiemployer plans. The Committees believe that these statutory rules are not readily adaptable to multiemployer plans. Accordingly, appropriate rules are needed to protect participants in multiemployer plans when a merger or transfer of assets occurs. In addition, the rules should prevent transfers that would create unnecessary liability for the PBGC. The Committees believe that the rules contained in the bill protect plan participants and PBGC premium payers.

Explanation of Provisions.

1. Mergers and transfers involving only multiemployer plans.

The bill establishes four requirements that a multiemployer plan must meet before it can merge with, or engage in a transfer of assets or liabilities to another multiemployer plan. These four requirements are: (1) the plan sponsor must notify the PBGC of the merger or transfer at least 120 days before the effective date of the merger or transfer; (2) no participant's or beneficiary's accrued benefit may be lower immediately after the effective date of the merger or transfer than immediately before the date; (3) the benefits of participants and beneficiaries are not reasonably expected to be subject to suspension under the insolvency provisions of the bill; and (4) an actuarial valuation of the asset and liabilities of the affected plans must have been performed during the plan year preceding the effective date of the merger or transfer.

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[3] See ERISA sec. 4062.

A plan to which liabilities are transferred is treated as a successor plan for benefit guarantee purposes.

2. Transfers between a multiemployer plan and a single-employer plan.

The bill provides that, in the case of a transfer of assets or liabilities between, or a merger of a multiemployer plan and a single-employer plan, the accrued benefit of any participant may not be lower immediately after the transfer or merger than it was immediately before the transfer or merger.

As a general rule, the bill requires that, where a multiemployer plan transfers liabilities to a single-employer plan, the multiemployer plan is liable to the PBGC in the event of the termination of the single-employer plan within 60 months after the transfer. The amount of the liability is the lesser of (1) the excess of the insufficiency of plan assets of the terminated single-employer plan over 30 percent of the net worth of the employer maintaining the single-employer plan, or (2) the value of the unfunded benefits transferred to the single-employer plan and guaranteed by the PBGC (such value to be determined at the time of the transfer). The multiemployer plan is liable to the PBGC unless the PBGC determines that the interests of the participants and the PBGC are otherwise adequately protected. Where the PBGC makes such determination, it must do so within 180 days after receipt of a complete application from the plan sponsor of the multiemployer plan.

A multiemployer plan is not liable under the bill because of the transfer of liabilities to a single-employer plan where (1) the liabilities had previously accrued under a single-employer plan that merged with the multiemployer plan, (2) the present value of the liabilities transferred to the single-employer plan is not greater than the present value of liabilities for benefits which accrued before the single-employer plan merged with the multi-employer plan, and (3) the value of the assets transferred to the single-employer plan with the liabilities is substantially equal to the value of the assets which would have been in the single-employer plan if the employer had maintained and funded it as a separate plan under which no benefits accrued after the merger. This exception to the liability provision is sometimes referred to as the "in and out rule" because it is designed to protect multi-employer plans which merge with, but later spin off single-employer plans.

In any case where a multiemployer plan is liable under the bill because of a merger or transfer, the PBGC is authorized to make arrangements for satisfaction of the liability.

Where benefits are transferred to a single-employer plan under the merger or transfer rules, the benefits are thereafter to be governed by the termination insurance rules applicable to single-employer plans.

As a general rule, a multiemployer plan is not permitted to transfer assets to a single-employer plan unless the plan sponsor of the single-employer plan agrees to the transfer. In the case of a transfer under the "in and out" rule, however, the plan sponsor need not so consent if advance agreement is obtained from the employer who, after the transfer, will be obligated to contribute to the single-employer plan.

In addition, the bill limits or restricts transfers made from plans that are in reorganization, or that have terminated because of mass withdrawal.

3. Partition.

With respect to multiemployer plans, the PBGC may, on its own initiative or upon the application of a plan sponsor, order the partition of a plan. The PBGC may order the partition of a plan only if notice has been given to the plan sponsor and the participants and beneficiaries whose vested benefits will be affected and if the PBGC has made the finding that: (1) a substantial reduction in the amount of aggregate contributions has resulted or will result from a proceeding under Federal bankruptcy law; (2) the plan is likely to become insolvent; (3) contributions will have to be increased significantly in reorganization to meet the minimum contribution requirement and prevent insolvency; and (4) partition would significantly reduce the likelihood that the plan will become insolvent.

The corporation's partition order must provide for a transfer of no more than the nonforfeitable benefits directly attributable to service with the employer involved in the bankruptcy proceeding and an equitable share of plan assets. The new plan to which the benefits attributable to the bankrupt employer are transferred is treated as a successor plan for multiemployer benefit guarantee purposes and as a plan terminated by mass withdrawal. The bankrupt employer will be treated as the only employer to have withdrawal liability with respect to the new plan.

In lieu of ordering the partition of a plan, the PBGC may seek a court decree partitioning the plan and appointing a trustee for the new terminated plan.

The Committees believe that partitions should be ordered only when it is very clear that the failure to partition will result in the insolvency of the multiemployer plan. In deciding whether to order a partition under such circumstances, the PBGC and the courts should fairly balance the interests of participants and beneficiaries in the plan to be terminated and the interests of the participants and beneficiaries who would continue to be covered by the original multiemployer plan.

4. Assets transferable.

Under the bill, multiemployer plans are required to provide rules regarding the transfer of assets to another plan. The rules may not unreasonably restrict the transfer of plan assets in connection with a transfer of plan liabilities and must operate and be applied uniformly with respect to all transfers, except that reasonable variations are permitted to take into account the potential financial impact of a particular transfer on a multiemployer plan.

This requirement is for plan rules, not necessarily plan amendments. These rules, however, will be "documents and instruments governing the plan" pursuant to ERISA, and ERISA's fiduciary provisions are decisions and actions regarding the design as well as the operation of these asset-transfer rules.

Under the bill, the PBGC is required to prescribe regulations exempting de minimis transfers of assets from the merger, etc. rules. In addition, the merger, etc. rules do not apply to transfers of assets pursuant to written reciprocity agreements except to the extent provided in PBGC regulations.

5. Transfers pursuant to change in collective bargaining representative.

In a case where an employer incurs a complete or partial withdrawal from a plan because of a certified change in the employee's collective bargaining representative, assets and liabilities from the old plan attributable to the nonforfeitable benefits of employees no longer working in covered service under the old plan as a result of the change must be transferred to the new multiemployer plan under certain circumstances. Within 180 days after the effective date of the change in collective bargaining representative, the old plan must notify the employer in writing of (1) the amount of the employer's withdrawal liability if no transfer of assets and liability is made to the new plan, and (2) the amount of assets and liabilities which the old plan intends to transfer to the new plan. The notice must also be sent to the new plan.

Unless the employer objects to the transfer or the new plan files an appeal with the PBGC, then within 60 days after the notice is given, the plan sponsor of the old plan must promptly transfer the appropriate amount of assets and liabilities to the new plan. The new plan appeals to the PBGC, the PBGC may prevent the transfer if the transfer would result in substantial financial harm to the new plan. The transfer must be made unless the PBGC makes such a finding of substantial harm within 180 days after the appeal is filed.

If the transfer is made, the employer's withdrawal liability with respect to the old plan is reduced by value of the unfunded vested benefits transferred to the new plan less the value of the assets transferred.

E. Reorganization and Minimum Contribution Requirement

Present Law.

Present law does not provide for the reorganization of multiemployer plans.

Reasons for Change.

The Committees understand that the purpose of plan reorganization is to require a multiemployer plan facing financial difficulties to take corrective action to stabilize or improve its financial condition. Generally, reorganization would (1) prevent plans in financial distress from funding new past service liabilities over unreasonably long periods of time, and (2) require plans with severe financial difficulties to raise contributions.

However, with respect to plans in declining industries, the contribution requirements could result in inappropriately high and escalating pension costs. The Committees therefore believe that the funding standard for plans in reorganization should be adjusted in certain circumstances for overburdened plans. To encourage the continuation of plans, the Committees believe that PBGC funds should be available to make up the difference between the guaranteed level of benefits and the level supportable by the plan. The Committees believe that through the mechanism of reorganization, PBGC involvement and assistance will be deferred until absolutely necessary, which will result in significant premium savings. In addition, administrative responsibility would largely remain with the plan, thereby simplifying administration of the guarantee program.

Explanation of Provision.

1. In general.

Under the bill, certain financially troubled multiemployer plans would be in "reorganization." Once a plan enters reorganization certain modifications to the otherwise applicable funding requirements of ERISA apply.

This bill provides an overburden funding credit, a cap on year-to-year contribution increases and other relief provisions for employers that continue contributing to the plan. The reorganization provisions also mitigate increased contribution requirements and are designed to assure that reorganization-related funding increases do not become unduly burdensome.

The new funding requirements for plans in reorganization are specifically designed for multiemployer plans in financial distress. The new requirements are intended by the Committees (1) to reduce the likelihood of benefit losses due to plan insolvency, (2) to make the continuation of distressed plans more feasible, and (3) to remove certain incentives for termination of distressed plans. The PBGC projects a significantly lower rate of benefit loss when an insolvent plan termination because of the new funding requirements.

2. Reorganization status.

A multiemployer plan is in reorganization for a year if the plan's reorganization index is greater than zero. The reorganization index is calculated anew for each plan year. The reorganization index is the excess of the plan's "vested benefits charge" over the contribution necessary to balance charges and credits in the plan's funding standard account without taking into account certain credits. The vested benefits charge is the amount necessary to amortize, in equal annual installments, the unfunded vested benefits of the plan (1) over 10 years in the case of obligations attributable to persons whose benefits are in pay status, and (2) over 25 years in the case of unfunded benefit obligations for other participants. The amortization period for obligations attributable to pay status participants is shorter because the plan will have to pay these obligations over a shorter term than the obligations to other participants.

Under the bill, a plan sponsor can determine whether a plan will be in reorganization before the beginning of a plan year. The determination of the vested benefits charge is based on a valuation of the plan performed as of the last day of the "base plan year". The "base plan year" is the last plan year ending at least six months before the earliest effective date of any "relevant collective bargaining agreement". A "relevant collective bargaining agreement" is a collective bargaining agreement that has been in effect for more than six months during the plan year but has not been in effect for more than three years as of the end of the plan year. In any case where there is no relevant collective bargaining agreement, the base plan year is the plan year ending at least 12 months before the beginning of the plan year for which the vested benefits charge is determined. Of course the Secretary of the Treasury has the authority to require that the vested benefits charge and charges and credits to the funding standard account be computed on a consistent basis.

The reason for using a valuation performed as of the end of the base plan year is to avoid plans going into reorganization unexpectedly during the term of a collective bargaining agreement. The valuation must be adjusted to take into account any decrease of five percent or more in the value of plan assets or increase of five percent or more in the number of persons in pay status between the first day of the plan year following the base plan year and the day which is 90 days before the effective date of the relevant collective bargaining agreement. In addition, the valuation must be adjusted to reflect (1) any later plan valuation, (2) any change in benefits not otherwise taken into account, and (3) any other event which would substantially increase the plan's vested benefits charge (determined in accordance with regulations). For this purpose, "other event" may include a plan amendment effective in the future. This is an exception to the present-law prohibition against funding based on certain types of future events.

3. Prohibition of certain payments.

Under the bill, while a plan is in reorganization, the present value of a participant's vested benefits derived from employer contributions may not be distributed faster than in the form of substantially level pension payments for the life of the participant if the present value distribution exceeds $1,750. This prohibition does not apply (1) in the case of a death benefit distribution, or (2) as provided in PBGC regulations.

4. Termination of reorganization status.

A terminated multiemployer plan is not considered to be in reorganization after the date on which the last employer maintaining the plan withdraws from the plan. For this purpose, the determination of whether a withdrawal takes place is made in accordance with the definition of withdrawal contained in the bill's withdrawal liability provisions. Partial withdrawals are not taken into account.

5. Notice of reorganization.

Under the bill when a multiemployer plan is in reorganization and would require an increase in contributions (before taking into account the credit for overburdened plans permitted under the reorganization provisions), the plan sponsor is required to notify employers contributing to the plan and employee organizations representing participants in the plan that the plan is in reorganization. In addition the notice must state that if contributions to the plan are not increased an excise tax may be imposed on employers.

In addition, the PBGC is authorized to issue regulations prescribing additional or alternative requirements for assuring that the interested persons receive appropriate notice that the plan is in reorganization, are adequately informed of the implications of reorganization status, and have reasonable access to relevant information.

6. Minimum contribution requirements.

a. In general.

Under the bill, a plan in reorganization must continue to maintain its funding standard account, but such a plan is also required to meet special minimum funding requirements. These requirements apply to each year separately. If contributions are not sufficient to satisfy the requirements for a plan year, the plan has a funding deficiency, and employers are subject to the current excise taxes on accumulated funding deficiencies (or subject to the current conditions for having such deficiencies waived by the Internal Revenue Service). An "accumulated funding deficiency" for a plan in reorganization is defined as the excess of the "minimum contribution requirement" plus the accumulated funding deficiency for the preceding plan year less amounts contributed by employers to the plan for the plan year, including certain amounts contributed to meet withdrawal liability obligations and a waived funding deficiency.

The bill defines the minimum contribution requirement as the sum of (1) the plan's vested benefits charge, and (2) where the plan has been amended to increase benefits while the plan is in reorganization, the normal cost (determined under the entry age normal funding method) attributable to such plan amendment less the amount of the "overburden credit." The minimum contribution requirement is reduced proportionately where the plan's current contribution base (e.g., hours of service) for which employer contributions are required for the plan year is less than the plan's valuation contribution base. A plan's "valuation contribution base" is generally equal to the plan's contribution base for the plan year for which the actuarial valuation used to determine unfunded vested benefits under the plan was made, with certain adjustments for upward or downward trends. Special rules apply for determining a plan's valuation contribution base for a plan year in which the plan is insolvent.

In the case of a plan in reorganization, if the plan's vested benefits charge is less than the plan's "cash flow amount" for a plan year, the minimum contribution requirement is determined by substituting the cash flow amount for the vested benefits charge. For this purpose, cash flow amount means the aggregate amount of benefits payable under the plan increased by the plan's administrative expenses for the plan year and decreased by the value of available plan assets, as determined under regulations prescribed by the Secretary of the Treasury. Also, in determining a plan's minimum contribution requirement for a plan year, the vested benefits charge may be adjusted to reflect a subsequent plan amendment which reduces benefits under the plan termination provisions of the bill or under the funding standard. This adjustment would only take place, however, if the amendment is adopted and effective not later than 2½ months after the close of the plan year, or within an extended period for making the amendment as prescribed in regulations issued by the Secretary of the Treasury.

In addition, during the period that a plan is required to meet the "minimum contribution requirement," a credit or charge balance may build up in the plan's funding standard account. The bill provides that if a plan is not required to meet the "minimum contribution requirement" for a plan year but was required to meet such requirement for the preceding plan year, any balance in the funding standard account is eliminated by an offsetting credit or charge (as appropriate) which is amortized over 30 years.

Under the bill, the minimum contribution requirement applicable to a plan for a plan year cannot exceed an amount which requires a rate of employer contributions in excess of the rate which would be required to meet the greater of (1) the funding standard requirement, i.e., the net charges under the plan's funding standard account as if it were not in reorganization (without regard to any credit balance in the funding standard account) or (2) 107 percent of the amount required for the preceding year. This limitation is further increased with respect to benefit increases while the plan is in reorganization.

The Committees have included a special provision applicable to the 1950 United Mine Workers Pension Plan ("1950 Plan"). Under the provision, employers in that plan have the benefit of the limitation on increases in the minimum contribution requirement (without regard to the increase in the limitation for benefit increases), as long as when an increase is effective, the plan's funding complies with a special funding standard that substantially exceeds the minimum contribution requirement.

Participation in the 1950 Plan is limited solely to retirees and inactive separated participants. The plan has a strong contribution base, and will be fully funded by 1986 at current funding levels. Under these circumstances, it is desirable to permit a benefit increase without removing the protection afforded against unanticipated declines in the contribution base. The PBGC has advised the Committees that the exception made in this case should not increase the risk of loss to the PBGC or participants with respect to the 1950 Plan.

In order for the 1950 Plan to qualify for this special exception several conditions must be met. The amortization schedule for existing benefits must be maintained. This would require completion of the funding for March 1, 1978 benefit levels by July 1, 1986 and for the July 1978 benefit improvements by 1990. In addition, the funding level for any benefit increase must be set so that funding is projected to be completed in no more than 12 years, or if less, the average number of years remaining in the expected lives of persons receiving benefits. Finally in any year following a benefit increase, the contribution rate must be increased at least five percent, or, if less, the amount necessary to maintain the required accelerated funding schedules. The Committees note that in order for the plan to continue to qualify for this exception, whenever benefits are increased, the amortization schedules that apply to prior benefit levels must be fully satisfied and the funding completed within the required period.

b. Credit for overburdened plans.

Where a plan is considered to be financially overburdened for a plan year (determined under standards set forth in the bill), the plan must apply an "overburden credit" against its minimum contribution requirement for the plan year. Accordingly, the •

overburden credit reduces the additional funding needed to satisfy the minimum contribution requirement. The overburden credit is computed and applied separately for each year that a plan is overburdened. The plan cannot accumulate unused credits to apply against future accumulated funding deficiencies.

A plan is considered overburdened for a plan year under the bill if (1) the average number of participants in pay status in the year exceeds the average of the average number of active participants in that year and in the preceding two plan years, and (2) the rate of employer contributions to the plan is at least equal to the greater of the rate of contributions for the preceding plan year or the rate of contributions for the year before the first plan year in which the plan was in reorganization. For purposes of this rule: "pay status participant" means a participant receiving retirement benefits under the plan and "active participant" means (1) any plan participant who has not failed to accrue a benefit for the year because of insufficient active employment, (2) any active employee who is not a plan participant but who is in an employment unit covered by a collective bargaining agreement requiring the employee's employer to contribute to the plan, and (3) any active employee considered an employee of the employer under a special formula in the bill which treats certain employees as the employer's employees on the basis of the employer's withdrawal liability contributions to the plan.

The amount of overburden credit for a plan year is the product of two amounts. The first amount is one-half of the "average guaranteed benefit paid" in the base plan year and the second amount is the "overburden factor" for the plan year. The "average guaranteed benefit paid" is 12 times the average monthly pension payment guaranteed under the bill, computed by dividing (1) the total guaranteed annuity pension payment under the plan by (2) the number of pay status participants in the plan for the plan year. The "overburden factor" for a plan for a plan year is the excess of (1) the average number of pay status participants for the base plan year over (2) the average of the average number of active participants in the plan in that plan year and the two preceding plan years. The minimum contribution requirement can never be reduced below zero by the application of the overburden credit.

Under the bill, the Secretary of the Treasury could deny a plan an overburden credit for a plan year upon a finding that (1) the plan's current contribution base was reduced without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, and (2) such reduction resulted from a change in an agreement providing for employer contributions to the plan. Accordingly, a plan that has excluded active employees is not eligible for the overburden credit. However, an employer withdrawal from a plan does not prevent the plan from being eligible for the overburden credit, unless the Secretary of the Treasury finds that in connection with the withdrawal a contribution base reduction resulted from a transfer of plan liabilities to another plan.

Under the bill, in the case of the merger of plans involving one or more multiemployer plans which are in reorganization, there is a limit on the amount of overburden credit which can be applied to the minimum contribution requirement of the plan resulting from the merger. The maximum credit for any of the first three plan years ending after the merger could not exceed the sum of the overburden credits applied by each of the plans to avoid a reorganization deficiency for the last plan year ending before the merger. Of course, the rules relating to mergers also apply in computing the overburden credit in the case of a consolidation of plans. The Committees wish to clarify that the overburden credit does not represent a permanent forgiveness of a portion of a plan's underfunding. Rather, it eliminates that portion of a plan's underfunding for that year for purposes of determining whether the funding standards have been violated. The underfunding will be reflected in subsequent computations of the vested benefits charge.

7. Insolvent plans.

Under the bill, if a multiemployer plan is insolvent for a plan year, the plan is required to suspend the payment of benefits, other than basic benefits, which exceed the "resource benefit level." The suspension rule does not apply, however, if the PBGC prescribes a procedure for the guarantee of supplemental benefits (retirement benefits exceeding basic benefits) to the extent supplemental benefits are guaranteed by the PBGC. A multiemployer plan is considered insolvent for a plan year if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year. The term "resource benefit level" means the highest level of monthly benefits which the plan could pay out of its available resources.

For each year for which a multiemployer plan is insolvent, the plan sponsor is required to determine and certify the resource benefit level of the plan, based on its reasonable projection of available resources and benefits payable. Where the suspension of benefits above the resource benefit level takes place, benefits must be suspended in substantially uniform proportions with respect to all persons whose benefits are in pay status under the plan. The proportionate suspension must be done in a manner consistent with regulations prescribed by the Secretary of the Treasury. In addition, the Secretary of the Treasury is authorized to prescribe rules under which the benefits of different participant groups could be suspended in disproportionate fashion if varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in bargained-for levels of financial support for plan benefit obligations.

A plan sponsor which determines a resource benefit level which is below the level of guaranteed benefits for a plan year must suspend payment of all benefits other than guaranteed benefits.

If, by the end of a plan year for which a plan is insolvent, the plan sponsor determines that benefits can be paid above the resource benefit level, the plan sponsor must distribute such additional benefits in accordance with regulations prescribed by the Secretary of the Treasury. Where by the end of the year, benefits up to the resource benefit level have not been paid, the amount necessary to bring benefits up to that level must be distributed in accordance with regulations prescribed by the Secretary of the Treasury, to the extent possible, considering the plan's available resources.

Every three years during the period when a plan is in reorganization, beginning with the end of the first such plan year, the plan sponsor must compare the value of plan assets with the total amount of benefit payments for the year. Unless plan assets exceed three times the total amount of benefit payments, the plan sponsor must determine whether the plan will be insolvent during any of the next three plan years. In addition, if at any time the plan sponsor of a plan in reorganization determines, on the basis of experience, that available resources are not sufficient to pay benefits when due for the forthcoming plan year, the sponsor must make such determination available to interested parties.

If the plan sponsor determines that the plan may be insolvent any time in the next three plan years, the sponsor is required to so notify (1) the Secretary of the Treasury, (2) the PBGC, (3) plan participants and beneficiaries, (4) each employer required to contribute to the plan, and (5) each affected employee organization. In addition, the above parties other than the Secretary of the Treasury and the PBGC are to be informed that, in the event of insolvency, payments in excess of basic benefits must be suspended (unless guaranteed as supplemental benefits). No later than two months before the first day of a year for which a plan which is in reorganization is insolvent, the plan sponsor must notify each of the above parties of the plan's resource benefit level.

Where the plan sponsor believes that the resource benefit level for a plan year for which a plan is insolvent may not exceed the level of basic benefits, the plan sponsor must notify the PBGC.

Where a plan sponsor determines a resource benefit level below the level of basic benefits, the sponsor must apply to the PBGC for financial assistance. Where the plan sponsor determines a resource benefit level above the level of basic benefits but anticipates that for any month during a year for which the plan is insolvent the plan will not have sufficient assets to pay basic benefits, the plan sponsor is permitted to apply to the PBGC for financial assistance.

F. Financial assistance

Under the bill, if the PBGC receives an application for financial assistance from a plan and verifies that the plan will be insolvent and unable to pay basic benefits when due, the PBGC must provide financial assistance to the plan in an amount sufficient to permit the plan to pay its basic benefits. Such financial assistance is provided under such conditions as the PBGC determines to be equitable and appropriate to prevent unreasonable loss to the PBGC with respect to the plan. Where a plan receives financial assistance from the PBGC, it must repay the PBGC on reasonable terms which are consistent with regulations to be issued by the PBGC.

While the PBGC is determining the amount of assistance necessary to permit a plan to pay basic benefits, the PBGC is permitted to provide interim financial assistance to avoid undue hardship to plan participants and beneficiaries.

G. Benefits under certain terminated plans

Under the bill, where a plan terminates by a mass withdrawal of employers the plan sponsor is required to amend the plan (1) to reduce benefits, and (2) to suspend certain benefit payments. The reduction in benefits must be to a level at which plan assets will be sufficient to discharge the plan's obligations when due, but not to a level of benefits below the level eligible for guarantee. In making the determination of this level, the present value of vested benefits under the plan and the value of plan assets must be determined as of the end of the plan year in which the plan terminates, and as of the end of every plan year thereafter. For this purpose, plan assets include the value of outstanding claims for withdrawal liability.

Any plan amendment reducing benefits must (1) limit the reduction to the extent necessary to permit the payment of vested benefits, (2) eliminate or reduce only those accrued benefits which are not guaranteed by the PBGC and (3) become effective no later than six months after the plan year in which it was determined that the present value of vested benefits exceed plan assets. The Committees expect that a reduction of benefits for a participant or beneficiary to a greater extent than is permitted under the bill will be considered a violation of the minimum standards of ERISA (*e.g.*, the vesting and fiduciary standards) and that fiduciaries will act prudently in discharging their duties to retirees and other participants and beneficiaries.

Under the bill special rules apply in the case of the termination of an insolvent plan.

H. Enforcement

1. Civil actions.

Existing law does not provide private parties adequate remedies for resolution of disputes that may arise under certain provisions of the bill. Under the bill, certain parties could bring a civil action for appropriate legal relief, equitable relief, or both. These parties are (1) a plan fiduciary, an employer, a plan participant, or a plan beneficiary, any of whom are adversely affected by an act or omission of any party under the provisions of the bill with respect to multiemployer plans, as well as (2) an employee organization which represents an affected plan participant. However, no such action could be brought against the Secretary of the Treasury, the Commissioner of Internal Revenue, the Secretary of Labor, or the PBGC.

In any case where a civil action is brought to compel an employer to pay withdrawal liability, the court must award (1) the unpaid liability plus interest and (2) the greater of an equal amount of interest or liquidated damages payable to the plan. In general, the district courts of the United States have exclusive jurisdiction for civil actions under the bill without regard to the amount in controversy. In the case of an action brought by a plan fiduciary to collect withdrawal liability, State courts of competent authority are also to have jurisdiction.

The proper venues in Federal district court for bringing an action under the bill are to be (1) the district where the plan is administered, (2) the district where a defendant resides, or (3) the district where a defendant does business. Service of process must be permitted in any district where a defendant (1) resides, (2) does business, or (3) may be found. In addition, a copy of the complaint in any action brought under the bill must be served on the PBGC by certified mail. The PBGC may intervene in any action brought under the bill.

In the case of an action under the bill, the court is permitted to award to the prevailing party all or a portion of costs and expenses in connection with the action, including reasonable attorneys fees.

The period of limitations for the commencement of an action under the bill expires on the later of (1) six years after the date on which the cause of action arose or (2) 3 years after the earliest date on which the moving party acquired or should have acquired actual knowledge of the existence of the cause of action (generally 6 years after the date of discovery in the case of fraud or concealment).

2. Penalty for failure to provide notice.

If any person fails without reasonable cause to provide any notice required under the termination insurance program for multiemployer plans or under implementing regulations the bill provides that the person is liable to the PBGC in an amount up to $100 for each day that the failure continues. The PBGC is authorized to bring a civil action against the person failing to give notice. The action could be brought in the United States District Court for the District of Columbia or in any United States district court within the jurisdiction where (1) the plan assets are located, (2) the plan is administered, or (3) a defendant resides or does business. Service of process for such an action may take place in any district where a defendant (1) resides, (2) does business, or (3) may be found.

3. Liquidated damages, etc., in an action to collect delinquent plan contributions.

Under the bill, in the case of a civil action by any person to collect delinquent multiemployer plan contributions, regardless of otherwise applicable law, in which a judgement in favor of the plan is awarded, the court before which the action is brought must award the plan (1) the unpaid contributions, (2) interest on the unpaid contributions, (3) an amount equal to the greater of interest on the unpaid contributions or liquidated damages provided for under the plan not to exceed 20 percent of the amount of delinquent contributions as determined by the court. The bill preempts any State or other law which would prevent the award of reasonable attorneys fees, court costs or liquidated damages or which would limit liquidated damages to an amount below the 20 percent level.

However, the bill does not preclude the award of liquidated damages in excess of the 20 percent level where an award of such a higher level of liquidated damages is permitted under applicable State or other law. This does not change any other type of remedy permitted under State or Federal law with respect to delinquent multiemployer plan contributions.

I. Termination of Multiemployer Plans (Sec. 103 of the Bill and Sec. 4041A of ERISA).

Present Law.

Under present law, the date of plan termination for purposes of termination insurance, is generally determined by the actions of responsible officials of the plan.[1] However, ERISA provides a procedure under which the PBGC may institute proceedings to terminate a plan.[2]

Reasons for Change.

The Committees believe that it is desirable to have more appropriate rules to determine the time of termination of a multiemployer plan. In addition, the Committees believe that it is necessary to have limitations on the benefit payments which can be made by certain terminated plans and requirements with respect to continued employer contributions to such a plan.

Explanation of Provisions.

In general.

The bill provides that a plan termination occurs as the result of (1) the adoption of a plan amendment providing that participants will receive no credit for any purpose under the plan for service with any employer (termination by "freezing"); (2) the adoption of a plan amendment that causes the plan to become a defined contribution plan (termination by "change of plan type"); and (3) the withdrawal of every employer from the plan (termination by "mass withdrawal"). Except for a termination by mass withdrawal, the minimum funding standards continue to apply to a terminated plan.

The PBGC is authorized by the bill to prescribe reporting requirements or standards (not in derogation of any other applicable requirement or standard under ERISA) for the administration of terminated plans as it deems necessary to protect the interests of plan participants or to prevent unreasonable losses to the PBGC.

Termination by plan amendment.

Termination by freezing and termination by change of plan type as opposed to termination by mass withdrawal, are accomplished through plan amendment. These terminations by amendment are effective on the later of the date on which the amendment is adopted or the date on which the amendment takes effect.

If a plan is terminated by amendment, each employer's contribution rate after the termination must at least equal that employer's highest contribution rate in the five preceding plan years ending before the plan termination date. The corporation may, however, approve a reduction in the rate if it finds that the plan is or soon will be fully funded. Plans terminated by amendment remain ongoing plans for purposes of reorganization funding.

The Committees recognize that a plan may terminate by amendment and later become a plan from which every employer has withdrawn. In such a case, the termination by mass withdrawal rules become applicable once every employer has withdrawn.

The date on which a plan terminates by mass withdrawal is the earlier of the dates on which (1) the last employer withdraws or (2) the beginning of the first plan year for which no employer contributions were required under the plan.

In addition to the general rules on limiting payments to nonforfeitable benefits in the form of an annuity, the plan sponsor of a plan terminated by mass withdrawal must observe additional rules concerning the suspension of benefit payments.

If the present value of nonforfeitable benefits exceeds the value of the plan's assets, the plan sponsor must suspend benefits to the extent necessary to ensure that the plan's assets are sufficient to pay benefits (as reduced).

The sponsor of a plan terminated by mass withdrawal must limit the payment of benefits to nonforfeitable benefits under the plan as of the termination date. The sponsor of such a plan must also cause benefits attributable to employer contributions, other than death benefits, to be paid only in the form of an annuity, unless the plan distributes its assets in satisfaction of all nonforfeitable benefits under the plan. Notwithstanding the preceding, (1) the plan sponsor may authorize a distribution of the present value of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, in a form other than an annuity if the distribution does not exceed $1,750, and (2) the PBGC may authorize the payment of benefits other than nonforfeitable benefits or in lump sum amounts greater than $1,750 if it makes certain determinations.

Effective Date.

These provisions of the bill apply on the date of enactment.

J. Termination Insurance Premiums (Secs. 105 and 403 of the Bill and Secs. 4005 and 4006 of ERISA).

Present Law.

Under present law, a multiemployer plan which is subject to the termination insurance program is required to pay annual premiums to the PBGC at the rate of $.50 per plan participant (the annual premium for single employer plans is $2.60 per plan participant). The premium rate may be raised by the PBGC with the approval of the Congress by a concurrent resolution. Such a resolution is referred to the Committee on Ways and Means and the Committee on Education and Labor of the House, and the Committee on Finance and the Commitee on Labor and Human Resources of the Senate. Also, the PBGC is authorized to set premium rates for insurance of nonbasic benefits and to develop a risk-related premium schedule.[1]

Reason for Change.

The Committees believe that an increased premium (over the current 50-cent rate) is needed to support the mandatory insurance program under the bill.

Explanation of Provisions.

Schedules. The bill continues the authority of the PBGC to prescribe (subject to approval by the Congress) such schedules of premium rates in excess of $2.60 per year per participant and bases for the application of those rates as may be necessary to provide sufficient revenue to enable the PBGC to carry out its functions.

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[1] See ERISA secs. 4041 and 4048.

[2] See ERISA secs. 4042 and 4048.

[1] See ERISA sec. 4006. At the present time, the PBGC does not insure nonbasic benefits and has not developed a risk-related premium.

Premium rates.

Under the bill, as under present law, the PBGC will maintain separate schedules of premium rates and bases for multiemployer plans and for single-employer plans. The bill clarifies present law by providing for separate rates and bases for nonbasic benefits under (1) multiemployer plans and (2) single-employer plans. The bill also continues the authority of the PBGC to revise the premium rate and base schedules for basic benefits (under multiemployer or single-employer plans) whenever the PBGC determines that revision is necessary, subject to approval by Congress (where the annual rate exceeds $2.60 per participant).

Basic benefit rates.

The bill continues the present annual per-participant premium of $2.60 for single-employer plans and provides that the annual per-participant premium for multiemployer plans will increase from the present $.50 rate to $2.60 over a nine-year period. For the first four plan years beginning after enactment of the bill the annual per-participant premium is $1.40. The premium will rise to $1.80 for the fifth and sixth years, to $2.20 for the seventh and eighth years, and to $2.60 for the ninth and succeeding years. For plan years in which the date of enactment of this bill falls, the annual per-participant premium will be the sum of (1) the pro rata portion of the current 50 cent premium for the number of months in the plan year ending on or before the date of enactment and (2) the pro rata portion of a $1.00 premium for the number of months in the plan year ending after such date. However, the PBGC is required to increase the premium automatically before the ninth year if for any year it projects that its assets will be less than twice what it paid out in the prior year to plans as financial assistance or to plan participants or beneficiaries. In such a case, the annual per-participant premium would increase to the lowest specified level (not in excess of $2.60, unless approved by the Congress) necessary to insure that the test will be satisfied in the succeeding calendar year.

Additionally, the Board of Directors of the PBGC may require an increase in the annual per-participant premium (not in excess of $2.60, unless approved by the Congress) where the Board determines that the increase is necessary to provide financial assistance to plans which are then receiving assistance from the PBGC or which the Board finds are reasonably expected to receive such assistance in the future.

Under the bill, the PBGC is authorized to prescribe regulations under which the single-employer premium is not required to be paid more than once per plan year where an individual participates in more than one plan maintained by the same employer. Also, the bill continues the authority of the PBGC to prescribe regulations under which the premium rate for multiemployer plans will not apply to the same participant in a multiemployer plan more than once for any plan year.

In addition, the bill modifies the authority of the PBGC to establish alternative premium rates and bases for basic benefits (subject to Congressional approval) by deleting specific restrictions on the computation of such premiums. The bill permits, but does not require, the development of risk-related premiums. The Committees believe that there is sufficient interest in the development of a risk-related premium for single-employer plans and multiemployer plans to justify a study of this matter by the PBGC. Accordingly, the PBGC is directed to report its findings and recommendations as to risk-related premiums to the Congress within two years after the enactment of the bill.

Nonbasic benefits.

The bill generally continues the authority of the PBGC to prescribe schedules of premium rates and bases for nonbasic benefits. With respect to nonbasic benefits in the form of supplemental benefits under a multiemployer plan (see K. Multiemployer Guarantees; Aggregate Limit on Guarantees, Explanation of provisions—Other benefits.) The bill provides that premium rates prescribed for nonbasic benefits by the PBGC may reflect any reasonable consideration that the PBGC determines to be relevant. Supplemental benefits would be guaranteed by the PBGC only at the election of a plan. Such guarantees are to be financed only from premiums collected for this program.

Single employer premiums.

The bill continues the present-law authority of the PBGC to prescribe a risk-related premium for the guarantee of basic benefits under single-employer plans. The bill also continues present law under which premium rates prescribed by the PBGC must be uniform for all single-employer plans with respect to guaranteed basic benefits, and under which the premium rates prescribed by the PBGC must be uniform for all multiemployer plans with respect to guaranteed basic benefits. In addition, the bill provides that in establishing annual premiums with respect to single-employer plans, certain rules in effect before the enactment of the bill are to remain in effect.

Supplemental benefits—PBGC setting of premiums subject to Congressional disapproval; establishment of separate fund.

The bill provides for Congressional review of premiums for coverage under the supplemental withdrawal liability program. Under the bill, no revision of the premium schedule for this coverage could be adopted by the PBGC unless the revised schedule has been submitted to the Congress. (The bill does not provide for Congressional review of the initial premiums set by the PBGC for coverage of supplemental benefits. However, the PBGC is directed to set such premiums at a reasonable level which will not be so low as to induce plans to subscribe to the coverage and will not be so high as to be prohibitive.) The PBGC can adopt a revised schedule unless, within 60 days after the submission, the Congress disapproves of the revised schedule by a concurrent resolution which has been referred to the Committee on Ways and Means and the Committee on Education and Labor of the House, and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate. The Committees expect that if the Congress disapproves of a revised premium schedule recommended by the PBGC for guarantees of supplemental benefits, the PBGC will exercise its authority to make appropriate adjustments as to the terms and conditions of such guarantees. Of course, the authority to make adjustments is not limited to such disapproval cases.

In addition, the bill provides that the PBGC is to establish a separate fund for the purpose of guaranteeing supplemental benefits. The bill provides that amounts borrowed by the PBGC from the United States Treasury for purposes of its funds established for guaranteeing basic benefits under single-employer may not be loaned to another fund maintained by the PBGC. In addition, the amendment makes clear that an amount in any fund maintained by the PBGC may be used only for the purpose for which that fund was established (including the payment of appropriate expenses and charges) and may not be used to make loans to any other fund or to finance any other PBGC activity.

The bill also makes it clear that amounts held by the PBGC under its fund for guaranteed nonbasic benefits may not be applied for the payment of benefits which are nonbasic solely because they are in excess of the guarantee limitations although such benefits are guaranteed under a supplemental program established in accordance with PBGC regulations.

Effective Date.

These provisions of the bill will apply on the date of enactment.

Revenue Effect.

It is estimated that these provisions will reduce budget receipts by $2 million in fiscal year 1981; $3 million in each of the fiscal years 1982–1984; and $4 million in fiscal year 1985.

K. Multiemployer Guarantees; Aggregate Limit on Guarantees (Sec. 102 of the Bill and Secs. 4022A and 4022B of ERISA).

Present Law.

Since ERISA was enacted in 1974, the insurance of employee benefits under terminated multiemployer plans has been discretionary with the PBGC. Under present law, such insurance by the PBGC will become mandatory after July 31, 1980. Only basic benefits are presently eligible for the PBGC insurance. The basic benefits under a plan are the participant's monthly nonforfeitable retirement benefits (excluding supplementary benefits such as temporary early retirement supplements) under the multiemployer plan determined before the plan terminates. Basic benefits may be guaranteed by the PBGC only to the extent of the lesser of (1) a participant's average monthly gross income from the employer during the five consecutive years for which the participant's gross earnings from the emnloyer are the highest, or (2) $750, adjusted for inflation since 1974 ($1,159.09 for 1980).[1]

The guarantee of benefits which have been in effect for fewer than 60 months at the time of plan termination, and of benefit increases within 60 months before plan termination, is generally phased in at the rate of 20 percent per year or $20 per month (if greater) for each year (not in excess of 5) that the plan or benefit increase has been in effect. No guarantee is provided for benefits established or increased during the 60-month period unless the PBGC finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of obtaining payments under the termination insurance program.[2]

As indicated, in the case of a multiemployer plan which terminates after the effective date of the insurance program but before August 1, 1980, benefits are insured (up to the usual limits) only in the discretion of the PBGC. In order for the PBGC to pay benefits under such a plan, (1) the plan must have been maintained during the full 60-month period preceding termination, and (2) the PBGC must determine that payment of the benefits will not jeopardize the payment of guaranteed benefits under plans which may terminate after July 31, 1980.[3]

Benefits under single-employer plans are insured by the PBGC subject to the same benefit limits that apply to multiemployer plans. For single-employer plans, however, the insurance is automatic and does not depend upon the exercise of discretion by the PBGC as to whether plan benefits should be insured.[4]

The insurance for basic benefits under multiemployer plans is mandatory for the PBGC beginning August 1, 1980, and is provided whether or not premiums are paid.

Reasons for Change.

The Committees recognize that it is necessary to guarantee basic benefits under multiemployer plans. However, the Committees believe that lower guarantees create an incentive to avoid insolvency because insolvency would result in benefit reductions. In addition, lower guarantees would reduce the risk of excessive costs and provide a trial period for nondiscretionary coverage under the program. The Committees understand that the lower guarantees are consistent with the level of premiums set by the bill for multiemployer plans.

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[1] See ERTSA sec. 4022(b)(3).

[2] See ERISA sec. 4022(b)(8).

[3] See ERSIA sec. 4082(c)(2).

[4] See ERISA secs. 4022 and 4082 (a) and (b).

Explanation of provisions.

Insurable event.

Under the bill, the PBGC is to guarantee certain nonforfeitable benefits under a multiemployer plan covered by the program. This guarantee is implemented only if the plan becomes insolvent.

Duration of benefit.

Under the bill, benefits (or benefit increases) in effect under a plan for fewer than 60 months are not guaranteed. For purposes of the 60-month test, (1) the date a benefit (or benefit increase) is first in effect is the later of the date the relevant documents are executed or the effective date of the benefit or (benefit increase); (2) the time a benefit (or benefit increase) is in effect under a successor plan includes the time the benefit (or benefit increase) was in effect under a previously established plan; and (3) the 60-month period does not begin before the date the benefit guarantee provisions of ERISA first applied to the plan (September 2, 1974, for plans in existence on that date). Also, the 60-month period does not include any month of a plan year during which the plan is insolvent or any month after the plan is terminated by mass withdrawal of employers.

Level of guarantee.

Generally, for each year of credited service (including years of past service credited by a plan) under a multiemployer plan, the bill limits the maximum for monthly basic benefits to 100 percent of the first $5 of the benefit accrual rate plus 75 percent [5] of the lesser of $15 or the employee's accrual rate for monthly base benefits in excess of $5. The bill includes a full guarantee of the first $5 of the accrual rate in order to protect participants in the lowest benefit plans from suspensions. The bill limits base benefits to retirement benefits which are otherwise subject to guarantee and which (1) are not greater than the plan benefit payable at normal retirement age as a life annuity (determined under PBGC regulations), and (2) are determined without regard to accrued benefit reductions permitted by the bill to be made on account of the cessation of contributions by an employer (See Q. Minimum Vesting Requirements). Also, the bill provides that the accrual rate for base benefits is computed by dividing a participant's base benefit by the number of full and fractional years of service credited to the participant under the plan for benefit accrual purposes (including full and fractional years of preplan service taken into account).

For example, if an employee participated in a multiemployer plan for 25 years and had earned a monthly retirement benefit of $175 beginning at age 65 (the normal retirement age under the plan), the employee's accrual rate would be $7 ($175/25 years). Under the bill, the employee's base benefit would be $162.50 per month (($5+.75×$2)×25). If the plan did not meet the funding requirement, the base benefit would be $157.50 per month (($5+.65×$2)×25).

Where a benefit has been reduced because of the cessation of employer contributions, as permitted by the bill, the guaranteed level of benefit is either the benefit determined as described above or the reduced benefit, whichever is less. In addition, the bill provides that benefits for a substantial owner under a multiemployer plan are not guaranteed if they would not be guaranteed under a single-employer plan.

The bill adds a new procedure for periodic Congressional review of premiums and guarantee levels.

In particular, the bill provides that not later than five years after enactment, and every fifth year thereafter, the PBGC is to report to the Congress on the level of premiums under multiemployer plans needed to maintain the basic benefit guarantees then in effect and whether those guarantees can be increased without increasing multiemployer plan premiums for basic benefits. If the report indicates that increased premiums are necessary to support the guarantee levels in effect, the PBGC is required to submit to the Congress (1) a revised guarantee schedule that would be necessary if an increased premium is not adopted, (2) a revised schedule of basic-benefit premiums required if basic-benefit guarantees are not revised, and (2) a revised schedule of premiums and a revised schedule of guarantees under which the premium rates are higher than the existing rates but lower than the rates needed to support the existing schedule of guarantees. The report and any proposed revised premium and guarantee schedules would be submitted to the Committee on Ways and Means and the Committee on Education and Labor of the House, and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which Congressional action is requested. Whichever of the revised schedules is approved by the Congress goes into effect.

If a report indicates that a higher level of guarantees can be supported by the premium level in effect, the PBGC is required to prepare an analysis showing (1) reduced premiums consistent with existing guarantees, and (2) increased guarantees consistent with existing premiums, and to submit both revised schedules as proposals to the specified committees. If the Congress approves one of the proposed schedules by a concurrent resolution, that schedule goes into effect. The bill continues the rules of the House and Senate for consideration of a concurrent resolution approving a change in the premiums for basic benefits and applies that procedure to concurrent resolutions relating to guarantee levels.

Other benefits.

The PBGC is authorized to guarantee benefits under multiemployer plans other than basic benefits, if feasible, subject to terms and conditions specified by the PBGC. Under the bill, within 18 months after enactment, the PBGC is also required to propose regulations to guarantee benefits (referred to as supplemental benefits) that would be basic benefits except for the dollar or percentage limits provided by the bill, subject to terms and conditions specified in PBGC regulations. Under the bill, a plan's election of supplemental guarantees would generally be irrevocable. The supplemental guarantee program is to be established by January 1, 1983. Supplemental benefits (i.e., retirement benefits in excess of basic benefits) under a plan would be guaranteed only if the plan elected to have such benefits guaranteed. The bill mandates a supplemental program because the Committees intend that participants and beneficiaries in multiemployer plans be afforded the fullest feasible benefit guarantee. In particular, the Committees expect the PBGC to monitor whether, and to what extent, the limitation on basic benefit guarantees the bill is necessary and to provide the fullest possible benefit guarantee to multiemployer plan participants consistent with its experience in administering the program.

Aggregate limit on benefits guaranteed.

The bill limits the aggregate present value of benefits provided by the PBGC with respect to any participant to the same level provided by present law except that, under PBGC regulations, financial assistance provided by the PBGC to a plan would be taken into account as a benefit provided by the PBGC to plan participants.

Effective Date.

Generally, these provisions of the bill apply as of the date of enactment. The bill provides, however, that the level of benefits guaranteed under the termination insurance program for multiemployer plans which have already terminated and which are guaranteed by the PBGC under present law are not to be less than the levels provided by present law.

L. Annual Report of Plan Administrator (Sec. 106 of the Bill and Sec. 4065 of ERISA).

Present Law.

Under ERISA, a plan administrator is required to report the occurrence of specified reportable events to the PBGC. These reports are designed to forewarn the PBGC of potential economic problems under plans.[1] Olso, the plan administrator of a plan to which more than one employer contributes is required to notify each substantial employer annually that it is a substantial employer.[2] In addition, reports are required to be filed with the PBGC by plan administrators in connection with the payment of premiums (From PBGC–1).

Reason for Change.

The Committees have determined that the PBGC should have the authority to require a plan subject to termination insurance to provide certain additional information in the plan's annual report that the PBGC determines is necessary for enforcement purposes and that is required by PBGC regulations.

Explanation of Provisions.

The bill adds a requirement that the annual report of a plan administrator, with respect to a plan subject to termination insurance, include such information with respect to the plan as the PBGC determines is necessary for enforcement purposes and that is required by PBGC regulations. The bill provides that the information required may include (1) a statement by the plan's enrolled actuary of (a) the present value of all benefit entitlements under the plan as of the end of the plan year, and (b) the value of plan assets as of that time; and (2) a statement certified by the plan administrator of the value of each outstanding claim for withdrawal liability as of the close of the plan year and as of the close of the preceding plan year.

Effective Date.

This provision of the bill is effective upon enactment.

Mr. Contingent Employer Liability Insurance (Sec. 107 of the Bill and Sec. 4023 of ERISA).

Present Law.

ERISA provides for a program designed to permit an employer to insure against the contingent employer liability (up to 30 percent of the employer's net worth) arising out of the termination of a plan with insufficient assets to provide benefits at the insured level. Under ERISA, the contingent employer liability insurance (CELI) may be developed by the PBGC in conjunction with private insurors. The PBGC is authorized to provide premium rates and collect premiums under the CELI program.*

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[5] The percentage is reduced to 65 percent in the case of a multiemployer plan which becomes insolvent before the year 2000 if the plan sponsor does not establish to the satisfaction of the PBGC that, for the last plan year beginning before 1976 and for each of the nine preceding plan years during which the plan was maintained, the total contributions required under the plan for each plan year were at least equal to the sum of (1) the normal cost for the plan year, and (2) interest on the amount of the unfunded past service liability as of the beginning of the plan year. The reduction to 65 percent would not apply where contributions meet the minimum requirements during each year of the 10-year period and certain other standards are met.

[1] See ERISA sec. 4043.

[2] See ERISA sec. 4066.

Reason for Change.

The Committees have determined that the provision in present law which authorizes the PBGC to develop a program to insure contingent liability should be repealed because it could threaten the soundness of the termination insurance program.

Explanation of Provisions.

The bill repeals the contingent employer liability insurance provisions of ERISA for multiemployer plans and single-employer plans.

Effective Date.

This provision of the bill is effective upon enactment.

N. Minimum Funding Requirements (Secs. 303 and 304 of the Bill, Sec. 412 of the Code and Secs. 301 and 302 of ERISA).

Present Law.

In general.

Under the Code and the nontax provisions of ERISA,[1] multiemployer pension plans are required to meet a minimum funding standard for each plan year. As an administrative aid in the application of this standard. ERISA requires that each plan must establish and maintain a special account called a "funding standard account" to which specified charges and credits (including credits for contributions to the plan) must be made for each plan year. If, as of the close of a plan year, the account does not have a balance of charges, the plan is treated as satisfying the minimum funding standard for that year. Thus, as a general rule, the minimum contribution for a year is determined as the amount by which charges to the account would exceed credits to the account if no contribution were made to the plan.

For example, in the case of a plan the plan year of which is the calendar year, if as of the close of 1980, charges to the plan's funding standard account would exceed credits to the account by $200,000 if no contribution were made to the plan for 1980, a minimum contribution for the year of that amount would generally be required for the plan to meet the minimum funding standard for 1980.

If, as of the close of any plan year, charges to the funding standard account exceed credits to the account, the excess is called an "accumulated funding deficiency." The deficiency is subject to a five-percent nondeductible excise tax and, if not corrected within a specified correction period, is also subject to a 100-percent nondeductible excise tax. The tax is payable by the employers responsible for contributing to the plan for the year.

Actuarial cost methods.

In computing the amounts which are required to be contributed to a defined benefit pension plan for a plan year in order to meet the minimum funding standard for the year, the plan utilizes what is known as an "actuarial cost method."[2] Generally, an actuarial cost method breaks up the cost of the benefits into annual charges consisting of two elements with respect to benefits that are effective for the plan year. These elements are called (1) normal cost, and (2) past service cost. Normal cost generally represents the cost of future benefits under the plan for current employees and, under some funding methods, for separated employees, which will be funded by future contributions to the plan (1) in level dollar amounts, (2) as a uniform percentage of payroll, (3) as a uniform amount per unit of service (e.g., 50 cents per hour), or (4) on the basis of the actuarial present values of benefits accruing under the plan in particular plan years. Past service liability represents the cost of future benefits under the plan (1) on the date the plan is first effective, or (2) on the date a plan amendment increasing plan benefits is first effective, which will not be funded by future plan contributions to meet normal cost.

Normal cost and past service cost are key elements in computations under the minimum funding standard. While these costs may differ substantially, depending upon the actuarial cost method used to value a plan's assets and liabilities, they must be determined under an actuarial cost method permitted by ERISA. ERISA enumerates six acceptable actuarial cost methods and provides that additional methods may be permitted under Treasury regulations. Normal costs and past service costs under a plan are computed on the basis of an actuarial valuation of the assets and liabilities of a plan. Generally, an actuarial valuation is required at least once during each period of 3 plan years. More frequent valuations may be required by the Internal Revenue Service.

Charges to funding standard account.

Normal cost.

Each plan year, the plan's funding standard account must be charged with the normal cost assigned to that year under the plan's actuarial cost method. This will generally mean that the employers maintaining the plan will have to contribute to the plan an amount at least equal to the normal cost to create a credit in the funding standard account to balance off the charge for normal cost.

For example, if the normal cost for a plan for the plan year ending December 31, 1980, is $150,000, the funding standard account is charged for that amount. Assuming there are no credits to the account to offset that charge, an employer contribution to the plan of $150,000 would be required for 1980 in order to avoid an accumulated funding deficiency for that year.

Past service liability.

There are three separate charges to the funding standard account which may arise as the result of past service liabilities. The first applies only to a plan in existence on January 1, 1974; the second applies only to a plan which came into existence after January 1, 1974; and the third applies to a plan under which past service liability has increased due to a plan amendment made after January 1, 1974.

In the case of a plan in existence on January 1, 1974, the funding standard account is charged with a portion of the past service liability under the plan determined as of the first day of the plan year, beginning in the first year the funding standard applied to the plan (generally 1976). The amount of the liability with which the account is charged in the case of a multiemployer plan is based on amortization of past service liabilities over a period of 40 years. The liability must be amortized (in much the same manner as a mortgage) in equal annual installments over the 40-year amortization period.

For example, assume that a plan in existence on January 1, 1974, uses the calendar year as its plan year and has a past service liability of $500,000 determined as of January 1, 1976. The plan's actuary uses an interest rate of six percent in determining plan costs. The 40-year schedule requires that $31,350 be charged against the funding standard account each year to amortize this liability. Thus, for each year in the 40-year period commencing with 1976, the plan's funding standard account is charged with the amount of $31,350. This will require the employers maintaining the plan to make a contribution to the plan of that amount for each year in the 40-year period to generate a credit to the account to offset the charge, unless it is offset by some other credit to the account or the plan becomes fully funded.

In the case of a plan not in existence on January 1, 1974, the plan is generally required to determine past service liability as of the first day of its first plan year beginning after September 2, 1974. This liability must be amortized by a multiemployer plan in equal annual installments over 40 years (30 years, in the case of a single-employer plan) in the same manner as past service liability is amortized for a plan in existence on January 1, 1974. Each year during the 40-year period, the funding standard is charged with the amount of past service liability amortized in that year unless the plan becomes fully funded.

In any case where a net increase in benefits under a plan takes place as a result of plan amendments in a year, the unfunded past service liability attributable to the net increase is determined and amortized over a period of 40 years in the case of a multiemployer plan (30 years for a single-employer plan). Each year during the 40-year period, the funding standard account is charged with the amount of the amortization for that year, and the employers are required to make sufficient contributions to offset the charge unless it is offset by another credit or the plan becomes fully funded.

Experience losses.

In determining plan funding under an actuarial cost method, the plan's actuary generally makes certain assumptions regarding rates of interest, mortality, disability, salary increases, etc. If on the basis of these assumptions the contributions made to the plan result in unfunded liabilities less than that anticipated by the actuary, the excess of the expected unfunded liabilities over the actual unfunded liabilities is called an "experience gain."

On the other hand, if the expected unfunded liabilities fall short of the actual unfunded liabilities, the shortfall is considered as "experience loss." The minimum funding standard requires that an experience loss be amortized in equal installments over a period of 20 years (15 years for a single-employer plan) and that the funding standard account be charged with each year's amortization unless the plan becomes fully funded. (Some funding methods do not separately determine experience gains or losses).

Changes in actuarial assumptions.

If the actuarial assumptions used for funding a plan are revised and under the new assumptions the accrued liability of the plan is less than the accrued liability computed under the old assumptions, the decrease in accrued liability is considered a "gain from changes in actuarial assumptions." "Accrued liability" refers to the actuarial present value of projected pension benefits under the plan which will not be funded by future contributions to meet normal cost. On the other hand, if, after the change in assumptions, accrued liability exceeds accrued liability computed under the old assumptions, the excess is considered a "loss from changes in actuarial assumptions." The amount of the loss from changes in actuarial assumptions must be amortized in equal annual installments over a period of 30 years, and the amount of each year's amortization must be charged to the funding standard account unless the plan becomes fully funded.

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*See ERISA sec. 4023. Because of concerns over adverse selection, premium levels, and the possibility of abuse, no CELI program has been initiated by the PBGC. (Private insurors have not shown an interest in developing a CELI program.)

[1] See sec. 412 of the Code and part 3, Title I of ERISA.

[2] See Temp. Treas. Regs. §§ 11.412(c)(1)-1 and 11.412(c)(1)-2, and Prop. Treas. Regs. §§ 1.412(c)(2)-1 and 1.412(c)(3)-1.

Waived funding deficiency.

If 10 percent or more of the employer contributing to a multiemployer plan are unable to make contributions which will satisfy the minimum funding standard for a plan year without substantial business hardship, the Internal Revenue Service is permitted to waive all or a portion of the contribution requirements of the minimum funding standard for the plan year if it is determined that requiring the contributions would be adverse to the interests of plan participants in the aggregate. However, the Service is not permitted to grant such a waiver for a plan for more than five plan years in any period of 15 consecutive plan years. The amount of the contribution now required as a result of the waiver is called a "waived funding deficiency."

Under the funding standard, the amount of a waived funding deficiency must be amortized in equal annual installments over a period of 15 years commencing with the year first following the year for which the waiver is granted, and the funding standard account must be charged each year with the amount amortized for that year unless the plan becomes fully funded.

Switchback liability.

ERISA provides that certain plans may elect to use an alternative minimum funding standard account for any year in lieu of the funding standard account, and prescribes specified annual charges and credits to the alternative account. If it would take a smaller contribution to balance charges and credits in the alternative account than it would take to balance the funding standard account for a plan year, no accumulated funding deficiency is considered to exist for the year if a contribution satisfying the requirements of the alternative account is made. During years for which contributions are made under the alternative account, an excess of charges over credits may build up in the funding standard account. If the plan later switches back from the alternative account to the funding standard account, this excess of charges over credits must be amortized over a period of five plan years. This amount is known as a "switchback liability."

Credits to funding standard account.

Employer contributions.

Each plan year, the funding standard account is credited with the amount considered contributed to a plan by employers maintaining the plan for the year. This amount includes contributions made during the year as well as contributions made on account of the year up to two and one-half months after the close of the year. (The Internal Revenue Service can extend the period for an additional six months.)[3]

Past service liability.

If plan amendments in a year result in a net decrease in past service liability, the amount of the decrease must be amortized in equal annual installments over a period of 40 years, and each year's amortization during the 40-year period (30 years for a single-employer plan) must be credited to the funding standard account unless the plan becomes fully funded. These credits will help offset charges to the account and will decrease otherwise required contributions to the plan.

Experience gains.

If a net experience gain is determined in a plan year, the gain must be amortized in equal annual installments over a period of 20 years (15 years for a single employer plan), and the amount amortized each year must be credited to the funding standard account unless the plan becomes fully funded. These credits also offset charges to the account and thus decreases contribution requirements.

Changes in actuarial assumptions.

If a change in actuarial assumptions results in a gain because of a decrease in plan accrued liability under the new assumptions, the gain must be amortized in equal annual installments over a period of 30 years. The amount amortized each year must be credited to the funding standard account unless the plan becomes fully funded and the credit will reduce plan contributions otherwise required for the year.

Switchback liability.

When a plan switches back from the alternative minimum funding standard account to the funding standard account, the funding standard account is credited with the excess of charges over credits which have built up in that account. If this were not done, the entire excess would have to be offset by a contribution (or other credit) to the account in the year of the switchback to prevent an accumulated funding deficiency.

Extension of amortization periods.

The Internal Revenue Service is permitted to extend for up to 10 years the period of amortizing any unfunded past service liability under a multiemployer plan.[4] If such an extension is granted, the period over which the funding standard account is charged with amortization of the liability is similarly extended. Before granting such an extension, the Service must determine that (1) the extension will carry out the purposes of ERISA, (2) the extension will provide adequate protection to plan participants and beneficaries, and (3) the failure to grant the extension will (a) result in a substantial risk of plan termination or in substantial reduction of pension benefits or compensation, and (b) be adverse to the interests of plan participants in the aggregate.

Reasons for Change.

The Committees believe that existing minimum funding requirements may not provide adequate safeguards to insure that multiemployed plans will be able to meet their pension obligations. However, the Committees are also concerned that when applied to an overburdened multiemployer plan, the present funding requirements may result in an undue financial burden on employees.

Explanation of Provisions.

1. In general.

The bill modifies the periods over which past service liabilities and experience gains and losses under multiemployer plans would be required to be amortized for the purpose of making charges and credits to the funding standard account. In general, the new amortization periods follow those required of single-employer plans for funding purposes. However, certain transitional rules are provided under which the present—law amortization periods continue to apply to multiemployer plans in certain circumstances.

The bill includes two changes of general applicability in the amortization periods now prescribed by ERISA. Special funding requirements for financially troubled plans are described in the discussion of reorganization below.

For purposes of determining charges to the funding standard account, the bill provides that certain unfunded past service liabilities are amortized over 30 rather than 40 years, and net experience gains or losses are amortized in equal annual installments over 15 rather than 20 years. These changes generally result in the same funding requirements for these items as are now required for single-employer plans.

The Committees believe that 40-year funding of past services liability is too long. In many instances, the promised benefits will have to be paid before the 40-year funding is completed. The change to 30-year funding will help to assure that plan assets are adequate to meet emerging liabilities yet will increase the annual funding cost to employers only modestly.

The bill prescribes transitional rules under which the longer amortization periods of current law would continue to apply to the following: past service liabilities and experience gains and losses that arose before the enactment date of this bill; past service liabilities arising from an amendment adopted before the enactment date and effective by the end of the third plan year after enactment; and past service liabilities arising from movement of participants from lower to higher benefit levels on a schedule of benefits adopted before the enactment date and effective before the first plan year after enactment.

The bill authorizes the Secretary of the Treasury to prescribe regulations requiring additional charges and credits to the funding standard account to prevent withdrawal liability payments from being unduly reflected as advance funding of plan liabilities. The bill also makes conforming amendments of the funding rules to take the account of changes made in other parts of the bill.

2. Modification of charges to funding standard account.

a. Past service liability.

Under the bill, certain amounts of unfunded past service liability are to be amortized in equal annual installments over 30 years for purposes of determining charges to the funding standard account. These charges are (1) unfunded past service liability determined as of the first day of the first plan year of a plan not in existence on enactment, and (2) any net increase in unfunded past service liability arising from plan amendments adopted during a plan year.

b. Experience losses.

Under the bill, a net experience loss is to be amortized in equal annual installments over 15 years for purposes of determining charges to the funding standard account.

3. Modification of credits to funding standard account.

a. Past service liability.

Under the bill, any decrease in unfunded past service liability arising from plan amendments adopted during a plan year is to be amortized in equal annual installments over 30 years for purposes of determining credits to the funding standard account.

b. Experience gains.

Under the bill, a net experience gain is to be amortized in equal annual installments over 15 years for purposes of determining credits to the funding standard account.

c. Withdrawal liability.

Under the bill, and withdrawal liability payment to a plan for a plan year is to be treated as an amount contributed to the plan for the year. Accordingly, it will generate a credit to the funding standard account.

4. Prior amortizable amounts and transitional rules.

Under the bill, any amortizable amounts described above that arose in a plan year beginning before the date the bill was enacted are to continue to be amortized over their respective previously established amortization periods. The bill also provides transitional rules under which the amortization periods of present law apply to certain future changes in past service liability.

5. Application of minimum funding standards to terminated multiemployer plan.

Under the bill, the minimum funding standard applies with respect to a terminated multiemployer plan until the date on which the last remaining employer withdraws from the plan.

Effective Date.

These provisions of the bill apply on the date of enactment.

O. Excise Taxes (Sec. 204 of the Bill and Sec. 4971 of the Code).

Present Law.

Under present law, an employer who maintains a plan to which the ERISA minimum funding standard applies is subject to a two-tier annual nondeductible excise tax on any accumulated funding deficiency under the plan. The initial tax is 5 percent of the deficiency. If the deficiency is not corrected within a correction period, an additional excise tax equal to 100 percent of the deficiency is imposed.

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[3] See Temp. Treas. Regs. § 11.412(c)–12.

[4] Under Reorganization Plan No. 4 of 1978, referral to the Secretary of Labor may be required.

Before issuing a notice of deficiency under this provision, the Internal Revenue Service is required to notify the Secretary of Labor and afford to the Secretary of Labor an opportunity to (1) require the responsible employer to eliminate the deficiency and (2) to comment on the imposition of the tax.

Reason for Change.

Under the bill, a required contribution to a multiemployer plan may, under certain circumstances (e.g., reorganization) differ from the amount required to satisfy the minimum funding standard of ERISA.

Explanation of Provisions.

The bill conforms the penalty excise tax provisions relating to the ERISA funding standard to the plan reorganization provisions of the bill by changing the accumulated funding deficiency of a plan in reorganization (the amount to which the excise tax applies) to the reorganization deficiency computed under the bill. The bill also provides that in the case of a multiemployer plan in reorganization, the notice issued by the Internal Revenue Service to the Secretary of Labor with respect to a notice of deficiency for a tax on an accumulated funding deficiency, and the opportunity to comment on the imposition of the tax, are to be provided to the PBGC.

Effective Date.

These provisions of the bill apply on the date of enactment.

Revenue Effect.

It is estimated that this provision will result in a negligible net decrease in budget receipts.

P. Deductibility of Employer Liability Payments (Sec. 205 of the Bill and Sec. 404 of the Code).

Present Law.

Under present law, an employer is allowed a deduction for a contribution to a qualified pension plan for its employees. The deduction is allowed (within limits) in the taxable year for which the contribution is made.[1] Payments of employer liability under the termination insurance program are treated as employer contributions.[2]

Reason for Change.

The Committees have determined that the payment of withdrawal liability by an employer should be treated as a contribution to the plan by the employer without regard to the usual limitation on employer deductions for contributions to a tax qualified plan.

Explanation of Provision.

The bill generally allows a deduction for amounts paid by a taxpayer under the employer withdrawal liability provisions of the termination insurance program without regard to the usual limitations on employer deductions for contributions to a tax qualified plan.

Under the bill, for employer tax deduction purposes, withdrawal liability payments are treated as employer contributions to the plan. Thus, the deduction of total plan contributions, including withdrawal liability payments, is subject to the full funding limitation. In addition, withdrawal liability payments are deductible only if paid for a taxable year which ends with or within a taxable year of the plan for which the plan is qualified. Of course, an employer's total contribution to the plan, including withdrawal liability payments, must be ordinary and necessary business expenses of the employer to be deductible. Special rules are provided which allow a deduction for employer liability payments to a taxpayer whose liability for the payments arises out of the liability of an employer who is a member of the same control group of companies that includes the taxpayer.

Effective Date.

This provision of the bill is effective upon enactment.

Revenue Effect.

It is estimated that this provision will decrease budget receipts by a negligible amount per year.

Q. Minimum Vesting Requirements (Secs. 206 and 303 of the Bill, Sec. 411 of the Code, and Sec. 203 of ERISA)

Present Law.

Under present law, benefits under a plan which are vested may be forfeited only (1) in the case of death, (2) where benefits are suspended upon reemployment, (3) in the case of certain retroactive plan amendments which reduce benefits, or (4) in the case of certain withdrawals of mandatory employee contributions. Also, under present law, with certain very limited exceptions, all of a participant's years of service with an employer must be taken into account for vesting purposes.

Reason for Change.

The changes made under the reorganization provisions and the provisions relating to the definition of multiemployer plan require conforming changes in the ERISA rules relating to vesting.

Explanation of Provisions.

In general.

The bill provides for additional circumstances under which vested benefits under a multiemployer plan, which are nonforfeitable under present law, could be forfeited. The bill provides that certain of a participant's years of service with an employer, currently taken into account for vesting purposes, could be disregarded in the case of a multi-employer plan. In addition, the bill conforms the vesting provisions of ERISA to changes made in other parts of the bill.

Cessation of contributions under a multiemployer plan.

Under the bill, a multiemployer plan does not fail to meet the vesting requirements of ERISA merely because the plan provides for the forfeiture of accrued benefits attributable to service with a participant's employer before the employer is required to contribute to the plan in the event that the employer ceases making contributions to the plan.

Reduction and suspension of benefits.

Under the bill, a multiemployer plan does not fail to meet the vesting requirements of ERISA merely because benefits payments under the plan, other than basic benefits, are suspended in the event of plan insolvency.

Authority to disregard service after withdrawal or plan termination.

Under the bill, if an employer completely withdraws from a multiemployer plan, a participant's years of service with the employer completed after the withdrawal would not be required to be taken into account in determining the participant's vested percentage in the accrued benefits under the plan. This rule applies to certain partial withdrawals involving the decertification of the employee representative only to the extent permitted in regulations prescribed by the Secretary of the Treasury.

Also, under the bill, if a multiemployer plan terminates for purposes of termination insurance, an employee's years of service completed after the date of termination are not required to be taken into account in determining a participant's vested percentage in his accrued benefits under the plan.

Effective date.

This provision of the bill applies on the date of enactment.

Revenue effect.

It is estimated that this provision will have no effect on budget receipts.

R. PBGC put on Budget.

Present Law.

Under present law, the revenues and expenditures of the PBGC are not part of the annual budget of the United States Government.

Reason for Change.

The committees believe that the revenues and expenditures of the PBGC should be part of the annual budget of the United States Government.

Explanation of Provision.

The bill requires that and expenditures of the PBGC in the discharge of its functions are to be included in the annual budget of the PBGC in the discharge of its functions are to be included in the annual budget of the United States Government. The bill continues present law under which the United States is not authorized to pay any expenses of the PBGC and is not liable for payment of any claims arising under programs administered by the PBGC.

Effective Date.

The provision is effective for fiscal years beginning after September 30, 1980.

Budget Effect.

Placing the PBGC on-budget will reduce budget outlays by an estimated $46 million in fiscal year 1981, $47 million in fiscal year 1982, $48 million in each of the fiscal years 1983 and 1984, and $49 million in fiscal year 1985.

S. Action Taken Before Regulations are Prescribed (Sec. 405 of the Bill).

Present Law.

No provision.

Reason for Change.

The bill requires that many regulations be prescribed in the effectuation of its rules relating to multiemployer plans. The Committees concluded that the parties affected by the bill should be permitted, pending the issuance of regulations, to act under the bill's provisions in the absence of regulations provided any action so taken is reasonable.

Explanation of Provision.

Where the manner in which a provision of the bill relating to the multiemployer plans is to apply is to be set forth in regulations, any reasonable action taken before the regulations are issued is to be treated as complying with the regulations for the period preceding their issuance. However, this rule does not apply if the action is in violation of an instruction or temporary rule which is issued before the action is taken.

Effective Date.

This provision of the bill is effective upon enactment.

T. Actuarial Standards (sec. 307 of the bill, and sec. 103 of ERISA).

Present Law.

Under present law, it is not clear whether actuaries are required to disclose events which may have a material adverse effect on plans as well as trends which are not assumed to continue in the future.

Reason for Change.

The Committees are concerned that, in practice, the rules of ERISA requiring the disclosure of information relating to the actuarial valuation of plans have not been applied uniformly. Accordingly, the Committee believes that further clarification of these rules is needed to make actuarial reports more meaningful.

Explanation of Provision.

Under the bill, an actuary performing a plan valuation will be required to disclose events which could have a material adverse effect on the plan. Where such events occur after the date of the valuation but before the valuation is published so that they are not reflected in the valuation, the actuary would nevertheless be required to disclose their occurrence in an attachment or footnote to the valuation. The bill would also require the actuary to disclose trends which have occurred in the past but which he is assuming will not continue in the future. The Committees intend that in fulfilling these requirements, an enrolled actuary will make appropriate inquiries of plan sponsors but will not be required to make further inquiry unless, under the circumstances, further inquiry is considered necessary because of information already known to the actuary. The Committees expect that material failure to comply with the provision could be an important factor to be considered by the Joint Board for the Enrollment of Actuaries in a disenrollment proceeding. The Committees do not intend the provision to cause an actuary to assume the role of an auditor.

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[1] See Code sec. 404(a)(1)(A) and Prop. Treas. Reg. § 1.404(a)-14.

[2] See Code sec. 404(g).

U. Mistaken Contributions.

Present Law.

Under present law, employer contributions to pension plans are generally not allowed to be returned to the employer. However, a contribution made because of a mistake of fact is permitted to be returned if it is returned within one year after the date it is made.

Reason for Change.

The Committees believe that for a multiemployer plan the requirement that a contribution be made due to mistake of fact in order to be returned to the employer is too narrow. Accordingly, the Committees have concluded that a contribution made due to mistake of fact or mistake of law should be eligible for return to the employer if specified conditions are met.

Explanation of Provision.

Under the bill, in the case of a contribution to a multiemployer plan which was made because of a mistake of law or fact, the contribution may be returned without penalty within six months after the date the plan administrator determines that the contribution resulted from a mistake of law or fact. For this purpose, a mistake of law relating to plan qualification under the Code is not considered a mistake of law.

The bill provision is retroactive with respect to its application to multiemployer plans. For such plans the date the plan administrator determines that the contribution resulted from a mistake of law or fact is deemed to be the later of (1) the date of the actual determination, or (2) the date of enactment.

V. Church Plans Permitted to Continue After 1982 to Provide Benefits for Employees of Organizations Controlled by or Associated with Churches.

Present law.

Under present law, the standards provided by the labor law provisions of ERISA generally do not apply to the pension plan of a church for its employees. Church plans are also generally exempt from the tax qualification standards which correspond to the labor standards.

Under present law, a church plan may cover employees of a tax-exempt agency related to a church only if the plan was in existence on January 1, 1974. For taxable years beginning after December 31, 1982, a church plan no longer will be able to cover such employees.

Reason for change.

The Committees believe that plans maintained by churches should be allowed to cover all employees of related tax-exempt agencies.

Explanation of the bill.

The bill would permit a church plan to cover employees of a tax-exempt agency controlled by or affiliated with a church or a convention or association of churches. This would include ministers and other clerical employees as well as lay employees of the church agency. Thus, for plans in existence on January 1, 1974, present law would be continued after December 31, 1982, and for other plans present law would be modified. Also, the bill would provide a period of time during which a plan intended to qualify as a church plan but failing to do so could be amended to so qualify without penalty.

Effective date.

The provisions of the bill would be effective as of January 1, 1974.

W. Contribution Deduction Where Company is Sold to a State Government.

Present law.

Under present law, annual deductions for contributions to pension plans are subject to statutory limitations.[1] Accordingly, a contribution to a pension plan maintained by a business which is being sold will be deductible in the year made only to the extent it does not exceed the limitations.

Reason for change.

The Committees believe that a company selling a public transportation system to a State Government should be encouraged to fully fund its pension plan in connection with the sale.

Explanation of the bill.

Under the bill, where the stock or assets of a corporation operating a public transportation system are sold to a State (or State agency or instrumentality), a current deduction is allowed for a contribution to fully fund accrued benefits of plan participants who are employed by the corporation.

Effective date.

The provision applies to payments made after June 30, 1980.

X. Severance Pay Arrangements and Supplemental Retirement Income Payments.

Present law.

Under present law, if an arrangement (1) provides retirement income or (2) results in deferral of income to or beyond covered employment, it is considered a pension plan subject to the standards of ERISA. The Department of Labor has determined that certain severance pay arrangements and certain supplemental retirement income payments are not pension plans under this rule.

Reasons for change.

The Committees believe that the Department of Labor should have the discretion to treat severance pay arrangements as welfare plans where it determines that such treatment is consistent with the standards and purposes of title I of ERISA.

In addition, the Committees recognize that during periods of high inflation, retired persons living on fixed incomes are confronted with severe financial problems. Many employers feel an obligation to their retirees to provide voluntary payments, supplemental to such retirees' normal pensions, to enable retirees to better cope with inflation.

Explanation of provisions.

The bill would allow the Department of Labor to prescribe rules, consistent with the standards and purposes of title I of ERISA, under which certain categories of (1) severance pay arrangements, and (2) supplemental retirement income payments, would be treated as welfare plans rather than pension plans.

For example, as supplemental income payments, an employer might provide for the payment of monthly supplemental amounts to retirees based on a formula amounting to 3 percent, multiplied by the retiree's monthly pension benefit, multiplied by the number of years that such retirees' pension benefit has been in pay status.

The Committees expect that in prescribing regulations applicable to such supplemental payments, the Secretary of Labor will take into account the overall percentage of retirees' total retirement benefits represented by such payments.

Also, in order to protect plan participants and beneficiaries against an erosion of ERISA's standards, supplemental retirement income payments or a severance pay arrangement, a principal effect of which is the evasion of the standards or purposes of title I of ERISA is treated under the bill as a pension plan rather than a welfare plan. Thus, it is subject to the ERISA standards (e.g., vesting, funding) applicable to pension plans.

Effective date.

The provisions would be effective upon the date of enactment.

Y. Waiver of preemption in case of Hawaii health care plan (Sec. 409 of the bill and Sec. 514 of ERISA).

Present law.

Section 514 of ERISA presently provides that (with certain exceptions) all State laws related to employee benefit plans are preempted by ERISA.

Reason for change.

The Committees believe in the merits of comprehensive Federal preemption with regard to employee benefit plans because preemption eliminates the possibility of varied compliance standards in different States. However, ERISA has had the effect of preempting the Hawaii Prepaid Health Care Law which provides that all employers in the State must provide certain health benefits for their workers. As a result, Hawaii cannot require employers to provide health benefits for their workers.

Explanation of provision.

The bill allows a very limited exception from preemption for the Hawaii Prepaid Health Care Law and requires a study by the Department of Labor. The Committees are concerned that this provision should not be interpreted as a precedent for subsequent exceptions for individual States. While subsequent exceptions may result from a study of the Hawaiian plan, the result may also be a repeal of the exception and a return to total preemption.

The Committees anticipate that the Department of Labor will work with Hawaii to assure that Hawaii has adequate information to enforce its standards.

The bill requires the Secretary of Labor to report to Congress in two years on the effect of the exception. The Secretary is expected to make recommendations in that report as to whether the exception should be expanded to other States' health laws.

Effective date.

The provision is effective on the date of enactment.

Z. Effective Date.

1. General effective date.

The provisions of the bill generally apply on the date of enactment. One exception is that the withdrawal liability rules take effect as of April 29, 1980. For purposes of determining whether an employer has withdrawn from a multiemployer plan, the definition of multiemployer plan in effect at the time of the withdrawal is to be applied. Another exception is that the reorganization provisions take effect on the first day of the first plan year beginning after the earlier of (1) the expiration date of the last collective bargaining agreement in effect on the date of enactment of the bill or (2) 3 years after the date of enactment of the bill.

Under the bill, in the case of employers that withdraw from multiemployer plans covering employees in the seagoing industry on the Pacific Coast of the United States, the withdrawal liability provisions become effective May 3, 1979. In this case all of the provisions of the bill relating to withdrawal liability (including the rules which allocate the liability and which reduce the liability) are to be modified by the PBGC to reflect the earlier effective date. This retroactive application of the withdrawal liability effective date is applied only in the case of the seagoing industry because of specific problems in that industry.

Also, the bill provides that where an employer has withdrawn from a multiemployer plan before the date of enactment of the bill, and a bond or escrow has been provided by the employer under present law, the PBGC is to pay the bond or escrow to the plan if, because of the withdrawal of all employers from the plan, the plan terminates before April 28, 1984. In any case in which the plan is not terminated before April 28, 1984, the liability of the employer is abated and any payment held in escrow is to be refunded without interest to the employer or the employer's bond is to be cancelled.

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[1] See Code sec. 404(a)(1)(A) and Proposed Reg. sec. 1.404(a)-14.

2. Partition of plans before effective date. The bill provides the PBGC with continued discretion to partition multiemployer plans from which an employer or employees withdrew before the effective date of the bill. It also makes it clear that where the PBGC decides to partition such a plan and is thereby forced to take on responsibility for the insolvent part of the plan, the benefits of retirees at the time of partition would be guaranteed to the extent provided under the law in effect before enactment of the bill with respect to single-employer plans.

V. Effect of the Bill on the Budget and Vote of the Committees in Reporting the Bill.

Budget Effects.

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made about the effect of the budget of this bill, S. 1076, as reported by the Committees.

The Committees estimate that the provisions contained in the bill will cause decreases in Federal tax receipts not to exceed $5 million per year for fiscal years 1981–1985. The Treasury Department agrees with this statement.

Placing PBGC on-budget will reduce budget outlays by an estimated $46 million in fiscal year 1981. $47 million in fiscal year 1982. $48 million in each of the fiscal years 1983 and 1984, and $49 million in fiscal year 1985.

New Budget Authority and Tax Expenditures.

In accordance with section 308 of the Budget Act, after consultation with the Director of the Congressional Budget Office, the Committees state that the changes made to existing law by this bill involve no new budget authority or new or increased tax expenditures.

Consultation with Congressional Budget Office on Budget Estimates.

In accordance with section 403 of the Budget Act, the Committees advise that the Director of the Congressional Budget Office has examined the committee's budget estimates (as indicated above) and agrees with the methodology used and the resulting estimates.

Vote of the Committees.

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made about the vote of the Committees on the motion to report the bill, as amended.

The bill, S. 1076, as amended, was ordered favorably reported by the Committee on Finance by voice vote.

The Committee on Labor and Human Resources ordered the bill, as amended, favorably reported by roll call vote at which ten members voted to favorably report the bill, one member voted in opposition to the bill and three members were present and not voting.

VI. Regulatory Impact of the Bill.

In compliance with paragraph 5 of Rule XXIX of the Standing Rules of the Senate, the following statement is made concerning the regulatory and paperwork impact that might be incurred in carrying out the provisions of this bill, S. 1076 (the "Multiemployer Pension Plan Amendments Act of 1980"), as reported by the Committees.

Multiemployer pension plans are currently regulated by the Employee Retirement Income Security Act of 1974. S. 1076 amends certain provisions of that Act relating principally to multiemployer plans.

The Committees do not expect the bill to impose net cost increases on the directly affected population taken as a whole. Most of the information necessary to comply with this bill is required under the provisions of current law. New gross costs will result from the plan sponsors' and contributing employers' compliance with the withdrawal liability provisions of the bill, and as a result of an increase in the premium rate for the insurance program, new funding requirements for certain plans and benefits, and a lower level of benefit guarantees. These new costs are expected to be offset by savings to be achieved by the bill.

In order to comply with the withdrawal liability provisions, plan sponsors will have to keep records on contributing employers and determine and collect the withdrawal liability. The administrative costs of these provisions will be more than offset by the funds that these provisions will generate, which will go to provide funding for benefits to plan participants—benefits that would otherwise have to be funded by increased contributions of other contributing employers or by the termination insurance program.

The new funding rules will result in no cost increase for existing benefits in the vast majority of plans. A small number of plans—plans with very low assets relative to benefit obligations—may have increased costs for existing benefit levels. The provisions of the bill moderate the increases for the affected plans.

The bill increases the insurance premium for multiemployer plans, over a 9-year period, from the current 50 cents to $2.60 per participant per year. This provision will result in a minimal increase in overall pension plan costs. [A $2.60 premium will result in an average increase in pension costs of only two-tenths of one percent.]

[The bill provides for a lower level of guarantees than provided under current law. The Committees understand that less than 10 percent and possibly as few as 1 percent of all multiemployer plan participants may be directly affected by these provisions over the next 16 years, and that this group may lose, as a result of the provisions, less than 20 percent of their total benefits.]

Thus, on balance, the Committees believe that the costs of the bill will be offset by provisions of the bill designed to improve pension benefit security and reduce aggregate pension costs.

The bill does not require additional recordkeeping of a personal or private nature, and should not reduce the personal privacy of the affected groups.

VII. Individual Views of Senator Jacob K. Javits.

The Multiemployer Pension Plan Amendments Act of 1980 (S. 1076), which has been approved by the Senate Labor and Human Resources Committee as well as the Senate Finance Committee, is the product of almost three years of hard work by the Administration, the Congress, and numerous interested groups from the private sector.

In 1974, when the Congress enacted ERISA (the Employee Retirement Income Security Act of 1974), of which I was a principal coauthor with Senator Williams, we realized that there was some uncertainty about the impact of the Title IV plan termination provisions on multiemployer plans. The Congress consequently delayed the effective date of mandatory insurance coverage for such plans until January 1, 1978. During the interim period, the Pension Benefit Guaranty Corporation (PBGC) was to use its discretion to cover terminations that occurred prior to that date.

On August 4, 1977, I announced that I had information that a number of multiemployer plans intended to terminate on or after January 1, 1978, thereby shifting possibly hundreds of millions of dollars of liability to the PBGC insurance system. On that day, I introduced S. 2019 which would have postponed the mandatory coverage date for one year until January 1, 1979. The legislation which was eventually enacted in late 1977 (P.L. 95–214) delayed the effective date until July 1, 1979 (see Oversight of ERISA, 1977: Hearings on S. 2125 Before the Subcommittee on Labor of the Senate Human Resources Committee, 95th Cong., 1st Sess. (1977)). It also directed the PBGC to prepare a comprehensive study of multiemployer plan termination insurance by July 1, 1978.

The PBGC engaged in a full-scale reappraisal of Title IV's applicability to multiemployer plans and after extensive discussions and interaction with interested parties across the country, issued a lengthy report on July 1, 1978 containing new ideas and options for redesigning the multiemployer plan termination program (on that date, the PBGC also released a status report on contingent employer liability insurance). On February 27, 1979, the PBGC issued legislative policy recommendations for consideration by the Congress. These recommendations were later embodied in Senate legislative text on May 3, 1979, when at the request of the Administration, Senators Williams, Long and I introduced S. 1076. Hearings on this Administration bill were held by the Senate Labor Committee on June 26 and 27, 1979 (see Multiemployer Pension Plan Amendments Act of 1979: Hearings: on S. 1076 Before the Senate Committee on Labor and Human Resources, 96th Cong. 1st Sess. (1979)). In order to give the Congress additional time to study and shape the legislation, H.R. 3915 was enacted to delay the mandatory coverage date from July 1, 1979 to May 1, 1980. Two additional delay bills were subsequently enacted.

The bill which the Senate Labor Committee and the Senate Finance Committee have agreed upon is essentially the Administration's bill with the addition of a number of improvements which the Committees thought necessary. Both the Administration's bill and the Senate Committees' bill reflect the extensive input of many diverse organizations in the private sector. Groups which have had a significant impact on and generally support the plan termination insurance amendments include the National Coordinating Committee for Multiemployer Plans, the National Construction Employers Council, the United Food and Commercial Workers International Union, the Western Conference of Teamsters Pension Trust Fund, the United Mine Workers of America, the Food Marketing Institute, the Bituminous Coal Operators Association, and the AFL–CIO. In addition to the foregoing groups, other organizations which have had an impact on S. 1076 include the American Association of Retired Persons, the Graphic Arts Supplemental Retirement and Disabilities Fund, and the Associated General Contractors of America. The general plan termination insurance principles of the bill are supported by the ERISA Industry Committee, the American Bankers Association, the American Council of Life Insurance, the National Association of Manufacturers, and the U.S. Chamber of Commerce.

S. 1076 is necessarily a complex bill, both substantively and politically, and in order to develop a consensus in support of the legislation, it was necessary to make compromises. I doubt that any one group that had an impact on this legislation is pleased with all of it. Personally, I have reservations about certain provisions of the bill, but I believe that as the nation needs this legislation, it should be enacted.

The establishment and implementation of plan termination insurance, which we championed in the 1974 ERISA legislation, was and still is the right thing to do. Its purpose is to assure that working men and women receive the pensions for which they worked over a long span of years even if their plan terminates. All of us know about the disappointment and hardships endured when thousands who lost their jobs also lost all or much of their pensions when Studebaker Motors closed its doors before ERISA's passage. Plan termination insurance is perhaps the keystone of ERISA's assurance that the promise of a pension benefit will be kept. If the plan (and the employer or related industry) hits hard times, the PBGC insurance system will be there to guarantee that plan participants and beneficiaries receive what they earned—their pension benefits.

It appears that the single-employer plan termination insurance program is working relatively well. I think, however, there is general agreement that ERISA's present scheme for multiemployer plan termination insurance is not doing well and that it must be redesigned. Unlike some who have proposed, in one way or another, to abolish multiemployer termination insurance, I am firmly committed to protecting workers and retirees covered by such plans. I believe that we must try our best, in the face of limited resources and large unfunded liabilities, to develop an insurance system that will be as protective and yet as fair as our social system can carry. I believe that S. 1076, as approved by the Senate Labor Committee and the Senate Finance Committee, is such an effort to do the best we can under difficult circumstances.

A major purpose of the bill is to protect participants and beneficiaries of multiemployer plans by encouraging the continuance of such plans. The bill contains provisions which would accelerate present ERISA funding, impose employer withdrawal liability, require plan reorganization, facilitate mergers and transfers of assets and liabilities and permit the use of certain reinsurance funds. The bill would establish a realistic form of insurance through the PBGC's provision of financial assistance to multiemployer plans which become insolvent. It would also establish an improved premium schedule for basic benefits.

The two aspects of S. 1076 which deeply trouble me are the reducing of benefit guarantee levels and the requiring (for insolvent plans, terminated plans by mass withdrawal, and spun-off partitioned plans) of certain benefit suspensions.

The Administration proposal on guarantee levels was to guarantee 100 percent of the first $5 of pension accrual per month per year of service and 60 percent of the next $15 per month per year of service. The original proposal at the March 24, 1980 Senate Labor Committee markup of S. 1076 was 100 percent of the first $5 and 75 percent of the next $15. The 75 percent figure would be reduced to 65 percent for those plans which did not meet certain minimal pre-ERISA funding requirements.

At the markup, I opposed both the Administration and the Committee proposals and offered an amendment to raise the guarantee to 100 percent of the first $5 and 85 percent of the next $15. The 85 percent figure would be reduced to 80 percent for those plans which did not meet certain nominal pre-ERISA funding requirements. My efforts to raise the guarantee were supported by the American Association of Retired Persons, the United Food and Commercial Workers International Union, and the United Mine Workers of America. With the assistance of Senator Pell, a compromise guarantee was approved which was 100 percent of the first $5 and 80 percent of the next $15. For those plans not meeting the specific pre-ERISA funding requirements, the 80 percent figure would be reduced to 70 percent. As with all compromises, I was not fully satisfied with the 80 percent-70 percent figures we settled on, but it was better than the original proposal. Subsequently, in order to get a joint Committee bill to the Senate Floor, it was unfortunately necessary to reduce the guarantee to 100 percent of the first $5 and 75 percent/65 percent of the next $15. I am pleased, however, that in working out the Committee's bill, the permissive authority of plans in reorganization to eliminate certain accrued benefits was deleted.

Even though I believe that the bill's provisions on lower guarantee levels and benefit suspensions are too severe, I believe they are the best that are possible of agreement. I urge my Senate colleagues and affected workers and retires to join in opposing proposals for guarantees lower than the Senate Committee's guarantee level, as already approved by the House of Representatives.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1458) was agreed to.

UP AMENDMENT NO. 1459

(Purpose: To amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such Act shall not apply to stone mining operations or to sand and gravel mining operations)

Mr. WALLOP Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. Leahy). The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming (Mr. Wallop) for himself, Mr. Bumpers, Mr. Pryor, Mrs. Kassebaum, and Mr. Jepsen proposes an unprinted amendment numbered 1459.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

Sec. . Stone Mining Operations.—Section 3(h)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 802(h)(1)), as amended by the Federal Mine Safety and Health Amendments Act of 1977, is amended by inserting after "preparation facilities." the following new sentence: "Such term shall not include any surface mining of stone, or sand and gravel."

Mr. WALLOP. Mr. President, the purpose of this amendment is to free stone, sand, and gravel surface mining operators from the jurisdiction of an overzealous Mine Safety and Health Administration. Today's action is an extension of an agreement I made on the floor with the chairman, Senator Williams, and Senator Long and others at the time we originally were talking about the ERISA bill and agreed to extend it for another 30 days.

My amendment would transfer the regulatory authority of these industries to the Occupational Safety and Health Administration rather than by the Mine Safety and Health Amendment Act of 1977, which equated these businesses with all other mines.

America's mining industries have been regulated by the Federal Government for more than 70 years. Congress has taken an active legislative role in controlling the health and safety of this Nation's miners. Since 1910 and the passage of the act which created the Bureau of Mines within the Department of the Interior, eight legislative efforts have been made to monitor the mining industry. They include the enactment of the Federal Coal Mine Health and Safety Act in 1941, the Federal Metal and Non-Metallic Mine Safety Act of 1966, and the establishment of the Mining Enforcement Safety Administration in the Department of the Interior in 1973.

In 1977 the passage of the Federal Mine Safety and Health Amendments Act repealed the Metals Act of 1966 and amended the Coal Act to encompass all types of mining operations with no variances regardless of type of mine involved. This change was made by merely adding "other mines" after each section in the 1969 Coal Act.

The mining laws have grown in complexity with each amending process. It is easy to perceive the confusion and havoc the Congress has inflicted upon the mining industry. On August 7, 1978, my office received its first complaint concerning the new Mine Safety and Health Administration regulations from a small sand and gravel operator in Casper, Wyo. Since that date, the letters have continued to come, each one individually expressing confusion, anger, and fear as to what the new regulations will do to business and how much they will ultimately cost.

The greatest objection to the 1977 act is that it combined all mining, both coal and noncoal, under a single set of rules for operation. In hearings, held before the Subcommittee on Compensation, Health, and Safety of the Committee on Education and Labor in the House of Representatives during April of 1977, testimony on this point was received from managers of three Wyoming chemical and mining companies, plus numerous other concerned groups. The essence of the arguments presented by the witnesses testifying on this issue is included in the following quotation:

> It has for many years been recognized that although coal and non-coal mining have one basic similarity, that is, extraction of minerals from the earth, the similarity just about ends there. Generally speaking, coal deposits are geologically very similar, and usually occur as flat-horizontal deposits. The engineering involved in coal mining is very similar from seam to seam. These factors add up to the fact that the health and safety conconcerns involved with coal mining are similar in all underground coal mines. In noncoal mining, however, nearly every mineable deposit of valuable minerals is unique, requiring unique engineering, and giving rise to unique health and safety concerns. This is not to say that each non-coal mine requires custom designed health and safety standards, but it does point out the need for flexibility in the formulation and enforcement of standards.

These regulations may make sense for certain mining operations. Our argument today is based upon the contention that 8-foot gravel pits are not and should not be considered mines with the employees known as miners. There is considerable difference between underground coal mine operations and a surface sand pit where employees work under the open sky and drive their vehicles along an 8-foot embankment. We are not asking that these industries be excluded from safety regulations. With this legislative change, stone, sand, and gravel mining operations should still be regulated, but by OSHA, an agency which most know does not have a reputation for impeccable goodwill. When industries ask to be placed under the jurisdiction of the Occupational Safety and Health Administration, one must know the alternative is unbearable.

On March 12, 1979, Senators BUMPERS, KASSEBAUM, PRYOR, and I introduced S. 625, whose intent is to alleviate the unnecessary hardships the Mine Safety Act imposes upon sand, gravel, and surface stone mining operations. To date, 42 Senators have chosen to cosponsor the legislation. I ask unanimous consent to insert into the RECORD at this time a list of these cosponsors.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COSPONSORS OF S. 625: AMENDMENT TO THE FEDERAL MINE SAFETY AND HEALTH AMENDMENT ACT OF 1977

Wallop, Bumpers, Pryor, Kassebaum, Bentsen, Church, Dole, Gravel, Helms, Humphrey, Laxalt, Nunn, Stevens, Cannon, Cochran, Danforth Goldwater, Hatfield, McGovern, Pressler, Simpson.

Schmitt, McClure, Johnston, Cohen, Domenici, Roth, Boschwitz, Tower, Thurmond, Hollings, Lugar, Ford, Warner, Durkin, Morgan, Jepsen, Chiles, Long, Stone, Exon, Talmadge.

Mr. WALLOP. Mr. President, since no inclination has been shown by either the Senate or House Labor Committees to take action toward resolving the injustices found not only in the administration of the Mine Health and Safety Act—but in the act itself, I am compelled to offer the amendment we have before us. By not offering this amendment, I would be letting down those Senators and their constituents who support moving the stone, sand, and gravel mining industries from under the heavy foot of MSHA.

The cost to the industry of implementing these new Mine Safety and Health Administration regulations is another major consideration for offering this amendment. Congress and the President are taking an increasing skeptical look at the effects of Government regulations on the ultimate cost of a product to a consumer. Although the cost of safety cannot be measured in terms of value, it can be measured in terms of cost to the employer and eventually the consumer.

The Human Resources Committee originally estimated that the cost of complying with the Mine Health and Safety Act would for the entire mining industry be approximately $69.15 million per year. MSHA now estimates that this figure may run as high as $120 million per year just for implementation of the required training program. Surely there is some way to generate positive safety changes without causing financial hardships among the small extractive firms. I am aware that the safety record for the sand, stone, and gravel industries is not good. No one denies that safety standards for coal and noncoal industries can improve safety or the safe work environment even in totally unrelated operations.

Yet, I cannot help but feel that a commonsense approach can be taken which will improve safety while allowing the smaller firms to remain in business. In Wyoming, as in other States, the majority of sand, gravel, and stone companies are locally owned and operated and are considered small businesses. Regardless of the size of the operation involved, the ultimate effect of these new regulations will be to raise the cost of a ton of sand, gravel, and stone with no increase in safety.

To point out the real cost of the new MSHA regulations on the sand, stone, gravel industries, surveys were sent to the 40 Wyoming sand, stone, and gravel companies seeking the approximate costs of training their workers and certifying an instructor within one company. They were also asked to estimate the total costs of training, loss of production time and administration:

1. Estimated number of employees to be trained (24 hour requirement), 869.
2. Estimated number of experienced employees to be trained (8 hours), 733.
3. Estimated number of instructors to be certified, 58.
4. Estimated Administrative Costs to implement MSHA's new health and safety training regulations, $220,486.
5. Estimated cost of production time lost due to MSHSA's training requirements, $479,816.
6. Total estimated cost to these businesses in fulfilling all requirements of the health and safety training requirements mandated by Section 115 of the 1977 Mine Safety Amendments, $1,181,317.
7. Percentage increase in finished product costs resulting solely from above costs, 10 percent.

From these figures, it is easy to recognize the impact the regulations will have on thousands of small business operators throughout the United States. This tremendous cost might be justified if the industry in question has demonstrated the need for additional enforcement of health and safety rules. This is not the case with sand, gravel, and stone companies. These surface operations are separate and distinct from any underground mine and should be recognized as such. It is not my intent to interfere with the regulatory process or to jeopardize the safety of "miners" but to point out that one particular group under the jurisdiction of MSHA is suffering as a result of changes made without considering their effects, and without any demonstrated benefit to job safety.

I would say that there are 219 cosponsors of a companion to S. 625 in the House and it is understood that it will not be a problem in conference because of this amendment, that they will move immediately to accept this amendment at such time as it arrives over there.

Mr. President, are we or are we not operating under a time agreement?

The PRESIDING OFFICER. There is no time agreement on this measure.

Mr. WALLOP. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

UP AMENDMENT NO. 1460

(Purpose: To amend the Federal Mine Safety and Health Amendments Act of 1977)

Mr. NUNN. Mr. President, I have a perfecting amendment to the Wallop amendment. It is along the same lines of the Wallop amendment. I have the amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 1460 to the Wallop unprinted amendment numbered 1459:

On page 1, line 7, after the word "stone," insert the word "clay,".

Mr. NUNN. Mr. President, the amendment I am offering today is a perfecting amendment to Senator WALLOP's amendment to S. 1076. Very simply, it adds surface-mined clay operations as activities to which the Federal Mine Safety and Health Amendments Act of 1977 would not apply.

Over a year ago, I joined as a cosponsor of S. 625, which provides the basis for the Wallop amendment today. I did so as a means of indicating my firm belief that modifications should be made in certain activities of MSHA. For example, I noted that, while about 98 percent of sand and gravel mining operations qualify as small businesses, they are faced with virtually the same regulatory and paperwork requirements as the very largest operations. This is still basically the same today.

I also pointed out at that time the trend that appeared to be developing within MSHA to emphasize punishment for violations rather than assistance for compliance. Specifically, I noted that MSHA inspectors were effectively prohibited from serving as safety advisers or consultants to mining operators. I continue to believe that, when compliance inspections are the only contact between MSHA and an employer, the punitive nature of the act is emphasized rather than the congressional goal of greater safety in our Nation's workplaces. While I am pleased to note that MSHA has instituted a program of compliance assistance, I understand that, unlike OSHA's onsite consultation program, these visits are limited to seasonal or new operators, or to operators who have installed new equipment.

I also cosponsored S. 625 in the hopes that it could provide the impetus for reasonable legislative changes in MSHA's mandate. Unfortunately, it does not appear that the present Congress will have the opportunity to provide legislative relief where appropriate.

Therefore, I believe that Senator WALLOP's amendment is necessary. As he has pointed out, stone mining and sand and gravel mining operations are different from deep underground mining operations in many respects. In fact, when one considers the kind of equipment that is used, these operations are actually more like the construction industry than the coal mining industry. His amendment would not exempt these operations from Federal safety regulations; rather, they would be shifted from the present excessive regulations imposed by MSHA, and placed under OSHA's coverage, where other activities of a comparable nature are regulated. MSHA regulations may be appropriate for deep underground mines, but they are often counterproductive and impose undue costs for surface mining operations of the kind covered in Senator WALLOP's amendment.

My amendment simply recognizes the fact that surface clay mining is very similar to surface stone and sand and gravel mining, and would also be more appropriately regulated by OSHA. For example, much of the surface mining of clay, such as Kaolin, consists of using bulldozers or front end loaders to scrape the top layers of soil away and then remove the clay from deposits near the surface. The clay is then loaded into dump trucks for transportation to processing plants. It is a relatively simplistic and safe operation which generally does not produce the same kind of serious threats associated with underground coal mining and other hazardous kinds of mining.

Mr. President, I would also point out that this similarity between surface clay mining and surface stone and sand and gravel mining has already been recognized by Congress in this area. Last year, in passing the Labor-HEW appropriations measure, the Congress approved provisions prohibiting the enforcement of training requirements under section 115 of MSHA's statute for surface clay as well as stone and sand and gravel mining operations.

My amendment would conform Senator WALLOP's approach to this previous action. I think it is reasonable to do so and I urge my colleagues to both support this perfecting amendment and also to support the Wallop amendment as, hopefully, it will be amended.

(Mr. LEVIN assumed the chair.)

Mr. STONE. Mr. President, will the Senator from Georgia yield?

Mr. NUNN. I am glad to yield to the Senator from Florida.

Mr. STONE. I thank the distinguished Senator from Georgia.

Mr. President, in supporting both amendments, the amendment of the Senator from Georgia (Mr. NUNN) and the amendment which his amendment amends, which is the basic amendment of Senator WALLOP, I would like to ask the Senator from Georgia if he would be willing to modify his amendment in the second degree by adding the three words "colloidal phosphate mining" to his amendment? Colloidal phosphates are in exactly the same condition, the way they are mined, the same problems that they face as do the rest of the descriptions in the amendment of the Senator from Georgia and, really, in the basic underlying amendment of Senator WALLOP.

Mr. NUNN. I say to my friend and colleague from Florida that it is my understanding that the Senator from Wyoming, Senator WALLOP, does not object to my amendment. I have not discussed the Stone amendment with him.

For my part, I would not have any objection to the amendment of the Senator from Florida. It does, as I understand, precisely what my amendment does but covers another subject matter which has a great deal in common with both clay and sand and gravel. But I have to defer to the Senator from Wyoming on that.

Mr. STONE. Mr. President, if the Senator will yield further, I have just discussed it with the Senator from Wyoming and there is no objection.

Mr. WALLOP. Mr. President, if the Senator will yield to me, I can affirm that to the Senator. What we are trying to do is establish a level of reason here. Surface stone, clay, colloidal phosphate, and sand and gravel mining are all essentially similar activities.

Mr. STONE. I thank the distinguished Senator.

In that situation, I then ask whether the Senator from Georgia would be willing to modify his amendment in the second degree to include colloidal phosphate mining?

Mr. NUNN. Mr. President, I would ask that my amendment be so modified.

The PRESIDING OFFICER. The Senator does have a right to modify his amendment.

Will the Senator please send the modification to the desk?

Mr. NUNN. Mr. President, I will ask the Senator from Florida if he would send the language to the desk and I would ask that the amendment be so modified.

Mr. STONE. I will do that now.

Mr. NUNN. Mr. President, I have a copy of it here. I can send that copy to the desk.

The paper going to the desk would be my amendment, as modified.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 1, line 7, after the word "stone," insert the word "clay, colloidal phosphate,".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I would agree to the amendment as amended by the Senator from Georgia and leave that stand as amendment in the second degree to it.

As the Senator from Georgia stated, the clay and colloidal phosphate industries were among those mining industries exempted in last year's appropriation bill from the MSHA training requirement. Since surface clay and colloidal phosphate are, generally speaking, small businesses with similar techniques, as in the sand, gravel, and stone industry, they find the excessive MSHA paperwork burden, the training requirements and the mandatory requirements overwhelming. It does make sense that we put this in some broader perspective and try to provide some sensible relief—and I stress this—while maintaining the protection and safety of the workers involved.

Mr. NUNN. Mr. President, I thank the Senator for emphasizing that latter point. I think it is important that we are now removing these from safety and putting them in a category where they more appropriately belong, considering their operation and the similarity in the operations on others that are regulated by OSHA rather than MSHA.

Mr. President, I know the Senator from New Jersey has indicated that he would probably oppose the Wallop amendment. I do not know about that, but I would hope that we could avoid several rollcalls on this and that we could have the Nunn amendment, as modified by the Stone suggestion, accepted and then vote on the overall issue.

● Mr. LEVIN. Mr. President, I cannot support Senator WALLOP's amendment to transfer sand, gravel, and stone mines from MSHA to OSHA. While I believe the operators of these mines need some relief, I feel this amendment goes too far, given the injury and fatality statistics in these industries. I felt that an appropriate remedy would have been to provide relief through modification of the recordkeeping and reporting requirement the smaller operators are required to follow.

My amendment would have provided that sand and gravel mines with less than five employees would have been subject to the recordkeeping and reporting requirements of OSHA rather than MSHA. This would have provided relief to 3,900 of a total of 6,900 sand and gravel mines in the United States. According to the Mine Safety and Health Administration, the median sand and gravel mine has three employees. Time and time again we have heard from small businesses about the burdens of paperwork. My amendment would have addressed many of these concerns without sacrificing the health and safety of those employed in sand and gravel mines.

I believe, however, that nongermane amendments should not be offered on this bill. Thousands of workers' retirement benefits are dependent on the passage and successful conferencing of this bill and any nongermane amendments jeopardize its adoption.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia (Mr. NUNN), as modified.

The amendment (UP No. 1460), as modified, was agreed to.

Mr. NUNN. Mr. President, I thank the Senator from Wyoming and the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I rise to oppose the amendment offered by the Senator from Wyoming, as amended to include the clay and colloidal phosphate mines as well as stone and sand and gravel mines. The opposition I have to the sand and gravel part of the amendment as offered by the Senator from Wyoming are the arguments in opposition to the exemption of clay and colloidal phosphate mines as well.

Mr. President, a bill, S. 625, was introduced on March 12, last year. As I read it, the Wallop amendment is really based on the legislation which was introduced at that time. The only difference that I see is that this amendment would exempt surface mining solely.

Mr. WALLOP. That is correct.

Mr. WILLIAMS. And I gather that is also correct with clay and colloidal phosphate.

Because the bill was introduced in March of last year, in view of the fact that we have had hearings—the Senate has had a hearing and the House has had many hearings—because of the passage of time, and because of action taken by MSHA, the Mine Safety and Health Administration, I would like to take some time to review the position of sand and gravel in mining, its coverage under safety law, and some of the developments which have occurred within the year and better since this bill was introduced.

Mr. CRANSTON. Will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. CRANSTON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will remind the Senator from California there is an amendment pending. It would take unanimous consent to set aside the pending amendment.

Mr. WALLOP. Mr. President, it is my understanding that the amendment of the Senator from California is really technical in nature and will take but a few minutes to dispose of.

Mr. WILLIAMS. And it is on ERISA.

Mr. CRANSTON. Mr. President, I did not realize an amendment was pending. I would be grateful if I could proceed.

Mr. WALLOP. Mr. President, I would have no objection, so long as the standing of my own amendment remains intact.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment will be set aside.

UP AMENDMENT NO. 1461

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1461, as follows:
>
> On page 135, line 1, before the comma following the words "motion picture" insert the following: "(except to the extent provided in regulations prescribed by the corporation)".

Mr. CRANSTON. Mr. President, the purpose of this amendment is to assure that motion picture industry members are not able to avoid all liability by reason of their mode of operations through multiple corporations, limited partnerships and the like. I am confident that the Pension Benefit Guaranty Corporation will be strongly motivated to prescribe such regulations so that employers do not unload their responsibilities onto the PBGC or other members of the industry in an unfair way. I expect that under PBGC's regulations, the entertainment industry exception in the bill will not apply to employers in a plan which covers any stable employer in the motion picture industry.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1461) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. I thank both Senators for their cooperation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any rollcall vote ordered between 6:30 p.m. today and 8 p.m. today not occur until 8 p.m. today.

I make the same request with respect to tomorrow, that any votes ordered between the hour of 6:30 p.m. and 8 p.m. tomorrow not occur until 8 p.m.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, I thank the majority leader for this consideration.

There are important matters that must be attended to on this side of the aisle during that period tonight. I understand there are similar, or other matters, that will compel the attention of many Members on the other side of the aisle tomorrow night.

I wish to express my gratitude to the majority leader for making this arrangement so we can take care of those obligations.

Mr. RIBICOFF. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. RIBICOFF. I can understand the exigencies that require this. May I ask the majority leader the next question, how late does he intend to stay tonight and how late does he intend to stay tomorrow night?

Mr. ROBERT C. BYRD. I would hope that actions on the pending business, ERISA, would be ready to bring to a close by shortly after 8 o'clock tonight.

I think this would be a clearer response to the Senator's question, it is the intention of the leadership to finish ERISA today, and beyond that, not to take up anything else.

Mr. RIBICOFF. May I ask the distinguished Senator, the chairman from New Jersey, and the distinguished Senator from New York, what the prospects are of finishing ERISA tonight?

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER If I could have just a moment, I will check with our cloakroom to get an amendment count. That might be helpful to the majority leader's appraisal of how long we might stay tonight.

Mr. ROBERT C. BYRD. I would like to do the same on my side of the aisle.

Perhaps the manager of the bill has a pretty good idea.

Mr. WILLIAMS. Well, the minority leader indicated he thought there were 11 amendments. I do not know of 11 amendments——

Mr. JAVITS. We have five on our side.

Mr. WILLIAMS. We have——

Mr. BAKER. Mr President, reserving the right to object, just for a moment, of course, I will not object, I express once again my appreciation to the majority leader.

I am told now there are, apparently, four or five amendments on this side to ERISA that probably will have to be dealt with. I would hope they would not take a great deal of time, but I pass that on.

Mr. WILLIAMS. I make the observation, I believe, that major amendments seem to be those which are not germane to ERISA. We have one now, and I think the Senator from Pennsylvania (Mr. SCHWEIKER) has one that does not deal, quite frankly, with ERISA. I do not know of any other major amendments.

Mr. ROBERT C. BYRD. Perhaps it would help the distinguished Senator from Connecticut to have a better understanding of the intention of the leadership.

It is the intention of the leadership to stay this evening beyond 8 o'clock, regardless of whether we get this agreement, in order to complete action on ERISA.

Mr. RIBICOFF. I have no objection. I sympathize with the problem for the leadership.

Would it be possible to get a time limitation on the amendments, under all the circumstances, on ERISA?

Mr. WALLOP. If the majority leader will yield, I have no intention of carrying on the debate much longer. I would like an opportunity to respond to what the chairman has to say against my amendment, and I think the Senator from Arkansas wants to make some short remarks.

I also have an amendment on the de minimis rule for small businesses, which is germane to ERISA.

I would be pleased to try to limit debate on that to half an hour equally divided, if agreeable with the leadership, and try not to take the total time.

Mr. ROBERT C. BYRD. That is a good starting point.

I ask unanimous consent that on the amendment by Mr. WALLOP, the second amendment, there be a time limitation of 30 minutes to be equally divided.

Mr. WALLOP. Thirty minutes equally divided, I think that would be enough occasion to make the argument.

Mr. WILLIAMS. That is agreeable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Can we get an agreement on the next amendment?

Mr. WALLOP. Mr. President, if the majority leader would inquire of the Senator from Arkansas the approximate length of his remarks——

Mr. PRYOR. I state that the remarks of the Senator from Arkansas will not take over 30 seconds.

Mr. WALLOP. The Senator from Wyoming will take slightly more than that with the rebuttal.

Could we take 20 minutes, equally divided, and try to do it in less than that?

Mr. WILLIAMS. I am agreeable.

Mr. ROBERT C. BYRD. Twenty minutes equally divided on the next amendment.

I say to the distinguished Senator from Connecticut that the minority leader is here, and I hope we can both work together to attempt to get time agreements on other matters.

Mr. RIBICOFF. I thank the distinguished leader.

The PRESIDING OFFICER. A unanimous-consent request is pending that there be no rollcall votes before 8 o'clock.

Mr. BAKER. For tonight and tomorrow night.

The PRESIDING OFFICER. Is there objection. The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Between 6:30 and 8.

The PRESIDING OFFICER. Between 6:30 and 8.

Mr. WILLIAMS. Does the Senator want to ask for the yeas and nays now?

Mr. WALLOP. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1459

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Wyoming.

Mr. WILLIAMS. Mr. President, coming back to the amendment now before us, dealing with sand and gravel, the Committee on Labor and Human Resources has had hearings on the effect of the Federal Mine Safety and Health Act of 1977 on the stone and gravel industry.

Based on those hearings and subsequent administrative and congressional actions. I believe that enactment of this amendment would be unsound as a matter of policy, and dangerous as a matter of job safety.

Prior to 1977, there were two Federal laws regulating safety and health in the mining industry. The Coal Mine Health and Safety Act of 1969 regulated the coal industry; and the Federal Metal and Non-metalic Mine Safety Act of 1966 regulated all noncoal mining, including stone mining and sand and gravel mining.

After years of review of the effectiveness of these laws, the committee concluded that of the two, the Metal Act was the least effective. We learned that there had been considerable improvement in safety and health under the Coal Act; little improvement in safety and health under the Metal Act.

The committee, and ultimately the Congress, concluded that the fundamental difference between the two laws, responsible for the differing rates of improvement in safety and health records, was the manner in which the laws were enforced. Enforcement sanctions under the Coal Act were tough and thorough; those under the Metal Act were weak and ineffective.

The new Federal Mine Safety and Health Act combined the two old laws into one and adopted the more comprehensive, more successful enforcement sanctions of the old Coal Act as the model for the new law.

However, the new law does not require stone mines and sand and gravel mines to comply with the standards which are applicable to coal mining. This is one of the myths that has surrounded this issue, and nothing could be further from the truth.

The truth is that stone mines do not have to comply with coal mine standards and that sand and gravel mines do not have to comply with coal mine standards. The intent of the Congress was that separate standards should apply to the different segments of the mining industry. This intent was made amply clear during the debates on this floor when this law was considered by the Senate.

And the Mine Safety and Health Administration (MSHA) of the Department of Labor has kept true to this legislative mandate in its enforcement of the new law. Separate standards for the coal and noncoal segments of the industry are maintained, and are enforced.

I am taking some time to discuss this matter, because it is important to settle this issue once and for all. Here are the Federal regulations dealing with mineral resources, title 30 of the Code of Federal Regulations. Chapter I contains the regulations of the Mine Safety and Health Administration. Subchapter O contains the regulations dealing with coal mine health and safety. Subchapter N contains the regulations for metal and nonmetallic mines. So it is clear that the coal mine regulations are separate and distinct from the regulations applicable to hard-rock mining.

Mr. WALLOP. Mr. President, will the Senator yield for a question on that point?

Mr. WILLIAMS. I yield.

Mr. WALLOP. Mr. President, we are not talking about hard-rock mining in either of these amendments. There is quite a different circumstance.

Mr. WILLIAMS. Perhaps, if I could read a little further, we could then get into just that issue.

Let me say that subchapter N, for hard-rock mining, is divided into three parts. Part 55 provides health and safety standards for open-pit metal and nonmetallic mines. Part 57 contains the standards for metal and nonmetallic underground mines. And part 56 contains the regulations for sand, gravel, and crushed stone operations. So, not only do stone and sand and gravel mines not have to comply with coal-mining standards, they do not have to comply with the regulations applicable to most noncoal mining. They have a separate set of standards and they are all standing there by themselves.

Also, again contrary to what some would have us believe, the 1977 law did not establish Federal mine safety jurisdiction over these industries for the first time. The stone and sand and gravel industries were subject to the Federal Metal and Non-metallic Mine Safety Act of 1966. They were never subject to OSHA. They have always been subject to mine safety laws.

Yet, almost immediately after the Mine Safety and Health Act of 1977 became law, the stone and the sand and gravel industries decided that they would rather be covered by OSHA legislation, and they began their move to win an exemption from the Mine Safety and Health Act.

This amendment is the result of that effort. As I mentioned a moment ago, the amendment is the same as Senate bill 625. After S. 625 was introduced, and referred to the Committee on Labor and Human Resources, our committee had oversight hearings on the effect of the new mine safety law on the stone and sand and gravel industries. As a result of those hearings, several things emerged as the industries' principal concerns about the effects of this new law.

Now I shall get into a discussion concerning the events which have occurred since the original idea to make the exemption here and move sand and gravel out of MSHA and into OSHA was introduced well over a year ago. A lot has happened since then, both in hearings and in action by the agency.

First, let me say that those first concerned about the effects of this law complained that the provisions of the new law requiring that they provide safety and health training to all miners was particularly burdensome on their industries. They claimed that their operations were often intermittent, that they were predominantly small operations, that their employee turnover was considerable. As a result of these factors, they claimed that they were often required to provide expensive training to employees who did not stick it out on the job.

Mr. President, that problem has been largely eliminated. In July of last year, the Senate approved an amendment to the Labor/HEW appropriation which prohibits the enforcement of the safety and health training requirement at stone and sand and gravel mines. I did not support that amendment, and I believe that it was an unsound idea. But, the fact of the matter is that since October 1, 1979, the training provisions have not been enforced against stone and sand and gravel mines. As a result, the primary reason why these industries sought exemption from the Mine Safety Act has been effectively eliminated.

Second, these industries objected to the provisions of the mine safety act which required that a civil penalty be proposed whenever a violation of an applicable standard was cited by a mine inspector. This was a departure from the old way in which the mine safety law was enforced in these industries. Under the old law, there were no civil penalties, and therefore, the mine operators received, in effect, free, onsite consultation from the Government. The industry told us that such consultation was a particularly helpful enforcement tool for their operations, which were largely seasonal, sporadic, or intermittent in nature.

MSHA has addressed that problem as well. In November of last year, following our hearings, MSHA instituted a program of compliance assistance. Under this program, mine operators can request free, onsite consultation by MSHA enforcement personnel whenever they open a new mine, or a new segment of an old mine, or when they are reopening a closed, or an abandoned or a seasonal mine, or when they are installing new facilities or equipment.

Under this program, upon the operator's request, an MSHA inspector visits the mine and points out all problems which are observed. The mine operator is told what he must do to correct the problems, and no penalties are proposed. This program has been a great aid to mine operators, especially in the stone and sand and gravel industries. Since November of last year, MSHA has conducted 2,050 compliance assistance visits. 1,823 of these (89 percent) have been at stone and sand and gravel mines. So, I suggest, Mr. President, that the second major reason why the new mine safety law was considered to be burdensome to these operators has been eliminated.

I think that the Congress and the Mine Safety and Health Administration have been more than responsive to these segments of the mining industry. The elimination of the training requirements, and the compliance assistance program, both instituted since S. 625 was introduced, have met the major concerns that were expressed.

Now, the industry comes forward with other reasons for exemption. Let us examine these.

The industry tells us that they are not really mines. They claim that their operations are more closely akin to construction and that they are improperly regulated as mines.

The fact of the matter is that these operations are mines, and have been treated as mines under Federal mine safety legislation at least since 1961. The 1977 act did not create something new. These industries had traditionally been treated as mines.

The industry tell us that stone and sand and gravel mining is not hazardous. They claim that these are not like coal mines, and that because of the nonhazardous nature of these mines, they are improperly governed by mine safety legislation.

Regrettably, Mr. President, this is not the case either. Stone and sand and gravel mines do show a record of being responsible for many deaths. Consistently, for the past several years, about half of all the fatalities in the noncoal mining industry have occurred in stone and sand and gravel mines. Let me give some figures:

In 1979, 66 of 123 fatalities in the entire noncoal mining industry (53.7 percent) occurred in stone and sand and gravel mines.

In 1978, 74 of 136 noncoal fatalities (54.4 percent) were in stone and sand and gravel mines.

So far this year, Mr. President, 25 of 50 deaths in the noncoal mining industry (or 50 percent) were in stone and sand and gravel mines.

I shall also mention here the number of fatalities that the records show had occurred in clay mines and in phosphate mines. Again, we see a very high number of fatalities.

With respect to the exemption of clay mines—I only add that, so far this year, there have been five fatalities in clay mines. There are only 571 active clay mines in the United States. These five fatalities passes out a fatality incidence rate of 0.079 (per 200,000 manhours). On an annualized basis this is only slightly lower than the rate of fatalities in underground coal mines in 1979 which was 0.09. So these clay mines are very hazardous indeed.

So far this year, there have been 5 fatalities in the 65 active phosphate mines in the United States. These are also hazardous mines.

So far this year, 66 percent of all noncoal mining fatalities occurred in mines which would be exempt from MSHA coverage under this amendment, as modified.

Mr. President, the rates of injuries and the severity of the injuries in the stone industry and the sand and gravel industry have often exceeded the average for the entire noncoal mining industry.

So, Mr. President, we must disagree with those who would have us believe that sand and gravel mining and stone mining are safe operations, that they are not hazardous and do not merit the rigorous enforcement of the mine safety and health laws.

In point of fact, Mr. President, MSHA is still citing stone and sand and gravel operators for violations of the same standards that were developed under the 1966 law. MSHA issued 28,456 citations for violations of these 10-year-old standards at stone and sand and gravel mines in 1979.

So it is clear that no case can be made for less stringent regulations, less stringent enforcement, and less stringent penalties.

Stone and sand and gravel mines are dangerous operations. Workers are killed and maimed at these mines regularly, and no claim that these are safe operations can rebut these facts.

Stone and sand and gravel mines are just that—mines. They are not construction operations, and no amount of argument can change the fact that they are mines, that they have historically been treated as mines, and that they need to be treated as mines.

Mr. President, I have no illusions that the Federal Mine Safety and Health Act of 1977 is a perfect piece of legislation. Undoubtedly, the stone and sand and gravel industries are having difficulty adjusting to the new Mine Safety and Health Act. And our committee hearing on the effects of the new law on the stone and sand and gravel industry indicated some areas where the agency could be more flexible.

But the agency has moved to meet some of the industry's problems, and the Congress has relieved the industry of other requirements which the industry thought unnecessarily burdensome.

The industry need no longer comply with the training requirement. This was the principal concern expressed when we had our hearings.

Since those hearings, MSHA has initiated its compliance assistance visit program, and the concerns of the small, intermittent and seasonal operators of stone and sand and gravel mines have been addressed.

We should give these two relatively new initiatives an opportunity to work. It cannot now be argued that the compliance assistance visits have not been helpful to stone and sand and gravel operators when 87 percent of all such visits were conducted at the request of these operators. And it cannot now be argued that elimination of the training requirement has not helped these operators when it has been less than a year since this requirement was eliminated.

We cannot be enacting laws, and then running around willy-nilly amending them, and chopping them up, and still hope to have an effective body of law and regulation.

Certainly, let us look at OSHA in that regard. We enacted OSHA here with great promise in 1970. I think President Nixon called it a Magna Carta for labor. Then followed years of maladministration of that program and general dismay across the land that it was nitpicking, that it was arbitrary, that it was not doing the job, even that it was politically managed. There were all kinds of condemnation of the administration of what was known to be a great and noble and worthy objective.

The point I can recall in campaigns, people would make this one of the central parts of their campaign for Congress, and get up and read OSHA regulations.

While it was hard to be patient, some of us were there, and we still have OSHA, and great changes have been made and a solid administration has been given us under OSHA, so much to the point that some people came here condemning OSHA and now would have OSHA pick up sand, stone and gravel mining.

So let us be patient here, too, because we have something that should be given time for perfection.

Mr. President, to conclude at this point, this matter is before the Committee on Labor and Human Resources. We have conducted hearings, and are continuing our examination of the mine safety and health program as part of our ongoing oversight responsibilities.

Members should understand that the current provisions of ERISA governing multiemployer plans to go into effect on August 1. That is this Friday.

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order.

Mr. WILLIAMS. There is a broad consensus that failure to enact this ERISA legislation would be a disaster for the plans, their participants, and the employers that contribute to them. It is imperative, therefore, that this bill on ERISA, which is before us, be approved by the House and the Senate and signed into law by the President by Thursday of this week.

The addition of major nongermane amendments could sufficiently delay consideration of this bill here and in the House so that the current law would take effect by default. Because of the uncertainty of what would follow, that law taking effect as it is now, without any changes that would come about through the enactment of this bill, would cause great problems if we do not have the bill signed into law. Therefore, I urge my colleagues to consider the people we are working for in this measure, those who are participants in pension plans, those who are retirees in these plans, and not take the risk that great damage could be done by the mandatory law taking effect without this bill becoming law. It is of great importance.

We know the vagaries that occur when you have a short period of time and a measure has to go to the House of Representatives, with the problems of changes and adjustment. Therefore, major changes, nongermane amendments, would give us a great risk that I do not believe those toward whom we are directing the proposed legislation should be faced with.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, I join in that very strongly, because that is the key to this situation.

The fact is that we have many bills on the floor from the Committee on Labor and Human Resources. There is no problem in hanging an amendment on one of our bills in conference. It is not that kind of committee. All kinds of legislation move through there.

In this situation, anything can upset us; and the consequences to millions upon millions of workers, which must be emphasized, can be devastating.

While I have nothing to say about the right of Members to propose any amendment they wish, I believe we are faced with a situation, not a theory. Therefore, I hope the Senate will take that responsibility in respect of amendments here, which, considering the number of days we have remaining, can only destroy what we are trying to create for many millions of people.

Mr. WALLOP. Mr. President, before I yield to the Senator from Arkansas, let me deal directly with the Senator from New Jersey's joint statement, so that Senators can hear and understand clearly what the case is.

I have no desire, nor do my 42 cosponsors, to hang up the ERISA bill. More than a majority of the House are cosponsors of an exactly similar measure, including Chairman Ullman; and immediately upon its arrival in the House, they will make a motion to instruct that this amendment be accepted.

With more than a majority as cosponsors, it does not seem that the risk mentioned by the chairman and the ranking minority member is a real one.

Now I am happy to yield to the distinguished Senator from Arkansas.

Mr. PRYOR. I appreciate the Senator's yielding to me.

Mr. President, today we have an opportunity to provide desperately needed relief to a group of small businesses which are being burdened with excessive and nonessential Federal regulations. The sand, gravel, and crushed stone industries, which are the subject of the amendment which we are considering, are truly small businesses. The average number of employees at a sand and gravel pit is 7 and at a crushed stone quarry, 11 persons. Many are small mom-and-pop operations, often in people's backyards.

The sand, gravel, and crushed stone industries were made subject to the Mine Safety and Health Act by the amendments that the Congress enacted in 1977. Few recognized at the time that sophisticated regulations designed for large and highly technical operations would be imposed on these small businesses which are located in virtually every community in our country.

These enterprises have asked to be transferred to the jurisdiction of the Occupational Safety and Health Administration. The simple amendment which we are discussing accomplishes that end. It is significant that a majority (219) of the Members of the House of Representatives have cosponsored similar legislation and that 42 Members of this body have seen the merits of the position of these enterprises by cosponsoring a bill which provides the relief contained in this amendment. The general industry standards of the Occupational Safety and Health Administration are as applicable to these operations as they are to the whole spectrum of employers already subject to those standards.

Some of our colleagues have suggested that the relief sought by the sand, gravel, and crushed stone industries can be administratively accomplished by the Mine Safety and Health Administration. However, the 1977 Amendments Act leaves the Secretary of Labor with very little flexibility in providing this relief, and it is, therefore, urgent that we accept this amendment today. Our acceptance of this amendment will not provide any less safety and health protection to the workers.

I am pleased to join with my colleagues in cosponsoring this amendment and hope that this body will grant the much-needed relief.

Mr. BUMPERS. Mr. President, is there a time agreement on this matter?

Mr. WALLOP. There is.

What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Wyoming has approximately 8 minutes remaining, and the Senator from New Jersey has 6 minutes.

Mr. WALLOP. I must say that I am astonished at that timekeeping. We have just had the floor for 30 seconds. But I will accept the statement of the Chair.

The PRESIDING OFFICER. The Chair is astonished, too. The electronic clock gives us that result.

Mr. WALLOP. It is an electric clock, but it merely requires that it be punched when somebody starts speaking.

The PRESIDING OFFICER. The Senator is correct.

The Senator now has 7½ minutes.

Mr. WALLOP. I yield 5 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I strongly support the amendment offered by Senator Wallop which would transfer sand, gravel, and stone mining operations from MSHA's jurisdiction to OSHA's jurisdiction. This amendment is similar to a bill which Senator Wallop and I introduced last session, S. 625 and which now has 41 cosponsors. A similar bill in the House has 218 cosponsors.

The sand and gravel industry and the stone mining industry are industries of small employers. The average number of employees in a stone mining business is 11 and the average number in a sand and gravel operation is 7. According to the National Sand & Gravel Association, 6,000 of the 7,600 sand and gravel operations have less than 10 employees and 3,000 of those businesses have only from 1 to 4 people. These small businesses cannot bear the cost of overregulation and constant penalties and fines. Yet the cost of complying with MSHA regulations will cost over $130 million, or nearly twice as much as the Senate Human Resources Committee projected when it drafted the 1977 Mine Safety and Health Act. The cost to the sand and gravel industry is estimated to be $45 million.

My office has been flooded with letters and telephone calls from persons who claim that MSHA has become impossible to work with. Their relationships with MSHA inspectors have been transformed from ones of cooperation to ones of adversity. These are people who are concerned about the safety of their employees, who wish to prevent costly and time-consuming workplace injuries. According to a sand and gravel operator in Arkansas the inspector assigned to his plant is embarrassed and ashamed of the new role he must play. In that inspector's opinion, he no longer is a safety promoter, rather, he is a fault-finder; a muckraker. I think this inspector's self-assessment epitomizes the opinion many mining operators now hold on MSHA officials. MSHA is viewed as the enemy. Such a conception can do nothing but undermine our efforts to protect mine workers.

Much of this situation is undoubtedly due to the statute's mandatory penalty provision. I would be the first to admit that where a hazard exists due to negligence or lack of concern for safety, a company should probably be fined. But when we mandate fines for all "violations" regardless of how trivial they might be, we trade an undetectable gain in compliance for a substantial loss in credibility and good will and we foster an adversary relationship that precludes an effective Government-business safety program.

MSHA's administration of its penalty assessment authority has exacerbated this problem. If "common sense" is an attribute seldom associated with the Federal Government, MSHA's actions would easily confirm this conception in the mind of even the most objective observer.

For example, a stone miner in my State of Arkansas, has been forced to retain legal counsel and request an administrative hearing in order to correct a computer error committed by MSHA.

In another case, an Arkansas limestone miner chose to appeal an MSHA citation. The gentleman was told on two occasions that his hearing would be in Little Rock or Dallas and that he would be given adequate advance notice of the date. Nearly 3 months passed with no word from MSHA. A short time before the hearings, MSHA told him that the hearings would be held not in nearby Little Rock, not in Dallas, but in Arlington, Va. MSHA's "tactic" apparently worked. The mine operator chose not to appeal.

I received a letter the other day from a sand operation in Michigan. In this case MSHA cited the company for faulty electrical wiring. The company requested that the inspector discuss the matter with their electrical contractor and MSHA refused. The company then filed a request for review of the citation and informed the inspector that they were not going to comply with the citation.

MSHA then forced the company to spend $2,000 complying with the citation by closing the operation until the wiring was changed. The company continued to appeal the case and eventually won. However, they did not recover the large sums of money they had spent in compliance, court costs, and attorneys which incidentally, they would have been required to pay the Government had they lost. This was the second time the company had to spend a great deal of time and money to have an MSHA citation dismissed.

Many of you will recall the amendment I added to the Labor-HEW appropriations bill last July which prohibited MSHA from enforcing its 24-hour training requirement for sand, gravel, and stone operations.

I am not going to pursue that, but as the Senators will recall in that debate we pointed out that sand and gravel operators had a better safety record in this country than Sears, Roebuck did. We inadvertently failed to include clay in the legislation which forms the basis for this amendment. The clay people have a better safety record that the sand and gravel people and I am happy to know that the Senator from Wyoming has included them in this.

The examples I gave when I offered the amendment to the appropriations proved that MSHA's training requirements do not prevent the types of accidents which occur in the sand and gravel industry. Training will not prevent a man from accidentally stepping into a pool of water while touching an electrical wire, nor will it force a man to wear a lifejacket if he does not want to. Yet this training is mandatory for these operations. Moreover it is costly to the company. These small businesses with their 50-percent turnover of employees cannot sustain the continued expense of MSHA's regulations.

Until 1977, mine safety was regulated under two acts, the Coal Act of 1969 and the Metal and Non-Metal Act of 1966. Under this procedure, Congress recognized the disparities between coal and noncoal mining operations. When Congress undertook a revision of mine safety laws in 1977, it simply combined the two acts. Two points are worthy of mention. First, according to the minority views presented in the Education and Labor Committee's report on the House version of the 1977 act, not one witness addressed the issue of incorporating metal and nonmetal mining under the 1969 Coal Act. Apparently, the committee chose to disregard the admonitions of Congressman MORRIS UDALL, chairman of the Interior and Insular Affairs Committee, who noted——

> We started out 4 years ago to write a surface mining bill that would cover all minerals, and we soon discovered that the problems were quite different and that you cannot include the same kind of provisions for both kinds of mining.

The second point I wish to make about the consolidation of the Coal Act of 1969 with the Metal and Non-Metal Act of 1966 is that instead of including provisions from both acts, the authors of the Mine Safety and Health Act of 1977 merely added "coal or other mine" wherever the words "coal mine" had appeared in the 1969 Coal Act. As a result of this legislative drafting technique, today all mining operations fall under an act that was written to address problems peculiar to coal mining.

We are not proposing to transfer authority over all metal and nonmetal mines from MSHA to OSHA. We are simply suggesting that there are certain industries having safety conditions that bear no close relationship to the dangers involved in underground coal mining. The stone mining and sand and gravel mining industries are two prime examples.

For instance, OSHA recently published statistics on certain industrial classifications which would be exempted from OSHA safety inspections under the Schweiker amendment to the Labor-HEW appropriations bill for 1980. Under the amendment if an industrial category had a statistical injury/illness rate of fewer than 7 per 100 full-time workers per year, as published by the Bureau of Labor Statistics, its members could qualify for the exemption. If an employer in the exempted industrial category had 10 or fewer employees he could file an affidavit to obtain the exemption.

Using figures obtained from MHSA, the nonmetallic minerals classification, (Sic 14) which includes the sand, gravel, and stone industries would have been eligible for the exemption. This indicates that nonmetal mining is a safe industry and should not be included under the severe regulation necessary for the coal mining industry.

Mr. President, simply let me just close by saying if sand and gravel industries had been under the jurisdiction of OSHA this year, 6,000 of them could have qualified for exemption from safety inspection and would not have had to contend with unnecessary or inaccurate citations and inspections. The cost of regulation would be greatly diminished.

Finally, I would like to say that we are not trying to make the workplace any less safe for workers; we are just trying to foster a spirit of cooperation between employers and the Government to insure a cohesive and workable system of safety for employees. By allowing the existing punitive regulatory approach to continue to the stone mining and sand and gravel mining industries, we will further undermine the cooperative Federal business relationship that is a precondition for any successful safety program.

Mr. WILLIAMS. Mr. President, how do we stand on the remaining time?

The PRESIDING OFFICER. The Senator from New Jersey has 5 minutes and 54 seconds remaining.

Mr. WILLIAMS. I thank the Chair.

Mr. President, I wish to just include some material in the RECORD. Earlier I mentioned that we have experience when we bring into law a new Government effort. It has its startup problems, its growing pains, and its frustrations for all. We went through this with OSHA. We did have some problems with MSHA. I know that. I have heard from the Senator from Arkansas the description of his problems. They are the same today as he described them over a year ago.

The Senator from Wyoming also when he introduced S. 625 mentioned problems with its administration.

I am going to ask unanimous consent to have printed in the RECORD letters that indicate things have changed with MSHA.

We have letters that were received from the Southwestern Portland Cement Co., the American Metal Corp., Malone Brothers Construction Co., Inc., Lone Star Industries, Inc., of Nyack, N.Y., Country Side Sand and Gravel, Inc., Niagara Stone Division, Medina Sandstone Quarry, Inc., Jointa Lime Co., the Dan Gernatt Gravel Products Co., of Collins, N.Y., and others that I might not mention because I might run out of time.

Mr. President, I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SOUTHWESTERN PORTLAND
CEMENT CO.,
Fairborn, Ohio, June 26, 1980.

Mr. HARVEY OSBORN,
Supervisor, Mine Safety and Health Administration, Fairfield, Ohio.

DEAR MR. OSBORN: I want to thank you, although belatedly, for the CAV inspection which Inspector Luther Pinkston conducted at our facility on June 9–11, 1980.

I don't think Luke missed a square inch! It was extremely beneficial both to me and to the Company to share in his expertise of mechanical and operational safety knowledge.

The CAV program is great! It brings back pleasant memories of the "MESA Era" when our relationship to your agency was less of a "threat" than it is now with the assessment program.

You may be interested to know that each supervisor was given the pink copy of the "citation" for his area of responsibility and instructed by management to abate the condition. To date, twelve have been completely abated and numerous others are being worked on.

Again, thanks for your cooperation and assistance.

Sincerely,

R. S. Brummett,
Safety Coordinator.

Malone Bros.
Construction Co., Inc.,
Greeneville, Tenn., June 16, 1980.

Subject: C.A.V., Mr. William Talley, and Mr. Charles McDaniels.

Mr. John Hawkins,
Mine Safety and Health Administration,

Dear Mr. Hawkins: We would like to take this opportunity to express our appreciation for the C.A.V. given by Mr. William Talley and Mr. Charles McDaniels.

I believe this is one of the biggest pluses the Dept. of Labor, MSHA has working to establish better relationship between MSDA/Industry. This relationship will expedite the goals for all concerned safety.

If we can be of any assistance, please call.

Sincerely,

Ted L. Bryant,
Superintendent.

Lone Star Industries, Inc.,
West Nyack, N.Y., April 21, 1980.

Re Clinton Point plant compliance assistance visit.

Mr. E. J. Podgorski,
Subdistrict Manager, Mine Safety and Health Administration, Albany, N.Y.

Dear Ed: I would like to take this opportunity to thank you and your inspectors for the Compliance Assistance Visit to our Clinton Point plant on February 20–21, 1980.

We greatly appreciate the recommendations and courtesies extended by your inspectors. These recommendations have already been implemented at our plant.

Your efforts on behalf of New York Trap Rock make our plant a safer and more efficient operation.

Thanks again for a job well done.

Sincerely,

Michael T. Critelli,
Regional Safety Manager.

Country Side Sand & Gravel, Inc.,
Collions, N.Y., April 14, 1980.

Mr. Gerald Kane,
U.S. Department of Labor, Mine Safety and Health Administration, Geneva, N.Y.

Dear Jerry: I would like to take this opportunity to express my appreciation to you for your concern and helpful ideas regarding our Pre Start Up Inspection last Wednesday. Your pleasant attitude helped make the truly necessary inspection very informative.

My people and I are presently correcting the unsafe conditions around our plant and operation which you drew to our attention. Dan has also given me a copy of the Alert Notice which will be quite helpful for my electrical grounding equipment use.

I would again like to express my gratitude to you for completing the Pre Start Up Inspection with us. It is always very helpful to have you point out any unsafe conditions to us which, in our busy schedule, we seem to overlook. It is always a pleasure to work with you, Jerry!

Sincerely,

Keith J. Scheetz,
General Superintendent,
Country Side Sand and Gravel, Inc.

Niagara Stone Division,
Medina Sandstone Quarry, Inc.,
Niagara Falls, N.Y., April 16, 1980.

U.S. Department of Labor,
Mine Safety and Health Administration, Albany Subdistrict Office, Albany, N.Y.

Gentlemen: On 15 April 1980, at our request, two of your inspectors, Messrs. David Pharo and Ronald Mesa, conducted a "Compliance Assistance Visit" at this site. We want to go on record about our satisfaction with the new program. Because of their visit, credibility has been established along with rapport, that could not have been possible on a normal compliance inspection.

This Company tries to comply with the intent of the law to the letter and to the satisfaction of the inspecting party, and we want to do it "right" the first time. Reference is being made to the Mandatory Health & Safety Standard 56.14–1, for the guarding of moving machine parts. Here-to-fore chains and gates on walkways near moving parts was acceptable and even suggested by MESA inspectors. We were surprised to learn that this is no longer the case. If it wasn't for the CAV a potential credibility gap might have been created on the compliance inspection. The inspectors explained the safety standard adequately. We thought we had done it once and for all, but corrections will be made to comply with the existing regulation. We hope that there aren't any similar circumstances . . . that is too much to expect!

We plan to make use of the CAV in the future if the policy is continued. Also at this time we want to show our appreciation for the seminars that were sponsored by your organization during the winter and the common ground afforded to us for discussion of mutual problems.

Robert P. Franke,
Safety Supervisor/Quality Control.

Jointa Lime Co.,
Glens Falls, N.Y., April 15, 1980.

Mr. E. J. Podgorski,
Sub District Manager, MSHA
Albany, N.Y.

Dear Mr. Podgorski: We at Jointa Lime wish to take this opportunity to express our thanks for our CAV inspection.

Mr. Ken Hare, of your staff, was the inspector and we appreciated his help in clearing up items that we had missed. He also showed two films on safety and I received very favorable comments from our employees.

We hope this program will be kept in effect as we feel it is a great help to us.

Sincerely,

E. J. Davidson,
Treasurer and Manager.

Dan Gernatt Gravel Products., Inc.,
Collins, N.Y., April 11, 1980.

Mr. Gary Kettlekamp,
U.S. Department of Labor, Mine Safety and Health Administration, Geneva, N.Y.

Dear Gary: I would like to take this opportunity to thank you for your courteous thoughts and suggestions regarding our Pre Start Up Inspection on Wednesday morning. I truly appreciate your concern in this matter.

I have gone over all three of the items which you had pointed out with my Maintenance Superintendent and he agreed that they should be properly corrected before we start production this season.

I would also like to take this opportunity to thank you for completing such truly necessary Pre Start Up Inspections with us. My employees and I are in contact with these plants daily which would make one think that we would easily notice an unsafe condition when it is right in front of us. However, in reality, it is to the contrary. We apparently become immune or blind to such conditions. It is very helpful to have you draw any such conditions to our attention.

It was indeed a pleasure meeting and working with a person such as you who had had "on the job" training in the quarry and who presents the Mine Safety and Health Administration in such a discreet manner.

I am looking forward to working with you in the future. Please give my best regards to Gerry.

Sincerely yours,

Dan Gernatt, Jr.,
Dan Gernatt Gravel Products, Inc.

Brewster Sand & Stone Corp.,
Brewster, N.Y., March 31, 1980.

Mr. John Halaburda,
Mine Safety & Health Administration,
Albany, N.Y.

Re: Compliance assistance visit, Brewster Mill I.D. No. 30–01296.

Dear Mr. Halaburda: I would like to take this opportunity to express my appreciation for the assistance you extended during your recent compliance assistance visit.

Your comments regarding the overall safe condition of our plant were especially appreciated.

We will strive to maintain a high level of safety and health and hopefully during regular inspections in the future, similar to the last one conducted in November 1979, there will be no violations to report.

Very truly yours,

Wallace E. Spencer,
President.

Delaware Valley
Cement Block Co., Inc.,
Port Jervis, N.Y., March 3, 1980.

Mr. John Halaburda,
U.S. Department of Labor, MSHA,
Albany, N.Y.

Dear John: I want to take this opportunity to thank you for the CAV inspection which you conducted for me on February 28, 1980.

I greatly appreciated the time and effort you spent, especially considering the bitter cold weather. We are already taking the necessary actions to rectify our deficiencies, and if the weather cooperates will be able to begin the actual work soon.

Thank you again for your understanding and cooperation.

Sincerely yours,

Richard A. Spears,
Vice President.

February 21, 1980.

To Whom It May Concern:

On February 20, 1980, the American Materials Corporation, Harrison Plant, was given a "CAV" Inspection by Inspector Fred Schell. This included inspections of the Main Plant, Pit, and Shop.

We would like to say thanks for the time and interest invested for stopping by and giving us this "CAV" Inspection prior to the beginning of regular inspection tours.

We are totally interested in having "zero" accidents and "zero" fines by any agencies.

Thank you,

Norman H. Ross,
Foreman, American Materials Corp., Harrison Plant.

Mr. WILLIAMS. Mr. President, these letters say one thing loud and clear. These are letters that indicate gratitude for the sensitive understanding and the responsiveness of MSHA to these companies and their problems.

The compliance assistance visits were just what they wanted and what they felt they needed. They are safer because of it. That is what they say in these letters.

Also we have letters from the National Crushed Stone Association, the American Mining Congress, and the Lone

Star Industries, Inc., of Norfolk, Va., praising MSHA for its responsiveness, its flexibility, and its sensitivity to the industry needs in safety. This is today's situation.

What we heard earlier was yesterday and the day before.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters to which I have made reference.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL CRUSHED STONE ASSOCIATION,
Washington, D.C., July 22, 1980.

Mr. ROBERT LAGATHER,
Assistant Secretary,
Arlington, Va.

DEAR BOB: The Board of Directors of the National Crushed Stone Association wish to commend you and your staff at the Mine Safety and Health Administration for the reasonable and appropriate changes made to the final rules on independent contractors and underground mine rescue teams.

Our Board of Directors, meeting last week, formally recognized the significant changes made in these rules.

Bob, I hope that as we continue working on the various other rules and regulations scheduled for action, this attitude of flexibility and understanding of the variations in mining methods between the different commodities will be maintained. NCSA, as well as many of our members individually, will continue to provide well thought out comments on various proposals having impact on the crushed stone industry. We anticipate that such comments will continue to be helpful in developing rules and standards which are workable and reasonable.

Best wishes to you and your associates at MSHA.

Cordially,

WILLIAM L. CARTER,
President.

JULY 16, 1980.

Hon. ROBERT B. LAGATHER,
U.S. Department of Labor,
Arlington, Va.

DEAR MR. SECRETARY: Now that the American Mining Congress' Seminars on Mine Safety and Health Litigation have come to a close, I would like to extend my personal appreciation to you for MSHA's invaluable assistance.

All reports indicate that the seminars were an unqualified success, due in large part to the efforts of you and your staff, particularly Messrs. Eck Muessig and Tom Shepich. In addition to providing sound and practical advice to those who attended, the seminars stand as dynamic evidence of our mutual desire for cooperation among all parties in seeing that the Federal Mine Safety and Health Act of 1977 is thoroughly understood and fairly administered.

I sincerely hope that this cooperative venture can be continued in the future, and I know that you would agree.

AMC is proud to have sponsored the seminars and grateful for MSHA's participation.

With warmest regards, I am

Sincerely,

J. ALLEN OVERTON, Jr.,
President.

LONE STAR INDUSTRIES, INC.,
Norfolk, Va., July 16, 1980.

Mr. ROBERT B. LAGATHER,
Assistant Secretary of Labor for Mine Safety and Health, Arlington, Va.

DEAR MR. LAGATHER: Not often does it seem to occur that a Federal agency goes through the rule-making process and listens to the considerations of all sides and incorporates those considerations into its decision-making process, but this has occurred in your agency with the final rule on "Procedures and Requirements for Identification of Independent Contractors". I was one of the persons who spoke at the public hearings opposing the workability of the proposed rule. Those representatives of MSHA at the hearing were attentive to and concerned about the objections brought forward, but I still felt (probably due to previous experiences with other agencies) that what we were saying was falling on "deaf ears".

To my surprise and delight when the final rule was published earlier this month, I found that many recommendations brought forward at the hearing had been instituted into the rule and the rule had been restructured to properly assess the independent contractor question. I would like to thank you and your staff for opening my eyes that there are Federal agencies properly concerned about the regulations they are imposing. I should not be surprised about MSHA because we have had an excellent relationship with MSHA in the region since the inactment of the F.M.S.H. Act of 1977.

My thanks again to you, Mr. Frank White, and his staff for the concern and common sense shown with the final rule on independent contractors.

Very truly yours,

ROGER E. VAUGHN,
Regional Safety Manager.

Mr. WILLIAMS. Mr. President, I have a letter from the Secretary of Labor in which he states his strong support for the prompt enactment of this bill and his strenuous opposition to the nongermane amendments.

I ask unanimous consent to have printed in the RECORD this letter from Secretary Marshall, who turned OSHA around.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., July 28, 1980.

Hon. HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that S. 1076, the "Multi-Employer Pension Plans Amendments Act of 1980," will probably come to the Senate floor soon. I have earlier written you to express the Administration's very strong support for this legislation. In a very real sense the economic well-being of some 8 million pension plan participants rests upon timely enactment of this bill, whose counterpart, H.R. 3904, passed the House on May 22, 1980 by a vote of 374–0.

In view of the extreme importance of this legislation, prompt enactment of the substantive bill must occur without further delay. Moreover, in order to obtain enactment by the August 1, 1980 deadline, it is critically important that this ERISA bill be passed without any non-germane amendments. Such amendments would serve only at best to postpone enactment of the much needed multi-employer pension plan reforms embraced in the bill.

In this connection, it is my understanding that Senators Wallop and Schweiker may offer amendments to this legislation which are both non-germane and ill-conceived and which could seriously affect the ability of this Department to ensure basic protections to millions of this Nation's working men and women.

The Wallop amendment would transfer enforcement of health and safety standards in sand and gravel and stone mining operations from the Mine Safety and Health Administration (MSHA) to the Occupational Safety and Health Administration (OSHA).

It has been alleged that the hazards faced in these mining operations differ from those faced in other mining operations. We disagree. Sand and gravel and stone mining are classic mining operations; the hazards faced by persons in the sand and gravel and stone industries are similar, and in many cases, identical to the hazards faced in many other mining operations. In fact, in each year since 1974 sand and gravel and stone operations have consistently had about half of all metal and nonmetal mining fatalities.

Health and safety standards specifically developed for sand and gravel and stone mines were promulgated in the early 1970's by the Department of the Interior after consultation with a committee comprised of representatives from the affected industries, labor and state agencies. The Federal Mine Safety and Health Act of 1977 transferred those standards and the same enforcement personnel to MSHA. In essence, neither MSHA nor the enforcement of safety and health standards is new to the sand and gravel and stone mining industries.

MSHA has made a concerted effort to accommodate the individual needs of sand and gravel and stone mining operators to aid them in complying with the Act and its requirements. For instance, in response to many operators' requests, MSHA instituted the Compliance Assistance Visit (CAV) program which allows inspectors to visit mines under certain conditions upon an operator's request to point out potential violations without mandatory civil penalties being proposed.

The thousands of miners in the sand and gravel and stone mining industries depend on the expertise of the Mine Safety and Health Administration for the protections they need and demand. Enforcement authority should remain in MSHA.

The proposed Schweiker amendment would eliminate affirmative action requirements for a sizeable segment of the Nation's workforce. In part, the amendment would exclude all supply, service and construction contractors and subcontractors who employ 5 or fewer employees from the affirmative action requirements of Executive Order 11246, as amended, relating to equal employment opportunity obligations for Federal contractors.

This exemption would seriously impair the ability of the Office of Federal Contract Compliance Programs (OFCCP) to enforce the Order and to fulfill its primary purpose of increasing opportunities for minorities and women in jobs from which they have been historically excluded.

The 1978 Dun and Bradstreet report shows nearly 2.5 million establishments in the country with 5 workers or less. This represents approximately 10 million jobs. Even after excluding retail establishments, the potential number of jobs that might be covered by the Executive Order and therefore removed from coverage if the exclusion is enacted could be substantial.

It must be emphasized that since contractors of five or fewer employees would no longer be covered by the Executive Order affirmative action requirements, their subcontractors—no matter how many employees they employ—would not be covered either. Thus, the amendment, if enacted, would enable a small contractor to escape coverage on its own, and also remove coverage for many larger subcontractors, encouraging evasion of the remedial purposes of the Executive Order.

Under present OFCCP regulations, contractors and subcontractors with contracts of less than $10,000 are excluded from coverage of the Executive Order. We believe this is the proper approach rather than focusing on the number of employees.

The amendment also proposes to establish the State Employment Service system as the virtual sole supplier of prospective employees for the purpose of contractors meeting their affirmative action obligations under the Order. We are strongly opposed to this provision. This directly conflicts with legally and historically established collective bargaining procedures and the union referral system. It would also have a substantial negative impact on the growing private employment agency industry.

We know from our experience that a single source of recruiting will not enable a contractor to meet its affirmative action obligation. We do not believe it would be different if the State Employment Service system is established as this sole service. It is also obvious that the proposal has considerable funding implications since it would require a massive reorganization of the State Employment Service system to accommodate the proposal.

For the foregoing reasons, the Department of Labor is strongly opposed to the amendments of Senators Wallop and Schweiker. Thank you for the consideration of these views.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress, and that these and other nongermane amendments, which would delay enactment of the multiemployer pension legislation, would not be consistent with the Administration's objectives.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. WALLOP. Mr. President, I think it comes as absolutely total amazement to people in the industry we seek to provide relief to hear MSHA described in gratitude as flexible and sensitive, especially when we are trying to take care of the small business people in this country. The Senator from New Jersey refers to AMAX and Lone Star and American Mining Congress, the giants of the American mining industry. They are not involved in the kind of operations we are trying to exempt here. No such pretense has been made on the part of those of us who are offering this amendment.

We are trying to take care of people who are abused by MSHA and who state it and have stated it and will continue to state it. MSHA is not a flexible outfit. There is not broad consensus that this amendment is a disaster unless one happens to be talking to a very specific narrow little group of people who love the burdens of the regulatory agencies of America and who can see no benefit at all to anyone unless we are employing millions and millions of these people that traipse around and provide tons of paperwork that have absolutely no constructive use in the industry today to provide safety.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from Robert C. Hollenback, vice president, governmental and public affairs, National Crushed Stone Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 29, 1980.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: In the continuing dialogue with members of the National Crushed Stone Association, we have endeavored to assess their reaction to the recently instituted Compliance Assistance Visits (CAV's). On a number of occasions, our members have indicated that while the visits are welcome and often of value to the operator, they are far too narrow in scope to have widespread use. Operators have stated that the visits would be of more use if they would be applied to operating plants rather than those which are about to open, reopen, or which have recently installed new equipment. One example of such an instance would be when a plant hires a new superintendent or plant manger. MSHA has refused to allow such visits.

Finally, in an effort to maintain good relations with MSHA, the National Crushed Stone Association has always been conciliatory toward the agency, even to the extent of congratulating them on those somewhat rare occasions when the agency has accepted arguments and recommendations from industry with respect to standards which have been promulgated. The recently promulgated regulations on Underground Mine Rescue Teams and Independent Contractor are the two instances when this was true and when NCSA congratulated the agency on its wisdom of accepting the industry's recommendations.

We thank you for your continuing interest and concern on this issue.

Sincerely,

ROBERT C. HOLLENBACH,
Vice President.

It is argued that: Sand, stone, and gravel extraction operations are identical to the mining of other minerals, thus they should not be exempt from MSHA.

My rebuttal is: The 1977 Federal Mine Safety and Health amendments were written for deep underground mines.

The equipment used in the sand, stone, and gravel industry are analogous to that used in construction or general industry rather than the highly specialized pieces of equipment used by the deep underground mining such as man hoists, low profile mobile equipment, continuous mining machines.

The sand, gravel, and stone industries use such equipment as: dump trucks, bulldozers, pumps, scrapers, conveyor systems, front end loaders, compressors, shovels, loading systems, fork lifts.

Sand, gravel, and mining operations are small businesses generally employing 8 to 10 people.

It is argued that: Mining has been covered by some kind of health and safety regulation since 1966, the proposed amendment will exempt sand, stone, and gravel operation from Federal safety standards.

My rebuttal is: True, the proposed amendment exempts sand, stone, and gravel industries from the Mine Safety and Health Administration (MSHA) oversight—but automatically places them under the jurisdiction of the Occupational Safety and Health Administration (OSHA).

Sand, stone, and gravel mining operation would be subject to general industry standards of OSHA unless the Secretary of Labor determines that a special category of standards would be more applicable.

It would be possible for the Secretary to create under subpart R of part 1910 a special group of standards which would apply to these industries. There are a number of industries currently covered under standards in subpart R of part 1910. These include such industries as: pulp, paper, and paperboard mills (190,261), textiles (190,262), sawmills (190,263), baker equipment (190,263), agriculture operations (190,267).

Standards very similar to those in effect under the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89–577) could also be promulgated as the regulations for the stone, sand, and gravel industry. These industries' standards were covered by part 56 of title 30 of the United States Code.

It is argued that: In a response to mine operators request for MSHA to aid sand, gravel, and stone-mining operators comply with the MSHA Act, MSHA instituted the compliance assistance visits (CAV's). CAV's allow inspectors to make visits to mines under certain conditions upon the operator's request to point out potential violations without mandatory penalties being imposed.

My rebuttal is: CAV's were implemented to try and quiet industry's request to have an MSHA inspection program similar to OSHA's widely acclaimed onsite consultation program.

There is one very large deficiency with the CAV's—these inspections having no citations can only be done for new plants or for seasonable plants before commencing operations.

MSHA compliance assistance visits (CAV's) are of absolutely no value to the vast majority of sand, gravel, and stone producers who are operating all year long.

Once again we find MSHA proclaiming a great step forward in easing the operator's burden only to find it a small step that does not really assist small operators in their safety efforts.

It is argued that: 50 percent of the injuries in the noncoal mining industry happen in sand, gravel, and stone mining.

My rebuttal is: First of all, the statistics game is a difficult game to play—we all can use statistics to our best advantage.

The vast majority of the noncoal mining industry is made up of the sand, gravel, and stone industry.

When we speak of 50 percent of the industry injuries in what context are we speaking? Per man-hour? Per ton of productivity? Per number of employees?

plus we must look to the accidents themselves.

I say in conclusion that what is going on here is not an attempt to relieve the sand and gravel or the crushed stone industry from the requirements of safety in the work place. It is an attempt to get them out from under the burden that is created by an agency that thinks all mining all across America is underground and the same, and it is typical of the blanket solution approach that the majority party and the great regulators of this country have taken all along and for some reason or another you can think safety, wave a wand, and it will fit as a glove from one end of the country, from one industry to the other.

It simply is not true, Mr. President. Otherwise, we would not be here at the request of thousands upon thousands of small operators of America who are trying to make a legitimate living and provide a safe work place at the same time. They are asking to go under OSHA. They are asking to go under the general rules of industry, and that makes sense. It does not make sense that they be treated as vast underground miners with the enormous machinery that goes with it.

On that I rest my argument and yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I wish to close by saying that this amendment would take these operators, sand, gravel, clay, and collateral phosphate from MSHA and transfer it to OSHA.

The problem, Mr. President, is these traditionally have been considered mining operations. They are mining operations. The standards of safety on the job are developed by mining people and in a mining context.

If they are just pulled out of there and sent to OSHA they go to an agency that has never had any background in mining regulation. These industries and these workers would be thrown to the mercy of an agency that has little background, few, if any standards, and safety regulations in place to deal with their safety on their job.

So it is risky, unwise, and I think that the National Crushed Stone Association that talks to the problems of this industry as it commends the Assistant Secretary who heads MSHA for his reasonable and appropriate responses to the needs of the industry in doing his job as the head of MSHA tells us to let mining stay where mining is with the Mine Safety and Health Adminisration.

Any time I have remaining I yield back.

The PRESIDING OFFICER. Is all time yielded back?

Mr. WALLOP. Mr. President, I assume that the vote on this is put off until 8 p.m.; is that correct?

The PRESIDING OFFICER. Does the Senator from New Jersey yield back his time?

Mr. WILLIAMS. I did.

The PRESIDING OFFICER. That is correct. The vote will be no earlier than 8 o'clock.

UP AMENDMENT NO. 1462

(Purpose: To increase the mandatory de minimis reduction ceiling from $50,000 to $100,000)

Mr. WALLOP. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 1462.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 153, line 4, strike out "$50,000" and insert in lieu thereof "$100,000".

Mr. WALLOP. Mr. President, throughout the development of the ERISA legislation I have been concerned about the impact the newly created withdrawal liability provisions will have on small businesses.

As presently drafted, section 4209 of the bill would reduce an employer's withdrawal liability by the lesser of three-fourths of 1 percent of the plan's unfunded vested obligations or $50,000, with a phaseout beginning at $100,000. While this so-called mandatory de minimis rule provides some protections against potentially bankrupting withdrawal liabilities for small businesses, I believe we can go further still in protecting small businesses without detrimentally affecting the employers remaining in the plan, the employees entitled to receive benefits, or the PBGC.

I am proposing a simple amendment to modestly expand the protections for small businesses. My amendment would increase the $50,000 exemption to $100,000. It does not change the phaseout provision. The following table sets forth an employer's withdrawal liability under my amendment for varying amounts of calculated liability:

Calculated liability	$50,000	$100,000	$125,000	$150,000	$175,000	$200,000
Withdrawal liability	0	0	50,000	100,000	150,000	200,000

Between $100,000 and $200,000, there is a dollar-for-dollar phaseout of the exemption. Under the bill as currently drafted, the exemption completely phases out at $150,000.

The reasons for this amendment are numerous. First, I believe $100,000 comes closer to reflecting the actual withdrawal liability for an employer with fewer than 10 employees than does $50,000. The draftsmen have explained that the section was drafted to cover businesses employing between 8 and 10 employees. Based on PBGC's rough estimates, they calculated that the average withdrawal liability per employee was $6,500, hence the conclusion that $50,000 would in the typical case cover an employer with approximately eight employees.

Other actuaries with experience in multiemployer pension plans set the per employee liability at nearly double the PBGC's figure. They believe that the liability upon withdrawal would be closer to $13,000 per employee. All agree that the best available estimates are still "guestimates." Using this $13,000 figure, my amendment would be more likely to exempt the small employer who employs eight or so employees, which is precisely what was originally intended. Parenthetically, I would point out that the recently convened White House Conference on Small Business defined by resolution a class A small business as one with zero to nine employees. My amendment would extend the de minimis exemption to more class A small businesses than the bill presently before us.

Moreover, the amendment makes it more likely that a small employer in a large plan will be covered by the de minimis exemption. Since the small employer's liability includes a proportionate amount of inherited liability and liabilities not directly attributable to his employees, total liabilities upon wihdrawal of the small employer in a large plan will typically be higher than if he were in a smaller plan with lower unattributable liabilities. The $100,000 exemption should more adequately protect such small employers.

Another reason this amendment is needed is to reduce the potentially substantial cost to the small employer of withdrawing from the plan, a cost not anticipated at the time the collective bargaining agreement was reached to join the plan. It is possible that a small employer, who under current law and under the proposed legislation does not, practically speaking, bargain for benefit levels, would be saddled with withdrawal liability that absorbed a substantial portion, or all of the equity in the business. To exacerbate the hardship to the employer, this withdrawal liability would be imposed at a point when the employer may least be able to meet such obligations. The withdrawal may well occur out of business necessity, at a time when there are no earnings from which to pay liabilities.

The significance of this potentially bankrupting withdrawal liability goes far beyond the individual small business. Its consequences go to the very existence of the multiemployer plans. If the withdrawal liabilities created by this legislation are excessive, in the absence of a meaningful de minimis exemption such as the one I am proposing, it will become next to impossible for these plans to find new employers to join in and help support them. In the final analysis that would effectively turn every multiemployer fund into a "declining industry" fund and result in heavy financial burdens on the sponsoring employers and loss of benefits for the workers, not to mention possible extensive outlays by the PBGC to make good the benefits to retirees.

If raising the $50,000 to $100,000 would appear at first blush to increase the potential financial burden on the PBGC, it must be remembered that the small employers who join these plans because of the more realistic and attractive de minimis exemption should more than offset the potential liability of the PBGC by maintaining and possibly expanding the contribution base of the plan.

Unless the change I am proposing is made, it can also be expected that small businesses as well as large businesses, when faced with union demands to contribute to a multiemployer fund or to go to strike, will offer instead to contribute the identical amount to a collection of IRA's. This would indeed be ironic in light of the express policy of the act—to alleviate certain problems which tend to discourage the maintenance and growth of multiemployer pension plans. This may or may not be as valuable a benefit for workers in that organization, but it will certainly have a crushing financial impact on the multiemployer pension plans now in existence, most of which rely on a steady influx of new companies for reasonable financial balance.

Greater protections from liability are also needed to eliminate a financial disincentive to new businesses. Today, four out of five new businesses fail within their first year. The potential for withdrawal liability on top of the already substantial risk faced by fledgling businesses might well be enough to discourage new business starts altogether. In a lagging economy, this is an eventuality that must be avoided.

The withdrawal liabilities may also prejudice small businesses which seek to obtain credit to carry on normal business operations. Banks may hesitate to lend money where withdrawal liabilities may place the principle at risk. This amendment will in a small, but meaningful way, reduce the reluctance of banks to extend credit to small enterprises.

Mr. President, small businesses should not be "crucified on a cross of pension liability." This is the position of the National Small Business Association which has endorsed my amendment. I trust the Senate will agree.

I move the adoption of my amendment.

I hope the distinguished floor manager who, I am certain, listened to every word of the argument I presented, will agree as well because what we are trying to do is protect the credibility of these multiemployer pension plans and make it possible for people to make a legitimate business decision to enter them. Under the terms of the de minimis exemption as it exists right now it would not be a legitimate small business decision to enter those plans.

I reserve the remainder of my time.

Mr. WILLIAMS. What is the time remaining on this amendment?

The PRESIDING OFFICER. There are 30 minutes equally divided.

Mr. WALLOP. Obviously the Senator from New Jersey has 15 minutes if we divide the time.

The PRESIDING OFFICER. The Senator from Wyoming has 6½ minutes remaining.

Mr. WALLOP. I thank the Chair.

Mr. WILLIAMS. Mr. President, this de minimis provision in the bill is the provision that was developed by the Committee on Finance.

Labor and Human Resources did have a discretionary de minimis rule. The Finance Committee worked on this provision after we had finished our work on the bill and they developed the provision that is now in the bill.

I am not, obviously, on the Finance Committee, but I see that the Senator from Hawaii (Mr. MATSUNAGA) is here. Maybe he would like to advance the arguments for what is in the bill given to us by the Finance Committee.

I understand from staff that the chairman of the Finance Committee did, as I understand it, hope that this amendment would not have been offered by the Senator from Wyoming.

Mr. WALLOP. Mr. President, is the Senator suggesting that the chairman of the Finance Committee said that I would not be offering it?

Mr. WILLIAMS. No; it was reported to me that he had hoped the Senator would not—would not.

Mr. WALLOP. Mr. President, I might just say that the Senator never passed such information on to the Senator from Wyoming.

Mr. WILLIAMS. Be that as it may, I am from the Labor and Human Resources Committee and I am here in the position of defending the Finance Committee position in the bill, which is a $50,000 de minimis provision.

The proposed amendment has the effect of completely exempting employers with $100,000 or less. This would greatly expand the amount of a plan's unfunded vested benefits that would be imposed on remaining employers in the event of a withdrawal, and would greatly increase the risks to the PBGC. As much as 40 percent of all unfunded vested benefits would be excluded under the proposed amendment. In some plans, the proposed amendment would exclude 100 percent of the unfunded vested benefits.

The basic point is this: Every dollar that a withdrawing employer does not pay must be paid by the other employers who remain in the plan. And my colleagues should understand that the remaining employers will typically be as small as or smaller than the employer who is leaving. The proposed amendment can have a tremendous destabilizing effect on multiemployer plans and the insurance program, and perpetuate the very problem that the bill is designed to solve—that is, penalizing employers who remain loyal to the pension plan.

I know the argument is made that unless the amount is increased that this will be another discouraging factor for employers coming into pension plans. But the bill includes other special rules to help attract new small employers.

For instance, there is a provision that is called the free look rule, which allows small employers that join a plan to leave within 6 years without liability.

So the incentives are there for small employers to join a plan. But to permit this unfunded pension liability to increase, settling more responsibility on employers that remain, we think is unwise and suggest that the Finance Committee provision that is in the bill is sound. Therefore, we oppose the amendment of the Senator from Wyoming.

Mr. JAVITS. Will the Senator yield to me?

Mr. WILLIAMS. Yes.

Mr. JAVITS. Mr. President, I should have been making this argument, except I was detained momentarily and I apologize to the Senator from New Jersey.

It is interesting that we are here defending the Finance Committee's handiwork, but I certainly feel, and Senator WILLIAMS has certainly made his views clear, that it is eminently deserving.

Mr. WALLOP. Will the Senator yield for the courtesy of my asking for the yeas and nays while we still have some Senators in the Chamber?

Mr. JAVITS. Yes.

Mr. WALLOP. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. I thank the Senator from New York.

Mr. JAVITS. Mr. President, this just pushes the withdrawal liability limitation up into such high brackets so as to very seriously jeopardize many of these plans; so it ceases to be an accommodation to small business.

I would like to point out that the scheme of the legislation exactly looked forward to that situation because the way the joint bill, which is the bill of the Finance Committee and the Labor Committee, has expressed the reduction is to provide that where the withdrawal liability exceeds $100,000, then that excess shall be deducted from the $50,000 exemption. In other words, we were very cognizant of the fact that when you get into substantial liability, you had to reduce even the $50,000 limitation.

This amendment would seek to move up the minimum to $100,000. It is very clear that this would seriously invalidate so many plans that it is really impractical.

As a matter of fact, when we handled the matter in the Labor Committee, we came up with $25,000 and not $50,000, as we thought that that was an appropriate limit respecting small business.

So I hope, Mr. President, that our handiwork, which is, as I say, very, very carefully balanced, will not be undone by this amendment, which could easily do it.

Another point, of course, which, to us, is very serious, is that the ERISA law tended to force out weak plans, and that is as it should have been because the great failure to honor pension promises was because of weak plans.

Now, we have gone through that squeezing out of the water. And out of hundreds of thousands of plans, it has not been a serious diminution. But if we are going to monkey around with a buzz saw like this in multiemployer plans, which are critically important to 8 million workers, I think we are going to have a very serious diminution.

For all those reasons, Mr. President, I join, in this case with great conviction, with Senator WILLIAMS in opposing this amendment.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield myself such time as I may have remaining.

Mr. President, I think it is fair to say that the Finance Committee has shown great leadership in this area and great understanding of it. It is not true that the $50,000 is an expression engraved in marble of the feelings in the Finance Committee. In fact, the Finance Committee did not come to the conclusions suggested by Senator WILLIAMS. We decided to defer this provision so that we could meet the time criteria for consideration of this legislation by the full Senate.

I say to my good friend from New York (Mr. JAVITS) that this is complex legislation and I do not pretend to understand every word of it and I am certain he would not pretend to me that he understood every word of it. But I assure him that this is no buzz saw.

The key factor in this is to make certain that any de minimis rule will have no real impact on the multiemployer plan. The rule remains, under my amendment, the same, the lesser of three-quarters of 1 percent or the $100,000, and the financial viability of the plan is preserved under my amendment.

It is critical that we not look just at tomorrow; that we look at the long-term viability of the pension plan which he has fought so long and so hard to achieve.

The fact is that the long-term benefits of this amendment to the multiemployer plans will be simply that more employees, not fewer people, will enter them. And if there is no fair forgiveness of de minimis liabilities such as the one that I am proposing, then new employers will simply be discouraged from entering multiemployer plans and the burden of maintaining them will rest on the few who remain in them. That is what I refer to in my opening statement as a "declining industry plan." Declining because fewer and fewer people will be able to sustain the business decisions to enter them or maintain their position in them.

That is what I am trying to do. I am not trying to burden any segment of it, and I am not putting at risk any workers' retirement benefits. In fact, quite the contrary, we are seeking to secure reasonable decisionmaking processes for businesses to enter these plans so that they can provide for their employees the kinds of employment and retirement benefits anticipated by ERISA, instead of opting for a multitude of IRA's or some other form of retirement fund.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. May we know the time situation, Mr. President?

The PRESIDING OFFICER (Mr. MORGAN). The Senator from New Jersey has 6 minutes and 14 seconds remaining. The Senator from Wyoming has 3 minutes and 44 seconds remaining.

Mr. JAVITS. Mr. President, I would appreciate the Chair advising me when I have used 2 minutes.

Mr. President, I have heard the argument of my colleague. I respect him enormously. Though I have lived with ERISA legislation for quite a long time now—it goes back with me to 1967—it is a fact that he is absolutely right that it is a very, very complex measure, and there is much about it that I do not know. It is a matter of degree between all of us how deeply we can get briefed on a complex bill. Even my gifted pension counsel, Mr. Turza, may still have things to learn.

But this is not complexity; this is business. When I say this would be a buzz saw, I mean it would be a big inducement for many more to get out of the liability than we can afford to release from the liability. That is really what we are arguing. That is a finite question upon which I have given my judgment. I think it would be a buzz saw. We are making it very attractive to get out.

These multiemployer plans are in enough trouble already and this bill is supposed to bail them out. I think this amendment will put them right back in where the PBGC will again be facing a liability which could be very, very damaging to its total financial situation. That is all I had in mind.

I was not pretending to read something different, something obscure that only I knew into the matter. But as a money and business proposition, as I see it, the Senator is squeezing so close to the point where it is very profitable to get out, and that, I think, is going to simply face the PBGC all over again with the kind of a situation which is faced today, and which we have had so much trouble resolving.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WALLOP. Mr. President, I think we are about to wrap this up.

Mr. President, I ask unanimous consent that a letter from the National Small Business Association dated July 25, 1980, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL SMALL BUSINESS ASSOCIATION,
Washington, D.C., July 25, 1980.
Hon. MALCOLM WALLOP,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR WALLOP: The multi-employer pension plan legislation currently under consideration by the Senate will prove disastrous to smaller firms because of the withdrawal liability provisions as it now stands.

We strongly urge that you make every effort to increase the number of smaller firms who would be exempt from this onerous provision. For example, this might be accomplished by increasing the $50,000 de minimis exemption and the ¾ percent exemption.

Any effort by you in this direction will have the full support of the National Small Business Association and, I am sure, many additional groups representing small businesses throughout the country.

Sincerely,
HERBERT LIEBENSON,
President.

Mr. WALLOP. May I say to my friend from New York that exactly what I am not trying to do is just what he described. I am not making it profitable to get out. I am making it sensible to get in.

What we are doing with this new withdrawal liability is creating such a burden here that no small business down the road will ever be able to make a sensible, sound, business decision to enter a multiemployer pension plan.

So, far from making it profitable to get out, we are trying to make it sensible to stay in or to get in. It is on that basis that I offer this amendment.

And I would reiterate that my amendment applies only to small employers where the de minimis rule in the bill would probably only cover three employees, my amendment would cover 8 to 10 employees which comports with the White House Conference on Small Business definition of the smallest employer. On the face of the evidence that has been presented here, I believe that we are making a more generous offer to the employees of America and to the businesses of America than as the bill now stands.

I would again say it is not the position of the Finance Committee that the $50,000 figure is hard and fast.

Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I would like to add that the provisions in the bill were there when it was reviewed by the chamber of commerce, the NAM, the AFL–CIO, the Food Marketing Institute, and others. All of these organizations were aware of the $50,000 de minimis provision. They support this bill before us with that provision in it. I will say that the estimates that have reached me are that the $50,000 rule provides relief for employers with 16 employees, not 3, a significantly different estimate. With that I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. NUNN). All time has been yielded back. Under the previous order, the vote will occur after 8 p.m. The Senator from Oklahoma is recognized.

UP AMENDMENT NO. 1463

(Purpose: To exempt certain small businesses from the Occupational Safety and Health Act)

Mr. BOREN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself and Mr. CHURCH, proposes an unprinted amendment numbered 1463.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

Section 4 of Occupational Safety and Health Act of 1979 (29 U.S.C. 653) is amended by adding the following new subsection:

"(C) Nothing in this Act shall authorize the Secretary to administer or enforce any standard, duty, regulation, or order with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate—at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics except—

"(1) to take any action authorized by this Act with respect to any employer or group of employers within such category whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards;

"(2) to provide requested consultation, technical assistance, educational and training services, and to conduct surveys and studies;

"(3) to conduct inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

"(4) to take any action authorized by this Act with respect to imminent dangers;

"(5) to take any action authorized by this Act with respect to health hazards;

"(6) to investigate an employment accident which is fatal or results in hospitalization of one or more employees, and take any action pursuant to such investigation authorized by this Act; and

"(7) to take any action authorized by this Act with respect to complaints of discrimination against employees for exercising rights under this Act."

Mr. BOREN. Mr. President, the amendment which I have sent to the desk on behalf of myself and Senator CHURCH, makes a slight modification in the language of an amendment principally sponsored by Senator CHURCH and cosponsored by myself a year ago with respect to the Occupational Safety and Health Act of 1970.

This amendment was signed into law as a part of last year's Labor-HEW appropriations bill.

The modification, which I propose, would bring the law into line with current policies of the Occupational Safety and Health Administration.

This amendment would also remove the burden of uncertainty from exempted small businesses and allow them to plan their activities with some assurance that the rules under which they are allowed to operate will be the same a year from now and beyond.

I am also very aware, Mr. President, of the need to insure the safety and health of employees all across the Nation in all forms of occupational endeavors. Therefore, the amendment retains a number of exceptions designed to allow the Secretary of Labor to adequately address any situation which might arise, whether or not the businesses involved are covered by the provisions of this amendment.

Let me say at this point, Mr. President, that I am extremely indebted for the assistance that has been given to me both last year and this year by the distinguished Senator from Idaho, Senator CHURCH. Senator CHURCH was the principal sponsor of the Church-Boren amendment which passed the Senate and House last year. It was due in large measure to his very able leadership that the substance of this amendment is law today and I appreciate greatly the invaluable assistance and consultation that he has given to me in writing the modifications contained in this amendment today.

Let me review what was done a year ago. The Church-Boren amendment of last year exempted from routine safety inspections small businesses with 10 or fewer employees which are included within a category having an occupational illness and injury incidence rate less than 7 per 100 employees as published in the 1977 Bureau of Labor Statistics survey of three-digit standard industrial classification code industries.

However, there were seven exceptions listed which I have retained, and, Mr. President, I believe it is very important to note those exceptions. First and foremost, the Secretary of Labor is authorized to take any action with respect to any employer or group of employers which he determines to be engaged in any activity involving very substantial occupational hazards.

This means that no business of any size will be able to escape the scrutiny of the Secretary of Labor if there is justification for the Secretary to conduct an investigation. In other words, the Secretary, by his own determination, would be able to investigate any individual case he sees fit to pursue.

This is further documented in the other exceptions contained in the amendment. That is, the Secretary may investigate any employee accident which is fatal or results in the hospitalization of one or more employees and he may take any action pursuant to such investigation—he may take any action authorized by the Occupational Safety and Health Act with respect to health hazards or imminent dangers of any type.

In addition, the Secretary may take any action authorized with respect to complaints of discrimination against employees for exercising their rights under the OSHA Act. And, Mr. President, it is very important to know that under the terms of this amendment, the Secretary could conduct an inspection or investigation in response to absolutely any employee complaint with regard to health or safety hazards.

The point is very strongly made that both in last year's amendment and in this modification, we have been very careful to adequately protect the rights as well as the health and safety of the workers of this country. No justifiable case could be made that any business could circumvent or ignore adequate safety and health standards, under the terms of this amendment.

Under the formula contained in the Church-Boren amendment of a year ago, businesses to be exempted were those included within a category having a certain occupational illness and injury incidence rate. The modification contained in this amendment would drop that designation in favor of a formula based on lost workday case rates.

The difference, Mr. President, is this. The injury rate is defined as any injury requiring more than first aid. It does not take into account whether or not any workdays were lost as a result of the injury.

The Occupational Safety and Health Administration uses the lost workday case rate based on the correct assumption that the salient measure should be actual lost workdays. The lost workday case rate is defined as any injury resulting in one or more days off work or restricted work—that is, an injured worker who can report to work but cannot perform his normal duties due to his injuries is defined as being restricted.

Under the injury rate definition, the national average is 9 injuries per 100 workers. Under the lost workday case rate, the national average is 4 worker injuries per 100 workers.

It is currently the targeting policy of OSHA that no businesses with a lost workday case rate of less than 4 per 100 workers is targeted for attention. Therefore, the modification contained in this amendment brings the law into line with current policy.

The net effect of this amendment will be to bring an additional $1 million small business firms under the terms of the amendment adopted a year ago. That will mean, Mr. President, approximately 2½ million business establishments will be exempt from routine OSHA safety inspections, with the exception which I have already outlined.

Finally, Mr. President, I want to reemphasize the need to eliminate the uncertainty under which so many small businesses must operate today. This amendment does make permanent the Church-Boren amendment of a year ago which was attached to an appropriations bill and therefore subject to reauthorization this year.

I have spoken many times about the need to stimulate economic growth in this country through increasing productivity and incentives for expansion, particularly among the thousands of small business firms in the United States.

Nothing stymies this kind of needed action more than to be uncertain from year to year about the rules and regulations under which you may be forced to operate your business. There are far too many rules and regulations hamstringing businessmen in this country as it is.

Although it is the current policy, as I have mentioned, not to target the firms covered by this amendment—there is no assurance that that policy will remain constant with this administration or any future administration. The only way to provide some semblance of order and thus promote the kind of productivity and expansion incentives we seek, is to make this provision a permanent part of the act. For these reasons, Mr. President, I urge adoption of this amendment.

Mr. WILLIAMS. Mr. President, this

amendment would deny the protections of the Occupational Safety and Health Act to millions of the employees of small businesses just because they happen to be employed by small businesses.

This amendment is essentially a codification of the limitation which was put on OSHA's appropriation less than 1 year ago. It would constitute a permanent blanket exemption for certain small businesses from the enforcement provisions of the Occupational Safety and Health Act.

Mr. President, the Committee on Labor and Human Resources is in the process of examining several legislative proposals to amend the Occupational Safety and Health Act. These proposals include amendments to that law which would target OSHA's enforcement activities, and they include amendments which would, as this one does, establish blanket exemptions for certain classes of business. The committee's consideration of those bills is not yet complete, but we have completed 8 days of comprehensive hearings on oversight of the occupational safety and health program, and on legislative consideration of the various bills which have been referred to the committee.

We have learned a great deal from those hearings and, while our consideration of these proposals is still incomplete, we have learned enough about the concept of blanket exemptions to lead me to believe that blanket exemptions are just plain unsound.

Mr. President, no statistical analysis can identify only the safe workplaces or only the unsafe workplaces. We know that lurking within every standard industrial classification, even those with extraordinarily low incidences of injuries or of lost workday injuries, are workplaces which are hazardous. Attempts to exempt workplaces in the so-called safe SIC's will, no matter how carefully we try, result in the exemption of extremely dangerous workplaces—workplaces where many employees are injured. Workplaces which pay little, if any, attention to safety and health on the job.

This amendment would condemn these latter employees to a continuation of their hazardous working conditions with little possibility that the Occupational Safety and Health Administration could effectively protect them.

Mr. President, we know that small businesses can be unsafe, just as large businesses can be unsafe, and it makes no sense for the Congress of the United States to stick its head in the sand, and pretend that just because an enterprise employs fewer than 10 workers, it is somehow safe enough not to warrant the attention of the Occupational Safety and Health Administration.

Our OSHA oversight hearings have identified another and more profound adverse effect of the concept of blanket exemptions. It is clear from the testimony which we have received that such exemptions stifle the efforts of labor and management mutually to address and resolve workplace safety and health problems without the need for Government involvement.

There is good reason to encourage the workplace parties to resolve these problems on their own. That reason, quite simply is OSHA's limited resources. OSHA has sufficient resources to inspect no more than about 1.5 percent of the workplaces in the Nation each year. If we are not encouraging the parties in the other 98.5 percent of the Nation's workplaces to address safety problems on their own, then those problems will not be addressed by OSHA, and we can expect to see an increase in the rates of injuries, illnesses, and fatalities in our Nation's workplaces.

Witnesses at our hearings have told us that when there is the possibility of OSHA inspection, employers are much more willing to sit down with labor and mutually resolve workplace safety disputes than when there is no threat that OSHA will inspect that workplace. It seems to me, Mr. President, that it is by far preferable to encourage the parties to work things out themselves than it is to rely on the Government agency to impose solutions on the parties, but, without the possibility of the Government inspection, we know that the parties are less willing to try to work things out by themselves. Employers think that there is nothing to impel them to address serious workplace safety issues, and workers, without the availability of a Government "backup mechanism," are reluctant to try to confront these issues on their own.

So, Mr. President, it seems to me that we must reject the very concept of blanket exemptions. They are unsound. In my judgment, they are unfair. They deny to employees of small businesses the equal protection of our laws to which they, as citizens and taxpayers and voters, should be entitled.

Mr. President, not only is the concept of this amendment unsound, but in operation and implementation, in specific detail, the amendment is fatally flawed and unsound on other bases.

First of all, the amendment pretends to separate safety enforcement activities from health enforcement activities. The amendment would continue to permit OSHA to conduct scheduled health inspections at these workplaces. But, we have learned at our committee's hearings this year that it is not always possible to separate health from safety hazards. The two often merge. For example, is excess noise a safety hazard or a health hazard? It is both, and it can be either, depending upon the situation. Because of this fact, the amendment would throw OSHA's enforcement activities into a state of chaos.

Second, the amendment contemplates an annual redetermination of which small businesses are to be exempt and which are not to be exempt. This would result in confusion on the part of the employers and the employees involved. As I understand the proposal, each year, based on the Bureau of Labor Statistics annual survey, the Secretary would identify those standard industrial classifications which qualify for the exemption and would exempt the small employers in those SIC's from scheduled safety inspections for the following year.

The result would be chaos. An employer could be exempt one year, not exempt the next, and his exemption status would be the product not of his own safety record, but the safety record of all employers, small and large, within the same SIC. It would be impossible for a small employer to engage in any long-term planning, and small employers who were exempt one year and not exempt the next would resent the arbitrary and capricious operation of the law. I do not think, in the end, that we will be doing the small employers any favors.

I do not think that this kind of confusion and uncertainty in the minds of small businesses is necessary if we are to "save" them from overburdening Federal inspections. Under OSHA's current enforcement targeting, the agency already devotes the lion's share of its inspections to large employers.

In fiscal year 1979, the last year for which we have complete data, only 29 percent of all OSHA inspections, including complaint inspections, accident investigations, and followup inspections—which would not even be affected by this amendment—were conducted at enterprises which employed 10 or fewer workers. During the same year, more than 77 percent of all the workplaces subject to OSHA jurisdiction employed 10 or fewer workers.

So, Mr. President, OSHA is already concentrating on larger employers, and directing its inspection activities away from smaller employers. Under its current policy, OSHA conducted only 29 percent of all its inspections at the 77 percent of the workplaces which employ 10 or fewer workers.

So, Mr. President, the amendment offered today by the Senator from Oklahoma would have us create uncertainty and confusion in the minds of 3.4 million small businessmen and women in order to avoid, probably, a very small number of inspections. It hardly seems like a good bargain for the small entrepreneurs of the Nation. It hardly seems to be the kind of thing they will in the end thank us for. And it hardly seems like the kind of saving which warrants a fundamental shift in the basic concept of how our OSHA law is to be enforced.

Finally, Mr. President, I am gravely concerned about the effect of this amendment on the prospects of final enactment of this critically needed ERISA legislation. I do not have to go into great detail about the importance of having this bill signed into law by Thursday of this week. It is sufficient to say that failure to do so would result in costly increases to employers in premium payments, and it could adversely affect the pension benefits of hundreds of thousands of workers who are now covered by multiemployer pension plans.

There is no doubt in my mind that with this amendment added to this ERISA bill, the prospects of timely enactment of this essential law change would be reduced. Some have told me that the chances are virtually nil. The OSHA program is an enormously complex and enormously emotional issue. We cannot assume that the House of Representatives would readily agree to this amendment to the ERISA bill. In fact, we can expect that the House would firmly oppose this amendment. Such opposition would delay the approval by the House of this bill—the delay would be fatal to timely enactment of the bill.

So, Mr. President, for all these reasons, I strongly oppose this amendment, and I urge the Senate to reject it.

Mr. JAVITS. Will the Senator yield?

Mr. WILLIAMS. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I believe that the last argument needs to be emphasized and reemphasized.

The fact is that there are lots of bills that come out of the Labor and Human Resources Committee, and to find a bill that can be amended with a reasonable chance of that amendment carrying in the law is certainly not difficult with this committee, with so much for which it is responsible. But there is so much at stake here in terms of protecting such an important element of security for millions and millions of American workers in respect to ERISA, that this is certainly no vehicle on which to ride OSHA amendments.

Especially, Mr. President, is this true in an election year in the House of Representatives where we know what a major and critical issue OSHA is to the individual Member of the House who has to go back and campaign in his community, with workers whose bodies and minds are at stake in respect of OSHA.

Mr. President, first and foremost, I respectfully submit that to friends of the bill, friends of private pension plan regulation, which is so beneficial for workers, especially with social security bumping its head against the ceiling today, it is very unwise to expect that we are going to be met by the House of Representatives in any spirit of comity if we vote OSHA amendments like this upon this bill.

Let us remember what was just reported, and it needs repeating, that about an estimated 75 percent of all employers in the country employ 10 or fewer employees, and that this comes to something in the area of 25 percent of the country's employees who work for such small employers.

So, aside from the inequity on this bill of such an amendment, we have the assurance that without any question it will bog down this legislation.

Mr. President, inherently and organically, the amendment also has some serious defects. Let me concern myself with two.

One, we deal here with the industrial classification code, with such classifications as less than the national average rate of accidents, et cetera.

Mr. President, the national average rate includes both the highs and the lows. Therefore, there is certainly no minimal safe workplace; there is the national average rate.

If we had some minimal rate, some finding of a generality of workplaces that were safe, that might be another matter. But the national average rate, certainly, that is not relevant to what OSHA is all about, which is, at long last in the tragic history of man, to try to preserve the minds and bodies of workers which for so many centuries have been abused.

Second, Mr. President, OSHA is permitted to go into a workplace, such as is here covered, to investigate an employment accident which is fatal or results in hospitalization of one or more employees.

Mr. President, that is a pretty serious accident. That is not just a stay-at-home-for-a-week accident because you have wrenched your back. That is hospitalization, or fatality, Mr. President.

I respectfully submit we should not have to wait until that happens before there can be a normal inspection of the workplace. We are all familiar with the fact, and we have had lots of evidence on the fact, that employers who would not be covered because of this provision, if the employee injured did not go to the hospital, tend to make a pretty big deal of that, especially where the employee feels that he might not be promoted, or get a raise, or even be fired if he does go to the hospital.

That is pretty inhuman stuff. Yet, that is the clear implication, Mr. President, of the way these exceptions are drafted.

Mr. President, for reasons of getting this bill through, so urgently needed by so many millions, and for reason of the amendment's inherent unfairness and inequities, and the fact that it lends itself to worsening rather than helping with the dangers of the bodies and minds of workers, I hope the Senate will reject this amendment.

Mr. BOREN. Mr. President, if the amendment were, indeed, as evil as has been represented to be by my good friend and colleague from New York, and my colleague, the distinguished chairman from New Jersey, I would not be supporting it myself.

I think the description does not exactly fit the actual language of the amendment offered by myself and my colleague from Idaho (Mr. CHURCH).

This amendment does not exempt all small businesses in the United States from the Occupational Safety and Health Act. It only exempts from routine inspections those small businesses with 10 or fewer employees that have an accident rate of less than the national average, which is now roughly four injuries per 100 employees.

Beyond that, it still leaves with the Secretary of Labor very broad power to take action, even in the case of businesses which meet that definition I have just given.

For example, under the terms of the amendment, the Secretary may still act to take any action authorized by this act with respect to any employer, or a group of employers within such category, whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards.

The Secretary can still, and is authorized to, conduct inspection and investigation in response to an employee complaint.

Also, the amendment specifically protects the rights of employees in small businesses to make complaints under the act and to avoid having any kind of discriminatory action being taken against them as a result of their making the complaint to OSHA.

Under subsection 7 of the amendment it says that the Secretary "is authorized to take any action authorized by this act with respect to complaints of discrimination against employees for exercising rights under this act."

All we are saying is that the Occupational Safey and Health Administration should do what the Senator from New Jersey just a moment ago said it had been intending to do, and that it has had a policy of doing in the past. That is, it should concentrate its resources on those businesses where undue hazards exist, that it should not spend its precious resources harassing the small business people of this country.

So those small businesses, with 10 or fewer employees who have exceptionally good records, records better than the national average, would not have to undergo routine safety inspections. But the full protection for their employees would still be there.

If a hazard existed in the opinion of the Secretary, the administration still could act. If an employee made a complaint about an unsafe condition, the administration still could act. If an employee made a complaint and was later subject to dismissal or some other kind of discrimination or harassment in his employment because he had made a complaint about an unsafe working condition, the Secretary, under the terms of this amendment, would be authorized to step in and protect the employee against that kind of discrimination.

Certainly, I would not be supporting this amendment were it not for the clear spelling out of these exceptions that are contained in the language of the amendment itself. Nor do I think that my good friend and colleague, the Senator from Idaho (Mr. CHURCH), would be supporting an amendment which did not offer adequate protection to the working people of this country.

What we are trying to do is to remove part of the regulatory burden on the small businesses of this country. It is well known that over the past 25 years, in terms of a percentage of volume of sales in this country, the small business share has been cut in half. Small businesses, which have been the backbone of our free enterprise system, are in serious trouble all across the country.

Earlier, the Senate went on record, by a strong majority, in favor of almost exactly the same language as is contained in this amendment. It was offered last year by the Senator from Idaho (Mr. CHURCH), who has been very active in trying to come forward with a proposal that will aid the small business people of this country and at the same time protect the legitimate safety interests of the workers of this country. I pay tribute to him for his leadership in this effort.

The amendment, which is almost identical to this one, which he proposed last year, was adopted by the Senate, as I said earlier. It has been signed into law by the President as a part of the Labor and HEW appropriations bill.

This amendment simply writes that

same provision, approved in the past by the Senate, into law permanently, so that the small businesses will be able to know the rules under which they will have to operate in the coming years, without having to wonder from year to year what the rules will be.

Mr. President, I believe it is a sound proposal. It is a balanced proposal. It certainly does not leave large numbers of workers of this country without protection.

The amendment specifically leaves with the Secretary the right to intervene on behalf of these workers, but it writes into the law a policy which has been upheld by those who have argued on the other side just a few moments ago, a policy which is sound; and that policy is that OSHA should concentrate its resources in the areas where there is extreme risk, in the businesses and industries which have experienced above average incidence of injuries and mishaps, and that they should not use the broad authority which they have been given in the past to unduly harass the small businesses of the United States.

Mr. President, I ask unanimous consent that name of the Senator from Arkansas (Mr. Pryor), at his request, be added as a cosponsor of this amendment. I am pleased that he has indicated his support of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I support the amendment offered by the distinguished Senator from Oklahoma.

I should like to provide some background on the formulation of this compromise amendment last year during consideration of the Labor-HEW appropriations bill.

My colleagues will recall that Senator Church offered an amendment to exempt from coverage of the Occupational Safety and Health Act all businesses of 10 or fewer employees in industry categories with relatively low injury rates. Senator Williams moved to declare that amendment out of order, but the Senate voted 54 to 38 in favor of considering the Church amendment.

I supported the chairman of the Committee on Labor and Human Resources, Senator Williams, in that losing vote.

I then offered a substitute amendment, the Schweiker amendment, to preserve OSHA jurisdiction over small businesses when needed to deal with important problems like health hazards, employee complaints, and other very substantial occupational hazards. My substitute amendment was adopted by a vote of 61 to 31.

In conference committee, my amendment was further revised to insure that all needed OSHA authorities would be preserved. The final version was then accepted on the floors of both the Senate and House.

Therefore, Mr. President, the main point is that the amendment offered by the Senator from Oklahoma has been through the entire process; it has been compromised, refined, and re-refined. It simply establishes the sound policy that OSHA should generally let safe, small businesses alone, unless they have a good reason to go in, such as for any health hazards, any employee complaints, and any other circumstances which OSHA determines presents a very serious hazard to employees.

The second point I should like to make, Mr. President, is that it is quite appropriate that the Senator from Oklahoma suggests we adopt this compromise as part of the basic law. As ranking Republican on the Labor-HEW Appropriations Subcommittee, I have frequently joined the chariman of that committee in resisting efforts to provide program and policy directives on appropriations bills, which should best be done in the authorizing process, just as this bill.

Because this compromise has been worked out, after a long, hard fight last year, with all the quid pro quos and the refinements and the pros and cons, I believe we should incorporate what we did in the appropriations process last year into permanent law. That is exactly what the distinguished Senator from Oklahoma is trying to do in the authorizing process, the way it should be. In this way, we can accomplish two important things. First, we can avoid an annual reopening of the issue on appropriations bills. Second, we can establish a consistent policy for the agency and the public to see and understand, rather than proceeding on a year-to-year, ad hoc basis on important policy questions such as this.

Mr. President, I support this amendment, and ask my colleagues to support it.

I ask unanimous consent that my name be added as a cosponsor of the amendment offered by the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I yield.

Mr. BOREN. I thank the Senator from Pennsylvania for his remarks.

I state for the record my appreciation for the leadership he has shown in this policy area in the past and for the work he did on the previous amendment which was adopted, as well as the many hours of study he has put into this proposal. I am honored to have his support.

Much of the language contained in this amendment is due to suggestions made by the Senator from Pennsylvania in the past. I salute him for his leadership. I assure him that we come with a balanced program, one that will do exactly what we said we are doing in this amendment—that is, free small businesses from unnecessary harassment, trying to write into law permanently, so that we do not have to fight this battle year by year, the rules by which small businesses will have to live, and at the same time protect the legitimate safety interests of the working people of this country.

As the Senator from Pennsylvania has indicated, we have a balanced amendment, one which still gives the Secretary full authority to step into any kind of dangerous situation and to step into any situation in which the rights of the worker with respect to unsafe working conditions or other rights accorded under this act are in danger.

I am very proud to have him as a cosponsor of this amendment, and again I congratulate him on his past efforts in this field.

Mr. SCHWEIKER. I thank the Senator for his kind words.

Mr. President, I also commend him for his leadership in this area.

I think this needs to be done on the authorizing bill. I hope maybe my good colleagues, Senator Williams and Senator Javits, can support this amendment because they did support it on the appropriations bill. In that way we could lay the bitter yearly OSHA fight on the appropriations bill to rest.

I hope they give that some honest consideration because I know they are interested in this problem and have been leaders in this field also.

Mr. WILLIAMS. Mr. President, I say what we did support as an appropriation amendment was more specific in the sense that exemptions were based on the safety record of the specific workplace, as I recall. Was there not an affidavit that had to be shown? The Senator from Pennsylvania would know.

Mr. SCHWEIKER. We did revise it in the conference committee, but the distinguished chairman of my committee then supported the conference report.

Mr. WILLIAMS. That is right. It was not this amendment, though.

Mr. SCHWEIKER. It was 98 percent of this amendment, and the Senator signed the conference report on this amendment.

I am sorry. I take that back. The Senator did not.

Mr. WILLIAMS. I got elevated or removed from the Labor Committee and over to the Appropriations Committee.

Mr. SCHWEIKER. The Senator is right.

But it is basically the same amendment as we support that came out. That is why I am hoping my good colleagues could support it.

Mr. JAVITS. Mr. President, what troubles me is the constant reference by my dear friend and my successor on the Labor and Human Resources Committee of the words "authorizing legislation." This is not authorizing legislation. It has nothing remotely to do with OSHA. That is the thing that both Senator Williams and I have pointed out.

Here is a bill which, if it comes to grief by July 31, which is only 3 days away, could have a devastating effect upon millions of pensioners and people who are under pension plans. We are loading it with an OSHA amendment which we know is a stormy issue and it has nothing to do with authorizing OSHA. This is a bill which has to do with pension plans, and to me that is the fatal argument against this particular amendment.

If we were dealing with "an authorizing bill" I would myself try to whip something in shape. But I cannot see it on this because I think it is going to cause us enormous trouble and it bids fair if enacted to wreck this bill, and we suffered with this for so long, years—

not just days or weeks or months—that it seems inconceivable that we would ourselves spill it now.

Mr. President, there are over 3 million employers who have 10 or fewer employees and over 25 million employees at stake in this matter. That is a pretty considerable matter to expect that we are going to come to instantaneous agreement with the House of Representatives all of whom are running this year, many in heavy labor districts which absolutely are deeply opposed, and hate this kind of diminution of OSHA jurisdiction. That we are going to within 3 days be able to compromise that with the House is a pipedream.

For that reason alone we should in all fairness reject this amendment.

The PRESIDING OFFICER (Mr. HART). The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, first I commend the distinguished Senators from New Jersey and New York for the leadership in this bill, the ERISA bill.

Senator JAVITS, particularly, and Senator WILLIAMS as well, have long been champions of pension reform. While this is a separate issue, I do give my commendation to Senator JAVITS and Senator WILLIAMS for the great work they have done in this area.

I think that whatever happens in this particular amendment should not detract from their leadership and their work in here.

I do wish to respond politely to my good friend, Senator JAVITS, on the matter of the authorizing bill. We have legislated on appropriations bills because we have not attacked the problem on authorizing bills. The Senator from New York is quite right that this is not an OSHA authorizing bill. It is an ERISA authorizing bill.

But it seems we cannot get an OSHA authorizing bill out of the committee. I happen to have a bill before it. It is rather controversial, I am the first to admit. It looks like it is going to stay in that committee.

While I agree this is not the OSHA authorizing bill and while I agree there is another bill before our committee, there is no immediate prospect, unless the chairman will correct me, that any OSHA authorizing bill is coming out.

So in all fairness to my good friends of the committee who should admit this is probably the only vehicle we have on an authorizing bill. I think that is exactly why my good friend from Oklahoma has decided to add it to the ERISA bill. We would rather not add it to the ERISA bill. We prefer to have an OSHA bill. But my bill has been languishing in the Labor and Human Resources Committee now for some months, with little prospect in sight that it or some other version will come out.

So while this is not an OSHA authorizing bill, it is an authorizing bill. Adding this amendment to an authorizing bill is certainly better than doing it on appropriations bills.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I yield to my good friend from New Jersey.

Mr. WILLIAMS. As to the word "languishing" there, I would hardly say that that bill has languished in our committee. The Senator from Pennsylvania was so faithful in the hearings that went on, week after week after week, not every day of all those weeks. Someone said, "What are you trying to do? Just keep that bill in that committee until it persuades Senator SCHWEIKER to return to the 97th Congress?" It would be nice to have him here to see the final, the conclusion of all of that in the 97th Congress.

Mr. JAVITS. I wish to join in that.

Mr. WILLIAMS. It has not been languishing.

Mr. SCHWEIKER. Let me say I appreciate the chairman's hearings on the OSHA bill. We have had hearings after hearings after hearings. I will admit that. I appreciate his good faith in holding the hearings. I also appreciate the work they have done on ERISA. I do not mean to detract from that. I believe that is highly complimentary to both the Senator from New York and the Senator from New Jersey.

The PRESIDING OFFICER. Who yields time?

Is there further amendment to be proposed?

If not, the question is on agreeing to unprinted amendment No. 1459.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so orderd.

UP AMENDMENT NO. 1464

(Purpose: To exempt tiny construction firms from the affirmative action program)

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk, an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Is the Senator from Pennsylvania requesting that the three pending amendments now before the Senate be set aside?

Mr. SCHWEIKER. I ask unanimous consent to set them aside so that we can take up this amendment.

Mr. NUNN. Mr. President, reserving the right to object, will the Chair state the pending amendment?

The PRESIDING OFFICER. The pending amendment is UP amendment No. 1459 offered by the Senator from Wyoming (Mr. WALLOP).

Mr. SCHWEIKER. This amendment will probably be accepted by the managers of the bill.

Mr. NUNN. Mr. President, will the Senator make it clear in his unanimous-consent request that the pending amendments would be returned to immediately after consideration of the Schweiker amendment?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is it not a fact debate has been concluded on three amendments and that pursuant to the unanimous-consent agreement they may now be voted on seriatim, and is that what the Chair means when it suggests the pending amendment, to wit, the amendment ready to be voted on, should be set aside temporarily?

The PRESIDING OFFICER. The Chair is advised that debate has been concluded on two amendments. There could be more debate on the other amendment.

Mr. JAVITS. May I then frame the request that the three amendments pending may be temporarily laid aside until the consideration of Senator SCHWEIKER's amendment, and that immediately upon the conclusion of that consideration that we revert to the first amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 1464.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to dispense with further reading of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

GOVERNMENT CONTRACTORS' AFFIRMATIVE ACTION REQUIREMENTS

SEC. . Section 718 of the Civil Rights Act of 1964 is amended by inserting "(a)" after the section designation, and by adding at the end thereof the following new subsection:

"(b) In administering any executive order relating to equal employment opportunity programs of government contractors and subcontractors, and any rules and regulations issued pursuant to such order, (1) no provisions requiring affirmative action programs or activities shall apply to any contractor or subcontractor who at all times during the twelve-month period preceding the awarding of the contract or subcontract employed five or fewer employees (including all employees of all firms owned or controlled by the contractor or subcontractor) and who at all times during the term of the contract or subcontract will employ five or fewer employees: *Provided*, That nothing in this subsection shall make inapplicable provisions of any such executive order requiring a commitment to refrain from or a prohibition of employment discrimination because of race, color, religion, sex or national origin, together with remedies for such discrimination, and requiring all contractors to include affirmative action provisions and provide enforcement assistance with respect to any subcontract with a subcontractor who employs more than five employees as described in this paragraph.

Mr. SCHWEIKER. Mr. President, I would like to ask each of my colleagues to imagine a three-employee construction firm in his State that is performing a Government contract. Imagine that this contract involves a total of 11 employees, of which 4 were in the craft classification of laborer. Imagine further that the Government's affirmative action program applicable to Federal contractors includes a goal of 5-percent female employment as laborers. And also imagine that this employer employed no female laborers and was unable to find one who was two-tenths female.

Finally, imagine that because of this failure, the Department of Labor told this small contractor to follow 43 separate compliance and paperwork requirements, or risk losing his contract. All this would take some imagination, right? Maybe; but it all happened to Dante DiGaetano, of Drexel Hill, Pa. And, under the present rules and regulations governing this program, it can happen—and may be happening—to contractors in every State.

Let me give some examples of the 43 compliance and paperwork steps imposed by the Labor Department's regulations on this and other contractors:

He was told to maintain records that parties and picnics have been posted and are available to all employees.

He was told to maintain records of contacts with supervisors to insure privacy between the sexes with respect to toilets and changing facilities;

He was told to maintain records of contractor's contributions in cash, equipment, or personnel to Labor Department sponsored training programs;

He was told to maintain written records of contacts (written, telephonic, or personal) with minority and women's community organizations and recruitment sources, and schools and training organizations;

He was told to maintain a separate file for every recruitment group contacted;

He was told to maintain copies of diaries, telephone logs, or memoranda indicating contacts with minority and women employees requesting assistance in recruiting other minorities and women;

He was told to maintain records of encouragement of minority and female employees to seek promotions;

He was told to maintain records of assistance provided to minority or women subcontractors in preparing price quotations;

He was told to maintain records for each employee of name, address, telephone number, trade union, social security number, race, sex, position, dates of change in position, hours worked per week, rate of pay, and locations of work;

He was told to file with the Government monthly employment utilization reports;

He was told to file with the Government a quarterly report of minority and female applicants, job offers, new hires, terminations, and layoffs; and the list goes on and on.

And finally, Mr. President, he was told to submit a report to the Government stating the date when each of these 43 requirements was complied with.

Mr. President, I recognize the Government may have a legal right to attach strings to the awarding of Federal contracts. But to tie this avalanche of paperwork to a three-employees firm—or, for that matter, to a firm of any size—is stupefying. This wheelspinning does nothing to advance the Government's overall program, is an extraordinarily wasteful use of Government resources, and is inconsistent with clearly stated Federal policy of eliminating unnecessary Government paperwork and regulation. If real people, real time, and real taxpayers' money were not involved, this bureaucratic paper shuffle would be amusing. But it is not amusing, and in my opinion, immediate corrective action is needed.

I, therefore, Mr. President, offer this amendment, which would do one simple thing.

It would exempt contractors and subcontractors who consistently employ five or fewer employees from affirmative action requirements. I think it self-evident that if the affirmative action program is to meaningfully advance the goal of increased employment opportunities for minorities and women, it must at least focus on businesses where there are appreciable employment opportunities. With respect to firms of this size, meeting the Labor Department's employment goals would almost always involve employing only a small fraction of a person.

I would also like to point out that while waiving affirmative action requirements, these tiny firms would still be subject to the nondiscrimination requirements of the executive order, regardless of the normal exemption of employers of fewer than 15 employees from title VII of the Civil Rights Act.

Mr. President, having described the need for the amendment and just what it would do, let me point out what it would not do. It would not in any way undermine the policy, which I personally support, of having an affirmative action program for Government contractors. Nor does it deal with the continuing legal controversy over Government affirmative action programs. I recognize that many of my colleagues do not support affirmative action programs, do not believe the President has the legal authority to implement this program without express statutory authorization, and do not believe it is constitutional. They should be assured that enactment of this amendment will not imply anything on those legal issues, the resolution of which will have to await either action by the courts or a comprehensive review of the entire program by Congress. All this amendment represents is the proposition that if the affirmative action program is legally and constitutionally in existence we are providing, for the first time, some policy direction for its implementation.

In summary, Mr. President, let me reiterate not only my personal support for an affirmative action program for Government contractors but also my strong belief that we have a responsibility to insure that its implementation does not include clearly unnecessary and overburdensome requirements, such as imposing 43 compliance and paperwork steps on a three-employee firm because it failed to hire two-tenths of a woman. This is a very moderate amendment. I hope my colleagues will support this amendment.

Basically, my amendment would provide that companies of five or fewer employees are exempt from the affirmative action programs. In Philadelphia we had a horror story where a three-member firm was taken to task for not hiring two-tenths of a female under the affirmative action program, because he had a Navy yard contract.

He had four employees at that particular time, and that meant he had to hire two-tenths of a female. Because he did not hire two-tenths of a female they gave him a 10 page conciliation agreement and a 43-step procedure he had to follow, including posting notices on when he held picnics and if they were segregated or not. He did not even have an office to post these notices on or a secretary to do the typing to post them, so it was obviously rediculous.

Applying the affirmative action program to such tiny firms is counterproductive, wasteful, and an undue burden on our small businesses. I, therefore, put forth this amendment to exempt employers of five or fewer from the affirmative action program for Government contractors.

Mr. WILLIAMS. Mr. President, when this amendment first appeared, it had problems that disturbed me. It has been redrafted from the original to take care of some of the concerns that we expressed.

Mr. SCHWEIKER. That is right. My amendment originally had two parts, another part dealing with employers of more than five employees, and I agreed to drop that part of it.

Mr. WILLIAMS. Of course, it only limits the applicability of the affirmative action requirements of the Executive order. The requirements of the Executive order prohibiting discrimination in employment will still apply, but contractors or subcontractors with five or fewer employees would be exempt from the affirmative action requirements.

Mr. SCHWEIKER. The Senator from New Jersey is absolutely correct.

Mr. JAVITS. To me that is the basic fulcrum of difference, and that discrimination remains unlawful.

Mr. WILLIAMS. Right.

Mr. JAVITS. For such employees. But to ask them to undertake full affirmative action programs with the reports and other responsibilities, which need to be undertaken in that connection as Government contractors does seem, and the experience now seems to have demonstrated, that this may be generally impractical. The language is narrowly drafted to exempt only the smallest concerns. So I can understand the acceptance of it by the manager of the bill, and I join him in not opposing the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 1464) was agreed to.

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on UP amendment No. 1459.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1465

Mr. BENTSEN. Mr. President, I have an amendment, and I send it to the desk and ask the clerk to report.

The PRESIDING OFFICER. Is it the request of the Senator from Texas that the three pending amendments be set aside?

Mr. BENTSEN. That is the request of the Senator from Texas.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Bentsen) for Mr. Long proposes an unprinted amendment numbered 1465.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 355, line 11, insert the following:

Redesignate sections 412 and 413 as sections 413 and 414 and insert the following section 412:

"Sec. 412. Definition of Employee Pension Benefit Plan.

(a) Section 201 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new subsection:

"(8) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act."

(b) Section 301(a) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(10) Any plan, fund or program under which an employer. all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited bv such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act."

(c) Section 403(b) of ERISA is amended by adding at the end thereof the following new paragraph (6):

"(6) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act."

Mr. BENTSEN. Mr. President, I offer this amendment on behalf of the senior Senator from Louisiana (Mr. Long). It is my understanding that it has been discussed with the chairman of the committee and with the ranking minority member and is acceptable to them. It deals with an injustice that has happened to the employees of South Bend Lathe regarding their loss of pension benefits. It involves the timing of ERISA, the fact that these particular employees were working adjacent to the Studebaker plant but the way that the final ruling of IRS was promulgated it denied them the benefits of it. It is the purpose of this amendment to accomplish that.

● Mr. LONG. Mr. President, the amendment I am proposing to this bill will correct a terrible injustice which has been done to the employees of South Bend Lathe regarding their loss of pension benefits.

In 1975, I was pleased to help the South Bend Lathe employees purchase ownership of their company through an employee stock ownership plan by encouraging the Department of Commerce to make a grant to the city of South Bend, which in turn loaned the money to the ESOP. Since the parent company was planning to liquidate South Bend Lathe, this saved over 500 jobs. The president of that company has testified about the success of their employee stock ownership plan before several congressional committees over the past few years.

However, at the time the employees bought the company, through no fault of their own and no fault on the part of South Bend Lathe, they lost their pension benefits from the pension plan maintained by the parent company. Even though this happened after we passed ERISA, it occurred in a plan year which began prior to ERISA and therefore this law could not protect these employees' pension benefits. The parent company obtained an IRS ruling that the sale of the South Bend Lathe division was not a "termination" of the plan and therefore the employees were not automatically vested; in short, they lost these pension benefits.

Mr. President, many of these same employees worked in the 1960's for Studebaker in the same building where South Bend Lathe is now located. They lost their pension benefits at that time, too. In fact, as most Senators know, it was the Studebaker closing, and the resulting loss of pension benefits by its employees, that ultimately led to the enactment of ERISA.

The employees of South Bend Lathe, who are the sole owners of the company, now propose that each employee who retired since they bought the company or who retires in the future will receive a letter from the company promising that, if the company can afford it, the lost pension benefits will be made up. I repeat: This is agreeable to the employees, who are the sole shareholders of the company and who elect its board of directors.

The terrible irony is that ERISA, which has twice failed to protect these employees, now prevents them from setting up a plan to compensate themselves for these lost pension benefits. Under a strict reading of ERISA, this would constitute a "pension plan" or an "employee pension benefit plan," and would therefore have to be currently funded and meet other ERISA requirements. Until the employees finish paying for the company they bought, they cannot afford the cost of a permanent, funded pension plan.

Mr. President, we have let these employees down twice before regarding their pension benefits. I do not propose to do it again. All they want to do is pay themselves their lost pension benefits and I am determined that ERISA not leave them without these benefits a third time.

It is my understanding that the Department of Labor is also concerned about South Bend Lathe's problem and would like to find a way to resolve it.●

Mr. WILLIAMS. Mr. President, this is another situation where, from the Labor and Human Resources Committee working with the Finance Committee, we have come to a happy agreement. I am very pleased to recognize the equities here in the South Bend situation and hope that it can be agreed to.

Mr. BENTSEN. I thank the Senator from New Jersey.

Mr. JAVITS. Mr. President, the amendment is acceptable to me.

Mr. BENTSEN. I thank the distinguished senior Senator from New York.

Mr. President, I am prepared to move the adoption of the amendment if there is no further objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana (Mr. Long) offered by the Senator from Texas (Mr. Bentsen).

The amendment (UP No. 1465) was agreed to.

Mr. JAVITS. Mr. President, I wonder if we could have the attention of the leadership on both sides.

The PRESIDING OFFICER. The Senate will be in order. Senators please take their seats.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the votes occur on the Wallop unprinted amendment No. 1459, the Wallop unprinted amendment numbered 1462, and the Boren-Church unprinted amendment No. 1463, that they be back to back and that the second and third rollcalls each be 10 minutes.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. Mr. President, would that allow us to move to table the Boren amendment?

Mr. ROBERT C. BYRD. It might not.

Mr. JAVITS. I wish to reserve that.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the votes occur with reference to the Wallop unprinted amendment No. 1459, the Wallop unprinted amendment No. 1462, and the Boren-Church unprinted amendment No. 1463. that they be back to back and that if rollcall votes are ordered in reference to all three, the second and third rollcalls each be 10 minutes.

Mr. JAVITS. Would that preserve our right?

Mr. ROBERT C. BYRD. Yes, it would.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Wyoming (Mr. Wallop) numbered 1459. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Melcher), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mrs. Kassebaum), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER (Mr. Biden). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 52, nays 37, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—52

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Exon
Ford
Garn
Goldwater
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jepsen
Laxalt
Lugar
McClure
Morgan
Nunn
Packwood
Pressler
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Thurmond
Wallop
Warner
Zorinsky

NAYS—37

Baucus
Bayh
Biden
Bradley
Burdick
Byrd, Robert C.
Chafee
Cranston
Culver
DeConcini
Durkin
Eagleton
Glenn
Hart
Heinz
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Tsongas
Williams

NOT VOTING—11

Church
Johnston
Kassebaum
Kennedy
Long
Melcher
Stevenson
Talmadge
Tower
Weicker
Young

So Mr. Wallop's amendment (UP No. 1459), as modified, was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT 1462

The PRESIDING OFFICER. The question recurs on unprinted amendment numbered 1462. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Melcher), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mrs. Kassebaum), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 47, nays 42, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—47

Armstrong
Baker
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Cannon
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Glenn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Humphrey
Jepsen
Laxalt
Lugar
McClure
Morgan
Nelson
Nunn
Pressler
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Wallop
Warner
Zorinsky

NAYS—42

Baucus
Biden
Bradley
Burdick
Byrd, Robert C.
Chafee
Chiles
Cranston
Culver
Durkin
Eagleton
Ford
Gravel
Hart
Heflin
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stennis
Stewart
Stone
Tsongas
Williams

NOT VOTING—11

Church
Johnston
Kassebaum
Kennedy
Long
Melcher
Stevenson
Talmadge
Tower
Weicker
Young

So the amendment (UP No. 1462) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHWEIKER. I move to lay that motion in the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment (UP No. 1463) of the Senator from Oklahoma (Mr. Boren).

Mr. BOREN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey.

Mr. WILLIAMS. I thank the Chair.

Mr. President, is it in order under the agreement to move to table, is the motion to table in order?

The PRESIDING OFFICER. Yes. The motion to table is in order.

Mr. WILLIAMS. I move to table the amendment.

Mr. BOREN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Oklahoma (UP No. 1463). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Melcher), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mrs. Kassebaum), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER (Mr. Glenn). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 36, nays 53, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—36

Baucus
Bayh
Bradley
Burdick
Byrd, Robert C.
Chafee
Cranston
Durkin
Culver
Eagleton
Ford
Glenn
Gravel
Heflin
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stewart
Tsongas
Williams

NAYS—53

Armstrong
Baker
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Byrd,
Harry F., Jr.
Cannon
Chiles
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Laxalt
Lugar
McClure
McGovern
Morgan
Nunn
Packwood
Percy
Pressler
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—11

Church
Johnston
Kassebaum
Kennedy
Long
Melcher
Stevenson
Talmadge
Tower
Weicker
Young

So the motion to lay on the table Mr. BOREN's amendment (UP No. 1463) was rejected.

Mr. METZENBAUM. Mr. President, I think we should realize what we are doing at 8:45 p.m.

The PRESIDING OFFICER. Further debate is not in order.

The question is on agreeing to the amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I might be heard for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, Members of the Senate should understand exactly what we are doing here tonight. We are going rampantly down the road of destroying protections that have been enacted into law over a period of years, providing exemptions with respect to the Occupational Safety and Health Act by an employee working where there are only 10 or fewer employed.

Is there any reason why that employee is not entitled to the same kind of protection that an employer of a larger number of employees is?

We have gone through three amendments, and one might say that before Ronald Reagan took office—Mr. President, may I have order in the Senate?

The PRESIDING OFFICER. The point is well taken. May we have quiet in the Chamber, please? Anyone wishing to converse please remove himself to the cloakroom or the lobby.

Mr. METZENBAUM. I thank the Chair.

The PRESIDING OFFICER. May we have order in the Chamber please so the Senator may be heard?

The Senator may proceed.

Mr. METZENBAUM. Mr. President, what we are really seeing in the Chamber tonight is a solid block on the other side voting to emasculate, to destroy any kind of protections that we have had in the past.

Mr. RANDOLPH. What about this side?

Mr. METZENBAUM. There is the Wallop amendment providing for any exemption of any surface mining, et cetera, from the Mine Health and Safety Act. There is the Wallop amendment providing for withdrawal from the fund and letting the other employers pay the burdens. And there is this one particularly that strikes at the very heart of the protections that we passed and enacted and worked for years.

What is there about the political picture that suddenly says to us that we must find exemptions? The Occupational Safety and Health Act, it is true, has been under attack. However, it is under new leadership and we do not hear those same attacks any more.

This amendment has been offered here for several years and has not been able to be passed on authorizing legislation. However, tonight we will probably see fit to do it with a solid bloc of Republicans and too many Democrats voting for it.

Have we come to a point where we no longer care? Are we totally indifferent to what the Democratic Party has stood for so many years?

The Democratic Party was supposedly concerned about the occupational safety and health of working people. I hear Democrat after Democrat joining that solid phalanx of Republicans. Maybe they are trying to change their image. Maybe they are trying to appear a little more conservative. Or maybe they are trying to be something that they are not.

But I say to my fellow Members of the Senate that this is no time to be rushing headlong into this kind of exemption from protections that we have tried to maintain over the years. This is ill-advised. It is not good judgment. I do not think that we can be proud of the actions that we are taking this evening.

Although we did not see fit to table the motion as proposed by the chairman of the committee, I would hope that some would rejudge and rethink exactly what is going on.

Why if an employer has an occupational injury rate less than the rate of the national average, is there any reason why he should be exempt from the provisions? Is there any particular reason why we should provide exemptions from this law? I think not.

I ask my fellow Senators to rethink this matter and to be certain in their own mind. There is reason why they want to go as far as it would appear that they want to go.

I think it is wrong, I think it is ill-advised, and I think there is kind of inhumaneness that I do not believe reflects the view of this body, and I hope that it does not.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent for 3 minutes to respond.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I point out that this amendment was the same amendment basically that the conference report on Labor-HEW passed last year. So it is not charging into new territory and ripping down old laws. This is the law right now at the moment, and all we are doing is taking an appropriations rider and putting it into an authorization bill on permanent law. That is all we are doing. It is rather sound legislative practice to do it on authorizing bills instead of appropriations bills.

I wish to correct my good friend from Ohio and say that when the motion came up to table my amendment to do this he supported me, he voted with me, and he was on my side. He voted not to table this Schweiker amendment. So let us get the record straight and let us put it all on the table.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I yield.

Mr. BOREN. Mr. President, I wish to say that this amendment is not a partisan matter. It is offered by myself as a principal author and cosponsored by Mr. CHURCH from Idaho. I say it represents a bipartisan determination to exempt the small business with below average rates of injury from routine inspections. It is a balanced amendment. It still provides that if the Secretary feels there is any hazard he can still go in and have inspections. If the employees complain even in these small businesses that have better than average records on injuries, they can still have inspections and still protect the employees against any kind of discrimination when they bring complaints.

So I urge the Members not to be swayed by the rhetoric but to look at the facts. What they have done is voted for this amendment in the past. Look at the balance it represents and look at the language of the amendment itself.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. BIDEN. Mr. President, will the Senator yield me 2 minutes?

Mr. SCHWEIKER. I yield.

The PRESIDING OFFICER. He does not have 2 minutes.

Mr. BIDEN. Mr. President, as one who has been a consistent supporter of what can be characterized as the labor position on OSHA——

Mr. ROBERT C. BYRD. Mr. President, who is yielding time? The Senate is supposed to vote.

The PRESIDING OFFICER. The Senator from Pennsylvania yielded time. He yielded 2 minutes, but he did not have 2 minutes. He had about 1 minute and 4 seconds at that time.

Mr. BIDEN. Mr. President, will the Senator yield 1 minute and 4 seconds of his time?

The PRESIDING OFFICER. He now has 50 seconds remaining.

Mr. SCHWEIKER. I yield.

Mr. BIDEN. Mr. President, I wish to make it clear there may be a whole range of reasons to support this amendment, but I am concerned that we should not go too far and undo OSHA. One of the reasons why I supported the amendment in 1978 but do not support it this year is that I believe OSHA is beginning to spend its time and energies where it should be, rather than spending its time and energies on places that have good records and small numbers of employees.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may speak for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. Without objection, the Senator from New York is recognized for 2 minutes.

Mr. JAVITS. The real problem with this amendment, Mr. President, aside from the arguments which we have made on the merits on OSHA, is that it may destroy this bill, this ERISA bill.

The fact is that OSHA is a hotly contested subject. There are 435 Members of the House who are running this year, many in labor districts, and they may hang up this very bill, which is designed to save financially the pensions of 8 million workers in multiemployer plans, and it should not really be on this bill. That is why Senator Williams and I moved to table because we did not want to prejudge the issue. We just felt this was a very unwise vehicle, if we really are dedicated to trying to pull out these multiemployer plans.

It took us 2 years to put this bill together, and we have got 3 days to put it through before it can fall apart.

I agree with Senator Metzenbaum in this respect; I do not know what we are doing in being so improvident about all these amendments. If we do not stop I will forget it. We really ought to chuck it, and say if we are all going that crazy, let use forget the whole thing. Senator Williams and I are trying to save the pensions of 8 million people. The Finance Committee and the Labor Committee have agreed.

Now to saddle this bill with all these amendments is to break its back. I am not arguing with Senator Boren, with his amendment, on the merits, whether it is right or wrong or with Senator Schweiker. We are trying to put this thing through with as little paraphernalia as possible, and let us try to get a resolution of a very, very difficult subject, very dangerous to 8 million people who are entitled to pensions, many of whom have paid in 20 and 25 years in order to earn them.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. METZENBAUM. Mr. President, does the Senator from Ohio have any time left?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. METZENBAUM. Mr. President, I ask unanimous consent to respond to the Senator from Pennsylvania for 15 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, just to clarify the record, when I supported the nontabling of the Schweiker amendment it had to do with the fact that the Church amendment was pending on the floor. The Church amendment would have gone far beyond, and the Schweiker amendment was offered as a modifying amendment to the Church amendment. Those are the only circumstances under which I voted for it.

The PRESIDING OFFICER. The Senator's 15 seconds have expired.

The question recurs on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Melcher), the Senator from Rhode Island (Mr. Pell), the Senator from Mississippi (Mr. Stennis), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Kansas (Mrs. Kassebaum), the Senator from Wyoming (Mr. Simpson), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER (Mr. Stone). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, nays 36, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—48

Armstrong
Baker
Bellmon
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Chiles
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Hart
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Laxalt
Lugar
McClure
McGovern
Morgan
Nunn
Packwood
Percy
Pressler
Pryor
Roth
Sasser
Schmitt
Schweiker
Stevens
Stone
Thurmond
Wallop
Warner
Zorinsky

NAYS—36

Baucus
Bayh
Biden
Bradley
Burdick
Byrd, Robert C.
Chafee
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Heflin
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stewart
Tsongas
Williams

NOT VOTING—16

Bentsen
Church
Goldwater
Johnston
Kassebaum
Kennedy
Long
Melcher
Pell
Simpson
Stennis
Stevenson
Talmadge
Tower
Weicker
Young

So Mr. Boren's amendment (UP No. 1463) was agreed to.

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I take this opportunity, after the last vote, to inquire of the majority leader what his intentions may be with respect to the remainder of this evening and the completion of the measure that is now before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

Mr. President, as far as I can ascertain, there are three amendments yet to be called up, two of them which will likely be accepted. I understand that we will get time agreements on all three, but we will not need a time agreement on one of them because it will only take a couple of minutes, I understand.

We should be able to finish the bill this evening. We need to finish this evening because we have a heavy workload still remaining for the Senate before we go out for the August break.

Mr. President, by further answer to the minority leader, I ask unanimous consent that there be a 30-minute time limitation on the amendment by Mr. Chafee, the time to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I do not presently see the Senator from Rhode Island in the Chamber, but I am advised that the arrangement is satisfactory to him and there is no objection.

Mr. BELLMON. Mr. President, reserving the right to object, the Senator from Oklahoma would like to be assured of about 3 minutes on the Chafee amendment.

Mr. BOREN. Mr. President, reserving the right to object, I could not enter an agreement that would cut off my right to offer a perfecting or substitute amendment. I would like to have my right to offer a substitute amendment protected.

The PRESIDING OFFICER. The Senator would be permitted, under the precedents, to offer a perfecting amendment.

Mr. BOREN. Would the time then run?

The PRESIDING OFFICER. There would not be a time limit, unless it is part of the agreement.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may be allowed to modify his amendment, which he could do in any event, and that there be a 30-minute time limitation overall on the amendment to be equally divided, as modified.

Mr. BOREN. Mr. President, I would be offering a substitute to the amendment of the Senator from Rhode Island (Mr. Chafee).

Mr. ROBERT C. BYRD. All right. On the amendment by Mr. Chafee, as modified, if modified, there would be 30 minutes overall, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object.

Mr. CHAFEE. Mr. President, the 30 minutes——

Mr. ROBERT C. BYRD. Would include both.

Mr. CHAFEE. Would include both?

Mr. ROBERT C. BYRD. Yes.

Mr. CHAFEE. Mr. President, I think we ought to have the 30 minutes on my amendment and then, if the Senator chooses to offer a substitute, then we would have 30 minutes evenly divided on that.

Mr. ROBERT C. BYRD. Mr. President, could we have less time on the substitute, because I assume it would have been discussed?

Mr. BOREN. Mr. President, I would be willing to have 15 minutes, equally divided, on the substitute.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 30 minutes on the basic amendment and 15 minutes on the substitute, to be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if Mr. PRESSLER would agree, that there be a 30-minute time limitation on his amendment, to be equally divided in accordance with the usual form.

Mr. PRESSLER. Mr. President, if I should ask for a rollcall vote, I would agree to a 10-minute rollcall.

Mr. ROBERT C. BYRD. Could we get the time agreement on the amendment first?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there is one amendment remaining that I know about and that is by Mr. DOMENICI. I understand that will be disposed of within 2 or 3 minutes.

Mr. DOMENICI. Mr. President, we are not agreed to that, but we do not need a time agreement.

Mr. ROBERT C. BYRD. I take it there will be a rollcall vote on final passage.

Is there going to be a request for a rollcall vote?

Mr. BAKER. Mr. President, if the Senator will yield for a moment, I expect there will be a request for the yeas and nays on final passage.

Mr. ROBERT C. BYRD. All right, let us leave it open for the moment. Could we get an agreement on a time limit for rollcall votes?

Mr. BAKER. Mr. President, I am willing on this side to agree that following on after the last vote, that all succeeding votes we have be 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Members.

The PRESIDING OFFICER. The Senator from South Dakota.

UP AMENDMENT NO. 1466

(Purpose: To strike the provision providing a special effective date for the seagoing industry)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER), for himself and Mr. DOLE, proposes an unprinted amendment numbered 1466:

On page 256, strike out lines 11 through 21.

Mr. PRESSLER. Mr. President, I offer this amendment on behalf of Senator DOLE and myself. Senator DOLE is not in the Chamber at the moment.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order.

Mr. PRESSLER. Mr. President, the committee decided as a matter of policy that the effective date of this act would be April 29, 1980, for every company in the country regarding the application of the ERISA program. However, there was one exception made for one small company, and that company date was set at May 3, 1979. A narrow provision was crafted which would attach retroactive liability to only one company, ignoring the nearly 500 companies in the same category.

This amendment would delete this obscure section which would apply the provisions of this bill retroactively to only one company in the entire United States. The bill as it now stands would apply the law prospectively to every company of every type in the Nation except for one particular Pacific seagoing concern.

The question I am concerned with here is not whether the law should be generally applied retroactively or prospectively. The committee has already—rightly or wrongly—decided that issue. Rather, the question is whether it is fair to single out one company from the thousands in this country for different treatment. I believe it is extremely unjust to treat one company in such a fashion.

While section 108 on the surface specifies no particular firm, it is written in such a manner as to apply to only one company. My amendment would simply strike lines 11 through 21 on page 256, so that this company would be treated like all other companies in this country.

The provision which I seek to delete is discriminating and unfair and sets a bad precedent for the Congress in singling out a single firm for different treatment. Further, the provision strikes a company in an already declining industry. The amendment was adopted without benefit of hearings and full discussion within the committee which adopted it.

Mr. President, this is a technical, and I believe, noncontroversial amendment. It would in no way impede the passage of this important legislation and would not cause disagreement with proponents of the bill in the House of Representatives.

Mr. President, I therefore believe it is only fair and equitable to delete this provision, and hope that it would be accepted by the managers of the bill.

The basic argument here is that the committee as a matter of policy established the cutoff date of April 29, 1980; the later action in final markup of carving out a special exception to apply the date of May 3, 1979, in order to create liability for one specific small company is extremely unfair.

My amendment would correct this.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I rise in opposition to the amendment offered by the Senator from South Dakota.

The PRESIDING OFFICER. If the Senator will suspend, will the Senator from New Jersey yield time to the Senator from Hawaii?

Mr. WILLIAMS. Yes, Mr. President, I yield.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, far from being a technical amendment, this is a very substantive amendment. A question of justice is involved.

When the Senate Labor and Human Resources Committee, the House Ways and Means Committee, and the House Education and Labor Committee considered this legislation, all three committees set February 27, 1979, as the effective date for withdrawal liability. On that date, the Pension Benefit Guaranty Corporation transmitted its legislative proposal to the Congress, which was the basis for the present bill.

The February 27, 1979, date was used to prevent any employer from withdrawing from a plan under the lenient rules in current law. To permit the withdrawal of these opportunistic employers without imposition of liability, would shift the entire burden on employers remaining as plan participants. The withdrawing employers whose workers had added to the plan's liability, would avoid their responsibility. Their work force had participated in the plan and their work force would benefit from the plan, but these employers would be able to walk away from their responsibility and leave the other employers holding the bag, so to speak. This is what the amendment offered by the Senator from South Dakota would permit in the seagoing multiemployer plans.

Congressional consideration of this bill was lengthy and the February 27, 1979, date remained as a deterrent for hasty employer withdrawal. After the Senate Labor and Human Resources Committee had marked up the bill, the Senate Finance Committee finally considered the measure in April and June of this year. At this later date, Finance Committee members viewed the February 1979 date as imposing retroactive liability unfairly.

I opposed this view of the effective date, but my position was not supported by the majority. To give the legislation prospective effect, the committee set April 29, 1980, as the effective date.

However, I raised the special problem of the west coast seagoing plans covering shipworkers for several steamship lines; and I persuaded the committee to retain the original effective date for the seagoing plans. Following the subsequent negotiations with other members, this date was moved forward to May 3, 1979, as it now appears in the bill.

I believe the west coast seagoing plans present an especially compelling reason to retain the original effective date. In the west coast seagoing multiemployer plans, three substantial employers have withdrawn. Pacific Far East Lines has gone into bankruptcy. States Steamship

Lines has gone into reorganization. Prudential Lines has chartered its ships to a nonparticipating employer.

These three employers were responsible for 45 percent of contribution. Their withdrawal has doubled the unfunded liabilities for the remaining two employers—Matson Navigation and American President Lines.

These two companies now face liabilities of $185 million instead of $90 million; their annual contributions have increased by 75 percent. These companies, I remind my colleagues, serve Alaska, Washington, Oregon, California, and Hawaii. The increase of unfunded liabilities will greatly burden these companies, who remain to support the pension plans for the benefit of all employees, including former employees of these companies who withdrew. Even more significant, Mr. President, the increase of unfunded liability will greatly burden the consumers, because the added costs for the remaining companies will have to be passed on to consumers if these companies are to survive. This increase in their liabilities is unfair and the burden should be shared by the withdrawing substantial employers, as well.

Consider the equities of this matter. Here are two employers who choose to remain with the plans for the benefit not only of their employees, but also for the former workers of the companies who withdrew from the plans. This amendment now proposes to say that a company that withdrew should be excused from its fair share of the burden—the burden of maintaining the plans for its former employees.

For this reason, Mr. President, I oppose the amendment. I ask my colleagues to join me in opposing it. This is not a technical amendment, it is a substantive amendment. I ask those who represent the States of Alaska, Washington, Oregon, and California to join me in opposing this amendment.

I reserve the remainder of my time, Mr. President.

Mr. HAYAKAWA. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. I yield to the Senator from California 4 minutes.

Mr. HAYAKAWA. Mr. President, I really do not have a speech to give. I just want to ask the distinguished Senator from Hawaii some questions, because I do not understand the original purpose of the legislation as he had it and as Senator PRESSLER wants to revise it.

Why is it that one company out of many, many steamship companies covering the Pacific is singled out for different treatment from all the others? Can the Senator explain that to me?

Mr. MATSUNAGA. It was not a case of singling out one company. It was a matter of setting a date whereafter pension obligations would be imposed on withdrawing employers. It just so happened that a company withdrew after the effective date of May 3, 1979.

I ask the Senator from California to understand that under the original legislative proposal all employers who withdrew from multiemployer plans after February 27, 1979, would be liable for unfunded liabilities. February 26, 1979, was the effective date recommended by the Pension Benefit Guaranty Corporation.

As I stated earlier, this date was also recommended by the Senate Labor and Human Resources Committee, the House Ways and Means Committee, and the House Education and Labor Committee. The Finance Committee considered the legislation in April of this year. Owing to the efforts of powerful lobbyists, the Committee on Finance moved up the effective date to April 29, 1980.

Mr. HAYAKAWA. But this one company will withdraw from that which all other companies agreed to?

Mr. MATSUNAGA. A company so involved must have withdrawn from participation in a multiemployer plan after May 3, 1979. The substitute committee bill would require that company to share the burden of maintaining that fund for former company employees.

Mr. HAYAKAWA. If the distinguished Senator from Hawaii will forgive me——

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. PRESSLER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. PRESSLER. I need about 3 minutes at the end. I yield 4 more minutes to the Senator from California.

Mr. HAYAKAWA. I thank the Senator.

Mr. President, the question I am asking the distinguished Senator from Hawaii is why a single firm is singled out for different treatment. The Senator is saying that they singled themselves out?

Mr. MATSUNAGA. As I tried to explain to the Senator from California, it just so happened that a particular firm in the shipping industry withdrew after the May 3, 1979, effective date. It just so happened; many a time, individuals qualify or do not qualify for legislated benefits by a single day.

Mr. HAYAKAWA. Was this a deliberate withdrawal on the part of this one steamship company from a program intended to benefit all employees of steamship companies?

Mr. MATSUNAGA. One can so conclude, Mr. President, the company withdrew from participation in the seagoing multiemployer plans to avoid unfunded liabilities for its employees at that time and for its former employees.

Mr. HAYAKAWA. I thank the Senator from Hawaii. I still do not quite understand his explanation, but I thank the distinguished Senator from South Dakota and ask him to pursue this inquiry.

Mr. PRESSLER. Mr. President, is it not true that the date of May 3, 1979, as it relates to this one company was selected after the committee set the overall date of April 1980 in this legislation? That the 1979 date was only inserted in final markup? That is, it was selected retroactively? I think it is important to note that the date was selected backwards. The company had no way of knowing on that date.

It is unfair to impose retroactive liability without sufficient notice. This is especially so where one is exclusively selected. This company withdrew on that particular 1979 date, when it had no notice that it was going to be the only company that there would be a retroactive date applied to. All the other companies were given a date—that is, 1980.

Let me say it is even more unfair to single out only one company to bear the extra burden of this retroactive notice. It is true that they withdrew, but so did 200 other companies. This legislation goes back and reaches one company. For all the others, the date is 1980. That is the point that I am trying to make to my good friend from Hawaii.

While it is true a plan may suffer financially because of its withdrawals if liability is not imposed, it is unreasonable for any businessman to plan for a law to be enacted in the future which would create a liability such as this for past activity.

This is especially true where a company is fighting for survival, as at least one of the affected companies is doing, through reorganization under bankruptcy laws.

If we impose a liability now, the company probably will be forced out of business, putting its employees out of work.

So let me answer the point Senator HAYAKAWA was trying to ask, that the date of May 3, 1979, was selected retroactively.

It is true the company withdrew on that date. But by carefully crafting the provision, it is the only company to which liability attaches. The 200 other companies which also withdrew are not affected. The provision I seek to strike applies retroactivity to a very narrow area—only to the seagoing industry. As it so happens only one particular firm fits the provisions description. Another seagoing firm which also withdrew was carefully not included. And of course, as I have noted, nearly 200 other nonseagoing firms which withdrew are also excluded from liability. The names of many of those companies—giants in their field—are well known to all in this Chamber. But there is no strong sentiment to apply liability to them. This is because retroactivity is unfair. It makes it extremely hard to run a business if at a later date new rules are applied to earlier actions.

To cite an analogy, it is as if one had to withdraw something from my checking account a year ago, then we wrote a piece of legislation today, if anybody withdrew a year ago, he would be penalized. That is the point.

So we are picking out one company in a piece of retroactive legislation and going back. That is a matter of equity that is of concern to me.

With that, I conclude my argument.

Mr. President, I ask for the yeas and nays on this matter.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MATSUNAGA. Mr. President, the date was not an arbitrary date. May 3, 1979, was chosen because that was the day on which the bill was introduced, both in the Senate and the House. That is logical, a very logical date to select.

In contrast to the bill which the House passed, the bill now before us does not go back to February 27, 1979. If this bill did have a general February 27, 1979, effective date, it would have resolved all problems; nobody could have withdrawn after that date and escaped responsibility.

The question we face here is who should bear the cost of the seagoing plans unfunded liabilities. Should we impose that cost only on the two companies, Matson and American President Lines, who chose to remain with the plans. Should the entire cost be imposed on these two companies for their employees as well as the employees of the companies who withdrew from the plans to escape their responsibility?

The Senator from South Dakota, would favor the culprits in this case, the companies who decided to withdraw from all responsibility that had accumulated in the past.

These are not new responsibilities. These are old responsibilities that the companies had accumulated and should be held liable for on behalf of their former employees.

If we are to decide who should bear the cost, definitely we ought to hold responsible all participating employers who created the burden; certainly a company who withdrew from the plan to escape that cost ought to be held responsible, as well.

I will point out how much is at stake.

Matson Navigation Co., as I pointed out, along with American President Lines, would normally be liable for $90 million in the plans, unfunded liabilities, but the withdrawal of the three other companies will impose on Matson and American President Lines $185 million in unfunded liabilities. The share of one of the withdrawing companies, State Steamship Lines, would be about $20 million.

If this company is not required to shoulder that liability, then the two remaining companies would have to absorb that burden, plus the unfunded liabilities which should have been borne by the other two withdrawing companies.

So it boils down to this: Are we going to let an employer withdraw from its plans, to avoid its responsibilities, and impose the resulting financial burden on the remaining employers. Mr. President, we should not; instead we should maintain the May 3, 1979, effective date when the bill was introduced both in the House and the Senate. The employers as of that date had ample notice as to the consequences of passage of the bill. They had adequate notice.

The fair thing to do in this case is to reject the amendment offered by the Senator from South Dakota and make all companies withdrawing from the seagoing plans after May 3, 1979, responsible for the burden they created by participation in the plans prior to that date.

Mr. President, how much time do we have left on this side?

The PRESIDING OFFICER. One minute and 35 seconds.

Mr. MATSUNAGA. If it is agreeable with the floor manager, I would yield back the remainder of my time and move to table the amendment.

The PRESIDING OFFICER. Does the Senator from South Dakota yield back his time?

Mr. PRESSLER. How much time do I have remaining?

The PRESIDING OFFICER. One minute and 19 seconds.

Mr. PRESSLER. I will use 1 minute of that time.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. It is true the bill was introduced May 3, but the date of April 29 was established for all the other companies. But this amendment was added to make this apply to May 3, to this one company.

I know there is a great deal of feeling about the extent of liability, although that is not established entirely.

I also say that nearly 200 companies have been exempted except for this one, and that is the crux of my argument. Although the bill was introduced May 3, that, for example, we are acting on tonight, it includes the date of April 29, 1980, as the cutoff date for all firms except this one firm.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MATSUNAGA. Mr. President, I will not move to table the amendment. I understand that the yeas and nays have been ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Is all time yielded back?

Mr. MATSUNAGA. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 28, nays 51, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—28

Armstrong
Baker
Boschwitz
Chafee
Cohen
Danforth
Domenici
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Lugar
McClure
Percy
Pressler
Roth
Sasser
Schmitt
Schweiker
Stafford
Stevens
Thurmond
Wallop
Warner

NAYS—51

Baucus
Bellmon
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
Culver
DeConcini
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Laxalt
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stevenson
Stewart
Stone
Tsongas
Williams
Zorinsky

NOT VOTING—21

Bayh
Bentsen
Church
Cochran
Dole
Durenberger
Durkin
Goldwater
Johnston
Kassebaum
Kennedy
Long
McGovern
Melcher
Packwood
Simpson
Stennis
Talmadge
Tower
Weicker
Young

So Mr. PRESSLER's amendment (UP No. 1466) was rejected.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the amendment was rejected and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1467

(Purpose: To amend the Federal Unemployment Tax Act with respect to the pension offset provision)

Mr. CHAFEE. Mr. President, on behalf of Mr. BRADLEY and myself I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) for himself and Mr. BRADLEY proposes an unprinted amendment numbered 1467.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

REDUCTION IN UNEMPLOYMENT BENEFITS ON ACCOUNT OF PENSION

SEC. (a) Section 3304(a)(15) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "except that—

"(A) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained (or contributed to) by a base period or chargeable employer (as determined under the State law), and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

(b) The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

FEDERAL SERVICE OF EX-SERVICEMEN

SEC. (a) Section 8521(a)(1)(A) of title 5, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "one year".

(b) The amendment made by this subsection shall be applicable with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after January 1, 1981.

BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

SEC. (a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"SEC. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code.".

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. Federal Employees Compensation Account.

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after September 30, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1980) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in clause (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

(c) All funds, appropriated for the fiscal year beginning October 1, 1979, and which are available for the making of payments to States after September 30, 1980, pursuant to agreements entered into under chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such chapter in States which do not have in effect such an agreement, shall be transferred on October 1, 1980 to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

CESSATION OF EXTENDED BENEFITS WHEN INDIVIDUAL MOVES TO STATE IN WHICH TRIGGER IS NOT "ON"

SEC. . (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (2), payment of extended compensation shall not be made to an individual for any week of unemployment in such individual's eligibility period (as defined in section 209(e)) during which such individual resides in a State in which there is not a State 'on' indicator for such week, if such individual took up residence in such State after the beginning of the period of unemployment with respect to which extended benefits would otherwise be payable; except that the preceding provisions of this paragraph shall not apply with respect to the first two weeks during which such individual resides in such State.".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

Mr. CHAFEE. Mr. President, I yield myself 5 minutes.

Mr. President, on March 4 of this year here in the Senate we passed H.R. 4612 by a vote of 89 to 3. That bill dealt with changes in the unemployment compensation law, principally dealing with the retirement offset.

The amendment that I am submitting today concerns the retirement offset that was involved in that H.R. 4612.

Beginning on April 1 of this year as a result of legislation that was passed about 4 years ago, each of the States are required to reduce or to offset—that is another word for reduce—unemployment compensation benefits dollar for dollar by the amount of the pension income being paid to an unemployed individual.

The purpose of this offset was to restrict unemployment compensation benefits to those workers who were laid off involuntarily and continue to be in the labor market. That is the whole purpose of unemployment compensation; to take care of those who are laid off involuntarily but are still looking for a job. In other words, unemployment compensation is intended to provide income for those who are unemployed and remain in the market, not those who are unemployed by virtue of being retired.

However, the law that went into effect April 1 was very broadly drawn. As I say, this passed about 4 years ago and went into effect April 1 of this year. And that law provides that income from pensions earned from previous employment is included in the offset as well as the pension from the individual's most recent employer.

Let me give the Senate an example of what takes place.

A young man goes into the Navy at the age of 20. He comes out at the age of 41 from the Navy with a pension. He then goes to work for a private employer, say, General Electric, and he is laid off at the age of 50.

In the current law that took effect April 1, that young man's pension from the Navy counts to reduce his unemployment compensation. In other words, he is getting $400 a month pension from the Navy, and has had it for years. His standard of living has included this money. He works for General Electric for 10 years and then gets laid off, that $400 a month pension from the Navy is offset against his unemployment compensation. His unemployment compensation is reduced by that amount, and frequently he collects nothing from his unemployment compensation which is there to help tide him over. He is fully in the labor market. He is trying to get a job and he cannot collect his unemployment compensation.

In addition, the law that is in effect provides that the total pension that one receives is used as an offset against his unemployment compensation even though he might have made a contribution into that pension. Example: One hundred percent of a person's social security counts against his unemployment compensation even though he paid half into the social security fund and half of what he is receiving, in effect, is his half of what he himself paid into it.

My amendment addresses these problems. What it does is it modifies the existing law to require that the reduction of unemployment compensation benefits is only required if the pension comes from the last employer. In addition, States would be given the option to limit the offset to the portion of the pension contributed to by the employer. The employee's contribution would not count.

In other words, if this young man for some reason was collecting a pension from General Electric and then went unemployed or sought to collect unemployment compensation that pension from the last employer, General Electric, would count against his unemployment compensation and in addition only half his social security would count.

Budgetary problems might be raised against this. So I have provided that this goes into effect starting in 1981, not right now because of problems with the 1980 budget.

Second, this is going to cost some money to the Federal Government—I yield myself 2 more minutes—which is estimated at $90 million per year. So I picked up some of the savings we made in H.R. 4612. Those savings are as follows: I provided, as we did in H.R. 4612, for a lengthening of the period that a serviceman has to be in the service before he can collect unemployment compensation. Currently it is 90 days. In H.R. 4612 we extended that for a year. That saved $43 million.

I provided that the Federal agencies must monitor unemployment claims, and that saved $11 million.

Finally, I provided, as we did in that bill the past year, that an individual who leaves a State cannot receive extended benefits if he moves to a State which does not have high unemployment. That saved $46 million.

So we take care of the losses. The losses are $90 million and this recoups $100 million. I think it is a very worthwhile amendment and I urge its adoption.

I yield 5 minutes to Senator Bradley.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. Levin). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in support of the amendment offered by Senator Chafee and myself. I think it is an amendment that addresses a serious issue that has persisted since October 1976 when Congress enacted Public Law 94–566, which contained the provision we are dealing with tonight.

The provision requires all States to reduce a claimant's unemployment compensation by the amount of any public or private pension. The effective date for this legislation was 3 years later in 1979.

In April 1977, Congress clearly saw what was going to happen and extended the effective date of this legislation to April 1, 1980. It has now gone into effect.

What is the result? The result is that an individual who has worked for Westinghouse or the local fire department for 20 or 30 years and has retired and is receiving a pension finds that is not enough to cover his expenses in an inflationary environment, and takes a second job.

He works in that second job and suddenly the economy turns down and he loses that job. He goes to claim unemployment compensation and when he gets his unemployment compensation his pension is reduced dollar for dollar.

Mr. President, that is not a fair way to conduct business. That, in my judgment, is not the intent of Congress.

In 1976, when the unemployment compensation law was passed, it was intended to take care of the very serious abuses. For example, teachers who took unemployment compensation in the summertime; for example, entertainers who had off periods and took unemployment compensation.

But indeed it was not intended to deny hard-working people the right to a second job and the benefits that any other American has in following that second job.

Mr. President, I have in my own State of New Jersey a number of cases of very clear deprivation of senior citizens. I ask unanimous consent to submit two of these for the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New Brunswick, N.J., Home News, June 29, 1980]

Feds Cut Jobless Benefits of Elderly

One such case involves Frances Percilly, a 70-year-old Piscataway resident who worked for a company for 16 years until laid off recently.

While looking for another job, she applied for unemployment benefits and started receiving the maximum $123 a week to which she was entitled. But that lasted just two months. As of April 1, when the new law took effect in New Jersey, her unemployment benefits were reduced to $5 a week, because she was receiving $450 a month in social security benefits.

For 16 years, she had been paying into the unemployment plan, like everyone else in the work force, she had no choice. New Jersey law requires that every employee pay one percent of his salary up to $6,900 into the unemployment and disability plan. Employers are required to match the employees' contributions.

Last year, her payment totaled $66, an amount matched by her employer.

It's money she'll never see.

Michael Vinciguerra, 67, a retired civil service employee who drives a bus during the school year, tried collecting unemployment once the school year ended. He failed—and he can't understand why he has had to pay unemployment premiums out of his $130 weekly paycheck.

Mr. BRADLEY. I would simply read into the Record one example of a 70-year-old individual who had worked 16 years and was recently laid off. While looking for another job she applied for unemployment benefits and started receiving a maximum of $123 a week to which she was entitled. But that lasted just 2 months until April 1, 1980, when the new law took effect, and her unemployment benefits were reduced to $5 a week, down from $123, simply because she was receiving $450 a month in social security benefits.

This amendment is directed at the pension and also at the social security benefits.

Mr. President, I think there are a number of changes that are important. As one Senator, I have received as much mail on this issue as I have on practically any other issue before the Congress today.

It is clearly an error that was made in 1976. Under the Chafee-Bradley amendment it addresses and corrects it, and I would urge my colleagues to support this amendment.

We will have in the coming minutes a substitute offered by the Senator from Oklahoma no doubt which will include a number of other cost savings, cost savings far in excess of those that the Senator from Rhode Island has offered, to pay for the amendment that we have offered.

I personally do not feel that many of these cost savings are beneficial for working people in this country, and I hope we will have an opportunity to look at these a little more carefully.

The parliamentary situation is such that we will probably have an up or down vote on both the offset and the other cost-saving measures, but I would like it to be on the record that I strongly support changing the offset provision, but I do not support many of the cost-saving measures that the Senator from Oklahoma will propose in his substitute.

Mr. CHAFEE. Mr. President, I yield myself 1 minute. I would point out to the Senate that what Senator Bradley and I are proposing is what passed this Senate 89 to 3, the great bulk of it, and some other provisions that will be brought up by Senator Boren, which were also included in that. But the basic thrust of what we are doing here passed this Senate and also passed the House. Unfortunately, no conference has ever been held, so that both the House and the Senate have voted to reduce these offset provisions.

What we are trying to attack here tonight both the House and Senate have voted to reduce. But, unfortunately, there never has been a conference called, so the law has never come about that both branches voted for.

I reserve the remainder of my time, Mr. President.

Mr. BOREN. Mr. President, who controls the time in opposition to the amendment?

The PRESIDING OFFICER. The Senator from New Jersey (Mr. Williams).

Mr. WILLIAMS. The time in opposition——

The PRESIDING OFFICER. The Senator from New Jersey controls the time in opposition.

Mr. WILLIAMS. Which amendment are we talking about?

Mr. BOREN. I have to wait until all time is yielded back before I introduce my substitute.

Mr. WILLIAMS. We will yield back the time.

Mr. BELLMON. Before the time is yielded back, I would like to have 3 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. Mr. President, there is a budget consideration here that needs to be considered. I am not speaking on the merits of the amendment at this point, but the fact is there is a real danger that the Chafee amendment will put us $100 million over the assumptions in the budget.

The reason that is the case is that if the conference, for instance, included the pension offset provision in the Chafee amendment and dropped one or more of the savings provisions in the amendment, it is highly likely that this bill could not then be enrolled because it would exceed the budget expectations. So I think we ought to approach this amendment realizing that there is this serious budgetary consideration, and that the author of the amendment needs to know that so that he can make certain that the budget is not exceeded.

The savings in the Chafee amendment are already included in the reconciliation bill without the pension offset provisions which cost $100 million in fiscal 1981.

The Chafee amendment, therefore, adds $100 million net to the fiscal year 1981 spending which cannot be accommodated within the funds for unemployment insurance in the budget resolution we adopted last month. That resolution promised a balanced budget. While many will argue that the deterioration in our general economic condition may unbalance the budget we can be sure it will be out of balance if we keep adding Federal spending of $100 million at a time. So, Mr. President, I want to make that point before we decide this issue.

The **PRESIDING OFFICER**. Who yields time?

Mr. **CHAFEE**. Mr. President, I yield 2 minutes to the Senator from New Jersey.

Mr. **BRADLEY**. Mr. President, let me ask my distinguished cosponsor, it is my understanding that the Senator has provided in the amendment for certain budget savings.

Mr. **CHAFEE**. That is correct.

Mr. **BRADLEY**. Various cost-saving measures. I wonder if the Senator might again give the Senate what those cost-saving measures are and how much they would save.

Mr. **CHAFEE**. We estimate that this change would cost $90 million, and we offset that with a total of $100 million of savings as follows: The present law provides that if you serve in the military service for 90 days and you leave voluntarily you can go out and collect unemployment compensation.

We would lengthen that period of service in the military to a year, and that would save $43 million. That is just the same language as in the bill we passed here in March by a vote of 89 to 3.

Second, we would provide that the Federal agencies would have to monitor their unemployment claims more carefully than they have. The incentives have provided for that, and that would save $11 million.

Finally, we would provide that an individual would not be able to leave a State and move to another State where there is low unemployment and in that second State, assume residence and collect extended benefits. He would not be eligible for the extended benefits in the new State if no extended benefits were payable in that State. He would not continue to collect them from his former State. That would save $46 million, all adding up to $100 million, as opposed to the $90 million loss.

Mr. President, I reserve the remainder of my time.

The **PRESIDING OFFICER**. Who yields time?

Mr. **CHAFEE**. Mr. President, if there is no one else going to speak in opposition, I will yield back the remainder of my time.

The **PRESIDING OFFICER**. Does the Senator from New Jersey yield back the remainder of his time?

Mr. **WILLIAMS**. Mr. President, I intend to. As I understand it, a substitute is now to be offered.

Mr. **BOREN**. Yes, once the time is yielded back.

Mr. **JAVITS**. Mr. President, could I ask the Senator to give me 2 or 3 minutes?

Mr. **CHAFEE**. Yes.

Mr. **JAVITS**. Mr. President, I would rather speak on this measure after the substitute has been offered, but I find that probably will be impossible. If we have to yield the time back, I do not want to impose on the Senate by seeking unanimous consent, so I will speak now.

I think we know what the substitute is. As I understand it, the substitute will go into many matters which will further vitiate unemployment compensation, including restrictions of a kind which I think are harmful to the unemployed person. Therefore, I believe that our position in this matter will have to be judged based upon the situation which faces us when the substitute, or however the proposal may be designated, is proposed.

I wish to give the Senate my own view that, on balance, though I realize the vote on the substitute will come first, its defects far outweigh its advantages. I hope very much that those who understand that unemployment is increasing and that we are going to be in a real unemployment crunch, certainly until the end of this year, and who wish to sustain a rational unemployment insurance system, will vote against the substitute. If enough of us resolve to do that, which is the right thing, and are not in any fear about being wrongly construed because we vote against a substitute which contains the Chafee amendment, we will have a chance to vote for Chafee which, under the circumstances, is certainly preferable.

However, the best solution to the pension offset issue is the complete repeal of this discriminatory requirement as has been unanimously recommended by the National Commission on Unemployment Compensation. I hope very much that we will reject the substitute.

The **PRESIDING OFFICER**. Is all time yielded back?

Mr. **WILLIAMS**. Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time having been yielded back, the substitute is now in order.

The Senator from Oklahoma.

UP AMENDMENT NO. 1468

(Purpose: To include provisions relating to the unemployment compensation program)

Mr. **BOREN**. Mr. President, I send to the desk an amendment in the nature of a substitute and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment numbered 1468 in the nature of a substitute for unprinted amendment numbered 1467.

Mr. **BOREN**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted insert the following:

At the end of the bill add the following new title:

TITLE V—UNEMPLOYMENT COMPENSATION PROVISIONS

ELIMINATION OF "NATIONAL TRIGGER" UNDER THE EXTENDED BENEFITS PROGRAM

SEC. 501. (a)(1) Paragraphs (1) and (2) of section 203(a) of the Federal-State Extended Unemployment Compensation Act of 1970 are amended to read as follows:

"(1) shall begin with the third week after the week for which there is a State 'on' indicator; and

"(2) shall end with the third week after the first week for which there is a State 'off' indicator.".

(2) Section 203(b)(2) of such Act is amended by striking out "(or all the States)".

(3) Section 203 of such Act is further amended by striking out subsection (d) thereof.

(4) Section 203(f) of such Act is amended—

(A) in paragraph (1), by—

(i) striking out "subsections (d) and (e)" and inserting in lieu thereof "subsection (e)", and

(ii) striking out "all State agencies (or, in the case of subsection (e), by the State agency)" and inserting in lieu thereof "the State agency",

(B) by striking out paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2).

(b)(1) Section 204(a) of such Act is amended—

(A) by striking out paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3).

(c) The amendments made by this section shall take effect on October 1, 1980 except that, in the case of any State, such amendments shall, at the option of such State, take effect upon any other date which is on or after the date of enactment of this Act and prior to October 1, 1980.

WAITING PERIOD FOR BENEFITS

SEC. 502. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended—

(1) by inserting "(A)" after "compensation", and

(2) by inserting immediately before the period the following: ", or, (B) paid for the first week of compensable unemployment in an individual's eligibility period, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment".

(b) The amendments made by this section shall be applicable in the case of extended compensation paid to individuals during eligibility periods beginning on or after October 1, 1980.

STATE OPTION AS TO CRITERIA FOR THE STATE "ON" AND "OFF" INDICATORS

SEC. 503. (a) Section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended, in the first sentence following paragraph (2) thereof, by striking out the matter beginning with "(ii)" and ending with "except", and inserting in lieu thereof the following: "(ii) the figure '4' contained in subparagraph (B) thereof were '5' (or such number, or percentage of a number which exceeds 5, as is specified by the State law); except".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning after October 1, 1980.

REDUCTION IN BENEFITS ON ACCOUNT OF PENSION

SEC. 504. (a) Paragraph (15) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "except that—

"(A) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained (or contributed to) by a base period or chargeable employer (as determined under the State law), and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

(b) The amendments made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

FEDERAL SERVICE OF EX-SERVICEMEN

SEC. 505. (a) Section 8521(a)(2)(A) of title 5, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "one year".

(b) The amendment made by this subsection shall be applicable with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after October 1, 1980.

BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

SEC. 506. (a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"SEC. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code.".

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after September 30, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1980) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures, and if, on the basis of such estimate, he determines that the amount described in clause (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1), he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

(c) All funds, appropriated for the fiscal year beginning October 1, 1979, and which are available for the making of payments to States after September 30, 1980, pursuant to agreements entered into under chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such chapter in States which do not have in effect such an agreement, shall be transferred on October 1, 1980 to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

EMPLOYMENT OF CERTAIN CITIZENS FOR FEDERAL UNEMPLOYMENT TAX ACT PURPOSES

SEC. 507. (a) For purposes of chapter 23 of the Internal Revenue Code of 1954 (the Federal Unemployment Tax Act), service performed by a citizen of the United States as an employee of the Roosevelt Campobello International Park Commission shall be considered to be employment within the meaning of section 3306(c) of such Code.

(b) This section shall apply with respect to remuneration paid after September 30, 1980, for service performed after such date.

REQUIREMENT THAT UNEMPLOYMENT BENEFITS BE REDUCED BY CERTAIN RETIREMENT BENEFITS

SEC. 508. (a) Paragraph (15) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended—

(1) by striking out "March 31, 1980" and inserting in lieu thereof "January 1, 1982", and

(2) by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "except that—

"(A) the requirements of this paragraph shall apply to a pension, retirement or retired pay, annuity, or other similar periodic payment only if—

"(i) such pension, retirement or retired pay, annuity, or other payment is under a plan maintained (or contributed to) by a base period employer (as determined under applicable law), and

"(ii) services performed for such employer by the individual during the base period (or remuneration for such services) affects eligibility for, or increases the amount of, such pension, retirement or retired pay, annuity, or other payment, and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

(b) The amendments made by subsection (a) shall apply to certifications of States for 1980 and subsequent years.

AMENDMENT TO SECTION 203 (C) OF THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

SEC. 509. (a) Subsection (c) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "which begin in such extended benefit period" and inserting in lieu thereof "which (1) begin in such extended benefit period, and (2) begin within 2 years after the last day of his benefit year".

(b) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act; except that such amendment shall not be a requirement of any State law under section 3304(a)(11) of the Internal Revenue Code of 1954 before January 1, 1982.

EFFECTIVE DATE

SEC. 510. Sections 508 and 509 shall cease to be effective upon the date of enactment of this Act.

CESSATION OF EXTENDED BENEFITS WHEN INDIVIDUAL MOVES TO STATE IN WHICH TRIGGER IS NOT "ON"

SEC. 511. (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (2), payment of extended compensation shall not be made to an individual for any week of unemployment in such individual's eligibility period (as defined in section 203 (c)) during which such individual resides in a State in which there is not a State 'on' indicator for such week, if such individual took up residence in such State after the beginning of the period of unemployment with respect to which extended benefits would otherwise be payable; except that the preceding provisions of this paragraph shall not apply with respect to the first two weeks during which such individual resides in such state".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

CERTIFICATION OF STATE UNEMPLOYMENT LAWS

SEC. 512. On October 31 of any taxable year after 1979, the Secretary of Labor shall not certify any State, as provided in section 3304 (c) of the Internal Revenue Code of 1954, which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the preceding provisions of this title to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.

Mr. BOREN. Mr. President, I yield myself 5 minutes.

Mr. President, on March 4 of this year, the Senate passed the bill H.R. 4612 by a vote of 89 to 3. This legislation included a number of very important changes in the Nation's unemployment compensation programs. Unfortunately, the conferees appointed by the House of Representatives on this bill have thus far shown no inclination to meet with us to resolve our differences. I agree that the resolution of the pension offset issue has a certain urgency—it had that urgency in March and it still has that urgency. I am very reluctant, however, to allow the urgency of that matter to place us in the position of abandoning other provisions of that bill. The provisions in the amendment have only a fraction of the savings approved by the Senate on that vote of 89 to 3. I think it is equally urgent that we consider the other Senate-passed provisions which will offset the cost of the pension provision and produce a significant reduction in the deficit by eliminating certain inappropriate benefits.

For this reason, I am offering a substitute amendment which will incorporate the Senator's amendment related to the pension-offset provision and certain other provisions but will also incorporate all of the other unemployment compensation provisions which were previously approved by the Senate as a part of the bill H.R. 4612. The text of my amendment is substantively identical to title II of H.R. 4612 except for changes in effective dates and the addition of a technical section to assure that the Department of Labor can carry out the requirements of the amendment.

It also includes the House amendments that were acted on earlier so that they could be considered by conference.

Mr. President, what this all boils down to is this: The Senate, by a vote of 89 to 3, took care of the pension problem Senator CHAFEE and Senator BRADLEY have so eloquently described. I agree, it is an injustice in the present law that needs to be corrected. Some people are being unfairly treated by it.

We said, along with taking care of that problem, which actually costs us revenue, that change in the present law, that we should make other reforms, other reforms which the Senate approved 89 to 3. Only the Senator from New York, Mr. JAVITS, and Senators DURKIN and MOYNIHAN voted against those changes. The vote was 89 to 3.

We are simply saying that, after we passed that bill and sent it over to the House to take care of the pension offset problem and to enact these other programs and the House refused to meet on it, we should not allow ourselves to be put in the position now, in order of taking care of the pension offset problem, of retreating on all of the other reforms that we adopted at that time.

I am convinced that if we pass this substitute amendment, with the support in the House that there is for taking care of this pension offset problem, that we will finally get action. But I think that, by sending it over without the substitute language, sending it over without the language that the Senate previously itself passed by such an overwhelming majority, that we are, in effect, capitulating to the House of Representatives on this point before we even begin the bargaining process in conference.

If we do not adopt all of these savings, as Senator BELLMON has pointed out, we are going to knock a $100 million hole in the budget according to the legislation as the Senate has previously enacted. A $100 million hole.

It is possible, depending upon the timing of this bill coming out and the amount of savings that are included in it as compared with the cost of the bill, that the ERISA bill could end up not being able to be enrolled even under section 86 of the budget resolution, House Concurrent Resolution 307, because we would be going beyond the allocation for this established by the Finance Committee.

So there are certain dangers in enacting the amendment of the Senator from Rhode Island (Mr. CHAFEE) as he has originally proposed it, because it could end up holding up the ERISA legislation.

In addition, we would be retreating from a position—I think a very good position—that the Senate has taken on a vote of 89 to 3 in the past.

So I would urge my colleagues: Yes, let us take care of the problem described by my colleagues, Senators CHAFEE and BRADLEY. I agree with them. I agree with them wholeheartedly that this change needs to be made. But, in doing so, let us not throw the baby out with the bathwater. Let us not retreat from the position that we have taken earlier in adopting some very substantial, some very important, and some very long overdue reforms to the unemployment compensation program.

The PRESIDING OFFICER. The Senator's time has expired.

The time of the Senator has expired.

Mr. BELLMON. Will the Senator yield me 2 minutes?

Mr. BOREN. I yield.

Mr. BELLMON. Mr. President, I rise in support of the amendment of my colleague from Oklahoma. This amendment will save at least another $100 million, probably more since unemployment has gone up, and would therefore make the Chafee amendment controllable even if the House does not go along with all the proposals the Senator from Rhode Island has in his amendment. These savings proposals already passed the Senate, as my friend has said, but the House has refused to go to conference. I see no reason for the Senate to give in to the House without even making an effort to get them to see our point of view. The House wants the costly provisions of the Chafee amendment; the House does not want the savings amendments. The Senate should insist on the savings we passed when we agreed to the offset provision in the Chafee amendment. For that reason, I urge the Senate to support the substitute, offered by my colleague from Oklahoma.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself a moment or two.

As I heard the Senator from Rhode Island, this subject matter of offsets has passed both the Senate and the House.

Mr. CHAFEE. That is correct.

Mr. WILLIAMS. The other provisions that are in the Boren substitute have not passed the House?

Mr. CHAFEE. That is correct.

Mr. WILLIAMS. What the Boren substitute is saying is to put all that has passed here in the Senate on a vehicle which has to find its way into harbor by Friday or all is lost. The Senator has not been able to get the House to agree to what the Senate has done for how long a period?

Mr. CHAFEE. They have not been willing to come to a conference. We passed it on March 4 and they passed it before we did.

Mr. WILLIAMS. It would seem to me in that posture if we should go with this bill to the House with the measure they have already passed, we would have a fighting chance to include this which is not germane to ERISA, to get them to accept that. To go with the whole package that they will not even meet with the Senator on ERISA might well sink ERISA.

Mr. JAVITS. It is condemning.

Mr. WILLIAMS. As the Senator from New York (Mr. JAVITS) said, it is condemning.

We have this time period. If we do not meet it, we do not know. All we do know is that the law that will then apply will make every terminated pension benefit guaranteed. Talk about budgets. Then we will have some budget problems around.

Mr. CHAFEE. If the Senator will yield me 1 minute, I will say this, that if we pass the Boren susbtitute, what likely will happen would not be that they would tie up the ERISA so much as they would throw out the entire pension offset effort we are making here. It seems to me that if they refuse to even go to conference to discuss it, when they met on the ERISA they would say, "The first thing we will do is throw out that entire pension offset problem." But if we move with my susbtitute, I think there is a good chance of the pension offset surviving. I would say the vote should be against the Boren amendment.

Several Senators. Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 22 seconds.

Mr. BOREN. I would say in conclusion let us do this in a way that does not harm the budget we already passed, that does not raise a cloud over the ERISA bill, that possibly could not be enrolled, where we could not get substantial savings. We are here increasing over and above what the Finance Committee has already allocated to the unemployment program, and what the Senate has already voted for. We are now knocking something like $100 million over this program. Let us take care of the pension offset problem but let us not take care of it by retreating from the savings. Let us not let the House get away on this point by saying, "Yes, we are for additional spending, but we are not for any reforms to bring about sufficient savings." Let us send the package back just as we did by a vote of 89 to 3 previously. It will take care of the pension offset proposal. We can do so where it will not endanger the ERISA bill as might happen if the substitute is not adopted.

Mr. President, I ask for the yeas and nays on the substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield.

Mr. CHAFEE. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Kansas (Mrs. Kassebaum), the Senator from Wyoming (Mr. Simpson), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 52, nays 33, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—52

Baker
Baucus
Bayh
Biden
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Cranston
Culver
DeConcini
Dole
Durkin
Eagleton
Ford
Gravel
Hart
Hatfield
Hayakawa
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Stewart
Stone
Tsongas
Williams

NAYS—33

Armstrong
Bellmon
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Chiles
Cochran
Cohen
Danforth
Domenici
Durenberger
Exon
Garn
Glenn
Hatch
Helms
Hollings
Humphrey
Jepsen
Laxalt
Lugar
McClure
Morgan
Nunn
Pryor
Roth
Schmitt
Stevens
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—15

Bentsen
Church
Goldwater
Johnston
Kassebaum
Kennedy
Long
McGovern
Melcher
Simpson
Stennis
Talmadge
Tower
Weicker
Young

So the motion to lay on the table Mr. Boren's amendment (UP No. 1468) was agreed to.

Mr. CHAFEE. I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I move passage of my amendment.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Rhode Island.

The amendment (UP No. 1467) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1469

(Purpose: To protect the pension benefits of certain participants in multiemployer pension plans)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. Domenici) proposes an unprinted amendment numbered 1469:

On page 127, between lines 17 and 18, insert the following new subsection:

"(h) Notwithstanding subsections (b)(1) and (c)(1), in the case of a participant or beneficiary under a multiemployer plan who is in a pay status on July 29, 1980, or who is within 36 months of the normal retirement age and has a nonforfeitable right to a pension under such a plan on that date, the benefit guaranteed by the corporation under this title shall be the benefit guaranteed by section 4022 (determined without regard to the amendments made by the Multiemployer Plan Amendments Act of 1980).

Mr. DOMENICI. Mr. President, the Multiemployer Pension Plan Amendments Act of 1980, S. 1076, is a complex and necessary bill. As ranking minority member on the Senate Special Committee on Aging, I fully support the fundamental intention of this bill. Under its provisions, those who retire on pension plans earned from several employers will have greater protection in the event of financial difficulty in their plan after retirement. This bill generally solidifies the Pension Benefit Guaranty Corporation's ability to guarantee pension rights.

As a member of the Special Committee on Aging, however, I am concerned about the provisions in this bill that would result in reduced pension benefits to those who have already retired or those who will soon retire. These individuals have little or no ability to compensate for these reductions. I am speaking, Mr. President, of the pensions of truck drivers, printers, maritime, and construction workers who have faithfully contributed to multiemployer plans for 15, 20, and even 30 years. The factors that have lead to a financial decline in their industry are beyond their control and generally have resulted in smaller numbers of workers supporting larger numbers of retirees.

The Senate Finance Committee is, of course, properly concerned that the Pension Benefit Guaranty Corporation be able to meet its insurance obligations without producing a drain on the Treasury. I am concerned that we meet our insurance obligations without penalizing those who now rely on these pensions and those who are within 3 years of retirement. As a member of the Budget Committee there can be no doubt about my concern and support for measures to reduce unnecessary burdens on the Treasury, but I believe we have other avenues open to us as we consider the ERISA legislation before us today.

This bill, Mr. President, originally provided for a two-stage cutback procedure. In the event of financial trouble, a plan may enter a period of reorganization. Here, the plan undergoes several changes aimed at getting the plan back on its feet. One of these changes mandated a reduction in benefit levels to those in effect 5 years prior to the date of reorganization. The Senate Finance Committee, at the urging of Senator Dole, should be congratulated for its efforts to disallow a plan in reorganization from rolling back its benefit levels.

If reorganization does not succeed in stabilizing an ailing plan, the plan may face insolvency. At this point, the plan has insufficient funds to pay all outstanding pension benefits, and these benefits must be reduced to qualify for PBGC insurance. As you well know, Mr. President, the formula for reducing benefits of a plan in insolvency is complicated, but a reduction of any size may prove disastrous for those who expect and rely on their pension checks to meet their expenses. While I do not feel comfortable reducing the benefits of anyone, I feel there is a crucial difference between those workers who will still have time to compensate for the lower benefits which could result from the passage of this bill and those retirees who will have little or no time to make such an adjustment.

For many current retirees who can barely make ends meet, a reduction in their pension may become the straw that breaks the camel's back. Many could be forced to move from their homes or take other drastic actions. Workers who will be retiring in the future will not be faced with such immediate decisions.

Mr. President, I should also mention that the number of people we are concerned with here is relatively small and that, consequently, the added financial strain that this amendment would place on the Pension Benefit Guaranty Corporation would be minimal.

The Pension Benefit Guaranty Corporation has estimated that only four plans are likely to reach a state of "insolvency" within the next 10 years. There are an estimated 16,000 participants in those plans and 13,280 are receiving or will receive such small benefits that they will not be affected. That leaves only approximately 2,700 people who could be affected by the benefit reductions in the bill and most of those are not yet retired or close to retirement. Only those who are retired or within 3 years of retirement today would be affected by my amendment.

Mr. President, we have always been careful in writing laws to give those adversely affected an opportunity to make necessary adjustments. This is a particularly important precedent in the context of this legislation. No one ever told current retirees that their benefits could be reduced. They assumed that they would receive their full pension benefits for life. My amendment would make good on that promise.

Mr. President, this amendment, as I understand it, has been modified so that on line 6, where I had 60 months, it will be 36. I understand that, with that change, it will be acceptable to the floor managers of the bill and I am most appreciative of their cooperation.

Basically, this would cover a very limited group of employees. They are multiemployer people who have already retired or who are going to retire within the next 36 months. The Senator from New Mexico feels that there is no group of Americans that is more entitled to protection under an ERISA-type bill than those. They cannot change their economic status. They are already on a pension or they are soon to be on one. This amendment will merely provide that as to those—and there are not many—if their plan becomes insolvent, they do not get cut 25 percent, but rather, are insured to the full 100 percent.

We do not know exactly how many people this covers, but it is not a large group of Americans, somewhere in the neighborhood of a thousand based upon present financial conditions of known pension plans.

I am confident that the Senate would agree with the floor managers that this is a good amendment because these people have no way of altering their economic condition. They are already in the status of pensioners. They are multiemployer or they are about to retire.

I feel they should receive maximum protection and, as I understand it, so do the floor managers.

Mr. WILLIAMS. We have reviewed this with the Senator from New Mexico. The equities are here. I would advise the Senate to accept this amendment.

Mr. JAVITS. Mr. President, I find it acceptable. We will take it to conference.

Mr. DOMENICI. I thank the floor managers and move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 1469) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I rise in support of section 409 of the bill.

Mr. President, S. 1076, as reported by the Committee on Labor and Human Resources and the Finance Committee, includes an amendment which I offered and which was adopted by both committees of jurisdiction. My amendment, embodied in section 409 of the bill, would exempt the Hawaii Prepaid Health Care Act from the preemption provisions of the Employee Retirement Income Security Act of 1974 (ERISA).

Mr. President, despite the unanimity of its approval by both committees, I am informed that some misunderstanding has risen in certain quarters with regard to my amendment. In view of this misunderstanding, I would like to clarify the background and need for my amendment.

It will interest my colleagues to learn that the legislation which embodied the concepts in the Hawaii Prepaid Health Care Act was first introduced and considered in the Hawaii State Legislature in 1971. This legislation was the result of a comprehensive study mandated by the State legislature in 1967 to assess various methods of expanding basic comprchensive prepaid health insurance coverage among Hawaii's residents. The legislation was finally passed by the State legislature and enacted into law in June 1974. The Hawaii Prepaid Health Care Act of 1974 was one of a long series of major, socially progressive legislative proposals which were adopted by the State legislature after Hawaii achieved statehood in 1959.

The concepts embodied in the Hawaii Prepaid Health Care Act were surprisingly simple and straightforward: First, a statewide mandate of a long established, high community standard of basic comprehensive prepaid health insurance protection for the State's employed residents; second, the use of the private sector to provide such coverage and health care benefits; and third, the use of the Hawaii State Department of Labor and Industrial Relations, which also administers all of the State's other employment-related laws and programs, as the administrative agency for the Prepaid Health Care Act, rather than creating a special Government agency to administer the new law.

The Hawaii Prepaid Health Care Act is the Nation's first and only mandatory, statewide, employer-based, comprehensive, prepaid, basic health insurance law for employees. Since its enactment, the Hawaii Prepaid Health Care Act has increased basic comprehensive prepaid health insurance protection in the State from 90 percent of the population covered to an unparalleled 98 percent of the State's population, thereby making Hawaii the Nation's first State with nearly universal, basic comprehensive health insurance protection for its residents.

The passage of the Hawaii Act directly benefited over 46,000 nonunionized, minimum wage employees who, prior to the passage of the Hawaii Act, were typically not covered by health insurance at all, offered inferior coverage to the existing community standard of health insurance protection, or they were offered health insurance coverage at premium rates beyond their means.

Today, a full-time, 40-hour per week employee in Hawaii, who earns the minimum wage of $3.10 per hour, receives good basic comprehensive prepaid health insurance protection at an annual premium cost which in no event may exceed 1.5 percent of the worker's annual wages. Incredibly, this amounts to a maximum annual personal expenditure of about $100 for a full-time, minimum wage employee and about $50 for a 20-hour per week minimum wage worker.

In 1977, however, this unique innovative and beneficial State health insurance law for employees was ruled preempted by a Federal district court in California under ERISA's broad preemption authority of State laws. But, a careful review of the hearing records of both the Labor and Human Resources and Finance Committees during the entire history of the consideration of the ERISA pension plan reform legislation in Congress from 1969–74 and over the past 3½ years clearly and unequivocally indicate that the preemption of the Hawaii Prepaid Health Care Act or any other State health insurance law for employees was never specifically envisioned or intended by Congress.

Congress did, however, specifically exempt from preemption by ERISA three closely related State-administered employment laws pertaining to unemployment compensation, worker's compensation, and disability insurance. It therefore seems reasonable to assume that Congress had no specific knowledge of the Hawaii Prepaid Health Care Act legislation, which was under consideration by the Hawaii State Legislature since 1971. For, if it did, Congress would have surely made specific reference to the Nation's first statewide, mandatory, basic comprehensive health insurance law for employees in the legislative history and provisions of the ERISA legislation.

It is important to note that not only did the introduction and consideration of the Hawaii Prepaid Health Care Act legislation coincide with consideration of the ERISA legislation in Congress, the final passage of the Hawaii legislation preceded the passage of the ERISA legislation by Congress in 1974.

In addition to clarifying this serious ambiguity in the legislative history and congressional intent of ERISA on the preemption of the Hawaii Prepaid Health Care Act, my amendment to S. 1076 would specifically render a suit which is currently on appeal in the Ninth Circuit Court in San Francisco.

In his decision rendered on November 21, 1977, in the case of Standard Oil of California against Agsalud, Federal District Court Judge Charles B. Renfrew stated:

> It troubles the Court as it troubles the defendants that Congress preempted state health insurance laws apparently without specific discussion of the need for such a step. The workers whom ERISA was primarily intended to protect may be better off with state health insurance laws than without them, and the efforts of states like Hawaii to ensure that their citizens have low-cost comprehensive health insurance may be significantly impaired by ERISA's preemption of health insurance laws.

Judge Renfrew cited the oft-quoted statement made by Supreme Court Justice Louis M. Brandeis in 1932 in his dissenting opinion on New State Ice against Liebmann:

> To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the Federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

While it is clear from Judge Renfrew's decision that the preemption of the Hawaii Prepaid Health Care Act by ERISA was accomplished by the inadvertence, if not the intention, of Congress, he concluded his decision by stating:

> Defendants' remedy, if a remedy is necessary, is not in this Court but in Congress.

Hawaii's experience with its community-based, prepaid, basic comprehensive health insurance coverage for employees has been unparalleled in quality, efficiency, and economy throughout the Nation. In fact, the health care utilization in both the fee-for-service and capitation-based sectors of the State's health care delivery system under the Hawaii Prepaid Health Care Act very closely resemble the high quality, efficiency, and economy which is associated with a well-run Health Maintenance Organization.

Moreover, the Hawaii Act has been cited in a study completed by the Department of Health and Human Services in November 1978 as a model for the implementation of an efficient and economical national health insurance system. It is important to note that because of Hawaii's unique outpatient and prevention-oriented health care delivery system and the Prepaid Health Care Act, health care in Hawaii is one of a very few services which cost less per capita in the State than it does in the rest of the country.

Since the introduction of legislation in April 1977 by Hawaii's two Senators to exempt the Hawaii Prepaid Health Care Act from the preemption provisions of ERISA, a number of concerns over the potential creation of numerous administrative problems and costs in complying with the Hawaii Act and ERISA have been expressed by various industry and labor organizations.

I am entirely sympathetic to these concerns and as a member of the Finance Committee's Subcommittee on Private Pension Plans and Employee Fringe Benefits, I personally questioned the witnesses representing the State of Hawaii on this matter during the Subcommittee's hearings held on December 6 and 7, 1979, on miscellaneous pension bills.

According to the Hawaii State Department of Labor and Industrial Relations, the costs of compliance with the Hawaii Prepaid Health Care Act for businesses since the act's implementation in January 1975 have been minimal. To date, the State's Prepaid Health Care Advisory Council, which was established by the Hawaii Act to review and approve qualified prepaid health insurance plans for employees, has approved over 1,000 plans from health insurance carriers located throughout the United States as meeting or exceeding the minimum health insurance benefits required by the Hawaii Prepaid Health Care Act.

Furthermore, with the exception of the suit filed by Standard Oil Co. of California against the State of Hawaii, no other in-State or multi-State employer has made any formal complaint to the Hawaii State Department of Labor and Industrial Relations over having to comply with the Hawaii Prepaid Health Care Act requirements. It is interesting to note that Standard Oil Co. of California filed its suit against the State of Hawaii in 1976, 1 year after implementation of the Hawaii Act and after the State legislature had passed a bill to add drug abuse and alcoholism treatment benefits to the health insurance requirements of the act.

Industry and labor representatives have also expressed concerns over the fact that the total dollar value of the required benefits in the Hawaii Prepaid Health Care Act may be less than what is offered elsewhere in the country. While it is true that the required health care benefits in the Hawaii act constitute only a minimum floor, these benefits were taken from a long, private sector-established community standard of health insurance coverage and health care utilization which is unparalleled in quality, efficiency, and economy anywhere in the entire country.

I most certainly share the interests of industry and labor to provide the highest quality of health insurance protection for our Nation's work force. However, I am certain that all would agree that it is a fallacy to equate the total dollar value of any benefit package with the true value of such a package.

Moreover, I believe that it is an unwise and fiscally irresponsible position to advocate unnecessary or inappropriate health insurance coverage for a given local community, particularly in light of the dramatic rise in the cost of institutionally based health care in the United States over the past 30 years.

Because of Hawaii's geographic and economic insularity from the rest of the country, the State long ago took the appropriate steps to assure its residents of adequate, appropriate and economical outpatient and prevention-oriented health care as a means of fulfilling its social responsibility in this area, as well as to avoid the proliferation of unnecessary or inappropriate health care and health facilities, as it has most notably occurred in the Eastern portions of the country over the past 50 years. In this time of rapidly rising health care costs, the rest of the country would do well to learn from Hawaii's prudent and responsible use of its health care resources.

Finally, some business and labor organizations have expressed concerns that an exemption of the Hawaii Prepaid Health Care Act from preemption by ERISA would create administrative problems for employers who must comply with ERISA's reporting, disclosure and fiduciary requirements, but who also must comply with the health insurance benefit requirements of the Hawaii act.

The Hawaii Prepaid Health Care Act is structured as a government insurance plan in which the payment of health insurance premiums and health care benefits are guaranteed under the provisions of the act by the State. The Hawaii act established a special premium supplementation fund in the State treasury to insure the payment of all premiums and benefits required by the act.

Because of this provision in the Hawaii act, the State of Hawaii has consistently maintained that the Hawaii Prepaid Health Care Act is not an "employee welfare benefit plan" as is defined in ERISA, but rather it is a "Government plan" and therefore not subject to the reporting, disclosure, and fiduciary requirements of ERISA. The Hawaii act applies to the employer doing business in Hawaii rather than to any State fund established or maintained by that employer to provide health insurance benefits for employees.

ERISA was intended, by way of establishing reporting, disclosure, and fiduciary requirements on the part of employers, to protect those employees who are able to afford and participate in their employer's private pension plan.

In contrast, the Hawaii Prepaid Health Care Act is not designed to regulate existing private employee benefit plans through reporting, disclosure, and fiduciary requirements. It is a government insurance program which is designed to provide health care protection to workers who were previously unable to afford such protection. In short, the health insurance protection provided by the Hawaii Prepaid Health Care Act is not the type of program which ERISA was designed to regulate or preempt.

Mr. President, the exemption from ERISA's preemption of the Hawaii Prepaid Health Care Act is strongly supported by both the Committee on Labor and Human Resources and Finance Committee, the U.S. Department of Labor, the State of Hawaii, the Hawaii State Federation of Labor AFL–CIO, and Local 142 of the International Longshoremen's & Warehousemen's Union.

As adopted by the Finance Committee, the provision would also authorize a 2-year study by the U.S. Department of Labor on the effect of exemption on the administration of the ERISA program, the improvement in health insurance protection among the employees directly affected by the Hawaii act, and the effect of any subsequent preemption of the Hawaii act by Congress.

Upon completion of the study, the Department of Labor would provide the appropriate committees of the Congress with its findings and further legislative recommendations on the preemption of the Hawaii Prepaid Health Care Act and other State health insurance laws for employees.

Mr. President, section 409 of S. 1076 would provide an important and long overdue clarification of the intent of Congress on the preemption of the Hawaii Prepaid Health Care Act by ERISA. It will provide a reasonable and equitable resolution of the preemption issue. I therefore urge my colleagues to join me in rejecting any amendment to eliminate this provision.

CHURCH PLAN DEFINITION

● Mr. TALMADGE. Mr. President. I wish to ask a question about the church plan definition. Do I understand that this bill will permit a minister serving outside his denomination to be included in a church plan without affecting its status as a church plan?

Mr. LONG. Yes, as under the original definition of church plan, the plan must be established and maintained for the employees of a church. The term "employee" is defined under the bill to include a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation. In this context, the words "in the exercise of his ministry" are to be given their plain meaning, and the restrictions placed upon those words in the regulations under such provisions of the Internal Revenue Code as sections 1402 and 3121 are not to be employed. For example, a chaplain in the armed services of the United States or a chaplain in a prison or hospital operated by the United States or a State would be performing services in the exercise of his ministry. A minister who teaches religious studies at a university which is not church related could also be retained in the church plan. An evangelistic minister who has no employer would also be entitled to coverage.

Mr. TALMADGE. Mr. President, I understood that many church plans are maintained by separately incorporated organizations called pension boards. These boards have historically been considered by church denominations as parts of their church. May I ask whether the bill would enable a church pension board to maintain a church plan?

Mr. LONG. Yes. I concur that a pension board that provides pension or welfare benefits for persons carrying out the work of the church and without whom the church could not function is an integral part of the church and is engaged in the functions of the church, even though separately incorporated. Nevertheless, we believed that the church plan definition should be clarified. The bill recognizes the status of a church plan maintained by a pension board by providing that a plan maintained by an organization, whether separately incorporated or not, the principal purpose of which is the administration or funding of a plan or program for the provision of retirement or welfare benefits for the employees of a church, is a church plan, provided such organization is controlled by or associated with the church.●

● Mr. INOUYE. Mr. President, today we are considering the multiemployer pension plan bill, S. 1076, provisions of which will amend the Employee Retirement Income Security Act of 1974. One of these expressly exempts Hawaii's Prepaid Health Care Act from the current preemption requirements.

Since its enactment in 1974, Hawaii's health insurance law has instituted a model health care delivery system and I appreciate my colleague's efforts to protect the special benefits provided by this Nation's first mandatory, comprehensive, prepaid health insurance legislation.

The Hawaii act was designed to mandate good health coverage for employees and has directly benefited 46,000 nonunionized minimum wage workers. A full-time, as well as a part-time minimum wage earner is protected by a substantial basic health care benefit package at an annual premium price that will not exceed 1.5 percent of the worker's wages, while employers of the private sector are required to contribute one-half of the premium cost. Today 98 percent of our State's population is covered by prepaid, comprehensive health capita than any other State in the Nation.

As brought out during hearings on the Hawaii situation, the preemption of State health insurance laws for employees was not an issue during the consideration of the original ERISA legislation. Accordingly, ERISA as constituted does not reflect the success of the Hawaii health care delivery system and further does not establish any substantive standards for health care. The amendment allows the Hawaii Prepaid Health Care Act to be exempt in a manner comparable with workers compensation, disability insurance and unemployment compensation provisions.

Hawaii's health insurance legislation is in accordance with the President's 10 principles for a national health care plan. This act has stimulated growth in the insurance industry of Hawaii and the private sector accepts most of the financial responsibility with very little public supplementation.

The provision we are adopting today also directs a 2-year study to analyze the effect of this exemption on other similar State laws.●

SUPPLEMENTAL RETIREMENT INCOME

● Mr. LONG. I wish to ask a question about the supplemental retirement income payments provided for under the Multiemployer Pension Plan Amendments Act of 1980. Do I understand that an employer might, for example, provide for the payment of supplemental benefits to retirees based on a formula related to the number of years that such retirees' pension benefits have been in pay status?

Mr. WILLIAMS. Yes; an employer might, for example, provide for the payment of monthly supplemental payments to retirees based on a formula amounting to 3 percent multiplied by the retiree's monthly pension benefit multiplied by the number of years that such retiree's pension benefit has been in pay status. This assumes, of course, that the total increase in any retiree's pension benefits since the date of retirement does not exceed the increase in the cost of living since that date.

Mr. LONG. I understand that the Department of Labor is to prescribe regulations applicable to such supplemental retirement income payments in order to prevent the circumvention of the Employee Retirement Income Security Act of 1974 (ERISA) as it applies to pension plans.

Mr. WILLIAMS. Yes; these regulations are to prevent the treatment of such payments as welfare plans where a principal effect of their use is the evasion of the standards or purposes of ERISA applicable to pension plans. Thus, in formulating such regulations, the Department of Labor is to take into account both the overall percentage of retiree's total retirement benefits represented by such payments and also the extent to which retirees are apprised of any gratuitous nature of such supplemental payments.●

● Mr. ARMSTRONG. Mr. President, this is an extremely complicated piece of legislation. Every word of this bill is subject to interpretation by the IRS, the courts, the Department of Labor, and by hoards of lawyers in the private sector.

On this bill rests the financial future not only of many of America's largest corporations and pension plans, but also of thousands upon thousands of American workers.

And yet there is no committee report.

I think it is irresponsible to those persons whose futures depend on this legislation for us to act without such a report.

We almost passed this bill 30 days ago. Were it not for the quick action by some of my colleagues on this side of the aisle who put a hold on this bill, it might well have been passed 30 days ago as reported by the Labor Committee.

Over the objections of the managers

of the bill, a 30-day extension was sought and finally agreed to.

I suppose it is a good thing that extension took place, since the managers of the bill have done much patchup work on it since then. Senators may not realize that this bill has been amended, altered, changed, and otherwise fiddled with no less than 335 times since it was reported out of the Labor Committee; 335 changes have been made in the bill that we almost passed 30 days ago.

This is the bill that was not even available to be put in front of Senators around the markup table in the Labor Committee. The record shows that Senator SCHWEIKER railed up and down about how silly it was to try to mark up a bill with less than one-half of it in front of him.

Yet the markup pressed on, with Senator SCHWEIKER being admonished about how hard staff had worked on the bill and about how every word had been gone over time after time and that it was nearly perfect.

Nearly perfect except for the 335 changes that staff made in it in the past 30 days, that is. And I am told they have a raft of additional amendments today.

Where do these amendments come from? Well, certainly, several of them are quite technical in nature, only changing a word here or there, or changing an "and" to an "or" and such. In fact over 300 such little improvements were suggested by no less than the Pension Benefit Guaranty Corporation, the Internal Revenue Service, and the Treasury Department.

Mr. President, I wish only to make a simple point. The U.S. Senate can ill afford to legislate in this sloppy manner. No bill for markup. No committee report. No 3-day rule for Senators to consider this legislation.

We are constantly told, "Let staff handle this," or "Staff will study this and work out the details." Well, I am very happy that we have such an able staff working on this bill. It is a shame they cannot vote for it or against it, because they are about the only ones who know what is in it. It is also too bad that staff will not be held responsible by the pensioners if this bill does not work. But we know who will be held responsible.

We acted in a similar hurry-up manner when ERISA was passed in 1974. I was in the other body at the time, but I recall well the rush Congress was in to pass a law to protect pensioners from loss of their pensions.

Well, today we are scared to death at the possibility that the legislation might actually go into effect. It is so bad, so ill conceived as far as multiemployer plans go, that enactment of that legislation would bankrupt the system.

And yet, here we go again. Fumbling half blind through a bill.

How many Senator who are not on the Labor Committee or the Finance Committee have not had a chance to even see a clean copy of this bill yet, much less a committee report.

They will be expected to vote on this bill today, too.

Mr. President, I considered offering another 30-day extension in lieu of passing this bill today, but I decided not to do that. While the bill might be improved during this extra time, it also might get loaded down with even more additions and amendments than are in it already.

We need this bill badly. Mostly because we fouled up in 1974, but we still need it badly. But we have had plenty of time to get a clean copy of the bill and we have had plenty of time to get a committee report published.

It is a bad way to do business. If business did business this way there would not be anybody in business.●

Mr. ROBERT C. BYRD. Mr. President, with the passage of the Employee's Retirement Income Security Act (ERISA) of 1974, pensions became a legal, not simply a moral obligation. As part of ERISA, Congress established an insurance program to guarantee the pension benefits of workers and retirees whose pension plans terminate, for whatever reason, without sufficient assets to pay due benefits. This insurance program would cover most private, domestic pension plans. From the beginning, Congress made the insurance mandatory for single-employer plans, while it was discretionary in the case of multiemployer plans.

Congress delayed the effective date of mandatory insurance coverage of multiemployer plans so that the effect of such terminations could be thoroughly studied. The mandatory insurance date has been delayed four times, and the issue of terminations has been comprehensively reviewed.

The legislation before the Senate today is the product of 3 years of hard work by the administration, the Congress—where it fell under the jurisdiction of four committees—and numerous private sector interest groups representing both business and labor.

The bill has reached the Senate floor only after long and complicated negotiations. It has been a difficult task to construct the rather unusually broad coalition of labor and management that now supports this legislation. I want to commend Senator WILLIAMS, chairman of the Labor and Human Resources Committee, and Senator LONG, chairman of the Finance Committee, for their leadership in guiding this complex and controversial bill through their respective committees and developing a measure that both committees support.

I also wish to express my appreciation to the distinguished Senator from New York, Mr. JAVITS, because he, along with Senator PELL, played a constructive role in reaching a compromise on the bill, and thereby expediting its passage.

The economics of multiemployer pension plans demonstrate why the bill is critical to the more than 8 million workers and retirees covered by these plans. While multiemployer pension benefits are generally modest, for many recipients they mean the difference between poverty and minimal financial security.

The most serious threat to the payment of benefits under a multiemployer pension plan is an unexpected drop in employment covered by the plan. When employment drops, a smaller base of employees is supporting an increasing number of retired workers. Therefore, a major decline in an industry—whether the result of technological change, foreign competition, or altered consumer patterns—induces plan insolvency unless employers increase their rate of contributions. When an industry substantially declines, many employers are unable to increase their contributions. ERISA prepares for such situations by using various safety nets. Thus, although all of the bill's provisions are important and necessary to strengthening private pension plans, the heart of the legislation is financial assistance for plans approaching bankruptcy, to insure that retirees continue to receive essential benefits.

COAL: THE UMWA 1950 PENSION PLAN

With regard to ERISA, we in the Congress have a particular obligation to the pensioners under the United Mine Workers of America 1950 retirement plan. When Congress extended the effective date of mandatory insurance for multiemployer pension plans in the midst of the 1977–78 contract negotiations between the United Mine Workers and the Bituminous Coal Operators Association, an already difficult situation was exacerbated. While current miners are assured of retirement benefits, those who retired under the 1950 plan are not. The extension was a major factor behind the prolonged deadlock in those contract negotiations, and, unfortunately the deadlock resulted in the suspension of pension benefits for the 1950 plan retirees.

The legislation before the Senate should promote the continuation and strengthening of the UMWA 1950 plan. As one who is deeply concerned that retirees' benefit plans remain sound and secure—particularly for the UMWA multiemployer pension plans that provide economic security for thousands of West Virginia coal miners—I want to express my appreciation to Senator BENTSEN for his tireless efforts to insure that the bill included special provisions to encourage the continuation of the 1950 plan. I want to commend my dear friend, Mr. RANDOLPH, for the leading role he played as a member of the Labor and Human Resources Committee in structuring the basic legal framework needed for the plan.

I am encouraged that both the United Mine Workers and the Bituminous Coal Operators Association have closely cooperated on this legislation. Such coordination of efforts indicates a maturing industry and union—each willing to shoulder its responsibilities to provide a stable source of energy for the Nation. Final passage of the pension reform legislation, coupled with other changes of importance to the coal industry that have recently been finalized in other legislation, should help guarantee safe and secure pensions for retired miners.

It is my hope that the 1981 and future coal contract negotiations will be more manageable now that the disruptive issue of the 1950 plan has been removed from the bargaining table. The Nation can ill afford another devisive confrontation over this issue; nor can coal miners and operators afford to enter negotiations without mandatory insurance coverage and enactment of this legislation.

In conclusion, the bill before us today encourages the survival of multiemployer pension plans in providing retirement income. For retired individuals and workers who are part of a private pension system, it provides the security of knowing essential retirement benefits will be paid.

SEVERAL SENATORS. Third reading!

The PRESIDING OFFICER. If there be no further amendment, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3904, the "Multiemployer Pension Plan Amendments Act of 1980," and that the bill be considered as having been read twice.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954, as amended, for the purpose of improving retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, authorizing plan preservation measures for financially troubled multiemployer pension plans, and revising the manner in which the pension plan termination insurance provisions apply to multiemployer plans.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. WILLIAMS. Mr. President, I move to strike out all after the enacting clause of H.R. 3904 and insert the language of S. 1076 therefor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BAKER. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from Mississippi (Mr. STENNIS) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that if present and voting, the Senator from Montana (Mr. MELCHER) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 85, nays 1, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—85

Armstrong
Baker
Baucus
Bayh
Bellmon
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Williams
Zorinsky

NAYS—1

Jepsen

NOT VOTING—14

Bentsen
Church
Goldwater
Johnston
Kassebaum
Kennedy
Long
McGovern
Melcher
Stennis
Talmadge
Tower
Weicker
Young

So the bill (H.R. 3904) was passed, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiemployer Pension Plan Amendments Act of 1980".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and declaration of policy.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 101. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 102. Multiemployer guarantees; aggregate limit on guarantees.
Sec. 103. Termination for multiemployer plans.
Sec. 104. Employer withdrawals; merger or transfer of plan assets or liabilities; reorganization; minimum contribution requirement for multiemployer plans; financial assistance; benefits after termination; enforcement.
Sec. 105. Premiums.
Sec. 106. Annual report of plan administrator.
Sec. 107. Contingent employer liability insurance.
Sec. 108. Transition rules and effective dates.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Sec. 201. Amendment of the Internal Revenue Code of 1954.
Sec. 202. Multiemployer plans in reorganization.
Sec. 203. Minimum funding requirements.
Sec. 204. Excise taxes.
Sec. 205. Deductibility of employer liability payments.
Sec. 206. Minimum vesting requirements.
Sec. 207. Definition of multiemployer plan.
Sec. 208. Related technical amendments.
Sec. 209. Withdrawal liability payments funds.
Sec. 210. Effective date.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 302. Definition of multiemployer plan.
Sec. 303. Minimum vesting requirements.
Sec. 304. Minimum funding requirements.
Sec. 305. Application of interested party rules to withdrawal liability payment funds.
Sec. 306. Liquidated damages with respect to delinquent contributions.
Sec. 307. Actuarial standards.
Sec. 308. Exemptions from prohibited transactions.
Sec. 309. Fiduciary duties.
Sec. 310. Refund of certain withdrawal liability payments.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 402. Related technical amendments.
Sec. 403. Conforming amendments.
Sec. 404. Clerical amendments.
Sec. 405. Action taken before regulations are prescribed.
Sec. 406. Pension Benefit Guaranty Corporation put on budget.
Sec. 407. Church plans.
Sec. 408. Deductibility of payments to plan by a corporation operating public transportation system acquired by a State.
Sec. 409. Waiver of preemption in case of Hawaiian health care plan.
Sec. 410. Treatment of certain severance pay arrangements and supplemental retirement income payments as welfare plans.
Sec. 411. Refund of mistaken contributions.
Sec. 412. Definition of employee pension benefit plan.
Sec. 413. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.
Sec. 414. Study by General Accounting Office; hearings required.
Sec. 415. Government contractors' affirmative action requirements.
Sec. 416. Stone mining operations.
Sec. 417. Occupational Safety and Health Act amendments.
Sec. 418. Reduction in unemployment benefits on account of pension.

Sec. 419. Federal service of ex-servicemen.

Sec. 420. Benefits on account of Federal service to be paid by employing Federal agency.

Sec. 421. Cessation of extended benefits when individual moves to State in which trigger is not "on".

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that—

(1) multiemployer pension plans have a substantial impact on interstate commerce and are affected with a national public interest;

(2) multiemployer pension plans have accounted for a substantial portion of the increase in private pension plan coverage over the past three decades;

(3) the continued well-being and security of millions of employees, retirees, and their dependents are directly affected by multiemployer pension plans; and

(4)(A) withdrawals of contributing employers from a multiemployer pension plan frequently result in substantially increased funding obligations for employers who continue to contribute to the plan, adversely affecting the plan, its participants and beneficiaries, and labor-management relations, and

(B) in a declining industry, the incidence of employer withdrawals is higher and the adverse effects described in subparagraph (A) are exacerbated.

(b) The Congress further finds that—

(1) it is desirable to modify the current multiemployer plan termination insurance provisions in order to increase the likelihood of protecting plan participants against benefit losses; and

(2) it is desirable to replace the termination insurance program for multiemployer pension plans with an insolvency-based benefit protection program that will enhance the financial soundness of such plans, place primary emphasis on plan continuation, and contain program costs within reasonable limits.

(c) It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to alleviate certain problems which tend to discourage the maintenance and growth of multiemployer pension plans,

(3) to provide reasonable protection for the interests of participants and beneficiaries of financially distressed multiemployer pension plans, and

(4) to provide a financially self-sufficient program for the guarantee of employee benefits under multiemployer plans.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 101. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 102. MULTIEMPLOYER GUARANTEES; AGGREGATE LIMIT ON GUARANTEES.

Subtitle B of title IV is amended by inserting at the end thereof the following new sections:

"MULTIEMPLOYER PLAN BENEFITS GUARANTEED

"SEC. 4022A. (a) The corporation shall guarantee, in accordance with this section, the payment of all nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under a multiemployer plan—

"(1) to which section 4021 applies, and

"(2) which is insolvent under section 4245(b) or 4281(d)(2).

"(b)(1) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months is not eligible for the corporation's guarantee. For purposes of this paragraph, any month of any plan year during which the plan was insolvent or terminated (within the meaning of section 4041A(a)(2) shall not be taken into account.

"(2) For purposes of this section—

"(A) the date on which a benefit or a benefit increase under a plan is first in effect is the later of—

"(i) the date on which the documents establishing or increasing the benefit were executed, or

"(ii) the effective date of the benefit or benefit increase;

"(B) the period of time for which a benefit or a benefit increase has been in effect under a successor plan includes the period of time for which the benefit or benefit increase was in effect under a previously established plan; and

"(C) in the case of a plan to which section 4021 did not apply on September 3, 1974, the time periods referred to in this section are computed beginning on the date on which section 4021 first applies to the plan.

"(c)(1) Except as provided in subsection (g), the monthly benefit of a participant or a beneficiary which is guaranteed under this section by the corporation with respect to a plan is the product of—

"(A) 100 percent of the accrual rate up to $5, plus 75 percent of the lesser of—

"(i) $15, or

"(ii) the accrual rate, if any, in excess of $5, and

"(B) the number of the participant's years of credited service.

"(2) Except as provided in paragraph (6) of this subsection and in subsection (g), in applying paragraph (1) with respect to a plan described in paragraph (5)(A), the term '65 percent' shall be substituted in paragraph (1)(A) for the term '75 percent'.

"(3) For purposes of this section, the accrual rate is—

"(A) the monthly benefit of the participant or beneficiary which is described in subsection (a) and which is eligible for the corporation's guarantee under subsection (b), except that such benefit shall be—

"(i) no greater than the monthly benefit which would be payable under the plan at normal retirement age in the form of a single life annuity, and

"(ii) determined without regard to any reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954; divided by

"(B) the participant's years of credited service.

"(4) for purposes of this subsection—

"(A) a year of credited service is a year in which the participants completed—

"(i) a full year of participation in the plan, or

"(ii) any period of service before participation which is credited for purposes of benefit accrual as the equivalent of a full year of participation;

"(B) any year for which the participant is credited for purposes of benefit accrual with a fraction of the equivalent of a full year of participation shall be counted as such a fraction of a year of credited service; and

"(C) years of credited service shall be determined by including service which may otherwise be disregarded by the plan under section 411(a)(3)(E) of the Internal Revenue Code of 1954.

"(5)(A) A plan is described in this subparagraph if—

"(i) the first plan year—

"(I) in which the plan is insolvent under section 4245(b) or 4281(d)(2), and

"(II) for which benefits are required to be suspended under section 4245, or reduced or suspended under section 4281, until they do not exceed the levels provided in this subsection,

begins before the year 2000; and

"(ii) the plan sponsor has not established to the satisfaction of the corporation that, during the period of 10 consecutive plan years (or of such lesser number of plan years for which the plan was maintained) immediately preceding the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the total amount of the contributions required under the plan for each plan year was at least equal to the sum of—

"(I) the normal cost for that plan year, and

"(II) the interest for the plan year (determined under the plan) on the unfunded past service liability for that plan year, determined as of the beginning of that plan year.

"(B) A plan shall not be considered to be described in subparagraph (A) if—

"(i) it is established to the satisfaction of the corporation that—

"(I) the total amount of the contributions received under the plan for the plan years for which the actuarial valuations (performed during the period described in subparagraph (A)(ii)) was performed was at least equal to the sum described in subparagraph (A)(ii); or

"(II) the rates of contribution to the plan under the collective bargaining agreements negotiated when the findings of such valuations were available were reasonably expected to provide such contributions;

"(ii) the number of actuarial valuations performed during the period described in subparagraph (A)(ii) is—

"(I) at least 2, in any case in which such period consists of more than 6 plan years, and

"(II) at least 1, in any case in which such period consists of 6 or fewer plan years; and

"(iii) if the proposition described in clause (i)(I) is to be established, the plan sponsor certifies that to the best of the plan sponsor's knowledge there is no information available which establishes that the total amount of the contributions received under the plan for any plan year during the period described in subparagraph (A)(ii) for which no valuation was performed is less than the sum described in subparagraph (A)(ii).

"(6) Notwithstanding paragraph (2), in the case of a plan described in paragraph (5)(A), if for any period of 3 consecutive plan years beginning with the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the value of the assets of the plan for each such plan year is an amount equal to at least 8 times the benefit payments for such plan year—

"(A) paragraph (2) shall not apply to such plan; and

"(B) the benefit of a participant or beneficiary guaranteed by the corporation with respect to the plan shall be an amount determined under paragraph (1).

"(d) In the case of a benefit which has been reduced under section 411(a)(3)(E) of the Internal Revenue Code of 1954, the corporation shall guarantee the lesser of—

"(1) the reduced benefit, or

"(2) the amount determined under subsection (c).

"(e) The corporation shall not guarantee benefits under a multiemployer plan which, under section 4022(b)(6), would not be guaranteed under a single-employer plan.

"(f)(1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

"(A) conduct a study to determine—

"(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployer plans described in subsection (c), and "(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

"(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

"(2)(A) If the report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested—

"(i) a revised schedule of basic-benefit guarantees for multiemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b).

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) A revised schedule referred to in subparagraph (A) shall go into effect as approved by the Congress by concurrent resolution.

"(3)(A) If the report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested—

"(i) a revised schedule of increases in the basic benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) A revised schedule referred to in subparagraph (A)(i) or subparagraph (A)(ii) shall go into affect as approved by the Congress by a concurrent resolution.

"(4)(A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supersede other rules only to the extent that they are inconsistent therewith. They are enaced wih full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: "That the Congress favors the proposed schedule described in ———— transmitted to the Congress by the Pension Benefit Guaranty Corporation on ————.', the first blank space therein being filled with 'section 4022A(f)(2)(A)(i) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(3)(A)(i) of the Employee Retirement Income Security Act of 1974', or 'section 4022A(f)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974' (whichever is applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b)(4) through (7).

"(g)(1) The corporation may guarantee the payment of such other classes of benefits under multiemployer plans, and establish the terms and conditions under which those other classes of benefits are guaranteed, as it determines to be appropriate.

"(2)(A) The corporation shall prescribe regulations to establish a supplemental program to guarantee benefits under multiemployer plans which would be guaranteed under this section but for the limitations in subsection (c). Such regulations shall be proposed by the corporation no later than the end of the 18th calendar month following the date of the enactment of the 18th calendar month following the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980. The regulations shall make coverage under the supplemental program available no later than January 1, 1983. Any election to participate in the supplemental program shall be on a voluntary basis, and a plan electing such coverage shall continue to pay the premiums required under section 4006(a)(2)(B) to the revolving fund used pursuant to section 4005 in connection with benefits otherwise guaranteed under this section. Any such election shall be irrevocable, except to the extent otherwise provided by regulations prescribed by the corporation.

"(B) The regulations prescribed under this paragraph shall provide such reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines to be necessary and appropriate for a feasible supplemental program consistent with the purposes of this title.

"(3) Any benefits guaranteed under this subsection shall be considered nonbasic benefits for purposes of this title.

"(4)(A) No revised schedule of premiums under this subsection, after the initial schedule, shall go into effect unless—

"(i) the revised schedule is submitted to the Congress, and

"(ii) a concurrent resolution described in subparagraph (B) is not adopted before the close of the 60th legislative day after such schedule is submitted to the Congress.

"(B) For purposes of subparagraph (A), a concurrent resolution described in this subparagraph is a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the revised premium schedule transmitted to the Congress by the Pension Benefit Guaranty Corporation under section 4022A(g)(4) of the Employee Retirement Income Security Act of 1974 on ————.: the blank space therein being filled with the date on which the revised schedule was submitted.

"(C) For purposes of subparagraph (A), the term 'legislative day' means any calendar day other than a day on which either House is not in session because of a sine die adjournment or an adjournment of more than 3 davs to a day certain.

"(D) The procedure for disposition of a concurrent resolution described in subparagraph (B) shall be the procedure described in paragraphs (4) through (7) of section 4006(b).

"(5) Regulations prescribed by the corporation to carry out the provisions of this subsection, may, to the extent provided therein, supersede the requirements of sections 4245, 4261, and 4281, and the requirements of section 418D of the Internal Revenue Code of 1954, but only with respect to benefits guaranteed under this subsection.

"(h) Notwithstanding subsections (b)(1) and (c)(1), in the case of a participant or beneficiary under a multiemployer plan who is in a pay status on July 29, 1980, or who is within 36 months of the normal retirement age and has a nonforfeitable right to a pension under such a plan on that date, the benefit guaranteed by the corporation under this title shall be the benefit guaranteed by section 4022 (determined without regard to the amendments made by the Multiemployer Plan Amendments Act of 1980).

"AGGREGATE LIMIT ON BENEFITS GUARANTEED

"SEC. 4022B. (a) Notwithstanding sections 4022 and 4022A, no persons shall receive from the corporation pursuant to a guarantee by the corporation of basic benefits with respect to a participant under all multiemployer and single employer plans an amount, or amounts, with an actuarial value which exceeds the actuarial value of a monthly benefit in the form of a life annuity commencing at age 65 equal to the amount determined under section 4022(b)(3)(B) as of the date of the last plan termination.

"(b) For purposes of this section—

"(1) the receipt of benefits under a multiemployer plan receiving financial assistance from the corporation shall be considered the receipt of amounts from the corporation pursuant to a guarantee by the corporation of basic benefits except to the extent provided in regulations prescribed by the corporation, and

"(2) the date on which a multiemployer plan, whether or not terminated, begins receiving financial assistance from the corporation shall be considered a date of plan termination.".

SEC. 103. TERMINATION FOR MULTIEMPLOYER PLANS.

Subtitle C of title IV is amended by inserting after section 4041 the following new section:

"TERMINATION OF MULTIEMPLOYER PLANS

"SEC. 4041A. (a) Termination of a multiemployer plan under this section occurs as a result of—

"(1) the adoption after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 of a plan amendment which provides that participants will receive no credit for any purpose under the plan for service with any employer after the date specified by such amendment;

"(2) the withdrawal of every employer from the plan, within the meaning of section 4203, or the cessation of the obligation of all employers to contribute under the plan; or

"(3) the adoption of an amendment to the plan which causes the plan to become a plan described in section 4021(b)(1).

"(b)(1) The date on which a plan terminates under paragraph (1) or (3) of subsection (a) is the later of—

"(A) the date on which the amendment is adopted, or

"(B) the date on which the amendment takes effect.

"(2) The date on which a plan terminates under paragraph (2) of subsection (a) is the earlier of—

"(A) the date on which the last employer withdraws, or

"(B) the first day of the first plan year for which no employer contributions were required under the plan.

"(c) Except as provided in subsection (f)(1), the plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall—

"(1) limit the payment of benefits to benefits which are nonforfeitable under the plan as of the date of the termination, and

"(2) pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity, unless the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan.

"(d) The plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall reduce benefits and suspend benefit payments in accordance with section 4281.

"(e) In the case of a plan which terminates under paragraph (1) or (3) of subsection (a), the rate of an employer's contributions under the plan for each plan year beginning on or after the plan termination date shall equal or exceed the highest rate of employer contributions at which the employer had an obligation to contribute under the plan in the 5 preceding plan years ending on or before the plan termination date, unless the corporation approves a reduction in the rate based on a finding that the plan is or soon will be fully funded.

"(f)(1) The plan sponsor of a terminated plan may authorize the payment other than in the form of an annuity of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, if the value of the entire nonforfeitable benefit does not exceed $1,750. The corporation may authorize the payment of benefits under the terms of a terminated plan other than nonforfeitable benefits, or the payment other than in the form of an annuity of benefits having a value greater than $1,750 if the corporation determines that such payment is not adverse to the interest of the plan's participants and beneficiaries generally and does not unreasonably increase the corporation's risk of loss with respect to the plan.

"(2) The corporation may prescribe reporting requirements for terminated plans, and rules and standards for the administration of such plans, which the corporation considers appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the corporation.".

SEC. 104. EMPLOYER WITHDRAWALS; MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES; REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS; FINANCIAL ASSISTANCE; BENEFITS AFTER TERMINATION; ENFORCEMENT.

Title IV is amended—

(1) by striking out the heading for subtitle E and inserting in lieu thereof the following:

"Subtitle F—Transition Rules and Effective Dates";

and

(2) by inserting after subtitle D the following new subtitle:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"WITHDRAWAL LIABILITY ESTABLISHED

"SEC. 4201. (a) If an employer withdraws from a multiemployer plan in a complete withdrawal or a partial withdrawal, then the employer is liable to the plan in the amount determined under this part to be the withdrawal liability.

"(b) For purposes of subsection (a)—

"(1) The withdrawal liability of an employer to a plan is the amount determined under section 4211 to be the allocable amount of unfunded vested benefits, adjusted—

"(A) first, by any de minimis reduction applicable under section 4209,

"(B) next, in the case of a partial withdrawal, in accordance with section 4206,

"(C) then, to the extent necessary to reflect the limitation on annual payments under section 4219(c)(1)(B), and

"(D) finally, in accordance with section 4225.

"(2) The term 'complete withdrawal' means a complete withdrawal described in section 4203.

"(3) The term 'partial withdrawal' means a partial withdrawal described in section 4205.

"DETERMINATION AND COLLECTION OF LIABILITY; NOTIFICATION OF EMPLOYER

"SEC. 4202. When an employer withdraws from a multiemployer plan, the plan sponsor, in accordance with this part, shall—

"(1) determine the amount of the employer's withdrawal liability,

"(2) notify the employer of the amount of the withdrawal liability, and

"(3) collect the amount of the withdrawal liability from the employer.

"COMPLETE WITHDRAWAL

"SEC. 4203. (a) For purposes of this part, a complete withdrawal from a multiemployer plan occurs when an employer—

"(1) permanently ceases to have an obligation to contribute under the plan, or

"(2) permanently ceases all covered operations under the plan.

"(b)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the building and construction industry, a complete withdrawal occurs only as described in paragraph (2), if—

"(A) substantially all the employees with respect to whom the employer has an obligation to contribute under the plan perform work in the building and construction industry, and

"(B) the plan—

"(i) primarily covers employees in the building and construction industry, or

"(ii) is amended to provide that this subsection applies to employers described in this paragraph.

"(2) A withdrawal occurs under this paragraph if—

"(A) an employer ceases to have an obligation to contribute under the plan, and

"(B) the employer—

"(i) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

"(ii) resumes such work within 5 years after the date on which the obligation to contribute under the plan ceases, and does not renew the obligation at the time of the resumption.

"(3) In the case of a plan terminated by mass withdrawal (within the meaning of section 4041A(a)(2)), paragraph (2) shall be applied by substituting '3 years' for '5 years' in subparagraph (B)(ii).

"(c)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, if the plan primarily covers employees in the entertainment industry, a complete withdrawal occurs only as described in subsection (b)(2) applied by substituting 'plan' for 'collective bargaining agreement' in subparagraph (B)(i) thereof.

"(2) For purposes of this subsection, the term 'entertainment industry' means—

"(A) theater, motion picture (except to the extent provided in regulations prescribed by the corporation), radio, television, sound or visual recording, music, and dance, and

"(B) such other entertainment activities as the corporation may determine to be appropriate.

"(3) The corporation may by regulation exclude a group or class of employers described in the preceding sentence from the application of this subsection if the corporation determines that such exclusion is necessary—

"(A) to protect the interest of the plan's participants and beneficiaries, or

"(B) to prevent a significant risk of loss to the corporation with respect to the plan.

"(4) A plan may be amended to provide that this subsection shall not apply to a group or class of employers under the plan.

"(d)(1) Notwithstanding subsection (a), in the case of an employer who—

"(A) has an obligation to contribute under a plan described in paragraph (2) primarily for work described in such paragraph, and

"(B) does not continue to perform work within the jurisdiction of the plan,

a complete withdrawal occurs only as described in paragraph (3).

"(2) A plan is described in this paragraph if substantially all of the contributions required under the plan are made by employers primarily engaged in the long and short haul trucking industry, the household goods moving industry, or the public warehousing industry.

"(3) A withdrawal occurs under this paragraph if—

"(A) an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan, and

"(B) either—

"(i) the corporation determines that the plan has suffered substantial damage to its contribution base as a result of such cessation, or

"(ii) the employer fails to furnish a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to 50 percent of the withdrawal liability of the employer.

"(4) If, after an employer furnishes a bond or escrow to a plan under paragraph (3)(B)(ii), the corporation determines that the cessation of the employer's obligation to contribute under the plan (considered together with any cessations by other employers), or cessation of covered operations under the plan, has resulted in substantial damage to the contribution base of the plan, the employer shall be treated as having withdrawn from the plan on the date on which the obligation to contribute or covered operations ceased, and such bond or escrow shall be paid to the plan. The corporation shall not make a determination under this paragraph more than 60 months after the date on which such obligation to contribute or covered operations ceased.

"(5) If the corporation determines that the employer has no further liability under the plan either—

"(A) because it determines that the contribution base of the plan has not suffered substantial damage as a result of the cessation of the employer's obligation to contribute or cessation of covered operations (considered together with any cessation of contribution obligation, or of covered operations, with respect to other employers), or

"(B) because it may not make a determination under paragraph (4) because of the last sentence thereof,

then the bond shall be cancelled or the escrow refunded.

"(6) Nothing in this subsection shall be construed as a limitation on the amount of the withdrawal liability of any employer.

"(e) For purposes of this part, the date of a complete withdrawal is the date of the cessation of the obligation to contribute or the cessation of covered operations.

"(f)(1) The corporation may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules similar to the rules described in subsections (b) and (c).

"(2) Regulations under paragraph (1) shall permit use of special withdrawal liability rules—

"(A) only in industries (or portions thereof) in which, as determined by the corporation, the characteristics that would make use of such rules appropriate are clearly shown, and

"(B) only if the corporation determines, in each instance in which special withdrawal liability rules are permitted, that use of such rules will not pose a significant risk to the corporation under this title.

"SALE OF ASSETS

"SEC. 4204. (a) (1) A complete or partial withdrawal of an employer (hereinafter in this section referred to as the 'seller') under this section does not occur solely because, as a result of a bona fide, arm's-length sale of assets to an unrelated party (hereinafter in this section refered to as the 'purchaser'), the seller ceases covered operations or ceases to have an obligation to contribute for such operations, if—

"(A) the purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller had an obligation to contribute to the plan;

"(B) the purchaser provides to the plan for a period of 5 plan years commencing with the first plan year beginning after the sale of assets, a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to the greater of—

"(i) the average annual contribution required to be made by the seller with respect to the operations under the plan for the 3 plan years preceding the plan year in which the sale of the employer's assets occurs, or

"(ii) the annual contribution that the seller was required to make with respect to the operations under the plan for the last plan year before the plan year in which the sale of the assets occurs,

which bond or escrow shall be paid to the plan if the purchaser withdraws from the plan, or fails to make a contribution to the plan when due, at any time during the first 5 plan years beginning after the sale; and

"(C) the contract for sale provides that, if the purchaser withdraws in a complete withdrawal, or a partial withdrawal with respect to operations, during such first 5 plan years, the seller is secondarily liable for any withdrawal liability it would have had to the plan with respect to the operations (but for this section) if the liability of the purchaser with respect to the plan is not paid.

"(2) If the purchaser—

"(A) withdraws before the last day of the fifth plan year beginning after the sale, and

"(B) fails to make any withdrawal liability, payment when due,

then the seller shall pay to the plan an amount equal to the payment that would have been due from the seller but for this section.

"(3) (A) If all, or substantially all, of the seller's assets are distributed, or if the seller is liquidated before the end of the 5 plan year period described in paragraph (1) (C), then the seller shall provide a bond or amount in escrow equal to the present value of the withdrawal liability the seller would have had but for this subsection.

"(B) If only a portion of the seller's assets are distributed during such period, then a bond or escrow shall be required. in accordance with regulations prescribed by the corporation, in a manner consistent with subparagraph (A).

"(4) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon payment of the bond or escrow to the plan, by the amount thereof.

"(b) (1) For the purposes of this part, the liability of the purchaser shall be determined as if the purchaser had been required to contribute to the plan in the year of the sale and the 4 plan years preceding the sale the amount the seller was required to contribute for such operations for such 5 plan years.

"(2) If the plan is in reorganization in the plan year in which the sale of assets occurs, the purchaser shall furnish a bond or escrow in an amount equal to 200 percent of the amount described in subsection (a) (1) (B).

"(c) The corporation may by regulation vary the standards in subparagraphs (B) and (C) of subsection (a) (1) if the variance would more effectively or equitably carry out the purposes of this title. Before it promulgates such regulations, the corporation may grant individual or class variances or exemptions from the requirements of such subparagraphs if the particular case warrants it. Before granting such an individual or class variance or exemption, the corporation—

"(1) shall publish notice in the Federal Register of the pendency of the variance or exemption,

"(2) shall require that adequate notice be given to interested persons, and

"(3) shall afford interested persons an opportunity to present their views.

"(d) For purposes of this section, the term 'unrelated party' means a purchaser or seller who does not bear a relationship to the seller or purchaser, as the case may be, that is described in section 267(b) of the Internal Revenue Code of 1954, or that is described in regulations prescribed by the corporation applying principles similar to the principles of such section.

"PARTIAL WITHDRAWALS

"SEC. 4205. (a) Except as otherwise provided in this section, there is a partial withdrawal by an employer from a plan on the last day of a plan year if for such plan year—

"(1) there is a 70-percent contribution decline, or

"(2) there is a partial cessation of the employer's contribution obligation.

"(b) For purposes of subsection (a)—

"(1) (A) There is a 70-percent contribution decline for any plan year if during each plan year in the 3-year testing period the employer's contribution base units do not exceed 30 percent of the employer's contribution base units for the high base year.

"(B) For purposes of subparagraph (A)—

"(i) The term '3-year testing period' means the period consisting of the plan year and the immediately preceding 2 plan years.

"(ii) The number of contribution base units for the high base year is the average number of such units for the 2 plan years for which the employer's contribution base units were the highest within the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(2) (A) There is a partial cessation of the employer's contribution obligation for the plan year if, during such year—

"(i) the employer permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan but continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location, or

"(ii) an employer permanently ceases to have an obligation to contribute under the plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

"(B) For purposes of subparagraph (A), a cessation of obligations under a collective bargaining agreement shall not be considered to have occurred solely because, with respect to the same plan, one agreement that requires contributions to the plan has been substituted for another agreement.

"(c) (1) In the case of a plan in which a majority of the covered employees are employed in the retail food industry, the plan may be amended to provide that this section shall be applied with respect to such plan—

"(A) by substituting '35 percent' for '70 percent' in subsections (a) and (b), and

"(B) by substituting '65 percent' for '30 percent' in subsection (b).

"(2) Any amendment adopted under paragraph (1) shall provide rules for the equitable reduction of withdrawal liability in any case in which the number of the plan's contribution base units, in the 2 plan years following the plan year of withdrawal of the employer, is higher than such number immediately after the withdrawal.

"(3) Section 4208 shall not apply to a plan which has been amended under paragraph (1).

"(d) In the case of a plan described in section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, the plan may be amended to provide rules setting forth other conditions consistent with the purposes of this Act under which an employer has liability for partial withdrawal.

"ADJUSTMENT FOR PARTIAL WITHDRAWAL

"SEC. 4206. (a) The amount of an employer's liability for a partial withdrawal, before the application of sections 4219(c) (1) and 4225, is equal to the product of—

"(1) the amount determined under section 4211, and adjusted under section 4209 if appropriate, determined as if the employer had withdrawn from the plan in a complete withdrawal—

"(A) on the date of the partial withdrawal, or

"(B) in the case of a partial withdrawal described in section 4205(a) (1) (relating to 70-percent contribution decline), on the last day of the first plan year in the 3-year testing period,

multiplied by

"(2) a fraction which is 1 minus a fraction—

"(A) the numerator of which is the employer's contribution base units for the plan year following the plan year in which the partial withdrawal occurs, and

"(B) the denominator of which is the average of the employer's contribution base units for—

"(i) except as provided in clause (ii), the 5 plan years immediately preceding the plan year in which the partial withdrawal occurs, or

"(ii) in the case of a partial withdrawal described in section 4205(a) (1) (relating to 70-percent contribution decline), the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(b) (1) In the case of an employer that has withdrawal liability for a partial withdrawal from a plan, any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent plan year shall be reduced by the amount of any partial withdrawal liability (reduced by any abatement or reduction of such liability) of the employer with respect to the plan for a previous plan year.

"(2) The corporation shall prescribe such regulations as may be necessary to provide for proper adjustments in the reduction provided by paragraph (1) for—

"(A) changes in unfunded vested benefits arising after the close of the prior year for which partial withdrawal liability was determined,

"(B) changes in contribution base units occurring after the close of the prior year for which partial withdrawal liability was determined, and

"(C) any other factors for which it determines adjustment to be appropriate,

so that the liability for any complete or partial withdrawal in any subsequent year (after the application of the reduction) properly reflects the employer's share of liability with respect to the plan.

"REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

"SEC. 4207. (a) The corporation shall provide by regulation for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent that the corporation determines that reduction or waiver of withdrawal liability is consistent with the purposes of this Act.

"(b) The corporation shall prescribe by regulation a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from the plan subsequently resumes covered operations or renews an obligation to contribute under the plan. The rules may apply only to the extent that the rules are consistent with the purposes of this Act.

"REDUCTION OF PARTIAL WITHDRAWAL LIABILITY

"SEC. 4208. (a)(1) If, for any 2 consecutive plan years following the plan year in which an employer has partially withdrawn from a plan under section 4205(a)(1) (referred to elsewhere in this section as the 'partial withdrawal year'), the number of contribution base units with respect to which the employer has an obligation to contribute under the plan for each such year is not less than 90 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the high base year (within the meaning of section 4205(b)(1)(B)(ii)), then the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second consecutive plan year following the partial withdrawal year.

"(2)(A) For any plan year for which the number of contribution base units with respect to which an employer who has partially withdrawn under section 4205(a)(1), has an obligation to contribute under the plan equals or exceeds the number of units for the highest year determined under paragraph (1) without regard to '90 percent of', the employer may furnish (in lieu of payment of the partial withdrawal liability determined under section 4206) a bond to the plan in the amount determined by the plan sponsor (not exceeding 50 percent of the annual payment otherwise required).

"(B) If the plan sponsor determines under paragraph (1) that the employer has no further liability to the plan for the partial withdrawal, then the bond shall be canceled.

"(C) If the plan sponsor determines under paragraph (1) that the employer continues to have liability to the plan for the partial withdrawal, then—

"(i) the bond shall be paid to the plan,

"(ii) the employer shall immediately be liable for the outstanding amount of liability due with respect to the plan year for which the bond was posted, and

"(iii) the employer shall continue to make the partial withdrawal liability payments as they are due.

"(b) If—

"(1) for any 2 consecutive plan years following a partial withdrawal under section 4205(a)(1), the number of contribution base units with respect to which the employer has an obligation to contribute for each such year exceeds 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute for the high base year (within the meaning of section 4205(b)(1)(B)(ii)), and

"(2) the total number of contribution base units with respect to which all employers under the plan have obligations to contribute in each of such 2 consecutive years is not less than 90 percent of the total number of contribution base units for which all employers had obligations to contribute in the partial withdrawal plan year;

then, the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second such consecutive plan year.

"(c) In any case in which, in any plan year following a partial withdrawal under section 4205(a)(1), the number of contribution base units with respect to which the employer has an obligation to contribute for such year equals or exceeds 110 percent (or such other percentage as the plan may provide by amendment and which is not prohibited under regulations prescribed by the corporation) of the number of contribution base units with respect to which the employer had an obligation to contribute in the partial withdrawal year, then the amount of the employer's partial withdrawal liability payment for such year shall be reduced pro rata, in accordance with regulations prescribed by the corporation.

"(d)(1) An employer to whom section 4202(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.

"(2) An employer to whom section 4202(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the corporation by regulation.

"(e)(1) The corporation may prescribe regulations providing for the reduction or elimination of partial withdrawal liability under any conditions with respect to which the corporation determines that reduction or elimination of partial withdrawal liability is consistent with the purposes of this Act.

"(2) The corporation shall prescribe regulations providing for the reduction of withdrawal liability for partial withdrawals under section 4205(a)(2) under principles similar to those of subsections (a), (b), and (c). Under such regulations, only those changes in the employer's operations at a facility or under a collective bargaining agreement which resulted in such liability.

"(3) The corporation shall prescribe by regulation a procedure by which a plan may by amendment adopt rules for the reduction or elimination of partial withdrawal liability under any other conditions, subject to the approval of the corporation based on its determination that adoption of such rules by the plan is consistent with the purposes of this Act.

"DE MINIMIS RULE

"SEC. 4209. (a) Except in the case of a plan amended under subsection (b), the amount of the unfunded vested benefits allocable under section 4211 to an employer who withdraws from a plan shall be reduced by the smaller of—

"(1) ¾ of 1 percent of the plan's unfunded vested obligations (determined as of the end of the plan year ending before the date of withdrawal), or

"(2) $100,000,

reduced by the amount, if any, by which the unfunded vested benefits allocable to the employer, determined without regard to this subsection, exceeds $100,000.

"(b) A plan may be amended to provide for the reduction of the amount determined under section 4211 by not more than the greater of—

"(1) the amount determined under subsection (a), or

"(2) the lesser of—

"(A) the amount determined under subsection (a)(1), or

"(B) $100,000,

reduced by the amount, if any, by which the amount determined under section 4211 for the employer, determined without regard to this subsection, exceeds $150,000.

"(c) This section does not apply—

"(1) to an employer who withdraws in a plan year in which substantially all employees withdraw from the plan, or

"(2) in any case in which substantially all employers withdraw from the plan during a period of one or more plan years pursuant to an agreement or arrangement to withdraw, to an employer who withdraws pursuant to such agreement or arrangement.

"(d) In any action or proceeding to determine or collect withdrawal liability, if substantially all employers have withdrawn from a plan within a period of 3 plan years, an employer who has withdrawn from such plan during such period shall be presumed to have withdrawn from the plan pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"NO WITHDRAWAL LIABILITY FOR CERTAIN TEMPORARY CONTRIBUTION OBLIGATION PERIODS

"SEC. 4210. (a) An employer who withdraws from a plan in complete or partial withdrawal is not liable to the plan if the employer—

"(1) first had an obligation to contribute to the plan after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980,

"(2) had an obligation to contribute to the plan for no more than the lesser of—

"(A) 6 consecutive plan years preceding the date on which the employer withdraws, or

"(B) the number of years required for vesting under the plan,

"(3) was required to make contributions to the plan for each such plan year in an amount equal to less than 2 percent of the sum of all employer contributions made to the plan for each such year, and

"(4) has never avoided withdrawal liability because of the application of this section with respect to the plan.

"(b) Subsection (a) shall apply to an employer with respect to a plan only if—

"(1) the plan is not a plan which primarily covers employees in the building and construction industry;

"(2) the plan is amended to provide that subsection (a) applies;

"(3) the plan provides, or is amended to provide, that the reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954 applies with respect to the employees of the employer; and

"(4) the ratio of the assets of the plan for the plan year preceding the first plan year for which the employer was required to contribute to the plan to the benefit payments made during the plan year was at least 8 to 1.

"METHODS FOR COMPUTING WITHDRAWAL LIABILITY

"SEC. 4211. (a) The amount of the unfunded vested benefits allocable to an employer that withdraws from a plan shall be determined in accordance with subsection (b), (c), or (d) of this section.

"(b)(1) Except as provided in subsections (c) and (d), the amount of unfunded vested benefits allocable to an employer that withdraws is the sum of—

"(A) the employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, as determined under paragraph (2),

"(B) the employer's proportional share, if any, of the unamortized amount of the plan's unfunded vested benefits at the end of the plan year ending before April 29, 1980 as determined under paragraph (3); and

"(C) the employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (4),

If the sum of the amounts determined with respect to an employer under paragraphs (2), (3), and (4) is negative, the unfunded vested benefits allocable to the employer shall be zero.

"(2)(A) An employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, is the sum of the employer's proportional shares of the unamortized amount of the change in unfunded vested benefits for each plan year in which the employer has an obligation to contribute under the plan ending—

"(i) after such date, and

"(ii) before the plan year in which the withdrawal of the employer occurs.

"(B) The change in a plan's unfunded vested benefits for a plan year is the amount by which—

"(i) the unfunded vested benefits at the end of the plan year exceeds

"(ii) the sum of—

"(I) the unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, and

"(II) the sum of the unamortized amounts of the change in unfunded vested benefits for each plan year ending after April 28, 1980, and preceding the plan year for which the change is determined.

"(C) The unamortized amount of the change in a plan's unfunded vested benefits with respect to a plan year is the change in unfunded vested benefits for the plan year, reduced by 5 percent of such change for each succeeding plan year.

"(D) The unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, is the amount of the unfunded vested benefits as of the end of that plan year reduced by 5 percent of such amount for each succeeding plan year.

"(E) An employer's proportional share of the unamortized amount of a change in unfunded vested benefits is the product of—

"(i) the unamortized amount of such change (as of the end of the plan year preceding the plan year in which the employer withdraws); multipled by

"(ii) a fraction—

"(I) the numerator of which is the sum of the contributions required to be made under the plan by the employer for the year in which such change arose and for the 4 preceding plan years, and

"(II) the denominator of which is the sum for the plan year in which such change arose and the 4 preceding plan years of all contributions made by employers who had an obligation to contribute under the plan for the plan year in which such change arose reduced by the contributions made in such years by employers who had withdrawn from the plan in the year in which the change arose.

"(3) An employer's proportional share of the unamortized amount of the plan's unfunded vested benefits for the last plan year ending before April 29, 1980, is the product of—

"(A) such unamortized amount; multiplied by—

"(B) a fraction—

"(i) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the most recent 5 plan years ending before April 29, 1980, and

"(ii) the denominator of which is the sum of all contributions made for the most recent 5 plan years ending before April 29, 1980, by all employers—

"(I) who had an obligation to contribute under the plan for the first plan year ending on or after such date, and

"(II) who had not withdrawn from the plan before such date.

"(4)(A) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits is the sum of the employer's proportional shares of the unamortized amount of the reallocated unfunded vested benefits for each plan year ending before the plan year in which the employer withdrew from the plan.

"(B) Except as otherwise provided in regulations prescribed by the corporation, the reallocated unfunded vested benefits for a plan year is the sum of—

"(i) any amount which the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under title 11, United States Code, or similar proceedings,

"(ii) any amount which the plan sponsor determines in that plan year will not be assessed as a result of the operation of section 4209, 4219(c)(1)(B), or section 4225 against an employer to whom a notice described in section 4219 has been sent, and

"(iii) any amount which the plan sponsor determines to be uncollectable or unassessable in that plan year for other reasons under standards not inconsistent with regulations prescribed by the corporation.

"(C) The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the reallocated unfunded vested benefits for the plan year, reduced by 5 percent of such reallocated unfunded vested benefits for each succeeding plan year.

"(D) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the product of—

"(i) the unamortized amount of the reallocated unfunded vested benefits (as of the end of the plan year preceding the plan year in which the employer withdraws); multiplied by

"(ii) the fraction defined in paragraph (2)(E)(ii).

"(c)(1) A multiemployer plan, other than a plan which primarily covers employees in the building and construction industry, may be amended to provide that the amount of unfunded vested benefits allocable to an employer that withdraws from the plan is an amount determined under paragraph (2), (3), (4), or (5) of this subsection, rather than under subsection (b) or (d). A plan described in section 4203(b)(1)(B)(i) (relating to the building and construction industry) may be amended, to the extent provided in regulations prescribed by the corporation, to provide that the amount of the unfunded vested benefits allocable to an employer not described in section 4203(b)(1)(A) shall be determined in a manner different from that provided in subsection (b).

"(2)(A) The amount of the unfunded vested benefits allocable to any employer under this paragraph is the sum of the amounts determined under subparagraphs (B) and (C).

"(B) The amount determined under this subparagraph is the product of—

"(i) the plan's unfunded vested benefits as of the end of the last plan year ending before April 29, 1980, reduced as if those obligations were being fully amortized in level annual installments over 15 years beginning with the first plan year ending on or after such date; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the last 5 plan years ending before April 29, 1980, and

"(II) the denominator of which is the sum of all contributions made for the last 5 plan years ending before April 29, 1980, by all employers who had an obligation to contribute under the plan for the first plan year ending after April 28, 1980, and who had not withdrawn from the plan before such date.

"(C) The amount determined under this subparagraph is the product of—

"(i) an amount equal to—

"(I) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less

"(II) the sum of the value as of such date of all outstanding claims for withdrawal liability which can reasonably be expected to be collected, with respect to employers withdrawing before such plan year, and that portion of the amount determined under subparagraph (B)(i) which is allocable to employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws and who also had an obligation to contribute under the plan for the first plan year ending after April 28, 1980; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the total amount required to be contributed under the plan by the employer for the last 5 plan years ending before the date on which the employer withdraws, and

"(II) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed by an employer who withdrew from the plan under this section during those plan years.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administration burdens of plan sponsors in calculating such denominators.

"(3) The amount of the unfunded vested benefits allocable to an employer under this paragraph is the product of—

"(A) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less the value as of the end of such year of all outstanding claims for withdrawal liability which can reasonably be expected to be collected from employers withdrawing before such year; multiplied by

"(B) a fraction—

"(i) the numerator of which is the total amount required to be contributed by the employer under the plan for the last 5 plan years ending before the withdrawal, and

"(ii) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the withdrawal, increased by any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed to the plan during those plan years by employers who withdrew from the plan under this section during those plan years.

"(4)(A) The amount of the unfunded vested benefits allocable to an employer under this paragraph is equal to the sum of—

"(i) the plan's unfunded vested benefits which are attributable to participants' service with the employer (determined as of the end of the plan year preceding the plan year in which the employer withdraws), and

"(ii) the employer's proportional share of any unfunded vested benefits which are not attributable to service with the employer or other employers who are obligated to contribute under the plan in the plan year preceding the plan year in which the employer withdraws (determined as of the end of the plan year preceding the plan year in which the employer withdraws).

"(B) The plan's unfunded vested benefits which are attributable to participants' service with the employer is the amount (determined in a manner not inconsistent with regulations of the corporation) equal to the value of nonforfeitable benefits under the plan which are attributable to participants' service with such employer, decreased by the share of plan assets determined under subparagraph (C) which is allocated to the employer as provided under subparagraph (D).

"(C) The value of plan assets determined under this subparagraph is the value of plan assets allocated to nonforfeitable benefits which are attributable to service with the employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws, which is determined by multiplying—

"(i) the value of the plan assets as of the end of the plan year preceding the plan year in which the employer withdraws, by

"(ii) a fraction—

"(I) the numerator of which is the value of nonforfeitable benefits which are attributable to service with such employers. and

"(II) the denominator of which is the value of all nonforfeitable benefits under the plan as of the end of the plan year.

"(D) The share of plan assets, determined under subparagraph (C), which is allocated to the employer shall be determined in accordance with one of the following methods which shall be adopted by the plan by amendment:

"(i) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the value of the nonforfeitable benefits which are attributable to service with the employer, and

"(II) the denominator of which is the value of the nonforfeitable benefits which are attributable to service with all employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws:

"(ii) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the sum of all contributions (accumulated with interest) which have been made to the plan by the employer for the plan year preceding the plan year in which the employer withdraws and all preceding plan years; and

"(II) the denominator of which is the sum of all contributions (accumulated with interest) which have been made to the plan (for the plan year preceding the plan year in which the employer withdraws and all preceding plan years) by all employers who have an obligation to contribute to the plan for the plan year preceding the plan year in which the employer withdraws; or

"(iii) by multiplying the value of plan assets under subparagraph (C) by a fraction—

"(I) the numerator of which is the amount determined under clause (ii)(I) of this subparagraph, less the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(I) which are attributable to service with the employer; and

"(II) the denominator of which is the amount determined under clause (ii)(II) of this subparagraph, reduced by the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(II) which are attributable to service with respect to the employers described in such clause (ii)(II).

"(E) The amount of the plan's unfunded vested benefits for a plan year preceding the plan year in which an employer withdraws, which is not attributable to service with employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which such employer withdraws, is equal to—

"(i) an amount equal to—

"(I) the value of all nonforfeitable benefits under the plan at the end of such plan year, reduced by

"(II) the value of nonforfeitable benefits under the plan at the end of such plan year which are attributable to participants' service with employers who have an obligation to contribute under the plan for such plan year; reduced by

"(i) an amount equal to—

"(I) the value of the plan assets as of the end of such plan year, reduced by

"(II) the value of plan assets as of the end of such plan year as determined under subparagraph (C); reduced by

"(iii) the value of all outstanding claims for withdrawal liability which can reasonably be expected to be collected with respect to employers withdrawing before the year preceding the plan year in which the employer withdraws.

"(F) The employer's proportional share described in subparagraph (A)(ii) for a plan year is the amount determined under subparagraph (E) for the employer, but not in excess of an amount which bears the same ratio to the sum of the amounts determined under subparagraph (E) for all employers under the plan as the amount determined under subparagraph (C) for the employer bears to the sum of the amounts determined under subparagraph (C) for all employers under the plan.

"(G) The corporation may prescribe by regulation other methods which a plan may adopt for allocating assets to determine the amount of the liability for unfunded vested benefits attributable to service with the employer and to determine the employer's share of unfunded vested benefits not attributable to service with employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws.

"(5)(A) The corporation shall prescribe by regulation a procedure by which a plan may, by amendment, adopt any other alternative method for determining an employer's allocable share of unfunded vested benefits under this section, subject to the approval of the corporation based on its determination that adoption of the method by the plan would not significantly increase the risk of loss to plan participants and beneficiaries or to the corporation.

"(B) The corporation may prescribe by regulation standard approaches for alternative methods, other than those set forth in the preceding paragraphs of this subsection, which a plan may adopt under subparagraph (A), for which the corporation may waive or modify the approval requirements of subparagraph (A). Any alternative method shall provide for the allocation of substantially all of a plan's unfunded vested benefits among employers who have an obligation to contribute under the plan.

"(C) Unless the corporation by regulation provides otherwise, a plan may be amended to provide that a period of more than 5 but not more than 10 plan years may be used for determining the numerator and denominator of any fraction which is used under any method authorized under this section for determining an employer's allocable share of unfunded vested benefits under this section.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(d)(1) The method of calculating set forth in subsection (c)(3) shall be the method for calculating an employer's allocable share of unfunded vested benefits under a plan to which section 404(c) of the Internal Revenue Code of 1954, or a continuation of such a plan, applies, unless the plan is amended to adopt another method authorized under subsection (b) or (c).

"(2) Sections 4204, 4209, 4219(c)(1)(B), and 4225 shall not apply with respect to the withdrawal of an employer from a plan described in paragraph (1) unless the plan is amended to provide that any of such sections apply.

"(e) In the case of a transfer of liabilities to another plan incident to an employer's withdrawal or partial withdrawal, the withdrawn employer's liability under this part shall be reduced in an amount equal to the value, as of the end of the last plan year ending on or before the date of the withdrawal, of the transferred unfunded vested benefits.

"(f) In the case of a withdrawal following a merger of multiemployer plans, subsection (b), (c), or (d) shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination under this section shall be made as if each of the multiemployer plans had remained separate plans.

"OBLIGATION TO CONTRIBUTE; SPECIAL RULES

"SEC. 4212. (a) For purposes of this part, the term 'obligation to contribute' means an obligation to contribute arising—

"(1) under one or more collective bargaining (or related) agreements, or

"(2) as a result of a duty under applicable labor-management relations law, but does not include an obligation to pay withdrawal liability under this section or to pay delinquent contributions.

"(b) Payments of withdrawal liability under this part shall not be considered contributions for purposes of this part.

"(c) If a principal purpose of any transaction is to evade or avoid liability under this part, this part shall be applied (and liability shall be determined and collected) without regard to such transaction.

"ACTUARIAL ASSUMPTIONS, ETC.

"SEC. 4213. (a) The corporation may prescribe by regulation actuarial assumptions which may be used by a plan actuary in determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part. A plan may provide that the determination of withdrawal liability under this part is to be based on the plan's actuarial assumptions which are reasonable in the aggregate (within the meaning of section 412(c)(3) of the Internal Revenue Code of 1954) or the actuarial assumptions set forth in the corporation's regulations for purposes of determinating an employer's withdrawal liability.

"(b) In determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part, the plan actuary may—

"(1) rely on the most recent complete actuarial valuation used for purposes of section 412 of the Internal Revenue Code of 1954 and reasonable estimates for the interim years of the unfunded vested benefits, and

"(2) in the absence of complete data, rely on the data available or on data secured by a sampling which can reasonably be expected to be representative of the status of the entire plan.

"(c) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount equal to—

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of the assets of the plan.

"APPLICATION OF PLAN AMENDMENTS

"SEC. 4214. (a) No plan rule or amendment adopted after January 31, 1981, under section 4209 or 4211(c) may be applied without the employer's consent with respect to liability for a withdrawal or partial withdrawal which occurred before the date on which the rule or amendment was adopted.

"(b) All plan rules and amendments authorized under this part shall operate and be applied uniformly with respect to each employer, except that special provisions may be made to take into account the creditworthiness of an employer. The plan sponsor shall give notice to all employers who have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan of any plan rules or amendments adopted pursuant to this section.

"PLAN NOTIFICATION TO CORPORATION OF POTENTIALLY SIGNIFICANT WITHDRAWALS

"SEC. 4215. The corporation may, by regulation, require the plan sponsor of a multiemployer plan to provide notice to the corporation when the withdrawal from the plan by any employer has resulted, or will result, in a significant reduction in the amount of aggregate contributions under the plan made by employers.

"SPECIAL RULES FOR SECTION 404(C) PLANS

"SEC. 4216. (a) In the case of a plan described in subsection (b)—

"(1) if an employer withdraws prior to a termination described in section 4041A(a)(2), the amount of withdrawal liability to be paid in any year by such employer shall be an amount equal to the greater of—

"(A) the amount determined under section 4219(c)(1)(C)(i), or

"(B) the product of—

"(i) the number of contribution base units for which the employer would have been required to make contribution for the prior plan year if the employer had not withdrawn, multiplied by

"(ii) the contribution rate for the plan year which would be required to meet the amortization schedules contained in section 4243(d)(3)(B)(ii) (determined without regard to any limitation on such rate otherwise provided by this title)

except that an employer shall not be required to pay an amount in excess of the withdrawal liability computed with interest; and

"(2) the withdrawal liability of an employer who withdraws after December 31, 1983, as a result of a termination described in section 4041A(a)(2) which is agreed to by the labor organization that appoints the employee representative on the joint board of trustees which sponsors the plan, shall be determined under subsection (c) if—

"(A) as a result of prior employer withdrawals in any plan year commencing after January 1, 1980, the number of contribution base units is reduced to less than 67 percent of the average number of such units for the calendar years 1974 through 1979; and

"(B) at least 50 percent of the withdrawal liability attributable to the first 33 percent decline described in subparagraph (A) has been determined by the plan sponsor to be uncollectible within the meaning of regulations of the corporation of general applicability; and

"(C) the rate of employer contributions under the plan for each plan year following the first plan year beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 and preceding the termination date equals or exceeds the rate described in section 4243(d)(3).

"(b) A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) of the Internal Revenue Code of 1954 or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(c)(1) The amount of an employer's liability under this paragraph is the product of—

"(A) the amount of the employer's withdrawal liability determined without regard to this section, and

"(B) the greater of 90 percent, or a fraction—

"(i) the numerator of which is an amount equal to the portion of the plan's unfunded vested benefits that is attributable to plan participants who have a total of 10 or more years of signatory service, and

"(ii) the denominator of which is an amount equal to the total unfunded vested benefits of the plan.

"(2) For purposes of paragraph (1), the term 'a year of signatory service' means a year during any portion of which a participant was employed for an employer who was obligated to contribute in that year, or who was subsequently obligated to contribute.

"APPLICATION OF PART IN CASE OF CERTAIN PRE-1980 WITHDRAWALS

"SEC. 4217. (a) For the purpose of determining the amount of unfunded vested benefits allocable to an employer for a partial or complete withdrawal from a plan which occurs after April 28, 1980, and for the purpose of determining whether there has been a partial withdrawal after such date, the amount of contributions, and the number of contribution base units, of such employer properly allocable—

"(1) to work performed under a collective bargaining agreement for which there was a permanent cessation of the obligation to contribute before April 29, 1980, or

"(2) to work performed at a facility at which all covered operations permanently ceased before April 29, 1980, or for which there was a permanent cessation of the obligation to contribute before that date,

shall not be taken into account.

"(b) A plan may, in a manner not inconsistent with regulations of the corporation, adjust the amount of unfunded vested benefits allocable to other employers under a plan maintained by an employer described in subsection (a).

"WITHDRAWAL NOT TO OCCUR MERELY BECAUSE OF CHANGE IN BUSINESS FORM OR SUSPENSION OF CONTRIBUTIONS DURING LABOR DISPUTE

"SEC. 4218. Notwithstanding any other provision of this part, an employer shall not be considered to have withdrawn from a plan solely because—

"(1) an employer ceases to exist by reason of—

"(A) a change in corporate structure described in section 4062(d), or

"(B) a change to an unincorporated form of business enterprise,

if the change causes no interruption in employer contributions or obligations to contribute under the plan, or

"(2) an employer suspends contributions under the plan during a labor dispute involving its employees.

For purposes of this part, a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

"NOTICE, COLLECTION, ETC., OF WITHDRAWAL LIABILITY

"SEC. 4219. (a) An employer shall, within 30 days after a written request from the plan sponsor, furnish such information as the plan sponsor reasonably determines to be necessary to enable the plan sponsor to comply with the requirements of this part.

"(b)(1) As soon as practicable after an employer's complete or partial withdrawal, the plan sponsor shall—

"(A) notify the employer of—

"(i) the amount of the liability, and

"(ii) the schedule for liability payments, and

"(B) demand payment in accordance with the schedule.

"(2)(A) no later than 90 days after the employer receives the notice described in paragraph (1), the employer—

"(i) may ask the plan sponsor to review any specific matter relating to the determination of the employer's liability and the schedule of payments,

"(ii) may identify any inaccuracy in the determination of the amount of the unfunded vested benefits allocable to the employer, and

"(iii) may furnish any additional relevant information to the plan sponsor.

"(B) After a reasonable review of any matter raised, the plan sponsor shall notify the employer of—

"(i) the plan sponsor's decision,

"(ii) the basis for the decision, and

"(iii) the reason for any change in the determination of the employer's liability or schedule of liability payments.

"(c)(1)(A)(i) Except as provided in subparagraphs (B) and (D) of this paragraph and in paragraphs (4) and (5), an employer shall pay the amount determined under section 4211, adjusted if appropriate first under section 4209 and then under section 4206 over the period of years necessary to amortize the amount in level annual payments determined under subparagraph (C), calculated as if the first payment were made on the first day of the plan year following the plan year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent plan year. Actual payment shall commence in accordance with paragraph (2).

"(ii) The determination of the amortization period described in clause (i) shall be based on the assumptions used for the most recent actuarial valuation for the plan.

"(B) In any case in which the amortization period described in subparagraph (A) exceeds 20 years, the employer's liability shall be limited to the first 20 annual payments determined under subparagraph (C).

"(C)(i) Except as provided in subparagraph (E), the amount of each annual payment shall be the product of—

"(I) the average annual number of contribution base units for the period of 2 consecutive plan years, during the period of 5 consecutive plan years ending before the plan year in which the withdrawal occurs, in which the number of contribution base units for which the employer had an obligation to contribute under the plan is the highest, and

"(II) the highest contribution rate at which the employer had an obligation to contribute under the plan during the 5 plan years ending with the plan year in which the withdrawal occurs.

For purposes of the preceding sentence, a partial withdrawal described in section 4205(a)(1) shall be deemed to occur on the last day of the first year of the 3-year testing period described in section 4205(b)(1)(B)(i).

"(ii)(I) A plan may be amended to provide that for any plan year ending before 1986 the amount of each annual payment shall be (in lieu of the amount determined under clause (i)) the average of the required employer contributions under the plan for the period of 2 consecutive plan years (during the period of 5 consecutive plan years ending with the plan year preceding the plan year in which the withdrawal occurs) for which such required contributions were the highest.

"(II) Subparagraph (B) shall not apply in to any plan year to which this clause applies.

"(III) This clause shall not apply in the case of any withdrawal described in subparagraph (D).

"(IV) If under a plan this clause applies to any plan year but does not apply to the next plan year, this clause shall not apply to any plan year after such next plan year.

"(V) For purposes of this clause, the term 'required contributions' means, for any period, the amounts which the employer was obligated to contribute for such period (not taking into account any delinquent contribution for any other period).

"(D) In any case in which a multiemployer plan terminates by the withdrawal of every employer from the plan, or in which substantially all the employers withdraw from a plan pursuant to an agreement or arrangement to withdraw from the plan—

"(i) the liability of each such employer who has withdrawn shall be determined (or redetermined) under this paragraph without regard to subparagraph (B), and

"(ii) the total unfunded vested benefits of the plan shall be allocated to all such employers liable under this part pursuant to regulations which shall be prescribed by the corporation.

Withdrawal by an employer from a plan, during a period of 3 consecutive plan years within which substantially all the employers who have an obligation to contribute under the plan withdraw, shall be presumed to be a withdrawal pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"(E) In the case of a partial withdrawal described in section 4205(a), the amount of each annual payment shall be the product of—

"(i) the amount determined under subparagraph (C) (determined without regard to this subparagraph), multiplied by

"(ii) the fraction determined under section 4206(a)(2).

"(2) Withdrawal liability shall be payable in accordance with the schedule set forth by the plan sponsor under subsection (b)(1) beginning no later than 60 days after the date of the demand notwithstanding any request for review or appeal of determinations of the amount of such liability or of the schedule.

"(3) Each annual payment determined under paragraph (1)(C) shall be payable in 4 equal installments due quarterly, or at other intervals specified by plan rules. If a payment is not made when due, interest on the payment shall accrue from the due date until the date on which the payment is made.

"(4) The employer shall be entitled to prepay the outstanding amount of the unpaid annual withdrawal liability payments determined under paragraph (1)(C), plus accrued interest, if any, in whole or in part, without penalty. If the prepayment is made pursuant to a withdrawal which is later determined to be part of a withdrawal described in paragraph (1)(D), the withdrawal liability of the employer shall not be limited to the amount of the prepayment.

"(5) In the event of a default, a plan sponsor may require immediate payment of the outstanding amount of an employer's withdrawal liability, plus accrued interest on the total outstanding liability from the due date of the first payment which was not timely made. For purposes of this section, the term 'default' means—

"(A) the failure of an employer to make, when due, any payment under this section, if the failure is not cured within 60 days after the employer receives written notification from the plan sponsor of such failure, and

"(B) any other event defined in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability.

"(6) Except as provided in paragraph (1)(A)(ii), interest under this subsection shall be charged at rates based on prevailing market rates for comparable obligations, in accordance with regulations prescribed by the corporation.

"(7) A multiemployer plan may adopt rules for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules—

"(A) are consistent with this Act, and

"(B) are not inconsistent with regulations of the corporation.

"(8) In the case of a terminated multiemployer plan, an employer's obligation to make payments under this section ceases at the end of the plan year in which the assets of the plan (exclusive of withdrawal liability claims) are sufficient to meet all obligations of the plan, as determined by the corporation.

"(d) The prohibitions provided in section 406(a) do not apply to any action required or permitted under this part.

"APPROVAL OF AMENDMENTS

"SEC. 4220. (a) Except as provided in subsection (b), if an amendment to a multiemployer plan authorized by any preceding section of this part is adopted more than 36 months after the effective date of this section, the amendment shall be effective only if the corporation approves the amendment, or, within 90 days after the corporation receives notice and a copy of the amendment from the plan sponsor, fails to disapprove the amendment.

"(b) An amendment permitted by section 4211(c)(5) may be adopted only in accordance with that section.

"(c) The corporation shall disapprove an amendment referred to in subsection (a) or (b) only if the corporation determines that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to the corporation.

"RESOLUTION OF DISPUTES

"SEC. 4221. (a)(1) Any dispute between an employer and the plan sponsor of a multiemployer plan concerning a determination made under sections 4201 through 4219 shall be resolved through arbitration. Either party may initiate the arbitration proceeding within a 60-day period after the earlier of—

"(A) the date of notification to the employer under section 4219(b)(2)(B), or

"(B) 120 days after the date of the employer's request under section 4219(b)(2)(A).

The parties may jointly initiate arbitration within the 180-day period after the date of the plan sponsor's demand under section 4219(b)(1).

"(2) An arbitration proceeding under this section shall be conducted in accordance with fair and equitable procedures to be promulgated by the corporation. The plan sponsor may purchase insurance to cover potential liability of the arbitrator. If the parties have not provided for the costs of the arbitration, including arbitrator's fees, by agreement, the arbitrator shall assess such fees. The arbitrator may also award reasonable attorney's fees.

"(3) For purposes of any proceeding under this section, a plan shall be treated as having met its burden of proof with respect to a determination of its unfunded vested benefits if—

"(A) the determination of employer liability was made in accordance with the same actuarial assumptions prescribed by the corporation under section 4213(a), which are reasonable in the aggregate and, to the extent not inappropriate, not inconsistent with the actuarial assumptions used by the plan for the purpose of meeting the requirements of section 412 of the Internal Revenue Code of 1954.

"(B) the interest assumptions used are reasonable,

"(C) the plan treats all employers with reasonable consistency in making such determinations, and

"(D) the plan has not had a pattern of experience gains.

"(b)(1) If no arbitration proceeding has been initiated pursuant to subsection (a), the amounts demanded by the plan sponsor under section 4219(b)(1) shall be due and owing on the schedule set forth by the plan sponsor. The plan sponsor may bring an action in a State or Federal court of competent jurisdiction for collection.

"(2) Any party to the arbitration proceeding may, no later than 30 days after the issuance of an arbitrator's award, bring an action in an appropriate United States district court in accordance with section 4301 to enforce, vacate, or modify the arbitrator's award.

"(3) Any arbitration proceedings under this section shall, to the extent consistent with this title, be conducted in the same manner, subject to the same limitations, carried out with the same powers (including subpena power), and enforced in United States courts as an arbitration proceeding carried out under title 9, United States Code.

"(c) In any proceeding under subsection (b), there shall be a presumption, rebuttable only by a clear preponderance of the evidence, that the findings of fact made by the arbitrator were correct.

"(d) Payments shall be made by an employer in accordance with the determinations made under this part until the arbitrator issues a final decision with respect to the determination submitted for arbitration, with any necessary adjustments in subsequent payments for overpayments or underpayments arising out of the decision of the arbitrator with respect to the determination. If the employer fails to make timely payment in accordance with such final decision, the employer shall be treated as being delinquent in the making of a contribution required under the plan (within the meaning of section 515).

"(e) If any employer requests in writing that the plan sponsor make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the plan (other than information which is unique to that employer), the plan sponsor shall furnish the information to the employer without charge. If any employer requests in writing that the plan sponsor make an estimate of such employer's potential withdrawal liability with respect to the plan or to provide information unique to that employer, the plan sponsor may require the employer to pay the reasonable cost of making such estimate or providing such information.

"REIMBURSEMENTS FOR UNCOLLECTIBLE WITHDRAWAL LIABILITY

"SEC. 4222. (a) By May 1, 1982, the corporation shall establish by regulation a supplemental program to reimburse multiemployer plans for withdrawal liability payments which are due from employers and which are determined to be uncollectible for reasons arising out of cases or proceedings involving the employers under title 11, United States Code, or similar cases or proceedings. Participation in the supplemental program shall be on a voluntary basis, and a plan which elects coverage under the program shall pay premiums to the corporation in accordance with a premium schedule which shall be prescribed from time to time by the corporation. The premium schedule shall contain such rates and bases for the application of such rates as the corporation considers to be appropriate.

"(b) The corporation may provide under the program for reimbursement of amounts of withdrawal liability determined to be uncollectible for any other reasons the corporation considers appropriate.

"(c) The cost of the program (including such administrative and legal costs as the corporation considers appropriate) may be paid only out of premiums collected under such program.

"(d) The supplemental program may be offered to eligible plans on such terms and conditions, and with such limitations with respect to the payment of reimbursements (including the exclusion of de minimis amounts of uncollectible employer liability, and the reduction or elimination of reimbursements which cannot be paid from collected premiums) and such restrictions on withdrawal from the program, as the corporation considers necessary and appropriate.

"(e) The corporation may enter into arrangements with private insurers to carry out in whole or in part the program authorized by this section and may require plans which elect coverage under the program to elect coverage by those private insurers.

"WITHDRAWAL LIABILITY PAYMENT FUND

"SEC. 4223. (a) The plan sponsors of multiemployer plans may establish or participate in a withdrawal liability payment fund.

"(b) For purposes of this section, the term 'withdrawal liability payment fund', and the term 'fund', means a trust which—

"(1) is established and maintained under section 501(c)(22) of the Internal Revenue Code of 1954,

"(2) maintains agreements which cover a substantial portion of the participants who are in multiemployer plans which (under the rules of the trust instrument) are eligible to participate in the fund,

"(3) is funded by amounts paid by the plans which participate in the fund, and

"(4) is administered by a Board of Trustees, and in the administration of the fund there is equal representation of—

"(A) trustees representing employers who are obligated to contribute to the plans participating in the fund, and

"(B) trustees representing employees who are participants in plans which participate in the fund.

"(c)(1) If an employer withdraws from a plan which participates in a withdrawal liability payment fund, then, to the extent provided in the trust, the fund shall pay to that plan—

"(A) the employer's unattributable liability,

"(B) the employer's withdrawal liability payments which would have been due but for section 4208, 4209, or 4219, and

"(C) the employer's withdrawal liability payments to the extent they are uncollectible.

"(2) The fund may provide for the payment of the employer's attributable liability if the fund—

"(A) provides for the payment of both the attributable and the unattributable liability of the employer in a single payment, and

"(B) is subrogated to all rights of the plan against the employer.

"(3) For purposes of this section, the term—

"(A) 'attributable liability' means the excess, if any, determined under the provisions of a plan not inconsistent with regulations of the corporation, of—

"(i) the value of vested benefits accrued as a result of service with the employer, over

"(ii) the value of plan assets attributed to the employer, and

"(B) 'unattributable liability' means the excess of withdrawal liability over attributable liability.

Such terms may be further defined, and the manner in which they shall be applied may be prescribed, by the corporation by regulation.

"(4)(A) The trust of a fund shall be maintained for the exclusive purpose of paying—

"(i) any amount described in paragraph (1) and paragraph (2), and

"(ii) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund.

"(B) The amounts paid by a plan to a fund shall be deemed a reasonable expense of administering the plan under sections 403(c)(1) and 404(a)(1)(A)(ii), and the payments made by a fund to a participating plan shall be deemed services necessary for the operation of the plan within the meaning of section 408(b)(2) or within the meaning of section 4975(d)(2) of the Internal Revenue Code of 1954.

"(d)(1) For purposes of this part—

"(A) only amounts paid by the fund to a plan under subsection (c)(1)(A) shall be credited to withdrawal liability otherwise payable by the employer, unless the plan otherwise provides, and

"(B) any amounts paid by the fund under subsection (c) to a plan shall be treated by the plan as a payment of withdrawal liability to such plan.

"(2) For purposes of applying provisions relating to the funding standard accounts (and minimum contribution requirements), amounts paid from the plan to the fund shall be applied to reduce the amount treated as contributed to the plan.

"(e) The fund shall be subrogated to the rights of the plan against the employer that has withdrawn from the plan for amounts paid by a fund to a plan under—

"(1) subsection (c)(1)(A), to the extent not credited under subsection (d)(1)(A), and

"(2) subsection (c)(1)(C).

"(f) Notwithstanding any other provision of this Act, a fiduciary of the fund shall discharge the fiduciary's duties with respect to the fund in accordance with the standards for fiduciaries prescribed by this Act (to the extent not inconsistent with the purposes of this section), and in accordance with the documents and instruments governing the fund insofar as such documents and instruments are consistent with the provisions of this Act (to the extent not inconsistent with the purposes of this section). The provisions of the preceding sentence shall supersede any and all State laws relating to fiduciaries insofar as they may now or hereafter relate to a fund to which this section applies.

"(g) No payments shall be made from a fund to a plan on the occasion of a withdrawal or partial withdrawal of an employer from such plan if the employees representing the withdrawn contribution base units continue, after such withdrawal, to be represented under section 9 of the National Labor Relations Act (or other applicable labor laws) in negotiations with such employer by the labor organization which represented such employees immediately preceding such withdrawal.

"(h)(1) A withdrawal liability payment fund established by employers having an obligation to contribute to a multiemployer plan for work performed in the building and construction industry which does not meet the requirements of subsection (b) shall be treated, for purposes of this Act and of the Internal Revenue Code of 1954, as a fund which meets the requirements of subsection (b) if it meets the requirements of paragraph (2) of this subsection.

"(2) A withdrawal liability payment fund described in paragraph (1) meets the requirements of this paragraph if—

"(A) substantially all of the employees with respect to whom employers have an obligation to contribute under the plan perform work in the building and construction industry,

"(B) the plan covers primarily employees in the building and construction industry; and

"(C) the fund is a trust which—

"(i) is maintained for the exclusive purpose of making payments, to a plan to which a contributing employer has an obligation to contribute, of—

"(I) amounts described in paragraphs (1) and (2) of subsection (c),

"(II) increases in contributions required because of a decline in the plan's contribution base (determined without regard to benefit increases adopted or effective within the past 5 years),

"(III) such other liabilities of an employer as may be described in regulations prescribed by the corporation, and

"(IV) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund;

"(ii) is funded—

"(I) exclusively by amounts paid by employers under the plan, and

"(II) by payments made by more than one employer under the plan;

"(iii) provides for payments, in accordance with clause (i), only to plans with respect to which employers participate in the fund;

"(iv) provides that the right of a plan to receive payments from the fund may not be transferred to any other plan; and

"(v) meets all requirements of this section other than the requirements of paragraphs (2), (3), and (4) of subsection (b), subsection (c)(3)(B), and subsection (d)(2).

"(i) Nothing in this section shall be construed to prohibit the purchase of insurance by an employer from any other person, to limit the circumstances under which such insurance would be payable, or to limit in any way the terms and conditions of such insurance.

"(j) The corporation may provide by regulation rules not inconsistent with this section governing the establishment and maintenance of funds, but only to the extent necessary to carry out the purposes of this part (other than section 4222).

"ALTERNATIVE METHOD OF WITHDRAWAL LIABILITY PAYMENTS

"SEC. 4224. (a) Under such regulations as the corporation may prescribe, a plan may provide an alternative method for payment of withdrawal liability by an employer in financial distress.

"(b) If, upon application made by a plan or an employer in a proceeding under section 4221, the arbitrator determines that an alternative method for the payment of withdrawal liability by an employer in financial distress is in the best interest of participants and beneficiaries under the plan, then the plan shall grant such an alternative method to the employer. The determination shall be made in accordance with standards set forth in section 303(b) of this Act and regulations prescribed by the corporation.

"LIMITATION ON WITHDRAWAL LIABILITY

"SEC. 4225. (a)(1) In the case of bona fide sale of all or substantially all of the employer's assets in an arm's length transaction to an unrelated party (within the meaning of section 4204(d)), the unfunded vested benefits allocable to an employer (after the application of all sections of this part having a lower number designation than this section), other than an employer undergoing reorganization under title 11, United States Code, or similar provisions of State law, shall not exceed the greater of—

"(A) a portion (determined under paragraph (2)) of the liquidation or dissolution value of the employer (determined after the sale or exchange of such assets), or

"(B) the unfunded vested benefits attributable to employees of the employer.

"(2) For purposes of paragraph (1), the portion shall be determined in accordance with the following table:

"If the liquidation or dissolution value of the employer after the sale or exchange is—	The portion is—
Not more than $2,000,000	30 percent of the amount.
More than $2,000,000, but not more than $4,000,000	$600,000, plus 35 percent of the amount in excess of $2,000,000.
More than $4,000,000, but not more than $6,000,000	$1,300,000, plus 40 percent of the amount in excess of $4,000,000.
More than $6,000,000, but not more than $7,000,000	$2,100,000, plus 45 percent of the amount in excess of $6,000,000.
More than $7,000,000, but not more than $8,000,000	$2,550,000, plus 50 percent of the amount in excess of $7,000,000.
More than $8,000,000, but not more than $9,000,000	$3,050,000, plus 60 percent of the amount in excess of $8,000,000.
More than $9,000,000, but not more than $10,000,000	$3,650,000, plus 70 percent of the amount in excess of $9,000,000.
More than $10,000,000	$4,350,000, plus 80 percent of the amount in excess of $10,000,000.

"(b) In the case of an insolvent employer undergoing liquidation or dissolution, the unfunded vested benefits allocable to that employer shall not exceed an amount equal to the sum of—

"(1) 50 percent of the unfunded vested benefits allocable to the employer (determined without regard to this section), and

"(2) that portion of 50 percent of the unfunded vested benefits allocable to the employer (as determined under paragraph (1)) which does not exceed the liquidation or dissolution value of the employer determined—

"(A) as of the commencement of liquidation or dissolution, and

"(B) after reducing the liquidation or dissolution value of the employer by the amount determined under paragraph (1).

"(c) To the extent that the withdrawal liability of an employer is attributable to his obligation to contribute to or under a plan as an individual (whether as a sole proprietor or as a member of a partnership), property which may be exempt from the estate under section 522 of title 11, United States Code, or under similar provisions of law, shall not be subject to enforcement of such liability.

"(d) For purposes of this section—

"(1) an employer is insolvent if the liabilities of the employer, including withdrawal liability under the plan (determined without regard to subsection (b)), exceed the assets of the employer (determined as of the commencement of the liquidation or dissolution), and

"(2) the liquidation or dissolution value of the employer shall be determined without regard to such withdrawal liability.

"(e) In the case of one or more withdrawals of an employer attributable to the same sale, liquidation, or dissolution, under regulations prescribed by the corporation—

"(1) all such withdrawals shall be treated as a single withdrawal for the purpose of applying this section, and

"(2) the withdrawal liability of the employer to each plan shall be an amount which bears the same ratio to the present value of the withdrawal liability payments to all plans (after the application of the preceding provisions of this section) as the withdrawal liability of the employer to such plan (determined without regard to this section) bears to the withdrawal liability of the employer to all such plans (determined without regard to this section).

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

"SEC. 4231. (a) Unless otherwise provided in regulations prescribed by the corporation, a plan sponsor may not cause a multiemployer plan to merge with one or more multiemployer plans, or engage in a transfer of assets and liabilities to or from another multiemployer plan, unless such merger or transfer satisfies the requirements of subsection (b).

"(b) A merger or transfer satisfies the requirements of this section if—

"(1) in accordance with regulations of the corporation, the plan sponsor of a multiemployer plan notifies the corporation of a merger with or transfer of plan assets or liabilities to another multiemployer plan at least 120 days before the effective date of the merger or transfer;

"(2) no participant's or beneficiary's accrued benefit will be lower immediately after the effective date of the merger or transfer than the benefit immediately before that date;

"(3) the benefits of participants and beneficiaries are not reasonably expected to be subject to suspension under section 4225; and

"(4) an actuarial valuation of the assets and liabilities of each of the affected plans has been performed during the plan year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the start of that plan year, or other valuation of such assets and liabilities performed under such standards and procedures as the corporation may prescribe by regulation.

"(c) The merger of multiemployer plans or the transfer of assets or liabilities between multiemployer plans, shall be deemed not to constitute a violation of the provisions of section 406(a) or section 406(b)(2) if the corporation determines that the merger or transfer otherwise satisfies the requirements of this section.

"(d) A plan to which liabilities are transferred under this section is a successor plan for purposes of section 4022A(b)(2)(B).

"TRANSFERS BETWEEN A MULTIEMPLOYER PLAN AND A SINGLE-EMPLOYER PLAN

"SEC. 4232. (a) A transfer of assets or liabilities between, or a merger of, a multiemployer plan and a single-employer plan shall satisfy the requirements of this section.

"(b) No accrued benefit of a participant or beneficiary may be lower immediately after the effective date of a transfer or merger described in subsection (a) than the benefit immediately before that date.

"(c)(1) Except as provided in paragraphs (2) and (3), a multiemployer plan which transfers liabilities to a single-employer plan shall be liable to the corporation if the single-employer plan terminates within 60 months after the effective date of the transfer. The amount of liability shall be the lesser of—

"(A) the amount of the plan asset insufficiency of the terminated single-employer plan, less 30 percent of the net worth of the employer who maintained the single-employer plan, determined in accordance with section 4062 or 4064, or

"(B) the value, on the effective date of the transfer, of the unfunded benefits transferred to the single-employer plan which are guaranteed under section 4022.

"(2) A multiemployer plan shall be liable to the corporation as provided in paragraph (1) unless, within 180 days after the corporation receives an application (together with such information as the corporation may reasonably require for purposes of such application) from the multiemployer plan sponsor for a determination under this paragraph—

"(A) the corporation determines that the interests of the plan participants and beneficiaries and of the corporation are adequately protected, or

"(B) fails to make any determination regarding the adequacy with which such interests are protected with respect to such transfer of liabilities.

If, after the receipt of such application, the corporation requests from the plan sponsor additional information necessary for the determination, the running of the 180-day period shall be suspended from the date of such request until the receipt by the corporation of the additional information requested. The corporation may by regulation prescribe procedures and standards for the issuance of determinations under this paragraph. This paragraph shall not apply to any application submitted less than 180 days after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(3) A multiemployer plan shall not be liable to the corporation as provided in paragraph (1) in the case of a transfer from the multiemployer plan to a single-employer plan of liabilities which accrued under a single-employer plan which merged with the multiemployer plan, if, the value of liabilities transferred to the single-employer plan does not exceed the value of the liabilities for benefits which accrued before the merger, and the value of the assets transferred to the single-employer plan is substantially equal to the value of the assets which would have been in the single-employer plan if the employer had maintained and funded it as a separate plan under which no benefits accrued after the date of the merger.

"(4) The corporation may make equitable arrangements with multiemployer plans which are liable under this subsection for satisfaction of their liability.

"(d) Benefits under a single-employer plan to which liabilities are transferred in accordance with this section are guaranteed under section 4022 to the extent provided in that section as of the effective date of the transfer and the plan is a successor plan.

"(e)(1) Except as provided in paragraph (2), a multiemployer plan may not transfer liabilities to a single-employer plan unless the plan sponsor of the plan to which the liabilities would be transferred agrees to the transfer.

"(2) In the case of a transfer described in subsection (c)(3), paragraph (1) of this subsection is satisfied by the advance agreement to the transfer by the employer who will be obligated to contribute to the single-employer plan.

"(f)(1) The corporation may prescribe by regulation such additional requirements with respect to the transfer of assets or liabilities as may be necessary to protect the interests of plan participants and beneficiaries and the corporation.

"(2) Except as otherwise determined by the corporation, a transfer of assets or liabilities to a single-employer plan from a plan in reorganization under section 4241 is not effective unless the corporation approves such transfer.

"(3) No transfer to which this section applies, in connection with a termination described in section 4041A(a)(2) shall be effective unless the transfer meets such requirements as may be established by the corporation to prevent an increase in the risk of loss to the corporation.

"PARTITION

"SEC. 4233. (a) The corporation may order the partition of a multiemployer plan in accordance with this section.

"(b) A plan sponsor may apply to the corporation for an order partitioning a plan. The corporation may not order the partition of a plan except upon notice to the plan sponsor and the participants and beneficiaries whose vested benefits will be affected by the partition of the plan, and upon finding that—

"(1) a substantial reduction in the amount of aggregate contributions under the plan has resulted or will result from a case or proceeding under title 11, United States Code, with respect to an employer;

"(2) the plan is likely to become insolvent;

"(3) contributions will have to be increased significantly in reorganization to meet the minimum contribution requirement and prevent insolvency; and

"(4) partition would significantly reduce the likelihood that the plan will become insolvent.

"(c) The corporation may order the partition of a plan notwithstanding the pendency of a proceeding described in subsection (b)(1).

"(d) The corporation's partition order shall provide for a transfer of no more than the nonforfeitable benefits directly attributable to service with the employer referred to in subsection (b)(1) and an equitable share of assets.

"(e) The plan created by the partition is—

"(1) a successor plan to which section 4022A applies, and

"(2) a terminated multiemployer plan to which section 4041A(d) applies, with respect to which only the employer described in subsection (b)(1) has withdrawal liability, and to which section 4068 applies.

"(f) The corporation may proceed under section 4042 (c) through (h) for a decree partitioning a plan and appointing a trustee for the terminated portion of a partitioned plan. The court may order the partition of a plan upon making the findings described in subsection (b) (1) through (4), and subject to the conditions set forth in subsections (c) through (e).

"ASSET TRANSFER RULES

"SEC. 4234. (a) A transfer of assets from a multiemployer plan to another plan shall comply with asset-transfer rules which shall be adopted by the multiemployer plan and which—

"(1) do not unreasonably restrict the transfer of plan assets in connection with the transfer of plan liabilities, and

"(2) operate and are applied uniformly with respect to each proposed transfer, except that the rules may provide for reasonable variations taking into account the potential financial impact of a proposed transfer on the multiemployer plan.

Plan rules authorizing asset transfers consistent with the requirements of section 4232(c)(3) shall be considered to satisfy the requirements of this subsection.

"(b) The corporation shall prescribe regulations which exempt de minimis transfers of assets from the requirements of this part.

"(c) This part shall not apply to transfers of assets pursuant to written reciprocity agreements, except to the extent provided in regulations prescribed by the corporation.

"TRANSFERS PURSUANT TO CHANGE IN BARGAINING REPRESENTATIVE

"SEC. 4235. (a)(1) Whenever an employer completely or partially withdraws from a multiemployer plan (referred to elsewhere in this section as the 'old plan') as a result of a certified change of collective bargaining representative, the plan sponsor of the old plan—

"(A) shall notify the employer of—

"(i) the amount of the employer's withdrawal liability under part 1 with respect to such withdrawal,

"(ii) the old plan's intent to transfer the nonforfeitable benefits of the employees who are no longer working in covered service under the old plan as a result of the change of bargaining representative to another multiemployer plan (referred to elsewhere in this section as the 'new plan'), and

"(iii) the amount of assets and liabilities which are to be transferred to the new plan, and

"(B) shall notify the new plan of the intent to transfer such benefits, assets, and liabilities to the new plan.

"(2) Upon notification of the employer and the new plan under paragraph (1), if—

"(A) the employer fails to object to the transfer within 60 days after receipt of the notice described in paragraph (1)(A), and

"(B) the new plan either—

"(i) fails to file an appeal with the corporation within 60 days after receipt of the notice described in paragraph (1)(B) to prevent the transfer because the new plan would suffer substantial financial harm as a result of the transfer, or

"(ii) the corporation, pursuant to such an appeal, fails to find that the new plan would suffer substantial financial harm as a result of the transfer within 180 days after the date on which the appeal is filed,

then the plan sponsor of the old plan shall transfer the appropriate amount of assets and liabilities to the new plan.

"(b) If the plan sponsor of the old plan transfers the appropriate amount of assets and liabilities under this section to the new plan, then the amount of the employer's withdrawal liability (as determined under section 4201(b) without regard to such transfer and this section) with respect to the old plan shall be reduced by the amount by which—

"(1) the value of the unfunded vested benefits allocable to the employer which were transferred by the plan sponsor of the old plan to the new plan, exceeds

"(2) the value of the assets transferred.

"(c) Whenever there is a complete or partial withdrawal described in subsection (a), if—

"(1) the new plan files an appeal with the corporation under subsection (a)(2)(B) within 60 days after receipt of the notice described in subsection (a)(1)(B), and

"(2) the employer is required by section 4219 to begin making payments of withdrawal liability before the earlier of—

"(A) the date on which the corporation finds that the new plan would not suffer substantial financial harm as a result of the transfer, or

"(B) the last day of the 180-day period beginning on the date on which the new plan files its appeal,

then the employer shall make such payments into an escrow held by a bank or similar financial institution satisfactory to the old plan. If the transfer is made, the amounts are paid to the old plan and credited against the employer. If the transfer is not made, the amounts paid into the escrow shall be paid to the old plan and credited against the employer's withdrawal liability.

"(b)(1) Notwithstanding subsection (a), the plan sponsor of the old plan shall not transfer any assets to the new plan if—

"(A) the old plan is in reorganization, or

"(B) the transfer of assets would cause the old plan to go into reorganization.

"(2) In any case in which a transfer of assets from the old plan to the new plan is prohibited by paragraph (1), the plan sponsor of the old plan shall transfer—

"(A) all nonforfeitable benefits described in subsection (a)(1), if the value of such benefits does not exceed the withdrawal liability of the employer with respect to such withdrawal, or

"(B) such nonforfeitable benefits having a value equal to the withdrawal liability of the employer if the value of such benefits exceeds the withdrawal liability of the employer.

"(e) For purposes of subsection (a), the term—

"(1) 'appropriate amount of assets' means the amount by which the value of the nonforfeitable benefits to be transferred exceeds the amount of the employer's withdrawal liability to the old plan (determined under part 1 without regard to section 4211(e)), and

"(2) 'certified change of collective bargaining representative' means a change of collective bargaining representative certified under the Labor-Management Relations Act, 1947 or the Railway Labor Act.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"REORGANIZATION STATUS

"SEC. 4241. (a) A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b)(1) A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) For purposes of this part, the net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2) of the Internal Revenue Code of 1954, over

"(B) the credits to the funding standard account under section 412(b)(3)(B) of such Code.

"(3) For purposes of this part, the vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4)(A) The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B)(i) In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary of the Treasury.

"(ii) Except as otherwise determined by the Secretary of the Treasury, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary of the Treasury,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5)(A) For purposes of this part, the base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) For purposes of this part, a relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) For purposes of this part, the relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) For purposes of this part, the adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) For purposes of this part, the term 'person in pay status' means —

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary of the Treasury, any other person who is entitled to such a benefit under the plan.

"(7) For purposes of paragraph (3), in determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(8) For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary of the Treasury.

"(9) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount (determined in accordance with regulations prescribed by the Secretary of the Treasury) equal to—

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of assets of the plan.

"(c) Except as provided in regulations prescribed by the corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) Any multiemployer plan which terminates under section 4041A(a)(2) shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated.

"NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS

"SEC. 4242. (a)(1) If—

"(A) a multiemployer plan is in reorganization for a plan year, and

"(B) section 4243 would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, an excise tax may be imposed.

"(2) The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4201(h)(5)), and

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 4244.

"(b) The corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4243. (a)(1) For any plan year for which a plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account while it is in reorganization, and

"(B) the plan's accumulated funding deficiency under section 302(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 4244(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such year or under section 302(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan years (increased by any amount waived under subsection (f) for the plan year).

"(2) For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b)(1) Except as otherwise provided in this section, for purposes of this part the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year, and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 4244 for the plan year.

"(2) If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this part other than this paragraph) and a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3)(A) If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary of the Treasury,

adjusted in a manner consistent with section 4241(b)(4).

"(c)(1) For purposes of this part, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary of the Treasury.

"(2)(A) Except as provided in subparagraph (B), for purposes of this part a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary of the Treasury) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary of the Treasury) for reductions in the contribution base resulting from transfers of liabilities.

"(B) For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 4245(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(d)(1) Under regulations prescribed by the Secretary of the Treasury, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the changes under section 412(b)(2)(A) or (B) of the Internal Revenue Code of 1954, the sum of—

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 4241(b)(4)(A)(ii) (determined without regard to section 4241(b)(4)(B)(i)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 4241(b)(2)).

"(3)(A) In the case of a plan described in section 1216(b), if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

"(B) A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when mutliplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (1), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(e) In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8) of the Internal Revenue Code of 1954.

"(f)(1) The Secretary of the Treasury may waive any accumulated funding deficiency under this section in accordance with the provisions of section 303(a).

"(2) Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 303(c)).

"(g) For purposes of making any determination under this part, the requirements of section 302(c)(3) shall apply.

"OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4244. (a) For purposes of determining the minimum contribution requirement under section 4243 (before the application of section 4243 (b)(2) or (d)) the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 4243 (b)(2) or (d) and without regard to this section).

"(b) A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) For purposes of this section—

"(1) The term 'pay status participant' means, with respect to a plan a participant receiving retirement benefits under the plan.

"(2) The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan, unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1, determined by dividing—

"(1) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary of the Treasury shall by regulation provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A (c)(1) determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2).

"(5) The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f)(1) Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary of the Treasury finds that the plan's current contribution base for the plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1) does not impair a plan's eligibility for an overburden credit, unless the Secretary of the Treasury finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement (determined without regard to any overburden requirement under this section) over the employer contributions required under the plan.

"INSOLVENT PLANS

"SEC. 4245. (a) Notwithstanding sections 203 and 204, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation under section 4022A(g)(5).

"(b) For purposes of this section, for a plan year—

"(1) a multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d);

"(2) 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources;

"(3) 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the corporation under section 4261(b)(2); and

"(4) 'insolvency year' means a plan year in which a plan is insolvent.

"(c)(1) The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary of the Treasury, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 4241(b)(6)) under the plan, except that the Secretary of the Treasury may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits must be suspended for that plan year.

"(4)(A) If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary of the Treasury.

"(B) For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary of the Treasury, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d)(1) As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 4243(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

"(e)(1) If the plan sponsor of a plan in reorganization determines under subsection (d)(1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary of the Treasury, the corporation, the parties described in section 4242(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 4242(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary of the Treasury, the corporation, and the parties described in paragraph (1)(B) of the resource benefit level determined in writing for that insolvency year.

"(3) In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the corporation.

"(4) Notice required by this subsection shall be given in accordance with regulations prescribed by the corporation, except that notice to the Secretary of the Treasury shall be given in accordance with regulations prescribed by the Secretary of the Treasury.

"(5) The corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f)(1) If the plan sponsor of an insolvent plan, for which the resource benefit level is above the level of basic benefits, anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the corporation under section 4261.

"(2) A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the corporation under section 4261.

"PART 4—FINANCIAL ASSISTANCE

"FINANCIAL ASSISTANCE

"SEC. 4261. (a) If, upon receipt of an application for financial assistance under section 4245(f) or section 4281(d), the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.

"(b)(1) Financial assistance shall be provided under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

"(2) A plan which has received financial assistance shall repay the amount of such assistance to the corporation on reasonable terms consistent with regulations prescribed by the corporation.

"(c) Pending determination of the amount described in subsection (a), the corporation may provide financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

"PART 5—BENEFITS AFTER TERMINATION

"BENEFITS UNDER CERTAIN TERMINATED PLANS

"SEC. 4281. (a) Notwithstanding sections 203 and 204, the plan sponsor of a terminated multiemployer plan to which section 4041A(d) applies shall amend the plan to reduce benefits, and shall suspend benefit payments, as required by this section.

"(b)(1) The value of nonforfeitable benefits under a terminated plan referred to in subsection (a), and the value of the plan's assets, shall be determined in writing, in accordance with regulations prescribed by the corporation, as of the end of the plan year during which section 4041A(d) becomes applicable to the plan, and each plan year thereafter.

"(2) For purposes of this section, plan assets include outstanding claims for withdrawal liability (within the meaning of section 4001(a)(12)).

"(c)(1) If, according to the determination made under subsection (b), the value of nonforfeitable benefits exceeds the value of the plan's assets, the plan sponsor shall amend the plan to reduce benefits under the plan to the extent necessary to ensure that the plan's assets are sufficient, as determined and certified in accordance with regulations prescribed by the corporation, to discharge when due all of the plan's obligations with respect to nonforfeitable benefits.

"(2) Any plan amendment required by this subsection shall, in accordance with regulations prescribed by the Secretary of the Treasury—

"(A) reduce benefits only to the extent necessary to comply with paragraph (1);

"(B) reduce accrued benefits only to the extent that those benefits are not eligible for the corporation's guarantee under section 4022A(b); and

"(C) take effect no later than 6 months after the end of the plan year for which it is determined that the value of nonforfeitable benefits exceeds the value of the plan's assets.

"(d)(1) In any case in which benefit payments under a plan which is insolvent under paragraph (2)(A) exceed the resource benefit level, any such payments which are not basic benefits shall be suspended, in accordance with this subsection, to the extent necessary to reduce the sum of such payments and such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation in connection with a supplemental guarantee program established under section 4022A(g)(2).

"(2) For purposes of this subsection, for a plan year—

"(A) a plan is insolvent if—

"(i) the plan has been amended to reduce benefits to the extent permitted by subsection (c), and

"(ii) the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year; and

"(B) 'resource benefit level' and 'available resources' have the meanings set forth in paragraphs (2) and (3), respectively of section 4245(b).

"(3) The plan sponsor of a plan which is insolvent (within the meaning of paragraph (2)(A)) shall have the powers and duties of the plan sponsor of a plan in reorganization which is insolvent (within the meaning of section 4245(b)(1)), except that regulations governing the plan sponsor's exercise of those powers and duties under this section shall be prescribed by the corporation, and the corporation shall prescribe by regulation notice requirements which assure that plan participants and beneficiaries receive adequate notice of benefit suspensions.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this subsection, except that the provisions of section 4245(c)(4) and (5) shall apply in the case of plans which are insolvent under paragraph (2)(A), in connection with the plan year during which such section 4041A(d) first became applicable to the plan and every year thereafter, in the same manner and to the same extent as such provisions apply to insolvent plans in reorganization under section 4245, in connection with insolvency years under such section 4245.

"PART 6—ENFORCEMENT

"CIVIL ACTIONS

"SEC. 4301. (a) (1) A plan fiduciary, employer, plan participant, or beneficiary, who is adversely affected by the act or omission of any party under this subtitle with respect to a multiemployer plan, or an employee organization which represents such a plan participant or beneficiary for purposes of collective bargaining, may bring an action for appropriate legal or equitable relief, or both.

"(2) Notwithstanding paragraph (1), this section does not authorize an action against the Secretary of the Treasury, the Secretary of Labor, or the corporation.

"(b) In any action under this section to compel an employer to pay withdrawal liability, any failure of the employer to make any withdrawal liability payment within the time prescribed shall be treated in the same manner as a delinquent contribution (within the meaning of section 515).

"(c) The district courts of the United States shall have exclusive jurisdiction of an action under this section without regard to the amount in controversy, except that State courts of competent jurisdiction shall have concurrent jurisdiction over an action brought by a plan fiduciary to collect withdrawal liability.

"(d) An action under this section may be brought in the district where the plan is administered or where a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

"(e) In any action under this section, the court may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to the prevailing party.

"(f) An action under this section may not be brought after the later of—

"(1) 6 years after the date on which the cause of action arose, or

"(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.

"(g) A copy of the complaint in any action under this section or section 4221 shall be served upon the corporation by certified mail. The corporation may intervene in any such action.

"PENALTY FOR FAILURE TO PROVIDE NOTICE

"SEC. 4302. Any person who fails, without reasonable cause, to provide a notice required under this subtitle or any implementing regulations shall be liable to the corporation in an amount up to $100 for each day for which such failure continues. The corporation may bring a civil action against any such person in the United States District Court for the District of Columbia or in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.".

SEC. 105. PREMIUMS.

(a) Section 4006(a) is amended to read as follows:

"(a) (1) The corporation shall prescribe such schedules of premium rates and bases for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title. The premium rates charged by the corporation for any period shall be uniform for all plans, other than multiemployer plans, insured by the corporation with respect to basic benefits guaranteed by it under section 4022, and shall be uniform for all multiemployer plans with respect to basic benefits guaranteed by it under section 4022A. In establishing annual premiums with respect to plans, other than multiemployer plans paragraphs (5) and (6) of this subsection (as in effect before the enactment of the Multiemployer Pension Plan Amendments Act of 1980) shall continue to apply.

"(2) The corporation shall maintain separate schedules of premium rates, and bases for the application of those rates, for—

"(A) basic benefits guaranteed by it under section 4022 for single-employer plans,

"(B) basic benefits guaranteed by it under section 4022A for multiemployer plans,

"(C) nonbasic benefits guaranteed by it under section 4022 for single-employer plans,

"(D) nonbasic benefits guaranteed by it under section 4022A for multiemployer plans, and

"(E) reimbursements of uncollectible withdrawal liability under section 4222.

The corporation may revise such schedules whenever it determines that revised schedules are necessary. Except as provided in section 4022A(f), in order to place a revised schedule described in subparagraph (A) or (B) in effect, the corporation shall proceed in accordance with subsection (b) (1), and such schedule shall apply only to plan years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution.

"(3) (A) Except as provided in subparagraph (C), the annual premium rate payable to the corporation by all plans for basic benefits guaranteed under this title is—

"(i) in the case of a single-employer plan, for plan years beginning after December 31, 1977, an amount equal to $2.60 for each individual who is a participant in such plan during the plan year;

"(ii) in the case of a multiemployer plan, for the plan year within which the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 falls, an amount for each individual who is a participant in such plan for such plan year equal to the sum of—

"(I) 50 cents, multiplied by a fraction the numerator of which is the number of months in such year ending on or before such date and the denominator of which is 12, and

"(II) $1.00, multiplied by a fraction equal to 1 minus the fraction determined under clause (I),

"(iii) in the case of a multiemployer plan, for plan years beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, an amount equal to—

"(I) $1.40 for each participant, for the first, second, third, and fourth plan years,

"(II) $1.80 for each participant, for the fifth and sixth plan years,

"(III) $2.20 for each participant, for the seventh and eighth plan years, and

"(IV) $2.60 for each participant, for the ninth plan year, and for each succeeding plan year.

"(B) The corporation may prescribe by regulation the extent to which the rate described in subparagraph (A) (i) applies more than once for any plan year to an individual participating in more than one plan maintained by the same employer, and the corporation may prescribe regulations under which the rate described in subparagraph (A) (iii) will not apply to the same participant in any multiemployer plan more than once for any plan year.

"(C) (i) If the sum of—

"(I) the amounts in any fund for basic benefits guaranteed for multiemployer plans, and

"(II) the value of any assets held by the corporation for payment of basic benefits guaranteed for multiemployer plans,

is for any calendar year less than 2 times the amount of basic benefits guaranteed by the corporation under this title for multiemployer plans which were paid out of any such fund or assets during the preceding calendar year, the annual premium rates under subparagraph (A) shall be increased to the next highest premium level necessary to insure that such sum will be at least 2 times greater than such amount during the following calendar year.

"(ii) If the board of directors of the corporation determines that an increase in the premium rates under subparagraph (A) is necessary to provide assistance to plans which are receiving assistance under section 4261 and to plans the board finds are reasonably likely to require such assistance, the board may order such increase in the premium rates.

"(iii) The maximum annual premium rate which may be established under this subparagraph is $2.60 for each participant.

"(iv) The provisions of this subparagraph shall not apply if the annual premium rate is increased to a level in excess of $2.60 per participant under any other provisions of this title.

"(D) (i) Not later than 120 days before the date on which an increase under subparagraph (C) (ii) is to beome effective, the corporation shall publish in the Federal Register a notice of the determination described in subparagraph (C) (ii), the basis for the determination, the amount of the increase in the premium, and the anticipated increase in premium income that would result from the increase in the premium rate. The notice shall invite public comment, and shall provide for a public hearing if one is requested. Any such hearing shall be commenced not later than 60 days before the date on which the increase is to become effective.

"(ii) The board of directors shall review the hearing record established under clause (i) and shall, not later than 30 days before the date on which the increase is to become effective, determine (after consideration of the comments received) whether the amount of the increase should be changed and shall publish its determination in the Federal Register.

"(4) The corporation may prescribe, subject to approval by the Congress in accordance with this section or section 4022A(f), alternative schedules of premium rates, and bases for the application of those rates, for basic benefits guaranteed by it under sections 4022 and 4022A based, in whole or in part, on the risks insured by the corporation in each plan.

"(5) (A) In carrying out its authority under paragraph (1) to establish schedules of premium rates, and bases for the application of those rates, for nonbasic benefits guaranteed under sections 4022 and 4022A, the premium rates charged by the corporation for any period for nonbasic benefits guaranteed shall—

"(i) be uniform by category of nonbasic benefits guaranteed,

"(ii) be based on the risks insured in each category, and

"(iii) reflect the experience of the corporation (including experience which may be reasonably anticipated) in guaranteeing such benefits.

"(B) Notwithstanding subparagraph (A), premium rates charged to any multiemployer plan by the corporation for any period for supplemental guarantees under section 4022 A(g) (2) may reflect any reasonable considerations which the corporation determines to be appropriate.".

(b) Section 4006(b) is amended—

(1) by striking out "Committee on Labor and Public Welfare" each place it appears and inserting in lieu thereof "Committee on Labor and Human Resources";

(2) in paragraph (1)—

(A) by striking out "coverage"; and

(B) by striking out "(B) or (C)" and inserting in lieu thereof "(C), (D), or (E)"; and

(3) in paragraph (3), by striking out "coverage".

(c) Section 4006 is further amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subsection (a)(3), and subject to paragraph (2), the rate for all plans for basic benefits guaranteed under this title with respect to plan years ending after September 2, 1974, is—

"(A) in the case of each plan which was not a multiemployer plan in a plan year, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(B) in the case of each plan which was a multiemployer plan in a plan year, an amount equal to 50 cents for each individual who was a participant in such plan during the plan year.

"(2) The rate applicable under this subsection for the plan year preceding September 1, 1975, is the product of—

"(A) the rate described in the preceding sentence; and

"(B) a fraction—

"(i) the numerator of which is the number of calendar months in the plan year which ends after September 2, 1974, and before the date on which the new plan year commences, and

"(ii) the denominator of which is 12.".

SEC. 106. ANNUAL REPORT OF PLAN ADMINISTRATOR.

Section 4065 is amended—

(1) in paragraph (1), by striking out "and"; and

(2) in paragraph (2), by striking out the period and inserting in lieu thereof "except to the extent the corporation waives such requirement, and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) in the case of a multiemployer plan, information with respect to such plan which the corporation determines is necessary for the enforcement of subtitle E and requires by regulation, which may include—

"(A) a statement certified by the plan's enrolled actuary of—

"(i) the value of all vested benefits under the plan as of the end of the plan year, and

"(ii) the value of the plan's assets as of the end of the plan year;

"(B) a statement certified by the plan sponsor of each claim for outstanding withdrawal liability (within the meaning of section 4001(a)(12)) and its value as of the end of that plan year and as of the end of the preceding plan year; and

"(C) the number of employers having an obligation to contribute to the plan and the number of employers required to make withdrawal liability payments.".

SEC. 107. CONTINGENT EMPLOYER LIABILITY INSURANCE.

Section 4023 (as in effect immediately before the date of the enactment of this Act) is repealed.

SEC. 108. TRANSITION RULES AND EFFECTIVE DATES.

(a) Sections 4081 and 4082 are redesignated as sections 4401 and 4402, respectively.

(b) Section 4402 (as redesignated) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) Notwithstanding any other provision of this title, guaranteed benefits payable by the corporation pursuant to its discretionary authority under this section shall continue to be paid at the level guaranteed under section 4022, without regard to any limitation on payment under subparagraph (C) or (D) of subsection (c)(4).".

(c)(1) Section 4402 (as redesignated) is further amended by striking out subsection (e) and adding in lieu thereof the following new subsections:

"(e)(1) Except as provided in paragraphs (2) and (3), the amendments to this Act made by the Multiemployer Pension Plan Amendments Act of 1980 shall take effect on the date of the enactment of that Act.

"(2)(A) Except as provided in this paragraph, part 1 of subtitle E, relating to withdrawal liability, takes effect on April 29, 1980.

"(B) For purposes of determining withdrawal liability under part 1 of subtitle E, an employer who has withdrawn from a plan shall be considered to have withdrawn from a multiemployer plan if, at the time of the withdrawal, the plan was a multiemployer plan as defined in section 4001(a)(3) as in effect at the time of the withdrawal.

"(3) Sections 4241 through 4245, relating to multiemployer plan reorganization, shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

"(A) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, expires, without regard to extensions agreed to on or after the date of the enactment of that Act, or

"(B) 3 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(f)(1) In the event that before the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, the corporation has determined that—

"(A) an employer has withdrawn from a multiemployer plan under section 4063, and

"(B) the employer is liable to the corporation under such section,

the corporation shall retain the amount of liability paid to it or furnished in the form of a bond and shall pay such liability to the plan in the event the plan terminates in accordance with section 4041A(a)(2) before the earlier of April 29, 1985, or the day after the 5-year period commencing on the date of such withdrawal.

"(2) In any case in which the plan is not so terminated within the period described in paragraph (1), the liability of the employer is abated and any payment held in escrow shall be refunded without interest to the employer or the employer's bond shall be cancelled.

"(g)(1) In any case in which an employer or employers withdrew from a multiemployer plan before the effective date of part 1 of subtitle E, the corporation may—

"(A) apply section 4063(d), as in effect before the amendments made by the Multiemployer Pension Plan Amendments Act of 1980, to such plan,

"(B) assess liability against the withdrawn employer with respect to the resulting terminated plan,

"(C) guarantee benefits under the terminated plan under section 4022, as in effect before such amendments, and

"(D) if necessary, enforce such action through suit brought under section 4003.

"(2) The corporation shall use the revolving fund used by the corporation with respect to basic benefits guaranteed under section 4022A in guaranteeing benefits under a terminated plan described in this subsection.".

(2)(A) For the purpose of applying section 4205 of the Employee Retirement Income Security Act of 1974 in the case of an employer described in subparagraph (B)—

(i) "more than 75 percent" shall be substituted for "70 percent" in subsections (a) and (b) of such section,

(ii) "25 percent or less" shall be substituted for "30 percent" in subsection (b) of such section, and

(iii) the number of contribution units for the high base year shall be the average annual number of such units for calendar years 1970 and 1971.

(B) An employer is described in this subparagraph if—

(i) the employer is engaged in the trade or business of shipping bulk cargoes in the Great Lakes Maritime Industry, and whose fleet consists of vessels the gross registered tonnage of which was at least 7,800, as stated in the American Bureau of Shipping Record, and

(ii) whose fleet during any 5 years from the period 1970 through and including 1979 has experienced a 33 percent or more increase in the contribution units as measured from the average annual contribution units for the calendar years 1970 and 1971.

(3)(A) For the purpose of determining the withdrawal liability of an employer under title IV of the Employee Retirement Income Security Act of 1974 from a plan that terminates while the plan is insolvent (within the meaning of section 4245 of such Act), the plan's unfunded vested benefits shall be reduced by an amount equal to the sum of all overburden credits that were applied in determining the plan's accumulated funding deficiency for all plan years preceding the first plan year in which the plan is insolvent, plus interest thereon.

(B) The provisions of subparagraph (A) apply only if—

(i) the plan would have been eligible for the overburden credit in the last plan year beginning before the date of the enactment of this Act, if section 4243 of the Employee Retirement Income Security Act of 1974 had been in effect for that plan year, and

(ii) the Pension Benefit Guaranty Corporation determines that the reduction of unfunded vested benefits under subparagraph (A) would not significantly increase the risk of loss to the corporation.

(4) In the case of an employer who withdrew before the date of enactment of this Act from a multiemployer plan covering employees in the seagoing industry (as determined by the corporation), sections 4201 through 4219 of the Employee Retirement Income Security Act of 1974, as added by this Act, are effective as of May 3, 1979. For the purpose of applying section 4217 for purposes of the preceding sentence, the date "May 2, 1979," shall be substituted for "April 28, 1980," and the date "May 3, 1979" shall be substituted for "April 29, 1980". For purposes of this paragraph, terms which are used in title IV of the Employee Retirement Income Security Act of 1974, or in regulations prescribed under that title, and which are used in the preceding sentence have the same meaning as when used in that Act or those regulations. For purposes of this paragraph, the term "employer" includes only a substantial employer covering employees in the seagoing industry (as so determined) in connection with ports on the West Coast of the United States, but does not include an employer who withdrew from a plan because of a change in the collective bargaining representative.

(d) For purposes of section 4205 of the Employee Retirement Income Security Act of 1974—

(1) subsection (a)(1) of such section shall not apply to any plan year beginning before April 29, 1982,

(2) subsection (a)(2) of such section shall not apply with respect to any cessation of contribution obligations occurring before April 29, 1980, and

(3) in applying subsection (b) of such section, the employer's contribution base units for any plan year ending before April 29, 1980, shall be deemed to be equal to the employer's contribution base units for the last plan year ending before such date.

(e)(1) In the case of a partial withdrawal under section 4205 of the Employee Retirement Income Security Act of 1974, an employer who—

(A) before December 13, 1979, had publicly announced the total cessation of covered operations at a facility in a State (and such cessation occurred within 12 months after the announcement),

(B) had not been obligated to make contributions to the plan on behalf of the employees at such facility for more than 8 years before the discontinuance of contributions, and

(C) after the discontinuance of contributions does not within 1 year after the date of the partial withdrawal perform work in the same State of the type for which contributions were previously required,

shall be liable under such section with respect to such partial withdrawal in an amount not greater than the amount determined under paragraph (2).

(2) The amount determined under this paragraph is the excess (if any) of—

(A) the present value (on the withdrawal date) of the benefits under the plan which—

(i) were vested on the withdrawal date (or, if earlier, at the time of separation from service with the employer at the facility),

(ii) were accrued by employees who on December 13, 1979 (or, if earlier, at the time of separation from service with the employer at the facility), were employed at the facility, and

(iii) are attributable to service with the withdrawing employer, over

(B)(i) the sum of—

(I) all employer contributions to the plan on behalf of employees at the facility before the withdrawal date,

(II) interest (to the withdrawal date) on amounts described in subclause (I), and

(III) $100,000, reduced by

(ii) the sum of—

(I) the benefits paid under the plan on or before the withdrawal date with respect to former employees who separated from employment at the facility, and

(II) interest (to the withdrawal date) on amounts described in subclause (I).

(3) For purposes of paragraph (2)—

(A) actuarial assumptions shall be those used in the last actuarial report completed before December 13, 1979,

(B) the term "withdrawal date" means the date on which the employer ceased work at the facility of the type for which contributions were previously required, and

(C) the term "facility" means the facility referred to in paragraph (1).

(f) Title IV is amended by adding at the end thereof the following new section:

"ELECTION OF PLAN STATUS

"Sec. 4303. (a) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this Act or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(1) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

"(b) An election described in subsection (a) shall be effective only if—

"(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this Act and the Internal Revenue Code of 1954, and

"(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

"(c) An election described in subsection (a) shall be treated as being effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.".

Sec. 201. Amendment of the Internal Revenue Code of 1954.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

Sec. 202. Multiemployer Plans in Reorganization.

(a) General Rule.—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting at the end thereof the following new subpart:

"Subpart C—Special Rules for Multiemployer Plans

"Sec. 418. Reorganization status.
"Sec. 418A. Notice of reorganization and funding requirements.
"Sec. 418B. Minimum contribution requirements.
"Sec. 418C. Overburden credit against minimum contribution requirement.
"Sec. 418D. Insolvent plans.

"Sec. 418. Reorganization Status.

"(a) General Rule.—A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b) Reorganization Index.—For purposes of this subpart—

"(1) In general.—A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) Net charge to funding standard account.—The net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2), over

"(B) the credits to the funding standard account under section 412(b)(3)(B).

"(3) Vested benefits charge.—The vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4) Determination of vested benefits charge—

"(A) In general.—The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B) Certain changes in benefit levels.—

"(i) In general.—In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary.

"(ii) Plan in reorganization.—Except as otherwise determined by the Secretary, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5) Base plan year.—

"(A) In general.—The base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) Relevant collective bargaining agreement.—A relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) Relevant effective date.—The relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) Adjustment date.—The adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) Person in pay status.—The term 'person in pay status' means—

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary, any other person who is entitled to such a benefit under the plan.

"(7) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) UNFUNDED VESTED BENEFITS.—The term 'unfunded vested benefits' means, in connection with a plan, an amount (determined in accordance with regulations prescribed by the Secretary) equal to—

"(i) the value of vested benefits under the plan, less

"(ii) the value of the assets of the plan.

"(B) VESTED BENEFITS.—The term 'vested benefits' means any nonforfeitable benefit (within the meaning of section 4001(a)(8) of the Employee Retirement Income Security Act of 1974).

"(C) ALLOCATION OF ASSETS.—In determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(D) WITHDRAWAL LIABILITY.—For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary.

"(c) PROHIBITION OF NONANNUITY PAYMENTS.—Except as provided in regulations prescribed by the Pension Benefit Guaranty Corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) TERMINATED PLANS.—Any multiemployer plan which terminates under section 4041A(a)(2) of the Employee Retirement Income Security Act of 1974 shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated.

"SEC. 418A. NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS.

"(a) NOTICE REQUIREMENTS.—

"(1) IN GENERAL.—If—

"(A) a multiemployer plan is in reorganization for a plan year, and

"Section 418B would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, an excise tax may be imposed.

"(2) PERSONS TO WHOM NOTICE IS TO BE GIVEN.—The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4212(a) of the Employee Retirement Income Security Act of 1974), and

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) OVERBURDEN CREDIT NOT TAKEN INTO ACCOUNT.—The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 418C.

"(b) ADDITIONAL REQUIREMENTS.—The Pension Benefit Guaranty Corporation may prescribe additional or alternative requirements or assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"SEC. 418B. MINIMUM CONTRIBUTION REQUIREMENT.

"(a) ACCUMULATED FUNDING DEFICIENCY IN REORGANIZATION.—

"(1) IN GENERAL.—For any plan year in which a multiemployer plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account, and

"(B) the plan's accumulated funding deficiency under section 412(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 418C(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such plan year or under section 412(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

"(2) TREATMENT OF WITHDRAWAL LIABILITY PAYMENTS.—For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b) MINIMUM CONTRIBUTION REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section for purposes of this subpart the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year; and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 418C for the plan year.

"(2) ADJUSTMENT FOR REDUCTIONS IN CONTRIBUTION BASE UNITS.—If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this subpart other than this paragraph) multiplied by a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(b) The denominator of which is the plan's valuation contribution base for the plan year.

"(3) SPECIAL RULE WHERE CASH-FLOW AMOUNT EXCEEDS VESTED BENEFITS CHARGE.—

"(A) IN GENERAL.—If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) CASH-FLOW AMOUNT.—For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary, adjusted in a manner consistent with section 418(b)(4).

"(c) CURRENT CONTRIBUTION BASE; VALUATION CONTRIBUTION BASE.—

"(1) CURRENT CONTRIBUTION BASE.—For purposes of this subpart, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary.

"(2) VALUATION CONTRIBUTION BASE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this subpart a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary) for reductions in the contribution base resulting from transfers of liabilities.

"(B) INSOLVENT PLANS.—For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 418D(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(3) CONTRIBUTION BASE UNIT.—For purposes of this subpart, the term 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan (as defined in regulations prescribed by the Secretary).

"(d) LIMITATION ON REQUIRED INCREASES IN RATE OF EMPLOYER CONTRIBUTIONS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2)(A) or (B), the sum of—

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 418(b)(4)(A)(ii) (determined without regard to section 418(b)(4)(B)(ii)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) FUNDING STANDARD REQUIREMENT.—For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 418(b)(2)).

"(3) SPECIAL RULE FOR CERTAIN PLANS.—

"(A) IN GENERAL.—In the case of a plan described in section 4216(b) of the Employee Retirement Income Security Act of 1974, if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

"(B) ELIGIBLE PLANS.—A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(iii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) PERIOD.—The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(e) CERTAIN RETROACTIVE PLAN AMENDMENTS.—In determining the minimum contribution requirement with respect to a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8).

"(f) WAIVER OF ACCUMULATED FUNDING DEFICIENCY.—

"(1) IN GENERAL.—The Secretary may waive any accumulated funding deficiency under this section in accordance with the provisions of section 412(d)(1).

"(2) TREATMENT OF WAIVER.—Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 412(d)(3)).

"(g) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of making any determination under this subpart, the requirements of section 412(c)(3) shall apply.

"SEC. 418C. OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT.

"(a) GENERAL RULE.—For purposes of determining the contribution under section 418B (before the application of section 418B (b)(2) or (d)), the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 418B (b)(2) or (d) and without regard to this section).

"(b) DEFINITION OF OVERBURDENED PLAN.—A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) AMOUNT OF OVERBURDEN CREDIT.—The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year. The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) OVERBURDEN FACTOR.—For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) PAY STATUS PARTICIPANT.—The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan.

"(2) NUMBER OF ACTIVE PARTICIPANTS.—The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1 of the subtitle E of title IV of the Employee Retirement Income Security Act of 1974, determined by dividing—

"(i) the total amount of such payments by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary shall by regulations provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) AVERAGE NUMBER.—The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) AVERAGE GUARANTEED BENEFIT.—The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c)(1) of the Employee Retirement Income Security Act of 1974 determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2).

"(5) FIRST YEAR IN REORGANIZATION.—The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f) NO OVERBURDEN CREDIT IN CASE OF CERTAIN REDUCTIONS IN CONTRIBUTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary finds that the plan's current contribution base for any plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) TREATMENT OF CERTAIN WITHDRAWALS.—For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974) does not impair a plan's eligibility for an overburden credit, unless the Secretary finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) MERGERS.—Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement determined without regard to any overburden credit under this section over the employer contributions required under the plan.

"SEC 418D. INSOLVENT PLANS.

"(a) SUSPENSION OF CERTAIN BENEFIT PAYMENTS.—Notwithstanding section 411, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the Pension Benefit Guaranty Corporation under section 4022A(g)(5) of the Employee Retirement Income Security Act of 1974.

"(b) Definitions.—For purposes of this section, for a plan year—

"(1) Insolvency.—A multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d).

"(2) Resource benefit level.—The term 'resource benefit level' means the level of monthly benefits determined under subsections (c)(1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources.

"(3) Available resources.—The term 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the Pension Benefit Guaranty Corporation under section 4261(b)(2) of the Employee Retirement Income Security Act of 1974.

"(4) Insolvency year.—The term 'insolvency year' means a plan year in which a plan is insolvent.

"(c) Benefit Payments Under Insolvent Plans.—

"(1) Determination of resource benefit level.—The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) Uniformity of the benefit suspension.—The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 418(b)(6)) under the plan, except that the Secretary may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) Resource benefit level below level of basic benefits.—Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits shall be suspended for that plan year.

"(4) Excess resources.—

"(A) In general.—If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary.

"(B) Excess resources.—For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) Unpaid benefits.—If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) Retroactive payments.—Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d) Plan Sponsor Determination.—

"(1) Triennial test.—As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 418B(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) Determination of insolvency.—If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) Determination of resource benefit level.—The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level of basic benefits no later than 3 months before the insolvency year.

"(e) Notice Requirements.—

"(1) Impending insolvency.—If the plan sponsor of a plan in reorganization determines under subsection (d)(1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1), the plan sponsor shall —

"(A) notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 418A(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) Resource benefit level.—No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of the resource benefit level determined in writing for that insolvency year.

"(3) Potential need for financial assistance.—In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the Pension Benefit Guaranty Corporation.

"(4) Regulations.—Notice required by this subsection shall be given in accordance with regulations prescribed by the Pension Benefit Guaranty Corporation, except that notice to the Secretary shall be given in accordance with regulations prescribed by the Secretary.

"(5) Corporation may prescribe time.—The Pension Benefit Guaranty Corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f) Financial Assistance.—

"(1) Permissive application.—If the plan sponsor of an insolvent plan for which the resource benefit level is above the level of basic benefits anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(2) Mandatory application.—A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(g) Financial Assistance.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this subpart in such manner as determined by the Secretary.".

(b) Clerical Amendment.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart C. Special rules for multiemployer plans.".

Sec. 203. Minimum Funding Requirements.

Section 412 (relating to minimum funding standards) is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by adding at the end of subsection (b) the following new paragraphs:

"(6) Certain amortization charges and credits.—In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

"(7) Special rules for multiemployer plans.—For purposes of this section—

"(A) Withdrawal liability.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) Adjustments when a multiemployer plan leaves reorganization.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) as of the end of the last plan year that the plan was in reorganization.

"(C) Plan payments to supplemental program or withdrawal liability payment fund.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501 (c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) Interim withdrawal liability payments.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3)),"; and

(3) by adding at the end thereof the following new subsection:

"(j) Certain Terminated Multiemployer Plans.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2) of that Act.

"(k) Financial Assistance.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary.".

SEC. 204. EXCISE TAXES.

Section 4971 (relating to taxes on failure to meet minimum funding standard) is amended—

(1) by striking out "last sentence" in subsection (c) and inserting in lieu thereof "last two sentences"; and

(2) by adding at the end of subsection (d) the following new sentence: "In the case of a multiemployer plan which is in reorganization under section 418, the same notice and opportunity shall be provided to the Pension Benefit Guaranty Corporation.".

SEC. 205. DEDUCTIBILITY OF EMPLOYER LIABILITY PAYMENTS.

Subsection (g) of section 404 (relating to certain employer liability payments considered as contributions) is amended to read as follows:

"(g) Certain Employer Liability Payments Considered as Contributions.—

"(1) In general.—For purposes of this section, any amount paid by an employer under section 4062, 4063, or 4064, or part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be treated as a contribution to which this section applies by such employer to or under a stock bonus, pension, profit-sharing, or annuity plan.

"(2) Controlled group deductions.—In the case of a payment described in paragraph (1) made by an entity which is liable because it is a member of a commonly controlled group of corporations, trades, or businesses, within the meaning of subsection (b) or (c) of section 414, the fact that the entity did not directly employ participants of the plan with respect to which the liability payment was made shall not affect the deductibility of a payment which otherwise satisfies the conditions of section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income).

"(3) Coordination with subsection (a).—Any payment described in paragraph (1) shall (subject to the last sentence of subsection (a)(1)(A)) be deductible under this section when paid.".

SEC. 206. MINIMUM VESTING REQUIREMENTS.

Section 411 (relating to minimum vesting standards) is amended—

(1) by adding at the end of subsection (a)(3) the following new subparagraphs:

"(E) Cessation of contributions under a multiemployer plan.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(F) Reduction and suspension of benefits by a multiemployer plan.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because benefit payments under the plan may be suspended under section 418D or reduced or suspended under section 4281 of the Employee Retirement Income Security Act of 1974.";

(2) in subsection (a)(4)(E), by striking out "and";

(3) in subsection (a)(4)(F), by striking out the period and inserting in lieu thereof "; and";

(4) by adding at the end of subsection (a)(4) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of that employer from the plan (within the meaning of section 4203 of the Employee Retirement Income Security Act of 1974), or

"(II) to the extent permitted in regulations prescribed by the Secretary, a partial withdrawal described in section 4205(b)(2)(A)(i) of such Act in conjunction with the decertification of the collective bargaining representative, and

"(ii) with any employer under the plan after the termination date of the plan under section 4048 of such Act."; and

(5) in subsection (d)(6), by striking out "section 412(c)(8)" and inserting in lieu thereof "section 412(c)(8), or section 4281 of the Employee Retirement Income Security Act of 1974".

SEC. 207. DEFINITION OF MULTIEMPLOYER PLAN.

(a) Section 414 (relating to definitions and special rules) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) Multiemployer Plan.—

"(1) Definition.—For purposes of this part, the term 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation.

"(2) Cases of common control.—For purposes of this subsection, all trades or businesses (whether or not incorporated) which are under common control within the meaning of subsection (c) are considered a single employer.

"(3) Continuation of status after termination.—Notwithstanding paragraph (1), a plan is a multiemployer plan on and after its termination date under title IV of the Employee Retirement Income Security Act of 1974 if the plan was a multiemployer plan under this subsection for the plan year preceding its termination date.

"(4) Transitional rule.—For any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in this subsection as in effect immediately before that date.

"(5) Special election.—Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the Pension Benefit Guaranty Corporation and subject to the provisions of section 4403 (b) and (c) of the Employee Retirement Income Security Act of 1974, that the plan shall not be treated as a multiemployer plan for any purpose under such Act or this title, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(A) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of the Employee Retirement Income Security Act of 1974 and section 414(f)(1)(C) (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(B) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the Pension Benefit Guaranty Corporation, the Secretary of Labor and the Secretary.".

SEC. 208. RELATED TECHNICAL AMENDMENTS.

(a) Sections 401(a)(12) and 414(l) are each amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies."

(b) Subsection (d) of section 4975 is amended—

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (13) the following new paragraphs:

"(14) any transaction required or permitted under part 1 of subtitle E of title IV or section 4223 of the Employee Retirement Income Security Act of 1974, but this paragraph shall not apply with respect to the application of subsection (c) (1) (E) or (F); or

"(15) a merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231 of such Act, but this paragraph shall not apply with respect to the application of subsection (c) (1) (E) or (F).".

(c) Section 412(a) is amended by adding at the end thereof the following new sentence: "In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 418B.".

(d) Section 413(b) (6) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection and the last sentence of section 4971(a), an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall not be treated as a liability for contributions under the plan.".

(e) Section 401(a) (2), as amended by section 411(b) of this Act, is amended by inserting ", or the return of any withdrawal liability payment determined under section 423(d) of the Employee Retirement Income Security Act of 1974 to be an overpayment within 6 months of such determination" after "501(a)".

SEC. 209. WITHDRAWAL LIABILITY PAYMENT FUNDS.

(a) Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

"(A) the purpose of such trust is exclusively—

"(i) to pay any amount described in section 4223 (c) or (h) of the Employee Retirement Income Security Act of 1974, and

"(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

"(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(i) the purposes described in subparagraph (A), or

"(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21) (B),

"(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223 (b) or (h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

"(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.".

(b) Subsection (e) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end thereof the following new paragraph:

"(9) SECTION MADE APPLICABLE TO WITHDRAWAL LIABILITY PAYMENT FUNDS.—For purposes of this section—

"(A) IN GENERAL.—The term 'plan' includes a trust described in section 501(c) (22).

"(B) DISQUALIFIED PERSON.—In the case of any trust to which this section applies by reason of subparagraph (A), the term 'disqualified person' includes any person who is a disqualified person with respect to any plan to which such trust is permitted to make payments under section 4223 of the Employee Retirement Income Security Act of 1974.".

(c) (1) Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 194. CONTRIBUTIONS TO EMPLOYER LIABILITY TRUSTS.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the amount—

"(1) which is contributed by an employer to a trust described in section 501(c) (22) (relating to withdrawal liability payment fund) which meets the requirements of section 4223(h) of the Employee Retirement Income Security Act of 1974, and

"(2) which is properly allocable to such taxable year.

"(b) ALLOCATION TO TAXABLE YEAR.—In the case of a contribution described in subsection (a) which relates to any specified period of time which includes more than one taxable year, the amount properly allocable to any taxable year in such period shall be determined by prorating such amounts to such taxable years under regulations prescribed by the Secretary.

"(c) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under subsection (a) with respect to any contribution described in subsection (a) which does not relate to any specified period of time.".

(2) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"SEC. 194. Contributions to employer liability trusts.".

SEC. 210. EFFECTIVE DATE.

(a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) Subpart C of part I of subchapter D of chapter 1 of such Code (as added by this Act) shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

(1) the date on which the last collective-bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of this Act, expires, without regard to extensions agreed to after such date of enactment, or

(2) 3 years after the date of the enactment of this Act.

(c) The amendments made by section 209 shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 302. DEFINITION OF MULTIEMPLOYER PLAN.

(a) Section 3 is amended by striking out paragraph (37) and inserting in lieu thereof the following:

"(37) (A) The term 'multiemployer plan' means a plan—

"(i) to which more than one employer is required to contribute,

"(ii) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(iii) which satisfies such other requirements as the Secretary may prescribe by regulation.

"(B) For purposes of this paragraph, all trades or businesses (whether or not incorporated) which are under common control within the meaning of section 4001(c) (1) are considered a single employer.

"(C) Notwithstanding subparagraph (A), a plan is a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding its termination date.

"(D) For purposes of this title, notwithstanding the preceding provisions of this paragraph, for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 3(37) of this Act as in effect immediately before such date.".

"(E) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation and subject to the provisions of sections 4403 (b) and (c), that the plan shall not be treated as a multiemployer plan for all purposes under this Act or the Internal Revenue Code of 1954 if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(i) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37) (A) (iii) of this Act and section 414(f) (1) (C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(ii) The plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.".

SEC. 303. MINIMUM VESTING REQUIREMENTS.

Section 203 is amended—

(1) by inserting after subsection (a) (3) (D) the following new subparagraph:

"(E) (i) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(ii) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because benefit payments under the plan may be reduced or suspended under section 4281 or suspended under section 4245.";

(2) in subsection (b) (1) (E), by striking out "and";

(3) in subsection (b) (1) (F), by striking out the period and inserting in lieu thereof "; and"; and

(4) by inserting after subsection (b) (1) (F) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of such employer from the plan (within the meaning of section 4203), or

"(II) to the extent permitted by regulations prescribed by the Secretary of the Treasury, a partial withdrawal described in section 4205(b) (2) (A) (i) in connection with the decertification of the collective bargaining representative; and

"(ii) with any employer under the plan after the termination date of the plan under section 4048.".

Sec. 304. Minimum Funding Requirements

(a) Section 301 is amended by adding at the end thereof the following new subsections:

"(c) This part applies, with respect to a terminated multiemployer plan to which section 4021 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2).

"(d) Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary of the Treasury.".

(b) Section 302 is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear.

(2) by inserting at the end of subsection (b) the following new paragraphs:

"(6) In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 3(37) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the increase arises.

"(7) For purposes of this part—

"(A) Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) If a plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) of the Internal Revenue Code of 1954 as of the end of the last plan year that the plan was in reorganization.

"(C) Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 or to a fund exempt under section 501(c)(22) of such Code pursuant to section 4223 shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1954)."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 4243.".

Sec. 305. Application of Interested Party Rules to Withdrawal Liability Payment Funds.

Paragraph (14) of section 3 is amended by adding at the end thereof the following new sentence: "Any person who is a party in interest with respect to a plan to which a trust described in section 501(c)(22) of the Internal Revenue Code of 1954 is permitted to make payments under section 4223 shall be treated as a party in interest with respect to such trust.".

Sec. 306. Liquidated Damages With Respect to Delinquent Contributions.

(a) Part 5 of subtitle B of title I is amended by adding after section 514 the following new section:

"DELINQUENT CONTRIBUTIONS

"Sec. 515. Every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement.".

(b) Section 502 is amended by—

(1) redesignating subsection (b) (1) and (2) as subsection (b)(1) (A) and (B), and adding at the end thereof the following new paragraph:

"(2) The Secretary shall not initiate an action to enforce section 515.";

(2) redesignating subsection (g) as paragraph (1) of such subsection and inserting "(other than an action described in paragraph (2))" between "title" and "by" in such redesignated paragraph (1), and adding at the end thereof the following new paragraph:

"(2) In any action under this title by a fiduciary for or on behalf of a plan to enforce section 515 in which a judgment in favor of the plan is awarded, the court shall award the plan—

"(A) the unpaid contributions,

"(B) interest on the unpaid contributions,

"(C) an amount equal to the greater of—

"(i) interest on the unpaid contributions, or

"(ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (A),

"(D) reasonable attorney's fees and costs of the action, to be paid by the defendant, and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid contributions shall be determined by using the rate provided under the plan, or, if none, the rate prescribed under section 6621 of the Internal Revenue Code of 1954.".

Sec. 307. Actuarial Standards.

Section 103(d) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12) and by adding after paragraph (9) the following new paragraph:

"(10) A statement by the actuary which discloses—

"(A) any event which the actuary has not taken into account and

"(B) any trend which, for purposes of the actuarial assumptions used, was not assumed to continue in the future,

but only if, to the best of the actuary's knowledge, such event or trend may require a material increase in plan costs or required contribution rates.".

Sec. 308. Exemptions From Prohibited Transactions.

(a) Section 408(b) is amended by adding at the end thereof the following:

"(10) Any transaction required or permitted under part 1 of subtitle E of title IV.

"(11) A merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231.".

(b) Section 408 is amended by adding at the end thereof the following new subsection:

"(f) Section 406(b)(2) shall not apply to any merger or transfer described in subsection (b)(11).".

Sec. 309. Fiduciary Duties.

Section 404(a)(1)(D) is amended by inserting "or title IV" after "this title".

Sec. 310. Refund of Certain Withdrawal Liability Payments.

Section 403(c) is amended—

(1) by striking out "or (3)" in paragraph (1) and inserting in lieu thereof ", (3), or (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) In the case of a withdrawal liability payment which has been determined under section 4221(d) to be an overpayment, paragraph (1) shall not prohibit the return of such payment to the employer within 6 months after the date of such determination.".

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Amendment of the Employee Retirement Income Security Act of 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

Sec. 402. Related Technical Amendments.

(a)(1) Section 4001 is amended—

(A) in subsection (a)(2), by inserting "(other than a multiemployer plan)" after "more than one employer";

(B) by striking out subsection (a)(3) and inserting in lieu thereof the following:

"(3) 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation,

except that, in applying this paragraph—

"(i) a plan shall be considered a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding such termination, and

"(ii) for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 414(f) of the Internal Revenue Code of 1954 as in effect immediately before such date;";

(C) by striking out subsection (a) (6) and inserting in lieu thereof the following:

"(6) 'basic benefits' means benefits guaranteed under section 4022 (other than under section 4022(c)), or under section 4022A (other than under section 4022A(g));";

(D) in subsection (a) (7), by striking out the period and inserting in lieu thereof "or 4022A(g);";

(E) by inserting at the end of subsection (a) the following new paragraphs:

"(8) 'nonforfeitable benefit' means, with respect to a plan, a benefit for which a participant has satisfied the conditions for entitlement under the plan or the requirements of this Act (other than submission of a formal application, retirement, completion of a required waiting period, or death in the case of a benefit which returns all or a portion of a participant's accumulated manadatory employee contributions upon the participant's death), whether or not the benefit may subsequently be reduced or suspended by a plan amendment, an occurrence of any condition, or operation of this Act or the Internal Revenue Code of 1954;

"(9) 'reorganization index' means the amount determined under section 4241(b);

"(10) 'plan sponsor' means, with respect to a multiemployer plan—

"(A) the plan's joint board of trustees, or

"(B) if the plan has no joint board of trustees, the plan administrator;

"(11) 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan, as defined in regulations prescribed by the Secretary of the Treasury; and

"(12) 'outstanding claim for withdrawal liability' means a plan's claim for the unpaid balance of the liability determined under part 1 of subtitle E for which demand has been made, valued in accordance with regulations prescribed by the corporation.";

(F) by adding the following new paragraphs at the end of subsection (c) (1) (as redesignated):

"(2) For purposes of this title, 'single-employer plan' means, except as otherwise specifically provided in this title, any plan which is not a multiemployer plan.

"(3) For purposes of this title, except as otherwise provided in this title, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c) (10) of the Internal Revenue Code of 1954.

"(4) For purposes of subtitle E, 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.".

(2) Section 4003 is amended—

(A) in subsection (a), by striking out "determine whether any person has violated or is about to violate" and inserting in lieu thereof "enforce";

(B) in subsection (e) (1), by striking out "redress violations of" and inserting in lieu thereof "enforce", and

(C) in subsection (f) by inserting at the end thereof the following new sentence: "In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the State court to the United States District Court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect."

(3) Section 4007(a) is amended by inserting at the end thereof the following new sentence: "The corporation may waive or reduce premiums for a multiemployer plan for any plan year during which such plan receives financial assistance from the corporation under section 4261, except that any amount so waived or reduced shall be treated as financial assistance under such section.".

(4) Section 4021(a) is amended by inserting in the last sentence "unless otherwise specifically indicated in this title," before "a successor plan".

(5) Subtitle B of title IV is amended by inserting after section 4022B (as added by section 102 of this Act) the following new section:

"PLAN FIDUCIARIES

"SEC. 4023. Notwithstanding any other provision of this Act, a fiduciary of a plan to which section 4021 applies is not in violation of the fiduciary's duties as a result of any act or of any withholding of action required by this title.".

(6) Section 4042 is amended—

(A) in the last sentence of subsection (a), by striking out "such small" and inserting in lieu thereof "terminated";

(B) by redesignating subsection (b) as subsection (b) (1) and inserting at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of this title—

"(A) upon the petition of a plan administrator or the corporation, the appropriate United States district court may appoint a trustee in accordance with the provisions of this section if the interests of the plan participants would be better served by the appointment of the trustee, and

"(B) upon the petition of the corporation, the appropriate United States district court shall appoint a trustee proposed by the corporation for a multiemployer plan which is in reorganization or to which section 4041A (d) applies, unless such appointment would be adverse to the interests of the plan participants and beneficiaries in the aggregate.

"(3) The corporation and plan administrator may agree to the appointment of a trustee without proceeding in accordance with the requirements of paragraphs (1) and (2).";

(C) in the first sentence of subsection (c), by striking out "and" after "interests of the participants" and inserting in lieu thereof "or";

(D) in subsection (c), by striking out "further" each place it appears and inserting in lieu thereof "unreasonable";

(E) in subsection (d) (1) (A)—

(i) by striking out "and" in clause (iv);

(ii) by redesignating clause (v) as clause (vi) and by striking out the period at the end of such clause and inserting in lieu thereof "; and";

(iii) by inserting after clause (iv) the following new clause;

"(v) in the case of a multiemployer plan, to reduce benefits or suspend benefit payments under the plan, give appropriate notices, amend the plan, and perform other acts required or authorized by subtitle (E) to be performed by the plan sponsor or administrator;"; and

(iv) by inserting after clause (vi) (as redesignated) the following new clause:

"(vii) to require the plan sponsor, the plan administrator, any contributing or withdrawn employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the trustee may reasonably need in order to administer the plan.";

(F) in subsection (d) (1) (B) (i), by striking out "allocation requirements of section 4044" and inserting in lieu thereof "requirements of this title";

(G) in subsection (d) (1) (B) (iv), by striking out ", except to the extent that the corporation is an adverse party in a suit or proceeding";

(H) in subsection (d) (2) (B), by striking out "and";

(I) in subsection (d) (2) (C), by striking out the period and inserting in lieu thereof a comma; and

(J) by inserting after subsection (d) (2) (C) the following new subparagraphs;

"(D) each employer who is or may be liable to the plan under part 1 of subtitle E,

"(E) each employer who has an obligation to contribute, within the meaning of section 4212(a), under a multiemployer plan, and

"(F) each employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer described in subparagraph (C), (D), or (E).".

(7) Section 4044 is amended—

(A) in subsection (a), by inserting "single-employer" before "defined benefit plan";

(B) in subsection (c), by inserting "single-employer" before "plan occurring during" and before "plan occurring after"; and

(C) in subsection (d) (1), by inserting "single-employer" before "plan may be distributed".

(8) Section 4048 is amended—

(A) by inserting "(a)" before "For";

(B) by inserting "of a single-employer plan" after "date of termination"; and

(C) by adding at the end thereof the following new subsection:

"(b) For purposes of this title, the date of termination of a multiemployer plan is—

"(1) in the case of a plan terminated in accordance with the provisions of section 4041A, the date determined under subsection (b) of that section; or

"(2) in the case of a plan terminated in accordance with the provisions of section 4042, the date agreed to between the plan administrator and the corporation (or the trustee appointed under section 4042(b) (2), if any), or, if no agreement is reached, the date established by the court.".

(b) (1) Section 208 is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of this Act applies.".

(2) Section 403(a) (1) is amended by striking out "title" and inserting in lieu thereof "Act".

(3) Section 3002 is amended by adding at the end thereof the following new subsection:

"(e) The Secretary of the Treasury shall consult with the Pension Benefit Guaranty Corporation with respect to any proposed or final regulation authorized by subpart C of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954, or by sections 4241 through 4245 of this Act, before publishing any such proposed or final regulation.".

SEC. 403. CONFORMING AMENDMENTS.

(a) Section 4005 is amended—

(1) by striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "One of the funds shall be used with respect to basic benefits guaranteed under section 4022, one of the funds shall be used with respect to basic benefits guaranteed under section 4022A, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 4022 (if any), and the remaining fund shall be used with respect to nonbasic benefits guaranteed under section 4022A (if any), other than subsection (g)(2) thereof (if any).";

(2) in subsection (b)(2)(A), by inserting "or 4022A" after "4022";

(3) by striking out subparagraph (B) of subsection (b)(2) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(4) by adding at the end thereof the following new subsections:

"(d)(1) A fifth fund shall be established for the reimbursement of uncollectible withdrawal liability under section 4222, and shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under this title, and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available to make payments pursuant to the supplemental program established under section 4222, including those expenses and other charges determined to be appropriate by the corporation.

"(2) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(e)(1) A sixth fund shall be established for the supplemental benefit guarantee program provided under section 4022A(g)(2).

"(2) Such fund shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under section 4022A(g)(2), and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available for making payments pursuant to the supplemental benefit guarantee program established under section 4022A(g)(2), including those expenses and other charges determined to be appropriate by the corporation.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(f)(1) Amounts in any fund established under this section may be used only for the purposes for which such fund was established and may not be used to make loans to (or on behalf of) any other fund or to finance any other activity of the corporation.

"(2) None of the funds borrowed under subsection (c) may be used to make loans to (or on behalf of) any fund other than a fund described in the second sentence of subsection (a).

"(3) Any repayment to the corporation of any amount paid out of any fund in connection with a multiemployer plan shall be deposited in such fund.".

(b) Section 4007(a) is amended by striking out the second sentence.

(c) Section 4022 is amended—

(1) in the section heading, by inserting "SINGLE-EMPLOYER PLAN" before "BENEFITS GUARANTEED";

(2) in subsection (a)—

(A) by inserting ", in accordance with this section," after "guarantee"; and

(B) by inserting "single-employer" before "plan which terminates"; and

(C) by striking out the words "the terms of";

(3) in subsection (b)(1), by striking out "(8)" and inserting in lieu thereof "(7)"; and

(4) by striking out paragraph (5) of subsection (b) and redesignating paragraphs (6), (7), and (8) of such subsection as paragraphs (5), (6), and (7), respectively.

(d) Section 4041 is amended—
Section 4041 is amended—

(1) in the section heading, by striking out "TERMINATION BY PLAN ADMINISTRATOR" and inserting in lieu thereof "TERMINATION OF SINGLE-EMPLOYER PLANS";

(2) in subsection (a), by inserting "single-employer" after "termination of a"; and

(3) by striking out subsection (g).

(e) Section 4046 is amended—

(1) in paragraphs (2) and (3)—

(A) by inserting "or 4022A" after "4022"; and

(B) by inserting "basic" before "benefits"; and

(2) in paragraph (3), by striking out "4032 (b)(5)" and inserting in lieu thereof "4022 B". (f) Section 4061 is amended to read as follows:

"AMOUNTS PAYABLE BY THE CORPORATION

"SEC. 4061. The corporation shall pay benefits under a single-employer plan terminated under this title subject to the limitations and requirements of subtitle B of this title. The corporation shall provide financial assistance to pay benefits under a multiemployer plan which is insolvent under section 4245 or 4281(d)(2)(A), subject to the limitations and requirements of subtitles B, C, and E of this title. Amounts guaranteed by the corporation under sections 4022 and 4022A shall be paid by the corporation only out of the appropriate fund. The corporation shall make payments under the supplemental program to reimburse multiemployer plans for uncollectible withdrawal liability only out of the fund established under section 4005(e).".

(g) Section 4062(a) is amended by striking out "plan (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan".

(h) Section 4063 is amended—

(1) in the first sentence of subsection (a), by inserting "other than a multiemployer plan)" after "makes contributions"; and

(2) in the second sentence of subsection (d), by inserting "(other than a multiemployer plan)" after "of a plan".

(i) Section 4064(a) is amended by inserting "(other than a multiemployer plan)" after "plan under which more than one employer makes contributions".

(j) Section 4066 is amended by inserting "(other than a multiemployer plan)" after "more than one employer".

(k) Subsection (f) of section 4003 is amended by striking out "Any" and inserting in lieu thereof "Except as provided in section 4301(a)(2), any".

(l) Section 4002(b)(3) is amended by inserting "and such other bylaws, rules, and regulations as may be necessary to carry out the purposes of this title" after "Act".

Sec. 404. Clerical amendments.

The table of contents in section 1 is amended—

(1) by striking out the items relating to sections 4022 and 4023 and inserting in lieu thereof the following new items:

"Sec. 4022. Single-employer plan benefits guaranteed.
"Sec. 4022A. Multiemployer plan benefits guaranteed.
"Sec. 4022B. Aggregate limit on benefits guaranteed.
"Sec. 4023. Plan fiduciaries."

(2) by striking out the item relating to section 4041 and inserting in lieu thereof the following new items:

"Sec. 4041. Termination of single-employer plans.
"Sec. 4041A. Termination of multiemployer plans.";

and

(3) by striking out all after the item relating to section 4068 and inserting in lieu thereof the following new items:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"Sec. 4201. Withdrawal liability established.
"Sec. 4202. Determination and collection of liability; notification of employer.
"Sec. 4203. Complete withdrawal.
"Sec. 4204. Sale of assets.
"Sec. 4205. Partial withdrawals.
"Sec. 4206. Adjustment for partial withdrawal.
"Sec. 4207. Reduction or waiver of complete withdrawal liability.
"Sec. 4208. Reduction or abatement of partial withdrawal liability.
"Sec. 4209. De minimis rule.
"Sec. 4210. No withdrawal liability for certain temporary contribution obligation periods.
"Sec.. 4211. Methods for computing withdrawal liability.
"Sec. 4212. Obligation to contribute; special rules.
"Sec. 4213. Actuarial assumptions, etc.
"Sec. 4214. Application of plan amendments.
"Sec. 4215. Plan notification to corporation of potentially significant withdrawals.
"Sec. 4216. Special rules for section 404(c) plans.
"Sec. 4217. Application of part in case of certain pre-1980 withdrawals.
"Sec. 4218. Withdrawal not to occur merely because of change in business form or suspension of contributions during labor dispute.
"Sec. 4219. Notice, collection, etc., of withdrawal liability.
"Sec. 4220. Approval of amendments.
"Sec. 4221. Resolution of disputes.
"Sec. 4222. Reimbursements for uncollectible withdrawal liability.
"Sec. 4223. Withdrawal liability payment fund.
"Sec. 4224. Alternative method of withdrawal liability payments.
"Sec. 4225. Limitation on withdrawal liability.

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"Sec. 4231. Mergers and transfers between multiemployer plans.
"Sec. 4232. Transfers between a multiemployer plan and a single-employer plan.
"Sec. 4233. Partition.
"Sec. 4234. Asset transfer rules.
"Sec. 4235. Transfers pursuant to change in bargaining representative.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"Sec. 4241. Reorganization status.
"Sec. 4242. Notice of reorganization and funding requirements.
"Sec. 4243. Minimum contribution requirement.
"Sec. 4244. Overburden credit against minimum contribution requirement.
"Sec. 4245. Insolvent plans.

"PART 4—FINANCIAL ASSISTANCE

"Sec. 4261. Financial assistance.

"PART 5—BENEFITS AFTER TERMINATION

"Sec. 4281. Benefits under certain terminated plans.

"PART 6—ENFORCEMENT

"Sec. 4301. Civil actions.
"Sec. 4302. Penalty for failure to provide notice.
"Sec. 4303. Election of plan status.

"Subtitle F—Transition Rules and Effective Dates

"Sec. 4401. Amendment to Internal Revenue Code of 1954.

"Sec. 4402. Transition rules and effective dates.

"Sec. 4403. Election of plan status.".

SEC. 405. ACTION TAKEN BEFORE REGULATIONS ARE PRESCRIBED.

(a) Except as otherwise provided in the amendments made by this Act and in subsection (b), if the way in which any such amendment will apply to a particular circumstance is to be set forth in regulations, any reasonable action during the period before such regulations take effect shall be treated as complying with such regulations for such period.

(b) Subsection (a) shall not apply to any action which violates any instruction issued, or temporary rule prescribed, by the agency having jurisdiction but only if such instruction or rule was published, or furnished to the party taking the action, before such action was taken.

SEC. 406. PENSION BENEFIT GUARANTY CORPORATION PUT ON BUDGET.

(a) Paragraph (2) of section 4002(g) is amended to read as follows:

"(2) The receipts and disbursements of the corporation in the discharge of its functions shall be included in the totals of the budget of the United States Government. The United States is not liable for any obligation or liability incurred by the corporation.".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1980.

SEC. 407. CHURCH PLANS.

(a) Section 3(33) is amended to read as follows:

"(33)(A) The term 'church plan' means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954.

"(B) The term 'church plan' does not include a plan—

"(i) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Internal Revenue Code of 1954), or

"(ii) if less than substantially all of the individuals included in the plan are individuals described in subparagraph (A) or in clause (ii) of subparagraph (C) (or their beneficiaries).

"(C) For purposes of this paragraph—

"(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(ii) The term 'employee' of a church or a convention or association of churches includes—

"(I) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches; and

"(III) an individual described in clause (v).

"(iii) A church or a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 shall be deemed the employer of any individual included as an employee under clause (ii).

"(iv) An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(v) If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches, the church plan shall not fail to meet the requirements of this paragraph merely because the plan—

"(I) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(II) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7) of the Internal Revenue Code of 1954) at the time of such separation from service.

"(D)(i) If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 fails to meet one or more of the requirements of this paragraph and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this paragraph for the year in which the correction was made and for all prior years.

"(ii) If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this paragraph beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(iii) For purposes of this subparagraph, the term 'correction period' means—

"(I) the period ending 270 days after the date of mailing by the Secretary of such a notice of default with respect to the plan's failure to meet one or more of the requirements of this paragraph; or

"(II) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(III) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(b) Section 414(e) of the Internal Revenue Code of 1954 (defining church plan) is amended to read as follows:

"(e) CHURCH PLAN.—

"(1) IN GENERAL.—For purpose of this part, the term 'church plan' means a plan established and maintained (to the extent required in paragraph (2)(B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501.

"(2) CERTAIN PLANS EXCLUDED.—The term 'church plan' does not include a plan—

"(A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or

"(B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

"(3) DEFINITIONS AND OTHER PROVISIONS.—For purposes of this subsection—

"(A) TREATMENT AS CHURCH PLAN.—A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(B) EMPLOYEE DEFINED.—The term employee of a church or a convention or association of churches shall include—

"(i) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(ii) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches; and

"(iii) an individual described in subparagraph (E).

"(C) CHURCH TREATED AS EMPLOYER.—A church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

"(D) ASSOCIATION WITH CHURCH.—An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(E) SPECIAL RULE IN CASE OF SEPARATION FROM PLAN.—If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization described in clause (ii) of paragraph (3)(B), the church plan shall not fail to meet the requirements of this subsection merely because the plan—

"(i) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(ii) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7)) at the time of such separation from service.

"(4) CORRECTION OF FAILURE TO MEET CHURCH PLAN REQUIREMENTS.—

"(A) IN GENERAL.—If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years.

"(B) Failure to correct.—If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this subsection beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(C) Correction period defined.—The term 'correction period' means—

"(i) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this subsection;

"(ii) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(iii) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(c) The amendments made by this section shall be effective as of January 1, 1974.

Sec. 408. Deductibility of Payments To Plan by a Corporation Operating Public Transportation System Acquired by a State.

(a) For purposes of subsection (g) of section 404 of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions), as amended by section 205 of this Act, any payment made to a plan covering employees of a corporation operating a public transportation system shall be treated as a payment described in paragraph (1) of such subsection if—

(1) such payment is made to fund accrued benefits under the plan in conjunction with an acquisition by a State (or agency or instrumentality thereof) of the stock or assets of such corporation, and

(2) such acquisition is pursuant to a State public transportation law enacted after June 30, 1979, and before January 1, 1980.

(b) The provisions of this section shall apply to payments made after June 29, 1980.

Sec. 409. Waiver of Preemption in Case of Hawaiian Health Care Plan.

(a) Section 514(b) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Law (Haw. Rev. Stat. 393-1 through 51), as in effect on January 1, 1979.

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

"(C) Parts (1), (4), and (5) of this subtitle shall supersede the State law described in subparagraph (A), but the Secretary may enter into cooperative arrangements under this paragraph and section 506 with officials of Hawaii to assist them in effectuating the policies of provisions of such laws which are superseded by such parts.".

(b) The Secretary shall—

(1) conduct a study on the effects of paragraph (5) of section 514(b) of the Employee Retirement Income Security Act of 1974, as added by subsection (a), and the effects of extending the exemption from section 514(a) of such Act provided by such paragraph to include other State laws which impose requirements with respect to employer provided health care plans, and

(2) report to the Congress on the results of such study within 2 years after the date of the enactment of this Act.

(c) The amendment made by this section shall take effect on the date of the enactment of this Act.

Sec. 410. Treatment of Certain Severance Pay Arrangements and Supplemental Retirement Income Payments as Welfare Plans.

Paragraph (2) of section 3 is amended—

(1) by striking out "The" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the",

(2) by striking out "(A)" and inserting in lieu thereof "(i)",

(3) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(4) by adding at the end thereof the following new subparagraph:

"(B) The Secretary may by regulation prescribe rules consistent with the standards and purposes of this Act providing one or more exempt categories under which—

"(i) severance pay arrangements, and

"(ii) supplemental retirement income payments under which the pension benefits of retirees or their beneficiaries are supplemented to take into account some portion or all of the increases in the cost of living (as determined by the Secretary of Labor) since retirement,

shall, for purposes of this title, be treated as welfare plans rather than pension plans. In the case of any arrangement or payment a principal effect of which is the evasion of the standards or purposes of this Act applicable to pension plans, such arrangement or payment shall be treated as a pension plan.".

Sec. 411. Refund of Mistaken Contributions.

(a) Paragraph (2)(A) of section 403(c) is amended to read as follows:

"(2)(A) In the case of a contribution, or a payment of withdrawal liability under part 1 of subtitle E of part IV—

"(i) made by an employer to a plan (other than a multiemployer plan) by a mistake of fact, paragraph (1) shall not prohibit the return of such contribution to the employer within one year after the payment of the contribution, and

"(ii) made by an employer to a multiemployer plan by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) of the Internal Revenue Code of 1954 or the trust which is part of such plan is exempt from taxation under section 501(a) of such Code), paragraph (1) shall not prohibit the return of such contribution to the employer within 6 months after the plan administrator determines that the contribution was made by such a mistake.".

(b) Paragraph (2) of section 401(a) of the Internal Revenue Code of 1954 (relating to exclusive benefit of employees and beneficiaries) is amended by inserting before the semicolon at the end thereof the following: "(but this paragraph shall not be construed, in the case of a multiemployer plan, to prohibit the return of a contribution within 6 months after the plan administrator determines that the contribution was made by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) or the trust which is part of such plan is exempt from taxation under section 501(a)).".

(c) The amendment made by this section shall take effect on January 1, 1975, except that in the case of contributions received by a collectively bargained plan maintained by more than one employer before the date of enactment of this Act, any determination by the plan administrator that any such contribution was made by mistake of fact or law before such date shall be deemed to have been made on such date of enactment.

Sec. 412. Definition of Employee Pension Benefit Plan.

(a) Section 201 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new subsection:

"(8) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

(b) Section 301(a) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(10) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

(c) Section 403(b) of ERISA is amended by adding at the end thereof the following new paragraph (6):

"(6) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

Sec. 413. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.

(a)(1) The Pension Benefit Guaranty Corporation shall conduct a separate study with respect to—

(A) the advantages and disadvantages of establishing a graduated premium rate schedule under section 4006 of the Employee Retirement Income and Security Act of 1974 which is based on risk, and

(B) the necessity of adopting special rules in cases of union-mandated withdrawal from multiemployer pension plans.

(2) The Corporation shall report to the Congress the results of the studies conducted under paragraph (1), including its recommendations with respect thereto.

(b)(1) The Secretary of Labor shall study the feasibility of requiring collective bargaining on both the issues of contributions to, and benefits from, multiemployer plans.

(2) The Secretary shall submit a report on the study conducted under paragraph (1) to the Congress within 3 years of the date of the enactment of this Act.

Sec. 414. Study by General Accounting Office; Hearings Required.

(a)(1) The Comptroller General of the United States shall conduct a study of the effects of the amendments made by, and the provisions of, this Act on—

(A) participants, beneficiaries, employers, employee organizations, and other parties affected by this Act, and

(B) the self-sufficiency of the fund established under section 4005 of the Employee Retirement Income Security Act of 1974 with respect to benefits guaranteed under section 4022A of such Act, taking into account the financial conditions of multiemployer plans and employers.

(2)(A) The Comptroller General shall report to the Congress no later than June 30, 1985, the results of the study conducted under paragraph (1), including his recommendations with respect thereto.

(B) The report submitted under subparagraph (A) shall be made available to the public.

(b) In conducting the study under subsection (a)(1), the Comptroller General shall consult with the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Education and Labor and Ways and Means of the House of Representatives.

(c) The committees described in subsection (b) shall conduct hearings on the report and recommendations submitted under subsection (a)(2).

(d) For purposes of conducting the study required by this section, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(1) within the possession or control of the administrator, the sponsor, any contributing employer, or any employee organization representing participants of any plan, and

(2) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual in making any information obtained under this subsection available to the public.

Sec. 415. Government Contractors' Affirmative Action Requirements.

Section 718 of the Civil Rights Act of 1964 is amended by inserting "(a)" after the section designation, and by adding at the end thereof the following new subsection:

"(b) In administering any executive order relating to equal employment opportunity programs of government contractors and subcontractors, and any rules and regulations issued pursuant to such order, no provisions requiring affirmative action programs or activities shall apply to any contractor or subcontractor who at all times during the twelve-month period preceding the awarding of the contract or subcontract employed five or fewer employees (including all employees of all firms owned or controlled by the contractor or subcontractor) and who at all times during the term of the contract or subcontract will employ five or fewer employees: *Provided*, That nothing in this subsection shall make inapplicable provisions of any such executive order requiring a commitment to refrain from or a prohibition of employment discrimination because of race, color, religion, sex or national origin, together with remedies for such discrimination, and requiring all contractors to include affirmative action provisions and provide enforcement assistance with respect to any subcontract with a subcontractor who employs more than five employees as described in this paragraph.".

Sec. 416. Stone Mining Operations.

Section 3(h)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 802 (h)(1)), as amended by the Federal Mine Safety and Health Amendments Act of 1977, is amended by inserting after "preparation facilities." the following new sentence: "Such term shall not include any surface mining of stone, clay, colloidal phosphate, or sand and gravel.".

Sec. 417. Occupational Safety and Health Act Amendments.

Section 4 of Occupational Safety and Health Act of 1970 (29 U.S.C., Section 653) is amended by adding the following new subsection:

"(C) Nothing in this Act shall authorize the Secretary to administer or enforce any standard, duty, regulation, or order with respect to any employer of 10 or fewer employees who is included within a category having an occupational injury lost work day case rate—at the most precise Standard Industrial Classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics except—

"(1) to take any action authorized by this Act with respect to any employer or group of employers within such category whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards;

"(2) to provide requested consultation, technical assistance, educational and training services, and to conduct surveys and studies;

"(3) to conduct inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(4) to take any action authorized by this Act with respect to imminent dangers;

"(5) to take any action authorized by this Act with respect to health hazards;

"(6) to investigate an employment accident which is fatal or results in hospitalization of one or more employees, and take any action pursuant to such investigation authorized by this Act;

"(7) to take any action authorized by this Act with respect to complaints of discrimination against employees for exercising rights under this Act.".

Sec. 418. Reduction in Unemployment Benefits on Account of Pension.

(a) Section 3304(a)(15) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "except that—

"(A) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained (or contributed to) by a base period or chargeable employer (as determined under the State law), and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

(b) The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

Sec. 419. Federal Service of Ex-Servicemen.

(a) Section 8521(a)(1)(A) of title 5, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "one year".

(b) The amendment made by this subsection shall be applicable with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after January 1, 1981.

Sec. 420. Benefits on Account of Federal Service To Be Paid by Employing Federal Agency

(a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"Sec. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code.".

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. Federal Employees Compensation Account

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after September 30, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1980) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures, and if, on the basis of such estimate, he determines that the amount described in clause (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

(c) All funds, appropriated for the fiscal year beginning October 1, 1979, and which are available for the making of payments to States after September 30, 1980, pursuant to agreements entered into under chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such chapter in States which do not have in effect such an agreement, shall be transferred on October 1, 1980 to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

SEC. 421. CESSATION OF EXTENDED BENEFITS WHEN INDIVIDUAL MOVES TO STATE IN WHICH TRIGGER IS NOT "ON"

(a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (2), payment of extended compensation shall not be made to an individual for any week of unemployment in such individual's eligibility period (as defined in section 203(c)) during which such individual resides in a State in which there is not a State 'on' indicator for such week, if such individual took up residence in such State after the beginning of the period of unemployment with respect to which extended benefits would otherwise be payable, except that the preceding provisions of this paragraph shall not apply with respect to the first two weeks during which such individual resides in such State.".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of H.R. 3904.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent to indefinitely postpone consideration of S. 1076.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2189, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2189) to establish a program for Federal storage of spent fuel from civilian nuclear power plants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, that Senators may speak therein, and that the time not extend beyond 12 midnight.

The PRESIDING OFFICER. Without objection, it is so ordered.

N. F. WALKER'S RETIREMENT FROM THE SOUTH CAROLINA SCHOOL FOR THE DEAF AND BLIND

Mr. THURMOND. Mr. President, on Tuesday, June 24, 1980, Mr. N. F. Walker II, retired as president of the South Carolina School for the Deaf and the Blind, after having served in that capacity for 32 years. The services that Mr. Walker has rendered the deaf, the blind, and the multihandicapped in our State, cannot be measured. His compassion and empathy for these special citizens has given them the encouragement to excel and to find fulfillment and useful employment upon completing their fine education at the South Carolina School for the Deaf and Blind at Cedar Spring.

I would like to quote from Mr. Walker's biography which gives some of his accomplishments, as well as the tremendous progress the school has made under his leadership over the past decades:

> Under Mr. Walker's leadership, real progress has been made in all areas of the school. From 1969 to 1980, the operating budget jumped from $1,437,043.00 to $6,875,266.00. The number of employees rose from 263 to 403. The capital improvements during this time amounted to $7,442,000.00. Most of this money was spent for new buildings which included a classroom building, a dormitory, a central kitchen, a student center, an infirmary, a Multi-Handicapped School, a warehouse and a garage.
>
> Perhaps the two major changes during these eleven years was the establishment of the Multi-Handicapped School and the beginning of transporting of all students home for each weekend during the school year. The Multi-Handicapped School has filled an educational void in the State for many children who otherwise had no place to receive a proper education. This part of the school is growing rapidly, confirming its need in the State's educational system. The transportation of all students home each weekend provides a much closer tie with the home and has proven to be extremely beneficial to both parent and child.

Mr. Walker is a dedicated, selfless educator, and his long, illustrious career will always be remembered by the countless people throughout his life.

Mr. President, in order that I may share with my colleagues a brief biographical sketch of Mr. Walker and the program for his retirement banquet, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BANQUET PROGRAM HONORING MR. N. F. WALKER CONTINUED

Invocation, Pastor Robert Bremer.

Interpreters, Mrs. Maureen Irons and Mrs. Phyllis Petty.

Toastmaster, Dr. Jack Gallagher, Executive Director, South Carolina School for the Deaf and the Blind.

DINNER

History In The Making, Mr. Jack Slemenda, Curriculum Specialist, SCSDB; Mr. Billy Buffington, Artist, U.S.C.S.

RECOGNITION OF GUESTS

Contributing to the Education of the Handicapped, Dr. Charlie Williams, State Superintendent of Education.

Presentation of Awards, Mrs. Caroline Davis, Chairman, South Carolina School for the Deaf and the Blind, Senator Horace Smith, Chairman, Spartanburg Delegation.

Service to the Handicapped, Mrs. Strom Thurmond.

Presentation Award, Dr. Jack Gallagher, SCSDB Executive Director.

Benediction, Pastor Robert Bremer.

NEWTON FARMER WALKER, II

Mr. Newton F. Walker was born at Cedar Spring, Spartanburg County, on March 31, 1915. He is the son of the late Dr. W. Laurens Walker and Nelia Dailey Walker. He was graduated from the Spartanburg High School, and received his A.B. Degree from Wofford College in 1936.

Mr. Walker lived at the Cedar Spring School during his childhood and youth, as his family had been closely connected with the School since its founding by his great-grandfather in 1849. Upon graduation from Wofford College, Mr. Walker chose to follow in the family tradition—the education of the deaf and the blind, and attended Gallaudet College, in Washington, D.C., where he received his Master's Degree in 1937. For the next five years, Mr. Walker taught in the New Jersey School for the Deaf and was Principal of the South Dakota School for the Deaf.

In 1942 he entered the Navy, where he served during World War II as a Commissioned Officer. Mr. Walker was honorably discharged from the Navy in 1946, returning to the education of the deaf as Principal of the Minnesota School for the Deaf for two years before coming to the South Carolina School for the Deaf and the Blind, in 1948, as Assistant Superintendent and Principal. Mr. Walker was elected President on July 1, 1969, upon the retirement of his brother, Dr. W. Laurens Walker, Jr.

Under Mr. Walker's leadership, real progress has been made in all areas of the School. From 1969 to 1980, the operating budget jumped from $1,437,043.00 to $6.875.266.00. The number of employees rose from 263 to 403. The capital improvements during this time amounted to $7,442,000.00. Most of this money was spent for new buildings which included a classroom building, a dormitory, a central kitchen, a student center, an infirmary, a Multi-Handicapped School, a warehouse and a garage.

Perhaps the two major changes during these eleven years was the establishment of the Multi-Handicapped School and the beginning of transporting of all students home for each weekend during the school year. The Multi-Handicapped School has filled an educational void in the State for many children who otherwise had no place to receive a proper education. This part of the School is growing rapidly, confirming its need in the State's educational system. The transportation of all students home each weekend provides a much closer tie with the home and has proven to be extremely beneficial to both parent and child.

Over the years of Mr. Walker's connection with Cedar Spring, he has been honored by his community in many ways and has served his community in many areas. During this time, he has served as Elder of the First Presbyterian Church. President of the Spartanburg Rotary Club, served in various capacities of the Spartanburg County United

Way, and has been a member of the Board of Directors of the South Carolina Lung Association. Mr. Walker has also served on numerous State committees and organizations which are connected with handicapped people of the State of South Carolina.

Mr. Walker was married to Ellen Jane Hancock, of Brookline, Massachusetts, on February 20, 1944. They have one son, Newton F. Walker, III, who lives in Albany, New York and is a member of the faculty of the University of New York at Albany.

DR. FANTA, FAMILY PRACTITIONER OF THE YEAR

Mr. JAVITS. Mr. President, I say to Senator RANDOLPH, I have just had a visit from a very distinguished constituent of mine who illustrates that while there may be new values like we were discussing, there are some older, tried, and true values, which are tremendously effective and useful.

I have just been visited by Dr. Fanta, who is the family practitioner of the year for the Association of Family Practitioners.

It put me in mind of how, as a child, I was ministered to by a family doctor, whom I referred to as a ministering angel.

Dr. Fanta, whom I had the privilege of greeting and who, hopefully, is hearing me in the gallery, gave me the very same deep experience, recreating how I felt 60 years ago.

So we have the great privilege in a Chamber like this, because we are sponsoring family practice programs in our medical assistance of various kinds, educational and otherwise, we have a great experience here of living the new and also reliving the old.

CONTROL OF SPENDING

Mr. HARRY F. BYRD, JR. Mr. President, the budget figures submitted to the Congress 8 days ago dramatize the fact that Federal spending is totally out of control.

For the current year, spending is now estimated at $579 billion, a recordbreaking $85 billion over 1979.

For 1981, the spending estimate is up by $22 billion in the brief period from March to July. The claim of a balanced budget has evaporated, and a deficit of $30 billion is projected.

Seldom have we had such clear evidence of the fact that Government spending is completely unrestrained. It is much like a runaway locomotive on a downgrade with no brakes.

Therefore a crucial question faces the Congress: How do we gain control over spending?

We know that we cannot rely on self-discipline in the Congress or the administration. Over the last decade spending has nearly tripled and we have accumulated $360 billion in deficits. So much for self-discipline.

We know also that we cannot depend on the congressional budget process. It was inaugurated with high hopes 5 years ago, but spending actually has risen faster during the last 5 years than during the 5 years preceding the launching of the new procedures.

Furthermore, it seems we cannot rely on passing statutes. In 1978, we enacted Public Law 95-435, which forbade deficits in 1981 or any subsequent year. Yet now the President has proposed a deficit of $30 billion for 1981 without so much as a nod in the direction of the law.

Last year a group of Senators, myself included, worked for months to hammer out a constitutional amendment to restrain spending and require a balanced budget. The proposal which emerged from our deliberations was approved by the Subcommittee on the Constitution, but it was narrowly defeated in the full Committee on the Judiciary and hence did not reach the floor.

Despite that defeat, I believe that at some point Congress will have to approve a constitutional amendment that will put the brakes on the Federal spending locomotive, since self-discipline, the congressional budget process, and statutory enactments have not done so.

As I see it, at some point—and perhaps sooner than many realize—we will face the choice between a constitutional restraint on runaway spending and utter economic disaster.

WASHINGTON COUNTY, VT.

Mr. LEAHY. Mr. President, in 1782, Thomas Mead and his family left their home in Westfield, Mass., and headed north looking for new land to settle and a new home to build.

Thomas Mead worked his way through the Green Mountains and finally chose to stop his trek in an area which would become Washington County, Vt. It is a part of Vermont with which I am particulaly familiar because it is also where I am proud to say I make my home.

On Saturday, August 2, I will join my neighbors in a historical pageant at the Washington County Field Days commemorating Thomas Mead's decision to settle in Washington County. The event will take place on the Newhall Farm in Middlesex, Vt.—the site of Thomas Mead's first Vermont home.

I am proud, as a Senator, a Vermonter, and a resident of Middlesex, to participate in this great event.

CONGRATULATIONS TO MS. ALEXIS M. HERMAN

Mr. HEFLIN. Mr. President, I want to take the time to express my congratulations to a fellow Alabamian who has distinguished herself by accomplishing so much in such a very short period of time. The person to whom I refer is Ms. Alexis Herman.

Today, Mr. President, Ms. Herman will be sworn in as a member of the Board of Directors of the National Consumer Cooperative Bank as a Government representative. She was nominated by the President for this new position on May 6, 1980, and confirmed by the U.S. Senate on June 6, 1980.

Immediately prior to assuming her new responsibilities, Ms. Herman served as Director of the Women's Bureau at the U.S. Department of Labor. As such, she was one of the top female officials in that Department and the youngest Director of the Women's Bureau in its 59-year history.

Born in Mobile, Ala., in 1947, Ms. Herman received her undergraduate education from Xavier University in New Orleans in 1969 and did graduate work at the University of South Alabama.

From 1969 to 1972, Ms. Herman was a social worker for Catholic Social Services in Mobile. From 1972 to 1974, she was director of the black women's employment program of the Southern Regional Council in Atlanta. She was national director of women's programs for the minority women employment program of the Recruitment and Training Program, Inc., in Atlanta from 1974 to 1977. From that point until her most recent position, Ms. Herman served as Director of the Women's Bureau at the Department of Labor (DOL). While there, her latest departmental responsibility was to chair the DOL task force, which coordinates and monitors the minority bank deposit program and contracts to minority-owned businesses and women-owned businesses.

Ms. Herman is affiliated with the World Peace Commission, the United States Catholic Conference on Social Justice, the Young Women's Christian Association, board of directors, the United States Youth Council, the United States Catholic Bishops Conference (1976 chairperson) and Delta Sigma Theta, Inc.

Her awards and honors include the following: One of 10 Outstanding Young Women of America, 1978; Woman of the Year, 1977 (National Black Women's Political Leadership Caucus), and Outstanding Young Person in Atlanta Award, 1974.

Mr. President, Ms. Herman has spent most of her adult life trying to elevate the role of minority women in society. She has also worked very hard at trying to move them into the mainstream of economic progress. In these regards, she has given of herself, her time, and talent in many untiring ways.

As she, herself, moves up another rung of the ladder of success, I salute and congratulate her for her tremendous accomplishments in just a 33-year span.

CAPTIVE NATIONS AND AFGHANISTAN RELIEF WEEKS, 1980

Mr. JAVITS. Mr. President, last week marked yet another anniversary—the 22d—of Captive Nations Week, established under the provisions of Public Law 86-90, which I cosponsored in 1958. This year, the anniversary comes on the heels of the President's proclamation of the week of July 21-27 as Afghanistan Relief Week. Both weeks are fitting symbols of the concern and solidarity of the American people with the plight of the millions of citizens in Eastern Europe and now, in Afghanistan, whose aspirations for freedom and independence are still being brutally denied. Daily reports of the courageous struggles of the Afghan people against the superior forces of the Soviet Union serve as living testimony to the strength of the ideals of national integrity and independence—ideals which Public Law 86-90 calls upon all of us to remember as we observe Captive Nations Week.

The concurrence of the observance of these 2 weeks are a reminder of how little has changed in 35 years. Kabul and East Berlin are light years apart, yet no East German can fail to understand the yearnings that motivate the Afghan rebels. At a time when the athletes in Moscow are acclaiming the achievements of the human body, the human spirit in Eastern Europe and the Soviet Union continues to be choked by the lack of freedom that it needs to survive. Lone voices of dissent in Czechoslovakia, Romania, Poland, the Soviet Union, and elsewhere in the Warsaw Pact are briefly heard and then quickly crushed. Shcharansky, Orlov, and the other lesser known names and faces are still languishing in prison camps, while the Soviet authorities mount a "clean up" campaign to rid Moscow streets of undesirable faces. Soviet Jews are finding it increasingly difficult to leave their country, while the intensification of an anti-Semitic campaign takes its toll on the Soviet Jewish population.

The promises of the Helsinki Final Act, which the people of Eastern Europe and the Soviet Union took more seriously than their governments ever did, are still looked to as the framework for a new era of European coexistence. The Madrid meeting to review implementation of the Final Act is scheduled to begin in a few months, and most of the 35 signatories are pledging to seek a positive outcome from the second of such meetings. Clearly, however, the process cannot move forward and the agreement cannot be strengthened until and unless all the signatory nations display good faith efforts to implement the provisions that have already been negotiated. We have yet to see such efforts from the governments of the Soviet Union and Eastern Europe, particularly in their pledges to respect the inviolability of frontiers and respect human dignity and human rights. Despite the strains that presently exist in East/West relations, it must be made clear to the nations of the Warsaw Pact at the Madrid meeting and elsewhere that coexistence means more than trading relationships and mutual exchange of diplomatic delegations. It must be made clear that security in Europe goes beyond numbers of tanks and notifications of military maneuvers. As the Final Act so clearly highlights, how a nation treats its own citizens and the citizens of other nations is an important factor in state-to-state relations and directly affects questions of peace and security.

Within this 2 week period, the memories of Budapest in 1956, of Prague in 1969, of Kabul in 1980 are reviewed and revived and remembered with all the human tragedies that each event has brought. For the people living in the captive nations, those events color the realities of daily life. We in the West who are fortunate to live under the freedoms we were blessed with must never forget the millions who are less fortunate and are forced to live under a captivity of the mind and spirit. They are especially remembered during this observation of Captive Nations Week, but we must be vigilant in our efforts on their behalf throughout every week of the year.

SENATORS ARMSTRONG AND COHEN HONORED BY NON-COMMISSIONED OFFICERS ASSOCIATION OF UNITED STATES

Mr. THURMOND. Mr. President, recently the Non-Commissioned Officers Association of the U.S.A. (NCOA) held its 19th Annual International Convention in Las Vegas, Nev. The organization, composed of noncommissioned and petty officers of our Armed Forces, of which 83 percent are on active duty with the Army, Navy, Marine Corps, Air Force, and Coast Guard, chose this occasion to honor two of our colleagues, Senators WILLIAM ARMSTRONG of Colorado and WILLIAM S. COHEN of Maine. Both were presented the Association's Vanguard Award.

This token of recognition was presented to these two young Senators for their dynamic efforts on behalf of the men and women serving in the U.S. Armed Forces. Few Members of this august body have fought as hard and as tirelessly as Senators ARMSTRONG and COHEN in attempting to bring equity in pay and treatment to our soldiers, sailors, Marines, airmen, and coast guardsmen.

SENATOR ARMSTRONG

Senator ARMSTRONG awakened the Senate to the plight of our military services and their losing battle to retain qualified and experienced NCO's and petty officers. He alerted the Senate to the shortcomings in pay and allowances going to the men and women in uniform. Doggedly and determinedly he fought the Senate hierarchy and forced the membership to recognize the shortsightedness of ignoring a problem that was growing worse as each day dawned.

Senator ARMSTRONG pushed through a proposal to give enlisted personnel the same per diem reimbursement as allowed commissioned officers. He also fought for a pay increase. This effort resulted in the Senate accepting the Nunn-Warner amendment to increase many of the special pays and allowances going to our service men and women. This amendment should soon become a reality.

He also introduced a new GI education bill designed to attract and retain persons in the Armed Forces. Recently, he led the Senate in turning over a Presidential edict that charges military personnel for parking on certain military reservations. I was pleased to have joined the Senator in cosponsoring this amendment to fiscal year 1981 defense authorization bill.

SENATOR COHEN

Senator COHEN has equally strived to bring about equity and fair play for our service members. He assisted Senator ARMSTRONG, myself, and others in pushing for an across-the-board pay increase for military personnel.

Senator COHEN has sponsored a GI education bill, one that was authored by NCOA, and a legislative package that forgave student loans for those who served a specified time in the uniformed services.

He also opposed draft registration and believed that the All Volunteer Force could be workable providing Congress gave it a fighting chance. He supported NCOA in its belief that a viable program of education benefits and adequate compensation would prove that the AVF could be a success.

Mr. President, there is much more to this story than what I have offered here today. These young Senators are devoted, dedicated, determined, and decidedly loyal to their goal to see that our men and women of the Armed Forces are neither mistreated nor forgotten by this Senate.

They are to be commended. They are to be saluted by each of us.

I join the NCOA, 200,000 strong, in acknowledging the efforts of these two fine Senators.

My friends in NCOA, who named me as the first recipient of their "L. Mendel Rivers Award for Legislative Action" and who allowed me to present the first NCOA Vanguard Award, made a wise decision in saluting Senators ARMSTRONG and COHEN for their outstanding efforts.

THE DEATH OF A. L. M. WIGGINS

Mr. THURMOND. Mr. President, Mr. A. L. M. Wiggins, a well-known and well-respected South Carolina banker, businessman, and public servant, died recently, ending a long and distinguished life of service to his State and Nation.

I knew Mr. Wiggins for many years, and he was a man of integrity and ability. He was a good friend who was dedicated and sincere in everything he undertook.

After graduating from the University of North Carolina, Mr. Wiggins moved to Hartsville, S.C., where he quickly established himself as a capable businessman. He assisted in the organization of Coker's Pedigreed Seed Co., and Coker's Wholesale Co., and became manager of J. L. Coker & Co. He bought the Hartsville Messenger in 1921 and was chairman of its board at his death.

He entered the banking profession when he organized the Trust Company of South Carolina and served as the vice president and later president of the Bank of Hartsville. He served as president of the South Carolina Bankers' Association, president of the American Bankers' Association, and lecturer at the Rutgers University Graduate School of Banking.

Mr. Wiggins was always a public-spirited man who gave his all to his community, State, and Nation. Forever active in civic affairs, he was instrumental in the organization of the Hartsville Rotary Club. He rendered invaluable service to South Carolina under four Governors. He was chairman of the State reorganization commission during my administration, chairman of the tax advisory commission under Gov. Jimmy Byrnes, chairman of the fiscal survey commission under Gov. George Bell Timmerman, and chairman of the advisory committee for higher education under Gov. Ernest Hollings. In 1947, President Truman brought him to Washington as Under Secretary of the Treasury.

He left his post at Treasury in 1948 to become chairman of the board of the Atlantic Coastline and the Louisville & Nashville Railroad Companies. Mr. Wiggins also distinguished himself as a director of the American Telephone & Telegraph Co.

Mr. Wiggins was chairman of the board of trustees of Coker College and treasurer of its endowment fund. He was president of the Baptist Foundation of South Carolina and was vice chairman of the American National Red Cross.

His many-faceted career touched countless lives, and he was awarded honorary LL.D. degrees from Duke University and the Universities of North Carolina and South Carolina.

Mr. Wiggins' innumerable contributions to our country are truly exemplary, and he was a man of whom all South Carolina was proud.

My deepest sympathy is extended to Mr. Wiggins' two sons, Joseph L. Wiggins and Lee M. Wiggins; his two daughters, Mrs. Margaret Belding and Mrs. Elizabeth Bush; and to all other members of his family at this time of sadness. They can take genuine solace, however, from the lifelong benefits gained by sharing a close family association.

Mr. President, in order to share a selection of newspaper articles concerning the death of Mr. Wiggins, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Hartsville (S.C.) Messenger, July 7, 1980]

A. L. M. WIGGINS DIED MONDAY

A. L. M. Wiggins, prominent South Carolinian and the chairman of this newspaper, died early Monday morning. He was 89 years old.

Funeral services will be held at 4 p.m. Tuesday from the First Baptist Church. The Rev. William R. West Jr. and the Rev. Henry T. Finch Jr. will officiate. Burial will be in Magnolia Cemetery, directed by Brown-Pennington-Atkins Funeral Home.

Mr. Wiggins was born at Durham, N.C., April 9, 1891, the only child of Archie Lee and Margaret London (Council) Wiggins. He was married to the former Pauline Lawton of Hartsville, who died three years ago. He was a graduate of Durham High School and the University of North Carolina.

He came to Hartsville in 1913 as an assistant to the late David R. Coker. He helped organize Coker's Pedigreed Seed Co. and served as its business manager and treasurer. In 1920 he became manager of J. L. Coker & Co. and later organized Coker's Wholesale Co. He organized the Trust Company of South Carolina and served as vice president and then president of The Bank of Hartsville.

In 1947 he became Under Secretary of the U.S. Treasury. The following year he resigned to become chairman of the board of directors of the Atlantic Coast Line Railroad and Louisville and Nashville Railroad Companies. In 1961, at age 70, he resigned these positions but continued as chairman of an advisory committee until 1963. He was a director of the American Telephone and Telegraph Co. from 1950 to 1963.

Mr. Wiggins helped organize the Hartsville Rotary Club and was its first president. He served as president of the S.C. Bankers Association, president of the American Bankers Association, and lecturer at the Rutgers University graduate school of banking.

He was chairman of the state reorganization commission under Gov. Strom Thurmond, chairman of the fiscal survey commission under Gov. George Timmerman, and chairman of the advisory committee on higher education under Gov. Fritz Hollings.

He served the cause of education as chairman of the Darlington County Board of Education, trustee of Coker College and treasurer of its endowment fund. He was president of the Baptist Foundation of South Carolina and vice chairman of the American National Red Cross.

His services to education have been recognized by honorary LL.D. degrees from the University of South Carolina, Duke University, and the University of North Carolina.

He was a member of the committee that built the Hartsville Community Center buildings and served as chairman of its governing commission.

Honorary pallbearers at the funeral will be the deacons of First Baptist Church. Active bearers will be Edgar H. Lawton Jr., Joseph J. Lawton, W. M. Timberlake, G. James Wilds III, Charles W. Coker, David Cannon, James C. Fort and C. A. Smith III.

Survivors include two sons: Joseph L. Wiggins of Hartsville and Lee M. Wiggins of New York City; two daughters: Mrs. John (Margaret) Belding of Princeton, Fla. and Mrs. Elizabeth Bush of Hartsville; five grandsons and seven great-grandchilden.

[From the Florence (S.C.) Morning News July 8, 1980]

HARTSVILLE BUSINESSMAN, A. L. M. WIGGINS, DIES

HARTSVILLE.—A. L. M. Wiggins, 89, prominent banker, businessman and civic leader, died Monday in a local hospital after a short illness.

Funeral will be 4 p.m. Tuesday in First Baptist Church, directed by Brown-Pennington-Atkins Funeral Home. Burial will be in Magnolia Cemetery.

Mr. Wiggins was born in Durham, N.C., a son of the late Archie Lee and Margaret London Council Wiggins. He was a graduate of the University of North Carolina. He came to Hartsville in 1913 as an assistant to the late David R. Coker. He helped organize Cokers Pedigreed Seed Co. and served as its business manager and treasurer.

In 1920 he became general manager of J. L. Coker and Co. and later organized Cokers Wholesale Co. He organized the Trust Co. of South Carolina and served as its president. He was also president of the Bank of Hartsville. In 1921 he purchased the Hartsville Messenger and was chairman of its board at the time of his death.

In 1947, he became undersecretary of the United States treasurer. The following year he resigned to become chairman of the Board of Directors of the Atlantic Coastline Railroad and the Louisville and Nashville Railroad Companies. In 1961 he resigned these positions but continued as chairman of the Advisory Committee. He was a past director of American Telephone and Telegraph Co.

Mr. Wiggins helped organize the Hartsville Rotary Club and was its first president. He served as president of the South Carolina Bankers Association, president of the American Bankers Association, president of the Baptist Foundation of South Carolina and as vice chairman of the National Red Cross. He was a member of the committee that built the Hartsville Community Center buildings and served as its chairman. He was a lecturer at the Graduate School of Banking at Rutgers University.

Mr. Wiggins was chairman of the State Reorganization Commission under Governor Strom Thurmond, chairman of the Tax Advisory Commission under Governor Jimmy Byrnes, chairman of the Physical Survey Commission under Governor George Timmerman and chairman of the Advisory Committee on Higher Education under Governor Fritz Hollings.

He served as chairman of the Board of Education in Darlington County, chairman of the Board of Trustees at Coker College and treasurer of its Endowment Fund. His services to education have been recognized by honorary LL.D. degrees from the University of South Carolina, Duke University and the University of North Carolina.

Surviving are two sons, Joseph L. Wiggins of Hartsville and Lee M. Wiggins of New York City; two daughters, Mrs. John (Margaret) Delding of Princeton, Fla., and Mrs. Elizabeth Bush of Hartsville; five grandsons and seven great-grandchildren.

[From the Greenville (S.C.) Piedmont, July 8, 1980]

S.C. BUSINESS LEADER A. L. M. WIGGINS DIES

HARTSVILLE.—A. L. M. Wiggins, 89, widower of Pauline Lawton Wiggins, of 306 E. Home Ave., died Monday. He was a graduate of the University of North Carolina.

Born in Durham, N.C., he was a graduate of Durham High School, helped organize Coker's Pedigreed Seed Co., and served as business manager and treasurer.

In 1920, he became general manager of J. L. Coker & Co., and later organized Coker's Wholesale Co., and the Trust Company of South Carolina and served as its president. He was president of the Bank of Hartsville.

In 1921, he purchased the Hartsville Messenger and was chairman of the board at the time of his death. In 1947 he became undersecretary of the U.S. Treasury, and resigned the following year to become chairman of the board of directors of the Atlantic Coastline Railroad, the Louisville and Nashville Railroad Co.

He resigned this position in 1961, but continued as chairman of the advisory committee. He was director of the American Telephone and Telegraph Co., helped organize the Hartsville Rotary Club and was its first president.

He also served as president of the South Carolina Bankers Association and president of the American Bankers Association. He was a lecturer at the Rutgers University Graduate School of Banking, chairman of the state reorganizational commission under Gov. Strom Thurmond, chairman of the Tax Advisory Commission under Gov. Jimmy Byrnes, chairman of the Fiscal Survey Commission under Gov. George Timmerman, and chairman of the Advisory Committee on Higher Education under Gov. Fritz Hollings.

He also served as chairman of the County Board of Education, was a trustee of Coker College and treasurer of the endowment fund. He was president of the Baptist Foundation of South Carolina, vice-chairman of the American National Red Cross, was recognized by honorary LL.D. degrees from the University of South Carolina, Duke and the University of North Carolina. He was a member of the committee that built the Hartsville Community Center buildings, and served as chairman of the governing commission.

Surviving are sons, Joseph L. Wiggins of Hartsville, Lee M. Wiggins of New York City; daughters, Mrs. John Belding of Princeton, Fla., Elizabeth Bush of Hartsville; five grandsons, and seven great-grandchildren.

Services were to be at 4 today at First Baptist Church; burial in Magnolia Cemetery.—Brown-Pennington-Atkins Funeral Home, Hartsville.

[From the Greenville (S.C.) News, July 9, 1980]

A. L. M. WIGGINS: CIVIC PIONEER

A. Lee M. Wiggins' home was in Hartsville. But in a real sense he lived all over South Carolina—everywhere there is a public school or state institution of higher learning.

He also lived in the structure of state government and in the state and national business communities.

The North Carolina native went to Hartsville early in life and organized important business and financial firms. He bought the Hartsville Messenger and made it a leading weekly newspaper.

He was an under secretary of the U.S. Treasury, and later was chairman of two railroads and director of large national firms. He served as president of several state and national associations.

His work on key committees in the administrations of several governors helped shape state institutions as they are today. He was chairman of the commission which reorganized state government in the Thurmond administration. He was a founder of the movement which turned disorganized, underfinanced public schools into a statewide system, undergirded by the sales tax, in the Byrnes administration. He worked to form the Advisory Commission on Higher Education and was its chairman in the Hollings administration, paving the way for the present Commission on Higher Education. He helped reorganize the state's tax and fiscal control systems in the Byrnes and Timmerman administrations.

Lee Wiggins was a vigorous businessman, and a generous civic worker, contributing his time and talent to his church and many worthwhile causes. Those associated with him—including quite a few Greenville people—knew him as a warm, inspiring individual.

His long life ended Monday. But his fruitful career will continue to reward this state through the many institutions he worked to build and strengthen. Although saddened by his death at age 89, we join with many others in expressing thanks for the life he lived among us.

[From the Greenville (S.C.) News, July 9, 1980]

A.L.M. WIGGINS, CIVIC LEADER, DIES

HARTSVILLE.—A. L. M. Wiggins, 89, widower of Pauline Lawton Wiggins, of 306 E. Home Ave., died Monday. He was a graduate of the University of North Carolina.

Born in Durham, N.C., he was a graduate of Durham High School, helped organize Coker's Pedigreed Seed Co., and served as business manager and treasurer.

In 1920, he became general manager of J. L. Coker & Co., and later organized Coker's Wholesale Co., and the Trust company of South Carolina and served as its president. He was president of the Bank of Hartsville.

In 1921, he purchased the Hartsville Messenger and was chairman of the board at the time of his death. In 1947 he became under secretary of the U.S. Treasurer, and resigned the following year to become chairman of the board of directors of the Atlantic Coastline Railroad and the Louisville and Nashville Railroad Co. He resigned this position in 1961, but continued as chairman of the advisory committee. He was director of the American Telephone and Telegraph Co., helped organize the Hartsville Rotary Club and was its first president.

Mr. Wiggins also served as president of the South Carolina Bankers Association and president of the American Bankers Association. He was a lecturer at the Rutgers University Graduate School of Banking, chairman of the state reorganizational commission under Gov. Strom Thurmond, chairman of the Tax Advisory Commission under Gov. Jimmy Byrnes, chairman of the Fiscal Survey Commission under Gov. George Timmerman, and chairman of the Advisory Committee on Higher Education under Gov. Fritz Hollings. He also served as chairman of the County Board of Education, was a trustee of Coker College and treasurer of the endowment fund. He was president of the Baptist Foundation of South Carolina, vice-chairman of the American National Red Cross, was recognized by honorary LL.D. degrees from the University of South Carolina, Duke and the University of North Carolina. He was a member of the Committee that built the Hartsville Community Center buildings, and served as chairman of the governing commission.

Surviving are sons, Joseph L. Wiggins of Hartsville, Lee M. Wiggins of New York City, N.Y.; daughters, Mrs. John Belding of Princeton, Fla., Elizabeth Bush of Hartsville; five grandsons, and seven great-grandchildren.

Services were held at 4 p.m. Tuesday at the First Baptist Church; burial in Magnolia Cemetery.—Brown-Pennington-Atkins Funeral Home, Hartsville.

[From the Columbia (S.C.) State, July 8, 1980]

BANKING EXECUTIVE A. L. M. WIGGINS DIES

HARTSVILLE.—A. L. M. Wiggins, 89, a prominent Hartsville banking executive, died Monday at a Hartsville hospital.

Born in Durham, N.C., he was a son of the late Archie Lee and Margaret London Council Wiggins. He was a graduate of the University of North Carolina.

Mr. Wiggins moved to Hartsville in 1913 as an assistant to the late David R. Coker. He helped organize Coker's Pedigree Seed Company and served as its business manager and treasurer. In 1920 he became general manager of J. L. Coker and Co. and later organized Coker's Wholesale Co.

He organized the Trust Company of South Carolina and served as its president and was president of the Bank of Hartsville.

In 1921, he purchased the Hartsville Messenger, for which he was chairman of the board at the time of his death.

In 1947, he became Undersecretary of the U.S. Treasury. He resigned in 1948 to become chairman of the board of directors of the Atlantic Coastline and the Louisville/Nashville railroad companies. He resigned those positions in 1961 to continue as chairman of the companies' advisory committee.

A past director of the American Telephone and Telegraph Co., Mr. Wiggins helped organize the Hartsville Rotary Club and was its first president. He served as president of the South Carolina Bankers Association and the American Bankers Association. Mr. Wiggins was past lecturer at Rutgers University Graduate School of Banking.

He was chairman of the State Reorganization Commission under Gov. Strom Thurmond, the Tax Advisory Commission under Gov. Jimmy Byrnes, the Fiscal Survey Commission under Gov. George Timmerman and the Advisory Committee on Higher Education under Gov. Fritz Hollings.

Mr. Wiggins was chairman of the board of trustees of Coker College and treasurer of its endowment fund. He was president of the Baptist Foundation of South Carolina and was vice chairman of the American National Red Cross.

He was recognized with honorary LL.D. degrees from Duke University and the universities of North and South Carolina. He was a member of the committee that built the Hartsville Community Center Buildings and served as its chairman.

Surviving are two sons, Joseph L. Wiggins of Hartsville and Lee M. Wiggins of New York, N.Y.; two daughters, Mrs. John (Margaret) Belding of Princeton, Fla., and Mrs. Elizabeth Bush of Hartsville; five grandsons; and seven great-grandchildren.

Services will be 4 p.m. today at First Baptist Church, with burial in Magnolia Cemetery.

Brown-Pennington-Atkins Funeral Home is in charge.

[From the Columbia (S.C.) State, July 10, 1980]

"A.L.M. WIGGINS: MAN OF MANY PARTS"

Hartsville, the state and the nation lost a civic giant when A. Lee M. Wiggins passed away Monday at the age of 89.

Nationally, Mr. Wiggins was best known for his stint in 1947 and 1948 as undersecretary of the U.S. Treasury. But he served in dozens of other major posts, such as chairman of the board of directors of the Atlantic Coastline and the Louisville and Nashville railroads, director of the American Telephone and Telegraph Company and chairman of the board of The Hartsville Messenger, which he bought in 1921.

Mr. Wiggins' life is a classic illustration of hard work and frugality. Even as a preschooler he learned the feel of money and the frustrations and rewards of the free enterprise system.

When his mother was hostess-chaperon for the school faculty at the only hotel in Aulander, N.C., Mr. Wiggins earned pennies by reciting poems. And when guests at the hotel left empty bottles, he converted them into cash at the local liquor store until his school principal spotted him and informed his mother.

Mr. Wiggins learned that hard work pays off. In school, he worked for 25 cents a day in a print shop and saved $10 by one summer's end. The next year he worked over 70 hours a week in a tobacco factory, then returned to the print shop, where his previous salary was doubled.

By the time he finished high school, he was earning up to $60 a month as bookkeeper, saving $50 of it. He entered the University of North Carolina with $500 savings. When he graduated, he had paid off the mortgage on his mother's house and had $500, which he invested in land.

The good judgment of the late David R. Coker brought Mr. Wiggins to Hartsville to help organize Coker's Pedigreed Seed Company and to become its general manager and treasurer.

Best known later as an astute banker, Mr. Wiggins organized the Trust Company of South Carolina and served as president of it and of the Bank of Hartsville.

When he was named bank president, Mr. Wiggins wrote a banking correspondence school, obtained a year's course and read all the material in three days. That was his formal education in banking.

Although Mr. Wiggins attained national recognition, he never lost sight of his responsibilities to his city and his state. His activities in public service are too numerous to mention, but he held important advisory roles under several governors.

Mr. Wiggins was a transplant who became known far beyond his adopted town, but those who knew him first-hand will best comprehend the example he set in business and the void he leaves in community service.

[From the Baptist Courier, July 17, 1980]

A. L. M. WIGGINS

I knew A. L. M. Wiggins as a legend before I met him in person. Our first meeting had a tense moment that came close to being a disaster. But it helped instead to forge a strong bond of friendship.

It was late March, 1966, and I had been editor of the *Baptist Courier* for only three weeks. Having just finished a speech, I was fielding questions from the group about sagging circulation and the publication's future. Wiggins' authoritative baritone thundered across the auditorium, "When are you going to move the paper to Columbia?"

There it was, the discontent I had been cautioned about by the trustees, the thing some elements were whispering. Here was an agency with a charter and a board of trustees, but with policy and future being second guessed. My questioner was a man of great power, national stature, wealth, church leadership, high reputation and respect.

Clearly on the defensive, I decided on a course of bantering sarcasm. "We plan to move third," I stammered, "right after Furman and Connie Maxwell." These institutions with the same Convention relationship as the *Courier* obviously were not moving anywhere.

The audience audibly gasped, but Wiggins broke the tension with a booming laugh. "I like that, I like that, you're going to do all right." He clapped me on the shoulder a few minutes later, still chuckling, and arranged for us to visit.

We have corresponded regularly over the intervening years, talked by telephone once or twice a month, and visited a couple of times a year. This man who was a railroad and bank president, undersecretary of the United States Treasury, advisor to Presidents, and builder of business empires always was warm, friendly, courteous. Almost 40 years my senior, he envied my youth and said his greatest satisfaction was in the time he had given to church endeavors.

He had given sufficient time and leadership for church and denominational work to have felt his influence. A founder and board chairman of Baptist Foundation, he also had been chairman of trustees of Coker College and was a leading member of First Church, Hartsville. His last major denominational contribution was to chair a committee studying the relationship of the agencies to the Convention.

My friend A. L. M. Wiggins died last week in his beloved Hartsville, full of years at 89. We had last talked several months ago when he called to commend a news article. And he had chuckled again, as he always did, about our first encounter. "When you have the facts and your mind is made up," he said, "always speak your piece."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on July 25, 1980, he had approved and signed the following act and joint resolutions:

S. 2382. An act to provide for additional authorization for appropriations for the Tinicum National Environmental Center;

S.J. Res. 180. A joint resolution to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 181. A joint resolution to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.

MESSAGES FROM THE HOUSE

At 5:45 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1916. An act to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7458. An act to amend chapter 37 of title 38, United States Code, to permit veterans to refinance outstanding loans previously guaranteed under such chapter.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 7458. An act to amend chapter 37 of title 38, United States Code, to permit veterans to refinance outstanding loans previously guaranteed under such chapter; to the Committee on Veterans' Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 29, 1980, he had presented to the President of the United States the following enrolled bill:

S. 1647. An act to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order Numbered 9066, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MELCHER, from the Select Committee on Indian Affairs:

Special report entiled "Allocation of Budget Totals" (Rept. No. 96–875).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Morris D. Busby, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries, for the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, Morris D. Busby.

Post, Ambassador.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names: Mr. and Mrs. Curtis J. Hamilton, Jr., Candy Lane, Chesapeake, Ohio, $50 yearly, Mingo County Democratic Party. Williamson, W. Va.

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

Janet Dempsey Steiger, of Wisconsin, to be Commissioner of the Postal Rate Commission.

The following-named persons to be Governors of the U.S. Postal Service:

Timothy L. Jenkins, of the District of Columbia;

David E. Babcock, of Arizona; and

Paula D. Hughes, of New York.

(The above nominations from the Committee on Governmental Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ORDER FOR STAR PRINT—S. 2596

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that S. 2596, relative to an educational assistance program for persons in the armed services, be star printed to correct an error in the title as now appears on the bill. The triggering date of eligibility for that bill should be September 30, 1980, not December 31, 1980, to conform to the text of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD BILL AND JOINT RESOLUTION AT DESK

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that at such time as H.R. 7786, the Presidential candidates spouses protection bill, is received from the House of Representatives, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that at such time as House Joint Resolution 589, the Export-Import Bank appropriations resolution, is received from the House of Representatives, it be held at the desk pending further disposition by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS:

S. 2986. A bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes; to the Committee on Foreign Relations.

By Mr. BOREN:

S. 2987. A bill granting the consent of Congress to the Southern States Energy Compact, and for related purposes; to the Committee on the Judiciary.

By Mr. JAVITS (for himself and Mr. MOYNIHAN):

S. 2988. A bill for the relief of Michele Chiaramonte; to the Committee on the Judiciary.

By Mr. JACKSON:

S. 2989. A bill to amend the Department of Energy Organization Act to eliminate Federal Energy Regulatory Commission review of remedial orders of the Department of Energy; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Mr. NELSON, Mr. PROXMIRE, Mr. WILLIAMS, Mr. CRANSTON, Mr. RIEGLE, Mr. STEWART, Mr. MITCHELL, Mr. TOWER, Mr. LUGAR, Mr. WEICKER, and Mr. GARN):

S. 2990. A bill to amend Federal securities laws to facilitate the mobilization of capital for new small- and medium-sized companies by encouraging venture capital activities and promoting public investment; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MELCHER:

S. 2991. A bill for the relief of Dolly Akers, Fort Peck Indian Reservation, Montana; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

S. 2992. A bill to authorize a study of sail-assisted technology as a means of reducing energy costs for inter-island transportation in the Trust Territory of the Pacific Islands, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 2986. A bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes; to the Committee on Foreign Relations.

THE FOREIGN SERVICE AND ITS STATUS IN 1980

Mr. HELMS. Mr. President, the Foreign Service of the United States and the diplomatic establishment which it is intended to serve have been in a state of crisis and decline for at least a decade, perhaps a generation. Their decline has accompanied, and contributed to, the decline of the United States as a world power. Thus the solution of the fundamental diplomatic functions of the foreign service should be seen in terms of the fundamental foreign policy goals of the United States. Today, I am introducing legislation intended to restore the esteem and prestige of the U.S. Foreign Service.

The administration bill, H.R. 6790, transmitted to the Congress does not address the problems of the Foreign Service in terms of these larger issues. It does not recognize that the crisis in the Foreign Service does not arise mainly from such administrative issues as the number of classes of foreign service officers, the categories of its personnel, or even the promotion and selection out procedures it employs. It arises instead from confusions as to the proper role of the traditional Foreign Service in foreign policy; its status among the Federal departments and agencies, including the Central Intelligence Agency; its specific functional role within the Department of State with its separate civil career and excepted service personnel; and its ability to recruit quotas of women and minority personnel without a reduction in the professional quality of its members.

These fundamental problems are not solved but exacerbated by the administration bill, which is at best an effort to reconcile special interests rather than the creation of the best professional diplomatic and consular service which the United States could provide. At a time when such private citizens as Billy Carter are employed in diplomatic missions of the most delicate nature, involving such states as Libya and Iran, the Congress should not permit public attention to be deflected from the serious problems which the Foreign Service faces.

The administration bill contains several provisions contradicting the concept that the Foreign Service should be an elite service, drawing on the best talents of its citizens. For example, it provides for 14 steps when the civil service grades have only 10. These four additional steps supposedly are to reward foreign service personnel for the hazards, inconveniences, and disruptions which attend their careers and which require sacrifices and discipline not expected of civil service personnel. Yet the only beneficiaries of a 14-step grade system are those who are the least competent and have not been promoted to the next higher grade; or alternatively persons in "dead end" jobs from which there is no hope of promotion.

The administration bill cannot solve the comprehensive, cosmic problems of foreign policy. These solutions must await a major reorganization of the foreign affairs agencies, including even certain functions of the Departments of Agriculture, Commerce, Treasury, and the military departments. There is no proposal in Congress for such a change. Consequently, Congress should focus on those immediate issues which trouble the Foreign Service today. These are selection and recruitment standards; classification of positions; pay and retirement benefits; labor-management relations; and supplemental compensation for the burdens and dangers with which Foreign Service personnel must contend.

The basic philosophy behind legislation specifically distinguished the Foreign Service from the civil service should relate to the additional rigorous duties, greater sacrifices, more dedication to hazardous and onerous service. Consequently, Congress should begin with the policy that Foreign Service personnel must have all the rights and perequisites of civil service personnel plus such additional safeguards and rewards and protections which take cognizance of the greater demands on professional qualification and personal character and dedication. The bill which I am introducing takes all these into account in those areas which intimately touch on the personnel affairs of the foreign affairs agencies (State Department, International Communication Agency, Agency for International Development).

As to pay, this bill provides a basic salary table ranged with the same steps as the General Schedule (10 steps except in the super grades) plus a 15-percent supplemental pay exempt from income tax, with the provision that such supplement shall not be less than $2,500 per annum and not more than $7,500 per annum. Through this action, the Congress would take note that greater qualifications in professional and in personal qualifications are expected from Foreign Service personnel and will be recognized by statute in greater remuneration at all grades and steps.

To assure that the rank-in-person provisions do not distort the mission of the Foreign Service in position assignments, my bill requires that all positions be properly described and classified by standards similar to those of the classified civil service and that Foreign Service personnel be assigned to their proper level of jobs. Assignments two grades or more higher or lower would need to be reported periodically to Congress with reasons for these deviations from standards explained by the Secretary of State.

As to recruitment and selection, the present laxity and casualness must be corrected. For example, Smith Simpson, a former Foreign Service officer who served on the Board of Examiners for the Foreign Service has asserted that he was "appalled by the prevailing shallowness" of those who had been examined by the educational testing service in Princeton, which administers the Foreign Service written examinations. On inquiring, he learned that the Department of State had authorized the testing service to "raise the raw scores" in order to pass the number of applicants it wished to bring before the oral panels. He learned that "a candidate receiving 35 on his written examination had his score doubled to reach the passing mark of seventy."

This bill has a provision to overcome this laxity and manipulation of standards. It requires that "part of the written examination shall test the applicant's knowledge of the geography, history, and political structure of the United States and of the major international events of the twentieth century. The Board of Examiners for the Foreign Service shall interpret the results of such examinations in light of the ordinary clerical, technical or professional duties which the applicants would perform in the Foreign Service."

The provisions of H.R. 6790 go in the other direction—they impose further requirements on the Foreign Service to take into account quotas for personnel based on sex, race, and other factors rather than the professional qualifications needed for an arduous diplomatic career in an international environment where tensions are increasing and dangers to life and limb multiply. Senator PELL's observations that the Foreign Service has many of the characteristics of the military service are becoming evident as our diplomatic personnel must carry out their duties under ever more grave security conditions. Our hostages in Tehran do not enjoy even the protections under international law which military prisoners of war have.

Because Foreign Service personnel are more than qualified to be in equivalent grades in the civil service, my bill provides that all Foreign Service personnel be concurrently carried on the rolls of the civil service at equivalent grades; that is, that they be rated at a "grade in the civil service corresponding to the salary class in the Foreign Service for each such individual." The bill provides that "if the employment of an individual in the Foreign Service is terminated, the Director of the Office of Personnel Management shall assist such individual in finding a position of corresponding grade in the civil service."

The reason for this provision is to permit the Foreign Service to release redundant personnel without the painful selection out controversies which now attend such terminations. A further reason is that, if the Foreign Service is to accept such extraneous and unnecessary modifications as the Senior Foreign Service (modeled on the Senior Executive Service of the civil service) to appear to conform to general civil service practices and if its pay is to be related to civil service grades, then its members should have the employment rights of civil service personnel as well, particularly in cases of selection out which are analogous to reduction-in-force practices in the civil service. These are not provided in the administration's bill.

On labor-management relations, I believe my bill is straightforward. Foreign Service personnel certainly should have all the collective bargaining rights which Federal civil service personnel have. This should be the minimum, not the maximum. Even the employees of the Panama Canal Company now have these collective bargaining rights, as do all the civil service personnel employed abroad by the military departments and the Department of Defense. The Foreign Service personnel should continue to have that modification which the present executive order provides, that is, a worldwide bargaining unit for each foreign affairs agency and membership therein by all personnel except the senior representative. For this reason, the bill extends the same provisions to the Foreign Service as civil service personnel have with the two modifications noted above and with provisions for further changes if desired by the foreign affairs agencies and their employee representatives. To achieve this, the bill amends subchapter 71 of title 5, United States Code along the terms indicated above.

As to retirement benefits, the bill recognizes that foreign service is at least as hazardous today as service in the Federal Bureau of Investigation, Federal Fire Protection Service, and Federal Air Traffic Controllers. For that reason, the bill provides the same 2.5 percent computation formula for years of service as these other personnel already have.

Finally, the bill recognizes that Foreign Service personnel can be held hostage and be threatened with terrorist violence while abroad and it provides an increase in retirement benefits for those persons who have been held captive in a foreign country by a foreign power or by a terrorist group. The retirement annuities of such victims of foreign violence would be progressively increased according to a schedule related to their length of captivity. Moreover, such personnel could retire immediately if they wished on an annuity without any reduction of benefits because of their chronological age.

These are the major provisions of the bill which I am offering. They could be passed separately from the legislation which is now before the House and Senate. They could also be incorporated in the legislation already under consideration, with suitable conforming changes in that legislation.

One issue that needs to have some consideration to achieve conformance relates to the Senior Foreign Service which is being proposed largely to appear to conform to the Civil Service Reform Act of 1979. Actually, this rank-in-person system already exists in the Foreign Service and the principle involved is no different from what already exists. However, the problem which arises is that under the administration's proposal there would be only 10 statutory pay grades (with the additional top 3 being paid the same as the civil service's Senior Executive Service) whereas under the bill these additional top three grades are included in the statute (corresponding to the old grades GS–18, GS–17, GS–16, the so-called "super grades"). This is not an issue so much of basic principle as drafting technique and should not create any major problem once the issue of acceptability or nonacceptability of the Senior Foreign Service concept is settled. On the other hand, the 14 step system is more serious and is unacceptable as a provision in a rank-in-person system based on promotion or selection out. It exists onlv in such systems as that of the Postal System where there are many so-called "dead end" jobs from which there can be no promotion upward and any increases in pay must be through an accretion in additional steps.

Because this bill was written to be enacted either separately or, if found feasible, to amend portions of the administration bill, the necessary conforming textual changes in existing statutes, or in the proposed legislation, have not been completely indicated. As an example, the bill is silent in abolishing such existing Foreign Service categories as the Foreign Service Staff Officer Corps, which would cease to exist as a separate entity under the administration bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Foreign Service Act Amendments of 1980".

OBJECTIVES

SEC. 2. Section 111 of the Foreign Service Act of 1946 is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(10) to ensure that personnel in the Foreign Service are accorded all the rights accorded to personnel in the civil service; and

"(11) to provide further protections, procedures, and emoluments to such personnel, in addition to the protections, procedures, and emoluments provided to personnel in the civil service, in order to compensate such Foreign Service personnel for the hazards, inconveniences, and disruptions which encumber such personnel and which require sacrifice and discipline not expected of civil service personnel.".

FOREIGN SERVICE SCHEDULE

SEC. 3. (a) Sections 412 through 415 of the Foreign Service Act of 1946 are amended to read as follows:

"FOREIGN SERVICE SCHEDULE

"SEC. 412. (a) There is established the Foreign Service Schedule, which shall apply to the members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided for by this title.

"(b) The Foreign Service Schedule shall have 13 salary classes, designated FS–1 through FS–13, which shall correspond to grades of the General Schedule under section 5332 of title 5, United States Code, as follows:

"Salary class:	*Shall correspond to grade:*
FS–1	GS–18
FS–2	GS–17
FS–3	GS–16
FS–4	GS–15
FS–5	GS–14
FS–6	GS–13
FS–7	GS–12
FS–8	GS–11
FS–9	GS–9
FS–10	GS–7
FS–11	GS–6
FS–12	GS–5
FS–13	GS–4

"(c) Each class in the Foreign Service Schedule shall have 10 salary steps, equal to the steps for the corresponding grade in the General Schedule, except that the salary classes designated FS–1, FS–2, and FS–3 shall have one, five, and nine steps, respectively.

"ADDITIONAL COMPENSATION

"SEC. 413. (a) The Congress finds that the availability of members of the Foreign Service to serve world-wide at any post assigned without regard to hazards, inconveniences, or disruption of family relations and educational and other personal plans entitles such members to the additional compensation provided under subsection (b).

"(b) In addition to the basic salary prescribed under section 412 and any other allowance authorized by law, there shall be paid in a lump sum to each member of the Foreign Service an amount equal to 15 percent of the basic salary for such member at the grade and step prescribed under section 412, except that in no event shall a member of the Foreign Service be paid under this section less than $2,500 or more than $7,500. Such amount shall be exempt from taxation under chapter 1 of the Internal Revenue Code of 1954.

"CLASSIFICATION OF POSITIONS

"SEC. 414. The Secretary of State shall designate and classify positions in the Department of State, the Agency for International Development, and the International Communication Agency and positions at Foreign Service posts, subject to the applicable provisions of chapter 51 of title 5, United States Code, in relation to the salaries established under section 412. Positions so classified shall be considered to be part of the civil service for purposes of title 5, United States Code. Career members of the Foreign Service shall be eligible to compete for positions classified under chapter 51 of title 5, United States Code, which are not classified by the Secretary pursuant to this section.

"ASSIGNMENT TO POSITIONS

"SEC. 415. The Secretary shall, to the maximum extent practicable without prejudicing the foreign policy or national security interests of the United States, assign individuals holding a personal rank in the diplomatic service of the United States only to such classified positions as may be appropriate to the rank and salary of such individuals. The Secretary shall from time to time prepare and transmit a report to the Congress listing the names of each individual assigned to a classified position for which the salary was more than one grade higher or lower than the grade corresponding to the personal rank of such individual.".

(b) Section 416 of such Act is repealed.

ADMISSION TO FOREIGN SERVICE SALARY CLASSES

SEC. 4. (a) Sections 516 through 518 of the Foreign Service Act of 1946 are amended to read as follows:

"ADMISSION TO FOREIGN SERVICE SALARY CLASSES 7 THROUGH 13

"SEC. 516. No person shall be eligible for initial appointment as a member of the Foreign Service of classes 7 through 13 unless such person has taken an appropriate written and oral examination, as the Board of Examiners for the Foreign Service may prescribe, to determine fitness and aptitude for the work of the Service and demonstrated loyalty to the Government of the United States and attachment to the principles of the Constitution. Part of the written examination shall test the applicant's knowledge of the geography, history, and political structure of the United States and of the major international events of the twentieth century. The Board of Examiners for the Foreign Service shall interpret the results of such examinations in the light of the ordinary clerical, technical, or professional duties which the applicants would perform in the Foreign Service.

"ADMISSION TO FOREIGN SERVICE SALARY CLASSES 1 THROUGH 6

"SEC. 517. No person shall be eligible for initial appointment as a member of the Foreign Service of classes 1 through 6 unless such person has taken an appropriate oral examination, as prescribed by the Board of Examiners for the Foreign Service, to determine the fitness and aptitude of the applicant. Notwithstanding the preceding sentence, the Secretary of State may appoint an individual as a member of the Foreign Service of class 1, 2, or 3, without examination by the Board of Examiners for the Foreign Service if, not later than 30 days after such appointment, the President notifies the Senate of such appointment.

"OFFICE OF PERSONNEL MANAGEMENT

"SEC. 518. (a) The Director of the Office of Personnel Management shall cause the names of all individuals appointed to the Foreign Service to be placed on the registers or lists of eligibles, maintained by the Office of Personnel Management under subchapter I of chapter 33 of title 5, United States Code, together with the grade in the civil service corresponding to the salary class in the Foreign Service for each such individual. The Director of the Office of Personnel Management shall keep current the information provided under the preceding sentence.

"(b) If the employment of an individual in the Foreign Service is terminated, the Director of the Office of Personnel Mannagement shall assist such individual in finding a position of corresponding grade in the civil service.".

(b) Sections 519 through 531 of such Act are repealed.

LABOR-MANAGEMENT RELATIONS

SEC. 5. (a) Section 7103(a)(2) of title 5, United States Code, is amended—

(1) by inserting "or" at the end of clause (iii); and

(2) by striking out clause (iv).

(b) Title VI of the Foreign Service Act of 1946 is amended by inserting after part E the following:

"Part F—LABOR-MANAGEMENT RELATIONS

"SEC. 651. (a) The provisions of subchapter 71 of title 5, United States Code, shall apply with respect to labor-management relations in the Foreign Service except to the extent such provisions are inconsistent with this section.

"(b) The Federal Labor Relations Authority shall resolve any dispute as to whether this Act or chapter 71 of title 5, United States Code, applies with respect to labor-management relations in the Foreign Service.

"(c) Each member of the Foreign Service who is a citizen of the United States, wherever serving, other than a management official, has the right to form, join, or assist any labor organization or to refrain from such activity, freely and without fear of penalty or reprisal. Each such member shall be protected in the exercise of such right.

"(d)(1) For purposes of this section, except as provided in paragraph (2), the term 'management official' means an official who—

"(A) is a chief of mission or principal officer;

"(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

"(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in clause (A) or (B);

"(D) is serving as a deputy to any individual described by clause (A), (B), or (C);

"(E) is assigned to carry out functions of the Inspector General of the Foreign Service; or

"(F) is engaged in the administration or formulation of the personnel policies and programs of the Department.

"(2) The term 'management official' does not include, for purposes of this section, more than one senior official from the Department, the International Communication Agency, or the United States International Development Cooperation Agency, when such official is assigned to a Foreign Service post abroad.

"(e)(1) For purposes of involvement in any labor organization, the employees, other than management officials, of the Department, the United States International Development Cooperation Agency, and the International Communication Agency shall constitute, with respect to each such Department or Agency, as the case may be, a single and separate worldwide bargaining unit.

"(2) For purposes of involvement in any labor organization, the members of the Foreign Service who are employees, other than management officials, of the Department of Agriculture, the Department of Commerce, and the Department of the Treasury, may constitute, with respect to each such department, as the case may be, a single and separate worldwide bargaining unit or, if recognized as a bargaining unit on the date of enactment of this Act, may merge with any bargaining unit under paragraph (1) which accepts such merger.

"(f) Upon the approval of the Federal Labor Relations Authority and under such terms and conditions as the Authority may require, any bargaining unit representing civil service employees of a department or agency of the United States for which members of the Foreign Service are employed may merge with a worldwide bargaining unit representing only Foreign Service employees if such unit accepts such merger.".

COMPUTATION AND PAYMENT OF ANNUITIES

SEC. 6. Section 821 of the Foreign Service Act of 1946 is amended—

(1) by striking out "2 per centum" in the first sentence and inserting in lieu thereof "2.5 per centum"; and

(2) by adding at the end thereof the following:

"(j)(1) The rate of annuity of any participant who, during his service, was held hostage or detained in a foreign country in violation of any treaty or other international agreement to which the United States and such country are signatories shall be increased by a rate equal to—

"(A) one-tenth per centum of the average basic salary of the annuitant, as computed under subsection (a), for each day such annuitant was so held hostage or detained, if such annuitant was held hostage or detained less than 30 days; or

"(B) two-tenths per centum of the average basic salary of the annuitant, as computed under subsection (a), for each day such annuitant was so held hostage or detained in excess of 30 days.

"(2) For purposes of computing under subsection (a) the amount of the annuity for which each participant is entitled, the number of years of creditable service calculated under sections 851 and 853 shall be increased by one year for each month or fraction thereof a participant is so held hostage or detained less than six months and shall be increased by two years for each month or fraction thereof a participant is so held hostage or detained in excess of six months.

"(3) A participant so held hostage or detained shall not have his annuity reduced by reason of his age.".

By Mr. BOREN:

S. 2987. A bill granting the consent of Congress to the Southern States Energy Compact, and for related purposes to the Committee on the Judiciary.

● Mr. BOREN. Mr. President, the purpose of this bill, S. 2987, which I am introducing today, is not to create a new agency of Government but to grant the consent of Congress to certain amendments to the charter of an existing interstate compact organization. The Southern Interstate Nuclear Compact was created and entered into by 16 Southern States and the Commonwealth of Puerto Rico nearly two decades ago. Originally, the purpose of the compact was the safe development of nuclear power and the fostering of regional cooperation on nuclear issues. Congress recognized the legitimacy of that purpose and concurred by enacting Public Law 87-563 on July 31, 1962.

During the decade of the 1970's, the purview and scope of activities of the board were enlarged, at the request of the Southern Governors' Association, to include all energy sources and environmental quality. In recognition of this expanded role the Southern Governors adopted a resolution in 1978 changing the name of the organization to the Southern States Energy Board and the charter to the Southern States Energy Compact.

The changes contained in the resolution of the Southern Governors' Association are the substance of this bill. These amendments are also supported by the Southern Legislative Conference and have already been enacted by 10 of the party States to the compact. Only congressional concurrence is needed and the amendments become effective.

These amendments make two substantive changes in the compact, in addition to the name change. First, the purview of the board is enlarged from nuclear energy to all energy sources and environmental quality and, second, the number of a member States' representatives is increased to provide for State legislator participation.

For more than 18 years this organization has provided invaluable assistance to the Southern region in energy matters. The board and staff provide technical support, research, and information serving to the party States, both the executive and legislative branches and to the general public. It is funded primarily by States revenues and receives no Federal appropriations.

The interest of the Federal Government is protected by a Federal representative to the board, appointed by the President. The Federal representative reports annually to the President and to the Congress on the programs and activities of the Board.

The amendments to the compact serve to modernize the role of the organization and enable it to better serve the Southern region and the party States. The board is actively assisting the member States in the development of all forms of energy. The importance of that endeavor is apparent to all and I would urge this body to concur in this most worthwhile purpose and consent to these amendments.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the national policy to encourage and recognize the performance of functions by the States with respect to the development, production, and use of energy. The Federal Government recognizes that many programs in energy fields can benefit from cooperation among the States, as well as between the Federal Government and the States. The importance of the interstate compact as one means for promoting such cooperation is hereby declared as part of the intention of Congress to facilitate the use of State jurisdiction in and over portions of the development and regulatory energy field.

SEC. 2. The Congress hereby consents to the Southern States Energy Compact, which compact is as follows:

"Article I—Policy and Purpose

"The party States recognize that the proper employment and conservation of energy, and employment of energy-related facilities, materials, and products, within the context of a responsible regard for the environment, can assist substantially in the industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from an acquisition of energy resources and facilities require systematic encouragement, guidance, and assistance from the party States on a cooperative basis. It is the policy of the party States to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the people of this region.

"Article II—The Board

"(a) There is hereby created an agency of the party States to be known as the 'Southern States Energy Board' (hereinafter referred to as the 'Board'). The Board shall be composed of three members from each party State, one of whom shall be appointed or designated to represent the Governor and one to represent each house of the State legislature. Each member shall be designated or appointed in accordance with the law of the State which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any less period of time) by a deputy or assistant, if the laws of his State make specific provision therefor. The Federal Government may be represented on the Board without vote, if provision is made by Federal law for such representation.

"(b) Each party State shall be entitled to one vote on the Board, to be determined by majority vote of each member or member's representative from the party State present and voting on any question. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party States are present and unless a majority of the total number of votes by States are cast in favor thereof.

"(c) The Board shall have a seal.

"(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the treasurer, shall be bonded in such amounts as the Board may require.

"(e) The Executive Director, with approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel, or other merit system laws of any of the party States.

"(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party States, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors' insurance provided that the Board takes such steps as may be necessary pursuant to Federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

"(g) The Board may borrow, accept, or contract for the services of personnel from any State or the United States or any subdivision or agency thereof, from any interstate agency or from any institution, person, firm, or corporation.

"(h) The Board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any State or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same.

"(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

"(j) The Board shall adopt bylaws, rules, and regulations in convenient form and shall also file a copy of any amendment thereto with the appropriate agency or officer in each of the party States.

"(k) The Board annually shall make to the Governor of each party State a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said State. The Board may issue such additional reports as it may deem desirable.

"Article III—Finances

"(a) The Board shall submit to the executive head or designated officer or officers of each State a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

"(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States. One-half of the total amount of each budget of estimated expenditures shall be apportioned among the party States in equal shares; one-quarter of each such budget shall be apportioned among the party States in accordance with the ratio of their populations to the total population of the entire group of party States based on the latest official decennial census; and one-quarter of each such-budget shall be apportioned among the party States on the basis of the relative average per capita income of the inhabitants in each of the party States based on the latest computations published by the Federal census-taking agency. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party States as are necessary to provide the means of establishing and maintaining facilities, a staff or personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon the entrusted to the Board.

"(c) The Board may meet any of its obligations in whole or in part with funds available to it under article II(h) of this compact, provided that the Board takes specific action seting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under article II(h), the Board shall not incur any obligation prior to the allotment of funds by the party jurisdiction adequate to meet the same.

"(d) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in an become part of the anual report of the Board.

"(e) The accounts of the Board shall be open at any reasonable time for inspection.

"Article IV—Advisory Committee

"The Board may establish such advisory and technical committees as it may deem necesary, membership on which to include but not to be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State, and Federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

"Article V—Powers

"The Board shall have the power to—

"(1) Ascertain and analyze on a continuing basis the position of the South with respect to energy, energy-related industries, and environmental concerns.

"(2) Encourage the development, conservation, and responsible use of energy and energy-related facilities, installations, and products as part of a balanced economy and a healthy environment.

"(3) Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related, materials and products.

"(4) Conduct, or cooperate in conducting, programs of training for State and local personnel engaged in any aspects of:

"(A) Energy, environment, and application of energy, environmental, and related concerns to industry, medicine, education or the promotion or regulation thereof.

"(B) The formulation or administration of measures designed to promote safety in any matter related to the development, use, or disposal of energy and energy-related materials, products, installations or wastes.

"(5) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy product, material, or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.

"(6) Undertake such nonregulatory functions with respect to resources of radiation as may promote the economic development and general welfare of the region.

"(7) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to energy and environmental fields.

"(8) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures, and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate State agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

"(9) Prepare, publish, and distribute (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

"(10) Cooperate with the United States Department of Energy or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interests.

"(11) Act as licensee of the United States Government or any party State with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

"(12)(A) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of energy and environmental incidents in the area comprising the party States, to coordinate the environmental and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party States and to facilitate the rendering of aid by the party States to each other in coping with energy and environmental incidents.

"(B) The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party States as a whole or within any subregion or subregions of the geographic area covered by this compact.

"Article VI—Supplementary Agreements

"(a) To the extent that the Board has not undertaken any actiivty or project which would be within its power under the provisions of article V of this compact, and two or more of the party States (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program of activity conducted by or participated in by the Board.

"(b) Unless all of the party States participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

"(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party State under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

"Article VII—Other Laws and Relationships

"Nothing in this compact shall be construed to—

"(1) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order, or ordinance of a party State or subdivision thereof now or hereafter made, enacted, or in force.

"(2) Limit, diminish, or otherwise impair jurisdiction exercised by the United States Department of Energy, any agency successor thereto, or any other Federal department, agency, or officer pursuant to and in conformity with any valid and operative Act of Congress.

"(3) Alter the relations between and respective internal responsibilities of the government of a party State and its subdivisions.

"(4) Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial purposes.

"Article VIII—Eligible Parties, Entry Into Force and Withdrawal

"(a) Any or all of the States of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, any State contiguous to any of the foregoing States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States shall be eligible to become party to this compact.

"(b) As to any eligible party State, this compact shall become effective when its legislature shall have enacted the same into law: *Provided*, That it shall not become initially effective until enacted into law by seven States.

"(c) Any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the Governor of the withdrawing State shall have sent formal notice in writing to the Governor of each other party State informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

"Article IX—Severability and Construction

"The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence, or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any State participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining States and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.".

SEC. 3. Pursuant to article II(a) of the Southern States Energy Compact, there shall be one representative of the Federal Government on the Southern States Energy Board. The representative shall be appointed by the President and he shall report to the President either directly or through such agency or official as the President may specify. He shall be compensated for each day of service rendered in such capacity in an amount fixed by the President not to exceed the daily equivalent of the maximum rate for grade GS-18 of the General Schedule prescribed in section 5332 of title 5, United States Code: *Provided*, That if the representative be an employee of the United States, he shall serve without additional compensation. Board members, including the Federal representative, serving as such at the time of enactment of this Act, shall continue to serve until their successors may be appointed, in accordance with the law of their respective jurisdictions.

SEC. 4. The Department of Energy, the Nuclear Regulatory Commission, the National Aeronautics and Space Administration, the Environmental Protection Agency, the Federal Energy Management Administration, the Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of Labor, the Secretary of Agriculture, and the heads of other departments and agencies of the Federal Government are authorized, within available appropriations and pursuant to law, to cooperate with the Southern States Energy Board.

SEC. 5. Copies of the annual reports made by the Southern States Energy Board pursuant to article II(k) of the Southern States Energy Compact shall be transmitted to the President and to the appropriate committees of the Senate and the House of Representatives.

SEC. 6. The consent to the Southern States Energy Compact given by this Act shall extend to any and all supplementary agreements entered into pursuant to article VI of such compact: *Provided*, That any such supplementary agreement is only for the exercise of one or more of the powers conferred upon the Southern States Energy Board by article V of such compact.

SEC. 7. The right to alter, amend, or repeal this Act is expressly reserved.

SEC. 8. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information or data by the Southern States Energy Board as is deemed appropriate by the Congress or any such committee.

SEC. 9. The Act entitled "An Act granting the consent of Congress to the Southern Interstate Nuclear Compact, and for related purposes", approved July 31, 1962 (76 Stat. 249), as amended, is hereby repealed, effective on the date the Southern States Energy Compact becomes effective.●

By Mr. JAVITS (for himself and Mr. MOYNIHAN):

S. 2988. A bill for the relief of Michele Chiaramonte; to the Committee on the Judiciary.

MICHELE CHIARAMONTE

Mr. JAVITS. Mr. President, once in a while the application of our laws produces a harsh and unfair result, having an unnecessarily disadvantageous impact on those seeking permanent residence and, ultimately, citizenship in our country.

Just such a case has recently come to the attention of Senator MOYNIHAN and myself. During the fall and winter of 1943 and 1944, in the midst of World War II, and during conditions of conceded substantial privation in war-torn Italy, a young man, Michele Chiaramonte was convicted of stealing some olives and some wood, which he asserted at the time was necessary for his family's well-being.

Some 30 years later, these convictions have been used as a principal basis for denying Mr. Chiaramonte's application for permanent residence in the United States on the ground that, as a matter of law, they evince "moral turpitude" on his part.

We can never know now the full and complete facts surrounding the events of 1943 and 1944. But I think it clear enough from the nature of the crimes and the passage of time that to use these events as absolute and unyielding bars to his admission to this country is unfair and unnecessary.

Even the Court of Appeals for the Second Circuit, upon being required by the legislative scheme to affirm a denial of Mr. Chiaramonte's application by the Board of Immigration Appeals, felt compelled to remark:

> We are not unmindful of the seeming harshness in turning petitioner away because of two minor criminal escapades committed in his youth. Neither are we unaware that INS' steadfast denials of Chiaramonte's various applications may seem somewhat quixotic when viewed against the veritable flood tide of immigration, legal and illegal, which this nation has experienced of late.

But the court also made it clear that it was not free to substitute its own judgment for that of the national legislature when, as here, the matter is one clearly entrusted to Congress—and this is so even though its ruling may produce an unfortunate and harsh result in a particular case. As the court said:

> The regulation of immigration is a matter entrusted to Congress, . . . and we are not free to substitute our judgment for that of the national legislature merely because the statutory scheme dictates a severe or unfortunate result in a particular case.

We are not so constrained. We do have the power to adjust the legislative scheme to avoid the wrong result in a particular case, and with the bill we introduce today, we urge that we take that step in the case of Michele Chiaramonte.

The bill we are introducing focuses directly on the problem at hand. It states simply that the two escapades of another, extraordinary era, that I have already described, shall not be used as a basis for excluding Mr. Chiaramonte or denying him a visa. My bill thus will leave the relevant agencies and authorities entirely free to consider whatever other facts they deem relevant in considering the merits of Mr. Chiaramonte's application. But more important, my bill will leave Mr. Chiaramonte free to apply for admission to this country, unencumbered by what almost everyone concedes are unfairly disabling skeltons of the past. I truly believe this is a fair and just way of resolving the situation and one more in tune with the true aim and spirit of our immigration laws.

By Mr. SARBANES (for himself, Mr. NELSON, Mr. PROXMIRE, Mr. WILLIAMS, Mr. CRANSTON, Mr. RIEGLE, Mr. STEWART, Mr. MITCHELL, Mr. TOWER, Mr. LUGAR, Mr. WEICKER, and Mr. GARN):

S. 2990. A bill to amend Federal securities laws to facilitate the mobilization of capital for new small- and medium-sized companies by encouraging venture capital activities and promoting public investment; to the Committee on Banking, Housing, and Urban Affairs.

SMALL BUSINESS SECURITIES ACT AMENDMENTS OF 1980

● Mr. SARBANES. Mr. President, I am very pleased to join with members of the Banking Committee, Senators PROXMIRE, WILLIAMS, CRANSTON, RIEGLE, STEWART, MITCHELL, GARN, TOWER, and LUGAR and with Senators NELSON and WEICKER, respectively chairman and ranking minority member of the Small Business Committee, in introducing legislation that will significantly enhance the ability of small new business enterprises to attract venture capital.

This legislation will enable us to dispense with regulation that unnecessarily inhibits venture capital activities while retaining necessary criteria to protect investors and insure confidence in our capital markets.

Capital formation is a fundamental factor in increasing productivity and thereby strengthening the Nation's economy. This legislation addresses the difficult problems of capital formation for new and small businesses in a number of ways. First, it defines and facilitates the creation and operation of small business development companies engaged in raising venture capital. Second, it incorporates measures recommended by the SEC to raise the ceiling for so-called regulation A offerings and to revise the Trust Indenture Act of 1939 consistent with that increase. Third, it includes several proposals from bills introduced earlier this year by Senator NELSON, chairman of the Senate Committee on Small Business, providing for Federal-State consultation and for interagency cooperation in focusing on the problems of the Nation's small business enterprises, which play a vital role in the Nation's economic activity.

In summary, the bill incorporates careful and constructive proposals to encourage capital formation in an area where capital requirements are especially difficult to meet, and for that reason it represents an important step forward in our continuing efforts to strengthen the national economy.●

By Mr. MATSUNAGA:

S. 2992. A bill to authorize a study of sail-assisted technology as a means of reducing energy costs for interisland transportation in the Trust Territory of the Pacific Islands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MATSUNAGA. Mr. President, on July 10 and 11, 1980 on behalf of the Energy and Natural Resources Committee, I conducted hearings in Honolulu on the energy crisis confronting our Pacific territories—an energy crisis that, in its impact, exceeds anything being experienced in the 50 States.

The Pacific Trust Territories are almost totally dependent on fuel imported from the Persian Gulf for meeting their energy needs. Yet their developing economies are simply not capable of absorbing the impact of rapidly escalating fuel costs. As a consequence, essential services, that most of us take for granted under any circumstances short of a natural disaster are being curtailed or, in some locations, halted altogether. I am referring to medical care, food distribution, police protection, radio communication, and even baseload electricity generation in population centers.

If the Pacific territories are to overcome their energy crisis and resume progress toward that economic self-reliance which is in their interest and which has been established as a Federal policy objective, dependence on imported fuel must be reduced.

Overall, Mr. President, the communities hardest hit by the Pacific energy crisis belong to the Trust Territory of the Pacific Islands. And within the trust territory, the impact of the crisis is most keenly felt in the realm of surface transportation. Mr. President, I ask my colleagues to envision more than 2,000 islands scattered over an area encompassing 3 million square miles. That is the area of the trust territory.

It is larger than the entire U.S. continental land mass. The major highways of the trust territory belong to the Pacific Ocean itself and the vehicles that move across those watery highways are oceangoing vessels powered by imported fuel.

Those vessels distribute food, fuel, and medical supplies, they channel commerce, they provide point to point transportation for the inhabitants. To cut their service would be equivalent to cutting the highways and railways that bind the communities of the U.S. mainland. Yet that is precisely what is occurring.

For example, a representative of the Truk District of the trust territory, which consists of 39 island municipalities, testified at the hearings in Honolulu that seaborne interisland services had been cancelled for the remainder of fiscal year 1980. Spokesmen for other districts testified to similar difficulties they were suffering.

As a result of the energy crisis, the islands of the trust territory are slipping into varying degrees of isolation that could stifle any hope for economic development, social stability, or self-reliance in anything other than the most primitive context.

Ironically, Mr. Chairman, this unhappy condition has settled upon a people who are descendants of perhaps the greatest race of ocean navigators the world has ever known. Centuries before Columbus and Magellan, without compass, sextant, or other such basic navigational tools, Pacific island peoples sailed over that vast ocean as if it were a modest-sized lake.

Indeed, it was only during the post-World War II era that the full-scale shift away from sail-powered transport was accomplished within the trust territory, spurred by the availability of a cheap fuel imported from the Middle East.

Meanwhile, however, in other parts of the world, extraordinary advances were being made in the design of wind-powered vessels. The OPEC price hikes gave added impetus to the development of what came to be called sail-assisted technology. Its pioneering practitioners included some of our most skilled naval architects and engineers, working with highly sophisticated design configurations, drawing on the most advanced satellite-obtained information on wind speed, direction, wave heights and currents, utilizing complex computer programs to measure the cost-effectiveness of various combinations of ship size, design, cargo and routes.

At its present state of development, sail-assisted technology shows considerable potential for the surface transportation system of the trust territory, which is served mainly by relatively small cargo vessels, about 185 feet in length.

I am therefore introducing a bill today, S. 2992, to direct the Secretary of the Interior to review the energy needs of the trust territory, particularly with respect to transport fuel, and to prepare a scientific analysis of the potential applications of sail-assisted technology as a means of reducing energy cost for interisland transportation, with findings and recommendations to be submitted to the Congress by October 1, 1981.

If the findings prove positive, and initial indications are that they will, the logical next step would be a conversion of the interisland fleet to sail-assisted technology either by retrofit or replacement. The beneficial impact of a virtually energy self-sufficient surface transportation system would be felt across the full spectrum of the trust territory economy. And its influence could be worldwide.

I think it is worth mentioning, Mr. President, that other nations, including Japan and the Soviet Union, are actively engaged in developing sail-assisted technologies. They have become active because the logic on the side of the eventual worldwide deployment of sail power in various combinations with motor power on vessels of every size and shape is becoming overwhelming.

While Japan and the Soviet Union may have stronger shipbuilding industries than us at this point, neither country approaches our sophistication in the design of sailing vessels. What is needed is the integration of those skills into our shipbuilding industry. So the support of early development of sail-assisted technology for the trust territory is very much in the national interest for more than one reason.

As the Pacific islands once set an example for the world in ocean navigation, so they may again, and in the process help restore the languishing American shipbuilding industry to the position of worldwide preeminence it once enjoyed.

ADDITIONAL COSPONSORS

S. 1078

At the request of Mr. Javits, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 1078, a bill to amend the Internal Revenue Code of 1954 to provide for the taxation of artists' income and estates.

S. 2623

At the request of Mr. Goldwater, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of S. 2623, a bill to incorporate the U.S. Submarine Veterans of World War II.

S. 2718

At the request of Mr. Stevenson, the Senator from Kansas (Mr. Dole), the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), and the Senator from Hawaii (Mr. Matsunaga) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2732

At the request of Mr. Packwood, the Senator from Minnesota (Mr. Durenberger), and the Senator from Tennessee (Mr. Sasser) were added as cosponsors of S. 2732, a bill to direct that a clinical investigation of the safety and efficacy of dimethyl sulfoxide as a drug to be used by persons with arthritis be conducted through the National Institute of Arthritis, Metabolism and Digestive Diseases.

S. 2800

At the request of Mr. Magnuson, the Senator from New Mexico (Mr. Schmitt), and the Senator from Indiana (Mr. Lugar) were added as cosponsors of S. 2800, a bill to provide for full insurance for deposits of public funds in insured banks, thrift institutions, and credit unions.

S. 2962

At the request of Mr. Culver, the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of S. 2962, a bill to amend the "Rock Island Transition and Employees Assistance Act."

S. 2983

At the request of Mr. Schweiker, the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Garn), the Senator from Utah (Mr. Hatch), the Senator from California (Mr. Hayakawa), the Senator from Iowa (Mr. Jepsen), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), and the Senator from Mississippi (Mr. Cochran) were added as cosponsors of S. 2983, a bill to amend the Internal Revenue Code of 1954 to reduce the tax on capital gains.

SENATE JOINT RESOLUTION 185

At the request of Mr. Jackson, the Senator from Illinois (Mr. Percy) was added as a cosponsor of Senate Joint Resolution 185, a joint resolution relating to a rationing contingency plan.

SENATE JOINT RESOLUTION 189

At the request of Mr. Stevenson, the Senator from Arizona (Mr. DeConcini), and the Senator from Pennsylvania (Mr. Heinz) were added as cosponsors of Senate Joint Resolution 189, a joint resolution to establish a Commission on Presidential Nominations.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. Danforth, the Senator from Massachusetts (Mr. Tsongas), the Senator from Rhode Island (Mr. Chafee), the Senator from Maine (Mr. Cohen), and the Senator from Maine (Mr. Mitchell) were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution to disapprove the determination of the President not to provide import relief for the leather wearing apparel industry.

SENATE CONCURRENT RESOLUTION 111—SUBMISSION OF A CONCURRENT RESOLUTION CONCERNING THE 5TH ANNIVERSARY OF THE HELSINKI ACCORDS AND CALLING ATTENTION TO HUMAN RIGHTS CONCERNS AT THE MADRID CONFERENCE

Mr. PELL (for himself, Mr. Javits, Mr. McGovern, Mr. Dole, Mr. Stone, and Mr. Leahy) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 111

Whereas August 1, 1980 marks the fifth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) by the United States, Canada and thirty-three European nations at Helsinki, Finland; and

Whereas the signatories to the Helsinki Final Act committed themselves to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion"; and

Whereas Principle VII of the Final Act

specifically confirms the "right of the individual to know and act upon his rights and duties" in the field of human rights and Principle IX confirms the "relevant and positive role" organizations and persons can play in contributing toward the achievement of cooperation among states; and

Whereas citizens of many signatory nations have formed public groups to monitor and promote full implementation of the Final Act; and

Whereas these monitoring groups have documented extensive violations of human rights in the Soviet Union, Czechoslovakia, and other CSCE signatories; and

Whereas the governments of the Soviet Union, Czechoslovakia and other countries have imprisoned, exiled, or otherwise punished members of these monitoring groups; and

Whereas the representatives of these 35 signatories to the Helsinki Final Act will be meeting in Madrid on November 11, 1980, to review implementation and to discuss new measures to advance European cooperation and security; and

Whereas respect for human rights and fundamental freedoms is indispensable for the development of genuine security and cooperation among signatory states: Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress reaffirms its support for full implementation of all the provisions of the Helsinki Final Act by all the signatories; and be it further

Resolved That it is the sense of the Congress that human rights concerns should be given serious and prominent attention during both the review of implementation and consideration of new proposal phases of the Madrid meeting; and be it further

Resolved That the United States delegation to the Madrid meeting should raise—in a firm, forthright, and specific manner—violations of human rights in other signatory countries, especially those actions taken against members of private monitoring groups; and be it further

Resolved That to preserve the integrity of the CSCE process and to ensure full consideration of human rights issues, any new measures agreed upon at Madrid, including post-Madrid experts' meetings, should be balanced among all sections of the Final Act; and be it further

Resolved That the United States delegation should seek a continuation of the CSCE process by working at the Madrid meeting on setting the time and place of the next review meeting within two years; and be it further

Resolved That the United States delegation to the Madrid meeting should seek broad support from other signatory countries for these positions.

The Secretary of the Senate shall transmit copies of this resolution to the President and the Secretary of State.

FIFTH ANNIVERSARY OF THE HELSINKI FINAL ACT

● Mr. PELL. Mr. President, this Friday, August 1, marks the fifth anniversary of the signing in Helsinki, Finland of the Final Act of the Conference on Security and Cooperation in Europe. At that conference, 35 nations including the United States and the Soviet Union agreed to a code of conduct in East-West relations relating to security matters, economic and technological cooperation, and the free flow of people and information.

Later this year, a conference will be held in Madrid, Spain to review the progress—if any—in fulfilling the pledges made 5 years ago in Helsinki. In this connection, I and the other five Senate Members of the Commission on Security and Cooperation in Europe, which was established by law 4 years ago to monitor compliance with the Final Act, believe it is appropriate to reaffirm the Congress interest in seeing that human rights concerns are given prominent attention in Madrid.

Accordingly, I am submitting, together with Senators JAVITS, MCGOVERN, DOLE, STONE, and LEAHY, a concurrent resolution identical to one introduced in the House yesterday urging the U.S. delegation in Madrid to raise violations of human rights—especially those involving members of Helsinki monitoring groups behind the Iron Curtain—in a firm forthright and specific manner. Our resolution also calls upon the U.S. delegation to seek a continuation of the process begun in Helsinki to influence the Soviet and Eastern European governments to implement the Final Act of the Conference on Security and Cooperation in Europe.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia will hold a hearing on S. 1316 and H.R. 4417, concerning Chesapeake Bay Research Coordination. The hearing will be held on Thursday, July 31, 1980, at 9 a.m. in room 6226 of the Dirksen Senate Office Building. Those wishing to submit written testimony may contact Marion Morris of the subcommittee staff at 224-4161.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Resources and Materials Production Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on legislation to provide for a national policy for materials research and development capability and performance of the United States.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Research and Development Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on underground coal gasification and on the Unconventional Gas Research Development and Demonstration Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING AND STABILIZATION OF PRICES AND THE SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Production, Marketing and Stabilization of Prices Subcommittee and the Foreign Agricultural Policy Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate today to hold a joint hearing on S. 2569 and S. 2886, legislation to amend the U.S. Grain Standards Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the sessions of the Senate today and Thursday, July 31, 1980, to hold hearings on the Moon and Other Celestial Bodies Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold a hearing on S. 2166, a bill to promote the development of native American art and culture.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE INVESTIGATING ACTIVITIES RELATING TO INDIVIDUALS REPRESENTING INTERESTS OF FOREIGN GOVERNMENTS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Subcommittee of the Committee on Judiciary Investigating Activities Relating to Individuals Representing the Interests of Foreign Governments be authorized to meet during the session of the Senate today beginning at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate tomorrow, July 30, to continue markup of the Foreign Service Act of 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE DEATH OF THE SHAH

● Mr. DOLE. Mr. President, yesterday the deposed Shah of Iran died in a hospital in Egypt, the land where he found refuge from his ignominous exile. He had been hounded from country to country after his overthrow by the minions of the Ayatollah Khomeini, finding no support from those who had formerly been friends with the self-styled king of kings. Anwar Sadat, once again showing gallantry and courage, offered the dying Shah a final respite from his exhausting flight, giving him a measure of peace and tranquility in his last few months.

If the Shah had few friends in his exile, he had been courted by the most powerful nations on Earth when in power. Iran was a force for stability in the volatile Mideast then, just a few short years before the politics of indecision and uncertainty by an inexperienced U.S. administration contributed to the global perception of Western weakness and helped cause the downfall, along with other reverses throughout the world.

A FLAWED ATTEMPT AT CHANGE

The Shah was an arrogant, proud, and probably tyrannical man, who believed he had been born to rule. Far from being resistant to change, however, he attempted to bring his country into the 20th century. He will be known best in the future, perhaps, as the Shah of untold wealth, corrupted government, secret police, and torture. His regime's crimes and excesses, so new and shocking to westerners since their recent revelations, are most likely overreported—magnified and used to justify the radicalism of the forbidding government that replaced him. Unbiased accounts show that torture and secret arrest were becoming rarer in the last years of his reign.

The Shah hoped to transform his nation into a middle-class, postindustrial society by the end of the century. The middle class he helped foster, and the intelligentsia, rejected his authoritarianism and chafed at the slowness of change. At the other end of the spectrum, the mullahs agitated for a return to the old way of life and to its traditional, medieval moral values. When the middle class abandoned the Shah, they lost their best hope of progress, and both lost Iran. Unrestrained by the symbolism and moral authority of the Shah as an institution, or by the power of the military, the mullahs have run rampant in Iran, tearing at the fabric of modernity. At the time of his downfall, it is unclear whether the Shah could have reconstituted his power by force, but having lost the backing of the United States and his own middle class, he was either unwilling or unable to try. No doubt, the inevitable bloodshed could not have justified the effort to maintain the direction of his rule.

In any event the tide of change, which he had helped unleash, swept Iran on to revolution and chaos, leaving behind both the Shah and Western interests—both economic and strategic—as unimportant and unwanted. The Shah did not die unforgotten in Egypt, his passing does not go unremarked at the highest levels of concern on the world scene: But he and his era already had passed into history.

AMERICA'S CONCERN: THE HOSTAGES

The concern in America must remain focused on the plight of the hostages in Tehran. The death of the Shah means little in the short-term efforts to end their ordeal. But in the long run, his passing from the scene emphasizes the fact that he had long ago ceased to be a critical factor in Iranian society. His era was finished. Perhaps his long-anticipated death will help the mullahs realize that this is so and that they must now pick up the pieces and go forward, making their own peace with the rest of the world. The first step back into the international community will be the release of the hostages.●

THE LIBERAL TRADITION

● Mr. **GOLDWATER.** Mr. President, one of the most outstanding Arizonans who ever lived was the Honorable Lewis W. Douglas, who was at one time the Director of the Budget, then served as a Representative from Arizona and later became one of the finest Ambassadors to the Court of St. James we ever had.

I came across an interesting paper prepared by Mr. Douglas back in 1935, published by D. Van Nostrand Co., entitled "The Liberal Tradition: A Free People and a Free Economy." This is a thought that all Americans should read at this time, particularly those who are inclined to remain on the liberal side of the fence with the idea that money will solve all of our problems.

I ask that an excerpt of this article be printed in the RECORD.

The excerpt follows:

THE LIBERAL TRADITION: A FREE PEOPLE AND A FREE ECONOMY

(By Lewis W. Douglas)

DICTATORSHIP AND A FISCAL POLICY

There have been discussed, in the previous lectures, the errors of the Post-War period, and the direction in which the efforts to attain a planned economy are carrying us.

Equally important, however, in its social and economic consequences, and adding momentum to the forces already created, is the matter of fiscal policy.

There co-exist in the Federal government two powers: the first is the power to appropriate and to expend money, and the second is the power to make money. Whenever the appropriation and expenditure of money continuously exceed the revenue from taxation, governments eventually go bankrupt. The bankruptcy of a government, however, is different from the bankruptcy of an individual. We all know, some of us from personal experience, some of us from the experiences of our friends, of our acquaintances, and some of us from observation—but from whatever source we may have gained our knowledge, we all know that whenever individuals become bankrupt their creditors intercede and become the possessors of their property. The individual, his family if he has one, his employees if he has had any, and if it be a corporation, the stockholders, are the exclusive sufferers.

The situation, however, is different when a government becomes bankrupt. It is different in that, in the case of the bankrupt government there is no power greater than or equal to itself which can become the possessor of its properties, of its wealth, and in that practically all of its wealth is not, strictly speaking, its own wealth, but the wealth of its citizens—that is, unless it be a Soviet or Socialist State. Governments, therefore, never file petitions in bankruptcy; they never announce to the public in so many express words that they are insolvent. Instead of doing what the private individual must do, they resort to the power which the private individual does not have, the power to make money. It is the money which they make without any regard to the production of goods or to past savings accumulated out of production, which they use to pay their bills.

The methods employed by bankrupt governments have been various. When coins circulated as the only medium of exchange they resorted to the policy of reducing their metallic content. When paper began to appear in lieu of coins the governments issued paper. When the central bank was created by governments to control credit, bankrupt governments sold to them their obligations for which they issued the paper. And now the most modern of all expedients is to compel the commercial banks to take government obligations, to set up on their books a credit against which the government may draw its check.

It is interesting to examine the effects of these various devices. History is full of examples of the . . .

. . . reached the point at which deficits are financed by fiat credit, and that at some time, just as in all previous experiences, we may reach the point where government deficits will be met by the direct or indirect governmental or central bank printing of fiat money. For even though the administration may oppose the emission of paper, the forces created by deliberate spending may force a currency inflation. But even if we do not, and, if present policies are continued, the time eventually will arrive when fear of bank deposits will induce an inflation just as it has arisen in all previous experiences with public fear of money.

Many great inflations have either been coexistent with or followed by revolutions. This is because the social consequences of inflation are almost beyond description. Intense suffering is experienced and the middle class is wholly or partially destroyed. Too much emphasis can not be placed on the importance of this great group of people with incomes—however derived—ranging from $1,000 to $5,000 a year. It is they who lend moral fibre to a nation; it is they who come to its defense; it is they who uphold its institutions; it is they who are its strength. Whereas the wealthy and the speculator may escape the destruction of inflation, the middle class has no means of defending itself and is invariably crucified on its cross.

It is, I think, true that France, having attained political equality, would have been saved the intense suffering, the mad fury of an impoverished people, the guillotine in the Place de la Concorde, had not her middle class been destroyed by the emission of assignats.

It is, I think, equally true that Hitler and Nazism would today be impossible in Germany had not Germany's middle class been destroyed by the post-war destruction of the mark. And it is conceded to be true by K. Shmelev, in "Soviet Policy in Public Finance," that the destruction of the ruble by budget deficits was a most effective weapon contributing to the success of the Russian Revolution.

"Toward the end of the civil war, when the system of military communism became clearly defined and further social development seemed to tend in the direction of complete naturalization of all economic relations, it was recognized that paper issues were not only a convenient method of financing the Revolution but also a handy way of combating the bourgeois regime because of the disorganization of money circulation which such issues produced. The booklet of F. Preobrazhensky, 'Paper Money during the Proletarian Dictatorship (State Publishing House, Moscow, 1920), will forever serve as a significant memorial of this mode of thinking. The author says in his preface (p. 4):

"I would like to dedicate this imperfect work of mine to the one who, by the perfection of his own work and by its unbounded abundance, gave me the impulse to write these pages. I refer to the printing press of the People's Commissariat of Finance. The revolutionary government of France managed to exist and to wage war thanks to paper issues; the "assignats" saved the Great French Revolution. The paper money of the Soviet Republic and supported the Soviet Government in its most difficult moments, when there was no possibility of paying for civil war out of direct tax receipts. Glory to the printing press! To be sure, its days are numbered now, but it has accomplished three-quarters of its task. In the archives of the great proletarian revolution, alongside the modern guns, rifles, and machine guns which mowed down the enemies of the proletariat, an honorary Place will be occupied by that machine-gun of the People's Commissariat of Finance which attacked the bourgeois regime in its rear—its monetary system—by converting the bourgeois economic law of money circulation into the *means of destruction of that same regime* (italics by K. Shmelev), and into a source of financing the revolution."

Here, without attempting a comment and without drawing a conclusion, it is relevant to compare the various monetary, banking and fiscal acts of the Soviet in 1917 with those which have here been taken. The Soviet confiscated gold, obtained absolute control of the central bank, socialized bank deposits, directed their use in accordance with the Economic Plan, and finally, as has been shown, deliberately adopted a spending program both to finance the revolution and to destroy the currency. Here in this country gold has been confiscated, complete control of the Federal Reserve System has been obtained and is now being legalized, socialization of bank deposits and the direction of their use in accordance with a plan is demanded, and a policy of deliberate spending has been pursued.

In the light of a deliberate spending policy which, if not stopped, must certainly destroy our currency just as in all previous experiences continuous spending has destroyed a currency—in the light of references by Administration officials to the "New Economic Order," to the "Third Economy"—in the light of "We shall need no firing squads, no guillotines, no deportations or concentration camps" in the light of a policy of complete regimentation and an evidenced inclination to prosecute it, it is not strange that there are some who entertain suspicions with respect to the ultimate design. But whether there be a design or not is quite unimportant.

Almost 60 per cent of all outstanding direct government obligations are held by our banking institutions. The Federal Reserve System holds 2.5 billions of government obligations. Given a serious inflation induced by fear, given a depreciation of government bonds, we will be faced with the spectacle of a practically insolvent Federal Reserve System, an insolvent banking system, a Federal Deposit Insurance Corporation with its mechanism of insurance, i.e., government credit, wholly or partially lying in pieces, a destroyed middle class, an impoverished unemployed population and no government credit on which they can subsist.●

WE ALL ARE AFGHANISTAN

● Mr. GOLDWATER. Mr. President, over the past weekend, I had the real pleasure of reading a short pamphlet published by the Institute of American Relations and the Center for a Free Society, written by Mr. Hans Graf Huyn, entitled, "We all are Afghanistan." It is a most interesting article, put together in a way that when the average American reads it he will, or at least he should have a much better understanding of just what has been going on in Afghanistan and the relationship of the Soviet invasion to our own country.

I ask that this article appear at this point in my remarks.

The article follows:

WE ALL ARE AFGHANISTAN

(By Hans Graf Huyn)

THE TARGET IS EUROPE

The Soviet Union has taken a decisive step forward in its push toward world domination by its brutal invasion of Afghanistan. The true target of the Soviet tanks which roll through the highlands of Central Asia, however, is not Afghanistan; the target is the West—in particular, Europe. The bare highlands of Afghanistan with their 20,000 feet high mountain peaks of Hindu Kush are not, and never have been a target for any conqueror in recent history. Afghanistan is a strategic fortress, a gateway and point of departure for further conquests. Like the Bohemian basin in the center of Europe, like Rhodesia in the Southern part of Central Africa, Afghanistan is the citadel of Asia. The great French historian Rene Grousset called Afghanistan "the turntable of the fate of Asia." Whoever dominates Afghanistan has easy access to the Indian Ocean, to the oil wells on the Persian Gulf, and to the rich lands of the five rivers of Pakistan and India. Ever so many expeditions for world conquest, in the direction of the Indian Ocean, have passed through Afghanistan. During the fourth century B.C., Alexander the Great led his Greeks into the Punjab from Kabul by way of the Katgala Pass. He erected a monument with the inscription: "Thou, Zeus, dominate Olympus, I secured the earth for me." He was followed by Mongols and Moguls, by Bactrian Greeks, Kushites, White Huns, and many others who crossed the Hindu Kush Mountains to conquer India. Today, it is the Soviet tanks "securing the earth for themselves" in the Afghan highlands.

When, in the middle of the nineteenth century, Russian Generals Perovsky and Chernyayev conquered the Khanate of Kokand in Central Asia, the Russian pressure on Afghanistan was intensified. Afghanistan became the buffer state between Central Asia, which was occupied by the Russians, and British India. The main goal of British politics during the entire nineteenth century was the restraint of the Russian pressure on Southern Asia. Only after two Afghan Wars, during the forties and eighties of the last century, the Government of India—which was under British sovereignty—succeeded, on 12 November 1893 at Kabul, in obtaining from Emir Abdurrahman the solemn acknowledgement of a fixed border, the so-called Durand Line, to the North and South of the Khyber Pass between Afghanistan and the Northwest Province of India. As last as on 1 March 1956, the British Government confirmed before the House of Commons that that border was still binding for Pakistan as well as for Afghanistan. On 31 August 1907, Russia acknowledged, in a treaty with England signed at St. Petersburg, that Afghanistan was outside the Russian sphere of influence, and guaranteed the integrity of the country.

The fact that Moscow was preparing to attack beyond the borders of Afghanistan was evidenced by the declaration of the Head of the Afghan Government, Babrak Karmal, who was installed by the Kremlin. He stated, in January 1980 on radio Kabul, that there was no recognized border between Afghanistan and Pakistan. This meant that the Soviet Union and its new Afghan satellite did not acknowledge the Durand Line which had been in effect for almost one hundred years.

On both sides of the Durand Line, in Pushtunistan—in Northwest Pakistan, with its capital Peshawar—as well as in the preponderant part of Afghanistan, there are the Pathans or Pushtuns about whom it is said that they are fonder of their armaments than of their women. Whoever has become acquainted with this freedom-loving, proud, and brave mountain race—be it as guest in one of their mountain eyries on the cliffs enclosing the high valleys of the Hindu Kuch, or in the bazaar of the arms merchants at Peshawar, where the gunsmiths copy every imaginable arm by hand—knows that they will never voluntarily surrender to a foreign conqueror.

In contrast to the crushing of the freedom rebellions in Berlin and in the Soviet zone of occupation of Germany on 17 June 1953, in Budapest during October 1956, and in Prague on 21 August 1968, the Soviet Union reaches, with this (Afghan) invasion, for the first time beyond the territory of its own satellites. Furthermore, it has attacked in a manner that is clear to everyone, i.e., by the use of massive forces of its own strong armies. The aim of Moscow is world domination. Free Europe is a giant economically, but a dwarf politically. Its future is crucial to the future of the world. The freedom of Western Europe will mean a safeguard for the very freedom of the United States. Inasmuch as the People's Republic of China is concerned, a free Europe contributes to the hindrance of a possible preventive strike by the Soviets. Furthermore, inasmuch as the Soviet Union is concerned, the expansion of its power over all of Europe would be the guaranty of its supremacy, in relation to the United States, throughout the world. The enormous economic potential of Western Europe, however, is supposed to come intact under Moscow's control. For that reason, a frontal military attack against Europe, which is protected by NATO, must be avoided by all means. Infiltration, subversion, neutralization, political and military intimidation are the means of the direct Soviet strategy aimed at free Europe, but an even more effective indirect strategy of Moscow is closely tied thereto: Europe is to be cut off from its sources of energy and raw materials.

That is not a new concept. It was considered by the Kremlin just before the end of World War II. When, after the end of the war, members of the American intelligence service at Oberursel near Frankfurt interrogated important personalities of official Germany, they obtained particularly implosive information from Lt. Col. Hermann Baun.

Until the end of the war, Lt. Col. Baun was employed by German intelligence. Under Admiral Canaris, he was the Chief of the Russian Department of the Intelligence I, and in charge of the front reconnaissance detachment operating in Russia. On 30 November 1946, Baun declared: "The capitulation of the German Armed Forces in May 1945, and the subsequent defeat of Japan in August, did not mean the end of the war. World War III has just begun. Moscow continues the war. The Soviet Union plans to conquer the world. The implementation will be flexible as to the details, but the plan is firm. Besides, the consolidation of Soviet power in Eastern Europe, the most important phase of the long-term Soviet plan for achieving world domination, is the expulsion of the European colonizers from Africa.

Then, the time will come for Moscow, in the name of Communism, to take possession of the African continent which is so rich in natural resources and minerals. The purpose of Soviet strategy is to avoid a bloody war for the control of Western Europe. Western Europe is not viable without overseas raw materials and without world trade! It will then—like a ripe fruit—fall into the Soviet Union's lap, without any war. After Europe, the then isolated United States will also fall." As evidence. Lt. Col. Baun handed to his American interlocutors a carefully guarded secret document of the Central Committee of the Communist Party of the Soviet Union.

Cuban satellites and East Berlin henchmen took care of Moscow's business in Africa: Authorized agents of Moscow are already in Angola, Mozambique, Congo, and on the Horn of Africa; and try to expand their sphere of influence into Rhodesia and South-West Africa, as well as into Sudan, into the cobalt-rich province of Katanga and into the phosphate deposits of the former Spanish Sahara. From Afghanistan, the immediate Soviet threat is directed first against the petroleum fields on the Persian Gulf, also against Pakistan, and beyond that, to the ports on the Indian Ocean, which were long desired by the Czars. Now, only thinly populated Baluchistan separates Soviet armies from the desired goal of an ice-free port. Moscow supports the guerrilla movement in Baluchistan which, in years past—in particular from 1973 to 1977—waged a bloody war against the central government of Pakistan. It is quite possible that guerrilla leader Mir Hasar is Moscow's chosen instrument to establish on the shores of the Indian Ocean, a Moscow-dependent People's Republic of Baluchistan, after the stabilization of Afghanistan.

The first agent of East Berlin, acting as a guerrilla tactics instructor, was arrested in Baluchistan as early as in the mid-sixties. On 10 February 1973, the security agency of Pakistan confiscated large amounts of Soviet arms intended for the rebels of Baluchistan at the Embassy of Iraq in Islamabad. On 21 November 1979, the U.S. Embassy in the capital of Pakistan, Islamabad, was burned down by irate Islamic demonstrators after Moscow spread false rumors that the American intelligence agency CIA was behind the occupation of the mosque of Mecca. Immediately after the arson, two cars with Soviet license plates approached the compound of the U.S. Embassy. Four KGB members alighted from these cars and prepared to search the ruins of the Embassy. Pakistan authorities prevented them from doing so.

If Pakistan should disintegrate because of the targeted and coordinated Soviet and Indian pressure, and if a People's Republic of Baluchistan should be established, the Red Navy of Moscow will be able to land in the harbor of Gwadar, closing the line of control from the Arctic to the Indian Ocean.

To evaluate Soviet policy, it is of great significance to understand that the classic land power of Russia has changed from continental, to global and maritime strategy, following the buildup of a powerful navy under Admiral Gorshkov beginning about a decade ago. The most important goal of the Soviets is to control the Indian Ocean. Admiral Mahan, the American naval strategist, explained some time ago: "Whoever controls the Indian Ocean, dominates Asia. This ocean is the key to the seven seas. During the twenty-first century, the fate of the world will be decided on the waves of the Indian Ocean." The Indian Ocean is the only one of the world seas that does not border with any of the great powers. Great Britain maintained a Pax Britannica in the Indian Ocean for more than a century, but withdrew from the areas east of Suez in 1971. The penetration of Moscow into this power vacuum serves not only the offensive policy toward Africa and the goal to control the petroleum reserves in the Middle East and the petroleum supply routes originating there, but also the maritime security of the dominance achieved by Moscow in Southeast Asia after the end of the Vietnam War.

At the same time, a possible penetration of the Indian Ocean by China is prevented, and all countries of Southern Asia will be placed in a two-front situation between the continental Soviet power in the North and their maritime supremacy in the South. The domination of the Indian Ocean is today for the Soviet Union—just as it was for the British Empire at the end of the last century—the condition for the establishment of its superiority over the entire continental mass of Eurasia and Africa. However, in contrast to the position of Great Britain at that time, the Soviet Union is today in a much more favorable position, since it occupies a major part of the Eurasian land mass as its own territory; while Great Britain, in the last century, basically penetrated, with its power politics, only the coastal areas of the Indian Ocean.

If Moscow succeeds in establishing undisputed supremacy over the Indian Ocean and—in connection therewith—in penetrating Southern Asia and the African continent, then China, on the one hand, and Western Europe, on the other, will be pushed into an isolated marginal position on the Eurasian continent. The American double continent alone then will not be able to withstand, in the long run, the power concentration of the Soviets. Then, Moscow will have achieved the decisive breakthrough toward world supremacy.

THE CONVENIENT TIMING

Moscow picked the moment carefully. The coordinated events in Afghanistan and Iran—one will see later that they are closely connected—were prepared over a long period of time. It is a favorable point in time for Moscow for many reasons.

China, which is threatened by this Soviet act of aggression just as much as Europe, is not yet sufficiently armed to hinder seriously the imperialist expansionist politics of the Soviet Union. The United States of America suffers still from the after-effects of the psychological lows of Vietnam and Watergate. Moscow had to consider, before the invasion of Afghanistan, the current U.S. President, Mr. Carter, to be a weak adversary, because he failed to put up any resistance to the Soviet expansion in Africa during the last few years. Neither did President Carter present any serious reactions after the overthrow of the Shah, nor at the occasion of the stationing of a Soviet combat brigade in Cuba. The brotherly kiss given by Carter to Brezhnev in Vienna in June 1979 at the signing of the Strategic Arms Limitation Treaty (SALT) convinced Moscow that Carter, in front of the entire world, had been overcome by the euphoria of detente. In addition, he had made the U.S. Senate ratification of the Treaty, which is advantageous to Moscow, his personal goal and one of the most important issues of the election. During a year preceding the presidential elections, however, the United States is always limited in its ability to deal with foreign policy issues.

In Europe, too, the armaments of the Warsaw Pact countries are superior to those of the Atlantic Alliance. In addition to conventional weapons, the Soviet Union has built up for years, in a systematic way, its medium-range rockets directed against Western Europe. On the other hand, since the NATO decision of December 1979, the corresponding counter weapons of the Atlantic Alliance by now only remain on paper for the next three years, since they still have to be built. And for the Federal Republic of Germany, facing also an election campaign, the ten years of detente illusions of the Social Democrat-Free Democrat government will now pay a high price. Under the motto that detente in Europe, and particularly in divided Germany, must not be endangered, Moscow hopes to be able to bring the Federal Government at Bonn to heel. France goes its own way in Near East politics. The British Government faces its most serious showdown with the trade unions. The instability of the Benelux countries and of the Northern NATO countries is as well-known as that of Italy.

By the invasion of Afghanistan, the Soviet Union has improved significantly its strategic position toward the oil fields of the Middle East, so much so that it may hope to drive a wedge between the United States and Western Europe by forcing Europe, which is much more dependent on the oil supplies from the Middle East than the United States, through direct and indirect threats to remain inactive, thus disrupting Western solidarity.

After leaving Carter's government, James Schlesinger, who, having been Secretary of Defense for many years and thereafter Secretary of Energy, is doubly qualified to recognize the danger. He predicted Moscow's attack against the petroleum regions of the Middle East in an essay of September 1979, characterizing the attack as an attempt to separate Europe from America: "If the United States does not succeed in establishing a firm foundation for the security of the Persian Gulf, we shall indeed face very difficult times. If the access to those deposits were closed (or even, if it were controlled, if the Russians should be able to achieve control of the oil sources in the Persian Gulf), a disintegration of the alliances and a fundamental change of the Free World as it has developed since World War II would follow inevitably. . . . If that region goes under Russian control, Japan and Western Europe would hardly be able to do anything but strive for an arrangement, the result of which would be the end of the alliances that have been known to us for almost two generations. . . . The Soviet Union can achieve its goal of the subjugation of Western Europe most easily through the Persian Gulf. In that connection, it must be remembered that NATO is a defensive alliance. In accordance with its charter, it cannot meet the danger that, perhaps, is the most serious threat to the security of Western Europe: the change of geopolitical realities which takes place directly before our eyes."

The hostages held at the American Embassy at Teheran paralyze, moreover, the United States, and, thereby, afford the Soviet Union a greater freedom of action against Iran. It probably would be difficult for the American President to take necessary military action in Iran, even as a response to Soviet acts of war, since he, in effect, would be risking automatically the lives of the fifty American hostages.

In addition, time works against Moscow. Not only does the growing strength of China put the Kremlin under time pressure, but also, in the area of armaments, the Soviet Union has achieved parity with the United States and the Atlantic Alliance in some areas, and in other areas has even oustripped the West. This situation may change from one of Soviet advantage to that of Soviet disadvantage again in a few years, but only with increased defense efforts by the West. The West combined is much stronger economically than the Soviet Union, and the Soviets cannot continue to spend fifteen percent of its GNP for armaments since its economic growth is declining. At this point in time, the Soviet Union shows its lowest growth rate since the October revolution of 1917. The Soviet's current economic plan has not been met, and there are serious doubts about long-range plans. In addition, the United States has, at this time, only a limited military capability overseas. The immediately available combat reserves are limited. This situation is largely the consequence of the suspension of universal military draft several years ago in the United States. In particular, serious military bottlenecks may face the Americans if the Soviet Union—which pursues global policies toward the West—creates another crisis situation in addition to the Middle East. That could occur possibly in Rhodesia and Southwest Africa as well as against the Shaba province, with the help of agents. In addition to the countries of the Warsaw Pact in Eastern Europe and on the Soviet-Chinese border, the most massive presence of Soviet arms and war materials in the world is now in Libya. Other possible crisis areas are Yugoslavia and the Caribbean.

There is much evidence that the Soviet leadership, entering the fight for control of the world, will not stop with the invasion of Afghanistan.

MOSCOW'S GRASP FOR PETROLEUM

"Winter started especially early this year," wrote the Soviet Party paper, *Pravda*, on November 12, 1979. It subsequently explained the difficult economic situation of the Soviet Union in the field of energy. The article ended with an appeal to the Soviet people to seal all windows and cracks in order to save energy during the winter. That is only a small outward sign of the critical situation that looms for the Soviet sphere of power in the energy field.

Thus, Moscow's drive in the Middle East is not only an attack in the direction of the Indian Ocean and an attempt at interfering with the energy supply of the West, in particular Europe, but also at the same time an attempt at securing cheap petroleum and natural gas sources for its own use.

Until now, the Soviet Union was one of the big oil exporters of the world. The Soviet reserves are large, but the extraction of the oil is difficult and very expensive—sometimes more than ten times as expensive per barrel as in the Middle East. The reason is that almost all Soviet oil reserves are located in Siberia and, thus, the drilling must be done through layers of ice, snow, and frozen soil. The Soviet Union is not capable of manufacturing the special high-quality drills of particularly hard alloys that are required to exploit the Siberia deposits which lie under a crust of ice. Those drills must be imported from the West.

As early as 1977. the American intelligence service CIA stated in a study: "The Soviets together with their allies in the Comecon will have to import approximately 200 million tons of crude oil, if the present growth rates are to be maintained." In a more recent report of August 1979, the CIA confirmed the results of their 1977 study, and calculated Soviet crude oil production of only ten million barrels per day in 1985, that is, a decrease in production which amounted to approximately 11.5 million barrels daily in 1979. For 1980, the Soviet Union has committed itself to export to its East European Comecon satellites an amount of 1.9 million barrels of oil daily. If the Soviets are to meet this commitment, then even without increasing the amount, they will have a net import requirement of three million barrels per day in 1985, according to the calculations of the CIA. Those figures are very alarming for the Soviet planned economy because, up to this time, the Kremlin, as an oil-exporting country, obtained one fourth of its export income in hard currencies from its petroleum exports. In 1976, the sum amounted to $6 billion. The previously quoted article in *Pravda* of 12 November 1979 clearly pointed out this dramatic and catastrophic reversal in the Soviet planned economy. In June 1979, the demand to save energy was heard throughout the Soviet Union, and in November of last year, Brezhnev had to admit at a meeting of the Politburo of the CPSU that the economic plan in the field of petroleum production could not be met. He was forced to concede that there was a plan lag of thirteen million tons, and he thundered against the energy waste in the Soviet economy.

Moreover, there was a deficit of three billion cubic meters in the natural gas production, thirty-two million ton shortage in coal output, and about sixty billion kilowatt hours shortage in electric energy.

In addition, the development of the production of oil in the Tyumen region of Siberia has run into considerable transport problems. More than fifty percent of the total oil production of the Soviet Union originates in that region. The laying of pipe lines does not progress at a sufficient rate of speed, and the Soviet railroads are not equal to the demands. Moreover, the construction of hydro-electric and nuclear power plants has been delayed. That is particularly serious, inasmuch as, Soviet planners had not taken that difficulty into account. Only one year ago, the Soviets asserted triumphantly that they were able to produce enough oil, natural gas, and coal, not only to satisfy their own demands, but also those of their allies. They charged that energy shortages and lines at gas stations were only natural consequences of Western capitalism. Today, lines at gas stations are no longer rarities, even in the lightly motorized Soviet Union. And, when the Rumanian head of state, Ceausescu, asked Brezhnev, a short time ago, for definite commitments on oil deliveries, Ceausescu had to return to Bucharest without having achieved his goal. Thus, the Rumanians, whose oil reserves are nearing exhaustion, have to buy oil on the free world market and pay in hard currencies. The anger Ceausescu felt because of this brush-off by the Kremlin manifested itself in his refusal to sell gasoline to the comrades from the Soviet Union and other Eastern-bloc countries who took vacations on the Black Sea last summer.

The target of the Soviet attack against the West is, therefore, not only raw material-rich Southern Africa, but also the oil-rich regions of the world, such as the Middle East and—hardly recognized by world opinion at this time—Central America with its rich oil deposits in the Gulf of Mexico, on the Mexican mainland, and in Venezuela. In this respect, the Soviet presence in Cuba gains a new dimension. Aside from the possible immediate threat to the United States, the stationing of a Soviet combat brigade there, discovered only a short time ago, had additional importance. By means of Antonov-22 transport planes, the Soviet General Staff has sent 3,000 men to Cuba. They are used to exert pressure in the Caribbean area. For that purpose, the Cuban intelligence service, DGI (Direction General de Inteligencia), was taken over by the Soviet Secret Service (KGB) as early as 1959. It is used by Moscow for its subversion and infiltration activities, not only in Africa, but also in Spain and in the Latin American area, particularly in the Caribbean. Located in Cuba are the KGB-operated training camps for terrorists, as well as the professional terrorists. In particular, on the Isla de Pinos, where at this time some 10,000 children from African countries have been abducted from their families and are being trained to become professional revolutionaries and terrorists in the service of the Soviet Union.

Just as in other parts of the world, the Soviet Union takes advantage of the discontent of some groups of the population, especially in the small Central American military dictatorships, in order to systematically bring about a Communist uprising. This is done partially by means of popular front and transitional governments which have to accomplish "Kerensky" functions. Only a short time ago, this was the way the Somoza dictatorship in Nicaragua was overthrown, with the aid of Cuban arms. Currently, 2,200 Cuban instructors are active in Nicaragua to bring the country in line with Communism. A few weeks ago, comrade Jose Ramon Fernandez, the Minister of Education in the Castro government who is in charge of indoctrination, inspected the progress of the cadre schools. Cuban and Soviet agents are active also in El Salvador and in other Central American countries.

The targeted infiltration is evident in the Caribbean island countries. The Antilles extend in a bow-shaped curve from Cuba in the Northwest to Trinidad-Tobago in the Southwest. Moscow's agents take over those countries while the rest of the world hardly takes notice. Jamaica, is already oriented toward the Soviets and receives arms from the Soviet Union. In March 1979, a pro-Soviet junta led by Maurice Bishop assumed power on the Caribbean island of Grenada. When the Plenary Session of the United Nations condemned the Soviet aggression against Afghanistan with 104 votes, Grenada was one of the few countries that voted for Moscow, together with the Warsaw Pact nations. During the summer of 1979, the leftists took over at Dominica and St. Lucia. Early in December 1979, a rebellion took place on St. Vincent under the leadership of Lennox ("Bumba") Charles. Moreover, the extreme leftist government of Guyana—facing the islands on the South American continent, a Communist guerrilla movement on Puerto Rico, and the Soviet agitation on Martinique and Guadeloupe must be considered.

When all that is added up, one can easily speculate that it will not be very long before the Caribbean becomes a Soviet mare nostrum, and Mexico with fifty-three percent, and Venezuela with thirty-four percent of the petroleum in Latin America can be threatened by the Soviet-Cuban thrust.

Even more apparent than in the Caribbean, the world can see the Soviet thrust toward the rich oil reserves of Saudi Arabia and Iran. Here, the long-range targeted Soviet policy of encirclement is quite clear. At the point where the Red Sea flows into the Indian Ocean, and on the road of Bab-el-Mandeb, the Soviet Union has gained a foothold in Ethiopia, and the Red Fleet has anchored in the harbor of Massawa. Cuban troops and "security advisors" from East Berlin, as well as other "experts" of the Warsaw Pact countries, assist in these efforts. On the opposite, Asiatic side of Bab-el-Mandeb, Moscow made South Yemen one of its satellites. Former British Aden is the largest Soviet fleet and air force base in the Middle East.

The harbor of Aden is hermetically sealed by a wall from the rest of the city, and is controlled by the Soviets. Operating here is not only a central office of the KGB, which together with the KGB offices at Beirut and Tripoli, handles, among other assignments, the coordination of international terrorism, but there is also a section of the East Berlin State Security Service. This East Berlin State Security Service section is responsible—just as in Ethiopia—for bloody massacres among the civilian population as well as for the establishment of concentration camps. The Communist guerrilla movement PFLO (Popular Front for the Liberation of Oman) also operates from Aden. Its leader, Abdul Azia al-Quadi, has just announced the start of new activities against Oman, situated at the entrance of the Persian Gulf. From here, operations against North Yemen are also undertaken. Toward the end of June 1978, the head of the government of North Yemen, Achmed Al Gashmi, was assassinated by means of an explosive charge hidden in the attache case of a Yemenite diplomat. Despite Western efforts on behalf of North Yeman, the government feels threatened to such an extent that it has been following a seesaw policy during the last few months, and has accepted arms from the Soviet Union since September 1979, including more than fifty T–62 tanks, fifteen MIG–21 tactical aircraft, five batteries of SAM–2 ground-to-air rockets and additional war materiel. In addition, six hundred Soviet military advisors are currently already active at Sana, the capital.

Farther to the North, Moscow attempts, with increasing success, to gain additional influence in Iraq and Syria. Moreover, it is necessary to mention the strong influence of the Palestine terrorist organization which is guided by Moscow and largely financed by Libya.

Saudi Arabia is threatened by infiltration of terrorist groups, the majority of which are trained and armed in South Yemen, and smuggled from there into Saudi Arabia. The number of plots and attempts at overthrowing the government has increased there recently. That was particularly evident when the most sacred shrine of Islam, the Kaaba at Mecca was occupied on 20 November 1979. Specifically, because the occupation of the mosque took place on 20 November—the first day of the Mohammedan year 1400—and because one of the ringleaders was the former student of theology, Abdallah el Qatani, who had proclaimed himself the messenger of Allah "Mahdi", the action first gave the impression of having exclusively fanatical religious aims.

It was established later, however, that the second-in-command to Abdallah el Qatani, Juhayman, was the real organizer of the plot. He had built up secret terrorist cells of twenty to twenty-five men each, largely trained in South Yemen. In addition, he succeeded in smuggling hundreds of submachine guns and other weapons—hidden in coffins—into the mosque. The action had been planned at the KGB headquarters in Aden. It was planned that the occupation of the mosque should be followed by a rebellion—camouflaged as an Islamic action—at Medina, Teif, Al-Khobar, Ras Tamara, Safwa, and other places. The objective was the removal of the Saudi monarchy and, in that way, the destabilization of the country.

From the North, the oil regions of the Middle East are imperiled directly by the Soviet Union which had occupied the Northern province of Iran, Azerbaydzhan, as early as during the forties. When Iran considered, in the spring of 1978, to help Somalia against the Soviet-inspired attack from Ethiopia, the Kremlin reminded the Iranian government about the long common border. To emphasize the threat, Communist-controlled rebellions against the Shah flared up in the Northwestern part of Iran.

As a result of the invasion of Afghanistan, the Soviet troops also now stand in the Eastern border of Iran. From there, the tank divisions and motorized units of the Red Army can reach, in eight hours, the Iranian oil harbor Bandar Abbas in the Hormuz straits on the Persian Gulf.

IRAN, THE TARGET OF SOVIET ATTACK

Whoever has followed the developments in Iran since the overthrow of the Shah will generally have had the impression that it is a case of a rebellion of "Islamic fundamentalism" against the policies of reform and "Westernization" of the Shah, that largely irrational elements determine policy, that chaos dominates the country, and that the pig-headed and fossilized Ayatollah Khomeini, who has returned to Qom from his Paris exile, and his fanatical schiite mullahs cannot bring about the end to it. However, the careful observer discovers, in that confusing picture, a few red threads, the disentanglement of which leads to a possibly more dangerous diagnosis of the situation in Iran than it appears to the superficial observer.

First of all, it is an error to assume that the determining factor of the Iranian situation may be the case of an old religious leader who is simply not able as a ruler, to succeed the Shah. Iran is not a one nation country as many others, but, in the true meaning of the word, an empire, consisting (or one may have to say "consisted") of many nationalities. At the present time, we are witnesses of the disintegration of that empire, and, at this point in time, it is not yet clear whether, or how it may be held together. In Azerbaydzhan and Kurdistan, independence movements are active, the operations of which are used cleverly by Moscow, in order to exert pressure on the central authorities of Iran. In the Iranian port of Baluchistan, Soviet tendencies are as noticeable as in the oil region of Khusistan which is claimed by Iraq.

Moscow's tool in Iran is the Tudeh-Party which was founded in 1941. Besides the usual subversive activities of Communist parties, the Tudeh-Party pays particular attention to the organization of Iranian students in foreign countries. When an assassination attempt against the Shah, plotted by the Tudeh-Party, failed on February 4, 1949, the Party was banned. Nevertheless, it continued its work underground. Its next main goal was the infiltration of the Persian army. Various radio stations in foreign countries supported the Communist propaganda work in Iran. Since the early seventies, the Moscow-obedient Communist Tudeh-Party is increasingly busy with specific terrorist activities. Connections with the PLO and the Baader-Meinhof gang have been established. Iranian terrorists are schooled in the Near East, as well as in Cuba. From 1970 to 1976, Iran was shaken by terrorist acts of Communist gangs. The terrorists have also established—through one of their liaison men, Therani—connections to the government of Libya and to the Soviet Union. They received arms from Libya for their activities in Iran. Some of the terrorists were also trained in Iraq and in Bulgaria. In 1976, the Iranian police succeeded in dealing a serious blow to the terrorists—many were arrested—more than a hundred were killed.

The exile leadership of the Tudeh-Party was located at Leipzig until the time when the Shah left Persia. Immediately after the overthrow of the Shah, Boris Ponomarev, the head of the Foreign Department and member of the Politburo of the CPSU, who is responsible for subversive activities, appeared at East Berlin and negotiated there with the Tudeh leadership. His instructions were that the American position in Iran should be the main target of attacks in Iran.

The Tudeh-Party has more than 250,000 members who supposedly got hold of some 140,000 guns and other small arms during the disorders of the revolution. The leader of the Tudeh-Party is Nurreddin Kiamuri, a dedicated Stalinist who, before his return to Iran in February 1979 was employed as a Professor in East Berlin. Together with him, a few dozen functionaries of the Tudeh-Party, who had been trained in East Berlin, Leipzig, and Prague, returned to Iran.

The Tudeh-Party received help from the approximately 100,000 Moyahdin, the radical left-wing followers of the assassinated Ayatollah Taleghani of Teheran. In addition, there are the extreme leftist organizations of the "People's Fedayin", as well as Palestinian terrorists who have their headquarters in the building of the former Israeli embassy in Teheran, and who work in the Persian oil region with the "Liberation Front of the Arabic Gulf", financed by the Libyan head of State, Qaddafi.

The Soviet secret service, KGB, had succeeded earlier in acquiring other tools for its work, besides the Tudeh-Party. There were red cells in the Iranian Army, which were not destroyed upon American advice by leadership loyal to the Shah, at the beginning of the revolution, but were later liquidated by the revolutionaries. The Deputy Commander-in-Chief of the Army, Major General Ahmed Mogharrabi, had worked eleven years for the KGB. The role of Ayatollah Khomeini, in whose entourage there were Soviet agents at the time of his exile, is unclear. Col. Michael Goloniewski, a former Polish secret service officer who had fled to the West in 1960, testified even then to the American authorities that Khomeini was one of the five most important contact men of the KGB. French observers state that some forty advisors and associates of Khomeini work for the KGB. Furthermore, Qaddafi, the Libyan head of state, is supposed to have suggested to Khomeini to work with the Communists.

It is a fact that about the only publication that may appear in Iran without being censored now is the central organ of the Communist Tudeh-Party, "Mardom." It is also a fact that, in 1979, at the occasion of the anniversary of the Russian October Revolution, a Soviet diplomat was permitted to address the Persian population by the medium of state of television.

It is also a fact that the Foreign Affairs Minister Ghotbzadeh was, from 1968 to 1974, an active and militant member of the Moscow-controlled Marxist Palestinian terror organization PFLP. It is also a fact that the Soviet Union, by means of radio broadcasts and announcements, indeed criticizes a number of Islamic religious leaders, such as Ayatollah Shariat Madari and Ayatollah Rohani, but, on the other hand, never Ayatollah Khomeini. Thus, the picture unfolds of a Soviet double-dealing strategy. The Islamic movement is to be used as long as it benefits Moscow and breaks up traditional structures, until the Tudeh-Party is strong enough to take over, or, until, in accordance with the pattern in Afghanistan, the Soviets are asked to "help." By that time, all "bourgeois" political, military, and economic leadership must be removed or liquidated, in order that the Soviet subversion, which still operates under the cloak of Islamic terminology, will find no resistance, when its true goal will become clear to all the world. Whoever by that time will not be ready to serve Moscow's purposes will have to be used for some time as a Kerensky figure.

During this fuzzy transitional period, the "students" occupied the Embassy of the United States at Teheran on 4 November 1979 and took as hostages fifty persons from the Embassy—after releasing a few black Americans. While the Soviet representative to the United Nations, Troyanovskiy, first sanctimoniously condemned the occupation of the Embassy, he later vetoed sanctions to be applied in the UNO Security Council. A radio broadcaster calling himself the "Voice of Iran" called for the occupation of the Embassy two days before the taking of the hostages. The "Voice of Iran" is actually the voice of Moscow—the transmitter is operated by the KGB in Iranian language and is located in the Soviet Union in Baku, near the Northern border of Iran.

The first resolution published by the occupants of the Embassy was written by a "student" who actually is a functionary of the Communist Tudeh-Party. On Tuesday, 6 November 1979. President Carter was informed at a meeting of the National Security Council that great numbers of the "students" had been identified as agents of the KGB. In addition, it was found by questioning the black American Embassy members, who had been flown from Teheran by way of Frankfurt into the United States, that the treatment of the hostages in the Embassy by the occupants, including the methods of interrogation, were exactly the same as the well-known methods used in the Eastern-bloc countries on the political prisoners during the preparation of show trials, for example, as in the case of Cardinal Josef Mindszenty or in the infamous Slansky trial in Prague.

Moreover, the timing of the taking of the hostages is an important indication: the attack on the Embassy was begun at the very moment when the negotiations of some important Iranian "Kerenskys" with the United States were just about to be successfully concluded, and when a pro-Western trend in Iran was close to gaining the upper hand. All those facts indicate a KGB role in the taking of the hostages in Teheran.

Today, it is useless to speculate whether the United States would have been able to terminate the imprisonment of the hostages by an immediate hard counteraction. It is a fact that President Carter tried—so far in vain—first to use the former Attorney General Clark, who was not even permitted to come into Iran and had to return to Washington without any success, then the Pope, the Security Council of the United Nations, the PLO, the International Court at the Hague, and others as mediators or instruments in finding a solution. It is also a fact that, therefore, a situation has come about in which the United States stands with their hands tied.

First, they see themselves compelled to take economic or other reprisal measures that will complicate any understanding between the Iranian leaders and the United States and, thereby, despite the indignation of many Persians at the Soviet invasion of Afghanistan, would drive Iran more and more into the hands of Moscow.

Second, a stronger engagement of Moscow in Iran, let alone a military intervention following a "call for help" would make an American reaction extremely difficult, since an order of the U.S. President to undertake military counteraction would, at the same time, mean an almost certain death sentence for the 50 American citizens at Teheran—and that immediately before an American Presidential election. In that way, the Soviet leaders have achieved what they wanted: a largely free hand during their further advancement in the Middle East. If the United States undertook a military action against Iran on their own, the Kremlin would not even have to wait for any call for assistance by the Red Army: Article 5 of the *Friendship and Assistance Treaty* of 1921 between Teheran and Moscow, which was terminated by Iran in 1959, but only partly, could be used by Moscow as a pretext for ordering the Red Army to invade Iran from the Soviet Union and from Afghanistan.

MOSCOW'S SURPRISE ATTACK AGAINST KABUL: A STAGE ON THE ROAD TO THE PERSIAN GULF

The Soviet Union has been trying for decades to expand Soviet influence in Afghanistan. During the sixties, the road from Samarkand across the Afghan border and the Salang Pass to Kabul was improved under the guise of Soviet "development aid" in order to bring the country closer to the Soviet Union. It is true that that assistance was not given gratuitously. The Soviet Union has secured, by way of repayment from Afghanistan, the delivery of 70 billion m^3 of Afghan natural gas by 1985 and, in addition, has built a pipeline system at the same repayment conditions. In order to preclude any Soviet dependence on Afghan natural gas deliveries, the Afghan leaders were forced to accept "technical assistance" with an Afghan Five-Year Plan, which was also suggested by Moscow. The control of the Afghan economic planning had already been taken over by Soviet advisors when the President of the country was Sadar Mohammed Daoud. Daoud came into power with Soviet support in 1973. In April 1978, he was murdered during a Communist-led coup. When he tried to ban the Moscow-loyal Communist Party of Mohammed Taraki, he signed his own death warrant. The Soviet instructors of the Afghan air force and army who were stationed in Afghanistan, were behind Taraki's coup of April 1978. Eye witnesses reported that Soviet tank commanders in Afghan uniforms led the surprise attack on Daoud's government palace. Soviet MIGs flew the simultaneous aerial attacks. The strong man in the military revolutionary Council and former Deputy Commander of the Air Force, Lt. Col. Abd-el-Kadir, saw to it that the Chairman of the Communist Party, Mohammed Taraki, was proclaimed the new President of the country. The Soviet Union officially recognized the new government, even before its composition had been announced publicly.

Following his return from the Conference of the Non-Aligned Countries, in Havana, Taraki was warned that Amin was planning a coup against him—which he subsequently carrried out. The favorite of Moscow, however, had been for many years the founder of the Parcham-Party, Babrak Karmal, a Soviet-loyal Communist of long standing, who had been removed by Taraki from the government three months after the coup against Daoud and shoved off to Prague as Ambassador.

Taraki as well as Amin, who—just like their predecessor Daoud—had been assassinated in each case by the succeeding Communist chief of government, were loyal followers of Moscow. Amin, however, was troublesome for the Kremlin because he was an old personal enemy of Karmal, the closest confidant of the Soviet leaders. In particular, Amin had not succeeded in achieving control over the freedom-loving insurgents in Afghanistan. For that reason, Amin's associates requested help in their fight against the insurgents, as early as in the late fall of 1979. A Soviet KGB-officer declared in Washington, in January 1930, with cynical frankness to an interlocutor, literally: "Of course, the Amin forces requested our assistance. That is not a lie, it is true. But Hafitsullah Amin did not take into consideration that we would do away with him."

The General Staff of the Soviet Union prepared its intervention over a long period of time. In April 1979, Polit-Commisar Alexey Yepishev appeared in Afghanistan, followed in August by the Commander-in-Chief of the ground forces, Pavlovskiy. Pavlovskiy stayed two months in the country. Both of them had pertinent experience as "specialists". In 1968, they had arrived in Czechoslovakia, ordered by the Soviet leadership, as harbingers of the Soviet coup in Prague. In July 1979, a Soviet combat unit of 400 men landed at the military airport Bagram near Kabul, in order to secure the military bases of the Red Army against any resistance fighters. On 4 December, the spokesman of the U.S. Department of State stated that Moscow had raised the number of its military "advisors" to more than 3,500 and that Secretary of State Vance[*] had expressed his concern to Soviet Ambassador Dobrynin.

Evidently, that did no good, since the Americans received, four days later, the news that a Soviet combat battalion had landed at Bagram Airport, and that that battalion drove the insurgents off the Salang-Pass, in order to secure for the Soviet troops on land the path of invasion from Samarkand to Kabul. On 11 December, the American television network ABC reported the infiltration of an additional Soviet combat battalion as "vanguard of an entire mechanized airborne division." Six days later, the same network reported "massive military reinforcements around Bagram and Kabul—similar to the ones that, in August 1968, launched the invasion of Czechoslovakia at the Prague Airport.

On 27 December, Soviet Ambassador Fikryat Tabeyev—who had been appointed only one month earlier—and Soviet Minister of Transport Nikolai Talytsin went to see President Amin at his office. They suggested to him that he go to the summer palace of Darulaman, located near the Soviet Embassy at the edge of the City of Kabul, and that he spend the night, because he would be safer from insurgents there than in the center of the city, especially since the Red Army will "protect" him. At 7 p.m., a motorized Soviet unit arrived at Darulaman for the protection of Amin who, up to that time, had been praised in all announcements as a "great friend of the Soviet Union." Four hours later, "Radio Kabul" announced that the new President of Afghanistan Babrak Karmal had removed and executed the "bloody hangman of the people," the "most professional killer of history," and "wild slaughterer and unworthy spy of the American CIA," Hafitsullah Amin. Subsequently, a speech by Karmal was broadcasted. As a matter of fact, Karmal was not yet in Kabul at that time. His speech had been tape-recorded earlier in the Soviet Union and transmitted by a KGB-operated Soviet station in the City of Termez near the Afghan border which announced itself as "Radio Kabul." At his first press conference, Babrak Karmal stated: "It is as clear as the sunlight that the Soviet Union is the most honest friend of all suffering peoples, including the Moslems of Afghanistan."

In the meantime, the Soviet Union had moved, by the middle of January, some 80,000 men of the Red Army to Afghanistan who are constantly being reinforced. The scanty road-net of the country is controlled by them, but the side valleys of the mountains offer hiding places to the freedom fighters. It was a surprise to Western experts at what speed the Soviet Union was able to mobilize an unexpectedly large number of troops. Within hours, cadres of troops were brought up to full strength by reserves and moved to Afghanistan—a brilliant performance of a mobilization from a position of rest! But, 100,000 men will not suffice to beat the resistance fighters of the freedom-loving Afghans.

On 15 January 1980, Karmal appointed Assadullah Sawari his deputy and made the former Ambassador in Washington, Noor Ahmed Noor, and Col. Mohammed Aslam Watanjar additional members of his government. They had participated personally in Amin's liquidation. The new government announced, as one of its first acts, the liquidation of President Amin's secret police and declared at the same time that it would build up a new secret police patterned after the KGB; the specialists for that build-up have already arrived at Kabul from East Berlin.

As soon as the Soviet Union has succeeded in sufficiently stabilizing its position in Afghanistan, and the East Berlin "security advisors" contribute to that end by their bloody methods (just as in South Yemen and in Ethiopia), they will be ready to take the decisive step against the oil fields—a step that will be decisive not only for the oil fields but especially for Europe, for the West, and for the future of all of us.

THE RESPONSE OF THE WEST

The analysis up to this point shows clearly that Afghanistan is only one step—even though a decisive one—on Moscow's path toward the subjugation of the West. The next step—to the Indian Ocean and toward the domination of the oil fields in the Middle East—would mean, at the same time, the end of the freedom of the West, of Europe as well as of the United States. Brezhnev has made it clear in his long Pravda interview in the middle of January 1980 that he already prepares the next step toward world domination. After the crushing of the Prague spring by Soviet tanks in 1968, he established the Brezhnev doctrine of fraternal help for the socialist countries; he has now, in his *Pravda* interview—as the Soviet expert Carl Gustav Strohm states correctly in his analysis—announced the "Brezhnev doctrine II." He declared:

> First of all, "the people" of Afghanistan have asked for Soviet help, and Moscow has fulfilled its obligation; Second, the safety of the Soviet Union was in danger. In that announcement, it is important that the Soviet leadership determines who constitutes

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[*] Secretary of State Cyrus Vance resigned in April 1980.

"the people" calling for help, and that it also determines when the security of the Soviet Union is threatened. On the basis of this publicly announced Brezhnev thesis, the Soviet leaders have an unrestrained license to intervene militarily in any country at any time. Second, the Brezhnev doctrine is the most cynical justification imaginable for a naked imperialism.

East German Foreign Minister Fischer (Socialist Unity Party) echoed assiduously and obediently during a visit with his Austrian colleague Pahr: The presence of Soviet troops in Afghanistan contributes to the detente and to the "stabilization of the situation in that country"; all regions and all peoples need peace—part of satisfying that need is the curbing and checking of still continuing conflicts; that applies to Asia as well as to the Near and Middle East.

The Soviet surprise attack on Afghanistan reminds one of Hitler's march into Prague on 15 March 1939. It led to the end of Chamberlain's appeasement policy. If the Western powers had resisted Hitler more energetically on 15 March 1939, the world might possibly have been spared the Second World War. If the West wants to secure the peace and its freedom, it must signal to the Soviet leaders now, by a decisive reaction, that it is not ready by any means to put up with the occupation of Afghanistan and, thereby, with further Soviet steps.

Moscow attempts to prevent that. Its attitudes show that the Kremlin stakes everything on separating Europe from America. The Federal Republic of Germany is intended to be the moving force.

In view of the lamentable reaction of the present [German] Federal government, the Soviet Union is evidently hopeful. Helmut Schmidt has a TV-team fly to his vacation spot on Mallorca, in order to insert in his New Year's speech that he "cannot be silent about his concern at the actions of the Soviet Union and its allies in Asia and Africa." Nothing more! The word "Afghanistan" does not even occur. Instead, he adheres anew to his detente illusion, in the following sentence. Even worse, an interview with Helmut Schmidt in the "Stern" magazine of 3 January 1980 contains, verbatim, the following: "The fundamental interest of the Soviet Union remains the preservation of peace."

On 5 January 1980, Willy Brandt declares in the "Kolner Stadtanzeiger: Afghanistan shows "that the world still suffers from too little and not from too much detente." And in the "Spiegel," he poses the question whether the invasion of Afghanistan would have occurred if NATO had, in time, negotiated disarmament with the Soviet Union. Accordingly, Brandt is of the opinion that NATO and not the Soviet leadership is to be blamed for Moscow's surprise attack against Kabul. Brandt declared at a meeting at Bremen that "an end of detente brought about by oratory" would be a violation of Germany's own interest—i.e., not that Soviet tanks bring an end to detente, but those who blame that brutal invasion. Bahr and Wischnewski explain hurriedly that detente politics are "divisible". Therefore, one should yield further to the Kremlin in Europe despite Afghanistan. The Chairman of the Young Socialists, Gerhard Schroder, denounced at Cologne on 12 January 1980, the "miserable mendacity" of leading CDU–CSU politicians in Germany who believe in the rescue of the Western world by U.S. Imperialism.

The point is that the West should not proceed again—as in the case after Prague in 1968—to the order of the day in its dealings with the Soviet Union a few months from now. Helmut Schmidt had the poor taste to visit Moscow exactly on the first anniversary of the Soviet invasion of Czechoslovakia, on 21 August 1969, together with the present Minister of the Interior Egon Franke, upon an invitation of the All-Union Soviet President Ivan Spiridonov.

Ten years of a policy of detente illusions, of deception of the German public about the co-existence and the "peace-loving" Soviet Union which is supposed to be saturated—satiated—have been crushed by the chains of the Soviet tanks at Kabul. Where has that policy of illusions—continued over ten years—led us, that policy which asserts that it would "make peace more certain" when the man most responsible for that policy—Willy Brandt—today declares in a "Spiegel" interview that we could stumble into a war at any time.

Of course, any sensible policy must aim at the reduction of tensions, but there is a difference of day and night between a realistic reduction of tensions on the basis of reciprocity and a policy of appeasement and unilateral assuagement.

What has to be done?

1. The West must be unified and respond to Moscow with one voice.

2. Within the Atlantic Alliance, agreement must be reached in all matters so as to achieve unity.

3. The Atlantic Alliance must be equal to the demands directed against it and must be able to respond to proxy wars (Stellvertreter-kriegen) and to safeguard the sources of raw materials as well as the sea routes that are vital to the Alliance.

4. The regions directly in danger because of their geographic location must be safeguarded by all means. That includes assistance to Pakistan and to Turkey as well as a closer collaboration with the People's Republic of China.

5. In view of the increased danger in which we find ourselves the initial defensive capability of the NATO must be strengthened.

6. All members of the Alliance must examine their defense budgets and adapt them to the requirements; that includes an examination of the re-establishment of general military conscription in the United States and in Great Britain.

7. Necessary solidarity steps of the West must not be undermined by any of the members; that includes also a re-examination of the Bonn policy regarding Germany.

8. The European partners of the Alliance must support the United States in their policy of maintaining bases in the region of the Indian Ocean, so that the Soviet Union will be prevented from pushing into a new power vacuum.

9. Only by way of addition to clear security-political steps which have absolute priority, will it be possible for us to undertake further steps such as the prevention of the transfer of technology to the Soviet Union (so as not to provide it with the rope by which, according to Lenin's words, it can hang us later), to which end Paragraph 7 of the Foreign Trade Law may be applied, as well as the refusal of sales of wheat and other associated steps.

Prudence, vigilance, and common sense are required to secure freedom and peace. On the other hand, we all would be in the greatest danger if we acted as if Afghanistan did not concern us. We are still capable of making our decision. The attack by Moscow is directed against us. We all are Afghanistan.●

CONCETTA ZINNI

● Mr. PELL. Mr. President, during the last decade the Congress of the United States passed legislation to remove structural barriers in public buildings that hindered the ability of handicapped people to use Government services and to take advantage of employment opportunities in the public sector.

To comply with this legislation, the Federal building in Providence, R.I., was recently renovated to accommodate the handicapped by installing a ramp at the entrance to the building, widening the doorways, and by equipping rest rooms to make them more accessible.

The first handicapped person to work in the Federal building is Concetta Zinni, who for the past 6 months has been working as a courtroom clerk for Chief Judge Raymond Pettine of the U.S. District Court in Rhode Island, and it gives me great pleasure to pay tribute today to this young woman.

Concetta Zinni entered the job market during a difficult economic time. Her job search was further complicated by the fact that she was a victim of polio at an early age and must, therefore, spend much of her time in a wheelchair. Ms. Zinni was not daunted by either of these obstacles, and actively sought employment after graduating from Bryant College with a degree in business administration.

Ms. Zinni's hiring by Judge Pettine demonstrates our Government's commitment to comprehensive, affirmative action facilitated by structural changes to make public buildings more accessible to handicapped workers. It is my hope that Ms. Zinni's on-the-job performance will encourage employers in the private sector to also make these necessary changes and hire handicapped workers.

I request that an article that appeared in the July 7 edition of the Providence Evening Bulletin describing Ms. Zinni's achievements be printed at this point in the RECORD.

The article follows:

PETTINE SAYS "DISABLED" CLERK IS A WOMAN OF REAL ABILITY

(By Karen Ellsworth)

PROVIDENCE.—Concetta Zinni sees the world from what, for most of us, is about waist-level.

Miss Zinni has been in a wheelchair most of her life. That wheelchair has become a familiar sight to the people who frequent the Federal Building on Kennedy Plaza.

In February, she went to work as a courtroom clerk for Chief Judge Raymond J. Pettine in U.S. District Court, and became, to the best of Pettine's knowledge, the first handicapped person to work in a federal courthouse anywhere in the country.

But the barriers that handicapped people face—the psychological ones as well as the physical ones—are not particularly important to Miss Zinni. She notes, with characteristic frankness, that she doesn't think of her life in a wheelchair as difficult because she doesn't have anything to compare it with.

And she is not aware that anyone with whom she deals in her daily job reacts differently to her. "Some people who are in wheelchairs say that the wheelchair turns other people off," she says. "Maybe I've come across it, but if I did, I didn't know I was coming across it. Maybe I just can't read people's reactions."

Miss Zinni's duties are divided between the clerk's office, where she answers telephone inquiries and files legal papers, and Pettine's courtroom, where she performs clerical duties such as marking exhibits and administering oaths during trials and hearings.

She has been on the job since Feb. 25, and says she likes it much better than school, which she confesses she suffered through. She is 27, and this is her first job.

Judge Pettine says that the federal court system has an affirmative action program and that the Rhode Island district always has complied with it. "But it appeared to me that one of the things we did not have was a handicapped individual, so I made an attempt to find one who would be qualified to do the job," he said.

Recent renovation of the building—including the installation of a ramp at the rear entrance, wider doorways and specially equipped rest rooms—made it much easier for a handicapped person to work there.

The judge has spoken to other federal judges about hiring handicapped people, and he hopes that others will follow suit. But he stresses that Miss Zinni was hired because she is qualified for her job.

"I'm very pleased with her," he said. "She's a bright person who is truly learning her job and doing it well. And in addition to that, she has a delightful personality."

Miss Zinni, an only child who grew up in Barrington, now lives with her parents, Frank and Ida Zinni, in Johnston. Her father is a retired machine operator.

She came down with polio when she was 2 years old, just as she was learning to walk. She spent about two years in a hospital and underwent surgery five times between the ages of 6 and 13.

After the hospital, she had extensive physical therapy. "But I only have so much muscles left," she says. "They can't do everything." She can walk short distances with leg braces and crutches, but uses the wheelchair at work because it allows more mobility.

After a year of private tutoring at home, she began elementary school in Barrington and went through that town's system, graduating from high school in 1972. Her earlier school years were spent in a special child-sized wheelchair.

She doesn't remember any problems. "When I first went, they thought I was a novelty," she says. "But eventually I was just like any other kid." Her closest friends remain the ones she made in junior high and high school.

Miss Zinni earned an associate's degree in business administration from Rhode Island College in 1975. A two-year, off-and-on job search was futile so she returned to school, earning her bachelor's degree from Bryant College last June.

Then she began to look for a job in earnest. She had several interviews with firms that recruited at the college, and several more afterward. Many of the resumes she sent out went unanswered.

But she is not eager to blame her handicap for the difficulty she had finding a job. Most places didn't know she was in a wheelchair until she showed up for an interview.

She remembers one manufacturing firm in Warwick that invited her to come in for an interview. She called the personnel office to ask if the building had a ramp so she would be able to get in. That shook up the woman on the other end of the phone, Miss Zinni remembers with a smile.

"She said they didn't have rest rooms that were equipped for handicapped. All I wanted to know was whether I could get into the building and she kept rattling on about the ladies' room." She didn't get the job.●

THE DANGEROUS SIDE EFFECTS OF STRATEGIC TRADE WITH THE SOVIET BLOC

● Mr. GARN. Mr. President, appearing in the July 1980 issue of Industrial Research and Development is one of the best articles to date, regarding the dangerous side effects of strategic trade with the Soviet Bloc. What makes the information presented in Industrial Research and Development so important—aside from its overall excellence, is the fact that it took great journalistic courage and integrity to print "The Dark Side of Technology Export." This is because Industrial Research and Development is a leading trade journal whose audience consists mainly of corporate executives and others involved with such trade.

However, it is a story that must be told, in all forums—until the message gets through, that our bankrupt policy of providing our main adversary, the Soviet Union, with strategic technology and commodities in the name of "detenté" and "balance of payments" is economically foolish and detrimental to America's national security.

I wholeheartedly commend Industrial Research and Development for its fine contribution to the growing body of evidence against such trade. I also commend Industrial Research and Development for its fine editorial appearing in the same issue. It asks a fundamental question that all Americans of conscience must ask themselves—"Why are we letting this Nation export technology with military potential to the East. Why be the arsenal of communism?"

Mr. President, I do not know the answer to that question, nor, may I add, do the many American citizens concerned with this issue. I can only say that to transfer technology and commodities to Soviet Bloc trading entities when it is known that they support military research and production, is an unconscionable act and should be halted immediately.

Mr. President, I urge all of my colleagues to read this informative article. However, as the editorial states,

> We don't think you'll enjoy reading the findings of the Industrial Research and Development investigation into the dark side of technology export. We didn't intend to entertain. Instead, we ask you to read and to think carefully about this situation. Then ask yourself, "Do we want the U.S. to be the arsenal of Communism?"

Mr. President, I ask that both Industrial Research and Development article and editorial be printed in the Record.

The material follows:

Is the U.S. the Arsenal of Communism?

On December 29, 1940, in one of his famous "Fireside Chats" with the people of the United States, President Franklin D. Roosevelt told his radio audience that "We must become the arsenal of democracy." At that time the Nazi war machine had overrun most of Europe, and Nazi leaders looked hungrily eastward while Japan's war lords turned from the conquest of China to eye the Philippines, Hawaii, and Australia. France had been devasted. England was reeling. The U.S. defenses had been weakened by years of isolationism. The Tokyo-Rome-Berlin "Axis" was at full-scale war production when Franklin Roosevelt nudged this barely stirring nation with his call for action to save democracy. A year later the U.S., too, was reeling in the midst of full-scale war.

Today, things are different. The people of this nation, having fought in two world wars and in several other major wars in this century, know full well the dangers of military confrontation, the horrors of war. Then why, we ask—why are we letting this nation export technology with military potential to the East. Why be the arsenal of Communism?

After three months of investigation, this magazine has documented proof of the frequent failure if not total disarray of U.S. government efforts to control or prevent the export of high technology with strategic value or war-making potential to Communist nations. Not only does the U.S. program have intentionally-built-in loopholes, it is operated in part by bureaucrats who don't care about the problem while many of the others are being prevented from doing their jobs by Congress and the White House.

Among the consequences of this bungling are Russian Army trucks carrying invading troops and supplies into Afghanistan—trucks fresh out of factories that were supplied by Western firms, using the latest Western technology. How can this happen? Our government did it, we are told, in the interest of détente. The same sort of situation was uncovered by our investigation in computers, lasers, machine tools, and instruments.

In addition to government failures, military-useful technology has been knowingly diverted to Soviet-Bloc countries by exporters using third parties. Some has been stolen from gullible U.S. marketers.

We don't think you'll enjoy reading the findings of this IR&D investigation into the dark side of technology export. We didn't do it to entertain. Instead, we ask you to read and to think carefully about this situation. (Our in-depth report of the problem as we uncovered it begins on page 51.) Then ask yourself, "Do we want the U.S. to be the arsenal of Communism?"

U.S. Builds Soviet War Machine

U.S. Government efforts to influence the action of Communist nations by giving away or selling "peaceful" technology have failed—in the very least. At worst, they may have been the prelude to tragedy.

For more than a decade the U.S. government has encouraged manufacturers and R&D firms to export, transfer, and even give away technology to the Soviet Union and East European countries. Three Administrations (Nixon, Ford, and Carter) fostered such activity in the interests of bettering detente and bolstering a badly-slumping U.S. economy and balance of trade.

Recently, however, officials have begun to admit to a growing worry that this strategy not only has failed, it may well have backfired.

There is evidence that the Soviet Union has taken U.S.- and Western-supplied technology and applied it to military uses, building up an awesome war machine that experts believe is—or soon will be—the most powerful in the world.

When Soviet ground troops invaded Afghanistan at the end of last year, they did so in trucks, tanks, and armored personnel carriers. Many of these, the Pentagon says, had been built at Russian facilities originally constructed with U.S.- and Western-supplied equipment and technology.

Here are some other reasons why there is a record crop of gray hair in the Pentagon these days: Minicomputers designed for routine lab work can be used to control nuclear weapons production; laser technology exported for manufacturing purposes can be modified for exotic satellite-killing weapons; computers for weather forecasting and air traffic control can be programed to direct missile launches; special drill bit machinery for oil and gas exploration can be used to make armor-piercing warheads. The list goes on.

A three-month investigation by *Industrial Research & Development* reveals that the U.S. government's export control policies are in a state of disarray, with federal agencies engaged in back-biting and in-fighting, and with members of Congress lashing out at the Administration. Businessmen and even our European allies are confused and frustrated.

All this has the effect of bringing to a boil the already-heated controversy surrounding technology exports. The outcome of the debate is far from settled, but almost certainly it will affect the character and activities of U.S. high technology firms for many years to come.

"The evidence has accumulated in recent months that our export control system is a shambles," says Sen. Henry Jackson (D-Wash.). "What we haven't sold [the Soviets] we have given away in educational, governmental, and commercial technical exchange programs. What we haven't sold or given away, they have stolen.

"A relaxation of controls on strategic trade with the Soviet Union has been a central principle of the policy of detente," Jackson continues. "A purported benefit to be achieved was greater cooperation from the Soviets. But they have exploited detente to acquire the West's latest technology to fortify their military-industrial complex."

Undersecretary of Defense for Research and Engineering, Dr. William Perry, is more explicit: "The sale of technology to the Soviet Union has been of relatively small benefit to the Western world, but of very great benefit to the Soviet Union—both directly and indirectly assisting their military objectives."

"It is virtually impossible to identify a single industry in the USSR which manufactures only civilian goods," says Dr. Miles Costick, director of the Institute on Strategic Trade in Washington. "Every institute, every educational institution, every factory, has its 'first section' staffed by military and KGB representatives."

Adds Pentagon intelligence expert Dr. Jack Vorona, sales of U.S. scientific and technical equipment to the Soviet Union make "a very significant contribution" to that country's military machine.

All this is not to say that exports of U.S. technology to the Soviet Union have not been financially profitable—they have, but only on a very small scale. And, Perry notes, the Russians "skim off" the fruits of hard-earned U.S. technology by purchasing only what is essential; then through "reverse engineering" they attempt to duplicate the commodity. This not only has saved them millions of dollars in R&D, it also has fostered a steady erosion of the U.S. lead in technical expertise which, trade experts say, will cause the eventual loss of Kremlin-controlled markets anyway.

Such markets are already showing signs of decline, due in part to recent changes in U.S. foreign policy toward the Soviets, and also to a general slowdown in purchases from Moscow. During the past decade Western nations supplied the Soviet Union with more than $50 billion worth of machine tools, transfer lines, chemical plants, precision instrumentation, and associated technologies, Vorona and Costick state.

In 1979, the United States exported some $5.7 billion worth of commodities to the Soviet Union and Warsaw Pact countries. But according to the Commerce Department, only $800 million of this was manufactured goods and about 20% of that, or $160 million, involved sales of high technology items. In fact, sales of strategic goods comprise only 1% of total U.S. exports.

Take the electronic industry for example. Last year electronics and computer manufacturers and designers conducted about $80 billion worth of business. Only $85 million of this went to the Soviet Union, says Electronics Industry Association spokesman Mark Rosenker. "It's nothing," he states. A Commerce Department statistician agrees. "High tech exports to the Soviet Union are minuscule," the official told *IR&D*.

This year the Commerce Department predicts high technology exports to the Soviet Union will drop to around $50 million due to restrictions imposed by President Carter after the invasion of Afghanistan.

Then why all the concern? As one Senate investigator told *IR&D* "The Carter Administration has made no secret of the fact that current export restrictions to the Soviet Union are not intended to represent new policy. They're anxious to get back on the detente track as soon as possible, and have told the Soviets so. When they do, you'll see technology sales to the Soviets picking up again. The Administration hasn't learned a thing about Soviet intentions."

Intelligence and military experts point out that even though U.S. technology exports to the Soviets are small in dollar volume, for the Soviets they accomplish two things: They provide them with the basic equipment and know-how to help bridge the technology gap with the U.S. (now estimated at five years and closing rapidly); and U.S. exports free the Soviets to spend funds that otherwise would have gone to industrial production on military R&D and procurement instead.

DOD's Perry estimates that the Soviets have spent about $150 billion more than the U.S. during the past decade for acquiring new military equipment. "Overall, during the decade of the '70s, the Soviets invested about $70 billion more than we did in defense R&D," Perry told a Senate subcommittee earlier this year. Currently, Soviet defense R&D amounts to twice that of the U.S., Perry says.

According to Larry Brady, former director of the Commerce Dept.'s Office of Export Administration, the Soviet priorities are clear: "Intelligence information reveals that over and over again the military has top priority . . . If the military needs something, they go out and get it." How they get it, and what they do with it, have been topics of bitter disputes and exhaustive studies within the U.S. government and private sector, and among our European allies.

"The link between civilian and military production technologies is impossible to separate," says a DOD spokesman. "Aircraft engines, computers, integrated circuits, telecommunications equipment, navigation systems, and avionics are very similar in military and civilian aircraft."

Such "dual use" technologies are at the core of concern over exports to the Soviet Union and Eastern Europe. Complex export licensing procedures have been created by Congress to minimize the possibilities of military diversion but, critics say, there are loopholes in the legislation and the Commerce Department, which has lead responsibility for implementing the export control laws, lacks the ability to carry them out.

Here are a few examples of areas that worry strategic and military experts:

Kama River and Zil truck factories. These two sprawling plants were built in the early 1970's, largely with U.S.- and European-supplied machinery and know-how. Military trucks, armored personnel carriers, tank engines, and missile launchers are being built at these factories, experts say.

Precision grinders. In 1972, after 11 yrs of waiting, the Soviet Union obtained 164 U.S.-made precision ball-bearing grinding machines from the Bryant Chucking Grinder Co. at a reported cost of $20 million. These "Centralign-B" grinders can produce miniature ball bearings to extreme tolerances. The ball bearings, intelligence sources say, now are being used in Soviet guided missile systems and gyroscopes for ICBMs and other missiles, including the latest MIRVs.

Oil drilling technology. In late 1978 the Carter Administration approved the export of a $144-million oil well drill bit factory by Dresser Industries to USSR for use near Kuibyshev. The factory would have the capability of producing 100,000 high-strength drill bits/yr. The sale was opposed by many members of Congress and some Defense Department officials.

To explore the controversy, a Defense Science Board task force was convened, headed by J. Fred Bucy, president of Texas Instruments. The panel recommended against granting the license for export, but Carter allowed the deal to go through nonetheless.

The task force members and some top aides in the National Security Council had three major objections to the sale: It would make it easier for the Soviets to meet their energy requirements and release resources for the military sector. Included in the sale was a computerized electron-beam welding apparatus that also could be used in the manufacture of jet aircraft and might also have nuclear and laser applications. The tungsten carbide normally used to make drill bits could be diverted to make armor-piercing projectiles and warheads.

Array pocessors. Geo Space Corp., of Houston, TX, sold at least 36 array processor systems to the Soviet Union and to Communist China. In 1979 the Commerce Department fined Geo Space $36,000 and suspended its export privileges because the firm sold its seismic equipment to the Soviet Union, China, and other countries without first obtaining the necessary export licenses.

A former Soviet intelligence specialist told Costick that he and other Soviet navy personnel were trained at Geo Space in Houston. The Soviet expatriate reportedly admitted that he carried Geo Space units aboard Soviet submarines and surface ships and installed the units next to the shipboard computers.

Costick explains that the units "assist the computer in digital signal processing and signal analysis which enables the computer to identify tiny differences in the sounds under the ocean's surface, a process which yields the location of enemy submarines."

Computers. No other single piece of hardware is as vital to both civilian and military sectors as is the computer. According to U.S. intelligence and defense experts, the Soviet Union and its East European proxies have been making a concerted effort to obtain this important technology, in which they are believed to be far behind the West.

IBM officials who visited East European countries were "stunned to find four to five times as many IBM machines in East Europe as they thought were there," Costick says. "There's no doubt they were illegally diverted."

Pentagon intelligence specialist Jack Vorona told a Senate committee late last year that an entire series of Soviet computers is based on the IBM models 360 and 370 "that were illegally diverted into the USSR in 1971 and 1972." The Soviet RYAD I and II computer series, which are its basic workhorse computers, "are copies of the IBM 360 and 370 series," Costick told IR&D.

Says H. Eugene Douglas, director of international trade and government affairs at the Memorex Corp., "From the start of the RYAD project down to the present day, the Soviets have covered the spectrum of activities—overt and covert, legal and illegal, commercial, diplomatic, and academic—to strengthen their computer industry."

East European officials admitted, Douglas says, that they announce potential contract offerings just to elicit responses from Western firms. "As often as not, the responses provide valuable clues to correct errors in RYAD work and give indications as to where Western technology is headed," Douglas told a Senate banking committee.

Air traffic radar systems. The Soviets recently purchased from the U.S. a sophisticated radar system for use at Moscow's Vnukovo Airport. According to Larry Brady, they obtained the system through a "loophole" in U.S. expert control system which deliberately was left open in the interests of detente. This system "is far more sophisticated than most widely-used air traffic control systems," even in the U.S., Brady says. "Such enormous capacities would have obvious military potential."

Chemical processing. One Senate investigator, who did not wish to be identified, told *IR&D* that there now is wide suspicion on Capitol Hill that U.S.- and European-supplied chemical equipment and expertise have aided Soviet development of chemical and biological warfare. The source said that two American scientists who had gone to the Soviet Union in 1977 under a chemical/environmental exchange program, "were very, very suspicious" of what the Soviets were developing in their laboratories.

The U.S. scientists carefully observed what their Russian counterparts were focusing on, then briefed a Senator on their suspicions when they returned, the source said. The chemists expressed concern that the U.S.-USSR exchange program was a "one-way street" with the Soviets obtaining valuable information and expertise from the U.S. side.

According to a CIA report, Western chemical equipment and related process data comprise almost all of the Soviet Union's chemical technology. Western equipment currently is producing 80% of Russian polyethylene and 75% of its chemical fertilizer.

Laser technology. An intelligence report sent to President Carter in May cites evidence that Moscow is developing an anti-satellite laser weapon that could be deployed in the mid- to late-1980s. Walter Spawr, president of Spawr Optical Research Co., told *IR&D* that Commerce Department officials told him his precision laser mirrors might have application in Soviet "killer satellites," and therefore couldn't be exported. Spawr discounts their fears, on the basis that his mirrors are not designed for weapons-level power.

By its nature, laser technology can easily be diverted to weapons research and development. A secret Commerce Department document states that U.S.-made laser systems have found their way to the Soviet Union.

Other areas of concern uncovered in this investigation include:

Evidence that U.S. exports have been acquired illegally by the Soviet Union and other nations through diversions, re-exports through third countries, and outright theft. One White House study estimates that more than $150 million in U.S. exports has been illegally exported.

Indications that the U.S. may have unwittingly trained hundreds of Soviet military engineers and technicians through scientific, educational, technical, and commercial exchange programs. U.S. officials admit that these programs were created in the heyday of detente not to increase scientific knowledge, but to improve political relations. "I think they [the Soviets] get more out of it than we do," said Dr. Ned Austenso, head of NOAA's Soviet exchange program. They were done "to promote intergovernmental relations and not necessarily to promote science," he said.

Documents reveal that under educational exchange programs, Soviet students have come to the United States to study plasma physics, metallurgy, computerized machine control, ferroelectric ceramics, photoelectrics, and semiconductor technology. American students in the Soviet Union, however, typically study sociology, history, literature, Russian poetry, and archeology.

The Pentagon's Jack Vorona states that one Soviet exchange student in 1976–77 attended a leading U.S. university and focused his studies on fuel-air explosives. This Soviet "student," Vorona says, now is back in Russia engaged in military research—in fuel-air explosives.

While many U.S.-USSR scientific and educational exchange agreements are currently on the skids over Afghanistan and Soviet handling of dissident scientists, the U.S. Administration has indicated a strong desire to begin anew, when "international events permit it."

Kama River Truck Factory: Best and Worst of Tech Export

The Kama River truck plant is a sprawling manufacturing facility in the Soviet Union located near the city of Neberezhnyye. The plant was built in the early 1970s almost entirely with $500-million worth of Western-supplied equipment, technology, and know-how—much of it from the United States.

Kama River illustrates, ironically, what proponents of technology export term the best in licensing procedures and also what critics call the worst in U.S. inability to halt the spread of military-related capability.

In 1972 the Commerce Department granted export licenses to major U.S. companies, including Honeywell, Swindell-Dressler, IBM, and Ingersoll-Rand, to sell automotive technologies and production equipment to the facility on the Kama River.

Defense Department officials say that when the licenses were reviewed, they suspected that the plant could also make trucks and other vehicles for military use. But detente being what it was, the Administration at that time decided any such diversion would not be significant, and the licenses were approved. And, inexplicably, end-use statements guaranteeing that the vehicles would not be produced for the Soviet military were not requested.

At peak capacity the Kama complex can produce 150,000 three-axle trucks and 250,000 V–8 diesel engines a year. Some of these trucks have been outfitted for use as missile launchers and have been exported from Russia for use by Libya, Syria, and Iraq, sources say. And some of the engines are believed to have been used in Soviet T–72 battle tanks.

But what brought Kama River to the forefront of world attention was the fact that these Western-engendered trucks and armored personnel carriers were used in the Soviet invasion of Afghanistan. (Some also were built at the Zil complex, another truck manufacturing facility that came largely from the West.)

Pentagon officials admitted that they had intelligence as far back as 1977 that military vehicles were being built at Kama River. At that time, it still was not felt that the number was significant. As William Perry, Undersecretary of Defense for research and engineering testified earlier this year, "What in fact has turned out is that a very large percentage of these trucks are going to the Soviet military and they are having a significant effect."

"The Kama River plant in the Soviet Union has become a symbol of the failure of the Export Act," said Sen. Sam Nunn (D–Ga.)

The National Machine Tool Builders' Assn., however, held that Kama River export licenses "are a good example of the export administration system functioning, not failing. . . ." But the association made clear it did not justify the Nixon Administration decision to grant the licenses in the first place.

Following the Afghanistan invasion, President Carter ordered a ban on all strategic exports of U.S. goods to the Soviet Union. Two licenses for IBM spare parts were canceled. But an $8.5-million contract with Ingersoll-Rand Corp. to build an automated diesel engine assemblyline system for Kama River was being allowed to go through. This system became the focal point for an intense, frequently hostile debate between Congress and the Commerce Dept.

During the first three months of the year Commerce officials refused to consider halting the Ingersoll sale because the diesel engine assemblyline system was to be shipped under a general export license; it was not considered high technology and therefore did not require a validated export license or come under Carter's ban, Commerce officials said.

Ingersoll-Rand, for its part, didn't want to complete the transaction—scheduled for delivery in autumn 1980—out of patriotic reasons, informed sources said. Ingersoll asked Commerce in February to block the sale (a move the some suggested would allow the firm to collect insurance on the partially-completed system).

Informed sources said not only did Commerce refuse to block the sale, they actively encouraged Ingersoll to go ahead with the deal. Officials later attempted to justify their decision on the basis of foreign availability.

"Part of the reason for it is these cost-benefit analyses," said a Commerce spokesman. "There is a very live and very significant position: If they're going to get it anyway, what kind of effective sense does it make" not to sell the Soviets the equipment? A Senate investigator derided this logic, saying that Commerce engages in "pre-emptive foreign availability." Sen. Jake Garn (R–UT) said he saw no reason why the U.S. "should fall over its feet rushing to sell goods to the Soviets" simply because we're afraid others will beat us to it.

An informed Commerce source told IR&D that the general license debate "is a big issue here. Some people have been fired because they disagreed with the decisions being made." He added that the battle over export policy is intense and is being waged "in the higher levels of the department."

"Commerce is playing a word game," charged Larry Brady, former director of Commerce's Office of Export Administration and one of the officials who last year resigned in disgust over export policies. Brady said the Ingersoll diesel engine system, even though categorized under general license, has clear military application, and therefore should come under Carter's plan.

Finally, in May, the Commerce Department bowed to pressure and announced that the assembly line system for Kama River would require a validated license for export before it could be delivered, and that such license would not be issued.

"It would be inconsistent with our foreign policy to increase the plant's (military) capacity," said Secretary of Commerce Philip Klutznick.

However, one Senate investigator said the real reason was that Kama River-built trucks were being readied near the Iranian border north of Tehran to ship in food and supplies in case the U.S. imposed a blockade on Iran over the hostage crisis.

"It would look pretty sick if Ingersoll-Rand sells the Soviets the equipment to make the trucks that violate the blockade," the source explained.

Illegal High-Tech Shipments Include Goods and Know-How

The issue of illegal diversion and acquisition of U.S. high technology goods and information is an "unspeakable issue" that receives too little attention, says a Senate investigator. Intelligence agencies estimate that between 1973 and 1977, $150 million in Western-controlled technology was illegally shipped to the East.

"The thefts have included some of our most advanced IBM computers, which the Soviets have copied," say Sen. Henry Jackson (D-WA). Covert activity by the Soviets to acquire U.S. technology is "large, systematic, well-organized, and effective," adds Dr. William Perry, Undersecretary of Defense for research and engineering.

Illegal diversion is an area of which comparatively little is known. It inhabits the murky regions of espionage, sabotage, and smuggling. Information of such activities usually come to light only when someone is caught in the process and the operation exposed.

Earlier this year a secret Commerce Department document was made public by Rep. John Ashbrook (R-OH). The secret study, prepared by the department's investigation division under Sharon Connelly, reveals 16 examples of "known" illegal diversions of U.S. technology to the Soviet Union and Eastern Europe.

According to the document, the Soviets have been illegally obtaining sophisticated U.S. computers, lasers, integrated circuit technology, software, electronic test equipment, and other devices through third parties, who then transship the materials to the USSR or Eastern Europe.

The illegally diverted technology winds up in Soviet "plants that build ICBMs and their launchers, laboratories that develop new chemical warfare devices, and plants that are turning out the next generation of superweapons that the American public has yet to hear of," Ashbrook said.

The Commerce Department report lists the following as "examples" of sensitive U.S. technologies that were diverted to the Soviet bloc since 1974:

Sophisticated electronic test equipment and analyzers were furnished to a West German national "knowing the intended illegal disposition."

Sensitive magnetic recorders and other digital equipment were exported in 1974 "without the requisite license by placing it on a Polish vessel under charter to a Norwegian company. The equipment was transported to Poland and installed on a Norwegian vessel. The latter vessel, reportedly, was subsequently sold to the USSR."

Computers and related equipment were "exported under a U.S. firm's distribution license to its subsidiary in the U.K." which in turn incorporated the U.S. equipment into its own equipment it then reexported to Hungary, the document states.

Oscilloscopes and other test equipment were diverted to the USSR in 1974 and '75. "The Austrian affiliate of the U.S. exporter imported the equipment and together with another Austrian firm transshipped the commodities to the USSR," the report states.

Technical information relating to integrated circuits manufactured by one of the largest, most sophisticated manufacturers of ICs in the U.S., "was hand-carried to Austria with requisite license and diverted from there."

In instances where charges have been lodged or proceedings are said to be under way:

Precision laser mirrors manufactured by Spawr Optical Research Co. "were misdeclared, exported to West Germany and Switzerland without the requisite licenses, and diverted from there" to the USSR (probably the Lebdev Institute or Physics Institute in Moscow).

More than $800,000 worth of electronic computer equipment was exported to Eastern European countries without required validated licenses by Information Magnetics Inc., of Goleta, CA. Infomag "did not obtain the requisite validated licenses for shipments to Bulgaria through its United Kingdom subsidiary," the report states.

In 1977, the president of Information Magnetics pleaded guilty to criminally violating export control laws. He was fined $5,000 and agreed to no longer associate with the firm.

Walter Spawr of Spawr Optical maintains that Commerce Department officials encouraged him to export his laser mirrors to the Soviet Union. When he did so, he was accused of violating export laws, he says. A grand jury has been convened to examine his alleged violations, Spawr told IR&D.

Connelly told IR&D that she could not comment on her secret report "because we did not release it officially."

According to Ashbrook, the Commerce Department covered up the information contained in the document and withheld it from Congress, which last year was holding hearings into amending the export regulations.

Despite all this, Don Furtado, Deputy Undersecretary of Commerce for trade administration, told IR&D that illegal diversion is "probably less significant than one might think."

Sen. Gordon Humphrey (R-NH) thinks otherwise. "Because of these and other clandestine acquisitions, the damage done to our national security is inestimable," he declared.

TECHNOLOGY EXPORT CONFLICT RESULT OF VARYING U.S. VIEWS

The controversy surrounding exports of high-technology to the Soviet Union and its proxies has its roots in differing perceptions of the Kremlin's motivations. According to an Office of Technology Assessment report on East-West trade, "disagreements over the future of export controls have yet to be resolved."

"They reflect differing perceptions of the nature of the threat to the United States posed by the Soviet Union and of the ways in which this threat should be faced," the report states.

Critics of strategic trade with the Soviets frequently cite Lenin's famous statement that the capitalists "will supply us with the materials and technology which . . . we need for our future victorious attacks upon our suppliers."

Conversely, cordial trade relations would help forge stronger links between the free and Communist worlds, or so the main architects of detente—Richard Nixon and Henry Kissinger—believed. During the early '70s, however, when detente was supposed to be working wonders in the international arena. the Soviet party leadership reassured those in the Kremlin who feared such trade with the West might be detrimental to the dialectic of struggle and violence, that detente was simply elevating the ultimate confrontation to a higher level.

Additionally, the strategy behind the Nixon-Kissinger doctrine was to provide an opportunity to expand U.S. trade abroad and to link the benefits of U.S. manufacturers and technology to Soviet and East European behavior in the international community. Neither aspect fulfilled expectations.

In 1978, trade with the Soviet Union amounted to $2.8 billion. This was only slightly more than a third the amount of trade carried on with Taiwan during the same period.

In terms of being a policing policy, "When the behavior was disruptive or aggressive it was thought that trade benefits could be withdrawn as a sign of disapproval and as a way of holding back the East European countries in their economic and military development," explained Larry Brady, former director of the Commerce Department's Office of Export Administration.

Says Don Furtado, Deputy Undersecretary for trade administration at the Commerce Department, "the premise behind detente's encouragement is that out of economic interdependence—substantial trade—comes an increasing recognition on the part of some countries that it might not be in the interest of their people to initiate actions or practices which could cause interruption of that flow of beneficial trade. And I think there is some validity to that premise."

Such policy, Brady says, unfortunately never was correctly implemented. "Instead of cutting back exports . . . sought most vigorously by the Soviet Union when the Soviet behavior in Africa, South Yemen, or the Middle East was flagrantly disruptive and interventionary, a hands-off policy was pursued."

And when suspensions of high-technology exports were imposed to protest maltreatment of Soviet dissidents, they often were short-lived, Brady says. "It became difficult to take them seriously, or to transmit our seriousness to our CoCom [trading allies] partners," he explains.

Yet the philosophy of using trade to reward good behavior and to punish bad is still carried in the Administration's foreign policy. Ironically, even proponents of increased exports to the Communist bloc admit that that premise no longer is valid.

"I have the feeling that many people still have a mental set which goes in an era when we really had a dominant position in technology in every place," says Dr. L. W. Steele, corporate R&D manager at General Electric. That thinking, Steele told IR&D, is based on the assumption that "if people didn't get it from us they had fewer options available. And that situation just no longer is true. We have to recognize that."

And it is precisely because the U.S. no longer has a monopoly on many technologies while it still does maintain a preeminent lead in a few key areas, that regulation and licensing of strategic exports are complex and controversial.

Legislation governing exports of technology is contained in the Export Administration Act of 1979. These laws reflect the contradictions between the roots of the controls (based on limiting trade with enemy powers in 1917) and the policy of liberalization (based on amendments passed in 1969, 1972, and 1974) which tend to remove restrictions on trade with communist countries.

The current legislation designates the Commerce Department as the lead agency to coordinate and grant export privileges. Most of its activities concern handling of dual-use goods—commercial items and technology which also have military significance.

The Office of Export Administration (OEA) within Commerce is responsible for most of the daily work on export controls. OEA coordinates the license review system with other agencies, especially the Defense and State departments, when special requests for licenses to export are submitted.

One of the results of the detente-era liberalization of controls is reflected in the concept of "foreign availability." Simply put, the legislation will permit export without any controls when the items are freely available from another country, providing that U.S. national security is not jeopardized.

Another result of liberalization was the narrowing of restrictions on military-related goods and technology. The language of current legislation states that the Defense Department can recommend against export for national security reasons only when the export "would make a significant contribution to the military potential of such country."

The Office of Technology Assessment, in analyzing the laws, concludes "The import of these changes was that it was no longer sufficient simply to show that an export in some way contributed to military capabilities. The secretary [of Defense] must now stipulate that the military impact is detrimental to the security of the United States"—something that is very difficult to do.

These changes, it is charged, open up wide loopholes in the export control system. What, for example, is "a significant contribution" to military potential, as opposed to a major contribution? And how effective are OEA officials in determining foreign availability? Can they be sure that an item made in, say, France, is comparable to the U.S.-manufactured commodity?

Larry Brady, as director of OEA, was in a position to monitor the license administration process. He says he became alarmed with the way Commerce officials ignored national security concerns and routinely approved export licenses with little or no legitimate checking.

Brady last year "blew the whistle" and testified before Congressional committees that the Commerce Department was failing in its responsibilities. For this, Brady says, he was eased out of the department, excluded from meetings, barred from receiving memos, and ostracized by his coworkers. Brady, in disgust, quit. An official investigation last year concluded that Brady had been the subject of "prohibited personnel practices" and recommended that he be reinstated to his position. Brady declined to return.

"The working assumption at Commerce was that its role was to facilitate trade," Brady told a recent Senate subcommittee hearing. "This made it difficult for licensing staff to accord the traditional significant weight to national security criteria." Brady maintains that a license would be denied only under extraordinary circumstances. "Nearly three fourths of license approvals were recommended primarily on the evidence of foreign availability," Brady says. But, he adds, "no sources for the data used to assess foreign availability are given . . ."

The dual, contradictory roles of encouraging trade while prohibiting critical exports make it difficult for Commerce to function properly, says Sen. Jake Garn (R-UT). He has introduced legislation that would take the responsibility of licensing out of the hands of Commerce and place it in the realm of a new Office of Strategic Trade.

The idea has support on Capitol Hill, but others are not sure. Says one informed Commerce source, "What we need is not another bureaucracy. What we need is a clear policy and direction. We could do the job very well if we just knew what we were supposed to do!"

At the heart of the dispute over export licensing is what is known as the Commodity Control List (CCL). Briefly, the licensing system employs two kinds of export licenses—general and validated. A general license is really no license at all; it merely means that a U.S. firm can export any item or technical information without obtaining special permission. General exports apply to 90 to 95% of all commercial transactions. "If it's not a sexy piece of hardware you don't even need an application," says a Commerce official.

The remaining 5 to 10% are those items do need a validated license. These are for goods included on the CCL, namely products and technical data that are judged to make a significant contribution to the military, or items that are under CoCom strategic control.

CoCom (Coordinating Committee for Multilateral Export Controls) is an informal association established in 1949 to restrict strategic exports. Its membership consists of the U.S., England, France, West Germany, Italy, the Netherlands, Belgium, Luxembourg, Norway, Denmark, and Canada. The CoCom allies maintain a list of embargoed items that are not to be exported to Communist countries unless all member nations unanimously vote to approve an exception. Most requests for exceptions are granted.

Dual-use items on the CoCom list are virtually the same as those on the U.S. CCL. They include metal working machinery; chemical and petroleum equipment; electrical and power-generating equipment; electronic and precision instruments: chemicals and metalloids; general manufacturing equipment; petroleum products; and rubber and rubber products.

Since the 1960s the U.S. share of exceptions to CoCom has steadily risen. In 1962, for example, the U.S. made only 1.6% of 124 requests for exceptions. By 1978, however, the U.S. share had climbed to 62.5% out of a total of 1,050 exceptions. "The climb in our share was gradual, evidencing the cumulative loosening of controls criteria in the United States as well as in CoCom in general," Brady states.

Adds Sen. William Cohen (R-ME), "If we are the ones rushing in with 60% of the exceptions, then we can't convey a very serious impression to our allies that we regard this as being particularly significant or detrimental to our national interest." As a result European allies tend to ignore the CoCom list and sell what they like to whom they like.

"I would say where the [military related] technology is available to the Soviet Union anyway, we may as well think first and foremost of our economic health and we may as well get the benefit of selling to them," says Dr. J. E. Goldman, Chief Scientist and Head Corporate Research Centers, Xerox Corp. and an IR&D Editorial Advisory Board Member.

"If the technology is not available from other countries then foreign policy should override economic considerations. So long as we feel assured that no other country will export, then I think it is consistent that we shouldn't export either," he says.

"However," Goldman adds, "I think we should use our pressure and influence on our allies to prevent them from breaching the net that holds back militarily utilizable technology from reaching Eastern European countries."

Take the gradual erosion of CoCom authority, the relaxation of criteria used to screen out strategic technology, and the general attitude in Commerce of encouraging trade rather than restricting it and you have, what Sen. Jackson, Brady, and many others call a "shambles" in U.S. export control.

On Jan. 4, 1980, just a few days after the invasion of Afghanistan, President Carter announced a series of measures against the Soviet Union, including a ban on exports of all high-technology items to Russia. Some 900 validated export licenses were suspended and 300–400 pending applications were frozen by the action, Commerce's Furtado says. However, general export items were still permitted to be shipped (including military-related hardware not on the CCL).

Critics attacked the action as insufficient. The argument over what is considered militarily significant was again fueled.

Two and a half months after announcing the embargo (some say after intense pressure from the business community), Carter lifted the ban but said that every license application would be re-evaluated under tough, new criteria. Since Commerce officials refused to explain just what the new criteria would be, charges were raised on Capitol Hill and elsewhere that the Administration was simply returning to "business as usual" with the Soviet Union.

"It's a case of bankrupt foreign policy," said one Senate investigator. "The Administration just responds in a knee-jerk fashion to events, and doesn't really take the lead," said another Senate source. At this writing, it still is not known what items under validated license have or have not been approved for export to the Soviet Union. As Sen. Jackson says, "The flaws in our export controls are due to an absence of conviction, not of resources; it is within our capacity and that of our allies to remedy them. But the time is long overdue to translate rhetoric about our tough, new policy into effective action."●

PROPOSED ARMS SALES

● Mr. PELL. Mr. President, section 36 (b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that Act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the notification which has been received. The classified annex referred to in one of the covering letters is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The notifications follow:

Defense Security Assistance Agency,
Washington, D.C., July 21, 1980.
Hon. Frank Church,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–80, concerning the Department of the Army's proposed Letter of Offer to Spain for defense articles and services estimated to cost $25.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80–80]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Spain.

(ii) Total estimated value: Major defense equipment*; $24.9 million; other, .9 million; Total, $25.8 million.

(iii) Description of articles or services offered: Twenty-two (22) M60A1 tank chassis bridge launchers with forty-four (44) armored vehicle launched bridges.

(iv) Military department: Army (VCB).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending March 31, 1980.

(viii) Date report delivered to Congress: July 21, 1980.

Defense Security Assistance Agency,
Washington, D.C., July 21, 1980.
Hon. Frank Church,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–81, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to the United Kingdom for defense articles and services estimated to cost $2,522 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

Ernest Graves,
Director.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

[Transmittal No. 80-81]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: United Kingdom.

(ii) Total estimated value: (1980 Dollars), major defense equipment*, $2,322.0 million; other, $200.0 million; total, $2,522.0 million.

(iii) Description of articles or services offered: Four (4), with an option of five (5), shipsets of onboard weapon systems, with an appropriate number of TRIDENT missiles, and guidance systems, currently estimated at approximately 100, the non-nuclear portion of the nuclear weapons, facilities equipment, ancillary equipment, and follow-on support services for facilities, weapon system equipment, missiles, and guidance systems.

(iv) Military department: Navy.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 Report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 21 July 1980.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Defense Security Assistance Agency,
Washington, D.C., July 25, 1980.

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-79, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Egypt for defense articles and services estimated to cost $104.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-79]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Egypt.

(ii) Total estimated value: Major defense equipment*, $81.3 million; other, 22.7 million; total, $104.0 million.

(iii) Description of articles or services offered: Sixty seven (67) M60A3 tanks with ammunition, spares and support equipment.

(iv) Military department: Army (UCF).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1980.

(viii) Date report delivered to Congress: 25 July 1980.

Defense Security Assistance Agency,
Washington, D.C., July 23, 1980.

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-78, and under separate cover the classified annex thereto. This Transmittal concerns the proposed Letter of offer to Australia for defense articles and services estimated to cost $3.1 billion. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-78]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Australia.

(ii) Total estimated value: Major defense equipment*, $2.5 billion; Other, .6 billion; total, $3.1 billion.

(iii) Description of articles or services offered: Seventy-five (75) F-16 aircraft or seventy-five (75) F/A-18A aircraft including government furnished aeronautical equipment, training, operational spare parts, and support equipment.

(iv) Military department: Air Force (SDE) or Navy (SBE).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Case included in report for quarter ending 31 March 1980.

(viii) Date report delivered to Congress: 23 July 1980.

Defense Security Assistance Agency,
Washington, D.C., July 23, 1980.

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-82, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Jordan for defense articles and services estimated to cost $159.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-82]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Jordan.

(ii) Total estimated value: Major defense equipment*, $156.5 million; other, 3.0 million; total, $159.5 million.

(iii) Description of articles or services offered: One hundred (100) M60A3 tanks.

(iv) Military department: Army (VAZ).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1980.

(viii) Date report delivered to Congress: 23 July 1980.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Defense Security Assistance Agency,
Washington, D.C., July 7, 1980.

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-73, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $64.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-73]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Coordination Council for North American Affairs (CCNAA) pursuant to Public Law 96-8.

(ii) Total estimated value: Major defense equipment*, $0.0 million; other, $64.7 million; total, $64.7 million.

(iii) Description of articles or services offered: Cooperative logistics supply support, FMSO II for follow-on spares and supplies for support of aircraft of U.S. origin (F-100, F-104, F-5, T-33, and C-119 aircraft).

(iv) Military department: The American Institute in Taiwan for the U.S. Air Force (KBM).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: July 7, 1980.

Defense Security Assistance Agency,
Washington, D.C., July 7, 1980.

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-75, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $18.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80-75]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Coordination Council for North American Affairs (CCNAA) Pursuant to Public Law 96-8.

(ii) Total estimated value: Major defense equipment*, $16.7 million; other, $1.3 million; total, $18.0 million.

(iii) Description of articles or services offered: Twenty-five (25) M109A2 self-propelled 155mm howitzers.

(iv) Military department: American Institute in Taiwan for the U.S. Army (XXN).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending December 31, 1979.

(viii) Date report delivered to Congress: July 7, 1980.

Defense Security Assistance Agency,
Washington, D.C. July 1, 1980.

Hon Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–76, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $37.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

[Transmittal No. 80–76]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Coordination Council for North American Affairs (CCNAA), Pursuant to Public Law 96.8.

(ii) Total estimated value: Major defense equipment*, $34.0 million; other, $3.0 million; total, $37.0 million.

(iii) Description of articles or services offered: Fifty (50) M110A2 self-propelled 8 inch howitzers.

(iv) Military department: American Institute in Taiwan for the U.S. Army (XXM).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case included in report for quarter ending 31 December 1979.

(viii) Date report delivered to Congress: 1 July 1980.

Mr. PELL. Mr. President, pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications were received—one each on July 9, 14, and 15, 1980.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications follow:

Defense Security
Assistance Agency,
Washington, D.C., July 9, 1980.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO organization tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Director.

Defense Security Assistance Agency,
Washington, D.C., July 15, 1980.

Dr. Hans Binnendijk,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Director.

Defense Security Assistance Agency,
Washington, D.C., July 14, 1980.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Director.●

THE DRAIZE IRRITANCY TEST

● Mr. MOYNIHAN. Mr. President, on April 30 of this year, I made some comments in this body concerning the Draize test, a test to determine the eye irritancy potential of drugs, cosmetics, and other consumer products.

Since that time, I have received a communication from Frank L. Johnson, Jr., vice president of public affairs for Revlon, supplying some additional information about the use of the Draize test, which he has asked that I include in the Record. I am pleased to do so.

I therefore ask that the attached letter and enclosures be printed in the Record.

The material follows:

Revlon,
New York, N.Y., June 25, 1980.

Hon. Daniel P. Moynihan,
Senator, Russell Senate Office Building, Washington, D.C.

Dear Senator: The April 30, 1980 edition of the Congressional Record contains four pages of material on the Draize Eye Irritancy test submitted under your name and published by unanimous consent of the Senate. Unfortunately this information is incomplete and singles out our company and our industry for unwarranted criticism.

While it is a fact that the cosmetics industry, along with virtually every other industry manufacturing household products, uses the Draize Eye Irritancy test to be certain that products which might be safe when used as instructed, are also safe when accidentally introduced to the human eye, it is not true that the Draize test, as used in the cosmetics industry, blinds rabbits.

In 40 years of using this test and its various modifications there has never been a single rabbit blinded in a Revlon laboratory. For one thing, the materials we test are so innocuous they would not be apt to be harmful; for another, whenever we have a substance we believe might be damaging, we don't test it. It is not true that rabbits used in these tests are tortured or abused or that they scream in pain, break their backs in panic, etc.

In a recent study, we found that 95.5 percent of the rabbits used in these tests had no signs of eye irritation within 3–5 days of the test. The remaining 4.5 percent did experience some degree of residual impairment, but in no case did it result in a total loss of sight in the test eye. The rabbit's other eye, of course, is used as a control and is never subjected to the materials being tested.

I am enclosing a selection of materials that I believe you and the readers of the Congressional Record might find of interest—especially since:

(1) these tests are used purely in the interests of consumer safety;

(2) they are required and used by organizations of the U.S. Government including the Food & Drug Administration, the Consumer Product Safety Commission etc., and

(3) there are NO—I repeat—NO alternative tests available that would be accepted by the scientific community of the U.S. Government, and there is no immediate prospect that one will be found in the near future.

Despite this, the Cosmetic, Toiletry & Fragrance Association has established a task force of its Committee on Pharmacology and Toxicology to explore possible alternatives on an industry-wide basis. Revlon itself, through a special unit in its research laboratory, has been searching for viable alternatives since 1977. In addition, several years ago, the CTFA created a Cosmetic Ingredient Review Procedure to share safety information with participating companies and thereby reduce the amount of unnecessary duplicate testing, including tests requiring the use of animals.

All of this is and has been known to the Coalition and to Henry Spira, and to Pegeen Fitzgerald of the Millenium Guild. That it was not known to your staff is unfortunate, I think.

I would appreciate it if you could arrange to have this letter and the attached material carried in a subsequent issue of the Congressional Record so that its readers would at least have access to the full story.

Thank you for your consideration.

Sincerely,

Frank S. Johnson, Jr.

Draize Eye Irritancy Test

Enclosed are copies of some materials which you may find helpful in reviewing the question of eye irritancy testing. Attachment 1 is the statement we are giving to the news media; No. 2—the basic response letter to people who write us about this issue; No. 3—a letter being used by the Food & Drug Administration in response to similar queries, and No. 4—a statement being issued by the Cosmetic, Toiletry & Fragrance Association in Washington.

The key elements running through all of this material are as follows:

(1) Eye irritancy testing is done by the manufacturers of virtually all products used in the home which could deliberately or inadvertently get into the human eye. This includes paint used on children's toys, deter-

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

gents used in bubble making machines, salves, medicines, cleaning materials, etc. Cosmetics manufacturers, because of the innocuous nature of the materials they produce, generate relatively little irritancy reaction when they administer these tests.

(2) The tests are done to assure the safety of the products even when they are misused. The CPSC (Consumer Products Safety Commission) specifically relies upon the test, known as the Draize test, to demonstrate that products over which they have responsibility do not cause injury to the human eye. The Cosmetics industry, which is monitored by the Food & Drug Administration, is excluded from CPSC regulation. However, eye irritancy safety testing is required by the FDA as well, and they insist that the only scientifically acceptable test (other than on humans) is the Draize test.

(3) The Draize test was developed by the Federal Government and mandated by it. It has been in use in one form or another for forty years and throughout, it has been modified, updated and modernized as new technology and new scientific knowledge has become available.

(4) Though it is not foolproof, the Draize test is considered by the scientific community (including the FDA) to be the only acceptable test in existence. There are no available alternatives and the state of the art is such that there do not appear to be any on the horizon.

(5) Despite allegations to the contrary—no rabbits have ever been blinded by Revlon in testing Revlon products. Neither have any rabbits ever physically hurt themselves during Draize testing.

In a recent evaluation of the test, all evidence of irritation disappeared from the test eyes of 95.5 percent of the laboratory animals within 3–5 days of these tests. In the less than 5 percent of the cases where eye irritation did not clear up in 3–5 days, some degree of vision impairment developed, though never to the extent of total loss of sight. Testing is done in only one eye, the other is kept clear for control purposes.

(6) The cosmetic industry and Revlon have been and will continue to look for viable alternatives to animal testing of all kinds. In 1977 Revlon set up a special unit within its research laboratory for the express purpose of finding such alternatives. We have not, thus far, been successful in this endeavor.

Hopefully, this information and the attachments enclosed, will help provide you with a better understanding of the Draize test and why it is used. Revlon's safety record and that of the cosmetic industry in general, stand as proof of the wisdom of such testing and of the Federal insistence that it be done.

STATEMENT

Revlon has a worldwide reputation for producing quality products that are safe for the community. The company has built that reputation over many years and it has done so by taking a thoughtful, scientific approach to the question of product safety.

The Draize test is not a safety test unique to Revlon or even to the cosmetics industry as a whole. It is used by many agencies of government, a wide variety of industries, and academia to test substances that might come in contact with people's eyes. It is a required test for a vast array of consumer products, ranging from the paint on children's toys to chemicals used in the kitchen and bathroom. Cosmetics are among the least irritating products tested by this method.

In a letter to consumers, Heinz J. Eiermann, Director, Division of Cosmetic Technology at the FDA, made it clear that there is no alternative to the Draize test. He wrote that, "animal testing remains unavoidable," and that the Draize Test "is currently the most valuable and reliable method to determine the harmfulness, or safety, of a substance introduced into the eye."

The safety record of Revlon is solid evidence of the usefulness of this method.

With regard to the possible development of alternative non-animal test methods, Dr. Eiermann said: "For determining adverse reactions in the eye, cell or tissue culture techniques may be viewed more as scientific concepts than safety tests."

Revlon does not blind rabbits!

Revlon is, and always has been, concerned about the well-being of all the animals in its laboratories. Selected cosmetic ingredients, compounds and finished products are tested which might inadvertently, or by misuse, come into contact with the eye to determine their irritancy potential.

Because of the very low irritancy levels of cosmetics, the overwhelming majority of animals experience little, if any discomfort. They are cared for by trained professional handlers working under carefully devised Government standards for the care of laboratory animals and are never misused or abused.

In more than 15 years, no animal has been injured by a stock in a Revlon laboratory. The stock is a simple restraint to protect animals from hurting themselves during the first few moments after the test begins, and the animals are released immediately thereafter.

The cosmetics industry, including Revlon, is actively looking for alternative test procedures that would produce acceptable results. To date, no such alternatives that would meet scientific and government requirements have been found.

To repeat: The Draize test is used by cosmetic manufacturers and other industries for one purpose—to protect humans from the misuse of otherwise safe products.

There is no substitute for the Draize test.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 5, 1980.

NORMAN F. ESTRIN, Ph. D.,
Vice President—Science, The Cosmetic, Toiletry and Fragrance Association, Inc., Washington, D.C.

DEAR DR. ESTRIN: This is in reference to your letter of May 21 regarding the use of rabbits for eye irritancy testing and the development of alternative testing methods.

The Food and Drug Administration has had numerous occasions in recent weeks to express its views about the need for animal testing, particularly eye irritation testing in rabbits. The agency considers the Draize rabbit eye irritation test, despite its limitations, as the most useful and reliable method for determining the safety, or harmfulness, of substances coming into contact with the eye. The recognized weakness of the rabbit test is not a lack of reliability but of predictiveness of the precise degree of an adverse reaction that may occur in a consumer. This shortcoming, if it may be characterized as such, is not a deficiency of the rabbit as an animal model but takes its rise from the scarceness of corresponding human data. It just is not feasible to test harmful substance in human eyes to obtain comparative adverse reaction data in humans.

The Food and Drug Administration shares the public's concern about the welfare of animals used for toxicological testing. In accordance with the requirements of the Laboratory Animal Welfare Act of 1967, as amended, the agency is giving constant attention to the use of animals to ensure that they are being treated in conformity with the Act, and we trust that private laboratories are equally concerned about humane treatment of animals. Unfortunately, animal testing remains at present unavoidable. Unknown or potentially harmful substances cannot be tested in humans prior to some initial animal testing that reasonably assures absence of injury, and tissue or cell culture technique may currently be viewed more as scientific concepts than safety tests.

Tissue and cell culture techniques may be very useful to study the action of a chemical on certain cells of an organ. However, any human or animal organ is a complex biological system, and the effect of a chemical on a specific cell or tissue in culture may differ significantly from the effect experienced in the entire system. Many years of further research and broad advances on all fronts of toxicological, medical and related scientific disciplines will be required before these techniques can replace whole animal testing.

The agency wholeheartedly encourages any research in the use of cell and tissue culture techniques as the logical safety testing approach of the future. It is hoped that cosmetic firms, individually and jointly, will contribute to these efforts within the limits of their scientific and economic capability. The recently published Bureau of Foods Research Plan succinctly addresses this need and the concept of joint effort toward a common scientific goal.

Sincerely,
HEINZ J. EIERMANN,
Director,
Division of Cosmetics Technology.

STATEMENT

The primary responsibility of cosmetic manufacturers is to provide safe products to the millions of consumers who enjoy them. The cosmetic industry, like other consumer product industries, conducts safety evaluations using laboratory animals because such testing is advocated by the scientific community.

The cosmetic industry supports the development of sound alternatives to the use of animals for product safety testing. CTFA this year formed an Alternative Testing Task Force for the purpose of assuring the humane treatment and most efficient and effective use of experimental animals. The Task Force is now studying the development of possible alternatives to the Draize Test, the commonly accepted scientific procedure to test the irritancy potential of some consumer products, including cosmetics.

The cosmetic industry has been working for some time to reduce the number of animals used for testing. In 1976, CTFA established the Cosmetic Ingredient Review Program, an independent safety evaluation of cosmetic ingredients, which is lessening the need for duplicative testing.

The scientific community within the federal government, academic institutions, and the cosmetic and other consumer product industries, have been conducting research on the development of alternatives to animal testing. In most cases, however, success has not been achieved in developing sound alternatives that would be scientifically acceptable. That being the case, consumer product industries have little choice but to utilize animal testing at the present time.

Many Acts of Congress, including the Federal Hazardous Substances Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, and the Federal Food, Drug and Cosmetic Act require animal testing according to regulations under these Acts.

The Food and Drug Administration, the federal agency with jurisdiction over cosmetic safety, has often stated that animal tests are the only tests on which manufacturers can rely to protect the American public. FDA's Associate Director for Technology, Dr. Robert M. Schaffner, said in a recent letter to the Anti-Vivisection Society, that

"Although some testing may be performed in humans, animal testing remains essentially unavoidable. We do not believe anyone would condone the testing of potentially harmful substances in humans prior to some initial animal testing that could reasonably assure absence of injury."

The development of suitable alternatives to animal testing would have substantial benefits for the cosmetic industry, including reducing the cost and time associated with the use of animals for testing.

American College of Toxicology,
New York, N.Y., June 6, 1980.

Hon. Frederick Richmond,
U.S. House of Representatives, Longworth Office Building, Washington, D.C.

Dear Representatve Richmond: As President of the Americal College of Toxicology and Director of the Environmental Sciences Laboratory of the Mount Sinai School of Medicine, I have been much concerned with the continuing and evolving problems of human health effects of environmental agents. From this perspective, may I offer some comments on your bill "The Research Modernization Act (HR 4805)." In the past decade or so, our Congress has put in place important legislation aimed at minimizing risk of serious hazards associated with occupational and environmental toxic materials. I would judge that they now form useful examples for the rest of the world. For much of these, the scientific base has depended upon interdigitation of effective animal laboratory research and epidemiological studies. These are complex and varied, often following unpredicted, innovative leads.

It would be a serious mistake, in my opinion, and contrary to the lessons we have been learning, for Congress to mandate the type of animal testing that could or could not be performed on commercial chemicals or consumer products. I know that some have voiced concern about this matter from the point-of-view of commercial and economic interest; my own perspective derives from the serious difficulties I foresee with regard to the potential human health effects among workers and among the general public if we cannot use such scientific approaches as have been found most effective in identifying hazards, pointing to ways of avoiding or minimizing them.

The Draize eye irritation test has been pointed to as a reason to limit or avoid animal studies. While this test is required by the FDA to demonstrate that cosmetic products are safe for their intended use, it is also used by occupational safety and health experts to classify chemicals, so that industrial workers may take proper precautions in handling them. In this test, the majority of cosmetic products and prescription ophthalmic preparations produce little discomfort or lasting irritation. It is true, nevertheless, that on occasion a chemical product will produce permanent changes in the animal's eye. Nevertheless, the goal in this type of testing is not to intentionally damage or destroy an animal, but to protect the human being from such adverse reactions. This is not a question of "senseless testing" in which animals suffer intractable pain and irreversible ocular damage; rather, it is how we can best protect people in our complex chemical, industrial world.

There is much research concerning alternative methods, where scientists now use isolated organs, tissue and cell culture, chemical assays, etc. However, these tests cannot provide definitive answers in many instances, so that animal testing is essential in the evaluation process. At this time, there are no proven alternative methods to animal testing, in many situations. All of us have been very much interested in microbial assays such as the Ames test but, unfortunately, the predictive value of such mutagenic studies and in vitro cancer screening has not been established and we cannot, at least at present, abandon animal testing unless we wish to take the risk of another asbestos debacle or Thalidomide disaster. At this time, it is appreciated that microbial assays and in vitro testing are quicker, simpler and less expensive—but they also have not been demonstrated to be reliable for predictive purposes.

The American College of Toxicology strongly supports, in principle and in practice, humane treatment for all animals that are used in medical research but also understands that animal testing is a vital and appropriate part of such research.

Your bill (H.R. 4805) will severely limit the use of live animals in biomedical research. Despite its derivation from humane instinct and desire, I believe it is not in the public's interest, and will delay and hamper research needed to provide protection against occupational and environmental hazards. Reliance on deceptively simple non-validated systems such as bacterial assays will provide no satisfactory substitute for animal studies, and, with the difficulties that abound, may well prove to be catastrophic.

Sincerely yours,
Irving J. Selikoff, M.D.,
Professor.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER FOR RECOGNITION OF SENATOR EAGLETON TOMORROW; RELINQUISHMENT OF LEADER'S TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that in addition to the orders for the recognition of Messrs. Proxmire, Schmitt, and McClure tomorrow morning, Mr. Eagleton be recognized for not to exceed 15 minutes, and that the time of the two leaders, with the approval of the minority leader, be relinquished on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this would mean that at the conclusion of the four orders for the recognition of Senators, the Senate would automatically return to the nuclear waste bill, would it not?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders or their designees have been recognized under the standing order, Messrs. Baker, Stevens, and Tower be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD NUTRITION AMENDMENTS OF 1980—CONFEREES

Mr. MATSUNAGA. Mr. President, I move that the Senate insist on its amendment to H.R. 7664, the Child Nutrition Amendments of 1980, that the Senate request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Talmadge, Mr. McGovern, Mr. Huddleston, Mr. Leahy, Mr. Melcher, Mr. Boren, Mr. Helms, Mr. Dole, Mr. Hayakawa, and Mr. Cochran; and solely for consideration of title III of the Senate, Mr. Williams, Mr. Nelson, Mr. Schweiker, and Mr. Javits.

ORDER FOR SENATE TO RETURN TO CONSIDERATION OF S. 2189 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, the Senate is to return to the nuclear waste legislation no later than 10 a.m. Also there is a conflicting order that requires the Senate to return to the nuclear waste legislation at the conclusion of the four orders for the recognition of Senators.

I ask unanimous consent that the Senate return to the nuclear waste legislation at the conclusion of the four orders for the recognition of Senators or no later than 10:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. MATSUNAGA. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order of the Senate, that the Senate stand in recess until 9:15 a.m. tomorrow.

The motion was agreed to; and at 11:33 p.m., the Senate recessed until tomorrow, Wednesday, July 30, 1980, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 29, 1980:

Department of State

Charles F. Meissner, of Maryland, for the rank of Ambassador during his tenure of service as U.S. Special Negotiator for Economic Matters.

National Oceanic and Atmospheric Administration

Rear Adm. Herbert R. Lippold, Jr., NOAA, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration, vice Rear Adm. Allen L. Powell, retired.

MISSISSIPPI RIVER COMMISSION

Rear Adm. Herbert R. Lippold, Jr., National Oceanic and Atmospheric Administration, subject to qualifications provided by law, for appointment as a Member of the Mississippi River Commission.

SECURITIES AND EXCHANGE COMMISSION

Barbara S. Thomas, of New York, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 1985, vice Irving M. Pollack, resigned.

DEPARTMENT OF JUSTICE

Leslie G. Foschio, of New York, to be U.S. attorney for the western district of New York for a term of 4 years, vice Richard J. Arcara, term expired.

EXTENSIONS OF REMARKS

SICKNESS OF THE MEDIA AND THE ELECTORATE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, Mr. Roy Frisby, retired bank executive and longtime constituent of my district, had his essay, "The Sickness of the Media and the Electorate," printed in the June 19 edition of "Wilmette Life." The essay intelligently questions Time magazine's April 21 article "Capitalism, Is It Working?" in a manner which makes one appreciate our economic system both past and present. Mr. Frisby, for years a distinguished lecturer and speaker on economic and political subjects on both radio and TV, brings excellent credentials to this subject. The essay is a well written defense of American capitalism.

The essay follows:

THE SICKNESS OF THE MEDIA AND THE ELECTORATE

To the EDITOR, Wilmette Life:

At the risk of submitting an article to a subsidiary of "Time Inc." namely our respected and eagerly received "Wilmette Life" I would like to speak to the sickness of the media by commenting on Time's April 21st article "Capitalism, is it working?". Time takes up twelve pages for its diatribe which is replete with omissions coupled with a very shallow and inaccurate understanding of economic history. Realizing that I will not be allowed twelve pages for refutation, my first critical example is their treatment of Adam Smith. Time states—"The free enterprise system has been constantly questioned and condemned ever since that absent minded professor Adam Smith, another revolutionary of 1776, enunciated its basic philosophy." This statement of itself shows the sickness of the media but it calls to mind Daniel Webster's observation that freedom of the press and liberty "exist in proportion to wholesome restraint."

Adam Smith was a professor of moral and political science at Oxford University thirty years before he was occupied with his greatest work—"An Inquiry into the Nature and Causes of the Wealth of Nations—1776." Adam Smith enjoyed the distinguished fellowship of Hume, Burke, Reynolds and Gibbons to name a few of his peers. Gibbons' "Fall of the Roman Empire—1767" was readily available to scholars such as Alexander Hamilton and Thomas Jefferson as well as Adam Smith, all of whom had the good sense to observe the complete futility and immorality of wage and price controls.

Time's article refers to the dark ages up to the ninth century but they fail to report that the aftermath of Diacletian's wage and price controls had any bearing on the collapse of the Empire. The penalty for having violated wage and price controls was death by crucifixion. Historians remind us that crucifixions in untold numbers were carried out for a period of twelve years, "until they ran out of lumber." One might pause currently to observe that in this state's recent blind primary our own New Trier district (named for the once capital of the Roman Empire) following much of the media's endorsement of the now independent candidate John Anderson, voted two to one for Congressman John Anderson over Governor Reagan. Anderson, about as "independent" as a pig on ice, said in the New Hampshire debate that he favored an incomes policy (wage and price controls). Moreover it is reported that should his nomination fail he would prefer Senator Kennedy—leading spokesman for wage and price controls over Governor Reagan who unqualifiedly opposes them. Shades of the dark ages and the French Revolution.

Adam Smith's "absent mindedness" was rewarded by the University of Glasgow having conferred a doctorate upon him in 1762 as well as his succeeding to the chair of moral philosophy which he held for twelve years and published his "Theory of Moral Sentiments." I would argue along with a host of scholars that Adam Smith's "Wealth of the Nations" had a more profound influence upon the founding fathers decision to begin this nation on the moral foundation of paying its debts than any other work including Jefferson's Declaration of Independence. By following Alexander Hamilton's monetary policies, (deviating at times, as the Civil War, but returning to them) the wholesale price index remained relatively constant for over a hundred years—that is up to Woodrow Wilson's administration. Free enterprise was in full fruition, in fact historians declare it was the happiest time for Western civilization in ten centuries. However they add that the subsequent absence of morality makes the difference between the nineteenth and the twentieth centuries greater than any two cycles in history.

Time speaks to us now about the great depression and the 1930's when "11,000 banks failed." Time fails to tell its readers anything about the background and President Wilson who had been President of Princeton University and was sadly deficient in economic science. Wilson had heard the cries of the free silver populist William Jennings Bryan and his "Cross of Gold" and made him his Secretary of State. Wilson's administration gave the nation the dreaded income tax, the "root of all evil" by urging the amending of the Constitution. He also gave us the Federal Reserve System which through the President's political appointees provided the government with an engine of inflation. These two new tools in the hands of the politicians provided them with a perfect combination to fuel their ever increasing socialistic bureaucracy. The Supreme Court and especially Senator Elihu Root reminded the country that this "power to tax was the power to destroy." Actuaries for the Tax Foundation instruct us that through taxation, direct and indirect (inflation) that the politically appointed social engineers have carried out about 60% of their program of destruction.

Wilson campaigned for a second term on his promise to keep us out of the first World War, which not too incidentally was a fight among Queen Victoria's own three grandsons—The King of England, the Kaiser of Germany and the Czar of Russia. English propaganda overwhelmed George Washington's wise injunction and Wilson took us into the war—"in the interest of humanity." Not only did he sponsor huge loans to the so-called European "allies" but he mortgaged this nation for an amount in Hamilton's constant dollars that exceeded "the entire wealth west of the Mississippi River with everything and everybody in it." This statement is attributed to "silent" Calvin Coolidge. The mortgage coupled with enormous loans to Europe laid a credit base for expansion and speculation that was completely counter not only to free enterprise but to its corollary the moral principles laid down by the founding fathers.

Students of monetary policy might here make a mental note that about this time the Federal Reserve Board made a unique discovery. They decided to invest some of the reserves of the member banks in Wilson's 4¼% "liberty" bonds. When the sellers deposited the Federal Reserve's checks back into the banking system they witnessed a miracle. They had increased the money supply! The Federal Reserve was still under the discipline of the gold standard and it did not get hung up on this dope. However Roosevelt, Truman and all succeeding administrations just couldn't leave the newly discovered dope alone and the country is still on it today.

With the signing of the Armistice the war did not end—the armies only ceased firing. With the cancellation of millions of dollars of war orders mostly for food, our agricultural banks were already crippled. However there was enough momentum from speculation to postpone major failures and to continue the war expansion into the 20's.

Upon the death of President Harding, Coolidge succeeded to the presidency. While he was urged to accept a second term he had correctly assessed the smoldering volcano set in the Wilson administration to erupt in the 30's. Coolidge prudently said "I do not choose to run, let the boy scout have it." He was referring to Herbert Hoover because he was convinced that the American people would not accept the discipline that the maturing war bonds along with Europe's default would require. For example, six billion dollars of war bonds on a gold basis came due in December of 1932. Hyper inflation had collapsed Germany; England went off the gold standard and took to the road of socialism. Lenin's brutality had replaced the comparative kindness of the Czar. Thirty million Russians had been liquidated. Hitler was the popular reconstructor of Germany and "provided us with a welcome insulation against the dreaded communists."

At this point in history Lenin's and Joseph Stalin's murderous conduct would certainly have offended Adam Smith's Christian ethic. Surely it should have offended ours, but it didn't. Lo and behold there were no longer "two chickens in every pot" and the nation found itself in a deep depression. H. L. Mencken said: "You will never go broke underestimating the intelligence of the American people." For most of the people led by the press shouted, "It's all Herbert Hoover's fault." So Hoover, one of the greatest Americans of all time left the White House in his individuous humility.

Franklin Roosevelt, a carryover from Wilson's time and placed in nomination by Wilson's own son-in-law, campaigned on the platform to reduce government spending by 25%. After election he promptly removed the discipline of gold and made it illegal to own it. He repudiated his campaign promises, devalued our currency by more than 50%, showed the world how to spend and elect and elect and spend and took us into World War II.

I have not overlooked Time's unexplained reference to "the 11,000 failed banks" but it is a good time to remind them that Roosevelt closed all the banks and then re-opened them on a paper basis. Through deficit financing the engine of inflation increased the money stock from 113 billion in 1941 to over a trillion now. Dr. Frederick Hayek, former professor of economics at the University of Chicago, author of "The Road to Serfdom" and 1974 nobel prize winner in economics, teaches us with devastating logic that inflation (the deadly enemy of free enterprise) is "solely and entirely the result of an increased quantity of money not the necessary consequences of other political actions."

Free enterprise is now saddled with a trillion dollar debt to service and a 615 billion dollar 1980 budget to meet which includes a 52 billion dollar deficit so far this year and Time asks—Capitalism—is it working? I really can't arise to answer. Almost 150 years ago the shrewd analyst of American society, Alex de Tocqueville, wrote "The American Republic will endure until the politicians find they can bribe the people with their own money."

Time speaks to us now about the energy crisis with about the same understanding of the subject they displayed in introducing Adam Smith. To this end perhaps it is time to abandon the facts and imagine ourselves in the academy, for the Greeks were fond of teaching by antithesis.

In my defense of free enterprise and the contributions of Adam Smith perhaps I can better illustrate my contempt for much of the media and the electorate who follow their lead in forming public opinion by my telling a story. It concerns the government's scientific project of studying the swamp frogs of the Everglades. These are very large frogs and we need to know about them. The researchers would place a frog on a long table and holler "jump!" and the frog would jump several yards. They then retrived the frog and cut off his right front leg and hollered "jump!" and the frog jumped quite a distance. They then cut off his left front leg and hollered "jump!" and the frog with his muscular hind legs still jumped quite far. They then cut off his right hind leg and hollered "jump!" and the frog responded with just a feeble jump sort of sideways. Finally they cut off his remaining hind leg and shouted "jump" but the poor mutilated frog blinked his eyes and just rested on the table. The researchers then prepared their report concluding "You will note that when all four of the frog's legs are cut off, he can't hear."

ROY FRISBY.

JUNE 1980.●

DRAFT SIGNUP

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. DERWINSKI. Mr. Speaker, across the country the registration for the selective service by young men went smoothly. The professional demonstrations, which were obviously media events, were to be expected.

The Star-Herald publications, serving south suburban Cook and Will Counties, Ill., provided a very valuable public service by emphasizing the registration procedures in an editorial appearing in the July 20 edition. I insert this editorial into the RECORD, and commend the Star-Herald for their outstanding service to their readers. The editorial follows:

DRAFT SIGNUP

Tomorrow, young men born in the years 1960 and 1961 were to begin registering at post offices for Selective Service. A three-judge federal panel has ruled the registration order unconstitutional, so it may be postponed. The federal government has appealed Friday's court ruling.

Young men obviously approach draft registration with mixed emotions. Some step into it as an anticipated responsibility, the likelihood that someday they may be called upon to serve their country in the armed forces; it's part of life in this country and in many others.

Other young men have a religious or moral attitude that compels them to shun service in the armed forces, or at least to seek a noncombatant role. There are some others who are lazy or fearful, and draft registration for them is an unwelcome intrusion into their private lives.

These are all human attitudes toward the potential of military service, but the forthcoming registration does not send anyone into basic training—yet.

So the message right now, no matter what the young man's sentiments, is that he should register for the draft. For those who have legitimate reasons for staying out of the services, or filling noncombatant roles, no classifications will be made until local Selective Service boards are re-established. (Conscientious objectors may write "CO" on their registration forms, but it does not confer such status on them.)

Registration does not send anyone into service, but neglecting to register will not keep anyone out of service and may put them in jail. The maximum penalty for failure to register is stiff: a $10,000 fine or five years in jail, or both. So even those who are protesting the registration should pause long enough to sign up.●

VLADIMIR KISLIK

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. WEISS. Mr. Speaker, today Vladimir Kislik is in a psychiatric institution in the city of Kiev, in Soviet Russia. This prominent physicist has been committed involuntarily as punishment for his protests against the Soviet refusal to grant him a visa to emigrate to Israel.

We do not know how long Mr. Kislik will be kept inside the psychiatric institution. But it is a fact that he has been denied a reunion with his wife and son in Israel since 1974. During the years since, he has been unable to find work; has been beaten at least three times; and has been harassed by authorities who disapproved of a scientific seminar he held every fortnight to keep up his spirits. Accused of slander against the Soviet Government because he wrote to the 35 nations that signed the Helsinki Declaration, he was finally imprisoned for "hooliganism" on July 4 of this year. His ironic arrest on the day of American independence was followed by a 15-day jail sentence, which police extended 15 days. Kislik went on a hunger strike in protest, and his psychiatric incarceration followed. His liberty will likely be withheld for the duration of the Olympic games.

Mr. Kislik's case is another example of the outrageous uses to which psychiatry is commonly put in the Soviet Union. As a Soviet Jew, refusenik, and dissident, he has never been accorded the human rights that are his due.

I speak on his behalf today as part of the "Spirit of Helsinki, Vigil 1980," organized by my distinguished colleague from New Jersey, ANDY MAGUIRE. This congressional effort to keep the Soviet noncompliance with the Helsinki human rights accords in the public eye lends valuable encouragement to Soviet dissidents of every religious belief and ethnic background.

Vladimir Kislik is but one symbol of the total disregard within the Soviet Union for the human rights of self-expression and dissent. Throughout his life he has been discriminated against as a Jew—he was sent to work far away from his Kiev home, in Chelyabinsk, and was forced to do his Ph. D. by correspondence after being rejected for the postgraduate course in Moscow. His name has been omitted from several scientific papers he has published. Now he is forcibly prevented from protesting.

It is understandable why he has taken the difficult step of renouncing his Soviet citizenship.

On behalf of Vladimir Kislik, and all refuseniks and prisoners of conscience in the Soviet Union, I call for an end to the repressive policies of the Soviet Government. We must be ever vigilant in drawing the world's attention to their struggle to win liberty and exercise their right to free expression.●

INSIGHT OF A YOUTH

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. DORNAN. Mr. Speaker, I would like to take this opportunity to share with my colleagues in the House the keen insights of a young constituent of mine who wrote about the past and current threats to American freedom.

Curtis Virtue received second place in an Independence Day contest for the sixth, seventh, and eighth grade category for his essay, which follows.

I believe you will agree with him that failure on the part of our Nation to protect individual liberties and the freedom of the free world will eventually result in worldwide domination. I find it reassuring to know that so many of our young generation are fully committed to our Nation's ideals of freedom. In addition, I am not surprised that these young patriotic citizens recognize the need for a strong defense to deter foreign aggressors.

It gives me great pleasure to commend to the attention of my colleagues Curtis Virtue's winning essay, which follows:

In our complicated world, many important things are threatened, but in my view, America's freedom is the most important thing that could be lost. Also, I believe that our inability to successfully defend ourselves against foreign powers is the greatest threat to America's freedom.

Throughout history, America has been a strong military country, and was given many guidelines in its many years of existence. James Monroe, fifth president of the United States, issued the Monroe Doctrine, which stated that no European country should interfere with the free nations of the Western Hemisphere "for the purpose of oppressing them, or controlling in any other manner their destiny." Another guide was the Truman Doctrine, which guaranteed American aid to any free nation resisting Communist propaganda or sabotage. The Truman Doctrine, though, has been disregarded in past years. An example would be the Communist take-over of Cuba. Although Fidel Castro is a Cuban, his Communist ideas really turned that country around. The United States didn't do a thing. The Monroe Doctrine was useful once, when Kennedy was president. After Castro took over Cuba, he allowed Russia to send over missiles on boats, but Kennedy, following the Doctrine, told the Russian ships to turn around and go back. The Monroe Doctrine worked then, but who knows if another foreign country will be so agreeable next time?

These two policies show that the United States should help their friends, but we haven't. We let the Russians take over Afghanistan, and our response to that was boycotting the Olympics. Hungary, which was overtaken by the Communists after World War II, had a revolt by the people who didn't want to be Communists. The United States, again, took no military action, letting Russia bring in tanks killing all the revolutionaries.

These two examples may not seem too important alone, but when you consider the number of allies that could be lost because of America's inability to act, anyone can see that if America doesn't begin aiding in the defense of friends, allies, and neutral countries, and maintain the strength to do so, we, too, could find ourselves invaded, and our freedom forever lost.●

HONORING OUR OLYMPIC ATHLETES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. DIXON. Mr. Speaker, tomorrow we will honor the members of the U.S. Olympic team at ceremonies on the west front of the Capitol. I rise today to join in this tribute to our fine, selfless athletic representatives, and to take this occasion to informally brief my colleagues on the progress of the games of the XXIII Olympiad, to be held in Los Angeles in 1984.

To be an Olympic athlete is to know the meaning of sacrifice. The image of the long-distance runner, immersed in the lonely and often painful process of preparation, is familiar to us all. Few of our people, and even fewer of our athletes, however, could have known of the tragic circumstances which would arise, and of the special sacrifice our athletes would be asked to make as a result. However, while we cannot foresee these events, much less control them, we can and should recognize this special sacrifice, and the men and women of this country who made it.

We in Congress recognize that there is no substitute for the thrill of participating in the opening ceremonies of the Olympic games, much less the international acclaim which accompanies a trip to the victory stand. For us as a nation of spectators, there is no substitute for the pride we take in our fellow citizens' athletic accomplishments. However, the President, the Congress, and the American people, acting as one, decided that there is a higher purpose to the Olympic games; that they exist not as an end in themselves, but as a means of fostering brotherhood and understanding among the diverse peoples of the world. In doing so, it was determined that the staging of the games as originally envisioned was inappropriate in light of the actions of the host country; that sport cannot exist when there is blood on the playground. As a result, when it was evident that the 1980 games could not, or would not, be moved, our Nation's value system, combined with our collective will, declared that American participation in these games was not possible.

We in Congress further recognize that the decision to boycott the Moscow Olympics caused a great deal of anguish among prospective Olympic athletes. This is both natural and understandable. However, by honoring our athletes tomorrow, the American people, through their elected representatives, recognize that their athletic achievements are no less noteworthy, and no less appreciated, than those of previous years, and that the special sacrifice which they have made will endure as a living testament to the principles of a peace-loving nation.

As we conclude this unfortunate Olympiad, we must also recognize our special responsibility and opportunity to contribute to the rekindling of the Olympic flame, and the revitalization of the Olympic movement. As the organizer of the Moscow boycott, we must demonstrate to the world that we do not mean to destroy the Olympics in order to save them.

Further, as the host country for the 1984 games, we must demonstrate our commitment to their successful yet responsible staging.

I am pleased to report to my colleagues that the Los Angeles Olympic Organizing Committee is well on the way to accomplishing these difficult tasks. The LAOOC is a private, nonprofit corporation under the laws of the State of California, and is charged by the International Olympic Committee with the responsibility for the planning and operation of the games of the XXIII Olympiad. The 61-member board of the directors, which includes leaders from labor, business, sports, government, and the arts, is chaired by my good friend Paul Ziffren, a prominent local attorney and community leader.

When Los Angeles was officially designated by the IOC as the host city for the 1984 games, it marked the first time in over a half a century that an American city was chosen for the honor, and the first time ever that a previous host city was again selected to host the summer games. This honor and responsibility has not been lost on the members of the LAOOC, as they seek to repeat the successful experience of the 1932 Los Angeles Olympics, the only games to show a profit.

The committee's first official report, recently submitted to the IOC meeting in Moscow, demonstrates a firm commitment to the meticulous planning needed to assure the successful conduct of the 1984 games. Contact has been initiated with the various private and Government organizations involved in transportation, security, housing, and medical services for the games. The official symbol and mascot for the 1984 games will be unveiled August 4 in joint ceremonies at Los Angeles City Hall and at the World Trade Center in New York. Television and marketing rights are presently being negotiated, with the first contracts to be officially announced immediately after the conclusion of the Moscow games. Finally, the LAOOC has taken steps to assure maximum community involvement in the 1984 games, including the establishment of a special fund to purchase event tickets for underprivileged youths in southern California.

As the sports capital of the world Greater Los Angeles will rely on existing facilities to stage the various Olympic events, thus avoiding the costly capital expenses of previous Olympiads. Only four venues, an Olympic swim stadium, a velodrome, a rowing course, and a shooting facility, have yet to be constructed. Negotiations have been completed for the use of four existing facilities, and preferred locations have been designated for each of the others. Many of these stadiums are already familiar to sports fans around the country, and around the world. They include: The Rose Bowl in Pasadena (soccer), the Forum in Inglewood (basketball), home of the world champion Los Angeles Lakers, Pauley Pavilion at UCLA (gymnastics), home to the 10-time NCAA basketball champions, and the Los Angeles Sports Arena (boxing), site of the 1960 Democratic National Convention. In addition, track and field events, as well as the pageantry of the opening and closing ceremonies, will be staged at the Los Angeles Memorial Coliseum, which served an identical function at the 1932 summer games.

Mr. Speaker, this has not been an easy time for the Olympic movement, nor for the search for world peace. However, by paying tribute to our Olympic athletes, we recognize not only their successes and sacrifice, but also the enduring attraction of the Olympic games, and their potential as a bridge to human understanding. I am proud to associate myself with the effort to enable the games of the XXIII Olympiad to fulfill that potential.●

SOVIET SLAUGHTER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. DERWINSKI. Mr. Speaker, the Southtown Economist, a growing newspaper chain serving suburban Cook County, Ill. recently editorialized on the subject of the continuing occupation by Soviet troops in Afghanistan. As I believe that this was an especially timely and objective commentary, I wish to insert the editorial at this point for the Members' attention:

SOVIET SLAUGHTER

The Soviet army has never been know for its adherence to the internationally accepted rules of engagement. The conduct of Russian troops in Eastern Europe and Germany during the closing months of World War II and again in Hungary in 1956 equalled some of the worst depredations of the Nazi SS.

But even these appalling excesses may pale by comparison with the cold-blooded methods now being employed by Soviet forces in Afghanistan.

The search-and-destroy tactics the Russians tried earlier this year in an effort to whittle down the insurgent bands have given way in recent weeks to widespread and indiscriminate attacks on the civilian population.

The civilian casualties seem not to bother the Russians in the least. Indeed, because the slaughter of civilians is inevitable in such attacks, it can only be regarded as a calculated objective of the new Soviet strategy.

These atrocities ought to shock the conscience of the civilized world. But they haven't. Protest where it is sounded is muted and isolated.

Worst of all, what has happened to the whispered promises from the Carter administration and from certain Islamic nations to sustain resistance to the Soviet invasion by supplying arms to the Afghan guerrillas? It is strangely missing.

Whether this lack of assistance reflects a decision by Pakistan to seek accommodations with Moscow or, conversely, shameless timidity in Washington, we do not know. But the net result is that Afghan guerrillas are crippled in their heroic resistance to a Soviet invasion and occupation now assuming the dimensions of mass murder.

To abandon the Afghans in the face of such an assault could only make Islam and the West accessories to the crimes being committed by the Soviet Union.●

SKELTON WOULD INCREASE AMERICAN STRENGTH

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. GEPHARDT. Mr. Speaker, at a recent dinner meeting of the 8th Armored Division held in Kansas City, Mo., our distinguished colleague, Representative IKE SKELTON, spoke on the subject of civil defense and increasing America's strength. As he so eloquently stated, liberty and freedom will flourish if there is security for the individual and for the Nation. "Free men, in order to remain free, must be brave and must have courage—courage to maintain a secure and strong nation."

Because Mr. SKELTON's views carry so much importance, I insert a copy of his excellent speech in the RECORD for the benefit of all Members. The address follows:

ADDRESS OF CONGRESSMAN IKE SKELTON

Historical analogies are always inexact, yet it remains true that those who will not learn from history are doomed to repeat it. Today, we in the United States confront the growing power of the Soviet Union both in Europe and in Asia. I believe that we may be vulnerable as we have not been before. We are increasingly exposed to that imbalance of power which risks some mortal thrust. We are increasingly deprived of a sense of security and independence upon which the survival of the West has depended.

It is my conviction that this Nation today confronts a crisis with the Soviet Union similar to that which Britain faced with Germany in the decade of the thirties. It is a crisis to secure the peace, safety and freedom of our people and of those peoples everywhere to pursue their legitimate national aspirations for political, cultural, and religious independence. It is for them and for us that I urge the upbuilding of American strength, an upbuilding based upon a realistic assessment of Soviet power now and in the years to come.

"To urge the preparation of defense is not to assert the imminence of war." So Winston Churchill spoke in 1934. I assert the same today. "I do not," Churchill went on, "I do not believe that war is imminent or that war is inevitable, but it seems very difficult to resist the conclusion that, if we do not begin forthwith to put ourselves in a position of security, it will soon be beyond our power to do so * * *."

So it was in 1934. So it is in 1980. Then, for Churchill and his contemporaries, "the great new fact" as he said, was that "Germany is rearming."

Churchill also warned that "this is only the beginning of the reckoning period. This is only the first sip, the first foretaste of a bitter cup which will be proffered to us year by year * * *" and how bitter that cup was; the allies had to drink deep from that cup at places like Dunkirk, Normandy, Anzio, and Bastogne.

Now, for us, in 1980, the "great new fact" is the alarming imbalance of power by which daily the Soviet Union grows ever stronger and stronger and, in consequence, more determinedly aggressive in its policies.

Over the past 15 years or more there has been a decided shift in the military balance between the United States and the Soviet Union, as we have failed to adapt our military programs to counter similar Soviet efforts. This has drastically altered the former situation of "mutually assured destruction" on both sides.

To be sure, we do have the capability of a retaliatory strike both by air and by sea. However, it is estimated that by 1985 the Soviets will be able to knock out some 90 percent of our land-based force. Secretary Harold Brown has warned that they may even have this capability by 1982.

American nuclear strategy has been built upon the concept of a second-strike: We have relied upon our ability effectively to retaliate against the Soviets rather than to defend the American homeland, people and production-base alike. We are the first and only great power in history to repudiate defense of its homeland in the belief that its retaliatory capability is an effective deterrent to any first strike. But it is precisely that retaliatory capability which is being steadily eroded.

Today, there can be no doubt about the quantitative superiority of the Soviet Union. They have 173 army divisions against our total, including active and reserve, of 28. Their massive conventional superiority gives them a flexibility with which we are unable to cope. At the same time, we are in danger of losing our qualitative edge in technology and hardware.

It is no secret how the Soviets have been able to accomplish this. Over the past decade their defense expenditures have grown steadily—from 12 percent of their Gross National Product in 1970 to as much as 18 percent in 1980. For the same period, U.S. defense expenditures as a share of GNP have declined from 7.5 to 4.6 percent.

How is it possible that this could happen? One important factor is to be found in American history and our experience of warfare. We are the only great power in the world today which has, during modern times, never been bombed and never had a major assault on its cities. This aspect of our experience, or lack of it, easily encourages a kind of "it can't happen here" complacency, causing us to think of war in terms of Flanders Fields, Iwo Jima or Da Nang.

On the other hand, the Soviet Union, and Imperial Russia before it, has had to contend with invasions of its territory in almost every century of its long history. We in America have not had foreign troops on our soil since the British invaded our east coast in the War of 1812. Russians have experienced invasions as a grim reality—from the Mongols to Napoleon and Hitler. Thus, many Russians can't forget what most Americans can't remember. Unfortunately, modern warfare is no respecter of distance and no respecter of persons.

The realities we must face are far from reassuring. They will shake our complacency, as they should. Consider our dilemma at sea, often described as "a three-ocean commitment with a one-and-a-half ocean Navy"—too few ships and a scarcity of trained manpower stretched from the Atlantic to the Pacific and now out over the Indian Ocean as well. The much-publicized rapid-deployment force cannot safely be dispatched to the Persian Gulf area without seriously endangering our commitments to NATO, and in Korea, and wherever our strategic interests are at stake. We have an inadequate amphibious lift for our present three Marine divisions. In the vital areas of airlift and sealift alike, our ability to sustain our commitments is without an effective and credible nuclear deterrent. We will be increasingly subject to a kind of blackmail.

Civil defense is probably our single most neglected weapon. While we have done virtually nothing in this area for a number of years, the Soviet Union has put into effect an ongoing nation-wide civil defense program under military control. Clearly, they consider civil defense to be part of their overall military strategy because it can limit human and material losses, and help their nation recover speedily from the effects of a nuclear war. This major civil defense effort further tips the strategic balance in favor of the Soviet Union. In light of their efforts, dare we do less?

By neglecting such areas as civil defense, are we not sending a signal to the U.S.S.R. of a lack of determination to defend our vital interests? Is this not similar to the signal we undoubtedly sent the Japanese prior to World War II, when in 1939 America failed to properly fortify the Pacific Island of Guam?

There you have our present situation. It is evident that the balance of power is shifting—and the direction is away from the United States.

These are somber thoughts—and they are meant to be. Yet they may also be bracing, calling forth great resources of courage and resolve from the hearts of our people. We must fully awaken to the nature of the crisis and respond accordingly. It is still within our power to reverse the trend of recent years to redress the balance of strategic power. To do so as quickly as we can is an obligation we dare not evade. The future of this free Nation and, indeed, the direction of the world community ride upon the decisions we now must make if we would fulfill the responsibilities of moral and political leadership which are uniquely ours. The price of unreadiness will be greater by far than its alternative. What we must learn—and apply—is a simple principle: preparedness is deterrence. As Ambassador George F. Kennon noted in a telegram sent from Moscow to Washington in 1946:

"(The Soviet Union) is highly sensitive to the logic of force . . . For this reason, it can easily withdraw—and usually does—when strong resistance is encountered at any point."

He added:

"If the adversary has sufficient force and makes clear his readiness to use it, he rarely has to do so."

We found Ambassador Kennon's advice useful and true when America took strong stands in the Berlin blockade in 1948 and the Cuban missile crisis in 1962. To attain the preparedness necessary for the 1980's, we must begin now to address our areas of weakness in military defense.

Our highest priority must be military personnel. At the present time, our Reserves are well below strength—some 130,000 short of our goal. The active forces continue to fall short of recruiting goals, and more importantly, they are facing a crippling shortage of skilled and experienced military personnel due to low rates of retention.

This retention problem must be dealt with first. We must substantially increase military pay and allowances to provide the incentives necessary to attract and retain a sufficient number of quality military personnel within the constraints imposed by our need to balance the federal budget. For this reason, I am supporting legislation now being considered by the House Armed Services Committee which would help accomplish these objectives.

For the longer term, we must reassess our method of meeting our military manpower needs. A return to the draft, particularly one aimed at building our reserve strength, should be given the most serious consideration. Of course, such a plan must be designed to assure fairness so that all elements of society will share this responsibility on an equal basis. Already, the Chief of Naval Operations, Admiral Thomas Hayward, has openly advocated a resumption of conscription.

Recently during a demonstration against registration for the draft the slogan "there is nothing worth dying for" was widely acclaimed. To which we can only observe that where there is nothing worth dying for, there is likely to be little or nothing worth living for. The "me" era of our recent past must give way to a new sense of patriotism and a concern for the survival of America. We in America have much that is worth living for—and we want to maintain it both for ourselves and for our children. This Nation remains the last best hope of freedom—as witness the influx of refugees—Afghans, Vietnamese, Cambodians, Cubans—tells us much about the nature of communism in practice.

The Great War of 1914-18 came about because of an imbalance of power. So with the Second World War. It need not be the case with a possible third, provided we are determined to preserve our strength and to use it with intelligence and with restraint.

For America in 1980, this is not—or need not be—"the beginning of the reckoning period", as Churchill termed it. May we come to see this critical time of the 1980's as the beginning of our awakening, painful and unpleasant in many respects yet also bracing and renewing. For liberty and freedom to flourish, there must be security for the individual and for the nation. Free men, in order to remain free must be brave and must have courage * * * courage to maintain a secure and strong nation.

We all remember the story of the young Baltimore lawyer, who, during the war of 1812, was being held aboard a British Man-of-War in the Baltimore Harbor. He was told at sundown by the British Admiral, the enemy commander, to take a good last look at the American flag—the stars and stripes—flying over Baltimore's Fort McHenry, because the British would capture the Fort before sunrise the next day. All during the night, while the British assaulted the American position, the young man kept watch on the American flag by the rockets' red glare and the bursting bombs. At sunup, he saw the stars and stripes still flying, showing that the Americans had successfully resisted the enemy attack on Fort McHenry. The young lawyer, Francis Scott Key, was so moved that he wrote a poem—the Star Spangled Banner. In that poem, he penned a question that became a timeless challenge that must be answered by us today: "Oh say does that star spangled banner yet wave o'er the land of the free and the home of the brave."●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. McDONALD. Mr. Speaker, due to a previous commitment I unavoidably missed some votes on July 28, 1980. While I was paired on each vote missed, I did not receive a live pair on two of the six votes. Therefore, I would like to take this opportunity to explain how I would have voted had I been present. An asterisk indicates that a live pair was received.

Yes on H.R. 7458 (Roll No. 431), refinancing of Veterans' Administration guaranteed home loans.

*No on S. 1916 (Roll No. 432), authorizing operations for OPIC in the People's Republic of China.

*No to H.R. 5961 (Roll No. 433), Currency and Foreign Transactions Reporting Act Amendments.

*No to S. 658 (Roll No. 434), Bankruptcy Act Amendments.

Yes to an amendment to H.R. 7631 to withhold from obligation 2 percent of the total budget authority contained in the bill not required by law, but not to exceed 5 percent in any appropriation account (Roll No. 436).

*No to H.R. 7631 (Roll No. 437), HUD-independent agencies appropriations, fiscal 1981.●

LEGAL SERVICES CORPORATION

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. KASTENMEIER. Mr. Speaker, last week on July 22, the Legal Services Corporation appropriation, which is contained in H.R. 7584, was discussed on the floor. As chairman of the oversight subcommittee, I would like to clarify some of the comments which were made about restrictions on lobbying.

The local legal services programs are restricted by the Legal Services Corporation Act, as amended (Public Laws 93-355 and 95-222). Section 1007(a)(5) of that act states that the Corporation shall:

> (5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—
>
> (A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or
>
> (B) a governmental agency, legislative body, a committee, or a member thereof—
>
> (i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or
>
> "(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.

These restrictions and the exceptions recognize, within certain limits, the need of the poor to be adequately represented in legislative and administrative forums.

The amendment of the gentleman from California (Mr. Moorhead) prohibits the use of legal services funds for publicity or propaganda purposes. This amendment does not and should not prevent the local programs from representing their clients, or responding to legislative and administrative requests to comment, or commenting on measures directly affecting their programs.

Recently members and staff of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice participated in an investigation in California to examine compliance with the above-mentioned restrictions. Meetings were held with the Legal Services Corporation Regional Office, with two local programs—California Rural Legal Assistance and the Legal Aid Foundation of Los Angeles, and with State legislators. No wrongdoing by the programs was discovered; in fact the need for the three exceptions was clearly documented. Many of the legal problems of the poor can better be resolved by changing unjust laws, rather than by bringing a multitude of cases to declare laws unconstitutional. Many times a legislative proposal can be improved while it is being processed if adequate input is received from affected parties, including the poor.

I have recommended that the Legal Services Corporation improve and tighten its procedures for monitoring the legislative activities of its recipients. President Dan Bradley and the Board of the Legal Services Corporation are responding positively to the suggestions which I have made in consultation with the gentleman from California (Mr. MOORHEAD).

Thus I believe that the concerns of the gentleman from California (Mr. MOORHEAD) are being addressed by the Corporation.●

AN APPEAL FOR JUSTICE AND FAIRNESS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. APPLEGATE. Mr. Speaker, in light of current events involving many of our colleagues in the House and other individuals who are mounting an effort to change the rules of the upcoming Democrat National Convention in an effort to release the delegates from their commitment, I am appealing to your sense of fairness and justice to not get involved in this misguided venture. These actions can only lead to the destruction of the democratic process.

This movement to change the rules is a monumental slap in the face and a blatant stripping of the basic constitutional rights of people who have fairly and overwhelmingly chosen in the primary election and caucuses the candidate they want to be their nominee in the November general election. If the rules of the game are to be changed, it should be done before the game begins so that each player knows how to proceed, not during the seventh inning when the game is almost over. Further, the change must be conducted in an orderly fashion rather than in a circus atmosphere charged with action that in no way lends itself to maintaining the integrity of the political party system as we know it.

While I will be attending the convention, I am not doing so as a delegate nor am I committed to any particular candidate. I am, nevertheless, concerned about what affects this renegade action will have in eroding the respect and confidence voters throughout the Nation have in the Democrat Party, their basic democratic principles and sense of fair play.●

THE 50TH ANNIVERSARY OF THE VETERANS' ADMINISTRATION

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. BOLAND. Mr. Speaker, I wish to congratulate Veterans' Administration employees and the VA Administrator, Max Cleland, on the 50th anniversary of the Veterans' Administration.

The VA celebrated its first half-century on July 21, 1980. Fifty years ago it was established as an independent agency for the sole purpose of helping America's veterans and their dependents and survivors. All Americans can take pride in those years of service. In that 50-year period, the services and benefits the VA provides have grown dramatically, and the number of veterans the VA serves has risen to an all-time high. The present veteran population, 30,070,000, is the largest in the Nation's history. It is an increase of more than sixfold since the VA was organized in 1930.

In a world of constant change, I congratulate the efficiency with which the VA has evolved to meet the changing needs of veterans, as well as the changing demands of society.

Today the VA conducts an active outreach program for those who have not taken advantage of their veteran benefits. This is far beyond the service one associates with Government benefits. Not only does the VA provide benefits, it also conducts an active program to seek out those veterans who have not applied already.

A nationwide network of veterans' centers, operating from storefront locations, assists Vietnam-era veterans who have encountered difficulties in adjusting to civilian life. The program has resulted in some 20,000 Vietnam veterans being contacted who otherwise might never have been reached.

The VA hospital network has grown from 54 hospitals in 1930 to 172 hospitals today, treating more than 1,300,000 inpatients a year. VA nursing homes and domiciliaries care for 78,000 veterans a year, and outpatient clinics register nearly 18 million annual visits. Add it up and you have the largest medical system in the United States.

More than 18 million veterans have received training under the GI bill since its inception in 1944. More than 800,000 disabled veterans have received VA vocational rehabilitation counseling and training since this program began in 1943. The famous GI bill education benefits are credited with transforming American society by bringing college and vocational training to millions of families for the first time.

Mr. Cleland, the Administrator, as well as all Veterans' Administration employees, can take pride in the current effort to integrate all aspects of rehabilitation for maximum convenience and effectiveness to the individual. To meet the goal of providing the most comprehensive rehabilitation services possible, work therapy programs now are focused on treatment that enables veterans to participate in prevocational training and work adjustment programs, in addition to regular work therapy programs. More than 100,000 patients a year are treated in the VA's work therapy programs.

In other areas the VA has been just as hard at work for the veteran. The expanded treatment of alcoholism and drug dependence today includes 152 treatment centers and 5 training sites for physicians who are awarded 2-year fellowships to study treatment of alcohol and drug abuse.

Compensation and pension benefits are provided to more than 6 million veterans, dependents and survivors. VA disability and death compensation and pension expenditures total $11 billion a year.

The VA provides burial grounds for 40,000 veterans a year, and financially assists those who choose to be interred in other than VA cemeteries.

The VA can take pride in being the Federal Government's leading agency in the employment of the handicapped. More than 11.5 percent of the agency's work force, 26,000 employees, are handicapped, including 6,000 disabled veterans.

In the field of medical research, VA researcher helped to conquer tuberculosis, to develop the heart pacemaker, to perfect kidney transplants and to develop laser canes for the blind. Agency researchers have expanded research on sickle-cell anemia and revolutionized mental health care through the use of psychotropic drugs. These efforts of the part of VA researchers have not gone unrecognized. The VA medical ranks include two Nobel laureates and three members of the National Academy of Sciences.

And today, when the veteran population is growing older, the VA is focusing on the field of geriatrics. Eight specialized geriatric centers have been established to work out better ways of handling problems of aging veterans. Seven more centers are planned. Three geriatric day care centers are in operation now, with another expected soon. For the care of elderly veterans, the VA also is providing personal care group homes, extended care and ambulatory care facilities.

The VA's efforts have been amply supported by the American public. This Nation, from its inception, has prided itself on taking care of its veterans. During the past 200 years it is estimated that the VA and its predecessor agencies have spent more than $300 billion for benefits and services to veterans, their dependents and survivors. The Veterans' Administration will spend nearly $21 billion in fiscal year 1980 on benefits and services. This investment reflects Americans' love of country and gratitude to those who have borne the burden of the Nation's wars.

During the history of the United States, 38,924,000 Americans have gone into military service in the defense of their country. Through October 1, 1979, 1,018,000 died in service. Today, 93 million persons—veterans, dependents and survivors of deceased veterans—approximately 41 percent of the total population of the United States—are potentially eligible for VA benefits and service.

VA employees, for their part, can be proud of the role they play in repaying the Nation's debt to its veterans and their dependents.●

PROPOSED SALE OF TANKS TO JORDAN

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. BRODHEAD. Mr. Speaker, I appreciate this opportunity to express my strong opposition to the sale of M-60 tanks to Jordan. I am pleased that the Subcommittee on Europe and the Middle East has chosen to hold hearings on this matter, and I hope that the hearings will result in a congressional disapproval of the sale.

Arms sales far too seldom promote the cause of peace, and there is little basis in the recent history of the Middle East to believe that Jordan would use these tanks for solely defensive purposes. The United States, Israel, and Egypt are committed to working toward a just and lasting peace through the framework established at the Camp David summit meeting. Under this framework, unprecedented progress toward such a peace settlement has been made. Jordan, however, has rejected the Camp David approach. In my view, to sell these advanced tanks to Jordan would be to augment Jordan's military power at the direct expense of Israel's security, and it would undermine the stability of the region as a whole.

I believe that at the very least, a sincere desire for peace should be a prerequisite for purchasing arms from the United States. By refusing to endorse or participate in the Camp David peace process, Jordan has raised grave questions about its motives and intentions, and I do not believe that there is good reason to permit this arms sale.

Our country can best demonstrate its commitment to peace by playing an evenhanded role in the Middle East peace process while refusing to waiver from its support for the security of Israel. I do not feel that the proposed tank sale serves either of these goals, and I hope that the subcommittee will recommend its rejection.●

MORE THAN LINES ON A CHART

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. FORD of Michigan. Mr. Speaker, I rise today to bring to the attention of my colleagues a recent article which appeared in the Washington Star on July 3, 1980. The author, Mr. Mitri Joseph Najjar, is a lifelong resident of Michigan. He recently served as an intern for Foreign Policy magazine and is a student at the University of Michigan Law School. The article paints a very accurate before-and-after picture of the way things are in my home State.

Today, I received the latest unemployment figures from the Michigan Employment Security Commission (MESC). For the information of our colleagues, there are now 305,900 people on regular unemployment insurance and 75,200 people on extended unemployment benefits in Michigan. Also, 92,567 people have exhausted their extended benefits from October 1979, to May 1980. The MESC estimates that 253,000 will exhaust their extended unemployment benefits through the calendar year of 1980.

I hope that all of our colleagues will read this article and get an idea of what a depression can do to proud working people.

Thank you, Mr. Speaker.

The article follows:

MORE THAN LINES ON A CHART

The past six months have been good ones for me. As a Washington intern and a refugee from America's heartland, I was pleasantly surprised by the level of discussion around this city. Public policy issues are dissected and analyzed by the finest minds in the country. Subjects like unemployment and inflation become abstractions. I have grown accustomed to thinking of them as lines on charts rather than links to people.

A recent visit to my native Michigan reawakened and shocked me. Entire sections of the Detroit metropolitan area look like ghost towns. In places like Hamtramck, home of three auto plants, dozens of men lounge in front of liquor stores or in bars drinking and talking. The despair of unemployment fills their expressions and laces their conversations.

There is a cliche that when the country has a cold, Michigan has pneumonia. As the nation's overall economic health declines, Michigan's deterioration is far more severe. Statewide unemployment has already reached 12.4 percent.

What is particularly devastating about this figure is that the Michigan Employment Security Commission now estimates that more than 60,000 of those presently out of work will never get back into the job market—and the workers know this. No wonder the unemployed men who cluster around the liquor stores hope against hope that somehow the auto factories will reopen.

But the real disaster has yet to come. The majority of auto workers are still receiving unemployment compensation, which combined with sub pay—unemployment benefits subsidized by the Big Three auto manufacturers—nets a worker about 90 per cent of his normal earnings. However, unemployment compensation lasts only 26 weeks, with the possibility of triggering an additional 13 weeks of benefits. And sub pay is rapidly being depleted.

Chrysler, the hardest hit of the group, is almost out of sub pay benefits. Thus, the impact of the economic blight has not yet hit full force. When it does, sometime in later summer or early fall, it will stretch the state's overtaxed social services to the limit. Already, the general assistance caseload is taking on 16,000 new cases every month and aid to families with dependent children of the unemployed grows by 9,000 cases monthly.

It is particularly important that the characteristics of those seeking help from social services are changing. These are not the chronically unemployed, but people who up until now held steady, well-paying jobs. Oldsmobile and Ford are laying off workers who have 12 and 13 years of seniority and Chrysler has let go employees who have spent as many as 25-30 years with the company. The result is disillusionment, bitterness and anger.

The men who spend their days loafing in small groups on the streets are angry at the government for not giving the auto companies more protection from foreign imports. They are angry at foreign auto makers for not building more plants in the United States. And they are angry at the auto companies' top managment for failing to predict accurately what sort of cars Americans would be buying. But mostly they are bewildered and disillusioned by a chain of events which has left them jobless after years of service.

Even for those who are lucky enough to still have a job there is a sense that the situation is out of control and with this feeling comes fear and anxiety. The vast majority of auto workers—some estimate as many as 90 per cent—have had their work interrupted since the beginning of this year. A pattern of temporary layoffs and inventory adjustments (management's way of saying layoff) followed by periodic call-backs has produced an atmosphere of tension and dread.

While economists and experts try to reduce the faces of depression to charts and figures, they will not go away. And Americans may be rudely awakened to the anger fermenting in towns like Warren and Sterling Heights, because this summer the Republican National Convention will provide organized groups the perfect forum for voicing their displeasure with the American political system and the federal government which has seemingly abandoned them.

Unless the nation's leaders begin to take this human tragedy seriously, the mounting frustration might well erupt.●

ALASKA LANDS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. VENTO. Mr. Speaker, one of the most satisfying legislative initiatives which I have worked on as a Member of this body is the Alaska lands bill. As a member of the Interior Committee and the 95th Congress Interior Subcommittee on Alaska Lands, I have spent countless hours reviewing the issues associated with this legislation and have heard testimony from representatives of all sides of the issues. It has been a privilege to work for the passage of legislation which balances the needs of the Nation and Alaska in terms of energy development, economic progress, and the adequate protection for the unique characteristics of Alaska. It has also been rewarding to have those efforts confirmed by the overwhelming support of my colleagues in the House. I believe that we have passed legislation which will prove its value as the years go by.

I am pleased that the Senate has finally begun to consider this matter in a serious manner and look forward to a timely completion of the Senate's consideration. Based on the debate and votes last week, it is apparent that the Senate is devoting the same attention and energy to these important questions as we did in the House. I am certain that under the direction of the chairman of the Interior Committee, Mr. UDALL, we will review the Senate's final product and will work out an acceptable compromise in conference.

At this time, I would like to draw my colleagues' attention to several recent editorials which appeared in the St. Paul and Minneapolis papers and which reflect the national interest in protecting our federally owned wildlands in the 49th State:

[From the St. Paul Pioneer Press, June 1, 1980]

ALASKA MERELY WANTS IT ALL

(By George Rice)

About 80 years ago gold was discovered in Alaska and thousands of amateur prospectors, accompanied by an equal number of saloon keepers and soiled doves, rushed to make a legend of the Yukon.

Nobody got very rich.

About 45 years ago, in the middle of the Depression, Alaska'a Matanuska Valley was discovered and the rush was on to take up homestead land and grow cabbages as big as beachballs.

Most of the Matanuskans eventually gave up and went home (Minnesota, for a lot of them).

Alaska, as every school child is told, is very rich in resources. But it is very reluctant to give them up.

Until oil, that is.

Now look. The money is almost literally gushing in. Money from the lease payments for oil lands. Money from a royalty on the wellhead price. Money from the state oil production tax. Money from a state income tax on the oil companies. And all of the taxes tied to the market price of oil, which in the case of what Alaska produces is tied to the world, or OPEC, price. (New oil, and all that.)

Last month the governor of Alaska signed legislation which not only abolished the state personal income tax, but provided that 1979 taxes would be refunded and that more than $400 million of its estimated 1980 surplus of $3 billion would be distributed to the state's citizens—about $2,000 for the average adult.

And all without any Alaskan having to stake a single claim or "prove up" on a single acre of homestead land.

For romance it can't compare with the Yukon, or even Matanuska, but who needs romance? For that, Alaskans can use the "dividend" (that's what it's being called) to buy a month in Hawaii.

Providing the state government doesn't decide to give it all away in annual dividends, the treasury surplus could amount to $18 billion by 1985, more than $50 billion by 1990, $94 billion by 2000. So says the *Wall Street Journal*, which adds that by that last date the extra cash would be enough to pay every man, woman and child in Alaska $12,000 a year for 20 years.

And these estimates are said to be conservative.

Of course, as the present giveaway indicates, all the money may not be allowed to accumulate. As someone has suggested, Alaska could adopt New York City. With a dependent like that, Alaska soon could be looking for federal handouts.

That was a careless thing to say. Alaska *is* looking for federal handouts. It has never stopped looking for federal handouts—and it has had some doozies.

For some reason inexplicable to those of us in Hawaii and the contiguous 48, the state of Alaska gets 90 percent of the oil revenues generated on federal lands. Other states with federal oil lands get only half the revenues.

Alaska, as a territory, was almost all federal land. After it became a state, the federal government gave it a land grant. Some land grant, too. An area equal to the state of California, or well over 200,000 square miles.

What's more, Alaska got to pick and choose these lands. Naturally, it took the lands with the greatest promise of returning financial rewards. Well, why not?

So what more could the Alaskans possibly want?

That's easy to answer. They (not all Alaskans, by any means, but apparently most of those presently in positions of political power) want to get their hands on a very large proportion of what remains in federal hands.

Especially do they want to strip away millions of acres which conservationists have for years sought to set aside in national parks, wilderness preserves and wildlife refuges.

In 1978, in an eleventh-hour-59th-minute rescue act (and certainly one of the finest accomplishments of his administration) President Carter foiled the Alaskan congressional delegation and the lobbies for the mining, lumbering, oil and recreational hunting interests by setting aside millions of acres of these lands by presidential edict under the National Monuments Act and extended temporary federal custody over the rest.

But Congress can yet override this action (if a sufficiently "friendly" president will go along) and that is exactly what Alaska is pushing for now.

It is using millions of its surplus dollars—gifts from the rest of the country, if you please—to underwrite a massive lobbying campaign to get an Alaskan lands bill out of this session of Congress which will tear more lands out of the federally protected wilderness, park and refuge system and hand them over to the state and the "developers."

About $4.5 millions will be spent just for ads in newspapers all over the country asking "fairness" for Alaska. Folks, the ads will say, these are our lands, so why shouldn't we be able to do as we please with them?

The ads will urge the rest of us to write to our congressmen to be "fair" to poor li'l Alaska.

Now, *That's* chutzpah. That's nerve.

The ads should be good ones. In April, Jay Hammond, the governor of Alaska, had a "private strategy" session with representatives of the oil companies to discuss the lands issue. And we all know how good the oil companies are with ad campaigns.

[From the Minneapolis Tribune, July 13, 1980]

SENATE ACTIONS TO WATCH ON ALASKA LANDS

Another Senate showdown over federally owned Alaska lands is coming up on July 21. We hope it will be the last. Self-imposed deadlines have come and gone for Congress to define a national policy of protection and development for some 100 million acres in America's largest state. Twice, after long hearings and careful compromises, the House has passed well-balanced bills. But, more than twice, the Senate has stalled, forcing President Carter and federal agencies to set policy be decree instead of by legislation. This time, the Senate should pass an Alaska-lands bill in line with the priorities proposed by the House.

Those priorities are prudent and conservative: to save resources that may be needed later by holding back now on exploration and commercial exploitation in spectacular areas of wilderness and wildlife. Some Alaskans claim that the House bill is a "lockup," sacrificing tangible economic benefits to the abstract demands of conservation fanatics. The claim is flimsy. Even under the House bill more than 70 percent of all land in Alaska would remain available for commercial enterprise. And over 95 percent of Alaska lands showing favorable oil and gas potential could still be explored. Besides, even if there were a "lockup" now, no one suggests that in case of emergency a future Congress could not permit access to areas this Congress had chosen to protect.

In the Senate, however, the long-range trusteeship favored by the House is far from certain to be voted into law. Before the Senate this month will be a bill from committee that sharply tilts away from prudent conservation toward the dangers of premature development. Its short-sighted premise is that national need already justifies easy mining, logging and drilling on public lands, even at the expense of ecological systems and the heritage of scenic wilderness for future generations. No such need has been credibly demonstrated in the House or Senate hearings. And if the Senate accepts the weak bill from its committee, chances are good that no compromise with the House will be possible in time to send Carter any Alaska-lands legislation this year.

Thus the crucial question coming up on the Senate floor is whether the Senate committee proposals can be changed to accord with the bill from the House. The action to watch will be votes on five amendments offered jointly by senators as diverse in their opinions as liberal Democrat Paul Tsongas and conservative Republican William Roth. The Tsongas-Roth amendments deal in detail with national parks, forests, wildlife refuges and wilderness areas. Taken together, they would convert a weak bill from committee to a strong national policy for Alaskan resources that belong to all Americans. The Senate should stall no longer. It should pass the Tsongas-Roth amendments and at last produce an acceptable bill for the Alaskan lands.●

AGRICULTURAL CONSERVATION PROGRAM

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. HANCE. Mr. Speaker, I rise this morning in support of the agricultural conservation program. This program first began in 1936 and is an excellent example of how the people and Government can work together to protect and conserve the quality of our soil and water. This program has been a great partnership working project between the farmer and the Federal Government and is an example for other types of similar programs. I compliment the Agriculture Appropriations Subcommittee for restoring this important program in past years and I encourage Members of Congress to authorize this project for conservation at $190 million for fiscal year 1981, the same level of funding at which it was authorized last year.

We have all felt the pain of shortages of fuel, and the high price of fuel. We should be reminded that the pain could be even worse if we allow a critical shortage to develop for our productive soil and our natural water. Both soil and water can be in limited supply for future generations unless we take the necessary action today to promote good conservation of these important natural resources.

More than 300,000 farmers, ranchers, and woodland owners participated in this program in 1979. Our goal should be to have sufficient funds for 1 million farmers to participate. In addition, we are attempting this year to make this program more responsive to the local needs of county ASC committees and the conservation problems in the respective counties. Consequently, the language in the appropriations bill must give the county ASC committees the authority to select the most needed conservation practices within each county.

The support shown in past years by the House of Representatives for this program illustrates to all Americans our concern for the management of our agricultural resources. Through this program, not only farmers, but all of us who enjoy clean water and unpolluted streams can appreciate the investment that we all make as Americans toward maintaining good conservation of the land.●

NICARAGUAN NEIGHBOR VIEWS JULY 19 CELEBRATION WITH WARY EYE

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. BAUMAN. Mr. Speaker, on July 19, Nicaragua engaged in an orgy of revolutionary self-congratulation by celebrating the first anniversary of the Sandinista victory over Anastasio Somoza. In attendence were Cuba's Fidel Castro, the PLO's Yasir Arafat, and other noted international terrorists, all of whom praised the liberation of Nicaragua from the clutches of imperalism and capitalism.

One of Nicaragua's neighbors, Panama, which supplied both men and weapons to the Sandinistas during the revolution, viewed the entire show with alarm. Panama's press is controlled, with its journalists required to register with the Government and with at least one newspaper clearly identified with the official Panamanian Government line. It is therefore telling that all three of Panama's dailies, the newspapers Criteria, Matutino, and La Republica, were quite critical of the July 19 celebrations in Managua. I think it should give Nicaragua's apologists some pause that even those with close ties to Managua and who live with the Nicaraguan situation daily should be so alarmed over the pro-Communist direction which the Sandinistas are going.

For my colleagues' information, I include here an FBI's compilation of the reporting and commentary from the three newspapers about the Nicaraguan celebration.

The article follows:

PAPERS DISCUSS, CRITICIZE EVENTS IN NICARAGUA

Panama City dailies Critica, Matutino and La Republica in Spanish on 21 and 22 July 1980 were strongly critical of the festivities in Managua on 19 July to observe the first anniverary of the Sandinist National Liberation Front's victory in Nicaragua.

CRITICA's 21 July issue carried a report by special correspondent Alberto Barrera entitled: "Nicaragua: A Step Toward Marxism." This report stated that although a large number of world delegations had attended, "a completely unfavorable balance for the traditionally democratic coexistence of the Central American isthmus had arisen." It went on to note that Nicaraguan hierarchs had shown an exaggerated tendency to enter the Marxist orbit while moving away from Latin American idiosyncrasies. The report adds that the exaggerated show of Soviet armament at the parade had moved military observers to deep meditation and no doubt a quick evaluation of the speedy way this materiel was acquired.

A report in the 21 July 1980 issue of LA REPUBLICA stated that the Panamanian delegation had presented its respects to the Nicaraguan junta of the Government of National Reconstruction and had conveyed the greetings of Panamanian President Dr. Aristides Royo and Panamanian revolution leader Gen. Omar Torrijos. The report adds that former Venezuelan President Carlos Andres Perez, Spanish Socialist Workers Party Secretary General Felipe Gonzalez and writer Gabriel Marquez had traveled to Nicaragua aboard the same Panamanian Air Force plane that carried the Panamanian delegation and that they had returned with the delegation to Panama, where they will be guests of General Torrijos.

In La Republica's 21 July 1980 issue, the "Line of Fire" column by Maquiavelo, entitled "The Absence of Torrijos in Nicaragua," interprets Torrijos' nonattendance at the Managua commemoration as a "dramatically silent warning to the leaders of that revolution not to allow themselves to be seduced by the dangerous temptations involved in a drastic turn toward ideological extremes, which could lead to bloody and prolonged rightist reaction." It adds that the Sandinists' leap into space could deeply endanger the efforts of other sister nations, such as El Salvador, to install authentically democratic regimes.

In its 22 July 1980 editorial, Critica points out that the worst mistake the Sandinist government could make is to become "an ally of Marxism, particularly the Soviet kind," adding that this is the kind of error that sets revolutionary movements back.

It points out that the case of Nicaragua is pathetic. The revolution was not fought by communists, but by the real people, tired of exploitation by a corrupt regime. It remarks that undoubtedly the North Americans are happy over the overtures of the Nicaraguans because they will now have a good reason to intervene in Nicaragua, and to put down the people's struggle in El Salvador and Guatemala, and perhaps even in Panama. It concludes by pointing out that neither Cuba nor the USSR has moral authority for speaking of liberty or continental solidarity when the wound of intervention in Afghanistan still remains open.

In an editorial entitled "The Great Treason," the 22 July 1980 issue of Matutino observes that the American Continent vibrated with joy when the Nicaraguan people overthrew Somoza on 19 July 1979. However, it notes that the anniversary commemoration clearly shows that the Nicaraguan struggle has ended in one sense but may be about to begin in another. It states that the commemoration clearly showed that Nicaragua is in Marxist-Leninist hands. "This was evident by the presence of those who should not have been there, many of whom came well-armed, and the highly significant absence of those who who should not have failed to go, who were with the people in their hour of anguish."

The editorial observes that it appears that Nicaragua is condemned to never enjoy liberty, or a dignified existence, without an absolute boss who takes upon himself the attributes of master. It goes on to note that when a nation clamors for the essential elements for subsistence and instead receives bullets, when instead of a patriotic and civic commemoration the people are offered a picture of war, then these people should become aware that they are being led along a different course than the path to liberty. Only the present bosses want this different course for Nicaragua.●

PATRIOTISM IS NOT DEAD

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. RUDD. Mr. Speaker, I would like to share with my colleagues the good works of an Arizona company, Roy H. Long Realty Co. of Tucson. The fine Americans that are employees of this company have taken it upon themselves to do their part in seeing that each American home has our country's flag and its history. They have volunteered to knock on doors and give families in the Tucson area a flag and the country's history. The good efforts of these citizens to instill a sense of patriotism in their neighbors is most laudable and praiseworthy in a day when our Nation's people are becoming increasingly more skeptical and apathetic about the virtues of patriotism.

At this point I would like to share with my colleagues a portion of the material that these good Americans are distributing regarding our flag:

HELLO! REMEMBER ME?

Some people call me Old Glory, others call me The Star Spangled Banner, but whatever they call me, I am your flag, the flag of The United States of America. Something has been bothering me, so I thought I might talk it over with you, . . . because it is about you and me.

I remember some time ago, people lined up on both sides of the street to watch the parade, and naturally I was leading every parade, proudly waving in the breeze. When your daddy saw me coming, he immediately removed his hat and placed it against his left shoulder so that the hand was directly over his heart . . . Remember?

And you, I remember you, standing there straight as a soldier. You didn't have a hat, but you were giving the right salute. Remember your little sister? Not to be outdone, she was saluting the same as you with her right hand over her heart . . . Remember?

What happened? I'm still the same old flag. Oh, I have a few more stars since you were a boy. A lot more blood has been shed since those parades of long ago.

But now I don't feel as proud as I used to. When I come down your street you just stand there with your hands in your pockets and I may get a small glance and then you look away. Then I see the children running around and shouting . . . They don't seem to know who I am . . .

I saw one man take his hat off then look around, he didn't see anybody else with theirs off, so he quickly put his back on. Is it a sin to be patriotic anymore? Have you forgotten what I stand for and where I've been? Anzio, Guadalcanal, Korea and now Vietnam. Take a look at the memorial honor rolls sometime, of those who never came back to see this republic free. . . . One nation under God . . . When you salute me, you are actually saluting them.

Well it won't be long until I'll be coming down the street again. So, when you see me, stand straight, place your right hand over your heart . . . and I'll salute you by waving back . . . and I'll then know that . . .

You Remembered!

—Author Unknown.

LET'S EXAMINE THE PLEDGE OF ALLEGIANCE WORD BY WORD

I: Me, an individual—a committee of one

Pledge: Dedicate all my worldly goods to give without pity.

Allegiance: My love and devotion.

To the Flag: Our Standard—old glory—a symbol of freedom—whenever she waves there is respect because your loyalty has given her dignity that shouts freedom is everybody's job.

Of the United: That means that we have all grown together.

States: Individual communities that have united the 50 great states, 50 individual communities, with pride and dignity and purpose undivided, with imaginary boundaries yet united to a common purpose; and that is love for country.

Of America to the Republic: A state in which sovereign power is invested in representatives chosen by the people to govern, and government is the people, and it is from the people to the leaders not from the leaders to the people.

For Which it Stands—One Nation Under God: Meaning so blessed by God.

Indivisible: Incapable of being divided.

With Liberty: Which is freedom and the right of power to live ones own life without threats or fear of some sort of retaliation..

And Justice: The principle of equality of dealing fairly with others.

For All: Which means it is as much your country as it is mine.●

SOLARZ BARS SOCIAL SECURITY BENEFITS TO PRISONERS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. SOLARZ. Mr. Speaker, yesterday I introduced legislation—H.R. 7853—which would bar the payment of social security benefits to convicted criminals.

A series of newspaper reports has aroused the public to the incongruities involved in paying benefits to people convicted of crimes who are being held in prison at taxpayers' expense. This seems patently unfair to the rest of the senior citizens and disabled workers and widows struggling to survive on meager pensions that barely provide for food and shelter.

My legislation would provide an equitable solution to this problem by precluding disability payments to prisoners convicted of felonies, unless a court of law consents to placing such an individual in an approved rehabilitation plan. Prisoners would also be prevented from receiving survivor benefits as full-time students. Anyone disabled during the commission of a crime or while they are imprisoned would also be denied social security payments.

The innocent dependents of prisoners would continue to receive their rightful benefits. This provision is important in assuring that the families of prisoners are able to maintain a certain income level, and not place additional burdens on State and local welfare programs. My purpose in introducing this bill is to correct inequities in the present system—not to penalize a dependent spouse or child who has committed no crime.

The effect of this legislation, based on preliminary studies, is that approximately 4,000 to 5,000 individuals in Federal, State, and local penitentiaries will be denied some $20 million in social security payments. The General Accounting Office has agreed to undertake a major study of this problem to indicate how serious this problem is and what additional steps should be taken.

Mr. Speaker, I urge my colleagues to join me in voting for passage of this legislation. Its acceptance will create a number of positive consequences. First of all, it could save some $20 million a year in social security payments. It would also correct a serious inequity in the system by discontinuing benefits to those who have broken the law and are being taken care of while imprisoned by the Government. Perhaps most important of all, the American people's confidence in our Government's careful stewardship of our social security program will be restored.●

A SINGLE 6-YEAR TERM

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. STUDDS. Mr. Speaker, with our national elections a scant 4 months away, the American people might be expected to focus on the decisions facing them at the polls in November. Instead, however, they are voicing with increasing dismay their disillusionment with the American political scene in general. The public is understandably fed up with the process by which we select our national leaders, a process that is unenlightening, exhausting, expensive, and demeaning. Our democracy faces an ever more cynical and nonparticipating electorate. It is time for the Congress to take a new look at our electoral system.

In this vein, I am introducing a series of proposals for reforming our electoral process. I recently filed the first of these revisions: to amend the U.S. Constitution to permit the President to serve a single 6-year term. I believe this change would allow a President to concentrate on official duties rather than on being reelected.

There is nothing sacred or magical about the current provision for two 4-year terms. History shows that the Founding Fathers debated hotly the duration of the Presidential term. It was not until the 22d amendment was ratified in 1951 that a President was limited by law to two full terms. Over the years, Members of Congress have filed about 150 bills and resolutions to change the Presidential term. Various Members have called for terms of 1, 5, 7, or 8 years, but the overwhelming majority of proposals have been for a 6-year term—and most of these have called for a single 6-year term. Numerous Presidents of both parties have advocated the idea; several endorsed it in direct messages to the Congress. Although few of these proposals have been reported from committee, the Senate once passed a constitutional amendment to establish a single 6-year term for the President.

Presidents, regardless of party affiliation or philosophical inclination, are quite understandably anxious to enhance their reelection prospects. The lure of a second term in office seems inevitably to tempt Presidents and their aides to rely heavily—too heavily, I believe—on political patronage in its broadest sense. I am under no illusion that a single-term limit will free a President from partisan politics. It would not and should not completely do so. It would, however, minimize a President's preoccupation with the political implications of policy issues. The present system allows a President to be distracted too easily from the public interest by considerations of momentary political expediency.

A single-term limit would also help restore waning public confidence in the Office of the President. The popular perception—whether or not justifiable—is that Presidents are obsessed with the partisan political fallout of official actions. A President restricted to one longer term would be far less susceptable to this cynicism, which dangerously undermines the credibility of the office.

Opponents of a single-term argue that 6 years is too short for an able President and too long for a poor one, that a President should be accountable directly to the electorate, and that a good President will have no problem being reelected. I share the view that the voters are the best judge of their public officials. But a single-term limit does not strip the voters of their rights. Rather, it offers the leader of their choice enough time and the proper environment to carry out the public's mandate. A new President barely begins to make his mark in office when virtually forced to start campaigning for a second term. By the time a President's budgetary proposals even begin to see daylight—well into the third fiscal year in office—the Chief Executive is inevitably transformed again into the candidate. There is certainly some gray area between these two incompatible roles. But it is clear to me that, wherever the line between public and private interest is drawn, it is routinely crossed. The public interest cannot help but suffer.

Other opponents have claimed that devising new formal mechanisms to stabilize the Presidency might cripple a President in a national crisis. I disagree. Far from being paralyzed, a one-term President is less restrained by extraneous partisan considerations and freer to respond directly to the demands of the job—that is, to the needs of the Nation. This implies the highest mutual respect and trust between the electorate and its chosen leader, while preserving our traditional doctrine of orderly rotation of officeholders.

The Presidency of the United States may be the hardest job in the world. The President should be encouraged by electoral procedures—not discouraged by them—to concentrate on the position's official duties.

A single Presidential term is no panacea for our electoral woes. It is, however, a vital component in the package of reforms I am proposing. It may interest my colleagues in the House of Representatives that the positive response for the single-term concept from constituents in Massachusetts has been nearly unanimous. Perhaps more importantly, the proposal has generated considerable public debate about various aspects of our electoral system. The following newspaper editorial, for instance, appeared on July 2 in the Cape Cod Times:

Studds' Proposal for the Presidency

Congressman Studds' proposal to limit the presidency to a single 6-year term probably stands as much chance of survival as a snowball in you-know-where. But at least he's got people thinking.

Studds believes that one of the things that's wrong with this country is that the job of being president is complex enough as it is without our expecting an incumbent to spend considerable time in the first term preparing for election to a second.

Therefore, reasons Studds, it would be better for the country if the presidency were limited to a single 6-year term, allowing the incumbent to concentrate on doing his incredibly difficult job without the distractions of a re-election campaign. The congressman has filed a proposed constitutional amendment, more with the idea of getting discussion going than with actually seeing it approved—though we can assume he'd be happy if it were.

There unquestionably will be opposition to his idea, the principal one being that under the present system the voters can dump a president they don't like in the fourth year instead of having to wait two additional years or resort to the process of impeachment.

There long has been criticism of the system by which we choose our presidents, a system which seems to grow more complex in some kind of proportion to the complexity of the job itself. The process which worked well when the Founding Fathers devised it, and which continued to work through the middle of this century, now appears to be increasingly hindered by the growing pressure of the office.

Other suggestions have been made for a change in the process, from regional primaries to a complete governmental restructuring which would create a parliamentary system for the United States based on the British system. An advocate of the latter, University of South Carolina political science professor William P. Kreml, urges the establishment of an elite constitution commission which would go into seclusion for seven years, to emerge on the bicentennial of the ratification of the Constitution with amendments to reshape the federal government.

We hope the Studds amendment receives thoughtful consideration by Congress because there are enough signs that the federal structure is in need of revision, and that the job of being president may have outgrown its constitutional definitions.●

THE 1980 CENSUS

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. THOMPSON. Mr. Speaker, in company with many of my colleagues, I had expressed concern months ago as to the planning of the conduct of the 1980 Decennial Census. Preliminary results from a number of municipalities in my district now indicate that my early concerns appear to have been warranted. These concerns were expressed quite recently in an editorial which appeared in the Register-News, a weekly newspaper published in Bordentown, N.J. I think it behooves all of us to refer comments such as this to our Subcommittee on the Census so that we may determine whether the concerns expressed in our respective districts are nationwide in scope.

The article follows:

[From the Register-News, July 24, 1980]

Balling up the Census!

They're screaming bloody murder all over the place. Politicians, that is—now that they've seen the preliminary U.S. Census figures.

Probably the worst off are our neighbors to the north—Trenton and Hamilton Township. The state capital is said to have suffered a population loss of nearly 21 percent between 1970 and 1980—from about 105,000 residents ten years ago to less than 83,000 today. Hamilton was almost equally disappointed that its present population is set at 81,000 instead of around 100,000 as had been predicted.

The reason for all the weeping is the expected loss of Federal aid funds, which are based on census figures for each municipality.

Closer to home, the results may not be nearly as serious. Both Bordentown City and Township are shown with population declines—140 (1.1 percent) and 661 (9.1 percent) respectively.

But for a real mind-boggler, take a look at tiny Fieldsboro. The pocket borough—landlocked on all sides—is supposed to have grown by nearly 70 percent in 10 years—from 615 people to 1045.

As Mayor Edward Tyler said this week, the figures are "completely ridiculous." There simply is no place in Fieldsboro to put 430 more people, unless they've built some well-hidden high-rise apartments.

Anyone who knows anything at all about Fieldsboro must think the Census Bureau counted every dog, cat and bird in the trees.

Once again—willy-nilly—Fieldsboro makes news. And they didn't even try to ball up the 1980 U.S. Census.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. DERWINSKI. Mr. Speaker, I would like to direct the attention of the Members to several captive nations proclamations issued during the recent commemoration of the 22d anniversary of the original public law designating the third week of July as Captive Nations Week. The importance of this observance is to place special emphasis on the denial of basic human rights to over 100 million non-Russians held captive by Communist rule. The United States must continue to uphold the human dignity of those people suffering under communism and to support them in their struggle for freedom, and in their efforts to regain their national identities.

The first proclamation was issued by Hon. William G. Milliken, Governor of the State of Michigan, and followed by the proclamation of Mayor E. Clay Shaw, Jr., of Fort Lauderdale, Fla. In addition, I insert a letter from the Most Reverend Myroslav J. Lubachivsky of the Ukrainian Catholic Archdiocese of Philadelphia, Pa., an article from the News World of New York on Soviet duplicity, and an article that appeared in the Ukrainian Weekly of July 20, on Captive Nations Week.

WILLIAM G. MILLIKEN, GOVERNOR OF THE STATE OF MICHIGAN, PRESENTS THIS EXECUTIVE DECLARATION IN OBSERVANCE OF CAPTIVE NATIONS WEEK

The desire for freedom and liberty burns in the hearts of people throughout the world, including those living in nations dominated by the policies of Communist Russia.

Freedom-loving people of Albania, Armenia, Bulgaria, Byelorussia, Croatia, Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Rumania, Serbia, Slovakia, the Ukraine and other captive nations look to the United States as the vanguard of human freedom.

Therefore, I, William G. Milliken, Governor of the State of Michigan, do hereby declare July 13-19, 1980, as Captive Nations Week in Michigan, and urge all citizens to dedicate some of their time and effort to the goal of freedom and liberty for all people throughout the world.

PROCLAMATION BY MAYOR E. CLAY SHAW, JR., CITY OF FORT LAUDERDALE

Whereas, the republican form of government—based upon "the consent of the governed"—which has existed in the United States of America for 204 years, has resulted in the development of a warm understanding and sympathy for the aspirations for freedom of peoples everywhere and in recognition of the natural interdependency of the peoples and nations of the world; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in conquered nations constitutes a powerful deterrent to any ambitions of aggressive leaders to initiate a major war; and

Whereas, the freedom loving peoples of the world look to the United States as a citadel of human freedom and to the people of the United States as leaders in bringing about freedom and independence; and

Whereas, it is vital to the national security of the United States and other free nations of the world that the desire for liberty and independence on the part of the peoples of the world should be steadfastly kept alive; and

Whereas, the Congress of the United States by unanimous vote, passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, E. Clay Shaw, Jr., Mayor of the City of Fort Lauderdale, Florida, do hereby proclaim the week of July 13-19, 1980, as Captive Nations Week in the City of Fort Lauderdale and call upon the citizens of Fort Lauderdale to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

Dated this the 1st day of July, 1980.

MAYOR E. CLAY SHAW, Jr.

UKRAINIAN CATHOLIC ARCHDIOCESE,
Philadelphia, Pa., June 18, 1980.

Very Reverend and Reverend Father:

Each year during the third week in July Americans observe Captive Nations Week. This year the 22nd observance of Captive Nations Week will be July 13-19, 1980.

Twenty one years ago Congress passed and the then President Dwight D. Eisenhower signed into law the Captive Nations Week Resolution (Public Law 86-90). The purpose of this historic document was to point out to the American people the plight of the captive nations and peoples behind the Iron and Bamboo Curtains, where there is a denial of independent statehood, culture, customs, religious freedom and in many instances language.

In Ukraine, the largest non-Russian nation in the USSR, our Church and people are persecuted and bereft of basic rights as human beings, children of God and Ukrainians.

It is our sacred duty to help our brothers and sisters in Ukraine. If we believe in the power of prayer as we should, then let us gather at the Eucharistic Table of the Lord on Sunday, July 13, 1980 and pray the Lord Jesus to lift the yoke of atheistic tyranny from our nation and restore to our people in Ukraine the blessings of a Christian nation.

I ask the Very Reverend and Reverend Fathers to urge all our faithful to pray in earnest for all the captive nations and peoples on Sunday, July 13, 1980 and to receive Holy Communion that Sunday for the intention of our brothers and sisters in Ukraine.

God bless you all and keep you in His tender loving care.

MOST REV. MYROSLAV J. LUBACHIVSKY,
Metropolitan.

[From the New York (N.Y.) News World, July 13-19, 1980]

STRIKING THE SOFT SOVIET UNDERBELLY

(By Anthony R. Dolan)

While the White House has been working to undermine the Moscow Olympics and U.S. senators have proposed everything from trade embargos to military action in response to the Soviet adventure in Afghanistan, the least risky, most effective means of retaliation—one that has in the past made the Soviets apoplectic and yet curiously diffident—is not discussed.

History notes occasional moments of such Soviet outrage and paralysis. In his recent political memoir, Richard Nixon recounts that shortly before his departure for Moscow and the kitchen debates with Khrushchev in 1959, he visited a dying Secretary of State at Walter Reed Hospital. Dulles warned him to expect a chilly reception in Moscow—because, the previous week, Congress had passed a resolution on the Captive Nations.

KHRUSHCHEV'S RAGE

Dulles' deathbed warning was not overstated; Nixon's reception at the Moscow airport was frigid, and Khrushchev's rage transformed a diplomatic conference between the chairman of the Politburo and the Vice President of the United States into a debate over the comparative stench of pig and horse excrement. Khrushchev finally cooled, but promised Nixon that he would hear more about the captive nations during his stay: one occasion, Nixon says, when the Soviet leader kept his word. And yet the bluster, the former President suggests, hid a wariness about American resolve. On the few subsequent occasions when Western diplomats or even publications have called into question the presence of a Soviet occupation army in Eastern Europe, the Kremlin's reaction has been equally loud, equally pained.

There is no surprise in this—totalitarians can be counted upon to know their own vulnerabilities. A few years ago, U.S. Ambassador to the United Nations Daniel Patrick Moynihan, after listening to a particularly offensive lecture on American imperialism from the Yugoslavian representative, mentioned quietly the Croatian separatist movement. His sally provoked expressions of horror, then hurried calls between Belgrade and Washington. But the upshot of the diplomatic incident was a break from the anti-American stemwinders and a more subdued Yugoslavian delegation in the General Assembly.

Lawlessness breeds a curious psychology, and it is hardly necessary to look to international events for vivid examples. Students of the phenomenon of entrenched corruption in municipalities and government agencies have long remarked on the astonishing arrogance of mob figures and corrupt officials who—though aware they are under intense scrutiny—continue business as usual. It is only with the indictments and the glare of publicity that this coolness is replaced by hurt, hostile words to reporters, wild swings at photographers. At this point the self-insulation breaks apart and the outlaw sees, almost as if for the first time, himself.

The Kremlin's leaders—aged, comfortable, vastly powerful, surrounded by sycophants—can also not be expected to understand the world as it is, unless they are reminded, stingingly, of their own soft underbelly: the hostility of those they have conquered and the injustice of that domination.

Herewith, then, some foreign-policy initiatives designed to exploit Soviet weakness:

The U.S. Ambassador to the United Nations should place on the agenda of the General Assembly a demand for the removal of the Soviet occupation army in Eastern Europe as well as in Afghanistan. The ambassador should follow with a lengthy historical account of Soviet subversion and aggression in Eastern Europe, carefully reconstructing—from Yalta onward—the destruction of the national integrity of the Captive Nations, the draining of their natural resources, the deportation of dissidents, the crushed revolts, the assassinations, the massacres.

The White House should follow with an announcement of a new form of "linkage"—henceforth diplomatic discussions of not only the Afghanistan situation but the range of diplomatic matters from fishing rights to arms reduction will include, at the very least, a ritualistic mention of the Soviet presence in Eastern Europe and demands for a troop-withdrawal timetable.

With each well-anticipated outburst of invective and hysteria on the part of Tass or Pravda, American demands should escalate. The Soviet Union must remove its troops and permit free elections to be held not only in the countries of Central Europe but also in the Baltic nations of Estonia, Latvia, and Lithuania and, should the rantings continue, the inner republics of the Ukraine, Georgia, and the Moslem areas, which so deeply resent domination by Moscow.

ON THE DEFENSIVE

Such a strategy would be provocative, but, for the Soviets, disarmingly, debilitatingly so. It is calculated to cause not more aggression but rather second thoughts and retrenchment. Not only will it force the Kremlin into a defensive psychology, it will put the geopolitical frame of reference back on center and focus UN debates not on absurd discussions of colonialism in the Virgin Islands and Puerto Rico but on the critical issue of the latter half of the twentieth century: Soviet imperial ambitions.

Most important, such a strategy will improve the morale and stability of the West. After the self-deception that led to the spirits of Geneva, Camp David, and Glassboro, to detente and SALT II, to presidential speeches about our "inordinate fear of Communism," we will for a change be telling the truth about the world, about its awful danger, about our resolve to change it.

[From the Ukrainian Weekly, July 20, 1980]

THE NEWS WORLD PUBLISHES CAPTIVE NATIONS WEEK SUPPLEMENT

NEW YORK.—The News World, a local daily, devoted its entire June 13 Sunday Weekly Magazine to stories and features relating to Captive Nations Week. The 12-page supplement, which featured a centerfold that listed brief profiles of 27 captive nations compiled by Dr. Walter Dushnyck and Sara Towe, also included political analyses by Dr. Lev Dobriansky and Pulitzer Prize-winner Anthony Dolan, as well as features on the Voice of America, the Afghan freedom fighters, the state of Chinese communism and religious persecution in the Soviet Union. The special issue also carried articles on the Tito regime's repression of the Croatians and on Sino-Tibetan relations.

The magazine's introductory editorial called the Captive Nations Resolution a reminder to the United States of "its responsibility to hundreds of millions of peoples whose freedom was lost and whose national identities are being torn apart, uprooted or suppressed," and added that all captive nations "at one time proclaimed their independence with the same love of freedom with which America declared its independence in 1776."

The editorial also warned that, with the inclusion of Afghanistan on the Captive Nations List, the litany of suppressed nations continues to grow.

In the opening of his article on the impact of the captive nations ideology and the invasion of Afghanistan on U.S. foreign policy, Dr. Dobriansky, president of the UCCA, criticized President Jimmy Carter for his "conceptual confusion" in calling the Soviet Union a "nation" in this year's State of the Union address. According to Dr. Dobriansky, by referring to the Soviet Union as a "nation," Mr. Carter seemed to infer that the concept of Soviet "colonial domination," also mentioned in the address, only applied to Eastern Europe and not to the non-Russian nations within the USSR. Such a concept runs contrary to the captive nations ideology.

Calling the Afghanistan invasion the most recent example of traditional Russian imperialism that can be traced to historical tsarist designs on the Persian Gulf and the Mideast, Dr. Dobriansky warned that the military incursion into Afghanistan allows the Soviet Union to "intensify its subversive activities in Iran and Pakistan."

Dr. Dobriansky concluded by suggesting that the captive nations ideology be more fully incorporated into American foreign policy as a means of precluding future Soviet adventurism and preventing the addition of more nations to the Captive Nations List.

The main thesis of Mr. Dolan's analysis on the effects of the captive nations ideology on the Soviet hierarchy, focused on the Kremlin's traditional vilification and strident denouncement of the Captive Nations Resolution and related observances. Recalling then-Vice President Richard Nixon's chilly reception in Moscow and the subsequent "kitchen debate" with Nikita Khrushchev in 1959, just one week after the passage of the Captive Nations Resolution, Mr. Dolan concluded that the virulence of Soviet opposition to the resolution stems from the realization that the enslaved nations are the "soft underbelly" of the regime.

In this context, Mr. Dolan urged the United States to exploit this inherent weakness in the Soviet infrastructure by openly demanding the "removal of the Soviet occupation army in Eastern Europe as well as Afghanistan."

The United States should follow such demands "with a lengthy historical account of Soviet subversion and aggression in Eastern Europe, carefully reconstructing—from Yalta onward—the destruction of the national integrity of the Captive Nations," Mr. Dolan wrote.

Such a strategy, Mr. Dolan continued, "would be provocative, but, for the Soviets, . . . debilitating," as it would force the Kremlin into a "defensive phychology" by focusing attention on Soviet imperial ambitions.

Writing about the Voice of America and Radio Free Europe/Radio Free Liberty, Ms. Towe noted that, although the broadcasts are listened to avidly by peoples behind the Iron Curtain, problems with funding, Soviet jamming and the fact that the Soviets outspend the entire free world on propaganda, have seriously encumbered the stations' effectiveness.

Ms. Towe also wrote an article describing the determination of the Afghanistan rebels to fight "until the last man is eliminated" to expel the Soviet occupation forces from their country. Despite suffering heavy military and civilian casualties, the rebels remain optimistic, according to the story.

In an article about the growing unrest in Marxist China, David Hume reported on the problems the Chinese regime is currently facing in respect to its ethnic minorities, resurgence of religion and growing economic ills.

In a brief article, Martin Mawyer outlined the plight of Soviet Christians who practice their religious convictions outside the Russian Orthodox Church, the only permissible Church in the Soviet Union.

In other articles, Zlatko Pemper outlined a series of terrorist acts against Croatian nationals both in Yugoslavia and abroad between 1965 and 1978 which he claimed were ordered by Marshal Josip Tito, while Tinley Nyandak described the newly established detente between China and Tibetan exiles, noting that China's attempt to mollify opposition to its regime in Tibet may be a reaction to Soviet pronouncements pledging support to the country's independence movement led by the Dalai Lama. Although the limited leniency in Chinese policy is "a welcome step," wrote Mr. Nyandak, "Tibetans in Tibet are not happy and contented under Chinese rule."●

COL. JOSEPH N. LACCETTI

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. SKELTON. Mr. Speaker, yesterday, Col. Joseph N. Laccetti retired from active duty with the U.S. Air Force after nearly 33 years of distinguished service to his country. Colonel Laccetti's assignment, at the time of his retirement, was as an academic department head at the National War College in Washington, D.C. I had the pleasure of being a guest lecturer at the National War College at the invitation of Colonel Laccetti.

Colonel Laccetti left the Newark College of Engineering in 1943 to enlist in the Army Air Force cadet program, earning his wings as a navigator. He then flew B-24 combat missions in the southwest Pacific, leaving the service as a second lieutenant to return to his engineering studies prior to accepting an appointment to the U.S. Military Academy in 1946. After graduation in June 1950, as a regular Air Force officer he served many years with the Strategic Air Command, both in B-50, B-47, and B-58 bombardment units, and at SAC headquarters, in the United States, Europe, and North Africa. In South Vietnam in 1967-68 he planned and directed the initial F-111 combat operations against North Vietnam.

For the past 12 years Colonel Laccetti has specialized in the Defense Department's professional military education system, serving on the faculties of the Naval and National War Colleges, and as the commander of the Air Force ROTC detachment at the Virginia Military Institute. He is a graduate of the Air War College and holds a masters degree in international affairs from the George Washington University.

Colonel Laccetti's long and valuable service to his country is most praiseworthy, and I wish to bring it to the attention of this body. He presently resides with his family in northern Virginia. His daughter Caroline is a member of my congressional staff.●

GEORGE SLAFF

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. WAXMAN. Mr. Speaker, on August 24, 1980, the American Friends of the Hebrew University will present George Slaff with the Torch of Learning Award in recognition of his dedicated service to humanity. The list of those who have sponsored this award to Mr. Slaff includes leaders in all areas of American life—law, government, religion, business, and the arts—and is in itself a testimonial to the high esteem in which he is held.

A native of Passaic, N.J., George Slaff was educated at Harvard University and Stanford University. In 1930 he passed the New York State Bar and since then has distinguished himself in the legal profession and for his work on behalf of countless humanitarian causes.

Since 1965 he has been the senior partner in the Los Angeles firm of Slaff, Mosk & Rudman. His professional career spans five decades and includes work as special counsel, Utilities Division, SEC, Washington, D.C. (1938); counsel (1939-42) and chief counsel (1945-46) Federal Power Commission; wartime service with the American Red Cross (1942-45) in Europe and North Africa; and counsel, Samuel Goldwyn and Samuel Goldwyn Productions (1946-63).

As an expert and scholar in constitutional law, much of George Slaff's efforts have been directed toward the aid and protection of individuals' rights under that law. In 1964 he joined with other attorneys giving legal assistance in the registration of disenfranchised black voters in Mississippi. From 1969 to 1971 he served as president of the American Civil Liberties Union of southern California; from 1965 to the present he has been a member of the national board of directors of ACLU. He has also represented citizens groups as special counsel before the Public Utilities Commission on rate decrease appeals. From 1952 to the presen he has acted as director and treasurer, permanent charities committee of the entertainment industry and from 1967 to the present he has been a member of the board of American Jewish Committee, Los Angeles.

In 1967 he was first elected to the Beverly Hills City Council at which time he was sworn into office by then U.S. Supreme Court Justice Abe Fortas. He served two terms as mayor of Beverly Hills during 1968-69 and again in 1975-76.

In all of his undertakings he has had the support of his wife Eve and daughter Nora who have not only given him assistance but have been active on their own benefit projects.

It gives me great pleasure to ask the members to join with me in congratulating George Slaff on this special occasion. In his long career and years of serve he has acquired many titles. The one that is perhaps most fitting is that of "Outstanding Citizen."●

DID YOU KNOW THAT THE FRENCH HAD A NUCLEAR REACTOR ACCIDENT?

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. DAN DANIEL. Mr. Speaker, on March 13, 1980, at 5:40 p.m., the gas-cooled French nuclear power reactor, Saint-Laurent 2, was severely damaged when a flow blockage caused uranium fuel element coatings to fail, the uranium to start to melt, and fission products to enter the gas stream.

The way in which this accident was handled is the antithesis of the way the Three Mile Island event was handled by the utility personnel and particularly by the Nuclear Regulatory Commission and the media.

I am including an article, from a French periodical, about the accident. I commend this article to all my colleagues, particularly those concerned about nuclear powerplants. The first paragraph, which follows, should give comfort to those who worry needlessly about nuclear activities.

The most reassuring thing in a nuclear power plant is the accidents: this paradox has just been illustrated by reactor No. 2 at the Saint-Laurent-des-Eaux, near Beaugency, which broke down 3 weeks ago. This was first of all an occasion for checking the effectiveness of the safety systems; next, we were able to establish the moderate reaction from a population confronted with the atom. The entire affair went almost unnoticed. It is nevertheless just as serious as the affair involving the "cracks" which caused so much of a stir at the end of last year.

The article follows:

ALERT AT SAINT-LAURENT 2

(By Francois Lebrette)

A serious accident had taken place, involving melted uranium and contaminated gas. But it was brought perfectly under control, without panic and without pollution.

The most reassuring thing in a nuclear power plant is the accidents: this paradox has just been illustrated by reactor No. 2 at Saint-Laurent-des-Eaux, near Beaugency, which broke down 3 weeks ago. This was first of all an occasion for checking the effectiveness of the safety systems; next, we were able to establish the moderate reaction from a population confronted with the atom. The entire affair went almost unnoticed. It is nevertheless just as serious as the affair involving the "cracks" which caused so much of a stir at the end of last year.

At 1740 on Thursday, 13 March, the engineers present in the reactor control room discovered that the control bars had just fallen, stopping the nuclear reaction several tenths of a second before the screen showed any abnormality in operation.

What had happened? The DRG ("sheathing rupture detection") system had given the alert to the computer which reacted quickly. This system permanently analyzes the radioactivity of carbonic gas (CO_2) which is used in evacuating the heat generated by the uranium. Now, this radioactivity was suddenly multiplied by 1,000.

This means that, due to the action of abnormal temperature, the magnesium sheathing surrounding the fuel broke. The carbonic gas then came into direct contact with the uranium which, in turn, began to melt, releasing into the CO_2 traces of radioactive gas (fission products).

What would have happened if the bars had not fallen automatically, if the engineers had not been able to make them fall manually, if the uranium had continued to melt down?

By multiplying the series of improbabilities, as at the Harrisburg power plant, one can visualize fuel cartridges on fire, melting outside the concrete caisson, the latter cracking, causing an escape of radioactive CO_2, the stopping of the cooling action, the total meltdown of the core and the contamination of all castles along the Loire! A "Saint-Laurent syndrome" which no disaster movie maker has yet attempted.

In the office where he received me, Mr. Malhouitre, the plant manager, smiled:

"After all, with a little bit of imagination, you can make up, for Saint-Laurent, a catastrophe as coherent as 'The China Syndrome.'"

But the bars did fall from the very first second onward and the task of the specialists boiled down to repairing everything, in other words, a more concrete problem.

During the hours following the disaster, engineers from EDF [French Electric Power Corporation], experts from the French AEC, and personnel from the radiation protection service analyzed the parameters they had to work with. Conclusion: between 2 and 6 kilograms of uranium must have melted down in the reactor.

But before taking a closer look, it was necessary to "purge" the carbonic gas circuit. Now, the latter at this time contained several hundreds of curies of radioactive iodine which has the awful property of settling in the thyroid gland and that introduces a risk of cancer.

The standards for the expulsion of iodine into the atmosphere are extremely severe: the power plant is "entitled" to 0.2 curie per year. It was thus necessary to wait for the graphite casings contained in the reactor to have absorbed most of the radioactive iodine and then to proceed to what is called progressive "salting" through special filters under constant surveillance.

The reactor could not be returned to atmospheric pressure until 28 March, 15 days after the accident.

"Overall," said Mr. Malhouitre, "we released just about 1/1,000 of the authorized dose into the atmosphere."

The investigations in the reactor core could now begin. A camera was inserted. It discovered a piece of sheet metal which partly obstructed one of the carbonic gas circulation ducts, preventing normal cooling.

"I am not going to tell you where that piece of metal came from," Mr. Malhouitre told me on 31 March. "I do not know as yet."

That morning, the search was continued; the camera was lowered to the bottom of the reactor. Before the screen, presenting the images recorded on the magnetoscope, an engineer told me something about this unusual inspection:

"Look at the little shiny white dots; these are magnesium leaks in the casing."

The result of this first exploration was rather encouraging; the recovery of the melted fuel should not be too difficult before it would be possible to start the reactor up again.

That left one question which Mr. Malhouitre was unable to answer: why did this accident not trigger the same panic as the one in Harrisburg in the United States last year? Why was the area not besieged by several hundred journalists? Why did the antinuclear militants of Plogoff, who had just been demobilized, not quickly hurry to Saint-Laurent in order to protest against the salting of carbonic gas?

One cannot say that the secret was too well guarded; within an hour following the accident, the EDF management, the security service of the Ministry of Industry, and the office of the mayor were informed.

Starting on the next morning, the power plant manager sent an announcement to the local newspapers and to the regional correspondent of AFP [French Press Agency]; the local team from FR-3 [television] also put together a thorough report that same evening. More than that, a departmental commission on the operation of Saint-Laurent-des-Eaux had just been established on 27 February. It opened for business on 19 March with a special session dealing with the accident.

Of course, one might also mention "habit": after all, the Saint-Laurent 1 reactor in 1969 had an accident of an entirely different scope: 50 kilograms of uranium had melted down and it took one year of repair work. But, over a period of 10 years, the ecologist challenge was stepped up considerably.

Are the differences in the "fuel elements" another explanation for this silence? The two reactors in operation at Saint-Laurent are of the "graphite-gas" type with natural uranium, while the Harrisburg power plant (like the reactors now being built in France) is of the "enriched uranium and pressurized water" type.

The risks of fusion are greater in the first type and an accident in the second one is more difficult to bring under control; but that does not justify this kind of disproportion in the anxiety and in the volume of the response.

Finally, it may perhaps be the absence of mystery which might explain this absence of panic: the behavior on the part of the plumber who was annoyed by a water leak which he did not try to conceal.

At Saint-Laurent, inspections continue as if nothing had happened and last Monday I ran into a group of draftees and a delegation of local voters. They were warned that repair work in progress would prevent any access to the loading platform. This by the way was a rather relative prohibition:

"Go on," Mr. Malhouitre told me, "but avoid getting up on the handling device used this morning to lower the camera; if you should by accident touch some radioactive dust, I would have to keep your clothing for decontamination."

So, nobody really got all excited over the accident as such. But the situation is different as far as the reactor shutdown is concerned. It is now necessary very quickly to restore the circuits and to get the piece of sheet metal out. But it is also necessary to take steps to prevent a repetition of the accident; in other words, to make technical modifications. Everything depends on the origin of the piece of sheet metal, Mr. Malhouitre thinks.

"If it comes from the loading device, the unit of time will be one week; if it comes from the reactor itself, the unit of time will be a month. In that case, the cost deriving from the loss of production will be way out of proportion to the price of the repairs."

It is necessary to make up for the lack of output from Saint-Laurent 2 by using primarily the conventional thermal power plants. Now, for 1979, the statistics show us a per-kilowatt output price of 8.5 centimes at Saint-Laurent, as against 14.5, on the average, for conventional thermal power plants. Mr. Malhouitre picked up some figures, checked them out on a calculating machine, and then announced.

"The breakdown at Saint-Laurent 2 is going to cost us 18 millions per month."

The reference figures of course are based on the situation prior to the oil price rise at the end of 1979.●

TEARS FOR TIMOR

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. EDWARDS of California. Mr. Speaker, I would like to commend the following editorial on East Timor to my colleagues' attention.

The editorial, which recently appeared in the New York Times, describes the tragic conditions on the island and provides us with a brief history leading up to the present problems. It makes references to the deaths of as many as 200,000 people, one-third of the island's population; the embezzlement of U.S. aid shipments by Indonesian officials; and the continuation of the guerrilla war for self-determination conducted by the brave group of freedom fighters. Additional reports in today's New York Times describe the renewed vigor of the Fretilin armed struggle against the Indonesian army.

The editorial presents suggestions for positive steps toward a long-term solution of the problems in East Timor. It is suggested that the Portuguese may offer to resume their stewardship of East Timor if Indonesia can be persuaded to pull out of the island. The next step would involve Portuguese sovereignty over the island leading up to true self-determination by the East Timorese people. Although this scenario will not be easy to achieve, a quick analysis of the situation highlights its desirability as a road to the achievement of a permanent political solution to the crisis on the island.

The Indonesians invaded the island 5 years ago and remain there today in violation of international law. Despite official U.S. policy, the Timorese people refuse to acquiesce in the Indonesian annexation of the island. The resistance on the islands continues to this day.

Portugal remains recognized as the legal sovereign of the area by the United Nations. The Portuguese Government and people have shown their interest in the problems on the island and their interest in assuming their responsibilities there. It is time that we encourage the Portuguese to assert their resposibilities under international law. This would be a significant first step toward the attainment of self-determination on the island. Without such steps, it is apparent that the violence on the island will continue.

[From the New York Times, July 25, 1980]

TEARS FOR TIMOR

Five years ago, while most of the world wasn't looking, Indonesia invaded East Timor, a Portuguese colony in the South Pacific that had just become independent. A year later, it formally annexed East Timor and assured the world that this constituted "self-determination." The results have been so dreadful that Indonesia has made East Timor's long years under Portuguese rule seem like an idyll—and made even a return to Portuguese responsibility a desirable goal.

Perhaps a third of the 600,000 East Timorese have perished through war, military occupation and famine. The extent of the disaster can only be estimated because Indonesia will not permit relief agencies or the press to have unrestricted access to the area. What can be gleaned suggests that Jakarta has ample reason to keep the curtain closed. Reports from Timor tell of renewed guerrilla war, of large-scale diversion of relief supplies and of treacherous executions of insurgents.

Amnesty International has asked President Suharto of Indonesia to account for some 20 vanished Timorese political prisoners, most of them supporters of the leftist Fretilin Party. Refugee priests charge that much of the food intended for the starving—including nearly $13 million worth of American aid—has been embezzled by Indonesian officials. Despite claims that the territory has been "pacified," Fretilin leaders credibly assert that guerrillas have resumed their fight and have been able to strike at Dili, Timor's capital.

East Timor's travail began when it was precipitately given independence after four centuries as a colony by a Portugal that was itself undergoing revolution. East Timor was plunged into civil war, which became the pretext for Indonesia's invasion, only hours after President Nixon visited Jakarta. And ever since, the American position has been that it "understands" the takeover without formally approving it—an indulgence that has much to do with the strategic importance of Indonesia and its oil.

As refugees have trickled into Lisbon, the Portuguese have begun to debate their own complicity. There are reports that Portugal may offer to resume its stewardship of East Timor if Indonesia can be persuaded to pull back. Admittedly, this is a long shot course, but even Jakarta may now be willing to reckon the costs of a messy war with a stubborn people. If Portugal is indeed willing to try again and this time better prepare East Timor for independence, then a step backward could truly be a leap forward.●

DAVID WINTERMANN—A LEADER IN THE RICE INDUSTRY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. PICKLE. Mr. Speaker, the 10th Congressional District of Texas is widely varied in terms of its people, economy, and agriculture. Folks graze cattle, grow sorghum, cotton, corn, soybeans, maize, hay grasses, and in the far southeast corner, we have rice farmers.

Perhaps the best known and one of the most distinguished leaders in rice farming is Mr. David Wintermann of Eagle Lake, Tex. Mr. Wintermann has been selected the honoree of the 1980 Texas Rice Festival, the major event in Texas devoted to the promotion of our healthy rice industry.

David Wintermann's name is synonymous with rice. His family has been involved in rice farming since 1912. He is a responsible pioneer in the establishment of rice allotment policy. David was around back when acreage allotments were established; he made sure Texas farmers received maximum allotments. Frequently, he would fly here to Washington at his own expense to make the case for the hardworking farmers he knew so well.

David Wintermann is a progressive farmer. He has been influential in obtaining moneys for research at Texas A. & M. University, in the ever-continuing quest for higher yields. His leadership has been recognized throughout the industry.

Since 1942, Mr. Wintermann has been a director of the American Rice Growers Association. He served as president from 1950 to 1967. President Lyndon Johnson appointed him to the National Rice Advisory Council. He was named "Man of the Year" by the Texas County Agricultural Agents in 1968.

David Wintermann's love and respect for the land go beyond his close interest in rice farming. He has been repeatedly recognized for his devotion to conservation. He is quite active in the well-known organization of Ducks Unlimited. Both the Houston and Nacogdoches chapters have duly recognized him.

David Wintermann has devoted his life and his livelihood to advancing the progress of rice farming. The United States is blessed with ample supplies of this grain, and we are able to export millions of bushels, much of it through the Public Law 480 food for peace program. So in effect, rice industry leaders, including David Wintermann, not only respect the land, reap the profits, but they also do humanitarian deeds, providing nutrition to people around the world.

All of us salute David Wintermann and congratulate him for his latest accomplishment, and being named the honoree of the Texas rice festival. To share his honor he has the blessed accompaniment of his wife Eula, one of the most thoughtful, gracious, and dignified ladies of our State. Our State and country are fortunate to be the recipients of their significant contributions.●

MILITARY PAY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. PAUL. Mr. Speaker, the July 18 issue of the "FRB SF Weekly Letter," published by the Research Department of the Federal Reserve Bank of San Francisco, makes abundantly clear the breach of faith this Congress is responsible for, in allowing real pay to fall for our military.

We must raise military pay—this is the answer to our military manpower problems, not compulsion.

The bill is not small, but we could pay it without raising the defense budget. We could simply stop the subsidization of Japan's defense, and allocate those billions to our own Armed Forces.

I would like to call this important article by William Burke to my colleagues' attention.

Military Disgrace?

Political writer Norman C. Miller recently used that caption, without the question mark, in a *Wall Street Journal* article describing the status of the volunteer army. Miller claims that the military is beset by "dangerous manpower shortages and deficiencies," and offical Washington apparently agrees with him. Under new legislation, 4 million young men will begin crowding the nation's post offices next week to register for a potential draft—suggesting a failure of the volunteer-army concept which had been initiated with so much fanfare in 1973. Although allocating 22 percent of its $138.6-billion budget this year for active-duty personnel, the Administration apparently believes that it lacks the strength to carry out the nation's military objectives throughout the world.

The manpower statistics are not very reassuring. The size of the active-duty force has declined steadily, and now stands at 2.0 million, compared with 2.3 million at the creation of the all-volunteer force. Most major units today are considerably below their authorized strength. More importantly, the armed services have experienced qualitative as well as quantitative shortfalls in manpower resources. About 62 percent of male Army recruits have not completed high school, and one-fourth of that group read at the sixth-grade level or below. The quality problem is aggravated by the difficulty of retaining qualified people. About 30 percent of males enlisting do not even complete their first term of enlistment. Retention rates for third termers—people with roughly 11 years' service—now average less than 70 percent. Most of those who leave possess critically needed skills, such as submarine technicians, electronics technicians, air-traffic controllers, and computer programmers.

BROKEN COMMITMENT

The evidence thus appears to support the argument that the volunteer-army concept has failed. But those who make that argument ignore a key conclusion of the President's Commission on the All-Volunteer Force (the Gates Commission), which a decade ago set forth the basic economic requirement of a volunteer army: "The viability of an all-volunteer force ultimately depends on the willingness of Congress, the President, the Department of Defense, and the services to maintain competitive levels of military pay." To meet that commitment, Congress restructured military-pay schedules prior to the adoption of an all-volunteer force in 1973. But today, military pay schedules are not competitive.

In 1972, the average pay of military personnel equalled 98 percent of the average pay in all industries. Today, military pay amounts to only 85 percent of all-industry pay, reflecting a 14-percent decline (in real terms) in military pay since 1972 (see chart, chart not in printed record). That ratio is considerably lower today than it was in 1939, when the nation had a small 400,000-man volunteer force, and also in 1945, when the nation fielded a large conscript army of 11.4 million people. (The gap has widened even more between civilian government pay and military pay.) In contrast, retirement-pay schedules are relatively generous by civilian standards, providing for (indexed) half-pay after 20 years.

Former Defense Secretary Melvin Laird, in a recent report to Congress, noted that the average compensation for an enlisted person (including pay and allowances) amounted last year to $9,900—14 percent below the minimum amount necessary to maintain a "lower" standard of living for a family of four. The basic pay for all personnel in grades E-1 to E-4—that is, roughly one-third of the entire enlisted force—falls at or below the minimum-wage. Differentials are even more pronounced in certain high-skill areas. Mid-career, non-commissioned officers earn about $12,000 a year as computer programmers or electronics technicians, but as civilians they could earn twice that much.

Laird cites the case of an E-4 plane handler on the nuclear carrier Nimitz, deployed on the Indian Ocean, who normally works 16 hours a day or about 100 hours per week. In the course of his duties, he handles F-14 aircraft (which cost $25 million per plane) and he helps operate a $2-billion ship—yet he makes less per hour than a cashier at McDonald's, lives below the poverty level, is eligible for food stamps, and probably has not seen his family for six months or more.

COSTS: VOLUNTEERS VS. DRAFTEES

To meet the standard set by the Gates Commission will take a considerable amount of money—roughly $11½ billion a year, in Laird's view. For example, $5 billion would be needed to restore military pay to its 1972 real-income level—considerably more than 1980's 12-percent scheduled raise. Another $2 billion would be needed to provide annual special-skill pay to those enlisted and officer ratings where severe shortages now exist. However, there would be compensating benefits. For example, about $2 billion per year is now needed to recruit, train, separate, and pay benefits to individuals who do not complete their first term—in addition to the costs that the government incurs in unemployment compensation for such military dropouts.

Faced with the cost increases needed to restore the viability of a volunteer army, many congressmen may be tempted to reimpose conscription as a cheaper alternative—although even that course would not solve the drain of experienced personnel. But strong differences of opinion exist regarding the draft itself. William H. Meckling, Dean of the University of Rochester's Graduate School of Management and former Executive Director of the Gates Commission, argues that a conscript force costs society substantially more than a volunteer force. In his view, if the military takes a volunteer, it draws from that part of the supply curve of people for whom being in the military is an attractive occupation. That costs society very little. In contrast, conscription takes people from all along the supply curve. In a recent *Fortune* interview, Meckling argues that society incurs heavy costs when physicists are put to work swabbing down the decks of ships.

Moreover, says Meckling, "When you have a conscript force, instead of taxing the general public to get the right kind of people to volunteer, you are levying a high tax on the very small subset of the population that you draft." According to the Gates Commission's statistics, draftees and draft-induced volunteers incur an effective tax rate of more than 50 percent, mostly in the form of foregone earnings, compared to the 10-percent tax rate paid by individuals who are not drafted.

FILLING THE GAP: DEMOGRAPHICS

Supporters of a volunteer army may be correct in their belief that more funds will help fill the ranks of the armed forces, but that task will be complicated by adverse demographic factors throughout the 1980s. In the mid-1970s, maintaining a volunteer force of 2.1 million active-duty personnel meant that roughly one-third of all qualified and available (non-college) men volunteered for active military service before age 23. This ratio would have to rise during the present decade, however, because of a 19-percent decline in the population of males in the 17-22 age category between 1979 and 1989. Specifically, male accession requirements would shift from a ratio of 1/2.9 in 1975-80 to a ratio of only 1/2.3 in the 1985-90 period.

The one-third ratio could be restored, however, by reducing demands on the pool of qualified and available males, and also by increasing the supply of possible candidates. For example, demands on that key manpower pool could be reduced by 84,000 through several measures—such as increasing the ratio of women military personnel to 15 percent of total strength, reducing the attrition of first-termers by 20 percent, or utilizing more civilians in military positions.

At the same time, the manpower supply could be increased by perhaps 32,000, by attracting 5 percent of third- and fourth-year college students into the armed services, or by relaxing weight standards by about 10 percent.

FILLING THE GAP: MANAGEMENT

More basically, the success of a volunteer army depends upon the military establishment's ability to adjust its management techniques to a new environment. For a lengthy period—1940 to 1972—the system of conscription encouraged the military to develop and maintain patterns of manpower utilization that are no longer cost effective. But the cost of manpower has risen substantially relative to the cost of capital equipment over the past decade, so that military managers are now being forced to find ways of substituting equipment for manpower, especially in support activities. Additionally, they are being forced to improve resource allocation by changing the experience-mix of the military force. Because of first-term pay increases and recruiting costs, the cost of first-term personnel has increased dramatically relative to the cost of career personnel. Thus, shifting from the current mix of 60 percent first-termers and 40 percent careerists to (say) a 55-45 percent mix could yield substantial costs savings—even though it would require some reallocation of funds to career personnel.

Funds for boosting active-duty pay also could be obtained through changes in the military-retirement system. Retirement costs represent the largest and fastest-growing component of manpower spending, having increased from $½ billion in the mid-1950s to more than $10 billion in 1979, and perhaps to $18 billion by 1983. (At that point, retirement costs would equal roughly 60 percent of the costs of the active-duty force.) The actuarial cost of the current system adds between 40 and 55 percent to the regular military compensation of those who retire, whereas the contribution for standard private-retirements programs is between 5 and 20 percent of salaries and wages. In any event, retirement costs will continue to be a heavy drain on the defense budget, so long as service personnel continue to retire after only 20 years at half-pay, with that amount indexed to increases in active-duty pay.

Reliance on a volunteer army also could lead to substantial changes in military planning. In a Congressional debate last year, Senator Gary Hart argued for a change in the ratio of combat-power to manpower, to parallel the ratios maintained by foreign armies. The total Army division "slice"—the number of personnel required to man and support each division—is now over 40,000 men. But if the Army could achieve a division slice of 25,000 men—roughly the average for our NATO allies—we could field our current 19-division equivalent with 475,000 men, thus generating a saving of about 300,000.

BEARING THE BURDEN

In the growing debate over the nation's military strength, no one has disputed the facts about the declining relative share of the military in the national economy. Between 1970 and 1979, the defense portion of GNP dropped from 8.4 percent to 5.1 percent, and the military portion of the labor force dropped from 3.7 to 2.1 percent. Perhaps for that reason, a broad consensus has developed favoring the Administration's call for a 25-percent spending increase (in real terms) for the military over the next half-decade.

The major argument, as we have seen, has centered around the question of who will bear the burden of the nation's growing military-personnel requirements—a relatively small number of young workers, or the general taxpayer. In this controversy, the Gates Commission's economic arguments for an all-volunteer force have yet to be disproved. Indeed, we have witnessed in the past half-decade a textbook illustration of the workings of economic incentives and disincentives—with a sharp rise in military pay bringing about a satisfactory labor-supply situation in the mid-1970s, and a sharp decline in real wages creating an unsatisfactory situation today.●

DAY CARE REGULATIONS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 29, 1980

● Mr. UDALL. Mr. Speaker, I would like to share my support to delay funding for implementation of the Department of Health and Human Services' new day care regulations. It is essential that we keep child care affordable for those that need it, and the proposed regulations scheduled to go into effect September 19, 1980, may significantly raise the cost of day care services. Therefore, I am submitting this letter for the benefit of my colleagues:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1980.

Hon. WILLIAM H. NATCHER,
Chairman, Subcommittee on Labor, Health, Education, and Welfare, Rayburn House Office Building, Washington, D.C.

DEAR BILL: I understand that you will soon begin mark-up of the Health and Human Services fiscal year 1981 appropriations bill.

I am concerned with the potential problems of new day care regulations to be implemented by the Department of Health and Human Services, September 19, 1980. The cost of adhering to the proposed staff/child ratio cannot be met by the states by this date and the federal government does not have the funds to supplement limited state allocations. If these regulations were introduced at this time, parents whose child care is not subsidized would be forced to pay the additional costs. Many of these parents will not be able to afford the increase in child care. Parents who do need state and federally supported day care facilities would also be hurt by the inevitable closing of centers unable to meet the new specifications.

Therefore, I urge you to delay Department of Health and Human Services funding to implement these regulations until cost impact studies can be done.

Thank you for your support.

Sincerely,

MORRIS K. UDALL.●